



## Fort Myers Beach Local Planning Agency

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

Agenda

Friday, August 23, 2024

9:00 AM

### ORDER OF BUSINESS

**I. CALL TO ORDER**

**II. INVOCATION**

**III. PLEDGE OF ALLEGIANCE**

**IV. APPROVAL OF MINUTES**

A. Local Planning Agency - June 11, 2024

**V. PUBLIC COMMENT**

**VI. PUBLIC HEARINGS**

A. Ordinance 24-21; CPA20240067, 6200 Estero Blvd, Outrigger Resort Comp Plan Amendment

**ORDINANCE 24-21: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ADOPTED FUTURE LAND USE MAP, AS ADOPTED ON AUGUST 19, 2024, FOR A PORTION OF THE PROPERTY LOCATED AT 6200 ESTERO BLVD, IDENTIFIED AS STRAIP # 33-16-24-W-100-22000 THAT IS LANDWARD OF THE 1978 COASTAL CONSTRUCTION CONTROL LINE, IN FORT MYERS BEACH FROM MEDIUM RESIDENTIAL TO OUTRIGGER RESORT MIXED-USE; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

B. Ordinance 24-22; Outrigger Resort FLU text amendment

**ORDINANCE 24-22: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING THE FUTURE LAND USE ELEMENT TEXT IN THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, AS ADOPTED AND AMENDED ON SEPTEMBER 9, 2024 TO CREATE THE OUTRIGGER RESORT MIXED-USE FUTURE LAND USE CATEGORY AND TO MODIFY MIXED-USE POLICY FLU-1-B-5.; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND AN EFFECTIVE DATE.**

- C. Ordinance 24-23; DCI2024-0061, 6200 Estero Blvd, Outrigger Resort CPD  
**Ordinance 24-23: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING THE REZONING OF A PORTION OF THE PROPERTY LOCATED AT 6200 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBER 33-46-24-W-3-00012.0000 TOWN OF FORT MYERS BEACH FROM COMMERCIAL PLANNED DEVELOPMENT (CPD) AND COMMERCIAL RESORT TO COMMERCIAL PLANNED DEVELOPMENT; PROVIDING FOR FINDINGS, CONFLICTS, LAW, CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY AND AN EFFECTIVE DATE.**

- D. SEZ20240112, 6200 Estero Blvd, Outrigger Resort Special Exception  
**Resolution 24-161: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240112 TO ALLOW EXPANSION OF CONSUMPTION ON PREMISES IN THE ENVIRONMENTALLY CRITICAL ZONING DISTRICT AS PER LDC SECTION 34-1264. (G)(1), FOR PROPERTY LOCATED AT 6200 ESTERO BOULEVARD; PROVIDING SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.**

**Resolution 24-162: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240112 TO ALLOW RECONSTRUCTION OF A MAJOR ACCESSORY STRUCTURE IN THE EC ZONING DISTRICT PER SECTION 3-366, FOR PROPERTY LOCATED AT 6200 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.**

- E. Ordinance 24-24; Building Intensity Measurement for Detached Single and Two-Family Residences

**Ordinance 24-24**

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING 1) TABLE 34-3 TITLED "DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS" IN CHAPTER 34, ARTICLE III, DIVISION 4 TO CREATE NOTE (10) TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY HOMES WITHOUT A COMMERCIAL USE, IN ANY CONVENTIONAL ZONING DISTRICT WHERE THAT USE IS ALLOWED, MAY BE EVALUATED BY BUILDING COVERAGE RATHER THAN FAR; 2) SECTION 34-675(C) IN CHAPTER 34, ARTICLE III, DIVISION 5 TO PROVIDE THAT BUILDING INTENSITY OF COMMERCIAL AND MIXED-USE BUILDINGS SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE NOT TO EXCEED 40% IN THE DOWNTOWN ZONING DISTRICT; 3) SECTION 34-683 IN CHAPTER 34, ARTICLE III,**



DIVISION 5 RELATED TO THE CREATION OF NEIGHBORHOOD CENTERS IN THE SANTINI ZONING DISTRICT TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE BUILDING COVERAGE SHALL NOT EXCEED 40%; 4) SECTION 34-693 IN THE VILLAGE ZONING DISTRICT REGULATIONS TO PROVIDE THAT COMMERCIAL AND MIXED-USE BUILDING INTENSITY SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE AND SHALL NOT EXCEED 40%; 5) SECTION 34-705 IN THE CB ZONING DISTRICT TO PROVIDE THAT FOR COMMERCIAL AND MIXED-USE DEVELOPMENTS FLOOR AREA RATIOS SHALL NOT EXCEED 1.0 AND BUILDING COVERAGE FOR DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCES, BUILDING COVERAGE SHALL NOT EXCEED 40%; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING AN EFFECTIVE DATE.

F. VAR20240100, 51 Pearl Street

LPA Resolution 2024-04: A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20240100, REQUESTING VARIANCES FROM LDC TABLE 34-3 OF 13 FEET FROM THE STREET SETBACK FOR A FRONT SETBACK OF 12 FEET, A VARIANCE OF 3 FEET FROM THE WEST SIDE SETBACK FOR A SIDE SETBACK OF 4 FEET 6 INCHES FOR THE MECHANICAL EQUIPMENT AND BALCONY AND ANOTHER VARIANCE OF 15.11% FROM THE BUILDING COVERAGE FOR A BUILDING COVERAGE OF 55.11% TO BUILD A NEW SINGLE FAMILY STRUCTURE IN THE RM ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 51 PEARL STREET, FORT MYERS BEACH, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

G. VAR20240159, 8180 Lagoon Road

LPA Resolution 2024-05: A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20240159 TO ALLOW A SIDE STREET SETBACK VARIANCE OF 3 FEET AND 9 INCHES FROM THE REQUIRED 15-FOOT SIDE STREET SETBACK FOR A POOL ENCLOSURE FOR THE PROPERTY LOCATED AT 8180 LAGOON ROAD; AND PROVIDING FOR AN EFFECTIVE DATE

H. Ordinance 24-20; DCI20240130, Margaritaville CPD Amendment, 251 Crescent Street

**Ordinance 24-20**

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ORDINANCE NO. 24-01, AND APPROVING DEVIATIONS FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 1170, 1180/1192, 1204/1206 ESTERO BLVD., 251 CRESCENT ST., 1150 FIFTH

**ST. AND UNADDRESSED PARCELS, PARCELS GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00205.0070 (MCP PARCEL #3), 24-46-23-W3-00006.0000 (MCP PARCEL #1), 24-46-23-W3-00206.0060 (MCP PARCEL #1), 24-46-23-W3-00009.0000 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0494.2609 (MCP PARCEL #2), 24-46-23-W3-00205.0070, 19-46-24-W4-U0491.2610 (MCP PARCEL #2), 19-46-24-W4-0140B.0070 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0496.2608 (MCP PARCEL #2), AND 19-46-24-W4-U0498.2607 (MCP PARCELS #2 AND #6) FORT MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

**VII. ADMINISTRATIVE AGENDA**

**VIII. LPA MEMBERS ITEMS/REPORTS**

**IX. LPA ATTORNEY ITEMS/REPORTS**

**X. COMMUNITY DEVELOPMENT ITEMS/REPORTS**

**XI. ITEMS FOR NEXT MONTHS AGENDA**

**XII. ADJOURNMENT**

**NOTE: THIS MEETING IS STREAMED LIVE ON YOUTUBE.**

**IF THE LOCAL PLANNING AGENCY UNANIMOUSLY APPROVES A REQUEST FOR A VARIANCE, EXTENSION OR SATISFACTION OF CONDITIONS, A REQUEST FOR AN ADDITIONAL HEARING BEFORE THE TOWN COUNCIL MAY BE MADE BY ANYONE IF THE REQUEST IS RECEIVED BY THE TOWN CLERK WITHIN 10 BUSINESS DAYS OF THE LOCAL PLANNING AGENCY DECISION PURSUANT TO SEC. 34-232 OF THE LAND DEVELOPMENT CODE.**

**IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE LOCAL PLANNING AGENCY WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, HE OR SHE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED IN ACCORDANCE WITH FLORIDA STATUTE 286.0105.**



**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. 239-765-0202**



## Fort Myers Beach Local Planning Agency

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

Minutes

Tuesday, June 11, 2024

9:00 AM

### ORDER OF BUSINESS

#### DRAFT

##### I. CALL TO ORDER

Members present: Chair Cereceda, LPA Member Boan, LPA Member Dunlap, LPA Member Eckmann (participating virtually), LPA Member McLean, LPA Member Plummer and LPA Member Sudduth (participating virtually).

New member James Dunlap introduced himself.

LPA Member Plummer moved to approve LPA Members Eckmann and Sudduth participating virtually due to extraordinary circumstances, seconded by LPA Member Dunlap.

The motion carried unanimously.

##### II. INVOCATION

Chair Cereceda.

##### III. PLEDGE OF ALLEGIANCE

##### IV. APPROVAL OF MINUTES

A. Local Planning Agency - May 14, 2024

LPA Member McLean moved to approve the minutes, seconded by LPA Member Plummer.

The motion carried unanimously.

**V. PUBLIC COMMENT**

Mike Miller, resident, commented on London Bay bringing a boat up and down his canal to their proposed resort to eat, drink and shop. He indicated they were already promoting this at their other resorts. He suggested that they get a dock at Fish Tale Marina and acquire an open-air shuttle to transport their guests around town to eat and shop at local businesses rather than exclusively at London Bay's properties.

**VI. PUBLIC HEARINGS**

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

**A. VAC20240030- 190 Estero Blvd****VAC20240030- 190 Estero Blvd**

Chair Cereceda read the title of the resolution. Ex parte communications: Chair Cereceda and LPA members McLean and Plummer visited the site. There were no disclosures from other members. Town Attorney Stuparich noted numerous emails were received by LPA members and requested a list of who sent them. Town Clerk Baker listed Catherine Shotts, Mary Herman, Maura Fahey Alrich, Todd Zastro, Bob Basil, Christine Walters, Penny Aguire, Jean Sacone, Phyllis Scrogge, Marty McGinity, Paul Doring and Richard Rowe. The applicant stated that they did not read the emails.

Community Development Senior Planner Jason Smalley reviewed the background of the request as stated on the yellow sheet. Beach Access 42 was initially approved in 1985 and has been moved a couple of times over the years. The current view corridor on the property will be maintained if the resolution is approved. An agreement was made that the hours of operation for the beach access were from sunup to sundown. Town Attorney Stuparich stated that the agreement was a term of the proposed draft and subject to review.

LPA Member Plummer confirmed that there were no hours of operation for any of the other beach accesses. LPA Member Boan thought the hours of operation were vague. He noted LPA members just saw the language for the easement this morning and asked whether it was subject to approval. Town Attorney Stuparich verified that it was a draft and subject to approval.

Regarding hours of operation, they would have to trust that it would be appropriately monitored and enforced. A discussion was held regarding identifying the hours from dusk to dawn, fixed hours, from sunrise to sunset or one hour after sunset. LPA Member McLean confirmed that the county controls the beach access on the north end.

Attorney Sarah Spector from Roetzel & Andress represented the applicants. Slides in her presentation included an aerial of beach accesses 43, 42, 41 and proposed beach access 42. She described the previously proposed location of beach access 42 and noted objections, so it was changed.

Attorney Spector pointed out that the county agreed with the change and an agreement would be drafted. She stated the county required the hours of operation to be from dusk to dawn. The beach access will include restrooms. The county requested a revised legal description to extend the easement to the mean high water line rather than the Coastal Construction Control Line (CCCL). She will work with the town attorney to revise the agreement.

Attorney Spector noted the access was under the building. LPA Member Plummer saw an issue with the public going through their property and being unable to use the pool. LPA Member Boan questioned whether the applicant would post signs to indicate the access was available to the public. Attorney Spector replied affirmatively and then was told that the county was responsible for the signs. She stated she would contact the county to reinstall the signs. LPA Member McClean stated there were no signs of the other two accesses. Chair Cereceda indicated that the use and hours should be the same if it was a beach access like every other one on the beach.

Attorney Spector responded that they did not have an issue with that.

Bill Waichulis, applicant, explained that access 42 was evened out for safe wheelchair access. He wanted to combine access 43, but the neighbors opposed the proposal. He stated that accesses 41 and 43 were open to the public, although, historically, not many people used those accesses. He indicated that even though the county recommended the hours of operation, he had to prevent people from accessing the pool after hours for safety.

Public comment:

Melody King, resident, suggested that the applicant install a fence around the pool as Margaritaville did. She indicated that the town should announce that the Pink Shell beach access was available to the public. She supported the request.

Public comment closed.

LPA Member Eckmann questioned whether there was a legal definition of dusk to dawn. Attorney Spector was unaware. LPA Member Eckmann felt there should be definitive hours. Chair Cereceda noted that the applicant was not opposed to any hours the LPA prescribed. LPA Member Dunlap commented that the legal definition of dusk to dawn was twilight. LPA Member Eckmann wondered why the access was done before it was approved. Mr. Waichulis said he had to open the resort and keep everything safe. The county was okay with taking the access away and he was helping the town by keeping it.

Senior Planner Smalley noted that the easement relocation satisfied the intent of the comprehensive plan.

LPA Member Boan moved to approve the proposed variance with the condition that it be subject to attorney approval of the easement language and with the recommendation that the town council consider more definitive hours reflecting the maximum time the Pink Shell was open to the public and that the town council urge the county to provide three access signs, seconded by LPA Member Dunlap.

The motion carried 4-3 by roll call vote, with LPA members Sudduth, Plummer and McLean dissenting.

B. CB Zoning District Language Change

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA  
AMENDING CHAPTER 34, ARTICLE III., DIVISION 5, SUBDIVISION V. CB  
ZONING DISTRICT AND AMENDING ARTICLE III., DIVISION 2. TABLE  
34-2 USE SUB-GROUPS PERMITTED IN EACH ZONING DISTRICT;  
PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S  
ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.**

Senior Planner Smalley reviewed the reason for the proposed ordinance as stated in the yellow sheet. He pointed out that the allowance for redevelopment of the buildings in the CB zoning district was limited to two stories above flood if the lower area was enclosed. If the lower area was unenclosed, like certain areas downtown, a property owner would be eligible to build the second floor above the ground floor.

Chair Cereceda was concerned that density was not increased and that there was some public benefit to the changes. Senior Planner Smalley responded that the staff found it difficult to assess the validity of public benefits. He questioned whether the town wanted to perpetuate the use of just offices in that district or allow for a mix of uses that do not require a planned development (PD). He commented that the FAR (Floor Area Ratio) would not change and the proposed ordinance would only open up the schedule of uses allowed in that zone.

Public comment:

T.J. Gronwald, Vice President of Bay Village Condo Association, noted that initially, the area to be changed was from Gulf Street on the Gulf side south from the Ascension Church south, but those changes were not in Exhibit A and it would make the whole area bigger and intrude into their neighborhood across the street. He asked who would want a strip mall on Gulf Street or behind Gulf Street on Estero Blvd. and it would get rid of non-residential land use percentages and eliminate the summary of zoning issues on the future land map. He added that Santini Plaza was just down the street. He did not support more commercial use in that little section on the curve and requested that they stick to the current zone or tweak what was there.

Patrick Vanasse, resident, implored the LPA to move forward with changes to the CB district. He stated the zoning district and boundaries were not changing; the uses would just open up. He did not support increasing intensity by use and supported staff's recommended changes.

Cash Upton, resident, stated that before the hurricane, the only property not used in the area was the bank property. He discussed why the town incorporated and questioned why they would go back. He addressed the commercial vessel traveling down a residential canal and asked the LPA not to vote yes before more due diligence. He felt that London Bay was the only entity benefiting from the change.

Public comment closed.



Chair Cereceda questioned whether opening up uses in existing CB-zoned properties would create a spread of commercial expansion into neighborhoods. Senior Planner Smalley replied that many downtown uses would be imported into the transition areas and there was a risk that the neighborhood would change. He added there may be a compromise where the uses are expanded with limitations to force people to go through the PD process again. He explained the definition of a ring fence, which means to put an overlay around certain areas for liberalized uses. Chair Cereceda questioned neighborhood commercial use. Senior Planner Smalley replied that was what they were discussing today, and questioned whether neighborhoods wanted restaurants in their neighborhood. He indicated that the staff presented a wholesale change to the CB zone as requested by the town council. He asked what sort of uses could reasonably be allowed down there that have not been allowed before that would not exacerbate nuisances. Chair Cereceda commented that she was thinking of Sea Grape and not a restaurant in the neighborhood.

LPA Member Dunlap was looking for a balance between stimulating creativity with like-kind in areas where it previously existed but not stimulating activity where it did not exist before or became intrusive to the neighborhood. Senior Planner Smalley summarized that they wanted the staff to figure out if the CB zoning district could be fragmented into specific areas to have an allowed use and other areas that have a greater or lesser intensity. LPA Member McLean questioned the definition of neighborhood commercial use. LPA Member Plummer would like to open uses for those restricted but not allow them to go into neighborhoods.

Senior Planner Smalley indicated that they will attempt to refine the language and bring it back.

LPA Member Dunlap moved to table the discussion on the CB zoning district until the staff could come back with alternatives, seconded by LPA Member McLean.

The motion carried unanimously.

Chair Cereceda noted the definition of neighborhood commercial use means commercial use such as a small grocery or general or specialty stores that furnish convenience goods and services to meet the daily needs of the residents of the neighborhood.

C. DCI20240015; 1836 AND 1840 ESTERO BLVD

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A TOWN OF FORT MYERS BEACH ORDINANCE, AND APPROVING THE CONDITIONS FOR THE COMMERCIAL PLANNED DEVELOPMENT REZONING FOR THE PROPERTIES LOCATED AT 1836 AND 1840 ESTERO BLVD. (LESS THE AREA WITHIN THE ENVIRONMENTALLY CRITICAL ZONING DISTRICT), GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W4-03200.00CE AND 19-46-24-W4-03200.1010 FORT MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

Chair Cereceda read the title of the ordinance. No ex parte communications were disclosed, except Chair Cereceda and LPA Member Plummer read social commentary regarding the building's height, massing and appearance. Senior Planner Smalley reviewed the background of the request as stated on the yellow sheet.

Attorney Sarah Spector from Roetzel & Andress presented the case. Slides included team members, Request for Commercial Planned Development, Location and History & Existing Conditions.

Architect Fred Drovdlc continued the presentation with slides of The Past, Existing and Proposed Zoning, Master Concept Plan, North Elevation, East Elevation, Benefits of Increased Height, Deviations, LDC Compliance, Compliance & Consistency and Conclusion. Mr. Drovdlc stated that they agreed with the staff-recommended conditions and evaluation.

LPA Member Eckmann expressed concerns regarding the elevated mass right on Estero Blvd. He noted other proposals presented a more inventive architectural design to avoid the mass and he referred to DiamondHead, which was somewhat set back. He felt it might be an eyesore and wanted more creativity. LPA Member Sudduth agreed although he loved that they went from two buildings to one. LPA Member Plummer questioned the size of the units and the ceiling height.

Robert Huff, engineer, reviewed his experience.

LPA Member Plummer moved to qualify Mr. Huff as an expert in his field, seconded by LPA Member Boan.

The motion carried unanimously.

Mr. Huff replied that the ceiling height was the same or whatever the current code required. The size of the units was increased to comply with ADA requirements. Mr. Huff explained that they intended to create a signature property, not an eyesore.

LPA Member Boan commented that the setback on Estero was counterproductive to what the LPA had said about taller buildings. He suggested that low-growing plants be installed on Estero Blvd. LPA Member McLean had the same issues surrounding massing and the monolithic structure. Chair Cereceda discussed the design of the building and massing on Estero. She could not support the application as presented.

Mr. Huff stated the ceilings were 10 feet high and the units increased from 625 sq. ft. to 815 sq. ft. He agreed with the comments regarding the building design.

John Shaw, construction management, stated that they designed a three-story building, which would have taken up more space, but the town required this taller design because the view corridor was a major issue. He questioned what the town wanted. Senior Planner Smalley explained that the original design did not meet the view corridor requirements. Chair Cereceda questioned whether the choice was a three-story building with no view corridor or today's design. She suggested they ask to table it and return with a different design.

Public comment:

Dave Leigh, resident, said he would like to maintain the view corridor on Palm Ave. He agreed with LPA members Eckmann and Sudduth regarding DiamondHead's setback.

Cash Upton, resident, agreed the height was scary right on Estero Blvd. and did not think the old building blocked the views. He felt the three-story design fit the island better.

Public comment closed.

Chair Cereceda moved to continue the ordinance to a date certain of August 23, 2024, seconded by LPA Member Sudduth. The motion carried unanimously by roll call vote.

D. SEZ20240126-7400 Estero Blvd

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/APPROVING WITH CONDITIONS/ DENY SPECIAL EXCEPTION SEZ20240126 TO ALLOW RECONSTRUCTION OF STORM DAMAGED INFRASTRUCTURE IN THE EC ZONING DISTRICT, INCLUDING: A PARTIAL PARKING LOT, A NEW ALUMINUM RAIL FENCE ALONG THE SEAWALL, AND NEW FENCE WITH GATE AROUND THE SOUTH GARDEN, FOR THE PROPERTY LOCATED AT 7400 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.**

Chair Cereceda read the title of the resolution. No ex parte communications were disclosed.

Community Development Planner Eli Lee reviewed his experience as a planner with the town.

Chair Cereceda moved to accept Planner Lee as an expert in his field, seconded by LPA Member McLean.

The motion carried unanimously.

Planner Lee reviewed the background of the request as stated on the yellow sheet. He noted that staff determined that since the damaged portion of the parking lot existed before Ian, it was recommended for approval, but the seawall and fence were new and seaward of the CCCL, so staff recommended denial.

Myles LaGarde, with South Shore Construction, explained that the fence would be on the seawall, and both were new. Until the beach replenishment was done, they did not want people to walk across the seawall to get through the property. The applicant felt it was a safety issue so people did not fall on the riprap below. Planner Lee understood the fence was for safety, but the seawall was not a walkable surface and not required by the Florida building code. Mr. LaGarde explained that the south garden gate would be relocated to the side of the building and replanted with native plants. He explained why the parking lot was crucial and noted it was deeded to the owners. LPA Member Eckmann thought the fence was a good idea because people would walk on the seawall. LPA Member Dunlap pointed out that the applicant was doing the right thing. He explained why they moved the garden to the side. LPA Member McLean thought the seawall fence was brilliant. No public comment.

LPA Member Dunlap moved to approve the replacement of the partially damaged parking lot, seconded by LPA Member Boan.

The motion carried unanimously by roll call vote.

LPA Member Plummer moved to approve the seawall fence, seconded by LPA Member Eckmann.

The motion carried unanimously by roll call vote.

LPA Member Dunlap moved to approve the garden fence, seconded by LPA Member Plummer.

The motion carried 6-1 by roll call vote, with LPA Member Boan dissenting.

E. VAR20240071; 1250 Estero Blvd; "Cottage and Shuckers"

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING WITH CONDITIONS VAR20240071, FIVE (5) VARIANCES FROM LDC SECTIONS 34-674(a)(1)(b), 34-675(b)(3), 34-676(a)(4), 34-676(b) AND 34-676(d) REQUESTING RELIEF FROM BUILD-TO LINE MAXIMUM SETBACKS, INCREASED BUILDING HEIGHT, PARKING REDUCTIONS, RELIEF FROM PARKING LOCATION AND LOCATION OF SITE ACCESS IN THE DOWNTOWN ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 1250 ESTERO BLVD. (LESS ANY AREA WITHIN THE EC ZONING DISTRICT), GENERALLY KNOWN AS STRAP # 19-46-24-W4-0070F.0010 TO REDEVELOP A RESTAURANT/ BAR; AND PROVIDING FOR AN EFFECTIVE DATE.**

Chair Cereceda read the title of the resolution. Ex parte communications: All LPA members met with The Neighborhood group except LPA members Dunlap and Eckmann.

Senior Planner Smalley reviewed the background of the request and the deviations as stated on the yellow sheet.

Patrick Vanasse, a planner with The Neighborhood Company, utilized PowerPoint for his presentation. Slides included a Presentation Overview, Background & Details, Property Location, Subject Site, Pre-Hurricane Ian and Post-Hurricane Ian, Proposed Redevelopment, Request, Variances Request, Renderings, Front Elevation, Rear Elevation, Ground Floor - Bar/Beach Level, Second Floor - Main Dining Level, Third Floor - Cottage Bar, Fourth Floor - Fire Equipment and Site Plan. He addressed the five criteria for approval. He requested to reserve a spot on the town council agenda for June 17, 2024.

Mr. Vanasse explained that roll-up shutters or glass garage doors would contain the entertainment noise on the third floor. The noise ordinance would be followed, and the sound would be directed toward the Gulf.

Public comment:

Mike Miller, resident, was 100% for The Cottage, but he was concerned regarding the noise. He described how he sound-proofed The Whale and did not want to be blamed for noise coming from The Cottage. He requested that they enclose the area.

Public comment closed.

Chair Cereceda moved to approve the variances including the findings and conditions of approval in the staff report, adding a condition that there be enclosures on the third floor to contain sound as much as possible and finding that this is consistent with the comprehensive plan, seconded by LPA Member Dunlap.

The motion carried unanimously by roll call vote.

F. DCI20240143, 1668 I Street

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REQUEST TO REZONE THE PROPERTY LOCATED AT 1668 I STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0070B.0110 FORT MYERS BEACH, FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, WITH DEVIATIONS, FOR A BAR AND RESIDENCE; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

Chair Cereceda read the title of the ordinance. Ex parte communications: LPA Member McLean - spoke to Albert Dambrose from Studio AD, LPA Member Boan - spoke to the applicant and Chair Cereceda read social media comments supporting the project. No disclosures by other members.

Senior Planner Smalley reviewed the background of the request as stated on the yellow sheet. He noted that the applicant gave up one of the recognized dwelling units upstairs and combined the two units into a larger single unit.

Jim Ink from Ink Engineering, LLC distributed documents.

His presentation included a list of Team Members, Request Statement, What This Request Would Do, Why Grant the Request, South Downtown, Future Land Use Plan, Current Survey, Master Site Plan, Property Regulations, Schedule of Uses, Deviation Request, Future Land Use Plan, The Neighborhood, Conditions, Request Statement and Rendering.

Public comment:

Cash Upton, resident, supported the request and noted what they asked for was reasonable and a great fit for the island.

Public comment closed.

LPA Member Boan moved to approve the ordinance with the conditions in the staff report, seconded by LPA Member McLean.

The motion carried 6-0 by roll call vote. LPA Member Eckmann dropped off the connection.

## **VII. ADMINISTRATIVE AGENDA**

### **A. LPA Policies and Procedures**

#### **A review and update of the LPA Policies and Procedures**

Town Attorney Stuparich indicated she received comments from LPA members Boan and McLean. Chair Cereceda commented that the document was overkill and wanted a streamlined version. LPA Member McLean indicated it was helpful for him to understand the procedures. LPA Member Boan felt it could be consolidated. The Table of Contents was reviewed, and some items were removed. LPA Member Dunlap discussed the amount of information in the LPA packet and suggested using addendums. Town Clerk Baker explained that all the information was on the portal and members could toggle between items and look at certain parts for projects. Town Attorney Stuparich explained why some information had to be on the record. LPA Member Dunlap suggested that all the boilerplate requirements be included as an addendum. Senior Planner Smalley commented that the boilerplate material was usually included at the end of materials, but he would be okay with putting those materials in an addendum. Town Attorney Stuparich will streamline the version. She stated that social media comments counted as ex parte communications.

## **VIII. LPA MEMBERS ITEMS/REPORTS**

LPA Member Boan commented that the town hired a firm to do a study on impact fees, which could take up to a year to complete. He urged council members to create an approach so impact fees could be captured in the interim. He added that maybe the firm could be paid more to complete the study sooner.

LPA Member McLean asked the same question. Town Attorney Stuparich responded that she would see if they could come up with something.

No items from other members.

**IX. LPA ATTORNEY ITEMS/REPORTS**

No items.

**X. COMMUNITY DEVELOPMENT ITEMS/REPORTS**

No items.

**XI. ITEMS FOR NEXT MONTHS AGENDA**

No items. The next meeting is June 25, 2024 at 9:00 a.m.

**XII. ADJOURNMENT**

LPA Member Dunlap moved to adjourn the meeting, seconded by LPA Member Boan. The motion carried unanimously.

DRAFT

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

Yellow Sheet Number: **2024-206**

**1. Request:**

**Meeting Date: August 23, 2024**

ORDINANCE 24-21: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ADOPTED FUTURE LAND USE MAP, AS ADOPTED ON AUGUST 19, 2024, FOR A PORTION OF THE PROPERTY LOCATED AT 6200 ESTERO BLVD, IDENTIFIED AS STRAP # 33-46-24-W3-00012.0000 THAT IS LANDWARD OF THE 1978 COASTAL CONSTRUCTION CONTROL LINE, IN FORT MYERS BEACH FROM MEDIUM RESIDENTIAL TO OUTRIGGER RESORT MIXED-USE; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

**Why the action is necessary:**

The LPA hears and makes recommendations regarding Comprehensive Plan Amendments.

**What the action accomplishes:**

The LPA will provide guidance regarding the request.

**2. Agenda:**

PUBLIC HEARINGS

**3. Requirement/Purpose:**

Ordinance

---

**5. Background:**

6200 Estero Blvd Investments, LLC, owner of the subject property, and Fred Drovdlc, AICP, with RVi Planning + Landscape Architecture, applicant for the owner, are requesting a Small-Scale Comprehensive Plan amendment. The amendment requests a change of 3.55 acres of Mixed Residential (Medium Residential in the recently adopted Future Land Use Element and Map) FLU, to Outrigger Resort Mixed-Use. An ordinance may only encompass a single subject, this ordinance is for the future land use map amendment.

The property was previously known as the Outrigger Resort. It is zoned CPD and located on the beach side of Estero Blvd. The parcel contains land that is seaward of the 1978 Coastal Construction Control Line (CCCL) and is Recreation FLU and zoned EC. The applicant is not proposing a FLU amendment for the Recreation FLU portion of the property.

**Attachments:**

1. Ordinance 24-21 CPA Small Scale Map Amendment NS (1) 6PM
2. Staff Report CPA
3. Application Docs
4. Legal Sketch and Description
5. Map Exhibits

**Financial Impact:**

unknown

**6. Alternative Action**

Approve or Recommend Amendment

**7. Staff Recommendations:**



Recommend denial or recommend amendment to proposed text.

8. **Recommended Approval:**

---

Frankie Kropacek, Operations & Compliance Director

Date: August 16, 2024

---

nancy stuparich, Town Attorney

Date: August 19, 2024

---

Amy Baker, Town Clerk

Date: August 19, 2024

## **ORDINANCE 24-21**

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ADOPTED FUTURE LAND USE MAP, AS ADOPTED ON AUGUST 19, 2024, FOR A PORTION OF THE PROPERTY LOCATED AT 6200 ESTERO BLVD, IDENTIFIED AS STRAP # 33-46-24-W3-00012.0000 THAT IS LANDWARD OF THE 1978 COASTAL CONSTRUCTION CONTROL LINE, IN FORT MYERS BEACH FROM MEDIUM RESIDENTIAL TO OUTRIGGER RESORT MIXED-USE; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

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

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

**WHEREAS**, 6200 Estero Blvd Investment, LLC is the owner ("Owner or Applicant") of property generally located at 6200 Estero Blvd, identified by STRAP number 33-46-24-W3-00012.0000 ("Property"), and filed an application for a small-scale future land use map amendment from Medium Residential future land use to Outrigger Resort Mixed-Use future land use district to allow development of a new beach resort; and

**WHEREAS**, the Property is in the Medium Residential Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach as shown on Exhibit A, and is under common control of the Owner; and

**WHEREAS**, a public hearing was held before the Local Planning Agency (LPA) on August 23, 2024, during which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted \_\_\_\_ to \_\_\_\_ to recommend approval/denial of the small scale map amendment; and

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

**WHEREAS**, the Town Council scheduled a second reading of the proposed Ordinance and a held an advertised public hearing before the Town Council on October \_\_\_,

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; and

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

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

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

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

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

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

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

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

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

before commencement of the project.

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

The foregoing Ordinance was adopted by the Town Council upon a motion by Councilmember \_\_\_\_\_ 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 \_\_\_\_\_ 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

The foregoing Ordinance was filed in the Office of the Town Clerk on the \_\_\_\_ day of \_\_\_\_\_, 2024.





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

**TYPE OF CASE:** Comprehensive Plan Amendment

**CASE NUMBER:** CPA20240067

**CASE NAME:** London Bay Outrigger Comprehensive Plan Future  
Land Use Map Amendment - 6200 Estero Blvd

**LPA**

**HEARING DATE:** August 23, 2024

**STAFF**

**RECOMMENDATION:** DENIAL

**PREPARED/  
SUBMITTED BY:** Sarah Propst, AICP, PMP

**I. APPLICATION SUMMARY**

Applicant/Agent: 6200 Estero Blvd Investments, LLC/Fred Drovdlc, AICP  
with RVI Planning + Landscape Architecture

Request: Small-scale comprehensive plan amendment to amend  
the underlying future land use from Mixed Residential  
to site specific Outrigger Mixed-Use District and modify  
the Mixed-Use Policy FLU-1-B-5.

Subject property: See attached plan

Physical Address: 6200 Estero Blvd

STRAP #: 33-46-24-W3-00012.0000

FLU: Medium Residential & Recreation

Zoning: Commercial Planned Development (CPD), Commercial  
Resort (CR), & Environmentally Critical (EC)

Adjacent zoning and land uses:

|        |                                                                                                                       |
|--------|-----------------------------------------------------------------------------------------------------------------------|
| North: | RESIDENTIAL MULTIFAMILY (RM) AND RESIDENTIAL SINGLE FAMILY (RS), Medium Residential Future Land Use (FLU)             |
| South: | RESIDENTIAL PLANNED DEVELOPMENT (RPD)<br>Medium Residential FLU                                                       |
| East:  | COMMERCIAL PLANNED DEVELOPMENT (CPD) AND COMMERCIAL BOULEVARD (CB), Boulevard Mixed-Use Arts and Theatre District FLU |
| West:  | ENVIRONMENTALLY CRITICAL (EC), Recreation FLU                                                                         |

## **II. BACKGROUND AND ANALYSIS**

Background:

6200 Estero Blvd Investments, LLC, owner of the subject property, and Fred Drovdlc, AICP, with RVi Planning + Landscape Architecture, applicant for the owner, are requesting a Small-Scale Comprehensive Plan amendment. The amendment requests a change of 3.55 acres of Mixed Residential (Medium Residential in the recently adopted Future Land Use Element and Map) FLU, to Outrigger Resort Mixed-Use. This request includes a proposed text amendments to the Comprehensive Plan to create a new Mixed-Use District in Policy FLU-1-B-5.

The property was previously known as the Outrigger Resort. It is zoned CPD and located on the beach side of Estero Blvd. The parcel contains land that is seaward of the 1978 Coastal Construction Control Line (CCCL) and is Recreation FLU and zoned EC. The applicant is not proposing a FLU amendment for the Recreation FLU portion of the property.

The properties to the north are single-family residential homes, maximum of three stories, and a multifamily development Coquina Condominiums, with five-story structures. To the south is an RPD called Gulfside Twelve Condominiums, which are five story structures with rooftop amenities.

The applicant has also applied for a Commercial Planned Development rezoning that encompasses the 3.55 acre portion of the property landward of the 1978 CCCL and a special exception for the portion of the property that is seaward of the 1978 CCCL, and zoned EC.

Analysis:

The existing **Medium Residential FLU** is described in Policy FLU-1-B-4 as “*MEDIUM RESIDENTIAL*”: *designed for subdivisions with mixed housing types on smaller lots, newer high-rise buildings, and RV parks. This category will ensure that Fort Myers*

*Beach retains a variety of neighborhoods and housing types. Commercial activities are appropriate primarily along Estero Boulevard and 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 non-residential Floor Area Ratios (FAR) in Medium Residential shall not exceed 1.5.*

*Density: The maximum density is up to six (6) dwelling units per acre, except those developments previously vested with 10 units under the "platted overlay" may continue."*

The applicant proposed **Outrigger Resort Mixed-Use District** is written as "OUTRIGGER RESORT MIXED-USE (OR-MU) DISTRICT:

**Purpose:** *The Outrigger Resort Mixed-Use district comprises 3.55+/-acres. The intent of this district is to provide development and redevelopment opportunities for additional residential, resort, commercial, and public and private recreational amenities. Development within this district must be achieved by a unified Commercial Planned Development zoning district and must include contributions to the public realm. The Outrigger Resort Mixed-Use district is envisioned as a residential and resort-oriented lifestyle district with a mix of uses. The Outrigger Resort Mixed-Use district's general boundaries are along the Gulf (westside) of Estero Boulevard, approximately two (2) miles north of Big Carlos Pass Bridge and 100-feet south of Fort Myers Beach Access Point 11, and is more specifically described as:..." The property description can be found in the application documents*

**"Uses which may be permitted:** *As limited by the land development regulations, permitted uses include resort and hospitality, lodging/hotel accommodations, residential (multifamily and hotel/condominium), various types of commercial retail to support guests and neighborhood residents such as retail sales and personal service establishments, restaurants (including outdoor dining), live entertainment venues, public access to the beach and passive recreational uses and other contributions to the public realm as identified through Planned Development rezoning.*

**Intensity:** *The maximum building height is 200 feet measured from Florida Department of Environmental Protection (FDEP) Lowest Horizontal Structural Member (LHSM) to midpoint of roof and 17 stories with parking on the first two (2) floors. The maximum floor-to-area ratio (FAR) for the OR-MU district is 3.0. The FAR does not include the first level of parking. Non-residential uses open to the public are limited to 9,000 SF.*

**Density:** *The permitted density is 46 dwelling units per acre, inclusive of hotel, hotel/condominium, and multifamily (including condominiums, timeshare, vacation clubs and fractional ownership), utilizing the 3.55+/-acres that is part of the Outrigger Resort Mixed-Use district and London Bay Outrigger CPD. The proposed development is for 100 hotel rooms, 50 hotel/condominiums, and 46 multifamily. The hotel rooms would use the equivalency factor established for the Mixed Residential FLUC in the LDC Section 34-1803(a)(1).*

**Development Standards:** *The site design and building development standards for the Outrigger Resort Mixed-Use district will comply with those standards adopted in the Planned Development zoning district."*



The Medium Residential FLU allows a maximum FAR of 1.5 and allows a density of six dwelling units per acre. Under the existing FLU, the 3.55-acre property could support 231,957 square feet of development and a total of 21 dwelling units. The proposed Comprehensive Plan FAR change allows 463,914 square feet of development, not including the first level of parking, and 163 dwelling units (additional hotel motel units could be allowed through the equivalency factor). This change would allow more than twice the development square footage and an increase of 142 dwelling units above what the current Comprehensive Plan allows.

The previously approved resolution Z-95-085 would allow the owners to rebuild 144 hotel/motel, and 10,000 square feet of commercial space.

#### Neighborhood Compatibility:

The properties directly adjacent to this site are medium residential FLU and are all residential in nature. The property on the opposite side of Estero Blvd are in the Arts and Theatre Mixed-Use district and the uses are commercial, community facility, and, diagonal across the street, condominiums. The proposed uses in the Outrigger Resort Mixed-Use district are not likely to cause impacts above and beyond those generated by the previously existing Outrigger Beach Resort.

It is important to note that the density and intensity requests are likely to have an impact on the neighborhood. The proposed FLU includes an additional 6 hotel units and 46 multifamily units above the number that the Outrigger Beach Resort contained. Additionally, the proposed intensity and building heights will far exceed what existed on site prior and what exists in the surrounding developments.

#### Infrastructure Impacts:

Evaluation of infrastructure impacts is important to ensure that the Town of Fort Myers Beach will be able to accommodate the additional development that will be allowed with the change from Medium Residential to Outrigger Resort Mixed-Use. The proposed intensity will have a higher impact on traffic, water use and stormwater.

#### **Traffic**

The application is proposing an intensification of the site. Estero Boulevard is a constrained facility with little available real estate to add or expand lanes or multimodal improvements such as protected bike lanes. Due to its location, the resort will be highly dependent on automobiles as the main source of transportation, even with the programs proposed by the CPD. While the intensification will likely have a positive impact on property taxes, it will likely increase traffic congestion and vehicular delays. Increased congestion may have adverse impacts including a potential increase in response time of first responders.

Lee Tran currently provides both a north and south bound stop within ¼ mile of the proposed development.

## **Water**

The applicant has provided data indicating that approximately 69,000 gallons of water will be required per day, that is an increase of approximately 48,900 gallons per day above the previous uses. Lee County has provided a letter of availability indicating that Lee County Utilities has sufficient capacity to provide potable water and sewer to this site.

Tetratech is in the process of completing a hydraulic model for the Town of Fort Myers Beach to determine future infrastructure needs. The applicant will need to have any infrastructure approved by the Town.

The development may reduce additional demand on potable water by installing drought tolerant, native plants, cisterns and rain barrels and providing other water-wise techniques to decrease their impacts on the Town's water supply.

## **Stormwater**

Stormwater is of high concern for development on a flood prone barrier island. All development will be required to meet the stormwater management requirements of the South Florida Water Management District and any local requirements. There may be exemptions based on the current development of the site. The applicant has not provided water quality or quantity data at this point in the development process.

## **Schools**

The applicant has provided a letter from the Lee County School District indicating that this proposed development would not have a negative impact on the school district.

## **Overall Impacts**

Approval of the Comprehensive Plan Amendment will allow additional development on this 3.55 acres which will increase demand on infrastructure. The applicant has provided letters from the appropriate agencies indicating that services are available. Estero Boulevard is a constrained facility with few opportunities to develop separate bicycle or low speed vehicle lanes and additional traffic will likely cause negative traffic impacts.

## **III. PUBLIC BENEFITS**

The applicant is proposing several items as Public Benefits, including: 1) Public Beach Access and Linear Park with View Corridor, 2) Publicly Accessible Amenities, 3) Traffic Mitigation Measures, 4) World-Class Resort Amenities, 5) Landscaping Improvements. However, it is important to note that not all of the items listed are true public benefits, some are necessary for the development and others are business choices that the business will benefit from.

Public Beach Access and Linear Park with View Corridor : A public park with access to the beach is a benefit to the community. The applicant is also proposing a public restroom along the path to the beach as well as seating and art. The path to the beach

will be ADA compliant and is also an emergency vehicle access road. The park will include bike, scooter, and golf cart parking.

Publicly Accessible Amenities: While not truly a public benefit, because the business will make money from anyone choosing to utilize these amenities, many residents have voiced their desire to have additional commercial uses on the island. High quality restaurants, beach clubs, and markets, may be valued by the neighborhood residents.

Traffic Mitigation Measures: The applicant is proposing an airport shuttle and a golf cart shuttle service which may reduce the number of patrons who rent a car. The site will include bike, scooter, and golf cart parking and access to a water taxi shuttle.

World-Class Resort Amenities: These appear to overlap substantially with the publicly accessible amenities.

Landscaping Improvements: The applicant has provided a conceptual landscaping plan that should improve the look and feel along Estero Blvd and may provide additional shade along the sidewalk and in the linear park.

Findings and Conclusions:

LDC Sec. 34-92 states that: *Proposals to amend the Future Land Use Map must meet Comprehensive Plan Policy 4-C-10.*

*Policy 4-C-10 Map Amendments: The intensity and density levels allowed by the Future Land Use Map may be increased through formal amendments to this plan if such increases are clearly in the public interest, not just in the private interest of a petitioning landowner. Petitions from landowners will be accepted annually. The Town Council may accept applications more frequently at its sole discretion.*

Staff finds that the request to amend the Future Land Use Map to change 3.55 acres of Medium Residential FLU to Outrigger Resort Mixed-Use FLU is not clearly in the public interest. Development of a resort use in this location is not problematic, however, this request exceeds the density and intensity that the Town has recently reaffirmed in the updated Comprehensive plan. Additionally, the scale of the request is not appropriate for the smaller scale adjacent residential properties. A height buffer, to limit building heights adjacent to the smaller-scale residences, may be appropriate to allow the taller development interior to the project.

**IV. RECOMMENDATION**

Staff has reviewed the request for a Small-Scale Comprehensive Plan Amendment and found that the Comprehensive Plan Amendment request does not meet the requirements set forth in sec. 34-92 and Comprehensive Plan Policy FLU-1-C-11. Therefore, staff recommends **DENIAL** of CPA20240067, a request for a Small-Scale Comprehensive Plan Amendment to change 3.55 acres of Medium Residential FLU to Outrigger Resort Mixed-Use FLU. Developing language that reduces the height

impacts on the smaller-scale residential may improve the comprehensive plan amendment request. A reduction in FAR or density may also be appropriate to bring it into scale with nearby development.



## 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](mailto:zoningpermits@fmbgov.com). Please do not submit the instructions at the end of the application.

Site Address: 6200 ESTERO BLVD FORT MYERS BEACH FL 33931

STRAP Number: 33-46-24-W3-00012.0000

Applicant: 6200 ESTERO BLVD INVESTMENTS, LLC Phone: (239) 592-1400

Contact Name: Mark Wilson Phone: \_\_\_\_\_

Email: markwilson@londonbay.com Fax: \_\_\_\_\_

Current Zoning District: CPD and EC

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

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

\*Companion CPD submitted to amend the CPD zoning

### ACTION REQUESTED

### SUPPLEMENTAL FORM REQUIRED

☐ Special Exception

PH-A

☐ Variance

PH-B

☐ Conventional Rezoning

PH-C

☐ Planned Development ☒ Commercial ☐ Residential

PH-D

☐ Master Concept Plan Extension

PH-E

☐ Appeal of Administrative Action

PH-F

☐ Vacation of Platted Right-of-way and Easement

PH-G

☒ Other – cite LDC Section: Comprehensive Plan Amendment

attach on separate sheet

### PART I – General Information

A. Applicant\*: 6200 ESTERO BLVD INVESTMENTS, LLC Phone: (239) 592-1400

*\*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: 2210 Vanderbilt Beach Road Suite 1300, Naples, FL 34109

Email: markwilson@londonbay.com Fax: \_\_\_\_\_

Contact Name: Mark Wilson Phone: (239) 592-1400



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- |                                                                                                                        |                                           |                                              |
|------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|----------------------------------------------|
| <input checked="" type="checkbox"/> Owner*                                                                             | <input type="checkbox"/> Land Trust*      | <input type="checkbox"/> Partnership*        |
| <input checked="" type="checkbox"/> Corporation*                                                                       | <input type="checkbox"/> Association*     | <input type="checkbox"/> Condominium*        |
| <input type="checkbox"/> Subdivision*                                                                                  | <input type="checkbox"/> Timeshare Condo* | <input type="checkbox"/> Contract Purchaser* |
| <input checked="" type="checkbox"/> Authorized Representative* <input type="checkbox"/> Other* (please indicate) _____ |                                           |                                              |

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

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

Name: Fred Drovdlc, AICP, RVI Planning + Landscape Architecture Phone: (239) 318-6707  
Address: 1514 Broadway, Suite 201, Fort Myers, FL 33901  
Email: fdrovdlc@rviplanning.com Fax: \_\_\_\_\_

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

Name: Rich Yovanovich, Esq., Coleman, Yovanovich & Koester Phone: (239)435-3535  
Address: 4001 Tamiami Trail N., Suite 300 Naples, FL 34103  
Email: ryovanovich@cyklawfirm.com Fax: \_\_\_\_\_

Name: Ted Treesh, TR Transportation Consultants, Inc. Phone: (239)278-3090  
Address: 2726 Oak Ridge Court, Suite 503, Fort Myers, FL 33901  
Email: TBT@trtrans.net Fax: (239)278-1906

### PART II – Nature of Request

Requested Action (each request requires a separate application)

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



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

- ☐ Appeal of Administrative Action
- ☐ Vacation      ☐ Right-of-Way      ☐ Easement
- ☒ Other. Please Explain: Small-Scale Comprehensive Plan Amendment to amend the underlying future land use  
from Mixed Residential to site specific Outrigger Mixed-Use District and modify  
Policy 4-F-2.

### 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: NA Description: \_\_\_\_\_

Code Section: NA Description: \_\_\_\_\_

Code Section: NA Description: \_\_\_\_\_

### PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: NA Phone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Email: \_\_\_\_\_ Fax: \_\_\_\_\_

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

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

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;  
All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

**STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_**

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

presence OR \_\_\_\_ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by

\_\_\_\_\_, ☐ who is personally known to me OR ☐ who has produced

\_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
Notary Public Signature

### PART V

#### Property Ownership (Multiple Owners)

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

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

#### DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

6200 ESTERO BLVD INVESTMENTS, LLC

Mark Wilson, Stephen Wilson, Eijk van Otterloo, and Ken Callero, Trustee of the Davies Master Trust

100%

2210 Vanderbilt Beach Road Suite 1300, Naples, FL 34109

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

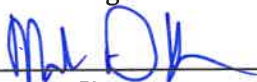
Date of Contract: 2/8/24

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.

|                                                                                                |                                    |
|------------------------------------------------------------------------------------------------|------------------------------------|
| <br>Signature | <u>Mark Wilson</u><br>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, Mark Wilson (name), as Managing Member (title)  
of 6200 ESTERO BLVD INVESTMENTS, 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

6200 ESTERO BLVD INVESTMENTS, LLC

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

Mark Wilson  
Signature

Mark Wilson

Typed or Printed Name

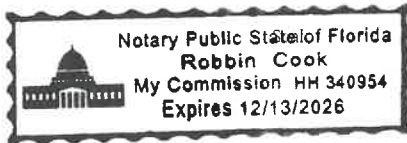
Managing Member  
Title

2/8/24  
Date

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 8 day of February, 2024, by Mark D. Wilson, ☒ who is personally known to me OR ☐ who has produced \_\_\_\_\_ as identification.



[Signature]  
Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 33-46-24-W3-00012.0000

Property Address: 6200 ESTERO BLVD FORT MYERS BEACH FL 33931

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

☐ Yes. Property identified in subdivision: \_\_\_\_\_

Book: \_\_\_\_\_ Page: \_\_\_\_\_ Unit: \_\_\_\_\_ Block: \_\_\_\_\_ Lot(s): \_\_\_\_\_

B. Boundary Survey:

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



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 351.5 feet  
Depth (please provide an average width if irregular in shape) 441 feet  
Frontage on street: 353 (Estero Blvd) feet. Frontage on waterbody: 350 feet  
Total land area: 3.55± ☒ acres ☐ square feet

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

From Big Carlos Pass Bridge go north on Estero Boulevard 2+/- miles. Outrigger  
Beach Resort is located on the west side of Estero Boulevard.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

### EXPLANATORY NOTES

**Please do not print, copy and submit these instructions**

Please submit required applications, supplemental information, exhibits and documents to [zoningpermits@fmbgov.com](mailto: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.





## **LONDON BAY OUTRIGGER COMPREHENSIVE PLAN AMENDMENT**

### **Request Narrative & Fort Myers Beach Comprehensive Plan Compliance**

#### **I. Request**

6200 Estero Blvd Investments, LLC (“Applicant”), is requesting to amend the future land use category from “Mixed Residential” to the “Outrigger Resort Mixed-Use District” including supportive policies in the Comprehensive Plan, for 3.55+/- acres formerly occupied by the Outrigger Beach Resort. This request will allow for resort-oriented uses at a suitable location in the “High-Rise Resort” area per the Town’s Comprehensive Plan.

The Outrigger Resort Mixed-Use district is envisioned as a residential and resort-oriented lifestyle district with a mix of uses. The intent of this district is to provide development and redevelopment opportunities for additional residential, resort, commercial, and public and private recreational amenities. Uses include resort and hospitality, lodging/hotel accommodations, residential (multifamily and hotel/condominiums), various types of commercial retail to support guests and neighborhood residents such as retail sales and personal service establishments, restaurants (including outdoor dining), live entertainment venues, public access to the beach and passive recreational uses and other contributions to the public realm.

The proposed Comprehensive Plan Amendment (CPA) is supplemented by a companion Commercial Planned Development (CPD) rezoning application.

#### **II. Property Information & Conditions**

Like much of Fort Myers Beach, the site was significantly impacted due to Hurricane Ian leaving the property with buildings that must be razed. The parcel has historically been known as Outrigger Beach Resort and is comprised of 9.00 +/- acres. The property is generally located approximately two (2) miles north of Big Carlos Pass Bridge and three and a half (3.5) miles south of Time Square.

The parcel’s future land use designation is Mixed Residential and Recreation and is zoned Commercial Planned Development (CPD) and Environmental Conservation (EC). Due to the Lee County 1978 Coastal Construction Control Line (CCCL)<sup>1</sup> only 3.55 +/- acres are developable. The property includes 5.45+/- acres seaward of the CCCL which is not included in the CPD or companion CPA request.

#### **Existing Entitlement Analysis**

The Mixed Residential future land use category (FLUC) allows for up to six (6) dwelling units per acre (6du/1ac) and the Recreation FLUC allows for one (1) dwelling unit per 20 acres (1du/20 ac). The total density permitted by the current FLUC’s are 26 units limited to a maximum height of 30 feet above Base Flood Elevation (BFE) and three (3) stories. Unless specified in a Planned Development zoning the site’s potential intensity follows the standards set forth in the CR zoning district (primarily lodging), which is a floor area ratio (FAR) of 1.2 for non-residential development.

---

<sup>1</sup> Also referred to as the Coastal Construction Setback Line (CCSL) on the survey and in common practice.



However, the Outrigger Beach CPD was approved in 1995 prior to incorporation and subsequent adoption of the Comprehensive Plan that established the Mixed Residential FLUC. The Outrigger CPD was approved by Lee County as Resolution Z-95-085. It allowed for:

- 144 hotel/motel units
- All uses permitted by right in the CT district that are accessory to a hotel/motel use. The following uses were also permitted:
  - Bar or Cocktail Lounge (existing)
  - Commercial Use of Beach Front Seaward of the Water Body Setback Line (existing)
  - Consumption on Premises (existing)
  - Convenience Store
- 10,000 square feet of commercial uses, per Table 4-2 of the Fort Myers Beach Comprehensive Plan

### III. Surrounding Land Uses

The parcel at 6200 Estero Boulevard is surrounded primarily by residential uses. The north portion of the property abuts three (3) single family homes and a five (5) story multi-family building known as Coquina Condominiums. The south portion of the property abuts a short-term vacation rental known as Carousel Inn, which was also significantly damaged due to Hurricane Ian is being developed into a multifamily condominium known as Gulfside Twelve. Table 1 below provides an inventory of the immediately adjacent Future Land Use categories, Zoning districts, and existing land uses for the Beach Parcel.

**Table 1: Surrounding Lands**

|              | <b>FUTURE LAND USE</b> | <b>ZONING DISTRICT</b>                                           | <b>EXISTING LAND USE</b>                         |
|--------------|------------------------|------------------------------------------------------------------|--------------------------------------------------|
| <b>NORTH</b> | Mixed Residential      | Residential Multi-Family (RM) / Residential Single-Family (RS)   | Condominiums (Coquina)/ Single Family Homes      |
| <b>SOUTH</b> | Mixed Residential      | Residential Planned Development (RPD)                            | Former Carousel Inn (Redeveloped as Gulfside 12) |
| <b>EAST</b>  | Boulevard              | Commercial Boulevard (CB) / Commercial Planned Development (CPD) | Office/ Convenience store                        |
| <b>WEST</b>  | Recreation             | Environmentally Critical (EC)                                    | Beach/Gulf of Mexico                             |

### IV. Proposed Development

#### Overview

The proposed CPD will allow for a flagship development that will be an anchor of activity for the south end of Estero Island. The development will offer a mix of hotel, hotel-condo, multifamily, and resort-oriented commercial retail uses, which will complement the surrounding development pattern and provide goods, services, and significant public benefits such as a new beach access and park, public restaurant and passive recreative and an activated beach area.

The combined development program incorporates 100 hotel units, 50 hotel/condominiums, and 46 multifamily (condominiums).

- The signature residential buildings are comprised of 46 condominium units and are made up of a single terracing tower, that breaks into three segments, a 13-story, a 15-story, and a 17-story segment.
- The hotel and hotel-condominium buildings, adjacent to Estero Boulevard, are 10 and 11 stories with parking on the first two floors. A second part of the building is perpendicular with the beach accommodates a 12-story building also with parking on the first two floors.

Access to the site will be accommodated from Estero Blvd. with an extended driveway leading to a central courtyard to mitigate traffic and stacking on Estero Blvd. The site will provide 300 vehicle parking spaces and up to 72 spaces for bicycles, golf carts, and e-charge stations for scooters.

Recreational amenities include a pool, spa and outdoor area, a lobby, office space, private beach club and event/conference rooms. Additionally, there is dedicated commercial public space that includes a public restaurant, hotel lobby bar, hotel grab-n-go, rooftop bar and a beach access and linear park. There will be a new public beach access and linear park will contain enhanced landscaping, benches/seating, public restrooms, and other hardscape site features.

As outlined in the Planning Communities for Fort Myers Beach (Comprehensive Plan), this area and south is referred to as "High-Rise Resort" and includes existing comparable building heights. It should be noted building heights range between six (6) and 15 stories south of the site. For example, the nearest high-rise is Sunset Condominium building at 12 stories. Further south, Island Winds Condominium is 13 stories, Gullwing Resort is 12 stories, and Pointe Estero Resort is 15 stories.

## **Development Parameters**

### **Height**

The permitted height at this location was established by the Outrigger Beach Resort CPD as a maximum of 35 feet above base flood elevation. The BFE+1 at this location is 15 feet and the FDEP design flood elevation (DFE) is 20'-1" NAVD which equals the 21.3' NGVD. The tallest proposed structure is 200 feet measured from the DFE.

### **Stories**

The applicant proposes various structures that range from 10 stories to a maximum of a 17-story building (including the parking level).

### **FAR**

The FAR permitted at this location in the surrounding Commercial Resort (CR) zoning district per is 1.2 yet the applicant is proposing a Comprehensive Plan Amendment and CPD zoning to allow an FAR up to 3.0.

Per LDC §34-633 the gross floor area includes the total floor area of all stories of a building within the surrounding exterior walls (whether the walls are solid or screened), plus all area below an elevated building that is six feet or more in height, plus all stories of covered parking, but not including any area whose roof is screened rather than solid (such as swimming pool enclosures).

The land area used in the calculation is the gross square footage within the site's private property line, minus wetlands, canals or other waterbodies, and minus any land designated "recreation" on the comprehensive plan's future land use map. The area of the subject property landward of the 1978 Lee County CCCL is 3.55 acres or 154,638 square feet.

The proposed buildings vary in size and footprint, but the total proposed floor area is 510,305 square feet resulting in an FAR of 3.3. The applicant has requested a deviation to eliminate

counting the first-floor parking area in the FAR calculation. If the deviation is approved the floor area is reduced to 463,914 square feet. The result is an FAR of 3.0.

It is our understanding that the Town staff, LPA and Council have moved towards future LDC amendments making this request permanent thus the request meets the intent of the will of the Town.

### **Density**

The proposed development is for 100 hotel rooms, 50 hotel/condominiums, and 46 multifamily units, a total of 196 units over 3.55 acres. The density is 55 units per acre. No hotel equivalency factor was applied.

### **Contributions to the Public Realm**

The proposed request is for density and height above the current Comprehensive Plan and Land Development Code Regulations. According to the Town's Comprehensive Plan Policy 4-C-4, the request for additional height can be made and "the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal." Likewise, Policy 4-C-10 states that, "intensity and density levels allowed by the Future Land Use Map may be increased through formal amendments to this plan if such increases are clearly in the public interest, not just in the private interest of a petitioning landowner."

Below are the proposed public benefits to the residents and visitors to the Beach and the Town for Fort Myers Beach overall.

#### **1. Public Beach Access and Linear Park with View Corridor**

The resort is proposing a new public beach access along the south property line. The access abuts Beach Access 11Z (Bahia Via) to the south, which is a 5' easement on the Gulfside Twelve property, as shown in *Image 1* below. The existing access on the Gulfside Twelve property can be characterized as an unimproved walkway with no discernable clear path for access. As shown in a 2022 aerial photo prior to Hurricane Ian, the path easement connects to a cross-walk but seems to require users to traverse a ditch, drainage features and the former Carousel Inn pool amenity. It appears that it was not formalized into a useful access for the general public from Estero Boulevard, but perhaps only useful to people from the former Inn. See *Image 2* for details.

In addition to the apparent access limitations, the easement is narrow, limited to 5' in width, is not improved to provide seating, shade or a stable walking surface, is not handicap accessible and provides no access for emergency vehicles.



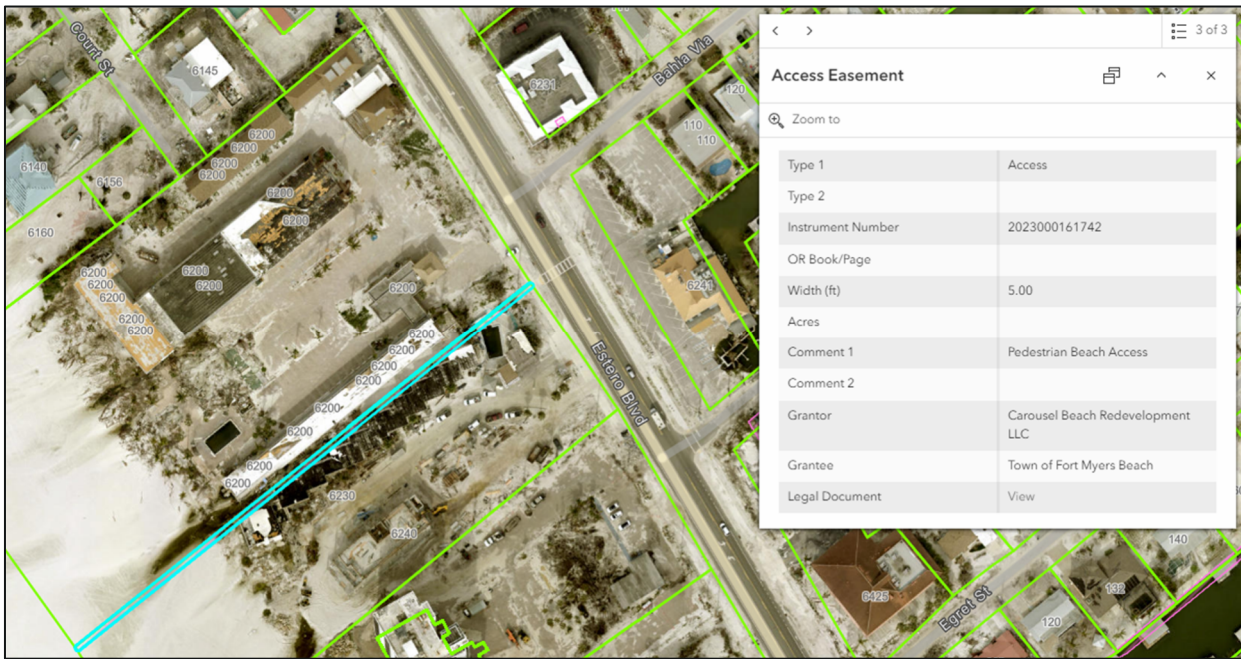


Image 1 - Beach Access 11Z Easement (2023 Lee County Property Appraiser Aerial)



Image 2 - Beach Access 11Z as viewed from Estero Boulevard (2022 Lee County Property Appraiser Aerial)

- In contrast, the proposed beach access by the Outrigger CPD will be a significant upgrade and provide substantial benefits to the general public, not just purveyors of the resort. The beach access and linear public park will be part of a dedicated easement. The path will be handicap accessible, i.e., fully ADA compliant with an improved surface capable of handling wheelchairs and other motorized assistance vehicle for physically impaired individuals. The path is adequate width to be considered and emergency vehicle accessible (EVA) including

access from Estero Boulevard. The design features include preserving the native vegetation while adding lush vegetation and shade, pedestrian seating, creating a public plaza with public art, parking for golf carts, electric scooters and bicycles, a water feature, and other passive amenities, including at-grade public restrooms (subject to approval by permitting agencies) and wash stations, all of which culminates to an activated beach area.

- The park and access will be installed and maintained in perpetuity by the property owner.

## **2. Publicly Accessible Amenities**

The site will create up to 9,000 square feet of publicly accessible commercial retail uses that are much needed on the south end of the island. The uses include a Tiki hut style beach bar as the capstone to the linear park paying homage to the Outrigger Resort. The park area will be surrounded by beautiful landscaping and seating and active beach amenities, wash stations and restrooms. The hotel amenities include a ballroom and event terrace, café and market, destination restaurant, hotel lobby lounge, and rooftop bar and terrace.

## **3. Traffic Mitigation Measures**

Because for the nature of the mixed-use development a significant amount of usage of the amenities and public spaces will not need to rely on vehicles. Residents of the development will be among the users of the onsite amenities and publicly accessible commercial areas. Those staying in the hotel or renting a hotel-condominium will also be able to use the amenities without need for transportation. Residents of nearby condos will also use the public restaurants and active beach areas who will be able to choose alternatives to car travel.

Specific mitigation measures and programs are as follows:

- The site design encourages alternative modes of transportation by providing:
  - bicycle parking,
  - golf cart parking,
  - access to water taxi shuttles,
  - Shared vehicular shuttle to transport guests to and from RSW Airport,
  - Dedicated golf cart shuttle to take guests to local attractions within a 10 to 15-minute radius, and
  - public transportation via LeeTran bus routes.
- Pedestrian traffic will be encouraged through the design of street level landscaping and shading of walkways, public plaza at the entrance to the Public Beach access and linear park, and seating and shaded areas in the park as well.
- The resort may implement programs to encourage the use of the DRAC Program (Don't Rent A Car) and ride sharing and, as mentioned above, will provide airport shuttle services and access via water taxi.

## **4. World-Class Resort Amenities**

There is a significant desire among the residents and users of the condominiums, hotels and timeshare units for additional amenities and activities on the south end of the island. The resort will anchor the south end of the island with world-class amenities that include a pool deck and beach club, a hotel lobby bar, hotel restaurant (serving breakfast, lunch & dinner), cafe & market,

rooftop bar, ballroom, and event terrace. The café & market, lobby and rooftop bars, and restaurant will all be open to the public.

## 5. Landscaping Improvements

Landscaping and improvements to Estero Boulevard along the frontage of the proposed resort are an important effort and add substantially to the look and feel of the Island as well as pedestrian comfort. The additional sidewalk accent trees will encourage walking, biking and other forms of alternative transportation as well as beautify the island. The typical landscaping in place along this section of Estero Boulevard prior to Hurricane Ian was nearly non-existent, which has not provided proper shading. Provided as part of the zoning package is a landscape plan for improvements to Estero Boulevard that the new resort would pay for and maintain in perpetuity. The Town gets improved landscaping and pedestrian oriented infrastructure without cost to the Town now or in the future.

## V. Infrastructure

The subject property is currently connected to public infrastructure that can support the proposed density and intensity related to the CPD request. The Town of Fort Myers Beach and Lee County will respectively provide potable water and sanitary sewer services for the project. Availability have been received by both jurisdictions and are included in our zoning packages. Both utility franchises show availability for the proposed development program.

The inventory of offsite multimodal transportation infrastructure immediately adjacent to the site (i.e. sidewalks, bicycle lanes, sharrows, transit routes) is outlined below and detailed in *Image 3*.

- Lee Tran bus pull-off and stop abutting property serving the southbound route
- Lee Tran bus pull-off and stop within ¼ mile serving the northbound route
- Served by Lee Tran bus route 410
- Estero Boulevard includes North and Southbound 5' Bike Lanes, no sharrows
- Shared use paths: 10' path on the beach side of Estero Boulevard and an 8' path on the bay side



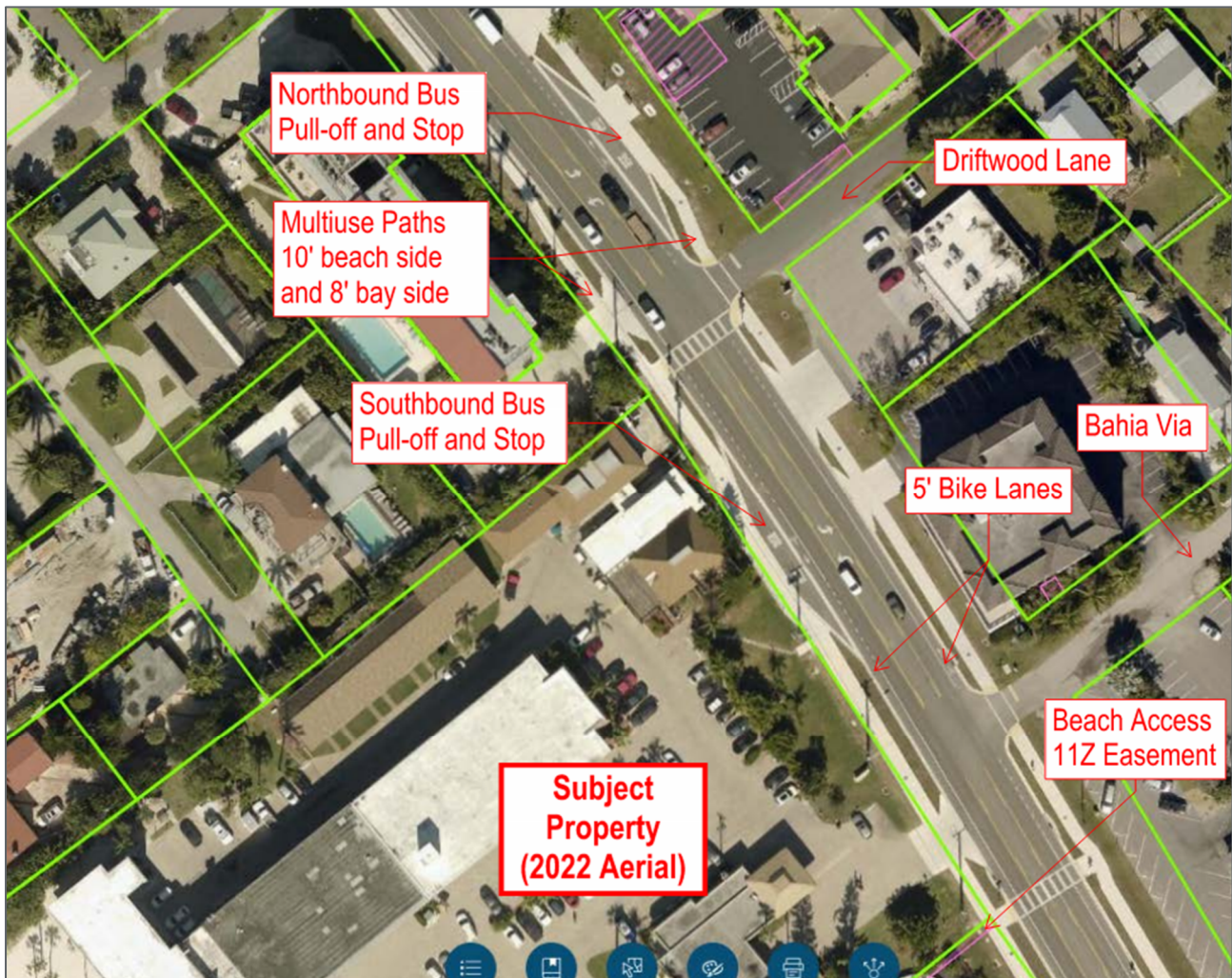


Image 3 - Multimodal Infrastructure

## VI. Comprehensive Plan Consistency Narrative

The following is an analysis of how the proposed Comprehensive Plan Amendment is consistent with the goals, objectives, and policies (GOPs) of the Town of Fort Myers Beach Comprehensive Plan. The adopted GOP headings are listed below, and the Applicant's compliance analysis is shown in bold.

The following is an analysis of how the proposed Comprehensive Plan Amendment is consistent with the goals, objectives, and policies (GOPs) of the Town of Fort Myers Beach Comprehensive Plan. The adopted GOP headings are listed below, and the Applicant's compliance analysis is shown in **bold**.

### **Future Land Use Element**

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.

**APPLICANT: The CPA and the companion CPD rezone include commitments to provide enhanced pedestrian safety and streetscape aesthetics in direct compliance with this policy. The CPD master concept plan will provide sidewalk connectivity throughout, relocated public accessways. Additionally, public streetscape improvements are proposed along Estero Boulevard to create an enhanced pedestrian environment along the roadway and general improvement to aesthetics. Lastly, the development proposes a new public beach access on the south property line. This dedicated park area is at least 40-foot-wide including an EVA path and 15-foot-wide buffer area to the south.**

POLICY 1-B-2 Improve the appearance of the town throughout by landscaping public property and rights-of-way with native vegetation.

**APPLICANT: The CPD proposes landscaping improvements along Estero Boulevard for the length of the project, as well as a proposed Linear Park that will be heavily landscaped and feature other hardscape amenities. Maintenance of the improvement will be provided by the applicant in perpetuity to provide a comfortable walking environment both along Estero Blvd. and to the beach.**

POLICY 1-B-3 Identify potential mechanisms to implement and maintain special amenities such as entry features, monuments, or other special landscape projects.

**APPLICANT: The CPD proposes landscaping improvements in Estero Boulevard for the length of the project, providing a comfortable walking environment and maintained in perpetuity by the Applicant. The special amenity proposed is the public beach access and linear park that is approximately 40-foot-wide on the south boundary that is an EVA path, with extensive landscaping, public wash areas and restrooms, public art, and culminating an active beach that includes a beach bar and activities area.**

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.



**APPLICANT:** The parking area in the building will be concealed with enhanced tiered landscaping, providing shade for pedestrians as well. Additionally, the site design includes tiered building heights along Estero Boulevard, maintaining scale and beautification instead of having vertical structures that create a sense of an enclosed area. On the southern portion of the site, there is a linear park with several features intended for public use and admiration. The arrival area of the linear park includes a public plaza to encourage pedestrian interaction with sculptures, water features, and shaded bench seating for public use and enjoyment.

As seen throughout the town, building heights comparable to the proposed request can provide designs that are admired by people on foot or bicycles. Existing building heights range between six (6) and 15 stories south of the site. For example, the nearest high-rise is Sunset Condominium building at 12 stories. Further south, Island Winds Condominium is 13 stories, Gullwing Resort is 12, and Pointe Estero Resort is 15 stories.

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.

**APPLICANT:** The proposed Mixed-Use district has been created in direct compliance with the policy. The proposed CPD incorporates a diverse range of uses in support of this policy. As previously mentioned, the site features event space with a ballroom and terrace, a café, and a market, as well as a destination restaurant. The on-site retail and restaurant opportunities add to the entertainment options available on the southern portion of the island. These uses effectively reduce trips to and from the north Downtown and Times Square areas, which are located three and a half (3.5) miles north of the site.

POLICY 4-A-4 Easy walking access to the beach is a key element of the town's human scale. Development trends that inhibit this access are undesirable (including traffic improvements to Estero Boulevard that would make it a barrier to the beach for pedestrians).

**APPLICANT:** The proposed CPD and companion CPA propose to further enhance the pedestrian environment and multi-modal transportation network that is critical to Fort Myers Beach's success, quality of life, and public safety by providing resources for golf carts and bicycles, new beach access and park, and enhanced landscaping for the Estero Boulevard sidewalks.

POLICY 4-A-5 The town contains many important natural resources despite its urbanized character. Preservation of those resources is of the highest importance and is a frequent theme throughout this plan.

**APPLICANT:** No development in the areas waterward of the Lee County 1978 CCCL will be applied to the proposed development. The development program will be designed and constructed to the latest South Florida Water Management and Department of Environmental Protection standards to ensure high-quality development that protects natural resources. These areas will remain in the Recreation FLUC and EC zoning district as further evidence of the protections in place for this area of the site.

POLICY 4-B-4 "MIXED RESIDENTIAL": designed for older subdivisions with mixed housing types on smaller lots, newer high-rise buildings, and mobile home and RV parks. This category will ensure that Fort Myers Beach retains a variety of neighborhoods and housing types. For new development,

the maximum density is 6 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). Commercial activities are limited to lower impact uses such as offices, motels, churches, and public uses, and 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 7.9% of the land in this category, and this percentage shall not exceed 12%.

**APPLICANT: The above policy describes the portions of the Property that are outside of the area currently assigned a Recreation FLU and demonstrates it is no longer an appropriate future land use category for a resort destination as this scale and scope of use was not contemplated when the Town adopted its Comprehensive Plan.**

POLICY 4-B-8 "RECREATION": applied to public parks, schools, undevelopable portions of Bay Beach, and those parts of Gulf beaches that lie seaward of the 1978 coastal construction control line. Additional accretions of beach, whether by natural causes or through beach renourishment, will automatically be assigned to this category. No new residential development is permitted (although several existing buildings were legally constructed partially seaward of the 1978 control line). The maximum density of residential development here is 1 dwelling units per 20 acres, with all dwelling units to be constructed outside this category. Allowable uses are parks, schools, libraries, bathing beaches, beach access points, and related public facilities. Non-recreational uses (such as the elementary school) now comprise 2.7% of the land in this category; additional school sites and public buildings shall not increase this percentage beyond 6%.

**APPLICANT: The proposed CPD does not include density seaward of the Lee County 1978 CCCL nor does the Comprehensive Plan Amendment include the Recreation FLU designated area.**

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

**APPLICANT: The proposed Mixed-Use district FLU and CPD are not located within the Low-Density category and is proposed for inclusion in a site-specific Mixed-Use district based on existing and proposed levels of development at an established node in the west side of Fort Myers Beach.**

**The district requires the approval of a Planned Development rezoning to ensure conditions and site-specific concept plans are attached to the district in perpetuity.**

**The proposed District proposes lower intensity uses such as hotel/lodging, recreation, and retail uses consistent with other future land use categories including the current Mixed Residential FLUC.**

**The district emphasizes multimodal access by bicycle, walking and golf cart, as well as a "park once" concept to gain access to entertainment, lodging, services, goods, restaurants, and recreational amenities.**

**The physical scale has been carefully planned to remain consistent with the current development form and soften new building via landscaping and architectural details.**

## **Transportation Element**

### **POLICY 7-D-5 HIDDEN-PATH SYSTEM.**

**APPLICANT:** The proposed new public beach access and linear park will provide a comfortable pedestrian environment that connects Estero Boulevard to the beach.

### **OBJECTIVE 7-E UPGRADE ESTERO BOULEVARD.**

**APPLICANT:** The proposed enhanced landscape improvements will improve the walking environment and additional street trees are proven to slow traffic and enhance public safety.

### **POLICY 6-H-5 WATER QUALITY**

**APPLICANT:** The district and implementing development plans, through CPD conditions and the adopted master concept plan, will be reviewed by the FDEP and SFWMD to ensure water quality is maintained and the project meets the current standards, which are more stringent compared to the existing permits.

## **VII. Conclusion**

In sum, the Outrigger Resort Mixed-Use district, and the companion London Bay Outrigger CPD proposal will allow for the development of resort-oriented uses at a suitable location in the “High-Rise Resort” area outlined in the Planning Communities for Fort Myers Beach exhibit (town’s Comprehensive Plan). The proposed project is largely contributing to the public benefit of Fort Myers Beach, including enhanced access to the beach, Estero Boulevard landscaping to improve aesthetics and the pedestrian environment, and additional public restaurants and recreational amenities. The project locates destination resort uses for both the public and future patrons.

As proposed through the Outrigger Resort Mixed-Use district, the new London Bay Outrigger CPD will also be consistent with the vision and implementing goals, objectives and policies of the Town’s Comprehensive Plan and Land Development Code Regulations. For these reasons, the applicant respectfully requests approval of this amendment.

OUTRIGGERS ABOVE LEE COUNTY  
COASTAL CONSTRUCTION SETBACK LINE

LEGAL DESCRIPTION

LEGAL DESCRIPTION:

A PARCEL OF LAND LYING IN SECTIONS 33 AND 34, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEASTERLY CORNER OF LOT 1, FLAMINGO PARK, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 9, PAGE 66, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N.50°40'49" E., ALONG THE SOUTHEASTERLY LINE OF SAID FLAMINGO PARK, A DISTANCE OF 121.56 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD (COUNTY ROAD 865); THENCE RUN ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES: 1) SOUTHEASTERLY ALONG A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 2,832.29 FEET, A CENTRAL ANGLE OF 01°40'21", AN ARC LENGTH OF 82.68 FEET, A CHORD LENGTH OF 82.68 FEET, AND A CHORD BEARING OF S.31°56'13"E. 2) S.31°14'53"E., A DISTANCE OF 270.69 FEET; THENCE DEPARTING SAID SOUTHWESTERLY RIGHT-OF-WAY LINE, RUN S.50°40'49"W., A DISTANCE OF 417.12 FEET TO A POINT ON THE LEE COUNTY COASTAL CONSTRUCTION SETBACK LINE; THENCE RUN ALONG SAID LEE COUNTY COASTAL CONSTRUCTION SETBACK LINE N.39°10'05"W., A DISTANCE OF 350.00 FEET TO THE SOUTHEASTERLY LINE OF SAID FLAMINGO PARK; THENCE DEPARTING SAID LEE COUNTY COASTAL CONSTRUCTION SETBACK LINE, RUN N. 50°40'49" E., ALONG SAID SOUTHEASTERLY LINE OF SAID FLAMINGO PARK A DISTANCE OF 343.26 FEET TO THE POINT OF BEGINNING.

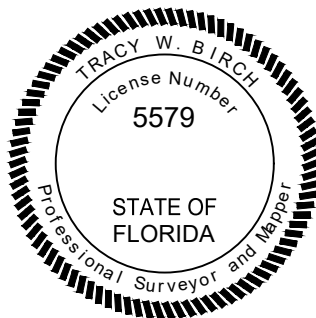
CONTAINING 154,490.39 SQUARE FEET OR 3.547 ACRES, MORE OR LESS.

SURVEYOR'S NOTES

1. THIS LEGAL DESCRIPTION IS NOT VALID IF PRINTED, OR WITHOUT THE ORIGINAL SIGNATURE AND RAISED SEAL OF THE PROFESSIONAL SURVEYOR AND MAPPER SHOWN HEREON.
2. NO ABSTRACT FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD HAVE BEEN PROVIDED BY THIS FIRM.
3. THE "LEGAL DESCRIPTION" HEREON HAS BEEN PREPARED BY THE SURVEYOR AT THE CLIENT'S REQUEST.
4. THIS SKETCH DOES NOT REPRESENT A FIELD SURVEY, AS SUCH.
5. THE DELINEATION OF LANDS SHOWN HEREON IS AS PER THE CLIENT'S INSTRUCTIONS.
6. THIS LEGAL DESCRIPTION DOES NOT CONSTITUTE A BOUNDARY SURVEY, AS SUCH.
7. ATTENTION IS DIRECTED TO THE FACT THAT THIS MAP MAY HAVE BEEN REDUCED IN SIZE BY REPRODUCTION. THIS MUST BE CONSIDERED WHEN OBTAINING SCALED DATA.
8. BEARINGS SHOWN HEREON ARE ASSUMED, DERIVING A BEARING OF S 31°14'53" E ALONG THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD.

LEGEND & SYMBOLS

POB = POINT OF BEGINNING  
POC = POINT OF COMMENCEMENT  
POT = POINT OF TERMINATION  
SEC = SECTION  
TWN = TOWNSHIP  
RNG = RANGE  
PB = PLAT BOOK  
ORB = OFFICIAL RECORDS BOOK  
PG = PAGE  
SQ.FT. = SQUARE FEET  
AC = ACRES  
CCCL = COASTAL CONSTRUCTION  
CONTROL LINE  
CCCL LINE  
PROPERTY LINE  
RIGHT-OF-WAY LINE



SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT ALL PARTS OF THIS SKETCH HAVE BEEN COMPLETED IN ACCORDANCE WITH THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR SURVEYING IN THE STATE OF FLORIDA, 5J-17, F.A.C., TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF. NOT VALID WITHOUT A SIGNATURE AND RAISED SEAL FROM THE SURVEYOR.

Tracy W  
Birch

Tracy W Birch  
2024.01.31  
12:57:04 -05'00'

TRACY W. BIRCH, P.S.M.  
FLORIDA LICENSE #5579

DATE

THIS SKETCH HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS, OR ORGANIZATIONS IDENTIFIED BELOW AND ITS CERTIFICATION IS NON-TRANSFERABLE. ANY COPY HEREOF, TO BE CONSIDERED VALID, MUST BE EMBOSSED WITH THE SEAL OF A REGISTERED SURVEYOR EMPLOYED BY THIS FIRM.

CERTIFICATION

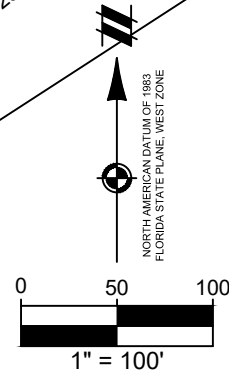
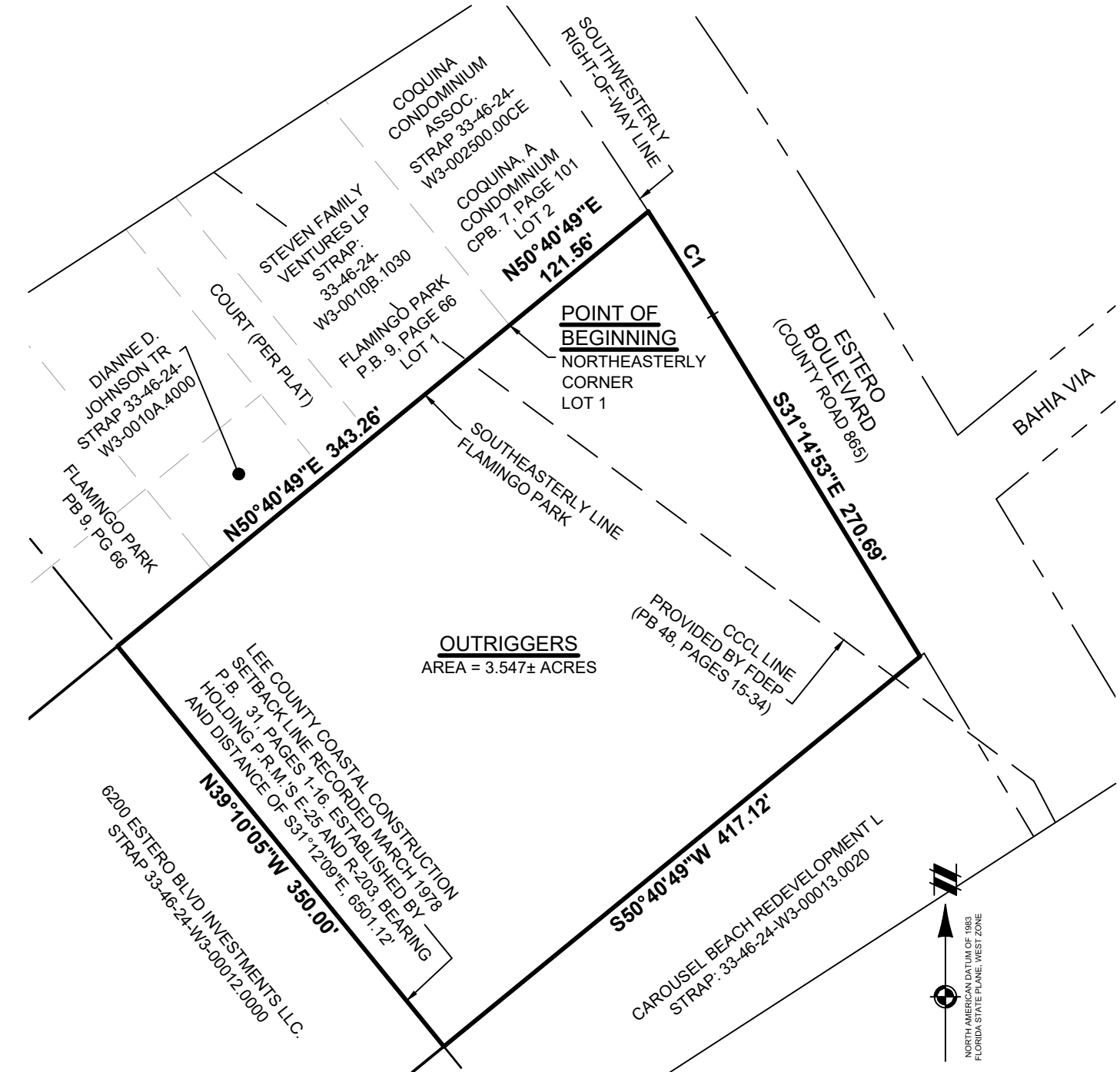
THIS SKETCH IS NOT A SURVEY

|            |                                         |      |     |
|------------|-----------------------------------------|------|-----|
| SHEET      | 1                                       | OF   | 2   |
| DRW:       | MC                                      | CHK: | MC  |
| SEC:       | 33 & 34                                 | TWN: | 46S |
|            |                                         | RNG: | 24E |
| PLOT DATE: | 2024-01-31                              |      |     |
| FILE:      | 23000972-outriggersaboveleecountyccl_ds |      |     |



2600 MAITLAND CENTER PKWY, STE 262  
MAITLAND, FLORIDA 32751  
407.775.6500 | LICENSED BUSINESS #7832  
© 2024 - ATWELL GROUP, LLC

OUTRIGGERS ABOVE LEE COUNTY  
COASTAL CONSTRUCTION SETBACK LINE  
SKETCH OF DESCRIPTION



| Curve Table |          |          |        |             |             |
|-------------|----------|----------|--------|-------------|-------------|
| C#          | Radius   | Delta    | Length | Ch Bearing  | Ch Distance |
| C1          | 2832.29' | 1°40'21" | 82.68' | S31°56'13"E | 82.68'      |

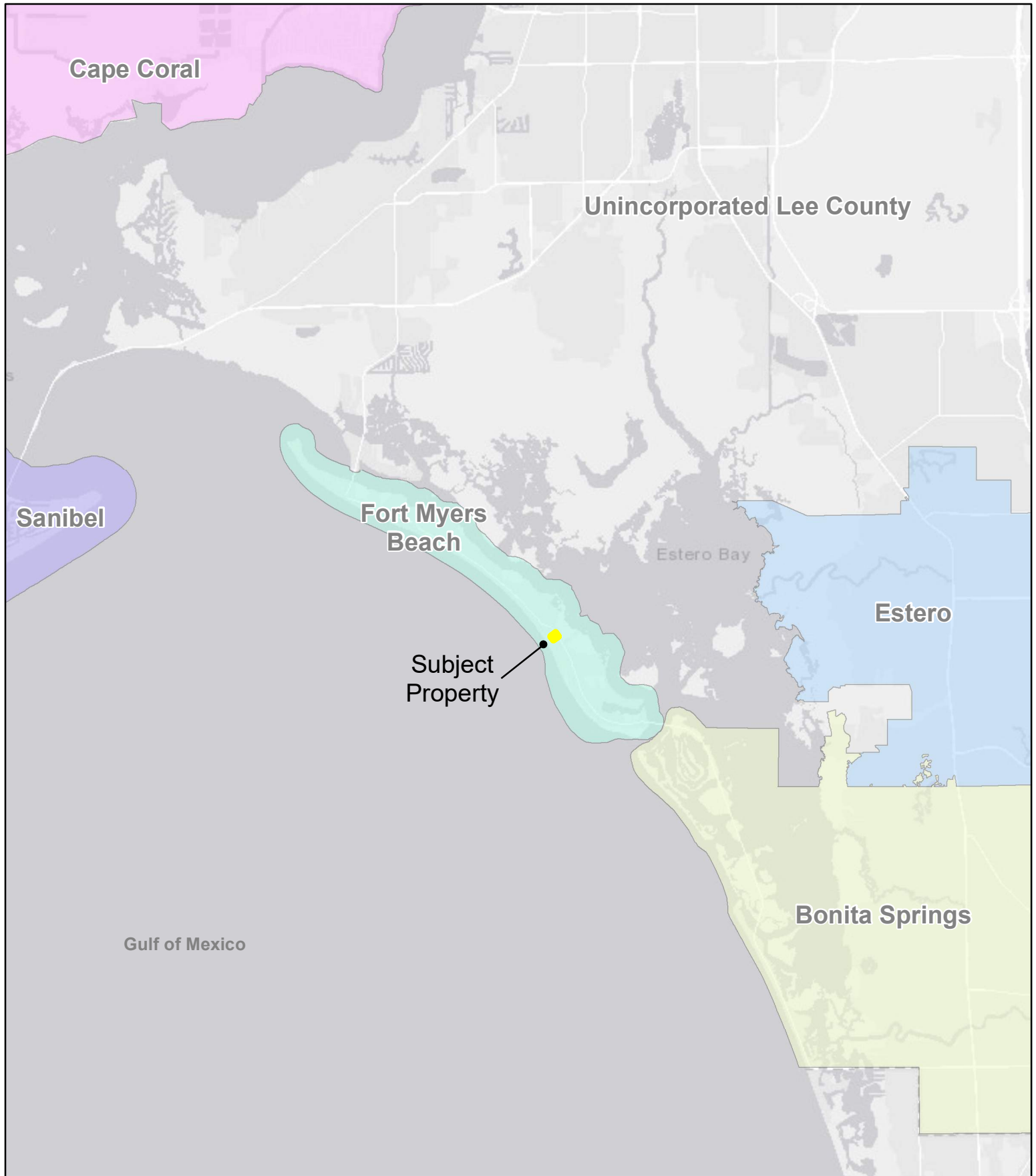
THIS SKETCH HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS, OR ORGANIZATIONS IDENTIFIED BELOW AND ITS CERTIFICATION IS NON-TRANSFERABLE. ANY COPY HEREOF, TO BE CONSIDERED VALID, MUST BE EMBOSSED WITH THE SEAL OF A REGISTERED SURVEYOR EMPLOYED BY THIS FIRM.

CERTIFICATION

| THIS SKETCH IS NOT A SURVEY                    |         |      |     |      |     |
|------------------------------------------------|---------|------|-----|------|-----|
| SHEET                                          |         | 2    | OF  |      | 2   |
| DRW:                                           | MC      | CHK: | MC  | PM:  | TB  |
| SEC:                                           | 33 & 34 | TWN: | 46S | RNG: | 24E |
| PLOT DATE: 2024-01-31                          |         |      |     |      |     |
| FILE: 23000972-outriggersaboveleecountycsdl_ds |         |      |     |      |     |

**ATWELL**  
[www.atwell-group.com](http://www.atwell-group.com)

2600 MAITLAND CENTER PKWY, STE 262  
MAITLAND, FLORIDA 32751  
407.775.6500 | LICENSED BUSINESS #7832  
© 2024 - ATWELL GROUP, LLC



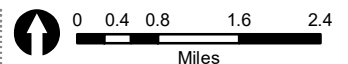
## LONDON BAY OUTRIGGER • LOCATION MAP

📍 Fort Myers Beach, FL

📅 Date: 3/27/2024

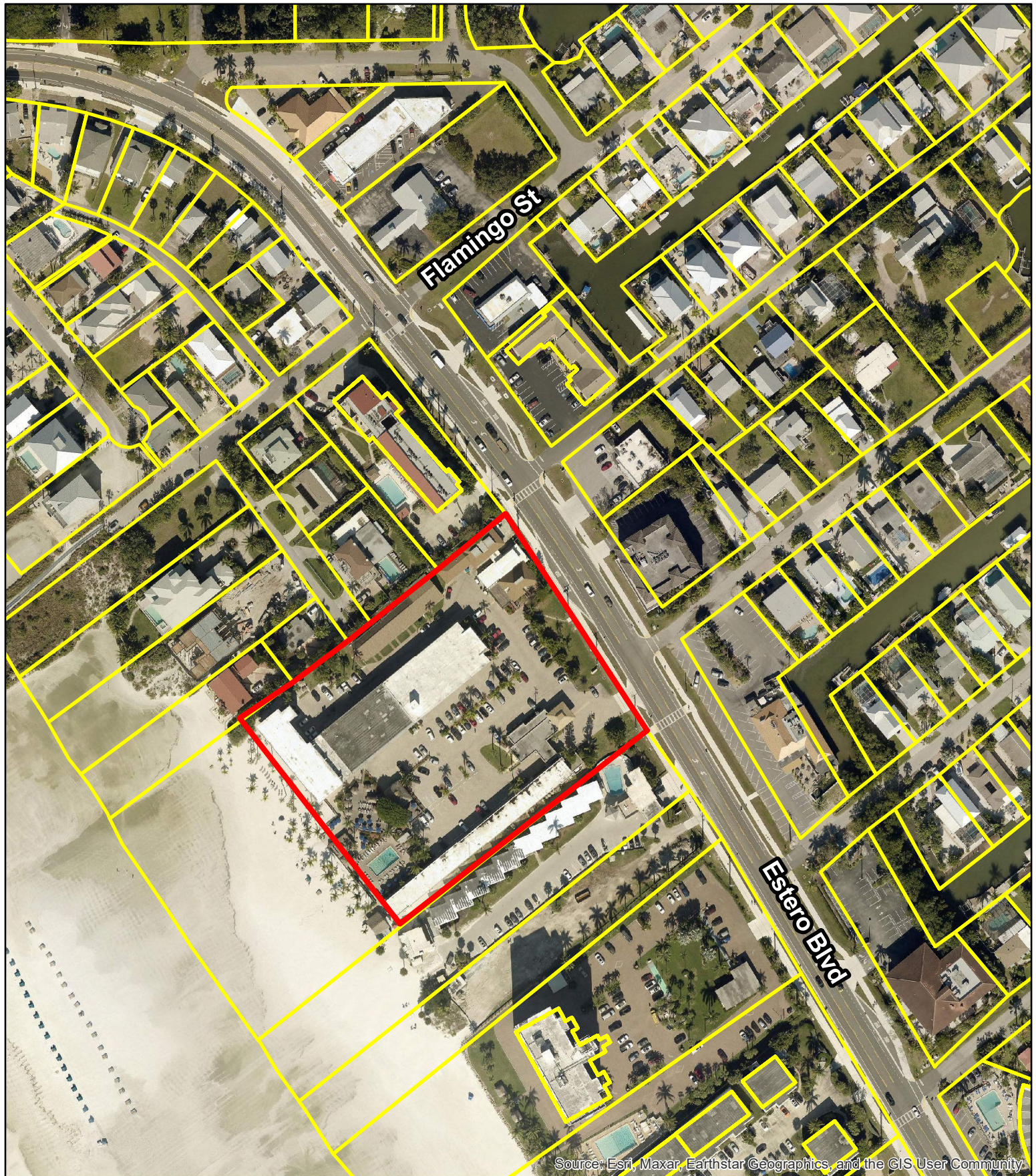
# 22006872

👤 London Bay



Information furnished regarding this property is from sources deemed reliable. RVi has not made an independent investigation of these sources and no warranty is made as to their accuracy or completeness. This plan is conceptual, subject to change, and does not represent any regulatory approval.





Copyright RVI



2600 Maitland Center  
Pkwy  
Suite 262  
Maitland, FL 32751  
Tel: 407.775.6500

## LONDON BAY OUTRIGGER • AERIAL MAP (2022)

📍 Fort Myers Beach, FL

📅 Date: 3/27/2024

# 22006872

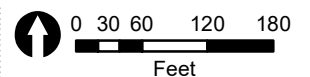
👤 London Bay



Subject Parcels



Lee County Parcels



Information furnished regarding this property is from sources deemed reliable. RVI has not made an independent investigation of these sources and no warranty is made as to their accuracy or completeness. This plan is conceptual, subject to change, and does not represent any regulatory approval.





Copyright RVI



2600 Maitland Center  
Pkw  
Suite 262  
Maitland, FL 32751  
Tel: 407.775.6500

## LONDON BAY OUTRIGGER • AERIAL MAP (2023)

📍 Fort Myers Beach, FL

📅 Date: 3/27/2024

# 22006872

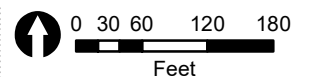
👤 London Bay



Subject Parcels

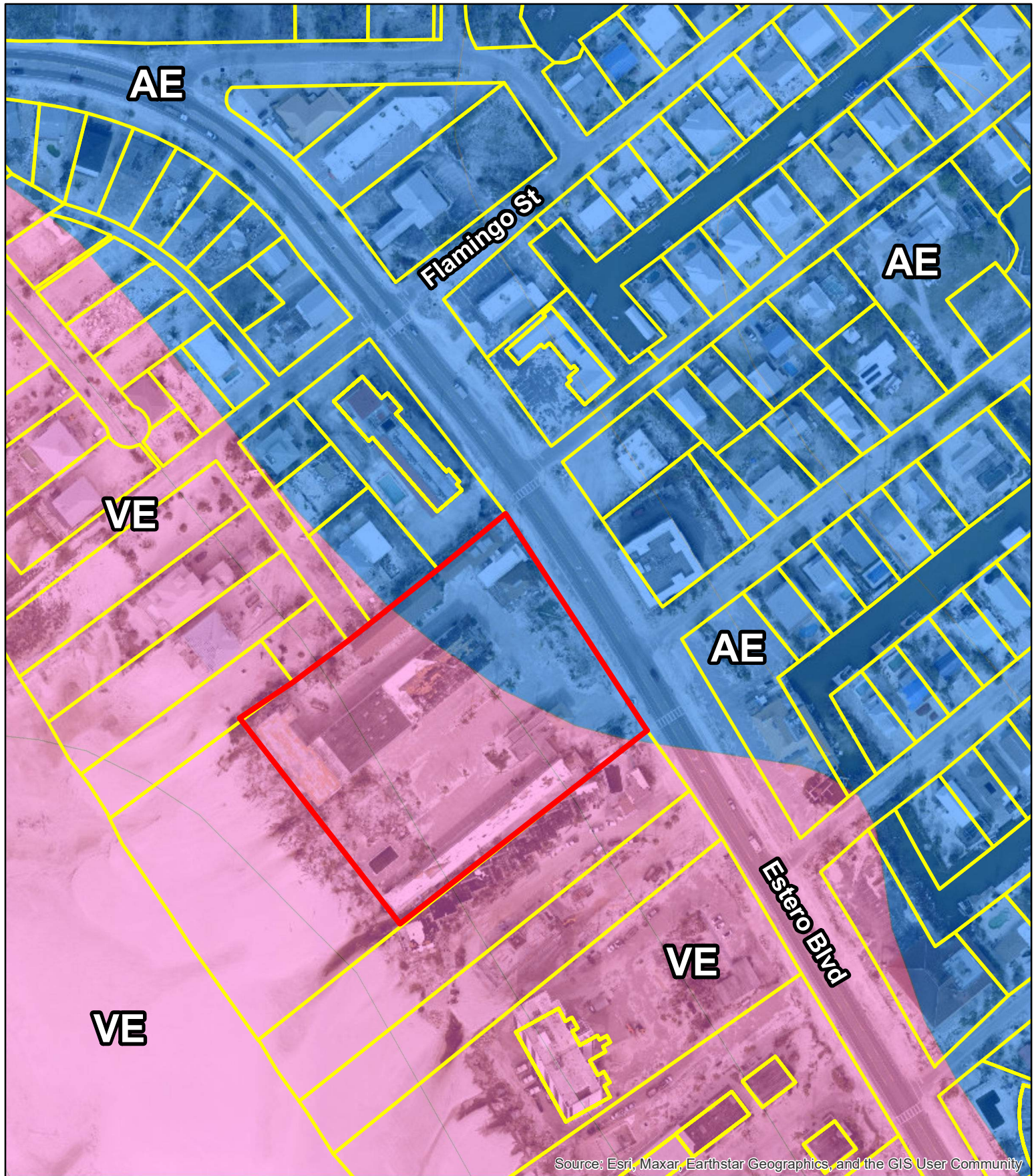


Lee County Parcels



Information furnished regarding this property is from sources deemed reliable. RVI has not made an independent investigation of these sources and no warranty is made as to their accuracy or completeness. This plan is conceptual, subject to change, and does not represent any regulatory approval.





Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

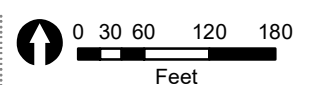
Copyright RVI

**RVI**  
 2600 Maitland Center  
 Pkwy  
 Suite 262  
 Maitland, FL 32751  
 Tel: 407.775.6500

# **LONDON BAY OUTRIGGER • FEMA FLOOD ZONE MAP**

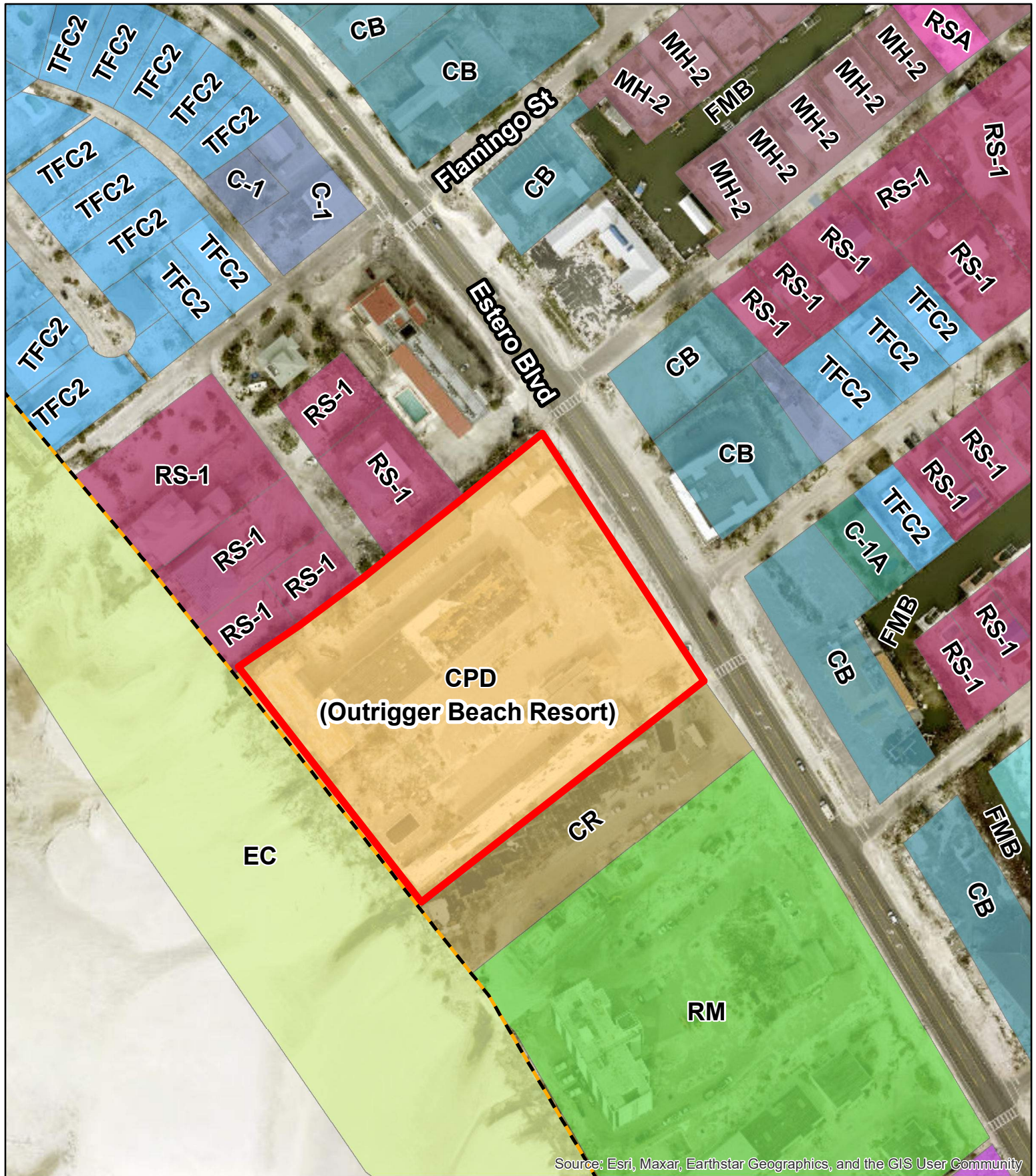
📍 Fort Myers Beach, FL  
 📅 Date: 3/27/2024  
 # 22006872  
 🏠 London Bay

- Subject Parcels
- Lee County Parcels
- Flood Zone AE
- Flood Zone VE



Information furnished regarding this property is from sources deemed reliable. RVI has not made an independent investigation of these sources and no warranty is made as to their accuracy or completeness. This plan is conceptual, subject to change, and does not represent any regulatory approval.





Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

Copyright RVI

**RVI**  
 2600 Maitland Center  
 Pkwy  
 Suite 262  
 Maitland, FL 32751  
 Tel: 407.775.6500

## LONDON BAY OUTRIGGER • EXISTING ZONING MAP

📍 Fort Myers Beach, FL

📅 Date: 3/27/2024

# 22006872

👤 London Bay

— Coastal Construction Control Line (1978)

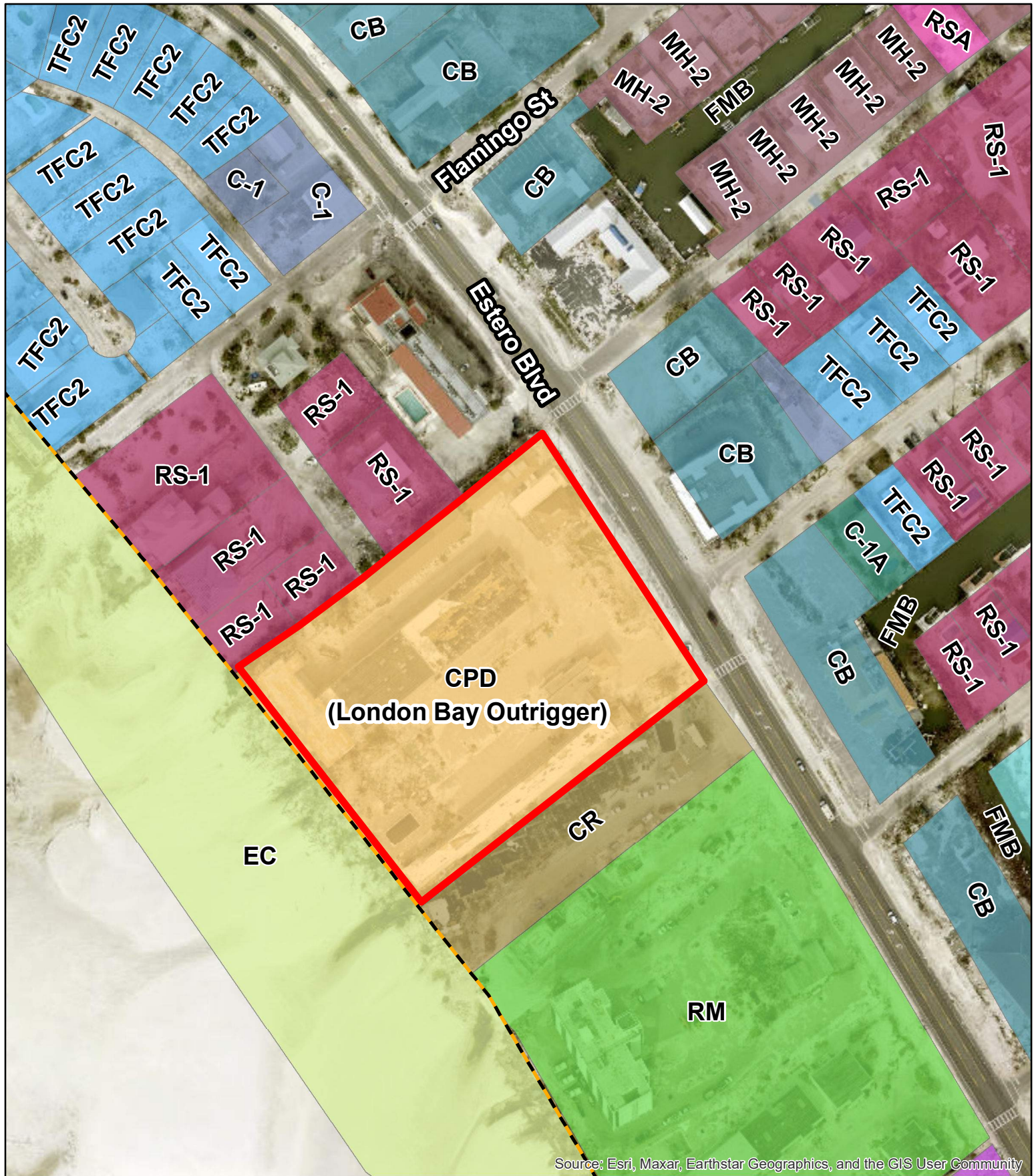
Subject Area



0 30 60 120 180  
 Feet

Information furnished regarding this property is from sources deemed reliable. RVI has not made an independent investigation of these sources and no warranty is made as to their accuracy or completeness. This plan is conceptual, subject to change, and does not represent any regulatory approval.





Copyright RVI

**RVI**  
 2600 Maitland Center  
 Pkwy  
 Suite 262  
 Maitland, FL 32751  
 Tel: 407.775.6500

## LONDON BAY OUTRIGGER • PROPOSED ZONING MAP

📍 Fort Myers Beach, FL

📅 Date: 3/27/2024

# 22006872

👤 London Bay

— Coastal Construction Control Line (1978)

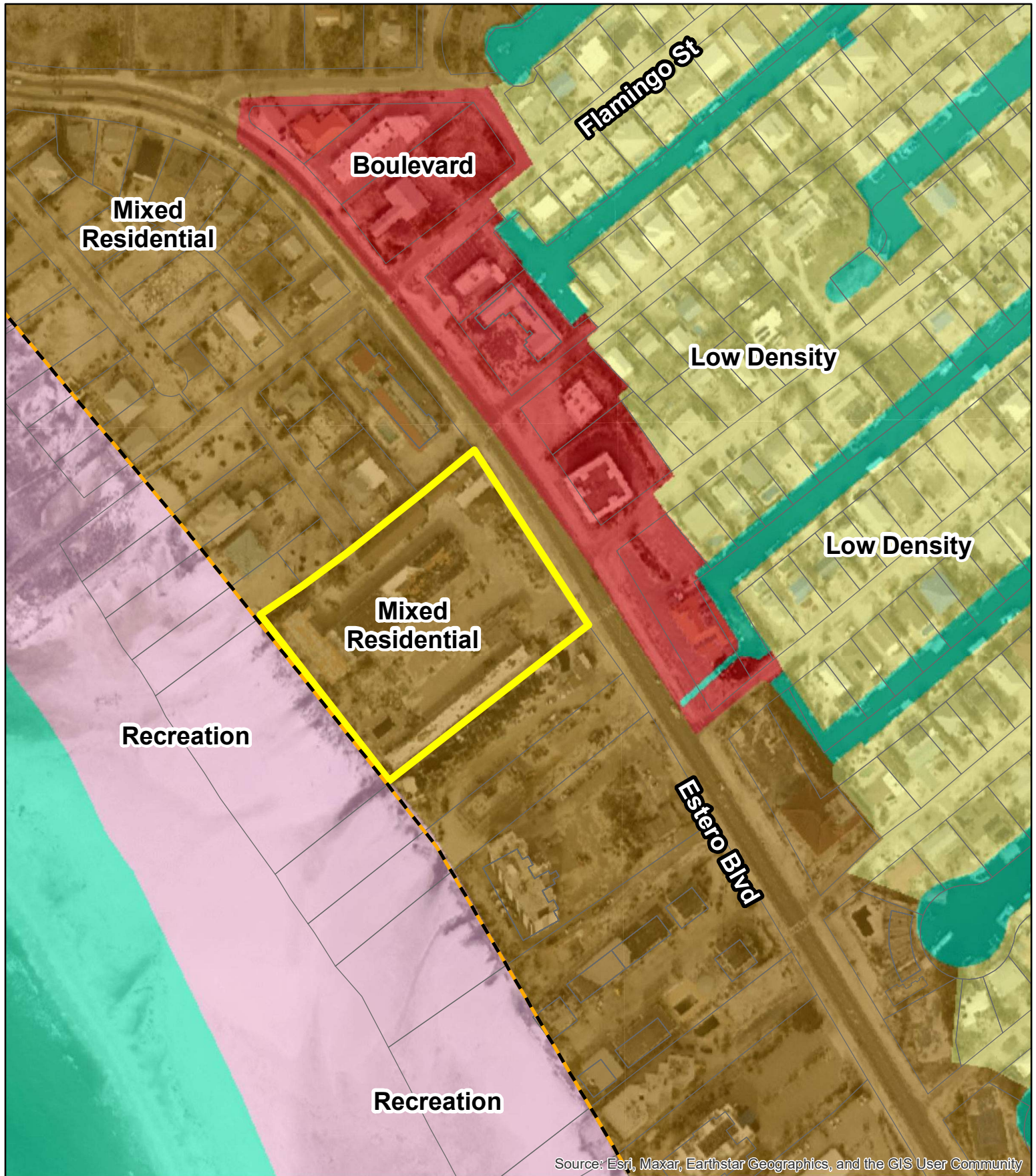
Subject Area



0 30 60 120 180  
 Feet

Information furnished regarding this property is from sources deemed reliable. RVI has not made an independent investigation of these sources and no warranty is made as to their accuracy or completeness. This plan is conceptual, subject to change, and does not represent any regulatory approval.





Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

Copyright RVI

**RVI**  
 2600 Maitland Center  
 Pkwy  
 Suite 262  
 Maitland, FL 32751  
 Tel: 407.775.6500

# LONDON BAY OUTRIGGER • CURRENT FUTURE LAND USE MAP

📍 Fort Myers Beach, FL  
 📅 Date: 3/27/2024  
 # 22006872  
 🏠 London Bay

- Coastal Construction Control Line (1978)
- 🟡 Subject Area
- ▭ Lee County Parcels

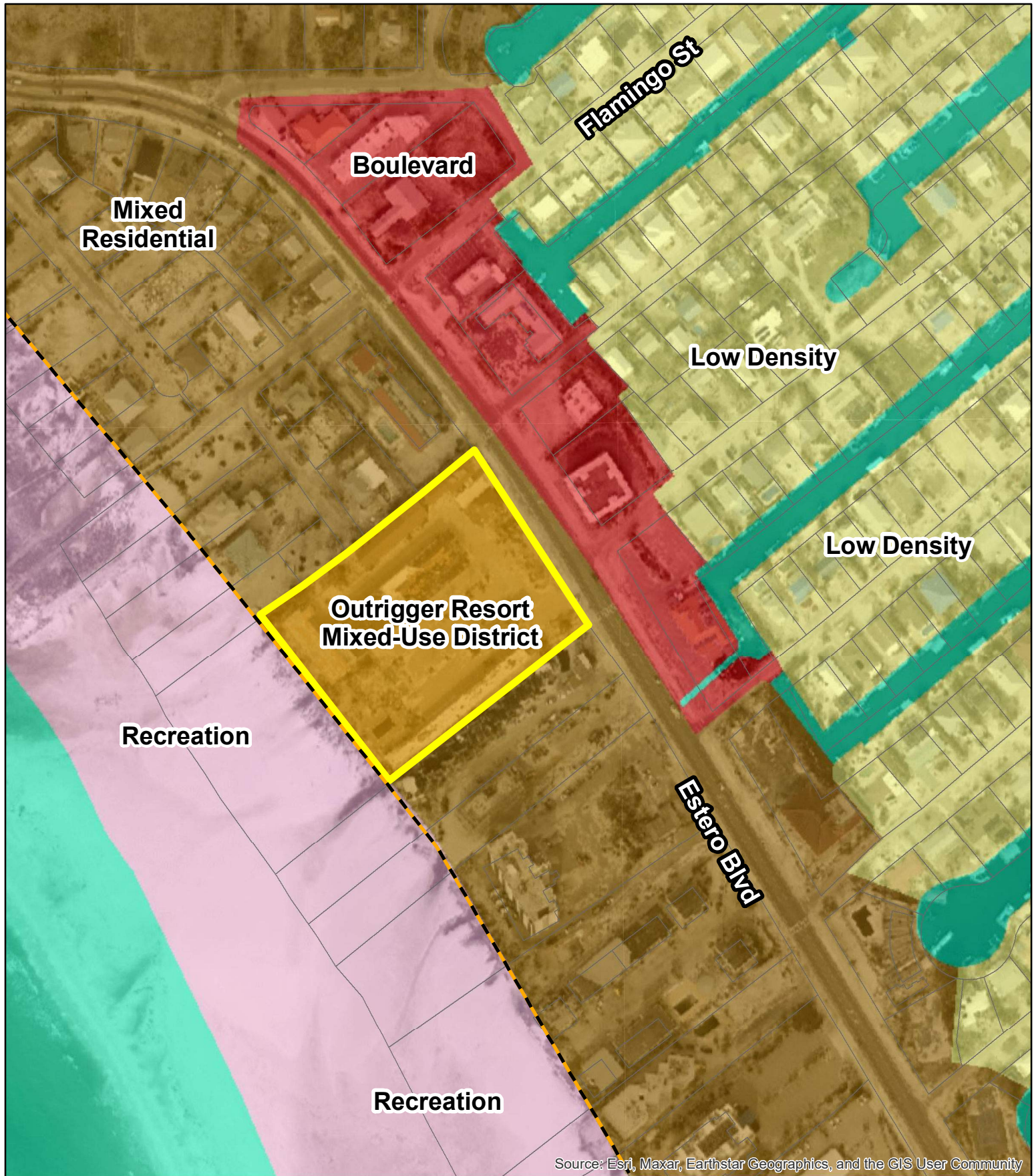
0 50 100 200 300

Feet

N

Information furnished regarding this property is from sources deemed reliable. RVI has not made an independent investigation of these sources and no warranty is made as to their accuracy or completeness. This plan is conceptual, subject to change, and does not represent any regulatory approval.





Copyright RVI

**RVI**  
 2600 Maitland Center  
 Pkwy  
 Suite 262  
 Maitland, FL 32751  
 Tel: 407.775.6500

# **LONDON BAY OUTRIGGER • PROPOSED FUTURE LAND USE MAP**

📍 Fort Myers Beach, FL  
 📅 Date: 3/27/2024  
 # 22006872  
 🏠 London Bay

- Coastal Construction Control Line (1978)
- Subject Area
- Lee County Parcels

N

0 50 100 200 300

Feet

Information furnished regarding this property is from sources deemed reliable. RVI has not made an independent investigation of these sources and no warranty is made as to their accuracy or completeness. This plan is conceptual, subject to change, and does not represent any regulatory approval.

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

Yellow Sheet Number: **2024-208**

**1. Request:**

**Meeting Date: August 23, 2024**

ORDINANCE 24-22: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING THE FUTURE LAND USE ELEMENT TEXT IN THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, AS ADOPTED AND AMENDED ON SEPTEMBER 9, 2024 TO CREATE THE OUTRIGGER RESORT MIXED-USE FUTURE LAND USE CATEGORY AND TO MODIFY MIXED-USE POLICY FLU-1-B-5.; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND AN EFFECTIVE DATE.

**Why the action is necessary:**

The LPA makes comprehensive plan amendments recommendations to the Town Council.

**What the action accomplishes:**

The LPA recommendation will be forwarded to the Town Council. Approval of the request will add a new future land use category to the comprehensive plan.

**2. Agenda:**

PUBLIC HEARINGS

**3. Requirement/Purpose:**

Ordinance

---

**5. Background:**

6200 Estero Blvd has applied for a comprehensive plan text amendment and map amendment to include text for a site-specific Future Land Use Outrigger Resort Mixed-Use District and modify the Mixed-Use Policy FLU-1-B-5. An Ordinance may only encompass a single subject. This ordinance is for the comprehensive plan text amendment

**Attachments:**

1. Ordinance 24-22 CPA Text Amendment 2024 NS
2. Staff Report CPA Text
3. Exhibit A Text Amendment
4. Application Docs

**Financial Impact:**

unknown

**6. Alternative Action**

recommend amendments and recommend approval

**7. Staff Recommendations:**

Recommend denial of the request to create a new future land use category or recommend changes and adopt the ordinance.

**8. Recommended Approval:**

\_\_\_\_\_  
nancy stuparich, Town Attorney

Date: August 19, 2024

\_\_\_\_\_  
Amy Baker, Town Clerk

Date: August 19, 2024



## ORDINANCE 24-22

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING THE FUTURE LAND USE ELEMENT TEXT IN THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, AS ADOPTED AND AMENDED ON SEPTEMBER 9, 2024 TO CREATE THE OUTRIGGER RESORT MIXED-USE FUTURE LAND USE CATEGORY AND TO MODIFY MIXED-USE POLICY FLU-1-B-5.; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND AN EFFECTIVE DATE.**

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

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

**WHEREAS**, the Town is in receipt of a request to amend the text of the FLU element of the Town's Comprehensive Plan, last adopted and amended on September 9, 2024 to create the Outrigger Resort Mixed-Use Future Land Use category as more specifically described in Exhibit A; and

**WHEREAS**, a public hearing on the request was held before the Local Planning Agency (LPA) on August 23, 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 to recommend **approval/denial** to the small scale map amendment and text amendment request, and

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

**WHEREAS**, the Town Council set a second reading of the proposed Ordinance and a public hearing on this matter to be legally advertised and held before the Town Council on October \_\_, 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 34-92 of the LDC and Policy FLU-1-C-11 of the 2024 Comprehensive Plan (2024); and

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

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

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

Section 2. The Town Council determines the Applicant **did/did not** meet its burden of proof that the requested future land use text amendment request **does/does not** meet the requirements of the Town Comprehensive Plan and LDC and approving the request for a text amendment to create the Future Land Use Outrigger Resort Mixed-Use future land use category **is/is not** in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **APPROVES/DENIES** the requested future land use text amendment of the Property.

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

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

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

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

Section 7. The effective date of this text amendment shall be the earliest date permitted under Section 163. 3187, Florida Statutes.

**THE FOREGOING ORDINANCE** was adopted by the Town Council upon a motion by Council Member \_\_\_\_ and seconded by Council Member \_\_\_\_, and upon being put to a roll vote, the result was as follows:

**DULY PASSED AND ADOPTED** on this \_\_\_\_ day of \_\_\_\_\_ 2024.

Dan Allers, Mayor

Jim Atterholt, Vice Mayor

\_\_\_\_\_  
\_\_\_\_\_

John R King, Council Member \_\_\_\_\_  
Scott Safford, Council Member \_\_\_\_\_  
Karen Woodson, Council Member \_\_\_\_\_

**TOWN OF FORT MYERS BEACH**

\_\_\_\_\_  
Dan Allers, Mayor

**ATTEST:**

\_\_\_\_\_  
Amy Baker, Town Clerk

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

\_\_\_\_\_  
Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this \_\_\_\_ day of \_\_\_\_\_ 2024.

Exhibits

Exhibit A Proposed Future Land Use Text



# *Town of Fort Myers Beach*

## COMMUNITY DEVELOPMENT DEPARTMENT

### STAFF REPORT

**TYPE OF CASE:** Comprehensive Plan Amendment

**CASE NUMBER:** CPA20240067

**CASE NAME:** London Bay Outrigger Comprehensive Plan Future Land Use Text Amendment - 6200 Estero Blvd

**LPA**

**HEARING DATE:** August 23, 2024

**STAFF RECOMMENDATION:** DENIAL

**PREPARED/  
SUBMITTED BY:** Sarah Propst, AICP, PMP

#### **I. APPLICATION SUMMARY**

Applicant/Agent: 6200 Estero Blvd Investments, LLC/Fred Drovdlc, AICP with RVI Planning + Landscape Architecture

Request: Comprehensive plan text amendment to include text for a site-specific Future Land Use Outrigger Mixed-Use District and modify the Mixed-Use Policy FLU-1-B-5.

Subject property: See attached plan

Physical Address: 6200 Estero Blvd

STRAP #: 33-46-24-W3-00012.0000

FLU: Medium Residential & Recreation

Zoning: Commercial Planned Development (CPD), Commercial Resort (CR), & Environmentally Critical (EC)

Adjacent zoning and land uses:

North: RESIDENTIAL MULTIFAMILY (RM) AND RESIDENTIAL SINGLE FAMILY (RS), Medium Residential Future Land Use (FLU)



South: RESIDENTIAL PLANNED DEVELOPMENT (RPD)  
Medium Residential FLU

East: COMMERCIAL PLANNED DEVELOPMENT (CPD) AND  
COMMERCIAL BOULEVARD (CB), Boulevard Mixed-Use  
Arts and Theatre District FLU

West: ENVIRONMENTALLY CRITICAL (EC), Recreation FLU

## **II. BACKGROUND AND ANALYSIS**

### **Background:**

6200 Estero Blvd Investments, LLC, owner of the subject property, and Fred Drovdlc, AICP, with RVi Planning + Landscape Architecture, applicant for the owner, are requesting a Small-Scale Comprehensive Plan amendment. The amendment requests a change of 3.55 acres of Mixed Residential (Medium Residential in the recently adopted Future Land Use Element and Map) FLU, to Outrigger Resort Mixed-Use. This request includes a proposed text amendments to the Comprehensive Plan to create a new Mixed-Use District in Policy FLU-1-B-5.

The property was previously known as the Outrigger Resort. It is zoned CPD and located on the beach side of Estero Blvd. The parcel contains land that is seaward of the 1978 Coastal Construction Control Line (CCCL) and is Recreation FLU and zoned EC. The applicant is not proposing a FLU amendment for the Recreation FLU portion of the property.

The properties to the north are single-family residential homes, maximum of three stories, and a multifamily development Coquina Condominiums, with five-story structures. To the south is an RPD called Gulfside Twelve Condominiums, which are five story structures with rooftop amenities.

The applicant has also applied for a Commercial Planned Development rezoning that encompasses the 3.55 acre portion of the property landward of the 1978 CCCL and a special exception for the portion of the property that is seaward of the 1978 CCCL, and zoned EC.

### **Analysis:**

The existing **Medium Residential FLU** is described in Policy FLU-1-B-4 as “*MEDIUM RESIDENTIAL*”: *designed for subdivisions with mixed housing types on smaller lots, newer high-rise buildings, and RV parks. This category will ensure that Fort Myers Beach retains a variety of neighborhoods and housing types. Commercial activities are appropriate primarily along Estero Boulevard and 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 non-residential Floor Area Ratios (FAR) in Medium Residential shall not exceed 1.5.

*Density: The maximum density is up to six (6) dwelling units per acre, except those developments previously vested with 10 units under the "platted overlay" may continue."*

The applicant proposed **Outrigger Resort Mixed-Use District** is written as "OUTRIGGER RESORT MIXED-USE (OR-MU) DISTRICT:

**Purpose:** *The Outrigger Resort Mixed-Use district comprises 3.55+/-acres. The intent of this district is to provide development and redevelopment opportunities for additional residential, resort, commercial, and public and private recreational amenities. Development within this district must be achieved by a unified Commercial Planned Development zoning district and must include contributions to the public realm. The Outrigger Resort Mixed-Use district is envisioned as a residential and resort-oriented lifestyle district with a mix of uses. The Outrigger Resort Mixed-Use district's general boundaries are along the Gulf (westside) of Estero Boulevard, approximately two (2) miles north of Big Carlos Pass Bridge and 100-feet south of Fort Myers Beach Access Point 11, and is more specifically described as:..."* The property description can be found in the application documents

**"Uses which may be permitted:** *As limited by the land development regulations, permitted uses include resort and hospitality, lodging/hotel accommodations, residential (multifamily and hotel/condominium), various types of commercial retail to support guests and neighborhood residents such as retail sales and personal service establishments, restaurants (including outdoor dining), live entertainment venues, public access to the beach and passive recreational uses and other contributions to the public realm as identified through Planned Development rezoning.*

**Intensity:** *The maximum building height is 200 feet measured from Florida Department of Environmental Protection (FDEP) Lowest Horizontal Structural Member (LHSM) to midpoint of roof and 17 stories with parking on the first two (2) floors. The maximum floor-to-area ratio (FAR) for the OR-MU district is 3.0. The FAR does not include the first level of parking. Non-residential uses open to the public are limited to 9,000 SF.*

**Density:** *The permitted density is 46 dwelling units per acre, inclusive of hotel, hotel/condominium, and multifamily (including condominiums, timeshare, vacation clubs and fractional ownership), utilizing the 3.55+/-acres that is part of the Outrigger Resort Mixed-Use district and London Bay Outrigger CPD. The proposed development is for 100 hotel rooms, 50 hotel/condominiums, and 46 multifamily. The hotel rooms would use the equivalency factor established for the Mixed Residential FLUC in the LDC Section 34-1803(a)(1).*

**Development Standards:** *The site design and building development standards for the Outrigger Resort Mixed-Use district will comply with those standards adopted in the Planned Development zoning district."*

The Medium Residential FLU allows a maximum FAR of 1.5 and allows a density of six dwelling units per acre. Under the existing FLU, the 3.55-acre property could support 231,957 square feet of development and a total of 21 dwelling units. The proposed Comprehensive Plan FAR change allows 463,914 square feet of development, not

including the first level of parking, and 163 dwelling units (additional hotel motel units could be allowed through the equivalency factor). This change would allow more than twice the development square footage and an increase of 142 dwelling units above what the current Comprehensive Plan allows.

The previously approved resolution Z-95-085 would allow the owners to rebuild 144 hotel/motel, and 10,000 square feet of commercial space.

Neighborhood Compatibility:

The properties directly adjacent to this site are medium residential FLU and are all residential in nature. The property on the opposite side of Estero Blvd are in the Arts and Theatre Mixed-Use district and the uses are commercial, community facility, and, diagonal across the street, condominiums. The proposed uses in the Outrigger Resort Mixed-Use district are not likely to cause impacts above and beyond those generated by the previously existing Outrigger Beach Resort.

It is important to note that the density and intensity requests are likely to have an impact on the neighborhood. The proposed FLU includes an additional 6 hotel units and 46 multifamily units above the number that the Outrigger Beach Resort contained. Additionally, the proposed intensity and building heights will far exceed what existed on site prior and what exists in the surrounding developments.

Infrastructure Impacts:

Evaluation of infrastructure impacts is important to ensure that the Town of Fort Myers Beach will be able to accommodate the additional development that will be allowed with the change from Medium Residential to Outrigger Resort Mixed-Use. The proposed intensity will have a higher impact on traffic, water use and stormwater.

**Traffic**

The application is proposing an intensification of the site. Estero Boulevard is a constrained facility with little available real estate to add or expand lanes or multimodal improvements such as protected bike lanes. Due to its location, the resort will be highly dependent on automobiles as the main source of transportation, even with the programs proposed by the CPD. While the intensification will likely have a positive impact on property taxes, it will likely increase traffic congestion and vehicular delays. Increased congestion may have adverse impacts including a potential increase in response time of first responders.

Lee Tran currently provides both a north and south bound stop within ¼ mile of the proposed development.

**Water**

The applicant has provided data indicating that approximately 69,000 gallons of water will be required per day, that is an increase of approximately 48,900 gallons per day above the previous uses. Lee County has provided a letter of availability

indicating that Lee County Utilities has sufficient capacity to provide potable water and sewer to this site.

Tetrattech is in the process of completing a hydraulic model for the Town of Fort Myers Beach to determine future infrastructure needs. The applicant will need to have any infrastructure approved by the Town.

The development may reduce additional demand on potable water by installing drought tolerant, native plants, cisterns and rain barrels and providing other water-wise techniques to decrease their impacts on the Town's water supply.

### **Stormwater**

Stormwater is of high concern for development on a flood prone barrier island. All development will be required to meet the stormwater management requirements of the South Florida Water Management District and any local requirements. There may be exemptions based on the current development of the site. The applicant has not provided water quality or quantity data at this point in the development process.

### **Schools**

The applicant has provided a letter from the Lee County School District indicating that this proposed development would not have a negative impact on the school district.

### **Overall Impacts**

Approval of the Comprehensive Plan Amendment will allow additional development on this 3.55 acres which will increase demand on infrastructure. The applicant has provided letters from the appropriate agencies indicating that services are available. Estero Boulevard is a constrained facility with few opportunities to develop separate bicycle or low speed vehicle lanes and additional traffic will likely cause negative traffic impacts.

### **III. PUBLIC BENEFITS**

The applicant is proposing several items as Public Benefits, including: 1) Public Beach Access and Linear Park with View Corridor, 2) Publicly Accessible Amenities, 3) Traffic Mitigation Measures, 4) World-Class Resort Amenities, 5) Landscaping Improvements. However, it is important to note that not all of the items listed are true public benefits, some are necessary for the development and others are business choices that the business will benefit from.

Public Beach Access and Linear Park with View Corridor : A public park with access to the beach is a benefit to the community. The applicant is also proposing a public restroom along the path to the beach as well as seating and art. The path to the beach will be ADA compliant and is also an emergency vehicle access road. The park will include bike, scooter, and golf cart parking.

Publicly Accessible Amenities: While not truly a public benefit, because the business will make money from anyone choosing to utilize these amenities, many residents

have voiced their desire to have additional commercial uses on the island. High quality restaurants, beach clubs, and markets, may be valued by the neighborhood residents.

Traffic Mitigation Measures: The applicant is proposing an airport shuttle and a golf cart shuttle service which may reduce the number of patrons who rent a car. The site will include bike, scooter, and golf cart parking and access to a water taxi shuttle.

World-Class Resort Amenities: These appear to overlap substantially with the publicly accessible amenities.

Landscaping Improvements: The applicant has provided a conceptual landscaping plan that should improve the look and feel along Estero Blvd and may provide additional shade along the sidewalk and in the linear park.

Findings and Conclusions:

LDC Sec. 34-92 states that: *Proposals to amend the Future Land Use Map must meet Comprehensive Plan Policy 4-C-10.*

*Policy 4-C-10 Map Amendments: The intensity and density levels allowed by the Future Land Use Map may be increased through formal amendments to this plan if such increases are clearly in the public interest, not just in the private interest of a petitioning landowner. Petitions from landowners will be accepted annually. The Town Council may accept applications more frequently at its sole discretion.*

Staff finds that the request to amend the Future Land Use Map to change 3.55 acres of Medium Residential FLU to Outrigger Resort Mixed-Use FLU is not clearly in the public interest. Development of a resort use in this location is not problematic, however, this request exceeds the density and intensity that the Town has recently reaffirmed in the updated Comprehensive plan. Additionally, the scale of the request is not appropriate for the smaller scale adjacent residential properties. A height buffer, to limit building heights adjacent to the smaller-scale residences, may be appropriate to allow the taller development interior to the project.

**IV. RECOMMENDATION**

Staff has reviewed the request for a Comprehensive Plan Future Land Use Text Amendment and found that the Comprehensive Plan Amendment request does not meet the requirements set forth in sec. 34-92 and Comprehensive Plan Policy FLU-1-C-11. Therefore, staff recommends **DENIAL** of CPA20240067, a request for a Comprehensive Plan Text Amendment to create the Outrigger Resort Mixed-Use FLU. Developing language that reduces the height impacts on the smaller-scale residential may improve the comprehensive plan amendment request. A reduction in FAR or density may also be appropriate to bring it into scale with nearby development.





## LONDON BAY OUTRIGGER

### COMPREHENSIVE PLAN AMENDMENT

#### Proposed Text Amendment

The proposed Outrigger Resort Mixed-Use District builds upon the framework of the existing Specific Redevelopment Plans (Policy 4-F-2) outlined in the Town's Comprehensive Plan and addresses development and redevelopment of specific areas on the Island. For clarity, Staff's language is shown in underline format, while the Applicant's proposed language is shown in double underline format.

"MIXED-USE": This land use designation is designed for portions of the Town along Estero Boulevard to allow for commercial and multifamily residential development. Each mixed-use district is prescribed a maximum density and intensity. To obtain approval for new or expanded commercial activities, proposals must be sensitive to nearby residential 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. Where commercial uses are permitted, residential uses are encouraged in upper floors. Within the Mixed-Use land use category, all existing "Marina" uses described shall be preserved and allowed to remain on parcels that were zoned for marinas prior to adoption of this plan.

#### g. OUTRIGGER RESORT MIXED-USE (OR-MU) DISTRICT

**Purpose:** The Outrigger Resort Mixed-Use district comprises 3.55+/-acres. The intent of this district is to provide development and redevelopment opportunities for additional residential, resort, commercial, and public and private recreational amenities. Development within this district must be achieved by a unified Commercial Planned Development zoning district and must include contributions to the public realm. The Outrigger Resort Mixed-Use district is envisioned as a residential and resort-oriented lifestyle district with a mix of uses.

The Outrigger Resort Mixed-Use district's general boundaries are along the Gulf (westside) of Estero Boulevard, approximately two (2) miles north of Big Carlos Pass Bridge and 100-feet south of Fort Myers Beach Access Point 11, and is more specifically described as:

A PARCEL OF LAND LYING IN SECTIONS 33 AND 34, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEASTERLY CORNER OF LOT 1, FLAMINGO PARK, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 9, PAGE 66, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N.50°40'49" E., ALONG THE SOUTHEASTERLY LINE OF SAID FLAMINGO PARK, A DISTANCE OF 121.56 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD (COUNTY ROAD 865); THENCE RUN ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES: 1) SOUTHEASTERLY ALONG A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 2,832.29 FEET, A CENTRAL ANGLE OF 01°40'21", AN ARC LENGTH OF 82.68 FEET, A CHORD LENGTH OF 82.68 FEET, AND A CHORD BEARING OF S.31°56'13"E. 2) S.31°14'53"E., A DISTANCE OF 270.69 FEET; THENCE DEPARTING SAID SOUTHWESTERLY RIGHT-OF-WAY LINE, RUN S.50°40'49"W., A DISTANCE OF 417.12 FEET TO A POINT ON THE LEE COUNTY COASTAL

CONSTRUCTION SETBACK LINE; THENCE RUN ALONG SAID LEE COUNTY COASTAL CONSTRUCTION SETBACK LINE N.39°10'05"W., A DISTANCE OF 350.00 FEET TO THE SOUTHEASTERLY LINE OF SAID FLAMINGO PARK; THENCE DEPARTING SAID LEE COUNTY COASTAL CONSTRUCTION SETBACK LINE, RUN N. 50°40'49" E., ALONG SAID SOUTHEASTERLY LINE OF SAID FLAMINGO PARK A DISTANCE OF 343.26 FEET TO THE POINT OF BEGINNING.

CONTAINING 154,490.39 SQUARE FEET OR 3.547 ACRES, MORE OR LESS.

**Uses which may be permitted:** As limited by the land development regulations, permitted uses include resort and hospitality, lodging/hotel accommodations, residential (multifamily and hotel/condominium), various types of commercial retail to support guests and neighborhood residents such as retail sales and personal service establishments, restaurants (including outdoor dining), live entertainment venues, public access to the beach and passive recreational uses and other contributions to the public realm as identified through Planned Development rezoning.

**Intensity:** The maximum building height is 200 feet measured from Florida Department of Environmental Protection (FDEP) Lowest Horizontal Structural Member (LHSM) to midpoint of roof and 17 stories with parking on the first two (2) floors.

The maximum floor-to-area ratio (FAR) for the OR-MU district is 3.0. The FAR does not include the first level of parking. Non-residential uses open to the public are limited to 9,000 SF.

**Density:** The permitted density is 46 dwelling units per acre, inclusive of hotel, hotel/condominium, and multifamily (including condominiums, timeshare, vacation clubs and fractional ownership), utilizing the 3.55+/-acres that is part of the Outrigger Resort Mixed-Use district and London Bay Outrigger CPD. The proposed development is for 100 hotel rooms, 50 hotel/condominiums, and 46 multifamily. The hotel rooms would use the equivalency factor established for the Mixed Residential FLUC in the LDC Section 34-1803(a)(1).

**Development Standards:** The site design and building development standards for the Outrigger Resort Mixed-Use district will comply with those standards adopted in the Planned Development zoning district.



## 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](mailto:zoningpermits@fmbgov.com). Please do not submit the instructions at the end of the application.

Site Address: 6200 ESTERO BLVD FORT MYERS BEACH FL 33931

STRAP Number: 33-46-24-W3-00012.0000

Applicant: 6200 ESTERO BLVD INVESTMENTS, LLC Phone: (239) 592-1400

Contact Name: Mark Wilson Phone: \_\_\_\_\_

Email: markwilson@londonbay.com Fax: \_\_\_\_\_

Current Zoning District: CPD and EC

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

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

\*Companion CPD submitted to amend the CPD zoning

### ACTION REQUESTED

### SUPPLEMENTAL FORM REQUIRED

☐ Special Exception

PH-A

☐ Variance

PH-B

☐ Conventional Rezoning

PH-C

☐ Planned Development ☒ Commercial ☐ Residential

PH-D

☐ Master Concept Plan Extension

PH-E

☐ Appeal of Administrative Action

PH-F

☐ Vacation of Platted Right-of-way and Easement

PH-G

☒ Other – cite LDC Section: Comprehensive Plan Amendment

attach on separate sheet

### PART I – General Information

A. Applicant\*: 6200 ESTERO BLVD INVESTMENTS, LLC Phone: (239) 592-1400

*\*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: 2210 Vanderbilt Beach Road Suite 1300, Naples, FL 34109

Email: markwilson@londonbay.com Fax: \_\_\_\_\_

Contact Name: Mark Wilson Phone: (239) 592-1400



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- |                                                                                                                        |                                           |                                              |
|------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|----------------------------------------------|
| <input checked="" type="checkbox"/> Owner*                                                                             | <input type="checkbox"/> Land Trust*      | <input type="checkbox"/> Partnership*        |
| <input checked="" type="checkbox"/> Corporation*                                                                       | <input type="checkbox"/> Association*     | <input type="checkbox"/> Condominium*        |
| <input type="checkbox"/> Subdivision*                                                                                  | <input type="checkbox"/> Timeshare Condo* | <input type="checkbox"/> Contract Purchaser* |
| <input checked="" type="checkbox"/> Authorized Representative* <input type="checkbox"/> Other* (please indicate) _____ |                                           |                                              |

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

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

Name: Fred Drovdlc, AICP, RVI Planning + Landscape Architecture Phone: (239) 318-6707  
Address: 1514 Broadway, Suite 201, Fort Myers, FL 33901  
Email: fdrovdlc@rviplanning.com Fax: \_\_\_\_\_

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

Name: Rich Yovanovich, Esq., Coleman, Yovanovich & Koester Phone: (239)435-3535  
Address: 4001 Tamiami Trail N., Suite 300 Naples, FL 34103  
Email: ryovanovich@cyklawfirm.com Fax: \_\_\_\_\_

Name: Ted Treesh, TR Transportation Consultants, Inc. Phone: (239)278-3090  
Address: 2726 Oak Ridge Court, Suite 503, Fort Myers, FL 33901  
Email: TBT@trtrans.net Fax: (239)278-1906

### PART II – Nature of Request

Requested Action (each request requires a separate application)

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



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

- ☐ Appeal of Administrative Action
- ☐ Vacation      ☐ Right-of-Way      ☐ Easement
- ☒ Other. Please Explain: Small-Scale Comprehensive Plan Amendment to amend the underlying future land use  
from Mixed Residential to site specific Outrigger Mixed-Use District and modify  
Policy 4-F-2.

### 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: NA Description: \_\_\_\_\_

Code Section: NA Description: \_\_\_\_\_

Code Section: NA Description: \_\_\_\_\_

### PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: NA Phone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Email: \_\_\_\_\_ Fax: \_\_\_\_\_

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

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

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;  
All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;





## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

**STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_**

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

presence OR \_\_\_\_ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by

\_\_\_\_\_, ☐ who is personally known to me OR ☐ who has produced

\_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
Notary Public Signature

### PART V

#### Property Ownership (Multiple Owners)

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

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

#### DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

6200 ESTERO BLVD INVESTMENTS, LLC

Mark Wilson, Stephen Wilson, Eijk van Otterloo, and Ken Callero, Trustee of the Davies Master Trust

100%

2210 Vanderbilt Beach Road Suite 1300, Naples, FL 34109

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

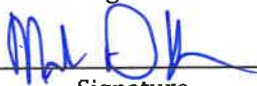
Date of Contract: 2/8/24

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.

|                                                                                                |                                    |
|------------------------------------------------------------------------------------------------|------------------------------------|
| <br>Signature | <u>Mark Wilson</u><br>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, Mark Wilson (name), as Managing Member (title)  
of 6200 ESTERO BLVD INVESTMENTS, 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

6200 ESTERO BLVD INVESTMENTS, LLC

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

Mark Wilson  
Signature

Mark Wilson

Typed or Printed Name

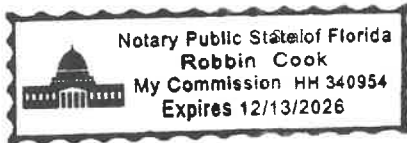
Managing Member  
Title

2/8/24  
Date

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 8 day of February, 2024, by Mark D. Wilson, ☒ who is personally known to me OR ☐ who has produced \_\_\_\_\_ as identification.



[Signature]  
Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 33-46-24-W3-00012.0000

Property Address: 6200 ESTERO BLVD FORT MYERS BEACH FL 33931

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

☐ Yes. Property identified in subdivision: \_\_\_\_\_

Book: \_\_\_\_\_ Page: \_\_\_\_\_ Unit: \_\_\_\_\_ Block: \_\_\_\_\_ Lot(s): \_\_\_\_\_

B. Boundary Survey:

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



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 351.5 feet  
Depth (please provide an average width if irregular in shape) 441 feet  
Frontage on street: 353 (Estero Blvd) feet. Frontage on waterbody: 350 feet  
Total land area: 3.55± ☒ acres ☐ square feet

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

From Big Carlos Pass Bridge go north on Estero Boulevard 2+/- miles. Outrigger  
Beach Resort is located on the west side of Estero Boulevard.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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





## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

### EXPLANATORY NOTES

**Please do not print, copy and submit these instructions**

Please submit required applications, supplemental information, exhibits and documents to [zoningpermits@fmbgov.com](mailto: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.



## **LONDON BAY OUTRIGGER COMPREHENSIVE PLAN AMENDMENT**

### **Request Narrative & Fort Myers Beach Comprehensive Plan Compliance**

#### **I. Request**

6200 Estero Blvd Investments, LLC (“Applicant”), is requesting to amend the future land use category from “Mixed Residential” to the “Outrigger Resort Mixed-Use District” including supportive policies in the Comprehensive Plan, for 3.55+/- acres formerly occupied by the Outrigger Beach Resort. This request will allow for resort-oriented uses at a suitable location in the “High-Rise Resort” area per the Town’s Comprehensive Plan.

The Outrigger Resort Mixed-Use district is envisioned as a residential and resort-oriented lifestyle district with a mix of uses. The intent of this district is to provide development and redevelopment opportunities for additional residential, resort, commercial, and public and private recreational amenities. Uses include resort and hospitality, lodging/hotel accommodations, residential (multifamily and hotel/condominiums), various types of commercial retail to support guests and neighborhood residents such as retail sales and personal service establishments, restaurants (including outdoor dining), live entertainment venues, public access to the beach and passive recreational uses and other contributions to the public realm.

The proposed Comprehensive Plan Amendment (CPA) is supplemented by a companion Commercial Planned Development (CPD) rezoning application.

#### **II. Property Information & Conditions**

Like much of Fort Myers Beach, the site was significantly impacted due to Hurricane Ian leaving the property with buildings that must be razed. The parcel has historically been known as Outrigger Beach Resort and is comprised of 9.00 +/- acres. The property is generally located approximately two (2) miles north of Big Carlos Pass Bridge and three and a half (3.5) miles south of Time Square.

The parcel’s future land use designation is Mixed Residential and Recreation and is zoned Commercial Planned Development (CPD) and Environmental Conservation (EC). Due to the Lee County 1978 Coastal Construction Control Line (CCCL)<sup>1</sup> only 3.55 +/- acres are developable. The property includes 5.45+/- acres seaward of the CCCL which is not included in the CPD or companion CPA request.

#### **Existing Entitlement Analysis**

The Mixed Residential future land use category (FLUC) allows for up to six (6) dwelling units per acre (6du/1ac) and the Recreation FLUC allows for one (1) dwelling unit per 20 acres (1du/20 ac). The total density permitted by the current FLUC’s are 26 units limited to a maximum height of 30 feet above Base Flood Elevation (BFE) and three (3) stories. Unless specified in a Planned Development zoning the site’s potential intensity follows the standards set forth in the CR zoning district (primarily lodging), which is a floor area ratio (FAR) of 1.2 for non-residential development.

---

<sup>1</sup> Also referred to as the Coastal Construction Setback Line (CCSL) on the survey and in common practice.

However, the Outrigger Beach CPD was approved in 1995 prior to incorporation and subsequent adoption of the Comprehensive Plan that established the Mixed Residential FLUC. The Outrigger CPD was approved by Lee County as Resolution Z-95-085. It allowed for:

- 144 hotel/motel units
- All uses permitted by right in the CT district that are accessory to a hotel/motel use. The following uses were also permitted:
  - Bar or Cocktail Lounge (existing)
  - Commercial Use of Beach Front Seaward of the Water Body Setback Line (existing)
  - Consumption on Premises (existing)
  - Convenience Store
- 10,000 square feet of commercial uses, per Table 4-2 of the Fort Myers Beach Comprehensive Plan

### III. Surrounding Land Uses

The parcel at 6200 Estero Boulevard is surrounded primarily by residential uses. The north portion of the property abuts three (3) single family homes and a five (5) story multi-family building known as Coquina Condominiums. The south portion of the property abuts a short-term vacation rental known as Carousel Inn, which was also significantly damaged due to Hurricane Ian is being developed into a multifamily condominium known as Gulfside Twelve. Table 1 below provides an inventory of the immediately adjacent Future Land Use categories, Zoning districts, and existing land uses for the Beach Parcel.

**Table 1: Surrounding Lands**

|              | <b>FUTURE LAND USE</b> | <b>ZONING DISTRICT</b>                                           | <b>EXISTING LAND USE</b>                         |
|--------------|------------------------|------------------------------------------------------------------|--------------------------------------------------|
| <b>NORTH</b> | Mixed Residential      | Residential Multi-Family (RM) / Residential Single-Family (RS)   | Condominiums (Coquina)/ Single Family Homes      |
| <b>SOUTH</b> | Mixed Residential      | Residential Planned Development (RPD)                            | Former Carousel Inn (Redeveloped as Gulfside 12) |
| <b>EAST</b>  | Boulevard              | Commercial Boulevard (CB) / Commercial Planned Development (CPD) | Office/ Convenience store                        |
| <b>WEST</b>  | Recreation             | Environmentally Critical (EC)                                    | Beach/Gulf of Mexico                             |

### IV. Proposed Development

#### Overview

The proposed CPD will allow for a flagship development that will be an anchor of activity for the south end of Estero Island. The development will offer a mix of hotel, hotel-condo, multifamily, and resort-oriented commercial retail uses, which will complement the surrounding development pattern and provide goods, services, and significant public benefits such as a new beach access and park, public restaurant and passive recreative and an activated beach area.

The combined development program incorporates 100 hotel units, 50 hotel/condominiums, and 46 multifamily (condominiums).



- The signature residential buildings are comprised of 46 condominium units and are made up of a single terracing tower, that breaks into three segments, a 13-story, a 15-story, and a 17-story segment.
- The hotel and hotel-condominium buildings, adjacent to Estero Boulevard, are 10 and 11 stories with parking on the first two floors. A second part of the building is perpendicular with the beach accommodates a 12-story building also with parking on the first two floors.

Access to the site will be accommodated from Estero Blvd. with an extended driveway leading to a central courtyard to mitigate traffic and stacking on Estero Blvd. The site will provide 300 vehicle parking spaces and up to 72 spaces for bicycles, golf carts, and e-charge stations for scooters.

Recreational amenities include a pool, spa and outdoor area, a lobby, office space, private beach club and event/conference rooms. Additionally, there is dedicated commercial public space that includes a public restaurant, hotel lobby bar, hotel grab-n-go, rooftop bar and a beach access and linear park. There will be a new public beach access and linear park will contain enhanced landscaping, benches/seating, public restrooms, and other hardscape site features.

As outlined in the Planning Communities for Fort Myers Beach (Comprehensive Plan), this area and south is referred to as "High-Rise Resort" and includes existing comparable building heights. It should be noted building heights range between six (6) and 15 stories south of the site. For example, the nearest high-rise is Sunset Condominium building at 12 stories. Further south, Island Winds Condominium is 13 stories, Gullwing Resort is 12 stories, and Pointe Estero Resort is 15 stories.

## **Development Parameters**

### **Height**

The permitted height at this location was established by the Outrigger Beach Resort CPD as a maximum of 35 feet above base flood elevation. The BFE+1 at this location is 15 feet and the FDEP design flood elevation (DFE) is 20'-1" NAVD which equals the 21.3' NGVD. The tallest proposed structure is 200 feet measured from the DFE.

### **Stories**

The applicant proposes various structures that range from 10 stories to a maximum of a 17-story building (including the parking level).

### **FAR**

The FAR permitted at this location in the surrounding Commercial Resort (CR) zoning district per is 1.2 yet the applicant is proposing a Comprehensive Plan Amendment and CPD zoning to allow an FAR up to 3.0.

Per LDC §34-633 the gross floor area includes the total floor area of all stories of a building within the surrounding exterior walls (whether the walls are solid or screened), plus all area below an elevated building that is six feet or more in height, plus all stories of covered parking, but not including any area whose roof is screened rather than solid (such as swimming pool enclosures).

The land area used in the calculation is the gross square footage within the site's private property line, minus wetlands, canals or other waterbodies, and minus any land designated "recreation" on the comprehensive plan's future land use map. The area of the subject property landward of the 1978 Lee County CCCL is 3.55 acres or 154,638 square feet.

The proposed buildings vary in size and footprint, but the total proposed floor area is 510,305 square feet resulting in an FAR of 3.3. The applicant has requested a deviation to eliminate

counting the first-floor parking area in the FAR calculation. If the deviation is approved the floor area is reduced to 463,914 square feet. The result is an FAR of 3.0.

It is our understanding that the Town staff, LPA and Council have moved towards future LDC amendments making this request permanent thus the request meets the intent of the will of the Town.

### **Density**

The proposed development is for 100 hotel rooms, 50 hotel/condominiums, and 46 multifamily units, a total of 196 units over 3.55 acres. The density is 55 units per acre. No hotel equivalency factor was applied.

### **Contributions to the Public Realm**

The proposed request is for density and height above the current Comprehensive Plan and Land Development Code Regulations. According to the Town's Comprehensive Plan Policy 4-C-4, the request for additional height can be made and "the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal." Likewise, Policy 4-C-10 states that, "intensity and density levels allowed by the Future Land Use Map may be increased through formal amendments to this plan if such increases are clearly in the public interest, not just in the private interest of a petitioning landowner."

Below are the proposed public benefits to the residents and visitors to the Beach and the Town for Fort Myers Beach overall.

#### **1. Public Beach Access and Linear Park with View Corridor**

The resort is proposing a new public beach access along the south property line. The access abuts Beach Access 11Z (Bahia Via) to the south, which is a 5' easement on the Gulfside Twelve property, as shown in *Image 1* below. The existing access on the Gulfside Twelve property can be characterized as an unimproved walkway with no discernable clear path for access. As shown in a 2022 aerial photo prior to Hurricane Ian, the path easement connects to a cross-walk but seems to require users to traverse a ditch, drainage features and the former Carousel Inn pool amenity. It appears that it was not formalized into a useful access for the general public from Estero Boulevard, but perhaps only useful to people from the former Inn. See *Image 2* for details.

In addition to the apparent access limitations, the easement is narrow, limited to 5' in width, is not improved to provide seating, shade or a stable walking surface, is not handicap accessible and provides no access for emergency vehicles.

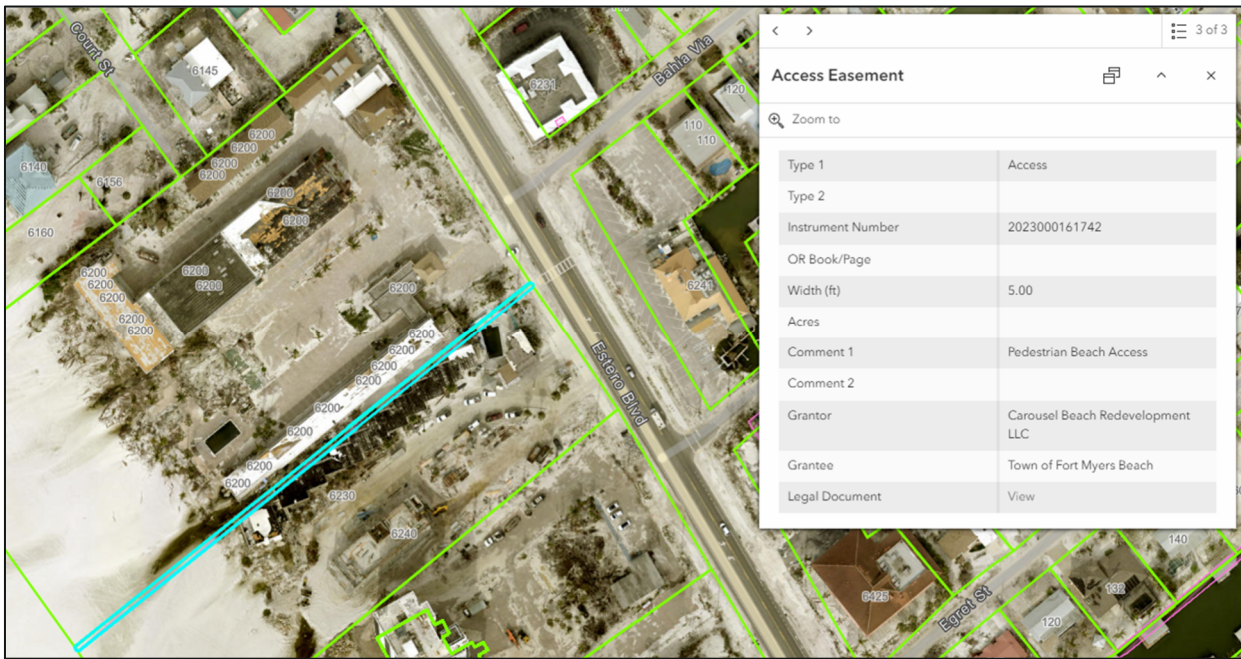


Image 1 - Beach Access 11Z Easement (2023 Lee County Property Appraiser Aerial)



Image 2 - Beach Access 11Z as viewed from Estero Boulevard (2022 Lee County Property Appraiser Aerial)

- In contrast, the proposed beach access by the Outrigger CPD will be a significant upgrade and provide substantial benefits to the general public, not just purveyors of the resort. The beach access and linear public park will be part of a dedicated easement. The path will be handicap accessible, i.e., fully ADA compliant with an improved surface capable of handling wheelchairs and other motorized assistance vehicle for physically impaired individuals. The path is adequate width to be considered and emergency vehicle accessible (EVA) including



access from Estero Boulevard. The design features include preserving the native vegetation while adding lush vegetation and shade, pedestrian seating, creating a public plaza with public art, parking for golf carts, electric scooters and bicycles, a water feature, and other passive amenities, including at-grade public restrooms (subject to approval by permitting agencies) and wash stations, all of which culminates to an activated beach area.

- The park and access will be installed and maintained in perpetuity by the property owner.

## **2. Publicly Accessible Amenities**

The site will create up to 9,000 square feet of publicly accessible commercial retail uses that are much needed on the south end of the island. The uses include a Tiki hut style beach bar as the capstone to the linear park paying homage to the Outrigger Resort. The park area will be surrounded by beautiful landscaping and seating and active beach amenities, wash stations and restrooms. The hotel amenities include a ballroom and event terrace, café and market, destination restaurant, hotel lobby lounge, and rooftop bar and terrace.

## **3. Traffic Mitigation Measures**

Because for the nature of the mixed-use development a significant amount of usage of the amenities and public spaces will not need to rely on vehicles. Residents of the development will be among the users of the onsite amenities and publicly accessible commercial areas. Those staying in the hotel or renting a hotel-condominium will also be able to use the amenities without need for transportation. Residents of nearby condos will also use the public restaurants and active beach areas who will be able to choose alternatives to car travel.

Specific mitigation measures and programs are as follows:

- The site design encourages alternative modes of transportation by providing:
  - bicycle parking,
  - golf cart parking,
  - access to water taxi shuttles,
  - Shared vehicular shuttle to transport guests to and from RSW Airport,
  - Dedicated golf cart shuttle to take guests to local attractions within a 10 to 15-minute radius, and
  - public transportation via LeeTran bus routes.
- Pedestrian traffic will be encouraged through the design of street level landscaping and shading of walkways, public plaza at the entrance to the Public Beach access and linear park, and seating and shaded areas in the park as well.
- The resort may implement programs to encourage the use of the DRAC Program (Don't Rent A Car) and ride sharing and, as mentioned above, will provide airport shuttle services and access via water taxi.

## **4. World-Class Resort Amenities**

There is a significant desire among the residents and users of the condominiums, hotels and timeshare units for additional amenities and activities on the south end of the island. The resort will anchor the south end of the island with world-class amenities that include a pool deck and beach club, a hotel lobby bar, hotel restaurant (serving breakfast, lunch & dinner), cafe & market,

rooftop bar, ballroom, and event terrace. The café & market, lobby and rooftop bars, and restaurant will all be open to the public.

## 5. Landscaping Improvements

Landscaping and improvements to Estero Boulevard along the frontage of the proposed resort are an important effort and add substantially to the look and feel of the Island as well as pedestrian comfort. The additional sidewalk accent trees will encourage walking, biking and other forms of alternative transportation as well as beautify the island. The typical landscaping in place along this section of Estero Boulevard prior to Hurricane Ian was nearly non-existent, which has not provided proper shading. Provided as part of the zoning package is a landscape plan for improvements to Estero Boulevard that the new resort would pay for and maintain in perpetuity. The Town gets improved landscaping and pedestrian oriented infrastructure without cost to the Town now or in the future.

## V. Infrastructure

The subject property is currently connected to public infrastructure that can support the proposed density and intensity related to the CPD request. The Town of Fort Myers Beach and Lee County will respectively provide potable water and sanitary sewer services for the project. Availability have been received by both jurisdictions and are included in our zoning packages. Both utility franchises show availability for the proposed development program.

The inventory of offsite multimodal transportation infrastructure immediately adjacent to the site (i.e. sidewalks, bicycle lanes, sharrows, transit routes) is outlined below and detailed in *Image 3*.

- Lee Tran bus pull-off and stop abutting property serving the southbound route
- Lee Tran bus pull-off and stop within ¼ mile serving the northbound route
- Served by Lee Tran bus route 410
- Estero Boulevard includes North and Southbound 5' Bike Lanes, no sharrows
- Shared use paths: 10' path on the beach side of Estero Boulevard and an 8' path on the bay side



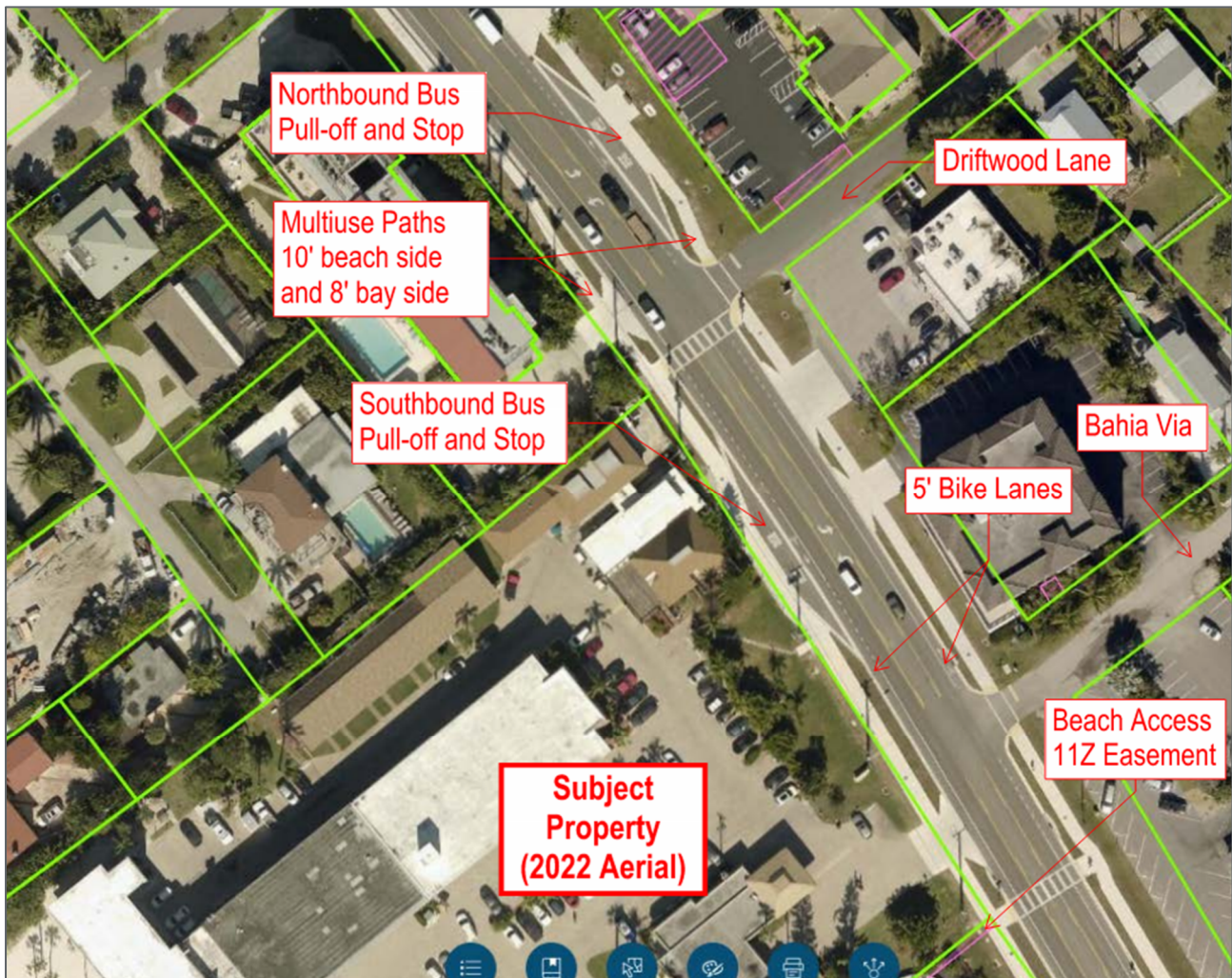


Image 3 - Multimodal Infrastructure

## VI. Comprehensive Plan Consistency Narrative

The following is an analysis of how the proposed Comprehensive Plan Amendment is consistent with the goals, objectives, and policies (GOPs) of the Town of Fort Myers Beach Comprehensive Plan. The adopted GOP headings are listed below, and the Applicant's compliance analysis is shown in bold.

The following is an analysis of how the proposed Comprehensive Plan Amendment is consistent with the goals, objectives, and policies (GOPs) of the Town of Fort Myers Beach Comprehensive Plan. The adopted GOP headings are listed below, and the Applicant's compliance analysis is shown in **bold**.

### Future Land Use Element

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.

**APPLICANT: The CPA and the companion CPD rezone include commitments to provide enhanced pedestrian safety and streetscape aesthetics in direct compliance with this policy. The CPD master concept plan will provide sidewalk connectivity throughout, relocated public accessways. Additionally, public streetscape improvements are proposed along Estero Boulevard to create an enhanced pedestrian environment along the roadway and general improvement to aesthetics. Lastly, the development proposes a new public beach access on the south property line. This dedicated park area is at least 40-foot-wide including an EVA path and 15-foot-wide buffer area to the south.**

POLICY 1-B-2 Improve the appearance of the town throughout by landscaping public property and rights-of-way with native vegetation.

**APPLICANT: The CPD proposes landscaping improvements along Estero Boulevard for the length of the project, as well as a proposed Linear Park that will be heavily landscaped and feature other hardscape amenities. Maintenance of the improvement will be provided by the applicant in perpetuity to provide a comfortable walking environment both along Estero Blvd. and to the beach.**

POLICY 1-B-3 Identify potential mechanisms to implement and maintain special amenities such as entry features, monuments, or other special landscape projects.

**APPLICANT: The CPD proposes landscaping improvements in Estero Boulevard for the length of the project, providing a comfortable walking environment and maintained in perpetuity by the Applicant. The special amenity proposed is the public beach access and linear park that is approximately 40-foot-wide on the south boundary that is an EVA path, with extensive landscaping, public wash areas and restrooms, public art, and culminating an active beach that includes a beach bar and activities area.**

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.

**APPLICANT:** The parking area in the building will be concealed with enhanced tiered landscaping, providing shade for pedestrians as well. Additionally, the site design includes tiered building heights along Estero Boulevard, maintaining scale and beautification instead of having vertical structures that create a sense of an enclosed area. On the southern portion of the site, there is a linear park with several features intended for public use and admiration. The arrival area of the linear park includes a public plaza to encourage pedestrian interaction with sculptures, water features, and shaded bench seating for public use and enjoyment.

As seen throughout the town, building heights comparable to the proposed request can provide designs that are admired by people on foot or bicycles. Existing building heights range between six (6) and 15 stories south of the site. For example, the nearest high-rise is Sunset Condominium building at 12 stories. Further south, Island Winds Condominium is 13 stories, Gullwing Resort is 12, and Pointe Estero Resort is 15 stories.

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.

**APPLICANT:** The proposed Mixed-Use district has been created in direct compliance with the policy. The proposed CPD incorporates a diverse range of uses in support of this policy. As previously mentioned, the site features event space with a ballroom and terrace, a café, and a market, as well as a destination restaurant. The on-site retail and restaurant opportunities add to the entertainment options available on the southern portion of the island. These uses effectively reduce trips to and from the north Downtown and Times Square areas, which are located three and a half (3.5) miles north of the site.

POLICY 4-A-4 Easy walking access to the beach is a key element of the town's human scale. Development trends that inhibit this access are undesirable (including traffic improvements to Estero Boulevard that would make it a barrier to the beach for pedestrians).

**APPLICANT:** The proposed CPD and companion CPA propose to further enhance the pedestrian environment and multi-modal transportation network that is critical to Fort Myers Beach's success, quality of life, and public safety by providing resources for golf carts and bicycles, new beach access and park, and enhanced landscaping for the Estero Boulevard sidewalks.

POLICY 4-A-5 The town contains many important natural resources despite its urbanized character. Preservation of those resources is of the highest importance and is a frequent theme throughout this plan.

**APPLICANT:** No development in the areas waterward of the Lee County 1978 CCCL will be applied to the proposed development. The development program will be designed and constructed to the latest South Florida Water Management and Department of Environmental Protection standards to ensure high-quality development that protects natural resources. These areas will remain in the Recreation FLUC and EC zoning district as further evidence of the protections in place for this area of the site.

POLICY 4-B-4 "MIXED RESIDENTIAL": designed for older subdivisions with mixed housing types on smaller lots, newer high-rise buildings, and mobile home and RV parks. This category will ensure that Fort Myers Beach retains a variety of neighborhoods and housing types. For new development,

the maximum density is 6 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). Commercial activities are limited to lower impact uses such as offices, motels, churches, and public uses, and 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 7.9% of the land in this category, and this percentage shall not exceed 12%.

**APPLICANT: The above policy describes the portions of the Property that are outside of the area currently assigned a Recreation FLU and demonstrates it is no longer an appropriate future land use category for a resort destination as this scale and scope of use was not contemplated when the Town adopted its Comprehensive Plan.**

POLICY 4-B-8 "RECREATION": applied to public parks, schools, undevelopable portions of Bay Beach, and those parts of Gulf beaches that lie seaward of the 1978 coastal construction control line. Additional accretions of beach, whether by natural causes or through beach renourishment, will automatically be assigned to this category. No new residential development is permitted (although several existing buildings were legally constructed partially seaward of the 1978 control line). The maximum density of residential development here is 1 dwelling units per 20 acres, with all dwelling units to be constructed outside this category. Allowable uses are parks, schools, libraries, bathing beaches, beach access points, and related public facilities. Non-recreational uses (such as the elementary school) now comprise 2.7% of the land in this category; additional school sites and public buildings shall not increase this percentage beyond 6%.

**APPLICANT: The proposed CPD does not include density seaward of the Lee County 1978 CCCL nor does the Comprehensive Plan Amendment include the Recreation FLU designated area.**

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

**APPLICANT: The proposed Mixed-Use district FLU and CPD are not located within the Low-Density category and is proposed for inclusion in a site-specific Mixed-Use district based on existing and proposed levels of development at an established node in the west side of Fort Myers Beach.**

**The district requires the approval of a Planned Development rezoning to ensure conditions and site-specific concept plans are attached to the district in perpetuity.**

**The proposed District proposes lower intensity uses such as hotel/lodging, recreation, and retail uses consistent with other future land use categories including the current Mixed Residential FLUC.**

**The district emphasizes multimodal access by bicycle, walking and golf cart, as well as a "park once" concept to gain access to entertainment, lodging, services, goods, restaurants, and recreational amenities.**

**The physical scale has been carefully planned to remain consistent with the current development form and soften new building via landscaping and architectural details.**



## **Transportation Element**

### **POLICY 7-D-5 HIDDEN-PATH SYSTEM.**

**APPLICANT:** The proposed new public beach access and linear park will provide a comfortable pedestrian environment that connects Estero Boulevard to the beach.

### **OBJECTIVE 7-E UPGRADE ESTERO BOULEVARD.**

**APPLICANT:** The proposed enhanced landscape improvements will improve the walking environment and additional street trees are proven to slow traffic and enhance public safety.

### **POLICY 6-H-5 WATER QUALITY**

**APPLICANT:** The district and implementing development plans, through CPD conditions and the adopted master concept plan, will be reviewed by the FDEP and SFWMD to ensure water quality is maintained and the project meets the current standards, which are more stringent compared to the existing permits.

## **VII. Conclusion**

In sum, the Outrigger Resort Mixed-Use district, and the companion London Bay Outrigger CPD proposal will allow for the development of resort-oriented uses at a suitable location in the “High-Rise Resort” area outlined in the Planning Communities for Fort Myers Beach exhibit (town’s Comprehensive Plan). The proposed project is largely contributing to the public benefit of Fort Myers Beach, including enhanced access to the beach, Estero Boulevard landscaping to improve aesthetics and the pedestrian environment, and additional public restaurants and recreational amenities. The project locates destination resort uses for both the public and future patrons.

As proposed through the Outrigger Resort Mixed-Use district, the new London Bay Outrigger CPD will also be consistent with the vision and implementing goals, objectives and policies of the Town’s Comprehensive Plan and Land Development Code Regulations. For these reasons, the applicant respectfully requests approval of this amendment.



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

Yellow Sheet Number: **2024-201**

**1. Request:**

**Meeting Date: August 23, 2024**

Ordinance 24-23: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING THE REZONING OF A PORTION OF THE PROPERTY LOCATED AT 6200 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBER 33-46-24-W3-00012.0000 TOWN OF FORT MYERS BEACH FROM COMMERCIAL PLANNED DEVELOPMENT (CPD) AND COMMERCIAL RESORT TO COMMERCIAL PLANNED DEVELOPMENT; PROVIDING FOR FINDINGS, CONFLICTS, LAW, CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY AND AN EFFECTIVE DATE.

**Why the action is necessary:**

The LPA must hear and make recommendations to the Town Council regarding rezoning requests.

**What the action accomplishes:**

The LPA recommendation will be forwarded to Town Council for their decision regarding this request.

**2. Agenda:**

PUBLIC HEARINGS

**3. Requirement/Purpose:**

Ordinance

---

**5. Background:**

The subject property is a single parcel consisting of 3.55 acres zoned CPD and CR landward of the 1978 Coastal Construction Control Line (CCCL) and 1.9 acres zoned EC seaward of the 1978 CCCL. The Applicant is requesting a rezoning of the 3.55 acres currently zoned CPD and CR to a CPD. The portion of the property seaward of the CCCL will remain zoned EC.

The proposed MCP shows a single public entrance on Estero Blvd that goes under the front building and creates two internal circular drives to access the structures. There is a service and emergency vehicle access point on the north end and one required emergency vehicle access going through the linear park, on the south end. A ten-story building (including parking) is proposed to front along Estero Blvd. An 11-story building abuts the ten-story building, to the south and runs along the southern edge of the property, against the linear park/beach access. A long the back half of the property the plan proposes a 12-story building, a three-story building with the amenity area over the first podium level, and four towers that are 17 stories, 15 stories, 13 stories, and 15 stories. The 13 and 15-story buildings are along the north side of the property with the 17-story building interior. Seaward of the 1978 CCCL, the MCP indicates a retaining/wave dissipation wall, intended to reduce the flood zone on this parcel from flood Zone VE to flood Zone AE. The MCP also shows a public restroom and sand rinse station within the linear park (construction of these facilities is dependent upon approval of a Conditional Letter of Map Revision by FEMA). Seaward of the 1978 CCCL, at the end of the linear park/beach access the applicant is also proposing a tiki hut beach bar (construction is dependent upon approval of the special exception request by the Town Council).

**Attachments:**

1. Ordinance 24-23 NS SP
2. Staff Report CPD
3. Exhibit E - MCP London Bay Outrigger
4. Map Exhibits

5. Elevations Outrigger
6. Conceptual Landscape Plan
7. Application for CPD
8. CLOMR and CCCL Permit Process-MEMO-JR Evans
9. Letters of Availability Combined
10. Public Beach Access Easement DRAFT

**Financial Impact:**

unknown

**6. Alternative Action**

approve or approve with conditions

**7. Staff Recommendations:**

Find that the request is not in compliance with the land development code criteria and comprehensive plan and deny the request.

**8. Recommended Approval:**

\_\_\_\_\_  
nancy stuparich, Town Attorney

Date: August 19, 2024

\_\_\_\_\_  
Amy Baker, Town Clerk

Date: August 19, 2024

## ORDINANCE 24-23

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING THE REZONING OF A PORTION OF THE PROPERTY LOCATED AT 6200 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBER 33-46-24-W3-00012.0000 TOWN OF FORT MYERS BEACH FROM COMMERCIAL PLANNED DEVELOPMENT (CPD) AND COMMERCIAL RESORT TO COMMERCIAL PLANNED DEVELOPMENT; PROVIDING FOR FINDINGS, CONFLICTS, LAW, CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY AND AN EFFECTIVE DATE.**

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

**WHEREAS**, Article X of the Town Charter of the Town of 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**, 6200 Estero Blvd Investments, LLC, Fred Drovdlc with RVi Planning, and Richard Yovanovich with CYK Law Firm, are the applicants and agents for the property owners, generally located at 6200 Estero Boulevard and identified as STRAP number 33-46-24-W3-00012.0000 in the Town of Fort Myers Beach, filed applications to rezone the property, landward of the 1978 Lee County Coastal Construction Control Line (CCCL), to Commercial Planned Developoment (CPD); and

**WHEREAS**, Ordinance 24-23 rezones the property from the CPD and Commercial Resort (CR) zoning districts, excluding the Environmentally Critical (EC) portion of the property, to CPD with Master Concept Plan (MCP) in order to develop a mixed use development with commercial retail, multifamily residential, hotel/condo, hotel, resort and associated facilities, on 3.55+/- acres more or less property, located at 6200 Estero Boulevard in the Town of Fort Myers Beach; and

**WHEREAS**, the subject property was Medium Residential and Recreation Future Land Use Categories in the 2024 Comprehensive Plan of the Town of Fort Myers Beach; and

**WHEREAS**, Ordinance 24-22 amended the text in the Future Land Use Element in the 2024 Comprehensive Plan to include a new future land use category of Outrigger Resort Mixed-Use; and

**WHEREAS**, Ordinance 24-21 amended the future land use category for the portion of the property in Medium Residential Future Land Use to Outrigger Resort Mixed-Use Future Land Use Category; and

**WHEREAS**, with the exception of portions of Town or County right-of-way, the applicant has indicated the subject property is under common control of 6200 Estero Blvd Investments, LLC, and Mark D. Wilson, Stephen G. Wilson, Lisa Van Dien, and Craig Klingensmith serve as the authorized representatives for the ownership listed in the public records of the Lee County Property Appraiser; and

**WHEREAS**, a public hearing was held before the Local Planning Agency (LPA) on August 23, 2024; and

**WHEREAS**, at the August 23, 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 the Town of Fort Myers Beach Land Development Code (LDC) §34-85; and

**WHEREAS**, at the August 23, 2024 public hearing the LPA recommended approval/approval with conditions/denial by a **X-X** vote on a finding that the decision is in compliance and consistent with the comprehensive plan and the Town of Fort Myers Beach LDC; and

**WHEREAS**, on September 23, 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 the Town of Fort Myers Beach LDC §34-85; and

**WHEREAS**, the Town Council voted to have a second reading of the proposed Ordinance and a public hearing on this matter was legally advertised in an appropriate publication 10 days prior to the Town Council on October 7, 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 Town of Fort Myers Beach LDC §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 Town Council finds to be in the public health, safety, and welfare, all of which are in compliance with the Town of Fort Myers Beach Comprehensive Plan and LDC; and

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

**WHEREAS**, Exhibit B provides the approved property development regulations; and

**WHEREAS**, Exhibit B provides the approved conditions of approval; and

**WHEREAS**, Exhibit B is the approved Master Concept Plan; and

**WHEREAS**, the Town Council finds that it is in the best interest of the Town to approve/approve with conditions/deny this request to rezone the by Ordinance 24-23 as a unique and individual application which does not set precedent for future development or rezoning applications; and

**WHEREAS**, the Town Council considered all relevant factors and made the following formal findings before making its final decision on the requested (see Town of Fort Myers Beach LDC §34-85 and §34-216) Ordinance 24-23:

- a. Minor ambiguities were resolved through the deviation process.
- b. Long-standing blighted conditions on the subject property can be ameliorated through approval of this rezoning.
- c. The rezoning would carry out the policies and requirements of the Comprehensive Plan and

Town of Fort Myers Beach LDC.

- 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 Town of Fort Myers Beach Comprehensive Plan, Town of Fort Myers Beach LDC, and other applicable town ordinances or codes. The proposed use or mix of uses is appropriate at the subject location.
- l. Sufficient safeguards to the public interest are provided by the recommended special conditions to the master concept plan and by other applicable regulations.
- m. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
- n. The rezoning meets all specific requirements of the Comprehensive Plan that are relevant to the request, including the following:
  - Policy 4-C-4 on building heights taller than the standard height limit
  - Policy 4-C-6 on hotel/motel densities
  - Policy 4-C-8 on density transfers
  - Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts

**WHEREAS,** the Town Council made the following formal findings before making final decisions on the fifteen (15) requested deviations (Exhibit D), from "by-right" requirements of the Town of Fort Myers Beach LDC (see LDC §34-216 and §34-1803):

- 1. Deviation #1 relating to parking space requirements for commercial spaces within mixed-use developments.
- 2. Deviation #2 relating to the gross floor area including the total floor area of all stories of a building within the surrounding exterior walls.



3. Deviation #3 relating to the height of the building as measured from the Florida Department of Environmental Protection (FDEP) Lowest Horizontal Structural Member (LHSM).
  4. Deviation #4 relating to the side yard setback on the north boundary line.
  5. Deviation #5 requesting a 10-foot side yard setback for the tiki style beach bar located in the EC zoning district.
  6. Deviation #5 relating to requiring transparent windows to cover at least 30 percent of the wall area below the expression line and at least ten percent of the wall area between the expression line and the cornice.
  7. Deviation #6 relating to requiring every principal facade to contain transparent windows on each story with visible sills and lintels on the exterior wall.
  8. Deviation #7 relating to requiring principal facades to be given special architectural treatment with expression lines and cornices.
  9. Deviation #8 relating to where building frontages exceed 50 feet to require operable doors or entrances with public access to be provided along streets at intervals averaging no greater than 50 feet.
  10. Deviation #9 relating to first-story windows of every commercial building's principal facade to have transparent windows for the beach bar.
  11. Deviation #10 relating to first-story windows of every commercial building's principal facade to have transparent windows for MEP and parking areas.
  12. Deviation #11 relating to upper story windows of every commercial building's principal facade to meet certain requirements.
  13. Deviation #12 relating to sloped roofs with wells to conceal mechanical equipment.
  14. Deviation #13 relating to plazas and courtyards to conform to "build-to lines" that require new commercial buildings to be placed near public sidewalks.
  15. Deviation #14 relating to new commercial buildings that are on larger lots may include interior courtyards designed for public or private usage
- a. All aspects of the proposed development, as limited by the special conditions being imposed by the Town Council, are compatible with the surrounding area, including building height, traffic flow, and intensity of use.
  - b. The proposed development, as modified by these deviation, clearly exceeds all standards of the Town of Fort Myers Beach Comprehensive Plan.
  - c. The proposed development, with the modified deviation being approved, does not exceed any maximum intensities contained in the Town of Fort Myers Beach Comprehensive Plan.
  - d. Granting the deviation will enhance the achievement of the objectives of the proposed development.
  - e. The general intent of the LDC to protect public health, safety, and welfare will be preserved

and promoted with the deviation.

- f. The deviation operates to the benefit, or at least not to the detriment, of the public interest.
- g. The deviation is consistent with the Town of Fort Myers Beach Comprehensive Plan.

**WHEREAS**, the Town Council finds that this application to APPROVE WITH CONDITIONS Ordinance 24-23 is **consistent/not consistent** with the Town of Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve/approve with conditions/deny** the Application.

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

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

Section 2. The Town Council determines the Applicant met its burden of proof that the request to approve the Town of Fort Myers Beach's Ordinance no. 24-23 **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 **APPROVES/APPROVES WITH CONDITIONS/DENIES** the requested application.

Section 3. Town Ordinance 24-23 is adopted by this vote and the schedule of uses set forth in Exhibit A, property development regulations set forth in Exhibit B, conditions of approval set forth in Exhibit C, and approved deviations from the by-right requirements of the LDC set forth in Exhibit D for the Property's CPD, attached hereto and incorporated herein by this reference is approved.

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

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

Section 6. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 7. This Ordinance will take effect immediately upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by Council Member \_\_\_\_\_ 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 7<sup>th</sup> day of October 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 TOWN OF FORT MYERS BEACH ONLY:**

---

Vose Law Firm, LLP, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this XX<sup>th</sup> day of October 2024.

**EXHIBITS**

Exhibit A – Schedule of Uses

Exhibit B – Property Development Regulations

Exhibit C - Conditions of Approval

Exhibit D – List of Approved Deviations

Exhibit E – MCP

**EXHIBIT A**  
**Schedule of Uses**

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

a. RESIDENTIAL

Principal:

- Dwelling unit, multi-family
- Timeshare units (fractional ownership, vacation club)
- Sales center/office

Accessory:

- Essential services
- Essential service equipment
- Home occupation (no outside help)
- Parking, surface and garage
- Recreation, private on-site and private, off-site
- Residential accessory uses

b. LODGING

Principal:

- Hotel/motel
- Hotel/condo
- Rental of any permitted dwelling unit for periods of one day or longer
- Resort
- Timeshare units (fractional ownership, vacation club)
- Recreational facilities – commercial and private on-site, off-site
- Sales center/office

Accessory resort uses:

- Mini bars (in the hotel rooms)
- On-premises sales and consumption of alcoholic beverages in the restaurant and bar, and the chickee style beach bar building located seaward of 1978 CCCL/CCSL, including sale of wine, beer, and liquor as permitted by state law
- Off-premises sales of alcohol out of the sundry store as permitted by state law
- Essential services and essential service equipment
- Rental of beach furniture and cabanas
- Personal watercraft and parasailing operations office
- Meeting space and business center
- Signs
- Parking, surface and garage
- Subordinate commercial uses

c. RETAIL

Principal:

- Recreational facilities – commercial
- Commercial uses including restaurant, café, personal services, retail store
- On-premises sales and consumption of alcoholic beverages in the restaurant and bar, and the chickee style beach bar building located seaward of 1978 CCCL/CCSL, including sale of wine, beer, and liquor as permitted by state law
- Off-premises sales of alcohol out of the sundry store as permitted by state law

Accessory:

- ATM
- Commercial accessory uses
- Essential services and essential service equipment
- Parking, surface and garage
- Subordinate commercial uses

d. OFFICE

Principal:

- Administrative offices

Accessory:

- Home occupation (no outside help)
- Commercial accessory use
- Essential services and essential service equipment
- Parking, surface and garage
- Subordinate commercial uses

e. CIVIC

Principal:

- Public beach access
  - Use by the public for beach access according to posted hours of operation
  - Use by the Town for emergency access
- Park, neighborhood
- Essential services and essential service equipment

f. COMMERCIAL PARKING

Principal:

- Public parking, surface and garage



## EXHIBIT B

### Property Development Regulations

1. The approved property development regulations for this CPD will take precedence over and supersede the property development regulations in the Town of Fort Myers Beach LDC that would otherwise apply. The following development regulations for the property entirely landward of the 1978 Lee County CCCL and within the CPD zoning district boundary shall apply:

|                                                                               |                                                                                                  |
|-------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| Maximum Building Height measured in accordance with 34-631 of the LDC:        | 17 stories (15 stories over 2 stories of structured parking)<br>200 feet measured from FDEP LHSM |
| Maximum Floor Area Ratio (FAR):                                               | 3.0 (first floor parking area is not included in the FAR)                                        |
| Maximum Density:                                                              | 196 units ( <del>55</del> <u>46</u> units per acre)                                              |
| <ul style="list-style-type: none"> <li>• Multifamily</li> </ul>               | <ul style="list-style-type: none"> <li>• 46 dwelling units</li> </ul>                            |
| <ul style="list-style-type: none"> <li>• Lodging/Hotel/Hotel-Condo</li> </ul> | <ul style="list-style-type: none"> <li>• 150 rooms</li> </ul>                                    |
| Maximum Commercial Intensity:                                                 | 24,000 square feet total                                                                         |
| <ul style="list-style-type: none"> <li>• Publicly Accessible</li> </ul>       | <ul style="list-style-type: none"> <li>• 9,000 square feet</li> </ul>                            |
| <ul style="list-style-type: none"> <li>• Private</li> </ul>                   | <ul style="list-style-type: none"> <li>• 15,000 square feet</li> </ul>                           |
| Minimum Setbacks:                                                             |                                                                                                  |
| <ul style="list-style-type: none"> <li>• Estero Boulevard</li> </ul>          | 10 feet                                                                                          |
| <ul style="list-style-type: none"> <li>• Side</li> </ul>                      | 20 feet (principal) and 10 feet (accessory) *                                                    |
| <ul style="list-style-type: none"> <li>• Rear/CCSL</li> </ul>                 | 0 feet (principal) and 0 feet (accessory)                                                        |
| Parking:                                                                      | 300 spaces                                                                                       |
| Minimum Open Space:                                                           | Per LDC Section 10-415                                                                           |

\*See deviation #4

1. The following approved design standards for this CPD take precedence over and supersede the property development regulations in the LDC that would otherwise apply:

- a. BEACH BAR

The beach bar structures at the end of the beach access and linear park shall not be required to comply with the ground-floor window and retail standards.

- b. PRINCIPAL AND ACCESSORY STRUCTURES

The parking, service and Mechanical, Electrical and Plumbing (MEP) areas are not required to meet the following requirements:

- 1) Exterior Walls

- Transparent windows must cover at least 30 percent of the wall area below the expression line and at least ten percent of the wall area between the

expression line and the cornice. These requirements shall not apply to walls facing and roughly parallel to rear lot lines, or to side walls being built closer than five feet to a side lot line if the adjoining lot also has a building with a side wall closer than five feet to the same side lot line.

## 2) Principal Façade Walls

- Façade Elements: Expression lines and cornices are encouraged but not required.
- Windows: Visible sills and lintels on the exterior wall are encouraged but not required.
- Entrances: Excluding parking areas, operable doors or entrances with public access shall be provided along streets at intervals averaging no greater than 50 feet.
- First-story windows: The parking, service and MEP areas are not required to have transparent windows meeting the following requirements:
  - Window openings shall cover at least 60 percent of the wall area below the expression line;
  - The bottoms of the window opening can be no higher than 30 inches from sidewalk level; and
  - These windows shall be maintained so that they provide continuous view of interior spaces lit from within. Private interior spaces such as offices may use operable interior blinds for privacy.
- Upper-story windows:
  - With the exception of parking, service, and MEP areas, all stories above the first story of every commercial building's principal facade shall contain between 15 percent and 75 percent of the wall area with transparent windows.
  - No single pane of glass may exceed 36 square feet in area.

## 3) Roofs

Sloped roofs with wells to conceal mechanical equipment are permitted.

## 4) Plazas and Courtyards

- Build-to-line: Build to requirements are not applicable to this development.
- Courtyards: New commercial buildings that are on larger lots may include interior courtyards designed for public or private usage.
  - Vehicular circulation is permitted through the courtyard areas.
  - Parking shall be permitted in the courtyard areas and may be parallel, angled, or 90-degree spaces.

**EXHIBIT C**  
**Conditions of Approval**

1. The Master Concept Plan (MCP) identifies certain important public features that will require separate actions by the Town and by the landowner at a later date with these understandings:
  - a. The landowner has agreed to construct and dedicate an average thirty-foot wide (30')\* perpetual public access easement and linear park for a new pedestrian beach access at the "south" boundary that meets ADA accessibility requirements.

*\*Certain points along the easement area and linear park may be reduced to less than 30' to meet setback and design standard requirements, provided the average width of the linear park and easement area is no less than 30'.*

    - The improvements within the easement shall be constructed, completed, and open to the public prior to the issuance of the first certificate of occupancy (CO).
    - Prior to the issuance of the first certificate of occupancy, the landowner will execute instruments to complete the easement(s) or dedication for the pedestrian beach access in a form reasonably suitable to the Town Attorney.
    - The beach access and linear park will be installed and maintained in perpetuity by the property owner.
    - Directional signage approved by the Town as to design, installation methodology, and location shall be erected along Estero Boulevard that advises the public of the public beach access.
  - b. Landscaping improvements to the frontage of the property on Estero Boulevard will be generally consistent with the conceptual landscape plan and renderings included as part of the CPD. A detailed landscaping plan will be provided at the time of development order application.
  - c. The landowner has agreed to provide bicycle and golf cart parking at locations determined at the time of development order application.
  - d. Airport shuttle services.
  - e. Golf cart shuttle services.
  - f. Access to public transportation will be via Lee Tran bus service.
  - g. All applicable Lee County Department of Transportation, South Florida Water Management District (SFWMD), Florida Fish and Wildlife Conservation Commission (FWC), and Florida Department of Environmental Protection (FDEP) approvals must be received by the applicant prior to issuance of a building permit by the Town.
2. The landowner commits to construct the public features and benefits identified on the MCP subject to approval by the applicable permitting agencies and special exception approval. The following features will require separate critical actions by various permitting agencies, the

Town, and by the landowner at a later date:

- a. Ground leve public restrooms and foot wash stations landward of the 1978 Lee County CCCL in the general location shown on the MCP.
    - In order to guarantee the general public's permanent right to use these amenities, the landowner will execute an instrument that guarantees access in a form reasonably acceptable to the Town Attorney.
  - b. A beach bar seaward of the 1978 Lee County CCCL in the general area indicated on the MCP.
    - The beach bar is to be open to the public and limited to a floor area of 800 square feet.
  - c. Access to a water taxi shuttle for residents of Saltleaf on Estero Bay to the property.
  - d. All applicable Lee County Department of Transportation, South Florida Water Management District (SFWMD), Florida Fish and Wildlife Conservation Commission (FWC), and Florida Department of Environmental Protection (FDEP) approvals must be received by the applicant prior to issuance of building permits by the Town.
3. On-premises sale and consumption of alcoholic beverages is permitted including sale of wine, beer, and liquor as permitted by state law.
- a. Alcoholic beverage service in the hotel restaurant and bar areas are limited to 7:00 a.m. to midnight except for private special events such as weddings that can serve until 2:00 a.m.
  - b. Alcoholic beverage service in the Environmental Conservation (EC) zoning district (land seaward of the 1978 Lee County CCCL) is permitted only as approved by special exception and in accordance with state law.
  - c. Alcoholic beverages sales is permitted seaward of 1978 Lee County CCCL, in the beach bar area only if permitted by special exception ~~as depicted on the MCP~~, and subject to the following conditions:
    - i. Alcoholic beverage service in the beach bar area is limited to ~~7:00 a.m. to 11:00 p.m~~ (per 34-1264(g)(1)b.1.(v)) 11 a.m. to one hour after sunset or 9 p.m., whichever is earlier unless additional hours are granted by a special event permit.
    - ii. Alcoholic beverages may not be served off-premises at locations other than those shown on the MCP unless approved by special use permit, special exception or by administrative approval, as provided in 34-1264 of the LDC.
4. Off-premises sales of alcohol is permitted out of the sundry store as permitted by state law.
5. Amplified music in outdoor or unenclosed areas is limited to 11:00 a.m. to 10:00 p.m. Amplified music indoors or within enclosed areas are limited to 7:00 a.m. to midnight, except that private events, such as weddings, may extend the time period to 2:00 a.m.
6. A detailed lighting plan, including any lit signage, must be provided with the development order application; this plan must comply with LDC requirements in 10-154(8) and 14-76 for

sea turtle conservation.

7. A detailed landscaping plan showing the location and type of all plantings, including improvements to landscaping to Estero Boulevard and beach plantings, must be provided with the development order applications for construction landward of the 1978 Lee County CCCL and construction seaward of the 1978 Lee County CCCL, which is limited to the beach bar.
8. All necessary dune plantings and walkovers shall be provided in compliance with Town codes and ordinances.
9. Individual signs may be placed on this site during and after development as may be allowed by the LDC regulations that are in effect at that time.
10. Murals and public art are permitted in compliance with LDC regulations.
11. The following transportation and access features are shown on the Master Concept Plan (MCP) and are an integral part of this approval:
  - a. Vehicular access to the site will be limited to the access point on Estero Boulevard as shown on the MCP.
  - b. Emergency vehicles will have access from Estero Boulevard to the beach access and to the service access as depicted on the MCP.
12. Additional approvals of special events are allowed. Application for such special event approvals shall be submitted through the Town's adopted Special Event processes and may temporarily alter hours of operation, amplified music limits, and public user capacity, among other items.
13. Construction staging shall be authorized when in compliance with all applicable Town codes, except that concrete delivery/pumping for the building's foundations and terrace may occur no earlier than 4:00 am. No other approvals are inferred from approval of the CPD. The landowner or developer shall be responsible for submittal of any requests for additional staging or construction management approvals from the Town Council.
14. Any violation of the CPD conditions of approval or deviation, as determined by a court of competent jurisdiction or through a properly noticed code enforcement proceeding, shall constitute a maximum \$500 per day civil violation.
15. No additional development may occur beyond that which is approved by this CPD without prior approval of the Town Council. The intent of this condition is to require that any future changes to this CPD must comply with the Town of Fort Myers Beach Plan and LDC in effect at the time of any future application.
16. Redevelopment and future uses on the subject property must be consistent with the attached Master Concept Plan as approved by the Town Council as part of this request. All prior Master Concept Plans, CPD zoning approvals, special conditions, and development agreements for the subject property are no longer valid. All development activities and future uses must comply with all the requirements of the Town of Fort Myers Beach Land Development Code at the time of Development Order approval, except as explicitly modified by this CPD approval. If changes to this approval are requested, they will be reviewed as requests to formally modify this CPD.



17. Staff Recommendation: Building height directly adjacent to single-family residences must be stepped back to decrease impact on adjacent single-family residences. A 1 to 3 ratio of additional setback to height is recommended above the code allowed 30 feet.
18. The applicant shall have installed a button-activated flashing beacon or other appropriate, agreed upon device to identify points for pedestrians crossing.
19. The applicant shall provide a cross access easement to the Town to allow access to the beach for beach renourishment and other beach maintenance related activities.
20. The applicant shall provide 10% of the 46 dwelling units proposed, to be available at market rate for staff of the resort or for other people employed on Fort Myers Beach.

### **Findings Regarding the Conditions**

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

## **EXHIBIT D**

### **List of Approved Deviations**

1. Deviate from LDC §34-2020(d)(2) to allow for a 179-parking space reduction in required vehicular parking spaces for the non-residential floor area within the mixed-use development.
2. Deviate from LDC §34-633 where the gross floor area includes the total floor area of all stories of a building within the surrounding exterior walls (whether the walls are solid or screened), plus all area below an elevated building that is six feet or more in height, plus all stories of covered parking; to eliminate counting the ground level covered parking area towards FAR and establish an FAR of 3.0 for the CPD.
3. Deviate from LDC Chapter 34, Division 4, Table 34-3, Dimensional Regulations in Conventional Zoning Districts, where height in the CR District is limited to 30 feet and 3 stories and building size in a CPD zoning district shall be the same as for the CR zoning district for CPDs that are primarily lodging (LDC 34-953); to allow a maximum height of 200 feet as measured from the Florida Department of Environmental Protection (FDEP) Lowest Horizontal Structural Member (LHSM) and 17 stories.
4. Deviate from LDC Chapter 34, Division 4, Table 34-3, Dimensional Regulations in Conventional Zoning Districts, where side yard setbacks for waterfront lots in the CR District is 20 feet and building placement in a CPD zoning district shall be the same as for the CR zoning district for CPDs that are primarily lodging (LDC 34-953); to allow a minimum setback of 15 feet to provide for 5-foot balconies extending from the façade into the setback on the upper living levels (floors 3-17).
5. Deviate from LDC Chapter 34, Division 4, Table 34-3, Dimensional Regulations in Conventional Zoning Districts, where side yard setbacks for buildings in the EC District is 25 feet; to allow a minimum side yard setback of 10 feet from the southern boundary for the tiki bar.
6. Deviate from LDC Chapter 34, Division 7, Sec. 34-994(c)(1) that requires transparent windows to cover at least 30 percent of the wall area below the expression line and at least ten percent of the wall area between the expression line and the cornice; to allow the parking, service, and MEP areas to not meet the requirements.
7. Deviate from LDC Chapter 34, Division 7, Sec. 34-995(c)(1)b.1 requiring every principal facade to contain transparent windows on each story with visible sills and lintels on the exterior wall; to not apply to the floors of the project.
8. Deviate from LDC Chapter 34, Division 7, Sec. 34-995(a)(4) requiring principal facades to be given special architectural treatment with expression lines and cornices; to not apply to the façade.
9. Deviate from LDC Chapter 34, Division 7, Sec. 34-995(b)(4) where building frontages exceed 50 feet to require operable doors or entrances with public access to be provided along streets at intervals averaging no greater than 50 feet; to not apply to the façade.

10. Deviate from LDC Chapter 34, Division 7, Sec. 34-995(c)(2) that requires first-story windows of every commercial building's principal facade to have transparent windows; to allow the Beach Bar area at the end of the beach access and linear park to not be required to comply and have an open-air tiki style concept.
11. Deviate from LDC Chapter 34, Division 7, Sec. 34-995(c)(2) that requires first-story windows of every commercial building's principal facade to have transparent windows; to exempt the parking, service and MEP areas from meeting the following requirements:
  - a. Window openings shall cover at least 60 percent of the wall area below the expression line;
  - b. The bottoms of the window opening can be no higher than 30 inches from sidewalk level; and
  - c. These windows shall be maintained so that they provide continuous view of interior spaces lit from within. Private interior spaces such as offices may use operable interior blinds for privacy.
12. Deviate from LDC Chapter 34, Division 7, Sec. 34-995(c)(3) that requires upper story windows of every commercial building's principal facade to meet the following requirements:
  - a. All stories above the first story of every commercial building's principal facade shall contain between 15 percent and 75 percent of the wall area with transparent windows.
  - b. No single pane of glass may exceed 36 square feet in area.to allow the parking, service and MEP areas to meet the requirements.
13. Deviate from LDC Chapter 34, Division 7, Sec. 34-996 that allows sloped roofs with wells to conceal mechanical equipment; to allow alternative roof designs.
14. Deviate from LDC Chapter 34, Division 7, Sec. 34-997(b) that requires plazas and courtyards to conform to "build-to lines" that require new commercial buildings to be placed near public sidewalks; to allow build to requirements to not be applicable to this development.
15. Deviate from LDC Chapter 34, Division 7, Sec. 34-997(c)(1) and (2) that requires new commercial buildings that are on larger lots may include interior courtyards designed for public or private usage.
  - a. Vehicular circulation is permitted through the courtyard areas.
  - b. Parking shall be permitted in the courtyard areas and may be parallel, angled, or 90-degree spaces.to allow the requirements to not be applicable to this development.



# Town of Fort Myers Beach

## COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

**TYPE OF CASE:** Commercial Planned Development Rezoning

**CASE NUMBER:** DCI20240061

**CASE NAME:** London Bay Outrigger Commercial Planned  
Development Rezoning - 6200 Estero Blvd

**LPA**

**HEARING DATE:** August 23, 2024

**STAFF  
RECOMMENDATION:** DENIAL

**PREPARED/  
SUBMITTED BY:** Sarah Propst, AICP, PMP

### I. APPLICATION SUMMARY

Applicant/Agent: 6200 Estero Blvd Investments, LLC/Fred Drovdlc, AICP  
with RVI Planning + Landscape Architecture

Request: Rezoning of 3.55 acres from Commercial Planned  
Development (CPD) and Commercial Resort (CR) to CPD  
for development of a resort.

Subject property: See attached plan

Physical Address: 6200 Estero Blvd

STRAP #: 33-46-24-W3-00012.0000

FLU: Medium Residential & Recreation

Zoning: Commercial Planned Development (CPD), Commercial  
Resort (CR), & Environmentally Critical (EC)

Adjacent zoning and land uses:

North: RESIDENTIAL MULTIFAMILY (RM) AND RESIDENTIAL SINGLE FAMILY (RS), Medium Residential Future Land Use (FLU)

South: RESIDENTIAL PLANNED DEVELOPMENT (RPD) Medium Residential FLU

East: COMMERCIAL PLANNED DEVELOPMENT (CPD) AND COMMERCIAL BOULEVARD (CB), Boulevard Mixed-Use Arts and Theatre District FLU

West: ENVIRONMENTALLY CRITICAL (EC), Recreation FLU

**II. BACKGROUND AND ANALYSIS**

**Background:**

6200 Estero Blvd Investments, LLC, owner of the subject property, and Fred Drovdic, AICP, with RVi Planning + Landscape Architecture, applicant for the owner, are requesting a rezoning of 3.55 acres, zoned Commercial Planned Development (CPD) and Commercial Resort (CR) to CPD for the development of a resort. The request includes 14 deviations and the CPD is accompanied by a small-scale comprehensive plan amendment and a special exception.

The property was previously known as the Outrigger Resort. It is zoned CPD and CR and is located on the beach side of Estero Blvd. The parcel contains land that is seaward of the 1978 Coastal Construction Control Line (CCCL) and is Recreation FLU and zoned Environmentally Critical (EC). The applicant is not proposing to rezone the EC portion of the property. This portion of the property is addressed by the special exception request.

The existing CPD for the Outrigger Beach Resort was approved through Z-95-085 (included as Exhibit C). The previously approved Master Concept Plan (MCP) is only partially legible, however, the applicant has indicated that the rezoning allowed the development of 144 hotel efficiency units, and 10,000 square feet of commercial uses. In addition to the hotel use, the allowed uses include: Bar or Cocktail Lounge (existing), Commercial Use of Beach Front Seaward of the Water Body Setback Line (existing), Consumption on Premises (existing), and Convenience Store.

**Analysis:**

The subject property is a single parcel consisting of 3.55 acres zoned CPD and CR landward of the 1978 Coastal Construction Control Line (CCCL) and 1.9 acres zoned EC seaward of the 1978 CCCL. The Applicant is requesting a rezoning of the 3.55 acres currently zoned CPD and CR to a CPD. The portion of the property seaward of the CCCL will remain zoned EC.



The proposed MCP shows a single public entrance on Estero Blvd that goes under the front building and creates two internal circular drives to access the structures. There is a service and emergency vehicle access point on the north end and one required emergency vehicle access going through the linear park, on the south end. A ten-story building (including parking) is proposed to front along Estero Blvd. An 11-story building abuts the ten-story building, to the south and runs along the southern edge of the property, against the linear park/beach access. Along the back half of the property the plan proposes a 12-story building, a three-story building with the amenity area over the first podium level, and four towers that are 17 stories, 15 stories, 13 stories, and 15 stories. The 13 and 15-story buildings are along the north side of the property with the 17-story building interior. Seaward of the 1978 CCCL, the MCP indicates a retaining/wave dissipation wall, intended to reduce the flood zone on this parcel from flood Zone VE to flood Zone AE. The MCP also shows a public restroom and sand rinse station within the linear park (construction of these facilities is dependent upon approval of a Conditional Letter of Map Revision by FEMA). Seaward of the 1978 CCCL, at the end of the linear park/beach access the applicant is also proposing a tiki hut beach bar (construction is dependent upon approval of the special exception request by the Town Council).

The CPD rezoning is to allow for a mixed-use resort development with higher intensity, density, and height than what existed on the parcel prior to hurricane Ian. The proposed development requests a floor area ratio (FAR) of 3.0 where 1.5 is currently the maximum allowed, the applicant is also requesting a deviation to not count the first floor of parking toward the FAR calculation. The existing maximum allowed FAR would allow 231,957 square feet of development (5.325 acres of development), the proposed FAR would allow 463,914 square feet of development (10.65 acres of development) on top of the first floor of parking.

The requested density for this CPD is 46 dwelling units per acre. This would allow up to 163 dwelling units on this site. However, the applicant is proposing to use the density units as 96 dwelling units (46 as condominiums and 50 as hotel/condominiums) and the remaining 67 units of density are being developed as hotel units with an equivalency factor of 1.5, resulting in 100 hotel units (the applicant has indicated the rooms will be 450 square feet or less). This results in a combined total of 196 dwelling units, hotel condominium units, and hotel units.

The previously approved CPD for this site allowed a maximum building height of 35 feet over base flood elevation (BFE) and a total of four stories. The CR zoning district, the base district to compare primarily lodging CPDs to, would allow a maximum height of 30 feet above BFE and three stories. The applicant is requesting a deviation to this dimensional regulation to allow a maximum height of 200 feet above the FDEP design flood elevation and a total of 17 stories, including the ground floor parking. The MCP shows several buildings with varying heights, the building fronting Estero Blvd is 10 stories, with buildings along the linear park at 11 and 12 stories tall, a lower three-story building against the pool amenity area and four towers to the north that are 17, 15 and 13 stories tall. A 13 and a 15-story tower are separated from the single-

family residences to the north by a 20-foot side yard setback and a Type C buffer.

The application requests 14 deviations from the Land Development Code. The requests are listed in this staff report and include the applicant's justification, where provided, as well as a staff comment.

**Neighborhood Compatibility:**

The adjacent properties to the north are single-family residential homes, maximum of three stories, and a multifamily development Coquina Condominiums, with five-story structures. To the south is a Residential Planned Development (RPD) called Gulfside Twelve Condominiums, which are five story structures with rooftop amenities. The properties on the opposite side of Estero Blvd are zoned Commercial Boulevard (CB) and are in the Arts and Theatre Mixed-Use district. The uses are commercial, community facility, and diagonal across the street are condominiums.

The proposed uses in the Outrigger Resort Mixed-Use district are not likely to cause impacts above and beyond those generated by the previously existing Outrigger Beach Resort. However, the density, intensity, and height requests are likely to have an impact on the neighborhood. The proposed FLU includes an additional 6 hotel units and 46 multifamily units above the number that the Outrigger Beach Resort contained. Additionally, the proposed intensity and building heights will far exceed what existed on site prior and what exists in the surrounding developments.

**Requested Deviations:**

- 1) Deviate from LDC §34-2020(d)(2) to allow for a 179-parking space reduction in required vehicular parking spaces for the non-residential floor area within the mixed-use development.**

*Applicant Justification: Parking for the proposed development will be located on site through two levels of parking under the hotel and residential buildings. The table below outlines the proposed uses and the required parking by the Land development Code (LDC).*

*According to the minimum parking requirements of the LDC, the application is requesting a deviation for a 179-space reduction in required vehicular parking spaces, a 37% reduction. The table shows the reduction limited to the non-residential portion of the development. The hotel, hotel/condo and condo units are fully parked.*

*The original Outrigger CPD (Z-95-085) was approved with a 29% reduction in parking overall, that was focused on the non-residential uses. The deviation was granted despite a much more limited package of incentives, modern programs, alternative forms of transportation accommodations and mixed-use component.*

**Table 1: Parking Breakdown**

| Use                                                                                                       | Density / Floor Area | LDC Parking Requirement                                                                                                  | Required # Spaces | Trip Capture Reduction | Provided   |
|-----------------------------------------------------------------------------------------------------------|----------------------|--------------------------------------------------------------------------------------------------------------------------|-------------------|------------------------|------------|
| Hotel                                                                                                     | 100                  | 1.20 spaces per unit <sup>1</sup>                                                                                        | 120               | -                      | 120        |
| Hotel/Condo                                                                                               | 4 (Studio)           | 1.00 spaces per unit <sup>2</sup>                                                                                        | 4                 | -                      | 4          |
|                                                                                                           | 36 (1-2 BR)          | 1.25 spaces per unit <sup>2</sup>                                                                                        | 45                | -                      | 45         |
|                                                                                                           | 10 (3 BR)            | 1.50 spaces per unit <sup>2</sup>                                                                                        | 15                | -                      | 15         |
| Condo                                                                                                     | 22 (1-2 BR)          | 1.25 spaces per unit <sup>2</sup>                                                                                        | 28                | -                      | 28         |
|                                                                                                           | 24 (3-4 BR)          | 1.50 spaces per unit <sup>2</sup>                                                                                        | 36                | -                      | 36         |
| Commercial (public)                                                                                       | 9,000 sf             | Restaurant, hotel grab-n-go (8/1,000 sf) <sup>3</sup>                                                                    | 129               | 63%                    | 48         |
| Restaurant, hotel lobby bar, hotel grab-n-go, rooftop bar                                                 |                      | Rooftop and hotel lobby bar (indoor area: 15/1,000 sf) <sup>4</sup><br>Beach bar (outdoor seating: 1/75 sf) <sup>4</sup> | 27                | 75%                    | 7          |
| Commercial (private)                                                                                      | 15,000 sf            | 4/1,000 sf <sup>5</sup>                                                                                                  | 60                | 75%                    | 15         |
| Beach Club                                                                                                |                      |                                                                                                                          |                   |                        |            |
| <b>TOTALS</b>                                                                                             |                      |                                                                                                                          | <b>479</b>        | <b>-</b>               | <b>318</b> |
| *318 parking spaces are provided with eighteen of them converted to 72 golf cart and bike parking stalls. |                      |                                                                                                                          |                   |                        | <b>-18</b> |
|                                                                                                           |                      |                                                                                                                          |                   |                        | <b>300</b> |

1 LDC Section 34-2020(d)(2)e.

2 LDC Section 34-2020(d)(1)b.

3 LDC Section 34-2020(d)(2)h.

4 LDC Section 34-2020(d)(2)a.

5 LDC Section 34-2020(d)(4)b.1.

*Justification for the parking reduction is as follows:*

1. *Parking analysis: TR Transportation produced a parking analysis based on national ULI traffic studies for like uses which resulted in a need for 273-weekday parking spaces, while weekends require a total 286 stalls.*

2. *Alternative forms of transportation: It is anticipated that alternative means of transportation will be utilized when accessing the site. The site design encourages alternative modes of transportation by providing bicycle, golf cart and e-scooter parking, access to water taxi shuttles, airport shuttles, and public transportation via the FMB Trolley & Tram. Pedestrian traffic will also be encouraged through the design of street level landscaping and shading of walkways, public plaza at the entrance to the Public Beach access and linear park, and seating and shaded areas in the park as well.*

3. *Vehicular traffic reduction efforts: Resort implemented programs to encourage the use of the DRAC Program (Don't Rent A Car) and ride sharing and, as mentioned above, and the resort will provide airport shuttle services and access to a water taxi.*

4. *Trip capture: Because of the nature of the mixed-use development a significant amount of usage of the amenities and public spaces will not need to rely on vehicles. Residents of the development will be among the users of the onsite amenities and publicly accessible non-residential areas. Those staying in the hotel or renting a hotel condominium will also be able to use the amenities without need for transportation. Residents of nearby condos will also use the public restaurants and active beach areas who will be able to choose alternatives to car travel.*

5. *The Outrigger CPD (Z-95-085) approved two parking deviations that resulted in a 29% reduction in overall parking:*

- *Deviation #4 – 153 parking spaces (216 required)*
- *Deviation #5 – Waiver of parking requirements for the 10,000 square feet of commercial uses*

Staff Comment: The proposed parking deviation will result in a total of 70 parking spaces for 24,000 square feet commercial area. The commercial areas include: a restaurant, hotel lobby bar, hotel grab-n-go, rooftop bar, beach bar, and the beach club. Additionally, there is no parking proposed for the linear park/beach access. The applicant is also proposing an additional reduction of 18 parking spaces to be used for 72 golf cart parking spaces and bike parking stalls. The code requires a total of 479 parking spaces and the applicant is proposing a reduction of 179 spaces, a 37% decrease. However, if the bicycle and 72 golf cart spaces are fully utilized, these additional spaces may accommodate a portion of non-car users staying at and visiting the property. It is important to note that Estero Boulevard is a constrained facility and as such there is little to no available real estate to either add/expand the number of lanes or make other multimodal improvements such as adding protected bike lanes.

- 2) Deviate from LDC §34-633 where the gross floor area includes the total floor area of all stories of a building within the surrounding exterior walls (whether the walls are solid or screened), plus all area below an elevated building that is six feet or more in height, plus all stories of covered parking; to eliminate counting the ground level covered parking area towards FAR and establish an FAR of 3.0 for the CPD.**

Applicant Justification: *The FAR permitted at this location in the surrounding Commercial Resort (CR) zoning district per is 1.2 with the applicant proposing a Comprehensive Plan Amendment and CPD zoning to allow an FAR up to 3.0.*

*Per LDC §34-633 the gross floor area includes the total floor area of all stories of a building within the surrounding exterior walls (whether the walls are solid or screened), plus all area below an elevated building that is six feet or more in height, plus all stories of covered parking, but not including any area whose roof is screened rather than solid (such as swimming pool enclosures).*

*The land area used in the calculation is the gross square footage within the site's private property line, minus wetlands, canals or other waterbodies, and minus any land designated "recreation" on the comprehensive plan's future land use map. The area of the subject property landward of the 1978 Lee County CCCL is 3.55 acres or 154,638 square feet.*

*The proposed buildings vary in size and footprint, but the total proposed floor area is 510,305 square feet resulting in an FAR of 3.3. The applicant has requested a deviation to eliminate counting the first-floor parking area in the FAR calculation. If the deviation*

*is approved the floor area is reduced to 463,914 square feet. The result is an FAR of 3.0.*

*It is our understanding that the Town staff, LPA and Council have moved towards future LDC amendments making this request permanent thus the request meets the intent of the will of the Town.*

Staff Comment: This request will allow the development at the proposed square footage to meet the FAR of 3.0. This type of request has been viewed as reasonable for developments that are required to meet lower FARs. Because this development is in a high elevation flood zone, the first floor of the building can only be used for parking.

**3) Deviate from LDC Chapter 34, Division 4, Table 34-3, Dimensional Regulations in Conventional Zoning Districts, where height in the CR District is limited to 30 feet and 3 stories and building size in a CPD zoning district shall be the same as for the CR zoning district for CPDs that are primarily lodging (LDC 34-953); to allow a maximum height of 200 feet as measured from the Florida Department of Environmental Protection (FDEP) Lowest Horizontal Structural Member (LHSM) and 17 stories.**

*Applicant Justification: The CPD process allows for deviations from the height and stories with an approved resolution that is in compliance with the master concept plan and any special conditions may provide additional restrictions. According to the Town's Comprehensive Plan Policy 4-C-4, the request for additional height can be made and "the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal." The CPD proposes five significant public benefits. The height is at a suitable location in the "High-Rise Resort" area outlined in the Town's Comprehensive Plan.*

Staff Comment: The proposed maximum height is tall for the neighborhood. The adjacent properties contain buildings with much lower heights and these buildings will likely feel very large in comparison. Staff is concerned that a 15 story and 13 story building within 20 feet of single-family residences will have a negative impact.

**4) Deviate from LDC Chapter 34, Division 4, Table 34-3, Dimensional Regulations in Conventional Zoning Districts, where side yard setbacks for waterfront lots in the CR District is 20 feet and building placement in a CPD zoning district shall be the same as for the CR zoning district for CPDs that are primarily lodging (LDC 34-953); to allow a minimum setback of 15 feet to provide for 5-foot balconies extending from the façade into the setback on the upper living levels (floors 3-17).**

*Applicant Justification: The primary building façade will be setback 20-feet in compliance with the regulation on the podium levels (first two floors) and provide flexibility for balconies extending into the setback. A label has been added on the north side of the MCP along with deviation #4. The setback on the south side is a minimum of*

*30 feet to allow for the beach access easement.*

Staff Comment: The requested deviation does not seem appropriate. The proposed buildings are 13 and 15 stories tall, directly adjacent to the single-family residences. Allowing the balconies to extend five additional feet into the setback may impact adjacent properties.

**5) Deviate from LDC Chapter 34, Division 4, Table 34-3, Dimensional Regulations in Conventional Zoning Districts, where side yard setbacks for buildings in the EC District is 25 feet; to allow a minimum side yard setback of 10 feet from the southern boundary for the tiki bar.**

*Applicant Justification: The historical location of the activities building the tiki bar is replacing was located 5-7 feet off the abutting property line. This reduction will be important for FDEP and FWC permitting of the tiki bar seaward of the CCSL so that we able to substantially place the new structure in the historically disturbed area. The reduction to 10 feet balances the placement of the historical structure and compatibility with abutting uses top the south.*

Staff Comment: The proposed location of the tiki structure is close to where the previous activity building was located. If the applicant agrees to the staff requested condition #19 and the Town is able to access the beach through the EVA access in the linear park, the tiki structure may need to be further from the property line to allow passage of vehicles.

Additionally, staff notes that this would not typically be the preferred place to request this deviation because the tiki hut is located within the EC zoning district not the CPD. However, in order to capture all of the information that is shown on the MCP, the CPD approval is most appropriate.

**6) Deviate from LDC Chapter 34, Division 7, Sec. 34-994(c)(1) that requires transparent windows to cover at least 30 percent of the wall area below the expression line and at least ten percent of the wall area between the expression line and the cornice; to allow the parking, service, and MEP areas to not meet the requirements.**

*Applicant Justification: None given.*

Staff Comment: The space below the flood elevation must meet flood requirements. A deviation from the design criteria is appropriate in this instance.

**7) Deviate from LDC Chapter 34, Division 7, Sec. 34-995(c)(1)b.1 requiring every principal facade to contain transparent windows on each story with visible sills and lintels on the exterior wall; to not apply to the floors of the project.**



Applicant Justification: *None given.*

Staff Comment: There are no architectural renderings to evaluate whether this request to deviate will still meet the intent of the commercial design standards.

Sec. 34-991. The purposes of design regulations for commercial buildings include:

(1) Encouraging traditional building forms that reinforce the pedestrian orientation and desired visual quality of the Town of Fort Myers Beach.

(2) Creating usable outdoor space through the arrangement of compatible commercial buildings along street frontages.

(3) Encouraging buildings of compatible type and scale to have creative ornamentation using varied architectural styles.

(4) Enhancing the town's business districts as attractive destinations for recreation, entertainment and shopping.

(5) Maintaining and enhancing the town's sense of place and its property values.

(6) Implementing the design concepts in the Fort Myers Beach Comprehensive Plan.

**8) Deviate from LDC Chapter 34, Division 7, Sec. 34-995(a)(4) requiring principal facades to be given special architectural treatment with expression lines and cornices; to not apply to the façade.**

Applicant Justification: *None given.*

Staff Comment: There are no architectural renderings to evaluate whether this request to deviate will still meet the intent of the commercial design standards.

**9) Deviate from LDC Chapter 34, Division 7, Sec. 34-995(b)(4) where building frontages exceed 50 feet to require operable doors or entrances with public access to be provided along streets at intervals averaging no greater than 50 feet; to not apply to the façade.**

Applicant Justification: *None given.*

Staff Comment: Due to the length of the building along Estero Blvd and the need to ensure guests enter in the correct location, this deviation request seems reasonable.

**10) Deviate from LDC Chapter 34, Division 7, Sec. 34-995(c)(2) that requires first-story windows of every commercial building's principal facade to have transparent windows; to allow the Beach Bar area at the end of the beach access and linear park to not be required to comply and have an open-air tiki style concept.**

Applicant Justification: *None given.*

Staff Comment: A tiki hut typically does not have windows, this deviation request seems reasonable.

**11) Deviate from LDC Chapter 34, Division 7, Sec. 34-995(c)(2) that requires first-story windows of every commercial building's principal facade to have transparent windows; to exempt the parking, service and MEP areas from meeting the following requirements:**

**a. Window openings shall cover at least 60 percent of the wall area below the expression line;**

**b. The bottoms of the window opening can be no higher than 30 inches from sidewalk level; and**

**c. These windows shall be maintained so that they provide continuous view of interior spaces lit from within. Private interior spaces such as offices may use operable interior blinds for privacy.**

Applicant Justification: *None given.*

Staff Comment: The space below the flood elevation must meet flood requirements. A deviation from the design criteria is appropriate in this instance.

**12) Deviate from LDC Chapter 34, Division 7, Sec. 34-995(c)(3) that requires upper story windows of every commercial building's principal facade to meet the following requirements:**

**a. All stories above the first story of every commercial building's principal facade shall contain between 15 percent and 75 percent of the wall area with transparent windows.**

**b. No single pane of glass may exceed 36 square feet in area. to allow the parking, service and MEP areas to meet the requirements.**

Applicant Justification: *None given.*

Staff Comment: There are no architectural renderings to evaluate whether this request to deviate will still meet the intent of the commercial design standards.

**13) Deviate from LDC Chapter 34, Division 7, Sec. 34-996 that allows sloped roofs with wells to conceal mechanical equipment; to allow alternative roof designs.**

Applicant Justification: *None given.*

Staff Comment: Staff Comment: There are no architectural renderings to evaluate whether this request to deviate will still meet the intent of the commercial design standards.

**14) Deviate from LDC Chapter 34, Division 7, Sec. 34-997(b) that requires plazas and courtyards to conform to "build-to lines" that require new commercial buildings to be placed near public sidewalks; to allow build to requirements to not be applicable to this development.**

Applicant Justification: *None given.*

Staff Comment: Staff Comment: There are no architectural renderings to evaluate whether this request to deviate will still meet the intent of the commercial design standards. This would be a common deviation to grant and may make sense considering the height of the building along Estero Blvd is 10 stories and having the building further from the road will make the height less impactful.

**15) Deviate from LDC Chapter 34, Division 7, Sec. 34-997(c)(1) and (2) that requires new commercial buildings that are on larger lots may include interior courtyards designed for public or private usage.**

**1. Vehicular circulation is permitted through the courtyard areas.**

**2. Parking shall be permitted in the courtyard areas and may be parallel, angled, or 90- degree spaces.**

**to allow the requirements to not be applicable to this development.**

Applicant Justification: *None given.*

Staff Comment: The MCP shows a courtyard area, it appears that this deviation would allow parking other than parallel spaces within the courtyard. This deviation seems reasonable.

**Public Benefit:**

The applicant has provided a list of proposed public benefit with explanation that can be found in Exhibit C of this packet, in the Request Narrative document. Public benefits are often offered by an applicant when a development request exceeds the by-right limitations found in the Land Development Code (LDC). Staff has reviewed the information provided by the applicant and provides the following evaluation of the applicant proposed public benefits:

**1. Public Beach Access and Linear Park with View Corridor:**

The applicant is proposing a 30-foot-wide beach access/linear park with an ADA compliant path to the beach, wide enough for use by emergency vehicles. The beach access/linear park will include seating, plantings, public art, parking for golf carts, scooters, and bicycles, a water feature, at grade restrooms (contingent upon approval by permitting agencies), and sand rinse station. The applicant is proposing to install and maintain the park in perpetuity. The park will extend from Estero Blvd to the 1978 CCCL along the southern property line, up against an existing five-foot beach access easement. Beyond the 1978 CCCL, the applicant is proposing a tiki bar, contingent upon approval of a special exception.

**2. Publicly Accessible Amenities:**

The amenities provided with this development will be open to the public, including the beach tiki bar (if approved by special exception), the park with

restrooms, a hotel ballroom and event terrace, café and market, restaurant, hotel lobby lounge, rooftop bar and terrace. Staff points out that the park with restrooms was counted as a public benefit in #1, above. The commercial amenities are open to the public but are commercial in nature and will be part of the resort. While restaurants and bars may be appreciated by the community, they are businesses not public benefits.

3. Traffic Mitigation Measures:

The applicant provides a list of ways that the resort will encourage guests and visitors to utilize modes of transportation other than cars. While the Applicant may promote alternative modes of transportation, those forms of transportation are likely to accommodate only a small percentage of trips. This proposed development will be highly dependent upon automobiles as the main source of transportation to and from the site. This application, like others in the pipeline, is proposing an intensification to the previous land use. Increased traffic congestion may have adverse effects including a potential increase in response time of first responders (fire, police, ems).

It is also important to note that the proposed traffic mitigation is for the traffic that the development will create, therefore, this is not a public benefit.

4. World-Class Resort Amenities:

The resort will include amenities such as a pool, beach club, bars, markets, and restaurants. These amenities will be open to the public. As noted in item #2 above, these amenities may be appreciated by the community, but they are businesses, not public benefits.

5. Landscaping Improvements:

The applicant is proposing high quality landscaping along Estero Blvd on the development site. This will provide a more pleasant walking experience along the extent of the project and within the linear park.

The proposed beach access/linear park with restrooms is a valuable public benefit. The other proposed benefits do not quite qualify as true public benefits, in staff's opinion.

**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 the site is open for redevelopment.*

(3) The impact of a proposed change on the intent of this chapter.

*Staff response: The intent of the chapter is listed in 34-1 as:*

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

*(1) For efficiency and economy in the process of development;*

*(2) For the appropriate and best use of land;*

*(3) For preservation, protection, development, and conservation of the historical and natural resources of land, water and air;*

*(4) For convenience of traffic and circulation of people and goods;*

*(5) For the use and occupancy of buildings;*

*(6) For healthful and convenient distribution of population;*

*(7) For adequate public utilities and facilities;*

*(8) For promotion of the amenities of beauty and visual interest;*

*(9) For protection of the character and maintenance of the stability of residential and business areas; and*

*(10) For development in accordance with the Fort Myers Beach Comprehensive Plan.*

*The criteria of the chapter is subjective in nature but it could be argued that this proposed development meets some of the intent of the chapter, but not all.*

(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 does meet some of the comprehensive plan goals, objectives, and policies by providing improved landscaping along Estero Blvd, and providing a park with a pathway to the beach. This CPD request is not consistent with the Comprehensive Plan as it exists today, unless the Small-Scale Comprehensive Plan Amendment is approved to create the Outrigger Resort Mixed-Use District with a density of 46 dwelling units and intensity of 3.0 FAR. Additionally, the height far exceeds 30 feet and three stories, the height mentioned in the Comprehensive Plan (FLU-1-C-4) as the preferred height, and the development does not provide the buffers recommended from single family homes and also does not propose any workforce housing.*

(8) Whether the request meets or exceeds all performance and locational standards

set forth for the proposed use.

*Staff response: The development will need to comply with turtle lighting regulations to ensure no impacts on sea turtles. Construction of the development may create nuisance due to vibration and dust. The proposed development should meet performance standards set forth in 34-2031 and 34-2032. 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 and the applicant has submitted letters of availability from appropriate departments.*

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

*Staff response: This request should not impact environmentally critical areas and natural resources. The special exception request for the tiki hut beach bar is within the EC zoning district and must be evaluated per the special exception criteria.*

(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 housed a smaller-scale resort for many years, therefore the hotel/motel resort uses are not of concern. However, the sizes of the proposed structures and the intensity of the development may have negative impacts on nearby properties.*

(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 application is proposing an intensification to the previous land use. It is not likely that transportation capacity will be sufficient to accommodate vehicular traffic on Estero Boulevard during the Peak Period (100th Highest Hour) at the adopted Level of Service. Increased traffic congestion may have adverse effects including a potential increase in response time of first responders (fire, police, ems).*

(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 proposed comprehensive plan amendment that accompanies this application.*

(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, the use of resort existed on this site previously, at a lower intensity and density.*

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: Staff recommends denial of the deviation for additional encroachment into the side yard setback and recommends an additional height buffer from the single-family residences.*

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, the applicant is proposing a new FLU, Outrigger Resort Mixed-Use.*

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 request for additional height is proposed as part of the planned development rezoning and comprehensive plan amendment. The requested height does not appear to be appropriate for the location. Staff recommends providing a height transition on the side of the building adjacent to residences.*

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 increases the intensity of the uses on site and is likely to impact traffic. The applicant is proposing programs to encourage*

*guests and visitors to use bicycles and golf cart shuttles. There are no recommended design improvements to offset traffic impacts.*

**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 as proposed.*

b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted; and

*Staff response: Several of the proposed deviations are for development of the site, which may be too intense. The design criteria deviations do not negatively impact public health, safety, or welfare.*

c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and

*Staff response: The deviations may be a detriment to the public interest, additional parking may need to be provided at a later date depending on impacts to surrounding uses and a height setback may be necessary to reduce impacts to adjacent properties. Staff does not recommend approval of the decrease in the side setback for balconies.*

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 deviations does not meet the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC and does not recommend approval of DCI20230246 with the attached conditions.

**II. CONDITIONS OF APPROVAL**

1. The Master Concept Plan (MCP) identifies certain important public features that will require separate actions by the Town and by the landowner at a later date with these understandings:

a. The landowner has agreed to construct and dedicate an average thirty-foot wide (30')\* perpetual public access easement and linear park for a new pedestrian beach access at the "south" boundary that meets ADA accessibility requirements.

*\*Certain points along the easement area and linear park may be reduced to less than 30' to meet setback and design standard requirements, provided the average width of the linear park and*

*easement area is no less than 30'.*

- The improvements within the easement shall be constructed, completed, and open to the public prior to the issuance of the first certificate of occupancy (CO).
  - Prior to the issuance of the first certificate of occupancy, the landowner will execute instruments to complete the easement(s) or dedication for the pedestrian beach access in a form reasonably suitable to the Town Attorney.
  - The beach access and linear park will be installed and maintained in perpetuity by the property owner.
  - Directional signage approved by the Town as to design, installation methodology, and location shall be erected along Estero Boulevard that advises the public of the public beach access.
- b. Landscaping improvements to the frontage of the property on Estero Boulevard will be generally consistent with the conceptual landscape plan and renderings included as part of the CPD. A detailed landscaping plan will be provided at the time of development order application.
- c. The landowner has agreed to provide bicycle and golf cart parking at locations determined at the time of development order application.
- d. Airport shuttle services.
- e. Golf cart shuttle services.
- f. Access to public transportation will be via Lee Tran bus service.
- g. All applicable Lee County Department of Transportation, South Florida Water Management District (SFWMD), Florida Fish and Wildlife Conservation Commission (FWC), and Florida Department of Environmental Protection (FDEP) approvals must be received by the applicant prior to issuance of a building permit by the Town.
2. The landowner commits to construct the public features and benefits identified on the MCP subject to approval by the applicable permitting agencies and special exception approval. The following features will require separate critical actions by various permitting agencies, the Town, and by the landowner at a later date:
- a. Ground leve public restrooms and foot wash stations landward of the 1978 Lee County CCCL in the general location shown on the MCP.
- In order to guarantee the general public's permanent right to use these amenities, the landowner will execute an instrument that guarantees access in a form reasonably acceptable to the Town Attorney.

- b. A beach bar seaward of the 1978 Lee County CCCL in the general area indicated on the MCP.
      - The beach bar is to be open to the public and limited to a floor area of 800 square feet.
    - c. Access to a water taxi shuttle for residents of Saltleaf on Estero Bay to the property.
    - d. All applicable Lee County Department of Transportation, South Florida Water Management District (SFWMD), Florida Fish and Wildlife Conservation Commission (FWC), and Florida Department of Environmental Protection (FDEP) approvals must be received by the applicant prior to issuance of building permits by the Town.
  3. On-premises sale and consumption of alcoholic beverages is permitted including sale of wine, beer, and liquor as permitted by state law.
    - a. Alcoholic beverage service in the hotel restaurant and bar areas are limited to 7:00 a.m. to midnight except for private special events such as weddings that can serve until 2:00 a.m.
    - b. Alcoholic beverage service in the Environmental Conservation (EC) zoning district (land seaward of the 1978 Lee County CCCL) is permitted only as approved by special exception and in accordance with state law.
    - c. Alcoholic beverages sales is permitted seaward of 1978 Lee County CCCL, in the beach bar area only if permitted by special exception ~~as depicted on the MCP~~, and subject to the following conditions:
      - i. Alcoholic beverage service in the beach bar area is limited to ~~7:00 a.m. to 11:00 p.m. (per 34-1264(g)(1)b.1.(v))~~ 11 a.m. to one hour after sunset or 9 p.m., whichever is earlier unless additional hours are granted by a special event permit.
      - ii. Alcoholic beverages may not be served off-premises at locations other than those shown on the MCP unless approved by special use permit, special exception or by administrative approval, as provided in 34-1264 of the LDC.
  4. Off-premises sales of alcohol is permitted out of the sundry store as permitted by state law.
  5. Amplified music in outdoor or unenclosed areas is limited to 11:00 a.m. to 10:00 p.m. Amplified music indoors or within enclosed areas are limited to 7:00 a.m. to midnight, except that private events, such as weddings, may extend the time period to 2:00 a.m.
  6. A detailed lighting plan, including any lit signage, must be provided with the development order application; this plan must comply with LDC requirements in 10-154(8) and 14-76 for sea turtle conservation.

7. A detailed landscaping plan showing the location and type of all plantings, including improvements to landscaping to Estero Boulevard and beach plantings, must be provided with the development order applications for construction landward of the 1978 Lee County CCCL and construction seaward of the 1978 Lee County CCCL, which is limited to the beach bar.
8. All necessary dune plantings and walkovers shall be provided in compliance with Town codes and ordinances.
9. Individual signs may be placed on this site during and after development as may be allowed by the LDC regulations that are in effect at that time.
10. Murals and public art are permitted in compliance with LDC regulations.
11. The following transportation and access features are shown on the Master Concept Plan (MCP) and are an integral part of this approval:
  - a. Vehicular access to the site will be limited to the access point on Estero Boulevard as shown on the MCP.
  - b. Emergency vehicles will have access from Estero Boulevard to the beach access and to the service access as depicted on the MCP.
12. Additional approvals of special events are allowed. Application for such special event approvals shall be submitted through the Town's adopted Special Event processes and may temporarily alter hours of operation, amplified music limits, and public user capacity, among other items.
13. Construction staging shall be authorized when in compliance with all applicable Town codes, except that concrete delivery/pumping for the building's foundations and terrace may occur no earlier than 4:00 am. No other approvals are inferred from approval of the CPD. The landowner or developer shall be responsible for submittal of any requests for additional staging or construction management approvals from the Town Council.
14. Any violation of the CPD conditions of approval or deviation, as determined by a court of competent jurisdiction or through a properly noticed code enforcement proceeding, shall constitute a maximum \$500 per day civil violation.
15. No additional development may occur beyond that which is approved by this CPD without prior approval of the Town Council. The intent of this condition is to require that any future changes to this CPD must comply with the Town of Fort Myers Beach Plan and LDC in effect at the time of any future application.
16. Redevelopment and future uses on the subject property must be consistent with the attached Master Concept Plan as approved by the Town Council as part of this request. All prior Master Concept Plans, CPD zoning approvals, special conditions, and development agreements for the subject property are no longer valid. All development activities and future uses must comply with all the requirements of the Town of Fort Myers Beach Land Development

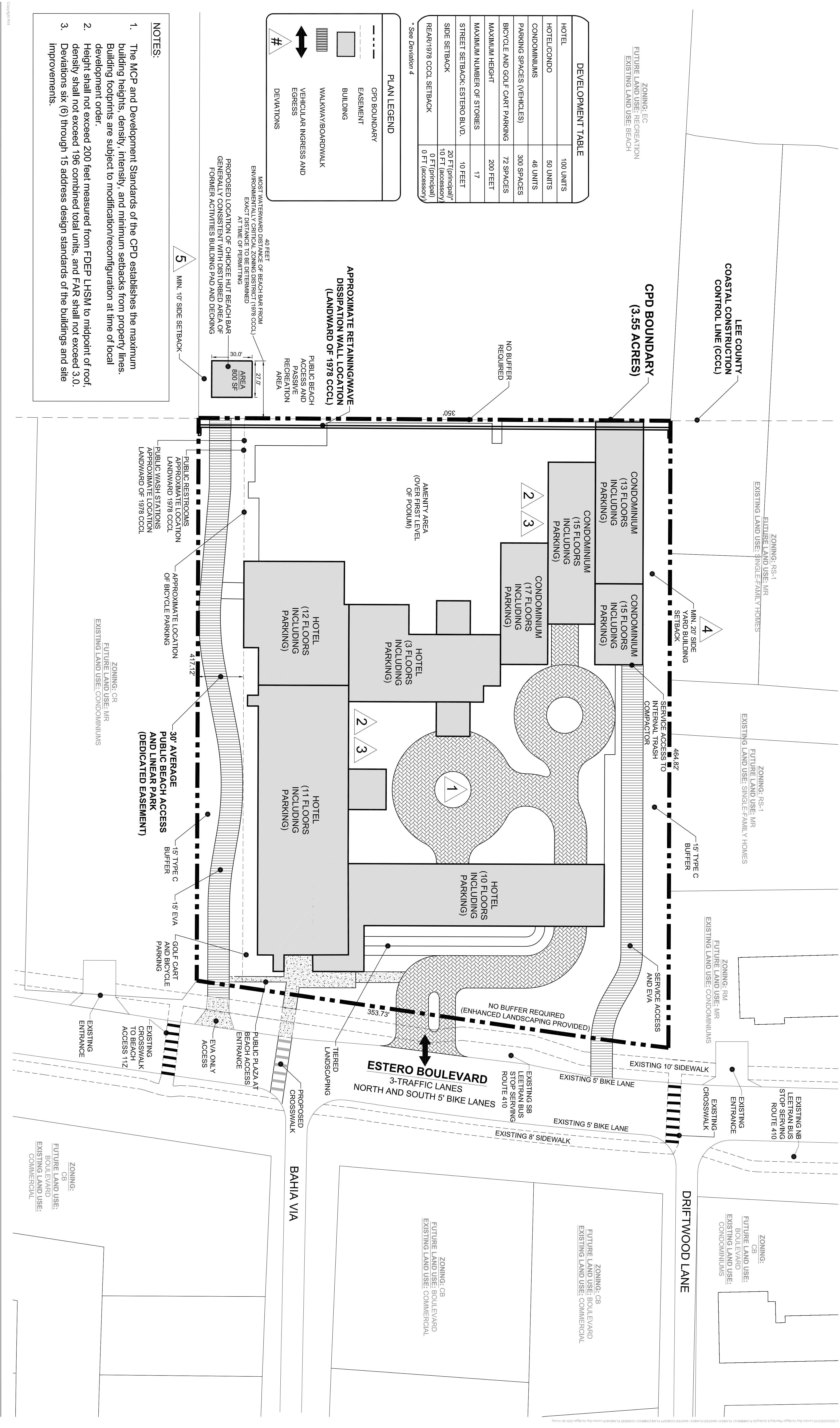
Code at the time of Development Order approval, except as explicitly modified by this CPD approval. If changes to this approval are requested, they will be reviewed as requests to formally modify this CPD.

17. Staff Recommendation: Building height directly adjacent to single-family residences must be stepped back to decrease impact on adjacent single-family residences. A 1 to 3 ratio of additional setback to height is recommended above the code allowed 30 feet.
18. The applicant shall have installed a button-activated flashing beacon or other appropriate, agreed upon device to identify points for pedestrians crossing.
19. The applicant shall provide a cross-access easement to the Town to allow access to the beach for beach renourishment and other beach maintenance related activities.
20. The applicant shall provide 10% of the 46 dwelling units proposed, to be available at market rate for staff of the resort or for other people employed on Fort Myers Beach.

Staff Report Exhibits:

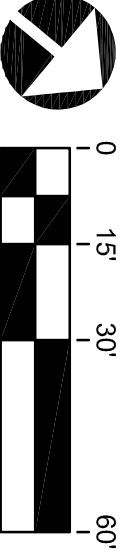
- A – Master Concept Plan
- B – Complete Application
- C – Z-95-085
- D – Complete Application
- E – Postcards to Adjacent Properties



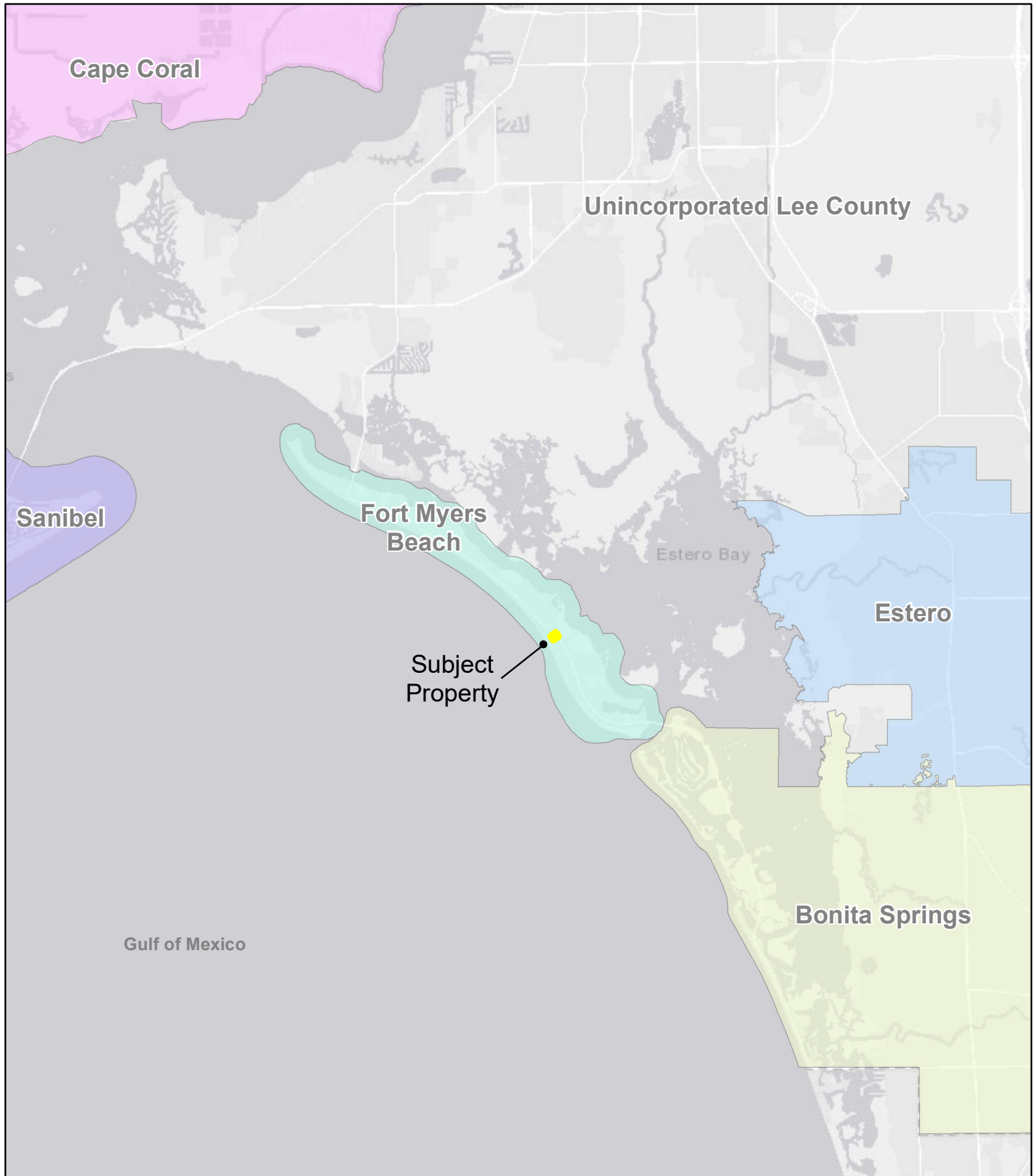


# LONDON BAY OUTRIGGER CPD • MASTER CONCEPT PLAN

6200 ESTERO BOULEVARD, FORT MYERS BEACH, FLORIDA  
2024-08-15  
2300-3740  
6200 ESTERO BOULEVARD INVESTMENTS, LLC



Information furnished regarding this property is from sources deemed reliable (RV) has been prepared for informational purposes only and is not a warranty of any kind. The plan is conceptual, subject to change, and does not represent any regulatory approval.



2600 Maitland Center  
Pkwy  
Suite 262  
Maitland, FL 32751  
Tel: 407.775.6500

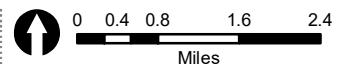
## LONDON BAY OUTRIGGER • LOCATION MAP

📍 Fort Myers Beach, FL

📅 Date: 3/27/2024

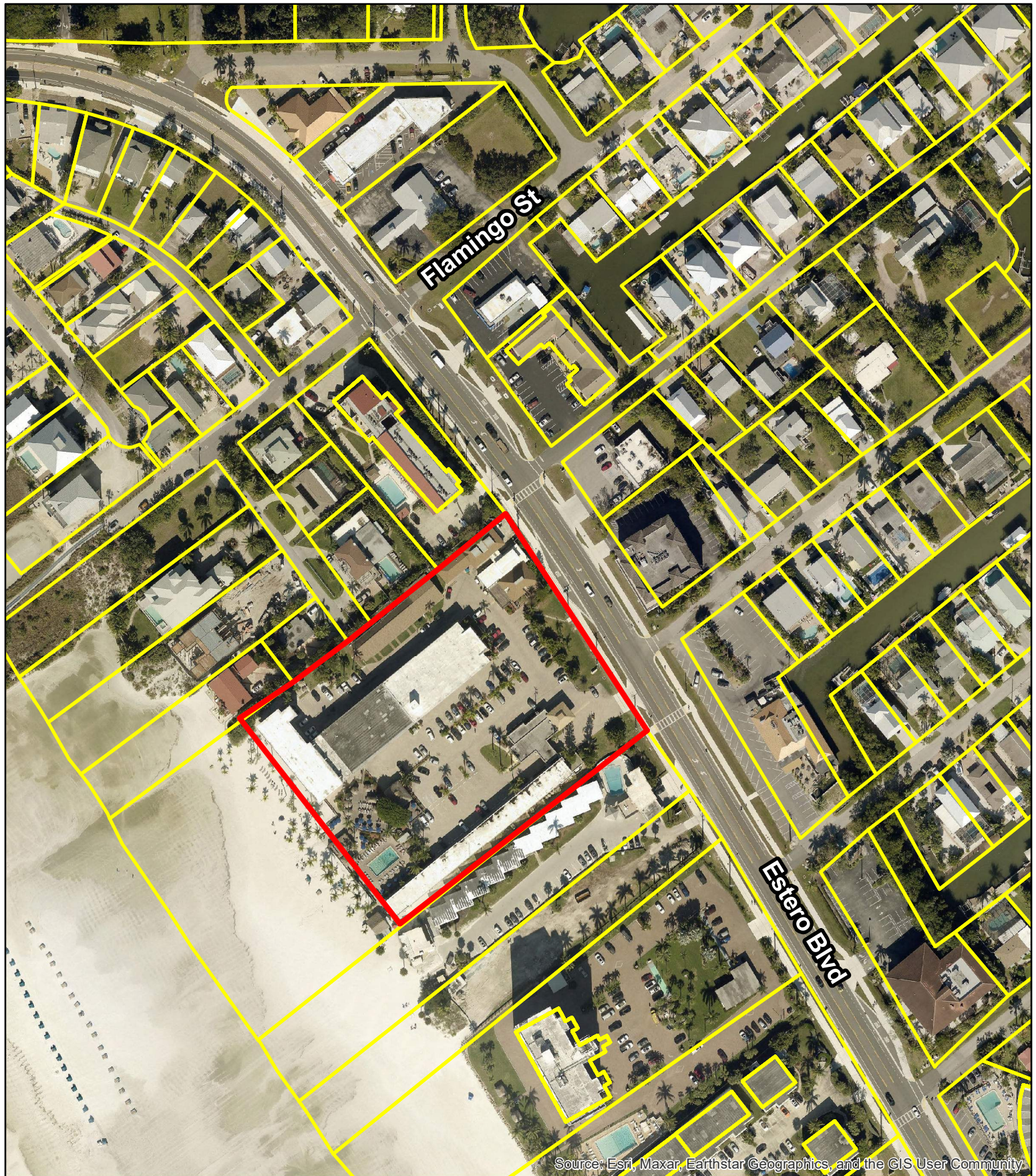
# 22006872

👤 London Bay



Information furnished regarding this property is from sources deemed reliable. RVI has not made an independent investigation of these sources and no warranty is made as to their accuracy or completeness. This plan is conceptual, subject to change, and does not represent any regulatory approval.





Copyright RVI



2600 Maitland Center  
Pkwy  
Suite 262  
Maitland, FL 32751  
Tel: 407.775.6500

## LONDON BAY OUTRIGGER • AERIAL MAP (2022)

📍 Fort Myers Beach, FL

📅 Date: 3/27/2024

# 22006872

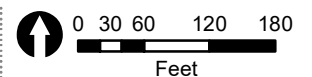
👤 London Bay



Subject Parcels



Lee County Parcels



Information furnished regarding this property is from sources deemed reliable. RVI has not made an independent investigation of these sources and no warranty is made as to their accuracy or completeness. This plan is conceptual, subject to change, and does not represent any regulatory approval.





Copyright RVI



2600 Maitland Center  
Pkw  
Suite 262  
Maitland, FL 32751  
Tel: 407.775.6500

## LONDON BAY OUTRIGGER • AERIAL MAP (2023)

📍 Fort Myers Beach, FL

📅 Date: 3/27/2024

# 22006872

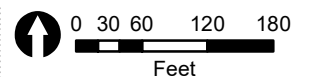
👤 London Bay



Subject Parcels

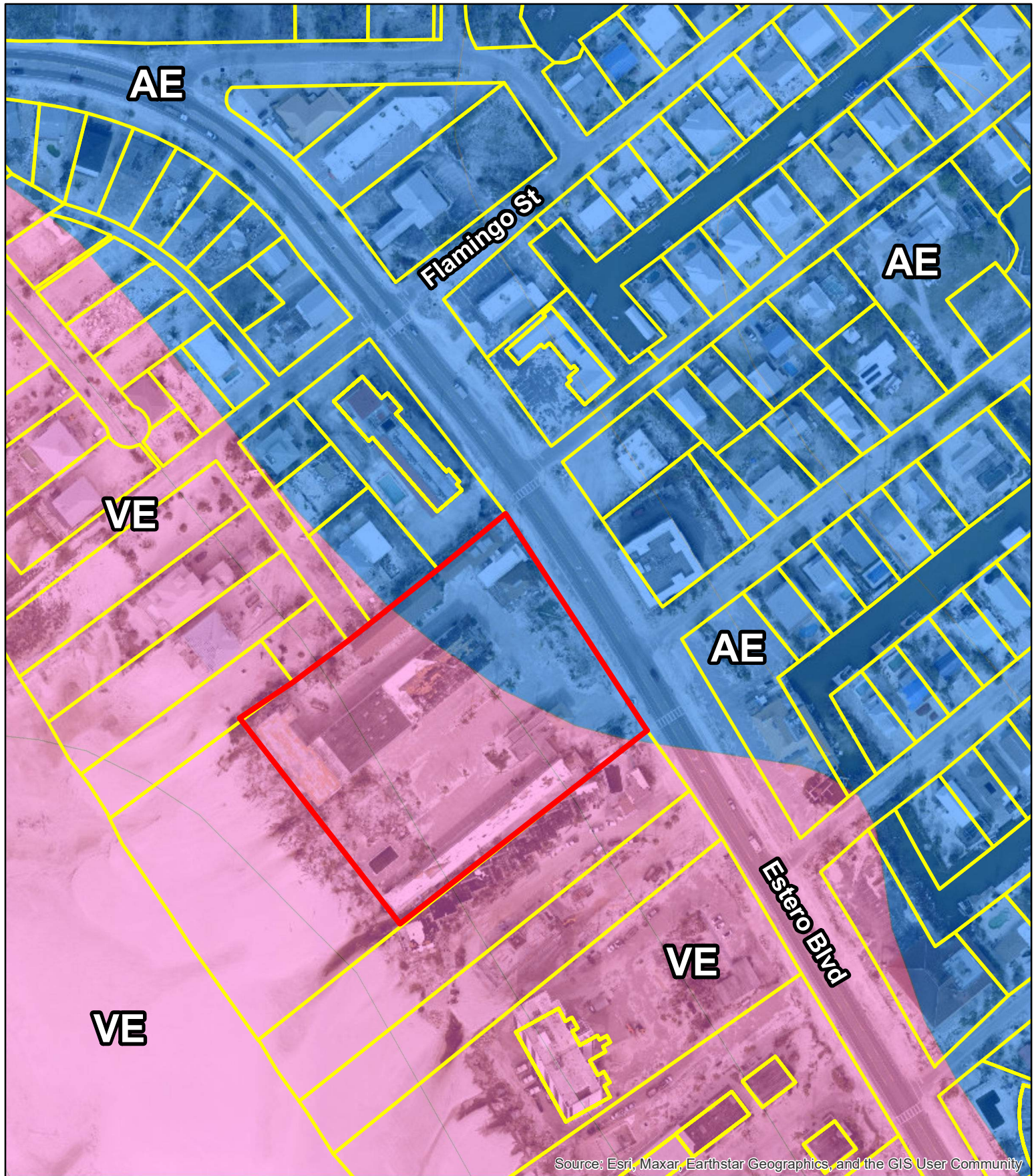


Lee County Parcels



Information furnished regarding this property is from sources deemed reliable. RVI has not made an independent investigation of these sources and no warranty is made as to their accuracy or completeness. This plan is conceptual, subject to change, and does not represent any regulatory approval.





Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

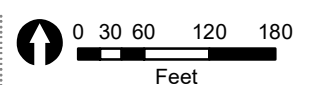
Copyright RVI

**RVI**  
 2600 Maitland Center  
 Pkwy  
 Suite 262  
 Maitland, FL 32751  
 Tel: 407.775.6500

# LONDON BAY OUTRIGGER • FEMA FLOOD ZONE MAP

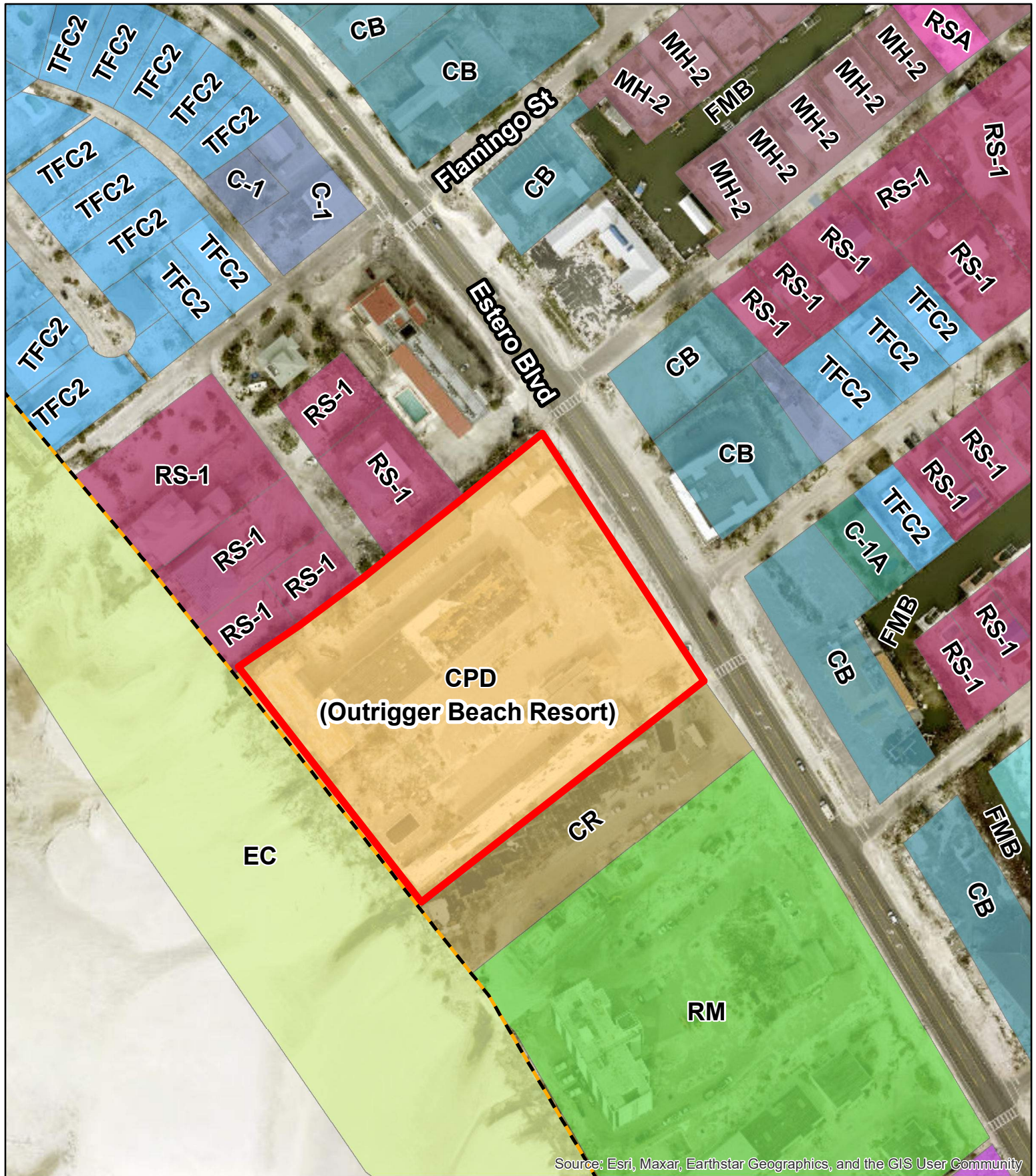
📍 Fort Myers Beach, FL  
 📅 Date: 3/27/2024  
 # 22006872  
 🏠 London Bay

- Subject Parcels
- Lee County Parcels
- Flood Zone AE
- Flood Zone VE



Information furnished regarding this property is from sources deemed reliable. RVI has not made an independent investigation of these sources and no warranty is made as to their accuracy or completeness. This plan is conceptual, subject to change, and does not represent any regulatory approval.





Copyright RVI

**RVI**  
 2600 Maitland Center  
 Pkwy  
 Suite 262  
 Maitland, FL 32751  
 Tel: 407.775.6500

## LONDON BAY OUTRIGGER • EXISTING ZONING MAP

📍 Fort Myers Beach, FL

📅 Date: 3/27/2024

# 22006872

👤 London Bay

— Coastal Construction Control Line (1978)

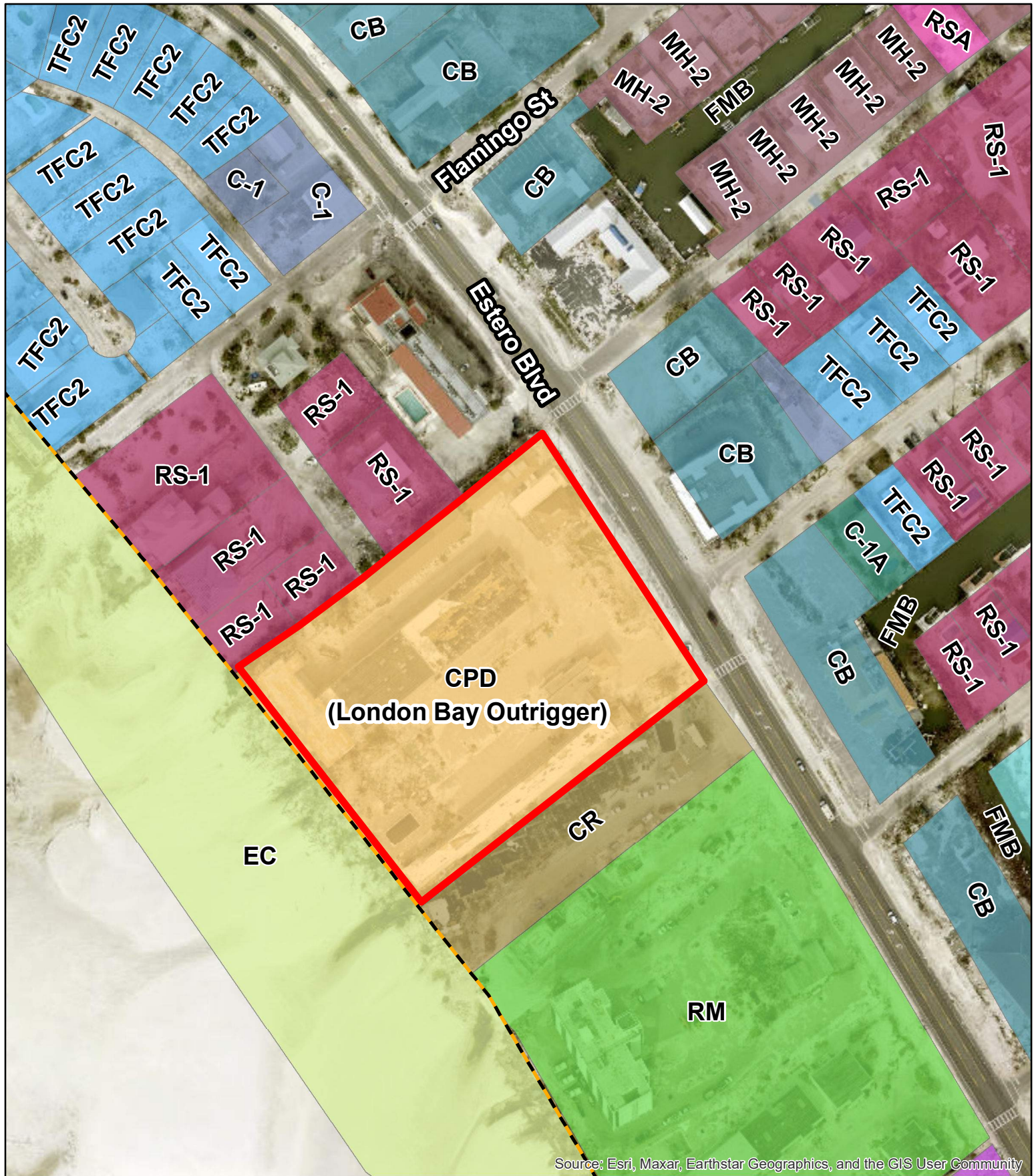
Subject Area



0 30 60 120 180  
 Feet

Information furnished regarding this property is from sources deemed reliable. RVI has not made an independent investigation of these sources and no warranty is made as to their accuracy or completeness. This plan is conceptual, subject to change, and does not represent any regulatory approval.





Copyright RVI

**RVI**  
 2600 Maitland Center  
 Pkwy  
 Suite 262  
 Maitland, FL 32751  
 Tel: 407.775.6500

## LONDON BAY OUTRIGGER • PROPOSED ZONING MAP

📍 Fort Myers Beach, FL

📅 Date: 3/27/2024

# 22006872

👤 London Bay

— Coastal Construction Control Line (1978)

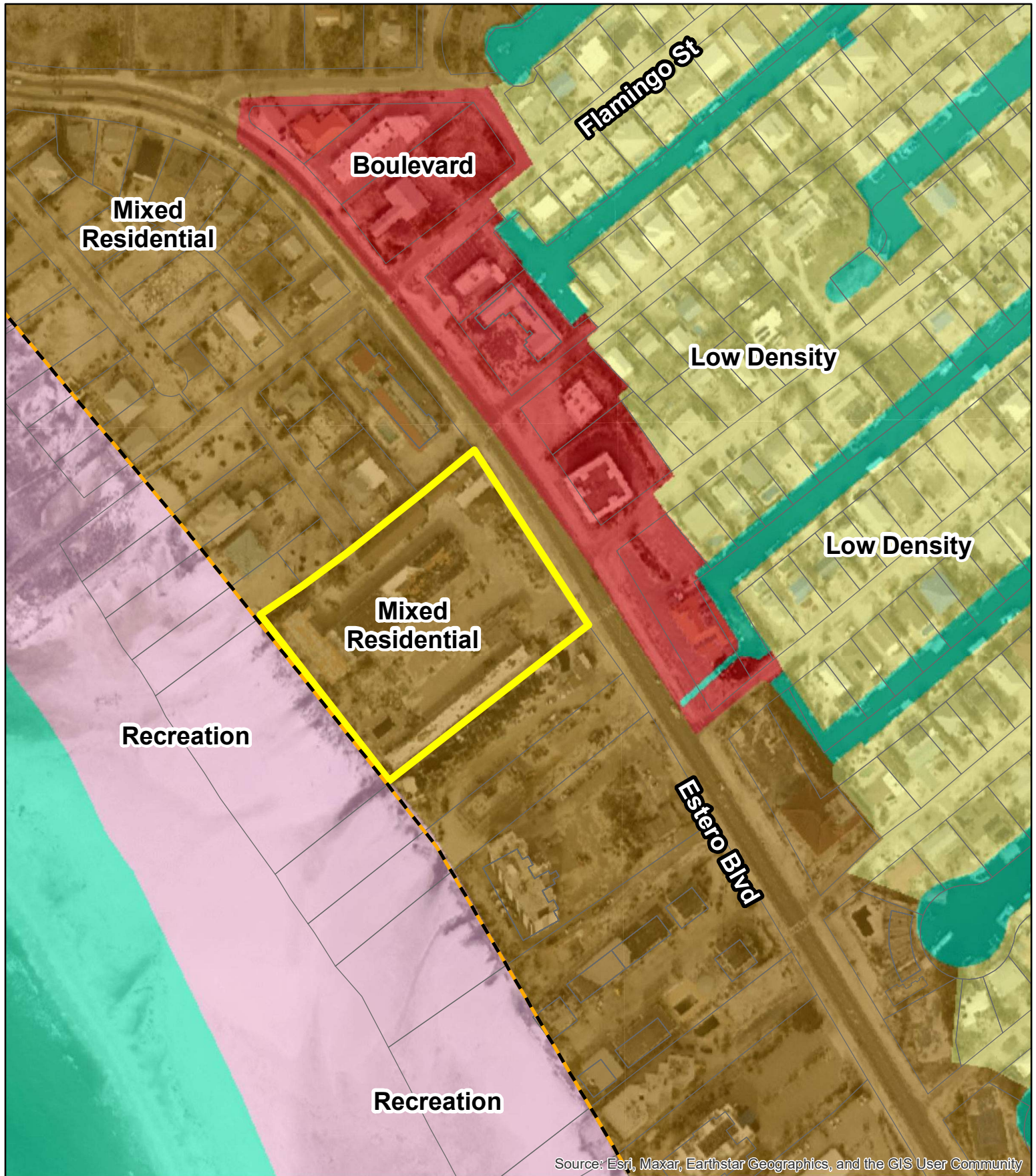
📏 Subject Area



0 30 60 120 180  
 Feet

Information furnished regarding this property is from sources deemed reliable. RVI has not made an independent investigation of these sources and no warranty is made as to their accuracy or completeness. This plan is conceptual, subject to change, and does not represent any regulatory approval.





Copyright RVI

**RVI**  
 2600 Maitland Center  
 Pkwy  
 Suite 262  
 Maitland, FL 32751  
 Tel: 407.775.6500

# LONDON BAY OUTRIGGER • CURRENT FUTURE LAND USE MAP

📍 Fort Myers Beach, FL

📅 Date: 3/27/2024

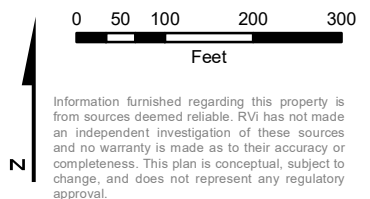
# 22006872

👤 London Bay

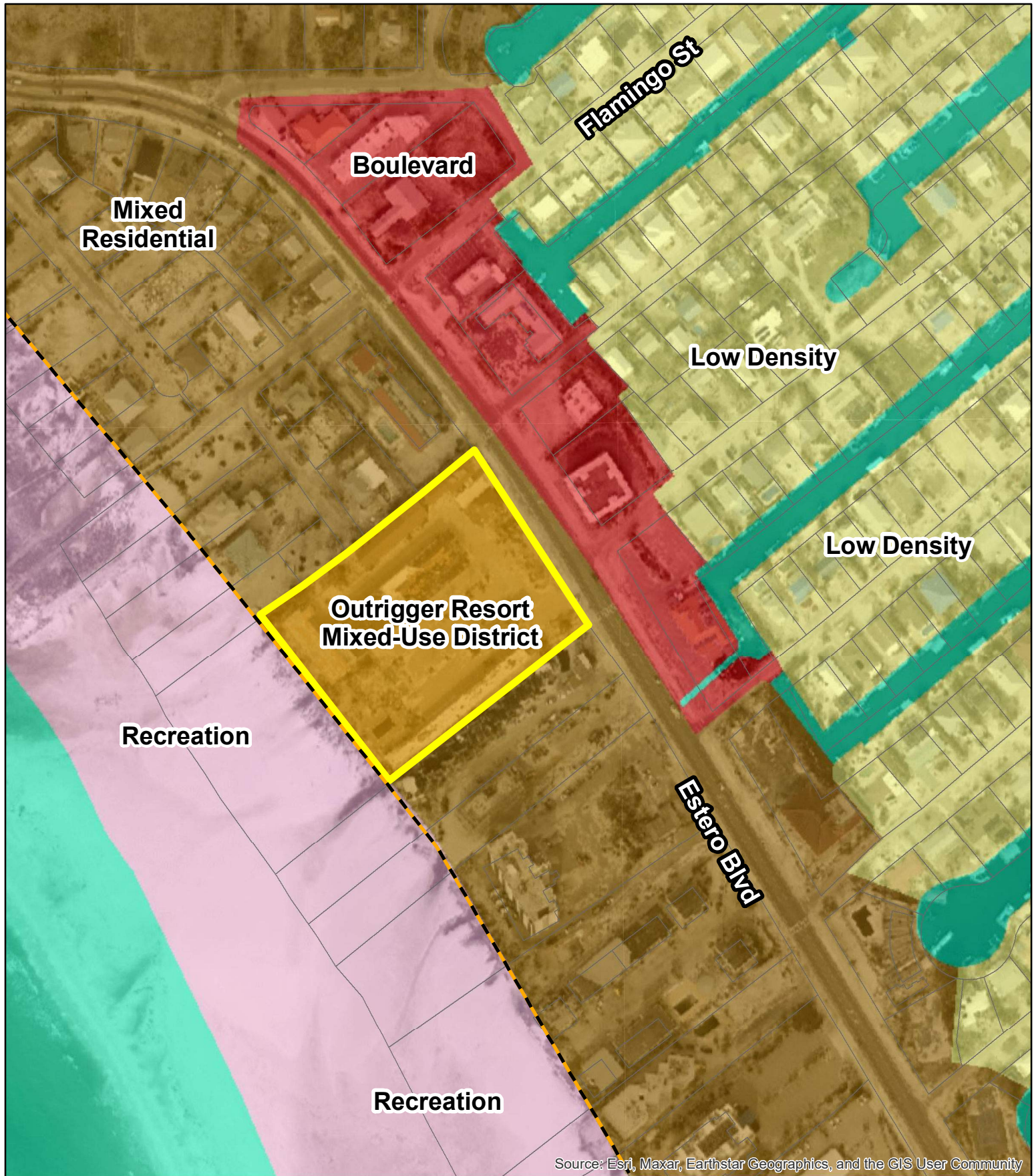
— Coastal Construction Control Line (1978)

🟡 Subject Area

▭ Lee County Parcels







Copyright RVI

**RVI**  
 2600 Maitland Center  
 Pkwy  
 Suite 262  
 Maitland, FL 32751  
 Tel: 407.775.6500

**LONDON BAY OUTRIGGER • PROPOSED FUTURE LAND USE MAP**

- 📍 Fort Myers Beach, FL
- 📅 Date: 3/27/2024
- # 22006872
- 👤 London Bay
- Coastal Construction Control Line (1978)
- 🟡 Subject Area
- ▭ Lee County Parcels

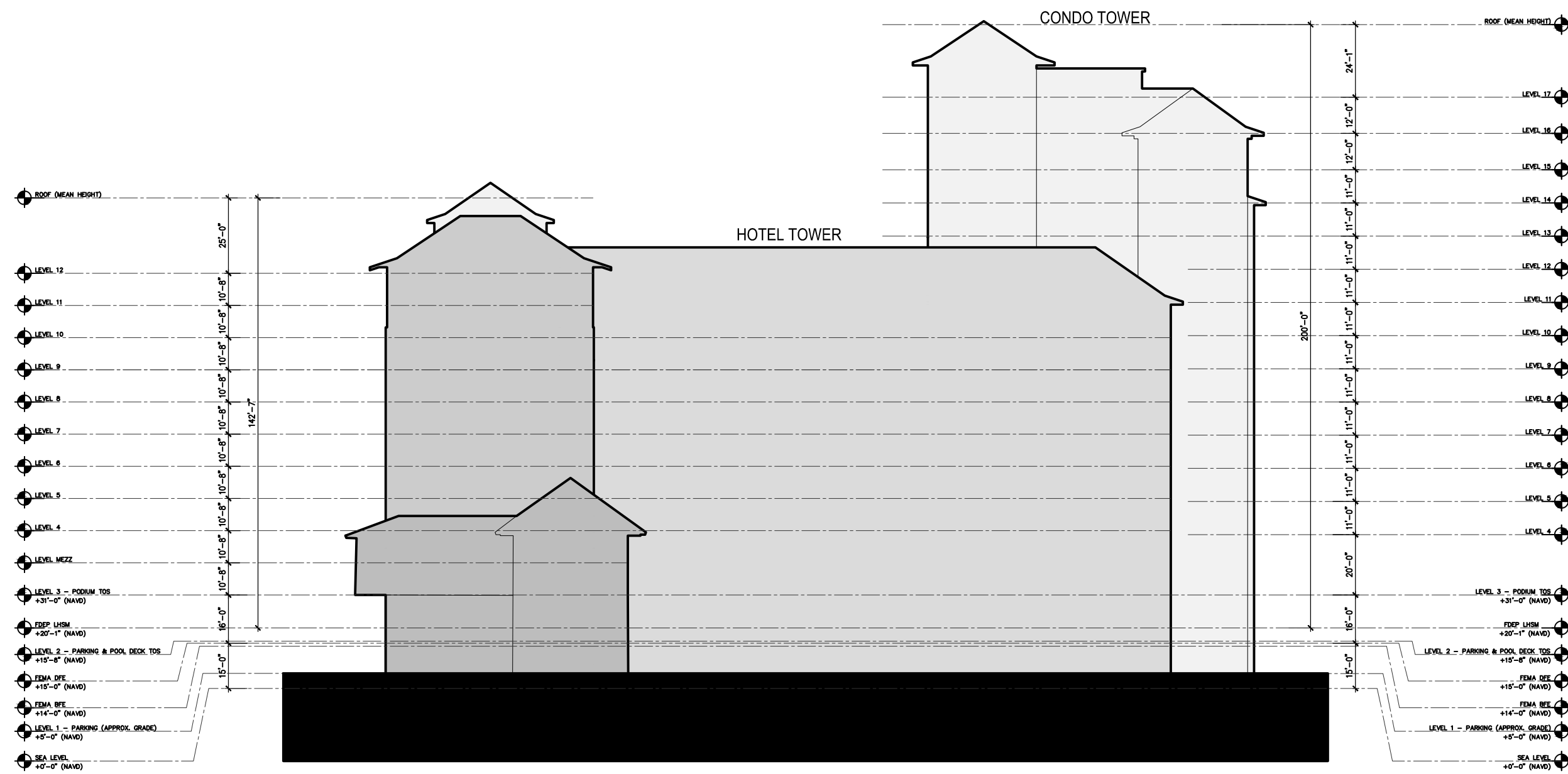
N

0 50 100 200 300

Feet

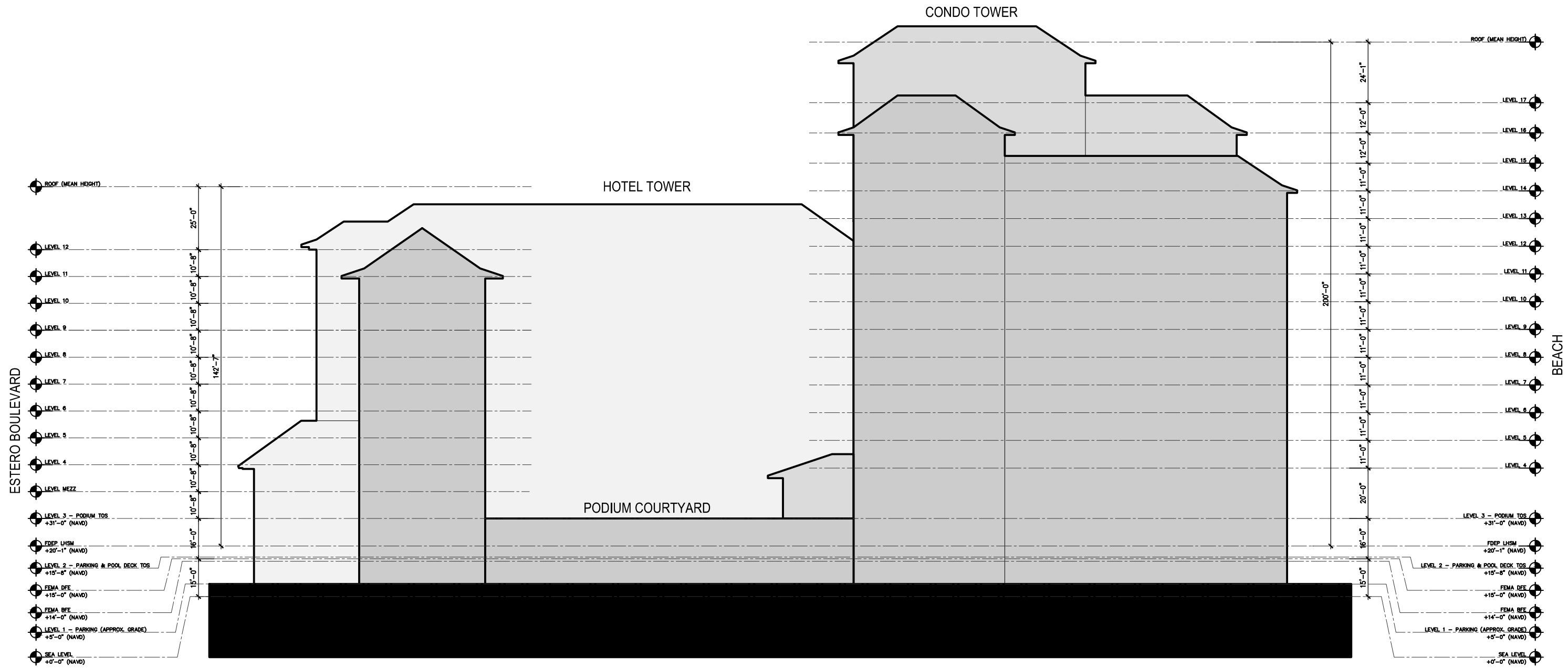
Information furnished regarding this property is from sources deemed reliable. RVI has not made an independent investigation of these sources and no warranty is made as to their accuracy or completeness. This plan is conceptual, subject to change, and does not represent any regulatory approval.





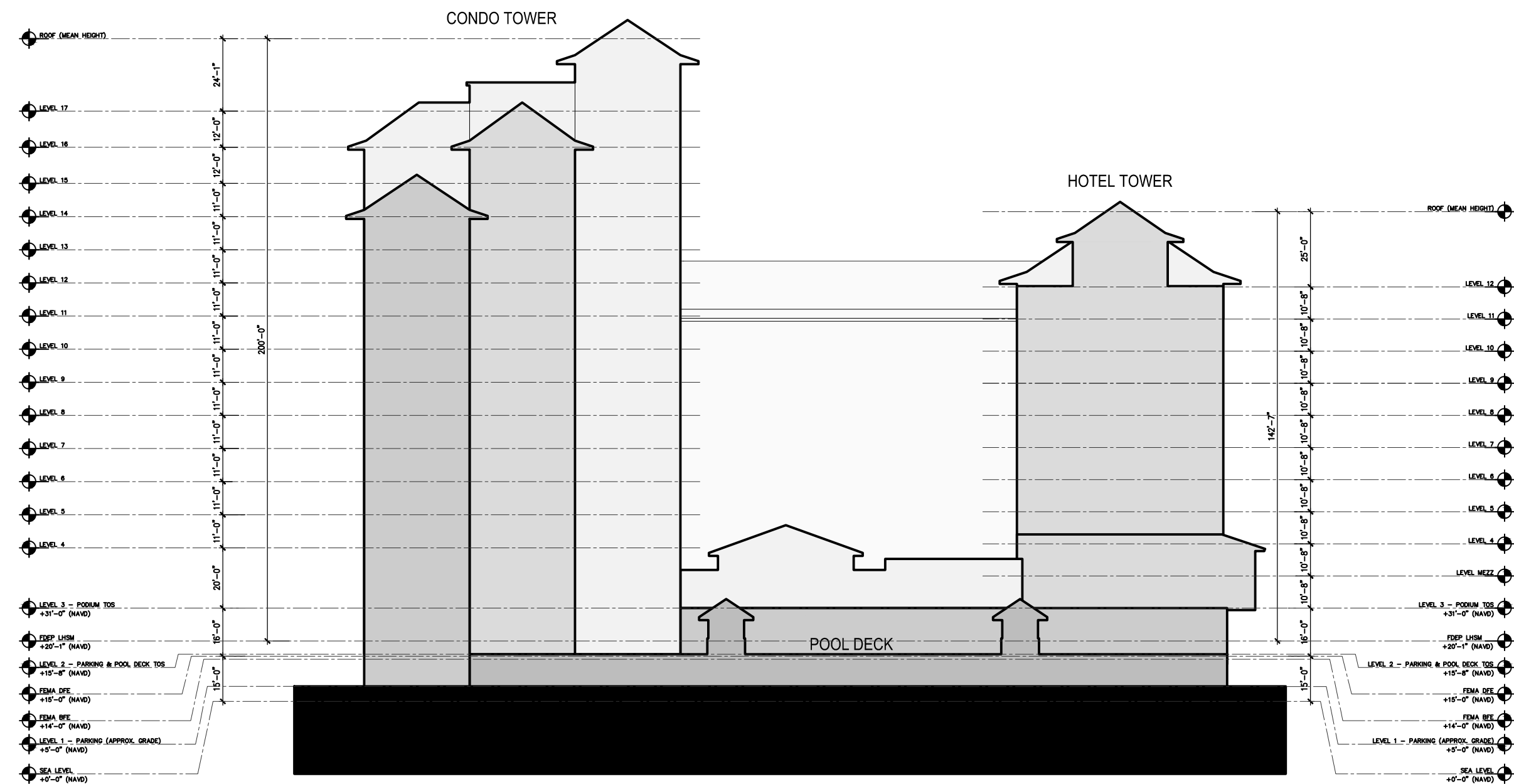
EAST ELEVATION (ESTERO BOULEVARD)

SCALE: 1"=40'-0"



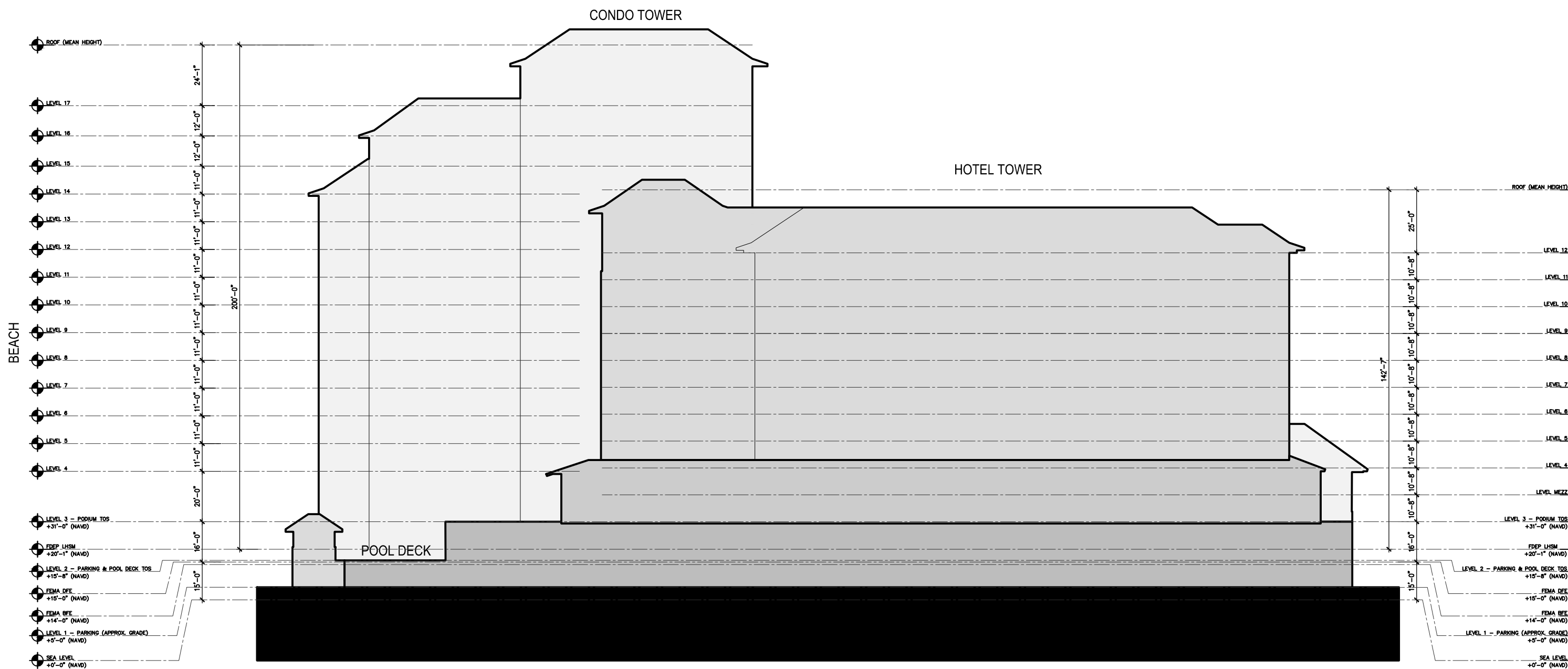
NORTH ELEVATION

SCALE: 1"=40'-0"



WEST ELEVATION (BEACH SIDE)

SCALE: 1"=40'-0"



SOUTH ELEVATION

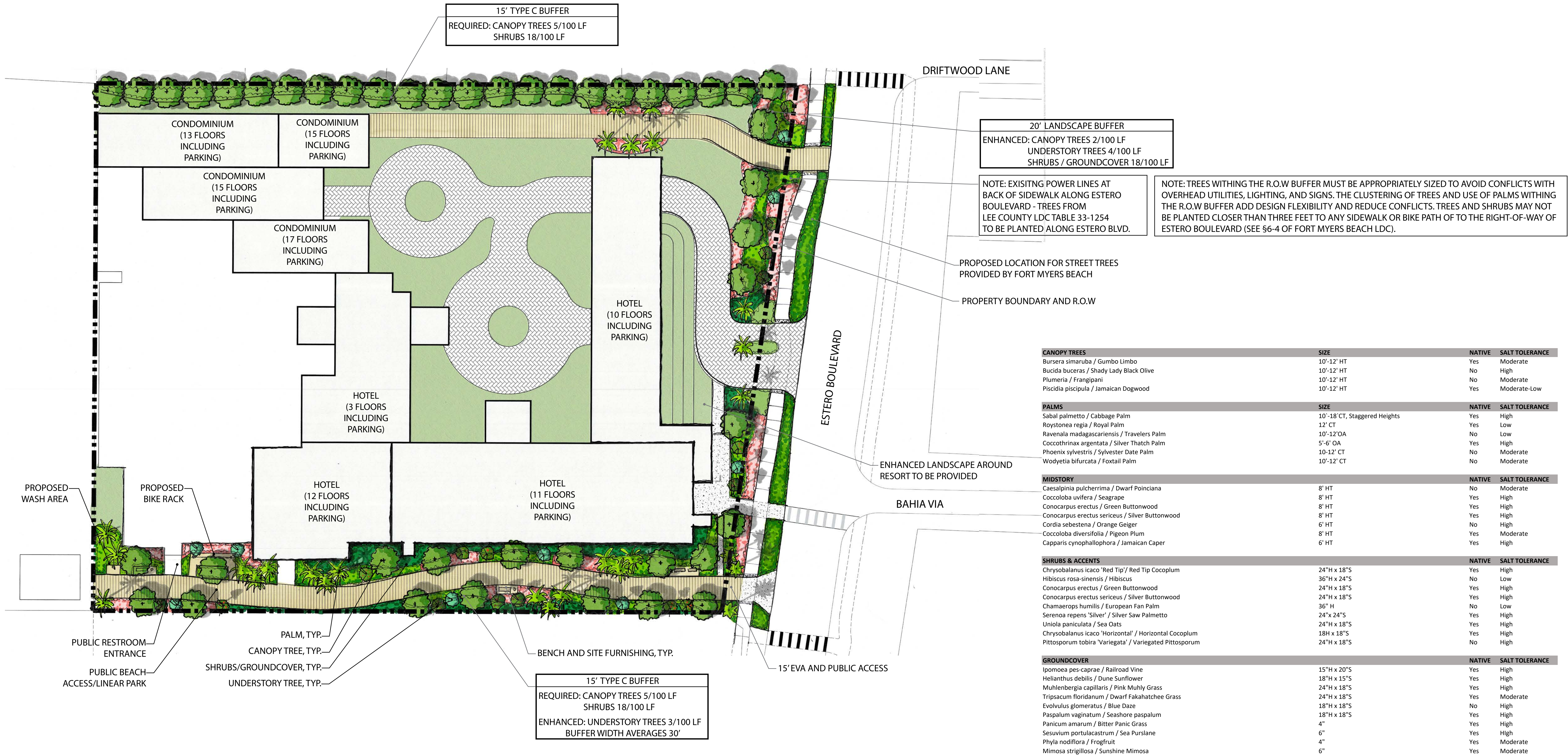
SCALE: 1"=40'-0"

**NOTE 1:** BUILDING ELEVATIONS AND ANNOTATIONS ARE SUBJECT TO MODIFICATION/RECONFIGURATION AT TIME OF LOCAL DEVELOPMENT ORDER

# LONDON BAY OUTRIGGER ELEVATIONS

103





PLAN

CONCEPTUAL SPECIES LIST

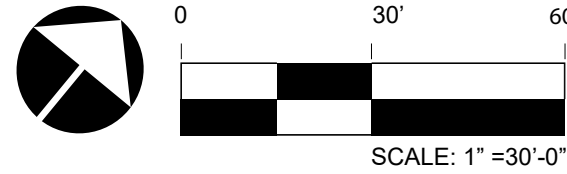
| CANOPY TREES                                            | SIZE                          | NATIVE | SALT TOLERANCE |
|---------------------------------------------------------|-------------------------------|--------|----------------|
| Bursera simaruba / Gumbo Limbo                          | 10'-12' HT                    | Yes    | Moderate       |
| Bucida buceras / Shady Lady Black Olive                 | 10'-12' HT                    | No     | High           |
| Plumeria / Frangipani                                   | 10'-12' HT                    | No     | Moderate       |
| Piscidia piscipula / Jamaican Dogwood                   | 10'-12' HT                    | Yes    | Moderate-Low   |
| PALMS                                                   | SIZE                          | NATIVE | SALT TOLERANCE |
| Sabal palmetto / Cabbage Palm                           | 10'-18' CT, Staggered Heights | Yes    | High           |
| Roystonea regia / Royal Palm                            | 12' CT                        | Yes    | Low            |
| Ravenala madagascariensis / Travelers Palm              | 10'-12' OA                    | No     | Low            |
| Coccothrinax argentata / Silver Thatch Palm             | 5'-6' OA                      | Yes    | High           |
| Phoenix sylvestris / Sylvester Date Palm                | 10-12' CT                     | No     | Moderate       |
| Wodyetia bifurcata / Foxtail Palm                       | 10'-12' CT                    | No     | Moderate       |
| MIDSTORY                                                |                               | NATIVE | SALT TOLERANCE |
| Caesalpinia pulcherrima / Dwarf Poinciana               | 8' HT                         | No     | Moderate       |
| Coccoloba uvifera / Seagrape                            | 8' HT                         | Yes    | High           |
| Conocarpus erectus / Green Buttonwood                   | 8' HT                         | Yes    | High           |
| Conocarpus erectus sericeus / Silver Buttonwood         | 8' HT                         | Yes    | High           |
| Cordia sebestena / Orange Geiger                        | 6' HT                         | No     | High           |
| Coccoloba diversifolia / Pigeon Plum                    | 8' HT                         | Yes    | Moderate       |
| Capparis cynophallophora / Jamaican Caper               | 6' HT                         | Yes    | High           |
| SHRUBS & ACCENTS                                        |                               | NATIVE | SALT TOLERANCE |
| Chrysobalanus icaco 'Red Tip' / Red Tip Cocoplum        | 24"H x 18"S                   | Yes    | High           |
| Hibiscus rosa-sinensis / Hibiscus                       | 36"H x 24"S                   | No     | Low            |
| Conocarpus erectus / Green Buttonwood                   | 24"H x 18"S                   | Yes    | High           |
| Conocarpus erectus sericeus / Silver Buttonwood         | 24"H x 18"S                   | Yes    | High           |
| Chamaerops humilis / European Fan Palm                  | 36" H                         | No     | Low            |
| Serenoa repens 'Silver' / Silver Saw Palmetto           | 24"x 24"S                     | Yes    | High           |
| Uniola paniculata / Sea Oats                            | 24"H x 18"S                   | Yes    | High           |
| Chrysobalanus icaco 'Horizontal' / Horizontal Cocoplum  | 18"H x 18"S                   | Yes    | High           |
| Pittosporum tobira 'Variegata' / Variegated Pittosporum | 24"H x 18"S                   | No     | High           |
| GROUNDCOVER                                             |                               | NATIVE | SALT TOLERANCE |
| Ipomoea pes-caprae / Railroad Vine                      | 15"H x 20"S                   | Yes    | High           |
| Helianthus debilis / Dune Sunflower                     | 18"H x 15"S                   | Yes    | High           |
| Muhlenbergia capillaris / Pink Muhly Grass              | 24"H x 18"S                   | Yes    | High           |
| Tripsacum floridanum / Dwarf Fakahatchee Grass          | 24"H x 18"S                   | Yes    | Moderate       |
| Evolvulus glomeratus / Blue Daze                        | 18"H x 18"S                   | No     | High           |
| Paspalum vaginatum / Seashore paspalum                  | 18"H x 18"S                   | Yes    | High           |
| Panicum amarum / Bitter Panic Grass                     | 4"                            | Yes    | High           |
| Sesuvium portulacastrum / Sea Purslane                  | 6"                            | Yes    | High           |
| Phyla nodiflora / Frogfruit                             | 4"                            | Yes    | Moderate       |
| Mimosa strigillosa / Sunshine Mimosa                    | 6"                            | Yes    | Moderate       |

Disclaimer:  
The artistic renderings, specifications, and interpretation contained within are conceptual in nature and reflect development plans at various stages of completion. All graphical representations should be considered incomplete and subject to change. All presentation graphics, notes and narratives are part of larger presentations involving considerable oral commentary, and require intimate project knowledge for a thorough understanding. This is a conceptual landscaping plan being provided for illustrative purposes only. The conceptual species list is not intended to be all inclusive and is being provided for illustrative purposes only. The final landscaping plan, which is subject to approval by Florida Department of Environmental Protection (FDEP) and the Town of Fort Myers Beach, will be submitted for review at the time of the application for development order.

Copyright RVI

OUTRIGGER • CONCEPTUAL PERIMETER BUFFER & ROW LANDSCAPE PLAN

Fort Myers Beach, FL  
July 2, 2024  
# 24004271







## 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](mailto:zoningpermits@fmbgov.com). Please do not submit the instructions at the end of the application.

Site Address: 6200 ESTERO BLVD FORT MYERS BEACH FL 33931

STRAP Number: 33-46-24-W3-00012.0000

Applicant: 6200 ESTERO BLVD INVESTMENTS, LLC Phone: (239) 592-1400

Contact Name: Mark Wilson Phone: \_\_\_\_\_

Email: markwilson@londonbay.com Fax: \_\_\_\_\_

Current Zoning District: CPD and EC

Future Land Use Map (FLUM) Category: Mixed Residential (See companion CPA)

FLUM Density Range: 6 du/acre and 1.0 FAR Platted Overlay: ☐ YES ☒ NO

\*Companion CPA submitted to amend FLUM to a Mixed Use District to allow 20 du/acre and 3.3 FAR

### 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\*: 6200 ESTERO BLVD INVESTMENTS, LLC Phone: \_\_\_\_\_

*\*Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.*

*Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

Applicant Mailing Address: 2210 Vanderbilt Beach Road Suite 1300, Naples, FL 34109

Email: markwilson@londonbay.com Fax: \_\_\_\_\_

Contact Name: Mark Wilson Phone: (239) 592-1400



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- |                                                                |                                                         |                                              |
|----------------------------------------------------------------|---------------------------------------------------------|----------------------------------------------|
| <input checked="" type="checkbox"/> Owner*                     | <input type="checkbox"/> Land Trust*                    | <input type="checkbox"/> Partnership*        |
| <input checked="" type="checkbox"/> Corporation*               | <input type="checkbox"/> Association*                   | <input type="checkbox"/> Condominium*        |
| <input type="checkbox"/> Subdivision*                          | <input type="checkbox"/> Timeshare Condo*               | <input type="checkbox"/> Contract Purchaser* |
| <input checked="" type="checkbox"/> Authorized Representative* | <input type="checkbox"/> Other* (please indicate) _____ |                                              |

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

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

Name: Fred Drovdlc, AICP, RVI Planning + Landscape Architecture Phone: (239) 318-6707  
Address: 1514 Broadway, Suite 201, Fort Myers, FL 33901  
Email: fdrovdlc@rviplanning.com Fax: \_\_\_\_\_

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

Name: Richard Yovanovich, Esq., Coleman, Yovanovich & Koester Phone: (239)435-3535  
Address: 4001 Tamiami Trail N., Suite 300 Naples, FL 34103  
Email: ryovanovich@cyklawfirm.com Fax: \_\_\_\_\_

Name: Ted Treesh, TR Transportation Consultants, Inc. Phone: (239)278-3090  
Address: 2726 Oak Ridge Court, Suite 503, Fort Myers, FL 33901  
Email: TBT@trtrans.net Fax: (239)278-1906

### 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 and CR to ☒ Commercial PD ☐ Residential PD
- ☒ Amendment. List the project number: See request Request Narrative & Comp Plan Compliance
- ☐ 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: Rezoning from CPD and CR to CPD
- \_\_\_\_\_
- \_\_\_\_\_

### 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: NA Description: \_\_\_\_\_

Code Section: NA Description: \_\_\_\_\_

Code Section: NA Description: \_\_\_\_\_

### PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: NA Phone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Email: \_\_\_\_\_ Fax: \_\_\_\_\_

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

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

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

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



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

**STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_**

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

presence OR \_\_\_\_ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by

\_\_\_\_\_, ☐ who is personally known to me OR ☐ who has produced

\_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
Notary Public Signature

### PART V

#### Property Ownership (Multiple Owners)

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

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

#### DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

6200 ESTERO BLVD INVESTMENTS, LLC

Mark Wilson, Stephen Wilson, Eijk van Otterloo, and Ken Callero, Trustee of the Davies Master Trust

100%

2210 Vanderbilt Beach Road Suite 1300, Naples, FL 34109

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

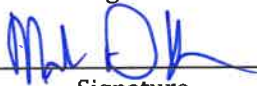
Date of Contract: 2/8/24

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.

|                                                                                                |                                    |
|------------------------------------------------------------------------------------------------|------------------------------------|
| <br>Signature | <u>Mark Wilson</u><br>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, Mark Wilson (name), as Managing Member (title)  
of 6200 ESTERO BLVD INVESTMENTS, 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

6200 ESTERO BLVD INVESTMENTS, LLC

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

Mark Wilson  
Signature

Mark Wilson

Typed or Printed Name

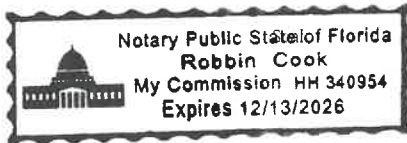
Managing Member  
Title

2/8/24  
Date

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 8 day of February, 2024, by Mark D. Wilson, ☒ who is personally known to me OR ☐ who has produced \_\_\_\_\_ as identification.



[Signature]  
Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 33-46-24-W3-00012.0000

Property Address: 6200 ESTERO BLVD FORT MYERS BEACH FL 33931

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

☐ Yes. Property identified in subdivision: \_\_\_\_\_

Book: \_\_\_\_\_ Page: \_\_\_\_\_ Unit: \_\_\_\_\_ Block: \_\_\_\_\_ Lot(s): \_\_\_\_\_

B. Boundary Survey:

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



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 358 feet  
Depth (please provide an average width if irregular in shape) 685 feet  
Frontage on street: 358 (Estero Blvd) feet. Frontage on waterbody: 368 feet  
Total land area: 3.55± ☒ acres ☐ square feet

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

From Big Carlos Pass Bridge go north on Estero Boulevard 2+/- miles. Outriggers  
Beach Resort is located on the west side of Estero Boulevard.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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





## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

### EXPLANATORY NOTES

**Please do not print, copy and submit these instructions**

Please submit required applications, supplemental information, exhibits and documents to [zoningpermits@fmbgov.com](mailto: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.



## **LONDON BAY OUTRIGGER COMMERCIAL PLANNED DEVELOPMENT Request Narrative & Fort Myers Beach Comprehensive Plan Compliance**

### **I. Request**

6200 Estero Blvd Investments, LLC (“Applicant”), is requesting to rezone 3.55+/- acre parcel formerly occupied by the Outrigger Beach Resort from Commercial Planned Development (CPD) to CPD. The 3.55+/- acre parcel is on the Gulf side of Estero Boulevard landward Lee County 1978 Coastal Construction Control Line (CCCL)<sup>1</sup>. The request is for 196 units (100 hotel rooms, 50 hotel/condominiums, and 46 multifamily) and up to 24,000 square feet of commercial uses (9,000 square feet of public commercial uses and 15,000 square feet for private use only). The height is a maximum of 200 feet as measured from the Florida Department of Environmental Protection (FDEP) Lowest Horizontal Structural Member (LHSM) and 17 stories (parking on the first two floors). The maximum proposed floor-to-area ratio (FAR) is 3.0 not counting the first floor of parking.

The proposed CPD is supplemented by a companion Comprehensive Plan Amendment (CPA) application to amend the future land use category from “Mixed Residential” to the “Outrigger Resort Mixed-Use” district and create the Mixed-Use district and supportive policies in the Comprehensive Plan.

### **II. Property Information & Conditions**

Like much of Fort Myers Beach, the site was significantly impacted due to Hurricane Ian leaving the property with buildings that must be razed. The parcel has historically been known as Outrigger Beach Resort. The property is generally located approximately two (2) miles north of Big Carlos Pass Bridge and three and a half (3.5) miles south of Time Square.

The parcel’s future land use designation is Mixed Residential and Recreation and is zoned Commercial Planned Development (CPD) and Environmental Conservation (EC). Due to the Lee County 1978 CCCL only 3.55 +/- acres are developable. The property includes 5.45+/- acres seaward of the CCCL which is not included in the CPD or companion CPA request.

#### **Existing Entitlement Analysis**

The Mixed Residential future land use category (FLUC) allows for up to six (6) dwelling units per acre (6du/1ac) and the Recreation FLUC allows for one (1) dwelling unit per 20 acres (1du/20 ac). The total density permitted by the current FLUC’s are 26 units limited to a maximum height of 30 feet above Base Flood Elevation (BFE) and three (3) stories. Unless specified in a Planned Development zoning the site’s potential intensity follows the standards set forth in the CR zoning district (primarily lodging), which is a floor area ratio (FAR) of 1.2 for non-residential development.

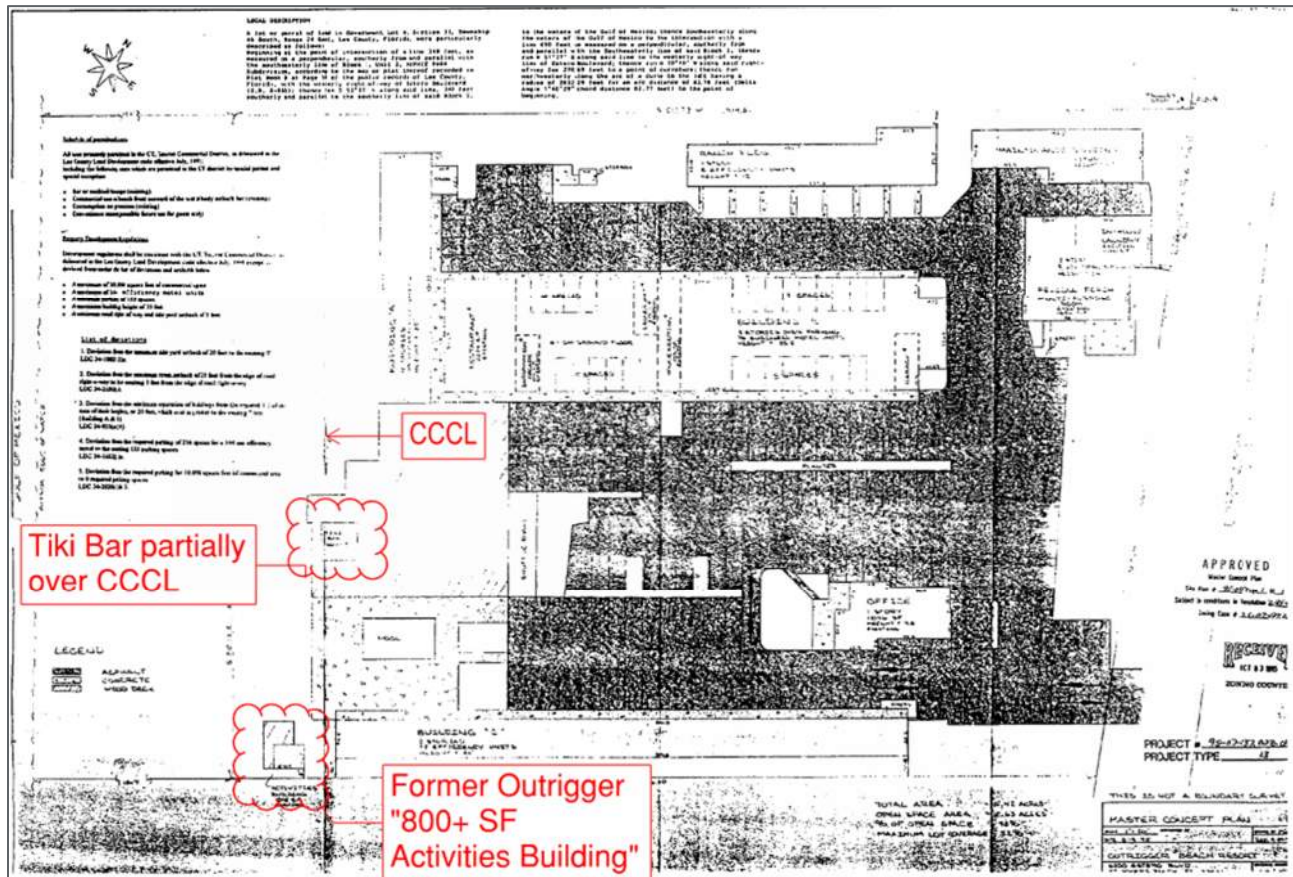
However, the Outrigger Beach CPD was approved in 1995 prior to incorporation and subsequent adoption of the Comprehensive Plan that established the Mixed Residential FLUC. The Outrigger CPD was approved by Lee County as Resolution Z-95-085. It allowed for:

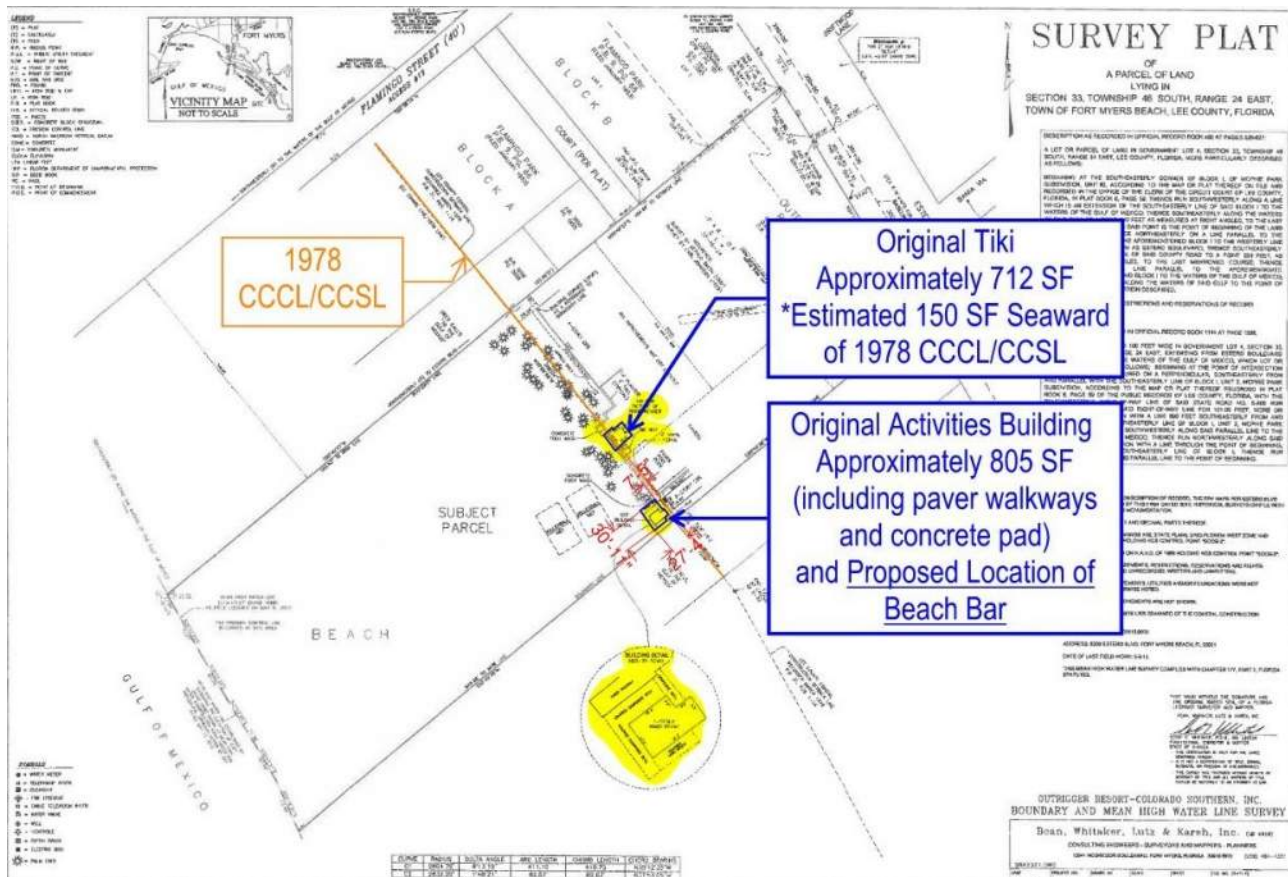
---

<sup>1</sup> Also referred to as the Coastal Construction Setback Line (CCSL) on the survey and in common practice.



- 144 hotel/motel units
- All uses permitted by right in the CT district that are accessory to a hotel/motel use. The following uses were also permitted:
  - Bar or Cocktail Lounge (existing)
  - Commercial Use of Beach Front Seaward of the Water Body Setback Line (existing)
  - Consumption on Premises (existing)
  - Convenience Store
- 10,000 square feet of commercial uses, per Table 4-2 of the Fort Myers Beach Comprehensive Plan
- A maximum building height of 35-feet over BFE
- Limited to four (4) stories
- Five deviations:
  1. 5-foot setback on southwestern corner
  2. 5-foot setback from edge of right of way for existing building
  3. Reduced building separation
  4. 153 parking spaces (216 required)
  5. Waiver of parking requirements for the 10,000 square feet of commercial uses
- MCP identified the activities building seaward of the CCCL and the pre-existing Outrigger Tiki bar encroaching seaward of the line.





### III. Surrounding Land Uses

The parcel at 6200 Estero Boulevard is surrounded primarily by residential uses. The north portion of the property abuts three (3) single family homes and a five (5) story multi-family building known as Coquina Condominiums. The south portion of the property abuts a short-term vacation rental known as Carousel Inn, which was also significantly damaged due to Hurricane Ian is being developed into a multifamily condominium known as Gulfside Twelve. Table 1 below provides an inventory of the immediately adjacent Future Land Use categories, Zoning districts, and existing land uses for the Beach Parcel.

**Table 1: Surrounding Lands**

|              | FUTURE LAND USE   | ZONING DISTRICT                                                  | EXISTING LAND USE                                                           |
|--------------|-------------------|------------------------------------------------------------------|-----------------------------------------------------------------------------|
| <b>NORTH</b> | Mixed Residential | Residential Multi-Family (RM) / Residential Single-Family (RS)   | Condominiums (Coquina)/ Single Family Homes                                 |
| <b>SOUTH</b> | Mixed Residential | Residential Planned Development (RPD)                            | Former Carousel Inn redeveloped as Gulfside 12 Beach Access 11Z (Bahia Via) |
| <b>EAST</b>  | Boulevard         | Commercial Boulevard (CB) / Commercial Planned Development (CPD) | Office/ Convenience store                                                   |
| <b>WEST</b>  | Recreation        | Environmentally Critical (EC)                                    | Beach/Gulf of Mexico                                                        |

## IV. Proposed Development

### Overview

The proposed CPD will allow for a flagship development that will be an anchor of activity for the south end of Estero Island. The development will offer a mix of hotel, hotel-condo, multifamily, and resort-oriented commercial retail uses, which will complement the surrounding development pattern and provide goods, services, and significant public benefits such as a new beach access and park, public restaurant and passive recreative and an activated beach area.

The combined development program incorporates 100 hotel units, 50 hotel/condominiums, and 46 multifamily (condominiums).

- The signature residential buildings are comprised of 46 condominium units and are made up of a single terracing tower, that breaks into three segments, a 13-story, a 15-story, and a 17-story segment.
- The hotel and hotel-condominium buildings, adjacent to Estero Boulevard, are 10 and 11 stories with parking on the first two floors. A second part of the building is perpendicular with the beach accommodates a 12-story building also with parking on the first two floors.

Access to the site will be accommodated from Estero Blvd. with an extended driveway leading to a central courtyard to mitigate traffic and stacking on Estero Blvd. The site will provide 300 vehicle parking spaces and up to 72 spaces for bicycles, golf carts, and e-charge stations for scooters.

Recreational amenities include a pool, spa and outdoor area, a lobby, office space, private beach club and event/conference rooms. Additionally, there is dedicated commercial public space that includes a public restaurant, hotel lobby bar, hotel grab-n-go, rooftop bar and a beach access and linear park. There will be a new public beach access and linear park will contain enhanced landscaping, benches/seating, public restrooms, and other hardscape site features.

As outlined in the Planning Communities for Fort Myers Beach (Comprehensive Plan), this area and south is referred to as “High-Rise Resort” and includes existing comparable building heights. It should be noted building heights range between six (6) and 15 stories south of the site. For example, the nearest high-rise is Sunset Condominium building at 12 stories. Further south, Island Winds Condominium is 13 stories, Gullwing Resort is 12 stories, and Pointe Estero Resort is 15 stories.

### Development Parameters

#### **Height**

The permitted height at this location was established by the Outrigger Beach Resort CPD as a maximum of 35 feet above base flood elevation. The BFE+1 at this location is 15 feet and the FDEP design flood elevation (DFE) to the Lowest Horizontal Structural Member (LHSM) is 20'-1" NAVD, which equals the 21.3' NGVD. The maximum height is 200 feet measured from the FDEP LHSM.

#### **Stories**

The applicant proposes various structures that range from 10 stories to a maximum of a 17-story building (including the parking level).

#### **FAR**

The FAR permitted at this location in the surrounding Commercial Resort (CR) zoning district per is 1.2. The applicant is proposing a Comprehensive Plan Amendment and this CPD zoning request to allow a maximum FAR of 3.0.

Per LDC §34-633 the gross floor area includes the total floor area of all stories of a building within the surrounding exterior walls (whether the walls are solid or screened), plus all area below an elevated building that is six feet or more in height, plus all stories of covered parking, but not including any area whose roof is screened rather than solid (such as swimming pool enclosures).

The land area used in the calculation is the gross square footage within the site's private property line, minus wetlands, canals or other waterbodies, and minus any land designated "recreation" on the comprehensive plan's future land use map. The area of the subject property landward of the 1978 Lee County CCCL is 3.55 acres or 154,638 square feet.

The proposed buildings vary in size and footprint, but the total proposed floor area is 510,305 square feet resulting in an FAR of 3.3. The applicant has requested a deviation to eliminate counting the first-floor parking area in the FAR calculation. If the deviation is approved the floor area is reduced to 463,914 square feet. The result is an FAR of 3.0.

It is our understanding that the Town staff, LPA and Council have moved towards future LDC amendments making this request permanent thus the request meets the intent of the will of the Town.

### **Density**

The proposed development is for 100 hotel rooms, 50 hotel/condominiums, and 46 multifamily units, a total of 196 units over 3.55 acres. The density is 55 units per acre. No hotel equivalency factor was applied.

### **Parking**

Parking for the proposed development will be located on site through two levels of parking under the hotel and residential buildings. The development program is providing up to 300 vehicle parking spaces.

Table two (2) below outlines the proposed uses and the required parking by the Land development Code (LDC). According to the minimum parking requirements of the LDC, the application is requesting a deviation for a 179 reduction in required vehicular parking spaces, a 37% reduction that only applies to the commercial portion of the development. The original Outrigger CPD was approved for a 29% reduction in parking with much more limited incentives, modern programs, alternative forms of transportation accommodations and mixed-use component. The residential and hotel uses intend to meet code. Justification for the parking reduction is as follows:

1. Parking analysis: TR Transportation produced a parking analysis based on national ULI traffic studies for like uses which resulted in a need for 273-weekday parking spaces, while weekends require a total 286 stalls.
2. Alternative forms of transportation: It is anticipated that alternative means of transportation will be utilized when accessing the site. The site design encourages alternative modes of transportation by providing the following:
  - bicycle parking,
  - golf cart parking,
  - access to water taxi shuttles,
  - public transportation via LeeTran bus routes.



- Pedestrian traffic will also be encouraged through the design of street level landscaping and shading of walkways, public plaza at the entrance to the Public Beach access and linear park, and seating and shaded areas in the park as well.

3. Vehicular traffic reduction efforts:

Resort implemented programs as follows:

- Shared vehicular shuttle to transport guests to and from RSW Airport,
- Dedicated golf cart shuttle to take guests to local attractions within a 10 to 15-minute radius, and
- Implement use of the DRAC Program (Don't Rent A Car) and ride sharing and, as mentioned above, will provide airport shuttle services and access via water taxi.

4. Trip capture: Because for the nature of the mixed-use development a significant amount of usage of the amenities and public spaces will not need to rely on vehicles. Residents of the development will be among the users of the onsite amenities and publicly accessible commercial areas. Those staying in the hotel or renting a hotel-condominium will also be able to use the amenities without need for transportation. Residents of nearby condos will also use the public restaurants and active beach areas who will be able to choose alternatives to car travel.

5. The Outrigger CPD (Z-95-085): Approved two parking deviations that were a 29% reduction in overall parking:

- Deviation #4 – 153 parking spaces (216 required)
- Deviation #5 – Waiver of parking requirements for the 10,000 square feet of commercial uses

**Table 2: Parking Breakdown**

| Use                                                                                                         | Density / Floor Area | LDC Parking Requirement                                             | Required # Spaces | Trip Capture Reduction | Provided   |
|-------------------------------------------------------------------------------------------------------------|----------------------|---------------------------------------------------------------------|-------------------|------------------------|------------|
| Hotel                                                                                                       | 100                  | 1.20 spaces per unit <sup>1</sup>                                   | 120               | -                      | 120        |
| Hotel/Condo                                                                                                 | 4 (Studio)           | 1.00 spaces per unit <sup>2</sup>                                   | 4                 | -                      | 4          |
|                                                                                                             | 36 (1-2 BR)          | 1.25 spaces per unit <sup>2</sup>                                   | 45                | -                      | 45         |
|                                                                                                             | 10 (3 BR)            | 1.50 spaces per unit <sup>2</sup>                                   | 15                | -                      | 15         |
| Condo                                                                                                       | 22 (1-2 BR)          | 1.25 spaces per unit <sup>2</sup>                                   | 28                | -                      | 28         |
|                                                                                                             | 24 (3-4 BR)          | 1.50 spaces per unit <sup>2</sup>                                   | 36                | -                      | 36         |
| <u>Commercial (public)</u><br>Restaurant, hotel lobby bar, hotel grab-n-go, rooftop bar                     | 9,000 sf             | Restaurant, hotel grab-n-go (8/1,000 sf) <sup>3</sup>               | 129               | 63%                    | 48         |
|                                                                                                             |                      | Rooftop and hotel lobby bar (indoor area: 15/1,000 sf) <sup>4</sup> | 27                | 75%                    | 7          |
|                                                                                                             |                      | Beach bar (outdoor seating: 1/75 sf) <sup>4</sup>                   |                   |                        |            |
| <u>Commercial (private)</u><br>Beach Club                                                                   | 15,000 sf            | 4/1,000 sf <sup>5</sup>                                             | 60                | 75%                    | 15         |
| <b>TOTALS</b>                                                                                               |                      |                                                                     | <b>479</b>        | <b>-</b>               | <b>318</b> |
| *318 per parking provided eighteen of which will be converted to up to 72 golf cart and bike parking stalls |                      |                                                                     |                   |                        | <b>-18</b> |
|                                                                                                             |                      |                                                                     |                   |                        | <b>300</b> |

<sup>1</sup> LDC Section 34-2020(d)(2)e.

<sup>2</sup> LDC Section 34-2020(d)(1)b.

<sup>3</sup> LDC Section 34-2020(d)(2)h.

<sup>4</sup> LDC Section 34-2020(d)(2)a.

<sup>5</sup> LDC Section 34-2020(d)(4)b.1.

## **Contributions to the Public Realm**

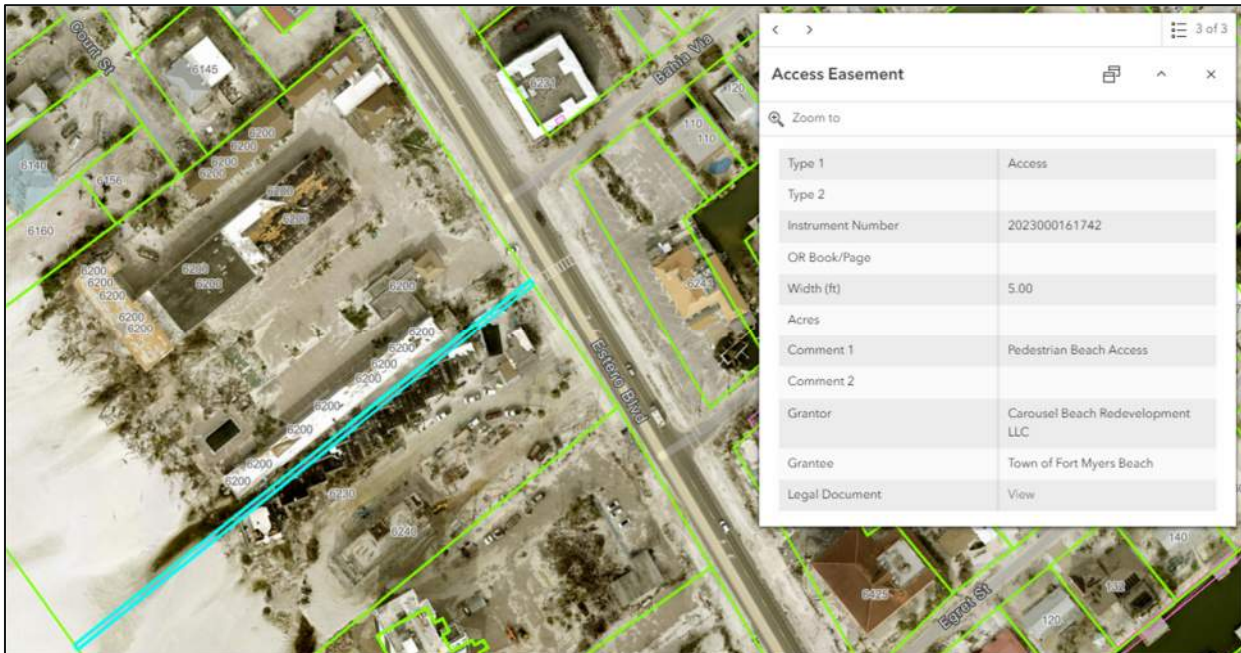
The proposed request is for density and height above the current Comprehensive Plan and Land Development Code Regulations. According to the Town's Comprehensive Plan Policy 4-C-4, the request for additional height can be made and "the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal." Likewise, Policy 4-C-10 states that, "intensity and density levels allowed by the Future Land Use Map may be increased through formal amendments to this plan if such increases are clearly in the public interest, not just in the private interest of a petitioning landowner."

Below are the proposed public benefits to the residents and visitors to the Beach and the Town for Fort Myers Beach overall.

### **1. Public Beach Access and Linear Park with View Corridor**

The resort is proposing a new public beach access along the south property line. The access abuts Beach Access 11Z (Bahia Via) to the south, which is a 5' easement on the Gulfside Twelve property, as shown in *Image 1* below. The existing access on the Gulfside Twelve property can be characterized as an unimproved walkway with no discernable clear path for access. As shown in a 2022 aerial photo prior to Hurricane Ian, the path easement connects to a cross-walk but seems to require users to traverse a ditch, drainage features and the former Carousel Inn pool amenity. It appears that it was not formalized into a useful access for the general public from Estero Boulevard, but perhaps only useful to people from the former Inn. See *Image 2* for details.

In addition to the apparent access limitations, the easement is narrow, limited to 5' in width, is not improved to provide seating, shade or a stable walking surface, is not handicap accessible and provides no access for emergency vehicles.



*Image 1 - Beach Access 11Z Easement (2023 Lee County Property Appraiser Aerial)*



*Image 2 - Beach Access 11Z as viewed from Estero Boulevard (2022 Lee County Property Appraiser Aerial)*

- In contrast, the proposed beach access by the Outrigger CPD will be a significant upgrade and provide substantial benefits to the general public, not just purveyors of the resort. The beach access and linear public park will be part of a dedicated easement that is a minimum of 30 feet wide. The path will be handicap accessible, i.e., fully ADA compliant with an improved surface capable of handling wheelchairs and other motorized assistance vehicle for physically impaired individuals. The path is adequate width to be considered and emergency vehicle accessible (EVA) including access from Estero Boulevard. The design features include preserving the native vegetation while adding lush vegetation and shade, pedestrian seating, creating a public plaza with public art, parking for golf carts, electric scooters and bicycles, a water feature, and other passive amenities, including at-grade public restrooms (subject to approval by permitting agencies) and wash stations, all of which culminates to an activated beach area.
- The park and access will be installed and maintained in perpetuity by the property owner.

## **2. Publicly Accessible Amenities**

The site will create up to 9,000 square feet of publicly accessible commercial retail uses that are much needed on the south end of the island. The uses include a Tiki hut style beach bar as the capstone to the linear park paying homage to the Outrigger Resort. The park area will be surrounded by beautiful landscaping and seating and active beach amenities, wash stations and restrooms. The hotel amenities include a ballroom and event terrace, café and market, destination restaurant, hotel lobby lounge, and rooftop bar and terrace.

### 3. Traffic Mitigation Measures

Because for the nature of the mixed-use development a significant amount of usage of the amenities and public spaces will not need to rely on vehicles. Residents of the development will be among the users of the onsite amenities and publicly accessible commercial areas. Those staying in the hotel or renting a hotel-condominium will also be able to use the amenities without need for transportation. Residents of nearby condos will also use the public restaurants and active beach areas who will be able to choose alternatives to car travel.

Specific mitigation measures and programs are as follows:

- The site design encourages alternative modes of transportation by providing:
  - Bicycle parking,
  - Golf cart parking,
  - Access to water taxi shuttles,
  - Shared vehicular shuttle to transport guests to and from RSW Airport,
  - Dedicated golf cart shuttle to take guests to local attractions within a 10 to 15-minute radius, and
  - Public transportation via LeeTran bus routes.
- Pedestrian traffic will be encouraged through the design of street level landscaping and shading of walkways, public plaza at the entrance to the Public Beach access and linear park, and seating and shaded areas in the park as well.
- The resort may implement programs to encourage the use of the DRAC Program (Don't Rent A Car) and ride sharing and, as mentioned above, will provide airport shuttle services and access via water taxi.

### 4. World-Class Resort Amenities

There is a significant desire among the residents and users of the condominiums, hotels and timeshare units for additional amenities and activities on the south end of the island. The resort will anchor the south end of the island with world-class amenities that include a pool deck and beach club, a hotel lobby bar, hotel restaurant (serving breakfast, lunch & dinner), cafe & market, rooftop bar, ballroom, and event terrace. The café & market, lobby and rooftop bars, and restaurant will all be open to the public.

### 5. Landscaping Improvements

Landscaping and improvements to Estero Boulevard along the frontage of the proposed resort are an important effort and add substantially to the look and feel of the Island as well as pedestrian comfort. The additional sidewalk accent trees will encourage walking, biking and other forms of alternative transportation as well as beautify the island. The typical landscaping in place along this section of Estero Boulevard prior to Hurricane Ian was nearly non-existent, which has not provided proper shading. Provided as part of the zoning package is a landscape plan for improvements to Estero Boulevard that the new resort would pay for and maintain in perpetuity. The Town gets improved landscaping and pedestrian oriented infrastructure without cost to the Town now or in the future.



## V. Infrastructure

The subject property is currently connected to public infrastructure that can support the proposed density and intensity related to the CPD request. The Town of Fort Myers Beach and Lee County will respectively provide potable water and sanitary sewer services for the project. Availability have been received by both jurisdictions and are included in our zoning packages. Both utility franchises show availability for the proposed development program.

The inventory of offsite multimodal transportation infrastructure immediately adjacent to the site (i.e. sidewalks, bicycle lanes, sharrows, transit routes) is outlined below and detailed in *Image 3*.

- Lee Tran bus pull-off and stop abutting property serving the southbound route
- Lee Tran bus pull-off and stop within ¼ mile serving the northbound route
- Served by Lee Tran bus route 410
- Estero Boulevard includes North and Southbound 5' Bike Lanes, no sharrows
- Shared use paths: 10' path on the beach side of Estero Boulevard and an 8' path on the bay side

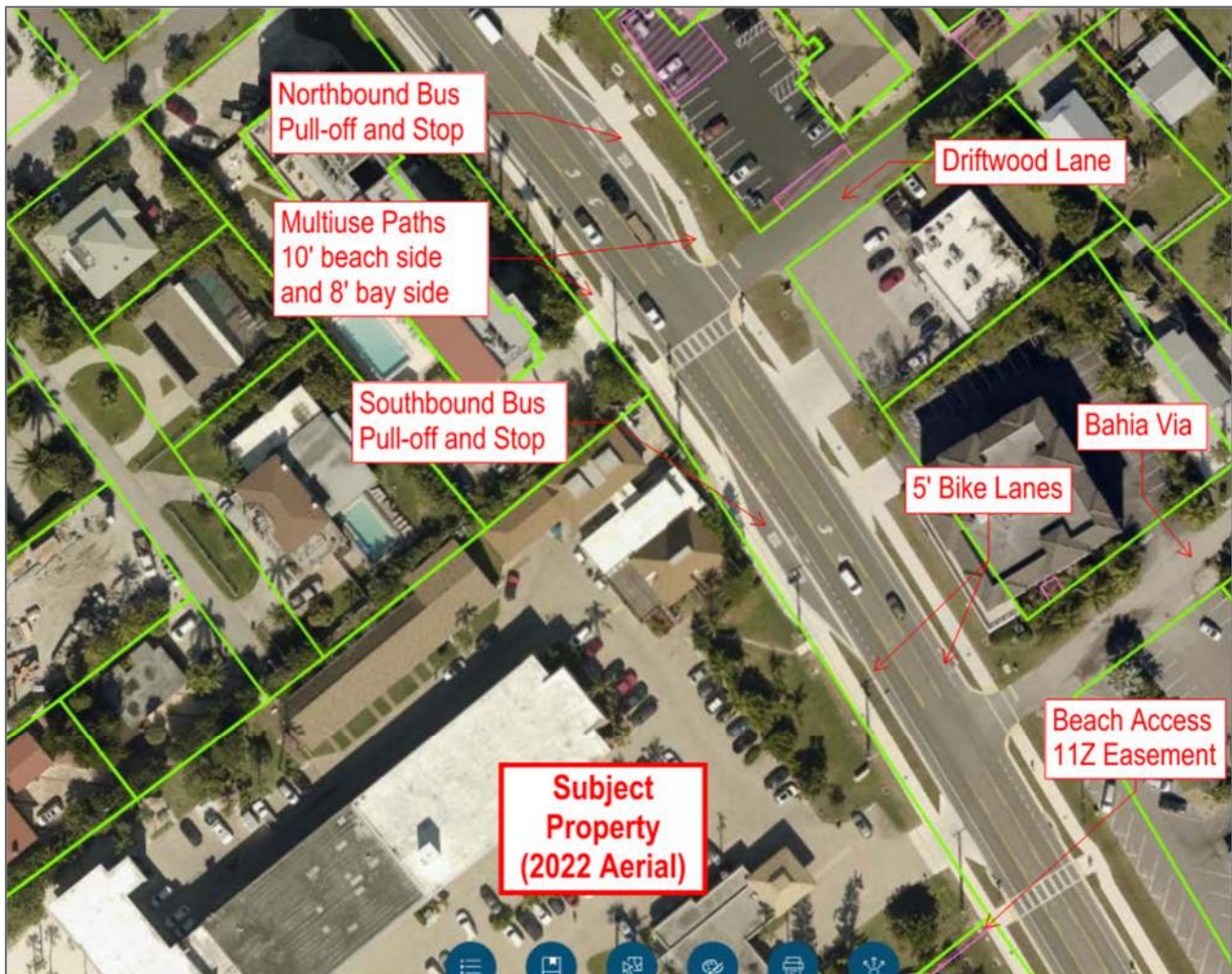


Image 3 - Multimodal Infrastructure

## VI. Design Standards Compliance (LDC Sections 34-991 through 34-997)

### Section 34-992

(a) Applicability. Except where this code specifically provides otherwise, these commercial design standards apply to all commercial and mixed-use buildings or portions thereof that are being newly built, and to "substantial improvements" to such buildings as defined in § 6-405 of this LDC, on properties that are zoned in any of the following zoning districts:

(6) CPD (commercial planned development) (§§ 34-951—34-960).

**APPLICANT:** The proposed redevelopment is new construction of a mixed-use building that is being applied for under CPD zoning. The development will include a hotel and condominium resort with retail, restaurant, office, public and private resort amenities, and onsite parking. The commercial standards within these sections will be applied to the design and conditioned by the zoning resolution.

As part of the submittal package is the conceptual site plan and renderings of the proposed buildings, public beach access and linear park and landscaping with views from Estero Boulevard and from the beach. Although conceptual in presentation the commercial standards were applied to the architectural renderings, but of course will be further reviewed in detail when the site plan approval and building permit process is underway.

(b) Commercial buildings on properties with a zoning resolution that incorporated specific architectural elevations shall be required to comply with these standards to the extent that the standards are not inconsistent with the approved elevations.

**APPLICANT:** Architectural renderings will be part of the Commercial Planned Development zoning package for conceptual compliance review by staff and the LPA and Town Council during public hearings.

(c) Commercial buildings such as hotels that will not contain commercial uses below base flood elevation shall not be required to comply with the ground-floor window and retail standards except along Old San Carlos Boulevard (see § 34-676(b)(2) of this chapter. However, the principal facades of these buildings must screen under-building parking areas in a manner acceptable to the town manager or designee.

**APPLICANT:** The proposed structure does not allow for ground floor commercial below base flood elevation. The bottom floors are part of the parking podium. The street view from Estero Boulevard is brought down to the pedestrian scale and beautified with tiered landscaping that hides the parking levels, adds color, and produces interactions with the street and shades the sidewalk. The design incorporates a public plaza at the entrance to the public beach access and linear park, benches and other seating, and public art all of which serve to soften the building height and mask the 300 parking spaces from public view.

(d) Compliance determinations. Compliance with these standards shall be determined as follows:

An applicant may seek conceptual or final approval of a specific building and site design during the commercial planned development rezoning process (see § 34-931 of this chapter). The resolution approving a commercial planned development may include specific site plans and building elevations and shall specify the extent to which these plans and elevations have

or have not been determined to meet these commercial design standards and whether any deviations to these standards have been granted.

**APPLICANT:** The London Bay Outrigger CPD application seeks conceptual approval of a Master Concept Plan (MCP) and conceptual approval of the building as shown in the renderings to be provided as part of the application.

The project is proposing a deviation for parking as a request of the zoning application.

## **VII. Decision-making Compliance (LDC Section 34-85)**

The following is an analysis of how the CPD rezoning complies with the decision-making criteria outlined in the Land Development Code.

### **Town council shall find that the requested zoning district complies with:**

(1) The Fort Myers Beach Comprehensive Plan.

**APPLICANT:** The CPD zoning application is attached to a companion Comprehensive Plan Amendment that seeks to create a Mixed-Use district future land use category for the parcel landward of the 1978 CCCL. The amendment is to allow for:

- a 3.0 floor-to-area ratio,
- density of 46 units per acre over 3.55 acres used as 100 hotel rooms, 50 hotel/condominiums and 46 residential dwelling units, and
- height up to 17-stories and 200 feet as measured from FDEP LHSM.

### **Town council shall consider the following, whenever applicable:**

(1) Whether there exists an error or ambiguity which must be corrected.

**APPLICANT:** The Outrigger Beach Resort CPD approved 144 density equivalent hotel rooms that exceeded the factors permitted outside of the CPD process. The proposed CPD, along with the companion Comprehensive Plan Amendment that seeks to create a Mixed-Use district future land use category for the two parcels, will update the permitted uses on site to modern LDC regulations and consistency with the Comprehensive Plan.

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

**APPLICANT:** The island has been changed by Hurricane Ian as has this piece of property and the former structures – the buildings must be razed. The island needs hotel rooms, and the south end of the island needs public amenities and commercial services and improved beach access. It is time to address the long-term needs of the island for hotel rooms, amenities, and contributions to the public realm, while being considerate of design, the character of the south end of Estero Island, and compatibility with the local residents.

(3) The impact of a proposed change on the intent of this chapter.

**APPLICANT:** None.

(4) The testimony of any applicant.

**APPLICANT:** As a quasi-judicial process, the CPD zoning will allow for substantive and competent evidence to be presented to and considered by the Local Planning Agency for recommendation and Town Council for a decision or conditions for approval. The testimony presented will conclude that the request is consistent with the goals, objectives, and policies of the Comprehensive Plan, as proposed to be amended by the companion CPA, and with all applicable development regulations.

(5) The recommendation of staff and of the local planning agency.

**APPLICANT:** The Town Council will consider the staff report and recommendation as well as the report and recommendation of the LPA, which will be rendered after a public hearing where the staff and applicant will present evidence, the public will speak, and the LPA is permitted to ask questions of all parties.

(6) The testimony of the public.

**APPLICANT:** During the quasi-judicial process the public is invited to present evidence for support, concerns, or issues with the proposed development in an advertised forum according to Sunshine laws of Florida. In addition, the applicant intends to hold one or more public outreach events where public input will be received and considered.

(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.

**APPLICANT:** The proposed development includes contributions to the public realm in consideration for the increased density and height of the request, which exceeds the standard ranges for height and density in the current Comprehensive Plan. For that reason, a companion Comprehensive Plan Amendment is proposed that creates a Mixed-Use future land use category.

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

**APPLICANT:** The existing structures are currently uninhabitable due to the impact from Hurricane Ian. This request is to allow for similar uses that were previously used on the property with additional densities and intensities. A contribution to the public realm will serve to increase the performance of the proposed resort and contribute to improved performance on the island addressing public amenities such as restaurants, beach access, safety, services, beauty, and alternative forms of transportation.

(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.

**APPLICANT:** The Town of Fort Myers Beach and Lee County will respectively provide potable water and sanitary sewer services for the project. Availability request letters have been sent to both jurisdictions and will be provided upon receipt.



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

**APPLICANT:** The proposed development is not opening new environmentally sensitive areas to development and will be required to develop according to the Town's LDC and applicable state requirements.

(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.

**APPLICANT:** The proposed development is consistent with surrounding properties in function and services. Heights range between six (6) and 15 stories south of the site. For example, the nearest high-rise is Sunset Condominium building at 12 stories. Further south, Island Winds Condominium is 13 stories, Gullwing Resort is 12, and Pointe Estero Resort is 15 stories.

(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.

**APPLICANT:** The proposed development should serve to mitigate traffic issues by providing for alternative forms of transportation through site design that provides bicycle and golf cart parking, access to golf cart shuttles, water taxi shuttles and shared airport shuttles, and the LeeTran bus routes. Additionally, resort implemented programs to implement use of the DRAC Program (Don't Rent A Car) and ride sharing for traffic reduction efforts.

**According to 34-216 the recommendation made to the town council must be supported by the guidelines set forth in § 34-85 of this chapter. In addition, the findings must address whether the following criteria can be satisfied:**

a. The proposed use or mix of uses is appropriate at the subject location;

**APPLICANT:** We believe the Council will agree the use and location is appropriate. The south end of the island is home to many hotel/condominium buildings and resorts and commercial uses such as restaurants and office. The proposed mix of uses at the site, along with substantial contributions to the public realm, create significant improvements to the area, and fit right into the surrounding uses. Where the proposed development exceeds the surrounding area is in terms of new, high-quality, luxurious construction and service standards that will be a significant benefit to the tax base and overall quality of development on the south end.

b. Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations;

**APPLICANT:** Staff and applicant will discuss safeguards.

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

**APPLICANT:** Staff and applicant will discuss conditions.

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.

**APPLICANT: Proposed comprehensive land use amendment proposed for new Mixed-Use district will allow for the resort uses and publicly accessible commercial uses, many of which were already accounted for in the Mixed Residential land use category and like other uses in neighboring properties.**

2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "boulevard" category.

**APPLICANT: Not applicable**

3. Policy 4-C-4 on building heights taller than the standard height limit.

**APPLICANT: See the Comprehensive Plan Consistency Section below.**

4. Policy 4-C-8 on density transfers.

**APPLICANT: Not applicable**

5. Policy 4-E-1 on pre-disaster buildback.

**APPLICANT: Not applicable**

6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.

**APPLICANT: The proposed design proposes several traffic mitigation improvements including:**

- Driveway access from Estero Boulevard that traverses to an internal courtyard to eliminate stacking onto the public right-of-way;
- Publicly accessible parking for alternative forms of transportation;
- Public plazas, beach access, crosswalk on Estero Boulevard, public seating and landscaping of the public sidewalk and street view for shade and beautification.

**For details see the traffic study report by TR Transportation and the Master Concept plan.**

## VII. Comprehensive Plan Consistency Narrative

The following is an analysis of how the proposed Comprehensive Plan Amendment is consistent with the goals, objectives, and policies (GOPs) of the Town of Fort Myers Beach Comprehensive Plan. The adopted GOP headings are listed below, and the Applicant's compliance analysis is shown in **bold**.

### Future Land Use Element

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.

**APPLICANT:** The proposed CPD rezone and companion CPA include commitments to provide enhanced pedestrian safety and streetscape aesthetics in direct compliance with this policy. The CPD master concept plan will provide sidewalk connectivity throughout, relocated public accessways. Additionally, public streetscape improvements are proposed along Estero Boulevard to create an enhanced pedestrian environment along the roadway and general improvement to aesthetics. Lastly, the development proposes a new public beach access on the south property line. This dedicated park area is at least 30-foot-wide including an EVA path and 15-foot-wide buffer area to the south.

POLICY 1-B-2 Improve the appearance of the town throughout by landscaping public property and rights-of-way with native vegetation.

**APPLICANT:** The CPD proposes landscaping improvements along Estero Boulevard for the length of the project, as well as a proposed Linear Park that will be heavily landscaped and feature other hardscape amenities. Maintenance of the improvement will be provided by the applicant in perpetuity to provide a comfortable walking environment both along Estero Blvd. and to the beach.

POLICY 1-B-3 Identify potential mechanisms to implement and maintain special amenities such as entry features, monuments, or other special landscape projects.

**APPLICANT:** The CPD proposes landscaping improvements in Estero Boulevard for the length of the project, providing a comfortable walking environment and maintained in perpetuity by the Applicant. The special amenity proposed is the public beach access and linear park that is approximately 30-foot-wide on the south boundary that is an EVA path, with extensive landscaping, public wash areas and restrooms, public art, and culminating an active beach that includes a beach bar and activities area.

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.

**APPLICANT:** The parking area in the building will be concealed with enhanced tiered landscaping, providing shade for pedestrians as well. Additionally, the site design includes tiered building heights along Estero Boulevard, maintaining scale and beautification instead of having vertical structures that create a sense of an enclosed area. On the southern portion of the site, there is a linear park with several features intended for public use and admiration. The arrival area of the linear park includes a

public plaza to encourage pedestrian interaction with sculptures, water features, and shaded bench seating for public use and enjoyment.

As seen throughout the town, building heights comparable to the proposed request can provide designs that are admired by people on foot or bicycles. Existing building heights range between six (6) and 15 stories south of the site. For example, the nearest high-rise is Sunset Condominium building at 12 stories. Further south, Island Winds Condominium is 13 stories, Gullwing Resort is 12, and Pointe Estero Resort is 15 stories.

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.

**APPLICANT:** The proposed Mixed-Use district has been created in direct compliance with the policy. The proposed CPD incorporates a diverse range of uses in support of this policy. As previously mentioned, the site features event space with a ballroom and terrace, a café, and a market, as well as a destination restaurant. The on-site retail and restaurant opportunities add to the entertainment options available on the southern portion of the island. These uses effectively reduce trips to and from the north Downtown and Times Square areas, which are located three and a half (3.5) miles north of the site.

POLICY 4-A-4 Easy walking access to the beach is a key element of the town's human scale. Development trends that inhibit this access are undesirable (including traffic improvements to Estero Boulevard that would make it a barrier to the beach for pedestrians).

**APPLICANT:** The proposed CPD and companion CPA propose to further enhance the pedestrian environment and multi-modal transportation network that is critical to Fort Myers Beach's success, quality of life, and public safety by providing resources for golf carts and bicycles, new beach access and park, and enhanced landscaping for the Estero Boulevard sidewalks.

POLICY 4-A-5 The town contains many important natural resources despite its urbanized character. Preservation of those resources is of the highest importance and is a frequent theme throughout this plan.

**APPLICANT:** No development in the areas waterward of the Lee County 1978 CCCL will be applied to the proposed development. The development program will be designed and constructed to the latest South Florida Water Management and Department of Environmental Protection standards to ensure high-quality development that protects natural resources. These areas will remain in the Recreation FLUC and EC zoning district as further evidence of the protections in place for this area of the site.

POLICY 4-B-4 "MIXED RESIDENTIAL": designed for older subdivisions with mixed housing types on smaller lots, newer high-rise buildings, and mobile home and RV parks. This category will ensure that Fort Myers Beach retains a variety of neighborhoods and housing types. For new development, the maximum density is 6 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). Commercial activities ties are limited to lower impact uses such as offices, motels, churches, and public uses, and 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 7.9% of the land in this category, and this percentage shall not exceed 12%.

**APPLICANT: The above policy describes the portions of the Property that are outside of the area currently assigned a Recreation FLU and demonstrates it is no longer an appropriate future land use category for a resort destination as this scale and scope of use was not contemplated when the Town adopted its Comprehensive Plan.**

POLICY 4-B-8 “RECREATION”: applied to public parks, schools, undevelopable portions of Bay Beach, and those parts of Gulf beaches that lie seaward of the 1978 coastal construction control line. Additional accretions of beach, whether by natural causes or through beach renourishment, will automatically be assigned to this category. No new residential development is permitted (although several existing buildings were legally constructed partially seaward of the 1978 control line). The maximum density of residential development here is 1 dwelling units per 20 acres, with all dwelling units to be constructed outside this category. Allowable uses are parks, schools, libraries, bathing beaches, beach access points, and related public facilities. Non-recreational uses (such as the elementary school) now comprise 2.7% of the land in this category; additional school sites and public buildings shall not increase this percentage beyond 6%.

**APPLICANT: The proposed CPD does not include density seaward of the Lee County 1978 CCCL nor does the Comprehensive Plan Amendment include the Recreation FLU designated area.**

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

**APPLICANT: The proposed Mixed-Use district FLU and CPD are not located within the Low-Density category and is proposed for inclusion in a site-specific Mixed-Use district based on existing and proposed levels of development at an established node in the west side of Fort Myers Beach.**

**The district requires the approval of a Planned Development rezoning to ensure conditions and site-specific concept plans are attached to the district in perpetuity.**

**The proposed District proposes lower intensity uses such as hotel/lodging, recreation, and retail uses consistent with other future land use categories including the current Mixed Residential FLUC.**

**The district emphasizes multimodal access by bicycle, walking and golf cart, as well as a “park once” concept to gain access to entertainment, lodging, services, goods, restaurants, and recreational amenities.**

**The physical scale has been carefully planned to remain consistent with the current development form and soften new building via landscaping and architectural details.**

## **Transportation Element**

### **POLICY 7-D-5 HIDDEN-PATH SYSTEM.**

**APPLICANT:** The proposed new public beach access and linear park will provide a comfortable pedestrian environment that connects Estero Boulevard to the beach.

### **OBJECTIVE 7-E UPGRADE ESTERO BOULEVARD.**

**APPLICANT:** The proposed enhanced landscape improvements will improve the walking environment and additional street trees are proven to slow traffic and enhance public safety.

### **POLICY 6-H-5 WATER QUALITY**

**APPLICANT:** The district and implementing development plans, through CPD conditions and the adopted master concept plan, will be reviewed by the FDEP and SFWMD to ensure water quality is maintained and the project meets the current standards, which are more stringent compared to the existing permits.

## **VIII. Conclusion**

In sum, the London Bay Outrigger CPD and the companion proposal for a Mixed-Use district future land use category map and text amendment, will allow for the development of resort-oriented uses at a suitable location in the “High-Rise Resort” area outlined in the Town’s Comprehensive Plan. The proposed project will significantly contribute to the public benefit of Fort Myers Beach, including enhanced access to the beach, Estero Boulevard landscaping to improve aesthetics and the pedestrian environment, and additional public restaurants and recreational amenities for the underserved southern end of Estero Island.

As proposed through the London Bay Outrigger CPD and the site-specific Outrigger Resort Mixed-Use district, the new CPD will be consistent with the vision and implementing goals, objectives and policies of the Town’s Comprehensive Plan and Land Development Code Regulations. For these reasons, the applicant respectfully requests approval of this amendment.



# LONDON BAY OUTRIGGER CPD

## Schedule of Uses, Development Regulations and Design Standards

### 1. SCHEDULE OF USES:

#### RESIDENTIAL

##### Principal:

- Dwelling unit, multi-family
- Timeshare units (fractional ownership, vacation club)
- Sales center/office

##### Accessory:

- Essential services
- Essential service equipment
- Home occupation (no outside help)
- Parking, surface and garage
- Recreation, private on-site and private, off-site
- Residential accessory uses

#### LODGING

##### Principal:

- Hotel/motel
- Hotel/condo
- Rental of any permitted dwelling unit for periods of one day or longer
- Resort
- Timeshare units (fractional ownership, vacation club)
- Recreational facilities – commercial and private on-site, off-site
- Sales center/office

##### Accessory:

##### Resort accessory uses, including:

- Mini bars (in the hotel rooms)
- On-premises sales and consumption of alcoholic beverages in the restaurant and bar, and the chickee style beach bar building located seaward of 1978 CCCL/CCSL, including sale of wine, beer, and liquor as permitted by state law
- Off-premises sales of alcohol out of the sundry store as permitted by state law
- Essential services and essential service equipment
- Rental of beach furniture and cabanas
- Personal watercraft and parasailing operations office
- Meeting space and business center
- Signs
- Parking, surface and garage
- Subordinate commercial uses

## **RETAIL**

### **Principal:**

- Recreational facilities – commercial
- Commercial uses including restaurant, café, personal services, and retail store
- On-premises sales and consumption of alcoholic beverages in the restaurant and bar, and the chickee style beach bar building located seaward of 1978 CCCL/CCSL, including sale of wine, beer, and liquor as permitted by state law
- Off-premises sales of alcohol out of the sundry store as permitted by state law

### **Accessory:**

- ATM
- Commercial accessory uses
- Essential services and essential service equipment
- Parking, surface and garage
- Subordinate commercial uses

## **OFFICE**

### **Principal:**

- Administrative offices

### **Accessory:**

- Home occupation (no outside help)
- Commercial accessory use
- Essential services and essential service equipment
- Parking, surface and garage
- Subordinate commercial uses

## **CIVIC**

### **Principal:**

- Public beach access
  - Use by the public for beach access according to posted hours of operation
  - Use by the Town for emergency access
- Park, neighborhood
- Essential services and essential service equipment

## **COMMERCIAL PARKING**

### **Principal:**

- Public parking, surface and garage



## 2. **DEVELOPMENT STANDARDS:**

### Minimum Setbacks:

- Estero Boulevard: 10 feet
- Side: 20 feet (principal) and 10 feet (accessory)  
\*15-feet to provide for balcony extensions on floors 3-17
- Rear/CCCL: 0 feet (principal) and 0 feet (accessory)

Minimum Open Space: Per LDC Section 10-415

Maximum Building Height: 17 stories (15 stories over 2 stories of structured parking)  
200 feet measured from FDEP Lowest Horizontal Structural Member (LHSM)

Maximum FAR: 3.0 FAR

Density: Residential Multifamily 46 dwelling units

Lodging: Hotel/Hotel-Condo 150 rooms

Commercial: Public 9,000 SF  
Private 15,000 sf

Parking: 300 spaces

\* See deviation #4

## 3. **DESIGN STANDARDS:**

This section addresses architectural standards specific to the Planned Development request as alternatives to the standards set forth in LDC Chapter 34, Division 7.

### A. Beach Bar

The beach bar spaces at the end of the beach access and linear park shall not be required to comply with the ground-floor window and retail standards.

### B. Principal and Accessory Structures

#### 1) Exterior Walls

- The parking, service and MEP areas are not required to meet the following requirements:
- Transparent windows must cover at least 30 percent of the wall area below the expression line and at least ten percent of the wall area between the expression line and the cornice. These requirements shall not apply to walls facing and roughly parallel to rear lot lines, or to side walls being built closer than five feet to a side lot

line if the adjoining lot also has a building with a side wall closer than five feet to the same side lot line.

## **2) Principal Façade Walls**

- Façade Elements: Expression lines and cornices are encouraged but not required.
- Windows: Visible sills and lintels on the exterior wall are encouraged but not required.
- Entrances: Excluding parking areas, operable doors or entrances with public access shall be provided along streets at intervals averaging no greater than 50 feet.
- First-story windows: The parking, service and MEP areas are not required to have transparent windows meeting the following requirements:
  - Window openings shall cover at least 60 percent of the wall area below the expression line;
  - The bottoms of the window opening can be no higher than 30 inches from sidewalk level; and
  - These windows shall be maintained so that they provide continuous view of interior spaces lit from within. Private interior spaces such as offices may use operable interior blinds for privacy.
- Upper-story windows:
  - With the exception of parking, service, and MEP areas, all stories above the first story of every commercial building's principal facade shall contain between 15 percent and 75 percent of the wall area with transparent windows.
  - No single pane of glass may exceed 36 square feet in area.

## **3) Roofs**

Sloped roofs with wells to conceal mechanical equipment are permitted.

## **4) Plazas and Courtyards**

- Build-to-line: Build to requirements are not applicable to this development.
- Courtyards: New commercial buildings that are on larger lots may include interior courtyards designed for public or private usage.
  - Vehicular circulation is permitted through the courtyard areas.
  - Parking shall be permitted in the courtyard areas and may be parallel, angled, or 90-degree spaces.



# LONDON BAY OUTRIGGER CPD

## Schedule of Deviations and Justifications

1. Deviate from LDC §34-2020(d)(2) to allow for a 179-parking space reduction in required vehicular parking spaces for the non-residential floor area within the mixed-use development.

**JUSTIFICATION:** Parking for the proposed development will be located on site through two levels of parking under the hotel and residential buildings. The table below outlines the proposed uses and the required parking by the Land development Code (LDC).

According to the minimum parking requirements of the LDC, the application is requesting a deviation for a 179-space reduction in required vehicular parking spaces, a 37% reduction. The table shows the reduction limited to the non-residential portion of the development. The hotel, hotel/condo and condo units are fully parked.

The original Outrigger CPD (Z-95-085) was approved with a 29% reduction in parking overall that was focused on the non-residential uses. The deviation was granted despite a much more limited package of incentives, modern programs, alternative forms of transportation accommodations and mixed-use component.

**Table 1: Parking Breakdown**

| Use                                                                                                       | Density / Floor Area | LDC Parking Requirement                                             | Required # Spaces | Trip Capture Reduction | Provided   |
|-----------------------------------------------------------------------------------------------------------|----------------------|---------------------------------------------------------------------|-------------------|------------------------|------------|
| Hotel                                                                                                     | 100                  | 1.20 spaces per unit <sup>1</sup>                                   | 120               | -                      | 120        |
| Hotel/Condo                                                                                               | 4 (Studio)           | 1.00 spaces per unit <sup>2</sup>                                   | 4                 | -                      | 4          |
|                                                                                                           | 36 (1-2 BR)          | 1.25 spaces per unit <sup>2</sup>                                   | 45                | -                      | 45         |
|                                                                                                           | 10 (3 BR)            | 1.50 spaces per unit <sup>2</sup>                                   | 15                | -                      | 15         |
| Condo                                                                                                     | 22 (1-2 BR)          | 1.25 spaces per unit <sup>2</sup>                                   | 28                | -                      | 28         |
|                                                                                                           | 24 (3-4 BR)          | 1.50 spaces per unit <sup>2</sup>                                   | 36                | -                      | 36         |
| <u>Commercial (public)</u><br>Restaurant, hotel lobby bar, hotel grab-n-go, rooftop bar                   | 9,000 sf             | Restaurant, hotel grab-n-go (8/1,000 sf) <sup>3</sup>               | 129               | 63%                    | 48         |
|                                                                                                           |                      | Rooftop and hotel lobby bar (indoor area: 15/1,000 sf) <sup>4</sup> | 27                | 75%                    | 7          |
|                                                                                                           |                      | Beach bar (outdoor seating: 1/75 sf) <sup>4</sup>                   |                   |                        |            |
| <u>Commercial (private)</u><br>Beach Club                                                                 | 15,000 sf            | 4/1,000 sf <sup>5</sup>                                             | 60                | 75%                    | 15         |
| <b>TOTALS</b>                                                                                             |                      |                                                                     | <b>479</b>        | <b>-</b>               | <b>318</b> |
| *318 parking spaces are provided with eighteen of them converted to 72 golf cart and bike parking stalls. |                      |                                                                     |                   |                        | <b>-18</b> |
|                                                                                                           |                      |                                                                     |                   |                        | <b>300</b> |

<sup>1</sup> LDC Section 34-2020(d)(2)e.

<sup>2</sup> LDC Section 34-2020(d)(1)b.

<sup>3</sup> LDC Section 34-2020(d)(2)h.

<sup>4</sup> LDC Section 34-2020(d)(2)a.

<sup>5</sup> LDC Section 34-2020(d)(4)b.1.

Justification for the parking reduction is as follows:

1. **Parking analysis:** TR Transportation produced a parking analysis based on national ULI traffic studies for like uses which resulted in a need for 273-weekday parking spaces, while weekends require a total 286 stalls.
2. **Alternative forms of transportation:** It is anticipated that alternative means of transportation will be utilized when accessing the site. The site design encourages alternative modes of transportation by providing bicycle, golf cart and e-scooter parking, access to water taxi shuttles, airport shuttles, and public transportation via the FMB Trolley. Pedestrian traffic will also be encouraged through the design of street level landscaping and shading of walkways, public plaza at the entrance to the Public Beach access and linear park, and seating and shaded areas in the park as well.
3. **Vehicular traffic reduction efforts:** Resort implemented programs to encourage the use of the DRAC Program (Don't Rent A Car) and ride sharing and, as mentioned above, and the resort will provide airport shuttle services and access to a water taxi.
4. **Trip capture:** Because of the nature of the mixed-use development a significant amount of usage of the amenities and public spaces will not need to rely on vehicles. Residents of the development will be among the users of the onsite amenities and publicly accessible non-residential areas. Those staying in the hotel or renting a hotel-condominium will also be able to use the amenities without need for transportation. Residents of nearby condos will also use the public restaurants and active beach areas who will be able to choose alternatives to car travel.
5. **The Outrigger CPD (Z-95-085)** approved two parking deviations that resulted in a 29% reduction in overall parking:
  - Deviation #4 – 153 parking spaces (216 required)
  - Deviation #5 – Waiver of parking requirements for the 10,000 square feet of commercial uses
2. Deviate from LDC §34-633 where the gross floor area includes the total floor area of all stories of a building within the surrounding exterior walls (whether the walls are solid or screened), plus all area below an elevated building that is six feet or more in height, plus all stories of covered parking; to eliminate counting the ground level covered parking area towards FAR and establish an FAR of 3.0 for the CPD.

**JUSTIFICATION:** The FAR permitted at this location in the surrounding Commercial Resort (CR) zoning district per is 1.2 with the applicant proposing a Comprehensive Plan Amendment and CPD zoning to allow an FAR up to 3.0.

Per LDC §34-633 the gross floor area includes the total floor area of all stories of a building within the surrounding exterior walls (whether the walls are solid or screened), plus all area below an elevated building that is six feet or more in height, plus all stories of covered parking, but not including any area whose roof is screened rather than solid (such as swimming pool enclosures).

The land area used in the calculation is the gross square footage within the site's private property line, minus wetlands, canals or other waterbodies, and minus any land



designated "recreation" on the comprehensive plan's future land use map. The area of the subject property landward of the 1978 Lee County CCCL is 3.55 acres or 154,638 square feet.

The proposed buildings vary in size and footprint, but the total proposed floor area is 510,305 square feet resulting in an FAR of 3.3. The applicant has requested a deviation to eliminate counting the first-floor parking area in the FAR calculation. If the deviation is approved the floor area is reduced to 463,914 square feet. The result is an FAR of 3.0.

It is our understanding that the Town staff, LPA and Council have moved towards future LDC amendments making this request permanent thus the request meets the intent of the will of the Town.

3. Deviate from LDC Chapter 34, Division 4, Table 34-3, Dimensional Regulations in Conventional Zoning Districts, where height in the CR District is limited to 30 feet and 3 stories and building size in a CPD zoning district shall be the same as for the CR zoning district for CPDs that are primarily lodging (LDC 34-953); to allow a maximum height of 200 feet as measured from the Florida Department of Environmental Protection (FDEP) Lowest Horizontal Structural Member (LHSM) and 17 stories.

**JUSTIFICATION:** The CPD process allows for deviations from the height and stories with an approved resolution that is in compliance with the master concept plan and any special conditions may provide additional restrictions. According to the Town's Comprehensive Plan Policy 4-C-4, the request for additional height can be made and "the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal." The CPD proposes five significant public benefits. The height is at a suitable location in the "High-Rise Resort" area outlined in the Town's Comprehensive Plan.

4. Deviate from LDC Chapter 34, Division 4, Table 34-3, Dimensional Regulations in Conventional Zoning Districts, where side yard setbacks for waterfront lots in the CR District is 20 feet and building placement in a CPD zoning district shall be the same as for the CR zoning district for CPDs that are primarily lodging (LDC 34-953); to allow a minimum setback of 15 feet to provide for 5-foot balconies extending from the façade into the setback on the upper living levels (floors 3-17).

**JUSTIFICATION:** The primary building façade will be setback 20-feet in compliance with the regulation on the podium levels (first two floors) and provide flexibility for balconies extending into the setback. A label has been added on the north side of the MCP along with deviation #4. The setback on the south side is a minimum of 30 feet to allow for the beach access easement.

5. Deviate from LDC Chapter 34, Division 4, Table 34-3, Dimensional Regulations in Conventional Zoning Districts, where side yard setbacks for buildings in the EC District is 25 feet; to allow a minimum side yard setback of 10 feet from the southern boundary for the tiki bar.

**JUSTIFICATION: The historical location of the activities building the tiki bar is replacing was located 5-7 feet off the abutting property line. This reduction will be important for FDEP and FWC permitting of the tiki bar seaward of the CCSL so that we able to substantially place the new structure in the historically disturbed area. The reduction to 10 feet balances the placement of the historical structure and compatibility with abutting uses top the south.**

6. Deviate from LDC Chapter 34, Division 7, Sec. 34-994(c)(1) that requires transparent windows to cover at least 30 percent of the wall area below the expression line and at least ten percent of the wall area between the expression line and the cornice; to allow the parking, service, and MEP areas to not meet the requirements.
7. Deviate from LDC Chapter 34, Division 7, Sec. 34-995(c)(1)b.1 requiring every principal facade to contain transparent windows on each story with visible sills and lintels on the exterior wall; to not apply to the floors of the project.
8. Deviate from LDC Chapter 34, Division 7, Sec. 34-995(a)(4) requiring principal facades to be given special architectural treatment with expression lines and cornices; to not apply to the façade.
9. Deviate from LDC Chapter 34, Division 7, Sec. 34-995(b)(4) where building frontages exceed 50 feet to require operable doors or entrances with public access to be provided along streets at intervals averaging no greater than 50 feet; to not apply to the façade.
10. Deviate from LDC Chapter 34, Division 7, Sec. 34-995(c)(2) that requires first-story windows of every commercial building's principal facade to have transparent windows; to allow the Beach Bar area at the end of the beach access and linear park to not be required to comply and have an open-air tiki style concept.
11. Deviate from LDC Chapter 34, Division 7, Sec. 34-995(c)(2) that requires first-story windows of every commercial building's principal facade to have transparent windows; to exempt the parking, service and MEP areas from meeting the following requirements:
  - a. Window openings shall cover at least 60 percent of the wall area below the expression line;
  - b. The bottoms of the window opening can be no higher than 30 inches from sidewalk level; and
  - c. These windows shall be maintained so that they provide continuous view of interior spaces lit from within. Private interior spaces such as offices may use operable interior blinds for privacy.

12. Deviate from LDC Chapter 34, Division 7, Sec. 34-995(c)(3) that requires upper story windows of every commercial building's principal facade to meet the following requirements:
  - a. All stories above the first story of every commercial building's principal facade shall contain between 15 percent and 75 percent of the wall area with transparent windows.
  - b. No single pane of glass may exceed 36 square feet in area.to allow the parking, service and MEP areas to meet the requirements.
13. Deviate from LDC Chapter 34, Division 7, Sec. 34-996 that allows sloped roofs with wells to conceal mechanical equipment; to allow alternative roof designs.
14. Deviate from LDC Chapter 34, Division 7, Sec. 34-997(b) that requires plazas and courtyards to conform to "build-to lines" that require new commercial buildings to be placed near public sidewalks; to allow build to requirements to not be applicable to this development.
15. Deviate from LDC Chapter 34, Division 7, Sec. 34-997(c)(1) and (2) that requires new commercial buildings that are on larger lots may include interior courtyards designed for public or private usage.
  1. Vehicular circulation is permitted through the courtyard areas.
  2. Parking shall be permitted in the courtyard areas and may be parallel, angled, or 90-degree spaces.to allow the requirements to not be applicable to this development.

# **TRAFFIC IMPACT STATEMENT**

**FOR**

## **OUTRIGGER BEACH RESORT REZONING**

**(PROJECT NO. F2307.08)**

**PREPARED BY:**  
**TR Transportation Consultants, Inc.**  
**Certificate of Authorization Number: 27003**  
**2726 Oak Ridge Court, Suite 503**  
**Fort Myers, Florida 33901-9356**  
**(239) 278-3090**

**February 16, 2024**

## **CONTENTS**

- I. INTRODUCTION
- II. EXISTING CONDITIONS
- III. PROPOSED ZONING
- IV. TRIP GENERATION
- V. TRIP DISTRIBUTION
- VI. LEVEL OF SERVICE ANALYSIS
- VII. CONCLUSION



## I. INTRODUCTION

TR Transportation Consultants, Inc. has conducted a traffic impact statement to fulfill requirements set forth by the Town of Fort Myers Beach for projects seeking a zoning amendment approval. The subject site is located at 6200 Estero Boulevard along the Gulf side of Estero Boulevard opposite Bahia Via in the Town of Fort Myers Beach in Lee County, Florida. **Figure 1** illustrates the approximate location of the subject site.

The analysis in this report will determine the impacts of rezoning approximately 3.55 acres from Commercial Planned Development (CPD) and Commercial Resort (CR) to a Commercial Planned Development (CPD) zoning. The zoning will permit the Resort to be reconstructed after being heavily damaged in Hurricane Ian to include up to 100 resort hotel rooms, 50 hotel/condominium units, 46 multi-family dwelling units and a restaurant, Tiki bar and other amenities on-site to support the Resort Hotel use.

The transportation-related impacts of the proposed application will be evaluated based on the estimated build-out year of the project and the impacts the proposed development will have on the surrounding roadway infrastructure. Access to the subject site will continue to be provided to Estero Boulevard.



## II. EXISTING CONDITIONS

The Outrigger Resort is located on the Gulf side of Estero Boulevard at 6200 Estero Boulevard. This is approximately three and one-half miles south of Times Square. Prior to Hurricane Ian, the Resort contained a total of 144 rooms and 10,000 square feet of commercial uses and was originally developed in the 1960's. The site is bordered by Estero Boulevard on the north, residential uses to the east and west and the Gulf of Mexico to the south.

**Estero Boulevard** is a two-lane undivided Arterial roadway that borders the subject site. Estero Boulevard has a posted speed limit of 35 mph and is under the jurisdiction of the Lee County Department of Transportation. Estero Boulevard from Center Street to Big Carlos Pass has been designated as a "Constrained Roadway" by the Lee County Board of County Commissioners by Lee Plan Objective 37.2 and Policy 37.2.1, which indicates that due to scenic, historic, environmental, aesthetic, and right-of-way characteristics and considerations, a reduced peak hour Level of Service will be accepted on these roadways. A copy of Table 2(a) from the Lee Plan highlighting Estero Boulevard as well as the San Carlos Boulevard Bridge over Matanzas Pass as "Constrained Facilities" is included in the Appendix of this report for reference.

## III. PROPOSED ZONING

The proposed request would amend the zoning from Commercial Planned Development (CPD) and Commercial Resort (CR) to a Commercial Planned Development (CPD) on the approximately 3.55-acre site to permit the site to be redeveloped with a Resort Hotel, condominium units and a restaurant with associated amenities. Access to the site will continue to be provided to Estero Boulevard. **Table 1** summarizes the land uses that are open to the public and would be considered to generate external vehicle trips as part of the zoning application.

**Table 1**  
**Outrigger Resort Zoning Amendment**  
**Land Uses**

| Use                                 | Proposed                   |
|-------------------------------------|----------------------------|
| Resort Hotel                        | 100 Rooms                  |
| Condominiums                        | 96 Units <sup>1</sup>      |
| Restaurants/Bar<br>(open to public) | 9,000 Sq. Ft. <sup>2</sup> |

<sup>1</sup>50 Units of the Condo's could be hotels rooms.

<sup>2</sup>The floor area of the restaurant/bar includes Tiki bar & outdoor seating areas

Of the 96 condominium units, fifty (50) of those units could be either condominium units or hotel units. The trip generation results are the same whether the units are considered hotel or condo units. The CPD will also contain approximately 15,000 square feet of private, recreational uses (Beach Club). The use will be limited to membership only and not open to the public. Based on the ancillary nature of this use relative to the condominium and resorts uses, as well as the lack a ITE Land Use Code for this type of recreational use, these trips and parking spaces associated with the use were not analyzed as part of this report. This use will be served by the project's on-site parking areas.

#### IV. TRIP GENERATION

The trip generation for the proposed uses within the development were determined by referencing the Institute of Transportation Engineer's (ITE) report, titled ***Trip Generation***, 11<sup>th</sup> Edition. Land Use Code 330 (Resort Hotel) was utilized for the trip generation purposes of the hotel rooms. Land Use Code 221 (Multi-Family Midrise) was utilized for the residential condominium units and Land Use Code 932 (High Turn-Over Sit-Down Restaurant) was utilized for trip generation of the restaurant uses on-site. Trips were generated for the restaurant use since it will be open to the Public. It is anticipated that a certain number of restaurant guests will be the guests of the Resort and residents of the condominium units, thus reducing the overall external trip generation of the restaurant use. However, for this analysis, it was assumed that there were no reductions in vehicle trips due to this interaction to ensure a "worst case" analysis of the transportation related impacts. There will certainly be an interaction that will cause a reduction in the overall

parking demand for these uses, which will be discussed under separate cover as part of this application. The trip generation equations for these land uses are included in the Appendix of this report for reference. **Table 2** outlines the anticipated weekday AM and PM peak hour trip generation based on these land use categories.

**Table 2**  
**Outrigger Resort Zoning Amendment**  
**Trip Generation**

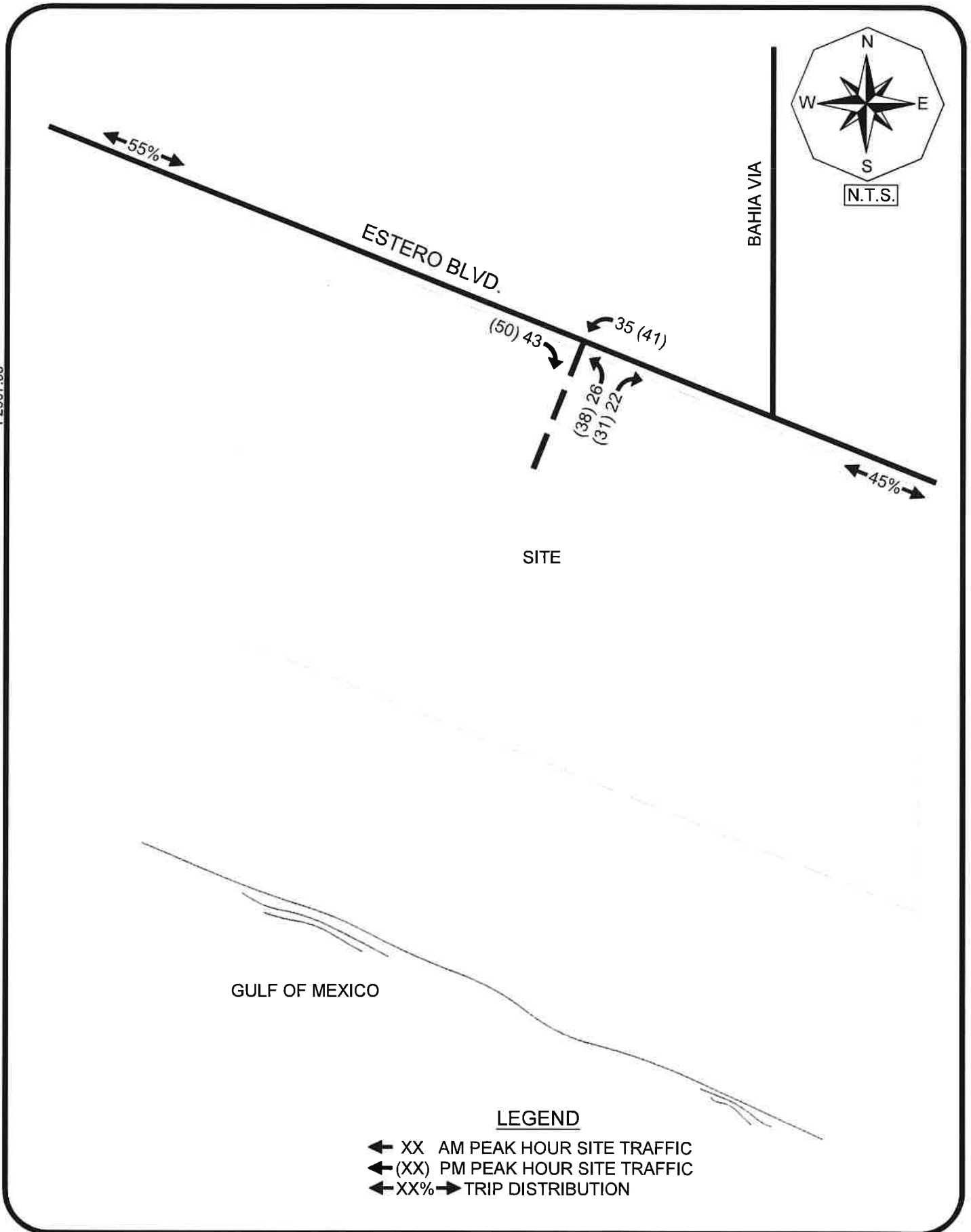
| Land Use                      | Weekday AM Peak Hour |     |       | Weekday PM Peak Hour |     |       | Daily<br>(2-way) |
|-------------------------------|----------------------|-----|-------|----------------------|-----|-------|------------------|
|                               | In                   | Out | Total | In                   | Out | Total |                  |
| Resort Hotel<br>(100 Rooms)   | 7                    | 2   | 9     | 18                   | 23  | 41    | n/a              |
| Condominium<br>(96 Units)     | 24                   | 7   | 31    | 23                   | 15  | 38    | 411              |
| Restaurant<br>(9,000 Sq. Ft.) | 47                   | 39  | 86    | 50                   | 31  | 81    | 965              |
| Total Trips                   | 78                   | 48  | 126   | 91                   | 69  | 160   | 1,376            |

## V. TRIP DISTRIBUTION

The trips the proposed development is anticipated to generate, as shown in Table 2, were 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.

In order to determine which roadway segments surrounding the site will be significantly impacted, **Table 1A**, contained in the Appendix, was created. This table indicates which roadway links will experience a significant impact as a result of the added development traffic. Significant impact is defined as any roadway projected to experience greater than 10% of the Peak Hour – Peak Direction Level of Service “C” volumes.





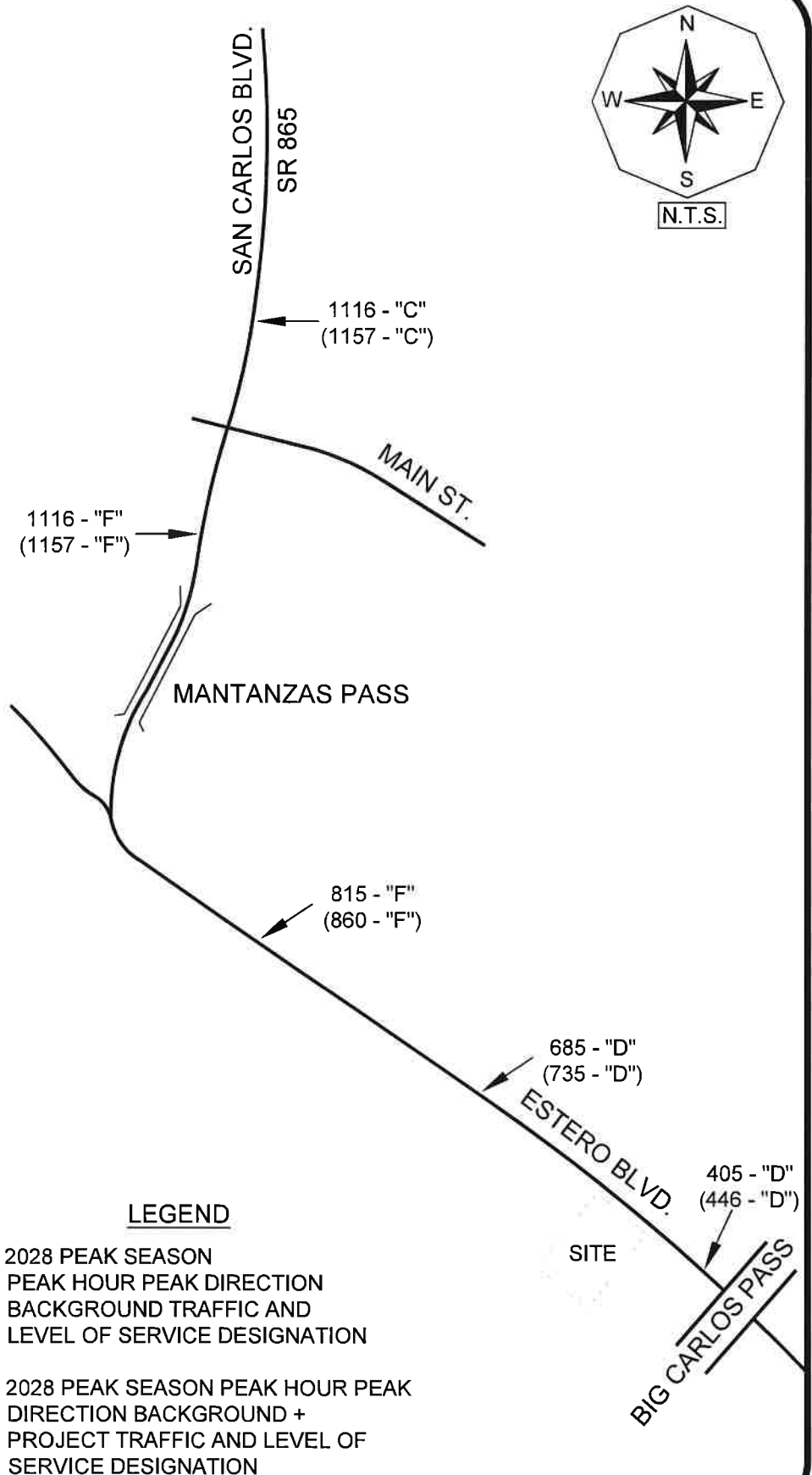
The Level of Service Threshold volumes for each roadway link were taken from the Lee County Generalized Peak Hour Directional Service Volume table. This table is included in the Appendix of this report for reference. Based on the information contained within Table 1A, no roadway segment is shown to experience a significant impact due to the addition of the project traffic.

## **VI. LEVEL OF SERVICE ANALYSIS**

The future Level of Service analysis was based on the development build-out horizon, which was selected as the year 2028. Based on this horizon year analysis, the surrounding roadway network was analyzed under 2028 traffic conditions. Even though historical growth patterns have illustrated that there has been very little traffic increase on Estero Boulevard in the past eight (8) years, a growth rate of 1% per year, compounded annually, was applied to the existing traffic conditions for the traffic volume reported by Lee County for Estero Boulevard. The existing traffic data for Estero Boulevard was obtained from the Lee County 2022 *Lee County Public Facilities Level of Service and Concurrency Report*. This data was collected pre-Hurricane Ian.

**Table 2A** in the Appendix of the report indicates the methodology utilized to obtain the year 2028 build-out traffic volumes as well as the growth rate utilized for each roadway segment analyzed. The data obtained from the 2022 Lee County resource is attached to the Appendix of this report for reference.

**Figure 3** indicates the year 2028 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 A.M and P.M. peak hours with the development traffic added to the roadways. Figure 3 is derived from Table 2A contained in the Appendix.



It should be noted that Estero Boulevard west of San Carlos Boulevard as well as the Matanzas Bridge has been designated as a “Constrained Roadway” by the Lee County Board of County Commissioners pursuant to Lee Plan Policy 37.2.2 and Table 2(a). Estero Boulevard adjacent to the site is shown to operate at LOS “D” prior to any project trips being added to these segments and will continue to operate at LOS “D” with the project trips added to the roadway.

The Lee County Department of Transportation has recently completed pedestrian and transit stop improvements to Estero Boulevard along the segment of Estero Boulevard adjacent to the site and FDOT has recently released the construction project to begin improvements to San Carlos Boulevard from Buttonwood Drive to Estero Boulevard that will create two travel lanes over Matanzas Bridge and redesign the intersection of San Carlos Boulevard and Estero Boulevard, signaling the intersection and better accommodating pedestrian movements through this intersection. This project is scheduled to begin construction in 2024.

Although not reflected in the trip generation calculation, it is the desire of the Resort as well to encourage guests to arrive by Shuttle and car service from the local airports. The resort hotel will encourage airport shuttle service and participate in any ferry service that may become available on the island. The site will also be designed with on-site bicycle parking as well as golf cart parking spaces to encourage other modes of transportation, which is consistent with the Town of Fort Myers Beach Comprehensive Plan.

Shuttle service will also be provided to the Private Beach Club for the membership from the Hyatt Residences in Bonita Springs to the Resort so the memberships does not have to drive their private vehicle to the site and utilize any on-site parking spaces.

## **VII. CONCLUSION**

The proposed zoning amendment of the Outrigger Resort to permit the development of up to 100 Resort Hotel rooms, 50 hotel/condominium units, 46 multi-family dwelling units, a private beach club and a restaurant with ancillary uses that will be open to the public will not place an undue burden on the adjacent roadway network. The Level of Service information for Estero Boulevard shows that this roadway will have sufficient capacity adjacent to the site. Further to the north, the roadway is already over capacity during season based on data collected prior to Hurricane Ian. It will take some time for the Beach to rebuild and re-establish the population and traffic levels that existed in the peak season prior to Hurricane Ian.

The Resort hotel is requesting to increase the number of rooms from the previously existing 144 rooms and 10,000 square feet of commercial uses prior to Hurricane Ian to 100 hotel rooms, 50 hotel/condominium units, 46 multi-family units, a private beach club and allow for the additional amenities such as the restaurant and Tiki Bar to enhance the property and meet today's consumers expectations that will provide multiple benefits to the Town and its residents. On-site bicycle spaces and golf cart parking spaces will encourage guests to use alternative modes of transportation once on-site. Airport shuttle service will also be encouraged by the Management of the Resort, thus reducing the overall transportation related impacts of the use on the island roads.



# APPENDIX

## **TABLES 1A & 2A**

**TABLE 1A**  
**PEAK DIRECTION PROJECT TRAFFIC VS. 10% LOS C LINK VOLUMES**  
**OUTRIGGER RESORT REZONING**

| TOTAL AM PEAK HOUR PROJECT TRAFFIC = |                                | 126 VPH | IN=    | 78    | OUT=  | 48    |       |       |                 |                 |         |       |
|--------------------------------------|--------------------------------|---------|--------|-------|-------|-------|-------|-------|-----------------|-----------------|---------|-------|
| TOTAL PM PEAK HOUR PROJECT TRAFFIC = |                                | 160 VPH | IN=    | 91    | OUT=  | 69    |       |       |                 |                 |         |       |
| ROADWAY                              | SEGMENT                        | ROADWAY |        | LOS A | LOS B | LOS C | LOS D | LOS E | PERCENT         |                 |         |       |
|                                      |                                | CLASS   | VOLUME |       |       |       |       |       | PROJECT TRAFFIC | PROJECT TRAFFIC | TRAFFIC | LOS C |
| Estero Blvd.                         | Center St. to Tropical Shores  | 2LN     | 0      | 0     | 0     | 330   | 710   | 780   | 50%             | 46              | 13.8%   |       |
|                                      | Tropical Shores to Voorhis     | 2LN     | 0      | 0     | 0     | 330   | 710   | 780   | 55%             | 50              | 15.2%   |       |
|                                      | Voorhis to Pescadora           | 2LN     | 0      | 0     | 0     | 330   | 710   | 780   | 55%             | 50              | 15.2%   |       |
|                                      | Pescadora to Site Access       | 2LN     | 0      | 0     | 0     | 330   | 710   | 780   | 55%             | 50              | 15.2%   |       |
|                                      | Site Access to Big Carlos Pass | 2LN     | 0      | 0     | 0     | 330   | 710   | 780   | 45%             | 41              | 12.4%   |       |
| Matanzas Pass Bridge                 | N. of Estero Blvd.             | 2LU     | 0      | 0     | 0     | 330   | 710   | 780   | 45%             | 41              | 12.4%   |       |
| San Carlos Blvd.                     | N. of Main St.                 | 4LN     | 0      | 250   | 1,840 | 1,960 | 1,960 | 1,960 | 45%             | 41              | 2.2%    |       |

\* Level of Service thresholds were obtained from Lee County Generalized Peak Hour Directional Service Volume Table (April 2016)

**TABLE 2A**  
**LEE COUNTY TRAFFIC COUNTS AND CALCULATIONS**  
**OUTRIGGER RESORT REZONING**

| ROADWAY | SEGMENT | FDOT SITE # | 2022    |        |      |        | 2028              |                        |        |     | 2028      |         |         |         | 2028    |         |         |         |
|---------|---------|-------------|---------|--------|------|--------|-------------------|------------------------|--------|-----|-----------|---------|---------|---------|---------|---------|---------|---------|
|         |         |             | BASE YR |        | 2016 |        | YRS OF            |                        | ANNUAL |     | PK SEASON |         | PK HR   |         | PERCENT |         | PROJECT |         |
|         |         |             | ADT     | ADT    | ADT  | GROWTH | RATE <sup>1</sup> | PEAK DIR. <sup>2</sup> | VOLUME | LOS | TRAFFIC   | AM PROJ | TRAFFIC | PM PROJ | TRAFFIC | AM PROJ | TRAFFIC | PM PROJ |
|         |         |             | 13,753  | 12,500 | 11   | 1.00%  | 716               | 815                    | F      | 50% | 39        | 46      | 854     | F       | 860     | F       | 854     | F       |
|         |         |             | 13,753  | 12,500 | 11   | 1.00%  | 602               | 685                    | D      | 55% | 43        | 50      | 728     | E       | 735     | E       | 728     | E       |
|         |         |             | 13,753  | 12,500 | 11   | 1.00%  | 602               | 685                    | D      | 55% | 43        | 50      | 728     | E       | 735     | E       | 728     | E       |
|         |         |             | 13,753  | 12,500 | 11   | 1.00%  | 356               | 405                    | D      | 55% | 43        | 50      | 448     | D       | 455     | D       | 448     | D       |
|         |         |             | 13,753  | 12,500 | 11   | 1.00%  | 356               | 405                    | D      | 45% | 35        | 41      | 440     | D       | 446     | D       | 440     | D       |
|         |         |             | 22,541  | 22,000 | 11   | 1.00%  | 1,051             | 1,116                  | F      | 45% | 35        | 41      | 1,151   | F       | 1,157   | F       | 1,151   | F       |
|         |         |             | 22,541  | 22,000 | 11   | 1.00%  | 1,051             | 1,116                  | C      | 45% | 35        | 41      | 1,151   | C       | 1,157   | C       | 1,151   | C       |

TOTAL PROJECT TRAFFIC AM =

TOTAL PROJECT TRAFFIC PM =

Estero Blvd.

Matanzas Pass Bridge

San Carlos Blvd.

<sup>1</sup> Annual Growth Rate was calculating utilizing AADT data from FDOT Florida Traffic Online resource, Minimum 1% AGR utilized.

<sup>2</sup> Current peak hour peak season peak direction traffic volumes for Estero Blvd. & San Carlos Blvd. taken from Lee County Public Facilities Level of Service Report and Concurrency Report (2022)

Traffic Data is Pre-Hurricane Ian Data

**LEE COUNTY PUBLIC FACILITIES  
LEVEL OF SERVICE AND  
CONCURRENCY REPORT**



Table 21 b): Link-Level Service Volumes and LOS Table

Table 21 b) 2 of 7

| LEE COUNTY ROAD LINK VOLUMES (County- and State-Maintained Roadways) |                    |                        |                       |               |           |                      |                      |                         |       |      |                        |       |      |                                                       |
|----------------------------------------------------------------------|--------------------|------------------------|-----------------------|---------------|-----------|----------------------|----------------------|-------------------------|-------|------|------------------------|-------|------|-------------------------------------------------------|
| Link No.                                                             | NAME               | ROADWAY LINK           |                       | F. Class      | ROAD TYPE | PERFORMANCE STANDARD |                      | 2021 100TH HIGHEST HOUR |       |      | FUTURE FORECAST (2026) |       |      | Notes                                                 |
|                                                                      |                    |                        |                       |               |           | LOS                  | DIRECTIONAL CAPACITY | LOS                     | VOL   | V/C  | LOS                    | VOL   | V/C  |                                                       |
|                                                                      |                    | FROM                   | TO                    |               |           |                      |                      |                         |       |      |                        |       |      |                                                       |
| 04800                                                                | CEMETERY RD        | BUCKINGHAM RD          | HIGGINS AVE           | Maj. Col      | 2LN       | E                    | 860                  | C                       | 308   | 0.36 | C                      | 323   | 0.38 | Port Authority maintained<br>Estero maintains to east |
| 04900                                                                | CHAMBERLIN PKWY    | AIRPORT ENT            | DANIELS PKWY          | Maj. Col      | 4LN       | E                    | 1,790                | C                       | 105   | 0.06 | C                      | 150   | 0.08 |                                                       |
| 05000                                                                | COCONUT RD         | WEST END               | VIA VENETTO BLVD      | Maj. Col      | 2LN       | E                    | 860                  | C                       | 268   | 0.31 | C                      | 420   | 0.49 |                                                       |
| 05100                                                                | COLLEGE PKWY       | MCGREGOR BLVD          | WINKLER RD            | P. Art        | 6LD       | E                    | 2,980                | D                       | 2,292 | 0.77 | D                      | 2,409 | 0.81 | *                                                     |
| 05200                                                                | COLLEGE PKWY       | WINKLER RD             | WHISKEY CREEK DR      | P. Art        | 6LD       | E                    | 2,980                | D                       | 2,059 | 0.69 | D                      | 2,164 | 0.73 |                                                       |
| 05300                                                                | COLLEGE PKWY       | WHISKEY CREEK DR       | SUMMERLIN RD          | P. Art        | 6LD       | E                    | 2,980                | D                       | 2,059 | 0.69 | D                      | 2,164 | 0.73 |                                                       |
| 05400                                                                | COLLEGE PKWY       | SUMMERLIN RD           | US 41                 | P. Art        | 6LD       | E                    | 2,980                | D                       | 1,898 | 0.64 | D                      | 1,995 | 0.67 |                                                       |
| 05500                                                                | COLONIAL BLVD      | MCGREGOR BLVD          | SUMMERLIN RD          | P. Art        | 6LD       | E                    | 2,840                | F                       | 3,049 | 1.07 | F                      | 3,204 | 1.13 | *                                                     |
| 05600                                                                | COLONIAL BLVD      | SUMMERLIN RD           | US 41                 | P. Art        | 6LD       | E                    | 2,840                | D                       | 2,650 | 0.93 | D                      | 2,785 | 0.98 |                                                       |
| 06200                                                                | COLONIAL BLVD      | DYNASTY DR             | SR 82                 | P. Art        | 6LD       | D                    | 3,040                | B                       | 2,070 | 0.68 | C                      | 2,175 | 0.72 | *                                                     |
| 06300                                                                | COLUMBUS BLVD      | SR 82                  | MILWAUKEE BLVD        | Maj. Col      | 2LN       | E                    | 860                  | C                       | 100   | 0.12 | C                      | 105   | 0.12 | old count                                             |
| 06400                                                                | CONSTITUTION BLVD  | US 41                  | CONSTITUTION CIR      | Maj. Col      | 2LN       | E                    | 860                  | C                       | 217   | 0.25 | C                      | 245   | 0.28 | old count projection(2010)                            |
| 06500                                                                | CORBETT RD         | SR 78 (PINE ISLAND RD) | LITTLETON RD          | Maj. Col      | 2LN       | E                    | 860                  | G                       | 22    | 0.03 | C                      | 226   | 0.26 | old count, added VA clinic(2009)                      |
| 06600                                                                | CORKSCREW RD       | US 41                  | THREE OAKS PKWY       | P. Art        | 4LD       | E                    | 1,900                | C                       | 1,047 | 0.55 | C                      | 1,312 | 0.69 | Galleria at Corkscrew                                 |
| 06700                                                                | CORKSCREW RD       | THREE OAKS PKWY        | W OF I-75             | P. Art        | 4LD       | E                    | 1,900                | F                       | 2,129 | 1.12 | F                      | 2,368 | 1.25 | Estero Crossing                                       |
| 06800                                                                | CORKSCREW RD       | E OF I-75              | BEN HILL GRIFFIN BLVD | P. Art        | 4LD       | E                    | 1,900                | C                       | 1,069 | 0.56 | C                      | 1,281 | 0.67 |                                                       |
| 06900                                                                | CORKSCREW RD       | BEN HILL GRIFFIN BLVD  | ALICO RD              | P. Art        | 4LD       | E                    | 1,960                | C                       | 1,186 | 0.61 | C                      | 1,398 | 0.71 |                                                       |
| 07000                                                                | CORKSCREW RD       | ALICO RD               | COUNTY LINE           | P. Art        | 2LN       | E                    | 1,140                | C                       | 464   | 0.41 | F                      | 1,244 | 1.09 | EEPCO Study, The Place                                |
| 07100                                                                | COUNTRY LAKES BLVD | LUCKETT RD             | TICE ST               | Maj. Col      | 2LN       | E                    | 860                  | C                       | 143   | 0.17 | C                      | 293   | 0.34 | old count projection(2010)                            |
| 07200                                                                | CRYSTAL DR         | US 41                  | METRO PKWY            | Maj. Col      | 2LN       | E                    | 860                  | C                       | 360   | 0.42 | C                      | 379   | 0.44 |                                                       |
| 07300                                                                | CRYSTAL DR         | METRO PKWY             | PLANTATION RD         | Maj. Col      | 2LN       | E                    | 860                  | C                       | 242   | 0.28 | C                      | 254   | 0.30 |                                                       |
| 07400                                                                | CYPRESS LAKE DR    | MCGREGOR BLVD          | SOUTH POINT BLVD      | P. Art        | 4LD       | E                    | 1,940                | D                       | 1,129 | 0.58 | D                      | 1,186 | 0.61 |                                                       |
| 07500                                                                | CYPRESS LAKE DR    | SOUTH POINT BLVD       | WINKLER RD            | P. Art        | 4LD       | E                    | 1,940                | D                       | 1,419 | 0.73 | D                      | 1,491 | 0.77 |                                                       |
| 07600                                                                | CYPRESS LAKE DR    | WINKLER RD             | SUMMERLIN RD          | P. Art        | 4LD       | E                    | 1,940                | D                       | 1,419 | 0.73 | D                      | 1,491 | 0.77 |                                                       |
| 07700                                                                | CYPRESS LAKE DR    | SUMMERLIN RD           | US 41                 | P. Art        | 6LD       | E                    | 2,940                | D                       | 2,085 | 0.71 | D                      | 2,191 | 0.75 |                                                       |
| 07800                                                                | DANIELS PKWY       | US 41                  | METRO PKWY            | Controlled xs | 6LD       | E                    | 2,680                | D                       | 2,288 | 0.85 | D                      | 2,405 | 0.90 | Constrained<br>Constrained<br>Constrained             |
| 07900                                                                | DANIELS PKWY       | METRO PKWY             | SIX MILE PKWY         | Controlled xs | 6LD       | E                    | 2,680                | D                       | 2,109 | 0.79 | E                      | 2,520 | 0.94 |                                                       |
| 08000                                                                | DANIELS PKWY       | SIX MILE PKWY          | PALOMINO LN           | Controlled xs | 6LD       | E                    | 3,040                | E                       | 2,985 | 0.98 | F                      | 3,256 | 1.07 |                                                       |
| 08100                                                                | DANIELS PKWY       | PALOMINO LN            | I-75                  | Controlled xs | 6LD       | E                    | 3,040                | E                       | 2,985 | 0.98 | F                      | 3,137 | 1.03 |                                                       |
| 08200                                                                | DANIELS PKWY       | I-75                   | TREELINE AVE          | Controlled xs | 6LD       | E                    | 3,260                | B                       | 2,996 | 0.92 | B                      | 3,149 | 0.97 |                                                       |
| 08300                                                                | DANIELS PKWY       | TREELINE AVE           | CHAMBERLIN PKWY       | Controlled xs | 6LD       | E                    | 3,260                | B                       | 2,996 | 0.92 | B                      | 3,149 | 0.97 |                                                       |
| 08400                                                                | DANIELS PKWY       | CHAMBERLIN PKWY        | GATEWAY BLVD          | Controlled xs | 6LD       | E                    | 3,260                | B                       | 2,765 | 0.85 | B                      | 2,906 | 0.89 |                                                       |
| 08500                                                                | DANIELS PKWY       | GATEWAY BLVD           | SR 82                 | Controlled xs | 4LD       | E                    | 2,160                | F                       | 2,163 | 1.00 | F                      | 2,307 | 1.07 | SKY Walk *                                            |
| 08600                                                                | DANLEY DR          | US 41                  | METRO PKWY            | Maj. Col      | 2LN       | E                    | 860                  | C                       | 255   | 0.30 | C                      | 286   | 0.33 |                                                       |
| 08700                                                                | DAVIS RD           | MCGREGOR BLVD          | IONA RD               | Maj. Col      | 2LN       | E                    | 860                  | C                       | 15    | 0.02 | C                      | 29    | 0.03 | old count projection(2010)                            |
| 08800                                                                | DEL PRADO BLVD     | CAPE CORAL PKWY        | SE 46TH ST            | P. Art        | 6LD       | E                    | 2,660                | C                       | 1,404 | 0.53 | C                      | 1,586 | 0.60 | old count projection(2009)                            |
| 08900                                                                | DEL PRADO BLVD     | SE 46TH ST             | CORNADO PKWY          | P. Art        | 6LD       | E                    | 2,660                | C                       | 1,404 | 0.53 | C                      | 1,586 | 0.60 | old count projection(2009)                            |
| 09000                                                                | DEL PRADO BLVD     | CORNADO PKWY           | CORNWALLIS PKWY       | P. Art        | 6LD       | E                    | 2,660                | D                       | 1,869 | 0.70 | D                      | 1,964 | 0.74 |                                                       |
| 09100                                                                | DEL PRADO BLVD     | CORNWALLIS PKWY        | CORAL POINT DR        | P. Art        | 6LD       | E                    | 2,660                | D                       | 2,565 | 0.96 | F                      | 2,696 | 1.01 |                                                       |
| 09200                                                                | DEL PRADO BLVD     | CORAL POINT DR         | HANCOCK B. PKWY       | P. Art        | 6LD       | E                    | 2,800                | D                       | 1,997 | 0.71 | D                      | 2,098 | 0.75 |                                                       |
| 09300                                                                | DEL PRADO BLVD     | HANCOCK B. PKWY        | SR 78                 | P. Art        | 6LD       | E                    | 2,800                | C                       | 1,642 | 0.59 | C                      | 1,725 | 0.62 | *                                                     |
| 09400                                                                | DEL PRADO BLVD     | US 41                  | SLATER RD             | M. Art        | 2LN       | E                    | 860                  | C                       | 489   | 0.57 | D                      | 742   | 0.86 | Crane Landing                                         |
| 09700                                                                | EAST 21ST ST       | JOEL BLVD              | GRANT AVE             | Min. Col      | 2LN       | E                    | 860                  | C                       | 31    | 0.04 | C                      | 33    | 0.04 | *                                                     |
| 09800                                                                | ESTERO BLVD        | BIG CARLOS PASS BRIDGE | PESCADORA AVE         | M. Art        | 2LN       | E                    | 726                  | A                       | 356   | 0.49 | A                      | 374   | 0.52 | Constrained*                                          |
| 09900                                                                | ESTERO BLVD        | PESCADORA AVE          | VOORHIS ST            | M. Art        | 2LN       | E                    | 726                  | B                       | 602   | 0.83 | C                      | 633   | 0.87 | Constrained*                                          |
| 10000                                                                | ESTERO BLVD        | VOORHIS ST             | TROPICAL SHORES WAY   | M. Art        | 2LN       | E                    | 726                  | B                       | 602   | 0.83 | C                      | 633   | 0.87 | Constrained*                                          |
| 10100                                                                | ESTERO BLVD        | TROPICAL SHORES WAY    | CENTER ST             | M. Art        | 2LN       | E                    | 671                  | F                       | 716   | 1.07 | F                      | 779   | 1.16 | Constrained, old count(2010)                          |
| 00007                                                                | ESTERO PKWY        | US 41                  | THREE OAKS PKWY       | P. Art        | 4LD       | E                    | 2,000                | B                       | 861   | 0.43 | B                      | 1,154 | 0.58 | Not County Maintd                                     |

County-Maintained Collector Roadway - Unincorporated Lee County

State-Maintained Arterial Roadway - Unincorporated Lee County

County-Maintained Collector Roadway - Incorporated Lee County

County Maintained Controlled Access Arterial Facility

County-Maintained Arterial Roadway - Unincorporated Lee County

County Maintained Expressway

County-Maintained Arterial Roadway - Incorporated Lee County

**LEE COUNTY GENERALIZED PEAK  
HOUR DIRECTIONAL SERVICE  
VOLUMES**

**Lee County**  
**Generalized Peak Hour Directional Service Volumes**  
**Urbanized Areas**

April 2016

c:\input5

| <b>Uninterrupted Flow Highway</b>                                                                                                                     |           |       |       |       |       |       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-------|-------|-------|-------|-------|
| 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 |
| <b>Arterials</b>                                                                                                                                      |           |       |       |       |       |       |
| 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 |
| <b>Controlled Access Facilities</b>                                                                                                                   |           |       |       |       |       |       |
| 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 |
| <b>Collectors</b>                                                                                                                                     |           |       |       |       |       |       |
| 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. |           |       |       |       |       |       |

**TRAFFIC DATA**  
**FDOT FLORIDA TRAFFIC ONLINE**

FLORIDA DEPARTMENT OF TRANSPORTATION  
TRANSPORTATION STATISTICS OFFICE  
2022 HISTORICAL AADT REPORT

COUNTY: 13 - MANATEE

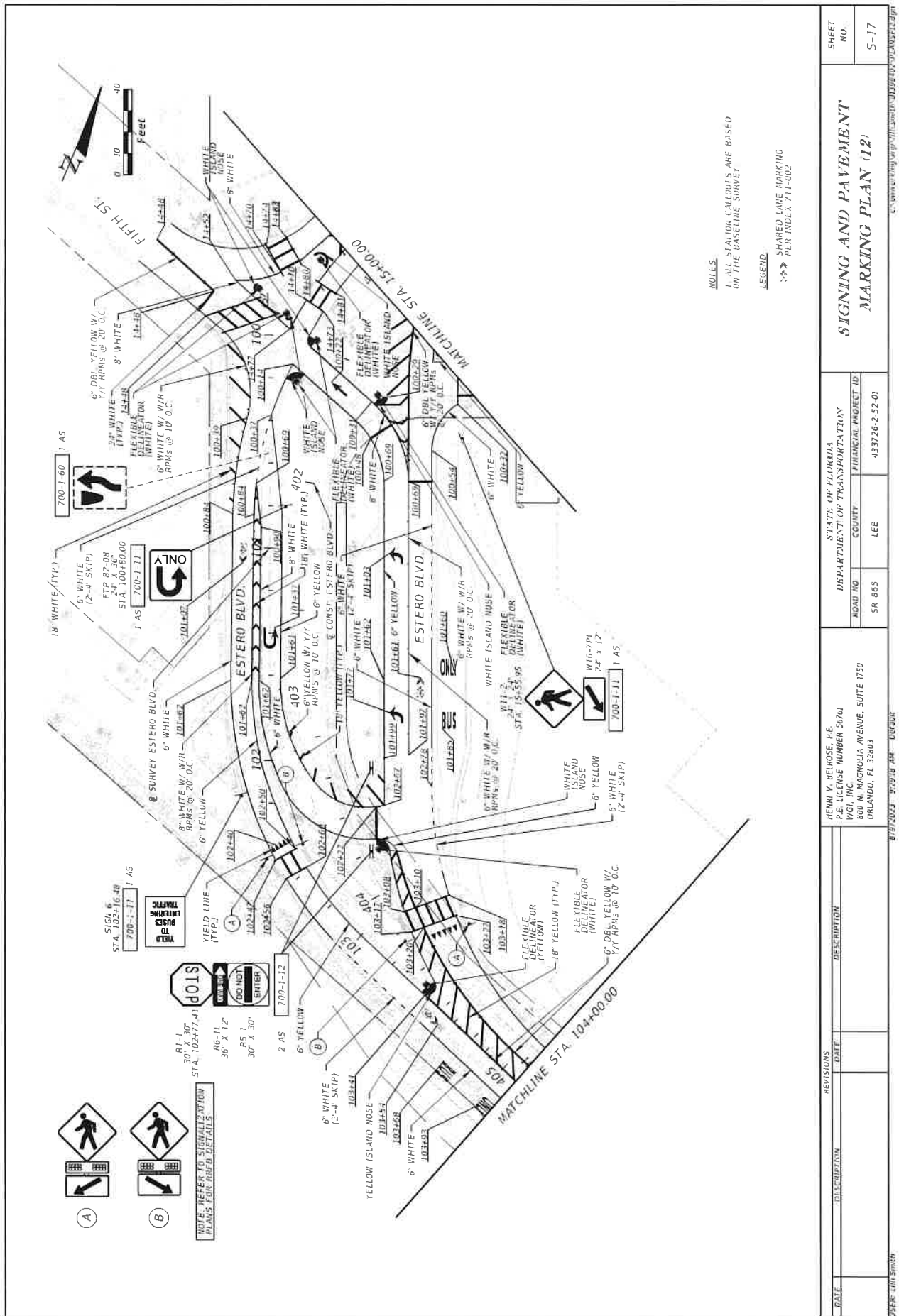
SITE: 5061 - SR789/LONGBOAT KEY, SW OF BINNACLE POINT DR

| YEAR | AADT    | DIRECTION 1 | DIRECTION 2 | *K FACTOR | D FACTOR | T FACTOR |
|------|---------|-------------|-------------|-----------|----------|----------|
| 2022 | 9900 C  | N 4900      | S 5000      | 9.00      | 57.20    | 5.00     |
| 2021 | 10600 C | N 5300      | S 5300      | 9.00      | 60.50    | 3.70     |
| 2020 | 10800 E | N 0         | S 0         | 9.00      | 59.30    | 4.00     |
| 2019 | 10500 C | N 0         | S 0         | 9.00      | 59.60    | 5.20     |
| 2018 | 10200 C | N 5100      | S 5100      | 9.00      | 53.20    | 4.70     |
| 2017 | 9700 C  | N 4800      | S 4900      | 9.00      | 52.70    | 5.30     |
| 2016 | 8300 F  | N 4200      | S 4100      | 9.00      | 52.90    | 5.30     |
| 2015 | 8300 C  | N 4200      | S 4100      | 9.00      | 52.90    | 5.30     |
| 2014 | 7400 C  | N 3700      | S 3700      | 9.00      | 53.30    | 5.20     |
| 2013 | 8600 F  | N 4300      | S 4300      | 9.00      | 53.50    | 3.60     |
| 2012 | 8600 C  | N 4300      | S 4300      | 9.00      | 53.90    | 3.60     |
| 2011 | 7500 F  | N 3800      | S 3700      | 9.00      | 54.50    | 6.80     |
| 2010 | 7500 C  | N 3800      | S 3700      | 10.78     | 55.28    | 6.80     |
| 2009 | 9200 C  | N 4600      | S 4600      | 11.40     | 53.60    | 4.00     |
| 2008 | 8000 C  | N 4000      | S 4000      | 12.25     | 52.91    | 7.30     |
| 2007 | 8500 C  | N 4300      | S 4200      | 12.15     | 51.63    | 5.80     |

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



**FDOT PLANS FOR  
ESTERO BLVD. @ SAN CARLOS  
BLVD.**



**NOTES**  
 1. ALL STATION CALLOUTS ARE BASED ON THE BASELINE SURVEY

**LEGEND**  
 -> SHARED LANE MARKING PER INDEX 711-602

| REVISIONS |  | DESCRIPTION |  | DATE |  |
|-----------|--|-------------|--|------|--|
|           |  |             |  |      |  |
|           |  |             |  |      |  |
|           |  |             |  |      |  |
|           |  |             |  |      |  |

|                                                  |        |                      |                |
|--------------------------------------------------|--------|----------------------|----------------|
| STATE OF FLORIDA<br>DEPARTMENT OF TRANSPORTATION |        | FINANCIAL PROJECT ID |                |
| ROAD NO.                                         | COUNTY | LEE                  | 433726-2-52 01 |

|                                                                                                                             |  |                   |  |
|-----------------------------------------------------------------------------------------------------------------------------|--|-------------------|--|
| HEMMI V. BELHOSE, P.E.<br>P.E. LICENSE NUMBER 56161<br>WGI, INC.<br>800 N. MAGNOLIA AVENUE, SUITE 1750<br>ORLANDO, FL 32803 |  | SHEET NO.<br>5-17 |  |
|-----------------------------------------------------------------------------------------------------------------------------|--|-------------------|--|

**FDOT WORK PROGRAM**  
**SR 865 – SAN CARLOS BLVD.**

## Five Year Work Program

| Selection Criteria                                |                                   |
|---------------------------------------------------|-----------------------------------|
| District 01<br>Lee County<br>Item Number:433726-2 | 2024-2029 AD<br>Category:Highways |

| Transportation System<br>Description                                    | Fiscal Year: | District                    | Length | 2024 | 2025 | Type of Work             | 2026 | 2027 | Item     | 2028 |
|-------------------------------------------------------------------------|--------------|-----------------------------|--------|------|------|--------------------------|------|------|----------|------|
| INTRASTATE STATE HIGHWAY                                                |              | District 01 - Lee<br>County | 1.149  |      |      | INTERSECTION IMPROVEMENT |      |      | 433726-2 |      |
| SR 865 (SAN CARLOS) FROM N CRESCENT ST TO N OF<br>HURRICANE PASS BRIDGE |              |                             |        |      |      |                          |      |      |          |      |
| Highways /Preliminary Engineering (On-Going)                            |              |                             |        |      |      |                          |      |      | \$5,791  |      |
| Highways /Construction (On-Going)                                       |              |                             |        |      |      |                          |      |      | \$16,469 |      |
| Highways /Environmental (On-Going)                                      |              |                             |        |      |      |                          |      |      | \$36,842 |      |

This site is maintained by the Office of Work Program and Budget, located at 605 Suwannee Street, MS 21, Tallahassee, Florida 32399.

[View Contact Information for Office of Work Program and Budget](#)

**Application Home:** [Work Program](#)

**Office Home:** [Office of Work Program and Budget](#)

**LEE COUNTY COMPREHENSIVE  
PLAN  
TABLE 2(a)**



**TABLE 2(a)**  
**CONSTRAINED STATE AND COUNTY ROADS**

| ROADWAY                                               | SEGMENT                                      | MAINTENANCE RESPONSIBILITY | CONSTRAINED CONDITIONS                                |
|-------------------------------------------------------|----------------------------------------------|----------------------------|-------------------------------------------------------|
| Captiva Road                                          | Blind Pass/<br>South Seas Plantation         | County                     | ROW, Scenic,<br>Aesthetic,<br>Environmental           |
| Daniels Parkway                                       | Metro Parkway/<br>I-75                       | County                     | ROW                                                   |
| Estero Boulevard                                      | Center Street/<br>Big Carlos Pass            | County                     | ROW, Scenic,<br>Aesthetic                             |
| Hickory Boulevard                                     | Big Carlos Pass/<br>Bonita Beach Road        | County                     | Scenic, Aesthetic,<br>Environmental                   |
| McGregor Boulevard<br>(SR 867)                        | Colonial Boulevard/<br>College Parkway       | State                      | ROW, Scenic,<br>Aesthetic, Historic,<br>Environmental |
| Pine Island Road<br>(Matlacha)                        | Shoreview Drive/<br>Little Pine Island       | County                     | ROW, Scenic,<br>Aesthetic, Historic,<br>Environmental |
| San Carlos Boulevard<br>(SR 865)<br>(Matanzas Bridge) | Center Street/<br>Main Street                | State                      | ROW, Scenic,<br>Aesthetic,<br>Environmental           |
| US 41                                                 | South of Daniels Road/<br>North Airport Road | State                      | ROW                                                   |
| Gulf Boulevard                                        | Boca Grande                                  | County                     | Scenic, Aesthetic,<br>Historic,<br>Environmental      |
| Stringfellow Road                                     | 8th Avenue/<br>Main Street                   | County                     | Environmental                                         |

## **TRIP GENERATION EQUATIONS**

## Resort Hotel (330)

### 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: 6

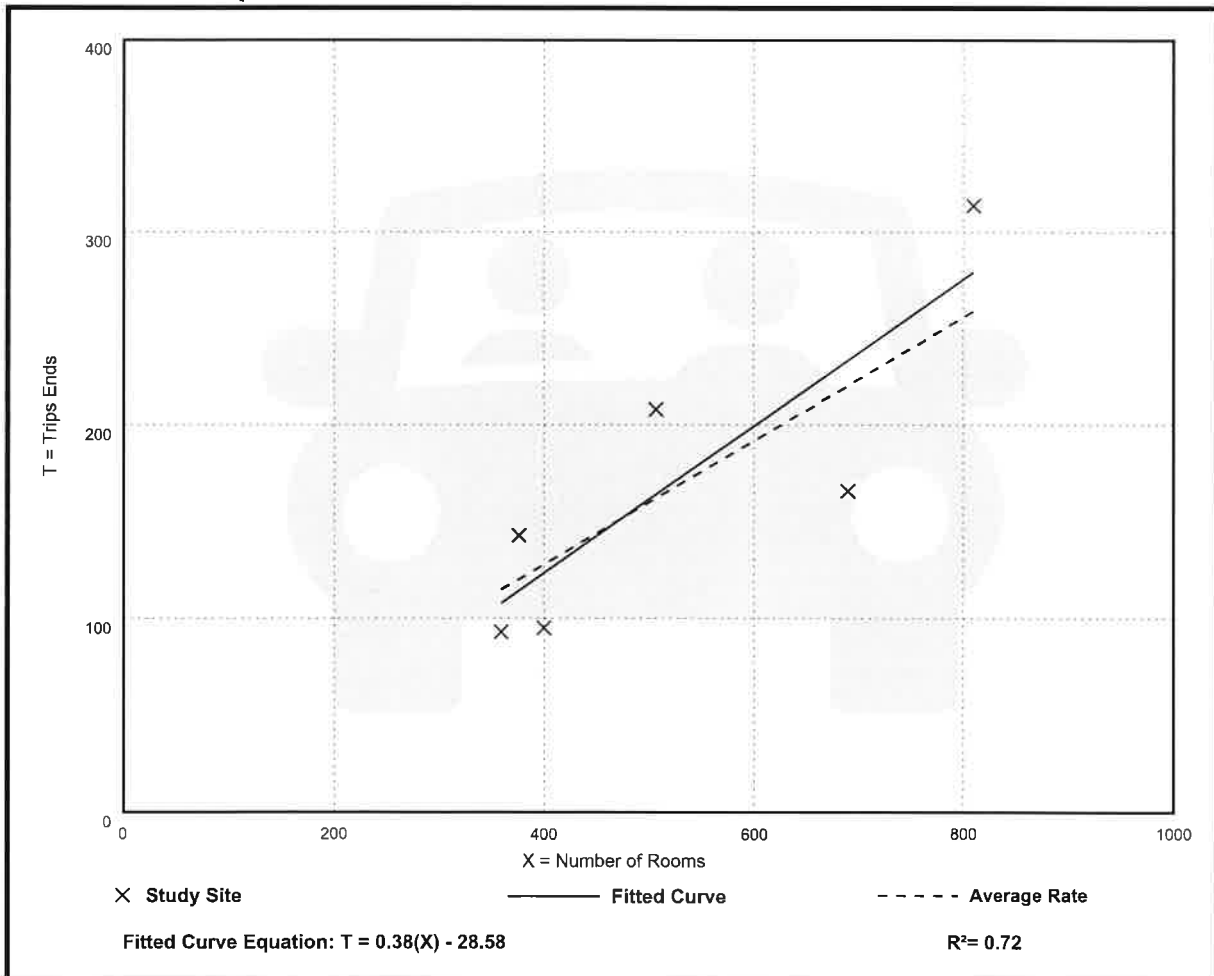
Avg. Num. of Rooms: 524

Directional Distribution: 72% entering, 28% exiting

### Vehicle Trip Generation per Room

| Average Rate | Range of Rates | Standard Deviation |
|--------------|----------------|--------------------|
| 0.32         | 0.24 - 0.41    | 0.08               |

### Data Plot and Equation



# Resort Hotel (330)

## 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: 9

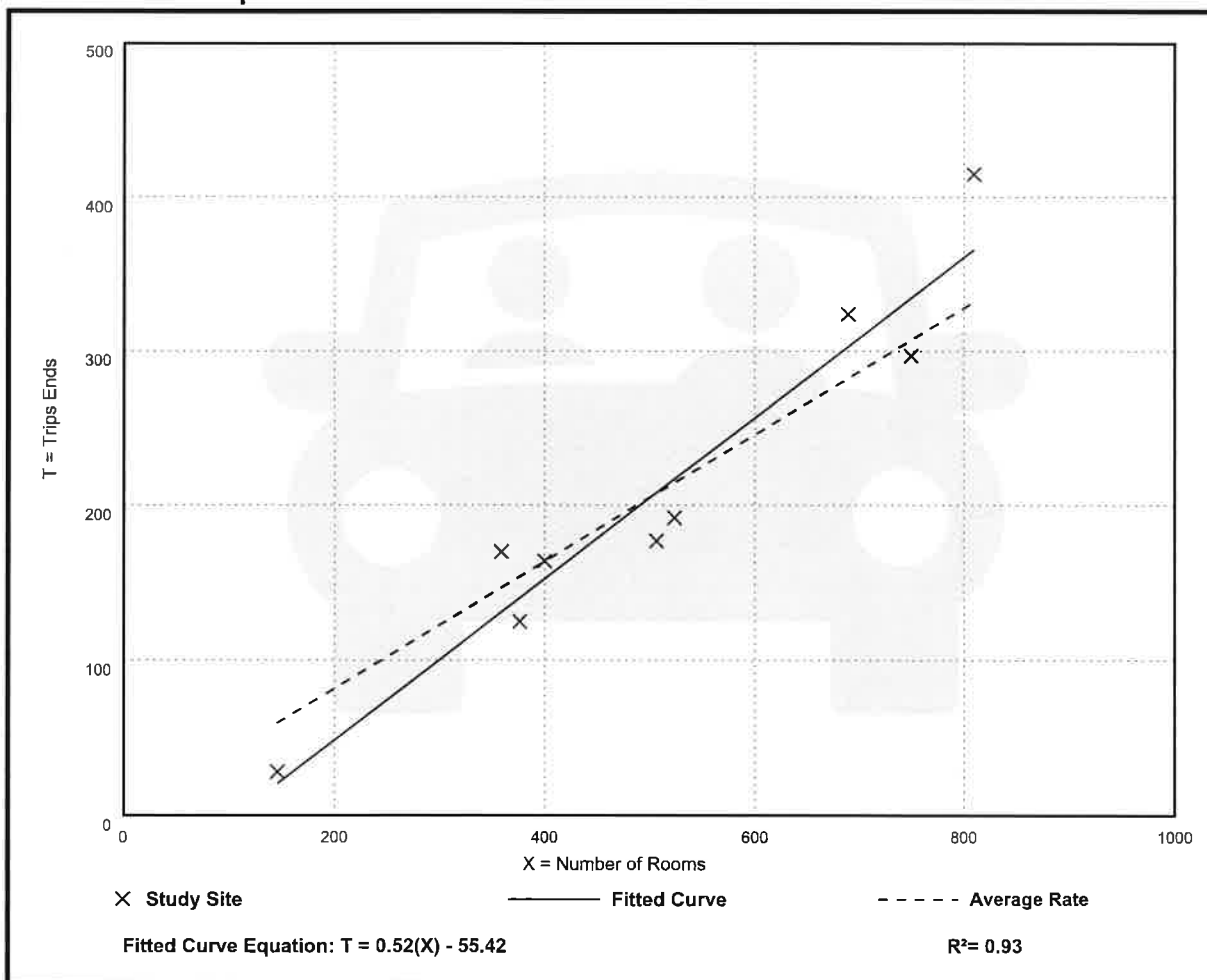
Avg. Num. of Rooms: 507

Directional Distribution: 43% entering, 57% exiting

## Vehicle Trip Generation per Room

| Average Rate | Range of Rates | Standard Deviation |
|--------------|----------------|--------------------|
| 0.41         | 0.19 - 0.51    | 0.08               |

## Data Plot and Equation



# Multifamily Housing (Mid-Rise) Not Close to Rail Transit (221)

Vehicle Trip Ends vs: Dwelling Units  
On a: Weekday

Setting/Location: General Urban/Suburban

Number of Studies: 11

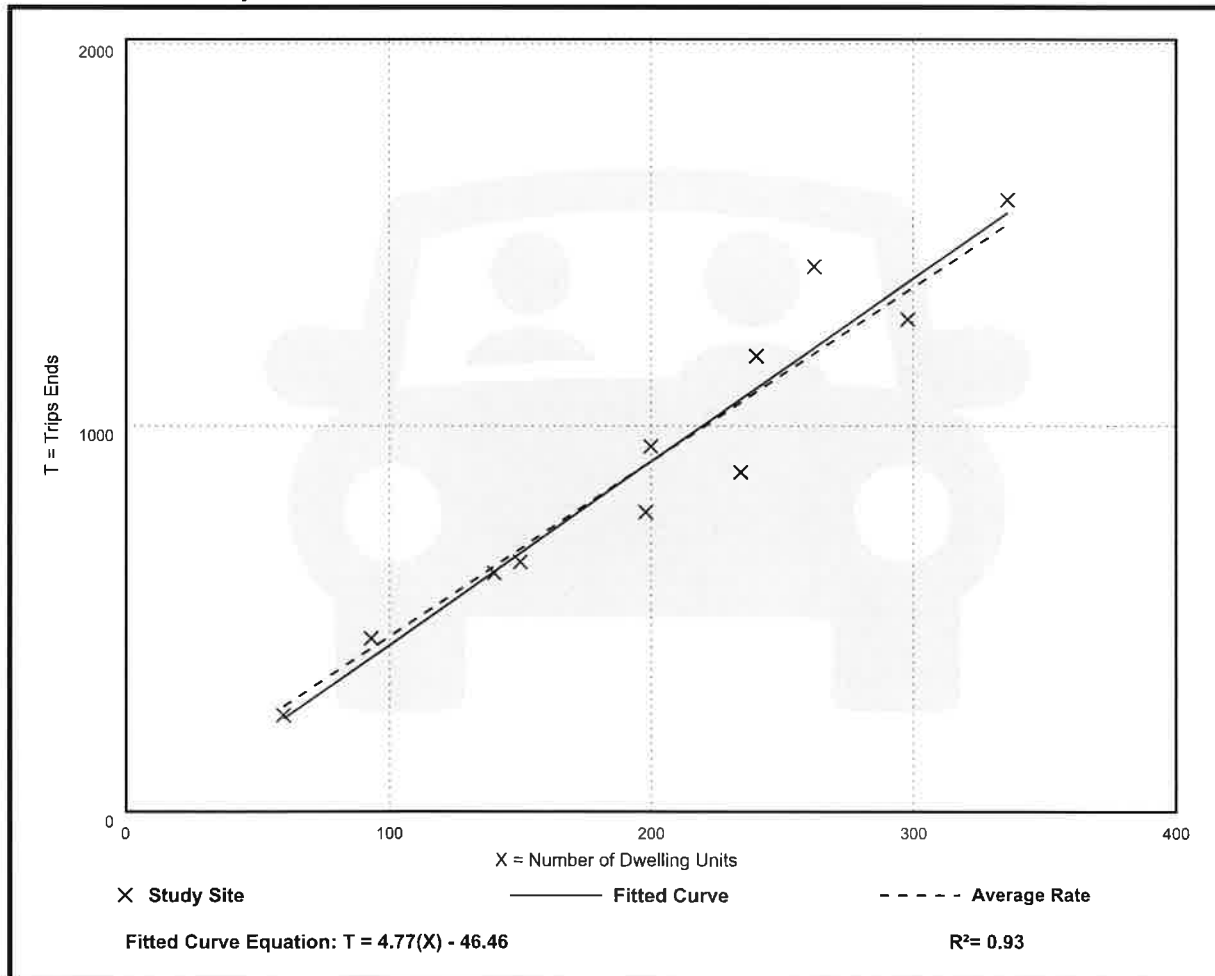
Avg. Num. of Dwelling Units: 201

Directional Distribution: 50% entering, 50% exiting

## Vehicle Trip Generation per Dwelling Unit

| Average Rate | Range of Rates | Standard Deviation |
|--------------|----------------|--------------------|
| 4.54         | 3.76 - 5.40    | 0.51               |

## Data Plot and Equation





# Multifamily Housing (Mid-Rise) Not Close to Rail Transit (221)

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: 30

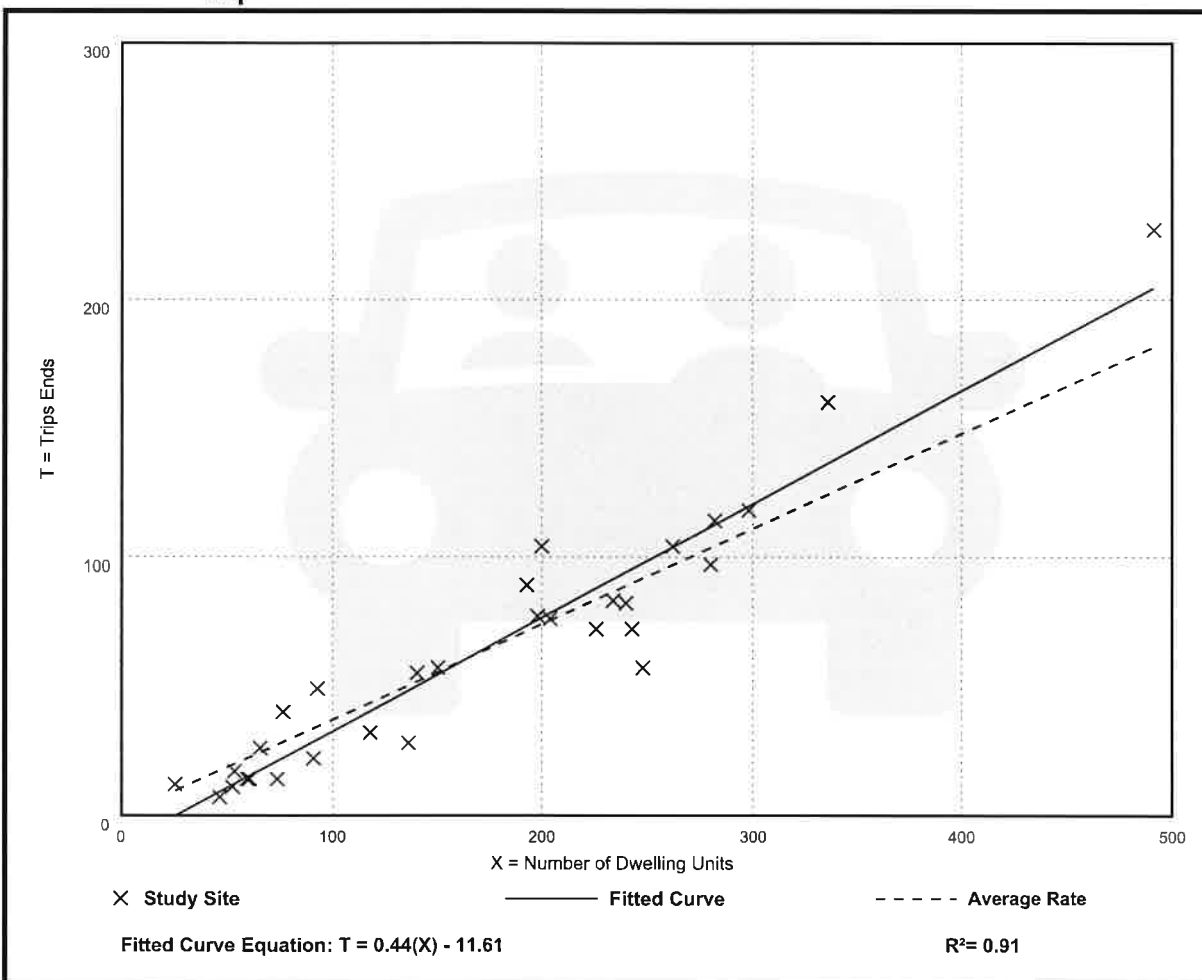
Avg. Num. of Dwelling Units: 173

Directional Distribution: 23% entering, 77% exiting

## Vehicle Trip Generation per Dwelling Unit

| Average Rate | Range of Rates | Standard Deviation |
|--------------|----------------|--------------------|
| 0.37         | 0.15 - 0.53    | 0.09               |

## Data Plot and Equation



## Multifamily Housing (Mid-Rise) Not Close to Rail Transit (221)

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: 31

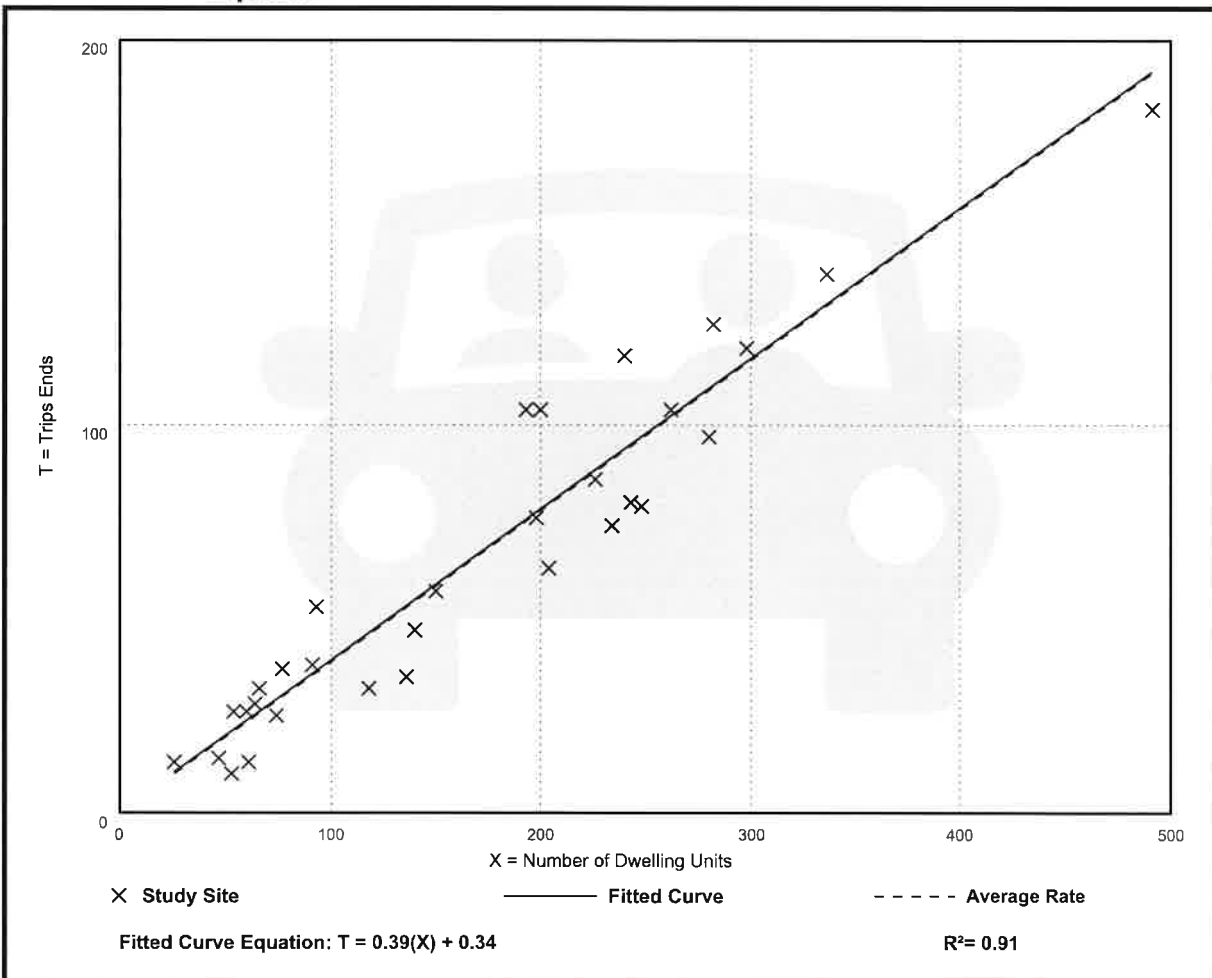
Avg. Num. of Dwelling Units: 169

Directional Distribution: 61% entering, 39% exiting

### Vehicle Trip Generation per Dwelling Unit

| Average Rate | Range of Rates | Standard Deviation |
|--------------|----------------|--------------------|
| 0.39         | 0.19 - 0.57    | 0.08               |

### Data Plot and Equation



# High-Turnover (Sit-Down) Restaurant (932)

Vehicle Trip Ends vs: 1000 Sq. Ft. GFA

On a: Weekday

Setting/Location: General Urban/Suburban

Number of Studies: 50

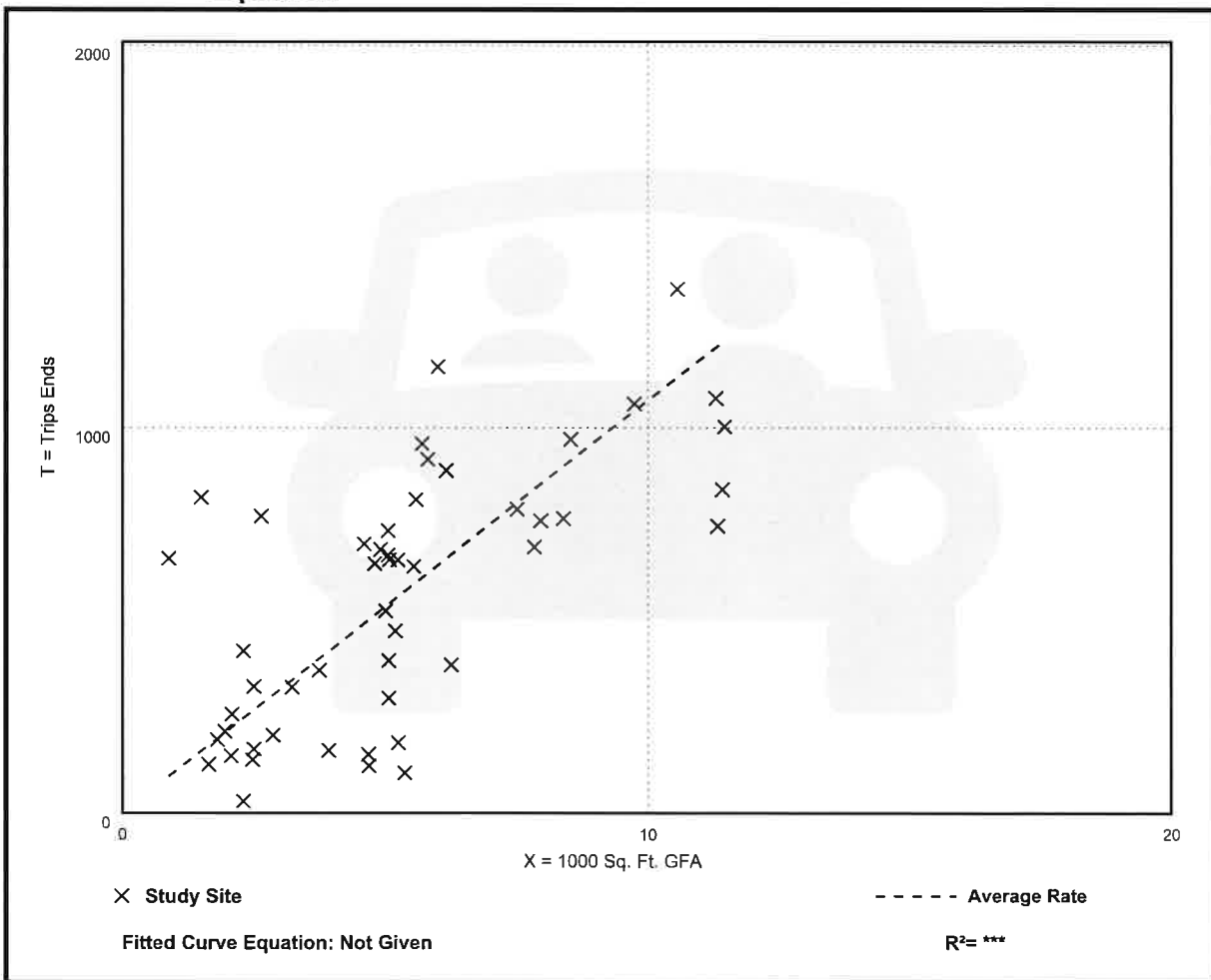
Avg. 1000 Sq. Ft. GFA: 5

Directional Distribution: 50% entering, 50% exiting

## Vehicle Trip Generation per 1000 Sq. Ft. GFA

| Average Rate | Range of Rates | Standard Deviation |
|--------------|----------------|--------------------|
| 107.20       | 13.04 - 742.41 | 66.72              |

## Data Plot and Equation



# High-Turnover (Sit-Down) Restaurant (932)

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: 37

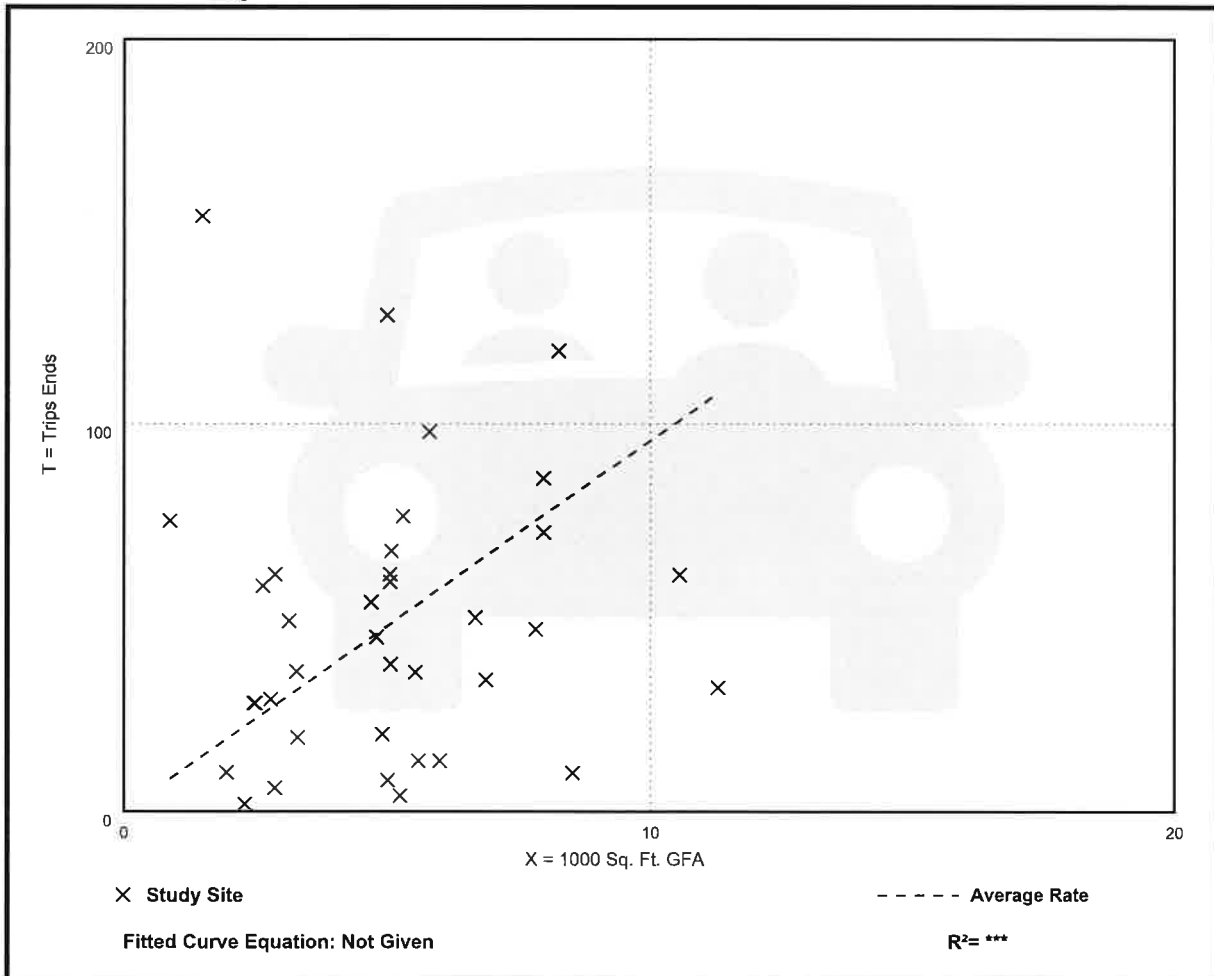
Avg. 1000 Sq. Ft. GFA: 5

Directional Distribution: 55% entering, 45% exiting

## Vehicle Trip Generation per 1000 Sq. Ft. GFA

| Average Rate | Range of Rates | Standard Deviation |
|--------------|----------------|--------------------|
| 9.57         | 0.76 - 102.39  | 11.61              |

## Data Plot and Equation



# High-Turnover (Sit-Down) Restaurant (932)

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: 104

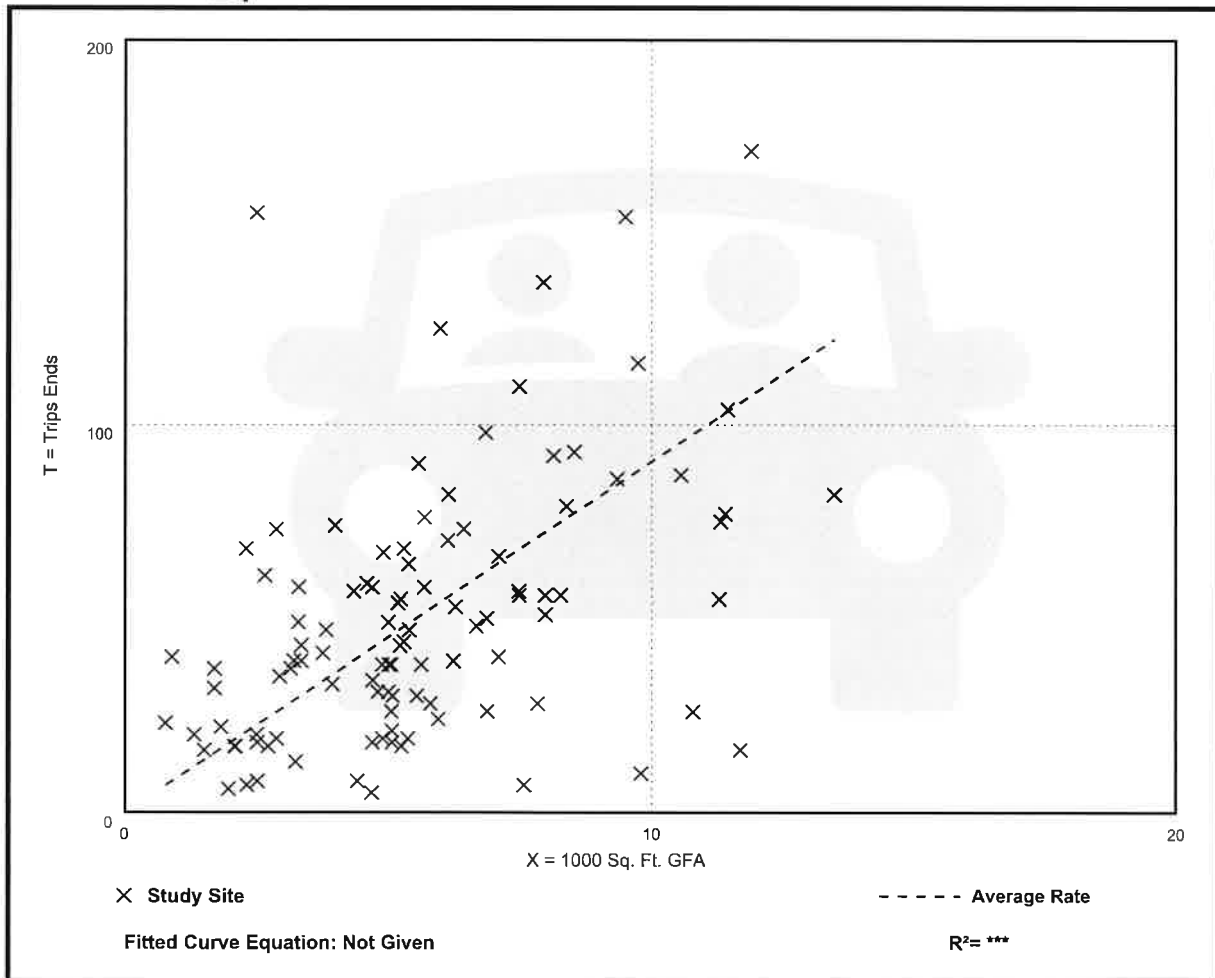
Avg. 1000 Sq. Ft. GFA: 6

Directional Distribution: 61% entering, 39% exiting

## Vehicle Trip Generation per 1000 Sq. Ft. GFA

| Average Rate | Range of Rates | Standard Deviation |
|--------------|----------------|--------------------|
| 9.05         | 0.92 - 62.00   | 6.18               |

## Data Plot and Equation















## MEMORANDUM

**Date:** May 29, 2024

**Re:** **Outrigger CPD: 6200 Estero Blvd, Fort Myers Beach**  
**Status of Conditional Letter of Map Revision (CLOMR) and FDEP CCCL Permitting**

**To:** Project Team (via Chris Smuts, London Bay Development Group and 6200 Estero Blvd Investments LLC & Fred Drovdic, RVI )

**From:** Elizabeth Fountain, P.E., CFM, JR Evans Engineering

---

The purpose of this memorandum is to provide a summary of the ongoing FEMA Flood Zone designations activities for the Outrigger Resort redevelopment property. The property owner and applicant, 6200 Estero Blvd Investments LLC, submitted CPD (Commercial Planned Development) rezoning application 20240067 to FMB. The intended public benefits of the project include public amenities and uses landward of the 1978 Lee County CCCL/CCSL, such as restroom and sand washing facilities near the beach, and enhanced beach access, and seaward of the CCCL/CCSL a chickee or tiki style "Outrigger Beach Bar". Although the likelihood of providing these amenities is reasonably high, final approval of these amenities depends on successful permitting processes with FEMA, Florida Department of Environmental Protection (FDEP), Florida Fish and Wildlife Commission (FWC) and the Town of Fort Myers Beach. The summary below provides an overview of those processes and the current status.

Due to the property being located within FEMA Flood Zone VE (High-Hazard Flood Zone), ground-level public restrooms would not be allowed and would therefore need to be elevated structures. To assist with mitigating this aspect, along with reducing the risk of potential flood damage to the overall property, the JR Evans Engineering project team is preparing a Conditional Letter of Map Revision (CLOMR) to include proposed physical improvements within the property that will result in changes to the current mapping of the Zone VE boundary. Based on initial analysis, the team determined that a retaining wall, facilitating as a wave mitigation wall, can be placed along the western boundary of the property just landward of the 1978 CCSL, to effectively lower the subject Zone VE to a Zone AE. The design of the retaining wall is intended to demonstrate that the structure will withstand the anticipated 100-year storm conditions and wave forces and consist of a top elevation sufficient for mitigating wave action to a level below the Zone VE designation. This revision will place the Outrigger CPD property within Zone AE, likely with a base flood elevation of 12.0 FT-NAVD.

The JR Evans Engineering team is finalizing the coastal analysis, mapping and CLOMR package to be submitted to FEMA and the Town of Fort Myers Beach for reference, review, and processing. The CLOMR process with FEMA is projected to take 4-6 months to receive FEMA's formal acceptance of the proposed changes. At that time, the retaining wall improvement project will need to receive local and State (FDEP CCCL) permit approvals for construction. Once the wall improvement project is completed and as-built data is verified, a follow-up As-Built Letter of Map Revision (LOMR) will be submitted to FEMA and the Town of Fort Myers Beach to formalize and



physically revise the flood zone boundaries. Once the property is formally designated as Zone AE, the public restrooms building, with proper dry flood-proofing implemented, is permitted to be below the design flood elevation.

The proposed public “Outrigger Beach Bar” is intended to function as a replacement of the previous pre-storm structure at the Outrigger Beach Resort. The bar is located seaward of the 1978 Lee County CCCL, which is also referred to as CCSL. Please refer to Exhibit A Master Concept Plan for location details. The Project Team conducted a pre-submittal meeting with FDEP representatives to discuss the project and potential for the “beach bar” concept. During the meeting FDEP, it was noted that the proposed structure needed to be located within the same footprint as the previous pre-storm structure and have the same or less floor area as the previous pre-storm structure. Therefore, the current proposed concept for this structure meets the criterion.

It is understood that the beach bar structure and use must obtain a CCCL permit through the State (FDEP) and other aspects of the structure and use, such as provisions for utilities, will need to be reviewed in greater detail with FDEP and FWC (US Fish and Wildlife Commission). It is also understood that per the Town of Fort Myers Beach regulations, the zone located seaward of the 1978 CCCL/CCSL is an Environmentally Critical (EC) zoning district and includes restrictions on uses. Therefore, the Zoning Project team, led by RVI, is pursuing a Special Exception (SE) 20240112 process to obtain the allowance of the replacement structure as a “beach bar.”

I trust this update on the current process for addressing the FEMA flood zone designation for the property and status of coordination with FDEP on the intended CCCL permitting is helpful. Should there be any additional questions concerning these items, please contact our office.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Elizabeth Fountain', is written over a light blue horizontal line.

Elizabeth Fountain, P.E., CFM  
Senior Vice President  
FL License No. 60077



EXHIBIT A  
Master Concept Plan (Enclosed)





**BOARD OF COUNTY COMMISSIONERS**

Kevin Ruane  
*District One*

Cecil L Pendergrass  
*District Two*

Ray Sandelli  
*District Three*

Brian Hamman  
*District Four*

Michael Greenwell  
*District Five*

Dave Harner, II  
*County Manager*

Richard Wm Wesch  
*County Attorney*

Donna Marie Collins  
*County Hearing Examiner*

February 07, 2024

Via E-Mail

Fred Drovdlc, AICP  
RVI Planning and Landscape Architecture  
1514 Broadway, Suite 201  
Fort Myers, FL 33901

**RE: Potable Water and Wastewater Availability  
Outrigger Beach Resort Rezoning – 6200 Estero Boulevard, Fort Myers Beach  
STRAP # 33-46-24-W3-00012.0000**

To whom this may concern:

The subject property is located within Lee County Utilities Future Service Area as depicted on Maps 4A and 4B of the Lee County Comprehensive Land Use Plan. Potable water and sanitary sewer lines are in operation adjacent to the property mentioned above. However, in order to provide service to the subject parcels, developer funded system enhancements such as line extensions may be required.

Your firm has indicated that this project will consist of (1) one commercial unit with an estimated flow demand of approximately 69,000 gallons per day and (46) forty-six multi-family residential units with an estimated flow demand of approximately 9,200 gallons per day. Lee County Utilities presently has sufficient capacity to provide potable water and sanitary sewer service as estimated above.

Availability of potable water and sanitary sewer service is contingent upon final acceptance of the infrastructure to be constructed by the developer. Upon completion and final acceptance of this project, potable water service will be provided through our Green Meadows Water Treatment Plant.

Sanitary sewer service will be provided by our Fort Myers Beach Water Reclamation Facility. The Lee County Utilities' Design Manual requires the project engineer to perform hydraulic computations to determine what impact this project will have on our existing system.

There are no reuse mains in the vicinity of this parcel.

Prior to beginning design work on this project, please meet with LCU Staff to determine the best point of connection and discuss requirements for construction.

This letter should not be construed as a commitment to serve, but only as to the availability of service. Lee County Utilities will commit to serve only upon receipt of all appropriate



P.O. Box 398, Fort Myers, Florida 33902-0398 (239) 533-2111

lee-county.com

AN EQUAL OPPORTUNITY AFFIRMATIVE ACTION EMPLOYER

connection fees, a signed request for service and/or an executed service agreement, and the approval of all State and local regulatory agencies.

Further, this letter of availability of potable water and sanitary sewer service is to be utilized for Zoning only. Individual letters of availability will be required for the purpose of obtaining building permits.

Sincerely,

**LEE COUNTY UTILITIES**

*Ashanti Shahriyar*

Ashanti Shahriyar  
Plan Reviewer  
239-533-8531  
UTILITIES ENGINEERING

## Fred Drovdlc

---

**From:** Heredia, Jacqueline <JacquelineHe@LeeSchools.net>  
**Sent:** Wednesday, April 3, 2024 9:28 AM  
**To:** Fred Drovdlc  
**Subject:** RE: Zoning Letter of Availability - Fort Myers Beach

Good morning

The School District of Lee County has the following comments on this project:

This project is located in Elementary School Proximity Zone "T"

- The District's Student Generation Rate (SGR) for this area for multi-family development is 0.058 at the elementary level.
- The proposed 50 residential units could be expected to produce up to 2.90 elementary school students.
- Elementary School Proximity Zone "E" is currently operating at approximately 19.73% of capacity with about 26 open seats.
- This proposed project will not negatively impact school capacity in the enrollment zone.

This project is located in Middle School Proximity Zone "MM"

- The District's Student Generation Rate (SGR) for this area for multi-family development is 0.028 at the middle school level.
- The proposed 50 residential units could be expected to produce up to 1.40 middle school students.
- Middle School Proximity Zone "BB" is currently operating at approximately 95% of capacity with about 37 open seats.
- This proposed project will not negatively impact school capacity in the enrollment zone.

This project is located in High School Enrollment Zone South, Sub-Zone 2

- The District's Student Generation Rate (SGR) for this area for multi-family development is 0.03 at the high school level.
- The proposed 50 residential units could be expected to produce up to 1.50 high school students.
- South Zone 2 is currently operating at approximately 97% of capacity with about 35 open seats.
- This proposed project will not negatively impact school capacity in the enrollment zone.

### Jacqueline Heredia

#### District Planning Specialist

2855 Colonial Blvd, Fort Myers, FL 33966

o: 239-335-1494

[JacquelineHE@leeschools.net](mailto:JacquelineHE@leeschools.net)

[www.leeschools.net](http://www.leeschools.net)

**THE SCHOOL DISTRICT OF LEE COUNTY**

PERSONAL | PASSIONATE | PROGRESSIVE





April 8, 2024

Fred Drovdic, AICP  
Director of Planning  
RVI Planning + Landscape Architecture  
1514 Broadway, Suite 201 • Fort Myers, FL 33901

RE: **Letter of Potable Water Service Availability**  
**Project Names: Outrigger Beach Resort Rezoning**  
**Project Address: 6200 Estero Boulevard, Fort Myers Beach**  
**Project Strap Number: 33-46-24-W3-00012.0000**  
**Application/Petition Number: DCI20240067**

Dear Fred:

As requested, this letter confirms on behalf of the Town of Fort Myers Beach (Town) availability of potable water service to the project named above and further described below. The subject property is located within the incorporated limits of the Town, and potable water mains are in operation adjacent to the property identified above.

Previous Land Uses:

- 144 Room Hotel x 100 gpd per room = 14,400 gpd
- Restaurant with 450 seats x 40 gpd per seat = 18,000 gpd
- 2,000 SF office x 0.15 gpd per SF = 300 gpd
- Gross Average Daily Demand = 32,700 gpd

Proposed Land Uses:

- 46 Multi-Family Residential Units (Condominium) x 2.5 persons per RU x 110 gpd per person = 12,650 gpd
- 150 Hotel Rooms/Condos x 100 gpd per room = 15,000 gpd
- 9,000 SF of Non-Residential (Restaurant with 1,350 seats) x 40 gpd per seat = 54,000 gpd
- Gross Average Daily Demand = 81,650 gpd
- Net Increase in Average Daily Demand = 48,950 gpd

Existing 10" and 18" water mains run along the southwest side of Estero Blvd respectively. Connection to the 18" water transmission main is prohibited, unless the 10" water distribution main is shown by a recent fire hydrant flow test (conducted within six months of submittal) to be hydraulically inadequate to supply the required fire flow.

Lee County Utilities provides bulk water supply and wastewater treatment services to the Town and must separately confirm capacity to supply potable water to and receive wastewater from the project.

The availability of potable water service is contingent upon the Town's final acceptance of the infrastructure constructed by the developer and conveyance of all portions of the infrastructure constructed within the public right-of-way and any required utility easements to the Town for ownership and maintenance.

This letter shall not be construed as a commitment to serve but only as confirmation of the availability of service. The Town will commit to service only upon receipt of a signed Request for Service and/or Executed Service Agreement, payment of appropriate fees and charges, and the approval of all state and local regulatory agencies having jurisdiction.

Please contact the Utilities office at 239-463-9914 with any questions or concerns.

Respectfully,

Eric Fey

Digitally signed by  
Eric Fey  
Date: 2024.04.29  
18:57:19-04'00'

Eric Fey, PE  
Senior Project Manager

Cc: Mark Ashton, Public Works & Utilities Director; Sarah Propst, Community Development, Planning Manager; Alexis Crespo (RVI)



This instrument was prepared  
without an opinion of title and  
after recording return to:  
Richard Yovanovich, Esq.  
Coleman, Yovanovich & Koester, P.A.  
4001 Tamiami Trail North, Suite 300  
Naples, Florida 34103  
(239) 435-3535

(Space above this line for recording data)

### **PUBLIC PARK AND BEACH ACCESS EASEMENT**

THIS PUBLIC ACCESS EASEMENT (the “**Easement**”) made this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by 6200 Estero Blvd Investments, LLC, a Florida limited liability company(“**Grantor**”), whose address is 2210 Vanderbilt Road, Suite 1300, Naples, Florida 34109, and the Town of Fort Myers Beach, a Florida municipal corporation (“**Grantee**”) whose address is 2525 Estero Blvd., Fort Myers Beach, Florida, 33928, for the use, enjoyment and benefit of the public.

#### **WITNESSETH:**

Whereas, Grantor is the owner of the real property depicted and described on Exhibit “A” attached hereto and incorporated herein by this reference (the “**Grantor Property**”); and

Whereas, pursuant to Ordinance No. \_\_\_\_\_ adopted \_\_\_\_\_, 2024 (the “**Ordinance**”), the real property depicted and described on Exhibit “B” attached hereto and incorporated herein by this reference (the “**Easement Area**”) is required to be dedicated to the public for use as a beach access, linear public park and [insert other uses from approved ordinance] .

Now therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in accordance with the terms and conditions of the Ordinance, Grantor does hereby grant to Grantee, and dedicate for the use of the public, a perpetual non-exclusive easement over the Easement Area for beach access, linear public park, and [insert other uses from approved ordinance] (the “Easement Area Improvements”) subject to the following:

1. The Grantor, its successors and/or assigns, retain the right to use the Easement Area for any purpose which does not unreasonably interfere with the intended purpose of the Easement, including, without limitation, temporary construction access and staging, pedestrian and vehicular access to and from and within the Grantor Property, pathways, signage, art, benches, utilities, drainage, water management, setback areas, lot coverage calculations, density calculations, open space, landscaping for the benefit of the Grantor Property, the right to temporarily suspend access or use of the Easement Area (or any portion thereof) during periods of construction or maintenance; the right to grant other easements on a non-exclusive basis to third parties, including but not limited to utility companies; and subject the Easement Area to rules and regulations, declarations, covenants, permits, approvals, plats and/or jurisdiction of any condominium, homeowners, master and/or community associations applicable to all or any portion of the Grantor Property.

2. The Grantor shall design, permit, and construct the Easement Area Improvements at its sole expense, and in its sole discretion, subject to the Ordinance and any governmental permitting requirements. The completion of construction of the Easement Area Improvements shall be a condition precedent to Grantor obtaining a certificate of occupancy for the last building to be constructed on the Grantor Property, and the Grantee shall cooperate with Grantor in this undertaking. Construction will be in accordance with local, state, and federal laws and permits.
3. Grantor, or its designee or assignee, shall be responsible for maintenance of the Easement Area Improvements to a standard which equals or exceeds the prevailing level of maintenance of Town of Fort Myers Beach parks and parkways operated by the Town of Fort Myers Beach. Grantor shall be released from its maintenance obligations upon its assignment of those obligations to a successor in title and/or to any condominium, homeowners, master, or community association established to administer all or any portion of the Grantor Property.
4. Grantor warrants that: (i) it is the fee simple title owner of the Easement Area; (ii) the Easement Area is free and clear of liens and encumbrances excepting easements, restrictions and reservations of record; and (iii) Grantor has good right and lawful authority to convey the easements established hereby.
5. To the maximum extent permitted by law, Grantee shall indemnify and hold Grantor harmless from and against all claims, liabilities and expenses (including reasonable attorneys' fees) relating to accidents, injuries, loss, or damage of or to any person or property arising from the negligent, intentional or willful acts or omissions of Grantee, its contractors, employees, agents, or others acting on behalf of Grantee, or arising out of or relating to the use of the Easement Area by Grantee, its contractors, employees, agents, or others acting on behalf of Grantee.
6. This Public Park and Beach Access Easement shall be construed and enforced in accordance with the laws of the State of Florida, exclusive of choice of law rules. Venue for any legal action arising out of this Public Park and Beach Access Easement shall lie exclusively in the state courts of Lee County, Florida
7. The foregoing covenants, terms and conditions shall attach to and run with the land and shall be binding on the parties' successors, heirs and assigns.

**GRANTOR:**

6200 ESTERO Blvd Investement, LLC  
a Florida Limited Liability Company

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Printed Name

By \_\_\_\_\_  
Print Name \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Printed Name

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I hereby certify that the foregoing instrument was acknowledged and executed before me by \_\_\_\_ means of physical presence or \_\_\_\_ online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_, Manager of 6200 Estero Blvd Investment, LLC, a Florida Limited Liability Company. He is [ ] personally known to me, or [ ] has produced \_\_\_\_\_ as identification.

[Notary Seal]

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**EXHIBIT A**

GRANTOR PROPERTY

DRAFT

**EXHIBIT B**

EASEMENT AREA

DRAFT



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

Yellow Sheet Number: **2024-204**

**1. Request:**

**Meeting Date: August 23, 2024**

Resolution 24-161: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240112 TO ALLOW EXPANSION OF CONSUMPTION ON PREMISES IN THE ENVIRONMENTALLY CRITICAL ZONING DISTRICT AS PER LDC SECTION 34-1264. (G)(1). FOR PROPERTY LOCATED AT 6200 ESTERO BOULEVARD; PROVIDING SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Resolution 24-162: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240112 TO ALLOW RECONSTRUCTION OF A MAJOR ACCESSORY STRUCTURE IN THE EC ZONING DISTRICT PER SECTION 6-366, FOR PROPERTY LOCATED AT 6200 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

**Why the action is necessary:**

The LPA hears special exceptions and recommends action to the Town Council.

**What the action accomplishes:**

The LPA will assist the Town Council in determining if it is appropriate to expand the COP into the EC and construct a tiki structure in the EC.

**2. Agenda:**

PUBLIC HEARINGS

**3. Requirement/Purpose:**

Resolution

---

**5. Background:**

6200 Estero Blvd or London Bay Outrigger, is requesting a special exception to reconstruct the Pre-Ian activity building per Sec. 6-366 and another special exception to allow expansion of consumption on premises in the EC zoning as per Sec. 34-1264. (g)(1). The property is in the EC zoning district. Before Ian the upland property supported a commercial resort with accessory commercial uses in the CPD zoning district and an activity building of approximately 800 square feet (including walkways around it) in the EC zoning district. A chickee hut also existed in the CPD zoning district and extended approximately 150 square feet into the EC zoning district. Both structures were destroyed during Hurricane Ian. The Applicant is proposing two special exceptions, 1) to build an 800-square-foot, tiki-style beach bar in the same approximate location and size (including the area of the previously existing walkways) of the pre-Ian activity building in the EC zoning district, and 2) to expand the COP area into the EC zoning district.

**Attachments:**

1. Resolution 24-161 COP in EC
2. Resolution 24-162 SEZ for TIKI in EC NS
3. Staff Report Outrigger SEZ
4. Application Documents
5. MCP-London Bay Outrigger
6. 1985 LIQUOR LICENSE-OUTRIGGER\_BEACH\_RESORT

**Financial Impact:**

unknown

6. **Alternative Action**

approve or approve with conditions

7. **Staff Recommendations:**

Find that the requests do not meet the special exception criteria and deny the request.

8. **Recommended Approval:**

\_\_\_\_\_  
nancy stuparich, Town Attorney

Date: August 19, 2024

\_\_\_\_\_  
Amy Baker, Town Clerk

Date: August 19, 2024

## **RESOLUTION NUMBER 24-161**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SE20240112 TO ALLOW EXPANSION OF CONSUMPTION ON PREMISES IN THE ENVIRONMENTALLY CRITICAL ZONING DISTRICT AS PER LDC SECTION 34-1264. (G)(1). FOR PROPERTY LOCATED AT 6200 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.**

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

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

**WHEREAS**, Applicant 6200 Estero Blvd Investments LLC is requesting a special exception to allow expansion of consumption on premises in the Environmentally Critical zoning district as per Sec. 34-1264. (g)(1); and

**WHEREAS**, the STRAP number for the subject property is 33-46-24-W3-00012.0000; and

**WHEREAS**, the Property is located in the “Recreation” category of the Future Land Use Map of the Comprehensive Plan; and

**WHEREAS**, the Property is located in the “Environmentally Critical” zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

**WHEREAS**, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on August 23, 2024, and at the hearing the LPA gave full and complete consideration to the request of Applicants, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-88 of the LDC. The LPA found that the request is/ is not consistent with the comprehensive plan and the requirements of the LDC and voted \_\_\_ to \_\_\_ recommending approval/ approval with conditions/ denial of the variance; and

**WHEREAS**, on September 23, 2024 the Town Council held a duly noticed public hearing to fully consider the request of the Applicants, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by Section 34-88 of the LDC; and

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

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

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

Section 2. The Town Council determines the Applicants did/ did not meet their burden of proof that the requested Special Exception does/ does not meet the requirements of the Town Comprehensive Plan and LDC, and approving the Special Exception is/ is not in the best interest of the Town to approve. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicants, Town staff, and interested parties and public, the Town Council **APPROVES/APPROVES WITH CONDITIONS/DENIES** the special exception for the expansion of consumption on premises in the EC zoning as per LDC Section 34-1264. (g)(1).

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

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

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

1. All development must be consistent with the Master Concept Plan (MCP) titled " London Bay Outrigger Commercial Planned Development (CPD) " or "Outrigger MCP" and marked with a revision date of August 27, 2013.
2. The area of expansion of licensed premises in the EC zoning district must be under the same ownership as the principal upland licensed premises (as licensed by the State of Florida Division of Alcoholic Beverages and Tobacco) and the upland licensed premises must be located immediately adjacent to and contiguous with the EC zoning district.

3. Patrons of the permitted establishments may not bring any alcoholic beverages or coolers into the licensed premises in the EC zoning district, nor may they consume any alcohol that has not been purchased from the permitted establishment
4. Alcohol served in the EC zoning district may not be dispensed in glass or aluminum containers of any type.
5. The permit holder shall be responsible for ensuring that the licensed premises in the EC zoning district is free of litter and debris. Refuse containers that meet the requirements of § 34-1264(g)(1) b.4(iv) must be provided.
6. Hours of service and consumption for the area of the licensed premises that is located in the EC zoning district shall be limited to between the hours of 11:00 a.m. and one hour after sunset or 9:00 p.m., whichever is earlier, except for any additional hours that may have been granted by a special events permit.
7. Entertainment within the area of the licensed premises that is located in the EC zoning district may only be accomplished by special exception or special events permit, unless previously granted by special exception.
8. The applicant shall maintain a valid certificate of insurance that covers the area of the licensed premises that is located in the EC zoning district.
9. The maximum area of expansion for the first 100 linear feet (or portion thereof) of property fronting the Gulf shall be 2,500 square feet. An additional ten square feet may be added to the area of expansion for each additional foot of frontage on the Gulf.
10. The property shall comply with all sea turtle protection requirements contained in chapter 14 of the Land Development Code.
11. . Rope and post requirements:
  - (i) The permit holder shall establish dominion and control of the area of expansion in the EC zoning district with rope and post.
  - (ii) Rope and post shall have the same side yard setback as the principal structure in the adjacent upland zoning district. New dune vegetation may be planted on the outer side of the rope and post.
  - (iii) A maximum of one six-foot wide pedestrian access opening is allowed per 100 feet of the rope and post along the side parallel to the waterline.
  - (iv) The permit holder must provide refuse containers at each pedestrian access point onto the beach to ensure that no outside alcoholic beverage containers are brought onto the licensed premises, and that no alcoholic beverage cups are taken off of the licensed premises onto the beach.
  - (v) Each access point in the rope and post to the beach shall contain a sign, at each entrance, stating on both sides, "NO ALCOHOL ALLOWED BEYOND THIS POINT." The sign shall have maximum dimensions of two feet by one foot.



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

13. Failure to comply with any of the above-mentioned conditions of approval for the Special exception will render this approval null and void.

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  | _____ |
| Karen Woodson, Council Member | _____ |
| Scott Safford, Council Member | _____ |

ADOPTED this \_\_\_\_ day of September, 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, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this \_\_\_\_ day of September, 2024.

## **RESOLUTION NUMBER 24-162**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SE20240112 TO ALLOW RECONSTRUCTION OF A MAJOR ACCESSORY STRUCTURE IN THE EC ZONING DISTRICT AS AUTHORIZED BY SECTION 6-366 OF THE TOWN OF FORT MYERS LAND DEVELOPMENT CODE FOR PROPERTY LOCATED AT 6200 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.**

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

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

**WHEREAS**, Applicant 6200 Estero Blvd Investments LLC is requesting a special exception to repair an accessory structure in the EC zoning district per Sec. 6-366 of the Town of Fort Myers Land Development Code; and

**WHEREAS**, the STRAP number for the subject property is 33-46-24-W3-00012.0000; and

**WHEREAS**, the Property is located in the “Recreation” category of the Future Land Use Map of the Comprehensive Plan; and

**WHEREAS**, the Property is located in the “Environmentally Critical” zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

**WHEREAS**, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on August 23, 2024, and at the hearing the LPA gave full and complete consideration to the request of Applicants, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-88 of the LDC. The LPA found that the request is/ is not consistent with the comprehensive plan and the requirements of the LDC and voted \_\_\_ to \_\_\_ recommending approval/ approval with conditions/ denial of the variance; and

**WHEREAS**, on September 23, 2024 the Town Council held a duly noticed public hearing to fully consider the request of the Applicants, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by Section 34-88 of the LDC; and

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

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

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

Section 2. The Town Council determines the Applicants did/ did not meet their burden of proof that the requested Special Exception does/ does not meet the requirements of the Town Comprehensive Plan and LDC, and approving the Special Exception is/ is not in the best interest of the Town to approve. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicants, Town staff, and interested parties and public, the Town Council **APPROVES/APPROVES WITH CONDITIONS/DENIES** the special exception for the to allow reconstruction of a major accessory structure in the EC zoning district per section 6-366.

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

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

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

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

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

1. A new special exception must be applied for each time the structure is repaired.
2. Construction shall not occur during sea turtle nesting season.
3. Any repairs must comply with all relevant local and state floodplain regulations.
4. Repairs may not damage existing dunes or dune vegetation.
5. All development must be consistent with the Master Concept Plan (MCP) titled "London Bay Outrigger Commercial Planned Development (CPD) " or "Outrigger MCP" and marked with a revision date of August 27, 2013.
6. Approval of this special exception does not give the Applicant an undeniable right to permit approval. Development of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
7. Failure to comply with any of the above-mentioned conditions of approval for the Special exception will render this approval null and void.

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  | _____ |
| Karen Woodson, Council Member | _____ |
| Scott Safford, Council Member | _____ |

ADOPTED this \_\_\_\_ day of September, 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, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this \_\_\_\_ day of September, 2024.



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

**TYPE OF CASE:** Special Exception

**CASE NUMBER:** SEZ20240112

**CASE NAME:** Special Exception to allow expansion of consumption on premises in EC zoning and repair of an accessory structure in the EC zoning.

**LPA**

**HEARING DATE:** August 23, 2024 at 9.00 AM

**STAFF**

**RECOMMENDATION:** Denial

**PREPARED/  
SUBMITTED BY:** Sarah Propst, AICP, PMP

**I. APPLICATION SUMMARY**

Applicant/Owner: 6200 Estero Blvd Investments, LLC

Request: Special Exception to allow expansion of consumption on premises in the EC zoning district per Sec. 34-1264. (g) and to allow reconstruction of an accessory structure seaward of the Lee County 1978 Coastal Construction Control Line (CCCL) per Sec. 6-366.

Physical Address: 6200 Estero Blvd

STRAP #: 33-46-24-W3-00012.0000

FLU: Recreational

Zoning: Environmentally Critical (EC)

**Adjacent zoning and land uses:**

North: ENVIRONMENTALLY CRITICAL (EC) AND RESIDENTIAL SINGLE FAMILY (RS), Medium Residential and Recreation Future Land Use (FLU)



South: ENVIRONMENTALLY CRITICAL (EC) AND RESIDENTIAL PLANNED DEVELOPMENT (RPD) Medium Residential FLU

East: COMMERCIAL PLANNED DEVELOPMENT (CPD) AND COMMERCIAL RESORT (CR), Medium Residential FLU

West: ENVIRONMENTALLY CRITICAL (EC), Recreation FLU

## **II. BACKGROUND AND ANALYSIS**

### **Background:**

6200 Estero Blvd Investments, LLC, the applicant, and Fred Drovdlc, AICP, with RVi Planning + Landscape Architecture, agent for 6200 Estero Blvd or London Bay Outrigger, is requesting a special exception to reconstruct the Pre-Ian activity building per Sec. 6-366 and to allow expansion of consumption on premises in the EC zoning as per Sec. 34-1264. (g)(1). The property is in the EC zoning district. Before Ian the upland property supported a commercial resort with accessory commercial uses in the CPD zoning district and an activity building of approximately 800 square feet (including walkways around it) in the EC zoning district. A chickee hut also existed in the CPD zoning district and extended approximately 150 square feet into the EC zoning district. Both structures were destroyed during Hurricane Ian.

The Applicant is proposing to build an 800 square foot tiki-hut style beach bar, similar in location and area (including the area of the previously existing walkways) of the pre-Ian activity center, in the EC zoning district. The Applicant is proposing hours of operation for the COP on the CPD property (not the tiki beach bar) from 7am to 11pm. The applicant is also proposing the tiki beach bar hours and hours of amplified music in outdoor or unenclosed areas from 11:00 a.m. to 10:00 p.m. Amplified music is proposed in enclosed areas or indoors (on the CPD property) between 7:00 a.m. to midnight, and 7:00 am to 2:00 a.m. for private events.

The Applicant is not proposing reconstruction of the 150 square feet of the previous chickee hut that extended from the CPD to the EC zoning district.

### **Analysis:**

6200 Estero Blvd has supported a resort with accessory uses including an activity building in the EC zoning district for decades prior to hurricane Ian. The development was substantially damaged during Hurricane Ian. The previous structures did not meet current flood requirements. The Applicant is proposing two special exceptions, 1) to build an 800-square-foot, tiki-style beach bar in the same approximate location and size (including the area of the previously existing walkways) of the pre-Ian activity building in the EC zoning district, and 2) to expand the COP area into the EC zoning district.

### **Construction in the EC**

The LDC Sec. 6-366 allows repairs to accessory structures in the EC zoning district through approval of a special exception. There was an activity building and surrounding walkways impacting approximately 800 square feet in this location prior to hurricane Ian. However, the previous building was an activities building, not a tiki bar. The use of a tiki bar is more intense than the use of an activities building. Staff does not feel that this request meets the intent of the LDCs special exception process intended to allow the reconstruction of facilities that were destroyed by the hurricane. This is a new development, with opportunity to move the tiki bar landward of the 1978 CCCL.

### **Expansion of Consumption on Premises**

The applicant is requesting an expansion of consumption of premises from the CPD into the EC zoning. As per LDC Section 34-1264. (h)(1), *The term "expansion," as used in this subsection, shall include the enlargement of space for such use and uses incidental thereto...* However, the request is to construct a new tiki-bar in the EC and to allow the area of COP to extend from the 1978 CCCL to 50 feet from the mean high-water line. This area is approximately 5.05 acres in the EC. At the same time a new bar is proposed in the EC zoning district. Per LDC Table 34-2 Consumption on premises is not a use permitted in the EC zoning district by right or by special exception.

The EC district is intended to prevent public harm by precluding the use of land for purposes for which it is unsuited in its natural state, and which injures the rights of others or otherwise adversely affects a defined public interest. Sec. 34-1264(g)(1)b. allows *The area of expansion of a COP licensed premises extending seaward into the EC zoning district, shall be limited to no more than 33 percent of the land area between the landward EC zoning district boundary and the mean high water line (up to a maximum of 100 feet);* and (g)(1)b.(viii) allows *The maximum area of expansion for the first 100 linear feet (or portion thereof) of property fronting the Gulf shall be 2,500 square feet. An additional ten square feet may be added to the area of expansion for each additional foot of frontage on the Gulf.* Both code sections allow 5,000 square feet of expansion into the EC. The applicant is proposing an expansion of 5.05 acres or 219,978 square feet of expansion. The applicant argues that a beach bar existed prior to the activity building and that the previous 4 COP liquor license from 1985 allowed COP on the beach. Staff notes the previous CPD through Lee County does not indicate that COP was allowed on the beach, although as mentioned in the CPD staff report, the MCP is not fully legible.

The applicant is requesting for expansion of COP on the beach; however, it appears that this request is not for expansion of consumption on premises use in the EC zoning district as per LDC Section 34-1264(g) but for a new beach bar use in the EC zoning district and consumption on premises for 5.05 acres of the EC zoning district. As consumption on premises or bar use is not a permitted use in the EC zoning district, staff is recommending denial.

Section 34-1264(g)(1)b.1. lists a set of requirements for expansion of COP in the EC.

1. *Standard conditions of approval. The following requirements shall be applicable to all premises that are approved for COP in the EC zoning district. Violation of any of the following provisions may be grounds for revocation in accordance with [§ 34-1264\(i\)](#):*

- (i) *The area of expansion of licensed premises in the EC zoning district must be under the same ownership as the principal upland licensed premises (as licensed by the State of Florida Division of Alcoholic Beverages and Tobacco) and the upland licensed premises must be located immediately adjacent to and contiguous with the EC zoning district.*
- (ii) *Patrons of the permitted establishments may not bring any alcoholic beverages or coolers into the licensed premises in the EC zoning district, nor may they consume any alcohol that has not been purchased from the permitted establishment.*
- (iii) *(iii) Alcohol served in the EC zoning district may not be dispensed in glass or aluminum containers of any type.*
- (iv) *(iv) The permit holder shall be responsible for ensuring that the licensed premises in the EC zoning district is free of litter and debris. Refuse containers that meet the requirements of § 34-1264(g)(1)b.4(iv) must be provided.*
- (v) *(v) Hours of service and consumption for the area of the licensed premises that is located in the EC zoning district shall be limited to between the hours of 11:00 a.m. and one hour after sunset or 9:00 p.m., whichever is earlier, except for any additional hours that may have been granted by a special events permit. Hours granted by a previously granted special exception shall prevail.*
- (vi) *(vi) Entertainment within the area of the licensed premises that is located in the EC zoning district may only be accomplished by special exception or special events permit, unless previously granted by special exception.*
- (vii) *(vii) Applicant shall maintain a valid certificate of insurance that covers the area of the licensed premises that is located in the EC zoning district.*
- (viii) *(viii) The maximum area of expansion for the first 100 linear feet (or portion thereof) of property fronting the Gulf shall be 2,500 square feet. An additional ten square feet may be added to the area of expansion for each additional foot of frontage on the Gulf.*
- (ix) *(ix) The property shall comply with all sea turtle protection requirements contained in chapter 14 of the Land Development Code.*

2. *All conditions applicable to the upland area, as previously approved, shall likewise apply within the expanded area. In the event of any conflict with conditions for the expanded area of licensed premises in the EC zoning district established herein, the provisions herein shall prevail within the expanded area.*

3. *No additional parking shall be required for the area of expansion in the EC zoning district.*

4. *Rope and post requirements:*

- (x) *The permit holder shall establish dominion and control of the area of expansion in the EC zoning district with rope and post.*

- (xi) (ii) *Rope and post shall have the same side yard setback as the principal structure in the adjacent upland zoning district. New dune vegetation may be planted on the outer side of the rope and post.*
- (xii) (iii) *A maximum of one six-foot wide pedestrian access opening is allowed per 100 feet of the rope and post along the side parallel to the waterline.*
- (xiii) (iv) *The permit holder must provide refuse containers at each pedestrian access point onto the beach to ensure that no outside alcoholic beverage containers are brought onto the licensed premises, and that no alcoholic beverage cups are taken off of the licensed premises onto the beach.*
- (xiv) (v) *Each access point in the rope and post to the beach shall contain a sign, at each entrance, stating on both sides, "NO ALCOHOL ALLOWED BEYOND THIS POINT." The sign shall have maximum dimensions of two feet by one foot.*

**Neighborhood Compatibility:**

Consumption of premises is not a permitted use in EC zoning district and expansion of COP into the EC is strictly limited by the above conditions. Use of the entire 5.05-acre portion of the property in the EC zoning district with a bar open until 11 p.m. is likely to be disruptive to the adjacent residences.

**Findings and Conclusions:**

**Section 6-366(b)(3) Regulations and Considerations for Construction in EC**

LDC Section 6-366 includes additional regulations and considerations for special exception approval of repairs in the EC zoning district:

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

Staff response: The development will be required to meet all local and state floodplain regulations.

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

Staff response: The repairs are proposed landward of the dune and native vegetation will not be impacted.

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

Staff response: Conditions of approval will disallow construction during sea turtle nesting season.

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

Staff response: This will be a condition of the special exception approval.

### Special Exception Findings for Construction in EC

LDC Sec. 34-88 sets forth the required findings and conclusions for the approval of a special exception:

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

Staff response: The previous activity center was destroyed by Hurricane Ian. As per the Town's build back policy, the Applicant may re-build the activity center. The proposed structure is a different structure and use than previously existed in this location. For the reasons mentioned above in the analysis section, staff does not find the request appropriate.

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

Staff response: The request is not consistent with goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.

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

Staff response: The request can meet performance and location standards if approved and conditioned appropriately.

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

Staff response: The request could impact environmentally critical areas. The tiki bar will be landward of the proposed dune, however appropriate turtle lighting and adequate plantings to protect the dune will be necessary. Staff notes that garbage on the beach will be a concern.

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

Staff response: The bar may cause nuisance to nearby residents due to the hours of operation and potential noise.

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

Staff response: The EC zoning district allows only passive, movable structures, no new major structures of any kind are allowed, other than dune walkovers through a special exception. Prior to the recent code change, only repairs to



primary structures were permitted through a special exception. The recent code amendment allows repair of major accessory structures also.

**Special Exception Findings for Expansion of COP in EC Zoning**

LDC Sec. 34-88 sets forth the required findings and conclusions for the approval of a special exception (staff analysis applicable only to the consumption on premises):

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

Staff response: Consumption on premises is not a permitted use in EC zoning district. Expansion of COP can be approved through a special exception. The Applicant argues that the site supported a beach bar prior to the activity building. However, adequate evidence has not been produced.

For the reasons mentioned above in the analysis section, staff does not find the request appropriate.

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

Staff response: The request is not consistent with goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.

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

Staff response: The request meets performance and location standards if approved and conditioned appropriately.

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

Staff response: The request will may impact environmentally critical areas and natural resources. The proposed expansion areas consists of the entire 5.05 acres up to 50 feet from mean high water. This area contains wildlife, dunes, and vegetation which could be damaged by patrons.

- k. 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: An expanded COP area across 5.05 acres of the EC zoned portion of the property could lead to a nuisance with neighboring residences.

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

The requested use for expansion of consumption on premises is not a replacement for the previously existing activity building and cannot be reviewed as an extension of the consumption of premises use in the EC zoning district. The requested use, therefore, does not comply with the zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code.

### **III. RECOMMENDATION**

Staff finds that the special exception for repair of an accessory structure in the EC zoning district is not in compliance with item Sec. 34-88 and does not match the criteria of Sec. 6-366. Staff finds that the request to expand the COP into the EC does not meet the criteria for Therefore, staff recommends **Denial** of SEZ20240112 for expansion of consumption on premises (4COP) or a bar use in the EC zoning as per LDC Section 34-1264. (g)(1).

### **IV. CONDITIONS OF APPROVAL**

If the Town's LPA recommends approval for the rezoning, town's staff recommends the following conditions of approval:

1. Additional repairs to major structures in the EC zoning district will require a new special exception.
2. Construction shall not occur during sea turtle nesting season.
3. No amplified music or entertainment unless within an entirely enclosed building. All activities are subject to the Town's noise ordinance.
4. All development must be consistent with the Master Concept Plan (MCP) titled " London Bay Outrigger Commercial Planned Development (CPD) " or "Outrigger MCP" and marked with a revision date of August 27, 2013.
5. The area of expansion of licensed premises in the EC zoning district must be under the same ownership as the principal upland licensed premises (as licensed by the State of Florida Division of Alcoholic Beverages and Tobacco) and the upland licensed premises must be located immediately adjacent to and contiguous with the EC zoning district.
6. Patrons of the permitted establishments may not bring any alcoholic beverages or coolers into the licensed premises in the EC zoning district, nor may they consume any alcohol that has not been purchased from the permitted establishment

7. Alcohol served in the EC zoning district may not be dispensed in glass or aluminum containers of any type.
8. The permit holder shall be responsible for ensuring that the licensed premises in the EC zoning district is free of litter and debris. Refuse containers that meet the requirements of § 34-1264(g)(1) b.4(iv) must be provided.
9. Hours of service and consumption for the area of the licensed premises that is located in the EC zoning district shall be limited to between the hours of 11:00 a.m. and one hour after sunset or 9:00 p.m., whichever is earlier, except for any additional hours that may have been granted by a special events permit.
10. Entertainment within the area of the licensed premises that is located in the EC zoning district may only be accomplished by special exception or special events permit, unless previously granted by special exception.
11. The applicant shall maintain a valid certificate of insurance that covers the area of the licensed premises that is located in the EC zoning district.
12. The maximum area of expansion for the first 100 linear feet (or portion thereof) of property fronting the Gulf shall be 2,500 square feet. An additional ten square feet may be added to the area of expansion for each additional foot of frontage on the Gulf.
13. The property shall comply with all sea turtle protection requirements contained in chapter 14 of the Land Development Code.
14. . Rope and post requirements:
  - (i) The permit holder shall establish dominion and control of the area of expansion in the EC zoning district with rope and post.
  - (ii) Rope and post shall have the same side yard setback as the principal structure in the adjacent upland zoning district. New dune vegetation may be planted on the outer side of the rope and post.
  - (iii) A maximum of one six-foot wide pedestrian access opening is allowed per 100 feet of the rope and post along the side parallel to the waterline.
  - (iv) The permit holder must provide refuse containers at each pedestrian access point onto the beach to ensure that no outside alcoholic beverage containers are brought onto the licensed premises, and that no alcoholic beverage cups are taken off of the licensed premises onto the beach.
  - (v) Each access point in the rope and post to the beach shall contain a sign, at each entrance, stating on both sides, "NO ALCOHOL ALLOWED BEYOND THIS POINT." The sign shall have maximum dimensions of two feet by one foot.

15. Approval of this special exception does not give the Applicant an undeniable right to permit approval. Development of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
16. Failure to comply with any of the above-mentioned conditions of approval for the Special exception will render this approval null and void.



## 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](mailto:zoningpermits@fmbgov.com). Please do not submit the instructions at the end of the application.

Site Address: 6200 ESTERO BLVD FORT MYERS BEACH FL 33931

STRAP Number: 33-46-24-W3-00012.0000

Applicant: 6200 ESTERO BLVD INVESTMENTS, LLC Phone: (239) 592-1400

Contact Name: Mark Wilson Phone: \_\_\_\_\_

Email: markwilson@londonbay.com Fax: \_\_\_\_\_

Current Zoning District: CPD and EC

Future Land Use Map (FLUM) Category: Mixed Residential (See companion CPA)

FLUM Density Range: 6 du/acre and 1.0 FAR Platted Overlay: ☐ YES ☒ NO

\*Companion CPA submitted to amend FLUM to a Mixed Use District to allow 20 du/acre and 3.3 FAR

### ACTION REQUESTED

### SUPPLEMENTAL FORM REQUIRED

☒ Special Exception

PH-A

☐ Variance

PH-B

☐ Conventional Rezoning

PH-C

☐ Planned Development ☐ Commercial ☐ Residential

PH-D

☐ Master Concept Plan Extension

PH-E

☐ Appeal of Administrative Action

PH-F

☐ Vacation of Platted Right-of-way and Easement

PH-G

☐ Other – cite LDC Section: \_\_\_\_\_

attach on separate sheet

### PART I – General Information

A. Applicant\*: 6200 ESTERO BLVD INVESTMENTS, LLC Phone: \_\_\_\_\_

*\*Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.*

*Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

Applicant Mailing Address: 275 Estero Boulevard, Fort Myers Beach, FL 33901

Email: markwilson@londonbay.com Fax: \_\_\_\_\_

Contact Name: Mark Wilson Phone: (239) 592-1400





## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- |                                                                                                                        |                                           |                                              |
|------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|----------------------------------------------|
| <input checked="" type="checkbox"/> Owner*                                                                             | <input type="checkbox"/> Land Trust*      | <input type="checkbox"/> Partnership*        |
| <input checked="" type="checkbox"/> Corporation*                                                                       | <input type="checkbox"/> Association*     | <input type="checkbox"/> Condominium*        |
| <input type="checkbox"/> Subdivision*                                                                                  | <input type="checkbox"/> Timeshare Condo* | <input type="checkbox"/> Contract Purchaser* |
| <input checked="" type="checkbox"/> Authorized Representative* <input type="checkbox"/> Other* (please indicate) _____ |                                           |                                              |

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

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

Name: Fred Drovdlc, AICP, RVI Planning + Landscape Architecture Phone: (239) 318-6707  
Address: 1514 Broadway, Suite 201, Fort Myers, FL 33901  
Email: fdrovdlc@rviplanning.com Fax: \_\_\_\_\_

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

Name: Richard Yovanovich, Esq., Coleman, Yovanovich & Koester Phone: (239)435-3535  
Address: 4001 Tamiami Trail N., Suite 300 Naples, FL 34103  
Email: ryovanovich@cyklawfirm.com Fax: \_\_\_\_\_

Name: Ted Treesh, TR Transportation Consultants, Inc. Phone: (239)278-3090  
Address: 2726 Oak Ridge Court, Suite 503, Fort Myers, FL 33901  
Email: TBT@trtrans.net Fax: (239)278-1906

### PART II – Nature of Request

Requested Action (each request requires a separate application)

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



## 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: NA Description: \_\_\_\_\_

Code Section: NA Description: \_\_\_\_\_

Code Section: NA Description: \_\_\_\_\_

### PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: NA Phone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Email: \_\_\_\_\_ Fax: \_\_\_\_\_

### AFFIDAVIT

#### APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

**STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_**

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

presence OR \_\_\_\_ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by

\_\_\_\_\_, ☐ who is personally known to me OR ☐ who has produced

\_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
Notary Public Signature

### PART V

#### Property Ownership (Multiple Owners)

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

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

#### DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

6200 ESTERO BLVD INVESTMENTS, LLC

Stephen Wilson, Mark Wilson, Lisa Van Dien

100%

2210 VANDERBILT BEACH RD NAPLES, FL 34109

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

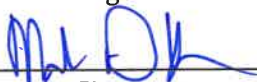
Date of Contract: 2/8/24

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.

|                                                                                                |                                    |
|------------------------------------------------------------------------------------------------|------------------------------------|
| <br>Signature | <u>Mark Wilson</u><br>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, Mark Wilson (name), as Managing Member (title)  
of 6200 ESTERO BLVD INVESTMENTS, 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

6200 ESTERO BLVD INVESTMENTS, LLC

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

Mark Wilson  
Signature

Mark Wilson

Typed or Printed Name

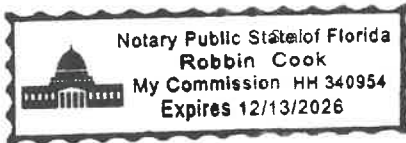
Managing Member  
Title

2/8/24  
Date

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 8 day of February, 2024, by Mark D. Wilson, ☒ who is personally known to me OR ☐ who has produced \_\_\_\_\_ as identification.



[Signature]  
Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 33-46-24-W3-00012.0000

Property Address: 6200 ESTERO BLVD FORT MYERS BEACH FL 33931

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

☐ Yes. Property identified in subdivision: \_\_\_\_\_

Book: \_\_\_\_\_ Page: \_\_\_\_\_ Unit: \_\_\_\_\_ Block: \_\_\_\_\_ Lot(s): \_\_\_\_\_

B. Boundary Survey:

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



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 351.5 feet  
Depth (please provide an average width if irregular in shape) 441 feet  
Frontage on street: 353 (Estero Blvd) feet. Frontage on waterbody: 350 feet  
Total land area: ±9 ☒ acres ☐ square feet

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

From Big Carlos Pass Bridge go north on Estero Boulevard 2+/- miles. Outrigger  
Beach Resort is located on the west side of Estero Boulevard.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

### EXPLANATORY NOTES

**Please do not print, copy and submit these instructions**

Please submit required applications, supplemental information, exhibits and documents to [zoningpermits@fmbgov.com](mailto: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.





## LONDON BAY OUTRIGGER SPECIAL EXCEPTION

### EXHIBIT 6-5 Request Narrative

#### I. Request

6200 Estero Blvd Investments, LLC ("Applicant"), is requesting a Special Exception to allow for an accessory use seaward of the Lee County 1978 Coastal Construction Control Line (CCCL)<sup>1</sup>. This Special Exception is to allow a contributing public amenity, in association with the London Bay Outrigger Commercial Planned Development (CPD). The intent is to buildback the historical Outrigger Beach Bar, which was destroyed several decades prior, in an area of the property most recently occupied by a fully enclosed beach activities building.

The companion CPD is 3.55+/- acres of the overall 9.00+/- acre parcel and includes the area landward of the 1978 CCCL/CCSL. The Special Exception is applicable to the 5.45+/- acres of the parcel seaward of the 1878 CCCL/CCSL ("Special Exception Parcel").

#### II. Property Information & Condition

The property is generally located two (2) miles north of Big Carlos Pass Bridge and three and a half (3.5) miles south of Time Square. The property is on the Gulf side of Estero Boulevard from Driftwood Lane and Bahia Via at 6200 Estero Boulevard.

The Special Exception parcel's future land use designation is Recreation and is zoned Environmental Conservation (EC). The property landward of the 1978 CCCL/CCSL is subject to the London Bay Commercial Planned Development (DCI20240061) and Comprehensive Plan Amendment (DCI20240067).

#### III. Surrounding Land Uses

The Special Exception Parcel is surrounded primarily by residential uses and undeveloped beach area. The north portion of the property abuts three (3) single family homes and a five (5) story multi-family building known as Coquina Condominiums. The south portion of the property abuts a short-term vacation rental known as Carousel Inn, which was also significantly damaged due to Hurricane Ian and is being developed into a multifamily condominium known as Gulfside Twelve. Table 1 below provides an inventory of the immediately adjacent Future Land Use categories, Zoning districts, and existing land uses for the Special Exception Parcel.

**Table 1: Surrounding Lands**

| FUTURE LAND USE |                   | ZONING DISTRICT                                                  | EXISTING LAND USE                                |
|-----------------|-------------------|------------------------------------------------------------------|--------------------------------------------------|
| <b>NORTH</b>    | Mixed Residential | Residential Multi-Family (RM) / Residential Single-Family (RS)   | Condominiums (Coquina)/ Single Family Homes      |
| <b>SOUTH</b>    | Mixed Residential | Residential Planned Development (RPD)                            | Former Carousel Inn (Redeveloped as Gulfside 12) |
| <b>EAST</b>     | Boulevard         | Commercial Boulevard (CB) / Commercial Planned Development (CPD) | Office/ Convenience store                        |
| <b>WEST</b>     | Recreation        | Environmentally Critical (EC)                                    | Beach/Gulf of Mexico                             |

<sup>1</sup> Also referred to as the Coastal Construction Setback Line (CCSL) on the survey and in common practice.

## IV. Proposed Development

The proposed CPD will allow for a flagship development that will be an anchor of activity for the south end of Estero Island. The development will offer a mix of hotel, hotel-condo, multifamily, and resort-oriented commercial retail uses, which will complement the surrounding development pattern and provide goods, services, and significant public amenities such as a new beach access and park, public restaurant and passive recreative and an activated beach area that includes a rebuild of the former Outrigger Beach Bar.

As part of the public amenities for the proposed London Bay Outrigger resort, several publicly accessible areas are being proposed. A component of the proposed public enhancements is the rebuild of the historical Outrigger Beach Bar at a new location at the end of the beach access and linear park. The Outrigger Beach Bar was an iconic structure and popular local gathering place for residents and visitors to the south end of the island, where few public entertainment venues exist.

### **Former Structures**

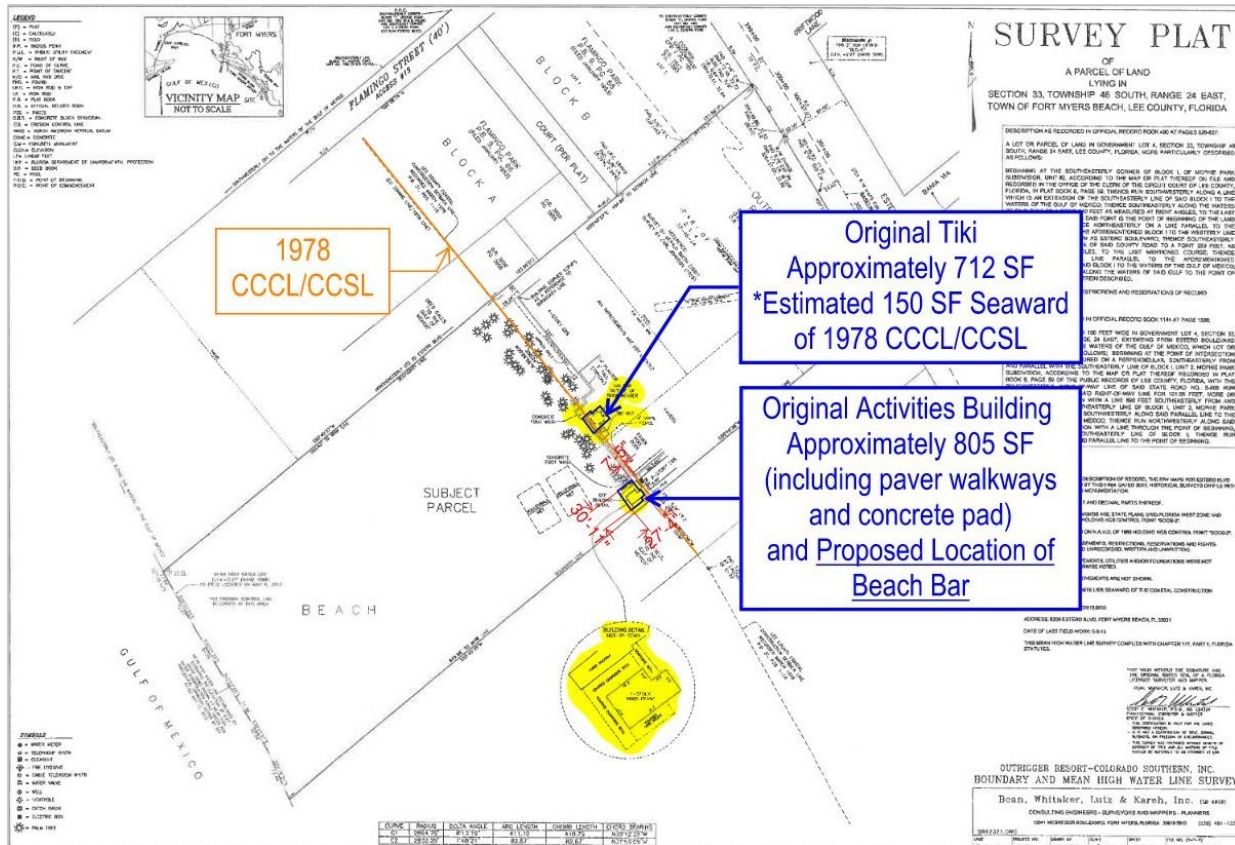
There are two buildings that were seaward of the 1978 CCCL/CCSL affecting 950 square feet of area: 1) the Outrigger Resort Beach Bar and 2) an Activities Building. The applicant is proposing an 800 square foot Outrigger Beach Bar in the location of the activities building. The applicant is not proposing an increase to the building/development area seaward of the 1978 CCCL/CCSL, but a 150 square foot reduction in total impacted area as detailed below as detailed below.

*Building 1*, the tiki style Outrigger Resort Beach Bar that existed prior to lan, was located central to the property. According to a survey completed in 2013 and included in this submittal, the bar was approximately 725 square feet under the tiki roof structure and a portion of the structure appears to be over the 1978 CCCL/CCSL. We are estimating that 150 square feet was seaward of the 1978 CCCL/CCSL.

The former “tiki bar” impacted land seaward of the 1978 CCCL/CCSL with plumbing & electrical services to the “tiki bar”. In 2000 & 2001 Lee County permits show 100AMP electrical service to the “tiki bar” & new waste pump and 3” PVD waste line seaward of the “tiki bar”. Details below:

1. 8/31/2000; demo existing slab, new plumbing drain lines, new slab 120 sf and knee wall
2. 11/2/2001; reroof & extend roof by 4’

*Building 2*, the activities building that existed prior to lan, was located in the southwestern corner of the property from 5-7.5 feet seaward of the 1978 CCCL/CCSL. The structure was approximately 805 square feet according to a survey completed in 2013. The area included in this measurement was the wooden structure and surrounding paver walkways, concrete pad and decking surrounding the building. The wooden structure had utility services such as a water connection and electric service.



## The new Outrigger Beach Bar

The new Outrigger Beach Bar structure will be limited to 800 square feet equal to the disturbed area of the former activities building that was seaward of the 1978 CCCL/CCSL.

The tiki style beach bar will be a focal point at the end of the new beach access and linear park in the location of the former activities building, as shown in the survey markup above. The beach access and beach bar, and additional restaurants, bars and event spaces in the resort, will be open to the general public and the residents and guests of the resort.

As shown on the Master Concept Plan and through the visual exhibits, the tiki-hut style beach bar will pay homage to the pre-Hurricane Ian Outrigger Resort with modern design elements that meet current code for structures in the EC district, while minimizing and mitigating any impact to the sensitive coastal area of the project as follows:

- Strengthening Dunes with additional sand fill/mounding: Essentially expanding the dune system to provide enhanced protection for the property and tiki structure.
- Reinforcing Dunes with additional plantings of coastal, native plants and shrubs: This will also bolster the stability of the dune system, increasing shoreline resilience.

If the dune enhancements are designed to "guide" marine sea turtles to suitable nesting areas along the dune system, it would be advantageous. The plan can be tailored to minimize the risk of marine sea turtles venturing near the tiki structure site with potentially using vegetated areas as buffers.

## **The Request for Consumption on Premises**

As previously stated, the historic use of the COP by the Outrigger Beach Resort was for service over the entire property, including service in the EC District to mean high water, which was 5.45 acres. The request is to establish the same COP area that previously existed with consideration of the 50-foot public right of passage from mean high water, per LDC §34-1264(g)(1)b. The extent of the proposed COP is between 605 feet and 652 feet seaward into the EC district across the width of the property, which is 350 feet. The total requested COP area in the EC is 5.05 acres. The special exception site plan shows the extent of the COP in the EC District with a 50-foot setback from mean high water for public right of passage.

The defined area of a COP in the EC district per LDC §34-1264(g)(1)b. is limited when compared to the historic extent of COP service enjoyed by the former resort. The current code provides this definition: "The area of a COP licensed premises extending seaward into the EC zoning district, shall be limited to no more than 33 percent of the land area between the landward EC zoning district boundary and the mean high water line (up to a maximum of 100 feet)...and provided further that at least 50 feet remains for the public's right of passage along the beach." However, the request is to establish what was destroyed by the hurricane and provide service that exceeds the 100 feet maximum as was historically permitted. Additionally, the 100-foot limit in this area does not take into account the significant depth of the beach that is over 700 feet to mean high water.

### **Standard Conditions for Approval**

Per LDC §34-1264(g)(1)b.1. the following requirements shall be applicable to all premises that are approved for COP in the EC zoning district.

- (i) The area of expansion of licensed premises in the EC zoning district must be under the same ownership as the principal upland licensed premises (as licensed by the State of Florida Division of Alcoholic Beverages and Tobacco) and the upland licensed premises must be located immediately adjacent to and contiguous with the EC zoning district.

**APPLICANT: The property is owned by a single entity with the upland licensed premises immediately adjacent to the COP area meeting this criterion.**

- (ii) Patrons of the permitted establishments may not bring any alcoholic beverages or coolers into the licensed premises in the EC zoning district, nor may they consume any alcohol that has not been purchased from the permitted establishment.

**APPLICANT: Understood. It is the intention of the new resort to provide the alcohol in compliance with this criterion and to monitor the COP area for compliance.**

- (iii) Alcohol served in the EC zoning district may not be dispensed in glass or aluminum containers of any type.

**APPLICANT: Understood. It is the intention of the new resort to provide the alcohol in compliance with this criterion.**

- (iv) The permit holder shall be responsible for ensuring that the licensed premises in the EC zoning district is free of litter and debris. Refuse containers that meet the requirements of § 34-1264(g)(1)b.4(iv) must be provided.

**APPLICANT: Understood. It is the intention of the new resort to provide refuse containers serviced by the resort in compliance with this criterion.**

- (v) Hours of service and consumption for the area of the licensed premises that is located in the EC zoning district shall be limited to between the hours of 11:00 a.m.

and one hour after sunset or 9:00 p.m., whichever is earlier, except for any additional hours that may have been granted by a special events permit. Hours granted by a previously granted special exception shall prevail.

**APPLICANT:** The hours of operation requested in the special exception and the CPD is for service from 7am to 11pm. The resort will include public restaurants and bars that will provide three full meal services and alcohol service to guest, public and resident. The services will start with breakfast and extend to uses that will continue beyond sunset such as the rooftop bar and the beach bar. The applicant will agree to limits on amplified music as follows:

- **Amplified music in outdoor or unenclosed areas is limited to 11:00 a.m. to 10:00 p.m. Amplified music indoors or within enclosed areas are limited to 7:00 a.m. to midnight, except that private events, such as weddings, may extend the time period to 2:00 a.m.**

- (vi) Entertainment within the area of the licensed premises that is located in the EC zoning district may only be accomplished by special exception or special events permit, unless previously granted by special exception.

**APPLICANT:** The completion of this special exception will formalize the historic COP area according to this criterion.

- (vii) Applicant shall maintain a valid certificate of insurance that covers the area of the licensed premises that is located in the EC zoning district.

**APPLICANT:** Understood.

- (viii) The maximum area of expansion for the first 100 linear feet (or portion thereof) of property fronting the Gulf shall be 2,500 square feet. An additional ten square feet may be added to the area of expansion for each additional foot of frontage on the Gulf.

**APPLICANT:** The extent of the proposed COP is between 605 feet and 652 feet seaward into the EC district across the width of the property, which is 350 feet. The total requested COP area in the EC is 5.05 acres, which is the same historic area enjoyed by the former resort less the public right of passage setback. Adherence to this criterion would allow only 5,000 square feet, a significant reductions from the historic use.

- (ix) The property shall comply with all sea turtle protection requirements contained in chapter 14 of the Land Development Code.

**APPLICANT:** Understood the resort will need to be in full compliance.

## V. Narrative Statement

Below are further explanations on the questions provided within the application for this Special Exception request.

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

**APPLICANT:** After Hurricane Ian, the activities building/structure located seaward of the 1978 Coastal Construction Control Line (CCCL) and the Outrigger “tiki bar” were significantly damaged and razed. The request is to reconstruct a beach bar structure



in the location of the previously existing activities building to provide a beneficial public use as part of the overall redevelopment of Outrigger Beach Resort.

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

***The Special Exception request is consistent with Fort Myers Beach Comprehensive Plan as outlined in the policies below:***

***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 buildback (Objectives 4-D and 4-E) only apply if the current use is maintained.

**APPLICANT:** The proposed request is to reconstruct the once-existing structure seaward of the 1978 CCCL/CCSL. This request is part of the overall redevelopment of London Bay Outrigger Resort and is to provide an amenity that is open to the public and can be utilized by all residents and tourists. Further, the reconstruction of the site provides an economic opportunity for the Town, as the approval for the Special Exception will be an attribute to the resort's commercial component, generating additional tax base.

Historically, this location was an “activities” building used for storage and rental services of beach equipment, and the tiki bar was located to the north, both of which were permitted uses under the ordinance provided. The total disturbed area of both structures was approximately 950 square feet (800 square feet for the activities building and 150 square feet for the tiki bar). The size of the proposed tiki bar that the Applicant is seeking to rebuild in the footprint of the activities building has been reduced to 800 square feet to comply with the previous ordinance and building size.

The rebuilding of the activities building for a repurposed use is supported by LDC Sec. 34-652(e)(3) that allows for the reconstruction or renewal of any part of an existing building for the purpose of its maintenance or to correct damage to existing primary structures, which encroach into the EC district and their customary accessory uses.

Due to the uniqueness of the proposal the applicant understands that this will ultimately be a policy decision by Town Council and will need to receive approval from Florida Department of Environmental Protection (FDEP) and Florida Fish and Wildlife (FWC) to allow the proposed use in this location.

***POLICY 1-B-3*** Identify potential mechanisms to implement and maintain special amenities such as entry features, monuments, or other special landscape projects.

**APPLICANT:** The Special Exception proposes the reconstruction of the site seaward of the 1978 CCCL/CCSL without increasing the previously existing footprint of beach “activities” structure. The beach bar location will be the focal point of the proposed public linear park within the CPD. The linear park landward of the 1978 CCCL/CCSL will include a comfortable walking environment with extensive landscaping and public art. The proposed Special Exception will allow reconstruction of the structure for use by the public, that will be complementary to the public park and will be maintained in perpetuity by the applicant.

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

**APPLICANT:** The Special Exception request will comply or exceed all required standards as outlined in the Town's Land Development Code and other applicable authorities. The development program will be designed and constructed to the current FDEP standards to ensure high-quality development that protects natural resources. A FDEP permit will be required and sought concurrent to the Special Exception process. A FWC permit will also be applied for during this process.

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

**APPLICANT:** The proposed reconstruction of the seaward 1978 CCCL/CCSL structures will be cognizant of environmental and conservation requirements. A FDEP permit will be required and sought concurrent to the Special Exception process. A FWC permit will also be applied for during this process. The development will be designed to the latest South Florida Water Management District (SFWMD) and FDEP protection standards to ensure high-quality development that protects natural resources.

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

**APPLICANT:** The Special Exception request is to reconstruct a complementary structure to the overall proposed London Bay Outrigger Resort. This portion of the development was once the site of the resort's guest services center/activity building. The new beach bar structure will be within the disturbed area of the previous building and associated concrete pad and walkways. It will provide a commercial public benefit with pedestrian access from both Estero Boulevard and the beach.

Prior to Hurricane Ian, the activity building that was seaward of the 1978 CCCL/CCSL did not caused damage or been deemed a hazard or nuisance to surrounding persons or property. It is anticipated that the same standards will be applied or enhanced when reconstructing the new structure. Moreover, the current building codes will be applied including American Disabilities Act (ADA) compliance.

The location is on the boundary opposite of single-family homes abutting the Gulfside 12 multifamily units. The applicant will work with staff to include appropriate conditions of approval relating to hours of operation, outdoor entertainment, setbacks, lighting and building design, etc.

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

**APPLICANT:** The request is to buildback a once existing structure to provide a complementary public use to the overall proposed London Bay Outrigger CPD. The Special Exception request will be in compliance with the Town's required build-

back program and follow the latest Department of Environmental Protection standards when designing and constructing the site.

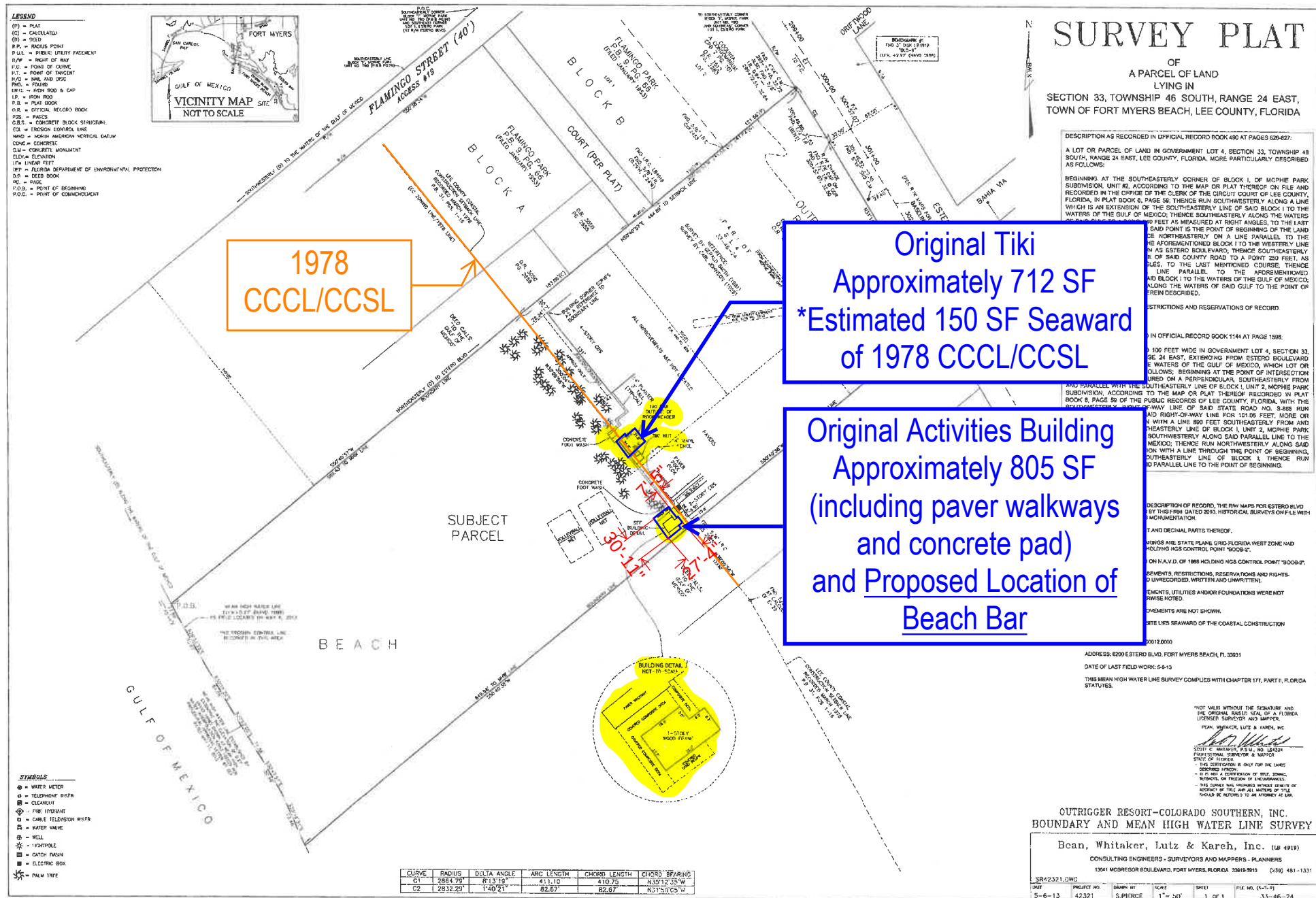
Section 34-1264(g)(1) allows expansion of COP into the EC zoning district, but the EC district does not allow a COP without a facility landward of the 1978 CCCL. However, there are multiple bars and restaurants in the proposed CPD landward of the EC line to meet this requirement and the former Outrigger tiki bar had a portion of the building seaward of the 1978 CCCL/CCSL.

The original liquor license is included in the resubmittal. The license was issued to the Outrigger Beach Resort in 1985. There is a site plan included which appears to encompass the entire property from Estero Boulevard to mean high water at the Gulf of Mexico. The location and mailing address of the license was identified as 6220 Estero Boulevard. The site plan of the liquor license that shows the general bar layout has an address of 6200 Estero Boulevard. It is likely that the mailing address of the original office was 6220 Estero Boulevard, and the property was later combined into an address of 6200 Estero Boulevard, so we posit that the liquor license covers the current property for sales and service of alcoholic beverages.

Based on this documentation, the applicant submits that the existing liquor license and the COP approved under the 1995 CPD zoning for the original Outrigger Beach Resort applied to the entirety of the property. LDC Sec. 34-1264(g)(1) is not applicable, as the request is not an expansion of COP beyond the current approvals.

## **VI. Conclusion**

In conjunction with the companion CPD Rezone and Comprehensive Plan Amendment, the Applicant is requesting approval of a Special Exception that will allow for the build-back of a structure seaward of the 1978 CCCL/CCSL. The uses within this area will be complementary to the resort-oriented development and contribute significantly to the public benefit of Fort Myers Beach. As outlined above, the Special Exception is consistent with the vision and implementing policies of the Town's Comprehensive Plan and Land Development Code. Further, the reconstruction of the post-lan development will improve the aesthetics and pedestrian environment along the Gulf of Mexico within the Town of Fort Myers Beach.





PARCEL ONE

(PART 2)  
A LOT OR PARCEL OF LAND GOVERNMENT LOT 4, SECTION 33, TOWNSHIP 34 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
BEGINNING AT THE SOUTHEASTERLY CORNER OF BLOCK I, OF MCPHIE PARK SUBDIVISION, UNIT #2, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LEE COUNTY, FLORIDA, IN PLAT BOOK 8, PAGE 59; THENCE RUN SOUTHWESTERLY ALONG THE WESTERLY LINE OF SAID BLOCK I, TO THE POINT OF BEGINNING, BEING THE POINT OF BEGINNING OF THE GULF OF MEXICO; THENCE SOUTHEASTERLY ALONG THE WATERS OF SAID GULF TO A POINT 340 FEET AS MEASURED AT RIGHT ANGLES, TO THE LAST MENTIONED COURSE WHICH SAID POINT IS THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED; THENCE NORTHEASTERLY ON A LINE PARALLEL TO THE WESTERLY LINE OF SAID BLOCK I, TO THE POINT OF BEGINNING OF THE WESTERLY LINE OF SAID COUNTRY ROAD, KNOWN AS ESTERO BOULEVARD; THENCE SOUTHEASTERLY ALONG THE WESTERLY LINE OF SAID COUNTRY ROAD TO A POINT 250 FEET, AS MEASURED AT RIGHT ANGLES, TO THE LAST MENTIONED COURSE; THENCE SOUTHWESTERLY ON A LINE PARALLEL TO THE AFOREMENTIONED SOUTHEASTERLY LINE OF SAID BLOCK I, TO THE POINT OF BEGINNING OF THE WESTERLY LINE OF SAID COUNTRY ROAD; THENCE SOUTHWESTERLY TO THE POINT OF BEGINNING OF THE LANDS HEREIN DESCRIBED.

PARCEL TWO

BEGINNING AT THE SOUTH EASTERLY CORNER OF BLOCK "C" OF MCPHIE PARK SUBDIVISION UNIT NO. 2, COMMENCING AT THE PLAT THEREOF RECORDED IN PLAT BOOK # 59, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE SOUTHWESTERLY ALONG THE LINE WHICH IS AN EXTENSION OF THE SOUTHEASTERLY LINE OF SAID BLOCK "T" TO THE WATERS OF THE GULF OF MEXICO; THENCE SOUTHEASTERLY ALONG THE WATERS OF SAID GULF TO A POINT 580 FEET, AS MEASURED AT RIGHT ANGLES TO THE LINE OF SAID GULF, BEING THE POINT OF BEGINNING OF THE PARCEL OF SAID SOUTHEASTERLY LINE OF THE AFOREMENTIONED BLOCK "T" TO THE EASTERLY SIDE OF THE COUNTY ROAD, THE POINT ON THE SAID COUNTY ROAD ON THE EASTERLY SIDE THEREOF BEING IN ACCORDANCE WITH THAT CERTAIN DEED FROM LEONARD SANTINI AND WIFE TO LEE COUNTY, FLORIDA, DATED MARCH 24, 1964, AND RECORDED IN PLAT BOOK # 10, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE SOUTHEASTERLY ALONG THE EASTERLY SIDE OF SAID COUNTY ROAD A DISTANCE OF 50.52 FEET TO THE POINT OF BEGINNING OF THE LAND HEREINAFTER DESCRIBED; THENCE NORTHEASTERLY PARALLEL TO THE SOUTHEASTERLY SIDE OF THE AFOREMENTIONED BLOCK "T" AND ALONG THE NORTHEASTERLY SIDE OF SAID COUNTY ROAD, A DISTANCE OF 120 FEET TO THE SOUTHEASTERLY AT RIGHT ANGLES TO THE LAST MENTIONED COURSE, A DISTANCE OF 120 FEET TO THE WATERS OF A CANAL, THENCE SOUTHWESTERLY AT RIGHT ANGLES TO THE LAST MENTIONED COURSE, AND ALONG THE NORTHWESTERLY SIDE OF SAID CANAL, A DISTANCE OF 37.33 FEET; THENCE SOUTHWESTERLY ALONG THE WESTERLY SIDE OF SAID CANAL, A DISTANCE OF 120 FEET TO THE AFOREMENTIONED COUNTY ROAD, A DISTANCE OF 28.48 FEET; THENCE SOUTHWESTERLY 106 FEET TO A POINT ON THE EASTERLY SIDE OF SAID COUNTY ROAD, SAID POINT BEING 123.12 FEET SOUTHERLY FROM THE POINT OF BEGINNING; THENCE NORTHWESTERLY ALONG THE EASTERLY SIDE OF SAID COUNTY ROAD, A DISTANCE OF 120 FEET TO THE POINT OF BEGINNING, (LOTS 4 & 5, BLOCK 1, SANTINI-CORREIA UNRECORDED SUBDIVISION)

AND BEGINNING AT THE SOUTH-EASTERLY CORNER OF BLOCK "I" OF MCPHIE PARK SUBDIVISION UNIT NO. 2, COMMENCING AT THE POINT THEREOF RECORDED IN PLAT BOOK 8, PAGE 598, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE SOUTHWESTERLY ALONG THE LINE WHICH IS AN EXTENSION OF THE SOUTHEASTERLY LINE OF SAID BLOCK "I" TO THE WATERS OF THE GULF OF MEXICO; THENCE SOUTHEASTERLY ALONG THE WATERS OF SAID GULF TO A POINT 500 FEET, AS MEASURED AT RIGHT ANGLES TO THE LINE OF SAID GULF, TO THE EASTERN BOUNDARY OF SAID BLOCK "I"; THENCE SOUTHEASTERLY LINE OF THE AFOREMENTIONED BLOCK "I" TO THE EASTERLY SIDE OF THE COUNTY ROAD, THE POINT ON THE SAID COUNTY ROAD ON THE EASTERLY SIDE THEREOF BEING IN ACCORDANCE WITH THAT CERTAIN DEED FROM LEONARD SANTINI AND WIFE TO LEE COUNTY, FLORIDA, DATED MARCH 24, 1964, RECORDED IN PLAT BOOK 10, PAGE 100, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE SOUTHEASTERLY ALONG THE EASTERLY SIDE OF SAID COUNTY ROAD A DISTANCE OF 353.64 FEET TO THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED, SAID POINT OF BEGINNING BEING ON THE WESTERLY SIDE OF A DEDICATED STREET, THENCE NORTHEASTERLY AT AN INCLUSIVE ANGLE OF 81°47' ALONG THE WESTERLY SIDE OF SAID DEDICATED STREET A DISTANCE OF 116.18 FEET TO THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED, SAID POINT OF BEGINNING BEING ON THE WESTERLY SIDE OF SAID STREET, THENCE SOUTHWESTERLY A DISTANCE OF 153.39 FEET; THENCE SOUTHWESTERLY A DISTANCE OF 106 FEET TO A POINT ON THE EASTERLY SIDE OF AFOREMENTIONED COUNTY ROAD WHICH IS 180 FEET NORTHWESTERLY OF THE POINT OF BEGINNING; THENCE SOUTHEASTERLY ALONG THE EASTERLY SIDE OF SAID COUNTY ROAD 180 FEET TO THE POINT OF BEGINNING OF THE LESS ROAD RIGHT-OF-WAY, (LOTS 1, 2 AND 3, BLOCK A, SANTINI-CROSS UNRECORDED SUBDIVISION

FIRST AMERICAN TITLE INSURANCE COMPANY  
NO COMMITMENT NUMBER PROVIDED  
EFFECTIVE DATE: 02/15/2023 @ 8:00 AM  
SCHEDULE B SECTION II - EXCEPTIONS

- DECLARATION OF CONDOMINIUM FOR PRIVATE BEACH CLUB, A CONDOMINIUM, RESORT-MODEL, WHICH CONTAINS PROVISIONS FOR AN OUTRIGGER CHARGE OR ASSESSMENTS, AS RECORDED IN BOOK 1677, PAGE 635.
11. EASEMENT GRANTING **AFFECTS, IS BLANKET IN NATURE AND CAN'T BE GRAPHICALLY DEPICTED HEREON.**
12. EASEMENT GRANTING TO FLORIDA POWER & LIGHT COMPANY BY INSTRUMENT RECORDED IN BOOK 1176, PAGE 1650.
13. EASEMENT REMOVED FROM SURVEY, TRANSFORMER AND LINES HAVE BEEN REMOVED.
14. EASEMENT GRANTING TO COMCAST OF THE SOUTH, INC., BY INSTRUMENT RECORDED IN BOOK 4844, PAGE 1050.
15. TOWN OF FORT MYERS BEACH, IS **BLANKET IN NATURE AND CAN'T BE GRAPHICALLY DEPICTED HEREON.**
16. TOWN OF FORT MYERS BEACH, FL ACKNOWLEDGMENT OF FLOOD PLAIN REGULATIONS RECORDED N INSTRUMENT NO. 2011000155916.
17. **- DOCUMENT AFFECT, IS BLANKET IN NATURE AND CAN'T BE GRAPHICALLY DEPICTED HEREON.**
18. **- DOCUMENT AFFECT, IS GRANTING TO TOWN OF FORT MYERS BEACH, FLORIDA MUNICIPAL CORPORATION BY INSTRUMENT RECORDED IN INSTRUMENT NO. 202200034038.**
19. **- EASEMENT AFFECTS PARCEL TWO AND IS SHOWN HEREON.**
20. **- LIVE OAK DOES NOT HAVE A SHOWN TITLE TO ANY PART OF THE LAND LYING BELOW THE MEAN HIGH WATER LINE OF THE ABUTTING BODY OF WATER.**
21. **- THE MEAN HIGH WATER LINE HAS BEEN MAPPED ON PARCEL ONE AND IS SHOWN HEREON.**
22. THE RIGHT, TITLE OR INTEREST, IF ANY, OF THE PUBLIC TO USE AS A PUBLIC BEACH OR RECREATION AREA FOR THE PURPOSE OF OR FOR THE ENJOYMENT OF THE PUBLIC, OF THE BEACH AND THE MOST ISLAND OF ANY OF THE FOLLOWING: (A) THE NATURAL LINE OF VEGETATION; (B) THE MOST EXTREME HIGH WATER MARK; (C) THE BULKHEAD LINE; OR (D) ANY OTHER LINE WHICH HAS BEEN OR WHICH MAY BE IN THE FUTURE LEGALLY ESTABLISHED AS RELATING TO SUCH PUBLIC USE.
23. **- PARCEL ONE, TO BE DETERMINED.**
24. THE COASTAL CONSTRUCTION CONTROL LINE ESTABLISHED PURSUANT TO SECTION 161.052 AND SECTION 161.053, FLORIDA STATUTES, RECORDED IN PLAT BOOK 48, PAGES 15 THROUGH 34 AND 35, MAY BE THEREON FOR THE PURPOSE OF THE EROSION CONTROL LINE REQUIRING THE MOST OF THE MOST STATUTORY RESTRICTIONS AND REQUIREMENTS IMPOSED IN CONNECTION THEREWITH, INCLUDING THE DISCLOSURE AND SURVEY REQUIREMENTS PURSUANT TO SECTION 161.57, FLORIDA STATUTES.
25. **- THE COASTAL CONSTRUCTION CONTROL LINE (CCLL) FOR PARCEL ONE HAS BEEN MAPPED AND SHOWN HEREON.**
26. THE POLICY DOES NOT INSURE TITLE TO ANY PART OF THE LAND DESCRIBED IN SCHEDULE 1A LYING SEAWARD OF THE EROSION CONTROL LINE AS SET FORTH IN RESOLUTION RECORDED IN BOOK 3585, PAGE 1151.
27. **- DOES NOT AFFECT, THE EROSION CONTROL LINE DOES NOT TOUCH THE SUBJECT PROPERTIES.**
28. **- SEGMENT "A" ENDS APPROXIMATELY 140' NORTHWESTERLY OF THE NORTHWESTERLY LINE OF THE SUBJECT PROPERTY, AND APPROXIMATELY 10' SOUTHEASTERLY OF THE SOUTHEASTERLY LINE OF THE SUBJECT PROPERTY AND IS NOT GRAPHICALLY DEPICTED HEREON.**

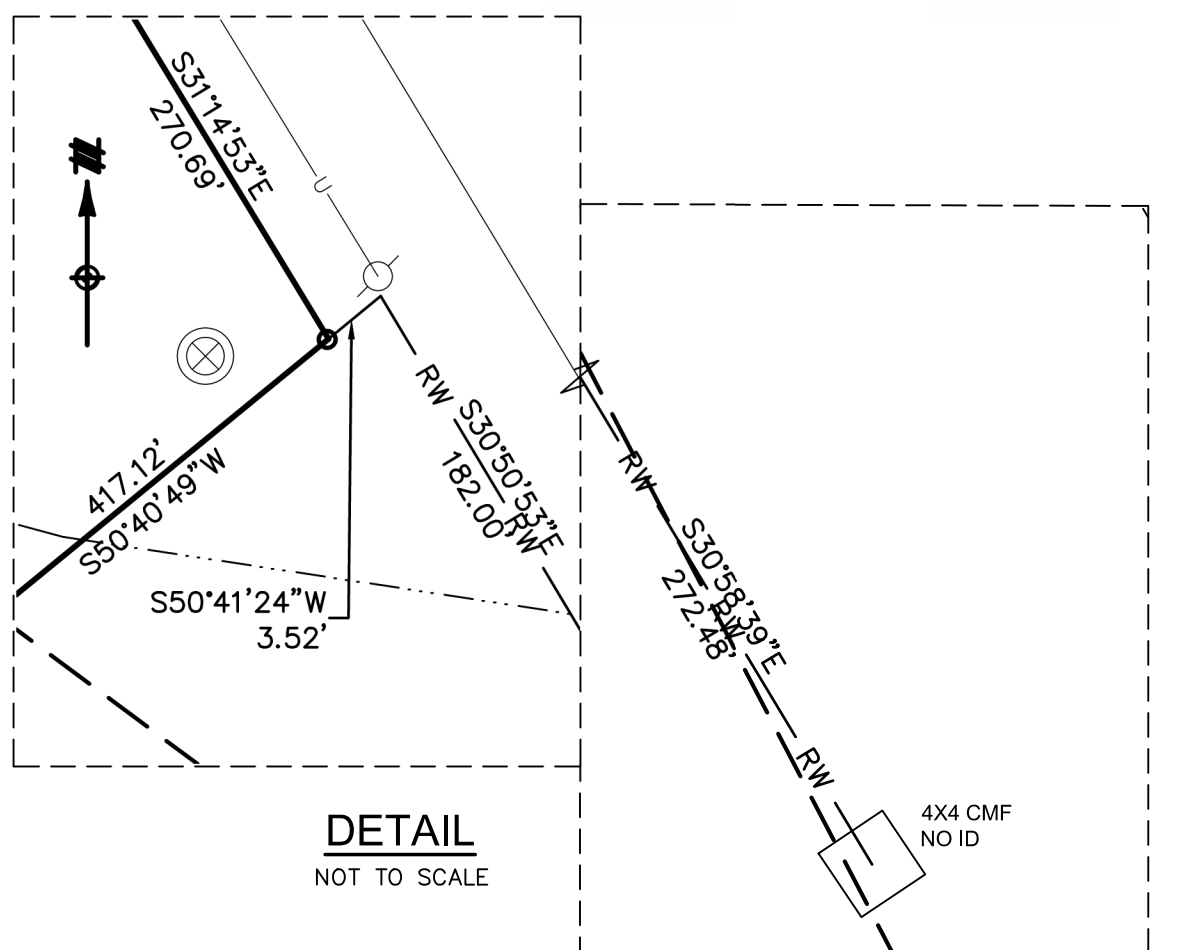
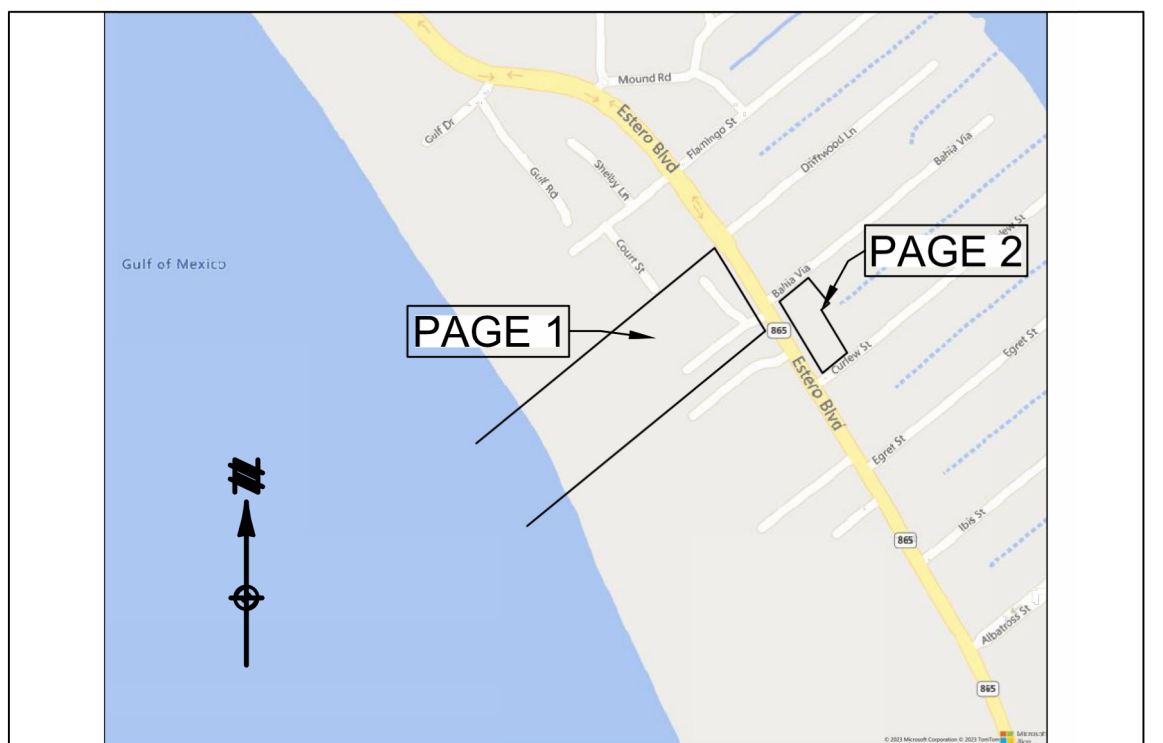
|        |   |                                      |
|--------|---|--------------------------------------|
| BM     | = | BENCHMARK                            |
| BLVD   | = | BOULEVARD                            |
| CB     | = | CATCH BASIN                          |
| CMF    | = | CONCRETE METAL FOUND                 |
| CMP    | = | CORRUGATED METAL PIPE                |
| CONC   | = | CONCRETE                             |
| (D)    | = | DESCRIBED                            |
| DIST   | = | DISTANT                              |
| FDOT   | = | FLORIDA DEPARTMENT OF TRANSPORTATION |
| FFE    | = | FINISHED FLOOR ELEVATION             |
| HYD    | = | HYDRANT                              |
| INV    | = | INVERT                               |
| IRF    | = | IRON ROD FOUND                       |
| IRCF   | = | IRON ROD & CAP FOUND                 |
| (L)    | = | LICENSED BUSINESS                    |
| (M)    | = | MEASURED                             |
| NH     | = | MANHOLE                              |
| NAD    | = | NORTH AMERICAN DATUM                 |
| NVD    | = | NORTH AMERICAN VERTICAL DATUM        |
| NDF    | = | NAIL & DISK FOUND                    |
| ORF    | = | OFFICIAL RECORD BOOK                 |
| P.O.B. | = | POINT OF BEGINNING                   |
| P.O.C. | = | POINT OF COMMENCEMENT                |
| PID    | = | PARCEL IDENTIFICATION NUMBER         |
| P.B.   | = | PLAT BOOK                            |
| PERM   | = | PERMANENT REFERENCE MONUMENT         |
| PVC    | = | POLYVINYL CHLORIDE                   |
| (R)    | = | RECORD                               |
| RCP    | = | REINFORCED CONCRETE PIPE             |
| REG    | = | REGISTERED LAND SURVEYOR             |
| RTK    | = | REAL-TIME KINEMATIC                  |
| R/W    | = | RIGHT-OF-WAY                         |
| STM    | = | STORM                                |
| SQ FT  | = | SQUARE FEET                          |
| VRS    | = | VIRTUAL REFERENCE STATION            |

| LINE TABLE |             |        |
|------------|-------------|--------|
| LINE #     | BEARING     | LENGTH |
| L1         | N33°07'46"W | ±75.4' |
| L2         | N29°32'22"W | ±53.0' |
| L3         | N28°11'50"W | ±53.2' |
| L4         | N34°39'53"W | ±50.2' |
| L5         | N34°18'09"W | ±53.0' |
| L6         | N29°56'01"W | ±68.8' |
| L7         | S50°39'27"W | 37.33' |

| CURVE TABLE |          |          |        |               |             |
|-------------|----------|----------|--------|---------------|-------------|
| LINE #      | RADIUS   | DELTA    | LENGTH | CHORD BEARING | CHORD DIST. |
| C1          | 2832.29' | 1°40'21" | 82.68' | S31°56'13"E   | 82.67'      |

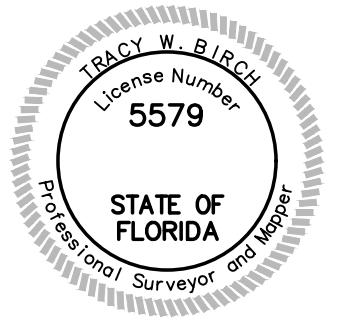
| SYMBOL | DESCRIPTION              | SYMBOL | DESCRIPTION                      | SYMBOL | DESCRIPTION            |
|--------|--------------------------|--------|----------------------------------|--------|------------------------|
|        | ELECTRIC TRANSFORMER     |        | BENCHMARK                        |        | STORM MANHOLE          |
|        | AIR CONDITIONING UNIT    |        | NAIL & DISK FOUND                |        | CONCRETE END SECTION   |
|        | GAS METER                |        | IRON ROD & CAP FOUND             |        | CULVERT                |
|        | GAS VALVE                |        | 5/8" IRON ROD & CAP SET, LB 7832 |        | SANITARY CLEANOUT      |
|        | UTILITY HANDHOLE         |        | CONCRETE MONUMENT FOUND          |        | TRAFFIC SIGNAL         |
|        | CABLE TV RISER           |        | WETLAND FLAG                     |        | TITLE EXCEPTION NUMBER |
|        | WATER HYDRANT            |        | SANITARY MANHOLE                 |        | SPOT ELEVATION         |
|        | WATER METER              |        | BOLLARD                          |        | BUILDING STRUCTURE     |
|        | BACKFLOW PREVENTER       |        | SIGN                             |        | STRUCTURE OVERHANG     |
|        | WATER VALVE              |        | LIGHT POLE                       |        | WOOD DECK              |
|        | WATER WELL               |        | UTILITY POLE                     |        | CONCRETE PAVEMENT      |
|        | IRRIGATION CONTROL VALVE |        | GUY ANCHOR                       |        | ASPHALT PAVEMENT       |
|        | DROP INLET               |        | ELECTRIC METER                   |        | BRICK PAVER            |
|        |                          |        |                                  |        | SUBJECT BOUNDARY LINE  |
|        |                          |        |                                  |        | ADJACENT BOUNDARY LINE |
|        |                          |        |                                  |        | RIGHT OF WAY LINE      |
|        |                          |        |                                  |        | SECTION LINE           |
|        |                          |        |                                  |        | EASEMENT LINE          |
|        |                          |        |                                  |        | EXISTING FENCE         |
|        |                          |        |                                  |        | EDGE OF WATER          |
|        |                          |        |                                  |        | FLOODPLAIN DELINEATION |
|        |                          |        |                                  |        | SANITARY SEWER         |
|        |                          |        |                                  |        | STORM SEWER            |
|        |                          |        |                                  |        | OVERHEAD UTILITY       |
|        |                          |        |                                  |        | UNDERGROUND GAS        |
|        |                          |        |                                  |        | GROUND CONTOUR         |

1. THIS MAP OF BOUNDARY, TOPOGRAPHIC AND TIDAL WATER SURVEY IS NOT VALID UNLESS IT BEARS EITHER THE DIGITAL OR PHYSICAL SIGNATURE AND SEAL OF THE FLORIDA LICENSED SURVEYOR IDENTIFIED BELOW.
2. ELEVATIONS SHOWN HEREON ARE RELATIVE TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD83) AND IS BASED ON THE NGS BENCHMARK AD1567 WITH A PUBLISHED ELEVATION OF 2.90'. THE DATUM BENCHMARKS SHOWN HEREON WERE ESTABLISHED USING A CLOSED LEVEL LOOP UTILIZING THE SLED REFERENCE BENCHMARK, MEETING OR EXCEEDING THE STANDARDS OF PRACTICE.
3. COORDINATE VALUES SHOWN HEREON ARE BASED ON THE NORTH AMERICAN DATUM OF 1983 (NAD83), 2011 ADJUSTMENT, FLORIDA STATE PLANE, WEST ZONE AND IS BASED ON THE "REFERENCE BENCHMARK" STATED HEREON. RIGHT OF WAY WAS ESTABLISHED USING A FOUND CAPPED IRON ROD, LB4915 AND A 4"x4" CONCRETE MONUMENT REFERENCED IN A SURVEY PREPARED BY BEAN, WHITAKER, COMPLETED APRIL 16, 2010, PROJECT NO. 39115.
4. THE LANDS SHOWN HEREON LIE IN ZONE "Ae" & "N" DESCRIBED AS BASE FLOOD ELEVATION OR FLOOD DETERMINED FROM 12 TO 15 FEET AS NOTED ON THE SURVEY, PER THE FLOOD INSURANCE RATE (FIRM) COMMUNITY PANEL NO. 12071C0666 & 12071C0870 FOR FORT MYERS BEACH, EFFECTIVE 11/07/2022. THE LIMITS OF SAID ZONES ARE GRAPHICALLY DEPICTED HEREON AS NEAR AS MAY BE SCALED FROM SAID MAP OR IMPORTED FROM GIS DATA PROVIDED BY FEMA. THE ABOVE STATEMENT IS FOR INFORMATION ONLY AND WE ASSUME NO LIABILITY FOR THE CORRECTNESS OF THE CITY'S MAPS. IN ADDITION, THE ABOVE STATEMENT DOES NOT REPRESENT THE SURVEYOR'S OPINION OF THE PROBABILITY OF FLOODING.
5. THE "LEGAL DESCRIPTION" STATED HEREON WAS PROVIDED IN THE STATED TITLE DOCUMENT.
6. UNLESS OTHERWISE NOTED OR SHOWN HEREON, THERE ARE NO APPARENT AND/OR UNOBSERVED, ABOVE GROUND ENCROACHMENTS. THE DISPOSITION OF ANY POTENTIAL ENCROACHING IMPROVEMENTS SHOWN IS BEYOND PROFESSIONAL PURVIEW AND SUBJECT TO LEGAL INTERPRETATION.
7. NORTH-SOUTH AND EAST-WEST TIES TO RECOVERED MONUMENTATION NEAR VARIOUS LAND BOUNDARY CORNERS SHOWN HEREON ARE TO COORDINATE DIFFERENCE.
8. ATTENTION IS DIRECTED TO THE FACT THAT THIS MAP MAY HAVE BEEN REDUCED IN SIZE BY REPRODUCTION. THIS MUST BE CONSIDERED WHEN OBTAINING SCALED DATA.
9. SYMBOLS DEPICTED HEREON DO NOT REFLECT ACTUAL SIZE, PUBLISHED DIMENSIONS PRECEDE MAP SCALING.
10. THE SURVEYED LANDS MAY BE SUBJECT TO JURISDICTIONAL ENTITIES.
11. WE HAVE EXAMINED THE FURNISHED COMMITMENT TO INSURE TITLE PREPARED BY FIRST AMERICAN TITLE INSURANCE COMPANY, EFFECTIVE DATE: 02/15/2023. THOSE INSTRUMENTS INCLUDING SCHEDULE B, SECTION 2, OF THE COMMITMENT HAVE BEEN EXAMINED AND ARE REFLECTED HEREON TO THE EXTENT THEY AFFECT THE LANDS SURVEYED.
12. THE CLIENT PROVIDED THE FOLLOWING SURVEYS THAT WERE USED IN ASSISTANCE WITH THE PREPARATION OF THIS SURVEY:  
A. "THE BOUNDARY AND MEAN HIGH WATER LINE SURVEY" BY BEAN, WHITAKER, LUTZ, AND KAREH, INC, PROJECT NUMBER: 42321, DATED 05/06/2013.  
B. "THE BOUNDARY SURVEY" BY MORRIS DEWEY, JOB NUMBER 19031, DATED 04/29/2019.
13. THIS TIDAL WATER SURVEY IS APPROVED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND COMPLIES WITH CHAPTER 177, PART II, FLORIDA STATUTES, USING TIDE INTERPOLATION POINT NO. 100229, MEAN HIGH WATER (MHW) ELEVATION OF 0.27', MEAN LOW WATER (MLW) ELEVATION OF -1.62'. APPROVED ON 3/31/2023.
14. THIS SURVEY IS CERTIFIED TO: 6200 ESTERO BLVD INVESTMENTS, LLC, A FLORIDA LIMITED LIABILITY COMPANY; TITLE SERVICES OF THE GULF COAST, LLC; AND FIRST AMERICAN TITLE INSURANCE COMPANY.
15. SITE VISIT ON 01/18/2024 VERIFIES THE ELECTRIC TRANSFORMER AND TRANSMISSION WIRES IN THE FPL EASEMENT (ORB 1176, PG 1650) HAVE BEEN REMOVED.



I HEREBY CERTIFY THAT THIS SURVEY MEETS THE APPLICABLE "STANDARDS OF PRACTICE" AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN RULE 5J-17.050 - .052, FLORIDA ADMINISTRATIVE CODE.

Tracy W Birch  
Tracy W Birch 2024.01.31 07:02:52  
-05'00'



**811**  
Know what's below.  
Call before you dig.

THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES AND SHOWN IN AN APPROPRIATE WAY ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR ITS REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK, AND AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE INCURRED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.

NOTICE:  
CONSTRUCTION SITE SAFETY IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR; NEITHER THE OWNER NOR THE ENGINEER SHALL BE CONSIDERED TO ASSUME ANY RESPONSIBILITY FOR SAFETY OF THE WORK OR PERSONS ENGAGED IN THE WORK, OF ANY NEARBY STRUCTURE, OR OF ANY OTHER PERSONS.

COPYRIGHT © 2024 ATTELL LLC  
NO REPRODUCTION SHALL BE MADE WITHOUT THE WRITTEN CONSENT OF ATTELL LLC.

**ATTELL**  
666.850.4200 [www.attell-group.com](http://www.attell-group.com)  
28100 WILSON DRIVE  
SUITE 300  
BONITA SPRINGS, FL 34135

LOCATED IN  
SECTION 33 & 34, TOWNSHIP 46 SOUTH,  
RANGE 24 EAST  
LEE COUNTY, FLORIDA

FLORIDA SURVEY CERTIFICATE OF AUTHORIZATION # LB 7832

MAP OF BOUNDARY, TOPOGRAPHIC AND TIDAL WATER  
SURVEY FOR  
OUTRIGGER &  
CHARLIE'S BOATHOUSE  
6200 & 6241 ESTERO BLVD.  
TOWN OF PALM BEACH, FLORIDA, 33431  
FOLIO IDS: 10230774 & 10231001

[illegible]





DEPARTMENT OF BUSINESS REGULATION  
DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO  
APPLICATION TRANSMITTAL

ATR

11-935

Business Name: Outrigger Beach Resort  
Applicant: Colorado Southern Inc. ✓  
Location Address: 6220 Estero Blvd. Ft. Myers Beach Lee  
Street Number Municipality County  
License Number: 46-1385 S SERIES: 4 COP  
Date RECEIVED by District: 12/2/85  
Date ASSIGNED to Investigator: 12/2/85

APPLICANT INFORMATION:

| APPLICANT'S NAME   | CURRENT LICENSEE | DATE FINGERPRINTED | DISQUALIFYING RECORD |
|--------------------|------------------|--------------------|----------------------|
| David W. Fagerness |                  | 2/22/85            | no                   |
| Raymond N. Joeckel |                  | 1/23/85            | no                   |
| Malcolm D. Young   |                  | 7/18/85            | no                   |
|                    |                  |                    |                      |
|                    |                  |                    |                      |
|                    |                  |                    |                      |

Date COMPLETED by Investigator: 1-15-86  
RECOMMENDATION: ( ☒ ) APPROVAL ( ) DISAPPROVAL  
INVESTIGATOR'S SIGNATURE: [Signature]  
COMMENTS: \_\_\_\_\_

Date REVIEWED by Supervisor: 1/20/86  
RECOMMENDATION: ( ☒ ) APPROVAL ( ) DISAPPROVAL  
SUPERVISOR'S SIGNATURE: [Signature]  
COMMENTS: \_\_\_\_\_

CENTRAL OFFICE  
(DATE RECEIVED)

RECEIVED  
JAN 23 1986  
DIVISION OF BEVERAGE  
TALLAHASSEE, FLORIDA

DATE INDEXED: \_\_\_\_\_  
DATE COMPLETED: 1-27-86  
FINAL DECISION: ( ☒ ) Approval ( ) Disapproval  
SIGNATURE: [Signature]  
DATE MICROFILMED: \_\_\_\_\_

COMMENTS: \_\_\_\_\_

DEPARTMENT OF BUSINESS REGULATION  
DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO  
LICENSE APPLICATION ANALYSIS

|                                                                                                                                                                                                                                                   | YES | NO |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|
| 1. Is there any indication that applicant(s) or any disclosed interest is under 19 years of age? . . . . .                                                                                                                                        |     | ✓  |
| 2. Is there any indication that applicant(s) or any disclosed interest may be impaired pursuant to 561.14(4) or (5), 561.15, 561.22, 561.24, 561.25, or 210.15, Florida Statutes? . . . . .                                                       |     | ✓  |
| 3. Is there a need to send out of state letters based on the applicant holding or having held or having had an interest in an alcoholic beverage license or cigarette permit in another state? . . . . .                                          |     | ✓  |
| 4. Is there any indication that applicant(s) or any disclosed interest has any pending criminal case, the conviction of which would be disqualifying? . . . . .                                                                                   |     | ✓  |
| 5. Did the applicant(s) or any disclosed interest declare an arrest record on the personal questionnaire which could be disqualifying? . . . . .                                                                                                  |     | ✓  |
| 6. Is there any indication that applicant(s) or any disclosed interest is not legally in the United States? . . . . .                                                                                                                             |     | ✓  |
| 7. Is there any indication that current licensee is no longer qualified to hold the alcoholic beverage license? . . . . .                                                                                                                         |     | ✓  |
| 8. Is there any indication of error(s), omission(s), perjury, misrepresentation(s), false statement(s), conflicting information, or lack of requested information as sworn to on the application or on any of the supporting documents? . . . . . |     | ✓  |
| 9. Is there any indication that the financial documentation does not support the information on the application? . . . . .                                                                                                                        |     | ✓  |
| 10. Is there any indication of anyone not disclosed on the application having an interest in the business? . . . . .                                                                                                                              |     | ✓  |
| 11. Does the type of license applied for require a site inspection? . . . . .                                                                                                                                                                     | ✓   |    |
| 12. Is there any indication the premises or location does not qualify for this type of alcoholic beverage license? . . . . .                                                                                                                      |     | ✓  |
| 13. Do the records at the district office indicate that a license has been revoked at the proposed location? . . . . .                                                                                                                            |     | ✓  |
| 14. Is license on delinquent list? . . . . .                                                                                                                                                                                                      |     | ✓  |
| 15. Is there any administrative action by the Division or any pending litigation which should delay final action? . . . . .                                                                                                                       |     | ✓  |
| 16. Is there any indication the Division needs to correspond with the applicant for further information within 30 days from the receipt of this application pursuant to Chapter 120, the Administrative Procedure Act? . . . . .                  | ✓   |    |
| 17. Is this application for the change of a quota license that has been issued within the last 3 years based on the drawing system? . . . . .                                                                                                     |     | ✓  |

If any question here, on the personal questionnaire or the application (with the exception of Section II, 4., E. through G.) is answered YES, indicate the question number and give a brief narrative as to the final findings. (Attach extra sheets if necessary.)

16. Fourteen day letter given 12/2/85 re: 12/9/85  
17. Site inspection done 1-15-86 by A. Buff

*[Signature]*  
Authorized Signature





DEPARTMENT OF BUSINESS REGULATION  
THE JOHNS BUILDING  
725 SOUTH BRONOUGH STREET  
TALLAHASSEE, FLORIDA 32301

Bob Graham, Governor  
Gary R. Rutledge, Secretary

Howard M. Rasmussen, Director  
Division of Alcoholic  
Beverages and Tobacco

December 2, 1985

Re: Outrigger Beach Resort

Dear Applicant:

We have reviewed your pending application as referenced above. Based on our review we find that additional information is required. Please furnish the following to our office within fourteen days (14) from the date of this letter. Failure to provide the requested information will result in the denial of your application.

A letter from the President, Mr. Fagerness stating that Daniel G. Reinfried and Joan are stockholders only and have no control over the operation of the business.

Also please advise who the treasurer of the corporation is.

If after your review of this letter you have any questions, please feel free to contact this office. You may forward the requested information to:

Kathy Lux  
Div. of Alc. Bev. & Tob.  
2665 Cleveland Ave. Suite 205/07  
P.O. Box 33901

Sincerely,

HOWARD M. RASMUSSEN, DIRECTOR

*Kathy Lux*

By:

DMR/



P.O. Box 271, Branch 1  
6200 Estero Boulevard  
Fort Myers Beach, FL 33931  
(813) 463-3131

December 5, 1985

State of Florida  
Division of Alcohol Beverages and Tobacco  
2665 Cleveland Avenue - Suite 205  
Fort Myers, Florida 33901

Attn: Ms Kathy Lux

Re: Permit #46-13355

Dear Sir or Madam;

In response to your letter of December 2nd please be advised of the following:

1) Ms Joan Fagerness and Mr. Daniel G. Rainfried are minority stockholders of Colorado Southern, Inc. and as such are not in a position to control the activities of the corporation without the consent of other stockholders. Neither of these stockholders is involved in the management or operation of the Outrigger Beach Resort except in their roles as minority stockholders.

2) On reviewing the corporate minutes I am reminded that Mr. Malcolm D. Young is the treasurer of Colorado Southern, Inc. Please indicate this fact either on our application or in your files.

Thank you for your assistance in issuing the COP permit to the Outrigger Resort.

Yours very truly,

Colorado Southern, Inc.

*David W. Fagerness*  
David W. Fagerness, Pres.

**RECEIVED**  
DEPT. OF BUSINESS REGULATIONS

DEC 09 1985

DIVISION OF BEVERAGE  
FORT MYERS, FLORIDA



DEPARTMENT OF BUSINESS REGULATION  
DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO  
PERSONAL QUESTIONNAIRE

PDS

|                                                                  |       |                              |                                 |
|------------------------------------------------------------------|-------|------------------------------|---------------------------------|
| FULL NAME: (Do Not Use Initials)                                 |       | Date of Birth:               | Age:                            |
| David Wayne Fagerness                                            |       | July 15, 1931                | 54                              |
| Place of Birth:                                                  | Race: | Sex:                         | Home Phone Number: 303 722 6097 |
| Worthington, Minnesota                                           | Cauc. | Male                         |                                 |
| Current Residence Address:                                       |       | Business Phone: 813 463 3131 |                                 |
| 916 South Race (Race) Street<br>Denver, Colorado 80209           |       |                              |                                 |
| Are you a citizen of the United States? . . . . . Yes (x) No ( ) |       |                              |                                 |
| If the answer is no, complete the following:                     |       |                              |                                 |
| Have you legally entered this country? . . . . . Yes (x) No ( )  |       |                              |                                 |

|                                        |                                                          |
|----------------------------------------|----------------------------------------------------------|
| Alien Registration Number:             | Country of Origin:                                       |
| TRADE NAME OF BUSINESS TO BE LICENSED: | BUSINESS ADDRESS: (Number, Street, City)                 |
| Outrigger Beach Resort                 | 6220 Estero Boulevard<br>Fort Myers Beach, Florida 33931 |

LIST EMPLOYMENT FOR PAST FIVE YEARS - INCLUDE ANY PERIOD OF UNEMPLOYMENT

| Period |       | JOB TITLE                     | EMPLOYER'S NAME & ADDRESS WITH ZIP CODE<br>INCLUDE SELF EMPLOYMENT |
|--------|-------|-------------------------------|--------------------------------------------------------------------|
| FROM   | TO    |                               |                                                                    |
| 1972   | 1981  | Crude oil marketing manager - | Petro Lewis Corporation<br>Denver, Colorado                        |
| 1981   | 1984  | Personal financial planner -  | Self employed - Denver                                             |
| 1984   | Pres. | Managing partner -            | Outrigger Beach Resort - Fort Myers Beach                          |

|                                                                                                                                                                                                               |     |    |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|
| Have you ever been in this state, any other state, by the United States or by any foreign country:                                                                                                            | YES | NO |
| 1. Arrested, charged or convicted of any violation of the law excluding minor traffic violations? . . . . .                                                                                                   |     | x  |
| 2. Have you in the past or presently, individually or as an officer of a corporation:                                                                                                                         |     |    |
| a. Held, or had an interest in a beverage license or cigarette permit? .                                                                                                                                      |     | x  |
| b. Been denied a beverage license or cigarette permit? . . . . .                                                                                                                                              |     | x  |
| c. Had a beverage license or cigarette permit revoked? . . . . .                                                                                                                                              |     | x  |
| d. Held stock or had any interest in, affiliated or connected with, directly or indirectly any business which manufactures, distributes, imports, exports or sells at retail any alcoholic beverages? . . . . |     | x  |
| 3. Are you an official with state police powers granted by the Florida Legislature? . . . . .                                                                                                                 |     | x  |

If answer to any of these questions is YES, list full particulars which include charge(s), date and place of arrest(s), arresting agencies, whether convicted and give business name(s), city(ies), state(s) and date(s). (Attach extra sheets if necessary.)

RECEIVED

Application for Processing

DEC 02 1985

Div. Alc. Bev. & Tobacco  
Fort Myers, Florida

List the total amount of funds you are investing in the business \$ None

A. Personal Funds: \$ \_\_\_\_\_

How were these personal funds obtained? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. Loans and Mortgages: \$ \_\_\_\_\_

List the name of any person(s), firm(s) or corporation(s) that has or will advance you money for the operation of this business or that holds any mortgage or security agreement against this business to account for the total amount of loans listed:

| FULL NAME                                                                                                                            | ADDRESS | RELATIONSHIP | AMOUNT |
|--------------------------------------------------------------------------------------------------------------------------------------|---------|--------------|--------|
| (This lounge operation will be financed completely with funds generated from the resort which we have owned and operated since 1968) |         |              |        |
|                                                                                                                                      |         |              |        |
|                                                                                                                                      |         |              |        |
|                                                                                                                                      |         |              |        |
|                                                                                                                                      |         |              |        |

(Attach extra sheets if necessary.)

Where will your banking business be conducted?

1. Business: Gulf Coast First National Bank - Fort Myers Beach

Name

Address

Business:

Name

Address

2. Personal: First Interstate Bank - Denver, Colorado

Name

Address

Personal:

Name

Address

The undersigned individual hereby authorizes the Division of Alcoholic Beverages and Tobacco, Department of Business Regulation, State of Florida, to examine and/or copy any and all records including but not limited to personal, financial or criminal data relating to the information contained herein, during normal business hours from this date forward.

"I swear or affirm under penalty of perjury as provided for in 559.791, 562.45, and 837.06 Florida Statutes that the foregoing information is true and correct to the best of my knowledge."

Sworn to and subscribed before me at

David Wayne Paermer  
(Signature of Applicant)

11-19-85  
(Date)

this 20th day of NOVEMBER

19 85

William E. Soak  
Notary Public

My Commission Expires JUNE 17, 1987

**WARNING**

Read carefully, this instrument is a sworn document. False answers could result in criminal prosecution, subject to fine and/or imprisonment and denial of your application.

DEPARTMENT OF BUSINESS REGULATION  
DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO  
PERSONAL QUESTIONNAIRE

|                                                                                     |                   |                                  |                                        |
|-------------------------------------------------------------------------------------|-------------------|----------------------------------|----------------------------------------|
| FULL NAME: (Do Not Use Initials)<br><b>Raymond Neal Joekel</b>                      |                   | Date of Birth:<br><b>12-6-25</b> | Age:<br><b>59</b>                      |
| Place of Birth:<br><b>Presho So Dak.</b>                                            | Race:<br><b>W</b> | Sex:<br><b>M</b>                 | Home Phone Number: <b>303-674-6044</b> |
| Current Residence Address:<br><b>25057 Giant Gulch Rd<br/>Evergreen, Colo 80439</b> |                   |                                  | Business Phone: <b>303-563-0800</b>    |

Are you a citizen of the United States? . . . . . Yes (X) No ( )  
If the answer is no, complete the following:  
Have you legally entered this country? . . . . . Yes ( ) No ( )

|                                                                                         |                                                                                                  |
|-----------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| Alien Registration Number:                                                              | Country of Origin:                                                                               |
| TRADE NAME OF BUSINESS TO BE LICENSED:<br><b>Colorado Southern<br/>(Cottages Motel)</b> | BUSINESS ADDRESS: (Number, Street, City)<br><b>6200 Eastern Blvd, Ft Myers Beach<br/>Florida</b> |

LIST EMPLOYMENT FOR PAST FIVE YEARS - INCLUDE ANY PERIOD OF UNEMPLOYMENT

| Period    |         | JOB TITLE | EMPLOYER'S NAME & ADDRESS WITH ZIP CODE<br>INCLUDE SELF EMPLOYMENT                |
|-----------|---------|-----------|-----------------------------------------------------------------------------------|
| FROM      | TO      |           |                                                                                   |
| Nov. 1940 | Present | President | Eagle Exploration Company<br>Suite 2100<br>1775 Sherman St.<br>Denver, Colo 80203 |
|           |         |           |                                                                                   |
|           |         |           |                                                                                   |
|           |         |           |                                                                                   |
|           |         |           |                                                                                   |

|                                                                                                                                                                                                               |     |    |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|
| Have you ever been in this state, any other state, by the United States or by any foreign country:                                                                                                            | YES | NO |
| 1. Arrested, charged or convicted of any violation of the law excluding minor traffic violations? . . . . .                                                                                                   |     | X  |
| 2. Have you in the past or presently, individually or as an officer of a corporation:                                                                                                                         |     |    |
| a. Held, or had an interest in a beverage license or cigarette permit? .                                                                                                                                      |     | X  |
| b. Been denied a beverage license or cigarette permit? . . . . .                                                                                                                                              |     | X  |
| c. Had a beverage license or cigarette permit revoked? . . . . .                                                                                                                                              |     | X  |
| d. Held stock or had any interest in, affiliated or connected with, directly or indirectly any business which manufactures, distributes, imports, exports or sells at retail any alcoholic beverages? . . . . |     | X  |
| 3. Are you an official with state police powers granted by the Florida Legislature? . . . . .                                                                                                                 |     | X  |

If answer to any of these questions is YES, list full particulars which include charge(s), date and place of arrest(s), arresting agencies, whether convicted and give business name(s), city(ies), state(s) and date(s). (Attach extra sheets if necessary.)

RECEIVED  
Application for Processing

DEC 02 1985

Div. Alc. Bev. & Tobacco  
Fort Myers, Florida

List the total amount of funds you are investing in the business. \$ NA

A. Personal Funds: \$ NA

How were these personal funds obtained? NA

B. Loans and Mortgages: \$ NA

List the name of any person(s), firm(s) or corporation(s) that has or will advance you money for the operation of this business or that holds any mortgage or security agreement against this business to account for the total amount of loans listed:

| FULL NAME | ADDRESS | RELATIONSHIP | AMOUNT |
|-----------|---------|--------------|--------|
| <u>NA</u> |         |              |        |
|           |         |              |        |
|           |         |              |        |
|           |         |              |        |
|           |         |              |        |
|           |         |              |        |

(Attach extra sheets if necessary.)

Where will your banking business be conducted?

1. Business: Gulf Coast National Bank Extaco Blvd Ft. Myers Brook  
Name Address Florida

Business: \_\_\_\_\_  
Name Address

2. Personal: First Federal Savings Bank P.O. Box 17024 TA  
Name Address

Personal: Denver, Colo 80217  
Name Address

The undersigned individual hereby authorizes the Division of Alcoholic Beverages and Tobacco, Department of Business Regulation, State of Florida, to examine and/or copy any and all records including but not limited to personal, financial or criminal data relating to the information contained herein, during normal business hours from this date forward.

"I swear or affirm under penalty of perjury as provided for in 559.791, 562.45, and 837.06 Florida Statutes that the foregoing information is true and correct to the best of my knowledge."

Sworn to and subscribed before me at

Ronald W. Stachel 11-19-85  
(Signature of Applicant) (Date)

this 20th day of NOVEMBER,

19 85.

C. Anthony E. J. J. J.  
Notary Public

My Commission Expires JUNE 17, 1987

**WARNING**  
Read carefully, this instrument is a sworn document. False answers could result in criminal prosecution, subject to fine and/or imprisonment and denial of your application.

DEPARTMENT OF BUSINESS REGULATION  
DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO  
PERSONAL QUESTIONNAIRE

FULL NAME: (Do Not Use Initials) Doyle MALCOLM X. YOUNG, JR. Date of Birth: 7/7/24 Age: 21

Place of Birth: Pittsburgh, Pennsylvania Race: W Sex: M Home Phone Number: 303-861-7284

Current Residence Address: 800 Pearl St., No. 307, Denver, Colo. 80203 Business Phone: as above

Are you a citizen of the United States? . . . . . Yes (X) No ( )  
If the answer is no, complete the following:  
Have you legally entered this country? . . . . . Yes ( ) No ( )

Alien Registration Number: \_\_\_\_\_ Country of Origin: \_\_\_\_\_  
TRADE NAME OF BUSINESS TO BE LICENSED: OUTRIGGER Beach Resort BUSINESS ADDRESS: (Number, Street, City) 6200 Estero Blvd., Ft. Myers Beach, Fla. 33931

LIST EMPLOYMENT FOR PAST FIVE YEARS - INCLUDE ANY PERIOD OF UNEMPLOYMENT

| Period          |    | JOB TITLE                      | EMPLOYER'S NAME & ADDRESS WITH ZIP CODE<br>INCLUDE SELF EMPLOYMENT |
|-----------------|----|--------------------------------|--------------------------------------------------------------------|
| FROM            | TO |                                |                                                                    |
| 1960 to present |    | Consultant Petroleum Geologist | (self-employed)<br>800 Pearl St., No. 307,<br>DENVER, Colo. 80203  |

RECEIVED  
Application for Processing

DEC 02 1985

Have you ever been in this state, any other state, by the United States or by any foreign country: Div. Alc. Bev. & Tobacco Fort Myers, Florida

- |                                                                                                                                                                                                                 | YES | NO |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|
| 1. Arrested, charged or convicted of any violation of the law excluding minor traffic violations? . . . . .                                                                                                     |     | X  |
| 2. Have you in the past or presently, individually or as an officer of a corporation:                                                                                                                           |     |    |
| a. Held, or had an interest in a beverage license or cigarette permit? . . . . .                                                                                                                                | X   |    |
| b. Been denied a beverage license or cigarette permit? . . . . .                                                                                                                                                |     | X  |
| c. Had a beverage license or cigarette permit revoked? . . . . .                                                                                                                                                |     | X  |
| d. Held stock or had any interest in, affiliated or connected with, directly or indirectly any business which manufactures, distributes, imports, exports or sells at retail any alcoholic beverages? . . . . . | X   |    |
| 3. Are you an official with state police powers granted by the Florida Legislature? . . . . .                                                                                                                   |     | X  |

If answer to any of these questions is YES, list full particulars which include charge(s), date and place of arrest(s), arresting agencies, whether convicted and give business name(s), city(ies), state(s) and date(s). (Attach extra sheets if necessary.)

1. As part owner & lessor of Charles Brown's Restaurant, 6225 Estero Blvd., Ft. Myers Beach, Fla. 33931
2. As part owner & lessor of Gulf Shore Restaurant, 1270 Estero Blvd., Ft. Myers Beach, Fla. 33931





STATE OF FLORIDA  
DEPARTMENT OF BUSINESS REGULATION  
DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO  
APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Section I

1. TYPE OF APPLICATION: Check Appropriate Box(es)

- ☒ New ☐ Decrease in Series ☐ Change of Business Name  
☐ New - Temporary ☐ Change in Series ☐ Change of Officers  
☐ Transfer ☐ Change of Location ☐ Correction  
☐ Transfer - Temporary ☐ Change of Location- ☐ Other  
☐ Increase in Series ☐ Temporary

2. Current Business Name:

Colonado Southern Inc./Potomac Beach Resort

Current Location Address:

6230 15th Ave. Fort Myers, Florida FL.

Current License Number:

46-1385

Current Series:

400PS

3. TYPE OF APPLICANT: Check Appropriate Box and List Charter Number, if Applicable

- ☐ Individual ☐ Partnership  
☒ Corporation ☐ Limited Partnership

Charter Number 331406

4. Applicant's Full Name:

Colonado Southern Inc.

Business Name:

Outrigger Beach Resort

Location Address:

6230 15th Ave

Lee

Street Number

City

County

Zip

Mailing Address:

Same

FL

Street Number

City

State

Zip

5. Type of License Desired: (Series 400P.5) If you are an applicant for a special or club alcoholic beverage license the following must also be completed:

The special liquor license is issued pursuant to 561.20 Florida Statutes or Special Acts, and as such we acknowledge the following minimum requirements must be met and maintained:

100 TRANSIENT GUEST ROOMS

6. List below names not listed above for all those connected directly or indirectly in the business for which the license is sought: (This includes Partner(s), Spouse, Director(s), Stockholder(s), Corporate Officer(s), Limited or General Partner(s), Corporation(s), or any form of entity which is connected with this business. Attach extra sheets if necessary).

A. Corporation: NAME INTEREST

1. President: DAVID W. FAGERNESS Stock % 12.5  
Stockholder  
2. Vice President: DANIEL G. REINFRIED Stock % 25.0  
3. Secretary: RAYMOND N. JOECKEL Stock % 25.0  
Stockholder  
4. Treasurer: JOAN E. FAGERNESS Stock % 12.5  
Treasurer  
5. Stockholder: Malcolm D. Young Stock % 25.0

B. Limited Partnership:

1. Limited Partner: \$

2. General Partner: \$

C. Direct Interest: \$

Direct Interest: \$

D. Indirect Interest: \$

Indirect Interest: \$

# SECTION II

## 1. SALES TAX: To be completed by the Department of Revenue.

Certification by Florida Department of Revenue:

Please review the records of your Department for the current status of the aforementioned account. The Division of Alcoholic Beverages, and Tobacco of the Department of Business Regulation needs this information in order to process this application.

Paul H. Seaman  
(Owner or Authorized Signature)

This is to certify that this account is in good standing.

By: [Signature]

Title: Collector

Date: 11/25/85

Department of Revenue  
Stamp

[Signature]

## 2. ZONING: To be completed by the Local Zoning Authorities.

The above location ☒ Does Comply ( ☐ Does Not Comply ) with zoning requirements for the sale of alcoholic beverages pursuant to this application. If this premises is located within the limits of an incorporated municipality, indicate the name, and if not indicate the county.

Signed: Patricia E. House

If City: \_\_\_\_\_

(Name)

Title: Principal Planner

If County: Lee

(Name)

91-14-85

## 3. HEALTH: To be completed by the State/County Health Authority.

The above establishment ☒ Does Comply ( ☐ Does Not Comply ) with requirements of the Florida Sanitary Code.

Signed: [Signature]

Sanitarian/County Health Department

Date: 11-15-85

## 4. RIGHT OF OCCUPANCY:

- A. Is the proposed premises other than a permanent structure, movable or able to be moved? . . . . .
- B. Is the proposed premises located in a shopping center, shopping mall, or office building? . . . . .
- C. Is the premises occupied by anyone other than as listed on this application? . . . . .
- D. Is there any access through the premises to any area over which you do not have dominion and control? . . . . .
- E. Does applicant have a legal right of occupancy to the premises? . . . . .
- F. Does applicant own the property? . . . . .
- G. Does applicant rent, lease or sublease the property? . . . . .
- H. If answer to G. is yes, is anyone else listed as lessee or sublessee who is not on the application? . . . . .
- I. If applicant rents, leases or subleases give the following:

| YES                                 | NO                                  |
|-------------------------------------|-------------------------------------|
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

Name of landlord: \_\_\_\_\_

Address of landlord: \_\_\_\_\_

How long is agreement for and what is the landlord paid as rent?: \_\_\_\_\_

5. FEDERAL EMPLOYER'S IDENTIFICATION NUMBER: Complete A, B, or C.

A. Federal Employer's Identification Number 59-1212729142612

B. Not required ( )

C. Not Available ( ) I will submit to your agency as soon as possible.

SECTION III

These questions must be answered about this business for every person or entity listed. Copies of agreements and documentation to support the financial arrangements must be submitted with this application.

1. Is there a management contract or service agreement in connection with this business? . . . . .

| YES | NO |
|-----|----|
|     | ✓  |

2. Are there any agreements which require a payment of a percentage of gross or net receipts from the business operation? . . . . .

|  |   |
|--|---|
|  | ✓ |
|--|---|

3. Does anyone hold a mortgage or security agreement for this business? . . . . .

|   |  |
|---|--|
| ✓ |  |
|---|--|

4. Have you or anyone listed on this application borrowed money from or accepted money, equipment, fixtures, or anything of value from an owner or representative of a distiller, rectifier, blender, bottler, manufacturer, brewer, distributor, exporter, importer or retailer or secured a loan from any source connected with the alcoholic beverage industry? . . . . .

|  |   |
|--|---|
|  | ✓ |
|--|---|

5. List the total investment: . . . . . \$

A. Total cash invested: . . . . . \$ 25,000. Alta

B. Total loans invested: . . . . . \$

6. If purchasing the business, what is the total purchase price? . . \$

7. List the names of all persons, firms or corporations that have or will advance any money for the operation of this business or that hold any mortgage or security agreement against this business or have the right or ability to receive money from the business.

| NAME                                                                                                                                           | TYPE OF LOAN | AMOUNT OF LOAN |
|------------------------------------------------------------------------------------------------------------------------------------------------|--------------|----------------|
| (FUNDS FOR THE BAR/LOUNGE HAVE BEEN GENERATED INTERNALLY THROUGH THE OUTRIGGER RESORT WHICH WE HAVE OWNED AND OPERATED SINCE 1968) <u>Alta</u> |              |                |
|                                                                                                                                                |              |                |
|                                                                                                                                                |              |                |
|                                                                                                                                                |              |                |

FOR DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO USE ONLY

CENTRAL OFFICE USE ONLY

New York  
000 \$ 875

DISTRICT OFFICE DATE STAMP

**RECEIVED**  
Application for Processing  
DEC 02 1963  
Div. Alc. Bev. & Tobacco  
Fort Myers, Florida

AFFIDAVIT OF APPLICANT(S)

"I, the undersigned individual, or if a corporation for itself, its officers and directors, hereby swear or affirm that I am duly authorized to make the above and foregoing application and, as such I hereby swear or affirm that the attached sketch or blueprint is substantially a true and correct representation of the premises to be licensed and agree that the place of business, if licensed, may be inspected and searched during business hours or at any time business is being conducted on the premises without a search warrant by Officers of the Division of Alcoholic Beverages and Tobacco, the Sheriff, his Deputies, and Police Officers for purposes of determining compliance with the beverage law.

"I swear under oath or affirmation under penalty of perjury as provided for in 559.791, 562.45, and 837.06, Florida Statutes, that the foregoing information is true to the best of my knowledge and that no other person or entity except as indicated herein has an interest in the alcoholic beverage license or business for which these statements are made and that all of the above listed persons or entities meet the qualifications necessary to hold an interest in an alcoholic beverage license."

(OUTRIGGER BEACH RESORT)

STATE OF FLORIDA

County of Lee

Sworn to and subscribed before me

this 15 day of Nov, 1985

Patricia K. Barker

Notary Public

COLORADO SOUTHERN, INC.

(Applicant)

David W. Legerman

(Applicant)

My Commission Expires 4-28-88

AFFIDAVIT OF SELLER(S)

"I, the undersigned, hereby swear or affirm that I am duly authorized to make this affidavit and do hereby consent, on my behalf or on behalf of the seller, to the above transfer, and represent to the Division of Alcoholic Beverages and Tobacco that the license which is being transferred is as shown in the application and that a bona fide sale in good faith has been made to the within applicant of the business for which the foregoing transfer of license is sought."

(OUTRIGGER BEACH RESORT)

STATE OF FLORIDA

County of Lee

Sworn to and subscribed before me

this 15 day of Nov, 1985

Patricia K. Barker

Notary Public

COLORADO SOUTHERN, INC.

(Seller or Authorized Officer)

David W. Legerman

(Seller or Authorized Officer)

My Commission Expires 4-28-88

SKETCH OF LICENSED PREMISES



RECEIVED  
Application for Processing

DEC 02 1985

Div. Alc. Bev. & Tobacco  
Fort Myers, Florida

*The*  
**OUTRIGGER**  
BEACH RESORT

P.O. Box 271, Branch 1  
6200 Estero Boulevard  
Fort Myers Beach, FL 33931  
(813) 463-3131

STORAGE

DOOR

STORAGE

DOOR

RESTROOM

BAR

COUNTER

DOOR

VACANT

BAR - LOUNGE

DOOR

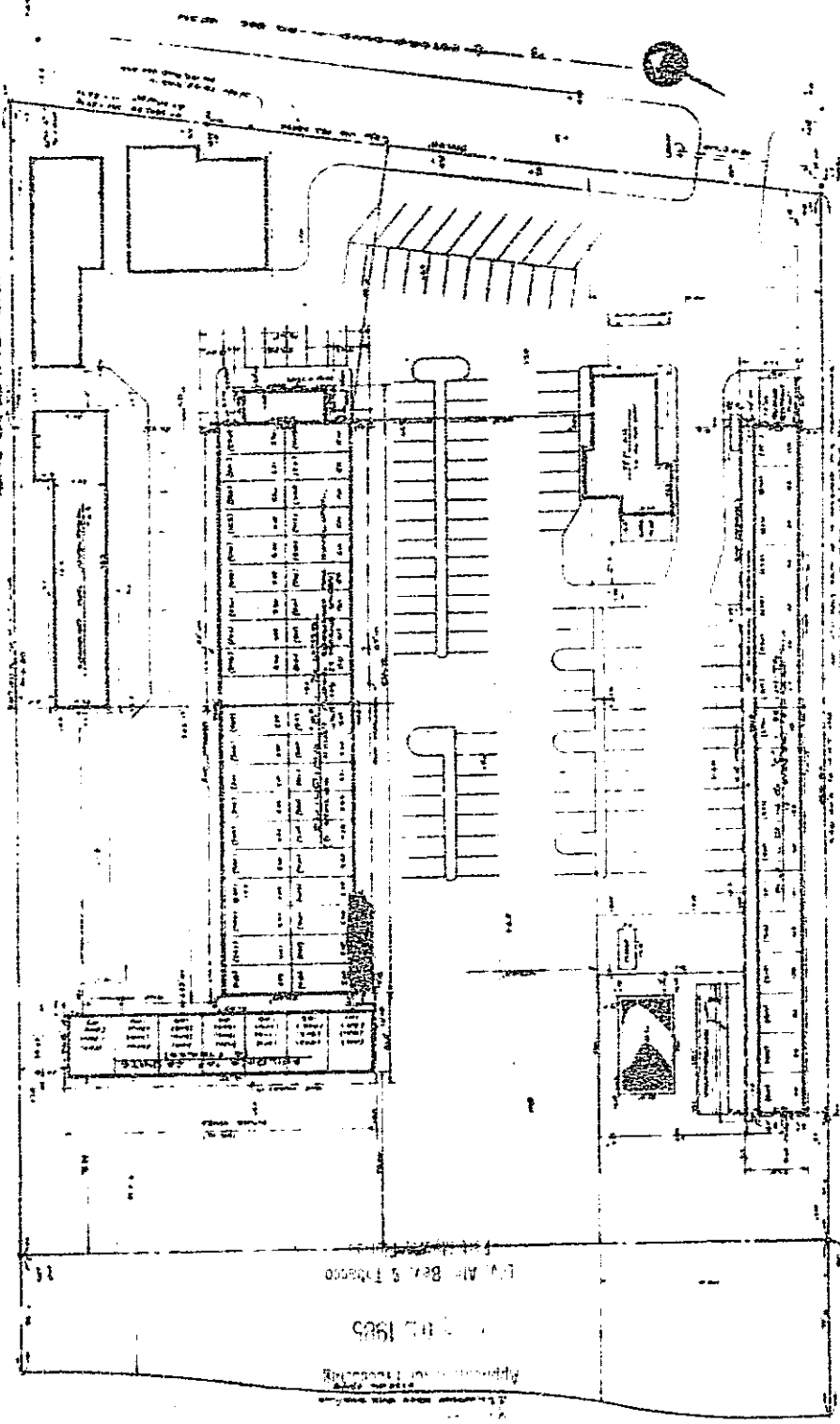
DOOR

DOOR

Ground Level



CAJUTILLA BEACH HOTEL  
 LUTHERBACH, 11, 1933, BISHOP  
 JOSEPH A. WILSON, ARCHITECT  
 401 WEST FIRST ST. MIAMI, FLA.  
 DATE 10/1/33

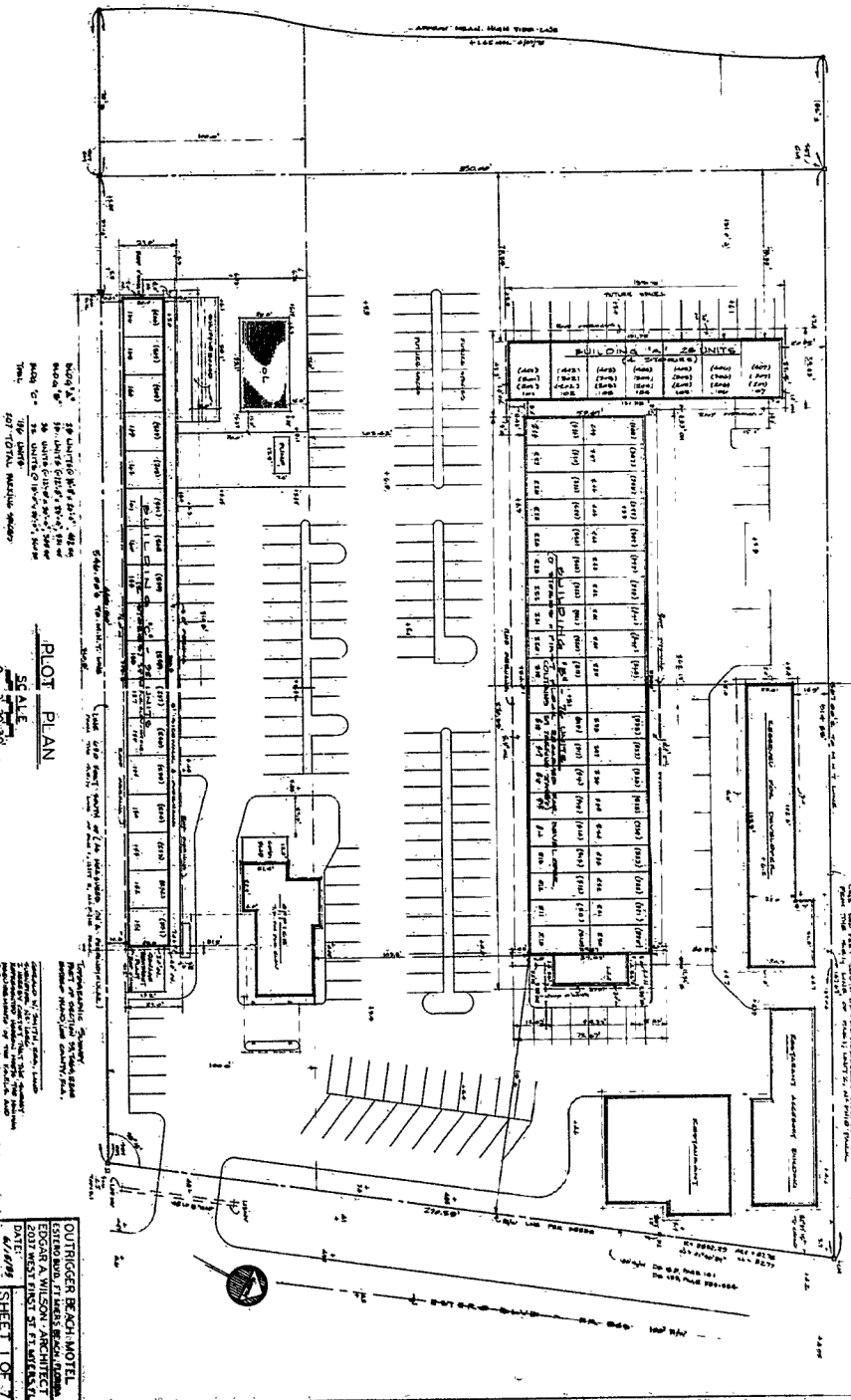


1. 1st Floor  
 2. 2nd Floor  
 3. 3rd Floor  
 4. 4th Floor  
 5. 5th Floor  
 6. 6th Floor  
 7. 7th Floor  
 8. 8th Floor  
 9. 9th Floor  
 10. 10th Floor  
 11. 11th Floor  
 12. 12th Floor  
 13. 13th Floor  
 14. 14th Floor  
 15. 15th Floor  
 16. 16th Floor  
 17. 17th Floor  
 18. 18th Floor  
 19. 19th Floor  
 20. 20th Floor  
 21. 21st Floor  
 22. 22nd Floor  
 23. 23rd Floor  
 24. 24th Floor  
 25. 25th Floor  
 26. 26th Floor  
 27. 27th Floor  
 28. 28th Floor  
 29. 29th Floor  
 30. 30th Floor  
 31. 31st Floor  
 32. 32nd Floor  
 33. 33rd Floor  
 34. 34th Floor  
 35. 35th Floor  
 36. 36th Floor  
 37. 37th Floor  
 38. 38th Floor  
 39. 39th Floor  
 40. 40th Floor  
 41. 41st Floor  
 42. 42nd Floor  
 43. 43rd Floor  
 44. 44th Floor  
 45. 45th Floor  
 46. 46th Floor  
 47. 47th Floor  
 48. 48th Floor  
 49. 49th Floor  
 50. 50th Floor  
 51. 51st Floor  
 52. 52nd Floor  
 53. 53rd Floor  
 54. 54th Floor  
 55. 55th Floor  
 56. 56th Floor  
 57. 57th Floor  
 58. 58th Floor  
 59. 59th Floor  
 60. 60th Floor  
 61. 61st Floor  
 62. 62nd Floor  
 63. 63rd Floor  
 64. 64th Floor  
 65. 65th Floor  
 66. 66th Floor  
 67. 67th Floor  
 68. 68th Floor  
 69. 69th Floor  
 70. 70th Floor  
 71. 71st Floor  
 72. 72nd Floor  
 73. 73rd Floor  
 74. 74th Floor  
 75. 75th Floor  
 76. 76th Floor  
 77. 77th Floor  
 78. 78th Floor  
 79. 79th Floor  
 80. 80th Floor  
 81. 81st Floor  
 82. 82nd Floor  
 83. 83rd Floor  
 84. 84th Floor  
 85. 85th Floor  
 86. 86th Floor  
 87. 87th Floor  
 88. 88th Floor  
 89. 89th Floor  
 90. 90th Floor  
 91. 91st Floor  
 92. 92nd Floor  
 93. 93rd Floor  
 94. 94th Floor  
 95. 95th Floor  
 96. 96th Floor  
 97. 97th Floor  
 98. 98th Floor  
 99. 99th Floor  
 100. 100th Floor

1. 1st Floor  
 2. 2nd Floor  
 3. 3rd Floor  
 4. 4th Floor  
 5. 5th Floor  
 6. 6th Floor  
 7. 7th Floor  
 8. 8th Floor  
 9. 9th Floor  
 10. 10th Floor  
 11. 11th Floor  
 12. 12th Floor  
 13. 13th Floor  
 14. 14th Floor  
 15. 15th Floor  
 16. 16th Floor  
 17. 17th Floor  
 18. 18th Floor  
 19. 19th Floor  
 20. 20th Floor  
 21. 21st Floor  
 22. 22nd Floor  
 23. 23rd Floor  
 24. 24th Floor  
 25. 25th Floor  
 26. 26th Floor  
 27. 27th Floor  
 28. 28th Floor  
 29. 29th Floor  
 30. 30th Floor  
 31. 31st Floor  
 32. 32nd Floor  
 33. 33rd Floor  
 34. 34th Floor  
 35. 35th Floor  
 36. 36th Floor  
 37. 37th Floor  
 38. 38th Floor  
 39. 39th Floor  
 40. 40th Floor  
 41. 41st Floor  
 42. 42nd Floor  
 43. 43rd Floor  
 44. 44th Floor  
 45. 45th Floor  
 46. 46th Floor  
 47. 47th Floor  
 48. 48th Floor  
 49. 49th Floor  
 50. 50th Floor  
 51. 51st Floor  
 52. 52nd Floor  
 53. 53rd Floor  
 54. 54th Floor  
 55. 55th Floor  
 56. 56th Floor  
 57. 57th Floor  
 58. 58th Floor  
 59. 59th Floor  
 60. 60th Floor  
 61. 61st Floor  
 62. 62nd Floor  
 63. 63rd Floor  
 64. 64th Floor  
 65. 65th Floor  
 66. 66th Floor  
 67. 67th Floor  
 68. 68th Floor  
 69. 69th Floor  
 70. 70th Floor  
 71. 71st Floor  
 72. 72nd Floor  
 73. 73rd Floor  
 74. 74th Floor  
 75. 75th Floor  
 76. 76th Floor  
 77. 77th Floor  
 78. 78th Floor  
 79. 79th Floor  
 80. 80th Floor  
 81. 81st Floor  
 82. 82nd Floor  
 83. 83rd Floor  
 84. 84th Floor  
 85. 85th Floor  
 86. 86th Floor  
 87. 87th Floor  
 88. 88th Floor  
 89. 89th Floor  
 90. 90th Floor  
 91. 91st Floor  
 92. 92nd Floor  
 93. 93rd Floor  
 94. 94th Floor  
 95. 95th Floor  
 96. 96th Floor  
 97. 97th Floor  
 98. 98th Floor  
 99. 99th Floor  
 100. 100th Floor

FEB 1677 DE C-1

DIFF REC 1677 PC 681



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

Yellow Sheet Number: **2024-207**

**Meeting Date: August 23, 2024**

**1. Request:**

Ordinance 24-24

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING 1) TABLE 34-3 TITLED "DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS" IN CHAPTER 34, ARTICLE III, DIVISION 4 TO CREATE NOTE (10) TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY HOMES WITHOUT A COMMERCIAL USE, IN ANY CONVENTIONAL ZONING DISTRICT WHERE THAT USE IS ALLOWED, MAY BE EVALUATED BY BUILDING COVERAGE RATHER THAN FAR; 2) SECTION 34-675(C) IN CHAPTER 34, ARTICLE III, DIVISION 5 TO PROVIDE THAT BUILDING INTENSITY OF COMMERCIAL AND MIXED-USE BUILDINGS SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE NOT TO EXCEED 40% IN THE DOWNTOWN ZONING DISTRICT; 3) SECTION 34-683 IN CHAPTER 34, ARTICLE III, DIVISION 5 RELATED TO THE CREATION OF NEIGHBORHOOD CENTERS IN THE SANTINI ZONING DISTRICT TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE BUILDING COVERAGE SHALL NOT EXCEED 40%; 4) SECTION 34-693 IN THE VILLAGE ZONING DISTRICT REGULATIONS TO PROVIDE THAT COMMERCIAL AND MIXED-USE BUILDING INTENSITY SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE AND SHALL NOT EXCEED 40%; 5) SECTION 34-705 IN THE CB ZONING DISTRICT TO PROVIDE THAT FOR COMMERCIAL AND MIXED-USE DEVELOPMENTS FLOOR AREA RATIOS SHALL NOT EXCEED 1.0 AND BUILDING COVERAGE FOR DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCES, BUILDING COVERAGE SHALL NOT EXCEED 40%; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING AN EFFECTIVE DATE.

**Why the action is necessary:**

The LPA will advise staff on preferred language to send to the Town Council.

**What the action accomplishes:**

This will change a code section that has been somewhat problematic for those wishing to rebuild homes in primarily commercial districts.

**2. Agenda:**

PUBLIC HEARINGS

**3. Requirement/Purpose:**

ordinance

---

**5. Background:**

The Land Development Code (LDC) has two ways of measuring building intensity: building coverage or Floor Area Ratio (FAR). The RS zoning district and the RC zoning use building coverage and all of the other zoning districts use FAR. At the June 6, 2024 M & P meeting the Town Council discussed whether it was appropriate for residences to be measured by FAR, even in primarily commercial districts. The discussion ended with staff understanding that Single-Family and Two-Family residence intensity should be evaluated by building coverage, even in primarily commercial districts. Mixed use buildings and completely commercial buildings should be evaluated using the FAR regulations. Multifamily buildings were not discussed in this conversation

**Attachments:**

1. Ordinance 24-24 (1) NS (1) 6PM

2. Bldg Coverage v FAR Memorandum
3. Exhibit A - Amended Building Intesity for Detached

**Financial Impact:**

unknown

**6. Alternative Action**

Recommend changes

**7. Staff Recommendations:**

Recommend approval

**8. Recommended Approval:**

---

Frankie Kropacek, Operations & Compliance Director

Date: August 16, 2024

---

nancy stuparich, Town Attorney

Date: August 19, 2024

---

Amy Baker, Town Clerk

Date: August 19, 2024



## **ORDINANCE NO. 24-24**

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING 1) TABLE 34-3 TITLED “DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS” IN CHAPTER 34, ARTICLE III, DIVISION 4 TO CREATE NOTE (10) TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY HOMES WITHOUT A COMMERCIAL USE, IN ANY CONVENTIONAL ZONING DISTRICT WHERE THAT USE IS ALLOWED, MAY BE EVALUATED BY BUILDING COVERAGE RATHER THAN FAR; 2) SECTION 34-675(C) IN CHAPTER 34, ARTICLE III, DIVISION 5 TO PROVIDE THAT BUILDING INTENSITY OF COMMERCIAL AND MIXED-USE BUILDINGS SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE NOT TO EXCEED 40% IN THE DOWNTOWN ZONING DISTRICT; 3) SECTION 34-683 IN CHAPTER 34, ARTICLE III, DIVISION 5 RELATED TO THE CREATION OF NEIGHBORHOOD CENTERS IN THE SANTINI ZONING DISTRICT TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE BUILDING COVERAGE SHALL NOT EXCEED 40%; 4) SECTION 34-693 IN THE VILLAGE ZONING DISTRICT REGULATIONS TO PROVIDE THAT COMMERCIAL AND MIXED-USE BUILDING INTENSITY SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE AND SHALL NOT EXCEED 40%; 5) SECTION 34-705 IN THE CB ZONING DISTRICT TO PROVIDE THAT FOR COMMERCIAL AND MIXED-USE DEVELOPMENTS FLOOR AREA RATIOS SHALL NOT EXCEED 1.0 AND BUILDING COVERAGE FOR DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCES, BUILDING COVERAGE SHALL NOT EXCEED 40%; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; 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 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 recognizes that redevelopment of the Town, following hurricane Ian requires evaluation and updates to the Land Development Code; and

**WHEREAS**, the Town Council desires updates to the Fort Myers Beach Land Development Code to clarify, improve and create consistency among sections; and

**WHEREAS**, a public hearing was held before the Local Planning Agency (LPA) on August 23, 2024, at time which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted \_\_\_\_, to recommend approval/denial of this Ordinance; and

**WHEREAS**, on September 23, 2024, the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons to adopt Ordinance 24-24 as provided herein and approved scheduling an adoption public hearing; and

**WHEREAS**, a Business Impact Estimate was prepared and posted on the City's website on the \_\_\_\_ day of \_\_\_\_, 2024, as required by Section 166.041(4), Florida Statutes; and

**WHEREAS**, an advertisement of the public hearing for adoption of the Ordinance was published in the News-Press on the \_\_\_\_ day of \_\_\_\_, 2024, which is 10 days prior to the second reading of the proposed Ordinance as required by Section 166.041; and

**WHEREAS**, on the \_\_\_\_ day of \_\_\_\_, 2024, the Town Council held a second reading of the Ordinance; at which time the Town Council gave full and complete consideration to the recommendations of staff and the LPA, and the testimony of all interested persons; and

**WHEREAS**, the Town finds that it is in the best interests of the health, safety, and welfare of the Town's business owners, residents, and visitors to adopt the proposed change.

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

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

Section 2. Table 34-3 Dimensional Regulations in Conventional Zoning Districts, in Chapter 34, Article III, Division 4 and Sections 34-675, 34-683, 34-693, and 34-705 in Subdivisions in Division 5 are hereby amended to read as provided in Exhibit A.

Section 3. The Town Council intends that the provisions of this ordinance be made a part of the Fort Myers Beach 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, 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, 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 Councilmember King and seconded by Mayor Allers 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 \_\_\_\_\_ 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

The foregoing Ordinance was filed in the Office of the Town Clerk on the \_\_\_\_ day of \_\_\_\_\_, 2024.



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

**To: Local Planning Agency**  
**From: Sarah Propst, Community Development**  
**Date: August 23, 2024**  
**Re: Building Coverage for Single-Family and Two-Family Residences**

---

**BACKGROUND**

The Land Development Code (LDC) has two ways of measuring building intensity: building coverage or Floor Area Ratio (FAR). The RS zoning district and the RC zoning use building coverage and all of the other zoning districts use FAR. At the June 6, 2024 M & P meeting the Town Council discussed whether it was appropriate for residences to be measured by FAR, even in primarily commercial districts. The discussion ended with staff understanding that Single-Family and Two-Family residence intensity should be evaluated by building coverage, even in primarily commercial districts. Mixed use buildings and completely commercial buildings should be evaluated using the FAR regulations. Multifamily buildings were not discussed in this conversation

**PROPOSED SOLUTIONS**

To accomplish this amendment, several code sections would need to be amended in the LDC. Table 34-3— Dimensional Regulations in Conventional Zoning Districts currently only lists building coverage in the RS and RC zoning districts. 40% will be added to the building coverage column in all zoning districts in the table, other than EC, and a note will be added, stating: “Detached, single-family and two-family homes without a commercial use, in any conventional zoning district where that use is allowed, may be evaluated by building coverage rather than FAR.” The 40% building coverage option is not provided in the EC zoning district because a house is not an allowed use in the EC zoning district.

The Downtown, Commercial Boulevard, Village, and Santini zoning district sections also would need several minor amendments. All needed amendments are included as attachments in the agenda.

Staff requests the input of the LPA regarding this proposed direction and how residential multifamily development intensity should be evaluated.

| Table 34-3— Dimensional Regulations in Conventional Zoning Districts |                                                         |                                  |                                  |      |                |                    |                                                         |       |       |                   |                                  |                     |                          |         |
|----------------------------------------------------------------------|---------------------------------------------------------|----------------------------------|----------------------------------|------|----------------|--------------------|---------------------------------------------------------|-------|-------|-------------------|----------------------------------|---------------------|--------------------------|---------|
|                                                                      | street                                                  | side - waterfront<br>lot         | side -<br>non-waterfront         | rear | water body (1) | Gulf of Mexico (2) | area                                                    | width | depth | ratio             | percentage                       |                     | feet                     | stories |
| ZONING<br>DISTRICT                                                   | Setbacks (see § 34-638 for explanations and exceptions) |                                  |                                  |      |                |                    | Lot size (see § 34-637 for explanations and exceptions) |       |       | F.A.R.<br>§34-633 | Building<br>Coverage<br>§ 34-634 | Density<br>§ 34-632 | Height<br>(see § 34-631) |         |
| <i>RS<br/>Residential<br/>Single-family</i>                          | 25(8)                                                   | <u>6.5</u> , 7.5 or<br>10<br>(9) | <u>6.5</u> , 7.5 or<br>10<br>(9) | 20   | 25             | 50                 | 7,500                                                   | 75    | 100   | -                 | 40%                              | (3),<br>(4)         | 30                       | 3       |
| <i>RC<br/>Residential<br/>Conservation</i>                           | 25(9)                                                   | <u>6.5</u> , 7.5 or<br>10 (9)    | <u>6.5</u> , 7.5 or<br>10 (9)    | 20   | 25             | 50                 | 4,000                                                   | 45    | 80    | -                 | 40%                              | (3), (4),<br>(5)    | 30                       | 3       |
| <i>RM<br/>Residential<br/>Multifamily</i>                            | 25(8)                                                   | 20 (6)                           | 20 (6)                           | 20   | 25             | 50                 | 7,500                                                   | 75    | 100   | 1.2               | 40%<br>(10)                      | (3), (4),<br>(5)    | 35                       | 3       |



Exhibit A - Amended Setback Regulations

|                                             |                     |    |    |    |    |    |        |     |     |      |                           |                  |    |   |
|---------------------------------------------|---------------------|----|----|----|----|----|--------|-----|-----|------|---------------------------|------------------|----|---|
| <i>CR<br/>Commercial<br/>Resort</i>         | 10                  | 20 | 15 | 20 | 25 | 50 | 20,000 | 100 | 100 | 1.2  | <u>40%</u><br><u>(10)</u> | (3)              | 30 | 3 |
| <i>CM<br/>Commercial<br/>Marina</i>         | 20                  | 20 | 20 | 20 | 0  | 50 | 20,000 | 100 | 100 | 1.0  | <u>40%</u><br><u>(10)</u> | -                | 35 | 3 |
| <i>CO<br/>Commercial<br/>Office</i>         | 10                  | 10 | 7  | 20 | 25 | 50 | 7,500  | 75  | 100 | 1.2  | <u>40%</u><br><u>(10)</u> | (3), (4),<br>(5) | 30 | 3 |
| <i>Santos</i>                               | 10                  | 7  | 5  | 20 | 25 | 50 | 5,000  | 50  | 100 | 0.6  | <u>40%</u><br><u>(10)</u> | (3), (4),<br>(5) | 25 | 3 |
| <i>IN<br/>Institutional</i>                 | 20                  | 10 | 7  | 20 | 25 | 50 | 7,500  | 75  | 100 | 0.8  | <u>40%</u><br><u>(10)</u> | (3)              | 35 | 3 |
| <i>CF<br/>Community<br/>Facilities</i>      | 20                  | 15 | 10 | 20 | 25 | 50 | N/A    | N/A | N/A | 0.1  | <u>40%</u><br><u>(10)</u> | (3)              | 35 | 3 |
| <i>BB Bay Beach</i>                         | — see § 34-651(b) — |    |    |    |    |    |        |     |     |      |                           |                  |    |   |
| <i>EC<br/>Environmenta<br/>lly Critical</i> | 20                  | 25 | -  | 25 | 20 | 50 | (7)    | N/A | N/A | 0.01 | -                         | (3), (7)         | 25 | 2 |

Note (1): An additional wetland buffer is required for new development; see § 34-638(c).

Note (2): See § 34-638(d)(3)a.

Note (3): Maximum densities are established by the Fort Myers Beach Comprehensive Plan; see Section 34-632

Note (4): Accessory apartments are allowed in owner-occupied homes under certain conditions; see Section 34-1178.

Note (5): A second dwelling unit or accessory apartment may be allowed on larger lots; for details, see Section 34-632, 34-1177, and 34-1178

Note (6): Single-family and two-family homes in the RM zoning district must maintain a 6.5-foot side setback for lots less than 50 feet wide, 7.5-foot side setback for lots 50 feet wide up to 75 feet wide, and 10 feet for lots wider than 75 feet.

Note (7): See Section 34-652(e)(3).

Note (8): Maximum 65 feet of house may be built to the 25-foot front setback. Any house frontage exceeding 65 feet in length shall be subject to additional setbacks from the street property line. See Section 34-638(d)(5)a.

Note (9): Each side setback shall be 6.5 feet for lots less than 50 feet wide, 7.5 feet for lots 50 feet wide to 75 feet or less wide, and 10 feet for lots wider than 75 feet.

Note (10): Detached single-family and two-family homes without a commercial use, in any conventional zoning district where that use is allowed, may be evaluated by building coverage rather than FAR.

**Sec. 34-675. - Building size.**

- (a) Building *frontage*. Building frontage limits (see [§ 34-663](#) of this chapter) vary according to the street types designated on Figure 34-7:
- (1) For pedestrian plazas and primary streets except for Crescent Street and for Fifth Avenue east of the Sky Bridge, building frontages shall be at least 70 percent of the lot frontage.
  - (2) For all other streets, building frontages shall be at least 35 percent of the lot frontage.
  - (3) For multiple adjoining lots under single control, or for a single lot with multiple buildings, the percentages above apply to the combination of lot(s) and building(s).
  - (4) *Exception for properties between Estero Boulevard and the Gulf:* The required building frontage percentage may be reduced to 35 percent for properties between Estero Boulevard and the Gulf of Mexico provided that the open space thus created allows open views to the Gulf of Mexico.
- (b) Building *height*. Building heights (see [§ 34-631](#) of this chapter) shall be limited to:
- (1) For properties that front on the following streets, a maximum of 30 feet above base flood elevation and no taller than three stories:
    - a. Times Square and Bayfront pedestrian plazas (see Figure 34-7);
    - b. North side of First Street;
    - c. South side of Estero Boulevard between Old San Carlos Boulevard and the main pedestrian crossing;
    - d. Carolina Avenue.
  - (2) For properties that front on the following streets, a maximum of 30 feet above base flood elevation and no taller than three stories, elevated building are encouraged to limit enclosed space on the first story:
    - a. Lagoon Street;
    - b. Crescent Street;
    - c. First, Second, Third, and Fifth (east of the Sky Bridge only);
    - d. North side of Estero Boulevard west of Old San Carlos Boulevard and east of Crescent Street;
    - e. Primo Drive;
    - f. Palermo Circle;

## Downtown Zoning

- g. Miramar Street, north of Estero;
- h. Ohio Avenue;
- i. Virginia Avenue.

(3) For properties that front on the following streets, a maximum of 40 feet above base flood elevation and no taller than three stories:

- a. Old San Carlos Boulevard between Fifth and First Streets;
- b. South side of First and both sides of Second and Third (west of the Sky Bridge only);
- c. South side of Estero Boulevard east of the main pedestrian crossing;
- d. Canal Street;
- e. Avenues A, C, E, and I;
- f. Alva Drive;
- g. Miramar Street, south of Estero;
- h. Palm Avenue.

- (c) *Building intensity. Commercial and mixed-use building intensity shall be evaluated using floor area ratio (FAR). Detached single-family and two-family residence intensity shall be evaluated using building coverage (see § 34-634 of this chapter).*

*(1) Floor area ratio (FAR).* Floor area ratios (see [§ 34-633](#) of this chapter) shall not exceed:

- a.* 1.8 for properties fronting on Old San Carlos between Fifth and First Streets and fronting on the Times Square pedestrian plaza (see Figure 34-7).
- b.* 1.4 for properties fronting on Estero Boulevard and fronting on the Bayfront pedestrian plazas.
- c.* 1.0 for all other properties in the Downtown district.

*(2) Building coverage. Building coverage (See § 34-634 of this chapter) for detached single-family and two-family residences shall not exceed 40%.*

- (d) *Hotel rooms.*

(1) Along both sides of Old San Carlos Boulevard (properties between Fifth and First Streets that lie within 200 feet east and west of the centerline of Old San Carlos only), a property owner may substitute hotel rooms for allowable office space on upper floors without the limitations otherwise provided by the hotel-room

## Downtown Zoning

equivalency factor found in [§ 34-1802](#) of this chapter. However, these hotel rooms must have at least 250 square feet per rentable unit.

(2) In all other properties in the Downtown district, the number of hotel rooms are limited by the hotel-room equivalency factor found in [§ 34-1802](#) of this chapter.

(Ord. No. [24-08](#), § 2(Exh. A), 5-6-2024)



Sec. 34-683. - Creation of neighborhood center.

- (a) *Purpose.* This section provides detailed regulations for the transformation of existing businesses into a neighborhood center.
  - (1) This transformation may be required by § 34-682(3) of this chapter or may be chosen by any landowner in the Santini district.
  - (2) Once this option is chosen or required, all subsections of this § 34-683 become mandatory requirements, except where they are clearly inapplicable to a given portion of the property.
- (b) *Agreement for streetscape improvements.* Landowners who choose to partially or fully develop their land in the Santini district into a neighborhood center may simultaneously request public streetscape improvements by entering into a development agreement with the town (see §§ 2-91—2-102 of this LDC).
  - (1) This agreement would establish a public/private partnership for the necessary improvements, identifying responsibilities, timing, approximate costs, and funding.
  - (2) This agreement would also contain a detailed plan for the redevelopment of the property consistent with the regulations in the remainder of this section.
- (c) *Allowable uses.* Allowable uses for the Santini zoning district are defined in Tables 34-1 and 34-2.
- (d) *Streets.* Secondary streets and alleys shall be laid out and dedicated to the public generally in accordance with Figure 34-17 to improve circulation for vehicles and pedestrians.
- (e) *Plazas.* An urban plaza at least one-half acre in size shall be provided along Estero Boulevard as a focal point for mixed-use buildings and as a public gathering place. This plaza may also be used for overflow parking.
- (f) *Build-to lines established.* Build-to lines (see § 34-662 of this chapter) vary according to the streets and street types designated on Figure 34-17.
  - (1) Build-to lines for all primary streets and streets surrounding the plaza are 0 feet to five feet.
  - (2) Build-to lines for all secondary streets are 0 feet to ten feet.
  - (3) Awnings, canopies, and marquees over sidewalks and pedestrian walkways are encouraged by the commercial design standards (§§ 34-991—34-1010 of this chapter), especially along Estero Boulevard.
  - (4) Compliance with build-to lines is not required for buildings that are used for the storage of boats or for marina accessory uses, or for any buildings extend closer than 40 feet to the waterfront.
  - (5) Buildings used for the storage of boats or cars must be separated from Estero Boulevard by a liner building that provides usable building space at least 20 feet deep (see example in Figure 34-8).
    - a. This requirement applies to all buildings that extend closer than 75 feet to Estero Boulevard.
    - b. Liner buildings must be two stories or more in height.
    - c. Liner buildings may be detached from or attached to building space used for the storage of boats or cars.
    - d. Liner buildings must be constructed simultaneously with those portions of buildings that are subject to this requirement.
    - e. Liner buildings and any visible portions of the principal facade of buildings that are used for the storage of boats or cars must meet the commercial design standards (see §§ 34-991—34-1010 of this chapter).
- (g) *Setback lines.* No minimum setbacks are required (see § 34-662 of this chapter).

- (h) *Building frontage.* Building frontage limits (see § 34-663 of this chapter) vary according to the street types designated on Figure 34-17:
  - (1) For primary streets and streets surrounding the plaza, building frontages shall be at least 70 percent of the lot frontage.
  - (2) For secondary streets, building frontages shall be at least 35 percent of the lot frontage.
  - (3) For multiple adjoining lots under single control, or for a single lot with multiple buildings, the percentages above apply to the combination of lot(s) and building(s).
  - (4) Phased redevelopment is permitted provided that a site plan is provided showing how the building frontage percentages will be met upon completion of the redevelopment
- (i) *Building height.* Building heights (see § 34-631 of this chapter) shall be limited to:
  - (1) For parcels immediately abutting a plaza of at least one-half acre in size and for parcels immediately abutting canals, a maximum of 40 feet above base flood elevation and no taller than three stories.
  - (2) For all other parcels, a maximum of 30 feet above base flood elevation and no taller than two stories.
- (j) *Floor area ratio (FAR).* Floor area ratios shall not exceed 1.0 (see § 34-633 of this chapter).
- (k) *Residential density.* Residential units can be constructed in the Santini district up to the maximum density allowed by the Fort Myers Beach Comprehensive Plan.
- (l) *Residential intensity. Detached single-family and two-family residence building coverage shall not exceed 40%.*
- ~~(l)~~ (m) *Guest units.* Guest units may be substituted for dwelling units in accordance with the equivalency factors found in § 34-1802 of this chapter.
- ~~(m)~~ (n) *Reductions to minimum parking requirements.* Neighborhood centers are "park-once" districts with preference given to pedestrian movement. The number of parking spaces normally required by § 34-2020 of this chapter shall be multiplied by 67 percent to determine the adjusted parking requirement for the Santini district. Adjoining on-street parking spaces may be counted toward this parking requirement.
- ~~(n)~~ (o) *Parking location.* Off-street parking may be provided under commercial or mixed-use buildings provided that:
  - (1) All under-building parking spaces must be separated from primary streets and the plaza by usable commercial space at least 20 feet deep that meets all commercial design guidelines; and
  - (2) Driveways leading to under-building parking spaces must connect to a driveway, secondary street, or alley, and may not be accessed from a primary street or pedestrian plaza.
- ~~(o)~~ (p) *Commercial design standards.* The commercial design standards (§§ 34-991—34-1010 of this chapter) shall apply to all commercial and mixed-use buildings, or portions thereof, that are being newly built, and to "substantial improvements" to such buildings as defined in § 6-405 of this LDC.

**Sec. 34-693. Regulations to obtain development order for pre-approved redevelopment option.**

- (a) *Purpose.* This section provides detailed regulations for the pre-approved redevelopment option if that option is chosen by landowners, as described in § 34-692(3) of this chapter.
- (b) *Allowable uses.* Allowable uses in the Village district are defined in Tables 34-1 and 34-2. If a development order is issued pursuant to § 34-692(3) of this chapter, the additional uses in the "Open" subgroup of Table 34-1 for the residential, lodging, office, and retail groups will be permitted on property that is subject to the development order.
- (c) *Streets.* Secondary streets shall be laid out and dedicated to the public generally in accordance with Figure 34-18 to improve circulation for vehicles and pedestrians.
  - (1) Figure 34-18 provides two acceptable options for the new network of secondary streets.
  - (2) Under either option, the street design must incorporate the extension of a through street from Donora Boulevard to Lovers Lane that will be permanently accessible by the public.
- (d) *View corridor.* A view corridor at least 50 feet wide shall be provided between Estero Boulevard and the Gulf as a focal point for abutting buildings and as part of a prominent visual corridor to the water. This view corridor need not be available for public use.
- (e) *Build-to lines established.* Build-to lines (see § 34-662 of this chapter) for all streets shall be 0 feet to ten feet.
- (f) *Setback lines established.* Setback lines (see § 34-662 of this chapter) are established as follows:
  - (1) For principal buildings, minimum setbacks are as follows:
    - a. Rear setbacks: 20 feet.
    - b. Waterbody setbacks: see § 34-638(d)(3) of this chapter.
  - (2) For accessory structures, minimum setbacks are set forth in §§ 34-1171—34-1176 of this chapter.
- (g) *Building frontage.* Building frontage limits (see § 34-663 of this chapter) vary according to the street types designated on Figure 34-18:
  - (1) For primary streets, building frontages shall be at least 50 percent of the lot frontage. This percentage may be reduced to 35 percent for properties between Estero Boulevard and the Gulf of Mexico provided that the open space thus created allows open views to the Gulf.

- (2) For multiple adjoining lots under single control, or for a single lot with multiple buildings, the percentages above apply to the combination of lot(s) and building(s).
- (h) *Building height.* Building heights (see § 34-631 of this chapter) shall be limited to:
  - (1) For properties that front on the bay side of Estero Boulevard and all streets other than Estero Boulevard, a maximum of 30 feet above base flood elevation and no taller than two stories. However, for mixed-use buildings and for elevated buildings without enclosed space on the first story, the maximum height is three stories (but still limited to 30 feet above base flood elevation).
  - (2) For properties that front on the beach side of Estero Boulevard, a maximum of 40 feet above base flood elevation and no taller than three stories.
- (i) *Building intensity.* Commercial and mixed-use building intensity shall be evaluated using floor area ratio (FAR). Detached single-family and two-family residence intensity shall be evaluated using building coverage (see § 34-634 of this chapter).
  - (1) *Floor area ratio (FAR).* Floor area ratios shall not exceed 1.2.
  - (2) *Building coverage.* Building coverage (See § 34-634 of this chapter) for detached single-family and two-family residences shall not exceed 40%.
- (j) *Residential density.* Policy 4-F-2-iii of the Fort Myers Beach Comprehensive Plan allows up to 15 dwelling units per acre for redevelopment in accordance with this section. Any land used for roadway or access purposes may be included in this density computation.
- (k) *Guest units.* Guest units may be substituted for dwelling units in accordance with the equivalency factors found in § 34-1802 of this chapter.
- (l) *Circulation and parking.* Off-street parking may be provided under commercial or mixed-use buildings provided that:
  - (1) All under-building parking spaces must be separated from primary streets and the plaza by usable commercial space at least 20 feet deep that meets all commercial building design guidelines; and
  - (2) Driveways leading to under-building parking spaces must connect to a secondary street or an alley and may not be accessed from a primary street or pedestrian plaza.
- (m) *Commercial design standards.* The commercial design standards (§§ 34-991—34-1010 of this chapter) shall apply to all commercial and mixed-use buildings that are visible from Estero Boulevard, or portions thereof, that are being newly built, and to "substantial improvements" to such buildings as defined in § 6-405 of this LDC.

Sec. 34-705. - Building size.

- (a) *Building frontage.* Building frontage limits (see § 34-663 of this chapter) are established as follows:
- (1) For Estero Boulevard, building frontages shall be at least 50 percent of the lot frontage. This percentage may be reduced to 35 percent for properties between Estero Boulevard and the Gulf of Mexico provided that the open space thus created allows open views to the Gulf of Mexico.
  - (2) For multiple adjoining lots under single control, or for a single lot with multiple buildings, the percentages above apply to the combination of lot(s) and building(s).
- (b) *Building height.* Building heights (see § 34-631 of this chapter) shall be limited to:
- (1) For properties that front on the bay side of Estero Boulevard and all streets other than Estero Boulevard, a maximum of 30 feet above base flood elevation and no taller than two stories, except that an elevated building without enclosed space on the first story may be three stories tall (but still limited to 30 feet above base flood elevation).
  - (2) For properties that front on the beach side of Estero Boulevard, a maximum of 40 feet above base flood elevation and no taller than three stories.
- (c) *Floor area ratio (FAR).* For commercial and mixed-use developments Floor area ratios (see § 34-633 of this chapter) shall not exceed 1.0.
- (d) *Building coverage.* For detached single-family and two-family residences, building coverage (see § 34-634 of this chapter) shall not exceed 40%.



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

Yellow Sheet Number: **2024-150**

**1. Request:**

**Meeting Date: August 23, 2024**

LPA Resolution 2024-04: A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20240100, REQUESTING VARIANCES FROM LDC TABLE 34-3 OF 13 FEET FROM THE STREET SETBACK FOR A FRONT SETBACK OF 12 FEET, A VARIANCE OF 3 FEET FROM THE WEST SIDE SETBACK FOR A SIDE SETBACK OF 4 FEET 6 INCHES FOR THE MECHANICAL EQUIPMENT AND BALCONY AND ANOTHER VARIANCE OF 15.11% FROM THE BUILDING COVERAGE FOR A BUILDING COVERAGE OF 55.11% TO BUILD A NEW SINGLE FAMILY STRUCTURE IN THE RM ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 51 PEARL STREET, FORT MYERS BEACH, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

**Why the action is necessary:**

The LPA will make recommendations to the Town Council regarding the variance requests or approve the variance requests unanimously.

**What the action accomplishes:**

The LPA recommendation will be forwarded on to the Town Council or serve as final agency action if the requests are approved unanimously.

**2. Agenda:**

PUBLIC HEARINGS

**3. Requirement/Purpose:**

Resolution

---

**5. Background:**

Penelope Porter, the owner and applicant for 51 Pearl Street, is requesting a variance from the Town's Land Development Code (LDC) Table 34-3 which requires a single-family home in the RM zoning district to provide a minimum street setback of 25 feet from the front property line, 7.5 feet from the side property lines and a maximum lot coverage of 40%. The applicant is requesting a variance of 13 feet from the street setback for a front setback of 12 feet, a variance of 3 feet from the west side setback for a side setback of 4 feet 6 inches for the mechanical equipment and balcony and another variance of 15.11% from the lot coverage maximum for a lot coverage of 55.11% for a new single-family structure.

The subject property is a beachfront lot adjacent to Pearl Street and is accessible via a driveway easement. LDC Sec 34-2 defines street as a public or private thoroughfare which affords vehicle access to the principal means of ingress or egress to a lot. For purposes of measuring the street setback, LDC Sec 34-2 defines street setback as the setback extending across the front of a lot measured from the edge of an existing street right-of-way or street easement.

**Attachments:**

1. LPA Resolution 2024-04 8180 Lagoon Rd- LPA Variance
2. Town Council Res 24-XX- 51 Pearl
3. 51PearlSt- LPA staff report
4. 21124311-pearl street survey
5. Exhibit A. 51PearlSt\_CompletedApplication
6. Exhibit B. LPA AND TC VAR postcard 51 PEARL ST - Copy
7. Exhibit C. 51PearlSt\_Siteplan-PlanElevations

**Financial Impact:**

unknown

6. **Alternative Action**

Approve with conditions.

7. **Staff Recommendations:**

Deny

8. **Recommended Approval:**

---

Frankie Kropacek, Operations & Compliance Director

Date: August 16, 2024

---

nancy stuparich, Town Attorney

Date: August 19, 2024

---

Amy Baker, Town Clerk

Date: August 19, 2024

**RESOLUTION NUMBER 2024-04**

**A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20240159 TO ALLOW A SIDE STREET SETBACK VARIANCE OF 3 FEET AND 9 INCHES FROM THE REQUIRED 15-FOOT SIDE STREET SETBACK FOR A POOL ENCLOSURE FOR THE PROPERTY LOCATED AT 8180 LAGOON ROAD; 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**, applicant Mark Hanna, on behalf of owner Janell Schoonover Trust, is requesting a variance from LDC Section 34-638. (d)(6), which requires a minimum 15-foot side street setback on a corner lot less than 75 feet in width in the RS zoning district; and

**WHEREAS**, the STRAP number for the subject property is 03-47-24-W3-00105.0070; and

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

**WHEREAS**, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on August 23, 2024, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-87 of the LDC; and

**WHEREAS**, in accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the LPA makes the following findings and conclusions:

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

B. The conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question.

C. The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.

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

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

**WHEREAS**, eligible members of the LPA voted unanimously by roll call vote to approve the requested variances with the following conditions:

- 1) Approval of this variance does not give the Applicant an undeniable right to permit approval. Development of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
- 2) The variance shall only apply to the single-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variances to be null and void.

**WHEREAS**, Ordinance 24-06 amended Section 34-232(d) of the LDC to provide that:

(d) Owner-initiated requests for variances, or required reviews to extend or to provide evidence of satisfaction of conditions contained in prior land use approvals, that are:

- 1) approved by a unanimous vote of the local planning agency members who are eligible to vote, and
- 2) not subject to a request for an additional public hearing before the town council made by anyone that is received by the town clerk within 10 business days after the date of the local planning agency decision, excluding holidays, only require one public hearing before the local planning agency, and the local planning agency decision is final agency action.

**IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:**

1. The foregoing “WHEREAS” clauses are adopted herein by reference and constitute the findings and conclusions of the LPA.

2. VAR20240159, with the conditions contained herein, received unanimous approval from eligible voting members of the LPA on August 23, 2024.

3. This Resolution shall constitute the equivalent of a development order and final agency action, subject to any request for an additional review by the Town Council filed with the Town Clerk within 10 business days of the LPA decision as authorized in Section 34-232(d) of the LDC.

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

|                         |       |
|-------------------------|-------|
| Chair Anita Cereceda    | _____ |
| Vice-Chair Jane Plummer | _____ |
| Member James Boan       | _____ |
| Member Douglas Eckmann  | _____ |
| Member Don Sudduth      | _____ |
| Member John McLean      | _____ |
| Member James Dunlap     | _____ |

DULY PASSED AND ADOPTED THIS \_\_\_\_\_ day of August, 2024.

Local Planning Agency of the Town of  
Fort Myers Beach

By: \_\_\_\_\_  
Anita Cereceda, LPA Chair

Approved as to legal sufficiency:

ATTEST:

By: \_\_\_\_\_  
Vose Law Firm, Town Attorney

By: \_\_\_\_\_  
Amy Baker, Town Clerk

EXHIBIT A: Site Plan

**TOWN COUNCIL  
RESOLUTION NUMBER 24-XX**

**A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/APPROVING WITH CONDITIONS/ DENY VARIANCE 20240100, REQUESTING VARIANCES FROM LDC TABLE 34-3 OF 13 FEET FROM THE STREET SETBACK FOR A FRONT SETBACK OF 12 FEET, A VARIANCE OF 3 FEET FROM THE WEST SIDE SETBACK FOR A SIDE SETBACK OF 4 FEET 6 INCHES FOR THE MECHANICAL EQUIPMENT AND BALCONY AND ANOTHER VARIANCE OF 15.11% FROM THE BUILDING COVERAGE FOR A BUILDING COVERAGE OF 55.11% TO BUILD A NEW SINGLE FAMILY STRUCTURE IN THE RM ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 51 PEARL STREET, FORT MYERS BEACH, FLORIDA; 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, 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**, Penelope Porter (“Applicant”) is the owner(s) of the property located at 51 Pearl Street (Property), and is requesting variances from LDC Table 34-3 of 13 feet from the street setback for a front setback of 12 feet, a variance of 3 feet from the west side setback for a side setback of 4 feet 6 inches for the mechanical equipment and balcony and another variance of 15.11% from the building coverage for a building coverage of 55.11% to build a new single-family structure in the RM zoning district; and

**WHEREAS**, the STRAP number for the subject property is 19-46-24-W4-00445.0000; and

**WHEREAS**, the Property is located in the “Boulevard” and “Recreation” Future Land Use of the Comprehensive Plan and the “Residential” and “Multifamily” zoning districts of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

**WHEREAS**, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on August 23, 2024, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-87 of the LDC. The LPA found that the request is consistent with the comprehensive plan and the requirements of the LDC and by roll call voted \_\_\_\_ to \_\_\_\_ to recommend approval/approval with conditions/denial of the variances; and



**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_, 2024, a request was received from \_\_\_\_\_ within 10 business days from the LPA decision on the \_\_\_\_ day of \_\_\_\_\_, 2024 to request an additional hearing before the Town Council of \_\_\_\_\_ pursuant to Sec. 34-232 of the LDC .**

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

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

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

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

Section 2. The Town Council determines the Applicant **did/ did not** meet its burden of proof that the requested Variances **do/ do not** meet the requirements of the Town Comprehensive Plan and LDC and **approving/ approving with conditions/ denying** the Variances is in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, interested parties and public, the Town Council **APPROVES/ APPROVES WITH CONDITIONS/ DENIES** a request for variances from LDC 34-3 of 13 feet from the street setback for a front setback of 12 feet, a variance of 3 feet from the west side setback for a side setback of 4 feet 6 inches for the mechanical equipment and balcony and another variance of 15.11% from the building coverage for a building coverage of 55.11% to build a new single-family structure in the RM zoning district.

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

- A. There **are/ are not** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is/ is not** for de minimis variances under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying approval of the variances **are/ are not** the result of actions of the Applicant taken after the adoption of the regulation in question.
- C. The variances **are/ are not** the minimum variances that will relieve the Applicant of an unreasonable burden caused by the application of the regulation to the Property.

D. The granting of the variances **will/ will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.

E. The conditions or circumstances on the Property **are/ are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

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

- A. Approval of these variances does not give the Applicant an undeniable right to permit approval. Development of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
- B. Property owner must adhere to the Neighborhood flooding ordinance for drainage and 67% maximum impervious requirements.
- C. The variance shall only apply to the single-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variances to be null and void.
- D. No portions of the deck shall extend past the 1978 Lee County Line (CCCL).

Section 5. This resolution shall be effective upon adoption by the Town Council.

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  | _____ |
| Karen Woodson, Council Member | _____ |
| Scott Safford, 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, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this \_\_\_\_ day of \_\_\_\_\_ 2024.

EXHIBIT A: Proposed Site Plan



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

**TYPE OF CASE:** Variance

**CASE NUMBER:** VAR20240100

**CASE NAME:** 51 Pearl St; requesting a variance from Table 34-3 Dimensional Regulations in Conventional Zoning Districts for the street and side setbacks and building coverage in the RM zoning district.

**LPA**

**HEARING DATE:** August 23, 2024, at 9 AM

**STAFF**

**RECOMMENDATION:** DENIAL

**PREPARED/  
SUBMITTED BY:** Eli Lee, Planner, & Sarah Propst AICP, PMP

**I. APPLICATION SUMMARY**

Applicant/Owner: Penelope Porter/Jenkins Wayne & Porter Penelope

Request: The applicant is requesting a variance of 13 feet from the street setback for a front setback of 12 feet, a variance of 3 feet from the side setback for a side setback of 4 feet 6 inches for the mechanical equipment and balcony and another variance of 15.11% from the building coverage for a building coverage of 55.11% to build a new single-family structure.

Subject property: See attached site plan

Physical Address: 51 Pearl St

STRAP #: 19-46-24-W4-00445.0000

FLU: Boulevard

Zoning: Residential Multi-family (RM)

Adjacent zoning and land uses:

|        |                                                                       |
|--------|-----------------------------------------------------------------------|
| North: | RESIDENTIAL CONSERVATION (RC)<br>Multi-Family                         |
| South: | ENVIRONMENTALLY CRITICAL (EC)<br>Recreation                           |
| East:  | RESIDENTIAL CONSERVATION (RC)<br>Single-Family Residence/Multi-Family |
| West:  | DOWNTOWN<br>Hotel/Recreation                                          |

## **II. BACKGROUND AND ANALYSIS**

Background:

Penelope Porter, the owner and applicant for 51 Pearl Street, is requesting a variance from the Town's Land Development Code (LDC) Table 34-3 which requires a single-family home in the RM zoning district to provide a minimum street setback of 25 feet from the front property line, 7.5 feet from the side property lines and a maximum lot coverage of 40%. The applicant is requesting a variance of 13 feet from the street setback for a front setback of 12 feet, a variance of 3 feet from the west side setback for a side setback of 4 feet 6 inches for the mechanical equipment and balcony and another variance of 15.11% from the lot coverage maximum for a lot coverage of 55.11% for a new single-family structure.

The subject property is a beachfront lot adjacent to Pearl Street and is accessible via a driveway easement. LDC Sec 34-2 defines street as a public or private thoroughfare which affords vehicle access to the principal means of ingress or egress to a lot. For purposes of measuring the street setback, LDC Sec 34-2 defines street setback as the setback extending across the front of a lot measured from the edge of an existing street right-of-way or street easement.

Analysis:

The first variance request is for the single-family home to be constructed 12 feet from the front property line. The property owner/applicant understood that since the subject property faces an easement and not a street ROW, the street setback should not apply. However, this is not in-line with the LDC definition of a street as noted above. The reduced setback would allow the home to gain more square footage and outdoor space, thus increasing the massing of the structure. The second request is for the mechanical equipment and balcony located on the west portion of the structure to encroach 3 feet into the required 7.5-foot side setback. The placement of the mechanical equipment on the west side of the structure will be away from the

neighbor on the east reducing the potential for nuisance noise to impact the neighbor. The cantilevered balcony above the equipment would protect the mechanical equipment as stated by the applicant. The third request is to exceed the maximum building coverage by 15.11% to accommodate additional living space.

The RM zoning district does not have a building coverage limit but is restricted by Floor Area Ratio (FAR). Staff was directed by Town Council in June 2024 to present a code change that would allow single family homes in the RM zoning district to utilize the 40% building coverage instead of FAR because they believed that it would be appropriate for that zoning district, and it would be consistent with other residential zoning districts within the island. The updated code language would be presented to LPA on August 23<sup>rd</sup>, 2024 for approval before proceeding to Town Council for approval and adoption. The property owner was made aware of the matter and was comfortable with proceeding as is.

Neighborhood Compatibility:

The subject property is part of an existing residential neighborhood. It appears that the previous structure was a single-family home that did not meet the current required setbacks prior to Hurricane Ian.

The site abuts the Diamondhead Resort parking lot, therefore placement of mechanical equipment on that side of the lot would be unlikely to disturb any resort guests.

The neighboring property of 41 Pearl Street had a single-family home constructed in 2009 that adhered to the setbacks at that time.

Findings and Conclusions:

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

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

The subject property is a beachfront lot that is off Pearl Street and is accessible via a driveway easement. The lot varies in width from approximately 50 feet to 54 feet. The buildable (landward of the 1978 CCCL) lot depth varies from approximately 74 to 95 feet. The lot contains a sufficient area to construct a home. The applicant is opting to rebuild a home that is substantially larger than what existed previously and what is allowed by right. The request is not for a de minimis variance. The LPA should determine whether “*rigid compliance is not essential to protect public policy*” in this case.



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

The conditions justifying the variance are the result of the Applicant's design choices. The applicant has chosen to design a new residence that is not in compliance with the street setbacks, side setbacks, or building lot coverage set forth by Table 34-3 of the LDC.

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

The design of the home could be smaller to be compatible with the dimensions of the lot. The need for this variance is a result of a design choice and is subjective in nature.

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

The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The proposed location of the mechanical equipment is on the west side of the single-family structure, which faces a parking lot and does not abut the neighboring single-family residence to the east.

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

The proposed location of the single-family residence being 12 feet from the front property line will be closer to the easement than the neighboring property to the east and the plane of the homes would not match. Views could also be negatively affected.

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

The increase in building coverage would cause the home to have more square footage under roof, which would create more massing of the structure, however the site would not exceed the maximum 67% impervious as required in code sec. 6-14.

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

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

### **III. RECOMMENDATION**

Staff has reviewed the request for a variance *from LDC Table 34-3 which requires that a lot in the RM zoning district have minimum 25-foot street setback, 7.5-foot side setback, and 40% maximum building coverage* and found that the variance request does not meet the requirements set forth in sec. 34-87.

Therefore, staff recommends **Denial** of VAR20240100, a variance of 13 feet from the street setback for a front setback of 12 feet, a variance of 3 feet from the west side setback for a side setback of 4 feet 6 inches for the mechanical equipment and balcony and another variance of 15.11% from the building coverage for a building coverage of 55.11% to build a new single-family structure.

### **IV. CONDITIONS FOR APPROVAL**

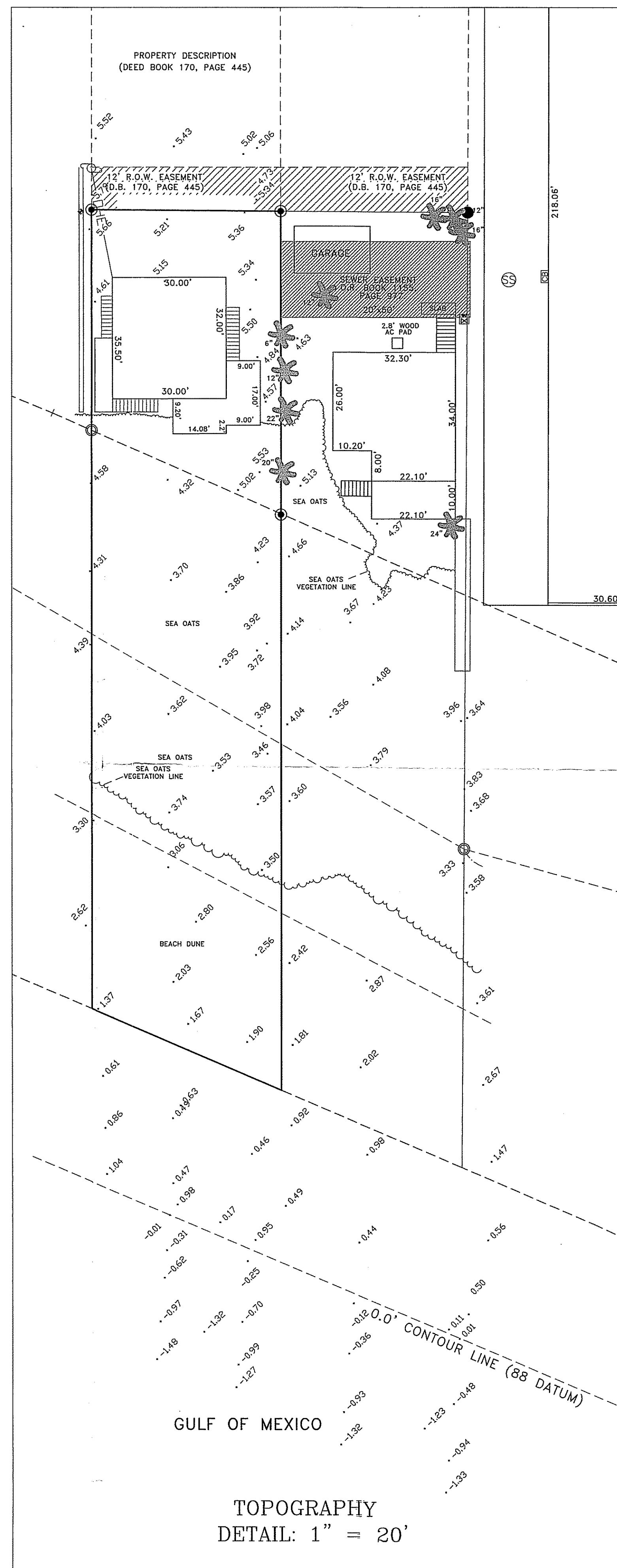
If the Town's LPA recommends approval for the variance, town's staff recommends the following conditions of approval.

- 1) Approval of these variances does not give the Applicant an undeniable right to permit approval. Development of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
- 2) Property owner must ensure that they adhere to the Neighborhood flooding ordinance for drainage and 67% maximum impervious requirements.
- 3) The variance shall only apply to the single-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variances to be null and void.
- 4) No portions of the deck shall extend past the 1978 Lee County Line (CCCL).

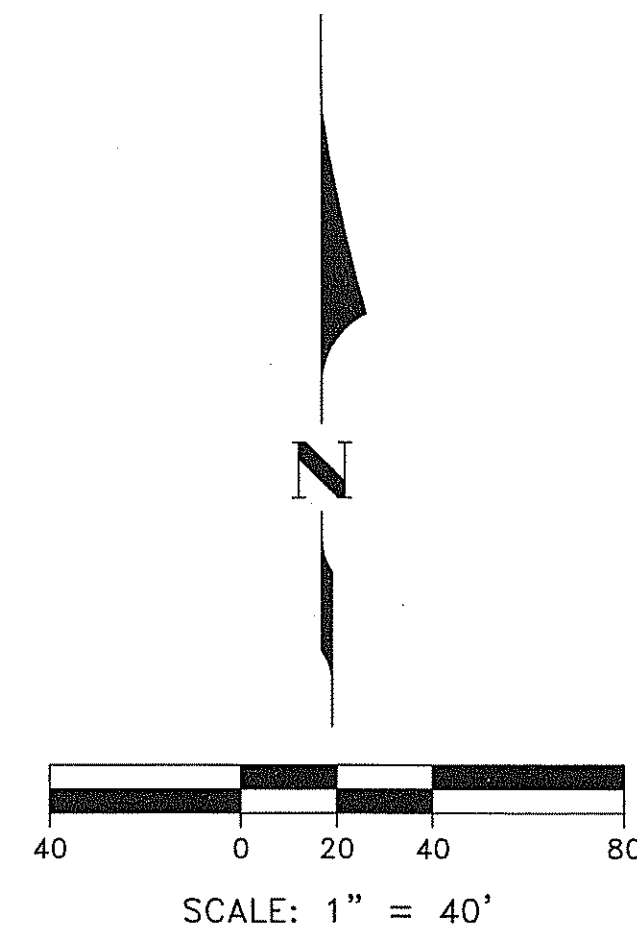
### **V. EXHIBITS**

- A. Complete application
- B. Postcards
- C. Proposed site plan

| FIELD SURVEY                                         |                 |                  |            |            |                   |
|------------------------------------------------------|-----------------|------------------|------------|------------|-------------------|
| GEODETIC CONTROL STATIONS - FLORIDA WEST ZONE / FEET |                 |                  |            |            |                   |
| STATION ID                                           | LATITUDE        | LONGITUDE        | NORTHING   | EASTING    | 88 NAVD ELEVATION |
| B008 2                                               | N26°24'25.8335" | W081°15'45.7728" | 753,598.82 | 690,191.17 | 5.06'             |
| A-26                                                 | N26°26'59.0610" | W081°56'44.2290" | 769,159.62 | 673,959.47 | 4.60'             |
| A-27                                                 | N26°26'50.2320" | W081°56'19.4690" | 768,268.30 | 676,210.28 | 4.92'             |
| R-182 RESET                                          | N26°27'07.2640" | W081°57'08.2070" | 769,986.92 | 671,774.18 | 5.30'             |
| R-185                                                | N26°26'54.0130" | W081°56'39.2970" | 766,650.14 | 674,407.97 | 4.40'             |



|        |   |                              |
|--------|---|------------------------------|
| S      | = | SURVEY                       |
| D      | = | DESCRIPTION                  |
| F.I.P. | = | FOUND IRON PIN               |
| F.C.M. | = | FOUND CONCRETE MONUMENT      |
| R.C.W. | = | RIGHT OF WAY                 |
| OHE    | = | OVERHEAD ELECTRIC LINES      |
| E.O.P. | = | EDGE OF PAVEMENT             |
| P.U.E. | = | PUBLIC UTILITY EASEMENT      |
| D.I.E. | = | DRAINAGE EASEMENT            |
| S      | = | STONE MANHOLE                |
| W      | = | WATER METER                  |
| W      | = | WATER                        |
| W      | = | FIRE HYDRANT                 |
| W      | = | UNITED TELEPHONE SERVICE BOX |
| W      | = | SEWER MANHOLE                |
| W      | = | SEWER SERVICE                |
| W      | = | CATCH BASIN                  |
| W      | = | GATE VALVE                   |
| W      | = | WOOD POWER POLE              |
| W      | = | GUY WIRE ANCHOR              |
| W      | = | BARBED WIRE FENCE            |
| W      | = | OFFICIAL RECORD              |
| W      | = | RIGHT OF WAY                 |
| W      | = | TELEPHONE BOX                |
| W      | = | PERMANENT REFERENCE MONUMENT |
| W      | = | POINT OF BEGINNING           |
| W      | = | POINT OF COMMENCEMENT        |
| W      | = | LIGHTPOLE                    |
| W      | = | TRANSFORMER PAD              |
| W      | = | CABINETS SERVICE BOX         |
| W      | = | GASLINE MARKER               |
| W      | = | SQUARE                       |
| W      | = | CONCRETE MONUMENT            |
| W      | = | FOUND                        |
| W      | = | CORNER                       |
| W      | = | FINISH FLOOR ELEVATION       |
| W      | = | INFORMATION                  |
| W      | = | PALM TREE (SIZE AS NOTED)    |



1. BEARINGS BASED ON STATE PLANE COORDINATES, FLORIDA WEST ZONE.  
GEODETIC CONTROL STATION "BOOB 2", ELEVATION = 6.22' (1929 N.G.V.D.).  
NAD 83 (1993) = 26°24'25.8342" (N), 81°53'45.7729" (W)  
ELEVATION = 5.06' (1988 N.A.V.D.)
2. SUBJECT TO EASEMENTS, RESTRICTIONS, AND RESERVATIONS OF RECORD.
3. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
4. VALID TO DATE OF SURVEY, NOT DATE OF SIGNATURE.
5. ○ = PK NAIL & DISC STAMPED AS NOTED.
6. ○ = SET 5/8" IRON PIN AND CAP - "CEC LB 2464".
7. ● = FOUND 5/8" PIN - NO CAP.
8. SUBJECT PROPERTY LIES WITHIN FLOOD ZONE "A12", ELEVATION 14.00',  
AS PER FLOOD INSURANCE RATE MAP (F.I.R.M.) 125124 0429 D,  
DATED 09-20-1996. (1929 N.G.V.D.)
9. UNDERGROUND IMPROVEMENTS, UTILITIES AND/OR FOUNDATIONS  
WERE NOT LOCATED UNLESS OTHERWISE NOTED.
10. PARCELS CONTAINS 0.25± ACRES OF LAND, MORE OR LESS.
11. DATE OF LAST FIELD WORK 01-25-06.
12. NO SEARCH OF PUBLIC RECORDS WAS MADE BY THIS  
OFFICE FOR ERRORS AND/OR OMISSIONS OF SAID DESCRIPTION.
13. ELEVATIONS BASED ON DNR MONUMENT A-26 & BOOB2 (SEE NOTE #1)  
ELEVATION = 5.76, 1929 N.G.V.D. (NATIONAL GEODETIC VERTICAL DATUM).  
ELEVATION = 4.49; 1988 "N.A.V.D." (NORTH "AMERICAN"-VERTICAL- DATUM).
14. ■ = FOUND 4" BRASS DISC
15. □ = FOUND CONCRETE MONUMENT & 4" DISC .
16. ● = FOUND 5/8" PIN - STAMPED "DENI & ASSOC."
17. EXISTING TOPOGRAPHY IN 1988 N.A.V.D.

SHW = MHW+(1.5xMR)= 3.1 FEET  
WHERE MHW = 0.27 FT 1988 NAVD  
AND MR = 1.89  
INFORMATION TAKEN FROM LABINS MHW INTERACTIVE MAP  
<http://data.labins.org/imf3/IMHW3/imfStyle2.jsp>

MHW = MEAN HIGH WATER  
MR = MIDRANGE TIDE READING  
DATUM USED = 1988 NAVD

OFFICIAL RECORD BOOK 4354, PAGE 736.

BEGINNING AT THE NORTHWEST CORNER OF LOT #20 OF T.P. HILL'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 3 AT PAGE 84, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE SOUTH ALONG THE WEST BOUNDARY OF SAID LOT #20 A DISTANCE OF 228 FEET TO THE POINT OF BEGINNING; THENCE EAST AT AN ANGLE OF 90 DEGREES WITH A WEST BOUNDARY OF SAID LOT #20, A DISTANCE OF 50 FEET; THENCE SOUTH PARALLEL WITH THE WEST BOUNDARY OF SAID LOT #20 TO THE SOUTH BOUNDARY THEREOF; THENCE WESTERLY ALONG THE SOUTH BOUNDARY OF SAID LOT #20 TO A POINT IN THE WEST LINE OF LOT #20 SOUTH OF THE POINT OF BEGINNING; THENCE NORTH TO THE POINT OF BEGINNING TOGETHER WITH ALL RIPARIAN RIGHTS THEREIN; AND THE EASEMENT IN DEED TO JAMES W. WOODSON, JR., RESERVE BY THE PARTY OF THE FIRST PART IN A CERTAIN CITY WOODSON, DATED JUNE 13, 1946, RECORDED IN DEED BOOK 170 AT PAGE 445, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

STRAP # 19-46-24-W4-00445.0000

SAID PARCEL CONTAINING 0.25 ACRES OF LAND, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

I HEREBY CERTIFY THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL REQUIREMENTS  
AS SET FORTH IN CHAPTER 61G17, F.A.C (MINIMUM TECHNICAL STANDARDS)

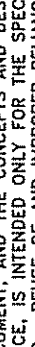
GEODETIC INFORMATION USED WAS TAKEN FROM LEE COUNTY, FLORIDA,  
DNR GPS NETWORK 1990-1992, CREATED BY DENI ASSOCIATES.

GPS UNIT USED - LEICA 500 RTK GPS UNIT WITH A VERTICAL TOLERANCE OF 0.10±

## MR. TOM RONNKVIST

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

MR. DANA L. WORLEY, P.S.M.  
PROFESSIONAL SURVEYOR AND MAPPER  
FLORIDA CERTIFICATE NO. 5681  
NOT VALID WITHOUT THE SIGNATURE AND  
THE ORIGINAL RAISED SEAL OF A FLORIDA  
LICENSED SURVEYOR AND MAPPER  
DATE OF FIELD SURVEY: 01-25-06  
DATE OF SIGNATURE: 02-02-06

|                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                   |                                                                                                                                                                                                                                   |                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  <b>COASTAL<br/>ENGINEERING<br/>CONSULTANTS<br/>INC.</b><br>A CECI GROUP COMPANY<br>Serving Florida Since 1977<br>3106 SOUTH HORSESHOE DRIVE<br>NAPLES, FLORIDA 34110<br>PHONE: (239) 643-2324<br>FAX: (239) 643-1143<br>www.coastalengineering.com<br>E-Mail: engcollie@ceci.com | CIVIL ENGINEERING<br>SURVEY & MAPPING<br>COASTAL ENGINEERING<br>REAL ESTATE APPRAISAL<br>PLANNING | CLIENT: <b>TOM RONNKVIST</b><br><br>TITLE: <b>TOPOGRAPHIC SURVEY<br/>         OF LANDS LOCATED IN SECTION 19, TOWNSHIP 46 SOUTH,<br/>         RANGE 24 EAST, LEE COUNTY, FLORIDA.<br/>         (STRAP 19-46-24-W4-00445.0000)</b> | DATE: 01-30-08 SCALE: 1"=40'<br>DRAWN: DLW F.B. LC542 & LC572<br>CHECKED: DLW PG. 59 & 35&43<br>SEC. 19 TWP. 46S RNG. 24E<br>ACAD NO. 06.009<br>REF. NO. 06.009 dwg NO. BY | THIS DOCUMENT AND THE CONCEPTS PRESENTED HEREIN, AS AN INSTRUMENT<br>OF SERVICE, IS INTENDED ONLY FOR THE SPECIFIC PURPOSE AND PROJECT FOR WHICH IT<br>WAS PREPARED. IT IS NOT TO BE USED FOR ANY OTHER PURPOSE WITHOUT THE<br>AUTHORIZATION AND ASSUMPTION BY COASTAL ENGINEERING CONSULTANTS, INC. (CEC) OR ITS<br>SUBSIDIARIES, SHALL BE CONSIDERED VOID AND VOIDABLE. |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|





## 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](mailto:zoningpermits@fmbgov.com). Please do not submit the instructions at the end of the application.

Site Address: 51 Pearl Street Fort Myers Beach FL 33931  
STRAP Number: 194624W4004450000  
Applicant: Penelope Porter Phone: 613 561 1340  
Contact Name: Penelope Porter Phone: \_\_\_\_\_  
Email: penelopejporter@gmail.com Fax: \_\_\_\_\_  
Current Zoning District: RC  
Future Land Use Map (FLUM) Category: \_\_\_\_\_  
FLUM Density Range: \_\_\_\_\_ 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\*: Penelope Porter Phone: 613-561-1340  
*\*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: Suite 421 829 Norwest Rd Kingston Ontario K7P2  
Email: penelopejporter@gmail.com Fax: \_\_\_\_\_  
Contact Name: Penelope Porter Phone: 613-561-1340



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

**B. Relationship of Applicant to subject property:**

- |                                                     |                                                         |                                              |
|-----------------------------------------------------|---------------------------------------------------------|----------------------------------------------|
| <input checked="" type="checkbox"/> Owner*          | <input type="checkbox"/> Land Trust*                    | <input type="checkbox"/> Partnership*        |
| <input type="checkbox"/> Corporation*               | <input type="checkbox"/> Association*                   | <input type="checkbox"/> Condominium*        |
| <input type="checkbox"/> Subdivision*               | <input type="checkbox"/> Timeshare Condo*               | <input type="checkbox"/> Contract Purchaser* |
| <input type="checkbox"/> Authorized Representative* | <input type="checkbox"/> Other* (please indicate) _____ |                                              |

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

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

Name: N/A Phone: \_\_\_\_\_  
Address: \_\_\_\_\_  
Email: \_\_\_\_\_ Fax: \_\_\_\_\_

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

Name: N/A Phone: \_\_\_\_\_  
Address: \_\_\_\_\_  
Email: \_\_\_\_\_ Fax: \_\_\_\_\_

Name: N/A Phone: \_\_\_\_\_  
Address: \_\_\_\_\_  
Email: \_\_\_\_\_ Fax: \_\_\_\_\_

### PART II - Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☒ Variance from LDC Section 34 - 3
- ☐ Conventional Rezoning from \_\_\_\_\_ to \_\_\_\_\_
- ☐ Planned Development
- ☐ Rezoning from \_\_\_\_\_ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: \_\_\_\_\_
- ☐ Extension/reinstatement of Master Concept Plan. List project number: \_\_\_\_\_



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☐ Other. Please Explain: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

### PART III - Waivers

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

Code Section: \_\_\_\_\_ Description: \_\_\_\_\_

Code Section: \_\_\_\_\_ Description: \_\_\_\_\_

Code Section: \_\_\_\_\_ Description: \_\_\_\_\_

### PART IV - Property Ownership (Single Owner)

☒ Single Owner (individual or husband and wife)

Name: Penelope Porter

Phone: \_\_\_\_\_

Mailing Address: Suite 421 829 Norwest Rd Kingston On K7P2N3

Email: penelopejporter@gmail.com

Fax: \_\_\_\_\_

### AFFIDAVIT

#### APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Penelope Porter 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;

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 3 of 11





# 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

Penelope Porter

Printed Name

STATE OF Florida COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of X physical presence OR \_\_\_\_\_ online notarization, this 3<sup>rd</sup> day of April, 2024, by

Penelope Porter, ☐ who is personally known to me OR ☒ who has produced

Passport as identification.



ASHLEY SHEPARD  
Commission # HH 253125  
Expires April 14, 2026

  
Notary Public Signature

### PART V

#### Property Ownership (Multiple Owners)

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

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

### DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

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

Name and Address

Percentage of Interest

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

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

Name and Address

Percentage of Ownership

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

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

Name, Address and Office

Percentage of Stock

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: \_\_\_\_\_

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

| Name  | Address |
|-------|---------|
| _____ | _____   |
| _____ | _____   |
| _____ | _____   |
| _____ | _____   |

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

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

|                    |                       |
|--------------------|-----------------------|
| _____<br>Signature | _____<br>Printed Name |
|--------------------|-----------------------|

### AFFIDAVIT

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

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

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





## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Date

**STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_**

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

Seal

\_\_\_\_\_  
Notary Public Signature

### PART VI- Property Information

#### A. Legal Description:

STRAP: 19-46-24-w4-00445-0000

Property Address: 51 Pearl Street Fort Myers Beach FL 33931

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

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

☐ Yes. Property identified in subdivision: \_\_\_\_\_

Book: \_\_\_\_\_ Page: \_\_\_\_\_ Unit: \_\_\_\_\_ Block: \_\_\_\_\_ Lot(s): \_\_\_\_\_

#### B. Boundary Survey:

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



## COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 50 feet  
Depth (please provide an average width if irregular in shape) 152 feet  
Frontage on street: 50 feet. Frontage on waterbody: 50 feet  
Total land area: 7600 ☐ acres ☐ square feet

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

West from Sky Bridge to Pearl Street South. Property is between Surf Song Condo  
and Diamond Head Hotel

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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



Case # \_\_\_\_\_

Date Received: \_\_\_\_\_

# *Town of Fort Myers Beach*

## COMMUNITY DEVELOPMENT DEPARTMENT

### Supplement PH-B

### Additional Required Information for a Variance Application

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

|                                               |
|-----------------------------------------------|
| <b>Case Number:</b>                           |
| <b>Project Name:</b> PORTER                   |
| <b>Authorized Applicant:</b> PORTER, PENELOPE |
| <b>LeePA STRAP Number:</b> 194624W4004450000  |
|                                               |

|                                             |                                                                                  |
|---------------------------------------------|----------------------------------------------------------------------------------|
| <b>Current Property Status:</b> Vacant Lot  |                                                                                  |
| <b>Current Zoning:</b> RC                   |                                                                                  |
| <b>Future Land Use Map (FLUM) Category:</b> |                                                                                  |
| <b>Comp Plan Density:</b>                   | <b>Platted Overlay?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No |

Variance is requested from:

**LDC Section Number**

**Title of Section or Subsection**

|                                       |
|---------------------------------------|
| Table 34-3 Dimensional                |
| Front yard setback                    |
| Side yard encroachment West side only |
| Lot coverage increase                 |
|                                       |
|                                       |

Complete the narrative statements below for EACH variance requested.



PART I  
Narrative Statements

Request for variance from **34-3** (LDC Section number)

**Explain the specific regulation contained in this section from which relief is sought:**

Front Yard Set back relief. The property zoning currently requires a 25 foot front yard set back.

I am requesting a variance of 13 feet so that it be reduced to 12 feet. The front yard does not front on a street  
it fronts on a driveway easement and a parking lot

The west side yard relief is being sought to allow for air conditioning units to hang on the new structure side wall below a three foot cantilevered deck, both the units and the deck would protrude into the 7.5 setback by 3 feet and are above the BFE on the Diamond Head Side of the property which is a parking lot, separated by a fence and stone wall.

The lot coverage relief sought is for an increase in lot coverage from 40% to 56%

**Reasons for request**

**Explain why the variance is needed:**

The variances are needed to allow for construction of a three storey single family residence. The lot had a cottage on the property which was destroyed by Ian, The front yard, and lot coverage relief are needed in order to construct a single family home. The buildable area of the lot is very small and irregular shaped. The trapezoid angles make one side of the lot very narrow. The request for the A/C units to hang on the west side (Diamond Head Parking Lot) with a cantilever deck is in order to minimize the intrusion to the neighbour to the east from the A/C noise and also protect the A/C units with a cantilever deck above.

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

The property is one of two properties located between the Diamond Head Resort and the surf song Condominiums. The property is accessed by a Right of Way Easement from Pearl Street.

The front yard is accessed by the Right of Way which is beside a parking lot. The property does not front on a public road nor sidewalk

The side yard encroachment is on the Diamond Head property side and any noise created by the air conditioners would not impact the hotel guests due to the distance from the hotel. The encroachment is beside a parking lot which is separated from my property by a stone wall and fence.

Lot coverage has been calculated using only the area north of the CCL. The impervious coverage is significantly lower and more reflective of the actual lot.

The lot coverage increase has no effect on the surrounding properties

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

The property is one of two homes located between the surf song condominiums and the Diamond Head Hotel. The west side of the property looks out to a parking lot.

This property fronts on a private driveway easment which is accessed from Pearl street, the property frontage is not on a traveled street nor public access and the front of the property looks out onto a parking lot which abuts the driveway

The property is unique in that it abuts both the diamond head parking lot on the west side and the Surfsong parking lot on the north side.

The property buildable area is very small and oddly shaped, the west property line to the CCL is only 58 feet which makes it impracticable to design a structure with a 25 foot frontage. The lot coverage regulation is very confining in this case as only using the buildable area for the calculation rather than the entire lot size makes it very difficult to stay within the allowable percentage.



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

There are special and exceptional circumstances of this property in respect to its location and buildable size. The variances sought are minor in nature, have no negative effect on neighbours nor municipal infrastructure.

The reducing of the front yard setback will have no negative effect on the public and given the unique circumstance of this property's location, rigid compliance is not required to protect public policy.

The 3 foot encroachment of a deck with AC units underneath into the 7.5 foot side yard setback has no impact on the public, the east side abuts a parking lot and any noise from the Air units would not affect the hotel due to the buffering of the parking lot and the distance from my property to actual hotel rooms.

I am requesting the minimum relief required.  
Granting of the variances would neither be injurious to the neighbourhood nor detrimental to the public welfare.

The conditions and circumstances are unique to this property and are not general in nature to warrant an amendment to the regulation.



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  
(Variances, Extensions, Satisfaction of Conditions)**

**VAR20240100** – requesting a variance from Table 34-3 Dimensional Regulations in Conventional Zoning Districts for the street and side setbacks and building coverage in the RM zoning district.

**ADDRESS:** 51 Pearl St

**APPLICANT:** Penelope Porter

**LOCAL PLANNING AGENCY PUBLIC HEARING**

**TIME:** 9 AM

**DATE:** AUG 23, 2024

**LOCATION:** 2731 Oak St, FMB, Florida 33931

**TOWN CONTACT:** [SAARH.PROPST@FMBGOV.COM](mailto:SAARH.PROPST@FMBGOV.COM)

**TOWN COUNCIL PUBLIC HEARING\***

**TIME:** 9 AM

**DATE:** SEPTEMBER 9, 2024

**LOCATION:** 2731 Oak St., FMB, Florida 33931

**\*NOTE: THE TOWN COUNCIL PUBLIC HEARING MAY BE CANCELLED IF THE LOCAL PLANNING AGENCY UNANIMOUSLY APPROVES THE REQUEST AND NO REQUEST FOR A HEARING IS RECEIVED BY THE TOWN CLERK WITHIN 10 BUSINESS DAYS OF THE LOCAL PLANNING AGENCY DECISION. CHECK [www.fortmyersbeachfl.gov/209/Meetings-Agendas](http://www.fortmyersbeachfl.gov/209/Meetings-Agendas) FOR UPDATED SCHEDULING.**

You may appear in person, through counsel, or through an authorized agent, and provide testimony, legal argument, or other evidence. At the public hearing(s), the request and related materials will be reviewed and a recommendation made. If a person decides to appeal any decision made, he or she will need a record of the proceedings, and may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. 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  
(Variances, Extensions, Satisfaction of Conditions)**

**VAR20240100** – requesting a variance from Table 34-3 Dimensional Regulations in Conventional Zoning Districts for the street and side setbacks and building coverage in the RM zoning district.

**ADDRESS:** 51 Pearl St

**APPLICANT:** Penelope Porter

**LOCAL PLANNING AGENCY PUBLIC HEARING**

**TIME:** 9 AM

**DATE:** AUG 23, 2024

**LOCATION:** 2731 Oak St, FMB, Florida 33931

**TOWN CONTACT:** [SAARH.PROPST@FMBGOV.COM](mailto:SAARH.PROPST@FMBGOV.COM)

**TOWN COUNCIL PUBLIC HEARING\***

**TIME:** 9 AM

**DATE:** SEPTEMBER 9, 2024

**LOCATION:** 2731 Oak St., FMB, Florida 33931

**\*NOTE: THE TOWN COUNCIL PUBLIC HEARING MAY BE CANCELLED IF THE LOCAL PLANNING AGENCY UNANIMOUSLY APPROVES THE REQUEST AND NO REQUEST FOR A HEARING IS RECEIVED BY THE TOWN CLERK WITHIN 10 BUSINESS DAYS OF THE LOCAL PLANNING AGENCY DECISION. CHECK [www.fortmyersbeachfl.gov/209/Meetings-Agendas](http://www.fortmyersbeachfl.gov/209/Meetings-Agendas) FOR UPDATED SCHEDULING.**

You may appear in person, through counsel, or through an authorized agent, and provide testimony, legal argument, or other evidence. At the public hearing(s), the request and related materials will be reviewed and a recommendation made. If a person decides to appeal any decision made, he or she will need a record of the proceedings, and may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. 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  
(Variances, Extensions, Satisfaction of Conditions)**

**VAR20240100** – requesting a variance from Table 34-3 Dimensional Regulations in Conventional Zoning Districts for the street and side setbacks and building coverage in the RM zoning district.

**ADDRESS:** 51 Pearl St

**APPLICANT:** Penelope Porter

**LOCAL PLANNING AGENCY PUBLIC HEARING**

**TIME:** 9 AM

**DATE:** AUG 23, 2024

**LOCATION:** 2731 Oak St, FMB, Florida 33931

**TOWN CONTACT:** [SAARH.PROPST@FMBGOV.COM](mailto:SAARH.PROPST@FMBGOV.COM)

**TOWN COUNCIL PUBLIC HEARING\***

**TIME:** 9 AM

**DATE:** SEPTEMBER 9, 2024

**LOCATION:** 2731 Oak St., FMB, Florida 33931

**\*NOTE: THE TOWN COUNCIL PUBLIC HEARING MAY BE CANCELLED IF THE LOCAL PLANNING AGENCY UNANIMOUSLY APPROVES THE REQUEST AND NO REQUEST FOR A HEARING IS RECEIVED BY THE TOWN CLERK WITHIN 10 BUSINESS DAYS OF THE LOCAL PLANNING AGENCY DECISION. CHECK [www.fortmyersbeachfl.gov/209/Meetings-Agendas](http://www.fortmyersbeachfl.gov/209/Meetings-Agendas) FOR UPDATED SCHEDULING.**

You may appear in person, through counsel, or through an authorized agent, and provide testimony, legal argument, or other evidence. At the public hearing(s), the request and related materials will be reviewed and a recommendation made. If a person decides to appeal any decision made, he or she will need a record of the proceedings, and may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. 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  
(Variances, Extensions, Satisfaction of Conditions)**

**VAR20240100** – requesting a variance from Table 34-3 Dimensional Regulations in Conventional Zoning Districts for the street and side setbacks and building coverage in the RM zoning district.

**ADDRESS:** 51 Pearl St

**APPLICANT:** Penelope Porter

**LOCAL PLANNING AGENCY PUBLIC HEARING**

**TIME:** 9 AM

**DATE:** AUG 23, 2024

**LOCATION:** 2731 Oak St, FMB, Florida 33931

**TOWN CONTACT:** [SAARH.PROPST@FMBGOV.COM](mailto:SAARH.PROPST@FMBGOV.COM)

**TOWN COUNCIL PUBLIC HEARING\***

**TIME:** 9 AM

**DATE:** SEPTEMBER 9, 2024

**LOCATION:** 2731 Oak St., FMB, Florida 33931

**\*NOTE: THE TOWN COUNCIL PUBLIC HEARING MAY BE CANCELLED IF THE LOCAL PLANNING AGENCY UNANIMOUSLY APPROVES THE REQUEST AND NO REQUEST FOR A HEARING IS RECEIVED BY THE TOWN CLERK WITHIN 10 BUSINESS DAYS OF THE LOCAL PLANNING AGENCY DECISION. CHECK [www.fortmyersbeachfl.gov/209/Meetings-Agendas](http://www.fortmyersbeachfl.gov/209/Meetings-Agendas) FOR UPDATED SCHEDULING.**

You may appear in person, through counsel, or through an authorized agent, and provide testimony, legal argument, or other evidence. At the public hearing(s), the request and related materials will be reviewed and a recommendation made. If a person decides to appeal any decision made, he or she will need a record of the proceedings, and may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Transcripts of the proceedings are not provided by the Town. Copies of the application and staff report are available for viewing at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30 AM and 4:30 PM. Reasonable accommodations will be made in accordance with the Americans with Disabilities Act. If you need reasonable accommodation, contact Town Hall at 239-765-0202.

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

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

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

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

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

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

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

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

51 Pearl Street

Fort Myers Beach

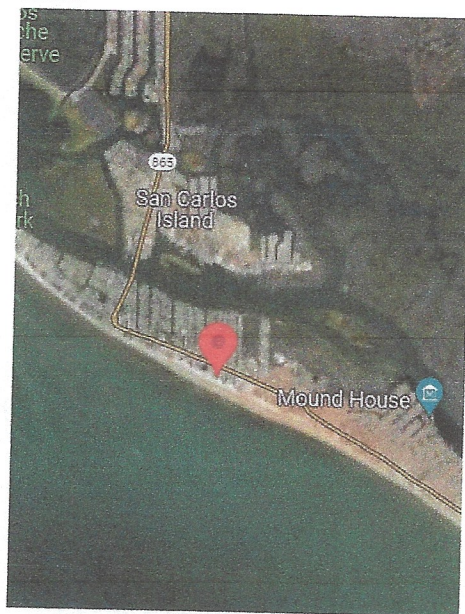
Application for Variance

Penelope Porter

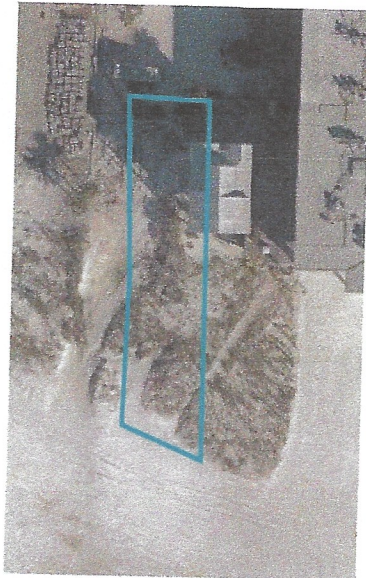
**LEGAL DESCRIPTION**

HILLS T.P. SUBD. PB 3 PG 84 BEG 216 FT S OF NW COR LOT  
**APPLICABLE BUILDING CODES**  
FLORIDA BUILDING CODE 2020, RESIDENTIAL, 7TH EDITION

**AERIAL**

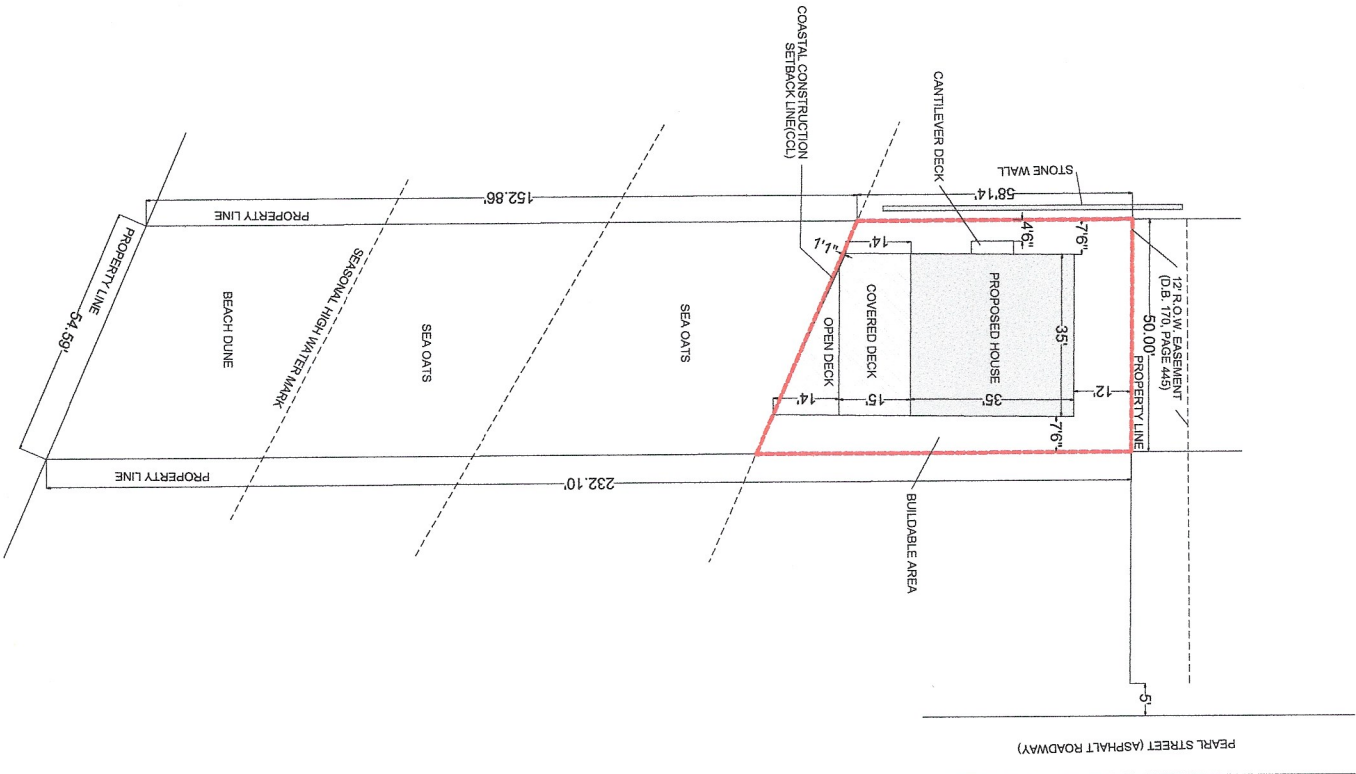


**SITE**





|                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>LOT COVERAGE CALCULATIONS:</p> <p>TOTAL BUILDABLE AREA = 3,492 SQ. FT.</p> <p>PROPOSED HOUSE = 1,225 SQ. FT.</p> <p>COVERED DECK = 531 SQ. FT.</p> <p>EAVES = 168.5 SQ. FT.</p> <p>TOTAL LOT COVERAGE SQ. FT. = 1,924.5 = 55.11%</p> | <p>IMPERVIOUS AREA CALCULATIONS:</p> <p>PROPOSED HOUSE = 1,225 SQ. FT.</p> <p>COVERED DECK = 531 SQ. FT.</p> <p>DECK = 225 SQ. FT.</p> <p>TOTAL IMPERVIOUS AREA = 10,890 SQ. FT.</p> <p>TOTAL IMPERVIOUS AREA = 1,979 SQ. FT. = 18.17%</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



NOTES:

**ADDRESS:**  
 51 PEARL ST  
 FORT MYERS BEACH, FL 33931

**SITE PLAN**

PARCEL ID: 194624W400445000

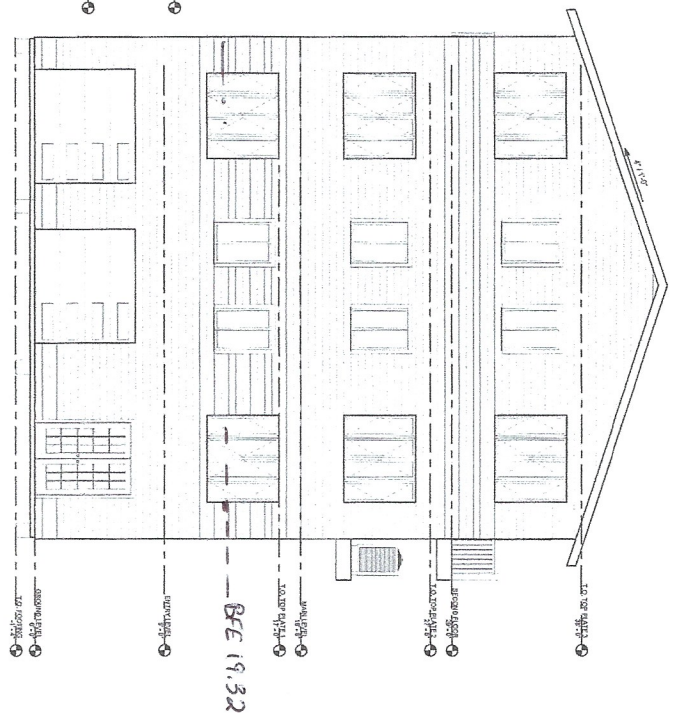
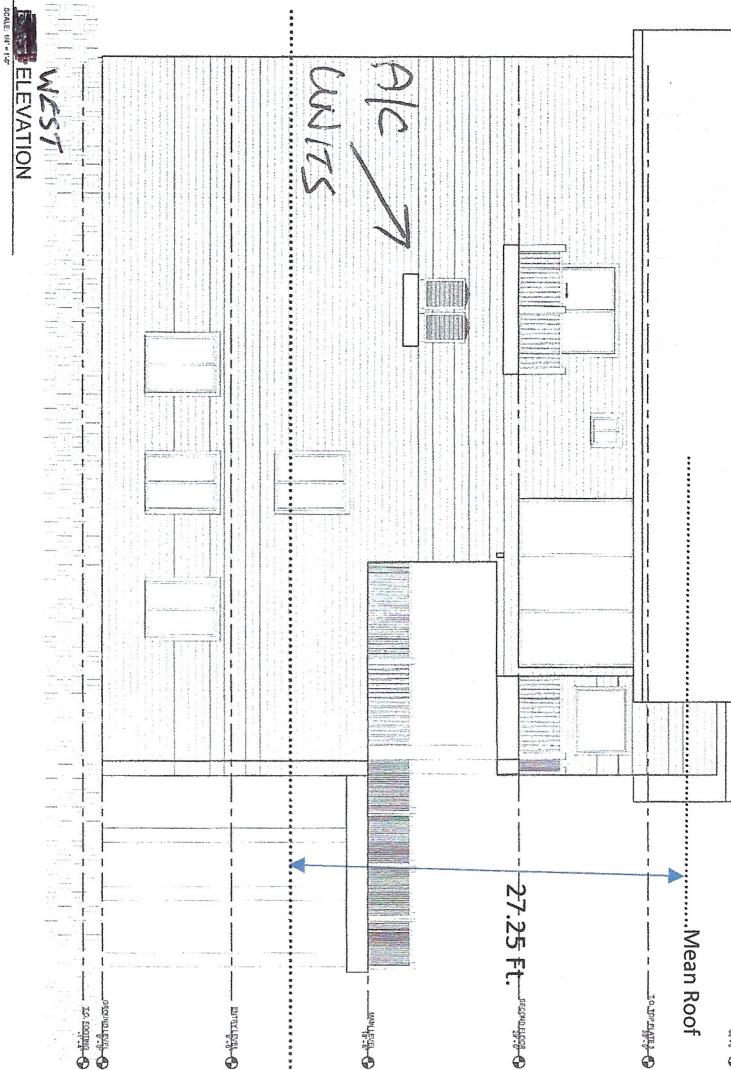
LOT AREA: 0.25 ACRES

PLOT SIZE: 8.5' X 11"

DRAWING SCALE: 1"=40'



| MATERIAL LEGEND |                                                                                                |
|-----------------|------------------------------------------------------------------------------------------------|
|                 | NEW 11' CORE OF BLOCK WALLS                                                                    |
|                 | EXISTING 14' EXISTING SQUARE CORE, CONCRETE FOR STRUCTURAL SUPPORT, TYPICAL FOR ALL COMPONENTS |
|                 | NEW 13' OLD, NEW, ROOF COLOR PER OWNER                                                         |
|                 | HARDWOOD LAP JOINS                                                                             |



Project Status

Engineer



# ELEVATIONS PORTER RESIDENCE

51 PEARL STREET  
FORT MYERS BEACH, FLORIDA 33931

Drafter

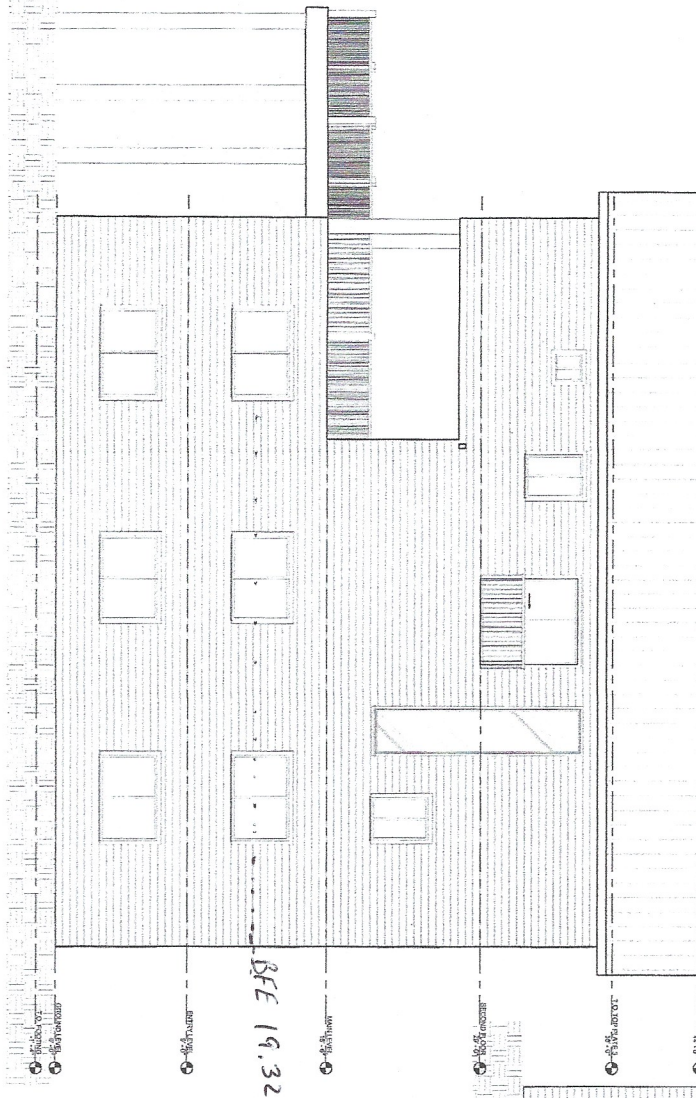


A200

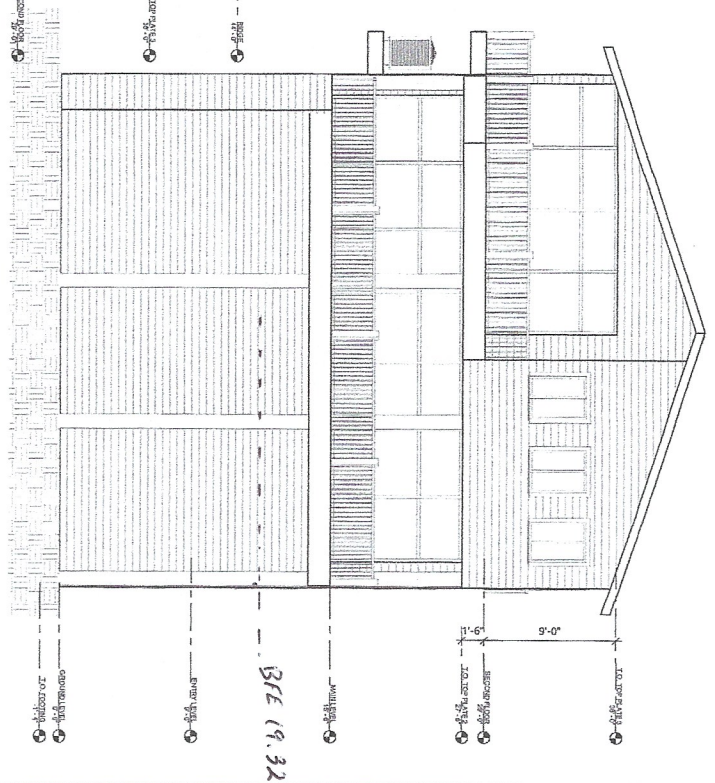


| MATERIAL LEGEND |                                      |
|-----------------|--------------------------------------|
|                 | NEW 1" CORE OF BLOCK WALLS           |
|                 | NEW 2" GA. METAL ROOF COUPLES GABLES |
|                 | NEW 2" GA. METAL ROOF COUPLES GABLES |
|                 | NEW 2" GA. METAL ROOF COUPLES GABLES |

EAST ELEVATION  
 SCALE 1/8" = 1'-0"



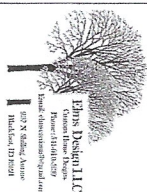
SOUTH ELEVATION  
 SCALE 1/8" = 1'-0"



# ELEVATIONS PORTER RESIDENCE

51 PEARL STREET  
 FORT MYERS BEACH, FLORIDA 33931

Draftsman



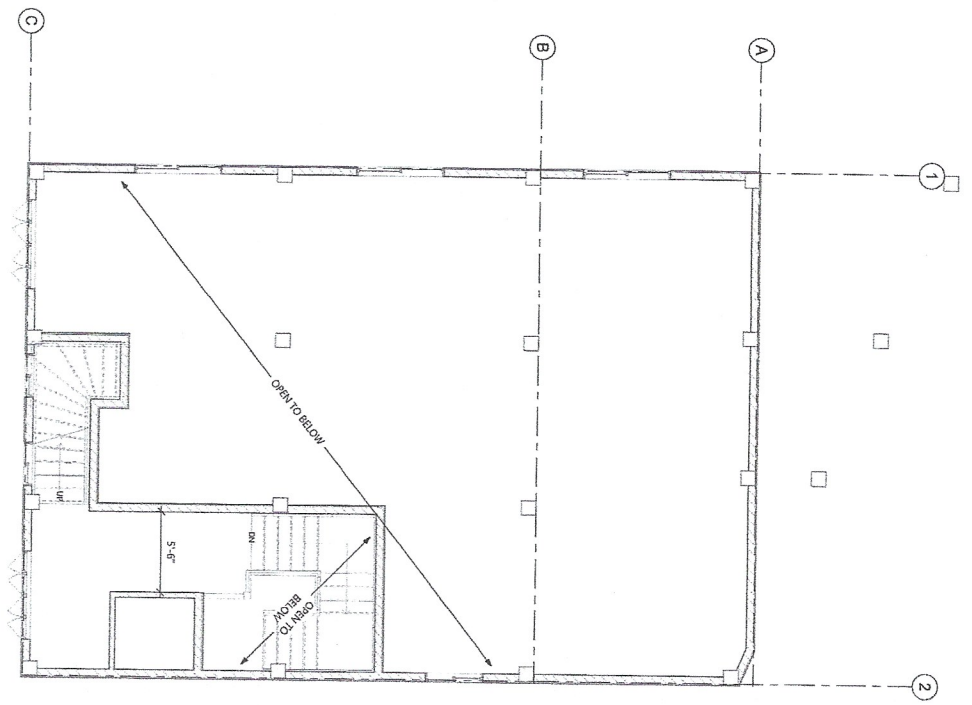
A201

Engineer



Project Status

|                       |                                                                                                                                                             |                                                                                                                          |                                                                                                                                                                                                                                                                                           |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Project Status</p> | <p>Engineer</p>  <p><b>HARRIS</b><br/>Landmark<br/>P.A./LLC/LLP/PA</p> | <p>GROUND LEVEL FLOOR PLAN</p> <p><b>PORTER RESIDENCE</b></p> <p>51 PEARL STREET<br/>FORT MYERS BEACH, FLORIDA 33931</p> | <p>Drafter</p>  <p><b>Eline Design LLC</b><br/>Creative Home Design<br/>Interior • Exterior • Landscaping<br/>1227 N. 16th St., Suite 100<br/>Fort Myers, FL 33901</p> <p>05-22<br/>30-23<br/>A101</p> |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



Project Status

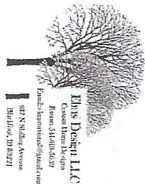
Engineer



ENTRY LEVEL FLOOR PLAN  
PORTER RESIDENCE

51 PEARL STREET  
FORT MYERS BEACH, FLORIDA 33931

Drafter



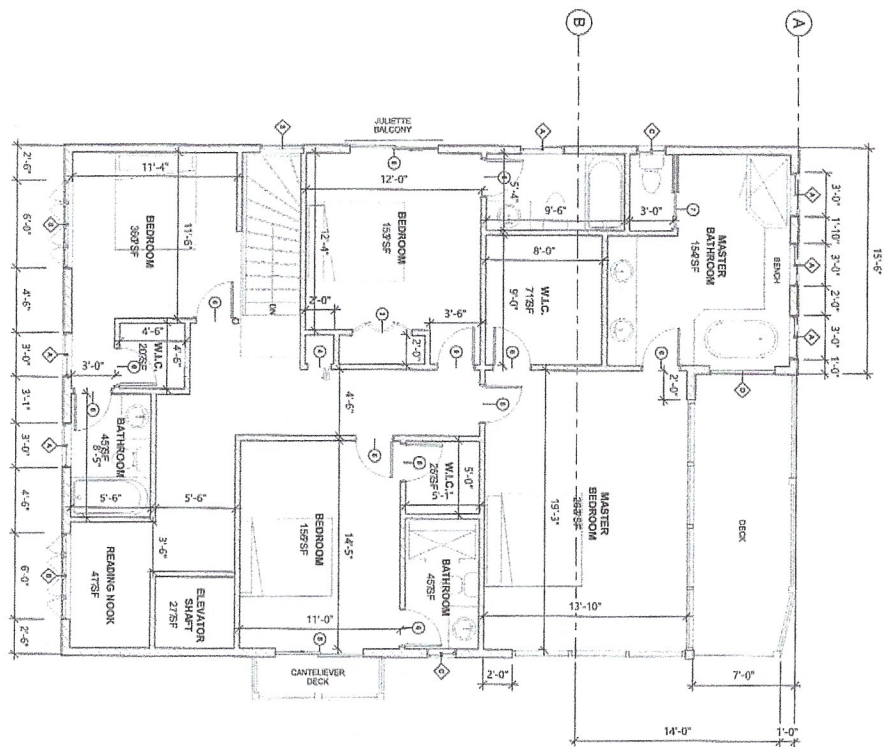
07/23

20023

A102







# SECOND FLOOR PLAN PORTER RESIDENCE

51 PEARL STREET  
FORT MYERS BEACH, FLORIDA 33931

Drafter



Engineer

Project Status

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

Yellow Sheet Number: **2024-181**

**1. Request:**

**Meeting Date: August 23, 2024**

LPA Resolution 2024-05: A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20240159 TO ALLOW A SIDE STREET SETBACK VARIANCE OF 3 FEET AND 9 INCHES FROM THE REQUIRED 15-FOOT SIDE STREET SETBACK FOR A POOL ENCLOSURE FOR THE PROPERTY LOCATED AT 8180 LAGOON ROAD; AND PROVIDING FOR AN EFFECTIVE DATE

**Why the action is necessary:**

The LPA makes recommendations to the Town Council regarding variance requests or can approve the variance request unanimously.

**What the action accomplishes:**

The LPA recommendation will be forwarded on to the Town Council or serve as final agency action if the request is approved unanimously and there are no objections.

**2. Agenda:**

PUBLIC HEARINGS

**3. Requirement/Purpose:**

Resolution

**5. Background:**

The owner of 8180 Lagoon Rd, is requesting a variance of 3 feet and 9 inches from LDC Section 34-638. (d)(6), which requires a minimum 15-foot side street setback on a corner lot less than 75 feet in width in RS zoning district. The subject property is a corner lot at the intersection of Lagoon Rd and Tarpon Rd. The Applicant is requesting a variance from the 15-foot side street setback to allow construction of a pool enclosure 11 feet and 3 inches from the property line, the same distance from the side road as the existing single-family residence.

**Attachments:**

1. LPA Resolution 2024-05 8180 Lagoon Rd- LPA Variance
2. VAR 20240159- Staff report
3. Exhibit A- Site Plan
4. Exhibit B - LPA & TC postcards
5. 2023 Meeting\_full transcript

**Financial Impact:**

Unknown

**6. Alternative Action**

Approve with conditions.

**7. Staff Recommendations:**

Deny

**8. Recommended Approval:**

Date: August 16, 2024

Frankie Kropacek, Operations & Compliance Director

Date: August 19, 2024

---

nancy stuparich, Town Attorney

Date: August 19, 2024

---

Amy Baker, Town Clerk

**RESOLUTION NUMBER 2024-05**

**A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20240159 TO ALLOW A SIDE STREET SETBACK VARIANCE OF 3 FEET AND 9 INCHES FROM THE REQUIRED 15-FOOT SIDE STREET SETBACK FOR A POOL ENCLOSURE FOR THE PROPERTY LOCATED AT 8180 LAGOON ROAD; 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**, applicant Mark Hanna, on behalf of owner Janell Schoonover Trust, is requesting a variance from LDC Section 34-638. (d)(6), which requires a minimum 15-foot side street setback on a corner lot less than 75 feet in width in the RS zoning district; and

**WHEREAS**, the STRAP number for the subject property is 03-47-24-W3-00105.0070; and

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

**WHEREAS**, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on August 23, 2024, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-87 of the LDC; and

**WHEREAS**, in accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the LPA makes the following findings and conclusions:

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

B. The conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question.

C. The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.



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

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

**WHEREAS**, eligible members of the LPA voted unanimously by roll call vote to approve the requested variances with the following conditions:

- 1) Approval of this variance does not give the Applicant an undeniable right to permit approval. Development of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
- 2) The variance shall only apply to the single-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variances to be null and void.

**WHEREAS**, Ordinance 24-06 amended Section 34-232(d) of the LDC to provide that:

(d) Owner-initiated requests for variances, or required reviews to extend or to provide evidence of satisfaction of conditions contained in prior land use approvals, that are:

- 1) approved by a unanimous vote of the local planning agency members who are eligible to vote, and
- 2) not subject to a request for an additional public hearing before the town council made by anyone that is received by the town clerk within 10 business days after the date of the local planning agency decision, excluding holidays, only require one public hearing before the local planning agency, and the local planning agency decision is final agency action.

**IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:**

1. The foregoing “WHEREAS” clauses are adopted herein by reference and constitute the findings and conclusions of the LPA.

2. VAR20240159, with the conditions contained herein, received unanimous approval from eligible voting members of the LPA on August 23, 2024.

3. This Resolution shall constitute the equivalent of a development order and final agency action, subject to any request for an additional review by the Town Council filed with the Town Clerk within 10 business days of the LPA decision as authorized in Section 34-232(d) of the LDC.

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

|                         |       |
|-------------------------|-------|
| Chair Anita Cereceda    | _____ |
| Vice-Chair Jane Plummer | _____ |
| Member James Boan       | _____ |
| Member Douglas Eckmann  | _____ |
| Member Don Sudduth      | _____ |
| Member John McLean      | _____ |
| Member James Dunlap     | _____ |

DULY PASSED AND ADOPTED THIS \_\_\_\_\_ day of August, 2024.

Local Planning Agency of the Town of  
Fort Myers Beach

By: \_\_\_\_\_  
Anita Cereceda, LPA Chair

Approved as to legal sufficiency:

ATTEST:

By: \_\_\_\_\_  
Vose Law Firm, Town Attorney

By: \_\_\_\_\_  
Amy Baker, Town Clerk

EXHIBIT A: Site Plan



# *Town of Fort Myers Beach*

## COMMUNITY DEVELOPMENT DEPARTMENT

### STAFF REPORT

**TYPE OF CASE:** Variance

**CASE NUMBER:** VAR20240159

**CASE NAME:** 8180 Lagoon Rd; requesting a variance from LDC Section 34-638. (d)(6), of 3 feet and 9 inches from the minimum 15-foot side street setback on a corner lot less than 75 feet in width in RS zoning district.

**LPA**

**HEARING DATE:** August 23, 2024

**STAFF**

**RECOMMENDATION:** DENIAL

**PREPARED/  
SUBMITTED BY:** Sarah Propst AICP, PMP

#### **I. APPLICATION SUMMARY**

Applicant/Owner: Mark Hanna (Applicant)/Janell Schoonover Trust (Owner)

Request: A variance from LDC Section 34-638. (d)(6), of 3 feet and 9 inches from the required 15-foot side street setback on a corner lot less than 75 feet in width in RS zoning district.

Subject property: See attached site plan

Physical Address: 8180 Lagoon Rd

STRAP #: 03-47-24-W3-00105.0070

FLU: Low-Density Residential

Zoning: Single Family Residential (RS)

#### **Adjacent zoning and land uses:**

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

|        |                                                           |
|--------|-----------------------------------------------------------|
| South: | LOW-DENSITY RESIDENTIAL<br>Single Family Residential (RS) |
| East:  | LOW-DENSITY RESIDENTIAL<br>Single Family Residential (RS) |
| West:  | LOW-DENSITY RESIDENTIAL<br>Single Family Residential (RS) |

## **II. BACKGROUND AND ANALYSIS**

### **Background:**

Mark Hanna, applicant, on behalf of the owner Janell Schoonover Trust of 8180 Lagoon Rd, is requesting a variance from LDC Section 34-638. (d)(6), which requires a minimum 15-foot side street setback on a corner lot less than 75 feet in width in RS zoning district.

The Applicant is requesting a variance of 3 feet and 9 inches from the required 15-foot side street setback to allow construction of a pool enclosure the same distance from the side road as the existing single-family residence with a side street setback of 11 foot and 3 inches. The subject property is 74.95 feet wide and 123 feet to 129 feet long corner lot at the intersection of Lagoon Rd and Tarpon Rd. The property currently supports a single-family residence.

### **Analysis:**

The purpose of the RS zoning district is to provide stable neighborhoods where single-family detached homes are the predominant land use.

LDC Section 34-638. (d)(6), requires a minimum 15-foot side street setback on a corner lot less than 75 feet in width is required in the RS zoning district. The property currently supports a single-family residence built in 2014 under different ownership, with a reduced side street setback of 11 feet and 3 inches. No variance exists for this decreased setback. On March 6, 2023, the Town Council approved resolution 23-20 to allow a pool setback variance of one foot from the required 15-foot side street setback for the property. The pool is under construction. The Applicant is now requesting a variance of 3 feet and 9 inches from the required side street setback to permit a pool enclosure for the previously permitted pool, the same distance from the side street as the existing single-family residence.

### **Neighborhood Compatibility:**

The subject property is part of a single-family residential neighborhood where most single-family homes appear to comply with the Town's side street setback requirements.

Findings and Conclusions:

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

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

On March 6, 2023, the Town Council adopted resolution 23-20 to allow a pool setback variance of one foot from the required 15-foot side street setback for the property. The Applicant is now requesting a variance to permit a pool enclosure with reduced street setbacks similar to allow a screen enclosure the same distance from the side street as the existing single-family residence. Therefore, the request is for a de minimis variance under circumstances where rigid compliance is not essential to protect public policy.

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

The circumstances leading to this variance are a result of a design choice. The property currently supports a single-family residence built in 2014 with reduced side street setbacks. The property previously supported a pool and a pool enclosure that was compliant with the Town's 25-foot side street setback regulations. In 2023, the Applicant requested a variance from the side street setback to allow a pool of a larger square footage which was approved and adopted by the Town Council on March 06, 2023 (Res 23-20). The Applicant did not request a variance for the pool enclosure as part of the previous variance. The Applicant is now requesting a variance to permit a pool enclosure with reduced street setbacks the same distance from the side street as the existing single-family residence. Therefore, the conditions justifying the variance are the result of the actions of the Applicant.

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

As mentioned above, the request is for a de minimis variance and granting this variance will allow the Applicant to construct a pool enclosure around the previously permitted pool and parallel to the existing single-family residence with a side street setback of 11 feet and 3 inches.

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



The subject property currently supports a single-family residence with reduced side street setbacks. The applicant is proposing to place the pool enclosure at the same side street setback as the existing house. Therefore, granting this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

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

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

### **III. RECOMMENDATION**

Staff has reviewed the request for a variance of 3 feet and 9 inches from LDC Section 34-638. (d)(6), which requires a minimum 15-foot side street setback on a corner lot less than 75 foot in width in the RS zoning district and finds that the variance request does meet all of the requirements set-forth in sec. 34-87.

Therefore, staff recommends **DENIAL** of VAR20240159, a variance of 3 feet and 9 inches from the required 15-foot side street setback to allow construction of a pool enclosure 11 feet and 3 inches from the side street property line.

### **IV. CONDITIONS FOR APPROVAL**

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

- 1) Approval of this variance does not give the Applicant an undeniable right to permit approval. Development of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
- 2) The variance shall only apply to the single-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variances to be null and void.

### **V. EXHIBITS**

Exhibit A: Complete Application Packet

Exhibit B: Postcards to Adjacent Property Owners





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  
(Variances, Extensions, Satisfaction of Conditions)**

**VAR20240159** – Requesting a variance of 3 feet and 9 inches from the required 15-foot side street setback. To allow a screen pool enclosure 11 feet and 3 inches from the side street property line along Tarpon Rd.

**ADDRESS: 8180 LAGOON RD**

**APPLICANT: JANE SCHOONOVER**

**LOCAL PLANNING AGENCY PUBLIC HEARING**

**TIME: 9 AM**

**DATE: August 23, 2024**

**LOCATION: 2731 Oak St, FMB, Florida 33931**

**TOWN CONTACT: [SARAH.PROPST@FMBGOV.COM](mailto:SARAH.PROPST@FMBGOV.COM)**

**TOWN COUNCIL PUBLIC HEARING\***

**TIME: 9 AM**

**DATE: September 9, 2024**

**LOCATION: 2731 Oak St., FMB, Florida 33931**

**\*NOTE: THE TOWN COUNCIL PUBLIC HEARING MAY BE CANCELLED IF THE LOCAL PLANNING AGENCY UNANIMOUSLY APPROVES THE REQUEST AND NO REQUEST FOR A HEARING IS RECEIVED BY THE TOWN CLERK WITHIN 10 BUSINESS DAYS OF THE LOCAL PLANNING AGENCY DECISION. CHECK [www.fortmyersbeachfl.gov/209/Meetings-Agendas](http://www.fortmyersbeachfl.gov/209/Meetings-Agendas) FOR UPDATED SCHEDULING.**

You may appear in person, through counsel, or through an authorized agent, and provide testimony, legal argument, or other evidence. At the public hearing(s), the request and related materials will be reviewed and a recommendation made. If a person decides to appeal any decision made, he or she will need a record of the proceedings, and may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. 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  
(Variances, Extensions, Satisfaction of Conditions)**

**VAR20240159** – Requesting a variance of 3 feet and 9 inches from the required 15-foot side street setback. To allow a screen pool enclosure 11 feet and 3 inches from the side street property line along Tarpon Rd.

**ADDRESS: 8180 LAGOON RD**

**APPLICANT: JANE SCHOONOVER**

**LOCAL PLANNING AGENCY PUBLIC HEARING**

**TIME: 9 AM**

**DATE: August 23, 2024**

**LOCATION: 2731 Oak St, FMB, Florida 33931**

**TOWN CONTACT: [SARAH.PROPST@FMBGOV.COM](mailto:SARAH.PROPST@FMBGOV.COM)**

**TOWN COUNCIL PUBLIC HEARING\***

**TIME: 9 AM**

**DATE: September 9, 2024**

**LOCATION: 2731 Oak St., FMB, Florida 33931**

**\*NOTE: THE TOWN COUNCIL PUBLIC HEARING MAY BE CANCELLED IF THE LOCAL PLANNING AGENCY UNANIMOUSLY APPROVES THE REQUEST AND NO REQUEST FOR A HEARING IS RECEIVED BY THE TOWN CLERK WITHIN 10 BUSINESS DAYS OF THE LOCAL PLANNING AGENCY DECISION. CHECK [www.fortmyersbeachfl.gov/209/Meetings-Agendas](http://www.fortmyersbeachfl.gov/209/Meetings-Agendas) FOR UPDATED SCHEDULING.**

You may appear in person, through counsel, or through an authorized agent, and provide testimony, legal argument, or other evidence. At the public hearing(s), the request and related materials will be reviewed and a recommendation made. If a person decides to appeal any decision made, he or she will need a record of the proceedings, and may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. 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  
(Variances, Extensions, Satisfaction of Conditions)**

**VAR20240159** – Requesting a variance of 3 feet and 9 inches from the required 15-foot side street setback. To allow a screen pool enclosure 11 feet and 3 inches from the side street property line along Tarpon Rd.

**ADDRESS: 8180 LAGOON RD**

**APPLICANT: JANE SCHOONOVER**

**LOCAL PLANNING AGENCY PUBLIC HEARING**

**TIME: 9 AM**

**DATE: August 23, 2024**

**LOCATION: 2731 Oak St, FMB, Florida 33931**

**TOWN CONTACT: [SARAH.PROPST@FMBGOV.COM](mailto:SARAH.PROPST@FMBGOV.COM)**

**TOWN COUNCIL PUBLIC HEARING\***

**TIME: 9 AM**

**DATE: September 9, 2024**

**LOCATION: 2731 Oak St., FMB, Florida 33931**

**\*NOTE: THE TOWN COUNCIL PUBLIC HEARING MAY BE CANCELLED IF THE LOCAL PLANNING AGENCY UNANIMOUSLY APPROVES THE REQUEST AND NO REQUEST FOR A HEARING IS RECEIVED BY THE TOWN CLERK WITHIN 10 BUSINESS DAYS OF THE LOCAL PLANNING AGENCY DECISION. CHECK [www.fortmyersbeachfl.gov/209/Meetings-Agendas](http://www.fortmyersbeachfl.gov/209/Meetings-Agendas) FOR UPDATED SCHEDULING.**

You may appear in person, through counsel, or through an authorized agent, and provide testimony, legal argument, or other evidence. At the public hearing(s), the request and related materials will be reviewed and a recommendation made. If a person decides to appeal any decision made, he or she will need a record of the proceedings, and may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. 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  
(Variances, Extensions, Satisfaction of Conditions)**

**VAR20240159** – Requesting a variance of 3 feet and 9 inches from the required 15-foot side street setback. To allow a screen pool enclosure 11 feet and 3 inches from the side street property line along Tarpon Rd.

**ADDRESS: 8180 LAGOON RD**

**APPLICANT: JANE SCHOONOVER**

**LOCAL PLANNING AGENCY PUBLIC HEARING**

**TIME: 9 AM**

**DATE: August 23, 2024**

**LOCATION: 2731 Oak St, FMB, Florida 33931**

**TOWN CONTACT: [SARAH.PROPST@FMBGOV.COM](mailto:SARAH.PROPST@FMBGOV.COM)**

**TOWN COUNCIL PUBLIC HEARING\***

**TIME: 9 AM**

**DATE: September 9, 2024**

**LOCATION: 2731 Oak St., FMB, Florida 33931**

**\*NOTE: THE TOWN COUNCIL PUBLIC HEARING MAY BE CANCELLED IF THE LOCAL PLANNING AGENCY UNANIMOUSLY APPROVES THE REQUEST AND NO REQUEST FOR A HEARING IS RECEIVED BY THE TOWN CLERK WITHIN 10 BUSINESS DAYS OF THE LOCAL PLANNING AGENCY DECISION. CHECK [www.fortmyersbeachfl.gov/209/Meetings-Agendas](http://www.fortmyersbeachfl.gov/209/Meetings-Agendas) FOR UPDATED SCHEDULING.**

You may appear in person, through counsel, or through an authorized agent, and provide testimony, legal argument, or other evidence. At the public hearing(s), the request and related materials will be reviewed and a recommendation made. If a person decides to appeal any decision made, he or she will need a record of the proceedings, and may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Transcripts of the proceedings are not provided by the Town. Copies of the application and staff report are available for viewing at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30 AM and 4:30 PM. Reasonable accommodations will be made in accordance with the Americans with Disabilities Act. If you need reasonable accommodation, contact Town Hall at 239-765-0202.

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

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

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

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

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

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

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

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

FORT MYERS BEACH LOCAL PLANNING AGENCY

TRANSCRIPT OF PROCEEDINGS

Before the Fort Myers Beach Local Planning  
Agency, at a hearing held in the above-entitled  
matter at Diamond Head Beach Resort,  
Fort Myers Beach, Florida, on January 18, 2023.

FORT MYERS COURT REPORTING, LLC  
Registered Professional Reporters  
2180 West First Street, Suite 120  
Fort Myers, Florida 33901

Phone: (239) 334-1411 Fax: (239) 334-1476



APPEARANCES:

For the Applicant:

MAHSHIE & DECOSTA, P.A.  
1560 Matthew Drive  
Suite E  
Fort Myers, Florida 33907  
Chris@md-lawfirm.com

By: Christopher J. DeCosta, Esquire

Members present: Douglas Eckmann  
Jane Plummer  
Don Sudduth (via telephone)  
Anita Cereceda  
Scott M. Safford  
Patrick Vanasse  
James Boan

Also present: Jason Smilley  
Jason Green

- - - - -

1 (Thereupon, commencing at 10:06 a.m. the  
2 following excerpt of proceedings were had:)

3 MS. CERECEDA: Next item on the agenda is  
4 Variance Number 20220018. It's an 11-foot street  
5 setback reduction for a pool at 8189 Lagoon Road.

6 UNIDENTIFIED SPEAKER: 8180.

7 MS. CERECEDA: 8180. Sarah or Jason, is that  
8 address corrected to 1180?

9 MR. SMALLEY: 8180 Lagoon Road, yes.

10 MS. CERECEDA: It says 8189 in the packet.

11 MR. SMALLEY: I apologize.

12 MS. CERECEDA: That's all right. I'd like to  
13 ask for any ex parte communications, Patrick?

14 MR. VANASSE: No.

15 MS. CERECEDA: Doug?

16 MR. ECKMANN: None.

17 MS. CERECEDA: Don?

18 MR. SUDDUTH: None.

19 MS. CERECEDA: Jane?

20 MS. PLUMMER: No.

21 MS. CERECEDA: Jim?

22 MR. BOAN: No.

23 MS. CERECEDA: None?

24 MR. BOAN: None.

25 MS. CERECEDA: And I have had none as well.

1 All right. Let's ask the applicant to come  
2 forward.

3 MR. DECOSTA: Good morning. Everyone.

4 MS. CERECEDA: Good morning to you.

5 MR. DECOSTA: I have a couple of copies that  
6 were filed at the last minute for staff and  
7 counsel.

8 MS. CERECEDA: I have to admit I'm jealous of  
9 all your paper.

10 MS. PLUMMER: Isn't it wonderful?

11 MR. DECOSTA: I was going to apologize for all  
12 that paper.

13 MS. CERECEDA: No. No. No. It's our packet.  
14 Anyways, go ahead.

15 MR. DECOSTA: The lawyer in me thinks about  
16 making my record; so I sort of err on the side of  
17 giving you more paper rather than less.

18 My name is Chris DeCosta. I'm an attorney.  
19 I'm indicated as an applicant only insofar as I am  
20 the authorized representative for the owners of the  
21 property, Janell Schoonover.

22 I have here with me today the contractor  
23 representative Jason Tobias, who is available if  
24 you have any discussions about the project, and  
25 also Ed Schoonover.

1           So this is a request for a variance under  
2   34-87 of the code. In general, this is a request  
3   to facilitate a modification and somewhat of an  
4   expansion of the pool that is located on my  
5   client's property.

6           While it's sort of stated as a request for a  
7   variance in a street setback, that's not really the  
8   way we see it; however, we're kind of left with  
9   what staff has told us they believe, and that kind  
10   of puts us where we are today, and I'm going to get  
11   into more detail in a minute.

12          Let's just talk a little bit about the  
13   property itself. The property was built in 2015.  
14   It sits in a residential neighborhood maybe a  
15   couple blocks off of Estero Boulevard on the north  
16   side and about a few miles, I guess, north of  
17   Carlos Point. It's in an RS zoned area.

18          So -- and I've included in your packet the  
19   pictures that I took. Obviously, this is before  
20   the storm, and if you want to know what's left  
21   after the storm, Ed's here, and he can probably  
22   tell you. Bottom line is it's a -- the  
23   configuration of the property is it's on the corner  
24   of Lagoon Road and Tarpon Road. The front of the  
25   house is on Lagoon Road. In the back there's a

1 screened-in pool, and we're sort of getting into  
2 kind of the crux of the matter.

3 The house was built in 2015. The house, if  
4 you look at the -- and we've submitted a site plan,  
5 existing site plan. The house sits, I think, about  
6 14 feet maybe --

7 THE WITNESS: It's 11.3 feet.

8 MS. CERECEDA: Please don't comment unless  
9 you're on the microphone.

10 MR. DECOSTA: I apologize. I looked at Jason  
11 to help me out with these details.

12 MS. CERECEDA: That's okay. That's okay. I  
13 just want to make sure his comments are on the  
14 record.

15 MR. DECOSTA: So it's about 11 feet from the  
16 east plot line. And, you know, the pool is caged  
17 in, but the actual project that my client would  
18 like to do is basically to take the pool cage out  
19 and build what I think is a beautiful design by  
20 Lucas Lagoons. It's kind of -- instead of your  
21 standard rectangle situation, it's kind of neat.  
22 You can see it in your packet, and you can see  
23 it -- I guess it's Item Number 10. I mean, it's  
24 kind of like your own kind of personal paradise.  
25 It's kind of shaped like a lagoon, and as I said



1 before, there's not going to be a pool cage there.

2 So I'm going to -- in a little bit, I'm going  
3 to talk about the required findings under 34-87,  
4 and there's five of them. One of them is  
5 exceptional circumstances, and I think it applies  
6 in this case.

7 So what happened was the home was built in  
8 2015, you know, presumably met approval of the  
9 building department. It got built and got a C.O.,  
10 and it is sitting where it was designed to fit, and  
11 where it was approved to be built.

12 So when my client asked me to get involved, I  
13 went and met with staff, who were very  
14 professional, and they explained their position to  
15 me, and their position was much like some of the  
16 business that I understand is before the board now.  
17 We have a corner lot, and their position is, we've  
18 got two 25-foot street setbacks.

19 But when you actually look at what the code  
20 says, and I'm going to direct your attention to  
21 34-38, and I don't want to bore you too much to get  
22 into the details of code, but there's a couple of  
23 things. And for your reference, that would be Tab  
24 5 in my supplemental that I gave you today.

25 And if you look at 638(b), it says, "Where to

1 find minimum setback dimensions," and it goes on,  
2 "for principal buildings, look at Table 343. But  
3 for accessory buildings see 34-1174 to 1176." I  
4 mean, I don't think there's any dispute that the  
5 proposed pool is an accessory building, which, at  
6 least based on my reading of the code here, means  
7 that we look to that specific provision in the  
8 code, 1174, 1176 to determine what the setbacks  
9 are.

10 But when you actually get to 1174, if you look  
11 at "B," it says, "No accessory use, building, and  
12 structure shall be located closer to a street,  
13 right-of-way, line, or street easement than the  
14 principal building." And there's a number of  
15 exceptions that I don't think apply in this case.

16 And, you know, in my experience, and I believe  
17 in Jason, the contractor's experience, that's kind  
18 of the typical setup. The pool cages are  
19 typically -- you know, a lot of times people just  
20 want them to run right up to the side of the  
21 building. In this case, the present configuration,  
22 the pool cage is a lot smaller, and all we're  
23 really doing is kind of moving the east edge of the  
24 pool to still short of the east wall of the  
25 building, but we're not going past that, and so at

1 least, you know, our reading of the code is -- its  
2 plain reading seems to suggest that, while there  
3 may be street setbacks that would be applicable to  
4 the principal building, they aren't applicable to a  
5 pool or other accessory structure.

6 So we kind of have a situation, and I'm sure  
7 staff will have some discussion about this, but it  
8 seems to me we've got a -- I would say a difference  
9 of opinion on what the code allows.

10 And we also had the issue of, you know, the  
11 house wasn't built that long ago. You know, I  
12 mean, I think what the staff is telling me is that  
13 maybe the house should never have been built where  
14 it was built, but we're kind of stuck with that,  
15 and so the -- you know, as it stands now, the --  
16 even under the proposed design, our -- the edge of  
17 the pool isn't getting past the edge -- the eastern  
18 wall of the principal building, and therefore it  
19 should be allowed.

20 So again, getting into the required findings.  
21 I know that you're well familiar with them, but I  
22 will take you through them a little bit. You know,  
23 the first one that there are any exceptional or  
24 extraordinary conditions or circumstances that are  
25 inherent to the property in question or that the

1 request is for a de minimus variance under  
2 circumstances or conditions (unintelligible) apply  
3 non-essential to protect the public policy. Kind  
4 of a mouthful there.

5 And again, I think we've detailed a number of  
6 things relating to the situation that we think are  
7 exceptional or extraordinary, and I think some of  
8 that kind of relates to matters that are before the  
9 board now relating to the configuration of corner  
10 lots.

11 You know, even if you take the position --  
12 staff's position that two -- you have two street  
13 setbacks on the property, we still have this  
14 problem of, you know, from a planning standpoint,  
15 how do you deal with that and facilitate  
16 development?

17 The second prong is the conditions justifying  
18 the variance are not the result of actions of  
19 applicant taken after the adoption of the  
20 regulation in question. I'm not sure exactly when  
21 this regulation was adopted. Looking through some  
22 of the things that are on the docket for today, it  
23 appears that back in the distant past, maybe 2003  
24 there was a change in which -- in which the side  
25 setbacks in a corner lot situation was changed.

1 Either way, you know, our position is that really  
2 isn't relevant for today. What is relevant is that  
3 the setback -- the only setback requirement that  
4 would apply would be the accessory one in 1174(b).  
5 My client hasn't done anything.

6 Now, I know one of the things that staff put  
7 in their report was she said, "Well, this is a  
8 design choice." I mean, it is. It's a design  
9 choice, but I guess I would -- what I would say  
10 about that is, you know, most requests for  
11 variances involve some level of design choice by  
12 the property owner. The situation here was largely  
13 dictated by the unique configuration of the  
14 property.

15 The third prong is that the variance granted  
16 is the minimum variance to relieve the applicant of  
17 the unreasonable burden caused by the application  
18 of the regulation in question to his property.  
19 Again, we believe that the application of the  
20 street setback on the side is an unreasonable  
21 burden. And I would state simply that the purpose  
22 of land regulations is to facilitate development,  
23 but also to provide property owners with notice as  
24 to what is expected and what is prohibited. I  
25 would submit that the uncertainty and ambiguity



1 presented here is contrary to the public interest.

2 Now, I know that Lucas Lagoons has taken great  
3 care to minimize the footprint of the pool while  
4 still keeping its design essence.

5 The fourth prong is the granting of the  
6 variance will not be injurious to the neighborhood  
7 or otherwise detrimental to the public welfare, and  
8 I don't think anybody says that it is. In fact, in  
9 your packet I've provided a number of letters from  
10 neighbors. That's, for your reference, Tab 10 in  
11 my supplemental.

12 It really -- I mean, if you look at it,  
13 there's nothing -- we're actually getting rid of  
14 the pool cage; so all it's really going to be is a  
15 really beautiful looking pool. It's not going to  
16 stop traffic. It's really no safety issues.

17 And then the final one, that the conditions or  
18 circumstances on a specific piece of property for  
19 which the variance is sought are not of so general  
20 or recurrent in nature as to make it more  
21 reasonable and practical to amend the regulation in  
22 question.

23 Again, I think -- if you ask my client, my  
24 client has no way of knowing whether there should  
25 be a change to the current regulation. I think our

1 main point is that the accessory setback should  
2 apply, not the street -- the principal building  
3 street setback, but in any event, that's a value  
4 judgment. That's kind of beyond what we are  
5 looking at. We only ask that the government follow  
6 what its own regulations state in plain English.

7 Ed, do you have anything you want to say?

8 MR. SCHOOVER: No.

9 MR. DECOSTA: All right. And that's my  
10 presentation.

11 MS. CERECEDA: Thank you very much. Are there  
12 any questions for the applicant?

13 Jane?

14 MS. PLUMMER: So just for visual, since there  
15 isn't one in the package, does the pool extend  
16 beyond the footprint of the building?

17 MR. DECOSTA: No. It actually is -- if you  
18 look at the application -- I know it's not in my  
19 packet here. If you look in the application, you  
20 can see it stops actually just short of it; so it  
21 is not closer to the street than the building.

22 MS. CERECEDA: Any questions at all from  
23 anyone for the applicant?

24 Don, do you have a question?

25 MR. SUDDUTH: No, no questions. He just

1 answered it.

2 MS. CERECEDA: Okay. Thank you very much,  
3 sir.

4 Jason.

5 MR. SMALLEY: Good morning. For the record,  
6 Jason Smalley with the planning and zoning  
7 department. Good morning to you and all the LPN  
8 members and the applicant.

9 So a couple things that we wanted to go ahead  
10 and put out there. First of all, when we talk  
11 about the setback requirements and the language  
12 that it not protrude further streetward than the  
13 primary structure, we have to remember that there's  
14 two -- there's two areas of concern there, not only  
15 that it doesn't go forward of the structure but  
16 also that it meets the minimum setbacks, which for  
17 a street setback for structures is 25 feet. So  
18 remember that we're -- just because they're not  
19 going forward of the structure, that doesn't mean  
20 that they haven't -- that they've met all of the  
21 requirements of the setback code.

22 I would also go back to an argument here that  
23 was presented regarding some -- the code section  
24 here in Tab 5. I will point out that the "A" code  
25 in there, the "A" subsection gives the director the

1 ability on lots, where it's questionable, to  
2 determine which of those lot lines are which,  
3 whether they be street side or otherwise; so we --  
4 we take that as being able to determine if that  
5 meets the street setback and look at the rest of  
6 the neighborhood, does it meet the intent of how  
7 the other structures were developed; so I wanted to  
8 put that out there. There's wide latitude for  
9 staff to determine which setbacks we're actually  
10 applying here.

11 I don't think there's any question in the past  
12 and currently it was understood that this pool  
13 would have street setbacks. If you go back and  
14 look at the original pool permitting from 2014,  
15 you'll notice that they developed a pool at a  
16 26-foot setback. So at some point somebody  
17 recognized that the structure -- pool structure  
18 should have a street setback. How the house ended  
19 up at approximately 11 feet setback, there really  
20 isn't a good record. At that point, 2014, '15, the  
21 permitting was being split between Lee County for  
22 structural and the Town for planning and zoning  
23 purposes to my understanding, but the record  
24 doesn't go to speak about what decisions were made  
25 as to why it was set at 10 feet as opposed to a

1 25-foot setback; but I think, again, just looking  
2 at the pool, you can see that somebody at some  
3 point during the pool permitting understood that  
4 there should be a street setback applied to that  
5 structure.

6 We would also point out here that, while the  
7 design may be absolutely gorgeous, again, in the  
8 eye of the beholder, they do have a roughly  
9 20-and-a-half-foot setback currently to what we  
10 would consider the rear lot line or the neighbor --  
11 the lot line shared with the neighbor on Tarpon; so  
12 there is a relatively good amount of space if they  
13 wanted to extend the pool further back without  
14 attempting to go into the street setbacks along  
15 Tarpon. So there are options, and that's what  
16 staff was looking at when the staff report was  
17 created.

18 We are open for any questions that may not  
19 have been addressed so far in either of the  
20 presentations.

21 MS. CERECEDA: Thank you, Jason.

22 Questions, Patrick?

23 MR. VANASSE: Yes. I'm -- I read the entire  
24 packet. I went back, and I looked at the code.  
25 Maybe help me out here. I'm having trouble

1 interpreting the code the way staff is doing it  
2 with regards to the table with all the setbacks  
3 applying to accessory structures. The way I read  
4 it is it applies to principal structures, and then  
5 we have a whole other section -- several sections  
6 that deal with accessory uses. So in my mind the  
7 table wasn't intended for principal and accessory  
8 because we deal with them elsewhere; and even when  
9 it comes to pools, it goes back, and it actually  
10 refers back to the section where it says you can't  
11 exceed the street setback; so to me it was  
12 intentional, and there's that nexus throughout. So  
13 A, if you could explain that.

14 And then, B, you mentioned the rear setback;  
15 so the rear setback would be the same as a  
16 principal setback?

17 MR. SMALLEY: No. An accessory setback would  
18 be much less restrictive, and they could get as  
19 close as five feet to a rear --

20 MR. VANASSE: So the accessory setback where  
21 it does say 5 feet is an accessory structure and  
22 does not deal with that table. And that's what I  
23 mean is that we've created a section to deal with  
24 accessory uses, and that's why I'm not using the  
25 main table for those, just for principal uses.



1           MR. SMALLEY: Fair enough. So if you look at  
2 the accessory structure setbacks, you'll notice  
3 that they for the most part don't actually deal a  
4 lot with the front or street setbacks, and the way  
5 it's been interpreted internally in the department  
6 is that is because they should have the same  
7 setbacks for a house. They should be held to the  
8 same standards as a primary structure, whether that  
9 be for aesthetic purposes or any other purpose that  
10 the code was made.

11           If it's read a bit circular, I can take that  
12 point, but, again, here it's been applied  
13 consistently, at least in the time that I've been  
14 here and the records I can find, that the  
15 understanding is we want the primary structure to  
16 be up and out front; hence the reason for not  
17 having the accessory structures go forward of the  
18 primary structure, and in that case it would seem a  
19 little odd to then look back at this and say, "but  
20 just for corner lots that may have been given a  
21 non-standard setback, we would then allow by right  
22 them to be much closer to the road than if it had  
23 been given a 25-foot setback." I hope that sort of  
24 addresses your question.

25           MR. VANASSE: Yeah, it addresses how staff

1 gets there, yeah.

2 MR. ECKMANN: Did staff get a legal opinion on  
3 it?

4 MR. SMALLEY: There wasn't a necessity for  
5 legal opinion at this point. We just looked at the  
6 precedent that we applied for particularly corner  
7 lots, and we understand that in some circumstances  
8 it would be restrictive, but it was never elevated  
9 to the Town attorney for a decision on code  
10 language.

11 MS. CERECEDA: Other questions for staff,  
12 Scott?

13 MR. SAFFORD: No.

14 MS. CERECEDA: Don, do you have any questions?

15 MR. SUDDUTH: No. I have kind of a question  
16 or a comment. You know, when I look at pools, I do  
17 look at them as an accessory structure if they're  
18 on the ground. I look at them as a structure if  
19 they're, you know, aboveground. We need to address  
20 both of those; so I guess my question is how is  
21 this different? Is it just because it's a corner  
22 that it's treated differently, or is it -- because  
23 when I look at, like, if you're on a seawall, you  
24 have a pool in the ground within five feet is an  
25 accessory structure. If you build an elevated

1 pool, it's got to be 25 feet, I think, whether it's  
2 side or back; am I correct?

3 MS. CERECEDA: Jason, do you want to comment  
4 on that?

5 MR. SMALLEY: So the pool structure -- I don't  
6 know that it makes a difference on the side or on a  
7 street, whether it's elevated or not. We would,  
8 again, refer back to the intent in the code,  
9 seemingly to not have accessory structures that  
10 extend further than the house.

11 I think the crux of the issue here mainly is  
12 that there is a little bit of a gap in  
13 understanding about how that structure in  
14 particular ended up only 11 feet off of one of the  
15 streets; and that's, I think, confounding all of  
16 the other logic that the staff would use going  
17 forward. If this thing were set back a normal  
18 25 feet, I don't think there would be any question  
19 that the intent is not to allow the pool, again, to  
20 go further towards the street.

21 MS. CERECEDA: Any other questions? Don?

22 MR. SUDDUTH: No. Thank you.

23 MS. CERECEDA: Okay. All right. I'll open  
24 the public hearing portion of this case. Is there  
25 anybody who would like to speak? Mr. Steel.

1 MR. STEEL: My name is Jim Steel. I live at  
2 170 Tarpon Road, which is about across the street.  
3 The applicant has a beautiful open air iron fence  
4 around his property, and the pool is not as wide as  
5 the house, and in my opinion, why can't he make the  
6 pool as wide as the house? So I totally support  
7 the applicant.

8 MS. CERECEDA: Thank you very much, Jim.  
9 All right. Come on up, my friend.

10 MR. POLAND: My name is Bill Poland. I live  
11 at 8170 Lagoon Road. My wife and I have lived next  
12 door to this property for 15 years. We feel that  
13 this would be a great addition to the  
14 beautification of the entire neighborhood, and we  
15 find nothing obtrusive about this at all. Thank  
16 you.

17 MS. CERECEDA: Thank you very much, Bill.

18 Is there anybody else who would like to speak?  
19 All right. The public comment portion is closed.

20 Counsel, any questions for the applicant or  
21 for staff? Bad habit.

22 MR. GREEN: If I may make one more suggestion.

23 MS. CERECEDA: Go ahead, Jason.

24 MR. GREEN: I noticed in the application that  
25 there are no requirements. If the LPA decides to

1 approve this, I would just remind them that on  
2 previous variances that were approved for pools  
3 that there was a hedge requirement to buffer the  
4 street and vision along the road from the pool and  
5 other accessory structure. It may be prudent to  
6 also request that if you decide to approve this  
7 project.

8 MS. CERECEDA: Okay. If there's no other  
9 questions or discussions, is there a motion?

10 MS. PLUMMER: I have just a little bit of  
11 discussion, and I think at this point it's -- it's  
12 unique because there is no rhyme or reason to the  
13 side setback of the 11-whatever feet, but it is  
14 there and existing, and any other house would be  
15 able to go to the edges of the building; so I  
16 really don't have any problem with accepting the  
17 building as it is and allowing the pool to be  
18 designed as the pool would be; so I do think it's  
19 exceptional, and it does meet the findings and  
20 conditions.

21 MR. ECKMANN: I concur with what Jane said  
22 from the meeting the criteria. I think there's  
23 enough that's been presented about an existing  
24 building that doesn't seem to meet the setbacks and  
25 that causes an exceptional condition; so I think it

1 does meet it.

2           However, I'm in agreement with the applicant  
3 that I do not believe that the setback is the same  
4 as the principal structure. It's my  
5 interpretation -- and I know, you know, we might  
6 see it differently, and I understand that you guys  
7 are stuck between interpreting precedence, and I'm  
8 looking at the clear language in both, and at least  
9 from looking at the clear language in the code,  
10 that's what I'm going with, and I think that's --  
11 our responsibility as a town, when there might be a  
12 difference in interpretation with how precedence  
13 have been done versus the code, we correct the  
14 code; so I will support a motion for a variance. I  
15 don't think it's needed, and also, I'd just like to  
16 emphasize that, especially in light of the corner  
17 setback amendments, that we are going to be looking  
18 at shortly, I think that improvement is also  
19 consistent most likely with the direction we're  
20 going.

21           MS. CERECEDA: Doug, do you have a comment?

22           MR. ECKMANN: Yeah, I'm inclined to approve  
23 this variance primarily in my mind for two reasons.  
24 Excellent points. One is it appears all the  
25 neighbors support it from the emails and stuff



1 included in the package, and then the testimony of  
2 the public speakers, and then it's --  
3 unfortunately, you know, the house has -- is  
4 11 feet from the road, I guess. How that happened,  
5 it happened, but it would make sense to me that it  
6 would be then systematic and aesthetically that the  
7 pool, which looks really nice, could align with the  
8 edge of the house as well just like it would if the  
9 house was in the proper setback. So for those two  
10 reasons, I'm inclined to approve the variance.

11 MS. CERECEDA: All right. Would somebody like  
12 to make a motion since you all are inclined to  
13 approve this?

14 MR. GREEN: Madam Chair.

15 MS. CERECEDA: Yes, sir.

16 MR. GREEN: If I may, and I just make this  
17 observation, I don't necessarily think that it's  
18 going to affect the outcome of this board's  
19 decision. I want to just make this observation. I  
20 don't think it's necessarily going to affect the  
21 outcome of the board's decision, but I want to  
22 remind everyone that the basis for approving or  
23 denying an application that comes before you,  
24 particularly under quasi-judicial items, whether or  
25 not the applicant has met through -- shown through

1 competent substantial evidence that they meet the  
2 criteria in the code. Unless the neighbors are  
3 coming specifically to the criteria and the code,  
4 then the -- whether or not the neighbors agree or  
5 disagree or are in favor or not in favor are not in  
6 and of itself sufficient to carry the  
7 responsibility of the applicant to demonstrate the  
8 competent and substantial evidence that they meet  
9 the requirements of the code.

10 When speakers speak, if they want to -- and it  
11 really should be directed to the criteria of this  
12 code, not, "Oh, I don't have a problem with it." I  
13 mean, not that they can't, but that's not -- those  
14 kinds of comments cannot be used by the board  
15 members for -- relied upon in finding that the  
16 criteria had been met.

17 MR. BOAN: Okay. Thank you. I didn't know  
18 that.

19 MS. PLUMMER: I'll make the motion.

20 MS. CERECEDA: Go ahead, Jane.

21 MR. PLUMMER: I would like to make a motion to  
22 approve the 11-foot street setback reduction for  
23 the pool located at 8189 Lagoon Road. I believe I  
24 find it does meet the findings and conclusions, and  
25 I would like to add a condition of the standard

1 vegetation hedge required by the pool.

2 MR. SUDDUTH: I'll second that.

3 MS. CERECEDA: Don is seconding that.

4 MR. ECKMANN: It's 8180. She said 8189.

5 MS. CERECEDA: Correct.

6 MS. PLUMMER: Correct. It's 8180.

7 MS. CERECEDA: Okay. There's a motion and  
8 there's a second. Is there any discussion on the  
9 motion? Hearing no discussion, I'll call for a  
10 vote.

11 Jane.

12 MS. PLUMMER: Aye.

13 MS. CERECEDA: Don.

14 MR. SUDDUTH: Aye.

15 MS. CERECEDA: Scott.

16 MR. SAFFORD: Aye.

17 MS. CERECEDA: Jim.

18 MR. BOAN: Aye.

19 MS. CERECEDA: Doug.

20 MR. ECKMANN: Aye.

21 MS. CERECEDA: Patrick.

22 MR. VANASSE: Aye.

23 MS. CERECEDA: And I'll vote in favor of the  
24 motion. It carries unanimously. Thank you very  
25 much for your motion.

1 (Thereupon, the excerpt of proceedings were  
2 concluded at 10:37 a.m.)

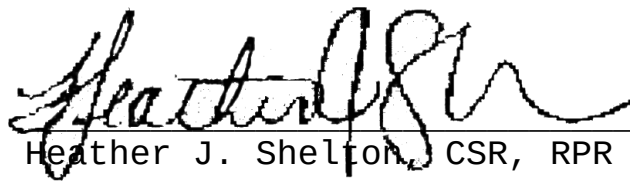
3 -----  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF FLORIDA                     )  
COUNTY OF LEE                     )

I, Heather J. Shelton, Registered Professional Reporter, do hereby certify that I was authorized to and did stenographically report and electronically record the foregoing proceedings consisting of pages 1 through 28 inclusive; and that the transcript is a true record of all proceedings had.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in this action.

Dated on January 30, 2023.



Heather J. Shelton, CSR, RPR

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <hr/> <p style="text-align: center;"><b>1</b></p> <hr/> <p><b>10</b><br/>6:23 12:10 15:25</p> <p><b>11</b><br/>6:15 15:19 20:14<br/>24:4</p> <p><b>11-foot</b><br/>25:22</p> <p><b>11-whatever</b><br/>22:13</p> <p><b>11.3</b><br/>6:7</p> <p><b>1174</b><br/>8:8,10</p> <p><b>1174(b)</b><br/>11:4</p> <p><b>1176</b><br/>8:3,8</p> <p><b>14</b><br/>6:6</p> <p><b>15</b><br/>15:20 21:12</p> <p><b>170</b><br/>21:2</p> <hr/> <p style="text-align: center;"><b>2</b></p> <hr/> <p><b>20-and-a-half-foot</b><br/>16:9</p> <p><b>2003</b><br/>10:23</p> <p><b>2014</b><br/>15:14,20</p> <p><b>2015</b><br/>5:13 6:3 7:8</p> <p><b>25</b><br/>14:17 20:1,18</p> <p><b>25-foot</b><br/>7:18 16:1 18:23</p> <p><b>26-foot</b><br/>15:16</p> <hr/> <p style="text-align: center;"><b>3</b></p> <hr/> <p><b>34-1174</b><br/>8:3</p> <p><b>34-38</b><br/>7:21</p> <p><b>34-87</b><br/>5:2 7:3</p> | <p><b>343</b><br/>8:2</p> <hr/> <p style="text-align: center;"><b>5</b></p> <hr/> <p><b>5</b><br/>7:24 14:24 17:21</p> <hr/> <p style="text-align: center;"><b>6</b></p> <hr/> <p><b>638(b)</b><br/>7:25</p> <hr/> <p style="text-align: center;"><b>8</b></p> <hr/> <p><b>8170</b><br/>21:11</p> <p><b>8189</b><br/>25:23</p> <hr/> <p style="text-align: center;"><b>A</b></p> <hr/> <p><b>ability</b><br/>15:1</p> <p><b>aboveground</b><br/>19:19</p> <p><b>absolutely</b><br/>16:7</p> <p><b>accepting</b><br/>22:16</p> <p><b>accessory</b><br/>8:3,5,11 9:5 11:4<br/>13:1 17:3,6,7,17,<br/>20,21,24 18:2,17<br/>19:17,25 20:9 22:5</p> <p><b>actions</b><br/>10:18</p> <p><b>actual</b><br/>6:17</p> <p><b>add</b><br/>25:25</p> <p><b>addition</b><br/>21:13</p> <p><b>address</b><br/>19:19</p> <p><b>addressed</b><br/>16:19</p> <p><b>addresses</b><br/>18:24,25</p> <p><b>admit</b><br/>4:8</p> <p><b>adopted</b><br/>10:21</p> | <p><b>adoption</b><br/>10:19</p> <p><b>aesthetic</b><br/>18:9</p> <p><b>aesthetically</b><br/>24:6</p> <p><b>affect</b><br/>24:18,20</p> <p><b>agree</b><br/>25:4</p> <p><b>agreement</b><br/>23:2</p> <p><b>ahead</b><br/>4:14 14:9 21:23<br/>25:20</p> <p><b>air</b><br/>21:3</p> <p><b>align</b><br/>24:7</p> <p><b>allowed</b><br/>9:19</p> <p><b>allowing</b><br/>22:17</p> <p><b>ambiguity</b><br/>11:25</p> <p><b>amend</b><br/>12:21</p> <p><b>amendments</b><br/>23:17</p> <p><b>amount</b><br/>16:12</p> <p><b>apologize</b><br/>4:11 6:10</p> <p><b>appears</b><br/>10:23 23:24</p> <p><b>applicable</b><br/>9:3,4</p> <p><b>applicant</b><br/>4:1,19 10:19 11:16<br/>13:12,23 14:8<br/>21:3,7,20 23:2<br/>24:25 25:7</p> <p><b>application</b><br/>11:17,19 13:18,19<br/>21:24 24:23</p> <p><b>applied</b><br/>16:4 18:12 19:6</p> <p><b>applies</b><br/>7:5 17:4</p> <p><b>apply</b></p> | <p>8:15 10:2 11:4<br/>13:2</p> <p><b>applying</b><br/>15:10 17:3</p> <p><b>approval</b><br/>7:8</p> <p><b>approve</b><br/>22:1,6 23:22<br/>24:10,13 25:22</p> <p><b>approved</b><br/>7:11 22:2</p> <p><b>approving</b><br/>24:22</p> <p><b>approximately</b><br/>15:19</p> <p><b>area</b><br/>5:17</p> <p><b>areas</b><br/>14:14</p> <p><b>argument</b><br/>14:22</p> <p><b>attempting</b><br/>16:14</p> <p><b>attention</b><br/>7:20</p> <p><b>attorney</b><br/>4:18 19:9</p> <p><b>authorized</b><br/>4:20</p> <hr/> <p style="text-align: center;"><b>B</b></p> <hr/> <p><b>back</b><br/>5:25 10:23 14:22<br/>15:13 16:13,24<br/>17:9,10 18:19<br/>20:2,8,17</p> <p><b>Bad</b><br/>21:21</p> <p><b>based</b><br/>8:6</p> <p><b>basically</b><br/>6:18</p> <p><b>basis</b><br/>24:22</p> <p><b>beautification</b><br/>21:14</p> <p><b>beautiful</b><br/>6:19 12:15 21:3</p> <p><b>beholder</b><br/>16:8</p> | <p><b>Bill</b><br/>21:10,17</p> <p><b>bit</b><br/>5:12 7:2 9:22<br/>18:11 20:12 22:10</p> <p><b>blocks</b><br/>5:15</p> <p><b>BOAN</b><br/>25:17</p> <p><b>board</b><br/>7:16 10:9 25:14</p> <p><b>board's</b><br/>24:18,21</p> <p><b>bore</b><br/>7:21</p> <p><b>Bottom</b><br/>5:22</p> <p><b>Boulevard</b><br/>5:15</p> <p><b>buffer</b><br/>22:3</p> <p><b>build</b><br/>6:19 19:25</p> <p><b>building</b><br/>7:9 8:5,11,14,21,<br/>25 9:4,18 13:2,16,<br/>21 22:15,17,24</p> <p><b>buildings</b><br/>8:2,3</p> <p><b>built</b><br/>5:13 6:3 7:7,9,11<br/>9:11,13,14</p> <p><b>burden</b><br/>11:17,21</p> <p><b>business</b><br/>7:16</p> <hr/> <p style="text-align: center;"><b>C</b></p> <hr/> <p><b>C.O.</b><br/>7:9</p> <p><b>cage</b><br/>6:18 7:1 8:22<br/>12:14</p> <p><b>caged</b><br/>6:16</p> <p><b>cages</b><br/>8:18</p> <p><b>care</b><br/>12:3</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



|                                                                                                                                 |                                                              |                                                     |                                     |                                                 |
|---------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|-----------------------------------------------------|-------------------------------------|-------------------------------------------------|
| <b>Carlos</b><br>5:17                                                                                                           | <b>comment</b><br>6:8 19:16 20:3<br>21:19 23:21              | 22:22 25:2,3,11,16                                  | <b>difference</b><br>9:8 20:6 23:12 | <b>elevated</b><br>19:8,25 20:7                 |
| <b>carry</b><br>25:6                                                                                                            | <b>comments</b><br>6:13 25:14                                | <b>crux</b><br>6:2 20:11                            | <b>differently</b><br>19:22 23:6    | <b>emails</b><br>23:25                          |
| <b>case</b><br>7:6 8:15,21 18:18<br>20:24                                                                                       | <b>competent</b><br>25:1,8                                   | <b>current</b><br>12:25                             | <b>dimensions</b><br>8:1            | <b>emphasize</b><br>23:16                       |
| <b>caused</b><br>11:17                                                                                                          | <b>concern</b><br>14:14                                      | <hr/> <b>D</b> <hr/>                                | <b>direct</b><br>7:20               | <b>ended</b><br>15:18 20:14                     |
| <b>CERECEDA</b><br>4:4,8,13 6:8,12<br>13:11,22 14:2<br>16:21 19:11,14<br>20:3,21,23 21:8,<br>17,23 22:8 23:21<br>24:11,15 25:20 | <b>conclusions</b><br>25:24                                  | <b>de</b><br>10:1                                   | <b>directed</b><br>25:11            | <b>English</b><br>13:6                          |
| <b>Chair</b><br>24:14                                                                                                           | <b>concur</b><br>22:21                                       | <b>deal</b><br>10:15 17:6,8,22,23<br>18:3           | <b>direction</b><br>23:19           | <b>entire</b><br>16:23 21:14                    |
| <b>change</b><br>10:24 12:25                                                                                                    | <b>condition</b><br>22:25 25:25                              | <b>decide</b><br>22:6                               | <b>director</b><br>14:25            | <b>err</b><br>4:16                              |
| <b>changed</b><br>10:25                                                                                                         | <b>conditions</b><br>9:24 10:2,17 12:17<br>22:20             | <b>decides</b><br>21:25                             | <b>disagree</b><br>25:5             | <b>essence</b><br>12:4                          |
| <b>choice</b><br>11:8,9,11                                                                                                      | <b>configuration</b><br>5:23 8:21 10:9<br>11:13              | <b>decision</b><br>19:9 24:19,21                    | <b>discussion</b><br>9:7 22:11      | <b>Estero</b><br>5:15                           |
| <b>Chris</b><br>4:18                                                                                                            | <b>confounding</b><br>20:15                                  | <b>decisions</b><br>15:24                           | <b>discussions</b><br>4:24 22:9     | <b>event</b><br>13:3                            |
| <b>circular</b><br>18:11                                                                                                        | <b>consistent</b><br>23:19                                   | <b>Decosta</b><br>4:3,5,11,15,18<br>6:10,15 13:9,17 | <b>dispute</b><br>8:4               | <b>evidence</b><br>25:1,8                       |
| <b>circumstances</b><br>7:5 9:24 10:2<br>12:18 19:7                                                                             | <b>consistently</b><br>18:13                                 | <b>demonstrate</b><br>25:7                          | <b>distant</b><br>10:23             | <b>exceed</b><br>17:11                          |
| <b>clear</b><br>23:8,9                                                                                                          | <b>contractor</b><br>4:22                                    | <b>denying</b><br>24:23                             | <b>docket</b><br>10:22              | <b>Excellent</b><br>23:24                       |
| <b>client</b><br>6:17 7:12 11:5<br>12:23,24                                                                                     | <b>contractor's</b><br>8:17                                  | <b>department</b><br>7:9 14:7 18:5                  | <b>Don</b><br>13:24 19:14 20:21     | <b>exceptional</b><br>7:5 9:23 10:7<br>22:19,25 |
| <b>client's</b><br>5:5                                                                                                          | <b>contrary</b><br>12:1                                      | <b>design</b><br>6:19 9:16 11:8,11<br>12:4 16:7     | <b>door</b><br>21:12                | <b>exceptions</b><br>8:15                       |
| <b>close</b><br>17:19                                                                                                           | <b>copies</b><br>4:5                                         | <b>designed</b><br>7:10 22:18                       | <b>Doug</b><br>23:21                | <b>existing</b><br>6:5 22:14,23                 |
| <b>closed</b><br>21:19                                                                                                          | <b>corner</b><br>5:23 7:17 10:9,25<br>18:20 19:6,21<br>23:16 | <b>detail</b><br>5:11                               | <hr/> <b>E</b> <hr/>                | <b>expansion</b><br>5:4                         |
| <b>closer</b><br>8:12 13:21 18:22                                                                                               | <b>correct</b><br>20:2 23:13                                 | <b>detailed</b><br>10:5                             | <b>easement</b><br>8:13             | <b>expected</b><br>11:24                        |
| <b>code</b><br>5:2 7:19,22 8:6,8<br>9:1,9 14:21,23,24<br>16:24 17:1 18:10<br>19:9 20:8 23:9,13,<br>14 25:2,3,9,12               | <b>counsel</b><br>4:7 21:20                                  | <b>details</b><br>6:11 7:22                         | <b>east</b><br>6:16 8:23,24         | <b>experience</b><br>8:16,17                    |
|                                                                                                                                 | <b>County</b><br>15:21                                       | <b>determine</b><br>8:8 15:2,4,9                    | <b>eastern</b><br>9:17              | <b>explain</b><br>17:13                         |
|                                                                                                                                 | <b>couple</b><br>4:5 5:15 7:22 14:9                          | <b>detrimental</b><br>12:7                          | <b>ECKMANN</b><br>19:2 22:21 23:22  | <b>explained</b><br>7:14                        |
|                                                                                                                                 | <b>created</b><br>16:17 17:23                                | <b>developed</b><br>15:7,15                         | <b>Ed</b><br>4:25 13:7              | <b>extend</b><br>13:15 16:13 20:10              |
|                                                                                                                                 | <b>criteria</b>                                              | <b>development</b><br>10:16 11:22                   | <b>Ed's</b><br>5:21                 | <b>extraordinary</b><br>9:24 10:7               |
|                                                                                                                                 |                                                              | <b>dictated</b><br>11:13                            | <b>edge</b><br>8:23 9:16,17 24:8    | <b>eye</b><br>16:8                              |
|                                                                                                                                 |                                                              |                                                     | <b>edges</b><br>22:15               |                                                 |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>F</b></p> <p><b>facilitate</b><br/>5:3 10:15 11:22</p> <p><b>fact</b><br/>12:8</p> <p><b>Fair</b><br/>18:1</p> <p><b>familiar</b><br/>9:21</p> <p><b>favor</b><br/>25:5</p> <p><b>feel</b><br/>21:12</p> <p><b>feet</b><br/>6:6,7,15 14:17<br/>15:19,25 17:19,21<br/>19:24 20:1,14,18<br/>22:13 24:4</p> <p><b>fence</b><br/>21:3</p> <p><b>filed</b><br/>4:6</p> <p><b>final</b><br/>12:17</p> <p><b>find</b><br/>8:1 18:14 21:15<br/>25:24</p> <p><b>finding</b><br/>25:15</p> <p><b>findings</b><br/>7:3 9:20 22:19<br/>25:24</p> <p><b>fit</b><br/>7:10</p> <p><b>follow</b><br/>13:5</p> <p><b>footprint</b><br/>12:3 13:16</p> <p><b>forward</b><br/>4:2 14:15,19 18:17<br/>20:17</p> <p><b>fourth</b><br/>12:5</p> <p><b>friend</b><br/>21:9</p> <p><b>front</b><br/>5:24 18:4,16</p> | <p><b>G</b></p> <p><b>gap</b><br/>20:12</p> <p><b>gave</b><br/>7:24</p> <p><b>general</b><br/>5:2 12:19</p> <p><b>giving</b><br/>4:17</p> <p><b>good</b><br/>4:3,4 14:5,7 15:20<br/>16:12</p> <p><b>gorgeous</b><br/>16:7</p> <p><b>government</b><br/>13:5</p> <p><b>granted</b><br/>11:15</p> <p><b>granting</b><br/>12:5</p> <p><b>great</b><br/>12:2 21:13</p> <p><b>GREEN</b><br/>21:22,24 24:14,16</p> <p><b>ground</b><br/>19:18,24</p> <p><b>guess</b><br/>5:16 6:23 11:9<br/>19:20 24:4</p> <p><b>guys</b><br/>23:6</p> <p><b>H</b></p> <p><b>habit</b><br/>21:21</p> <p><b>happened</b><br/>7:7 24:4,5</p> <p><b>hearing</b><br/>20:24</p> <p><b>hedge</b><br/>22:3</p> <p><b>held</b><br/>18:7</p> <p><b>home</b><br/>7:7</p> <p><b>hope</b><br/>18:23</p> <p><b>house</b></p> | <p>5:25 6:3,5 9:11,13<br/>15:18 18:7 20:10<br/>21:5,6 22:14 24:3,<br/>8,9</p> <p><b>I</b></p> <p><b>improvement</b><br/>23:18</p> <p><b>inclined</b><br/>23:22 24:10,12</p> <p><b>included</b><br/>5:18 24:1</p> <p><b>inherent</b><br/>9:25</p> <p><b>injurious</b><br/>12:6</p> <p><b>intended</b><br/>17:7</p> <p><b>intent</b><br/>15:6 20:8,19</p> <p><b>intentional</b><br/>17:12</p> <p><b>interest</b><br/>12:1</p> <p><b>internally</b><br/>18:5</p> <p><b>interpretation</b><br/>23:5,12</p> <p><b>interpreted</b><br/>18:5</p> <p><b>interpreting</b><br/>17:1 23:7</p> <p><b>involve</b><br/>11:11</p> <p><b>involved</b><br/>7:12</p> <p><b>iron</b><br/>21:3</p> <p><b>issue</b><br/>9:10 20:11</p> <p><b>issues</b><br/>12:16</p> <p><b>Item</b><br/>6:23</p> <p><b>items</b><br/>24:24</p> <p><b>J</b></p> <p><b>Jane</b></p> | <p>13:13 22:21 25:20</p> <p><b>Janell</b><br/>4:21</p> <p><b>Jason</b><br/>4:23 6:10 8:17<br/>14:4,6 16:21 20:3<br/>21:23</p> <p><b>jealous</b><br/>4:8</p> <p><b>Jim</b><br/>21:1,8</p> <p><b>judgment</b><br/>13:4</p> <p><b>justifying</b><br/>10:17</p> <p><b>K</b></p> <p><b>keeping</b><br/>12:4</p> <p><b>kind</b><br/>5:8,9 6:2,20,21,24,<br/>25 8:17,23 9:6,14<br/>10:3,8 13:4 19:15</p> <p><b>kinds</b><br/>25:14</p> <p><b>knowing</b><br/>12:24</p> <p><b>L</b></p> <p><b>lagoon</b><br/>5:24,25 6:25 21:11<br/>25:23</p> <p><b>Lagoons</b><br/>6:20 12:2</p> <p><b>land</b><br/>11:22</p> <p><b>language</b><br/>14:11 19:10 23:8,9</p> <p><b>largely</b><br/>11:12</p> <p><b>latitude</b><br/>15:8</p> <p><b>lawyer</b><br/>4:15</p> <p><b>Lee</b><br/>15:21</p> <p><b>left</b><br/>5:8,20</p> <p><b>legal</b><br/>19:2,5</p> | <p><b>letters</b><br/>12:9</p> <p><b>level</b><br/>11:11</p> <p><b>light</b><br/>23:16</p> <p><b>lines</b><br/>15:2</p> <p><b>live</b><br/>21:1,10</p> <p><b>lived</b><br/>21:11</p> <p><b>located</b><br/>5:4 8:12 25:23</p> <p><b>logic</b><br/>20:16</p> <p><b>long</b><br/>9:11</p> <p><b>looked</b><br/>6:10 16:24 19:5</p> <p><b>lot</b><br/>7:17 8:19,22 10:25<br/>15:2 16:10,11 18:4</p> <p><b>lots</b><br/>10:10 15:1 18:20<br/>19:7</p> <p><b>LPA</b><br/>21:25</p> <p><b>LPN</b><br/>14:7</p> <p><b>Lucas</b><br/>6:20 12:2</p> <p><b>M</b></p> <p><b>Madam</b><br/>24:14</p> <p><b>made</b><br/>15:24 18:10</p> <p><b>main</b><br/>13:1 17:25</p> <p><b>make</b><br/>6:13 12:20 21:5,22<br/>24:5,12,16,19<br/>25:19,21</p> <p><b>makes</b><br/>20:6</p> <p><b>making</b><br/>4:16</p> <p><b>matter</b><br/>6:2</p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                |                                                |                                                                        |                                                                                                                                                                    |                                                                                     |
|------------------------------------------------|------------------------------------------------|------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| <b>matters</b><br>10:8                         | <b>necessarily</b><br>24:17,20                 | <b>outcome</b><br>24:18,21                                             | <b>points</b><br>23:24                                                                                                                                             | <b>project</b><br>4:24 6:17 22:7                                                    |
| <b>means</b><br>8:6                            | <b>necessity</b><br>19:4                       | <b>owner</b><br>11:12                                                  | <b>Poland</b><br>21:10                                                                                                                                             | <b>prong</b><br>10:17 11:15 12:5                                                    |
| <b>meet</b><br>15:6 22:19,24 23:1<br>25:1,8,24 | <b>needed</b><br>23:15                         | <b>owners</b><br>4:20 11:23                                            | <b>policy</b><br>10:3                                                                                                                                              | <b>proper</b><br>24:9                                                               |
| <b>meeting</b><br>22:22                        | <b>neighbor</b><br>16:10,11                    | <hr/> <b>P</b> <hr/>                                                   | <b>pool</b><br>5:4 6:1,16,18 7:1<br>8:5,18,22,24 9:5,<br>17 12:3,14,15<br>13:15 15:12,14,15,<br>17 16:2,3,13 19:24<br>20:1,5,19 21:4,6<br>22:4,17,18 24:7<br>25:23 | <b>property</b><br>4:21 5:5,13,23<br>9:25 10:13 11:12,<br>14,18,23 12:18<br>21:4,12 |
| <b>meets</b><br>14:16 15:5                     | <b>neighborhood</b><br>5:14 12:6 15:6<br>21:14 | <b>package</b><br>13:15 24:1                                           | <b>pools</b><br>17:9 19:16 22:2                                                                                                                                    | <b>proposed</b><br>8:5 9:16                                                         |
| <b>members</b><br>14:8 25:15                   | <b>neighbors</b><br>12:10 23:25 25:2,4         | <b>packet</b><br>4:13 5:18 6:22<br>12:9 13:19 16:24                    | <b>portion</b><br>20:24 21:19                                                                                                                                      | <b>protect</b><br>10:3                                                              |
| <b>mentioned</b><br>17:14                      | <b>nexus</b><br>17:12                          | <b>paper</b><br>4:9,12,17                                              | <b>position</b><br>7:14,15,17 10:11,<br>12 11:1                                                                                                                    | <b>protrude</b><br>14:12                                                            |
| <b>met</b><br>7:8,13 24:25 25:16               | <b>nice</b><br>24:7                            | <b>paradise</b><br>6:24                                                | <b>practical</b><br>12:21                                                                                                                                          | <b>provide</b><br>11:23                                                             |
| <b>met all</b><br>14:20                        | <b>non-essential</b><br>10:3                   | <b>part</b><br>18:3                                                    | <b>precedence</b><br>23:7,12                                                                                                                                       | <b>provided</b><br>12:9                                                             |
| <b>microphone</b><br>6:9                       | <b>non-standard</b><br>18:21                   | <b>past</b><br>8:25 9:17 10:23<br>15:11                                | <b>precedent</b><br>19:6                                                                                                                                           | <b>provision</b><br>8:7                                                             |
| <b>miles</b><br>5:16                           | <b>normal</b><br>20:17                         | <b>Patrick</b><br>16:22                                                | <b>present</b><br>8:21                                                                                                                                             | <b>prudent</b><br>22:5                                                              |
| <b>mind</b><br>17:6 23:23                      | <b>north</b><br>5:15,16                        | <b>people</b><br>8:19                                                  | <b>presentation</b><br>13:10                                                                                                                                       | <b>public</b><br>10:3 12:1,7 20:24<br>21:19 24:2                                    |
| <b>minimize</b><br>12:3                        | <b>notice</b><br>11:23 15:15 18:2              | <b>permitting</b><br>15:14,21 16:3                                     | <b>presentations</b><br>16:20                                                                                                                                      | <b>purpose</b><br>11:21 18:9                                                        |
| <b>minimum</b><br>8:1 11:16 14:16              | <b>noticed</b><br>21:24                        | <b>personal</b><br>6:24                                                | <b>presented</b><br>12:1 14:23 22:23                                                                                                                               | <b>purposes</b><br>15:23 18:9                                                       |
| <b>minimus</b><br>10:1                         | <b>number</b><br>6:23 8:14 10:5<br>12:9        | <b>pictures</b><br>5:19                                                | <b>previous</b><br>22:2                                                                                                                                            | <b>put</b><br>11:6 14:10 15:8                                                       |
| <b>minute</b><br>4:6 5:11                      | <hr/> <b>O</b> <hr/>                           | <b>piece</b><br>12:18                                                  | <b>primarily</b><br>23:23                                                                                                                                          | <hr/> <b>Q</b> <hr/>                                                                |
| <b>modification</b><br>5:3                     | <b>observation</b><br>24:17,19                 | <b>plain</b><br>9:2 13:6                                               | <b>primary</b><br>14:13 18:8,15,18                                                                                                                                 | <b>quasi-judicial</b><br>24:24                                                      |
| <b>morning</b><br>4:3,4 14:5,7                 | <b>obtrusive</b><br>21:15                      | <b>plan</b><br>6:4,5                                                   | <b>principal</b><br>8:2,14 9:4,18 13:2<br>17:4,7,16,25 23:4                                                                                                        | <b>question</b><br>9:25 10:20 11:18<br>12:22 13:24 15:11<br>18:24 19:15,20<br>20:18 |
| <b>motion</b><br>22:9 23:14 24:12<br>25:19,21  | <b>odd</b><br>18:19                            | <b>planning</b><br>10:14 14:6 15:22                                    | <b>problem</b><br>10:14 22:16 25:12                                                                                                                                | <b>questionable</b><br>15:1                                                         |
| <b>mouthful</b><br>10:4                        | <b>open</b><br>16:18 20:23 21:3                | <b>plot</b><br>6:16                                                    | <b>professional</b><br>7:14                                                                                                                                        | <b>questions</b><br>13:12,22,25 16:18,<br>22 19:11,14 20:21                         |
| <b>moving</b><br>8:23                          | <b>opinion</b><br>9:9 19:2,5 21:5              | <b>PLUMMER</b><br>4:10 13:14 22:10<br>25:19,21                         | <b>prohibited</b><br>11:24                                                                                                                                         |                                                                                     |
| <hr/> <b>N</b> <hr/>                           | <b>opposed</b><br>15:25                        | <b>point</b><br>5:17 13:1 14:24<br>15:16,20 16:3,6<br>18:12 19:5 22:11 |                                                                                                                                                                    |                                                                                     |
| <b>nature</b><br>12:20                         | <b>options</b><br>16:15                        |                                                                        |                                                                                                                                                                    |                                                                                     |
| <b>neat</b><br>6:21                            | <b>original</b><br>15:14                       |                                                                        |                                                                                                                                                                    |                                                                                     |

|                                                 |                                                            |                                                                                                                                                        |                                                                                             |                                                                                                                                              |
|-------------------------------------------------|------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| 21:20 22:9                                      | <b>remember</b><br>14:13,18                                | <b>SAFFORD</b><br>19:13                                                                                                                                | <b>sir</b><br>14:3 24:15                                                                    | <b>stated</b><br>5:6                                                                                                                         |
| <b>R</b>                                        | <b>remind</b><br>22:1 24:22                                | <b>Schoonover</b><br>4:21,25 13:8                                                                                                                      | <b>site</b><br>6:4,5                                                                        | <b>Steel</b><br>20:25 21:1                                                                                                                   |
| <b>read</b><br>16:23 17:3 18:11                 | <b>report</b><br>11:7 16:16                                | <b>Scott</b><br>19:12                                                                                                                                  | <b>sits</b><br>5:14 6:5                                                                     | <b>stop</b><br>12:16                                                                                                                         |
| <b>reading</b><br>8:6 9:1,2                     | <b>representative</b><br>4:20,23                           | <b>screened-in</b><br>6:1                                                                                                                              | <b>sitting</b><br>7:10                                                                      | <b>stops</b><br>13:20                                                                                                                        |
| <b>rear</b><br>16:10 17:14,15,19                | <b>request</b><br>5:1,2,6 10:1 22:6                        | <b>seawall</b><br>19:23                                                                                                                                | <b>situation</b><br>6:21 9:6 10:6,25<br>11:12                                               | <b>storm</b><br>5:20,21                                                                                                                      |
| <b>reason</b><br>18:16 22:12                    | <b>requests</b><br>11:10                                   | <b>section</b><br>14:23 17:5,10,23                                                                                                                     | <b>smaller</b><br>8:22                                                                      | <b>street</b><br>5:7 7:18 8:12,13<br>9:3 10:12 11:20<br>13:2,3,21 14:17<br>15:3,5,13,18 16:4,<br>14 17:11 18:4<br>20:7,20 21:2 22:4<br>25:22 |
| <b>reasonable</b><br>12:21                      | <b>required</b><br>7:3 9:20                                | <b>sections</b><br>17:5                                                                                                                                | <b>Smalley</b><br>14:5,6 17:17 18:1<br>19:4 20:5                                            | <b>streets</b><br>20:15                                                                                                                      |
| <b>reasons</b><br>23:23 24:10                   | <b>requirement</b><br>11:3 22:3                            | <b>seemingly</b><br>20:9                                                                                                                               | <b>sort</b><br>4:16 5:6 6:1 18:23                                                           | <b>streetward</b><br>14:12                                                                                                                   |
| <b>recognized</b><br>15:17                      | <b>requirements</b><br>14:11,21 21:25<br>25:9              | <b>sense</b><br>24:5                                                                                                                                   | <b>sought</b><br>12:19                                                                      | <b>structural</b><br>15:22                                                                                                                   |
| <b>record</b><br>4:16 6:14 14:5<br>15:20,23     | <b>residential</b><br>5:14                                 | <b>set</b><br>15:25 20:17                                                                                                                              | <b>space</b><br>16:12                                                                       | <b>structure</b><br>8:12 9:5 14:13,15,<br>19 15:17 16:5<br>17:21 18:2,8,15,18<br>19:17,18,25 20:5,<br>13 22:5 23:4                           |
| <b>records</b><br>18:14                         | <b>responsibility</b><br>23:11 25:7                        | <b>setback</b><br>5:7 8:1 11:3,20<br>13:1,3 14:11,17,21<br>15:5,16,18,19<br>16:1,4,9 17:11,14,<br>15,16,17,20 18:21,<br>23 22:13 23:3,17<br>24:9 25:22 | <b>speak</b><br>15:24 20:25 21:18<br>25:10                                                  | <b>structures</b><br>14:17 15:7 17:3,4<br>18:17 20:9                                                                                         |
| <b>rectangle</b><br>6:21                        | <b>rest</b><br>15:5                                        | <b>setbacks</b><br>7:18 8:8 9:3 10:13,<br>25 14:16 15:9,13<br>16:14 17:2 18:2,4,<br>7 22:24                                                            | <b>speakers</b><br>24:2 25:10                                                               | <b>stuck</b><br>9:14 23:7                                                                                                                    |
| <b>recurrent</b><br>12:20                       | <b>restrictive</b><br>17:18 19:8                           | <b>setup</b><br>8:18                                                                                                                                   | <b>specific</b><br>8:7 12:18                                                                | <b>stuff</b><br>23:25                                                                                                                        |
| <b>reduction</b><br>25:22                       | <b>result</b><br>10:18                                     | <b>shaped</b><br>6:25                                                                                                                                  | <b>specifically</b><br>25:3                                                                 | <b>submit</b><br>11:25                                                                                                                       |
| <b>refer</b><br>20:8                            | <b>rhyme</b><br>22:12                                      | <b>shared</b><br>16:11                                                                                                                                 | <b>split</b><br>15:21                                                                       | <b>submitted</b><br>6:4                                                                                                                      |
| <b>reference</b><br>7:23 12:10                  | <b>rid</b><br>12:13                                        | <b>short</b><br>8:24 13:20                                                                                                                             | <b>staff</b><br>4:6 5:9 7:13 9:7,12<br>11:6 15:9 16:16<br>17:1 18:25 19:2,11<br>20:16 21:21 | <b>subsection</b><br>14:25                                                                                                                   |
| <b>refers</b><br>17:10                          | <b>right-of-way</b><br>8:13                                | <b>shortly</b><br>23:18                                                                                                                                | <b>staff's</b><br>10:12                                                                     | <b>substantial</b><br>25:1,8                                                                                                                 |
| <b>regulation</b><br>10:20,21 11:18<br>12:21,25 | <b>road</b><br>5:24,25 18:22<br>21:2,11 22:4 24:4<br>25:23 | <b>shown</b><br>24:25                                                                                                                                  | <b>standard</b><br>6:21 25:25                                                               | <b>SUDDUTH</b><br>13:25 19:15 20:22                                                                                                          |
| <b>regulations</b><br>11:22 13:6                | <b>roughly</b><br>16:8                                     | <b>side</b><br>4:16 5:16 8:20<br>10:24 11:20 15:3<br>20:2,6 22:13                                                                                      | <b>standards</b><br>18:8                                                                    | <b>sufficient</b><br>25:6                                                                                                                    |
| <b>relates</b><br>10:8                          | <b>RS</b><br>5:17                                          | <b>simply</b><br>11:21                                                                                                                                 | <b>standpoint</b><br>10:14                                                                  | <b>suggest</b><br>9:2                                                                                                                        |
| <b>relating</b><br>10:6,9                       | <b>run</b><br>8:20                                         |                                                                                                                                                        | <b>stands</b><br>9:15                                                                       |                                                                                                                                              |
| <b>relevant</b><br>11:2                         | <b>safety</b><br>12:16                                     |                                                                                                                                                        | <b>state</b><br>11:21 13:6                                                                  |                                                                                                                                              |
| <b>relied</b><br>25:15                          | <b>S</b>                                                   |                                                                                                                                                        |                                                                                             |                                                                                                                                              |
| <b>relieve</b><br>11:16                         |                                                            |                                                                                                                                                        |                                                                                             |                                                                                                                                              |

|                                              |                                                                        |                             |  |
|----------------------------------------------|------------------------------------------------------------------------|-----------------------------|--|
| <b>suggestion</b><br>21:22                   | <b>typical</b><br>8:18                                                 | <b>wonderful</b><br>4:10    |  |
| <b>supplemental</b><br>7:24 12:11            | <b>typically</b><br>8:19                                               | <hr/> <b>Y</b> <hr/>        |  |
| <b>support</b><br>21:6 23:14,25              | <hr/> <b>U</b> <hr/>                                                   | <b>years</b><br>21:12       |  |
| <b>systematic</b><br>24:6                    | <b>uncertainty</b><br>11:25                                            | <hr/> <b>Z</b> <hr/>        |  |
| <hr/> <b>T</b> <hr/>                         | <b>understand</b><br>7:16 19:7 23:6                                    | <b>zoned</b><br>5:17        |  |
| <b>Tab</b><br>7:23 12:10 14:24               | <b>understanding</b><br>15:23 18:15 20:13                              | <b>zoning</b><br>14:6 15:22 |  |
| <b>table</b><br>8:2 17:2,7,22,25             | <b>understood</b><br>15:12 16:3                                        |                             |  |
| <b>talk</b><br>5:12 7:3 14:10                | <b>unintelligible</b><br>10:2                                          |                             |  |
| <b>Tarpon</b><br>5:24 16:11,15 21:2          | <b>unique</b><br>11:13 22:12                                           |                             |  |
| <b>telling</b><br>9:12                       | <b>unreasonable</b><br>11:17,20                                        |                             |  |
| <b>testimony</b><br>24:1                     | <hr/> <b>V</b> <hr/>                                                   |                             |  |
| <b>thing</b><br>20:17                        | <b>VANASSE</b><br>16:23 17:20 18:25                                    |                             |  |
| <b>things</b><br>7:23 10:6,22 11:6<br>14:9   | <b>variance</b><br>5:1,7 10:1,18<br>11:15,16 12:6,19<br>23:14,23 24:10 |                             |  |
| <b>thinks</b><br>4:15                        | <b>variances</b><br>11:11 22:2                                         |                             |  |
| <b>time</b><br>18:13                         | <b>versus</b><br>23:13                                                 |                             |  |
| <b>times</b><br>8:19                         | <b>vision</b><br>22:4                                                  |                             |  |
| <b>Tobias</b><br>4:23                        | <b>visual</b><br>13:14                                                 |                             |  |
| <b>today</b><br>4:22 5:10 7:24<br>10:22 11:2 | <hr/> <b>W</b> <hr/>                                                   |                             |  |
| <b>told</b><br>5:9                           | <b>wall</b><br>8:24 9:18                                               |                             |  |
| <b>totally</b><br>21:6                       | <b>wanted</b><br>14:9 15:7 16:13                                       |                             |  |
| <b>town</b><br>15:22 19:9 23:11              | <b>welfare</b><br>12:7                                                 |                             |  |
| <b>traffic</b><br>12:16                      | <b>wide</b><br>15:8 21:4,6                                             |                             |  |
| <b>treated</b><br>19:22                      | <b>wife</b><br>21:11                                                   |                             |  |
| <b>trouble</b><br>16:25                      |                                                                        |                             |  |

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

Yellow Sheet Number: **2024-204**

**Meeting Date: August 23, 2024**

**1. Request:**

Ordinance 24-20

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ORDINANCE NO. 24-01, AND APPROVING DEVIATIONS FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 1170, 1180/1192, 1204/1206 ESTERO BLVD., 251 CRESCENT ST., 1150 FIFTH ST. AND UNADDRESSED PARCELS, PARCELS GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00205.0070 (MCP PARCEL #3), 24-46-23-W3-00006.0000 (MCP PARCEL #1), 24-46-23-W3-00206.0060 (MCP PARCEL #1), 24-46-23-W3-00009.0000 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0494.2609 (MCP PARCEL #2), 24-46-23-W3-00205.0070, 19-46-24-W4-U0491.2610 (MCP PARCEL #2), 19-46-24-W4-0140B.0070 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0496.2608 (MCP PARCEL #2), AND 19-46-24-W4-U0498.2607 (MCP PARCELS #2 AND #6) FORT MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

**Why the action is necessary:**

The signs as currently designed/ placed are not compliant with the LDC or the approved CPD, this request is to legalize both signs for setbacks and height, as well as sign-type deviation for the pole sign on the corner of Estero and Crescent.

**What the action accomplishes:**

Allows the existing, non-compliant signs to remain where they've been installed.

**2. Agenda:**

PUBLIC HEARINGS

**3. Requirement/Purpose:**

Ordinance to amend an existing  
CPD

**5. Background:**

During the construction of the "Margaritaville" resort, a sign package was approved requiring standard 3' setbacks from the rear of a sidewalk, both signs in-question were constructed within the 3' setback. The pole sign on the corner of Estero and Crescent is also too tall, pole signs are not allowed as a sign-type and will require deviations for all three issues (sign-type, maximum height and setbacks); the monument sign across Estero at the entrance to the aquatic center also requires two deviations for setbacks from the sidewalk and maximum height.

**Attachments:**

1. 24-20; DCI20240130\_MARGARITAVILLE SIGN (2)
2. LPA Staff Report
3. Narrative Statement
4. Comment Response Letter
5. Deviation Narrative
6. MCP\_Deviations

**Financial Impact:**

N/A

**6. Alternative Action**



Approve with conditions

7. **Staff Recommendations:**

N/A

8. **Recommended Approval:**

---

Frankie Kropacek, Operations & Compliance Director

Date: August 17, 2024

---

nancy stuparich, Town Attorney

Date: August 19, 2024

---

Amy Baker, Town Clerk

Date: August 19, 2024

## ORDINANCE 24-20

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ORDINANCE NO. 24-01, AND APPROVING DEVIATIONS FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 1170, 1180/1192, 1204/1206 ESTERO BLVD., 251 CRESCENT ST., 1150 FIFTH ST. AND UNADDRESSED PARCELS, PARCELS GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00205.0070 (MCP PARCEL #3), 24-46-23-W3-00006.0000 (MCP PARCEL #1), 24-46-23-W3-00206.0060 (MCP PARCEL #1), 24-46-23-W3-00009.0000 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0494.2609 (MCP PARCEL #2), 24-46-23-W3-00205.0070, 19-46-24-W4-U0491.2610 (MCP PARCEL #2), 19-46-24-W4-0140B.0070 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0496.2608 (MCP PARCEL #2), AND 19-46-24-W4-U0498.2607 (MCP PARCELS #2 AND #6) FORT MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

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

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

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

**WHEREAS**, Ordinance 24-01 amended the existing CPD to remove limitations on development of the beachfront lot on 5.1+/- acres more or less property, located at 1170, 1180/1192, 1204/1206 Estero Boulevard in the Town of Fort Myers Beach; and

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

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

**WHEREAS**, a public hearing was held before the Local Planning Agency (LPA) on August 23, 2024; and

**WHEREAS**, at the August 23, 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) s. 34-85; and

**WHEREAS**, at the August 23, 2024 public hearing the LPA recommended approval by a **X-X** vote with one member abstaining; and

**WHEREAS**, on September **XX**, 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 legally advertised and held before the Town Council on September **XX** 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**, with the following terms, conditions, and requirements which the Town Council finds to be in the public health, safety, and welfare, all of which are in compliance with the comprehensive plan and the Land Development Code; and

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

**WHEREAS**, Exhibit B is the approved Master Concept Plan, updated per the adopted Ordinance 24-01; and

**WHEREAS**, the Town Council finds that this request to amend existing ordinance 24-01 for a CPD, is a unique and individual application which does not set precedent for future development or rezoning applications.

### **Deviation #1**

Deviation seeks relief from LDC Section 30-8 which prohibits pole signs, to allow for one (1) directional pole sign in the location shown on the MCP.

### **Deviation #2**

Deviation seeks relief from LDC Section 30-5(a)(1)b.3.iii which requires freestanding signs in commercial districts not to exceed 5-feet in height above finished grade, to allow for one (1) directional pole sign to be a maximum height of 9-feet above finished grade in the location shown on the MCP.

### **Deviation #3 & 4**

Deviation seeks relief from LDC Section 30-5(a)(1)b.3.iv, which requires freestanding signs in commercial districts to be setback at least 3-feet from any public right-of-way or easement, to allow for one (1) monument sign and one (1) directional pole sign to be setback a minimum of 6 inches from the public right-of-way in the locations shown on the MCP.

### **Deviation #5**

Deviation seeks relief from LDC Section 30-5(a)(1)b.3.iii which requires monument signs not to exceed 5-feet in height above finished grade, to allow for one (1) monument sign to be a maximum height of 7.5-feet above finished grade in the location shown on the MCP.

### **Findings for the rezoning:**

WHEREAS, the Town Council considered all relevant factors and made the following formal findings before making its final decision on the requested amendment to Commercial Planned Development (see LDC 34-85 and 34-216) ordinance 24-01:

- a. Minor ambiguities were resolved through the deviation process.
- b. Long-standing blighted conditions on the subject property can be ameliorated through approval of this rezoning.
- c. The rezoning would carry out the policies and requirements of the Comprehensive Plan and Land Development Code.
- d. The Town Council carefully considered the testimony of the applicant, the recommendations of staff and of the local planning agency, and testimony from the public.
- e. The rezoning would be consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses in the Comprehensive Plan.
- f. The rezoning would meet or exceed all performance and locational standards set forth for the proposed use.
- g. Urban services are available and adequate to serve the proposed use.
- h. The rezoning would protect, conserve, or preserve environmentally critical areas and natural resources.
- i. The rezoning would be compatible with existing and planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- j. The rezoning would not place an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.

- k. The rezoning, with the mitigating factors volunteered by the applicant and the special conditions imposed by the Town Council, is consistent with the Fort Myers Beach Comprehensive Plan, Land Development Code, and other applicable town ordinances or codes.
- l. The proposed use or mix of uses is appropriate at the subject location.
- m. Sufficient safeguards to the public interest are provided by the recommended special conditions to the master concept plan and by other applicable regulations.
- n. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
- o. The rezoning meets all specific requirements of the Comprehensive Plan that are relevant to the request, including the following:
  - Policy 4-C-4 on building heights taller than the standard height limit
  - Policy 4-C-6 on hotel/motel densities
  - Policy 4-C-8 on density transfers
  - Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts

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

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

including building height, traffic flow, and intensity of use.

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

**WHEREAS**, the Town Council finds that this application to amend Ordinance 24-01 and amend conditions of approval of the commercial planned development zoning, **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. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council determines the Applicant did meet its burden of proof that the request to amend Town of Fort Myers Beach's Ordinance no. 18-04 and amend the conditions of approval for the commercial planned development zoning, **does/ 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. Town Ordinance 18-04 is amended by this Ordinance and the schedule of uses and conditions of approval for the Property's CPD set forth in Exhibit A, attached hereto and incorporated herein by this reference is approved.

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

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

Section 6. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.



Section 7. This Ordinance will take effect immediately upon adoption by the Town Council.

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

**DULY PASSED AND ADOPTED** on this XX day of September 2024.

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

**FORT MYERS BEACH TOWN COUNCIL**

\_\_\_\_\_  
Dan Allers, Mayor

**ATTEST:**

\_\_\_\_\_  
Amy Baker, Town Clerk

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

\_\_\_\_\_  
Gretchen R. H. Vose, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this \_\_\_\_ day of September 2024.

## **Exhibit A CONDITIONS OF APPROVAL**

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

Street.

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

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



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

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

### **Findings Regarding the Conditions**

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



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

**TYPE OF CASE:** Commercial Planned Development Amendment

**CASE NUMBER:** PD Amendment, 20240130

**CASE NAME:** 251 Crescent Street (incl. all associated addresses) approving five (5) deviations for a pole sign and monument sign adjacent to Estero Blvd.

**LPA**

**HEARING DATE:** August 23, 2024 at 9 AM

**STAFF**

**RECOMMENDATION:** APPROVE WITH CONDITIONS

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

**I. APPLICATION SUMMARY**

Applicant/Owner: Morris-Depew/ TPI-FMB LLC (TPI)

Request: CPD amendment approving deviations for a monument and pole sign; **1)** allow for a pole sign, **2)** allow for pole sign to be 9-feet tall and, **3)** allow sign to be less than 3-feet setback from the rear of a sidewalk or right-of-way; **4)** allow for monument sign to be 7.5-feet tall and, **5)** allow for monument sign to be setback a minimum of 6-inches from the rear of a sidewalk or right-of-way.

Subject property: See attached site plan.

Physical Address: 251 Crescent St (incl. all associated addresses)

STRAP #: 24-46-23-W3-00205.0070 (MCP PARCEL #3), 24-46-23-W3-00006.0000 (MCP PARCEL #1), 24-46-23-W3-00206.0060 (MCP PARCEL #1), 24-46-23-W3-00009.0000 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0494.2609 (MCP PARCEL #2), 24-46-23-W3-00205.0070, 19-46-24-W4-U0491.2610 (MCP PARCEL #2), 19-46-24-W4-0140B.0070 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0496.2608 (MCP PARCEL #2), AND

19-46-24-W4-U0498.2607 (MCP PARCELS #2 AND #6)

FLU: Pedestrian Commercial

Zoning: Commercial Planned Development (CPD)

Adjacent zoning and land uses:

North: CPD; Resort

South: Environmentally Critical Area (EC)

East: Downtown; Commercial Office/ Multi-Use

West: Downtown; Public Park

## **II. BACKGROUND AND ANALYSIS**

Background:

Morris-Depew, the contractor for TPI has applied to amend an existing CPD (24-01) to allow for five (5) deviations from the LDC to approve two existing signs, a pole sign and a monument sign. The signs have been installed at the corner of Estero Blvd and Crescent St., and the entrance to the applicant's aquatic center entrance on Estero Blvd.

A sign permit was applied for in August of 2022 and completed in November of 2022. In January of 2024 the Town received a signed Certificate of Completion from the applicant's inspector asserting that the signs had been installed to proper code. It was determined at the time that the signs had not met the minimum setback requirements of 3-feet from the rear of a sidewalk/ right-of-way. During the review of the non-compliant setbacks it was determined that the type of sign (pole sign) and heights of both the pole and monument signs were not compliant and that all deviations from the LDC should be approved through the CPD amendment process.

Analysis:

The signs in-question have already been installed in their approved locations, the size and placement of the signs do not appear to be injurious to the wider neighborhood, nor present a risk to motorists or pedestrians. The right-of way adjacent to both signs are controlled by Lee County despite being within the Town's jurisdiction.

Five 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. Deviation seeks relief from LDC Section 30-8 which prohibits pole signs, to allow for one (1) directional pole sign in the location shown on the MCP.**

*Applicant Justification: As shown on the MCP, the location of the monument sign on Estero Blvd. provides pedestrians, the general public, and vehicular traffic with the ability to identify the location of the Margaritaville Beach Resort. As shown on the MCP, the location of the directional pole sign provides pedestrians with the ability to quickly navigate to other locations within the resort. Due to the location of the resort, bisecting Estero Blvd., the enhanced wayfinding signage is necessary for the traveling public to safely locate the resort while passing by in a generally congested area of Estero Blvd. Well-designed and strategically placed signage enhances navigation and improves the overall wayfinding experience by providing clear visual cues to help guide people to their destination.*

*Staff Comment: While pole signs are specifically disallowed in the Town's Land Development Code (LDC), the prohibition seems to be generally aesthetic in nature. Allowing the pole sign does not pose a risk to the wider community.*

- 2. Deviation seeks relief from LDC Section 30-5(a)(1)b.3.iii which requires freestanding signs in commercial districts not to exceed 5-feet in height above finished grade, to allow for one (1) directional pole sign to be a maximum height of 9-feet above finished grade in the location shown on the MCP.**

*Applicant Justification: The heights and setbacks demonstrate a human-scale approach to wayfinding signage and works in concert with the other wayfinding resort signage to assist the user in orienting themselves and navigating to a specific destination within the resort campus. The monument sign provides the iconic brand identity for the Margaritaville Beach Resort brand, making it easy for pedestrians and the traveling public to safely locate while traveling along Estero Blvd. Relocating the signs would disrupt the established visual identity of the commercial development, which has been operating on Fort Myers Beach since December 2023*

*Staff Comment: The proposed heights are not out of scale for the size of the resort and the zone in which they are located, the signs do not appear to pose a risk to motorists or pedestrians wishing to cross Estero, or motorists driving north or south on Estero Blvd.*

- 3. Deviation seeks relief from LDC Section 30-5(a)(1)b.3.iv, which requires freestanding signs in commercial districts to be setback at least 3-feet from any public right-of-way or easement, to allow for one (1) monument sign and one (1) directional pole sign to be setback a minimum of 6 inches from the public right-of-way in the locations shown on the MCP.**

*Applicant Justification: The location of the directional pole sign provides pedestrians with the ability to quickly navigate to other locations within the resort. Due to the location of the resort, bisecting Estero Blvd., the enhanced wayfinding signage is necessary for the traveling public to safely locate the resort while passing by in a*

*generally congested area of Estero Blvd. Well-designed and strategically placed signage enhances navigation and improves the overall wayfinding experience by providing clear visual cues to help guide people to their destination. The heights and setbacks demonstrate a human-scale approach to wayfinding signage and works in concert with the other wayfinding resort signage to assist the user in orienting themselves and navigating to a specific destination within the resort campus.*

Staff Comment: The location of the monument sign placed closer to the sidewalk/ right-of-way may present a minor risk to bicyclists, but in the months that the signs have been present the Town is not aware of pedestrians/ bicyclists at risk from running into the signs.

- 4. Deviation seeks relief from LDC Section 30-5(a)(1)b.3.iii which requires monument signs not to exceed 5-feet in height above finished grade, to allow for one (1) monument sign to be a maximum height of 7.5-feet above finished grade in the location shown on the MCP.**

Applicant Justification: *The heights and setbacks demonstrate a human-scale approach to wayfinding signage and works in concert with the other wayfinding resort signage to assist the user in orienting themselves and navigating to a specific destination within the resort campus. The monument sign provides the iconic brand identity for the Margaritaville Beach Resort brand, making it easy for pedestrians and the traveling public to safely locate while traveling along Estero Blvd. Relocating the signs would disrupt the established visual identity of the commercial development, which has been operating on Fort Myers Beach since December 2023*

Staff Comment: The proposed heights are not out of scale for the size of the resort and the zone in which they are located, the signs do not appear to pose a risk to motorists or pedestrians wishing to cross Estero, or motorists driving north or south on Estero Blvd.

Neighborhood Compatibility:

Margaritaville resort is within the Town's Downtown zoning district and was previously approved through a CPD, the request for deviations to sign size and placement are not likely to change the character of the neighborhood or constitute a nuisance to neighbors.

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 previously approved CPD*

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

*Staff response: The signs do not currently meet size, type or location requirements in the LDC, approval of the amendment would validate the deviations.*

(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 signs are currently installed in the requested locations on-site, the signs do not appear to be a risk to health and safety of motorists and pedestrians.*

(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: The sign placement in these locations 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 Pedestrian Commercial 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: Not applicable*

3. Policy 4-C-4 on building heights taller than the standard height limit.

*Staff response: Not applicable*

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: Not applicable*

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 signage.*

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, it will be the responsibility of the applicant to ensure that any signage does not interfere with official signage along Estero or Crescent.*

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 amendment meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC and recommends approval of DCI**20240130** with the attached conditions.

**IV. CONDITIONS OF APPROVAL**

1. 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.
2. All signage and landscaping must meet the Vehicle Visibility at Intersection requirements found in Sec. 34-3131

Staff Report Exhibits:

A – Amended Master Concept Plan

**Margaritaville Beach Resort**  
**Commercial Planned Development Amendment**  
Request Narrative  
July 31, 2024

**I. PROPERTY INFORMATION & REQUEST**

The 5.8+/-acre Subject Property is located at 251 Crescent Street, in the Town of Fort Myers Beach. It is located more specifically at the base of the Sky Bridge located on the north and south sides of Estero Blvd. and in between Crescent Street and Fifth Street. It is zoned Commercial Planned Development pursuant to Zoning Resolution #18-04 and is designated Pedestrian Commercial on the Future Land Use Map. Since the adoption of 18-04, amendments to the CPD were approved by Ordinances 23-09 and 24-01.

***The applicant is requesting approval of a CPD amendment to allow for four (4) sign deviations. Approval of these deviation requests will allow for an existing 7.5 foot tall monument sign and an existing 9 foot tall directional pole sign to remain in their locations proximate to the intersection of Estero Blvd. and Crescent St. with 6-inch minimum setbacks.***



**Figure 1: Aerial Location Map**

## II. Background

Subsequent to sign permit approval (Permit 221492), the Applicant received notification that two (2) separate signs at the Resort do not comply with the Town's LDC. The Applicant is submitting this application to request relief from the strict requirements of the LDC in order to memorialize the approval of this signage and ensure that it will be allowed to remain as permitted.

One of the signs is a Monument Sign, shown in Figure 4 below, located on Estero Blvd. Deviations are being requested for this signage as follows:

- To provide relief from the maximum height requirement
- To provide relief from the minimum setback requirement

The other signage, shown in Figures 2 and 3 below, meets the definition of Directional Sign, pursuant to LDC 30-3:

*Directional sign. Any sign which serves solely to designate the location of or direction to any place, activity, facility, or area.*

The signs point to various destinations on the resort campus and do not contain any advertising. Additionally, as each of the individual sign arrows is less than 4 sq ft in area, this signage also qualifies as an Exempt Sign, pursuant to LDC 30-4(a):

*The following signs do not require a sign permit... Directional or instructional signs or symbols, such as entrance, exit, caution, slow, direction arrows, etc. located on and pertaining to a parcel or development and not to exceed four square feet in area or containing any advertising.*

However, Town planning staff is indicating that because this signage was already processed and approved as part of a larger sign permit package, it no longer qualifies as exempt, and deviations must be approved to allow it to remain. Staff indicated that it should be considered a "Pole Sign" and deviations should be requested as follows:

- To allow a pole sign which is not a permitted sign type.
- To provide relief from the maximum height requirement.
- To provide relief from the minimum setback requirement.

Please refer to the enclosed Deviations and Justifications narrative, which provides a detailed analysis of the deviation requests.



**Figure 2: Margaritaville Directional Pole Sign**



**Figure 3: Margaritaville Directional Pole Sign**





**Figure 4: Margaritaville Monument Sign**

**Narrative Statements Per Supplement PH-D**

**A. Comprehensive Plan Amendments**

There are no Comprehensive Plan Amendments pending that could affect the future use of this property.

**B. Phasing of Construction**

Not Applicable – the resort is entirely built out. This request is limited to signage deviations for an existing resort sign.

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

***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. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map's "platted overlay" indicates a maximum density of 10 units per acre for affordable units consistent with the***



***adopted redevelopment plan). 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. Where commercial uses are permitted, residential uses are encouraged in upper floors. All "Marina" uses in Policy 4-B-7 are also allowed on parcels that were zoned for marinas prior to adoption of this plan. Nonresidential uses (including motels and churches) now comprise 58.9% of the land in this category, and this percentage shall not exceed 90%.***

The Applicant's request is in direct compliance with the Pedestrian Commercial FLU category. The established Margaritaville Beach Resort contributes significantly to the walkable and pedestrian-oriented nature of this area of Fort Myers Beach. The resort provides pedestrian connectivity along both sides of Estero Blvd. utilizing innovative design techniques including a pedestrian bridge and provides a beachfront destination for tourists and locals alike. The development has already been approved and this request is limited to signage deviations for existing resort signage.

**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.**

The Margaritaville Beach Resort is an approved and fully developed and operational development on Fort Myers Beach. Thus, the CPD is in full compliance with the design standards as outlined in LDC Sec. 34-991 – 34-997 as this project was previously approved and this request is limited to four (4) signage deviations for two (2) signs.

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

**LDC Sec. 34-85. - Rezonings.**

**(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.**

There is no error or ambiguity which must be corrected. The request is limited to signage deviations for an existing and built sign at the previously approved and fully developed Margaritaville Beach Resort.

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

The location of the sign is a result of building setbacks that were approved previously through the planned development approval process, as well as coordination with Lee County Department of Transportation and utility providers that mandated avoidance of existing equipment. The area that was ultimately allotted for the placement of the subject monument sign is confined, leaving no other alternative than the location that is the subject of this request. Had the

directional pole sign been installed without a sign permit, it would be exempt and allowed. Because it was included in a larger sign permit package it is no longer considered exempt by reviewing staff and deviations are now being requested.

**(3) The impact of a proposed change on the intent of this chapter.**

There is no considerable impact the proposed change has on the intent of this chapter. The request is limited to signage deviations for existing signs at a fully operational resort in the heart of Fort Myers Beach. The signage is necessary and critical for wayfinding purposes and provides visibility and identification of the resort to the traveling public as well as the pedestrian traffic. The signage upholds the intent of the LDC by assisting pedestrians and motorists with navigation and safely locating the resort, which is located on an often congested stretch of Estero Blvd.

**(4) The testimony of any applicant.**

To be provided at the hearing for the Town Council to consider.

**(5) The recommendation of staff and of the local planning agency.**

To be provided prior to the hearing for the Town Council to consider.

**(6) The testimony of the public.**

To be provided at the hearing for the Town Council to consider.

**(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.**

The request is consistent with the goals, objectives, policies, intent, and with the densities, intensities and general uses as set forth in the Fort Myers Beach Comprehensive Plan. The signs are located in the Pedestrian Commercial FLU, which encourages walkability and pedestrian-oriented design. The signs provide wayfinding for pedestrians and the traveling public and assist in identifying the resort. The request enhances the pedestrian orientation and aesthetic of the downtown area of the island as laid out in policy 4-B-6. Additionally, the development has already been approved and built and this amendment does not change the density, intensity, or any of the uses associated with the property.

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

The CPD meets or exceeds all performance and locational standards set forth for the proposed use, which is a beachfront resort, except where deviations have been approved or requested.

**(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.**

The CPD is completely developed and has adequate access to available urban services and existing public infrastructure.

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

The site has been approved by FDEP through their permitting process and has already been developed. This request for signage deviations adjacent to the existing buildings and public rights-of-way does not change the site in any way that would cause harm to the environment.

**(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 and planned uses in the surrounding area, which consist mainly of tourist support uses such as restaurants, bars, retail shops, and other beach resorts. The CPD and the Applicant's sign deviation requests will not cause damage, hazard, nuisance, or other detriment, but in fact will serve as a net gain for the community and will provide the essential wayfinding necessary for a beach resort located in the Pedestrian Commercial FLU.

**(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 request will not place any undue burden upon existing transportation or other services as it only requests four (4) deviations from the sign code and does not change the density or intensity of the existing approved development.

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

The Applicant is only requesting approval of sign deviations for an existing CPD, not a rezoning. Only 34-216(a)(4) is applicable.

**LDC Sec. 34-216(a)(4), Deviations:**

**a. Each item enhances the achievement of the objectives of the planned development**

LDC 34-612 states that the purpose of the planned development districts is to provide a degree of flexibility for a landowner to propose the development of land in a manner that differs from the specific provisions of this code. The requested deviations allow for signs to be located proximate to Estero Blvd. and Crescent St. with enhanced visibility to provide pedestrians and visitors to the resort with the ability to easily identify and locate the resort and be directed to various locations around the resort. Due to input from FDOT and Teco Gas, the

monument sign needed to be relocated closer to the right-of-way. The CPD allows for a beachfront resort that spans Estero Blvd. and requires enhanced visibility.

**b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted**

With safety at the forefront of this request, the deviation does not adversely impact the general public health, safety or welfare.

The location of the signs is also a result of building setbacks that were approved previously through the planned development approval process, as well as coordination with Lee County Department of Transportation and utility providers that mandated avoidance of existing equipment. The area that was ultimately allotted for the placement of the subject monument sign is confined, leaving no other alternative than the location that is the subject of this request. The location of the directional pole sign proximate to the intersection of Estero Blvd. and Crescent St. serves the purpose of that signage as a wayfinding tool.

**c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest**

The requested deviations are directly aligned with providing a benefit to the public interest. The monument sign in the current location will enhance the visibility of the resort and reinforces the pedestrian oriented nature of this area of Fort Myers Beach. The human-scale design of the monument sign and the placement of the directional pole sign in a key location work together to enhance the users experience with a scenic approach to wayfinding.

**d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.**

The requested deviations are consistent with the Pedestrian Commercial FLU, which encourages pedestrian-oriented design to improve walkability and wayfinding.

**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.**

Please see attached Schedule of Deviations and Justification Narrative, which outlines the requested deviations and their associated justifications. Please see attached revised Deviations sheet from the Master Concept Plan, which provides the locations that the requested deviations will be applied to.

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

LDC section 34-219(b)(1)b provides that the authority is granted to the Director to eliminate unnecessary processing delays for proposed changes that are in conformance with all Town regulations and plans. The request is seeking relief from the LDC through a deviation, so this request does not meet this criterion.

The deviations do not adversely impact public health, safety or welfare. For the reasons listed above, the Applicant respectfully requests approval of the four (4) sign deviations.

July 31, 2024

SENT VIA EMAIL

Kendra Rosa  
Zoning Coordinator  
Town of Fort Myers Beach  
Community Development Department  
[zoningpermits@fmbgov.com](mailto:zoningpermits@fmbgov.com)

**RE: 251 Crescent St, Fort Myers Beach, FL 33931 Strap # 244623W3000060000**  
**PD Amendment -MCP # 20240130 – To allow signs deviations**

Dear Kendra:

The purpose of this letter is to provide a response to the Community Development Department review comments dated July 17, 2024 for the above referenced application. We always appreciate interaction with Staff on matters related to this application and welcome additional calls and emails that will assist us to address all the concerns in the most efficient manner to the extent this request can be approved.

[Community Development Department](#)

*Comment/Condition:*

1. *Narrative disputes that the applicant even needs approval for the revised “directional sign”, but staff has been clear that this sign was originally permitted as part of the larger sign package and its original approval wasn’t as a “directional sign”. Their narrative and request for administrative amendment of their existing MCP doesn’t address staff’s position that this sign should be approved as part of the deviation requests. The applicant has proposed a “pole sign” which is a disallowed type of sign, the deviation ask is to approve a pole sign, the height of the pole sign and allow for the reduced setbacks to a public right-of-way.*

**Response: Please see attached revised narrative, revised schedule of deviations, and revised MCP Deviations sheet which have been updated to request deviations to allow a pole sign.**

*Comment/Condition:*

2. “Revised MCP”: This document has deviations listed that aren’t relevant to this ask. “Meeting Building” and “Ancillary Retail” are noted on this MCP, those uses in those areas haven’t been approved and aren’t relevant. The deviations should be focused on just the locations of the two signs in question.

**Response: Please see attached revised MCP which is based on the most recently approved MCP.**



Comment/Condition:

3. "Request Narrative": This document references "Zoning Resolution 18-04" but there was a newer, updated CPD ordinance and MCP approved through Ord. 24-01, you will be amending this CPD.

**Response: Please see attached revised narrative which clarifies that since the adoption of 18-04, amendments to the CPD were approved by Ordinance 23-09 and 24-01.**

Comment/Condition:

4. "Request Narrative": In this document it is noted that you are requesting an "administrative amendment" but that isn't correct, this will be a full MCP Amendment.

**Response: Please see attached revised narrative which no longer requests or references an administrative amendment.**

Please let us know if there is anything else needed for the approval of this request.

Sincerely,

**MORRIS-DEPEW ASSOCIATES, INC.**

Ben Smith  
Director of Planning, Morris-Depew Associates Inc

Enclosure:  
Revised Narrative  
Revised Schedule of Deviations  
Revised MCP Deviations Sheet

Cc: Jason Smalley, Senior Planner, Town of Fort Myers Beach

**Margaritaville Beach Resort**  
**Commercial Planned Development**  
Schedule of Deviations and Justifications  
July 31, 2024

Deviation 5 seeks relief from LDC Section 30-5(a)(1)b.3.iii which requires monument signs not to exceed 5-feet in height above finished grade, to allow for one (1) monument sign to be a maximum height of 7.5-feet above finished grade in the location shown on the MCP.

Deviation 6 seeks relief from LDC Section 30-5(a)(1)b.3.iv, which requires freestanding signs in commercial districts to be setback at least 3-feet from any public right-of-way or easement, to allow for one (1) monument sign and one (1) directional pole sign to be setback a minimum of 6 inches from the public right-of-way in the locations shown on the MCP.

Deviation 7 seeks relief from LDC Section 30-5(a)(1)b.3.iii which requires freestanding signs in commercial districts not to exceed 5-feet in height above finished grade, to allow for one (1) directional pole sign to be a maximum height of 9-feet above finished grade in the location shown on the MCP.

Deviation 8 seeks relief from LDC Section 30-8 which prohibits pole signs, to allow for one (1) directional pole sign in the location shown on the MCP.

As shown on the MCP, the location of the monument sign on Estero Blvd. provides pedestrians, the general public, and vehicular traffic with the ability to identify the location of the Margaritaville Beach Resort. As shown on the MCP, the location of the directional pole sign provides pedestrians with the ability to quickly navigate to other locations within the resort. Due to the location of the resort, bisecting Estero Blvd., the enhanced wayfinding signage is necessary for the traveling public to safely locate the resort while passing by in a generally congested area of Estero Blvd. Well-designed and strategically placed signage enhances navigation and improves the overall wayfinding experience by providing clear visual cues to help guide people to their destination. The heights and setbacks demonstrate a human-scale approach to wayfinding signage and works in concert with the other wayfinding resort signage to assist the user in orienting themselves and navigating to a specific destination within the resort campus. The monument sign provides the iconic brand identity for the Margaritaville Beach Resort brand, making it easy for pedestrians and the traveling public to safely locate while traveling along Estero Blvd. Relocating the signs would disrupt the established visual identity of the commercial development, which has been operating on Fort Myers Beach since December 2023. As one of the first major developments to open on Fort Myers Beach post-Hurricane Ian, the resort offers

a beachfront venue attracting visitors from around the world. For first-time visitors to Fort Myers Beach the monument sign at this exact location is critical to locating the resort and making the left turn on Crescent Street to park or enter the resort, and the directional pole sign location is critical to navigating the resort campus. The placement of the signs has been carefully considered to maximize visibility and accessibility for both pedestrians and motorists and provides essential wayfinding for the general public, which is essential to a tourist-oriented destination. The monument sign aligns with the intent of the LDC, which permits monument signs within landscaped medians. By doing so, the code implicitly acknowledges the value of strategic placement in enhancing streetscape aesthetics and promoting effective wayfinding. The directional pole sign aligns with the intent of the LDC which allows for directional signs to be exempt from permitting. In this context, the requested deviations uphold the underlying principles of the code while accommodating the signage of the resort. With safety at the forefront of this request, the deviation does not adversely impact the general public health, safety or welfare.

The location of the signs is also a result of building setbacks that were approved previously through the planned development approval process, as well as coordination with Lee County Department of Transportation and utility providers that mandated avoidance of existing equipment. The area that was ultimately allotted for the placement of the subject monument sign is confined, leaving no other alternative than the location that is the subject of this request.

For these reasons, the Applicant respectfully requests approval of these deviation requests to allow the existing monument sign and the existing directional pole sign to remain in the locations shown on the MCP. Photographs of the existing signs and their exact locations are provided in the Figures below.



**Figure 1: Existing Monument Sign**

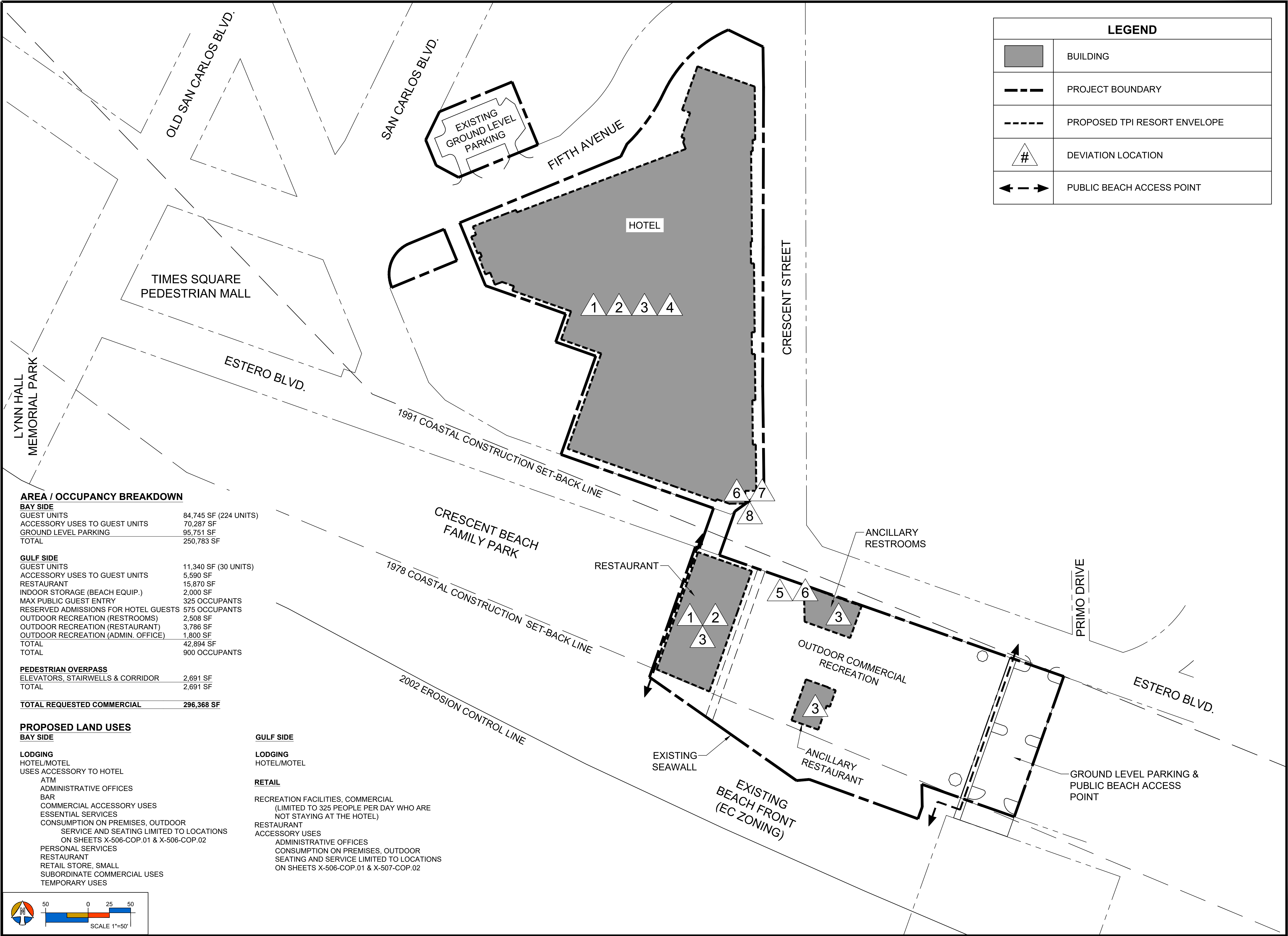


**Figure 2: Existing Directional Pole Sign**



Figure 3: Sign Location Map





| LEGEND |                              |
|--------|------------------------------|
|        | BUILDING                     |
|        | PROJECT BOUNDARY             |
|        | PROPOSED TPI RESORT ENVELOPE |
|        | DEVIATION LOCATION           |
|        | PUBLIC BEACH ACCESS POINT    |

AREA / OCCUPANCY BREAKDOWN

|                               |                       |
|-------------------------------|-----------------------|
| <b>BAY SIDE</b>               |                       |
| GUEST UNITS                   | 84,745 SF (224 UNITS) |
| ACCESSORY USES TO GUEST UNITS | 70,287 SF             |
| GROUND LEVEL PARKING          | 95,751 SF             |
| TOTAL                         | 250,783 SF            |

|                                      |                      |
|--------------------------------------|----------------------|
| <b>GULF SIDE</b>                     |                      |
| GUEST UNITS                          | 11,340 SF (30 UNITS) |
| ACCESSORY USES TO GUEST UNITS        | 5,590 SF             |
| RESTAURANT                           | 15,870 SF            |
| INDOOR STORAGE (BEACH EQUIP.)        | 2,000 SF             |
| MAX PUBLIC GUEST ENTRY               | 325 OCCUPANTS        |
| RESERVED ADMISSIONS FOR HOTEL GUESTS | 575 OCCUPANTS        |
| OUTDOOR RECREATION (RESTROOMS)       | 2,508 SF             |
| OUTDOOR RECREATION (RESTAURANT)      | 3,786 SF             |
| OUTDOOR RECREATION (ADMIN. OFFICE)   | 1,800 SF             |
| TOTAL                                | 42,894 SF            |
| TOTAL                                | 900 OCCUPANTS        |

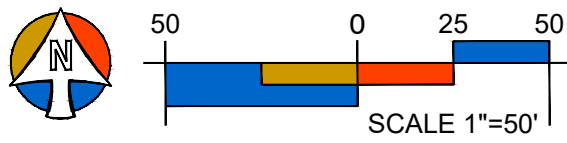
|                                  |          |
|----------------------------------|----------|
| <b>PEDESTRIAN OVERPASS</b>       |          |
| ELEVATORS, STAIRWELLS & CORRIDOR | 2,691 SF |
| TOTAL                            | 2,691 SF |

|                                   |                   |
|-----------------------------------|-------------------|
| <b>TOTAL REQUESTED COMMERCIAL</b> | <b>296,368 SF</b> |
|-----------------------------------|-------------------|

PROPOSED LAND USES

|                                          |  |
|------------------------------------------|--|
| <b>BAY SIDE</b>                          |  |
| <b>LODGING</b>                           |  |
| HOTEL/MOTEL                              |  |
| USES ACCESSORY TO HOTEL                  |  |
| ATM                                      |  |
| ADMINISTRATIVE OFFICES                   |  |
| BAR                                      |  |
| COMMERCIAL ACCESSORY USES                |  |
| ESSENTIAL SERVICES                       |  |
| CONSUMPTION ON PREMISES, OUTDOOR         |  |
| SERVICE AND SEATING LIMITED TO LOCATIONS |  |
| ON SHEETS X-506-COP.01 & X-506-COP.02    |  |
| PERSONAL SERVICES                        |  |
| RESTAURANT                               |  |
| RETAIL STORE, SMALL                      |  |
| SUBORDINATE COMMERCIAL USES              |  |
| TEMPORARY USES                           |  |

|                                          |  |
|------------------------------------------|--|
| <b>GULF SIDE</b>                         |  |
| <b>LODGING</b>                           |  |
| HOTEL/MOTEL                              |  |
| <b>RETAIL</b>                            |  |
| RECREATION FACILITIES, COMMERCIAL        |  |
| (LIMITED TO 325 PEOPLE PER DAY WHO ARE   |  |
| NOT STAYING AT THE HOTEL)                |  |
| <b>RESTAURANT</b>                        |  |
| ACCESSORY USES                           |  |
| ADMINISTRATIVE OFFICES                   |  |
| CONSUMPTION ON PREMISES, OUTDOOR         |  |
| SEATING AND SERVICE LIMITED TO LOCATIONS |  |
| ON SHEETS X-506-COP.01 & X-507-COP.02    |  |



PROJECT:

TPI-FMB CPD

LOCATION:

FORT MYERS BEACH  
FLORIDA

CLIENT:

**TPI** HOSPITALITY  
100% Employee Owned

TPI HOSPITALITY  
103 FIFTEEN AVE. NW  
WILLMAR, MN 56201  
PHONE (320) 235-7207, FAX (320) 235-5563

CONSULTANTS:

**ARCHITECT**  
RAMAKER & ASSOCIATES, INC.  
103 FIFTEEN AVE. NW  
WILLMAR, MN 56201  
PHONE (320) 235-7775, FAX (320) 235-8673

**PLANNING, CIVIL, SURVEY & LANDSCAPE ARCHITECTURE**  
MORRIS-DEPEW ASSOCIATES, INC.  
2914 CLEVELAND AVENUE  
FORT MYERS, FL 33901  
PHONE (239) 337-3993, FAX (239) 337-3994

**TRANSPORTATION**  
DAVID PLUMMER & ASSOCIATES  
2149 MCGREGOR BLVD.  
FORT MYERS, FL 33901  
PHONE (239) 332-2617, FAX (239) 332-2645

| REVISIONS                                   | DATE                     |
|---------------------------------------------|--------------------------|
|                                             |                          |
|                                             |                          |
|                                             |                          |
|                                             |                          |
|                                             |                          |
|                                             |                          |
|                                             |                          |
|                                             |                          |
|                                             |                          |
| PROJECT MANAGER:                            | TME                      |
| DRAWING BY:                                 | DAL                      |
| JURISDICTION:                               | TOWN OF FORT MYERS BEACH |
| DATE:                                       | 07/31/2024               |
| SHEET TITLE:                                |                          |
| MASTER CONCEPT PLAN<br>DEVIATIONS AND NOTES |                          |
| SHEET NUMBER:                               | X-113-MCP.04             |
| JOB/FILE NUMBER:                            | 15069-14                 |