



Fort Myers Beach Local Planning Agency

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

Agenda

Tuesday, September 3, 2024

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

V. APPROVAL OF MINUTES

A. Local Planning Agency - August 23, 2024

VI. PUBLIC COMMENT

VII. PUBLIC HEARINGS

A. Ordinance 24-28; CPD20240015, 1836 & 1840 Estero Blvd. (EIBC)
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.

B. Ordinance 24-27; DCI20240155, 2545 & 2555 Estero Blvd., FMBFCD Fire Station CPD
AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 2545 AND 2555 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-00458.0000; 19-46-24-W3-00458.0010 IN FORT MYERS BEACH, TO

ALLOW A FIRE STATION AND A MIXED USE DEVELOPMENT INCLUDING CIVIC, RESIDENTIAL, LODGING, RETAIL, OFFICE AND MARINE USES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

- C. VAC20240068, 3030 Shell Mound, Easement Vacation (FMB Art Assoc)
A RESOLUTION VACATING AN UTILITY EASEMENT LOCATED OVER REAL PROPERTY OWNED BY FORT MYERS BEACH ART ASSOCIATION, GENERALLY LOCATED AT 3030 SHELL MOUND BOULEVARD, FORT MYERS BEACH; ACCEPTING AND ACCEPTING AND APPROVING A COMPARABLE REPLACEMENT EASEMENT TO BE LOCATED ON THE SAME REAL PROPERTY, SUBJECT TO TERMS AND CONDITIONS AS CONTAINED IN A SECOND AMENDED AND RESTATED UTILITY EASEMENT AGREEMENT; DIRECTING THE TOWN COUNCIL TO ACCEPT THE SECOND AMENDED AND RESTATED UTILITY EASEMENT AND AGREEMENT; DIRECTING CLERK TO RECORD THIS RESOLUTION; AUTHORIZING THE MAYOR TO SIGN ALL NEEDED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.
- D. VAR20240142; 319 ESTERO BLVD
A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20240142, REQUESTING 1) A VARIANCE FROM LDC TABLE 34-3 OF 3 FEET FROM THE WEST SIDE SETBACK FOR A SIDE SETBACK OF 4 FEET 6 INCHES FOR AIR CONDITIONING EQUIPMENT; AND 2) A VARIANCE FROM SEC.34-638(D)(2)(B) OF 3 FEET FROM THE STREET SETBACK FOR A STREET SETBACK OF 22 FEET FOR THE SECOND FLOOR BALCONY OF A NEW SINGLE FAMILY STRUCTURE IN THE RC ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 319 ESTERO BOULEVARD, FORT MYERS BEACH, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.
- E. SEZ20240024; 1400 Estero Blvd. (Lani Kai)
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVE/ APPROVE WITH CONDITIONS/ DENY SPECIAL EXCEPTION FOR 1400 ESTERO BLVD, LANI KAI RESORT TO REBUILD PAVER DECKS, BEACH-BAR STRUCTURES, WALKWAYS, COVERED SCREENED AREAS, GAZEBO, PLANTING AREAS AND WOOD DECKING TO PRE-IAN CONDITION FULLY IN THE EC ZONING.
- F. SEZ20240200, 6502 Estero Blvd, Privateer
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240200 TO ALLOW REPAIRS TO A RETAINING WALL IN THE EC ZONING DISTRICT AS AUTHORIZED BY SECTION 6-366 OF THE TOWN OF

FORT MYERS LAND DEVELOPMENT CODE FOR PROPERTY LOCATED AT 6500 AND 6502 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

G. Ordinance 24-26; CB Zoning District Amendments

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING 1) TABLE 34-2 TITLED "USE SUB-GROUPS PERMITTED IN EACH ZONING DISTRICT" IN CHAPTER 34, ARTICLE III, DIVISION 2 TO AMEND THE ALLOWED SUB-GROUPS, FOR THE CB ZONING DISTRICT, FROM LIMITED TO OPEN FOR THE LODGING, OFFICE, AND RETAIL USE GROUPS; 2) THE LAND DEVELOPMENT CODE SUBDIVISION V. – CB ZONING DISTRICT FOUND IN CHAPTER 34, ARTICLE III, DIVISION 5. – REDEVELOPMENT ZONING DISTRICT TO PLACE LIMITATIONS ON NEW OUTDOOR DINING AND OUTDOOR ENTERTAINMENT USES; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING AN EFFECTIVE DATE.

VIII. ADMINISTRATIVE AGENDA

IX. LPA MEMBERS ITEMS/REPORTS

X. LPA ATTORNEY ITEMS/REPORTS

XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS

XII. ITEMS FOR NEXT MONTHS AGENDA

XIII. 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

Friday, August 23, 2024

9:00 AM

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

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

LPA Member Plummer moved to approve LPA Member Sudduth's participation virtually due to extraordinary circumstances, seconded by LPA Member Boan. The motion carried unanimously.

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A. Local Planning Agency – June 11, 2024

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

The motion carried unanimously.

V. APPROVAL OF THE FINAL AGENDA

LPA Member Plummer moved to approve the agenda with Items A, B, C and D rescheduled, seconded by LPA Member Dunlap.

The motion carried unanimously.

A. Local Planning Agency - June 11, 2024

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

The motion carried unanimously.

VI. PUBLIC COMMENT

No public comment.

VII. 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. 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 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.

Rescheduled to a date uncertain.

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.

Rescheduled to a date uncertain.

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-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.

Rescheduled to a date uncertain.

- 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 6-366, FOR PROPERTY LOCATED AT 6200 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Rescheduled to a date uncertain.

- 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.

Chair Cereceda read the title of the ordinance. Community Development Planner Sarah Propst reviewed the background of the ordinance as stated on the yellow sheet. She clarified that the 40% building coverage applied to elevated structures and was for single-family and two-family residences in all zoning districts. LPA Member Sudduth noted that if someone met the setbacks but did not meet the 40% coverage, they had to ask for a variance. He felt it could be a roadblock to rebuilding. Planner Propst noted they could remove the building coverage requirement.

Public comment:

Albert Dambrose, an architect, explained that every municipality had lot coverage ratios. He supported the ordinance and described how it would affect his clients.

Penny Porter, a resident, noted that her lot was large, but the buildable area was very small. She suggested considering the whole lot.

Public comment closed.

Planner Propst stated that a variance was available to someone who did not meet the lot coverage. She suggested that a percentage of the 40% calculation be included beyond the EC (Environmentally Critical) to the Town Council, but they did not think that was an appropriate direction to go, since property owners could request a variance. She stated that the impervious surface did not count the EC.

Chair Cereceda questioned what members thought about utilizing a small percentage of the EC. LPA Members agreed and will make a recommendation to the Council.

LPA Member Dunlap moved to recommend approval and a finding of consistency with the Comp Plan, consider an additional use of a percentage of the EC and make a recommendation to the Council to reconsider a percentage use consistent with other elements of the code of the EC, seconded by LPA Member Boan.

The motion carried unanimously.

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.

Ex parte communications: LPA Member Plummer visited the property and spoke to the owner, LPA Member McLean was familiar with the property and received letters and Chair Cereceda Googled the property. All members received two emails. LPA Member Plummer indicated that the advertisements were not posted on this property or the property on Lagoon. Community Development Senior Planner Jason Smalley was unaware that the properties were not posted and would ensure they were. Town Attorney Stuparich read the title of the resolution.

Judith Frankel reviewed her qualifications as an expert in planning. LPA Member Sudduth moved to approve her as an expert in her field, seconded by LPA Member McLean. The motion carried unanimously.

The applicant stated that she received the staff report but nothing else. Town Clerk Baker will forward the materials to her.

Planner Frankel reviewed the minimum street setback and side setback requirements. The overall size of the house exceeds the maximum lot coverage requirement by about 15%. She reviewed the site plan and noted that the covered deck in the back was included in the lot coverage. The side setback related to the mechanical equipment on the side of the house and was covered by the balcony.

Penny Porter, applicant, noted the original cottage was built in 1942 before Ian destroyed it. The road was an easement driveway and not a public street. The lot was large, but the buildable area was small and irregular. She distributed the old survey with the buildable area highlighted. She stated that it was difficult to design a house that would fit on the lot within the setbacks and lot coverage. Ms. Porter noted the impervious calculation was 18%. She addressed the emails and explained that she had to elevate the house and was sorry the view would be blocked. She explained that the footprint was close to the original structure with the addition of a second story. She added that if she put the deck at the front of the house, she would not need a variance, but the front faced the street.

Public comment:

William Mizel, President of the HOA at Surf Song Condos, stated that the problem was the setback, not the height. Moving the setback back would block more views. He displayed a picture of her lot after a recent rain and noted that she used the condo parking lot.

Dick Dundee, registered agent of Surf Song Condos, noted that the survey in the packet was 18 years old. He opposed the front setback and wanted the applicant to follow the 25-foot rule.

Albert Dambrose, architect, commented on the details of the build and felt that putting the A/C equipment on the north side made sense. He added that mechanical equipment had to be elevated. He addressed the lot flooding and noted there were ways to deal with the water.

Public comment closed.

Ms. Porter stated there was standing water on the property because Ian took a lot of sand with the house, which resulted in a hole. She indicated that she only encroached on the condo's parking lot when she had to place debris there for pickup after the hurricane. Planner Frankel read the criteria in the staff report.

LPA Member Eckmann agreed with the staff recommendation and felt the owner should consider the cottage build-back policy. LPA Member Plummer asked whether the applicant could get the same space with the cottage build-back. Chair Cereceda stated that the cottage build-back policy was not before them and they could not redesign the project.

LPA Member Plummer felt that the request met the criteria for the variance and the steps took up a lot of space. LPA Member McLean agreed with the staff report and felt the concern was moving it back and extending it from 35 feet to an additional 15 feet on the footprint. It was a design choice to build a larger house than was previously there.

LPA Member McLean moved to deny the resolution for the reasons outlined in the staff report, seconded by LPA Member Dunlap.

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

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

The recording started with ex parte communications in progress: LPA Member Plummer visited the site, LPA Member McLean visited the site and spoke to the owners and Chair Cereceda visited the site and spoke to the owners. No other disclosures on the recording.

Chair Cereceda read the title of the resolution.

Senior Planner Smalley reviewed the background of the request as stated on the yellow sheet. He noted that staff recommended denial because the pool cage was a design choice.

Planner Propst indicated that the applicants requested a pool setback variance on March 6, 2023, but the request did not include a pool enclosure. Staff recommended denial of that request, but the Town Council granted it. Janell Schoonover, applicant, acknowledged that she read the background materials online. She stated she wanted to build a pool cage to the edge of the house and the neighbors she surveyed supported the request. No public comment.

LPA Member Dunlap moved to approve the resolution, finding it was consistent with the comprehensive plan, seconded by LPA Member Eckmann.

The motion carried unanimously by roll call vote.

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.

No ex parte communications were disclosed. Chair Cereceda read the title of the ordinance. Senior Planner Smalley reviewed the background of the request as stated on the yellow sheet. He noted the issue referred to signs on the property and indicated there were five total deviations.

The first request was to allow a pole sign. The second was to allow the pole sign to be nine feet tall. The third was to allow both signs to be six inches behind a right-of-way or sidewalk. The fourth requested the monument signs be seven and a half feet tall. The last request was to allow the monument signs to be set back six inches from the sidewalk. Staff recommended approval with conditions. He added that there were outstanding questions regarding other signs and lighting issues and he suggested those issues be included as a condition.

Tom Torgerson, applicant, explained that Rob Phelan from Lee County told him to move the sign on Crescent and Estero Blvd. and the sign on the Beach Club side had to move six inches because the gas line was relocated. He was unaware of any outstanding issues except the FDEP (Florida Department of Environmental Protection) and FWC (Fish & Wildlife Conservation Commission), which inspected the property two months ago and issued an 87-page report. Mr. Torgerson indicated he replied to the report but had not heard back. He hired a third consultant to negotiate with FDEP and FWC so he could finally get the Certificate of Occupancy. He did not object to adding a lighting element.

No public comment.

Planner Smalley stated that the LPA had a revised version of the ordinance. The online version included the conditions of approval instead of the deviations. It also included the most recent master concept plan for the CPD (Commercial Planned Development) and referenced Exhibit A, which was the complete list of deviations.

LPA Member Dunlap moved to approve the ordinance as it was consistent with the comp plan and include the addition of the lighting condition, seconded by LPA Member Plummer.

The motion carried unanimously by roll call vote.

VIII. ADMINISTRATIVE AGENDA

No items.

IX. LPA MEMBERS ITEMS/REPORTS

LPA Member Dunlap addressed defining the public benefit component. He did not think the staff report should include an opinion on what a public benefit was and its value. He suggested that the applicant be responsible for this and that the LPA adjudicate the measure, impact and relevancy of the public benefit. Chair Cereceda discussed attaching a definition of public benefit to the different future land use categories. What might be important to the south end might not be wanted in the north end. She suggested that each member state what they thought a public benefit was. LPA Member Eckmann felt they could establish a checklist of public benefits. Planner Propst noted that the Town Council would have two meetings regarding public benefits and surveys would be available to the public. LPA Member Boan stated that an amenity was not necessarily a public benefit, and a public benefit was in perpetuity. LPA Member McLean felt that a commercial enterprise was not generally a public benefit, but he felt public access to a restaurant in a resort would be. Chair Cereceda encouraged the public to submit emails regarding their thoughts to the LPA or Town Council.

LPA Member Eckmann noted that his church was looking for assistance regarding using native plants to landscape their property.

LPA Member Plummer suggested presenting the entire package if acreage was being added to the project. Chair Cereceda commented that the LPA had to make decisions based on what was presented. LPA Member Plummer will not be at the October 8, 2024, meeting.

No items from other members.

X. LPA ATTORNEY ITEMS/REPORTS

No items.

XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS

No items.

XII. ITEMS FOR NEXT MONTHS AGENDA

Planner Propst listed items tentatively scheduled for September 3rd and 10th, 2024. Discussion was held regarding adding a meeting. LPA Member Sudduth stated he would be unavailable on September 10 and the week of the 16th. LPA members felt too many items were on the September 10th agenda. Chair Cereceda asked the planners to talk to the applicants and let them know whether they needed to schedule an additional meeting in September or October.

XIII. ADJOURNMENT

LPA Member McLean moved to adjourn the meeting.
Chair Cereceda adjourned the meeting at 11:54 a.m.

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

Yellow Sheet Number: **2024-218**

1. Request:

Meeting Date: September 3, 2024

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.

Why the action is necessary:

An ordinance must be approved to allow the applicant to re-develop their timeshare building, the number of units is being vested through the use of the Post Disaster Buildback policy, the CPD would allow them to propose deviations based on building design and inconsistencies with developing their building and having to meet some of the architectural standards.

What the action accomplishes:

Approval of the CPD ordinance and the requested deviations will allow for the rebuild of the 75 timeshare units that existed pre-storm.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

The applicant is requesting a Commercial Planned Development (CPD) ordinance for the re-development of a 75-unit timeshare condominium. The applicant is requesting four deviations: 1) an additional 46-feet in height above the Design Flood Elevation (DFE); 2) relief from the requirement to screen under-building parking areas; 3) relief from requirements that the building provide an entrance on Estero Blvd.; 4) relief from requirements that building with more than 50-feet of frontage on Estero Blvd. provide operable doors for public access no more than 50-feet apart, and; 5) a request to increase FAR from 1.4 to 1.67 if the deviation to remove the ground-floor area is not approved.

Attachments:

1. Final 24-28, CPD EIBC CPD Ordinance (1) ns
2. LPA Staff Report
3. Exhibit A - Schedule of Uses and Deviations
4. Exhibit B - Master Concept Plan
5. Comprehensive Plan_Applicant Narrative
6. Landscape Plan
7. EIBC Architectural Renderings

Financial Impact:

Unknown

6. Alternative Action

APPROVE WITH CONDITIONS or DENY

7. **Staff Recommendations:**

Approve with conditions

8. **Recommended Approval:**

Frankie Kropacek, Operations & Compliance Director

Date: August 29, 2024

nancy stuparich, Town Attorney

Date: August 29, 2024

Amy Baker, Town Clerk

Date: August 30, 2024

ORDINANCE 24-28

(Estero Beach Club)

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REQUEST TO REZONE PROPERTY 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 FROM DOWNTOWN DISTRICT TO COMMERCIAL PLANNED DEVELOPMENT; APPROVAL OF FIVE (5) DEVIATIONS FROM THE FORT MYERS BEACH CODE OF ORDINANCES, A SCHEDULE OF USES AND A MASTER CONCEPT PLAN; 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, Estero Island Beach Club Association, Inc., owner, and Fred Drovdlc, AICP with RVi Planning & Landscape Architecture, as agents for the owner (collectively "Applicant") of property generally located 1836 and 1840 Estero Blvd, Fort Myers Beach and identified as STRAP numbers 19-46-24-W4-03200.00CE and 19-46-24-W4-03200.1010 ("the Property"), filed an application to rezone the Property from Downtown zoning district to Commercial Planned Development, with an attached Master Concept Plan (MCP) in order to redevelop a timeshare condominium and associated facilities, on the Property's 1.92+/- acres more or less; and

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

WHEREAS, the applicant has indicated the subject property is under common control and Estero Island Beach Club Association serves as the managing entity listed in the public records of Lee County Property Appraiser; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on June 11, 2024; and

WHEREAS, at the September 3, 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 Section 34-85 of the Town of Fort Myers Beach Land Development Code ("LDC"); and

WHEREAS, at the September 3, 2024 public hearing the LPA recommended approval by

a ____ to ____ vote based on a finding that the approval is in compliance and consistent with the Town of Fort Myers Beach Comprehensive Plan and the LDC; and

WHEREAS, a Business Impact Estimate has been prepared and timely published on the Town's website; and

WHEREAS, on August __, 2024 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the LDC; and

WHEREAS, the Town Council voted to have a second reading of the proposed Ordinance and a public hearing on this matter was legally advertised in on the ____ day of _____, 2024, which is 10 days prior to the Town Council second reading on the ____ day of _____, 2024; and

WHEREAS, at the _____, 2024 public hearing, 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 Section 34-85 of the LDC; and

WHEREAS, there are no outstanding fees associated with any notice, advertisement, and consulting services required by the Town; and

WHEREAS, Exhibit A contains a schedule of uses and development regulations and conditions associated with this proposed development and is incorporated by reference into the Ordinance; and

WHEREAS, Exhibit B contains a Master Concept Plan associated with this proposed development and is incorporated by reference into the Ordinance; and

WHEREAS, the Town Council finds that this request to APPROVE/ APPROVE WITH CONDITIONS/ DENY, is a unique and individual application which does not set precedent for future development or rezoning applications.

WHEREAS, approval of this request and Ordinance requires approval of the following deviations from the LDC:

Deviation #1

Deviate from LDC §34-675(b)(3)c that requires a maximum height of 40 feet above base flood elevation and no taller than three stories for properties on the south side of Estero Boulevard east of the main pedestrian crossing in the Downtown zoning district to allow a height of:

- 91 feet as measured from one foot over base flood elevation (BFE+1) or
- 87 feet above FDEP design flood elevation (DFE) and
- eight (8) stories (seven (7) stories over ground level parking).

Deviation #2

Deviate from LDC §34-992(c) requiring the principal facades of hotel buildings that will not contain commercial uses below base flood elevation to screen under-building parking areas in a manner acceptable to the town manager or designee to allow no screening of the parking area.

Deviation #3

Deviate from LDC §34-995(b)(1) regarding entrances requires a primary entrance and views into the first floor of commercial buildings to allow the primary entrance to all buildings to face the street.

Deviation #4

Deviate from LDC §34-995(b)(4) regarding entrances requires a primary entrance and views into the first floor of commercial buildings to allow where building frontages exceed 50 feet, operable doors or entrances with public access shall be provided along streets at intervals averaging no greater than 50 feet.

Deviation #5

Deviate from LDC §34-633 which requires the gross floor area to include 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 allow not counting the ground level covered parking area towards FAR and therefore meeting the required 1.4 FAR for this Property or approval of an increase of the FAR from 1.4 to 1.67.

WHEREAS, the Town Council considered all relevant factors and made the following formal findings of fact regarding the rezoning request before making its final decision on the Ordinance as required by Sections 34-85 and 34-216 of the LDC:

- 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 LDC.
- d. The Town Council carefully considered the testimony of the Applicant, the recommendations of staff and of the LPA, 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, LDC, 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 LDC (see LDC 34-216 and 34-1803):

- 1. 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.
- 2. The proposed development, as modified by these deviations, clearly exceeds all standards of the Fort Myers Beach Comprehensive Plan.
- 3. The proposed development, with the modified deviations being approved, does not exceed any maximum intensities contained in the Fort Myers Beach Comprehensive Plan.
- 4. Granting these deviations will enhance the achievement of the objectives of the proposed development.
- 5. The general intent of the LDC to protect public health, safety, and welfare will be preserved and promoted with these deviations.
- 6. These deviations operate to the benefit, or at least not to the detriment, of the public interest.
- 7. These deviations are consistent with the Fort Myers Beach Comprehensive Plan.

WHEREAS, the Town Council finds that this application to APPROVE/ APPROVE WITH CONDITIONS/ DENY Ordinance 24-__ as provided herein **consistent/ not consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC.

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 requested rezoning in Ordinance No. 24-__ **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 hereby **DENIES/ APPROVES/ APPROVES WITH CONDITIONS** the requested rezoning.

Section 3. Town Ordinance 24-__ is adopted subject to the Schedule of Uses and conditions of approval in Exhibit A and the Master Concept Plan in Exhibit B, both of which are attached hereto and incorporated herein by this reference.

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

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

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

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

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

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

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

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this _____ day of August 2024.

EXHIBITS

Exhibit A – Schedule of Uses and Conditions of Approval

Exhibit B – Master Concept Plan



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Commercial Planned Development (CPD)

CASE NUMBER: CPD20240015

CASE NAME: 1836 Estero Blvd (incl. all associated addresses) CPD rezoning request to develop a timeshare building with five (5) deviations from the Land Development Code.

LPA

HEARING DATE: September 3rd, 2024, at 9 AM

STAFF

RECOMMENDATION: Approve with Conditions

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

I. APPLICATION SUMMARY

Applicant/Owner: Estero Island Beach Club Association Timeshare

Request: A Commercial Planned Development (CPD) rezoning for the re-development of a 75-unit timeshare condominium. The applicant is requesting five deviations: 1) an additional 58-feet in height above the Design Flood Elevation (DFE); 2) relief from the requirement to screen under-building parking areas; 3) relief from requirements that the building provide an entrance facing Estero Blvd.; 4) relief from requirements that buildings with more than 50-feet of frontage on Estero Blvd. provide operable doors for public access no more than 50-feet apart, and; 5) a request to remove the lowest floor area from FAR calculations.

Subject property: See attached Master Concept Plan

Physical Address: 1836 Estero Blvd; 1840 Estero Blvd (building address)

STRAP #: 19-46-24-W4-03200.00CE & 19-46-24-W4-03200.1010
FLU: Pedestrian Commercial + Recreation
Zoning: Downtown + Environmentally Critical (Not part of rezone)

Adjacent zoning and land uses:

North: DOWNTOWN
Temporarily Occupied Commercial

South: ENVIRONMENTALLY CRITICAL AREA (EC)
Beach

East: DOWNTOWN
Hotel

West: DOWNTOWN
Commercial/ Residential

II. BACKGROUND AND ANALYSIS

Background:

Estero Island Beach Club was originally developed in 1981 under Lee County. The building was developed with 75 units, across two buildings that were two and three stories tall. The northernmost building on the property appears to have been very minimally seaward of the CCCL. The site contained multiple recreation facilities, like swimming pools, one of which was originally developed seaward of the CCCL. The applicant states that they will need to apply later for a Special Exception to repair the remaining pool which appears to be seaward of the control-line. The proposal for redevelopment has been designed to ensure that all new structures will be constructed landward of the 1978 CCCL.

The applicant's lot is situated in the Downtown zoning district, surrounded by a multitude of uses, including resort uses which makes the redevelopment of the 75 timeshare units in-line with the other uses in the area.

Analysis:

Deviation #1: Deviate from LDC §34-675(b)(3)c that requires a maximum height of 40 feet above base flood elevation and no taller than three stories for properties on the south side of Estero Boulevard east of the main pedestrian crossing in the Downtown zoning district; to allow a height of:

- 102 feet as measured from one foot over base flood elevation (BFE+1) or
- 98 feet above FDEP design flood elevation (DFE) and
- ten (10) stories [nine (9) stories over ground level parking].

APPLICANT JUSTIFICATION: The permitted height in the Downtown District at this location is a maximum of 40 feet above base flood elevation per LDC [§34-675(b)(3)c. The BFE+1 at this location is 16 feet and the FDEP design flood elevation (DFE) to the Lowest Horizontal Structural Member (LHSM) is 20.3 feet. The proposed structure is a single building of 118 feet in total height from sea level.

The purpose of the Downtown zoning district is to create a desired quality and character of the center of the pedestrian-oriented commercial activities within the town. There is a mix of resort/hotel, rental and commercial properties that surround the subject property to the south and east with three (3) single-family homes to the north.

To the immediate south of the site is Beach Access #30 at the end of Palm Avenue and the Diamond Head Beach Resort – a 13-story resort that includes 121 hotel rooms, event space, commercial space, restaurant and bars, and other associated amenities.

Also, in the general vicinity are some of Fort Myers Beach's most high intensity establishments, including the Lani Kai Resort approximately 900 feet north of the site and the new Margaritaville Resort just ¼ mile north. 700 feet to the south of the subject property is the Neptune Resort, which recently filed for redevelopment of a 6-story structure and doubling the number of hotel rooms from 71 to 140 keys. Thus, the site is well located for redevelopment of timeshare resort uses in relation to similar uses, densities, and intensities in the Town's Downtown area.

Finally, the revised layout uses height to create a vertical development rather than sprawled horizontal layout that significantly increase the viewsheds to the Gulf of Mexico and the beach.

STAFF ANALYSIS: Staff recognizes that the location of the applicant's lot is adjacent and relatively close to multiple resorts which are both more intense and are taller than the proposed structure.

During review staff had recommended that the applicant consider redeveloping multiple buildings to avoid having to stack all 75 units within a taller, more intense

structure. The applicant and the timeshare owners have priorities which include making the logistics of running the timeshare (housekeeping, maintenance etc.) easier if the staff of the complex doesn't have to move between separate building, and across the property. The applicant has also prioritized beach views for the owners—which is required in their HOA by-laws—but staff cannot review based on this requirement of their private deed restrictions and have noted that the open view requirements could be developed along with redevelopment of the 75 units while providing minimum landscaping and parking counts.

[*]To provide clarity regarding the overall height proposed, the building will be 112-feet above grade, not above sea level as was mentioned in the applicant's deviation justifications.

Deviation #2: Deviate from LDC §34-992(c) requiring the principal facades of hotel buildings that will not contain commercial uses below base flood elevation to screen under-building parking areas in a manner acceptable to the town manager or designee; to allow no screening of the parking area.

APPLICANT JUSTIFICATION: The use before the storm and the proposal is for timeshare units. Even though timeshare is categorized as hotel/motel and considered a commercial use, there is no storefront or retail/office uses on the ground floor. Because of the V-Zone screening is not desired. Moreover, because of the increased design flood elevations as determined by FEMA being nearly 21 feet from ground there is an opportunity to leave the parking under the list habitable floor unscreened to allow a view through the understory parking. Now, with that said, the property is proposing a 5-foot landscape buffer around the perimeter of the property, landscape islands in the new parking areas that will provide landscape-based improvements.

STAFF ANALYSIS: The applicant has proposed a series of plantings around the building which will partially obscure the ground-floor area, including parked vehicles. This requirement is somewhat at-odds with the LDC requirement that ground-floors on the beach-side of Estero be developed free of obstructions to mitigate risks during a storm event. Staff believes that with the proposed landscape screening that the intent of the code has been respected, while at the same time meeting floodplain safety regulations.

Deviation #3: Deviate from LDC §34-995(b)(1) regarding entrances requires a primary entrance and views into the first floor of commercial buildings where:

- (1) The primary entrance to all buildings shall face the street

APPLICANT JUSTIFICATION: The use before the storm and the proposal is for timeshare units. Even though timeshare is categorized as hotel/motel and considered a commercial use, there is no storefront or retail/office uses on the ground floor that would dictate the needs for pedestrian interaction or entrances into storefronts.

STAFF ANALYSIS: The requirement to provide an entrance on Estero is less relevant when the proposed building is a condominium or timeshare since they do not plan to attract pedestrians or guests who are not renting/ occupying a unit. Not having an entrance on Estero will not largely affect their business or visitors to the island.

Deviation #4: Deviate from LDC §34-995(b)(4) regarding entrances requires a primary entrance and views into the first floor of commercial buildings where:

(4) Where building frontages exceed 50 feet, operable doors or entrances with public access shall be provided along streets at intervals averaging no greater than 50 feet;

APPLICANT JUSTIFICATION & STAFF ANALYSIS: Please see Deviation #3

Deviation #5: Deviate from LDC §34-633 which requires the gross floor area include 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 meet the required 1.4 FAR for this subject property.

APPLICANT JUSTIFICATION: The LDC §34-675(c)(2) that limits the FAR of properties fronting on Estero Boulevard and fronting on the Bayfront pedestrian plazas to a maximum of 1.4.

The area of the subject property landward of the 1978 Lee County CCCL is 1.92 acres or 83,635.2 square feet. 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. Schedule of Deviations & Justifications Estero Island Beach Club CPD Page 2 of 3 The proposed building has an approximate footprint of 16,500 square feet on the parking level and a mix of floor areas on the 3-4 story building on Estero Boulevard and the nine (9) livable stories over 1st floor parking.

- The total proposed floor area is 120,000 square feet resulting in an FAR of 1.43.

- **Approval of the deviation to eliminate counting the first-floor parking area in the FAR calculation reduces the floor area to 103,000 square feet. The result is an FAR of 1.23 in compliance with the maximum FAR of 1.4 permitted in the Downtown zoning district at this location.**

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. If the deviation were to not be approved the project intends to comply with the maximum FAR of 1.4 by adjusting the building floor area.

STAFF ANALYSIS: Staff agrees that the Town uses a relatively unique method for determining the Floor Area Ratio (FAR) which includes the calculation of ground-floor area in the calculation of maximum development on a property. The Town Council has previously allowed for applicants to request, through deviation, that the ground-floor area be removed from the calculation.

Staff wishes to note that should the request to remove ground-floor area from the FAR calculation be denied by Council that the applicant must request a deviation from the LDC maximum FAR for the location in the Downtown zoning district, they would need to request an increase from 1.4 FAR to 1.43 FAR. Should the request to remove the ground-floor area from the calculation be approved then the plans would meet the maximum allowable development area for this portion of Downtown, 1.4 FAR.

III. FINDINGS AND CONDITIONS

LDC Sec. 34-85(b) and (c) and 34-216(2) sets forth the required considerations and findings for the approval of a rezoning.

Considerations. In reaching its decision, the town council shall consider the following, whenever applicable:

- (1) Whether there exists an error or ambiguity which must be corrected.

Staff response: No errors or ambiguities exist.

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

Staff response: The previous structure was destroyed by Hurricane Ian and redevelopment of the site makes the requests appropriate.

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

Staff response: No impact on the intent of this chapter will occur.

(4) The testimony of any applicant.

(5) The recommendation of staff and of the local planning agency.

(6) The testimony of the public.

(7) Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

Staff response: The proposed development is in compliance with the intensity of the district. If we were to apply density to the use, it would exceed the density without the Post Disaster-buildback that is requested. The new structure will be designed to current building and flood requirements which is supported by the comprehensive plan.

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

Staff response: The proposed development will meet performance standards set forth in 34-2031. There are no special location standards for mixed use developments.

(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.

Staff response: The urban services exist in this location.

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

Staff response: The request will have no impact on environmentally critical areas and natural resources. The applicant may be required to request Special Exceptions at a later time to address at least one of the pools which existed pre-storm and which may extend further seaward of the 1978 CCCL.

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

Staff response: The property has provided short-term rentals (timeshare) for a number of years, without incident. The proposed redevelopment of the 75 units and the proposed site-changes to not present a hazard, nuisance or reasonably be a detriment to the wider area.

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

Staff response: This use in this location will not place an additional burden on the transportation network or other facilities and services.

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

(c) Findings. Before granting any rezoning, the town council shall find that the requested zoning district complies with:

(1) The Fort Myers Beach Comprehensive Plan.

Staff response: The proposed uses and requested deviations for the CPD comply with the Comprehensive Plan.

(2) This chapter.

Staff response: The proposed uses comply with this chapter except in regard to the deviations.

(3) Any other applicable town ordinances or codes.

Staff response: The proposed request complies with the town ordinances and codes, except in regard to the deviations.

(4) For planned development rezonings, see [§ 34-216](#) of this chapter for additional findings.

a. The proposed use or mix of uses is appropriate at the subject location;

Staff response: The proposed mix of uses is appropriate in this location, it is in the Boulevard Future land use and Civic Center Mixed-Use District.

b. Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations;

Staff response: Sufficient safeguards are provided for the public interest.

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

Staff response: All conditions are related to the impacts on the public interest.

d. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:

1. Policies 4-B-4 and 4-C-3 on commercial uses in the "mixed residential" category.

Staff response: Not applicable.

2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "boulevard" category.

Staff response: The proposal is in compliance with these policies.

3. Policy 4-C-4 on building heights taller than the standard height limit.

Staff response: The request for additional height is proposed as part of the planned development rezoning process. The requested height appears to be appropriate for the

location, providing a relatively open area, free from structures on the side of the building adjacent to a residential area.

4. Policy 4-C-8 on density transfers.

Staff response: Not applicable.

5. Policy 4-E-1 on pre-disaster build back.

Staff response: Not applicable.

6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.

Staff response: The proposed development has a similar use to the previous development and, no adverse impact on traffic is anticipated.

Findings for Deviation Requests:

Per Sec. 34-216(4) all deviations must be approved, approved with modification, or rejected based upon a finding that:

a. Each item enhances the achievement of the objectives of the planned development; and

Staff response: The requested deviations allow the development of the site.

b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted; and

Staff response: The proposed deviations preserve public health.

c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and

Staff response: The deviations are not a detriment to the public interest, additional parking may need to be provided at a later date depending on impacts to surrounding uses.

d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.

Staff response: The deviations are consistent with the comprehensive plan.

IV. CONDITIONS OF APPROVAL

1. Development shall provide signage warning exiting vehicles of pedestrian traffic within the Town's Palm Ave. and Palm Ave. beach accesses.
2. Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.

V. STAFF RECOMMENDATIONS

Staff has reviewed the site plans, elevations and deviations for the redevelopment of Estero Island Beach Club

Staff recommends **APPROVAL** of Ord. 24-XX with the five (5) deviations contained therein.

V. EXHIBITS

Exhibit A – Schedule of Uses

Exhibit B – Master Concept Plan



Estero Island Beach Club CPD Schedule of Deviations and Justifications

1. Deviate from LDC §34-995(b)(1) and (4) regarding entrances requires a primary entrance and views into the first floor of commercial buildings where:

(1) The primary entrance to all buildings shall face the street and

(4) Where building frontages exceed 50 feet, operable doors or entrances with public access shall be provided along streets at intervals averaging no greater than 50 feet;

to allow the proposed timeshare residential building relief under the requirements.

JUSTIFICATION: The use before the storm and the proposal is for timeshare units. Even though timeshare is categorized as hotel/motel and considered a commercial use, there is no storefront or retail/office uses on the ground floor that would dictate the needs for pedestrian interaction or entrances into storefronts.

2. Deviate from LDC §34-992(c) requiring the principal facades of hotel buildings that will not contain commercial uses below base flood elevation to screen under-building parking areas in a manner acceptable to the town manager or designee; to allow no screening of the parking area.

JUSTIFICATION: The use before the storm and the proposal is for timeshare units. Even though timeshare is categorized as hotel/motel and considered a commercial use, there is no storefront or retail/office uses on the ground floor. Because of the V-Zone screening is not desired. Moreover, because of the increased design flood elevations as determined by FEMA being nearly 21 feet from ground there is an opportunity to leave the parking under the list habitable floor unscreened to allow a view through the understory parking. Now, with that said, the property is proposing a 5-foot landscape buffer around the perimeter of the property, landscape islands in the new parking areas that will provide landscape-based improvements.

3. Deviate from LDC §34-673(a)(1) that requires build to lines in the Downtown District in this location be from five feet to ten feet; to allow not require build to lines but rather minimum building setbacks for the building on Estero Boulevard to 23 feet, a minimum building setback of 10 feet from Palm Avenue, and a minimum building setback of 50 feet from Miramar Street.

JUSTIFICATION: The minimum 23-foot setback on Estero Boulevard is to provide for softening of the mass and height by providing distance from the right-of-way/property line. to be used for landscaping and shade enhancement.

The setback on Miramar ensures no buildings abutting the single-family homes on the other side of the street.

The setback on Palm allows for increased view corridor between the applicant's propose building and Diamondhead Resort and allows for flexibility for some of the façade to be greater than 10 feet from the right-of-way/property line.

4. Deviate from LDC §34-675(b)(3)c that requires a maximum height of 40 feet above base flood elevation and no taller than three stories for properties on the south side of Estero Boulevard east of the main pedestrian crossing in the Downtown zoning district; to allow a height of:
- 102 feet as measured from one foot over base flood elevation (BFE+1) or
 - 98 feet above FDEP design flood elevation (DFE) and
 - Ten (10) stories [nine (9) stories over ground level parking].

JUSTIFICATION: The permitted height in the Downtown District at this location is a maximum of 40 feet above base flood elevation per LDC [§34-675(b)(3)c. The BFE+1 at this location is 16 feet and the FDEP design flood elevation (DFE) to the Lowest Horizontal Structural Member (LHSM) is 20.3 feet. The proposed structure is a single building of 118 feet in total height from sea level.

The purpose of the Downtown zoning district is to create a desired quality and character of the center of the pedestrian-oriented commercial activities within the town. There is a mix of resort/hotel, rental and commercial properties that surround the subject property to the south and east with three (3) single-family homes to the north.

To the immediate south of the site is Beach Access #30 at the end of Palm Avenue and the Diamond Head Beach Resort – a 13-story resort that includes 121 hotel rooms, event space, commercial space, restaurant and bars, and other associated amenities.

Also, in the general vicinity are some of Fort Myers Beach's most high intensity establishments, including the Lani Kai Resort approximately 900 feet north of the site and the new Margaritaville Resort just ¼ mile north. 700 feet to the south of the subject property is the Neptune Resort, which recently filed for redevelopment of a 6-story structure and doubling the number of hotel rooms from 71 to 140 keys. Thus, the site is well located for redevelopment of timeshare resort uses in relation to similar uses, densities, and intensities in the Town's Downtown area.

Finally, the revised layout uses height to create a vertical development rather than sprawled horizontal layout that significantly increase the viewsheds to the Gulf of Mexico and the beach.

5. 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 meet the required 1.4 FAR for this subject property.

JUSTIFICATION: The LDC §34-675(c)(2) that limits the FAR of properties fronting on Estero Boulevard and fronting on the Bayfront pedestrian plazas to a maximum of 1.4.

The area of the subject property landward of the 1978 Lee County CCCL is 1.92 acres or 83,635.2 square feet. 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 proposed building has an approximate footprint of 16,500 square feet on the parking level and a mix of floor areas on the 3-4 story building on Estero Boulevard and the nine (9) livable stories over 1st floor parking.

- The total proposed floor area is 120,000 square feet resulting in an FAR of 1.43.
- Approval of the deviation to eliminate counting the first-floor parking area in the FAR calculation reduces the floor area to 103,000 square feet. The result is an FAR of 1.23 in compliance with the maximum FAR of 1.4 permitted in the Downtown zoning district at this location.

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.

If the deviation were to not be approved the project intends to comply with the maximum FAR of 1.4 by adjusting the building floor area.



Project No.: FL-32-901

Drawn:

Date: 07/11/24

Scale: 1" = 30'

Sheet Title: AERIAL MAP & SITE PLAN

Sheet Number: C-0

ESTERO ISLAND BEACH CLUB

MASTER CONCEPT PLAN

1836-1840 ESTERO BLV, FORT MYERS

BEACH, FL 33931

SEAL

THIS DRAWING HAS BEEN PREPARED BY THE ENGINEER OR ARCHITECT AND IS NOT TO BE USED FOR ANY OTHER PROJECT WITHOUT THE WRITTEN CONSENT OF THE ENGINEER OR ARCHITECT. ANY VIOLATION OF THIS STATEMENT SHALL BE CONSIDERED A VIOLATION OF THE PROFESSIONAL ETHICS OF THE ENGINEER OR ARCHITECT.

MECA Engineering Corporation

5237 Summerlin Commons Blvd, Suite 460

Fort Myers, FL 33907

T: (239) 275-2598 F: (219) 962-3969

www.mecaengineering.com

MECA

AUTHORIZATION NO. 3859

8

7

6

5

4

3

2

1

No.

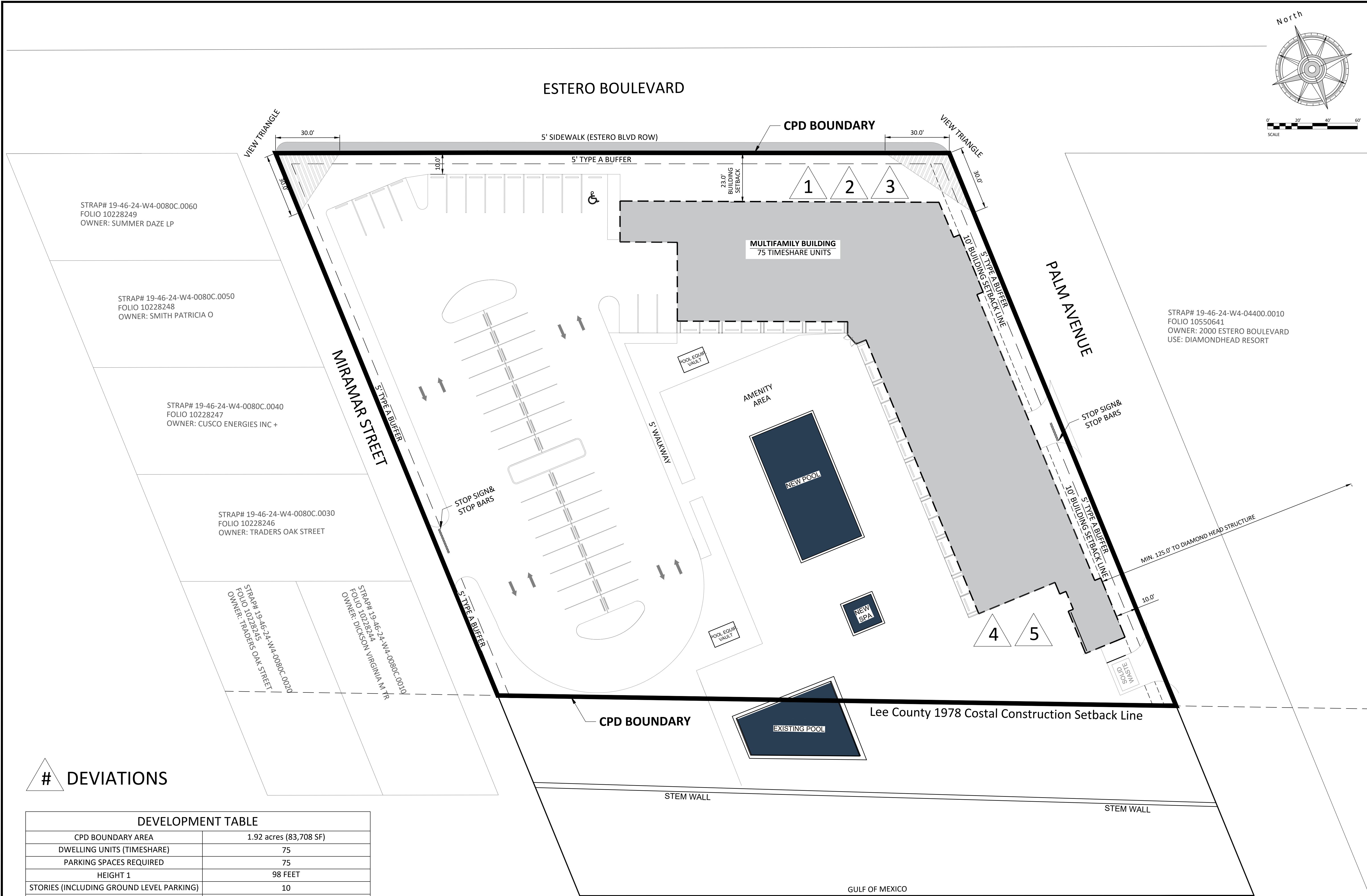
Date

Description

By

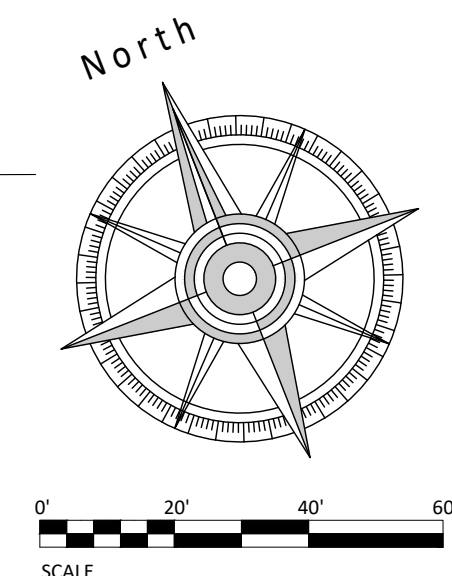
Revision

Page 36 of 380



DEVELOPMENT TABLE	
CPD BOUNDARY AREA	1.92 acres (83,708 SF)
DWELLING UNITS (TIMESHARE)	75
PARKING SPACES REQUIRED	75
HEIGHT 1	98 FEET
STORIES (INCLUDING GROUND LEVEL PARKING)	10
SETBACK, STREET (ESTERO BOULEVARD)	23 FEET (BUILDING)
	10 FEET (PARKING)
SETBACK, STREET (PALM)	10 FEET
SETBACK, STREET(MIRAMAR)	50 FEET
REAR/1978 CCCL SETBACK	0 FEET
FLOOR AREA RATIO 2	1.23 (PENDING PER DEVIATION APPROVAL)

ESTERO ISLAND BEACH CLUB MASTER CONCEPT PLAN 1836-1840 ESTERO BLV, FORT MYERS BEACH, FL 33931		Project No.: FL-32-901		8	
Drawn:		Checked:		7	
Date: 07/22/24				6	
Scale: 1" = 20'				5	
Sheet Title: MASTER CONCEPT PLAN				4	
Sheet Number: C-1				3	
				2	
				1	
		No.		Date	By
				Description	Revision
</					



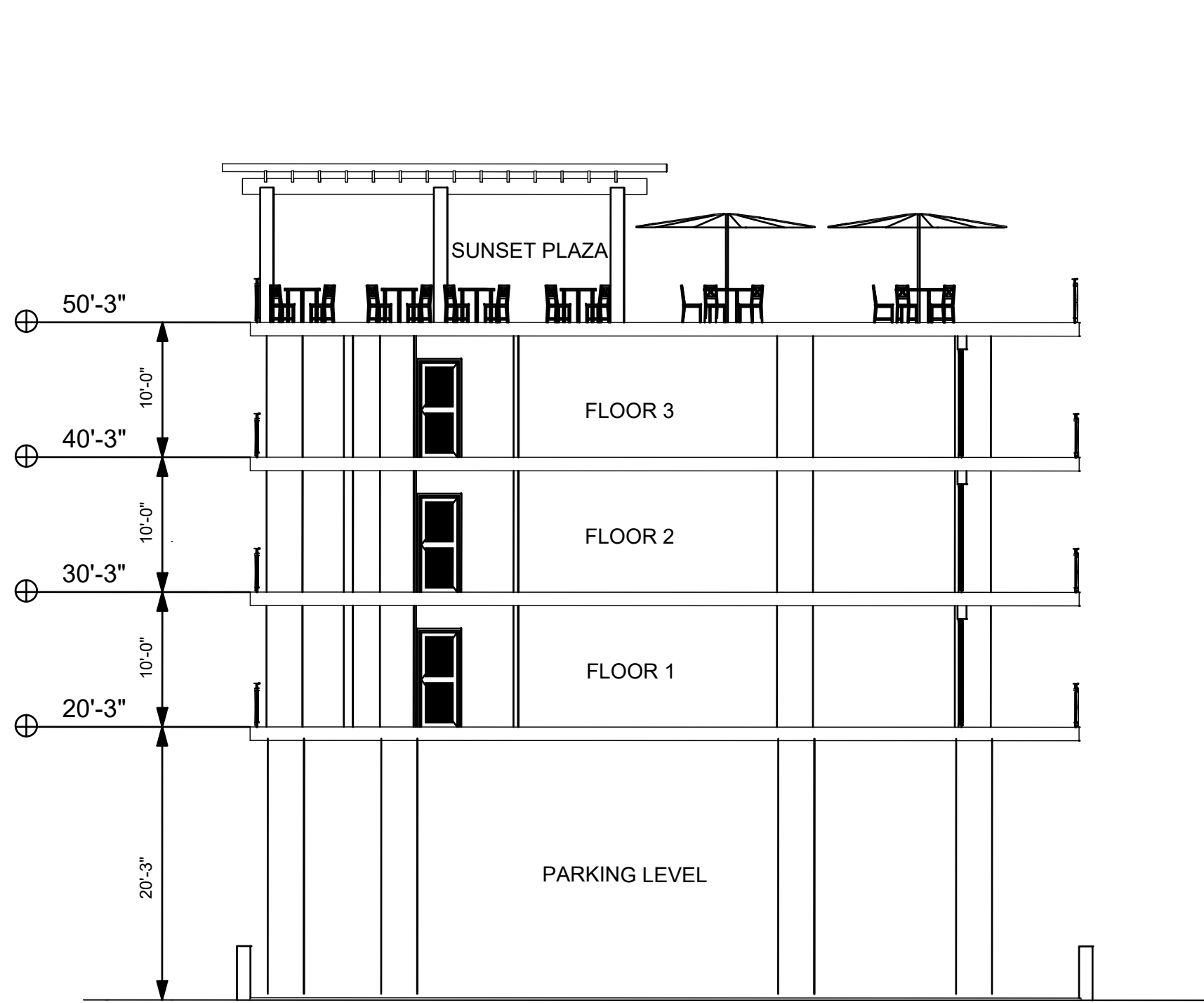
8			
7			
6			
5			
4			
3			
2			
1	Date		By
No.	Description	Revision	

5237 Summerlin Commons Blvd. Suite 460
Fort Myers, FL 33907
T: (239) 275-2598 F: (219) 962-3969
www.mecaengineering.com

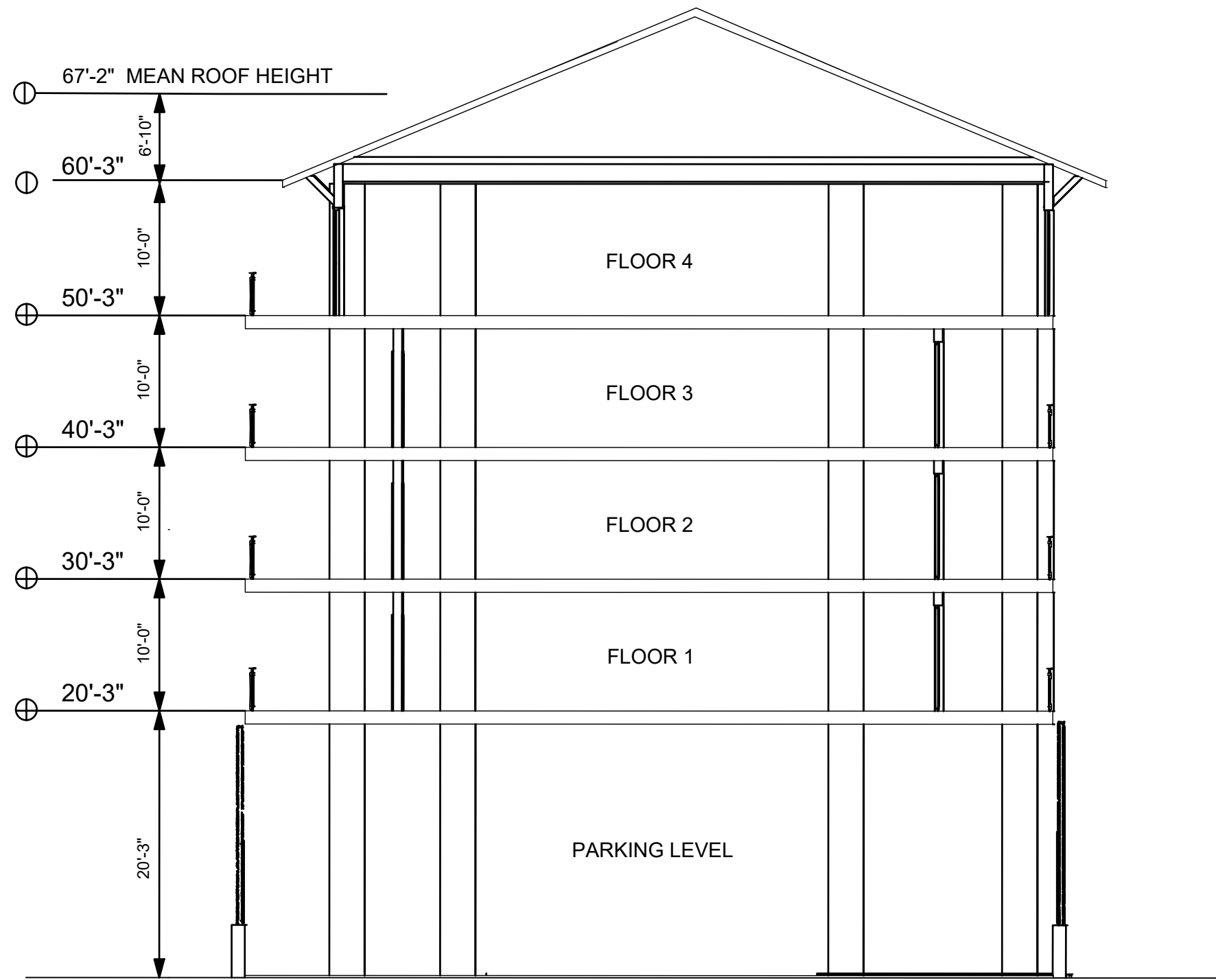


SEAL

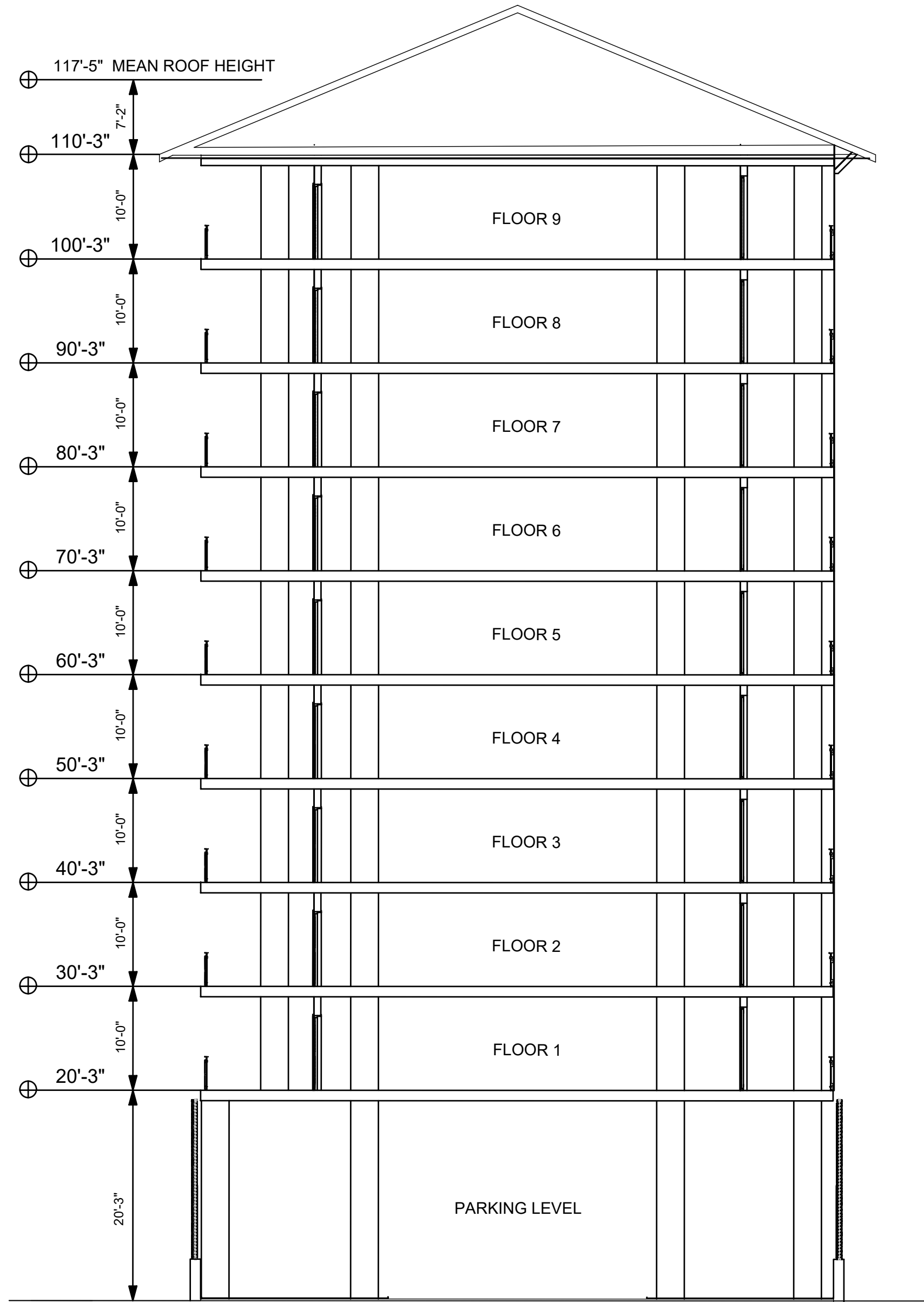
Project No.: FL-32-901	
Drawn:	Checked:
Date: 07/22/24	
Scale: 1" = 20'	
Sheet Title:	
EMERGENCY ACCESS	
Sheet Number:	
C-2	



BUILDING SECTION AT 3-STORY OVER PARKING



BUILDING SECTION AT 4-STORY OVER PARKING



BUILDING SECTION AT 9-STORY OVER PARKING

ESTERO ISLAND BEACH CLUB
MASTER CONCEPT PLAN
1836-1840 ESTERO BLV, FORT MYERS
BEACH, FL 33931

Project No.: FL-32-901
Drawn: 07/22/24
Date: 07/22/24
Scale: 1" = 10'
Sheet Title: ELEVATIONS
Sheet Number: C-3

SEA

THESE DRAWINGS
HAVE BEEN
REVIEWED AND
SEALING BY
ON THE DATE
ADJACENT TO THE
PRINTED COPIES
OF THIS DOCUMENT
ARE REQUIRED TO
BE MAINTAINED
AND THE ORIGINAL
DRAWING COPIES
SHALL BE KEPT
IN THE OFFICE OF
THE ENGINEER
FOR A PERIOD OF
10 YEARS.



AUTHORIZATION NO. 36019

MECA Engineering Corporation
5237 Summerlin Commons Blvd. Suite 460
Fort Myers, FL 33907
T: (239) 275-2598 F: (219) 962-3969
www.mecaengineering.com

No.	Date	Description	By
1			
2			
3			
4			
5			
6			
7			
8			



ESTERO ISLAND BEACH CLUB CPD Request Narrative & Comprehensive Plan Compliance

I. Request

Estero Island Beach Club Association, Inc. ("Applicant") is requesting approval to rezone two (2) parcels totaling 1.92+/-acres, from the Downtown zoning district to Commercial Planned Development (CPD), while maintaining 0.78+/-acres of land seaward of the 1978 Lee County Coastal Construction Control Line (CCCL) within the EC zoning district. The CPD will allow for the post-disaster redevelopment of the site with the 75 timeshare units, the same density existing prior to Hurricane Ian. Maximum building height requested is 118 feet over sea level and ten (10) stories [nine (9) stories of units over ground level of parking], for a height of 102 feet, as measured from one foot over base flood elevation (BFE+1), or 98 feet, as measured from FDEP design flood elevation (DFE) to the Lowest Horizontal Structural Member (LHSM). The site will connect to centralized utilities, provide on site parking on surface lots and under the building and move access points to secondary streets.

II. Property History & Existing Conditions

The subject property is generally located on the gulf side of Estero Boulevard approximately 1/2 mile southeast of Times Square. The location is the designated "Downtown" area with the heaviest concentration of resort-tourism and commercial businesses, as well as multi-story buildings, such as the Diamond Head Beach Resort to the immediate south.

Per the LDC requirements for height, stories and floor-to-area ratio (FAR) the project is located on the south side of Estero Boulevard east of the main pedestrian crossing fronting on Estero Boulevard.

The property was developed as the Estero Island Beach Club in 1981 with 75 timeshare units in two (2) buildings. The northern structure abutting Miramar Street was three stories tall, while the southern structure abutting Palm Avenue was two stories tall. These buildings were arranged perpendicular to the gulf with an "L" shape to the southern building that limited the view corridor to the Gulf to 40+/- feet from Estero Blvd. The property included three (3) pool areas serving as private, on-site amenities for the guests, including a pool located seaward of the 1978 Lee County CCCL, and beach access.

The site has two direct access points onto Estero Blvd., multiple access points from Miramar Street, and surface parking backing out onto Palm Avenue. The site provided 87 parking spaces with direct pull in spaces on Palm Avenue.

The existing site was permitted and built prior to the incorporation of the Town of Fort Myers Beach, which resulted in the property and its improvements being legal non-conforming, as the Town adopted a maximum building height of three stories and 40 feet in the Downtown District in this location, and a maximum density of 6 units per acre. The built site density was 39 du/ac (75 DUs on 1.92 acres landward of the CCCL).

Like much of Fort Myers Beach, the site was significantly impacted due to Hurricane Ian. The buildings are not habitable and must be demolished and rebuilt. The beachfront pool and pool deck are intact, a portion of which extends beyond the 1978 Lee County CCCL. The intention is to redevelop the entire property to the prior density to current Florida Building Code and FEMA standards, while resurfacing the pool that is mostly seaward of the 1978 Lee County CCCL and replacing the pool equipment, which is landside of the 1978 Lee County CCCL.

III. Surrounding Land Uses

The underlying future land use category ("FLU") is Pedestrian Commercial landward of the 1978 Lee County CCCL and Recreation seaward of the 1978 Lee County CCCL. The property is zoned Downtown landward of the CCCL and Environmentally Critical seaward of the 1978 Lee County CCCL. Likewise, all surrounding properties are in the Downtown zoning district, and the Pedestrian Commercial future land use category.

The purpose of the Downtown zoning district is to create a desired quality and character of the center of the pedestrian-oriented commercial activities within the town. There is a mix of resort/hotel, rental and commercial properties that surround the subject property to the south and east with three (3) single-family homes to the north.

To the immediate south of the site is Beach Access #30 at the end of Palm Avenue and the Diamond Head Beach Resort – a 13-story resort that includes 121 hotel rooms, event space, commercial space, restaurant and bars, and other associated amenities.

Also, in the general vicinity are some of Fort Myers Beach's most high intensity establishments, including the Lani Kai Resort approximately 900 feet north of the site and the new Margaritaville Resort just ¼ mile north. 700 feet to the south of the subject property is the Neptune Resort, which recently filed for redevelopment of a 6-story structure and doubling the number of hotel rooms from 71 to 140 keys. Thus, the site is well located for redevelopment of timeshare resort uses in relation to similar uses, densities and intensities in the Town's Downtown area.

Table 1 – Surrounding Land Uses

	Future Land Use	Zoning	Existing Land Uses
North	Pedestrian Commercial	Downtown	Single Family homes
South	Pedestrian Commercial	Downtown	Hotel / Resort (Diamond Head Beach Resort)
West	Recreation	Environmental Conservation	Gulf of Mexico
East	Pedestrian Commercial	Downtown	Commercial

IV. Proposed Development

The enclosed Master Concept Plan provides the proposed layout of the redesigned site. As noted above, the Applicant is requesting post-disaster buildback of the 75 units that existed prior to Hurricane Ian in a manner that is modern/marketable, attractive, and safe. The proposed redevelopment will provide a more resilient structure to protect public health, safety, and welfare, as well as property values amidst future storm-surge and wind events.

HEIGHT, STORIES and FAR

Per the LDC requirements for height, stories and floor-to-area ratio (FAR) the project is located on the south side of Estero Boulevard east of the main pedestrian crossing [§34-675(b)(3)c] fronting on Estero Boulevard [§34-675(c)(2)].

Height

The permitted height in the Downtown District at this location is a maximum of 40 feet above base flood elevation per LDC [§34-675(b)(3)c. The BFE+1 at this location is 16 feet and the FDEP LHSM is 20.3 feet.

The proposed structure is a single building of 118 feet in total height from sea level:

- 10 stories (9 stories over 1 story of ground-level structured parking)
- 102 feet measured from Base Flood Elevation plus 1-foot (16 feet)
- 98 feet measured from FDEP LHSM (20.3 feet)

Stories

Per LDC [§34-675(b)(3)c at this location in the Downtown District a building may be no taller than three (3) stories.

The proposed building is ten (10) stories with the bottom floor consisting of parking and the remaining nine (9) floors containing timeshare units, office, and accessory uses.

FAR

The FAR permitted at this location in the Downtown zoning district per LDC §34-675(c)(2) is 1.4. 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 1.92 acres or 83,635.2 square feet.

The proposed building has an approximate footprint of 16,500 square feet on the parking level and a mix of floor areas on the 3-4 story building on Estero Boulevard and the nine (9) livable stories over 1st floor parking.

- The total proposed floor area is 120,000 square feet resulting in an FAR of 1.43.
- Approval of the deviation to eliminate counting the first-floor parking area in the FAR calculation reduces the floor area to 103,000 square feet. The result is an FAR of 1.23 in compliance with the maximum FAR of 1.4 permitted in the Downtown zoning district at this location.

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.

If the deviation were to not be approved the project intends to comply with the maximum FAR of 1.4 by adjusting the building floor area.

DENSITY

The density of 75 dwelling units results in a density of 27.8 dwelling units per acre (du/ac) using the entire 2.7 acres or 39 du/ac using the 1.92 acres landward of the 1978 Lee County CCCL. This density is vested per the Post-Disaster Buildback provisions.

IMPROVED VIEW CORRIDOR

The view corridor created by the proposed building design is approximately 90+/- feet wide measured from the Miramar Street right-of-way to the proposed building edge. As noted above, the existing structures only provided a view shed of 40+/- feet in width. Thus, the CPD proposes a significant public benefit via enhanced Gulf of Mexico views from Estero Blvd. and adjoining properties by more than doubling the width of the view corridor the beach. The single building design will cluster the development towards Palm Avenue and the shared property line with Diamond Head, while maintaining expansive view corridors and mitigating impacts to the single-family uses along Miramar Street.

INGRESS/EGRESS

Access and circulation are accommodated as shown on the MCP to provide improved ingress and egress when compared to existing conditions by eliminating an access point onto Estero Blvd in compliance with LDC §34-676(d)(1). Access will no longer be permitted directly to parking spaces from Palm Avenue. A single access point from Palm Avenue is now proposed to reach internal parking spaces with parking block facing Palm Avenue. Finally, the access point on Miramar Street that was closest to the Estero Boulevard intersection has been removed creating greater intersection separation and improving safety.

PARKING

Parking will be improved. The major change is code compliance by not having parking spaces that back out into a right-of way on Palm Avenue.

The former site provided 87 parking spaces. The proposed site plan proposed 87. The parking requirements are determined in LDC §34-2020(d) for standard residential units, while timeshare units are under hotel parking in §34-1804 that requires for 1.5 spaces per unit larger than 450 square feet. The worst-case parking requirement would be 75 dwelling units x 1.5 spaces per unit = 112.5 spaces. §34-676(a) provides off-street parking reductions in the Downtown district, which in this location is by multiplying the requirement by 67 percent; therefore, the worst-case requirement would be 112.5 spaces x .67 = 75 spaces.

EXISINTG AMENITIES

The MCP proposes to maintain the existing pool that is seaward of the 1978 Lee County CCCL and only make minor cosmetic improvements such as painting, as the amenity remains structurally intact post-lan, in conformance with the LDC provisions governing post disaster buildback.

V. Infrastructure

The subject property was developed with 75 timeshare units since 1981 and has been adequately served by public utilities and services due to its urban location and general proximity to the Town's and County's investment in infrastructure. No increase in units is proposed through this CPD, thus additional evidence of infrastructure availability is not required by the application.

VI. Post-Disaster Buildback Compliance

Pursuant to LDC §34-3238(2), a property that is more than 50% damaged may be rebuilt according to the post-disaster buildback regulations in the Town's Land Development Code. Outlined below are the regulations pertaining to Post-Disaster Buildback and the CPD's compliance with the Town's requirements in LDC §34-3238(2).

A. The building must meet the floodplain regulations for new buildings, as provided in Article IV of Ch. 6 of this LDC.

To comply with local, state, and federal regulations the building will be constructed to meet or exceed modern floodplain regulations. The minimum finished floor of the building will be constructed to FDEP LHSM.

B. The building must meet the coastal construction requirements that apply to new structures and portions thereof, as provided in Article III of Ch. 6 of this LDC and in state regulations. Due to these requirements, habitable major structures and most minor structures that are damaged by more than 50 percent must be rebuilt landward of the 1978 coastal construction control line (CCCL).

The existing development placed all major structures landward of the 1978 Lee County CCCL, except for a beachfront pool that extends seaward of the CCCL. The proposed building will comply with this regulation and be placed entirely landward of the CCCL. The existing pool will be maintained seaward of the CCCL, as it was not damaged beyond 50 percent. Any improvements to this pool will be limited to "cosmetic" updates, pool equipment replacement and maintenance, such as repainting.

C. The building must comply with all current building, life safety, and accessibility codes.

As previously noted, the newly constructed building will comply with local, state, and federal regulations. This includes the Florida Building Code, safety, and accessibility requirements. All structural modifications to the site will obtain required permits and inspections from the Town and applicable agencies.

D. Residential buildings. A rebuilt residential building may exceed the density limits for new buildings on vacant land but cannot exceed the legally documented number of dwelling units in the building immediately before the natural disaster.

This does not directly apply as the former and proposed building is a timeshare building which is a commercial use. However, the plan proposes to develop the same density (75 units) that existing prior to Hurricane Ian as documented in the recorded Declaration of Condominium documents.

F. All buildings. The new building must comply with all other zoning and development regulations except where compliance with such regulations would preclude reconstruction otherwise intended by Policy 4-D-1 of the comprehensive plan.

The proposed request is to rezone the property from Downtown to a Commercial Planned Development (CPD) zoning category. The proposed development is to comply with the development regulations of the Downtown zoning district except for those identified in the deviations request for height, number of stories and design standards regarding primary entrance locations and screening of parking areas and to allow the density of the former

building. Through this rezoning petition the proposed building will comply with all LDC regulations as outlined in the development standards portion of this application. Further, §VII of this request narrative provides detailed consistency between the proposed project and the town's comprehensive plan.

VII. Decision-making Compliance

The following is an analysis of the CPD's consistency with the criteria for Rezoning in the LDC §34-85(b) in bold.

(1) Whether there exists an error or ambiguity which must be corrected.

The rezoning of the property does not create error or ambiguity but rather prevents future discrepancy issues. The CPD zoning district allows for with specific development regulations to meet unique site designs such as those constructing a legal non-conforming use using post disaster buildback in a restrictive zoning district. The CPD allows for a unique design to promote things such as larger view corridors through greater height and unique setbacks.

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

The Town of Fort Myers Beach and Estero Island have been changed by Hurricane Ian. Furthermore, the building code and flood zones have changed significantly since the site was first developed over 40 years ago. The proposed CPD will allow for development of a safe and modern structure, that complies with current development standards, and is more resilient to future weather events.

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

N/A

(4) The testimony of any 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, objective and policies of the Comprehensive Plan and all applicable development regulations.

(5) The recommendation of staff and of the local planning agency.

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.

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.

(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 proposed development considers Fort Myers Beach Comprehensive Plan and does not seek to increase density or change use. The site will comply with modern post-disaster buildback policies in the Comprehensive Plan and LDC, by meeting flood regulations and life safety and ADA requirements. The requested height increases will be compatible with surrounding building heights in this intensive Downtown core of the Town, while providing increased view corridors to the Gulf of Mexico for the benefit of the public.

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

The existing structures have been significantly damaged. With the ability to buildback the site under the same density and use, the development program will meet or exceed performance and locational standards. The newly constructed building will remove direct access onto Estero Boulevard helping with traffic flow and be served by the side streets as required by LDC 34-676(b)(1). It will also contribute to improved performance and functionality of the Downtown area by addressing safety, Gulf viewsheds, and an enhanced built form along Estero Blvd.

(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.

The proposed request does not increase density or intensity of the site. The 75 units have been served by adequate services and will continue to be served post-redevelopment.

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

The proposed development will occur on impacted portions of the site where development historically occurred. No new impacts to environmentally sensitive areas are proposed. The project will comply with all local and state regulations pertaining to the area seaward of the CCCL through compliance with the stringent EC zoning district.

(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 proposed development is identical in use and density with the former use of the property. The increased height and stories will be designed in such a way to not create negative impacts to the surrounding land uses by locating the building closest to Diamond Head and maximizing the setback to the single-family uses to the north. The CPD will enhance compatibility in terms of public viewsheds based on the building location.

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

The proposed development will serve to improve the vehicular and pedestrian access by eliminating curb cuts from Estero Boulevard improving circulation. The use will be identical to the existing density which already is served by Estero Boulevard. No TIS has been provided as the site will not generate more trips than the development that existed pre-Hurricane Ian.

According to LDC §34-216, Planned Development Rezonings must also comply with the following criteria:

a. The proposed use or mix of uses is appropriate at the subject location;

The use and location are appropriate for the proposed CPD, as the same use and density has existed on the site since 1981. It has long been a multifamily timeshare development with 75 units. The proposed request will not increase the density or intensity of the site. Additionally, the proposed development is similar in height and size to those in the surrounding area.

b. Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations;

The MCP, development standards and schedule of uses ensure there are sufficient safeguards to the public interest, relating to access, building placement, view corridors, and setbacks.

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

The Applicant will coordinate with Staff relating to appropriate conditions of approval for the CPD.

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.

N/A

2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "boulevard" category.

N/A

3. Policy 4-C-4 on building heights taller than the standard height limit.

The proposed building height demonstrates consistency with the surrounding development patterns, both existing and proposed. The proposed eight (8) story structure will be located on the southernmost portion of the site adjacent to the 13-story Diamond Head Beach Resort. This

will maximize separation from nearby single-family homes and also significantly increase the public viewshed of the Gulf of Mexico from Estero Blvd. Surrounding heights are analyzed on the Surrounding Heights Map to further demonstrate the proposed height will be compatible with the built form in this Downtown core of the Town.

4. Policy 4-C-8 on density transfers.

N/A

5. Policy 4-E-1 on pre-disaster buildback.

N/A

6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.

The CPD will not result in significant traffic impacts as the site's existing density and intensity will remain the same.

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**.

POLICY 1-A-1 Changes along Estero Boulevard should improve on the characteristics that make it a boulevard in character and not just in name: safe and interesting to walk along, impressive landscaping, and scaled to people rather than high-speed traffic.

The proposed CPD rezone includes enhanced pedestrian safety and streetscape aesthetics via building placement, in direct compliance with this policy, including the elimination of two driveways directly onto Estero Boulevard that have historically brought pedestrian and car traffic into conflict. The MCP will provide sidewalk connectivity throughout and increase views of the Gulf of Mexico that generally improve the aesthetics of Estero Boulevard.

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

The CPD proposes a widened view shed (90-feet-wide) to the Gulf and greater focus on the public beach access #30.

POLICY 4-A-1 Maintaining the town's current "human scale" is a fundamental redevelopment principle. Fort Myers Beach is best enjoyed from outside a car; new buildings should be designed to encourage use or admiration by people on foot or bicycle, rather than separating them with gates, walls, deep setbacks, or unnecessary building heights.

The MCP and development parameters propose ground floor parking and a narrow façade with the building arranged perpendicularly to the beach and Estero

Boulevard. In doing so, the pedestrian walkway along Estero boulevard will benefit from a larger view of the Gulf, which is increasing from 40 feet to 90+/- feet.

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.

Uses and development in the areas waterward of the 1978 Coastal Construction Control Line (CCCL) will continue to comply with the above policy. Minor cosmetic repair to the pool seaward of the CCCL is proposed in accordance with the provisions of the LDC. Other portions of the Property are disturbed/developed. The development program will be designed and constructed to the latest South Florida Water Management District and Department of Environmental Protection standards to ensure high-quality development that protects natural resources.

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%.

The proposed request takes into consideration the Recreation portion of the site and is only requesting to rezone those areas within the Downtown district zoning category. Because the Recreation category will remain, the uses and development in this area will continue to comply with the above policy based on restriction.

The design and scale of the proposed development has been carefully planned to remain consistent with the surrounding developments and provides a new building with softened landscaping and architectural details.

OBJECTIVE 7-E UPGRADE ESTERO BOULEVARD.

The proposed development increases pedestrian safety on Estero Boulevard by proposing access points off side streets rather than by direct curb cuts on Estero Boulevard.

OBJECTIVE 6-E DUNES AND BEACHES

The proposed development will contribute to the beach renourishment efforts by the Town and state agencies, as well as implement localized dune renourishment, as required by the Town.

POLICY 6-H-5 WATER QUALITY

The proposed project will abide by any required reviews by the FDEP and SFWMD to ensure water quality is maintained and the project meet the current standards will be applied.

VIII. Conclusion

In sum, the CPD rezoning request will allow for the redevelopment of the Estero Island Beach Club with a modern, attractive and safe structure that enhances the property's and Town's resiliency in the long-term.

The CPD will not increase the site's established density and is primarily requested to allow specific site development regulations that do not meet the requirements under the conventional Downtown zoning district.

The newly constructed building will contribute to Fort Myers Beach's aesthetic character, including substantial increases to views of the Gulf, and improved community appearance and safety along Estero Blvd.

As proposed through the CPD request and the Master Concept Plan, the CPD rezoning 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 petition.



NOTE: CONTINUOUS HEDGE MAINTAINED AT 5 FEET TALL WHERE UNDER BUILDING PARKING IS VISIBLE FROM THE RIGHT-OF-WAY.

23' BUFFER
NO LANDSCAPE REQUIRED
PALMS EVERY 30' IF PROVIDED
CONTINUOUS HEDGE AND GROUND COVER

ENHANCED LANDSCAPING,
NOT REQUIRED

NOTE: EXISTING POWER LINES AT
BACK OF SIDEWALK ALONG ESTERO
BOULEVARD - TREES FROM
LEE COUNTY LDC TABLE 33-1254
TO BE PLANTED ALONG ESTERO BLVD.

NOTE: TREES WITHING THE R.O.W BUFFER MUST BE APPROPRIATELY
SIZED TO AVOID CONFLICTS WITH OVERHEAD UTILITIES, LIGHTING,
AND SIGNS. THE CLUSTERING OF TREES AND USE OF PALMS
WITHING THE R.O.W BUFFER ADD DESIGN FLEXIBILITY AND REDUCE
CONFLICTS. TREES AND SHRUBS MAY NOT BE PLANTED CLOSER
THAN THREE FEET TO ANY SIDEWALK OR BIKE PATH OF TO THE
RIGHT-OF-WAY OF ESTERO BOULEVARD (SEE §6-4 OF FORT MYERS
BEACH LDC).

5' BUFFER
NO LANDSCAPE REQUIRED
PALMS EVERY 30' IF PROVIDED

NOTE: CONTINUOUS HEDGE MAINTAINED AT 5 FEET TALL WHERE UNDER
BUILDING PARKING IS VISIBLE FROM THE RIGHT-OF-WAY.

PALMS	SIZE	NATIVE	SALT TOLERANCE
Sabal palmetto / Cabbage Palm	10'-18' CT, Staggered Heights	Yes	High
Roystonea regia / Royal Palm	12' CT	Yes	Low
Ravenea 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	18H x 18"S	Yes	High
Pittosporum tobira 'Variegata' / Variegated Pittosporum	24"H x 18"S	No	High

GROUND COVER		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

CONCEPTUAL SPECIES LIST

PLAN

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.

Aerial photography circa MM-DD-YYYY

PALMS



ROYAL PALM



SABAL PALM



TRAVELERS PALM



SILVER THATCH PALM

MIDSTORY



SILVER BUTTONWOOD



GEIGER



GREEN BUTTONWOOD



DWARF POINCIANA



SEAGRAPE

SHRUBS & ACCENTS



SEA OATS



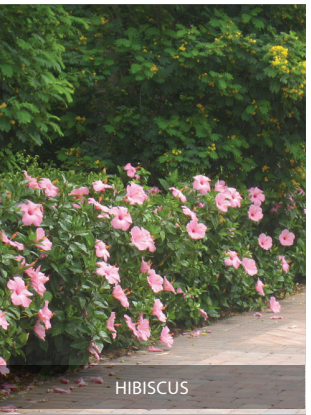
COCOPLUM



EUROPEAN FAN PALM



SILVER SAW PALMETTO



HIBISCUS

GROUND COVER



MUHLY GRASS



FAKAHATCHEE GRASS



RAILROAD VINE



DUNE SUNFLOWER



BLUE DAZE



SEASHORE PASPALUM

Copyright RVI

Aerial photography circa MM-DD-YYYY









DIAMONDHEAD BEACH RESORT

115'

PALM AVE. VIEW
CORRIDOR

ESTERO ISLAND BEACH CLUB

170'

MIRAMAR SIDE VIEW CORRIDOR

SINGLE FAMILY HOMES

A NEW REBUILD FOR ESTERO
ISLAND BEACH CLUB
FORT MYERS BEACH, FLORIDA

VIEW CORRIDORS FROM ESTERO BOULEVARD



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

Yellow Sheet Number: **2024-225**

1. Request:

Meeting Date: September 3, 2024

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 2545 AND 2555 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-00458.0000; 19-46-24-W3-00458.0010 IN FORT MYERS BEACH, TO ALLOW A FIRE STATION AND A MIXED USE DEVELOPMENT INCLUDING CIVIC, RESIDENTIAL, LODGING, RETAIL, OFFICE AND MARINE USES; 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 existing CPD for the site does not allow for Essential Services uses like a Fire Station. The ordinance must be approved to allow for this use.

What the action accomplishes:

Approval of the CPD ordinance and the requested deviations will allow for the construction of a Fire Station and reduces potentially incompatible uses on the rear portion of the site.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

Fort Myers Beach Fire Control, the owner and applicant for 2545 and 2555 Estero Blvd., is requesting to rezone the subject parcels from CPD (governed by RES 08-08) to a CPD that allows the development of a new Fort Myers Beach Fire Station. The Fire Control district intends to divide the total site into two parts. They will develop 1.17 acres fronting Estero Boulevard with a new Fire Station shown on the Master Concept Plan (MCP) in the application packet. The remaining 0.99 acres is intended to be sold and later developed. No MCP is provided for that portion of the tract, however the applicant has requested a reduction in the number of uses for that portion of the tract with the aim of reducing the impact of any future development on neighboring properties.

Attachments:

1. Ordinance 24-27 CPD Fire Station
2. LPA Staff Report
3. Exhibit A Application
4. Exhibit B MCP
5. Exhibit C - Postcards

Financial Impact:

unknown

6. Alternative Action

APPROVE WITH CONDITIONS or DENY

7. Staff Recommendations:

Approve with conditions

8. **Recommended Approval:**

Frankie Kropacek, Operations & Compliance Director

Date: August 28, 2024

nancy stuparich, Town Attorney

Date: August 29, 2024

Amy Baker, Town Clerk

Date: August 29, 2024

ORDINANCE 24-27

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 2545 AND 2555 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-00458.0000; 19-46-24-W3-00458.0010 IN FORT MYERS BEACH, TO ALLOW A FIRE STATION AND A MIXED USE DEVELOPMENT INCLUDING CIVIC, RESIDENTIAL, LODGING, RETAIL, OFFICE AND MARINE USES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, Fort Myers Beach Fire Control District, the owner, and Paul Torocco of Quattrone and Associates and Greg Stuart of Stuart and Associates, as agents for the property located at 2545 and 2555 Estero Blvd., parcels generally identified as STRAP numbers 194624W3004580000; 194624W3004580010 in the Town of Fort Myers Beach, filed applications to rezone the property from the CPD adopted in Resolution 08-08 to CPD with Master Concept Plan (MCP) with certain deviations to the Land Development Code (LDC) in order to develop a Fire Station and a mixed use development with a density of 6 dwelling units to be later defined by a MCP amendment; and

WHEREAS, the subject property is a combination of two parcels located in the Boulevard Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on September 3rd, 2024; and

WHEREAS, at the September 3rd, 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 Section 34-85 of the Town Land Development Code; and

WHEREAS, at the September 3rd, 2024 public hearing the LPA found that the request is consistent with the comprehensive plan and the requirements of the LDC and voted to recommend approval with conditions by a x-x vote; and

WHEREAS, on September 23rd, 2024 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the

recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the LDC; and

WHEREAS, the Town Council voted to have a second reading of the proposed Ordinance and a public hearing on this matter was noticed in the Fort Myers News-Press more than 10 days prior to the Town Council on October 7th, 2024; and

WHEREAS, at the October 7th, 2024 public hearing, the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34- 85; and

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

WHEREAS, a Business Impact Estimate has been prepared and published on the Town's website; and

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

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

WHEREAS, Exhibit B is the approved Master Concept Plan (MCP), which future development should be substantially in compliance with; and

WHEREAS, the Town Council finds that this request to rezone the property from the CPD adopted in Resolution 08-08 to CPD with MCP with six deviations to the LDC) in order to develop a Fire Station and a mixed use development with a density of 6 dwelling units to be later defined by a MCP amendment; and

WHEREAS, the requested deviations from the LDC include:

Deviation #1

Deviation from LDC section 10-416(d)(3) Type D Site Perimeter ROW Buffer Standard, that requires a 15-ft landscape buffer with 5 trees per 100 LF, a double hedge and no wall; for Estero Blvd. to require a 15-ft landscape buffer with a double hedge augmented with 18 shrubs per 100 LF and no wall.

Deviation #2

Deviation from LDC 10-285(a) Major Street Access Connection, that requires a 250-ft center-line connection spacing; to require a 127-ft +/- Fire Station driveway to Tropical Shores Way connection separation, and a 126-ft +/- Gulf Beach Road connection separation.

Deviation #3

Deviation from LDC 34-2013(a)(3) Parking Lot Access Aisle Width, that requires a maximum 25-ft width at the property line; to allow a 75-ft access aisle width at Estero Blvd. as depicted on the MCP, and a maximum 40-ft access aisle width at Tropical Shores Way as depicted on the MCP.

Deviation #4

Deviation from LDC 10-416(c)(2.a) Parking Lot Internal Landscaping, that requires one tree planted per 250 sf and with one tree for each parking space permeable island; to require no landscaped permeable island and trees for the Fire Station's north oriented parking lot.

Deviation #5

Deviation from LDC 10-416(c)(2.c) Min. Average Width of Parking Lot Landscaping Area, that requires a minimum average dimension of 10-ft; to require a minimum average dimension of 5-ft for the Fire Station's Estero Blvd. oriented parking lot.

Deviation #6

Deviation from LDC 34-632(1) that requires computed to be round down to the next whole number, which would allow a computed density of 5.94 units, to be rounded up to but not to exceed 6 dwelling units any combination of uses for the future development area.

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

- a. The rezoning would carry out the policies and requirements of the Comprehensive Plan and Land Development Code.
- b. 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.
- c. The rezoning would be consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses in the Comprehensive Plan.
- d. The rezoning would meet or exceed all performance and locational standards set forth for the proposed use.
- e. Urban services are available and adequate to serve the proposed use.
- f. The rezoning would protect, conserve, or preserve environmentally critical areas and natural resources.
- g. The rezoning would be compatible with existing and planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- h. 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.
- i. The rezoning, with the mitigating factors volunteered by the applicant and the special conditions imposed by the Town Council, is consistent with the Fort Myers Beach Comprehensive Plan, Land Development Code, and other applicable town ordinances or codes.
- l. The proposed use or mix of uses is appropriate at the subject location.
- m. Sufficient safeguards to the public interest are provided by the recommended special

conditions to the master concept plan and by other applicable regulations.

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

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

- a. Each item enhances the achievement of the objectives of the planned development; and
- b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted; and
- c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and
- d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.

WHEREAS, the Town Council finds that this application to approve Ordinance 24-15 which is, **consistent/ not consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **deny/ approve/ approve with conditions** the Application.

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

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

Section 2. The Town Council determines the Applicant **did/did not** meet its burden of proof, that the request to approve Town of Fort Myers Beach's Ordinance 24-xx and the conditions of approval for the commercial planned development zoning, **does/ does not** meet the requirements of the Town Comprehensive Plan and LDC. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **DENY/ APPROVE/ APPROVE WITH CONDITIONS** the requested application.

Section 3. Town Ordinance 24-xx is adopted and the schedule of uses and conditions of approval for the Property's CPD set forth in Exhibit A and the attached Master Concept Plan in Exhibit B, attached hereto and incorporated herein by this reference are 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 ____ day of September 2024.

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

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

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

Attachments:

- A – Conditions of Approval and Schedule of Uses
- B – Master Concept Plan (MCP)

Exhibit A: CONDITIONS OF APPROVAL & SCHEDULE OF USE

Conditions of Approval

Staff finds that the CPD with deviations meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC and recommends approval of DCI20230246 with the attached conditions:

- 1) Any tenant with consumption on premises will be required to acquire a separate COP license.
- 2) A local development order is required prior to any development of the site, in accordance with this planned development approval and consistent with the approved MCP.
- 3) 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.
- 4) All signage and landscaping must meet the Vehicle Visibility at Intersection requirements found in Sec. 34-3131
- 5) The Fire Station shall provide flashing indicator light(s) facing Estero Blvd. to alert pedestrians and vehicles when emergency vehicles are exiting the station.
- 6) Deviations 1-5 shall only apply to the proposed Fire Station as shown on the provided site plan.
- 7) The north site future development phase will include a north property line Type C buffer with screening wall to mitigate potential impacts to the Tropical Shores neighborhood. The north site future development phase will include a 5-ft Type A buffer for the shared fire station boundary.

SCHEDULE OF USE

- Civic
 - Principal
 - Essential services
 - Essential Services equipment
 - Essential Services building
 - Beach or Bay Access
 - Day care center, adult or child
 - Cultural Facility
 - Theater
 - Park, community or regional
 - Parking lot, shared, permanent
 - Place of worship
 - Religious Facility
 - Recreation Facility, private off-site or public
 - School
 - Accessory
 - Dwelling unit, caretaker
 - Subordinate commercial use
- Residential – 6 DU/Acre
 - Principal
 - Dwelling unit, multi-family
 - Dwelling unit, live/work

- Timeshare units
 - Assisted living facility-subject to LDC 34-1415
 - Accessory
 - Residential accessory uses
- Lodging
 - Principal
 - Rental of any permitted dwelling unit to a single family for periods of one day or longer
 - Hotel/Motel - guest units must comply with LDC Chapter 34, Article IV, Div. 19
 - Bed and Breakfast
 - Accessory
 - Subordinate commercial uses
- Retail
 - Principal
 - Laundromat
 - Personal services
 - Retail store small
 - Accessory
 - ATM
 - Commercial accessory uses
- Office
 - Principal
 - Health care facility
 - Offices, general or medical
 - Personal Services
 - Wholesale establishment
 - Accessory
 - Administrative offices
 - Home occupation- no outside help
- Marine
 - Accessory
 - Dock - sole use by occupants of principal use



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Commercial Planned Development

CASE NUMBER: DCI Rezoning 20240155

CASE NAME: Fort Myers Beach Fire Station CPD

LPA

HEARING DATE: September 3rd, 2024, at 9 AM

STAFF

RECOMMENDATION: Approval with conditions

PREPARED/

SUBMITTED BY: Judith Frankel, AICP

I. APPLICATION SUMMARY

Applicant/Owner: Fort Myers Beach Fire Control District

Request: The applicant is requesting to rezone 2.16 acres from a CPD (under Resolution 08-08) to a CPD with 7 deviations to include an Essential Services building

Subject property: See attached site plan

Physical Address: 2545 Estero Blvd.; 2555 Estero Blvd.

STRAP #: 194624W3004580000; 194624W3004580010

FLU: Boulevard

Zoning: CPD

Adjacent zoning and land uses:

North: RESIDENTIAL CONSERVATION (RC)
Multifamily residential

South: RESIDENTIAL MULTIFAMILY (RM)
Multifamily residential

East: INSTITUTIONAL (IN)
Places of Public Assembly, Schools and Civic Uses
COMMERCIAL BOULEVARD (CB)
Commercial Mixed-uses

West: COMMERCIAL BOULEVARD (CB)
Commercial Mixed-uses

II. BACKGROUND AND ANALYSIS

Background:

Fort Myers Beach Fire Control, the owner and applicant for 2545 and 2555 Estero Blvd., is requesting to rezone the subject parcels from CPD (governed by RES 08-08) to a CPD that allows the development of a new Fort Myers Beach Fire Station. The previous Fire Station, which was located at 3043 Estero Blvd., was damaged beyond repair by Hurricane Ian. These two parcels comprise a 2.16-acre tract where the former Topps Shopping Center was located. The Fire Control district intends to divide the total site into two parts. They will develop 1.17 acres fronting Estero Boulevard with a new Fire Station shown on the Master Concept Plan (MCP) in the application packet. The remaining 0.99 acres is intended to be sold and later developed. No MCP is provided for that portion of the tract, however the applicant has requested a reduction in the number of uses for that portion of the tract with the aim of reducing the impact of any future development on neighboring properties. Since no MCP is presented for the remaining .99 acres a CPD amendment and master concept plan will be required when development is proposed.

In 2008, the Town Council adopted Resolution 08-08 to approve the rezoning of the subject site from Commercial Boulevard to a CPD to allow for a phased redevelopment of a mixed-use complex that included a Topps Supermarket. CPD RES 08-08 allowed a number of uses by right, including Hotel/ Motel, Health Care Facility Offices, General Offices, Medical Offices, Personal Services, Restaurant, and Retail Store. The intensity was approved at 50,304 sf (0.53 FAR), which included 13 multifamily dwelling units or 36 hotel units. Development was required to be consistent with a master concept plan (MCP) entitled "The Topps Remodel". The MCP included 13 condominiums that were never constructed.

Analysis:

The site is located in the designated "Civic Complex/Heart of the Island" neighborhood and with a "Boulevard" land use designation in the Comprehensive Plan. The Boulevard land use category permits a maximum 1.5 F.A.R. LDC Section 34-953, states that building placement, size, design, and all other property development

regulations in a CPD zoning district shall be the same as for the CB zoning district for CPDs that are not primarily lodging. The CB zoning district permits a maximum FAR of 1.0 or a 94,089.6 square foot building area for the subject property. The Applicant is proposing a FAR of 0.34 (17,188 SF/50,965.2 SF) for the Fire Station and an FAR of 0.23 (10,000 SF/43,124.4 SF) for the rear portion of the property. This totals 0.57 FAR, which is compliant with Town regulations. The proposed Fire Station includes a ground level garage, covered entrance, exterior stairwell, balcony and interior administrative space.

The site is approximately one mile south of the Sky Bridge and to the west adjoins the previous FMB Town Hall along Tropical Shores Way. To the east, the site is bounded by Gulf Beach Road with the adjacent Bay Oaks Community Complex (park, pool & school) and residential uses zoned Commercial Boulevard along Estero Boulevard. To the north the property adjoins Residential Conservation zoned single family homes along Tropical Shores Way and a canal that adjoins Gulf Beach Road.

The applicant is requesting 6 deviations as allowed under section 34-212 of the LDC. Deviations 1 through 5 are related to parking and driveway configurations particular to the Fire Station and emergency vehicles. Deviation 6 will allow computed density to be rounded up for the remaining .99 acre rear portion of the tract. The rear portion of the tract which is proposed to be slightly less than 1 acre and so only allows a density of 5 units as the code requires that density calculations are rounded down to the nearest whole number. If the calculation is rounded up 6 units would be permitted. Special conditions for unique aspects of a parcel may be applied for the protection of public interest as defined in LDC section 34-932.

The existing CPD zoning is not sufficient for the proposed Fire Station. A Fire Station is classified as an Essential Services Building within the Civic land use sub-category in the Town's Land Development Code (LDC). Due to this classification a re-zoning is necessary to allow the Fire Station. The proposed location was strategically chosen for greatest access and proximity to other civic services.

Under the proposed new CPD, the rear portion of the tract, not occupied by the Fire Station, will be allowed a variety of general uses that should minimally impact the neighboring residences. Any development at that location will be reviewed by Town Staff and will likely necessitate a CPD amendment MCP at that time. The proposed new schedule of uses omits several uses that are currently allowed under Resolution 08-08. Deleted uses are restaurant, bar or cocktail lounge, on-premises consumption of alcoholic beverages, commercial dock use (for water taxi), and transit terminal. New proposed uses are parks, places of worship, religious facility, school, assisted living facility, and bed and breakfast in addition to essential service building, for the fire station.

Requested Schedule of Uses

- Civic
 - Principal

- Essential services
 - Essential Services equipment
 - Essential Services building
 - Beach or Bay Access
 - Day care center, adult or child
 - Cultural Facility
 - Theater
 - Park, community or regional
 - Parking lot, shared, permanent
 - Place of worship
 - Religious Facility
 - Recreation Facility, private off-site or public
 - School
- Accessory
 - Dwelling unit, caretaker
 - Subordinate commercial use
- Residential – 6 DU/Acre
 - Principal
 - Dwelling unit, multi-family
 - Dwelling unit, live/work
 - Timeshare units
 - Assisted living facility-subject to LDC 34-1415
 - Accessory
 - Residential accessory uses
- Lodging
 - Principal
 - Rental of any permitted dwelling unit to a single family for periods of one day or longer
 - Hotel/Motel - guest units must comply with LDC Chapter 34, Article IV, Div. 19
 - Bed and Breakfast
 - Accessory
 - Subordinate commercial uses
- Retail
 - Principal
 - Laundromat
 - Personal services
 - Retail store small
 - Accessory
 - ATM
 - Commercial accessory uses
- Office
 - Principal
 - Health care facility
 - Offices, general or medical

- Personal Services
 - Wholesale establishment
- Accessory
 - Administrative offices
 - Home occupation- no outside help
- Marine
 - Accessory
 - Dock - sole use by occupants of principal use

Requested Deviations

The Applicant requests the following deviations consistent with LDC section 34-212(3) and 34-932(b).

1. Deviation One from LDC section 10-416(d)(3) Type D Site Perimeter ROW Buffer Standard, that requires a 15-ft landscape buffer with 5 trees per 100 LF, a double hedge and no wall; for Estero Blvd. to require a 15-ft landscape buffer with a double hedge augmented with 18 shrubs per 100 LF and no wall.
 - a. Applicant Justification: The deviation advances the objectives of the new Fire Station MCP by designing and developing a Town of Fort Myers Beach Fire Station that has maximum safe and effective direct access onto Estero Blvd characterized by being unimpeded and unobstructed by tall perimeter buffer trees. By eliminating potentially obscuring trees, the deviation advances the achievement of high order emergency response times. A double staggered hedge, augmented by additional shrub landscaping based on 18 shrubs per 100 LF, will serve to ensure that the public interest and public welfare in having an aesthetically pleasing and well landscaped Estero Blvd will be maintained. The deviation benefits the public interest by securing a safe, effective and direct emergency vehicle egress and ingress. The deviation benefits the public health, safety and welfare since it fully advances the development of the new FMB Fire Station based upon the Fire Control District's design criteria. Deviation One is consistent with Comprehensive Plan policies 1-A-3, 1-B-2 and 3-A-4.
 - b. The deviation request relates to the proper functioning of the Fire Station. The applicant is offering significant landscaping to further the Town goal of beautification of Estero Blvd.
2. Deviation Two from LDC 10-285(a) Major Street Access Connection, that requires a 250-ft center-line connection spacing; to require a 127-ft +/- Fire Station driveway to Tropical Shores Way connection separation, and a 126-ft +/- Gulf Beach Road connection separation.
 - a. Applicant Justification: The deviation achieves the objectives of the Fire Station MCP in designing and developing a new Town of Fort Myers Beach Fire Station that has safe and effective direct access onto Estero Blvd to secure the highest order of emergency response times. The connection is identical to the long-standing Estero Blvd connection that served the Topps Shopping Center. By matching the existing

connection spacing and location, the public interest and welfare in advancing effective and efficient emergency response time is achieved. The deviation benefits the public health, safety and welfare interest since it fully advances the development of the new FMB Fire Station based upon the Fire Control District's design criteria. Deviation Two is consistent with the Town of Fort Myers Beach Comprehensive Plan as identified by the following Objectives and Policies:

- i. Intergovernmental Coordination OBJECTIVE 14-B Coordination of Services - to ensure coordination in establishing level of service standards for public facilities, providing for efficient delivery of services, monitoring progress of goals and construction of improvements.
 - ii. OBJECTIVE 14-A Intergovernmental Coordination of Plans — Ensure coordination of this comprehensive plan with comprehensive plans of Lee County and the Lee County School Board, other units of local government providing services but not having regulatory authority over the use of land, and with regional and state plans.
 - iii. POLICY IGC14-D-8 The town will exchange information with the Fort Myers Beach Fire Control District and solicit input from the fire district on development proposals.
 - b. The reduction in driveway spacing is necessary due to the functions of the Fire Station and situation of the site. The Town should consider requiring a flashing indicator light facing Estero Blvd. to alter pedestrians and vehicles when emergency vehicles are exiting the station.
3. Deviation Three from LDC 34-2013(a)(3) Parking Lot Access Aisle Width, that requires a maximum 25-ft width at the property line; to allow a 75-ft access aisle width at Estero Blvd. as depicted on the MCP, and a maximum 40-ft access aisle width at Tropical Shores Way as depicted on the MCP.
 - a. Applicant Justification: The deviation advances the objectives of the new Fire Station MCP by de-signing and developing a Town of Fort Myers Beach Fire Station that has maximum safe and effective direct access with full turning movements for large emergency response vehicles onto both Estero Blvd and Tropical Shores Way. The 75-ft and 40-ft aisle width standards advances the highest order of emergency response times. A twenty-five foot maximum width standard is not appropriate nor functional for large fire trucks and emergency response vehicles. The project is designed to facilitate large emergency vehicle ingress and egress turning movement requirements that require large driveway aisle connection width. The deviation benefits the public health, safety and welfare interest by securing safe, effective and direct emergency vehicle egress and ingress based upon the Fire Control District's design criteria. Deviation Three is consistent with policies 1-A-3, 1-B-2, 3-A-4, IGC 14-A, IGC 14-B and IGC 14-D-8.

- b. Emergency vehicles need extended width access aisle for the large vehicles.
- 4. Deviation Four from LDC 10-416(c)(2.a) Parking Lot Internal Landscaping, that requires one tree planted per 250 sf and with one tree for each parking space permeable island; to require no landscaped permeable island and trees for the Fire Station's north oriented parking lot.
 - a. Applicant Justification: The deviation advances the objectives of the new Fire Station MCP by designing and developing a Town of Fort Myers Beach Fire Station that has a large unobstructed north site interior large emergency response vehicle parking and circulation area. This design feature is essential for the staging of emergency response vehicles at the new fire station while entering and exiting onto Tropical Shores Way. The alternative parking lot landscaping standards advances the highest order of emergency response times by maximizes efficient internal large vehicle movements. The deviation benefits the public health, safety and welfare interest by securing safe, effective and direct emergency vehicle site parking and circulation movements within the site and towards Tropic Shores Way egress and ingress based upon the Fire Control District's design criteria. Deviation Four is consistent with policies IGC 14-A, IGC 14-B and IGC 14-D-8.
 - b. Trees would impact the emergency vehicles movement due to the height and volume of those vehicles.
- 5. Deviation Five from LDC 10-416(c)(2.c) Min. Average Width of Parking Lot Landscaping Area, that requires a minimum average dimension of 10-ft; to require a minimum average dimension of 5-ft for the Fire Station's Estero Blvd. oriented parking lot.
 - a. Applicant Justification: The deviation advances the objectives of the new Fire Station MCP by designing and developing a Town of Fort Myers Beach Fire Station that has a functionally unobstructed south site interior large emergency response vehicle and other vehicle parking and circulation area. The slight 5-ft parking island width reduction serves to advance efficient emergency response and other vehicle parking and circulation movement for the Estero Blvd oriented parking area. The deviation benefits the public health, safety and welfare interest by securing safe, effective and efficient south site parking and circulation movements along with safe and efficient Estero Blvd egress and ingress based upon the Fire Control District's design criteria. Deviation Five is consistent with policies 1-A-3, 1-B-2, 3-A-4, IGC 14-A, IGC 14-B and IGC 14-D-8.
 - b. The parking lot landscape requirement would hinder the movement of the emergency vehicles.
- 6. Deviation Six from LDC 34-632(1) that requires computed to be round down to the next whole number, which would allow a computed density of 5.94 units, to be rounded up to but not to exceed 6 dwelling units any combination of uses for the future development area.

- a. Applicant Justification: The deviation is established by Deviation Five Res. 08-08. In this case the di-minimus increase of 0.06 falls well within the established practice of granting reasonable density by, in this case, very slightly rounding up. Given the narrowest of margins, the public interest is not serviced by discounting one residential unit. The applicant's interest in regulatory consistency and reasonableness is upheld.
- b. This deviation will only apply to the smaller segment of the site. No dwelling units will be added to the larger (Fire Station) portion which reduces overall density available under the existing CPD.

Neighborhood Compatibility:

The proposed Fire Station fronts Estero Boulevard which will permit the necessary access for emergency vehicles. The location is close to several other public uses including the Bay Oaks Community Center. The rear portion of the property abuts a single-family home neighborhood. In consideration of the potential for nuisance noise, restaurant and bar land uses were removed from the requested schedule of uses. None of the proposed uses appear to create conflict with the adjacent uses. The rear portion of the lot will be required to install the applicable buffers to separate the uses.

Findings and Conclusions:

LDC Sec. 34-85(b) and (c) and 34-216(2) sets forth the required considerations and findings for the approval of a rezoning:

LDC Sec. 34-85 (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 site was vacant prior to Hurricane Ian. The redevelopment of the site makes the requests appropriate. At present, no Fire Station exists in Fort Myers Beach.

(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 density and intensity request are consistent with the Town of Fort Myers Beach Comprehensive Plan.

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

Staff response: The proposed development will be required to meet performance standards set forth in 34-2031.

(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.

Staff response: The urban services exist in this location.

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

Staff response: The request will have no impact on environmentally critical areas and natural resources. The site has been comprehensively developed and current is characterized by almost 100% impervious with no onsite natural systems. The request does not include any revision to the environmentally critical areas.

(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 FMB Fire Station is the primary use, with construction proposed to begin in 2025. The mixture and type of uses, along with site plan for future phase development is undetermined and will be subject to a formal CPD amendment process that includes an MCP. The available density will be 6 du/acre if the requested deviation 6 is approved. The north site future development phase will include a north property line Type C buffer with screening wall to mitigate potential impacts to the Tropical Shores neighborhood. The north site future development phase will include a 5-ft Type A buffer for the shared fire station boundary. When compared to Res. 08-08, the 2024 CPD lessens intensity of impacts and eliminates a significant number of commercial uses including restaurants and water taxis. The CPD to CPD request is not perceived to negatively impact adjoining FMB civic uses.

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

Staff response: The applicant submitted a Traffic Impact Statement with Level of Service analysis for the CPD request. The report states that the CPD to CPD zoning request will not have an impact on the current level of service of Estero Boulevard.

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

LDC Sec. 34-85 (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 regards 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

LDC Sec. 34-216(a)(2) The recommendation made to the town council must be supported by the guidelines set forth in § 34-85 of this chapter. In addition, the findings must address whether the following criteria can be satisfied:

a. The proposed use or mix of uses is appropriate at the subject location;

Staff response: The proposed mix of uses is appropriate in this location, it is in the Boulevard Future land use. Most of the proposed 2024 uses are currently permitted CPD uses. The current CPD requests the following new additional uses: Essential services building; parks; Assisted living facility; Place of worship; Religious facility; School; Bed and breakfast

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 through required buffering at the northern/rear portion of the property.

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: Deviations number 7 requests a slight deviation from the maximum 6 dwelling units per acre. The proposed CPD does not present a commercial expansion into a residential area.

3. Policy 4-C-4 on building heights taller than the standard height limit.

Staff response: No additional height is requested.

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 applicant has submitted a traffic impact analysis. There are no anticipated adverse 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 1 through 5 allow the development of the site for unique Fire Station use. Deviation 6 allows for one additional dwelling unit for a total of six.

b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted;

Staff response: The proposed deviations preserve public health.

c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and

Staff response: The deviations are not a detriment to the public interest. Additional conditions may need to be provided at a later date depending on the proposed use of the north/rear portion of the property.

d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.

Staff response: The deviations are consistent with the comprehensive plan

III. RECOMMENDATION

Staff finds that the CPD with deviations meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC and recommends **approval** of DCI20240115 with the attached conditions.

IV. CONDITIONS FOR APPROVAL

- 1) Any tenant with consumption on premises will be required to acquire a separate COP license.
- 2) A local development order is required prior to any development of the site, in accordance with this planned development approval and consistent with the approved MCP.
- 3) 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.
- 4) All signage and landscaping must meet the Vehicle Visibility at Intersection requirements found in Sec. 34-3131
- 5) The Fire Station shall provide flashing indicator light(s) facing Estero Blvd. to alert pedestrians and vehicles when emergency vehicles are exiting the station.
- 6) Deviations 1-5 shall only apply to the proposed Fire Station as shown on the provided site plan.
- 7) The north site future development phase will include a north property line Type C buffer with screening wall to mitigate potential impacts to the Tropical Shores neighborhood. The north site future development phase will include a 5-ft Type A buffer for the shared fire station boundary.

V. EXHIBITS

Staff Report Exhibits:
A – Complete Application
B – Fire Station MCP
C - Postcards

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-D

Additional Required Information for a Planned Development Application

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

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

Project Name: The Fort Myers Beach Fire Station CPD
Authorized Applicant: Scott Wirth, Fire Chief
STRAP Number(s): 194624W3004580000; 194624W3004580010

Current Property Status: Former Topps Shopping Center, Vacant & Paved
Current Zoning: CPD
Future Land Use Map (FLUM) Category: Boulevard
Platted Overlay? ☐ yes, ☒ no FLUM Density Range: 6 Units Per Ac

Requested Action:

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

PART I Narrative Statements

A. Comprehensive Plan Amendments (check one)

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

B. Phasing of Construction

☐	The development is to be constructed in a single phase.
☒	The development is to be constructed in phases as follows: (describe proposed phasing below)
	First Phase _ the Estero Blvd. Fire Station @ 17, 118 sf
	Future North Site Phase _ @ 10,000 sf



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

[illegible]

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

[illegible]

E. Decision-making Compliance

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

Refer to the enclosed Request Statement's Decision-making compliance assessment.

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.

Refer to the Request Statement's Deviation Schedule and Request statement.



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

[illegible]

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

Public Hearing Request Form
Supplement Form PH-D
Master Concept Plan
Traffic Impact Statement
Architectural Elevations
Schedule of Uses
Fee in the amount of \$8000.00 up to 1 acre +1000.00 per additional acre
\$2000.00 PD Amendment minor (< acre total property area)
\$4000.00 PD Reinstatement or \$6500.00 PD Amendment

3/30/2021

Guide to Filing Supplement PH-D for Planned Developments

Amendments Applications for amendments to an approved Master Concept Plan or its attendant documentation will require as much information as is needed to describe the changes requested, to specify the incremental change in impacts expected from the amendment, and to detail the changes in surrounding land uses that have occurred since the original application. Some amendments can be approved administratively as provided in LDC Section 34-219, but all other amendments must proceed through the public hearing process.

Through a pre-application meeting with Community Development staff, prospective applicants can determine whether proposed amendments will require a public hearing, and can request waivers from any submittal requirements that are not necessary to specify the changes requested.

All other planned developments All other applications must complete and submit the Request for Public Hearing and Supplement PH-D, along with all required documents. Refer also to the instructions for the Request for Public Hearing form.

Case Number will be inserted by Community Development staff.

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

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

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

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

Requested Action: Indicate whether the request is a DRI (Development of Regional Impact) that requires rezoning, a Planned Development, or an amendment to a Planned Development.

Part 1 Narrative Statements:

Comprehensive Plan Amendments

If Comprehensive Plan Amendments are pending that might affect the future use of the property, explain the amendments' possible effects.

Construction Phasing

If the project is to be constructed in multiple phases, describe the ordering and timing of the proposed phasing. In the absence of a phasing plan, phasing of development would be governed by the limitations of LDC Section 34-220.

Comprehensive Plan Compliance

Explain how the proposed development complies with the Fort Myers Beach Comprehensive Plan. Address the Future Land Use Map category or categories applicable to the subject property and any other relevant policies.

Design Standards Compliance

For properties and/or projects as described in LDC Section 34-992, explain how the proposed development will comply with the standards in LDC Sections 34-991 through 34-997.

Decision-making compliance

Explain how the proposed development will comply with the standards for decision-making in LDC Section 34-85.

Schedule of deviations and written justification

Identify the deviations from the requirements of the Land Development Code that are requested for the proposed development and justify them in relation to the guidance in LDC Section 34-932(b).

Administrative amendments

If the request is for an amendment to a planned development, indicate which of the requested changes could not be approved administratively as allowed by LDC Section 34-219.

Part 2 Submittal Requirements

Public Hearing Application Form. Applications for rezoning, including Planned Developments and Planned Development amendments for which public hearing is required, consist of the Public Hearing form and the supplemental form PH-D. Both parts of the application form must be completed and submitted.

Master Concept Plan. The master concept plan consists of maps, graphic illustrations, and written statements concerning the development. Space has

been provided on this form for many of the required narrative statements, though they can be attached on separate sheets. A master concept plan must include the following required information:

- a. The general size, configuration, and location of each development phase, and a description of the phasing of construction, unless the development is to be constructed in a single phase.
- b. The maximum height of any proposed buildings or structures, using the Land Development Code's method of measuring building height (see LDC Section 34-631).
- c. Proposed principal and accessory uses, identified using the terminology employed in the Land Development Code. Employ the groupings of uses in Tables 34-1 and 34-2 of the Land Development Code, or specify individual uses if necessary.
- d. The density and intensity of the proposed uses, in terms of dwelling units by type, or through conversion factors for hotel/motel units. Provide gross square footages for types of commercial uses, and maximum Floor-Area Ratio.
- e. The minimum width and composition of proposed buffers along the perimeter of the property. References to the types of buffers required by LDC chapter 10 are acceptable.
- f. The location of any environmentally sensitive land and water, based on standard environmental data capable of verification by Town staff. Developments larger than one acre in size may require a protected species survey under LDC Section 10-473.
- g. The exact location of all points of vehicular ingress and egress from existing easements or rights-of-way into the development, with distances from other existing or planned rights-of-way or access points.
- h. Access and facilities for public transit, if applicable.
- i. The general location of stormwater management areas.
- j. The specific locations of requested deviations, including sample detail drawings illustrating their effects if applicable.
- k. The exact location of existing rights-of-way and easements, whether or not those easements are recorded.
- l. Proposed dedications, if any, including beach access, boat ramps, park or recreation areas, open space, or other easements.

Traffic Impact Statement. A traffic impact statement in the same format and to the same degree of detail required for development orders (LDC Section 10-286).

Architectural Elevations. Architectural elevations or three-dimensional renderings that show at minimum all building façades adjoining public streets. These drawings will serve for the sketch requirement of LDC Section 34-202(b)(5) as well. If aspects of the proposed design will not comply with the commercial design standards of LDC Sections 34-991 through 34-997 (if required), the applicant may request deviations from those standards.

Schedule of uses. A list of all proposed principal and accessory uses. Identify these uses by reference to the groups of uses in Tables 34-1 and 34-2 of the Land Development Code unless greater specificity is necessary. For amendments to planned developments that were approved under different regulations, the enumeration of uses in the schedule of uses supplied for the amendment must be specific enough to explain what uses were previously approved without future reference to prior regulations or approvals.



August 1, 2024

To: Ms. Judith Frankel
Community Development Department, Town of Fort Myers Beach,
jfrankel@fmbgov.com. 239 940 8118

From: Greg Stuart, MAURP

Re Project: The Fort Myers Beach Fire Station CPD 2024-0155 _ Sufficiency Response 2
Revised Request Statement

Request: Rezone 2.16 ac. +/- From CPD to CPD for Essential Services Building

Strap #: 194624W3004580000 - 2545 Estero Blvd.
194624W3004580010 - 2555 Estero Blvd.

In response to your Department's request for additional information ,dated 20 July 2024, and on behalf of the Fort Myers Beach Fire Control District, I hope that the additional information along with the revised Request Statement will be satisfactory in providing evidence to schedule the LPA hearing in support the CPD to CPD request.

LAND USE & DEVELOPMENT STANDARD SUMMARY TABLE

Future Land Use	Boulevard
Zoning	CPD (08-08)
Parcel Number - 2545 Estero Blvd.	194624W3004580000
Parcel Number - 2555 Estero Blvd.	194624W3004580010
Project Site Area	2.16 ac. +/-
* Fire Station Site	1.17 ac. +/-
* North Site Future Phase	0.99 ac. +/-
Project Intensity _	
Fire Station	17,188 sf (1)
Fire Station FAR	33.7%
North Site Future Phase	10,000 sf
North Site Future Phase FAR	23.1%
* Future Phase Residential; or	6 units

* Future Phase Lodging;	15 rooms
Site Development Regulations _	
Min. Lot Area	30,000 sf
Min Lot Width	180-ft
Min Lot Depth	180-ft
Max. FAR	40%
Fire Station Building Height	30-ft/3-stories
Building Setback, Estero Blvd.	25-ft
Building Setback, Gulf Bch. Rd./Tropical Shores Way	15-ft
Building Setback, Rear/Waterbody	15-ft.
Flood Zone	AE13-ft

(1) Fire Station total FAR includes ground level, balcony, ancillary impervious pads and covered entrance at a 34% FAR. The heated and cooled Fire Station 14,800 sf intensity is equal to a 29% FAR.

PROJECT REQUEST AND USES

The application requests to rezone the subject parcel from CPD (RES 08-08) to CPD in a manner that permits by right the development of the new Fort Myers Beach Fire Station. The Fort Myers Beach Fire Station is classified as an Essential Services Building within the Civic land use sub-category. The Fire Station rests on part of a 2.16 acre tract. It consists of 1.17 acres of the previous Topps Shopping Center site and utilizes the former shopping center's driveway connection onto Estero Boulevard access. The intent of the rezoning is to allow by right a new Essential Services building and to maintain existing by-right complimentary and compatible RES 08-08 civic, retail, office, residential and lodging uses on the future development 0.99 acre parcel (see pages 4 - 6).

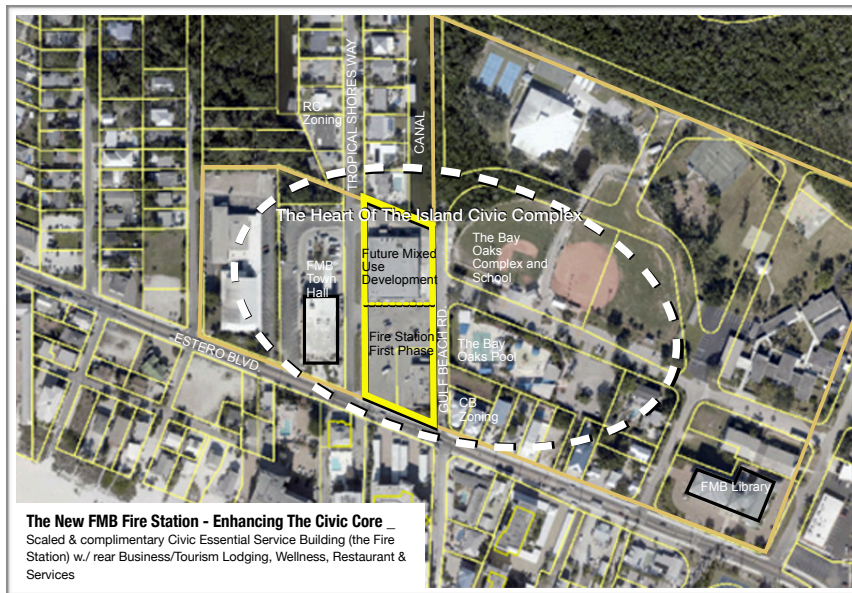
The current CPD (Res. 08-08) granted 13 units of residential density for the site and 50,304 square feet of commercial development. The approved master concept plan was a three phase plan. A Development Order was never submitted, building permits were never applied for, and the proposed buildings were never constructed. In early 2019 both of the existing Topps Center buildings were demolished. The site is currently a paved, vacant. The 2024 request deletes the previously approved Restaurant, Bar or cocktail lounge, On-premises consumption of alcoholic beverages, Dock use (for water taxi), and Transit terminal. The 2024 use request includes new Essential service building, Parks, Places of worship, Religious facility, School, Assisted living facility, and Bed and Breakfast. The Future Phase permits a not to exceed 6 residential units in any combination of site use. Hotel/Motel unit density will be subject to 34-1803 and 34-1415 density rules. All future phase development will be required to amend the CPD consistent with LDC Sec. 34-85 and 34-216 and through public hearing process.

SITE LOCATION

The two plus acre parcel is located with the Civic Complex Area and is classified as a future Boulevard Land Use. It is approximately one mile south of the Sky Bridge and to the west adjoins the FMB Town Hall civic use along Tropical Shores Way. To the east the site is bounded by Gulf Beach Road with the adjacent Bay Oaks Community Complex (park, pool & school) along with Estero Boulevard fronting seasonal and permanent residential uses zoned Commercial Boulevard. To the north the property adjoins Residential Conservation zoned single family homes along Tropical Shores Way and an 80-ft wide man-made canal that adjoins Gulf Beach Road.



LOCATION MAP



AIR PHOTO LOCATION MAP

THE USE SCHEDULE

2024 FMB Fire Station CPD Use Request	Existing 08-08 Permitted Uses
CIVIC:	
Principal:	
Essential services	Permitted by right
Essential service equipment	Permitted by right
Essential services building	
Beach or bay access (1)	Permitted by right
Day care center, adult or child (1)	Permitted by right
Cultural facility (1)	Permitted by right
Theater (1)	Permitted by right
Park, community or regional (1)	
Parking lot, shared, permanent	Permitted by right
Place of worship (1)	
Religious facility (1)	
Recreation facility, private off-site or public (1)	Permitted by right
School (1)	
Accessory:	
Dwelling unit, caretaker (1)	Permitted by right
Subordinate commercial uses	Permitted by right
RESIDENTIAL	
Principal:	
Dwelling unit, multi-family (1)(2)	Permitted by right - 13 units
Dwelling unit, live/work (1)(2)	Permitted by right - 13 units
Timeshare units (1)(2)(3)	Permitted by right - 13 units
Assisted living facility - subject to 34-1415 (1)(3)	
Accessory:	

2024 FMB Fire Station CPD Use Request	Existing 08-08 Permitted Uses
Residential accessory uses (1)	Permitted by right
LODGING	
Principal:	
Rental of any permitted dwelling unit to a single family for periods of one day or longer (1)(2)	Permitted by right
Hotel/Motel - guest units must comply with LDC Chapter 34, Article IV, Div. 19 (1)(3)	Permitted by right
Bed and Breakfast (1)(2)(3)	
Accessory:	
Subordinate commercial uses (1)	Permitted by right
RETAIL:	
Principal:	
Laundromat (1)	Permitted by right
Personal services (1)	Permitted by right
Retail store small (1)	Permitted by right
Accessory:	
ATM (1)	Permitted by right
Commercial accessory uses (1)	Permitted by right
OFFICE:	
Principal:	
Health Care facility (1)	Permitted by right
Offices, general or medical (1)	Permitted by right
Personal services (1)	Permitted by right
Wholesale establishment (1)	Permitted by right
Accessory:	
Administrative office (1)	Permitted by right
Home occupation - no outside help (1)	Permitted by right
MARINE:	

2024 FMB Fire Station CPD Use Request	Existing 08-08 Permitted Uses
Accessory:	
Dock - sole use by occupants of principal use (1)	Permitted by right

(1) Permitted only within the site's rear, north Future Phase area.

(2) Not to exceed 6 units in any combination of uses.

(3) Subject to 34-1803 and 34-1415 density rules.

PART C. COMPREHENSIVE PLAN COMPLIANCE

The site is located in the designated "Civic Complex/Heart of the Island" neighborhood and with a Future Boulevard Land Use designation. Located between Town Hall and Bay Oaks Park, School and the Library along Estero Blvd., the Town Plan characterizes this area as a "mix of residential and commercial uses with little coherent integration among them". From the 2008 CPD site zoning, in April, 2008 the Town of Fort Myers Beach issued Comprehensive Plan goals, objectives and policies consistency findings. In approving CPD RES 08-08 the Town allowed by right a number of uses by right, including Hotel/ Motel, Health Care Facility Offices, General Offices, Medical Offices, Personal Services, Restaurant, and Retail Store. The maximum allowable intensity was set at 50,304 sf, along with 13 MF dwelling units or 36 hotel units. Since that date and in regard to this specific property, it is the Applicant's understanding that the FMB Comprehensive Plan has not undergone any significant amendments that would change the regulatory framework used for consideration regarding the CPD to CPD zoning request. Other than the vacation and subsequent demolition of the site's Topps Grocery store, there has not been any significant external change to the adjoining and adjacent neighborhoods since the original approval. Therefore, the requested new uses and site plan will remain consistent the FMB Comprehensive Plan as per the original consistency findings. The FMB Comprehensive Plan consistency assessment is as follows.

Policy 1-A-3 _ In commercial and mixed-use areas, the town shall identify specific portions of Estero Boulevard where changes in land development regulations could work towards a more coherent "framing" of the Boulevard. New regulations should accomplish the following design goals over time through infill and redevelopment: (i) bringing buildings closer to the sidewalk; encouraging or requiring compatible means of meeting the mandatory flood elevation requirements (for example; using dry-flood proofing techniques); (iii) locating most parking to the rear of buildings, limiting curb cuts, and promoting shared parking areas; (iv) facilitating pedestrian and bicycle access and contributing to the interconnectedness of the circulation system; (v) adopting design guidelines that encourage architecture and urbanism along Estero Boulevard that contributes to the human scale and "beach cottage character"

- ▶ Response _ Other than the project's requested deviations, the project complies to the existing regulatory land use framework. Due to the functional requirements of a fire station, the building cannot be built close to Estero Blvd. and requires a minimum 13-ft FF flood elevation. Most of the project's required parking is within the rear of the site. Pedestrian and bicycle circulation will be facilitated by new sidewalk construction along Gulf Beach Road and Tropical Shores Way. The CPD will comply with flood elevation standards and FMB Architectural Design Standards. The CPD request remains consistent with 1-A-3.

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

- ▶ Response _ The new MCP presents a comprehensive redevelopment of the 2.16 acre site. It features a code required pedestrian and bike path system along Tropical Shores Way and Gulf Beach Road, providing multi-modal interconnections with Estero Blvd. Both roads will incorporate Type D landscaping. Estero Blvd will feature a double staggered hedge augmented with 18 shrubs per 100 LF (see Deviation One). The CPD request remains consistent with 1-B-2.

Policy 3-A-4 _ A "heart of the island" plan should be prepared to coordinate the public and private actions needed to fully implement this concept, including identifying the sequence of actions, responsibilities for implementation, and potential funding sources. Initial actions should include: (i) develop a design concept consistent with the new streetscape plan for Estero Boulevard, identifying approximate costs, potential funding sources, and suggested phasing; (ii) refine regulations that would allow a compatible mix of uses such as residential, live-work spaces such as studios or galleries, and small-scale specialty retail uses consistent with the historic theme, including eased setback and parking regulations.

- ▶ Response _ The towns' Civic Core identify and functionality is enhanced by the new fire station. This essential service building functionally enhances and is complimentary with the adjacent Town Hall, Bay Oaks Community Complex and FMB Library. The future phase's mixed use may feature limited lodging, small retail or office. The Civic Core's Town Hall is strengthened by having adjoining emergency services adjacent to principle governmental functions. This locational proximity advances inter-governmental coordination and communications. The Civic Core's Town Hall is further strengthened by having adjoining lodging, conference and office space uses that can support and are complimentary to principle governmental functions. These type of potential mixed uses next to the FMB Town Hall are highly advantageous for business travelers and professional, trade and other parties doing business with the town. The lodging and/or associated mixed uses can allow for increased Bay Oaks Park utilization with associated fee revenues due to proximate pedestrian access. The fire station along with the request's mixed uses will serve to "knit" together the various private business and public civic library, school, park and town hall uses

through landscape, sidewalk and architectural improvements consistent with FMB design standards. The CPD request remains consistent with 3-A-4.

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.

- ▶ Response _ The new MCP is a comprehensive redevelopment of the 2.16 acre site. It features a comprehensive pedestrian and bike path system along Tropical Shores Way, Gulf Beach Road, providing multi-modal interconnections with Estero Blvd. The CPD request remains consistent with 4-A-2.

Policy 4-A-3 _The town shall protect residential neighborhoods from intrusive commercial activities.

- ▶ Response _ The requested CPD does not present a commercial expansion into a residential area since the entire site has historically been used as commercial/retail grocery and package store. The new CPD de-intensifies the site's historic and allowable uses and intensities previously developed (the Topps Center) and/or granted by RES 08-08. The 2.16 acre site is functionally separate from the Tropical Shores Way residential and seasonal rental neighborhood street. Approximately three-quarters of the site's perimeter consists of non-residential to non-residential uses, including the Town Hall and the Bay Oaks community complex. All of these facts lead to a finding of "no commercial intrusion into residential neighborhoods", including the Tropical Shores Way neighborhood. Finally, in regard to the Tropical Shores Way neighborhood, the subject property has a limited adjoining non-residential to residential neighboring shared border due to the canal. The CPD's northern future development phase shares a 110-ft border with the 106/108 Tropical Shores Way single family home and associated neighborhood area. The remaining northern site boundary adjoins a man-made canal. The site's entire northern boundary will incorporate a 15-ft Type C Buffer with solid screening wall. The project's first phase fire station has adjacent non-residential to residential uses associated with the seasonal rental 2601 Estero Blvd and 100 Gulf Beach Road homes. The project's Gulf Beach Road will include a 15-ft Type D buffer. The project's perimeter buffering will serve to ameliorate potential non-residential to residential compatibility impacts. The project remains consistent with 4-A-3.

Policy 4-B-5 _"BOULEVARD": a mixed-use district along portions of Estero Boulevard, including less intense commercial areas, historic cottages, and mixed housing types. This category is not intended to allow commercial uses on all properties; its mixed-use nature is intended to remain permanently. For new residential development, the maximum density is 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). To obtain approval for

new or expanded commercial activities, proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. Non-residential uses (including motels and churches) now comprise 46.9% of the land in this category, and this percentage shall not exceed 70%.

- ▶ Response _ The development is located within the Future Boulevard category. It is noted that the new CPD does not present a commercial expansion into a residential area. This is so in that the entire site has been used for years as commercial/retail grocery surrounded by Fort Myers Beach civic uses. The requested CPD de-intensifies the allowable uses and intensities previously granted by 08-08. It is noted that the 2.16 acre site is functionally separate from the Tropical Shores Way residential and seasonal rental neighborhood street. The project is mixed use, with an essential civic use for one-half of the site (the new fire station). The other half of the site may be used for lodging, retail, residential or civic uses, consistent with 4-B-5. Approximately three-quarters of the site's perimeter consist of non-residential to non-residential use (commercial, Town Hall and the Bay Oaks community complex). The proposed project contains a mix of uses and will not negatively impact the adjacent civic uses of the Bay Oaks complex and City Hall. The subject property has limited adjoining non-residential to residential neighboring context. Specifically, the northern future development phase shares a 110-ft border with the 106/108 Tropical Shores Way single family home and associated neighborhood area. The remaining northern site boundary adjoins a man-made canal. The northern boundary will incorporate a 15-ft Type C Buffer with solid screening wall. The project's initial fire station phase has adjacent non-residential to residential uses associated with 2601 Estero Blvd and 100 Gulf Beach Road. The project's Gulf Beach Road will include a 15-ft Type D buffer. The project's perimeter buffering will serve to ameliorate potential non-residential to residential compatibility impacts, consistent with 4-B-5.

Policy 4-C-2 _COMMERCIAL INTENSITY: The maximum intensity of allowable commercial development in any category may be controlled by height regulations (see Policy 4-C-4) or by other provisions of this plan and the Land Development Code. Standards in the Land Development Code will encourage more intense commercial uses only in the "Pedestrian Commercial" category. The Land Development Code shall specify maximum commercial intensities using floor-area-ratios (the total floor area of the building divided by the area of the site in the category allowing commercial uses).

- ▶ Response _ The CPD's requested 27,188 sf presents a 28.8% site building coverage, which is well below the regulatory 40% standard and is far less than the former CPD's 50,304 sf intensity. The CPD will comply with the FMB building height rules and standards and will be under the 40% FAR rule. The CPD request remains consistent with 4-C-2.

Policy 4-C-3 _COMMERCIAL LOCATIONS: When evaluating proposals for new or expanded commercial uses in categories where they are permitted, the following principles shall apply: (iv) In the "Boulevard" category, where mixed-use development including some commercial uses may be permissible, landowners may seek commercial rezoning only through the planned development process. Proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. The following principles shall be considered by the town when evaluating requests for new commercial uses: (a.) Shopping and services for residents and overnight guests are strongly preferred over shopping and services that will attract additional day visitors during peak-season congestion. (b.) Shopping and services that contribute to the pedestrian character of the town are strongly preferred over buildings designed primarily for vehicular access. (vi) The neighborhood context of proposed commercial uses is of paramount importance. The sensitivity of a proposed commercial activity to nearby residential areas can be affected by: (a.) the type of commercial activities (such as traffic to be generated, hours of operation, and noise); (b) its physical scale (such as the height, and bulk of proposed buildings); and (c) the orientation of buildings and parking). Commercial activities that will intrude into residential neighborhoods because of their type, scale, or orientation shall not be approved.

- ▶ Response _ The CPD request is not a new commercial use. The site has been used for retail neighborhood shopping and package store retail. The new CPD reduces the amount of previously approved commercial uses and intensities, from 50,304 sf to 27,188 sf, of which 17,188 sf is Essential services building (the fire station) and the remaining 10,00 sf within the north site future development phase. The CPD remains consistent with 4-C-3.

Policy 4-C-4 _BUILDING HEIGHTS: The Land Development Code shall limit the height of new buildings under most conditions to two stories above flood elevation (exceptions may include the build-back situations (see Policies 4-D-1 and 4-E-1),

- ▶ Response _ The CPD fire station and the future development phase will comply with the Town of Fort Myers Beach LDC 34-631 building height rules with a maximum building height of 30-ft above flood elevation and not to exceed three stories. (see CR zoning district standard).

Policy 4-C-6 _MOTEL DENSITIES: The Land Development Code shall specify equivalency factors between guest units (which include motel rooms) and full dwelling units. These factors may vary based on size of guest unit and on land-use categories on the Future Land Use Map. They may vary between a low of one guest unit and a high of three guest units for each dwelling unit.

- ▶ Response _ The CPD's future phase lodging intensity request is based on 6 units per acre on 0.99 acres at a Boulevard land use 2.5 coefficient, equal to 15 motel/hotel rooms. The new CPD remains consistent with 34-1803 and 34-1415 density rules.

Policy 4-C-8 _ DENSITY TRANSFERS:

- ▶ Response _ No density transfers are proposed.

Policy 4-E-1 _ PRE-DISASTER BUILD BACK:

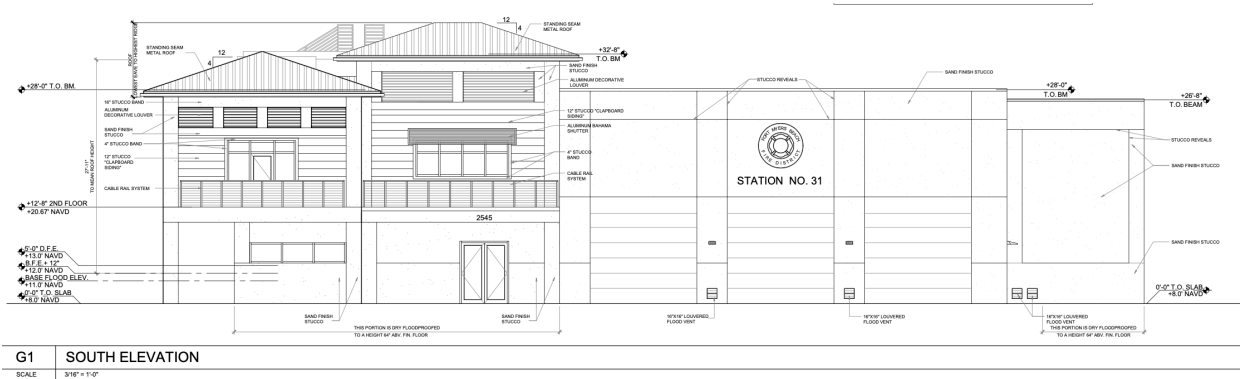
- ▶ Response _ The pre-disaster build back policy is not being utilized for this development.

Policy 7-J-2 _ TRAFFIC IMPACT ANALYSIS AND POTENTIAL DESIGN IMPROVEMENTS THAT COULD OFFSET TRAFFIC IMPACTS:

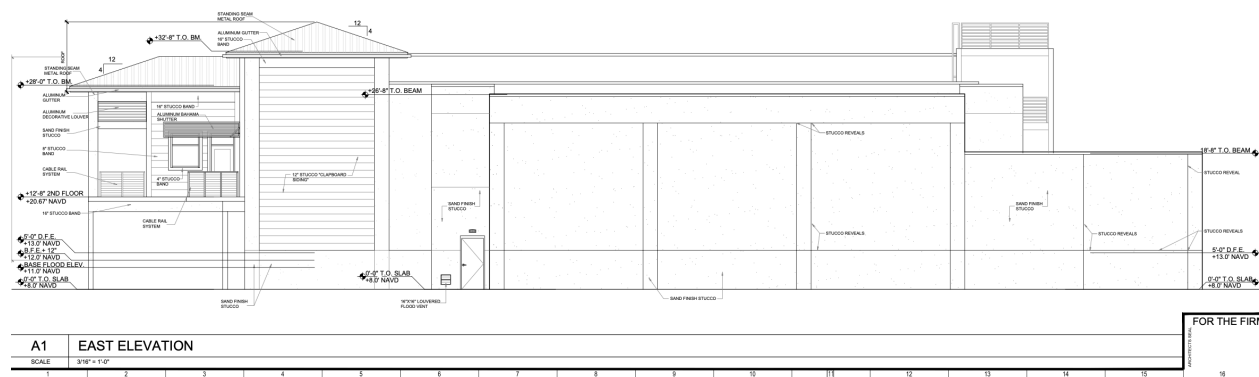
- ▶ Response _ The applicant has submitted a traffic impact analysis. There are no unanticipated traffic impacts and the request serves to de-intensify the site.

PART D. DESIGN STANDARDS COMPLIANCE

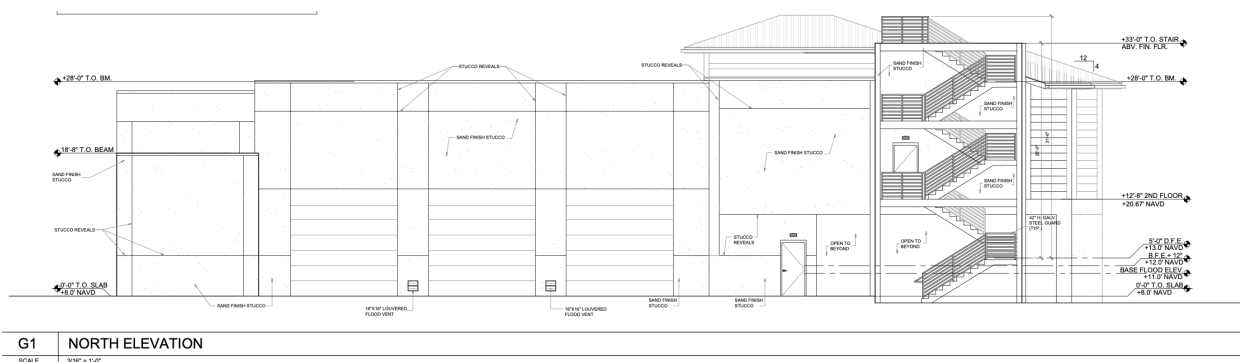
Referring to the revised Architectural Elevations, the CPD's new fire station and MCP will comply with LDC Division Seven 34-991 through 997 Commercial Design Standards as required by 34-951. The same will be true for the future development areas non-residential mixed uses. The new Fire Stations requires a building height deviation, from 33 feet/3 stories, to 35-ft/3 stories (see Deviation Six). All other uses shall meet the 30-ft height standard. The new Fire Station's exterior walls and principal facade comply with 34-994 and 34-995. It roof line and materials will comply with 34-996. The project will include an open space 9/11 Memorial Area consistent with 34-997.



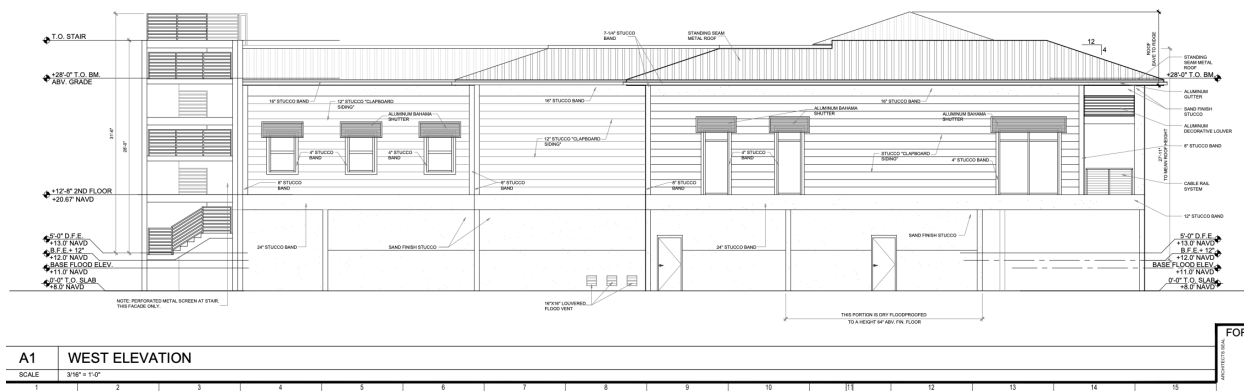
FIRE STATION ESTERO BLVD. FACADE ELEVATION



FIRE STATION GULF BEACH ROAD FACADE ELEVATION



FIRE STATION NORTH CANAL ORIENTATION FACADE ELEVATION



FIRE STATION TROPICAL SHORES WAY FACADE ELEVATION

PART E. DECISION-MAKING COMPLIANCE

(1) *Whether there exists an error or ambiguity which must be corrected.*

- ▶ Response _ Though there is no error or ambiguity in that the site is a formally improved but demolished shopping center, the RES 08-08 MCP is no longer valid and useful to the Fort Myers Beach Fire Control District. The need to replace the Town's Hurricane Ian destroyed fire station is of paramount importance.

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

- ▶ Response _ The change of conditions that makes the approval of the CPD request is the vital importance to construct a new fire station to replace the Town's formal fire station that was destroyed by Hurricane Ian

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

- ▶ Response _ The proposed CPD provides a new primary Fire Station MCP that will allow for the future development of complimentary civic, lodging, retail and office uses that support the Civic Complex/Heart of the Island neighborhood and Boulevard

Future Land Use. These new future uses will be implemented through a formal CPD and MCP Amendment Process consistent with LDC 34-85 and 34-2126. It is noted that almost all of the requests uses are permitted uses as per the previously adopted Resolution 08-08 (see pages 4 - 6).

(4) *The testimony of any applicant.*

- ▶ Response _ The Applicant has documented that the CPD to CPD request is consistent with the Town's Comprehensive Plan and Land Development Code.

(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.*

- ▶ Response _ The Applicant has documented that the CPD to CPD request is consistent with the Town's Comprehensive Plan goals, objectives and policies. The Future Phase residential density is based on 1 acre/6 units and a 2.5 hotel unit conversion coefficient. Building coverage is far lower than what was previously built and what was approved by 08-08. The requested 27,188 sf FAR is below a permissible 40% FAR site intensity. The density and intensity request is consistent with the Town of Fort Myers Beach Comprehensive Plan.

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

- ▶ Response _ The Applicant has provided documentation that the previous approval found that the proposed uses and intensities will not cause increased air, water or noise pollution. Given that the fire station and future mixed uses are much lower in functional intensities, such as and including trip generation, noise and light generation and other impacts, the request continues to meet all performance and locational standards.

(9) *Whether urban services are, or will be, available and adequate to serve a proposed land use change.*

- ▶ Response _ All required urban services are available to adequately serve the new fire station and future phase mixed uses.

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

- ▶ Response _ The site has been comprehensively developed and current is characterized by almost 100% impervious with no onsite natural systems. The request does not include any revision to the environmentally critical areas.

(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.*

- ▶ Response _ The property was previously used for a grocery store and a liquor package store; these are fairly intense commercial uses. The FMB Fire Station is the primary use, with construction to begin in 2025. The mixture, type and density of uses, along with site plan for future phase development is undetermined and will be subject to a formal CPD amendment process. The north site future development phase will include a north property line Type C buffer with screening wall to mitigate potential impacts to the Tropical Shores neighborhood. The north site future development phase will include a 5-ft Type A buffer for the shared fire station boundary. When compared to Res. 08-08, the 2024 CPD lessens intensity of impacts and eliminates a significant number of non-residential public activities and uses including restaurants and water taxis. As per previous 08-08 findings, the CPD to CPD request will not impact adjoining FMB civic uses.

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

- ▶ Response _ The applicant submitted a Traffic Impact Statement with Level of Service analysis for the CPD request. The report states that the CPD to CPD zoning request will not have an impact on the current level of service of Estero Boulevard.

(13). *LDC Section 34-216 specifies that “the recommendation made to the town council must be supported by the guidelines set forth in § 34-85” as well the findings must address whether the criteria found in this section can be addressed. These criteria are discussed below:*

a. The proposed use or mix of uses is appropriate at the subject location;

- ▶ Response _ Most of the proposed 2024 uses are currently permitted CPD uses. The 2024 CPD requests the following new additional uses:
 - ▶ Essential services building; parks; Assisted living facility; Place of worship; Religious facility; School; Bed and breakfast;
- ▶ Response _ The 2024 CPD deletes the following uses:
 - ▶ Restaurant, Bar or cocktail lounge, On-premises consumption of alcoholic beverages, Dock use (for water taxi), and Transit terminal. New 2024 uses are Essential service building, Parks, Places of worship, Religious facility, School, Assisted living facility, and Bed and Breakfast.
- ▶ Response _ The 2024 MCP will have the FMB Fire Station as the initial site and building development. The new MCP meets all of the development standards, with the exception of identified requested code deviations. The mix of uses proposed

continue to be appropriate for the Civic Complex/Heart of the Island neighborhood and Boulevard Future Land Use.

b. *Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations;*

- ▶ Response _ The applicant's MCP, development standards and low intensity provide safeguards to accommodate 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.
2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "boulevard" category.
3. Policy 4-C-4 on building heights taller than the standard height limit.
4. Policy 4-C-8 on density transfers.
5. Policy 4-E-1 on pre-disaster build back.
6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.

- ▶ Response _ Refer to the Comprehensive Plan Consistency Assessment identified on pages 6 through 11.

PART F. SCHEDULE OF DEVIATIONS AND JUSTIFICATION

As key elements to the CPD to CPD zoning request, the Owner/Applicant requests the following deviations consistent with 34-212(3) and 34-932(b).

Deviation One LDC 10-416(d)(3) Type D Site Perimeter ROW Buffer Standard, that requires a 15-ft landscape buffer with 5 trees per 100 LF, a double hedge and no wall; for Estero Blvd. to require a 15-ft landscape buffer with a double hedge augmented with 18 shrubs per 100 LF and no wall.

- ▶ Request _ The deviation advances the objective of building a new fire station MCP by designing and developing a Town of Fort Myers Beach Fire Station that maximizes safe and effective Estero Blvd direct access characterized by having unimpeded and unobstructed views hindered by tall perimeter buffer trees. By eliminating potentially obscuring trees, the deviation advances the achievement of high ordered emergency response times. A double staggered hedge, augmented by additional shrub landscaping based on 18 shrubs per 100 LF, will serve to ensure that the public interest and welfare in having an aesthetically pleasing, well landscaped Estero Blvd will be maintained. The deviation benefits the public interest by securing a safe, unobstructed direct emergency vehicle egress and ingress. The deviation benefits public health, safety and welfare since it fully advances the development of the new

FMB Fire Station based upon the Fire Control District's design criteria. Deviation One is consistent with policies 1-A-3, 1-B-2 and 3-A-4.

Deviation Two LDC 10-285(a) Major Street Access Connection, that requires a 250-ft centerline connection spacing; to require a 152-ft +/- Fire Station driveway to Tropical Shores Way connection separation, and a 102-ft +/- Gulf Beach Road connection separation.

- ▶ Request _ The deviation achieves the objectives of the Fire Station MCP in designing and developing a new Town of Fort Myers Beach Fire Station that has safe and effective direct access onto Estero Blvd so as to secure high-ordered emergency response times. The connection is at the same centerline location as the access connection that served the Topps Shopping Center. By matching the existing connection spacing and location, the public interest and welfare in advancing effective and efficient emergency response time is achieved. The deviation benefits the public health, safety and welfare interest since it fully advances the development of the new FMB Fire Station based upon the Fire Control District's design criteria. Deviation Two is consistent with the Town of Fort Myers Beach Comprehensive Plan as identified by the following Objectives and Policies:
 - Intergovernmental Coordination OBJECTIVE 14-B Coordination of Services - to ensure coordination in establishing level of service standards for public facilities, providing for efficient delivery of services, monitoring progress of goals and construction of improvements.
 - OBJECTIVE 14-A Intergovernmental Coordination of Plans – Ensure coordination of this comprehensive plan with comprehensive plans of Lee County and the Lee County School Board, other units of local government providing services but not having regulatory authority over the use of land, and with regional and state plans.
 - POLICY IGC14-D-8 The town will exchange information with the Fort Myers Beach Fire Control District and solicit input from the fire district on development proposals.

Deviation Three LDC 34-2013(a)(3) Parking Lot Access Aisle Width, that requires a maximum 25-ft width at the property line; to allow a 76-ft access aisle width at Estero Blvd. as depicted on the MCP, and a maximum 43-ft access aisle width at Tropical Shores Way as depicted on the MCP.

- ▶ Request _ The deviation advances the objectives of the development of a new FMB fire station by designing and developing a facility that has maximum safe and effective direct access with full turning movements for large emergency response vehicles onto both Estero Blvd and Tropical Shores Way. The 76-ft and 43-ft aisle width standards advances the high-ordered emergency response times. A twenty-five foot maximum width standard is not appropriate nor functional for large fire trucks and emergency

response vehicles. The project is designed to facilitate large emergency vehicle ingress and egress turning movement requirements that require large driveway aisle connection widths. The deviation benefits public health, safety and welfare interests by securing safe, effective and direct emergency vehicle egress and ingress based upon the Fire Control District's design criteria. Deviation Three is consistent with policies 1-A-3, 1-B-2, 3-A-4, IGC 14-A, IGC 14-B and IGC 14-D-8.

Deviation Four LDC 10-416(c)(2.a) Parking Lot Internal Landscaping, that requires one tree planted per 250 sf and with one tree for each parking space permeable island; to require no landscaped permeable island and parking lot trees for the Fire Station's north oriented parking lot.

- ▶ Request _ The deviation advances the objectives of the new Fire Station MCP by designing and developing a Town of Fort Myers Beach Fire Station that has a large unobstructed north site parking lot and staging area for large emergency response vehicles. This deviation is essential for the staging and maintaining emergency response vehicles adjacent to Tropical Shores Way. The alternative parking lot landscaping deviation advances the high-ordered emergency response times by maximizes efficient internal large vehicle movements. The deviation benefits public health, safety and welfare interests by securing safe, effective and direct emergency vehicle site parking and circulation movements within the site and towards Tropic Shores Way egress and ingress based upon the Fire Control District's design criteria. Deviation Four is consistent with policies IGC 14-A, IGC 14-B and IGC 14-D-8.

Deviation Five LDC 10-416(c)(2.c) Min. Average Width of Parking Lot Landscaping Area, that requires a minimum average diminution of 10-ft; to require a minimum average dimension of 6.5-ft for the Fire Station's Tropical Shores Way oriented handicapped parking space.

- ▶ Request _ The deviation advances the objectives of the new Fire Station MCP by designing and developing a Town of Fort Myers Beach Fire Station that has a functionally unobstructed south site interior large emergency response vehicle and other vehicle parking and circulation area. The slight 3.5-ft parking island width reduction serves to advance efficient emergency response and other vehicle parking and circulation movement for the Estero Blvd oriented parking area. The deviation benefits public health, safety and welfare interests by securing safe, effective and efficient south site parking and circulation movements along with safe and efficient Estero Blvd egress and ingress based upon the Fire Control District's design criteria. Deviation Five is consistent with policies 1-A-3, 1-B-2, 3-A-4, IGC 14-A, IGC 14-B and IGC 14-D-8.

Deviation Six LDC 34-632(1) that requires computed to be round down to the next whole number, which would allow a computed density of 5.94 units, to be rounded up to but not to exceed 6 dwelling units any combination of uses for the future development area.

- ▶ Request _ The deviation is established by Deviation Five Res. 08-08. In this case the diminution increase of 0.06 falls well within the established practice of rounding up. Given the narrowest of margins, the public interest is not serviced by discounting one residential unit. The applicant's interest in regulatory consistency and reasonableness is upheld.

FINDINGS AND CONCLUSIONS

The planning and zoning land use findings presented herein demonstrate entitlement to the requested Fort Myers Beach Fire Control District CPD zoning request. The Request Statement confirms adherence to the Town of Fort Myers Beach Comprehensive Plan and the Land Development Code. It is consistent with the intensity set forth in the Town Plan and LDC, is compatible with existing and planned uses, has adequate services and infrastructure required to service the project.



Greg Stuart, MAURP

GS/24006/applicationdevelop/finalreport_1augfinalfmbfirestation_requeststatement.pgs

PART F. SCHEDULE OF DEVIATIONS AND JUSTIFICATION - revised 08/01/24

As key elements to the CPD to CPD zoning request, the Owner/Applicant requests the following deviations consistent with 34-212(3) and 34-932(b).

Deviation One LDC 10-416(d)(3) Type D Site Perimeter ROW Buffer Standard, that requires a 15-ft landscape buffer with 5 trees per 100 LF, a double hedge and no wall; for Estero Blvd. to require a 15-ft landscape buffer with a double hedge augmented with 18 shrubs per 100 LF and no wall.

- ▶ Request _ The deviation advances the objectives of the new Fire Station MCP by designing and developing a Town of Fort Myers Beach Fire Station that has maximum safe and effective direct access onto Estero Blvd characterized by being unimpeded and unobstructed by tall perimeter buffer trees. By eliminating potentially obscuring trees, the deviation advances the achievement of high order emergency response times. A double staggered hedge, augmented by additional shrub landscaping based on 18 shrubs per 100 LF, will serve to ensure that the public interest and public welfare in having an aesthetically pleasing and well landscaped Estero Blvd will be maintained. The deviation benefits the public interest by securing a safe, effective and direct emergency vehicle egress and ingress. The deviation benefits the public health, safety and welfare since it fully advances the development of the new FMB Fire Station based upon the Fire Control District's design criteria. Deviation One is consistent with policies 1-A-3, 1-B-2 and 3-A-4.

Deviation Two LDC 10-285(a) Major Street Access Connection, that requires a 250-ft center-line connection spacing; to require a 127-ft +/- Fire Station driveway to Tropical Shores Way connection separation, and a 126-ft +/- Gulf Beach Road connection separation.

- ▶ Request _ The deviation achieves the objectives of the Fire Station MCP in designing and developing a new Town of Fort Myers Beach Fire Station that has safe and effective direct access onto Estero Blvd so as to secure the highest order of emergency response times. The connection is identical to the long-standing Estero Blvd connection that served the Topps Shopping Center. By matching the existing connection spacing and location, the public interest and welfare in advancing effective and efficient emergency response time is achieved. The deviation benefits the public health, safety and welfare interest since it fully advances the development of the new FMB Fire Station based upon the Fire Control District's design criteria. Deviation Two is consistent with the Town of Fort Myers Beach Comprehensive Plan as identified by the following Objectives and Policies:

- Intergovernmental Coordination OBJECTIVE 14-B Coordination of Services - to ensure coordination in establishing level of service standards for public facilities, providing for efficient delivery of services, monitoring progress of goals and construction of improvements.
- OBJECTIVE 14-A Intergovernmental Coordination of Plans – Ensure coordination of this comprehensive plan with comprehensive plans of Lee County and the Lee County School Board, other units of local government providing services but not having regulatory authority over the use of land, and with regional and state plans.
- POLICY IGC14-D-8 The town will exchange information with the Fort Myers Beach Fire Control District and solicit input from the fire district on development proposals.

Deviation Three LDC 34-2013(a)(3) Parking Lot Access Aisle Width, that requires a maximum 25-ft width at the property line; to allow a 75-ft access aisle width at Estero Blvd. as depicted on the MCP, and a maximum 40-ft access aisle width at Tropical Shores Way as depicted on the MCP.

- ▶ Request _ The deviation advances the objectives of the new Fire Station MCP by designing and developing a Town of Fort Myers Beach Fire Station that has maximum safe and effective direct access with full turning movements for large emergency response vehicles onto both Estero Blvd and Tropical Shores Way. The 75-ft and 40-ft aisle width standards advances the highest order of emergency response times. A twenty-five foot maximum width standard is not appropriate nor functional for large fire trucks and emergency response vehicles. The project is designed to facilitate large emergency vehicle ingress and egress turning movement requirements that require large driveway aisle connection width. The deviation benefits the public health, safety and welfare interest by securing safe, effective and direct emergency vehicle egress and ingress based upon the Fire Control District's design criteria. Deviation Three is consistent with policies 1-A-3, 1-B-2, 3-A-4, IGC 14-A, IGC 14-B and IGC 14-D-8.

Deviation Four LDC 10-416(c)(2.a) Parking Lot Internal Landscaping, that requires one tree planted per 250 sf and with one tree for each parking space permeable island; to require no landscaped permeable island and trees for the Fire Station's north oriented parking lot.

- ▶ Request _ The deviation advances the objectives of the new Fire Station MCP by designing and developing a Town of Fort Myers Beach Fire Station that has a large unobstructed north site interior large emergency response vehicle parking and circulation area. This design feature is essential for the staging emergency response vehicles at the new fire station while entering and exiting onto Tropical Shores Way. The alternative parking lot landscaping standards advances the highest order of emergency re-

sponse times by maximizes efficient internal large vehicle movements. The deviation benefits the public health, safety and welfare interest by securing safe, effective and direct emergency vehicle site parking and circulation movements within the site and towards Tropic Shores Way egress and ingress based upon the Fire Control District's design criteria. Deviation Four is consistent with policies IGC 14-A, IGC 14-B and IGC 14-D-8.

Deviation Five LDC 10-416(c)(2.c) Min. Average Width of Parking Lot Landscaping Area, that requires a minimum average diminution of 10-ft; to require a minimum average dimension of 5-ft for the Fire Station's Estero Blvd. oriented parking lot.

- ▶ Request _ The deviation advances the objectives of the new Fire Station MCP by designing and developing a Town of Fort Myers Beach Fire Station that has a functionally unobstructed south site interior large emergency response vehicle and other vehicle parking and circulation area. The slight 5-ft parking island width reduction serves to advance efficient emergency response and other vehicle parking and circulation movement for the Estero Blvd oriented parking area. The deviation benefits the public health, safety and welfare interest by securing safe, effective and efficient south site parking and circulation movements along with safe and efficient Estero Blvd egress and ingress based upon the Fire Control District's design criteria. Deviation Five is consistent with policies 1-A-3, 1-B-2, 3-A-4, IGC 14-A, IGC 14-B and IGC 14-D-8.

Deviation Six LDC 34-632(1) that requires computed to be round down to the next whole number, which would allow a computed density of 5.94 units, to be rounded up to but not to exceed 6 dwelling units any combination of uses for the future development area.

- ▶ Request _ The deviation is established by Deviation Five Res. 08-08. In this case the diminus increase of 0.06 falls well within the established practice of granting reasonable density by, in this case, very slightly rounding up. Given the narrowest of margins, the public interest is not serviced by discounting one residential unit. The applicant's interest in regulatory consistency and reasonableness is upheld.

FMB Fire Control District _ The Estero Blvd. Fire Station

Future Land Use _ Boulevard

Zoning _ CPD

2024 FMB Fire Station CPD Use Request
CIVIC:
Principal:
Essential services
Essential service equipment
Essential services building
Beach or bay access (1)
Day care center, adult or child (1)
Cultural facility (1)
Theater (1)
Park, community or regional (1)
Parking lot, shared, permanent
Place of worship (1)
Religious facility (1)
Recreation facility, private off-site or public (1)
School (1)
Accessory:
Dwelling unit, caretaker (1)
Subordinate commercial uses
RESIDENTIAL
Principal:

2024 FMB Fire Station CPD Use Request
Dwelling unit, multi-family (1)(2)
Dwelling unit, live/work (1)(2)
Timeshare units (1)(2)(3)
Assisted living facility - subject to 34-1415 (1)(3)
Accessory:
Residential accessory uses (1)
LODGING
Principal:
Rental of any permitted dwelling unit to a single family for periods of one day or longer (1)(2)
Hotel/Motel - guest units must comply with LDC Chapter 34, Article IV, Div. 19 (1)(3)
Bed and Breakfast (1)(2)(3)
Accessory:
Subordinate commercial uses (1)
RETAIL:
Principal:
Laundromat (1)
Personal services (1)
Retail store small (1)
Accessory:
ATM (1)
Commercial accessory uses (1)
OFFICE:
Principal:
Health Care facility (1)
Offices, general or medical (1)
Personal services (1)
Wholesale establishment (1)

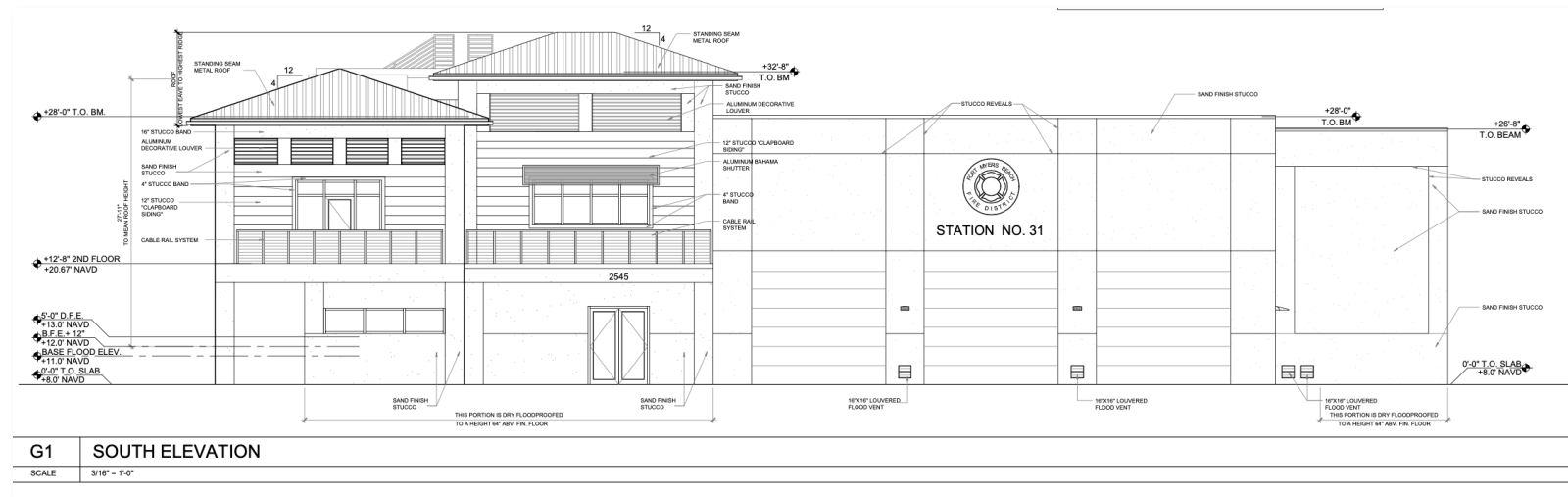
2024 FMB Fire Station CPD Use Request
Accessory:
Administrative office (1)
Home occupation - no outside help (1)
MARINE:
Accessory:
Dock - sole use by occupants of principal use (1)

Footnotes _

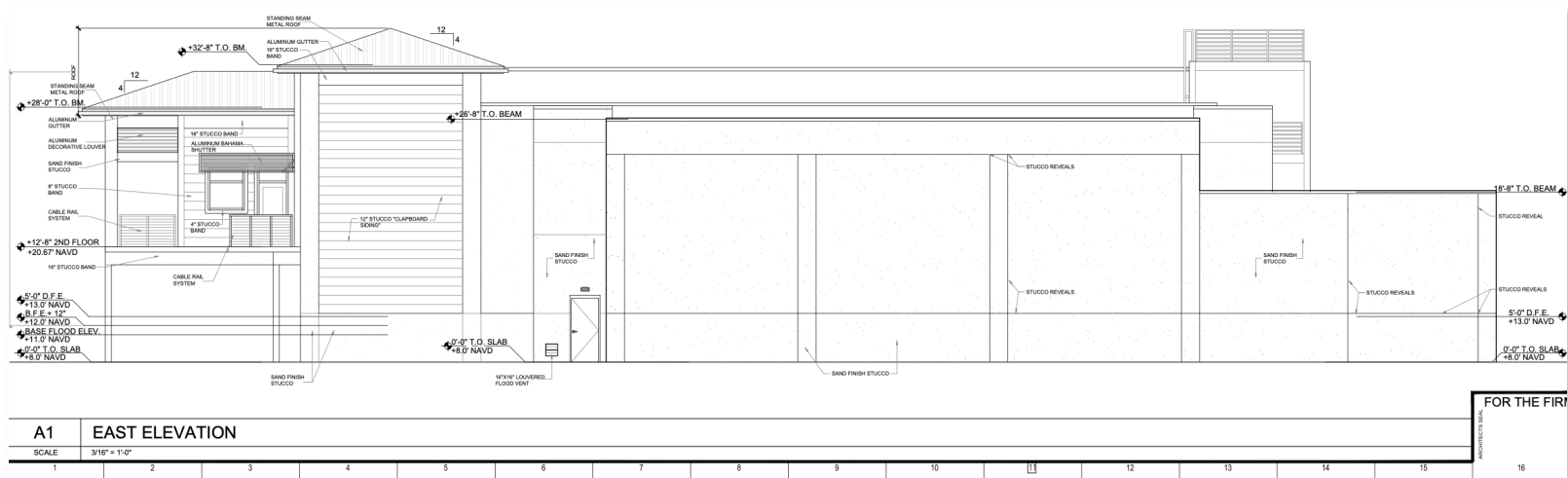
- (1) Permitted only within the site's rear, north Future Phase area.
- (2) Not to exceed 6 units in any combination of uses
- (3) Subject to 34-1803 and 34-1415 density rules.

General Comment _ Deleted RES 08-08 uses are Restaurant, Bar or cocktail lounge, On-premises consumption of alcoholic beverages, Dock use (for water taxi), and Transit terminal. New 2024 uses are Essential service building, Parks, Places of worship, Religious facility, School, Assisted living facility, and Bed and Breakfast.

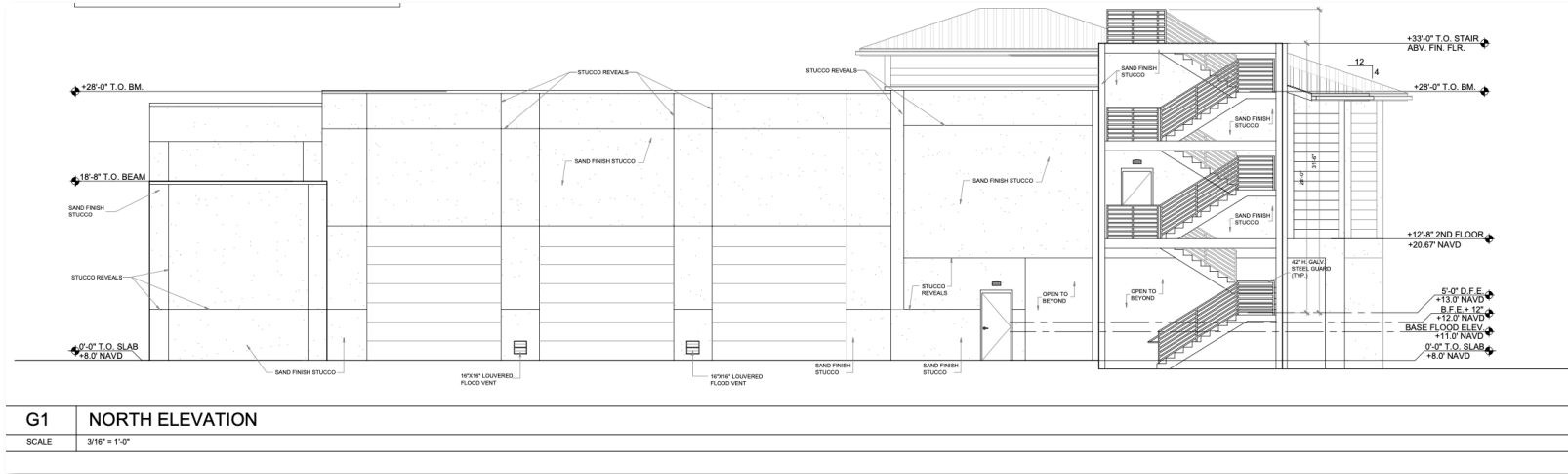
ESTERO BLVD. FACADE ELEVATION



GULF BEACH RD. FACADE ELEVATION



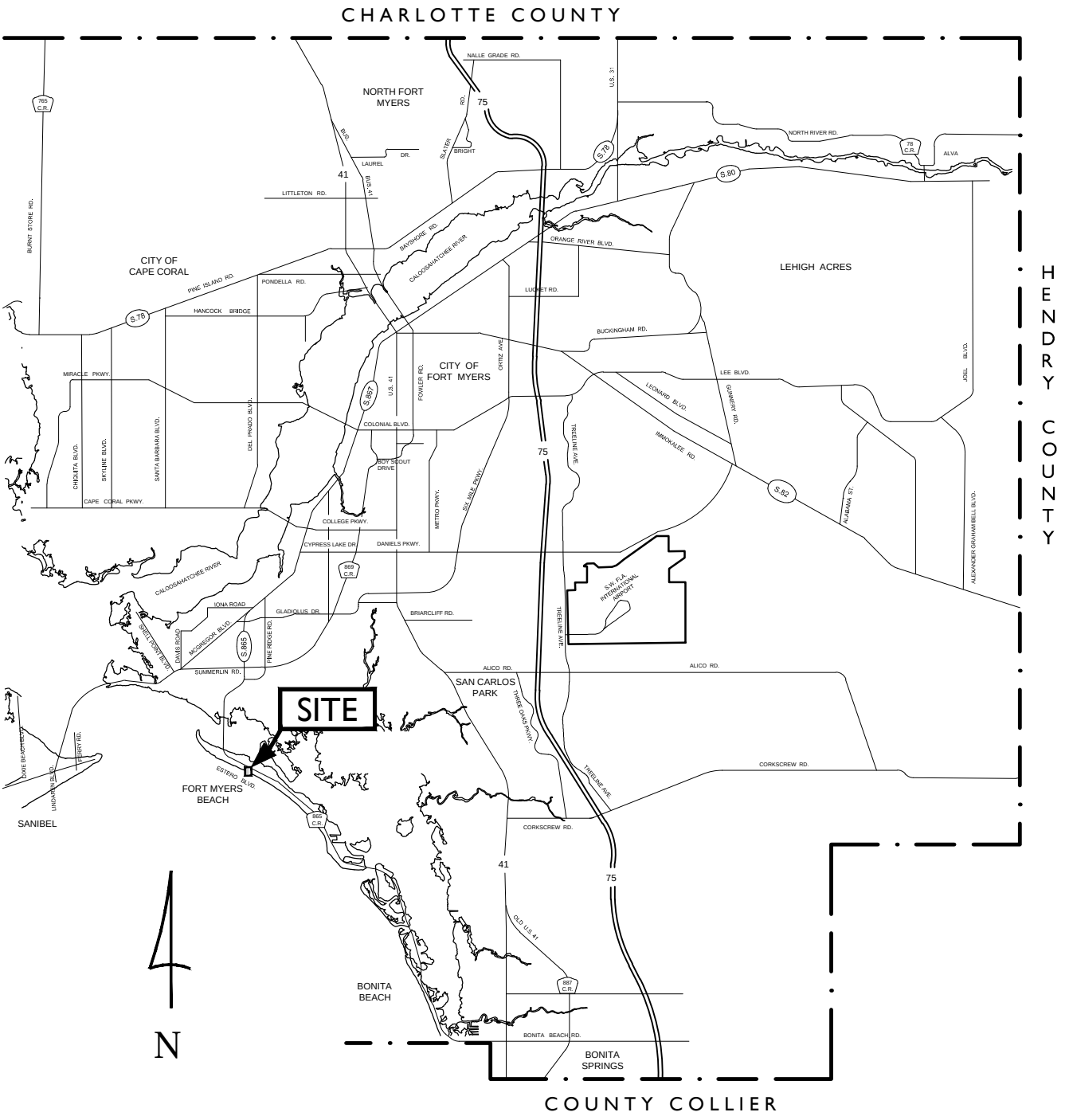
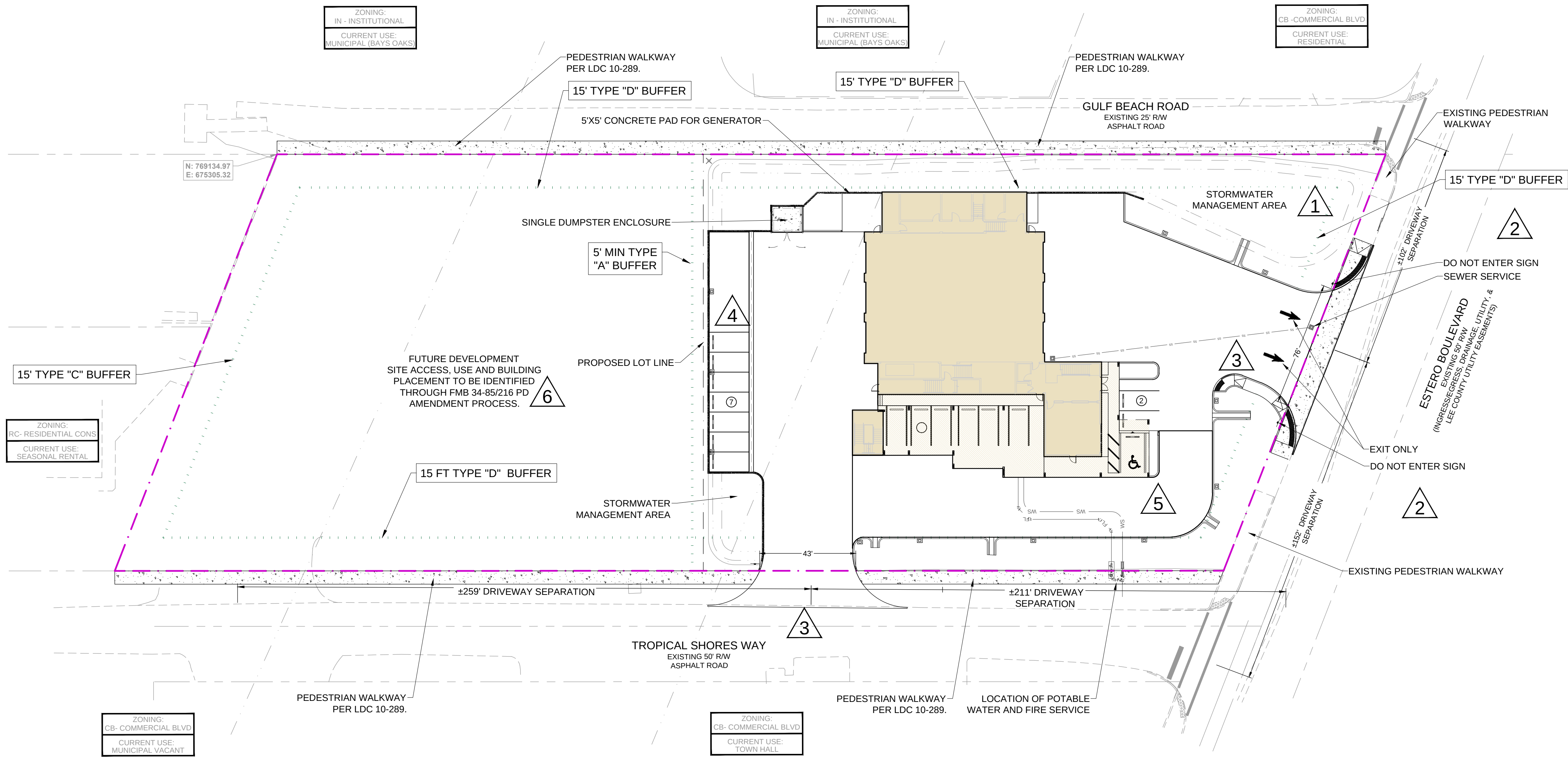
THE NORTH CANAL FACADE ELEVATION



FMB FIRE STATION HEADQUARTERS

LOCATED IN SECTION 19, TOWNSHIP 46 -S, RANGE 24 -E, LEE COUNTY, FLORIDA

ZONING MCP



LOCATION MAP

(NOT TO SCALE)

LAND USE & DEVELOPMENT STANDARD SUMMARY TABLE

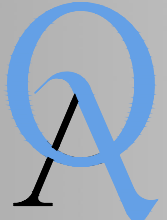
Future Land Use	Boulevard
Zoning	CPD (08-08)
Parcel Number - 2545 Estero Blvd.	194624W3004580000
Parcel Number - 2555 Estero Blvd.	194624W3004580010
Project Site Area	2.16 ac. +/-
* Fire Station Site	1.17 ac. +/-
* North Site Future Phase	0.99 ac. +/-
Project Intensity -	
Fire Station	17,188 sf (1)
Fire Station FAR	33.7%
North Site Future Phase	10,000 sf
North Site Future Phase FAR	23.1%
* Future Phase Residential; or	6 units
* Future Phase Lodging;	15 rooms
Site Development Regulations -	
Min. Lot Area	30,000 sf
Min Lot Width	180 ft
Min Lot Depth	180 ft
Max. FAR	40%
Fire Station Building Height	30 ft/3 stories
Building Setback, Estero Blvd.	25 ft
Building Setback, Gulf Bch. Rd./Tropical Shores Way	15 ft
Building Setback, Rear/Waterbody	15 ft.
Flood Zone	AE13-ft
(1) Fire Station total FAR includes ground level, balcony, ancillary impervious pads and covered entrance at a 34% FAR. The heated and cooled Fire Station 14,800 sf intensity is equal to a 29% FAR.	

- **DEVIATION SCHEDULE:**
- DEVIATION ONE LDC 10-416(D)(3) TYPE D SITE PERIMETER ROW BUFFER STANDARD, THAT REQUIRES A 15-FT LANDSCAPE BUFFER WITH 5 TREES PER 100 LF, A DOUBLE HEDGE AND NO WALL; FOR ESTERO BLVD. TO REQUIRE A 15-FT LANDSCAPE BUFFER WITH A DOUBLE HEDGE AUGMENTED WITH 18 SHRUBS PER 100 LF AND NO WALL.
- DEVIATION TWO LDC 10-285(A) MAJOR STREET ACCESS CONNECTION, THAT REQUIRES A 250-FT CENTERLINE CONNECTION SPACING; TO REQUIRE A 127-FT +/- FIRE STATION DRIVEWAY TO TROPICAL SHORES WAY CONNECTION SEPARATION, AND A 126-FT +/- GULF BEACH ROAD CONNECTION SEPARATION.
- DEVIATION THREE LDC 34-2013(A)(3) PARKING LOT ACCESS AISLE WIDTH, THAT REQUIRES A MAXIMUM 25-FT WIDTH AT THE PROPERTY LINE; TO ALLOW A 76-FT ACCESS AISLE WIDTH AT ESTERO BLVD. AS DEPICTED ON THE MCP, AND A MAXIMUM 43-FT ACCESS AISLE WIDTH AT TROPICAL SHORES WAY AS DEPICTED ON THE MCP.
- DEVIATION FOUR LDC 10-416(C)(2.A) PARKING LOT INTERNAL LANDSCAPING, THAT REQUIRES ONE TREE PLANTED PER 250 SF AND WITH ONE TREE FOR EACH PARKING SPACE PERMEABLE ISLAND; TO REQUIRE NO LANDSCAPED PERMEABLE ISLAND AND TREES FOR THE FIRE STATION'S NORTH ORIENTED PARKING LOT.
- DEVIATION FIVE LDC 10-416(C)(2.C) MIN. AVERAGE WIDTH OF PARKING LOT LANDSCAPING AREA, THAT REQUIRES A MINIMUM AVERAGE DIMINUTION OF 10-FT; TO REQUIRE A MINIMUM AVERAGE DIMENSION OF 5-FT FOR THE FIRE STATION'S ESTERO BLVD. ORIENTED PARKING LOT.
- DEVIATION SIX LDC 34-632(1) THAT REQUIRES COMPUTED DENSITY TO BE ROUND DOWN TO THE NEXT WHOLE NUMBER, WHICH WOULD ALLOW 5.94 UNITS, TO BE ROUNDED UP TO BUT NOT TO EXCEED 6 DWELLING UNITS FOR ANY COMBINATION OF USES FOR THE FUTURE DEVELOPMENT AREA.



P:\2021 Projects\210405 FMB FIRE STATION-PRO-SIGNED-ACTIVE\01-CADD FILES\07-ZONING\210405-ZONING MCP

PLOTTED BY: PAUL
FRI 8-2-2024 10:49 AM
210405-ZONING MCP.DWG



Quattrone & Associates, Inc.
Engineers, Planners, & Development Consultants
4301 Veronica Shoemaker Blvd. | Fort Myers, FL 33916 | 239.936.5222 | QAInc.net

210405-ZONING MCP.DWG



Town of Fort Myers Beach
Community Development Services - Planning Division
2731 Oak St,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM/ 6PM

DATE: LPA September 3rd, 2024 (9AM) 1st Town Council September 23rd, 2024 (6PM) 2nd Town Council October 7th 2024 (9AM)

CASE: CPD20240155

ADDRESS: 2545 and 2555 Estero Blvd

APPLICANT: Fort Myers Beach Fire Department

REQUEST: Requesting a rezoning from CPD (Reso. 08-08) to CPD with a Fire Station

TOWN CONTACT: JUDITH FRANKEL [JFRANKEL@FMBGOV.COM](mailto:jfrankel@fmbgov.com)

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

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



Town of Fort Myers Beach
Community Development Services - Planning Division
2731 Oak St,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM/ 6PM

DATE: LPA September 3rd, 2024 (9AM) 1st Town Council September 23rd, 2024 (6PM) 2nd Town Council October 7th 2024 (9AM)

CASE: CPD20240155

ADDRESS: 2545 and 2555 Estero Blvd

APPLICANT: Fort Myers Beach Fire Department

REQUEST: Requesting a rezoning from CPD (Reso. 08-08) to CPD with a Fire Station

TOWN CONTACT: JUDITH FRANKEL [JFRANKEL@FMBGOV.COM](mailto:jfrankel@fmbgov.com)

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

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



Town of Fort Myers Beach
Community Development Services - Planning Division
2731 Oak St,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM/ 6PM

DATE: LPA September 3rd, 2024 (9AM) 1st Town Council September 23rd, 2024 (6PM) 2nd Town Council October 7th 2024 (9AM)

CASE: CPD20240155

ADDRESS: 2545 and 2555 Estero Blvd

APPLICANT: Fort Myers Beach Fire Department

REQUEST: Requesting a rezoning from CPD (Reso. 08-08) to CPD with a Fire Station

TOWN CONTACT: JUDITH FRANKEL [JFRANKEL@FMBGOV.COM](mailto:jfrankel@fmbgov.com)

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

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



Town of Fort Myers Beach
Community Development Services - Planning Division
2731 Oak St,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM/ 6PM

DATE: LPA September 3rd, 2024 (9AM) 1st Town Council September 23rd, 2024 (6PM) 2nd Town Council October 7th 2024 (9AM)

CASE: CPD20240155

ADDRESS: 2545 and 2555 Estero Blvd

APPLICANT: Fort Myers Beach Fire Department

REQUEST: Requesting a rezoning from CPD (Reso. 08-08) to CPD with a Fire Station

TOWN CONTACT: JUDITH FRANKEL [JFRANKEL@FMBGOV.COM](mailto:jfrankel@fmbgov.com)

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

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

Town of Fort Myers Beach
2731 Oak St,
Fort Myers Beach, FL 33931

Town of Fort Myers Beach
2731 Oak St,
Fort Myers Beach, FL 33931

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

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

Town of Fort Myers Beach
2731 Oak St,
Fort Myers Beach, FL 33931

Town of Fort Myers Beach
2731 Oak St,
Fort Myers Beach, FL 33931

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

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

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

Yellow Sheet Number: **2024-219**

1. Request:

Meeting Date: September 3, 2024

A RESOLUTION VACATING AN UTILITY EASEMENT LOCATED OVER REAL PROPERTY OWNED BY FORT MYERS BEACH ART ASSOCIATION, GENERALLY LOCATED AT 3030 SHELL MOUND BOULEVARD, FORT MYERS BEACH; ACCEPTING AND ACCEPTING AND APPROVING A COMPARABLE REPLACEMENT EASEMENT TO BE LOCATED ON THE SAME REAL PROPERTY, SUBJECT TO TERMS AND CONDITIONS AS CONTAINED IN A SECOND AMENDED AND RESTATED UTILITY EASEMENT AGREEMENT; DIRECTING THE TOWN COUNCIL TO ACCEPT THE SECOND AMENDED AND RESTATED UTILITY EASEMENT AND AGREEMENT; DIRECTING CLERK TO RECORD THIS RESOLUTION; AUTHORIZING THE MAYOR TO SIGN ALL NEEDED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.

Why the action is necessary:

The Town Council approves easement vacations and relocations.

What the action accomplishes:

Vacation of the easement will allow Fort Myers Beach Art Association to develop the site to suit their needs.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution

5. Background:

The subject utility easement crosses the southern third of the property at 3030 Shell Mound Blvd. The property consists of two whole plats and a portion of a third. The easement is located at the boundary between plats. See Exhibit B. The easement is visible on the original plat map dated 1958. In order for the site to be developed, the easement must be vacated. The applicant has shown that this vacation does not adversely impact future Town infrastructure. The Town has reviewed the site, and no Town utilities are located in the easement. Refer to Exhibit E for the letters of no objection from the Town and other utility providers.

Attachments:

1. LPA Memo
2. EXHIBIT. A- Survey
3. EXHIBIT B - Easement Location
4. EXHIBIT C - 1958 Plat Map
5. EXHIBIT D - Current Plat Map
6. EXHIBIT E -Letters of No Objection (LONO)
7. EXHIBIT F - Application
8. EXHIBIT E-Postcards
9. Resolution EXHIBIT B - Relocated easement sketch
10. Resolution EXHIBIT. A- Existing Easement Survey
11. EXHIBIT. A- Survey (1)
12. Final Resolution 24-xxx Vacation of Shell Mound Easement

Financial Impact:

Unknown

6. **Alternative Action**

Deny

7. **Staff Recommendations:**

Find that the request to vacate the utility easement meets the requirements of the comprehensive plan and approve.

8. **Recommended Approval:**

Frankie Kropacek, Operations & Compliance Director

Date: August 28, 2024

nancy stuparich, Town Attorney

Date: August 30, 2024

Amy Baker, Town Clerk

Date: August 30, 2024

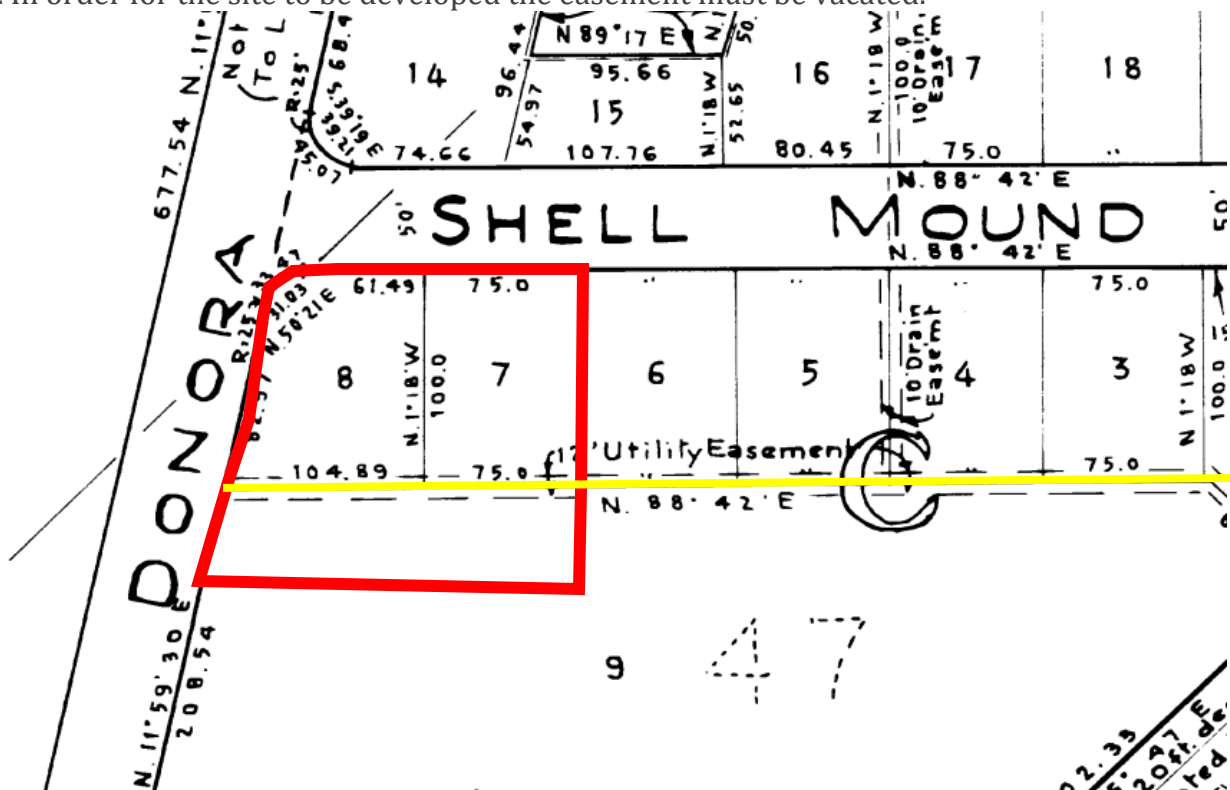


**Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT**

To: Local Planning Agency (LPA)
From: Judith Frankel, AICP,
Date: September 3rd, 2024
Re: VAC20240068, Vacation and Relocation of Utility Easement

BACKGROUND

The subject utility easement crosses the southern third of the property at 3030 Shell Mound Blvd. This property is owned by the Fort Myers Art Association, Inc., which is planning to build a facility for their organization on the site. The property is comprised of two whole plats and a portion of a third. The easement is located at the boundary between plats, as seen in the diagram below. The easement is visible in the original plat map dated 1958 in Exhibit C. In order for the site to be developed the easement must be vacated.



FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2525 Estero Boulevard, Fort Myers Beach, FL 33931



PROPOSED SOLUTION

The current location of the utility easement crosses through the middle of the property of a planned redevelopment of the site by the owners, Fort Myers Beach Art Association. Staff has suggested relocation of the easement to the southern property boundary to maintain the Town's ability to locate future utilities if necessary. The applicant is amenable to this solution and has suggested a 6-foot easement to the Town.

Review Criteria

The applicant has shown that this vacation does not adversely impact utility infrastructure. The Town has reviewed the site, and no Town utilities are located in the easement. Refer to Exhibit E for the letters of no objection from the Town and other utility providers.

Objective 7-I, Policy 7-J-1 of the Comprehensive Plan states that the "Town shall strictly limit vacations of rights-of-way and easements to preserve future access". However, that does not apply in this case as the easement does not allow any public access. The request to vacate the utility easement meets the requirements of the Comprehensive Plan.

Summary

Staff recommends that the LPA recommend approval of the Vacation of Easement with the condition that the property owner provide the Town a minimum 6-foot easement at the southern property boundary. Vacation of the easement will allow Fort Myers Beach Art Association to develop the site to suit their needs.

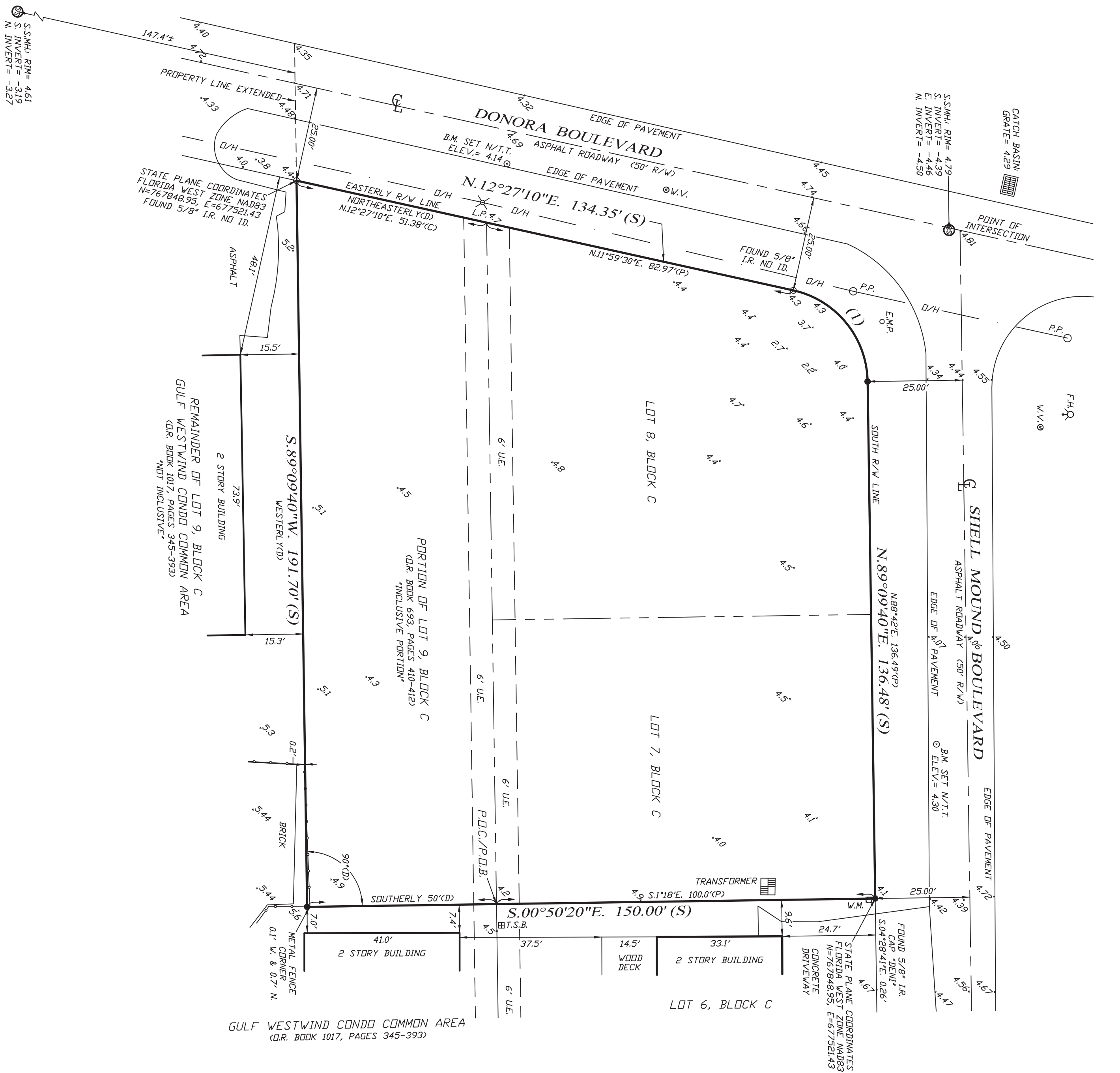
ATTACHMENTS

Exhibit A – Property Survey
Exhibit B – Easement
Exhibit C – 1958 Plat Map
Exhibit D – Current Play Map
Exhibit E – Letters of No Objection
Exhibit F- Application
Exhibit G - Postcards

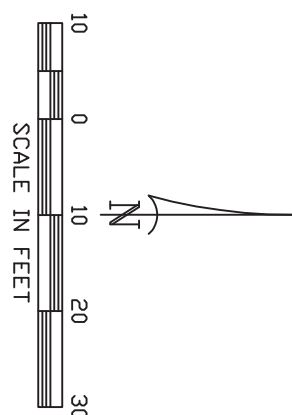
EXHIBIT 6-2

Curve number 1

Radius= 25.00'
Delta= 76°42'30"
Arc= 33.47'
Chord= 31.03'
Chord Brg.= N.50°48'25"E.



BOUNDARY SURVEY OF
LOTS 7, 8 &
A PORTION OF LOT 9, BLOCK C,
ZIMMER'S ADDITION TO
SHELL MOUND PARK,
CITY OF ST. LOUIS, MISSOURI



S.S.M.H.: RIM= 4.66
W. INVERT= -3.73
E. INVERT= -3.84

- LEGEND:
- | | | | |
|------|--------------------------------|---------|-----------------------|
| ● | SET 1/2" IRON ROD (GAP LB692D) | R.W.B. | RECLAIM WATER BOX |
| ○ | FOUND IRON ROD (G2) | W/M | WATER METERS |
| □ | CONCRETE MONUMENT (C.M.) | D/H | DYERHAD PUMP |
| ■ | PERMANENT REFERENCE MONUMENT | P.P. | POWER POLE |
| — | PUBLIC UTILITY EASEMENT | G.A.&A. | GUAY ANCHOR & WIRE |
| D.E. | DRAINAGE EASEMENT | T.S.B. | TELEPHONE SERVICE BOX |
| P.R. | POINT OF CURVATURE | N/D | NAIL & DISK |
| P.C. | AS PER SURVEY | N/L/T | NAIL & DINTAB |
| (P) | AS PER PLAT | N/L/T | NAIL & DINTAB |
| (P) | AS PER DEED | B.E.A. | BENJAMIN |
| (C) | COMPUTED | Ø | TYPICAL ELEVATION |
| (C) | CURVE NUMBER | A.C. | AIR CONDITIONER |
| L1 | LINE NUMBER | W.S. | WATER SYSTEM |
| R/W | RIGHT-OF-WAY | P.E. | POLL. EQUIPMENT |
| & | CENTERLINE | CMP | CORRUGATED METAL PIPE |
| S.H. | SANITARY SEWER MANHOLE | — | CONCRETE |
| F.H. | FIRE HYDRANT | — | ARROW |
| V.P. | VALVE | E.M.P. | ELECTRIC METAL POLE |
| L | LIGHT POLE | P.D.C. | POINT OF COMMENCEMENT |
| | | P.O.B. | POINT OF BEGINNING |

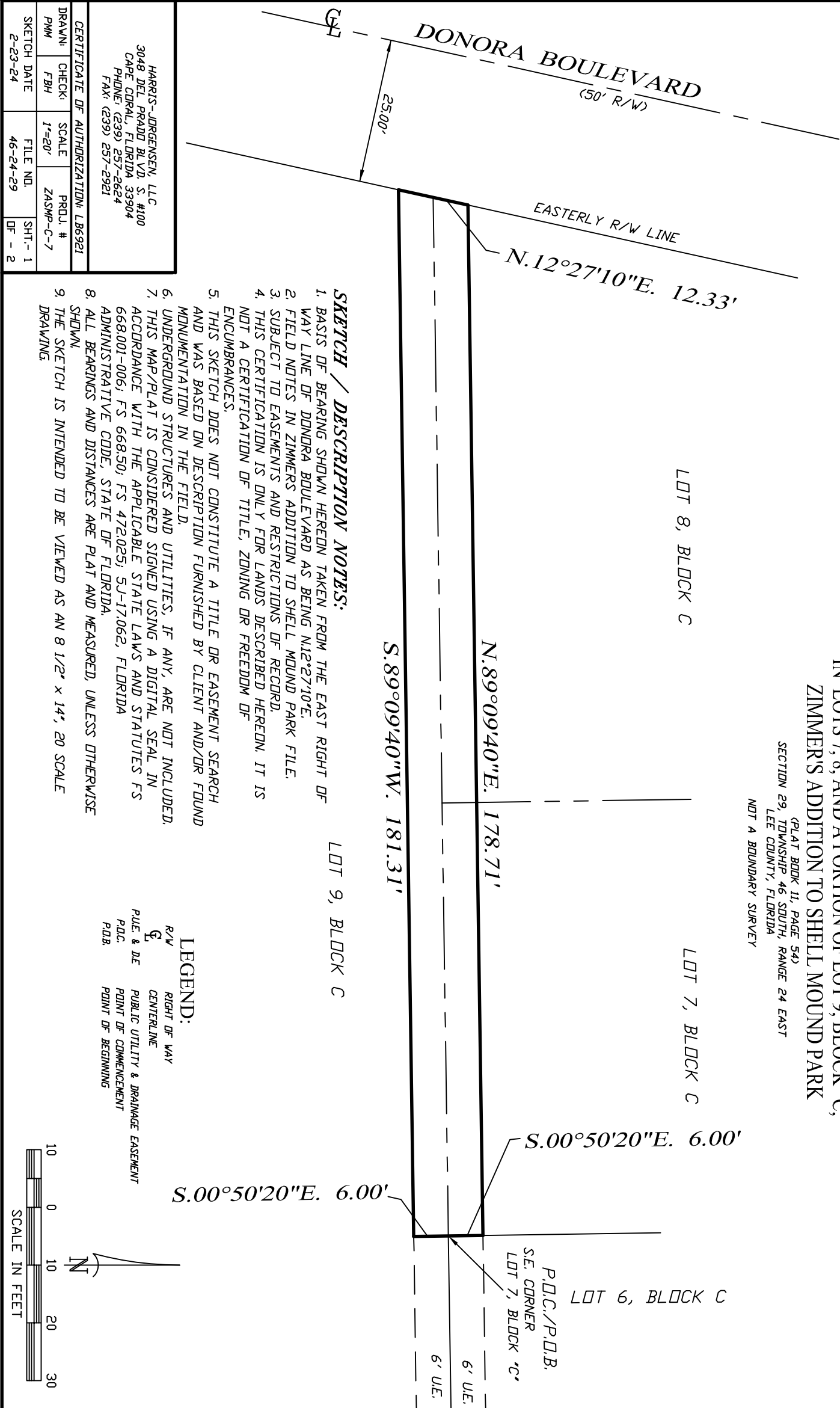
SURVEY NOTES:

1. BASIS OF BEARING SHOWN HEREIN TAKEN FROM THE SOUTH RIGHT-OF-WAY
LINE OF SHELL MOUND BOULEVARD, AS BEING 1839-09-40'E.
2. FIELD NOTES IN ZIMMER'S ADDITION TO SHELL MOUND PARK.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREIN. IF IT IS NOT A
CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SURVEY DOES NOT CONSTITUTE A TITLE OR EASEMENT SURVEY AND WAS
BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MENTEMATTATION
IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/PLAT IS CONSIDERED SIGNED USING A DIGITAL SEAL IN ACCORDANCE
WITH THE APPLICABLE STATE LAWS AND STATUTES (FS 668.001-006; FS 668.30-
FS 472.020; 51-172062, FLORIDA ADMINISTRATIVE CODE, STATE OF FLORIDA,
ALL OTHERS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
8. ISSUANCE OF THIS DRAWING, FROM THIS FIRM SHALL NOT RELIEVE THE BUILDER
AND/OR CONTRACTORS OF THE RESPONSIBILITY TO REVIEW AND VERIFY ALL NOTES,
DIMENSIONS, ELEVATIONS, AND ADHERENCE TO APPLICABLE BUILDING CODES PRIOR TO
COMMENCEMENT OF ANY CONSTRUCTION. BUILDER MAY NEED TO ADJUST ELEVATION
AND/OR SETBACKS PRIOR TO CONSTRUCTION IF OTHER RESTRICTIONS EXIST (OR APP.Y,
10. THIS SURVEY IS INTENDED TO BE VIEWED AS AN 18x24, 20 SCALE DRAWING.
11. SITE BENCHMARK DERIVED FROM NATIONAL DATUM OF 1988 (NAVD 1988).
12. SITE BENCHMARK DESIGNATION 872 5366 F (NAVD 1988) (GCSITC SURVEY 08G5)
BENCHMARK DESIGNATION 872 5366 F (NAVD 1988) (GCSITC SURVEY 08G5)
BENCHMARK DESIGNATION 872 5366 F (NAVD 1988)
FLOOD ZONE: "4" ELEVATION 11' NAVD 1988
COMMUNITY No. 126073 PANEL No. 0558
SUFFIX --- G REVISION DATE: 11/17/2022
MAP NUMBER 1207105586
THIS SURVEY IS ENGINEERED TO:
MAASTRCHT ENGINEERING, INC.

REVISED:	DESCRIPTION:	B/V:	Phillip M Mould, LS6515, State of Florida 12/27/19 05:00
DATE OF LAST FIELD WORK:	11/29/23		
DBAHN	CHECK:	SCALE	PROD. #
RBN	PMW	1"=20'	ZASNP-C-7
SURVEY DATE	FILE NO.	SHT. - 1	
11/29/23	46-24-29	DF - 1	
PHILLIP M. MOULD PROFESSIONAL SURVEYOR AND MAPPER LS6515 - STATE OF FLORIDA			
HARRIS-JENSEN, LLC 3048 E. PRADO BLVD S., SUITE 100 CAPE CORRAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921			

(SEE SHEET 2 OF 2 EXHIBIT F FOR DESCRIPTION TO ACCOMPANY THIS SKETCH)

SKETCH TO ACCOMPANY DESCRIPTION (PROPOSED)
VACATION OF A UTILITY EASEMENT
IN LOTS 7, 8, AND A PORTION OF LOT 9, BLOCK "C,"
ZIMMER'S ADDITION TO SHELL MOUND PARK
(PLAT BOOK 11, PAGE 54)
SECTION 29, TOWNSHIP 46 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
NOT A BOUNDARY SURVEY

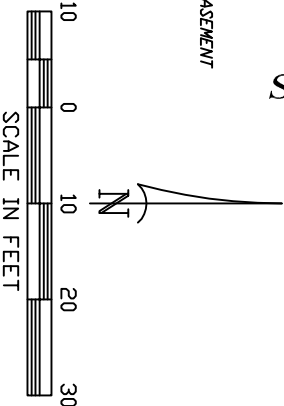


SKETCH / DESCRIPTION NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE EAST RIGHT OF WAY LINE OF DONORA BOULEVARD AS BEING N.12°27'10"E.
2. FIELD NOTES IN ZIMMERS ADDITION TO SHELL MOUND PARK FILE.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/PLAT IS CONSIDERED SIGNED USING A DIGITAL SEAL IN ACCORDANCE WITH THE APPLICABLE STATE LAWS AND STATUTES FS 668.001-006; FS 668.50; FS 472.025; SJ-17.062, FLORIDA ADMINISTRATIVE CODE, STATE OF FLORIDA.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. THE SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2" x 14", 20 SCALE DRAWING.

LEGEND:

- R/W RIGHT OF WAY
E CENTERLINE
P.U.E. & D.E. PUBLIC UTILITY & DRAINAGE EASEMENT
P.D.C. POINT OF COMMENCEMENT
P.D.B. POINT OF BEGINNING



HARRIS-JORGENSEN, LLC 3048 DEL PRADO BLVD., S. #100 CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921				
CERTIFICATE OF AUTHORIZATION: LB6921				
DRAWN: PJM	CHECK: FBH	SCALE: 1"=20'	PROJ. #: ZASMP-C-7	
SKETCH DATE: 2-23-24	FILE NO.:	46-24-29	SHT.- 1 OF - 2	

(SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY DESCRIPTION)

**VACATION OF A UTILITY EASEMENT
IN LOTS 7, 8, AND A PORTION OF LOT 9, BLOCK "C,"
ZIMMER'S ADDITION TO SHELL MOUND PARK**

(PLAT BOOK 11, PAGE 54)
SECTION 29, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
LEE COUNTY, FLORIDA

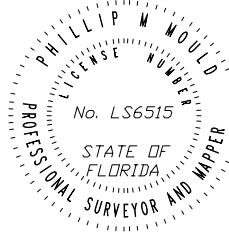
NOT A BOUNDARY SURVEY

DESCRIPTION:

A PLOT OR PORTION OF LAND LYING IN LOT 7, LOT 8, AND A PORTION OF LOT 9, BLOCK "C," ZIMMER'S ADDITION TO SHELL MOUND PARK, AS RECORDED IN PLAT BOOK 11, PAGE 54, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID PLOT OR PORTION OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 7, BLOCK "C," FOR A POINT OF BEGINNING; THENCE RUN S.00°50'20"E. FOR 6.00 FEET; THENCE RUN S.89°09'40"W. TO A POINT ALONG THE EAST RIGHT OF WAY LINE OF DONORA BOULEVARD (50 FEET WIDE) FOR 181.31 FEET; THENCE RUN N.12°27'10"E. ALONG SAID EAST RIGHT OF WAY LINE FOR 12.33 FEET; THENCE RUN N.89°09'40"E. TO A POINT ALONG THE EAST LINE OF SAID LOT 7, BLOCK "C," FOR 178.71 FEET; THENCE RUN S.00°50'20"E. TO SAID SOUTHEAST CORNER OF LOT 7, BLOCK "C," FOR 6.00 FEET, TO THE POINT OF BEGINNING.

CONTAINING: 2158.68 SQUARE FEET, MORE OR LESS.

		Phillip Mould 2024.02.23 13:11:50 -05'00"	
PHILLIP M. MOULD PROFESSIONAL SURVEYOR AND MAPPER LS6515 - STATE OF FLORIDA			
HARRIS-JORGENSEN, LLC 3048 DEL PRADO BLVD. S. #100 CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921			
DRAWN:	CHECK:	PROJ. #	
PMM	FBH	ZASMP-C-7	
SKETCH DATE:		FILE NO.	SHT.-2
2-23-24		46-24-29	OF - 2

ZIMMER'S ADDITION TO SHELL MOUND PARK

A SUBDIVISION OF PART OF LOTS 45 & 47 CASE'S SUBDIVISION

(According to plat recorded in Plat Book 1 at page 58) *

SECTION 29 T. 46 S., R. 24 E.

ESTERO ISLAND, LEE COUNTY, FLORIDA.

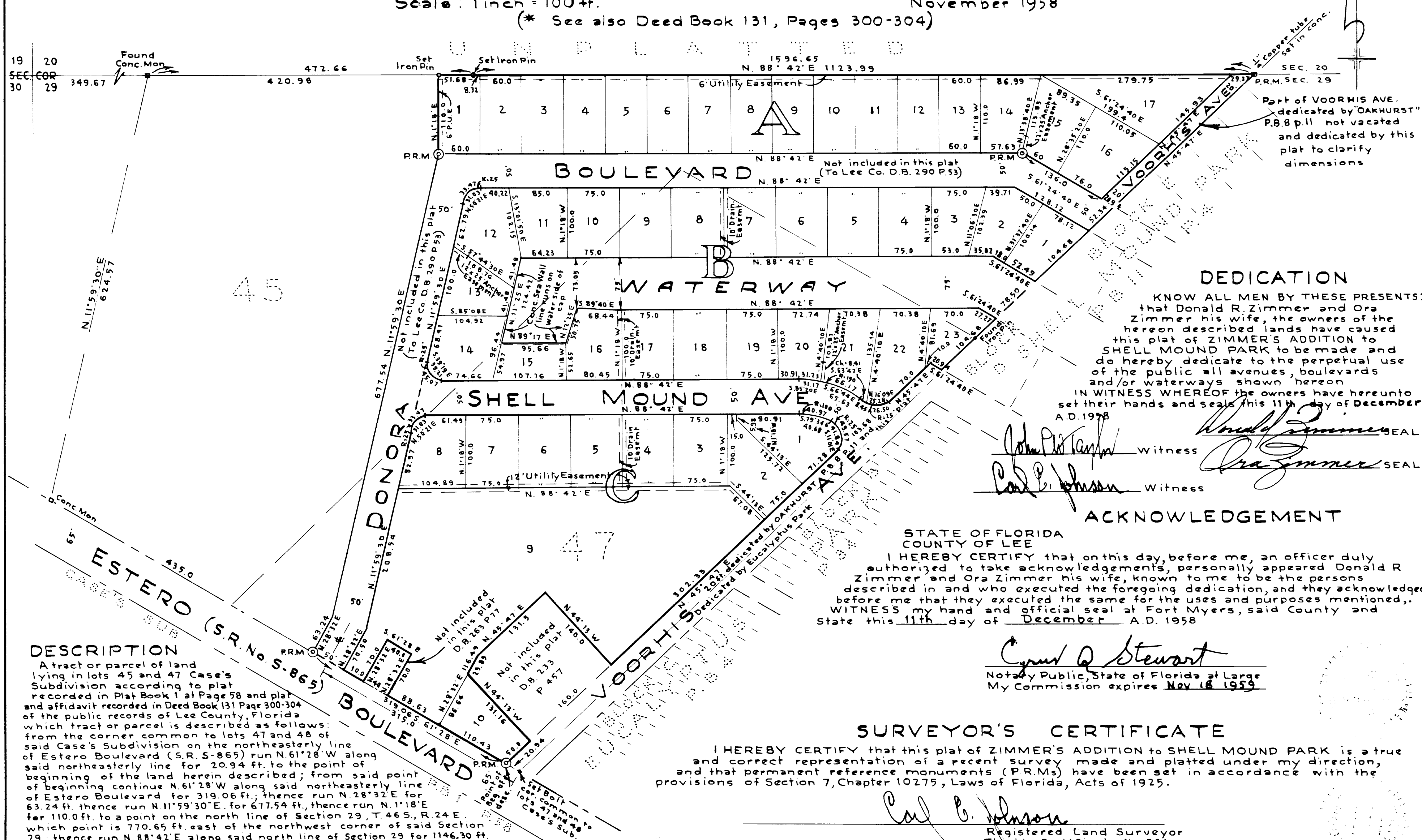
Scale: 1 inch = 100 ft.

November 1958

(* See also Deed Book 131, Pages 300-304)

NOTES

P.R.M.s are 4"x4"x24" Concrete Monuments or 4" x 4" x 60" Concrete Posts, except where otherwise noted. Bearings are calculated from assumed North. South bearing on Sec. Line between Sec. 29 & 30. Both chord and arc distances are shown on curved lines, with chord bearings.



DEDICATION

KNOW ALL MEN BY THESE PRESENTS: that Donald R. Zimmer and Ora Zimmer his wife, the owners of the hereon described lands have caused this plat of ZIMMER'S ADDITION to SHELL MOUND PARK to be made and do hereby dedicate to the perpetual use of the public all avenues, boulevards and/or waterways shown hereon. IN WITNESS WHEREOF the owners have hereunto set their hands and seals this 11th day of December A.D. 1958.

Donald R. Zimmer SEAL
Witness *Ora Zimmer* SEAL
Witness *Carl E. Johnson*

ACKNOWLEDGEMENT

STATE OF FLORIDA
COUNTY OF LEE
I HEREBY CERTIFY that on this day, before me, an officer duly authorized to take acknowledgements, personally appeared Donald R. Zimmer and Ora Zimmer his wife, known to me to be the persons described in and who executed the foregoing dedication, and they acknowledged before me that they executed the same for the uses and purposes mentioned. WITNESS my hand and official seal at Fort Myers, said County and State this 11th day of December A.D. 1958.

Cyril Q. Stewart
Notary Public, State of Florida at Large
My Commission expires Nov 18 1959

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY that this plat of ZIMMER'S ADDITION to SHELL MOUND PARK is a true and correct representation of a recent survey made and platted under my direction, and that permanent reference monuments (P.R.M.s) have been set in accordance with the provisions of Section 7, Chapter 10275, Laws of Florida, Acts of 1925.

Carl E. Johnson
Registered Land Surveyor
Florida Certificate No. 351

APPROVALS

This plat accepted this 17th day of December A.D. 1958 in open meeting of the Board of County Commissioners of Lee County, Florida.

D.J. Farabee Clerk
William C. Pitt Chairman
Tacey A. Bause Co. Road Supt

I HEREBY CERTIFY that this plat of ZIMMER'S ADDITION to SHELL MOUND PARK has been examined by me and from my examination I find that said plat complies in form with the requirements of Chapter 10275 Laws of Florida, Acts of 1925. I FURTHER CERTIFY that said plat was filed for record at 3:30 P.M. this 23rd day of January A.D. 1959 and was duly recorded in Plat Book 11 at Page 54 of the public records of Lee County, Florida.

D.J. Farabee
Clerk of the Circuit Court in and for Lee County, Florida

DESCRIPTION

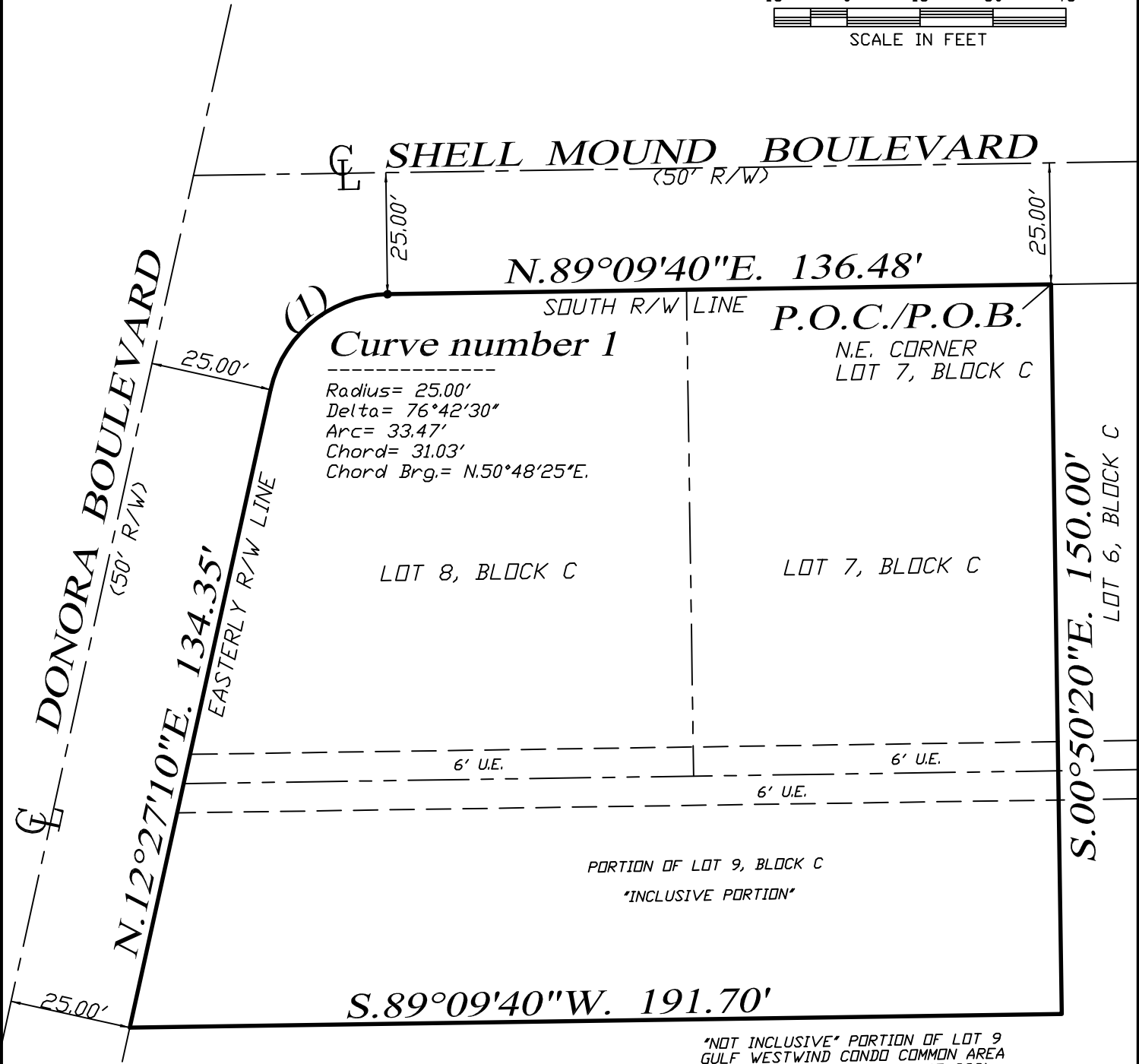
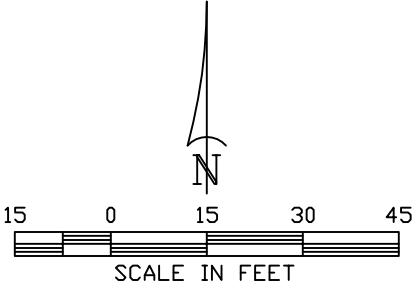
A tract or parcel of land lying in lots 45 and 47 Case's Subdivision according to plat recorded in Plat Book 1 at Page 58 and plat and affidavit recorded in Deed Book 131 Page 300-304 of the public records of Lee County, Florida which tract or parcel is described as follows: from the corner common to lots 47 and 48 of said Case's Subdivision on the northeasterly line of Estero Boulevard (S.R. S-865) run N. 61° 28' W. along said northeasterly line for 20.94 ft. to the point of beginning of the land herein described; from said point of beginning continue N. 61° 28' W. along said northeasterly line of Estero Boulevard for 319.06 ft.; thence run N. 28° 32' E. for 63.24 ft. thence run N. 11° 59' 30" E. for 677.54 ft. thence run N. 1° 18' E. for 110.0 ft. to a point on the north line of Section 29, T. 46 S., R. 24 E. which point is 770.65 ft. east of the northwest corner of said Section 29, thence run N. 88° 42' E. along said north line of Section 29 for 1146.30 ft. thence run S. 45° 47' W. for 1443.57 ft. along the northwesterly line of Voorhis Ave. as shown on the plat of Oakhurst recorded in Plat Book 8 at Page 11 of said public records; to the point of beginning. ALSO All of said Voorhis Ave. subject to the dedication by said plat of Oakhurst of that part not vacated by order of the Lee County Commissioners, recorded in Misc. Book 49 at Page 513 EXCEPTING Donora Boulevard as deeded to Lee County by deed recorded in Deed Book 290 at Page 53. EXCEPTING parcel deeded by deed recorded in Deed Book 263 at Page 77 EXCEPTING parcel deeded by deed recorded in Deed Book 233 at Page 457.

SKETCH TO ACCOMPANY DESCRIPTION
A PORTION OF LOT 9, AND ALL OF LOTS 7 AND LOT 8, BLOCK "C,"
ZIMMER'S ADDITION TO SHELL MOUND PARK

(PLAT BOOK 11, PAGE 54)
SECTION 29, TOWNSHIP 46 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

NOT A BOUNDARY SURVEY

LEGEND:
R/W RIGHT OF WAY
CL CENTERLINE
U.E. UTILITY EASEMENT
P.O.C. POINT OF COMMENCEMENT
P.O.B. POINT OF BEGINNING



SKETCH / DESCRIPTION NOTES:

1. BASIS OF BEARING SHOWN HEREDON TAKEN FROM THE EAST RIGHT OF WAY LINE OF DONORA BOULEVARD AS BEING N.12°27'10"E.
2. FIELD NOTES IN ZIMMERS ADDITION TO SHELL MOUND PARK FILE.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREDON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/PLAT IS CONSIDERED SIGNED USING A DIGITAL SEAL IN ACCORDANCE WITH THE APPLICABLE STATE LAWS AND STATUTES FS 668.001-006; FS 668.50; FS 472.025; 5J-17.062, FLORIDA ADMINISTRATIVE CODE, STATE OF FLORIDA.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. THE SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2" x 14", 30 SCALE DRAWING.

NOT INCLUSIVE PORTION OF LOT 9
GULF WESTWIND CONDO COMMON AREA
(O.R. BOOK 1017, PAGES 345-393)

HARRIS-JORGENSEN, LLC 3048 DEL PRADO BLVD. S. #100 CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921			
CERTIFICATE OF AUTHORIZATION: LB6921			
DRAWN: PMM	CHECK: FBH	SCALE 1"=30'	PROJ. # ZASMP-C-7
SKETCH DATE 2-23-24		FILE NO. 46-24-29	SHT.- 1 OF - 2

EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH

(SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY DESCRIPTION)

A PORTION OF LOT 9, AND ALL OF LOTS 7 AND LOT 8, BLOCK "C," ZIMMER'S ADDITION TO SHELL MOUND PARK

(PLAT BOOK 11, PAGE 54)

SECTION 29, TOWNSHIP 46 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

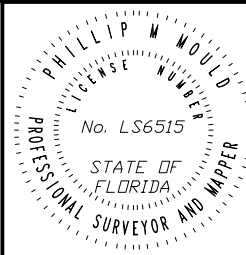
NOT A BOUNDARY SURVEY

DESCRIPTION:

A PLOT OR PARCEL OF LAND BEING A PORTION OF LOT 9, AND ALL OF LOT 7, AND LOT 8, BLOCK "C," ZIMMER'S ADDITION TO SHELL MOUND PARK, AS RECORDED IN PLAT BOOK 11, PAGE 54, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID PLOT OR PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 7, BLOCK "C," FOR A POINT OF BEGINNING; THENCE RUN S.00°50'20"E. FOR 150.00 FEET; THENCE RUN S.89°09'40"W. TO A POINT ALONG THE EAST RIGHT OF WAY LINE OF DONORA BOULEVARD (50 FEET WIDE) FOR 191.70 FEET; THENCE RUN N.12°27'10"E. ALONG SAID EAST RIGHT OF WAY LINE TO A POINT OF CURVATURE FOR 134.35 FEET; THENCE RUN ALONG THE ARC OF A CURVE TO THE RIGHT FOR 33.47 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 25.00 FEET, A CENTRAL DELTA ANGLE OF 76°42'30", A CHORD THAT BEARS N.50°48'25"E., AND A CHORD DISTANCE OF 31.03 FEET; THENCE RUN N.89°09'40"E. ALONG THE SOUTH RIGHT OF WAY LINE OF SHELL MOUND BOULEVARD (50 FEET WIDE) TO THE AFORESAID NORTHEAST CORNER OF LOT 7, BLOCK "C," FOR 136.48 FEET, TO THE POINT OF BEGINNING.

CONTAINING: 25941.41 SQUARE FEET, MORE OR LESS.

		Phillip Mould 2024.02.23 14:14:17 -05'00'	
PHILLIP M. MOULD PROFESSIONAL SURVEYOR AND MAPPER LS6515 - STATE OF FLORIDA			
HARRIS-JORGENSEN, LLC 3048 DEL PRADO BLVD. S. #100 CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921			
DRAWN: PMM	CHECK: FBH	PROJ. # ZASMP-C-7	
SKETCH DATE: 2-23-24		FILE NO. 46-24-29	SHT.-2 OF - 2



CenturyLink

2/6/2024

Aaron Spence

P860262

No Reservations/No Objection

SUBJECT: Vacation request for a portion of a platted utility easement, as shown on Lots 7, 8 & 9, Block C, of Zimmers Addition to Shell Mound Park, as recorded in Plat Book 11, Page 54, in Lee County, Florida.

To Whom It May Concern:

CenturyLink of Florida, Inc. d/b/a CENTURYLINK ("CenturyLink") has reviewed the request for the subject vacation and has determined that it has no objections with respect to the areas proposed for vacation as shown and/or described on Exhibit "A-1" and "A-2", said Exhibits attached hereto and incorporated by this reference.

It is the intent and understanding of CenturyLink that this Vacation shall not reduce our rights to any other existing easement or rights we have on this site or in the area.

This vacation response is submitted WITH THE STIPULATION that if CenturyLink facilities are found and/or damaged within the vacated area as described, the Applicant will bear the cost of relocation and repair of said facilities.

If you have any questions please contact Jerry Peacock at 850-933-8440 or jerry.a.peacock@lumen.com.

Sincerely yours,

CenturyLink Right of Way Team



February 7th, 2024

Attn: Mr. Spence

RE- Letter of No Objection- Easement Release Fort Myers Beach Art Gallery

Dear Mr. Spence,

Thank you for contacting Comcast regarding your request to vacate the easement. This is to inform you that Comcast does not have facilities within the site's development area. We currently have no objection to your plans at this location.

If you have any further question or concerns, please do not hesitate to contact me at (574) 808-8943.

Sincerely,

Christopher Plank
Construction Manager SWFL

12600 Westlinks Dr. Suite #4
Fort Myers, FL 33913
574-808-8943
Christopher.Plank@Comcast.com



15834 Winkler Rd
Fort Myers, Florida 33908

29th January, 2024

Re: No Objection Letter ~ Fort Myers Beach Art Gallery

Mr. Spence,

Florida Power and Light Company has reviewed your proposed construction on the property located at 3030 Shell Mound Blvd, Lee County, and has no objection to the construction at this location. This "no objection" is provided with the stipulation that any FPL facilities within easements at this property retain all rights.

If you have any questions regarding this matter, please contact me at 239-634-8057.

Sincerely,

A handwritten signature in black ink that reads "Drayton L. Diggs". The signature is written in a cursive, flowing style.

Drayton Diggs
FPL Distribution Engineer

Carmine Marceno
Sheriff



"Proud to Serve"

State of Florida
County of Lee

June 19, 2024

Aaron Spence
Maastricht Engineering, Inc.
7370 College Pkwy., Suite 211
Fort Myers, FL 33907

Mr. Spence,

The Lee County Sheriff's Office has reviewed your request to vacate a 12-foot utilities easement located at 3030 Shell Mound Blvd. on Fort Myers Beach, and we have no objection to the request and planned construction at this location. This proposed change will not impact the ability of this Agency to provide services in the Fort Myers Beach community.

Respectfully,

A handwritten signature in black ink that reads "Stan Nelson".

Stan Nelson
Director, Planning & Research



"The Lee County Sheriff's Office is an Equal Opportunity Employer"
14750 Six Mile Cypress Parkway • Fort Myers, Florida 33912-4406 • (239) 477-1000



Fort Myers Beach Fire Control District

Life Safety Branch

100 Voorhis Street · Fort Myers Beach, Florida 33931

Phone (239) 590-4210 • Email: prevention@fmbfirefl.gov

June 11, 2024

Mr. Aaron Spence, Civil Designer
Maastricht Engineering, Inc.
7370 College Parkway, Suite 211
Fort Myers Beach, FL 33907
aaron@maastricht-eng.com

RE: Request for Letter of No Objection for Vacation of a 12' Utility Easement at
3030 Shell Mound Blvd

Mr. Spence:

This letter is in response to your request for a letter of no objection regarding the proposed easement vacation at 3030 Shell Mound Blvd. The easement identified on the provided documents appear to be as follows:

1. **An easement that runs along the southern 3rd of the site, located at 3030 Shell Mound Blvd, Fort Myers Beach Art Gallery.**

The proposed vacation shall not obstruct fire department and/or emergency access to any on-site structure(s) or areas of gathering. No objection with the understanding of the provided comment.

Approvals are based on information provided for review. If you should require any other assistance please contact our office.

Yours in Fire Safety,

Jennifer Campbell, Fire Official
Fort Myers Beach Fire District
Life Safety

Shaping Our Community Through Excellence

www.fmbfirefl.gov



FMBgov.com

Dan Allers, Mayor | Jim Atterholt, Vice Mayor | John R. King, Council Member | Karen Woodson, Council Member | [Scott Safford](#), Council Member

Sarah Propst, AICP, PMP

Sr. Planner/Project Manager
Town of Fort Myers Beach
2731 Oak St
Fort Myers Beach, FL. 33931

Date: August 27, 2024

Subject: Letter of No Objection

Sarah:

This letter is to confirm that The Town of Ft Myers Beach does not have any utilities in the 12' utility easement that runs along the southern 3rd of the site, located at 3030 Shell Mound BLVD, Fort Myers Beach, FL 33931. We have no objections to the vacation of the easement.

Thanks,



Mark Ashton
Utilities

Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers Beach, FL. 33931
Phone (239) 560-2081

FMBgov.com



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

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

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak St, Fort Myers Beach, FL 33931



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Site Address: 3030 Shell Mound Blvd, Fort Myers Beach, FL 33931

STRAP Number: 29-46-24-W1-0120C.0070

Applicant: Fort Myers Beach Art Association, Inc. Phone: 860-331-7142

Contact Name: Stephen Eaton Phone: 860-331-7142

Email: stepheneaton1948@gmail.com Fax: _____

Current Zoning District: Institutional

Future Land Use Map (FLUM) Category: Mixed Residential

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*: Maastricht Engineering, INC. Phone: 239-362-1605

**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: 7370 College Parkway, Suite 211, Fort Myers, FL 33907

Email: petem@maastricht-eng.com Fax: _____

Contact Name: Peter Maastricht, P.E. Phone: 239-362-1605



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: Maastricht Engineering, INC. Phone: 239-362-1605
Address: 7370 College Parkway, Suite 211, Fort Myers, FL, 33907
Email: petem@maastricht-eng.com Fax: _____

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

Name: Fort Myers Beach Art Association, Inc. Phone: 860-331-7142
Address: P.O. Box 2359, Fort Myers Beach, FL 33932
Email: stepheneaton1948@gmail.com Fax: _____

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

PART II – Nature of Request

Requested Action (each request requires a separate application)

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☒ Vacation ☐ Right-of-Way ☒ Easement

☐ Other. Please Explain: _____

PART III – Waivers

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

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

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

Signature

Printed Name

STATE OF _____ COUNTY OF _____

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

presence OR ____ online notarization, this ____ day of _____, 20____, by

_____, ☐ who is personally known to me OR ☐ who has produced

_____ as identification.

(SEAL)

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

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

Name, Address and Office

JOAN ZOELLI, PRES., 14868 Crescent Cove Dr, Ft Myers, FL 33908

Percentage of Stock

non stock corporation

STEPHEN EATON, TRES., 8291 Grand Palm Dr #1, Ft Myers, FL 33926

non stock corporation

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.

Stephen Eaton

Signature

Stephen Eaton

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, Peter Maastricht, P.E. (name), as President (title)
of Maastricht Engineering, INC. (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

Fort Myers Beach Art Association, Inc.

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

Stephen Eaton

Signature

Stephen Eaton

Typed or Printed Name

TREASURER

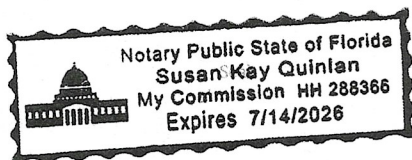
Title

2/29/2024

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 29 day of February, 2024, by Stephen Eaton ☒ who is personally known to me OR ☐ who has produced _____ as identification.



Susan Kay Quinlan
Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 29-46-24-W1-0120C.0070

Property Address: 3030 Shell Mound 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: Case's Subdivision Lots 45 & 47

Book: 11 Page: 54 Unit: _____ Block: 0120C Lot(s): 0070

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) 172.4 feet
Depth (please provide an average width if irregular in shape) 151.0 feet
Frontage on street: 304.3 feet. Frontage on waterbody: N.A. feet
Total land area: 0.597 ☒ acres ☐ square feet

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

Heading South on San Carlos Boulevard after passing over the Sky Bridge
into Fort Myers Beach, turn left onto Estero Boulevard. Continue East for 1.3 Miles
and make a left onto Donora Boulevard. Continue for about 0.1 Miles and the
property, 3030 Shell mound Boulevard will be on your right.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

SUPPLEMENT -PH-G

Petition for Vacation of Platted Rights-of-Way and Easements

This is the second part of a two part application. Please be sure to include the Administrative Action Application, which requires general information, with this supplemental form requiring specific information regarding a **Vacation of a Right-of-Way or Easement**. Please submit *two paper copies* and *one digital/electronic copy* of all required applications, supplemental information, exhibits and documents.

Fees: \$1000.00

Type of Vacation: ☒ Right-of-Way (Form A) ☐ Easement (Form B)
☐ Plat- no ROW

Site Address: 3030 Shell Mound Blvd, Fort Myers Beach, FL 33931

STRAP Number(s): 29-46-24-W1-0120C.0070

Petitioner: Fort Myers Beach Art Association, Inc. Phone: 860-331-7142

Authorized Agent: Stephen Eaton Phone: 860-331-7142

Petitioner/Agent Address: P.O. Box 2359, Fort Myers Beach, FL 33932

Email: stepheneaton1948@gmail.com Fax: _____

Please provide a statement of the reason(s) for seeking the vacation (Use additional sheets if necessary):

In order to upgrade the FMB Art Association Building, additional facilities will be
required to meet the current FMB Land Development Code Standards. In order
to accommodate these changes the utility easement will need to be vacated.

All petitions seeking to vacate platted rights-of-way and easements must comply with the requirements below. (LDC Section 10-219)

- A signed Petition, either Form A (F.S. Ch. 336) or Form B (F.S. Ch. 117) for each vacation request.
- A legal description of the area sought to be vacated and a recent survey prepared and executed by a registered surveyor showing the area sought to be vacated. (Please label as Exhibit A) The survey must show the location of all existing improvements including, but not limited to:
 - Drainage facilities.
 - All public and private utilities.
 - Surface water management facilities.
 - Pavement.
 - Buildings.
 - Any other physical features within 100 feet of the real property.
- A copy of the plat showing the area(s) to be vacated. (Please label as Exhibit B)
- Certificate(s) showing that all property taxes have been paid in full for all real property that abuts the right-of-way or easement sought to be vacated. (Please label as Exhibit C)
- Notarized signatures of fee simple owners of record of all real property that abuts the right-of-way or easement sought to be vacated. (Please see adjacent property affidavit)
- A list containing the names, addresses, and signatures of all real property owners holding legal interest in the real property subject to, or affected by, the requested vacation.
- A printed list of the names of all current real property owners, STRAP numbers, and mailing addresses of property that is within a 500-foot radius of the right-of-way or easement sought to be vacated, including two (2) sets of mailing labels for the real property owners on this list.

➤ Signed letter of No Objection from:

Town of Fort Myers Beach Public Works Department

Florida Power and Light

The local cable television company serving the Town

The local telephone company serving the Town

The local liquid propane gas company serving the Town

Lee County or other provider of sanitary sewer services

Lee County Sheriff's Office

Fort Myers Beach Fire Control District

Any other provider of private or public utilities whose facilities or infrastructure may be affected by the vacation, as determined by the director.

*** PLEASE NOTE: If any of the foregoing companies or agencies determines that the requested vacation may not be in the best interest of the public, the petitioner may offer an alternative or replacement right-of-way or easement. The affected company or agency shall not, however, be under any obligation to accept the offered alternative. Where a petitioner has offered to provide a replacement right-of-way or easement, town council shall not take action on the petition to vacate until the legal instrument(s) necessary to grant the alternative or replacement right-of-way or easement has been approved in form and content by the affected company or agency, properly executed by the granting or conveying property owner, and delivered to the town to be held in trust pending the town council's consideration of the requested vacation.

➤ A statement from the Lee County Community Development Director, or designee, whether vacation by Lee County is required.



PETITION TO VACATE (Form A - F.S. Ch. 336)

Petitioner(s), _____
requests the Town Council of the Town of Fort Myers Beach, Florida to grant this petition
to Vacate and states as follows:

1. Petitioner(s) Mailing Address: _____

2. In accordance with Florida Statute (F.S.) Chapter 336, Petitioner desires to vacate the public's interest in the right-of-way or portion of right-of-way legally described in the attached *Exhibit A*.
3. A sketch/site plan showing the area(s) the Petitioner desires to vacate is attached as *Exhibit B*.
4. Petitioner provided notice to all affected property owners concerning the intent of this Petition.
5. In accordance with the attached letters of no objection provided by the various governmental and utility entities, there is no apparent impediment to granting Petitioner's request.

Wherefore, Petitioner respectfully requests that the Town Council adopt a resolution granting the Petition to Vacate.

Submitted by:

Petitioner Signature

Printed Name

Date

Petitioner Signature

Printed Name

Date

Petitioner Signature

Printed Name

Date



PETITION TO VACATE (Form B_ F.S. Ch.177)

Petitioner(s), Fort Myers Beach Art Association, Inc.
requests the Town Council of the Town of Fort Myers Beach, Florida to grant this
petition to Vacate and states as follows:

1. Petitioner(s) Mailing Address: P.O. Box 2359 Fort Myers Beach, FL 33932
2. In accordance with Florida Statute (F.S.) Chapter 177, Petitioner desires to vacate the public's interest in the easement, plat or portion of a plat legally described in the attached *Exhibit A*.
3. A sketch/site plan showing the area the Petitioner desires to vacate is attached as *Exhibit B*.
4. Proof the Petitioner paid all applicable state and county taxes is attached as *Exhibit C*.
5. Petition is fee simple title holder to the underlying land sought to be vacated.
6. Petitioner provided notice to all affected property owners concerning the intent of this
Petition.
7. In accordance with the attached letters of no objection provided by the various governmental and utility entities, there is no apparent impediment to granting Petitioner's request.

Wherefore, Petitioner respectfully requests that the Town Council adopt a resolution granting the Petition to Vacate.

Submitted by:

Petitioner Signature

Stephen Eaton

Printed Name

2/27/24

Date

Petitioner Signature

Printed Name

Date

Petitioner Signature

Printed Name

Date



ADJACENT PROPERTY AFFIDAVIT

I, Fort Myers Beach Art Association, Inc. (name), of

P.O. Box 2359, Fort Myers Beach, FL 33932 (address)

swear or affirm under oath, that I am the fee simple owner of the above-mentioned property and I agree that the petition to vacate the platted right-of-way or platted easement located at:

3030 Shell Mound Blvd, Fort Myers Beach, FL 33931 (address) should be vacated

by the Town Council.

Stephen Eaton

Signature

Stephen Eaton

Typed or Printed Name

Treasurer

Title

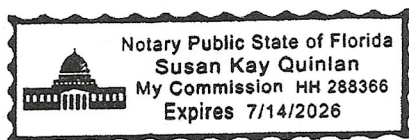
2/27/24

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 27 day of FEBRUARY, 2024 by Stephen EATON, ✓ who is personally known to me OR who has produced as identification.

(Seal)



Susan Kay Quinlan
Notary Public Signature



(SAMPLE LETTER of NO OBJECTION)

PETITION TO VACATE

REQUEST FOR LETTER OF NO OBJECTION

Today's Date:

Contact Person
Company Name
Mailing Address
City, State, Zip

RE: Request for a Letter of No Objection on a proposed right-of-way or easement vacation at (property address here)

To Whom It May Concern:

We intend to submit a Petition to the Fort Myers Beach Town Council seeking to vacate the public interest in the right-of-way, road easement, utility or drainage easement at the location identified above in order to accomplish the following purpose:

(Provide rationale here)

We have included a sketch or drawing of the right-of-way, road easement, utility or drainage easement we desire to vacate. Please provide us with a letter of review and recommendation so we can proceed with our petition submittal. If you have any questions or concerns, please do not hesitate to contact us directly and thank you in advance for your consideration.

Signed,

The Petitioner

(include your return mailing address, email address and daytime phone number)

ZIMMER'S ADDITION TO SHELL MOUND PARK

A SUBDIVISION OF PART OF LOTS 45 & 47 CASE'S SUBDIVISION

(According to plat recorded in Plat Book 1 at page 58) *

SECTION 29 T. 46 S., R. 24 E.

ESTERO ISLAND, LEE COUNTY, FLORIDA.

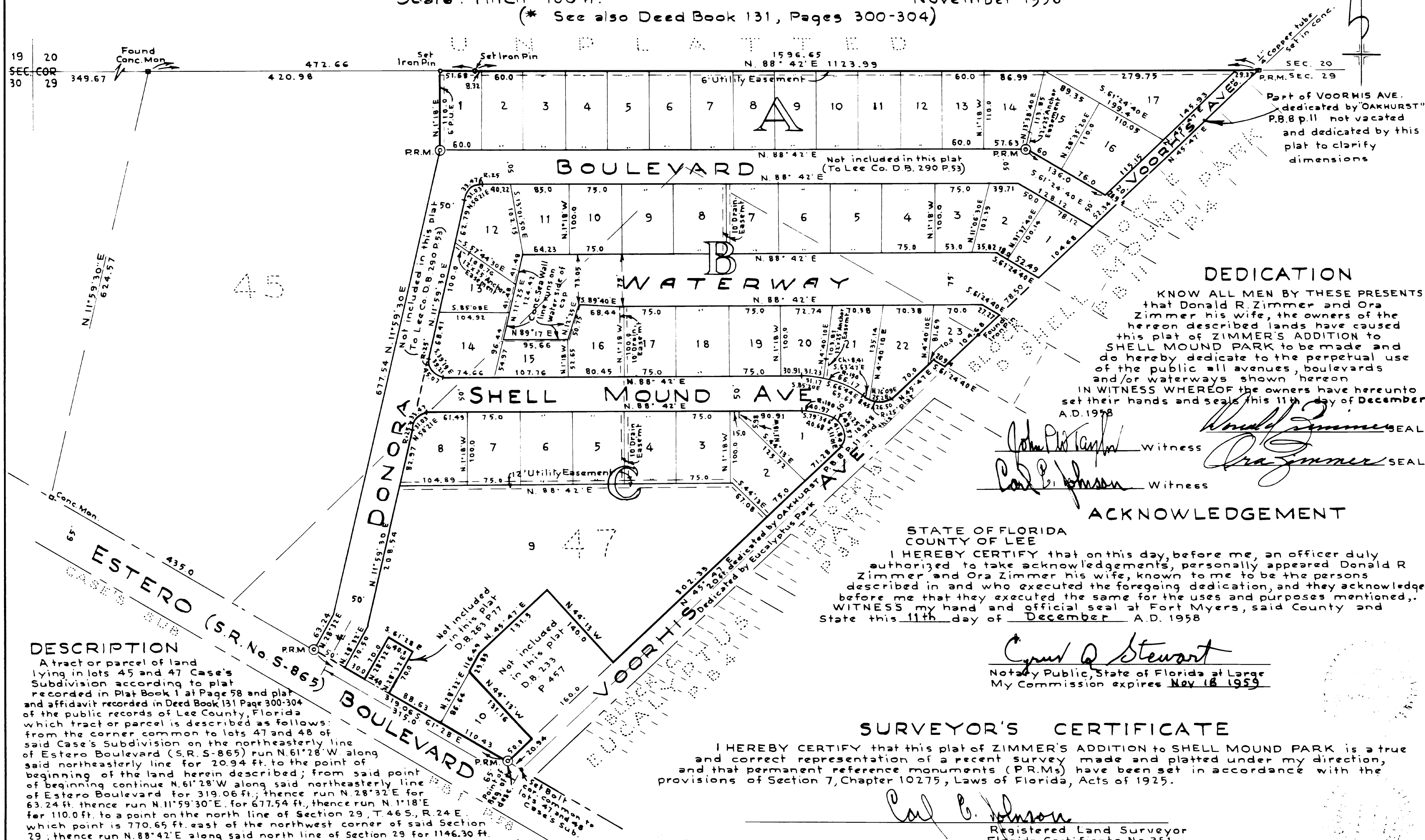
Scale: 1 inch = 100 ft.

November 1958

(* See also Deed Book 131, Pages 300-304)

NOTES

P.R.M.s are 4"x4"x24" Concrete Monuments or 4" x 4" x 60" Concrete Posts, except where otherwise noted. Bearings are calculated from assumed North. South bearing on Sec. Line between Sec. 29 & 30. Both chord and arc distances are shown on curved lines, with chord bearings.



DEDICATION

KNOW ALL MEN BY THESE PRESENTS: that Donald R. Zimmer and Ora Zimmer his wife, the owners of the hereon described lands have caused this plat of ZIMMER'S ADDITION to SHELL MOUND PARK to be made and do hereby dedicate to the perpetual use of the public all avenues, boulevards and/or waterways shown hereon.

IN WITNESS WHEREOF the owners have hereunto set their hands and seals this 11th day of December A.D. 1958

Donald R. Zimmer SEAL
Witness *Ora Zimmer* SEAL
Witness *Carl E. Johnson*

ACKNOWLEDGEMENT

STATE OF FLORIDA
COUNTY OF LEE
I HEREBY CERTIFY that on this day, before me, an officer duly authorized to take acknowledgements, personally appeared Donald R. Zimmer and Ora Zimmer his wife, known to me to be the persons described in and who executed the foregoing dedication, and they acknowledged before me that they executed the same for the uses and purposes mentioned. WITNESS my hand and official seal at Fort Myers, said County and State this 11th day of December A.D. 1958

Cyril Q. Stewart
Notary Public, State of Florida at Large
My Commission expires Nov 18 1959

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY that this plat of ZIMMER'S ADDITION to SHELL MOUND PARK is a true and correct representation of a recent survey made and platted under my direction, and that permanent reference monuments (P.R.M.s) have been set in accordance with the provisions of Section 7, Chapter 10275, Laws of Florida, Acts of 1925.

Carl E. Johnson
Registered Land Surveyor
Florida Certificate No. 351

APPROVALS

This plat accepted this 17th day of December A.D. 1958 in open meeting of the Board of County Commissioners of Lee County, Florida.

D.J. Farabee Clerk
William C. Pitt Chairman
Tacey A. Bause Co. Road Supt

I HEREBY CERTIFY that this plat of ZIMMER'S ADDITION to SHELL MOUND PARK has been examined by me and from my examination I find that said plat complies in form with the requirements of Chapter 10275 Laws of Florida, Acts of 1925.
I FURTHER CERTIFY that said plat was filed for record at 3:30 P.M. this 23rd day of January A.D. 1959 and was duly recorded in Plat Book 11 at Page 54 of the public records of Lee County, Florida.

D.J. Farabee
Clerk of the Circuit Court in and for Lee County, Florida

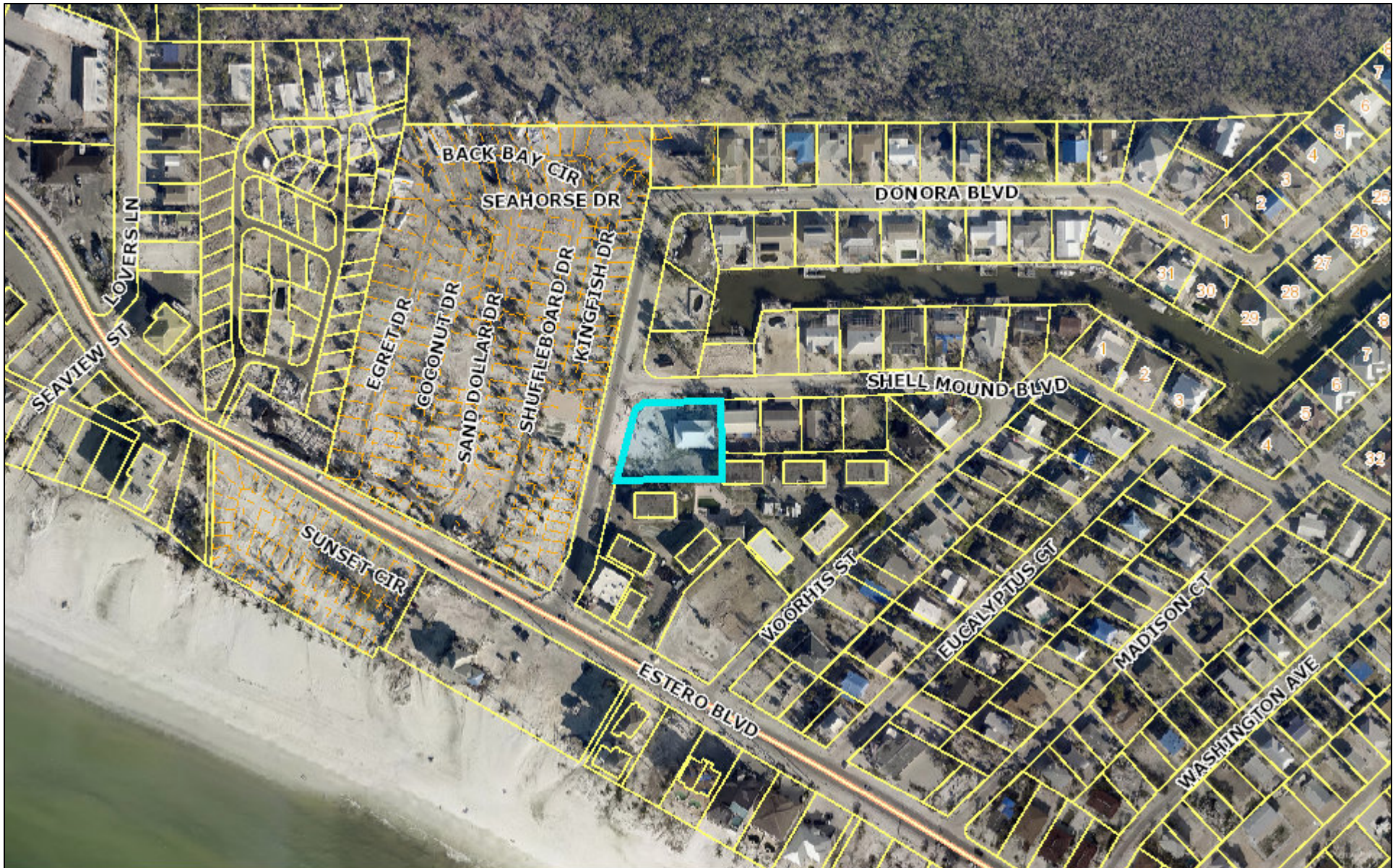
DESCRIPTION

A tract or parcel of land lying in lots 45 and 47 Case's Subdivision according to plat recorded in Plat Book 1 at Page 58 and plat and affidavit recorded in Deed Book 131 Page 300-304 of the public records of Lee County, Florida which tract or parcel is described as follows: from the corner common to lots 47 and 48 of said Case's Subdivision on the northeasterly line of Estero Boulevard (S.R. S-865) run N. 61° 28' W. along said northeasterly line for 20.94 ft. to the point of beginning of the land herein described; from said point of beginning continue N. 61° 28' W. along said northeasterly line of Estero Boulevard for 319.06 ft.; thence run N. 28° 32' E. for 63.24 ft. thence run N. 11° 59' 30" E. for 677.54 ft. thence run N. 1° 18' E. for 110.0 ft. to a point on the north line of Section 29, T. 46 S., R. 24 E. which point is 770.65 ft. east of the northwest corner of said Section 29, thence run N. 88° 42' E. along said north line of Section 29 for 1146.30 ft. thence run S. 45° 47' W. for 1443.57 ft. along the northwesterly line of Voorthis Ave. as shown on the plat of Oakhurst recorded in Plat Book 8 at Page 11 of said public records; to the point of beginning.

ALSO All of said Voorthis Ave. subject to the dedication by said plat of Oakhurst of that part not vacated by order of the Lee County Commissioners, recorded in Misc. Book 49 at Page 513 EXCEPTING Donora Boulevard as deeded to Lee County by deed recorded in Deed Book 290 at Page 53.
EXCEPTING parcel deeded by deed recorded in Deed Book 263 at Page 77
EXCEPTING parcel deeded by deed recorded in Deed Book 233 at Page 457

EXHIBIT 6-3

GeoView Map



February 28, 2024

Air Photos: 2023 Hi-Res (3 inch)



Hospital Locations



Library Locations

School Locations



School Locations



CCC_Parks

--- County Boundary

Major Roads Medium

I - 75

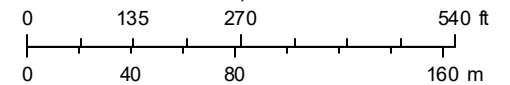
US 41

Other Highways

Other Roads



Parcels Near



1:2,908

EXHIBIT 6-7





Town of Fort Myers Beach
Community Development Services - Planning Division
2731 Oak St,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/ Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM- LPA and 6 PM-Town Council
DATE: LPA September 3rd, 2024 (9AM), Town Council September 23d, 2024 (6PM)
CASE: VAC20240068
ADDRESS: 3030 Shell Mound Blvd
APPLICANT: Fort Myers Beach Art Association, Inc.
REQUEST: Requesting a vacation and relocation of a utility easement to allow for redevelopment of the property.

TOWN CONTACT: JUDITH FRANKEL jfrankel@fmbgov.com

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

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



Town of Fort Myers Beach
Community Development Services - Planning Division
2731 Oak St,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/ Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM- LPA and 6 PM-Town Council
DATE: LPA September 3rd, 2024 (9AM), Town Council September 23d, 2024 (6PM)
CASE: VAC20240068
ADDRESS: 3030 Shell Mound Blvd
APPLICANT: Fort Myers Beach Art Association, Inc.
REQUEST: Requesting a vacation and relocation of a utility easement to allow for redevelopment of the property.

TOWN CONTACT: JUDITH FRANKEL jfrankel@fmbgov.com

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

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



Town of Fort Myers Beach
Community Development Services - Planning Division
2731 Oak St,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/ Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM- LPA and 6 PM-Town Council
DATE: LPA September 3rd, 2024 (9AM), Town Council September 23d, 2024 (6PM)
CASE: VAC20240068
ADDRESS: 3030 Shell Mound Blvd
APPLICANT: Fort Myers Beach Art Association, Inc.
REQUEST: Requesting a vacation and relocation of a utility easement to allow for redevelopment of the property.

TOWN CONTACT: JUDITH FRANKEL jfrankel@fmbgov.com

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

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



Town of Fort Myers Beach
Community Development Services - Planning Division
2731 Oak St,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/ Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM- LPA and 6 PM-Town Council
DATE: LPA September 3rd, 2024 (9AM), Town Council September 23d, 2024 (6PM)
CASE: VAC20240068
ADDRESS: 3030 Shell Mound Blvd
APPLICANT: Fort Myers Beach Art Association, Inc.
REQUEST: Requesting a vacation and relocation of a utility easement to allow for redevelopment of the property.

TOWN CONTACT: JUDITH FRANKEL jfrankel@fmbgov.com

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

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

Town of Fort Myers Beach
2731 Oak St,
Fort Myers Beach, FL 33931

Town of Fort Myers Beach
2731 Oak St,
Fort Myers Beach, FL 33931

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

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

Town of Fort Myers Beach
2731 Oak St,
Fort Myers Beach, FL 33931

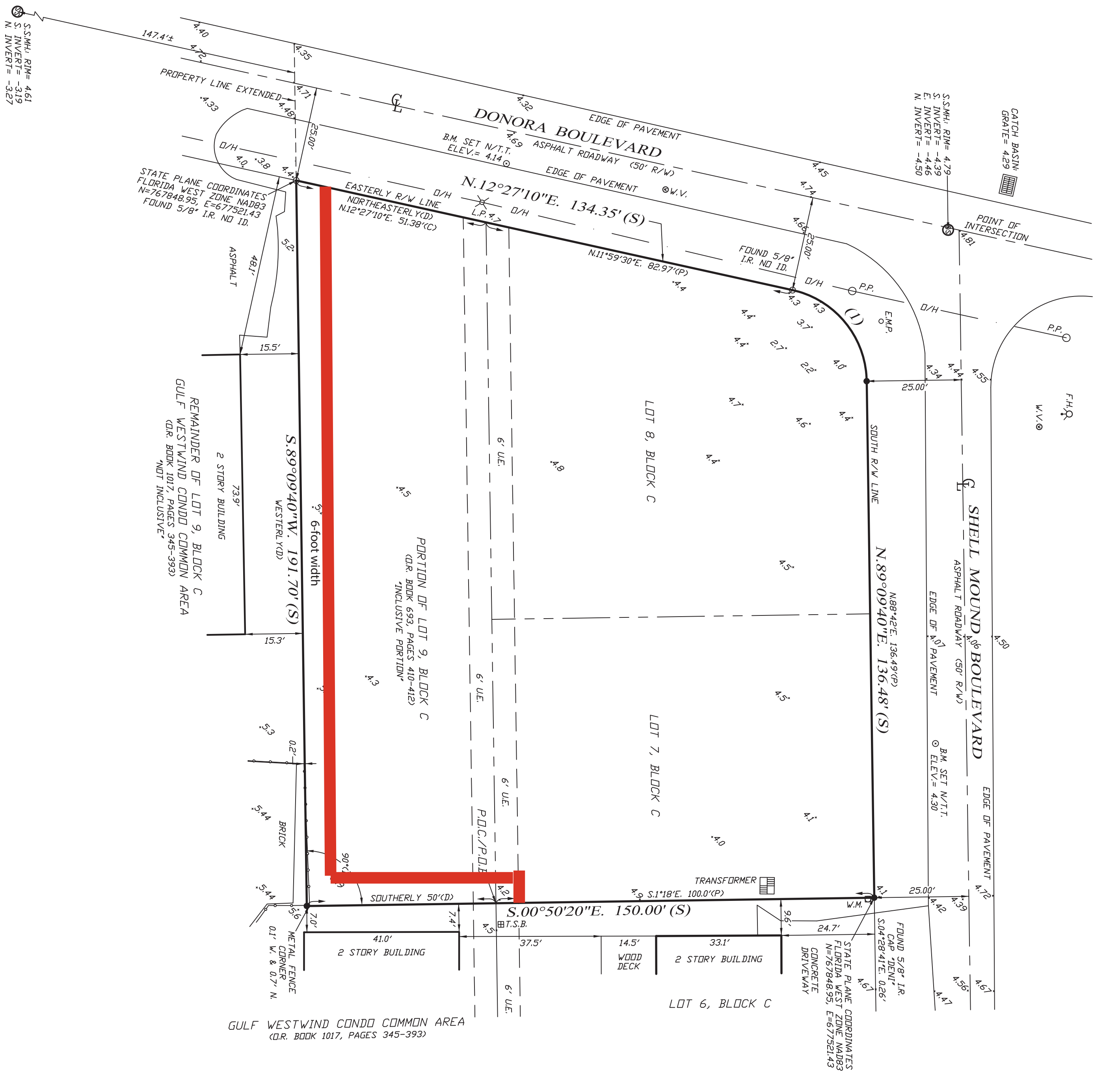
Town of Fort Myers Beach
2731 Oak St,
Fort Myers Beach, FL 33931

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

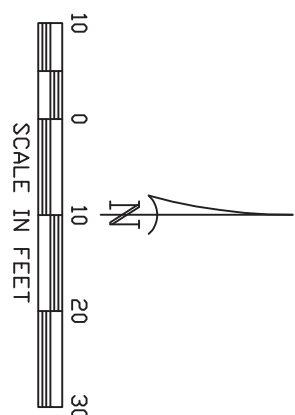
«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»

Curve number 1

Radius= 25.00'
Delta= 76°42'30"
Arc= 33.47'
Chord= 31.03'
Chord Brg.= N.50°48'25"E.



BOUNDARY SURVEY OF
LOTS 7, 8 &
A PORTION OF LOT 9, BLOCK C,
ZIMMER'S ADDITION TO
SHELL MOUND PARK,
(PLAT BOOK 11, PAGE 54 & DR. BOOK 693, PAGES 410-412)
SECTION 29, TOWNSHIP 46 SOUTH, RANGE 64 EAST,
PUBLIC RECORDS OF LEE COUNTY, FLORIDA



S.S.MH: RIM= 4.66
W. INVERT= -3.73
E. INVERT= -3.84

- LEGEND:
- | | | |
|---------------------------------|--------|-----------------------|
| ● SET 1/2" IRON ROD (CAP LB292) | R.V.B. | RECLAIM WATER BOX |
| □ FOUND IRON ROD (G2) | V.M. | WATER METER |
| □ CONCRETE MONUMENT (C.M.) | D/H | DYERHAD PUMPER |
| □ PERMANENT REFERENCE MONUMENT | P.P. | POWER POLE |
| □ PUBLIC UTILITY EASEMENT | GA&W | GUY ANCHOR & WIRE |
| □ DRAINAGE EASEMENT | T.S.B. | TELEPHONE SERVICE BOX |
| □ POINT OF CURVAUTUE | N/D | NAIL & DISK |
| □ OFFICIAL RECORDS BOOK | N/T/T | NAIL & TINNAB |
| □ AS PER SURVEY | ELEV. | ELEVATION |
| □ AS PER DEED | B.M. | BENCHMARK |
| □ COMPUTED | 0 | TYPICAL ELEVATION |
| □ CURVE NUMBER | A/C | ARC CONDITIONER |
| □ LINE NUMBER | V.S. | VALVE |
| □ L1 | P.E. | PUMP EQUIPMENT |
| □ RIGHT-OF-WAY | C.M.P. | CORROGATED METAL PIPE |
| □ CENTERLINE | CONC. | CONCRETE |
| □ SANITARY SEWER MANHOLE | — | DRAINAGE ARROW |
| □ FIRE HYDRANT | EMP. | ELECTRIC METER POLE |
| □ WATER VALVE | P.D.C. | POINT OF COMMENCEMENT |
| □ LIGHT POLE | P.O.B. | POINT OF BEGINNING |

SURVEY NOTES:

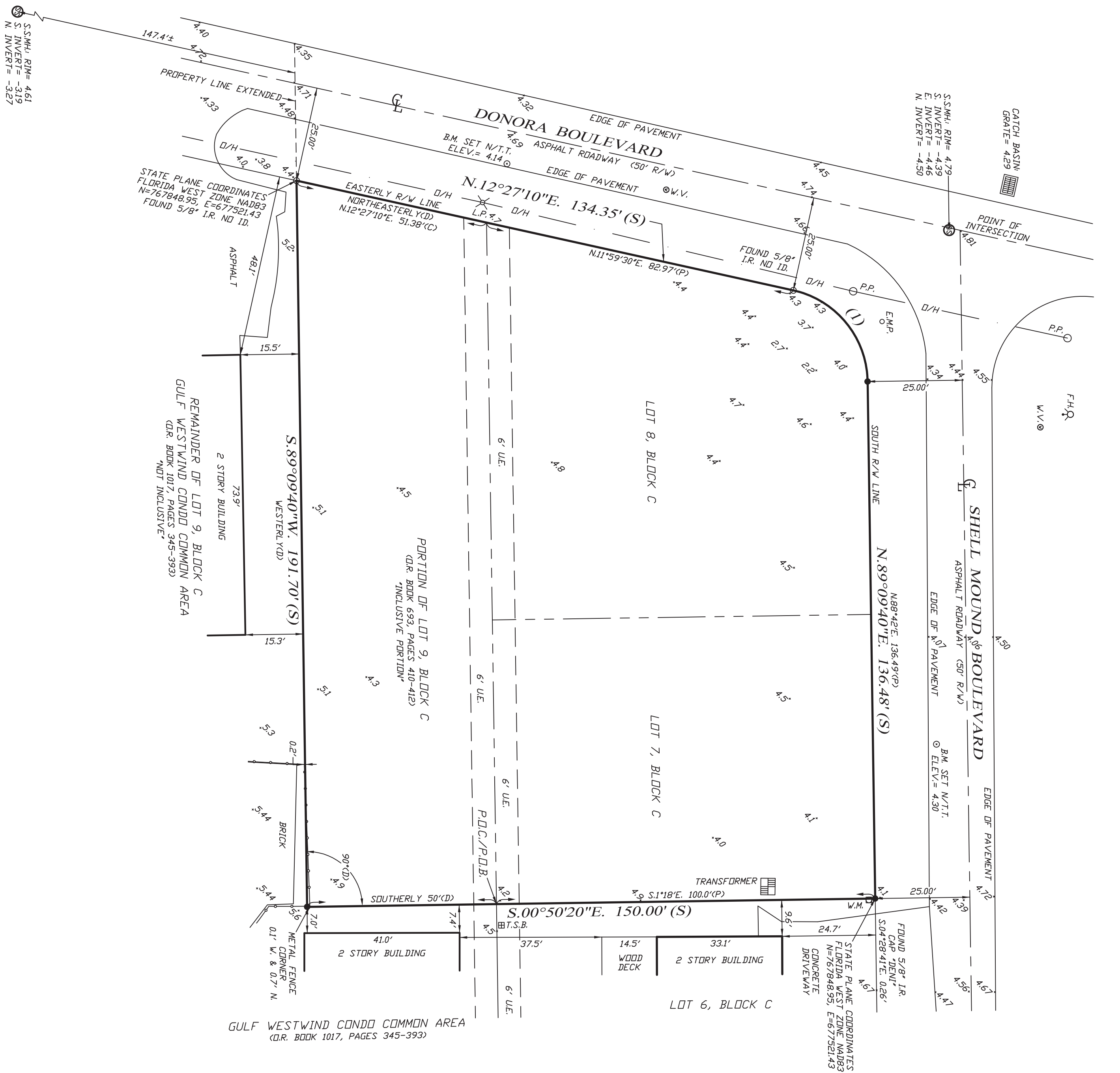
1. BASIS OF BEARING SHOWN HEREIN TAKEN FROM THE SOUTH RIGHT-OF-WAY
LINE OF SHELL MOUND BOULEVARD, AS BEING N89°09'40"E,
2. FIELD NOTES IN ZIMMER'S ADDITION TO SHELL MOUND PARK,
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD,
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREIN, IT IS NOT A
CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES,
5. THIS SURVEY DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS
BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION
IN THE FIELD,
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED,
7. THIS MAP/PLAT IS CONSIDERED SIGNED USING A DIGITAL SEAL IN ACCORDANCE
WITH THE APPLICABLE STATE LAWS AND STATUTES FS 666.001-006, FS 668.30-
FS 472.020, 5J-171062, FLORIDA ADMINISTRATIVE CODE, STATE OF FLORIDA,
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN
9. ISSUANCE OF THIS DRAWING FROM THIS FIRM SHALL NOT RELIEVE THE BUILDER
AND/OR CONTRACTORS OF THE RESPONSIBILITY TO REVIEW AND VERIFY ALL NOTES,
DIMENSIONS, ELEVATIONS, AND ADHERENCE TO APPLICABLE BUILDING CODES PRIOR TO
COMMENCEMENT OF ANY CONSTRUCTION. BUILDER MAY NEED TO ADJUST ELEVATION
AND/OR SETBACKS PRIOR TO CONSTRUCTION IF OTHER RESTRICTIONS EXIST OR APPLY.
10. THIS SURVEY IS INTENDED TO BE VIEWED AS AN 1824', 20 SCALE DRAWING.
11. SITE BENCHMARK IS NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988),
12. SITE BENCHMARK DERIVED FROM NATIONAL GEODETIC SURVEY (NGS)
BENCHMARK DESIGNATION 872 5366 F, ELEVATION 22.60 NAVD 1988,
FIELD ZONE: 44°E ELEVATION 11' NAVD 1988
COMMUNITY No.: 126073 PANEL No.: 0558
SUFFIX --- G
DATE/ISSUE DATE 11/17/2022
MAP NUMBER 1207105586
THIS SURVEY IS CERTIFIED TO:
MASTRICHT ENGINEERING, INC.

REVISED	DESCRIPTION	B/Y	
		Philip M Mould, LS6515, State of Florida 12/9/19 -05-00'	
		PHILIP M. MOULD PROFESSIONAL SURVEYOR AND MAPPER LS6515 – STATE OF FLORIDA	
DATE OF LAST FIELD WORK: 11/29/23			
DRAWN	CHECK	SCALE	PRD. #
RBH	PMM	1"=20'	ZASMP-C-7
SURVEY DATE	FILE NO.	SHT. - 1	
11/29/23	46-24-29	DF - 1	
HARRIS-JORGENSEN, LLC. 3048 E. PRIMO BLVD. S., SUITE 100 CHIEF OF COMMERCE, FL 33904 TEL: (239) 537-2251 FAX: (239) 537-2921			

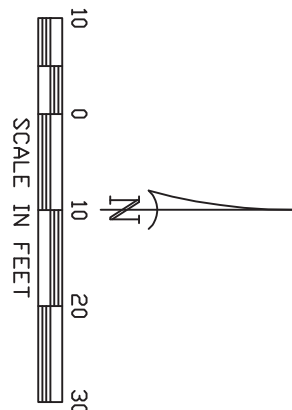
EXHIBIT 6-2

Curve number 1

Radius= 25.00'
Delta= 76°42'30"
Arc= 33.47'
Chord= 31.03'
Chord Brg.= N.50°48'25"E.



BOUNDARY SURVEY OF
LOTS 7, 8 &
A PORTION OF LOT 9, BLOCK C,
ZIMMER'S ADDITION TO
SHELL MOUND PARK,
CITY OF ST. LOUIS, MISSOURI



S.S.MH: RIM= 4.66
W. INVERT= -3.73
E. INVERT= -3.84

- LEGEND:
- | | | |
|---------------------------------|----------|-----------------------|
| ● SET 1/2" IRON ROD (CAP LB392) | R.V.B. | RECLAIM WATER BOX |
| □ FOUND IRON ROD (G2) | V.M. | WATER METER |
| □ CONCRETE MONUMENT (C.M.) | D/H | DYERHAD PUMPER |
| □ PERMANENT REFERENCE MONUMENT | P.P. | POWER POLE |
| □ PUBLIC UTILITY EASEMENT | GA&W | GUY ANCHOR & WIRE |
| □ DRAINAGE EASEMENT | T.S.B. | TELEPHONE SERVICE BOX |
| □ POINT OF CURVAUTUE | N/D | NAIL & DISK |
| □ OFFICIAL RECORDS BOOK | N/T/T | NAIL & TINNAB |
| □ AS PER SURVEY | ELEV. | ELEVATION |
| □ AS PER DECED | B.M. | BENCHMARK |
| □ COMPUTED | 0 | TYPICAL ELEVATION |
| □ CURVE NUMBER | A/C | ARC CONDITIONER |
| □ LINE NUMBER | V.C. | VERTICAL CURVE |
| □ RIGHT-OF-WAY | P.E. | PUMP EQUIPMENT |
| □ CENTERLINE | C.M.P. | CORROGATED METAL PIPE |
| □ SANITARY SEWER MANHOLE | CONCRETE | CONCRETE |
| □ FIRE HYDRANT | ARMED | ARMED |
| □ WATER VALVE | E.M.P. | ELECTRIC METER POLE |
| □ LIGHT POLE | P.D.C. | POINT OF COMMENCEMENT |
| | P.O.B. | POINT OF BEGINNING |

SURVEY NOTES:

- THIS SURVEY IS CERTIFIED TO:
1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE SOUTH RIGHT-OF-WAY LINE OF SHELL MOUND BOULEVARD, AS BEING N89°09'40"E.
 2. FIELD NOTES IN ZIMMER'S ADDITION TO SHELL MOUND PARK.
 3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
 4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
 5. THIS SURVEY DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
 6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
 7. THIS MAP/PLAT IS CONSIDERED LAINED USING A DIGITAL SEAL IN ACCORDANCE WITH THE APPLICABLE STATE LAWS AND STATUTES (FS 668.001-006; FS 668.055; FS 472.020; 5-1-17062, FLORIDA ADMINISTRATIVE CODE, STATE OF FLORIDA, ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
 8. ANY CORRECTIONS TO THIS DRAWING FROM THIS FIRM SHALL NOT RELIEVE THE BUILDER AND/OR CONTRACTORS OF THE RESPONSIBILITY TO REVIEW AND VERIFY ALL NOTES, DIMENSIONS, ELEVATIONS, AND ADHERENCE TO APPLICABLE BUILDING CODES PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION. BUILDER MAY NEED TO ADJUST ELEVATION AND/OR SETBACKS PRIOR TO CONSTRUCTION IF OTHER REQUIREMENTS EXIST OR APPLY.
 10. THIS SURVEY IS INTENDED TO BE VIEWED AS AN 1/8"=24' SCALE DRAWING.
 11. ELEVATIONS ARE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988).
 12. SITE BENCHMARK DERIVED FROM NATIONAL GEODETIC SURVEY (NADS) BENCHMARK DESIGNATION 872 5366 F, 1988 ELEVATION 22.60 NAVD 1988.
- FLOOD ZONE: "A2" ELEVATION: 11' NAVD 1988
COMMUNITY NO: 120673 PANEL NO: 0558
SUFFIX --- G REVISION DATE: 11/17/2022
MAP NUMBER 12071005586

REVISED	DESCRIPTION	BY	Phillip M Mould, LS6515, State of Florida Date: 2023.12.08 12/24/19 05:00'
DATE OF LAST FIELD WORK:	11/29/23		
DBAHN	CHECK	SCALE	PRD. #
RBH	PMW	1"=20'	ZASMP C-7
SURVEY DATE	FILE NO.	SHT. - 1	
11/29/23	46-24-29	OF - 1	

FLORIDA CERTIFICATE OF AUTHORIZATION 126293

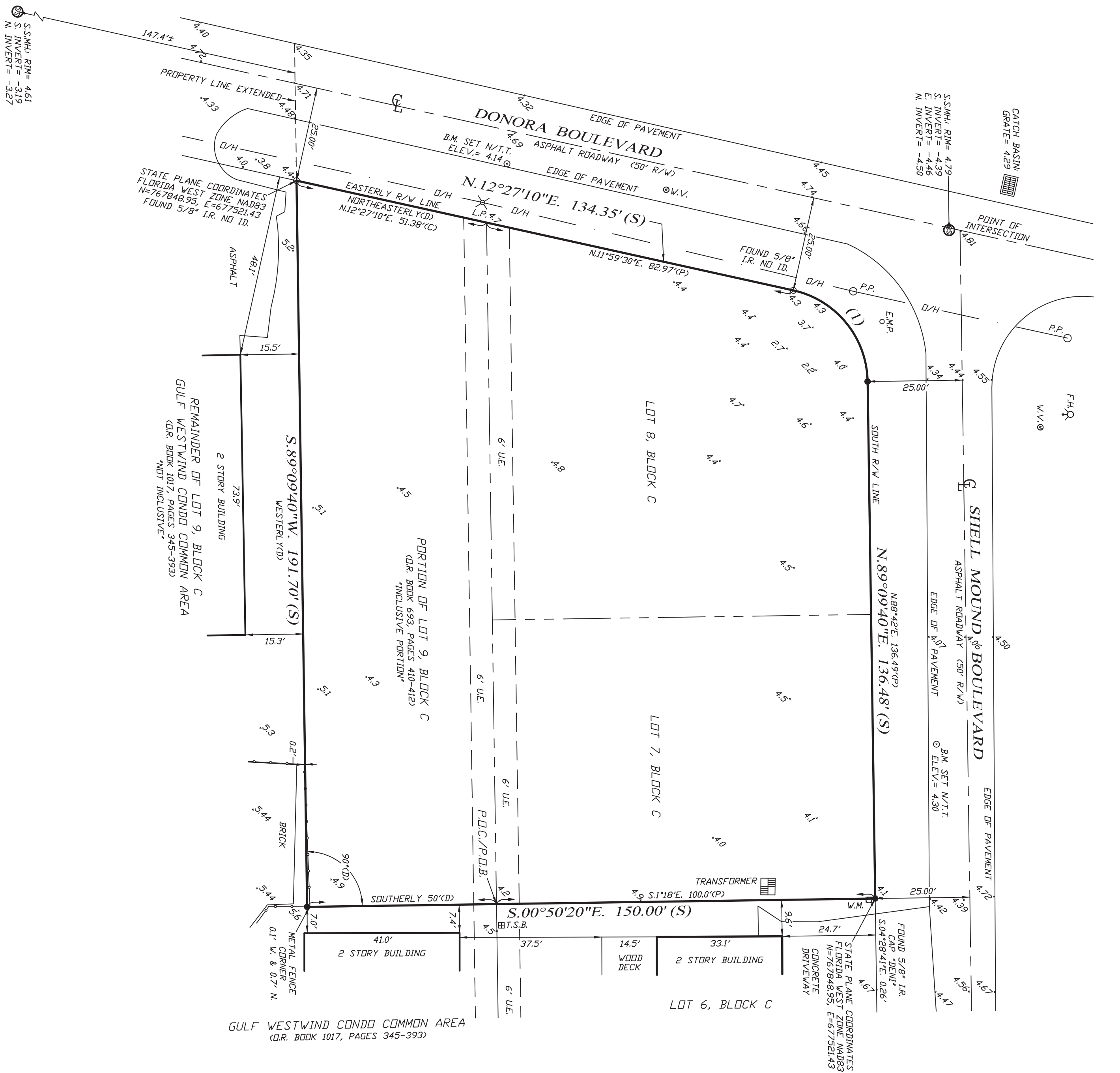
PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
LS6515 - STATE OF FLORIDA

HARRIS-JENSEN, LLC
3048 E. PRADO BLVD. S., SUITE 100
CAPE CORRAL, FLORIDA 33904
PHONE: (239) 257-6260
FAX: (239) 257-6921

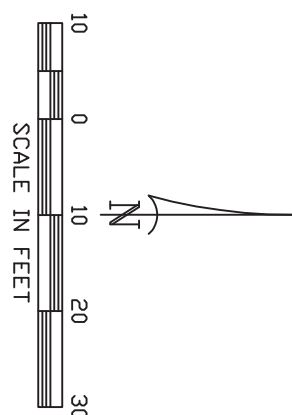
EXHIBIT 6-2

Curve number 1

Radius= 25.00'
Delta= 76°42'30"
Arc= 33.47'
Chord= 31.03'
Chord Brg.= N.50°48'25"E.



BOUNDARY SURVEY OF
LOTS 7, 8 &
A PORTION OF LOT 9, BLOCK C,
ZIMMER'S ADDITION TO
SHELL MOUND PARK,
CITY OF ST. LOUIS, MISSOURI



S.S.MH: RIM= 4.66
W. INVERT= -3.73
E. INVERT= -3.84

- LEGEND:
- | | | |
|---------------------------------|--------|-----------------------|
| ● SET 1/2" IRON ROD (CAP LB392) | R.V.B. | RECLAIM WATER BOX |
| □ FOUND IRON ROD (G2) | V.M. | WATER METER |
| □ CONCRETE MONUMENT (C.M.) | D/H | DYERHAD PUMPER |
| □ PERMANENT REFERENCE MONUMENT | P.P. | POWER POLE |
| □ PUBLIC UTILITY EASEMENT | GA&W | GUY ANCHOR & WIRE |
| □ DRAINAGE EASEMENT | T.S.B. | TELEPHONE SERVICE BOX |
| □ POINT OF CURVAUTUE | N/D | NAIL & DISK |
| □ OFFICIAL RECORDS BOOK | N/T/T | NAIL & TINNAB |
| □ AS PER SURVEY | ELEV. | ELEVATION |
| □ AS PER DECED | B.M. | BENCHMARK |
| □ COMPUTED | 0 | TYPICAL ELEVATION |
| □ CURVE NUMBER | A/C | ARC CONDITIONER |
| □ LINE NUMBER | V.C. | VERTICAL CURVE |
| □ RIGHT-OF-WAY | P.E. | PUMP EQUIPMENT |
| □ CENTERLINE | C.M.P. | CORROGATED METAL PIPE |
| □ SANITARY SEWER MANHOLE | CONC. | CONCRETE |
| □ FIRE HYDRANT | DRNAGE | ARROW |
| □ WATER VALVE | E.M.P. | ELECTRIC METER POLE |
| □ LIGHT POLE | P.D.C. | POINT OF COMMENCEMENT |
| | P.O.B. | POINT OF BEGINNING |

SURVEY NOTES:

- THIS SURVEY IS CERTIFIED TO:
1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE SOUTH RIGHT-OF-WAY LINE OF SHELL MOUND BOULEVARD, AS BEING N89°09'40"E.
 2. FIELD NOTES IN ZIMMER'S ADDITION TO SHELL MOUND PARK.
 3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
 4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
 5. THIS SURVEY DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
 6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
 7. THIS MAP/PLAT IS CONSIDERED LAINED USING A DIGITAL SEAL IN ACCORDANCE WITH THE APPLICABLE STATE LAWS AND STATUTES (FS 668.001-006; FS 668.055; FS 472.020; 5-1-17062, FLORIDA ADMINISTRATIVE CODE, STATE OF FLORIDA, ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
 8. ANY CORRECTIONS TO THIS DRAWING FROM THIS FIRM SHALL NOT RELIEVE THE BUILDER AND/OR CONTRACTORS OF THE RESPONSIBILITY TO REVIEW AND VERIFY ALL NOTES, DIMENSIONS, ELEVATIONS, AND ADHERENCE TO APPLICABLE BUILDING CODES PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION. BUILDER MAY NEED TO ADJUST ELEVATION AND/OR SETBACKS PRIOR TO CONSTRUCTION IF OTHER REQUIREMENTS EXIST OR APPLY.
 10. THIS SURVEY IS INTENDED TO BE VIEWED AS AN 1/8"=24' SCALE DRAWING.
 11. ELEVATIONS ARE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988).
 12. SITE BENCHMARK DERIVED FROM NATIONAL GEODETIC SURVEY (NADS) BENCHMARK DESIGNATION 872 5366 F, 1988 ELEVATION 22.60 NAVD 1988.
- FLOOD ZONE: "A2" ELEVATION: 11' NAVD 1988
COMMUNITY NO: 120673 PANEL NO: 0558
SUFFIX --- G REVISION DATE: 11/17/2022
MAP NUMBER 12071005586
- THIS SURVEY IS CERTIFIED TO:
MAASTRICHT ENGINEERING, INC.

REVISED	DESCRIPTION	BY	Phillip M Mould, L66515
			State of Florida
			Date: 2023.12.08
			12/24/19 05:00
DATE OF LAST FIELD WORK:	11/29/23		
DRAWN	CHECK	SCALE	PLOT. #
RBH	PMH	1"-20'	ZASHP-C-7
SURVEY DATE		FILE NO.	SHT.-1
11/29/23		46-24-29	DE - 1
HARRIS-PADGETT, S.L.L.C. 3048 DEL PALM BLVD. S., SUITE 10 CAPE CORAL, FLORIDA 33904 PHONIE (239) 257-6624 FAX: (239) 257-2921			

RESOLUTION 24-133

A RESOLUTION VACATING A 12-FOOT WIDE UTILITY EASEMENT LOCATED OVER REAL PROPERTY OWNED BY FORT MYERS BEACH ART ASSOCIATION, GENERALLY LOCATED AT 3030 SHELL MOUND BOULEVARD, FORT MYERS BEACH; ACCEPTING AND APPROVING AN UTILITY EASEMENT AS A REPLACEMENT EASEMENT TO BE LOCATED ON REAL PROPERTY OWNED BY FORT MYERS BEACH ART ASSOCIATION, SUBJECT TO TERMS AND CONDITIONS AS CONTAINED IN A UTILITY EASEMENT AGREEMENT; DIRECTING THE TOWN CLERK TO RECORD THIS RESOLUTION AND THE NEW UTILITY EASEMENT; AUTHORIZING THE MAYOR TO SIGN ALL NEEDED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the property owner, Fort Myers Beach Art Association, has requested vacation of a 12-foot wide utility easement located on its property at 3030 Shell Mound Boulevard, Fort Myers Beach; and

WHEREAS, Fort Myers Beach Art Association has offered to voluntarily have the vacated easement relocated to the southern property boundary to ensure continued utility access by the Town; Exhibit A shows the approximate location of the existing easement; and

WHEREAS, vacation and relocation of the existing utility easement on the Fort Myers beach Art Association's property would allow for the redevelopment of the real property;

WHEREAS, the existing utility easement was granted to Lee County in 1958 when the land was platted and the Town acquired the easement upon incorporation; and

WHEREAS, Section 2-539 of the Fort Myers Beach Code of Ordinances provides guidelines and criteria for review of requests to vacate any Town streets, alleys, easements, or subdivision plats; and

WHEREAS, the Town has no utilities under the existing easement and letters of no objection have been obtained from private utility companies; and

WHEREAS, a public hearing was held before the Local Planning Agency (“LPA”) on September 3, 2024, and after providing the applicant, staff, and the public an opportunity to present testimony and evidence, the LPA voted ____ to ____ finding the request to be consistent with the Town of Fort Myers Beach Comprehensive Plan and recommending approval of the vacation request, subject to final review of the proposed utility easement by the Town Attorney; and

WHEREAS, notice to current property owners within 500 feet was provided more than 15 days prior to the hearing before the Town Council on September 23rd, 2024 and the Town Clerk has received an Affidavit of Mailing as required by Section 2-538(b); and

WHEREAS, adoption of this Resolution is in the best interest of the Town.

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

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

Section 2. The Town Council hereby approves the vacation of the existing utility easement, as more particularly described in Exhibit A, finding that the criteria in Section 2-539 of the Fort Myers Beach Code of Ordinances is satisfied. More specifically, that:

1. There is no future likelihood that the easement will be needed by the Town or otherwise conflict with the Town’s future utility infrastructure management; and
2. the applicant has provided a comparable replacement utility easement at no cost to the Town;

Section 3. The Town Council hereby accepts and approves a 6 foot wide utility easement in the approximate area shown on Exhibit B, subject to terms and conditions contained in a Utility Easement and approval as to form and sufficiency by the Town Attorney.

Section 4. The Town Clerk is directed to record this Resolution with its exhibits and the new Utility Easement in the official public records of Lee County, Florida upon adoption and subsequent to recording of any subordination of prior interests, if any, as may be required by the Town Attorney encumbering the real property where the replacement easement is located.

Section 5. The Mayor is authorized to sign any and all documents needed to implement this Resolution.

Section 6. This Resolution shall take effect immediately upon adoption.

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

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

ADOPTED this 23rd day of September 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 SOLELY:

Vose Law Firm, Town Attorney

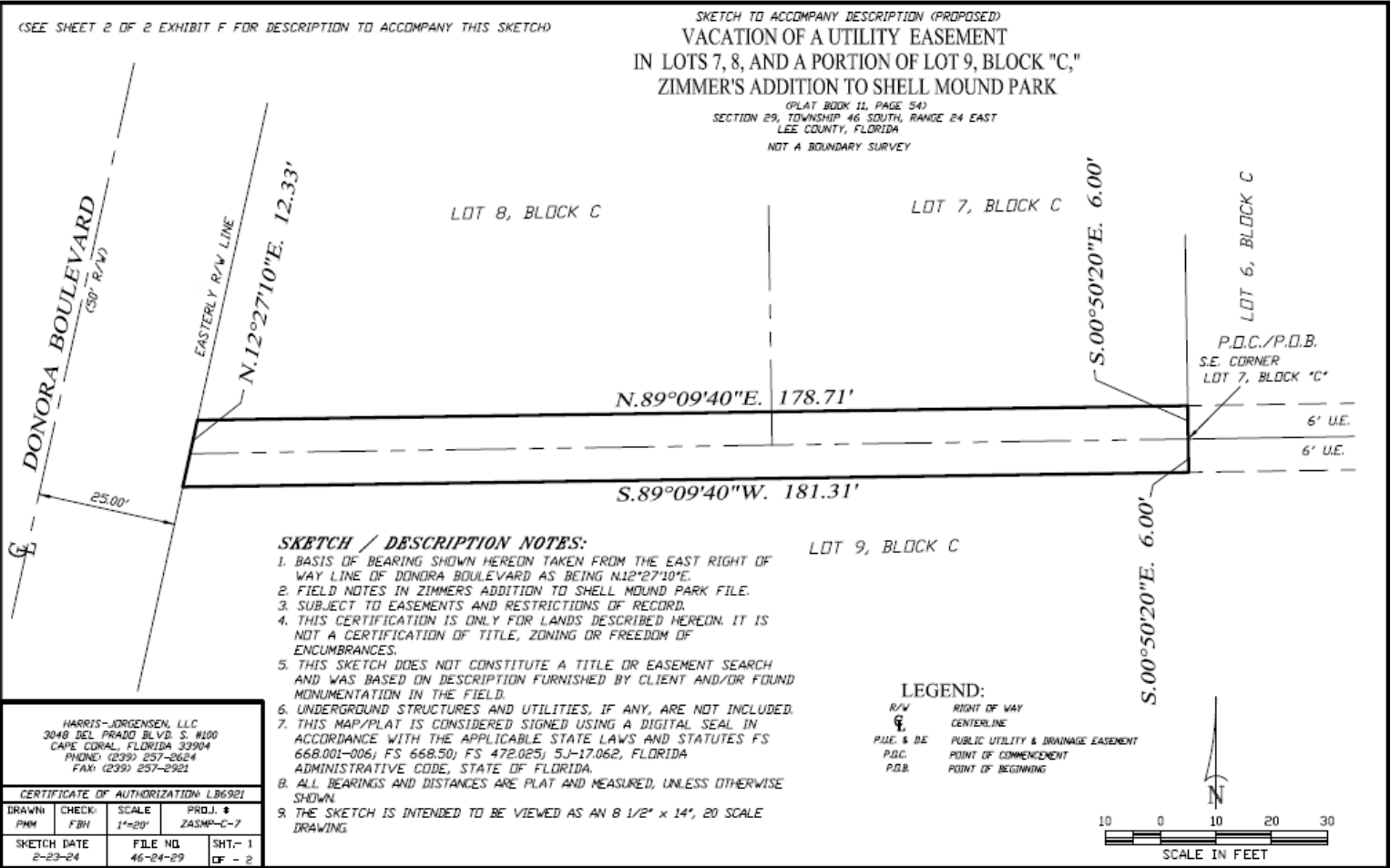
This Resolution was filed in the Office of the Town Clerk on this xxth day of September 2024.

Attachments:

Exhibit A- Survey of Location Existing Easement

Exhibit B- Sketch of Area for Replacement Easement

Exhibit A



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

Yellow Sheet Number: **2024-205**

1. Request:

Meeting Date: September 3, 2024

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20240142, REQUESTING 1) A VARIANCE FROM LDC TABLE 34-3 OF 3 FEET FROM THE WEST SIDE SETBACK FOR A SIDE SETBACK OF 4 FEET 6 INCHES FOR AIR CONDITIONING EQUIPMENT; AND 2) A VARIANCE FROM SEC.34-638(D)(2)(B) OF 3 FEET FROM THE STREET SETBACK FOR A STREET SETBACK OF 22 FEET FOR THE SECOND FLOOR BALCONY OF A NEW SINGLE FAMILY STRUCTURE IN THE RC ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 319 ESTERO BOULEVARD, 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:

The owner of 319 Estero Blvd, is requesting two variances from the Town's Land Development Code (LDC). The first (1) is a variance from LDC Table 34-3 which requires a single-family home in the RC zoning district to provide a minimum street setback of 25 feet from the front property line. The Town's LDC Sec.34-638 (d)(2)(b) states that porches, balconies and stoops may encroach into the street setback ten feet or half the width of the street setback, whichever is less, on the first living level of residential buildings. This request is for a variance of 3 feet from the street setback for a balcony on the second living level to result in a street setback of 22 feet. Therefore, the exception provision does not apply.

The second (2) is a variance from the Town's LDC Table 34-3 which requires a 7.5-foot side setback and from Sec. 34-638(d)(1) g. which states that mechanical equipment must meet the same side setbacks as required for the building it serves. A 3-foot variance is requested from the required 7.5-foot side setback, to result in a side setback of 4.5 feet from the west property line for the Air Conditioning equipment.

The rear (northeast) boundary of the subject property borders Estero Bay and the site fronts onto Estero Blvd. The previously existing single-family structure was substantially damaged by hurricane Ian. The home was demolished, and the demolition permit was closed on June 8th, 2023. A building permit (permit # 240817) was issued April 30, 2024 for a proposal that complied with the LDC required setbacks. Subsequent to the approval of the permit, the property owner determined that variances were needed to achieve their planned structure.

Attachments:

1. LPA Resolution 24-XX__319 Estero_docx ns rev
2. Res 24-XX- 319 Estero Blvd
3. 319 Estero Blvd Pearl St- LPA Staff Report
4. EXHIBIT A. Site plan indicating location of work
5. EXHIBIT B. Postcards

- 6. EXHIBIT C. 319 Estero Blvd_ Complete Application
- 7. EXHIBIT D. Neighbor letter of support

Financial Impact:

Unknown

6. Alternative Action

Approve with conditions

7. Staff Recommendations:

Deny

8. Recommended Approval:

Frankie Kropacek, Operations & Compliance Director

Date: August 29, 2024

nancy stuparich, Town Attorney

Date: August 29, 2024

Amy Baker, Town Clerk

Date: August 30, 2024

LPA RESOLUTION 2024-XX

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20240142, REQUESTING 1) A VARIANCE FROM LDC TABLE 34-3 OF 3 FEET FROM THE WEST SIDE SETBACK FOR A SIDE SETBACK OF 4 FEET 6 INCHES FOR AIR CONDITIONING EQUIPMENT; AND 2) A VARIANCE FROM SEC.34-638(D)(2)(B) OF 3 FEET FROM THE STREET SETBACK FOR A STREET SETBACK OF 22 FEET FOR THE SECOND FLOOR BALCONY OF A NEW SINGLE FAMILY STRUCTURE IN THE RC ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 319 ESTERO BOULEVARD, 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, Jack Holsem (“Owner”) is the owner of the property located at 319 Estero Boulevard (“Property”), and is requesting 1) a variance from LDC Table 34-3 of 3 feet from the west side setback for a side setback of 4 feet 6 inches for the mechanical equipment; and 2) a variance from Sec.34-638(d)(2)(b) of 3 feet from the street setback for a street setback of 22 feet for the second-floor balcony of a new single-family structure in the RC zoning district; and

WHEREAS, the STRAP number for the subject property is 24-46-23-W1-0070.D027A; and

WHEREAS, the Property is located in the “Mixed Residential” Future Land Use of the Comprehensive Plan and the “Residential” and “Conservation” 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 September 3, 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 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) 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.
- 3) Property owners must have complete visual screening that enclose all mechanical equipment to obscure from the public right-of-way and from the immediate neighbor's property to help mitigate noise.
- 4) A revision of the existing permit (Permit Number 240817) will be necessary if the variances are granted; and

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. VAR20240142, with the conditions contained herein, received unanimous approval from eligible voting members of the LPA on September 3, 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 September, 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 20240142, REQUESTING A VARIANCE FROM LDC TABLE 34-3 OF 3 FEET FROM THE WEST SIDE SETBACK FOR A SIDE SETBACK OF 4 FEET 6 INCHES FOR AIR CONDITIONING EQUIPMENT, A VARIANCE FROM SEC.34-638(D)(2)(B) OF 3 FEET FROM THE STREET SETBACK FOR A STREET SETBACK OF 22 FEET FOR THE SECOND FLOOR BALCONY OF A NEW SINGLE FAMILY STRUCTURE IN THE RC ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 319 ESTERO BOULEVARD, 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, Jack Holsem (“Owner”) is the owner(s) of the property located at 319 Estero Boulevard (Property), and is requesting a variance from LDC Table 34-3 of 3 feet from the west side setback for a side setback of 4 feet 6 inches for the mechanical equipment and another variance from Sec.34-638(d)(2)(b) of 3 feet from the street setback for a street setback of 22 feet for the second-floor balcony of a new single-family structure in the RC zoning district; and

WHEREAS, the STRAP number for the subject property is 24-46-23-W1-0070.D027A; and

WHEREAS, the Property is located in the “Mixed Residential” Future Land Use of the Comprehensive Plan and the “Residential” and “Conservation” 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 variance from LDC Table 34-3 of 3 feet from the west side setback for a side setback of 4 feet 6 inches for the mechanical equipment and another variance from Sec.34-638(d)(2)(b) of 3 feet from the street setback for a street setback of 22 feet for the second-floor balcony of a new single-family structure in the RC 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. 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.
- C. Property owners must have complete visual screening that enclose all mechanical equipment to obscure from the public right-of-way and from the immediate neighbor's property to help mitigate noise.
- D. A revision of the existing permit (Permit Number 240817) will be necessary if the variances are granted.

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: VAR20240142

CASE NAME: 319 Estero Blvd; requesting a variance from Table 34-3 Dimensional Regulations in Conventional Zoning Districts for the side setback of mechanical equipment and a variance from Sec.34-638(d)(2)(b) Minimum setbacks for encroachment of a balcony on the second living level in the RC zoning district.

LPA

HEARING DATE: September 3, 2024, at 9 AM

STAFF

RECOMMENDATION: DENIAL

**PREPARED/
SUBMITTED BY:** Eli Lee, Planner

I. APPLICATION SUMMARY

Applicant/Owner: Kara Stewart/Jack Holsem

Request(s): 1) A variance of 3 feet from the west side setback for a side setback of 4 feet 6 inches for the mechanical equipment; and
2) A variance of 3 feet from the street setback for a street setback of 22 feet for the second-floor balcony of a new single-family structure.

Subject property: See attached site plan

Physical Address: 319 Estero Blvd

STRAP #: 24-46-23-W1-0070.D027A

FLU: Mixed Residential

Zoning: Residential Conservation (RC)

Adjacent zoning and land uses:

North:	ESTERO BAY
South:	RESIDENTIAL MULTIFAMILY (RM) Recreation
East:	RESIDENTIAL CONSERVATION (RC) Single-Family Residence/Two-Family Residence
West:	RESIDENTIAL CONSERVATION (RC) Single-Family Residence/Two-Family Residence

II. BACKGROUND AND ANALYSIS

Background:

Jack Holsem, the owner of 319 Estero Blvd, is requesting two variances from the Town's Land Development Code (LDC). The first (1) is a variance from LDC Table 34-3 which requires a single-family home in the RC zoning district to provide a minimum street setback of 25 feet from the front property line. The Town's LDC Sec.34-638 (d)(2)(b) states that porches, balconies and stoops may encroach into the street setback ten feet or half the width of the street setback, whichever is less, on the first living level of residential buildings. This request is for a variance of 3 feet from the street setback for a balcony on the second living level to result in a street setback of 22 feet, therefore the exception provision does not apply.

The second (2) is a variance from the Town's LDC Table 34-3 which requires a 7.5-foot side setback and from Sec. 34-638(d)(1) g. which states that mechanical equipment must meet the same side setbacks as required for the building it serves. A 3-foot variance is requested from the required 7.5-foot side setback, to result in a side setback of 4.5 feet from the west property line for the Air Conditioning equipment.

The rear (northeast) boundary of the subject property borders Estero Bay and the site fronts onto Estero Blvd. The previously existing single-family structure was substantially damaged by hurricane Ian. The home was demolished, and the demolition permit was closed on June 8th, 2023. A building permit (permit # 240817) was issued April 30, 2024 for a proposal that complied with the LDC required setbacks. Subsequent to the approval of the permit, the property owner determined that variances were needed to achieve their planned structure.

Analysis:

The first (1) variance request is for the balcony on the second living level of the single-family home to be constructed 22 feet from the front property line. The Town's LDC

Sec.34-638 (d)(2)(b) which states that porches, balconies and stoops may encroach into the street setback ten feet or half the width of the street setback, whichever is less, on the first living level of residential buildings. The encroachment of the balcony on the second living level would allow the homeowner to have more outdoor space.

The second (2) variance request is for the Air Conditioning equipment located on the west portion of the structure to encroach 3 feet into the required 7.5 side setback. The Town's LDC Sec.34-638(d)(1)(g) which states that mechanical equipment such as air conditioners, generators, service panels, meters, and pool equipment, associated with new homes, may encroach up to three feet into rear and waterbody primary structure setbacks but must meet the same street and side setbacks as the building it serves. Table 34-3 states that the side setbacks for this lot would be 7.5 feet for lot widths between 50 to 75 feet. The placement of the mechanical equipment on the west side of the structure would be accessible for maintenance and possibly eliminate the intrusion of the roof system with brackets reducing the potential for water damage. The approved building plans located the air conditioning equipment on the roof of the structure. The applicant provided a pre-Ian survey that indicated the location of the previous mechanical equipment on the west side portion of the structure possibly encroaching the side setback.

The purpose of the RC zoning district is to provide stable neighborhoods where single-family/two-family homes are the predominant land use. The subject property is a bayfront lot that is situated off Estero Blvd. The lot varies in width from approximately 50 feet to 51 feet. The lot depth varies from approximately 102 to 110 feet.

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 is situated between 315 and 325 Estero Blvd, which are currently vacant lots. The property owner of 315 Estero Blvd provided a letter to the applicant of 319 Estero Blvd with support of the Air Conditioning equipment encroaching 3 feet into the side setback. (See Exhibit D)

The properties of 315 and 325 Estero Blvd have not applied for a residential permit to rebuild a single-family home at this time.

Findings and Conclusions:

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

- a. That there are/are **not** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request*

is/is not for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.

The subject property is a bayside lot that fronts Estero Blvd. The lot varies in width from approximately 50 feet to 51 feet. The lot depth varies from approximately 102 to 110 feet. The lot contains a sufficient area to construct a new home that allows a balcony and mechanical equipment to meet the current setback requirements. The owner has an issued building permit to construct a new single-family home that has the mechanical equipment located on the roof and the balcony on the second living level adhering to the 25-foot front street setback. The request is not for a de minimis variance.

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

The conditions justifying the variance are the result of the applicant's design choices. The applicant has an issued building permit for a new residence that is in compliance with the street setbacks, and side setbacks, 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 property owner initially submitted a building permit for the design of a home that was in compliance with applicable setbacks and was approved (permit # 240817). The need for these variances 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 proposed single-family structure, it is abutting the property owner of 315 Estero Blvd that has provided a letter of support. (See Exhibit 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 encroachment of the balcony on the second living level will create more outdoor space for the home.

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

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

III. RECOMMENDATION

Staff has reviewed the request for a variance from LDC Table 34-3 which requires that new mechanical equipment associated with new homes must adhere to primary structure setbacks if located on the side or front of the home and must have a minimum 7.5 feet side setback, and a request for a variance from LDC Sec.34-638 (d)(2)(b) to allow a balcony on the second living level to encroach the 25-foot front street setback in the RC zoning district and found that the variance requests does not meet the requirements set forth in sec. 34-87.

It seems that the variance requests per LDC Sec. 34-87 do not meet the requirements outlined in sections A, B, and C of the findings and conclusions of this staff report. However, they do meet the requirements set forth in sections D and E of the findings and conclusions of this staff report.

Therefore, staff recommends **Denial** of VAR20240142, a (1) variance of 3 feet from the west side setback for a side setback of 4 feet 6 inches for the Air Conditioning equipment, and another (2) variance of 3 feet from the street setback for a street setback of 22 feet for the second-floor balcony 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) 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.
- 3) Property owners must have complete visual screening that enclose all mechanical equipment to obscure from the public right-of-way and from the immediate neighbor's property to help mitigate noise.
- 4) A revision of the existing permit (Permit Number 240817) will be necessary if the variances are granted.

V. EXHIBITS

- A. Proposed site plan
- B. Postcards
- C. Complete application
- D. Neighbor's Letter dated May 11, 2024



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)**

VAR20240142 – requesting a variance from Table 34-3 Dimensional Regulations in Conventional Zoning Districts for the side setback of mechanical equipment and a variance from Sec.34-638(d)(2)(b) Minimum setbacks for encroachment of a balcony on the second living level in the RC zoning district.

ADDRESS: 319 ESTERO BLVD

APPLICANT: JACK HOLSEM

LOCAL PLANNING AGENCY PUBLIC HEARING
TIME: 9 AM

DATE: SEPTEMBER 3rd, 2024

LOCATION: 2731 Oak St, FMB, Florida 33931

TOWN CONTACT: SARAH.PROPST@FMBGOV.COM

TOWN COUNCIL PUBLIC HEARING*
TIME: 6 PM

DATE: September 23, 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 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)**

VAR20240142 – requesting a variance from Table 34-3 Dimensional Regulations in Conventional Zoning Districts for the side setback of mechanical equipment and a variance from Sec.34-638(d)(2)(b) Minimum setbacks for encroachment of a balcony on the second living level in the RC zoning district.

ADDRESS: 319 ESTERO BLVD

APPLICANT: JACK HOLSEM

LOCAL PLANNING AGENCY PUBLIC HEARING
TIME: 9 AM

DATE: SEPTEMBER 3rd, 2024

LOCATION: 2731 Oak St, FMB, Florida 33931

TOWN CONTACT: SARAH.PROPST@FMBGOV.COM

TOWN COUNCIL PUBLIC HEARING*
TIME: 6 PM

DATE: September 23, 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 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)**

VAR20240142 – requesting a variance from Table 34-3 Dimensional Regulations in Conventional Zoning Districts for the side setback of mechanical equipment and a variance from Sec.34-638(d)(2)(b) Minimum setbacks for encroachment of a balcony on the second living level in the RC zoning district.

ADDRESS: 319 ESTERO BLVD

APPLICANT: JACK HOLSEM

LOCAL PLANNING AGENCY PUBLIC HEARING
TIME: 9 AM

DATE: SEPTEMBER 3rd, 2024

LOCATION: 2731 Oak St, FMB, Florida 33931

TOWN CONTACT: SARAH.PROPST@FMBGOV.COM

TOWN COUNCIL PUBLIC HEARING*
TIME: 6 PM

DATE: September 23, 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 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)**

VAR20240142 – requesting a variance from Table 34-3 Dimensional Regulations in Conventional Zoning Districts for the side setback of mechanical equipment and a variance from Sec.34-638(d)(2)(b) Minimum setbacks for encroachment of a balcony on the second living level in the RC zoning district.

ADDRESS: 319 ESTERO BLVD

APPLICANT: JACK HOLSEM

LOCAL PLANNING AGENCY PUBLIC HEARING
TIME: 9 AM

DATE: SEPTEMBER 3rd, 2024

LOCATION: 2731 Oak St, FMB, Florida 33931

TOWN CONTACT: SARAH.PROPST@FMBGOV.COM

TOWN COUNCIL PUBLIC HEARING*
TIME: 6 PM

DATE: September 23, 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 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»



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Site Address: 319 Estero Blvd

STRAP Number: 244623W10070D027A

Applicant: Jack Holsem Phone: 616-291-1822

Contact Name: Kara Stewart Phone: 239-770-4198

Email: stewart.karalyn@gmail.com/jholsem@comcast.net Fax: _____

Current Zoning District: RC

Future Land Use Map (FLUM) Category: Mixed Residential

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

ACTION REQUESTED

☐ 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*: Jack Holsem 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: 505 JACKSON ST GRANDVILLE MI 49418 GRANDVILLE

Email: jholsem@comcast.net Fax: _____

Contact Name: Jack Holsem Phone: 616-291-1822



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: Kara Stewart Phone: 239-770-4198

Address: _____

Email: stewart.karalyn@gmail.com Fax: _____

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

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☒ Variance from LDC Section 34 - 638 (d)(1)(g); (d)(2)(
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ 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: Jack Holsem Phone: 616-291-1822

Mailing Address: 505 JACKSON ST GRANDVILLE MI 49418 GRANDVILLE MI 49418

Email: JHolsem@comcast.net Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Jack Holsem 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

Jack Holsem

Printed Name

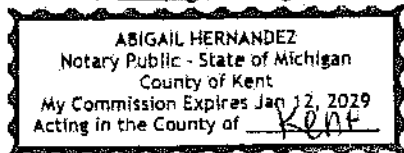
STATE OF Michigan COUNTY OF Kent

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

presence OR ☐ online notarization, this 15 day of MAY, 2024, by

Jack Holsem ☐ who is personally known to me OR ☒ who has produced

Drivers licensed as identification.



Abigail Hernandez
Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

_____ Signature	_____ Printed Name
--------------------	-----------------------

AFFIDAVIT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Signature

Title

Typed or Printed Name

Date

STATE OF _____ COUNTY OF _____

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

Seal

Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP 244623W10070D027A Property Address:
319 Estero Blvd Is the subject
property within a platted subdivision recorded in the official Plat Books of Lee County?

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

☒ Yes. Property identified in subdivision: Island Shores

Book: 9 Page: 37 Unit: 4 Block: D Lot(s): E 1/2 lot 27

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) 50.18 feet
Depth (please provide an average width if irregular in shape) 128.5 feet
Frontage on street: 50 feet. Frontage on waterbody: 50.36 feet
Total land area: 6448.13 ☐ acres ☒ square feet

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

Over bridge go right across from Pink Shell

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

line. Exhibit 6-2

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

Explanatory Notes – Part IV & V

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



Case # _____

Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

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

Case Number:
Project Name: 319 Estero Blvd
Authorized Applicant: Jack Holsem
LeePA STRAP Number: 24-46-23-W1-0070D.027A

Current Property Status: Under Construction	
Current Zoning: RC	
Future Land Use Map (FLUM) Category: Mixed Residential	
Comp Plan Density: 6du/acre	Platted Overlay? ☐ Yes ☒ No

Variance is requested from:

LDC Section Number	Title of Section or Subsection
34-638	Setbacks 638 (d)(1)(g); (d)(2)(b)

Complete the narrative statements below for EACH variance requested.

PART I
Narrative Statements

Request for variance from 34-638 **(LDC Section number)**

Explain the specific regulation contained in this section from which relief is sought:
34-638 (d)(2)(b) Porches, balconies and stoops. This section does not allow an encroachment beyond first living level; owner is proposing a 3' encroachment
X 17' wide balcony encroachment on the second living level.
34-638 (d)(1)(g) Mechanical equipment may not encroach into the required
sideyard setback of a principle structure. Owner is
proposing the a/c to be located on the property in similar location to previous a/c
and thus encroaching into the side yard by 3', thus providing a 4'6" sideyard
setback to the equipment, while the house remains at required 7'6".

Reasons for request

Explain why the variance is needed:
Hurricane Ian destroyed the home.
Pls see attached document "Why the Variance is Needed"

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

The proposed front balcony encroachment will not have any negative effect on the neighbors the distance between the porch and the edge of pavement will be approx 36'.

However we feel with this slight bump out on the front of the home it will be more aesthetically pleasing.

The side yard AC encroachment will not have any negative affect on the neighbor in fact they have provided a letter in support of our design.

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

Please see attached document "Hardship....."



Pls see attached document "Qualifications for a Variance"

$$\vdots$$

•

PART 2

Submittal Requirements

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

Required Items

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

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

Cover page

Case Number will be inserted by Community Development staff.

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

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

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

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

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

Narrative statements

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

Site plan

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

LDC Section 34-87

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

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

Hardship (uniqueness about the property) that justifies relief from the regulations

Front Balcony Encroachment:

The property is restricted due to the remaining pool and patio in rear of property. This 3' encroachment is on the only sundeck on the home and we had planned to have lounge chairs facing the gulf with a little space in front of them so we could walk past them safely. We also planned to have a table and chairs, but with the deck cut back we will have only have about 6' inside the railing, which does not allow enough room for the lounge chairs or the seating arrangement for the table and chairs. The home will be facing west (the sunset) and as such we are looking to be able to capture as much view as possible from the front of the home. The 3' encroachment allows a further view to the north (otherwise we look into our elevator shaft), again enhancing the street appeal as well as allowing us to capture a view down the road. From a functional perspective, pulling the upper deck back 3' removes protection from the sun and rain for the lower deck.

Mechanical Equipment Encroachment:

The previous home had a total of 12' side yard setbacks while we are now required to have total of 15' side yard setbacks (the property is just at 50' wide). Keeping the mechanical equipment elevated on the side property line allows for ease of maintenance and eliminates the intrusion of the roof system with brackets etc. (thus reducing a potential for leaking). The required FEMA elevation requires us to elevate to such a level that aesthetically we believe having a break for the mechanical equipment (which will be screened so it is visually pleasant) enhances the architectural characteristics of the property for the

benefit of the community, without sacrificing anything for our neighbor.

May 11, 2024

To the Town of Fort Myers Beach LPA and Town Council

I own the property at 315 Estero Blvd. directly north of Jack and Judy Holsem's property at 319 Estero Blvd. Ours is the only lot between the Holsem's and the property owned by the Pink Shell to the north, so we are likely the only property to be affected by the location of the mechanical equipment. It is our understanding that the Holsem's are seeking a variance to place their mechanical equipment on the north side of their home and we are supportive of the granting of this variance. All of their mechanical equipment has always been located within the set back on the north side of the house and we are fine with that.

Sincerely,



Paul Edwards

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

Yellow Sheet Number: **2024-224**

1. **Request:**

Meeting Date: September 3, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVE/ APPROVE WITH CONDITIONS/ DENY SPECIAL EXCEPTION FOR 1400 ESTERO BLVD, LANI KAI RESORT TO REBUILD PAVER DECKS, BEACH-BAR STRUCTURES, WALKWAYS, COVERED SCREENED AREAS, GAZEBO, PLANTING AREAS AND WOOD DECKING TO PRE-IAN CONDITION FULLY IN THE EC ZONING.

Why the action is necessary:

This structure is considered major accessory structure and can be replaced in the EC zoning district with approval of a special exception, per Section 34-652 (e) of the land development code. The EC zoning district starts at the 1978 Coastal Construction Control Line (CCCL) and extends seaward to the water. The attached site-plan shows the CCCL as the gray, dashed line running through the back portion of the resort property and running generally parallel to the seaward portion of the building.

What the action accomplishes:

Allow Lani Kai to rebuild their EC COP area

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Resolution

5. **Background:**

The applicant is proposing the replacement of paver decks, beach-bar structures, walkways, covered, screened areas, gazebo, planting areas and wood decking to pre-Ian condition within the Environmentally Critical (EC) zoning district. The decks and structures were in existence in the proposed location, prior to Hurricane Ian.

Attachments:

1. 24-XX_SEZ20240024_Lani Kai EC_1400 Estero Blvd
2. LPA Staff Report_jas_v2
3. Applicant Narrative
4. MCP
5. Survey
6. Lee County_Aproved LDO (2001)
7. Approved DEP Permits
8. Existing COP License

Financial Impact:

N/A

6. **Alternative Action**

ADOPT WITH CONDITIONS

7. **Staff Recommendations:**

N/A

8. **Recommended Approval:**

Frankie Kropacek, Operations & Compliance Director

nancy stuparich, Town Attorney

Amy Baker, Town Clerk

Date: August 29, 2024

Date: August 30, 2024

Date: August 30, 2024

RESOLUTION NUMBER 24-XX

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING / APPROVING WITH CONDITIONS / DENYING SPECIAL EXCEPTION SEZ20240116 TO ALLOW RECONSTRUCTION OF REPLACEMENT/REPAIR OF PAVER DECKS, BEACH-BAR STRUCTURES, WALKWAYS, COVERED, SCREENED AREAS, GAZEBO, PLANTING AREAS AND WOOD DECKING IN THE ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT, WITH CONDITIONS, FOR THE PROPERTY LOCATED AT 1400 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, Island Winds Condominium Association is requesting a special exception for the reconstruction of major accessory structures that were destroyed during hurricane Ian, including a pool deck, walkways, and a fence on its property, which is located in the Environmentally Critical zoning district; and

WHEREAS, the STRAP number for the subject property is 19-46-24-W4-0070D.0020;

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

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on September 9, 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 34-88 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 X-X to recommend approval/ approval with conditions/ denial of the special exception; and

WHEREAS, on September X, 2024 the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by 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 Applicant **did/did not** meet its burden of proof that the requested Special Exception **does/does not** meet the requirements of the Town Comprehensive Plan and LDC, and approving the Special Exception **is/is not** in the best interest of the Town to approve. Based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties and public, the Town Council **approves/approves with conditions/denies** the Special Exception for the reconstruction of a pool deck, walkways and a fence in the Environmentally Critical zoning district.

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

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

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

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

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

- 1) The applicant shall obtain a revised FDEP permit which includes all the structures/ pavers, including the beach bars.
- 2) Additional repairs to major structures in the EC zoning district will require a new special exception.
- 3) Approval of this Special Exception does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
- 4) The applicant must apply for and receive all state and local permits required for the reconstruction of all proposed structures.
- 5) Any violation of the conditions of approval shall render the special exception null and void.

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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,	_____
Scott Safford	_____
Karen Woodson	_____

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.



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Special Exception

CASE NUMBER: SEZ20240024

CASE NAME: Special Exception for the replacement/repair of paver decks, beach-bar structures, walkways, covered, screened areas, gazebo, planting areas and wood decking to pre-Ian condition fully in the EC zoning.

LPA

HEARING DATE: September 3rd, 2024 at 9:00 AM

STAFF

RECOMMENDATION: Approve With Conditions

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

I. APPLICATION SUMMARY

Applicant/Owner: Robert B. Burandt, Esq./ Lani Kai, LP

Requests: To return the paver decks, beach-bar structures, walkways, covered, screened areas, gazebo, planting areas and wood decking to pre-Ian condition

Physical Address: 1400 Estero Blvd.

STRAP #: 19-46-24-W4-0070D.0020

FLU: Recreation

Zoning: Environmentally Critical

Adjacent zoning and land uses:

North:	Downtown Commercial Parking Lot(s)
South:	Environmentally Critical (EC) Beach
East:	Downtown Commercial Parking Lot
West:	Mixed Use Retail and Condominiums

II. BACKGROUND AND ANALYSIS

Background:

The applicant is proposing the replacement of paver decks, beach-bar structures, walkways, covered, screened areas, gazebo, planting areas and wood decking to pre-Ian condition within the Environmentally Critical (EC) zoning district. The decks and structures were in existence in the proposed location, prior to Hurricane Ian.

This structure is considered major accessory structure and can be replaced in the EC zoning district with approval of a special exception, per Section 34-652 (e) of the land development code. The EC zoning district starts at the 1978 Coastal Construction Control Line (CCCL) and extends seaward to the water. The attached site-plan shows the CCCL as the gray, dashed line running through the back portion of the resort property and running generally parallel to the seaward portion of the building.

Analysis:

Per the applicant's submittal, the resort building was developed in 1979, while the application doesn't address when the structures in the EC were constructed staff can confirm through Lee Property Appraiser's aerials that similar structures and decks existed in 2001, the first year available with photography.

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

Neighborhood Compatibility:

A review of the aerials up and down the beach indicate that there are a number of primary and accessory structure that extend over the 1978 CCCL. The aerials are not

precise but staff has fielded questions from condos and homeowners about the process of obtaining Special Exceptions for existing structures, indicating that there is a non-insignificant number of lots which may be affected. These residents may request to repair the primary and accessory structure in the same location or may choose to move the structures landward of the CCCL.

Findings and Conclusions:

Section 6-366(b)(3) Regulations and Considerations

LDC Section 6-366 includes additional regulations and considerations for special exception approval of repairs in the EC zoning district:

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

The applicant has been coordinating with staff, and their own contractors to ensure compliance with all floodplain and turtle-protection regulations related to rebuild of the decks and structures.

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

The repairs are proposed in conjunctions with Environmental review to ensure that no dunes or native vegetation will be impacted. Any plantings proposed will be required to be Florida Friendly, or otherwise acceptable to the Town and Florida DEP.

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

Sea turtle nesting season will begin May 1st, and will end on October 31st. Staff will ensure that the applicant is aware that even if provided approval to replace the structures that it must be done outside of turtle nesting season.

The resort has stated they are aware of this limitation in discussion with their contractor.

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

This will be a condition of the special exception approval.

Special Exception Findings

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

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

The structures in the EC were severely damaged during Ian. While construction seaward of the CCCL should be limited, this request is to rebuild an existing structure that will only minimally contribute to future flooding, and which existed with few problems before the storm.

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

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

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

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

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

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

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

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

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

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

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

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

III. RECOMMENDATION

Staff finds that the special exception for reconstruction of existing structures in the EC zoning district is in compliance with item Sec. 34-88(b)(1). Therefore, staff recommends **APPROVAL WITH CONDITIONS** of SEZ20240116 for the reconstruction of paver decks, beach-bar structures, walkways, covered, screened areas, gazebo, planting areas and wood decking to pre-Ian condition

IV. CONDITIONS OF APPROVAL

- 1) The applicant shall obtain a revised FDEP permit which includes all the structures/ pavers, including the beach bars.
- 2) Additional repairs to major structures in the EC zoning district will require a new special exception.
- 3) Approval of this Special Exception does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
- 4) The applicant must apply for and receive all state and local permits required for the reconstruction of all proposed structures.
- 5) Any violation of the conditions of approval shall render the special exception null and void.

Staff Report Exhibits:

A – Site Layout Plan w/ COP Area

LANI KAI
SPECIAL EXCEPTION
STRAPS#: 19-46-24-W4-0070D.0020
1400 Estero Blvd.,
Fort Myers Beach, FL 33931

REQUEST:

Lani Kai requests a Special Exception in the EC Zoning district to allow for COP for outdoor seating area, with accessory structures to include landscape, deck, and pavers.

EXISTING CONDITIONS:

The subject property is zoned Downtown and is in the Pedestrian Commercial Future Land Use Map (FLUM) category, with underlying and common boundary of EC (Environmentally Critical) zoning. Lani Kai currently holds a 4-COP alcoholic beverage license, which permits consumption of beer, wine and liquor.

The property qualifies for a special exception because:

Lani Kai was originally built in 1979 and is a staple of Fort Myers Beach. The permit is for the recovery from the damage and destruction of Hurricane Ian that destroyed the existing accessory structures to include the bar, deck and pavers areas. The Lani Kai has had a 4-Cop license since 2001.

SPECIAL EXCEPTION DECISION MAKING COMPLIANCE

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

The location of the request has been an existing hotel for ±45 years with an approved 4-COP consumption of alcoholic beverages on premises, including indoor and outdoor seating area since 2001 (COP2001-00031). The accessory of the bar, deck and pavers areas were previously approved with LDO2001-00385.

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

The subject property is in the Pedestrian Commercial FLUM category, near Estero Blvd. Comp Plan Policy 4-B-6 regarding the Pedestrian Commercial FLUM, states that “Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet the design concepts of this plan and the Land Development Code” The existing hotel bar area is orientated towards the beach side and heavily traveled by pedestrian beachgoers.

Furthermore, the subject property is located in what the Comprehensive Plan terms Downtown. The Comprehensive Plan describes a vision for this area that “Boast a revitalized entertainments area with tree-shaded outdoor cafes, pedestrian streets, and an ‘Old Estero Island’ character to the buildings.” The applicants request for outdoor consumption on premises fits with the vision for the area as described above.

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

LANI KAI
SPECIAL EXCEPTION
STRAPS#: 19-46-24-W4-0070D.0020
1400 Estero Blvd.,
Fort Myers Beach, FL 33931

LDC Sec. 34-1264(g)(1)(b) states “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.” The allowable expansion for the site would be 45 feet, the applicant request is for a proposed 30 feet.

Furthermore, DEP has evaluated the request for the exception and issued a permit (included with the request.)

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

The proposed structure on the subject parcel was originally developed decades ago and destroyed during Hurricane Ian. The proposed work does not include any previously undisturbed areas, therefore, no negative effects on the environmentally critical area or natural resources.

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 subject property and the immediately surrounding it, is within the Pedestrian Commercial future land use category with similar and will not cause damage, hazard, nuisance, or other detriment to persons or property.

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

The outdoor consumption on premises of alcoholic beverages on the subject property will comply with Section 34-678 and 34-1264

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

The surrounding properties currently are vacant due to Hurricane Ian.

LIMITED DEVELOPMENT ORDER

FOR

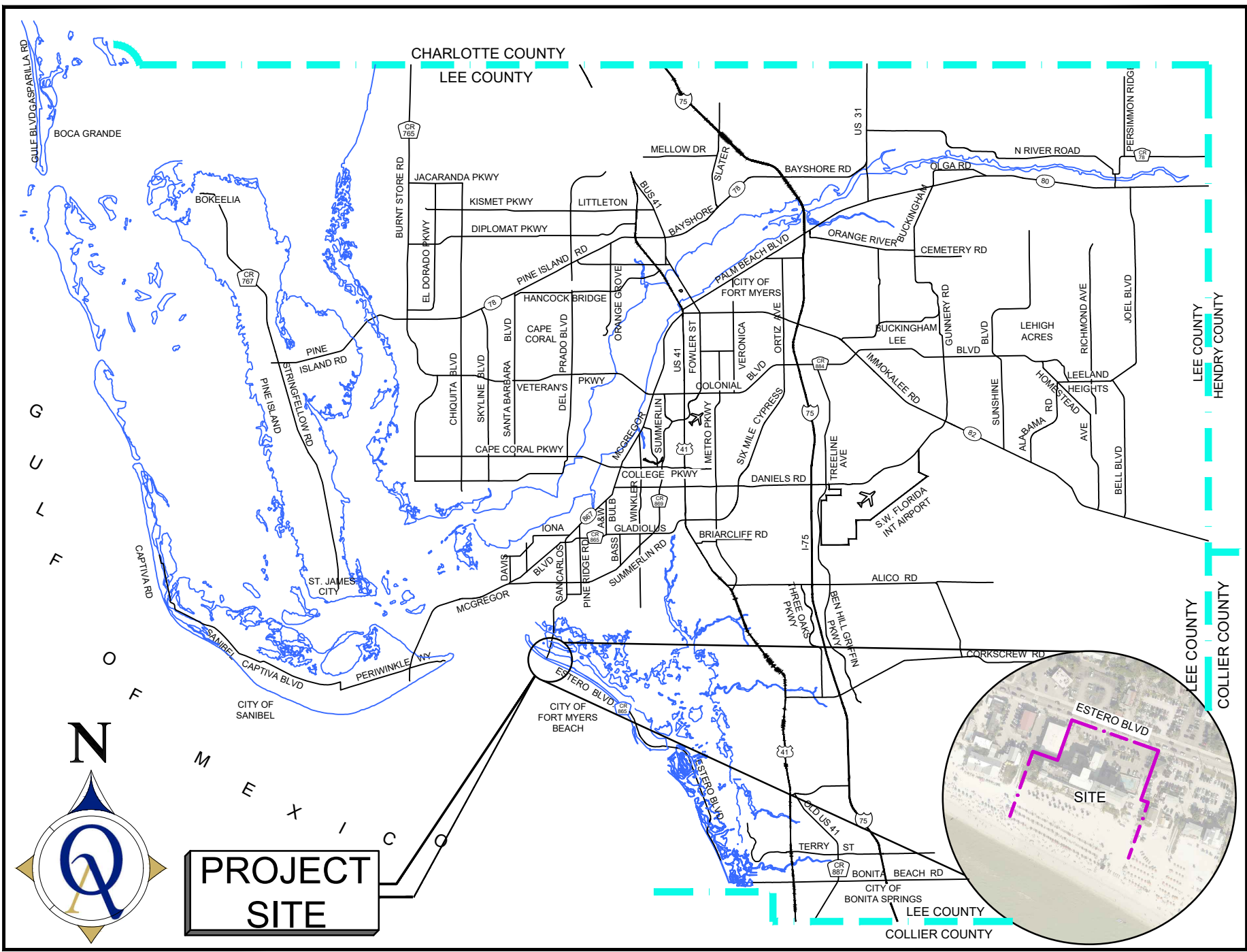
LANI KAI

1400 ESTERO BLVD
FORT MYERS BEACH, FL 33931

OWNER / DEVELOPER:

LANI KAI, LP
1400 ESTERO BLVD
FORT MYERS BEACH, FL. 33931
LEE COUNTY

SITE PERMIT REQUIREMENTS		
AGENCY	STATUS	NOTES
LEE COUNTY DEVELOPMENT ORDER	REQUIRED	
LEE COUNTY PORT AUTHORITY	NOT REQUIRED	
LEE COUNTY UTILITY	NOT REQUIRED	
S.F.W.M.D. ENVIRONMENTAL RESOURCE	REQUIRED	
S.F.W.M.D. DEWATERING PERMIT	NOT REQUIRED	
S.F.W.M.D. WATER USE	NOT REQUIRED	
DOH WATERLINE EXTENSION PERMIT	NOT REQUIRED	
FDEP WASTE WATER EXTENSION PERMIT	NOT REQUIRED	

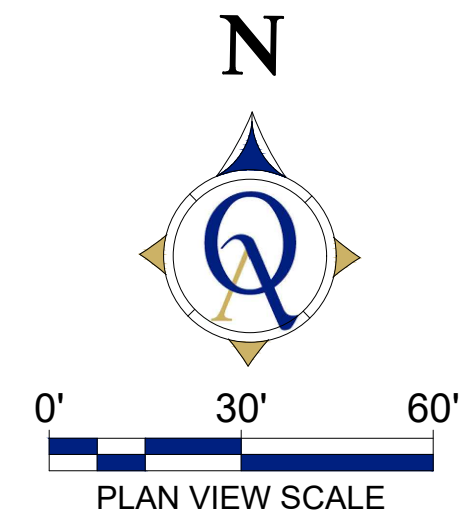


LEE COUNTY, FLORIDA

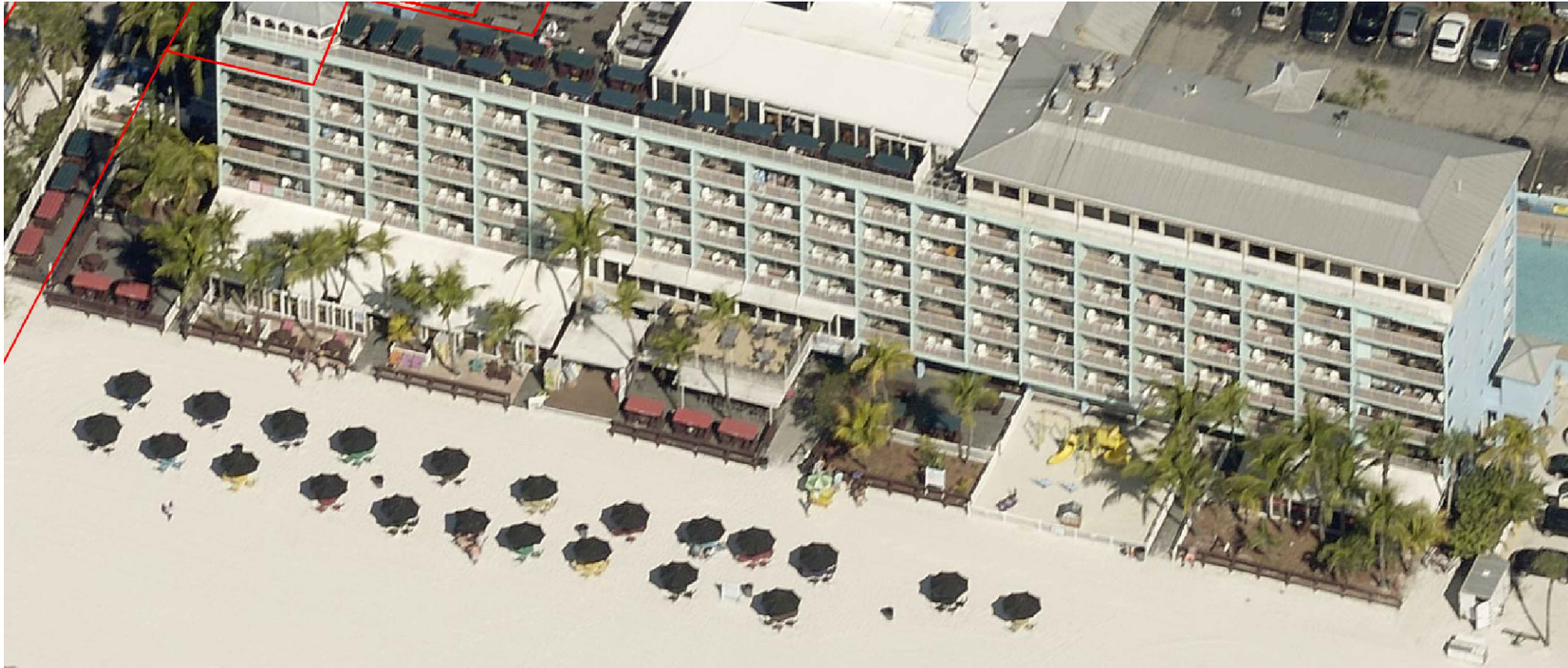
SECTION 06, TOWNSHIP 45S, RANGE 25E
STRAP # 06-45-25-00-00002.0090
230410 - A

SHEET INDEX

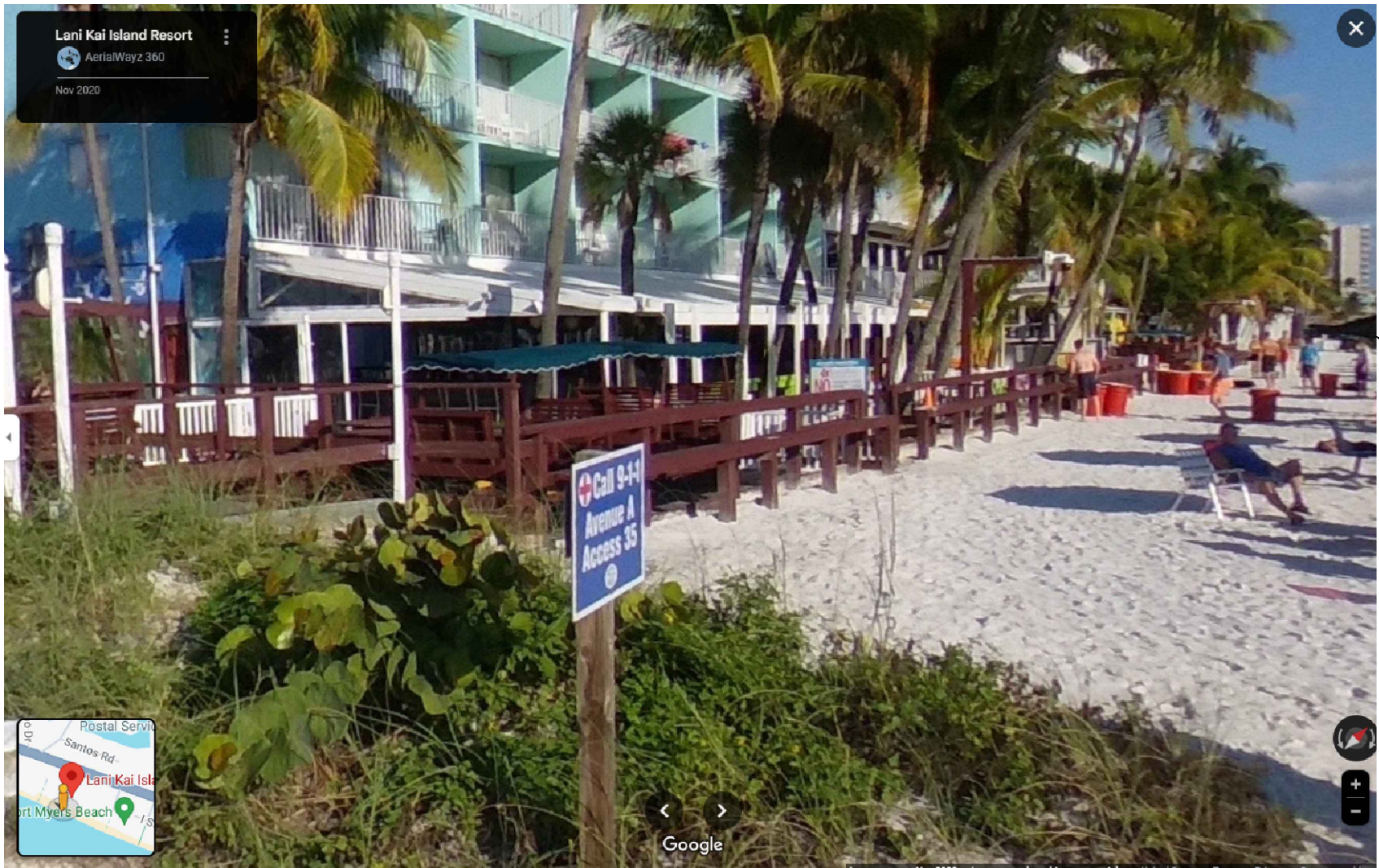
- SITE DEVELOPMENT: SD
SD-01 COVER SHEET
SD-02 MASTER SITE PLAN
EX-01 PRE HURRICANE IAN CONDITIONS (2021)
EX-02 PRE HURRICANE IAN CONDITIONS
IMAGES (2021)



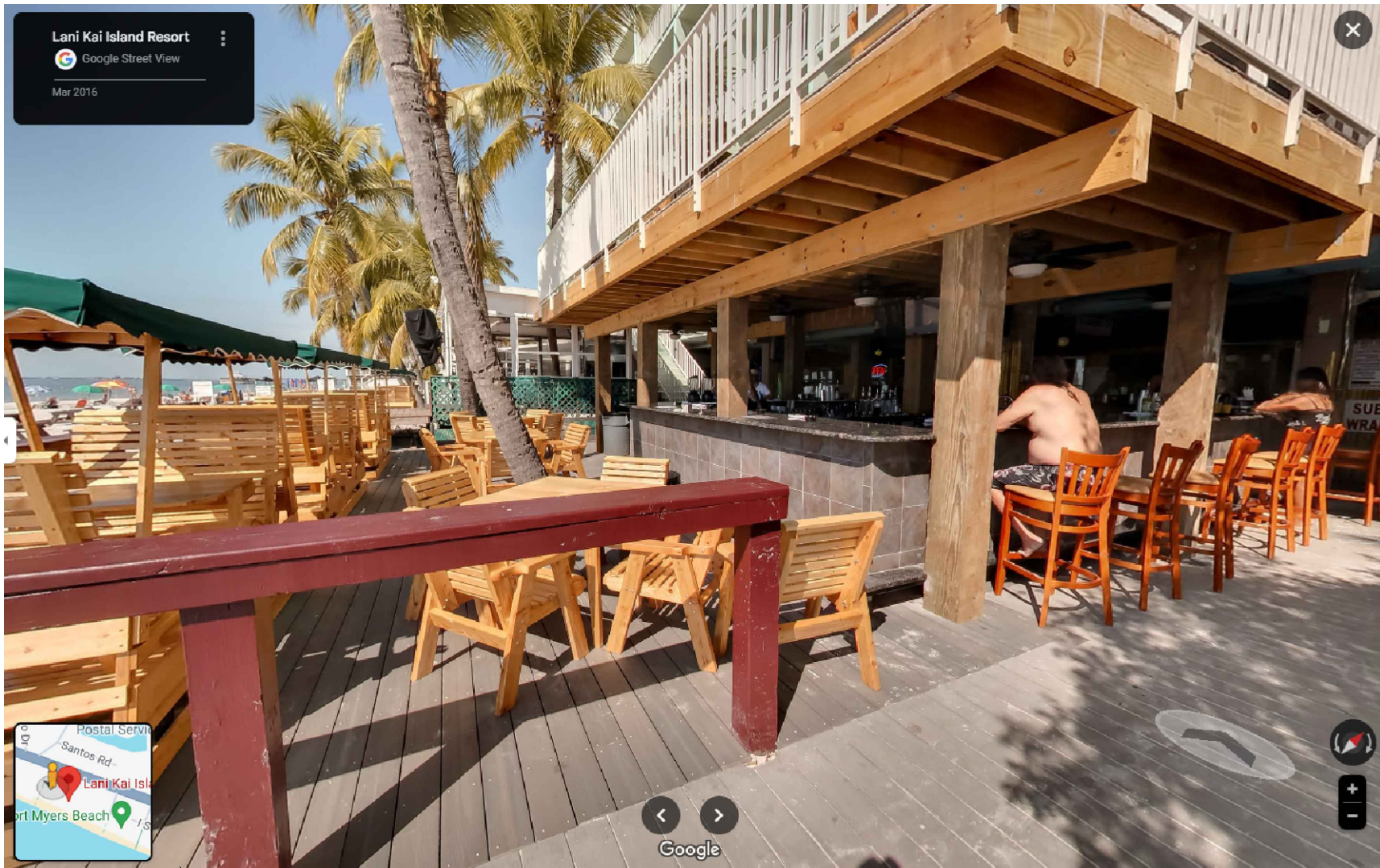
SHEET
SD-02
02 OF 02



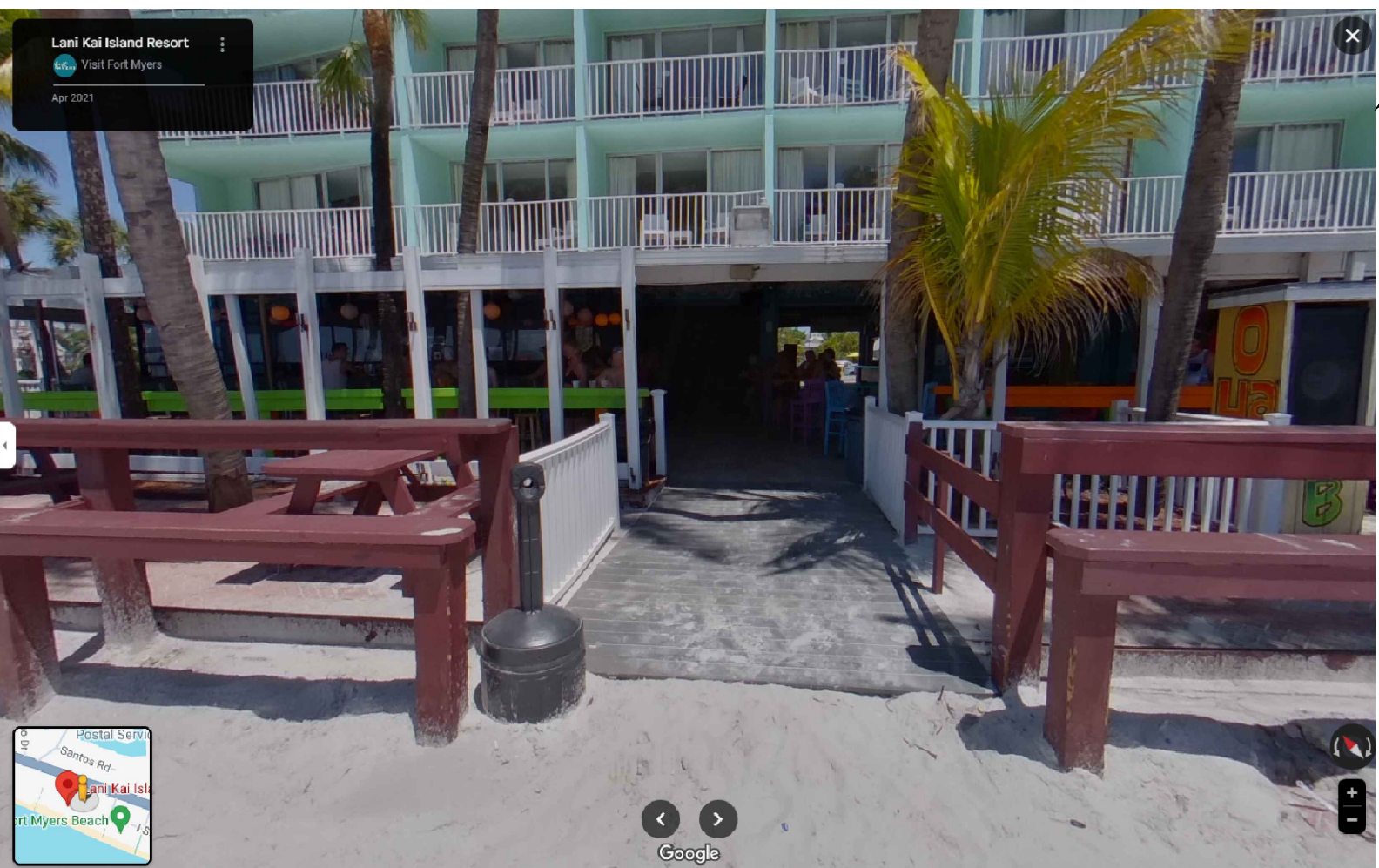
2021 EAGLE VIEW (SOURCE: LEE COUNTY PICTOMETRY AERIAL)



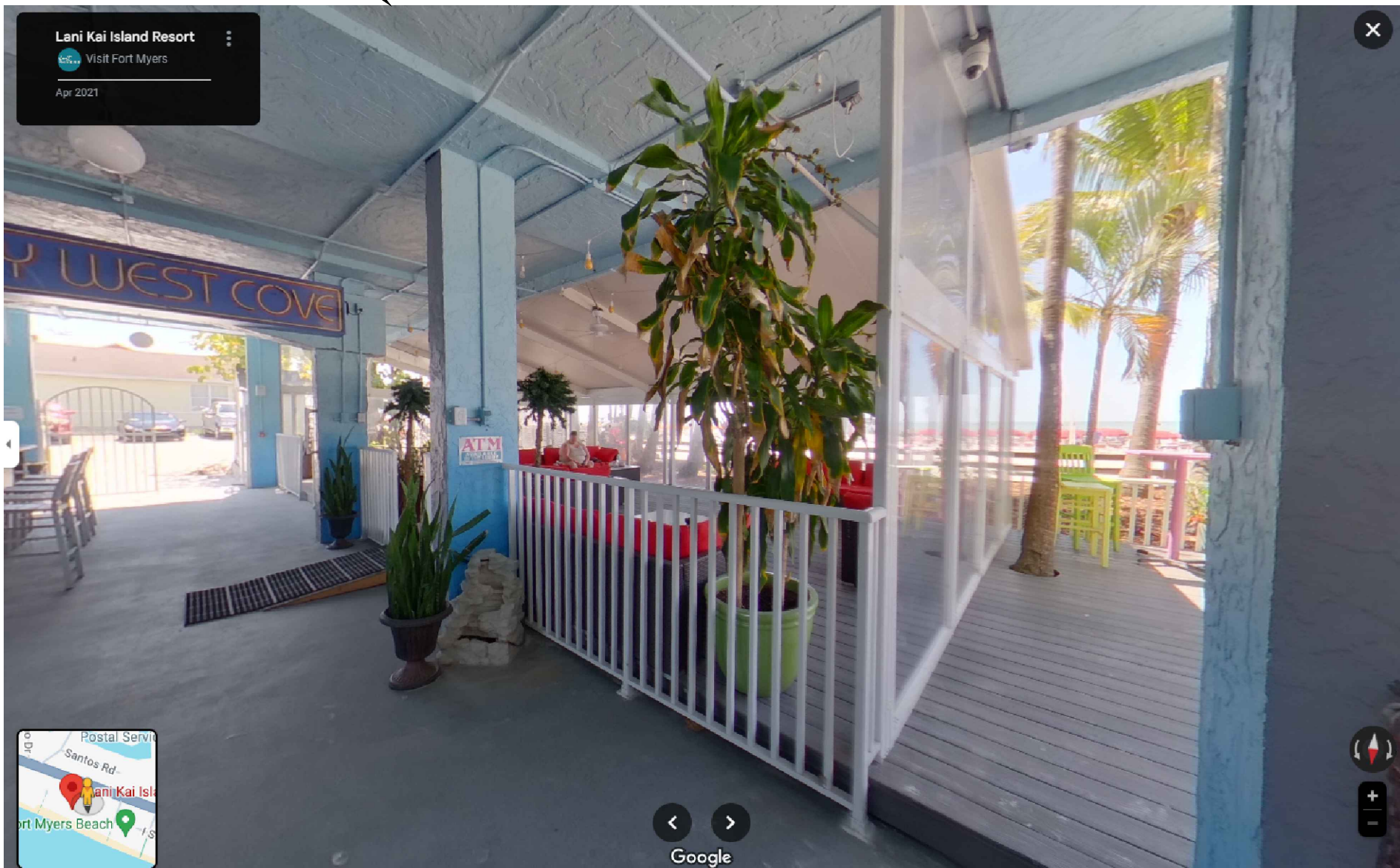
BAR SPACE AND SEATING AREA UNDER COVERED CANOPY AREA (SOURCE: GOOGLE MAPS)



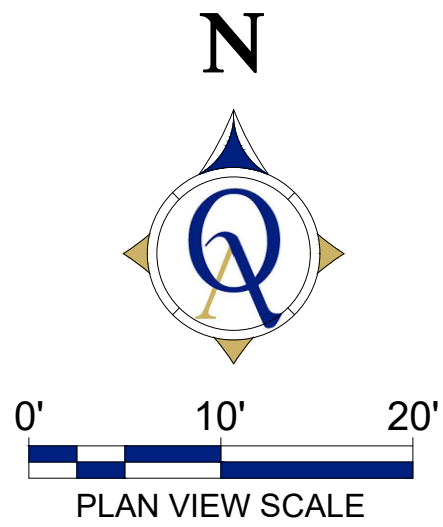
WOODEN DECK WITH BAR SPACE AND SEATING (SOURCE: GOOGLE MAPS)



BAR SPACE AND SEATING AREA UNDER COVERED CANOPY AREA (SOURCE: GOOGLE MAPS)



COVERED CANOPY WITH WOODEN DECK (SOURCE: GOOGLE MAPS)



PRE HURRICANE IAN CONDITIONS:			
	WOODEN DECK - 3,666 SF		ELEVATED WOODEN DECK - 710 SF
	COVERED ALUMINUM CANOPY AREA WITH WOODEN DECK - 2,270 SF		WOODEN GAZEBO - 265 SF
	WOODEN WALKWAY - 729 SF		
TOTAL PRE HURRICANE IMPERVIOUS AREA: 7,640 SF			
NOTE: ALL THE PRE HURRICANE AREAS ARE BASED ON 2021 AERIAL IMAGERY.			

LANI KAI
PRE HURRICANE IAN CONDITIONS IMAGES (2021)

1400 ESTERO BLVD
FORT MYERS BEACH, FL 33931

Quattrone & Associates, Inc.
Engineers, Planners & Development Consultants

4301 Veronica Shoemaker Blvd - Fort Myers, Florida 33916 - 239-936-5222
Certificate of Authorization Number: 9405

ALFRED QUATTRONE, P.E.
FL REG #52741
VALID ONLY WITH STAMPED SEAL

SAVED BY: Praneeth
SAVED ON: 8/11/24

SHEET
EX-02
02 OF 02

230410 - A



D.O. FILE FOR

CASE #: U0020001-00385

SCANNED

SCANNED

MICROFILMED

PLEASE DO NOT

ADD TO THIS FILE

CREATE A SUPPLEMENTAL

PERMIT PLAN

File Edit Options Window Help

☐ Exit ☐ New ☐ Open ☐ To Do ☐ Get ☐ Close ☐ Print ☐ Group Add ☐ Class ☐ Parcel ☐ Activity ☐ People ☐ Fees ☐ Violations ☐ Conditions ☐ Case Notes ☐ Type ☐ Documents ☐ GIS

Violations -- VIO2001-16908 Status REC

Name: CONIDARIS ROBERT + GRACE Updated: 11/14/01 MFN
 Address: 1400 ESTERO BLVD
 Description: Master #: VIO2001-16908 Project:
 send notice for new wood fence w/o permits also brick pavers w/o development order

Staff Contact: CRABTRD Violation Type: DO (work without)
 Violation Address: ESTERO BLVD Violation: Yes
 Code Officer: 1906
 Reported By: JENNY COWART
 Phone #: ()
 Subdivision: Fort Myers Beach
 Directions: 1400 estero blvd fmb

Dates
 Received: 11/1/01
 Target:
 Issued:
 Expires:
 Finalized:
 Legal: CRESCENT BEACH PB 4 PG 45 BLKS D + E + VAC RWY DESC OR 1293 PG 1208

Legal 1
 Legal 2
 Land Use 1
 Land Use 2
 Land Use 3

Associated Documents
 Start Nov... PER... eXcu... Micr... Tide... Lee...

2:11 PM

Document Pick Up Form

Prepared by: Sharon Mihm Date: January 22, 2002

1. Review Type: 1
- 2.

Case Number: LDO2001-00385

Project Name: Lani Kai Island Resort

Attachments: 3 sets of plans

Plan Distribution:

- | | |
|---|----------------------------------|
| 3 | Applicant |
| | Codes & Building Services |
| | Environmental Sciences |
| | Health & Rehabilitative Services |
| | T.I.S. - Mike Carroll |
| | Utilities Department |
| 1 | Zoning & Development Services |

Project Was: Approved

3. Notification Information

Attention: Robert Conidaris

Engineer:

Telephone Number: 941-463-3111

Called: Robert Time: 9²⁵ Date: 1/23/02

4. Pick Up Information

NOTE: Please check packets for
Content before signing

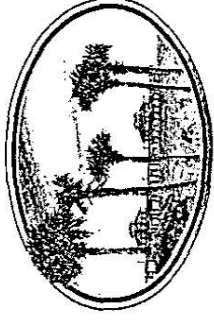
Print Name: Robert Conidaris

Signature: [Signature]

Date: 1/24/02

Additional Comment: _____

Town of Fort Myers Beach



Daniel L. Hughes
Mayor

Ray Murphy
Vice-Mayor

Terry Cain
Seat 1

Howard Ryncarson
Seat 3

Garr Reynolds
Seat 4

January 22, 2002

MICHAEL CONIDARIS
CONIDARIS BUILDERS
15645 PINE RIDGE RD
FORT MYERS, FL 33908

Writer's Direct Dial Number: 479-8375

RE: LANI KAI ISLAND RESORT
LDO2001-00385 - TYPE 01 Limited Review (imperv added)
LP1 Appl (paperwrk LDO resub)

Dear MICHAEL CONIDARIS :

Your application for a Land Development Code TYPE 01 Limited Review (imperv added) Resubmittal has been approved for a Development Order with stipulation(s) for an addition of impervious area for the following:

Approved for pavers, wood decking, and fence as indicated on the approved site plan.

Approval is subject to the following stipulation(s) and/or comment(s): Environmental Sciences Short Checklist

1) *The reviewer may be contacted for additional information regarding this project.*

Please contact Becky Sweigert at 941-479-8552 regarding landscaping comments.

2) *Miscellaneous Items.*

Approval of this limited development order review is approved with the condition that no new lighting is proposed.

This approval does not relieve the development from the responsibility to obtain all necessary Federal, State and local permits.

If you have any questions concerning this matter, please contact this office.

Sincerely,

LEE COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT
Development Services Division
For the Town of Fort Myers Beach

Peter J. Eckenrode
Development Services Director

PJE / SAM

2523 Estero Boulevard · Post Office Box 3077 · Fort Myers Beach, Florida 33932
Telephone 941-765-0202 · Facsimile 941-765-0909 · Direct Line 941-765-0919
Website www.fmbeach.org

From: folke@ci.fort-myers-beach.fl.us
To: "Pete Eckenrode (E-mail 2)" <ECKENRPJ@leegov.com>
Date: 1/16/02 10:48AM
Subject: Lani Kai LDO

Pete,

The Lani Kai now has an approved site plan for the fence permit, I stamped and signed it, as for the pavers they must be within the fenced area.

Let me know if you have any questions.

Dan
765-0202

1E-22-11 over



DATE: 4/6/91
SCALE: 1-50
JOB: 110656

FEMA ZONE
AH2(14)

AVENUE "A" 30'

GULF OF MEXICO

2000 7 1 1999

Approx. Mean High Water 02/06/94

ESTERO BOULEVARD, 50' B/W

DEAD

Approved by fm 13
LO02001-00380

data based on site information supplied by applicant. - POOL HOUSE

2ND STORY

FRAN

1151

— 11 —

1043

1301c

220

100-60-

0-2-1

7

100

A.P.P.O.K.

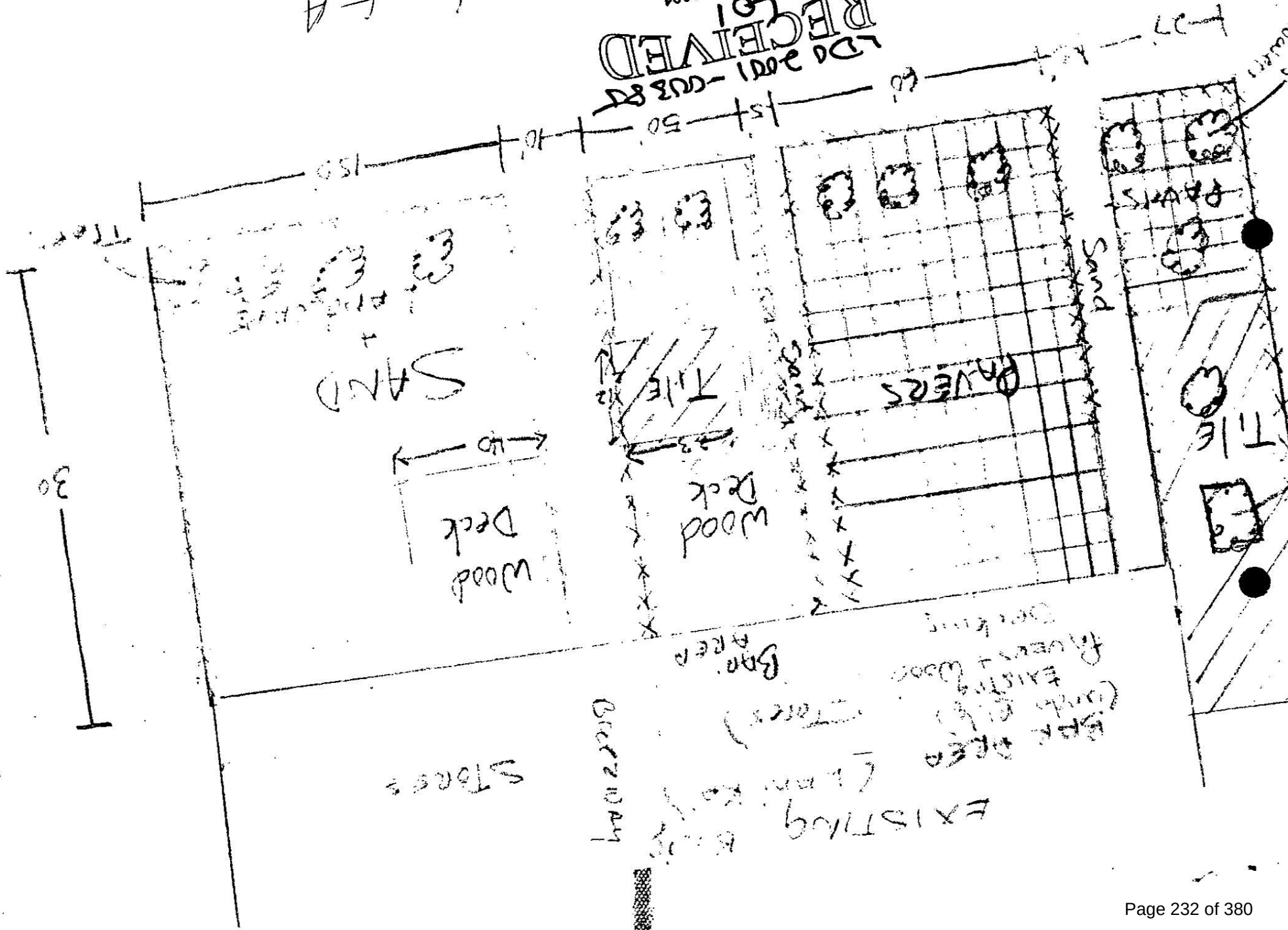
OFFICE

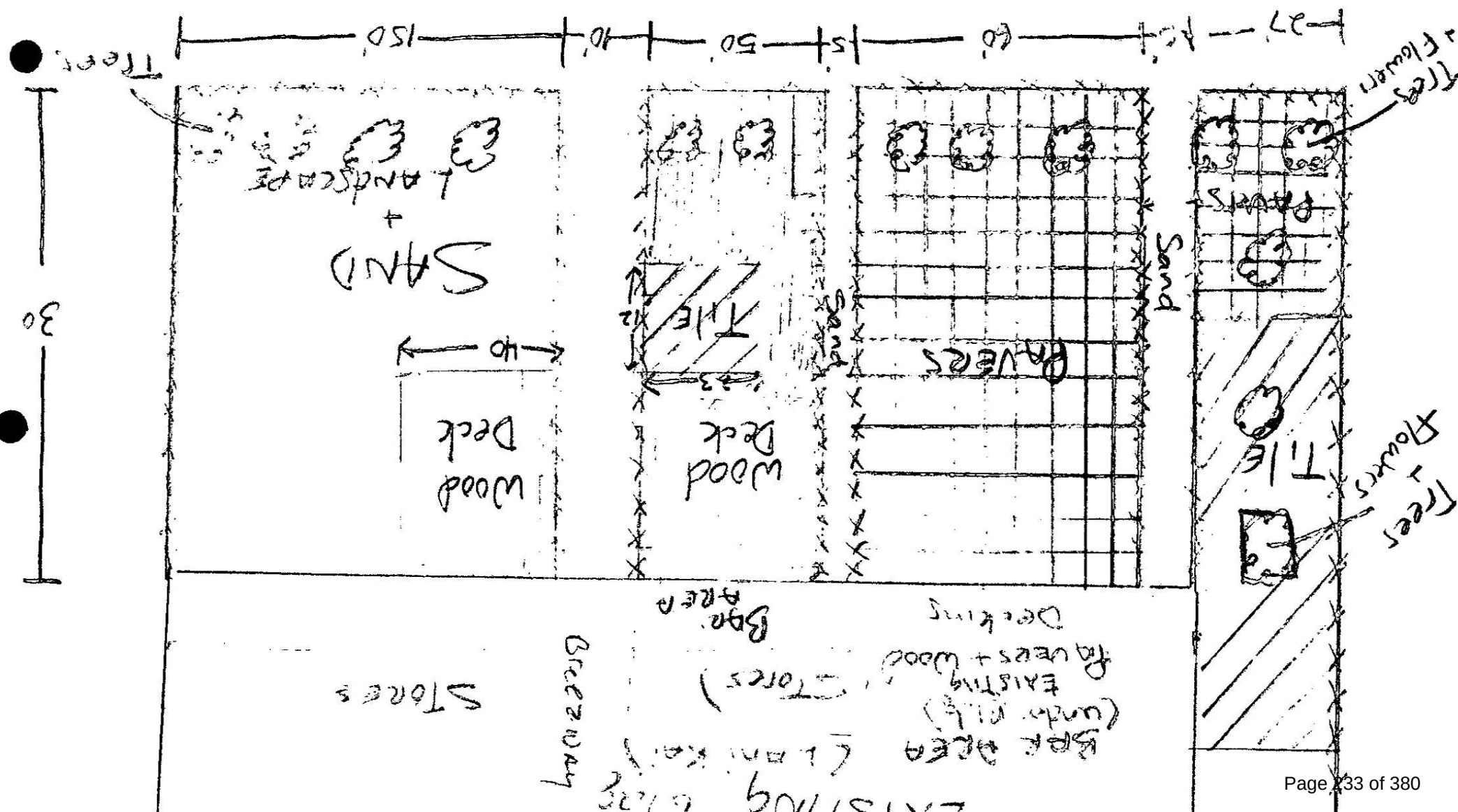
1000

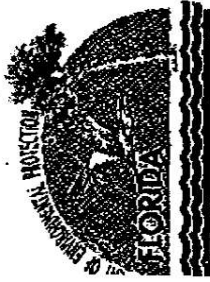
Sheet 4

RECEIVED
NOV 19 2001
COMMUNITY DEVELOPMENT

NOV 19 2001
COMMUNITY DEVELOPMENT







Department of Environmental Protection

Jeb Bush
Governor

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

David B. Scrubs
Secretary

December 19, 2001

Robert and Grace Conidaris
Lani Kai Hotel
1400 Estero Boulevard
Fort Myers Beach, FL 33931

Dear Mr. and Mrs. Conidaris:

On October 30, 2001, a staff inspection of your property located at the above address, revealed the unauthorized construction of a wood deck, a paver-block patio area, and construction of a wood picket fence seaward of the coastal construction control line without benefit of a permit from the Department of Environmental Protection.

On December 19, 2001, the Department issued permit VLE 01-31 P that approves the above-unauthorized activities.

Due to the after-the-fact nature of the permit, the enclosed Final Order also assesses you an administrative fine pursuant to Section 161.054, Florida Statutes, in the amount of three hundred (\$300) dollars.

Payment to the Ecosystem Management and Restoration Trust Fund must be received within 21 days of your receipt of this Final Order. In order to ensure that payment is properly credited, your check should include reference to Department file numbers VLE 01-31 and OGC #01-1936 and should be sent to: **Administrative Enforcement Section, Ecosystem Management and Restoration Trust Fund, 3900 Commonwealth Boulevard, Tallahassee, FL 32399-3000, Attention Jim Martinello.**

Pursuant to Section 161.054, Florida Statutes, failure to pay the fine imposed herein shall create a lien upon the real and personal property of the violator, enforceable by the Department as are statutory liens under Chapter 85, Florida Statutes.

All persons whose substantial interest are affected by this Final Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900

File Number: VLE 01-31
Robert and Grace Conidaris
Page 2

Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the Bureau of Beaches and Coastal Systems named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

a) The name, address, and telephone number of each petitioner; the Department's Final Order identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Final Order; (c) A statement of how each petitioner's substantial interests are affected by the Final Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Final Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Final Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Final Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Final Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this Notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 60Q-2.010, Florida Administrative Code.

Mediation as provided in Section 120.573, Florida Statutes, will not be offered in this instance.

File Number: VLE 01-31
Robert and Grace Conidaris
Page 3

Any party to this Final Order has the right to seek judicial review of this permit, pursuant to Section 120.68, Florida Statutes and Rules 9.030(b)(1)(c) and 9.110, Florida Rules of Appellate Procedure. To initiate an appeal, a Notice of Appeal must be filed with the Department of Environmental Protection, Office of General Counsel, and with the appropriate District Court of Appeal within thirty (30) days of the date the permit was rendered. The Notice filed with the District Court must be accompanied by the filing fee specified in Subsection 35.22(3), Florida Statutes.

The after-the-fact permit is conditional upon the resolution of any related violations to the satisfaction of the Department no later than sixty (60) days from the date of this Order. Failure to comply will result in automatic revocation of the permit and will require removal of all the structures authorized by the permit within thirty (30) days.

The authorized work is strictly limited to that described on the enclosed Final Order. Please direct any questions to me by letter at the letterhead address or by telephone at 850/487-4475.

Sincerely,


Jim Martinello
Environmental Manager
Office of Beaches and Coastal Systems

Enclosures

Certified Mail #: 7000 0520 0021 3386 3307

cc: Celora Jackson
Jennie Cowart
Nancy Mould, OGC
Patrick Krechowski, OGC

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DEPUTY SECRETARY/REGULATORY PROGRAMS
OFFICE OF BEACHES AND COASTAL SYSTEMS

David B. Struhs, Secretary

Jeb Bush, Governor

3900 Commonwealth Boulevard
Tallahassee, Florida 32399
Telephone #850/487-4475
FAX #850/488-5257 or
SUNCOM FAX #278-5257

FAX MESSAGE COVER PAGE

Date: 12/21/21

From: Earlen Wilson

To: Michael, Robert and Grace Conidario

FAX #: 941/463-2986

RE: Here is a copy of what you will receive
in the mail. Call me if you have any
questions. 850/487-4475 x119.

Total pages (including this cover page) 5 If you have any problems

please call above # at _____

Document Pick Up Form

Prepared by: Sharon Mihm Date: December 7, 2001

1. Review Type: LDO-1
- 2.

Case Number: LDO2001-00385

Project Name: Lani Kai Island Resort

Attachments: 3 Sets of plans

Plan Distribution:

- | | |
|---|----------------------------------|
| 3 | Applicant |
| | Codes & Building Services |
| | Environmental Sciences |
| | Health & Rehabilitative Services |
| | T.I.S. - Mike Carroll |
| | Utilities Department |
| 1 | Zoning & Development Services |

Project Was: Denied

3. Notification Information

Attention: Michael Conidaris

Engineer:

Telephone Number: 941-229-6129

Called: Mediv Time: 9:52, 55 Date: 12/11/01

4. Pick Up Information

NOTE: Please check packets for
Content before signing

Print Name: _____

Signature: _____

Date: _____

Additional Comment: _____

 *** TX REPORT ***

TRANSMISSION OK

TX/RX NO 3981 94152886
 CONNECTION TEL
 CONNECTION ID
 ST. TIME 12/12 15:00
 USAGE T 01 '09
 PGS. 1
 RESULT OK



BOARD OF COUNTY COMMISSIONERS

Bob Janes
 District One
 Douglas R. St. Cerny
 District Two
 Ray Judah
 District Three
 Andrew W. Coy
 District Four
 John E. Albion
 District Five
 Donald D. Stillwell
 County Manager
 James G. Yeager
 County Attorney
 Diana M. Parker
 County Hearing
 Examiner

December 7, 2001

MICHAEL CONIDARIS
 CONIDARIS BUILDERS
 15845 PINE RIDGE RD
 FORT MYERS, FL 33908

Writer's Direct Dial Number: 479-8375

RE: LANI KAI ISLAND RESORT
 LDO2001-00385 - TYPE 01 Limited Review (imprerv added)
 L01 Application (Type 1)

Dear MICHAEL CONIDARIS :

The above-referenced project plans have been reviewed and cannot be approved at this time for the following reason(s):

See attached checklist.

In accordance with Section 10-110 of the Land Development Code, you may redraft and submit the required documents (showing the corrections for specified deficiencies) to the Director of the Development Services Division within 180 days of the date hereon or the application will be deemed withdrawn, and a new application along with appropriate fees will be required; or you have thirty (30) calendar days from the date hereon to file an appeal of this decision to the Hearing Examiner's office. Applications are available from the Development Services Division.

PLEASE INDICATE THE ABOVE DEVELOPMENT ORDER NUMBER ON ANY FUTURE CORRESPONDENCE.

IF THE PLAN SETS ARE RETURNED TO YOU, PLEASE RESUBMIT 6 COMPLETE SETS OF REVISED PLANS.

If you have any questions concerning this matter, please contact this office.

Sincerely,



LEE COUNTY SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Bob Janes
District One

Douglas R. St. Camy
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yeager
County Attorney

Diana M. Parker
County Hearing Examiner

December 7, 2001

Writer's Direct Dial Number: 479-8375

MICHAEL CONIDARIS
CONIDARIS BUILDERS
15645 PINE RIDGE RD
FORT MYERS, FL 33908

RE: LANI KAI ISLAND RESORT
LDO2001-00385 - TYPE 01 Limited Review (imperv added)
L01 Application (Type 1)

Dear MICHAEL CONIDARIS :

The above-referenced project plans have been reviewed and cannot be approved at this time for the following reason(s):

See attached checklist.

In accordance with Section 10-110 of the Land Development Code, you may redraft and submit the required documents (showing the corrections for specified deficiencies) to the Director of the Development Services Division within 180 days of the date hereon or the application will be deemed withdrawn, and a new application along with appropriate fees will be required; or you have thirty (30) calendar days from the date hereon to file an appeal of this decision to the Hearing Examiner's office. Applications are available from the Development Services Division.

PLEASE INDICATE THE ABOVE DEVELOPMENT ORDER NUMBER ON ANY FUTURE CORRESPONDENCE.

IF THE PLAN SETS ARE RETURNED TO YOU, PLEASE RESUBMIT 6 COMPLETE SETS OF REVISED PLANS.

If you have any questions concerning this matter, please contact this office.

Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT
Development Services Division

Peter J. Eckenrode
Development Services Director

PJE / SAM

Attachments: 3 Sets of Plans.



LEE COUNTY
SOUTHWEST FLORIDA
BOARD OF COUNTY COMMISSIONERS

Bob Jones
District One
Douglas R. St. Cemy
District Two
Ray Judah
District Three
Andrew W. Coy
District Four
John E. Atton
District Five
Donato D. Stilwell
County Manager
James G. Yeager
County Attorney
Diana M. Parker
County Hearing
Examiner

December 7, 2001

Writer's Direct Dial Number: 479-8375

MICHAEL CONIDARIS
CONIDARIS BUILDERS
15645 PINE RIDGE RD
FORT MYERS, FL 33908

RE: LANI KAI ISLAND RESORT
LDO2001-00385 - TYPE 01 Limited Review (imperv added)
L01 Application (Type 1)

Dear MICHAEL CONIDARIS:

The above-referenced project plans have been reviewed and cannot be approved at this time for the following reason(s):

See attached checklist.

In accordance with Section 10-110 of the Land Development Code, you may redraft and submit the required documents (showing the corrections for specified deficiencies) to the Director of the Development Services Division within 180 days of the date hereon or the application will be deemed withdrawn, and a new application along with appropriate fees will be required; or you have thirty (30) calendar days from the date hereon to file an appeal of this decision to the Hearing Examiner's office. Applications are available from the Development Services Division.

PLEASE INDICATE THE ABOVE DEVELOPMENT ORDER NUMBER ON ANY FUTURE CORRESPONDENCE.

IF THE PLAN SETS ARE RETURNED TO YOU, PLEASE RESUBMIT 6 COMPLETE SETS OF REVISED PLANS.

If you have any questions concerning this matter, please contact this office.

Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT
Development Services Division

Peter J. Eckenrode
Development Services Director

PJE / SAM

Attachments: 3 Sets of Plans.

CHECKLIST for LEGAL SUFFICIENCY REVIEW of

Maintenance Covenant (Property Owner Association) Documents, including:

Stormwater Management System,
Roads, and Certain Utilities For:

Project/Plat Name: _____

DO#: _____ SFWMD Permit # _____

Plat/Case # _____ Status of SFWMD Permit _____

This Checklist Prepared by: _____
(Print Name)

Date Prepared: _____ Business Phone # _____

DIRECTIONS: To insure new development complies with applicable Land Development Code (LDC) regulations, the County Attorney's Office reviews the development's maintenance covenant (property owner association) documents (documents) pertaining to stormwater or surface water management, as well as other project maintenance provisions pertaining to roads, and certain utilities, as applicable. Generally, documents establishing the necessary maintenance and operation provisions take the form of Articles of Incorporation, and Declaration of covenants, restrictions, reservations, etc. This checklist must be completed along with a short, one-paragraph narrative describing the entity responsible for performing the promised maintenance and the manner in which the respective requirements are to be met. Developments within CDD's are encouraged to contact the County Attorney's Office for further direction prior to submission of this checklist as generally, a legally sufficient resolution from the CDD's Board of Supervisors will be required.

Shared ownership or maintenance responsibilities between entities (e.g., a master association and a neighborhood (or community) association, or CDD) requires you to note which entity is responsible for a particular requirement by referencing the relevant document and citing the pertinent provision. If more than one entity has received the same property interest (for example, a drainage easement) via the plat dedication, then the respective maintenance responsibility of each entity must be described in the narrative (discussed above).

This checklist is designed to expedite approval of your client's plat by precisely locating the pertinent provisions in the respective documents. A completed checklist must accompany all documents submitted for review. Previously approved and recorded "Master Association" documents already on file with the County Attorney's Office need not be provided. Supplements or amendments to such documents establishing required maintenance covenants or including the newly platted lands into existing documents must be provided. Checklist citations should be accurate. Failure to include a complete, accurate checklist will delay overall plat approval.

Before the approved plat is signed off for recording the approved documents must be recorded in the public records of Lee County and either a copy of same, or evidence of recording, must be provided to the Department of Community Development. For documents which can not be recorded before the final plat approval because the document(s) require(s) insertion of the Plat Book & Page numbers, recording arrangements including payment of recording fees, may be made with the Clerk of Circuit Courts Minutes Department at 941-335-2328 to have such documents recorded immediately after the plat is recorded.

Revised 10/11/00

1 of 3

CDD District Master Assoc. Stand Alone or Neighborhood Assoc. *** ENSURE PROPER LEGAL DESCRIPTIONS ARE ATTACHED TO DOCUMENTS

_____ (full name of entity) *

_____ (full name of entity) **

_____ (full name of entity) ***

Exact location of required provision in Document (Page, Article, Section #, etc.)			Checklist of required provision which:
1.	establishes that the entity will exist in perpetuity.		
2.	provides the entity with the power and authority to:		
	a. own and convey property,		
	b. establish rules and regulations,		
	c. assess members and enforce assessments,		
	d. sue and be sued, and		
	e. contract for services necessary to operate and maintain property (tracts and easements) dedicated to the entity and any corresponding infrastructure.		
3.	indicates that membership in the entity is comprised of all homeowners, lot owners, property owners or unit owners. For plats containing a golf course(s), the owner/operator of a golf course must have membership in the entity and the respective document(s) must reflect this relationship.		
4.	establishes an initial effective period of at least 25 years, with automatic renewal periods thereafter, during which the entity is bound to perform the obligations created by the document(s).		
5.	provides that in the event the entity is dissolved, the dedicated property and corresponding infrastructure will be conveyed or dedicated to a similar non-profit organization or entity to assure continued maintenance and operation.		

6. establishes that any property (tract(s) or easement(s)) dedicated to an entity and corresponding infrastructure listed below is, or will be, owned by the responsible entity, or is described as common elements or common property in the document pertaining to that entity.	a. the surface/storm water management system (System), including dedicated lake tracts, lake maintenance or drainage easements, and corresponding infrastructure.			
	b. tracts for rights-of-way or access easements and corresponding road/streets.			
	c. utility easements or tracts for corresponding sewer/potable water			
	7. establishes that the entity is responsible for maintenance and operation of:			
	a. the System			
	b. any roads/streets			
	c. any sewer/potable water facilities.			
	8. requires any amendment to the documents that will affect any aspect of the System, including water management portions of common areas, will receive prior approval from South Florida Water Management District.			
	9. provides a method of assessing and collecting assessments for maintenance and operation of dedicated property and corresponding infrastructure.			
	10. grants property owners and other beneficiaries of the dedicated property and corresponding infrastructure, including the System, the legal right to enforce the maintenance covenant(s) stated in the document(s) against the responsible entity.			

SATIDFMARK DOCUMENTS\SURETIES\PODoc Checklist.wpd

AVENUE "A" 30' R/W

ESTERO BOULEVARD 50' R/W

FEMA ZONE
A12(14)

FEMA ZONE
V-20 (17)

COASTAL
CONSTRUCTION
ZONE LINE AS
OF 10/23/80

UPDATE SURVEY

DATED: 4/8/94
SCALE: 1"=50'
JOB: #10556

S & S LAND SURVEY COMPANY
13611 MCKEEB RD., SUITE 2
FT. MYERS, FLORIDA 33913

BY: [Signature]
R.L. SCHWARTZ, R.L.S.
FLORIDA REG. #2229

Subject Property Located In
FEMA Flood Zone A-12 (14.0')
AND Zone V-20 (17.0')
Panel #125124-0420-C
Dated: 11/4/92

LEGAL DESCRIPTION:
A parcel of land lying Blocks "D" and "E" of CRESCENT BEACH, a subdivision as recorded in Plat Book 4 at Page 43, Public Records of Lee County, Florida, described as follows: Lots 2,3,6,7,8, and 9 - Block "D" and Lots 1,4,5,8,9,10, and 11 - Block "E" and Lot 7 LESS Westerly 16 feet thereof Block "E"; and also the Easterly 10 feet of Lots 2,3, and 6 and the Southerly 15 feet of Lot 6 - Block "E" together with the vacated street and alley formerly known as Avenue "B" between the said Block "D" and "E" and including those vacated alleyways between Lot 5 and 6 on the North, and Lots 7,8,9,10 and 11 on the South in said Block "E" and the vacated alleyway between Lot 6 on the North and Lots 7,8 and 9 on the South in the said Block "D". All being in Section 19, Twp. 46S., Rge. 24E., ESTERO ISLAND, Lee County, Florida.

CERTIFY TO: KEVIN JURSKI
BANCFLORIDA, AFSB, IT'S
SUCCESSORS AND/OR ASSIGNS
ATTORNEYS TITLE INSURANCE FUND, INC.

- NOTES:
1. Description as furnished by client.
 2. No search of the Public Records was conducted by this firm.
 3. Elevations as shown are based on N.C.V.D. 1928 datum unless otherwise stated.
 4. Bearings are based on plat or deed.
 5. Encroachments are based on plat.
 6. There may be other easements not shown hereon recorded in the Public Records of governing county.
 7. No Determination of Hazardous Waste Materials has been made by this firm.
 8. Signer limits liability only up to the cost of the survey.
 9. This survey is protected by copyright and all rights are reserved.

LEGEND

- 1" Iron/emp. set
- 1" Iron rod found
- PK Mail set
- PK Mail found
- Concrete Monument Found
- P.U.E. = Public Utility Easement
- D.E. = Drainage Easement
- P.C. = Point of Curve
- P.T. = Point of Tangent
- P.R.C. = Point of Reverse Curve
- R/W = Right of Way
- P.O.B. = Point of Beginning
- P.O.C. = Point of Commencement
- C.B.S. = Concrete Block Structure
- N.C.V.D. = National Geodetic Vertical Datum (1929)
- P.P. = Power Pole
- T.P.D. = Telephone Pedestal
- T.H. = Fire Hydrant
- C.B. = Catch Basin
- Center Line
- D = Dead
- M = Measured
- C = Calculated
- P = Plat

Approx. Mean High Water 04/06/94
GULF OF MEXICO

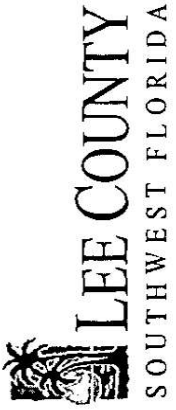
→ Peter

① Lee City cannot locate a approved permit for the fence.

② 1 an Folke Ch. H. Myn. Del
Sharon Minn contact.

Have Dan Sign off.

③



BOARD OF COUNTY COMMISSIONERS

Bob Janes
District One

Douglas R. St. Cemy
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yeager
County Attorney

Diana M. Parker
County Hearing Examiner

December 7, 2001

Writer's Direct Dial Number: 479-8375

MICHAEL CONIDARIS
CONIDARIS BUILDERS
15645 PINE RIDGE RD
FORT MYERS, FL 33908

RE: LANI KAI ISLAND RESORT
LDO2001-00385 - TYPE 01 Limited Review (imperv added)
L01 Application (Type 1)

Dear MICHAEL CONIDARIS :

The above-referenced project plans have been reviewed and cannot be approved at this time for the following reason(s):

See attached checklist.

In accordance with Section 10-110 of the Land Development Code, you may redraft and submit the required documents (showing the corrections for specified deficiencies) to the Director of the Development Services Division within 180 days of the date hereon or the application will be deemed withdrawn, and a new application along with appropriate fees will be required; or you have thirty (30) calendar days from the date hereon to file an appeal of this decision to the Hearing Examiner's office. Applications are available from the Development Services Division.

PLEASE INDICATE THE ABOVE DEVELOPMENT ORDER NUMBER ON ANY FUTURE CORRESPONDENCE.

IF THE PLAN SETS ARE RETURNED TO YOU, PLEASE RESUBMIT 6 COMPLETE SETS OF REVISED PLANS.

If you have any questions concerning this matter, please contact this office.

Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT
Development Services Division

Peter J. Eckenrode
Development Services Director

PJE / SAM

Attachments: 3 Sets of Plans.

Environmental Sciences Short Checklist

1) *The reviewer may be contacted for additional information regarding this project.*

Please contact Becky Sweigert at 941-479-8552 regarding landscaping comments.

2) *Miscellaneous Items.*

Approval of this limited development order review is approved with the condition that no new lighting is proposed.

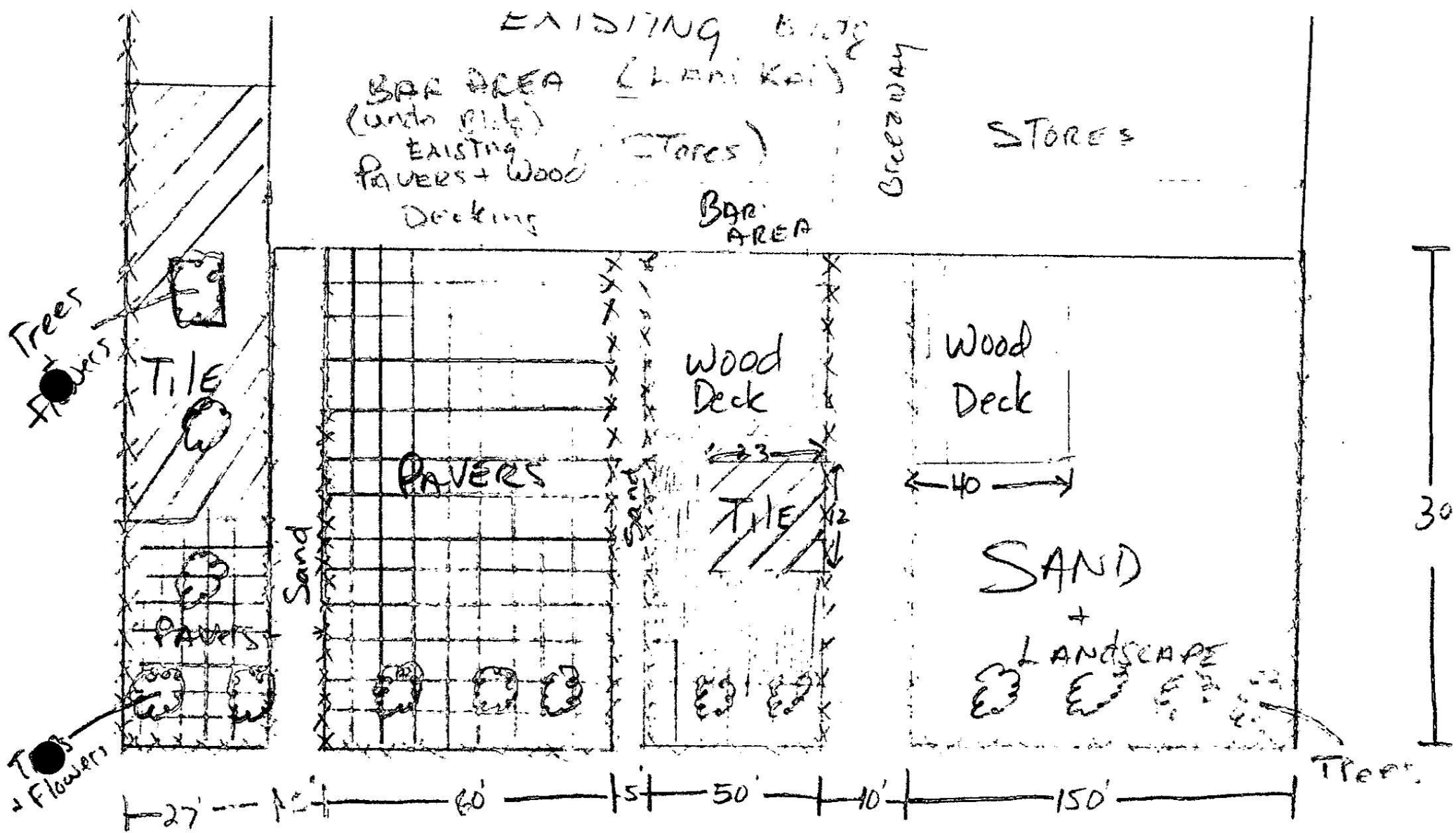
Limited Review DO Type 1-3 & 6-12 Checklist

1) *The reviewer may be contacted for additional information regarding this project.*

Please contact Sharon Mihm at 941-479-8375.

2) *Miscellaneous Items.*

Prior to approval of your Limited Review Development Order for renovations due to a storm, please obtain necessary approval of the Department of Environmental Protection and the Town of Fort Myers Beach.



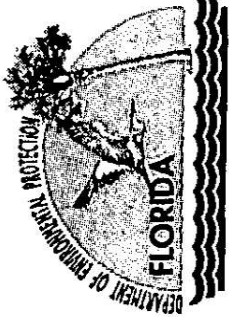
LD 2001-00385
RECEIVED

NOV 19 2001

Due 11-28-01
COMMUNITY DEVELOPMENT

Sheet A

NOT TO SCALE



Department of Environmental Protection

Jeb Bush
Governor

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

David B. Struhs
Secretary

November 19, 2001

Robert and Grace Conidaris
Lani Kai Resort
1400 Estero Boulevard
Fort Myers Beach, FL 33931

Dear Mr. and Mrs. Conidaris:

SUBJECT: WARNING LETTER - POSSIBLE UNAUTHORIZED CONSTRUCTION SEAWARD OF THE COASTAL CONSTRUCTION CONTROL LINE. VIOLATION FILE NUMBER VLE 01-31.

Based on an investigation by the Department of Environmental Protection, it appears that you may have again (VLE 00-17) engaged in unauthorized activities on your property located at 1400 Estero Boulevard, in Fort Myers Beach, approximately 100 feet to 400 feet south of DEP's reference monument R-182, in Lee County. The possible violation consists of construction of a wood deck and paver-block patio area and construction of a wood picket fence seaward of the coastal construction control line without benefit of a permit from the Department of Environmental Protection.

Subsection 161.053(2), Florida Statutes (F.S.), reads in part as follows:

Upon establishment, approval, and recordation of such control line or lines, no person, firm, corporation, or governmental agency shall construct any structure whatsoever seaward thereof; make any excavation, remove any beach material, or otherwise alter existing ground elevations; drive any vehicles on, over, or across any sand dune; or damage or cause to be damaged such sand dune or the vegetation growing thereon seaward thereof, except as hereinafter provided.

You are advised that any activity that may be contributing to violations of the above statutes and rules should be ceased immediately.

File Number: VLE 01-31
Condaris/Lani Kai Resort
Page 2

It is extremely important that you contact the Department and provide a response to this Warning Letter. Please address your reply to: Earlene J. Wilson, Environmental Specialist, Department of Environmental Protection, Office of Beaches and Coastal Systems, Mail Station 300, 3900 Commonwealth Boulevard Tallahassee, Florida 32399-3000, and reference file number VLE 01-31. We will expect to hear from you within 14 days of your receipt of this letter.

Please be advised that this Warning Letter is part of an agency investigation, preliminary to agency action in accordance with Section 120.57(5), Florida Statutes. We look forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,


Jim Martinello
Environmental Manager
Office of Beaches and Coastal Systems

Certified #: 7000 0520 0021 3386 3246
cc: Celora Jackson
Jennie Cowart
Lee County Building Official

Property Data for Parcel 19-46-24-W4-0070D.0020

[Next Lower Parcel Number] [Next Higher Parcel Number] [Display Building Permits on this Parcel] [Display Tangible Accounts on this Parcel]

[Display Tax Bills on this Parcel]

Owner of Record	Legal Description	Image of Structure
CONIDARIS ROBERT + GRACE 3622 HERITAGE LN FT MYERS FL 33908	CRESCENT BEACH PB 4 PG 45 BLKS D + E + VAC R/W DESC OR 1293 PG 1208	
Site Address	1400 ESTERO BLVD Fort Myers Beach, FL 33931	
Taxing District		
033 - TOWN OF FT MYERS BEACH		DOR Code
		39 - HOTELS, MOTELS
Property Values	Exemptions	Dimensions
Just	8,908,740 Homestead	0 Measurement Units SF
Assessed	8,908,740 Agricultural	0 Number of Units 117,612.00
Assessed SOH	8,908,740 Widow	0 Frontage 0
Taxable	8,908,740 Widower	0 Depth 0
Building	5,583,840 Disability	0 Bedrooms 5
Land	2,940,300 Wholly	0 Bathrooms 328
Building Extra Features	349,090 Energy	0 Total Sq. Ft. 97,671
Land Extra Features	35,510 SOH Difference	0 Year Built 1980

Sales Transactions				
Sale Price	Date	OR Book/Page	Transaction Type	Vacant/Improved
100	1/1/1993	2360/1911	01	I
0	4/1/1986	1842/3161	01	I

Solid Waste (Garbage) Roll Data				
Solid Waste District	Roll Type	Category	Unit/Area	Total Area
008 - Town of Fort Myers Beach	C - Commercial Category	D	69,069	10,000

Land Lines (Land Use)	
Description	Use Code
Motel	3900
	117612.00 Square Feet

Flood Insurance (FIRM)			
Storm Surge Category	Rate Code	Community	Panel
Tropical Storm	V20:EL17	125124	0429
			Version
			Date
			092096


[View Parcel Info](#)

[[View 2001 TRIM Notice](#)]

[[View 2000 TRIM Notice](#)]

[[Show Building Details](#)]

[[Hide Aerial View](#)]

[[Next Lower Parcel Number](#)] [[Next Higher Parcel Number](#)]

[[New Query](#) | [Parcel Queries Page](#) | [Lee PA Home](#)]

RECEIVED
100 2001-00585
NOV 19 2001
Due 11-28-01

COMMUNITY DEVELOPMENT

ESTERO BOULEVARD 50' R/W

AVENUE "A" 30' R/W

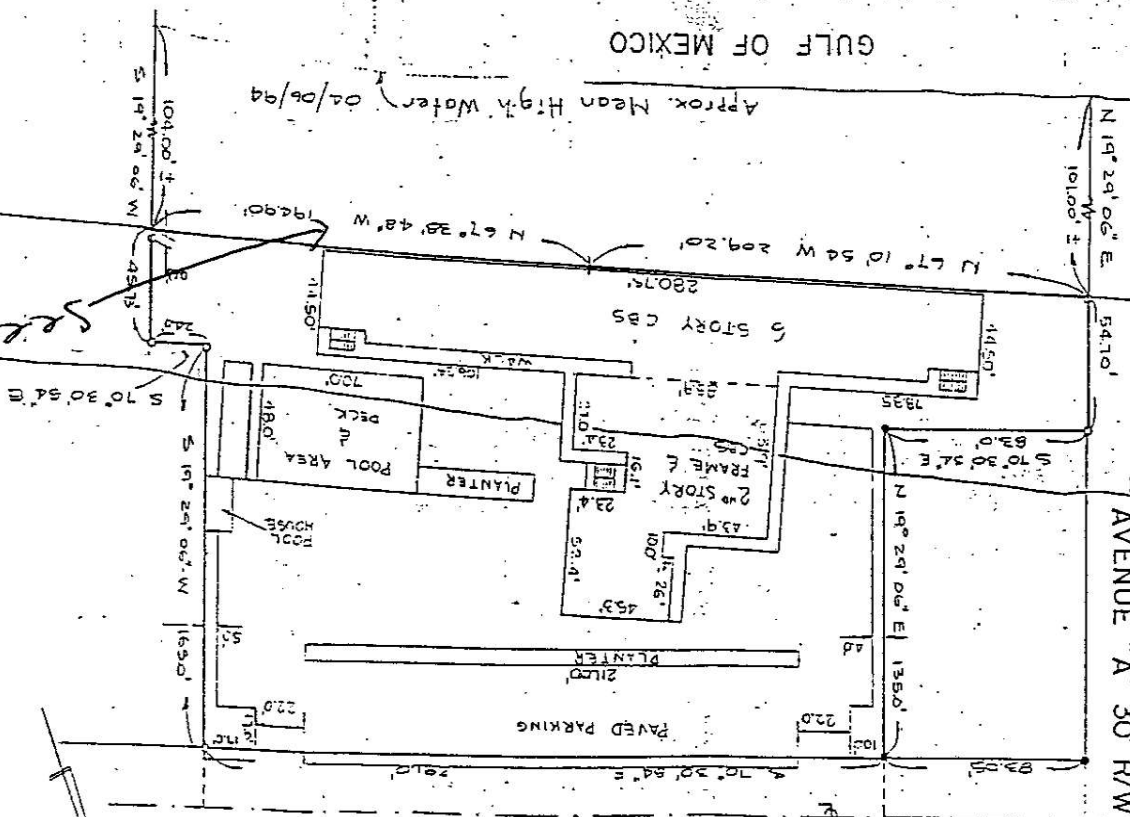
FEMA ZONE
A2(14)

FEMA ZONE
V-20 (17)

COASTAL
CONSTRUCTION
ZONE LINE AS
OF 10/23/80

GULF OF MEXICO

Approx. Mean High Water 02/06/94



Subject property located in
FD-1 Flood Zone A-12 (14.0')
Panel #12124-0420-C
Dated: 11/4/92

FLORIDA REC. #2298
R.L. SCHWAB, P.L.S.

S & B LAND SURVEY COMPANY
13611 MCCORMICK BLVD., SUITE 2
FT. MYERS, FLORIDA 33919

DATE: 4/5/94
SCALE: 1"=50'
JOB: 110616

- LEGEND
- o - Iron/pipe set
 - x - Iron rod found
 - a - IR Wall found
 - u - Concrete foundation found
 - P.U.E. - Public Utility Easement
 - D.E. - Drainage Easement
 - P.C. - Point of Curve
 - P.T. - Point of Tangent
 - R/C - Point of Reverse Curve
 - R/V - Point of Vertical
 - A/V - Point of Beginning
 - P.O.B. - Point of Beginning
 - P.O.C. - Point of Commencement
 - C.S. - Concrete Block Structure
 - N.C.V.D. - National Codebook
 - P.T. - Power Pole
 - T.E.S. - Telephone Pedestal
 - F.H. - Fire Hydrant
 - C.B. - Catch Basin
 - C.L. - Center Line
 - H. - Road
 - M. - Measured
 - C. - Calculated
 - P. - Plat

- NOTES:
1. Description as furnished by client.
 2. Elevation as shown are based on M.C.V.D. 192 datum unless otherwise stated.
 3. Distances are based on plat or deed.
 4. Discrepancies are based on plat.
 5. There may be other easements not shown hereon recorded in the public records of governing county.
 6. No determination of hazardous waste.
 7. Major liability only up to the cost of the survey.
 8. This survey is protected by copyright and all rights are reserved.

CERTIFY TO: KEVIN JUMINSKI
SARACONIA, ARIZ. 17'S
SUCCESSIONS AND/OR ESTATE, INC.
ATTORNEYS TITLE INSURANCE FUND, INC.

LOCAL DESCRIPTION:
A parcel of land lying between "N" and "R" of CRESTVIEW BLVD., a subdivision as recorded in Plat Book 4 at Page 45, Public Records of Lee County, Florida, described as follows: Lot 2, 3, 4, 5, 6, 7, 8, and 9 - Block "D" and lots 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

REVIEW CHECKLIST COVER SHEET

Project Name: LAM KAI ISLAND RESORT

New Submittal/Type: LO1

Resubmittal/Type: N/A

D.O. Number: LD 2001-00385

Due Date: 11-28-01

No plans submitted: _____

No Paperwork submitted: _____

Additional information: _____

Distribute to:

_____ Environmental ①

_____ Fire

_____ Utilities

_____ SWP3 form

_____ T.I.S.

file copy

_____ D.O.T. (Inter-office / Andy Getch, P.E. Engineering Services
_____ Hurricane Evacuation (Inter-office/Terry Kelley(TMK)
Emergency Operations)

_____ CHECK LEGAL ②

reviewchecklist8/01

RECEIVED

NOV 19 2001

COMMUNITY DEVELOPMENT



LEE COUNTY

RECEIVED

NOV 19 2001

PERMIT COUNTER

APPLICATION FOR A LIMITED REVIEW DEVELOPMENT ORDER

Applicant's Name: Lani Kai Island Resort Phone # 941-463-3111
Project Name: Lani Kai Island Resort
STRAP Number: 194624W40070D0020

STAFF USE ONLY

Case Number: LDC 2001-00385 Fee: 350.00
Date of Review: _____ Date Fee Paid: 10/19/01
Reviewed By: _____ Receipt Number: _____
Staff Recommendation: _____ Intake By: JMC
TYPE OF LIMITED REVIEW: 1
Communication Tower? YES ☒ NO

LD 2001-00385
RECEIVED
LDC
NOV 19 2001

DCE 11-28-01
COMMUNITY DEVELOPMENT

LEE COUNTY
COMMUNITY DEVELOPMENT
P.O. BOX 398 (1500 MONROE STREET)
FORT MYERS, FLORIDA 33902
PHONE (941) 479-8585

EXPLANATORY NOTES FOR PART I

B. Name of Applicant: Application may be by the landowner or an authorized applicant. [Sec. 10-154(1)].

Where there is more than one owner, either legal or equitable, then all such owners must jointly initiate the application. Exceptions to this are:

- 1) It is not required that both husband and wife initiate the application on private real property owned by them.
- 2) Where the property is subject to a land trust agreement, the trustee may initiate the application.
- 3) Where the fee owner is a corporation, any duly authorized corporate official may initiate the application.
- 4) Where the fee owner is a partnership, the general partner may initiate the application.
- 5) Where the fee owner is an association, the association may appoint an agent to initiate the application on behalf of the association.
- 6) Where the property is a condominium or time-share condominium, refer to Sec. 34-201(a)(1)b. for rules.
- 7) Where the property is a subdivision, refer to Sec. 34-201(a)(1)c. for rules.

C. Relationship of applicant to owner: If the applicant is not the owner of the property, the applicant must submit a **notarized** authorization form (Exhibit 1-C, attached) signed by the owner (see B. above for who must sign) indicating the applicant is the owner's authorized agent. [Sec. 10-154(1)]

E. Name of owner (s): Print "same" if the applicant is the owner.

F. Authorized Agents: If the owner or applicant has authorized agents to act on his/her behalf, list the agent(s) name, mailing address and phone number. [Sec. 10-153(1)f.].

G. Describe briefly how to get to the property from the nearest arterial road.

PART I:
OWNER/APPLICANT/DEVELOPER INFORMATION

A. Name of the proposed development: Lani Kai Island Resort

B. Name of applicant: Robert Conidaris c/o Lani Kai Island Resort

Mailing Address: Street: 1400 Estero Blvd

City: FT. Myers Beach State: Florida Zip: 33931

Phone Number: Area Code: 941 Number: 463-3111 Ext: _____

Fax Number: Area Code: 941 Number: 463-2986

C. Relationship of applicant to property:

X Owner _____ Trustee* _____ Option holder* _____ Lessee*

_____ Contract Purchaser* _____ Other (indicate)* _____

*Applicant must submit a notarized authorization form. [see Exhibit I-C (attached)].

D. Name of developer: _____

Mailing Address: Street: _____

City: _____ State: _____ Zip: _____

Phone Number: Area Code: _____ Number: _____ Ext: _____

Fax Number: Area Code: _____ Number: _____

E. Name of owner of property: Robert Conidaris

Mailing Address: Street: 1400 Estero Blvd

City: FMBS State: Florida Zip: 33931

Phone Number: Area Code: 941 Number: 463-3111 Ext: _____

Fax Number: Area Code: 941 Number: 463-2986 : 415 7671

F. Authorized Agent(s): List names of authorized agents (attach extra page if more space is needed).

Name: Michael Conidaris c/o Conidaris Builders & General Contractors Inc.

Address: 15645 Pine Ridge Road Ft. Myers, Florida 33908

Phone: 941-415-7671 Fax: 941-415-2886

G. Vehicular route to the site from the nearest arterial road: _____

Summerlin Road to San Carlos Blvd to Estero Blvd.

EXPLANATORY NOTES FOR PART II

A. *Legal Description:* If the property is not within a platted subdivision recorded in the official plat books of Lee County, a complete legal description must be attached which is sufficiently detailed and legible so as to be able to locate said property on county maps or aerial photographs. Also include the Section, Township, Range, and parcel number(s). [10-153(2)a.] Label the legal description as Exhibit II-A-1.

If the application includes multiple contiguous parcels, the legal description may describe the perimeter boundary of the total area, and need not describe each individual parcel, except where different development requests are made on individual parcels.

A boundary sketch, drawn to scale must also be submitted unless the subject property is vacant and consists of one or more undivided platted lots. The boundary sketch must include the location of any existing structures on the property. Label the Boundary Sketch as Exhibit II-A-2.

STRAP Number(s); If the STRAP Number is unknown, it may be obtained from the Lee County Property Appraiser at 339-6150.

NOTE: The Director has the right to reject any legal description which is not sufficiently detailed or legible so as to locate said property, and may require a certified survey or boundary sketch to be submitted.

B. *Project Street Address:* If the street address is unknown, the address may be obtained from the Lee County E-911 Addressing Division at (941) - 335-1630.

D. *Property Dimensions:* If the parcel is irregularly shaped, indicate the average width and depth of the property. Indicate the length of property abutting any existing street rights-of-way or easements. If property abuts more than one street, indicate frontage on each street.

PART II GENERAL INFORMATION

A. Legal Description: Is property within a platted subdivision recorded in the official Plat Books of Lee County? _____

_____ NO. Attach a legible copy of the legal description. _____ YES. Property is identified as:

Subdivision Name: _____

Plat Book: 1284 Page: 1288-45 Unit: _____ Block: _____ Lot: 20

STRAP NUMBER(s): 194624640070D0020

B. Date the property was purchased: _____

C. Project street Address: 1400 ESTERO Blvd. Ft. Myers Beach, FL 33931

D. Property Dimensions:

1. Width (average if irregular parcel): Road 355' _____ feet

2. Depth (average if irregular parcel): 324' _____ feet

3. Frontage on road or street: _____ feet

4. Width along waterbody (If applicable): 388' _____ feet

5. Total land area: 117662 S.F. _____ acres or square feet

E. Current Zoning: C1

If a Communication Tower, was a Special Exception granted? _____ YES ☒ NO Res. #: _____

F. Existing Use: Hotel

G. Are there any zoning actions (district boundary change, special exceptions, variances) currently pending or contemplated on this property? _____ NO ☒ YES: If yes, please provide: _____

Case/Hearing Number: _____

Type of action requested (use addition pages if needed): _____

H. Have any variances/deviations been granted or requested on this property? _____ NO ☒ YES: If yes, please provide: _____

Case/Hearing Number: _____

Type of variance/deviations granted (use addition pages if needed): _____

I. Has a Development Order (or exemption) been applied for prior to this application? _____ NO ☒ YES: If Yes, please provide: _____

Case Number: _____ Date of Approval/Denial: _____

Type of Development Order (or Exemption): _____

J. Are there any Federal, state or local permits or stipulations affecting this development order application? _____ NO ☒ YES. If yes, please indicate what they are: _____

COMMUNICATION TOWER

All communication towers greater than 50 feet in height must apply for a development order as follows:

- a. If the tower and all accessory buildings, pads, and other impervious areas will not increase the total impervious area by more than 2,500 square feet, or increase the rate of runoff from the project site, a Limited Review TYPE 1 may be used.
- b. If the tower and all accessory buildings, pads, and other impervious areas will increase the total impervious area by more than 2,500 square feet, but do not result in any significant impacts, a Limited Review TYPE 12 may be used.
- c. If the tower and all accessory buildings, pads, and other impervious areas will increase the total impervious area by more than 2,500 square feet and result in significant impacts, a regular development order must be used.

TYPE 4 LIMITATIONS:

- a. Each lot must meet or exceed all width, depth and area requirements of the zoning district in which located.
- b. Each lot abuts and has access to a road which is maintained pursuant to Ordinance No. 87-19, as amended or replaced, or to an existing improved right-of-way or easement meeting at least the minimum construction standards required by this chapter. This provision requires that each lot abut and have access to a road complying with the requirements of section 10-296. The maximum allowable density for a proposed lot that will abut and have access to any unpaved rock/shell road (a category D road) is 0.4 units per acre per sections 10-296(d). Compliance with maximum density requirements of the Lee Plan is also required. Compliance with the roadway right-of-way width and wearing surface requirements of Section 10-296 is required;
- c. No alteration of existing utility installations is involved;
- d. No change in drainage will occur which affects the surrounding properties; and
- e. No new road rights-of-way or road easements or upgrading of road rights-of-way or road easements to minimum standards contained in Chapter 10 of the Land Development Code is required. This provision requires that a development order be obtained in order to establish or upgrade a road right-of-way or a road easement or to construct or upgrade a road.

TYPE 5 LIMITATIONS:

- a. Each lot must meet or exceed all width, depth and area requirements of the zoning district in which located or the subdivision is approved by the Director of Community Development under the provisions of Section 34-2221(1), and the overall development complies with all other requirements of chapter 10 of the Land Development Code;
- b. No development may occur on any of the lots without first obtaining a development order for the proposed improvement(s);
- c. If the parent parcel is ten acres or greater, a protected species survey may be required as specified in Chapter 10 of the Land Development Code;
- d. Each lot shall abut and have access to a road which is maintained pursuant to Ordinance # 87-19, as amended or replaced, or to an existing improved road right-of-way or easement meeting at least the minimum construction standards required by Chapter 10 of the Land Development Code;
- e. No alteration of existing utility installations is involved;

(Continued back of next page)

PART III REQUESTED ACTION

A: NATURE OF REQUEST: (Check applicable answer) Communication Towers: Refer to opposite page for explanation of review type required.

- ☒ TYPE 1: A cumulative addition or enlargement of an existing impervious area, provided that the addition or enlargement does not increase the total impervious cover area by more than 2,500 square feet and there is no increase in the rate of runoff from the project site.
- TYPE 2: Any out-of-door type recreational facilities, such as swimming pools, tennis courts, tot lots and other similar facilities, provided the total cumulative additional impervious area does not exceed 8,000 square feet.
- TYPE 3: Any development which received final site plan approval by the Current Planning Department and the Division of Transportation & Public Works prior to November 10, 1982, where the development has been actively constructed continuously, or in phases, in accordance with such approval.
- TYPE 4: Any one-time subdivision of land into four or less lots for single-family detached dwelling units or two-family detached dwelling units, where zoning district regulations permit such subdivision; subject to certain limitations (see opposite page for limitations).
- TYPE 5: Any subdivision of land for a use other than single-family detached dwelling units, two-family detached dwelling units or agricultural subject to certain limitations (see opposite page for limitations).
- TYPE 6: Any single building of two dwelling units or less and any accessory improvements thereto on a single lot which is not a lot of record or a platted lot, provided the applicant submits sufficient evidence that the lot was purchased, or contracted for purchase, prior to January 28, 1983.
- TYPE 7: Any development containing individual lots for single buildings of two dwelling units or less which, prior to January 28, 1983 (see opposite page for limitations):
- TYPE 8: An excavation or mining operation which is subject to Chapter 34, Article VII, Division 15, subdivision II, and which received a general excavation permit, or a renewal permit, from the Board of County Commissioners after August 1, 1984.
- TYPE 9: Any county-initiated improvements for public water access purposes in county-owned or county-maintained rights-of-way.
- TYPE 10: Any development for a fenced or screened enclosed storage yard as defined in Chapter 34, provided that the yard consists solely of stabilized grassed surface, a surface water management system, buffers and fencing; and provided further that site access complies with the provisions of Chapters 10 and 34 of the Land Development Code.
- TYPE 11: The installation of new utility lines in existing rights-of-way or easements.
- TYPE 12: Any other improvement to land determined by the director to have insignificant impacts on public facilities in accordance with applicable standards of measurement in chapter 10 (vehicular trips, amount of impervious surface, gallons per day, etc.).

B. Please explain the proposed improvement (use additional sheets if needed):

- f. No change in drainage will occur which negatively impacts the surrounding properties;*
- g. No new road rights-of-way or road easements or upgrading of road rights-of-way or road easements to minimum standards contained in this chapter are required. This provision requires that a development order be obtained in order to establish or upgrade a road right-of-way or a road easement or to construct or upgrade a road; and*
- h. Reasonable conditions may be attached to the approval so that any development on all of the lots will comply with all county land development regulations.*

TYPE 7 LIMITATIONS:

- a. Has been approved by the county and registered with the state Division of Land Sales and Condominiums, provided that all improvements required or approved by the county have been completed or a surety has been posted and is current; or*
- b. Has been approved for drainage, streets and utilities by the county and for which at least 51 percent of all the lots along both sides of the street segment have been sold to individuals.*

EXPLANATORY NOTES FOR PART IV

- a. The applicant is responsible for the accuracy and completeness of this application. Delays or additional expenses necessitated by the submittal of inaccurate or incomplete information are the responsibility of the applicant.*
- b. All information submitted with the application becomes a part of the public record and will be a permanent part of the file.*
- c. All applications must be submitted in person. Applications received through the mail will not be processed.*
- d. All attachments and exhibits submitted must be of a size that will fit or conveniently fold to fit into a letter size (8 ½" x 11") folder.*
- e. The Department staff will review this application for compliance with requirements of the Lee County Land Development Code. If any deficiencies are noted, the applicant will be notified.*

PART IV
AFFIDAVIT

I, Robert Cordaris, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application.

11-14-01
Date:

Signature of owner or owner-authorized agent

Typed or printed name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was certified and subscribed before me this 14 day of November, 2001, by _____, who is personally known to me or who has produced _____ as identification.

(SEAL)

Mary De Jesus
Signature of notary public

Mary De Jesus
Printed name of notary public



Mary De Jesus
Commission # DD 012501
Expires May 8, 2005
Bonded Thru
Atlantic Bonding Co., Inc.

EXPLANATORY NOTES FOR PART V

NOTE A: Aerial photographs may be obtained at the Property Appraisers office at 2480 Thompson Street, Constitutional Complex, Fort Myers.

NOTE B: If the site plan is insufficient for the type of review requested, an engineered drawing may be required.

NOTE C: If the changes the applicant is proposing are over existing impervious ground (i.e. asphalt or concrete), then a Limited Review Development Order may not be required. However, a "Letter of Transmittal" must be obtained from the Development Services Division prior to submitting plans for a Building Permit.

NOTE D: The applicant must submit copies of the documents which are being used to provide evidence that the lots were:

- a. approved by Lee County and were registered with the State Division of Land Sales and Condominiums AND THAT all improvements required or approved by the County have been completed or a surety has been posted and is current; OR
- b. approved for drainage, streets and utilities by the County and for which at least 51 percent of all the lots along both sides of the street segment have been sold to individuals.

PART V
SUBMITTAL REQUIREMENTS for ALL LIMITED REVIEW REQUESTS

COPIES		SUBMITTAL DOCUMENT
SUB'D	REQ'D	
✓	1	Completed application [Section 10-175(1)]
✓	1	Notarized Authorization Form (if applicable)[Section 10-154(1)]
✓	1	Legal Description [Section 10-154(3)]
✓	1	Boundary Sketch (if applicable) [Section 10-154(5)]
✓	1	Area Location Map, drawn to scale, which indicates where the property is located in relation to major roads.[Sec. 10-175(3)] <i>16.00.1110</i>
✓	1	Aerial Photograph: A copy of an aerial photograph (most current available from the County) at a scale of one inch = 300 feet. [Sec. 10-175(4)] See note A.
✓	1	Written Description of Proposed Development and the reasons why it should be approved. [Section 10-175(5).
✓	1	Copy of Approved Building Permits/Site Plans (if applicable). A copy of any current building permit and approved site plan, if applicable. [Section 10-175(6)]
		NOTE: The Director of the Development Services Division may require additional information such as copies of deeds, sealed surveys, calculations, SFWMD permits, and other state, federal or local permits. [Section 10-175(7)]

ADDITIONAL SUBMITTAL REQUIREMENTS FOR SPECIFIC TYPES	
COMMUNICATION TOWERS: In addition to the requirements listed below for specific types of reviews, all applications for communication towers exceeding 50 feet in height must submit:	
1	A copy of the FCC license number currently in effect for the proposed communication tower's service area.
1	A written statement from a professional engineer or other qualified person specifying that the tower and its antennas will comply with all applicable standards of the Federal Communications Commission and Federal Aviation Administration.
TYPES 1 AND 2	
7	A site plan, drawn to scale, which shows the site and location of all buildings, structures, and other impervious areas on the property. [Section 10-175(2)] See note B.
1	Calculations showing total area of impervious cover before and after the improvement (including any additional parking areas required by the zoning regulations). See note C.
TYPE 3	
7	Approved Pre-11/10/82 site-plan
1	A written statement as to what improvements have been made to the property since receiving final site plan approval from the Current Planning Dept. and the Division of Transportation and Public Works. The statement should include a chronology of work and a list of any building permits which have been issued.
TYPE 4 & 5	
1	A sealed survey or boundary sketch of the property, legal description and dimensions of the parent parcel and the location of the proposed split(s). If structures exist on the parent parcel, show all sizes, locations, and setbacks from existing and proposed property lines. Include information on existing adjacent roads (dimensions, elevations, gravel and paved width, etc.).
7	The subdivision plan, drawn on 8.5 x 11 or 8.5 x 14 inch paper, sealed by the surveyor, and ready for recording.
7	The legal descriptions, written on 8.5 x 11 or 8.5 x 14 inch paper, sealed by the surveyor, of each lot in the subdivision, and ready for recording.
7	A site plan, drawn to scale, which shows the site and location of all buildings, structures, and other impervious areas on the property. [(Section 10-175(2)] See note B.
TYPE 6	

	5	A sealed survey or sealed boundary sketch of the boundary, legal description and dimensions of the property to be developed.
TYPE 7		
	1	A copy of the document(s) which are being used to establish eligibility. See note D.
TYPE 8		
	1	A copy of the approved IPD Zoning Final Plan
	5	The mining site plan
	1	Reclamation Plan
	1	SFWM Permit
	1	Traffic Impact Statement (See Sec. 10-286)
TYPES 9 AND 10		
	7	A site plan, drawn to scale, which shows the site and location of all buildings, structures, and other impervious areas on the property. [Section 10-175(2)] See note B.
	1	Calculations showing total area of impervious cover before and after the improvement (including any additional parking areas required by the zoning regulations). See note C.
	1	A copy of any plat or recorded deeds or easements for the property.
TYPE 11		
	7	Copies of the utility plans, prepared as prescribed in Section 10-151 showing, as appropriate, the location, type, and size of all existing & proposed water mains and services, fire hydrants, sewer mains and services, pumping stations, together with plan and profile drawings showing the depth of utility lines and points where utility lines cross one another or cross storm drain or water management facilities. The location of all existing and proposed services shall be shown.
	1	State Permits
TYPE 12		
	7	A site plan, drawn to scale, which shows the site and location of all buildings, structures, and other impervious areas on the property. [Section 10-175(2)] See note B.
	1	Calculations showing total area of impervious cover before and after the improvement (including any additional parking areas required by the zoning regulations). See note C.
		Additional submittal documents, if required, will be determined by the Director of the Development Services Division on the basis of the nature of the proposed improvement.

EXHIBIT I-C

LETTER OF AUTHORIZATION

The undersigned do hereby swear or affirm that they are the fee simple title holders and owners of record of property commonly known as Lani Kai Island Resort and legally described in exhibit A attached hereto.

The property described herein is the subject of an application for zoning or development. We hereby designate Michael Conidakis as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

[Signature]
Owner

Robert Conidakis
Printed Name

STATE OF FLORIDA
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 14 day of November, 2001, by [Signature], who is personally known to me or who has produced as identification.

[Signature]
Notary Public

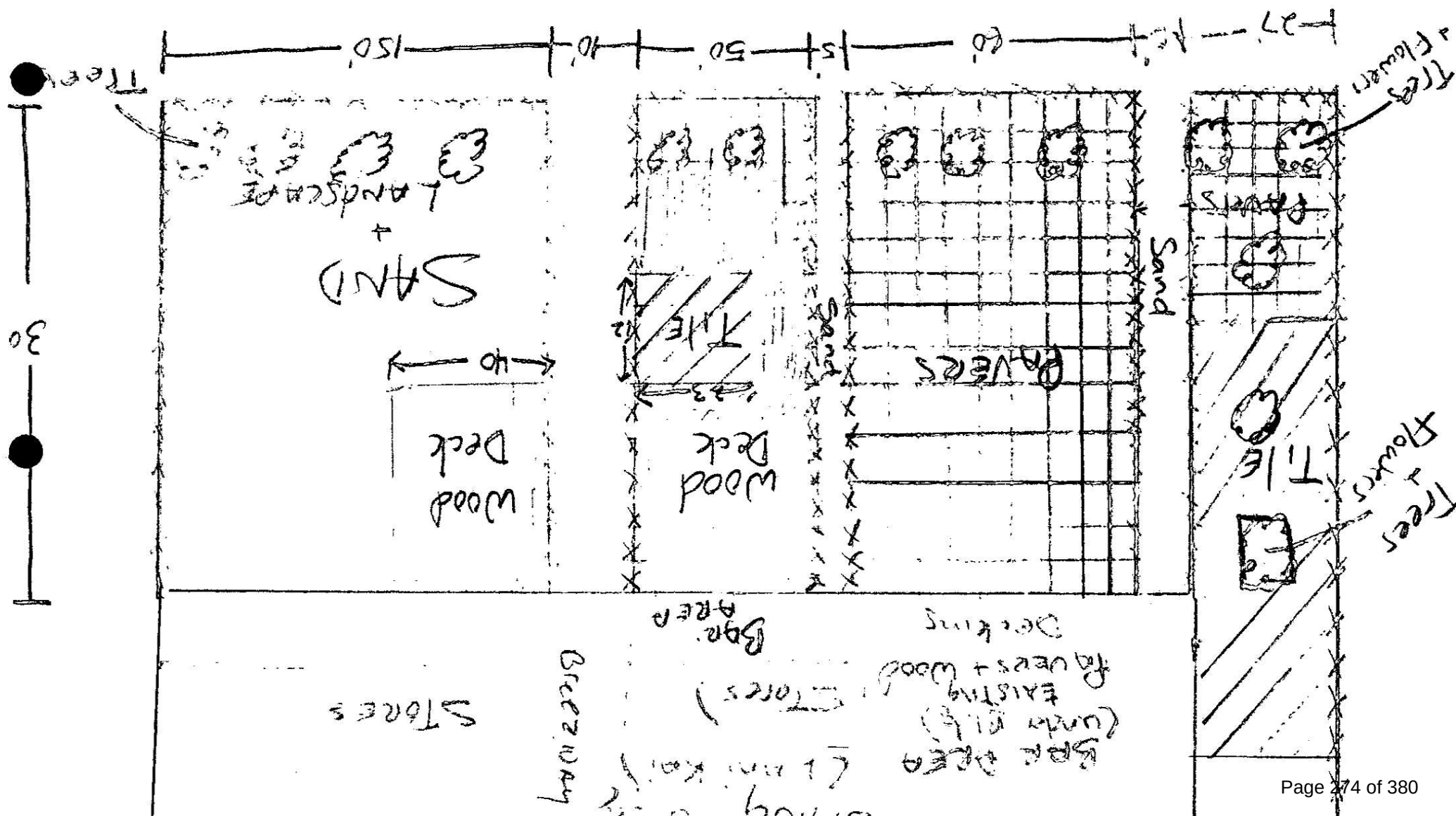
Mary De Jesus
(Name typed, printed or stamped)


Mary De Jesus
Commission # DD 012508
Expires May 8, 2005
Bonded Through
Atlantic Bonding Co., Inc.



NOT TO SCALE

Sheet 4



Summerlin

property:

Lani Kai Island Resort
1400 Estero Blvd.

Ft. Myers Bch, 33931
(941) 463-3111

Map to Property

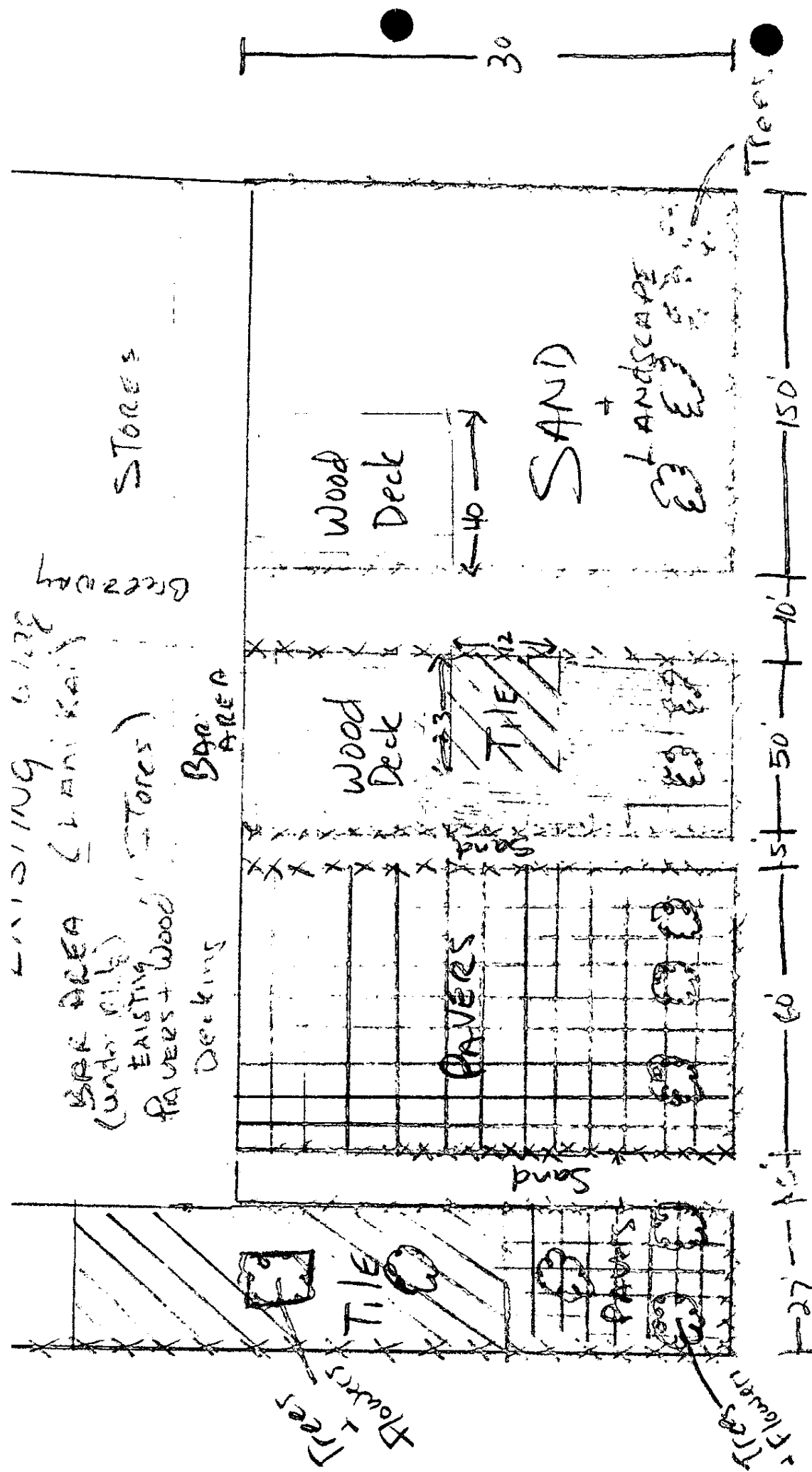
FT Myers Beach
Bridge to Beach

San Carlos Blvd

Estero Blvd.

1400 Estero Blvd

X Lani Kai Island Resort X



NOT TO SCALE



Jeb Bush
Governor

Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

David B. Struhs
Secretary

December 19, 2001

Robert and Grace Conidaris
Lani Kai Hotel
1400 Estero Boulevard
Fort Myers Beach, FL 33931

Dear Mr. and Mrs. Conidaris:

On October 30, 2001, a staff inspection of your property located at the above address, revealed the unauthorized construction of a wood deck, a paver-block patio area, and construction of a wood picket fence seaward of the coastal construction control line without benefit of a permit from the Department of Environmental Protection.

On December 19, 2001, the Department issued permit VLE 01-31 P that approves the above-unauthorized activities.

Due to the after-the-fact nature of the permit, the enclosed Final Order also assesses you an administrative fine pursuant to Section 161.054, Florida Statutes, in the amount of three hundred (\$300) dollars.

Payment to the Ecosystem Management and Restoration Trust Fund must be received within 21 days of your receipt of this Final Order.

In order to ensure that payment is properly credited, your check should include reference to Department file numbers VLE 01-31 and OGC #01-1936 and should be sent to: **Administrative Enforcement Section, Ecosystem Management and Restoration Trust Fund, 3900 Commonwealth Boulevard, Tallahassee, FL 32399-3000, Attention Jim Martinello.**

Pursuant to Section 161.054, Florida Statutes, failure to pay the fine imposed herein shall create a lien upon the real and personal property of the violator, enforceable by the Department as are statutory liens under Chapter 85, Florida Statutes.

All persons whose substantial interest are affected by this Final Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900

File Number: VLE 01-31
Robert and Grace Conidaris
Page 2

Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the Bureau of Beaches and Coastal Systems named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

a) The name, address, and telephone number of each petitioner; the Department's Final Order identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Final Order; (c) A statement of how each petitioner's substantial interests are affected by the Final Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Final Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Final Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Final Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Final Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this Notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 60Q-2.010, Florida Administrative Code.

Mediation as provided in Section 120.573, Florida Statutes, will not be offered in this instance.

File Number: VLE 01-31
Robert and Grace Conidaris
Page 3

Any party to this Final Order has the right to seek judicial review of this permit, pursuant to Section 120.68, Florida Statutes and Rules 9.030(b)(1)(c) and 9.110, Florida Rules of Appellate Procedure. To initiate an appeal, a Notice of Appeal must be filed with the Department of Environmental Protection, Office of General Counsel, and with the appropriate District Court of Appeal within thirty (30) days of the date the permit was rendered. The Notice filed with the District Court must be accompanied by the filing fee specified in Subsection 35.22(3), Florida Statutes.

The after-the-fact permit is conditional upon the resolution of any related violations to the satisfaction of the Department no later than sixty (60) days from the date of this Order. Failure to comply will result in automatic revocation of the permit and will require removal of all the structures authorized by the permit within thirty (30) days.

The authorized work is strictly limited to that described on the enclosed Final Order. Please direct any questions to me by letter at the letterhead address or by telephone at 850/487-4475.

Sincerely,



Jim Martinello

Environmental Manager
Office of Beaches and Coastal Systems

Enclosures

Certified Mail #: 7000 0520 0021 3386 3307

cc: Celora Jackson
Jennie Cowart
Nancy Mould, OGC
Patrick Krechowski, OGC

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DEPUTY SECRETARY/REGULATORY PROGRAMS
OFFICE OF BEACHES AND COASTAL SYSTEMS

David B. Struhs, Secretary

Jeb Bush, Governor

3900 Commonwealth Boulevard
Tallahassee, Florida 32399
Telephone #850/487-4475
FAX #850/488-5257 or
SUNCOM FAX #278-5257

FAX MESSAGE COVER PAGE

Date: 12/21/01From: Barbara WilsonTo: Michael, Robert and Grace ConidarisFAX #: 941/463-2986

RE: Here is a copy of what you will receive
in the mail... Call me if you have any
questions. 850/487-4475 x119.

Total pages (including this cover page) 5. If you have any problems
please call above # at _____.



FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
Division of Water Resource Management
Coastal Construction Control Line Program
2600 Blair Stone Road, M.S. 3522
Tallahassee, FL 32399-2400
Phone: (850) 245-8336

Permit No. 8035668 - LE
No. of Pages Attached: 9

FIELD PERMIT PURSUANT TO SECTION 161.053 OR 161.052, FLORIDA STATUTES

FINDINGS OF FACT AND CONCLUSION OF LAW: The request for a field permit was considered by the staff designee of the Department of Environmental Protection and found to be in compliance with the requirements of Chapter 62B-33, Florida Administrative Code (F.A.C.). Approval is specifically limited to the activity in the stated location and by the project description, approved plans (if any), attached standard conditions, and any special conditions stated below pursuant to Paragraph 161.053(5), Florida Statutes (F.S.). This permit may be suspended or revoked in accordance with Section 62-4.100, F.A.C.

PROJECT LOCATION:

Between approximately 172 feet SE to 445 feet SE of the Department of Environmental Protection's reference monument LE-R182 at 1400 ESTERO BLVD, FORT MYERS BEACH FL 3393

Property Owner/Agent: LANI KAI LP
c/o ROBERT G CONIDARIS
1400 ESTERO BLVD
FORT MYERS BEACH FL 33931
c/o Kara Lyn Stewart <stewart.karalyn@gmail.com>

PROJECT DESCRIPTION:

The following work was not completed under Field Permit No. 8035633-LE

- 1 - Installation of two areas of sand set paver on seaward side of existing hotel structure: 25' shore normal by 88' shore parallel and 30' shore normal by 36' shore parallel. Total of 3,280 sq. ft.
- 2 - Installation of two on grade open wood decks on seaward side of existing hotel structure: 28' shore normal by 48' shore parallel and 28' shore normal by 51' shore parallel. Total of 2,772 sq. ft.
- 3 - Installation of a 4' tall fence as shown in plan all to be located a maximum of 216 feet seaward of the control line.
- 4 - Installation of a 4.75' high picket fence surrounding the pool area.

Access: South side of property.
Staging: Entirely on subject property.

NO WORK AUTHORIZED DURING SEA TURTLE NESTING SEASON SEE STANDARD FIELD CONDITION #12.

SPECIAL PERMIT CONDITIONS: The permit is valid only after all applicable federal, state, and local permits are obtained and does not authorize contravention of local setback requirements or zoning or building codes. This permit and public notice shall be posted on the site immediately upon issuance and shall remain posted along with local approval until the completion of any activity authorized by this permit. Other special conditions of this permit include:

- 1) Read the attached Public Notice, Standard Field Conditions.
- 2) This is a one-time installation of the work authorized in the project description. No other activities other than that specifically approved by this permit and/or the attached approved plan are authorized.
- 3) No concrete will be used.
- 4) All demolition or construction debris must be disposed of in an approved upland landfill.
- 5) No new lighting is authorized.
- 6) No jetting is authorized for installation of piles. They must be hand dug or hand augered.
- 7) The permittee shall not commence any excavation, construction, or other physical activity on or encroaching on the sovereignty land of Florida seaward of the mean high water line or, if established, the erosion control line until the permittee has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement, or other form of consent authorizing the proposed use.
- 8) This permit does not authorize trespass onto other property.
- 9) If there is a conflict between the Special Permit Conditions, Standard Field Conditions, or the plans, the Special Permit Conditions shall prevail.

STANDARD PERMIT CONDITIONS: The permittee shall comply with the attached standard field permit conditions.

APPLICANT INFORMATION: I hereby certify that I am either: (1a) the owner of the subject property or (1b) I have the owner's consent to secure this permit on the owner's behalf; and that (2) I shall obtain any applicable licenses or permits which may be required by federal, state, county, or municipal law prior to commencement of the authorized work; (3) I acknowledge that the authorized work is what I requested; and (4) I accept responsibility for compliance with all permit conditions.

Applicant's Signature [Signature] Date 6/30/23 Telephone No. 239 229-6129
 Applicant's Printed Name Robert Conideris Address 1400 ESTERO Blvd. Ft. Myers Beach FL 33931

If applicant is an agent:

Printed name of property owner _____ Property owner's address _____ Property owner's telephone no. _____

DEPARTMENT FINAL ACTION AND FILING AND ACKNOWLEDGMENT: This field permit is approved on behalf of the Department of Environmental Protection by the undersigned staff designee, and filed on this date, pursuant to section 120.52, F.S., with the undersigned designated Deputy Clerk, receipt of which is hereby acknowledged.

Staff Designee/Deputy Clerk [Signature] Kelly Cramer, ESII Date 7/5/23
 Printed Name of Designee/Deputy Clerk

EXPIRATION DATE: 4/30/24

(Emergency permits issued pursuant to Section 62B-33.014, F.A.C., are valid for no more than ninety days and other field permits are valid for no more than 12 months. The staff designee may specify a shorter time limit.)

EMERGENCY PERMIT: ☐ YES ☒ NO

Approved plans are attached: ☒ YES ☐ NO

POST PERMIT AND PUBLIC NOTICE CONSPICUOUSLY ON THE SITE**PUBLIC NOTICE**

The foregoing constitutes final agency action. Any person whose substantial interests are affected by any decision made by the Department on the Field Permit has a right to request an administrative hearing in accordance with the provisions of Sections 120.569 and 120.57, F.S. The request for an administrative hearing must comply with the provisions of Rule 28-106.201, F.A.C., and must be received by the Department (at the address given below) within twenty-one (21) days from the date of this notice.

When the Department receives an adequate and timely filed request for hearing, the Department will request the assignment of an administrative law judge. Once the administrative law judge is requested, the Division of Administrative Hearings will have jurisdiction over the formal proceeding and the Department (as the referring agency) will take no further action with respect to the proceeding except as a party litigant.

Section 120.54(5)(b)4, F.S., and Rule 28-106.201(2), F.A.C., explain that the following items must be included in a petition for a formal administrative hearing

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceedings; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all issues of material fact disputed by the petitioner, or a statement that there are no disputed facts;
- (e) A concise statement of the ultimate facts alleged, including a statement of the specific facts that the petitioner contends warrant reversal or modification of the Department's action;
- (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the Department's action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take with respect to its action.

A person may request an extension of time to petition for an administrative hearing. The person filing the request for extension must do so within the time limits for filing a petition described above. The request must state why an extension of time is needed. The Department will grant an extension only when good cause is shown.

If a petition or a request for time extension is filed, further order of the Department becomes necessary to effectuate this Field Permit. Accordingly, the Department's final action may be different from the position taken in this notice. Actions undertaken by any person under this permit, pending the lapse of time allowed for the filing of such a request for hearing, may be subject to modification, removal, or restoration.

Failure to petition within the allowed time frame constitutes waiver of any right that a person has to request a hearing under Section 120.57, F.S., and to participate as a party to the proceeding. If a legally sufficient petition for hearing is not timely received, this notice constitutes final agency action.

When this order becomes final and is filed with the Department Clerk, any party to the order has the right to seek judicial review under Section 120.57, F.S., and Rule 9.030(b)1(c) and 9.110, Florida Rules of Appellate Procedure. A notice of appeal must be filed within thirty (30) days with both the Department Clerk (see address below) and with the appropriate district court of appeal. The notice filed with the district court must be accompanied by the filing fee specified in Section 35.33(3), F.S. Any subsequent intervention will be only by the approval of the presiding officer on motion filed under Rules 28-5.207 or 60Q-2.010, F.A.C.

All requests for hearings are to be filed with the Department at the following address:

Florida Department of Environmental Protection
Office of General Counsel
Department Clerk
3900 Commonwealth Boulevard Mail Station 35
Tallahassee, Florida 32399-3000

STANDARD FIELD PERMIT CONDITIONS

The following conditions shall apply to **FIELD PERMITS** (unless waived by DEP or modified by special permit condition). In the event of a conflict between a field permit condition and a special permit condition, the special condition shall prevail.

- 1) The permittee shall carry out the construction or activity for which the permit was granted in accordance with the plans and specifications that were approved by DEP as part of the permit. Any deviation there from shall be grounds for suspension of the work and revocation of the permit pursuant to Section 120.60(7), F.S., and may result in assessment of civil fines or issuance of an order to alter or remove the unauthorized structure, or both. No other construction or activities shall be conducted. No modifications to project size, location, or structural design are authorized. A copy of the permit shall be conspicuously displayed at the project site.
- 2) The permittee shall conduct the construction or activity authorized under the permit using extreme care to prevent any adverse impacts to the beach and dune system, marine turtles and their nests and habitats, or adjacent property and structures.
- 3) The permittee shall allow any duly authorized member of the staff to enter upon the premises associated with the project authorized by the permit for the purpose of ascertaining compliance with the terms of the permit and with the rules of DEP, until all construction or activities authorized or required in the permit have been completed and the project accepted by DEP.
- 4) The permittee shall hold and save the State of Florida, DEP, its officers and employees, harmless from any damage (no matter how occasioned and no matter what the amount) to persons or property that might result from the construction or activity authorized under the permit and from any and all claims and judgments resulting from such damage.
- 5) The permittee shall allow DEP to use all submitted records, notes, monitoring data, and other information relating to construction or any activity under the permit for any purpose it may deem necessary or convenient, except where such use is otherwise specifically forbidden by law.
- 6) Construction traffic shall not operate and building materials shall not be stored on vegetated areas seaward of the control line, unless specifically authorized by the permit. If (in the opinion of DEP staff) this requirement is not being met, positive control measures shall be provided by the permittee at the direction of DEP staff. Such measures may include temporary fencing, designated access roads, adjustment of construction sequence, or other requirements.
- 7) The permittee shall not disturb existing beach and dune topography and vegetation except as expressly authorized in the permit. Before the project is considered complete, any disturbed topography or vegetation shall be restored (as prescribed in the permit) with suitable fill material or revegetated with appropriate beach and dune vegetation.
- 8) The fill material shall be obtained from a source landward of the control line and shall consist of sand which is similar to that already on the site in both grain size and coloration. This fill material shall be free of construction debris, rocks, or other foreign matter. A sample of the sand shall be provided to the staff representative of the Bureau of Beaches and Coastal Systems during the preconstruction conference.
- 9) If surplus sand fill results from any approved excavation seaward of the CCCL, such material shall be distributed seaward of the CCCL on the site, as directed by DEP staff (unless otherwise specifically authorized by the permit).
- 10) Any native salt-resistant vegetation destroyed during construction shall be replaced with plants of the same species or, by authorization of DEP, with other native salt-resistant vegetation suitable for beach and dune stabilization. Unless otherwise specifically authorized by the staff, all plants installed in beach and coastal areas (whether to replace vegetation displaced, damaged, or destroyed during construction or otherwise) shall be of species indigenous to Florida beaches and dunes (i.e., sea oats, sea grape, saw palmetto, panic grass, salt meadow hay cord grass, seashore salt grass, and railroad vine).
- 11) All topographic restoration and revegetation work is subject to approval and acceptance by DEP staff.
- 12) If not specifically authorized elsewhere in this permit, no operation, transportation, or storage of equipment or materials is authorized seaward of the dune crest or rigid coastal structure during the marine turtle-nesting season. The marine turtle-nesting season is May 1 through October 31 in all counties (except Brevard, Indian River, St. Lucie, Martin, Palm Beach and Broward counties where marine turtle nesting occurs during the period of March 1 through October 31).
- 13) If not specifically authorized elsewhere in this permit, no temporary lighting of the construction area is authorized at any time during the marine turtle-nesting season and no additional permanent exterior lighting is authorized.
- 14) This permit has been issued to a specified property owner and is not valid for any other person.



Property Data

STRAP: 19-46-24-W4-0070D.0020 Folio ID: 10228192

Generated on 4/4/2023 1:17 PM

Owner Of Record

[Change Address]

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

Site Address

Site Address maintained by E911 Program Addressing

1400 ESTERO BLVD
FORT MYERS BEACH FL 33931

Property Description

Do not use for legal documents!

CRESCENT BEACH PB 4 PG 45 BLKS D + E + VAC R/W DESC OR
1293 PG 1208

[Tax Map Viewer] [View Comparables]



[Pictometry Aerial Viewer]



Current Working Values



Tax Roll Value Letter



Tax Refund Status



Just	20,591,469
Attributes	
Land Units Of Measure	SF
Units	118135.00
Total Number of Buildings	1
Total Bedrooms / Bathrooms / Fixtures	10 / 100.0 / 30
Gross Building Area	66,622
1st Year Building on Tax Roll	1980
Historic Designation	No

Image of Structure



Photo Date October of 2021 View other photos

Last Inspection Date: 03/17/2023

Exemptions / Classified Use (Current)

Generated on 4/4/2023 1:17 PM

Exemptions / Classified Use (2022 Tax Roll)

Generated on 4/4/2023 1:17 PM



Values (2022 Tax Roll)



Generated on 4/4/2023 1:17 PM

Taxing Authorities

Generated on 4/4/2023 1:17 PM

Sales / Transactions

Generated on 4/4/2023 1:17 PM

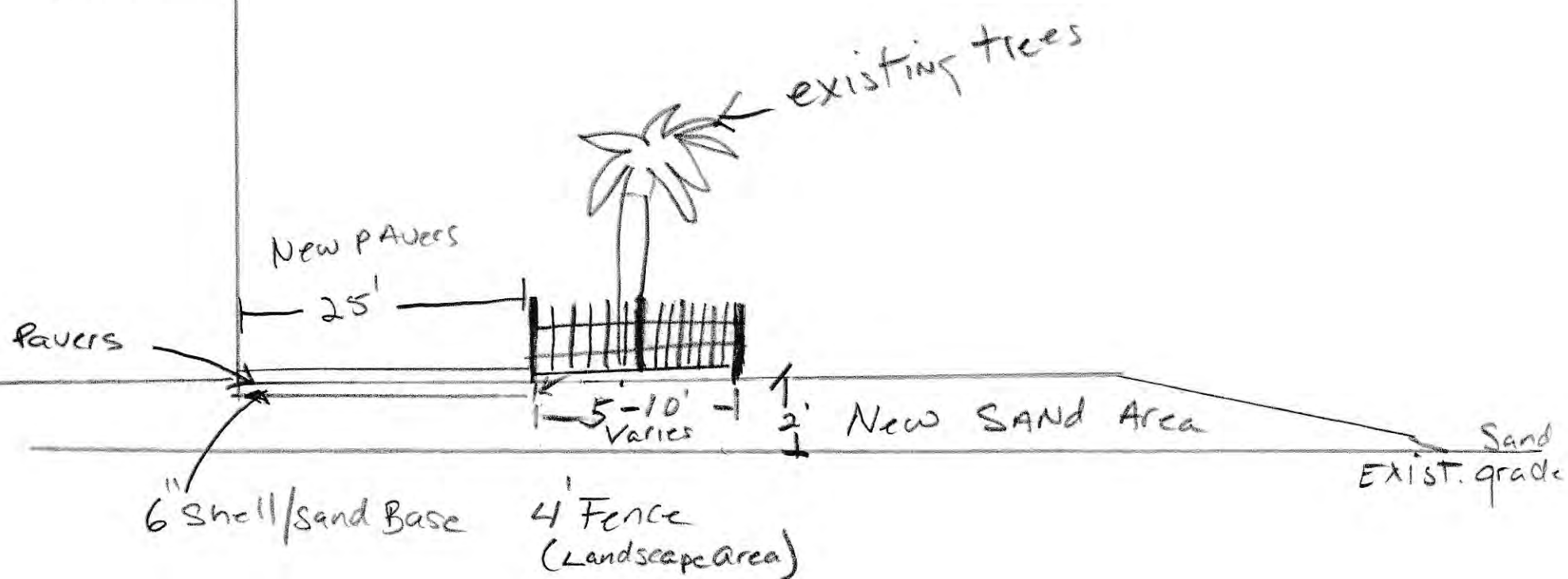
Building/Construction Permit Data

Generated on 4/4/2023 1:17 PM



STRAP	Folio	Owner Name	Site Address	Last Trans. Date	Last Trans. Amt	Just Value	Taxable Value
19-46-24-W4-0070D.0020	10228192	LANI KAI LP	1400 ESTERO BLVD, FORT MYERS BEA...	12-2013	\$ 10	\$ 20,591,436	\$ 16,287

EXIST.
Bldg

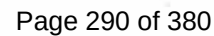


Side View

50'

Cross Section

installed breakaway walls





Ron DeSantis, Governor

Melanie S. Griffin, Secretary



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

DIV OF ALCOHOLIC BEVERAGES & TOBACCO

THE RETAILER OF ALCOHOLIC BEVERAGES HEREIN IS LICENSED UNDER THE
PROVISIONS OF CHAPTER 561, FLORIDA STATUTES

SERIES: 4COP TYPE: S DUAL LICENSE

LANI KAI ISLAND RESORT INC

LANI KAI ISLAND RESORT
1400 ESTERO BLVD
FORT MYERS BEACH FL 33931

LICENSE NUMBER: BEV4600356

EXPIRATION DATE: MARCH 31, 2025

Always verify licenses online at MyFloridaLicense.com

ISSUED: 02/16/2024

Do not alter this document in any form.

This is your license. It is unlawful for anyone other than the licensee to use this document.



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

Yellow Sheet Number: **2024-226**

1. Request:

Meeting Date: September 3, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240200 TO ALLOW REPAIRS TO A RETAINING WALL IN THE EC ZONING DISTRICT AS AUTHORIZED BY SECTION 6-366 OF THE TOWN OF FORT MYERS LAND DEVELOPMENT CODE FOR PROPERTY LOCATED AT 6500 AND 6502 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Why the action is necessary:

The LPA is required to review the application for Special Exceptions and make a recommendation to the Town Council regarding structures in the EC Zoning District.

What the action accomplishes:

The LPA recommendation will be forwarded on to the Town Council.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution

5. Background:

This is an application for a Special Exception to repair existing retaining in EC zoning district (200 feet along west boundary; 61 feet along north boundary; and 60 feet along south boundary). The applicant is proposing to repair an existing retaining wall within the Environmentally Critical (EC) zoning district that is in need of maintenance after Hurricane Ian damaged the property. The subject property is located 2.01 miles north of Big Carlos Pass Bridge on the south side of estero Blvd. Based on historic aerials, this retaining wall has been in place since the early 1970s. The applicant provided aerial images dating to 1972 along with available records. A special exception will allow for the repair of the existing retaining wall cap.

Attachments:

1. Resolution 24-XXX SEZ for Privateer Retaining Wall
2. LPA staff report
3. Exhibit A-Signed sealed engineering Site plan
4. Exhibit B-LIST OF PROPERTY OWNERS EXHIBIT 5-1
5. Exhibit C-Postcards
6. Exhibit D Complete Application and Survey

Financial Impact:

Unknown

6. Alternative Action

Deny

7. Staff Recommendations:

Approve with conditions

8. Recommended Approval:

Frankie Kropacek, Operations & Compliance Director

Date: August 28, 2024

nancy stuparich, Town Attorney

Date: August 29, 2024

Amy Baker, Town Clerk

Date: August 30, 2024

RESOLUTION NUMBER 24-163

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240200 TO ALLOW REPAIRS TO A RETAINING WALL IN THE EC ZONING DISTRICT AS AUTHORIZED BY SECTION 6-366 OF THE TOWN OF FORT MYERS LAND DEVELOPMENT CODE FOR PROPERTY LOCATED AT 6500 AND 6502 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 Stokes Marine Inc on behalf of The Privateer of Fort Lauderdale 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-W3-02000.00CE; 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 September 3, 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. 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.
6. 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: SEZ20240200

CASE NAME: Special Exception for repair of an existing retaining wall in the EC zoning district.

LPA

HEARING DATE: September 3rd, 2024, at 9:00 AM

STAFF

RECOMMENDATION: APPROVAL

**PREPARED/
SUBMITTED BY:** Judith Frankel, AICP, Principal Planner

I. APPLICATION SUMMARY

Applicant/Owner: Stokes Marine. Inc./The Privateer of Fort Myers Beach

Requests: Special exception to repair existing retaining in EC zoning district (200 feet along west boundary; 61 feet along north boundary; and 60 feet along south boundary)

Physical Address: 6500 and 6502 Estero Blvd

STRAP #: 33-46-24-W3-02000.00CE

FLU: Mixed Residential and Recreation

Zoning: Residential Multi-family and Environmentally Critical

Adjacent zoning and land uses:

North: Commercial Boulevard (CB)
Boulevard

South: Environmentally Critical (EC)
Recreation

East: Commercial Resort (CR)
Medium Residential

West: Residential Multifamily (RM)
Medium Residential

II. BACKGROUND AND ANALYSIS

Background:

The applicant is proposing to repair an existing retaining wall within the Environmentally Critical (EC) zoning district that is in need of maintenance after Hurricane Ian damaged the property. The subject property is located 2.01 miles north of Big Carlos Pass Bridge on the south side of Estero Blvd. Based on historic aerials, this retaining wall has been in place since at least the early 1970s. The applicant provided aerial images dating to 1972 along with available records from Lee County. Any type of development within the EC zoning district requires a special exemption to be approved. In this case the special exception will allow for the repair of the existing retaining wall cap. The applicant is concurrently applying for the required Coastal Construction Control Line (CCCL) permit with the Department of Environmental Protection (DEP) for this proposed work scope.

The application refers to the subject structure as a seawall in the provided documents, however LDC section 26-75 defines the structure to be repaired as a retaining wall. Per sec. 26-41, "Retaining wall means a vertical bulkhead constructed landward of the mean high-water line and landward of wetland vegetation to protect the shoreline from erosion." The wall to be repaired is located landward of the mean high-water mark as shown on the provided property survey.

The condominium has met the application criteria of providing notice to the condominium ownership of this special exception application and staff has received a list of the unit numbers which have acknowledged from more than the code required 75% of owners.

Analysis:

The condominium structures at The Privateer of Fort Myers Beach were built in 1968, per Lee Property Appraiser. The applicant provided an Enabling Declaration from Lee County dated 1964, which appears to be analogous to a Development Order. The retaining wall is not mentioned in the provided document and permit records are not available to verify that the retaining wall was built at the same time as the condominium, however it likely was part of the original design. It is visible in the 1972 aerial photograph and was therefore built prior to the creation of the 1978 CCCL.

The LDC allows for repairs to existing retaining and sea wall structures. The location, seaward of the 1978 CCCL necessitates the approval of a special exception. Per LDC sec. 26-77(d), Existing retaining walls and retaining walls along the Gulf of Mexico may be maintained but may not be rebuilt.

Neighborhood Compatibility:

The retaining wall has been at the same location since at least 1972 and will not change the character of the subject property. It appears to have been in place prior to the establishment of the 1978 CCCL.

Findings and Conclusions:

Section 6-366(b)(3) Regulations and Considerations

LDC Section 6-366 includes additional regulations and considerations for special exception approval of repairs in the EC zoning district:

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

The development must comply with local and state floodplain requirements.

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

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

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

Sea turtle nesting season began May 1st and ends on October 31st.

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

This will be a condition of the special exception approval.

Special Exception Findings

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

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

The retaining wall in the EC was damaged during Hurricane Ian. Construction in the EC is likely to be damaged by storm surge in the future, but with the repairs of the existing retaining wall, further damage could be minimized.

Furthermore, the applicant is proposing repairs to a structure seaward of the 1978 Lee County Line (CCCL) that was present pre-Hurricane Ian.

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

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

The proposed work scope for this special exemption is to repair the retaining wall cap “like for like”. This constitutes maintenance for this type of structure. The retaining wall itself will not be removed, replaced or altered in any fashion. Only the retaining wall cap is to be repaired. The proposed work scope is in harmony with the Fort Myers Beach Comprehensive Plan.

LDC Sec. 34-652(e)(3) states that a special exception may be approved for “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.” The subject retaining wall existed pre-Hurricane Ian, is located partially in the EC.

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

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

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

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

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

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

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

The EC zoning district allows only passive, movable structures, no new major structures of any kind are allowed, other than dune walkovers through a special exception. The development of minor structures are allowed in the EC through a special exception. LDC Section 26-77(d) states that, "Existing retaining walls and retaining walls along the Gulf of Mexico may be maintained but may not be rebuilt." This is in line with the Fort Myers Beach Comprehensive Plan Policy 5-D-1. The proposed work scope to repair the retaining wall cap is maintenance for a retaining wall.

III. RECOMMENDATION

Staff finds that the special exception for reconstruction of major accessory structures in the EC zoning district is in compliance with item Sec. 34-88(b)(1). Therefore, staff recommends **APPROVAL** of SEZ20240126 for the reconstruction of a partially damaged retaining wall seaward of the 1978 Lee County Line (CCCL).

If LPA recommends approval for the requests, staff has recommended conditions of approval.

IV. CONDITIONS OF APPROVAL

1. A new special exception must be applied for each time the structures are reconstructed.
2. 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.
3. The applicant must apply for and receive all state and local permits required for the reconstruction of all proposed structures.
4. Any violation of the conditions of approval shall render the special exception null and void.
5. The applicant must obtain an approved lighting plan as outlined in LDC Sec. 34-1834. The applicant must also obtain an approved landscaping plan as outlined in LDC Sec. 10-413.

Staff Report Exhibits:

Exhibit A-A Site Plan

Exhibit B – Property Owner Acknowledgement List

Exhibit C – Postcards to adjacent properties

Exhibit D- Complete Application and Survey



SHA AUTHENTICATION CODE SIGNATURE REPORT

May 21, 2024

Fort Myers Beach Building Department
2545 Estero Blvd.
Fort Myers Beach, FL 33931

c/o: Phil LeBoutillier
Stokes Marine
T: 239.215.4054
E: Phil@StokesMarine.com

Re: **SHA Authentication Code Signature Report**
Seawall Repair
The Privateer of Fort Myers Beach, Inc.
6500 Estero Boulevard
Fort Myers Beach, FL 33931

Fort Myers Beach Building Department:

I am the Professional Engineer-of-Record for the **Seawall Repair Project** at The Privateer of Fort Myers Beach, located 6500 Estero Boulevard, Florida 33931. Recently I prepared the accompanying electronically signed and sealed repair drawings detailing the required repairs for the subject Work. Specifically, this SHA Authentication Code Signature Report applies to the following:

- Drawing S-1.1 General Notes, dated 04/28/2024.
- Drawing S-1.2 Site Plan & Details, dated 04/28/2024.

The SHA Authentication Code for all of the subject documents listed above is:

- F2 88 FA BA 0C 79 E3 47 64 FB 02 52 5F 8C 4F 0B 04 85 36 31.

If there are any questions regarding this SHA Authentication Code Signature Report or the referenced electronically signed and sealed drawings, please do not hesitate to contact us.

Regards,
GeoWorld Engineering Group, Inc.

George A. Tibedo, P.E. – May 21, 2024
Florida P.E. License No. 54291

DESIGN CRITERIA & CODES

1. ALL CONSTRUCTION SHALL CONFORM TO THE 2003 FLORIDA BUILDING CODE, FDOT STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION, TOWN OF FORT MYERS BEACH, U.S. ARMY CORPS OF ENGINEERS, AND ALL OTHER APPLICABLE REGULATIONS AND ORDINANCES BY AUTHORITIES HAVING JURISDICTION.
2. DESIGN SPECIFICATIONS ARE BASED ON THE 2023 FLORIDA BUILDING CODE, ASCE/SEI 24 FLOOD RESISTANT DESIGN AND CONSTRUCTION, ASCE 7-22 MINIMUM DESIGN LOADS AND ASSOCIATED CRITERIA FOR BUILDINGS AND OTHER STRUCTURES, ACI 318 BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE, AND U.S. ARMY CORPS OF ENGINEERS ENGINEERING AND DESIGN MANUAL EM 1110-2-1614 DESIGN OF COASTAL REVETMENTS, SEAWALLS, AND BULKHEADS.
3. THE CONTRACTOR SHALL BECOME FAMILIAR WITH AND COMPLY WITH ALL FEDERAL, STATE, AND LOCAL RULES AND REGULATIONS THAT CONTROL THE ACTION OR OPERATION OF THOSE ENGAGED OR EMPLOYED IN THE WORK OR THAT AFFECT MATERIAL USED.
4. THE CONTRACTOR SHALL TAKE ALL PRECAUTIONS NECESSARY FOR THE PROTECTION OF LIFE, HEALTH, AND GENERAL OCCUPATIONAL WELFARE OF ALL PERSONS, INCLUDING EMPLOYEES OF BOTH THE CONTRACTOR AND THE OWNER, UNTIL THE CONTRACTOR HAS COMPLETED THE WORK REQUIRED UNDER THE CONTRACT. COMPLY AT ALL TIMES WITH APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, PROVISIONS, AND POLICIES GOVERNING SAFETY AND HEALTH, INCLUDING 29 CFR 1926, INCLUDING ALL SUBSEQUENT REVISIONS AND UPDATES.

PERMIT & LICENSES

1. PRIOR TO BEGINNING WORK, THE CONTRACTOR SHALL FILE A NOTICE OF COMMENCEMENT WITH THE AUTHORITIES HAVING JURISDICTION (AHJ), PRIOR TO OBTAINING THE BUILDING PERMIT FOR THIS WORK.
2. THE CONTRACTOR SHALL PROCURE ALL PERMITS AND LICENSES, PAY ALL CHARGES AND FEES, AND GIVE ALL NOTICES NECESSARY AND INCIDENTAL TO THE DUE AND LAWFUL PROSECUTION OF THE WORK.
3. IN CARRYING OUT THE WORK IN THE CONTRACT, WHEN UNDER THE JURISDICTION OF ANY ENVIRONMENTAL REGULATORY AGENCY, COMPLY WITH ALL REGULATIONS ISSUED BY SUCH AGENCIES AND WITH ALL GENERAL, SPECIAL, AND PARTICULAR CONDITIONS RELATING TO CONSTRUCTION ACTIVITIES OF ALL PERMITS ISSUED TO OTHER AGENCIES AS THOUGH SUCH CONDITIONS WERE ISSUED TO THE CONTRACTOR.
4. POST ALL PERMIT PLACARDS IN A PROTECTED LOCATION AT THE WORKSITE.
5. IN CASE OF A DISCREPANCY BETWEEN ANY PERMIT CONDITION AND OTHER CONTRACT DOCUMENTS, THE MORE STRINGENT CONDITION SHALL PREVAIL.
6. THE CONTRACTOR SHALL BE RESPONSIBLE TO INSTALL APPROVED TURBIDITY SCREENS IN PLACE DURING ANY AND ALL CLEARING, EXCAVATING, JETTING, AND BACK FILLING OPERATIONS WHICH TOTALLY ENCLOSE THE CONSTRUCTION SITE. SCREENS ARE TO REMAIN IN PLACE 24 HOURS MINIMUM AFTER CONSTRUCTION CEASES OR UNTIL TURBIDITY LEVEL IS 20 OR LESS NTU ABOVE THE PRE-CONSTRUCTION TURBIDITY LEVEL. SCREENS MUST EXTEND FROM THEWATER SURFACES TO THE BOTTOM AND BE ADEQUATELY WEIGHTED TO KEEP THEM IN PLACE DURING ALL OPERATIONS. THERE SHALL BE ADEQUATE FLOATATION AT THE SURFACE TO PREVENT OVERTFLOW. THIS FLOATATION MUST BE BRIGHTLY COLORED TO MAXIMIZE VISIBILITY.
7. ANY LOOSE DIRT OR STOCK PILES SHALL BE SURROUNDED BY SILT SCREENS AND MAINTAINED IN GOOD WORKING ORDER (AT THE EDGE OF THE TOE OF THE SLOPE) TO PREVENT RUNOFF ONTO THE BEACH OR ADJACENT PROPERTY.
8. REFER TO THE FOOT SPECIFICATION ON EROSION CONTROL FOR PROTECTION OF SLOPES.

RESPONSIBILITY FOR DAMAGES, CLAIMS, ETC.

1. THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, ITS OFFICERS, AGENTS, ENGINEER, AND EMPLOYEES FROM LIABILITIES, DAMAGES, LOSSES AND COSTS, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEY'S FEES, TO THE EXTENT CAUSED BY THE NEGLIGENCE, RECKLESSNESS, OR INTENTIONAL WRONGFUL MISCONDUCT OF THE CONTRACTOR AND PERSONS EMPLOYED OR UTILIZED BY THE CONTRACTOR IN THE PERFORMANCE OF THE CONSTRUCTION CONTRACT. IT IS SPECIFICALLY AGREED BETWEEN THE CONTRACTOR AND THE OWNER THAT IT IS NOT INTENDED BY ANY OF THE PROVISIONS OF ANY PART OF THE CONTRACT, OR BY ANY WORK PERFORMED UNDER THE CONTRACT, TO CREATE IN THE PUBLIC OR ANY MEMBER THEREOF, A THIRD PARTY BENEFICIARY HEREUNDER, OR TO AUTHORIZE ANYONE NOT A PARTY TO THIS CONTRACT TO MAINTAIN A SUIT FOR PERSONAL INJURIES OR PROPERTY DAMAGE PURSUANT TO THE TERMS OR PROVISIONS OF THIS CONTRACT.
2. THE CONTRACTOR GUARANTEES THE PAYMENT OF ALL JUST CLAIMS FOR MATERIALS, SUPPLIES, TOOLS, OR LABOR AND OTHER JUST CLAIMS AGAINST HIM OR ANY SUBCONTRACTOR, IN CONNECTION WITH THE CONTRACT. THE OWNER'S FINAL ACCEPTANCE AND PAYMENT DOES NOT RELEASE THE CONTRACTOR'S RESPONSIBILITY UNTIL ALL SUCH CLAIMS ARE PAID OR RELEASED.

GENERAL

1. ALL DIMENSIONS SHOWN ON THESE PLANS ARE INTENDED FOR BUDGETARY PURPOSES ONLY AND WILL BE FIELD VERIFIED BY THE BIDDER/OFFEROR PRIOR TO SUBMITTING ITS BID AND PRIOR TO THE START OF CONSTRUCTION. NO ADDITIONAL COMPENSATION OR CONSIDERATION WILL BE GIVEN FOR DIMENSIONS NOT VERIFIED. PRIOR TO THE START OF CONSTRUCTION CONTRACTOR WILL NOTIFY ENGINEER IN WRITING OF ANY CONFLICTS, DISCREPANCIES OR AMBIGUITIES EXISTING. NO EXTRA COMPENSATION WILL BE PAID TO CONTRACTOR FOR WORK WHICH HAS TO BE REDONE OR REPAIRED DUE TO DIMENSIONS SHOWN INCORRECTLY ON THESE PLANS PRIOR TO CONTRACTOR GIVING ENGINEER WRITTEN NOTIFICATION OF SAME AND ENGINEER, THEREAFTER, PROVIDING CONTRACTOR WITH WRITTEN AUTHORIZATION TO PROCEED WITH SUCH ADDITIONAL WORK.
2. PRIOR TO BEGINNING THE WORK, THE CONTRACTOR SHALL NOTIFY THE ENGINEER OF ANY DISCREPANCIES NOTED BETWEEN THE CONTRACT DOCUMENTS AND EXISTING IN SITU CONDITIONS.
3. PRESERVE FROM DAMAGE ALL EXISTING PROPERTY WITHIN THE PROJECT LIMITS OF OR IN ANY WAY AFFECTED BY THE WORK, THE REMOVAL OR DESTRUCTION OF WHICH IS NOT SPECIFIED IN THE PLANS. THIS APPLIES TO, BUT IS NOT LIMITED TO, PUBLIC AND PRIVATE PROPERTY, PUBLIC AND PRIVATE UTILITIES, TREES, SHRUBS, CROPS, SOIL, SIGNS, MONUMENTS, FENCES, GUARDRAIL, PIPE AND UNDERGROUND STRUCTURES, TRAFFIC CONTROL SIGNALS AND DEVICES, LIGHTING, ROADWAYS, AND PARKING LOTS. IT IS THE CONTRACTOR'S RESPONSIBILITY TO HAVE LOCATED ALL UNDERGROUND FACILITIES THROUGH NOTIFICATION TO "SUNSHINE 811".
4. WHENEVER THE CONTRACTOR'S ACTIVITIES DAMAGE SUCH EXISTING PROPERTY, IT SHALL BE IMMEDIATELY RESTORED TO A CONDITION EQUAL TO OR BETTER THAN THAT EXISTING AT THE TIME SUCH DAMAGE OCCURRED, AT NO EXPENSE TO THE OWNER.
5. FINISHED TOP ELEVATION OF NEW SEAWALL CAP SHALL MATCH EXISTING CAP ELEVATION. FINISHED VERTICAL FACE OF NEW SEAWALL CAP SHALL NOT EXTEND SEAWARD (WESTWARD) BEYOND EXISTING HORIZONTAL POSITION OF CAP.

SHORING AND BRACING

1. PROVIDE ENGINEERING SERVICES FOR THE DESIGN AND IMPLEMENTATION OF TEMPORARY SHORING AND BRACING AS MAY BE REQUIRED. CONTRACTOR'S ENGINEER SHALL REVIEW REQUIRED DEMOLITION AND IDENTIFY AND DESIGN ALL VERTICAL AND LATERAL SHORING AND BRACING REQUIRED FOR THE PROTECTION OF THE EXISTING STRUCTURES WHETHER NOTED ON THE DRAWINGS OR NOT. CALCULATIONS SHALL INCLUDE CONFIRMATION THAT STRUCTURAL ELEMENTS ARE STRUCTURALLY SOUND DUE TO ADDED JACKING LOADS.
2. PROVIDE MATERIAL, LABOR AND SERVICES NECESSARY TO INSTALL TEMPORARY SHORING AND BRACING WHERE REQUIRED FOR THE DEMOLITION OF EXISTING ELEMENTS AND THE PROTECTION OF THE EXISTING SEAWALL, AND IN ACCORDANCE WITH THE APPROVED DRAWINGS PREPARED BY THE CONTRACTOR'S ENGINEER.
3. PROVIDE PROTECTION OF EXISTING SURFACES AND FINISHES.

GEOTECHNICAL & FOUNDATIONS

1. SOIL ASSUMED AS LOOSE FINE SAND.

FASTENERS

1. PROVIDE FASTENER TYPES, SIZES AND NUMBERS AS SPECIFIED HEREIN, UNLESS PLANS DEFER TO MANUFACTURERS' RECOMMENDATIONS OR STANDARDS.
2. ALL FASTENERS SHALL BE CORROSION RESISTANT SPECIFICALLY INTENDED FOR USE IN HUMID SUBTROPICAL CLIMATES.

REINFORCED CONCRETE

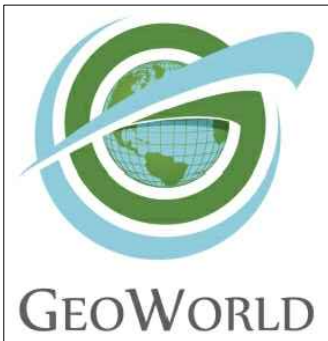
- ALL CONCRETE DESIGN AND PLACEMENT SHALL BE IN STRICT ACCORDANCE WITH ACI 318-19, "BUILDING CODE REQUIREMENTS FOR REINFORCED CONCRETE".
2. STRUCTURAL CONCRETE SHALL CONFORM TO ACI 301 SPECIFICATIONS, AND SHALL DEVELOP THE FOLLOWING MINIMUM COMPRESSIVE STRENGTHS AT 28 DAYS, AS WELL AS OTHER PROPERTIES SPECIFIED IN THESE DOCUMENTS. SEE SPECIFICATIONS FOR ADDITIONAL DESIGN MIX REQUIREMENTS.
- SEAWALL CAP & DEAD MAN ANCHORS: 5,000 PSI
3. CONCRETE SHALL BE READY-MIX, REGULAR WEIGHT FOR ALL STRUCTURAL USES, WITH MINIMUM DRY DENSITY OF 145 LBS. PER CUBIC FOOT.
4. ALL EXPOSED SURFACES SHALL HAVE A CLASS 5 FINISH IN ACCORDANCE WITH FDOT SPECIFICATION FINISHING CONCRETE. ALL UNEXPOSED SURFACES ARE TO BE FREE OF HONEYCOMBING AND MAJOR IMPERFECTIONS
5. CHAMFER ALL EXPOSED CONCRETE EDGES, 3/4" - UNLESS NOTED OTHERWISE.
6. REINFORCING STEEL SHALL BE DETAILED, FABRICATED AND INSTALLED IN ACCORDANCE WITH ACI 318-95 AND ACI DETAILING MANUAL, ACI 315.
7. REINFORCING STEEL SHALL BE NEW, DEFORMED BARS, FREE OF RUST, SCALE AND OIL, CONFORMING TO ASTM A-615, GRADE 60 WITH A MINIMUM YIELD STRENGTH = 60,000 PSI, UNLESS OTHERWISE SHOWN.
8. PROVIDE CONTINUOUS REINFORCEMENT WITH ACI CLASS "B" LAP SPLICES, OR AS NOTED OTHERWISE. IN BEAMS, LAP CONTINUOUS BOTTOM STEEL OVER SUPPORTS AND CONTINUOUS TOP STEEL AT MID SPAN, UNLESS NOTED OTHERWISE.
9. TERMINATE ALL DISCONTINUOUS ENDS OF TOP BARS WITH STANDARDS ACI HOOKS. TURN HOOKS UP OR DOWN INTO SUPPORTING STRUCTURE. CORNER BARS SHALL BE SUPPLIED AND PLACED IN ADDITION TO HOOKED ENDS, PER THE DETAILS IN THESE DOCUMENTS.
10. PROVIDE THE FOLLOWING MINIMUM CONCRETE COVERAGE OVER REINFORCING UNLESS NOTED OTHERWISE:
- SEAWALL CAP & DEAD MAN ANCHORS: 3"
11. ALL PENETRATIONS THROUGH SEAWALL CAP & DEAD MAN ANCHORS SHALL BE SLEEVED INDIVIDUALLY. CORE DRILLING OF EXISTING CONCRETE MEMBERS WILL NOT BE PERMITTED, UNLESS NOTED ON PLANS. SUBMIT LOCATIONS AND SIZES OF ALL SLEEVES FOR ARCHITECT/ENGINEER APPROVAL PRIOR TO CASTING.
12. NO REINFORCING BARS SHALL BE CUT OR OTHERWISE MODIFIED IN THE FIELD. REINFORCING BARS SHALL NOT BE DISPLACED PRIOR TO OR DURING CASTING TO ACCOMMODATE ANCHORS, EMBEDS OR OTHER ITEMS.
13. WHERE WALLS, BEAMS AND FOOTINGS CHANGE DIRECTION, PROVIDE CORNER BARS OF SAME SIZE, AND QUANTITY AS THE SPECIFIED LONGITUDINAL STEEL.
14. ALL EMBEDDED ITEMS SHALL BE SECURELY FIXED AND MAINTAINED IN POSITION PRIOR TO AND DURING CONCRETE PLACEMENT.
15. PROVIDE REINFORCEMENT SPLICES AS INDICATED BELOW IN CONFORMANCE WITH AN ACI CLASS B TENSION SPLICE. (ACI CODE 318-19C22). NO REDUCTION SHALL BE PERMITTED DUE TO BAR SPACING:
16. SPECIFIC CONCRETE MIX DESIGN PARAMETERS FOR THIS PROJECT SHALL BE SUBMITTED TO THE ARCHITECT AND ENGINEER FOR REVIEW AND APPROVAL PRIOR TO PLACEMENT. MIXES FOR SPECIFIC USES AND LOCATIONS SHALL PROVIDE FOR THE FOLLOWING MINIMUM/MAXIMUM VALUES:
- SEAWALL CAP & DEAD MAN ANCHORS:
- | | |
|----------------------------|--|
| COMPRESSIVE STRENGTH: | 5,000 PSI TYPE II CEMENT, CLASS III CONCRETE |
| WATER/CEMENT RATIO (MAX.): | 0.40 |

TIE RODS & DEAD MAN ANCHORS

1. THE RODS SHALL BE WILLIAMS GRADE 75 ALL-THREAD REBAR, MINIMUM NO. 8, WITH TURNBUCKLES AS REQUIRED TO REMOVE SLACK DURING INSTALLATION, OR AS APPROVED BY THE ENGINEER.
2. THE REINFORCING USING PLASTIC, POLYMER, OR NYLON COATED PLIABLE STEEL WIRE THAT READILY BENDS AND TWISTS WITHOUT BREAKING.
3. BACK FILL BELOW TIE-RODS SHALL BE HAND-COMPACTED TO PROVIDE FULL SUPPORT OF THE TIE-RODS TO PREVENT BENDING OR FRACTURING DURING COMPACTION. BACK FILL IS TO BE COMPACTED TO A STABLE DENSITY SUCH THAT NO APPRECIABLE SETTLEMENT OCCURS AFTER COMPLETION OF WALLS.
4. DEAD MAN ANCHORS ARE SHALL BE CONSTRUCTED BY PLACING CONCRETE INTO THE SPECIFIED SIZE HOLE EXCAVATED IN UNDISTURBED GROUND. ALTERNATIVELY, DEAD MAN ANCHORS MAY BE PRECAST AND SET INTO GROUND PROVIDED ALL DISTURBED SOIL IS COMPACTED TO A STABLE DENSITY SUCH THAT NO APPRECIABLE SETTLEMENT OR MOVEMENT OCCURS AFTER COMPLETION OF DEAD MAN.
5. APPLY TWO (2) COATS OF CARBOLINE BITUMASTIC 300M COAL TAR EPOXY TO ALL EXPOSED AREAS OF STEEL TIERODS, PLATES, NUTS AND WASHERS, 16.0 MIL DRY FILM THICKNESS EACH COAT. SURFACES TO BE COATED SHALL BE CLEAN AND DRY. EMPLOY ADEQUATE METHODS TO REMOVE DIRT, DUST, OIL AND ALL OTHER CONTAMINANTS THAT COULD INTERFERE WITH ADHESION OF THE COATING.

CONCRETE REHABILITATION

3. THE FOLLOWING CONCRETE REPAIR NOTES, NOS. 2 THROUGH 9, ARE INTENDED AS A SUMMARY ONLY. THE CONTRACTOR SHALL FAMILIARIZE ITSELF FULLY WITH THE COMPLETE REQUIREMENTS LISTED IN TECHNICAL SPECIFICATION 030100 CONCRETE REHABILITATION, AND THE SPECIFIED ACI AND ICRI PUBLICATIONS/GUIDELINES.
2. DETERIORATED AND DELAMINATED CONCRETE SHALL BE LOCATED AND MARKED PRIOR TO STARTING THE REMOVAL PROCESS. DELAMINATED CONCRETE CAN BE LOCATED USING SOUNDING OR OTHER SUITABLE TECHNIQUES. THE REPAIR AREA SHALL EXTEND A MINIMUM OF 6 INCHES BEYOND THE ACTUAL DELAMINATED CONCRETE. REPAIR CONFIGURATIONS SHALL BE KEPT AS SIMPLE AS POSSIBLE, PREFERABLY SQUARE OR RECTANGULAR WITH SQUARE CORNERS. THIS MAY RESULT IN THE REMOVAL OF SOUND CONCRETE. REINFRANT CORNERS SHALL BE MINIMIZED OR AVOIDED AS THEY ARE SUSCEPTIBLE TO CRACKING.
3. REMOVE CONCRETE FROM MARKED AREAS AND UNDERCUT EXPOSED REINFORCING STEEL USING IMPACT BREAKERS, HYDRODEMOLITION, OR ANOTHER SUITABLE METHOD. PROVIDE MINIMUM 0.75" DEEPER THAN EXPOSED REINFORCING STEEL AND SURROUNDING CONCRETE OR 0.25 IN. LARGER THAN THE COARSE AGGREGATE IN THE REPAIR MATERIAL, WHICHEVER IS GREATER. CONCRETE REMOVAL SHALL EXTEND ALONG THE REINFORCING STEEL UNTIL THERE IS NO FURTHER DELAMINATION, CRACKING, OR SIGNIFICANT CORROSION AND THE REINFORCING STEEL IS WELL BONDED TO THE SURROUNDING CONCRETE. REMOVE ALL DETERIORATED CONCRETE AND ADDITIONAL CONCRETE AS REQUIRED TO PROVIDE THE PROPER CONFIGURATION AND/OR THE MINIMUM REQUIRED THICKNESS OF REPAIR MATERIAL AS REQUIRED BY THE MANUFACTURER OF THE REPAIR MATERIAL AND/OR THE PROJECT SPECIFICATIONS.
4. THE PERIMETER OF THE REPAIR AREA SHALL BE SAW CUT 0.75" DEEP TO PROVIDE A VERTICAL EDGE (SEE DETAIL 5/54) FOR THE REPAIR MATERIAL AND AVOID FEATHEREDGING OF THE REPAIR MATERIAL. DEPENDING ON THE REPAIR MATERIAL SELECTED, THE DEPTH OF THE EXISTING REINFORCING AND THE MANUFACTURER'S RECOMMENDATIONS, A SAW CUT DEPTH LESS THAN 0.75 IN. DEEP MAY BE SUFFICIENT. CARE SHOULD BE TAKEN TO AVOID CUTTING THE EXISTING REINFORCING STEEL.
5. ALL CONCRETE, CORROSION PRODUCTS, AND SCALE SHALL BE REMOVED FROM THE REINFORCING STEEL BY OIL-FREE ABRASIVE BLASTING OR HIGH-PRESSURE WATER BLASTING. VERIFY THAT THE REINFORCING STEEL AND CONCRETE SURFACE ARE FREE FROM DIRT, OIL, CEMENT FINES (SLURRY), OR ANY MATERIAL THAT MAY INTERFERE WITH THE BOND OF THE REPAIR MATERIAL. INSPECT THE REPAIR CAVITY TO VERIFY THAT ALL DELAMINATIONS AND DETERIORATION HAVE BEEN REMOVED. FOLLOW ZINC-RICH EPOXY PROTECTIVE COATING MANUFACTURER'S RECOMMENDATIONS FOR STEEL SURFACE PREPARATION.
6. IF REINFORCING STEEL HAS LOST CROSS-SECTIONAL AREA, THE ENGINEER SHALL BE CONSULTED. REINFORCING STEEL SHALL BE REPAIRED BY EITHER REPLACING THE DAMAGED/DETERIORATED STEEL OR PLACING SUPPLEMENTAL REINFORCING STEEL IN THE AFFECTED SECTION. SUPPLEMENTAL REINFORCING STEEL MAY BE LAP-SPLICED OR MECHANICALLY SPLICED TO EXISTING REINFORCING STEEL. THE SUPPLEMENTAL REINFORCING STEEL SHALL EXTEND (LAP LENGTH) BEYOND THE DAMAGED/DETERIORATED AREA IN ACCORDANCE WITH ACI 318, "BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE."
7. APPLY TWO COATS ZINC-RICH EPOXY PRIMER IN STRICT ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS. APPLY FIRST COAT ENSURING THE BACK OF EXPOSED REINFORCING BARS ARE COMPLETELY COATED. APPLY SECOND COAT FOR COMPLETE COVERAGE OF SURFACE. ALLOW FIRST COAT TO COMPLETELY DRY BEFORE APPLYING SECOND COAT.
8. IMMEDIATELY PRIOR TO PLACING REPAIR MATERIAL, INSPECT REPAIR CAVITY TO VERIFY ALL BOND-INHIBITING MATERIALS (DIRT, CONCRETE SLURRY, LOOSELY BONDED AGGREGATES, OR ANY MATERIAL THAT MAY INTERFERE WITH THE BOND OF THE REPAIR MATERIAL TO THE EXISTING CONCRETE) HAVE BEEN REMOVED. IF BOND-INHIBITING MATERIALS ARE PRESENT, THE REPAIR CAVITY SHALL BE RECLEANED AS PREVIOUSLY DESCRIBED.
9. APPLY POLYMER MODIFIED CEMENTITIOUS REPAIR MORTAR IN STRICT ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS.



GEOWORLD ENGINEERING
GROUP, INC.

Engineering - Restoration
Planning - Recreation
Construction Administration
GeoWorld Project Assessment™ (GPA)

227 McCoy Drive
Lake Placid, FL 33852

T: 863-699-0900
W: GeoWorldTeam.com

Florida Registry #32094

SEAWALL REPAIR
THE PRIVATEER ON FORT MYERS BEACH
6500 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA 33931

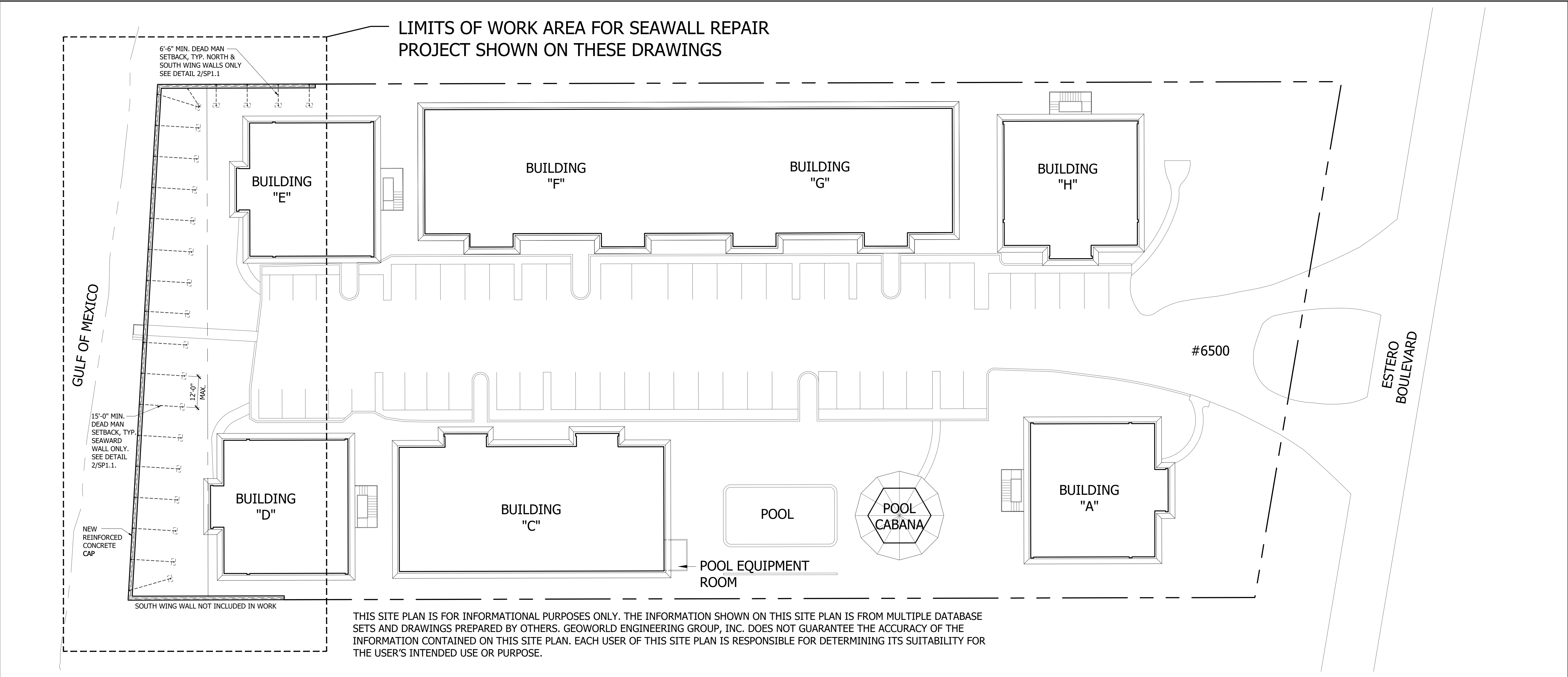
GENERAL NOTES

5		Rev. Description Status: ISSUE FOR CONSTRUCTION Date
4		
3		
2		
1		
Designed By:		
Drawn By:		O.Q.
Checked By:		G.A.T.
Date:		04-28-2024

George A. Tibedo, P.E.
FL P.E. Lic. #54291

Job No: 22-136
Sheet No:

S1.1



SITE PLAN 1

SCALE: 1"= 20'-0"

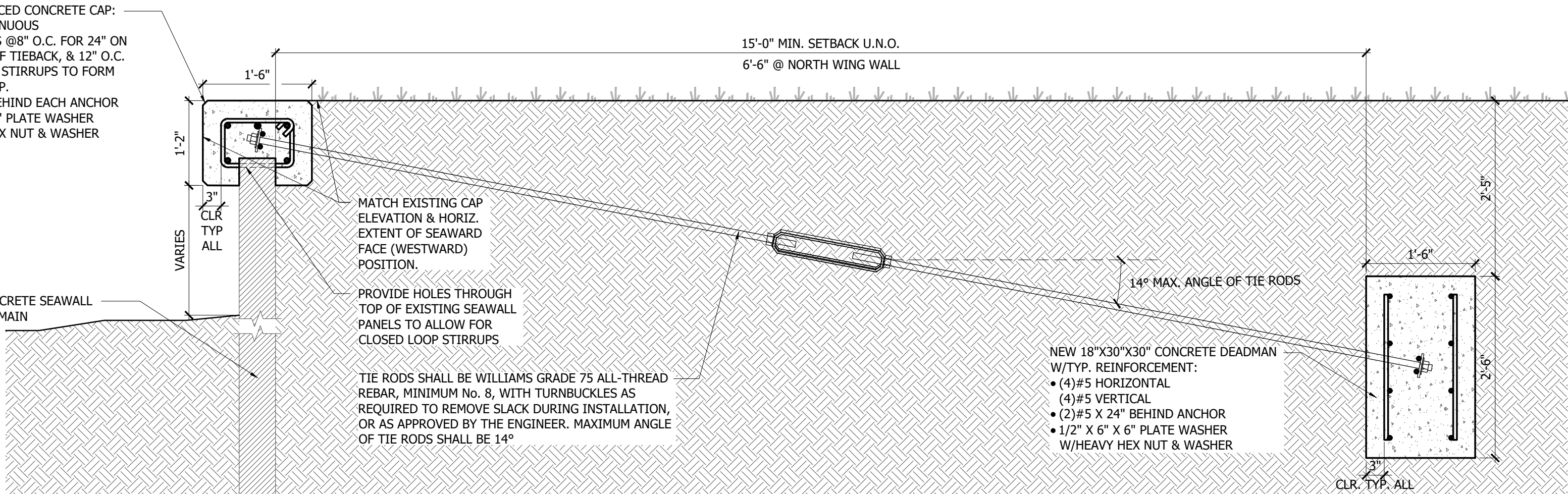
GENERAL NOTES:

- THIS PROJECT INVOLVES REPAIR OF AN EXISTING REINFORCED CONCRETE SEAWALL. THE ENGINEER HAS INSPECTED THE EXISTING CONCRETE SEAWALL PANELS TO REMAIN AND CERTIFIES THAT TO THE BEST OF ITS KNOWLEDGE THE PANELS ARE STRUCTURALLY SOUND AND MAY REMAIN. THUS THE NEW WORK SHOWN ON THESE DRAWINGS IS LIMITED TO THE NEW REINFORCED CONCRETE SEAWALL CAP, TIE RODS AND CONCRETE DEAD MAN ANCHORS.
- SEAWALL LENGTHS:
 - 200 FT ALONG WEST BOUNDARY
 - 61 FT ALONG NORTH BOUNDARY (AT BLDG E).
 - 60 FT. ALONG SOUTH BOUNDARY (AT BLDG D) (NOT INCLUDED IN WORK.)
- THE CONTRACTOR IS RESPONSIBLE FOR ENSURING THE STRUCTURAL INTEGRITY OF THE EXISTING CONCRETE SEAWALL PANELS, RELATED COMPONENTS, AND ALL OTHER STRUCTURES ONSITE TO REMAIN DURING ALL DEMOLISHION ACTIVITIES.
- EXISTING CONCRETE SEAWALL CAP SHALL BE DEMOLISHED IN ITS ENTIRETY, AND LEGALLY DISPOSED OF OFF SITE, WITH EXTREME CARE TO NOT CAUSE DAMAGE TO EXISTING CONCRETE SEAWALL PANELS TO REMAIN. SAWCUTTING SHALL BE DONE IN SUCH A MANNER SO AS TO AVOID CUTTING INTO THE EXISTING CONCRETE SEAWALL PANELS TO REMAIN.
- EXISTING STEEL TIE RODS AND CONCRETE DEAD MAN SHALL BE DEMOLISHED AND LEGALLY DISPOSED OF OFF SITE.
- ALL STEEL NOT EMBEDDED IN CONCRETE SHALL BE HOT DIPPED GALVANIZED.
- CONCRETE SHALL HAVE A MINIMUM COMPRESSIVE STRENGTH OF 5,000 PSI. AND MAXIMUM WATER/CEMENT RATIO OF 0.40.
- CONCRETE SHALL BE VIBRATED DURING PLACEMENT TO PREVENT HONEYCOMBS.
- STEEL TIE RODS SHALL BE WILLIAMS GRADE 75 ALL - THREAD No. 8 MIN. REBAR, AND HAVE A MINIMUM CLEAR CONCRETE COVER OF NO LESS THAN 3 INCHES.
- EXCAVATED BACKFILL SHALL BE STORED ONSITE AND REUSED, CLEAN AND FREE OF DEBRIS AND ALL OTHER DELETERIOUS MATERIALS, COMPACTED TO A MINIMUM OF 95% PER ASTM D-698.

NEW REINFORCED CONCRETE CAP:

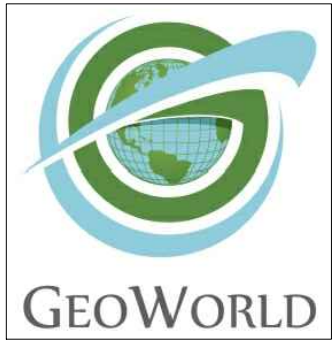
- (5)#6 CONTINUOUS
- #5 STIRRUPS @8" O.C. FOR 24" ON EACH SIDE OF TIEBACK, & 12" O.C. ELSEWHERE. STIRRUPS TO FORM CLOSED LOOP.
- (2)#5X24" BEHIND EACH ANCHOR
- 1/2" X 6" X 6" PLATE WASHER W/HEAVY HEX NUT & WASHER

EXISTING CONCRETE SEAWALL PANELS TO REMAIN



SEAWALL REPAIR DETAIL 2

SCALE: 3/4"= 1'-0"



GEOWORLD ENGINEERING GROUP, INC.

Engineering - Restoration
Planning - Recreation
Construction Administration
GeoWorld Project Assessment™(GPA)

227 McCoy Drive
Lake Placid, FL 33852

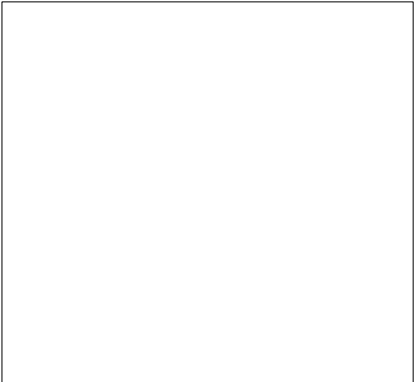
T: 863-699-0900
W: GeoWorldTeam.com

Florida Registry #32094

SEAWALL REPAIR
THE PRIVATEER ON FORT MYERS BEACH
6500 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA 33931
SITE PLAN & DETAILS

Rev.	Description	Date
5		
4		
3		
2		
1		
Status: ISSUE FOR CONSTRUCTION		

Designed By:
Drawn By: O.Q.
Checked By: G.A.T.
Date: 04-28-2024



George A. Tibedo, P.E.
FL P.E. Lic. #54291

Job No: 22-136
Sheet No:

S-1.2

FAMILY UNIT	% OWNERSHIP	Owner Name	Strap #
A101	1.83	FELDMANN GARY	33-46-24-W3-0200A.1010
A103	1.83	LUCAS MORRIS D & MISTY	33-46-24-W3-0200A.1030
A201	1.72	WIMBERLY & WIMBERLY	33-46-24-W3-0200A.2010
A203	1.72	ALLEN KARLA F TR	33-46-24-W3-0200A.2030
A301	1.83	HAWLEY BRUCE &	33-46-24-W3-0200A.3010
A303	1.83	ROWE DONN A TR	33-46-24-W3-0200A.3030
C113	2.02	BELFORD JAMES R TR	33-46-24-W3-0200C.1130
C115	2.02	LEFRANCE JANICE S TR	33-46-24-W3-0200C.1150
C117	2.02	KIENHOLZ ANDREW EDWARD +	33-46-24-W3-0200C.1170
C119	2.02	O'CONNELL JOHN & JEAN	33-46-24-W3-0200C.1190
C213	2.02	RASH BRENDA L TR	33-46-24-W3-0200C.2130
C215	2.02	BREDBERG DOUGLAS J &	33-46-24-W3-0200C.2150
C217	2.02	M&D FLORIDA LLC	33-46-24-W3-0200C.2170
C219	2.02	WALTMAN MICHAEL & JEAN	33-46-24-W3-0200C.2190
D121	2.43	TRIPLE CROWN VACATION RENTALS	33-46-24-W3-0200D.1210
D123	2.43	RUDY MARLENE Y & JOEL	33-46-24-W3-0200D.1230
D221	2.43	HOOBLE NEIL E & SHERRY T	33-46-24-W3-0200D.2210
D223	2.43	SMITH RICHARD R TR	33-46-24-W3-0200D.2230
D321	2.64	WILKERSON ALAN R & RHONDA M	33-46-24-W3-0200D.3210
D323	2.64	MARTIN JOHN D & MARY A TR	33-46-24-W3-0200D.3230
E120	2.43	JEWETT HAROLD D TR	33-46-24-W3-0200E.1200
E122	2.43	KIRSCH HAROLD A & DIANE S TR	33-46-24-W3-0200E.1220
E220	2.43	WYSKIEL JEAN & STEPHANIE L/E	33-46-24-W3-0200E.2200
E222	2.43	KRUSE STACY & NORMAN TR	33-46-24-W3-0200E.2220
E320	2.64	OSUCHOWSKI WILLIAM & SHARON	33-46-24-W3-0200E.3200
E322	2.64	BARACUTEY LLC	33-46-24-W3-0200E.3220
F112	2.02	WALSH TERRENCE A &	33-46-24-W3-0200F.1120
F114	2.02	HOLZENDOFT RUTH EVANS TR	33-46-24-W3-0200F.1140
F116	2.02	SNEDDON JOY B TR	33-46-24-W3-0200F.1160
F118	2.02	WIEN DAVID P & JANICE K	33-46-24-W3-0200F.1180
F212	2.02	HOSKINS BRIAN K & SUSAN B	33-46-24-W3-0200F.2120
F214	2.02	HENRY KATHRYN & TED	33-46-24-W3-0200F.2140
F216	2.02	3RC BUTTERCUP LLC	33-46-24-W3-0200F.2160
F218	2.02	GENZINK RETHA	33-46-24-W3-0200F.2180
G104	2.02	PELLETIER SCOTT & JUDY TR	33-46-24-W3-0200G.1040
G106	2.02	BARTLETT ROBERT M & LILA F	33-46-24-W3-0200G.1060
G108	2.02	FLORY SUSAN E TR	33-46-24-W3-0200G.1080
G110	2.02	WALLIS LISA S TR	33-46-24-W3-0200G.1100
G204	2.02	RICHARDSON JACK D & DONNA L	33-46-24-W3-0200G.2040
G206	2.02	SCHMIDT MARTIN S	33-46-24-W3-0200G.2060
G208	2.02	DELANEY GARY L & KATHRYN TR	33-46-24-W3-0200G.2080
G210	2.02	ALVES A DACOSTA & SANDRA J	33-46-24-W3-0200G.2100
H100	1.83	KNIBBE DAVID J & GAYLE E	33-46-24-W3-0200H.1000

H102	1.83 RUSSELL WILLIAM G IV &	33-46-24-W3-0200H.1020
H200	1.72 BROUGHER DOUGLAS E &	33-46-24-W3-0200H.2000
H202	1.72 GIERSEWSKI STEPHEN T TR	33-46-24-W3-0200H.2020
H300	1.72 ZDEB DIANE D TR	33-46-24-W3-0200H.3000
H302	1.83 GREIG LUCIA	33-46-24-W3-0200H.3020



Town of Fort Myers Beach
Community Development Services - Planning Division
2731 Oak St,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/ Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM- LPA and 6 PM-Town Council
DATE: LPA September 3rd, 2024 (9AM), Town Council September 23d, 2024 (6PM)
CASE: SEZ20240200
ADDRESS: 6500/6502 Estero Blvd
APPLICANT: Stokes Marine on behalf of Privateer of Fort Myers Beach
REQUEST: Requesting a special exception for the rebuilding of an existing retaining wall.

TOWN CONTACT: JUDITH FRANKEL [JFRANKEL@FMBGOV.COM](mailto:jfrankel@fmbgov.com)

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

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



Town of Fort Myers Beach
Community Development Services - Planning Division
2731 Oak St,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/ Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM- LPA and 6 PM-Town Council
DATE: LPA September 3rd, 2024 (9AM), Town Council September 23d, 2024 (6PM)
CASE: SEZ20240200
ADDRESS: 6500/6502 Estero Blvd
APPLICANT: Stokes Marine on behalf of Privateer of Fort Myers Beach
REQUEST: Requesting a special exception for the rebuilding of an existing retaining wall.

TOWN CONTACT: JUDITH FRANKEL [JFRANKEL@FMBGOV.COM](mailto:jfrankel@fmbgov.com)

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

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



Town of Fort Myers Beach
Community Development Services - Planning Division
2731 Oak St,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/ Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM- LPA and 6 PM-Town Council
DATE: LPA September 3rd, 2024 (9AM), Town Council September 23d, 2024 (6PM)
CASE: SEZ20240200
ADDRESS: 6500/6502 Estero Blvd
APPLICANT: Stokes Marine on behalf of Privateer of Fort Myers Beach
REQUEST: Requesting a special exception for the rebuilding of an existing retaining wall.

TOWN CONTACT: JUDITH FRANKEL [JFRANKEL@FMBGOV.COM](mailto:jfrankel@fmbgov.com)

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

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



Town of Fort Myers Beach
Community Development Services - Planning Division
2731 Oak St,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/ Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM- LPA and 6 PM-Town Council
DATE: LPA September 3rd, 2024 (9AM), Town Council September 23d, 2024 (6PM)
CASE: SEZ20240200
ADDRESS: 6500/6502 Estero Blvd
APPLICANT: Stokes Marine on behalf of Privateer of Fort Myers Beach
REQUEST: Requesting a special exception for the rebuilding of an existing retaining wall.

TOWN CONTACT: JUDITH FRANKEL [JFRANKEL@FMBGOV.COM](mailto:jfrankel@fmbgov.com)

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

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

Town of Fort Myers Beach
2731 Oak St,
Fort Myers Beach, FL 33931

Town of Fort Myers Beach
2731 Oak St,
Fort Myers Beach, FL 33931

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

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

Town of Fort Myers Beach
2731 Oak St,
Fort Myers Beach, FL 33931

Town of Fort Myers Beach
2731 Oak St,
Fort Myers Beach, FL 33931

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Site Address: 6500/6502 ESTERO BLVD FORT MYERS BEACH FL 33931

STRAP Number: 33-46-24-W3-02000.00CE

Applicant: Stokes Marine Inc. Phone: 239-215-4048

Contact Name: John Siekmann Phone: 239-215-4048

Email: permitting@stokesmarine.com Fax: na

Current Zoning District: RM

Future Land Use Map (FLUM) Category: Mixed Residential

FLUM Density Range: Unkown 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*: John Siekmann / Stokes Marine Inc. Phone: 239-215-4048

**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: 15955 Pine Ridge Rd Fort Myers FL 33908

Email: permitting@stokesmarine.com Fax: na

Contact Name: John Siekmann Phone: 239-215-4048



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: John Siekmann Phone: 239-215-4048
Address: 15955 Pine Ridge Rd Fort Myers FL 33908
Email: permitting@stokesmarine.com Fax: na

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

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

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

PART II – Nature of Request

Requested Action (each request requires a separate application)

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

PART III – Waivers

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

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

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

Signature

Printed Name

STATE OF _____ COUNTY OF _____

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

presence OR ____ online notarization, this ____ day of _____, 20____, by

_____, ☐ who is personally known to me OR ☐ who has produced

_____ as identification.

(SEAL)

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

See attached Exhibit 5-1 for list of owners and % of ownership. This also includes

a list of the legal signers for The Privateer of Fort Myers Beach Inc.

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
na	na
_____	_____
_____	_____
_____	_____

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

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

_____	_____
Signature	Printed Name

AFFIDAVIT

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

I, Michael Waltman (name), as President (title)
of THE PRIVATEER OF FT MYERS BEACH INC (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

THE PRIVATEER OF FORT MYERS BEACH, INC.

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

Michael Waltman
Signature

Michael Waltman

Typed or Printed Name

President

Title

Date

STATE OF FL COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 12 day of July, 2024, by

Michael Waltman ☐ who is personally known to me OR ☒ who has produced

FL Drivers Lic. as identification.

ERIC WEXLER
NOTARY PUBLIC - STATE OF NEW YORK
Seal NO. 01WE6399987
QUALIFIED IN NASSAU COUNTY
COMMISSION EXPIRES NOVEMBER 4, 2027

Eric Wexler
Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 33-46-24-W3-02000.00CE

Property Address: 6500/6502 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) 202 feet
Depth (please provide an average width if irregular in shape) 493 feet
Frontage on street: 202 feet. Frontage on waterbody: 202 feet
Total land area: 99,586 ☐ acres ☒ square feet

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

Property is located 2.01 miles north of Big Carlos Pass Bridge on the East side
of Estero Blvd.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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



Case# _____

Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-A

Additional Required Information for a Special Exception Application

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

Project Name: The Privateer of Fort Myers Beach Inc- Seawall cap repair
Authorized Applicant: John Siekmann / Stokes Marine Inc.
LEPA STRAP Number(s): 33-46-24-W3-02000.00CE

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

Requested Action:

☐ Use of premises in the EC (Environmentally Critical) zoning district for:
Existing seawall has been in place since the 1970s and is in place for stabilizing
sands in the uplands.
☐ Use of premises in the _____ zoning district for:



Case# _____

Date Received: _____

PART I
Narrative Statements

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

Please see attached page at bottom for response.

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

The property qualifies for a Special Exception because:
Please see attached page at bottom for response.



Please see attached page at bottom for response.

Page 319 of 380



STOKES MARINE, INC.
15955 Pine Ridge Road
Fort Myers FL 33908
Office: 239 489-DOCK (3625)
Website: www.STOKESMARINE.com

7/17/2024

**Supplement PH-A
Narrative Statements**

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

The proposed use that requires this special exception request is an existing seawall within the Environmentally Critical (EC) zoning district that is in need of maintenance after Hurricane Ian damaged the property. The existing seawall cap needs to be repaired while the existing seawall will remain in place. Based on historic aerials, this seawall has been in place since the early 1970s. This special exception request is to allow for the repair of the existing seawall cap that is located within the EC zoning district. Any type of development within the EC zoning district requires a special exemption to be approved. We applied for the construction permit for this project, and it has been assigned permit # 241515. We are concurrently applying for the required Coastal Construction Control Line (CCCL) Permit with the Department of Environmental Protection (DEP) as well for this proposed work scope.

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

This wall has been in place for approximately 50 years based on historic aerials. 1972 is the first aerial you can see the location of this existing seawall. (see aerials below.) As mentioned above, any development work inside the EC zoning district requires this special exemption to be approved. The existing wall has been in place and maintained since it was originally constructed. Hurricane Ian impacted Fort Myers Beach on September 28th 2022 and caused heavy damage the property including the existing seawall cap.

In Section 34-88 of the Land Development code, #1 in the list of considerations required for a special exemption to be approved asks “*Whether there exist changed or changing conditions which make approval of the request appropriate.*” The impact from Hurricane Ian addresses the changed condition to this site that requires this work scope to be performed.

#5 in the list of considerations asks, “*Whether the request is consistent with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.*” In the Fort Myers Beach Comprehensive Plan, Policy 5-D-1 addresses shoreline protection measures. In item (ii) it states that “*existing structures should be maintained.*” Further below in the same policy under item (vi) it states, “*Existing seawalls on the beach may be maintained or removed but not rebuilt.*” The proposed work scope for this special exemption is to repair the seawall cap “like for like”. This is considered

maintenance for a seawall. The seawall itself will not be removed, replaced or altered in any fashion. Only the seawall cap is to be repaired. The proposed work scope is in harmony with the Fort Myers Beach Comprehensive Plan.

#6 in the list of considerations asks, *“Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.”* The proposed work scope we submitted with our construction permit includes signed sealed engineered plans that are based on the 2023 Florida Building Code, ASCE/SEI 24 flood resistant design and construction, ASCE 7-22 minimum design loads and associated criteria for buildings and other structures, ACI 318 building code requirements for structural concrete, and U.S. Army Corps of Engineers Engineering and Design Manual EM 1110-2-1614 design of coastal revetments, seawalls, and bulkheads. The proposed work scope is to replace the existing seawall cap “like for like” to what was existing. No changes to the location or size of the seawall are proposed. The proposed work scope meets or exceeds all performance and location standards set forth for the proposed use.

#7 in the list of considerations asks, *“Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.”* The proposed work scope to repair the existing concrete seawall cap will preserve the existing environmentally critical areas as the seawall cap is an integral part of a seawall’s stability. The seawall cap is what ties the existing seawall panels, tie rods and Deadman anchors all together into one sound structure. Not allowing the seawall cap to be repaired will leave the seawall in jeopardy of failing. If the seawall fails, the uplands sands and soils will sluff off and erode into the neighboring environmentally critical areas. The uplands of the seawall are at a higher elevation than the surrounding area. This seawall is what maintains the current elevation of this property. This is why this proposed request will help preserve and protect the environmentally critical areas at this location.

#8 in the list of considerations asks, *“Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.”* This request is compatible with the existing use and will not cause damage, hazard, nuisance or detriment to the persons or property. This seawall has been in place for 50+ years and the proposed work scope is a repair to the existing seawall cap in a “like for like” fashion where no changes to the location or size are proposed. The proposed work scope will not change or alter the existing use of the property or structure.

#9 in the list of considerations asks, *“Whether a requested use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.”*

As explained in the above examples, this proposed work scope meets all the required considerations to be approved for a special exception that is required for this zoning district. Pursuant to the Fort Myers Beach Land Development Code Section 26-77- Seawalls and retaining walls along natural waterbodies. (d) states that, *“Existing seawalls and retaining walls along the Gulf of Mexico may be maintained, but may not be rebuilt.”* As explained above, this is in line with the Fort Myers Beach Comprehensive Plan Policy 5-D-1. The proposed work scope to repair the seawall cap is considered maintenance for a seawall. The seawall itself is to remain in place and will not be removed, replaced or altered in any fashion. Only the seawall cap will be repaired in a “like for like” fashion.

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

Granting approval of the proposed work scope to repair the seawall cap will not impact surrounding properties in any fashion. The existing seawall has been in place for 50+ years. The requested repair and

maintenance of this seawall cap is in a “like for like” fashion. No additions, alterations or enhancements are proposed to the existing seawall.

Historic South Florida Imagery Slider App



1953 Lee 1968 Lee 1972 Lee 1975 Lee 1979 Lee 1986 Lee 1990 Lee 1952 Charlotte 1977 Collier

 1945 Monroe 1955 Monroe 1971 Monroe 1973 Monroe 1981 Monroe 1985-86 Monroe 2004 Monroe



Historic South Florida Imagery Slider App



1953 Lee 1968 Lee 1972 Lee 1975 Lee 1979 Lee 1986 Lee 1990 Lee 1952 Charlotte 1977 Collier

 1945 Monroe 1955 Monroe 1971 Monroe 1973 Monroe 1981 Monroe 1985-86 Monroe 2004 Monroe

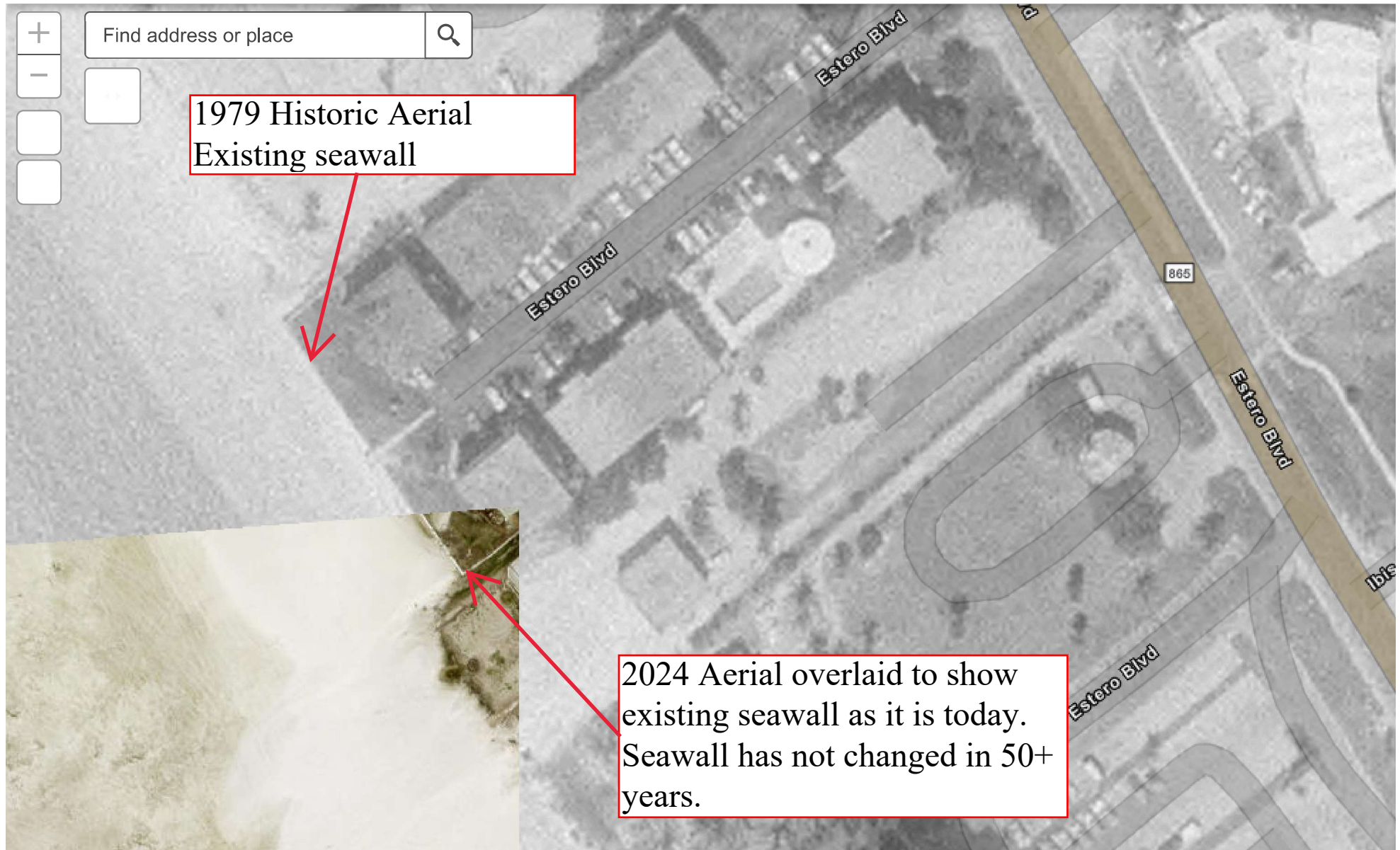


Historic South Florida Imagery Slider App



1953 Lee 1968 Lee 1972 Lee 1975 Lee 1979 Lee 1986 Lee 1990 Lee 1952 Charlotte 1977 Collier

1945 Monroe 1955 Monroe 1971 Monroe 1973 Monroe 1981 Monroe 1985-86 Monroe 2004 Monroe



No Amendment See DP 721/375

64.25

439049
414 PAGE 32

439049

ENABLING DECLARATION

OF

COVENANTS, RESTRICTIONS, LIMITATIONS, CONDITIONS

AND USES CREATING AND ESTABLISHING A PLAN

for

THE PRIVATEER OF FORT MYERS BEACH, INC.,

A CONDOMINIUM

THIS DECLARATION, made on the date hereinafter set forth by
AARON W. JOHNSON, INC., hereinafter referred to as "DECLARANT",

WITNESSETH:

WHEREAS, DECLARANT, a Florida corporation, owns certain real
property herein described; and,

WHEREAS, DECLARANT has improved or will improve said prop-
erty by constructing thereon six (6) multi-family structures,
known as THE PRIVATEER OF FORT MYERS BEACH, INC., said structures
having been or to be constructed basically in accordance with the
plans and specifications prepared by NELSON A. FAERBER, A.I.A.,
Architect, under Job No. 64-115, dated July 1, 1964.

WHEREAS, DECLARANT proposes to establish by this Declaration
a plan for the individual ownership of the area or space contained
in the "FAMILY UNITS" in said multi-family structures, and the co-
ownership by the individual and separate owners thereof, of all
the remaining real property which is hereinafter defined and
referred to herein as the "common areas and facilities";

NOW, THEREFORE, DECLARANT, a Florida corporation, and fee
owner of the following described land situate, lying and being
in the County of Lee and State of Florida, to-wit:

A lot or parcel of land lying between Estero
Boulevard and the Gulf of Mexico in Sections
33 and 34, Township 46 South, Range 24 East,
Estero Island, Lee County, Florida, which lot or
parcel is described as follows: Beginning at a
point on the westerly side of Estero Boulevard,
said point being 1,140 feet (measured along a
line perpendicular to the South line of Block 1,
McPHIE PARK, Unit No. 2 according to plat re-
corded in Plat Book 8 at page 59 of the public
records of Lee County, run southeasterly along
the southwesterly line of said Estero Boulevard
for 202.08 feet; thence run southwesterly parallel
with said South line of Block 1 for 490 feet more
or less to the waters of the Gulf of Mexico; thence
run northwesterly along said waters to an inter-
section with a line parallel with and 1140 feet
(measured along a line perpendicular to said Block
1) southeasterly of said Block 1, passing through
the point of beginning; thence run northeasterly
along said parallel line to said southwesterly line
of Estero Boulevard and the point of beginning,

ROBERTA WATSON,
TAYLOR AND FRISBY
ATTORNEYS AT LAW
FORT MYERS, FLORIDA

6-444-33

hereby make the following Declaration as to the division to which the above described real property and improvements thereon, consisting of six (6) multi-family structures and appurtenances, may be put, hereby specifying that Declaration shall constitute covenants to run with the land and shall be binding upon DECLARANT, its successors and assigns, and all subsequent owners of all or any part of said real property and improvements, together with their grantees, successors, heirs, executors, administrators, devisees or assigns;

I. DECLARANT, in order to establish a plan of ownership for the above described property and improvements, hereby covenants and agrees that it will and by these presents does hereby divide the said real property in forty-eight (48) separately designated, legally described freehold estates, consisting of the areas or spaces contained in and bounded by the vertical projection of the unit boundary lines and the horizontal planes of the floor and ceiling elevation, as described by the attached plot plan prepared by DUANE HALL AND ASSOCIATES, Fort Myers, Florida, and certified to by DUANE HALL, Registered Surveyor No. 1415, State of Florida, and Registered Engineer No. 7250, State of Florida, which is made a part hereof and referred to as Exhibit B. Such descriptions reflect the true boundaries of each unit, notwithstanding actual location of the walls, ceilings, and floors. The said spaces being defined are referred to herein as "FAMILY UNITS"; and hereby attaches to each "FAMILY UNIT" an undivided one-forty-eighth (1/48th) interest in an estate consisting of all the real property heretofore described, less and excepting therefrom the "FAMILY UNITS" hereinabove referred to, which estate is hereby defined and referred to herein as the "common areas and facilities", which definition shall include the multi-family structure and the property upon which it is located and specifically includes but is not limited to, the land, roof, main walls, slabs, staircases, halls, guest parking spaces, manager's apartment, community and commercial facilities, pumps, wires, conduits, plumbing and other public utility lines, which shall pass with each unit as an appurtenance thereto.

II. That portion of the "common areas and facilities" consisting of forty-eight (48) parking spaces, all of which are shown and located on survey attached hereto, are collectively defined and hereinafter referred to as the "restricted common areas and facilities".

III. This Condominium is hereby divided into forty-eight (48) "FAMILY UNITS" designated as follows:

A 101, A 103, A 201, A 203, A 301, A 303,
C 113, C 115, C 117, C 119, C 213, C 215, C 217,
C 219
D 121, D 123, D 221, D 223, D 321, D 323
E 120, E 122, E 220, E 222, E 320, E 322
F 112, F 114, F 116, F 118, F 212, F 214,
F 216, F 218
G 104, G 106, G 108, G 110, G 204, G 206, G 208,
G 210
H 100, H 102, H 200, H 202, H 300, H 302

"FAMILY UNITS" shall hereafter be identified, and for purposes of conveyance, described as:

Family Unit No. , according to the Condominium Declaration of THE PRIVATEER OF FORT MYERS BEACH, INC., a Condominium, as such Condominium Declaration

ROBERTS, WATSON,
TAYLOR AND FRISAY
ATTORNEYS AT LAW
FORT MYERS, FLORIDA

- 2 -

EE 414 nre 34

is recorded in the Public Records of Lee County
Florida, in Official Record Book at page .

Each "FAMILY UNIT" shall be assigned one (1) particular parking space for its exclusive use at the time of the first conveyance of said "FAMILY UNIT" by DECLARANT, and thereafter the right to use such parking space shall automatically pass with such "FAMILY UNIT".

IV. The undivided one forty-eight (1/48th) interest in the "common areas and facilities" hereby established shall pass with respective "FAMILY UNITS" as set forth hereinabove, as an appurtenance thereto.

The respective undivided interest to be conveyed with the respective "FAMILY UNITS" cannot be changed, altered or amended, and the Grantor herein, for itself and its successors and assigns, covenants and agrees that the undivided interest in the "common areas and facilities", and the fee simple title to the respective "FAMILY UNITS" conveyed therewith, shall not be separated or separately conveyed, and each said undivided interest shall be deemed to be conveyed or encumbered, though the description in the instrument of conveyance or encumbrance may refer to said interest as the "FAMILY UNIT" only.

V. THE PRIVATEER OF FORT MYERS BEACH, INC., a non-profit Florida corporation, hereinafter referred to as the "CORPORATION", shall issue no shares of stock of any kind whatsoever. The owner of each "FAMILY UNIT" shall be issued a certificate of ownership and shall be entitled to one (1) vote at all meetings of the CORPORATION. If ownership is held by more than one (1) person then such ownership collectively shall be entitled to only one (1) vote, which vote may be cast by anyone of such owners as agent for all such owners.

VI. Attached hereto is Plot Plan prepared by DUANE HALL and ASSOCIATES of Fort Myers, Florida, and certified to by DUANE HALL, Registered Land Surveyor No. 1415, State of Florida, and registered Engineer No. 7250, State of Florida, which is made a part hereof and referred to as Exhibit "B". The designation and numbered parking spaces of the "restricted common areas and facilities", are located and shown on said Plot Plan.

VII. DECLARANT, a Florida corporation, its successors and assigns, and all future owners of the "FAMILY UNITS" by the acceptance of their deeds, covenant and agree as follows:

A. That the "common areas and facilities" shall remain undivided and no owner shall bring any action for partition, so long as the structures in question shall be utilized as a residential, condominium apartment building.

B. The "FAMILY UNIT" herein defined shall be occupied and used by the respective owners, other than DECLARANT, only as a private dwelling for the owner, his family, tenants and social guests, and for no other purpose. DECLARANT shall be permitted to use any "FAMILY UNIT" owned by it as an office, for storage, or for any other unoffensive purpose.

C. The owner of the respective "FAMILY UNIT" shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors, and ceilings surrounding his respective "FAMILY UNIT", nor shall owner be deemed to own pipes, wires, conduits, or other public utility lines running through

ROBERTS, WATSON,
TAYLOR AND FRIDAY
ATTORNEYS AT LAW
DRAWN BY
FORT MYERS, FLORIDA

- 3 -

EX 414 35

said respective "FAMILY UNIT", which are utilized for, or serve more than one (1) "FAMILY UNIT", which items are by these presents hereby made a part of the "common areas and facilities". Said owner, however, shall be deemed to own the walls and partitions which are contained in said owner's respective "FAMILY UNIT" and also shall be deemed to own the inner decorated and/or finished surfaces of the perimeter walls, floors and ceilings, including paint, wallpaper, et cetera.

D. The owners of the respective "FAMILY UNITS" agree that, if any portion of the "common areas and facilities" encroaches upon the "FAMILY UNIT" or if one or more "FAMILY UNIT" encroaches upon another "FAMILY UNIT", a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist. In the event any multi-family structure is partially or totally destroyed and then rebuilt, the owners of the "FAMILY UNITS" agree that the encroachments of parts of the "common areas and facilities", or encroachment of one "FAMILY UNIT" upon another "FAMILY UNIT", due to construction shall be permitted, and that a valid easement for said encroachments and the maintenance thereof shall exist.

E. That an owner of a "FAMILY UNIT" shall automatically, upon becoming the owner of a "FAMILY UNIT" or "FAMILY UNITS", be a member of the Corporation, be issued a Certificate of Ownership therein, and remain a member of said Corporation until such time as his "FAMILY UNIT" ownership ceases for any reason, at which time his membership in said Corporation shall automatically cease.

F. That the owners of the "FAMILY UNITS" covenant and agree that the administration of the Condominium shall be in accordance with the provisions of this Enabling Declaration and the Declaration of Restrictions and By-Laws of the Corporation, which are made a part hereof and attached as Exhibit C.

G. That each owner or occupant of a "FAMILY UNIT" shall comply with the provisions of this Enabling Declaration, the Declaration of Restrictions and By-Laws, decisions and resolutions of the Corporation as lawfully amended from time to time, and failure to comply with any such provisions, decisions or resolutions shall be grounds for an action to recover sums due for damages, or for injunctive relief.

H. Except as to matters contained in the Declaration of Restrictions and the By-Laws of the Corporation, this Enabling Declaration shall not be revoked or any of the provisions herein amended unless all of the owners of the "FAMILY UNITS" and all of the mortgagees holding mortgages covering the "FAMILY UNITS" unanimously agree to such revocation or amendment by duly recorded instrument. The Declaration of Restrictions and By-Laws of the Corporation may be amended as set forth in Article X of the Declaration of Restrictions and By-Laws.

I. The owner of each "FAMILY UNIT" shall pay annual assessments to provide any insurance, maintenance, taxes, care, upkeep, utilities and all other necessary expenditures, as determined by the Condominium pursuant to the Declaration of Restrictions and By-Laws. Said payments shall be, in advance, on the first day of every calendar month. The common expenses shall be shared and the common surplus shall be owned in the proportions designated and assigned to the respective "FAMILY UNITS" in accordance with the Schedule of Family Unit Values For the Purpose Of Assessment And Valuations, which is made a part hereof and attached as Exhibit A.

ROBERTS, WATSON,
TAYLOR AND FREED
ATTORNEYS AT LAW
DALLAS 2
FORT WORTH, TEXAS

- 4 -

414-33

1. The corporation is hereby given a lien against each "FAMILY UNIT" securing payment or payments required in the preceding paragraph, provided, however, that such liens shall be effective only upon recordation in the office of the Clerk of the Circuit Court in and for Lee County, Florida.

2. No owner of a "FAMILY UNIT" may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the "common areas and facilities", or by the abandonment of his "FAMILY UNIT".

J. In a voluntary conveyance of a "FAMILY UNIT", the grantees of the said unit shall be jointly and severally liable with the grantor for any unpaid assessments of the Corporation against the latter for his share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Board of Directors of the Corporation setting forth the amount of the unpaid assessments against the grantor due the Corporation, and such grantee shall not be liable for, nor shall the "FAMILY UNIT" conveyed be subject to a lien for any unpaid assessments made by the Corporation against the grantor in excess of the amount therein set forth.

K. If any part or all of a building shall be damaged or destroyed, the Corporation shall, within ninety (90) days after such damage or destruction, determine:

1. To repair, reconstruct or rebuild in accordance with the By-Laws, or
2. Terminate the Condominium ownership in accordance with the provisions of Section 711.16, Florida Statutes.

If neither determination is made within the said ninety (90) day period, the building shall be promptly repaired, reconstructed or rebuilt.

L. In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the "FAMILY UNITS", the transfer of "FAMILY UNITS" by any owner other than the DECLARANT shall be subject to the following provisions as long as the condominium exists and the apartment buildings in useful condition exist upon the land, which provisions each apartment owner covenants to observe:

1. Transfers subject to approval.
 - a. Sale. No apartment owner may dispose of a "FAMILY UNIT" or any interest in a "FAMILY UNIT" by sale without approval of the Corporation except to a "FAMILY UNIT" owner.
 - b. Lease. No "FAMILY UNIT" owner may dispose of a "FAMILY UNIT" or any interest in a "FAMILY UNIT" by lease without approval of the Corporation except to a "FAMILY UNIT" owner.
2. Approval by Corporation. The approval of the Corporation that is required for the transfer or ownership

ROBERTA WATSON,
TAYLOR AND PUGH
ATTORNEYS AT LAW
ORLANDO, FLORIDA

- 5 -

E 614-37

of "FAMILY UNITS" shall be obtained in the following manner:

a. Notice to Corporation.

- (1) Sale. A "FAMILY UNIT" owner intending to make a bona fide sale of his "FAMILY UNIT" or any interest in it shall give to the Corporation notice of such intention, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as the Corporation may reasonably require. Such notice at the "FAMILY UNIT" owner's option may include a demand by the "FAMILY UNIT" owner that the Corporation furnish a purchaser of the "FAMILY UNIT" if the proposed purchaser is not approved; and if such demand is made, the notice shall be accompanied by an executed copy of the proposed contract to sell, which shall set forth the sales price.
- (2) Lease. A "FAMILY UNIT" owner intending to make a bona fide lease of his "FAMILY UNIT" or any interest in it shall give to the Corporation notice of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as the Corporation may reasonably require and an executed copy of the proposed lease.
- (3) Failure to give notice. If the above-required notice to the Corporation is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a "FAMILY UNIT", the Corporation at its election and without notice may approve or disapprove the transaction or ownership. If the Corporation disapproves the transaction or ownership, the Corporation shall proceed as if it had received the required notice on the date of such disapproval.

b. Certificate of approval.

- (1) Sale. If the proposed transaction is a sale, then within thirty (30) days after receipt of such notice and information the Corporation must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the president and secretary of the Corporation.
- (2) Lease. If the proposed transaction is a lease, then within thirty (30) days after receipt of such notice and information the Corporation must either

ROBERTA, WATSON,
TAYLOR AND FRISAY
ATTORNEYS AT LAW
DRAWER X
FORT MYERS, FLORIDA

414 33

approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the president and secretary of the Corporation which, shall be delivered to the lessee.

3. Disapproval by Corporation. If the Corporation shall disapprove a transfer or ownership of a "FAMILY UNIT", the matter shall be disposed of in the following manner:

a. Sale. If the proposed transaction is a sale and if the notice of sale given by the "FAMILY UNIT" owner shall so demand, then within thirty (30) days after receipt of such notice and information the Corporation shall deliver or mail by registered mail to the "FAMILY UNIT" owner an agreement to purchase the "FAMILY UNIT" by a purchaser approved by the Corporation who will purchase and to whom the "FAMILY UNIT" owner must sell the "FAMILY UNIT" upon the following terms:

- (1) The price to be paid shall be that stated in the disapproved proposed contract to sell, referred to in paragraph L, 2, a, (1).
- (2) The purchase price shall be paid in cash.
- (3) The sale shall be closed within thirty (30) days after the delivery or mailing of the agreement to purchase by the Corporation.

b. If the Corporation shall fail to provide a purchaser upon the demand of the "FAMILY UNIT" owner in the manner provided, or if a purchaser furnished by the Corporation shall default in his agreement to purchase, then notwithstanding the disapproval the proposed transaction shall be deemed to have been approved and the Corporation shall furnish a certificate of approval as elsewhere provided.

c. Lease. If the proposed transaction is a lease, the "FAMILY UNIT" owner shall be advised of the disapproval in writing, and the lease shall not be made.

4. Exceptions. The foregoing provisions of this Section L shall not apply to a transfer to or purchase by a bank, life insurance company or savings and loan association that acquires its title as the result of owning a mortgage upon the "FAMILY UNIT" concerned, and this shall be so whether the title is acquired by deed from the mortgagor, his successors or assigns, or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by a bank, life insurance company or savings and loan association that so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires

ROBERTS, WATSON,
TAYLOR AND FRISBY
ATTORNEYS AT LAW
SUITE 200
FORT MYERS, FLORIDA

- 7 -

414-33

the title to a "FAMILY UNIT" at a duly advertised public sale with open bidding provided by law, such as but not limited to execution sale, foreclosure sale, judicial sale, or tax sale.

5. Unauthorized transactions. Any sale or lease not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Corporation.

M. Upon a termination of the Condominium ownership, the property and all interests thereof shall be owned in common by the apartment owners in the same proportions as shown in Exhibit A, attached hereto.

N. The owner shall maintain and keep in repair the interior of his own "FAMILY UNIT", including the fixtures thereof.

O. The owner shall not, without the written consent of the Corporation make any structural alteration in the building or in the water, gas, electrical conduits, plumbing or other fixtures connected therewith, or remove any additions or improvements or fixtures from the building, or do any act that will impair the structural soundness of the building.

P. No signs shall be displayed in, or upon any portion of said building by any occupant thereof.

Q. The parking space assigned to each "FAMILY UNIT" shall be maintained by the respective "FAMILY UNIT" owner, pursuant to rules and regulations to be established by the Board of Directors.

R. Any owner of a "FAMILY UNIT" who mortgages his unit shall notify the Corporation, providing the name and address of his mortgagee, and the Corporation shall maintain such information in a book entitled "Mortgagees of Units". The Corporation shall, at the request of the mortgagee of the unit, report any unpaid assessments due from the owner of such unit. The owner of a "FAMILY UNIT" shall at all times have the right to obtain such conventional mortgages on his "FAMILY UNIT" as he may desire. The encumbrance of said "FAMILY UNIT" by a mortgage insured by an agency of the Federal Government under the Federal Housing Act, and/or the Veterans Administration, is, however, expressly prohibited.

S. The Corporation shall at all times maintain casualty insurance protecting the common elements from loss by fire or windstorm, with usual extended coverage; and shall maintain separate coverage by rider or otherwise upon each "FAMILY UNIT", the cost of such coverage on each "FAMILY UNIT" to be borne by its owner and same to constitute a separate contract of insurance between the insurer and the apartment owner. All such insurance shall be for full insurable value as may be determined from year to year. In the event of a loss insurance proceeds shall be paid to the order of the Condominium for the portion of such loss affecting the "common areas and facilities", and to the order of the owner of an individual "FAMILY UNIT", and/or the holder or holders of mortgages upon same, to the extent that such loss affects the said unit, provided that if the damage is repaired such insurance shall first be used to pay for such repairs.

T. The Corporation is, and shall continue to be a non-profit corporation.

ROBERTS, WATSON,
TAYLOR AND FRISBY
ATTORNEYS AT LAW
FOURTH FLOOR
FORT MYERS, FLORIDA

- 8 -

U. Declarant, its successors and assigns, and all future owners of the "FAMILY UNITS", by the acceptance of their Deeds, mutually covenant and agree that all owners shall have the joint use of the "common areas and facilities", and that a joint and mutual easement to and for that purpose is hereby created.

V. Any and all determinations lawfully made by the Corporation in accordance with the voting percentages established in this Declaration, or in the By-Laws, shall be deemed to be binding on all owners of "FAMILY UNITS", their successors and assigns.

W. Invalidation of any of the covenants, conditions, limitations or provisions of this Enabling Declaration, by Judgment or Court Order, shall in no wise affect any of the remaining part of parts hereof, which are unaffected by said Judgment or Court Order, and the same shall continue in full force and effect.

IN WITNESS WHEREOF, AARON W. JOHNSON, INC., has caused this instrument to be executed by its proper officers and its corporate seal affixed this 27th day of June, 1967.

Witnessed in the presence of:

AARON W. JOHNSON, INC., a Florida corporation

James K. Jewell
Secretary-Treasurer

Aaron W. Johnson
President

Attest:

James K. Jewell
Secretary-Treasurer

(SEAL)

STATE OF FLORIDA)
COUNTY OF LEE)

Before me, personally appeared and to me well known, and known to me to be the individuals described in and who executed the foregoing instrument as President and Secretary-Treasurer of the above named AARON W. JOHNSON, INC., a Florida corporation; and severally acknowledged before me that they executed such instrument as such President and Secretary-Treasurer, respectively, of said Corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said Corporation and that it was affixed to said instrument by due and regular corporate authority, and that said instrument is the free act and deed of said Corporation.

WITNESS my hand and official seal this 27th day of June, 1967.

James P. Liberty
Notary Public, State of Florida
at Large

My Commission Expires:

October 31, 1969

(SEAL)

ROBERTA WATSON,
TAYLOR AND FRISBY
ATTORNEYS AT LAW
SPARROW &
FORT MYERS, FLORIDA

EXHIBIT A

SCHEDULE OF FAMILY UNIT VALUES FOR THE PURPOSES OF
ASSESSMENT AND VALUATION

This Exhibit is a part of the Enabling Declaration for
THE PRIVATEER OF FORT MYERS BEACH, INC., A CONDOMINIUM

FAMILY UNIT	PERCENTAGE OF TOTAL VALUE OF THE PRIVATEER OF FORT MYERS BEACH, INC., A CONDOMINIUM
-------------	---

A101	1.83
A103	1.83
A201	1.72
A203	1.72
A301	1.83
A303	1.83
C113	2.02
C115	2.02
C117	2.02
C119	2.02
C213	2.02
C215	2.02
C217	2.02
C219	2.02
D121	2.43
D123	2.43
D221	2.43
D223	2.43
D321	2.64
D323	2.64
E120	2.43
E122	2.43
E220	2.43
E222	2.43
E320	2.64
E322	2.64
F112	2.02
F114	2.02
F116	2.02
F118	2.02
F212	2.02
F214	2.02
F216	2.02
F218	2.02
G104	2.02
G106	2.02
G108	2.02
G110	2.02
G204	2.02
G206	2.02
G208	2.02
G210	2.02
H100	1.83
H102	1.83
H200	1.72
H202	1.72
H300	1.83
H302	1.83

100%

ROBERTS, WATSON,
TAYLOR AND FRIDAY
ATTORNEYS AT LAW
DRAWN BY:
FORT MYERS, FLORIDA

DE 414 PAGE 42

EXHIBIT C

DECLARATION OF RESTRICTIONS AND BY-LAWS
OF
THE PRIVATEER OF FORT MYERS BEACH, INC.,
A CONDOMINIUM
A Non-Profit Florida Corporation

ARTICLE I.

Section 1. THE NAME: The name of the corporation shall be THE PRIVATEER OF FORT MYERS BEACH, INC., a Condominium.

Section 2. PRINCIPAL OFFICE: The principal office of the Corporation shall be at 6500 Estero Boulevard, Fort Myers Beach, Florida, or at such other place as may be subsequently designated by the Board of Directors.

Section 3. DEFINITION: As used herein, the words "Improvements on the property", "real property", "property", or "building", shall mean the condominium apartment building or buildings located at 6500 Estero Boulevard, Fort Myers Beach, Florida. The words "owners" or "owner" shall mean the owners of condominium apartments in the building or buildings. The words "personal property" shall mean the personal property owned in common by the owners and used in connection with the buildings.

ARTICLE II
DIRECTORS

Section 1. NUMBER AND TERM: The number of directors which shall constitute the whole board shall not be less than three (3) nor more than seven (7). Until succeeded by directors elected at the first annual meeting of members, during March of 1969, Directors need not be members; thereafter, all directors shall be members. Within the limits above specified, the number of directors shall be determined by the members at the annual meeting. The directors shall be elected at the annual meeting of the members, and each director shall be elected to serve for the term of one (1) year or until his successor shall be elected and shall qualify.

Section 2. VACANCY and REPLACEMENT: If the office of any director or directors becomes vacant by reasons of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining directors though less than a quorum at a special meeting of directors duly called for this purpose shall choose a successor or successors, who shall hold office for the unexpired term in respect to which such vacancy occurred.

Section 3. REMOVAL: Directors may be removed for cause by an affirmative vote of a majority of the members. No director shall continue to serve on the board if, during his term of office, his Certificate of Ownership shall be terminated for any reason whatsoever.

ROBERT L. WATSON,
TAYLOR AND PHILLY
ATTORNEYS AT LAW
DRAWER 8
FORT MYERS, FLORIDA

EE 444 ne 43

Section 4. FIRST BOARD OF DIRECTORS: The first Board of Directors shall consist of AARON W. JOHNSON, CLAUDE T. TAYLOR and JAMES R. JESSELL who shall hold office and exercise all powers of the Board of Directors until the FIRST membership meeting, anything herein to the contrary notwithstanding; provided any or all of said directors shall be subject to replacement in the event of resignation or death as above provided.

Section 5. POWERS:

A. The property and business of the corporation shall be managed by its Board of Directors, which may exercise all such powers of the corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation, the Enabling Declaration or by these Restrictions and By-Laws directed or required to be exercised or done by the members. These powers shall specifically include, but not be limited to the following items:

(1) To levy monthly assessments payable in advance. By majority vote, the Board of Directors may increase the monthly assessments or vote a special assessment in excess of that amount if required to meet any necessary additional expenses, but said increase can only be made in the proportion established in Article VII, Section 3, of these Restrictions and By-Laws;

(2) To use and expend the assessments collected to maintain, care for and preserve the family units and building, grounds, and improvements (other than the interior of the family units and the equipment therein) which are to be maintained, cared for and preserved by the individual family unit owners;

(3) To pay for such equipment and tools, supplies and other personal property purchased for use in the maintenance, care and preservation of the condominium apartment buildings located at 6500 Estero Boulevard, Fort Myers Beach, Lee County, Florida, and to expend such other sums as may be necessary in the maintenance, care and preservation of such property;

(4) To enter into and upon the family units when necessary and at as little inconvenience to the owner as possible in connection with such maintenance, care and preservation;

(5) To repair and replace common facilities, machinery and equipment;

(6) To insure and keep insured the said building and improvements on the property and the owners against loss from fire, and/or other casualty and the owners against public liability and such other insurance as the Board of Directors may deem advisable;

(7) To collect delinquent assessments by suit or otherwise, to abate nuisances and to enjoin or seek damage from the owners of the property for violations of the rules hereinafter referred to;

(8) To employ, if deemed desirable, an apartment house manager who shall manage the buildings on such terms and conditions as the Board of Directors shall deem appropriate, and to delegate to such manager such powers as may be necessary in connection with the operation of the building. To employ workmen, janitors and gardeners and to purchase supplies and equipment, enter into contracts, and generally to have the powers of an

ROBERTS, WATSON,
TAYLOR AND PRIDEY
ATTORNEYS AT LAW
SUITE 200
FORT MYERS, FLORIDA

- 2 -

RE: 114 REC 44

of an apartment house manager in connection with the matters hereinbefore set forth;

(9) a. To make reasonable rules and to amend the same from time to time and such rules and amendments shall be binding upon the owners when the Board has approved them in writing. A copy of such rules and all amendments shall be delivered to each family unit.

b. The Board of Directors may, by resolution or resolutions passed by a majority of the whole Board, designate one or more committees, such committee to consist of at least three (3) directors or members of the Corporation, one of whom shall be a director, which, to the extent provided in said resolution or resolutions, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the Corporation and may have power to authorize the seal of the Corporation to be affixed to all papers which may be required, provided the said resolutions shall specifically so provide. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors. Committees established by resolution of the Board of Directors shall keep regular minutes of their proceedings and shall report the same to the Board as required.

Section 6. COMPENSATION: Directors and officers, as such, shall receive no salary for their services.

Section 7. MEETINGS:

A. The first meeting of each Board newly elected by the members shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum shall then be present, or as soon thereafter as may be practicable. The annual meeting of the Board of Directors shall be held at the same place as the general members meeting, and immediately after the adjournment of same.

B. Regular meetings of the Board may be held monthly without notice.

C. Special meetings of the Board may be called by the President on three (3) days notice to each director, either personally or by mail or telegram. Special meetings shall be called by the President or Secretary in a like manner and on like notice on the written request of three (3) directors.

D. At all meetings of the Board, a majority of the directors shall be necessary and sufficient to constitute a quorum for the transaction of business, and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute or by the Certificate of Incorporation or by these By-Laws. If a quorum shall not be present in any meeting of directors, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement of the meeting, until a quorum shall be present.

Section 8. ANNUAL STATEMENT: The Board shall present semi-annually (at the annual meeting and six (6) months thereafter) and, when called for by a vote of the members at any special meeting of the members, a full and clear statement of the business and condition of the corporation.

ROBERTS, WATSON,
TAYLOR AND PAUL,
ATTORNEYS AT LAW
DAWSON 2
FORT WORTH, TEXAS

RE 614 PAGE 45

ARTICLE III OFFICERS

Section 1. ELECTIVE OFFICES: The officers of the Corporation shall be chosen by the directors and shall be a President, Vice President, and Secretary-Treasurer. The Board of Directors may also choose one or more assistant secretaries and assistant treasurers. Two (2) or more offices may not be held by the same person.

Section 2. ELECTION: The Board of Directors at its first meeting after each annual meeting of general members shall elect a President, Vice-President, and Secretary-Treasurer, none of whom, excepting the President, need be a member of the Board.

Section 3. APPOINTIVE OFFICES: The Board may appoint such other officers and agents as it shall deem necessary, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

Section 4. TERM: The officers of the corporation shall hold office until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board of Directors may be removed, for cause, at any time by the affirmative vote of a majority of the whole Board of Directors. If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board of Directors.

Section 5. THE PRESIDENT:

A. The President shall be the chief executive officer of the corporation; he shall preside at all meetings of the members and directors, shall be ex-officio member of all standing committees, shall have general and active management of the business of the corporation, and shall see that all orders and resolutions of the Board are carried into effect.

B. He shall execute bonds, mortgages and other contracts requiring a seal, under the seal by the corporation, except where the same are required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Directors to other officer or agent of the corporation.

Section 6. THE VICE PRESIDENT:

A. During the absence or inability of the President to render and perform his duties or exercise his powers, as set forth in these By-Laws or in the acts under which this Corporation is organized, the same shall be performed and exercised by the Vice President; and when so acting, he shall have all the powers and be subject to all the responsibilities hereby given to or imposed upon such President.

Section 7. THE SECRETARY-TREASURER:

A. The Secretary-Treasurer shall attend all sessions of the Board and all meetings of the members and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all meetings of the members and special meetings of the Board of Directors, and shall perform such other duties as may be pre-

ROBERTS, WATSON,
TAYLOR AND PRINCE
ATTORNEYS AT LAW
DRAWMAN &
FULTON, FLORIDA

- 4 -

RE 414 PAGE 45

scribed by the Board of Directors or the President, under whose supervision he shall be. He shall keep in safe custody the seal of the corporation, and when authorized by the Board, affix the same to any instrument requiring it and, when so affixed, it shall be attested by his signature.

B. He shall have the custody of the corporation funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the corporation, and shall deposit all monies and other valuable effects in the name and to the credit of the corporation in such depositories as may be designated by the Board of Directors.

C. He shall disburse the funds of the Corporation as may be ordered by the Board, making proper vouchers for such disbursements, and shall render to the President and Directors, at the regular meeting of the Board or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Corporation.

ARTICLE IV. MEMBERSHIP

Section 1. DEFINITION: Membership in the Corporation shall be limited to the owners of the Certificates of Ownership issued by the Corporation. A separate Certificate of Ownership shall be issued for each family unit and each certificate shall constitute a separate membership.

Section 2. VOTING RIGHTS: Each owner of a Certificate of Ownership shall be entitled to one (1) vote at meetings of the Corporation. If ownership is held by more than one (1) person then such ownership collectively shall be entitled to only one (1) vote, which vote may be cast by any one (1) of such owners as agent for all such owners.

Section 3. TRANSFER OF MEMBERSHIP: Membership in the Corporation may be transferred only as an incident to the transfer of a "FAMILY UNIT". Unless otherwise provided herein, such transfer shall only be accomplished with the approval of the Corporation which shall not be unreasonably withheld. The method for transfer of a "FAMILY UNIT" is more fully described in Paragraph L of the Enabling Declaration.

ARTICLE V. MEETINGS OF MEMBERSHIP

Section 1. PLACE: All meetings of the Corporation membership shall be held at the office of the Corporation, or may be held at such place and time as shall be stated in the notice thereof.

Section 2. ANNUAL MEETINGS:

A. The first annual meeting of members shall be held on the 2nd Monday of March, 1969, if not a legal holiday, and, if a legal holiday, then on the next secular day following.

B. Regular annual meetings, subsequent to 1969, shall be held on the 2nd Tuesday of March in each year if not a legal holiday, and, if a legal holiday, then on the next secular day following.

C. All annual meetings shall be held at the hour of 2:00 P.M.

ROBERTA WATSON,
TAYLOR AND FRISBY
ATTORNEYS AT LAW
DRAFTER &
FOOT WITNESSES

- 5 -

RE 414 MC 47

D. At the annual meeting, the members shall elect, by a plurality vote (cumulative voting prohibited) a Board of Directors, and transact such other business as may properly be brought before the meeting.

E. Written notice of the annual meeting shall be served upon or mailed to each member entitled to vote thereat, at such address as appears on the books of the Corporation at least ten (10) days prior to the meeting.

Section 3. MEMBERSHIP LIST: At least ten (10) days before every election of directors, a complete list of the members entitled to vote at said election, arranged numerically by apartment units, with the residence of each, shall be prepared by the Secretary-Treasurer. Such list shall be produced and kept for said ten (10) days and throughout the election at the office of the Corporation at 6500 Estero Boulevard, Fort Myers Beach, Lee County, Florida, and shall be open to examination by any member throughout such time.

Section 4. SPECIAL MEETINGS:

A. Special Meetings of the members, for any purpose or purposes, unless otherwise prescribed by statute or by the Certificate of Incorporation, may be called by the President, and shall be called by the President or Secretary-Treasurer at the request in writing of a majority of the members. Such request shall state the purpose or purposes of the proposed meeting.

B. Written notice of a special meeting of the members, stating the time, place and object thereof, shall be served upon or mailed to each member entitled to vote thereat, at such address as appears on the books of the Corporation, at least five (5) days before such meeting.

C. Business transacted at all special meetings shall be confined to the objects stated in the notice thereof.

Section 5. QUORUM: Fifty-one per cent (51%) of the total number of members of the Corporation, present in person or represented by written proxy, shall be requisite to and shall constitute a quorum at all meetings of the members for the transaction of business, except as otherwise provided by statute, by the Certificate of Incorporation or by these By-Laws. If, however, such quorum shall not be present or represented at any meeting of the members, the members entitled to vote thereat, present in person or represented by written proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement of the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting originally called.

Section 6. VOTE REQUIRED TO TRANSACT BUSINESS: When a quorum is present at any meeting, the vote of a majority of the members present in person or represented by written proxy shall decide any question brought before such meeting, unless the question is one upon which, by express provision of the statutes or of the Certificate of Incorporation or of these By-Laws, a different vote is required, in which case such express provision shall govern and control the decision of such question.

Section 7. RIGHT TO VOTE: At any meeting of the members, every member having the right to vote shall be entitled to vote

ROBERTA WATSON,
TAYLOR AND FRISAY
ATTORNEYS AT LAW
FORT MYERS, FLORIDA

- 6 -

414 43

in person or by proxy. Such proxy shall only be valid for such meeting or subsequent adjourned meetings thereof.

Section 8. WAIVER AND CONSENT: Whenever the vote of members at a meeting is required or permitted by any provision of the statutes or the Certificate of Incorporation or of these By-Laws to be taken in connection with any action of the corporation, the meeting and vote of members may be dispensed with if all the members who would have been entitled to vote upon the action if such meeting were held shall consent in writing to such action being taken.

ARTICLE VI. NOTICES

Section 1. DEFINITION: Whenever under the provisions of the statutes or of the Certificate of Incorporation or of these By-Laws, notice is required to be given to any director or member, it shall not be construed to mean personal notice; but such notice may be given in writing by mail, by depositing the same in a post office or letter box, in a postpaid, sealed wrapper, addressed as appears on the books of the Corporation.

Section 2. SERVICE OF NOTICE - WAIVER: Whenever any notice is required to be given under the provisions of the statutes or of the Certificate of Incorporation, or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

ARTICLE VII. FINANCES

Section 1. FISCAL YEAR: The fiscal year shall begin the first day of January, in each year.

Section 2. CHECKS: All checks or demands for money and notes of the Corporation shall be signed by any two (2) of the following officers: President, Vice President, Secretary-Treasurer, or by such officer or officers or such person or persons as the Board of Directors may from time to time designate.

Section 3. ASSESSMENTS: The Board of Directors of the Corporation shall, from time to time, fix and determine the sum or sums necessary and adequate for the continued operation of the buildings. They shall determine the total amount required, including operational items and operational expenses. The total annual requirements shall be assessed as a single sum against all family units and prorated in accordance with the Schedule of "FAMILY UNIT" values shown as Exhibit A attached to the Enabling Declaration. Said assessments shall be payable monthly in advance as ordered by the Board of Directors. Special Assessments, should such be required, shall be levied and paid in the same manner as hereinbefore provided by regular assessments. The owner agrees promptly to pay when due the monthly and all special assessments assessed against his own family unit. No member shall be personally liable for any debts of the Corporation whatsoever. Each owner shall pay his proportionate share of the assessment in accordance with the provisions of the Enabling Declaration and any common surplus shall be distributed as the Board of Directors may from time to time direct.

Section 4. OPERATING ACCOUNT: There shall be established and maintained a checking account in a bank located in Lee County, Florida, into which shall be deposited all monies received by the

ROBERT W. WATSON,
TAYLOR AND FRIDAY
ATTORNEYS AT LAW
ORLANDO, FLORIDA

RE 414 PAGE 49

Corporation. All disbursements by the Corporation shall be paid out of said checking account and disbursements shall be made only for proper corporate purposes.

ARTICLE VIII. SEAL

Section 1. The seal of the Corporation shall have inscribed thereon the name of the Corporation. Said seal may be used by causing it or a facsimile thereof to be impressed, affixed, re-produced or otherwise.

ARTICLE IX. CERTIFICATES OF OWNERSHIP AND LIMITATIONS APPLICABLE THERETO

Section 1. FORM: The first Board of Directors shall adopt a standard form of "Certificate of Ownership" to be issued by the Corporation to its members and, after its adoption, such form shall not thereafter be changed, altered or amended.

Section 2. TRANSFER: The primary object of the Corporation is to operate and maintain the real property on a mutual and cooperative basis for the housing needs of its members. Therefore, the Certificate of Ownership shall automatically pass with the title to each of the family units. The method of transfer of family units is fully described in the Enabling Declaration.

Section 3. HOUSE RULES: In addition to the other provisions of these By-Laws, the following house rules and regulations, together with such additional rules and regulations as may hereafter be adopted by the Board of Directors, shall govern the use of the "FAMILY UNITS" located in the property and the conduct of all residents.

A. The family units shall be used only for residential purposes.

B. Owners shall not use or permit the use of their premises in any manner which would be disturbing or be a nuisance to other owners, or in such a way as to be injurious to the reputation of the property.

C. The use of the family units shall be consistent with existing law, these Restrictions and the Enabling Declaration and such use shall not in any way constitute a nuisance.

D. Family units may not be used for business use or for any commercial use whatsoever.

E. Common walks and common areas shall not be obstructed, littered, defaced or mis-used in any manner.

F. No structural changes or alterations shall be made in any family unit, except upon approval of the Board of Directors.

Section 4. DEFAULT:

A. In the event an owner of a family unit does not pay any sums, charges or assessments required to be paid to the Corporation within thirty (30) days from the due date, the Corporation, acting on its own behalf or through its Board of Directors or manager acting on behalf of the Corporation, may foreclose the lien encumbering the family unit created by non-payment of the re-

ROBERTS, WATSON,
TAYLOR AND FREEMAN
ATTORNEYS AT LAW
DAWSON
FORT MYERS, FLORIDA

- 8 -

SF 414 NZ 50

quired monies in the same fashion as mortgage liens are foreclosed. The Corporation shall be entitled to the appointment of a Receiver, if it so requests. The Corporation shall have the right to bid-in the family unit at a foreclosure sale and to acquire, hold, mortgage and convey the same. In any such foreclosure action the lien of the Corporation shall be subordinate and inferior to any mortgage liens of record encumbering such family unit at the time of the commencement of the foreclosure action by the Corporation. In lieu of foreclosing its lien, the Corporation may, through its Board of Directors or manager acting in behalf of the Corporation, or in its own behalf, bring suit to recover a money judgment for any sums, charges or assessments required to be paid to the Corporation, without waiving its lien or to recover a money judgment, brought by or on behalf of the Corporation against a family unit owner, the losing defendants shall pay the cost thereof together with a reasonable attorney's fee.

If an action of foreclosure is brought against the owner of a family unit for the non-payment of monies due the Corporation and, as a result thereof, the interest of the said owner in and to the family unit is sold, then at the time of such sale, the family unit owner's Certificate of Ownership shall be cancelled and a new Certificate of Ownership shall be issued to the purchaser at the foreclosure sale.

If the Corporation becomes the owner of a family unit by reason of foreclosure, it shall offer said unit for sale and at such time as a sale is consummated it shall deduct from such proceeds all sums of money due it for monthly assessments and charges, all costs incurred in the bringing of the foreclosure suit, including reasonable attorney's fees, and any and all expenses incurred in the re-sale of the family unit, which shall include but not be limited to advertising expenses, real estate brokerage fees and expenses necessary for the repairing and re-furbishing of the family unit in question. All monies remaining after deducting the foregoing items of expense shall be returned to the former owner of the family unit in question.

B. In the event of violation of the provisions of the Enabling Declaration, corporate charter or Restrictions and By-Laws, as the same are now or may hereafter be constituted, the Corporation, on its own behalf or by and through its Board of Directors or apartment manager, may bring appropriate action to enjoin such violation or to enforce the provisions of the documents just hereinabove enumerated, or sue for damages or take all such courses of action at the same time, or for such other legal remedy as it or they may deem appropriate.

In the event of such legal action brought against a family unit owner, the losing defendant shall pay the Plaintiff's reasonable attorney's fee and court costs.

Each owner of a family unit, for himself, his heirs, successors and assigns, agrees to the foregoing provisions

ROBERTS, WATSON,
TAYLOR AND PRIDDY
ATTORNEYS AT LAW
DAVENPORT
FORT MYERS, FLORIDA

- 9 -

OF 614 PAGE 51

relating to default and abatement of nuisance, regardless of the harshness of the remedy available to the Corporation and regardless of the availability of the other equally adequate legal procedures. It is the intent of all owners of family units to give to the Corporation a method and procedure which will enable it at all times to operate on a business-like basis, to collect those monies due and owing it from owners of family units and to preserve each family unit owner's right to enjoy his family unit free from unreasonable restraint and nuisance.

Section 5. SURRENDER OF FAMILY UNIT: In the event of the legal termination of a Certificate of Ownership and of the occupancy rights thereunder, the member or any other person or persons in possession by or through the right of the member, shall promptly quit and surrender the owned family unit to the Corporation in good repair, ordinary wear and tear and damage by fire or other casualty excepted, and the Corporation shall have the right to re-enter and to repossess the owned family unit. The member, for himself and any successor in interest, by operation of law or otherwise, hereby waives any and all notice and demand for possession if such be required by the laws of Lee County, State of Florida, or the United States of America.

Section 6. JOINT OWNERSHIP: Any Certificate of Ownership may be owned by more than one owner, provided that title to such Certificate shall be held in the same manner as title to the family unit. In the event ownership of the Certificate is in more than one (1) person, all of the owners of such Certificate of Ownership shall be entitled collectively to only one (1) voice or ballot in the management of the affairs of the Corporation, and the vote of such Certificate may not be divided between plural owners of a single Certificate of Ownership. If the owners of any such Certificate of Ownership are unable to agree upon their ballot upon any subject at any meeting, they shall lose their right to vote on such subject but if all of the owners of any such Certificate of Ownership shall not be present at the meeting, either in person or by proxy, the one or ones so present shall cast the vote of all such owners.

ARTICLE X. AMENDMENT

Section 1. These Restrictions and By-Laws may only be altered, amended or added to at any duly called meeting of the members, provided, (1) that the notice of meeting shall contain a full statement of the proposed amendments, and (2) that the quorum requirement for such purpose shall be three-fourths (3/4's) of the members. In addition, it shall be necessary to secure a three-fourths (3/4's) vote of all the members present at said meeting, in order to amend these Restrictions and By-Laws.

ARTICLE XI. CONSTRUCTION

Section 1. Wherever the masculine singular form of the pronoun is used in this Declaration of Restrictions and By-Laws, it shall be construed to mean the masculine, feminine, or neuter; singular or plural, whenever the context so requires.

ARTICLE XII MISCELLANEOUS

Section 1. The property shall at all times be restricted in

ROBERTS, WATSON,
TAYLOR AND FRIDAY
ATTORNEYS AT LAW
SUITE 200
FORT MYERS, FLORIDA

RECAL- 52

use to the housing and related needs of the Corporation members and their guests.

Section 2. Should any of the covenants herein imposed be void or be or become unenforceable at law or in equity, the remaining provisions of this instrument shall, nevertheless, be and remain in full force and effect.

Section 3. It is contemplated as of the time of preparing these Restrictions and By-Laws, that some of the family units in question are to be paid for by the placing of a mortgage upon them.

Whenever a mortgage has been placed upon an apartment unit, the Corporation agrees that it shall be obligated to send the mortgagee a copy of the default notice prior to the bringing or instituting of any action for the cancellation of the Certificate. The sending of this notice to the mortgagee shall be a condition precedent to the beginning of any legal action by the Corporation against the owner of a family unit encumbered by a mortgage.

Section 4. The breach of any of the foregoing provisions, conditions, restrictions or covenants, shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to any portion of said property, but said provisions, conditions, restrictions and covenants shall be binding upon and effective against any such mortgagee or trustee or owner thereof, whose title thereto or whose grantor's title thereto is or was acquired by foreclosure, trustee's sale or otherwise.

Adopted this 24 day of June, 1967.

Carol D. [Signature]
Charles S. Taylor
James K. Jessell

ROBERTS, WATSON,
 TAYLOR AND FRISAY
 ATTORNEYS AT LAW
 ORLANDO, FLORIDA

- 11 -

OFF.
REC. 414 PAGE 53

State of Florida

Secretary of State



I, Tom Adams, Secretary of State of the State of Florida,
Do Hereby Certify That the following is a true and correct copy of

Certificate of Incorporation
of

THE PRIVATEER OF FORT MYERS BEACH, INC., A CONDOMINIUM

a corporation not for profit organized and existing under the Laws of the
State of Florida, filed on the 8th day of June,
A.D., 1967, as shown by the records of this office.

Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital,
this the 8th day of June,
A.D. 1967.




Secretary of State

corp.24
3/66

RE 014 no 31

CERTIFICATE OF INCORPORATION
OF
THE PRIVATEER OF FORT MYERS BEACH, INC.,
A CONDOMINIUM

We, the undersigned, hereby associate ourselves together for the purpose of forming a non-profit corporation under the laws of the State of Florida, pursuant to Florida Statutes 617, and certify as follows:

ARTICLE I

The name of this Corporation shall be THE PRIVATEER OF FORT MYERS BEACH, INC., A CONDOMINIUM.

ARTICLE II

The general purpose of this non-profit corporation shall be as follows:

A. To buy, sell, lease and sublease, to accept and hold leasehold or fee title perpetually, or otherwise deal with the following described real estate, to-wit:

A lot or parcel of land lying between Estero Boulevard and the Gulf of Mexico in Sections 33 and 34, Township 46 South, Range 24 East, Estero Island, Lee County, Florida, which lot or parcel is described as follows: beginning at a point on the westerly side of Estero Boulevard, said point being 1,140 feet (measure along a line perpendicular to the south line of Block 1, McPhie Park, Unit No. 2 according to plat recorded in Plat Book 8 at page 59 of the Public Records of Lee County), run southeasterly along the southwesterly line of said Estero Boulevard for 202.08 feet, thence run southwesterly parallel with said south line of block 1 for 490 feet more or less to the waters of the Gulf of Mexico; thence run northwesterly along said waters to an intersection with a line parallel with and 1140 feet (measure along a line perpendicular to said block 1) southeasterly of said block 1, passing through the point of beginning; thence run northeasterly along said parallel line to said southwesterly line of Estero Boulevard and the point of beginning.

to acquire, maintain and operate certain condominium buildings located on said real estate which shall be known as THE PRIVATEER OF FORT MYERS BEACH, INC., A CONDOMINIUM, to make such improvements, additions, alterations, and to erect such additional buildings and structures on said real estate as the Corporation deems best, and to transact all business being not for profit, and proceeds of all operations of the Corporation to remain with the Corporation and the payment of all indebtedness that may be incurred by the Corporation.

B. To exercise complete and exclusive control and management of said THE PRIVATEER OF FORT MYERS BEACH, INC., A CONDOMINIUM, and the ownership and transfer of apartment units located therein, and to make all such rules and regulations as may be necessary to carry out said purposes; to maintain the above described real property and all improvements located thereon, to make payment of taxes, insurance, repairs, and any other expenses necessary to the maintenance of said property as a condominium and to pay operating expenses of every kind and character whatsoever, and any other expenses necessary therefor.

or to beautify and make other desirable improvements from time to time as this Corporation shall deem best.

C. To hold title to the above described property and to maintain and operate said THE PRIVATEER OF FORT MYERS BEACH, INC., A CONDOMINIUM, all for the mutual benefit of all the owners of apartment units located therein, who shall be members herein, and to assess the owners of apartment units for their pro-rata share and amounts of costs and expenses incurred by the Enabling Declaration and Declaration of Restrictions and By-Laws of the Corporation.

ARTICLE III

This Corporation shall issue no shares of stock of any kind or nature whatsoever, in accordance with the Enabling Declaration and the Declaration of Restrictions and By-Laws. There shall not be more than forty-eight (48) members of the Corporation, which members shall be approved and accepted by the Board of Directors as provided for in the Enabling Declaration and the Declaration of Restrictions and By-Laws for the Corporation. The voting rights of Resident members and absentee members are fully set forth in the Enabling Declaration and the Declaration of Restrictions and By-Laws of the Corporation. Each member shall be issued a Certificate of Ownership to the individual apartment he may be acquiring. Such said Certificate of Ownership shall be in the form and contain the provisions as is more fully set forth in the Enabling Declaration and Declaration of Restrictions and By-Laws of the Corporation. Persons owning a single apartment within the Condominium shall collectively be considered a single member.

ARTICLE IV

This Corporation shall have perpetual existence.

ARTICLE V.

The principal office of the Corporation shall be located at 6500 Estero Boulevard, Fort Myers Beach, Florida.

ARTICLE VI.

The names and addresses of the subscribers of these Articles of Incorporation are as follows:

AARON W. JOHNSON, 384 Estero Boulevard, Fort Myers Beach,
Florida
CLAUDE E. TAYLOR, 3402 West Riverside Drive, Fort Myers,
Florida
JAMES R. JESSILL, 1500 Grace Avenue, Fort Myers, Florida

ARTICLE VII

The officers who shall manage the affairs of this Corporation shall be as follows:

President
Vice President
Secretary-Treasurer

or such other officers as may be elected from time to time, as is more fully set forth in the Declaration of Restrictions and By-Laws of the Corporation.

E 414 me 53

ARTICLE VIII

The names and post office addresses of the officers who are to serve until the first election, pursuant to the terms of the Declaration of Restrictions and By-Laws are as follows:

AARON W. JOHNSON	President	384 Estero Boulevard Fort Myers Beach, Florida
CLAUDE E. TAYLOR	Vice President	Post Office Drawer X Fort Myers, Florida
JAMES R. JESSELL	Secretary- Treasurer	Post Office Drawer X Fort Myers, Florida

ARTICLE IX

The business of the Corporation shall be conducted by a Board of Directors of not less than three (3) nor more than seven (7) members, all as more fully set forth in the Declaration of Restrictions and By-Laws of the Corporation. The first Board of Directors shall serve until the first election, as set forth in the Declaration of Restrictions and By-Laws of the Corporation, and are as follows:

AARON W. JOHNSON	CHAIRMAN
CLAUDE E. TAYLOR	DIRECTOR
JAMES R. JESSELL	DIRECTOR

ARTICLE X

The Declaration of Restrictions and By-Laws are to be made, altered, amended, or added to at any July called meeting of the members, provided, (1) that the notice of meeting shall contain a full statement of the proposed amendments, and (2) that the quorum requirement for such purpose shall be three-fourths (3/4's) of the members. In addition, it shall be necessary to secure a three-fourths (3/4's) vote of all the members present at said meeting in order to amend the Declaration of Restrictions and By-Laws. These Articles of Incorporation may be altered or rescinded by a two-thirds (2/3's) vote of the members of the Corporation.

ARTICLE XI

The Corporation shall have all of the powers as set forth in Florida Statutes 617.021 laws of 1961.

ARTICLE XII

There shall be no dividends paid to any of the members, nor shall any part of the income of the Corporation be distributed to its Board of Directors or officers. The Corporation may pay compensation in a reasonable amount to its members, directors and officers for services rendered, and may confer benefits upon its members in conformity with its purposes and, upon dissolution or final liquidation, may make distribution to its members as permitted by the courts having jurisdiction thereof, and no such payment, benefit or distribution shall be deemed to be a dividend or a distribution of income.

ARTICLE XIII

A. The primary purpose of the Corporation is to own, operate, manage, lease, and maintain the said THE PRIVATEER OF FORT MYERS BEACH, INC., A CONDOMINIUM, and the issuance of Certificates of Ownership is incidental to the ownership and occupancy rights of purchasers of apartment units located in

RE 410-57

said condominium buildings. Said certificates of ownership and incidental ownership and occupancy rights thereby represented may be transferred only with the consent of the Board of Directors, as prescribed in the Enabling Declaration and Declaration of Restrictions and By-Laws of the Corporation.

B. This Corporation shall have a continuing lien for unpaid assessments on each apartment unit in said THE PALMATEER OF FORT MYERS BEACH, INC., A CONDOMINIUM, and on the Certificates of ownership representing ownership and occupancy rights therein, all as more fully described in the Enabling Declaration and the Declaration of Restrictions and By-Laws of the Corporation. Such claims of liens shall include only assessments which are due and payable when the claim of lien is recorded.

C. This Corporation shall assess all members only in such amounts as are necessary to meet maintenance, operational, lease and other expenses, as hereinbefore provided, and to establish reasonable reserves for such purposes, and the Corporation shall not assess any unnecessary funds and shall not issue dividends or profit in any manner.

D. Each and every Certificate of Ownership issued by the Corporation shall bear notice on its face that said ownership in and to the apartment unit thereby represented is subject to assessment, and that said Certificate of Ownership and apartment unit are transferable only with the approval of the Board of Directors of the Corporation, as aforesaid.

IN WITNESS WHEREOF, the subscribers have affixed hereto their signatures this 6th day of June, 1967.

Aaron W. Johnson
Aaron W. Johnson

Claude E. Taylor
Claude E. Taylor

James R. Jessell
James R. Jessell

STATE OF FLORIDA)

COUNTY OF LEE)

Before me, the undersigned authority, personally appeared AARON W. JOHNSON, CLAUDE E. TAYLOR and JAMES R. JESSLL, who after being duly sworn, acknowledged that they executed the foregoing Certificate of Incorporation of THE PALMATEER OF FORT MYERS BEACH, INC., A CONDOMINIUM, for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at Fort Myers, Lee County, Florida, this 6th day of June, 1967.

James R. Jessell
Notary Public, State of Florida at
Large

(NOTARY SEAL)

My Commission Expires:

June 15, 1968

- 4 -

Q 914-33

THE PRIVATEER OF FORT MYERS BEACH, INC.,
A CONDOMINIUM

CERTIFICATE OF SURVEYOR

I, DUANE HALL, of Fort Myers, Lee County, Florida, hereby
certify as follows:

1. I am a registered land surveyor authorized to
practice in the State of Florida.
2. This Certificate is made as to THE PRIVATEER OF
FORT MYERS BEACH, INC., a Condominium, located
at Fort Myers Beach, Lee County, Florida, and
in compliance with Section 711.08 (1) (e)
Florida Statutes, 1963.
3. The Plot Plan attached as Exhibit B to the
Enabling Declaration of THE PRIVATEER OF FORT
MYERS BEACH, INC., a Condominium, showing the
family units described as follows:

A101, A103, A201, A203, A301, A303,
D121, D123, D221, D223, D321, D323

together with the wording of the Enabling
Declaration, constitute a correct representation
of the improvements of the Condominium as it
now exists, together with the location of future
buildings, and it can be determined from them
the identification, location, dimensions and
size of the common elements and of each unit.

Signed this 14th day of June, 1967.

Duane Hall
Duane Hall, Registered Land Surveyor
Certificate of Registration
No. 1415, State of Florida

RECORDED IN OFFICIAL
RECORDS
LEE COUNTY, FLORIDA
JUN 15 3 14 PM '67

JUN 15 3 14 PM '67

O. T. FRADEE
CLERK CIRCUIT COURT
LEE COUNTY, FLORIDA



ROBERTS, WATSON,
TAYLOR AND FRIDAY
ATTORNEYS AT LAW
FORT MYERS, FLORIDA

DESCRIPTION OF COMMON ELEMENTS OR IN RE 59

The Land encompassed by the property description.

All parts of the improvements not included in the Apartments.

Access through walls for conduits, ducts, plumbing and other facilities for the purpose of furnishing utility service to other apartments.

An easement of support in every portion of an apartment which contributes to the support of the building.

Installations for the furnishing of utility services to more than one unit or to the common elements or to a unit other than the unit containing the installation.

The property and installations in connection therewith required for the furnishing of services to more than one unit or to the common elements.

The tangible personal property required for the maintenance and operation of the condominium property.

All other portions of the property which are rationally of common use or necessary to the reasonable enjoyment and safety of the condominium and such other common elements provided by statute.

These "Surveyor Plans" may be supplemented by a final survey of property referred to as apartments in the original Declaration of Condominium shall be contained in the buildings known as THE PRIMA, said buildings being located on premises as above described.

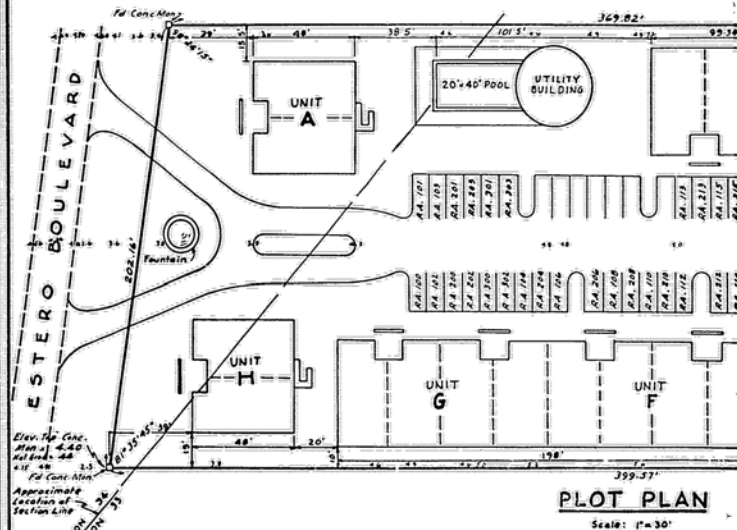
EXHIBIT
PAGE 1

THE PRIMA

OF FORT MYERS BEACH, INC.,
SECTIONS 33 & 34, TOWNSHIP 46 S
ESTERO ISLA
LEE COUNTY, FL

SCALE: 1"=30'

SHEET 1 OF 6

DUANE HALL & ASSOCIATES
SUITE 3, VILLAS PLAZA
FORT MYERS, FLORIDA

NOTES

These "Surveyor Plans" make as they pertain to structure, are compiled from plans and data prepared by others. It is intended that they may be subject to revision by final survey upon completion of building and improvements.

Dimensions shown on sheets 2 through 6 for apartment areas include terraces, balconies, canopies or other portions of the building serving only the apartment being described. The entire apartment unit is shown in relation to another apartment and not a portion of the apartment wall where it adjoins another apartment.

The upper boundaries of the top floor apartments shall be the plane of the under surfaces of the roof trusses. The upper boundaries of apartments on lower floors shall be the under surfaces of precast concrete floor slabs of the apartment above. The lower boundaries of all apartments shall be the under surfaces of precast concrete floor slabs.

Only apartment areas as set forth above are delineated by this preliminary plan. Other areas are shown for reference only. The dimensions shown herein are prior to actual construction and are subject to slight variations which may occur during construction.

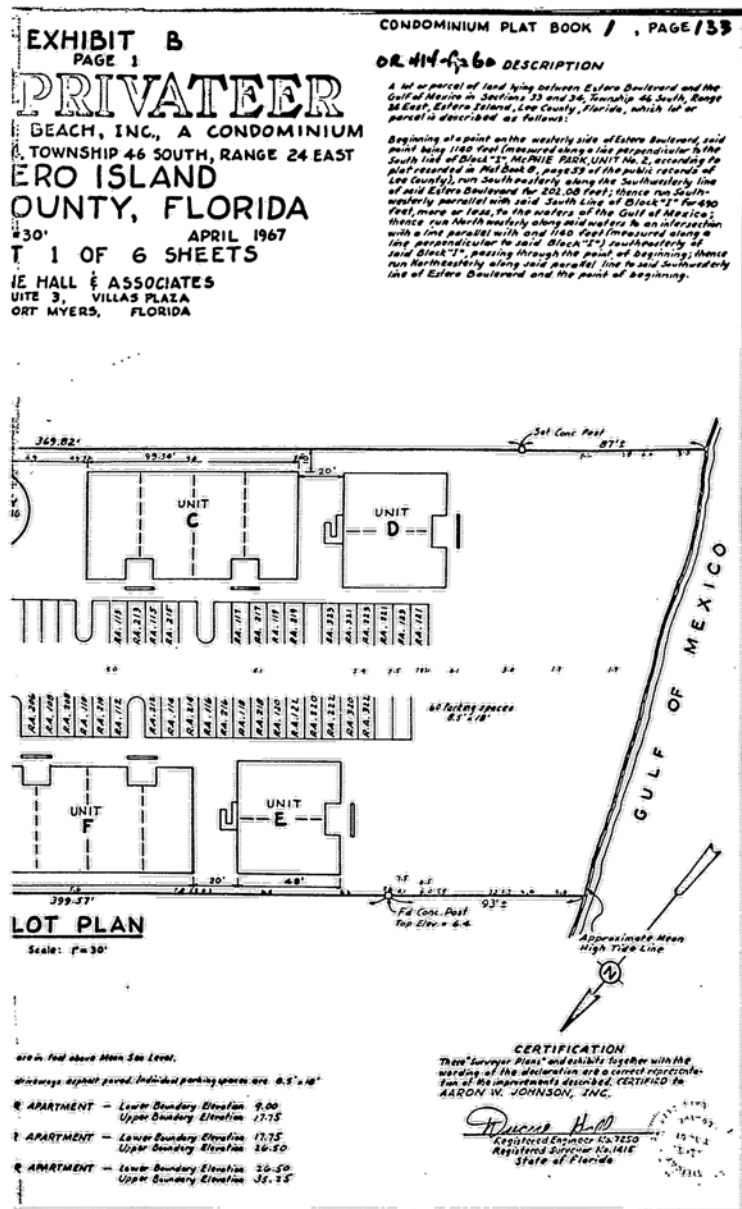
Elevations shown are in feet above Mean Sea Level.

Existing sites and structures depicted. Indicated.

GROUND FLOOR APARTMENT - Lower Bound Upper Bound

SECOND FLOOR APARTMENT - Lower Bound Upper Bound

THIRD FLOOR APARTMENT - Lower Bound Upper Bound



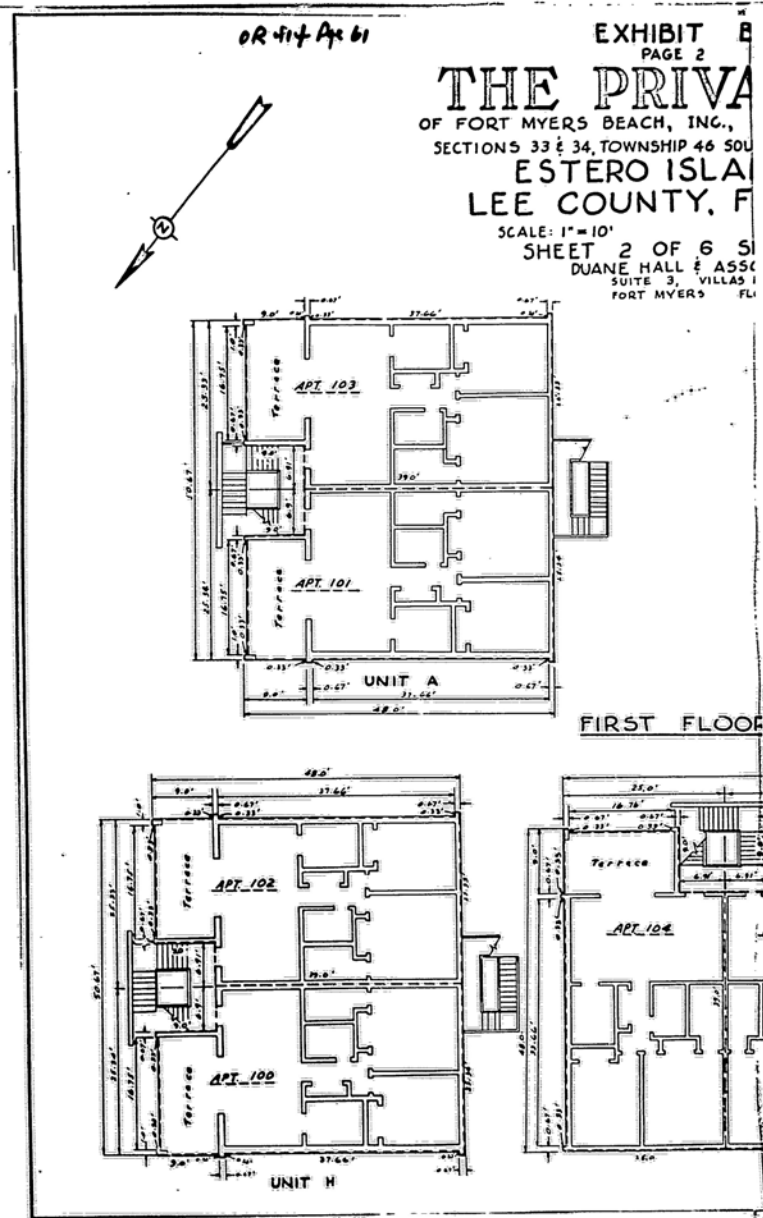
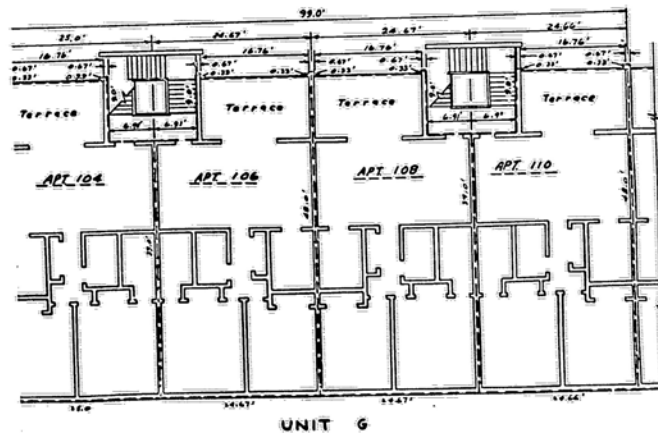


EXHIBIT B
PAGE 2
PRIVATEER
BEACH, INC., A CONDOMINIUM
TOWNSHIP 46 SOUTH, RANGE 24 EAST
ERO ISLAND
COUNTY, FLORIDA
APRIL 1967
2 OF 6 SHEETS
JANE HALL & ASSOCIATES
SUITE 3, VILLAS PLAZA
FORT MYERS FLORIDA

CONDOMINIUM PLAT BOOK 1, PAGE 150
OR 414 Pg 62



FIRST FLOOR



UNIT G

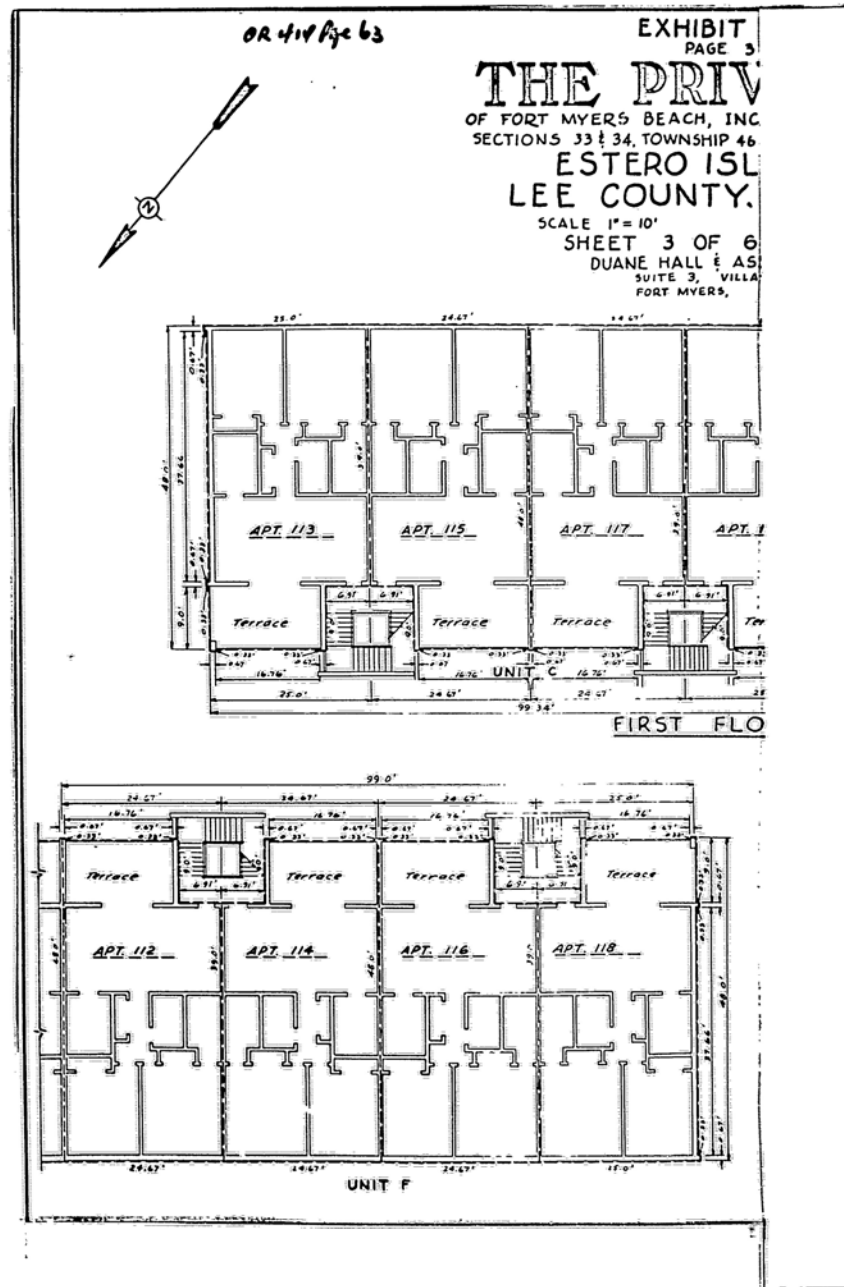
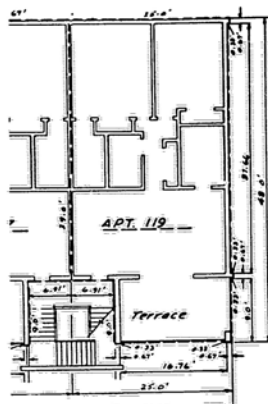


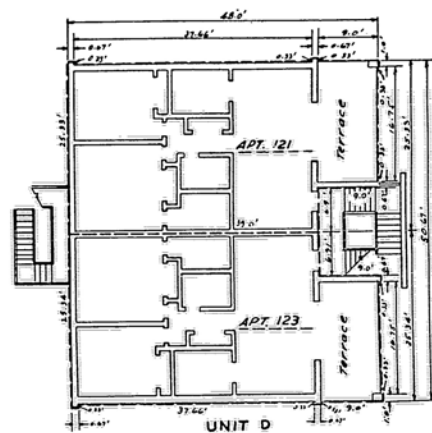
EXHIBIT B
PAGE 3

CONDOMINIUM PLAT BOOK 1, PAGE 133
OR 414 Figs 64

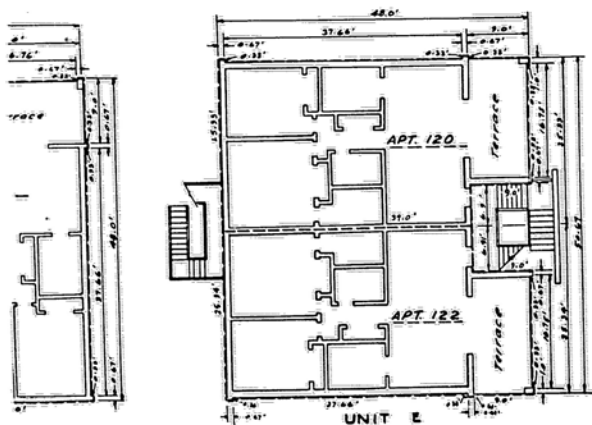
PRIVATEER
BEACH, INC., A CONDOMINIUM
TOWNSHIP 46 SOUTH, RANGE 24 EAST
ERO ISLAND
COUNTY, FLORIDA
APRIL 1967
3 OF 6 SHEETS
NE HALL & ASSOCIATES
SUITE 3, VILLAS PLAZA
FORT MYERS, FLORIDA



FIRST FLOOR



UNIT D



UNIT E

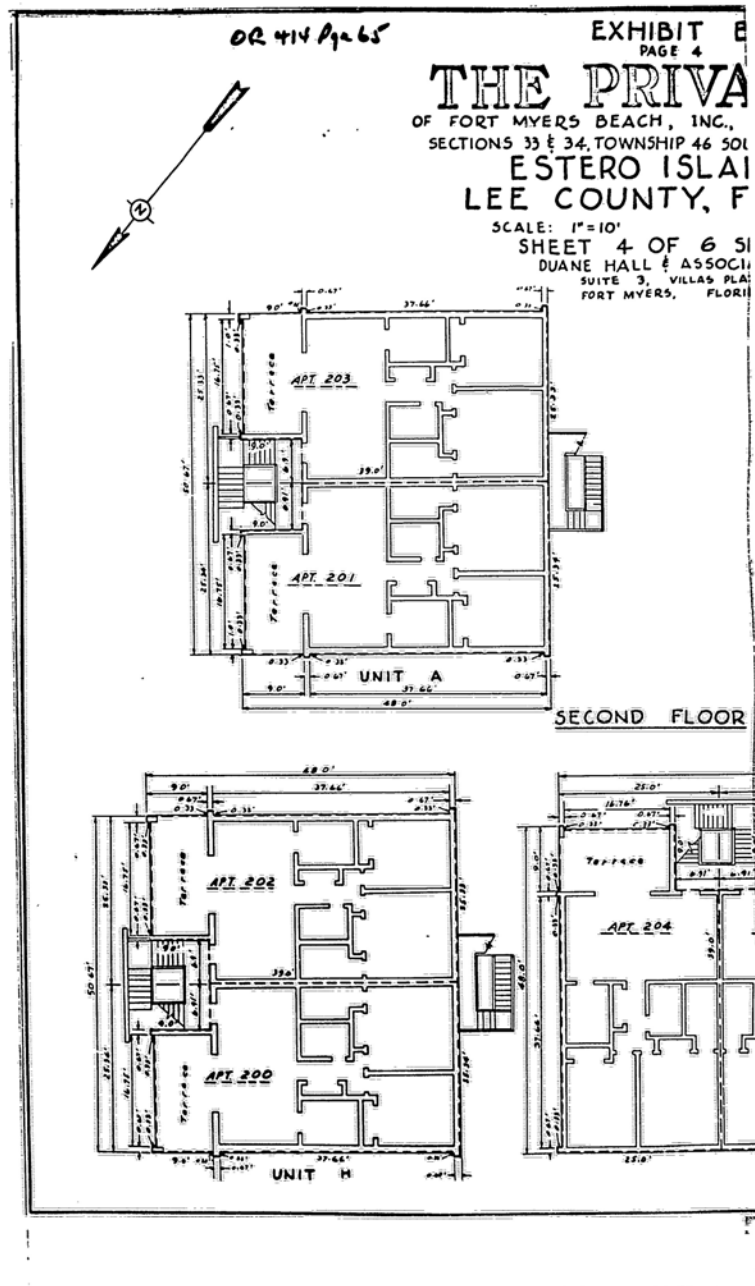


EXHIBIT B
PAGE 4

CONDOMINIUM PLAT BOOK 1, PAGE 136
OR 4N Pgs 66

PRIVATEER

BEACH, INC., A CONDOMINIUM
TOWNSHIP 46 SOUTH, RANGE 24 EAST

BO. ISLAND

ERO ISLAND
COUNTY, FLORIDA

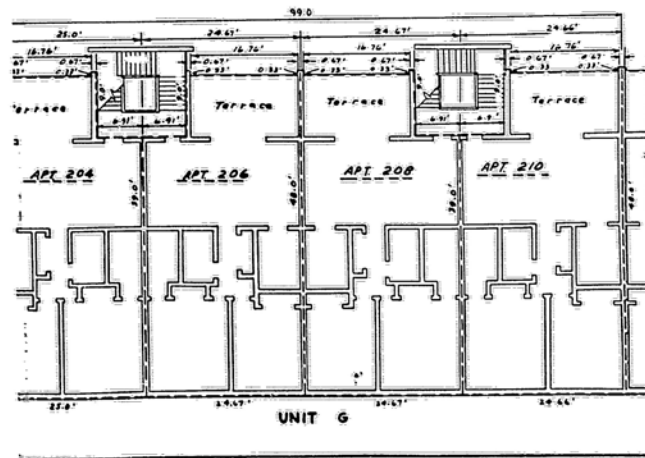
APRIL 1967
4 OF 6 SHEETS

: HALL & ASSOCIATES

UNIT 3, VILLAS PLAZA
FORT MYERS, FLORIDA

FORT MYERS, FLORIDA

SECOND FLOOR



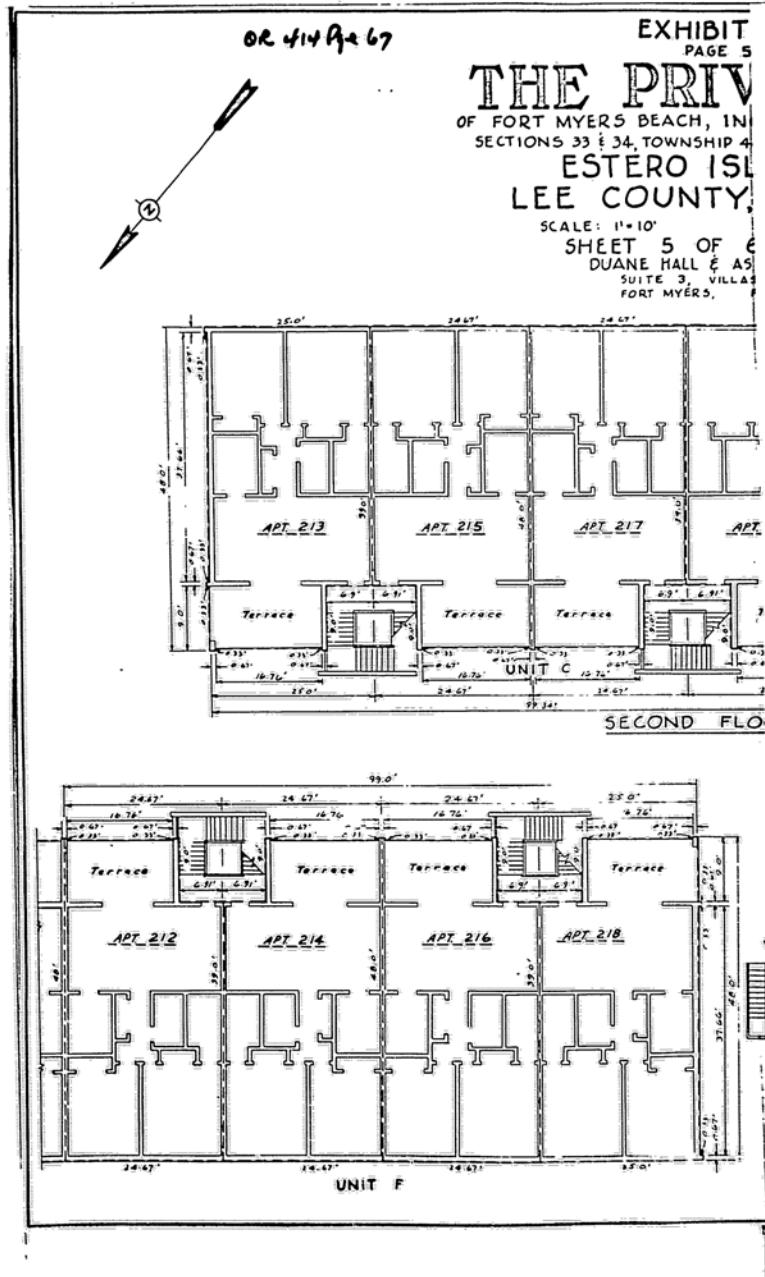


EXHIBIT B
PAGE 5

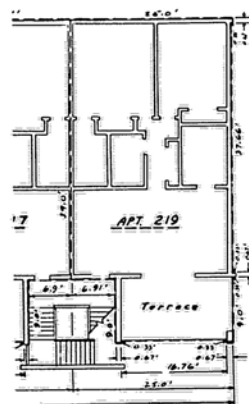
CONDOMINIUM PLAT BOOK 1, PAGE 137

OR 414 Pg 68

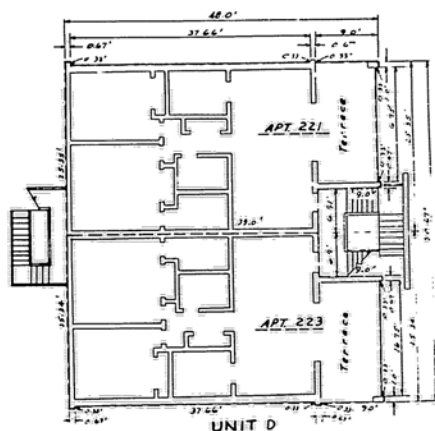
PRIVATEER

BEACH, INC., A CONDOMINIUM
1, TOWNSHIP 46 SOUTH, RANGE 24 EAST
HERO ISLAND
COUNTY, FLORIDA

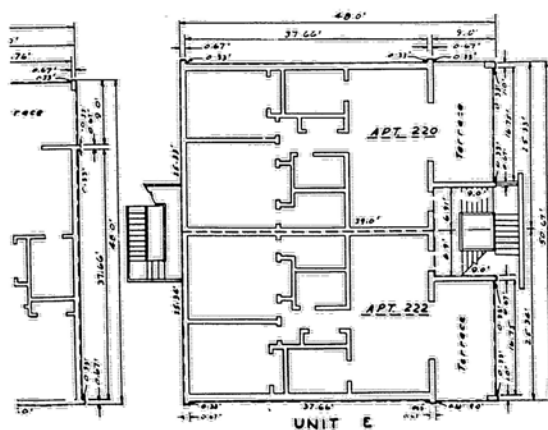
• 10' APRIL 1967
1 OF 6 SHEETS
NE HALL & ASSOCIATES
SUITE 3, VILLAS PLAZA
FORT MYERS, FLORIDA



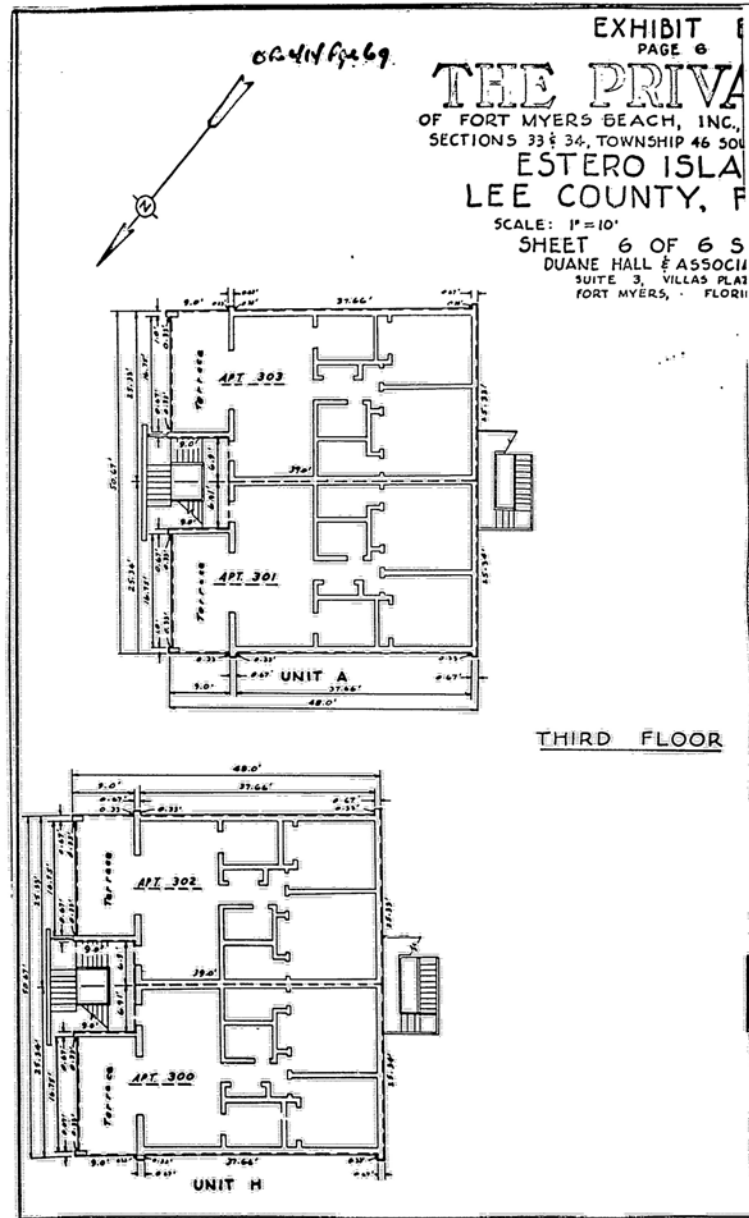
COND. FLOOR

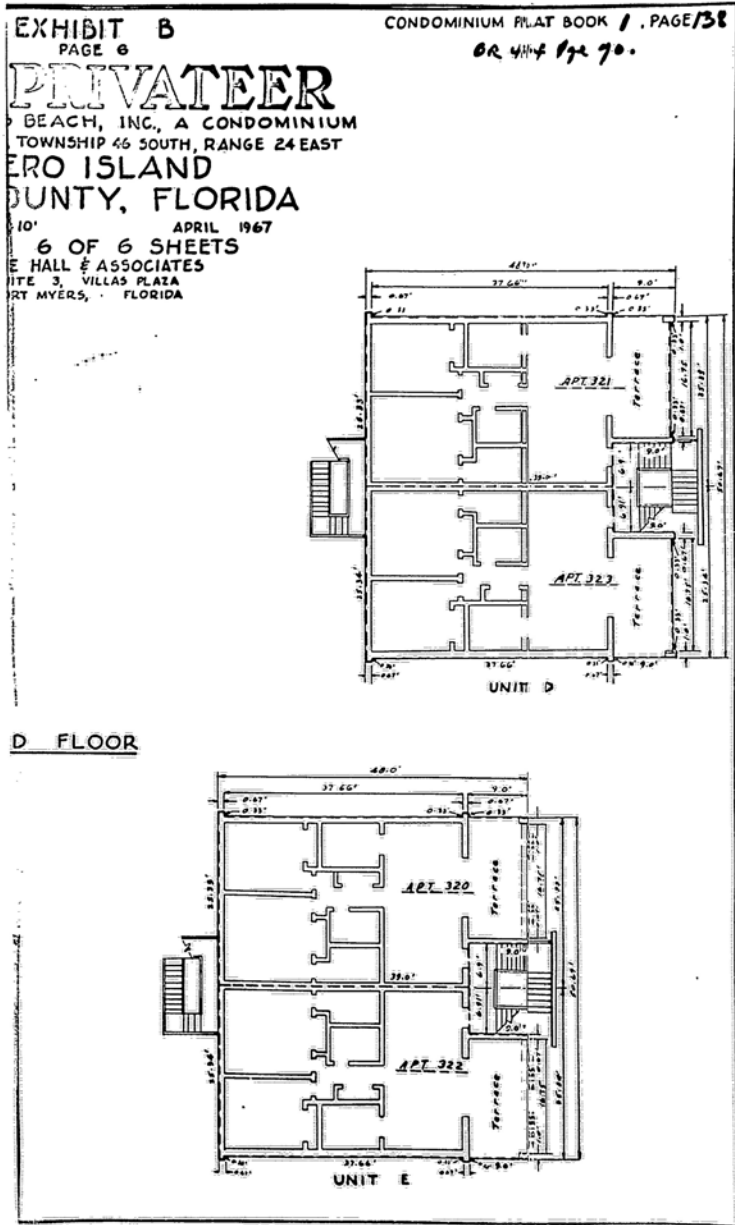


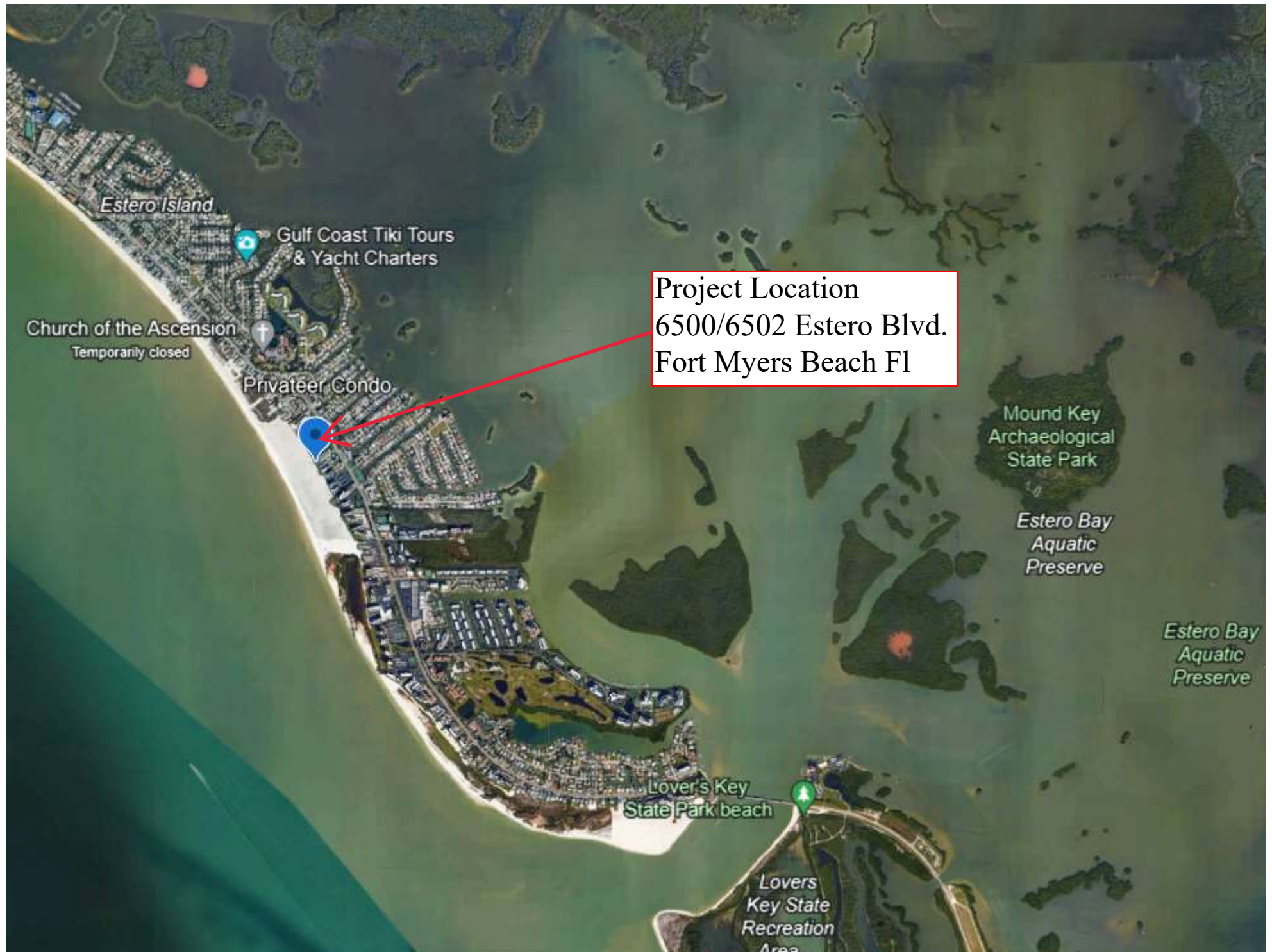
UNIT D



UNIT E







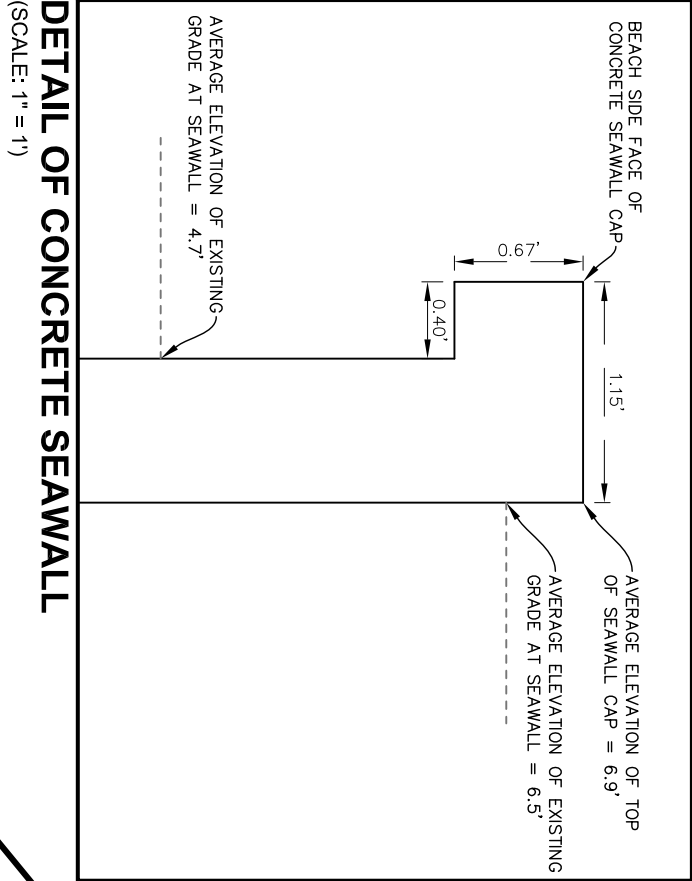
Project Location
6500/6502 Estero Blvd.
Fort Myers Beach Fl

RECORD DESCRIPTION:

(PER O.R. BOOK 414, PAGE 32 AND CONDO PLAT BOOK 1, PAGE 133 - 138)
A lot or parcel of land lying between Estero Boulevard and the Gulf of Mexico in Sections 33 and 34, Township 46 South, Range 24 East, Estero Island, Lee County, Florida, which lot or parcel is described as follows:
Beginning at a point on the westerly side of Estero Boulevard, said point being 1140 feet (measured along a line perpendicular to the South line of Block "1", McPHIE PARK, UNIT No. 2, according to the plat recorded in Plat Book 8, Page 59 of the public records of Lee County), run Southeastly along the Southwesterly line of said Estero Boulevard for 202.08 feet; thence run South-westerly parallel with said South Line of Block "1" for 490 feet, more or less, to the waters of the Gulf of Mexico; thence run Northwestly along said waters to an intersection with a line parallel with and 1140 feet (measured along a line perpendicular to said Block "1") southeasterly of said Block "1", passing through the point of beginning; thence run Northeastly along said parallel line to said Southwesterly line of Estero Boulevard and the point of beginning.

GENERAL SURVEY NOTES:

1. SURVEY BASED ON THE RECORD PLAT AND DESCRIPTION (NOTED HEREON), FOUND MONUMENTS, AND PREVIOUS SURVEYS FOUND IN THE FILES OF THIS FIRM.
2. BEARINGS REFER TO GRID NORTH, FLORIDA WEST ZONE (0902) - REFERENCE FRAME: NAD 83 (2011) WITH THE NORTHWESTERLY LINE OF THE SUBJECT PARCEL BEARING N50°36'36"E.
3. ELEVATIONS DEPICTED HEREON ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1986 (NAVD 86).
4. DIMENSIONS ARE IN FEET AND DECIMAL PARTS THEREOF.
5. PARCEL LIES IN FLOOD ZONES VE AND AE, WITH MULTIPLE BASE FLOOD ELEVATIONS, AS EFFECTED HEREON. PER FLOOD INSURANCE RATE MAP NUMBER 12070567G WITH AN EFFECTIVE DATE OF 11/17/2022, (COMMUNITY NAME AND NUMBER TOWN OF FORT MYERS BEACH & 120673; INDEX DATE: 11/17/2022), ADDITIONALLY, THE ENTIRE PARCEL APPEARS TO BE LOCATED SEAWARD OF THE LIMIT OF MODERATE WAVE ACTION (LMWA) LINE.
THE FEMA FLOOD ZONE INFORMATION INDICATED HEREON IS BASED ON MAPS SUPPLIED BY THE FEDERAL GOVERNMENT. THIS FLOOD INFORMATION MUST BE VERIFIED WITH ALL PERMITTING REGULATORY ENTITIES PRIOR TO COMMENCING ANY WORK OR APPLICATION DEPENDENT ON SAID FLOOD INFORMATION.
6. PARCEL SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).
7. UNDERGROUND IMPROVEMENTS, UTILITIES AND/OR FOUNDATIONS WERE NOT LOCATED UNLESS OTHERWISE NOTED.
8. THIS PLAT PREPARED AS A SPECIFIC PURPOSE SURVEY AND IS NOT INTENDED TO DELINEATE THE JURISDICTION OR JURISDICTIONAL AREAS OF ANY FEDERAL, STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER ENTITY.
9. WILDLIFE AND/OR ENVIRONMENTAL ISSUES, IF ANY, ARE NOT ADDRESSED ON THIS SURVEY.
10. GENERAL INFORMATION
KNOWN AS: THE PRIVATEER OF FORT MYERS BEACH, INC.
STREET ADDRESS: 6500 ESTERO BLVD., FORT MYERS BEACH, FL 33931
PARCEL STRAP #: 33-46-24-W3-0200.00CE
11. DATE OF LAST FIELD WORK: JUNE 18, 2024



SUNSET, A CONDOMINIUM
OFFICIAL RECORD BOOK 1342, PAGE 2265
AND CONDO PLAT BOOK 5, PAGES 238 - 240
STRAP: 33-46-24-W3-02100.00CE
(6400 ESTERO BLVD.)

THE PRIVATEER OF FORT MYERS BEACH, INC.
O.R. BOOK 414, PAGE 32 AND CONDO PLAT BOOK 1, PAGE 133 - 138
STRAP: 33-46-24-W3-0200.00CE
(6500 ESTERO BLVD.)

BUILDINGS (OTHER THAN THOSE SHOWN, PARKING, AND OTHER IMPROVEMENTS EXIST BUT WERE NOT ADDRESSED BY THIS SURVEY

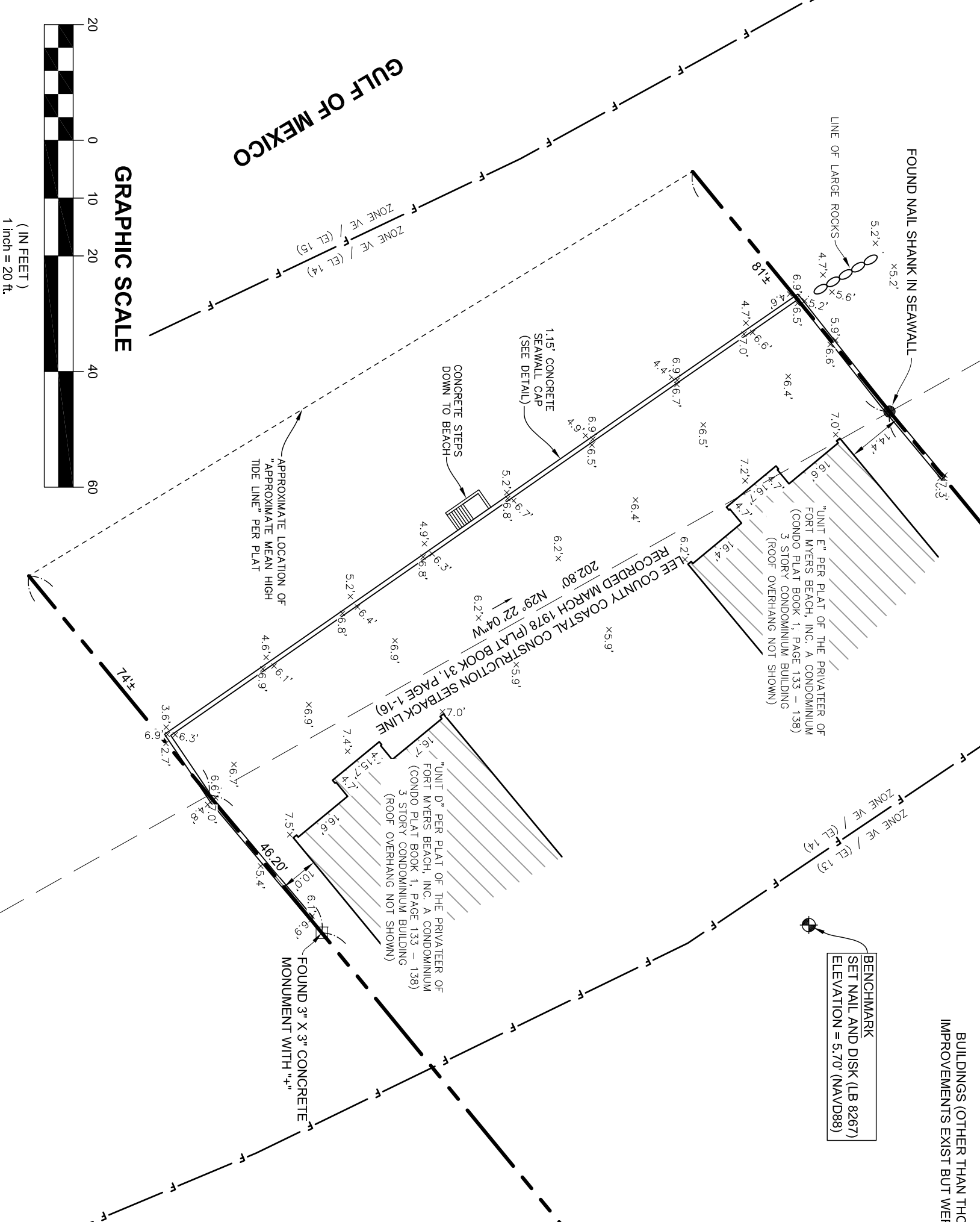
BENCHMARK
SET NAIL AND DISK (LB 8267)
ELEVATION = 5.70' (NAVD88)

ESTERO 4148 LLC
INSTRUMENT #2022200162545
STRAP: 33-46-24-W3-00016.0000
(6530 ESTERO BLVD.)

(PER CONDO SOUTHWESTERLY 490' ±
M.36° 36' 36"E
S30° 36' 36"E
PER CONDO RELOCATION AND CONDO PLAT 7)

ESTERO BOULEVARD

EGRET STREET



JOSHUA W. BRAGG (FOR THE FIRM OF HALEY WARD, INC. - LB 8267)
PROFESSIONAL SURVEYOR AND MAPPER (PSM), STATE OF FLORIDA - LS 7243
• THIS CERTIFICATION IS ONLY FOR THE LAND DESCRIBED HEREON.
• IT IS NOT A CERTIFICATION OF TITLE, ZONING, SETBACKS, OR FREEDOM FROM ENCUMBRANCES.
• THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE ABSTRACT.

REV.		DATE	DESCRIPTION	BY	CHK.
DRAWING ISSUE STATUS					
SPECIFIC PURPOSE SURVEY					
 ENGINEERING ENVIRONMENTAL SURVEYING 113041 McGregor Boulevard Fort Myers, Florida 33919 239.481.1331 Florida@haleyward.com					
SURVEY PLAT OF SHORELINE DETAILS AT THE PRIVATEER OF FORT MYERS BEACH, INC. AS RECORDED IN O.R. BOOK 414, PAGE 32 AND CONDOMINIUM PLAT BOOK 21, PAGE 39 LYING IN SECTIONS 33 & 34, TOWNSHIP 46 SOUTH, RANGE 22 EAST, TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA					
DATE		SCALE		(AS SHOWN)	
2024.06.18					
DRAWN BY	DESIGNED BY	CHECKED BY			
CMG/JWB	---	JAH			
CERTIFICATE OF AUTHORIZATION NO.		S.T.R. No.			
EB325684 & LB8267		33 & 34-46-24			
PROJECT No.		2012252.001			
DRAWING No.		V101		REV.	

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

Yellow Sheet Number: **2024-227**

1. Request:

Meeting Date: September 3, 2024

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING 1) TABLE 34-2 TITLED "USE SUB-GROUPS PERMITTED IN EACH ZONING DISTRICT" IN CHAPTER 34, ARTICLE III, DIVISION 2 TO AMEND THE ALLOWED SUB-GROUPS, FOR THE CB ZONING DISTRICT, FROM LIMITED TO OPEN FOR THE LODGING, OFFICE, AND RETAIL USE GROUPS; 2) THE LAND DEVELOPMENT CODE SUBDIVISION V. – CB ZONING DISTRICT FOUND IN CHAPTER 34, ARTICLE III, DIVISION 5. – REDEVELOPMENT ZONING DISTRICT TO PLACE LIMITATIONS ON NEW OUTDOOR DINING AND OUTDOOR ENTERTAINMENT USES; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING AN EFFECTIVE DATE.

Why the action is necessary:

The LPA hears amendments to the LDC and makes recommendations to the Town Council.

What the action accomplishes:

The changes to the CB zoning district will allow for additional uses on commercial properties.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

ordinance

5. Background:

The CB zoning district has limitations on allowed uses based on what was previously developed on a parcel. This amendment allows all of the uses that were previously permitted prior to the implementation of the CB zoning district and includes limitations to reduce potential impacts of new uses on adjacent residential properties.

Attachments:

1. Ordinance 24-26
2. LPA Memo
3. Exhibit A CB Zoning Section language
4. Exhibit B Zoning Table with updates
5. Exhibit C Map of CB Zoned Properties

Financial Impact:

unknown

6. Alternative Action

recommend changes and recommend approval

7. Staff Recommendations:

Find that the proposed language is appropriate and meets the intent of the comprehensive plan and recommend approval.

8. Recommended Approval:

Date: August 28, 2024

Frankie Kropacek, Operations & Compliance Director

nancy stuparich, Town Attorney

Amy Baker, Town Clerk

Date: August 29, 2024

Date: August 29, 2024

ORDINANCE NO. 24-26

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING 1) TABLE 34-2 TITLED “USE SUB-GROUPS PERMITTED IN EACH ZONING DISTRICT” IN CHAPTER 34, ARTICLE III, DIVISION 2 TO AMEND THE ALLOWED SUB-GROUPS, FOR THE CB ZONING DISTRICT, FROM LIMITED TO OPEN FOR THE LODGING, OFFICE, AND RETAIL USE GROUPS; 2) THE LAND DEVELOPMENT CODE SUBDIVISION V. – CB ZONING DISTRICT FOUND IN CHAPTER 34, ARTICLE III, DIVISION 5. – REDEVELOPMENT ZONING DISTRICT TO PLACE LIMITATIONS ON NEW OUTDOOR DINING AND OUTDOOR ENTERTAINMENT USES; 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 September 3, 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 7th day of October, 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 34-2 Use Sub-Groups Permitted in Each Zoning Districts, in Chapter 34, Article III, Division 2 and Subdivision V. – CB Zoning District, Sections 34-702 through 34-705 are hereby amended to read as provided in Exhibits A and B.

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.

Attached Exhibits

Exhibit A – Subdivision V. – CB Zoning District

Exhibit B – Table 34-2



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

To: Local Planning Agency
From: Sarah Propst, Community Development
Date: September 3, 2024
Re: CB Zoning District Language

Background

When the Commercial Boulevard (CB) zoning district was developed, it was designed to disallow expansion of uses and many changes of use without a planned development rezoning. In 2021 the LDC was updated to allow the return of uses that had previously been approved on parcels but did not allow uses that had not previously been on those parcels.

It appears that originally this zoning district allowed full residential, lodging, office, and retail uses. When the Town incorporated, the CB district was changed to only allow continual downgrading of the uses to become less intense. The proposed amendment would eliminate the need for planned development rezonings in the CB district to allow all of the uses that are within the residential, lodging, office, and retail use categories. The primary limitation will be the intensity of these uses. The CB zoning district allows a maximum Floor Area Ratio (FAR) of 1.0 and the underlying Future Land Use District, Boulevard limits the Floor Area Ratio (FAR) to a maximum of 1.5. This makes it less intense than the zoning districts of Downtown and Santini, which have an underlying Future Land Use District of Pedestrian Commercial, which has a maximum FAR of 2.5.

The Comprehensive Plan was previously a limiting factor regarding changes to the CB zoning district because of Boulevard Future Land Use District policies. Previous policy 4-B-5 stated that to obtain approval for new or expanded commercial activities the proposal had to be evaluated through the planned development rezoning process.

The new **Policy FLU-1-B-6** says: *“BOULEVARD”: a mixed-use district along portions of Estero Boulevard, including less intense commercial areas, traditionally comprised of historic cottages, and mixed housing types. This category is not intended to allow commercial uses on all properties; its mixed-use nature is intended to remain permanently. To obtain approval for new or expanded commercial activities, proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan,*

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | **F.** 239-765-0909 | 2525 Estero Boulevard, Fort Myers Beach, FL 33931



and meet the design concepts of this plan and the Land Development Code. The non-residential Floor Area Ratios (FAR) in the Boulevard 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. Permitted new density may be increased up to ten (10) units per acre provided that at least 10% of the development is for affordable or workforce housing as covenanted for a minimum of 30 years. Those developments previously vested with 10 units under the “platted overlay” may continue.

Previous Policy 4-C-3-iv. Further explained that commercial uses could seek rezoning through the planned development process and prove they are sensitive to adjacent uses.

New Policy FLU-1-C-3.iv. says: *In the “Boulevard” and “Mixed-Use” category, mixed-use development including commercial and residential uses are permissible. 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.*

Upon final adoption of the Comprehensive Plan changes, the CB zoning district can be updated.

Proposed Solution

At the initial hearing staff heard concerns regarding the potential for increase size of development and impacts to adjacent properties. Building size and placement regulations are not proposed to change. These regulations will remain as follows:

Front setback (min): 5-10 feet

Side setbacks (min): 5 feet

Height: 30 feet above BFE and 3 stories

Rear setback (min): 20 feet or if from waterbody per 34-638(d)(3)

FAR: 1.0

Of note, staff has included language that would allow detached single-family and two-family residences to have a building setback line of 5-18 feet, rather than 5-10 feet that is required for other uses. Please advise if this is desirable or if the 5-10 foot street setback is preferred.

Staff proposes the attached strike-through underline and change to the zoning table. These changes include allowing additional uses but limiting new uses that seem to cause the most impact to residential properties, including outdoor seating, outdoor entertainment, and consumption on premises not related to a restaurant. These proposed changes are not more restrictive than the current allowed regulations and therefore do not run afoul of SB 250. These limitations would not impact any businesses that already have these uses.

Subdivision V. - CB Zoning District

Sec. 34-701. - Purpose.

The purpose of the CB (Commercial Boulevard) district is to provide standards for existing commercial uses and certain other uses along those portions of Estero Boulevard where the "boulevard" classification of the Fort Myers Beach Comprehensive Plan promotes a mixed-use development pattern.

Sec. 34-702. - Applicability.

- (a) The regulations of this code section allow for the continuation of existing uses, plus additional uses listed in Table 34-2 and further defined in Section 34-703.
- (b) The regulations of this code section allow for:
 - (1) Continuation of existing buildings and structures,
 - (2) Enlargement or expansion of existing structures, in compliance with all of the building placement, size, and design criteria of the CB zoning district regulations, and
 - (3) Replacement in compliance with the building placement, size, and design criteria of the CB zoning district regulations,

~~(a) *Continued use.* The regulations in this code section allow the continued use of existing buildings and structures for allowable uses as defined in [§ 34-703](#) below, on all properties zoned CB.~~

~~(b) *Enlarging or replacing buildings for existing commercial uses.* The regulations in this code section also allow the following activities:~~

~~(1) Physical enlargement of buildings or structures containing existing commercial uses, provided that the improvements do not constitute a "substantial improvement" as that term is defined in [§ 6-424](#) of this code, and~~

~~(2) Replacement buildings for existing commercial uses that will not increase the existing floor area ratio, as that term is defined in [§ 34-633](#) of this chapter.~~

~~(c) *Enlarging or replacing buildings for all other allowable uses.* The regulations in this code section also allow the physical enlargement of and replacement of buildings for all allowable uses, other than existing commercial uses (which are governed by subsection (b) of this section) or new or expanded commercial uses (which are governed by subsection (d) of this section).~~

~~(d) *New or expanded commercial uses.* In accordance with Policies 4-B-5 and 4-C-3-iv of the Fort Myers Beach Comprehensive Plan:~~

~~(1) New or expanded commercial uses in the "boulevard" category of the Fort Myers Beach Comprehensive Plan require rezoning as a commercial planned development (see [§ 34-951](#) of this chapter).~~

~~(2) Physical enlargements of existing commercial buildings, with an allowed use, as defined in Table 34-2, that constitute a "substantial improvement" as that term is defined in [§ 6-424](#) of this LDC also require rezoning as a commercial planned development.~~

~~(3) For purposes of this section only, the following types of re-use of existing floor area shall be deemed a continuation of an existing commercial use rather than a new or expanded commercial use.~~

~~a. Conversion of an existing space to office, retail, or restaurant use, when that use previously existed on that parcel;~~

~~b. An existing bar or cocktail lounge converted to another bar or cocktail lounge or to a restaurant, retail, or office use;~~

~~c. Existing areas of outdoor dining may be converted to another outdoor dining area;~~

~~d. Existing areas of outdoor display of merchandise may be converted to another outdoor display of merchandise area;~~

~~e. Conversion of existing space previously used as a financial institution with drive-through to small retail, with outdoor display. Outdoor display shall be located in the area previously utilized as a drive-through and shall not exceed 1,500 square feet under roof. Parking spaces may not be used for outdoor display.~~

~~(Ord. No. [21-07](#), § 2, 11-15-2021)~~

Sec. 34-703. - Allowable uUses.

(a) In the CB district, allowable uses are defined as any of the following:

(1) Those uses defined in Table 34-2 for the CB district, with additional regulations as defined in Sec. 34-703(b);

(2) Continuation of the commercial uses that were previously allowed on the site, prior to the permit request. Evidence of the previous use may include websites, pictures, pamphlets, permits, tax receipts or similar documentation; and were lawfully existing on March 3, 2003; and

~~(3) Those additional commercial uses of existing floor space as provided by [§ 34-702\(d\)\(3\)](#) of this chapter.~~

(b) Any landowner wishing to place other new or expanded commercial uses on property that is zoned CB must comply with the following:

(1) New outdoor entertainment is not permitted. Outdoor, for this section, includes any area that is not surrounded by permanent walls and windows;

(2) New live entertainment is not permitted;

(3) New outdoor seating areas may not be open beyond sunset. ~~rezone the property to commercial planned development.~~

(c) Any landowner wishing to subdivide land that is zoned CB into residential homesites must comply with all of the setback, lot size, intensity, and density regulations for the RC zoning district as described in Table 34-3. Compliance with these regulations shall substitute for the building placement standards that are found in [§ 34-704](#) below, and for the intensity standard found in [§ 34-705\(c\)](#) of this chapter.

Sec. 34-704. - Building placement.

(a) *Build-to lines established.*

(1) Build-to lines for structures other than detached single-family and two family residences (see [§ 34-662](#) of this chapter) for Estero Boulevard are established at

five to ten feet from front property lines. Awnings, canopies, and marquees over sidewalks and pedestrian walkways are encouraged by the commercial design standards (§§ [34-991](#)—34-1010 of this chapter).

- (2) Detached single-family and two-family residential structures build-to lines from Estero Boulevard are established at five feet to 18 feet to allow additional setback for a driveway, if desired.
- (b) *Setback lines established.* Setback lines (see [§ 34-662](#) of this chapter) are established as follows:
 - (1) For principal buildings:
 - a. Minimum street setbacks for all streets other than Estero Boulevard are ten feet.
 - b. Minimum rear setbacks are 20 feet from rear property lines.
 - c. Minimum side setbacks are five feet from side property lines.
 - d. Minimum setbacks from waterbodies are set forth in [§ 34-638](#)(d)(3) of this chapter.
 - (2) For accessory structures, minimum setbacks are set forth in §§ [34-1171](#)—34-1176.

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 three~~ 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).* Floor area ratios (see [§ 34-633](#) of this chapter) shall not exceed 1.0.

Sec. 34-706. - Circulation and parking.

- (a) *Parking lot locations.* Off-street parking lots shall be placed in side or rear yards (see Figure 34-5). Off-street parking lots are not permitted in front yards.
- (b) *Under-building parking.* Off-street parking may be provided under commercial or mixed-use buildings provided that all under-building parking spaces are screened in accordance with [§ 34-693](#)(l) of this chapter.
- (c) *Parking lot interconnections.* Wherever physically possible, parking lots for abutting properties fronting along Estero Boulevard shall be interconnected to eliminate or minimize driveways to Estero Boulevard.

- (1) To ensure the effective use of these connections, the first to develop shall be required to make an irrevocable offer of cross-access to the adjacent parcel (prior to issuance of a development order), and must design and build the parking lot to accommodate cross-access.
- (2) When adjacent owners seek development orders, they will also be required to reciprocate with a similar cross-access agreements and then must complete the physical connection.
- (3) Individual property owners shall control all rights to the use of their own parking spaces, but may choose to allow wider use of these spaces for a fee of their choosing or through reciprocal arrangements with other parties.
- (d) *Driveway connections for properties fronting on Estero Boulevard.* Existing driveways and parking spaces shall be relocated from Estero Boulevard to other streets and new driveways shall connect only to other streets, except where these requirements would prohibit all reasonable access to a property. When a driveway onto Estero Boulevard is unavoidable, the driveway shall be shared with an adjoining property if that property also has access only to Estero Boulevard. Otherwise, the driveway shall be spaced as far as practical from other driveways or intersections.

(Ord. No. [21-07](#), § 2, 11-15-2021)

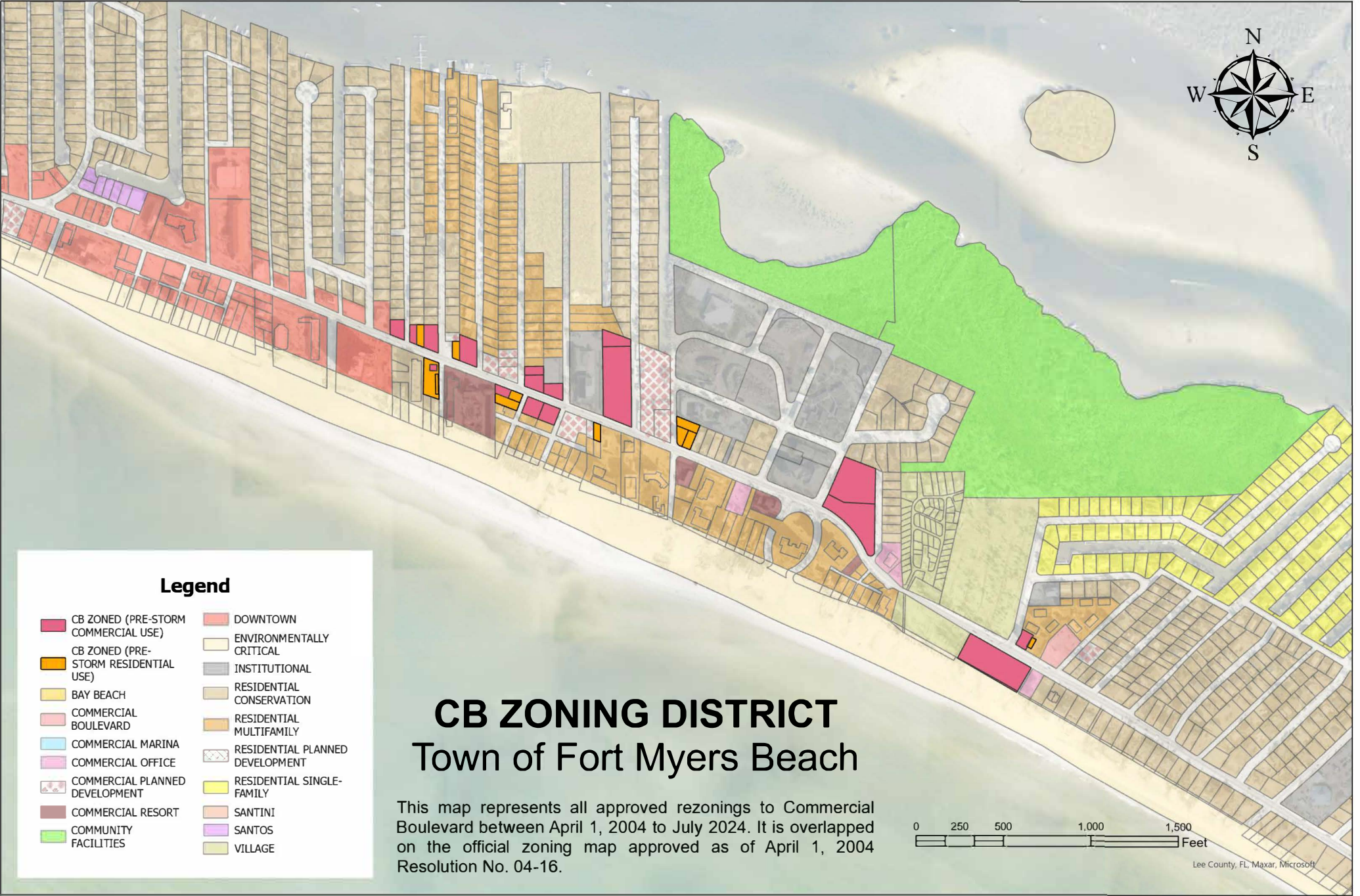
Sec. 34-707. - Commercial design standards.

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 [§ 6-424](#) of this LDC.

(Ord. No. [21-07](#), § 2, 11-15-2021)

Secs. 34-708—34-930. - Reserved.

Table 34-2 — Use Sub-Groups Permitted In Each Zoning District ¹						
	<i>Residential</i>	<i>Lodging</i>	<i>Office</i>	<i>Retail</i>	<i>Marine</i>	<i>Civic</i>
	Use Groups and Sub-Groups (Restricted, Limited, Open)					
RS Residential Single-family	(R)	(R)	(R)	—	(R)	(R)
RC Residential Conservation	(L)	(L)	(R)	—	(R)	(R)
RM Residential Multifamily	(O)	(L)	(L)	(R)	(R)	(L)
CR Commercial Resort	(O)	(O)	(O)	(L)	(L)	(L)
CM Commercial Marina	—	—	(L)	(L)	(O)	(L)
CO Commercial Office	(O)	(L)	(O)	(L)	(L)	(O)
SANTOS	(L)	(L)	(O)	(L)	(L)	(L)
IN Institutional	(L)	(L)	(L)	(R)	(L)	(O)
CF Community Facilities	(R)	(R)	(L)	(R)	(L)	(O)
BB Bay Beach	— see § 34-651(b) —					
EC Environmentally Critical	— see § 34-652(d) & (e) —					
DOWNTOWN	(O)	(O)	(O)	(O)	(L)	(O)
SANTINI	(O)	(O)	(O)	(O)	(O)	(O)
VILLAGE	(L) ²	(L) ²	(L) ²	(L) ²	—	(L)
CB Commercial Boulevard	(O)	(O)	(O)	(O)	(L)	(O)
RPD Residential Planned Dev. ⁴	(R)(L)(O)	(R)(L)	(R)(L)	(R)(L)	(R)(L)	(R)(L)
CPD Commercial Planned Dev. ⁴	(R)(L)(O)	(R)(L)(O)	(R)(L)(O)	(R)(L)(O)	(R)(L)(O)	(R)(L)(O)
<i>Note 1: See Table 34-1 for a specific list of Use Groups (Residential, Lodging, Office, Retail, Marine, and Civic) and Sub-Groups of each (Restricted, Limited, and Open).</i> <i>Note 2: See § 34-692(3) which provides a pre-approved redevelopment option for the VILLAGE district that can also permit residential, lodging, office, and retail uses in the Open Sub-Group under specified conditions.</i> <i>Note 3: See § 34-702–703 for exceptions and limitations on new and expanded commercial uses.</i> <i>Note 4: See § 34-933. The resolution approving a planned development zoning district (RPD or CPD) will specify which of the use groups or sub-groups enumerated in Table 34-1 will be permitted on that parcel. Note that some potential use sub-groups are not listed above for the RPD zoning district because they may not be approved in any RPD zoning resolution.</i>						



CB ZONING DISTRICT

Town of Fort Myers Beach

This map represents all approved rezonings to Commercial Boulevard between April 1, 2004 to July 2024. It is overlapped on the official zoning map approved as of April 1, 2004 Resolution No. 04-16.

Legend

 CB ZONED (PRE-STORM COMMERCIAL USE)	 COMMERCIAL PLANNED DEVELOPMENT	 RESIDENTIAL MULTIFAMILY
 CB ZONED (PRE-STORM RESIDENTIAL USE)	 COMMERCIAL RESORT	 RESIDENTIAL PLANNED DEVELOPMENT
 BAY BEACH	 COMMUNITY FACILITIES	 RESIDENTIAL SINGLE-FAMILY
 COMMERCIAL BOULEVARD	 DOWNTOWN	 SANTINI
 COMMERCIAL MARINA	 ENVIRONMENTALLY CRITICAL	 SANTOS
 COMMERCIAL OFFICE	 INSTITUTIONAL	 VILLAGE
	 RESIDENTIAL CONSERVATION	

0 250 500 1,000 1,500 Feet



Lee County, FL; Maxar, Microsoft