Fort Myers Beach Local Planning Agency

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

AMENDED Agenda **Tuesday, April 29, 2025** **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 - April 8, 2025

VI. PUBLIC COMMENT

VII. PUBLIC HEARINGS

A. VAR20250060, 170 Curlew St

170 CURLEW ST: A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250060, REQUESTING A VARIANCE FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 170 CURLEW STREET GENERALLY REFERRED TO AS STRAP NUMBER 34-46-24-W4-00042.0030 IN FORT MYERS BEACH, TO VARY 4 FEET 2 INCHES FROM THE REQUIRED 7.5 FOOT SIDE SETBACK FOR A SIDE SETBACK OF 3 FEET 4 INCHES TO CONSTRUCT A POOL ENCLOSURE IN THE RS ZONING DISTRICT; AND PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE

B. VAR20250072, 274 Curlew St

274 CURLEW ST: A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250072, REQUESTING A VARIANCE FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 274 CURLEW STREET, GENERALLY REFERED TO AS STRAP NUMBER 34-46-24-W4-01200.00B0 IN FORT MYERS BEACH, TO VARY 13.5 FEET FROM

REQUIRED 25-FOOT WATERBODY SETBACK TO ALLOW A WRAP-AROUND DECK 11.5 FEET FROM THE PROPERTY LINE IN THE RS ZONING DISTRICT; AND PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

C. VAR20250045, 277 Primo Dr

277 PRIMO DR: A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250045, REQUESTING A VARIANCE FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 277 PRIMO DRIVE, GENERALLY REFERED TO AS STRAP NUMBER 19-46-24-W4-0150D.0260 IN FORT MYERS BEACH, TO VARY 12.4 FEET FROM REQUIRED 25 FOOT WATERBODY SETBACK FROM A CANAL TO BUILD A NEW GARAGE AND AN ELEVATED POOL FOR THE EXISTING SINGLE-FAMILY RESIDENCE IN THE RC ZONING DISTRICT; AND PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

D. VAR20250012; 722 Estero Boulevard

722 ESTERO BOULEVARD: A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250012, REQUESTING FOUR VARIANCES FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 722 ESTERO BOULEVARD, GENERALLY REFERRED TO AS STRAP NUMBER 24-46-23-W3-00400.007E IN FORT MYERS BEACH, TO VARY 1). 22.5 FEET FROM THE REQUIRED 25 FOOT STREET SETBACK FOR A STREET SETBACK OF 2.5 FEET FROM STREET EASEMENT, 2). A VARIANCE OF 15 FEET FROM THE REQUIRED 20 FOOT REAR SETBACK FOR A REAR SETBACK OF 5 FEET, 3). A VARIANCE OF 1.5 FEET FROM THE REQUIRED 6.5 FOOT SIDE SETBACK FOR A SIDE SETBACK OF 5 FEET, AND 4.) A VARIANCE OF 14% FROM THE MAXIMUM ALLOWABLE BUILDING COVERAGE OF 40% FOR A BUILDING COVERAGE OF 54% TO BUILD A NEW SINGLE-FAMILY STRUCTURE IN THE RM ZONING DISTRICT; AND PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

E. SEZ20250033, 7150 Estero Blvd

7150 ESTERO BOULEVARD: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20250033 TO ALLOW LIKE-TO-LIKE REPLACEMENT OF EXISTING RIPRAP, ALUMINUM FENCES, SIDEWALKS, POOL, AND POOL DECK WITH 494 SQ. FT. POOL DECK EXPANSION IN EC ZONING DISTRICT SEAWARD OF 1978 CCCL, FOR THE PROPERTY LOCATED AT 7150

ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

F. DA20250001; 1028, 1046 Estero Boulevard (Times Square)

UPDATED EXHIBIT A 4/25/25

TIMES SQUARE DEVELOPMENT AGREEMENT: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING OR DENYING A HOME RULE DEVELOPMENT AGREEMENT FOR PROPERTY LOCATED AT 1028 ESTERO BOULEVARD AND 1046 ESTERO BOULEVARD, FORT MYERS BEACH, FL, STRAP NOS. 24-46-23-W3-00017.0000 AND 24-46-23-W3-00016.0000 AND OWNED BY PERSAUD PROPERTIES FL INVESTMENTS LLC, AS AUTHORIZED BY SECTION 2-100 OF THE TOWN'S LAND DEVELOPMENT CODE AND IN COMPLIANCE WITH THE PROCEDURES FOR APPLICATION AND APPROVAL OF DEVELOPMENT AGREEMENTS WITH DEVIATIONS SET FORTH IN RESOLUTION NUMBER 24-73 FOR THE PURPOSE OF REDEVELOPMENT OF THE PROPERTY TO ALLOW A COMMERCIAL DEVELOPMENT WITH A MAXIMUM OF 58,625 SQUARE FEET, 50 HOTEL ROOMS, AND A MEAN ROOF HEIGHT OF 52 FEET 8 INCHES ABOVE 100-YEAR STORM ELEVATION; PROVIDING FOR TERMS AND CONDITIONS INCLUDING BUT NOT LIMITED TO THE IDENTIFICATION OF THE PROPOSED USE OF THE PROPERTY, A FINDING OF CONSISTENCY WITH THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, COMMITMENTS AND DEVELOPMENT OBLIGATIONS, DEVIATIONS NEEDED FOR DEVELOPMENT; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

G. DCI20250035.1; 1051 Fifth Street, Lighthouse Resort CPD Expanded Boundary

1051 FIFTH STREET AND 1060 THIRD STREET: AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/ DENYING AN AMENDMENT TO THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, PREVIOUSLY APPROVED BY RESOLUTION 18-17 FOR THE PARCEL LOCATED AT 1051 FIFTH STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 24-46-23-W3-00205.0060, TO ADD AND REZONE A PARCEL LOCATED AT 1060 THIRD STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 24-46-23-W3-00203.0150 IN FORT MYERS BEACH FROM DOWNTOWN TO CPD; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

H. DCI20250035.2; 1051 Fifth Street and 1060 Third Street, Lighthouse Island Hotel Resort

1051 FIFTH STREET AND 1060 THIRD STREET: AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING AMENDMENT FOR THE PROPERTY LOCATED AT 1051 FIFTH STREET AND 1060 THIRD STREET, GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00205.0060 AND 24-46-23-W3-00203.0150 IN FORT MYERS BEACH, TO AMEND THE EXISTING MASTER CONCEPT PLAN TO ALLOW FOR A) AN INCREASE IN THE NUMBER OF HOTEL UNITS, B) 11 DEVIATIONS: 1) MINIMUM CONNECTION SEPARATION, 2) EXCLUSION OF UNDER BUILDING PARKING FROM FAR, 3) INCREASE IN HEIGHT FOR A MONUMENT SIGN (5TH STREET), 4) INTERNAL SIGN ILLUMINATION, 5) 40 FEET HEIGHT WITH 4 STORIES, 6) REDUCTION IN STREET SETBACKS, 7) MURAL -STYLE SIGN (EAST SIDE), 8) 10 FOOT MONUMENT SIGN (CORNER), 9) MURAL STYLE SIGN (SOUTH), 10) WAYFINDING POLE SIGN, AND 11) 58% REDUCTION IN PARKING REQUIREMENTS; AND C) CONDITIONS; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR 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 **Tuesday, April 8, 2025** **9:00 AM**

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ORDER OF BUSINESS

I. CALL TO ORDER

Members present: Chair Cereceda, LPA Member Boan, LPA Member Dunlap, LPA Member Eckmann, LPA Member McLean and LPA Member Plummer.
Excused: LPA Member Sudduth
LPA Member Dunlap moved to accept LPA Member Sudduth's absence, seconded by LPA Member Boan.
The motion carried unanimously.

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

LPA Member Boan moved to approve the final agenda, seconded by LPA Member Plummer.
The motion carried unanimously.

V. APPROVAL OF MINUTES

A. Local Planning Agency - March 11, 2025

LPA Member McLean moved to approve the minutes, seconded by LPA Member Plummer.
The motion carried unanimously.

VI. PUBLIC COMMENT

Chair Cereceda addressed the controversy surrounding her donation to ProtectFMB.
Town Attorney Stuparich stated that her comments to Chair Cereceda regarding the donation were the same words she used at yesterday's town council meeting.
Paula Kiker, resident, expressed her opinion about Chair Cereceda donating to ProtectFMB. She explained why she felt the town attorney was wrong.
Ed Rood, resident, appreciated Chair Cereceda's explanation but expressed his

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opinion about her bias. He said he knew that she was going to vote against the projects on the agenda today. He added that she should have kept her contribution anonymous.

Karen Woodson, resident, stated that ProtectFMB was reprehensible and the town council had concerns about optics. She expressed her opinion and did not think Chair Cereceda was supporting the current council or the LPA.

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 advertised and noticed. She swore in those providing testimony.

A. REZ20240275; 1011 Third Street

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REZONING OF PROPERTY LOCATED AT 1011 THIRD STREET, FORT MYERS BEACH, FLORIDA (STRAP NUMBER 24-46-23-W3-00202.0060) FROM DOWNTOWN TO RESIDENTIAL PLANNED DEVELOPMENT (RPD) WITH THREE DEVIATIONS: 1) REQUEST TO APPLY PROPERTY DEVELOPMENT REGULATIONS FOR THE DOWNTOWN ZONING DISTRICT, RATHER THAN THE RESIDENTIAL MULTI-FAMILY STANDARDS IN SEC. 34-943 REQUIRING USE OF THE RM DEVELOPMENT REGULATIONS, 2) REDUCTION OF THE REQUIRED 5-FOOT SIDE YARD SETBACKS TO ALLOW FOR DEVELOPMENT ON THE EASTERN PROPERTY LINE and 3) REQUESTING A FLOOR AREA RATIO (FAR) OF 1.7, AN INCREASE OVER THE 1.0 FAR ALLOWED IN SEC. 34-675(C)(3); PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the ordinance. Ex parte communications: LPA Member Plummer noted she walked by the property and Chair Cereceda spoke to Matt Noble. She talked to the owner long ago about a project without specifics. No disclosures from other members. The applicant confirmed receipt of the agenda and background materials.

Matt Noble reviewed his qualifications as a planner.

LPA Member Eckmann moved to accept Mr. Noble as an expert in his field, seconded by LPA Member Plummer.

The motion carried unanimously.

Community Development Senior Planner Jason Smalley reviewed the background of the request as stated on the yellow sheet and described the three deviations. The staff recommended approval because it was a reduction in density.

Mr. Noble utilized PowerPoint for his presentation. Slides included the previous building, Three Deviations, Schedule of Uses, Property Development Regulations, Subject Site Location, Survey, LeePa 2021 Image, 2021 Pictometry, LeePa 2024 Image, LeePa 4 Unit Appraisal Details, Appraisal Floors 1 & 2, Master Concept Plan, Proposed Building and Public

Benefits.
No public comment.

LPA Member Dunlap moved to approve the ordinance, seconded by LPA Member McLean.
The motion carried unanimously by roll call vote.

B. VAR20250027; 726 Estero Boulevard

726 ESTERO BOULEVARD: A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250027, REQUESTING THREE VARIANCES FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 726 ESTERO BOULEVARD., GENERALLY REFERED TO AS STRAP NUMBER 24-46-23-W3-00400.007B IN FORT MYERS BEACH, TO VARY FROM REQUIRED STREET SETBACK, REAR SETBACK, AND BUILDING COVERAGE TO BUILD A NEW SINGLE FAMILY STRUCTURE IN THE RM ZONING DISTRICT; AND PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the resolution. No ex parte disclosures. Community Development Planner Eli Lee reviewed the background of the request and the three variances as stated on the yellow sheet. The staff recommended approval with conditions.
Planner Jim Ink distributed his presentation. Slides included Team Members, What this Request Would do and Why Grant the Request, Request Statement, Presentation Outline, Location, Pre-Ian Survey, Post-Ian Survey, Design, Floor Plan, Elevations, Request Statement, Variance 1 - Front Setback, Variance 2 - Rear Setback, Variance 3 - Lot Coverage, Variances 1-3 Findings and Conclusions, What this Request Would do and Why Grant the Request and Suggested Motion.
Planner Lee reviewed the conditions in the staff report.
No public comment.

LPA Member Boan moved to approve the resolution with three variances and five conditions, seconded by LPA Member McLean.
The motion carried unanimously by roll call vote.

C. VAR20250048; 1901 Estero

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/APPROVING WITH CONDITIONS/DENYING VARIANCE APPLICATION 20250027 FOR THE PROPERTY LOCATED AT 1901 ESTERO BLVD., FORT MYERS BEACH (STRAP NUMBER 19-46-24-W4-0090B.0080) FOR THE FOLLOWING 5 VARIANCES: 1) A VARIANCE OF 15 FEET TO ALLOW A FRONT SETBACK OF 25 FEET WHERE 5-10 FEET IS REQUIRED; 2) A VARIANCE OF 5 FEET TO ALLOW A REAR SETBACK OF 20 FEET WHERE 25 FEET IS REQUIRED; 3) A VARIANCE TO BUFFER REQUIREMENTS TO PROPOSE A BETTERMENT PLAN

WITHOUT A BOUNDARY WALL; 4) A VARIANCE TO PARKING LOCATION REQUIREMENTS TO ALLOW BACK-OUT PARKING ALONG ESTERO BLVD. AND OHIO AVENUE; AND 5) A VARIANCE TO PARKING AMOUNT REQUIREMENTS FROM 22 REQUIRED PARKING SPACES TO 9 SPACES, FOR A PROPOSED MIXED-USE COMMERCIAL DEVELOPMENT INCLUDING RETAIL AND RESTAURANT USES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the resolution. Ex parte communications: LPA Members Boan and McLean disclosed receiving emails from Mr. Lee and Chair Cereceda talked to someone regarding the denial. No disclosures from other members.

Community Development Principal Planner Judith Frankel reviewed the background of the request as stated on the yellow sheet. She described the five variances and the conditions. Staff recommended denial due to back-out parking on Estero and reduced parking spaces; however, staff believed that the project was consistent with the comprehensive plan. She noted that the applicant would address the situation with the neighbor's fence in his presentation.

Planner Jim Ink distributed his presentation. Slides included Team Members, What this Request Would do and Why Grant the Request, Request Statement, Presentation Outline, South Downtown, Pre-Ian Survey, Post-Ian Survey, Design, LDC Site Plan, Proposed Site Plan, Elevations, Proposed Site Plan, Request Statement, Variance 1 - Front Setback, Variance 2 - Rear Setback and Variance 3 - Rear Buffer. Planner Ink stated that a new six-foot vinyl fence would be built on their side of the neighbor's damaged fence and behind it would be an upgrade to a Type F planting. He addressed the back-out parking in Variance 4 and noted several locations on the island. He supported converting the parking on Estero to golf carts and bicycles. ADA (Americans with Disabilities Act) parking could be located on the Ohio side of the building. He continued with Variance 5 - Parking Reduction, Findings and Conclusions concerning the Variances, What this Request Would do and Why Grant the Request and Suggested Motion. Planner Ink noted they would build it as soon as they could.

Public comment:

David Leigh, resident, supported the project with conditions. He wanted clarification regarding how the water runoff will be handled because the footpath becomes a river when it rains. He explained why the six-foot vinyl fence had to be CMU-reinforced. He preferred to keep the nine spaces in front because parking had not been an issue since the traffic was so slow. He wanted non-debris landscaping to keep leaves out of his pool and enhance his view on the first floor.

Public comment closed.

Principal Planner Frankel clarified that the parking spaces on Ohio did not belong to the site, but the town council was amenable to a lease agreement.

She reviewed the recommended conditions and asked that the landscaping comply with the line of sight requirements, especially at the corner of Ohio and Estero.

Planner Ink thought a sentence in the code prohibits parking in front of a building. They agreed to plant Foxtail palms. Principal Planner Frankel confirmed that the sentence regarding parking existed. After reviewing the code, Section 34-3241(c) states that a variance is not needed regarding existing parking spaces in front of the existing non-conforming structure.

Since alterations were not being made to the existing spaces, it does not violate Division Three of Article Five of Chapter 34. Principal Planner Frankel will add a finding to the resolution.

LPA Member McLean moved to approve the resolution with the five variances, including staff conditions and buffering will be Florida-friendly plants including Foxtail palms, the facilities on the north side of the building will be used for maintenance and emergency egress only, landscaping will conform to line of sight requirement and include a whereas clause recognizing that parking is allowed in front of the building, seconded by LPA Member Dunlap.

The motion carried unanimously by roll call vote.

D. VAR20250056, 2900/2902 Estero Blvd

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250056, REQUESTING FOUR VARIANCES FOR THE PROPERTY LOCATED AT 2900/2902 ESTERO BLVD., IN THE RM ZONING DISTRICT, AND GENERALLY REFERED TO AS STRAP NUMBER 30-46-24-W2-003M0.0140 IN FORT MYERS BEACH, 1) A VARIANCE OF 5 FEET FROM REQUIRED 25-FOOT STREET SETBACK, IN DIVISION 4. TABLE 34-3, FROM ESTERO BLVD., TO ALLOW A PRIMARY STRUCTURE 20 FEET FROM ESTERO BLVD., 2) A VARIANCE OF 10 FEET FROM THE REQUIRED 25-FOOT STREET SETBACK, IN DIVISION 4. TABLE 34-3, FROM SEAVIEW ST., TO ALLOW A PRIMARY STRUCTURE 15 FEET FROM SEAVIEW ST. 3) A VARIANCE OF 15 FEET FROM THE REQUIRED ACCESSORY STRUCTURE STREET SETBACK, IN DIVISION 4. TABLE 34-3, TO ALLOW AN AT-GRADE POOL WITHOUT SCREEN ENCLOSURE 10 FEET FROM SEAVIEW ST., 4) A VARIANCE FROM SEC. 34-1174(b) TO ALLOW A POOL CLOSER TO THE STREET THAN THE PRIMARY STRUCTURE; AND PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

Community Development Planner Sarah Propst reviewed the background of the request as stated on the yellow sheet. The staff recommended approval with conditions.

LPA Member Plummer was concerned about the lack of a walkway around

two sides of the pool.
Kara Stewart represented the applicant. She was unaware of anything in the code regarding the pool, but the architect was checking. She explained that the lot was small, so there were not many options for the pool. The home will be elevated to comply with flood regulations.
No public comment.
Ms. Stewart indicated there was no requirement for a walkway around the pool.

LPA Member Boan moved to approve the resolution, the four variances and staff conditions, seconded by LPA Member Plummer.
The motion carried unanimously.

E. Arches Resort CPD

ARCHES COMMERCIAL PLANNED DEVELOPMENT: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTIES LOCATED AT 450, 445, 441 & 436 HARBOR COURT, 435 & 438 BONITA STREET, 935, & 939 THIRD STREET, AND 401 OLD SAN CARLOS BLVD., ALSO RESPECTIVELY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00027.0000 & 24-46-23-W3-00026.0020, 24-46-23-W3-0030B.0200, 24-46-23-W3-0030B.0190, 24-46-23-W3-0030C.0060, 24-46-23-W3-0030C.0040, 24-46-23-W3-0030A.0110, 24-46-23-W3-0030A.0030, 24-46-23-W3-0030A.0020 & 24-46-23-W3-0030A.0010 FORT MYERS BEACH; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Stuparich explained the quasi-judicial procedures. Town Clerk Baker confirmed that all agenda items were properly advertised and noticed. She swore in those providing testimony. Chair Cereceda read the title of the ordinance. Ex parte communications: LPA Members McLean and Boan are familiar with the property, spoke to the applicant, watched a presentation by the Neighborhood Company and received multiple emails for and against the project, LPA Member Plummer saw the presentation and talked to neighbors, LPA Members Eckmann and Dunlap met with Ken, Patrick and the owner, reviewed the project and read numerous emails pro and con and Chair Cereceda met with the Neighborhood Company and Mr. Freeland for a presentation, received emails pro and con, have had many conversations including with one of the neighbors, Bill Spikowski and Tom Torgerson.
Attorney Megan Strayhorn from Strayhorn, Persons-Mulicka and Fisher represented the applicant. She asked that Chair Cereceda clarify her donation to ProtectFMB. Chair Cereceda replied that it had nothing to do with this project and she was not a member of the group. It had no bearing on her ability to be impartial.
Approved experts include Patrick Vanasse, Ken Gallander, Judith Frankel

and Sarah Propst. The applicant confirmed receipt of the agenda and background materials.

Principal Planner Frankel stated they would hear two requests; the first was a planned commercial development. She reviewed the background of the request as stated on the yellow sheet. She noted that the applicant would cover everything in their presentation, but she highlighted some items. The project included 263 lodging units with an equivalency factor of 9.1, they requested a FAR (Floor Area Ratio) of 2.5 and the proposed project requested buildings that will vary between one and seven stories with a maximum zoned height of 81 feet measured from base flood and a total height of 102 feet measured from grade. All the information is in the agenda packet. She reviewed the eight deviations. The staff recommended denial because they had concerns regarding the impact on neighboring communities and did not know the full impact of the various requested uses. A discussion was held regarding a separate agreement for a water ferry with the town, specific to that property owner, and would not run with the land.

The attorneys would determine what that agreement would look like and include it in the conditions.

Attorney Strayhorn stated they would work with the town attorney to identify the public benefits. She requested that the presentation, public comments and the information from last year be entered into the record.

Planner Vanasse with the Neighborhood Company utilized PowerPoint for his presentation. Slides included a photo of the marina pre-Ian, the properties included in the CPD, Existing and Proposed Future Land Use Map, Key Points, Core Area Vision - pages 3-5, Community Design Element, The Arches Bayfront Resort renderings from 2024, Illustrative Master Plan, Views of the Reimagined Arches Resort, a Bodega, a Market with a pick-up/drop-off facility behind it, the Hotel with parking underneath, the Linear Park and Memorial Garden, the Promenade, the Water Taxi/Ferry Terminal, another view of the Promenade with the Clock Tower, Upper Deck with the Chapel, Building E, Aerial View from 3rd St., View at Grade from Harbor, View from the Bridge, North and South Concept Elevations - Maximum Height, Vehicular Network Plan, Pedestrian Network Plan, Public Access Plan, View Corridors/Sheds, Regulating Plan - Height Diagram, Linear Park Memorial Garden & Buffer Typical Sections, Master Concept Plan, Before & After Snapshot, Parking, Sec. 34-676 Circulation and Parking, Consistency with Comprehensive Plan, Compliance with LDC and CPD Criteria, Location, Site Design & Compatibility, Density/Intensity, Transportation, Traffic Mitigation, Public Benefits/Special Benefits, Proposed Conditions/Commitments, COP, Hours of Operation & Amplified Sound, Other, Deviations & Justifications, Economic Impacts, Annual & One Time Revenue, Hotel Room Update, Staff Report and Findings & Conclusion.

Public comment:

Chris Smuts, London Bay Development Group and others, discussed the economic impact on the beach. He felt the project was well-balanced and may be a premier destination. He described the benefits of the project.

Linda Miller runs the Farmer's Markets and likes the project because it replaces the industrial boat barns and it was beautiful. She felt it would reduce traffic and it reminded her of Key West. She noted it was a pedestrian-friendly project and would boost the economy.

Chris Mosteiro, resident, stated that the revised plan was not better. He noted that they stopped using the gate and now traffic came through his neighborhood. The linear park was laughable and would become a pedestrian walkway in his backyard. He would support a taller building closer to downtown, away from their houses. He said it was still too big in that location and requested a denial.

Robin Atwood, resident, had not been contacted by the applicant. She was concerned about the traffic coming off the island and the amount of traffic on Old San Carlos, which was full of pedestrians. Her view was currently of the marina, but this project will have people looking into their homes. A bar equals a party, especially when people are on vacation. There was no buffer between them and her neighborhood. She asked that they deny it, even though it was beautiful. If she wanted to live downtown, they would have bought downtown.

Jay Bonama, resident, agreed with Ms. Atwood and did not want to go through the same thing as the Rude Shrimp situation. The canal carried sound and they would hear the noise. The marina was quiet now and she felt it benefited the town because it serviced boats. She asked that they deny the request. Building E would tower over their house and should face the bay, not the canal.

Dale Bonama, resident, noted that Moss Marina had consumed approximately 10 single-family residential lots, with two more right on the canal. He was facing an 80-foot building. The core area was Times Square and Old San Carlos and should not intrude into neighborhoods. Property values would decline, but everyone else would make money. Balconies and bars would create noise and he would not see the sun until the afternoon.

Leah Greg, resident, purchased her home because it is in a residential neighborhood with a zoned marina close by, with no commercial properties anywhere. She thanked the applicant for scaling down the project but was unhappy about the blanket email from a marketing firm last year. She asked them to be honest and not mislead the public. She noted that Bonita Street was short and basically a dead-end street.

Terry Persaud, resident, stated the project was beautiful and much needed. Larger-scale projects will support the smaller projects and bring people downtown. He felt it was a great catalyst.

Janet Garza of Lee County and a beachgoer expressed gratitude to the Freelanders. She thought they listened to the community and adjusted their project. She feared development would slow down and noted that change was hard for some. She appreciated consideration to approve the project.

Dennis Wagaman, realtor, supported the project because it represents an opportunity for the town to rise up after Ian. He appreciated the detail in the presentation. He felt it would limit the amount of traffic with the water taxis,

which was wonderful. He asked that they approve the project.
Nick Roland, owner of Snug Harbor, noted there was intensity and density on that property before. The reduction was the right move and asked them to consider moving the project forward.
Public comment closed.
Principal Planner Frankel addressed parking in deviation 8 and noted that the project would require a deviation even if they asked for a 33% reduction. She suggested that the 33% reduction would be the appropriate reduction to ask for, not 50%. She did not recommend denial based on the parking. She clarified logistics regarding the three zoning districts and compatibility with the neighborhood. Her denial was based on the impact on the neighborhoods. Principal Planner Frankel noted that elements of the project went along with the comp plan, but the riverside portion intruded on the single-family neighborhood. The transportation impact study was sent to an independent reviewer and he generally felt the conclusions were correct. She commented on the stabilized area on the Master Concept Plan. Principal Planner Frankel read the findings and conclusions, along with recommended conditions of approval, if the project is approved. She agreed that with the condition of approval of the comprehensive plan, the approval would be consistent with the comp plan as amended.
Town Attorney Stuparich suggested that a possible condition include an agreement for benefits and commitments that are not otherwise reflected in the site plan or the conditions.
LPA Member McLean asked if Mr. Freeland was open to modifying the hours and type of amplified music on the sunset deck. Mr. Freeland replied that he would come back with a plan at the council meeting. Chair Cereceda said there should only be ambient music on the sunset deck, there has to be buffering between the Matanzas' houses and the last building and Building E should only have ambient music and no outdoor COP. Mr. Freeland agreed. After a discussion, only ambient music on the sunset deck of Building B will be allowed from 7:00 a.m. to 9:00 p.m. No bar at Building E and ambient music only from 7:00 a.m. to one hour after sunset. Planner Vanasse stated they would come back with enhanced plantings along Building E.

LPA Member Eckmann moved to recommend approval of the CPD with conditions that a small comprehensive plan amendment gets approved, acceptance of all of the staff's recommended conditions of approval including the ones just discussed that Principal Planner Frankel added to her list and that they just discussed as a group and a condition that they memorialize the agreements of additional public benefits that are not on the site plan with some form of document to be attached to the agreement, seconded by LPA Member Dunlap.
The motion carried unanimously by roll call vote.

F. Comprehensive Plan Amendment- Marina and Mixed Residential FLU to Pedestrian Commercial FLU

ARCHES COMPREHENSIVE PLAN AMENDMENT: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING THE TOWN OF FORT MYERS BEACH ADOPTED FUTURE LAND USE MAP DATED JANUARY 1, 1999, FOR PROPERTIES LOCATED AT 450, 445, 441 & 436 HARBOR COURT, 435 & 438 BONITA STREET ALSO RESPECTIVELY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00027.0000 & 24-46-23-W3-00026.0020, 24-46-23-W3-0030B.0200, 24-46-23-W3-0030B.0190, 24-46-23-W3-0030C.0060, 24-46-23-W3-0030C.0040 & 24-46-23-W3-0030A.0110, FORT MYERS BEACH; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the ordinance. Principal Planner Frankel reviewed the background of the request as stated on the yellow sheet. She noted that this is a map change only. She read the findings and conclusions. Staff recommended denial, but if the LPA finds the concurrent CPD application adequately demonstrates that the proposed development is "clearly in the public interest, not just in the private interest of a petitioning landowner," approval could be granted.

Attorney Strayhorn requested that items be entered into the record. She asked that the amendment be approved and the presentation be entered into the record. Planner Vanasse reviewed the findings and conclusions and requested recommended approval.

Public comment:

Dale Bonama, resident, stated that he was disappointed and did not understand why The Arches would be approved after the Margaritaville battle, which was not as tall and a commercial property. He mentioned that he would potentially lose 30% of his property value and should not be restricted to the 30-day rental. He felt they should be allowed to rent weekly to give them some relief from the changing neighborhood dynamics.

Chris Mosteiro, resident, stated this was a big project and they should offer more public benefits. He asked the applicant to consider more public benefits and discussed how his neighborhood flooded. He noted they could mitigate the floods.

Leah Greg, resident, suggested that the turnaround be safer for emergency vehicles and asked them to soundproof the garages so the neighborhood did not have to hear the backup beeps. She brought up the infrastructure and requested proper water management with adequate drainage.

Public comment closed.

LPA Member Eckmann moved to recommend approval of the ordinance because they did find that the concurrent CPD was in the public interest, seconded by LPA Member Dunlap.

The motion carried unanimously.

VIII. RECESS AS LOCAL PLANNING AGENCY / CONVENE AS HISTORIC PRESERVATION BOARD TO APPROVE MINUTES

A. Historic Preservation Board - October 22, 2024

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

The motion carried unanimously.

LPA Member Sudduth was excused and the LPA accepted his excused absence.

IX. ADJOURN AS HISTORIC PRESERVATION BOARD / RECONVENE AS LOCAL PLANNING AGENCY

X. LPA MEMBERS ITEMS/REPORTS

LPA Member Eckmann stated that he never felt that Chair Cereceda was biased in any of her judgments and he thanked her for her insightful and heartfelt comments.

LPA Member Plummer dittoed LPA Member Eckmann's comments.

No items from other members.

XI. LPA ATTORNEY ITEMS/REPORTS

Town Attorney Stuparich noted some of the titles would be more descriptive and they would start attaching various criteria to the ordinances.

XII. COMMUNITY DEVELOPMENT ITEMS/REPORTS

No items.

XIII. ITEMS FOR NEXT MONTHS AGENDA

No items.

XIV. ADJOURNMENT

LPA Member Dunlap moved to adjourn, seconded by LPA Member Eckmann.

The motion carried unanimously.

The meeting was adjourned at 5:57 p.m.

DRAFT

Town of Fort Myers Beach
Agenda Item Summary Yellow Sheet Number: **2025-361**

1. **Request:** **Meeting Date: April 29, 2025**

170 CURLEW ST: A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250060, REQUESTING A VARIANCE FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 170 CURLEW STREET GENERALLY REFERRED TO AS STRAP NUMBER 34-46-24-W4-00042.0030 IN FORT MYERS BEACH, TO VARY 4 FEET 2 INCHES FROM THE REQUIRED 7.5 FOOT SIDE SETBACK FOR A SIDE SETBACK OF 3 FEET 4 INCHES TO CONSTRUCT A POOL ENCLOSURE IN THE RS ZONING DISTRICT; AND 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:
Variance requests must be heard by the LPA

What the action accomplishes:

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Resolution

---

5. **Background:**
James Bradford, the owner of JMB Realty LLC of 170 Curlew Street, is requesting a variance from the Town's Land Development Code (LDC) Table 34-3 which requires accessory structures to maintain a 7.5-foot side setback from the side property line. Per Sec. 34-1174 (d)(1)(d) residential accessory buildings and structures for waterfront lots are required to have the same setbacks as the principal building. Per LDC Sec. 34-2 an accessory building or structure, means a building or structure which is customarily incidental and subordinate to a principal building or the principal use of the premises, and located on the same premises. This request is for a variance of 4 feet 2 inches from the south side property line for a side back 3 feet 4 inches to construct a pool enclosure structure.

The current existing single-family home was constructed in 1962 per Lee County Property Apprasier (LEEPA). The home is a legal non-conforming structure and was permitted with Lee County. The proposed pool meets the current setbacks as dictated by LDC Table 34-3. However, the proposed pool enclosure intends to have a non-compliant side setback.

Attachments:
1. LPA Resolution 25-08 170 Curlew St
2. Staff Report VAR 20250060 170 Curlew
3. Exhibit A: Completed Application Packet
4. Exhibit C: Site plan
5. Exhibit D: Current approved drainage plan

Financial Impact:
unknown

6. **Alternative Action**
Deny

7. **Staff Recommendations:**
Deny

8. **Recommended Approval:**

_____ Date: April 16, 2025
Judith Frankel, Principal Planner

_____ Date: April 16, 2025
Georgina Cid, Community Development Manager

_____ Date: April 17, 2025
Frankie Kropacek, Operations & Compliance Director

_____ Date: April 22, 2025
nancy stuparich, Town Attorney

_____ Date: April 22, 2025
Amy Baker, Town Clerk

LPA RESOLUTION 2025-XX

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250060, REQUESTING A VARIANCE FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 170 CURLEW STREET GENERALLY REFERRED TO AS STRAP NUMBER 34-46-24-W4-00042.0030 IN FORT MYERS BEACH, TO VARY 4 FEET 2 INCHES FROM THE REQUIRED 7.5 FOOT SIDE SETBACK FOR A SIDE SETBACK OF 3 FEET 4 INCHES TO CONSTRUCT A POOL ENCLOSURE IN THE RS ZONING DISTRICT; AND 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, 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, JMB Realty LLC, James and Tammy Bradford, owners of the property located at 170 Curlew Street (Property), is requesting a variance of 4 feet 2 inches from the required side setback resulting in a side setback of 3 feet 4 inches to construct a pool enclosure in the RS zoning district.; and

WHEREAS, the STRAP number for the subject property is 34-46-24-W4-00042.0030; and

WHEREAS, the Property is located in the "Low-Density Residential" Future Land Use Map of the Comprehensive Plan and the "Single-family Residential" 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 April 29, 2025, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-87 of the LDC; and

WHEREAS, in accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the LPA makes the following findings and conclusions:

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

B. The conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question.

C. The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.

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

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

WHEREAS, eligible members of the LPA voted unanimously by roll call vote to approve the requested variances with the following conditions:

1) Approval of this variance does not give the Applicant an undeniable right to permit approval. Development of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.

2) The variance shall only apply to the pool enclosure as shown on the provided site plan. Demolition or substantial damage to the pool enclosure shall render the variances to be null and void.

3) The applicant must ensure that the engineered drainage plan that was approved for the new pool is amended to include the pool enclosure. A revised drainage plan must be submitted and approved prior to the issuance of a permit for the pool enclosure.

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. VAR20250060, with the conditions contained herein, received unanimous approval from eligible voting members of the LPA on April 29th, 2025.

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 29th day of April, 2025.

Local Planning Agency of the Town of Fort Myers Beach

By: _____
Anita Cereceda, LPA Chair

Approved as to legal sufficiency:

By: _____
Vose Law Firm, Town Attorney

ATTEST:

By: _____
Amy Baker, Town Clerk

EXHIBIT C: Proposed Site Plan

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: **Variance**

CASE NUMBER: **VAR20250060**

CASE NAME: **170 Curlew St; requesting a variance from LDC Table 34-3 Dimensional Regulations in Conventional Zoning Districts the side setback to construct a pool enclosure in the RS zoning district.**

LPA HEARING DATE: **April 29, 2024**

STAFF RECOMMENDATION: **DENIAL**

PREPARED/ SUBMITTED BY: **Eli Lee, Planner**

I. APPLICATION SUMMARY

Applicant/Owner:	JMB Realty LLC (Owner)/ James and Tammy Bradford
Request:	A variance of 4 feet 2 inches from the required side setback resulting in a side setback of 3 feet 4 inches to construct a pool enclosure in the RS zoning district.
Subject property:	See attached site plan
Physical Address:	170 Curlew St
STRAP #:	34-46-24-W4-00042.0030
FLU:	Low-Density Residential
Zoning:	Single Family Residential (RS)

Adjacent zoning and land uses:

North:	LOW-DENSITY RESIDENTIAL Single Family Residential (RS)

South:	LOW-DENSITY RESIDENTIAL Single Family Residential (RS)
East:	LOW-DENSITY RESIDENTIAL Single Family Residential (RS)
West:	LOW-DENSITY RESIDENTIAL Single Family Residential (RS)

II. BACKGROUND AND ANALYSIS

Background:

James Bradford, the owner of JMB Realty LLC of 170 Curlew Street, is requesting a variance from the Town's Land Development Code (LDC) Table 34-3 which requires accessory structures to maintain a 7.5-foot side setback from the side property line. Per Sec. 34-1174 (d)(1)(d) residential accessory buildings and structures for waterfront lots are required to have the same setbacks as the principal building. Per LDC Sec. 34-2 an accessory building or structure, means a building or structure which is customarily incidental and subordinate to a principal building or the principal use of the premises, and located on the same premises. This request is for a variance of 4 feet 2 inches from the south side property line for a side back 3 feet 4 inches to construct a pool enclosure structure.

The current existing single-family home was constructed in 1962 per Lee County Property Apprasier (LEEPA). The home is a legal non-conforming structure and was permitted with Lee County. The proposed pool meets the current setbacks as dictated by LDC Table 34-3. However, the proposed pool enclosure intends to have a non-compliant side setback.

Analysis:

The variance request is for a pool enclosure to be constructed 3 feet 4 inches from the south side property line. The reduced setback would allow the pool enclosure to be aligned with the edge of the home to maintain the non-conforming setback of the primary structure. The property owners obtained a pool permit, issued 2/12/2025 (permit # 242616), to construct a residential pool that is compliant with the required setbacks detailed in Table 34-3 of the Town's LDC. Staff find that the proposed site plan with the proposed pool enclosure would conflict with the approved drainage plan for the pool because of its location in the swale/berm area. The drainage plan will need to be revised if this variance request is approved.

Neighborhood Compatibility:

The subject property is part of an existing single-family residential neighborhood. It appears that pool enclosures in that neighborhood abide by the Town's Land Development Code required setbacks.

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 lot that fronts Curlew Street. The lot width is 60 feet and the lot depth is 120 feet. The lot contains sufficient area to construct a pool enclosure to meet current setbacks. The applicant is opting to construct a pool enclosure that is encroaching the side setback to align with the plane of the existing home. The request is not for a de minimis variance. The LPA should determine whether "*rigid compliance is not essential to protect public policy*" in this case.

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

   The conditions justifying the variance are the result of the applicant's design choice. The applicant has chosen to design a new pool enclosure that is not in compliance with the side setback set forth by Table 34-3 of the LDC.

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

   The design of the pool enclosure could be reduced to meet the side setback. The need for this variance is a result of a design choice and is subjective in nature. The property owners obtained a pool permit (242616) for the construction of a pool that is compliant with Table 34-3 of the Town's LDC. The applicant's proposed pool enclosure is the approved swale/berm area for the property, which will impact stormwater retention.

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 pool enclosure will be 3 feet 4 inches from the south side property line which aligns with the plane of the existing home. LPA should determine what is considered "*injurious to the neighborhood or otherwise detrimental to the public welfare*"

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

The conditions or circumstances on this specific property for which a variance is sought are not general in nature and do not warrant a code change.

III. RECOMMENDATION

Staff has reviewed the request for a variance *from LDC Table 34-3 which requires pool enclosures on a waterbody have a minimum side setback of 7.5 feet due to the lot width being between 50 to 75 feet in the RS zoning district* and finds that the variance request does not meet all of the requirements set-forth in Sec. 34-87.

Therefore, staff recommends **DENIAL** of VAR20250060, a variance of 4 feet and 2 inches from the required 7.5-foot side setback to allow the construction of a pool enclosure 3 feet and 4 inches from the south side property line.

IV. CONDITIONS FOR APPROVAL

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

1) Approval of this variance does not give the Applicant an undeniable right to permit approval. Development of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.

2) The variance shall only apply to the pool enclosure as shown on the provided site plan. Demolition or substantial damage to the pool enclosure shall render the variances to be null and void.

3) The applicant must ensure that the engineered drainage plan that was approved for the new pool is amended to include the pool enclosure. A revised drainage plan must be submitted and approved prior to the issuance of a permit for the pool enclosure.

V. EXHIBITS

Exhibit A: Complete Application Packet
Exhibit B: Postcards to Adjacent Property Owners
Exhibit C: Proposed site plan
Exhibit D: Current approved drainage plan

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: 170 Curlew St. Fort Myers Beach Fl 33931

STRAP Number: 344624 W4000 420030

Applicant: James M Bradford Phone: 239-229-9400

Contact Name: James M Bradford Phone: 239-229-9400

Email: BradfordBFF@gmail.com Fax: _____

Current Zoning District: _____

Future Land Use Map (FLUM) Category: _____

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

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

PART I – General Information

A. Applicant*: James M Bradford Phone: 239 229 9400

**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: _____

Email: BradfordBFF@gmail.com Fax: _____

Contact Name: Jim Bradford Phone: 239 229 9400

B. Relationship of Applicant to subject property:

- [x] 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: James Bradford Phone: 239-229-9400

Address: 25335 Pinson Dr. Bonita Springs FL 34135

Email: Bradfordmlc@aol.com Fax: N/A

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

Name: Tammy Bradford Phone: _____

Address: 25273 Pinson Dr. Bonita Springs FL 34135

Email: Bradfordoff@gmail.com Fax: N/A

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

- [ ] Special Exception
- [x] Variance from LDC Section ~~AA - 6~~ _____
- [ ] Conventional Rezoning from _____ to _____
- [ ] Planned Development
- [ ] Rezoning from _____ to [ ] Commercial PD [ ] Residential PD
- [ ] Amendment. List the project number: _____
- [ ] Extension/reinstatement of Master Concept Plan. List project number: _____

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

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

_____

_____

PART III – Waivers

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

Code Section: _____ Description: _____

_____

Code Section: _____ Description: _____

_____

Code Section: _____ Description: _____

_____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ 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;

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
James M Bradford	50%
Tammy L Bradford	50%

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

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

Name, Address and Office	Percentage of Stock
James M Bradford	50%
Tammy L Bradford	50%

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

Name and Address	Percentage of Interest

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

Name and Address	Percentage of Ownership

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

Name, Address and Office	Percentage of Stock

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

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, James M Bradford. (name), as _____ (title) of JMB Realty (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

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

James M Bradford
Signature

Owner.
Title

James M Bradford.
Typed or Printed Name

March 6, 2025
Date

STATE OF Florida **COUNTY OF** Lee

The foregoing instrument was certified and subscribed before me by means of X physical presence OR ☐ online notarization, this 6th day of March, 2025, by James Bradford, ☐ who is personally known to me OR ☒ who has produced FL DL #B317-094-84-000-0 as identification.

Seal DANIELLE BATT
MY COMMISSION # HH 288283
EXPIRES: July 14, 2026

Notary Public Signature

PART VI– Property Information

A. Legal Description:

STRAP: _____

Property Address: 170 Curlew St. FMB 33931

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

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

☐ Yes. Property identified in subdivision: _____

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

B. Boundary Survey:

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

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 60 feet

Depth (please provide an average width if irregular in shape) 120 feet

Frontage on street: 60 feet. Frontage on waterbody: 60 feet

Total land area: 7200 ☐ acres ☒ square feet

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

_____

_____

_____

_____

_____

☐ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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

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

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

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

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

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

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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

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

line. Exhibit 6-2

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

Explanatory Notes – Part IV & V

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

Case # _____ Date Received: _____

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

Nothing

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

~~Nothing~~ House was built in the 1950s. The house sets on the same set back that were requesting for the cage. The pool Cage will align with the side of the house

Case # _____ Date Received: _____

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

Older house that was built in the 50's. at one time the building was a duplex that was seprated and compliant under Lee County's permitting and only became non compliant under newer set back regulations.

The varence requested is minimum nescerry to align the pool cage with the side of the house. during construction of pool and pool deck the foundation for the pool cage was also poured. aligning it with the side of the house.

No. Previous Screen Structure.

Structure only viewable from Canel,

This is better dealt with one or one.

LDC section 34 to 87
Answers to question # 1
Site plan

Request for a pool cage.the house was constructed in 1961 under Lee County's rules.the side of the house set 3:4" from the property line. The request is just to align the pool cage with the side of the house.
The cage cannot be seen from the road.when the pool was construction, surveys and engineering were all done.on the submitted site plan no one picked up on the house being too close to the property line.
The Pool Deck and foundation were put in a aligning, the deck and cage with the side of the house. It wasn't until the pool cage company applied for the permit for the Pool case that the air was discovered.

Question #2

The applicant hired a contractor to build a fiberglassed swimming pool 10 x 20 .
Surveys were done, engineering was completed .
The plan was submitted for approval. Inspections were completed, apparently every one looked at the side of the building for the setback, but like many older buildings that was not exactly correct. The side of the building was used as a reference point and no one picked up on it until application for the pool cage was submitted. using the same site plan that had the pool cage enclosure shown on it.

Question#3

The house was built in 1961. The variance requested is minimal that is necessary to align the pool cage with the side of the house. The pool gate is single level.it does not extend above the roof of the house, and will not extend beyond the side of the building.it cannot be seen from the road.

Question#4

The pool cage is small, single story and cannot be seen from the road. It does not extend beyond the building structure.

Question# 5

I have been a homeowner on Fort Myers Beach Island since 1953.in the house was built in 1961. The setbacks were not the same as the current requirements. The foundation and the patio were poured aligning the screen cage with the side of the house. The site plan was submitted and approved for the deck and the screen room. The site was inspected. the deck was completed.the screen room company submitted for a permit with a copy of the same site plan and the screen was turned down, indicating that we were too close to the property line.this passed by permitting on the original permit. We are only asking to be able to complete the project, albeit to original use and pass the inspections and the permit.

Case # _____ Date Received: _____

PART 2
Submittal Requirements

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

Required Items

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

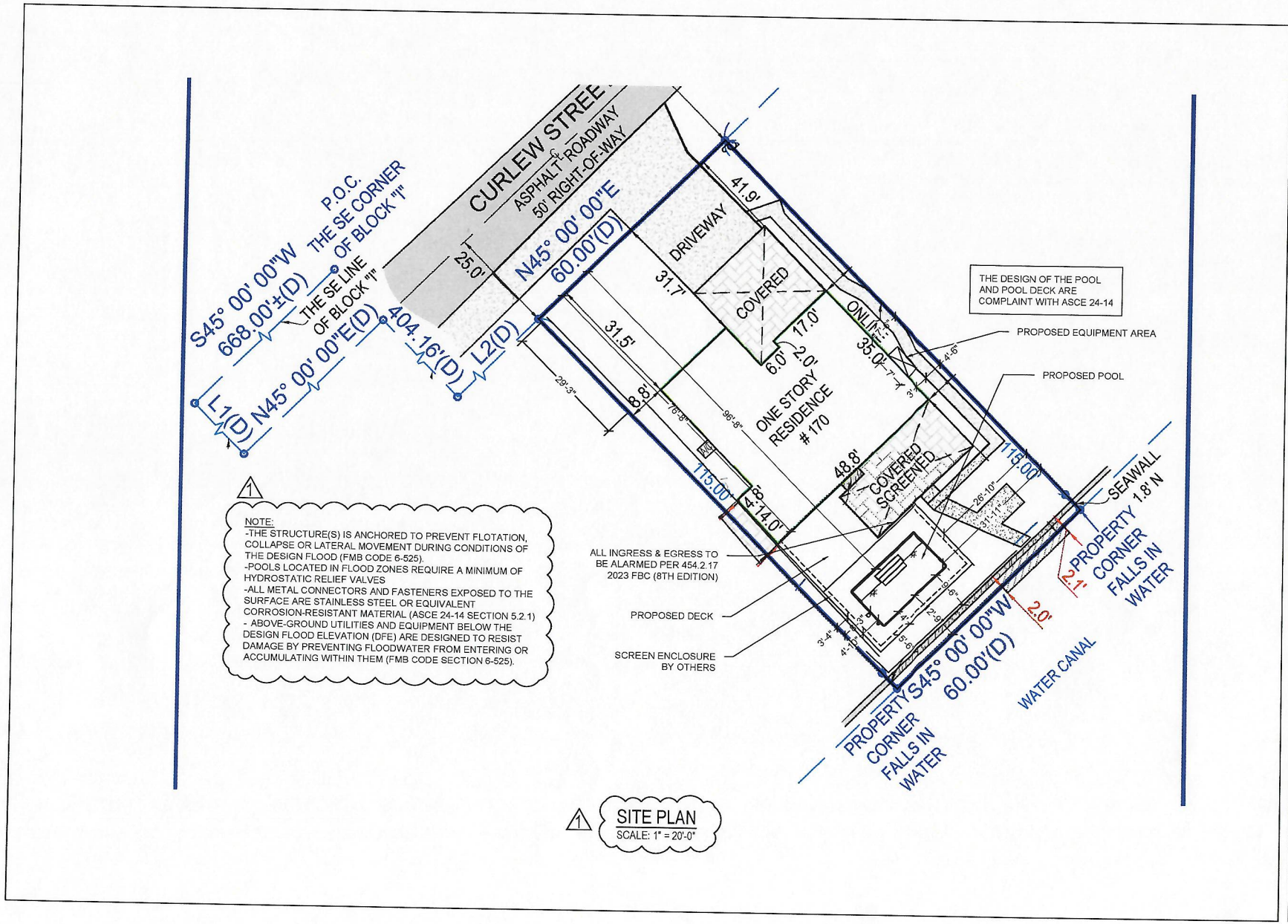
Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

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

Narrative statements

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



1

NOTE:
-THE STRUCTURE(S) IS ANCHORED TO PREVENT FLOTATION, COLLAPSE OR LATERAL MOVEMENT DURING CONDITIONS OF THE DESIGN FLOOD (FMB CODE 6-525).
-POOLS LOCATED IN FLOOD ZONES REQUIRE A MINIMUM OF HYDROSTATIC RELIEF VALVES
-ALL METAL CONNECTORS AND FASTENERS EXPOSED TO THE SURFACE ARE STAINLESS STEEL OR EQUIVALENT CORROSION-RESISTANT MATERIAL (ASCE 24-14 SECTION 5.2.1)
- ABOVE-GROUND UTILITIES AND EQUIPMENT BELOW THE DESIGN FLOOD ELEVATION (DFE) ARE DESIGNED TO RESIST DAMAGE BY PREVENTING FLOODWATER FROM ENTERING OR ACCUMULATING WITHIN THEM (FMB CODE SECTION 6-525).

1 SITE PLAN
SCALE: 1" = 20'-0"

THIS ENGINEERING DRAWING IS GIVEN IN CONFIDENCE. NO USE OR DISSEMINATION MAY BE MADE WITHOUT PRIOR WRITTEN CONSENT OF THE ENGINEER. ALL RIGHTS ARE HEREBY RESERVED.

WRITTEN DIMENSIONS ON DRAWINGS SHALL HAVE PRECEDENCE OVER SCALED DIMENSION. CONTRACTOR SHALL VERIFY, AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS OF THE PROJECT. SCOTT R. VAUGHN, P.E. MUST BE NOTIFIED OF ANY VARIATIONS FROM DIMENSIONS AND CONDITIONS SHOWN BY THESE DRAWINGS. WHERE REQUIRED, SHOP DETAILS AND DRAWINGS MUST BE SUBMITTED TO SCOTT R. VAUGHN, P.E. FOR APPROVAL BEFORE PROCEEDING WITH FABRICATION.
PLANS ARE DESIGNED PER FLORIDA BUILDING CODE 8TH EDITION (2023) AND 2020 NATIONAL ELECTRIC CODE, UNLESS NOTED OTHERWISE.

NO	DATE	REVISIONS	BY
1	10-01-24	PER BUILDING DEPT	CMB
2			
3			
4			
5			
6			

SITE PLAN

RESIDENCE
170 CURLEW ST
FORT MYERS BEACH, FL 33931

Scott R. Vaughn
Digitally signed by Scott R. Vaughn
DN: CN=Scott R. Vaughn, E=svaughn1@yahoo.com, C=US
Date: 2025.01.29 11:52:51 -05'00'

ENGINEER OF RECORD.

SCOTT R. VAUGHN, P.E.

FL LICENSE # 59531
12244 TREELINE AVE #9
FT MYERS, FLORIDA 33913
PH. 239-464-2806

DATE	09.03.24
SCALE	AS SHOWN
DRAWN BY	CMB
CHECKED BY	SRV
INT. JOB NO.	PSS 011

RP1.0

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:	
Authorized Applicant:	James M Bradford
LeePA STRAP Number:	FR SEC OR BLK I McPHEE PK UNIT 2 SW TO WATERS OF GULF TH SELY ALG SO WATERS

Current Property Status:				
Current Zoning:				
Future Land Use Map (FLUM) Category:				
Comp Plan Density:	**Platted Overlay?**	☐ **Yes**	☐ **No**	

Variance is requested from:

LDC Section Number AA-G	**Title of Section or Subsection**

Complete the narrative statements below for EACH variance requested.

Case # _____ Date Received: _____

PART I

Narrative Statements

Request for variance from AA-6 **(LDC Section number)**

Explain the specific regulation contained in this section from which relief is sought:

Reasons for request

Explain why the variance is needed:
Pool enclouser does not meet Current Set Backs, Request that the enclosure aligns with the side of the house,

Case # _____ Date Received: _____

Explain the possible effect the variance, if granted, would have on surrounding properties:
Nothing

Explain the hardship (what is unique about the property) that justifies relief from the regulation:
~~Nothing~~ House was built in the 1950s. The house sets on the same set back that we're requesting for the cage. The pool cage will align with the side of the house

Case # _____ Date Received: _____

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

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Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

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Case Number:	
Project Name:	
Authorized Applicant:	James M Bradford
LeePA STRAP Number:	FR SEC OR BLK I McPHEE PK UNIT 2 SW TO WATERS OF GULF TH SELY ALG 50 WATERS

Current Property Status:			
Current Zoning:			
Future Land Use Map (FLUM) Category:			
Comp Plan Density:	**Platted Overlay?**	☐ **Yes**	☐ **No**

Variance is requested from:

LDC Section Number	**Title of Section or Subsection**
4A-6	

Complete the narrative statements below for EACH variance requested.

Case # _____ Date Received: _____

PART I

Narrative Statements

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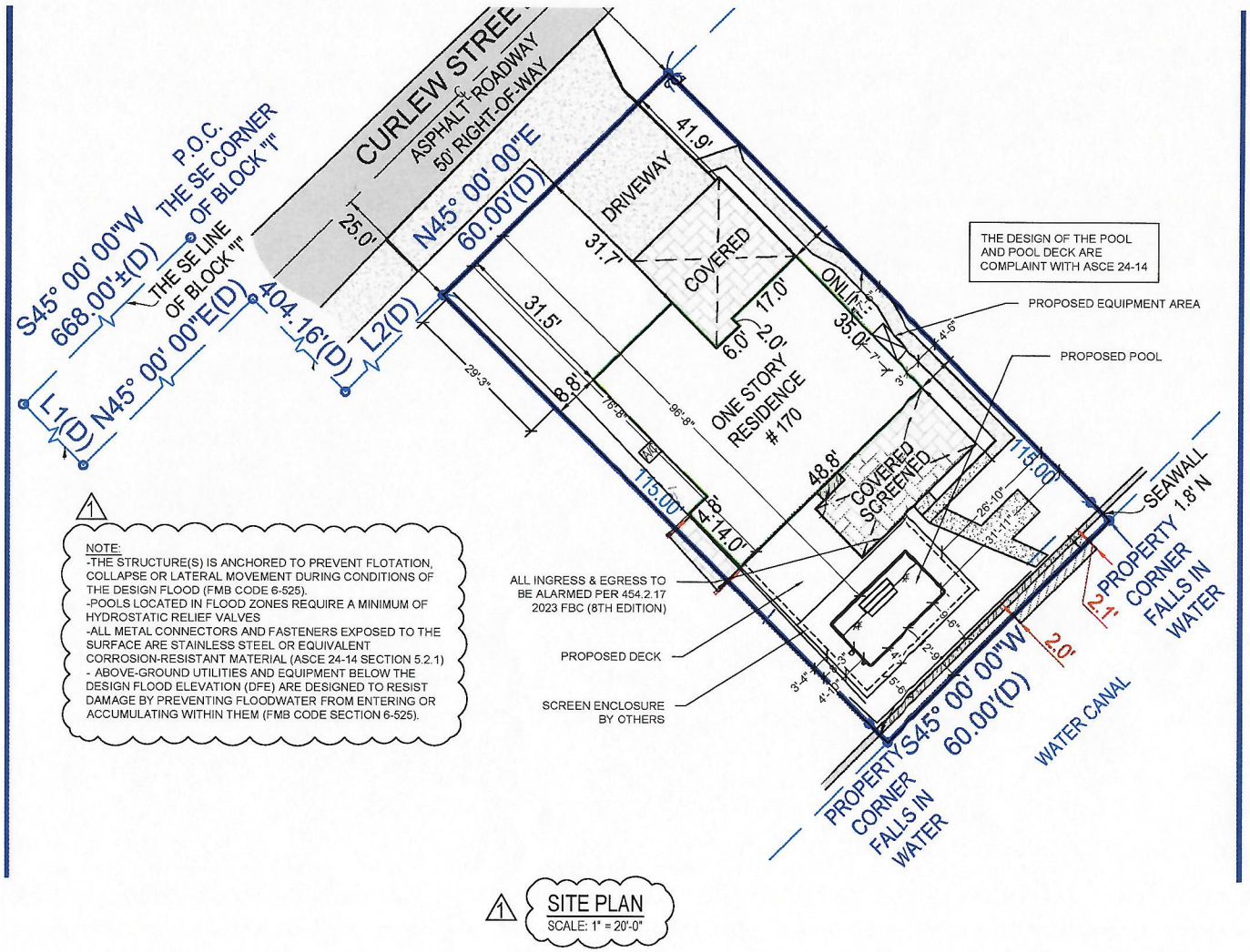

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1 SITE PLAN
SCALE: 1" = 20'-0"

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PLANS ARE DESIGNED PER FLORIDA BUILDING CODE 8TH EDITION (2023) AND 2020 NATIONAL ELECTRIC CODE, UNLESS NOTED OTHERWISE.

NO	DATE	REVISIONS	BY
1	09.03.24	PER BUILDING DEPT	CMB
2			
3			
4			
5			
6			

SITE PLAN

RESIDENCE
170 CURLEW ST
FORT MYERS BEACH, FL 33931

Digitally signed by Scott R. Vaughn
DN: C=US, E=scottrvaughn@yahoo.com, CN=Scott R. Vaughn
Date: 2025.01.20 11:02:21-05'00'

ENGINEER OF RECORD:

SCOTT R. VAUGHN, P.E.
FL LICENSE # 59531
12244 TREELINE AVE #6
FT. MYERS, FLORIDA 33913
PH 239-494-2606

DATE	09.03.24
SCALE	AS SHOWN
DRAWN BY	CMB
CHECKED BY	SRV
INT. JOB NO	P55 011

RP1.0

BOUNDARY SURVEY
170 CURLEW ST, FORT MYERS BEACH, FLORIDA 33931

SCALE = 1" = 30'

LEGAL DESCRIPTION:

LOTS 7 THROUGH 9 AND 12 THROUGH 17, IN BLOCK 22 OF BON AIR SUBDIVISION , ACCORDING TO THE MAP OR PLAT THEREOF RECORDED ON PLAT BOOK 11 ON PAGE 29, OF THE PUBLIC RECORDS OF HILLSBOROUGH COUNTY, FLORIDA.

CERTIFIED TO:

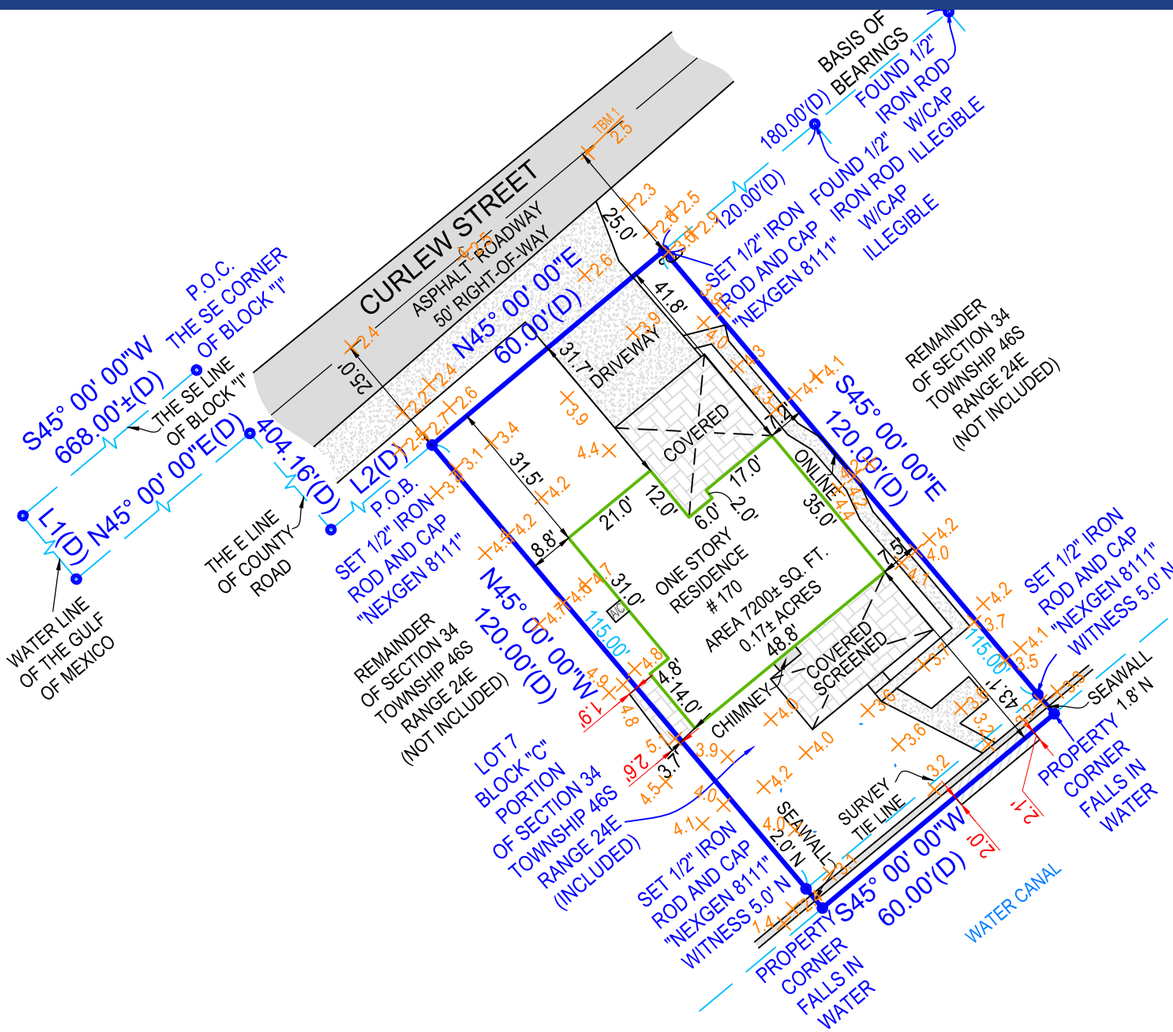
OWNERS
TITLE INSURANCE CO
LENDERS

FLOOD ZONE:

MAP NO. 12057C0334H
ZONE: X
EFF: 08/28/2008

GENERAL NOTES:

1) THIS SURVEY IS BASED UPON RECORD INFORMATION BY CLIENT. NO SPECIFIC SEARCH OF THE PUBLIC RECORD HAS BEEN MADE BY THIS OFFICE UNLESS OTHERWISE NOTED.
2) IF THIS SURVEY HAS BEEN PREPARED FOR THE PURPOSES OF A MORTGAGE TRANSACTION, ITS SCOPE IS LIMITED TO THE DETERMINATION OF TITLE DEFICIENCIES. NO FUTURE CONSTRUCTION SHALL BE BASED UPON THIS SURVEY WITHOUT FIRST OBTAINING APPROVAL AND/OR UPDATES FROM NEXGEN SURVEYING, LLC. NEXGEN SURVEYING, LLC, ASSUMES NO RESPONSIBILITY FOR ERRORS RESULTING FROM FAILURE TO ADHERE TO THIS CLAUSE.
3) ANY FENCES SHOWN HEREON ARE ILLUSTRATIVE OF THEIR GENERAL POSITION ONLY. FENCE TIES SHOWN ARE TO GENERAL CENTERLINE OF FENCE. THIS OFFICE WILL NOT BE RESPONSIBLE FOR DAMAGES RESULTING SOLELY ON THEIR PHYSICAL RELATIONSHIP TO THE MONUMENTED BOUNDARY LINES.
4) GRAPHIC REPRESENTATIONS MAY HAVE BEEN EXAGGERATED TO MORE CLEARLY ILLUSTRATE MEASURED RELATIONSHIPS - DIMENSIONS SHALL HAVE PRECEDENCE OVER SCALED POSITIONS.
5) UNDERGROUND IMPROVEMENTS HAVE NOT BEEN LOCATED EXCEPT AS SPECIFICALLY SHOWN.
6) ELEVATIONS ARE BASED UPON NATIONAL GEODETIC VERTICAL DATUM (N.G.V.D. 1929) OR NORTH AMERICAN VERTICAL DATUM (N.A.V.D. 1988).
7) ALL BOUNDARY AND CONTROL DIMENSIONS SHOWN ARE FIELD MEASURED AND CORRESPOND TO RECORD INFORMATION UNLESS SPECIFICALLY NOTED OTHERWISE.
8) CORNERS SHOWN AS "SET" ARE 5/8" IRON RODS IDENTIFIED WITH A PLASTIC CAP MARKED LS (LICENSED SURVEYOR)



LINE TABLE		
	BEARING	LENGTH
L1	S45° 00' 00"E	590.00'
L2	N45° 00' 00"E	546.73'

PARENT BENCHMARK
NAME= DN3746
ELEV= 5.10' IN N.A.V.D. 1988
LEE COUNTY

LEGEND:
(SOME ITEMS IN LEGEND MAY NOT APPEAR ON DRAWING)

A/C-AIR CONDITIONER	P.O.B.-POINT OF BEGINNING	D.E.-DRAINAGE EASEMENT	R-RADIUS(R)	(P)-PLAT	ELEV-ELEVATION	-LIGHT POLE	# -NUMBER
WM-WATER METER	P.O.C.-POINT OF COMMENCEMENT	P.U.E.- PUBLIC UTILITY EASEMENT	O.R.B.-OFFICIAL RECORDS BOOK	EOW-EDGE OF WATER	FF-FINISHED FLOOR		-ASPHALT
AL- ARC LENGTH	P.B.-PLAT BOOK	L.A.E.-LIMITED ACCESS EASEMENT	SQ.FT.-SQUARE FEET	TOB-TOP OF BANK	LS-LICENSED SURVEYOR		-CONCRETE
(C)-CALCULATED	PG-PAGE	L.M.E.-LAKE MAINTENANCE EASEMENT	AC.-ACRES	OHL-OVERHEAD LINE	LB-LICENSED BUSINESS		-PAVER/BRICK
(M)-MEASURED	U.E.-UTILITY EASEMENT	O.H.E-OVERHEAD EASEMENT	DB-DEED BOOK(D)-DEED	C/O-CLEAN OUT	PSM-PROFESSIONAL SURVEYOR & MAPPER		-WOOD

-WELL	-FENCE
-WATER VALVE	± -PLUS OR MINUS
-CENTER LINE	-POLE
-CATCH BASIN	-MANHOLE
-FIRE HYDRANT	XXX -TOPOGRAPHIC ELEVATION

- SURVEY NOTES:

-DRIVEWAY CROSSES THE BOUNDARY LINE ON NORTHWESTERN SIDE OF LOT AS SHOWN.
-PAVER SURFACE CROSSES THE BOUNDARY LINE ON SOUTHWESTERN SIDE OF LOT AS SHOWN.
-WOOD DOCK CROSSES THE BOUNDARY LINE ON SOUTHEASTERN SIDE OF LOT AS SHOWN.
-SEAWALL CROSSES THE BOUNDARY LINES ON SOUTHWESTERN AND NORTHEASTERN SIDES OF LOT AS SHOWN.

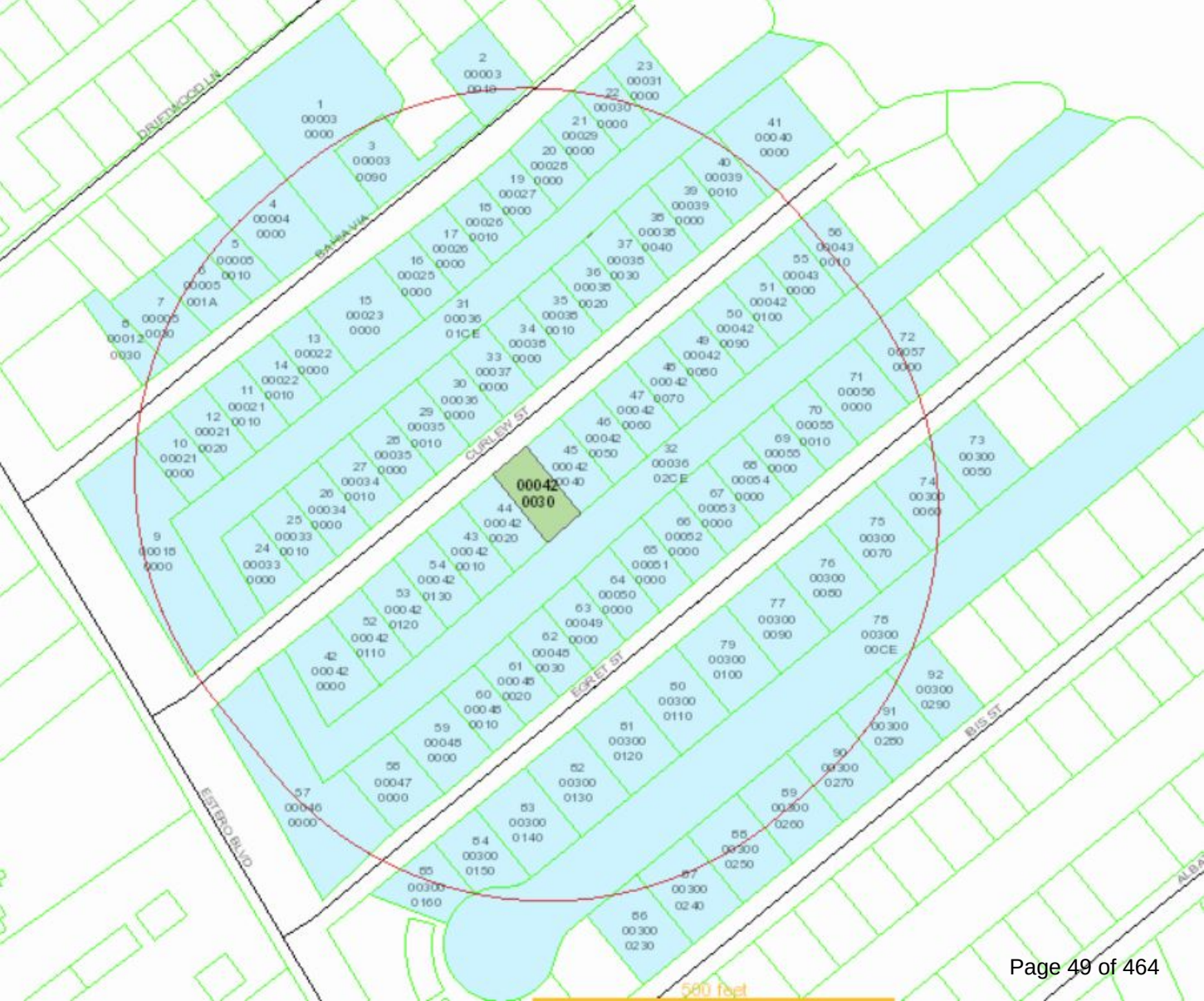
FIELD DATE: 7/15/2024
DRAWN BY: KG
ORDER NO: 243828
REVISIONS:

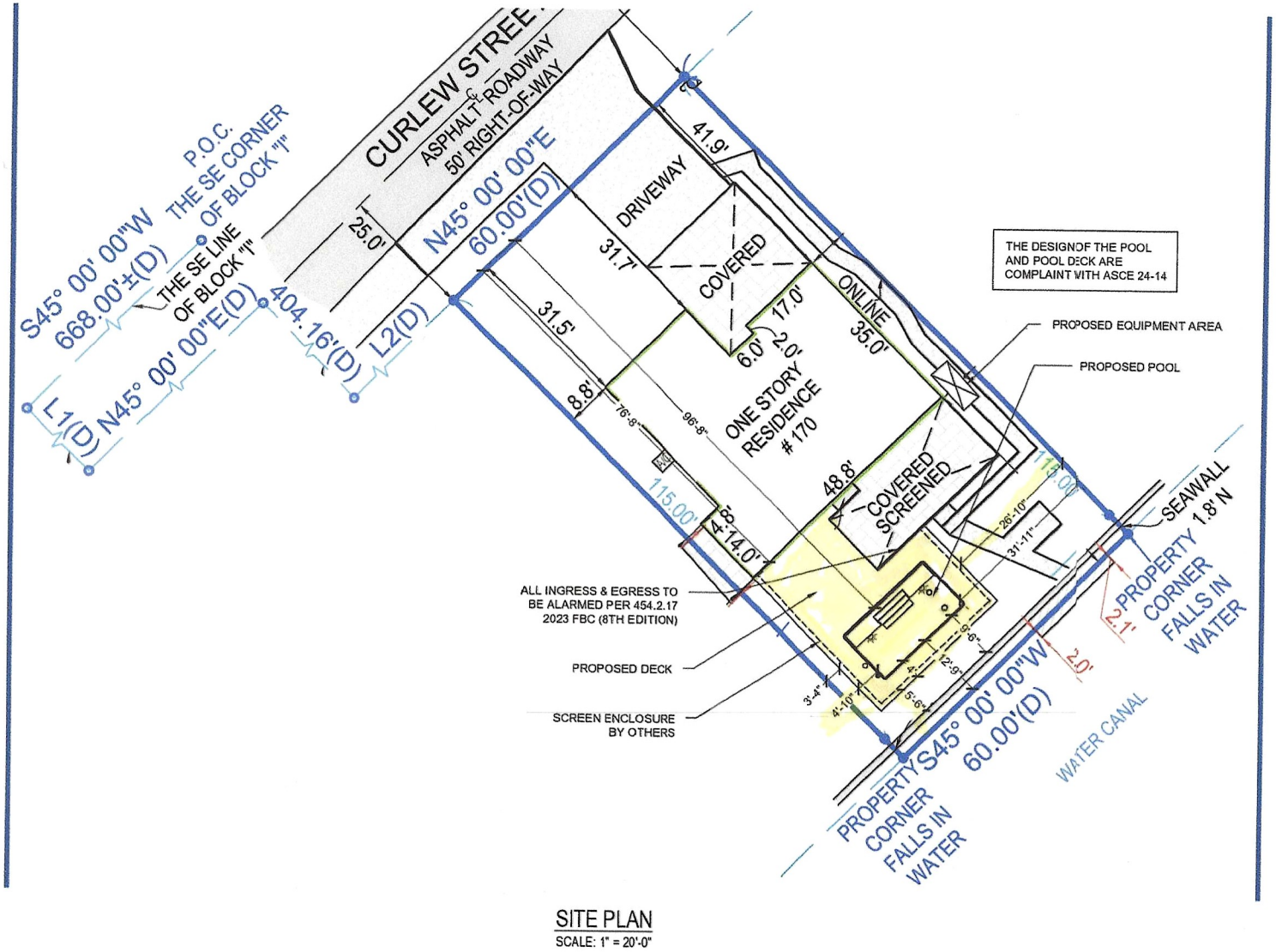
1547 PROSPERITY FARMS ROAD,
WEST PALM BEACH, FL 33403
NexgenSurveying.com LB#8111
PHONE: 561.508.6272
FAX: 561.508.6309

NEXGEN SURVEYING, LLC.

I HEREBY CERTIFY THAT THIS SURVEY MEETS OR EXCEEDS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS PER CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY CLYDE O. MCNEAL PSM 2883 ON 12/23/2024


DRIFTWOOD LN
BAHIA VIA
CURLEW ST
EGRET ST
BIS ST
ESTERO BLVD
00042 0030
500 feet



SITE PLAN
SCALE: 1" = 20'-0"

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NO.	DATE	REVISIONS	BY
1			
2			
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4			
5			
6			

SITE PLAN

RESIDENCE
170 CURLEW ST
FORT MYERS BEACH, FL 33931

Digitally signed by Scott R. Vaughn
DN: C=US, E=svaughn@pbhsi.com, O=Scott R. Vaughn, CN=Scott R. Vaughn
Date: 2024.09.04 17:42:00-04'00'

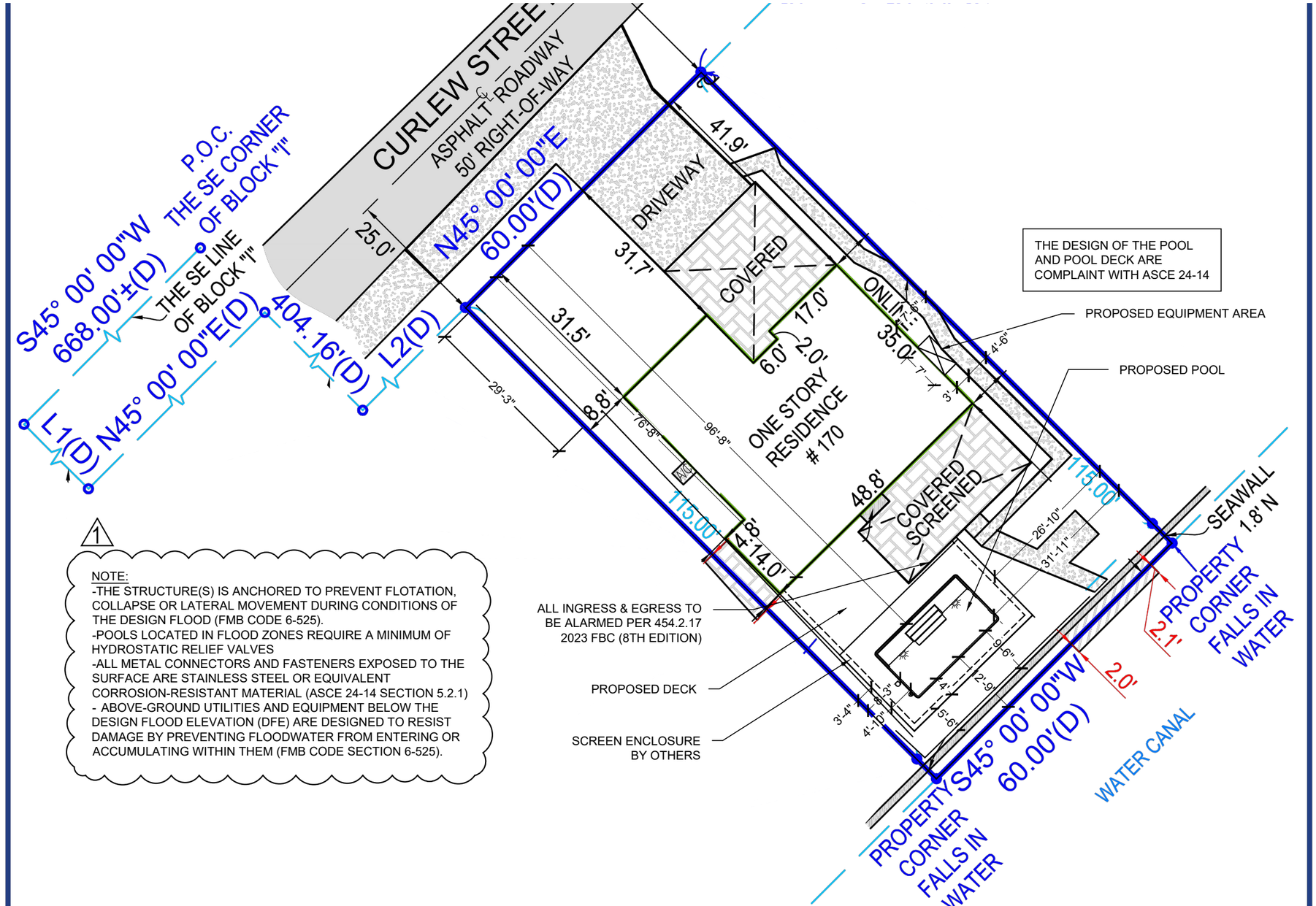
ENGINEER OF RECORD:

SCOTT R. VAUGHN, P.E.

FL LICENSE # 59531
12244 TREELINE AVE #9
FT. MYERS, FLORIDA 33913
PH 239-454-2606

DATE	09.03.24
SCALE	AS SHOWN
DRAWN BY	CMB
CHECKED BY	SRV
INT. JOB NO.	P56.011

RP1.0



1

NOTE:
-THE STRUCTURE(S) IS ANCHORED TO PREVENT FLOTATION, COLLAPSE OR LATERAL MOVEMENT DURING CONDITIONS OF THE DESIGN FLOOD (FMB CODE 6-525).
-POOLS LOCATED IN FLOOD ZONES REQUIRE A MINIMUM OF HYDROSTATIC RELIEF VALVES
-ALL METAL CONNECTORS AND FASTENERS EXPOSED TO THE SURFACE ARE STAINLESS STEEL OR EQUIVALENT CORROSION-RESISTANT MATERIAL (ASCE 24-14 SECTION 5.2.1)
- ABOVE-GROUND UTILITIES AND EQUIPMENT BELOW THE DESIGN FLOOD ELEVATION (DFE) ARE DESIGNED TO RESIST DAMAGE BY PREVENTING FLOODWATER FROM ENTERING OR ACCUMULATING WITHIN THEM (FMB CODE SECTION 6-525).

1 SITE PLAN
SCALE: 1" = 20'-0"

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SITE PLAN

RESIDENCE
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FORT MYERS BEACH, FL 33931

Scott R. Vaughn
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DN: CN=Scott R. Vaughn, E=srvpeinc@yahoo.com, G=Scott R., SN=Vaughn, C=US
Date: 2025.01.20 13:02:21-05'00'

ENGINEER OF RECORD:

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FL. LICENSE # 59531
12244 TREELINE AVE #9
FT. MYERS, FLORIDA 33913
PH: 239-494-2806

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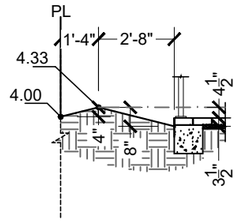
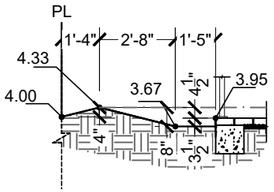
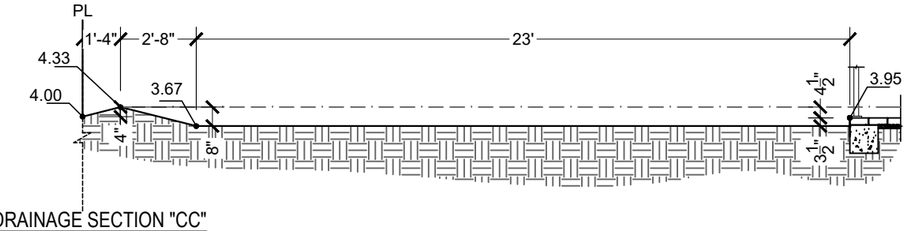


DRAINAGE SECTION "AA"
SCALE : 3/16" = 1'



DRAINAGE SECTION "BB"
SCALE : 3/16" = 1'



DRAINAGE SECTION "CC"
SCALE : 3/16" = 1'

NOTE: ALL ELEVATIONS ARE NAVD 88

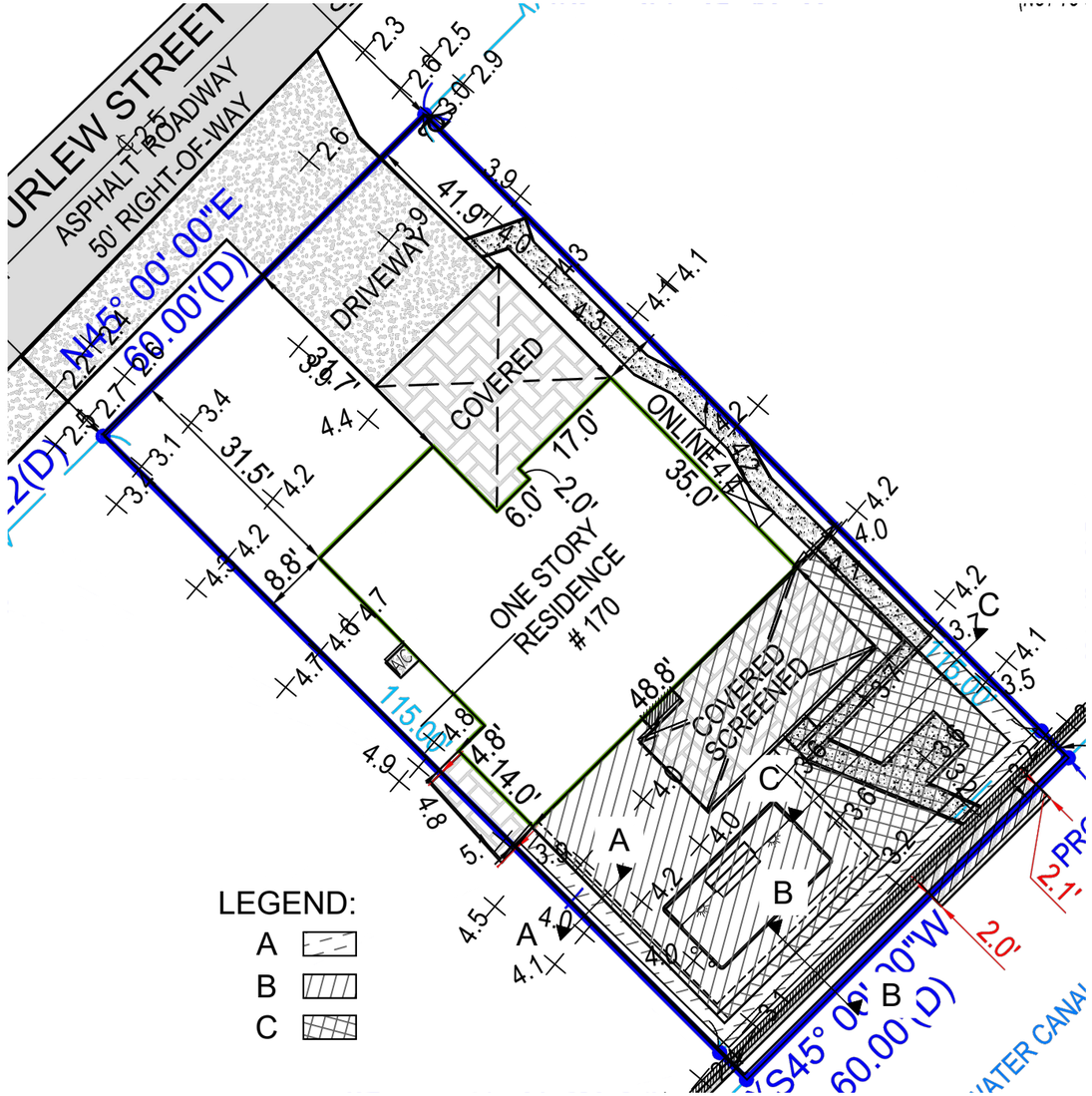
NOTE: ALL SWALE GROUND COVER SHALL BE SOD

PER SECTION 6-14 : TOWN OF FORT MYERS BEACH CODE OF ORDINANCE MAX IMPERVIOUS AREA 67% -

IMPERVIOUS AREA IN SQ FT:
HOUSE: 2774
POOL & DECK: 880
DRIVEWAY: 461
WALKWAY: 425

% OF IMPERVIOUS AREA = IMP. AREA / SITE AREA
65% = 4540 / 7008

TOTAL SITE AREA: 7008 FT²
VOLUME REQUIRED: 7008 FT² x 1.6/12 FT = 935 FT³
VOLUME PROVIDED:
A = 336 FT² @ 4 IN DEPTH = 112 FT³
B = 1329 FT² @ 4.5 IN DEPTH = 498 FT³
C = 574 FT² @ 8 IN DEPTH = 382 FT³
TOTAL VOLUME: 112 FT³ + 498 FT³ + 382 FT³ = 992FT³



LEGEND:
A
B
C

2 1 DRAINAGE PLAN
SCALE: 1" = 20'-0"

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6			

DRAINAGE PLAN

RESIDENCE
170 CURLEW ST
FORT MYERS BEACH, FL 33931

Scott R. Vaughn
Digitally signed by Scott R. Vaughn
DN: CN=Scott R. Vaughn, E=srvpeinc@yahoo.com, G=Scott R., SN=Vaughn, C=US
Date: 2025.01.20 13:02:23-05'00'

ENGINEER OF RECORD:

SCOTT R. VAUGHN, P.E.

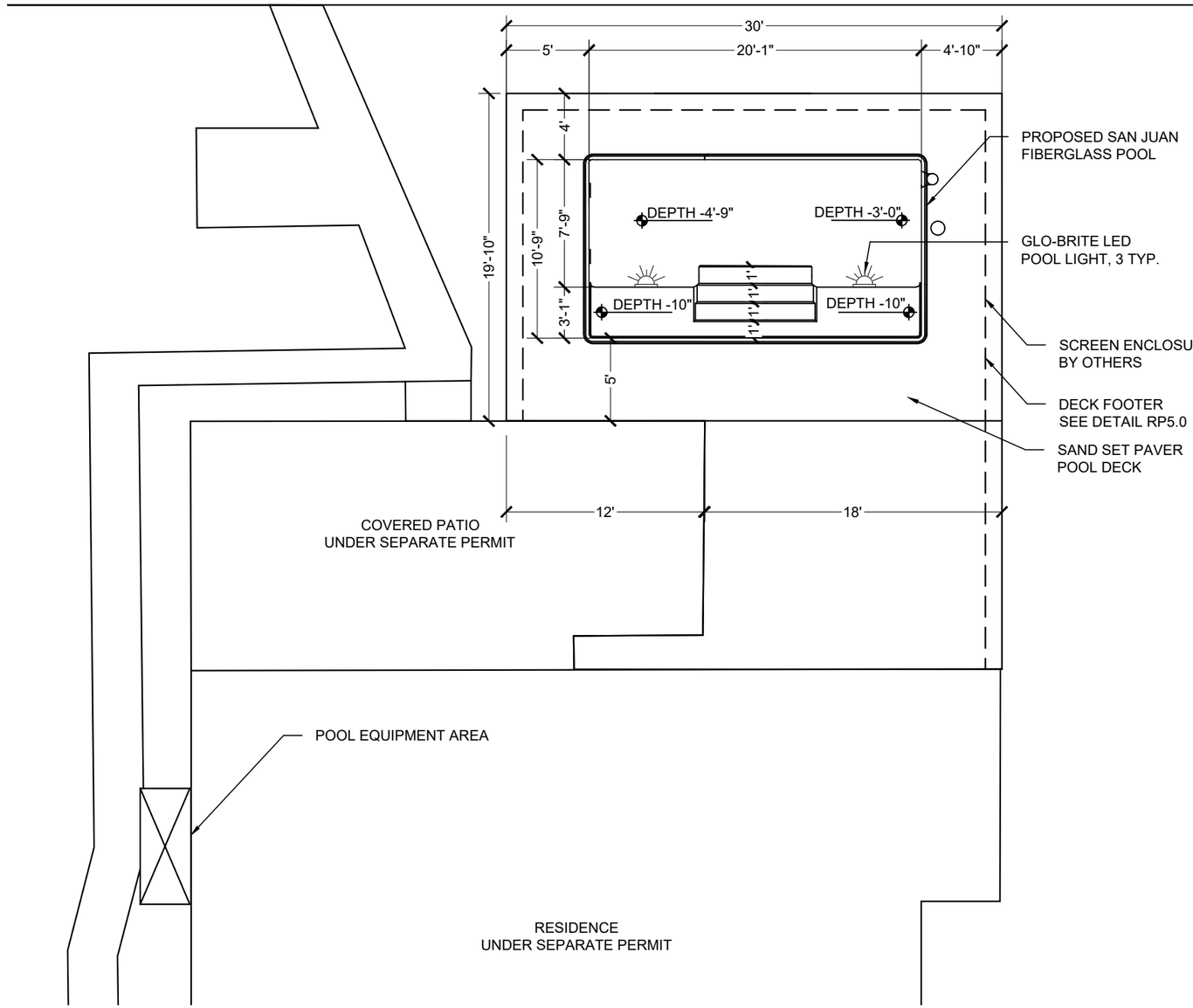
FL. LICENSE # 59531
12244 TREELINE AVE #9
FT. MYERS, FLORIDA 33913
PH: 239-494-2806

DATE	09.03.24
SCALE	AS SHOWN
DRAWN BY	CMB
CHECKED BY	SRV
INT. JOB NO.	865011

RP1.1

POOL DATA
PERIMETER - 62 LN. FT
AREA - 217 SQ FT
VOLUME - 5,485 GAL

DECK DATA
PERIMETER - 130 LN. FT
AREA - 648 SQ FT



POOL LAYOUT PLAN

SCALE: 1/8" = 1'-0"

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LAYOUT-DIMENSION

RESIDENCE
170 CURLEW ST
FORT MYERS BEACH, 33931

Scott R. Vaughn
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DN: CN=Scott R. Vaughn, E=srvpeinc@yahoo.com, G=Scott R., SN=Vaughn, C=US
Date: 2025.01.20 13:02:26-05'00'

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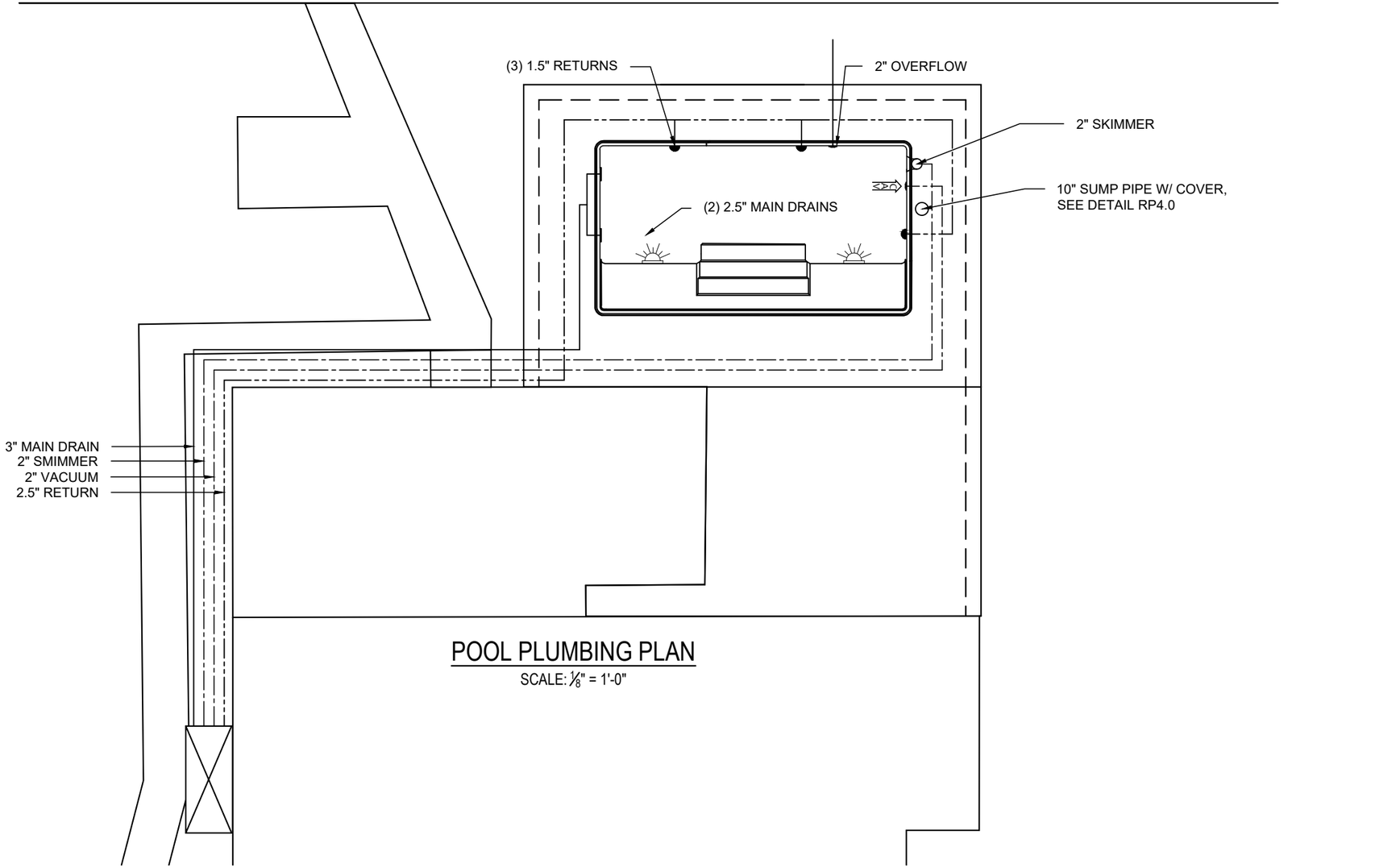
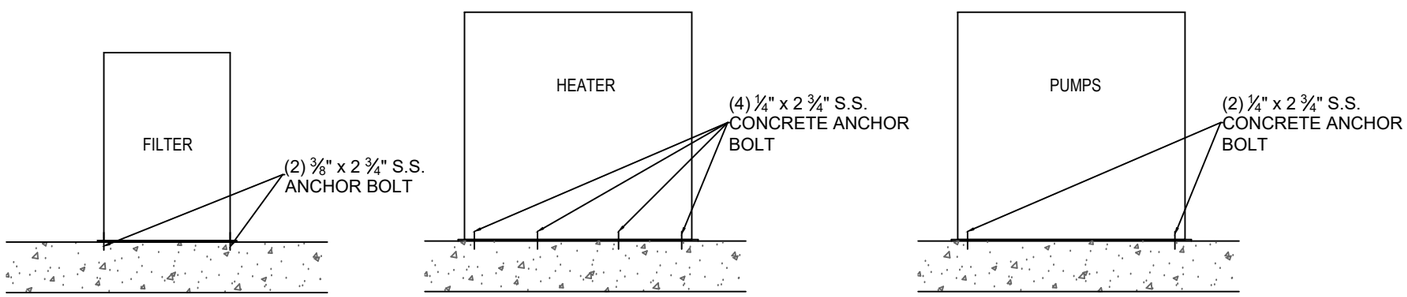
RP2.0



POOL PLUMBING PLAN

SCALE: ⅛" = 1'-0"



EQUIPMENT TIE DOWN DETAILS

SCALE: N.T.S.

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PLUMBING

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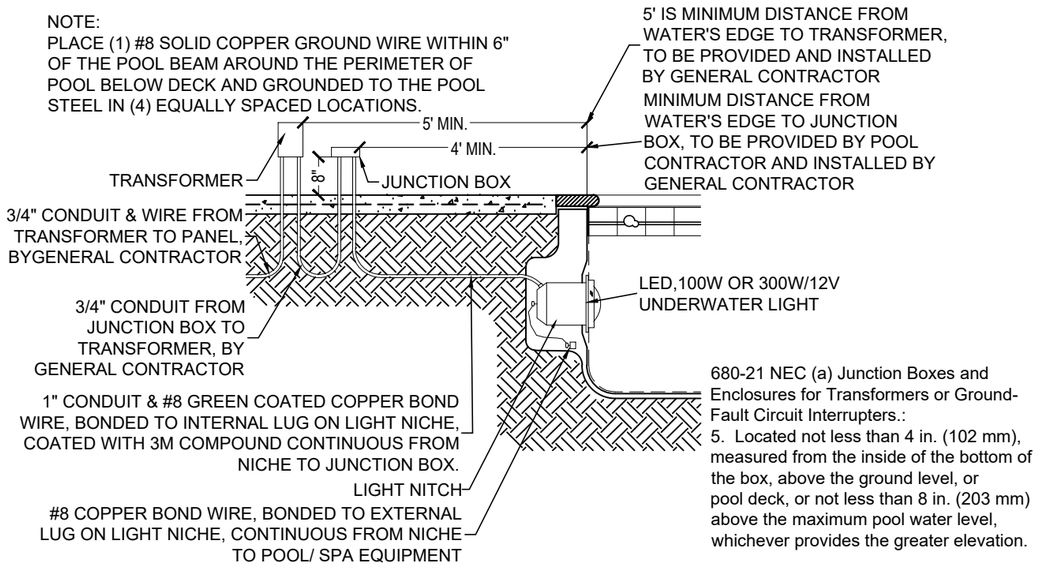
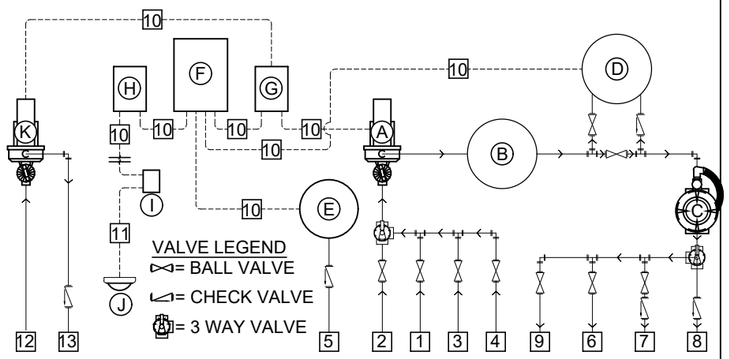
RP3.0



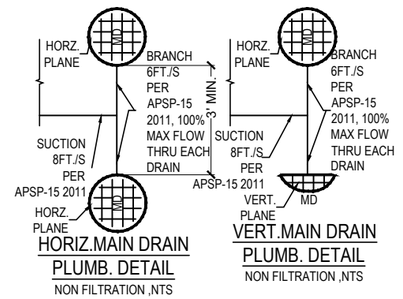
POOL LIGHT & EQUIPOTENTIAL BONDING GRID DETAIL

SCALE 3/8" = 1'-0"



SCHEMATIC PIPE CHART	
TAG	PIPE
1	POOL MAIN DRAIN
2	SPA MAIN DRAIN
3	POOL VACUUM (OPTIONAL)
4	POOL SKIMMER
5	AIR LINE TO SPA JETS
6	POOL RETURN
7	SPA RETURN
8	SPA THERAPY RETURN
9	FEATURE RETURN (OPTIONAL)
10	WIRING & CONDUIT SIZES PER NEC 2020
11	LIGHT CORD,12V 1Ø
12	NEG. EDGE BASIN/ FEATURE/ THERAPY SUCTION
13	NEG. EDGE BASIN/ FEATURE/ THERAPY RETURN

SCHEMATIC EQUIPMENT/ ELECTRICAL CHART	
TAG	EQUIPMENT
Ⓐ	RECIRC. PUMP
Ⓑ	FILTER
Ⓒ	CHLORINATOR
Ⓓ	HEATER (OPTIONAL)
Ⓔ	BLOWER
Ⓕ	ELECTRICAL SUB-PANEL OR DISCONNECT
Ⓖ	TIME CLOCK/CONTROLLER
Ⓗ	100W OR 300W TRANSFORMER
Ⓘ	JUNCTION BOX
Ⓙ	LED,100W OR 300W POOL/ SPA LIGHT
Ⓚ	NEG. EDGE/ FEATURE/ THERAPY PUMP



HORIZ.MAIN DRAIN PLUMB. DETAIL
NON FILTRATION ,NTS

VERT.MAIN DRAIN PLUMB. DETAIL
NON FILTRATION ,NTS

NON -FILTRATION APSP-15-2011 SCH. 40 PVC PIPE MAXIMUM VOLUMETRIC FLOW RATE (GPM)			
NOMINAL PIPE SIZE	VELOCITY 6FT/S SUCTION MAIN DRAIN BRANCH	VELOCITY 8FT/S SUCTION	VELOCITY 10FT/S PRESSURE
1½"	38 GPM	51 GPM	63 GPM
2"	63 GPM	84 GPM	104 GPM
2½"	90 GPM	119 GPM	149 GPM
3"	138 GPM	184 GPM	230 GPM
4"	238 GPM	317 GPM	396 GPM

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PLUMBING & DETAILS

RESIDENCE
170 CURLEW ST
FORT MYERS BEACH, FL 33931

Scott R. Vaughn
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DN: CN=Scott R. Vaughn, E=srvpeinc@yahoo.com, G=Scott R., SN=Vaughn, C=US
Date: 2025.01.20 13:02:30-05'00'

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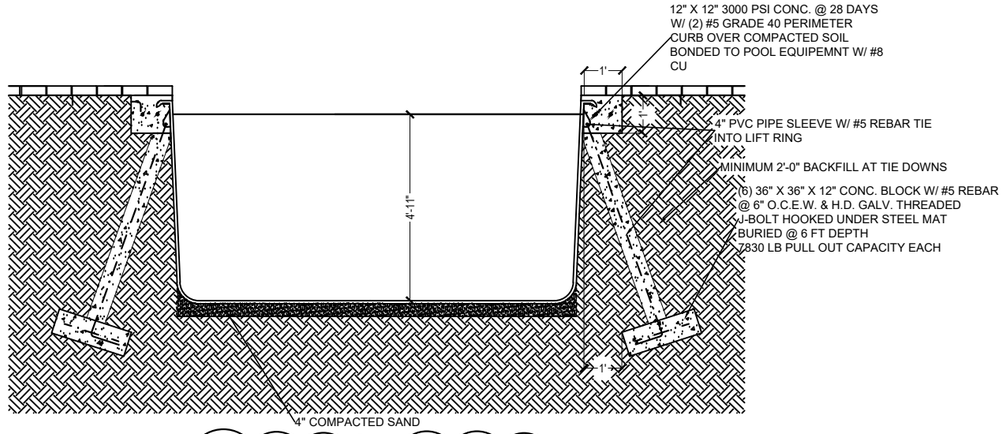
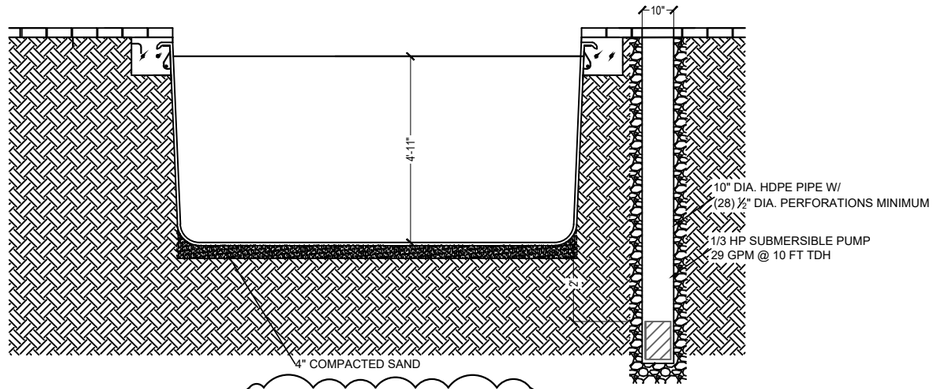
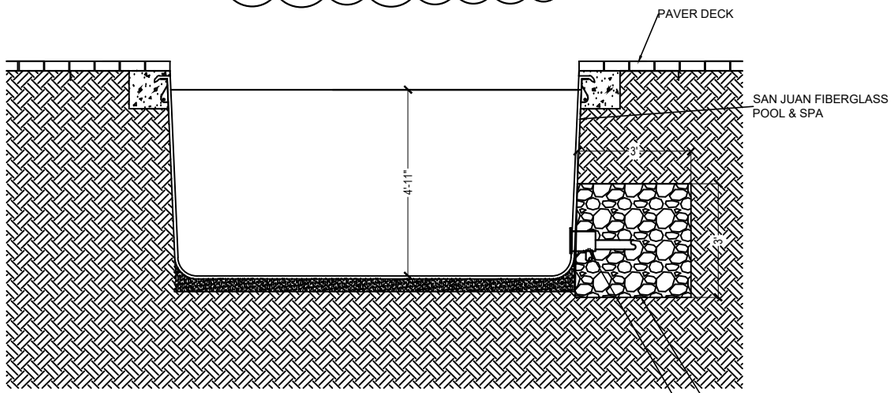
RP4.0



1 POOL TIE DOWN DETAILS
SCALE: ¼" = 1'-0"



1 POOL SUMP DETAIL
SCALE: ¼" = 1'-0"



1 POOL HYDROSTATIC DETAIL
SCALE: ¼" = 1'-0"

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STRUCTURAL

RESIDENCE
170 CURLEW ST
FORT MYERS BEACH, FL 33931

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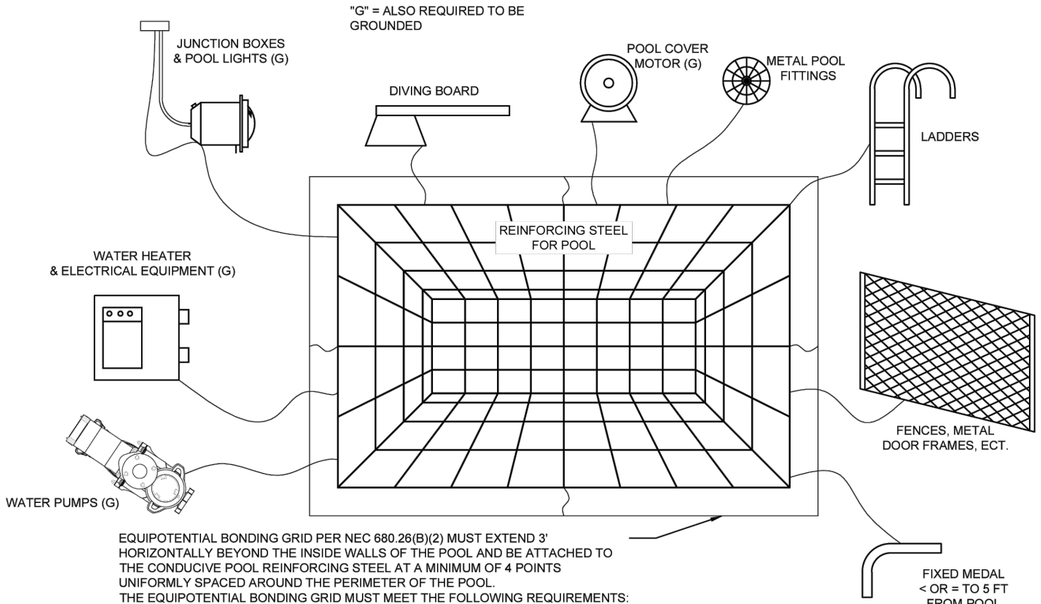


EQUIPOTENTIAL BONDING GRID PER NEC 680.26(B)(2) MUST EXTEND 3' HORIZONTALLY BEYOND THE INSIDE WALLS OF THE POOL AND BE ATTACHED TO THE CONDUCIVE POOL REINFORCING STEEL AT A MINIMUM OF 4 POINTS UNIFORMLY SPACED AROUND THE PERIMETER OF THE POOL.
THE EQUIPOTENTIAL BONDING GRID MUST MEET THE FOLLOWING REQUIREMENTS:

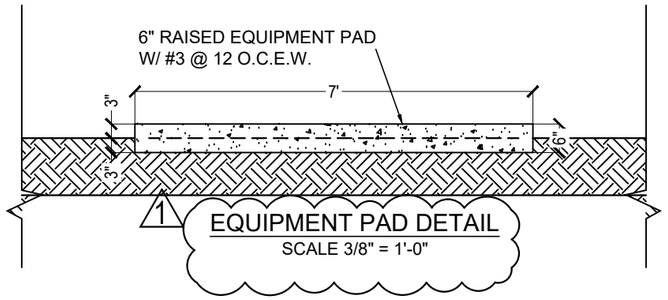
1. 8 AWG BARE SOLID COPPER BONDING CONDUCTOR.
2. MUST FOLLOW THE CONTOUR OF THE PERIMETER SURFACE.
3. LISTED SPLICING DEVICES.
4. BONDING CONDUCTOR MUST BE 18-24 INCHES FROM THE INSIDE WALLS OF THE POOL.
5. BONDING CONDUCTOR MUST BE SECURED WITHIN OR UNDER THE PERIMETER SURFACE 4-6 INCHES BELOW SUBGRADE.

PARTS SPECIFIED IN 680.26(B)(1)-(B)(7) TO BE BONDED TOGETHER USING:
- SOLID COPPER CONDUCTORS, INSULATED, COVERED, OR BARE, NOT SMALLER THAN 8 AWG.
- RIGID METAL CONDUIT OF BRASS OR OTHER IDENTIFIED CORROSION-RESISTANT METAL

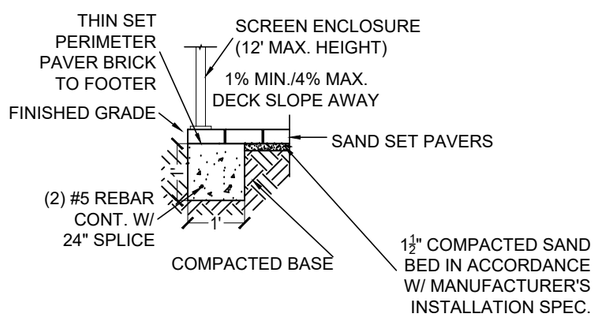
2017 NEC 680.26 Equipotential Bonding.
(A) Performance. The equipotential bonding required by this section shall be installed to reduce voltage gradients in the pool area.
(B) Bonded Parts. The parts specified in 680.26(B)(1) through (B)(7) shall be bonded together using solid copper conductors, insulated covered, or bare, not smaller than 8 AWG or with rigid metal conduit of brass or other identified corrosion-resistant metal. Connections to bonded parts shall be made in accordance with 250.8. An 8 AWG or larger solid copper bonding conductor provided to reduce voltage gradients in the pool area shall not be required to be extended or attached to remote panelboards, service equipment, or electrodes.
(1) Conductive Pool Shells. Bonding to conductive pool shells shall be provided as specified in 680.26(B)(1)(a) or (B)(1)(b). Poured concrete, pneumatically applied or sprayed concrete, and concrete block with painted or plastered coatings shall all be considered conductive materials due to water permeability and porosity. Vinyl liners and fiberglass composite shells shall be considered to be nonconductive materials.
(a) Structural Reinforcing Steel. Unencapsulated structural reinforcing steel shall be bonded together by steel tie wires or the equivalent. Where structural reinforcing steel is encapsulated in a nonconductive compound, a copper conductor grid shall be installed in accordance with 680.26(B)(1)(b).
(b) Copper Conductor Grid. A copper conductor grid shall be provided and shall comply with (b)(1) through (b)(4).
(1) Be constructed of minimum 8 AWG bare solid copper conductors bonded to each other at all points of crossing. The bonding shall be in accordance with 250.8 or other approved means.
(2) Conform to the contour of the pool
(3) Be arranged in a 300-mm (12-in.) by 300-mm (12-in.) network of conductors in a uniformly spaced perpendicular grid pattern with a tolerance of 100 mm (4 in.)
(4) Be secured within or under the pool no more than 150 mm (6 in.) from the outer contour of the pool shell
(2) Perimeter Surfaces. The perimeter surface to be bonded shall be considered to extend for 1 m (3 ft) horizontally beyond the inside walls of the pool and shall include unpaved surfaces and other types of paving. Perimeter surfaces separated from the pool by a permanent wall or building 1.5 m (5 ft) in height or more shall require equipotential bonding only on the pool side of the permanent wall or building. Bonding to perimeter surfaces shall be provided as specified in 680.26(B)(2)(a) or (2)(b) and shall be attached to the pool reinforcing steel or copper conductor grid at a minimum of four (4) points uniformly spaced around the perimeter of the pool. For nonconductive pool shells, bonding at four points shall not be required.
(a) Structural Reinforcing Steel. Structural reinforcing steel shall be bonded in accordance with 680.26(B)(1)(a).
(b) Alternate Means. Where structural reinforcing steel is not available or is encapsulated in a nonconductive compound, a copper conductor(s) shall be utilized where the following requirements are met:
(1) At least one minimum 8 AWG bare solid copper conductor shall be provided.
(2) The conductors shall follow the contour of the perimeter surface.
(3) Only listed splices shall be permitted.
(4) The required conductor shall be 450 mm to 600 mm (18 in. to 24 in.) from the inside walls of the pool.
(5) The required conductor shall be secured within or under the perimeter surface 100 mm to 150 mm (4 in. to 6 in.) below the subgrade.
(3) Metallic Components. All metallic parts of the pool structure, including reinforcing metal not addressed in 680.26(B)(1)(a), shall be bonded. Where reinforcing steel is encapsulated with a nonconductive compound, the reinforcing steel shall not be required to be bonded.
(4) Underwater Lighting. All metal forming shells and mounting brackets of no-niche luminaires shall be bonded.
Exception: Listed low-voltage lighting systems with nonmetallic forming shells shall not require bonding.
(5) Metal Fittings. All metal fittings within or attached to the pool structure shall be bonded. Isolated parts that are not over 100 mm (4 in.) in any dimension and do not penetrate into the pool structure more than 25 mm (1 in.) shall not require bonding.
(6) Electrical Equipment. Metal parts of electrical equipment associated with the pool water circulating system, including pump motors and metal parts of equipment associated with pool covers, including electric motors, shall be bonded.
Exception: Metal parts of listed equipment incorporating an approved system of double insulation shall not be bonded.
(a) Double-Insulated Water Pump Motors. Where a doubleinsulated water pump motor is installed under the provisions of this rule, a solid 8 AWG copper conductor of sufficient length to make a bonding connection to a replacement motor shall be extended from the bonding grid to an accessible point in the vicinity of the pool pump motor. Where there is no connection between the swimming pool bonding grid and the equipment grounding system for the premises, this bonding conductor shall be connected to the equipment grounding conductor of the motor circuit.
(b) Pool Water Heaters. For pool water heaters rated at more than 50 amperes and having specific instructions regarding bonding and grounding, only those parts designated to be bonded shall be bonded and only those parts designated to be grounded shall be grounded.
(7) Fixed Metal Parts. All fixed metal parts shall be bonded including, but not limited to, metal-sheathed cables and raceways, metal piping, metal awnings, metal fences, and metal door and window frames.
Exception No. 1: Those separated from the pool by a permanent barrier that prevents contact by a person shall not be required to be bonded.
Exception No. 2: Those greater than 1.5 m (5 ft) horizontally from the inside walls of the pool shall not be required to be bonded.
Exception No. 3: Those greater than 3.7 m (12 ft) measured vertically above the maximum water level of the pool, or as measured vertically above any observation stands, towers, or platforms, or any diving structures, shall not be required to be bonded.
(C) Pool Water. Where none of the bonded parts is in direct connection with the pool water, the pool water shall be in direct contact with an approved corrosion-resistant conductive surface that exposes not less than 5800 mm2 (9 in.2) of surface area to the pool water at all times. The conductive surface shall be located where it is not exposed to physical damage or dislodgement during usual pool activities, and it shall be bonded in accordance with 680.26(B).

EQUIPOTENTIAL BONDING DETAILS

SCALE: N.T.S.



EQUIPMENT PAD DETAIL
SCALE 3/8" = 1'-0"



NOTE: ALL JOINTS SHALL BE CONTRACTED LESS THAN 1/16" WIDE

TYP. CONCRETE DECK/ BEAM/ FLOOR DETAIL
SCALE 3/8" = 1'-0"

THIS ENGINEERING DRAWING IS GIVEN IN CONFIDENCE. NO USE OR DISSEMINATION MAY BE MADE WITHOUT PRIOR WRITTEN CONSENT OF THE ENGINEER. ALL RIGHTS ARE HEREBY RESERVED.

WRITTEN DIMENSIONS ON DRAWINGS SHALL HAVE PRECEDENCE OVER SCALED DIMENSION. CONTRACTOR SHALL VERIFY, AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS OF THE PROJECT. SCOTT R. VAUGHN, P.E. MUST BE NOTIFIED OF ANY VARIATIONS FROM DIMENSIONS AND CONDITIONS SHOWN BY THESE DRAWINGS. WHERE REQUIRED. SHOP DETAILS AND DRAWINGS MUST BE SUBMITTED TO SCOTT R. VAUGHN, P.E. FOR APPROVAL BEFORE PROCEEDING WITH FABRICATION.
PLANS ARE DESIGNED PER FLORIDA BUILDING CODE 8TH EDITION (2023) AND 2020 NATIONAL ELECTRIC CODE, UNLESS NOTED OTHERWISE.

NO.	DATE	REVISIONS	BY
1	12.01.24	PER BUILDING DEPT.	CMB
2			
3			
4			
5			
6			

BONDING DETAIL

RESIDENCE
170 CURLEW ST
FORT MYERS BEACH, FL 33931

Scott R. Vaughn
Digitally signed by Scott R. Vaughn
DN: CN=Scott R. Vaughn, E=srvpeinc@yahoo.com, G=Scott R., SN=Vaughn, C=US
Date: 2025.01.20 13:02:35-05'00'

ENGINEER OF RECORD:

SCOTT R. VAUGHN, P.E.

FL. LICENSE # 59531
12244 TREELINE AVE #9
FT. MYERS, FLORIDA 33913
PH: 239-494-2806

DATE	09.03.24
SCALE	AS SHOWN
DRAWN BY	CMB
CHECKED BY	SRV
INT. JOB NO.	P55.011

RP5.0

Florida Building Code 8th Edition (2023)

454.2.4 Approvals

454.2.4.1 Compliance

All materials, piping, valves, equipment or appliances entering into the construction of swimming pools or portions thereof shall be of a type complying with this code or of a type recommended and approved by a nationally recognized testing agency or conforming to other recognized standards acceptable to the administrative authority.

454.2.6 (4501) Private swimming pools

454.2.6.1 (4501.6.1) Conformance Standard

Design, construction and workmanship shall be in conformity with the requirements of ANSI/APSP/ICC 3, ANSI/APSP/ICC 4, ANSI/APSP/ICC 5, ANSI/APSP/ICC 6, and ANSI/APSP/ICC 7.

454.2.6.2 Required Equipment

Every swimming pool shall be equipped complete with approved mechanical equipment consisting of filter, pump, piping valves and component parts.

Exception: Pools with a supply of fresh water equivalent to the volume of the pool in the specified turnover time will be allowed.

454.2.6.3 Water Velocity

Pool piping shall be designed so the water velocity will not exceed 10 feet per second (mm/s) for pressure piping and 8 feet per second (mm/s) for suction piping, except that the water velocity shall not exceed 8 feet per second (3048 mm/s) in copper tubing. Main suction outlet must comply with ANSI/APSP/ICC 7.

Exception: Jet inlet fittings shall not be deemed subject to this requirement.

454.2.6.4 Piping To Heater

Water flow through the heater, any bypass plumbing installed, any back-siphoning protection, and the use of heat sinks shall be done in accordance with the manufacturers recommendations.

454.2.6.5 Piping Installation

All piping materials shall be installed in strict accordance with the manufacturer's installation standards.

Exceptions: Primer and glue on exposed above-ground piping not required to be colored.

454.2.6.6

Entrapment protection for suction outlets shall be installed in accordance with requirements of ANSI/APSP/ICC 7.

454.2.7 Pumps

454.2.7.1 Strainer

Pool circulating pumps shall be equipped on the inlet side with an approved type hair and lint strainer when used with a pressure filter.

454.2.7.2 Installation

Pumps shall be installed in accordance with manufacturer's recommendations.

454.2.7.3 Capacity

Pumps shall have design capacity at the following heads.

Pressure diatomaceous earth-At least 60 feed (18288 mm)

Vacuum D.E.-20-inch (508 mm) vacuum on the suction side and 40 feed (1219) total head.

Rapid sand-AT least 45 feet (13716 mm)

High rate sand-At least 60 feed (18288)

454.2.7.4 Materials

Pump impellers, shafts, wear rings and other working parts shall be of corrosion-resistant materials.

454.2.8 Valves

454.2.8.1 General

Valves shall be made of materials that approved in the Florida Building Code, Plumbing. Valves located under concrete slabs shall be set in a pit having a least dimension of five pipe diameters with a minimum of at least 10 inches (254 mm) and fitted with a suitable cover. All valves shall be located where they will be readily accessible for maintenance and removal.

454.2.8.2 Full Way (gate) valves

Full-way valves shall be installed to insure proper functioning of the filtration and piping system. When the pump is located below the overflow rim of the pool, a valve shall be installed on the discharge outlet and the suction line.

454.2.8.3 Check Valves

Where check valves are installed they shall be of the swing, spring or vertical check patterns.

454.2.8.4 Combination Valves

Combination valves shall be installed per the manufacturer's installation instructions.

454.2.9 Water Supply

Water supply to comply with Florida Building Code 8th edition (2023)

454.2.12 Tests

454.2.12.1 Pressure Tests

All pool piping shall be tested and proved tight to the satisfaction of the administrative authority, under a static water or air pressure test of not less than 35 psi (241 kPa)for 15 minutes

Exceptions: Circulating pumps need not be tested as required in this section.

454.2.12.2 Drain and waste piping

All drain and waste piping shall be tested by filling with water to the point of overflow and all joints shall be tight.

454.2.13.1 Slope piping

454.2.13.1 Slope to discharge.

Drain piping serving gravity overflow gutter drains and deck drains shall be installed to provide continuous grade to point of discharge.

454.2.13.2 Joints and connections

Joints and connections shall be made as required by the Florida Building Code 8th Edition (2023), Plumbing

454.2.14 Water heating equipment

454.2.14.1 Labels

Swimming pool water heating equipment shall conform to the design, construction and installation requirements in accordance with accepted engineering practices and shall bear the label of a recognized testing agency, and shall include a consideration of combustion air, venting and gas supply requirements for water heaters.

454.2.14.2 Water retention

If a heater is not equipped or designed for an approved permanent bypass or anti-siphon device shall be installed to provide a positive means of retaining water in the heater when the pump is not in operation.

454.2.14.3 Pit drainage

When the heater is installed in a pit, the pit shall be provided with approved drainage facilities.

454.2.14.4 Connections

All water heating equipment shall be installed with flanges or union connection adjacent to the heater.

454.2.14.5 Relief valve

When water heating equipment which is installed in a closed system has a valve between the appliance and the pool, a pressure relief valve shall be installed on the discharge side of the water heating equipment. For units up to and including 200,000 Btu/hour input, the relief valve shall be rated by the American Gas Association.

454.2.15 Piping

Gas piping shall comply with the Florida Building Code 8th edition (2023), fuel gas.

454.2.16 Electrical

Electrical wiring and equipment shall comply with chapter 27 of the Florida building code 8th edition (2023), Building.

454.2.17 Residential swimming barrier requirement

Residential swimming pools shall comply with sections 454.2.17.1 through 454.2.17.3.

Exception: A swimming pool with an approved safety pool cover complying with ASTM F 1346.

454.2.17.1 Outdoor swimming pools

Outdoor swimming pools shall be provided with a barrier complying with sections 454.2.17.1.1 through 454.2.17.1.14

454.2.17.1.1

The top of the barrier shall be at least 48 inches (1219 mm) above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade the battier may be at ground level or swimming pool. Where the top of the pool structure is above grade the barrier may be at ground level or mounted on top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm)

454.2.17.1.2

The barrier may not have any gaps, openings. Indentations, protrusions, or structural components that could allow a young child to crawl under, squeeze through, or climb over the barrier as herein described below. One end of a removable child barrier shall not be removable without the aid of tools. Openings any barrier shall not allow passage of a 4 inch (102 mm) sphere.

454.2.17.1.3

Solid barriers which do not have openings shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.

454.2.17.1.4

Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 13/4 inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1 ¾ inches (44 mm) in width.

454.2.17.1.5

Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall not exceed 4 inches (102 mm). Where the decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1 ¾ (44 mm) in width.

454.2.17.1.6

Maximum mesh size for chain link fences shall be a 2 ¼ (57 mm) square unless the fence is provided with slats fastened at the top or bottom which reduce the openings to no more than 1 ¾ inches (44 mm).

454.2.17.1.7

Where the barrier is composed of diagonal members, the maximum opening formed by the diagonal members shall be not than 1 ¾ inches (44 mm).

454.2.17.1.8

Access gates, when provided, shall be self-closing and shall comply with the requirements of sections 454.2.17.1.1 through 454.2.17.1.7 and shall be equipped with a self-latching locking device located on the pool side of the gate. Where the device release is located no less than 54 inches (1372 mm) from the bottom of the gate, the device release mechanism may be located on either side of the gate and so placed that it cannot be reached by a young child over the top or through any opening or gap from the outside. Gates that provide access to the swimming pool must open outward away from the pool. The gates and barrier shall have no opening greater than ½ inch (12.7 mm) within 18 inches (457 mm) of the release mechanism.

454.2.17.1.9

Where a wall of a dwelling serves as part of the barrier, one of the following shall apply:

1. All doors and windows providing direct access from the home to the pool shall be equipped with an exit alarm complying with UL 2017 that has a minimum sound pressure rating of 85 dB A at 10 feet (3048 mm). The exit alarm shall produce a continuous audible warning when the door and its screen are opened. The alarm shall sound immediately after the door is opened and be capable of being heard throughout the house during normal household activities. The alarm shall be quipped with a manual means to temporarily deactivate the alarm for a single opening. Such deactivation shall last no more than 15 seconds. The deactivation switch shall be located at least 54 inches (1372 mm) above the threshold of the door. Separate alarms are not required for each door or window if sensors wired to a central alarm sound when contact is broken at any opening.

Exceptions:

a. Screened or protected windows having a bottom sill height of 48 inches (1219 mm) or more measured from the interior finished floor at the pool access level.

b. Windows facing the pool on floor above the first story.

c. Screened or protected pass-through kitchen windows 42 inches (1067 mm) or higher with a counter beneath

2. All doors providing direct access from the home to the pool must be equipped with a self- closing, self-latching device with positive mechanical latching/locking installed a minimum of 54 inches (1372 mm) above the threshold, which is approved by the authority having jurisdiction.
3. Screened or protected pass-through kitchen windows 42 inches (1067 mm) or higher with a counter beneath.

454.2.17.1.10

Where an above-ground pool structure is use as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, the ladder or steps either shall be capable of being secured, locked or removed to prevent access, or the ladder or steps shall be surrounded by a barrier which meets the requirements of Sections 454.2.17.1.1 through 454.2.17.1.9 and sections 454.2.17.1.12 through 454.2.17.1.14. When the ladder or steps are secured, locked or removed, any opening created shll not allow the passage of a 4-inchh diameter (102 mm) sphere.

454.2.17.1.11

Standard screen enclosures which meet the requirements of Section 454.2.17 may be utilized as part of or all of the "barrier" and shall be considered a "non-dwelling" wall. Removable child barriers shall have one end of the barrier non-removable without the aid of tools.

454.2.17.1.12

The barrier must be placed around the perimeter of the pool and must be separate from any fence, wall, or other enclosure surrounding the yard unless the fence, wall, or other enclosure or portion thereof is situated on the perimeter of the pool, is being used as part of the barrier, and meets the barrier requirements of this section.

454.2.17.1.13

Removable child barriers must be placed sufficiently away from the water's edge to prevent a young child or medically frail elderly person who may manage to penetrate the barrier from immediately falling into the water. Sufficiently away from the water's edge shall mean no less than 20 inches (508 mm) from the barrier to the water's edge. Dwelling or non-dwelling walls including screen enclosures, when used as part or all of the barrier and meeting the other barrier requirements, may be as close to the water's edge as permitted by this code.

454.2.17.1.14

A wall of a dwelling may serve as part of the barrier if it does not contain any door or window that opens to provide direct access from the home to the swimming pool.

454.2.17.1.15

A mesh safety barrier meeting the requirements of section 454.2.17, installed in accordance with the manufacturer's instructions and complying with ASTM F2286, shall be considered a barrier as defined in this section. Where a hinged gate is used with a mesh fence, the gate shall comply with section 454.2.17.1.8. Mesh fences shall not be installed on top of above-ground/on-ground private swimming pools.

454.2.17.1.16Adjacent waterways.

Permanent natural or permanent man-made features such as bulkheads, canals, lakes, navigable waterways, etc., adjacent to a public or private swimming pool or spa may be permitted as a barrier when approved by the authority having jurisdiction. When evaluating such barrier features, the authority may perform on-site inspections and review evidence such as surveys, aerial photographs, water management agency standards and specifications, and any other similar documentation to verify, at a minimum, the following:

14. The barrier feature is not subject to natural changes, deviations, or alterations and is capable of providing an equivalent level of protection as that provided by the code.

15. The barrier feature clearly impedes, prohibits or restricts access to the swimming pool or spa.

GENERAL FILTERATION NOTES:

1. THESE PLANS ARE COMPLAINT WITH SECTION 403 OF THE 2017 ENERGY CONSERVATION CODE.
2. PER ANSI/APSP-15 2011, FILTRATION RATES SHALL NOT EXCEED THE VOLUME OF THE POOL / 360 IN GPM.
3. ANSI/APSP-7 2006 VELOCITIES APPLY TO THERAPY AND FEATURE PUMPS ONLY. SEE SHEET 2.

POOL/ SPA GENERAL NOTES:

1. DESIGN PER FLORIDA BUILDING CODE 8TH EDITION (2023),CHAPTER 454.2 & APSP/ANSI-7.
2. THESE PLANS ARE COMPLIANT WITH SECTION 403 OF THE 2023 ENERGY CONSERVATION CODE.
3. PER ANSI/APSP-15 2011, FILTRATION RATES SHALL NOT EXCEED THE VOLUME OF THE (POOL/SPA/RIVER)/360 IN GPM.
4. ANSI/APSP-7 2006 VELOCITIES APPLY TO THERAPY AND FEATURE PUMPS ONLY.
5. POOLSHALL BE CONTRSUCTED OF FIBERGLASS PER MANUFACTURER
6. VERIFY ALL ELEVATIONS AND LOCATIONS WITH ARCHITECTURAL ELEVATIONS.
7. ALL SOIL BENEATH POOL & SPA STRUCTURE SHALL BE FREE OF ORGANICS AND SHALL HAVE A MINIMUM BEARING CAPACITY OF 2,000 PSF.
8. NO FILL WILL INTRUDE INTO THE VELOCITY ZONE.
9. PIPE BENDING MUST BE GREATER THEN 30°, MINIMUM BEND TO BE 5 TIMES THE DIAMETER OF THE PIPE'S O.D. EXCESSIVE BURN MARKS AND CREASING OF PIPE IS NOT ALLOWED.
10. GLASS WITHIN 5 FT. OF WATER'S EDGE SHALL BE TEMPERED.

CONCRETE DECKS SHALL BE 3,000 PSI @ 28 DAYS WITH 6X6 - 10/10 WWWF OR FIBERMESH

EQUIPMENT GENERAL NOTES:

1. ALL EQUIPMENT BELOW STATIC WATER ELEVATION IS TO HAVE POSITIVE VALVE SHUT OFF FOR SERVICE..
2. ALL ELECTRICAL PER NEC 2020.
3. ALL PUMPS, HEATERS, DECK, HANDRAILS, LADDERS, LIGHTS, SCREEN, & METAL SHALL BE BONDED PER NEC 2020.

THIS ENGINEERING DRAWING IS GIVEN IN CONFIDENCE. NO USE OR DISSEMINATION MAY BE MADE WITHOUT PRIOR WRITTEN CONSENT OF THE ENGINEER. ALL RIGHTS ARE HEREBY RESERVED.

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NO.	DATE	REVISIONS	BY
1			
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5			
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GENERAL NOTES

RESIDENCE
170 CURLEW ST
FORT MYERS BEACH, FL 33931

Scott R. Vaughn

Digitally signed by Scott R. Vaughn
DN: CN=Scott R. Vaughn, E=snpeinc@yahoo.com, G=Scott R., SN=Vaughn, C=US
Date: 2025.01.20 13:02:37-05'00'

ENGINEER OF RECORD:

SCOTT R. VAUGHN, P.E.

FL. LICENSE # 59531
12244 TREELINE AVE #9
FT. MYERS, FLORIDA 33913
PH: 239-494-2806

DATE	09.03.24
SCALE	AS SHOWN
DRAWN BY	CMB
CHECKED BY	SRV
INT. JOB NO.	P55.011

1 OF 1

Town of Fort Myers Beach
Agenda Item Summary Yellow Sheet Number: **2025-341**

1. **Request:** **Meeting Date: April 29, 2025**

274 CURLEW ST: A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250072, REQUESTING A VARIANCE FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 274 CURLEW STREET, GENERALLY REFERED TO AS STRAP NUMBER 34-46-24-W4-01200.00B0 IN FORT MYERS BEACH, TO VARY 13.5 FEET FROM REQUIRED 25-FOOT WATERBODY SETBACK TO ALLOW A WRAP-AROUND DECK 11.5 FEET FROM THE PROPERTY LINE IN THE RS ZONING DISTRICT; AND 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:
Variance requests must be heard by the LPA.

What the action accomplishes:
The variance would allow a deck to encroach into the required 25-foot waterbody setback.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
resolution

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5. **Background:**
The owners of 274 Curlew St, are requesting a13.5-foot variance from the Town's Land Development Code (LDC) setback table 34-3, which requires a 25-foot waterbody setback from a canal on all waterfront parcels in the RS zoning district, to allow a deck 11.5 feet from a waterbody. The Applicant was recently granted an administrative variance to elevate the existing non-conforming, single-family residence to meet the flood regulations. The Applicant is proposing a wraparound deck, to allow access from an existing rear door around the house and down a spiral staircase. The width of the deck ranges from 5-feet to 8-feet, which will encroach further into the required 25-foot waterbody setback.

Attachments:
1. LPA Resolution 25-XX 274 Curlew St
2. Staff report
3. Exhibit A Site Plan
4. Exhibit B Complete application
5. Exhibit C Letter of No Objection
6. Exhibit D Owner Letter

Financial Impact:
unknown

6. **Alternative Action**
deny

7. **Staff Recommendations:**
Approve with conditions

8. **Recommended Approval:**

_____ Date: April 16, 2025

Judith Frankel, Principal Planner

_____ Date: April 17, 2025

Georgina Cid, Community Development Manager

_____ Date: April 17, 2025

Frankie Kropacek, Operations & Compliance Director

_____ Date: April 22, 2025

nancy stuparich, Town Attorney

_____ Date: April 22, 2025

Amy Baker, Town Clerk

LPA RESOLUTION 2025-XX

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250072, REQUESTING A VARIANCE FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 274 CURLEW STREET, GENERALLY REFERED TO AS STRAP NUMBER 34-46-24-W4-01200.00B0 IN FORT MYERS BEACH, TO VARY 13.5 FEET FROM REQUIRED 25-FOOT WATERBODY SETBACK TO ALLOW A WRAP-AROUND DECK 11.5 FEET FROM THE PROPERTY LINE IN THE RS ZONING DISTRICT; AND 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, 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, Robert Seth and Cari Keller Whicker, owners of the property located at 274 Curlew Street (Property), is requesting variance from LDC Table 34-3 of 13.5 feet from the required 25-foot waterbody setback from a canal to allow a waterbody setback of 11.5 feet to construct a wrap-around deck for the elevated existing single-family residence in the RS zoning district; and

WHEREAS, the STRAP number for the subject property is 34-46-24-W4-01200.00B0; and

WHEREAS, the Property is located in the "Low-Density Residential" Future Land Use Map of the Comprehensive Plan and the "Single-family Residential" 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 April 29, 2025, 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 __ to__ by roll call vote to approve / approve with conditions / deny the requested variances with the following conditions:

1. Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.

2. The variance shall only apply to the single-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variances to be null and void.

WHEREAS, Ordinance 24-06 amended Section 34-232(d) of the LDC to provide that:

(d) Owner-initiated requests for variances, or required reviews to extend or to provide evidence of satisfaction of conditions contained in prior land use approvals, that are:

1) approved by a unanimous vote of the local planning agency members who are eligible to vote, and

2) not subject to a request for an additional public hearing before the town council made by anyone that is received by the town clerk within 10 business days after the date of the local planning agency decision, excluding holidays, only require one public hearing before the local planning agency, and the local planning agency decision is final agency action.

IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

1. The foregoing "WHEREAS" clauses are adopted herein by reference and constitute the findings and conclusions of the LPA.

2. VAR20250072, with the conditions contained herein, received / did not receive unanimous approval from eligible voting members of the LPA on April 29th, 2025.

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 April, 2025.

Local Planning Agency of the Town of Fort Myers Beach

By: _____
Anita Cereceda, LPA Chair

Approved as to legal sufficiency:

By: _____
Vose Law Firm, Town Attorney

ATTEST:

By: _____
Amy Baker, Town Clerk

EXHIBIT A: Site Plan

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: **Variance**

CASE NUMBER: **VAR20250072**

CASE NAME: **274 Curlew St; a variance of 13.5 feet from the required 25-foot waterbody setback found in Table 34-3.**

LPA HEARING DATE: **April 29, 2025**

STAFF RECOMMENDATION: **Approval with conditions**

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

I. APPLICATION SUMMARY

Applicant/Owner: Robert Seth and Cari Keller Whicker

Request: A variance of 13.5 feet from the required 25-foot waterbody setback found in Table 34-3 to allow a deck 11.5 feet from a waterbody on an RS zoned lot

Subject property: See attached site plan

Physical Address: 274 Curlew St

STRAP #: 34-46-24-W4-01200.00B0

FLU: Low Density Residential

Zoning: Residential, Single Family (RS)

Adjacent zoning and land uses:

North: Bay

South: LOW DENSITY RESIDENTIAL
Single family residential

East: LOW DENSITY RESIDENTIAL
Single family residential

West: LOW DENSITY RESIDENTIAL
Single family residential

II. BACKGROUND AND ANALYSIS

Background:

Robert Seth and Cari Keller Whicker, the owners of 274 Curlew St, are requesting a variance from the Town's Land Development Code (LDC) setback table 34-3, which requires a 25-foot waterbody setback from a canal on all waterfront parcels in the RS zoning district.

The property currently supports a single-family home built in 1974. The existing residence has a non-conforming waterbody setback of 17 feet 1 inches. The Applicant was recently granted an administrative variance to elevate the existing non-conforming, single-family residence to meet the flood regulations. The Applicant is now proposing a wraparound deck, to allow access from an existing rear door around the house and down a spiral staircase. The width of the deck ranges from 5-feet to 8-feet, which will encroach further into the required 25-foot-wide waterbody setback. In this instance the property line is located beyond the wet side of the seawall The applicant is, requesting a variance of 13.5 feet from the required 25-foot waterbody setback to allow a waterbody setback of 11.5 feet from the waterbody property line. The deck will be a minimum of 7.55 feet from the wet side of the seawall.

Analysis:

The purpose of the RS zoning district is to provide stable neighborhoods where single-family detached homes are the predominant land use. A conforming lot in RS zoning is at least 75 feet wide and 100 feet deep and 7,500 sq. ft. of area.

As per LDC Section 34-638. (d)(3) b. no building or structure shall be placed closer than 25 feet to a property line adjacent to a canal, bay, or other waterbody in the RS zoning district. The single-family residence was built in 1974 with a non-conforming waterbody setback of 17 feet and 1 inch. The waterbody setback regulations were established several years after the construction of the house.

As per LDC Section 34-268(a)1., the director is authorized to modify the setbacks to permit the remodeling of or additions to existing structures that are nonconforming with regard to a specific setback so long as the remodeling or addition will not result in a further diminution of the setback. On March 10, 2025, the Town granted an administrative variance 20250057 to elevate the existing non-conforming single family to meet the FEMA flood regulations.

The wraparound deck, on the first living level above flood elevation, will create a 5 to 8-foot walkway around the rear and side of the house from an existing door and with

access to a spiral staircase to the ground. The house currently encroaches approximately 7.9 feet into the required 25-foot waterbody setback, the deck will encroach approximately 5.5 feet further for an 11.5-foot waterbody setback at the narrowest point.

Neighborhood Compatibility:
The subject property is part of a single-family residential neighborhood where some of the single-family homes appear to comply with the Town's rear waterbody setback and others do not.

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

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

   There are exceptional conditions inherent to the property. The lot is an oddly shaped lot. The property supports a single-family residence built in 1974, with a non-conforming waterbody setback of 17 feet 1 inch. The waterbody setback regulations were established several years after the construction of the house. The Applicant was recently granted an administrative variance to elevate the house to meet the FEMA flood regulations. This request elevates one of the access doors and a deck and stairs are needed The request is for a de minimis variance of 13.5 feet from the required 25-foot waterbody setback to allow a deck for access to the elevated non-conforming residence with a waterbody setback of 11.5 feet from the canal.

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

   The property supports a non-conforming single-family residence that was built several years before the 25-foot waterbody setback was required by the LDC. The Applicant plans to elevate the house to meet the flood regulations. The requested variance is to allow a wraparound deck encroaching further into the waterbody setback for access to the elevated non-conforming residence.

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

The request is for a de minimis variance and granting this variance will allow the Applicant to provide a wrap-around deck for the elevated existing single-family residence.

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

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

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

The conditions or circumstances on this specific property for which a variance is sought are not general in nature and do not warrant a code change.

III. RECOMMENDATION

Staff has reviewed the request for a variance of *13.5 feet from Table 34-3 which requires that all structures in the RS zoning district provide a 25-foot waterbody setback from a canal* and find that the variance request does meet the requirements set-forth in sec. 34-87.

Therefore, staff recommends **APPROVAL WITH CONDITIONS** of VAR20250072, a variance from Table 34-3 of 13.5 feet from the required 25-foot waterbody setback to allow a waterbody setback of 11.5 feet from the canal for an RS zoned waterbody lot.

IV. CONDITIONS

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

1. Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.

2. The variance shall only apply to the single-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variances to be null and void.

V. EXHIBITS

Exhibit A: Site Plan
Exhibit B: Complete Application

Exhibit C: Letter of No Objection
Exhibit D: Letter from Homeowners

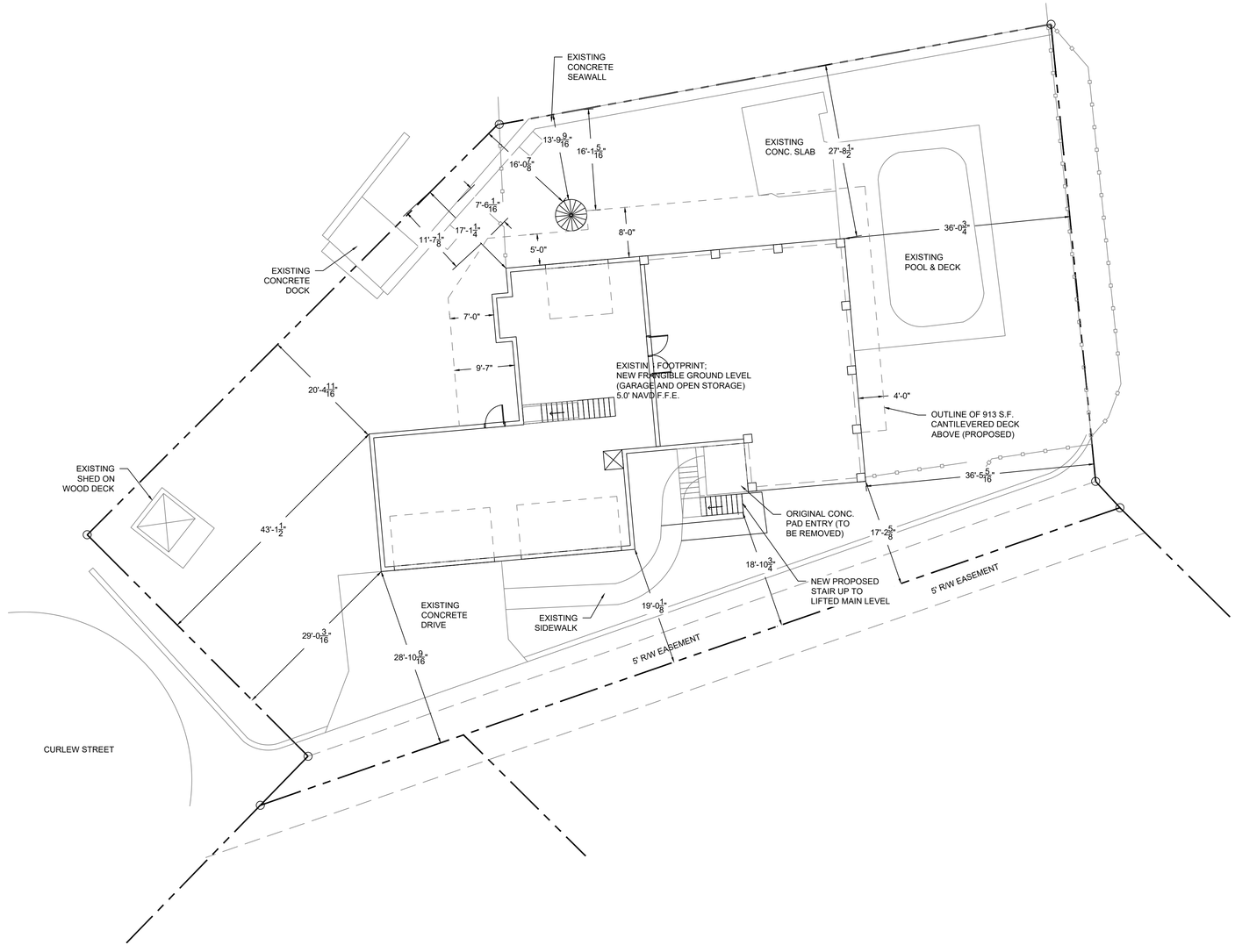
AREA INFO:

LOT SIZE (ACRES OR SQ. FT.):	11,916.0 S.F.
EXISTING RESIDENCE FOOTPRINT:	2,628.0 S.F.
EXISTING CONCRETE AREA:	1,829.5 S.F.
OTHER IMPERVIOUS AREAS:	352.2 S.F.
TOTAL EXISTING IMPERVIOUS:	4,809.7 S.F.
(%) OF IMPERVIOUS AREA:	40.1% LOT COVERED
PROPOSED FOOTPRINT:	2,628.0 S.F. (NO CHANGE)
PROPOSED CONCRETE AREA:	1,829.5 S.F. (NO CHANGE)
OTHER IMPERVIOUS AREAS:	422.2 S.F. (70 S.F. NEW STAIRS)
TOTAL PROPOSED IMPERVIOUS:	4,879.7 S.F.
(%) OF IMPERVIOUS AREA:	40.9% LOT COVERED

SITE DATA:

LOWEST ADJACENT GRADE TO STRUCTURE:	3.7' NAVD88
HIGHEST ADJACENT GRADE TO STRUCTURE:	4.4' NAVD88
GROUND LEVEL /GARAGE SLAB F.F.E.:	5.0' NAVD88
FIRST LEVEL LIVING SPACE F.F.E.:	15.0' NAVD88

FLOOD ZONE: VE-12 = 12.0' B.F.E. + 1.0' MIN. FREEBOARD = 13.0' D.F.E.



SITE PLAN

SCALE: 1"=10'-0"

FOR REVIEW AND PERMIT. NOT FOR CONSTRUCTION UNTIL APPROVED BY THE OWNER AND THE BUILDING OFFICIAL. THEN MUST BE MARKED "APPROVED FOR CONSTRUCTION" BY THE ENGINEER.

Belt Engineering
1503-A WEST BUSCH BLVD.
TAMPA, FL. 33612
WWW.BELTENGINEERING.COM
PH.(813) 961-3075
FX.(813) 961-1031
CA # 29694

Preliminary Not For Construction

SAMUEL P. DEAN P.E. No. 86945
sdean@beltengineering.com

I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL OF THE STRUCTURAL ELEMENTS AND SYSTEMS FOR THIS STRUCTURE HAVE BEEN DESIGNED TO BE IN COMPLIANCE WITH THE FLORIDA BUILDING CODE 8TH EDITION 2023. ALL OTHER ELEMENTS, SYSTEMS AND ASSEMBLIES ARE THE RESPONSIBILITY OF THE BUILDER.

NO.	ISSUE	DATE
-	SCHEMATIC REVIEW V2	02.17.2025
1.		
2.		
3.		
4.		
5.		
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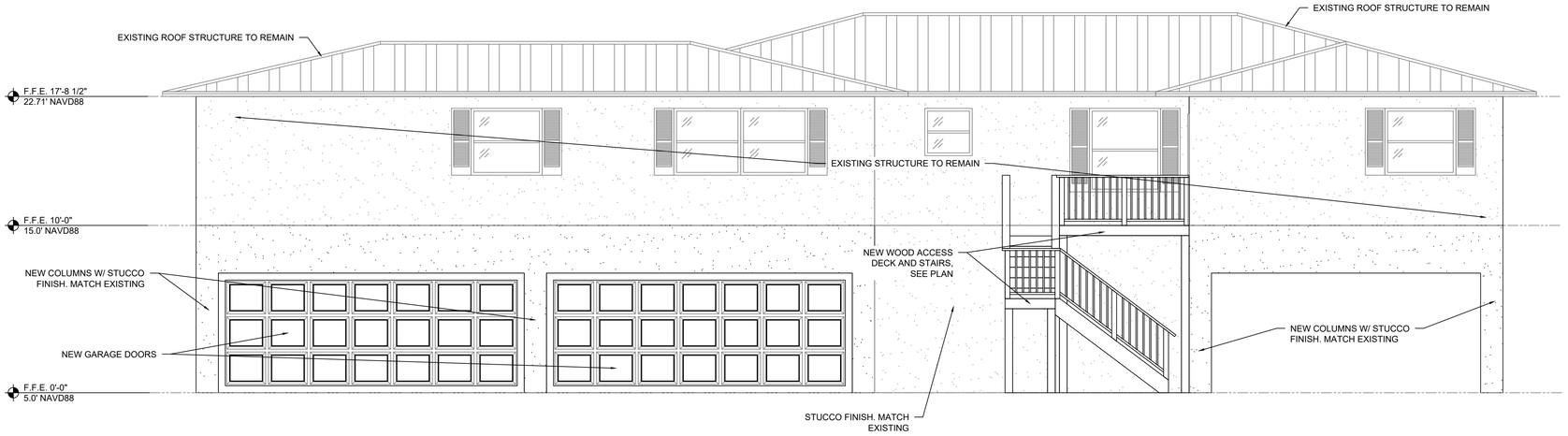
7.		
8.		
9.		
10		

PROJECT INFORMATION:
UNIFIED FOUNDATIONS LLC
STRUCTURE RAISE
274 CURLEW ST
FT. MYERS BEACH, FL 33931

JOB NO. ET24-1078
DRAWN HML
DESIGN HML
CHECK VBC

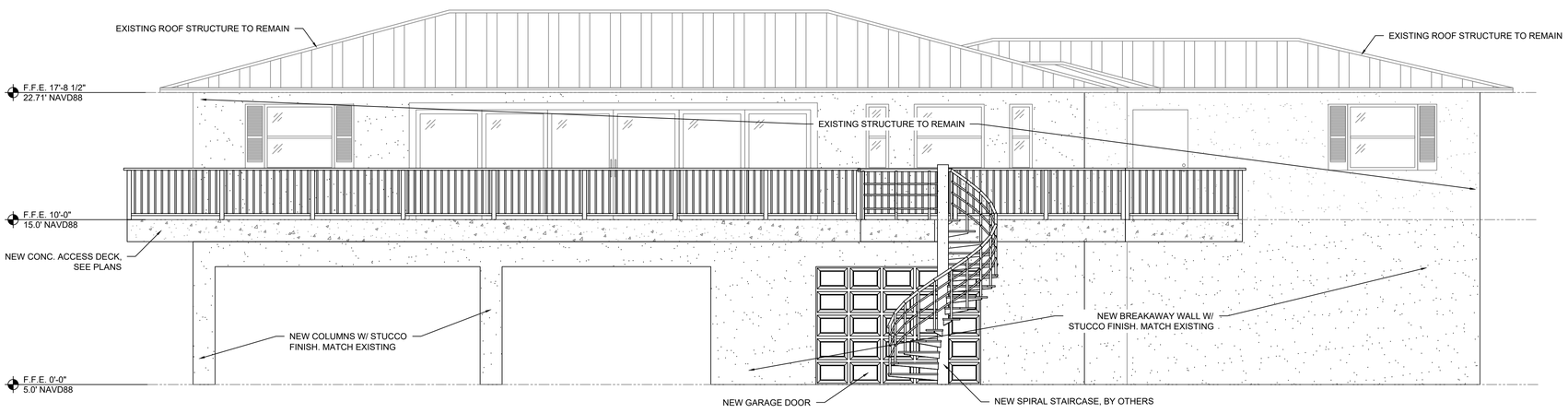
SITE PLAN

C1.1



SOUTH FACING ELEVATION

SCALE: 1/4" = 1'-0"



NORTH FACING ELEVATION

SCALE: 1/4" = 1'-0"

Belt Engineering
1503-A WEST BUSCH BLVD.
TAMPA, FL. 33612
WWW.BELTENGINEERING.COM
PH.(813) 961-3075
FX.(813) 961-1031
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Preliminary Not For Construction

SAMUEL P. DEAN P.E. No. 93945
sdean@beltengineering.com

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PROJECT INFORMATION:
UNIFIED FOUNDATIONS LLC
STRUCTURE RAISE
274 CURLEW ST
FT. MYERS BEACH, FL 33931

JOB NO. ET24-1078
DRAWN HML
DESIGN HML
CHECK VBC

ELEVATIONS

A2.1

FOR REVIEW AND PERMIT. NOT FOR CONSTRUCTION UNTIL APPROVED BY THE OWNER AND THE BUILDING OFFICIAL. THEN MUST BE MARKED "APPROVED FOR CONSTRUCTION" BY THE ENGINEER.

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: 274 Curlew St

STRAP Number: 34-46-24-W4-01200.00B0

Applicant: Robert Seth Whicker Phone: _____

Contact Name: Seth Whicker/ Kara Stewart Phone: 239-770-4198

Email: swhicker@sym.com/stewart.karalyn@gmail.com Fax: _____

Current Zoning District: RS

Future Land Use Map (FLUM) Category: Low Density

FLUM Density Range: 4du/acre Platted Overlay: ☐ YES ☑ NO

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

PART I – General Information

A. Applicant*: Robert Seth Whicker 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: 1191 W HANCOCK ST., Uniondale IN

Email: swhicker@sym.com Fax: _____

Contact Name: Seth Whicker Phone: _____

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

B. Relationship of Applicant to subject property:

- [x] 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
- [x] Variance from LDC Section 34 - 638
- [ ] Conventional Rezoning from _____ to _____
- [ ] Planned Development
- [ ] Rezoning from _____ to [ ] Commercial PD [ ] Residential PD
- [ ] Amendment. List the project number: _____
- [ ] Extension/reinstatement of Master Concept Plan. List project number: _____

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

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

_____

_____

PART III – Waivers

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

Code Section: _____ Description: _____

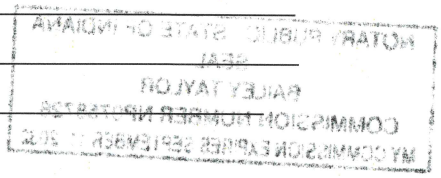
_____

Code Section: _____ Description: _____

_____

Code Section: _____ Description: _____

_____



PART IV – Property Ownership (Single Owner)

☑ Single Owner (individual or husband and wife)

Name: Robert Seth Whicker Phone: _____

Mailing Address: 1191 W HANCOCK ST., Uniondale IN

Email: swhicker@sym.com Fax: _____

AFFIDAVIT
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Robert Seth Whicker 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

Robert Seth Whicker
Printed Name

STATE OF IN **COUNTY OF** Allen

The foregoing instrument was certified and subscribed before me by means of ✓ physical presence OR ____ online notarization, this 12th day of March, 2025, by Seth Whicker, ☑ who is personally known to me OR ☐ who has produced

_____ as identification.

Bailey Taylor
Notary Public Signature

NOTARY PUBLIC - STATE OF INDIANA
SEAL
BAILEY TAYLOR
COMMISSION NUMBER NP0758728
MY COMMISSION EXPIRES SEPTEMBER 11, 2032

(SEAL)

PART V
Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address	Percentage Ownership

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

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

Name, Address and Office	Percentage of Stock

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

Name and Address	Percentage of Interest

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

Name and Address	Percentage of Ownership

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

Name, Address and Office	Percentage of Stock

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

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.

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

Signature

Title

Typed or Printed Name

Date

STATE OF _____ COUNTY OF _____

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

Seal

Notary Public Signature

PART VI– Property Information

A. Legal Description:

STRAP: 34-46-24-W4-01200.00B0

Property Address: 274 Curlew St

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

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

☐ Yes. Property identified in subdivision: Santini Cross Subdivision

Book: 695 Page: 542 Unit: _____ Block: _____ Lot(s): 18

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.

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

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 160 +- irregular lot approx feet

Depth (please provide an average width if irregular in shape) 70 +- irregular lot approx feet

Frontage on street: 146 feet. Frontage on waterbody: 190 feet

Total land area: 27,740 approx ☐ acres ☑ square feet

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

Over Bridge go left

☑ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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

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

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

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

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

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

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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

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

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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

line. Exhibit 6-2

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

Explanatory Notes – Part IV & V

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

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

Case # _____ Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

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

Case Number:
Project Name: 274 Curlew St
Authorized Applicant: Seth Whicker
LeePA STRAP Number: 34-46-24-W4-01200.00B0

Current Property Status: Developed with SFR			
Current Zoning: RS			
Future Land Use Map (FLUM) Category: Low Density			
Comp Plan Density: 4du/acre	**Platted Overlay?**	☐ **Yes**	☑ **No**

Variance is requested from:

LDC Section Number	**Title of Section or Subsection**
34-638	Setbacks

Complete the narrative statements below for EACH variance requested.

Case # _____ Date Received: _____

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:
Principle structure setback for the RS zoning district requires a
25' waterbody setback.
The owner is proposing a deck to allow ingress and egress into the home.
The proposed deck at it's narrowest point will be at 11'7" from the rear
waterbody property line, thus requiring a 13'5" reduction in setback. The
remainder of the deck will have greater setbacks as it wraps the home
see site plan attached

Reasons for request

Explain why the variance is needed:
The home has had damage from both Ian and Milton, thus the home is
proposed to be elevated in compliance with FEMA. The proposed deck
and staircase will provide ingress and egress to the rear of home
The property recently recieved an administrative variance to elevate the
existing non conforming home 20250057 however we are now looking to provide
access to the home

Explain the possible effect the variance, if granted, would have on surrounding properties:
The property is located at the end of the canal and abuts two properties whose view
should not be affected by the encroachment. As both these properties
should have clear view of the back of the back
see aerial view

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

The existing home does not meet setbacks and therefore limits the ability to
enjoy and access from the rear the proposed elevated home. The existing home
is located 17' to the property line and has an existing pool at grade which adds to
the difficulty of providing access into the home. After Ian, the owner invested in
a new 22' sliding glass door along the rear of the home (which will now be
elevated) and thus becomes the location for a deck and staircase. Elevating the
home brings it into FEMA compliance but takes away from the general use of the
property. The current configuration and location of the home on the property
further reduces options.

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.
EXTRAORDINARY CONDITIONS EXIST: The existing home does not currently
meet setbacks; the need to have ingress/egress from the rear of the property
is necessary.
THE RESULT OF THE VARIANCE IS NOT FROM ANY ACTION TAKEN BY
THE APPLICANT: Hurricane Ian and Milton both damaged the home thus
encouraging the owner to elevate the home. In doing the elevation an access
to the rear of the home through the 22' sliding glass door is needed.
MINIMUM VARIANCE REQUIRED: The request is the minimum required
for access and continued use of the home
GRANTING THE VARIANCE WILL NOT BE INJURIOUS TO THE NEIGHBOR:
The property is located at the end of a canal and abuts two neighbors; these
neighbors should not be affected with their view of the back of the bay.
.
THE REQUEST IS SO BROAD TO CHANGE THE CODE: The location of the
configuration of the existing home makes this request unique.

PART 2
Submittal Requirements

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

Required Items

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

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

Cover page

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

Narrative statements

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

Site plan

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

LDC Section 34-87

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

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

PAGE 1 OF 1

BOUNDARY SURVEY

LEGAL DESCRIPTION:

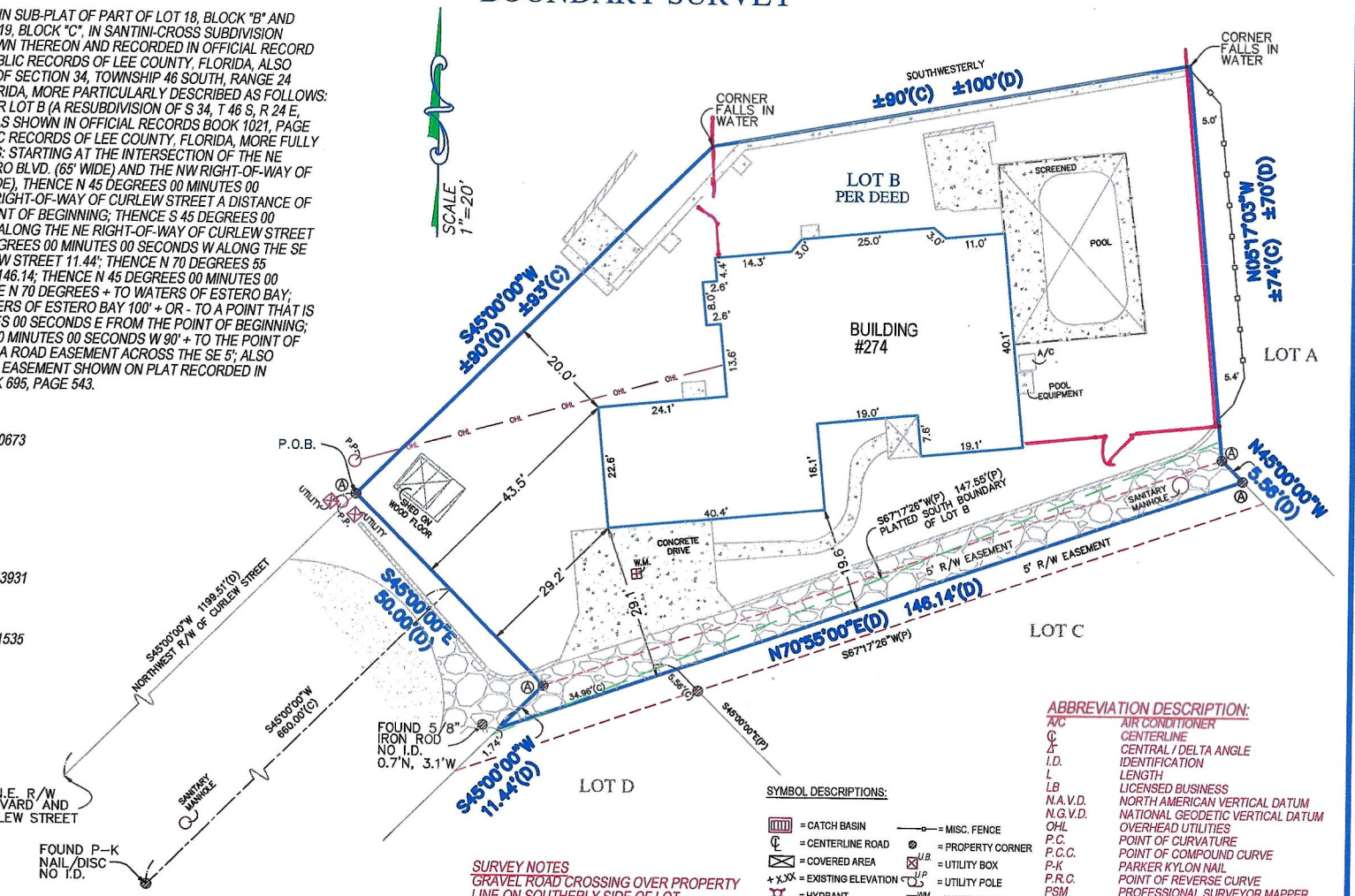
LOT "B" OF THAT CERTAIN SUB-PLAT OF PART OF LOT 18, BLOCK "B" AND ALL OF LOTS 17, 18 AND 19, BLOCK "C", IN SANTINI-CROSS SUBDIVISION (UNRECORDED) AS SHOWN THEREON AND RECORDED IN OFFICIAL RECORD BOOK 695, PAGE 542, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, ALSO DESCRIBED AS: A PART OF SECTION 34, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: "SKETCH OF SURVEY FOR LOT B (A RESUBDIVISION OF S 34, T 46 S, R 24 E, LEE COUNTY, FLORIDA, AS SHOWN IN OFFICIAL RECORDS BOOK 1021, PAGE 1265-1266, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, MORE FULLY DESCRIBED AS FOLLOWS: STARTING AT THE INTERSECTION OF THE NE RIGHT-OF-WAY OF ESTERO BLVD. (65' WIDE) AND THE NW RIGHT-OF-WAY OF CURLEW STREET (50' WIDE), THENCE N 45 DEGREES 00 MINUTES 00 SECONDS E ALONG NW RIGHT-OF-WAY OF CURLEW STREET A DISTANCE OF 1199.51 FEET TO THE POINT OF BEGINNING; THENCE S 45 DEGREES 00 MINUTES 00 SECONDS E ALONG THE NE RIGHT-OF-WAY OF CURLEW STREET FOR 50'; THENCE S 45 DEGREES 00 MINUTES 00 SECONDS W ALONG THE SE RIGHT-OFWAY OF CURLEW STREET 11.44'; THENCE N 70 DEGREES 55 MINUTES 00 SECONDS E 146.14; THENCE N 45 DEGREES 00 MINUTES 00 SECONDS W 5.56; THENCE N 70 DEGREES + TO WATERS OF ESTERO BAY; THENCE SW ALONG WATERS OF ESTERO BAY 100' + OR - TO A POINT THAT IS N 45 DEGREES 00 MINUTES 00 SECONDS E FROM THE POINT OF BEGINNING; THENCE S 45 DEGREES 00 MINUTES 00 SECONDS W 90' + TO THE POINT OF BEGINNING. SUBJECT TO A ROAD EASEMENT ACROSS THE SE 5'; ALSO SUBJECT TO A ROADWAY EASEMENT SHOWN ON PLAT RECORDED IN OFFICIAL RECORDS BOOK 695, PAGE 543.

COMMUNITY NUMBER: 120673
PANEL: 12071C0567
SUFFIX: F
F.I.R.M. DATE: 8/28/2008
FLOOD ZONE: AE
FIELD WORK: 12/27/2021

PROPERTY ADDRESS:
274 CURLEW STREET
FORT MYERS BEACH, FL 33931

SURVEY NUMBER: 518553

CLIENT FILE NUMBER: 21-1535



SYMBOL DESCRIPTIONS:

= CATCH BASIN
= CENTERLINE ROAD
= COVERED AREA
= EXISTING ELEVATION
= HYDRANT
= MANHOLE
= METAL FENCE
= MISC. FENCE
= PROPERTY CORNER
= UTILITY BOX
= UTILITY POLE
= WATER METER
= WELL
= WOOD FENCE

ABBREVIATION DESCRIPTION:

A/C	AIR CONDITIONER
℄	CENTERLINE
Δ	CENTRAL / DELTA ANGLE
I.D.	IDENTIFICATION
L	LENGTH
LB	LICENSED BUSINESS
N.A.V.D.	NORTH AMERICAN VERTICAL DATUM
N.G.V.D.	NATIONAL GEODETIC VERTICAL DATUM
OHL	OVERHEAD UTILITIES
P.C.	POINT OF CURVATURE
P.C.C.	POINT OF COMPOUND CURVE
P-K	PARKER KYLON NAIL
P.R.C.	POINT OF REVERSE CURVE
PSM	PROFESSIONAL SURVEYOR MAPPER
P.T.	POINT OF TANGENCY
R	RADIAL / RADIUS
R/W	RIGHT OF WAY

SURVEY NOTES
GRAVEL ROAD CROSSING OVER PROPERTY LINE ON SOUTHERLY SIDE OF LOT.

A = SET 1/2" IRON ROD, LB #7893

GENERAL NOTES:

1) LEGAL DESCRIPTION PROVIDED BY OTHERS
2) THE LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR EASEMENTS OR OTHER RECORDED ENCUMBRANCES NOT SHOWN ON THE PLAT.
3) UNDERGROUND PORTIONS OF FOOTINGS, FOUNDATIONS OR OTHER IMPROVEMENTS WERE NOT LOCATED.
4) WALL TIES ARE TO THE FACE OF THE WALL AND ARE NOT TO BE USED TO RECONSTRUCT BOUNDARY LINES.
5) ONLY VISIBLE ENCROACHMENTS ARE LOCATED.
6) DIMENSIONS SHOWN HEREON ARE PLAT AND MEASURED UNLESS OTHERWISE NOTED
7) FENCE OWNERSHIP NOT DETERMINED
8) ELEVATIONS, IF SHOWN, ARE BASED ON N.G.V.D. 1929 DATUM, UNLESS OTHERWISE NOTED.
9) IN SOME INSTANCES, GRAPHIC REPRESENTATION HAVE BEEN EXAGGERATED TO MORE CLEARLY ILLUSTRATE RELATIONSHIPS BETWEEN PHYSICAL IMPROVEMENTS AND/OR LOT LINES. IN ALL CASES, DIMENSIONS SHALL CONTROL THE LOCATION OF THE IMPROVEMENTS OVER SCALED POSITIONS.

REVISIONS:

LB #7893
SERVING FLORIDA
6250 N. MILITARY TRAIL, SUITE 102
WEST PALM BEACH, FL 33407
PHONE (561) 640-4800
STATEWIDE PHONE (800) 226-4807
STATEWIDE FACSIMILE (800) 741-0576
WEBSITE: http://targetsurveying.net

TARGET SURVEYING, LLC

SURVEYORS CERTIFICATE:
I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY PREPARED UNDER MY DIRECTION. NOT VALID WITHOUT A RAISED EMBOSSED SEAL AND SIGNATURE. Digitally signed by KENNETH OSBORNE Date: 2021.12.28 16:32:19 -05'00'

(SIGNED) KENNETH J OSBORNE
PROFESSIONAL SURVEYOR AND MAPPER #6415

Tools
Images year:
2024
01/21/2024
View 1
Display Parcels
© 2024 Eagleview

March 13, 2025

Town of Fort Myers Beach
Zoning Department

RE: Variance 274 Curlew St VAR 20250072

Dear Mr. Kropacek:

I am the neighbor immediately adjacent to 274 Curlew, I'm at 251 Curlew St. I have had conversations with my neighbor Mr. Whicker, and I understand he is applying for a permit to elevate his home to be in compliance with FEMA. As the home doesn't meet the required setbacks as is, he has received an Administrative Variance which I am in favor of.
I am also in favor of and have no objection to Mr. Whicker receiving a variance and subsequent permit to construct a much needed staircase and deck which further encroach into the waterbody setback.
We have no objection to this project and wish for his success in obtaining the variance to allow his home to be elevated in compliance with FEMA.

Thank you
Phillip T
Patricia L Thornberry

Phillip & Patricia Thornberry
207 Amhurst Cir
Nobelsville In 46062

Owners of
251 Curlew St.
FMB

April 10, 2025
Fort Myers Beach Local Planning Agency
2731 Oak Street
Fort Myers Beach, Florida 33931

RE: 274 Curlew St Variance 20250072

Chair Cereceda and Members,

My husband and I apologize for not being able to attend the LPA meeting in person. We frequently travel between our residence in Indiana and our home in Florida. Unfortunately, a prior commitment prevents us from meeting with you face-to-face as we will be out of the Country.

My grandparents first purchased a home in North Naples in 1965. As I grew up, we visited them every year. A highlight of those visits was always our trips to Fort Myers Beach. When Seth and I began considering buying a home in Florida, we knew exactly where we wanted to be – FMB. We envisioned ourselves as the grandparents with a home that everyone wants to visit for their vacations. Therefore, we specifically sought a location with a water view and a short walk to the beach. Our property at 274 Curlew is just that home.

We feel fortunate to have found our dream home on Curlew Street. Initially, we remodeled the house by adding large sliding glass doors to enhance our appreciation of the view. We undertook another remodeling project after Hurricane Ian and once again following Hurricane Milton.

At this point, we recognize the long-term necessity of elevating our home. As we raise it to FEMA standards, we aim to preserve the integrity of what I consider a classic Florida home, which holds sentimental value for me. Additionally, we also want to capitalize on the beautiful location. To achieve this – and utilize the recently installed sliding doors and outside concrete patio – an overhanging deck is essential. Without a deck, we would have to seal the doors, rendering them usable only as windows. Furthermore, a staircase on the deck will provide an additional access point to the second floor.

We are excited about the possibility of expanding the usable space within our existing home. The former garage will be converted into two bedrooms, allowing more children and grandchildren to visit simultaneously. This expansion will also provide additional parking beneath the home. Most importantly, we will be able to enjoy our home without the ongoing need for remodeling!

Once again, our apologies for not being available in-person. We appreciate your consideration of our project, recognizing the importance it is to our family and the use of our home.

Regards,
Cari and Seth Whicker

Town of Fort Myers Beach
Agenda Item Summary Yellow Sheet Number: **2025-360**

1. **Request:** **Meeting Date: April 29, 2025**

277 PRIMO DR: A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250045, REQUESTING A VARIANCE FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 277 PRIMO DRIVE, GENERALLY REFERED TO AS STRAP NUMBER 19-46-24-W4-0150D.0260 IN FORT MYERS BEACH, TO VARY 12.4 FEET FROM REQUIRED 25 FOOT WATERBODY SETBACK FROM A CANAL TO BUILD A NEW GARAGE AND AN ELEVATED POOL FOR THE EXISTING SINGLE-FAMILY RESIDENCE IN THE RC ZONING DISTRICT; AND 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:
Variances may be approved by the LPA or recommendations from the LPA may be sent to the Town Council for consideration.

What the action accomplishes:
Approval of the variance would allow an elevated pool and a garage with living area above to be constructed 12.6 feet from the canal property line.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
resolution

---

5. **Background:**
The owners of 277 Primo drive, are requesting a variance from the Town's Land Development Code (LDC) setback table 34-3, which requires elevated pools and buildings to provide a 25-foot waterbody setback from on waterfront parcels in the RC zoning district. The property currently supports a single-family home, built in 1997. The existing residence has an attached at-grade pool, which is compliant with Town's setback requirements. The Applicant is proposing a new elevated pool and a new garage, with living space above, to the west side of the property. The applicant is, requesting a variance of 12.4 feet from the required 25-foot waterbody setback to allow a waterbody setback of 12.6 feet from the property line along the canal side of the property.

Attachments:
1. LPA Resolution 25-XX 277 Primo Dr
2. Staff report
3. Exhibit A Concept Plan
4. Exhibit B Complete Application

Financial Impact:
unknown

6. **Alternative Action**
Recommend approval with conditions

7. **Staff Recommendations:**
Recommend denial

8. **Recommended Approval:**

_____	Date: April 16, 2025
Judith Frankel, Principal Planner	
_____	Date: April 17, 2025
Georgina Cid, Community Development Manager	
_____	Date: April 17, 2025
Frankie Kropacek, Operations & Compliance Director	
_____	Date: April 22, 2025
nancy stuparich, Town Attorney	
_____	Date: April 22, 2025
Amy Baker, Town Clerk	

LPA RESOLUTION 2025-XX

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250045, REQUESTING A VARIANCE FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 277 PRIMO DRIVE, GENERALLY REFERED TO AS STRAP NUMBER 19-46-24-W4-0150D.0260 IN FORT MYERS BEACH, TO VARY 12.4 FEET FROM REQUIRED 25 FOOT WATERBODY SETBACK FROM A CANAL TO BUILD A NEW GARAGE AND AN ELEVATED POOL FOR THE EXISTING SINGLE-FAMILY RESIDENCE IN THE RC ZONING DISTRICT; AND 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, 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, Thomas and Melinda Kolar, owners of the property located at 277 Primo Drive (Property), is requesting variance from LDC Table 34-3 of 12.4 feet from the required 25-foot waterbody setback from a canal to allow a waterbody setback of 12.6 feet to construct a new garage and an elevated pool for the existing single-family residence in the RC zoning district; and

WHEREAS, the STRAP number for the subject property is 19-46-24-W4-0150D.0260; and

WHEREAS, the Property is located in the "Mixed Residential" Future Land Use Map of the Comprehensive Plan and the "Residential 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 April 29, 2025, 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 __ to__ by roll call vote to approve / approve with conditions / deny the requested variances with the following conditions:

1. Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.

2. The variance shall only apply to the single-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variances to be null and void.

WHEREAS, Ordinance 24-06 amended Section 34-232(d) of the LDC to provide that:

(d) Owner-initiated requests for variances, or required reviews to extend or to provide evidence of satisfaction of conditions contained in prior land use approvals, that are:

1) approved by a unanimous vote of the local planning agency members who are eligible to vote, and

2) not subject to a request for an additional public hearing before the town council made by anyone that is received by the town clerk within 10 business days after the date of the local planning agency decision, excluding holidays, only require one public hearing before the local planning agency, and the local planning agency decision is final agency action.

IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

1. The foregoing "WHEREAS" clauses are adopted herein by reference and constitute the findings and conclusions of the LPA.

2. VAR20250045, with the conditions contained herein, received / did not receive unanimous approval from eligible voting members of the LPA on April 29th, 2025.

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 April, 2025.

Local Planning Agency of the Town of Fort Myers Beach

By: _____
Anita Cereceda, LPA Chair

Approved as to legal sufficiency:

By: _____
Vose Law Firm, Town Attorney

ATTEST:

By: _____
Amy Baker, Town Clerk

EXHIBIT A: Site Plan

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: **Variance**

CASE NUMBER: **VAR20250045**

CASE NAME: **277 Primo Drive; a variance from Table 34-3 of 12.4 feet from the required 25-foot waterbody setback to allow a 12.6-foot setback.**

LPA HEARING DATE: **April 29, 2025**

STAFF RECOMMENDATION: **DENIAL**

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

I. APPLICATION SUMMARY

Applicant/Owner: Thomas and Melinda Kolar

Request: A variance from Table 34-3 of 12.4 feet from the required 25-foot waterbody setback from a canal for an RC zoned waterbody lot. To allow a waterbody setback of 12.6 feet from the canal on the west side of the property to build a new garage and an elevated pool for the existing single-family residence.

Subject property: See attached site plan

Physical Address: 277 Primo Drive

STRAP #: 19-46-24-W4-0150D.0260

FLU: Mixed Residential

Zoning: Residential Conservation (RC)

Adjacent zoning and land uses:

North: Bay

South:	MIXED RESIDENTIAL RC
East:	MIXED RESIDENTIAL RC
West:	Canal

II. BACKGROUND AND ANALYSIS

Background:

Thomas and Melinda Kolar, the owners of 277 Primo drive, are requesting a variance from the Town's Land Development Code (LDC) setback table 34-3, which requires elevated pools and buildings to provide a 25-foot waterbody setback from on waterfront parcels in the RC zoning district.

The property currently supports a single-family home, built in 1997. The existing residence has an attached at-grade pool, which is compliant with Town's setback requirements. The Applicant is proposing a new elevated pool and a new garage, with living space above, to the west side of the property. The applicant is, requesting a variance of 12.4 feet from the required 25-foot waterbody setback to allow a waterbody setback of 12.6 feet from the waterbody property line along the canal side of the property.

Analysis:

The purpose of the RC zoning district is to recognize certain older neighborhoods that had been zoned for duplex, multifamily, or mobile homes purposes prior to incorporation of the town. A conforming lot in RC zoning is at least 45 feet wide and 80 feet deep or 4,000 sq. ft. of area. 277 Primo is a conforming RC zoned parcel.

As per LDC Section 34-638. (d)(3) b. no building or structure shall be placed closer than 25 feet to a property line adjacent to a canal, bay, or other waterbody in the RC zoning district. The existing at-grade pool has a 20-foot setback from the canal. LDC Section 34-638. (d)(3) c.3. allows non-roofed accessory structures, including at-grade swimming pools, to have a 5-foot setback from a sea-walled canal. Therefore, the existing house is in compliance with the Town's LDC.

The Applicant plans to build a pool elevated to the first living level above flood elevation. The elevated pool will be considered part of the principal structure and must comply with the waterbody setback requirements for a principal structure in RC zoning district. The Applicant also plans to add another garage encroaching 7.5 feet into the required25-foot waterbody setback and a 6-foot-wide pool equipment enclosure will be added on the rear of the new garage. The Applicant is requesting a variance of 12.4 feet from the required 25-foot waterbody setback to allow a waterbody setback of 12.6 feet from the canal to build a garage and an elevated pool for the existing single-family residence.

As per LDC Section 34-638. (d)(1) g.3., New, elevated, mechanical equipment, for existing homes, may be located or relocated into the rear, side or side street setback and may encroach no more than three feet into the required setback. If the requested variance of 12.4 feet is approved, the proposed elevated mechanical equipment will encroach only an additional 2.3 feet in the new waterbody setback, this encroachment will be allowed without requesting any additional variance.

Neighborhood Compatibility:
A review of the neighborhood using the Lee County Property Appraiser GIS aerial imagery indicates that several houses in this neighborhood have at-grade swimming pools that meet the accessory structure waterbody setback of 5-feet from the seawall. The pools for these houses, are closer than 25 feet to the canal and any home-owner planning to raise their pool, they would need to go through a similar variance process.

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

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

   There are not any exceptional conditions inherent to the property. The lot is regularly shaped, conforming RC zoned parcel. The property currently supports a house with an at-grade pool and attached garage that is compliant with the LDC's required setbacks.

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 a result of a design choice. The Applicant has the choice to maintain the current house and pool which are compliant with the Town's regulation. The Applicant is requesting a variance of 12.4 feet from the required waterbody setback to allow an elevated pool and add another garage for the existing residence.

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

   The request is for the minimum variance that would allow the Applicant to elevate a pool and build a garage in that location. The proposed new garage has a similar waterbody setback as the elevated pool and may be approved as part of the same application.

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

The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. However, the elevated pool and new structure, closer than 25 feet from the waterbody may limit views of the bay.

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

The conditions or circumstances on this specific property for which a variance is sought are not general in nature and do not warrant a code change.

III. RECOMMENDATION

Staff has reviewed the request for a variance of *12.4 feet from Table 34-3 which requires that structures in the RC zoning district provide a 25-foot waterbody setback from a waterway* and find that the variance request does not meet the requirements set-forth in sec. 34-87.

Therefore, staff recommends **DENIAL** of VAR20250045, a variance from Table 34-3 of 12.4 feet from the required 25-foot waterbody setback to allow a waterbody setback of 12.6 feet from the canal for an RC zoned waterbody lot.

IV. CONDITIONS

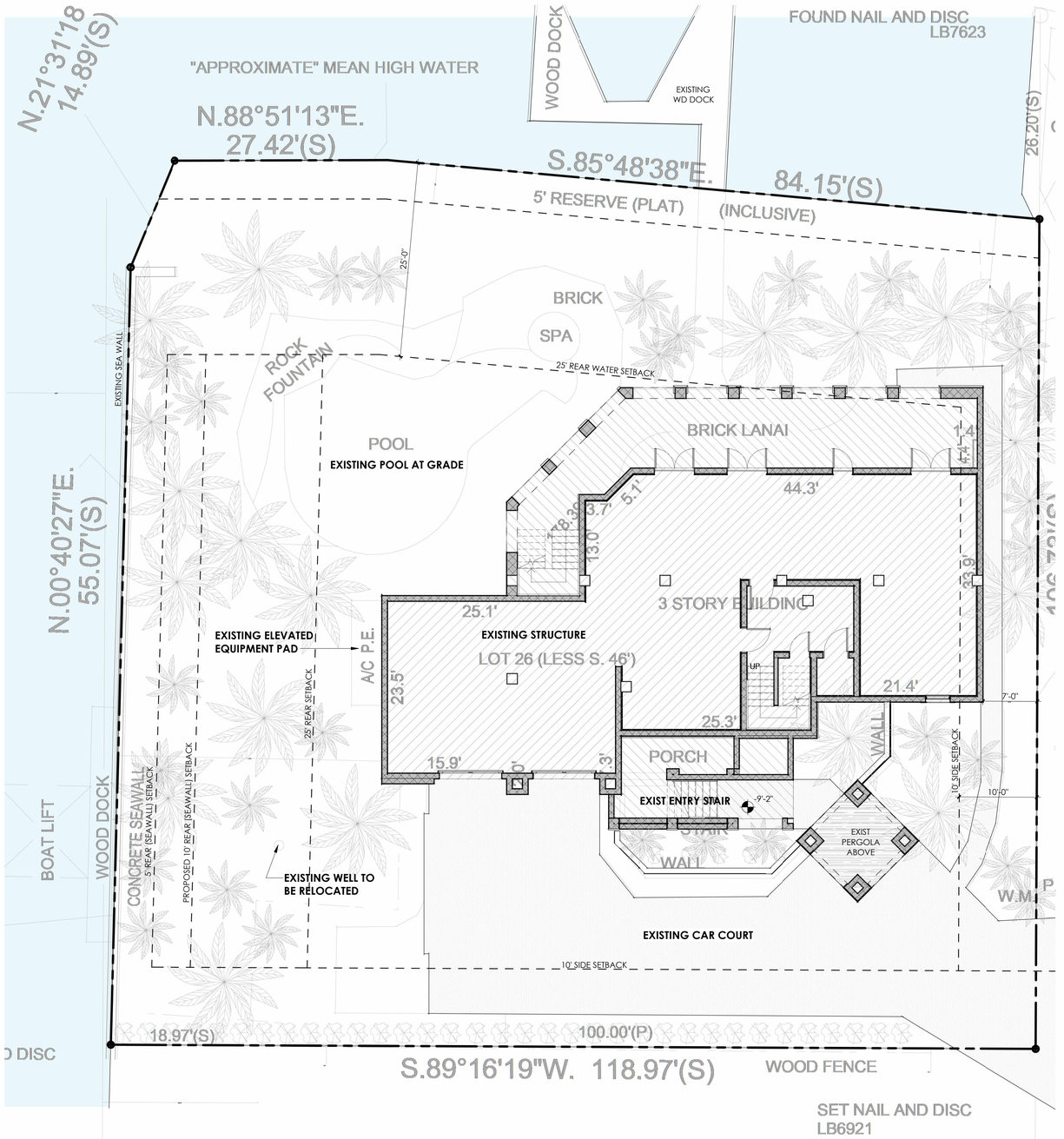
If approval of the request is granted, the following conditions should be considered for incorporation into the resolution of approval.

1. Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.

2. The variance shall only apply to the single-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variances to be null and void.

V. EXHIBITS

Exhibit A: Concept Plan
Exhibit B: Complete Application Packet



1 EXISTING SITE PLAN
SCALE: 1/8" = 1'-0"

KOLAR RESIDENCE

DATE: 02/14/2025

MHK ARCHITECTURE COPYRIGHT © 2025

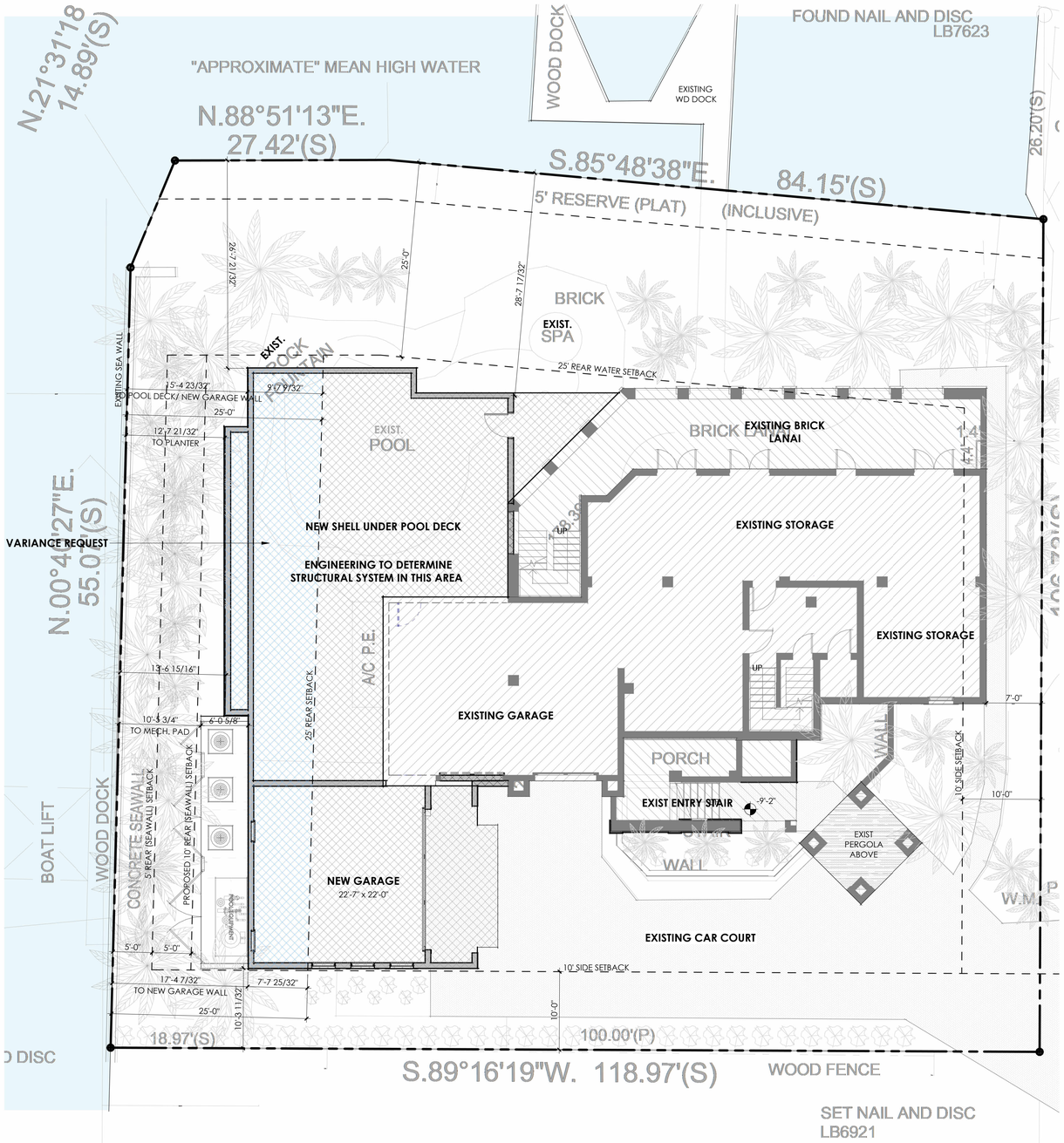
SK1 | MHK ARCHITECTURE

ZONING SUMMARY	
DISTRICT	RC
FEMA	AE-11 + LiMWA
A.C.O.R.	3.3 FT NAVD
SETBACKS	
FRONT	N/A
SIDES	10 FT
SPATIAL PERCEPTION	N/A
REAR	25 FT
REAR POOL	TBD

LOT COVERAGE		
LOT AREA		13,073 SQFT
TOTAL ALLOWED	40%	5,229 SQFT
TOTAL DESIGNED	36%	4,702 SQFT
EXISTING HOUSE		2,326 SQFT
EXIST. ENTRY PORCH		260 SQFT
EXIST. PERGOLA		123 SQFT
EXIST. VERANDA		695 SQFT
NEW GARAGE/ POOL CABANA		1,023 SQFT
NEW COV. PORCH		275 SQFT
TOTAL DESIGNED		4,702 SQFT

IMPERVIOUS COVERAGE		
LOT AREA		13,073 SQFT
TOTAL ALLOWED	67%	8,759 SQFT
TOTAL DESIGNED	61%	7,978 SQFT
EXISTING HOUSE		2,326 SQFT
EXIST. ENTRY PORCH		260 SQFT
EXIST. PERGOLA		123 SQFT
EXIST. VERANDA		695 SQFT
NEW GARAGE/ POOL CABANA		1,023 SQFT
NEW COV. PORCH		275 SQFT
PROPOSED ELEV. POOL DECK		1,276 SQFT
DRIVEWAY PAVERS		2,000 SQFT
TOTAL DESIGNED		7,978 SQFT

*NOTE: LOT MUST HOLD 1.6" OF WATER WHEN 500SF OF IMPERVIOUS SURFACE IS ADDED.



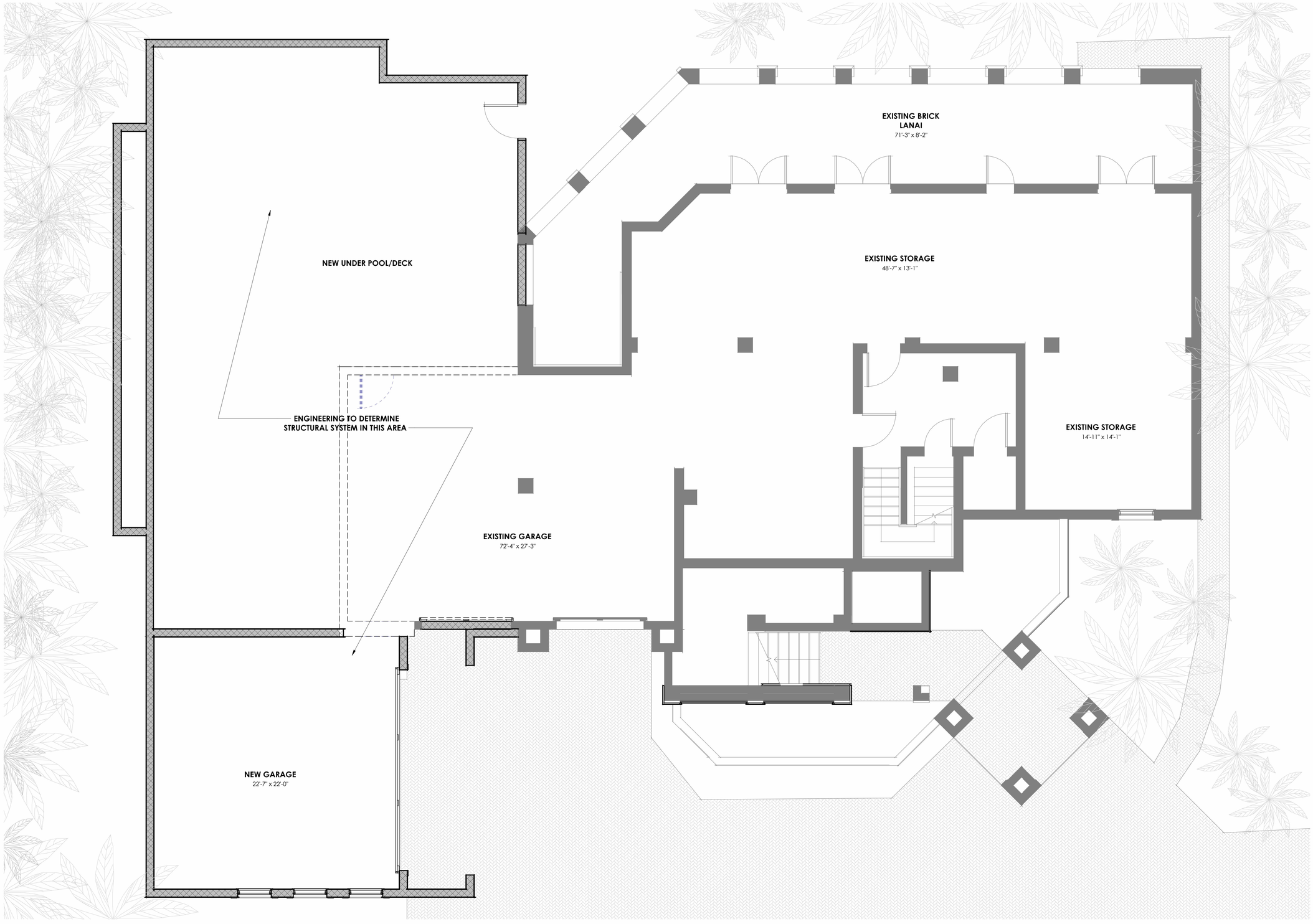
1 PROPOSED SITE PLAN
SCALE: 1/8" = 1'-0"

KOLAR RESIDENCE

DATE: 02/14/2025

MHK ARCHITECTURE COPYRIGHT © 2025

SK1.1 | MHK ARCHITECTURE



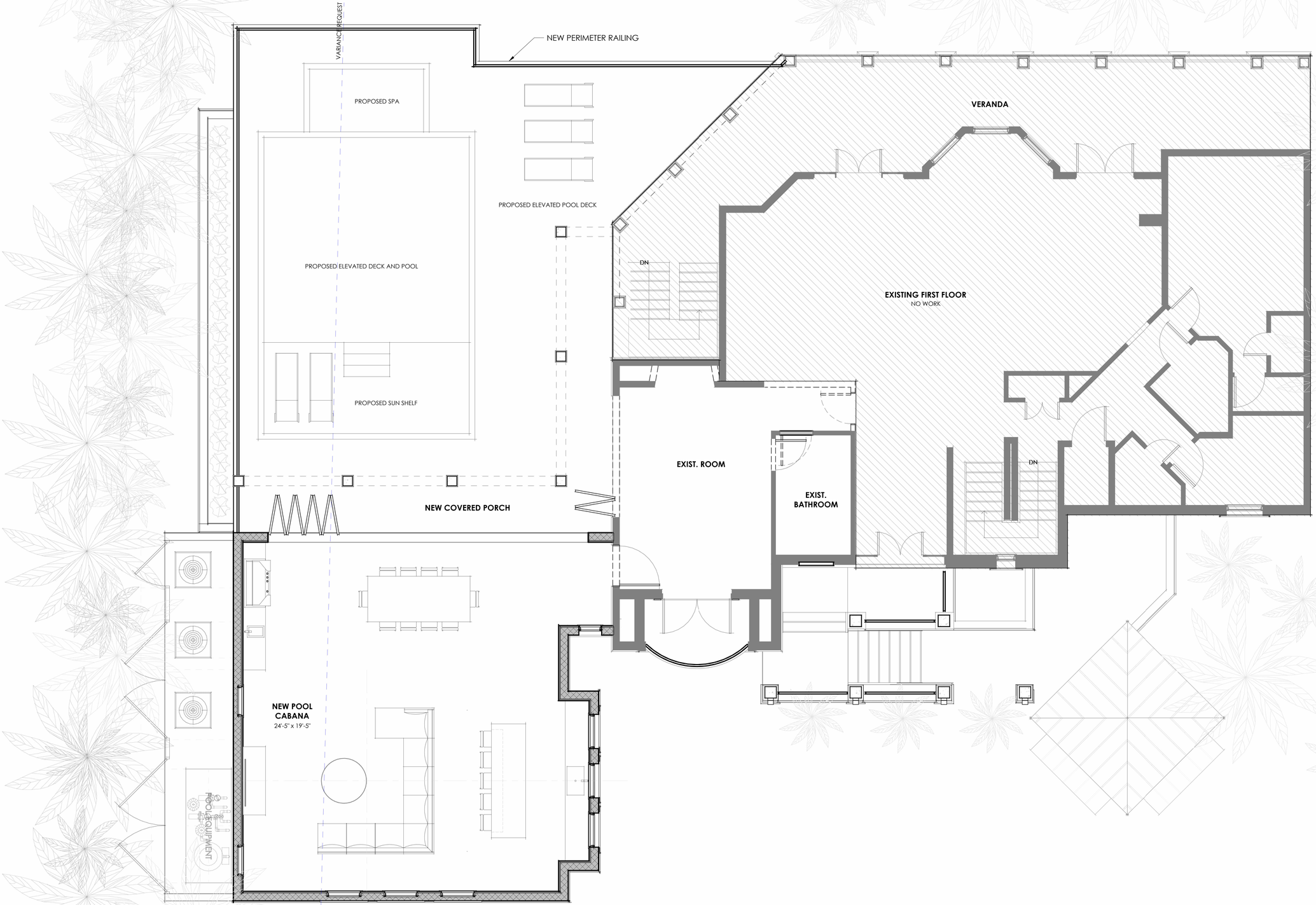
1 GROUND FLOOR PLAN
SCALE: 1/4" = 1'-0"

KOLAR RESIDENCE

DATE: 02/14/2025

MHK ARCHITECTURE COPYRIGHT © 2025

SK2 | MHK ARCHITECTURE



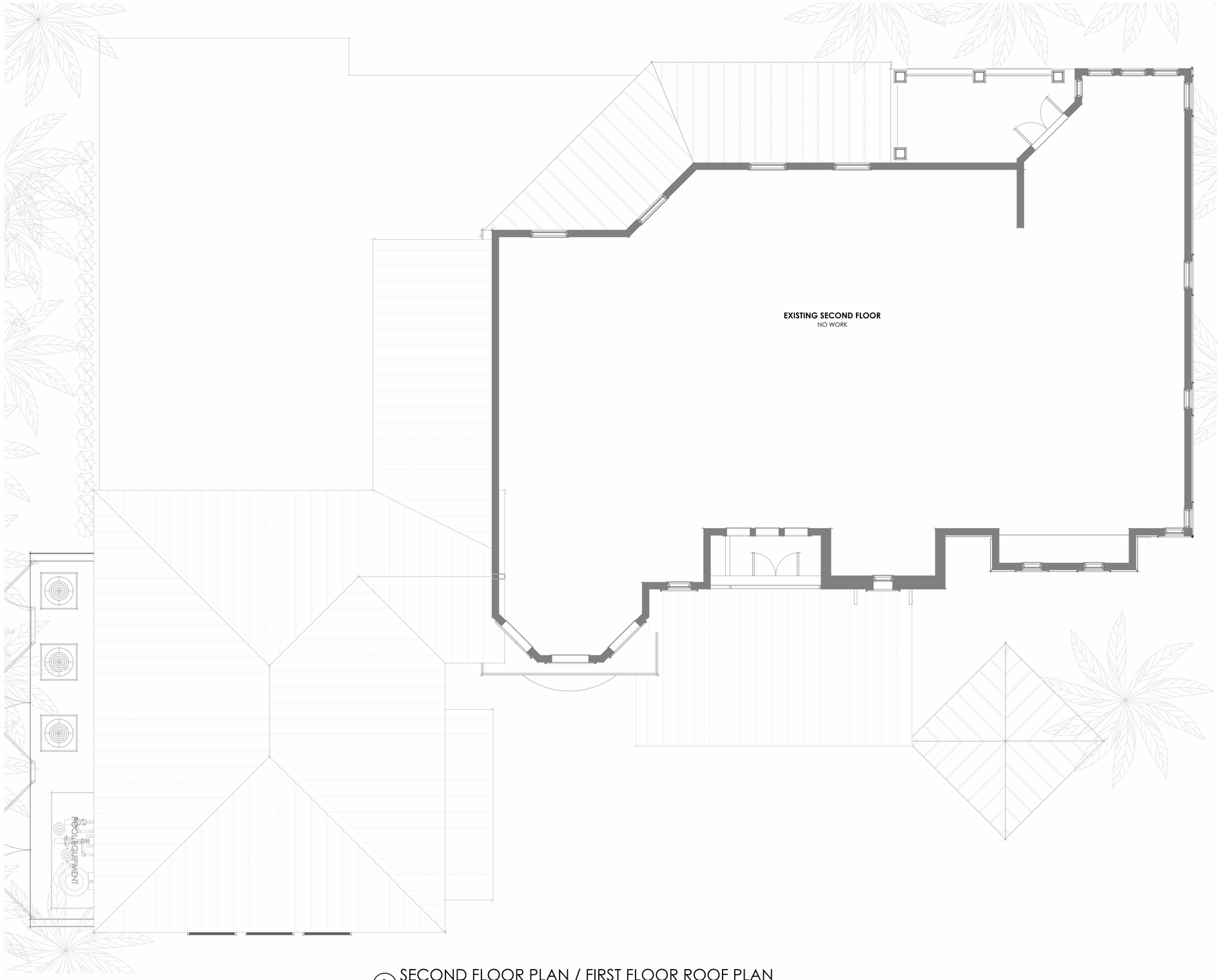
1 FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"

KOLAR RESIDENCE

DATE: 02/14/2025

MHK ARCHITECTURE COPYRIGHT © 2025

SK3 | MHK ARCHITECTURE



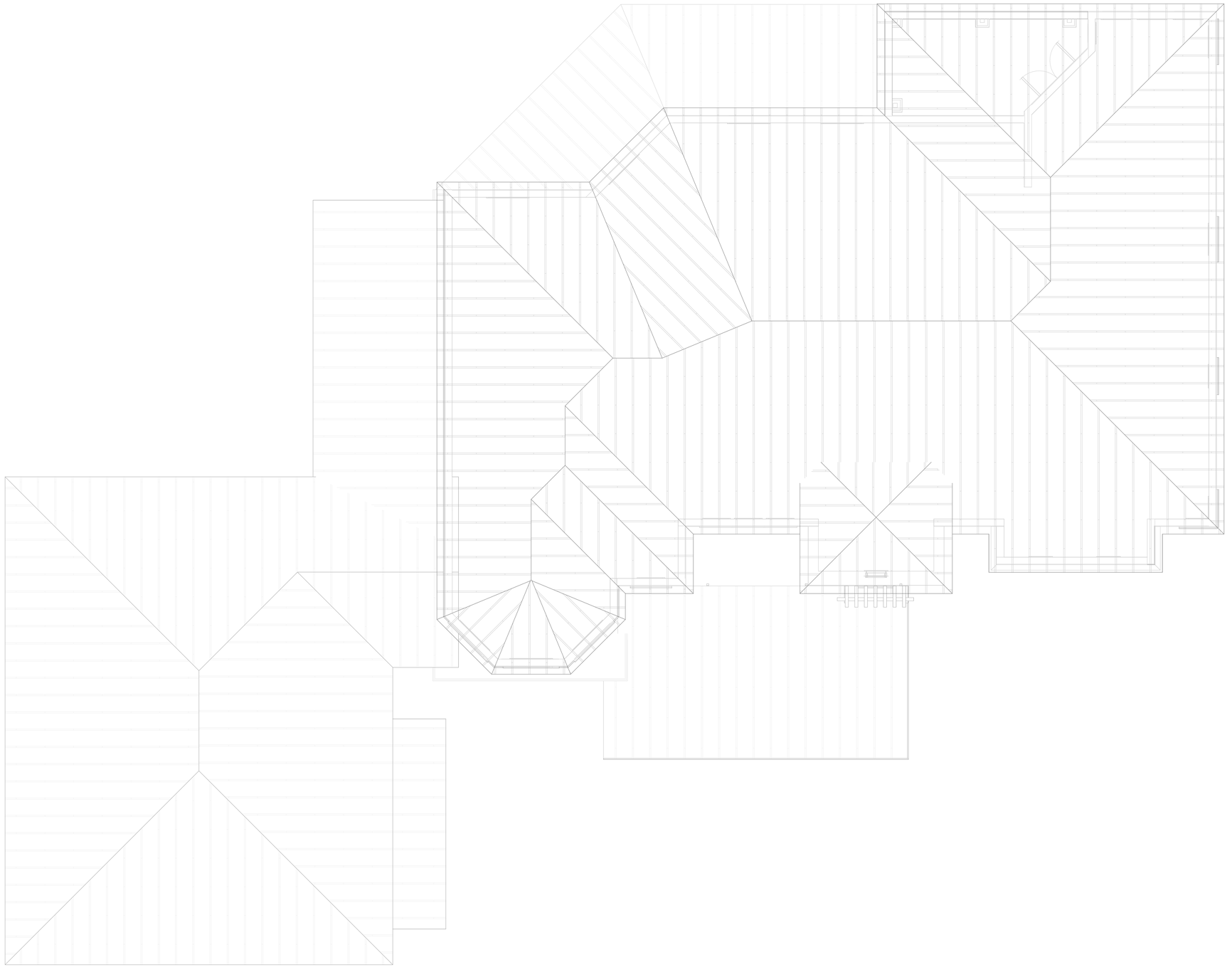
1 SECOND FLOOR PLAN / FIRST FLOOR ROOF PLAN
SCALE: 1/4" = 1'-0"

KOLAR RESIDENCE

DATE: 02/14/2025

MHK ARCHITECTURE COPYRIGHT © 2025

SK4 | MHK ARCHITECTURE



1 ROOF PLAN
SCALE: 1/4" = 1'-0"

KOLAR RESIDENCE

DATE: 02/14/2025

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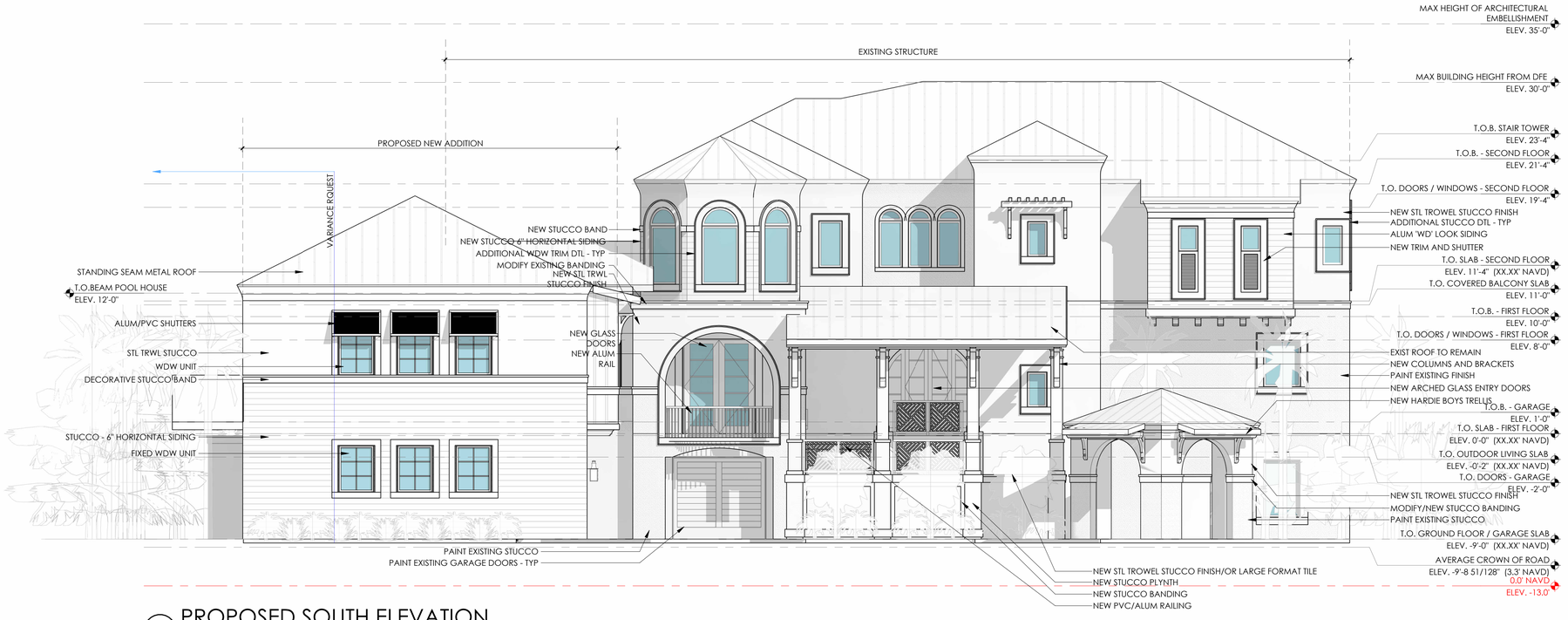
SK5 | MHK ARCHITECTURE



1 PROPOSED SOUTH ELEVATION

SCALE: 3/16" = 1'-0"

2 SOUTHEAST PERPSPECTIVE

SCALE:

3 PROPOSED EAST ELEVATION

SCALE: 3/16" = 1'-0"

KOLAR RESIDENCE

DATE: 02/14/2025

MHK ARCHITECTURE COPYRIGHT © 2025

SK6 | MHK ARCHITECTURE

1 PROPOSED WEST ELEVATION
SCALE: 3/16" = 1'-0"

KOLAR RESIDENCE

DATE: 02/14/2025

MHK ARCHITECTURE COPYRIGHT © 2025

SK7 | MHK ARCHITECTURE

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: 277 Primo Drive

STRAP Number: 19-46-24-W4-0150D.0260

Applicant: Thomas & Melinda Kolar Phone: _____

Contact Name: Kara Stewart Phone: 239-770-4198

Email: stewart.karalyn@gmail Fax: _____

Current Zoning District: RC

Future Land Use Map (FLUM) Category: Mixed Residential

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

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

PART I – General Information

A. Applicant*: Thomas & Melinda Kolar 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: 277 Primo Dr., FMB 33931

Email: _____ Fax: _____

Contact Name: Kara Stewart Phone: 239-770-4198

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

COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- [x] 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: Tommy Kolar Phone: 239-233-4363

Address: _____

Email: _____ Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

- [ ] Special Exception
- [x] Variance from LDC Section 34 - 638, 1176(d)
- [ ] Conventional Rezoning from _____ to _____
- [ ] Planned Development
- [ ] Rezoning from _____ to [ ] Commercial PD [ ] Residential PD
- [ ] Amendment. List the project number: _____
- [ ] Extension/reinstatement of Master Concept Plan. List project number: _____

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

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

_____

_____

PART III – Waivers

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

Code Section: _____ Description: _____

_____

Code Section: _____ Description: _____

_____

Code Section: _____ Description: _____

_____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Thomas Kolar 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

Thomas Kolar
Printed Name

STATE OF Florida **COUNTY OF** Lee

The foregoing instrument was certified and subscribed before me by means of X physical presence OR ____ online notarization, this 19th day of February, 2025 by ____, ☐ who is personally known to me OR ☒ who has produced Drivers License as identification.

[SEAL]

Notary Public Signature

TERRY LYNN COLVIN
Notary Public - State of Florida
Commission # HH 479558
My Comm. Expires Jan 10, 2028
Bonded through National Notary Assn.

PART V
Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address	Percentage Ownership

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.

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

COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

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

Signature

Title

Thomas Kolar

Typed or Printed Name

2-19-25

Date

STATE OF Florida **COUNTY OF** Lee

The foregoing instrument was certified and subscribed before me by means of X physical presence OR ☐ online notarization, this 19th day of February, 2025, by Thomas F Kolar, ☐ who is personally known to me OR ☒ who has produced Drivers License as identification.

Seal

Notary Public Signature

TERRY LYNN COLVIN
Notary Public - State of Florida
Commission # HH 479558
My Comm. Expires Jan 10, 2028
Bonded through National Notary Assn.

PART VI– Property Information

A. Legal Description:

STRAP 19-46-24-W4-0150D.0260 Property Address:

277 Primo Dr 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: Crescent Park

Book: 4 Page: 46 Unit: _____ Block: D Lot(s): 26

B. Boundary Survey:

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

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 118 approx feet

Depth (please provide an average width if irregular in shape) 106 approx feet

Frontage on street: 0 feet. Frontage on waterbody: 225 feet

Total land area: 13073 ☐ acres ☑ square feet

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

Over bridge go left to Primo at end of road

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

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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

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

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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

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

line. Exhibit 6-2

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

Explanatory Notes – Part IV & V

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

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

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: 277 Primo
Authorized Applicant: Thomas Kolar
LeePA STRAP Number: 19-46-24-W4-0150D.0260

Current Property Status: Single Family			
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**
34-1176 (d)	Swimming pools, tennis courts, porches....
34-638 (d)(3)(b)	Waterbody Setbacks
34-638 (d)(1)(g)(3)	Mechanical Equipment

Complete the narrative statements below for EACH variance requested.

Case # _____ Date Received: _____

PART I

Narrative Statements

Request for variance from Multiple see below **(LDC Section number)**

Explain the specific regulation contained in this section from which relief is sought:
34-1176 (d) Swimming pools when elevated greater than 4' from grade and or
have a stemwall greater than 4' must meet principle structure setbacks.
The required waterbody setback is 25'. The applicant is proposing the
elevated pool be 12'7" from the western property line seawall, creating a 12'5" .
encroachment.
34-638 (d)(3)(b) Setbacks
Principle structure setbacks from a Body of Water must meet 25' setback.
The proposed garage and pool cabana are located 16'5" from waterbody,
creating a 9'7" encroachment
34-638 (d)(1)(g)(3)
On existing home relocated mechanical equipment may not encroach waterbody
setback of 25', the mechanical pad is located 10'5" creating 14' 7"encroachment

Reasons for request

Explain why the variance is needed:
The position of the existing home on the lot, the irregular lot configuration, along
with the two 25' required waterbody setback limits the ability to
reconfigure the pool and correct the ability to use the garage without relief.

Explain the possible effect the variance, if granted, would have on surrounding properties:
SEE ATTACHMENT "B"

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

SEE ATTACHMENT "B"

Case # _____ Date Received: _____

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.
Pls see attached document "Qualifications for a Variance"
:
.

PART 2
Submittal Requirements

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

Required Items

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

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

Cover page

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

Narrative statements

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

Site plan

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

LDC Section 34-87

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

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

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

1. ***Extraordinary Conditions:*** Elevated Pool Encroachment/ garage/ mechanical equipment

The Property is a corner lot on the water and thus has two 25' waterbody setback requirements. Additionally the parcel has an irregular shape and orientation to the street.

2. ***Result is not from any action taken by applicant****:*
The applicant has owned this property since 1995 and thus has raised a family on FMB, the family dynamic has changed with the expansion of the including grandchildren and the desire to use the current dwelling while staying on FMB. The family is looking to create a moreviable useable safe environment at the home.

3. ***Minimum variance requested:***
The request for an elevated pool on an existing lot with two 25' waterbody setback requirements and only requiring one waterbody setback is a minimum request. The elevation of the pool will not affect the only adjacent neighbor to the South. The garage encroachment maintains the side yard since it is proposed to be attached to the home needs a variance, if not structurally attached would not need the variance. The a/c although encroaches the waterbody setback still meets the side yard. All are minimum requests given the current configuration of the property and home.

4. ***Granting the variance will not be injurious to the neighborhood:*** The encroachment of the pool/garage and a/c into the waterbody setback will not be injurious to the neighborhood. The owner currently enjoys privacy with landscaped hedges which are proposed to be maintained.

The pool, garage and a/c encroachments will still maintain the required side yard setback for the neighbor to the South, while only the setback to the canal is affected. Furthermore, it is interesting to note that if the garage structure was structurally detached from the home the waterbody setback would be met as it is only required to be 10' (LDC34-638 (d)(3)(c)(4)(ii) .

5. ***The request is not so broad in nature to require a code change:***

This requests is unique to this property due to the configuration of the lot, two waterbody setbacks

EXHIBIT B

Kolar Residence
277 Primo Variance

Possible Effects on Neighbor:

The pool encroachment to the waterbody will have no affect on the neighbor to the South as there currently exists landscaping which will remain. See exhibit A

The pool and garage will meet the waterbody setback to the North and the side setback to the South. The existing property has landscaping which currently provides for privacy on both properties. See exhibit A

The A/C encroaches into the waterbody setback only, and again will be buffered by the existing landscaping that currently exists. The proposed location for the A/C will maintain the correct sideyard setback to the adjacent neighbor.

Should be noted the code allows a 10' waterbody setback on detached accessory structures (LDC34-638 (d)(3)(c)(4)(ii), which if we were not attaching this garage structure we would be meeting the waterbody setback. Our garage setback is at 16'5".

Hardship:

The property is cornered on two sides by water and has an irregular shape and configuration.

The existing pool is currently at grade and while the family has been able to enjoy the use of the pool in the past, the family dynamic has changed with the addition of grandchildren. Having the swimming pool on the upper level off the living area of the home will improve the families ability to use the pool. The home is elevated and at time of construction complied with Flood, therefore the space at grade may only be used for storage parking and access. As the family dynamic has changed so has the need to have the pool more visible, accessible and with restroom nearby.

The existing garage was not constructed with today's vehicle sizes in mind. See Exhibit "C". The existing garage is rather small in size and unable to accommodate the larger vehicles of today. The proposed garage will allow for the storage of the larger vehicles of today. As mentioned above, the code allows this structure if not structurally attached to the home to have a 10' waterbody setback, we are at 16'5" Therefore this is a de minimus request.

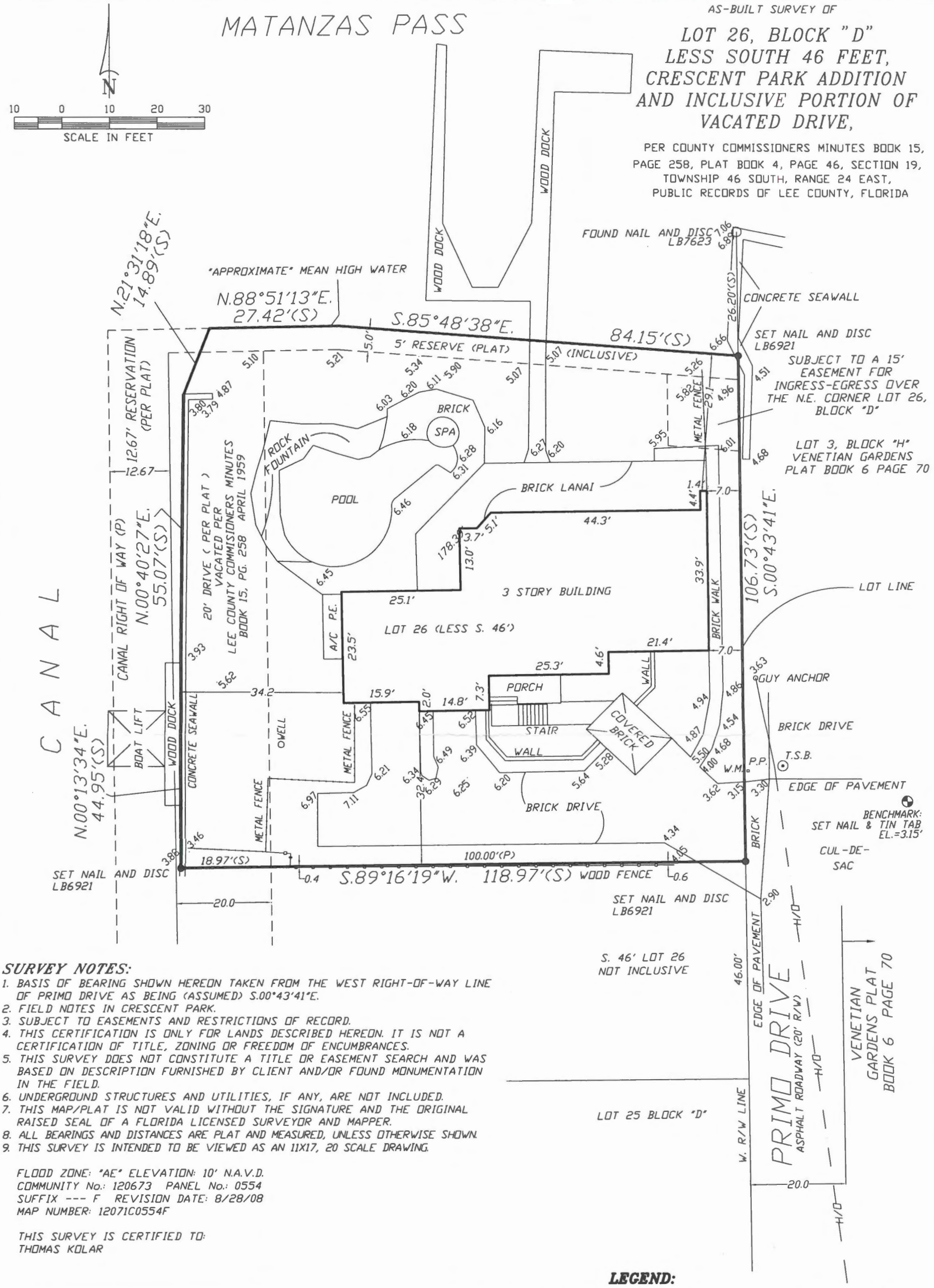
Tools
Images year:
2024
02/03/2024
View 1
Display Parcels
Exhibit A
© 2024 Eagleview

MATANZAS PASS

AS-BUILT SURVEY OF

LOT 26, BLOCK "D" LESS SOUTH 46 FEET, CRESCENT PARK ADDITION AND INCLUSIVE PORTION OF VACATED DRIVE,

PER COUNTY COMMISSIONERS MINUTES BOOK 15, PAGE 258, PLAT BOOK 4, PAGE 46, SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST, PUBLIC RECORDS OF LEE COUNTY, FLORIDA



SURVEY NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE WEST RIGHT-OF-WAY LINE OF PRIMO DRIVE AS BEING (ASSUMED) S.00°43'41"E.
2. FIELD NOTES IN CRESCENT 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 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. THIS SURVEY IS INTENDED TO BE VIEWED AS AN 11X17, 20 SCALE DRAWING.

FLOOD ZONE: "AE" ELEVATION: 10' N.A.V.D.
COMMUNITY No.: 120673 PANEL No.: 0554
SUFFIX --- F REVISION DATE: 8/28/08
MAP NUMBER: 12071C0554F

THIS SURVEY IS CERTIFIED TO:
THOMAS KOLAR

REVISED:	DESCRIPTION:	BY:

DATE OF LAST FIELD WORK: 4/30/19

CERTIFICATE OF AUTHORIZATION: LB #6921

DRAWN:	CHECK:	SCALE	PROJ. #
FBH	PMM	1"=20'	PRIMO

SURVEY DATE	FILE NO.	SHT.- 1
4/30/19	46-24-19	OF - 1

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA

HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S. #100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

LEGEND:

●	SET #4 IRON ROD (CAP LS #6515)	R.W.B.	RECLAIM WATER BOX
○	FOUND IRON ROD (I.R.)	W.M.	WATER METER
□	CONCRETE MONUMENT (C.M.)	W.V.	WATER VALVE
N.E.'LY	NORTHEASTERLY	F.H.	FIRE HYDRANT
CCMB	COUNTY COMMISSIONERS MINUTE BOOK	O/H	OVERHEAD POWER
P.U.E.	PUBLIC UTILITY EASEMENT	P.P.	POWER POLE
D.E.	DRAINAGE EASEMENT	G.A.&W.	GUY ANCHOR & WIRE
O.R.	OFFICIAL RECORDS BOOK	E.B.	ELECTRIC BOX
(S)	AS PER SURVEY	C.T.B.	CABLE TELEVISION BOX
(M)	AS MEASURED	T.S.B.	TELEPHONE SERVICE BOX
(P)	AS PER PLAT	N/D	NAIL & DISK
(D)	AS PER DEED	N/T.T.	NAIL & TINTAB
(1)	CURVE NUMBER	ELEV.	ELEVATION
L1	LINE NUMBER	B.M.	BENCHMARK
R/W	RIGHT-OF-WAY	0.0	TYPICAL ELEVATION
℄	CENTERLINE	A/C	AIR CONDITIONER
			CONCRETE

Town of Fort Myers Beach
Agenda Item Summary Yellow Sheet Number: **2025-362**

1. **Request:** **Meeting Date: April 29, 2025**

722 ESTERO BOULEVARD: A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250012, REQUESTING FOUR VARIANCES FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 722 ESTERO BOULEVARD, GENERALLY REFERRED TO AS STRAP NUMBER 24-46-23-W3-00400.007E IN FORT MYERS BEACH, TO VARY 1). 22.5 FEET FROM THE REQUIRED 25 FOOT STREET SETBACK FOR A STREET SETBACK OF 2.5 FEET FROM STREET EASEMENT, 2). A VARIANCE OF 15 FEET FROM THE REQUIRED 20 FOOT REAR SETBACK FOR A REAR SETBACK OF 5 FEET, 3). A VARIANCE OF 1.5 FEET FROM THE REQUIRED 6.5 FOOT SIDE SETBACK FOR A SIDE SETBACK OF 5 FEET, AND 4.) A VARIANCE OF 14% FROM THE MAXIMUM ALLOWABLE BUILDING COVERAGE OF 40% FOR A BUILDING COVERAGE OF 54% TO BUILD A NEW SINGLE-FAMILY STRUCTURE IN THE RM ZONING DISTRICT; AND 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 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:**
Graybill Patricia Tr For Patricia Graybill Trust, the owner of 722 Estero Blvd, is requesting four variances from the Town's Land Development Code (LDC). The first request (1) is a variance from LDC Table 34-3 which requires a single-family home in the RM zoning district to provide a minimum street setback of 25 feet from the front property line. Per Sec. 34-2, street setback means the setback extending across the front of a lot measured from the edge of an existing street right-of-way or street easement. This request is for a variance of 22.5 feet from the street easement for a street setback of 2.5 feet for the construction of a single-family home.

The second request (2) is a variance from the Town's LDC Table 34-3 which requires a 20-foot rear (north) setback for single-family homes in the RM zoning district. Sec. 34-2 defines "lot line, rear" as the lot line which is parallel to or concentric with and most distant from the front lot line of the lot. A 15-foot variance is requested from the required 20-foot rear setback, to result in a rear setback of 5 feet from the north property line for the construction of single-family residence.

The third request (3) is a variance from the Town's LDC 34-3 which requires a minimum side setback of 6.5 foot for lot width less than 50 feet in the RM zoning district. A variance of 1.5 feet is requested from the required 6.5-foot side setback, to result in a side setback of 5 feet from the east and west property line for the construction of a single-family residence.

The fourth request (4) is a variance from the Town's LDC 34-3 which requires a maximum

building coverage of 40% for single family homes in the RM zoning district. A variance of 14% is requested from the maximum 40% building coverage, to result in a building coverage of 54% for the construction of a single-family home.

The previously existing single-family structure was destroyed by hurricane Ian. Lee County Property Appraiser (LEEPA) data shows that the building date for the previous home was 1989. The structure was legally non-conforming with the Town's LDC and was permitted with Lee County.

Attachments:

1. 722 Estero Blvd- LPA staff report
2. LPA Resolution 25-07__722 Estero Blvd
3. EXHIBIT A: 722 Estero Blvd- Site Plan
4. EXHIBIT B: 722 Estero-Boundary Survey
5. EXHIBIT D: 722 Estero Blvd_CompleteApp
6. EXHIBIT E: Request Statement
7. EXHIBIT F: Original Survey

Financial Impact:

Unknown

6. **Alternative Action**

Deny requests.

7. **Staff Recommendations:**

Approve with conditions

8. **Recommended Approval:**

_____ Date: April 16, 2025
Judith Frankel, Principal Planner

_____ Date: April 16, 2025
Georgina Cid, Community Development Manager

_____ Date: April 17, 2025
Frankie Kropacek, Operations & Compliance Director

_____ Date: April 21, 2025
nancy stuparich, Town Attorney

_____ Date: April 22, 2025
Amy Baker, Town Clerk

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE:	**Variance**
CASE NUMBER:	**VAR20250012**
CASE NAME:	722 Estero Blvd; requesting four variances from Table 34-3 Dimensional Regulations in Conventional Zoning Districts for the street setback, rear setback, side setback, and building coverage for the construction of a Single-Family Residence in the RM zoning district.
LPA HEARING DATE:	**April 29th, 2025, at 9 AM**
STAFF RECOMMENDATION:	**APPROVAL WITH CONDITIONS**
PREPARED/ SUBMITTED BY:	**Judith Frankel, Principal Planner., AICP**

I. APPLICATION SUMMARY

Applicant/Owner:	James Ink/Graybill Patricia Tr For Patricia Graybill Trust
Request(s):	1) A variance of 22.5 feet from the required street setback of 25 feet, resulting in a street setback of 2.5 feet from street easement; 2) A variance of 15 feet from the required rear setback of 20 feet, resulting in a rear setback of 5 feet; 3) A variance of 1.5 feet from the required side setbacks of 6.5 feet, resulting in a side setback of 5 feet; 4) A variance of 14% from the maximum allowable building coverage of 40%, resulting in a building coverage of 54% to construct a new single-family home.
Subject property:	See attached site plan
Physical Address:	722 Estero Blvd
STRAP #:	24-46-23-W3-00400.007E

FLU: Mixed Residential/Recreation

Zoning: Residential Multifamily (RM)

Adjacent zoning and land uses:

North: RESIDENTIAL MULTIFAMILY (RM)
Single-Family Residence/Two-Family Residence

South: RESIDENTIAL MULTIFAMILY
(RM)/ENVIRONMENTALLY CRITICALLY (EC)
Condominium (Bay to Beach)/Recreation

East: RESIDENTIAL MULTIFAMILY (RM)
Single-Family Residence/Two-Family Residence

West: RESIDENTIAL MULTIFAMILY (RM)
Single-Family Residence/Two-Family Residence

II. BACKGROUND AND ANALYSIS

Background:
Graybill Patricia Tr For Patricia Graybill Trust, the owner of 722 Estero Blvd, is requesting four variances from the Town's Land Development Code (LDC). The first request (1) is a variance from LDC Table 34-3 which requires a single-family home in the RM zoning district to provide a minimum street setback of 25 feet from the front property line. Per Sec. 34-2, street setback means the setback extending across the front of a lot measured from the edge of an existing street right-of-way or street easement. This request is for a variance of 22.5 feet from the street easement for a street setback of 2.5 feet for the construction of a single-family home.

The second request (2) is a variance from the Town's LDC Table 34-3 which requires a 20-foot rear (north) setback for single-family homes in the RM zoning district. Sec. 34-2 defines "lot line, rear" as the lot line which is parallel to or concentric with and most distant from the front lot line of the lot. A 15-foot variance is requested from the required 20-foot rear setback, to result in a rear setback of 5 feet from the north property line for the construction of single-family residence.

The third request (3) is a variance from the Town's LDC 34-3 which requires a minimum side setback of 6.5 foot for lot width less than 50 feet in the RM zoning district. A variance of 1.5 feet is requested from the required 6.5-foot side setback, to result in a side setback of 5 feet from the east and west property line for the construction of a single-family residence.

The fourth request (4) is a variance from the Town's LDC 34-3 which requires a maximum building coverage of 40% for single family homes in the RM zoning district.

A variance of 14% is requested from the maximum 40% building coverage, to result in a building coverage of 54% for the construction of a single-family home.

The previously existing single-family structure was destroyed by hurricane Ian. Lee County Property Appraiser (LEEPA) data shows that the building date for the previous home was 1989. The structure was legally non-conforming with the Town's LDC and was permitted with Lee County.

Analysis:
The first variance request is for the new single-family home to be constructed 2.5 feet from the driveway easement. The reduced setback would allow the home to gain more square footage thus increasing the massing of the structure. The original survey shows that the previous home was setback further from the front property line, but the distance cannot be determined due to the quality of the survey.

The second variance request is for the new single-family home to encroach the north rear setback by 15 feet into the required 20-foot rear setback. The reduced setback would allow the home to gain more living square footage and to allow the proposed SFR to be setback a little further from the driveway easement. The applicant noted on their justification letter that the previous structure was 5 feet from the rear property line, it is difficult to verify due to the quality of the survey.

The third variance request is for the new single-family home to encroach the east and west side setback by 1.5 feet into the required 6.5-foot side setback. The reduced setback would allow the home to gain more living square footage and to retain the nonconforming east side setback but encroach the west side setback by an additional 5 feet as identified by the applicant on their justification letter.

The fourth variance request is for the new single-family home to exceed the maximum building coverage by 14% from the maximum 40% building coverage. The increased building coverage would allow for additional square footage than previously existed.

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 neighbors 724 Estero Blvd, which is currently a vacant lot. The property owner of 724 Estero Blvd recently obtained an administrative variance (20240303) to utilize the "cottage code". Those plans are currently in the review phase for a residential permit to rebuild a single-family home.

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 non-conforming lot with access through a 7.5-foot-wide access easement from Estero Boulevard. The Applicant has already acquired a minimum use determination letter to allow the construction of a single-family residence post Hurricane Ian. The lot width is 45 feet, and the lot depth is approximately 50 feet. The applicant is proposing to construct a single-family structure that would be larger than previously existed, but it would be constructed outside of the driveway easement like the previous structure and with a similar rear setback as the previous structure. The additional living area is increasing by 144 square feet since the previous home had a building coverage of 48% or 1,081 square feet. The requests are de minimis.

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 variances are not the result of the applicant. Development of a structure on this site would likely require the property owner to obtain variance(s) due to the dimensions of the lot as well as the location of the driveway easement. The applicant is proposing to obtain variances for the proposed home that would be constructed on the site, the structure would encroach due to its proximity to the property lines and the location of the driveway easement. The applicant is also proposing to meet the maximum parking requirements, and maximum impervious allowed for single family residences.

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 need for the variances is for the minimal encroachment of the single-family home to the front property line, rear property line, side property line as well as the increase in building coverage, is the minimum variances that would provide the applicant with relief for the proposed single-family home. The implementation of the requirements would result in a reduced structure size. The LPA should determine whether the current regulation is "unreasonable."

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 for the 22.5 feet encroachment into the street easement for a street setback of 2.5 feet will not be injurious or otherwise detrimental to the public welfare. The encroachment is due to the dimensions of the lot. The previous cottages in this surrounding area were all nonconforming lots with nonconforming setbacks, they will likely require variances to build back due to their nonconformity. The proposed single-family home will be constructed outside of the driveway easement but will be constructed 10 feet from the actual front property line.

*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 for 15 feet encroachment into the north rear setback for a rear setback of 5 feet will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The encroachment of the north portion of the structure is to create additional separation of the proposed home from the driveway easement, the applicant stated in their justification letter that the previous home was 7.5 feet from the front which would indicate that the previous structure was constructed up to the driveway easement line. Shifting the proposed structure towards the driveway easement to adhere to the required 20- foot rear setback would be unlikely due to insufficient lot depth. The applicant would still need relief to construct a home on the lot.

*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 for a 1.5 feet encroachment into the west and east side setback for a side setback of 5 feet will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The encroachment of the east portion of the building would maintain the nonconforming setback as the previous structure but will be encroaching more into the west side setback than the previous structure. The lot is restricted by the lot dimensions and the 7.5 driveway easement; therefore, the buildable area limits the ability for a reasonably sized home. The LPA should determine whether the current regulation is “detrimental to public welfare.”

*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 for an increased building coverage of 14% for a building coverage of 54% will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The additional living square footage will increase by 144 square feet from what existed previously. The previous structure had a square footage of 1,081 square feet and the proposed home would have 1,225 square feet. The lot is restricted by the lot dimensions and the 7.5 driveway easement; therefore, the buildable area limits the ability

for a reasonably sized home. The LPA should determine whether the current regulation is "detrimental to public welfare."

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

The conditions or circumstances on this specific property for which a variance is sought are not general in nature and do not warrant a code change.

III. RECOMMENDATION

Staff has reviewed the request for variances *from LDC Table 34-3 which requires that a lot in the RM zoning district have minimum 1) 25-foot street setback, 2) 20- foot rear setback, 3) 6.5-foot side setback for lot width less than 50 feet and, 4) 40% maximum building coverage* and found that the variance request does meet the requirements set forth in sec. 34-87.

Therefore, staff recommends **APPROVAL WITH CONDITIONS** of VAR20250012, a (1) variance of 22.5 feet from the driveway easement for a street setback of 2.5 feet; 2) a variance of 15 feet from the rear setback for a rear setback of 5 feet; 3) a variance 1.5 feet from the side setbacks for a side setback of 5 feet; 4) a variance of 14% from the maximum building coverage for a building coverage of 54% to construct a new single-family home.

IV. CONDITIONS FOR APPROVAL

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

1) Approval of these variances does not give the Applicant an undeniable right to permit approval. Development of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
2) Property owner must ensure that they adhere to the Neighborhood flooding ordinance (LDC Sec. 6-14) for drainage and 67% maximum impervious requirements.
3) The variances shall only apply to the single-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variances to be null and void.
4) Property owner(s) must ensure that the site plan allows for 2 on-site parking spaces and that no vehicles are parked in the 7.5-foot driveway easement.
5) No portions of the structure shall extend past the 1978 Lee County Line (CCCL).

V. EXHIBITS

A. Proposed site plan
B. Survey
C. Postcards

D. Complete application
E. Request Statement
F. Original survey

LPA RESOLUTION 2025-07

722 ESTERO BOULEVARD: A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250012, REQUESTING FOUR VARIANCES FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 722 ESTERO BOULEVARD., GENERALLY REFERRED TO AS STRAP NUMBER 24-46-23-W3-00400.007E IN FORT MYERS BEACH, TO VARY 1). 22.5 FEET FROM THE REQUIRED 25 FOOT STREET SETBACK FOR A STREET SETBACK OF 2.5 FEET FROM STREET EASEMENT, 2). A VARIANCE OF 15 FEET FROM THE REQUIRED 20 FOOT REAR SETBACK FOR A REAR SETBACK OF 5 FEET, 3). A VARIANCE OF 1.5 FEET FROM THE REQUIRED 6.5 FOOT SIDE SETBACK FOR A SIDE SETBACK OF 5 FEET, AND 4.) A VARIANCE OF 14% FROM THE MAXIMUM ALLOWABLE BUILDING COVERAGE OF 40% FOR A BUILDING COVERAGE OF 54% TO BUILD A NEW SINGLE-FAMILY STRUCTURE IN THE RM ZONING DISTRICT; AND 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, 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, James Ink ("Applicant") and Graybill Patricia Tr For Patricia Graybill Trust ("Owners") of the property located at 722 Estero Boulevard (Property), and is requesting variances from LDC Table 34-3 of 1) A variance of 22.5 feet from the required street setback of 25 feet, resulting in a street setback of 2.5 feet from street easement; 2) A variance of 15 feet from the required rear setback of 20 feet, resulting in a rear setback of 5 feet; 3) A variance of 1.5 feet from the required side setbacks of 7.5 feet, resulting in a side setback of 5 feet; 4) A variance of 14% from the maximum allowable building coverage of 40%, resulting in a building coverage of 54% to construct a new single-family home in the RM zoning district; and

WHEREAS, the STRAP number for the subject property is 24-46-23-W3-00400.007E; and

WHEREAS, the Property is located in the "Mixed Residential" of the Future Land Use Map of the Comprehensive Plan and the "Residential" and "Multifamily" zoning districts of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on April 29th, 2025, 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) Property owner must ensure that they adhere to the Neighborhood flooding ordinance for drainage and 67% maximum impervious requirements.

3) The variance shall only apply to the single-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variances to be null and void.

4) Property owner(s) must ensure that no vehicles are parked in the 7.5-foot driveway easement.

5) No portions of the structure shall extend past the 1978 Lee County Line (CCCL); 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. VAR20250012, with the conditions contained herein, received unanimous approval from eligible voting members of the LPA on April 29th, 2025.

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 LPA Member _____ and seconded by LPA Member _____ 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 29th day of April, 2025.

Local Planning Agency of the Town of Fort Myers Beach

By: _____
Anita Cereceda, LPA Chair

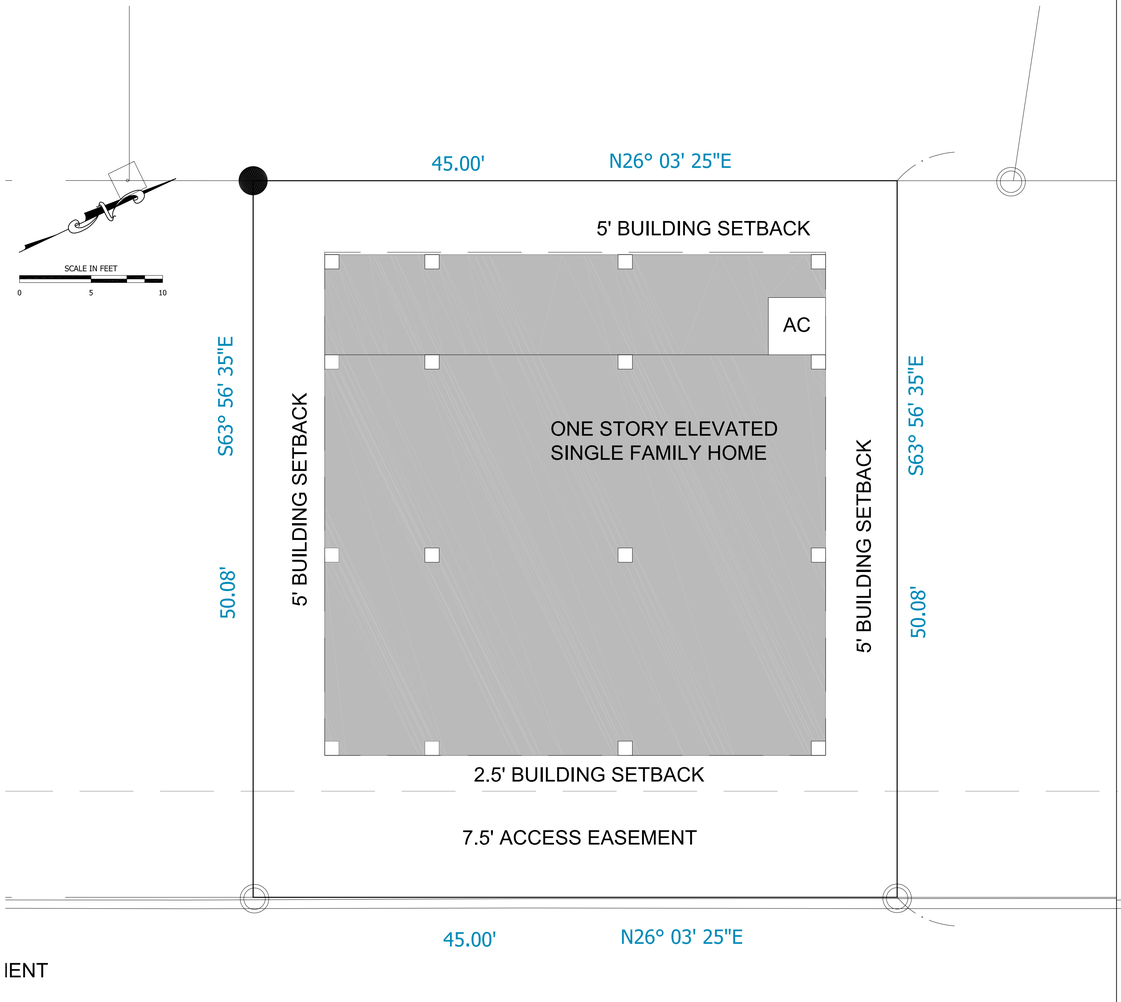
Approved as to legal sufficiency:

By: _____
Vose Law Firm, Town Attorney

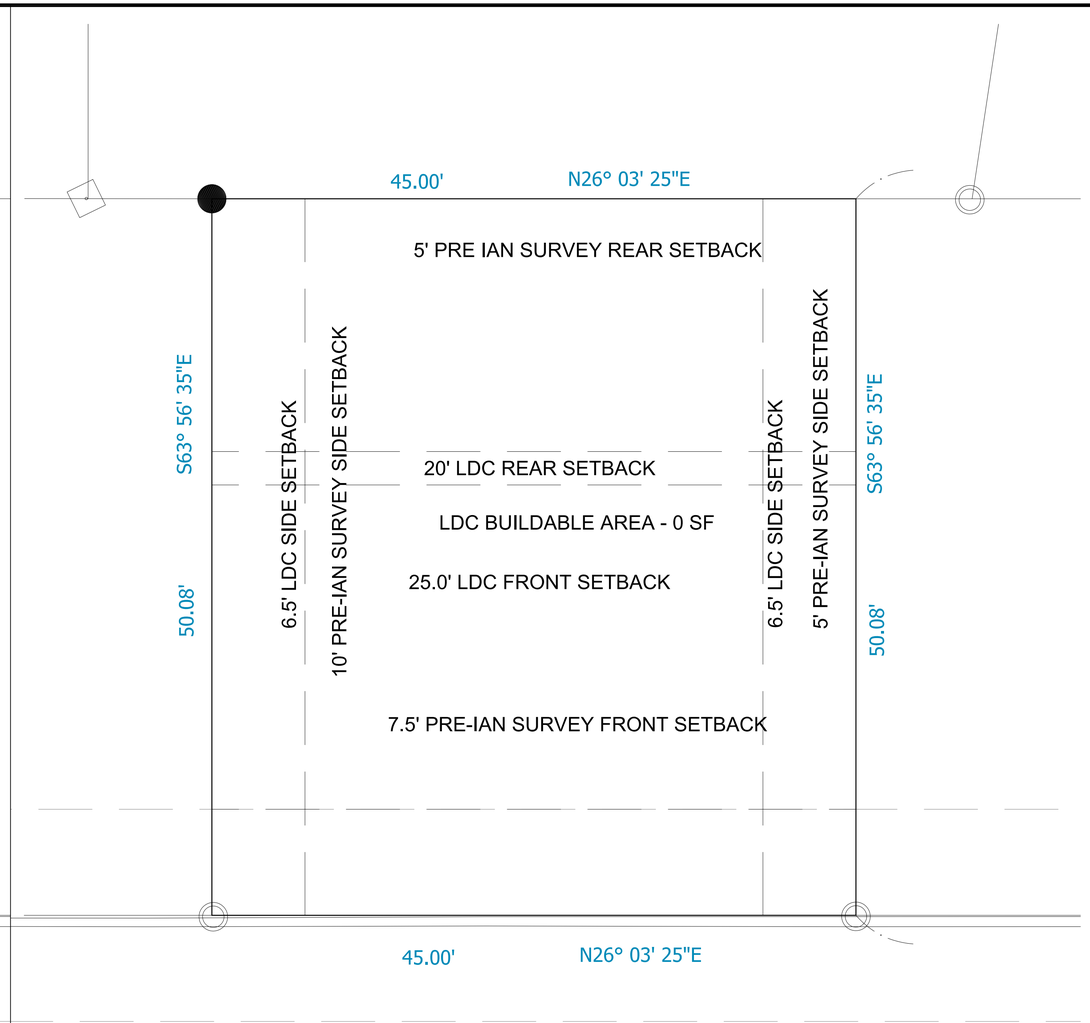
ATTEST:

By: _____
Amy Baker, Town Clerk

EXHIBIT A: Site Plan



PROPOSED SITE PLAN



ALLOWABLE BUILDING AREA LDC WITH EXISTING SURVEY SETBACKS

PROPERTY REGULATIONS

ADDRESS:	722 ESTERO BLVD, FT MYERS BEACH, FL 33931
STRAP:	24-46-23-W3-00400.007E
ZONING:	RESIDENTIAL MULTIFAMILY
LAND USE:	MIXED RESIDENTIAL
OWNER:	PATRICIA GRAYBILL TRUST 6420 CONGRESS AVE #1900 BOCA RATON, FL 33487
FEMA FLOOD:	VE: 14.00' IN BUILDABLE AREA FDEP CCCL: 19.38' LOWEST STRUCTURAL MEMBER

PROPERTY REGULATIONS IN PER LDC AND EXISTING SURVEY

MINIMUM FRONT SETBACK:	25 FT - LDC
MINIMUM REAR SETBACK:	20 FT - LDC
MINIMUM SIDE SETACK:	7.5 FT - LDC
MAXIMUM BUILDING HEIGHT:	35 FT ABOVE BASE FLOOD
MAXIMUM NUMBER OF STORIES:	3 (1ST FLOOR OPEN)
PARKING:	RESIDENTIAL = 2 PER UNIT
FLOOR AREA RATIO:	LDC 1.2 (2,254 SF) PROPOSED 1.1 (2,450 SF)

DEVELOPMENT SITE DATA

PRE-DEVELOPMENT SITE DATA	
PARCEL AREA	2,253 SF
STRUCTURE FOOTPRINT (EXISTING)	0 SF
DECK AREA (EXISTING)	0 SF
EXISTING CONCRETE SURFACE	0 SF
TOTAL EXISTING IMPERVIOUS AREA	0 SF
TOTAL EXISTING PERVIOUS AREA	2,253 SF
ALLOWABLE BUILDING PER FAR 1.2	2,703 SF

POST-DEVELOPMENT SITE DATA	
PARCEL AREA	2,253 SF
GROUND FLOOR GROSS AREA	1,225 SF
1ST FLOOR GROSS AREA	1,225 SF
SHELL DRIVEWAY	240 SF
ALLOWABLE LOT COVERAGE	40% (901 SF)
CALCULATED FLOOR AREA RATIO	1.09 (2,450 SF)
PROPOSED IMPERVIOUS	1,465 SF
ALLOWABLE STORMWATER IMPERVIOUS	67%
PROPOSED STORMWATER IMPERVIOUS	65%

722 ESTERO - SETBACK VARIANCE EXHIBIT

REVISION

NO.	DATE	DESCRIPTION	BY
1	2/25/25	REVISED DEVELOPMENT SITE TABLE AND SETBACKS	JRK
1	3/19/2025	REVISED PER RAI-1 DATED 3/14/25	JRK

VARIANCE EXHIBIT

722 ESTERO RESIDENCE

Patrica Graybill, Trust

722 ESTERO BLVD, FORT MYERS BEACH, FL 33931

THESE PLANS ARE NOT VALID UNLESS SIGNED WITH THE INKTYPE IMPRESSION FROM THE ENGINEER OF RECORD

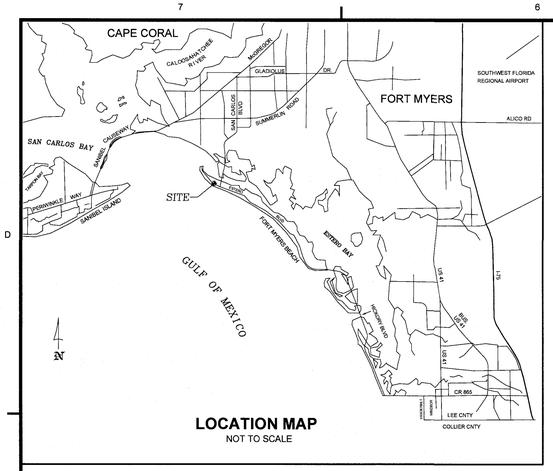
James Ink, P.E.
Florida Reg. No. 74096

DATE

INFORMATIONAL COPY ONLY - UNLESS ENDORSED WITH REGISTERED ENGINEERS SEAL

INK ENGINEERING INC.
CONSULTING ENGINEERS • PLANNING
2055 WEST FIRST STREET
FORT MYERS, FL 33901
JINK@INKENGINEERINGINC.NET

PROJECT NO.	23026-3
PROJECT MANAGER	James Ink P.E.
DRAWN BY	BWM
DATE	01.2024
SCALE	1"= 5'
SHEET NO.	1
OF	1



LOCATION MAP
NOT TO SCALE

ABBREVIATIONS

(C)	= CALCULATED
(D)	= DEED
(F)	= CALCULATED FROM FIELD MEASUREMENTS
(M)	= MEASURED
(NR)	= NON RADIAL
(P)	= PLAT
(R)	= RADIAL
A/C	= AIR CONDITIONER
APPROX	= APPROXIMATE
BM	= BENCH MARK
CCCL	= COASTAL CONSTRUCTION CONTROL LINE
CCSB	= LEE COUNTY COASTAL CONSTRUCTION SETBACK LINE
CG	= CONCRETE CURB AND GUTTER
CLF	= CHAINLINK FENCE
CM	= CONCRETE MONUMENT
CONC	= CONCRETE
CPP	= CORRUGATED PLASTIC PIPE
DE	= DRAINAGE EASEMENT
DNF	= DID NOT FIND
DNR	= DEPARTMENT OF NATURAL RESOURCES COASTAL CONSTRUCTION CONTROL LINE MAPS DATED 5-30-91.
D/H	= DRILL HOLE
ECL	= EROSION CONTROL LINE
ELEV	= ELEVATION
EOC	= EDGE OF CONCRETE
EOP	= EDGE OF PAVEMENT
ERCP	= ELLIPTICAL REINFORCED CONCRETE PIPE
FCM	= FOUND CONCRETE MONUMENT
FFE	= FINISHED FLOOR ELEVATION
FIRC	= FOUND IRON ROD WITH CAP
FND	= FOUND
GP	= GENERAL PERMIT LINE
IE	= INVERT ELEVATION
INSTR	= INSTRUMENT
IR	= IRON ROD
IRC	= IRON ROD & CAP
INSTR	= INSTRUMENT NUMBER
MAP	= LEE COUNTY COASTAL CONSTRUCTION SETBACK LINE
MHW	= MEAN HIGH WATER LINE
N/D	= NAIL & DISK
NAVD	= NORTH AMERICAN VERTICAL DATUM
NGVD	= NATIONAL GEODETIC VERTICAL DATUM
OR	= OFFICIAL RECORD BOOK
PB	= PLAT BOOK
PC	= POINT OF CURVE
PG	= PAGE
PI	= POINT OF INTERSECTION
POB	= POINT OF BEGINNING
POC	= POINT OF COMMENCEMENT
PRM	= PERMANENT REFERENCE MONUMENT
PUE	= PUBLIC UTILITY EASEMENT
R/W	= RIGHT-OF-WAY
SIRC	= SET IRON ROD WITH CAP
TOB	= TOP OF BANK
TOE	= TOE OF SLOPE
UE	= UTILITY EASEMENT
VG	= CONCRETE VALLEY GUTTER CURB

SYMBOLS:

BACK FLOW PREVENTER
BRICK PAD
CATCH BASIN
CABLE TV BOX
CONCRETE PAD
ELECTRIC METER
ELECTRIC BOX
FIRE HYDRANT
GUY WIRE
IRRIGATION VALVE
LIGHT POLE
MAIL BOX
OVERHEAD UTILITY — OHU —
SANITARY MANHOLE
SANITARY CLEANOUT
SIGN
TRANSFORMER
TELEPHONE BOX
UTILITY POLE
WATER VALVE
WATER METER
WELL
EXISTING ELEVATION × ±.0

VEGETATION CLASSIFICATIONS:
(PER CHAPTER 62B-33.0081(1),(J), FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, BUREAU OF BEACHES AND COASTAL SYSTEMS)

1. BEACH DUNE (GRASSES AND GROUND COVERS)
2. COASTAL STRAND (SAW PALMETTO AND SALT PRUNED SHRUBS)
3. HAMMOCK (OVERHEAD FOREST CANOPY)
4. WETLAND (MANGROVE, MARSH OR SWAMP)
5. EXOTICS (GREATER THAN 50 PERCENT AUSTRALIAN PINE, BRAZILIAN PEPPER, AUSTRALIAN SCAEVOLA, OR OTHER INVASIVE NUISANCE SPECIES)

VC-1 = VEGETATION CLASSIFICATION AND NUMBER

NO VEGETATION FOUND ON SITE

LEGAL DESCRIPTION: (INSTRUMENT #2019000242699):

SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, BEING A PART OF GOVERNMENT LOT 1, SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, AND A PART OF LOT 7, ISLAND SHORES SUBDIVISION, UNIT 1, AS RECORDED IN PLAT BOOK 9, PAGE 24, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND FURTHER BOUNDED AND DESCRIBED AS FOLLOWS: STARTING AT THE NORTHWEST CORNER OF AFORESAID LOT 7; THENCE S27°24' 20"W, A DISTANCE OF 70.05 FEET TO A POINT AND THE PRINCIPAL PLACE OF BEGINNING; THENCE CONTINUE S27°24' 20"W, A DISTANCE OF 45 FEET; THENCE S62°35' 40"E, A DISTANCE OF 50 FEET; THENCE N27°24' 20"E, A DISTANCE OF 45 FEET; THENCE N62°35' 40"W, DISTANCE OF 50 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS AS MORE PARTICULARLY DESCRIBED IN THAT CERTAIN DRIVEWAY AND WALKWAY EASEMENT AGREEMENT RECORDED IN MISCELLANEOUS BOOK 39, PAGE 542, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

SITE LOCATION
SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA.

GENERAL SURVEY NOTES:

1. SURVEY BASED ON THE RECORDED PLAT OF ISLAND SHORES SUBDIVISION, UNIT 1, AS RECORDED IN PLAT BOOK 9, PAGE 24, THE "EROSION CONTROL LINE" PLAT BOOK 70, PAGE 25, THE "LEE COUNTY COASTAL CONSTRUCTION SETBACK LINE" (ORDINANCE 76-3 AND RECORDED 1978), THE "COASTAL CONSTRUCTION CONTROL LINE MAPS" (1991), A SURVEY OF LYNN HALL MEMORIAL PARK AS PREPARED BY JOHNSON ENGINEERING, INC., DATED AUGUST 1988, HISTORICAL SURVEYS (IN THE FILES OF THIS FIRM) DATED 1982, AND FOUND MONUMENTATION.

2. DIMENSIONS ARE IN FEET AND DECIMAL PARTS THEREOF.

3. ELEVATIONS SHOWN HEREON ARE BASED ON NAVD OF 1988 AND NGS BENCHMARK H-245.

4. STATE PLANE COORDINATES SHOWN HEREON ARE BASED ON THE NORTH AMERICAN DATUM OF 1983/1990 ADJUSTMENT, FLORIDA MERCATOR WEST ZONE AS SHOWN AND NOTED HEREON HOLDING NGS CONTROL POINT "BOOB-2". ADDITIONALLY, THERE ARE STATE PLANE COORDINATES BASED ON THE NORTH AMERICAN DATUM OF 1927/1979 ADJUSTMENT AS NOTED FOR RELATIONSHIP WITH DNR COASTAL CONSTRUCTION CONTROL LINE MAPS (THE 1991 LINE).

5. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH AMERICAN DATUM (NAD) OF 1983/1990 ADJUSTMENT, FLORIDA MERCATOR WEST ZONE HOLDING NGS CONTROL POINT BOOB-2 TIED TO THE FLORIDA HIGH PRECISION GEODETIC NETWORK, ADDITIONALLY, THERE ARE BEARINGS BASED ON THE NORTH AMERICAN DATUM OF 1927/1979 ADJUSTMENT AS NOTED FOR RELATIONSHIP WITH DNR COASTAL CONSTRUCTION CONTROL LINE MAPS (THE 1991 LINE).

6. DNR CONTROL MONUMENTS HELD AS FIXED USING RTK GPS OBSERVATIONS. THE FOLLOWING COORDINATES SHOWN ARE BASED ON THE NORTH AMERICAN DATUM (NAD) OF 1983/1990 ADJUSTMENT, FLORIDA MERCATOR WEST ZONE, US SURVEY FOOT.

STATION	PUBLISHED NAD27 COORDINATE	NAD 83/1990 ADJUSTMENT
12-83-A25-2 1988	N=770291.79 / E=514533.92	N=770456.25 / E=670763.59
12-88-A25A	N=770130.38 / E=514596.20	N=770294.86 / E=670825.76

7. CHECK TO NGS MONUMENT BOOB-2 WITHIN 0.12'.

8. GPS PROCESSING SOFTWARE IS LIECA CAPTIVATE VERSION 7.

9. NO NEW STATIONS WERE ESTABLISHED DURING THE COURSE OF THE SURVEY.

10. ROOF OVERHANGS NOT SHOWN UNLESS OTHERWISE NOTED.

11. PARCEL LIES IN FLOOD ZONE VE, WITH A BASE FLOOD ELEVATION OF 13' (NAVD 1988) PER FLOOD INSURANCE RATE MAP NUMBER 12071C0554G, (COMMUNITY NAME: TOWN OF FORT MYERS BEACH AND COMMUNITY NUMBER 120673), INDEX DATE 11/17/2022 AND PANEL DATE 11/17/2022.

12. 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.

13. PARCEL SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).

14. IRON RODS "SET" ARE 5/8" X 18" REBAR WITH PLASTIC CAP BEARING CORPORATION NO. LB8267.

15. UNDERGROUND IMPROVEMENTS, UTILITIES AND/OR FOUNDATIONS WERE NOT LOCATED UNLESS OTHERWISE NOTED.

16. THIS PLAT PREPARED AS A BOUNDARY 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.

17. THE MEAN HIGH WATER ELEVATION OF 0.27' (1988 DATUM) WAS EXTENDED FROM DEP TIDE INTERPOLATION POINT IDENTIFICATION 100229 AND IS SHOWN FOR REFERENCE ONLY.

18. THE LEE COUNTY COASTAL CONSTRUCTION SETBACK LINE AS SHOWN ON MAPS PREPARED FOR THE STATE OF FLORIDA DEPARTMENT OF NATURAL RESOURCES FILE NUMBER 617-0275 DATED MARCH 1978 IS RECORDED IN PLAT BOOK 31 AT PAGES 1-16.

19. PARCEL CONTAINS 0.05 ACRES (2,254 SQUARE FEET), MORE OR LESS.

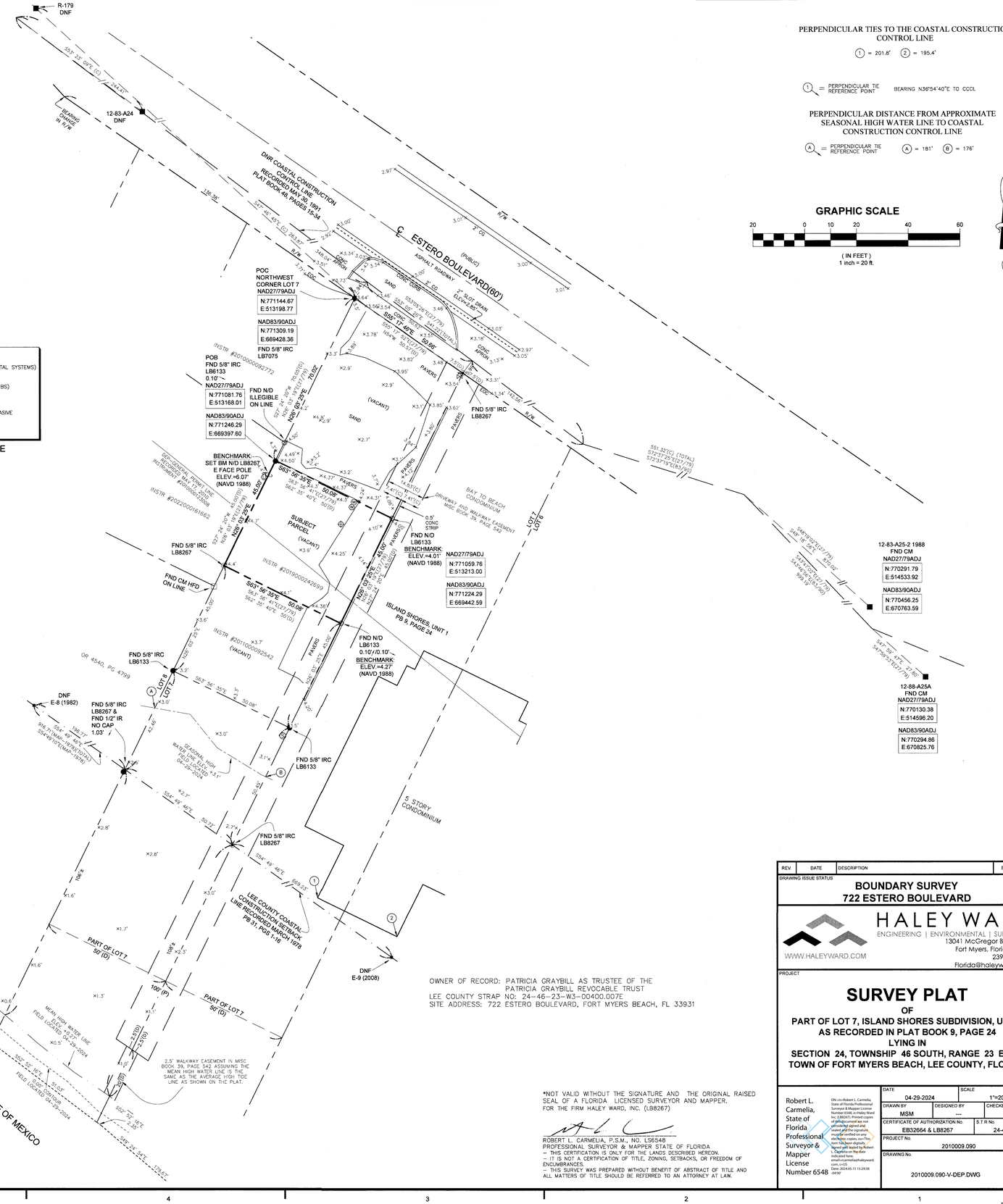
20. PARCEL LIES SEAWARD OF THE COASTAL CONSTRUCTION CONTROL LINE WHICH MAY REQUIRE ADDITIONAL PERMITTING.

21. THE PROPERTY IS SUBJECT TO ANY CLAIM THAT ANY PART OF SAID LAND IS OWNED BY THE STATE OF FLORIDA BY RIGHT OF SOVEREIGNTY, RIPARIAN RIGHTS AND THE TITLE TO FILLED-IN LANDS, IF ANY.

22. PARCEL ADDRESS: 722 ESTERO BOULEVARD, FORT MYERS BEACH, FL 33931

23. PARCEL STRAP No.: 24-46-23-W3-00400.007E

24. DATE OF LAST FIELD WORK: 04-29-2024



PERPENDICULAR TIES TO THE COASTAL CONSTRUCTION CONTROL LINE

(1) = 201.8' (2) = 195.4'

(1) = PERPENDICULAR TIE REFERENCE POINT BEARING N36°54'40"E TO CCCL

PERPENDICULAR DISTANCE FROM APPROXIMATE SEASONAL HIGH WATER LINE TO COASTAL CONSTRUCTION CONTROL LINE

(A) = PERPENDICULAR TIE REFERENCE POINT (A) = 181' (B) = 176'

GRAPHIC SCALE

20 0 10 20 40 60

(IN FEET)
1 inch = 20 ft.

OWNER OF RECORD: PATRICIA GRAYBILL AS TRUSTEE OF THE PATRICIA GRAYBILL REVOCABLE TRUST
LEE COUNTY STRAP NO: 24-46-23-W3-00400.007E
SITE ADDRESS: 722 ESTERO BOULEVARD, FORT MYERS BEACH, FL 33931

*NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER. FOR THE FIRM HALEY WARD, INC. (LB8267)

ROBERT L. CARMELIA, P.S.M., NO. LS6548
PROFESSIONAL SURVEYOR & MAPPER STATE OF FLORIDA
– THIS CERTIFICATION IS ONLY FOR THE LANDS DESCRIBED HEREON.
– IT IS NOT A CERTIFICATION OF TITLE, ZONING, SETBACKS, OR FREEDOM OF ENCUMBRANCES.
– THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF ABSTRACT OF TITLE AND ALL MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY AT LAW.

REV.	DATE	DESCRIPTION	BY	CHK

DRAWING ISSUE STATUS

BOUNDARY SURVEY
722 ESTERO BOULEVARD

HALEY WARD
ENGINEERING | ENVIRONMENTAL | SURVEYING
13041 McGregor Boulevard
Fort Myers, Florida 33919
239.481.1331
Florida@haleyward.com
WWW.HALEYWARD.COM

PROJECT

SURVEY PLAT
OF
PART OF LOT 7, ISLAND SHORES SUBDIVISION, UNIT 1 AS RECORDED IN PLAT BOOK 9, PAGE 24 LYING IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA

Robert L. Carmelia, State of Florida Professional Surveyor & Mapper License Number 6548

DN: cn=Robert L. Carmelia, State of Florida Professional Surveyor & Mapper License Number 6548, c=US, o=Haley Ward, Inc. (LB8267), Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies, ou=This item has been electronically signed and sealed by Robert L. Carmelia on the date indicated here, email=rcarmelia@haleyward.com, c=US Date: 2024.05.15 15:29:38 -04'00'

DATE		SCALE	
04-29-2024		1"=20'	
DRAWN BY	DESIGNED BY	CHECKED BY	
MSM	---	---	
CERTIFICATE OF AUTHORIZATION No.		S.T.R No.	
EB32664 & LB8267		24-46-23	
PROJECT No.			
2010009.090			
DRAWING No.		REV.	
2010009.090-V-DEP.DWG			

FILE LOCATION: P:\PJ2010\009\DWG_MWYNE_HOMEBASE\722 ESTERO BLVD_FMB\BOUNDARY SURVEY\ALCOZ-CAD_FILES\SURVEY\2010009.090-V-DEP.DWG, 2024.05.15, 3:09 PM

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: 722 Estero Blvd

STRAP Number: 24-44-23-W3-00400.007E

Applicant: Ink Engineering, Inc Phone: (239)940-2504

Contact Name: James Ink PE Phone: _____

Email: jink@inkengineeringinc.net Fax: _____

Current Zoning District: RM

Future Land Use Map (FLUM) Category: Mixed Residential

FLUM Density Range: 6 u/a Platted Overlay: ☐ YES ☐ NO

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

PART I – General Information

A. Applicant*: James Ink PE c/o Ink Engineering, Inc Phone: (239) 940-2504

**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: 2055 West First St, Fort Myers, FL 33901

Email: jink@inkengineeringinc.net Fax: _____

Contact Name: James Ink Phone: (239) 940-2504

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

B. Relationship of Applicant to subject property:

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

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

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

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

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

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

☐ Special Exception

☐ Variance from LDC Section _____ - see request statement

☐ Conventional Rezoning from _____ to _____

☐ Planned Development

☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD

☐ Amendment. List the project number: _____

☐ Extension/reinstatement of Master Concept Plan. List project number: _____

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

_____

_____

PART III – Waivers

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

Code Section: _____ Description: _____

_____

Code Section: _____ Description: _____

_____

Code Section: _____ Description: _____

_____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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

_____ _____
Signature Printed Name

STATE OF _____ COUNTY OF _____

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

_____
Notary Public Signature

PART V
Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

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

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

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

Name, Address and Office	Percentage of Stock

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

Name and Address	Percentage of Interest
Kenneth R Praiser	100%

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, James M Ink (name), as Authorized Representative (title) of Patricia Graybill, Trust (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

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

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

Patricia Graybill, Trust
Name of ~~Entity~~ (corporation, partnership, LLP, LLC, etc)

Signature

Authorized Representative
Title

James M Ink
Typed or Printed Name

1/14/25
Date

STATE OF Florida **COUNTY OF** Lee

The foregoing instrument was certified and subscribed before me by means of X physical presence OR ☐ online notarization, this 14 day of January, 2025, by James M Ink ☒ who is personally known to me OR ☐ who has produced _____ as identification.

Notary Public Signature

SHERRY PARMELEY
MY COMMISSION # HH393287
EXPIRES: July 10, 2027

PART VI– Property Information

A. Legal Description:

STRAP: 24-46-23-W3-00400.007E

Property Address: 722 Estero Blvd

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

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

☐ Yes. Property identified in subdivision: _____

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

B. Boundary Survey:

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

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 45 feet

Depth (please provide an average width if irregular in shape) 50 feet

Frontage on street: 45 feet. Frontage on waterbody: 0 feet

Total land area: 2,250 ☐ acres ☐ square feet

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

North of San Carlos Blvd, Lot is second from Estero Blvd on the Gulf side.

☐ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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

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

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

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

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

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

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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

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: 722 Estero
Authorized Applicant: James M Ink PE c/o Ink Engineering, Inc
LeePA STRAP Number: 24-46-23-W3-00400.0070

Current Property Status: vacant due to Hurricane Ian			
Current Zoning: RM			
Future Land Use Map (FLUM) Category: Mixed Residential			
Comp Plan Density: 6 U/A	**Platted Overlay?**	☐ **Yes**	☐ **No**

Variance is requested from:

LDC Section Number	**Title of Section or Subsection**
Table 34-3	RM Front Setback
Table 34-3	RM Rear Setback
Table 34-3	RM Side setback
Table 34-3	RM Lot Coverage

Complete the narrative statements below for EACH variance requested.

Case # _____ Date Received: _____

PART I
Narrative Statements

Request for variance from _____(LDC Section number)

Explain the specific regulation contained in this section from which relief is sought:
See Attached request statement narrative

Reasons for request

Explain why the variance is needed:
See Attached request statement narrative

Explain the possible effect the variance, if granted, would have on surrounding properties:
See Attached request statement narrative

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

See Attached request statement narrative

Case # _____ Date Received: _____

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

PART 2
Submittal Requirements

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

Required Items

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

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

Cover page

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

Narrative statements

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

Site plan

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

LDC Section 34-87

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

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

Variance Request and Justification Narrative

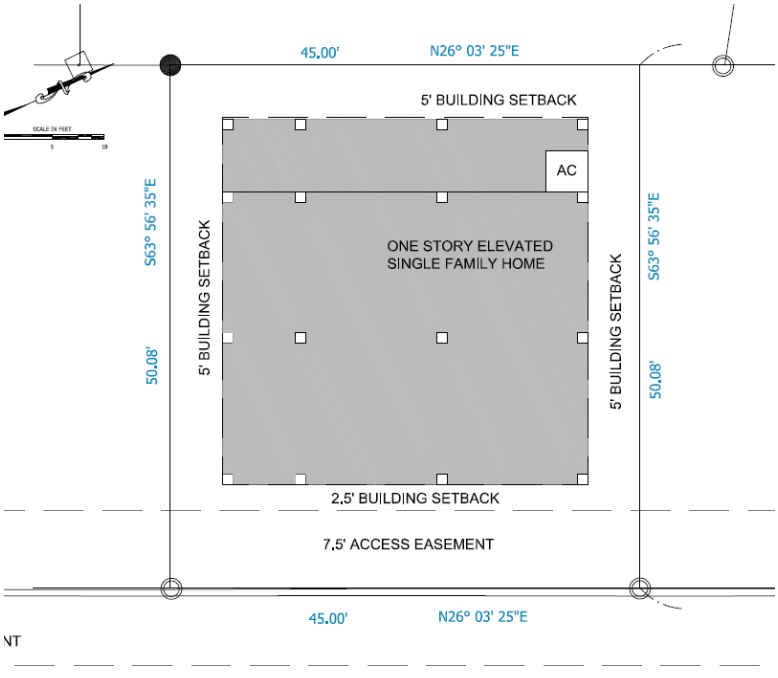
This application is to request two variances from the Fort Myers Beach Land Development Code for the reconstruction of a single-family home that was destroyed by Hurricane Ian. The proposed home is a single-story elevated home as was damaged, but the square footage has increased which prevents utilizing the cottage lot administrative variance process. Therefore, this application is for the public hearing variance process to have building setbacks considered.

This application is to request the following variances from Table 34-3 to create a reasonable building area.

a) Request to change the minimum front street setback per Table 34-3 from the required 25 feet to 2.5 feet.
b) Request to change the minimum rear setback per Table 34-3 from the required 20 feet to 5 feet.
c) Request to change the minimum side setback per Table 34-3 from the required 6.5 feet to 5 feet.
d) Request change table 34-3 note 6 from 40% lot coverage for single family to 54%.

This application for the public hearing process is required solely for the increase of proposed square footage of the Pre-Ian storm home from 1085 square feet (48% Lot Coverage) as measured by 34-633 criteria to 1,225 square feet (54% Lot Coverage) of the proposed home. This is an increase of 140 square foot increase of the pre-Ian home. The original home was a 2 bedroom, 1 bath single family elevated home with a deck. The proposed home is the same 2 bedroom, 1 bath single family elevated home with a deck. The proposed home is enlarged to meet current Florida building codes and market parameters.

2021 Existing Home

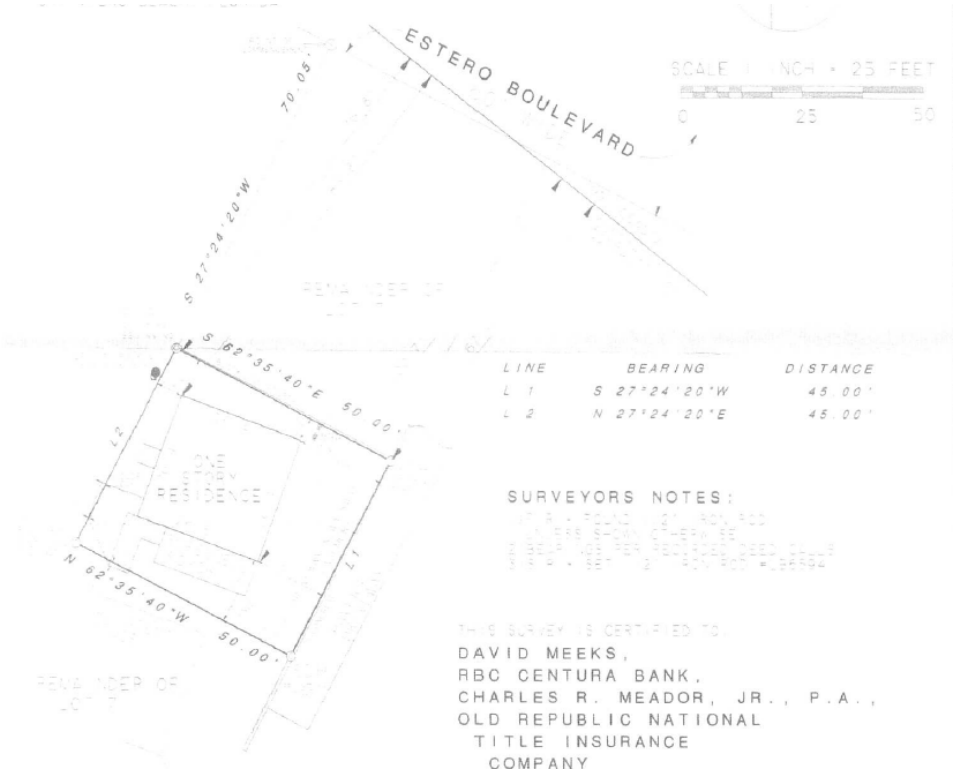


2025 Proposed Home

Project Information

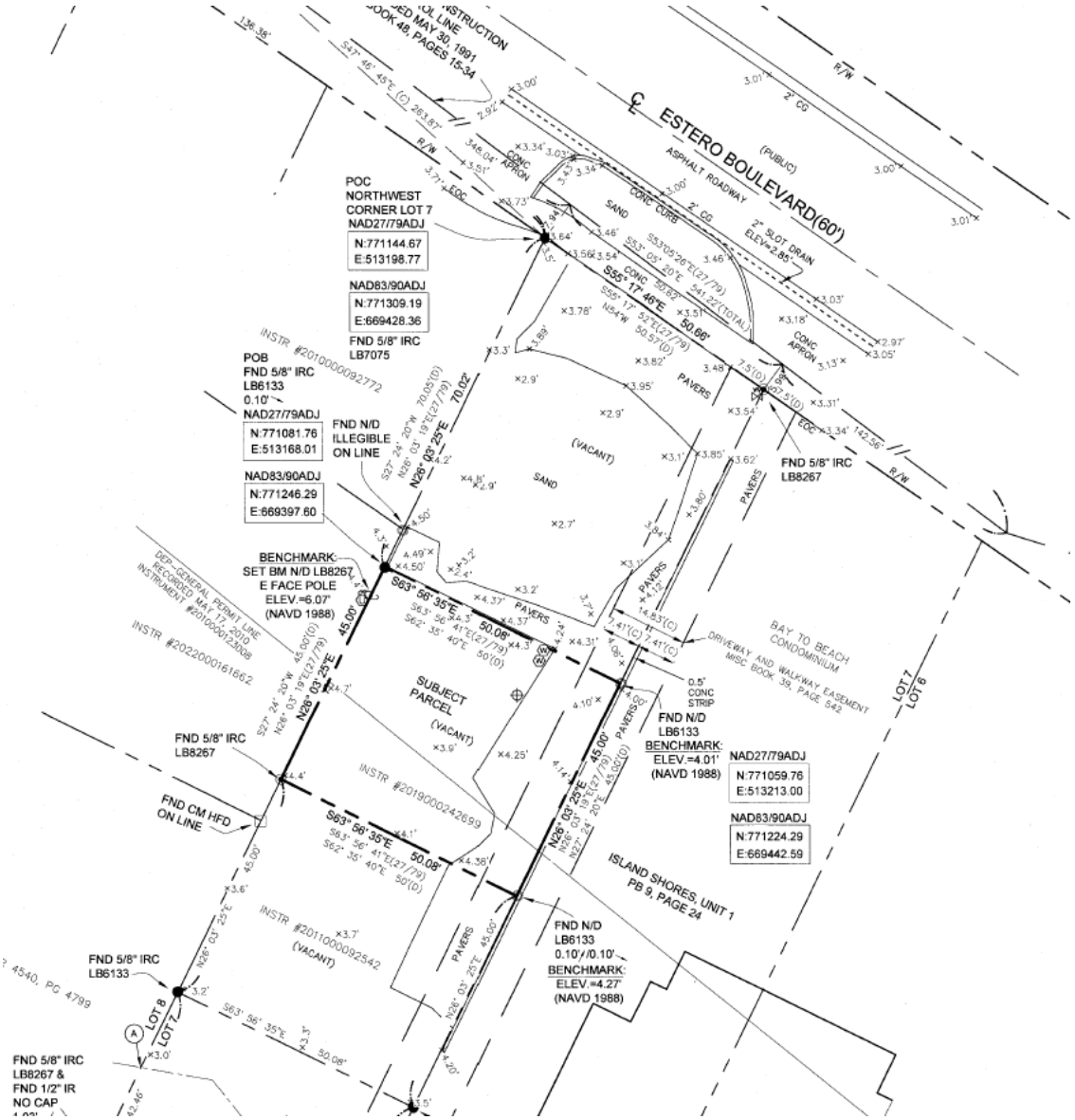
The variance request is for a single-family home site located at 722 Estero Blvd that had one dwelling unit before Hurricane Ian. The submittal package has a 2009 survey of the existing condition including the home. It is illegible but by digital calculation the existing setbacks were determined as:

- Front 7.5′
- Right side 5′
- Left side 10′
- Rear 5′



2009 Survey

The parcel is 2,253 square feet. The current Mixed Residential future land use allows a density of six units per acre. This would require a parcel of 7,260 square feet for consistency. Since the parcel does not meet the square footage requirement this would be non-conforming per Section 34-3271(b) FMBLDC. A minimum use determination was obtained November 8, 2024, which determined a single-family home meet the requirements of 34-3274 FMBLDC. The parcel existed prior to 1996, has direct access to a public road, is served by public utilities and located with appropriate Future Land Use Designation and Zoning District. The submittal package contains a current survey and legal description of the subject property.



Current Survey

2021 Aerial (Pre-Ian)

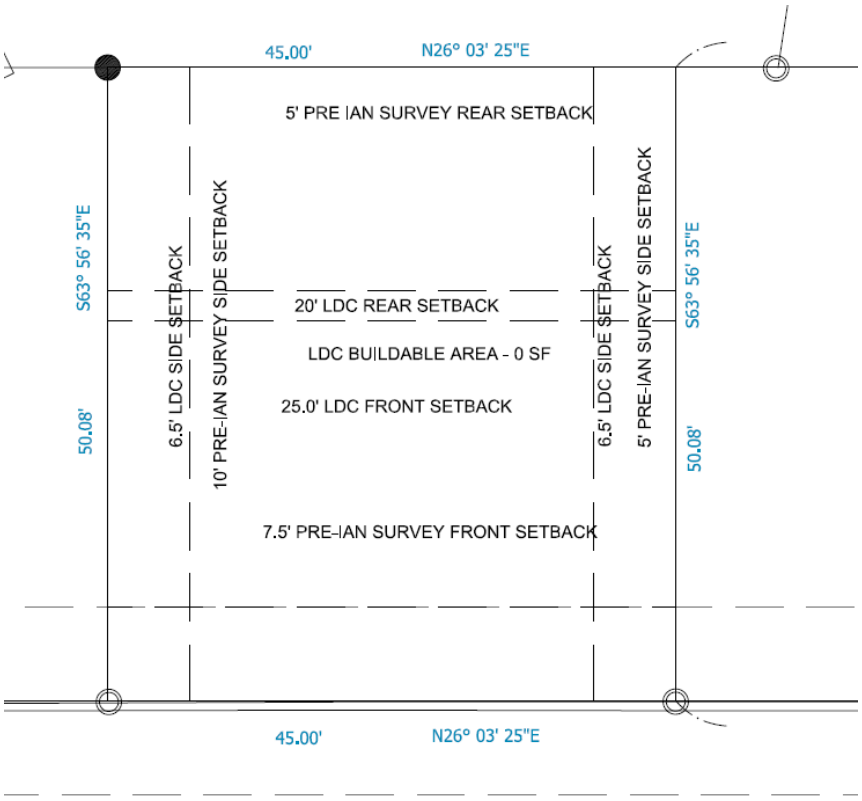
2022 Aerial (Post Ian)

As shown on the Pre-Ian 2021 Aerial the home had non-conforming setbacks and is supported by the 2009 survey. Therefore, this application shows the constraints that the current Land Development Code places on the property and the hardship created to reconstruct a reasonable single-family home on the site.

Table 34-3 of the Fort Myers Beach Land Development Code sets the constraints on the parcel for construction. The following are the property development regulations for a Residential Multifamily zoning district:

Street Setback –	25 FT
Side Setback -	6.5 FT (lot width 45')
Rear Setback -	20 FT
Lot Area -	7,500 SF
Lot Width -	75 FT
Lot Depth -	100 FT
Building Coverage -	40%
Building Height -	30 FT per Section 34-631 FMBLDC
Stories -	3

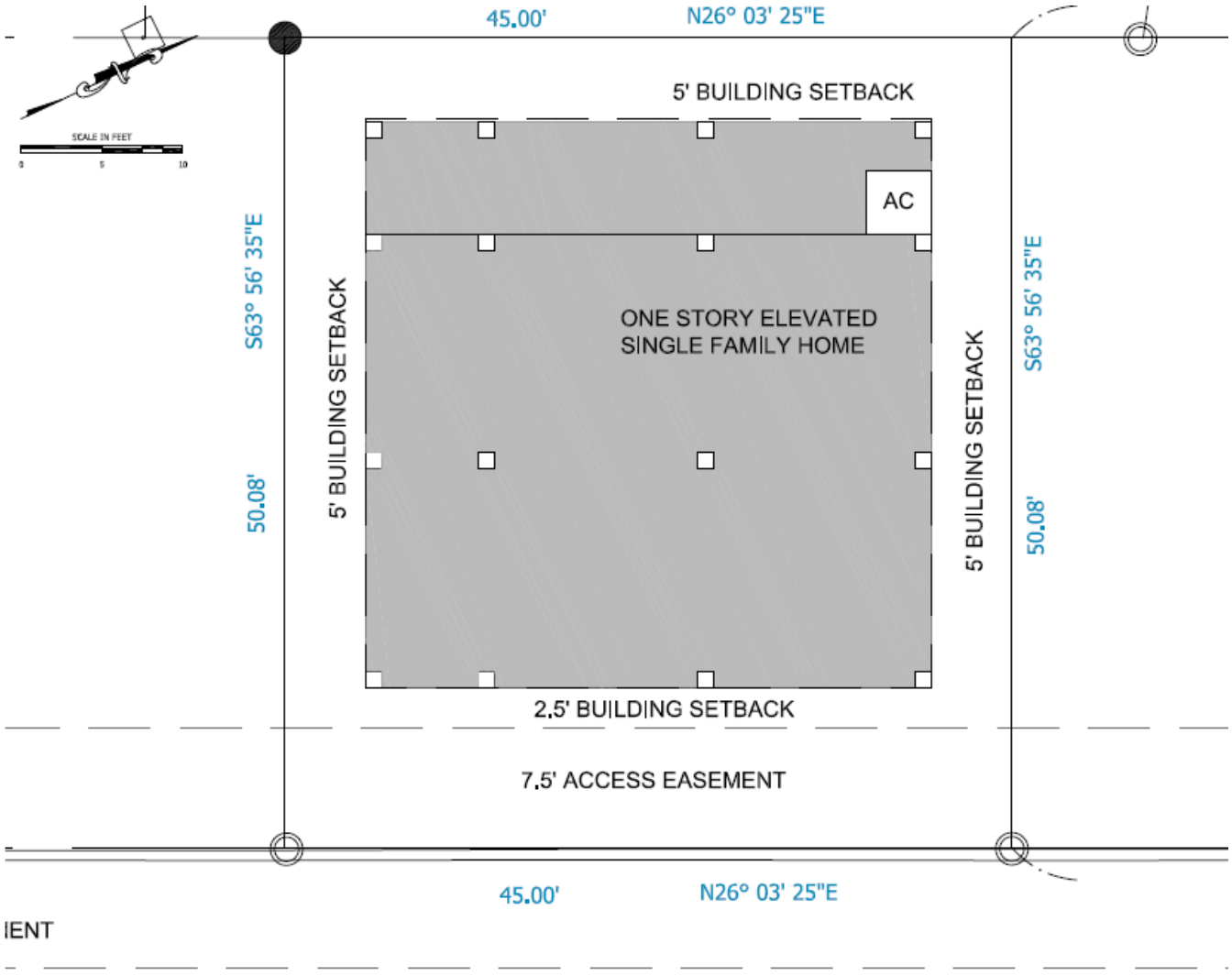
Demonstrating the Street setback, side setback, rear setback and rear lot line yields a no building area due to the front and rear setback overlap due to measurement of the front setback excluding the 7.5' roadway easement.



Variance Exhibit

This application is to request the following variances from Table 34-3 to create a reasonable building area.

a) Request to change the minimum front street setback per Table 34-3 from the required 25 feet to 2.5 feet.
b) Request to change the minimum rear setback per Table 34-3 from the required 20 feet to 5 feet.
c) Request to change the minimum side setback per Table 34-3 from the required 6.5 feet to 5 feet.
d) Request change table 34-3 note 6 from 40% lot coverage for single family to 54%.



Proposed Site Plan

Variance #1a from Section Table 34.3 – Front Street Setback

Per 34-87(c) there is guidance on before granting any variance, the town council must find that all the following exist:

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

   The allowable front setback is 25 feet with the request being 2.5 feet from the 7.5' access easement that is on the subject property. Historically the condition of the pre-Ian structure was approximately 7.5 feet. Granting the variance is a de minimis variance under these circumstances.

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

   The property owner purchased the property in October 2019 with a home with an approximately 7.5-foot street setback. This request will allow a 35-foot-deep home on the site. The requested 2.5-foot street setback is de minimis and allows greater distance of the proposed adjacent property. This front setback is like 724 Estero which has an administrative setback of 7.83 feet from the property line or 0.83' from the easement. (ADM-20240303)

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

   The requested variance for the actual condition of a non-conforming lot. Granting the variance allows for reasonable reconstruction.

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

   The requested setback is like pre-storm conditions and has similar street setbacks on adjacent properties. There is no change in the neighborhood with the granting of this variance.

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

   A variance for front setback to allow an existing non-conforming lot to be buildable is a unique action due to the difference in lots created before the Land Development Codes were created. Granting the front yard variance is not general or potentially recurrent to create a reasonable and practical Land Development code amendment to address this request.

Variance #1b from Section Table 34.3 – Rear Setback

Per 34-87(c) there is guidance on before granting any variance, the town council must find that all the following exist:

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

   The allowable rear yard setback is 20 feet with the request being reduced to 5 feet. The approximate existing rear yard setback pre-Ian was 5 feet. The request is to allow non-conforming use before the homeowner lost their home in the largest storm in Southwest Florida history. Granting the variance is a de minimis variance under these circumstances and restores the pre storm condition.

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

   The property owner purchased the property in October 2019 with a home with an approximately 5-foot rear setback. This request will allow a 35’ deep home on the site. The applicant did not take any action that created the previous condition that this request petitions to be restored.

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

   The requested variance for the actual condition of a non-conforming lot. Granting the variance does not change the pre-storm condition and allows for reasonable reconstruction.

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

   The requested setback is like pre-storm condition and structures pre-storm in the adjacent homesites have similar street setbacks. There is no change in the neighborhood with the granting of this variance.

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

   A variance for rear yard setback to allow an existing non-conforming lot to be buildable is a unique action due to the difference in platted lots created before the Land Development Codes were created. Granting the rear yard variance is not general or potentially recurrent to create a reasonable and practical Land Development code amendment to address this request.

Variance #1c from Section Table 34.3 – Side Setback

Per 34-87(c) there is guidance on before granting any variance, the town council must find that all the following exist:

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

   The allowable side yard setback is 6.5 feet for lots less than 50' in width with the request being reduced to 5 feet. The approximate existing side yard setback pre-Ian was 5 feet. The request is to allow non-conforming use before the homeowner lost their home in the largest storm in Southwest Florida history. Granting the variance is a de minimis variance under these circumstances and restores the pre storm condition.

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

   The property owner purchased the property in October 2019 with a home with an approximately 5-foot side setback. This request will allow a 35' deep home on the site. The applicant did not take any action that created the previous condition that this request petitions to be restored.

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

   The requested variance for the actual condition of a non-conforming lot. Granting the variance does not change the pre-storm condition and allows for reasonable reconstruction.

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

   The requested setback is like pre-storm condition and structures pre-storm in the adjacent homesites have similar street setbacks. There is no change in the neighborhood with the granting of this variance.

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

   A variance for side yard setback to allow an existing non-conforming lot to be buildable is a unique action due to the difference in platted lots created before the Land Development Codes were created. Granting the sided yard variance is not general or potentially recurrent to create a reasonable and practical Land Development code amendment to address this request.

Variance #1d from Section Table 34-3 – Lot Coverage

Variance #1c is a request to change from the current Lot Coverage of 40% as listed in Note (6) Table 34-3, with a historical home lot coverage of 48% to 54% to construct a modern similar home.

Per 34-87(c) there is guidance on before granting any variance, the town council must find that all the following exist:

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

   The improper change in the Land Development Code created a hardship for the reconstruction of the home destroyed by Hurricane Ian. The home has same bedrooms, bathrooms, stories as existing pre-Ian and minor additional footprint was added to recreate the previous structure to current building codes. The request is to increase the building coverage to 54%. The small size of the lot at 40% would yield a building coverage of 901 square feet. This size is not feasible for a gulf side single-family home. The request is to increase the building coverage from the Pre-Ian size of 1,081 (48%) to 1,225 (54%) square feet an increase of only 143 square feet.

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

   The change in determining the size of a single-family home was a town-initiated Land Development Code change and not the action of the applicant.

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

   Granting the variance allows for reasonable reconstruction.

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

   There is no neighborhood change with the granting of this variance.

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

   Granting the variance is to restore the impact to pre-Ian rules which would be consistent with other rebuilt homes on the adjacent properties.

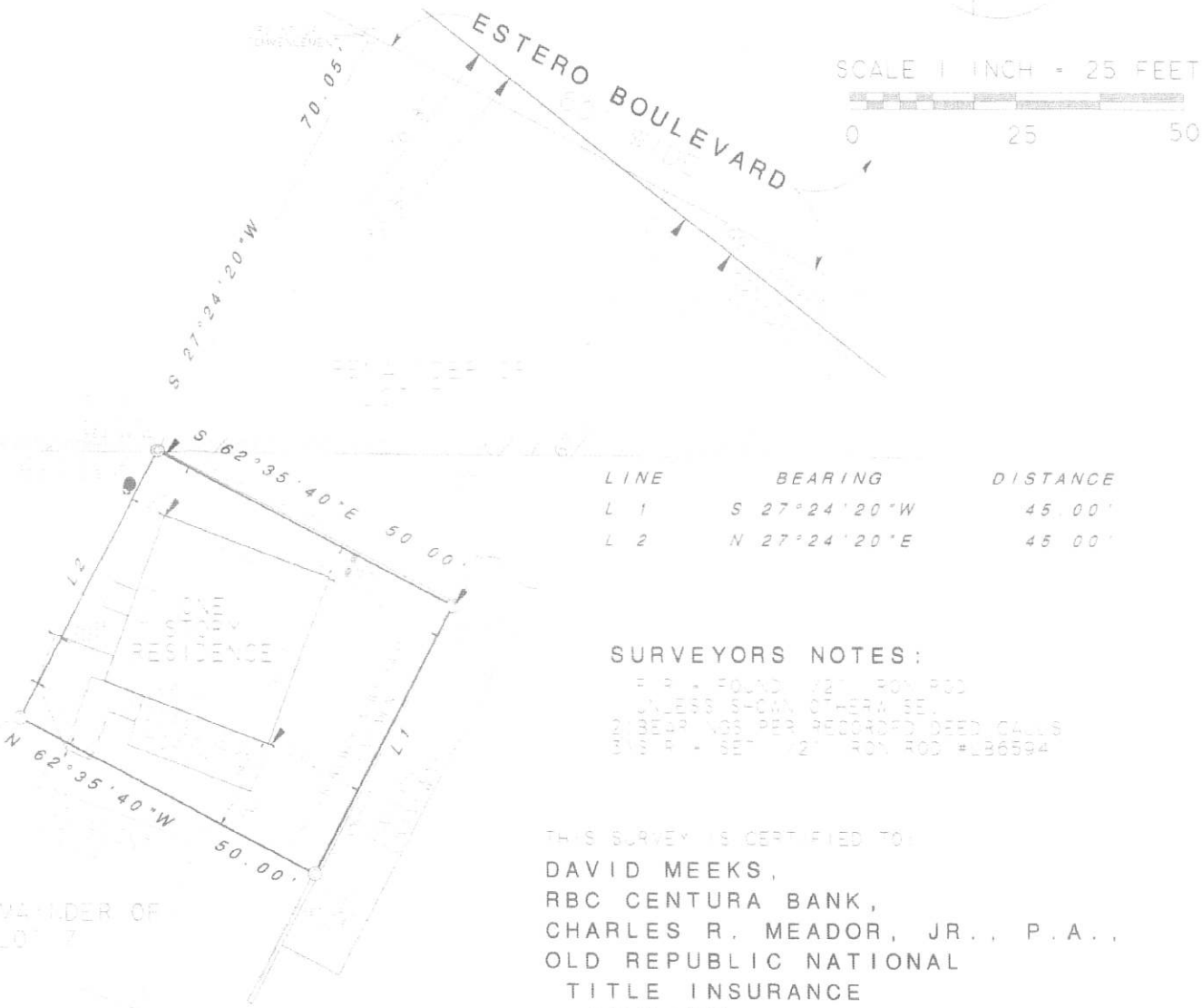
LAND SURVEY

SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, BEING A PART OF GOVERNMENT LOT 7, SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, AND A PART OF LOT 7, ISLAND SHORES SUBDIVISION, UNIT 1, AS RECORDED IN PLAT BOOK 9, PAGE 24, PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND FURTHER BOUNDED AND DESCRIBED AS FOLLOWS: STARTING AT THE NORTH-WEST CORNER OF AFORESAID LOT 7; THENCE SOUTH 27 DEGREES 24' 20" WEST A DISTANCE OF 70.05 FEET TO A POINT AND THE PRINCIPLE PLACE OF BEGINNING; THENCE CONTINUE SOUTH 27 DEGREES 24' 20" WEST, A DISTANCE OF 45 FEET; THENCE SOUTH 62 DEGREES 35' 40" EAST, A DISTANCE OF 50 FEET; THENCE NORTH 27 DEGREES 24' 20" EAST, A DISTANCE OF 45 FEET; THENCE NORTH 62 DEGREES 35' 40" WEST, A DISTANCE OF 50 FEET TO THE POINT OF BEGINNING.

NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL ONE CREATED BY THE DRIVEWAY AND WALKWAY EASEMENT RECORDED IN MISCELLANEOUS BOOK 39, PAGE 542, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, OVER AND ACROSS THOSE LANDS DESCRIBED IN PARAGRAPH 3 OF SAID EASEMENT.

THE PROPERTY SHOWN HEREON IS LYING IN ZONE VE OF THE NATIONAL FLOOD INSURANCE PROGRAM, ELEVATION = 17' NAVD 988

PROPERTY ADDRESS:
722 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA



LINE	BEARING	DISTANCE
L 1	S 27°24'20"W	45.00'
L 2	N 27°24'20"E	45.00'

SURVEYORS NOTES:

FIR = FOUND 1/2" ROD
UNLESS SHOWN OTHERWISE.
2)BEAR'NGS PER RECORDED DEED CALLS
SIR = SET 1/2" ROD ROD #LB6594

THIS SURVEY IS CERTIFIED TO:

DAVID MEEKS,
RBC CENTURA BANK,
CHARLES R. MEADOR, JR., P.A.,
OLD REPUBLIC NATIONAL
TITLE INSURANCE
COMPANY

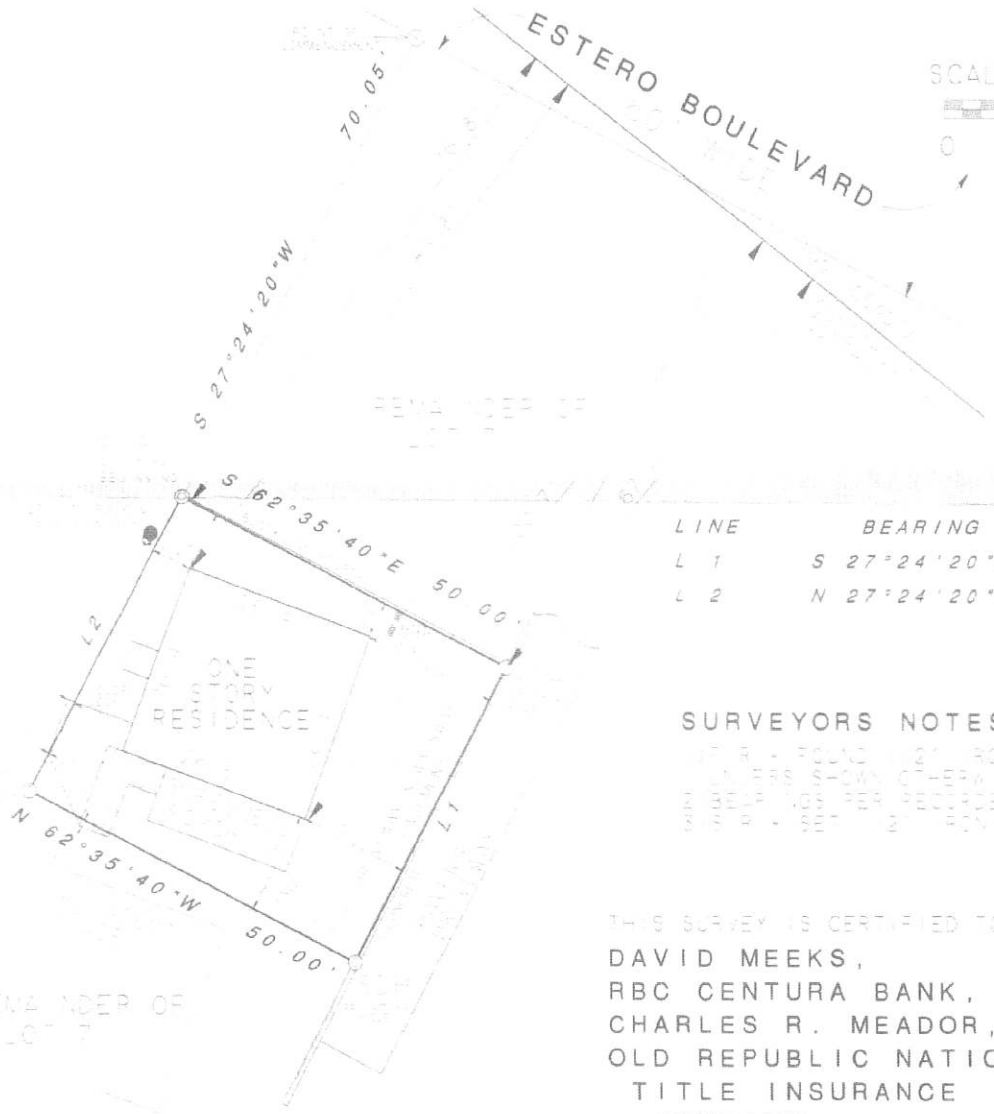
THIS SURVEY WAS PREPARED FOR THE ABOVE CERTIFIED PARTIES, FOR REAL ESTATE TRANSACTION PURPOSES. LANDS SHOWN HEREON WERE NOT ABSTRACTED AND ARE SUBJECT TO ALL DEDICATIONS, LIMITATIONS, RESERVATIONS, RESTRICTIONS AND EASEMENTS OF RECORD.

UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL EMBOSSED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID. NO COPIES SHALL BE MADE WITHOUT WRITTEN AUTHORIZATION.

...CREATED BY THE DRIVEWAY AND WALKWAY EASEMENT RECORDED IN M SCELLANEOUS BOOK 39 PAGE 542, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, OVER AND ACROSS THOSE LANDS DESCRIBED IN PARAGRAPH 3 OF SAID EASEMENT.

THE PROPERTY SHOWN HEREON IS IN NO. IN ZONE VE OF THE NATIONAL FLOOD INSURANCE PROGRAM ELEVATION = 17' NAVD 988

PROPERTY ADDRESS
722 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA



SCALE 1 INCH = 25 FEET

0 25 50

LINE	BEARING	DISTANCE
L 1	S 27°24'20"W	45.00'
L 2	N 27°24'20"E	45.00'

SURVEYORS NOTES:

...TER = FOUND 1/2" IRON ROD
...LESS SHOWN OTHERWISE
...BEAR INGS PER RECORDED DEED OR P
...SET 1/2" IRON ROD "LB5592"

THIS SURVEY IS CERTIFIED TO:

DAVID MEEKS,
RBC CENTURA BANK,
CHARLES R. MEADOR, JR., P.A.,
OLD REPUBLIC NATIONAL
TITLE INSURANCE
COMPANY

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DATED: SEPTEMBER 29, 2009

REVISION(S):

FILE DISK: OCTOBER 09-1

DRAWN: RICE/BARRETT

I HEREBY CERTIFY THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

L. LARRY GARDNER
FLORIDA SURVEYOR & MAPPER #4294

ATTORNEY'S REAL ESTATE LAND SURVEYING, INC. ©
LICENSED & INSURED
1930 PARK MEADOWS DRIVE SUITE #9
FORT MYERS, FLORIDA 33907
PHONE: (239) 481-0404 (239) 277-7330 FAX (239) 277-7332

09-0145
JOB NUMBER

Town of Fort Myers Beach
Agenda Item Summary Yellow Sheet Number: **2025-371**

1. **Request:** **Meeting Date: April 29, 2025**

7150 ESTERO BOULEVARD: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20250033 TO ALLOW LIKE-TO-LIKE REPLACEMENT OF EXISTING RIPRAP, ALUMINUM FENCES, SIDEWALKS, POOL, AND POOL DECK WITH 494 SQ. FT. POOL DECK EXPANSION IN EC ZONING DISTRICT SEAWARD OF 1978 CCCL, FOR THE PROPERTY LOCATED AT 7150 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Why the action is necessary:
LPA reviews Special Exceptions and makes recommendations to the Town Council.

What the action accomplishes:
Approval of the Special Exception would allow like-for-like replacement of riprap, aluminum fences, sidewalks, pool, and pool deck along with 494 sq. ft. pool deck extension in the EC zoning district.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Resolution

---

5. **Background:**
The applicant is requesting a special exception to allow like-for-like replacement of riprap, aluminum fences, sidewalks, pool, and pool deck along with a 494 sq. ft. pool deck expansion in the Environmentally Critical (EC) zoning district seaward of the 1978 Coastal Construction Control Line (CCCL). Section 34-652(e) of the Town's LDC allows repair and reconstruction of accessory structures like pool, pool deck, fence, and riprap into the EC district only by special exception.

Attachments:
1. NS Resolution 25-XX
2. Staff report
3. Exhibit A- Site Plan
4. Exhibit B- Completed Application
5. Exhibit C- Letters of No Objection
6. Exhibit D- Letter from Attorney
7. Exhibit E- Condominium Board approval

Financial Impact:
Unknown

6. **Alternative Action**
Recommend approval with conditions/ Denial

7. **Staff Recommendations:**
Recommend approval with conditions for like-for-like replacement of the riprap, aluminum fences, sidewalks, pool, and the pool deck. Recommend denial for expansion of pool deck by 494 sq.ft. in the EC zoning district.

8. **Recommended Approval:**

Judith Frankel, Principal Planner — Date: April 16, 2025

Georgina Cid, Community Development Manager — Date: April 16, 2025

Frankie Kropacek, Operations & Compliance Director — Date: April 17, 2025

nancy stuparich, Town Attorney — Date: April 21, 2025

Amy Baker, Town Clerk — Date: April 22, 2025

RESOLUTION NUMBER 25-XX

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20250033 TO ALLOW REPLACEMENT OF EXISTING RIPRAP, ALUMINUM FENCES, SIDEWALKS, POOL, AND POOL DECK WITH A 494 SQ. FT. POOL DECK EXPANSION IN THE EC ZONING DISTRICT SEAWARD OF 1978 CCCL, FOR THE PROPERTY LOCATED AT 7150 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 Llyod M Welker on behalf of owner Creciente Condo South, is requesting a special exception to allow replacement of riprap, aluminum fences and pool deck with 494 sq. ft. pool deck extension in Environmentally Critical zoning district seaward of 1978 CCCL; and

WHEREAS, the STRAP number for the subject property is 03-47-24-W1-02400.8000; and

WHEREAS, the Property is located in the "Mixed Residential" and "Recreation" category of the Future Land Use Map of the Comprehensive Plan; and

WHEREAS, the Property is located in the "Multi-family Residential" 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 April 29, 2025, 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 and voted ___ to ___ to recommend approval/ approval with conditions/ denial of the special exception request as consistent with the Comprehensive Plan; and

WHEREAS, on May 19, 2025 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 34-88 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 and is consistent with the Town's 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 request to allow replacement of riprap, aluminum fences and pool deck with an additional 494 sq. ft. pool deck expansion in Environmentally Critical zoning district seaward of 1978 CCCL.

Section 3. In **approving/ approving with conditions/ denying** 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:

A. 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.

B. The applicant must obtain an approved lighting plan as outlined in LDC Sec. 34-1834.

C. Each time the structure is repaired, the applicant must request a new special exception approval and permit prior to beginning construction.

D. Construction may not occur during sea turtle season.

E. 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 May 2025 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 May 2025.

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE:	**Special Exception**
CASE NUMBER:	**SEZ20250033**
CASE NAME:	**Special Exception for replacement of riprap, aluminum fences, pool, sidewalks, and pool deck with an addition of 494 sq. ft. pool deck in EC zoning district**
LPA HEARING DATE:	**April 29, 2025**
STAFF RECOMMENDATION:	**Approval with conditions for like-for-like replacement and Denial for pool deck expansion in EC zoning district**
PREPARED/ SUBMITTED BY:	**Sarah Propst, AICP, PMP**

I. APPLICATION SUMMARY

Applicant/Owner:	Lloyd M Welker, Creciente Condo South
Request:	Special Exception for like-for-like replacement of riprap, aluminum fences, pool, sidewalks, and pool deck and a 494 sq. ft. pool deck addition in the EC zoning district.
Subject property:	See attached site plan
Physical Address:	7150 Estero Boulevard
STRAP #:	03-47-24-W1-02400.8000
FLU:	Medium Residential and Recreational
Zoning:	Residential Multifamily (RM) & Environmentally Critical (EC)

Adjacent zoning and land uses:

North:	COMMERCIAL Santini
South:	GULF OF MIEXICO
East:	MIXED RESIDENTIAL AND RECREATIONAL RM and EC
West:	MIXED RESIDENTIAL AND RECREATIONAL Commercial Office, RM and EC

II. BACKGROUND AND ANALYSIS

Background:

The applicant is requesting a special exception to allow like-for-like replacement of riprap, aluminum fences, pool, sidewalks, and pool deck along with and an additional 494 sq. ft. pool deck expansion in the Environmentally Critical (EC) zoning district seaward of the 1978 Coastal Construction Control Line (CCCL). Section 34-652(e) of the Town's LDC allows repair and reconstruction of accessory structures including pools, pool decks, fences and riprap into the EC district only by special exception.

Analysis:

The purpose of the EC zoning district is to designate beaches and significant wetlands whose preservation is deemed critical to the Town of Fort Myers Beach through its comprehensive plan. The site's current multi-family residential use has been in place since 1972, before the establishment of the 1978 CCCL. The Applicant is proposing the reconstruction of the riprap, aluminum fences, pool, sidewalks, existing pool deck and landscaping which lie partially in the EC district and beyond the 1978 CCCL. The Applicant is also asking to expand the pool deck area by an additional 494 sq. ft. in the EC zoning district. The LDC does not support new development in the EC zoning district.

Neighborhood Compatibility:

Creciente Condo South has been at this location with this pool layout since 1972. Granting a special exception for the proposed replacement of riprap and fences along with 494 sq. ft. extension of the pool deck would not impact the character of the neighborhood.

Findings and Conclusions:

Special Exception Findings

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:

1. *Any repairs must comply with all relevant local and state floodplain regulations.* The development will comply with local and state floodplain requirements.

2. *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.

3. *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 begins May 1st and ends on October 31st. Construction will be completed outside of nesting season.

4. *A new special exception must be applied for each time the structure is repaired.* This is included as one of the conditions for approval.

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 existing pool deck, aluminum fences, riprap and landscaping were damaged during 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 like-for-like replacement of riprap, aluminum fences, pool, sidwalks, and previously existing pool deck does not create any new development or change the location from what previously existed on the site. Staff believes that the previously existing portion of the 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.

The proposed 494 sq. ft. expansion of the pool deck into the EC zoning district is deemed as an improvement in EC zoning district and is not consistent with Policy 5-D-1 of the Town's Comprehensive Plan.

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 with minor modifications. 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 proposed repairs to the riprap, pool deck, fence, and landscaping will all be completed in compliance with the Town's Land Development Code.

III. RECOMMENDATION

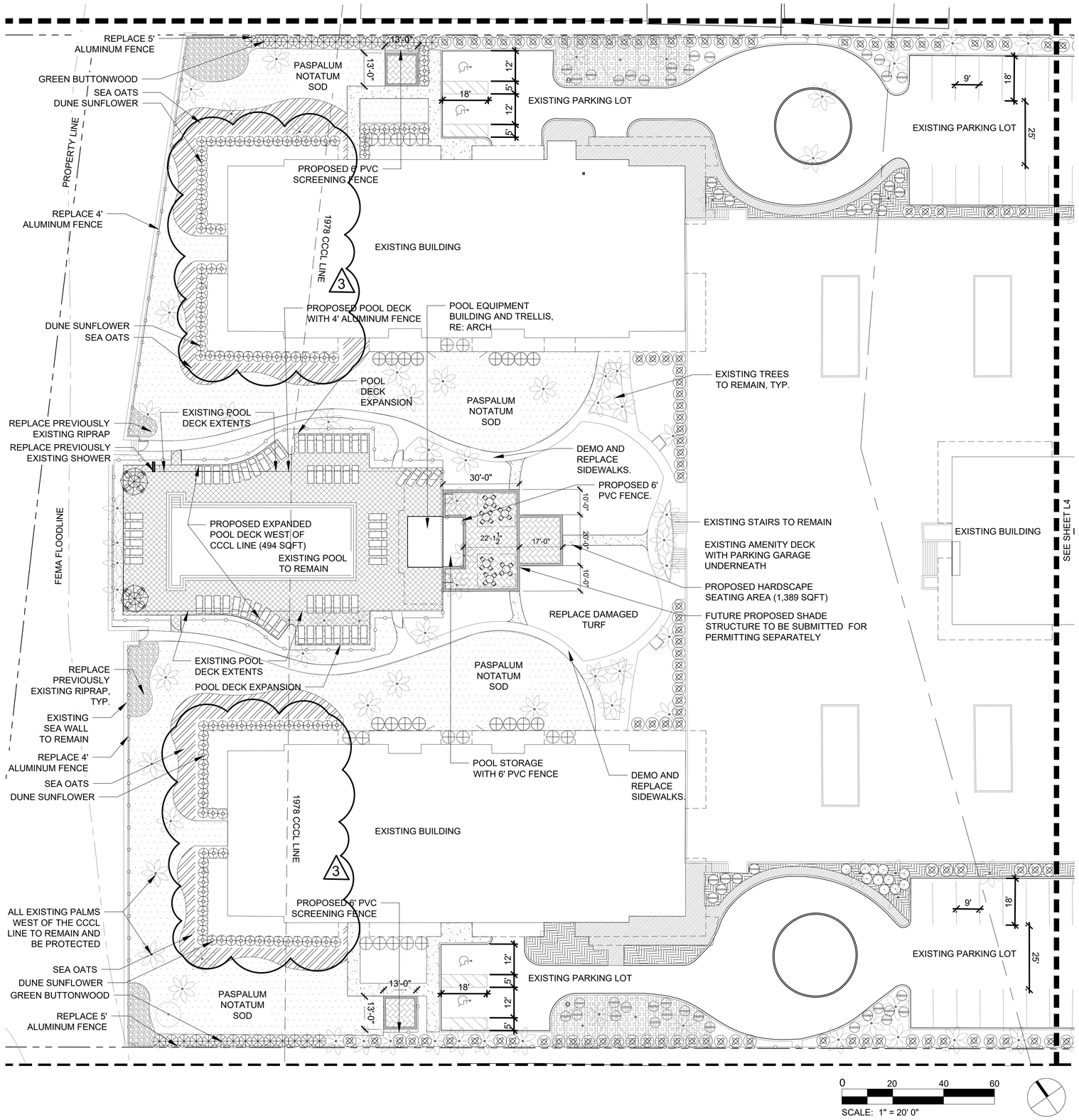
Staff finds that the special exception to replace the previously existing riprap, aluminum fences, and pool deck are in compliance with LDC Sec. 34-88(b). Therefore, staff recommends approval with conditions of SEZ20250033 for the like-for-like reconstruction of the riprap, aluminum fences, pool, sidewalks, and previously existing pool deck.

Staff finds that the request for pool deck expansion by 494 sq. ft. is not in compliance with LDC Sec. 34-88(b). Therefore, staff recommends denial for the proposed pool deck expansion in EC zoning district.

If LPA recommends approval for the requests, staff recommends the following conditions of approval.

III. CONDITIONS OF APPROVAL

1) 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.
2) The applicant must obtain an approved lighting plan as outlined in LDC Sec. 34-1834.
3) Each time the structure is repaired, the applicant must request a new special exception approval and permit prior to beginning construction.
4) Construction shall not occur during sea turtle season.
5) Failure to comply with any of the above-mentioned conditions of approval for the Special Exception will render this approval null and void.



PLANT SCHEDULE

CODE	CODE	QTY	BOTANICAL NAME	COMMON NAME
TREES				
+	CON SER	6	CONOCARPUS ERECTUS F. SERICEUS	SILVER BUTTONWO
EXISTING TREES				
	EXT PAL	124	EXISTING PALM	EXISTING PALM
	EXT TRE	4	EXISTING TREE	EXISTING TREE
SHRUBS				
	CHR ICA	52	CHRYSOBALANUS ICACO 'RED TIP'	RED TIP COCO PLU
	CLU GUT	166	CLUSIA GUTTIFERA	SMALL LEAF CLUSI
	CON ERE	30	CONOCARPUS ERECTUS	BUTTONWOOD
	HEL DEB	118	HELIANTHUS DEBILIS	DUNE SUNFLOWER
	ZAM INT	108	ZAMIA INTEGRIFOLIA	COONTIE
EXISTING SHRUB				
	EXT SHR	43	EXISTING SHRUB	EXISTING SHRUB
SHRUB AREAS				
	UNI SE2	386	UNIOLA PANICULATA	SEA OATS
CODE	CODE	QTY	BOTANICAL NAME	COMMON NAME
GROUND COVERS				
	ERN LIT	185	ERNODEA LITTORALIS	GOLDEN CREEPER
	PAS VAG	17,684 SF	PASPALUM VAGINATUM	SEASHORE PASPA
TURF				
	PAS NOT	1,468 SF	PASPALUM NOTATUM	BAHIAGRASS

PAVING SCHEDULE

	DESCRIPTION
	CONCRETE PAVING
	CONCRETE FLUSH CURB
	POOL DECK PAVING
	PEDESTRIAN PAVER
	STAMPED CONCRETE
	FLAGSTONE PAVER WITH SHELL FILL

MEAD LANDSCAPE DESIGN
AESTHETIC ECOLOGIC DESIGN
MEAD LANDSCAPE DESIGN
5600 11th St South
St Petersburg, FL, 33705

CONSULTANTS

OWNER

CRECIENTE CONDOS
7150 ESTERO BLVD
FORT MYERS BEACH, FL 33931

SIGNATURE & SEAL

REGISTERED LANDSCAPE ARCHITECT
THOMAS MEAD
LA 6667354
STATE OF FLORIDA

REVISIONS

REV 3	REMOVED PROPOSED WALL	3/26/2025
REV 2	DO RE-SUBMITTAL	2/14/2025
REV 1	DO RE-SUBMITTAL	12/10/2024
NO..	DO SUBMITTAL	08/30/2024
NO.	COMMENTS	DATE

SHEET INFORMATION

DATE	08/30/2024
JOB NUMBER	113644
DRAWN BY	CB
CHECKED BY	TM

REGISTERED LANDSCAPE ARCHITECT THOMAS MEAD LA 6667354 STATE OF FLORIDA

Digitally signed by Thomas G Mead
DN: CN=Thomas G Mead, O=, OU=, E=, C=US
Date: 2025.03.26 08:14:44 -04'00'

Sunshine811

SITE PLAN

L5

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COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

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

Site Address: Creciente Condo South, Fort Myers, FL 33931

STRAP Number: 03-47-24-W1-02400.8000

Applicant: Lloyd Welker Phone: 614-620-0645

Contact Name: Billiejean Tietze Phone: 843-801-4029

Email: billiejean@permitflow.com Fax: _____

Current Zoning District: Residential - multi density

Future Land Use Map (FLUM) Category: _____

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

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

PART I – General Information

A. Applicant*: Lloyd M Welker Phone: 614-620-0645

**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: 5150 Johnstown Road New Albany, Ohio 43054

Email: lloydwelker@sprynet.com Fax: _____

Contact Name: Billiejean Tietze Phone: 843-801-4029

B. Relationship of Applicant to subject property:

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

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

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

Name: Gino Villani Phone: 4147882859

Address: 12120 W. Carpenter Ave. Greenfield, WI 53228

Email: gino@villani Fax: _____

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

Name: Brandon Eells Phone: 2393226533

Address: 5811 Youngquist Rd, Fort Myers, FL 33912

Email: brandon.eells@wcgfl.com Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

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

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

_____

_____

PART III – Waivers

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

Code Section: N/A 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, Lloyd M Welker 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

Lloyd M Welker
Printed Name

STATE OF Florida **COUNTY OF** Lee

The foregoing instrument was certified and subscribed before me by means of ___ physical presence OR ✓ online notarization, this 30th day of January, 2025, by Lloyd M Welker, ☑ who is personally known to me OR ☐ who has produced

_____ as identification.

Notary Public Signature

PEGGY SCARPATI
Notary Public - State of Florida
Commission # HH 366800
My Comm. Expires Mar 23, 2027
Bonded through National Notary Assn.

PART V
Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address	Percentage Ownership
N/A	

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
Mike Close 7146 Estero Blvd Unit 811 Fort Myers Beach, FL 33931 President	1/172
Sheila McGinnis 7150 Estero Blvd Unit 900 Fort Myers Beach FL 33931 Vice President	1/172
Lloyd M Welker 7146 Estero Blvd Unit 414 Fort Myers Beach, FL 33931 Co Treasurer	1/172
Becky Werner 7150 Estero Blvd Unit 506 Fort Myers Beach, FL 33931 Secretary	1/172

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
n/a	

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
N/A	

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

LLOYD M WELKER
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, Lloyd M Welker (name), as Co Treasurer (title) of Creciente Condominium Association (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

Creciente Condo South, Fort Myers, FL 33931
Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

Co Treasurer
Title

Lloyd M Welker
Typed or Printed Name

1/29/2025
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 30th day of January, 2025, by Lloyd M Welker ☑ who is personally known to me OR ☐ who has produced _____ as identification.

Seal

Notary Public Signature

PEGGY SCARPATI
Notary Public - State of Florida
Commission # HH 366800
My Comm. Expires Mar 23, 2027
Bonded through National Notary Assn.

PART VI– Property Information

A. Legal Description:

STRAP: 03-47-24-W1-02400.8000

Property Address: The Creciente Condo South, Fort Myers, 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: 02400 Lot(s): 8000

B. Boundary Survey:

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

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 385 feet

Depth (please provide an average width if irregular in shape) 575 feet

Frontage on street: 392 feet. Frontage on waterbody: 383 feet

Total land area: 221375 ☐ acres ☑ square feet

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

3 min North bound from the Big Carlos Bridge

☑ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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

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

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

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

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

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

Case# _____ Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-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: Creciente Condo
Authorized Applicant: LLoyd Welker
LEEPA STRAP Number(s): 03-47-24-W1-02400.8000

Current Property Status: Condominium Association 9 stories 68 units
Current Zoning: Residential-Multi Family
Future Land Use Map (FLUM) Category:
Platted Overlay? ☐ **yes** ☐ **no** **FLUM Density Range:**

Requested Action:

☑ Use of premises in the EC (Environmentally Critical) zoning district for:
Repair/Replacement of hurricane damage to the property.
☐ Use of premises in the _____ zoning district for:

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

PART I
Narrative Statements

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

• Re-establishment of existing pool deck and extension of pool
deck past the CCCL line (under 500 sf)
• Remove and replace all sidewalks like for like
• Re-establishment of Irrigation
• Re-establishment of Plantings/sod to include native vegetation
• Re-establishment of Fence & gates (to include pool safety fencing and perimeter)
• Re-establishment of Rip Rap
• Replace the previously existing shower station at the NW corner of the pool area
• Proposed future Retaining Walls
• Replace Bollard Lights along the sidewalks

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: Response to PHA Application Sect B

Granting the requested Special Exception could impact surrounding properties as follows:
PLEASE SEE ATTACHED: Response to PHA Application Sect B

PART 2
Submittal Requirements

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

Required Items

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

For New Communication Towers:

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

Response to Section B

B. **Reasons for request:**

The devastation caused by Hurricane Ian has had a profound financial and emotional impact on the homeowners. For the past two years, they have been displaced, forced to seek alternative living arrangements while the full extent of the damage was assessed. Now that assessments are complete and repairs are underway, our primary goal is to restore the property to its pre-storm condition while prioritizing the safety and well-being of the homeowners.

As part of this process, we are repairing and replacing items damaged or destroyed by the hurricane. Additionally, we are making aesthetic enhancements to align the property with surrounding homes, many of which have undergone similar post-storm restorations.

Through the planning phase, it became evident that certain updates were necessary—not only to mitigate future storm damage but also to replace outdated features with more efficient, modern alternatives. These improvements are essential for enhancing the property's resilience and ensuring compliance with current safety and functionality standards.

One key improvement includes the installation of a retaining wall to protect the buildings from future damage by stabilizing the soil. This will help mitigate the risk of foundation shifting and structural weakening. By implementing this preventative measure, we aim to enhance the property's long-term stability and safeguard it against potential future storms.

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

Granting the requested Special Exception could have a positive impact on surrounding properties by enhancing the overall aesthetic and structural standards of the area. The proposed repairs and updates will align the property with neighboring homes that have undergone similar renovations following Hurricane Ian, contributing to a cohesive and well-maintained neighborhood appearance.

Additionally, the planned improvements—such as incorporating modern, storm-resistant materials and designs—can serve as a model for future upgrades in the area. By promoting higher construction standards and resilience, these enhancements have the potential to increase property values and foster a safer, more durable community.

Importantly, all repairs and updates will be contained within the property boundaries and will not impact surrounding properties in any way. These improvements are focused solely on restoring and reinforcing the buildings while maintaining the integrity of neighboring properties.

SURVEY PLAT

OF
A PARCEL OF LAND
LYING IN
SECTION 3, TOWNSHIP 47 SOUTH, RANGE 24 EAST,
TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA

0 20 40 60

N

DESCRIPTION:

THE CRECIENTE CONDOMINIUM SOUTH, OFFICIAL RECORD BOOK 849, PAGES 120–174 AND IN CONDOMINIUM PLAT BOOK 2 AT PAGE 237 AND THE CRECIENTE CONDOMINIUM EAST, OFFICIAL RECORD BOOK 1242, PAGES 101–149 AND THE CRECIENTE CONDOMINIUM NORTH, OFFICIAL RECORD BOOK 1056, PAGES 832–874

NOTES:

SURVEY BIASED ON THE CONDOMINIUM PLAT OF RECORD, THE "COASTAL CONSTRUCTION CONTROL LINE" (PLAT BOOK 48, PAGES 15 THROUGH 34), THE "LEE COUNTY COASTAL CONTROL SET–BACK LINE" (PLAT BOOK 31, PAGES 1–16), PREVIOUS SURVEYS CONTAINED IN THIS FIRMS RECORDS, RIGHT–OF–WAY CONTROL SURVEY MAPS OF ESTERO BOULEVARD DATED APRIL 16, 2010 AND FOUND MONUMENTATION.

BEARINGS AND COORDINATES SHOWN HEREON ARE STATE PLANE GRID FOR THE FLORIDA WEST ZONE (NORTH AMERICAN DATUM OF 1983/1990 ADJUSTMENT) BASED ON GLOBAL POSITIONING SYSTEM (GPS) TIES TO THE FLORIDA HIGH PRECISION GEODETIC NETWORK HOLDING NATIONAL GEODETIC SURVEY CONTROL MONUMENT BOOB–2 WITH THE WEST LINE OF ESTERO BOULEVARD AS S18°34'14"E.

ELEVATIONS SHOWN HEREON ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 AND NGS BENCHMARK "BOOB 2".

DIMENSIONS ARE IN FEET AND DECIMAL PARTS THEREOF.

PARCEL SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS– OF–WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).

IRON ROD'S "SET" ARE 5/8" X 18" REBAR WITH PLASTIC CAP BEARING CORPORATION NO. LB8267.

PARCEL LIES IN FLOOD ZONE VE, BASE FLOOD ELEVATIONS OF 13' AND 14' NAVD 1988, PER FLOOD INSURANCE RATE MAP NUMBER 12071C0567G, INDEX DATE BEING 11–17–2022 (COMMUNITY NAME: TOWN OF FORT MYERS BEACH AND COMMUNITY NUMBER 120673).

THE F.E.M.A. 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.

UNDERGROUND IMPROVEMENTS, UTILITIES AND/OR FOUNDATIONS WERE NOT LOCATED UNLESS OTHERWISE NOTED.

WETLANDS, IF ANY, WERE NOT LOCATED.

THIS PLAT PREPARED AS A SPECIFIC PURPOSE BOUNDARY SURVEY TO SHOW THE EXISTING CONDITIONS IN CERTAIN AREAS OF THE CONDOMINIUM TO AID IN THE DESIGN OF ADDITIONAL IMPROVEMENTS AND IS NOT INTENDED TO DELINEATE THE JURISDICTION OR JURISDICTIONAL AREAS OF ANY FEDERAL, STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER ENTITY.

SURVEY MEETS OR EXCEEDS THE ACCURACY STANDARDS OF AN URBAN SURVEY (1:15,000).

COMBINED PARCEL CONTAINS 5.56 ACRES (242,166 SQUARE FEET) AS DESCRIBED, MORE OR LESS.

CRECIENTE CONDO NORTH PARCEL STRAP#: 03–47–24–W1–02500.000E
CRECIENTE CONDO NORTH PARCEL ADDRESS: 7148 ESTERO BLVD, FORT MYERS BEACH, FL 33931.

CRECIENTE CONDO EAST PARCEL STRAP#: 03–47–24–W1–02800.000E
CRECIENTE CONDO EAST PARCEL ADDRESS: 7144 ESTERO BLVD, FORT MYERS BEACH, FL 33931.

CRECIENTE CONDO SOUTH PARCEL STRAP#: 03–47–24–W1–02400.000E
CRECIENTE CONDO SOUTH PARCEL ADDRESS: 7150 ESTERO BLVD, FORT MYERS BEACH, FL 33931.

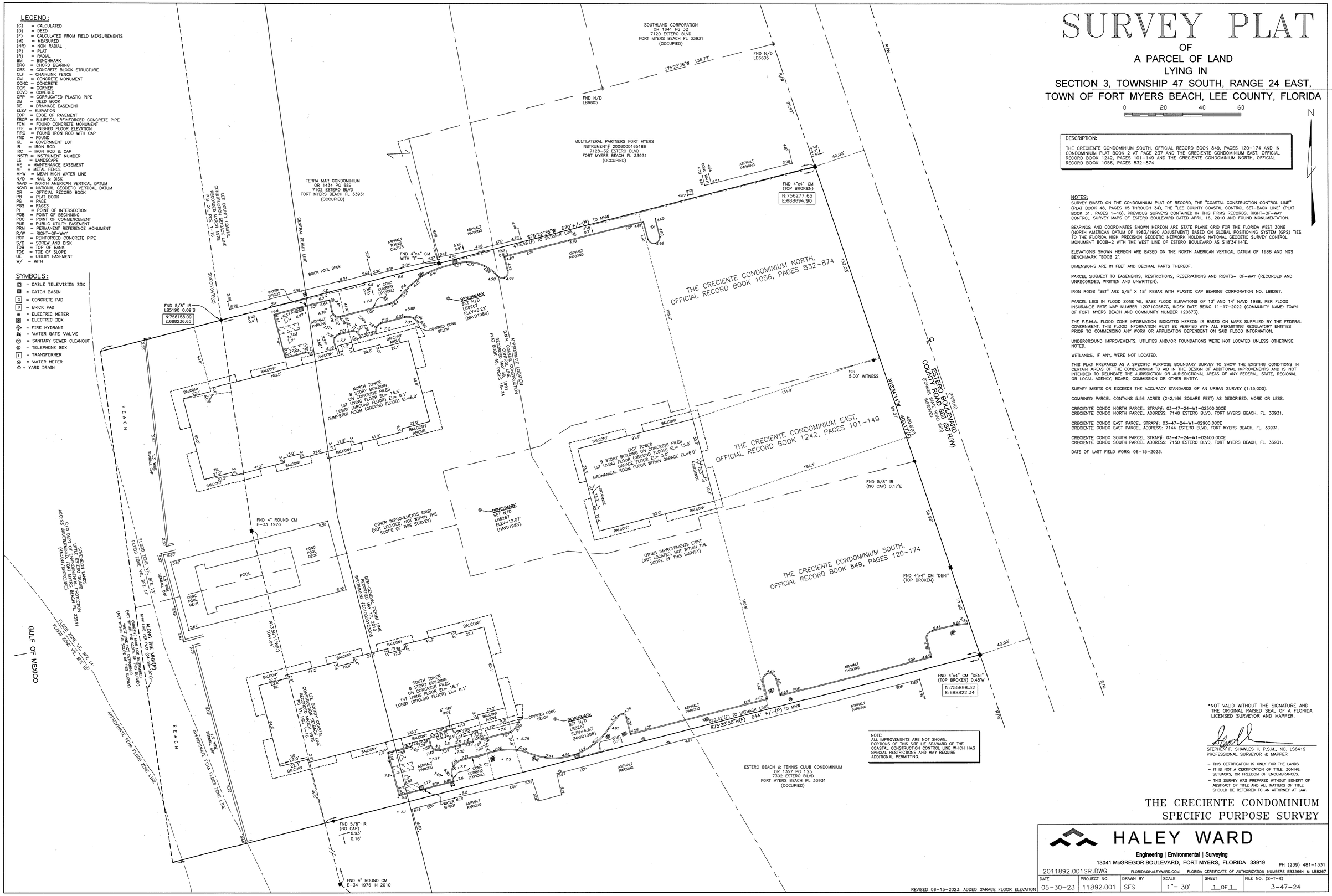
DATE OF LAST FIELD WORK: 06–15–2023.

LEGEND:

(C) = CALCULATED
(D) = DEED
(F) = CALCULATED FROM FIELD MEASUREMENTS
(M) = MEASURED
(NR) = NON RADIAL
(P) = PLAT
(R) = RADIAL
BM = BENCHMARK
BRG = CHORD BEARING
CBS = CONCRETE BLOCK STRUCTURE
CLF = CHAINLINK FENCE
CM = CONCRETE MONUMENT
CONC = CONCRETE
COR = CORNER
COVD = COVERED
CPP = CORRUGATED PLASTIC PIPE
DB = DEED BOOK
DE = DRAINAGE EASEMENT
ELEV = ELEVATION
EOP = EDGE OF PAVEMENT
ERCP = ELLIPTICAL REINFORCED CONCRETE PIPE
FCM = FOUND CONCRETE MONUMENT
FFE = FINISHED FLOOR ELEVATION
FIRC = FOUND IRON ROD WITH CAP
FND = FOUND
GL = GOVERNMENT LOT
IR = IRON ROD
IRC = IRON ROD & CAP
INSTR = INSTRUMENT NUMBER
LS = LANDSCAPE
ME = MAINTENANCE EASEMENT
MF = METAL FENCE
MHW = MEAN HIGH WATER LINE
N/D = NAIL & DISK
NAVD = NORTH AMERICAN VERTICAL DATUM
NGVD = NATIONAL GEODETIC VERTICAL DATUM
OR = OFFICIAL RECORD BOOK
PB = PLAT BOOK
PG = PAGE
PGS = PAGES
PI = POINT OF INTERSECTION
POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
PUE = PUBLIC UTILITY EASEMENT
PRM = PERMANENT REFERENCE MONUMENT
R/W = RIGHT–OF–WAY
RCP = REINFORCED CONCRETE PIPE
S/D = SCREW AND DISK
TOB = TOP OF BANK
TOE = TOE OF SLOPE
UE = UTILITY EASEMENT
W/ = WITH

SYMBOLS:

= CABLE TELEVISION BOX
= CATCH BASIN
C = CONCRETE PAD
B = BRICK PAD
= ELECTRIC METER
= ELECTRIC BOX
= FIRE HYDRANT
= WATER GATE VALVE
S = SANITARY SEWER CLEANOUT
= TELEPHONE BOX
T = TRANSFORMER
= WATER METER
= YARD DRAIN



*NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

STEPHEN F. SHAWLES II, P.S.M., NO. LS6419
PROFESSIONAL SURVEYOR & MAPPER

– THIS CERTIFICATION IS ONLY FOR THE LANDS
– IT IS NOT A CERTIFICATION OF TITLE, ZONING, SETBACKS, OR FREEDOM OF ENCUMBRANCES.
– THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF ABSTRACT OF TITLE AND ALL MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY AT LAW.

THE CRECIENTE CONDOMINIUM
SPECIFIC PURPOSE SURVEY

REVISED 06–15–2023: ADDED GARAGE FLOOR ELEVATION

HALEY WARD
Engineering | Environmental | Surveying
13041 McGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919 PH (239) 481–1331
FLORIDA@HALEYWARD.COM FLORIDA CERTIFICATE OF AUTHORIZATION NUMBERS EB32664 & LB8267

2011892.001SR.DWG					
DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S–T–R)
05–30–23	11892.001	SFS	1"= 30'	1 OF 1	3–47–24

Creciente Condominium Association, Inc.
7150 Estero Blvd, Fort Myers Beach, FL 33931

NON ELECTORAL FINAL REPORT

VOTE to rebuild our Pool

Non electoral Vote Data

Start Date
03.03.2025
Opt-In Deadline
03.30.2025
End Date
03.31.2025

172
Total units

107
Units Voted
Online electronic ballot

32
units voted by mail/email

TALLY

YES (ELECTRONIC)		107 Votes
YES (MAIL/EMAIL)		32 Votes
NO		0 Votes

107+32 = 139 yes 80.8% of 172 units

TOTAL VOTES = 137 YES TOTAL UNITS 172 PERCENT = 79.6%

Unit	MAILING LIST NAMES	OWNER 1 LAST NAME	OWNER 1 FIRST NAME	Ballot for special exception with Town of Fort Myers Beach	VOTE
100	Setting Sun Holdings, LLC	Bina	David	Electronic Ballot	Yes
101	Setting Sun Holdings, LLC	Bina	David	Electronic Ballot	Yes
103	Setting Sun Holdings, LLC	Bina	David	Electronic Ballot	Yes
105	Creciente Condo Assoc	Creciente Condo Assoc			
110	Julie B Chaikin	Chaikin	Julie	Electronic Ballot	Yes
111	Cynthia Ward Clark	Clark	Cynthia	Electronic Ballot	Yes
112	Dale & Constance Fuhrman	Fuhrman	Dale	Electronic Ballot	Yes
114	Lou & Sylvia Cerruti	Cerruti	Lou	Electronic Ballot	Yes
120	Ann Marso	Marso	Ann	Electronic Ballot	Yes
121	Michael & Madeline Thompson	Thompson	Michael	Electronic Ballot	Yes
122	Jean-Pierre Rasaiah	Rasaiah	Jean-Pierre	Electronic Ballot	Yes
123	Christine Zizzo	Zizzo	Christine	Electronic Ballot	Yes
200	Michael Timpone	Timpone	Michael	Mailed/emailed vote	YES
201	Tom Mosser	Mosser	Tom		
202	Sue Ann Waite	Waite	Sue Ann		
203	Robert & Karen Belka	Belka	Robert	Mailed/emailed vote	YES
204	David & Cynthia Riggs	Riggs	David	Electronic Ballot	Yes
205	Bill & Kandice Sullivan	Sullivan	Bill	Electronic Ballot	Yes
206	Chris & Linda Opekar	Opekar	Chris	Electronic Ballot	Yes
207	Phil & Mickey Wilson	Wilson	Phil	Electronic Ballot	Yes
210	Peter & Denise Simenauer	Simenauer	Peter	Electronic Ballot	Yes
211	Gerald (Jerry) & Marilyn McHale	McHale	Jerry		
212	Barry Stillwell	Stillwell	Barry	Electronic Ballot	Yes
213	Robert McGah	McGah	Robert		
214	Gil & Marion Samson	Samson	Gil	Electronic Ballot	Yes
215	Nicolas & Jennifer Stecker	Stecker	Nicolas	Electronic Ballot	Yes
216	Joseph & Grace Mihalov Grace A TR for Grace A Mihalov Trust	Mihalov	Joseph	Electronic Ballot	Yes
217	Mary Kathleen Jones	Jones	Mary Kathleen		
220	Fran Grier	Grier	Fran	Electronic Ballot	Yes
221	William & Karen Norberg	Norberg	William		
222	James Clark & Connie Sutton	Clark	James		
223	James M Boland & Cynthia Goettelman	Boland	James	Electronic Ballot	Yes
300	Ken & Dee Platt	Platt	Ken	Mailed/emailed vote	YES
301	Michael & Pamela Olcese	Olcese	Michael	Electronic Ballot	Yes
302	Gene & Tracy Villani c/o GTV, LLC	Villani	Gene	Electronic Ballot	Yes
303	Steve & Sue Cady	Cady	Steve	Electronic Ballot	Yes
304	William & Kathleen Chambers	Chambers	William	Electronic Ballot	Yes
305	Julie Luca-Wong & Jeff Wong	Wong	Jeff		
306	Ken & Dana Zuber	Zuber	Ken	Electronic Ballot	Yes
307	Robin St. Denis & Raymond Pether	St. Denis	Robin	Electronic Ballot	Yes
310	Veronica & Nicholas Nahernak	Nahernak	Veronica	Electronic Ballot	Yes
311	Linda Branam	Branam	Linda	Electronic Ballot	Yes
312	Barry & Denise McDonald	McDonald	Barry	Electronic Ballot	Yes
313	Steve & Donna Taylor	Taylor	Steve	Mailed/emailed vote	YES
314	Bonnie Roberts	Roberts	Bonnie	Electronic Ballot	Yes
315	David & Mary DeGraaf	DeGraaf	David	Electronic Ballot	Yes
316	Jeffrey & Gwen Casperson	Casperson	Jeffrey	Electronic Ballot	Yes

317	Gerald & Marilyn McHale	McHale	Jerry		
320	Dewayne and DeAnna Leseman	Leseman	Dewayne	Electronic Ballot	Yes
321	Richard Miller	Miller	Richard	Electronic Ballot	Yes
322	Steve & Donna Schneider	Schneider	Steve	Electronic Ballot	Yes
323	Bill & Jane Sweet	Sweet	Bill	Electronic Ballot	Yes
400	NTFL 7150 FM LLC c/oTom & Nancy Somodi	Somodi	Tom	Mailed/emailed vote	YES
401	Raymond Timpone	Timpone	Raymond	Mailed/emailed vote	YES
402	Arnold & Maria Heuzen	Heuzen	Arnold		
403	Jeff Crane	Crane	Jeff	Electronic Ballot	Yes
404	Suzanne Simmons Deacon	Deacon	Suzanne	Mailed/emailed vote	YES
405	Doug & Jody Vanderwielen	Vanderwielen	Doug	Electronic Ballot	Yes
406	Anthony Gallagher	Gallagher	Anthony		
407	Scott & Michelle Adams	Adams	Scott	Electronic Ballot	Yes
410	Richard & Sandy Preves	Preves	Richard	Electronic Ballot	Yes
411	Mike and Jane Martin	Martin	Mike	Electronic Ballot	Yes
412	CG Other LLC	Hathaway	Greg	Electronic Ballot	Yes
413	Robert & Elizabeth Mastin	Mastin	Robert	Electronic Ballot	Yes
414	Lloyd & Mary Jo Welker	Welker	Lloyd	Electronic Ballot	Yes
415	James V Kurinskas Revocable Trust and Ann C Kurinskas Revocable Trust	Kurinskas	Jim	Electronic Ballot	Yes
416	Michael & Jacqueline MacDonald	MacDonald	Michael		
417	Tom & Lynn Hobby	Hobby	Tom	Mailed/emailed vote	YES
420	Darlene DiFederico | C/O 5353 Coral Ave, LLC	DiFederico	Darlene	Electronic Ballot	Yes
421	Paul & Maggie Bazylak	Bazylak	Paul	Electronic Ballot	Yes
422	Kelly & Beth Turton	Turton	Kelly	Electronic Ballot	Yes
423	James & Shelley Patterson and Nancy Weller	Patterson	James	Electronic Ballot	Yes
500	Craig & Kathleen Luce	Luce	Craig	Electronic Ballot	Yes
501	Joe & Maraby Allardt	Allardt	Joe	Mailed/emailed vote	YES
502	Jeff Werner	Werner	Jeff	Electronic Ballot	Yes
503	David & JoRae Winter	Winter	David	Mailed/emailed vote	YES
504	Jay and Lisa Goodman	Goodman	Jay	Electronic Ballot	Yes
505	Robert & Becky Quirey c/o Quirey Trust	Quirey	Robert	Electronic Ballot	Yes
506	Rebecca Werner	Werner	Rebecca	Electronic Ballot	Yes
507	Peter & Beverlee Dunphy	Dunphy	Peter	Electronic Ballot	Yes
510	Judy Kruger	Kruger	Judy	Electronic Ballot	Yes
511	Rick LaMacchio & Jana Cleveger	LaMacchio	Rick	Mailed/emailed vote	YES
512	Eduardo Marabotto & Annette Muller	Marabotto	Eduardo	Mailed/emailed vote	YES
513	Robert & Clare Radice	Radice	Robert		
514	Jay Weiner	Weiner	Jay	Mailed/emailed vote	YES
515	PK & Sheela Prahalad	Prahalad	PK		
516	Rick LaMacchio & Jana Clevenger	LaMacchio	Rick	Mailed/emailed vote	YES
517	Carol Buzzard	Buzzard	Carol	Electronic Ballot	Yes
520	Maria Boha (Steven Boha, POA)	Boha	Maria	Electronic Ballot	Yes
521	Robert Driesbach	Driesbach	Robert		
522	Jodi Deller	Deller	Jodi	Electronic Ballot	Yes
523	Elaine Warren	Warren	Elaine		
600	Robert & Donna Wardanian	Wardanian	Robert		
601	Buckeye Lane LLC c/o Robert A Quirey	Buckeye lane LLC		Electronic Ballot	Yes

602	Angel & Yamely Rivera	Rivera	Angel		
603	John R Brackett	Brackett	John R	Electronic Ballot	Yes
604	James & Diane Bell	Bell	James		
605	Kenneth Santl	Santl	Kenneth	Mailed/emailed vote	YES
606	Ron & Susan Jordan	Jordan	Ron	Electronic Ballot	Yes
607	Lucille (Ceel) Spuhler (in care of her daughter, Lucille Joy Spuhler)	Spuhler	c/o her daughter Lucille Joy Spuhler		
610	Charles & Josie Chartier	Chartier	Charles	Electronic Ballot	Yes
611	Craig And Kathy Luce	Luce	Craig	Electronic Ballot	Yes
612	Michael & Teresa Murphy	Murphy	Michael	Electronic Ballot	Yes
613	Howard W. Ray	Ray	Howard W.	Mailed/emailed vote	YES
614	Kenneth & Carol Kucharek	Kucharek	Kenneth	Electronic Ballot	Yes
615	Robert A. Witt	Witt	Robert A.	Electronic Ballot	Yes
616	D&S Square LLC	Hall	Dale	Mailed/emailed vote	YES
617	James & Rosalie Macri	Macri	James		
620	Allen & Mary Whitenack	Whitenack	Allen	Electronic Ballot	Yes
621	Gary Cassone, MD	Cassone, MD	Gary		
622	Mark & Jane Murray	Murray	Mark	Mailed/emailed vote	YES
623	David & Kathryn Lewis	Lewis	David	Electronic Ballot	Yes
700	Rich & Chris Iott	Iott	Chris	Mailed/emailed vote	YES
701	Richard & Ellen McGlasson	McGlasson	Richard	Mailed/emailed vote	YES
702	Mary Ellen Peters	Peters	Mary Ellen		
703	Doreen Ouellette & Debby Holek	Holek	Debra	Electronic Ballot	Yes
704	Wayne & Kay Mayes	Mayes	Wayne	Electronic Ballot	Yes
705	Thomas & Mary Ellen Corcoran	Corcoran	Thomas	Electronic Ballot	Yes
706	Mike & Kathleen McBride	McBride	Mike		
707	Mike Daus	Daus	Mike	Electronic Ballot	Yes
710	James V Kurinskas Revocable Trust and Ann C Kurinskas Revocable Trust	Kurinskas	James	Electronic Ballot	Yes
711	Joyce & John Wayhart	Wayhart	Joyce	Electronic Ballot	Yes
712	Eva Johnson	Johnson	Eva		
713	James V Kurinskas	Kurinskas	James	Electronic Ballot	Yes
714	Nancy Valdiserri	Valdiserri	Nancy	Mailed/emailed vote	YES
715	Russell Kelley	Kelley	Russell	Electronic Ballot	Yes
716	Robert & Arlene Hughes	Hughes	Robert A.	Mailed/emailed vote	YES
717	Barbara Runser	Runser	Barbara	Electronic Ballot	Yes
720	Steve & Valerie Dzikowski	Dzikowski	Steve	Electronic Ballot	Yes
721	Fran Yenny	Yenny	Fran		
722	Alex & Cheri Whitenack	Whitenack	Alex	Electronic Ballot	Yes
723	Darrell Beard	Beard	Darrell	Mailed/emailed vote	YES
800	Billie & Charlie Dragoo-Garcia	Dragoo-Garcia	Billie	Electronic Ballot	Yes
801	Steve & Angie Fisher	Fisher	Steve	Mailed/emailed vote	YES
802	Bruce & Marcy Cole	Cole	Bruce	Electronic Ballot	Yes
803	Richard and Ellen McGlasson	McGlasson	Richard	Mailed/emailed vote	YES
804	Andrew & Susan Gumm	Gumm	Andrew	Mailed/emailed vote	YES
805	Chuck Adrian & Joanie Williamitis (Velma Jane passed away January 2023)	Adrian	Chuck	Electronic Ballot	Yes
806	Rose Hu & Binbin Guo	Hu	Rose		
807	Frank and Kathleen Tomasino	Tomasino	Frank	Electronic Ballot	Yes
810	Ray & Jean Pittao	Pittao		Electronic Ballot	Yes
811	Michael & Christine Close	Close	Michael	Mailed/emailed vote	YES
812	Dr. Gregory Subtelny	Subtelny	Dr. Gregory	Mailed/emailed vote	YES
813	Renato & Loly Simenauer	Simenauer	Renato	Electronic Ballot	Yes
814	John & Sharon Mastic	Mastic	John		

815	Paris Kolar	Kolar	Paris		
816	Michael and Margie Arnst	Arnst	Michael	Electronic Ballot	Yes
817	William & Cheryl Thompson	Thompson	William	Mailed/emailed vote	YES
820	Mary Melzer	Melzer	Mary		
821	Julie Chaikin	Chaikin	Julie	Electronic Ballot	Yes
822	Frank & Mary Ventrella	Ventrella	Frank	Mailed/emailed vote	YES
823	Andrew & Cheryl Smith	Smith	Andrew		
900	Terry Smith & Sheila McGinnis	Smith	Terry	Electronic Ballot	Yes
901	Peter & Ann Thornton	Thornton	Peter	Electronic Ballot	Yes
902	Michael & Bonnie Flanagan	Flanagan	Michael		
903	Patrick & Candace Brousseau	Brousseau	Patrick	Electronic Ballot	Yes
904	Sandra & Douglas Lange	Lange	Sandra	Electronic Ballot	Yes
905	Dennis & Anna Billias	Billias	Dennis	Electronic Ballot	Yes
906	Mary Fox	Fox	Mary	Electronic Ballot	Yes
907	Daniel A. & Sandra L. Nye	Nye	Daniel A.	Electronic Ballot	Yes
910	Daniel A. & Sandra L. Nye	Nye	Daniel A.	Electronic Ballot	Yes
911	Ronald & Rita Deller	Deller	Ronald	Electronic Ballot	Yes
912	Dave & Jane Borson	Borson	Dave	Electronic Ballot	Yes
913	Alex & Patricia Spadoni	Spadoni	Alex		
914	Richard Pavlak	Pavlak	Richard	Mailed/emailed vote	YES
915	Kenneth & Linda Staelgraeve	Staelgraeve	Kenneth	Electronic Ballot	Yes
916	Elaine Rupp	Rupp	Elaine	Electronic Ballot	Yes
917	Lynn D. Fisher, Trustee	Fisher	Lynn	Electronic Ballot	Yes
920	Todd & Linda Taylor c/o TLT Properties LLC	Taylor / TLT Properties LLC)	Todd	Electronic Ballot	Yes
921	Jerome & Angela Henson	Henson	Jerome	Mailed/emailed vote	YES
922	David & Deborah Roskowski	Roskowski	David	Electronic Ballot	Yes
923	Raffaele & Caroline Stanzione	Stanzione	Raffaele		

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!

Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Raymond M. Timpone Jr.

Name: RAYMOND M. TIMPONE JR

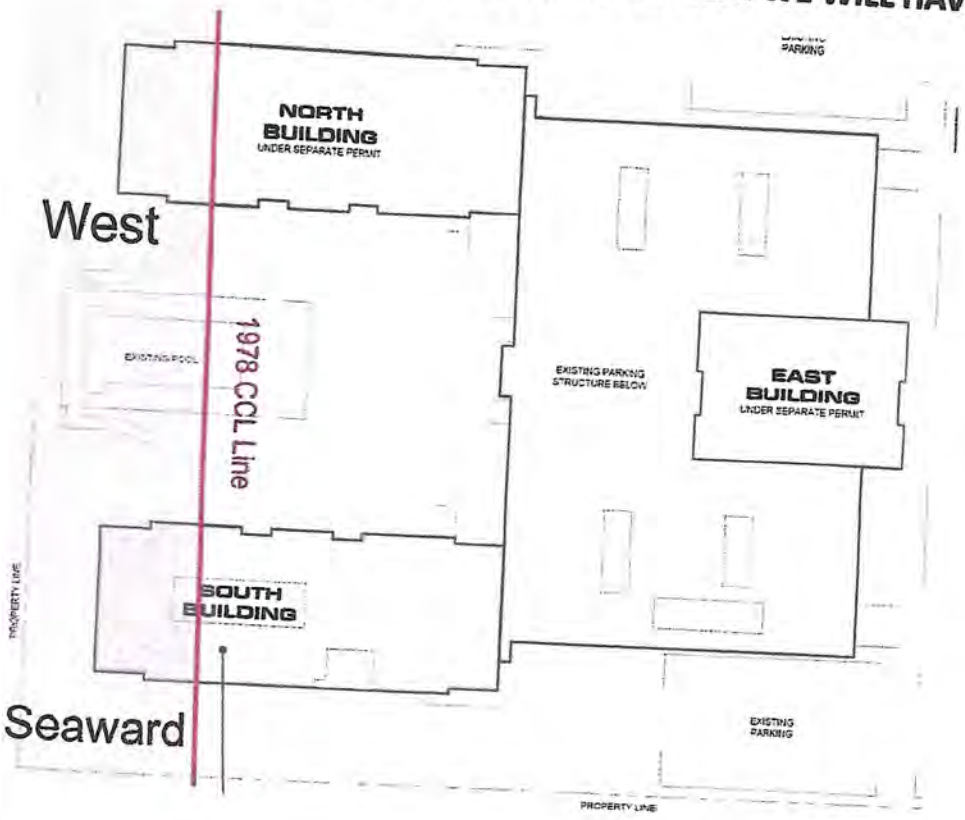
Vote to rebuild our Pool

Creciente Unit # : 200

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

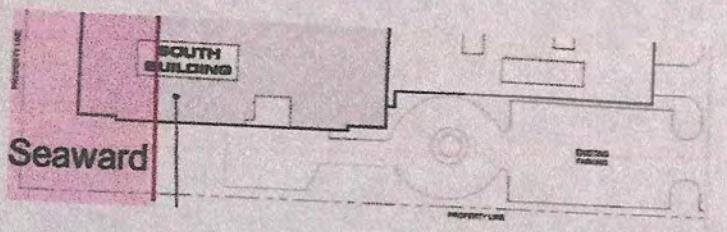
Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Robert J. Belka

Name: ROBERT J. BELKA

Creciente Unit # : 203



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Kenneth R. Platt

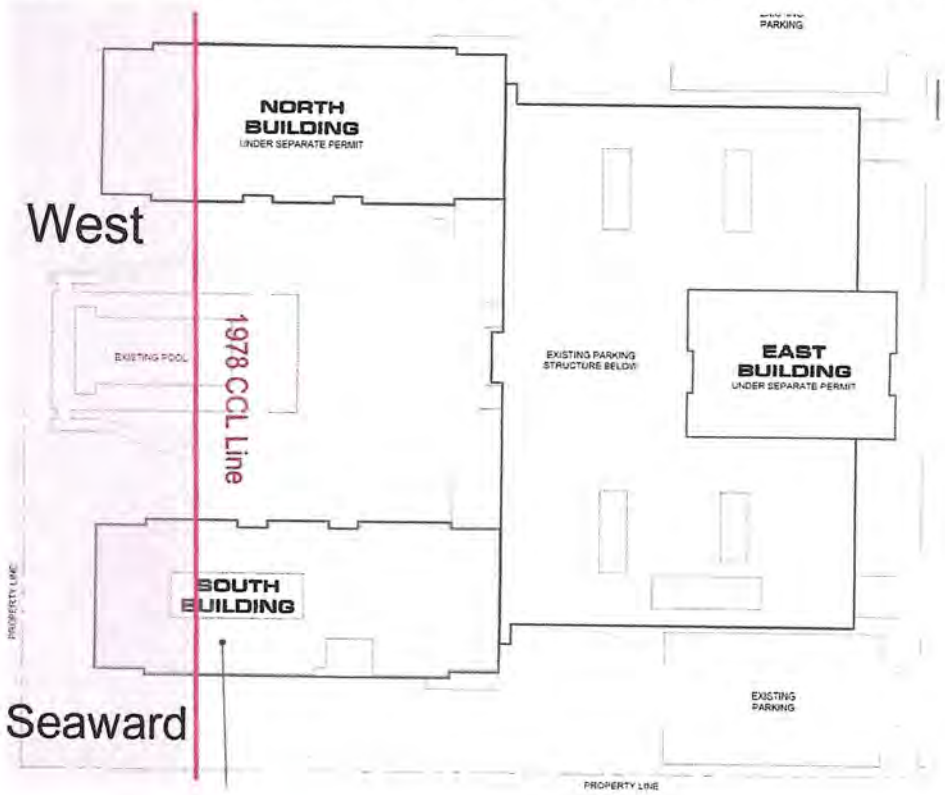
Name: KENNETH R. PLATT

Creciente Unit #: 300

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

[X] I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: _____

Name: Steve and Donna Taylor

Vote to rebuild our Pool

Creciente Unit # : 313 North

the CCCL (Coastal Construction Control Line)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!

Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

X I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: NTFL FM LLC

Name: Thomas Somodi

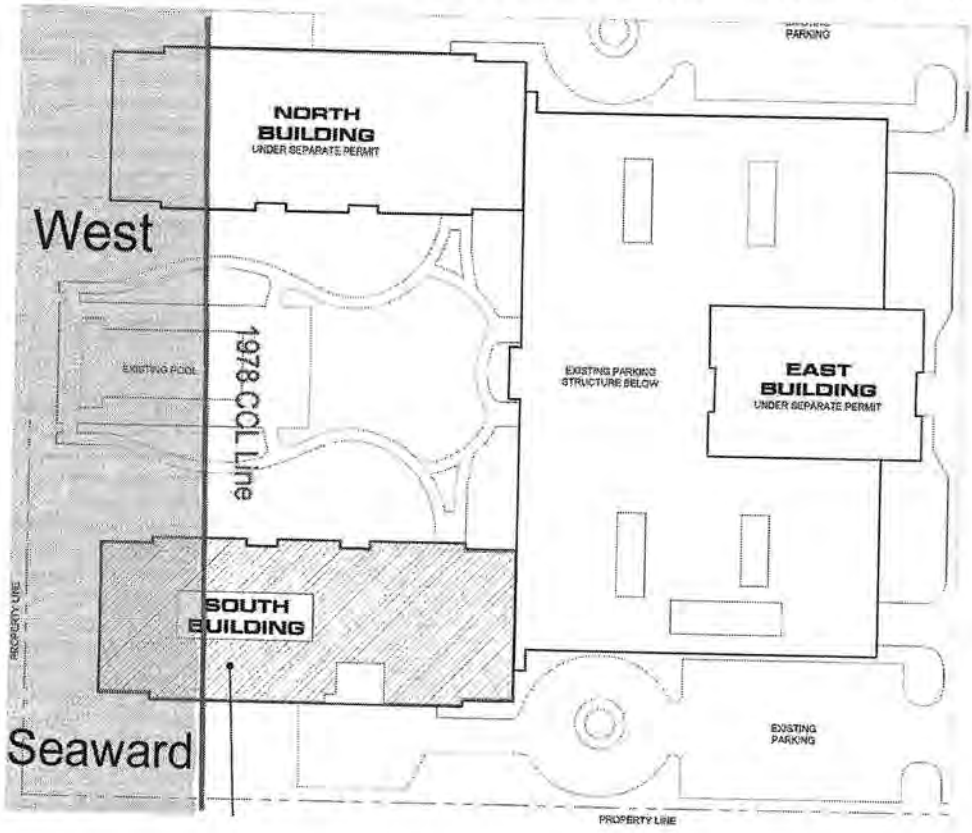
Creciente Unit #: 400 - South

Sent from my iPhone

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Raymond M Timpone Jr.

Name: RAYMOND M. TIMPONE, JR

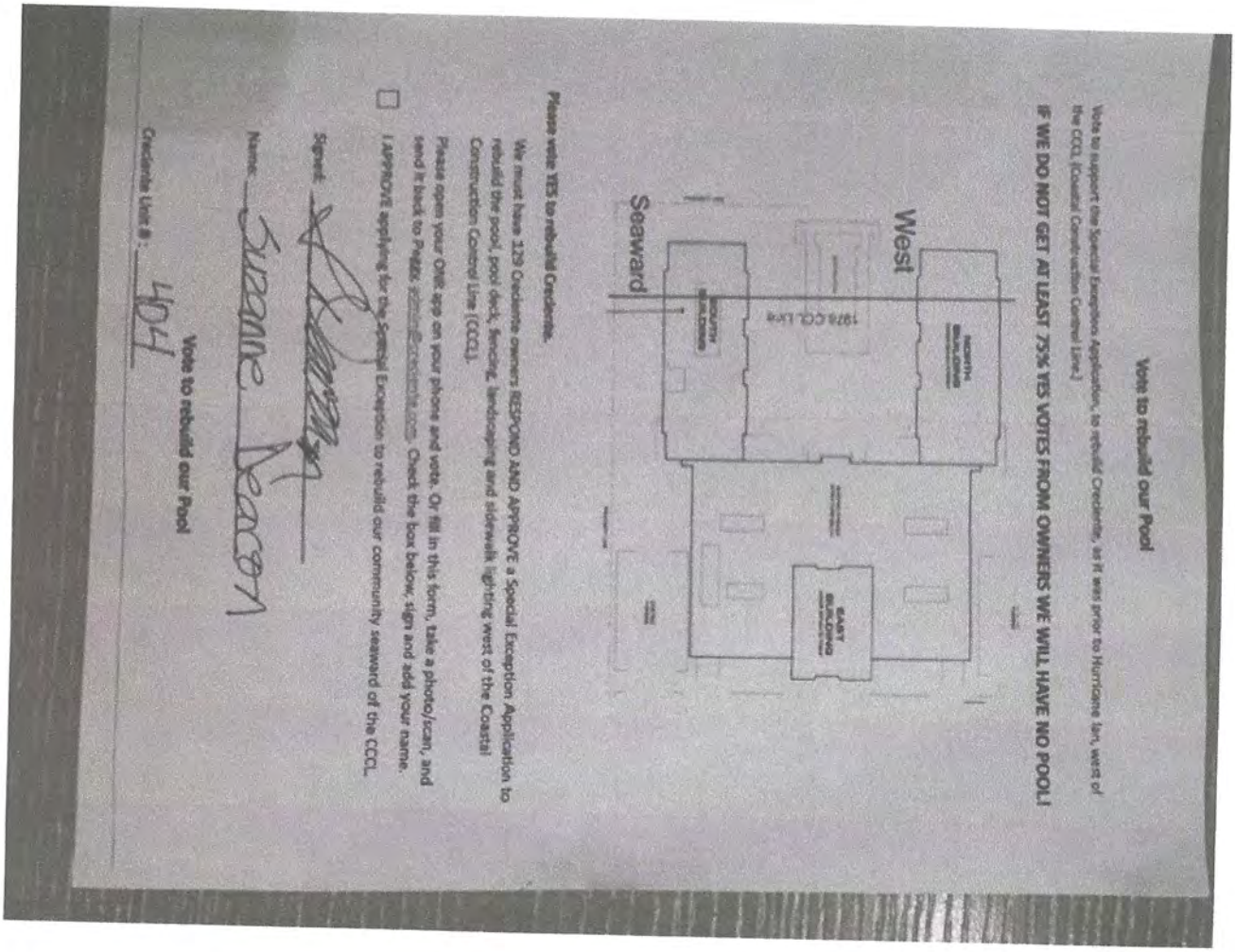
Vote to rebuild our Pool

Creciente Unit # : 401

Outlook

Vote for 404 attached

From Jane Martin <janemartinfb@gmail.com>
Date Wed 3/5/2025 6:15 PM
To Creciente Admin <admin@creciente.com>; peter.thornton@comcast.net <peter.thornton@comcast.net>



Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!

West

Seaward

1974 CCCL Line

NORTH BUILDING

SOUTH BUILDING

EAST BUILDING

Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☐ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: [signature]

Name: Suzanne Deacon

Vote to rebuild our Pool

Creciente Unit # : 404

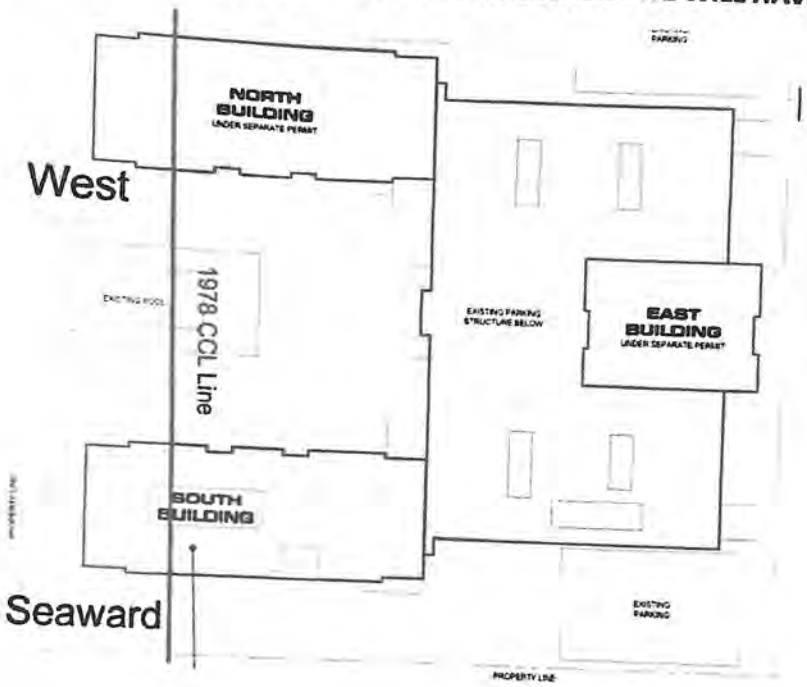
Jane Martin

616-318-1298 cell
Janemartinfb@gmail.com

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Thomas J Hobby

Name: Thomas J. Hobby

Vote to rebuild our Pool

Creciente Unit # : 417

Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPRO
rebuild the pool, pool deck, fencing, landscaping and sidewa
Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill i
send it back to Peggy, admin@creciente.com. Check the bo

X I APPROVE applying for the Special Exception to rebuild our

Signed: Joseph E. Allardt

Name: JOSEPH E. ALLARDT

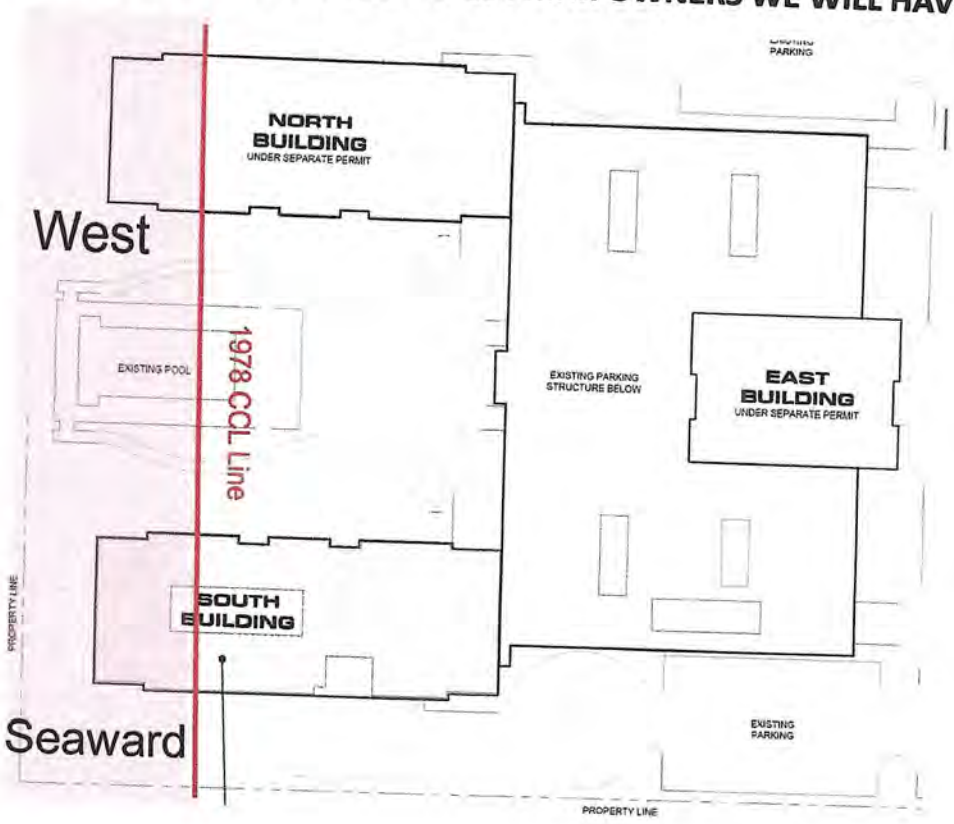
Vote to rebuild our Poo

Creciente Unit # : 501

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

[J] I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

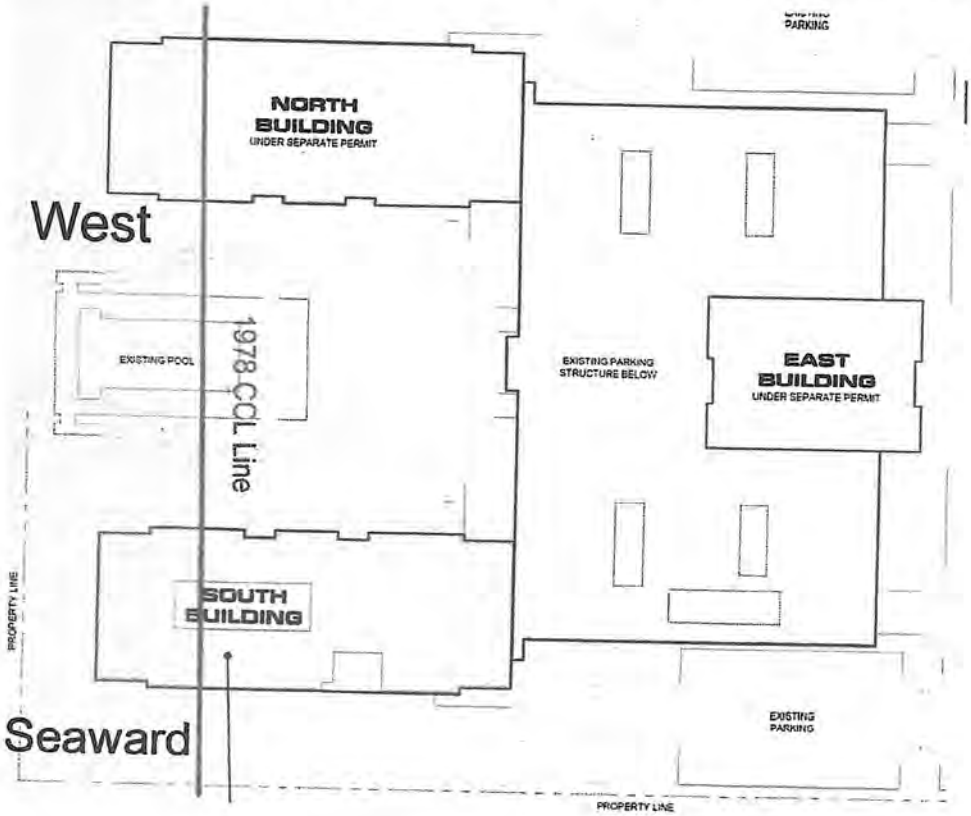
Signed: Jo Winter

Name: Jo Winter 503

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Richard A LaMacchio

Name: RICHARD A LAMACCHIO

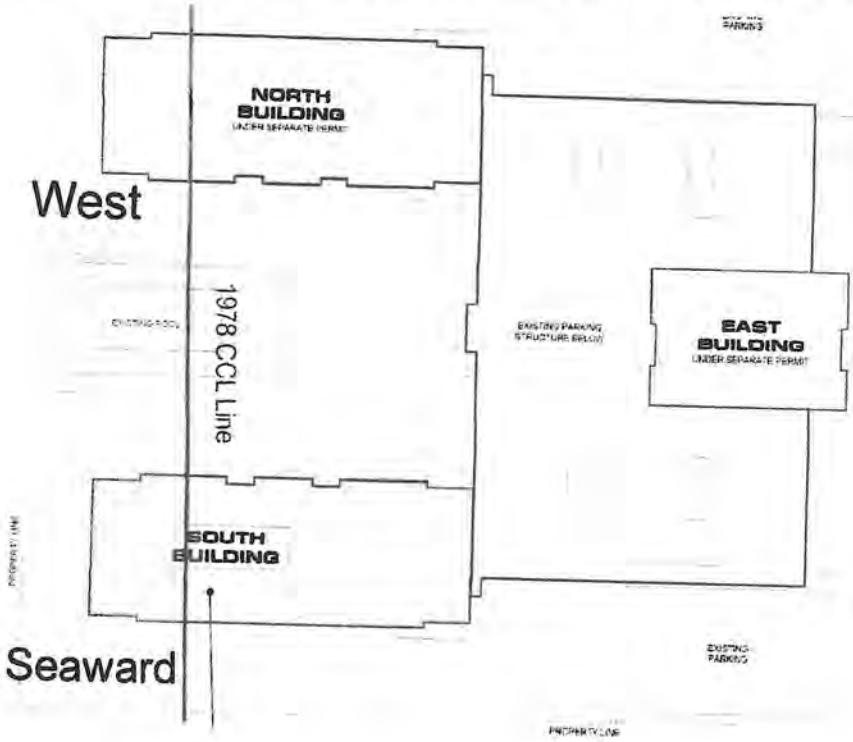
Vote to rebuild our Pool

Creciente Unit # : 511 N

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: _____

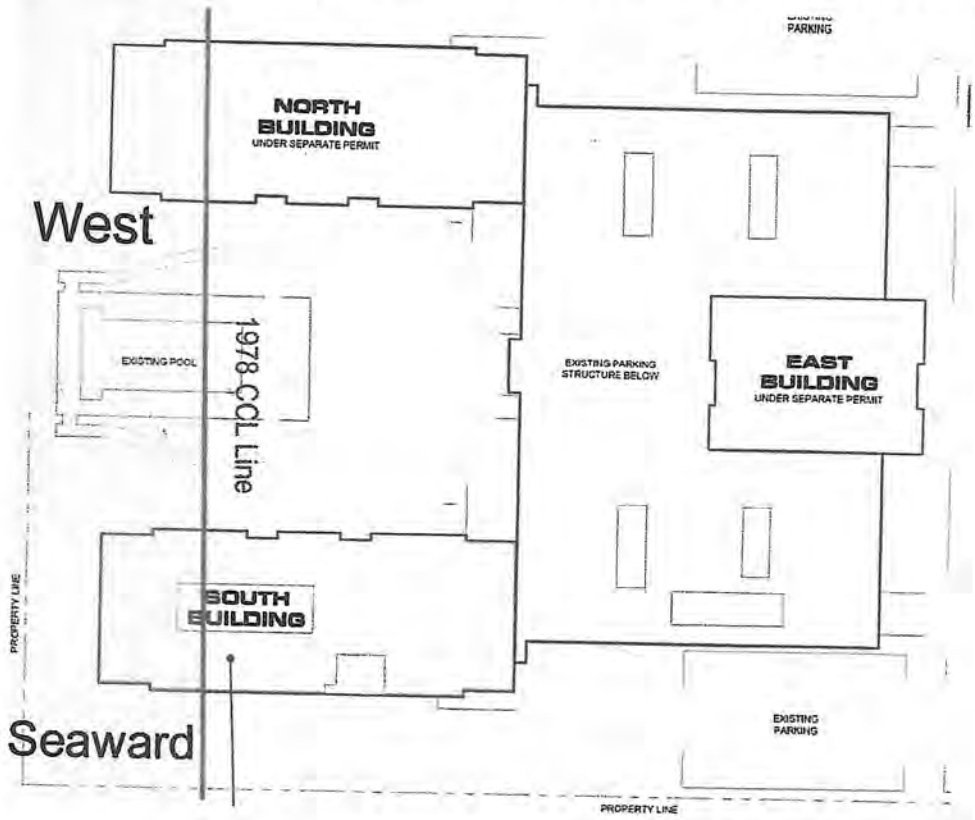
Name: Eduardo Macabotto

UNIT # 512

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Jay S. Weiner

Name: JAY S. WEINER

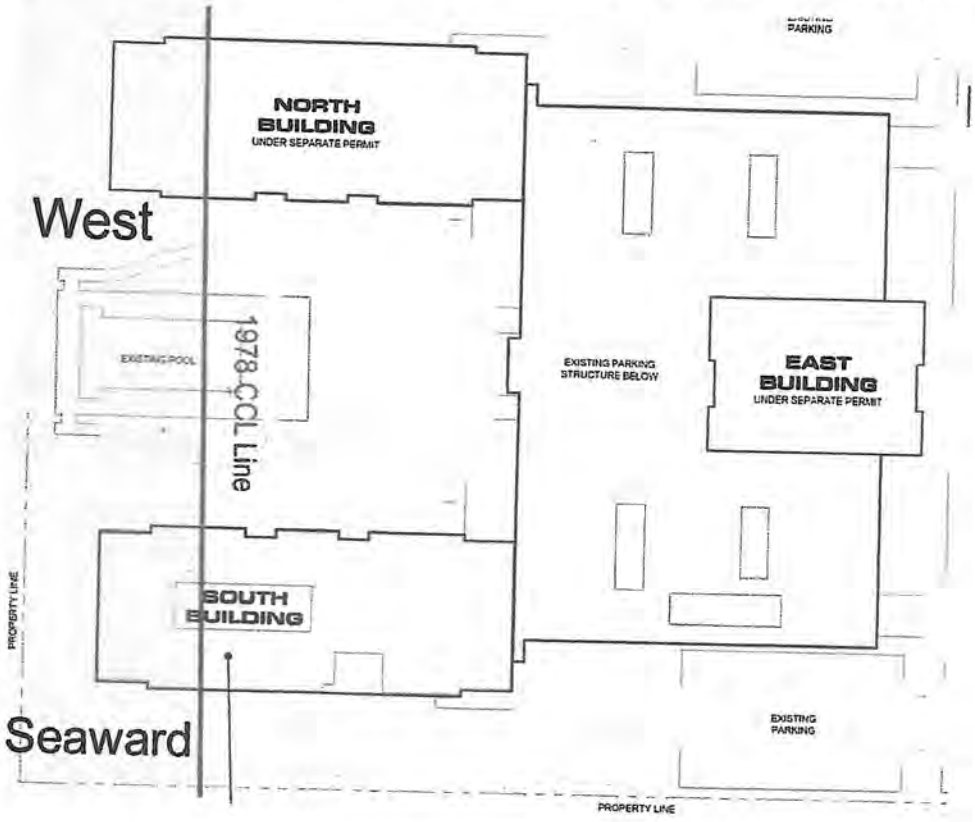
Vote to rebuild our Pool

Creciente Unit # : 514

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Richard A LaMacchio

Name: RICHARD A LAMACCHIO

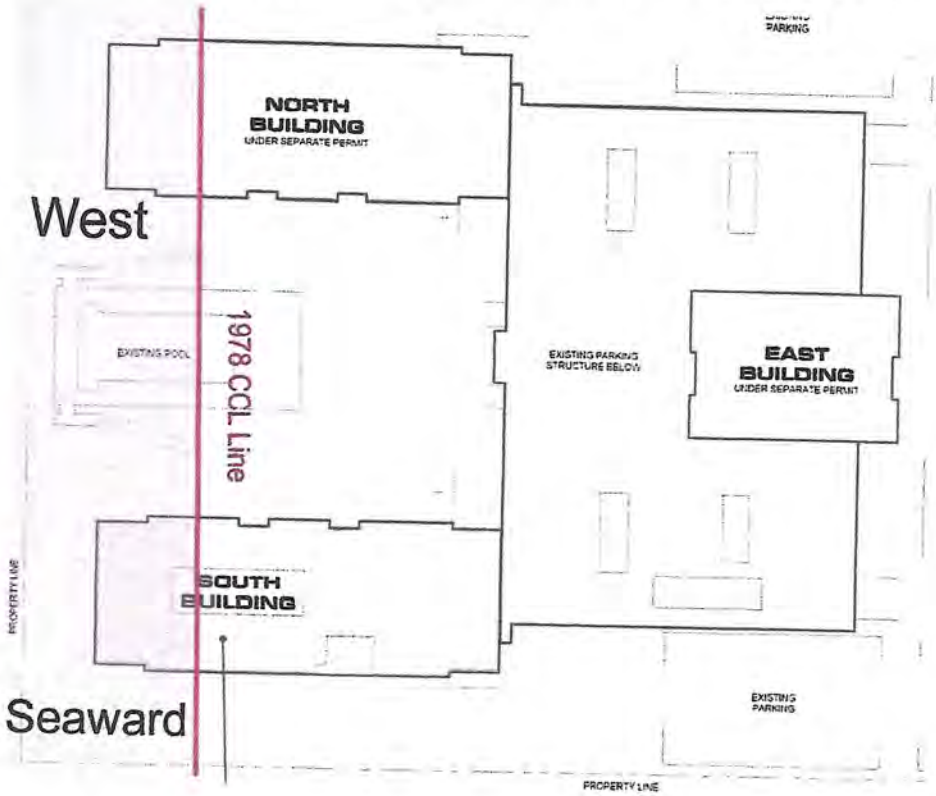
Vote to rebuild our Pool

Creciente Unit # : 516 N

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

[X] I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Ken Santl

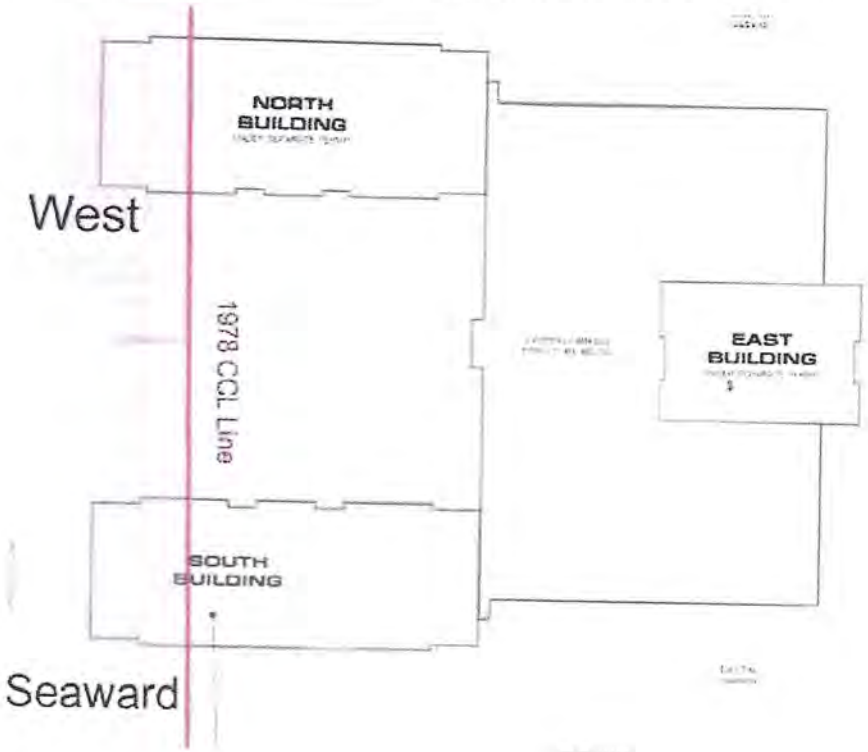
Name: Kenneth D. Santl

Creciente Unit # : 605

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

X I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Howard W. Ray

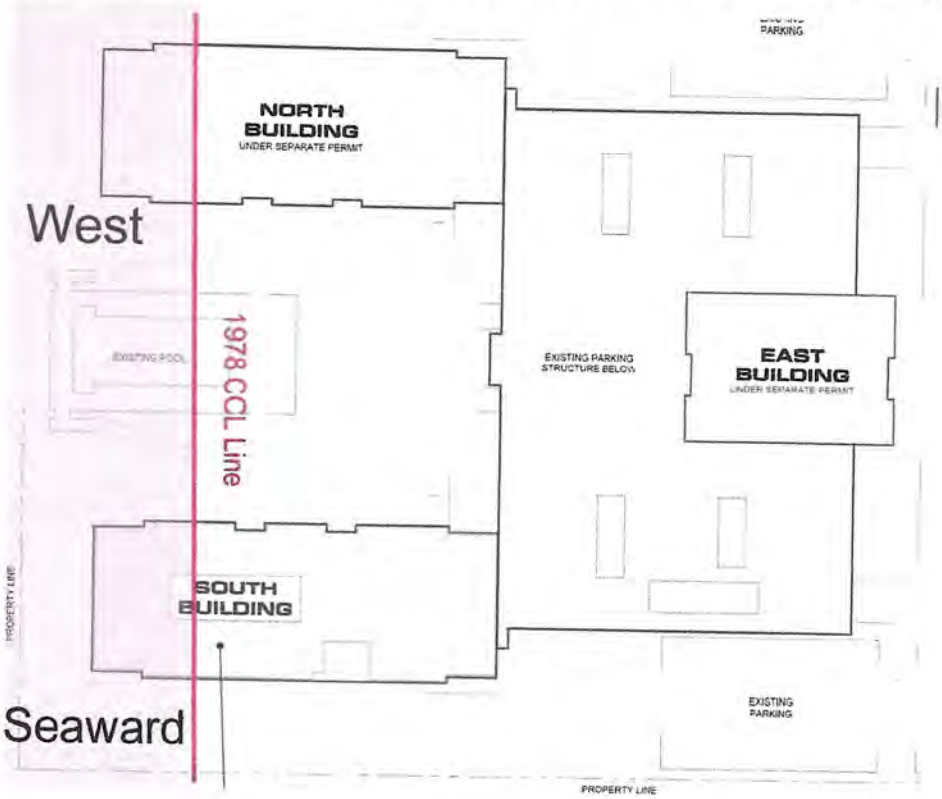
Name: Howard W. Ray

Unit 613

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Dale Hall

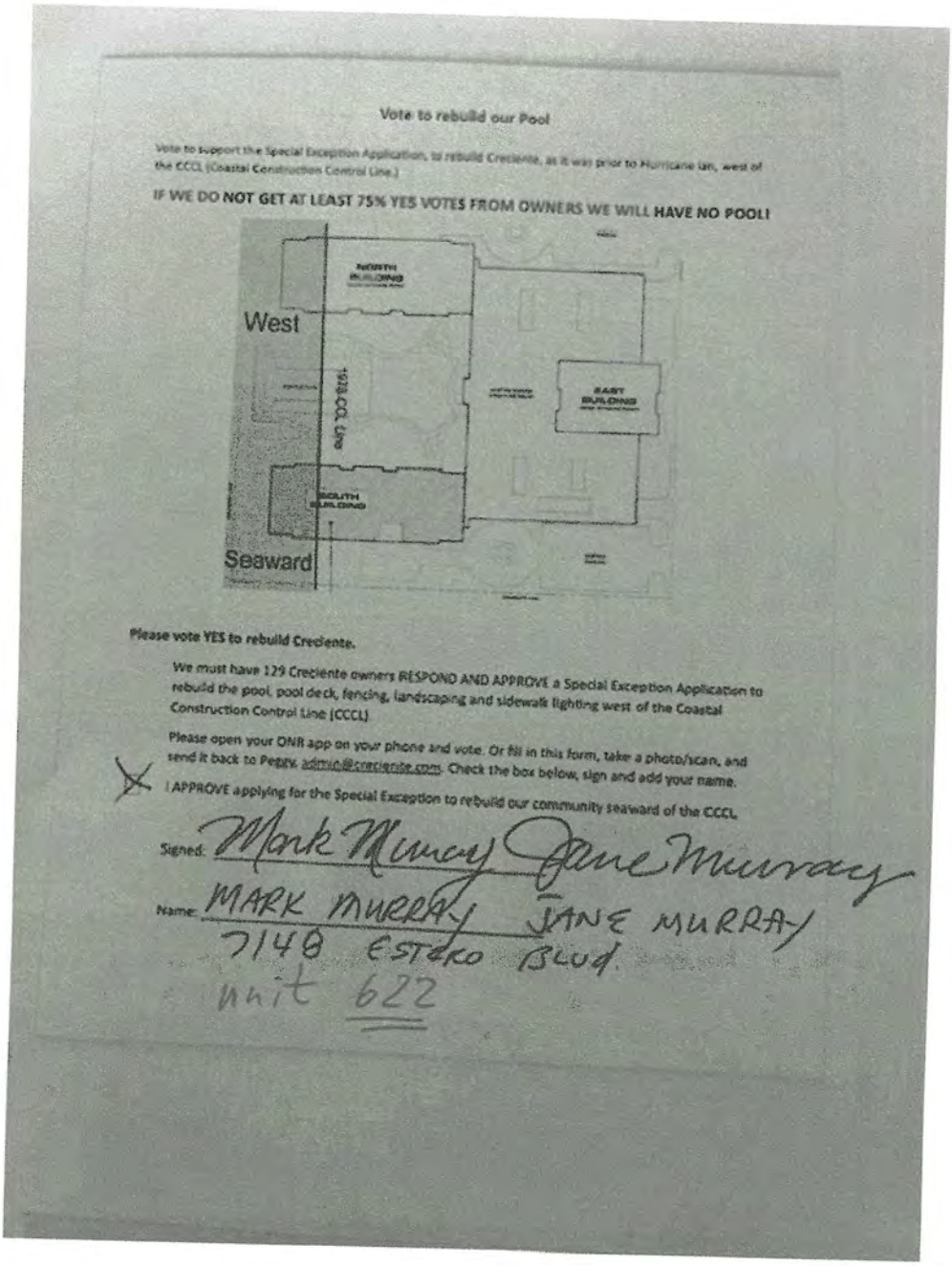
Name: Dale Hall UNIT 616

Outlook

Vote YES to rebuild pool

From Mark Murray <dudemurray58@gmail.com>
Date Mon 3/3/2025 5:52 PM
To Creciente Admin <admin@creciente.com>

This vote is from Mark and Jane Murray
7148 Estero Blvd. - Unit 622



Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!

West

1978 CCCL Line

Seaward

Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL)

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy admin@creciente.com. Check the box below, sign and add your name.

X I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Mark Murray Jane Murray

Name: MARK MURRAY JANE MURRAY

7148 ESTERO BLVD.

unit 622

Sent from my iPhone

Vote to rebuild our Pool

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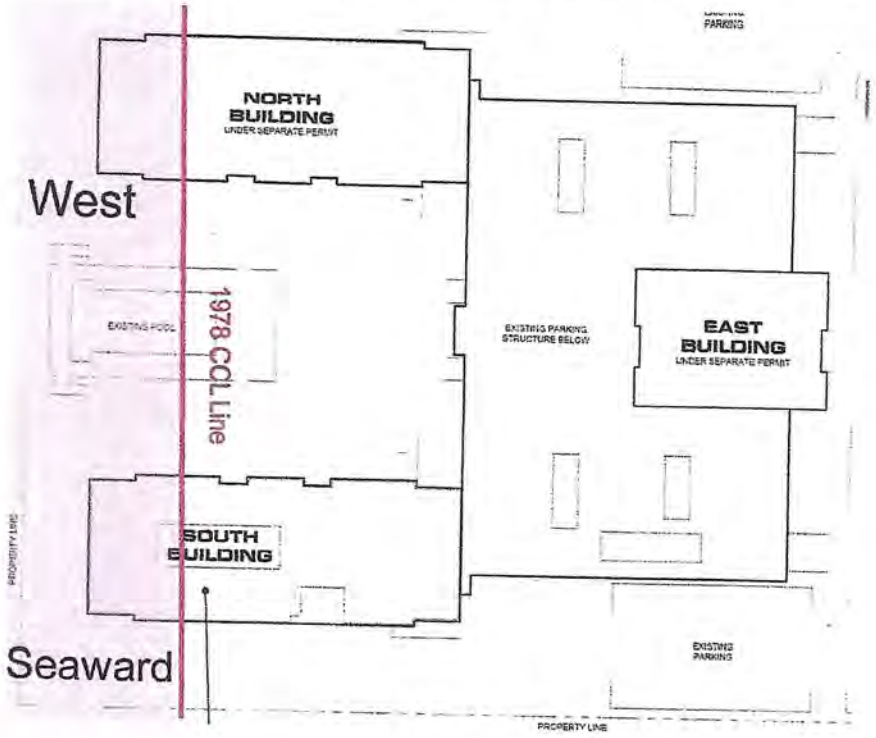

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☑ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Christine Flott, TTEE

Name: Christine F. Iott

Creciente Unit # 700

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hur
the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL H

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Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take
send it back to Peggy, admin@creciente.com. Check the box below, sign and

☑ I APPROVE applying for the Special Exception to rebuild our community sea

Signed: _____

Name: ELLEN McGLASSON

Vote to rebuild our Pool

Creciente Unit # : 701

Sent from my iPhone

the CCCL. Signed: Nancy Valdiserri

3/3/2025

Name: Nancy Valdiserri

Vote to rebuild our Pool

Creciente Unit # : North 714

yes! rebuild our Pool!

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

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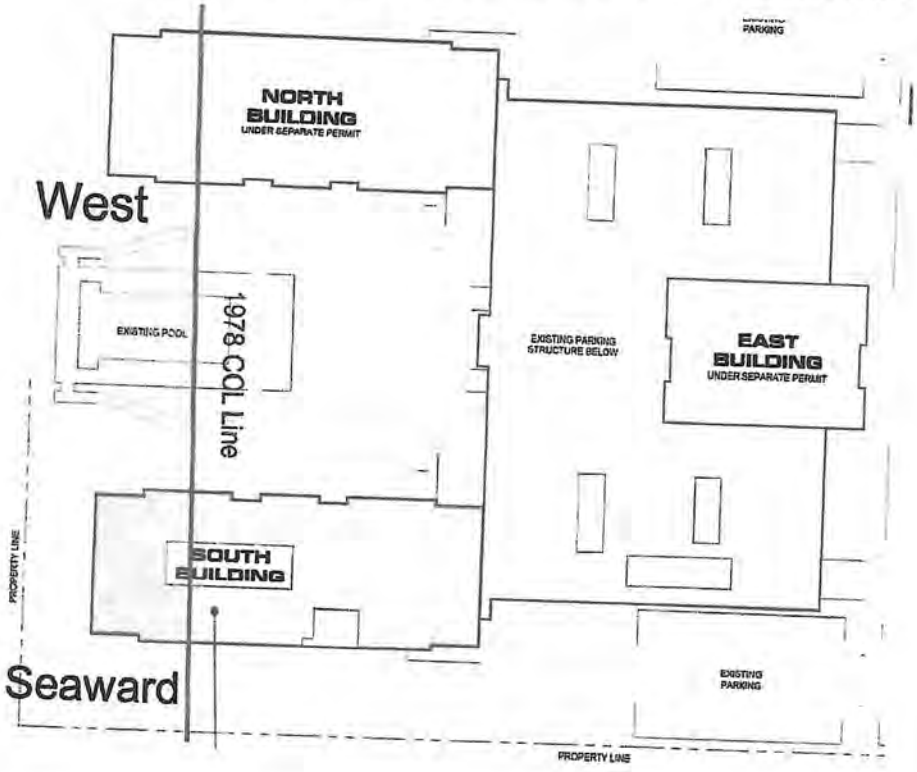

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☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: _____

Name: Robert J. Hughes

Vote to rebuild our Pool

Creciente Unit # : 716

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

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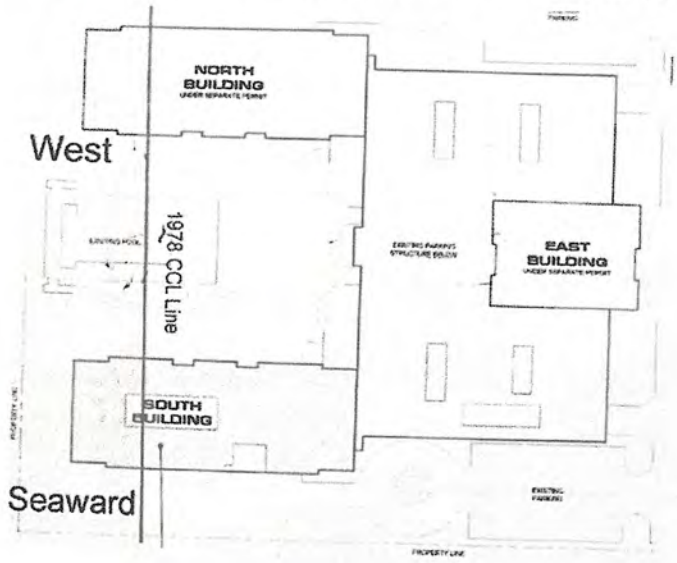

Please vote YES to rebuild Creciente.

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[X] I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Darrell Beard

Name: DARRELL BEARD

CRECIENTE UNIT # 723

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!

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☑ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: _____

Name: Steve Fisher

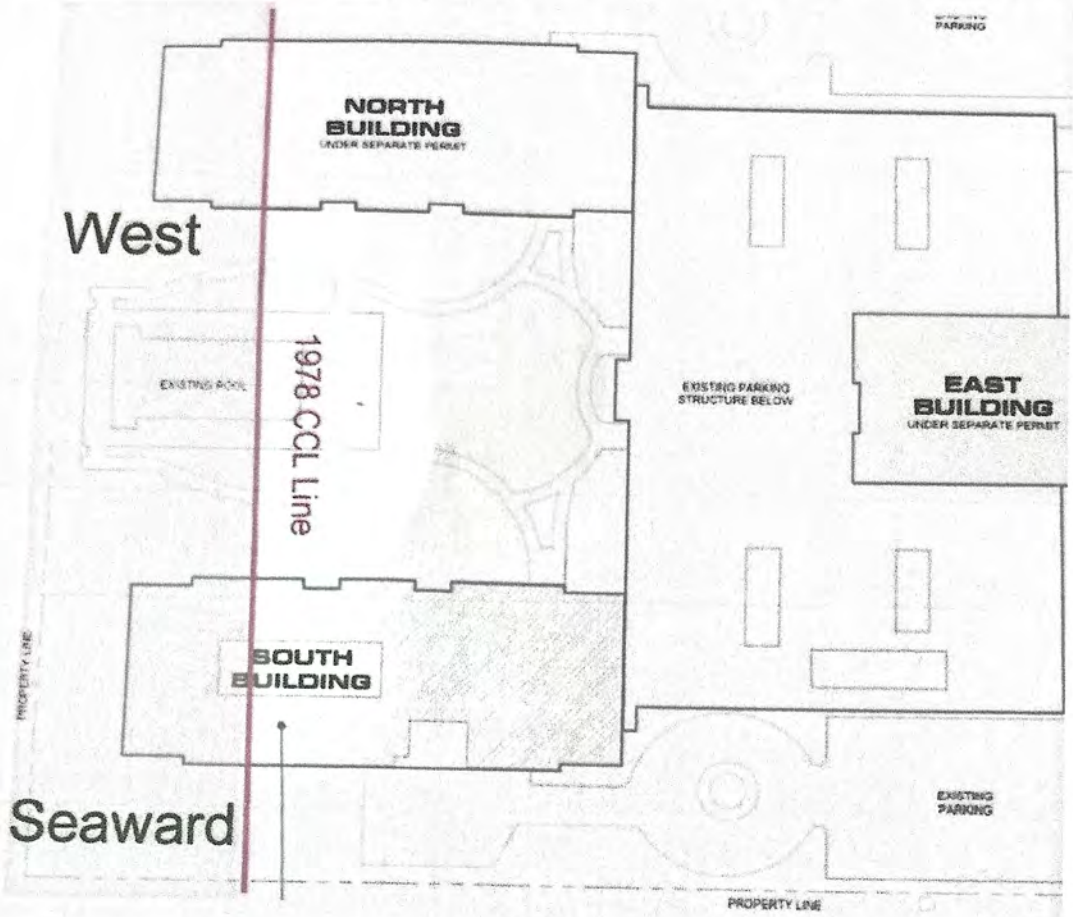
Vote to rebuild our Pool

Creciente Unit # : 801

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hu
the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL



Please vote YES to rebuild Creciente.

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Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, tak
send it back to Peggy, admin@creciente.com. Check the box below, sign a

☑ I APPROVE applying for the Special Exception to rebuild our community se

Signed:

Name: RICHARD McGLASSON

Vote to rebuild our Pool

Creciente Unit # : 803

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

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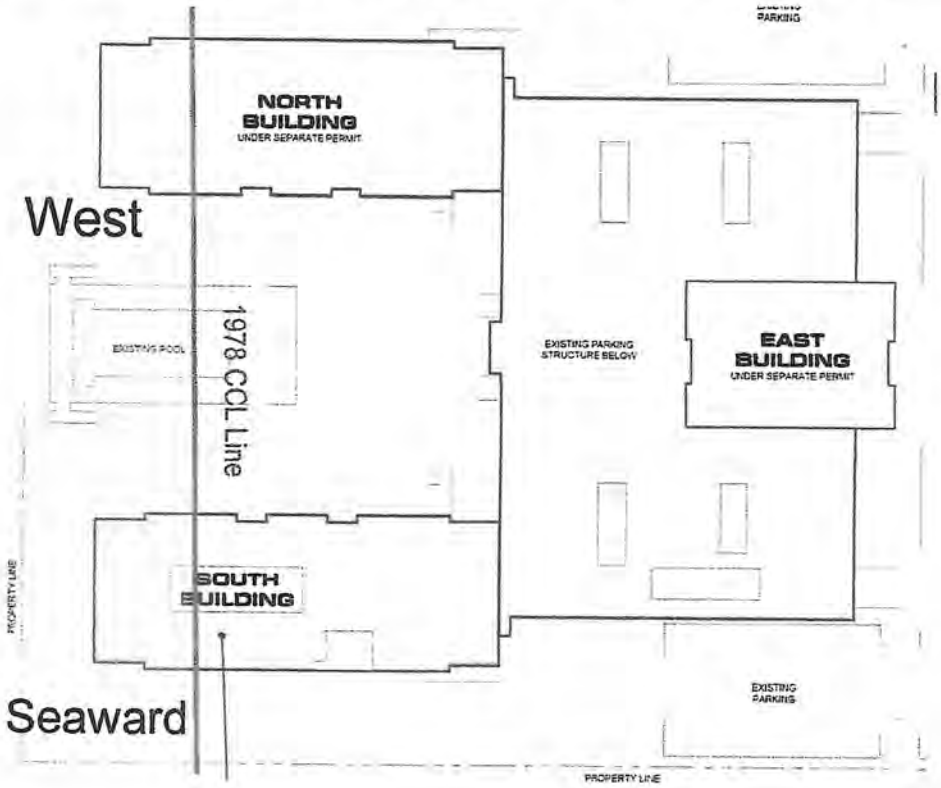

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☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Susan M. Gumm

Name: ANDREW/SUSAN GUMM

Creciente Unit # : 804

Vote to rebuild our Pool

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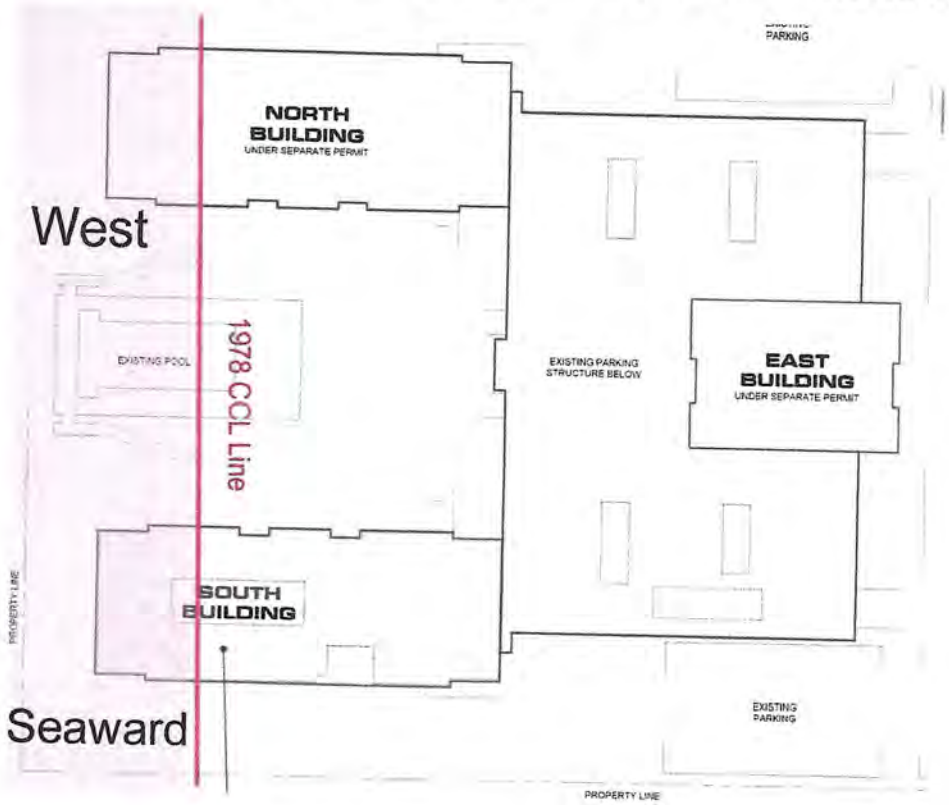

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☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Michael T Close

Name: MICHAEL CLOSE

Creciente Unit # : 811

Vote to rebuild our Pool

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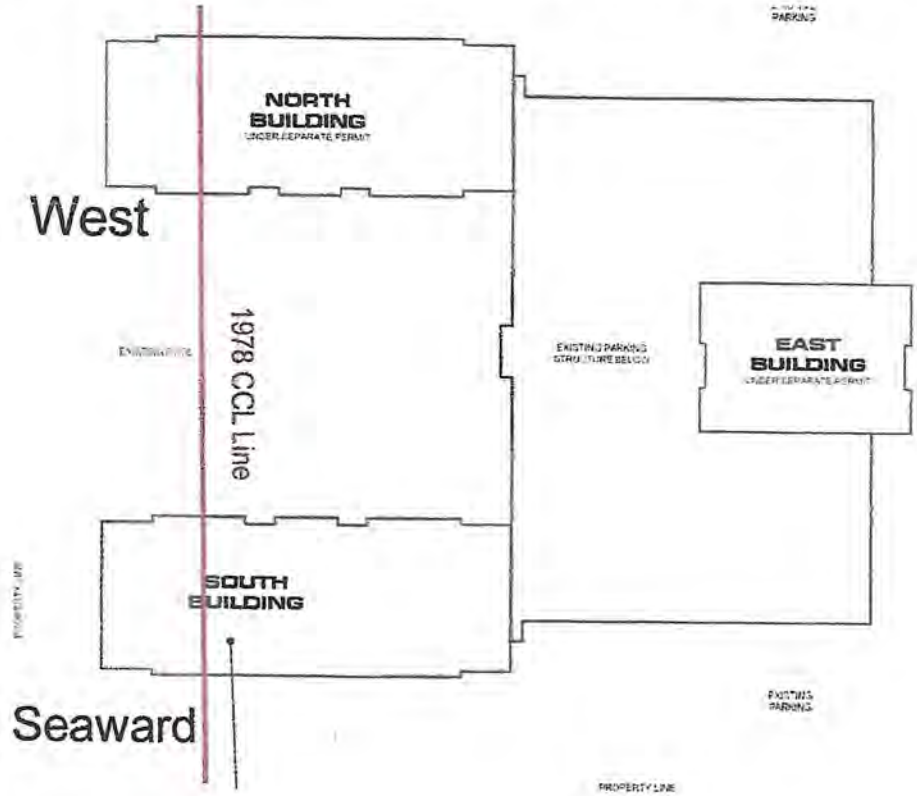

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☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Gregory Subtelny

Name: Gregory D. Subtelny

Vote to rebuild our Pool

Creciente Unit # : 812

Vote to rebuild our Pool

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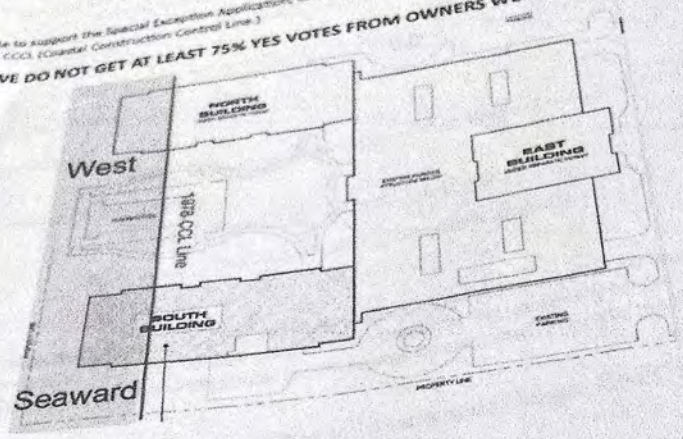

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☒ *I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.*

Signed: Cheryl Thompson

Name: Cheryl Thompson

Creciente Unit # : 817

box

Vote to rebuild our Pool

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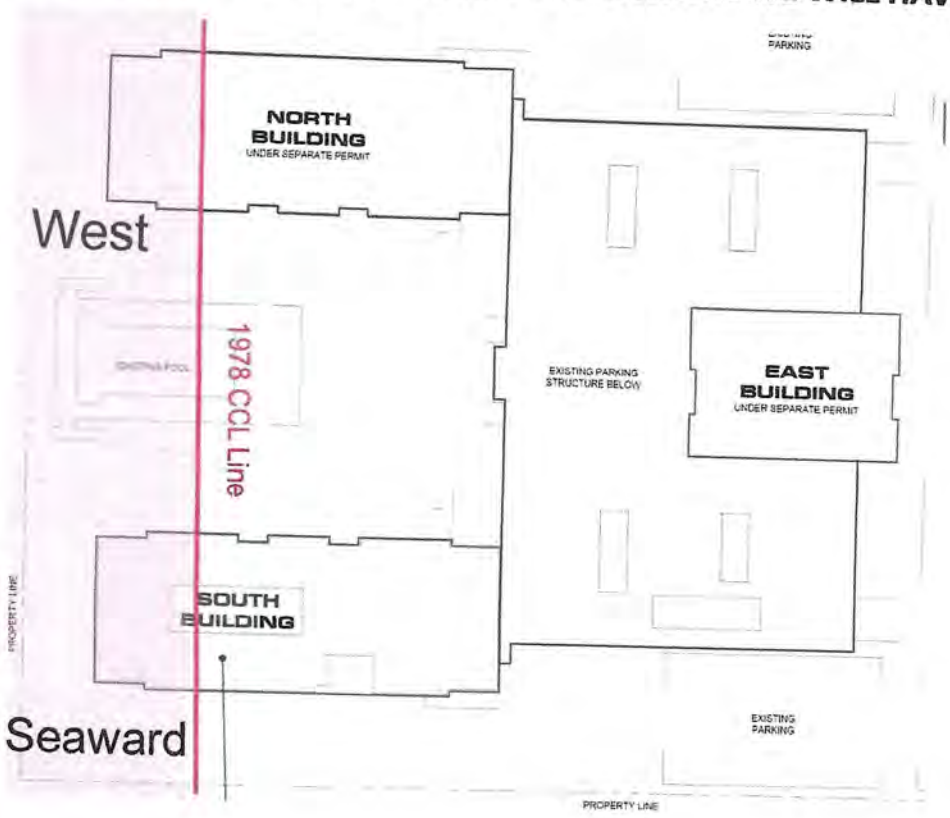

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[X] I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: _____

Name: Christina Petretta

Vote to rebuild our Pool

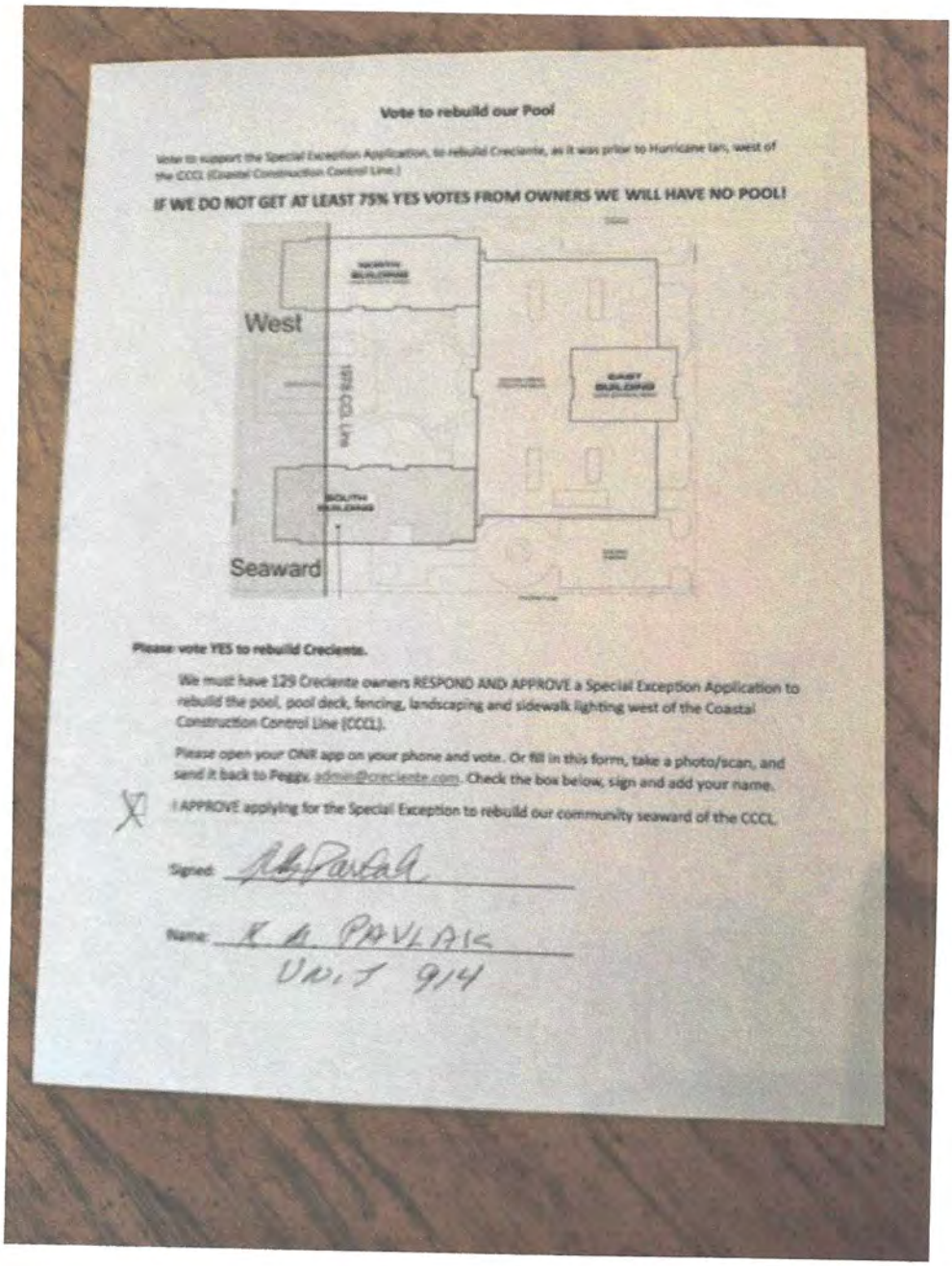
Creciente Unit # : 822 East

Outlook

Vote from Richard Pavlak

From Sandra Dilley <sandra.dilley29@gmail.com>
Date Mon 3/3/2025 2:32 PM
To Creciente Admin <admin@creciente.com>
Cc rpavlak930@aol.com <rpavlak930@aol.com>

Hi Peggy, i'm sending this for my father Richard Pavlak in unit 914.



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West

Seaward

Please vote YES to rebuild Creciente.

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X I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: R Pavlak

Name: R A PAVLAK
Unit 914

Sandra Keller
937.620.0148

Vote to rebuild our Pool

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☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Angela Henson

Name: Angela Henson

Creciente Unit #: 921

Vote to rebuild our Pool

Michelle H. Kaiser, Esq., LL.M., M.B.A.
Senior Attorney
Phone: 239.552.3205 Fax: 239.263.1633
MKaiser@beckerlawyers.com

Becker & Poliakoff
Six Mile Corporate Park
12140 Carissa Commerce Court, Suite 200
Fort Myers, Florida 33966

Northern Trust Building
4001 Tamiami Trail North, Suite 270
Naples, Florida 34103

March 7, 2025

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

Re: **Creciente Condominium Association, Inc.**
Town of Fort Myers Beach Special Exception Application

To Whom It May Concern:

Please be advised this Firm represents Creciente Condominium Association, Inc. (the "Association"). In that capacity we have been directed to provide this letter of opinion to the Town of Fort Myers Beach concerning the Association's Special Exception application to reconstruct the pool, fence, and seawall that were destroyed in Hurricane Ian.

Specifically, Section 34-201(a)(1)b.3. of the Town of Fort Myers Beach Municipal Code of Ordinances provides as follows:

> (a) *Initiation of application.* An application for a rezoning, development of regional impact, special exception, appeal from administrative action, or variance may be initiated by:
>
> > (1) A landowner, or his authorized representative, for his own property; provided, however, that:
> > …
> >
> > > b. Where the property is a condominium or a timeshare condominium, as defined and regulated in F.S. chs. 718 and 721, respectively, an application or petition may be initiated by both the condominium association and no less than 75 percent of the total number of condominium unit owners, or by both the owners' association and no less than 75 percent of timeshare condominium unit owners.
> > >
> > > …

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

This opinion letter is intended to comply with Section 34-201(a)(1)b.3., cited above, confirming that following our examination of the Second Consolidated Amended and Restated Declaration of Condominium, the Restated and Amended Articles of Incorporation, Fourth Amended and Restated By-Laws for the Association, as amended from time to time, there is no prohibition in such documents concerning the Association's authority to submit the subject Special Exception application.

The subject Special Exception application does not violate any rights of a Unit Owner contained in the foregoing documents and there is no federal or state law regulating condominiums which would prohibit the Association with filing the subject Special Exception Application.

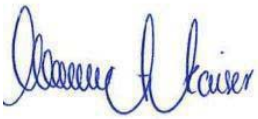
We express no opinion in this letter as to any consent, approval, authorization, or other action or filing necessary for future assertions by the Association. We express no opinion as to the laws of any jurisdiction other than the laws of the State of Florida and the laws of the United States of America.

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

This opinion is given solely for the use and benefit only of the Association as it pertains to its Special Exception application and is limited in its use to reliance by the Town of Fort Myers Beach and may not be relied upon by any other parties, furnished to any other party, quoted, or otherwise used without the prior express written consent of the undersigned Firm.

This opinion is as of the date hereof and we disclaim any obligation to advise you of any change which hereafter may be brought to our attention.

Sincerely,



Michelle H. Kaiser, Esquire, LL.M., M.B.A.
For the Firm

MHK/lt
cc: Board of Directors
Joseph E. Adams, Esquire
Katie O. Berkey, Esquire, AICP

Creciente Condominium Association, Inc.
7150 Estero Blvd Fort Myers Beach, FL 33931

March 7, 2025

To: The Town of Fort Myers Beach

From: Creciente Condominium Association Board

At a duly called board meeting of March 6 th 2025 the Creciente Condominium Association Board the following motion was made by Michael Close, President and seconded by Lloyd Welker, Co Treasurer.

> We certify that our board has approved the rebuild of Creciente property west of the CCCL line, we further certify that the required number of owners has approved this rebuild and that all were notified and voted via electronic measure or US mail. We further certify that our attorney has approved this rebuild complies with all our declarations and other recorded documents.

A roll call ballot of all seven (7) board members was called by the Secretary

Cynthia Clark	Yes
Michael Close	Yes
Sheila McGinnis	Yes
Ann thornton	Yes
John Wayhart	Yes
Lloyd Welker	Yes
Becky Werner	Yes

The Motion Passed 7 yes 0 No

Respectfully:

Michael Close, President

Town of Fort Myers Beach
Agenda Item Summary Yellow Sheet Number: **2025-316**

1. **Request:** **Meeting Date: April 29, 2025**

TIMES SQUARE DEVELOPMENT AGREEMENT: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING OR DENYING A HOME RULE DEVELOPMENT AGREEMENT FOR PROPERTY LOCATED AT 1028 ESTERO BOULEVARD AND 1046 ESTERO BOULEVARD, FORT MYERS BEACH, FL, STRAP NOS. 24-46-23-W3-00017.0000 AND 24-46-23-W3-00016.0000 AND OWNED BY PERSAUD PROPERTIES FL INVESTMENTS LLC, AS AUTHORIZED BY SECTION 2-100 OF THE TOWN'S LAND DEVELOPMENT CODE AND IN COMPLIANCE WITH THE PROCEDURES FOR APPLICATION AND APPROVAL OF DEVELOPMENT AGREEMENTS WITH DEVIATIONS SET FORTH IN RESOLUTION NUMBER 24-73 FOR THE PURPOSE OF REDEVELOPMENT OF THE PROPERTY TO ALLOW A COMMERCIAL DEVELOPMENT WITH A MAXIMUM OF 58,625 SQUARE FEET, 50 HOTEL ROOMS, AND A MEAN ROOF HEIGHT OF 52 FEET 8 INCHES ABOVE 100-YEAR STORM ELEVATION; PROVIDING FOR TERMS AND CONDITIONS INCLUDING BUT NOT LIMITED TO THE IDENTIFICATION OF THE PROPOSED USE OF THE PROPERTY, A FINDING OF CONSISTENCY WITH THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, COMMITMENTS AND DEVELOPMENT OBLIGATIONS, DEVIATIONS NEEDED FOR DEVELOPMENT; 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 LPA reviews DAs and makes recommendations to the Town Council

What the action accomplishes:
Approval of the DA would allow a commercial development which exceeds the zoning allowed height, intensity, and hotel equivalency factor.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Ordinance

---

5. **Background:**
The applicant is requesting a home rule development agreement (DA) for property that was previously developed as the Sunset Beach Tropical Grill, formerly known as Top O' Mast restaurant, and a paid parking lot. This property is between the Times Square Pedestrian Plaza and the beach and is directly adjacent to Crescent Beach Park. The total property is approximately .9 acres; however, the 1978 Coastal Construction Control Line (CCCL) splits the property between the Downtown and EC zoning districts. The developable portion of the property is 23,452 square feet of land zoned Downtown.

The Downtown zoning district allows the uses requested in this DA: retail, hotel, and restaurant. Additionally, the area for consumption on premises (COP) on the beach was previously confirmed through *Persaud Properties FL Investments LLC v. Town of Fort Myers Beach, No. 2D19-1282 (Fla. 2d DCA 2019)*, which is attached for reference. The DA is proposed to resolve conflicts with the zoning district allowed height and number of stories, intensity or floor area ratio (FAR), criteria for calculation of FAR, hotel equivalency factor, build-to lines, and commercial design standards.

Attachments:
1. Ordinance 25-06
2. Staff Report

3. * UPDATED 4/25/2025 Exhibit A Draft Development Agreement with Exhibits
4. Exhibit B COP Litigation
5. Exhibit C Project Narrative 4-16-25
6. Exhibit D Application
7. 24-247, Development Agreements with Deviations Signed_202412190945095042 (2)

Financial Impact:
unknown

6. **Alternative Action**
Suggest changes and recommend approval or denial to Town Council

7. **Staff Recommendations:**
Provide input regarding the request and make recommendation to Town Council.

8. **Recommended Approval:**

_____ Date: April 16, 2025
Judith Frankel, Principal Planner

_____ Date: April 17, 2025
Frankie Kropacek, Operations & Compliance Director

_____ Date: April 22, 2025
nancy stuparich, Town Attorney

_____ Date: April 22, 2025
Amy Baker, Town Clerk

ORDINANCE NO. 25-06
(TIMES SQUIRE DEVELOPMENT)

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING OR DENYING A HOME RULE DEVELOPMENT AGREEMENT FOR PROPERTY LOCATED AT 1028 ESTERO BOULEVARD AND 1046 ESTERO BOULEVARD, FORT MYERS BEACH, FL, STRAP NOS. 24-46-23-W3-00017.0000 AND 24-46-23-W3-00016.0000 AND OWNED BY PERSAUD PROPERTIES FL INVESTMENTS LLC, AS AUTHORIZED BY SECTION 2-100 OF THE TOWN'S LAND DEVELOPMENT CODE AND IN COMPLIANCE WITH THE PROCEDURES FOR APPLICATION AND APPROVAL OF DEVELOPMENT AGREEMENTS WITH DEVIATIONS SET FORTH IN RESOLUTION NUMBER 24-247 FOR THE PURPOSE OF REDEVELOPMENT OF THE PROPERTY TO ALLOW A COMMERCIAL DEVELOPMENT WITH A MAXIMUM OF 58,625 SQUARE FEET, 50 HOTEL ROOMS, AND A MEAN ROOF HEIGHT OF 52 FEET 8 INCHES ABOVE 100-YEAR STORM ELEVATION; PROVIDING FOR TERMS AND CONDITIONS INCLUDING BUT NOT LIMITED TO THE IDENTIFICATION OF THE PROPOSED USE OF THE PROPERTY, A FINDING OF CONSISTENCY WITH THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, COMMITMENTS AND DEVELOPMENT OBLIGATIONS, DEVIATIONS NEEDED FOR DEVELOPMENT; 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, Persaud Properties FL Investments, LLC (the "Developer") wishes to develop certain parcels of land in the Town of Fort Myers Beach, as more explicitly described in the Home Rule Development Agreement, attached hereto as Exhibit "A" (the "Development Agreement"); and

WHEREAS, an area in the parcels is permitted for consumption on premises (COP) as provided in *Persaud Properties FL Investments LLC v. Town of Fort Myers Beach, No. 2D19-1282 (Fla. 2d DCA 2019),* a copy of which is attached as Exhibit B; and

WHEREAS, following several meetings with Town Staff as provided in Resolution 24-247, the Developer presented a Development Agreement to the Town's Local Planning Agency

("LPA") at its April 29, 2025 meeting and the LPA voted to recommend _____ of the Development Agreement by a vote of __ to __, inclusive of a finding of consistency between the Development Agreement and the Town of Fort Myers Beach Comprehensive Plan; and

WHEREAS, the Town Council held its first reading and public hearing of Ordinance 25-06 containing the Development Agreement at its May 19, 2025 Town Council meeting, during which the Town Council determined that the Development Agreement and the accompanying application **satisfied/did not satisfy** the guidelines and criteria set forth in Sections 2-100 and 2-96 of the Town's Code of Ordinances and the procedures for approval of development agreements in Exhibit A to Resolution Number 24-247; and

WHEREAS, the Town Council voted to schedule the second reading and adoption public hearing on Ordinance 25-06 on June 16, 2025; and

WHEREAS, thereafter the Town Council held the second and final reading and public hearing to adopt of Ordinance 25-06, containing the Development Agreement on June 16, 2025 by a vote of ___ to ___; and

WHEREAS, a Business Impact Estimate was prepared and posted on the Town's website on the ___ day of _____, 2024, as required by Section 166.041(4), Florida Statutes; and

WHEREAS, the LPA public hearing and the Town Council public hearings were advertised on the ___ day of _____, 2025 in the _____; and

WHEREAS, the Town Council determined that adoption of the ordinance, as provided herein is in the best interests of the health, safety, welfare, and morals of the Town's residents.

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

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

Section 2. The Town Council hereby formally approves the Development Agreement attached hereto as Exhibit "A" to Ordinance 25-06, and authorizes the Developer to proceed with the development as further outlined therein.

Section 3. The Town Clerk is directed to record an executed copy of the Development Agreement in the Official Records of Lee County, Florida.

Section 4. This Ordinance shall become effective upon adoption by the Town Council.

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

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

ADOPTED this ____ day of _____, 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

_____
Dan Allers, Town Mayor

ATTEST:

_____
Amy Baker, Town Clerk

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

_____
Vose Law Firm, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this ___ day of _____, 2025.

Attachments:
Exhibit A – Home Rule Development Agreement with Exhibits
Exhibit B – *Persaud Properties FL Investments LLC v. Town of Fort Myers Beach, No. 2D19-1282 (Fla. 2d DCA 2019)*

Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

TYPE OF CASE:	**Development Agreement**
CASE NUMBER:	**DA 20240170**
CASE NAME:	**1028 & 1046 Estero Blvd; Development Agreement to allow a hotel with 50 rooms, a restaurant, and a maximum height of 52 feet 8 inches.**
LPA HEARING DATE:	**April 29, 2025 at 9 AM**
PREPARED/ SUBMITTED BY:	**Sarah Propst, AICP, PMP**

I. APPLICATION SUMMARY

Applicant/Owner:	Tina Ekblad, AICP, MPA, Sage Entitlements, LLC/ Persaud Properties FL Investments, LLC
Request:	Development Agreement for a commercial development with 50 hotel units, a maximum of 58,625 square feet and a maximum height of 52 feet 8 inches.
Subject property:	See attached Master Concept Plan
Physical Address:	1028 and 1046 Estero Blvd
STRAP #:	24-46-23-W3-00017.0000 & 24-46-23-W3-00016.0000
FLU:	Pedestrian Commercial
Zoning:	Downtown

Adjacent Zoning, Future Land Use, and Current Uses:

North:	Downtown, Pedestrian Commercial Food truck
South:	Environmentally Critical (EC), Recreation Beach
East:	Downtown, Pedestrian Commercial Crescent Beach Park

West: Downtown, Pedestrian Commercial
Vacant

II. BACKGROUND AND ANALYSIS

Background:
Tina Ekblad, AICP, on behalf of Persaud Properties FL Investments, LLC, is proposing a development agreement (DA) for the property that was previously developed as the Sunset Beach Tropical Grill, formerly Top O' Mast restaurant and a paid parking lot. This property is between the Times Square Pedestrian Plaza and the beach and is directly adjacent to Crescent Beach Park. The total property is approximately .9 acres; however the 1978 Coastal Construction Control Line (CCCL) splits the property between the Downtown and EC zoning districts. The developable portion of the property is 23,452 square feet of land zoned Downtown.

The Downtown zoning district allows the uses requested by this DA: retail, hotel, and restaurant. Additionally, the area for consumption on premises (COP) on the beach was previously confirmed through *Persaud Properties FL Investments LLC v. Town of Fort Myers Beach, No. 2D19-1282 (Fla. 2d DCA 2019)*, which is attached for reference. The DA is proposed to resolve conflicts with the zoning district allowed height and number of stories, intensity or floor area ratio (FAR), criteria for calculation of FAR, hotel equivalency factor, build-to lines, and commercial design standards.

Analysis:
The Comprehensive Plan and the Land Development Code (LDC) anticipated the redevelopment of the Downtown Zoning District. A Community Redevelopment Agency (CRA) plan was adopted in 1993 and the comprehensive plan land use policies incorporate the CRA plan through improvements to the district. The comprehensive plan speaks specifically to the type of development that is desirable in Times Square, the improvements that are important to Times Square, and to height.

Policy 4-B-6*: "PEDESTRIAN COMMERCIAL"**: a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around the Villa Santini Plaza. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map's "platted overlay" indicates a maxi- mum density of 10 units per acre for afford- able units consistent with the adopted redevelopment plan). Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet the design concepts of this plan and the Land Development Code. Where commercial uses are permitted, residential uses are encouraged in upper floors.*

OBJECTIVE 4-F: *REDEVELOPMENT — Take positive steps to redevelop areas that are reaching obsolescence or beginning to show blight by designing and implementing public improvements near Times Square to spur private redevelopment there, by supporting the conversion of the Villa Santini Plaza into a pedestrian precinct, by providing an opportunity for landowners to replace*

vulnerable mobile homes and recreational vehicles with permanent structures in the Gulfview Colony/Red Coconut area, and by providing build- ing code relief for historic buildings.

Policy 4-F-2: *SPECIFIC REDEVELOPMENT PLANS: This comprehensive plan anticipates substantial redevelopment over the coming years. Specific concepts have been developed for three specific areas:*

i. ***Times Square*** *– The Estero Island CRA's plan for the Times Square area is reflected in this plan, bounded by the "Pedestrian Commercial" category at Times Square. Implementation of that plan will be on-going as discussed through this comprehensive plan and in accordance with the specific regulations provided in the Land Development Code. The Times Square redevelopment plan is described in Community Design Policies 3-D-1 through 3-D-13.*

3-D-1 through 3-D-9 include the following policies:

1) Create a Downtown Redevelopment Agency to revitalize the downtown and make it a lively, safe, and comfortable environment,
2) Implement a Core Area Master Plan
3) Sidewalk improvements and pedestrian safety measures,
4) Pedestrian circulation plan including bike paths, improved crosswalks, a pedestrian plaza where the Bayside Veterans Park was developed, on street parking, mass transit and traffic circulation improvements;
5) Parking improvements;
6) Streetscape improvements, including underground utilities;
7) Integration of exfiltration systems in stormwater management;
8) Providing technical assistance for dry floodproofing;
9) Enhancements to Lynn Hall Park.

This proposed DA meets portions of policy 4-B-6, policies 4-F-2 and policies 3-D-1 through 3-D-9 through commitments (found on pages 5-6 of the development agreement) to:

1) Provide a dedicated ADA compliant, minimum ten-foot walkway through the property for pedestrian access between the Time Square Pedestrian Plaza and the Beach.
2) Provide a covered community gathering area, adjacent to the 10-foot walkway. The space will include benches, a foot wash, and drinking fountains for use by the public.
3) Provide onsite bike racks on the property for use by the general public and to alleviate blocking the adjacent Times Square Pedestrian Plaza.
4) Provision of retail spaces for local and legacy small vendors who have been in the area for decades on the first (ground) and second floor of the property to recreate the active pedestrian environment of the original Time Square Pedestrian Plaza.
5) To recess the building off the Time Square property line to eliminate encroachments into the Time Square Pedestrian Plaza and allow for enhancements, which may include landscaping, potted plants, awnings, and benches etc. to support pedestrian movement and public gathering.
6) Make a proportionate payment to replace the damaged pavers fronting the property with a sustainable material to support the revitalization of the

remainder of the Times Square Pedestrian Plaza.

Policy 4-C-4 *Building heights: The Land Development Code shall limit the height of new buildings under most conditions to two stories above flood elevation (exceptions may include the buildback situations (see Policies 4-D-1 and 4-E-1)), and different heights may be applied to officially designated redevelopment areas such as Times Square, Red Coconut/Gulf View Colony, and Villa Santini Plaza). In those few cases where individual parcels of land are so surrounded by tall buildings on lots that are contiguous (or directly across a street) that this two-story height limit would be unreasonable, landowners may seek relief through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The town will approve, modify, or deny such requests after evaluating the level of unfairness that would result from the specific circumstances and the degree the specific proposal conforms with all aspects of this comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria. Particular attention would be paid to any permanent view corridors to Gulf or Bay waters that could be provided in exchange for allowing a building to be taller than two stories. In each case, the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal.*

This comprehensive plan policy is somewhat unclear. Staff interprets the policy to say two different things: 1) the designated redevelopment areas, including Times Square, may be allowed different heights, and 2) In some parts of the island there are already many tall buildings and additional tall buildings may be appropriate in these locations.

The proposed DA is diagonal across Estero Boulevard and separated by Crescent Beach Park from Margaritaville. Margaritaville is a Commercial Planned Development (CPD) with a maximum height of 4 stories and 52 feet above grade. The applicant is proposing a 4-story structure with a rooftop dining area that will include enclosed space for elevators, a kitchen, and restrooms, the main structure height will be 39 feet 4 inches above 100-year storm elevation and the mean roof height of the elevator tower/kitchen and restroom area on the rooftop will be 52 feet 8 inches above the 100-year storm elevation. The deviation request is for the height from the required 100- year storm elevation to the mean height of the roof because that is how the LDC measures building height.

The LDC categorizes the Downtown zoning district, which includes Times Square, as a redevelopment district. The Purpose (Section 34-671) states: *The purpose of the Downtown district is create the desired quality and character for the center of pedestrian-oriented commercial activities within the town. New commercial buildings are expected to accommodate pedestrians by providing storefronts near sidewalks and by offering shade and shelter along major streets. Old San Carlos Boulevard will serve as the town's "Main Street" and will be anchored by pedestrian plazas at each end.*

This DA proposes two retail spaces facing the pedestrian plaza. The applicant is requesting a deviation to set the building façade 10 feet back from the pedestrian

plaza. Some shade structures are proposed in this setback, however, staff recommends additional shade structures, an arcade, or loggia to create additional shade and interest along the front façade. These types of shade structures are recommended per Section 34-674(a)(3*) Awnings, canopies, and marquees over sidewalks and pedestrian walkways are encouraged by the commercial design standards (§§ 34-991—34-1010 of this chapter) and are required along Old San Carlos Boulevard*. The applicant is providing a 10-foot wide, covered public walkway easement along the west side of the building, as well as a public, covered patio area facing the beach.

List of Uses

1. Commercial Space. Approximately 16,700 square feet of commercial space is provided in this development. Uses include retail space on the pedestrian plaza, a beach bar approved by previous COP, a restaurant on the second floor, and a rooftop restaurant and bar.

2. Hotel Units. The proposed DA includes a 50-unit boutique hotel. The requested equivalency factor to achieve this number of units is 15.7.

3. Parking. The commercial development will be accessible through an ingress/egress point on Estero Blvd and provide parking with valet service and car lifts for their hotel guests. Developments on the Times Square pedestrian plaza are not required to provide parking, therefore all parking will exceed the requirements and shared parking is not proposed.

4. Pedestrian Walkway. A 10-foot-wide covered walkway will be provided on the western side of the structure. This will be a public access easement and allow pedestrians a path to a patio area with benches, a drinking fountain, and a foot wash station. The beach is adjacent to this public patio space.

5. Consumption on Premises (COP). The property was previously approved for COP, the documentation regarding that case is attached to the staff report. This development agreement does not change the COP use.

Deviations from the Code

The attached document entitled *Project Narrative* includes the applicant's complete justification for the deviations on pages 10-14.

1. **Request to deviate from LDC Section 34-675(b)(1) which limits building height within the Times Square Pedestrian Plaza to 30 feet above base flood elevation and no taller than 3 stories to allow: 4 stories and 39 feet and 4 inches.** This request increases if the rooftop restaurant/bar is considered appropriate. Addition of the rooftop restaurant/bar will increase the building height to 52 feet 8 inches.

2. **Request to deviate from LDC Section 34-676(b)(2) which permits parking to be provided under commercial and mixed-use buildings when separated from sidewalks by usable commercial space at least 20 feet deep and meet all commercial building design standards to allow: Elimination**

of the required usable commercial square footage in the first (ground) floor.

3. **Request to deviate from LDC Section 34-675(c) which limits the Floor Area Ratio of 1.8 within the Times Square Pedestrian Plaza to allow A maximum FAR of 2.5 (58,630 square feet)**

4. **Request to deviate from LDC Section 34-633 which requires FAR to be calculated to include all stories of a building within the surrounding exterior walls and all areas below an elevated building that is six feet or more in height, and all stories of covered parking to allow: The elimination of the covered parking from the FAR calculations.**

5. **Request to deviate from LDC Section 34-1803 which provides Hotel Equivalency Factors for the number of guest units that can be substituted for residential dwelling units to allow: An Equivalency Factor of 15.7 to permit 50 hotel rooms and a total of 37,950 square feet for a Boutique Hotel.**

6. **Request to deviate from LDC Section 34-674(a)(1)a. requiring a build-to-line of 0 feet to the Times Square Pedestrian Plan to allow: A 10-foot front setback.**

7. **Request to deviate from LDC Section 34-676(d) which requires driveways and parking to be relocated from Estero Boulevard to secondary streets to allow: Direct access from Estero Boulevard to ground level valet parking.**

8. **Request to deviate from LDC Section 34-677 which requires commercial design standards to apply to all commercial and mixed-use buildings to allow: The proposed architectural renderings as provided in Exhibit C.**

Applicant Proposed Public Benefits

A full description of the applicant proposed public benefits can be found in the *Project Narrative*, pages 16-18.

1. A minimum 10-foot pedestrian walkway under cover from the pedestrian plaza to the sandy beach;

2. A refresh station adjacent to the walkway and under cover for public gathering and relaxation that includes public benches, a footwash, and water fountain;

3. An increased front building setback to eliminate encroachment into the pedestrian plaza;

4. Times Square paver replacement and funding;

5. Public bicycle parking;

6. Ground (first) floor retail;

7. Rooftop Sunset Terrace and Service Bar

General Description of Development
The DA proposes a development consisting of four stories including a ground floor and a partial 5th story for a sunset deck with restaurant and bar. The proposed development will include, at ground level, retail space, 66 parking spaces for guests, a covered beach access easement and a patio area with benches, foot rinse station, and drinking fountain. The second story will include a restaurant with patio dining. The second, third, and fourth floors will contain 50 hotel units with hotel amenities.

The rooftop may either include only the elevator and stairwell tower with no publicly accessible space or an additional level of dining. The rooftop restaurant/bar, if deemed appropriate, will include enclosed restrooms and a kitchen and open-air dining. The rooftop enclosed areas have been designed to be located behind the elevator and stairwell tower, to decrease the visual impact of the additional height.

The proposed development will provide retail, dining, and hotel accommodations in the Times Square area as well as parking for hotel guests.

Neighborhood Compatibility:
The proposed development is adjacent to a temporary restaurant and located between two beach parks and the site of the pier. The proposed uses do not appear to create conflict with the adjacent uses.

Findings and Conclusions:
The applicant has provided a DA meeting the minimum statutory requirements of the Code of Ordinances. The DA has been processed in accordance with the procedures in the Administrative Code (attached as Exhibit B).

III. RECOMMENDATION

The development agreement in your agenda packet is the product of preliminary negotiations between the applicant and Town staff, in compliance with the processes and procedures of the administrative code section (Ordinance 24-247 attached as Exhibit B). The proposed uses and some of the proposed public benefits being proposed are encouraged through the comprehensive plan policies.

Staff recommends the following items for discussion:

1) Programming or intent of the 10-foot public access easement. Applicant must ensure the space is not encroached by other uses and structures. Signage for the public access easement may be appropriate. (Developer Commitment: item a, p.5)
2) Additional refinement of term the "proportionate share" of the paver replacement in Times Square. (Developer Commitment: item h, p. 6)
3) Building design considerations to ensure cohesive and aesthetics.
4) Shade structures, loggia, or arcade may be appropriate to create visual interest and shade over the 10-foot setback from the pedestrian plaza. (Developer

Commitment: item f, p. 6)

5) Programming or intended use of the 10-foot setback space in front of the ground level retail. (Developer Commitment: item f, p. 6)

Staff recommends the LPA ask questions of the applicant, propose any modifications, and recommend adoption or changes to the Town Council.

IV. CONDITIONS OF APPROVAL

Conditions of approval are contained within the DA.

Staff Report Exhibits:

A – Development Agreement with Exhibits
B – COP Litigation
C – Project Narrative
D – Application documents
E – Ordinance 24-247 Procedures for development agreement with deviations

HOME RULE DEVELOPMENT AGREEMENT
(Draft 4-16-25)

THIS DEVELOPMENT AGREEMENT (hereinafter, "Agreement" or "Development Agreement") is entered into this _____ day of _____ 2025, by and between **THE TOWN OF FORT MYERS BEACH,** FLORIDA, a municipality of the State of Florida (hereinafter "Town"), having its principal office at 2731 Oak Street, Fort Myers Beach, FL, and **PERSAUD PROPERTIES FL INVESTMENTS LLC**, a Florida limited liability company (hereinafter "Developer"), whose address is 385 Seminole Way, Fort Myers Beach, FL 33931.

WHEREAS, Section 2-100 of the Town's Land Development Code, authorizes it to enter into a home rule development agreement pursuant to article VIII, § 1(f), of the Constitution of the State of Florida and F.S. chs. 163, 166 and 380, and specifically recognized by the State Legislature in F.S. § 163.3220(5); and

WHEREAS, the Developer has requested approval of this Development Agreement pursuant to Section 2-96 of the Town's Land Development Code and Resolution 24-247, as amended; and

WHEREAS, Developer owns approximately .9 +/- acres of land located within the Town, said property, of which 23,452 square feet is located landward of the 1978 Coastal Construction Control Line (hereinafter "CCCL"), being legally described in Exhibit "A" attached hereto (hereinafter, "the Property"); and

WHEREAS, the Town and the Developer desire to enter into this Agreement to provide for the approval and a comprehensive understanding of the development parameters consistent with the Town's Land Development Code and Comprehensive Plan as set forth herein; and

WHEREAS, a public hearing was held before the Town of Fort Myers Beach Local Planning Agency("LPA") on the _____ day of _____, 2025, and the LPA reviewed the request and by a vote of _____ recommended _____ to the Town Council; and

WHEREAS, the Town conducted two public hearings on the _____ day of _____, 2025, and the _____ day of _____, 2025, prior to entering into this Agreement, both of which were properly noticed on the Town's website and by mailing to affected property owners within a 500 foot radius of the boundaries of the real property at the addresses of such property owners found on the Lee County Property Appraiser's website prior to the first public hearings; and

WHEREAS, the Town Council has determined after consideration of the recommendation of the LPA, Town staff, and following two public hearings, which provided an opportunity for comment, testimony and evidence from the Developer, Town staff, and the public, the Town Council has determined that based upon competent and substantive evidence the Development Agreement is reasonable and not arbitrary and in the best interest of the Town and the residents of the Town Fort Myers Beach.

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, for the purposes set forth in Section 2-100 and 2-96 of the Town's Land Development Code, the benefits to accrue to each party, and for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the Town and the Developer agree as follows:

1. Recitals. The foregoing recitations are true and correct and are incorporated herein by reference. All exhibits to this Agreement are deemed a part hereof.

2. Property Subject to this Agreement. The real property described in Exhibit "A" is subject to the terms and conditions of this Agreement ("Property").

3. Ownership. Developer represents that it is the legal and equitable owner, having an interest in the Property pursuant to Instrument Nos.: 2014000160173 and 2016000115839 recorded July 31, 2014, and May 31, 2016, respectively, in the Official Records of Lee County, Florida, and as such may lawfully enter into this Agreement. The Town is in receipt of a title opinion from a Florida attorney upon which it can rely for the purpose of confirmation of the Developer's ownership representation.

4. Proposed Development and Use of the Property. The proposed Uses and development of the Property will be consistent with the following:

a. The maximum development parameters are 58,625 square feet for a restaurant, retail, and 50 hotel rooms with appurtenant facilities including service bars and sunset terrace in substantial compliance with the Site Plan and Floor Plans dated March 20, 2025 and attached as Exhibit B. The proposed development will reestablish the previous commercial uses that occurred on-site and incorporate boutique hotel units.

b. Vehicular Access/Transportation: The development will be served by Estero Blvd. Vehicles will have direct access to onsite valet service for the parking lifts.

c. Parking. While no onsite parking is required under applicable Town Code provisions, the eastern portion of the ground floor of the proposed building will be developed with parking facilities that include lifts to maximize onsite parking. The development will include valet parking to serve customers.

d. Commercial Area. The combined square footage of all development areas, including open air first floor commercial retail, bar, and pedestrian areas served by roll up doors has a total equivalency of a FAR of 2.5 (58,625 square feet).

    i. First (Ground) Floor: Approximately 9,410 square feet of the first floor will be developed for commercial, retail, and service bar with patio. The design exceeds applicable Town Code provisions by providing an increased front setback.

    ii. Second Floor: The second floor will be developed with an approximately 5,303 square foot commercial restaurant and 12,575 square feet of hotel

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uses. These measurements do not include open air patios consistent with FAR calculations.

iii. Third and Fourth Floor: The third and fourth floors will be developed with 28,590 square feet of hotel uses. These measurements do not include open air patios consistent with FAR calculations. The design exceeds applicable Town Code provisions by providing an increased front setback.

iv. Roof Top Service Bar & Sunset Terrace: The roof will provide a publicly accessible sunset terrace and service bar. 1,999 square feet is provided for stairs, elevators, restrooms and a service kitchen. This measurement does not include the remaining open rooftop area consistent with FAR calculations.

e. Height: The height of the structure will be 4 stories, 39 feet 4 inches above the 100 year storm elevation for the mean roof height. The maximum building height of 52 feet 8 inches above the 100 year storm elevation for the mean roof height includes the rooftop sunset terrace and service bar.

f. Setbacks: While the applicable Town Code provisions requires a zero (0) foot setback on sides and road frontage, the development will provide a minimum ten (10) foot front setback to allow enhanced pedestrian access with an increased front setback for the third and fourth floors.

5. Public Facilities. The following public facilities will serve the Proposed Development on the Property:

A. Potable Water: Potable water will be supplied by Town of Fort Myers Beach and is presently adequate to serve the Proposed Development. Notwithstanding the foregoing, nothing in this Agreement will be interpreted nor is it the intent of the parties to create a reservation of capacity. Capacity for the project will be based on its availability at the time of submission of a Development Order. The Developer is responsible for improvements to the utility system required to service the proposed development.

B. Sanitary Sewer: Wastewater services will be provided solely by Lee County, which are presently adequate to serve the Proposed Development. Notwithstanding the foregoing, nothing in this Agreement will be interpreted nor is it the intent of the parties to create a reservation of capacity. Capacity for the project will be based

on availability at the time of submission of a Development Order. The Developer is responsible for improvements to the utility system required to service the proposed development.

C. Solid Waste: Developer will coordinate solid waste services with Lee County, the Town, or a third-party service provider, adequate to serve the Proposed Development, prior to issuance of the development order. Notwithstanding the foregoing, this does not create a reservation of capacity. Capacity for the project will be based on availability at the time of submission of a building permit.

D. Drainage: Drainage will be in accordance with the applicable permits to be issued by the Town of Fort Myers Beach. The Developer is responsible for improvements to the drainage system required to service the proposed development.

E. Fire and Rescue Fire control and rescue services will be provided by the Fort Myers Beach Fire Control District, and Emergency Medical Services will be provided by Lee County Emergency Medical Services. It is the responsibility of the developer to verify the adequacy of service available from the designated entities at the time of development order approval.

In the event new or additional facilities are needed to serve the project, the Developer will bear the burden of the cost of such facilities to be constructed and provide a schedule to the Town to assure that the public facilities and services will be available concurrent with the impact of the development project.

F. Environmentally Sensitive Land. There are no environmentally sensitive lands on-site.

G. Threatened and Endangered Species. There are no threatened or endangered species on-site.

H. Conflicts. Any conflict between the matters set forth in this paragraph and paragraph 9 and other paragraphs in this Agreement will be resolved in favor of the terms and conditions in this paragraph and paragraph 9. Moreover, this Agreement identifies known instances in which the proposed redevelopment conflicts with the Town's existing Land Development Code. Any ambiguity with respect to whether this Development Agreement or an ordinance is to

control will be interpreted to favor the ordinance. Failure of this Development Agreement to address a particular permit condition, term or restriction will not relieve the owner or developer of the necessity of complying with the laws governing said permitting requirements, conditions, terms or restrictions. Any matter or action required under existing ordinances of the town will not be otherwise amended, modified or waived, unless such modification, amendment or waiver is expressly provided for in the Development Agreement with specific reference to the Code provision so waived, modified or amended ("Deviations").

6. Impact Fees. Impact fees, when adopted by Town Ordinance for all new development and change in use, will be calculated at time of issuance of a development order and payment will be required prior to building permit approval. Offsite impacts will be evaluated by the Town at the time of development order application.

7. Development Permits Needed for Proposed Development. A list of all known governmental permits needed for the Proposed Development is set forth below:

Town of Fort Myers Beach Development Order
Town of Fort Myers Beach Building Permit
South Florida Water Management District Water Use Permit (dewatering)
FDEP Wastewater Permit
FDEP Coastal Construction Permit(s)
LCDOH Potable Water Permit

The failure of this Agreement to address a particular permit, condition, term or restriction will not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, or restrictions. The Developer will be responsible at its sole cost for obtaining any required approval and will not in any manner obligate the Town or any other governmental agency to grant other required permit approvals. Any reliance on this Agreement or expenditures in pursuance of its terms or any rights accruing to the Developer will not vest any development right in the Developer or the project to a continuation of this Agreement.

8. Developer Commitments and Obligations. For and in consideration of the benefits received pursuant to this Agreement, the Developer agrees to the following commitments, obligations and associated public benefits, which are deemed to be in the public interest:

a. Provide, at Developer's cost and expense, a dedicated ADA compliant, minimum ten-foot walkway through Developer's property for pedestrian access between the Time Square Pedestrian Plaza and the Beach.

b. Provide, at Developer's cost and expense, adjacent to the ten-foot walkway under cover, a community gathering area including benches, a foot wash, and drinking fountains for use by the public.

c. Provide, at Developer's cost and expense, onsite bike racks on the Developer's property for use by the general public and to alleviate blocking the adjacent Times

Square Pedestrian Plaza.

d. The creation of retail spaces for local and legacy small vendors who have been in the area for decades on the first (ground) and second floor of the property to recreate the active pedestrian environment of the original Time Square Pedestrian Plaza.

e. Provide the opportunity for future connectivity on the second floor to adjoining buildings to create a continuous walkway as envisioned by the Time Square community at no expense to the Town.

f. To recess the building off the Time Square property line to eliminate encroachments into the Time Square Pedestrian Plaza and allow for enhancements, which may include landscaping, potted plants, awnings, and benches etc to support pedestrian movement and public gathering.

g. Provide public access to the service bar and sunset terrace proposed for the building rooftop to provide additional area for public gathering and sunset viewing directly on the beachfront.

h. Make a proportionate payment to replace the damaged pavers fronting the property with a sustainable material to support the revitalization of the remainder of the Times Square Pedestrian Plaza.

i. Developer is committed to beginning redevelopment immediately following approval of this Development Agreement to jumpstart the redevelopment of the Time Square Pedestrian Plaza.

9. Deviations. The following deviations are granted pursuant to this Agreement in compliance with the Comprehensive Plan, and found to achieve the objectives of the proposed development, benefit the public interest, and preserve and promote the public health, safety and welfare:

a. Deviation from LDC Section 34-675(b)(1) which limits building height within the Times Square Pedestrian Plaza to 30 feet above base flood elevation and no taller than 3 stories to allow 4 stories and 39 feet 4 inches above the 100 year storm elevation for the mean roof height of the structure. A maximum height of 52 feet 8 inches above the 100 year storm elevation for the mean roof height with the rooftop sunset terrace and service bar.

b. Deviation from LDC Section 34-675(c) which limits the Floor Area Ratio of 1.8 within the Times Square Pedestrian Plaza to allow a maximum FAR of 2.5 (58,630 square feet) consistent with the Pedestrian Commercial Future Land Use.

c. Deviation from LDC Section 34-633 which requires FAR to be calculated to include all stories of a building within the surrounding exterior walls and all area below an elevated building that is six feet or more in height, and all stories of covered parking to allow the elimination of the covered parking only from the FAR calculations.

d. Deviation from LDC Section 34-1803 which provides Hotel Equivalency Factors for the number of guest units that can be substituted for residential dwelling units to allow an Equivalency Factor of 15.7 to permit 50 boutique hotel rooms and a total of 41,267 square feet for a Boutique Hotel.

e. Deviation from LDC Section 34-674(a)(1)a. requiring a build-to-line of 0 feet to the Times Square Pedestrian Plan to allow a 10-foot front setback to eliminate encroachments into the Time Square Pedestrian Plaza.

f. Deviation from LDC Section 34-677 which requires commercial design standards to apply to all commercial and mixed-use buildings to allow the proposed architectural renderings as provided in Exhibit C consistent with the coordination and efforts of the Times Square owners.

10. Consistency with the Comprehensive Plan. The Proposed Development outlined in this Agreement is consistent with the Town of Fort Myers Beach Comprehensive Plan and Land Development Code. The deviations approved as part of this Agreement are necessary for the zoning district or land use plan designations on the Property that is the subject of this Agreement. The Town's Comprehensive Plan allows the proposed project to be more than 2 stories above flood elevation in height as a matter of right due to its location in a redevelopment area. The Town's Comprehensive Plan also allows the height to be increased as provided in Policy 4-C-4 in redevelopment zoning districts (i.e. Downtown zoning district) and in the event the increase is approved as part of a planned development rezoning. This Agreement has been reviewed and approved by the Town in a manner consistent with the procedures required of a planned development rezoning and this approval and procedure is deemed tantamount to and commensurate to a planned development for purposes of determining consistency with the Comprehensive Plan as outlined in Resolution 24-247. Notwithstanding the foregoing, the deviations identified in paragraph 9 are approved

11. Existing Ordinances. Any matter or thing required to be performed under existing ordinances of the Town will not be otherwise amended, modified or waived, except as such modification, amendment or waiver is expressly provided for herein.

12. Post Development Agreement Requirements. Prior to the issuance of any building permits being issued for the development the following must occur:

a. All existing and proposed utilities and the manner in which existing utilities will be extended to the site and/or expanded for the use of the development including water, sewer, gas, electricity, cable television, and other utilities will have been approved by the Town; and

b. The proposed drainage plan for the proposed project will have been approved by the South Florida Water Management District. If an interconnection is required to the Town's stormwater management system, approval by the Town will be necessary; and

c. The proposed grading plan and elevation requirements of the town, including, but not limited to those related to the National Flood Insurance Program as applicable to the town will have been approved by the town; and

d. The traffic impact and parking plans for the proposed project will have been approved by the town; and

e. All other town requirements necessary for the initial building permits to build the proposed project on the Land.

f. The Town will not have any liability whatsoever for any expenses or other damages that may be incurred as a result of denial of the Development Agreement or for denial of building permits due to the failure to meet the Town's requirements as to any Post-Development Agreement requirements.

13. Amendment and Termination.

a. This Agreement may be amended or terminated with the Parties' mutual consent, in writing signed by both Parties.

b. This Agreement may be amended administratively by Town staff and the Developer without the need for approval by Town Council to provide for changes to the site plan and/or the Conceptual Plans provided such changes do not include increased building intensity, density, increased height, reduction in open space, reduction in public benefits. Substantial Deviations from the approved Conceptual Plans will require approval by Town Council. Substantial Deviations include but are not limited to, negative external impacts to adjacent properties.

c. At Developer's option, Developer may terminate this Agreement at any time prior to the issuance by the Town of a building permit for any portion of the Proposed Development of the Property. Notwithstanding the foregoing, in the event of termination, Developer will not leave any improvements in an unsafe condition.

14. Notices. All notices required or permitted under this Agreement will be in writing and will be mailed by certified mail, return receipt requested to the following addresses, or to such other person or address as any Party may designate from time to time in writing:

If to the Developer: Terry Persaud
PERSAUD PROPERTIES FL INVESTMENTS LLC
385 Seminole Way
Fort Myers Beach, FL 33931

with a copy to: Joseph M. Madden Jr.
MADDEN LAW FIRM LLC
2277 Main Street
Fort Myers, FL 33901
jmadden@myfloridaattorney.com

If to the Town: Town Manager

with a copy to: Town Attorney

15. Remedies. Any material breach of this Agreement may be enforced by either party as against the other by appropriate action in law or equity filed in a court of competent jurisdiction; provided, however, no such action may be brought until the defaulting party has been given notice and ninety (90) days in which to cure the default. If the default cannot reasonably be cured within the ninety (90) day period, such period will be extended if the cure is commenced within such ninety (90) days and the defaulting party is proceeding with due diligence for such period of time reasonably required to complete such cure.

16. Governing Law. This Agreement will be construed and interpreted according to the laws of the State of Florida, and venue with respect to any litigation between the Parties related to this Agreement will be exclusively in Lee County, Florida.

17. Enforcement. In the event the Developer, upon approval of the Development Agreement, fails to comply with the terms of this Agreement, the Town may bring an action in a court of law with competent jurisdiction to protect its rights and interests as provided herein. All associated reasonable costs and attorney's fees will be reimbursed to the Town if an action at law is necessary regardless of whether the Town is the prevailing party thereunder. In no event will the Town be liable for payment of the Developer's attorney fees.

18. Post Development Agreement Liability. The parties acknowledge that the Town will not have any liability for any expenses or other damages that may be incurred as a result of denial of building permits due to the failure of the proposed development to meet the Town's requirements as to any Post-Development Agreement requirements.

19. Severability. If any part, term, or provision of this Agreement is held to be illegal, void, or unenforceable, the remaining portions or provisions of this Agreement will not be affected or impaired, each remaining provision will remain in full force and effect, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

20. Entire Agreement; Termination of Prior Agreements. This Agreement embodies the whole agreement of the Parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement will supersede all previous communications, representations, or agreements, either verbal or written, regarding the Proposed Development of the Property between the Parties.

21. Covenants Running with the Land and Successors and Assigns. The obligations imposed and entitlements created pursuant to this Agreement will run with the property and bind Developer's successors and assigns to the covenants as set forth in this Agreement and will be enforceable by and against the Parties hereto, their personal representatives, heirs, successors, grantees, and assigns. The obligations of the Developer may be assigned to one or more successor developers or, property owners associations, and the Developer will thereafter be relieved of all obligations hereunder.

22. Effective Date and Duration. This Agreement will become effective upon full

execution by both Parties and recording of the Agreement in the Public Records of Lee County pursuant to paragraph 23 below. The Developer must apply for a development order for at least a portion of the development contemplated herein within 90 days of the effective date. In the event no building permits are applied for by the Developer within a year of the effective date, the Agreement will terminate. Construction activities must be completed within 2 years of building permit issuance. If requested by the Developer, the term of the Agreement may be extended at the sole discretion of the Town Council and a finding that the Developer is unable to fulfill its obligations due to circumstances beyond its control. The development of the project may proceed in phases in any sequence. Notwithstanding the provisions of this paragraph, unless terminated as provided herein, or pursuant to paragraph 13 above, the obligations imposed and entitlements created pursuant to this Agreement will run with the property will be enforceable by and against the Parties hereto, their personal representatives, heirs, successors, grantees, and assigns.

23. Recording of Agreement. This Agreement will be recorded by the Town in the Public Records of Lee County within fourteen (14) days of approval by the Town. The costs of recording this Agreement will be paid by the Developer.

24. Representation and Warranties. The parties make the following representations to each other as stated herein:

A. The execution, delivery and performance of this Agreement by the Developer and a third party will not violate any law, or the term s of any agreement by which they are bound.

B. The Town and Developer have the power and authority to enter into this Agreement, and to perform the development as set forth herein, and all the documents have been duly authorized, executed, and delivered and the transactions contemplated herein have been duly authorized.

C. This Agreement constitutes a valid and legally binding obligation of the Developer and the Town after independent investigation by both of the information contained herein and is enforceable in accordance with its terms.

BALANCE OF THE PAGE LEFT PURPOSELY BLANK

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year written below.

WITNESSES:

PERSAUD PROPERTIES FL INVESTMENTS LLC,
a Florida limited liability company

_____

Print Name: _____

_____

Print Name _____

By: _____

Name:
Title:

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2025, by _____, as _____ of PERSAUD PROPERTIES FL INVESTMENTS LLC, a Florida limited liability company, who is personally known to me or who produced _____ as identification.

_____
Notary Public Signature

My Commission Expires:

_____
Type/Print Notary Public Name

Commission No.:_____

DRAFT

TOWN OF FORT MYERS BEACH

Dan Allers, Town 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

Exhibits:

A. Legal Description and Sketch of the Property
B. Site Plan and Floor Plans dated March 20, 2025
C. Conceptual Renderings dated March 20, 2025

DRAFT

Exhibit A

Legal Description and Sketch of the Property:

DRAFT

Exhibit B

Site Plan and Floor Plans
March 20, 2025

DRAFT

Exhibit C

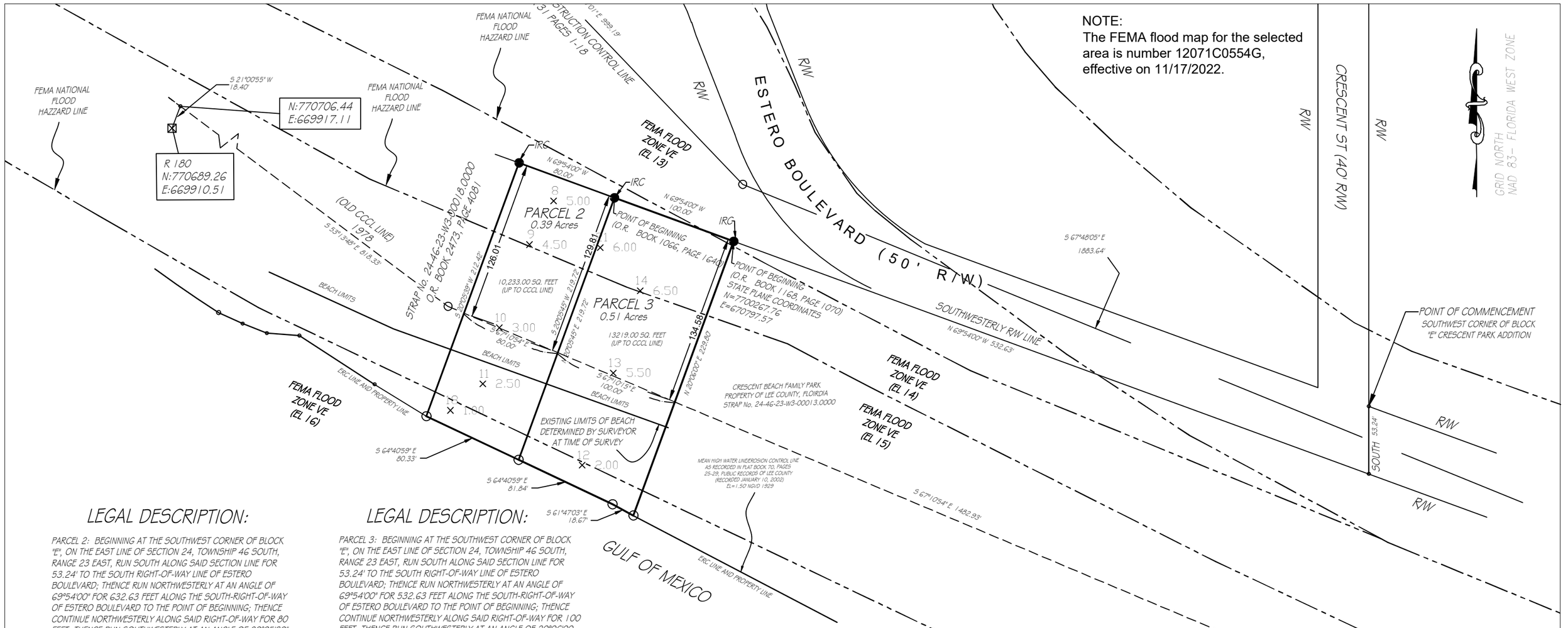
Conceptual Renderings
March 20, 2025

DRAFT

Exhibit A

Legal Description and Sketch of the Property:

DRAFT



LEGAL DESCRIPTION:

PARCEL 2: BEGINNING AT THE SOUTHWEST CORNER OF BLOCK "E", ON THE EAST LINE OF SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, RUN SOUTH ALONG SAID SECTION LINE FOR 53.24' TO THE SOUTH RIGHT-OF-WAY LINE OF ESTERO BOULEVARD; THENCE RUN NORTHWESTERLY AT AN ANGLE OF 69°54'00" FOR 632.63 FEET ALONG THE SOUTH-RIGHT-OF-WAY OF ESTERO BOULEVARD TO THE POINT OF BEGINNING; THENCE CONTINUE NORTHWESTERLY ALONG SAID RIGHT-OF-WAY FOR 80 FEET; THENCE RUN SOUTHWESTERLY AT AN ANGLE OF 20°05'39" FOR 126.01 FEET TO A POINT OF INTERSECTION WITH "COASTAL CONSTRUCTION LINE": THENCE RUN SOUTHEASTERLY ALONG SAID "COASTAL CONSTRUCTION LINE" TO A POINT ON A LINE PERPENDICULAR TO ESTERO BOULEVARD; THENCE RUN NORTHEASTERLY ALONG SAID PERPENDICULAR LINE AT AN ANGLE OF 20°05'45" FOR A DISTANCE OF 129.81 FEET TO THE POINT OF BEGINNING.

LEGAL DESCRIPTION:

PARCEL 3: BEGINNING AT THE SOUTHWEST CORNER OF BLOCK "E", ON THE EAST LINE OF SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, RUN SOUTH ALONG SAID SECTION LINE FOR 53.24' TO THE SOUTH RIGHT-OF-WAY LINE OF ESTERO BOULEVARD; THENCE RUN NORTHWESTERLY AT AN ANGLE OF 69°54'00" FOR 532.63 FEET ALONG THE SOUTH-RIGHT-OF-WAY OF ESTERO BOULEVARD TO THE POINT OF BEGINNING; THENCE CONTINUE NORTHWESTERLY ALONG SAID RIGHT-OF-WAY FOR 100 FEET; THENCE RUN SOUTHWESTERLY AT AN ANGLE OF 20°06'00 FOR A DISTANCE OF 129.81 TO A POINT OF INTERSECTION WITH "COASTAL CONSTRUCTION LINE":THENCE RUN SOUTHEASTERLY ALONG SAID "COASTAL CONSTRUCTION LINE" FOR 100 FEET TO A POINT ON A LINE PERPENDICULAR TO ESTERO BOULEVARD, ;THENCE RUN NORTHEASTERLY ALONG SAID PERPENDICULAR LINE AT AN ANGLE OF 20°06'00" FOR A DISTANCE OF 134.58 FEET TO THE POINT OF BEGINNING.

SURVEY FOR:

PERSAUD PROPERTIES FL INVESTMENTS

1028, 1046 ESTERO BOULEVARD
SECTION 24, TOWNSHIP 46, RANGE 23 EAST
TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA
FEBRUARY 28, 2024

SITE LOCATION
SECTION 24, TOWNSHIP 46, RANGE 23 EAST TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA

GENERAL SURVEY NOTES:

1. BASIS OF BEARING SHOWN HEREIN TAKEN FROM THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD, AS BEING N.69°54'00"W.
2. FIELD NOTES IN S.E. 1/4 SECTION 24-46-23
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 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. THIS SURVEY IS INTENDED TO BE VIEWED AS AN 11X17, 80 SCALE DRAWING.
10. ELEVATIONS ARE NORTH AMERICAN VERTICAL DATUM OF 1988 (N.A.V.D.)
    FLOOD ZONE, VE ELECATION: 14.00'
    FLOOD ZONE, VE ELEVATION: 15.00'
11. PARCEL ADDRESS:
    PARCEL 1: 1028 ESTERO BOULEVARD, FORT MYERS BEACH, FL 33931
    PARCEL 2: 1046 ESTERO BOULEVARD, FORT MYERS BEACH, FL 33931
12. DATE OF LAST FIELD WORK: 2/14/24

PLEASE NOTE

INFORMATION REGARDING THE PRESENCE, SIZE AND LOCATION OF UNDERGROUND UTILITIES MAY BE SHOWN HEREON. THE INFORMATION SHOWN MAY HAVE BEEN BASED ON THE LOCATION OF ABOVE GROUND APPURTENANCES, AVAILABLE DESIGN PLANS, AND/OR FLAGS AND PAINT PLACED BY THE UNDERGROUND PROTECTION SERVICE. NO CERTIFICATION IS MADE TO THE ACCURACY OF THOROUGHNESS OF THE INFORMATION CONCERNING UNDERGROUND UTILITIES AND STRUCTURES SHOWN HEREON. PER GEORGIA LAW, THE UNDERGROUND UTILITIES PROTECTION SERVICE MUST BE CALLED PRIOR TO THE COMMENCEMENT OF ANY AND ALL EARTH DISTURBING ACTIVITIES.

0 75 150 225

SCALE 1"=75'

ROYAL SURVEYORS, INC.
P.O. BOX 224 OCILLA, GEORGIA 31798
Phone: (229) 468-7108 Fax: (229) 468-7829 www.Royalsurveyors.net

ROYAL SURVEYORS, INC. OCILLA, GA (229) 468-7108

MITCHEL R. RHETT License No. 3931 STATE OF FLORIDA Original Signature and Raised Seal Required

M Rhett

Legend

- IRC: Iron Pin Set With Cap
- No Corner Set
- Iron Pin Found
- R/W MARKER FOUND
- FEMA FLOOD ZONES

Exhibit B

Site Plan and Floor Plans
March 20, 2025

DRAFT

HOSPITALITY | COMMERCIAL | MULTIFAMILY | RESIDENTIAL | PH: 239.437.8090 EMAIL: INFO@PDSinconline.com | FL License: AA26002474

PDS ARCHITECTURE

TIME SQUARE RESORT

FORT MYERS BEACH, FLORIDA

PERSAUD PROPERTIES FL INVESTMENTS LLC
361 SEMINOLE WAY
FORT MYERS BEACH, FL 33931

PDS ARCHITECTURE, INC.
12800 UNIVERSITY DRIVE, SUITE 402
FORT MYERS, FL 33907

SAGE ENTITLEMENTS
97 NICKAJACK N
SANTA ROSA BEACH FL 32459

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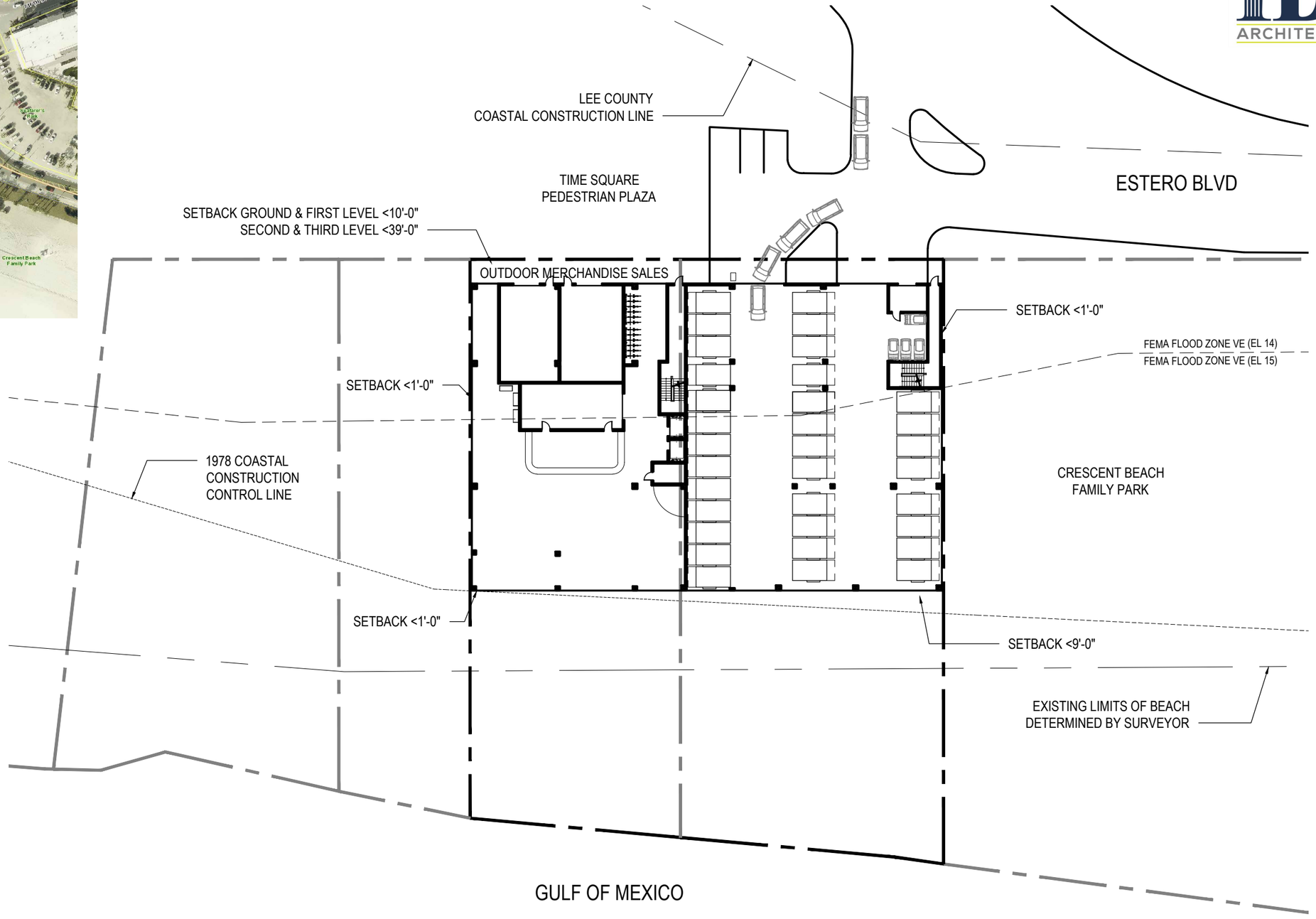
PDS ARCHITECTURE

FORM IS OUR FUNCTION

LOCATION MAP



SITE PLAN

3-20-25

PERSUAD PROPERTIES 1028 ESTERO BLVD - FT MYERS BEACH, FL

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12800 University Drive, Suite 402 | Fort Myers, Florida 33907

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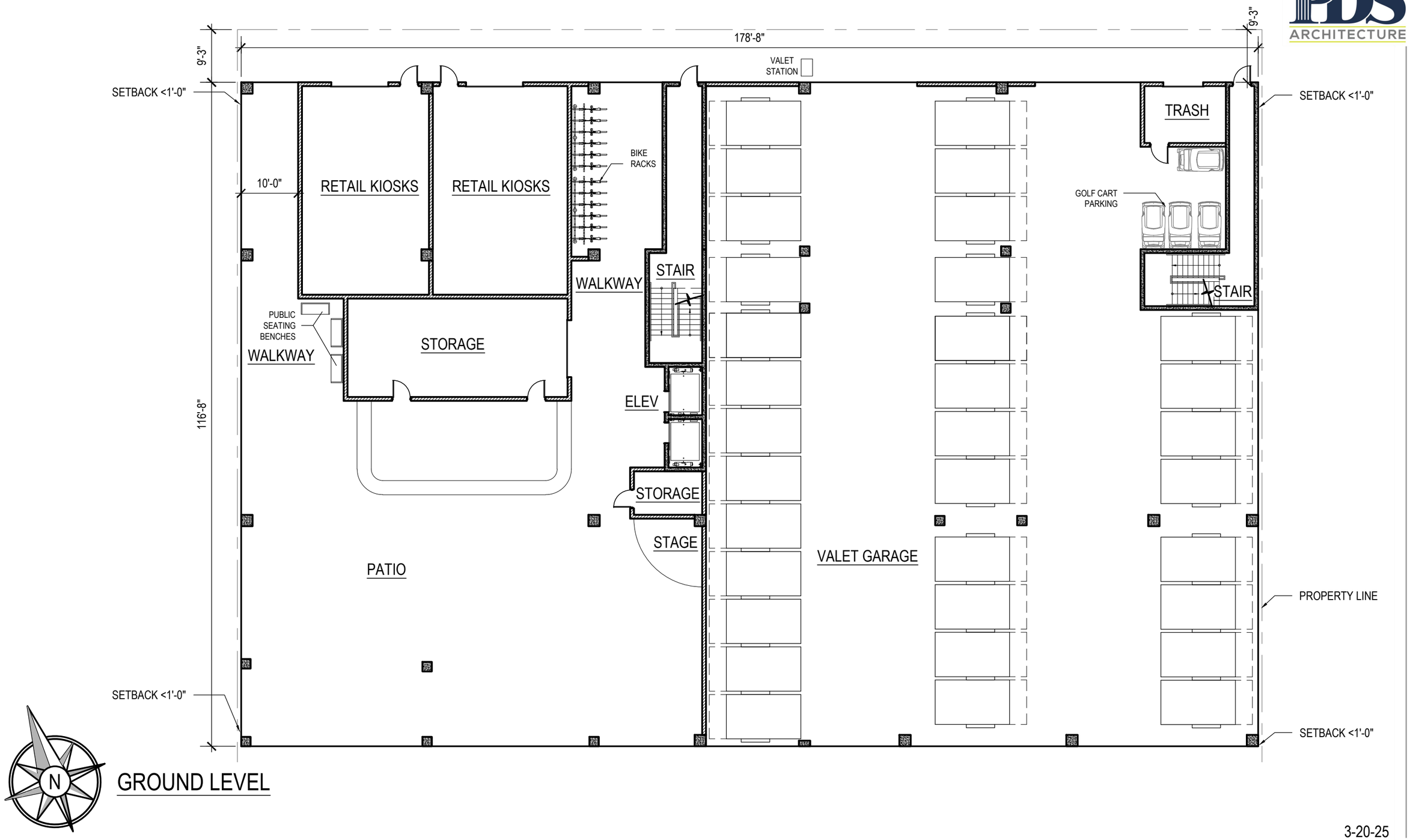

GROUND LEVEL

3-20-25

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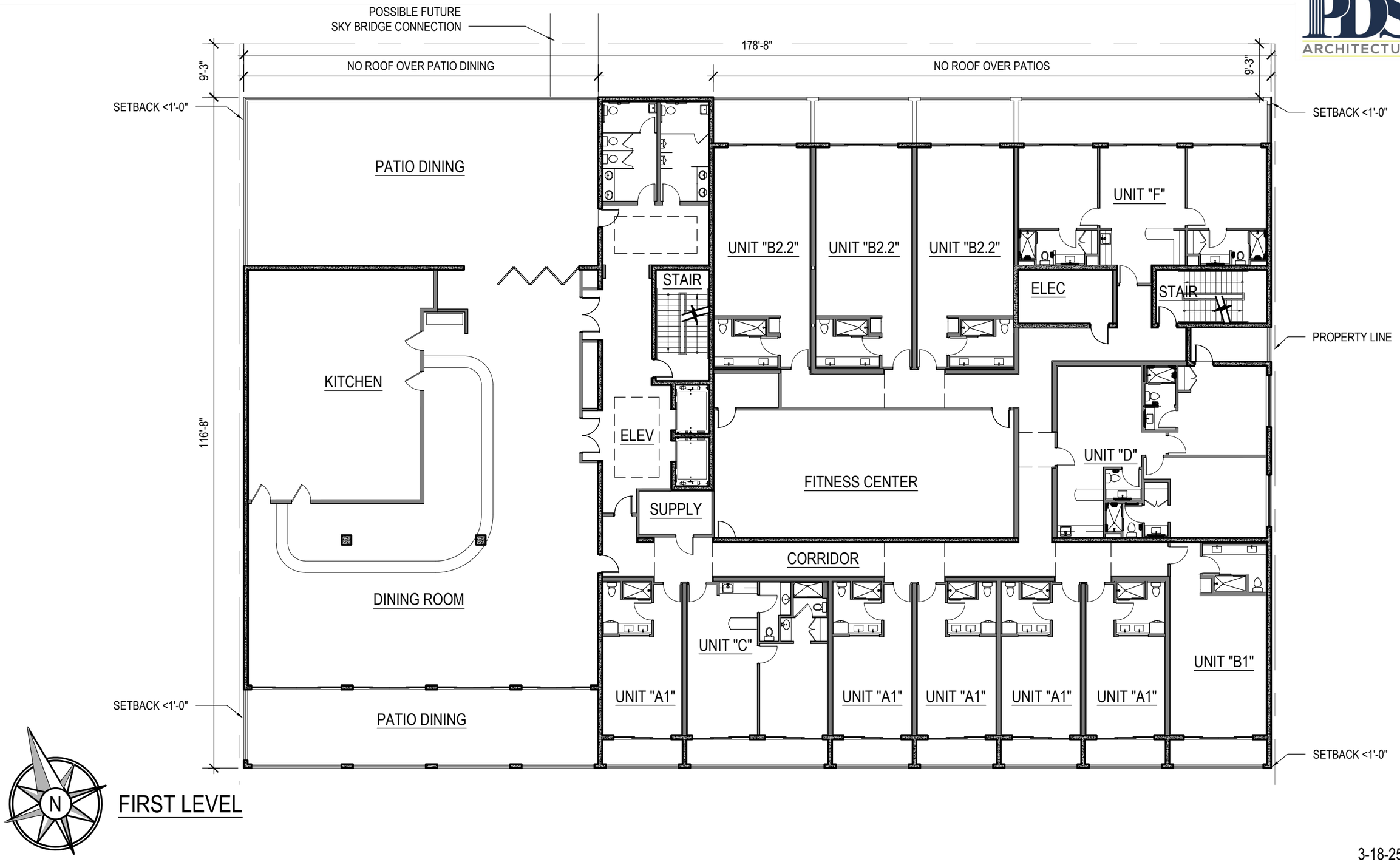

FIRST LEVEL

3-18-25

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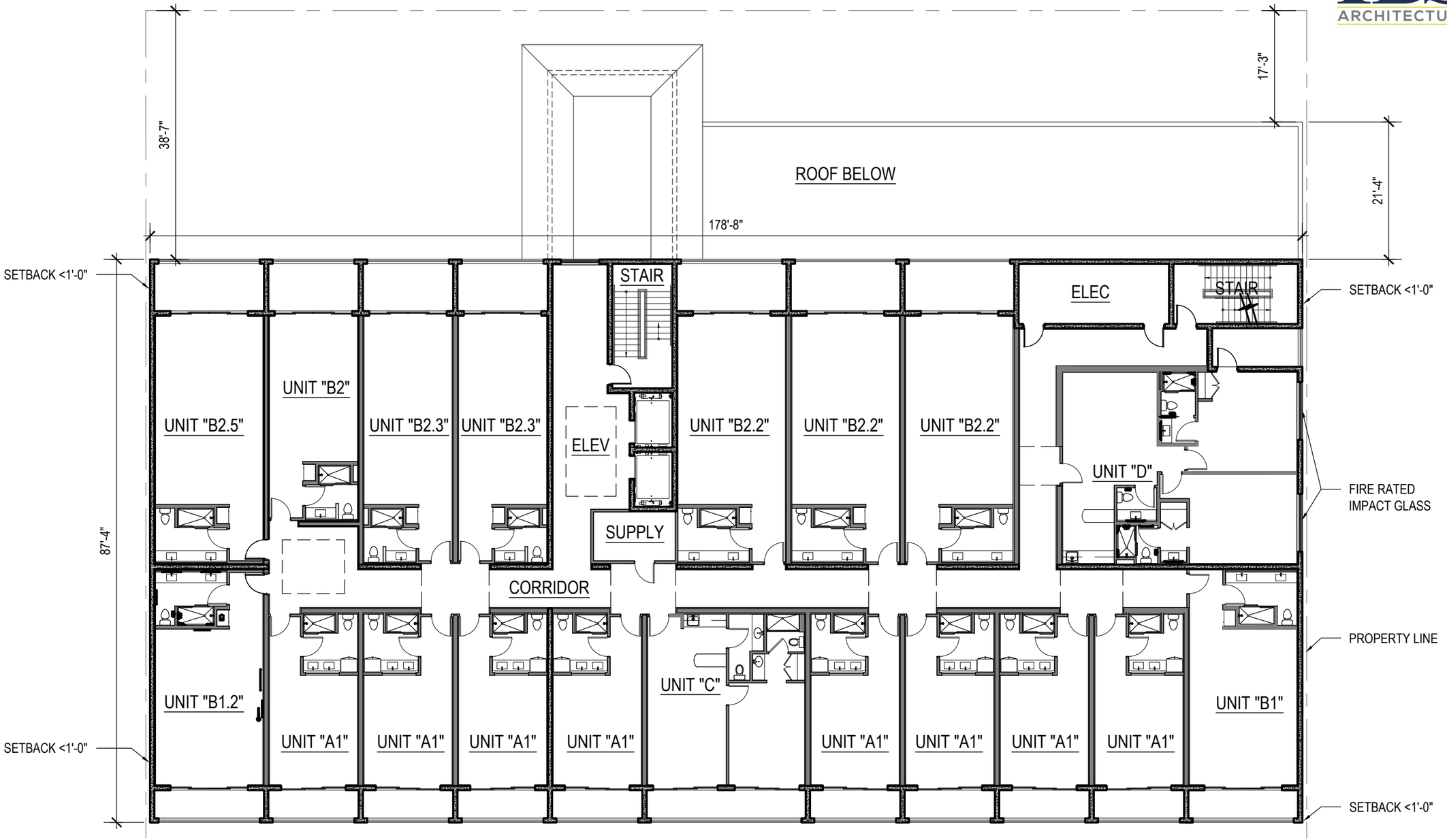

SECOND LEVEL

3-20-25

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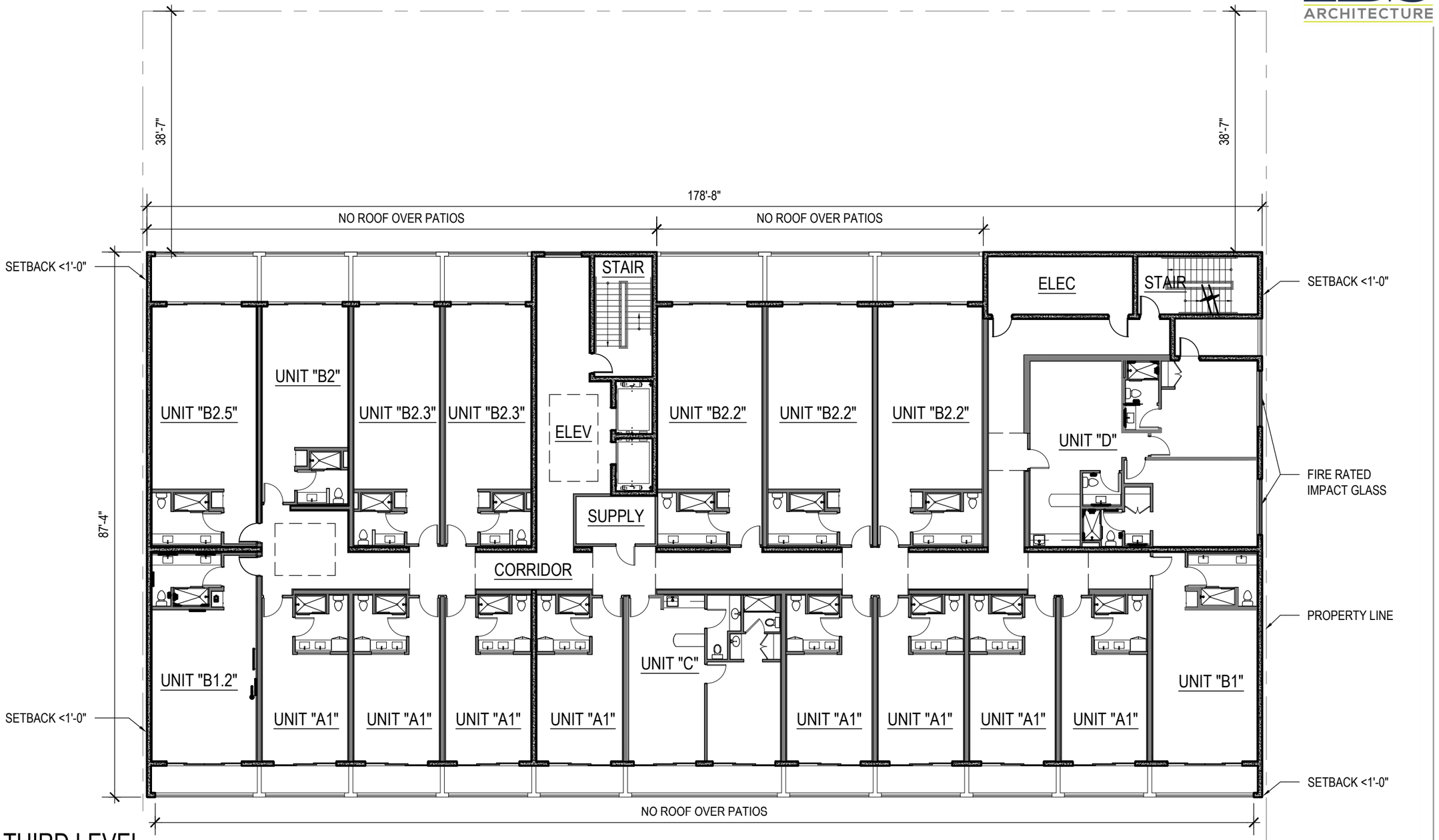

THIRD LEVEL

3-20-25

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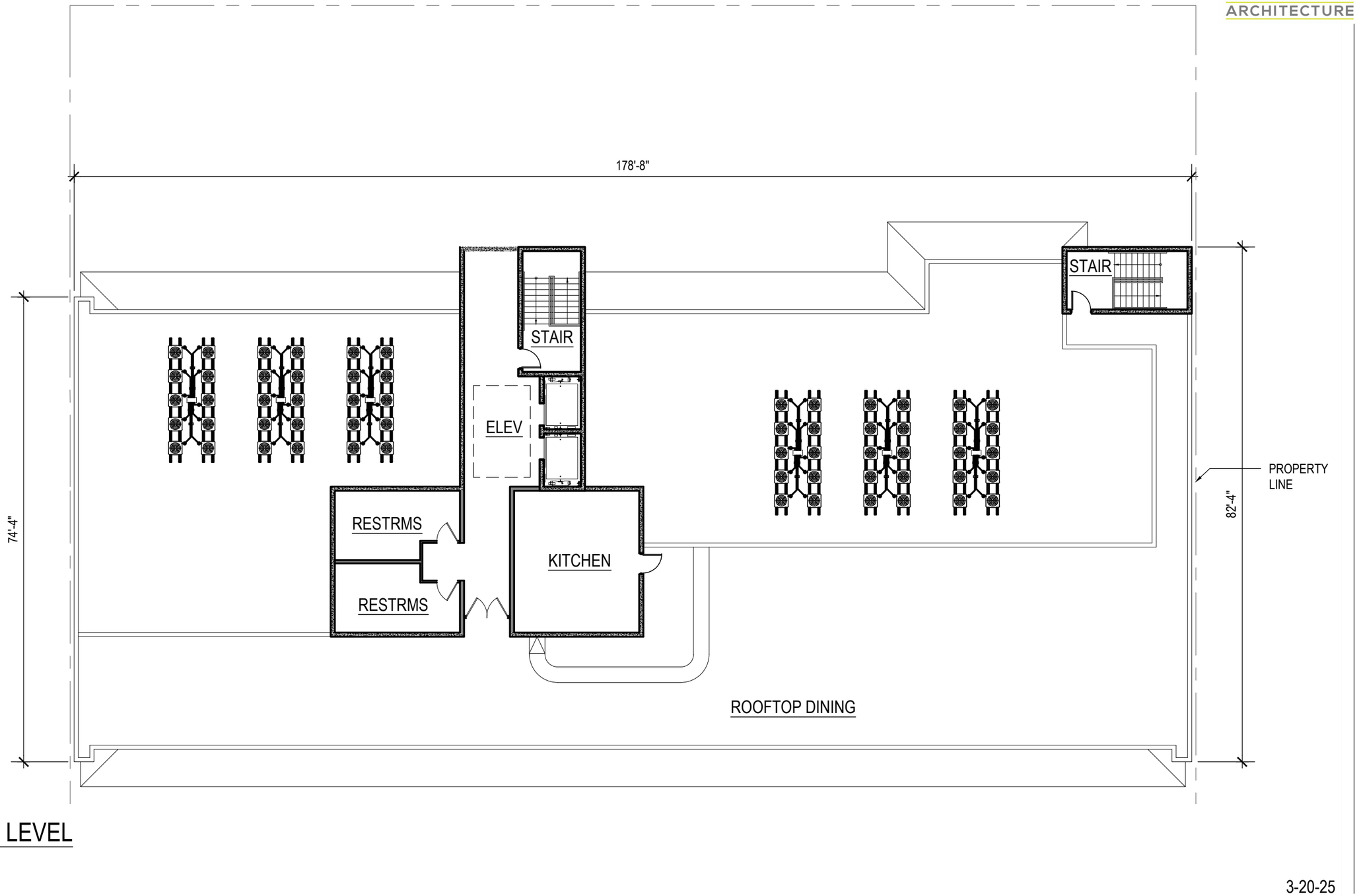

ROOF LEVEL

3-20-25

PERSUAD PROPERTIES 1028 ESTERO BLVD - FT MYERS BEACH, FL

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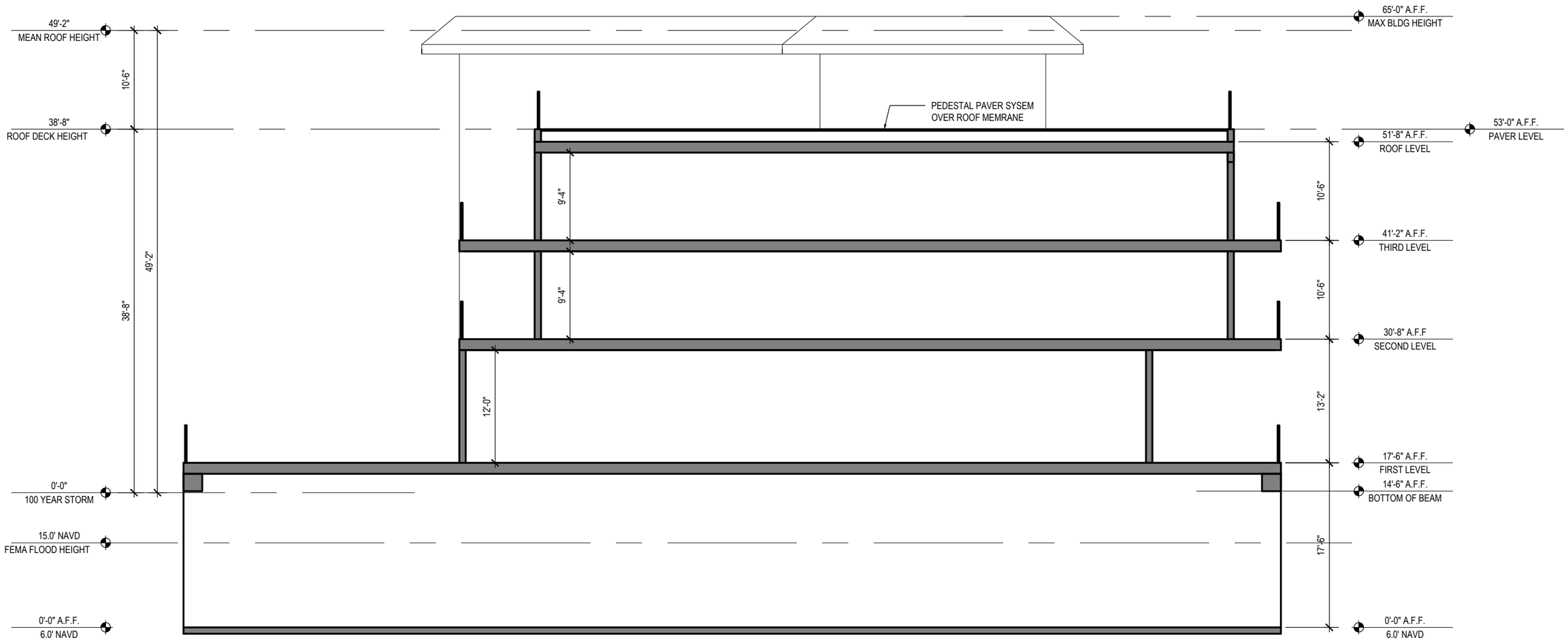

BUILDING HEIGHT DIAGRAM

4-24-25

PERSUAD PROPERTIES 1028 ESTERO BLVD - FT MYERS BEACH, FL

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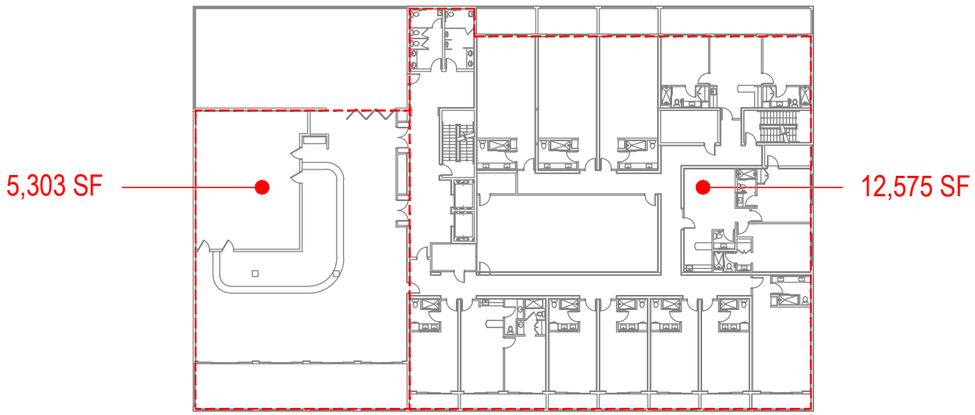
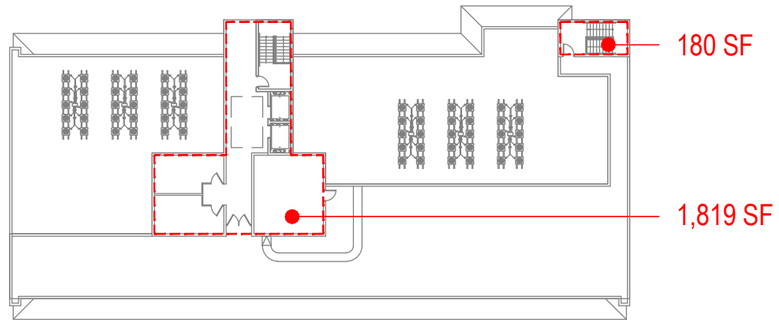
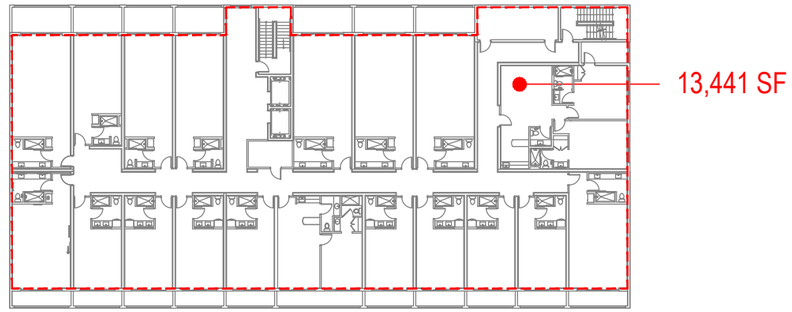


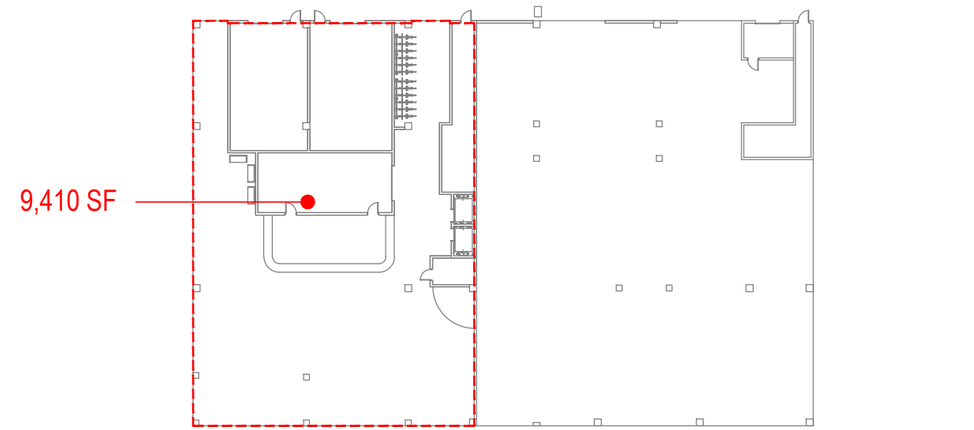
FIRST LEVEL



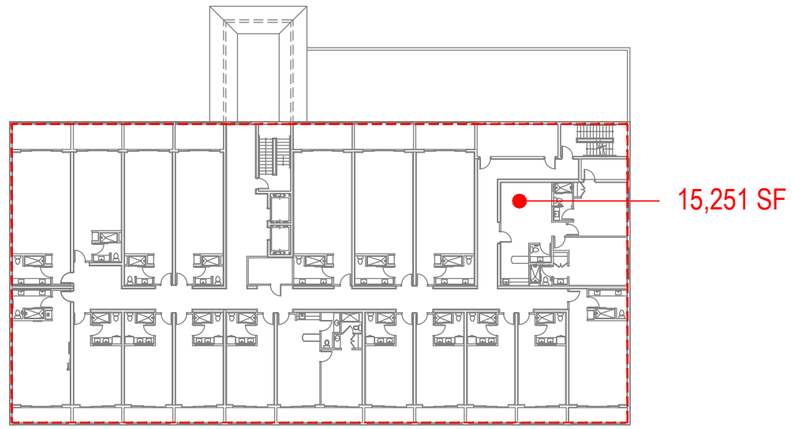
ROOF LEVEL



THIRD LEVEL



GROUND ELVEL



SECOND LEVEL

SITE AREA	23,450sf
FAR 2.5	58,625sf
GROUND LEVEL	9,410sf
FIRST LEVEL	17,878sf
RESTAURANT	5,303sf
HOTEL	12,575sf
SECOND LEVEL	15,251sf
THIRD LEVEL	13,441sf
ROOF DECK AMENITY	1,999sf
TOTAL BUILDING AREA	57,979sf

3-20-25

PERSUAD PROPERTIES 1028 ESTERO BLVD - FT MYERS BEACH, FL

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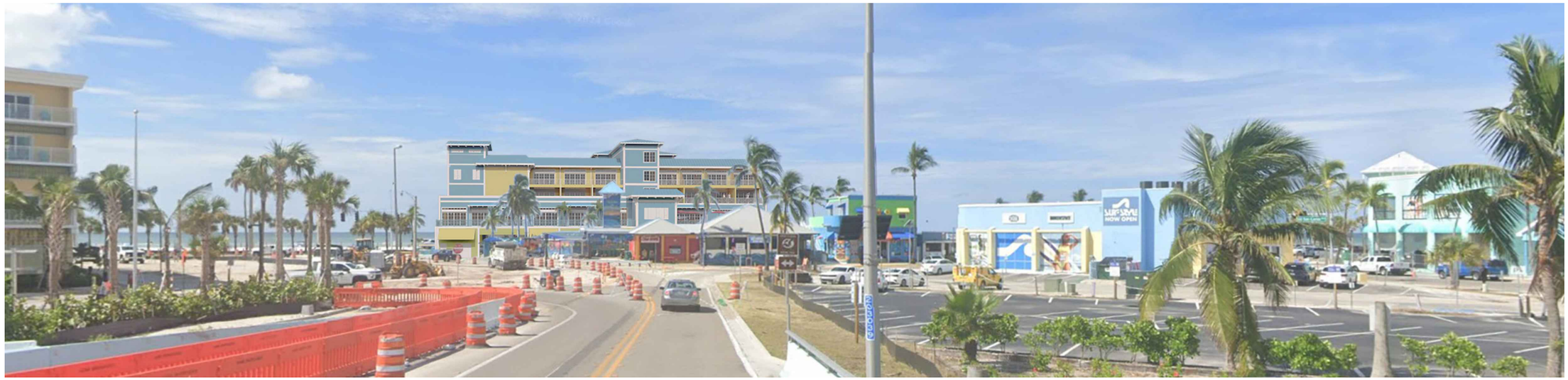
Exhibit C

Conceptual Renderings
March 20, 2025

DRAFT



3-20-25

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IN THE DISTRICT COURT OF APPEAL

OF FLORIDA

SECOND DISTRICT

PERSAUD PROPERTIES FL INVESTMENTS, LLC, Appellant, v. TOWN OF FORT MYERS BEACH, Appellee.	)	Case No. 2D19-1282

Opinion filed December 11, 2020.

Appeal from the Circuit Court for Lee County; Alane C. Laboda, Judge.

Jennifer R. Cowan, Kevin S. Hennessy, and Richard P. Green of Lewis, Longman & Walker, P.A., St. Petersburg; and Nicole J. Poot of Lewis, Longman & Walker, P.A., St. Petersburg (substituted as counsel of record), for Appellant.

Hudson C. Gill and Jeffrey L. Hochman of Johnson, Anselmo, Murdoch, Burke, Piper & Hochman, P.A., Fort Lauderdale, for Appellee.

BLACK, Judge.

Persaud Properties FL Investments, LLC, owns beachfront property in the Town of Fort Myers Beach. The property includes a restaurant and bar with a license to

sell alcohol on the premises, including permitting alcohol sale on the part of the property which extends into the Environmentally Critical zone—the beach. The property, by virtue of the ability to allow the sale and consumption of alcohol in the Environmentally Critical (EC) zone, had been a nonconforming use under the Town's municipal code of ordinances until a 2019 determination by the Town that Persaud had abandoned the nonconforming use of the property. Upon the abandonment determination, the property lost its status as a grandfathered nonconforming use and was required to comply with current zoning regulations, which prohibit alcohol sales in the EC zone. The trial court ruled in the Town's favor in Persaud's action for declaratory relief, inverse condemnation, deprivation of due process rights, and injunction and entered a judgment finding that the Town had properly determined that Persaud had abandoned the nonconforming use of the property. We reverse.

Persaud's property is located in two zoning districts in the Town: downtown, which permits the sale of alcohol and its consumption on premises, and EC, which prohibits alcohol sales. The Town adopted the ordinance at issue in 1995. At the time of the adoption, the property in question operated with a liquor license and sold and served alcohol in what was later zoned as EC. The prior owner of the property had a valid liquor license and when Persaud purchased the property it obtained the license, transferring it to the company. In October 2014, Persaud closed the bar and restaurant to begin extensive renovations. The Town was well aware of the renovations as various construction permits had to be issued and inspections had to occur; additionally, during the renovation period, multiple stop-work orders were issued by the Town. Upon completion of the renovations in October 2015, Persaud sought the necessary approval

to reopen and begin selling alcohol on the premises, including in the EC zone. During the one-year period of closure and at the request of Persaud, the property's liquor license had been held in escrow or "inactive status" by the Department of Alcoholic Beverages and Tobacco, a fact which had been known to the Town and which was important to a Town planner for purposes of the abandonment issue. Nonetheless, the Town advised Persaud that it could not sell alcohol in the EC zone because the nonconforming use had been abandoned pursuant to a provision of the Town's land development code. Persaud then filed suit against the Town.

The operative complaint included a count for declaratory relief, as well as counts alleging a taking under state law and deprivation of due process under the Florida Constitution and a count seeking a mandatory injunction. Both Persaud and the Town moved for summary judgment. After a hearing, the court entered judgment in favor of the Town on all counts.

The parties agree that there are no factual issues in dispute. Because our conclusion as to the entry of judgment in favor of the Town on the declaratory relief count renders moot the remaining issues on appeal, we address only the issue of whether the trial court incorrectly determined, as a matter of law, that Persaud had abandoned the nonconforming use of its property pursuant to the Town's land development code. "We review de novo the trial court's determination that the [Town] was entitled to—and that [Persaud] was not entitled to—a judgment as a matter of law." See Highlands-In-The-Woods, L.L.C. v. Polk County, 217 So. 3d 1175, 1178 (Fla. 2d DCA 2017); see also Harkless v. Laubhan, 278 So. 3d 728, 732 (Fla. 2d DCA 2019) (stating that review of the legal conclusions in a declaratory judgment is de novo (citing

Reed v. Honoshofsky, 76 So. 3d 948, 951 (Fla. 4th DCA 2011))). "Municipal ordinances are subject to the same rules of construction as are state statutes." Angelo's Aggregate Materials, Ltd. v. Pasco County, 118 So. 3d 971, 975 (Fla. 2d DCA 2013) (quoting Rinker Materials Corp. v. City of North Miami, 286 So. 2d 552, 553-54 (Fla. 1973)). However, "[s]ince zoning regulations are in derogation of private rights of ownership, words used in a zoning ordinance should be given their broadest meaning when there is no definition or clear intent to the contrary and the ordinance should be interpreted in favor of the property owner." Rinker Materials Corp., 286 So. 2d at 553; see also City of Miami Beach v. 100 Lincoln Rd., Inc., 214 So. 2d 39, 39 (Fla. 3d DCA 1968) ("Since zoning laws are in derogation of the common law, as a general rule they are subject to strict construction in favor of the right of a property owner to the unrestricted use of his property." (citing Wright v. De Fatta, 152 So. 2d 10, 14 (La. 1963))). Moreover, zoning ordinances, like statutes that are in derogation of the common law, "will not be interpreted to displace the common law further than is clearly necessary. Rather, the courts will infer that such a statute [or ordinance] was not intended to make any alteration other than was specified and plainly pronounced." See Essex Ins. Co. v. Zota, 985 So. 2d 1036, 1048 (Fla. 2008) (quoting Carlile v. Game & Fresh Water Fish Comm'n, 354 So. 2d 362, 364 (Fla. 1977)), superseded on other grounds by statute as recognized in Essex Ins. Co. v. Integrated Drainage Sols., Inc., 124 So. 3d 947, 951 (Fla. 2d DCA 2013). "[T]he presumption is that no change in the common law is intended unless the statute is explicit in this regard." Id. (emphasis omitted) (quoting Carlile, 354 So. 2d at 364); see also Major League Baseball v. Morsani, 790 So. 2d 1071, 1078 (Fla. 2001) ("The presumption is that no change in the common law is

intended unless the statute is explicit and clear in that regard. Unless a statute unequivocally states that it changes the common law, or is so repugnant to the common law that the two cannot coexist, the statute will not be held to have changed the common law." (quoting State v. Ashley, 701 So. 2d 338, 341 (Fla. 1997))).

At issue is the proper interpretation of section 34-1264(h)(2) of the Town's land development code.[1] Section 34-1264 is specific to the "sale or service for on-premises consumption" of alcoholic beverages, and it provides that "[a]n establishment engaged in the sale or service of alcoholic beverages may thereafter become a nonconforming use due to a change in regulations, as provided in division 3 of article V of this chapter." Town of Fort Myers Beach, Fla., Code of Ordinances, Appendix A–Land Development Code ch. 34, art. IV, div. 5, § 34-1264(h)(2) (2019); see Town of Fort Myers Beach, Fla., Code of Ordinances, Appendix A–Land Development Code ch. 34, art. V, div. 3, § 34-3241(a) (2019) ("Nonconforming uses generally. . . . For purposes of this division, the term 'nonconforming use' means a use or activity which was lawful prior to the adoption of any ordinance from which this code is derived, or the adoption of any revision or amendment to this code, . . . but which fails, by reason of such adoption, revision, or amendment, to conform to the use requirements where the property is

[1]Although Persaud argues that section 34-1264(h)(2) does not apply to its property because the nonconforming use was not authorized by "special exception, administrative approval, or other approval" as defined in section 34-1264, we do not address that assertion because it was not before the trial court. We therefore resolve this case without deciding whether section 34-1264(h)(2) is applicable to nonconforming uses, like Persaud's property, that were not authorized by "special exception, administrative approval, or other approval" but were preexisting lawful uses that become nonconforming uses through changes in the code and are permitted to continue pursuant to section 34-3241(c). See Town of Fort Myers Beach, Fla., Code of Ordinances, Appendix A–Land Development Code ch. 34, art. IV, div. 3, § 34-3241(c) (2019).

located."). Section 34-1264(h)(2) further provides that "[n]onconforming uses may continue until there is an abandonment of the permitted location for a continuous nine-month period" and that abandonment "mean[s] failure to use the location for consumption on the premises purposes as authorized by the special exception, administrative approval, or other approval." Town of Fort Myers Beach, Fla., Code of Ordinances, Appendix A–Land Development Code ch. 34, art. IV, div. 5, § 34-1264(h)(2).[2]

Persaud contends that a correct interpretation and application of the abandonment provision of the Town's code requires an intent to have abandoned the nonconforming use. In support of this argument, Persaud cites City of Miami Beach v. State ex rel. Parkway Co., 174 So. 443 (Fla. 1937), Peters v. Thompson, 68 So. 2d 581 (Fla. 1953), Sarasota County v. Bow Point on the Gulf Condominium Developers, LLC, 974 So. 2d 431 (Fla. 2d DCA 2007), Hobbs v. Department of Transportation, 831 So. 2d 745 (Fla. 5th DCA 2002), and Lewis v. City of Atlantic Beach, 467 So. 2d 751 (Fla. 1st DCA 1985). Persaud argues that the trial court erred in refusing to apply the common law as discussed in these cases to the issue of abandonment.

In City of Miami Beach, the supreme court concluded that the word "discontinued," as used in the city's nonconforming use ordinance, did not mean "a temporary cessation for the purpose of making repairs or extensions"; rather, it meant

[2]Section 34-3244, governing nonconforming uses generally, similarly provides that "[w]hen a nonconforming use is discontinued or abandoned for nine consecutive months, the use shall not thereafter be carried out or reestablished except in conformance with all current regulations." Town of Fort Myers Beach, Fla., Code of Ordinances, Appendix A–Land Development Code ch. 34, art. V., div. 3, § 34-3244 (2019). However, section 34-3244 does not define discontinue or abandon.

"a discontinuance of business of that sort at that place." 174 So. at 445. Peters similarly addressed a nonconforming use zoning regulation that included an "abandonment, or discontinuance" provision. 68 So. 2d at 582. In Peters, the court upheld the county's finding that the nonconforming use, the sale of alcoholic beverages within 1500 feet of another establishment selling alcoholic beverages, had been discontinued. Id. In reaching its conclusion, the court "noted that no effort [had been] made to renew the [liquor] license" during the period in which the property was closed. Id. This court, in Bow Point, very clearly held that the trial court had applied the correct law when it determined "that the suspension of Bow Point's motel operation for sixteen months during necessary repairs and renovations did not constitute a discontinuance of the nonconforming use." 974 So. 2d at 433.[3] Lewis expressly states that "[a]bandonment occurs when the landowner intentionally and voluntarily foregoes further nonconforming use of the property" and that "[t]emporary cessation of a

[3]Although City of Miami Beach, Peters, and Bow Point address "discontinuance" as applied to nonconforming uses, discontinue is defined as "to abandon or terminate," see Discontinue, Merriam-Webster.com, https://www.merriam-webster.com/dictionary/discontinue (last visited Oct. 15, 2020), and discontinuance provisions and abandonment provisions have been interpreted without distinction, compare Bow Point, 974 So. 2d at 432 ("[A] discontinuance provision is one of the methods by which nonconforming uses may be gradually eliminated over the course of time. Other methods include attrition, destruction, and obsolescence."), with Crandon v. State ex rel. Uricho, 28 So. 2d 159, 160 (Fla. 1946) ("[W]e are not required to determine whether 'discontinuance' as used in the resolution contemplates an intent to abandon the use of the property."), and Lewis, 467 So. 2d at 754-55 ("The general rule is that nonconforming uses may be eliminated by attrition (amortization), abandonment, and acts of God as speedily as is consistent with proper safeguards and the rights of those persons affected." (first citing Bixler v. Pierson, 188 So. 2d 681, 683 (Fla. 4th DCA 1966); and then citing 82 Am. Jur. 2d Zoning and Planning § 179 (1985))). But cf. Crandon, 28 So. 2d at 160 (noting that the court was not "required to say that discontinuance is synonymous with abandonment"). Moreover, it is clear in each of these cases that the intent of the property owner was considered when determining whether the nonconforming use had been discontinued.

nonconforming use or the temporary vacancy of buildings used for the nonconforming use does not operate to effect abandonment of the nonconforming use." 467 So. 2d at 755 (first citing 82 Am. Jur. 2d Zoning and Planning § 216 (1985); then citing City of Miami Beach, 174 So. at 445); and then citing Quinnelly v. City of Prichard, 291 So. 2d 295, 299 (Ala. 1974)). The final case cited by Persaud, Hobbs, reiterates the state of the law with regard to abandonment provisions in zoning ordinances. Citing both Peters and Lewis, as well as Crandon v. State ex rel. Uricho, 28 So. 2d 159 (Fla. 1946), Hobbs reaffirms that a nonconforming use is abandoned by the property owner only when there is an intent to do so. 831 So. 2d at 748-49; see also Abandon, Black's Law Dictionary (11th ed. 2019) (defining "abandon" as "[t]o relinquish or give up with the intention of never again reclaiming one's rights or interest in"); Abandon, Black's Law Dictionary (5th ed. 1979) ("[Abandon] includes the intention, and also the external act by which it is carried into effect."); Abandonment, Black's Law Dictionary (5th ed. 1979) ("In determining whether one has abandoned his property or rights, the intention is the first and paramount object of the inquiry, for there can be no abandonment without the intention to abandon.").

The zoning regulations in each of the cases cited by Persaud are indistinguishable from the ordinance at issue here in that each provided that a grandfathered nonconforming use would lose its grandfathered status upon the discontinuance or abandonment of the use for a set period of time. And like those ordinances, the abandonment provision of the Town's code does not explicitly and unequivocally announce that the common law does not apply to it; in fact, the Town's code of ordinances provides as a general rule that "[a]ll words and phrases shall be

construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning." Town of Fort Myers Beach, Fla., Code of Ordinances ch. 1, § 1-2.(a) (2019).

Further supporting our conclusion that abandonment as used in the Town's ordinance includes an intent element is the definition of "used for" in section 1-2. of the code: "The term 'used for' includes the term 'arranged for,' 'designed for,' 'maintained for,' and 'occupied for.' " Town of Fort Myers Beach, Fla., Code of Ordinances, Appendix A–Land Development Code ch. 1, § 1-2.(c) (2019). The evidence unequivocally supports the conclusion that Persaud was both maintaining and occupying the property for the sale of alcoholic beverages on the premises, including within the EC zone, as it had done previously and as the Town was fully aware.

Strictly construing the Town's ordinance in favor of the property owner, as we must, abandonment of a nonconforming use requires more than the passage of nine months while the property was closed for renovations; it requires voluntary cessation of the nonconforming use with the intent that the cessation of such use be permanent. The trial court erred in failing to apply the common law and in determining, as a matter of law, that Persaud had abandoned the nonconforming use of its property where there was no evidence that Persaud intended to discontinue selling alcohol in the EC zone.

Persaud did not abandon or discontinue the nonconforming use of the property during the one-year period of closure where renovations and construction were ongoing. Persaud is therefore entitled, under the applicable provisions of the Town's

municipal code, to maintain the property's status as a grandfathered nonconforming use. Our conclusion with regard to the declaratory action requires a reversal of the judgment as to all other counts. Cf. Lewis, 467 So. 2d at 755-56. Accordingly, we reverse the judgment in favor of the Town and remand for entry of a judgment in favor of Persaud on the declaratory relief count.

Reversed and remanded.

SMITH, J., and CASE, JAMES R., ASSOCIATE SENIOR JUDGE, Concur.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327

January 20, 2021

CASE NO.: 2D19-1282
L.T. No.: 17-CA-1026

PERSAUD PROPERTIES FL INVESTMENTS, LLC	v.	THE TOWN OF FORT MYERS BEACH, FLORIDA
Appellant / Petitioner(s),		Appellee / Respondent(s).

BY ORDER OF THE COURT:

Appellee's motion for rehearing and for clarification as to counts II and III is denied.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

HUDSON C. GILL, ESQ.
KEVIN S. HENNESSY, ESQ.
NICOLE J. POOT, ESQ.
LINDA DOGGETT, CLERK
JEFFREY L. HOCHMAN, ESQ.
MICHAEL E. CHIONOPOULOS, ESQ.
RICHARD PAUL GREEN, ESQ.

mep

Mary Elizabeth Kuenzel
Clerk

Tina M. Ekblad, MPA, AICP
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1028 & 1046 Estero Boulevard

Development Agreement Application

Project Narrative
April 16, 2025

Located in Lee County, Florida, the Town of Fort Myers Beach (“**Town**”) is a barrier island community that has developed over many years. Formally incorporated on December 31, 1995[1] the Town has a vision for its future growth outlined within the Comprehensive Plan (“**Comp Plan**”) and Land Development Code (“**LDC**”). Many properties within the Town are evaluating options for redevelopment. Initially these considerations were due to the damage from Hurricane Ian that occurred on September 28, 2022. However, the additional impacts associated with other weather events, Hurricane Helene on September 26, 2024, and Hurricane Milton on October 9, 2024, are also supporting redevelopment considerations. Over 2 years since the initial storm and five months after the most recent hurricanes, much of the Town continues to recover and rebuild with the implications of severe weather front of mind.

The recovery and rebuilding of commercial properties within the Town includes design features that reflect past development while incorporating new structures consistent with the new building code, floodplain and coastal setback regulations. The proposed development for 1028 and 1046 Estero Boulevard is the same. Identified by Parcels 24-46-23-W3-00017.0000 and 24-46-23-W3-00016.000 (“**Property**”) and purchased by Persaud Properties FL Investments, LLC on July 28, 2014 and May 6, 2016, the properties were previously developed with a restaurant and commercial parking lot.

Figure 1. Property Location

[1] Fort Myers Beach (“FMB”) Comprehensive Plan (“CP”), Community Design Element (“CDE”), Page 3-1

At .9-acres the Property is within the Downtown Core planning area, specifically District 2 Times Square, as well as the Pedestrian Commercial and Recreational future land use ("**FLU**") categories and the Downtown ("**Downtown district**") and Environmentally Critical ("**EC**") zoning districts. The proposed redevelopment of the Property seeks to re-establish the restaurant, retail and parking that existed on-site prior to Hurricane Ian and incorporate hotel units on the upper floors. This redevelopment plan will be accomplished through the requested Development Agreement and Site Plan with Deviations ("**DA**"). Deviations are requested to provide flexibility related to the site design and mixed-use structure while ensuring compliance to the maximum extent possible, with the Town's Land Development Code ("**LDC**"). Subsequent to the Development Agreement, formal applications will be filed for a Development Order ("**DO**") and building permit consistent with the Town's LDC.

I. BACKGROUND & ANALYSIS

a. Development Agreement Framework

On April 1, 2024 the Town Council approved Ordinance 24-73, which was amended by Ordinance 24-247 on November 18, 2024, outlining the process for the DA. These procedures establish:

> *"A Home Rule Development Agreement is a non-statutory development agreement authorized pursuant to the Town's home rule authority that may allow for approval of amendments, modifications, variances, deviations, or exceptions from the Town's Land Development Code, and, if appropriate under the provisions of the Town's Comprehensive Plan, relief from the building height limitation in the Comprehensive Plan. Approval of a Home Rule Development Agreement and the deviations provided for in such a Home Rule Development Agreement shall be considered tantamount to and commensurate to a planned development for purposes of determining consistency with the Comprehensive Plan."*

As part of the DA process, a specific finding is required to be provided that the "proposed project permitted or proposed is consistent with the Town's Comp Plan and LDC or that if deviations are necessary for the zoning district or land use plan designations on the subject land, such Development Agreement specifically lists such deviation in detail." Additionally, a statement is to be provided in the DA to "explicitly identify each instance of conflict with existing ordinances and expressly providing the for the Development Agreement to control…"

Persaud Properties FL Investments, LLC ("**Persaud Properties**") is submitting this DA application to establish a specific site plan with floor plans for the redevelopment of the Property and request deviations to promote redevelopment within the Times Square Pedestrian Plaza. The DA identifies the anticipated uses, density, intensity, duration of the agreement, proposed public benefits and the requested deviations to establish the conceptual parameters and guide the detailed review of future building plans and calculations that will be submitted with subsequent permits. Construction will not begin until all required permits are secured.

b. Property Background & Redevelopment

Prior to Hurricane Ian, the Property was developed with a restaurant, retail shops, and commercial parking lot. In 2014, the former Top O' Mast restaurant was sold to the current owner and remodeled into the Sunset Beach Tropical Grill, a 8,244 square foot family-style restaurant, with 760 square foot retail (ice cream store and gift shop) fronting the pedestrian plaza. The former structure had 0 foot setbacks on the sides and rear of the Property with a 2 foot setback along the frontage of the pedestrian plaza. The Top O'Mast had been located on the Property for approximately 40 years prior to the sale in 2014. The Property is located within a redevelopment area identified by the Comp Plan[2] and LDC.[3] The intent of the redevelopment area is to "simulate the revitalization of the downtown core area (near Times Square) as the nucleus of commercial and tourist activities."[4] Implementing this intent, Policies 3-D-1 thru 3-D-9 describe the anticipated redevelopment for the Downtown Core Area to promote sidewalk improvements and pedestrian circulation, improve parking, design streetscaping, and implement stormwater management. The Downtown district implements these policies by "…create[ing] the desired quality and character for the center of pedestrian-oriented commercial activities within the Town."[5] "New commercial buildings are expected to accommodate pedestrians by providing storefronts near sidewalks and by offering shade and shelter along major streets."[6] The Downtown district includes by-right property development regulations related to building placement, setbacks, frontage, height, floor area ratio, and parking reductions based on street frontage.

The proposed redevelopment maintains the previous primary use of the Property - a restaurant, retail, and parking - while incorporating boutique hotel units into the upper floors. Due to the Property's location within the Velocity ("**VE**") flood zone, the ground level uses are generally open with enclosed area proposed to utilize breakaway walls and roll up doors. A 10-foot-wide public walking path and a public gathering area are proposed within the first (ground) floor of the building near the western property boundary. The DA request incorporates several deviations to the by-right property development regulations to support the proposed redevelopment and remove encroachments into the Times Square Pedestrian Plaza.

c. Comprehensive Plan

The Town adopted the Comp Plan in 1999 and since that time it has not been evaluated comprehensively for consistency with State building codes, coastal building regulations and the Federal floodplain requirements. Per the FLU map, the Property is within 2 FLU designations, Pedestrian Commercial and Recreation.

Pedestrian Commercial – described by Policy 4-B-6 as "a primarily commercial district applied to the intense activity centers of Times Square… For new development, the maximum density is 6 dwelling units per acre… Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet

[2] FMB, CP, Future Land Use ("FLU") Policy 4-F-2
[3] Downtown Zoning District.
[4] FMB, CP, FLU Objective 3-D
[5] FMB, Land Development Code ("**LDC**") Section 34-671
[6] Ibid¡

the design concepts of this plan and the Land Development Code. Where commercial uses are permitted, residential uses are encouraged in upper floors." At the time of adoption, 58.9% of land area within the Pedestrian Commercial FLU was non-residential. The requested redevelopment retains the non-residential uses of the Property from the adoption of the FLU category and does not alter this previous percentage.

Recreation – the portion of the Property seaward of the 1978 Coastal Construction Control Line is within the Recreational FLU. Consistent with Policy 4-B-8, this portion of the Property is not proposed for structural redevelopment but is included in the Boundary Survey attached to the Development Agreement.

The Property has a State level approval for outdoor consumption on premises that incorporates the sandy beach beyond the 1978 CCCL. The Owner has retained this approval and plans to continue to provide this service with the redevelopment of the Property consistent with the December 11, 2020 decision and January 20, 2021 reaffirmation for *Persaud Properties FL Investments LLC v. Town of Fort Myers Beach, No. 2D19-1282 (Fla. 2d DCA 2019).*

In addition to the FLU categories, the Property is also within the Downtown Core planning area which guides the character of development within the area. The Comp Plan breaks the Downtown Core Area into four districts; the Property is within District 2, Times Square. The Times Square area is the historic commercial center of the Island dating as far back as 1940[7] and the concentration of commercial uses previously developed in this area was identified as a positive attribute for the Town.[8] This planning area is described as "... the lively commercial/tourist center of town, is on the upswing following the recently completed CRA improvements. The new pedestrian mall, with its palm trees and outdoor dining areas, sets the design theme for further public and private improvements."[9] This vision is described in Objective 3-D and Policies 3-D-1 through 3-D-9[10] and as related to the Property describes interconnected pedestrian circulation, improving parking related to Times Square and implementing stormwater management systems.

Prior to Hurricane Ian, District 2, Times Square included a mix of intense ground level commercial development flanking a pedestrian mall that could not be easily duplicated due to the floodplain regulations that existed at the time the Comp Plan was adopted in 1999.[11] Since that time, the floodplain regulations have only grown more restrictive. Unfortunately, this planning area (and the others) have not been updated for consistency with changes in State building codes, coastal building regulations and Federal floodplain requirements. Today, redevelopment cannot include permanent enclosed ground level commercial space due to Times Square Pedestrian Plaza being within a Velocity flood zone. Specifically, enclosed usable space constructed on the Property needs to be elevated above

[7] FMB, CP, CDE, page 3-3
[8] FMB, CP, FLU, page 4-27
[9] FMB, CP, CDE, page 3-4
[10] **Note:** Policy 4-F-2 identifies that the Times Square Redevelopment Plan is outlined in Community Design Element Policies 3-D-1 to 3-D-13. However, Policies 3-D-10 through 3-D-13 are no longer included in the Comp Plan.
[11] FMB, CP, FLU, page 4-27

a minimum Base Flood Elevation (“**BFE**”) of 14 to 15 feet and a minimum of 20 feet to comply with the FDEP 100 year flood elevation.

To balance the vision of the Comp Plan with the federal floodplain requirements, the proposed redevelopment utilizes breakaway walls and roll up doors to organize retail space fronting the pedestrian plaza and an open air restaurant service bar on the first floor. Due to the minimum elevation associated with the FDEP 100 year storm, the first (ground) floor is more than 20 feet in height enabling the area between the FEMA BFE of 15 feet and FDEP 100 year flood elevation of 20 feet to be utilized for mechanical, electrical and plumbing infrastructure to support the desired first (ground) floor uses. All materials below the required flood elevations will be breakaway construction and quick disconnect consistent with current FEMA standards. A minimum 10-foot-wide public walkway is provided within the structural footprint and along the western property boundary to provide pedestrian interconnectivity between the Times Square Pedestrian Plaza and the sandy beach. Parking lifts are proposed to provide parking in excess of the requirements of the Downtown zoning district and support the desired commercial intensity. As the structure increases in height, the building façade fronting the Times Square Pedestrian Plaza incorporates open patio spaces and steps back to increase the separation from the adjacent pedestrian plaza and provide architectural interest. Additionally, in recognition of the by-right property development regulations in this area, an opportunity for future pedestrian bridge connections is provided on the second floor to the north and west.

The uses proposed for the Property are consistent with the visioning statements of the comp plan, the Pedestrian Commercial FLU category, and Downtown zoning district. As a primarily commercial district, the Pedestrian Commercial FLU supports the most intense commercial development within the Town.[12] The Times Square Pedestrian Plaza has the greatest flexibility in property development regulations and FAR within the Downtown zoning district.[13] The requested FAR and associated deviations are also consistent with the Pedestrian Commercial FLU and locations for commercial uses outlined in Policy 4-C-3 by providing additional commercial intensity on an existing commercial property within an identified commercial activity center of the Town[14] without existing residential units. The redevelopment of the previous restaurant, retail, and parking with the additional boutique hotel use are all considered commercial uses permitted by the Downtown zoning district.

The Comp Plan also considers requests for additional height in Policy 4-C-4; which specifically indicates “different heights may be applied to officially designated redevelopment areas such as Times Square…” The Town is to consider the requests “after evaluating the level of unfairness that would result from the specific circumstances and the degree the specific proposal conforms with all aspects of the comprehensive plan…” with particular attention to any permanent view corridors and the public benefits resulting from the proposal. The Downtown zoning district permits properties abutting the Times Square Pedestrian Plaza to have a height of 3 stories and 30 feet by right, taller than the standard reference in Policy 4-C-4 by-right.

[12] FMB, CP, FLU, Policy 4-C-2
[13] FMB, LDC Section 34-671thru 34-676
[14] FMB, CP, FLU, Policy 4-B-6

The proposed redevelopment of the Property includes a deviation to increase the height of the structure to 4 stories and 39 feet 42 inches above the 100 year flood elevation for the mean roof height of the structure. Based on the negotiations with Town Staff, the applicant has incorporated a rooftop sunset terrace and service bar that will be open to the public. The proposed design for the sunset terrace and service bar, increases the mean roof height to 52 feet 8 inches above the 100 year storm elevation.

The Property's development area is limited to 23,452 square feet (.53 acres) by the 1978 Coastal Construction Control Line ("**CCCL**") which limits the developable depth of the Property to 126 to 134 feet and approximately 180 feet of frontage along the Times Square Pedestrian Plaza, a very limited area for a commercial structure. As a result of the Federal floodplain regulations prohibiting enclosed commercial space on the first (ground) floor, the applicant is requesting additional height to utilize the maximum commercial square footage permitted by the Comp Plan and provide the desired public access rooftop terrace. Supporting this request, the applicant has incorporated several public benefits as outlined later in this narrative:

- A minimum 10-foot pedestrian walkway under cover from the pedestrian plaza to the sandy beach;
- A refresh station adjacent to the walkway and under cover for public gathering and relaxation that includes public benches, a footwash, and water fountain;
- An increased front building setback to eliminate encroachment into the pedestrian plaza;
- Times Square paver replacement and funding;
- Public bicycle parking;
- Ground (first) floor retail;
- Rooftop Sunset Terrace and Service Bar

The proposed redevelopment is consistent with the Town's Comp Plan, provides the design concepts encouraged and anticipated by Policies 3-D-1 to 3-D-9, 4-F-2, and establishes appropriate public benefits for the requested height increase consistent with Policy 4-C-4.

d. Downtown Zoning District

The Property is within a redevelopment zoning district known as Downtown, which implements Policies 3-D-1 through 3-D-9 of the Town's Comp Plan. The purpose of the Downtown district is to "...create the desired quality and character for the center of pedestrian-oriented commercial activities within the Town."[15] "New commercial buildings are expected to accommodate pedestrians by providing storefronts near sidewalks and by offering shade and shelter along major streets."[16] The Downtown district includes by-right property development regulations related to building placement, setbacks, frontage, height, floor area ratio, and parking reductions based on street frontage. The proposed design provides many of the property development regulations envisioned when the Downtown district was established in 2003 by Ordinance 03-03 and adapts to the new floodplain and coastal building requirements.

[15] FMB, LDC Section 34-671
[16] Ibid¡

To achieve the desired "strengthened mix of businesses and services; reduction of traffic congestion and pedestrian vehicular conflicts"[17] and improve parking to serve the businesses and visitors as described by the Town's Comp Plan within the Downtown Core, commercial intensity is necessary. Times Square is described as "... the lively commercial/tourist center of town, is on the upswing following the recently completed CRA improvements. The new pedestrian mall, with its palm trees and outdoor dining areas, sets the design theme for further public and private improvements."[18] Prior to Hurricane Ian, Times Square was a variety of intense ground level commercial development flanking a pedestrian mall. This unique configuration was identified as an appropriate location commercial square footage and described as "an urban beach environment" that the comp plan desired.[19] As the "lively commercial/tourist center"[20] of Town it is appropriate to not only re-establish the previous commercial uses but incorporate additional commercial intensity to support the existing and anticipated retail due to the lack of residential in the nearby area.

Prior to Hurricane Ian, across the Times Square Pedestrian Plaza (north) from the Property were retail and restaurant uses. Local Color and West Coast Surf Shop, two retail locations, have not returned after Hurricane Ian. The La Ola Surfside restaurant has returned to the area utilizing a trailer for the preparation and sale of food with outdoor seating and entertainment. Other trailers had been preparing and selling food with outdoor seating and entertainment. Although given the current FEMA directives relative to these temporary structures, many have been removed.

The parcel adjacent to the Property to west was open retail and beach rentals. Historical Google Earth imagery demonstrates no permanent structures were constructed. Further west was the former Kilwins/Dairy Queen and County Pier. Since Hurricane Ian, no new structures or trailers have returned to these parcels and the Dairy Queen was recently cleaned up. However, given the location and past uses of these properties it is anticipated the future redevelopment will be with permanent structures for commercial uses. The proposed redevelopment of the Property is consistent with the former and future anticipated uses of the adjacent properties to the north and west.

Beyond the Times Square Pedestrian Plaza, along the Gulf, to the east and west are 2 Lee County Parks. To the west is the Lynn Hall Memorial Park which includes paid public parking with public beach access. Prior to the hurricane the park also provided public restrooms and picnic facilities. To the east is the Crescent Beach Family Park which previously provided temporary bathroom facilities and public beach access. Due to the recent hurricanes the park is currently closed. Generally, when open and fully operational, these Lee County parks are accessible from Dawn to Dusk. The proposed redevelopment of the Property is complimentary and consistent with these public facilities, providing members of the public with locations to purchase food, small retail goods, and pedestrian interconnectivity between public beach access and the public pedestrian plaza.

[17] FMB, CP, CDE, page 3-5
[18] FMB, CP, CDE, page 3-4
[19] FMB, CP, FLU, page 4-27.
[20] FMB, CP, CDE, page 3-4

e. Requested Development

The proposed development seeks to reestablish the previous commercial uses that occurred on-site and incorporate boutique hotel units. Prior to submitting the Development Agreement application, a community meeting was held on June 11, 2024 at the Diamond Head Resort to present the preliminary plans for the Times Square redevelopment; which includes the Property. Generally, the initial renderings were received positively, however several adjustments were made to achieve the current design.

- 10-foot front setback – Increasing the front setback from the required 0-foot build-to-line eliminates encroachments into the pedestrian plaza. The applicant has committed to enhancing this area with benches, landscaping, shade structures, etc for the public and will coordinate the appropriate location with Town Staff during the development order process.
- Second floor outdoor patio – Two usable outdoor patios supporting the restaurant are proposed on the second floor at the front and rear facades establishing usable outdoor space and promoting interaction with the pedestrian plaza and sandy beach below.
- Future pedestrian bridge connections – Provided along the north and west façade to promote interconnection with adjacent parcels when developed.
- Third and Fourth Floor setback – The front structural setback of the third and fourth floors has been increased from the first (ground) floor setback by 29 feet ensuring the adjacent pedestrian plaza remains open.
- Rooftop Sunset Terrace – The roof will be publicly accessible to provide public gathering and unobstructed views of the Gulf to the public.
- Mansard Roof – Appropriately screens rooftop equipment from the pedestrian plaza and view from San Carlos Bridge.

The maximum development parameters of the Property will be 58,625 square feet of commercial uses to promote retail, restaurant, and hotel rooms. A deviation is requested to eliminate the ground floor parking from the Floor Area Ratio (“**FAR**”) calculations. The Development Agreement includes a Site Plan, Floor Plans and Conceptual Renderings of the proposed design and enhanced concepts for the proposed structure to guide the future detailed architectural elevations and address the needed flexibility from the Commercial Design Standards to accompany future permit applications.

i. First (Ground) Floor

Ground floor commercial and enclosed residential space is required by the Commercial Design Standards of the Town’s LDC and cannot be provided with the changes made to the floodplain mapping and regulations from 2008 onward. The Property is within a VE flood zone and FDEP 100 year floodzone which requires significant elevation of enclosed space and severely limits the enclosures and improvements that can occur at the ground level. Consistent with Goal 4, the proposed site design capitalizes on the beach-resort environment provided by the Property’s location between the Times Square Pedestrian Plaza and the sandy beach. The uses proposed for the first (ground) floor reflect the uses previously developed on the Property; retail fronting the pedestrian plaza, a service bar, and a parking lot adjacent to Crescent Beach Family Park. Public amenities and a pedestrian walkway are proposed to promote interconnectivity between the pedestrian plaza and sandy beach.

1. Parking

Consistent with the previous development, the eastern portion of the first (ground) floor is proposed to be utilized for parking with vehicle lifts to exceed the parking requirements of the Downtown zoning district. The FDOT design plans for Fifth Street and Matanzas Pass Bridge maintain the vehicular access to Estero Boulevard, which will lead to the proposed valet parking consistent with the previous access and parking on-site. The Downtown zoning district does not require parking for properties adjacent to the Times Square Pedestrian Plaza.[21] However, the proposed redevelopment increases the commercial intensity of the Property and the 3 anticipated public parking garages[22] within the Downtown zoning district have not been constructed. Consistent with Policy 3-D-5, the redevelopment plan incorporates a parking area with vertical car lifts to provide vehicular parking that supports the boutique hotel rooms, which are a new commercial use for the Property. Due to the limited area available for a commercial structure, the applicant is proposing to utilize a valet parking service and vertical car lifts. The valet service will ensure that cars are appropriately parked in the lifts and transitioned as needed based on length of stay. Additionally, the valet will be on hand to monitor vehicular access from Estero Boulevard as compared to the movement of pedestrians toward the Times Square Pedestrian Plaza eliminating conflicts.

Based on the proposed floor plans and required parking ratios for hotel rooms as outlined in the LDC, 66 parking spaces are required to support the hotel. The proposed design provided 33 car lifts, or 66 vehicle spaces for cars, in excess of the standard LDC requirement and the 67% reduction permitted for other properties within the Downtown zoning district.

	Rooms	**Spaces**	**Total Spaces**
Less than 450 SF	23	1.2	25.2
Greater than 450 SF	27	1.5	40.5
		Total Spaces Required	**65.7**

Table 1. Required Parking Calculations

2. Commercial Area

To promote a pedestrian-oriented public realm as desired by Objective 4-A, the design provides an increased front building setback and incorporates open air retail on the first (ground) floor fronting the pedestrian plaza. The area of the increased setback is proposed to be enhanced with benches, landscaping, shade structures, etc to encourage interaction between the public within the pedestrian plaza and proposed commercial retail.

Approximately 9,410 square feet[23], the western portion of the first floor, is proposed to be utilized for commercial retail, service bar, bicycle parking, and pedestrian activity. While much of these uses are open-air, the square footage is included in the FAR calculations for the proposed structure. The design for the retail areas includes roll up doors and break away walls to provide separation and

[21] FMB LDC Section 34-676(a)(3)
[22] FMB LDC Section 34-676(e)
[23] Consistent with LDC Section 34-633(1) this measurement is the inside face of the structure.

maintain compliance with Federal floodplain regulations. To activate the pedestrian plaza, as envisioned by the Times Square sub-district, the retail space is proposed at the front of the structure.

To further promote pedestrian circulation as desired by Policies 4-A-2 and 4-A-4, a minimum 10-foot-wide pedestrian walkway is provided undercover of the second story from the pedestrian plaza to the sandy beach along the western property boundary. Adjacent to the proposed walkway is additional public seating to provide an area for gathering and interaction with a footwash and water fountain also proposed. At the rear of the first (ground) floor is an open-air service bar and patio area for additional gathering and interaction. With the adjacent Crescent Beach Family Park, the proposed design will support walk-up patrons from the park in addition to the connection provided from the Times Square Pedestrian Plaza.

Collectively, the front setback enhancements, walkway, public benches and refresh station, service bar and patio promote increased public interactions at the ground level from the Times Square Pedestrian Plaza through the property to the sandy beach as well as with the adjacent Crescent Beach Family Park to the east consistent with Policies 4-A-1, 4-A-2, and 4-A-4.

3. Replacing Pedestrian Plaza Pavers

Beyond the limits of the Property, the applicant is proposing to collaborate with the Town to replace the existing damaged colored Times Square pavers with a sustainable material. The applicant has agreed to coordinate with Town Staff to provide the funds representing the Property's proportionate share of the replacement cost associated with removing the pavers and installing a new sustainable material.

ii. Second, Third and Fourth Floors

The second floor is designed to support 5,303 square feet utilized for a commercial restaurant and 12,575 square feet for 12 boutique hotel rooms. The third and fourth floors support 28,692 square feet and with 38 boutique hotel rooms. A fitness area, bathrooms, electrical equipment, elevators, stairs and supply areas are included in the square footage calculations provided.

1. Restaurant with Outdoor Patios

The restaurant proposed for the second story replaces the previous family style restaurant that existed on the Property prior to Hurricane Ian. The restaurant use is proposed along the western portion of the building with open air patios fronting the Times Square Pedestrian Plaza and sandy beach. The patios provide outdoor gathering space and promote interactions between patrons and pedestrians within the Times Square Pedestrian Plaza and along the beachfront. In addition to providing outdoor gathering space and the opportunity for interactions at the ground level, the outdoor patios promote a step back in the building façade increasing the façade setback along the pedestrian plaza and the beach promoting architectural interest and reducing the encroachment into the immediately adjacent pedestrian plaza.

To further the desire for interconnectivity between uses within the Times Square sub-district and in acknowledgement of the required floodplain elevation, the second story floor plans also include the opportunity for future pedestrian connections to the north and west. While these connections cannot

be constructed with the proposed building, they can be established through a private agreement between owners when the properties to the north and west redevelop.

2. Boutique Hotel Rooms

The proposed building design includes 50 boutique hotel rooms and a total of 41,267 square feet for the boutique hotel uses. A second step back increasing the building setback by 29 feet to the pedestrian plaza is provided in the building façade fronting the pedestrian plaza for the third and fourth story further ensuring the building does not overcrowd the immediately adjacent pedestrian plaza. The rear façade of the second, third and fourth story are also proposed to have patios to provide visual interest and break up the rear façade along the beach front.

Considering the previous and anticipated commercial uses of the area, the available public facilities, and the identified redevelopment area for a tourist center as outlined in Objective 3-D, the proposed redevelopment incorporates a boutique hotel into the requested uses. To support the boutique hotel, a deviation is requested to increase the hotel equivalency factors in LDC Section 34-1803 interconnecting residential density and commercial hotel rooms. Policy 4-B-12 establishes hotels as a commercial use and the Downtown zoning district permits this use by right. However, LDC Section 34-1803 calculates the permitted quantity of commercial hotel rooms by residential density to protect commercial intrusion in existing residential neighborhoods. The Times Square Pedestrian Plaza is not an existing residential neighborhood but rather an intense commercial plaza and identified as the "nucleus of commercial and tourist activities" per Objective 3-D. The requested boutique hotel rooms support the anticipated tourist activities as envisioned by the comp plan. The development adjacent to the plaza should not be limited by residential density but rather the Comp Plan's limits regarding FAR, building height, and the property development regulations regarding setbacks and roof design for commercial intensity. These existing limitations as implemented by the Comp Plan and LDC appropriately regulate the size of the commercial building and the proposed architectural features and setbacks ensure the proposed structure does not encroach or overwhelm the pedestrian plaza.

Furthermore, the Town has not replaced the many hotels rooms that were destroyed or closed as result of hurricane activity that has occurred over the past 2 years. According to data obtained from the Fort Myers Beach Chamber at the end of February, approximately 623 hotel rooms were destroyed and 127 hotels rooms have not yet reopened. The requested 50 units represents less than 10% of the previous inventory that existed prior to the recent hurricanes and will support the island's tourism economy.

iii. Rooftop

Through the negotiation process with Town Staff, the applicant was requested to consider utilizing the roof of the proposed structure for a public gathering area.

1. Rooftop Sunset Terrace & Service Bar

The roof of the proposed structure is proposed to be utilized as a publicly accessible sunset terrace and service bar. The Property's unique location on the Gulf promotes an unobstructed view of the Gulf and nightly sunsets. The applicant is proposing to provide public access to the elevator bank to the roof of the building enabling the public to reach the rooftop for access to the terrace and service bar. Enclosed facilities to support a kitchen and restrooms are proposed, although the footprint has been

limited ensuring the majority of the roof along the southern property boundary remains open for viewing.

iv. Sandy Beach

The Property includes a 15,752 square foot area beyond the 1978 CCCL and within the Recreation FLU and Environmental Critical Zoning District. Prior to Hurricane Ian, the sandy beach was utilized for Outdoor Consumption on Premise (**"COP"**) consistent with permits approved by the State of Florida.

The applicant intends to continue to utilize this state approval consistent with the restaurant and service bar proposed within the Downtown zoning district. This use is the maintenance of an approved use and not an expansion subject to LDC Section 34-1264(g). Per *Persaud Properties FL Investments LLC v. Town of Fort Myers Beach, No. 2D19-1282 (Fla. 2d DCA 2019),* the property received determination of vested rights in the form of a "grandfathered nonconforming use" making it uniquely entitled for alcohol sales on the beach adjacent to the property. That decision was filed December 11, 2020 and reaffirmed January 20, 2021 when the Second District Court of Appeals denied a motion to rehear the matter.

f. Requested Deviations

i. *Building Height & Liner Commercial Area*

1. **Request to deviate from LDC Section 34-675(b)(1) which limits building height within the Times Square Pedestrian Plaza to 30 feet above base flood elevation and no taller than 3 stories to allow:**

   4 stories and 39 feet 4 inches for the mean roof height of the structure above the 100 year storm elevation.

   A maximum mean roof height of 52 feet 8 inches above the 100 year storm elevation, including the sunset terrace and service bar and structure.

Justification for Deviation #1: The Pedestrian Commercial FLU and Downtown zoning district and Times Square sub-area are the most intense commercial areas within the Town of Fort Myers Beach. Consistent with the vision for the Times Square Pedestrian Plaza, the proposed development reestablishes the previous commercial retail, restaurant and parking and incorporates boutique hotel rooms.

Policy 4-C-4 of the Comp Plan specifically identifies "different heights may be applied to officially designated redevelopment areas such as Times Square." Requests for additional height need to be demonstrate consistency with the comprehensive plan, "…including its land-use and design policies, pedestrian orientation, and natural resource criteria. [With] particular attention paid to any permanent view corridors to Gulf or Bay waters that could be provided…"

Policy 4-F-2 identifies the Times Square area as a redevelopment area and is implemented by the redevelopment zoning district known as Downtown. The building requirements associated with the Property's flood zone increases the dimension of the structural members between floors, requires breakaway walls, and significantly limits the permitted enclosed space on the first (ground) floor to a

dimension that is not feasible for traditional enclosed commercial uses. These Federal design requirements conflict with the Downtown screening requirements and vision of mixed-use structures with first (ground) floor commercial activity. Without the ability to utilize the area below base flood elevation for commercial space, deviations are requested to increase the height of the structure and eliminate the requirement for a commercial liner building at the first (ground) floor to shield the proposed parking from Estero Boulevard and the Times Square Pedestrian Plaza.

Keeping the intent of the Times Square Pedestrian Plaza and Downtown zoning district, the proposed site plan activates the street front by providing retail on the first (ground) floor. The setback for the structure adjacent to the pedestrian plaza is proposed to be increased to 10-feet to eliminate encroachment into the pedestrian plaza and provide an area for outdoor merchandise sales. Pedestrian circulation is provided by a minimum 10-foot public walkway interconnecting the pedestrian plaza and sandy beach. Promoting consistency to the maximum extent possible with the vision and intent of the Downtown zoning district and Times Square Pedestrian Plaza, the first two stories of the proposed structure are setback from the required build-to-line of the Times Square Pedestrian Plaza by 10 feet and the third and fourth stories step back from the frontage 29 feet. The north to south orientation of the structure with the step back architecture ensures the proposed structure does not encroach or overcrowd the pedestrian plaza. On the second floor, an outdoor patio supporting the restaurant is proposed to promote additional interaction with the Times Square Pedestrian Plaza. Finally, the structure is proposed to utilize a mansard roof to provide appropriate shielding for the anticipated supporting mechanical equipment from the adjacent pedestrian plaza and the view from San Carlos Bridge.

ii. Floor Area Ratio

3. **Request to deviate from LDC Section 34-675(c) which limits the Floor Area Ratio of 1.8 within the Times Square Pedestrian Plaza to allow**

   A maximum FAR of 2.5 (58,625 square feet)

4. **Request to deviate from LDC Section 34-633 which requires FAR to be calculated to include all stories of a building within the surrounding exterior walls and all area below an elevated building that is six feet or more in height, and all stories of covered parking to allow:**

   The elimination of the covered parking from the FAR calculations.

Justification for Deviations #3 and 4: The Downtown zoning district establishes a by-right FAR of 1.8 for commercial and mixed uses and the Town's Comp Plan establishes a larger maximum FAR in Policy 4-C-2 of 2.5. LDC Section 34-633(1) specifies "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…" When considered together, the Comp Plan and LDC establish FAR as a measure of commercial intensity that includes parking structures and enclosed space on the first floor. At the time these requirements were adopted, commercial retail space could be provided below base flood elevation to shield parking and provide an active street front. However, the current building requirement for the VE flood zone and CCCL significantly limit the permitted enclosed space to a dimension that is not feasible for commercial uses below base flood elevation. Without the ability to utilize the area below base flood elevation for

commercial space, a deviation is requested to eliminate the area of the parking from the calculation of FAR and a second deviation is requested to increase the allowable FAR on the property to 2.5 (58,625 square feet) and accommodate the proposed uses.

Policy 4-C-2 permits a maximum FAR up to 2.5 within the Pedestrian FLU category. The requested FAR and elimination of parking from the FAR calculation is consistent with the maximum FAR outlined in Policy 4-C-2. Policy 4-C-3 identifies that new or expanded commercial uses are encouraged in the Pedestrian Commercial FLU with the design and extent outlined in the LDC. The additional FAR requested is consistent with these policies by supporting commercial retail, restaurant, and hotel rooms; which are, appropriate uses for the Property's unique location in an established tourist center with no adjacent, existing residential neighborhoods.

iii. Hotel Equivalency

5. Request to deviate from LDC Section 34-1803 which provides Hotel Equivalency Factors for the number of guest units that can be substituted for residential dwelling units to allow:

An Equivalency Factor of 15.7 to permit 41,267 square feet for 50 hotel rooms and supporting services within a Boutique Hotel.

Justification for Deviation #5: The Property has .53 acres within the Downtown district, which supports 3.18 dwelling units. A hotel equivalency factor of 3 is utilized for hotel rooms under 450 square feet, permitting 9.54 hotel rooms for the Property by right.

The applicant desires 50 hotels rooms at a mix of sizes to support the traditional commercial retail uses within the Times Square Pedestrian Plaza. A hotel equivalency of 15.7 is necessary to increase the permitted 3.18 dwelling units to 50 hotel rooms, regardless of size.

.53 acres X 6 dwelling units per acre = 3.18 dwelling units

X 15.7 Equivalency Factor

50 Hotel Rooms

With the hurricane activity that the Town has seen over the past two years there are several hotels or motels that have not reopened and many more that were destroyed and have not started rebuilding. Based on data provided by the Fort Myers Beach Chamber as of the end of February 2025, there are approximately 127 hotel rooms that have not reopened in addition to the 623 rooms that were destroyed. There have been hotel redevelopments approved by the Town Council; however these approvals do not achieve the 623 rooms that were destroyed and have not been rebuilt. The proposed development would re-establish 50 hotel rooms, less than 10% of the inventory that was destroyed, in an appropriate location within the Town for nightly turnover accommodations.

Hotels are a commercial use per Policy 4-B-12 of the Comp Plan and Policy 4-C-6 requires a hotel equivalency factor between guest units and residential density. This policy is implemented by LDC 34-1803 which provides an equivalency factor between 3 and 2 to relate the residential density to hotel rooms. This relationship to residential density provides protections against commercial intrusion into

existing residential neighborhoods. However, it inhibits additional commercial uses and the ability promote the desired "lively commercial/tourist center."[24]

Achieving the desired "strengthened mix of businesses and services; reduction of traffic congestion and pedestrian vehicular conflicts" and improve parking to serve the businesses and visitors[25] in the Times Square sub-district requires commercial intensity. Prior to Hurricane Ian the Times Square sub-district was a variety of intense ground level commercial uses flanking a pedestrian mall. This unique configuration was identified as appropriate by the Town's comp plan, defined as an "urban beach environment", and acknowledged as difficult to rebuild at the time of adoption for the comp plan. [26] Since then, redevelopment has only become more difficult. The Town has acknowledged that supporting redevelopment within the commercial core of Times Square is appropriate. The transitional commercial uses that have occurred in Times Square since Hurricane Ian demonstrate additional intensity is necessary to maintain the "lively commercial/tourist center" envisioned by the comp plan. The proposed redevelopment incorporates additional commercial square footage as boutique hotel rooms to direct overnight stays into the "nucleus of commercial and tourist activities" as described in Objective 3-D and support the anticipated retail and restaurant uses that are available to local residents as desired by Policy 4-A-9.

Policy 4-C-3 encourages new or expanded commercial uses to occur within the Pedestrian Commercial FLU category, provides the design and extent for the uses as well as a "streamlined approval process" for in the LDC while appropriately identifying the neighborhood context is of "paramount importance." Consistent with this policy, the Times Square sub-district is not an existing residential neighborhood but rather was and will remain an intense commercial plaza that is identified as the nucleus of commercial & tourist activities per Objective 3-D. The redevelopment of the previous commercial uses with the addition of the hotel rooms will not promote commercial intrusion into a residential neighborhood. The adjacent properties are either public parks or current undeveloped, although are anticipated to also be redeveloped with intense commercial uses. To support the boutique hotel units and ensure additional demand is not placed on limited public parking, the applicant is proposing to provide parking at the LDC required ratios, without the reduction for the Downtown zoning district.

Therefore, development adjacent to the plaza should not be artificially limited by residential density. The limits established related to Floor Area Ratio, building height, and the property development regulations regarding setbacks and roof design appropriately address the desired commercial uses and vision to establish a "nucleus of commercial and tourist activities" in the Times Square area as described by Objective 3-D. These existing limitations as implemented by the Comp Plan and LDC appropriately regulate the size of the commercial building and the proposed architectural features ensure the proposed structure does not encroach or overwhelm the pedestrian plaza. The unenclosed outdoor patios on the second floor promote a step back in the building façade along the pedestrian plaza. The façade of third and fourth floors are also stepped back from the pedestrian plaza. Additionally, patios are incorporated into the rooms on the third and fourth floors along the beach.

[24] FMB, CP, CDE, Page 3-4
[25] FMB, CP, CDE, Page 3-5
[26] FMB, CP, FLU, page 4-27

These design features promotes visual interest, architectural enhancements and additional light to reach the plaza in all seasons.

iv. Building Placement

6. **Request to deviate from LDC Section 34-674(a)(1)a. requiring a build-to-line of 0 feet to the Times Square Pedestrian Plan to allow:**

   A 10-foot front setback.

Justification of Deviation #6: The Property fronts the Times Square Pedestrian Plaza and is within a VE-15 and VE-14 flood zone requiring the elevation of structures within this area to 15 feet above base flood elevation. With a required elevation of 15 feet, the requested setback of 10 feet will eliminate encroachments into the Pedestrian Plaza that previously impacted the area. The applicant is proposing for the area of the increased setback to be utilized for enhancements, which may include landscaping, potted plants, awnings, benches etc. and outdoor merchandise sales to promote interactions with the adjacent public pedestrian plaza.

v. Commercial Design Standards

7. **Request to deviate from LDC Section 34-677 which requires commercial design standards to apply to all commercial and mixed-use buildings to allow:**

   The proposed architectural renderings as provided in Exhibit C.

Justification of Deviation #8: The Development Agreement incorporates several exhibits to implement the proposed site plan and floor plans. Exhibit B is the Site Plan and Floor Plans dated February 17, 2025 and Exhibit C are a Conceptual Rendering of the future building. Together these exhibits demonstrate the anticipated architectural features of the proposed structure for more detailed review at the time of Development Order and Building Permit applications.

LDC Section 34-992(d)2 permits compliance with architectural standards to be established with the submittal of a development order application. The Conceptual Renderings are provided as exhibits to the DA to demonstrate the anticipated elements of the future building architecture. Providing a framework for review and approval of the detailed architectural plans with the development order applications.

g. Public Benefits

The Town's Comp Plan identifies the Times Square redevelopment area as "the nucleus of commercial and tourist activities" and seeks to "stimulate the revitalization of the downtown core area (near Times Square).[27] With this guidance in mind, the applicant has incorporated several public benefits into the proposed site design and floor plans.

i. *Public Walkway, Gathering & Refresh Area*

The Property fronts on the Times Square Pedestrian Plaza and the Crescent Beach Family Park. To promote additional pedestrian interconnectivity between these public spaces, the proposed

[27] FMB, CP, CDE, Objective 3-D

redevelopment incorporates a minimum 10-foot pedestrian walkway supporting Objective 4-A and Policy 4-A-2 and the desired "public realm". The walkway is proposed adjacent to the western property boundary, under the second story of the structure in the open first (ground) floor. The second floor of the structure is proposed to be elevated to 21.3 feet above base flood, 6.3 feet above the required base flood elevation ensuring adequate headspace for all pedestrians on the first (ground floor).

Proximate to the pedestrian walkway, under the cover of the second floor, the proposed floor plan includes public seating benches to establish a shaded public gathering area. A drinking fountain and footwash are also proposed for this area to promote a refresh station for the public traversing between the beach and the pedestrian plaza. This design facilitates mobility and community interaction between the Times Square Pedestrian Plaza and the sandy beach without utilizing Estero Boulevard consistent with Policy 1-A-3, Objective 2-A and Policies 2-A-1, Objective 3-D, and Policy 4-A-4.

ii. *Increased Building Setback*

Other design features that promote benefits to the public include the 10 foot building setback from the Times Square Pedestrian Plaza. This increased setback provides an area for outdoor merchandise sales along with other enhancements (shade structures, landscaping, benches, etc.) that do not encroach or reduce the area for pedestrian activity within the plaza. Additionally, the 29-foot setback of the third and fourth stories increases the separation from the pedestrian plaza ensuring the structure doesn't overcrowd the adjacent public area. The design of the proposed enhancements for the increased front setback will be coordinated with Town Staff during the Development Order process.

iii. Ground Floor Open Air Retail

Ground floor commercial and enclosed residential space is required by the Commercial Design Standards of the Town's LDC and cannot be provided with the changes made to the floodplain mapping and regulations from 2008 onward. The Property is within a VE flood zone which requires significant elevation of enclosed space and severely limits the enclosures and improvements that can occur at the ground level. Consistent with Goal 4, the proposed site design capitalizes on the beach-resort environment provided by the Property's location between the Times Square Pedestrian Plaza and the sandy beach.

Prior to Hurricane Ian, across the Times Square Pedestrian Plaza (north) from the Property was retail and restaurant uses. Local Color and West Coast Surf Shop, two retail locations, have not returned. Other businesses are establishing trailers for the preparation and sale of food with outdoor seating and entertainment although it is unclear if these uses will remain given the current FEMA directives.

The proposed design of the ground (first) floor incorporates open air retail space that utilizes roll up doors and break away walls to provide separation and maintain compliance with Federal floodplain regulations and meet the intent of the Town's Downtown district for "commercial buildings to accommodate pedestrians by providing storefronts near sidewalks and offering shade and shelter along

major streets."[28] These retail spaces will provide a viable location for smaller business owners and retailers that desire to come back to or establish in Times Square. This type of design will also serve to encourage additional pedestrian activity within the Times Square Pedestrian Plaza consistent with the intent of the

iv. Public Bicycle Parking

The applicant has been a property owner within the Times Square Pedestrian Plaza for several years prior to Hurricane Ian. During this time, patrons were frequently observed traveling to the commercial businesses within Times Square by bicycle. Unfortunately, bicycles would be secured to light poles, signs, palm trees, etc, which would then encroach into the path of travel for pedestrians. To promote a clear path of travel within the existing Pedestrian Plaza, the proposed design incorporates a robust public bicycle parking area into the ground (first) floor.

v. Future Connectivity for Elevated Pedestrian Bridges & Connections

The proposed development is the first to seek approval from the Town for redevelopment within the Times Square Pedestrian Plaza. However, the properties across the Times Square Pedestrian Plaza (north) and adjacent to the west also have the opportunity to redevelop with multi-story structures by right. The side and front setbacks of these structures are 0 feet, putting them in close proximity to the proposed structure. In recognition of these by-right setbacks, the floor plans for the second story incorporates opportunities for future elevated pedestrian interconnections between the proposed structure and adjacent commercial structures. The applicant acknowledges these interconnections will require private agreements and private funding which would be negotiated at the time of future permitting efforts. Incorporating the potential interconnections into the proposed floor plans enhances pedestrian connectivity and supports these future efforts.

vi. Publicly Accessible Roof Top Sunset Terrace & Service Bar

Through the negotiation process with Town Staff, the applicant was requested to consider utilizing the roof top of the proposed structure for a public gathering area. The roof of the proposed structure is proposed to be utilized as a publicly accessible sunset terrace and service bar. The Property's unique location on the Gulf promotes an unobstructed view of the sunset over the Gulf. The applicant is proposing to provide public access to the elevator bank to the roof of the building enabling the public to reach the rooftop for access to the terrace and service bar.

vii. *Times Square Paver Replacement*

In support of the greater redevelopment of the Times Square Pedestrian Plaza, the applicant has agreed to work with the Town to fund improvements to the damaged paver system within the plaza. The applicant will coordinate with Town Staff to calculate and pay the Property's fair share of the replacement of the existing damaged colored pavers to a more sustainable material.

[28] Fort Myers Beach, LDC 34-671

II. CONCLUSIONS

The proposed redevelopment of the Property considered the floodplain and coastal setback regulations while adapting and implementing the vision statements of the Town's Comp Plan. Consistent with Objective 3-D which seeks to "stimulate the revitalization of the downtown core area (near Times Square) as the nucleus of commercial and tourist activities" the requested redevelopment seeks to re-establish the commercial retail and restaurant uses that existed prior to Hurricane Ian and incorporate 50 boutique hotel rooms.

The Property is an appropriate location for increased commercial intensity due to its location within the Times Square Pedestrian Plaza, the anticipated intensity of the Pedestrian Plaza at a FAR of 1.8, and the lack of existing residential uses within the surrounding area. The addition of the boutique hotel rooms will provide additional support/patronage to the previous and proposed restaurant and retail uses within the Times Square Pedestrian Plaza. The proposed design incorporates multiple features that will also support the redevelopment of the larger Times Square area, such as the various locations for public gathering and interaction on the ground floor and roof top, area for future pedestrian walk overs, increased setbacks for the building façade from the Pedestrian Plaza at various levels, pedestrian connectivity between the Times Square Pedestrian Plaza and the sandy beach, and a funding mechanism to replace and improve the existing plaza material.

The requested uses are consistent with the FLU and zoning of the Property. The deviations requested promote a more integrated commercial development consistent with the Property's location and appropriate public benefits with design enhancements to justify the requests.

APPLICATION FOR DEVELOPMENT AGREEMENT with DEVIATIONS

[LDC Section 2-94]

Project Name: 1028 & 1046 Estero Boulevard

Current Zoning: Downtown

---

1. **Name of Applicant:** Persaud Properties FL Investments, LLC
   Address: 385 Seminole Way
   City, State, Zip: Fort Myers Beach, FL 33931
   Phone Number: 612 245-3050
   E-mail Address: persaudprop@gmail.com

2. **Relationship of Applicant to owner (check one) and provide Affidavit of Authorization form:**
   ☐ Applicant is the sole owner of the property.
   ☒ Applicant has been authorized by the owner(s) to represent them for this action.

3. **Authorized Agent: (If different than applicant) Name of the person who is to receive all Town-initiated correspondence regarding this application.**
   a. **Company Name:** Sage Entitlements, LLC
   Contact Person: Tina M. Ekblad, MPA, AICP
   Address: 97 Nickajack N
   City, State, Zip: Santa Rosa Beach, FL 3259
   Phone Number: 561-797-0288 Email: tekblad@sageentitlements.com

   b. **Additional Agent(s):** Provide the names of other agents that the Town may contact concerning this application.

4. **Property owner(s): If multiple owners (corporation, partnership, trust, association), provide a list with owner interest.**
   Name: Persaud Properties FL Investments, LLC
   Address: 385 Seminole Way
   City, State, Zip: Fort Myers Beach, FL 33931
   Phone Number: 612-245-3050 E-mail: persaudprop@gmail.com

5. **Disclosure of Interest**
   ☒ Attach Disclosure of Interest Form.

6. **STRAP Number(s)**
   24-46-23-W3-00017.0000 & 00016.0000

7. **Street Address of Property:** 1028 & 1046 Estero Boulevard, Fort Myers Beach, FL

8. **Legal Description (must submit one):**
   ☒ Legal description (metes and bounds) and sealed sketch of the legal description.
   OR
   ☐ Legal description (NO metes and bounds) if the property is located within a subdivision platted per F.S. Chapter 177, and is recorded in the Official Records of Lee County under Instruments or Plat Books. (Click here to see an example of a legal description with no metes and bounds.)

9. **Future Land Use:** Pedestrian Commercial & Recreation

10. **Zoning District:** Downtown & Environmentally Critical

10. **Written Narrative:** Provide a written narrative statement explaining exactly what is proposed.

11. **Deviations:** If any relief is requested from the provisions of the Land Development Code (LDC), provide a **written explanation** of the specific relief requested (a schedule of deviations). Explain what conditions currently exist which warrant this request for relief from the regulations (a written justification for each of the requested deviations). Include specific references to any section (number{s} and name{s}) of the LDC from which relief is sought including why the requested relief is necessary and how it will affect the project. All deviation requests must be specifically keyed to the location on the Master Concept Plan. LDC 34-932(b)

12. **Master Concept Plan (MCP):** Provide a MCP and detailed drawings of any deviations or changes being proposed at a size of 24"x36" consistent with LDC 34-212(4)

SUBMITTAL REQUIREMENT CHECKLIST ***Clearly label your attachments as noted in bold below.***		
☒	Completed application	
☐	Filing Fee	
☒	**Affidavit of Authorization** Form	
☐	**Additional Agents**	
☐	**Multiple Owners** List	
☒	**Disclosure of Interest** Form	
☒	**Legal description (must submit one)**	
	☒	Legal description (metes and bounds) and sealed sketch of legal description
		OR
	☐	Legal description (NO metes and bounds) if the property is located within a subdivision platted per F.S. Chapter 177, and is recorded in the Official Records of Lee County under Instruments or Plat Books. (Click here to see an example of a legal description with no metes and bounds.)
☒	**Narrative of Request**	
☒	**Schedule of Deviations** (if applicable)	
☒	**MCP** and detailed drawings of any proposed deviations (if applicable) (24"x36")	

Note: All information submitted with the application becomes a part of the public record and will be a permanent part of the file. Department staff will review this application for compliance with requirements of the Land Development Code. The applicant will be notified of any deficiencies.

Acceptance of an application in no way guarantees its approval. If the Town Manager determines that the requested amendment is beyond the scope of Land Development Code and that a public hearing is necessary, then all fees paid toward the administrative application may be applied toward an application for public hearing.

AFFIDAVIT OF AUTHORIZATION

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

I, Terry Persaud (name), as Manager (owner/title) of Persaud Properties FL Investments, LLC (company/property), 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 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 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
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

**Notes:*

- *If the applicant is a corporation, then it is usually executed by the corp. pres. or v. pres.*
- *If the applicant is a Limited Liability Company (L.L.C.) or Limited Company (L.C.)., then the documents should typically be signed by the Company's "Managing Member."*
- *If the applicant is a partnership, then typically a partner can sign on behalf of the partnership.*
- *If the applicant is a limited partnership, then the general partner must sign and be identified as the "general partner" of the named partnership.*
- *If the applicant is a trustee, then they must include their title of "trustee."*
- *In each instance, first determine the applicant's status, e.g., individual, corporate, trust, partnership, estate, etc., and then use the appropriate format for that ownership.*

Under penalties of perjury, I declare that I have read the foregoing Affidavit of Authorization and that the facts stated in it are true.

Terry Persaud
Signature

11/8/2024
Date

**************NOTE: NOTARY PUBLIC IS NOT REQUIRED FOR ADMINISTRATIVE APPROVALS**************
ALL OTHER APPLICATION TYPES MUST BE NOTARIZED

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, this 8th day of November, 20 24, by Terry Persaud (name of person providing oath or affirmation), who is personally known to me or who has produced Florida DL. (type of identification) as identification.

STAMP/SEAL

PHOOLCUMMARIE MOTILALL
NOTARY PUBLIC - MINNESOTA
MY COMMISSION EXPIRES 01/31/25

Signature of Notary Public

PHOOLCUMMARIE MOTILALL
NOTARY PUBLIC - MINNESOTA
MY COMMISSION EXPIRES 01/31/25

DISCLOSURE OF INTEREST
AFFIDAVIT

BEFORE ME this day appeared Terry Persaud, who, being first duly sworn and deposed says:

1. That I am the record owner, or a legal representative of the record owner, of the property that is located at 1028 & 1046 Estero Boulevard and is the subject of an Application for zoning action (hereinafter the "Property").

2. That I am familiar with the legal ownership of the Property and have full knowledge of the names of all individuals that have an ownership interest in the Property or a legal entity owning an interest in the Property.

[OPTIONAL PROVISION IF APPLICANT IS CONTRACT PURCHASER: In addition, I am familiar with the individuals that have an ownership interest in the legal entity that is under contract to purchase the Property.]

3. That, unless otherwise specified in paragraph 6 below, no Town of Fort Myers Beach Employee, Town Council Member, or Local Planning Agency Member has an Ownership Interest in the Property or any legal entity (Corporation, Company, Partnership, Limited Partnership, Trust, etc.) that has an Ownership Interest in the Property or that has contracted to purchase the Property.

4. That the disclosure identified herein does not include any beneficial Ownership Interest that a Town of Fort Myers Beach Employee, Town Council Member, or Local Planning Agency Member may have in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interest is for sale to the general public.

5. That, if the Ownership Interest in the Property changes and results in this affidavit no longer being accurate, the undersigned will file a supplemental Affidavit that identifies the name of any Town of Fort Myers Beach Employee, Town Council Member, or Local Planning Agency Member that subsequently acquires an interest in the Property.

6. Disclosure of Interest held by a Town of Fort Myers Beach Employee, Town Council Member, or Local Planning Agency Member.

Name and Address	Percentage of Ownership
NONE	N/A

Under penalty of perjury, I declare that I have read the foregoing and the facts alleged are true to the best of my knowledge and belief.

Property Owner

TERRY PERSAUD

Print Name

************NOTE: NOTARY PUBLIC IS NOT REQUIRED FOR ADMINISTRATIVE APPROVALS************
ALL OTHER APPLICATION TYPES MUST BE NOTARIZED

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, on November 8th (date) 2024. by Terry Persaud. (name of person providing oath or affirmation), who is personally known to me or who has produced Florida DL. (type of identification) as identification.

STAMP/SEAL

Signature of Notary Public

PHOOLCUMMARIE MOTILALL
NOTARY PUBLIC - MINNESOTA
MY COMMISSION EXPIRES 01/31/25

ADDITIONAL AGENTS

Company Name:	PDS Architecture		
Contact Person:	Tyler Petersen		
Address:	12800 University Drive, Suite 402		
City, State, Zip:	Fort Myers, FL 33907		
Phone Number:	239-437-8090	Email:	tyler@pdsinconline.com

Company Name:	Madden Law Firm, LLC		
Contact Person:	Joe Madden		
Address:	2277 Main St		
City, State, Zip:	Fort Myers, FL 33901		
Phone Number:	239-332-2100	Email:	JMadden@MyFloridaAttorney.com

Company Name:			
Contact Person:			
Address:			
City, State, Zip:			
Phone Number:		Email:	

Company Name:			
Contact Person:			
Address:			
City, State, Zip:			
Phone Number:		Email:	

Company Name:			
Contact Person:			
Address:			
City, State, Zip:			
Phone Number:		Email:	

Company Name:			
Contact Person:			
Address:			
City, State, Zip:			
Phone Number:		Email:	

INSTR # 2014000160173, Doc Type D, Pages 2, Recorded 08/01/2014 at 03:21 PM, Linda Doggett, Lee County Clerk of Circuit Court, Deed Doc. D $22050.00 Rec. Fee $18.50 Deputy Clerk DMAYS

Prepared by and return to:
Kahle & Ramunni, P.A.
1533 Hendry Street Suite 101
Fort Myers, FL 33901
239-791-3900
File Number: **140501**
Will Call No.:

Parcel Identification No. **24-46-23-W3-00017.0000**

[Space Above This Line For Recording Data]

Warranty Deed

(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made this **31st** day of **July, 2014** between **Steer-Mill, Inc., a Florida corporation** whose post office address is **1028 Estero Boulevard, Post Office Box 4026, Fort Myers Beach, FL 33932** of the County of **Lee**, State of **Florida**, grantor*, and **Persaud Properties FL Investment LLC, a Florida limited liability company** whose post office address is **361 Seminole Way, Fort Myers Beach, FL 33931** of the County of **Lee**, State of **Florida**, grantee*,

Witnesseth that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in **Lee County, Florida**, to-wit:

From the Southwest corner of Block E, CRESCENT PARK ADDITION, as per plat thereof recorded in Plat Book 4, Page 46, of the Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South of Range 23 East, run South along said line 53.24 feet to the South Line of County Road right-of-way 50 feet wide; thence run Northwesterly at an inclusive angle of 69° 54' with said Section line along the South line of said right-of-way 632.63 feet to the point of beginning of the land herein described.
From said point of beginning continue Northwesterly along South line of said right-of-way 80 feet; thence Southwesterly at included angle of 90° to the waters of the Gulf of Mexico; thence run Southeasterly along said waters to a point on a line perpendicular to the first mentioned County road, through point of beginning; thence run Northeasterly along said perpendicular line to the point of beginning.

and

From the Southwest corner of Block E, CRESCENT PARK ADDITION, as per plat thereof recorded in Plat Book 4, Page 46, of the Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South of Range 23 East, run South along said line 53.24 feet to the South Line of County Road right-of-way 50 feet wide; thence run Northwesterly at an inclusive angle of 69° 54' with said Section line along the South line of said right-of-way 532.63 feet to the point of beginning of land herein described; continue Northwesterly along South line of said right-of-way for 100 feet; thence Southwesterly perpendicular to said road to the waters of the Gulf of Mexico; thence Southeasterly along said waters to a point on a line perpendicular to said road through point of beginning; thence run Northeasterly along said perpendicular line to the point of beginning.

Grantor warrants that at the time of this conveyance, the subject property is not the Grantor's homestead within the meaning set forth in the constitution of the state of Florida, nor is it contiguous to or a part of homestead property.

Subject to taxes for 2014 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

DoubleTime®

and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

* "Grantor" and "Grantee" are used for singular or plural, as context requires.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Witness Name: Steven A. Ramm

Witness Name: Lisa Pace

Steer-Mill, Inc., a Florida corporation

By: _____
Steven Strauss, President

(Corporate Seal)

State of Florida
County of Lee

The foregoing instrument was acknowledged before me this 28th day of July, 2014 by Steven Strauss, President of Steer-Mill, Inc., a Florida corporation, on behalf of the corporation. He [X] is personally known to me or [ ] has produced a driver's license as identification.

[Notary Seal]

LISA PACE
MY COMMISSION EXPIRES
December 20, 2015
#EE 145398
Bonded thru Notary Public Underwriters
NOTARY PUBLIC, STATE OF FLORIDA

_____
Notary Public

Printed Name: Lisa Pace

My Commission Expires: December 20, 2015

INSTR # 2016000115839, Doc Type D, Pages 3, Recorded 05/31/2016 at 02:59 PM, Linda Doggett, Lee County Clerk of Circuit Court, Deed Doc. D $21875.00 Rec. Fee $27.00 Deputy Clerk WMILLER

Prepared by and Return Recorded Original to:

Charles R. Meador, Jr., Attorney at Law
2085 Estero Boulevard
Fort Myers Beach, FL 33931
Telephone: (239) 463-6619
Facsimile: (239) 463-6454

Property Appraiser Parcel I.D. No. 24-46-23-W3-00016.0000
Grantee Taxpayer I.D. No. _____
Documentary Stamp Tax on Transfer: $21,875.00

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made this 6 day of May, A.D. 2016, between GRAND RESORT VI-FT. MYERS BEACH, LLC, a Florida limited liability company, whose post office address is 4805 Tamiami Trail North, Naples, FL 34103, hereinafter called Grantor, and PERSAUD PROPERTIES FL INVESTMENTS LLC, a Florida limited liability company, whose post office address is 361 Seminole Way, Fort Myers Beach, FL 33931, hereinafter called Grantee.

WITNESSETH, That said Grantor, for and in consideration of the sum of TEN AND NO/100'S DOLLARS ($10.00), and other good and valuable considerations to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said Grantee, and Grantee's heirs and assigns to have and to hold the same in fee simple forever, the following described land, situate, lying and being in Lee County, Florida, to-wit:

From the Southwest corner of Block E, Crescent Park, according to the map or plat thereof on file and recorded in Plat Book 4, at Page 46, Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South, Range 23 East, run South along said line 53.24 feet to the South line of a County Road right-of-way 50 feet wide; thence run Northwesterly at an included angle of 69 degrees 54' with said Section line along the South line of said right-of-way 532.63 feet to the point of beginning of land herein described; continue Northwesterly along the South line of said right-of-way for 100 feet; thence Southwesterly perpendicular to said road to the waters of the Gulf of Mexico; thence Southeasterly along said waters to a point on a line perpendicular to said road through the point of beginning; thence run Northeasterly along said perpendicular line to the point of beginning.

SUBJECT TO easements, restrictions and reservations of record and taxes for the current and subsequent years.

THIS DEED IS AN ABSOLUTE CONVEYANCE OF THE TITLE TO THE PROPERTY DESCRIBED HEREIN IN CONSIDERATION OF THE CANCELLATION OF THE PERSONAL LIABILITY OF THE GRANTOR/DEBTOR UNDER THAT CERTAIN MORTGAGE FROM THE GRANTOR/DEBTOR TO THE GRANTEE HEREIN, DATED JANUARY 4, 2016, AND RECORDED ON JANUARY 22, 2016, AT OFFICIAL RECORDS INSTRUMENT NO. 2016000015044, OF THE PUBLIC RECORDS OF LEE COUNTY,

FLORIDA, SAID MORTGAGE SECURING A PROMISSORY NOTE IN THE ORIGINAL AND CURRENT PRINCIPAL AMOUNT OF $3,125,000.00 (THE "MORTGAGE") AND THIS DEED IS NOT GIVEN AS ADDITIONAL SECURITY. THE CONSIDERATION OF THIS DEED IS THE FORBEARANCE OF THE GRANTEE, IN NOT INSTITUTING FORECLOSURE OF THE ABOVE REFERENCED MORTGAGE AND THE RELEASE OF THE GRANTORS FROM ANY PERSONAL LIABILITY UNDER THE AFOREMENTIONED MORTGAGE AND PROMISSORY NOTE.

IT IS THE INTENTION OF THE GRANTOR AND GRANTEE THAT THERE IS NOT A MERGER OF THE FEE TO THE PROPERTY DESCRIBED HEREIN WITH THE LIEN OF THE MORTGAGE SO THAT THE LIEN OF THE MORTGAGE IS PRESERVED IN FAVOR OF GRANTEE/MORTGAGEE.

GRANTEE HAS ACCEPTED THIS SPECIAL WARRANTY DEED UPON THE CONDITION THAT: (1) THE TITLE ACTUALLY CONVEYED IS AS WARRANTED HEREIN; AND (II) THE SPECIAL WARRANTY DEED IS VALID AND BINDING. IF TITLE TO THE PROPERTY IS NOT AS WARRANTED AND REPRESENTED, THEN GRANTEE HAS THE RIGHT TO DISCLAIM ANY RIGHT, TITLE OR INTEREST UNDER THIS SPECIAL WARRANTY DEED BECAUSE OF THE BREACH OF A CONDITION PRECEDENT TO TITLE, AND IN SUCH EVENT, GRANTEE SHALL THEN HAVE THE RIGHT AS IT MAY BE ADVISED TO FORECLOSE THE LIEN OF THE MORTGAGE AND SHALL NOT BE BOUND BY ANY RELEASE OR COVENANT NOT TO SUE AND/OR THE RELEASE OF PERSONAL LIABILITY. IF THIS SPECIAL WARRANTY DEED SHOULD BE DECLARED BY A COURT OF COMPETENT JURISDICTION, INCLUDING, BUT NOT LIMITED TO A FEDERAL BANKRUPTCY COURT, TO BE INVALID OR INEFFECTIVE FOR ANY REASON, OR SHOULD IT BE VACATED OR SET ASIDE, THEN THE CONSIDERATION FOR THIS SPECIAL WARRANTY DEED AND ANY SATISFACTION OF MORTGAGE WILL HAVE FAILED, AND THE MORTGAGE SHALL BE REVIVED AND THE RIGHTS, REMEDIES AND OBLIGATIONS OF GRANTORS AND GRANTEE SHALL BE RESTORED TO THE STATUS THEY WERE IMMEDIATELY PRIOR TO THE EXECUTION AND DELIVERY OF THIS SPECIAL WARRANTY DEED AND ANY SATISFACTION OF THE MORTGAGE, AND GRANTEE SHALL NOT BE BOUND BY ANY RELEASE OR COVENANT NOT TO SUE.

THIS DEED SHALL ALSO ACT AS A CANCELLATION, TERMINATION AND RELEASE OF THAT CERTAIN COMMERCIAL LEASE AGREEMENT BETWEEN GRANTOR HEREIN, AS LESSOR, AND GRANTEE HEREIN, AS LESSEE, DATED JANUARY 19, 2016, AND RECORDED ON JANUARY 22, 2016, AT OFFICIAL RECORDS INSTRUMENT NO. 2016000015045, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

AND, the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor warrants the title to the property for any act of the grantor and will defend it against the

lawful claims of all persons claiming by, through or under grantor.

*"Grantor" and "Grantee" are used for singular and plural, as context requires.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand and seal the day and year first above written.

Signed in the presence of:

GRAND RESORT VI-FT. MYERS BEACH, LLC

Marlene Kubasch
#1 Witness Name - print or type

By: _____(SEAL)
THOMAS R. TORGERSON, MANAGER

Sheryl Walton
#2 Witness Name - print or type

STATE OF Minnesota
COUNTY OF Kandiyohi

EXECUTION OF the foregoing instrument was acknowledged before me this 6 day of May, 2016, by THOMAS R. TORGERSON, MANAGER of GRAND RESORT VI-FT. MYERS BEACH, LLC, a Florida limited liability company , who is (CHECK ONE OF THE FOLLOWING AS APPLICABLE) [X] personally known to me, or [ ] who has produced (_____) as identification.

Kathleen C. Aamot
NOTARY PUBLIC - SIGNATURE ABOVE
NOTARY NAME - Kathleen A. Aamot
COMMISSION NO. - _____
COMMISSION EXP. DATE - January 31, 2018
(Notary Name/Commission No./Exp. Date - typed or printed)

(Notary Seal)

KATHLEEN A AAMOT
NOTARY PUBLIC
MINNESOTA
My Commission Expires Jan. 31, 2018

Madden Law Firm LLC

December 5, 2024

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

RE: Title Certification
Applicant: Persaud Properties FL Investment LLC

Dear Town of Fort Myers Beach:

Please be advised that our firm represents Persaud Properties FL Investment LLC.

This letter is in response to a request for title certification in support of a Development Agreement submittal for property located in the Town of Fort Myers Beach, Florida, and more particularly described on Exhibit "A" attached hereto and incorporated herein. This opinion of title is based upon Old Republic National Title Insurance Company's Title Commitment issued on November 18, 2024, relative to the subject property.

The author of this title opinion, Joseph M. Madden Jr., is a licensed Florida attorney, bearing Bar No. 848557, and is authorized to issue this opinion. And now, therefore:

1. The name of the owner of the fee title is Persaud Properties FL Investment LLC under Warranty Deed dated July 31, 2014, bearing Official Record Book Instrument Number 2014000160173, and Special Warranty Deed dated May 6, 2016, bearing Official Record Instrument Number 2016000115839, both being in the Public Records of Lee County, Florida.

2. There is the following mortgage(s) secured by this property that the author is aware of:

   a. None.

3. There is the following encumbrance(s) on the property:

   a. Lee County Coastal Construction Control line recorded in Plat Book 31-A, Page 1, as amended in Official Records Book 2224, page 1010 and Plat Book 48, Page 15.

   b. Resolution No. 01-06-11 of the Board of County Commissioners of Lee County, Florida, requesting the Board of Trustees of the Internal improvement Fund establish an erosion control line on Estero Island, Florida, recorded in Official Records Book 3556, page 2917, Resolution of the Board of Trustees of the Internal improvement Fund establishing an erosion control line on Estero Island, Florida, recorded in Official Records Book 3585, page 346, and Survey of Erosion Control Line recorded in Plat Book 70, page 25.

4. A copy of the Old Republic National Title Insurance Commitment is attached hereto together with copies of any applicable mortgage(s) and encumbrance(s) identified above as Exhibit "B".

5. The title documentation provided herein is certified unequivocally.

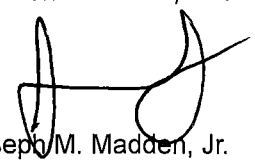
2277 Main St.
Fort Myers, Florida 33901
jmadden@myfloridaattorney.com

Telephone: 239.332.2100
Facsimile: 239.332.2150

Upon receipt, should you have any questions or comments, please advise. Thank you.

Sincerely,

Madden Law Firm, LLC



Joseph M. Madden, Jr.
Manager

JMM:sh
Enclosures
cc: Client(s)

EXHIBIT "A"

From the Southwest corner of Block E, CRESCENT PARK ADDITION, as per plat thereof recorded in Plat Book 4, Page 46, of the Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South of Range 23 East, run South along said line 53.24 feet to the South Line of County Road right-of-way 50 feet wide; thence run Northwesterly at an inclusive angle of 69° 54' with said Section line along the South line of said right-of-way 632.63 feet to the point of beginning of the land herein described. From said point of beginning continue Northwesterly along South line of said right-of-way 80 feet; thence Southwesterly at included angle of 90° to the waters of the Gulf of Mexico; thence run Southeasterly along said waters to a point on a line perpendicular to the first mentioned County road, through point of beginning; thence run Northeasterly along said perpendicular line to the point of beginning.

and

From the Southwest corner of Block E, CRESCENT PARK ADDITION, as per plat thereof recorded in Plat Book 4, Page 46, of the Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South of Range 23 East, run South along said line 53.24 feet to the South Line of County Road right-of-way 50 feet wide; thence run Northwesterly at an inclusive angle of 69° 54' with said Section line along the South line of said right-of-way 532.63 feet to the point of beginning of land herein described; continue Northwesterly along South line of said right-of-way for 100 feet; thence Southwesterly perpendicular to said road to the waters of the Gulf of Mexico; thence Southeasterly along said waters to a point on a line perpendicular to said road through point of beginning; thence run Northeasterly along said perpendicular line to the point of beginning.

EXHIBIT "B"

Transaction Identification Data, for which the Company assumes no liability as set forth in Commitment Condition 5.e.:

Issuing Agent:	**Madden Law Firm, LLC**
Issuing Office:	**2277 Main Street Fort Myers, FL 33901**
Loan ID Number:	
Commitment Number:	**24124092JLD**
Your File No.:	**10164.000**
Property Address:	**1028 Estero Blvd, Fort Myers Beach, FL 33931** **1046 Estero Blvd, Fort Myers Beach, FL 33931**

Old Republic National Title Insurance Company
12751 New Brittany Blvd, Suite 500
Ft. Myers, Florida 33907

SCHEDULE A
COMMITMENT

1. Commitment Effective Date: November 18, 2024 at 08:00am

2. Policy to be issued:

   (a) 2021 ALTA OWNER'S POLICY (with Florida Modifications) Proposed Insured:
   Proposed Policy Amount: N/A

   N/A – Prepared for the purpose of a title opinion letter

   (b) 2021 ALTA LOAN POLICY (with Florida Modifications) Proposed Insured:
   Proposed Policy Amount: N/A

   N/A

3. The estate or interest in the Land described at the Commitment Date is Fee Simple.

4. The Title is, at the Commitment Date, vested in: **Persaud Properties FL Investment LLC, a Florida limited liability company**

5. The Land is described as follows:

See Attached Legal Description

Issued through the Office of:
Madden Law Firm, LLC
2277 Main Street
Fort Myers, FL 33901
Phone: 239-332-2100

_____
Authorized Signature

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SCHEDULE B - I
COMMITMENT

Requirements

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.

2. Pay the agreed amount for the estate or interest to be insured.

3. Pay the premiums, fees, and charges for the Policy to the Company.

4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.

5. Warranty Deed from Persaud Properties FL Investment LLC, a Florida limited liability company to the proposed insured.

6. In addition thereto, the following is required:
The agent must:
(a) Determine that Persaud Properties FL Investment LLC, a Florida limited liability company is in good standing in the state of its formation; and
(b) Establish that the person(s) executing the deed or mortgage to be issued are authorized by law to execute said instruments on behalf of the company.
(c) If any managing member is a legal or commercial entity, require a good standing certificate from the date of purchase through to the present time, and proof of authority to execute documents on behalf of the legal or commercial entity.
(d) Obtain an affidavit from authorized signatory on behalf of said limited liability company should be recorded stating that i) The member/manager executing the deed or mortgage is authorized under the articles of organization and operating agreement, or Statement of Authority (if Florida LLC), and all necessary consents obtained; (ii) The LLC has not been dissolved; (iii) The LLC, nor any of its members are currently debtors to any bankruptcy proceedings and (iv) All members/managers of the LLC are identified.

7. Intentionally deleted.

8. Proof of payment of taxes for the year 2024 must be furnished.

9. Agent must obtain written authorization from The Company to issue this commitment since the amount of the policy or policies to be issued exceeds your agency limits. The transaction contemplated in connection with this Commitment is subject to the review and approval of the Company's State Underwriting Counsel and is not effective to bind the Company until that approval is obtained. The Company reserves the right to add additional items or make further requirements after such review.

10. Submit proof of payment of any assessments or liens due to City of Ft. Myers Beach, and proof that all municipal and any special taxing district charges, assessments or other development fees, if any, are paid.

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NOTE: If this requirement is not complied with, the following Exception will appear on Schedule B of any policy issued pursuant to this commitment: Any Assessment due to the County, and any assessments due to the municipality and to any special taxing district.

11. Submit proof of payment of any service charges and assessments for water, sewer, waste and gas, if any, through the date of closing. NOTE: If this requirement is not complied with, the following Exception will appear on Schedule B of any policy issued pursuant to this commitment: Any lien provided by Chapter 159, Florida Statutes or any county ordinance in favor of any city, county, town, village or port authority for unpaid service charges for service by any water, sewer or gas system supplying the insured land.

12. A survey, satisfactory to The Company, in conformity with the minimum standard detail requirements for ALTA/ACSM land title surveys, certified to the Company and its agents and parties to the transaction, through a current date no more than 90 days prior to closing, delineating the location of all plottable exceptions shown on Schedule B-II of this commitment disclosing the nature and extent of any encroachments, building setback lines, overlaps, boundary line discrepancies, or other matters adversely affecting title to the property to be insured; which will appear as exceptions in Schedule B of any Owner's Policy and Schedule B Part I of any Loan Policy to be issued. Additional requirements and/or exceptions will be made for matters disclosed by the survey.

13. Provide a satisfactory Owner's Affidavit of Possession and No Liens. Affidavit must (a) state that there are no parties in possession of the subject property other than said current record owner, or identify any parties in possession or tenants and set forth their nature of possession; (b) that there are no encumbrances upon the subject property other than as may be set forth in this Commitment; (c) there are no unrecorded assessments which are due and payable and all sewer and water bills are paid through the date of this Affidavit; (d) that there have been no improvements made to or upon the subject property within the last ninety (90) days for which there remain any outstanding and unpaid bills for labor, materials or supplies; (e) and disclose any unrecorded easements. Said affidavit, when properly executed at closing by the seller and/or mortgagor herein will serve to delete the standard lien, unrecorded easement and possession exceptions for the policy(ies) to be issued pursuant to this commitment.

14. Verify with the current owner that there are no open mortgages that would affect the subject property as a search of the Public Records does not reveal one.

Note: Taxes for the year 2024 became a lien on the land on January 1, 2024 and are due and payable on Nov. 1, 2024. Said taxes are unpaid. Tax ID Number 24-46-23-W3-00017.0000 and 24-46-23-W3-00016.0000.

NOTE: All recording references in this commitment/policy shall refer to the Public Records of Lee County, unless otherwise noted.

SCHEDULE B SECTION II IS CONTINUED ON AN ADDED PAGE

SCHEDULE B - II
COMMITMENT

Exceptions From Coverage

Some historical land records contain Discriminatory Covenants that are illegal and unenforceable by law. This Commitment and the Policy treat any Discriminatory Covenant in a document referenced in Schedule B as if each Discriminatory Covenant is redacted, repudiated, removed, and not republished or recirculated. Only the remaining provisions of the document will be excepted from coverage.

The Policy will not insure against loss or damage resulting from the terms and conditions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I-Requirements are met.

2. Facts which would be disclosed by an accurate and comprehensive survey of the premises herein described.

3. Rights or claims of parties in possession.

4. Construction, Mechanic's, Contractors' or Materialmen's lien claims, if any, where no notice thereof appears of record.

5. Easements or claims of easements not shown by the public records.

6. General or special taxes and assessments required to be paid in the year 2025 and subsequent years.

7. Any lien provided by County Ordinance or by Ch. 159, F.S., in favor of any city, town, village or port authority, for unpaid service charges for services by any water systems, sewer systems or gas systems serving the land described herein; and any lien for waste fees in favor of any county or municipality.

8. Rights of tenants and/or parties in possession, and any parties claiming, by through or under said tenants or parties in possession, as to any unrecorded leases or rental agreements.

9. Right of the United States of America and the State of Florida to any portion of said land which has been created by artificial means or has accreted to any such portion as so created.

10. Those portions of the property herein described being artificially filled in land in what was formerly navigable waters are subject to the right of the United States Government arising by reason of its control of navigable waters in the interest of navigation and commerce.

11. The right if any of the public to the use as a public beach or recreation area of any part of the land lying or formerly lying between the body of water abutting the subject property and the natural line of the vegetation bluff, extreme high water line or other apparent boundary lines separating the publicly used area from the upland private area, as it may have existed prior to the construction, if any, of sea wall or bulkhead thereon.

12. Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the lands

insured hereunder, including submerged, filled and artificially exposed land(s) and lands accreted to such lands in the Gulf of Mexico.

13. This policy excludes from coverage the rights of the United States of America and the State of Florida to regulate the use the navigable waters.

14. Riparian and Littoral Rights are not insured hereunder.

15. The property described in Schedule A is subject to various county special assessment districts and municipal taxing districts, and the liens created for any unpaid special assessments by virtue of the ordinances and resolutions creating these districts, and is subject to any acts and/or assessments thereof. There are no current unpaid assessments.

16. Lee County Coastal Construction Control line recorded in Plat Book 31-A, Page 1, as amended in Official Records Book 2224, page 1010 and Plat Book 48, Page 15.

17. Resolution No. 01-06-11 of the Board of County Commissioners of Lee County, Florida, requesting the Board of Trustees of the Internal improvement Fund establish an erosion control line on Estero Island, Florida, recorded in Official Records Book 3556, page 2917, Resolution of the Board of Trustees of the Internal improvement Fund establishing an erosion control line on Estero Island, Florida, recorded in Official Records Book 3585, page 346, and Survey of Erosion Control Line recorded in Plat Book 70, page 25.

EXHIBIT A

From the Southwest corner of Block E, CRESCENT PARK ADDITION, as per plat thereof recorded in Plat Book 4, Page 46, of the Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South of Range 23 East, run South along said line 53.24 feet to the South Line of County Road right-of-way 50 feet wide; thence run Northwesterly at an inclusive angle of 69° 54' with said Section line along the South line of said right-of-way 632.63 feet to the point of beginning of the land herein described. From said point of beginning continue Northwesterly along South line of said right-of-way 80 feet; thence Southwesterly at included angle of 90° to the waters of the Gulf of Mexico; thence run Southeasterly along said waters to a point on a line perpendicular to the first mentioned County road, through point of beginning; thence run Northeasterly along said perpendicular line to the point of beginning.

and

From the Southwest corner of Block E, CRESCENT PARK ADDITION, as per plat thereof recorded in Plat Book 4, Page 46, of the Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South of Range 23 East, run South along said line 53.24 feet to the South Line of County Road right-of-way 50 feet wide; thence run Northwesterly at an inclusive angle of 69° 54' with said Section line along the South line of said right-of-way 532.63 feet to the point of beginning of land herein described; continue Northwesterly along South line of said right-of-way for 100 feet; thence Southwesterly perpendicular to said road to the waters of the Gulf of Mexico; thence Southeasterly along said waters to a point on a line perpendicular to said road through point of beginning; thence run Northeasterly along said perpendicular line to the point of beginning.

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RESOLUTION NUMBER 24- 247

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING RESOLUTION 24-73, CONTAINING THE PROCEDURES FOR DEVELOPMENT AGREEMENTS WITH DEVIATIONS TO CLARIFY THAT THESE DEVELOPMENT AGREEMENTS ARE HOME RULE DEVELOPMENT AGREEMENTS AND TO AMEND RELATED NOTICE REQUIREMENTS FOR CONSISTENCY WITH NOTICE REQUIREMENTS IN SECTION 2-98 AND CHAPTER 34 OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE AND REQUIRE A RECOMMENDATION FROM THE TOWN MANAGER REGARDING THE PROPOSED DEVELOPMENT AGREEMENT; 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, on April 1, 2024, the Town Council of the Town of Fort Myers Beach adopted Resolution 24-73, approving an administrative code setting forth procedures for the application and approval of home rule development agreements, which among other things may provide for deviations; and

WHEREAS, the Town Council wishes to amend Resolution 24-73 for clarity and consistency with notice provisions in Section 2-98 and Chapter 34 of the Town's Land Development Code; and

WHEREAS, the Town Council has determined it is in the best interests of the residents of Fort Myers Beach to adopt this Resolution.

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 adopts the changes as set forth in Exhibit "A."

Section 3. This Resolution shall be effective retroactive to April 1, 2024 upon adoption by the Town Council.

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

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
John R. King, Councilmember	Aye
Scott Safford, Councilmember	Aye
Karen Woodson, Councilmember	Aye

ADOPTED this 18th day of November 2024, by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 25th day of November 2024.

EXHIBIT A

TOWN OF FORT MYERS BEACH
ADMINISTRATIVE CODE PROVIDING
PROCEDURES FOR HOME RULE DEVELOPMENT AGREEMENTS

Pursuant to Section 2-100 and 2-96 of the Town's Land Development Code, the Town may enter into a Home Rule Development Agreement with a property owner. A Home Rule Development Agreement is a non-statutory development agreement authorized pursuant to the Town's home rule authority that may allow for approval of amendments, modifications, deviations, variances or exceptions from the Town's Land Development Code, and, if appropriate under the provisions of the Town's Comprehensive Plan, relief from the building height limitations in the Comprehensive Plan. Approval of a Home Rule Development Agreement and the deviations provided for in such Home Rule Development Agreement shall be considered tantamount to and commensurate to a planned development for purposes of determining consistency with the Comprehensive Plan. Approval of a Home Rule Development Agreement shall be subject to the procedures set forth herein.

1. *Home Rule Development Agreement Application Procedures.*

The following information/exhibits shall be required with the application for a Home Rule Development Agreement (hereinafter sometimes referred to as "Development Agreement"):

1.1. Legal description and address of the parcel of land which will be the subject of the Development Agreement (hereinafter "Land").

1.2. The name, address and telephone number of the applicant and any attorney or agent who is or will be representing the applicant.

1.3. A title opinion from a Florida attorney (which opinion is in a form acceptable to and in favor of the town), which shall identify and provide the names, addresses and telephone numbers of all legal and equitable owners having interest in the Land, as well as all mortgage or lien holders, holders of easement interests, and other encumbrances, upon the Land. As of the date of recordation of any Development Agreement, the applicant shall be required by the town to update the foregoing information in this subparagraph to the date of recording of the Development Agreement.

1.4. An application signed by, or on behalf of, the owner and any lien holder(s) as to the Land subject to the Development Agreement, and if not signed by the owner a notarized consent signed by the owner authorizing the person to sign the application.

1.5. Payment of any required application fee as set by resolution of the town council.

1.6. A survey of the Land showing the approximate location of all environmentally sensitive lands, or lands subject to the jurisdiction of the U.S. Army Corps of Engineers, Florida Department of Environmental Regulation, the Southwest Florida Water Management District or Lee County, Florida.

1.7. A statement and finding demonstrating that the proposed Development Agreement will be consistent with the comprehensive plan of the town.

1.8. The desired duration of the Development Agreement shall not be less than the expected completion of the development on the Land.

1.9. Development uses and regulations currently legally permitted on the Land, including densities, intensities, heights of structures, and setbacks; and, if different, any of the same that are currently on the Land, or that were on the Land at any time in the last 24 months.

1.10. Development uses and regulations, including densities, intensities, heights of structures, and setbacks being requested on the Land.

1.11. A description of the public facilities which will provide services to support the development, the approximate date that new public facilities, if needed, will be constructed, and a schedule to assure that the public facilities and services will be available concurrent with the impacts of development.

1.12. A description of any current or proposed reservation or dedication of land for public purposes.
1.13. Any deed restrictions existing or being imposed upon the Land, and a description of any current or proposed reservation or dedication of land for public purposes.

1.14. The application must explicitly identify each instance of conflict with existing ordinances and expressly provide for the Development Agreement to control, or else all of the provisions of such conflicting ordinances shall control to the extent that the Development Agreement fails to expressly provide otherwise. Any ambiguity with respect to whether a Development Agreement or an ordinance is to control shall be interpreted to favor the ordinance. A statement listing all contemplated zoning districts or land use modifications or requests for more flexibility that will be required if the proposed Development Agreement were to be approved.

1.15. A sketch of site plan showing where buildings (with heights), structures, parking, and other features/amenities of the proposed development shall be located. If the Land is located on the water, any view corridors or public access location(s), if any, will be located.

1.16. A statement that a copy of the Development Agreement with Deviations Application has been furnished by First Class U.S. Mail to all property owners within 100 feet of the boundaries of the Land at the addresses of such property owners found on the Lee County Property Appraiser website, and a list of such property owners and addresses.
1.17. A concise and complete recital of the proposed contents of the Development Agreement using the Form of Development Agreement with Deviations attached as Ex. "A".

2. *Development Agreement Minimum Content Requirements.*

The following information shall be required within a Development Agreement.

2.1. A legal description of the land subject to the agreement and the identification of all persons having legal or equitable ownership therein.
2.2. The duration of the development agreement, which duration shall not be less than the anticipated time period needed to fully build out the development.
2.3. The development rights to be permitted on the land, and setting forth densities, intensities, building height(s), and setbacks. Uses of the land shall be those allowed in the underlying zoning district unless otherwise specifically provided, such as when a special exception is a part of the development agreement.
2.4. A description of the public facilities and services, including on-site improvements that will serve the proposed project, including designation of the entity or agency that shall be providing such facilities. Additionally, if new facilities are needed to serve the project, the date by which such facilities will be constructed and a schedule to assure that public facilities and services shall be available concurrent with the impact of the development project.
2.5. A description of any reservation or dedication of land for public purposes. The Development Agreement shall provide specifically how the land dedication obligation for the project, if any, is to be met. In the event that land or any interest herein is to be conveyed to the town or other entity in discharge of the foregoing, the Development Agreement shall provide that such conveyance or dedication will be by warranty deed or easement, or other instrument in form and substance acceptable to the town attorney, together with evidence of title in form acceptable to the town attorney prepared by an attorney who is a member of the Florida Bar, or a title company licensed in Florida, all depicting who is the owner in fee simple of the land subject to the conveyance or dedication, and the holders of any other interest or liens affecting said land.
2.6. A description of all local permits approved or needed to be approved for the development of the Land, specifically to include at least the following:

Any required submission to the Southwest Florida Regional Planning Council and any required permission of the State of Florida, Department of Environmental Regulation,

the U.S. Corps of Army Engineers, the Southwest Florida Water Management District, the U.S. Environmental Protection Agency or any other required governmental permission. The Development Agreement shall specifically provide that said development permission will be obtained at the sole cost of the owner of the Land, and that any approvals previously given, including the Development Agreement, shall not in any manner obligate the town or any other governmental agency to grant other permit approvals. Under these conditions, action in reliance on the Development Agreement or expenditures in pursuance of its terms or any rights accruing to the project owner thereunder shall not vest any development rights in the owner of the Land or the project to a continuation of the Development Agreement.

2.7. A specific finding in the Development Agreement that the proposed project permitted or proposed is consistent with the town's Comprehensive Plan and Land Development Code, or that, if deviations are necessary for the zoning district or land use plan designations on the subject Land, such Development Agreement specifically lists such deviations in detail.

2.8. Statement in the Development Agreement showing how sidewalk and pedestrian travel is being addressed in a conceptual plan showing the proposed layout of streets, lots, green areas, conservation areas, bike ways, parks, public facilities and such other amenities.

2.9. A statement in the Development Agreement describing how environmentally sensitive land, if any, will be preserved and managed.

2.10. A statement in the Development Agreement describing how threatened or endangered species are being protected.

2.11. A statement in the Development Agreement explicitly identifying each instance of conflict with existing ordinances and expressly providing for the Development Agreement to control, or else all of the provisions of such conflicting ordinances shall control to the extent that the Development Agreement fails to expressly provide otherwise. Any ambiguity with respect to whether a Development Agreement or an ordinance is to control shall be interpreted to favor the ordinance. A statement indicating that failure of the Development Agreement to address a particular permit condition, term or restriction shall not relieve the owner or developer of the necessity of complying with the laws governing said permitting requirements, conditions, terms or restriction.

2.12. A provision that any matter or action required under existing ordinances of the town shall not be otherwise amended, modified or waived, unless such modification, amendment or waiver is expressly provided for in the Development Agreement with specific reference to the Code provision so waived, modified or amended ("deviations").

2.13. Agreement whereby if the applicant, upon approval of the Development Agreement, fails to comply with the terms of the agreement, the town may bring an action in a court of law with competent jurisdiction to protect its rights and interests. All associated reasonable costs and attorney's fees shall be reimbursed to the town if an action at law is necessary regardless of whether the Town is the prevailing party

2.14 Post-Development Agreement requirements. An acknowledgement that prior to the issuance of any building permits being issued for the development that:

2.14.1 All existing and proposed utilities and the manner in which existing utilities will be extended to the site and/or expanded for the use of the development including water, sewer, gas, electricity, cable television, and other utilities shall have been approved by the Town;

2.14.2 The proposed drainage plan for the proposed project shall have been approved by the Town;

2.14.3 The proposed grading plan and elevation requirements of the town, including, but not limited to those related to the National Flood Insurance Program as applicable to the town shall have been approved by the town;

2.14.3. The traffic impact and parking plans as applicable to the town shall have been approved by the town; and

2.14.4 All other town requirements are met that are necessary for the initial building permits to build the project on the Land.

2.15. An acknowledgement that the town shall not have any liability whatsoever for any expenses or other damages that may be incurred as a result of denial of the Development Agreement or for denial of building permits due to the failure to meet the town's requirements as to any Post-Development Agreement requirements.

2.16. A description of any special or public benefit to the Town as a result of the development such as, the promotion of economic development, affordable housing, hurricane recovery, provision of needed public facilities, provision of public land or recreation, and/or elimination of blight.

2.17. A finding that the proposed Development Agreement is reasonable and not arbitrary and in the best interest of the town.

3. *Home Rule Development Agreement Review Procedures.*

The following regulations shall be followed during the review of a Development Agreement.

3.1. Staff negotiation. The town manager or the town manager's designee (typically the town planner) shall review the proposed project and shall meet and hold preliminary nonbinding negotiations with the applicant regarding the appropriate terms and conditions on which said Land should be developed. At such time as a tentative agreement is reached as to the recommended terms and conditions of the Development Agreement, or the town manager or town manager's designee deems that no further negotiations would be useful because of the unlikely possibility of reaching a concurrence on the terms and conditions of a Development Agreement, the proposal shall be reduced to a nonbinding and unexecuted writing. Such tentative agreement, whether oral or written, shall not give rise to any development rights or equitably or legally vest any development rights in the owner of the Land or other substantially affected person.

3.2. Reduction of proposal to writing

3.2.1. In the event that the town manager or the town manager's designee and the applicant have negotiated the terms of a mutually acceptable, nonbinding and tentative Development Agreement, the terms of that Development Agreement shall be reduced to writing in a contractual form for review and for further discussion, consideration and approval or disapproval as provided herein. The Development Agreement may include a provision that authorizes administrative amendments to the site plan provided that height, density and intensity are not increased, and the plan remains consistent with the Town's Comprehensive Plan.

3.2.2. In the event that the town manager or town manager's designee and the applicant have been unable to negotiate a mutually satisfactory Development Agreement, within thirty (30) days of said determination by the town manager or the town manager's designee, the applicant may prepare a proposed Development Agreement consistent with all requirements hereof for review by the town's Local Planning Agency ("LPA").

3.2.3 The town manager, or designee will make a recommendation as to whether the town council should approve or not approve a Development Agreement prior to adoption and approval of the Development Agreement.

3.3. Public hearings

3.3.1. At such time as the Development Agreement has been reduced to written nonbinding contractual form, or the applicant has prepared a Development Agreement as set forth above in subsection 3.2, the town manager or town manager's designee shall transmit such Development Agreement to the LPA.

3.3.2. A public hearing shall be held by the LPA concerning said application, and the LPA shall issue a recommendation for approval, approval with conditions, or denial of the Development Agreement to the town council. Thereafter, two public hearings shall be held by the town council prior to approval of the Development Agreement. The Development Agreement shall be adopted by Ordinance, following two readings of the title at the two public hearings and publication of a notice 10 days in advance of the second public hearing in a newspaper of general circulation.

3.3.3. Notice of the public hearings shall be available on the town's website, and a notice shall be mailed to all property owners within a five hundred (500) foot radius of the boundaries of the Land at the addresses of such property owners found on the Lee County Property Appraiser website prior to the first public hearing in accordance with notice procedures in Chapter 34 of the Land Development Code. A Development Agreement shall comply with notice requirements in Chapter 34 of the Land Development Code. Notwithstanding the foregoing, as provided in Section 2-98, failure to comply with Chapter 34 notice requirements shall not be a basis for invalidating a Development Agreement.

3.3.3.4. At the public hearings and in compliance with any and all procedures established by law for the conduct of said hearings, the LPA and the Town Council shall accept any public comment on the terms of the Development Agreement. Following the final Town Council public hearing, the town clerk shall immediately dispatch, postage prepaid by regular, first class, U.S. mail and in writing, a copy of the determination of the Town Council to the applicant, or anyone who has requested a copy advising them of the town council's decision. The determination shall state that the decision of the town council is final agency action.

4. *Development Agreement Execution Procedures and Recording.*

Development Agreements shall be executed as established below:

4.1. All Development Agreements shall be executed on behalf of the applicant by all persons having legal or equitable title in the Land subject to the Development Agreement, including the fee simple owner and any mortgagees or other lien holders or owners of other equitable interests in the Land, unless the town attorney approves the execution of the development agreement without the necessity of such joinder or subordination in that the substantial interests of the town will not be adversely affected thereby.

4.2 Development Agreements shall not be executed on behalf of the town and shall not be recorded unless and until all Post-Development Agreement requirements have been met as set forth in Sec. 2-14 above. The applicant shall bear the expense of recording the Development Agreement, which shall be recorded by the town clerk.

5. *Amendment to Development Agreement.*

5.1 Except for Administrative Amendments, if allowed in the Development Agreement, an amendment to a Development Agreement shall not occur unless and until there have been hearings thereon before the LPA and before the Town Council in the same manner as for the original hearings for the Development Agreement.

Town of Fort Myers Beach
Agenda Item Summary Yellow Sheet Number: **2025-369**

1. **Request:** **Meeting Date: April 29, 2025**

1051 FIFTH STREET AND 1060 THIRD STREET: AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/ DENYING AN AMENDMENT TO THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, PREVIOUSLY APPROVED BY RESOLUTION 18-17 FOR THE PARCEL LOCATED AT 1051 FIFTH STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 24-46-23-W3-00205.0060, TO ADD AND REZONE A PARCEL LOCATED AT 1060 THIRD STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 24-46-23-W3-00203.0150 IN FORT MYERS BEACH FROM DOWNTOWN TO CPD; 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:

What the action accomplishes:

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Ordinance

---

5. **Background:**
The proposed ordinance amends the existing CPD zoning designation for 1051 Fifth Street to include the property located at 1061 Third Street. The Town Council approved a CPD for the property at 1051 Fifth Street in 2018 through Resolution 18-17 which currently provides the zoning regulations for the site. The applicant is seeking through this ordinance to include the parcel at 1061 Third Street in the CPD.

Attachments:
1. NS Ordinance 25-xx expanded CPD boundaries for 1051 Fifth Lighthouse
2. Exhibit A: Resolution 18-17-Lighthouse-CPD
3. Exhibit B: Boundary Map
4. Staff Report
5. Business Impact Estimate CPD expansion lighthouse

Financial Impact:

6. **Alternative Action**
Deny

7. **Staff Recommendations:**

8. **Recommended Approval:**

_____ Date: April 16, 2025
Judith Frankel, Principal Planner

_____ Date: April 16, 2025
Georgina Cid, Community Development Manager

_____ Date: April 17, 2025
Frankie Kropacek, Operations & Compliance Director

_____ Date: April 21, 2025

nancy stuparich, Town Attorney

_____ Date: April 22, 2025

Amy Baker, Town Clerk

ORDINANCE 25-xx

AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/ DENYING AN AMENDMENT TO THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, PREVIOUSLY APPROVED BY RESOLUTION 18-17 FOR THE PARCEL LOCATED AT 1051 FIFTH STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 24-46-23-W3-00205.0060, TO ADD AND REZONE A PARCEL LOCATED AT 1060 THIRD STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 24-46-23-W3-00203.0150 IN FORT MYERS BEACH FROM DOWNTOWN TO CPD; 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, Lighthouse Island Resort, Inc., the owner, and The Neighborhood Company, as agents for the property located at 1051 Fifth Street and 1060 Third Street, Ft Myers Beach, FL 33931, parcels generally identified as STRAP numbers 24-46-23-W3-00205.0060 and 24-46-23-W3-00203.0150 in the Town of Fort Myers Beach, filed applications to add property located at 1060 Third Street to the CPD adopted in Resolution 18-17 (1051 Fifth Street) and to rezone it from Downtown to CPD; and

WHEREAS, the property located at 1060 Third Street and the property in the existing CPD (1051 Fifth Street) are both located in the Pedestrian Commercial Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on April 29th, 2025; and

WHEREAS, at the April 29, 2025 public hearing, the LPA gave full and complete consideration to the request, the 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 April 29, 2025 public hearing the LPA found that the

request **is/is not** consistent with the comprehensive plan and the requirements of the LDC and voted to recommend **approval/approval with conditions/denial**; and

WHEREAS, on the ___ day of _____ 2025, 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 _____, 2025; and

WHEREAS, at the _____, 2025 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 is a copy of Resolution 18-17, which created the existing CPD; and

WHEREAS, Exhibit B is a map showing the expanded boundary of the CPD created by Resolution 18-17, which will regulate future development; and

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 testimony of the applicant, the recommendations of staff and of the local planning agency, and testimony from the public was competent and substantial evidence.
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 25-XX, is **consistent/not consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC, and voted to **approve/approve with conditions/deny** the Application.

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

FOLLOWS:

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

Section 2. The Town Council determines the Applicant **did/did not** meet its burden of proof, that the request to approve Town of Fort Myers Beach's Ordinance 25-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 **APPROVES/APPROVES WITH CONDITIONS/DENIES** the requested application.

Section 3. Town Ordinance 25-xx is adopted, with Exhibit A and Exhibit B incorporated by 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 _____ and seconded by _____ and upon being put to a vote, the result was as follows:

DULY PASSED AND ADOPTED on this ___ day of May 2025.

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 _____ 2025.
Attachments:

A –Resolution 18-17
B – Expanded Boundary Map

ORDINANCE 18-17

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AN AMENDMENT TO THE CURRENT ZONING MAP FROM DOWNTOWN ZONING DISTRICT TO COMMERCIAL PLANNED DEVELOPMENT (CPD) AND AN AMENDMENT TO THE LIGHTHOUSE ISLAND RESORT MASTER CONCEPT PLAN PREVIOUSLY AMENDED AND APPROVED BY RESOLUTION 13-29, TO INCLUDE THE TWO PARCELS CONTAINING APPROXIMATELY 4,000 SQUARE FEET, AS DEVELOPED WITH MODIFIED CONDITIONS OF APPROVAL AND DEVIATIONS; GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00203.019A AND A PORTION OF LOT 14 CONSIDERED PART OF TOWN RIGHT-OF-WAY; PETITION DCI18-0002; PROVIDING FOR SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, Lighthouse Island Resort, Inc. filed application to rezone the property from the Downtown zoning district to CPD with amended Master Concept Plan (MCP), in order to add two developed portions of property containing 4,000+/- square feet, and increase the total rooms from 72 to 75, to the Lighthouse Island Resort development located primarily at 1051 Fifth Street in the Town of Fort Myers Beach; and

WHEREAS, the subject 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 property requested to be rezoned and included with the Lighthouse Island Resort are adjacent to the Lighthouse Island Resort property; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on October 9, 2018; and

WHEREAS, at the October 9th, 2018 public hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, as required by Town Land Development Code (LDC) s. 34-85; and

WHEREAS, at the October 9th, 2018 public hearing the LPA recommended approval based on findings and considerations as outlined in the staff report, by a 7-0 vote, subject to certain conditions and deviations; and

WHEREAS, on November 5th, 2018 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

WHEREAS, a second reading of the proposed Ordinance and a public hearing on this matter legally advertised and held before the Town Council on November 19th, 2018 at which time the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

WHEREAS, this approval is subject to the findings and considerations beginning on packet page 21 through 24, with the exception to Policy 4-E-1, which should read the predisaster buildback policy is being utilized for this development.

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

The Town Council votes to **APPROVE.** the request to rezone the subject property to CPD with MCP, subject to the deviations and conditions set for with specificity.

CONDITIONS:

Condition 1.

The development of this project must be consistent with the five (5) page Master Concept Plan entitled "Master Concept Plan (CPD) for Lighthouse Island Resort" last revised 3-12-2013, except as modified by the conditions and deviations below. Phase 1-A is not accepted. A modified MCP set shall be submitted for the record and include any conditions of approval and deviations herein.

Condition 2.

The following limitations apply to the project and uses:

a. Schedule of Uses

All uses permitted by right in the Downtown zoning district with the following limitations:
Restaurant is limited to 4,300 square feet
Retail is limited to 5,000 square feet
Office is limited to 420 square feet
Hotel/Motel units limited to a maximum of 75 lawfully existing guest units, which total includes the unit for the caretaker and the permanent transfer of all dwelling units from 2639/2641 Estero Blvd. (19-46-24-W3-0020C.0180) for the exceptional circumstance to benefit the Heart of the Island recreational, historic, environmental, and cultural resources of the Town; to be used for increased access and egress, increase public access of the parcel, increase access to public facilities, non-occupied buildings and permanent ownership by the Town.

b. Site Development Regulations

Building placement, size, design, and all other property development regulations shall be the same as for the CR (Commercial Resort) zoning district unless approved as deviations as part of the approved zoning resolution.

Condition 3.

Maximum building height may not exceed 37 feet above Base Flood Elevation. No additional building height is approved within this planned development.

Condition 4.
Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.

Condition 5.
The final design of the building within this planned development must be approved by the Town Manager prior to the approval of any permits. The design must be in substantial compliance with the Town of Fort Myers Beach Comprehensive Plan, the Land Development Code, and all other applicable requirements.

Condition 6.
The 5,000 square feet of retail uses are limited to the ground floor of the Phase 2 building as depicted on the approved Master Concept Plan. The ground floor will have to be dry flood proofed and must be constructed in compliance with Chapter 6 of the Land Development Code.

Condition 7.
At no time will the total number of Hotel/Motel units exceed 75 guest units.

Condition 8.
Prior to approval of a development order, the correct sidewalk easement must be recorded in the Public Records of Lee County, Florida.

Condition 9.
Prior to seeking any building permits for development on this site, the developer must combine the existing platted lots into one lot of record as part of the local development order for this CPD project not later than February 28, 2019.

Condition 10.
Prior to each local development order approval, the developer must provide a current tally of the square feet for each use approved in all previous local development orders.

Condition 11.
The total square feet of existing and proposed buildings must not exceed 58,432 square feet of total building area for buildings used as hotel/motel guest units.

Condition 12.
Any off-site parking, other than the existing approved 5 off-site parking spaces, must be addressed through an amendment to this CPD.

Condition 13.
Any outdoor seating for the restaurant and any sign that will require a deviation must be addressed through an amendment to this CPD.

Condition 14.
This development must comply with all requirements of the LDC at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

Condition 15.
This CPD project must be constructed to build-out no later than December 31, 2025. A completed building permit and start of construction to the next phase shall occur prior to December 31, 2023.

Condition 16.
All signs containing commercial messages, including those shown for the proposed restaurant in Phase II-A, must be in compliance with LDC Chapter 30, except as approved herein by deviations.

Condition 17.
The deviation for internal illumination of signs is approved only for the existing signs. If the signage is moved, removed, or damaged beyond repair, the deviation will be null and void, and any new signage must comply with the regulations of the LDC.

Condition 18.
Any violation of these conditions shall be subject to a maximum $500 per incident, per day fine.

DEVIATIONS:

Deviation #1
Deviation 1 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Crescent Street); to allow a connection separation of 83 feet from Fifth Avenue. This deviation is unchanged from the previously approved MCP and is APPROVED.

Deviation #2
Deviation 2 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Crescent Street); to allow a connection separation of 115 feet from Third Street. This deviation is unchanged from the previously approved MCP and is APPROVED.

Deviation #3
Deviation 3 was from a previous Lee County LDC requirement, and is no longer necessary. The Fort Myers Beach LDC does not regulate building separation within a project site.

Deviation #4
Deviation 4 requests relief from LDC Table 34-3 which requires certain setbacks for structures, buildings, and pavement from the development perimeters; to allow the reduced setbacks of 7.4', 4.5', 3', 2.6', 1.5, 1.4', & 0', from the development perimeter as depicted on the Master Concept

Plan. All of the setbacks were previously approved on the existing MCP for this project. This deviation is **APPROVED.**

Deviation #5

Deviation 5 requests relief from LDC Table 34-3 which provides the property development regulations for the Fort Myers Beach Commercial Resort (CR) zoning district; to allow street setbacks of 4.5', 2.0', and 0' along San Carlos Boulevard. All of the setbacks were previously approved on the existing MCP for this project. This deviation is **APPROVED.**

Deviation #6

Deviation 6 requests relief from LDC Section 34-2016 which requires 90 degree parking spaces to be a minimum of 18' in length; to allow 90 degree parking spaces to be 16' in length for Phase 2 parking only. This deviation is **APPROVED** as depicted on the approved Master Concept Plan and with the condition that these parking spaces will be removed at the time Phase 5 is constructed.

Deviation #7

Deviation 7 requests relief from LDC Section 34-2016(a) which requires parking aisles between parking spaces to be 22' in width to allow the parking aisles to be 20' in width for some areas for the Phase 2 parking only. This deviation is **APPROVED** as depicted on the approved Master Concept Plan and with the condition that these parking aisles will be removed at the time Phase 5 is constructed.

Deviation #8

Deviation 8 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Fifth Avenue); to allow a connection separation of 83 feet from two existing driveways. This deviation is **APPROVED.**

Deviation #9

Deviation 9 requests relief from the F.A.R. requirements of LDC Section 34-953 and Table 34-3 to allow additional F.A.R. to exceed the total of 66,852 square feet of residential and commercial uses to the extent necessary to develop on-site under building parking. This deviation is **APPROVED.**

Deviation #10

Deviation 10 requests relief from LDC Section 30-153(b)(1) which allows a maximum of 32 square feet of signage; to allow 126 square feet of total signage for Lighthouse Island Resort. This deviation is **APPROVED.**

Deviation #11

Deviation 11 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign; to allow 25'6" for the Lighthouse "Sign D". This deviation is **APPROVED.**

Deviation #12

Deviation 12 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign and 18 inches for the sign base; to allow the bottom of the sign at 4.1' and an overall height of 10.4' for "Sign A" on Third Street. This deviation is **APPROVED,** provided that the top of the sign face shall not exceed 8.1', as depicted in Sign Detail "A".

Deviation #13

Deviation 13 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign and 18 inches for the sign base; to allow the bottom of the sign at 4.1' and an overall sign height of 9.7' for "Sign B" on Crescent Street." This deviation is APPROVED, provided that the top of the sign face shall not exceed 8.1', as depicted in Sign Detail "B".

Deviation #14

Deviation 14 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign and 18 inches for the sign base; to allow the bottom of the sign at 4.1' and an overall height of 9.7' for "Sign C" on Fifth Street. This deviation is APPROVED, provided that the top of the sign face shall not exceed 8.1', as depicted in Sign Detail "C".

Deviation #15

Deviation 15 requests relief from LDC Section 30-154(b) which requires that all signs be set back a minimum 3 foot from any public right-of-way; to allow a 0' setback for "Sign A" located on Third Street. This deviation is APPROVED.

Deviation #16

Deviation 16 requests relief from LDC Section 30-154(b) which requires a minimum 3 foot setback from any public right-of-way; to allow "Sign B" to remain located entirely within the right-of-way at the intersection of Crescent Street and Fifth Street. This deviation is APPROVED.

Deviation #17

Deviation 17 requests relief from LDC Sec. 34-154(a) for internal illumination of the sign faces to remain as existing, where they would otherwise be required to emit light only from the letters and symbols of the sign face, subject to Condition #18. This deviation is APPROVED.

CODIFICATION AND SCRIVENER'S ERRORS.

The Town Council intends that this ordinance will not be made part of the Fort Myers Beach Code of Ordinances; typographical errors that do not affect the intent can be corrected with the authorization of the Town Manager or designee, without the need for a public hearing. Only the specific deviations granted by the Town Council and associated plan sheets reflecting those approvals with or without conditions are so incorporated.

EFFECTIVE DATE.

This ordinance becomes effective immediately upon its adoption.

THE FOREGOING ORDINANCE was enacted by the Town Council upon a motion by Council Member Joanne Shamp and seconded by Council Member Dennis Boback and, upon being put to a roll call vote, the result was as follows:

Tracey Gore, Mayor	NAY	Bruce Butcher	AYE
Anita Cereceda	AYE	Joanne Shamp, Vice Mayor	AYE
Dennis Boback	AYE		

DULY PASSED AND ENACTED this 19th day of November 2018.

ATTEST:

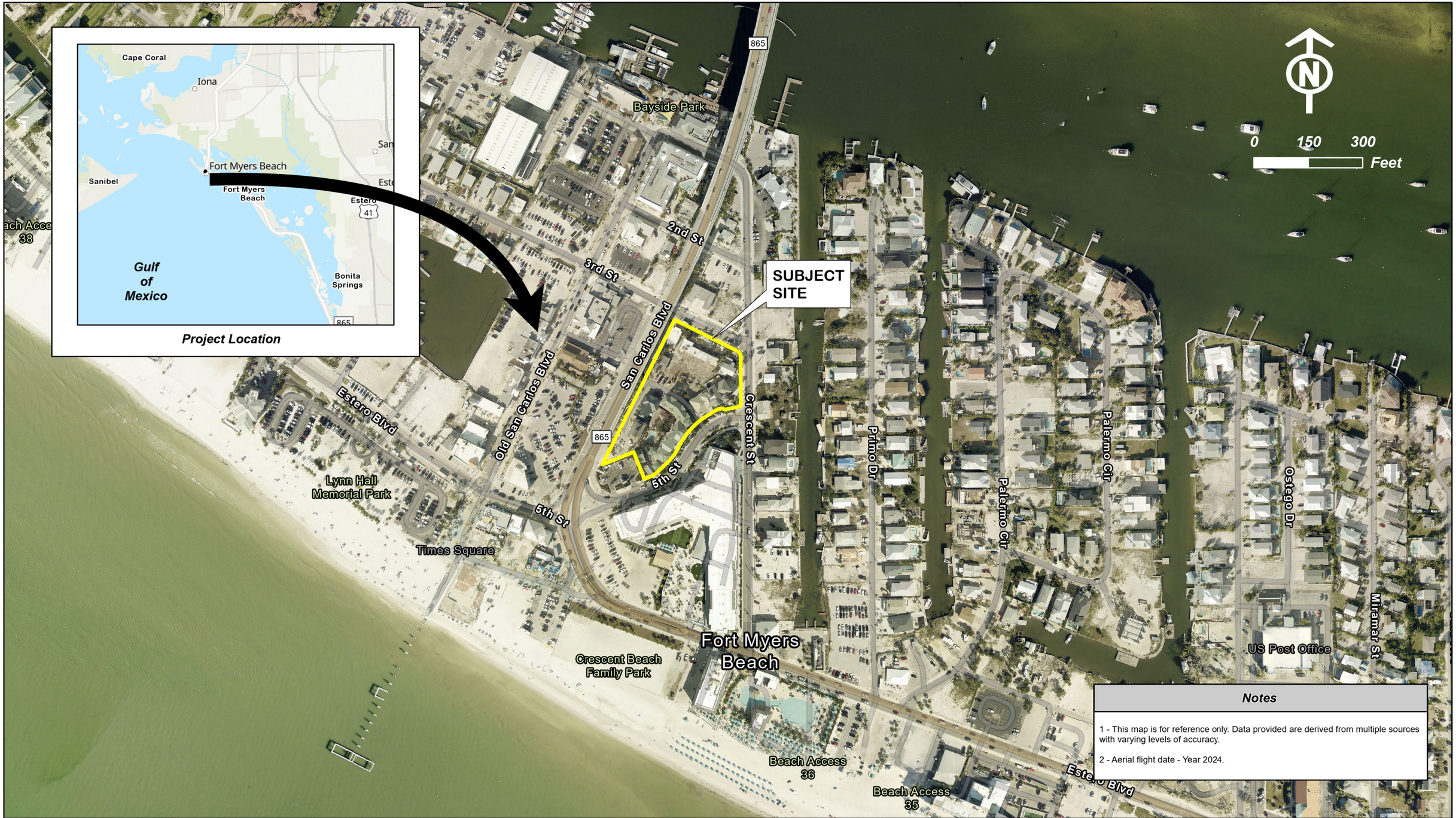
By: _____
Michelle D. Mayher, Town Clerk

TOWN OF FORT MYERS BEACH

By: _____
Tracey Gore, Mayor

Approved as to form by:

By: _____
Peterson Law Group, Town Attorney



Notes

1 - This map is for reference only. Data provided are derived from multiple sources with varying levels of accuracy.

2 - Aerial flight date - Year 2024.

THE NEIGHBORHOOD COMPANY

Lighthouse Island Resort (CPD)

Project Location

FILE NO:	220037.01.01
DRAWN BY:	F.L.
DESIGN BY:	P.V.
DATE:	January 2025

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

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

CASE NUMBER: **DCI Rezoning 20250035.1**

CASE NAME: **Lighthouse Island Resort**

LPA HEARING DATE: **April 29th, 2025**

STAFF RECOMMENDATION: **Approval**

PREPARED/ SUBMITTED BY: **Judith Frankel, AICP**

I. APPLICATION SUMMARY

Applicant/Owner:	Lighthouse Island Resort, Inc./The Neighborhood Company
Request:	Amend the existing CPD RES#18-17 (See Exhibit A) to expand the boundary to include and rezone 1060 Third Street from Downtown to CPD
Subject property:	See Exhibit B
Physical Address:	1051 Fifth Street and 1060 Third Street
STRAP #:	24-46-23-W3-00205.0060 and 24-46-23-W3-00203.0150)
FLU:	Pedestrian Commercial
Zoning:	CPD/Downtown

Adjacent zoning and land uses:

North:	DOWNTOWN Residential
South:	CPD Margaritaville Resort
East:	RESIDENTIAL MULTIFAMILY (RM) Residential
West:	DOWNTOWN and CPD Commercial, Parking and Matanzas Pass Bridge

II. BACKGROUND AND ANALYSIS

The applicant, Neighborhood Company on behalf of the property owner Lighthouse Island Resort, Inc. is requesting to expand the boundary of the existing Commercial Planned Development (CPD) as approved in Resolution 18-17. The requested expansion would add the parcel located at 1060 Third Street. The applicant is also requesting to amend the Master Concept Plan, schedule of uses, deviations, and conditions for this CPD under a separate ordinance.

The two subject parcels total 1.87 acres and are located directly east of the Matanzas Pass Bridge. The property has a Future Land Use (FLU) Designation of Pedestrian Commercial. The larger parcel fronting San Carlos Boulevard and Fifth Street has a zoning designation of Commercial Planned Development (CPD) and the corner parcel at 1060 Third Street has a zoning designation of Downtown.

The Lighthouse Island Resort has been in operation for over 60 years. In 1977, approximately half an acre of the existing property was part of a larger Florida Department of Transportation taking associated with construction of the Matanzas Pass Bridge. This action reduced the property from 32 original platted lots to 20. The former Fourth Street court was vacated to the resort.

The original Lighthouse Resort CPD was approved in 1999, when the existing property was rezoned from C-1 to CPD to facilitate redevelopment. Since that time, there have been five amendments to the CPD.

Analysis:

The parcel at 1060 Third Street was sold to the applicant in 2021. The inclusion of this parcel into the existing CPD will allow the entire resort to operate within one zoning district with consistent regulations. The land uses across both Third Street and Crescent Street are residential. The property previously operated as a vacation short term rental with 3 units according to the Lee County Property Appraiser records.

Neighborhood Compatibility:

The parcel at 1060 Third Street abuts the existing Lighthouse Resort CPD on two sides and residential uses on the other two sides. The inclusion of this parcel in the abutting CPD is compatible with the surrounding neighborhood.

IV. FINDINGS AND CONCULSIONS

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 Lighthouse Resort survived Hurricane Ian but incurred significant damages. The applicant aims to continue as a resort with an increased capacity.

(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 expanded boundary is consistent with the Town of Fort Myers Beach Comprehensive Plan. The parcels are located in the Pedestrian Commercial FLU which is intended to be up to 90% commercial.

(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 and 34-2032.

(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 designated environmentally critical areas and natural resources. 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 expanded boundary is compatible.

(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 location is compatible.

(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 expansion area for the CPD complies with the Comprehensive Plan.

(2) This chapter.

Staff response: The proposed uses comply with this chapter.

(3) Any other applicable town ordinances or codes.

Staff response: The proposed request complies with the town ordinances and codes.

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

LDC Sec. 34-216(b)(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 uses are appropriate in this location as it is within the FLU category of Pedestrian Commercial.

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: No special conditions are proposed.

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: No special conditions are requested as part of this application.

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

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

Staff response: Not applicable.

2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "boulevard" category.
Staff response: Not applicable.
3. Policy 4-C-4 on building heights taller than the standard height limit.
Staff response: 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: There are no anticipated adverse traffic impacts

V. RECOMMENDATION

Staff finds that the CPD amendment meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC. Staff recommends **approval** of DCI20250035.1.

Exhibit A: Resolution18-17 Lighthouse Resort CPD
Exhibit B: Property Boundary Map

Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the Fort Myers Beach website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference: **AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/ DENYING AN AMENDMENT TO THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, PREVIOUSLY APPROVED BY RESOLUTION 18-17 FOR THE PARCEL LOCATED AT 1051 FIFTH STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 24-46-23-W3-00205.0060, TO ADD PARCEL 1060 THIRD STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 24-46-23-W3-00203.0150 IN FORT MYERS BEACH,; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Fort Myers Beach is of the view that a business impact estimate is not required by state law[1] for the proposed ordinance, but the Fort Myers Beach is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☒ The proposed ordinance is enacted to implement the following:

[1] See Section 166.041(4)(c), Florida Statutes.

a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the Fort Myers Beach hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance amends the existing CPD zoning designation for 1051 Fifth Street to include the property located at 1061 Third Street. The Town Council approved a CPD for the property at 1051 Fifth Street in 2018 through Resolution 18-17 which currently provides the zoning regulations for the site. The applicant is seeking through this ordinance to include the parcel at 1061 Third Street in the CPD.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Fort Myers Beach, including the following, if any:
(a) An estimate of direct compliance costs that businesses may reasonably incur;
(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
(c) An estimate of the Fort Myers Beach regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

There are unlikely to be direct compliance costs associated with Ordinance 25-xx.

Ordinance 25-xx does not impose any new charge or fee on businesses.

There are no new charges or fees that will be imposed on businesses by the ordinance.

The Town will not likely incur additional costs.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

This rezoning does not increase restrictions on existing businesses.

4. Additional information the governing body deems useful (if any):[*You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: Fort Myers Beach staff solicited comments from businesses in the Fort Myers Beach as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on Fort Myers Beach website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses*).

Not applicable.

Town of Fort Myers Beach
Agenda Item Summary Yellow Sheet Number: **2025-372**

1. **Request:** **Meeting Date: April 29, 2025**

1051 FIFTH STREET AND 1060 THIRD STREET: AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING AMENDMENT FOR THE PROPERTY LOCATED AT 1051 FIFTH STREET AND 1060 THIRD STREET, GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00205.0060 AND 24-46-23-W3-00203.0150 IN FORT MYERS BEACH, TO AMEND THE EXISTING MASTER CONCEPT PLAN TO ALLOW FOR A) AN INCREASE IN THE NUMBER OF HOTEL UNITS, B) 11 DEVIATIONS: 1) MINIMUM CONNECTION SEPARATION, 2) EXCLUSION OF UNDER BUILDING PARKING FROM FAR, 3) INCREASE IN HEIGHT FOR A MONUMENT SIGN (5TH STREET), 4) INTERNAL SIGN ILLUMINATION, 5) 40 FEET HEIGHT WITH 4 STORIES, 6) REDUCTION IN STREET SETBACKS, 7) MURAL -STYLE SIGN (EAST SIDE), 8) 10 FOOT MONUMENT SIGN (CORNER), 9) MURAL STYLE SIGN (SOUTH), 10) WAYFINDING POLE SIGN, AND 11) 58% REDUCTION IN PARKING REQUIREMENTS; AND C) CONDITIONS; 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 LPA provides recommendations to the Town Council.

What the action accomplishes:
The LPA recomendation will allow the project to be haerd by the Town Council/

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Ordinance

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5. **Background:**
The subject property is located at 1051 Fifth Street and 1061 Third Street. The Town Council approved a CPD for the property at 1051 Fifth Street in 2018 through Resolution 18-17 which currently provides the zoning regulations for the site. This request is to amend the CPD to: 1) allow an increase in lodging units from 75 to a maximum of 130 units, 2) an increase in the maximum allowed height from 37-feet above Base Floor Elevation (BFE) to 40.5-feet above BFE, and modify some of the site conditions through 11 deviations. The existing CPD contains a deviation of F.A.R. requirements to exclude ground-level parking from the F.A.R. calculation. The applicant seeks to maintain that previously approved deviation. The applicant is seeking, under a separate ordinance, to include the parcel at 1061 Third Street in the CPD.

Attachments:
1. NS Rev Ordinance 25-xx Change of Use Lighthouse CPD 4.14.25
2. Exhibit A: Resolution 18-17-Lighthouse-CPD
3. Exhibit A1: MCP for Resolution 18-17
4. Exhibit B: Boundary Survey
5. Exhibit C: Master Concept Plan
6. Staff Report
7. Applicant Project Narrative
8. Applicant Deviations and Justifications
9. Applicant Proposed Conditions and Commitments
10. Architectural Elevations Exhibit - Building 5
11. Platted Lot Exhibit

12. Applicant Parking Analysis
13. Business Impact Estimate CPD lighthouse

Financial Impact:
Unknown

6. **Alternative Action**
Approve with Conditions

7. **Staff Recommendations:**

8. **Recommended Approval:**

_____	Date: April 16, 2025
Judith Frankel, Principal Planner	
_____	Date: April 16, 2025
Georgina Cid, Community Development Manager	
_____	Date: April 17, 2025
Frankie Kropacek, Operations & Compliance Director	
_____	Date: April 21, 2025
nancy stuparich, Town Attorney	
_____	Date: April 22, 2025
Amy Baker, Town Clerk	

ORDINANCE 25-xx

AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING AMENDMENT FOR THE PROPERTY LOCATED AT 1051 FIFTH STREET AND 1060 THIRD STREET, GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00205.0060 AND 24-46-23-W3-00203.0150 IN FORT MYERS BEACH, TO AMEND THE EXISTING MASTER CONCEPT PLAN TO ALLOW FOR A) AN INCREASE IN THE NUMBER OF HOTEL UNITS, B) 11 DEVIATIONS: 1) MINIMUM CONNECTION SEPARATION, 2) EXCLUSION OF UNDER BUILDING PARKING FROM FAR, 3) INCREASE IN HEIGHT FOR A MONUMENT SIGN (5TH STREET), 4) INTERNAL SIGN ILLUMINATION, 5) 40 FEET HEIGHT WITH 4 STORIES, 6) REDUCTION IN STREET SETBACKS, 7) MURAL -STYLE SIGN (EAST SIDE), 8) 10 FOOT MONUMENT SIGN (CORNER), 9) MURAL STYLE SIGN (SOUTH), 10) WAYFINDING POLE SIGN, AND 11) 58% REDUCTION IN PARKING REQUIREMENTS; AND C) CONDITIONS; 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, Lighthouse Island Resort, Inc., the owner, and The Neighborhood Company, as agents for the property located at 1051 Fifth Street and 1060 Third Street, Ft Myers Beach, FL 33931, parcels generally identified as STRAP numbers 24-46-23-W3-00205.0060 and 24-46-23-W3-00203.0150 in the Town of Fort Myers Beach, filed applications to rezone the property from the CPD adopted in Resolution 18-17 (1051 Fifth Street) to CPD with expanded boundaries (addition of 1060 Third Street); and a CPD amendment to revise the schedule of uses, density, height and the corresponding Master Concept Plan (MCP) with certain deviations to the Land Development Code (LDC) for a hotel resort and

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

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on April 29th, 2025; and

WHEREAS, on _____ 2025 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 _____, 2025; and

WHEREAS, at the _____, 2025 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 is 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 B provides the Master Concept Plan and the schedule of uses for this CPD to be used during the permitting process; and

WHEREAS, Exhibit A provides the conditions of approval to be used during the permitting process; and

WHEREAS, the Town Council approved Ordinance 25-xx to extend the boundary of the CPD adopted in Resolution 18-17 to include 1060 Third Street; and

WHEREAS, the Town Council finds that this request to rezone the property from the CPD adopted in Resolution 18-17 and amended on Ord. 25-xx to CPD with Master Concept Plan with nine deviations to the LDC in order to increases the size of a hotel resort; and

WHEREAS, the requested deviations from the LDC include:

Deviation #1

Deviation 1 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Fifth Avenue); to allow a connection separation of 83 feet from two existing driveways.

Deviation #2

Deviation 2 requests relief from the F.A.R. requirements of LDC Sec. 34-633, which includes covered parking in the FAR calculation to exclude the under-building parking from this resort's FAR calculation.

Deviation #3

Deviation 3 requests relief from LDC Section 30-5(a)(1)b.3.iii which allows a maximum height of 5 feet for a monument sign to allow an overall height of 9.7' for "Sign C" on Fifth Street.

Deviation #4

Deviation 4 requests relief from LDC Sec. 30-5(a)(1)b.1 for internal illumination of the sign faces to remain as existing, where they would otherwise be required to emit light only from the letters and symbols of the sign face.

Deviation #5

A deviation from LDC Division 4, Table 34-3 for the CR zoning district which limits height to 30 feet zoned height and three (3) stories to allow a maximum zoned height of 40 feet 5 inches above base flood elevation and a maximum of four (4) stories consisting of three (3) stories above one (1) level of parking.

Deviation #6

A deviation from LDC Division 4, Table 34-3 for the CR zoning district which requires street setbacks of 10 feet to instead allow for build-to lines of 0’ and 6.75’ feet along San Carlos Boulevard, Third Street, and Fifth Street.

Deviation #7

A deviation from LDC Section 30-5(a)(1)a which allows a maximum of 32 square feet of signage for a parcel of land containing one or two business establishments to allow a mural-style sign on the east elevation of Building 5 of 104 square feet, as depicted on the MCP.

Deviation #8

A deviation from LDC Section 30-5(a)(1)a which allows a maximum of 32 square feet of signage for a parcel of land containing one or two business establishments to allow a mural-style sign on the south elevation of Building 5 of 100 square feet, as depicted on the MCP.

Deviation #9

A deviation from LDC Section 30-5(a)(1)b.3.iii which allows a maximum height of 5 feet for a monument sign to allow an overall height of 10 feet for a monument sign at the corner of Crescent Street and Fifth Street, as depicted on the MCP.

Deviation #10

A deviation from LDC Section 30-8(16) which prohibits pole signs to allow a decorative wayfinding pole sign on the corner of Third Street and San Carlos Boulevard, as depicted on the MCP.

Deviation #11

A deviation from LDC Sec. 34-1804(A) and Sec. 34-2020, which regulates parking for hotels/motels and other accessory uses, to allow a 58% reduction in parking requirements for a total of 82 on-site parking spaces.

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 25-01 which is, **consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **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 25-01 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 **APPROVE/APPROVE WITH CONDITIONS/DENY** the requested application.

Section 3. Town Ordinance 25-xx is adopted and the 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 Mayor Allers and seconded by Council Member King, and upon being put to a vote, the result was as follows:

DULY PASSED AND ADOPTED on this____ day of _____2025.

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 _____2025.

Exhibits:

A- Conditions of Approval
B - Master Concept Plan (MCP)

Exhibit A: Conditions of Approval

1. Final architectural design must be generally consistent with renderings provided in addition to the Master Concept Plan.
2. Prior approval of a development orders the MCP must be revised to reflect the conditions of approval as determined by the ordinance.
3. Applicant must receive approval from the Town Manager for “back out” parking along Third Street per LDC Sec. 34-2015.
4. The installation and use of the proposed “pedestrian pathway” is subject to approval by FDOT. Within six months of zoning approval by the town council, the property owner will coordinate with FDOT regarding enhancements to the San Carlos Boulevard/Matanzas Pass Bridge right-of-way.
5. All signs in or near the ROW will require sight-triangle analysis per Sec. 30(a)(4).
6. Access through and along the resort pathway connecting the existing sidewalk arcade on Fifth Street to San Carlos Boulevard, must be open to the general public during the resort’s restaurant operational hours to encourage pedestrian movement between the east and west sides of the resort.
7. All landscaping materials will be native varieties/Florida friendly species.
8. At the time of Development Order on the property boundary survey, the LIMWA (Limit of moderate wave action) Boundary line (Coastal A Zone) must be demonstrated.
9. At the time of Development Order the architectural elevation sheets 5 through 7 must have the lowest horizontal member added on the cross-section details.
10. Applicant must provide at least 1 bike rack.
11. Consumption of Premises (COP) Service of alcohol for on-premises consumption is approved at the location depicted on the Master Concept Plan, subject to these limitations:
    a. For Building 5 COP will be located on the elevated pool deck.
    b. For the tiki bar and pool deck on the south end of the property between Buildings 3 and 5, limited to the areas depicted on the Master Concept Plan.
    c. For the tiki bar and pool deck on the north end of the property between Buildings 2 and 6, limited to the areas depicted on the Master Concept Plan.
12. Hours of operation for outdoor areas will be limited to the following unless otherwise temporarily altered by the Town’s special event use regulations in LDC Section 34-1264. All other hours of operation will be regulated by the LDC.
    a. Pool deck (Building 5): 9:00am to 12:00am
    b. Pool deck and tiki bar (south end between Buildings 3 and 5): 9:00am to 2:00am
    c. Pool deck and tiki bar (north end between Buildings 2 and 6): 9:00am to 10:00pm

ORDINANCE 18-17

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AN AMENDMENT TO THE CURRENT ZONING MAP FROM DOWNTOWN ZONING DISTRICT TO COMMERCIAL PLANNED DEVELOPMENT (CPD) AND AN AMENDMENT TO THE LIGHTHOUSE ISLAND RESORT MASTER CONCEPT PLAN PREVIOUSLY AMENDED AND APPROVED BY RESOLUTION 13-29, TO INCLUDE THE TWO PARCELS CONTAINING APPROXIMATELY 4,000 SQUARE FEET, AS DEVELOPED WITH MODIFIED CONDITIONS OF APPROVAL AND DEVIATIONS; GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00203.019A AND A PORTION OF LOT 14 CONSIDERED PART OF TOWN RIGHT-OF-WAY; PETITION DCI18-0002; PROVIDING FOR SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, Lighthouse Island Resort, Inc. filed application to rezone the property from the Downtown zoning district to CPD with amended Master Concept Plan (MCP), in order to add two developed portions of property containing 4,000+/- square feet, and increase the total rooms from 72 to 75, to the Lighthouse Island Resort development located primarily at 1051 Fifth Street in the Town of Fort Myers Beach; and

WHEREAS, the subject 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 property requested to be rezoned and included with the Lighthouse Island Resort are adjacent to the Lighthouse Island Resort property; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on October 9, 2018; and

WHEREAS, at the October 9th, 2018 public hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, as required by Town Land Development Code (LDC) s. 34-85; and

WHEREAS, at the October 9th, 2018 public hearing the LPA recommended approval based on findings and considerations as outlined in the staff report, by a 7-0 vote, subject to certain conditions and deviations; and

WHEREAS, on November 5th, 2018 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

WHEREAS, a second reading of the proposed Ordinance and a public hearing on this matter legally advertised and held before the Town Council on November 19th, 2018 at which time the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

WHEREAS, this approval is subject to the findings and considerations beginning on packet page 21 through 24, with the exception to Policy 4-E-1, which should read the predisaster buildback policy is being utilized for this development.

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

The Town Council votes to **APPROVE.** the request to rezone the subject property to CPD with MCP, subject to the deviations and conditions set for with specificity.

CONDITIONS:

Condition 1.

The development of this project must be consistent with the five (5) page Master Concept Plan entitled "Master Concept Plan (CPD) for Lighthouse Island Resort" last revised 3-12-2013, except as modified by the conditions and deviations below. Phase 1-A is not accepted. A modified MCP set shall be submitted for the record and include any conditions of approval and deviations herein.

Condition 2.

The following limitations apply to the project and uses:

a. Schedule of Uses

All uses permitted by right in the Downtown zoning district with the following limitations:
Restaurant is limited to 4,300 square feet
Retail is limited to 5,000 square feet
Office is limited to 420 square feet
Hotel/Motel units limited to a maximum of 75 lawfully existing guest units, which total includes the unit for the caretaker and the permanent transfer of all dwelling units from 2639/2641 Estero Blvd. (19-46-24-W3-0020C.0180) for the exceptional circumstance to benefit the Heart of the Island recreational, historic, environmental, and cultural resources of the Town; to be used for increased access and egress, increase public access of the parcel, increase access to public facilities, non-occupied buildings and permanent ownership by the Town.

b. Site Development Regulations

Building placement, size, design, and all other property development regulations shall be the same as for the CR (Commercial Resort) zoning district unless approved as deviations as part of the approved zoning resolution.

Condition 3.

Maximum building height may not exceed 37 feet above Base Flood Elevation. No additional building height is approved within this planned development.

Condition 4.
Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.

Condition 5.
The final design of the building within this planned development must be approved by the Town Manager prior to the approval of any permits. The design must be in substantial compliance with the Town of Fort Myers Beach Comprehensive Plan, the Land Development Code, and all other applicable requirements.

Condition 6.
The 5,000 square feet of retail uses are limited to the ground floor of the Phase 2 building as depicted on the approved Master Concept Plan. The ground floor will have to be dry flood proofed and must be constructed in compliance with Chapter 6 of the Land Development Code.

Condition 7.
At no time will the total number of Hotel/Motel units exceed 75 guest units.

Condition 8.
Prior to approval of a development order, the correct sidewalk easement must be recorded in the Public Records of Lee County, Florida.

Condition 9.
Prior to seeking any building permits for development on this site, the developer must combine the existing platted lots into one lot of record as part of the local development order for this CPD project not later than February 28, 2019.

Condition 10.
Prior to each local development order approval, the developer must provide a current tally of the square feet for each use approved in all previous local development orders.

Condition 11.
The total square feet of existing and proposed buildings must not exceed 58,432 square feet of total building area for buildings used as hotel/motel guest units.

Condition 12.
Any off-site parking, other than the existing approved 5 off-site parking spaces, must be addressed through an amendment to this CPD.

Condition 13.
Any outdoor seating for the restaurant and any sign that will require a deviation must be addressed through an amendment to this CPD.

Condition 14.
This development must comply with all requirements of the LDC at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

Condition 15.
This CPD project must be constructed to build-out no later than December 31, 2025. A completed building permit and start of construction to the next phase shall occur prior to December 31, 2023.

Condition 16.
All signs containing commercial messages, including those shown for the proposed restaurant in Phase II-A, must be in compliance with LDC Chapter 30, except as approved herein by deviations.

Condition 17.
The deviation for internal illumination of signs is approved only for the existing signs. If the signage is moved, removed, or damaged beyond repair, the deviation will be null and void, and any new signage must comply with the regulations of the LDC.

Condition 18.
Any violation of these conditions shall be subject to a maximum $500 per incident, per day fine.

DEVIATIONS:

Deviation #1
Deviation 1 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Crescent Street); to allow a connection separation of 83 feet from Fifth Avenue. This deviation is unchanged from the previously approved MCP and is APPROVED.

Deviation #2
Deviation 2 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Crescent Street); to allow a connection separation of 115 feet from Third Street. This deviation is unchanged from the previously approved MCP and is APPROVED.

Deviation #3
Deviation 3 was from a previous Lee County LDC requirement, and is no longer necessary. The Fort Myers Beach LDC does not regulate building separation within a project site.

Deviation #4
Deviation 4 requests relief from LDC Table 34-3 which requires certain setbacks for structures, buildings, and pavement from the development perimeters; to allow the reduced setbacks of 7.4', 4.5', 3', 2.6', 1.5, 1.4', & 0', from the development perimeter as depicted on the Master Concept

Plan. All of the setbacks were previously approved on the existing MCP for this project. This deviation is **APPROVED.**

Deviation #5

Deviation 5 requests relief from LDC Table 34-3 which provides the property development regulations for the Fort Myers Beach Commercial Resort (CR) zoning district; to allow street setbacks of 4.5', 2.0', and 0' along San Carlos Boulevard. All of the setbacks were previously approved on the existing MCP for this project. This deviation is **APPROVED.**

Deviation #6

Deviation 6 requests relief from LDC Section 34-2016 which requires 90 degree parking spaces to be a minimum of 18' in length; to allow 90 degree parking spaces to be 16' in length for Phase 2 parking only. This deviation is **APPROVED** as depicted on the approved Master Concept Plan and with the condition that these parking spaces will be removed at the time Phase 5 is constructed.

Deviation #7

Deviation 7 requests relief from LDC Section 34-2016(a) which requires parking aisles between parking spaces to be 22' in width to allow the parking aisles to be 20' in width for some areas for the Phase 2 parking only. This deviation is **APPROVED** as depicted on the approved Master Concept Plan and with the condition that these parking aisles will be removed at the time Phase 5 is constructed.

Deviation #8

Deviation 8 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Fifth Avenue); to allow a connection separation of 83 feet from two existing driveways. This deviation is **APPROVED.**

Deviation #9

Deviation 9 requests relief from the F.A.R. requirements of LDC Section 34-953 and Table 34-3 to allow additional F.A.R. to exceed the total of 66,852 square feet of residential and commercial uses to the extent necessary to develop on-site under building parking. This deviation is **APPROVED.**

Deviation #10

Deviation 10 requests relief from LDC Section 30-153(b)(1) which allows a maximum of 32 square feet of signage; to allow 126 square feet of total signage for Lighthouse Island Resort. This deviation is **APPROVED.**

Deviation #11

Deviation 11 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign; to allow 25'6" for the Lighthouse "Sign D". This deviation is **APPROVED.**

Deviation #12

Deviation 12 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign and 18 inches for the sign base; to allow the bottom of the sign at 4.1' and an overall height of 10.4' for "Sign A" on Third Street. This deviation is **APPROVED,** provided that the top of the sign face shall not exceed 8.1', as depicted in Sign Detail "A".

Deviation #13

Deviation 13 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign and 18 inches for the sign base; to allow the bottom of the sign at 4.1' and an overall sign height of 9.7' for "Sign B" on Crescent Street." This deviation is APPROVED, provided that the top of the sign face shall not exceed 8.1', as depicted in Sign Detail "B".

Deviation #14

Deviation 14 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign and 18 inches for the sign base; to allow the bottom of the sign at 4.1' and an overall height of 9.7' for "Sign C" on Fifth Street. This deviation is APPROVED, provided that the top of the sign face shall not exceed 8.1', as depicted in Sign Detail "C".

Deviation #15

Deviation 15 requests relief from LDC Section 30-154(b) which requires that all signs be set back a minimum 3 foot from any public right-of-way; to allow a 0' setback for "Sign A" located on Third Street. This deviation is APPROVED.

Deviation #16

Deviation 16 requests relief from LDC Section 30-154(b) which requires a minimum 3 foot setback from any public right-of-way; to allow "Sign B" to remain located entirely within the right-of-way at the intersection of Crescent Street and Fifth Street. This deviation is APPROVED.

Deviation #17

Deviation 17 requests relief from LDC Sec. 34-154(a) for internal illumination of the sign faces to remain as existing, where they would otherwise be required to emit light only from the letters and symbols of the sign face, subject to Condition #18. This deviation is APPROVED.

CODIFICATION AND SCRIVENER'S ERRORS.

The Town Council intends that this ordinance will not be made part of the Fort Myers Beach Code of Ordinances; typographical errors that do not affect the intent can be corrected with the authorization of the Town Manager or designee, without the need for a public hearing. Only the specific deviations granted by the Town Council and associated plan sheets reflecting those approvals with or without conditions are so incorporated.

EFFECTIVE DATE.

This ordinance becomes effective immediately upon its adoption.

THE FOREGOING ORDINANCE was enacted by the Town Council upon a motion by Council Member Joanne Shamp and seconded by Council Member Dennis Boback and, upon being put to a roll call vote, the result was as follows:

Tracey Gore, Mayor	NAY	Bruce Butcher	AYE
Anita Cereceda	AYE	Joanne Shamp, Vice Mayor	AYE
Dennis Boback	AYE		

DULY PASSED AND ENACTED this 19th day of November 2018.

ATTEST:

By: _____
Michelle D. Mayher, Town Clerk

TOWN OF FORT MYERS BEACH

By: _____
Tracey Gore, Mayor

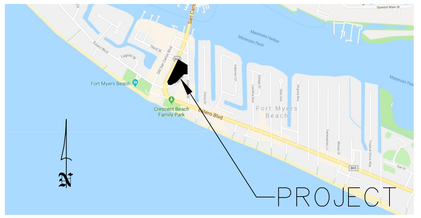
Approved as to form by:

By: _____
Peterson Law Group, Town Attorney

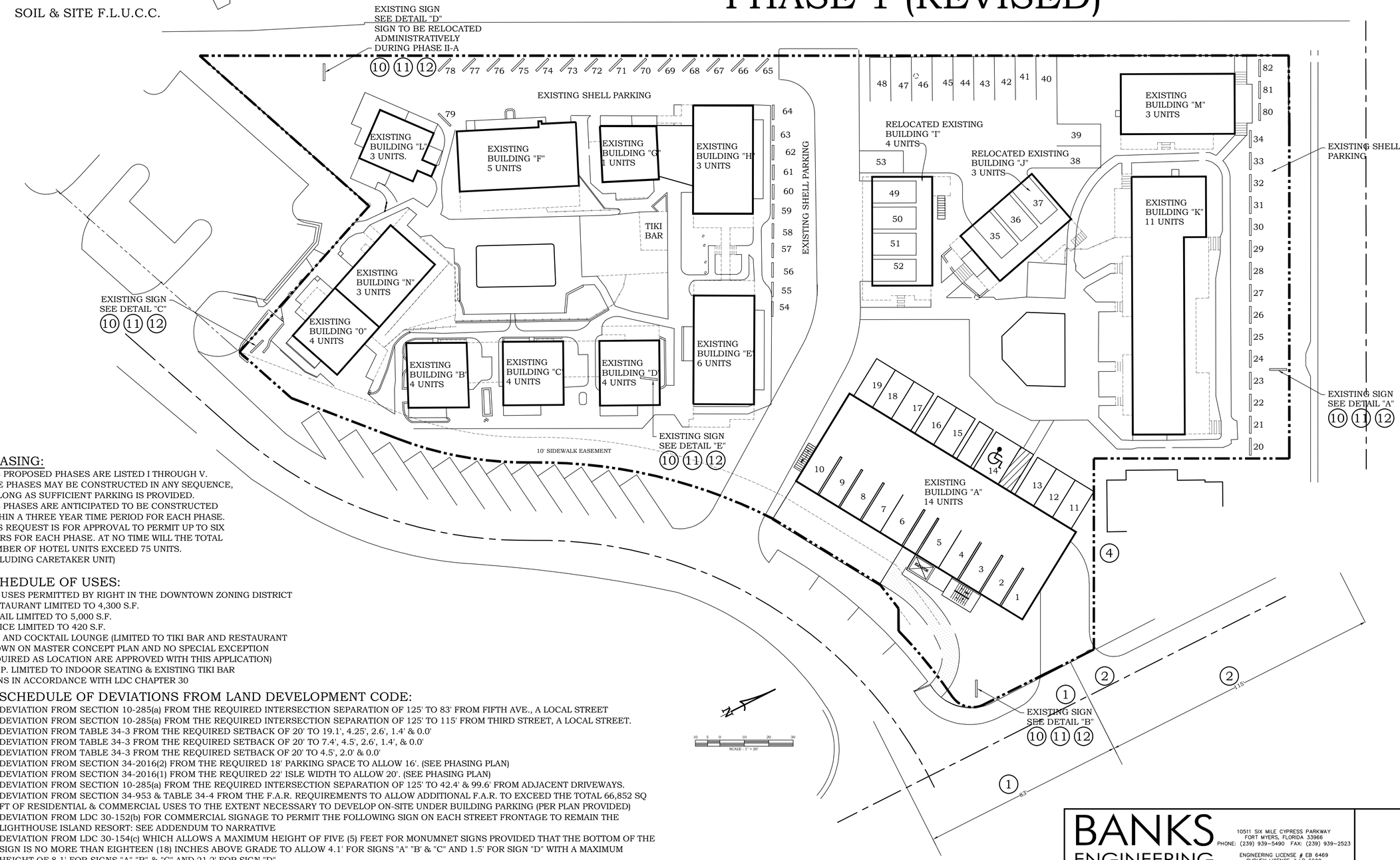
MASTER CONCEPT PLAN (CPD)
FOR
LIGHTHOUSE ISLAND RESORT
PHASE 1 (REVISED)

SOILS# 26 FLUCC # 147

SOIL & SITE F.L.U.C.C.



LOCATION MAP
NOT TO SCALE



PHASING:

THE PROPOSED PHASES ARE LISTED I THROUGH V.
THE PHASES MAY BE CONSTRUCTED IN ANY SEQUENCE, SO LONG AS SUFFICIENT PARKING IS PROVIDED.
THE PHASES ARE ANTICIPATED TO BE CONSTRUCTED WITHIN A THREE YEAR TIME PERIOD FOR EACH PHASE.
THIS REQUEST IS FOR APPROVAL TO PERMIT UP TO SIX YEARS FOR EACH PHASE. AT NO TIME WILL THE TOTAL NUMBER OF HOTEL UNITS EXCEED 75 UNITS. (INCLUDING CARETAKER UNIT)

SCHEDULE OF USES:

ALL USES PERMITTED BY RIGHT IN THE DOWNTOWN ZONING DISTRICT
RESTAURANT LIMITED TO 4,300 S.F.
RETAIL LIMITED TO 5,000 S.F.
OFFICE LIMITED TO 420 S.F.
BAR AND COCKTAIL LOUNGE (LIMITED TO TIKI BAR AND RESTAURANT SHOWN ON MASTER CONCEPT PLAN AND NO SPECIAL EXCEPTION REQUIRED AS LOCATION ARE APPROVED WITH THIS APPLICATION)
C.O.P. LIMITED TO INDOOR SEATING & EXISTING TIKI BAR
SIGNS IN ACCORDANCE WITH LDC CHAPTER 30

SCHEDULE OF DEVIATIONS FROM LAND DEVELOPMENT CODE:

1. DEVIATION FROM SECTION 10-285(a) FROM THE REQUIRED INTERSECTION SEPARATION OF 125' TO 83' FROM FIFTH AVE., A LOCAL STREET
2. DEVIATION FROM SECTION 10-285(a) FROM THE REQUIRED INTERSECTION SEPARATION OF 125' TO 115' FROM THIRD STREET, A LOCAL STREET.
3. DEVIATION FROM TABLE 34-3 FROM THE REQUIRED SETBACK OF 20' TO 19.1', 4.25', 2.6', 1.4' & 0.0'
4. DEVIATION FROM TABLE 34-3 FROM THE REQUIRED SETBACK OF 20' TO 7.4', 4.5', 2.6', 1.4', & 0.0'
5. DEVIATION FROM TABLE 34-3 FROM THE REQUIRED SETBACK OF 20' TO 4.5', 2.0' & 0.0'
6. DEVIATION FROM SECTION 34-2016(2) FROM THE REQUIRED 18' PARKING SPACE TO ALLOW 16'. (SEE PHASING PLAN)
7. DEVIATION FROM SECTION 34-2016(1) FROM THE REQUIRED 22' ISLE WIDTH TO ALLOW 20'. (SEE PHASING PLAN)
8. DEVIATION FROM SECTION 10-285(a) FROM THE REQUIRED INTERSECTION SEPARATION OF 125' TO 42.4' & 99.6' FROM ADJACENT DRIVEWAYS.
9. DEVIATION FROM SECTION 34-953 & TABLE 34-4 FROM THE F.A.R. REQUIREMENTS TO ALLOW ADDITIONAL F.A.R. TO EXCEED THE TOTAL 66,852 SQ FT OF RESIDENTIAL & COMMERCIAL USES TO THE EXTENT NECESSARY TO DEVELOP ON-SITE UNDER BUILDING PARKING (PER PLAN PROVIDED)
10. DEVIATION FROM LDC 30-152(b) FOR COMMERCIAL SIGNAGE TO PERMIT THE FOLLOWING SIGN ON EACH STREET FRONTAGE TO REMAIN THE LIGHTHOUSE ISLAND RESORT: SEE ADDENDUM TO NARRATIVE
11. DEVIATION FROM LDC 30-154(c) WHICH ALLOWS A MAXIMUM HEIGHT OF FIVE (5) FEET FOR MONUMNET SIGNS PROVIDED THAT THE BOTTOM OF THE SIGN IS NO MORE THAN EIGHTEEN (18) INCHES ABOVE GRADE TO ALLOW 4.1' FOR SIGNS "A" "B' & "C" AND 1.5' FOR SIGN "D" WITH A MAXIMUM HEIGHT OF 8.1' FOR SIGNS "A" "B" & "C" AND 21.2' FOR SIGN "D"
12. DEVIATION FROM LDC 30-93(b) WHICH REQUIRES THREE (3) FOOT SETBACK FROM ANY SIDEWALK, BIKE PATH OR STREET RIGHT-OF-WAY TO ALLOW 0.0' FOR SIGN "A", 0.0' FOR SIGN "B" & 1.16' FOR SIGN "C"

LOCATION MAP
NOT TO SCALE

PARKING CALCS:

75 UNITS
14 UNITS ABOVE 450 S.F.
61 UNITS BELOW 450 S.F.

1.2 P.S. PER UNIT BELOW 450 S.F.
61 x 1.2 x 0.666 = 49 SPACES REQUIRED

1.5 P.S. PER UNIT ABOVE 450 S.F.
14 x 1.5 x 0.666 = 14 SPACES REQUIRED

TOTAL SPACES REQUIRED FOR THE RESORT:
49 + 14 = 63 SPACES

TOTAL PARKING REQUIRED:
63 SPACES

TOTAL PARKING PROVIDED:
89 SPACES
ON-SITE: 85 SPACES
OFF-SITE: 4 SPACES

NOTE: THE TOTAL NUMBER OF UNITS IN ANY PHASE MAY NOT EXCEED 75 UNITS INCLUDING CARETAKER UNIT

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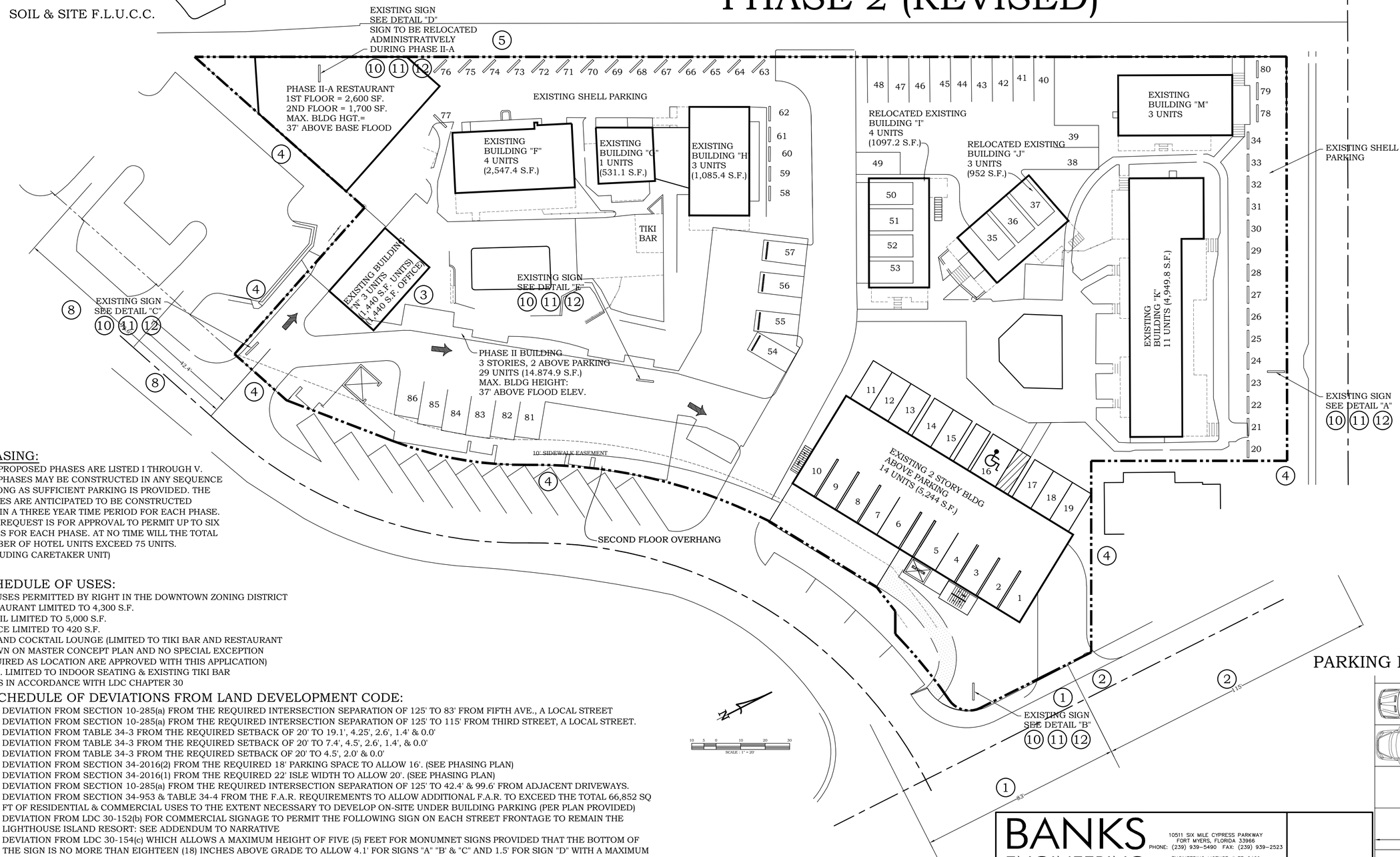
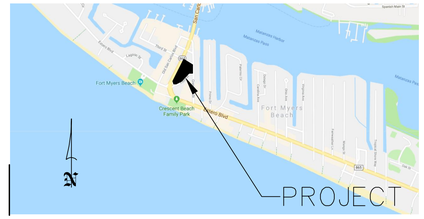
REVISED: 10-24-18
EXHIBIT IV-K

MASTER CONCEPT PLAN (CPD)
FOR
LIGHTHOUSE ISLAND RESORT
PHASE 2 (REVISED)

SOILS# 26 FLUCC # 147

SOIL & SITE F.L.U.C.C.





LOCATION MAP
NOT TO SCALE

LOCATION MAP
NOT TO SCALE

PARKING CALCS: PHASE 2

75 UNITS
19 UNITS ABOVE 450 S.F.
56 UNITS BELOW 450 S.F.

1.2 P.S. PER UNIT BELOW 450 S.F.
56 x 1.2 x 0.666 = 45 SPACES REQUIRED

1.5 P.S. PER UNIT ABOVE 450 S.F.
19 x 1.5 x 0.666 = 19 SPACES REQUIRED

TOTAL SPACES REQUIRED FOR THE RESORT:
45 + 19 = 64 SPACES

GENERAL OFFICE (RESORT): 420 S.F.
2 SPACES PER 1,000 S.F.
420 / 1,000 x 2 = 1 SPACE

TOTAL PARKING REQUIRED:
65 SPACES

TOTAL PARKING PROVIDED:
91 SPACES
ON-SITE: 89 SPACES
OFF-SITE: 2 SPACES

PARKING CALCS: PHASE 2-A

64 SPACES REQUIRED FOR PHASE 2 UNITS
1 SPACE REQUIRED FOR PHASE 2 OFFICE

RESTAURANT: 4,300 S.F.
8 P.S. PER 1,000 S.F.
4,300 / 1,000 x 8 x .666 = 23 SPACES REQUIRED

TOTAL PARKING REQUIRED:
65 SPACES FROM PHASE 2
23 SPACES FROM PHASE 2-A
65 + 23 = 88 SPACES REQUIRED

TOTAL PARKING PROVIDED:
93 SPACES
ON-SITE: 89 SPACES
OFF-SITE: 4 SPACES

NOTE: THE TOTAL NUMBER OF UNITS IN ANY PHASE MAY NOT EXCEED 75 UNITS INCLUDING CARETAKER UNIT

PHASING:

THE PROPOSED PHASES ARE LISTED I THROUGH V. THE PHASES MAY BE CONSTRUCTED IN ANY SEQUENCE SO LONG AS SUFFICIENT PARKING IS PROVIDED. THE PHASES ARE ANTICIPATED TO BE CONSTRUCTED WITHIN A THREE YEAR TIME PERIOD FOR EACH PHASE. THIS REQUEST IS FOR APPROVAL TO PERMIT UP TO SIX YEARS FOR EACH PHASE. AT NO TIME WILL THE TOTAL NUMBER OF HOTEL UNITS EXCEED 75 UNITS. (INCLUDING CARETAKER UNIT)

SCHEDULE OF USES:

ALL USES PERMITTED BY RIGHT IN THE DOWNTOWN ZONING DISTRICT
RESTAURANT LIMITED TO 4,300 S.F.
RETAIL LIMITED TO 5,000 S.F.
OFFICE LIMITED TO 420 S.F.
BAR AND COCKTAIL LOUNGE (LIMITED TO TIKI BAR AND RESTAURANT SHOWN ON MASTER CONCEPT PLAN AND NO SPECIAL EXCEPTION REQUIRED AS LOCATION ARE APPROVED WITH THIS APPLICATION)
C.O.P. LIMITED TO INDOOR SEATING & EXISTING TIKI BAR
SIGNS IN ACCORDANCE WITH LDC CHAPTER 30

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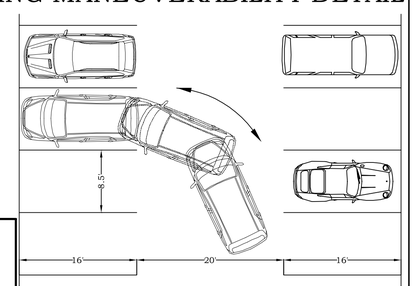
12. DEVIATION FROM LDC 30-93(b) WHICH REQUIRES THREE (3) FOOT SETBACK FROM ANY SIDEWALK, BIKE PATH OR STREET RIGHT-OF-WAY TO ALLOW 0.0' FOR SIGN "A", 0.0' FOR SIGN "B" & 1.16' FOR SIGN "C"

PARKING MANEUVERABILITY DETAIL



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SURVEY LICENSE # LB 6690
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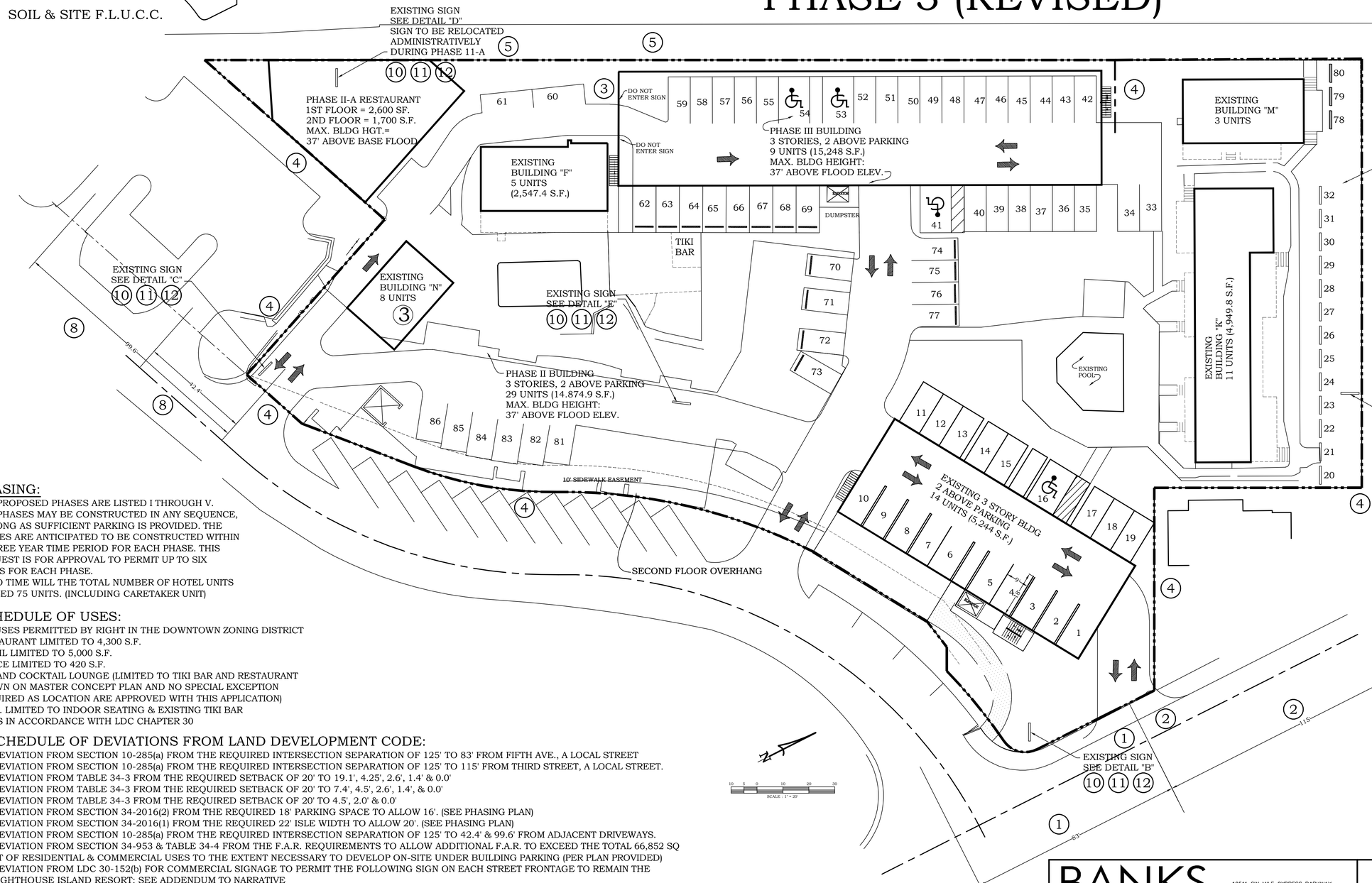
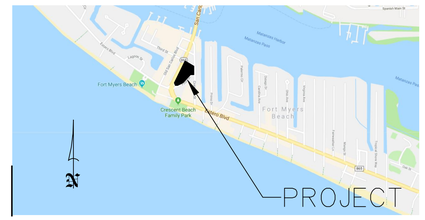
REVISED: 10-24-2018
EXHIBIT IV-K

MASTER CONCEPT PLAN (CPD)
FOR
LIGHTHOUSE ISLAND RESORT
PHASE 3 (REVISED)

SOILS# 26 FLUCC # 147

SOIL & SITE F.L.U.C.C.





LOCATION MAP
NOT TO SCALE

LOCATION MAP
NOT TO SCALE

PARKING CALCS:

75 UNITS
29 UNITS ABOVE 450 S.F.
46 UNITS BELOW 450 S.F.

1.2 P.S. PER UNIT BELOW 450 S.F.
46 x 1.2 x 0.666 = 37 SPACES REQUIRED

1.5 P.S. PER UNIT ABOVE 450 S.F.
29 x 1.5 x 0.666 = 29 SPACES REQUIRED

TOTAL SPACES REQUIRED FOR THE RESORT:
37+29 = 66 SPACES

GENERAL OFFICE (RESORT): 420 S.F.
2 SPACES PER 1,00 S.F.
420 / 1,000 x 2 = 1 SPACE

RESTAURANT: 4,300 S.F.
8 P.S. PER 1,000 S.F.
4,300 / 1,000 x 8 x .666 = 23 SPACES REQUIRED

TOTAL PARKING REQUIRED:
90 SPACES

TOTAL PARKING PROVIDED:
91 SPACES
ON-SITE: 89 SPACES
OFF-SITE: 2 SPACES

NOTE: THE TOTAL NUMBER OF UNITS IN ANY PHASE MAY NOT EXCEED 75 UNITS INCLUDING CARETAKER UNIT

PHASING:

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SCHEDULE OF USES:

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SIGNS IN ACCORDANCE WITH LDC CHAPTER 30

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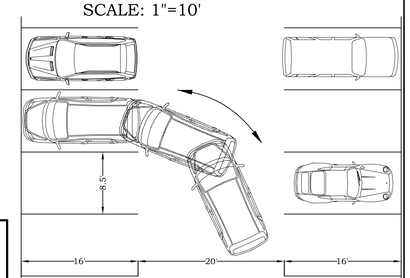
PARKING MANEUVERABILITY DETAIL
SCALE: 1"=10'



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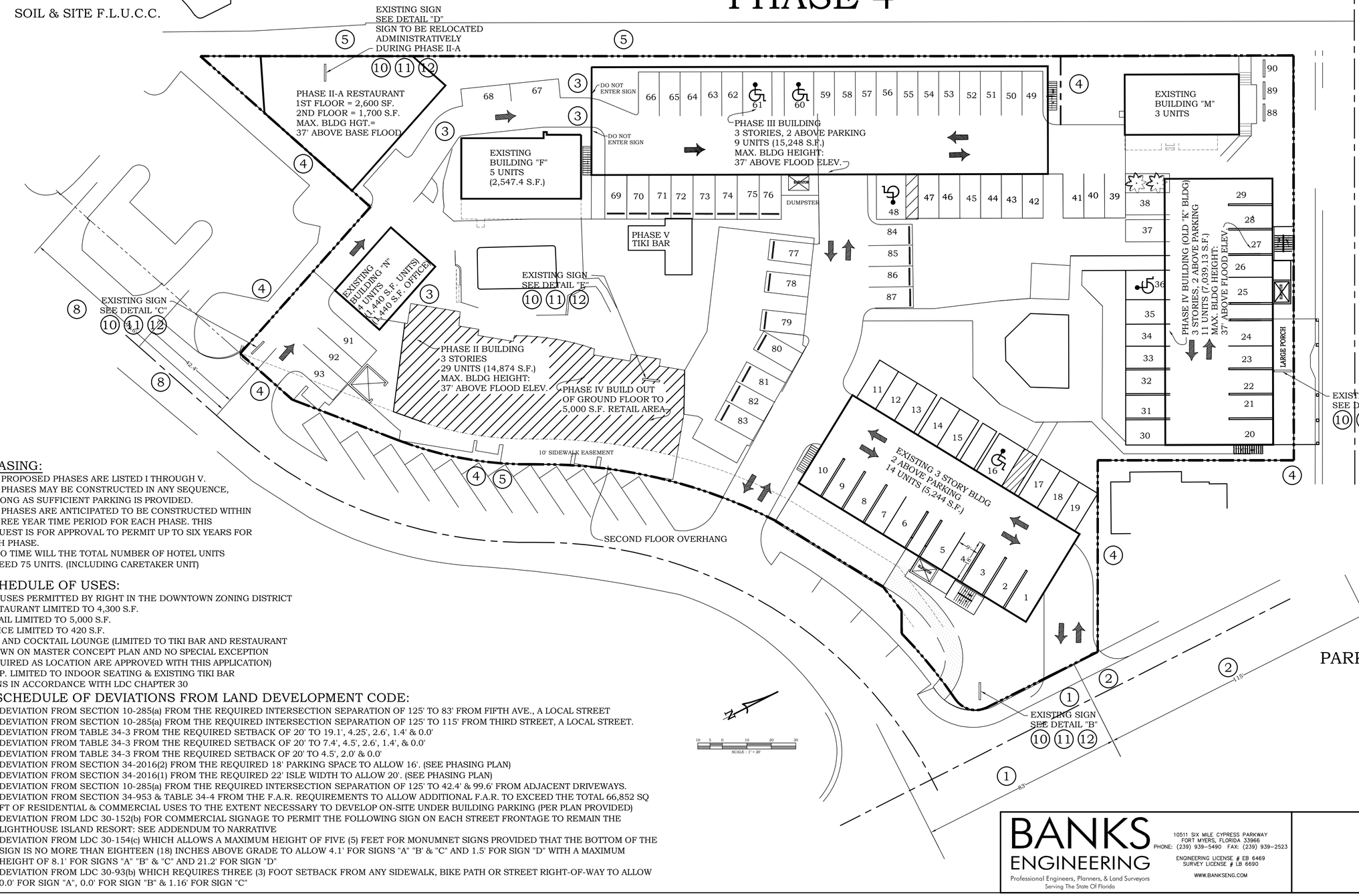
REVISED: 10-24-18

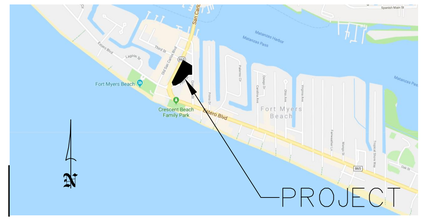
EXHIBIT IV-K

MASTER CONCEPT PLAN (CPD)
FOR
LIGHTHOUSE ISLAND RESORT
PHASE 4

SOILS# 26 FLUCC # 147

SOIL & SITE F.L.U.C.C.





LOCATION MAP
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LOCATION MAP
NOT TO SCALE

PARKING CALCS:

75 UNITS
29 UNITS ABOVE 450 S.F.
46 UNITS BELOW 450 S.F.

1.2 P.S. PER UNIT BELOW 450 S.F.
46 x 1.2 x 0.666 = 37 SPACES REQUIRED

1.5 P.S. PER UNIT ABOVE 450 S.F.
29 x 1.5 x 0.666 = 29 SPACES REQUIRED

TOTAL SPACES REQUIRED FOR THE RESORT:
37+ 29 = 66 SPACES

GENERAL OFFICE (RESORT): 420 S.F.
2 SPACES PER 1,00 S.F.
420 / 1,000 x 2 = 1 SPACE

RESTAURANT: 4,300 S.F.
8 P.S. PER 1,000 S.F.
4,300 / 1,000 x 8 x .666 = 23 SPACES REQUIRED

RETAIL:
3 P.S. PER 1,000 S.F.
5,000 / 1,000 x 3 x .666 = 10 SPACES REQUIRED

TOTAL PARKING REQUIRED:
100 SPACES

TOTAL PARKING PROVIDED:
100 SPACES
ON-SITE: 96 SPACES
OFF-SITE: 4 SPACES

NOTE: THE TOTAL NUMBER OF UNITS IN ANY PHASE MAY NOT EXCEED 75 UNITS INCLUDING CARETAKER UNIT

PHASING:

THE PROPOSED PHASES ARE LISTED I THROUGH V.
THE PHASES MAY BE CONSTRUCTED IN ANY SEQUENCE, SO LONG AS SUFFICIENT PARKING IS PROVIDED.
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AT NO TIME WILL THE TOTAL NUMBER OF HOTEL UNITS EXCEED 75 UNITS. (INCLUDING CARETAKER UNIT)

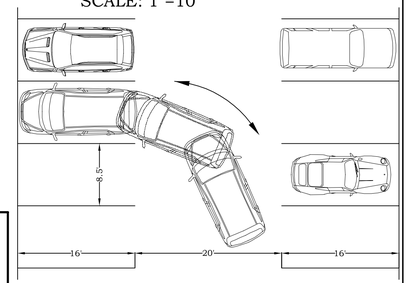
SCHEDULE OF USES:

ALL USES PERMITTED BY RIGHT IN THE DOWNTOWN ZONING DISTRICT
RESTAURANT LIMITED TO 4,300 S.F.
RETAIL LIMITED TO 5,000 S.F.
OFFICE LIMITED TO 420 S.F.
BAR AND COCKTAIL LOUNGE (LIMITED TO TIKI BAR AND RESTAURANT SHOWN ON MASTER CONCEPT PLAN AND NO SPECIAL EXCEPTION REQUIRED AS LOCATION ARE APPROVED WITH THIS APPLICATION)
C.O.P. LIMITED TO INDOOR SEATING & EXISTING TIKI BAR
SIGNS IN ACCORDANCE WITH LDC CHAPTER 30

SCHEDULE OF DEVIATIONS FROM LAND DEVELOPMENT CODE:

1. DEVIATION FROM SECTION 10-285(a) FROM THE REQUIRED INTERSECTION SEPARATION OF 125' TO 83' FROM FIFTH AVE., A LOCAL STREET
2. DEVIATION FROM SECTION 10-285(a) FROM THE REQUIRED INTERSECTION SEPARATION OF 125' TO 115' FROM THIRD STREET, A LOCAL STREET.
3. DEVIATION FROM TABLE 34-3 FROM THE REQUIRED SETBACK OF 20' TO 19.1', 4.25', 2.6', 1.4' & 0.0'
4. DEVIATION FROM TABLE 34-3 FROM THE REQUIRED SETBACK OF 20' TO 7.4', 4.5', 2.6', 1.4', & 0.0'
5. DEVIATION FROM TABLE 34-3 FROM THE REQUIRED SETBACK OF 20' TO 4.5', 2.0' & 0.0'
6. DEVIATION FROM SECTION 34-2016(2) FROM THE REQUIRED 18' PARKING SPACE TO ALLOW 16'. (SEE PHASING PLAN)
7. DEVIATION FROM SECTION 34-2016(1) FROM THE REQUIRED 22' ISLE WIDTH TO ALLOW 20'. (SEE PHASING PLAN)
8. DEVIATION FROM SECTION 10-285(a) FROM THE REQUIRED INTERSECTION SEPARATION OF 125' TO 42.4' & 99.6' FROM ADJACENT DRIVEWAYS.
9. DEVIATION FROM SECTION 34-953 & TABLE 34-4 FROM THE F.A.R. REQUIREMENTS TO ALLOW ADDITIONAL F.A.R. TO EXCEED THE TOTAL 66,852 SQ FT OF RESIDENTIAL & COMMERCIAL USES TO THE EXTENT NECESSARY TO DEVELOP ON-SITE UNDER BUILDING PARKING (PER PLAN PROVIDED)
10. DEVIATION FROM LDC 30-152(b) FOR COMMERCIAL SIGNAGE TO PERMIT THE FOLLOWING SIGN ON EACH STREET FRONTAGE TO REMAIN THE LIGHTHOUSE ISLAND RESORT: SEE ADDENDUM TO NARRATIVE
11. DEVIATION FROM LDC 30-154(c) WHICH ALLOWS A MAXIMUM HEIGHT OF FIVE (5) FEET FOR MONUMNET SIGNS PROVIDED THAT THE BOTTOM OF THE SIGN IS NO MORE THAN EIGHTEEN (18) INCHES ABOVE GRADE TO ALLOW 4.1' FOR SIGNS "A" "B" & "C" AND 1.5' FOR SIGN "D" WITH A MAXIMUM HEIGHT OF 8.1' FOR SIGNS "A" "B" & "C" AND 21.2' FOR SIGN "D"
12. DEVIATION FROM LDC 30-93(b) WHICH REQUIRES THREE (3) FOOT SETBACK FROM ANY SIDEWALK, BIKE PATH OR STREET RIGHT-OF-WAY TO ALLOW 0.0' FOR SIGN "A", 0.0' FOR SIGN "B" & 1.16' FOR SIGN "C"

PARKING MANEUVERABILITY DETAIL
SCALE: 1"=10'



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ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6690
WWW.BANKSENG.COM

REVISED: 10-24-2018
EXHIBIT IV-K

MASTER CONCEPT PLAN (CPD)

FOR

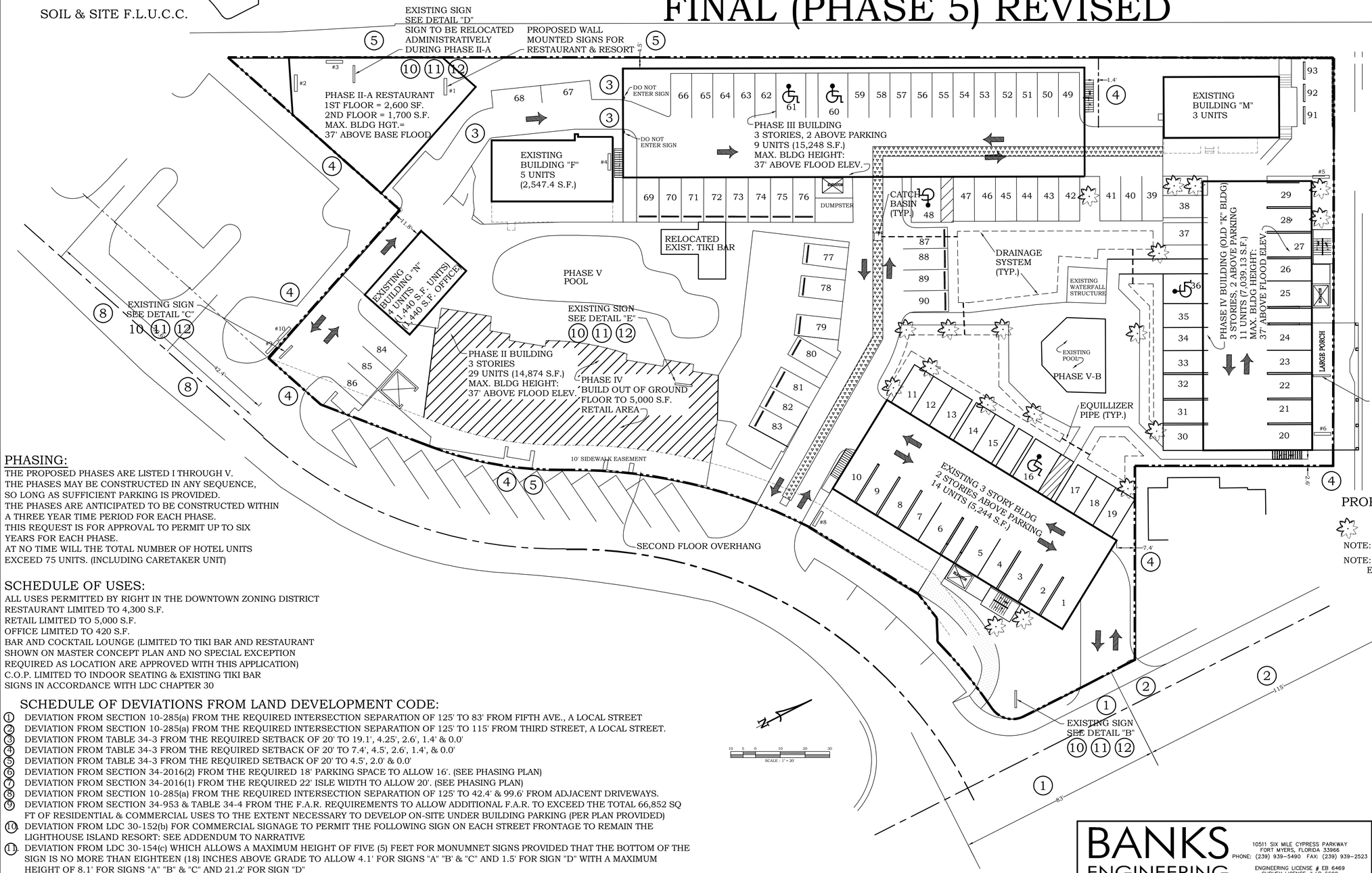
LIGHTHOUSE ISLAND RESORT

FINAL (PHASE 5) REVISED

SOILS# 26 FLUCC # 147

SOIL & SITE F.L.U.C.C.

LOCATION MAP
NOT TO SCALE



LOCATION MAP
NOT TO SCALE

PARKING CALCS:

75 UNITS
29 UNITS ABOVE 450 S.F.
46 UNITS BELOW 450 S.F.

1.2 P.S. PER UNIT BELOW 450 S.F.
46 x 1.2 x 0.666 = 37 SPACES REQUIRED

1.5 P.S. PER UNIT ABOVE 450 S.F.
29 x 1.5 x 0.666 = 29 SPACES REQUIRED

TOTAL SPACES REQUIRED FOR THE RESORT:
37 + 29 = 66 SPACES

RESTAURANT: 4,300 S.F.
8 P.S. PER 1,000 S.F.
4,300 / 1,000 x 8 x .666 = 23 SPACES REQUIRED

GENERAL OFFICE (RESORT): 420 S.F.
2 SPACES PER 1,000 S.F.
420 / 1,000 x 2 = 1 SPACE

RETAIL:
3 P.S. PER 1,000 S.F.
5,000 / 1,000 x 3 x .666 = 10 SPACES REQUIRED

TOTAL PARKING REQUIRED:
100 SPACES

TOTAL PARKING PROVIDED:
100 SPACES
ON-SITE: 93 SPACES
OFF-SITE: 7 SPACES

NOTE: THE TOTAL NUMBER OF UNITS IN ANY PHASE MAY NOT EXCEED 75 UNITS INCLUDING CARETAKER UNIT

PROPOSED TREES:

	QUANTITY
COCONUT PALM / QUEEN PALM	67

NOTE: THE EXISTING PALMS WILL BE RELOCATED AND NEW ONES ADDED.

NOTE: THIS SITE IS COMPLETLY DEVELOPED LAND AND THERE ARE NO ENVIRONMENTALLY SENSITIVE LANDS. EXHIBIT II-F-1

NOTE: THE NEAREST PUBLIC TRANSIT STOP IS BEACH TROLLEY STOP #2 IN TIMES SQUARE.

PHASING:

THE PROPOSED PHASES ARE LISTED I THROUGH V.
THE PHASES MAY BE CONSTRUCTED IN ANY SEQUENCE, SO LONG AS SUFFICIENT PARKING IS PROVIDED.
THE PHASES ARE ANTICIPATED TO BE CONSTRUCTED WITHIN A THREE YEAR TIME PERIOD FOR EACH PHASE.
THIS REQUEST IS FOR APPROVAL TO PERMIT UP TO SIX YEARS FOR EACH PHASE.
AT NO TIME WILL THE TOTAL NUMBER OF HOTEL UNITS EXCEED 75 UNITS. (INCLUDING CARETAKER UNIT)

SCHEDULE OF USES:

ALL USES PERMITTED BY RIGHT IN THE DOWNTOWN ZONING DISTRICT
RESTAURANT LIMITED TO 4,300 S.F.
RETAIL LIMITED TO 5,000 S.F.
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1. DEVIATION FROM SECTION 10-285(a) FROM THE REQUIRED INTERSECTION SEPARATION OF 125' TO 83' FROM FIFTH AVE., A LOCAL STREET
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12. DEVIATION FROM LDC 30-93(b) WHICH REQUIRES THREE (3) FOOT SETBACK FROM ANY SIDEWALK, BIKE PATH OR STREET RIGHT-OF-WAY TO ALLOW 0.0' FOR SIGN "A", 0.0' FOR SIGN "B" & 1.16' FOR SIGN "C"

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REVISED: 10/25/2018
EXHIBIT II-D
EXHIBIT II-F-4
EXHIBIT IV-F
EXHIBIT IV-G
EXHIBIT IV-I
EXHIBIT IV-K

AS BUILT SURVEY OF

PART OF BLOCK 3 & 5 BUSINESS CENTER SUBDIVISION & LOT 16, BLOCK "E" CRESCENT PARK ADDITION SUBDIVISION

SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST
(PLAT BOOK 9, PAGE 10)
LEE COUNTY, FLORIDA

REVISED:	DESCRIPTION:	BY:

DATE OF LAST FIELD WORK: 2/22/23

DRAWN:	CHECK:	SCALE	PROJ. #
RLB	PMM	1"=20'	LHR 2-16-23
SURVEY DATE	FILE NO.		SHT.- 1
2/22/23	46-23-24		OF - 2

Phillip M Mould, P.S.M. 6515 State of Florida
Digitally signed by Phillip M Mould, P.S.M. 6515 State of Florida
Date: 2023.03.16 19:43:41 -04'00'

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
LS6515 - STATE OF FLORIDA

HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S., SUITE 100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

FLORIDA CERTIFICATE OF AUTHORIZATION LB6921

10 0 10 20 30
SCALE IN FEET

NOTE: ASSIGNMENTS OF EASEMENTS LISTED IN O.R. BOOK 1801, PAGE 2475 REFERS TO A BLANKET EASEMENT.

STATE PLANE COORDINATES
FLORIDA WEST ZONE NAD83
N=771046.47
E=671079.70

FOUND NAIL/DISK PLS #4631

PARCEL 3 TRACT A
BEGINNING N.WLY CORNER LOT 19 OF LOTS 9 AND 19, BLOCK 3

SET N/D LB6921

NORTHEASTERLY R/W LINE

THIRD STREET
ASPHALT ROADWAY (50' R/W)

POINT OF BEGINNING
N.E. CORNER LOT 16, BLOCK 3
PARCEL 3, TRACT D

FOUND 5/8" I.R. NO ID.

EDGE OF PAVEMENT

2' CURB & GUTTER

INLET GRATE ELEV.=1.64'

SOUTHWESTERLY R/W LINE

S.63°58'26"E. 197.49' (S)

CONCRETE WALK

A.D.A. PAD

SIGN

W.M.

GRAVEL

PARKING BUMPERS (TYPICAL)

CONCRETE

CONCRETE VENDING

PLANTER AREA

OVERHEAD DECK & STAIRS

WELL

WOOD FENCE

FOUND 5/8" I.R. ALUMINUM CAP NO ID

LOT 17
LOT 18
LOT 16
BLOCK 3
2 STORY STILT WOOD FRAME
1ST FLOOR ELEV= 6.32'

ELECTRIC METERS & WATER SYSTEM

1 STORY STILT WOOD FRAME
FLOOR ELEV.= 6.63
PARCEL 3 TRACT A

LOT 19 WOOD FENCE

GATE

C.L.F.

SOUTHEASTERLY R/W LINE

EDGE OF BRIDGE

BRICK

WOOD FENCE

PARCEL #105
O.R. BOOK 1198, PAGE 796

S.R. 865

ESTERO BOULEVARD

BOLLARD'S

FOUND NAIL

L.P.

T. MARK
ELEV= 2.86'

SOUTHWESTERLY R/W LINE

N.26°01'34"E. 446.05'

STEPS

C.L.&S.

COOLER
2 S.W.F.
FLOOR ELEV= 9.43'

PART OF LOT 15 BLOCK 5

BRICK

Y.D. GRATE= 2.71'

WOOD DECK

STAIRS

W.D.&S.

LAUNDRY ROOM

PART OF LOT 16 BLOCK 5

2 S.W.F.
FLOOR ELEV= 4.50'

TIKI AREA

LOT 14 BLOCK 5

LOT 13 BLOCK 5

COLUMN (TYPICAL)

OVERHEAD

Y.D. GRATE= 3.03'

BRICK

PART OF LOT 17 BLOCK 5

3 S.W.F.
FLOOR ELEV= 9.72'

WOOD DECK & STAIRS

BRICK PATIO

POOL

EDGE OF SHELL PARKING

LOT 12 BLOCK 5

EXISTING BUILDING & OVERHEAD DECKS
FLOOR ELEV.= 17.37

Y.D. GRATE= 3.11'

PART OF LOT 18 BLOCK 5

REMAINDER OF LOT 18 (NOT INCLUSIVE)

STRIPE

STRIPE (TYPICAL)

Y.D. GRATE= 2.99'

DECK & STAIRS

A/C 2 S.W.F. FLOOR ELEV= 6.80

LOT 11 BLOCK 5

FOUND 1/2" I.R. FOUND & L.R. CAP "STARNES" 0.35' W.

FAUCET

SIGN

VACATED PORTION OF LOTS 17, 16 AND 15

N.26°01'34"E. 351.05' (D & S)

EDGE OF BRICK

L.P. EDGE OF BRICK (TYPICAL)

PARKING BUMPERS (TYPICAL)

VACATED PORTION OF FOURTH COURT

EDGE OF PAVEMENT / 2' CURB & GUTTER

VACATED CONCRETE SIDEWALK

BACK OF CURB ON WALK

REMAINDER OF LOT 6

SOUTHEASTERLY R/W LINE

PART OF LOT 6 5 BLOCK 5

S.67°37'17"W. 92.74' (D & S)

FLUME

LOT 8 5 BLOCK 5

ASPHALT PARKING

N.22°22'43"W. 80.00' (D & S)

VACATED REMAINDER OF LOT 7

PART OF LOT 7 5 BLOCK 5

FLUME

R/W LINE

S.46°59'05"W 46.47' (D & S)

40.00'

STATE PLANE COORDINATES
FLORIDA WEST ZONE NAD83
N=770645.65
E=670883.98

FOURTH STREET

CONCRETE BUMPER (TYPICAL)

Y.D. GRATE= 2.65'
VACATED (O.R. 3176, PAGE 324)

N/D LB6921 ELEV= 2.41'

MANHOLE (BURIED)

Y.D. GRATE= 2.41'

POSSIBLE INLET (BURIED)

Y.D. GRATE= 2.40'

TEMPORARY EASEMENT AGREEMENT (O.R. 3176, PAGE 342)

(50' R/W) SPRINT EASEMENT (O.R. 3187, PAGE 2430)

F.P.&L.C.E. PER O.R. 3264, PAGE 2199

WATER LINE EASEMENT (O.R. 3187, PAGE 2435)

OLD NORTHEASTERLY R/W LINE

BUILDING IS 0.1' OFF PROPERTY LINE

NORTHEASTERLY CORNER BLOCK 5

BATHROOMS FLOOR ELEV=3.80'

LAUNDRY ROOM

TIKI AREA

BRICK POOL DECK

S.E. CORNER OF LOT 16

TRACT H
LOT 12
BLOCK 3

WATER FALL STRUCTURE

LOT 10

TIKI

GRILL

H.W.H. 24.6'

LOT 9
FLOOR ELEV.= 6.90'
1 STORY WOOD FRAME STILT

ELECTRIC 44.6' METERS
1 STORY WOOD FRAME STILT
FLOOR ELEV= 8.48'

TRACT A

WOOD DECK

STAIRS

METAL FENCE

POINT OF BEGINNING
PARCEL 3, TRACT F

N.E. CORNER OF BLOCK 5

OLD NORTHEASTERLY R/W LINE

TRACT H
LOT 13, BLOCK 3
3 STORY C.B.S.

CONCRETE PARKING

CONCRETE WALL

UTILITY EASEMENT
(O.R. 3387, PAGE 2743)
(O.R. 3393, PAGE 3083)

10' WIDE ELECTRICAL EASEMENT (O.R. 3360, PAGE 4551)

PARCEL 3 TRACT C
LOT 14 BLOCK 3

F.D.C.

POB PARCEL 3 TRACT C

S.89°22'43"W. 22.55' (S)
N.89°22'43"E. 22.03' (D)

P.O.C. TRACT E, N.E. CORNER LOT 14, BLOCK 3

SOUTH LINE AND EXTENSION THEREOF OF TRACT C

B.F.P.

PIPES FOR FIRE LINE 4" DIA.

PARCEL 3 TRACT B

P.O.B. TRACT B

FOUND 5/8" I.R. NO ID.

N.63°58'26"W. 51.70' (D)

PARCEL 3, TRACT B, C, F AND G
POINT OF COMMENCEMENT
S.E. CORNER LOT 14, BLOCK 3

FIFTH STREET
N.63°58'26"W. 7.04'
AS PER LEE CO. D.O.T. PROJECT #4365

S.57°31'39"W. 51.33' (D & S)

R=180.00

(50' R/W) ASPHALT ROADWAY

OLD R/W LINE

OLD SOUTHWEST R/W LINE OF FOURTH STREET

EAST R/W LINE

FIFTH AVENUE AS PLATTED

OLD NORTHWESTERLY R/W LINE

NEW R/W LINE

P.R.C.

FOUND N/D R.M. #4919 ELEV=3.73'

EXISTING BUILDING & OVERHEAD DECKS FLOOR ELEV.= 17.37

BRICK

CONCRETE

VALK

FOUND N/D L.B. 4919

FOUND 1/2" I.R. NO ID

S.78°07'12"E. 1.81'

VACATED 20' DRIVE
(COUNTY COMMISSIONERS MINUTE BOOK 11, PAGE 192)
(COUNTY COMMISSIONERS MINUTE BOOK 13, PAGE 102)

LOT 17, BLOCK "E" (OCCUPIED)

N.89°18'54"E. 119.17' (S)

WOOD FENCE

PARCEL 2 LOT 16, BLOCK "E" CRESCENT PARK ADDITION SUBDIVISION
PLAT BOOK 9, PAGE 10

PILING (TYPICAL)

CANAL

S.00°41'06"E. 50.00' (S)

WOOD DOCK

BRICK DRIVE

BRICK

A/C

2 STORY BUILDING

WOOD DECK

CONCRETE UNDER WOOD DECK

ROPE

GRAVEL

CONCRETE SEAWALL

FOUND 1/2" I.R. CAP PLS4631

FENCE END 0.6' SOUTH

N.00°41'06"W. 50.00' (S)

S.89°18'54"W 119.17' (S)

CHAIN LINK FENCE

FENCE CORNER 0.3' SOUTH

LOT 15, BLOCK "E" (OCCUPIED)

12.67' RESERVED INCLUSIVE (C.C.M.B. 13, PAGE 102)

20.00'

23.67'(S)

23.63'(S)

95.50'(S)

95.54'(S)

S.00°41'06"E. 133.83' (S)

CRESCENT STREET

2' CURB & GUTTER

EDGE OF PAVEMENT

ASPHALT ROADWAY

W. LINE OF LOT 16 BLOCK "E" 50.00'

R/W TAKING OR 2833, PAGE 2362

R/W WIDTH VARIES

N.00°45'10"W.

S.00°37'53"E.

LESS & EXCEPT INSTRUMENT No. 2020000393861

S.00°41'06"E. 446.05' (D)

S.32°16'14"E. 10.28'

116°43'0"

21.2'

57.88' (S)

27.21'

STEPS

FOUND 5/8" I.R. ALUMINUM CAP NO ID

LOT 15
PARCEL 1
1ST FLOOR ELEV.= 4.58
2 STORY WOOD FRAME STILT

2ND STORY

WOOD DECK

CONCRETE WALL

CONCRETE WALL 0.3' OFF LOT LINE

C.L.F.

C.L.&S.

U.T.S.

P.P.

G.A.&W.

Y.L.

FOUND N/D LB6921 IN SIDEWALK

P.O.B. (EXCEPTION) S.W. CORNER OF LOT 16, BLOCK "E"

EAST R/W LINE

MANHOLE

S.M.H. RIM= 2.18'

CONCRETE SIDEWALK

CURB INLET

D/H ALONG R/W LINE

D/H ALONG R/W LINE & WATER BUOY

C.P.P. T.S.B.

SET N/D LB6921 IN SIDEWALK

BRICK

WOOD DECK

STAIRS

WOOD DECK

2 STORY BUILDING

BRICK

A/C

WOOD DECK

BRICK DRIVE

W.M.

25.5'

95.54'(S)

S.89°18'54"W 119.17' (S)

CHAIN LINK FENCE

FENCE CORNER 0.3' SOUTH

LOT 15, BLOCK "E" (OCCUPIED)

FOUND N/D LB6921 IN SIDEWALK

P.O.B. (EXCEPTION) S.W. CORNER OF LOT 16, BLOCK "E"

EAST R/W LINE

MANHOLE

S.M.H. RIM= 2.18'

CONCRETE SIDEWALK

CURB INLET

D/H ALONG R/W LINE

P.O.C. TRACT E, N.E. CORNER LOT 14, BLOCK 3

SOUTH LINE AND EXTENSION THEREOF OF TRACT C

POB PARCEL 3 TRACT C

S.89°22'43"W. 22.55' (S)
N.89°22'43"E. 22.03' (D)

STUB BAR

S.00°27'17"E. 8.51' (S) 8.51' (D)

P.O.B. TRACT B

FOUND 5/8" I.R. NO ID.

N.63°58'26"W. 51.70' (D)

PARCEL 3, TRACT B, C, F AND G
POINT OF COMMENCEMENT
S.E. CORNER LOT 14, BLOCK 3

FIFTH STREET
N.63°58'26"W. 7.04'
AS PER LEE CO. D.O.T. PROJECT #4365

S.57°31'39"W. 51.33' (D & S)

R=180.00

(50' R/W) ASPHALT ROADWAY

OLD R/W LINE

OLD SOUTHWEST R/W LINE OF FOURTH STREET

EAST R/W LINE

FIFTH AVENUE AS PLATTED

OLD NORTHWESTERLY R/W LINE

NEW R/W LINE

P.R.C.

FOUND N/D R.M. #4919 ELEV=3.73'

EXISTING BUILDING & OVERHEAD DECKS FLOOR ELEV.= 17.37

BRICK

CONCRETE

VALK

FOUND N/D L.B. 4919

FOUND 1/2" I.R. NO ID

S.78°07'12"E. 1.81'

VACATED 20' DRIVE
(COUNTY COMMISSIONERS MINUTE BOOK 11, PAGE 192)
(COUNTY COMMISSIONERS MINUTE BOOK 13, PAGE 102)

LOT 17, BLOCK "E" (OCCUPIED)

N.89°18'54"E. 119.17' (S)

WOOD FENCE

PARCEL 2 LOT 16, BLOCK "E" CRESCENT PARK ADDITION SUBDIVISION
PLAT BOOK 9, PAGE 10

PILING (TYPICAL)

CANAL

S.00°41'06"E. 50.00' (S)

WOOD DOCK

BRICK DRIVE

BRICK

A/C

2 STORY BUILDING

WOOD DECK

CONCRETE UNDER WOOD DECK

ROPE

GRAVEL

CONCRETE SEAWALL

FOUND 1/2" I.R. CAP PLS4631

FENCE END 0.6' SOUTH

N.00°41'06"W. 50.00' (S)

S.89°18'54"W 119.17' (S)

CHAIN LINK FENCE

FENCE CORNER 0.3' SOUTH

LOT 15, BLOCK "E" (OCCUPIED)

12.67' RESERVED INCLUSIVE (C.C.M.B. 13, PAGE 102)

20.00'

23.67'(S)

23.63'(S)

95.50'(S)

95.54'(S)

S.00°41'06"E. 133.83' (S)

CRESCENT STREET

2' CURB & GUTTER

EDGE OF PAVEMENT

ASPHALT ROADWAY

W. LINE OF LOT 16 BLOCK "E" 50.00'

R/W TAKING OR 2833, PAGE 2362

R/W WIDTH VARIES

N.00°45'10"W.

S.00°37'53"E.

LESS & EXCEPT INSTRUMENT No. 2020000393861

S.00°41'06"E. 446.05' (D)

S.32°16'14"E. 10.28'

116°43'0"

21.2'

57.88' (S)

27.21'

STEPS

FOUND 5/8" I.R. ALUMINUM CAP NO ID

LOT 15
PARCEL 1
1ST FLOOR ELEV.= 4.58
2 STORY WOOD FRAME STILT

2ND STORY

WOOD DECK

CONCRETE WALL

CONCRETE WALL 0.3' OFF LOT LINE

C.L.F.

C.L.&S.

U.T.S.

P.P.

G.A.&W.

Y.L.

FOUND N/D LB6921 IN SIDEWALK

P.O.B. (EXCEPTION) S.W. CORNER OF LOT 16, BLOCK "E"

EAST R/W LINE

MANHOLE

S.M.H. RIM= 2.18'

CONCRETE SIDEWALK

CURB INLET

D/H ALONG R/W LINE

D/H ALONG R/W LINE & WATER BUOY

C.P.P. T.S.B.

SET N/D LB6921 IN SIDEWALK

BRICK

WOOD DECK

STAIRS

WOOD DECK

2 STORY BUILDING

BRICK

A/C

WOOD DECK

BRICK DRIVE

W.M.

25.5'

LINE #1
S.78°21'29"W. 12.55' (D & S)

Curve number 1
Radius= 10.00'
Delta= 82°18'34" (D)
Delta= 82°27'05" (S)
Arc= 14.39' (D)
Tangent= 8.76'
Chord= 13.16' (D & S)
Chord Brg.= S.40°32'00"W. (D)
Chord Brg.= S.40°36'03"W. (S)

Curve number 2
Radius= 205.00'
Delta= 09°43'41"
Arc= 34.81'
Tangent= 17.44'
Chord= 34.76'
Chord Brg.= S.76°49'27"W.

Curve number 3
Radius= 212.00'
Delta= 26°37'36"
Arc= 98.52'
Tangent= 50.17'
Chord= 97.64'
S.38°35'46"W. 97.64'

Curve number 4 (D & S)
Radius= 148.00'
Delta= 21°42'03"
Arc= 56.05'
Tangent= 28.37'
Chord= 55.72'
Chord Brg.= N.36°08'05"E.

Curve number 5
Radius= 212.00'
Delta= 27°42'49"
Arc= 102.55'
Tangent= 52.30'
Chord= 101.55'
Chord Brg.= N.39°08'22"E.

Curve number 6
Radius= 148.00'
Delta= 08°43'29"
Arc= 22.54'
Tangent= 11.29'
Chord= 22.51'
CHORD BRG= S.29°38'31"W.

SURVEY NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD, AS BEING N.26°01'34"E.
2. FIELD NOTES IN BUSINESS CENTER.
3. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
4. THIS SURVEY WAS BASED ON TITLE CERTIFICATION BY ACCENT TITLE INSURANCE AGENCY, INC. OWNERSHIP AND ENCUMBRANCE REPORT AGENT No. FL1245 PERIOD SEARCHED: FROM OCTOBER 9, 1996 TO JANUARY 27, 2023 @ 8:00 AM
5. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
6. 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.
7. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
8. SEE SHEET 2 OF 2 FOR TRACT DETAIL.
9. BENCHMARK DERIVED FROM NATIONAL GEODETIC SURVEY, 872 5566 F ELEVATION 22.60 N.A.V.D.88
10. ELEVATIONS ARE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).

FLOOD ZONE: "AE" ELEVATIONS: 11, 12 & 13 NAVD88
COMMUNITY No.: 120673 PANEL No.: 0554
SUFFIX --- F REVISION DATE: 12/7/2018
MAP NUMBER: 12071C0554

THIS SURVEY IS CERTIFIED TO:
LIGHTHOUSE ISLAND RESORT, INC.
AGENT TITLE SERVICES, LLC
WFG NATIONAL TITLE INSURANCE COMPANY

LEGEND:

●	SET IRON PIN (CAP #4631)	P.O.B.	POINT OF BEGINNING
○	FOUND IRON PIN (I.R.)	P.C.	POINT OF CURVATURE
□	CONCRETE MONUMENT (C.M.)	O.R.	OFFICIAL RECORDS BOOK
▨	CONCRETE (CONC.)	D	DELTA OF CURVE
P.R.M.	PERMANENT REFERENCE MONUMENT	R	RADIUS OF CURVE
P.C.P.	PERMANENT CONTROL POINT	A	ARC OF CURVE
(P)	AS PER PLAT	CH	CHORD LENGTH
(D)	AS PER DEED	CB	CHORD BEARING
(S)	AS PER SURVEY	C#	CURVE NUMBER
(M)	AS MEASURED	A/C	AIR CONDITIONER
P.U.E.	PUBLIC UTILITY EASEMENT	O/H	OVERHEAD POWERLINES
L.M.E.	LAKE MAINTENANCE EASEMENT	P.P.	POWER POLE
D.E.	DRAINAGE EASEMENT	W.M.	WATER METER
C.B.S.	CONCRETE BLOCK STRUCTURE	U.T.S.	TELEPHONE BOX
R/W/B	RECLAIMED WATER BOX	E.B.	ELECTRIC BOX
ELEV.	ELEVATION	CATV	TV-CABLE BOX
E.B.	ELECTRIC BOX	E.O.P.	EDGE OF PAVEMENT
N/D	NAIL & DISK	C/G	CURB/GUTTER
N/T.T.	NAIL & TINTAB	B.E.	BRICK EDGEING
D/H	DRILL HOLE	P.A.	PLANTER AREA
P.R.C.	POINT REVERSE CURVE	P/T	PROPANE TANK
O.W.D.S.	OVERHEAD WOOD DECK & STAIRS	C.O.	CLEAN-OUT
W.D.&S.	WOOD DECK & STAIRS	T.	TRELLIS
C.L.&S.	CONCRETE LANDING & STAIRS	F.F.	FINISH FLOOR
S.W.F.	STORY WOOD FRAME	S.P.	SHOWER POST
℄	CENTERLINE	F.D.	FRENCH DRAIN
R/W	RIGHT-OF-WAY	F.H.	FIRE HYDRANT
B.M.	BENCHMARK	Y.L.	YARD LIGHT
0.0	TYPICAL ELEVATION	T.F.	TRANSFORMER
✻	YARD LIGHT	B.F.P.	BACK FLOW PREVENTER
ⓟ	PARKING METER	W/V	WATER VALVE
◙	ELECTRIC BOX	Y.D.	YARD DRAIN
⊙	SEWER VALVE	S.M.H.	YARD DRAIN
⊘	GUARD POST	F.P.L.C.E.	FLORIDA POWER & LIGHT COMPANY EASEMENT
A.D.A.	AMERICANS DISABILITIES ACT	C.L.F.	CHAIN LINK FENCE
⊕	WOOD POST TYPICAL (10"± DIAMETER)	C.O.	CLEAN OUT
T	TRANSFORMER	C.P.P.	CONCRETE POWER POLE
M.B.	MAIL BOX		
C.B.S.	CONCRETE BLOCK STRUCTURE		
A.D.A.	AMERICAN DISABILITIES ACT		

AS BUILT SURVEY OF

PART OF BLOCK 3 & 5 BUSINESS CENTER SUBDIVISION & LOT 16, BLOCK "E" CRESCENT PARK ADDITION SUBDIVISION

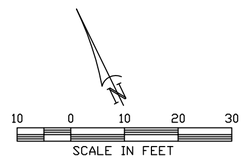
SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST
(PLAT BOOK 9, PAGE 10)
LEE COUNTY, FLORIDA

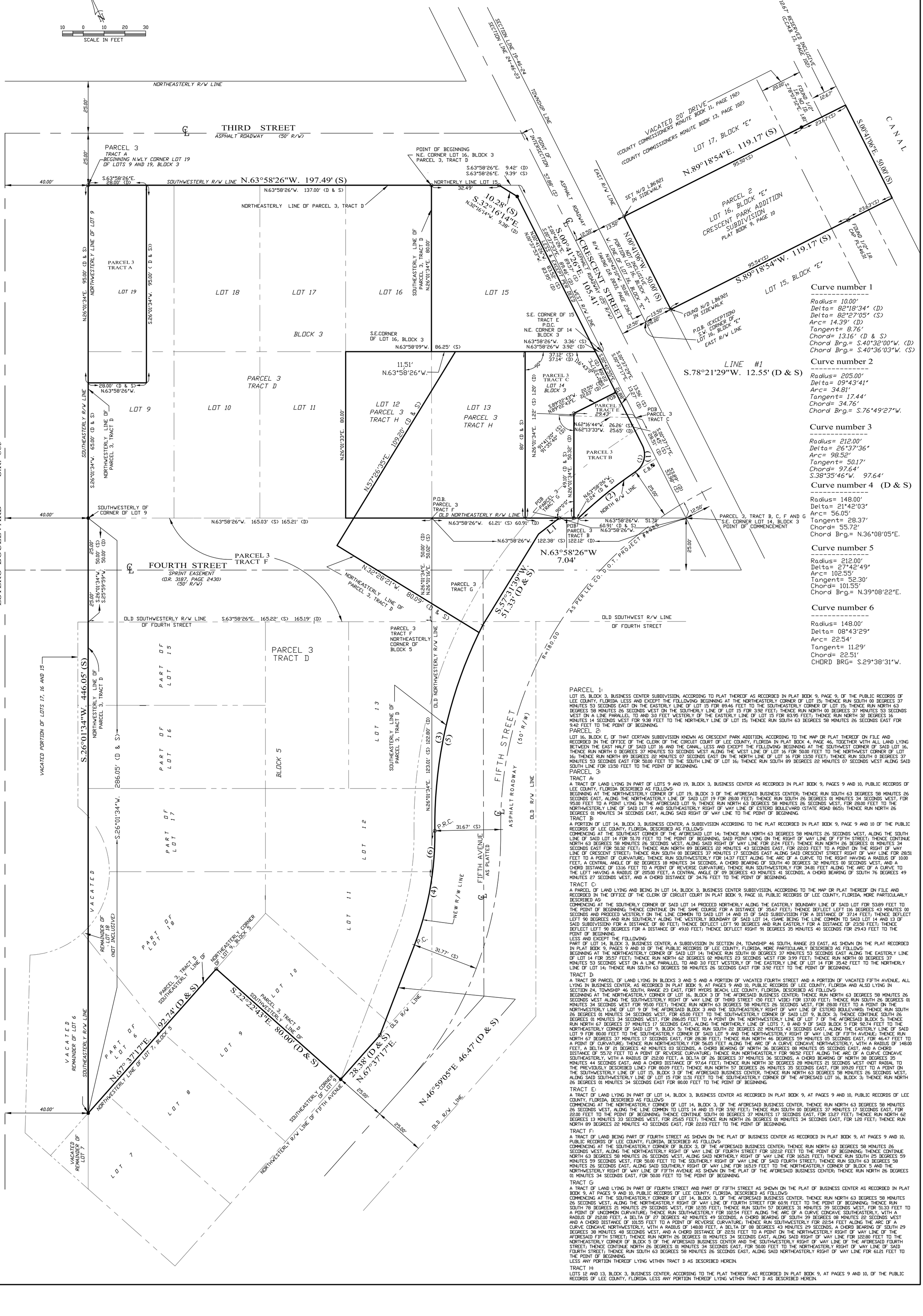
HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S., SUITE 100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

DATE OF LAST FIELD WORK: 9/10/22			
DRAWN: RLB	CHECK: PMM	SCALE 1"=20'	PROJ. # LHR 2-16-23
SURVEY DATE 9/10/22		FILE NO. 46-23-24	SHT.- 2 OF - 2
FLORIDA CERTIFICATE OF AUTHORIZATION LB6921			

LEGEND:

●	SET IRON PIN (CAP #4631)	P.O.B.	POINT OF BEGINNING	O.W.D.S.	OVERHEAD WOOD DECK & STAIRS	P/T	PROPANE TANK
○	FOUND IRON PIN (I.R.)	P.C.	POINT OF CURVATURE	W.D.&S.	WOOD DECK & STAIRS	C.O.	CLEAN-OUT
□	CONCRETE MONUMENT (C.M.)	O.R.	OFFICIAL RECORDS BOOK	C.L.&S.	CONCRETE LANDING & STAIRS	T.	TRELUS
▨	CONCRETE (CONC.)	D	DELTA OF CURVE	S.W.F.	STORY WOOD FRAME	F.F.	FINISH FLOOR
P.R.M.	PERMANENT REFERENCE MONUMENT	R	RADIUS OF CURVE	℄	CENTERLINE	S.P.	SHOWER POST
P.C.P.	PERMANENT CONTROL POINT	A	ARC OF CURVE	R/W	RIGHT-OF-WAY	F.D.	FRENCH DRAIN
(P)	AS PER PLAT	CH	CHORD LENGTH	B.M.	BENCHMARK	F.H.	FIRE HYDRANT
(D)	AS PER DEED	CB	CHORD BEARING	0.0	TYPICAL ELEVATION	Y.L.	YARD LIGHT
(S)	AS PER SURVEY	C#	CURVE NUMBER	✳	YARD LIGHT	T.F.	TRANSFORMER
(M)	AS MEASURED	A/C	AIR CONDITIONER	P	PARKING METER	B.F.P.	BACK FLOW PREVENTER
P.U.E.	PUBLIC UTILITY EASEMENT	O/H	OVERHEAD POWERLINES	■	ELECTRIC BOX	W/V	WATER VALVE
L.M.E.	LAKE MAINTENANCE EASEMENT	P.P.	POWER POLE	Ⓢ	SEWER VALVE	Y.D.	YARD DRAIN
D.E.	DRAINAGE EASEMENT	W.M.	WATER METER	⊘	GUARD POST	S.M.H.	YARD DRAIN
C.B.S.	CONCRETE BLOCK STRUCTURE	U.T.S.	TELEPHONE BOX	A.D.A.	AMERICANS DISABILITIES ACT	F.P.L.C.E.	FLORIDA POWER & LIGHT COMPANY EASEMENT
R/W/B	RECLAIMED WATER BOX	E.B.	ELECTRIC BOX	⊕	WOOD POST TYPICAL (10"± DIAMETER)	C.L.F.	CHAIN LINK FENCE
ELEV.	ELEVATION	CATV	TV-CABLE BOX	T	TRANSFORMER	C.O.	CLEAN OUT
E.B.	ELECTRIC BOX	E.O.P.	EDGE OF PAVEMENT	M.B.	MAIL BOX	C.P.P.	CONCRETE POWER POLE
N/D	NAIL & DISK	C/G	CURB/GUTTER	C.B.S.	CONCRETE BLOCK STRUCTURE		
N/T.T.	NAIL & TINTAB	B.E.	BRICK EDGEING				
D/H	DRILL HOLE	P.A.	PLANTER AREA				





PARCEL 1:
LOT 15, BLOCK 3, BUSINESS CENTER SUBDIVISION, ACCORDING TO PLAT THEREOF AS RECORDED IN PLAT BOOK 9, PAGE 9, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA. LESS AND EXCEPT THE FOLLOWING: BEGINNING AT THE NORTHEASTERLY CORNER OF LOT 15; THENCE RUN SOUTH 00 DEGREES 37 MINUTES 53 SECONDS EAST ON THE EASTERLY LINE OF LOT 15 FOR 89.46 FEET TO THE SOUTHEASTERLY CORNER OF LOT 15; THENCE RUN NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST ON THE SOUTHERLY LINE OF LOT 15 FOR 3.92 FEET; THENCE RUN NORTH 00 DEGREES 37 MINUTES 53 SECONDS WEST ON A LINE PARALLEL TO AND 3.0 FEET WESTERLY OF THE EASTERLY LINE OF LOT 15 FOR 83.95 FEET; THENCE RUN NORTH 32 DEGREES 16 MINUTES 14 SECONDS WEST FOR 9.38 FEET TO THE NORTHERLY LINE OF LOT 15; THENCE RUN SOUTH 63 DEGREES 58 MINUTES 26 SECONDS EAST FOR 9.42 FEET TO THE POINT OF BEGINNING.

PARCEL 2:
LOT 16, BLOCK E, OF THAT CERTAIN SUBDIVISION KNOWN AS CRESCENT PARK ADDITION, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LEE COUNTY, FLORIDA IN PLAT BOOK 4, PAGE 46, TOGETHER WITH ALL LAND LYING BETWEEN THE EAST HALF OF SAID LOT 16 AND THE CANAL, LESS AND EXCEPT THE FOLLOWING: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 16, THENCE RUN NORTH 0 DEGREES 37 MINUTES 53 SECONDS WEST ALONG THE WEST LINE OF LOT 16 FOR 50.00 FEET TO THE NORTHWEST CORNER OF LOT 16; THENCE RUN NORTH 89 DEGREES 22 MINUTES 07 SECONDS EAST ON THE NORTH LINE OF LOT 16 FOR 13.50 FEET; THENCE RUN SOUTH 0 DEGREES 37 MINUTES 53 SECONDS EAST FOR 50.00 FEET TO THE SOUTH LINE OF LOT 16; THENCE RUN SOUTH 89 DEGREES 22 MINUTES 07 SECONDS WEST ALONG SAID SOUTH LINE FOR 13.50 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

TRACT A:
A TRACT OF LAND LYING IN PART OF LOTS 9 AND 19, BLOCK 3, BUSINESS CENTER AS RECORDED IN PLAT BOOK 9, PAGES 9 AND 10, PUBLIC RECORDS OF LEE COUNTY, FLORIDA DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 19, BLOCK 3 OF THE AFORESAID BUSINESS CENTER; THENCE RUN SOUTH 63 DEGREES 58 MINUTES 26 SECONDS EAST, ALONG THE NORTHEASTERLY LINE OF SAID LOT 19 FOR 28.00 FEET; THENCE RUN SOUTH 26 DEGREES 01 MINUTES 34 SECONDS WEST, FOR 95.00 FEET TO A POINT LYING IN THE AFORESAID LOT 9; THENCE RUN NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST, FOR 28.00 FEET TO THE NORTHWESTERLY LINE OF SAID LOT 9 AND SOUTHEASTERLY RIGHT OF WAY LINE OF ESTERO BOULEVARD (STATE ROAD 865); THENCE RUN NORTH 26 DEGREES 01 MINUTES 34 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE TO THE POINT OF BEGINNING.

TRACT B:
A PORTION OF LOT 14, BLOCK 3, BUSINESS CENTER, A SUBDIVISION ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 9, PAGE 9 AND 10 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHEAST CORNER OF THE AFORESAID LOT 14; THENCE RUN NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST, ALONG THE SOUTH LINE OF SAID LOT 14 FOR 51.70 FEET TO THE POINT OF BEGINNING, SAID POINT LYING ON THE RIGHT OF WAY LINE OF FIFTH STREET; THENCE CONTINUE NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST, ALONG SAID RIGHT OF WAY LINE FOR 2.24 FEET; THENCE RUN NORTH 26 DEGREES 01 MINUTES 34 SECONDS EAST FOR 50.32 FEET; THENCE RUN NORTH 89 DEGREES 22 MINUTES 43 SECONDS EAST, FOR 22.03 FEET TO A POINT ON THE RIGHT OF WAY LINE OF CRESCENT STREET; THENCE RUN SOUTH 00 DEGREES 37 MINUTES 17 SECONDS EAST ALONG SAID CRESCENT STREET RIGHT OF WAY LINE FOR 28.51 FEET TO A POINT OF CURVATURE; THENCE RUN SOUTHWESTERLY FOR 14.37 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 10.00 FEET, A CENTRAL ANGLE OF 82 DEGREES 18 MINUTES 34 SECONDS, A CHORD BEARING OF SOUTH 40 DEGREES 32 MINUTES 00 SECONDS WEST, AND A CHORD DISTANCE OF 13.16 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN SOUTHWESTERLY FOR 34.81 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 205.00 FEET, A CENTRAL ANGLE OF 09 DEGREES 43 MINUTES 41 SECONDS, A CHORD BEARING OF SOUTH 76 DEGREES 49 MINUTES 27 SECONDS WEST, AND A CHORD DISTANCE OF 34.76 FEET TO THE POINT OF BEGINNING.

TRACT C:
A PARCEL OF LAND LYING AND BEING IN LOT 14, BLOCK 3, BUSINESS CENTER SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF CIRCUIT COURT IN PLAT BOOK 9, PAGE 10, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS:
COMMENCING AT THE SOUTHERLY CORNER OF SAID LOT 14 PROCEED NORTHERLY ALONG THE EASTERLY BOUNDARY LINE OF SAID LOT FOR 53.89 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ON THE SAME COURSE FOR A DISTANCE OF 35.67 FEET; THENCE DEFLECT LEFT 116 DEGREES 43 MINUTES 00 SECONDS AND PROCEED WESTERLY ON THE LINE COMMON TO SAID LOT 14 AND 15 OF SAID SUBDIVISION FOR A DISTANCE OF 37.14 FEET; THENCE DEFLECT LEFT 90 DEGREES AND RUN SOUTHERLY ALONG THE WESTERLY BOUNDARY OF SAID LOT 14, (SAME BEING THE LINE COMMON TO SAID LOT 14 AND 13 OF SAID SUBDIVISION) FOR A DISTANCE OF 80 FEET; THENCE DEFLECT LEFT 90 DEGREES AND RUN EASTERLY FOR A DISTANCE OF 23.50 FEET; THENCE DEFLECT LEFT 90 DEGREES FOR A DISTANCE OF 49.10 FEET; THENCE DEFLECT RIGHT 91 DEGREES 35 MINUTES 40 SECONDS FOR 29.43 FEET TO THE POINT OF BEGINNING.
LESS AND EXCEPT THE FOLLOWING:
PART OF LOT 14, BLOCK 3, BUSINESS CENTER, A SUBDIVISION IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, AS SHOWN ON THE PLAT RECORDED IN PLAT BOOK 9, PAGES 9 AND 10 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHEASTERLY CORNER OF SAID LOT 14; THENCE RUN SOUTH 00 DEGREES 37 MINUTES 53 SECONDS EAST ALONG THE EASTERLY LINE OF LOT 14 FOR 35.57 FEET; THENCE RUN NORTH 62 DEGREES 02 MINUTES 23 SECONDS WEST FOR 3.99 FEET; THENCE RUN NORTH 00 DEGREES 37 MINUTES 53 SECONDS WEST ON A LINE PARALLEL TO AND 3.0 FEET WESTERLY OF THE EASTERLY LINE OF LOT 14 FOR 35.42 FEET TO THE NORTHERLY LINE OF LOT 14; THENCE RUN SOUTH 63 DEGREES 58 MINUTES 26 SECONDS EAST FOR 3.92 FEET TO THE POINT OF BEGINNING.

TRACT D:
A TRACT OR PARCEL OF LAND LYING IN BLOCKS 3 AND 5 AND A PORTION OF VACATED FOURTH STREET AND A PORTION OF VACATED FIFTH AVENUE, ALL LYING IN BUSINESS CENTER, AS RECORDED IN PLAT BOOK 9, AT PAGES 9 AND 10, PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND ALSO LYING IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, FORT MYERS BEACH, LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHEASTERLY CORNER OF LOT 16, BLOCK 3 OF THE AFORESAID BUSINESS CENTER; THENCE RUN NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST ALONG THE SOUTHWESTERLY RIGHT OF WAY LINE OF THIRD STREET (50 FEET WIDE) FOR 137.00 FEET; THENCE RUN SOUTH 26 DEGREES 01 MINUTES 34 SECONDS WEST FOR 95.00 FEET; THENCE RUN NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST, FOR 28.00 FEET TO A POINT ON THE NORTHWESTERLY LINE OF LOT 9 OF THE AFORESAID BLOCK 3 AND THE SOUTHEASTERLY RIGHT OF WAY LINE OF ESTERO BOULEVARD; THENCE RUN SOUTH 26 DEGREES 01 MINUTES 34 SECONDS WEST, FOR 65.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 9, BLOCK 3; THENCE CONTINUE SOUTH 26 DEGREES 01 MINUTES 34 SECONDS WEST, FOR 286.05 FEET TO A POINT ON THE NORTHWESTERLY LINE OF LOT 7 OF THE AFORESAID BLOCK 5; THENCE RUN NORTH 67 DEGREES 37 MINUTES 17 SECONDS EAST, ALONG THE NORTHERLY LINE OF LOTS 7, 8 AND 9 OF SAID BLOCK 5 FOR 92.74 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 9, BLOCK 5; THENCE RUN SOUTH 22 DEGREES 22 MINUTES 43 SECONDS EAST, ALONG THE EASTERLY LINE OF SAID LOT 9 FOR 80.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 9 AND THE NORTHWESTERLY RIGHT OF WAY LINE OF FIFTH AVENUE; THENCE RUN NORTH 67 DEGREES 37 MINUTES 17 SECONDS EAST, FOR 28.38 FEET; THENCE RUN NORTH 46 DEGREES 59 MINUTES 05 SECONDS EAST, FOR 46.47 FEET TO A POINT OF CURVATURE; THENCE RUN NORTHEASTERLY FOR 56.05 FEET ALONG THE ARC OF A CURVE CONCAVE NORTHWESTERLY, WITH A RADIUS OF 148.00 FEET, A DELTA OF 21 DEGREES 42 MINUTES 03 SECONDS, A CHORD BEARING OF NORTH 36 DEGREES 08 MINUTES 05 SECONDS EAST, AND A CHORD DISTANCE OF 55.72 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN NORTHEASTERLY FOR 98.52 FEET ALONG THE ARC OF A CURVE CONCAVE SOUTHEASTERLY, WITH A RADIUS OF 212.00 FEET, A DELTA OF 26 DEGREES 37 MINUTES 36 SECONDS, A CHORD BEARING OF NORTH 38 DEGREES 35 MINUTES 44 SECONDS EAST, AND A CHORD DISTANCE OF 97.64 FEET; THENCE RUN NORTH 32 DEGREES 28 MINUTES 21 SECONDS WEST (NOT RADIAL TO THE PREVIOUSLY DESCRIBED LINE) FOR 80.09 FEET; THENCE RUN NORTH 57 DEGREES 26 MINUTES 35 SECONDS EAST, FOR 109.20 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF LOT 15, BLOCK 3 OF THE AFORESAID BUSINESS CENTER, THENCE RUN NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST, ALONG SAID SOUTHWESTERLY LINE OF LOT 15 FOR 11.51 FEET TO THE SOUTHEASTERLY CORNER OF THE AFORESAID LOT 16, BLOCK 3; THENCE RUN NORTH 26 DEGREES 01 MINUTES 34 SECONDS EAST FOR 80.00 FEET TO THE POINT OF BEGINNING.

TRACT E:
A TRACT OF LAND LYING IN PART OF LOT 14, BLOCK 3, BUSINESS CENTER AS RECORDED IN PLAT BOOK 9, AT PAGES 9 AND 10, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHEASTERLY CORNER OF LOT 14, BLOCK 3, OF THE AFORESAID BUSINESS CENTER, THENCE RUN NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST, ALONG THE LINE COMMON TO LOTS 14 AND 15 FOR 3.92 FEET; THENCE RUN SOUTH 00 DEGREES 37 MINUTES 17 SECONDS EAST, FOR 22.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 00 DEGREES 37 MINUTES 17 SECONDS EAST, FOR 13.27 FEET; THENCE RUN NORTH 62 DEGREES 13 MINUTES 33 SECONDS WEST, FOR 25.65 FEET; THENCE RUN NORTH 26 DEGREES 01 MINUTES 34 SECONDS EAST, FOR 1.20 FEET; THENCE RUN NORTH 89 DEGREES 22 MINUTES 43 SECONDS EAST, FOR 22.03 FEET TO THE POINT OF BEGINNING.

TRACT F:
A TRACT OF LAND BEING PART OF FOURTH STREET AS SHOWN ON THE PLAT OF BUSINESS CENTER AS RECORDED IN PLAT BOOK 9, AT PAGES 9 AND 10, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHEASTERLY CORNER OF BLOCK 3, OF THE AFORESAID BUSINESS CENTER; THENCE RUN NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST, ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF FOURTH STREET FOR 122.12 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST, ALONG SAID NORTHERLY RIGHT OF WAY LINE FOR 165.21 FEET; THENCE RUN SOUTH 25 DEGREES 59 MINUTES 59 SECONDS WEST, FOR 50.00 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF SAID FOURTH STREET; THENCE RUN SOUTH 63 DEGREES 58 MINUTES 26 SECONDS EAST, ALONG SAID SOUTHERLY RIGHT OF WAY LINE FOR 165.19 FEET TO THE NORTHEASTERLY CORNER OF BLOCK 5 AND THE NORTHWESTERLY RIGHT OF WAY LINE OF FIFTH AVENUE AS SHOWN ON THE PLAT OF THE AFORESAID BUSINESS CENTER; THENCE RUN NORTH 26 DEGREES 01 MINUTES 34 SECONDS EAST, FOR 50.00 FEET TO THE POINT OF BEGINNING.

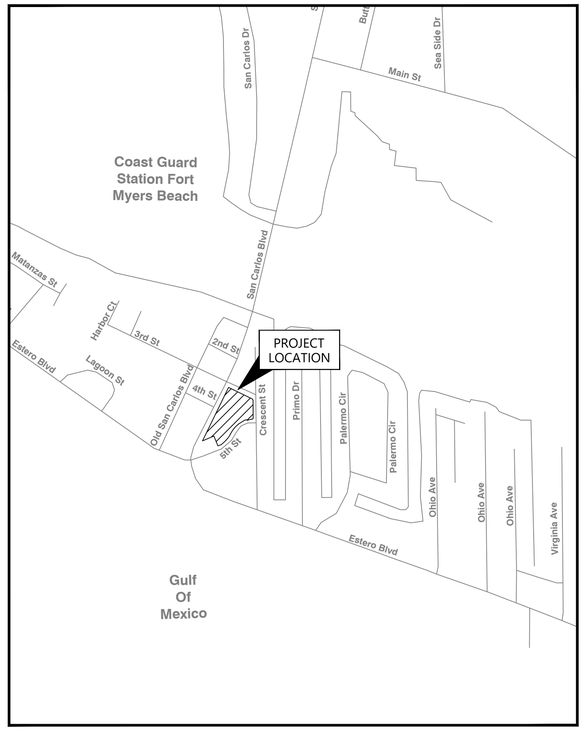
TRACT G:
A TRACT OF LAND LYING IN PART OF FOURTH STREET AND PART OF FIFTH STREET AS SHOWN ON THE PLAT OF BUSINESS CENTER AS RECORDED IN PLAT BOOK 9, AT PAGES 9 AND 10, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT 14, BLOCK 3, OF THE AFORESAID BUSINESS CENTER, THENCE RUN NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST, ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF FOURTH STREET FOR 60.91 FEET TO THE POINT OF BEGINNING; THENCE RUN SOUTH 78 DEGREES 21 MINUTES 29 SECONDS WEST, FOR 12.55 FEET; THENCE RUN SOUTH 57 DEGREES 31 MINUTES 39 SECONDS WEST, FOR 51.33 FEET TO A POINT OF UNCOMMON CURVATURE; THENCE RUN SOUTHWESTERLY FOR 102.54 FEET ALONG THE ARC OF A CURVE CONCAVE SOUTHEASTERLY, WITH A RADIUS OF 212.00 FEET, A DELTA OF 27 DEGREES 42 MINUTES 49 SECONDS, A CHORD BEARING OF SOUTH 39 DEGREES 08 MINUTES 22 SECONDS WEST AND A CHORD DISTANCE OF 101.55 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN SOUTHWESTERLY FOR 22.54 FEET ALONG THE ARC OF A CURVE CONCAVE NORTHWESTERLY, WITH A RADIUS OF 148.00 FEET, A DELTA OF 08 DEGREES 43 MINUTES 29 SECONDS, A CHORD BEARING OF SOUTH 29 DEGREES 38 MINUTES 48 SECONDS WEST, AND A CHORD DISTANCE OF 22.51 FEET TO A POINT ON THE NORTHWESTERLY RIGHT OF WAY LINE OF THE AFORESAID FIFTH STREET; THENCE RUN NORTH 26 DEGREES 01 MINUTES 34 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE FOR 122.80 FEET TO THE NORTHEASTERLY CORNER OF BLOCK 5 OF THE AFORESAID BUSINESS CENTER AND THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE AFORESAID FOURTH STREET; THENCE CONTINUE NORTH 26 DEGREES 01 MINUTES 34 SECONDS EAST, FOR 50.00 FEET TO THE NORTHEASTERLY RIGHT OF WAY LINE OF SAID FOURTH STREET; THENCE RUN SOUTH 63 DEGREES 58 MINUTES 26 SECONDS EAST, ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE FOR 61.21 FEET TO THE POINT OF BEGINNING.
LESS ANY PORTION THEREOF LYING WITHIN TRACT D AS DESCRIBED HEREIN.

TRACT H:
LOTS 12 AND 13, BLOCK 3, BUSINESS CENTER, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, AT PAGES 9 AND 10, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA. LESS ANY PORTION THEREOF LYING WITHIN TRACT D AS DESCRIBED HEREIN.

MASTER CONCEPT PLAN FOR

LIGHTHOUSE ISLAND RESORT CPD

SECTION 24, TOWNSHIP 46S, RANGE 23E,
FORT MYERS BEACH, FLORIDA



VICINITY MAP
N.T.S.

SITE LOCATION MAP
N.T.S.

PROJECT TEAM:

MHK ARCHITECTURE

THE NEIGHBORHOOD COMPANY

TR TRANSPORTATION CONSULTANTS, INC

PREPARED FOR:

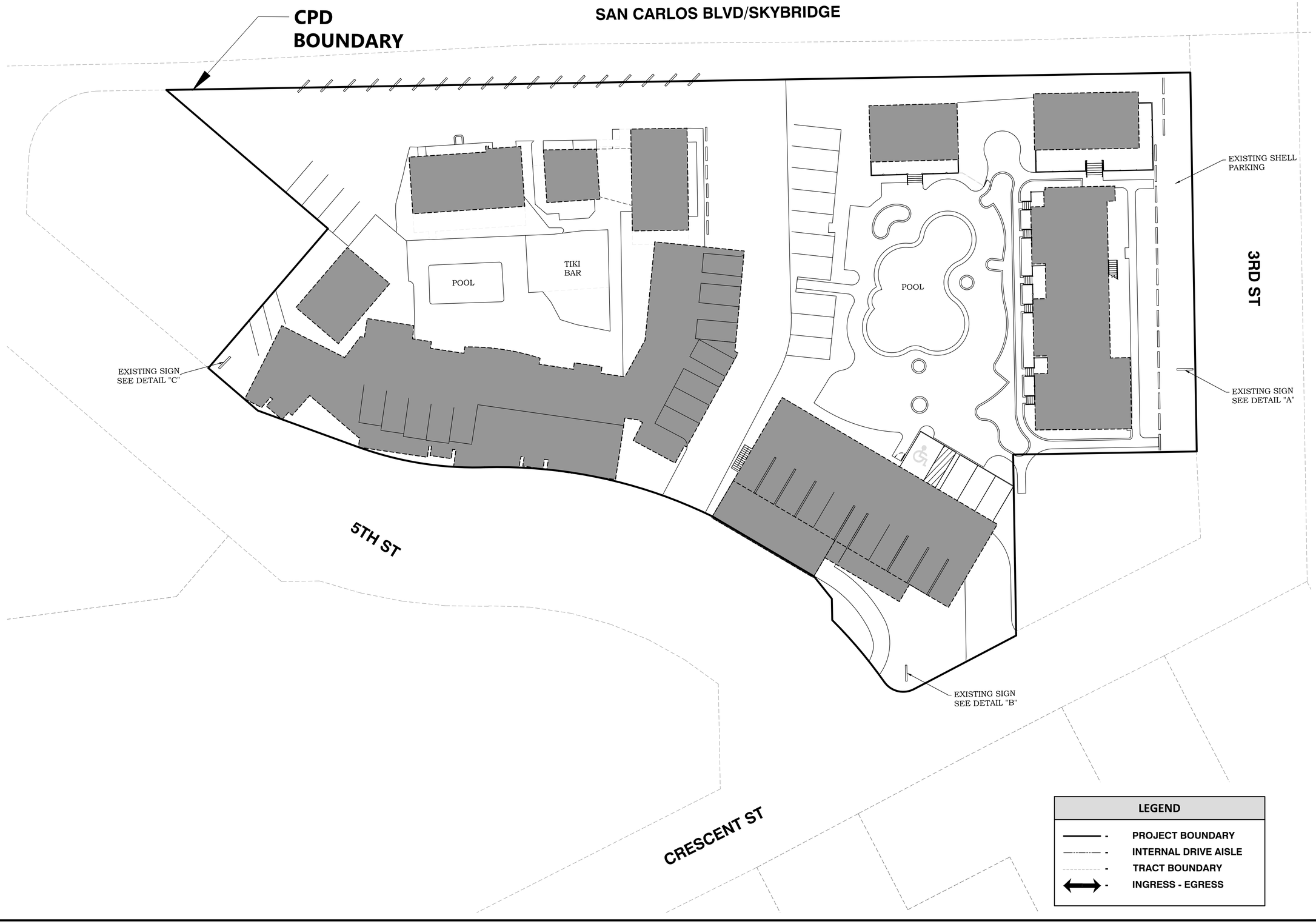
LIGHTHOUSE ISLAND RESORT INC

1051 FIFTH ST
FORT MYERS BEACH, FL 33931

CONTENTS

SHEET NUMBER	SHEET DESCRIPTION
1	COVER SHEET
2	EXISTING CONDITIONS
3	MASTER CONCEPT PLAN
4	NOTES

DATE:	PROJECT No.:	SHEET No.:
January, 2025	240050.01.01	1 OF 4



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#	REVISION	DRAWN	DATE

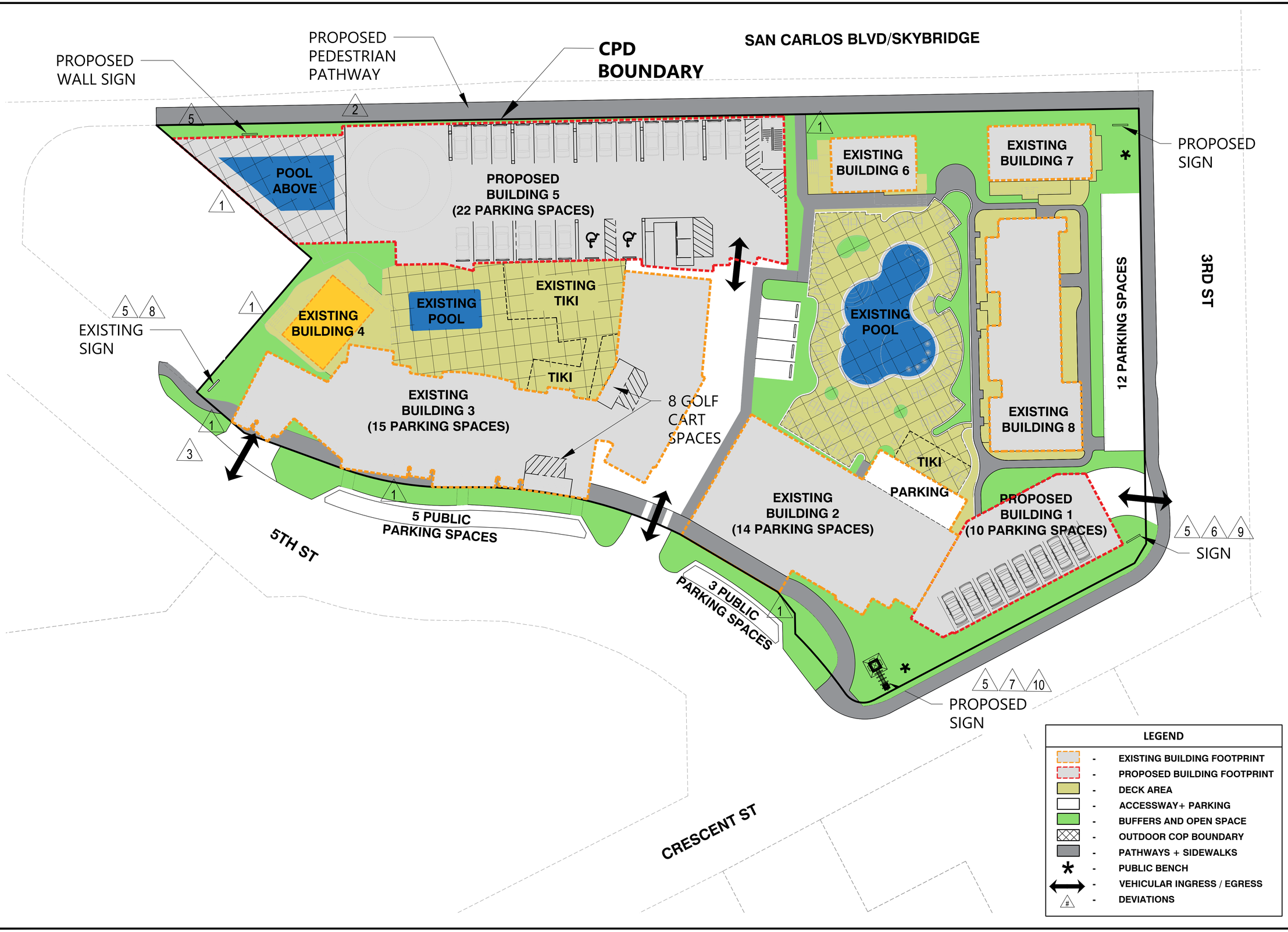
THE NEIGHBORHOOD COMPANY
5618 WHISPERING WILLOW WAY | FORT MYERS, FL 33908
WWW.THENEIGHBORHOOD.COMPANY

CLIENT: LIGHTHOUSE ISLAND RESORT INC

PROJECT: LIGHTHOUSE ISLAND RESORT (CPD)

TITLE: EXISTING CONDITIONS

PROJECT NO.	DRAWN	DESIGN	SHEET NUMBER
220050.01.01	F.L.	P.V.	2 OF 3
DATE: 01/25			



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#	REVISION	DRAWN	DATE

THE NEIGHBORHOOD COMPANY
5618 WHISPERING WILLOW WAY | FORT MYERS, FL 33908
WWW.THENEIGHBORHOOD.COMPANY

CLIENT: LIGHTHOUSE ISLAND RESORT INC

PROJECT: LIGHTHOUSE ISLAND RESORT (CPD)

TITLE: MASTER CONCEPT PLAN (MCP)

PROJECT NO: 220050.01.01
DATE: 01/25
DRAWN: F.L.
DESIGN: P.V.
SHEET NUMBER: 3 OF 4

CONDITIONS:

1. THE DEVELOPMENT OF THIS PROJECT MUST BE CONSISTENT WITH THE MASTER CONCEPT PLAN ENTITLED "MASTER CONCEPT PLAN (CPD) FOR LIGHTHOUSE ISLAND RESORT " LAST REVISED [DATE TBD], EXCEPT AS MODIFIED BY THE CONDITIONS AND DEVIATIONS BELOW.
2. THE FOLLOWING LIMITATIONS APPLY TO THE PROJECT AND USES:

   A. SCHEDULE OF USES

   -ALL USES PERMITTED BY RIGHT IN THE DOWNTOWN ZONING DISTRICT WITH THE FOLLOWING LIMITATIONS:

   -RESTAURANT IS LIMITED TO 4,300 SQUARE FEET

   -OFFICE IS LIMITED TO 420 SQUARE FEET

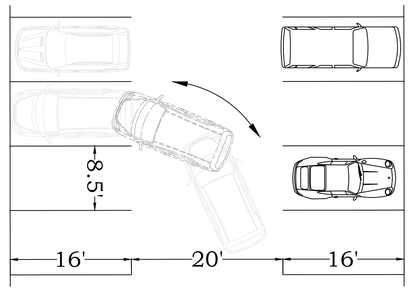
   -HOTEL/MOTEL UNITS LIMITED TO A MAXIMUM OF 130 LAWFULLY EXISTING GUEST UNITS

   B. BUILDING PLACEMENT, SIZE, DESIGN, AND ALL OTHER PROPERTY DEVELOPMENT REGULATIONS SHALL BE THE SAME AS FOR THE CR (COMMERCIAL RESORT) ZONING DISTRICT UNLESS APPROVED AS DEVIATIONS AS PART OF THE APPROVED ZONING RESOLUTION.
3. MAXIMUM BUILDING HEIGHT MAY NOT EXCEED 40.5 FEET ABOVE BASE FLOOD ELEVATION. NO ADDITIONAL BUILDING HEIGHT IS APPROVED WITHIN THIS PLANNED DEVELOPMENT.
4. APPROVAL OF THIS ZONING REQUEST DOES NOT ADDRESS MITIGATION OF THE PROJECT'S VEHICULAR OR PEDESTRIAN TRAFFIC IMPACTS. ADDITIONAL CONDITIONS CONSISTENT WITH THE LDC MAY BE REQUIRED TO OBTAIN A LOCAL DEVELOPMENT ORDER.
5. THE FINAL DESIGN OF THE BUILDING WITHIN THIS PLANNED DEVELOPMENT MUST BE APPROVED BY THE TOWN MANAGER PRIOR TO THE APPROVAL OF ANY PERMITS. THE DESIGN MUST BE IN SUBSTANTIAL COMPLIANCE WITH THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, THE LAND DEVELOPMENT CODE, AND ALL OTHER APPLICABLE REQUIREMENTS.
6. AT NO TIME WILL THE TOTAL NUMBER OF HOTEL/MOTEL UNITS EXCEED 130 GUEST UNITS.
7. PRIOR TO APPROVAL OF A DEVELOPMENT ORDER, THE CORRECT SIDEWALK EASEMENT MUST BE RECORDED IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.
8. PRIOR TO EACH LOCAL DEVELOPMENT ORDER APPROVAL, THE DEVELOPER MUST PROVIDE A CURRENT TALLY OF THE SQUARE FEET FOR EACH USE APPROVED IN ALL PREVIOUS LOCAL DEVELOPMENT ORDERS.
9. THE TOTAL SQUARE FEET OF EXISTING AND PROPOSED BUILDINGS MUST NOT EXCEED 58,432 SQUARE FEET OF TOTAL BUILDING AREA FOR BUILDINGS USED AS HOTEL/ MOTEL GUEST UNITS.
10. ANY OFF-SITE PARKING, OTHER THAN THE EXISTING APPROVED 5 OFF-SITE PARKING SPACES, MUST BE ADDRESSED THROUGH AN AMENDMENT TO THIS CPD.
11. THIS DEVELOPMENT MUST COMPLY WITH ALL REQUIREMENTS OF THE LDC AT TIME OF LOCAL DEVELOPMENT ORDER APPROVAL, EXCEPT AS MAY BE GRANTED BY DEVIATION AS PART OF THIS PLANNED DEVELOPMENT. IF CHANGES TO THE MASTER CONCEPT PLAN ARE SUBSEQUENTLY PURSUED, APPROPRIATE APPROVALS WILL BE NECESSARY.
12. THIS CPD PROJECT MUST OBTAIN A DEVELOPMENT ORDER WITHIN FIVE YEARS OF THE DATE OF APPROVAL BY THE TOWN COUNCIL.
13. ALL SIGNS CONTAINING COMMERCIAL MESSAGES, INCLUDING THOSE SHOWN FOR THE PROPOSED RESTAURANT, MUST BE IN COMPLIANCE WITH LDC CHAPTER 30, EXCEPT AS APPROVED HEREIN BY DEVIATIONS.
14. THE DEVIATION FOR INTERNAL ILLUMINATION OF SIGNS IS APPROVED ONLY FOR THE EXISTING SIGNS. IF THE SIGNAGE IS MOVED, REMOVED, OR DAMAGED BEYOND REPAIR, THE DEVIATION WILL BE NULL AND VOID, AND ANY NEW SIGNAGE MUST COMPLY WITH THE REGULATIONS OF THE LDC.

DEVIATIONS:

1. DEVIATION FROM LDC TABLE 34-3 WHICH REQUIRES CERTAIN SETBACKS FOR STRUCTURES, BUILDINGS, AND PAVEMENT FROM THE DEVELOPMENT PERIMETERS; TO ALLOW THE REDUCED SETBACKS OF 7.4', 4.5', 3', 2.6', 1.5, 1.4', & 0', FROM THE DEVELOPMENT PERIMETER.
2. DEVIATION FROM LDC TABLE 34-3 WHICH PROVIDES THE PROPERTY DEVELOPMENT REGULATIONS FOR THE FORT MYERS BEACH COMMERCIAL RESORT (CR) ZONING DISTRICT; TO ALLOW STREET SETBACKS OF 4.5', 2.0', AND 0' ALONG SAN CARLOS BOULEVARD.
3. DEVIATION FROM LDC SECTION 10-285(A) WHICH REQUIRES A MINIMUM CONNECTION SEPARATION OF 125 FEET ALONG A LOCAL ROAD (FIFTH AVENUE); TO ALLOW A CONNECTION SEPARATION OF 83 FEET FROM TWO EXISTING DRIVEWAYS.
4. DEVIATION FROM THE FAR REQUIREMENTS OF LDC SEC. 34-633, WHICH INCLUDES COVERED PARKING IN THE FAR CALCULATION TO EXCLUDE THE UNDER-BUILDING PARKING FROM THIS RESORT'S FAR CALCULATION.
5. DEVIATION FROM LDC SECTION 30-153(B)(1) 30-5(A)(1)A WHICH ALLOWS A MAXIMUM OF 32 SQUARE FEET OF SIGNAGE FOR A PARCEL OF LAND CONTAINING ONE OR TWO BUSINESS ESTABLISHMENTS TO ALLOW 160 SQUARE FEET OF TOTAL SIGNAGE.
6. DEVIATION FROM LDC SECTION 30-154(C) WHICH ALLOWS A MAXIMUM HEIGHT OF 5 FEET FOR A MONUMENT SIGN AND 18 INCHES FOR THE SIGN BASE; TO ALLOW THE BOTTOM OF THE SIGN AT 4.1' AND AN OVERALL HEIGHT OF 10.4' FOR "SIGN A" ON THIRD STREET.
7. DEVIATION FROM LDC SECTION 30-154(C) WHICH ALLOWS A MAXIMUM HEIGHT OF 5 FEET FOR A MONUMENT SIGN AND 18 INCHES FOR THE SIGN BASE; TO ALLOW THE BOTTOM OF THE SIGN AT 4.1' AND AN OVERALL SIGN HEIGHT OF 9.7' FOR "SIGN B" ON CRESCENT STREET.
8. DEVIATION FROM LDC SECTION 30-154(C) WHICH ALLOWS A MAXIMUM HEIGHT OF 5 FEET FOR A MONUMENT SIGN AND 18 INCHES FOR THE SIGN BASE; TO ALLOW THE BOTTOM OF THE SIGN AT 4.1' AND AN OVERALL HEIGHT OF 9.7' FOR "SIGN C" ON FIFTH STREET.
9. DEVIATION FROM LDC SECTION 30-154(B) WHICH REQUIRES THAT ALL SIGNS BE SET BACK A MINIMUM 3 FOOT FROM ANY PUBLIC RIGHT-OF-WAY; TO ALLOW A 0' SETBACK FOR "SIGN A" LOCATED ON THIRD STREET.
10. DEVIATION FROM LDC SECTION 30-154(B) WHICH REQUIRES A MINIMUM 3 FOOT SETBACK FROM ANY PUBLIC RIGHT-OF -WAY; TO ALLOW "SIGN B" TO REMAIN LOCATED ENTIRELY WITHIN THE RIGHT-OF-WAY AT THE INTERSECTION OF CRESCENT STREET AND FIFTH STREET.
11. DEVIATION FROM LDC SEC. 34-154(A) FOR INTERNAL ILLUMINATION OF THE SIGN FACES TO REMAIN AS EXISTING, WHERE THEY WOULD OTHERWISE BE REQUIRED TO EMIT LIGHT ONLY FROM THE LETTERS AND SYMBOLS OF THE SIGN FACE.
12. DEVIATION FROM LDC SEC. 34-1804(A) AND SEC. 34-2020, WHICH REGULATE PARKING FOR HOTELS/MOTELS AND OTHER ACCESSORY USES, TO ALLOW REDUCED PARKING REQUIREMENTS CONSISTENT WITH THE 100 PARKING SPACES APPROVED IN THE ORIGINAL MCP.

PARKING MANEUVERABILITY DETAIL



THE NEIGHBORHOOD COMPANY
5618 WHISPERING WILLOW WAY | FORT MYERS, FL 33908
WWW.THENEIGHBORHOOD.COMPANY

#	REVISION	DRAWN	DATE

CLIENT: LIGHTHOUSE ISLAND RESORT INC

PROJECT: LIGHTHOUSE ISLAND RESORT (CPD)

TITLE: NOTES

PROJECT NO: 220050.01.01
DATE: 01/25
DRAWN: F.L.
DESIGN: P.V.
SHEET NUMBER: 4 OF 4

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

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

CASE NUMBER: **DCI Rezoning 20250035.2**

CASE NAME: **Lighthouse Island Resort**

LPA HEARING DATE: **April 29th, 2025**

STAFF RECOMMENDATION: **Approval with Conditions**

PREPARED/ SUBMITTED BY: **Judith Frankel, AICP**

I. APPLICATION SUMMARY

Applicant/Owner:	Lighthouse Island Resort, Inc./The Neighborhood Company
Request:	Amend the existing CPD RES#18-17 to 1) increase hotel density from 75 units to 130 units, 2) increase maximum height from 37' above BFE to 40.5' above BFE, 3) provide a revised MCP without phasing, and 4) modifications of existing conditions and deviations.
Subject property:	See Exhibit B
Physical Address:	1051 Fifth Street and 1060 Third Street
STRAP #:	24-46-23-W3-00205.0060 and 24-46-23-W3-00203.0150)
FLU:	Pedestrian Commercial
Zoning:	CPD/Downtown

Adjacent zoning and land uses:

North:	DOWNTOWN Residential
South:	CPD Margaritaville Resort
East:	RESIDENTIAL MULTIFAMILY (RM) Residential
West:	DOWNTOWN and CPD Commercial, Parking and Matanzas Pass Bridge

II. BACKGROUND AND ANALYSIS

The applicant, The Neighborhood Company, on behalf of the property owner Lighthouse Island Resort, Inc., is requesting to amend the CPD approved in Resolution 18-17. The requested amendment will alter the Master Concept Plan, schedule of uses, deviations, and conditions for this CPD. The applicant is requesting to amend the CPD boundary under a separate ordinance.

The property totals 1.87 acres and is located directly east of the Matanzas Pass Bridge. The property has a Future Land Use (FLU) Designation of Pedestrian Commercial. The larger parcel fronting San Carlos Boulevard and Fifth Street has a zoning designation of Commercial Planned Development (CPD) and the corner parcel at 1060 Third Street has a zoning designation of Downtown.

The Lighthouse Island Resort has been in operation in its present location for over 60 years. There have been several changes to the site during this time. The most notable occurred in 1977 when approximately half an acre of property was utilized by the Florida Department of Transportation (FDOT) for the construction of the Matanzas Pass Bridge. This action reduced the property from 32 original platted lots to 20. (*See the applicant provided document titled Platted Lot Exhibit.)* The former Fourth Street court was vacated to the resort at that time.

The original Lighthouse Resort CPD was approved in 1999, when the existing property was rezoned from C-1 to CPD to facilitate redevelopment. At the time of rezoning, the resort consisted of 72 hotel units spread over multiple one- and two-story wood frame buildings, a tiki bar, and basic resort amenities. Since that time, there have been five amendments to the CPD. An amendment in 2003 added additional permitted uses, expanded restaurant square footage, and added deviations including perimeter setbacks and parking space dimensions; an amendment in 2013 created a five phase Master Concept Plan (MCP) and added additional deviations for floor area ratio (FAR) relief and signage size and placement; a second amendment in 2013 added a deviation for sign illumination; an amendment in 2018 increased the total hotel units from 72 to 75 through a density transfer; and an administrative amendment in 2024 made minor adjustments to the MCP for the pool deck.

Analysis:

The Lighthouse Island Resort has been a longstanding feature and community-member of Fort Myers Beach. The resort has grown over the last 60 years to evolve with the Town. The current proposal aims to continue that growth. Per the applicant:

> *Like many hotels on Fort Myers Beach, the Lighthouse Island Resort suffered significant damage as a result of Hurricane Ian. Although the resort was able to reopen, it is currently operating at approximately 60% of its pre-Ian capacity as a direct result of damage from the storm. A combination of current economic conditions and a desire to create a more family-friendly destination resort has led the property owners to request additional hotel units and height, as well as incorporating the parcel at the corner of Crescent Street and Third Street into the CPD.*

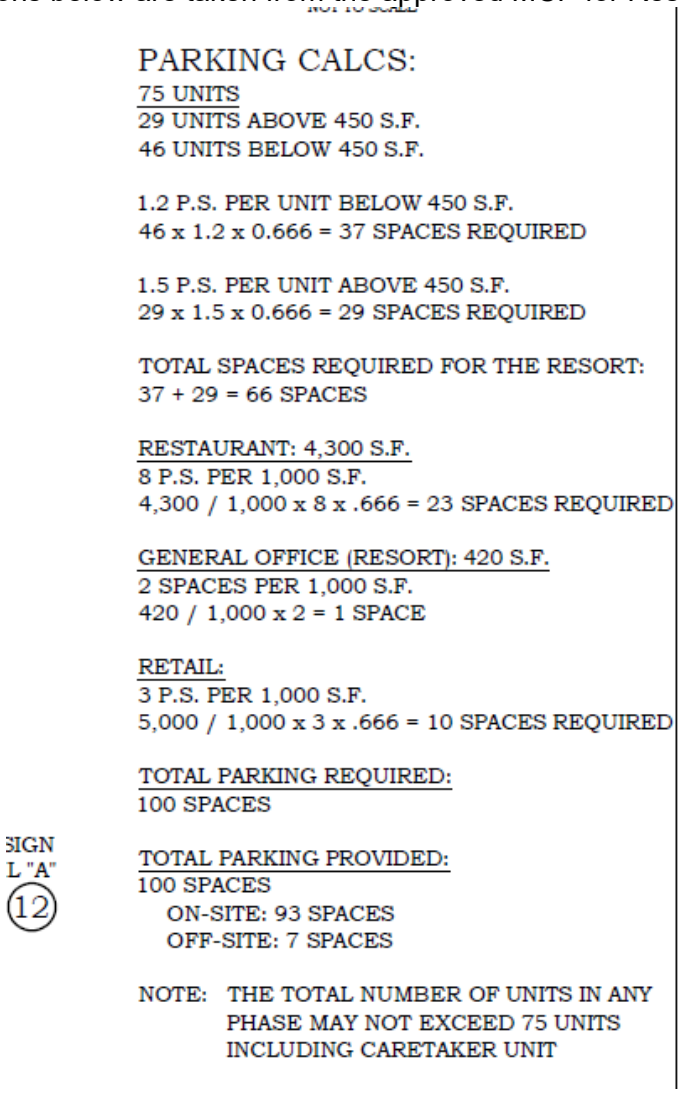
The proposed increased density will potentially add more visitors to the Town's downtown core, adding to the revitalization of Times Square and the business district on Old San Carlos Boulevard. Staff are concerned about the sufficiency of the parking for the increased density and the LPA should determine if Deviation #11 is appropriate for the proposed amendment.

Parking

POLICY 7-A-2 PARKING: "*Even though existing parking lots are not used to capacity; parking is not abundant at Fort Myers Beach. The welcome rebirth of commercial activity near Times Square will increase the demand for parking."* This will potentially be true of this resort and staff are concerned that sufficient parking will not be available for hotel guests. The applicant provides golf cart parking spaces and bicycle racks although these may be utilized during a guest's stay it is not feasible for visitors to travel from off-island by these methods. Staff agree with the applicant that once at the resort the guests can travel to many destinations on foot, by bicycle or public transit.

The MCP from the 2018 CPD amendment notes 7 off-site parking spaces to be available in the 5th phase of the development. These spaces are not mentioned in the resolution itself, and their location is not noted on the MCP. The resolution does not contain any deviations for parking. However, the development was allowed to use the 7 off-site parking spaces towards their required 100 spaces.

The parking calculations below are taken from the approved MCP for Resolution 18-17.



Equivalency Factor

As stated by the applicant in their narrative and noted in Condition 2 of the existing CPD resolution 18-17, the hotel units were limited to 75. These units included a caretaker unit and the transfer of development rights for 3 dwelling units from 2639/2641 Estero Blvd. which is owned by the Town of Fort Myers Beach. It seems that at the time of this resolution in 2018 staff and the applicant had determined that the transfer of these rights was necessary to increase number of units at the resort.

Staff determination of necessary equivalency factor for 130 lodging units on 1.87 acres is 11.59. The FLU is Pedestrian Commercial which allows 6 DUs per acre for 11.22 DUs/acre at this site. 11.22 multiplied by a factor of 11.59 equals 130 units. The first table comparison provided on page 12 of the applicant's Narrative provides an equivalency factor based on the original platting of the land. The applicant provided Platted Lots exhibit demonstrates the original platting of the site for many small single-family lots. The justification provided by the applicant for a density calculation based on the original platting is not false, but is not full representation of the number of proposed units per acre. The second table shown on page 12 of the applicant provided Narrative is a clearer view of the density as compared to other nearby properties.

The original Lighthouse Resort CPD was approved for 72 units on a total of ±1.673 acres, or a density of 43 units per acre. A CPD amendment in 2018 added three units for a total of 75, or a density of 40 units per acre (net density decreased because of additional acreage added to the CPD in 2013 and 2018). The current request is for 130 units on 1.87 acres for a density of 69.5 units per acre. Per LDC Section 34-1803(a)(2) equivalency factors exceeding the allowances in the table (see above) can be requested under exceptional circumstances and through the provision of public benefits.
The proposal amendment does further several Comprehensive Plan goals, including the revitalization of the downtown core (Objective 3-D) and the provision of pedestrian-oriented commercial uses (Policy 4-B-6). Staff advise the LPA to consider if the proposed public benefits are balanced with this proposed increase in density.

Neighborhood Compatibility:

The Lighthouse Island Resort is in the downtown area of Fort Myers Beach, which is intended as the commercial center for the Town. The site is neighboring the Margaritaville Resort and Times Squares, both are attractions for visitors and residents. This is an appropriate location for the proposed uses.

Schedule of Uses
All uses permitted by right in the downtown zoning district with the following limitations:

- Restaurant use is limited to 4,300 square feet
- Retail is limited to 500 square feet accessory to the primary resort use
- Office is limited to 420 square feet accessory to the primary resort use
- Hotel/motel units limited to a maximum of 130 lawfully existing guest units

Proposed Deviations:

See applicant document titled Deviations and Justifications for an analysis by the applicant.

Deviation #1

Deviation 1 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Fifth Avenue); to allow a connection separation of 83 feet from two existing driveways. (existing Deviation in Resolution 18-17)

This deviation is necessary to maintain the current driveway access points for the property.

Deviation #2

Deviation 2 requests relief from the F.A.R. requirements of LDC Sec. 34-633, which includes covered parking in the FAR calculation to exclude the under-building parking from this resort's FAR calculation. (existing Deviation in Resolution 18-17)

This deviation adjusts the language used in Resolution 18-17 which listed the exact square forage to be excluded from the FAR calculation. This re-write allows all ground level parking areas to be excluded.

Deviation #3

Deviation 3 requests relief from LDC Section 30-5(a)(1)b.3.iii which allows a maximum height of 5 feet for a monument sign to allow an overall height of 9.7' for "Sign C" on Fifth Street. (existing Deviation in Resolution 18-17)

This deviation was previously approved and there are no proposed changes to the existing sign. The amendments to the deviation language are consistent with the Town's amended sign code (Ord. 23-01), which no longer specifies a maximum height for the base of a monument sign.

Deviation #4

Deviation 4 requests relief from LDC Sec. 30-5(a)(1)b.1 for internal illumination of the sign faces to remain as existing, where they would otherwise be required to emit light only from the letters and symbols of the sign face. (existing Deviation in Resolution 18-17)

This deviation was previously approved and there are no proposed changes to existing illuminated signage. The amendments to the deviation language simply update the LDC reference consistent with the Town's amended sign code (Ord. 23-01).

Deviation #5

A deviation from LDC Division 4, Table 34-3 for the CR zoning district which limits height to 30 feet zoned height and three (3) stories to allow a maximum zoned height of 40 feet 5 inches above base flood elevation and a maximum of four (4) stories consisting of three (3) stories above one (1) level of parking.

This deviation will allow for an increase from a maximum height above BFE of 37-feet to a maximum height above BFE to 40.5-feet as measured to the mean roof height. The applicant is proposing a range of building heights for the resort however these heights are not marked on the MCP. Building 5 is located closest to the Matanzas Pass bridge and is the structure to be mainly impacted by this increase in height. The infill development (Building 1) on the Crescent Street parcel proposed to be added to the CPD will be under 30 feet, providing a transition from residential uses on the east side of Crescent Street. 3.5-feet in this locate will not be injurious to the surrounding neighborhood.

Deviation #6

A deviation from LDC Division 4, Table 34-3 for the CR zoning district which requires street setbacks of 10 feet to instead allow for build-to lines of 0' and 6.75' feet along San Carlos Boulevard, Third Street, and Fifth Street.

The existing CPD had approved deviations for perimeter and street setbacks, ranging from 0' to 7.4' The requested deviation reflects the existing conditions and proposed buildings fronting Third Street, Fifth Street, and San Carlos Boulevard. Relief from the required 10' street setback promotes pedestrian access to the Downtown district by bringing buildings closer to the "public realm" and is consistent with the vision of the Pedestrian Commercial future land use designation, which emphasizes a pedestrian-friendly downtown.

Deviation #7

A deviation from LDC Section 30-5(a)(1)a which allows a maximum of 32 square feet of signage for a parcel of land containing one or two business establishments to allow a mural-style sign on the **east elevation of Building 5** of 104 square feet, as depicted on the MCP.

The Lighthouse Island Resort comprises ±1.87 acres, which is a significantly larger area than the average parcel containing one or two business establishments. Due to the scale of the resort and the situation of the resort as surrounded by roadways, it is reasonable to permit multiple signs totaling more than the LDC maximum of 32 square feet. See the applicant provided rendering for greater detail on the signs.

Deviation #8

A deviation from LDC Section 30-5(a)(1)a which allows a maximum of 32 square feet of signage for a parcel of land containing one or two business establishments to allow a mural-style sign on the **south elevation of Building 5** of 100 square feet, as depicted on the MCP.

The Lighthouse Island Resort comprises ±1.87 acres, which is a significantly larger area than the average parcel containing one or two business establishments. Due to the scale of the resort and the situation of the resort as surrounded by roadways, it is reasonable to permit multiple signs totaling more than the LDC maximum of 32 square feet. See the applicant provided rendering for greater detail on the signs.

Deviation #9

A deviation from LDC Section 30-5(a)(1)b.3.iii which allows a maximum height of 5 feet for a monument sign to allow an overall height of 10 feet for a monument sign at the **corner of Crescent Street and Fifth Street**, as depicted on the MCP.

A deviation was previously approved for a 9.7' monument sign in this location. This deviation proposes a replacement monument sign with an architectural embellishment that is 10' and an actual sign height of 3'4". The proposed sign is consistent with the architectural style of the resort. See the applicant document title Deviations and Justifications for a depiction of this sign.

Deviation #10

A deviation from LDC Section 30-8(16) which prohibits pole signs to allow a decorative wayfinding pole sign on the corner of **Third Street and San Carlos Boulevard**, as depicted on the MCP.

This deviation is for an artistic wayfinding sign intended to both direct pedestrians and add color to the public realm.

Deviation #11

A deviation from LDC Sec. 34-1804(A) and Sec. 34-2020, which regulates parking for hotels/motels and other accessory uses, to allow a 58% reduction in parking requirements for a total of 82 on-site parking spaces.

The existing CPD was approved with 100 parking spaces for Phase V at buildout, which included parking for 75 hotel units, 4,300 SF of restaurant, 420 SF of office space, and 5,000 SF of retail uses. Of the 100 approved spaces, 93 were on-site and 7 were off-site. The previously approved parking calculations utilized the 33% parking reduction applicable to specific areas within the Downtown zoning district.

The current CPD amendment proposes 82 on-site LDC-compliant parking spaces. This is a reduction from the previously required 93 on-site spaces for 75 hotel units and accessory retail and restaurant uses. The present amendment proposes 130 hotel units and minimal retail and reduces the on-site parking count to 82 spaces. The applicant notes that there are 7 street parking spaces adjacent to the resort, but these are public

parking spots regulated by the Town. If the applicant would like to restrict their use for only hotel guests, the spots must be leased from the Town through an agreement. The applicant is also noting that they are providing 8 golf cart spaces and 2 bicycle parking spaces. It is unlikely that hotel guests will travel to the resort by golf cart or bicycle. although they may utilize them while visiting. Staff advise the LPA to consider if this reduction is appropriate.

See the applicant provide document titled Parking Analysis.

IV. FINDINGS AND CONCULSIONS

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 exists changed or changing conditions which make approval of the request appropriate.
Staff response: The resort was partially damaged by Hurricane Ian.
(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 requests, including but not limited to the increased density and height requests, 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 and 34-2032.
(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 designated environmentally critical areas and natural resources. 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 requested uses are compatible.
(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 location is compatible.
(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.

(3) Any other applicable town ordinances or codes.

Staff response: The proposed request complies with the town ordinances and codes except for the requested deviations and the proposed equivalency factor.

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

LDC Sec. 34-216(b)(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 uses are appropriate.

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: The special conditions are related to the impact on the public's interest.

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

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

Staff response: Not applicable.

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

Staff response: Not applicable.

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

Staff response: Additional height is requested. The Town's Comprehensive Plan allows for additional height through this policy for parcels that are contiguous from taller buildings. The Lighthouse Island Resort CPD currently allows a maximum height of 37 feet above base flood elevation. Margaritaville is directly south of the subject property, allowing a maximum of four stories or 40 feet. The proposed amendment is requesting a zoned height of 40'5" above base flood elevation, which is consistent with the neighboring Margaritaville

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: There are no additional anticipated adverse traffic impacts. The submitted TIS is under review with comments to be provided at the time of Town Council hearing.

Findings for Deviation Requests:

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

a. Each item enhances the achievement of the objectives of the planned development; and
Staff response: The requested deviations are related to an efficient functioning of the MCP except for deviation #11.

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.

d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.
Staff response: The deviations are consistent with the comprehensive plan

V. RECOMMENDATION

Prior to this application being heard by the Town Council the applicant must add the following items to the MCP:

- Define where trash/solid waste will be collected and removed from the site on the MCP.
- The MCP must note the height of each building.
- Demonstrate COP areas on MCP to reflect the condition of approval

Staff recommend that the LPA consider the parking space reduction request in deviation #11 and determine if that is appropriate for the site or if the request should be altered. A minimum of one parking space per room (130) would better accommodate guests and employees. The applicant is offering programmatic alternatives to driving for both guests and employees, but staff is not able to evaluate the effectiveness of those policies. (See applicant provided document Proposed Condition and Commitments for program details.)

Staff find that the CPD amendment meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC. If the LPA determines that deviation #11 is appropriate, staff recommends **approval with conditions** of DCI20250035.2. The recommended conditions are listed below and are intended to reduce the potential for nuisance to the neighboring residential parcels.

Proposed Conditions of Approval

1. Final architectural design must be generally consistent with renderings provided in addition to the Master Concept Plan.
2. Prior approval of a development order the MCP must be revised to reflect the conditions of approval as determined by the ordinance.
3. Applicant must receive approval from the Town Manager for “back out” parking along Third Street per LDC Sec. 34-2015.

4. The installation and use of the proposed “pedestrian pathway” is subject to approval by FDOT. Within six months of zoning approval by the town council, the property owner will coordinate with FDOT regarding enhancements to the San Carlos Boulevard/Matanzas Pass Bridge right-of-way.
5. All signs in or near the ROW will require sight-triangle analysis per Sec. 30(a)(4).
6. Access through and along the resort pathway connecting the existing sidewalk arcade on Fifth Street to San Carlos Boulevard, must be open to the public during the resort’s restaurant operational hours to encourage pedestrian movement between the east and west sides of the resort.
7. All landscaping materials will be native varieties/Florida friendly species.
8. At the time of Development Order on the property boundary survey, the LIMWA (Limit of moderate wave action) Boundary line (Coastal A Zone) must be demonstrated.
9. At the time of Development Order the architectural elevation sheets 5 through 7 must have the lowest horizontal member added on the cross-section details.
10. The applicant must provide at least 1 bike rack.
11. Consumption of Premises (COP) Service of alcohol for on-premises consumption is approved at the location depicted on the Master Concept Plan, subject to these limitations:
    a. For Building 5, on the elevated pool deck.
    b. For the tiki bar and pool deck on the south end of the property between Buildings 3 and 5, limited to the areas depicted on the Master Concept Plan.
    c. For the tiki bar and pool deck on the north end of the property between Buildings 2 and 6, limited to the areas depicted on the Master Concept Plan.
12. Hours of operation for outdoor areas will be limited to the following unless otherwise temporarily altered by the Town’s special event use regulations in LDC Section 34-1264. All other hours of operation will be regulated by the LDC.
    a. Pool deck (Building 5): 9:00am to 12:00am
    b. Pool deck and tiki bar (south end between Buildings 3 and 5): 9:00am to 2:00am
    c. Pool deck and tiki bar (north end between Buildings 2 and 6): 9:00am to 10:00pm

THE NEIGHBORHOOD COMPANY

LIGHTHOUSE ISLAND RESORT

COMMERCIAL PLANNED DEVELOPMENT (CDP) AMENDMENT

NARRATIVE & JUSTIFICATION

BACKGROUND & REQUEST

The subject property is located at 1051 Fifth Street/1060 Third Street, Fort Myers Beach, FL 33931. The property consists of 2 parcels (24-46-23-W3-00205.0060 and 24-46-23-W3-00203.0150) totaling ±1.87 acres, situated on the east side of the base of the Matanzas Pass Bridge, between Third and Fifth Street (See Figure 1). The property has a Future Land Use (FLU) Designation of Pedestrian Commercial. The larger parcel fronting San Carlos Boulevard and Fifth Street has a zoning designation of Commercial Planned Development (CPD) and the corner parcel at 1060 Third Street has a zoning designation of Downtown. Lighthouse Island Resort Inc is the property owner and applicant for this CPD amendment request.

Figure 1. Project Location

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The Neighborhood Company, on behalf of Lighthouse Island Resort, Inc, is submitting this Planned Development Amendment Application to request the following:

- Modification of CPD boundary to include STRAP # 24-46-23-W3-00203.0150.
- Increase the maximum number of hotel units from 75 to 130.
- Increase the maximum height of Building 5 from 37 feet above base flood elevation to a zoned height of 40 feet 5 inches above base flood elevation.
- Cleanup of the original five phase MCP.

HISTORY OF THE RESORT AND CPD

The Lighthouse Island Resort is an iconic Fort Myers Beach landmark that has been in operation for over 60 years. Four generations of the Kolar family have owned and operated the resort since 1954, when it was known as Memory Lane Motel Cottages & Apartments. In 1977, approximately half an acre of the existing property was part of a larger Florida Department of Transportation taking associated with construction of the Matanzas Pass Bridge. The taking reduced the Kolar family's property from 32 original platted lots to 20, with the former Fourth Street court vacated to the resort.

The original Lighthouse Resort CPD was approved in 1999, when the existing property was rezoned from C-1 to CPD to facilitate redevelopment. At the time of rezoning, the resort consisted of 72 hotel units spread over multiple one- and two-story wood frame buildings, a tiki bar, and basic resort amenities. As part of the

original CPD approval, the owners conveyed four parcels and a sidewalk easement along Third Street to the Town in order to promote pedestrian-oriented access to the Downtown district. At the core of the original CPD rezone was a desire to redevelop the property consistent with the vision of the Town's newly adopted Comprehensive Plan and the Pedestrian Commercial land use designation, which emphasized a vibrant mix of uses within a walkable, pedestrian-friendly downtown. The redevelopment also led to more resilient buildings, as the new structures were built above the base flood elevation and to the more stringent building code at the time.

Since its original approval, there have been five amendments to the CPD. An amendment in 2003 added additional permitted uses, expanded restaurant square footage, and added deviations including perimeter setbacks and parking space dimensions; the first amendment in 2013 created a five phase Master Concept Plan (MCP) and added additional deviations for floor area ratio (FAR) relief and signage size and placement; the second amendment in 2013 added a deviation for sign illumination; an amendment in 2018 increased the total hotel units from 72 to 75 through a density transfer; and an administrative amendment in 2024 made minor adjustments to the MCP for the pool deck.

PROPOSED AMENDMENT

Like many hotels on Fort Myers Beach, the Lighthouse Island Resort suffered significant damage as a result of Hurricane Ian. Although the resort was able to reopen, it is currently operating at approximately 60% of its pre-Ian capacity as a direct result of damage from the storm. A combination of current economic conditions and a desire to create a more family-friendly destination resort has led the property owners to request additional hotel units and height, as well as incorporating the parcel at the corner of Crescent Street and Third Street into the CPD.

The proposed amendment and redevelopment of the Lighthouse Island Resort includes the following:

- A luxury, family-friendly hotel with a maximum of 130 units.
- A cohesive, unified CPD that encompasses the entirety of the Lighthouse Island Resort properties.
- Cleanup of the original five-phase MCP including:
    - Condensing the five sheet MCP into one sheet for clarity.
    - Reductions of the permitted 5,000 SF of retail uses to 500 SF accessory to the resort and relocation of the proposed restaurant from the south end of the property to the corner of Crescent Street and Fifth Street.
- A pedestrian path that will enhance the walkability of the Downtown district.

The Kolar family are multi-generational island business owners who are committed to the Fort Myers Beach community. They want to add to their existing resort in a way that will help the redevelopment of the island and the creation of a cohesive, walkable downtown that will connect Old San Carlos Boulevard and Crescent Street and complement Times Square and Margaritaville.

Redevelopment, Resiliency and Economic Feasibility

Hurricane Ian had a significant impact on the Lighthouse Island Resort, as it did to many hotels and resorts on the island. The Town of Fort Myers Beach, its residents, and businesses remain strong and are working tirelessly on the recovery and reconstruction of their island and its economy.

Prior to Hurricane Ian, Fort Myers Beach had a significant hotel inventory of approximately 2,156 rooms, which was below the peak inventory that existed prior to Hurricane Charley in 2004. Post Ian, the Lee County Visitor and Convention Bureau estimates that only 1,152 rooms are currently available for occupancy as of January 2025, representing a decline of over 46% in available rooms. This significant reduction in hotel room supply significantly impacts the Town's economy and impedes the road to recovery. Tourism affects all facets of the local economy - it creates jobs and small business opportunities for local residents. Tourism and visitors to the island support local bars, restaurants and entertainment venues, contribute to the Town and County's tax base, and these visitors help provide the critical mass needed for certain business such as grocery stores and pharmacies to be viable and for services to thrive. As such, it is vital that we rebuild the hotel stock and that we promote a strong tourism economy. Redevelopment and reconstruction of hotels and resorts will bring visitors back to the island, which in turn will help reopen and keep restaurants, bars, and retail stores thriving. In combination, all these key commercial uses will provide a strong economic engine for the Town.

Fort Myers Beach will once again be the robust tourist destination it was before Hurricane Ian, but challenges such as new FEMA and Florida Building Code regulations, the need to harden and construct resilient structures, and insurance changes will seriously affect the ability to rebuild. The high cost of construction, limited availability of labor, the need for modern amenities that meet today's consumer expectations, high interest rates, overall inflation, and the significant risks associated with local tourism (i.e., red tide, COVID, major storms) seriously affect investment decisions and what type of hotel can be rebuilt. In order to offset these high costs and to hedge against unforeseen risks, hotels will need to be bigger than they once were.

The Kolar family have evaluated these challenges, along with the desire to create a more family-oriented destination that will continue to be an asset to the Town of Fort Myers Beach. The requested resort improvements seek to strike a balance between the need to address today's economic and regulatory

realities and delivering a design that respects the surrounding context and community character. The redeveloped Lighthouse Island Resort will not only provide additional hotel rooms to bolster the economy and replenish units lost since Hurricane Charley and Ian, but will also provide the following additional public benefits and amenities:

- Enhancement and improvements to the right-of-way which include:
    - Landscaping and open space features
    - Wayfinding that will identify nearby destinations such as restaurants, retail, and beach access
- Bicycle parking.
- Bicycles for guests to reduce vehicular traffic.
- Participation in the Don't Rent a Car (DRaC) program.
- Golf cart parking.
- Promotion of the Fort Myers Beach Elementary School, including flexible work schedules for employees whose children attend the Beach School.
- Support the Town's vision as a family-oriented destination by providing a family-friendly resort that honors its longstanding heritage on this island.

LOCATION, SITE DEVELOPMENT/DESIGN & COMPATIBILITY

Location

The Lighthouse Island Resort is located in the heart of the Downtown district, which has always been identified as a redevelopment area and the preferred location for the Town's most dense and intense development. With its location directly abutting the Matanzas Pass Bridge, it serves as an important connection between the Old San Carlos Boulevard commercial corridor and the Crescent Street corridor.

The property begins at the northeast corner of San Carlos Boulevard and Fifth Street and extends north to Third Street, between the Matanzas Pass Bridge and Crescent Street (see Fig. 1 Project Location). Along with Margaritaville to the south and Times Square to the southwest, the Lighthouse Island Resort creates a distinct "bookend" for the Downtown district.

As envisioned in the Comprehensive Plan and in the 1999 "Old San Carlos Boulevard – Crescent Master Plan", the desire for this area of the island is to "expand the Times Square pedestrian-friendly zone along Old San Carlos Boulevard from Times Square to Matanzas Pass, connecting the beach to the bay." The plan emphasized infill activity as a way to "improve economic opportunities and create a sense of place without further interfering with traffic flow on busy Estero Boulevard." The Lighthouse is ideally situated to connect pedestrians to both Crescent Street and Old San Carlos Boulevard; the proposed redevelopment

features a pedestrian pathway that cuts through the middle of the resort to connect the existing sidewalk arcade on Fifth Street to San Carlos Boulevard (see “Shared Lane” as depicted on the MCP).

The development supports the Town’s “Park-Once” strategy by providing sufficient parking for resort guests and reducing the need for guests to utilize a car during their stay. A major component of the “Park-Once” concept, as described in the Old San Carlos Plan, is connecting “popular destinations in such a way that the walk is part of the attraction, not a hurdle to overcome.” The proposed pedestrian path will feature lush landscaping and wayfinding, creating both an attraction and useful expansion of the pedestrian network. The connection between the Old San Carlos and Crescent Street corridors creates a walkable district, thereby reducing the need for vehicle travel. The typical “pedestrian shed”, or distance the average person can comfortably walk, is a quarter mile (1,320 feet) or a 5-minute walk. There are numerous destinations within comfortable walking distance from the Lighthouse Resort, including restaurants, retail, and beach access – most within 500 feet or less. In addition to the enhanced pathway that will provide pedestrian connection under the Matanzas Pass Bridge, the Lighthouse will provide dedicated bicycle and golf cart parking onsite and will participate in the Don’t Rent a Car (DRAC) program, supporting multi-model transportation options.

Surrounding Uses

The future land use category, zoning districts, and existing land uses surrounding the property are as follows:

	FUTURE LAND USE	ZONING DISTRICT	EXISTING LAND USES
NORTH	Pedestrian Commercial	Downtown	Vacant
SOUTH	Pedestrian Commercial	Downtown and Bigelow Plaza CPD	Public parking lot and Margaritaville Resort
EAST	Pedestrian Commercial with Platted Overlay	ROW and Residential Multi-Family	Crescent Blvd. and residential
WEST	Pedestrian Commercial	ROW, Shipwreck CPD, and Downtown	San Carlos Blvd. bridge, public parking lot, and various commercial uses

The subject property is located on the east side of the base of the Matanzas Pass Bridge with vacant commercial property to the north, the bridge right-of-way and a mix of commercial uses to the west, the Crescent Street corridor and residential uses to the east, and Margaritaville to the south. As mentioned previously, the resort is in the heart of the Downtown district and the Pedestrian Commercial future land use designation. The majority of the surrounding properties are developed to a similar intensity as the Lighthouse, consistent with the vision of both the zoning district and the future land use designation. Having been in operation at the same location since 1960, it’s clear that the resort has been able to exist harmoniously with the surrounding uses. The proposed increase in density and height will be limited to two

buildings within the greater Lighthouse Resort and will therefore have little impact on the surrounding properties.

Figure 2. Surrounding Zoning

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Figure 3. Proposed MCP

Site Design

The existing resort consists of eight buildings, a tiki bar and restaurant area, pool and pool deck area, and associated parking. The site was intentionally designed with the majority of the buildings fronting Fifth Street and Crescent Street, with the buildings on Fifth Street cantilevered over the sidewalk to provide a pedestrian-friendly arcade consistent with the "Old San Carlos Boulevard – Crescent Master Plan". The five phases of the original MCP allowed for a transition from older, one- and two-story structures with fewer units to larger, more modern buildings. The proposed increase in height and density is consistent with the existing final phase of the MCP, which proposed the resort's largest and most intense building adjacent to the Matanzas Pass Bridge. The proposed building at the corner of Crescent Street and Fifth Street replaces the restaurant originally proposed in Phase II of the MCP.

Height

The Town's Comprehensive Plan allows for additional height through Policy 4-C-4 for parcels that are contiguous (or directly across a street) from taller buildings. The Lighthouse Island Resort currently allows a maximum height of 37 feet above base flood elevation. The resort buildings vary in height from single-story, cottage-style units to the current maximum of three stories. Margaritaville is directly south of the subject property, allowing a maximum of four stories or 40 feet. The proposed amendment is requesting a maximum height of four stories (three stories over parking) or a zoned height of 40'5" above base flood elevation, which is consistent with Margaritaville (see Figure 3). The increase in maximum height of 3.5 feet will allow for Building 5 to add roughly one additional foot of height per story of hotel rooms and allows for a sloped roof with attractive architectural embellishments. The infill development (Building 1) on the Crescent Street parcel proposed to be added to the CPD will be under 30 feet, providing a transition from residential uses on the east side of Crescent Street.

The resort's existing buildings are already varied in height and intensity, allowing for building massing that is well-integrated into the core of the Downtown district. Rather than a single, monolithic building, the Lighthouse has a village-style design that fits with the character of downtown Fort Myers Beach. The requested amendment for additional height will only be applicable to Building 5, which is be located on the western edge of the property, closest to the main Downtown commercial corridors and directly abutting the Matanzas Pass Bridge.

EXTERIOR ELEVATION - WEST

SCALE: 3/32" = 1'-0"

Figure 3: Building Height Exhibit

Density/Intensity

The subject property consists of ±1.87 acres and has a future land use designation of Pedestrian Commercial. The Pedestrian Commercial future land use category allows a maximum density of 6 dwelling units per acre (except where the Future Land Use Map's "platted overlay" indicates a maximum density of 10 units per acre for affordable units consistent with the adopted redevelopment plan), with equivalency factors for hotel units of various sizes.

Comprehensive Plan land-use category:	**Equivalency factors for guest units of various sizes[1](in square feet):**		
	< 450	**450 to 750**	**750 to 1,000**
Mixed Residential	2.0	1.5	1.0
Boulevard	2.5	2.0	1.5
Pedestrian Comm. [2]	3.0	2.5	2.0
(all others)	0.0	0.0	0.0
[1] see § 34-1802			
[2] see also § 34-1803(b)			

The original Lighthouse Resort CPD was approved for 72 units on a total of ±1.673 acres, or a density of 43 units per acre. A CPD amendment in 2018 added three units for a total of 75, or a density of 40 units per acre (net density decreased as a result of additional acreage added to the CPD in 2013 and 2018).

Per LDC Section 34-1803(a)(2) equivalency factors exceeding the allowances in the table (see above) can be requested under exceptional circumstances and through the provision of public benefits. As supported throughout this narrative and evidenced by the damage caused by Hurricane Ian, the proposed redevelopment meets the exceptional circumstance requirement and provides numerous public benefits as outlined in the section below.

When considering density, it is important to analyze the requested increase in the context of not only surrounding development, but also in relation to recently approved projects which were approved for density above the base permitted by the LDC. Margaritaville is often used as a reference point when discussing lodging density increases and is a particularly appropriate comparison given its proximity to the Lighthouse Resort. Comparisons are also provided for The Neptune Resort and The Myerside, both of which were approved for increased density for redevelopment and feature similar resort amenities. Additionally, the same density comparison methodology was utilized for The Neptune and The Myerside. It is important to note that, unlike the three comparison redevelopment projects, the Lighthouse Resort is proposing strictly infill development rather than a ground-up rebuild of an entire site.

To achieve 130 units, the requested density will require an equivalency ratio of 6.5. This is based on the Lighthouse property being comprised of 20 platted lots within the Business Center Subdivision, with each platted lot permitted 1 unit by right:

- 130 units / 20 platted lots = 6.5 equivalency ratio

By comparison, Margaritaville utilized an equivalency ratio of 9.1 to achieve 254 units. It's important to note that Margaritaville did not utilize platted lots as a base density, but rather the base of 6 dwelling units/acre that is permitted in the Pedestrian Commercial future land use designation.

- Margaritaville: 4.78 ac (Dev. Area) x 6 du/ac (Base Density) = 28 units (by right units rounded down)
    - 28 x 9.1 (equivalency ratio/multiplier) = 254

The table below compares the percentage increase in equivalency ratio for the Lighthouse in comparison to similar projects. The 117% increase in equivalency ratio represents the lowest increase of the comparison projects.

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PROJECT	MAX EQUIVALENCY RATIO PER LDC	REQUESTED/APPROVED EQUIVALENCY RATIO	PERCENT INCREASE
Lighthouse	*3.0*	*6.5*	*117%*
Margaritaville	3.0	9.1	203%
Neptune	2.5	6.2	148%
Myerside	2.5	4.1	125%

Another way of comparing density is gross units per acre. 130 units on ±1.87 acres equates to a density of 69.5 units per acre, which is consistent with the comparison projects below.

PROJECT	DENSITY (UNITS/ACRE)
Lighthouse	*69.5*
Margaritaville	50.3
Neptune	73.6
Myerside	43.7

In addition to density, the development is also subject to a maximum Floor Area Ratio (FAR). The current CPD defaults to the Commercial Resort (CR) zoning district standards for all development standards, except for approved conditions and deviations. Condition 11 limits total square footage of hotel guest units to 58,432 SF and Deviation 9 allows the FAR to exceed the maximum of residential/commercial uses to provide for under building parking.

The Comprehensive Plan allows a FAR of up to 2.5 in the Pedestrian Commercial Future Land Use category, but LDC Section 34-645 limits the maximum FAR within the Commercial Resort (CR) zoning district to 1.2. This application proposes amending Deviation 9 to clarify that the FAR calculation will not include under building parking and will not exceed the maximum FAR of 1.2.

Public Benefits

The Lighthouse Island Resort will provide numerous public benefits to the Town of Fort Myers Beach, its residents, and visitors. Public benefits being provided include the following:

- Enhanced pedestrian pathway that connects Crescent Street to the Old San Carlos Boulevard corridor
- Participation in the DRaC program
- Golf Cart Parking
- Bicycles for Resort Guests & Bicycle racks for the public
- Implementation of Park-Once Initiative

- Hardened and resilient structures
- Significant positive economic impact: ad valorem taxes, impact fees, bed tax, employment, capital improvement costs, secondary impacts in supporting other local businesses
- Support of FMB Elementary School through informing/educating staff about the school and providing flexible work schedules to facilitate drop-off and pick-up

Transportation, Parking and Pedestrian Access

A traffic impact statement is being prepared by TR Transportation Consultants and will be provided in a subsequent submittal.

The Lighthouse Island Resort is an example of a multimodal development. Visitors will be able to reach the property by walking, vehicle, bicycle, and the Fort Myers Beach "Trollee". The development proposes vehicle parking both on-street and beneath its hotel buildings and golf cart and bicycle parking throughout the site in order to encourage the "Park-Once" concept. The existing CPD was approved with 100 parking spaces for Phase V at buildout, which included parking for 75 hotel units, 4,300 SF of restaurant, 420 SF of office space, and 5,000 SF of retail uses. This amendment proposes a deviation from required parking to maintain the 100 spaces that were approved in the original CPD. Although the number of units will increase by 55 units, the 5,000 SF of retail is removed from the schedule of uses and providing 100 spaces consistent with the original MCP will provide sufficient parking for resort guests and the public.

Compatibility

As presented above and further discussed in the Rezoning Approval Criteria below, careful consideration was given to designing infill redevelopment that fits into the fabric of both the existing resort and downtown Fort Myers Beach, while remaining feasible from a regulatory and economic standpoint. By honoring the Lighthouse Island Resort's heritage as an iconic destination, and through the proposed thoughtful site design and public benefits, the proposed amendment ensures compatibility with surrounding properties. The Lighthouse has a long and beloved history on Fort Myers Beach and will continue to be an asset to the island for years to come by providing a family-oriented destination resort for visitors, by building a resort that is open to local residents, by providing public benefits and by being active participants in developing Town-wide mobility solutions and promoting the Beach School.

REZONING APPROVAL CRITERIA

The proposed rezoning request from Downtown to Commercial Planned Development (CPD) must be found consistent with the established rezoning criteria provided in LDC Section 34-85 and Section 34-216 as well as post-disaster build back criteria in accordance with Policy 4-D-1 of the Fort Myers Beach Comprehensive Plan and LDC Section 34-3238. The following narrative demonstrates compliance with the Town of Fort Myers Beach Comprehensive Plan and Land Development Code.

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THE FOLLOWING ADDRESSES APPLICABLE SECTIONS PROVIDED FOR IN THE PLANNED DEVELOPMENT APPLICATION – SUPPLEMENT PH-D FORM:

A. COMPREHENSIVE PLAN AMENDMENTS

The Lighthouse Island Resort is consistent with the following Comprehensive Plan Amendments which are pending and could affect the future use of this property:

Policy FLU-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. All new development is encouraged to provide for amenities that enhance the public realm, including, but not limited to: art, benches, bike racks, trash receptacles, right-of-way landscaping, etc.

Policy 4-C-2 FLU1-C-2 COMMERCIAL INTENSITY: The maximum intensity of allowable commercial development in any category may be controlled by height and Floor to Area Ratio (FAR) regulations or by other provisions of this plan and the Land Development Code. Standards in the Land Development Code will encourage more intense commercial uses on properties with frontage on Estero Boulevard and only in the “Pedestrian Commercial” “Mixed-Use” and “Boulevard” categories.

Policy FLU-1-C-6 MOTEL TRANSIENT DENSITIES: The Land Development Code shall provide for the usage of commercial, mixed-use, or transient residential FAR, and minimum hotel/motel unit sizes as the basis for calculating transient residential unit.

Policy CD-3-A-3 MAINTAIN PEDESTRIAN CIRCULATION

Maintain the pedestrian circulation plan:

a. Bayside sidewalk and streetscape improvements for Estero Boulevard within the Core area with underground utilities and improved sidewalks.

ii. Sidewalks (5' wide minimum sidewalk) along all streets in the Core Area.

iii. Bike path along Estero Boulevard utilizing Crescent Street to Third Street across to Old San Carlos and then connecting back to Estero Boulevard and north to Bowditch Point.

iv. Old San Carlos as a pedestrian spine linking Times Square and the marina by implementing public sidewalks and major crosswalks designed to work in conjunction with arcades or plazas located on private property.

v. A new public pedestrian plaza at the east of Old San Carlos.

vi. New on-street parking and sidewalk on the south side of Crescent Street.

vii. Third and Fourth Streets with on-street parking and sidewalks on both sides of the street.

Proposed improvements with the pedestrian, parking, mass transit, and traffic circulation concepts in the Transportation Element of this plan.

POLICY T-1-D-2 REDUCE NEED OF CAR: Promote compact development, enhance pedestrian realm, and promote modes of transportation other than single occupancy vehicles.

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B. PHASING OF CONSTRUCTION

The redevelopment is to be constructed in a single phase

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C. COMPREHENSIVE PLAN COMPLIANCE

COMMNITY DESIGN ELEMENT:

GOAL 3 To revitalize and improve specific transitional neighborhoods.

OBJECTIVE 3-D TIMES SQUARE - Stimulate the revitalization of the downtown core area (near Times Square) as the nucleus of commercial and tourist activities.

This redevelopment will play an integral role in supporting Object 3-D, which is to revitalize the downtown core area. As called for in the 1999 Old San Carlos Boulevard – Crescent Street Master Plan, redevelopment was desired within the area to create a strong sense of place and achieve a Park-Once strategy for the downtown core. The proposed infill redevelopment strengthens the eastern bookend for a cohesive downtown area. This development will expand the Times Square pedestrian friendly zone along Old San Carlos Boulevard, providing pedestrian connection through the resort. The proposed pedestrian path will feature lush landscaping and wayfinding, creating both an attraction and useful expansion of the pedestrian network. The connection between the Old San Carlos and Crescent Street corridors creates a walkable district, thereby reducing the need for vehicle travel.

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FUTURE LAND USE ELEMENT

GOAL 4: To keep Fort Myers Beach a healthy and vibrant "small town," while capitalizing on the vitality and amenities available in a beach–resort environment and minimizing the damage that a hurricane could inflict.

OBJECTIVE 4-A SMALL-TOWN CHARACTER — Maintain the small-town character of Fort Myers Beach and the pedestrian-oriented "public realm" that allows people to move around without their cars even in the midst of peak-season congestion.

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.

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.

POLICY 4-A-7 Estero Bay also provides great benefits to the town and can be enhanced by improving public access and reversing the decline in water quality. The Conservation and Coastal Management Elements of this Plan outline the town's efforts on these matters.

The devastation caused by Hurricane Ian has emphasized the need for more resilient structures on Fort Myers Beach. The Lighthouse Island Resort, though left standing, sustained significant damage and intends to redevelop to a more sustainable resort with additional public benefits. As expressed in Object 4-A, the desire is for the small-town character of Fort Myers Beach to be maintained while continuing the pedestrian-oriented "public realm" that encourages people to move around without their cars even in the midst of peak-season congestion. In planning the redevelopment of the property, the owners have considered what is needed in this area of the island for both visitors and residents to achieve this goal.

With the construction of new buildings that meet Florida Building Code and FEMA standards, the site will be more resilient and able to withstand impacts from future hurricanes. Through the reconfiguration of the access to the property, hardscape enhancements, enhanced pedestrian pathways, and a restaurant and tiki bar/pool open to the public, the Lighthouse will contribute to Fort Myers Beach's goal of being a healthy

and vibrant “small town” while capitalizing on the vitality and amenities available in this beach resort environment.

OBJECTIVE 4-B FUTURE LAND USE MAP CATEGORIES

Reduce the potential for further overbuilding through a new Future Land Use Map that protects remaining natural and historic resources, preserves the small-town character of Fort Myers Beach, and protects residential neighborhoods against commercial intrusions.

POLICY 4-B-6 “PEDESTRIAN COMMERCIAL”: a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around the Villa Santini Plaza. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for affordable units consistent with the adopted redevelopment plan). Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet the design concepts of this plan and the Land Development Code. Where commercial uses are permitted, residential uses are encouraged in upper floors. All “Marina” uses in Policy 4-B-7 are also allowed on parcels that were zoned for marinas prior to adoption of this plan. Nonresidential uses (including motels and churches) now comprise 58.9% of the land in this category, and this percentage shall not exceed 90%.

The mixed-use resort supports the Pedestrian Commercial future land use designation policy of the Comprehensive Plan in several ways. The overall site design creates a resort that is approachable and human scale. The original rezone of the property from C-1 to CPD emphasized the public realm and the creation of a human scaled development through the use of build-to lines and pedestrian arcades; this amendment proposes to continue to emphasize pedestrian and multi-modal access to the resort. The subject property is a perfect location for visitors to use as their home base as they explore all the island has to offer through walking and bicycling.

OBJECTIVE 4-C APPLYING THE FUTURE LAND USE

MAP — The Future Land Use Map shall be interpreted in accordance with the following policies.

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

Code may allow floor-area-ratios in the "Pedestrian Commercial" category as high as 2.5, and in other categories as high as 1.5.

Under the provisions of Policy 4-C-2, Pedestrian Commercial can achieve a Floor Area Ratio (FAR) of 2.5. The current maximum FAR allowed under the Commercial Resort (CR) zoning district is 1.2. The development will be consistent with the maximum FAR of 1.2, with a deviation for removing under building parking from the calculation of total square footage for the FAR.

OBJECTIVE 4-D POST-DISASTER REDEVELOPMENT — Provide for the organized and healthy reconstruction of Fort Myers Beach after a major storm by showcasing successful local examples of floodproofing, by requiring redevelopment activities to meet stricter standards for flood- and wind-resistance, and by improving the current post-disaster build back policy.

The new buildings associated with the proposed infill project will be more resilient, complying with the latest and more stringent state requirements.

COASTAL MANAGEMENT ELEMENT

GOAL 5: To keep the public aware of the potential effects of hurricanes and tropical storms and to plan a more sustainable redevelopment pattern that protects coastal resources, minimizes threats to life and property, and limits public expenditures in areas subject to destruction by storms.

POLICY 5-A-1 The town shall maintain and enforce building codes at least as stringent as required by Florida law to limit the potential damage of structures from hurricanes and tropical storms. These codes shall include wind-resistance commensurate with the risk of a coastal environment and building elevation requirements that conform with federal laws and Flood Insurance Rate Maps.

The Coastal Management Element addresses special coastal management concerns which are specific to the Town of Fort Myers Beach and its need to protect resources, human life, and property, which are all vulnerable to events such as hurricanes and flooding. The proposed development will be constructed in compliance with Florida Building Codes and FEMA standards, complying with Goal 5 and Policy 5-A-1.

TRANSPORTATION ELEMENT

GOAL 7: To improve peak-season mobility without reducing the permeability of Estero Boulevard to foot traffic or damaging the small-town character of Fort Myers Beach. The town seeks to reduce speeding, improve evacuation capabilities, and improve mobility through balanced transportation

improvements such as a continuous system of sidewalks and bikeways, a network of trolleys and water taxis linked to off-island systems, and parking options matched to road capacity.

POLICY 7-A-2 PARKING: Even though existing parking lots are not used to capacity; parking is not abundant at Fort Myers Beach. The welcome rebirth of commercial activity near Times Square will increase the demand for parking. The Town of Fort Myers Beach will address parking shortages through the methods outlined in this plan.

POLICY 7-D-3 ALTERNATE TRAVEL MODES: The town shall support alternatives to car travel to free up road capacity for trips that do require a car. Public funding sources shall include county/state gasoline taxes and road impact fees. The town shall modify Its road impact fee ordinance by 1999 to allow these fees to be spent (within legal limits) on capital improvements that relieve road congestion, such as better sidewalks, trolley improvements, and off-island parking areas.

The Transportation Element of the Comprehensive Plan acknowledges that conventional traffic solutions, like road widening and alternative routes, are ineffective for Fort Myers Beach and instead emphasizes alternative modes of transportation to relieve congestion on constrained roadways. The following are mitigation solutions cited by the Comprehensive Plan and ways in which the proposed project supports each strategy.

- **Make it easier for visitors to arrive without a car (Policy 7-D-1)**
    - Participation in the DRaC program, which incentivizes resort guests to travel to the island without a car by providing a discounted rate to those who do not bring a car.
    - The mix of uses provided within the resort will be easily accessible by pedestrians/bicycles, creating internal capture of trips that would otherwise add to traffic on Estero Boulevard and other local roads.
    - Bicycles will be available for guest use, encouraging use of the bike/pedestrian network.
    - Golf cart parking will be provided.
- **Create a hidden-path system (7-D-5)**
    - A separated pedestrian path system will be integrated throughout the resort and connected to downtown.
    - Wayfinding will direct pedestrian traffic to various destinations throughout downtown.

OBJECTIVE 7-I LEVEL-OF-SERVICE STANDARD: Maintain minimum acceptable levels of service for the transportation system.

POLICY 7-J-2 TRAFFIC IMPACT ANALYSES: A thorough traffic impact analysis is currently required only for major rezonings and very large development orders. The town shall amend its Land Development Code during 2010 to:

i. **decrease the thresholds for requiring traffic impact analyses;**

ii. **require them to study the cumulative impacts of potential development; and**

iii. **use the results in assessing whether impacts are acceptable, and whether an improved design could offset some of the impacts.**

A traffic impact statement is being prepared by TR Transportation Consultants, Inc. and will be provided in a subsequent submittal.

UTILITIES ELEMENT:

GOAL 8: To improve the existing systems that provide safe drinking water, irrigation water, sewer service, and solid waste disposal in order to reduce environmental impacts on land and water while keeping costs as economical as possible.

POLICY 8-A-1 Mandatory customer connections to water and sewer utilities shall continue to be the policy of the Town of Fort Myers Beach.

Complying with GOAL 8 and Policy 8-A-1, the Lighthouse Island Resort is already connected to central water and sewer utilities.

D. DESIGN STANDARDS COMPLIANCE

The post-hurricane redevelopment of the Lighthouse Island Resort will be generally consistent with the overall purpose and intent of the existing CPD, which was found consistent with LDC standards.

As demonstrated through the architectural elevations prepared by MHK Architecture and included in this submittal, the Lighthouse is designed in a contemporary coastal architectural style. The redeveloped resort achieves the goals set forth in the Comprehensive Plan and the Land Development Code by creating a development that will enhance the town's sense of place, implements the design concepts in the LDC, and creates an attractive destination which will enhance the island and its property values.

E. DECISION MAKING COMPLIANACE

The following considerations from LDC Sec. 34-85 shall be considered by town council whenever applicable:

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

There are no known errors or ambiguity that must be corrected in relation to the requested CPD amendment. If any exist, they will be discussed and resolved during staff review and public hearings before the Local Planning Agency (LPA) and Town Council. Utilizing the proposed CPD rezone request, reductions or elimination of any existing non-conformities will be corrected as applicable.

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

The Lighthouse Island Resort suffered significant damage as a result of Hurricane Ian. Although the resort was able to reopen, it is currently operating at approximately 60% of its pre-Ian capacity as a direct result of damage from the storm. Infill redevelopment of the resort is consistent with the 1999 Old San Carlos Boulevard – Crescent Street Master Plan, which called for the expansion of the Times Square pedestrian-friendly zone and recommending redevelopment to be built to the sidewalk in order to help create a strong "sense of place" and achieve a "Park-Once" strategy that encourages pedestrian activity throughout the corridor. The hurricane's destruction has presented an opportunity to achieve the desires as expressed through the Comprehensive Plan and the Old San Carlos Boulevard – Crescent Street Master Plan.

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

The proposed change will not have any impact on the intent of this chapter (LDC). The CPD amendment will allow the redevelopment of damaged structures to become an economic driver for the Town of Fort Myers Beach as well as a benefit to island residents and tourists.

(4) The testimony of any applicant.

The professional experts retained by the applicant to support this petition will provide testimony at both the Local Planning Agency (LPA) hearing and the Town Council hearing.

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

The Town staff will review the petition and provide a written report to be presented to the local planning agency at their appropriate public hearing. The petition along with the staff's report and the LPA recommendation will then be presented to the Town Council at the designated public hearing.

(6) The testimony of the public.

The public will be provided with the opportunity to present testimony to the LPA and Town Council.

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

As evidenced through this narrative, the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

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

The proposed location is ideal for the requested uses. The Lighthouse Island Resort is located in the heart of the Downtown district, which has always been identified as a redevelopment area and the preferred location for the Town's most dense and intense development. With its location directly abutting the Matanzas Pass Bridge, it serves as an important connection between the Old San Carlos Boulevard commercial corridor and the Crescent Street corridor.

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

Urban services are in place and utilized by the existing Lighthouse development and will remain in place to adequately serve the subject site. It is critical to note that adequate services were in place for well over 2,000 hotel/motel units prior to both Hurricanes Charley and Ian, but now approximately only 1,152 hotel/motel units are online. 2020 Census data also shows that the overall permanent population in Fort Myers Beach has declined roughly 11% since the 1990 Census. The Town's population estimates associated with transient lodging also show a decline over the last 30 years and the percentage of the in-season population attributed transient lodging has declined from 24% to 18%.

- 1990 Peak Season Population Estimate – Lodging: 3,620 or 24% of the overall population.
- 2020 Peak Season Population Estimate – Lodging: 3,133 or 18% of the total population.

Based on the data outlined above, existing urban services are and will be available to support not only the proposed Lighthouse Island Resort but many other proposed projects that will assist in the rebuilding of Fort Myers Beach.

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

The proposed redevelopment is located on a developed site which does not contain any environmentally critical areas or natural resources.

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

The request is compatible with existing or known planned commercial, residential and civic uses adjacent to the subject redevelopment and will not cause damage, hazard, nuisance or other detriment to persons or property of Fort Myers Beach. The proposed infill redevelopment will be compatible with existing uses and will complement the nearby downtown commercial 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.

This criteria will be addressed upon completion of the TIS.

CONCLUSION

As detailed in the above narrative, supporting application documents, and the proposed MCP, the application demonstrates consistency and compliance with both the Fort Myers Beach Comprehensive Plan and Land Development Code. Addressing the unique characteristics of the subject property through the CPD amendment process and compliance with today's Florida Building Codes and FEMA standards, the Kolar family will provide a project that will provide multiple public benefits and improve upon their legacy as multi-generational businessowners in the Town of Fort Myers Beach.

LIGHTHOUSE ISLAND RESORT

COMMERCIAL PLANNED DEVELOPMENT (CDP) AMENDMENT

SCHEDULE OF DEVIATIONS AND JUSTIFICATIONS

Deviation #1: Deviation 1 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Fifth Avenue); to allow a connection separation of 83 feet from two existing driveways. *(Existing)*

Deviation #2: Deviation 2 requests relief from the F.A.R. requirements of LDC Sec. 34-633, which includes covered parking in the FAR calculation to exclude the under-building parking from this resort's FAR calculation. *(Existing)*

> **Justification:** The requested language change is simply for clarification consistent with similarly approved deviations and does not change the previously permitted deviation to exclude under building parking from the FAR calculation.

Deviation #3: Deviation 3 requests relief from LDC Section 30-5(a)(1)b.3.iii which allows a maximum height of 5 feet for a monument sign to allow an overall height of 9.7' for "Sign C" on Fifth Street. *(Existing)*

> **Justification:** This deviation was previously approved and there are no proposed changes to the existing sign. The amendments to the deviation language are consistent with the Town's amended sign code (Ord. 23-01), which no longer specifies a maximum height for the base of a monument sign.

Deviation #4: Deviation 4 requests relief from LDC Sec. 30-5(a)(1)b.1 for internal illumination of the sign faces to remain as existing, where they would otherwise be required to emit light only from the letters and symbols of the sign face. *(Existing)*

> **Justification:** This deviation was previously approved and there are no proposed changes to existing illuminated signage. The amendments to the deviation language simply update the LDC reference consistent with the Town's amended sign code (Ord. 23-01).

Deviation #5: A deviation from LDC Division 4, Table 34-3 for the CR zoning district which limits height to 30 feet zoned height and three (3) stories to allow a maximum zoned height of 40 feet 5 inches above base flood elevation and a maximum of four (4) stories consisting of three (3) stories above one (1) level of parking.

> **Justification:** The Town's Comprehensive Plan allows for additional height through Policy 4-C-4 for parcels that are contiguous (or directly across a street) from taller buildings. The Lighthouse Island Resort currently allows a maximum height of 37 feet above base flood elevation. The resort buildings vary in height from single-story, cottage-style units to the current maximum of three stories. Margaritaville is directly south of the subject property, allowing a maximum of four stories or 40 feet. The proposed amendment is requesting a maximum height of four stories (three stories

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over parking) or 40 feet 5 inches above base flood elevation, which is consistent with Margaritaville (see Figure 3). The increase in maximum height of 3.5 feet will allow for Building 5 to add roughly one additional foot of height per story of hotel rooms and allows for a sloped roof with attractive architectural embellishments. The infill development (Building 1) on the Crescent Street parcel proposed to be added to the CPD will be under 30 feet, providing a transition from residential uses on the east side of Crescent Street.

The resort's existing buildings are already varied in height and intensity, allowing for building massing that is well-integrated into the core of the Downtown district. Rather than a single, monolithic building, the Lighthouse has a village-style design that fits with the character of downtown Fort Myers Beach. The requested amendment for additional height will only be applicable to Building 5, which is be located on the western edge of the property, closest to the main Downtown commercial corridors and directly abutting the Matanzas Pass Bridge. The granting of this deviation will not create negative impacts to the health, safety and welfare of the island's residents and visitors.

Deviation #6: A deviation from LDC Division 4, Table 34-3 for the CR zoning district which requires street setbacks of 10 feet to instead allow for build-to lines of 0' and 6.75' feet along San Carlos Boulevard, Third Street, and Fifth Street.

Justification: The existing CPD had approved deviations for perimeter and street setbacks, ranging from 0' to 7.4'; these deviations were based on proposed buildings at various phases of the five-phase development. The requested deviation reflects the existing conditions and proposed buildings fronting Third Street, Fifth Street, and San Carlos Boulevard. Relief from the required 10' street setback promotes pedestrian access to the Downtown district by bringing buildings closes to the "public realm" and is consistent with the vision of the Pedestrian Commercial future land use designation, which emphasizes a pedestrian-friendly downtown. The site was intentionally designed with the majority of the buildings fronting Fifth Street and Crescent Street, with the buildings on Fifth Street cantilevered over the sidewalk to provide a pedestrian-friendly arcade consistent with the "Old San Carlos Boulevard – Crescent Master Plan". As depicted on the MCP, the proposed street setbacks are also consistent with the previously approved deviations for setbacks of 7.4', 4.5', 3', 2.6', 1.5, 1.4', and 0'.

Deviation #7: A deviation from LDC Section 30-5(a)(1)a which allows a maximum of 32 square feet of signage for a parcel of land containing one or two business establishments to allow a mural-style sign on the east elevation of Building 5 of 104 square feet, as depicted on the MCP.

Justification: The Lighthouse Island Resort comprises ±1.87 acres, which is a significantly larger area than the average parcel containing one or two business establishments. Due to the scale of the resort and the fact that the property is surrounded on all sides by major roadways, it is reasonable to permit multiple signs totaling more than 32 square feet. The proposed mural-style sign will be located on the east elevation of Building 5 and will provide an attractive, contemporary visual from the Matanzas Pass Bridge. At 104 square feet, it will fit the scale of the proposed building. The rendering below represents the proposed sign.

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BUILDING 5, EAST ELEVATION
8'-0" X 13'-0"
104 SF

Deviation #8: A deviation from LDC Section 30-5(a)(1)a which allows a maximum of 32 square feet of signage for a parcel of land containing one or two business establishments to allow a mural-style sign on the south elevation of Building 5 of 100 square feet, as depicted on the MCP.

> **Justification:** The Lighthouse Island Resort comprises ±1.87 acres, which is a significantly larger area than the average parcel containing one or two business establishments. Due to the scale of the resort and the fact that the property is surrounded on all sides by major roadways, it is reasonable to permit multiple signs totaling more than 32 square feet. The proposed mural-style sign will be located on the south elevation of Building 5 and will provide an attractive, contemporary visual from Fifth Street and at street level. At 100 square feet, it will fit the scale of the proposed building.

Deviation #9: A deviation from LDC Section 30-5(a)(1)b.3.iii which allows a maximum height of 5 feet for a monument sign to allow an overall height of 10 feet for a monument sign at the corner of Crescent Street and Fifth Street, as depicted on the MCP.

> **Justification:** A deviation was previously approved for a 9.7' monument sign in this location. This deviation proposes a replacement monument sign with an architectural embellishment that is 10' and an actual sign height of 3'4". The proposed sign is consistent with the architectural style of the resort and pays homage to the iconic lighthouse design of the resort's historic signage. The rendering below represents the proposed sign.

BUILDING 1/2, CORNER
6'-10" X 3'-4"
22.78 SF

Deviation #10: A deviation from LDC Section 30-8(16) which prohibits pole signs to allow a decorative wayfinding pole sign on the corner of Third Street and San Carlos Boulevard, as depicted on the MCP.

Justification: The proposed wayfinding sign will allow pedestrians—whether resort guests, other visitors, or residents—to easily locate amenities within the resort, nearby landmarks such as Times Square, and nearby retail/restaurants. The sign's location at the corner of Third Street and the underpass of the Matanzas Pass bridge is ideal for capturing a significant amount of foot traffic, as Third Street provides connection from the Crescent Street corridor to the Old San Carlos Boulevard corridor. These pathways are part of the proposed pedestrian pathway network that runs through the resort and helps to enhance the pedestrian-oriented downtown area. The design of the sign will be consistent with the Lighthouse Island Resort branding and will enhance the beachy aesthetic of the resort.

Deviation #11: A deviation from LDC Sec. 34-1804(A) and Sec. 34-2020, which regulate parking for hotels/motels and other accessory uses, to allow a 58% reduction in parking requirements for a total of 82 on-site parking spaces and 99 total parking spaces, inclusive of 7 previously approved on-street parking spaces, 8 golf cart parking spaces, and credit for 2 bicycle parking spaces.

Justification: The existing CPD was approved with 100 parking spaces for Phase V at buildout, which included parking for 75 hotel units, 4,300 SF of restaurant, 420 SF of office space, and 5,000 SF of retail uses. Of the 100 approved spaces, 93 were on-site and 7 were off-site. The previously approved parking calculations utilized the 33% parking reduction applicable to specific areas within the Downtown zoning district. This deviation from the required parking proposes maintaining the 7 approved off-site, reducing the on-site parking from 93 to 82, and adding 8 golf cart and 2 bicycle parking spaces, for a total of 99 spaces provided. A detailed parking analysis breaking down the required parking by use has been provided. Although the number of hotel units will increase by 55

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LIGHTHOUSE ISLAND RESORT

COMMERCIAL PLANNED DEVELOPMENT (CDP) AMENDMENT

PROPOSED CONDITIONS/COMMITMENTS:

TRAFFIC MITIGATION

1. **Don't Rent a Car (DRaC) Program**

    a. To help mitigate traffic congestion, the owner and resort operator will promote various marketing initiatives that support and encourage all guests to use alternative modes of transportation rather than drive a vehicle to or while on the island. Such efforts will include:

    - A dedicated page on the resort website outlining and promoting alternative modes of transportation and informing guests on ways to reduce vehicular trips including:
        - Information on the walkability of the area and businesses of interest to guests within walking distance;
        - Bicycle rentals;
        - Shuttle service;
        - Car hailing and taxi service;
        - Fort Myers Beach's LeeTran "TROLLEE" and seasonal TRAM Service Schedules and Route Maps, and
        - Food delivery service
    - Establish partnerships with businesses on the island, especially in the "Downtown", to provide incentives and discounts for guests. Hotel guests who do not drive onto the island will receive monetary discounts or vouchers for future stays and/or with participating local businesses, such as restaurants, bike rentals, and tour/tourism operators.
    - Participate in townwide traffic mitigation efforts, such as:
        - Off-island parking and transport initiatives, e.g. taxi or ride share discounts for those staying at the hotel.
        - Off-site parking availability identification systems.
        - Evaluating and improving LeeTran's "TROLLEE" and seasonal TRAM service and rider/user experience.

2. **Bicycles**

    a. The property owner or resort operator will provide for rent or complementary bicycles with bike locks, and dedicated bike parking at the resort for hotel guests.

    b. Minimum of ## bicycle parking spaces (multiple bike racks) for public use.

3. **Multi-Use Pathways:**

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a. Bicycle and pedestrian pathways will be provided throughout the property and will be open to guests and the public. The pathways will provide interconnection and ease of access to popular downtown venues to reduce vehicular trips.

b. Enhancement and improvements will be made to the Third Street right-of-way that include but are not limited to:

- Landscaping, benches, and open space features;
- Wayfinding that will identify nearby destinations such as restaurants, retail, and beach access.

c. Pathway enhancements and improvements will be made to the San Carlos Boulevard/Matanzas Pass Bridge right-of-way, subject to approval from FDOT.

- Within six months of zoning approval by the town council, the property owner will coordinate with FDOT regarding enhancements to the San Carlos Boulevard/Matanzas Pass Bridge right-of-way.

4. Golf Cart Parking

a. The Lighthouse Resort will provide 8 dedicated golf cart parking spaces available to guests or the public.

DESIGN

5. Architecture & Site Design

a. Final design must be generally consistent with renderings provided in addition to the Master Concept Plan.

6. Landscaping & Buffering

a. All landscaping materials will be native varieties/Florida friendly species.

FORT MYERS BEACH ELEMENTARY SCHOOL

7. Promoting the Beach School

a. The property owner or resort operator will work with the Town, Fort Myers Beach Chamber of Commerce, the School District of Lee County, and Fort Myers Beach Elementary School to promote the opportunity for resort employees to enroll their children at Fort Myers Beach Elementary School. Educational materials will be provided to employees regarding enrollment and after school care programs.

8. Flexible Work Schedules

a. The resort will allow flexible work schedules for employees to accommodate pick up and drop off of children attending Fort Myers Beach Elementary School.

COP, HOURS OF OPERATION & AMPLIFIED SOUND

9. Consumption on Premises (COP)

a. Service of alcohol for on-premises consumption is approved at the location depicted on the Master Concept Plan, subject to these limitations:

- Service to outdoor areas is permitted as follows:
    1. For Building 5, on the elevated pool deck.

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2. For the tiki bar and pool deck on the south end of the property between Buildings 3 and 5, limited to the areas depicted on the Master Concept Plan.
3. For the tiki bar and pool deck on the north end of the property between Buildings 2 and 6, limited to the areas depicted on the Master Concept Plan.

10. Hours of Operation

a. Hours of operation for outdoor areas will be limited to the following unless otherwise temporarily altered per the Town's special event use regulations in LDC Section 34-1264. All other hours of operation will be regulated by the LDC.
b. Pool deck (Building 5): 9:00am to 12:00am
c. Pool deck and tiki bar (south end between Buildings 3 and 5): 9:00am to 2:00am
d. Pool deck and tiki bar (north end between Buildings 2 and 6): 9:00am to 10;00pm

LIGHTHOUSE RESORT - BLDG 5

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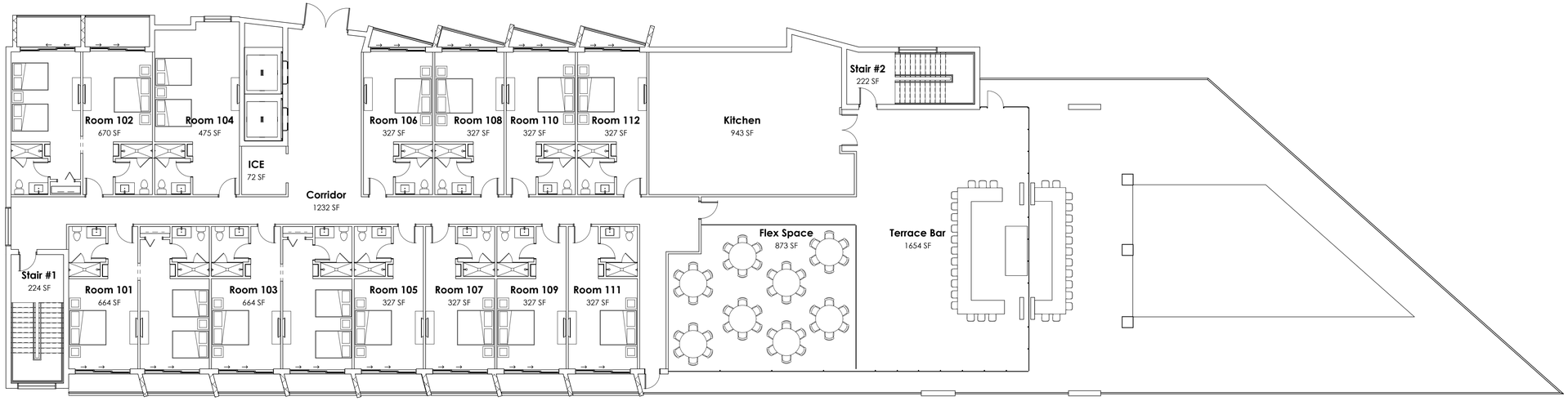
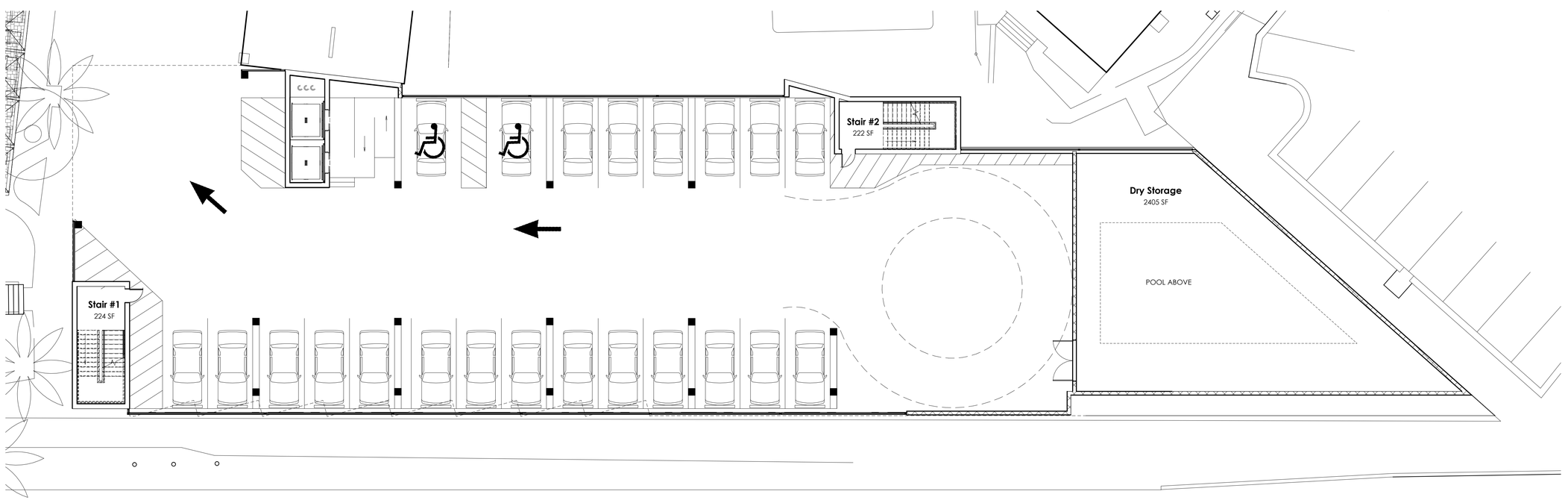
SK1 | MHK ARCHITECTURE



2 SK - LEVEL 1
SCALE: 3/32" = 1'-0"



1 SK - GROUND LEVEL
SCALE: 3/32" = 1'-0"

LIGHTHOUSE RESORT - BLDG 5

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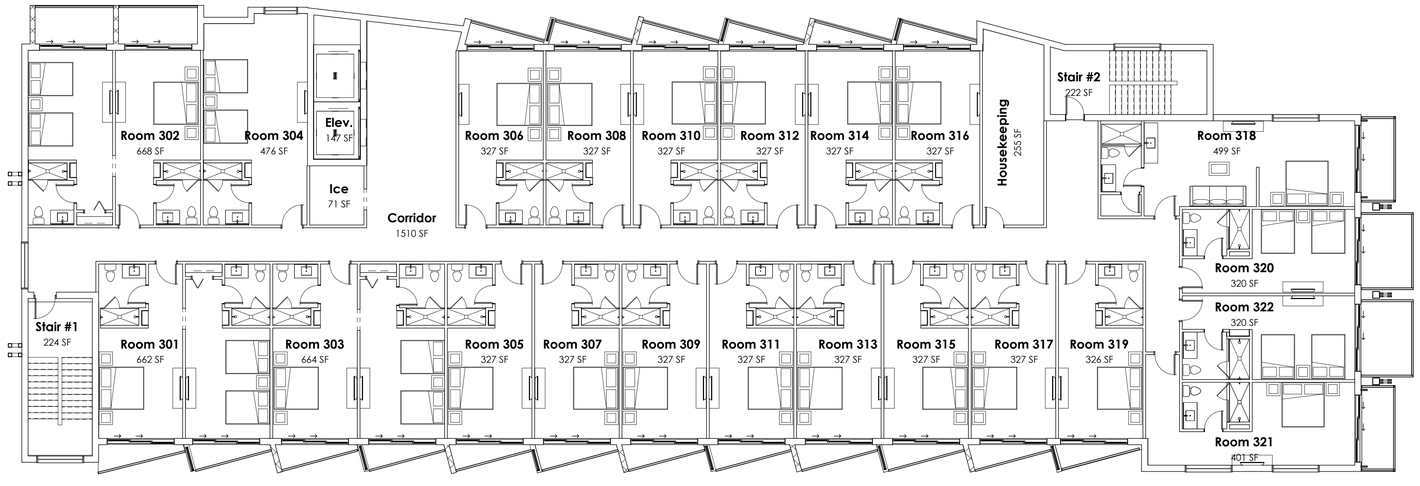
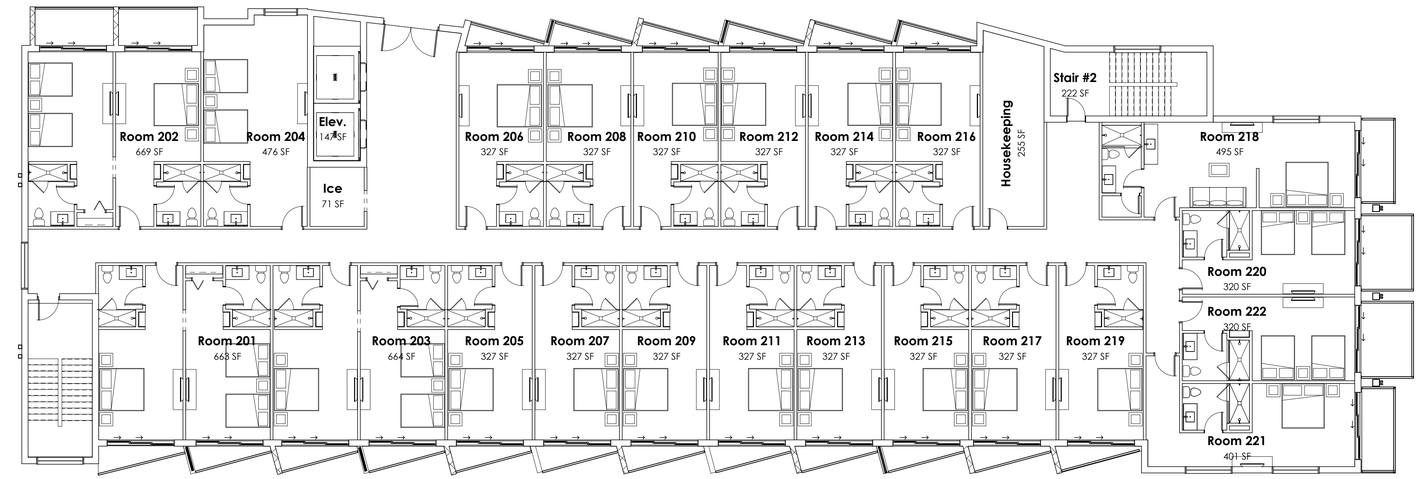
SK2 | MHK ARCHITECTURE



2 SK - LEVEL 3

SCALE: 3/32" = 1'-0"



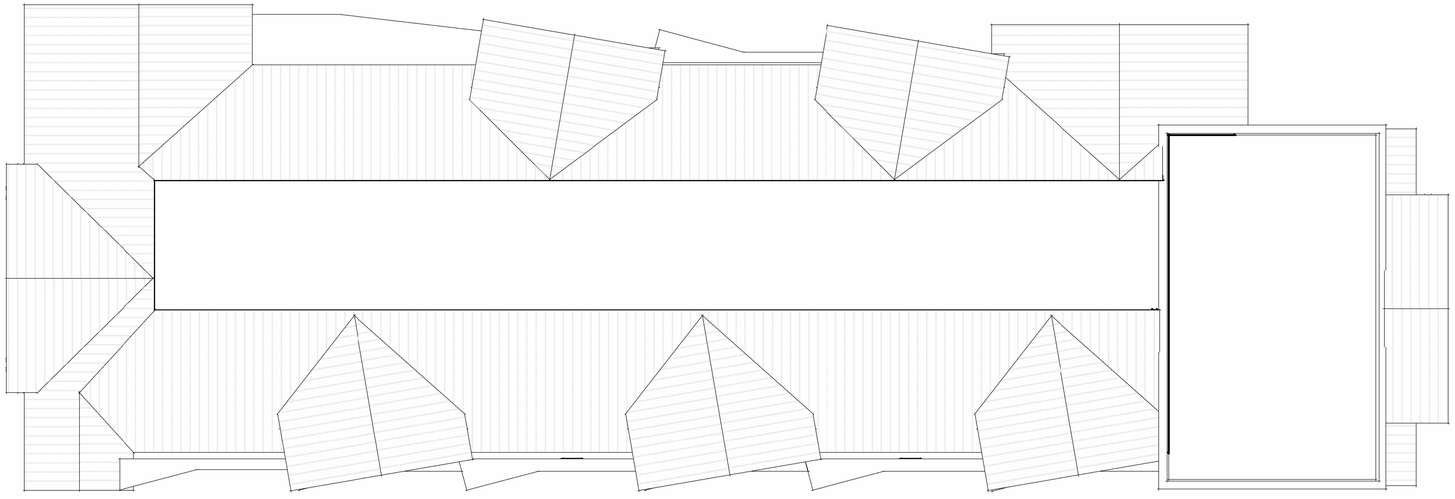
1 SK - LEVEL 2

SCALE: 3/32" = 1'-0"

LIGHTHOUSE RESORT - BLDG 5

MHK ARCHITECTURE COPYRIGHT © 2025

SK3 | MHK ARCHITECTURE



1 SK - ROOF PLAN
SCALE: 3/32" = 1'-0"

LIGHTHOUSE RESORT - BLDG 5

MHK ARCHITECTURE COPYRIGHT © 2025

SK4 | MHK ARCHITECTURE

1 EXTERIOR ELEVATION - NORTH
SCALE: 3/32" = 1'-0"

2 EXTERIOR ELEVATION - SOUTH
SCALE: 3/32" = 1'-0"

3 EXTERIOR ELEVATION - EAST
SCALE: 3/32" = 1'-0"

4 EXTERIOR ELEVATION - WEST
SCALE: 3/32" = 1'-0"

LIGHTHOUSE RESORT - BLDG 5

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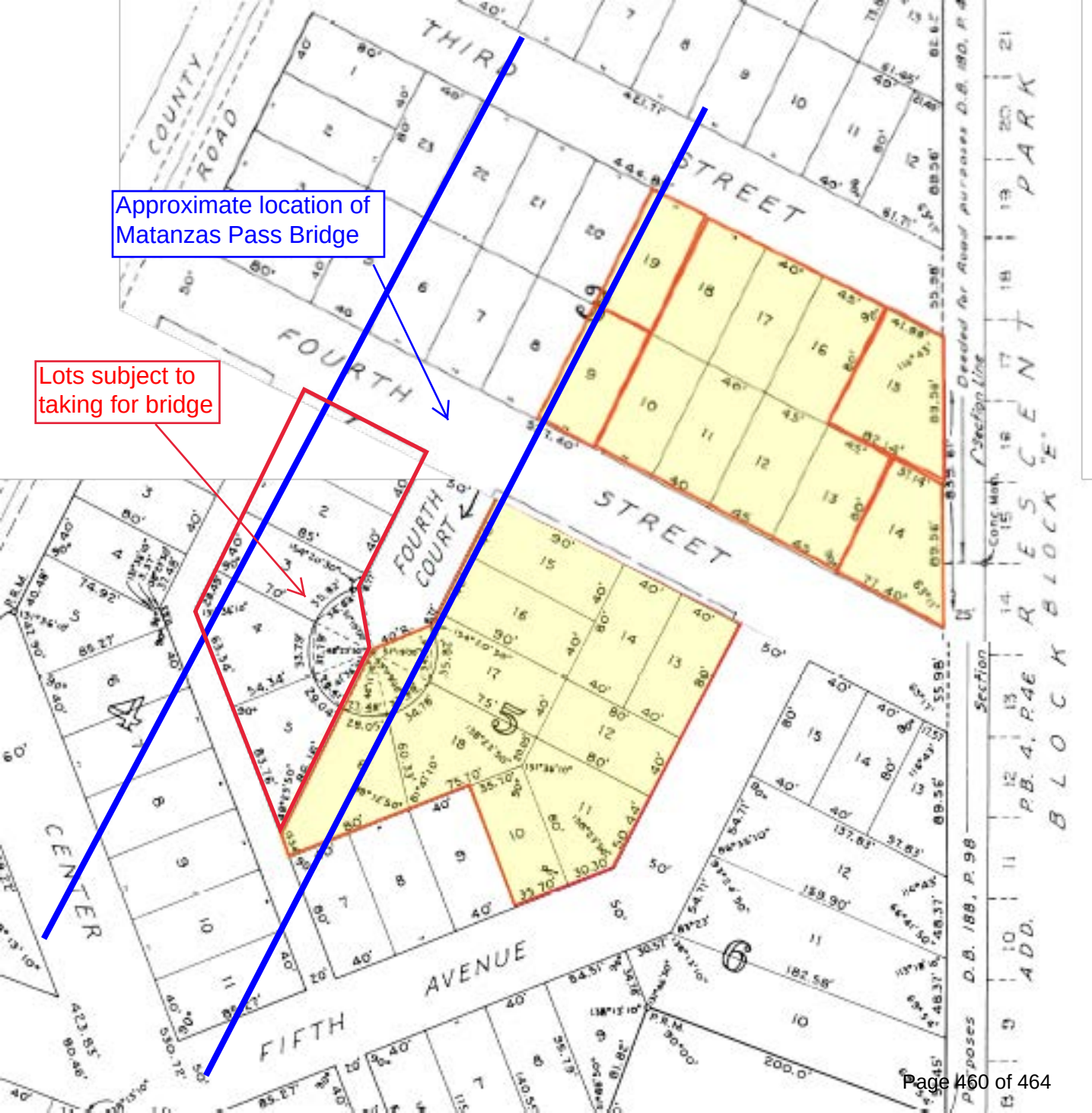
Approximate location of Matanzas Pass Bridge
Lots subject to taking for bridge
THIRD STREET
FOURTH STREET
FOURTH COURT
FIFTH AVENUE
CENTER
COUNTY ROAD
PARK CRESCENT
BLOCK "E"
Section
P.B. 4, P.4E
D.B. 188, P. 98
ADD.

Lighthouse Island Resort
Parking Analysis

Resort Lodging Units Required

Typical Unit Size	# of Units	Parking Ratio	Spaces
Up to 450 SF	94	1.2 spaces per unit	112.8
Greater than 450 SF	36	1.5 spaces per unit	54
		Subtotal	**166.8**

Restaurant Required

Restaurant Uses	Square Footage	Parking Ratio	Spaces
Restaurant (interior to Building 5)*	4,300	None required*	0
Tiki bar areas	2,116	15 per 1,000 SF or 1 per 200 SF	32
		Subtotal	**32**
	TOTAL REQUIRED FOR RESORT & RESTAURANT		**198.5**
	TOTAL REQUIRED FOR RESORT with a 50% Reduction		**99**

Provided

	Standard on-site parking spaces	**82**
	Golf Cart parking:	**8**
	Bicycle parking:	**2**
	Previously approved on-street parking	**7**
	TOTAL PARKING PROVIDED	**99**

*Per LDC 34-2020(d)(2)h.1: "When a restaurant is located within the same building as the principal use, and is clearly provided primarily for the employees and customers of the principal use, no additional parking spaces are required."

Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the Fort Myers Beach website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference: **AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/ DENYING AN AMENDMENT TO THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, PREVIOUSLY APPROVED BY RESOLUTION 18-17 FOR THE PARCEL LOCATED AT 1051 FIFTH STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 24-46-23-W3-00205.0060, TO ADD PARCEL 1060 THIRD STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 24-46-23-W3-00203.0150 IN FORT MYERS BEACH,; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Fort Myers Beach is of the view that a business impact estimate is not required by state law[1] for the proposed ordinance, but the Fort Myers Beach is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☒ The proposed ordinance is enacted to implement the following:

[1] See Section 166.041(4)(c), Florida Statutes.

a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the Fort Myers Beach hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance amends and existing CPD zoning designation for 1051 Fifth Street and 1061 Third Street. The Town Council approved a CPD for the property at 1051 Fifth Street in 2018 through Resolution 18-17 which currently provides the zoning regulations for the site. The applicant is seeking through this ordinance to include the parcel at 1061 Third Street in the CPD.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Fort Myers Beach, including the following, if any:
(a) An estimate of direct compliance costs that businesses may reasonably incur;
(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
(c) An estimate of the Fort Myers Beach regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

There are unlikely to be direct compliance costs associated with Ordinance 25-xx.

Ordinance 25-xx does not impose any new charge or fee on businesses.

There are no new charges or fees that will be imposed on businesses by the ordinance.

The Town will not likely incur additional costs.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

This rezoning does not increase restrictions on existing businesses.

4. Additional information the governing body deems useful (if any):[*You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: Fort Myers Beach staff solicited comments from businesses in the Fort Myers Beach as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on Fort Myers Beach website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses*).

Not applicable.