



Fort Myers Beach Town Council

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

Agenda

Monday, May 5, 2025

9:00 AM

ORDER OF BUSINESS

- I. CALL TO ORDER**
- II. INVOCATION**
- III. PLEDGE OF ALLEGIANCE**
- IV. APPROVAL OF FINAL AGENDA**
- V. PUBLIC COMMENT**
- VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS**
- VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS**
- VIII. PRESENTATION**

- A. Wave Mitigation Wall
Elizabeth Fountain, P.E., CFM
Director of Floodplain Management and Stormwater Design
J.R. Evan Engineering, P.A.

IX. APPROVAL OF MINUTES

- A. Special Town Council - April 18, 2025

X. CONSENT AGENDA

- A. Resolutions 25-125 through 25-128; Extension of Local Emergency - Hurrican Ian
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.
- B. Resolutions 25-129 through 25-132; Extension of Local Emergency - Hurrican Idalia
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT

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

- C. Resolutions 25-133 through 25-136; Extension of Local Emergency - Tropical Storm Debby

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

- D. Resolutions 25-137 through 25-140: Extension of Local Emergency - Hurricane Helene

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

- E. Resolutions 25-141 through 25-144: Extension of Local Emergency - Hurricane Milton

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

XI. ITEMS REMOVED FROM CONSENT AGENDA

XII. PUBLIC HEARINGS

- A. Ordinance 25-07; REZ20240275, 1011 Third Street

This agenda item is a First Reading and Public Hearing on proposed Ordinance 25-07. If approved at First Reading, a Second Reading and final adoption hearing will be scheduled for May 19, 2025, at 9:00 AM or

at another time identified by Town Council.

ORDINANCE TITLE:

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.

B. Ordinance 25-04 ARCHES RESORT CPD

This agenda item is a First Reading and Public Hearing on proposed Ordinance 25-04 (commonly referred to as the Arches Commercial Planned Development). If approved at First Reading, a Second Reading and final adoption hearing will be scheduled for June 2, 2025, at 9:00 AM after adoption of the Comprehensive Plan Amendment proposed in Ordinance 25-05 or at another time as identified by Town Council.

ORDINANCE TITLE:

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE REZONING OF 4.98 ACRES OF PROPERTY MORE SPECIFICALLY DESCRIBED HEREIN FROM COMMERCIAL MARINA (2 PARCELS), RESIDENTIAL CONSERVATION (5 PARCELS), COMMERCIAL OFFICE (1 PARCEL) AND DOWNTOWN (2 PARCELS) TO A COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, TO ALLOW A MIXED-USE DEVELOPMENT INCLUDING 263 LODGING UNITS, COMMERCIAL/ RETAIL SPACE AND PUBLIC OPEN SPACE, MORE SPECIFICALLY DESCRIBED AS 436, 441, 445, 450 HARBOR COURT; 435 AND 438 BONITA STREET; 935 AND 939 THIRD STREET AND 401 OLD SAN CARLOS BLVD , ALSO IDENTIFIED AS THE FOLLOWING STRAP NUMBERS: 24-46-23-W3-00027.0000; 24-26-23-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, INCLUDING DEVIATIONS FOR HEIGHT, SETBACKS, HOTEL UNITS, PARKING, LANDSCAPING AND ACCESS; PROVIDING

FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

- C. Ordinance 25-05, Comprehensive Plan Amendment - Marina and Mixed Residential to Pedestrian Commercial FLU ARCHES RESORT
This agenda item is a First Reading and Public Hearing on proposed Ordinance 25-05 (commonly referred to as the Arches Redevelopment Project Small Scale Comprehensive Plan Amendment). If approved at First Reading, a Second Reading will be scheduled for June 2, 2025, at 9:00 AM prior to adoption of Ordinance 25-04 or at another time identified by Town Council.

ORDINANCE TITLE:

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, CONTAINED IN THE TOWN'S COMPREHENSIVE PLAN, FOR PROPERTIES LOCATED AT 450, 445, 441, & 436 HARBOR COURT, 435 & 438 BONITA STREET, FORT MYERS BEACH FLORIDA, ALSO IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00027.0000; 24-26-23-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, AMENDING THE FUTURE LAND USE MAP FOR THESE PARCELS FROM MIXED RESIDENTIAL (4 PARCELS) AND MARINA (2 PARCELS) TO PEDESTRIAN COMMERCIAL; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

- D. Lien Reduction Request - 8124 Estero Blvd.
Lien Reduction Request by Noel Davies, Esquire Regarding Property Located at 8124 Estero Blvd, Fort Myers Beach, Florida
- E. Request for Rehearing and Reconsideration of Denial of Appeal of 213191 Widgeon Terrace
Request for Rehearing and Reconsideration of Denial of Appeal of 213191 Widgeon Terrace – Administrative Appeal of Building Permit # 24233 / 23477 – April 21, 2025 Agenda Item XII, B. (Construction of Swimming Pool), Pursuant to Town Code Sec. 34-93.

XIII. ADMINISTRATIVE AGENDA

- A. Resolution 25-121, Tier 1 Change Order #1
RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AND AUTHORIZING THE TOWN MANAGER TO EXECUTE CHANGE ORDER #1 TO CONTRACT ITB-23-18-UT BETWEEN THE TOWN OF FORT MYERS BEACH AND ANDREW SITEWORK LLC.; INCREASING THE CONTRACT AMOUNT BY

\$757,545.41; AND PROVIDING FOR AN EFFECTIVE DATE.

- B. Resolution 25-145; Approving Town Manager Employment Agreement
A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AND AUTHORIZING THE THE MAYOR TO SIGN AN EMPLOYMENT AGREEMENT BETWEEN THE TOWN AND WILLIAM MCKANNAY TO SERVE AS THE TOWN MANAGER IN ACCORDANCE WITH THE TERMS AND CONDITIONS CONTAINED IN THE EMPLOYMENT AGREEMENT ATTACHED AS EXHIBIT A TO THE RESOLUTION; PROVIDING FOR CONFLICTS, SEVERABILITY; AND AN EFFECTIVE DATE.

XIV. FINAL PUBLIC COMMENT

XV. TOWN MANAGER'S ITEMS

XVI. TOWN ATTORNEY'S ITEMS

XVII. COUNCILMEMBERS ITEMS AND REPORTS

XVIII. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON [YOUTUBE](#).

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.



For special accommodation, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.



Fort Myers Beach Town Council

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

Minutes

Friday, April 18, 2025

1:00 PM

DRAFT

ORDER OF BUSINESS

I. CALL TO ORDER

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

II. PLEDGE OF ALLEGIANCE

III. APPROVAL OF FINAL AGENDA

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

The motion carried unanimously.

IV. PUBLIC COMMENT

No public comment.

V. ADMINISTRATIVE AGENDA

A. Question-and-Answer Sessions

Michael Brillhart introduced himself.

Council Member King asked why Fort Myers Beach. Mr. Brillhart replied that it was the location, size, staffing and what he enjoyed about local government management.

Vice Mayor Atterholt listed the traits he was looking for. He asked if Mr. Brillhart shared Vice Mayor Atterholt's approach to governing and to provide examples. Mr. Brillhart replied affirmatively.

Council Member Woodson asked him to summarize his career path and how it prepared him for this role. Mr. Brillhart reviewed his education and experience and described how he was involved in the sales tax initiative in Pinellas County.

Council Member Safford asked him to describe his experience managing municipal budgets. Mr. Brillhart noted the largest budget was in the City of Wapakoneta, OH, which was \$110 million. He developed and implemented the budget and had strategic planning sessions.

Mayor Allers asked how he would approach budgeting with limited revenue

streams and fluctuating property values due to the disasters. Mr. Brillhart stated he would look at things over a five-year period to see where they needed to be. Council Member King asked what he saw as the greatest challenge for the next manager. Mr. Brillhart replied, implementing all the funds acquired through the state and FEMA (Federal Emergency Management Agency) for capital projects and recurring expenditures. He thought most of the projects could be implemented in about three years.

Vice Mayor Atterholt asked him how he had prioritized relationship-building skills, with specific examples of where he utilized them. Mr. Brillhart believed intergovernmental coordination and relations were the same as interpersonal relations because they required communication with whoever the agent was. He described how he interacted with legislative officials to secure \$10 million, which helped build Port St. Lucie Blvd.

Council Member Woodson asked what critics would say about him and how he responded. Mr. Brillhart noted that he was not an expert on IT, but he relied on the experts.

Council Member Safford asked how he led a community through a significant change or recovery. Mr. Brillhart described working with FEMA and coordinating the application process after Hurricanes Milton and Helene hit Crescent City, FL. He worked with FEMA inspectors on projects destroyed by the hurricanes and got some funding adopted.

Mayor Allers asked what strategies he would use to build consensus among council members, staff and community stakeholders. Mr. Brillhart responded that he has consistently suggested annual strategic planning sessions at the beginning of the calendar year to allow the public to provide feedback on everything. He described how public input allowed opportunities to take place that they might not have known about.

Patrick Jordan introduced himself.

Council Member King asked why Fort Myers Beach. Mr. Jordan replied that they vacationed here many years ago and he loved coastal communities. He understood the challenges of being a waterfront community. He added that they had a great staff and looked at the possibilities.

Vice Mayor Atterholt listed the traits he was looking for. He asked if Mr. Jordan shared his approach to governing and to provide examples. Mr. Jordan agreed with his approach and referred to the Bible as an example. Council Member Woodson asked him to summarize his career path and how it prepared him for this role. Mr. Jordan reviewed his work experience in politics and management. He described working in government management positions in Alaska and learned a great deal. He moved back to Michigan and described various experiences in his career and how he learned something new in each position he held.

Council Member Safford asked him to describe his experience managing municipal budgets. Mr. Jordan replied that his most recent role was assembling a \$40 million budget in Iona County, working with the finance

director and department heads. He believes a budget is not a mandate to spend just because it was budgeted.

Mayor Allers asked how he would approach budgeting with limited revenue streams and fluctuating property values due to the disasters. Mr. Jordan would seek a lot of advice and consent because he had never managed a budget with all the characteristics of the town. He would be very respectful of the public's money.

Council Member King asked what he saw as the greatest challenge for the next manager. Mr. Jordan thought that some challenges were addressing the restoration, monitoring the recovery progress and ensuring they received reimbursements from FEMA. He discussed restoring relationships and focusing on the residents' health, safety and welfare.

Vice Mayor Atterholt asked him how he had prioritized relationship-building skills, with specific examples of where he utilized them. Mr. Jordan referred to his relationships with other townships and the county and noted that they fought a war in the newspaper for over a year. He brought up humility, self-awareness, integrity and honesty when building relationships.

Council Member Woodson asked what critics would say about him and how he responded. Mr. Jordan stated that a police chief said he talked too much, but Mr. Jordan said he could listen, too.

Council Member Safford asked how he led a community through a significant change or recovery. Mr. Jordan related a story about building a county wastewater system. Ultimately, 14 municipalities with separate collection systems and treatment plants shut down their systems to connect to the system. The main pipe broke in a neighborhood and raw sewage flooded homes. The pumps were shut off and he described how he worked with the EOC and the county to make people whole.

Mayor Allers asked what strategies he would use to build consensus among council members, staff and community stakeholders. Mr. Jordan would talk to them in the same room and lay out the facts to work toward a common decision.

Will McKannay introduced himself.

Council Member King asked why Fort Myers Beach. Mr. McKannay responded that FMB represented a terrific opportunity to be part of rebuilding the community and to help set it on the path for the future.

Vice Mayor Atterholt listed the traits he was looking for. He asked if Mr. McKannay shared his approach to governing and to provide examples. Mr. McKannay shared the same idea for leadership and tried to embody that throughout his career as a leader. He amplified his team to amplify their talents and put them into positions where they could be more effective for the team.

Council Member Woodson asked him to summarize his career path and how it prepared him for this role. Mr. McKannay joined the army and worked as a police officer for the US Army. He worked his way up through the ranks and indicated that his path helped him develop as a leader and broaden his skill

set. He described several of his roles over the years and was able to see things from the strategic level for disaster response and has worked with FEMA.

Council Member Safford asked him to describe his experience managing municipal budgets. Mr. McKannay noted that the budget at Fort Riley was just over \$200 million and his job was to build the budget request and identify all the funding for different departments. After the budget was approved, his role was to make sure the budget was executed as directed in line with the plan.

Mayor Allers asked how he would approach budgeting with limited revenue streams and fluctuating property values due to the disasters. Mr. McKannay replied that the normal funding streams were lower than in the past. He would try to see where there would be growth and where there were opportunities for growth in areas where they could potentially increase some of the funding streams. He mentioned different taxing areas, different user fees, or different funds and grants that might be available.

Council Member King asked what he saw as the greatest challenge for the next manager. Mr. McKannay thought the most significant challenge was a quick understanding of the recovery and where it needed to go. Balancing economic development and community development would be the biggest challenge.

Vice Mayor Atterholt asked him how he had prioritized relationship-building skills, with specific examples of where he utilized them. Mr. McKannay said he would listen to key stakeholders regarding their priorities and issues and build a relationship with them. Examples included dealing with COVID while on the school board, interacting with the town council for continued education and keeping the staff safe. There were daily conversations because the goal was to keep children in school, which they did. He discussed being a part of the Chamber of Commerce and communicating with members in different economic development lanes who wanted to conduct business at Fort Riley but had to follow their rules.

Council Member Woodson asked what critics would say about him and how he responded. Mr. McKannay replied that he tended to be decisive and action-oriented to get things done. He tried to step back and talk to others who might have a better understanding.

Council Member Safford asked how he led a community through a significant change or recovery. Mr. McKannay described a tornado and extreme cold on the base. One challenge was to find housing for displaced soldiers and to see how quickly they could restore the damage. The freezing weather identified vulnerable antiquated infrastructure and they partnered with private power companies outside of the installation. The public-private relationship became a model for other installations around the US.

Mayor Allers asked what strategies he would use to build consensus among council members, staff and community stakeholders. Mr. McKannay responded that he would have conversations and listen to other points of view. It started with relationships across the board and he would make sure he heard from different aspects of the community.

Jeremy Shaffer introduced himself.

Council Member King asked why Fort Myers Beach. Mr. Shaffer indicated it was a career cap for him and reviewed his experience. He loved public service and enjoyed making changes. He lived in a tourist coastal community and understood the different types of residents. He described the erosion project he worked on at Lake Geneva and noted he loved economic development and did that in his current role.

Vice Mayor Atterholt listed the traits he was looking for. He asked if Mr. Shaffer shared his approach to governing and to provide examples. Mr. Shaffer indicated he was a visionary and collaborative, but everything came from the town council. The town manager had to execute the community's vision and serve them. He described how he engaged with his community to help form policy and have better discussions with the council and mayor.

Council Member Woodson asked him to summarize his career path and how it prepared him for this role. Mr. Shaffer stated that he was hands-on and worked in the trenches. He noted that he went after grant funding and added academia to those grant project requests from the state and federal governments.

Council Member Safford asked him to describe his experience managing municipal budgets. Mr. Shaffer replied that he managed a budget of about \$35 million as a county commissioner. Millions had to be cut out of their budget when the housing bubble burst. They looked at the percentage of each department to determine how much had to be cut. In his current position, he tried to offset capital projects with grants and other funding, but they also had to look at increasing fees to increase revenues while watching expenditures.

Mayor Allers asked how he would approach budgeting with limited revenue streams and fluctuating property values due to the disasters. Mr. Shaffer would have to lean on the team and be aware of what they were doing in Tallahassee. He noted they had to always look at the revenues and expenditures and forecast for the future.

Council Member King asked what he saw as the greatest challenge for the next manager. Mr. Shaffer responded that it was a rebirth and rebuild from the storm. He noted it was a slow process. He thought a challenge would be being cognizant of restricted cash flow with FEMA reimbursements and trying to build back better. Navigating changes, navigating what the community wants, what the vision looks like and how they put the policies in place was also part of the challenge.

Vice Mayor Atterholt asked him how he had prioritized relationship-building skills, with specific examples of where he utilized them. Mr. Shaffer reviewed his past positions and described how different small local municipalities eventually worked together to get things done. He noted he was close to his state representatives and felt building relationships with state and federal officials was important because they had to ask for funding. He added that

building relationships across many entities was important because it was in the community's best interest.

Council Member Woodson asked what critics would say about him and how he responded. Mr. Shaffer replied that he wanted to move fast and sometimes it was too fast. He was very strategic but not afraid to make a decision. He pushed organizations to improve and sometimes took a lot on himself.

Council Member Safford asked how he led a community through a significant change or recovery. Mr. Shaffer described how he dealt with straight-line winds from Hurricane Katrina that knocked out their electricity for over a week. A curfew was set and they were the only community that did not have vandalism. Water was provided to the community and a list was created to assist older adults.

Mayor Allers asked what strategies he would use to build consensus among council members, staff and community stakeholders. Mr. Shaffer replied he would have work sessions, meetings and survey the public to create a vision. He described the shoreline project he had been working on for six years and what working with the community entailed. He said they had to build consensus and bring everyone together to work through it.

John Trew introduced himself.

Council Member King asked why Fort Myers Beach. Mr. Trew said he's been visiting for 40 years and liked it. He thought it was a unique challenge.

Vice Mayor Atterholt listed the traits he was looking for. He asked if Mr. Trew shared his approach to governing and to provide examples. Mr. Trew replied affirmatively and noted that the citizens came first and they were all in this together. He described a team approach and working with the constituents and volunteers.

Council Member Woodson asked him to summarize his career path and how it prepared him for this role. Mr. Trew replied that he started operating a jackhammer in his city at 17 years old and described working up the ladder while pursuing his education. He noted he managed people well with a team effort. He explained how each of his positions helped him negotiate issues successfully.

Council Member Safford asked him to describe his experience managing municipal budgets. Mr. Trew replied that he was the CIP and handled the entire budget process. He had all the capital improvements and operating and delivered it to the mayor. The community was CDBG (Community Development Block Grant) eligible, and they had to manage about \$1 million. In another community, he handled all the utilities and their capital budget was \$12 million. He discussed working with limited resources and noted he was always under budget.

Mayor Allers asked how he would approach budgeting with limited revenue streams and fluctuating property values due to the disasters. Mr. Trew would make sure that they spent properly and they needed to be transparent. He would look for other avenues for leveraging and matching dollars and

develop private-public relationships.

Council Member King asked what he saw as the greatest challenge for the next manager. Mr. Trew thought coalitions had to be developed and to keep the state and DC coalitions going. Being visible in the community and working with members to help them was important.

Vice Mayor Atterholt asked him how he had prioritized relationship-building skills, with specific examples of where he utilized them. Mr. Trew said building relationships with the community was critical. He used a coaching approach to balance everything. He mentioned sympathy, empathy and knowing the passion some people have. He described how he ended up on a grant-making committee with the metropolitan planning organization and changed the process.

Council Member Woodson asked what critics would say about him and how he responded. Mr. Trew thought they would say he coached too much because he empowered the employees. He supported employees coming through the ranks so they could see light at the end of their tunnel. He said ensuring employees were part of the picture was important.

Council Member Safford asked how he led a community through a significant change or recovery. Mr. Trew indicated that one community was having water and sewer problems and rates were increasing, making it unsustainable. They set up an RFP to sell water and sewer and received multiple grants for the water line and the backup water supply for the county and the village. He described the challenges of a road widening project and a water line project while they were closing down SeaWorld.

Mayor Allers asked what strategies he would use to build consensus among council members, staff and community stakeholders. Mr. Trew replied that diverse opinions were easy and he negotiated contracts. They all had a common goal and had to understand and respect each other.

- B. Public Comment Regarding Prospective Town Manager Candidates Only
No public comment.

C. Selection of Town Manager

In accordance with Town Council Policies and Procedures, Resolution 23-182: Town Council shall have a 15-minute Question-and-Answer Session with each of the applicants (previous item). Town Councilors are to have an open discussion of the candidates. Each Council member uses the provided ranking sheet to list their order of selection, with 1 being their top choice. The Town Clerk will tally the votes and announce each applicant's combined ranking score with the lowest score being the candidate selected. A contract negotiator from Town Council is selected and the transition period, if necessary, is discussed. Council Member Safford voted for Will McKannay, Jeremy Shaffer, Michael Brillhart, Patrick Jordan and John Trew.

Mayor Allers voted for Will McKannay, Jeremy Shaffer, John Trew, Patrick Jordan and Michael Brillhart.

Vice Mayor Atterholt voted for Will McKannay, John Trew, Patarick Jordan,

Jeremy Shaffer and Michael Brillhart.

Council Member Woodson voted for Will McKannay, John Trew, Jeremy Shaffer, Patrick Jordan and Michael Brillhart.

Council Member King voted for Will McKannay, Jeremy Shaffer, Patrick Jordan, John Trew and Michael Brillhart.

Town Clerk Baker stated that the final ranking was Will McKannay, Jeremy Shaffer, John Trew, Patrick Jordan and Michael Brillhart.

Vice Mayor Atterholt moved to begin the negotiation process with Will McKannay and appoint Council Member Woodson as the liaison with the negotiation, seconded by Council Member Safford.

The motion carried unanimously by roll call vote.

Vice Mayor Atterholt informed Mr. McKannay that he received a unanimous vote. Mr. McKannay thanked Human Resources Director Talissa Oliveira and the staff for a professional and seamless process.

VI. ADJOURNMENT

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

Meeting adjourned at 3:01 PM.

1. **Request:**

Meeting Date: May 5, 2025

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

Why the action is necessary:

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

What the action accomplishes:

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

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Amy Baker, Town Clerk

5. **Background:**

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

Attachments:

1. 25-125, Extending Declaration of Local Emergency Ian 5.6.25 - 5.12.25
2. 25-126, Extending Declaration of Local Emergency Ian 5.13.25 - 5.19.25
3. 25-127, Extending Declaration of Local Emergency Ian 5.20.25 - 5.26.25
4. 25-128, Extending Declaration of Local Emergency Ian 5.27.25 - 6.2.25

Financial Impact:

6. **Alternative Action**

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

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Lizzette Roman, Town Clerk Administrative Coordinator
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 4/28/2025
Approved - 4/28/2025
Approved - 4/28/2025
Final Approval - 4/28/2025

RESOLUTION 25-125

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

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

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

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

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

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

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

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

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

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 6th day of May 2025.

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

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

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

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

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

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

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

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

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

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on the ____ day of May 2025.

RESOLUTION 25-126

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

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

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

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

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

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

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

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

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

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 13th day of May 2025.

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

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

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

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

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

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

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

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

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

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on the ____ day of May 2025.

RESOLUTION 25-127

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

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

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

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

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

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

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

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

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

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 20th day of May 2025.

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

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

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

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

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

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

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

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

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

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on the ____ day of May 2025.

RESOLUTION 25-128

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

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

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

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

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

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

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

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

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

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 27th day of May 2025.

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

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

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

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

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

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

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

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

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

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on the ____ day of May 2025.

1. **Request:**

Meeting Date: May 5, 2025

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

Why the action is necessary:

Keeps the Local State of Emergency in effect for Hurricane Idalia

What the action accomplishes:

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Amy Baker, Town Clerk

5. **Background:**

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

Attachments:

1. 25-129, Extension of Local Emergency - Idalia 5.6.25 - 5.12.25
2. 25-130, Extension of Local Emergency - Idalia 5.13.25 - 5.19.25
3. 25-131, Extension of Local Emergency - Idalia 5.20.25 - 5.26.25
4. 25-132, Extension of Local Emergency - Idalia 5.27.25 - 6.2.25

Financial Impact:

6. **Alternative Action**

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

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Lizzette Roman, Town Clerk Administrative Coordinator
Jason Freeman, Deputy Town Clerk / Legislative Liaison
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 4/28/2025
Approved - 4/28/2025
Approved - 4/28/2025
Approved - 4/28/2025
Final Approval - 4/29/2025

RESOLUTION NUMBER 25-129

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

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

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

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

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

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

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

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

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

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

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action

shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

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

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

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

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

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of May 2025.

RESOLUTION NUMBER 25-130

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

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

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

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

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

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

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

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

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

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

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action

shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

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

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

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

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

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of May 2025.

RESOLUTION NUMBER 25-131

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

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

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

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

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

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

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

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

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

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

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
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8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action

shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

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

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

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

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

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of May 2025.

RESOLUTION NUMBER 25-132

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

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

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

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2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

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

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
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 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
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- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
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8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action

shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

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

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of May 2025.

1. **Request:**

Meeting Date: May 5, 2025

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

Why the action is necessary:

Keeps the Local State of Emergency in effect for Tropical Storm Debby

What the action accomplishes:

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Amy Baker, Town Clerk

5. **Background:**

Approving and ratifying this Resolution will maintain in place the Town Declaration of State of Local Emergency originally adopted via Resolution 24-154.

Attachments:

1. 25-133, Extension of Local Emergency - Debby 5.6.25 - 5.12.25
2. 25-134, Extension of Local Emergency - Debby 5.13.25 - 5.19.25
3. 25-135, Extension of Local Emergency - Debby 5.20.25 - 5.26.25
4. 25-136, Extension of Local Emergency - Debby 5.27.25 - 6.2.25

Financial Impact:

6. **Alternative Action**

Do not approve and end the Local State of Emergency for Tropical Storm Debby

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Lizzette Roman, Town Clerk Administrative Coordinator
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 4/28/2025
Approved - 4/28/2025
Approved - 4/28/2025
Final Approval - 4/28/2025

RESOLUTION NUMBER 25-133

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

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

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

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

WHEREAS, the effects of Tropical Storm Debby impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 5, 2024, must be extended.

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

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

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

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

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

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

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

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

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

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

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

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ___ day of May 2025.

RESOLUTION NUMBER 25-134

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

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

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

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

WHEREAS, the effects of Tropical Storm Debby impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 5, 2024, must be extended.

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

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2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

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

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

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

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

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

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

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

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

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this __ day of May 2025.

RESOLUTION NUMBER 25-135

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

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

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

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

WHEREAS, the effects of Tropical Storm Debby impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 5, 2024, must be extended.

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2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

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

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
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5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.
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 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
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- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
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8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

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

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Dan Allers, Mayor	_____
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John R. King, Council Member	_____
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Karen Woodson, Council Member	_____

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ___ day of May 2025.

RESOLUTION NUMBER 25-136

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

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 - (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

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

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

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

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

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

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

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ___ day of May 2025.

1. **Request:**

Meeting Date: May 5, 2025

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

Why the action is necessary:

Keeps the Local State of Emergency in effect for Hurricane Helene

What the action accomplishes:

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Amy Baker, Town Clerk

5. **Background:**

Approving and ratifying this Resolution will maintain in place the Town Declaration of State of Local Emergency originally adopted via Resolution 24-192

Attachments:

1. 25-137, Extension of Local Emergency - Helene 5.6.25 -5.12.25
2. 25-138, Extension of Local Emergency - Helene 5.13.25 -5.19.25
3. 25-139, Extension of Local Emergency - Helene 5.20.25 -5.26.25
4. 25-140, Extension of Local Emergency - Helene 5.27.25 - 6.2.25

Financial Impact:

6. **Alternative Action**

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

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Lizzette Roman, Town Clerk Administrative Coordinator
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 4/28/2025
Approved - 4/28/2025
Approved - 4/28/2025
Final Approval - 4/28/2025

RESOLUTION NUMBER 25-137

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

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

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

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

WHEREAS, the effects of Hurricane Helene impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on September 23, 2024, must be extended.

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

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

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

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.
3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.

- (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.
 - (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
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 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
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 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such

other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

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

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

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

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

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of May 2025.

RESOLUTION NUMBER 25-138

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

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

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

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

WHEREAS, the effects of Hurricane Helene impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on September 23, 2024, must be extended.

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

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

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

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.
3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
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 - Rental of equipment;
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 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
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Jim Atterholt, Vice Mayor	_____
John R. King, Council Member	_____
Scott Safford, Council Member	_____
Karen Woodson, Council Member	_____

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of May 2025.

RESOLUTION NUMBER 25-139

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 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such

other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

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

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

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

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

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of May 2025.

RESOLUTION NUMBER 25-140

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

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

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

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

WHEREAS, the effects of Hurricane Helene impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on September 23, 2024, must be extended.

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

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

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

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.
3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.

- (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.
 - (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such

other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

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

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

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

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

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of May 2025.

1. **Request:**

Meeting Date: May 5, 2025

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

Why the action is necessary:

Keeps the Local State of Emergency in effect for Hurricane Milton

What the action accomplishes:

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Amy Baker, Town Clerk

5. **Background:**

Approving and ratifying this Resolution will maintain in place the Town Declaration of State of Local Emergency originally adopted via Resolution 24-214

Attachments:

1. 25-141, Extension of Local Emergency - Milton 5.6.25 - 5.12.25
2. 25-142, Extension of Local Emergency - Milton 5.13.25 - 5.19.25
3. 25-143, Extension of Local Emergency - Milton 5.20.25 - 5.26.25
4. 25-144, Extension of Local Emergency - Milton 5.27.25 - 6.2.25

Financial Impact:

6. **Alternative Action**

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

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Lizzette Roman, Town Clerk Administrative Coordinator
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 4/28/2025
Approved - 4/28/2025
Approved - 4/28/2025
Final Approval - 4/28/2025

RESOLUTION NUMBER 25-141

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

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

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

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

WHEREAS, the effects of Hurricane Milton impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on October 6, 2024, must be extended.

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

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

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

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

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

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

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

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

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

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

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

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this __ day of May 2025.

RESOLUTION NUMBER 25-142

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

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

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

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

WHEREAS, the effects of Hurricane Milton impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on October 6, 2024, must be extended.

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

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

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

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

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

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

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

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

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

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

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this __ day of May 2025.

RESOLUTION NUMBER 25-143

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

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

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

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

WHEREAS, the effects of Hurricane Milton impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on October 6, 2024, must be extended.

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

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

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

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

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

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

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

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

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

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

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

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this __ day of May 2025.

RESOLUTION NUMBER 25-144

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

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2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

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

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
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 - Entering into contracts;
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 - Employment of permanent and temporary workers;
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 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
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 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.
 - (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

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

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

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

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

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

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this __ day of May 2025.

1. **Request:**

Meeting Date: May 5, 2025

This agenda item is a First Reading and Public Hearing on proposed Ordinance 25-07. If approved at First Reading, a Second Reading and final adoption hearing will be scheduled for May 19, 2025, at 9:00 AM or at another time identified by Town Council.

ORDINANCE TITLE:

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.

Why the action is necessary:

The applicant wishes to reduce the number of dwelling units, but create a structure larger than what existed pre-storm which means that they cannot utilize post-disaster build-back policies without first obtaining a Special Exception.

What the action accomplishes:

Develop a larger, but less dense two-family structure with reduced setbacks adjacent to the Town's ROW/parking lot and use the building requirements in the Downtown Zoning District, rather than the RM District.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Ordinance

4. **Submitter of Information:**

Jason Smalley, Senior Planner

5. **Background:**

Applicant wishes to redevelop a previously existing 4-unit residential structure into a 2-unit planned development, pushing the building towards the bridge/parking lot, using downtown as the underlying zoning requirements rather than the residential multi-family (RM) as called for in the code, and increase the floor area ration to accommodate a building with more square-footage than what existed pre-storm.

Attachments:

1. ns rev Ordinance 25-07; 1011 Third St
2. TC Staff Report
3. Applicant Narrative
4. Revised MCP
5. RPD Schedule of Uses and Development Regulations
6. 1011 Third St Survey
7. LEEPA Tax Records
8. Full Architectural Plans

9. Architectural Elevations
10. Drainage Plan
11. Public Hearing Application

Financial Impact:

N/A

6. Alternative Action

Approve with Conditions

7. Management Recommendations:

N/A

8. Recommended Approval:

Jason Smalley, Senior Planner
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 4/21/2025
Approved - 4/21/2025
Approved - 4/28/2025
Approved - 4/28/2025
Final Approval - 4/29/2025

ORDINANCE 25-07

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) ELIMINATION OF THE REQUIRED 5-FOOT SIDE YARD SETBACKS TO ALLOW FOR A 0-FOOT SIDE-YARD SETBACK ON THE EASTERN PROPERTY LINE; AND 3) REQUESTING AN INCREASE IN THE FLOOR AREA RATIO (FAR) OF 0.7, FOR A FAR OF 1.7 FAR WHERE AN FAR OF 1.0 IS 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.

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, Matthew Noble ("Applicant"), on behalf of Merschman I LLC., owners of the property generally located at 1011 Third Street, Fort Myers Beach and bearing Strap Number 24-46-23-W3-00202.0060 (the "Property"), filed an application to rezone the Property from Downtown to Residential Planned Development ("RPD") in accordance with a proposed Schedule of Uses and Master Concept Plan (MCP) and deviations from Sections 34-943 ("Building placement, size, design and other property development regulations"), 34-674 (b)(1)(b) ("Building Placement") and 34-675(c)(3) ("Building Size") of the Land Development Code (LDC); and

WHEREAS, Exhibits A and B to this Ordinance contain a copy of the Master Concept Plan and Schedule of Uses for this RPD; and

WHEREAS, the Property is located in the Pedestrian Commercial Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach, and is under common control of the owner as listed in the public records of Lee County Property Appraiser; and

WHEREAS, the requested deviations from the LDC include:

Deviation #1: A deviation is requested from LDC Section 34-943 to permit the use of the land use regulations applicable to the Downtown Zoning District found in Sec. 34-674 – Building

placement standards and LDC Section 34-675 – Building size, except for the requested deviation to the side-yard setback as modified through these deviations that are discussed below. The Applicant has submitted Property Development Regulations (PDRs) specific to this planned development based on the Downtown regulation standards found in sec. 34-674 and 34-675.

Deviation #2: A deviation from LDC sec. 34-674(b)(1)(b). for the eastern side setback from 5 feet to 0 feet.

Deviation #3: A deviation from sec. 34-675(c)(3) Floor area ratio (FAR) of 1.0 to permit a FAR of 1.70. The project as designed and presented represents a FAR of 1.61.

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on April 8th, 2025 and the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and found the requested rezoning with deviations to be consistent with the Fort Myers Beach Comprehensive Plan and Land Development Code; and

WHEREAS, the LPA voted 6 to 0 with one member not present to recommend approval/ approval with conditions /denial of the request to rezone the Property from Downtown to RPD with deviations, and

WHEREAS, on the 5th day of May 2025 the Town Council held a first reading of the proposed Ordinance to rezone the Property with deviations, and gave full and complete consideration of the Applicant's request, the LPA's recommendation, including their finding of consistency with the Comprehensive Plan, staff's recommendation, 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 the 15th day of May 2025, which was noticed in the Fort Myers News-Press more than 10 days prior to the public hearing on the ____ day of _____, 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 paid all fees associated with notice, advertisement, and consulting services required by the Town related to this rezoning request; and

WHEREAS, the Town Council finds that this request to rezone the property from Downtown to an RPD with a corresponding Schedule of Uses and Master Concept Plan (MCP) with three (3) deviations to the LDC in order to develop a two-family home is consistent with the Comprehensive Plan; and

WHEREAS, a Business Impact Estimate has been prepared and was published on the Town's website on the ____ day of _____, 2025; 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 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 three 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 which is, **consistent/inconsistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve/approve with conditions/deny** the Application.

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

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

Section 2. The Town Council determines the Applicant **did/did not** meet its burden of proof that the requested rezoning request **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 schedule of uses and conditions of approval for the Property's RPD set forth in Exhibit A and the attached Master Concept Plan in Exhibit B, attached hereto and incorporated herein by this reference are approved.

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

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

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

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

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

DULY PASSED AND ADOPTED on this ____ day of _____ 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- Master Concept Plan (MCP)
- B- Schedule of Uses



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TYPE OF CASE: Residential Planned Development

CASE NUMBER: DCI Rezoning 20240275

CASE NAME: 1011 Third Street, rezoning to Residential Planned Development (RPD) with deviations.

TOWN COUNCIL HEARING DATE: May 8th, 2025

STAFF RECOMMENDATION: Approval with conditions

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

I. APPLICATION SUMMARY

Applicant/Owner: Merschman I LLC./Matthew Noble

Request: Rezone the property at 1011 Third St to a Residential Planned Development to allow the development of a two-unit residential structure and request three deviations 1) remove the requirement that RPDs apply the zoning regulations for the Residential Multi-Family (RM) zoning district, and instead apply the development regulations for the Downtown zoning district (the current zoning of the lot); 2) reduce the side-yard setback on the east-side of the property from 5-feet to zero-feet and; 3) request an increase of the Floor Area Ratio (FAR) from 1.0 to 1.7.

LPA Outcome: During the April 8th, 2025 meeting the LPA members briefly discussed the request to use Downtown zoning rather than the RM district which the code calls for when creating a Residential Planned Development (RPD). After some discussion about the design of the pool on the roof the LPA voted 6-0-1 with one abstention to unanimously recommend approval of the rezoning.

Subject property: See Exhibit A

Physical Address: 1011 Third Street

STRAP #: 24-46-23-W3-00202.0060

FLU: Pedestrian Commercial

Zoning: Downtown

Adjacent zoning and land uses:

North:	DOWNTOWN Single-Family Home; Rental
South:	DOWNTOWN Commercial Restaurant
East:	RIGHT-OF-WAY Town Parking Lot
West:	DOWNTOWN Parking Lot

II. BACKGROUND AND ANALYSIS

The applicant, Matthew Noble on behalf of the property owner Merchman I LLC., is requesting to develop a two-unit residential structure located at 1011 Third St. While the lot would not be eligible for multiple residential dwelling units based on the parcel size, the applicant has shown compelling evidence that there did exist 4 dwelling units prior to the destruction caused by Hurricane Ian.

Based on Lee Property Appraiser (LEEPA) data, the pre-storm area of the structure was 2,212 sq.ft. and contained 4 dwelling units built between 1972 and 1984. Based on aerials available to staff it appears that the pre-storm structure would have compliant setbacks under today's code, although it appears that the western side-setback was less than the minimum 5' side setback required, and the rear setback was less than the 25-foot distance required within the Downtown zone. The Downtown zoning district requires setbacks of:

Front: 0-5-foot Build-To Line

Side: 5-feet

Rear: 25-feet

Maximum Height: 40-feet above Design Flood Elevation (DFE; BFE+1' freeboard)

The lot in question has an area of 3,212 sq.ft. (0.07 ac) and is located within the Town's commercial downtown core area. It is in the Pedestrian Commercial Future Land Use which allows a density of six dwelling units per acre and a maximum Floor Area Ratio (FAR) of 2.5. The surrounding lots are largely commercial in nature, sitting adjacent to parking lots, restaurants, and short-term rentals.

Analysis:

The site is located in the designated Downtown zoning district and with a "Pedestrian Commercial" land use designation on the Future Land Use (FLU) map. The Pedestrian Commercial land use category permits a maximum 1.2 F.A.R., however, LDC Section 34-953 requires that RPD rezonings apply the building placement, size, design, and all other property development regulations as required for the RM zoning district. The RM zoning district allows a maximum FAR of 1.0.

Deviations:

1. The applicant is requesting to use the Downtown zoning district Property Development Regulations (PDRs), found in sec. 34-674 and 34-675, as the underlying rules for the development of this site, rather than the Residential Multi-Family (RM) PDRs required by sec. 34-943.
 - a. This will have the effect of reducing the baseline setbacks which are 6.5', 7.5' or 10' for one and two-family structures in the RM district, and replacing it with a 5' setback in Downtown, as well as providing for a greater baseline FAR as compared to the RM district. Staff is unclear why the applicant has chosen to request this deviation, considering that they are requesting a Planned Development with deviations for setbacks and FAR.
2. A request to reduce the setback on the east-side of the property from the required 5-foot distance to zero (0), effectively allowing the building to be on the property line directly adjacent to the Town's parking lot and the Matanzas Bridge right-of-way.
 - a. Staff has no concern about the request considering the uses surrounding the property are as intense –or more intense-- and the proposed residence poses little risk of any nuisances which may negatively affect the Town's parking lot. Any concerns with the bridge right-of-way would be dealt with during the permitting phase with the easement owner.
3. The applicant is requesting to increase the FAR from 1.0 allowed in sec. 34-675(c)(3) to 1.7 FAR to increase the allowed developable area of the lot. The actual FAR of the proposed structure is 1.61.
 - a. Staff recognizes that the lot in-question is relatively small and that any development would require taller more dense construction to make the project economically feasible. While the applicant is requesting additional FAR beyond what their project calls for, staff recognizes that the project is proposing less density than what existed prior to the hurricanes, even if the intensity of the project is increasing.

Neighborhood Compatibility:

The subject property is located approximately 0.14 mile from Times Square and is located directly within the Town's commercial core. The property fronts on Third St.; north of Crescent St. and directly adjacent to the Town's parking lot and the County's Matanzas Bridge right-of-way. The project is surrounded by vacant commercial properties, parking lots as well as single and multifamily residential properties.

IV. FINDINGS AND CONCLUSIONS

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

LDC Sec. 34-85 (b) Considerations. In reaching its decision, the town council shall consider the following, whenever applicable:

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

Staff response: No errors or ambiguities exist.

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

Staff response: The structure which was destroyed during the storm was a 4-unit multi-family home which is being rebuilt with less density, but taller, and with additional square footage.

(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 Floor Area Ratio is consistent with the Town of Fort Myers Beach Comprehensive Plan Future Land Use designation. Policy 4-E-1 addresses Pre-Disaster Buildback, but does not speak to Post Disaster Buildback.

(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 and does not impact open space or preserves.

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

Staff response: The proposed density and intensity are compatible with surrounding uses.

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

Staff response: The location is compatible and due to the decrease in overall density staff would expect fewer trips to/ from the property.

(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 RPD 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.

(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 two dwelling units, are less intense than the previous four dwelling units and less intense than many uses allowed within the underlying Downtown zone.

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

Staff response: Sufficient safeguards are provided for the public interest through code required buffering at the property boundaries.

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 RPD amendment meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC. Staff recommends **approval** of DCI20240275

VI. CONDITIONS OF APPROVAL

- 1) The applicant must work with the County and/ or State DOT to ensure that the proposed plan will not interfere with the bridge ROW.
- 2) All other LDC requirements shall be met.

ATTACHMENTS

Exhibit A: Master Concept Plan

Exhibit B: Schedule of Uses and Deviations

Matthew A. Noble, AICP, CFM.
1011 Third Street
Variance Narrative

Previous Use

In 1972 the site was developed with a single structure that contained 4 dwelling units. The applicant has attached information from the Lee County Property Appraisers Office detailing the use of the property prior to Hurricane Ian. This information indicates that the structure included 2,212 square feet of improvements that include the 4 dwelling units and associated porches and carport. This redevelopment effort would replace the 4 dwelling units with 2 dwelling units.

Proposed Project

The applicant proposes to develop a residential project on the site that contains 2 dwelling units above parking. The project proposes 2 stories over a parking garage, for a total of 3 stories. This configuration is consistent with Section 34-631, Building height and Figure 34-1-a. This figure depicts parking and storage only 1st story with residential use on the 2nd and 3rd stories. The proposed plan is exactly that, 1st story parking with residential use on the 2nd and 3rd stories. The plan includes a small pool on the roof of the structure. The pool is setback 5 feet from the edge of the roof.

As can be discerned from the 8-27-2024 survey of the lot, the subject property is approximately 40 feet wide and approximately 80 feet deep. The front property boundary is depicted as measuring 40.12 feet wide. The rear property boundary is depicted as measuring 40.16 feet wide. The left side property boundary is depicted as measuring 80.08 feet long. The right side property boundary is depicted as measuring 79.96 feet long. A parallelogram exists when it has pairs of opposite sides parallel and equal. That is not the case in this instance as demonstrated by the survey. The shape of the lot is exceptional or extraordinary conditions or circumstances that support granting the requested variance.

The survey of the property also documents that the property is setback from the parking lot by 11.3 feet at the rear and 12.0 feet at the front of the property. Granting the variance will have no impact on the parking lot given that the lot is already setback from the improved parking lot 11 to 12 feet. The location of the site adjacent to the Sky Bridge and public parking lot under the bridge is exceptional or extraordinary conditions or circumstances that support granting the requested variance.

Proposed Variance

The applicant seeks a variance to the side setback requirements to place the building on the property boundary along the Public Parking lot. Instead of providing a 5 foot side setback, the applicant seeks a 0 foot setback.

Building Placement

LDC Section 34-674 includes the build-to lines and setbacks that are established for the Downtown zoning district. Section 34-674 (a)(1)b. provides that built-to lines are 0 to five feet for all of First, Second, Third, and Fifth, and the south side of Estero Boulevard from the Sky Bridge to Miramar Street. The site plan demonstrates consistency with the build-to line as the proposed structure is proposed with a 0-foot front set back to maintain consistency with the requirement. The proposal will help frame Third Street with an attractive modern residential structure that meets floodplain standards.

Section 34-674(a)(b)(1)b. provides that the minimum side setbacks are five feet from side property lines. The proposed site plan demonstrates that the left side of the proposal meets the 5-foot setback.

Section 34-674(b)(1) provides that minimum rear setbacks are 25 feet from rear property lines. The proposed site plan demonstrates consistency with this provision of the LDC.

Building Height

Section 34-675(b) (2) provides that a maximum of 30 feet above base flood elevation and no taller than three stories. The building plans demonstrate that the proposed building is consistent with this requirement as the plan show less than 29 feet (28 10 ³/₄ feet) above base flood elevation.

Project Location

The subject site is located in Downtown on Third Street. The property is located immediately adjacent to the Sky Bridge and public parking lot. The subject site is located and connected by sidewalks and streets to the pedestrian activity areas of Times Square and the commercial areas located along Old San Carlos Boulevard. The subject site is located near to “people gathering places” from the Times Square to the plaza at the north end of Old San Carlos Boulevard. The site has easy pedestrian access to excursion boats, dinner cruises, charter fishing and party boats and water shuttles. The site is a short walk to the beach at Lynn Hall Memorial Park. The property is located in the main gateway to the Island.

The subject site is located in the Downtown Core Area. The Downtown Core Area contains tree shaded outdoor cafes, pedestrian streets and areas such as Time Square, Crescent Street, and Old San Carlos Boulevard. The proposed project assists in revitalizing the area and provides housing that capitalizes on its location in downtown and is consistent with Policy CD-1-A-1 and CD-a-A-

2. Policy CD-1-A-1 addresses having a mixture of uses in this core area. The proposal would result in 2 residential uses that complements the commercial uses in the area. Policy CD-1-A-2 addresses creating the Times Square Mixed-Use District:

Create The Times Square Mixed-Use District.

The Times Square Mixed-Use District is the main tourist/entertainment district which will accommodate the most growth in terms of height and density with a predominance of residential uses on the east side of Estero Boulevard and hotel lodging and commercial uses on the west side. It is the main gateway to the island. Entertainment and tourist supporting commercial uses should be clustered here to reduce the need to drive throughout the island and to encourage walking.

The proposal is consistent with Policy CD-1-A-2 and furthers the creation of the Times Square Mixed-Use District. The provision of residential use on the property supports and compliments the tourist uses, restaurants and cafes in the downtown area. The residents of the proposal will have access to the island from the surrounding pathways and access to the island bus system.

Comprehensive Plan & Zoning Designation

The subject site is in the Commercial (FKA Pedestrian Commercial) Future Land Use category. The site is in the Time Square proposed Mixed-Use District. The Beach's Comprehensive Plan in Policy CD-1-A-2 provides that the Times Square Mixed-Use District is the main tourist/entertainment district which will accommodate the most growth in terms of height and density with a predominance of residential uses on the east side of Estero Boulevard and hotel lodging and commercial uses on the west side. This policy further provides that it is the main gateway to the island. Entertainment and tourist supporting commercial uses should be clustered here to reduce the need to drive throughout the island and to encourage walking. The subject proposal is consistent and furthers this policy in providing modern residential units that are built to current standards.

Revised Policy FLU 1-B-7 provides that the Pedestrian Commercial is primarily a 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 Villa Santini Plaza.

The site is zoned Downtown. The LDC, in Section 34-87, contains Findings that the town council must find that all of 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 public policy.*

The exceptional or extraordinary conditions or circumstances are that the site is adjacent to the sky bridge and parking lot as well as the size and shape of the lot. These circumstances are unique to the lot. Rigid compliance is not essential to protect public policy. Only one or two other lots may have similar circumstances on the island so granting a variance is appropriate given the facts of this case.

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 lot was platted in February 1949. The Sky Bridge and public parking lot were developed several decades later. The property owner had no part in these decisions.

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 will allow the applicant/owner the ability to redevelop the site to today's standards including flood regulations. This will permit the owner to develop a structure that is safer from flood events that may happen in the future.

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

Granting the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The lot line is 11 to 12 feet setback from the developed public parking lot under the bridge. Granting the variance will result in the residential structure being setback 11 to 12 feet from the parking lot and will have no impact on the parking lot or the operation of the Sky Bridge.

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

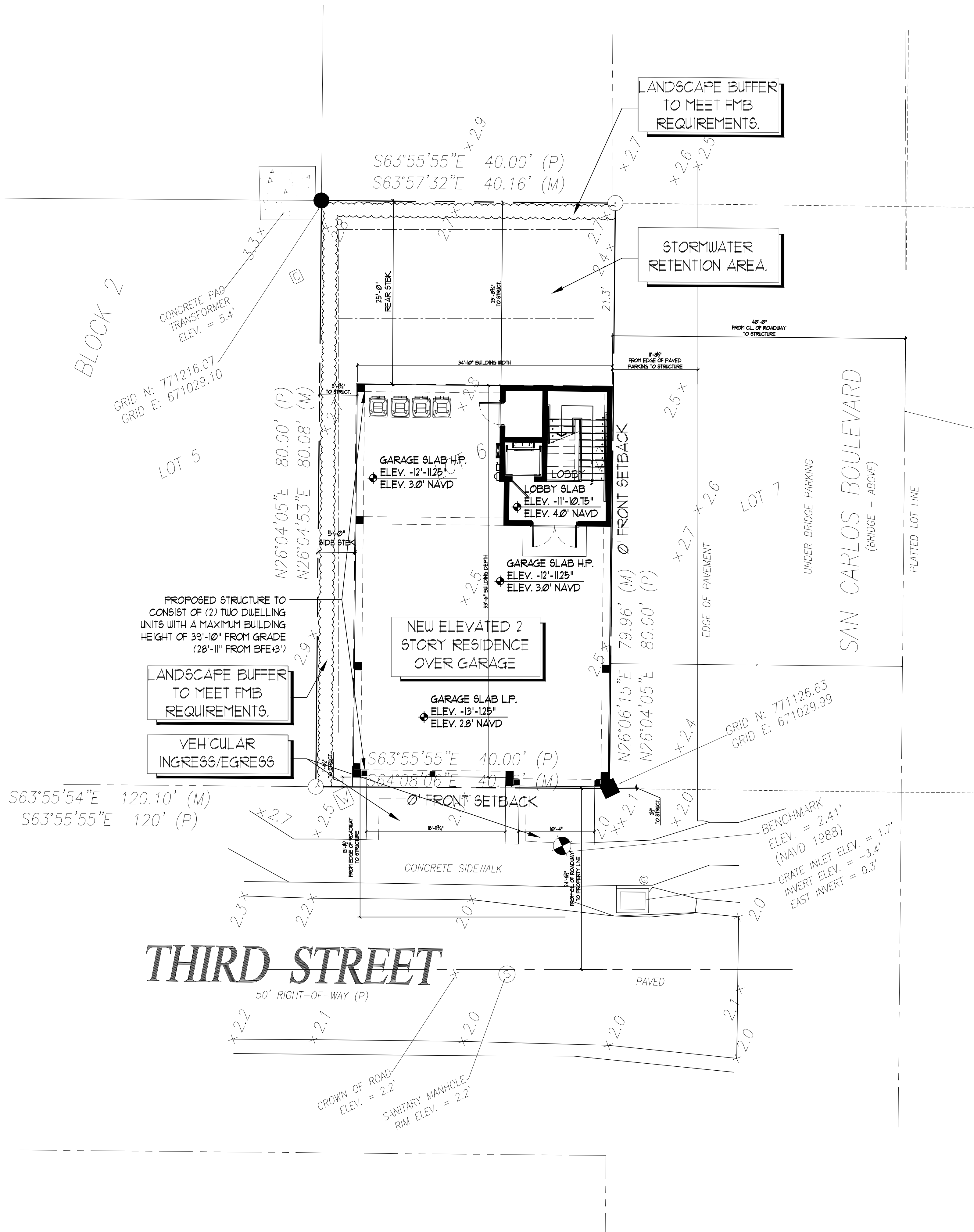
These conditions or circumstances are specific to the subject property. These circumstances are not of so general or recurrent a nature, so it is not reasonable and practical to amend the regulations.

Final Thoughts

The proposal is consistent with the Comprehensive Plan and Land Development Code as discussed above. The variance is the minimal variance required to permit the proposed residential structure.

The proposal does not impact the operation of the Sky Bridge or public parking lot. The proposed structure does not negatively impact the views from the bridge to the Gulf of Mexico. The height is consistent with the Land Development Code requirements and flood regulations.

The applicant is looking forward for the Local Planning Agencies assistance in achieving this beneficial project and encourages the LPA to approve this minor variance that has minimal impacts on adjacent uses, namely the Sky Bridge and public parking lot.



ZONING DATA

ZONE:

VILLAGE OF FORT MYERS BEACH
ZONING: DOWNTOWN
PRINCIPAL LAND USE: RESIDENTIAL (2 UNITS)

FLOOD ZONE (2019):

AE-II
BFE: 11.00' NAVD.
D.F.E. +3.00' + 14' NAVD.
PROPOSED HABITABLE FLOOR: 15.9' NAVD.

MAX BUILDING HEIGHT:

ALLOWABLE: 30'-0" FROM D.F.E.
PROPOSED: 28'-11" FROM D.F.E.
33'-10" FROM GRADE
TWO HABITABLE FLOORS ABOVE TERRAIN
MEASURED FROM B.F.E. +3' TO TOP OF PARAPET WALL.

DENSITY:

TWO DUELLING UNITS
A/C AREA: 1,659 SF. PER UNIT
3 BEDROOMS PER UNIT
CONSTRUCTION TO BE COMPLETED IN ONE PHASE.

LOT COVERAGE CALCULATIONS

LOT SIZES INCREMENTS OR PORTION (INCREMENT IN SQUARE FEET)	MAX. BUILDING AREA (% OF LOT AREA)	LOT SIZE IN SQUARE FEET*
LOT SIZE		3,212
MAX PERMITTED IMPERVIOUS AREA	61%	2,058
PROVIDED IMPERVIOUS AREA		
PROVIDED FOOTPRINT OF STRUCTURE		1,819
PROVIDED FLOOR AREA RATIO	161	



Date	
Revisions	

1011 THIRD STREET

FORT MYERS BEACH, FLORIDA



ARCHITECT:

BECK ARCHITECTURAL
GROUP, LLC
804 ANCHOR RODE DR.
NAPLES, FL 34103
CONTACT: KYLE VAYDA
EMAIL: KYLE@BECK
ARCHITECTURAL.COM
PHONE: (239) 431-1686

PROJ. #: 2404-05

DRAWN BY: K.A.V.

DATE: 9.18.24



MASTER CONCEPT PLAN

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

REVIEW SET

Schedule of Uses

Dwelling unit:

Two-family

Property Development Regulations

Built-to lines are 0 to five feet for Third Street.

Building frontage shall be at least 35 percent of the lot frontage.

Minimum rear setbacks are 25 feet from rear property lines.

Minimum side setbacks are five feet from side property lines, except they may be 0 feet adjacent to the parking lot under the Sky Bridge.

Building height shall be limited to 30 feet above base flood elevation plus 1 additional foot and no taller than three stories.

Floor area ratio (FAR) shall not exceed 1.7.

LEGEND

- = BENCHMARK, SET PK NAIL AND DISK - "CHW INC. LB 5075"
- = FOUND 5/8" REBAR - NO IDENTIFICATION
- = FOUND PK NAIL AND DISK - "LB 642"
- = SET 5/8" REBAR AND CAP - "CHW INC. LB 5075"
- = FOUND 5/8" REBAR AND CAP - "PLS 5463"
- = FOUND 5/8" REBAR AND CAP - "PLS 3196"
- = FOUND 4" X 4" CONCRETE MONUMENT WITH 1/4" REBAR
- (C) = CALCULATED DATA
- (M) = FIELD MEASURED DATA
- (P) = RECORD PLAT DATA
- GRID N: = STATE PLANE NORTHING COORDINATE (FLORIDA WEST ZONE)
- GRID E: = STATE PLANE EASTING COORDINATE (FLORIDA WEST ZONE)
- +3.1 = SPOT ELEVATION, NAVD 1988
- = WOOD UTILITY POLE
- = CABLE BOX
- = SANITARY SEWER MANHOLE
- = SANITARY SEWER CLEAN-OUT
- = ELECTRIC BOX OR PANEL
- = GAS VALVE
- = WATER METER
- = ROYAL PALM
- = COCONUT PALM

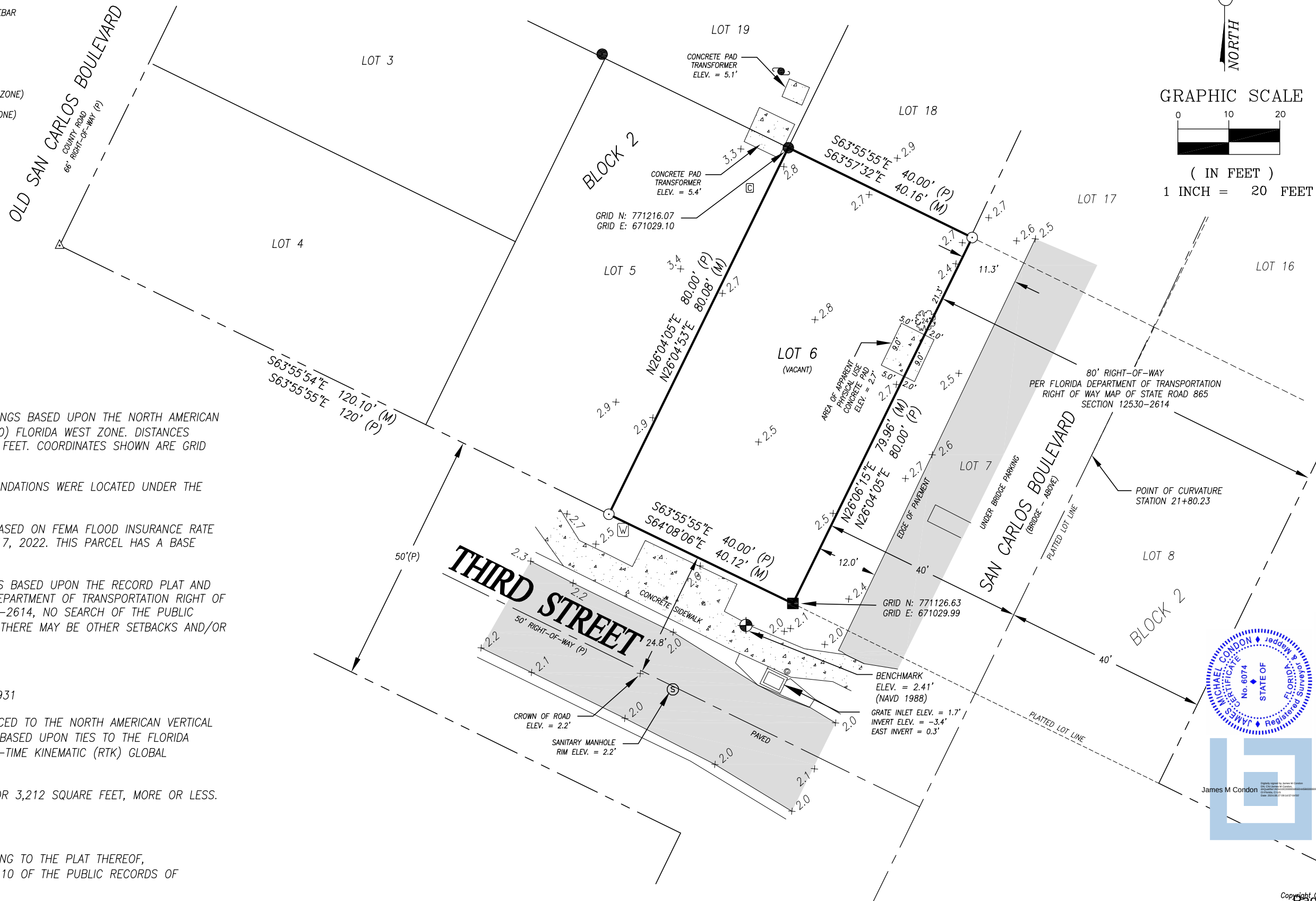
SURVEYOR'S NOTES

- BEARINGS SHOWN HEREON ARE GRID BEARINGS BASED UPON THE NORTH AMERICAN DATUM OF 1983, 1990 ADJUSTMENT (NAD83/90) FLORIDA WEST ZONE. DISTANCES SHOWN ARE GROUND DISTANCES MEASURED IN FEET. COORDINATES SHOWN ARE GRID COORDINATES.
- NO UNDERGROUND IMPROVEMENTS OR FOUNDATIONS WERE LOCATED UNDER THE SCOPE OF THIS SURVEY.
- THIS PARCEL LIES IN FLOOD ZONE "AE" BASED ON FEMA FLOOD INSURANCE RATE MAP PANEL 12071C0554G, DATED NOVEMBER 17, 2022. THIS PARCEL HAS A BASE FLOOD ELEVATION OF 11.0' (NAVD 1988).
- BOUNDARY INFORMATION SHOWN HEREON IS BASED UPON THE RECORD PLAT AND LEGAL DESCRIPTION PROVIDED, AND FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP OF STATE ROAD 865 SECTION 12530-2614, NO SEARCH OF THE PUBLIC RECORD WAS PERFORMED BY THIS SURVEYOR. THERE MAY BE OTHER SETBACKS AND/OR EASEMENTS NOT KNOWN TO THIS SURVEYOR.
- THE STREET ADDRESS IS:
1011 THIRD STREET 1-4
FORT MYERS BEACH, FLORIDA 33931
- ELEVATIONS SHOWN HEREON ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD '88). ELEVATIONS ARE BASED UPON TIES TO THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) REAL-TIME KINEMATIC (RTK) GLOBAL POSITIONING SYSTEM (GPS) CONTROL NETWORK.
- PARCEL SURVEYED CONTAINS 0.074 ACRE, OR 3,212 SQUARE FEET, MORE OR LESS.

LEGAL DESCRIPTION

LOT 6, BLOCK 2, BUSINESS CENTER, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 9, PAGE(S) 9 AND 10 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

MAP OF BOUNDARY SURVEY OF
LOT 6, BLOCK 2, BUSINESS CENTER, LYING IN
SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,
TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA



OWNER'S NAME
MERSCHMAN I LLC

OWNER'S ADDRESS
1421 E LAKE SHORE DR
SPRINGFIELD, IL 62712

LEGAL DESCRIPTION
BUSINESS CENTER
BLK.2 PB 9 PG 9
LOT 6

DOR CODE 08 MULTI-FAMILY LESS THAN 10
NBHD CODE 07-202.0
ESTERO ISLAND - SAN CARLOS BLVD

ELEMENT

CODE

TYPE / DESCRIPTION

EXTERIOR WALL26VINYL/ALUMINUM SIDING

EXTERIOR WALL0NONE

ROOF STRUCT14ELONGATED HIP

ROOF COVER12MODULAR METAL SHINGLE

DRIVEWAY*3FOUNDATION*1

ELEVATION*6STORIES1

INTERIOR WALL4PLYWOOD PANEL

INTERIOR WALL0NONE

INT FLOOR9PINE/LAMINATE/LUXURY VINYL

INT FLOOR0NONE

HEATING FUEL4ELECTRIC

HEATING TYPE3FORCED AIR-NOT DUCTED

AIR COND TYPE2WINDOW UNIT

CENTRAL VACX A/C UNIT

QUALITY3AVERAGE

CONDITION*1

BEDROOMS3X SHOWER

BATHROOMS4X SINK

FULL BATHX URINAL

1/2 BATHX TOILET

3/4 BATHX BIDET

CEILING HT*4X KITCHEN3

TRAY CEILINGSWET BAR/UTILITY

OUTDOOR SHOWERSPRINKLER (Y/N) N

BUILDING SUBAREA DETAIL

AREA YEAR

GROSS PCT

ADJ CAP

COST

TYPE BUILT

AREA BASE

AREA

VALUE

BAS 1972

432 100

432 -

31,810

BAS 1972

312 100

312 -

22,974

APT 1972

432 100

432 -

31,810

AP2 1972

312 100

312 -

22,974

AP3 1972

196 100

196 -

14,432

STP 1972

264 10

26 -

1,914

LCP 1972

264 5

13 -

957

TOTALS:

2,212

1,723

126,872

SITE ADDRESS1011 THIRD ST 1-4 33931

ASSESSORPBINSPECTOR124INSPECTION DATETuesday, September 21, 2021

EFF AREASTRUCT INDEXEFF BASE RATEREPLACEMENT COST NEWACTUAL YR BLTEFF YR BLTECON OBSFUNC OBSNORMAL DEPRREMAINING WORTHCOST VALUE

1,7230.88116.88201,384197219840%0%37%63%126,872

IMP TYPE114 FAMILY CONVERSIONMODEL1 SINGLE FAMILY RESIDENTIAL

10'2'12'26'26'36'6'12'10'16'24'

BASBASSTP

PERMIT

NUMBERDATECO/CCASGNVALUENOTE

LINE CODE

NAME

DESCRIPTION

LENGTH

WIDTH

UNITS

UNIT PRICE

PCT COND

L/B

YEAR

ANN DEPR

DEPR ADJ

CAP FLAG

COST VAL

EX

TOTAL OF EXTRA FEATURE VALUES:

0

LINE CODE

DESCRIPTION

ZONING

FRONT

DEPTH

DF

CF

TYPE

UNIT PRICE

UNITS

U T

TOT ADJ

ADJ UNIT PRICE

LAND VALUE

CAP

EVAL NOTES

1800MF<10

C-1

0

0

1.00

1.00

0

60.00

3,093.00

SF

1.00

60.00

185,580

-

PB

TOTAL OF LAND LINE VALUES:

185,580

NOTES92 BPMT PA BAS/FLL+INC UOP/STP STP 27/26 SS+ASB/CB+ AL SLAB 99 SALE PB ADD ELEC FAND WAC & LCP IMP26/15 FLL/BAS 2001 SALE REVW PM BR 2/3 LCP DEL SLAB **02 SALE MB BAS/FLL*05 SALE JRH FLL/APT STORY 1/2 TRI/QUAD PER TENANT 1-1/1, 1-2/1 AND 2 STUDIOS* DESKTP RVW 7/5/2012 HUDSONJ RR/FAM CONV. DESKTP RVW 10/21/2016 HUDSONJ*18 SALE MP **2020 SALE JEH **'21 SALE JEH

BOOK/PAGE OR INSTRUMENT #

DATE

TYPE INST

OVR CODE

V I

SALE PRICE

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08/2018

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06/2004

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335,000

3576/2091

01/2002

06 06

I

290,000

3372/3762

01/2001

08 08

I

66,600

3356/3190

01/2001

06 06

I

257,500

3224/2044

01/2000

06 06

I

143,400

2948/3935

04/1998

06 06

I

175,000

724 /326

08/1971

14,000

COST SUMMARY

2022

2021

BUILDING COST VALUE

126,872

108,300

BUILDING EXTRA FEATURES

0

0

LAND EXTRA FEATURES

0

0

LAND VALUE

185,580

112,000

COST APPROACH VALUE

312,452

220,300

INCOME APPROACH VALUE

*

*

SALES APPROACH VALUE

525,306

352,262

OVERRIDE BUILDING VALUE

-

-

OVERRIDE LAND VALUE

-

-

MARKET VALUE

525,306

352,262

14'

14' AP3

AP2

APT

LCP

1011 THIRD STREET
FORT MYERS BEACH, FLORIDA



FRONT (NORTH) ELEVATION
SCALE: 1/4" = 1'-0"

ABBREVIATIONS LIST

ABV.	ABOVE	LAV.	LAVATORY
ALUM.	ALUMINUM	LIN.	LINEN
ARCH.	ARCHITECTURAL OR ARCHITECT	L.P.	LIQUID PROPANE
BLDG.	BUILDING	L.P.	LOWER POINT
BM.	BEAM	(M)	MEASURE
C.C.C.L.	COASTAL CONSTRUCTION CONTROL LINE	MANUF.	MANUFACTURER
CLG.	CEILING	MAX.	MAXIMUM
C.M.U.	CONCRETE MASONRY UNIT	M.D.	MOTORIZED DRAPERY
CONC.	CONCRETE	MECH.	MECHANICAL
D.D.	DECK DRAIN	MIN.	MINIMUM
DECO.	DECORATIVE	MIRR.	MIRROR
D.E.P.	DEPARTMENT OF ENVIRONMENTAL PROTECTION	NA.V.D.	NORTH AMERICAN VERTICAL DATUM
DISP.	DISPOSAL	O.C.	ON CENTER
DIST.	DISTANCE	PLATTED	(P)
D.S.	DOWN SPOUT	R.D.	ROOF DRAIN
DUGS.	DRAWINGS	REF.	REFER
ELEV.	ELEVATION	REF.	REFRIGERATOR
ELEV.	ELEVATOR	RES.	RESIDENCE OR RESIDENTIAL
ELEC.	ELECTRICAL	SECT.	SECTION
ENG.	ENGINEER	SHUR.	SHOWER
EQUIP.	EQUIPMENT	S.P.	SPRINGS POINT
FF.	FINISHED FLOOR	SPECS.	SPECIFICATIONS
FIN.	FINISHED	STO.	STORAGE
FLR.	FLOOR	STRUC.	STRUCTURAL
FRZ.	FREEZER	T. & G.	TONGUE AND GROOVE
G.C.	GENERAL CONTRACTOR	T.O.	TOP OF
GUB.	GYPSPUM WALL BOARD	TYP.	TYPICAL
GYP. BD.	GYPSPUM BOARD	U.C.	UNDER COUNTER
HABIT.	HABITABLE	VEST.	VESTIBULE
H.B.	HOSE BIB	W.C.	WATER CLOSET
HDR.	HEADER	WD.	WARMER DRAWER
H.P.	HIGH POINT	WH.	WATER HEATER
HVAC.	HEATING, VENTILATING & AIR CONDITIONING	W.I.C.	WALK IN CLOSET
ID.	INTERIOR DESIGNER		

ARCHITECT SHEET INDEX

A1	COVER SHEET / STREET ELEVATION
A2	SITE PLAN
A3	GROUND FLOOR SLAB PLAN
A4	GROUND FLOOR NOTE PLAN
A5	GROUND FLOOR DIMENSION PLAN
A6	FIRST FLOOR SLAB PLAN
A7	FIRST FLOOR NOTE PLAN
A8	FIRST FLOOR DIMENSION PLAN
A9	SECOND FLOOR SLAB PLAN
A10	SECOND FLOOR NOTE PLAN
A11	SECOND FLOOR DIMENSION PLAN
A12	ROOF TOP NOTE PLAN
A13	ROOF TOP DIMENSION PLAN
A14	FRONT 1 SIDE ELEVATIONS
A15	REAR 1 SIDE ELEVATIONS
A16	BUILDING SECTIONS
A17	WALL SECTIONS
A18	WINDOW AND DOOR SCHEDULES
A19	WINDOW 4 DOOR DETAILS
E1	GROUND FLOOR ELECTRICAL PLAN
E2	FIRST FLOOR ELECTRICAL PLAN
E3	SECOND FLOOR ELECTRICAL PLAN
E4	ROOF DECK ELECTRICAL PLAN

GENERAL NOTES

- DO NOT SCALE THESE DRAWINGS; IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO CHECK ALL DIMENSIONS AND VERIFY THE BUILDING POSITION WITHIN THE SETBACK LINES PRIOR TO COMMENCING CONSTRUCTION.
- FOR ARCHITECTURAL REFERENCE, ELEVATIONS SHOWN HEREFTER ARE BASED ON EL. 0'-0" EQUAL TO 15.9' NAVD.
- ALL INFORMATION SHOWN HEREON IS TAKEN FROM A SURVEY. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO FAMILIARIZE HIMSELF WITH ALL EXISTING CONDITIONS. ALL EXISTING CONDITIONS ARE NOT NECESSARILY SHOWN HEREON.
- ALL TRADES SHALL BE RESPONSIBLE TO READ ALL DETAILS AND SPECIFICATIONS, AND PLANS - ARCHITECTURAL, STRUCTURAL, MECHANICAL, ETC. FOR PROPER COORDINATION. IF ANY CONFLICTS EXIST, THAT TRADE SHALL NOTIFY THE CONTRACTOR OF THE SAME, PRIOR TO CONSTRUCTION.
- THE CONTRACTOR SHALL DIRECT ANY DISCREPANCIES TO THE ARCHITECT PRIOR TO CONSTRUCTION, AND THE CONTRACTOR SHALL BE RESPONSIBLE FOR WORK WHICH PROCEEDS WITHOUT DUE COURSE AND COORDINATION.
- SMOKE DETECTORS ARE SHOWN ON THE ELECTRICAL PLAN.
- ACCESSIBILITY REQUIREMENTS: ACCESSIBLE BATHROOM DOORS SHALL HAVE A 29" CLEAR OPENING - A 2'-8" DOOR PROVIDES A 29" CLEAR OPENING. ALL BATHROOMS ARE ACCESSIBLE IN THIS FLOOR PLAN.
- EGRESS WINDOWS ARE SHOWN ON ELEVATIONS (IF APPLICABLE).

RESIDENTIAL CODE INFORMATION

ALL RESIDENTIAL CONSTRUCTION SHALL COMPLY WITH 2023 FLORIDA BUILDING CODE, BUILDING, PLUMBING, MECHANICAL, FUEL GAS, THE CODE IS COMPILED WITH THE 2011 ADDITION OF THE NATIONAL ELECTRICAL CODE ADOPTED BY REFERENCE. THE NATIONAL ELECTRICAL CODE IS REFERENCED STANDARD NFPA-70A.

RESIDENTIAL POOL SAFETY ACT - CHAPTER 41 OF THE FBC 2023 RESIDENTIAL

- ALL DOORS AND WINDOWS PROVIDING DIRECT ACCESS FROM THE HOME SHALL MEET THE RESIDENTIAL POOL SAFETY ACT.
- ALL SCREEN DOORS ARE TO BE SELF LATCHING AND SELF CLOSING. LATCH MECHANISM SHALL BE MOUNTED AT 54" AFF.
- ALARMS SHALL BE INSTALLED ON SCREEN DOORS.
- THE G.C. IS TO VERIFY THAT ALL ACCESS TO THE POOL AREA MEET THE SWIMMING POOL SAFETY ACT.

BUILDING DATA

- WIND LOAD DATA:
REFER TO DRAWINGS BY STRUCTURAL ENGINEER.
- ELEVATION OF FIRST HABITABLE FLOOR IS 15.9
- APPLICABLE FLOOD ZONE: AE-1
- COUNTY ZONING: FORT MYERS BEACH
TO MEAN ROOF HEIGHT OR TOP OF PARAPET
- BUILDING TYPE OF CONSTRUCTION: 3-B
- MAX BUILDING HEIGHT: 30'
TO MEAN ROOF HEIGHT OR TOP OF PARAPET
- LOT COVERAGE CALCULATIONS:
REFER TO SITE PLAN SHEET A-2

LEGAL DESCRIPTION

LOT 6, BLOCK 2, BUSINESS CENTER, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 9, PAGE(S) 9 AND 10 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

REVISION LOG

NO.	DESCRIPTION	DATE

SITE REQUIREMENTS

- REQUIRED BUILDING SETBACKS:
FRONT SETBACK: 0'-0"
REAR SETBACK: 25'-0"
SIDE SETBACK: 5'-0"
SIDE SETBACK: 0'-0"
- FMB WATER AND SEWER

SQUARE FOOTAGE CALCS.

GROUND FLOOR LOBBY:	247 SF.
FIRST FLOOR A/C:	1659 SF.
SECOND FLOOR A/C:	1659 SF.
TOTAL A/C SQUARE FOOTAGE	3365 SF.
STORAGE:	40 SF.
GARAGE:	1596 SF.
ROOF TOP DECK:	1596 SF.
TOTAL NON A/C AREA:	3231 SF.
GROSS AREA:	6,796 SF.

DESIGN PROFESSIONALS

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GENERAL CONTRACTOR:
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CIVIL ENGINEER:
GODDARD ENGINEERING, LLC.
CONTACT: MATTHEW GODDARD
EMAIL: MG@GODDARDPEERMAIL.COM
PHONE: (239) 716-2608

REVIEW SET



Date
1.14.25

Revisions
ADDENDUM A: FMB STAFF COMMENTS

1011 THIRD STREET
FORT MYERS BEACH, FLORIDA

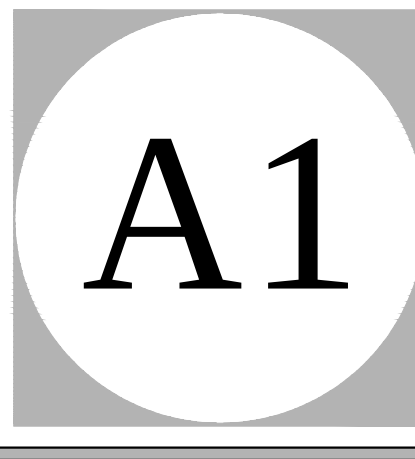


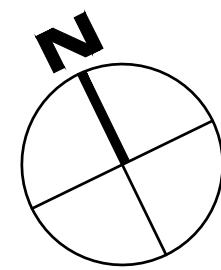
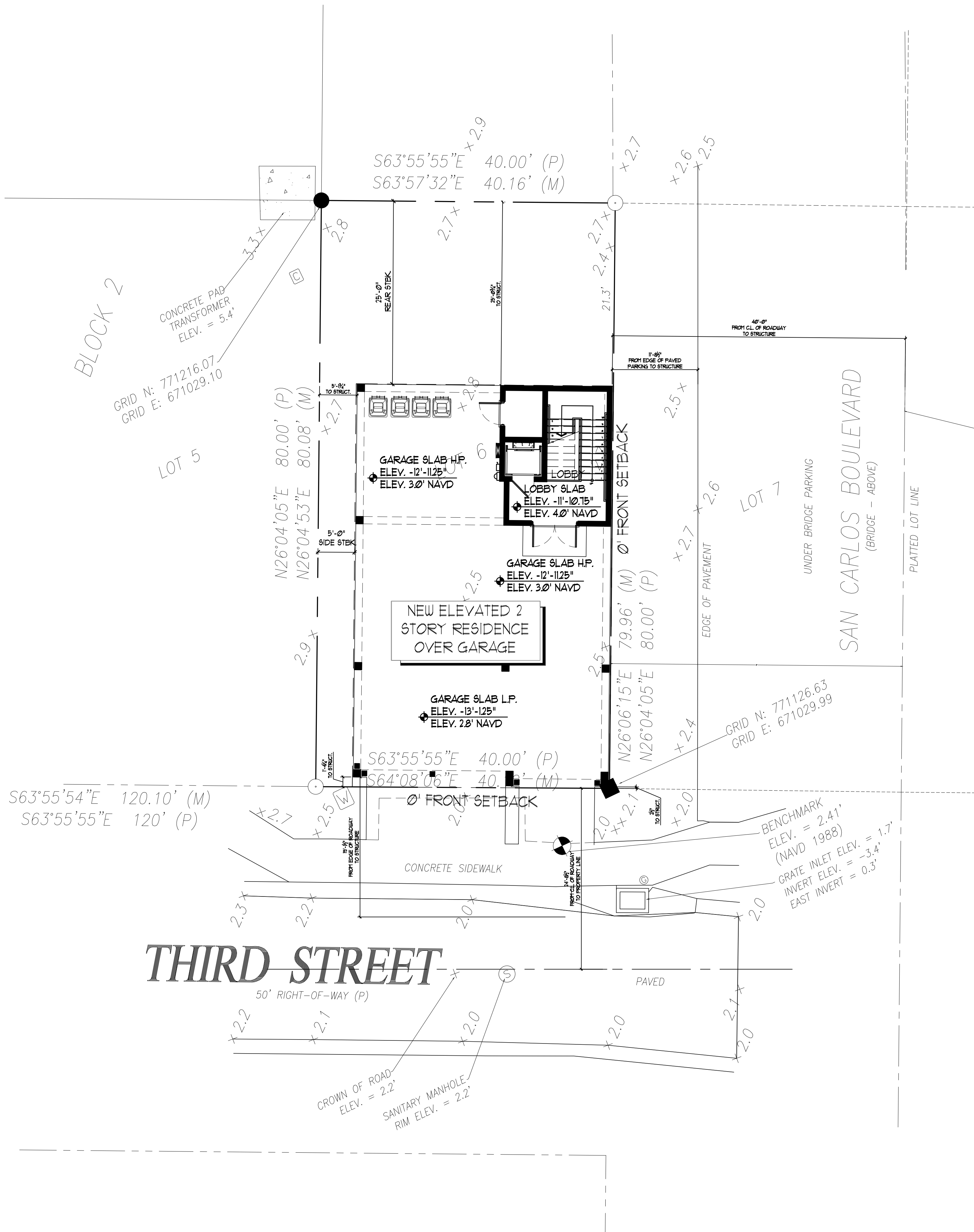
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PROJ. #: 2404-05

DRAWN BY: K.A.V.

DATE: 9.18.24





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

ZONING DATA

ZONE:

VILLAGE OF FORT MYERS BEACH
ZONING:

FLOOD ZONE (2019):

X
BFE: 1100' NAVD.
DFE: 4100' + 12' NAVD.

MAX BUILDING HEIGHT:

30'-0"
FEMA HABITABLE FLOOR + 3'-0" RESILIENCY
PROVISION

GENERAL NOTES

- G.C. TO COORDINATE REMOVAL OF EXISTING VEGETATION.
- ALL DOORS & WINDOWS PROVIDING DIRECT ACCESS FROM THE HOME SHALL MEET THE RESIDENTIAL POOL SAFETY ACT.
- ALL SCREEN DOORS (IF APPLICABLE) ARE TO BE SELF LATCHING AND SELF CLOSING. LATCH MECHANISM SHALL BE MOUNTED # 54".
- ALARMS SHALL ALSO BE INSTALLED ON SCREEN DOORS (IF APPLICABLE) G.C. TO VERIFY THAT ALL EXITS TO THE BACKYARD MEET SWIMMING POOL SAFETY ACT.
- TO VERIFY ALL EXISTING CONDITIONS ON SITE PRIOR TO COMMENCEMENT OF CONSTRUCTION. NOT ALL EXISTING CONDITIONS ARE NECESSARILY SHOWN ON THIS PLAN.
- REFER TO SURVEY FOR EXISTING CONDITIONS.
- REFER TO LANDSCAPE ARCHITECT'S DRAWINGS FOR INFORMATION ON THE POOL, LANDSCAPING AND OTHER SITE FEATURES.
- REFER TO SITE DRAINAGE PLANS BY CIVIL ENGINEER FOR PROPOSED SITE ELEVATIONS, GRADING, ETC.
- ALL INFORMATION SHOWN HEREON IS TAKEN FROM A SURVEY. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO FAMILIARIZE HIMSELF WITH ALL EXISTING CONDITIONS. ALL EXISTING CONDITIONS ARE NOT NECESSARILY SHOWN HEREON.



Date

Revisions

1011 THIRD STREET
FORT MYERS BEACH, FLORIDA



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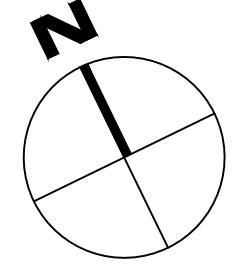
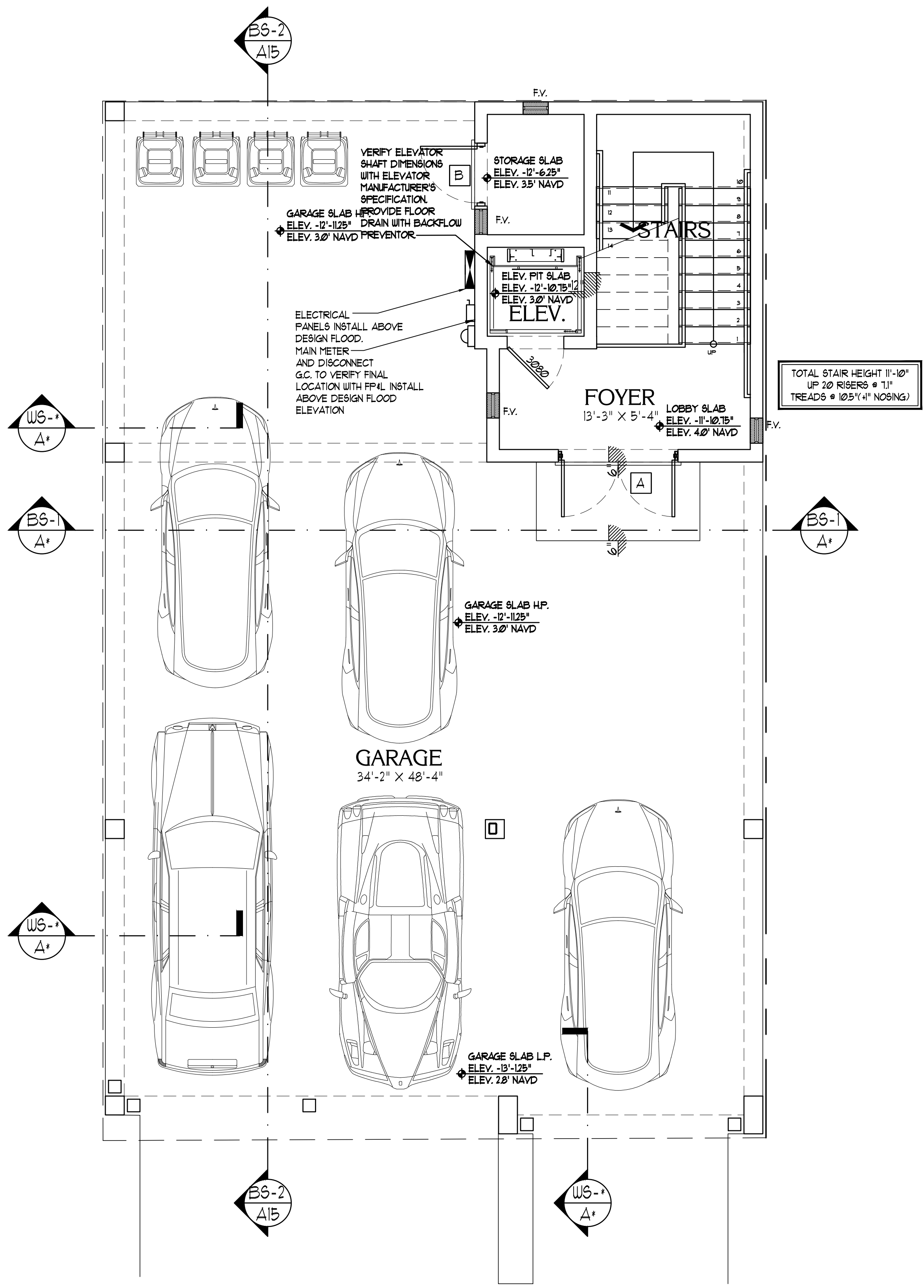
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NAPLES, FLORIDA

804 ANCHOR RODE DRIVE



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

FLOOD VENT CALCULATIONS	
(1) 8" x 16" SMART VENT	= 200 SQ. FT. (FLOOD)
FOYER	= 242 SQ.FT. (2 SMART VENTS)
STORAGE	= 32 SQ.FT. (2 SMART VENTS)

FLOOD RESISTANT MATERIALS	
ALL STRUCTURAL & FINISH MATERIALS BELOW THE DESIGN FLOOD ELEVATION (12.00' NAVD) SHALL BE CONSTRUCTED OF APPROVED MATERIALS AS LISTED BELOW FROM FEMA TECHNICAL BULLETIN 2-08 (2013).	
FLOOD DAMAGE-RESISTANT MATERIAL REQUIREMENTS*	
STRUCTURAL MATERIALS	CONCRETE MASONRY
EXTERIOR WALLS	CONCRETE (C.I.P.)
FLOOR (SLAB)	PT. LUMBER
INTERIOR WALLS	NON-PAPER-FACED GYPSUM BOARD
INTERIOR SHEATHING	
FINISH MATERIALS	STONE TILE (MORTAR SET)
FLOORING	DECAY-RESISTANT WOOD***
WINDOWS/DOORS	PVC LUMBER
BASEBOARD/TRIM	LATEX OR OIL-BASED
PAINT	
WATERPROOF TYPE	STONE & DECAY-RESISTANT WOOD ***
STAIR TREADS	

***DECAY RESISTANT WOOD PER FBC (2023), RESIDENTIAL, R322.2 & FEMA TB-2, ALUPA UI REFERENCED FOR ACCEPTABLE DECAY RESISTANT WOOD SPECIES.

LEGEND	
	3" INTERIOR WALL FURRING SYS. (REFER TO WALL SECT.)
	REINFORCED CMU WALL SYSTEM
	STONE CLADDING ON CMU WALL. SEE PLAN FOR DIM. & LOCATIONS.
	STUCCO ON CMU WALL. TYP. SEE PLAN FOR LOCATIONS.
	CONCRETE COLUMN/ WALL. REFER TO STRUCT. PLANS.
	INTERIOR STUD BEARING WALL
	INTERIOR STUD WALL
	TUBULAR STEEL COLUMN, REF. STRUCT. FOR SIZE & LOCATION.
	GANG STUD COLUMN, REF. STRUCT. FOR SIZE & LOCATION.
	FLOOD VENT. SEE PLAN FOR NUMBER & LOCATIONS.

- ### GENERAL NOTES
- THE G.C. IS TO VERIFY ALL WINDOW AND DOOR ROUGH OPENING SIZES WITH INSTALLATION REQUIREMENTS PRIOR TO INSTALL.
 - ALL DOORS AND WINDOWS PROVIDING DIRECT ACCESSSES FROM THE PORCH SHALL MEET THE RESIDENTIAL POOL SAFETY ACT, CHAPTER 45, FBC 2023 RESIDENTIAL EDITION/
 - ALL WINDOWS AND FRENCH DOORS SHALL BE IMPACT RESISTANT. GARAGE DOORS SHALL BE IMPACT RESISTANT. MAHOGANY ENTRY DOORS SHALL ALSO BE IMPACT RESISTANT.
 - ALL SCREEN DOORS ARE TO BE SELF LATCHING, SELF CLOSING AND HAVE ALARMS. G.C. IS TO VERIFY THAT ALL EXITS TO THE POOL AREA MEET THE POOL SAFETY ACT.
 - G.C. PROVIDE SOUND INSULATION FOR ALL INTERIOR WALLS AND CEILINGS, AND INSULATE ALL EXTERIOR WALLS.
 - POOL DESIGN AND LANDSCAPING BY OTHERS.
 - A 40" HIGH AFF. (BALCONY) AND 36" HIGH (STAIR) ALUMINUM OR COMPOSITE RAILING SHALL BE CONSTRUCTED SUCH THAT A 4" SPHERE SHALL NOT PASS THROUGH AT ANY POINT (TYP.) (SECTION R307 OF THE FBC 2023). G.C. TO VERIFY HANDRAIL IS INSTALLED TO MEET A CIRCULAR CROSS SECTION WITH A DIAMETER OF 1-1/4" - 2" OR PROVIDE A NONCIRCULAR CROSS SECTION WITH EQUIVALENT GRASP ABILITY PERFORMANCE TO MEET THE FBC 2023 R301.8.3.
 - THE GARAGE SHALL BE SEPARATED FROM THE RESIDENCE BY NOT LESS THAN 1/2" TYPE "X" GYPSUM BOARD, AND 5/8" TYPE "X" GYPSUM BOARD FROM HABITABLE ROOMS ABOVE THE GARAGE AS PER RESIDENTIAL FBC 2023 R302.6.
 - OPENINGS BETWEEN THE GARAGE AND RESIDENCE SHALL BE EQUIPPED WITH SOLID WOOD DOORS NOT LESS THAN 1 3/8" IN THICKNESS, SOLID OR HONEY COMB-CORE STEEL DOORS NOT LESS THAN 1 3/8", OR 20 MIN. FIRE-RATED DOORS, EQUIPPED WITH A SELF-CLOSING DEVICE, PER SEC. R302.5.1
 - DUCT WORK WHICH PENETRATE THE WALLS BETWEEN THE GARAGE AND THE RESIDENCE SHALL BE CONSTRUCTED OF A MIN. OF NO. 26 GAGE SHEET METAL OR OTHER APPROVED MATERIAL AS PER R302.5.2, OF THE RESIDENTIAL 2023 F.B.C.
 - ALL GROUND FLOOR ELEVATIONS REFERENCED FROM FINISHED CONCRETE SLAB ELEV. 0'-0" (4.0' NAVD).
 - G.C. TO VERIFY POSITIVE SLOPE OF FINISHED FLOOR TO ENSURE PROPER DRAINAGE AT LANAIS, COVERED ENTRY, OUTDOOR LIVING, BALCONIES, AND GARAGES.
 - G.C. TO PROVIDE ICYNENE INSULATION AT THE UNDERSIDE OF ALL ROOF TRUSSES INCLUDING GARAGES, LANAIS, AND BALCONIES IF APPLICABLE. G.C. TO ALSO PROVIDE MAKE UP AIR EQUAL TO ULTRA AIR ADEQUATE FOR THIS SYSTEM. G.C. TO PROVIDE (2) VENTS INSTALLED INSIDE THE GARAGE OPEN TO THE ATTIC SPACE.
 - MAKE UP AIR FOR KITCHEN HOOD WILL BE PROVIDED BY A BROAN UNIVERSAL AUTOMATIC MAKE-UP AIR DAMPER SIZED AT A RATE APPROX. EQUAL TO THE EXHAUST AIR RATE. MAKEUP AIR SYSTEM SHALL BE EQUIPPED WITH A MEANS OF CLOSURE AND SHALL BE AUTOMATICALLY CONTROLLED TO START AND OPERATE SIMULTANEOUSLY WITH THE EXHAUST SYSTEM AS REQUIRED PER M1603.4.
 - G.C. TO COORDINATE W/ ELECTRICAL DRAWINGS FOR SIZE & LOCATION OF A/C PADS, POOL EQUIPMENT, ELECTRICAL METER, ELECTRICAL PANELS & HB.
 - ALL ELECTRICAL, PLUMBING AND MECHANICAL EQUIPMENT TO BE SLAB ON GRADE AND ABOVE ELEVATION +2.00' NAVD.
 - REFER TO STRUCTURAL DRAWINGS FOR EXACT LOCATION OF STRUCTURAL WALLS, COLUMNS, AND BEAMS.
 - REFER TO LOW ROOF PLAN FOR WET DECK SLOPE / DRAINAGE LOCATIONS.
 - REFER TO INTERIOR DRAWINGS FOR FINAL CEILING HEIGHTS AND INFORMATION.
 - ALL STEAM SHOWERS SHALL HAVE A SLOPED CEILING AT A MIN. 1/2" PER FT. G.C. TO COORDINATE LOCATION OF EQUIPMENT WITH ARCHITECT AND/OR INTERIOR DESIGNER PRIOR TO INSTALLATION.

REVIEW SET

DATE: _____

Revisions

1011 THIRD STREET
FORT MYERS BEACH, FLORIDA

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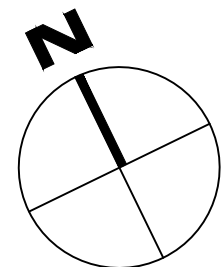
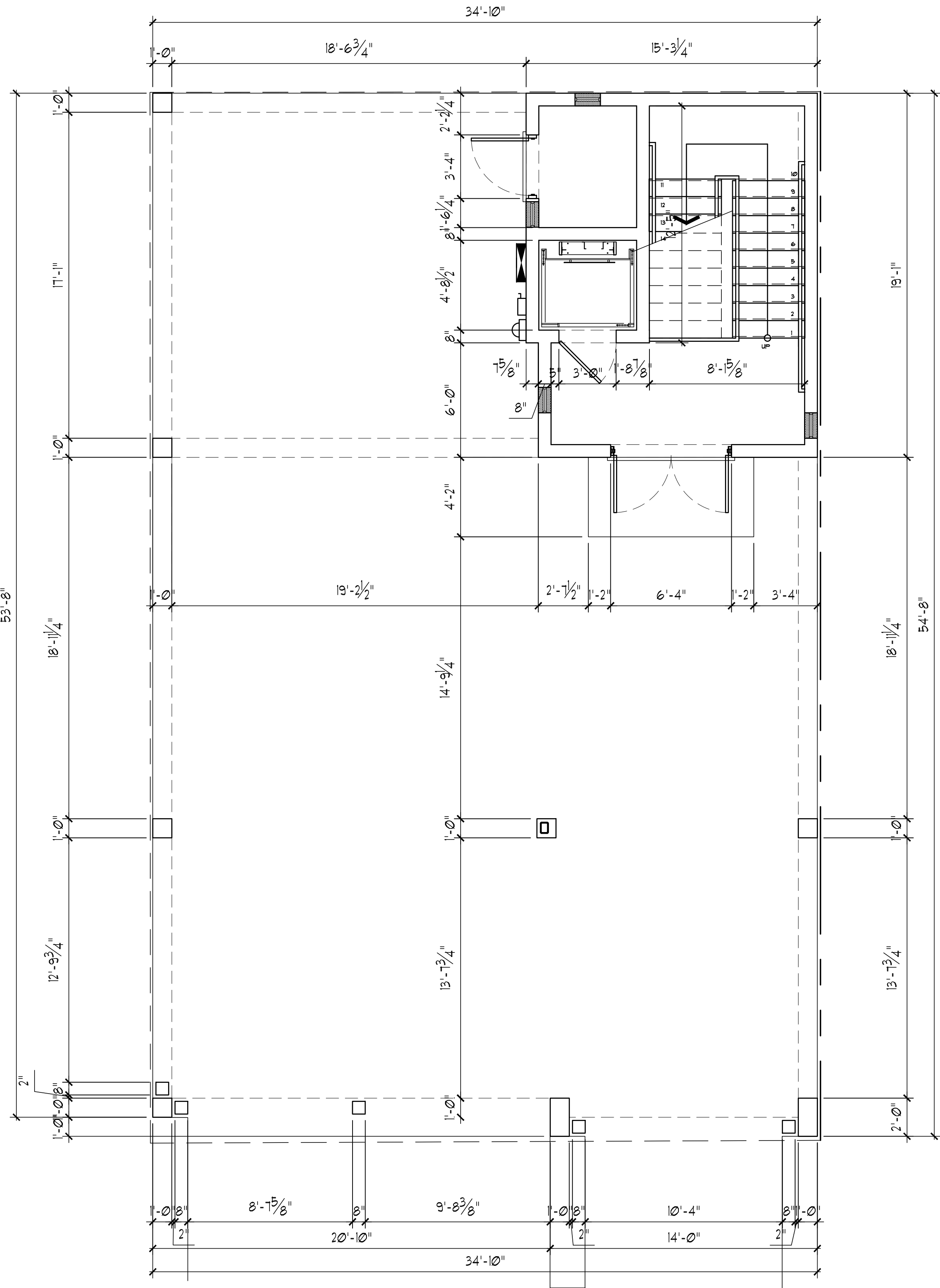
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Page 136 of 548



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

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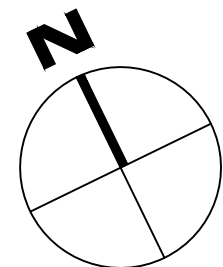
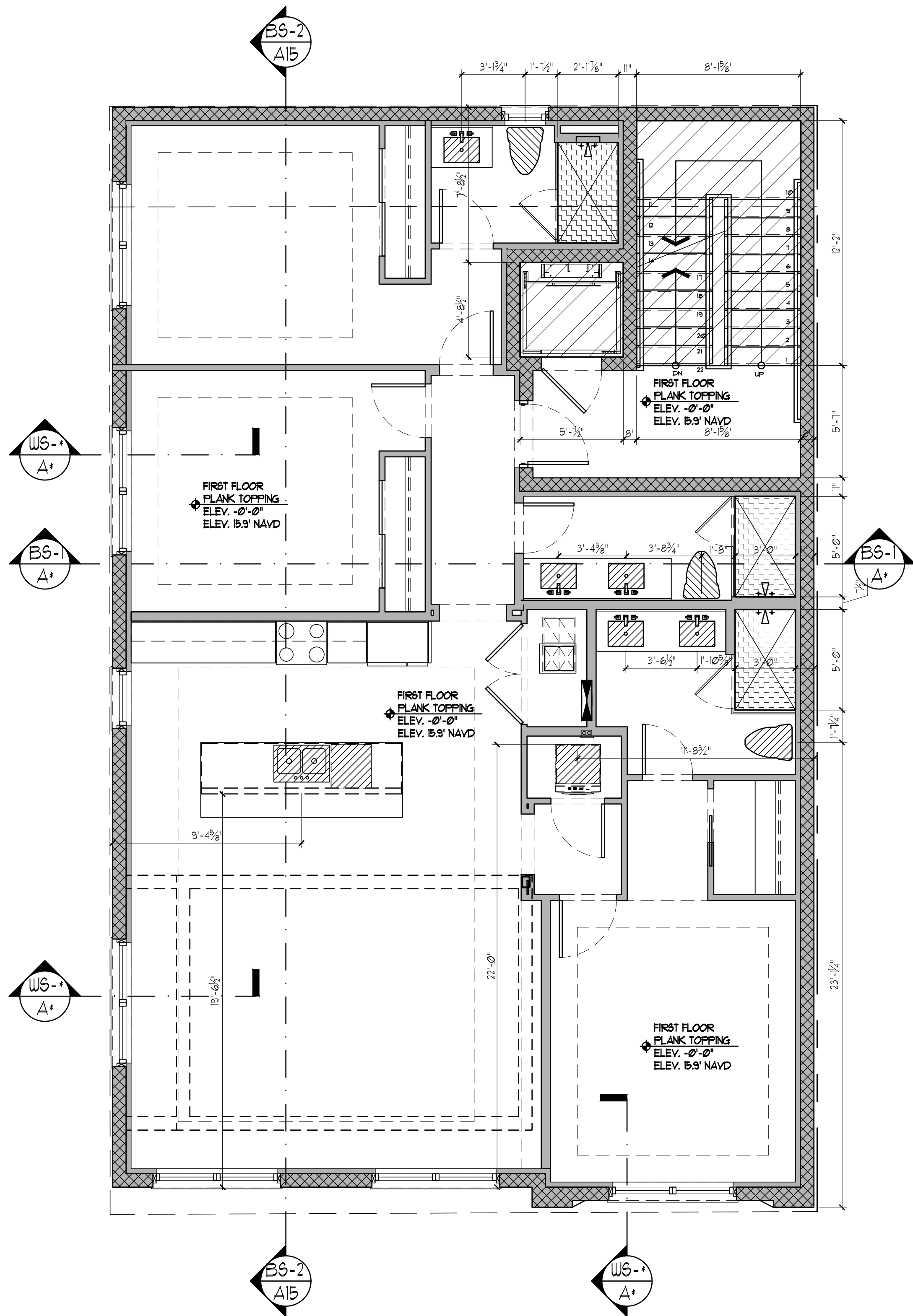
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Revisions

Date

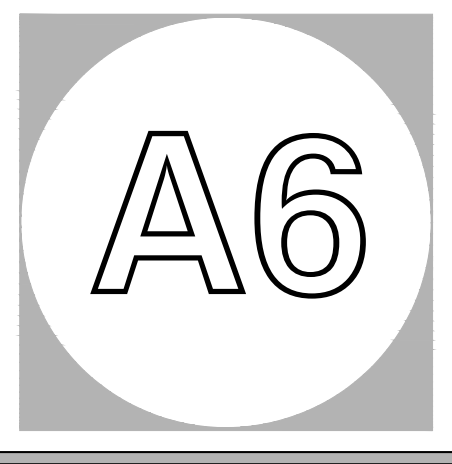


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FIRST FLOOR SLAB PLAN
SCALE: 1/4"=1'-0"

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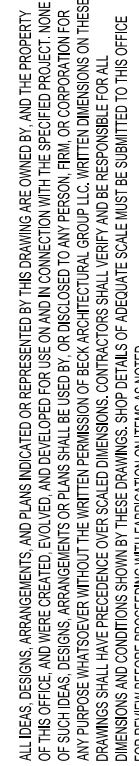
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1011 THIRD STREET
FORT MYERS BEACH, FLORIDA

Revisions	Date





804 ANCHOR RODE DRIVE



BECK
ARCHITECTURAL GROUP

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DRAWN BY: K.A.V.
DATE: 9.18.24

A7

3" INTERIOR WALL SECT. 8/9.
(REFER TO WALL FURT.)

REINFORCED CMU WALL SYSTEM

STONE CLADDING ON CMU WALL.
SEE PLAN FOR DIM. & LOCATION.

STUCCO ON CMU WALL. TYP.
SEE PLAN FOR LOCATIONS.

CONCRETE COLUMN WALL.
REFER TO STRUCT. PLANS.

INTERIOR STUD BEARING WALL

INTERIOR STUD WALL

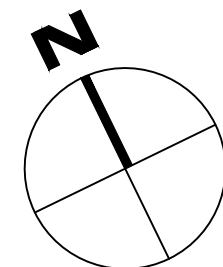
TUBULAR STEEL COLUMN. REF.
STRUCT. FOR SIZE & LOCATION.

GANG STUD COLUMN. REF.
STRUCT. FOR SIZE & LOCATION.

FLOOD VENT. SEE PLAN
FOR NUMBER & LOCATIONS.

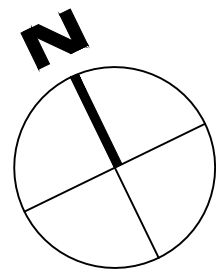
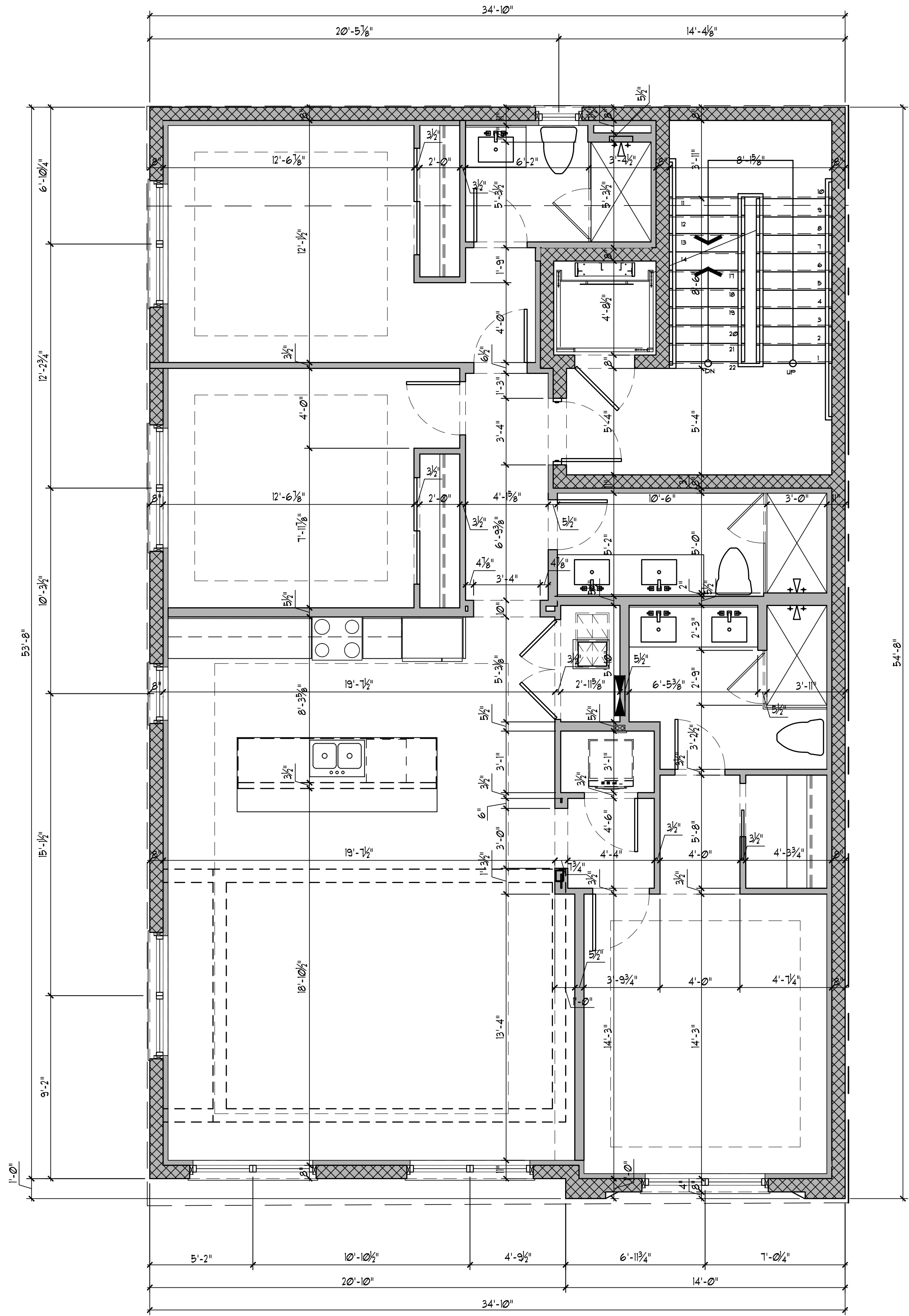
1. THE G.C. IS TO VERIFY ALL WINDOW AND DOOR ROOF OPENING SIZES WILL WITH INSTALLATION REQUIREMENTS PRIOR TO INSTALL.
2. ALL DOORS AND WINDOWS PROVIDING DIRECT ACCESSSES FROM THE HOME SHALL MEET THE RESIDENTIAL POOL SAFETY ACT. (CHAPTER 45 FEB 2023 RESIDENTIAL EDITION)
3. ALL WINDOWS AND FRENCH DOORS SHALL BE IMPACT RESISTANT. GARAGE DOORS SHALL BE IMPACT RESISTANT. MAHOGANY ENTRY DOORS SHALL ALSO BE IMPACT RESISTANT.
4. ALL SCREEN DOORS ARE TO BE SELF LATCHING, SELF CLOSING AND HAVE ALARMS. G.C. IS TO VERIFY THAT ALL EXITS TO THE POOL AREA MEET THE POOL SAFETY ACT.
5. G.C. PROVIDE SOUND INSULATION FOR ALL INTERIOR WALLS AND CEILINGS, AND INSULATE ALL EXTERIOR WALLS.
6. POOL DESIGN AND LANDSCAPING BY OTHERS.
7. A 40" HIGH AFF. (BALCONY) AND 36" HIGH (STAIR) ALUMINUM OR COMPOSITE RAILING SHALL BE CONSTRUCTED SUCH THAT A 4" SPHERE SHALL NOT PASS THROUGH AT ANY POINT (TYP) (SECTION R302 OF THE FBC 2023). G.C. TO VERIFY HANDRAIL IS INSTALLED TO MEET A CIRCULAR CROSS-SECTION WITH A DIAMETER OF 1-1/4" - 2" OR PROVIDE A NON-CIRCULAR CROSS-SECTION WITH AN EQUIVALENT GROSS AREA. PERFORMANCE TO MEET THE FBC 2023 R31.1B3.
8. THE GARAGE SHALL BE SEPARATED FROM THE RESIDENCE BY NOT LESS THAN 1/2" TYPE "X" GYPSUM BOARD, AND 5/8" TYPE "X" GYPSUM BOARD FROM HABITABLE ROOMS ABOVE THE GARAGE AS PER RESIDENTIAL FBC 2023 R302.6.
9. OPENINGS BETWEEN THE GARAGE AND RESIDENCE SHALL BE EQUIPPED WITH SOLID WOOD DOORS NOT LESS THAN 1 3/8" IN THICKNESS, SOLID OR HONEYCOMB-CORE STEEL DOORS NOT LESS THAN 1 3/8", OR 20 MIN. FIRE-RATED DOORS, EQUIPPED WITH A SELF-CLOSING DEVICE, PER SEC. R302.15.
10. DUCT WORK WHICH PENETRATE THE WALLS BETWEEN THE GARAGE AND THE RESIDENCE SHALL BE CONSTRUCTED OF A MIN. OF NO. 26 GAGE SHEET METAL OR OTHER APPROVED MATERIAL AS PER SEC. R302.2 OF THE RESIDENTIAL 2023 F.B.C.
11. ALL FIRST FLOOR ELEVATIONS REFERENCED FROM FINISHED CONCRETE SLAB ELEV. 0'-0" (B.S. NAVD).
12. G.C. TO VERIFY POSITIVE SLOPE OF FINISHED FLOOR TO ENSURE PROPER DRAINAGE AT LANAIS, COVERED ENTRY, OUTDOOR LIVING, BALCONIES, AND GARAGES.
13. G.C. TO PROVIDE ICYNENE INSULATION AT THE UNDERSIDE OF ALL ROOF TRUSSES INCLUDING GARAGES, LANAIS, AND BALCONIES IF APPLICABLE. G.C. TO ALSO PROVIDE MAKE UP AIR EQUAL TO ULTRA AIR ADEQUATE FOR THIS SYSTEM. G.C. TO PROVIDE (2) VENTS INSTALLED INSIDE THE GARAGE OPEN TO THE ATTIC SPACE.
14. MAKE UP AIR FOR KITCHEN HOOD WILL BE PROVIDED BY A BROTHER UNIVERSAL. AUTOMATIC MAKE-UP AIR DAMPER SIZED AT A RATE MAKEUP EQUAL TO THE EXHAUST AIR RATE. MAKEUP AIR SYSTEM SHALL BE EQUIPPED WITH A MEANS OF CLOSURE AND SHALL BE AUTOMATICALLY CONTROLLED TO START AND OPERATE SIMULTANEOUSLY WITH THE EXHAUST SYSTEM AS REQUIRED PER M503.4.
15. G.C. TO COORDINATE W/ ELECTRICAL DRAWINGS FOR SIZE & LOCATION OF A/C PADS, POOL EQUIPMENT, ELECTRICAL METER, ELECTRICAL PANELS & H.B.
16. ALL ELECTRICAL, PLUMBING AND MECHANICAL EQUIPMENT TO BE SLAB ON GRADE AND ABOVE ELEVATION +2.00' NAVD.
17. REFER TO STRUCTURAL DRAWINGS FOR EXACT LOCATION OF STRUCTURAL WALLS, COLUMNS, AND BEAMS.
18. REFER TO LOW ROOF PLAN FOR UET DECK SLOPE / DRAINAGE LOCATIONS.
19. REFER TO INTERIOR DRAWINGS FOR FINAL CEILING HEIGHTS AND INFORMATION.
20. ALL STEAM SHOWERS SHALL HAVE A SLOPED CEILING AT A MIN. 1/2" PER FT. G.C. TO COORDINATE LOCATION OF EQUIPMENT WITH ARCHITECT AND/OR INTERIOR DESIGNER PRIOR TO INSTALLATION.

REVIEW SET



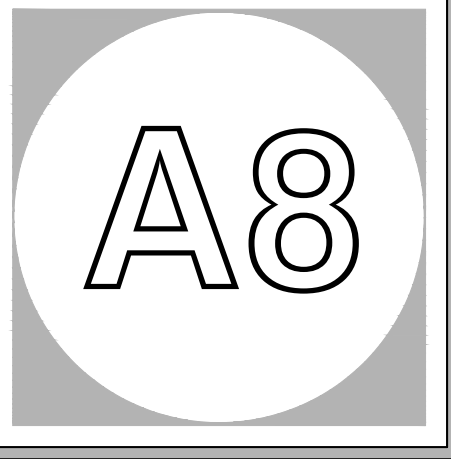
FIRST FLOOR NOTE PLAN

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



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

REVIEW SET



PROJ. #: 2404-05
DRAWN BY: K.A.V.
DATE: 9.18.24

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1011 THIRD STREET
FORT MYERS BEACH, FLORIDA

Revisions

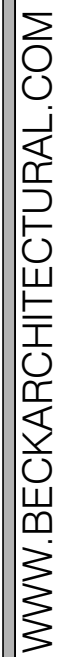
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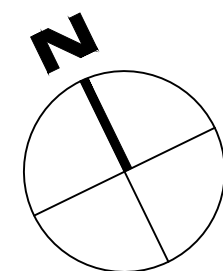
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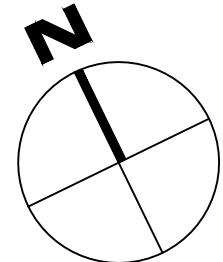
NAPLES, FLORIDA

804 ANCHOR RODE DRIVE

A9



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

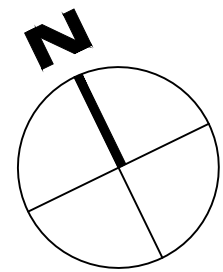
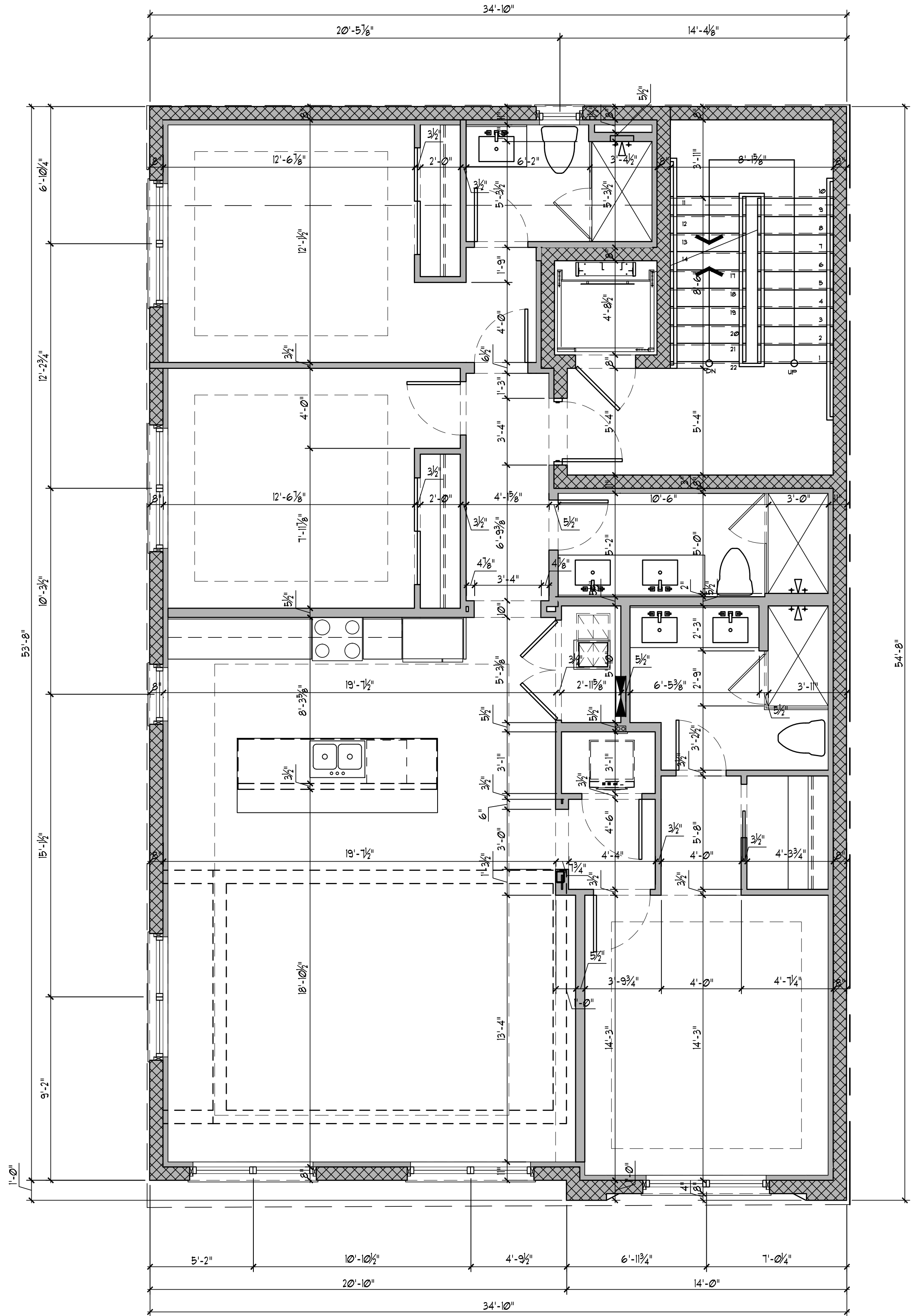


SCALE: 1/4"=1'-0"

GENERAL NOTES

1. THE G.C. IS TO VERIFY ALL WINDOW AND DOOR ROUGH OPENING SIZES WITH INSTALLATION REQUIREMENTS PRIOR TO INSTALL.
2. ALL DOORS AND WINDOWS PROVIDING DIRECT ACCESSSES FROM THE HOME SHALL MEET THE RESIDENTIAL POOL SAFETY ACT. (CHAPTER 45, FBC 2023 RESIDENTIAL EDITION)
3. ALL WINDOWS AND FRENCH DOORS SHALL BE RESISTANT TO FORCE. GLASS EGRESS SHALL BE IMPACT RESISTANT. MAHOAGNY ENTRY DOORS SHALL ALSO BE IMPACT RESISTANT.
4. ALL SCREEN DOORS ARE TO BE SELF LATCHING, SELF CLOSING AND HAVE ALARMS. G.C. IS TO VERIFY THAT ALL EXITS TO THE POOL AREA MEET THE POOL SAFETY ACT.
5. G.C. PROVIDE SOUND INSULATION FOR ALL INTERIOR WALLS AND CEILINGSS, AND INSULATE ALL EXTERIOR WALLS.
6. POOL DESIGN AND LANDSCAPING BY OTHERS.
7. A 40" HIGH AFF. (BALCONY) AND 36" HIGH (STAIR) ALUMINUM OR COMPOSITE RAILING SHALL BE CONSTRUCTED SUCH THAT A 4" SPHERE SHALL NOT PASS THROUGH AT ANY POINT (TYPE 1) (SECTION R302 OF THE FBC 2023). G.C. TO VERIFY HANDRAIL IS INSTALLED TO MEET A CIRCULAR CROSS SECTION WITH A DIAMETER OF 1-1/4" - 2" OR PROVIDE A NONCIRCULAR CROSS SECTION WITH EQUIVALENT GRASPABILITY PERFORMANCE TO MEET THE FBC 2023 R301.8.3.
8. THE GARAGE SHALL BE SEPARATED FROM THE RESIDENCE BY NOT LESS THAN 1/2" TYPE "X" Gypsum BOARD, AND 5/8" TYPE "X" Gypsum BOARD FOR HABITABLE SPACE ABOVE THE GARAGE AS PER RESIDENTIAL FBC 2023 R301.6.
9. OPENINGS BETWEEN THE GARAGE AND RESIDENCE SHALL BE EQUIPPED WITH SOLID WOOD DOORS NOT LESS THAN 1 3/8" N THICKNESS, SOLID OR HONEY-COMB CORE-STEEL DOORS NOT LESS THAN 1 3/8", OR 20 MIN FIRE-RATED DOORS, EQUIPPED WITH A SELF-CLOSING DEVICE. PER SEC. R302.5.1
10. DUCT WORK WHICH PENETRATE THE WALLS BETWEEN THE GARAGE AND THE RESIDENCE SHALL BE CONSTRUCTED OF A MIN. OF NO. 26 GAGE SHEET METAL OR OTHER APPROVED MATERIAL. AS PER R302.5.2, OF THE RESIDENTIAL 2023 FBC.
11. ALL SECOND FLOOR ELEVATIONS REFERRED FROM FINISHED CONCRETE SLAB ELEV. +/-0" (26.9' NAVD).
12. G.C. TO VERIFY POSITIVE SLOPE OF FINISHED FLOOR TO ENSURE PROPER DRAINAGE AT LANAIS, COVERED ENTRY, OUTDOOR LIVING, BALCONIES, AND GARAGES.
13. G.C. TO PROVIDE ICYNENE INSULATION AT THE UNDERSIDE OF ALL ROOF TRUSSES INCLUDING GABLES, LANAIS, AND PORCHES WHEN APPLICABLE. G.C. TO ALSO PROVIDE MAKE UP AIR EQUAL TO ULTRA AIR ADEQUATE FOR THIS SYSTEM. G.C. TO PROVIDE (2) VENTS INSTALLED INSIDE THE GARAGE OPEN TO THE ATTIC SPACE.
14. MAKE UP AIR FOR KITCHEN HOOD WILL BE PROVIDED BY A BROWN UNIVERSAL AUTOMATIC MAKE-UP AIR DAMPER SIZED AT A RATE APPROX. EQUAL TO THE EXHAUST AIR RATE. MAKEUP AIR SYSTEM SHALL BE EQUIPPED WITH 4 MEANS OF CLOSURE AND SHALL BE AUTOMATICALLY CONTROLLED TO START AND OPERATE SIMULTANEOUSLY WITH THE EXHAUST SYSTEM AS REQUIRED PER M1503.4.
15. G.C. TO COORDINATE W/ ELECTRICAL DRAWINGS FOR SIZE & LOCATION OF 1/2" DIA. FLOOR EQUIPMENT, ELECTRICAL METER, ELECTRICAL PANELS & HB.
16. ALL ELECTRICAL, PLUMBING AND MECHANICAL EQUIPMENT TO BE SLAB ON GRADE AND ABOVE ELEVATION +20.00' NAVD.
17. REFER TO STRUCTURAL DRAWINGS FOR EXACT LOCATION OF STRUCTURAL WALLS, COLUMNS, AND BEAMS.
18. REFER TO LOW ROOF PLAN FOR WET DECK SLOPE / DRAINAGE LOCATIONS.
19. REFER TO INTERIOR DRAWINGS FOR FINAL CEILING HEIGHTS AND INFORMATION.
20. ALL STEAM SHOWERS SHALL HAVE A SLOPED CEILING AT A MIN. 1/2" PER FT. G.C. TO COORDINATE LOCATION OF EQUIPMENT WITH ARCHITECT AND/OR INTERIOR DESIGNER PRIOR TO INSTALLATION.

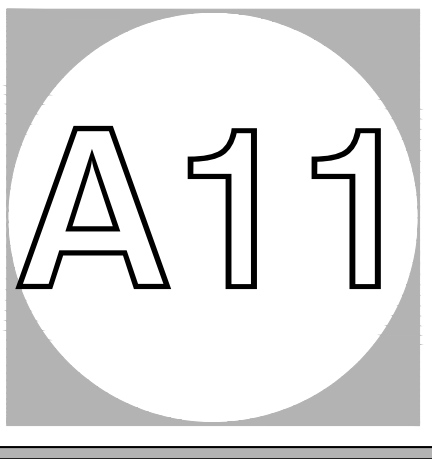




SECOND FLOOR DIMENSION PLAN

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

REVIEW SET



PROJ. #: 2404-05
DRAWN BY: K.A.V.
DATE: 9.18.24

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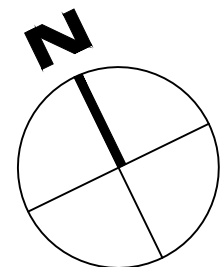
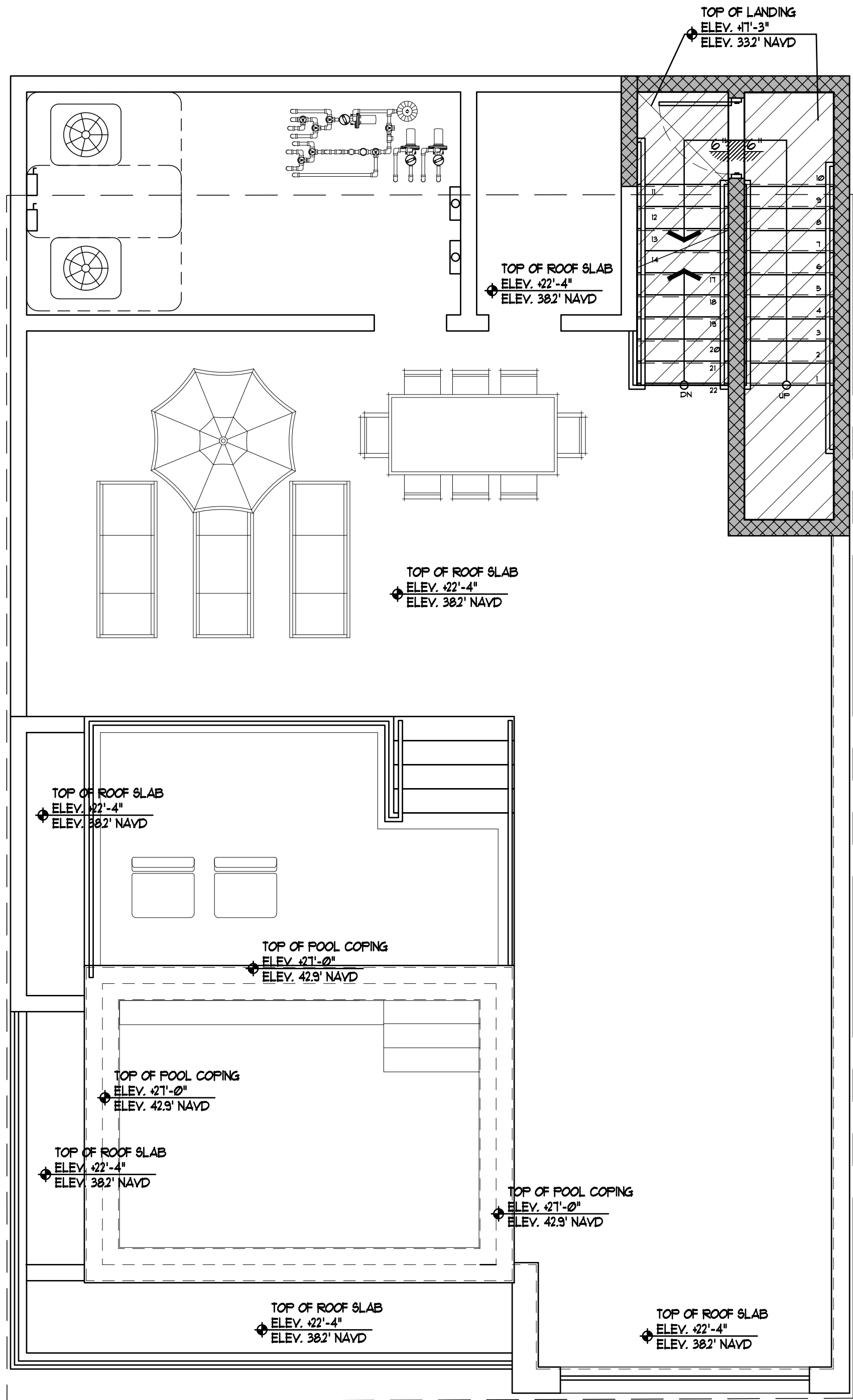
1011 THIRD STREET
FORT MYERS BEACH, FLORIDA

Revisions

Date



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

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DRAWN BY: K.A.V.
DATE: 9.18.24

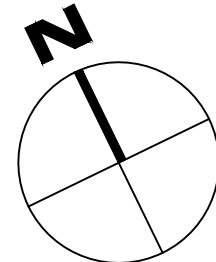
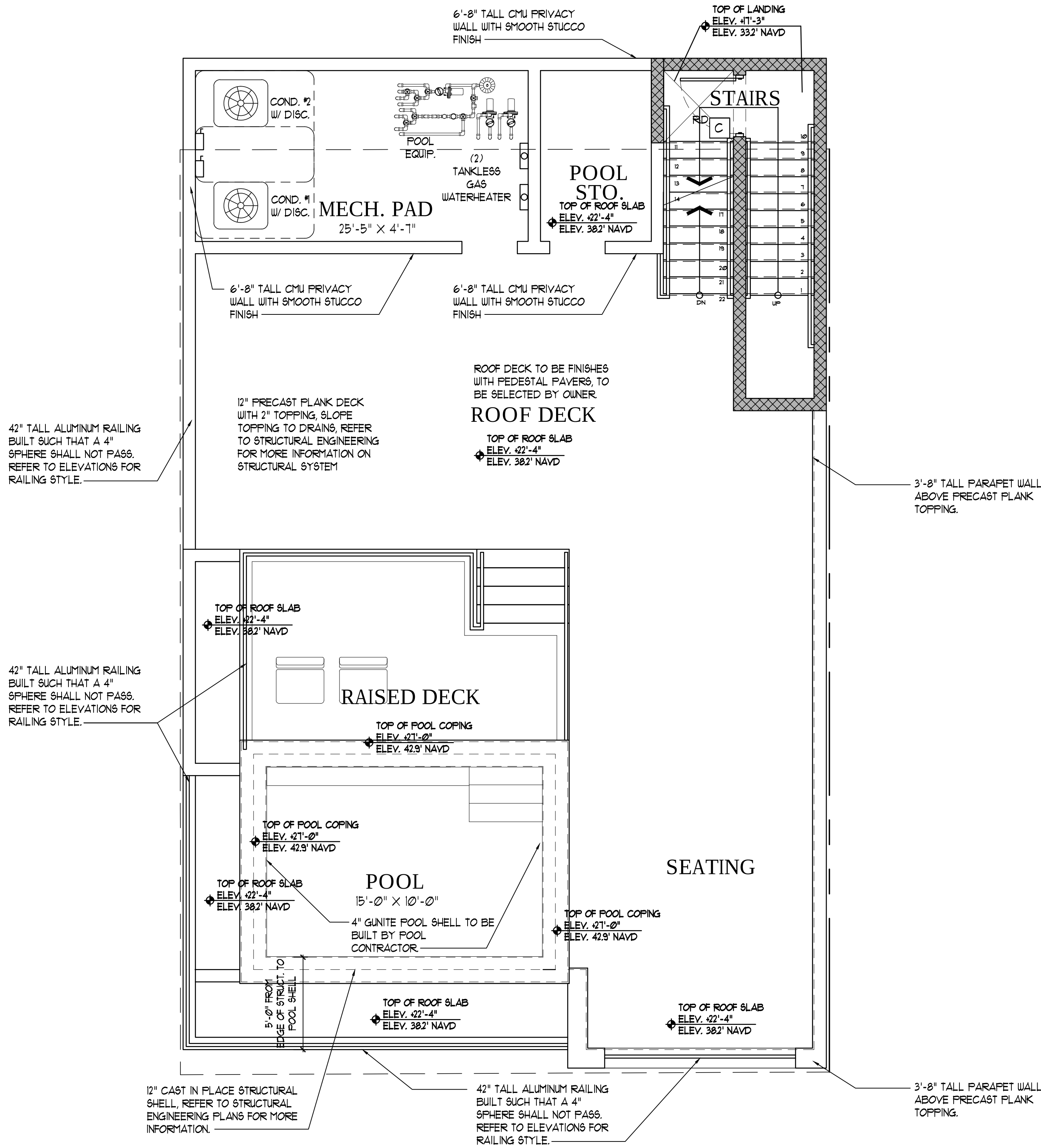
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1011 THIRD STREET
FORT MYERS BEACH, FLORIDA

Revisions	Date





ROOF DECK PLAN

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

LEGEND

- 3" INTERIOR WALL FURRING SYS. (REFER TO WALL SECT.)
- REINFORCED CMU WALL SYSTEM
- STONE CLADDING ON CMU WALL. SEE PLAN FOR DIM. & LOCATIONS.
- STUCCO ON CMU WALL. TYP. SEE PLAN FOR LOCATIONS.
- CONCRETE COLUMN WALL. REFER TO STRUCT. PLANS.
- INTERIOR STUD BEARING WALL
- INTERIOR STUD WALL
- TUBULAR STEEL COLUMN. REF. STRUCT. FOR SIZE & LOCATION.
- GANG STUD COLUMN. REF. STRUCT. FOR SIZE & LOCATION.
- FLOOD VENT. SEE PLAN FOR NUMBER & LOCATIONS.

GENERAL NOTES

- THE G.C. IS TO VERIFY ALL WINDOW AND DOOR ROUGH OPENING SIZES WITH INSTALLATION REQUIREMENTS PRIOR TO INSTALL.
- ALL DOORS AND WINDOWS PROVIDING DIRECT ACCESSSES FROM THE HOME SHALL MEET THE RESIDENTIAL POOL SAFETY ACT. (CHAPTER 45, FBC 2023 RESIDENTIAL EDITION)
- ALL WINDOWS AND FRENCH DOORS SHALL BE IMPACT RESISTANT. GARAGE DOORS SHALL BE IMPACT RESISTANT. HADGASANY ENTRY DOORS SHALL ALSO BE IMPACT RESISTANT.
- ALL SCREEN DOORS ARE TO BE SELF LATCHING, SELF CLOSING AND HAVE ALARMS. G.C. IS TO VERIFY THAT ALL EXITS TO THE POOL AREA MEET THE POOL SAFETY ACT.
- G.C. PROVIDE SOUND INSULATION FOR ALL INTERIOR WALLS AND CEILINGS, AND INSULATE ALL EXTERIOR WALLS.
- POOL DESIGN AND LANDSCAPING BY OTHERS.
- A 40" HIGH AFF. (BALCONY) AND 36" HIGH (STAIR) ALUMINUM OR COMPOSITE RAILING SHALL BE CONSTRUCTED SUCH THAT A 4" SPHERE SHALL NOT PASS THROUGH AT ANY POINT (TYP.) (SECTION R302 OF THE FBC 2023). G.C. TO VERIFY HANDRAIL IS INSTALLED TO MEET A CIRCULAR CROSS SECTION WITH A DIAMETER OF 1-1/4" - 2" OR PROVIDE A NONCIRCULAR CROSS SECTION WITH EQUIVALENT GRASP ABILITY PERFORMANCE TO MEET THE FBC 2023 R301.83.
- THE GARAGE SHALL BE SEPARATED FROM THE RESIDENCE BY NOT LESS THAN 1/2" TYPE "X" GYPSUM BOARD, AND 5/8" TYPE "X" GYPSUM BOARD FROM HABITABLE ROOMS ABOVE THE GARAGE AS PER RESIDENTIAL FBC 2023 R302.6.
- OPENINGS BETWEEN THE GARAGE AND RESIDENCE SHALL BE EQUIPPED WITH SOLID WOOD DOORS NOT LESS THAN 1 3/8" IN THICKNESS, SOLID OR HONEY COMB-CORE STEEL DOORS NOT LESS THAN 1 3/8", OR 20 MIN. FIRE-RATED DOORS, EQUIPPED WITH A SELF-CLOSING DEVICE, PER SEC. R302.51
- DUCT WORK WHICH PENETRATE THE WALLS BETWEEN THE GARAGE AND THE RESIDENCE SHALL BE CONSTRUCTED OF A MIN. OF NO. 26 GAGE SHEET METAL OR OTHER APPROVED MATERIAL AS PER R302.52. OF THE RESIDENTIAL 2023 F.B.C.
- ALL FIRST FLOOR ELEVATIONS REFERENCED FROM FINISHED CONCRETE SLAB ELEV. 0'-0" (1130' NAVD).
- G.C. TO VERIFY POSITIVE SLOPE OF FINISHED FLOOR TO ENSURE PROPER DRAINAGE AT LANAIS, COVERED ENTRY, OUTDOOR LIVING, BALCONIES, AND GARAGES.
- G.C. TO PROVIDE ICYNENE INSULATION AT THE UNDERSIDE OF ALL ROOF TRUSSES INCLUDING GARAGES, LANAIS, AND BALCONIES IF APPLICABLE. G.C. TO ALSO PROVIDE MAKE UP AIR EQUAL TO ULTRA AIR ADEQUATE FOR THIS SYSTEM. G.C. TO PROVIDE (2) VENTS INSTALLED INSIDE THE GARAGE OPEN TO THE ATTIC SPACE.
- MAKE UP AIR FOR KITCHEN HOOD WILL BE PROVIDED BY A BROAD UNIVERSAL AUTOMATIC MAKE-UP AIR DAMPER SIZED AT A RATE APPROX. EQUAL TO THE EXHAUST AIR RATE. MAKEUP AIR SYSTEM SHALL BE EQUIPPED WITH A MEANS OF CLOSURE AND SHALL BE AUTOMATICALLY CONTROLLED TO START AND OPERATE SIMULTANEOUSLY WITH THE EXHAUST SYSTEM AS REQUIRED PER M1603.4.
- G.C. TO COORDINATE W/ ELECTRICAL DRAWINGS FOR SIZE & LOCATION OF A/C PADS, POOL EQUIPMENT, ELECTRICAL METER, ELECTRICAL PANELS & H.B.
- ALL ELECTRICAL, PLUMBING AND MECHANICAL EQUIPMENT TO BE SLAB ON GRADE AND ABOVE ELEVATION +3.00' NAVD.
- REFER TO STRUCTURAL DRAWINGS FOR EXACT LOCATION OF STRUCTURAL WALLS, COLUMNS, AND BEAMS.
- REFER TO LOW ROOF PLAN FOR WET DECK SLOPE / DRAINAGE LOCATIONS.
- REFER TO INTERIOR DRAWINGS FOR FINAL CEILING HEIGHTS AND INFORMATION.
- ALL STEAM SHOWERS SHALL HAVE A SLOPED CEILING AT A MIN 1/2" PER FT. G.C. TO COORDINATE LOCATION OF EQUIPMENT WITH ARCHITECT AND/OR INTERIOR DESIGNER PRIOR TO INSTALLATION.



Date

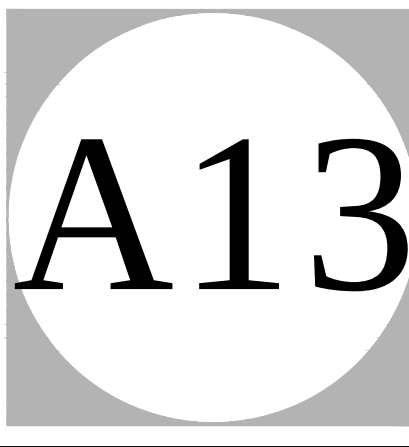
Revisions

1011 THIRD STREET
FORT MYERS BEACH, FLORIDA

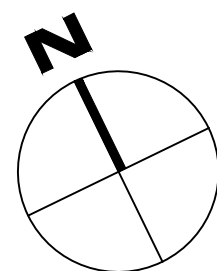


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PROJ. #: 2404-05
DRAWN BY: K.A.V.
DATE: 9.18.24



REVIEW SET



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

A14

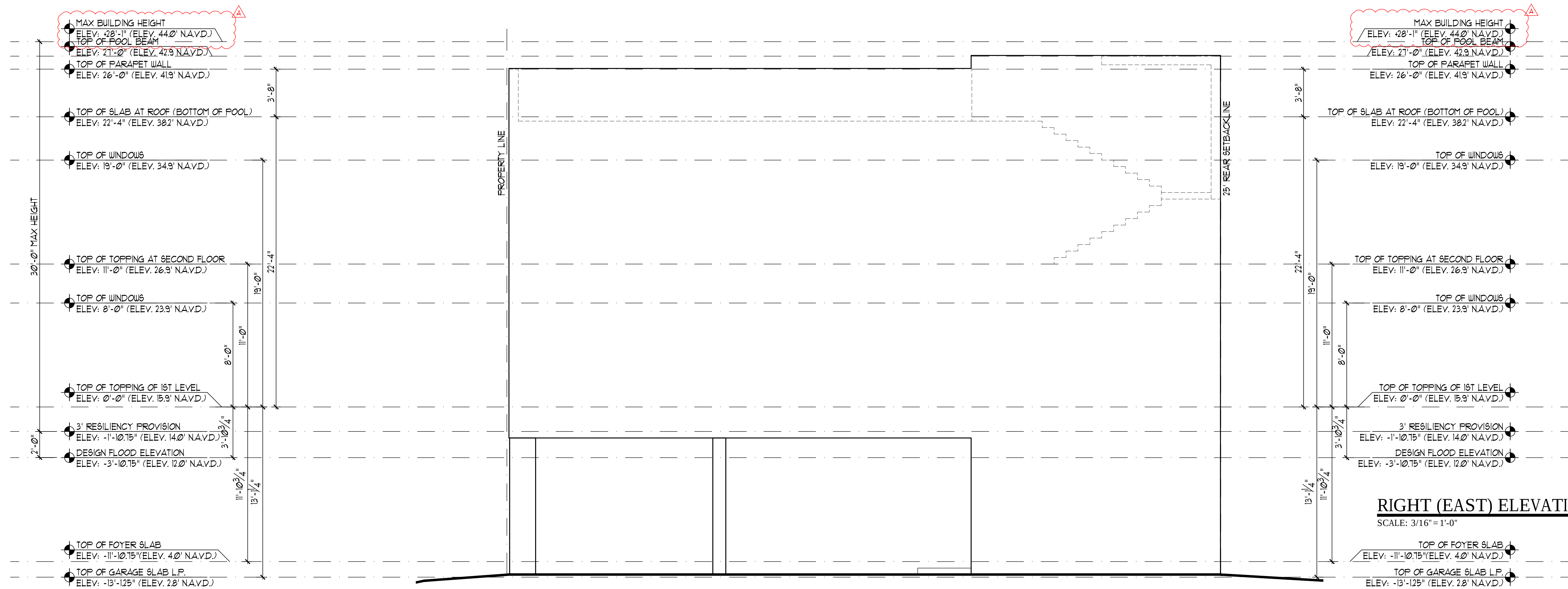


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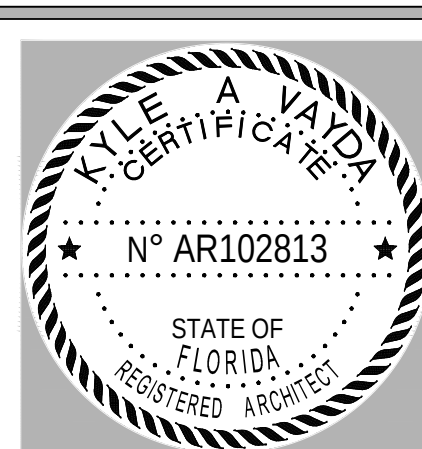
FORT MYERS BEACH, FLORIDA

Date _____

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REVIEW SET



Date 1.14.25

Revisions
ADDENDUM A. FMB STAFF COMMENTS

1011 THIRD STREET

FORT MYERS BEACH, FLORIDA



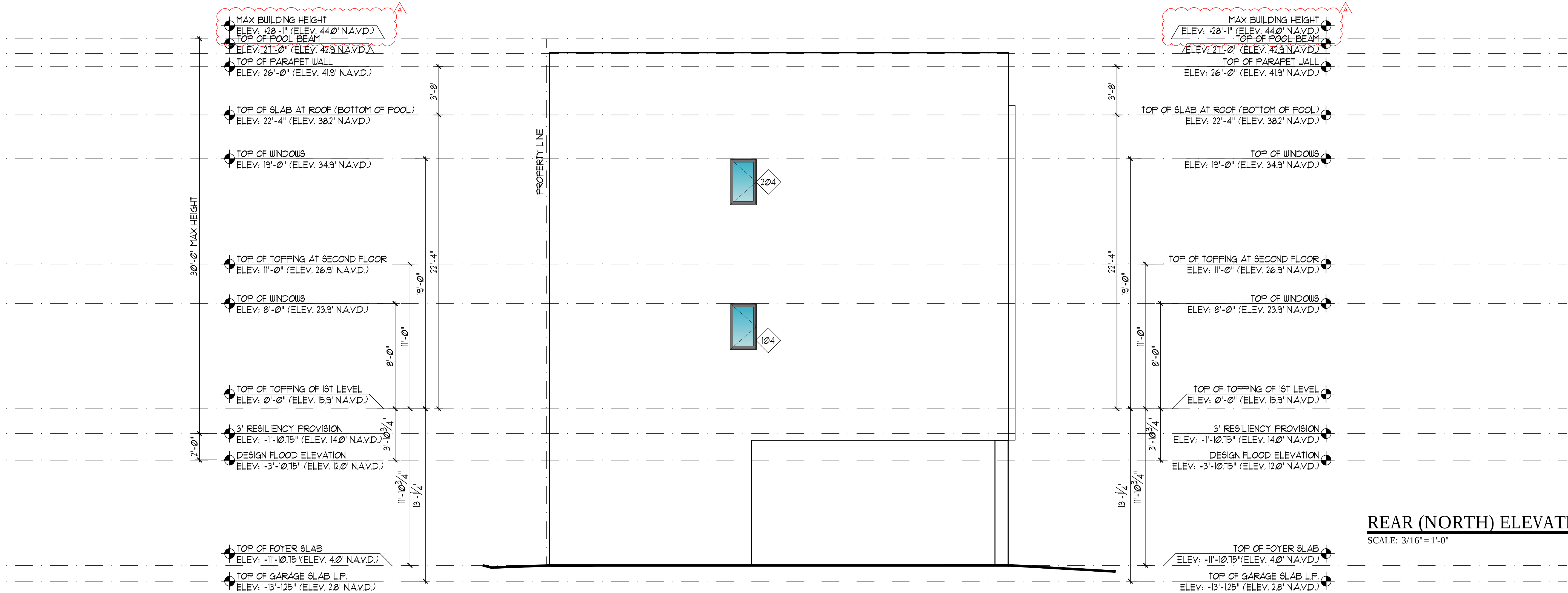
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DATE: 9.18.24

A16



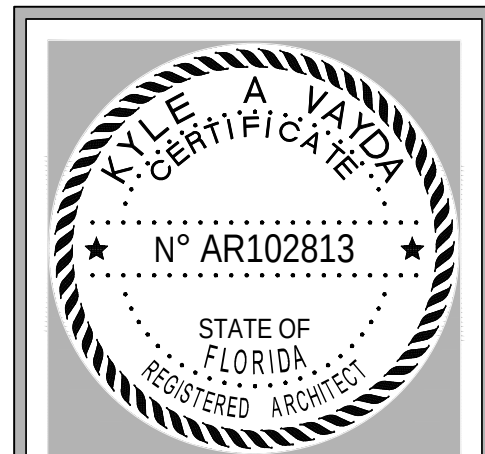
REAR (NORTH) ELEVATION

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



LEFT (WEST) ELEVATION

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



Date
1.14.25

Revisions
ADDENDUM A: FME STAFF COMMENTS

1011 THIRD STREET
FORT MYERS BEACH, FLORIDA



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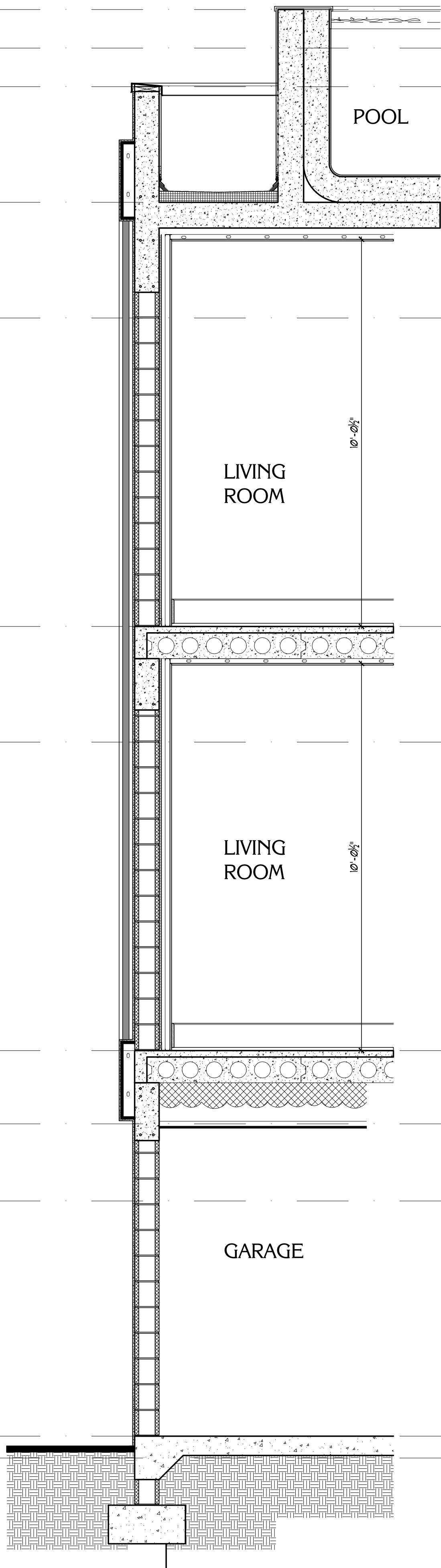
PROJ. #: 2404-05
DRAWN BY: K.A.V.
DATE: 9.18.24



REVIEW SET

- MAX BUILDING HEIGHT
ELEV: +28'-1" (ELEV. *** NAVD.)
- TOP OF POOL BEAM
ELEV: 27'-0" (ELEV. **** NAVD.)
- TOP OF PARAPET WALL
ELEV: 26'-0" (ELEV. **** NAVD.)
- TOP OF PARAPET WALL
ELEV: 25'-0" (ELEV. **** NAVD.)
- TOP OF SLAB AT ROOF (BOTTOM OF POOL)
ELEV: 22'-0" (ELEV. **** NAVD.)
- TOP OF WINDOWS
ELEV: 19'-0" (ELEV. **** NAVD.)
- TOP OF TOPPING AT SECOND FLOOR
ELEV: 11'-0" (ELEV. **** NAVD.)
- TOP OF WINDOWS
ELEV: 8'-0" (ELEV. **** NAVD.)
- TOP OF TOPPING OF 1ST LEVEL
ELEV: 0'-0" (ELEV. **** NAVD.)
- 3' RESILIENCY PROVISION
HEIGHT RELIEF
ELEV: -1'-10" (ELEV. 140' NAVD.)
- DESIGN FLOOD ELEVATION
ELEV: -3'-10" (ELEV. 120' NAVD.)
- TOP OF FOYER SLAB
(ELEV.5.3' NAVD.)
- TOP OF GARAGE SLAB L.P.
(ELEV.5.4' NAVD.)

WS-1 WALL SECTION 1
SCALE: 1/2"=1'-0"



- MAX BUILDING HEIGHT
ELEV: +28'-1" (ELEV. *** NAVD.)
- TOP OF POOL BEAM
ELEV: 27'-0" (ELEV. **** NAVD.)
- TOP OF PARAPET WALL
ELEV: 26'-0" (ELEV. **** NAVD.)
- TOP OF PARAPET WALL
ELEV: 25'-0" (ELEV. **** NAVD.)
- TOP OF SLAB AT ROOF (BOTTOM OF POOL)
ELEV: 22'-0" (ELEV. **** NAVD.)
- TOP OF WINDOWS
ELEV: 19'-0" (ELEV. **** NAVD.)
- TOP OF TOPPING AT SECOND FLOOR
ELEV: 11'-0" (ELEV. **** NAVD.)
- TOP OF WINDOWS
ELEV: 8'-0" (ELEV. **** NAVD.)
- TOP OF TOPPING OF 1ST LEVEL
ELEV: 0'-0" (ELEV. **** NAVD.)
- 3' RESILIENCY PROVISION
HEIGHT RELIEF
ELEV: -1'-10" (ELEV. 140' NAVD.)
- DESIGN FLOOD ELEVATION
ELEV: -3'-10" (ELEV. 120' NAVD.)
- TOP OF FOYER SLAB
(ELEV.5.3' NAVD.)
- TOP OF GARAGE SLAB L.P.
(ELEV.5.4' NAVD.)

WS-2 WALL SECTION 2
SCALE: 1/2"=1'-0"



Date

Revisions

1011 THIRD STREET
FORT MYERS BEACH, FLORIDA



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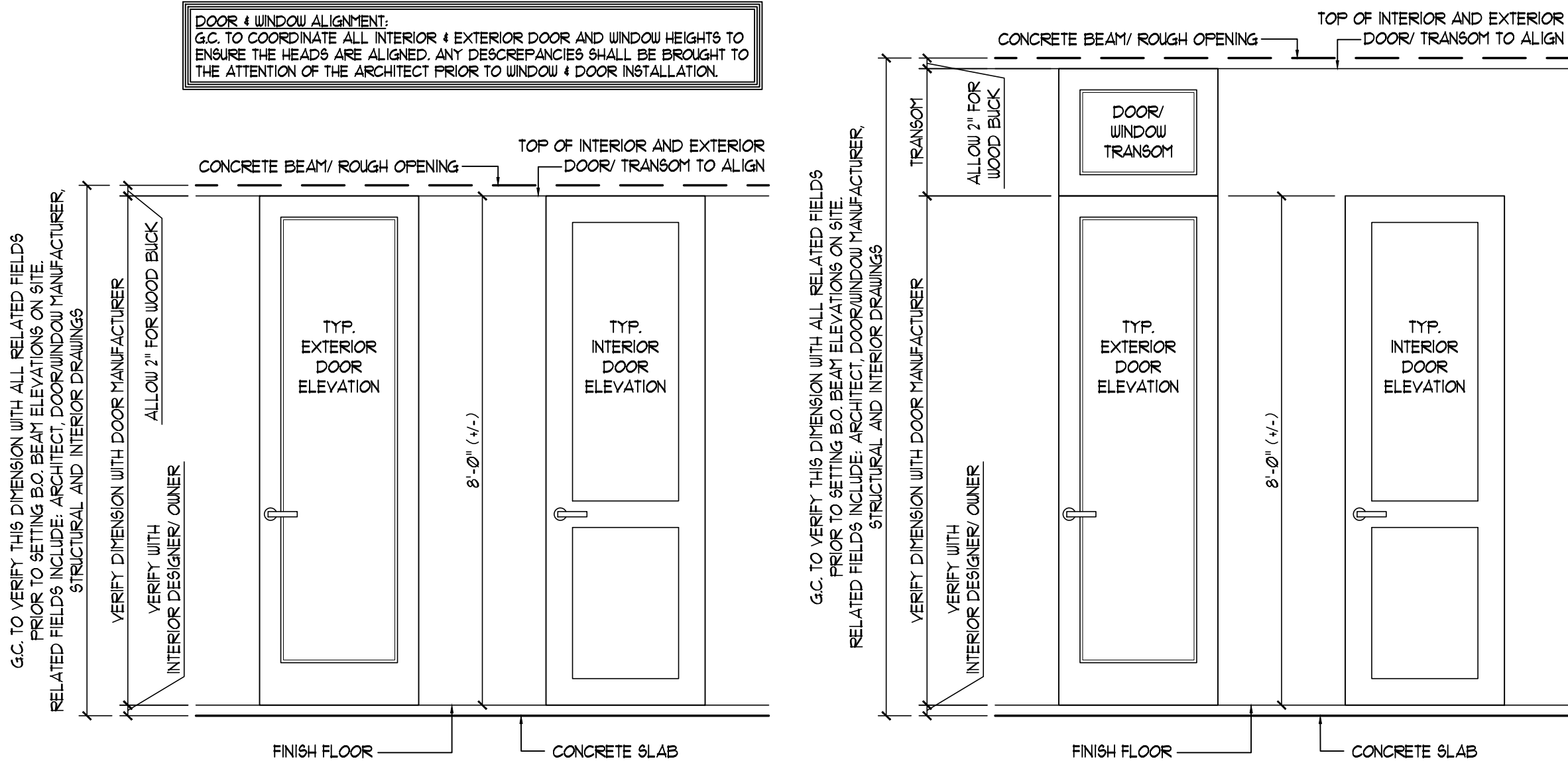
REVIEW SET

EXTERIOR WINDOW SCHEDULE								
WIN. NO.	WINDOW SIZE	TRANSOM	TYPE	HEAD HEIGHT	MANUFACTURER	LOCATION	PROTECTION	REMARKS:
FIRST FLOOR:								
101	(2) 3'-0" X 7'-0"	N/A	FIXED	8'-0"	PGT	LIVING ROOM	IMPACT	SEE ELEVATIONS
102	(2) 3'-0" X 7'-0"	N/A	FIXED	8'-0"	PGT	LIVING ROOM	IMPACT	SEE ELEVATIONS
103	(2) 3'-0" X 5'-0"	N/A	OPP. CASEMENT	8'-0"	PGT	MASTER BEDROOM	IMPACT	SEE ELEVATIONS
104	(1) 2'-0" X 3'-6"	N/A	C8MT/FIXED	8'-0"	PGT	BATH 2	IMPACT	
105	(2) 3'-0" X 5'-0"	N/A	OPP. CASEMENT	8'-0"	PGT	BEDROOM 12	IMPACT	SEE ELEVATIONS
106	(2) 3'-0" X 5'-0"	N/A	OPP. CASEMENT	8'-0"	PGT	BEDROOM 15	IMPACT	SEE ELEVATIONS
107	(2) 3'-0" X 5'-0"	N/A	OPP. CASEMENT	8'-0"	PGT	KITCHEN	IMPACT	SEE ELEVATIONS
108	(2) 3'-0" X 7'-0"	N/A	FIXED	8'-0"	PGT	LIVING ROOM	IMPACT	SEE ELEVATIONS
SECOND FLOOR:								
201	(2) 3'-0" X 7'-0"	N/A	FIXED	8'-0"	PGT	LIVING ROOM	IMPACT	SEE ELEVATIONS
202	(2) 3'-0" X 7'-0"	N/A	FIXED	8'-0"	PGT	LIVING ROOM	IMPACT	SEE ELEVATIONS
203	(2) 3'-0" X 5'-0"	N/A	OPP. CASEMENT	8'-0"	PGT	MASTER BEDROOM	IMPACT	SEE ELEVATIONS
204	(1) 2'-0" X 3'-6"	N/A	C8MT/FIXED	8'-0"	PGT	BATH 2	IMPACT	
205	(2) 3'-0" X 5'-0"	N/A	OPP. CASEMENT	8'-0"	PGT	BEDROOM 12	IMPACT	SEE ELEVATIONS
206	(2) 3'-0" X 5'-0"	N/A	OPP. CASEMENT	8'-0"	PGT	BEDROOM 15	IMPACT	SEE ELEVATIONS
207	(2) 3'-0" X 5'-0"	N/A	OPP. CASEMENT	8'-0"	PGT	KITCHEN	IMPACT	SEE ELEVATIONS
208	(2) 3'-0" X 7'-0"	N/A	FIXED	8'-0"	PGT	LIVING ROOM	IMPACT	SEE ELEVATIONS

EXTERIOR DOOR SCHEDULE								
UNIT No.	SIZE	DESCRIPTION	TRANSOM	DOOR FRAME	MANUFACTURER	LOCATION	PROTECTION	REMARKS:
GROUND FLOOR:								
A	(2) 3'-0" X 8'-0"	CUSTOM ENTRY DOOR	N/A	ALUM.	PGT	LOBBY	IMPACT	
B	3'-0" X 8'-0"	OUTSWING FIBERGLASS DOOR	N/A	FIBERGLASS	PLASTPRO	STORAGE	IMPACT	
ROOF TOP DECK:								
C	3'-0" X 8'-0"	OUTSWING FIBERGLASS DOOR	N/A	FIBERGLASS	PLASTPRO	STORAGE	IMPACT	

NOTES:
SHOP DRAWINGS AND DOCUMENTED WINDOW TESTING SHALL BE SUBMITTED FOR REVIEW AND APPROVAL BY THE ARCHITECT.
HEAD HEIGHTS ARE MEASURED FROM CONCRETE SLAB TO TOP OF WINDOW FRAME.
ALL PGT EXTERIOR COLOR SHALL BE WHITE, VERIFY WITH OWNER PRIOR TO ORDERING.

GLAZING SPECIFICATION:
ALL GLAZING SHALL MEET OR EXCEED PERFORMANCE DATA BELOW:
IMPACT-RESISTANT GLASS. LAMINATED & INSULATED GLASS (DUAL-PANE)
U-FACTOR VALUE: 0.33 SHGC: 0.29
NOTE: ANY GLAZING ALTERNATIVES MUST BE APPROVED BY ARCHITECT & COMPLY WITH ENERGY CALCULATION REQUIREMENTS



REVIEW SET



PROJ. #: 2404-05
DRAWN BY: K.A.V.
DATE: 9.18.24

ARCHITECT:
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804 ANCHOR RODE DR.
NAPLES, FL 34103
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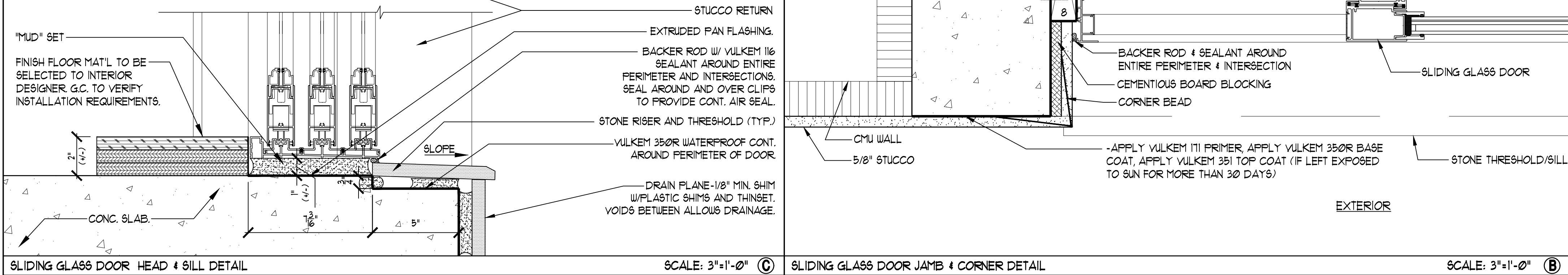
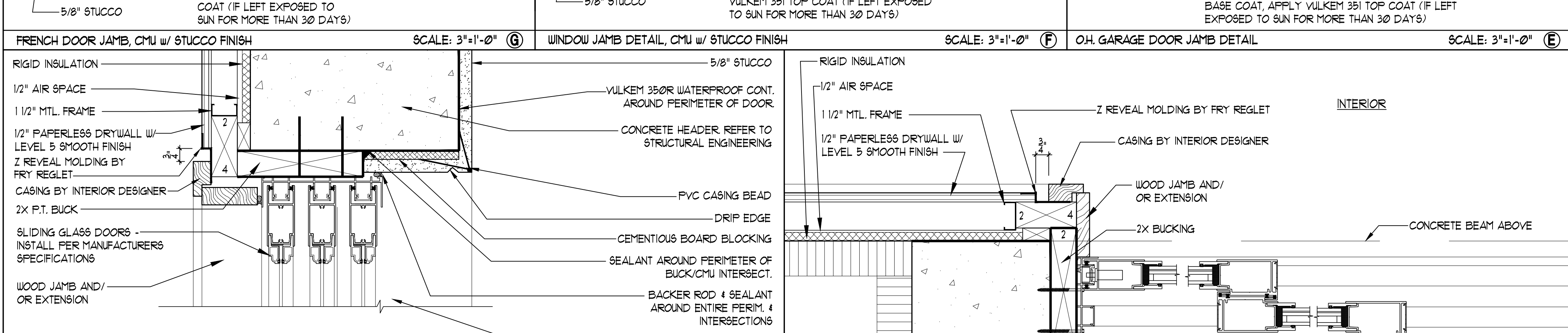
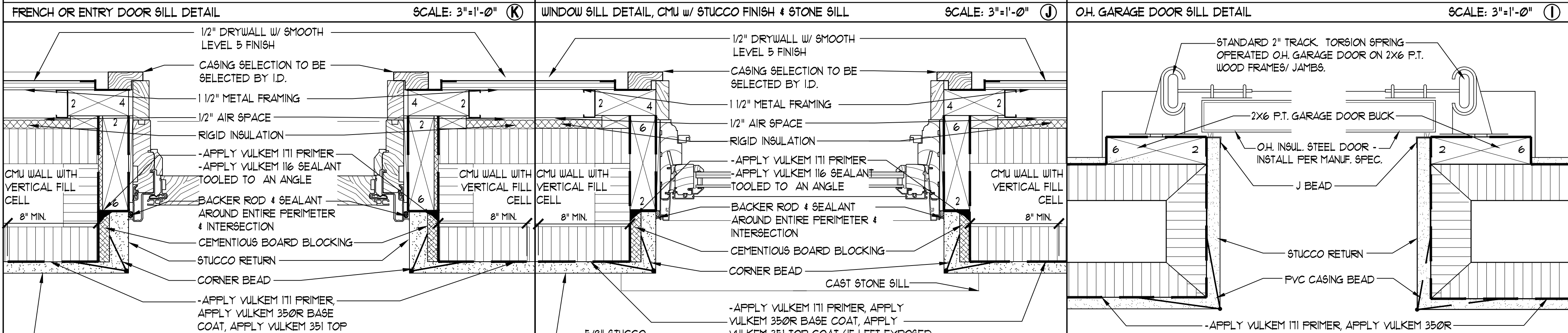
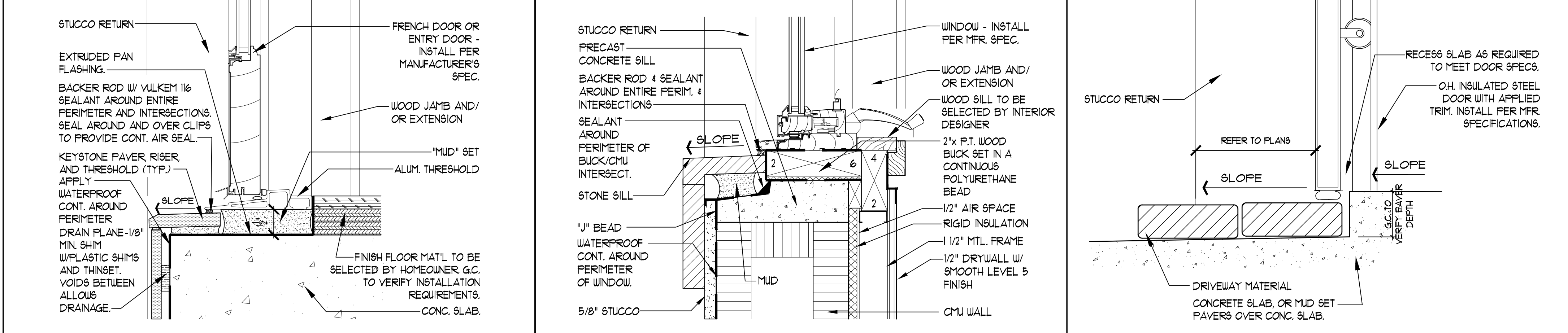
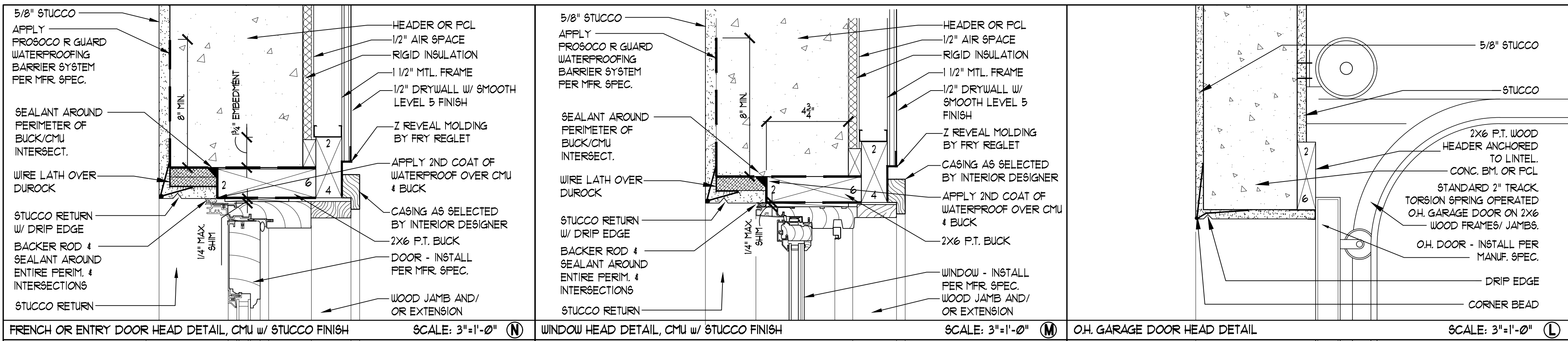
1011 THIRD STREET
FORT MYERS BEACH, FLORIDA

Date

Revisions



ALL REVIEWS, REVISIONS, APPROVALS AND ENDORSEMENTS OR PROCEEDING WITH FABRICATION ON THESE DRAWINGS ARE LIMITED TO THE PROPERTY OF THE STATE AND ARE NOT TO BE USED FOR ANY OTHER PROJECT OR FOR ANY OTHER PURPOSE WITHOUT THE WRITTEN PERMISSION OF BECK ARCHITECTURAL GROUP, LLC. ANY REVISIONS OR ENDORSEMENTS TO THESE DRAWINGS AND CORRECTIONS SHOWN ON THESE DRAWINGS, SHALL BE A PART OF THE DRAWINGS AND SHALL BE SUBMITTED TO THE OFFICE FOR REVIEW BEFORE PROCEEDING WITH FABRICATION ON THESE DRAWINGS.



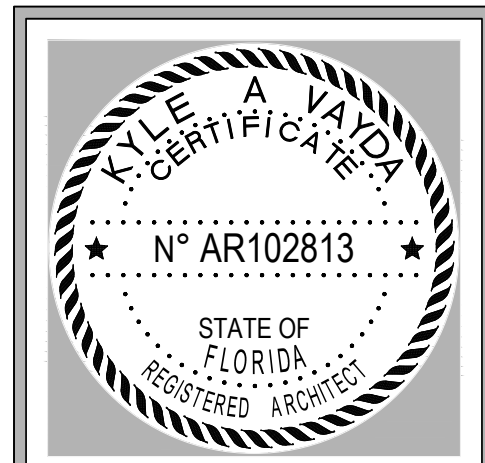
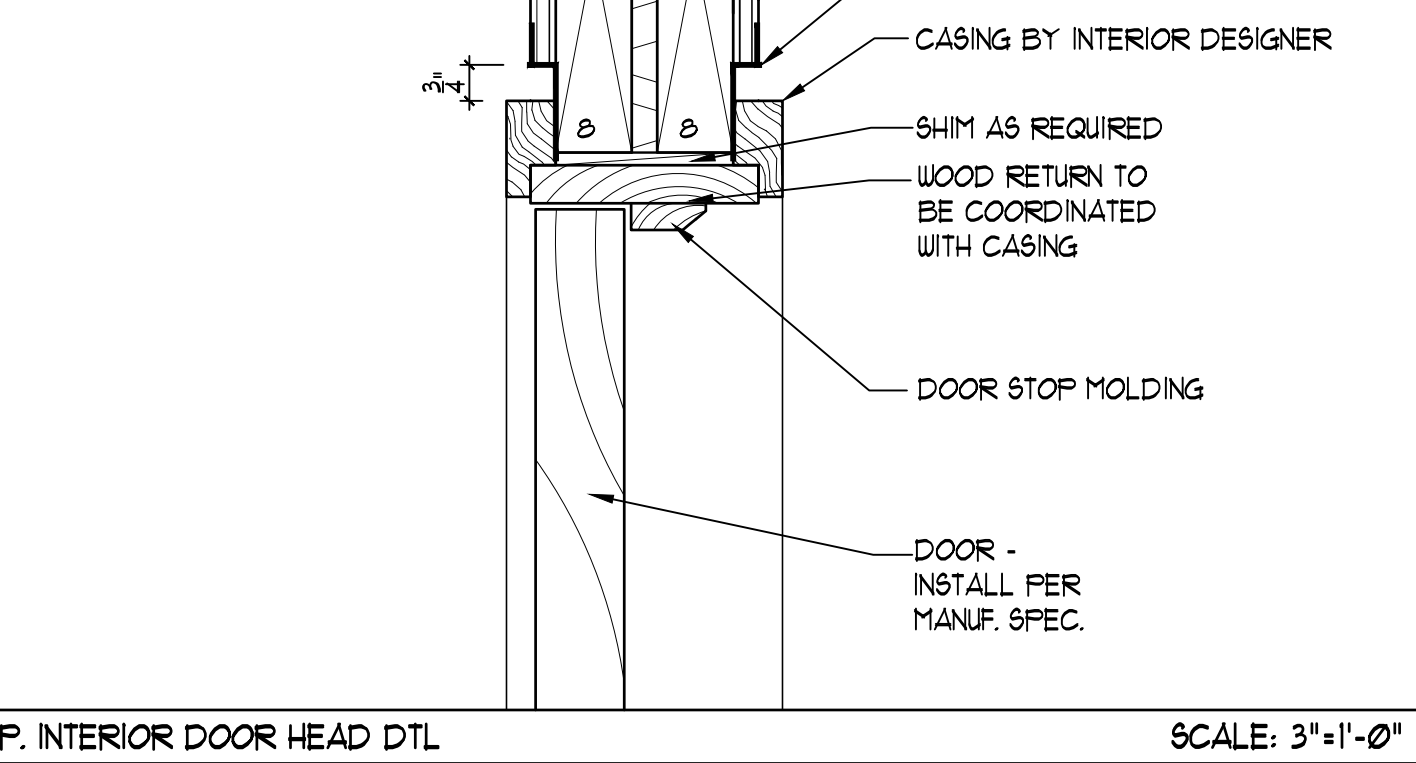
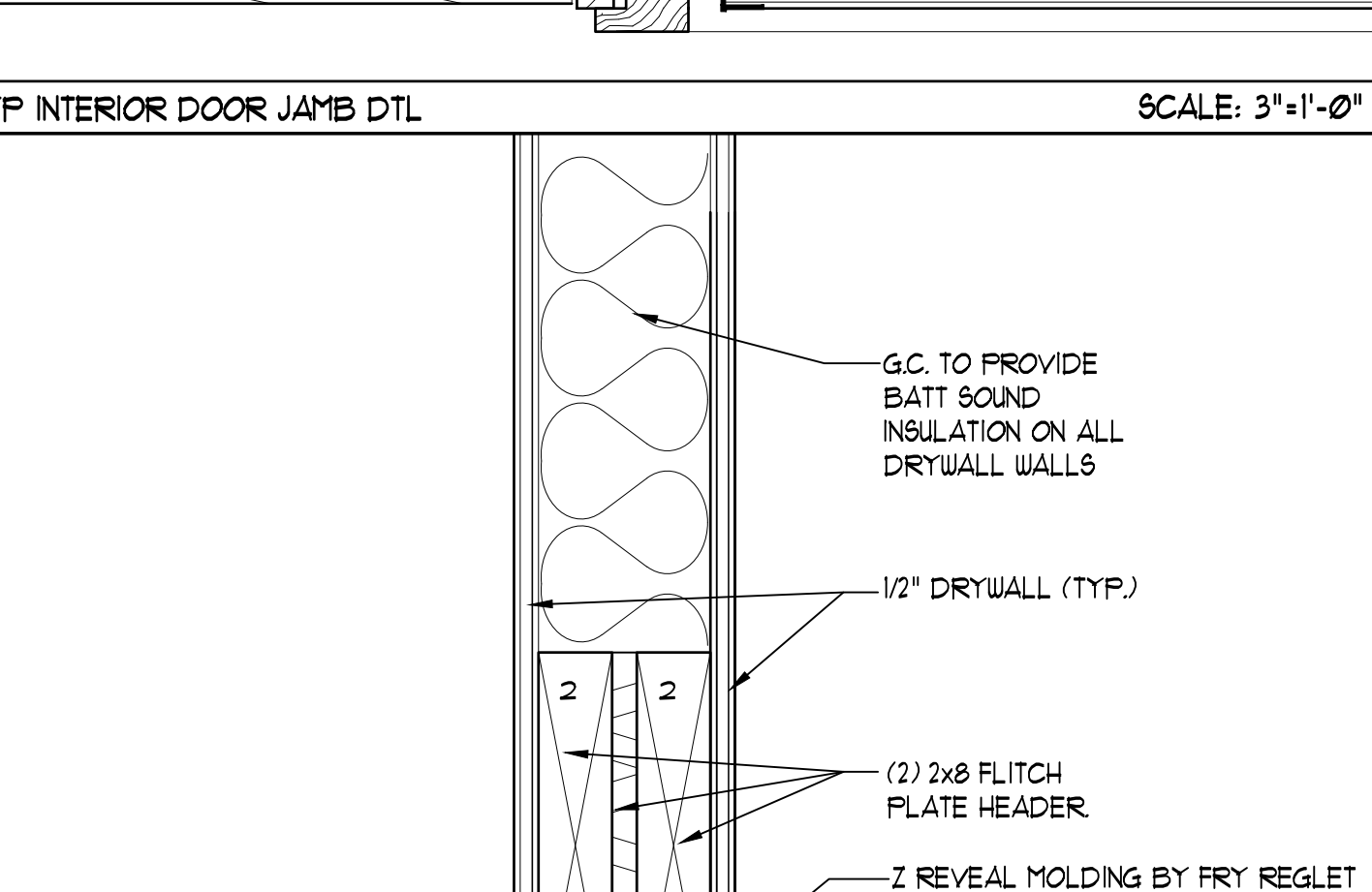
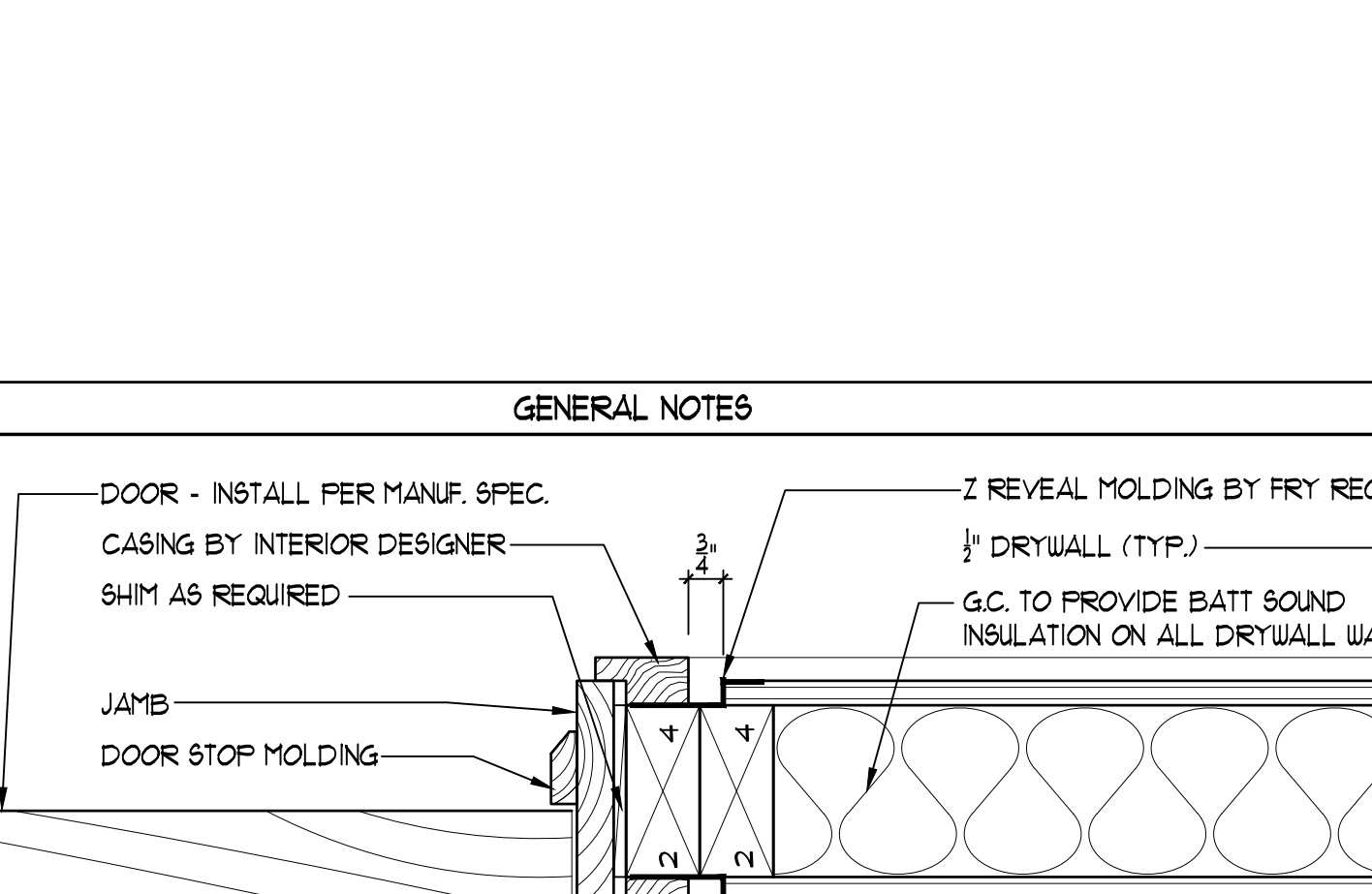
DOOR AND WINDOW INSTALLATION:

MAKE SURE MASONRY SUB CONTRACTOR HAS CLEANED ALL DEBRIS, NAILS, BUMPS, AND PATCH AND/OR GROUND ALL DEFECTS. OPENING SHOULD BE CLEAN AND DRY BEFORE APPLYING WATER PROOFING. THE FOLLOWING ARE THE BASIC STEPS FOR APPLYING WATER PROOFING TO MASONRY WALLS:

1. FILL SMALL VOIDS AND CRACKS (UP TO 1/2 INCH) IN THE CMU SURFACE WITH PROSOCO R-GUARD JOINT & SEAM FILLER. USE A DRY JOINT KNIFE OR TROUPEL TO PRESS AND SPREAD 1 INCH BEYOND EACH SIDE TO A THICKNESS OF 20-30 MILS.
2. APPLY A THICK BEAD OF PROSOCO R-GUARD FASTFLASH IN EACH CORNER AND IN A ZIGZAG PATTERN OVER THE CONCRETE BLOCK INSIDE THE ROUGH OPENING AND WALL FACE SURROUNDING THE ROUGH OPENING. USE A DRY JOINT KNIFE OR TROUPEL TO SPREAD THE UET PRODUCT TO CREATE A SEAMLESS FLASHING MEMBRANE WHICH PROTECTS THE ROUGH OPENING AND EXTENDS 4-6 INCHES OVER THE FACE OF THE WALL. APPLY ADDITIONAL FASTFLASH TO CREATE AN OPAQUE, MONOLITHIC FLASHING MEMBRANE WHICH IS FREE OF VOIDS OR PINHOLES. ALLOW TO SKIN OVER.
3. APPLY TWO THICK BEADS OF PROSOCO R-GUARD FASTFLASH OR JOINT & SEAM FILLER ALONG THE PERIMETER FACES OF THE WOOD BUCK BEFORE ATTACHING IT TO THE STRUCTURE WHILE STILL WET. INSTALL ANCHOR BOLTS OR TAPCONS (SEE STRUCTURAL DRAWINGS & FLORIDA PRODUCT APPROVALS FOR REQUIRED TYPE OF ANCHOR).
4. AFTER INSTALLATION OF THE WOOD BUCK, SPOT AND COVER THE INSTALLED HEADS OF THE ANCHOR BOLTS OR TAPCONS. APPLY A THICK BEAD OF PROSOCO R-GUARD FASTFLASH OR JOINT & SEAM FILLER TO ALL INSIDE CORNERS OF THE WOOD BUCK. USE A DRY JOINT KNIFE OR TROUPEL TO PRESS AND SPREAD 1 INCH BEYOND EACH SIDE TO A THICKNESS OF 20-30 MILS.
5. APPLY A THICK BEAD OF PROSOCO R-GUARD FASTFLASH OR JOINT & SEAM FILLER TO THE PERIMETER JOINT BETWEEN THE WOOD BUCK AND THE CMU WALL. USE A DRY JOINT KNIFE OR TROUPEL TO SPREAD THE UET PRODUCT TO CREATE A SEAMLESS FLASHING MEMBRANE WHICH PROTECTS THE ROUGH OPENING AND EXTENDS 4-6 INCHES OVER THE FACE OF THE WALL. APPLY ADDITIONAL FASTFLASH AS NEEDED TO CREATE AN OPAQUE, MONOLITHIC FLASHING MEMBRANE WHICH IS FREE OF VOIDS OR PINHOLES.

MANUFACTURER'S SPECIFICATIONS & FLORIDA PRODUCT APPROVALS FOR INSTALLATION OF ALL COMPONENTS SUPERCEDE THESE DETAILS

STUCCO HEADER ALTERNATE: REPLACE MORTAR BED W/ 5/8" STEEL TROUPEL SMOOTH STUCCO. ALL OTHER COMPONENTS REMAIN THE SAME



Date _____

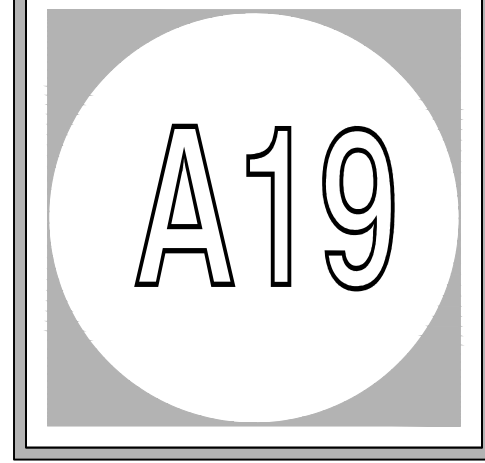
Revisions _____

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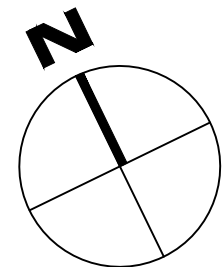
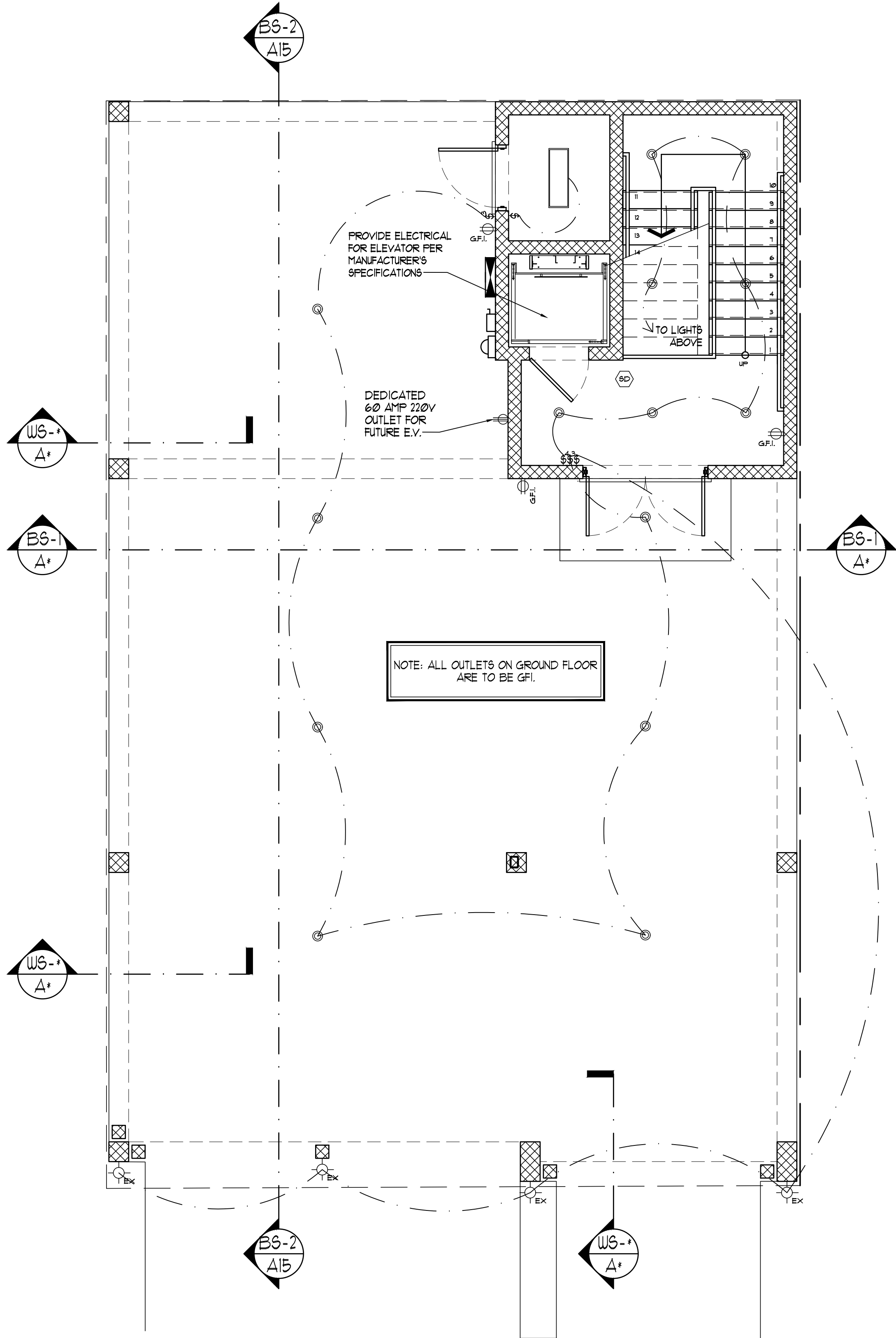
PROJ. #: 2404-05
DRAWN BY: K.A.V.
DATE: 9.18.24



REVIEW SET

ELECTRICAL NOTES

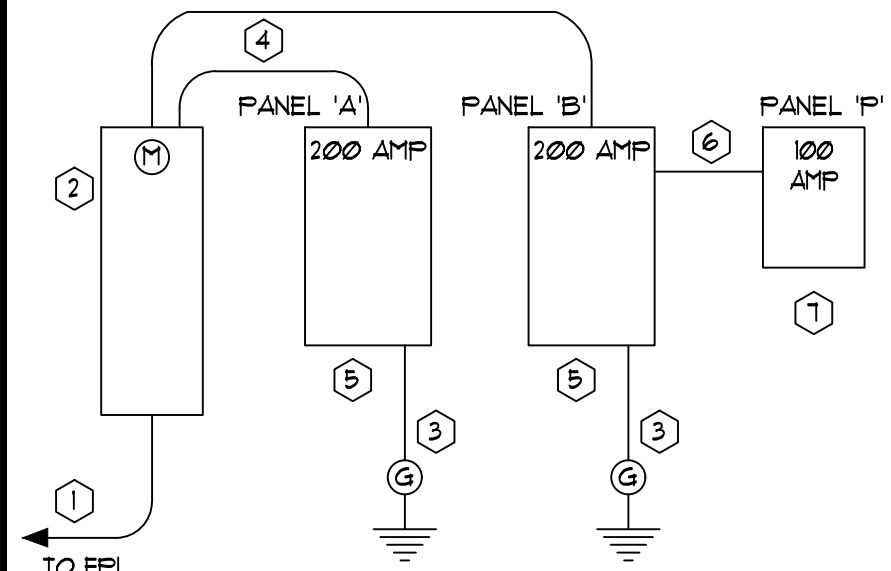
1. DRAWINGS ARE DIAGRAMMATIC AND SHALL NOT BE SCALED. REFER TO ARCHITECTURAL PLANS AND ELEVATIONS FOR EXACT LOCATION OF ALL EQUIPMENT. ELECTRICAL CONTRACTOR SHALL FURNISH AND INSTALL ALL ITEMS REQUIRED FOR COMPLETE AND ACCEPTABLE WORKING INSTALLATION.
2. ALL WORK SHALL COMPLY WITH THE LATEST EDITION OF THE NATIONAL ELECTRICAL CODE AND SHALL COMPLY WITH ALL LOCAL RULES AND ORDINANCES HAVING JURISDICTION.
3. MINIMUM WIRE SIZE SHALL BE #12 AWG, UNLESS OTHERWISE NOTED. ALL CONDUCTORS SHALL BE COPPER WITH THIN OR THIN INSULATION.
4. ALL MATERIAL SHALL BE NEW AND BEAR THE UNDERWRITERS LABEL (U.L.) WHERE APPLICABLE.
5. THE ELECTRICAL SYSTEM SHALL BE COMPLETELY AND EFFECTIVELY GROUNDED AS REQUIRED IN ARTICLE 250 OF THE NATIONAL ELECTRICAL CODE.
6. THE ELECTRICAL, TELEPHONE, AND CABLE TELEVISION INSTALLATIONS SHALL MEET ALL REQUIREMENTS BY THE LOCAL UTILITY COMPANIES.
7. ALL DISCONNECT SWITCHES SHALL BE RATED FOR 100,000 A.I.C. UNLESS OTHERWISE NOTED. ALL FUSES SHALL BE RATED FOR 100,000 A.I.C. AND SHALL BE CURRENT LIMITING.
8. OUTLET BOXES SHALL BE PRESSSED STEEL IN DRY LOCATIONS. PLASTIC BOXES MAY BE USED IN LIEU OF THE STEEL BOX AS PERMITTED BY LOCAL CODES. IN DAMP OR WET LOCATIONS BOXES SHALL BE MADE FROM CAST ALLOY WITH THREADED HUBS. SPECIAL ENCLOSURES ARE REQUIRED FOR OTHER CLASSIFIED AREAS.
9. SEPARATE WIRE AND CONDUIT SYSTEM MAY BE SUBSTITUTED WITH FACTORY FABRICATED ASSEMBLY ON INSULATED CONDUCTORS IN A FLEXIBLE METALLIC ENCLOSURE ("MC" CABLE) WHERE PERMITTED BY LOCAL CODES. PROVIDE BCD ALTERNATE.
10. MOTOR STARTERS SHALL BE MANUAL OR MAGNETIC WITH OVERLOAD RELAYS IN EACH HOT LEG. IT SHALL BE THE RESPONSIBILITY OF THE ELECTRICAL CONTRACTOR TO PROVIDE ALL STARTERS AS REQUIRED BY CODE.
11. ELECTRICAL CONTRACTOR IS TO FURNISH AND INSTALL DISCONNECT SWITCHES, OVER CURRENT PROTECTION, AND WIRING FOR THE AIR CONDITIONING SYSTEM AS PER MANUFACTURER RECOMMENDATIONS. CONTROLS ARE TO BE SUPPLIED BY THE AIR CONDITIONING CONTRACTOR AND CONNECTED BY THE ELECTRICAL CONTRACTOR.
12. ALL EXTERIOR RECEPTACLES SHALL BE WEATHERPROOF AND GFI.
13. ALL EXTERIOR DISCONNECT SWITCHES SHALL BE WEATHERPROOF.
14. ALL 120V, 15 AND 20 AMP BRANCH CIRCUITS SUPPLYING OUTLETS INSTALLED IN DWELLING UNIT FAMILY ROOMS, DINING ROOMS, LIVING ROOMS, GREAT ROOMS, PARLORS, LIBRARIES, DENS, BEDROOMS, SUNROOMS, RECREATION ROOMS, CLOSETS, HALLWAYS OR SIMILAR ROOMS SHALL BE PROTECTED BY AFCI CIRCUIT BREAKERS AS REQUIRED BY NEC 210.2.
15. REFER TO DEVICE INSTALLATION DIAGRAM FOR SUGGESTED PLACEMENT OF DEVICES.
16. RECEPTACLES AND/ OR JUNCTION BOXES SHALL NOT BE PLACED IN A BACK TO BACK CONFIGURATION.
17. ALL RECESSED CANS MUST BE IC RATED FIXTURES WITH NO BULB LARGER THAN 75 WATTS.
18. ALL WORK SHALL BE PERFORMED BY A LICENSED ELECTRICAL CONTRACTOR IN A FIRST CLASS WORKMANLIKE MANNER.
19. ALL WORK SHALL BE COORDINATED WITH OTHER TRADES TO AVOID INTERFERENCE WITH THE PROGRESS OF CONSTRUCTION.
20. THE ELECTRICAL CONTRACTOR SHALL GUARANTEE ALL MATERIALS AND WORKMANSHIP FREE FROM DEFECTS FOR A PERIOD OF NOT LESS THAN (1) YEAR FROM THE DATE OF ACCEPTANCE. CORRECTION OF ANY DEFECTS SHALL BE COMPLETED WITHOUT ADDITIONAL CHARGE, AND SHALL INCLUDE REPLACEMENT OR REPAIR OF ANY OTHER PHASE OF THE INSTALLATION WHICH MAY HAVE BEEN DAMAGED THEREBY.
21. G.C. TO COORDINATE LOCATIONS OF ALL LIGHTS, SWITCHES & OUTLET LOCATIONS WITH HOMEOWNER.



GROUND FLOOR ELECTRICAL PLAN

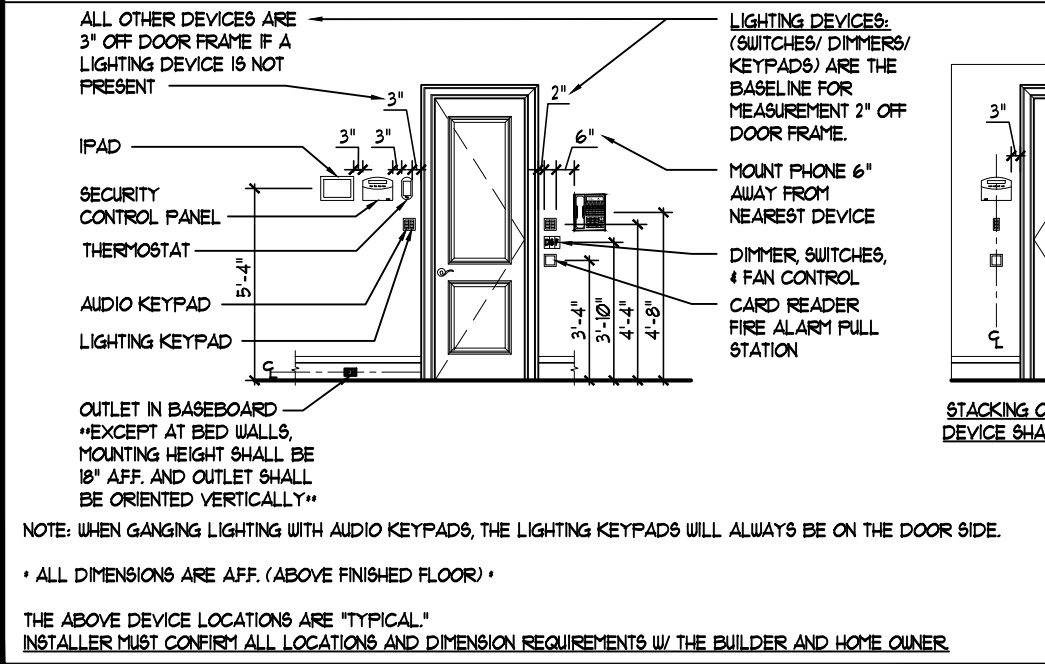
SCALE: 1/4"=1'-0"

RISER DIAGRAM



- RISER DIAGRAM LEGEND
1. 2" PVC SCH 80 RISER FROM BEND 24" BELOW GRADE FOR SERVICE ENTRANCE CONDUCTORS SIZED, INSTALLED & MAINTAINED BY FFL.
2. 400 AMP METER MAIN COMBO
3. GROUNDING: PROVIDE ALL GROUNDING REQ'D. BY NEC.
4. 3 - 2" PVC W/ (2) 250 AL, (1) 1/2" AL N, (1) 1/4" AL G
5. PANELS A & B: 200 AMP 40 CIRCUIT MLO PANEL. LOCATE PANELS A & B IN GARAGE AS SHOWN ON FLOOR PLAN DRAWINGS.
6. 1-1/2" PVC W/ (2) 1/2" AL, (1) 1/2" AL N, (1) 1/4" AL G
7. PANEL C FOR POOL EQUIPMENT: 100 AMP 15 CIRCUIT NEMA 3R PANEL. POOL PANEL TO BE LOCATED ADJACENT TO POOL EQUIPMENT.

WALL DEVICE POSITIONING



ELECTRICAL LEGEND

- WALL OR CEILING MOUNTED LIGHT FIXTURE
- AUTOMATIC LIGHT
- WALL OR CEILING MOUNTED EXT. LIGHT FIXTURE
- RECESSED LIGHT FIXTURE
- VAPOR RESISTANT RECESSED LIGHT FIXTURE
- RECESSED LIGHT FIXTURE W/ DIRECTIONAL TRIM
- SURFACE MOUNTED LED FIXTURE
- JUNCTION BOX
- CABINET LIGHTING
- CEILING FAN WITH LIGHT
- EXHAUST FAN VENTED TO EXTERIOR
- SNOOZE & CARBON MONOXIDE DETECTOR
- 220 VOLT RECEPTACLE
- DUPLEX OUTLET
- DUPLEX OUTLET - HALF SWITCHED
- DUPLEX OUTLET AT COUNTER HEIGHT
- GFI DUPLEX OUTLET AT COUNTER HEIGHT
- GFI DUPLEX OUTLET
- WEATHER PROOF DUPLEX OUTLET
- FLOOR RECEPTACLE OUTLET
- CABLE TELEVISION JACK
- TELEPHONE JACK
- WALL SWITCH AT 48" AFF.
- 3-WAY WALL SWITCH AT 48" AFF.
- 3-WAY WALL SWITCH W/ DIMMER AT 48" AFF.
- DIMMER WALL SWITCH AT 48" AFF.
- DOOR CHIME BUTTON (LIGHTED)
- DOOR CHIME W/ TRANSFORMER
- MOTORIZED WINDOW SHADE
- FLOOD LIGHT
- ELECTRIC METER
- ELECTRIC PANEL
- 5 STEP LIGHT
- DISCONNECT

SERVICE LOAD CALCS.

4293 SF. @ 3 WATT/SF.	12.9
(4) SMALL APPLIANCE @ 15	6.0
RANGE	1.5
EXHAUST HOOD @ 5	0.5
DISPOSAL	.8
REFRIGERATOR @ 15	1.5
FREEZER @ 15	1.5
DISHWASHER @ 15	1.5
(2) WASHER @ 15	3.0
(2) DRYER @ 4.5	9.0
(2) GAS TANKLESS WATER HEATER @ 1	2
ELEVATOR	4.5
	42.9 KW
FIRST 10,000 WATTS @ 100%	10.0
BALANCE @ 40%	13.6
10 KW AC HEAT @ 65%	14.0
TOTAL	37.6 KW
SPA PUMP	1.5
POOL PUMP	1.5
POOL HEAT (HEAT PUMP)	3.5
POOL LIGHTING	.5
IRRIGATION PUMP	1.5
EXTERIOR LIGHTING	2.0
	10.5 KW
TOTAL LOAD:	
47.66 KW / 240 VOLTS = 199 AMPS	
TOTAL DEMAND LOAD	
SERVICE CONNECTORS BY FFL	

REVIEW SET



Date

Revisions

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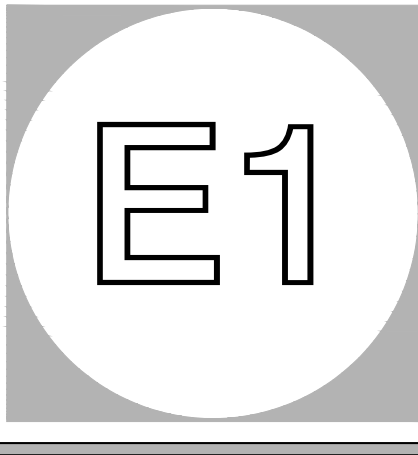


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PROJ. #: 2404-05

DRAWN BY: K.A.V.

DATE: 9.18.24



FL LICENSE NUMBER AA102813

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NAPLES, FLORIDA

804 ANCHOR RODE DRIVE

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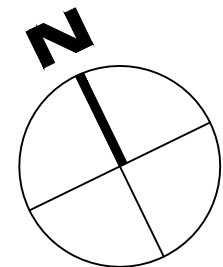
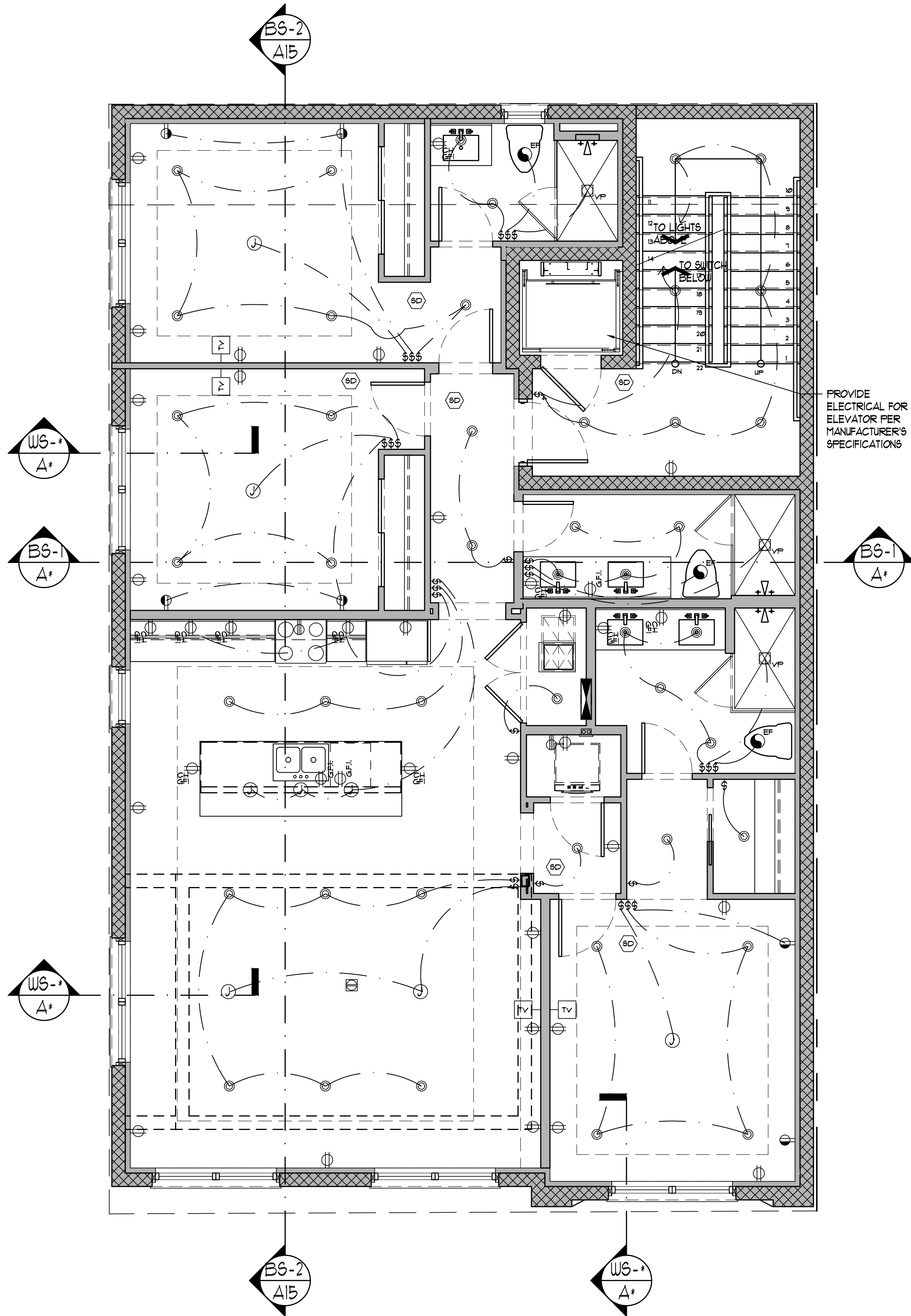
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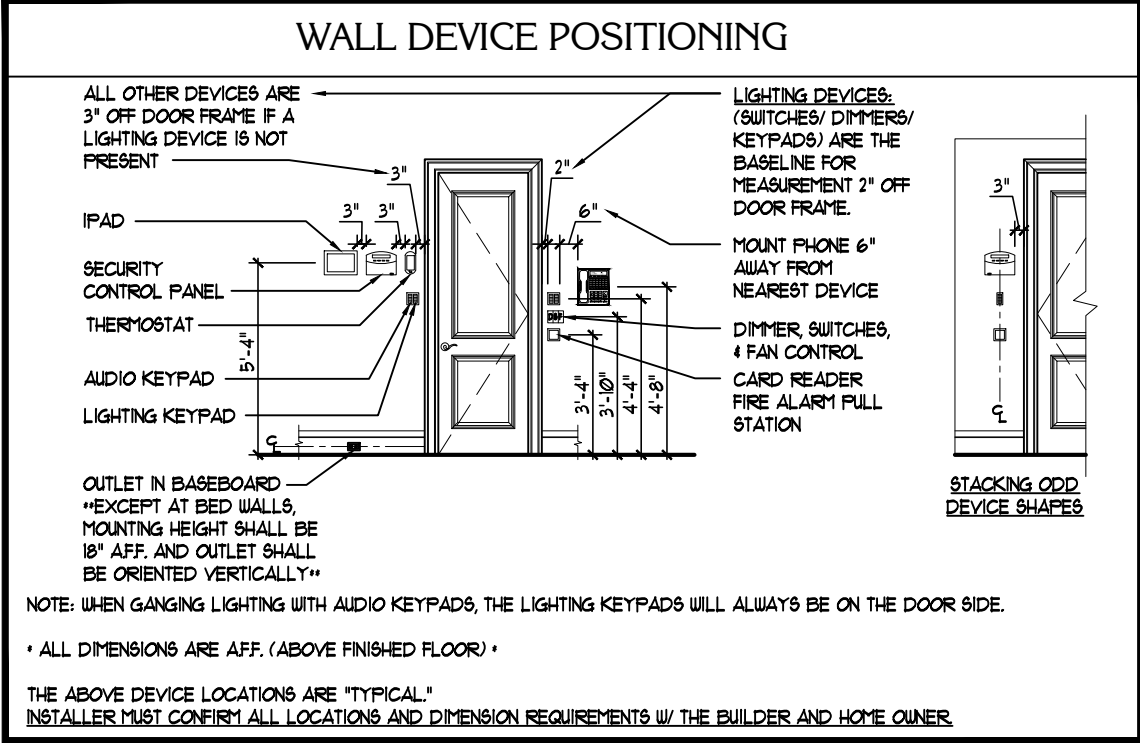
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FIRST FLOOR ELECTRICAL PLAN

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



- ELECTRICAL LEGEND
- WALL OR CEILING MOUNTED LIGHT FIXTURE
- AUTOMATIC LIGHT
- WALL OR CEILING MOUNTED EXT. LIGHT FIXTURE
- RECESSED LIGHT FIXTURE
- VAPOR RESISTANT RECESSED LIGHT FIXTURE
- RECESSED LIGHT FIXTURE W/ DIRECTIONAL TRIM
- SURFACE MOUNTED LED FIXTURE
- JUNCTION BOX
- CABINET LIGHTING
- CEILING LIGHT WITH LIGHT
- EXHAUST FAN VENTED TO EXTERIOR
- SMOKE & CARBON MONOXIDE DETECTOR
- 220 VOLT RECEPTACLE
- DUPLEX OUTLET
- DUPLEX OUTLET - HALF SWITCHED
- DUPLEX OUTLET AT COUNTER HEIGHT
- GFI, DUPLEX OUTLET AT COUNTER HEIGHT
- GFI, DUPLEX OUTLET
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- FLOOR RECEPTACLE OUTLET
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- 3-WAY WALL SWITCH AT 48" AFF.
- 3-WAY WALL SWITCH W/ DIMMER AT 48" AFF.
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- DOOR CHIME BUTTON (LIGHTED)
- DOOR CHIME W/ TRANSFORMER
- MOTORIZED WINDOW SHADE
- FLOOD LIGHT
- ELECTRIC METER
- ELECTRIC PANEL
- STEP LIGHT
- DISCONNECT

REVIEW SET

KYLE A. VAYDA

CERTIFICATE

N° AR102813

STATE OF FLORIDA

REGISTERED ARCHITECT

Date

Revisions

1011 THIRD STREET
FORT MYERS BEACH, FLORIDA

ARCHITECT:
BECK ARCHITECTURAL
GROUP, LLC.
804 ANCHOR RODE DR.
NAPLES, FL 34103
CONTACT: KYLE VAYDA
EMAIL: KYLE@BECK
ARCHITECTURAL.COM
PHONE: (239) 431-1686

PROJ. #: 2404-05
DRAWN BY: K.A.V.
DATE: 9.18.24

E2

804 ANCHOR RODE DRIVE
NAPLES, FLORIDA
WWW.BECKARCHITECTURAL.COM
(239) 431-1686
FL LICENSE NUMBER AA102813

Page 153 of 548

- ELECTRICAL NOTES
1. DRAWINGS ARE DIAGRAMMATIC AND SHALL NOT BE SCALED. REFER TO ARCHITECTURAL PLANS AND ELEVATIONS FOR EXACT LOCATION OF ALL EQUIPMENT. ELECTRICAL CONTRACTOR SHALL FURNISH AND INSTALL ALL ITEMS REQUIRED FOR COMPLETE AND ACCEPTABLE WORKING INSTALLATION.

2. ALL WORK SHALL COMPLY WITH THE LATEST EDITION OF THE NATIONAL ELECTRICAL CODE AND SHALL COMPLY WITH ALL LOCAL RULES AND ORDINANCES HAVING JURISDICTION.

3. MINIMUM WIRE SIZE SHALL BE #12 AWG, UNLESS OTHERWISE NOTED. ALL CONDUCTORS SHALL BE COPPER WITH THIN OR THIN INSULATION.

4. ALL MATERIAL SHALL BE NEW AND BEAR THE UNDERWRITERS LABEL (UL) WHERE APPLICABLE.

5. THE ELECTRICAL SYSTEM SHALL BE COMPLETELY AND EFFECTIVELY GROUNDED AS REQUIRED IN ARTICLE 250 OF THE NATIONAL ELECTRICAL CODE.

6. THE ELECTRICAL TELEPHONE AND CABLE TELEVISION INSTALLATIONS SHALL MEET ALL REQUIREMENTS BY THE LOCAL UTILITY COMPANIES.

7. ALL DISCONNECT SWITCHES SHALL BE RATED FOR 100,000 A.I.C. UNLESS OTHERWISE NOTED. ALL FUSES SHALL BE RATED FOR 100,000 A.I.C. AND SHALL BE CURRENT LIMITING.

8. OUTLET BOXES SHALL BE PRESSURE STEEL IN DRY LOCATIONS. PLASTIC BOXES MAY BE USED IN LIEU OF THE STEEL BOX AS PERMITTED BY LOCAL CODES. IN DAMP OR WET LOCATIONS BOXES SHALL BE MADE FROM CAST ALLOY WITH THREADED HUBS. SPECIAL ENCLOSURES ARE REQUIRED FOR OTHER CLASSIFIED AREAS.

9. SEPARATE WIRE AND CONDUIT SYSTEM MAY BE SUBSTITUTED WITH FACTORY FABRICATED ASSEMBLY ON INSULATED CONDUCTORS IN A FLEXIBLE METALLIC ENCLOSURE ("MC" CABLE) WHERE PERMITTED BY LOCAL CODES. PROVIDE BCD ALTERNATE.

10. MOTOR STARTERS SHALL BE MANUAL OR MAGNETIC WITH OVERLOAD RELAYS IN EACH HOT LEG. IT SHALL BE THE RESPONSIBILITY OF THE ELECTRICAL CONTRACTOR TO PROVIDE ALL STARTERS AS REQUIRED BY CODE.

11. ELECTRICAL CONTRACTOR IS TO FURNISH AND INSTALL DISCONNECT SWITCHES, OVER CURRENT PROTECTION, AND WIRING FOR THE AIR CONDITIONING SYSTEM AS PER MANUFACTURER'S RECOMMENDATIONS. CONTROLS ARE TO BE SUPPLIED BY THE AIR CONDITIONING CONTRACTOR AND CONNECTED BY THE ELECTRICAL CONTRACTOR.

12. ALL EXTERIOR RECEPTACLES SHALL BE WEATHERPROOF AND GFI.

13. ALL EXTERIOR DISCONNECT SWITCHES SHALL BE WEATHERPROOF.

14. ALL 120V, 15 AND 20 AMP BRANCH CIRCUITS SUPPLYING OUTLETS INSTALLED IN DUELLING UNIT FAMILY ROOMS, DINING ROOMS, LIVING ROOMS, GREAT ROOMS, PARLORS, LIBRARIES, DENIS, BEDROOMS, SUNROOMS, RECREATION ROOMS, CLOSETS, HALLWAYS OR SIMILAR ROOMS SHALL BE PROTECTED BY AFCI CIRCUIT BREAKERS AS REQUIRED BY NEC 210.12.

15. REFER TO DEVICE INSTALLATION DIAGRAM FOR SUGGESTED PLACEMENT OF DEVICES.

16. RECEPTACLES AND/ OR JUNCTION BOXES SHALL NOT BE PLACED IN A BACK TO BACK CONFIGURATION.

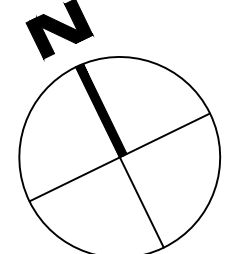
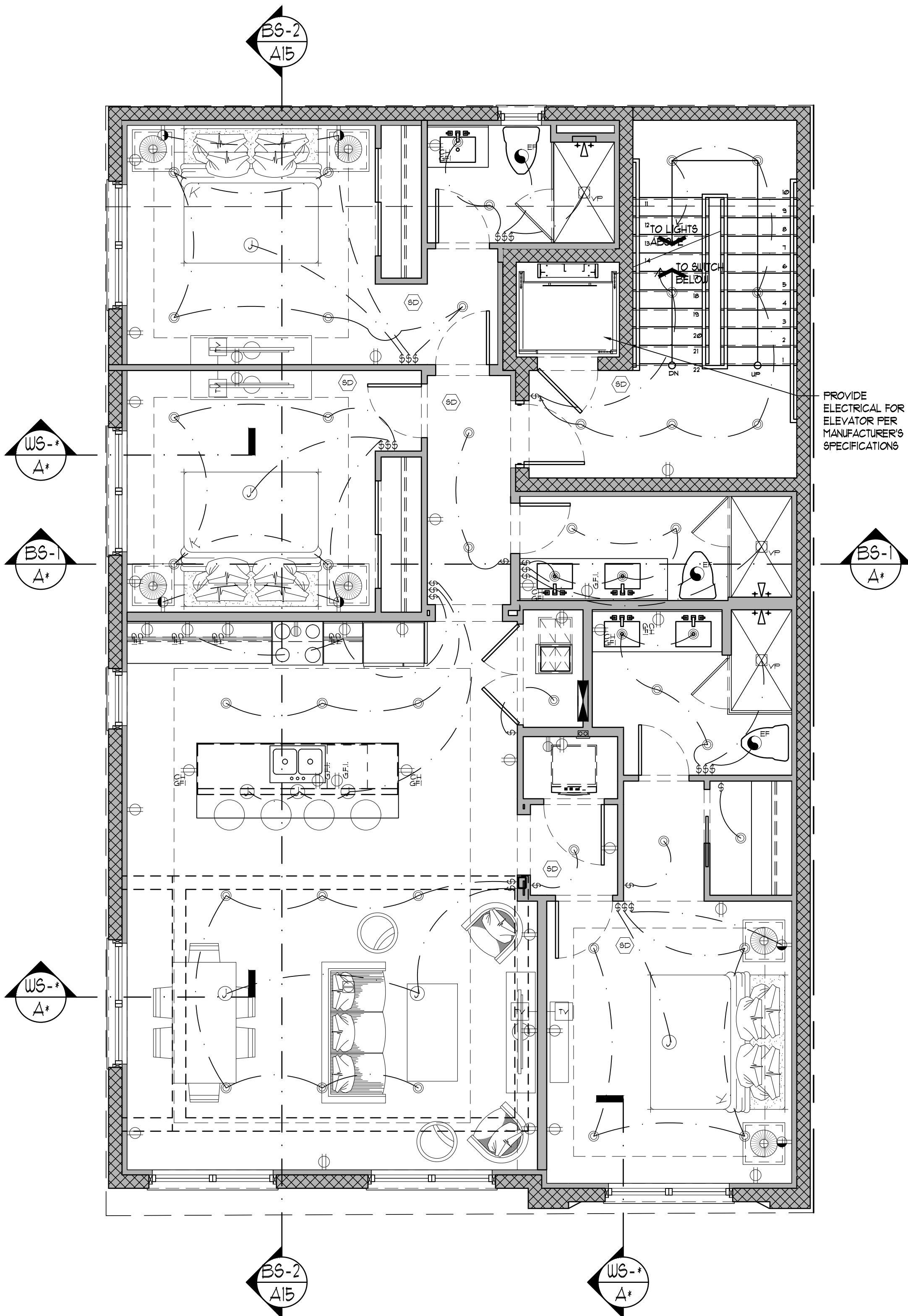
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18. ALL WORK SHALL BE PERFORMED BY A LICENSED ELECTRICAL CONTRACTOR IN A FIRST CLASS WORKMANLIKE MANNER.

19. ALL WORK SHALL BE COORDINATED WITH OTHER TRADES TO AVOID INTERFERENCE WITH THE PROGRESS OF CONSTRUCTION.

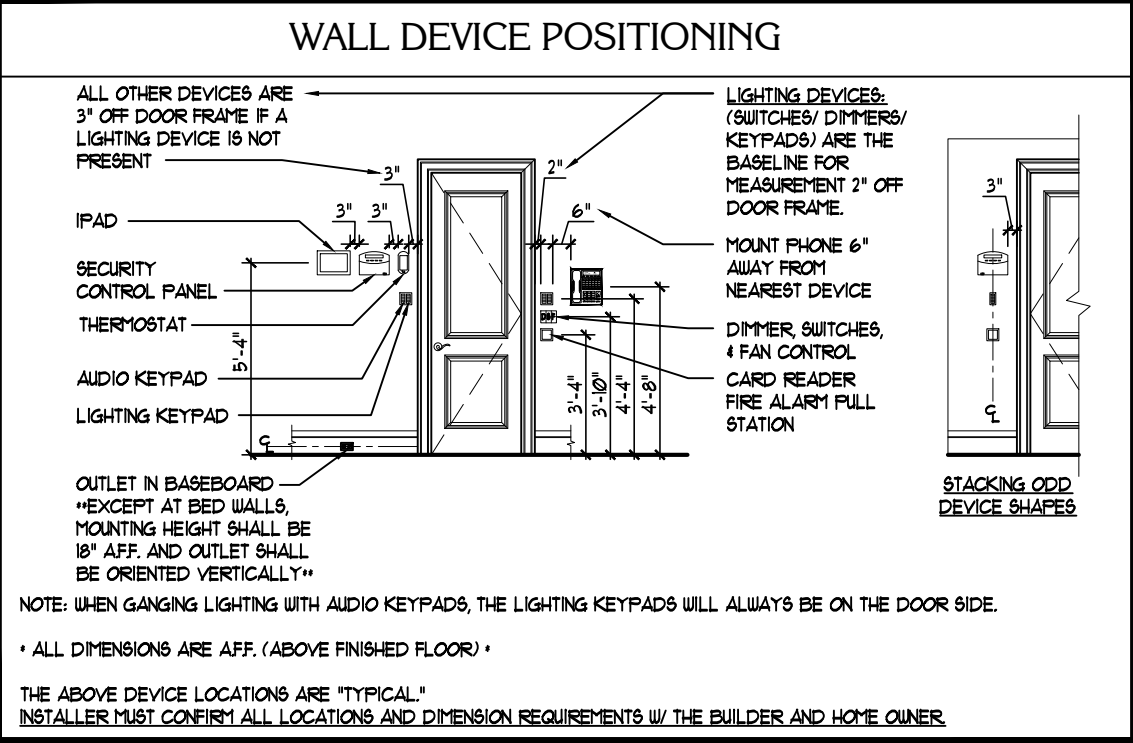
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21. G.C. TO COORDINATE LOCATIONS OF ALL LIGHTS, SWITCHES & OUTLET LOCATIONS WITH HOMEOWNER.



SECOND FLOOR ELECTRICAL PLAN

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



ELECTRICAL LEGEND

	WALL OR CEILING MOUNTED LIGHT FIXTURE
	AUTOMATIC LIGHT
	WALL OR CEILING MOUNTED EXT. LIGHT FIXTURE
	RECESSED LIGHT FIXTURE
	VAPOR RESISTANT RECESSED LIGHT FIXTURE
	RECESSED LIGHT FIXTURE W/ DIRECTIONAL TRIM
	SURFACE MOUNTED LED FIXTURE
	JUNCTION BOX
	CABINET LIGHTING
	CEILING FAN WITH LIGHT
	EXHAUST FAN VENTED TO EXTERIOR
	SMOKE & CARBON MONOXIDE DETECTOR
	220 VOLT RECEPTACLE
	DUPLEX OUTLET
	DUPLEX OUTLET - HALF SWITCHED
	DUPLEX OUTLET AT COUNTER HEIGHT
	GFI, DUPLEX OUTLET AT COUNTER HEIGHT
	GFI, DUPLEX OUTLET
	WEATHER PROOF DUPLEX OUTLET
	FLOOR RECEPTACLE OUTLET
	CABLE TELEVISION JACK
	TELEPHONE JACK
	WALL SWITCH AT 48" AFF.
	3-WAY WALL SWITCH AT 48" AFF.
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	DIMMER WALL SWITCH AT 48" AFF.
	PUSH BUTTON WALL SWITCH AT 48" AFF.
	DOOR CHIME BUTTON (LIGHTED)
	DOOR CHIME W/ TRANSFORMER
	MOTORIZED WINDOW SHADE
	FLOOD LIGHT
	ELECTRIC METER
	ELECTRIC PANEL
	STEP LIGHT
	DISCONNECT

REVIEW SET



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1011 THIRD STREET
FORT MYERS BEACH, FLORIDA

Revisions

Date



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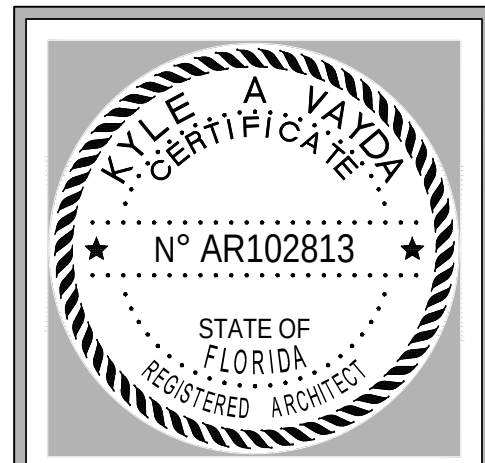
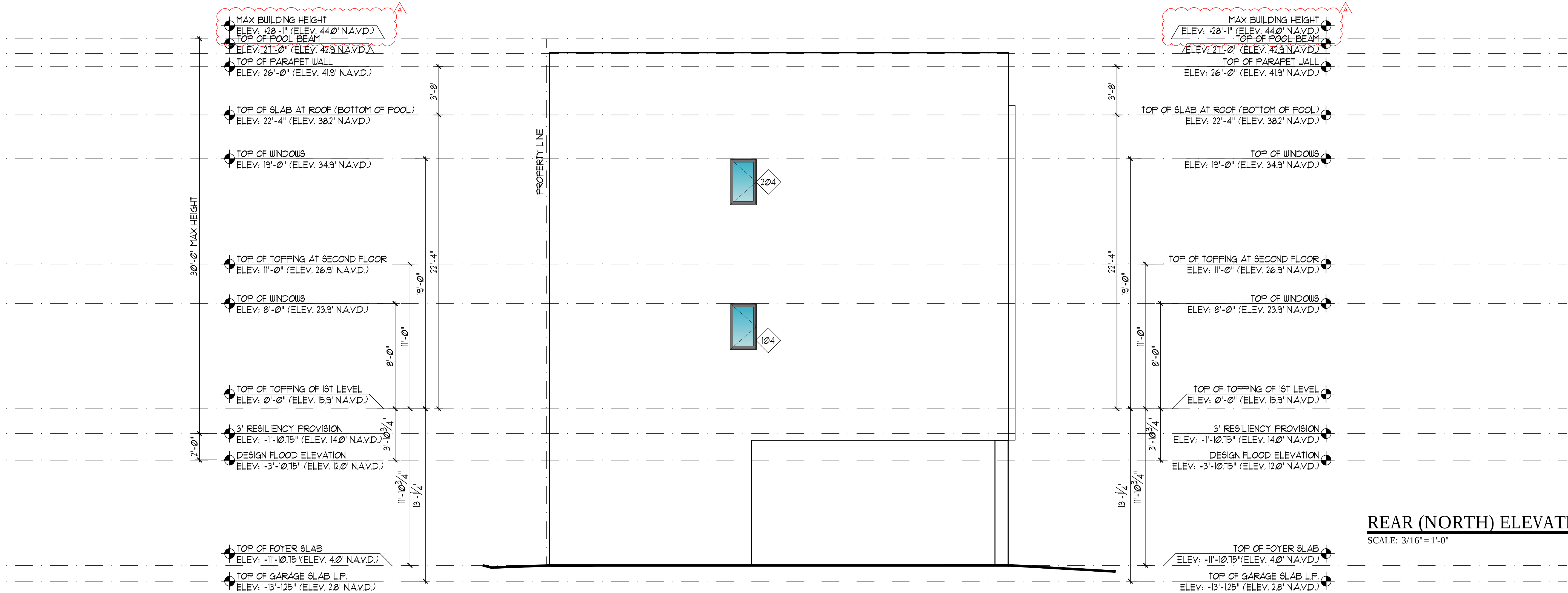
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-
-
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- SCALE: 1/4"=1'-0"
-
- ELECTRICAL LEGEND

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	AUTOMATIC LIGHT
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CONTACT: KYLE VAYDA
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- 1011 THIRD STREET
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- Revisions
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-
- ALL DESIGN, SPECIFICATIONS, MATERIALS AND WORKMANSHIP ARE GUARANTEED AS REPRESENTED BY THE DRAWINGS AND SPECIFICATIONS. THE DRAWINGS AND SPECIFICATIONS ARE THE PROPERTY OF THE ARCHITECT AND ARE NOT TO BE REPRODUCED OR USED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT. ANY REPRODUCTION OR USE WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT IS PROHIBITED. THE ARCHITECT ASSUMES NO LIABILITY FOR ANY DAMAGE OR INJURY TO PERSONS OR PROPERTY ARISING FROM THE USE OF THE DRAWINGS AND SPECIFICATIONS. THE ARCHITECT'S LIABILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE PROJECT. THE ARCHITECT'S LIABILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE PROJECT. THE ARCHITECT'S LIABILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE PROJECT.
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- NAPLES, FLORIDA
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- (239) 431.1686
- FL LICENSE NUMBER AA102813
- Page 155 of 548



Revisions
ADDENDUM A: FME STAFF COMMENTS

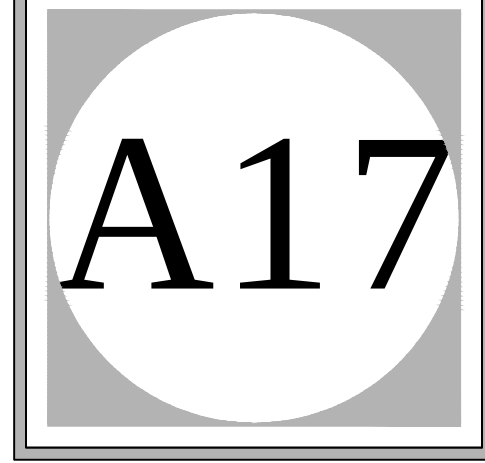
Date
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1011 THIRD STREET
FORT MYERS BEACH, FLORIDA

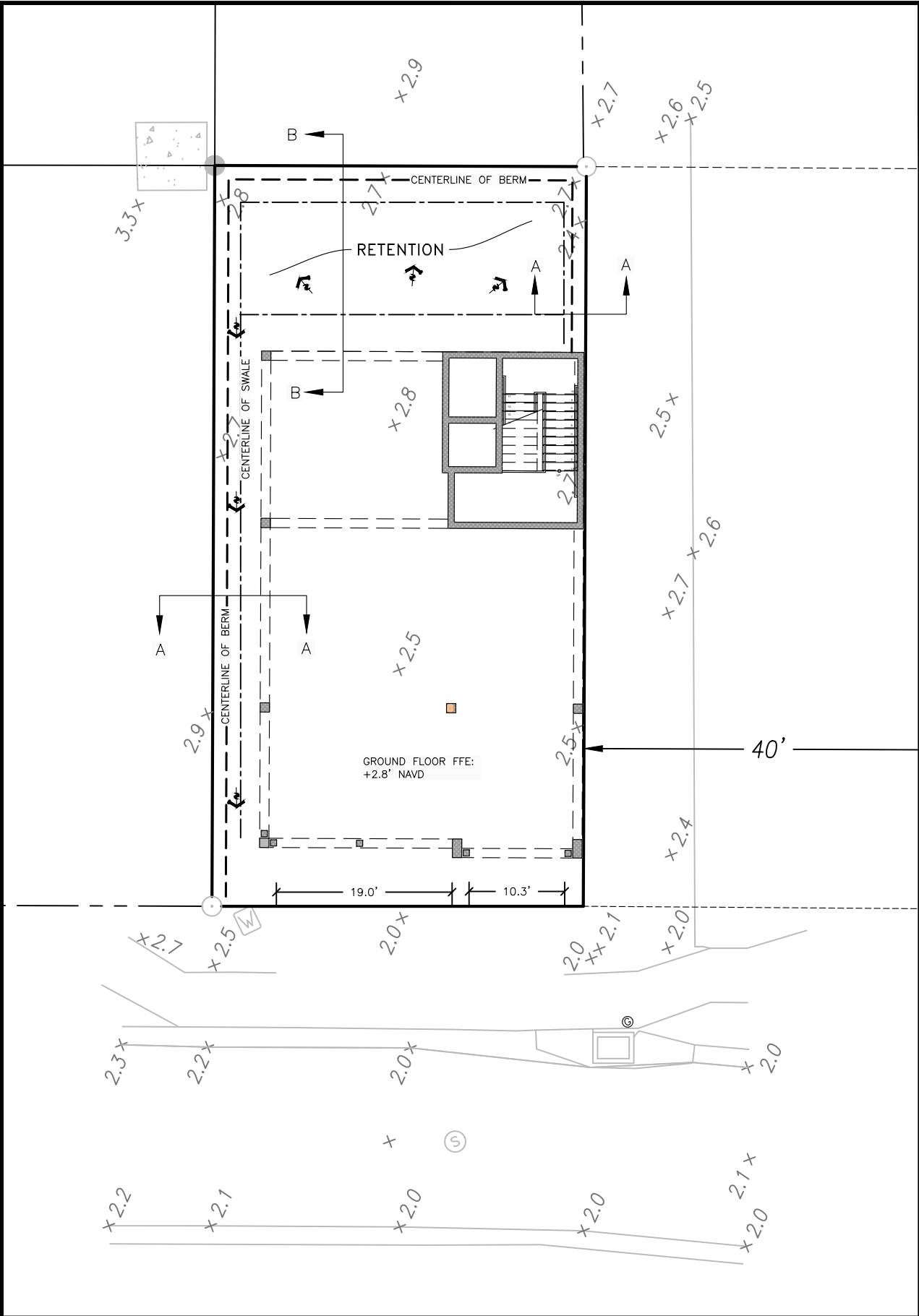


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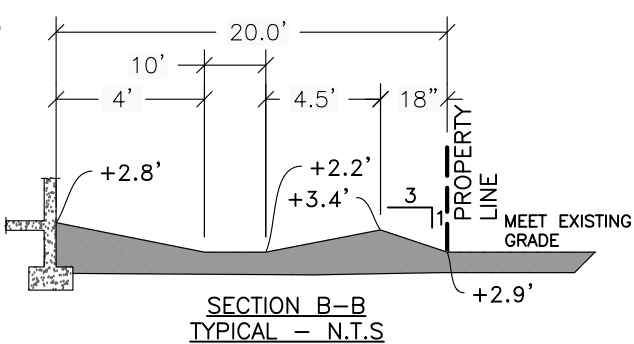
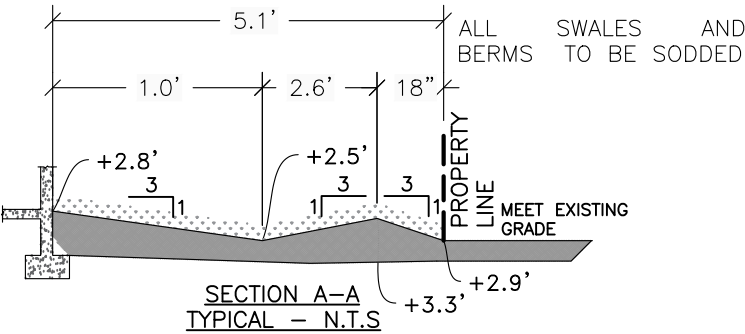
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DATE: 9.18.24



REVIEW SET



*MATCH EXISTING GRADES AT PROPERTY LINES AND NO DISCHARGING OF STORMWATER RUNOFF ONTO NEIGHBORING PROPERTIES.



LEGEND

← FLOW DIRECTION

+X.X EXISTING GRADE

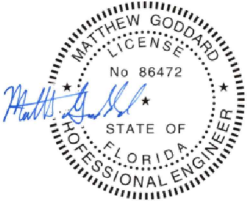
STORM WATER CALCULATIONS		
BASED ON 1.0" OVER THE SITE.		
1.0" (3,212 SQ. FT.) * 1/12 (CONVERSION) =		268 CF (REQ'D)
PROVIDED RETENTION		
SECTION A-A: 85 LF X 0.3 SF SWALE STORAGE	=	26 CF
SECTION B-B: 35 LF X 7.88 SF SWALE STORAGE	=	276 CF
TOTAL PROVIDED RETENTION	=	301 CF

LOT AREA CALCULATIONS	
TOTAL LOT AREA 3,212 SQ. FT.	
67% ALLOWABLE	PROPOSED
IMPREVIOUS COV. = 2,152 SQ. FT.	2,058 SQ. FT.
INCLUDES HOUSE, DRIVEWAY, POOL & EQUIPMENT WITHIN PROPERTY BOUNDARIES.	

- NOTES:
- MATCH EXISTING GRADES AT PROPERTY LINES AND NO DISCHARGING OF STORMWATER RUNOFF ONTO NEIGHBORING PROPERTIES.
 - GRADE DRIVEWAYS TO FLOW INTO RETENTION AREAS. GRATES CAN BE PLACED ON DRIVEWAY TO IMPEDE FLOW.
 - DOWNSPOUTS SHALL BE DIRECTED TO DRAINAGE SYSTEM.
 - CONTRACTOR TO VERIFY SITE LAYOUT AND NOTIFY DESIGN PROFESSIONALS IF ANY INCONSISTENCIES OCCUR.
 - GRADE AROUND THE BUILDING SHALL BE DIRECTED INTO RETENTION AREAS.
 - ELEVATIONS ARE IN NAVD88 FEET.
 - THIS DRAINAGE PLAN IS BASED ON THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES SEC. 6-14.
 - PROPERTY DETAILS BASED ON BECK ARCHITECTURE SITE PLAN.
 - BUILDING AND IMPERVIOUS SURFACES LOCATIONS PROVIDED BY ARCHITECT.
 - SEPARATE ROW PERMIT SHALL BE SUBMITTED FOR PORTION OF DRIVEWAY LOCATED OUTSIDE PROPERTY BOUNDARTY.



GODDARD ENGINEERING, LLC
2931 6th Ave. NE
NAPLES, FL 34120
PH: (239) 776-2608
MGODDARDPE@GMAIL.COM



THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY

Matthew D. Goddard
Digitally signed by Matthew D. Goddard
Date: 2024.06.03 21:15:42 -04'00'

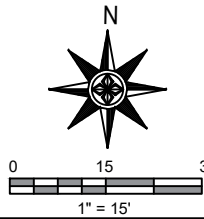
ON 6/3/2024
PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SHA AUTHENTICATION CODE MUST BE VERIFIED ON ANY ELECTRONIC COPIES

1011 THIRD STREET
MULTI-FAMILY RESIDENCE
STORMWATER MANAGEMENT PLAN

DATE: 06/1/2024

REV.

REV.



GELLC: 24-119

1



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: 1011 Third St 1-4
STRAP Number: 24-46-23-W3-00202.0060
Applicant: Merschman I LLC Phone: 1-217-898-4220
Contact Name: Matthew Noble Phone: 1-239-898-5182
Email: anobleplan@gmail.com Fax: _____
Current Zoning District: Downtown
Future Land Use Map (FLUM) Category: Commercial FKA PedestrianCommercial
FLUM Density Range: 1-6 DU/AC Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED

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

SUPPLEMENTAL FORM REQUIRED

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

PART I – General Information

A. Applicant*: George Merschman Phone: 217-899-4220
**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: 1421 East Lake Shore Dr. Springfield IL 62712
Email: geomerschman@hotmail.com Fax: _____
Contact Name: Matthew Noble Phone: 239-898-4220



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: Matthew A. Noble Phone: 239-898-5182
Address: 2107 Andrea Ln, Fort Myers, FL 33912
Email: anobleplan@gmail.com Fax: _____

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

Name: Tom Jandovitz Phone: 239-494-4400
Address: 9220 Bonita Beach Rd SE#215
Email: Tom@afonovanelson.com Fax: _____

Name: Kyle Vayda, Beck Architectural Group Phone: 239-431-1686
Address: 804 Anchor Rode Dr. Naples, FL 34103
Email: Kyle@beckarchitectural.com Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

- ☐ Appeal of Administrative Action
- ☐ Vacation ☐ Right-of-Way ☐ Easement
- ☐ Other. Please Explain: _____
- _____
- _____

PART III – Waivers

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

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

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

Signature

Printed Name

STATE OF _____ COUNTY OF _____

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

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

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

_____ as identification.

(SEAL)

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

_____	_____
Signature	Printed Name

AFFIDAVIT

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

I, George A. Merschman (name), as Manager (MGR) (title)
of Merschman I LLC (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

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



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Merschman I LLC

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

Signature

George Merschman

Typed or Printed Name

Title

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: 24-46-23-w3-00202.0060

Property Address: 1011 Third St. 1-4

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: Business Center

Book: 9 Page: 9 Unit: _____ Block: 2 Lot(s): 6

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.



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C. Property Dimensions:

Width (please provide an average width if irregular in shape) 40 feet
Depth (please provide an average width if irregular in shape) 80 feet
Frontage on street: 40 feet. Frontage on waterbody: 0 feet
Total land area: 3212 ☐ acres ☒ square feet

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

Located in Downtown on Third Street just side of the Sky Bridge.

Located adjacent to Public Parking lot which is under the Sky 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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

line. Exhibit 6-2

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

Explanatory Notes – Part IV & V

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

1. **Request:**

Meeting Date: May 5, 2025

This agenda item is a First Reading and Public Hearing on proposed Ordinance 25-04 (commonly referred to as the Arches Commercial Planned Development). If approved at First Reading, a Second Reading and final adoption hearing will be scheduled for June 2, 2025, at 9:00 AM after adoption of the Comprehensive Plan Amendment proposed in Ordinance 25-05 or at another time as identified by Town Council.

ORDINANCE TITLE:

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE REZONING OF 4.98 ACRES OF PROPERTY MORE SPECIFICALLY DESCRIBED HEREIN FROM COMMERCIAL MARINA (2 PARCELS), RESIDENTIAL CONSERVATION (5 PARCELS), COMMERCIAL OFFICE (1 PARCEL) AND DOWNTOWN (2 PARCELS) TO A COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, TO ALLOW A MIXED-USE DEVELOPMENT INCLUDING 263 LODGING UNITS, COMMERCIAL/ RETAIL SPACE AND PUBLIC OPEN SPACE, MORE SPECIFICALLY DESCRIBED AS 436, 441, 445, 450 HARBOR COURT; 435 AND 438 BONITA STREET; 935 AND 939 THIRD STREET AND 401 OLD SAN CARLOS BLVD , ALSO IDENTIFIED AS THE FOLLOWING STRAP NUMBERS: 24-46-23-W3-00027.0000; 24-26-23-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, INCLUDING DEVIATIONS FOR HEIGHT, SETBACKS, HOTEL UNITS, PARKING, LANDSCAPING AND ACCESS; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The Town Council makes final decisions on rezoning requests.

What the action accomplishes:

Approval of the CPD will allow for the development of a resort hotel and its accompanying restaurant and retail uses.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Ordinance

4. **Submitter of Information:**

Judith Frankel, Principal Planner

5. **Background:**

Freeland FL Holdings, LLC, is seeking concurrent applications for a Small-Scale Comprehensive Plan Future Land Use Map Amendment and Commercial Planned Development Rezoning of the subject property encompassing ten parcels, +4.98 acres (216,928 sq. ft.) located at 450, 445, 441, and 436 Harbor Ct., 435 and 438 Bonita St., 935 and 939 Third St., and 401 Old San Carlos Boulevard. A companion Comprehensive Plan Amendment application has been filed to designate all properties to the Pedestrian Commercial FLU Designation. This revised narrative provides additional evidence to support the rezoning request for 10 properties. The request is for all 10 properties to be rezoned to a Commercial Planned Development (CPD) Zoning District from their current zoning districts.

A Comprehensive Plan Future Land Use Map Amendment for this site that would enable the CPD request was presented to the Local Planning Agency (LPA) on April 9, 2024. The LPA voted 4 – 2 to deny the request. A CPD application request did not accompany that application. The Town

Council on May 6, 2024, granted continuance for the Comprehensive Plan Future Land Use Map Amendment to a date uncertain, until such time that it could be presented simultaneously with the Commercial Planned Development.

At the April 8th, 2025 LPA meeting, the LPA voted unanimously to recommend approval with conditions of the requested CPD. The LPA amended the staff's suggested conditions to further restrict the proposed operations.

Attachments:

1. CPD Arches Ordinance 25-04 3.19.25 (1)
2. Exhibit A: Arches MCP and Schedule of Uses
3. Staff Report CPD
4. Exhibit A: Applicant Summary
5. Exhibit B: Applicant Narrative
6. Exhibit C: Supplemental Plans
7. Exhibit D Supplemental Concept Renderings
8. Exhibit E: Schedule Deviations & Justifications
9. Exhibit F: Applicant Proposed Conditions
10. Exhibit G: Transportation Impact Statement (TIS)
11. AIM Engineering & Surveying Review of the Traffic Impact Statement (Exhibit H) at the request of Town Staff
12. Exhibit H: Postcards
13. Exhibit I: Arches Application
14. Business Impact Estimate
15. Newspress Publication

Financial Impact:

Unknown

6. Alternative Action

Approve with Conditions

7. Management Recommendations:

8. Recommended Approval:

Georgina Cid, Community Development Manager
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 4/18/2025
Approved - 4/21/2025
Approved - 4/29/2025
Approved - 4/29/2025
Final Approval - 4/29/2025

ORDINANCE 25-04

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/ DENYING THE REZONING OF 4.98 ACRES OF PROPERTY MORE SPECIFICALLY DESCRIBED HEREIN FROM COMMERCIAL MARINA (2 PARCELS), RESIDENTIAL CONSERVATION (5 PARCELS), COMMERCIAL OFFICE (1 PARCEL) AND DOWNTOWN (2 PARCELS) TO A COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, TO ALLOW A MIXED-USE DEVELOPMENT INCLUDING 263 LODGING UNITS, COMMERCIAL/ RETAIL SPACE AND PUBLIC OPEN SPACE, MORE SPECIFICALLY DESCRIBED AS 436, 441, 445, 450 HARBOR COURT; 435 AND 438 BONITA STREET; 935 AND 939 THIRD STREET AND 401 OLD SAN CARLOS BLVD , ALSO IDENTIFIED AS THE FOLLOWING STRAP NUMBERS: 24-46-23-W3-00027.0000; 24-26-23-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, INCLUDING DEVIATIONS FOR HEIGHT, SETBACKS, HOTEL UNITS, PARKING, LANDSCAPING AND ACCESS; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, The Neighborhood Company ("Applicant"), on behalf of Freeland FL Holdings, LLC, owners of the property generally located at 450, 445, 441 & 436 Harbor Court, 435 & 438 Bonita Street, 935 and 939 Third Street, 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 ("Property"), filed an application to rezone the properties from Commercial Marina, Residential Conservation, Commercial Office and Downtown to a CPD with a corresponding Schedule of Uses and Master Concept Plan (MCP) with certain deviations from the Land Development Code (LDC) to include a resort; and

WHEREAS, the subject ten properties are located in the _____ Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach as adopted by Ordinance 25-____, and is under common control of the owners as listed in the public records of Lee County Property Appraiser; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on April 8th, 2025, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted 6 to 0 to recommend approval to the small-scale map amendment request and found it consistent with a companion small scale amendment to the Comprehensive Plan to be adopted prior to the requested rezoning, and

WHEREAS, on May 5th, 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 June 5, 2025; and

WHEREAS, at the June 5, 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 contains the Schedule of Uses, Conditions of Approval and Master Concept Plan for this CPD to be used during the permitting process; and

WHEREAS, the Town Council finds that this request to rezone the properties from Commercial Marina, Residential Conservation, Commercial Office and Downtown to a CPD with a corresponding Schedule of Uses and Master Concept Plan (MCP) with eight deviations to the LDC in order to develop a Resort Hotel; and

WHEREAS, the requested deviations from the LDC include:

Deviation #1: A deviation from LDC Table 34-3 which requires properties in the Commercial Resort (CR) zoning district to have a minimum lot width of 100 feet and a minimum lot depth of 100 feet. This deviation would allow for either a minimum lot width of 80 feet or minimum lot depth of 80 feet depending on the development's frontage on either Old San Carlos Boulevard or Third Street.

Deviation #2: A deviation from LDC Section 34-645(b) and Table 34-3, which allows for a maximum floor area ratio of 1.2 within the Commercial Resort (CR) zoning district and a maximum floor area ratio (FAR) of 1.8 within the Downtown Redevelopment district to allow for a maximum FAR of 2.0 within the Arches Bayfront Resort CPD.

Deviation #3: A deviation from LDC Section 34-1803(a)(1), which allows the conversion of dwelling units to hotel/motel guest units per established equivalency factors as allowed per LDC Section 34-1804(a)(2). This deviation would allow an equivalency ratio of 9.1 and a maximum of 263 guest units.

Deviation #4: A deviation from LDC note 1 of Table 10-9 which requires a solid wall not less than six feet in height and with the landscaping to be placed on the adjacent property side of the wall to allow for a six foot high decorative fence with solid columns and landscaping to be placed on the interior (resort side) of the decorative fence for the southern property line as depicted on the enclosed MCP.

Deviation #5: A deviation from LDC Section 26-77(b) which states that new or expanded seawalls are not allowed along natural waterbodies in order to allow the existing boat ramp to be replaced by seawall.

Deviation #6: A deviation from LDC Table 34-3 which requires properties in the Commercial Resort (CR) zoning district to have a minimum height set at 30 feet and 3 stories to allow a maximum building zoned height of 81' (as defined in the FMBLDC) for the Resort Tract. Maximum building heights will be in compliance with the approved Master Concept Plan.

Deviation #7: A deviation from LDC Table 34-3 which states that property setbacks in a CPD zoning district shall be the same as for the Commercial Resort zoning district to allow for adjusted building setback lines within the Resort Tract and adjusted side setbacks and build to lines for the buildings located within the Old San Carlos Tract as outlined within the enclosed Development Standards Exhibit.

Deviation #8: A deviation from LDC Section 34-2020, required parking regulations, to allow a parking reduction of 50% in accordance with LDC Section 34-676(a)(1).

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) based on competent and substantial evidence in the record:

- 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-xx which is, **consistent/inconsistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve/approve with conditions/deny** the Application.

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

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

Section 2. The Town Council determines the Applicant **did/did not** meet its burden of proof that the requested rezoning request **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 schedule of uses, conditions of approval and

Master Concept Plan as set forth in Exhibit A, attached hereto and incorporated herein by this reference are approved.

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

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

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

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

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

DULY PASSED AND ADOPTED on this ____ day of _____ 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:**

This Resolution was filed in the Office of the Town Clerk on this ____ day of _____ 2025.

Exhibits:

Exhibit A -Schedule of Uses, Conditions of Approval and Master Concept Plan (MCP)

Exhibit B: Conditions of Approval

Conditions of Approval

- An agreement must be established for elements not accounted for on the Master Concept Plan or in the conditions of the Ordinance. The applicant shall work with the Town Attorney to draft the agreement. These elements shall include:
 - Ferry/Water taxi Terminal
 - Non-motorized Watercraft Docking
 - Guest and Employee Shuttle
 - Don't Rent a Car (DRaC) Program
 - Bicycle Rental
 - Pump out and fueling services
 - Promotion of the Beach School

Development Conditions

- The owner will provide an accessible stabilized surface for the area between Harbor Court and Bonita Street for emergency personnel and vehicles, as noted on the MCP
- The MCP indicates the access points at Harbor Ct. and Bonita St. provide for "Emergency/Limited Access Only." "Limited Access" is intended to allow vehicles that have unintentionally driven down Harbor Court or Bonita Street to temporarily access the Arches property; maneuver through the turn-around area; and then exit the property.
- All walkover/pedestrian bridges will be constructed at a height to permit fire and other emergency vehicles to pass underneath
- Night controlled access will be a system of gated sections with keypad or scanning capabilities to only allow employees, current registered owners/guests of the property and emergency personnel to enter and exit the property from these locations during the night (1 hour after sunset) only in areas noted on the MCP.
- Access to the Arches resort through the easement number 2008000332365 on First Street should be limited to vehicular travel. No pedestrian pathway is located along this 30-foot-wide easement.
- A detailed landscaping plan showing the location and type of planting must be provided with the development order application. All landscaping materials will be native varieties/Florida friendly species.
 - Along the western boundary (canal) adjacent to the Building E guest pool deck, a minimum 5-foot-wide buffer will be provided. This buffer will provide a minimum of 5 trees per 100 linear feet at a minimum of 12 feet tall at time of planting and a continuous opaque (clusia) hedge. Hedging must be provided at least 4 feet at time of planting along the canal adjacent to Building E and maintained at a minimum of 5-feet high.
- Vehicular access to the resort will be directed to Arches Way, and "Local Traffic Only" "No Thru Traffic" signage will be placed immediately west of the intersection of Third Street and Arches Way be to

minimize vehicular trips within that neighborhood.

- Ride hailing spot must be a separate spot from the LeeTran stop location. The ride hailing spot must be located to reduce potential impact on residential neighbors and be provided with lighting for safety. Location of the transit stop must be coordinated with LeeTran.
- Maximum allowed commercial space is 25,500 Square Feet.

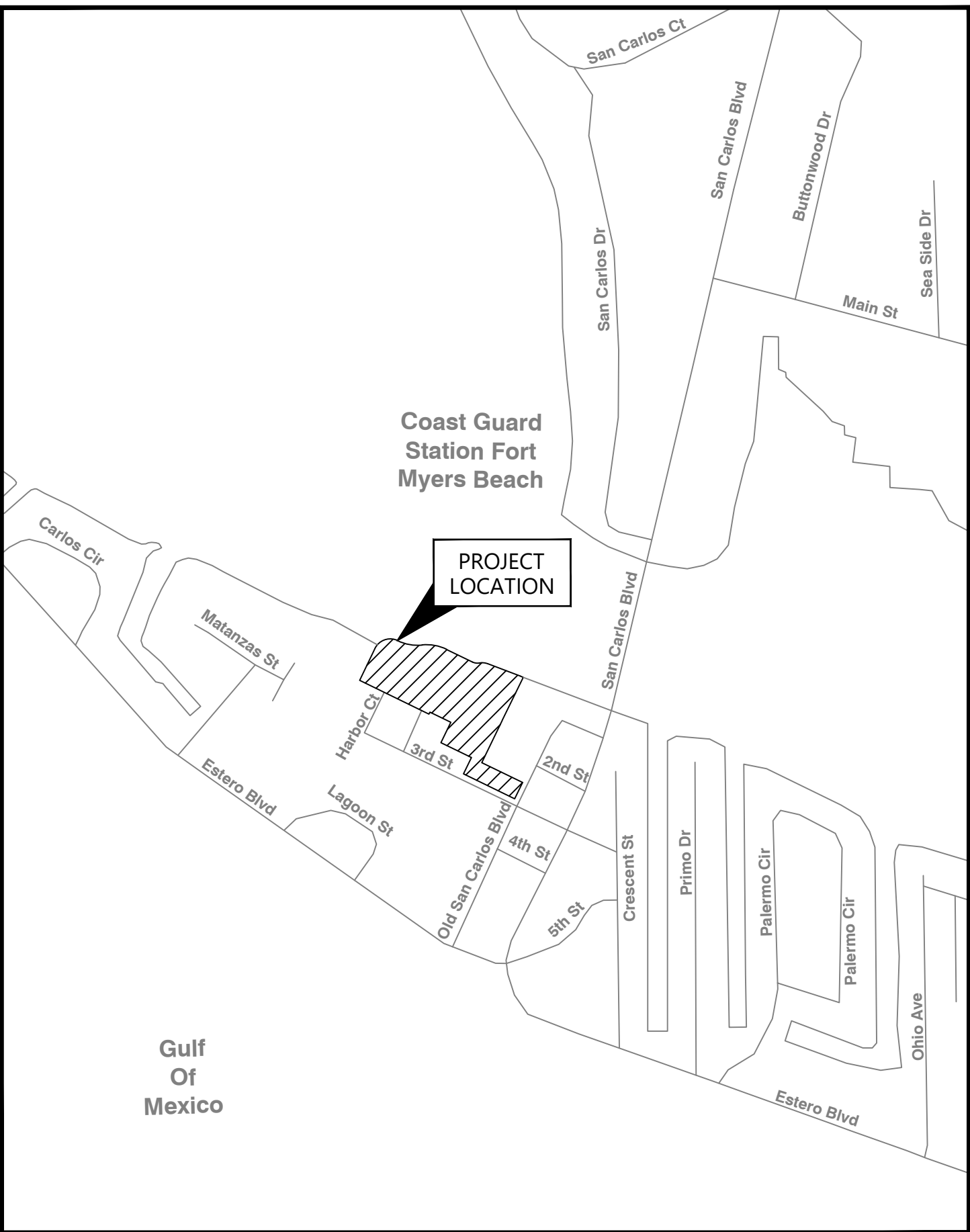
Operational conditions

- Commercial parking for development is not permitted currently. However, the property owner may conduct a parking study after the development is fully operational for at least one-year to determine if and how many parking spaces could be allocated to a public commercial parking. This study will be review by the Town Manager or designee to determine if sufficient parking is available for a commercial parking lot.
- Hours of Operation:
 - The Arches Gateway Restaurant and rooftop deck at corner of San Carlos Blvd and 3rd St will operate 7:00am to midnight. Amplified sound will be oriented away from adjacent residential properties.
 - Sunset Deck: Hours of operation are 7am until midnight. Only ambient music is allowed on the Sunset Deck. Ambient music is permitted from 7am until 9pm. Amplified sound will be oriented away from adjacent residential properties. Live music is not permitted at this location.
 - Commercial plaza restaurant(s) along Bayfront Promenade: 7:00am to midnight
 - Pool deck (Buildings B and C): 7:00am to midnight
 - Pool deck (Building E): 7:00am to 9pm and ambient music only from 10am to until one hour after sunset. Amplified sound will be oriented away from adjacent residential properties. No alcohol sales will take place outdoors on the pool deck at Building E. Live music is not permitted at this location.
 - Outdoor deck area by the Events Chapel and reception hall (Building D): 7:00am to midnight

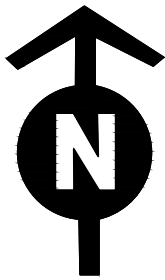
MASTER CONCEPT PLAN FOR

THE ARCHES BAYFRONT 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:



**Strayhorn,
Persons-Mulicka
& Fisher** A Southwest Florida
Tradition Since 1915



PREPARED FOR:

FREELAND FL HOLDINGS, LLC

450 HARBOR CT
FORT MYERS BEACH, FL 33931

CONTENTS

SHEET NUMBER	SHEET DESCRIPTION		
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2	MASTER CONCEPT PLAN		
3	DEVELOPMENT TRACTS AND COP AREAS		
4	CONCEPT PHASING PLAN		
5	NOTES		
DATE:		PROJECT No.:	SHEET No.:
April, 2025		24011.01.02	1 OF 5



PROJECT NO.: 220050.01.01

DATE: 04/25

DRAWN: F.L.

DESIGN: K.G.

SHEET NUMBER: 2 OF 5

CLIENT: FREELAND FL HOLDINGS, LLC

PROJECT: THE ARCHES BAYFRONT RESORT (CPD)

TITLE: MASTER CONCEPT PLAN

THE NEIGHBORHOOD COMPANY

5618 WHISPERING WILLOW WAY | FORT MYERS, FL 33908

WWW.THENEIGHBORHOODCOMPANY

7/3/24

FL.

DRAWN

DATE



1. THIS MASTER CONCEPT PLAN (MCP) IS CONCEPTUAL IN NATURE. THE OVERALL CONFIGURATION, SIZE AND LOCATION OF THE STRUCTURE(S) AND OTHER IMPROVEMENTS MAY VARY. FINAL DESIGN AND IMPROVEMENT DETAILS WILL BE PROVIDED AS PART OF THE DEVELOPMENT ORDER (D.O.) PROCESS.
2. TOTAL CPD/DEVELOPMENT AREA: 4.98 +/- ACRES
3. FUTURE LAND USE MAP CATEGORY: PEDESTRIAN COMMERCIAL
4. THE PROJECT WILL BE DEVELOPED IN FIVE PHASES. THE PHASES ARE REPRESENTATIVE OF A CONCEPTUAL DEVELOPMENT PROGRAM, BUT RESEQUENCING AND COMBINATIONS MAY OCCUR DURING FINAL DESIGN AND BY MARKET FORCES.
5. WATER MANAGEMENT REQUIREMENTS FOR REDEVELOPMENT PROJECTS CAN VARY SIGNIFICANTLY. THE WATER MANAGEMENT PLAN WILL BE DESIGNED AT THE TIME OF D.O.
6. NO ENVIRONMENTALLY SENSITIVE LAND OR WATERS EXISTS ON SITE AS THIS SITE WAS IMPACTED BY PREVIOUS DEVELOPMENT. THE ENVIRONMENTAL REPORT ALSO INDICATES NO PROTECTED SPECIES ARE IMPACTED BY THE PROPOSED PROJECT.
7. ALL OTHER DEVELOPMENT STANDARDS NOT PROVIDED HEREIN SHALL BE SET FORTH IN LDC CHAPTER 24 OR OTHER APPLICABLE PROVISIONS OF THE LDC.
8. IN COMPLIANCE WITH LDC SECTION 34-1803(A)(2), THE MAXIMUM OF 263 ROOMS/LODGING UNITS AND ARE ALLOWED DUE TO EXCEPTIONAL CIRCUMSTANCES AND PUBLIC BENEFIT PROVIDED BY THIS CPD.

RESORT TRACT:

- RESORT
- HOTEL/MOTEL WITH A MAXIMUM 263 ROOMS
- RESORT ACCESSORY USES
- ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES AND INCLUDING OUTDOOR SEATING AREAS ASSOCIATED WITH ANY ESTABLISHMENT
- AUTOMOBILE RENTAL
- OFFICES, GENERAL OR MEDICAL
- PERSONAL SERVICES
- COMMERCIAL ACCESSORY USES
- ADMINISTRATIVE OFFICE
- BAR OR COCKTAIL LOUNGE
- PARKING GARAGE
- PARKING LOT
- RESTAURANT – DRIVE-THROUGH PROHIBITED
- RETAIL STORE, SMALL (LESS THAN 5,000 SF)
- RETAIL STORE, LARGE (MORE THAN 5,000 SF)
- MARINA
- MARINA ACCESSORY USES
- DOCKS AND TERMINAL - WATER TAXI/FERRY AND COMMUNITY/EMERGENCY SERVICES
- DOCKS (LIVEBOARDS PROHIBITED)
- DOCKS - NON-MOTORIZED WATERCRAFT
- PERSONAL WATERCRAFT OPERATIONS OFFICE
- BOAT DEALER (NO OUTSIDE SALES): LIMITED TO OFFICE SPACE
- ESSENTIAL SERVICES
- ESSENTIAL SERVICE EQUIPMENT

OLD SAN CARLOS TRACT:

- RESORT ACCESSORY USES
- SUBORDINATE COMMERCIAL USES
- ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES AND INCLUDING OUTDOOR SEATING AREAS ASSOCIATED WITH ANY ESTABLISHMENT
- OFFICES, GENERAL OR MEDICAL
- PERSONAL SERVICES
- COMMERCIAL ACCESSORY USES
- ADMINISTRATIVE OFFICE
- BAR OR COCKTAIL LOUNGE
- SUBORDINATE COMMERCIAL USES
- PARKING LOT
- RESTAURANT – DRIVE-THROUGH PROHIBITED
- RETAIL STORE, SMALL (LESS THAN 5,000 SF)
- BOAT DEALER (NO OUTSIDE SALES): LIMITED TO OFFICE SPACE
- ESSENTIAL SERVICES
- ESSENTIAL SERVICE EQUIPMENT

1. A DEVIATION FROM LDC TABLE 34-3 WHICH REQUIRES PROPERTIES IN THE CR ZONING DISTRICT TO HAVE A MINIMUM LOT WIDTH OF 100 FEET AND A MINIMUM LOT DEPTH OF 100 FEET. THIS DEVIATION WOULD ALLOW FOR EITHER A MINIMUM LOT WIDTH OF 80 FEET OR MINIMUM LOT DEPTH OF 80 FEET DEPENDING ON THE DEVELOPMENT'S FRONTAGE ON EITHER OLD SAN CARLOS BOULEVARD OR THIRD STREET.
2. A DEVIATION FROM LDC SECTION 34-645(B) AND TABLE 34-3, WHICH ALLOWS FOR A MAXIMUM FLOOR AREA RATIO OF 1.2 WITHIN THE COMMERCIAL RESORT (CR) ZONING DISTRICT AND A MAXIMUM FLOOR AREA RATIO (FAR) OF 1.8 WITHIN THE DOWNTOWN REDEVELOPMENT DISTRICT TO ALLOW FOR A MAXIMUM FAR OF 2.0 WITHIN THE ARCHES BAYFRONT RESORT CPD.
3. A DEVIATION FROM LDC SECTION 34-1803(A)(1), WHICH ALLOWS THE CONVERSION OF DWELLING UNITS TO HOTEL/MOTEL GUEST UNITS PER ESTABLISHED EQUIVALENCY FACTORS AS ALLOWED PER LDC SECTION 34-1804(A)(2). THIS WOULD ALLOW A MAXIMUM OF 263 GUEST UNITS.
4. A DEVIATION FROM LDC NOTE 1 OF TABLE 10-9 WHICH REQUIRES A SOLID WALL NOT LESS THAN SIX FEET IN HEIGHT AND WITH THE LANDSCAPING TO BE PLACED ON THE ADJACENT PROPERTY SIDE OF THE WALL TO ALLOW FOR A SIX FOOT HIGH DECORATIVE FENCE WITH SOLID COLUMNS AND LANDSCAPING TO BE PLACED ON THE INTERIOR (RESORT SIDE) OF THE DECORATIVE FENCE FOR THE SOUTHERN PROPERTY LINE AS DEPICTED ON THE ENCLOSED MCP.
5. A DEVIATION FROM LDC SECTION 26-77(B) WHICH STATES THAT NEW OR EXPANDED SEAWALLS ARE NOT ALLOWED ALONG NATURAL WATERBODIES IN ORDER TO ALLOW THE EXISTING BOAT RAMP TO BE REPLACED BY SEAWALL.
6. A DEVIATION FROM LDC TABLE 34-3 WHICH REQUIRES PROPERTIES IN THE COMMERCIAL RESORT (CR) ZONING DISTRICT TO HAVE A MINIMUM HEIGHT SET AT 30 FEET AND 3 STORIES TO ALLOW A MAXIMUM BUILDING HEIGHT OF 70' (AS DEFINED IN THE FMBLDC) FOR THE RESORT TRACT AND 40' FOR THE OLD SAN CARLOS TRACT. BUILDING HEIGHTS WILL BE IN SUBSTANTIAL COMPLIANCE WITH THE APPROVED MASTER CONCEPT PLAN.
7. A DEVIATION FROM LDC TABLE 34-3 WHICH STATES THAT PROPERTY SETBACKS IN A CPD ZONING DISTRICT SHALL BE THE SAME AS FOR THE COMMERCIAL RESORT ZONING DISTRICT TO ALLOW FOR ADJUSTED BUILDING SETBACK LINES WITHIN THE RESORT TRACT AND ADJUSTED SIDE SETBACKS AND BUILD TO LINES FOR THE BUILDINGS LOCATED WITHIN THE OLD SAN CARLOS TRACT AS OUTLINED WITHIN THE ENCLOSED DEVELOPMENT STANDARDS EXHIBIT.
8. A DEVIATION FROM LDC SECTION 34-2020, REQUIRED PARKING REGULATIONS, TO ALLOW A PARKING REDUCTION OF 50% IN ACCORDANCE WITH LDC SECTION 34-676(A)(1).

- REQUIRED PER DEVIATION #8: 293 SPACES
- PROVIDED: 338 SPACES (INCLUDES 45 DEDICATED PUBLIC PARKING SPACES)
 - 13 GOLF CART SPACES
 - 26 BICYCLE SPACES

- MAXIMUM OF 263 HOTEL UNITS/ROOMS
- MAXIMUM OF 25,500 SQUARE FEET OF COMMERCIAL GROSS FLOOR AREA
- MAXIMUM FLOOR AREA RATIO (FAR): 2.0

RESORT TRACT DEVELOPMENT STANDARDS	PRINCIPAL STRUCTURES	ACCESSORY STRUCTURES
MINIMUM FRONT YARD: EASTERN BOUNDARY	40 FEET	10 FEET
MINIMUM REAR- WATERFRONT: CANAL	25 FEET	SPS
MINIMUM SIDE – NON-WATERFRONT YARD: SOUTHERN BOUNDARY	30 FEET	SPS
MINIMUM SIDE - WATERFRONT: MATANZAS PASS	25FEET	10 FEET ⁴
MINIMUM LOT AREA: 20,000 SF		
MINIMUM LOT WIDTH: 100 FEET		
MINIMUM LOT DEPTH: 100 FEET		
MAXIMUM BUILDING COVERAGE: N/A		
MINIMUM BUILDING SEPARATION	25 FEET	10 FEET
MAXIMUM ZONED HEIGHT ¹	81 FEET	N/A
MAXIMUM ACTUAL HEIGHT ²	102 FEET	N/A
MAXIMUM STORIES	7	3
MAXIMUM FLOOR AREA RATIO ³	2.0	N/A
1. MEASURED FROM DESIGN FLOOD ELEVATION TO MID-POINT OF MAIN ROOF 2. MEASURED FROM GRADE TO PEAK OF MAIN ROOF 3. INCLUSIVE OF ENTIRE CPD BOUNDARY 4. ONLY APPLICABLE TO FERRY/WATER TAXI TERMINAL, PERGOLAS/SIMILAR STRUCTURES, AND ESSENTIAL/EMERGENCY SERVICE FACILITIES. WALLS, FENCES, RAILINGS, BOLLARDS, ETC., MAY BE LOCATED WITHIN THE THIS SETBACK.		
SPS: SAME AS PRINCIPAL STRUCTURE		

OLD SAN CARLOS TRACT DEVELOPMENT STANDARDS	PRINCIPAL STRUCTURES	ACCESSORY STRUCTURES
BUILD-TO LINE - OLD SAN CARLOS BOULEVARD (DEVIATION 7)	0 - 5 FEET	
BUILD-TO LINE - THIRD STREET (DEVIATION 7)	0 -10 FEET	
MINIMUM REAR YARD: EDGE OF PAVEMENT FROM ARCHES WAY ROADWAY	30 FEET	SPS
MINIMUM SIDE YARD (DEVIATION 7)	0 FEET	SPS
MINIMUM LOT AREA: 20,000 SF		
MINIMUM LOT WIDTH: 100 FEET		
MINIMUM LOT DEPTH: 80 FEET (DEVIATION 1)		
MAXIMUM BUILDING COVERAGE: N/A		
MINIMUM BUILDING SEPARATION	10 FEET	SPS
MAXIMUM ZONED HEIGHT ¹	30 FEET	N/A
MAXIMUM ACTUAL HEIGHT ²	45 FEET	N/A
MAXIMUM STORIES	2	N/A
MAXIMUM FLOOR AREA RATIO ³	2.0	N/A
1. MEASURED FROM DESIGN FLOOD ELEVATION TO MID-POINT OF MAIN ROOF 2. MEASURED FROM GRADE TO PEAK OF MAIN ROOF 3. INCLUSIVE OF ENTIRE CPD BOUNDARY SPS: SAME AS PRINCIPAL STRUCTURE		

[illegible]



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TYPE OF CASE: Commercial Planned Development

NUMBER: CPD20230151

CASE NAME: Arches Bayfront Resort Commercial Planned Development (450 Harbor Court, 445 Harbor Court, 441 Harbor Court, 436 Harbor Court, 435 Bonita Street, 438 Bonita Street, 935 Third Street, 939 Third Street, 401 Old San Carlos Blvd.)

LPA

HEARING DATE: April 8th, 2025

TOWN COUNCIL

HEARING DATE: May 5th, 2025

STAFF

RECOMMENDATION: DENIAL

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

I. APPLICATION SUMMARY

Applicant/Owner: Freeland FL Holdings, LLC/The Neighborhood Company

Request: Commercial Planned Development Rezoning of ten parcels encompassing 4.98 acres.

Subject property: See attached plan

Physical Address: 450 Harbor Court, 445 Harbor Court, 441 Harbor Court, 436 Harbor Court, 435 Bonita Street, 438 Bonita Street, 935 Third Street, 939 Third Street and 401 Old San Carlos Blvd.

STRAP #s: 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

FLU: Marina & Mixed Residential (Platted Overlay)

Zoning: Commercial Marina (CM), Residential Conservation (RC), Commercial Office (CO), and Downtown

Adjacent zoning and land uses:

North: Tidal Waters, Matanzas Pass

South: RESIDENTIAL CONSERVATION (RC)
Mixed Residential (Platted Overlay)

East: DOWNTOWN (D)
Pedestrian Commercial

West: Tidal Waters, Canal

II. BACKGROUND AND ANALYSIS

Background:

Freeland FL Holdings, LLC, with their agent The Neighborhood Company, is seeking concurrent applications for a Small-Scale Comprehensive Plan Future Land Use Map Amendment and Commercial Planned Development Rezoning of the subject property encompassing ten parcels, +4.98 acres (216,928 sq. ft.) located at 450, 445, 441, and 436 Harbor Ct., 435 and 438 Bonita St., 935 and 939 Third St., and 401 Old San Carlos Boulevard. A companion Comprehensive Plan Amendment application has been filed to designate all properties to the Pedestrian Commercial FLU Designation. This revised narrative provides additional evidence to support the rezoning request for the identified 10 properties. The request is for all 10 properties to be rezoned to a Commercial Planned Development (CPD) Zoning District from their current zoning districts as listed below. All properties are identified by STRAP Number, Address, Future Land Use designations and zoning districts in the table below:

STRAP #	ADDRESS	EXISTING FUTURE LAND USE	EXISTING ZONING
24-46-23-W3-00026.0020	450 Harbor Ct.	Marina	Commercial Marina
24-46-23-W3-00027.0000	450 Harbor Ct.	Marina	Commercial Marina
24-46-23-W3-0030B.0200	445 Harbor Ct.	Mixed Residential	Residential Conservation
24-46-23-W3-0030B.0190	441 Harbor Ct.	Mixed Residential	Residential Conservation
24-46-23-W3-0030C.0060	436 Harbor Ct.	Mixed Residential	Residential Conservation
24-46-23-W3-0030C.0040	435 Bonita St.	Mixed Residential	Residential Conservation
24-46-23-W3-0030A.0110	438 Bonita St.	Mixed Residential	Residential Conservation
24-46-23-W3-0030A.0030	935 Third St.	Pedestrian Commercial	Commercial Office
24-46-23-W3-0030A.0020	939 Third St.	Pedestrian Commercial	Downtown
24-46-23-W3-0030A.0010	401 Old San Carlos Blvd.	Pedestrian Commercial	Downtown

Moss Marina was established in 1969. Matanzas View subdivision was platted in 1952, the first homes appear to have been built in the early 1950s. This neighborhood appears to have been primarily single family and two-family homes prior to hurricane Ian. More than half of the pre-Ian

homes are still standing; however staff does not know what portion of the homes are currently habitable.

Moss Marina has long been an iconic landmark on Fort Myers Beach. It was originally established as a marina by John and Betty Moss in 1969 and expanded by George Freeland in 1983. Due to significant damage from Ian, the age of the marina and island-wide redevelopment efforts, the Freeland family is now seeking to create a bayfront redevelopment project intended to complement the downtown district.

A Comprehensive Plan Future Land Use Map Amendment for this site that would enable the CPD request was presented to the Local Planning Agency (LPA) on April 9, 2024. The LPA voted 4 – 2 to deny the request. A CPD application request did not accompany that application. The Town Council on May 6, 2024, granted continuance for the Comprehensive Plan Future Land Use Map Amendment to a date uncertain, until such time that it could be presented simultaneously with the Commercial Planned Development.

At the April 8th, 2025 LPA meeting, the LPA voted unanimously to recommend approval with conditions of the CPD requested CPD. The LPA amended the staff's suggested conditions to further restrict the proposed operations. Those changes are reflected in the current recommended conditions.

Analysis:

The proposed mixed-use resort aims to provide a high-end resort, wet dock marina, commercial retail, ancillary restaurant, bar and banquet space, an event chapel, and an outdoor market and bodega. The applicant's proposal lists public benefits including public access to the waterfront, a bayfront public promenade lined with commercial retail storefronts, view corridors, a linear park & memorial garden, and a potential water ferry/taxi and terminal in the downtown area.

Density

The Arches Bayfront Resort site consists of +4.98 acres and is subject to a companion Small-Scale Comprehensive Plan Map Amendment to change the property's future land use category from Marina and Mixed Residential to 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). This proposal requests 263 lodging units which is reached through an equivalency factor of 9.1. This is the same equivalency factor utilized by the Margaritaville development. The Downtown core area is considered the nucleus of commercial and tourist activities on the island and is identified as an appropriate area for higher densities and intensities.

F.A.R.

The development is also subject to a maximum Floor Area Ratio (FAR). In addition to density (lodging units), the development is also subject to a maximum Floor Area Ratio (FAR). The Comprehensive Plan allows a FAR of up to 2.5 in the Pedestrian Commercial Future Land Use category. LDC Section 34-645 allows for a maximum floor area ratio of 1.2 within the Commercial Resort (CR) zoning district and a maximum floor area ratio of 1.8 within the Downtown Redevelopment district. A deviation request has been included in this application to allow for a maximum FAR of 2.0 within the Arches Bayfront Resort CPD. The preliminary schematic design for the resort calls for an FAR of 1.93, which allows a maximum of 417,879 square feet inclusive of the commercial area, lodging units, and ground level under-building parking. An FAR of 2.0

(433,858 SF) is requested to provide some leeway for changes that may be needed as the project proceeds to final design and permitting. The proposed FAR is less than the maximum of 2.5 allowed through the Comprehensive Plan.

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 Arches Bayfront Resort site is west of the Marina Village at Snug Harbor, a six-story condominium with an overall height of ±71 feet. Across the canal to the west on Matanzas Court, a single-family residence exists which is 3 stories. The proposed project is requesting buildings that will vary between one and seven stories with a maximum zoned height of 81 feet (measured from base flood elevation plus 3 feet of freeboard to the mid-point to the main roof) and a total height of 102 feet measured from grade to top of the main roof. Allowing additional height through the planned development process allows for narrower buildings with greater separation and greater setbacks from adjacent properties. This

Schedule of Uses:

- **RESORT TRACT:**
 - RESORT
 - HOTEL/MOTEL WITH A MAXIMUM 263 ROOMS
 - RESORT ACCESSORY USES
 - ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES AND INCLUDING OUTDOOR SEATING AREAS ASSOCIATED WITH ANY ESTABLISHMENT
 - AUTOMOBILE RENTAL
 - OFFICES, GENERAL OR MEDICAL
 - PERSONAL SERVICES
 - COMMERCIAL ACCESSORY USES
 - ADMINISTRATIVE OFFICE
 - BAR OR COCKTAIL LOUNGE
 - PARKING GARAGE
 - PARKING LOT
 - RESTAURANT – DRIVE-THROUGH PROHIBITED
 - RETAIL STORE, SMALL (LESS THAN 5,000 SF)
 - RETAIL STORE, LARGE (MORE THAN 5,000 SF)
 - MARINA
 - MARINA ACCESSORY USES
 - DOCKS AND TERMINAL - WATER TAXI/FERRY AND COMMUNITY/EMERGENCY SERVICES
 - DOCKS (LIVEABOARDS PROHIBITED)
 - DOCKS - NON-MOTORIZED WATERCRAFT
 - PERSONAL WATERCRAFT OPERATIONS OFFICE
 - BOAT DEALER (NO OUTSIDE SALES): LIMITED TO OFFICE SPACE
 - ESSENTIAL SERVICES
 - ESSENTIAL SERVICE EQUIPMENT
- **OLD SAN CARLOS TRACT:**
 - RESORT ACCESSORY USES
 - SUBORDINATE COMMERCIAL USES
 - ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES AND INCLUDING OUTDOOR SEATING AREAS ASSOCIATED WITH ANY ESTABLISHMENT
 - OFFICES, GENERAL OR MEDICAL

- PERSONAL SERVICES
- COMMERCIAL ACCESSORY USES
- ADMINISTRATIVE OFFICE
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- SUBORDINATE COMMERCIAL USES
- PARKING LOT
- RESTAURANT – DRIVE-THROUGH PROHIBITED
- RETAIL STORE, SMALL (LESS THAN 5,000 SF)
- BOAT DEALER (NO OUTSIDE SALES): LIMITED TO OFFICE SPACE
- ESSENTIAL SERVICES
- ESSENTIAL SERVICE EQUIPMENT

Neighborhood Compatibility:

The current Comprehensive Plan refers to this area as the “north end” in one section and the “core area”, in another section. It describes that “north end” area as follows: *“The north end of the island retains its residential and resort identity. Its motel rooms, older cottages and high-rises all benefit from their proximity to Bowditch Point and the downtown “core area,” yet are comfortably removed from seasonal traffic congestion and outdoor entertainment activities that many residents find intrusive.”* The 1999 Comprehensive Plan does not provide a vision or plan for this part of the “core area”.

Marina Zoning, creates a buffer between the higher impact downtown and the lower density residential districts. Elimination of that buffer between the intense commercial district and the neighborhoods could increase conflict. Uses that create additional noise in residential neighborhoods have been of particular concern to the Town of Fort Myers Beach in the past. Evaluation of the proposed of outdoor music and COP areas, along with vehicular circulation is needed to ensure that nearby homes are not negatively impacted this proposed development.

The applicant is proposing a buffer area that varies from 30 to 50-feet in width to reduce impact on the homes along Harbor Court, Bonita Street and Third Street. A vehicular circulation plan will direct and keep all guest vehicles off of these streets. Of concern is the noise issues that may arise from the pool deck location on Building E which faces the eastern canal. The applicant is requesting an ability to serve alcohol (COP) and play amplified music from this location. Staff recommends that these two elements be removed from the request.

The proposed development is compatible with the uses found along Old San Carlos Boulevard. The resort visitors will be in close proximity to the downtown area and must walk through the district to reach the beach. Although this application has not been evaluated for economic impact, it is likely to have a positive economic benefit on these shops and restaurants. The increased density of visitors is most appropriate in a downtown district to support a variety of amenities.

Infrastructure Impacts:

The traffic impact statement for the proposed CPD application is attached to this report but is not in its final form. A final analysis of that traffic impact statement is expected to be available by the Town Council meeting date.

Requested Deviations:

Deviation #1: A deviation from LDC Table 34-3 which requires properties in the Commercial Resort (CR) zoning district to have a minimum lot width of 100 feet and a minimum lot depth of 100 feet. This deviation would allow for either a minimum lot width of 80 feet or minimum lot depth of 80 feet depending on the development’s frontage on either Old San Carlos Boulevard or Third Street.

Applicant Justification: The deviation request will align the property development regulations within the Old San Carlos Tract with the dimensions of the property to avoid creating a non-conforming lot within the CPD. The property frontage measures approximately 80 feet on Old San Carlos Boulevard and approximately 200 feet on Third Street, which does not meet the intended CR zoning district dimensional regulations. The approval to deviate from the dimensional regulations will not result in any negative impacts to the community's health, safety, and welfare.

Staff Response: The LDC requires CPD to refer to the restrictions of the CR zoning. This deviation will allow for the use of the properties at 401 Old San Carlos and 935 and 939 Third Street as otherwise these parcels would be non-conforming.

Deviation #2: A deviation from LDC Section 34-645(b) and Table 34-3, which allows for a maximum floor area ratio of 1.2 within the Commercial Resort (CR) zoning district and a maximum floor area ratio (FAR) of 1.8 within the Downtown Redevelopment district to allow for a maximum FAR of 2.0 within the Arches Bayfront Resort CPD.

Applicant Justification: The companion Comprehensive Plan Future Land Use Map Amendment will designate the entire subject property as Pedestrian Commercial, which allows a maximum FAR of 2.5. The proposed FAR of 2.0 is therefore consistent with the Comprehensive Plan. The increase in FAR is requested to allow a world-class resort that will offer guest amenities, event space, marina uses, public parking and commercial uses open to the public. Today's building codes, FEMA regulations, public spaces and hospitality standards calling for larger rooms and greater amenities dictate the need for an increased FAR. However, the FAR requested is far short of the 2.5 allowed within the Pedestrian Commercial Future Land Use category.

The CPD allows applicants to request an FAR of up to 2.5 within the Pedestrian Commercial Future Land Use designation. In support of the CPD and the request to increase the FAR to 2.0, the applicant is proposing the following public benefits:

- Bayfront Promenade Public access to bayfront
- Splash pad for kids
- Mix of food, entertainment and retail venues for public and resort guests
- Enhanced view corridors
- Implementation of Old San Carlos Plan
- Creating a cohesive downtown with two dynamic bookends that provide first-rate pedestrian plazas
- Downtown Ferry/Water Taxi Terminal and founding partner of Ferry System
- 45 Public Parking Spaces
- Golf Cart Parking
- Bicycles for Resort Guests & Bicycle racks for the public
- Shuttle Service for employees and guests
- Participation in the DRAC program
- Implementation of Park Once Initiative
- Marina with Temporary Docking/Parking for non-motorized watercraft - paddle boards, kayaks and canoes, outfitters providing access to local water and natural environment
- Convenient Boat Pump Out and Fueling service
- Linear Park Memorial Garden Park honoring: FMB history & historic FMB Arches
- Hurricane Ian impacts & casualties
- Hurricane Ian rebuild
- Outdoor Market – Farmers and Arts & Crafts Market which will support local businesses and create a social gathering place
- Revitalization of the Downtown and increasing visitor density by creating public spaces, facilitating public access and diversifying food, recreational and entertainment options.

- Replacement of stark, dry storage barns with attractive coastal architecture – form and good design are important, they define and create a sense of place
- Hardened and resilient structures
- Improved water management conditions
- 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

The deviation for increased FAR is consistent with the Comprehensive Plan and will not result in any negative impacts to the community's health, safety, and welfare.

Staff Response: The Application to amend the Comprehensive Plan Future Land Use category must be approved in order for this deviation to be in compliance with the Comprehensive Plan. The applicant is proposing several elements to support their request of increased size and height. The most notable benefits are the public bayside promenade area and the linear park and memorial garden.

Deviation #3: A deviation from LDC Section 34-1803(a)(1), which allows the conversion of dwelling units to hotel/motel guest units per established equivalency factors as allowed per LDC Section 34-1804(a)(2). This deviation would allow an equivalency ratio of 9.1 and a maximum of 263 guest units.

Applicant Justification: The Arches Bayfront Resort property consists of +4.98 acres and is currently pending a Small-Scale Comprehensive Plan Future Land Use Map Amendment to change from Marina and Mixed Residential future land use category to Pedestrian Commercial. The Pedestrian Commercial future land use category allows 6 dwelling units per acre with equivalency factors for hotel units of various sizes. The equivalency factors per LDC Sec. 34-1893(a)(1) for units within the Pedestrian Commercial FLU are 3.0 for units less than 450 square feet, 2.5 for units between 450 square feet and 750 square feet, and 2.0 for units between 750 square feet and 1,000 square feet which would allow at a minimum 60 hotel units up to a maximum of 90 hotel units.

The proposed additional hotel rooms are requested pursuant to LDC Sec. 34-1802(a)(2), which allows for additional units under "exceptional circumstances" and when providing public benefits. The exceptional circumstances include the devastation sustained due to Hurricane Ian, the construction requirements mandated through the Florida Building Code and FEMA, the increased cost of construction, high interest rates and the shortages of materials and labor. Additionally, through the planned development process, the applicant is proposing public benefits that contributed to the projects consistency with LDC Sec. 34-1803(a)(2).

(See the list of benefits noted in Deviation #2)

These exceptional circumstances and public benefits support the 263 hotel units requested. The deviation and justification as outlined above demonstrate the public benefits that will be provided by the Arches Bayfront Resort and the exceptional circumstances which have led to this request. The development of this pedestrian friendly resort will not adversely impact the public's health, safety, or welfare.

Staff Response: The Application to amend the Comprehensive Plan Future Land Use category must be approved in order for this deviation to be in compliance with the Comprehensive Plan. The Pedestrian Commercial future land use category allows 6 dwelling units per acre with equivalency factors for hotel units of various sizes. The equivalency factors per LDC Sec. 34-1893(a)(1) for units within the Pedestrian Commercial FLU are 3.0 for units less than 450 square feet, 2.5 for units between 450 square feet and 750 square feet, and 2.0 for units between 750 square feet and 1,000 square feet which would allow at a minimum 60 hotel units up to a maximum of 90 hotel units.

Density is necessary for the economic revitalization of the downtown area. The economic and character losses on Old San Carlos that were wrought by Hurricane Ian are particular to this location. The proposed density may provide the requisite conditions to encourage other businesses to return to the area. The applicant is proposing several elements to support their request of increased dwelling units. The most notable benefits are the public bayside promenade area and the linear park and memorial garden.

Deviation #4: A deviation from LDC note 1 of Table 10-9 which requires a solid wall not less than six feet in height and with the landscaping to be placed on the adjacent property side of the wall to allow for a six foot high decorative fence with solid columns and landscaping to be placed on the interior (resort side) of the decorative fence for the southern property line as depicted on the enclosed MCP.

Applicant Justification: The deviation is requested to allow for a 6-foot decorative fence to be provided at the southern property boundary where the resort is located adjacent to single-family residences. This decorative fence will have a minimum of 10' of landscaping planted to the interior of the fence between the resort and the existing single-family residences. This will provide approximately 35 to 50 feet of separation between the resort buildings and the residential property. The placement of the landscaping to the interior of the decorative fence will allow for ease of maintenance and enhancement of the Linear Park & Memorial Garden area. For additional buffering and compatibility with residential development, the Linear Park & Memorial Garden area will be designed in such a manner that the public will be directed away from the residential development through sidewalks and wayfinding signage.

The proposed decorative fence with 10 feet of landscape plantings on the interior of the fence adjacent to the existing residential development will not cause or result in any negative impacts to the community's health, safety, and welfare.

Staff Response: Allowing a boundary wall to directly abut the neighboring properties, instead of placing landscaping on the outside of the wall will permit easier maintenance of the landscaping. Most residential properties have fences at their boundaries and placing landscaping between a wall and fence would not provide a benefit to the immediate neighbors. This deviation will also promote security of the site and thereby the neighboring residences. However, some immediate neighbors may prefer a solid wall instead of a fence. There is currently a 6-foot wall that runs along the rear yards of the homes on Third Street and Bonita Street.

Deviation #5: A deviation from LDC Section 26-77(b) which states that new or expanded seawalls are not allowed along natural waterbodies in order to allow the existing boat ramp to be replaced by seawall.

Applicant Justification: This deviation request is made so that the existing boat ramp, located on the northeast corner of property, shall be removed and replaced with a permitted, code compliant seawall. The existing private boat ramp is located on the Moss Marina site and no longer in use. Through the proposed Arches Bayfront Resort design, the site will provide a minimum 670-foot public bayfront promenade to be used by resort guests and the public. This bayfront promenade will provide access to the ferry/water taxi terminal, docks, ground floor retail and restaurants. The resort and seawall design will also comply with stormwater management so that runoff will not be discharged directly into the bay as currently occurs.

The proposed seawall construction will be a public benefit to the island, its residents and an improvement to the existing conditions thus supporting the intent of LDC Section 26-77(b) which is to protect the island's natural bodies of water.

Staff Response: A new seawall will require appropriate permitting from local and state agencies. An existing unused boat ramp is present at the Bay edge of the property. This deviation will allow that area to be filled and protected by a seawall. This will continue the existing seawall across the

Bay edge of the property.

Deviation #6: A deviation from LDC Table 34-3 which requires properties in the Commercial Resort (CR) zoning district to have a minimum height set at 30 feet and 3 stories to allow a maximum building zoned height of 81' (as defined in the FMBLDC) for the Resort Tract. Maximum building heights will be in compliance with the approved Master Concept Plan.

Applicant Justification: The comprehensive plan allows for additional height utilizing the planned development process in Policy 4-C-4 with implementing language in Section 34-1803(2) FMBLDC. This review allows additional height for consistency with existing building height and extraordinary public benefits. The proposed maximum height is similar to the adjacent Marina Village Condominium. The proposed height does not affect views from the peak of the skybridge above the existing skyline. This will ensure preservation of the views of the Gulf from vehicular traffic when arriving to the island via San Carlos Boulevard. The height is requested to allow for five view corridors varying in width from 25 to approximately 70 feet through the site toward the extensive bayfront promenade, waterfront, and sky. The additional view corridors and public access through the creation of a bayfront promenade will create a pedestrian plaza and reduce the building mass to present a human scaled experience along the bayfront and Arches Way. Additionally, the additional height results in smaller building footprints which allows for greater setbacks and buffering from adjacent residential properties and the creation of the Linear Park & Memorial Garden.

Staff Response: The Application to amend the Comprehensive Plan Future Land Use category must be approved in order for this deviation to be in compliance with the Comprehensive Plan. The requested height allows for a reduced mass above the parking level. Only two of the five view corridors will allow someone outside of the property and ground level to see through to the Bay. All of the view corridors enable to reduction in overall massing and contribute to the flow of light and air through the property.

The applicant is proposing several elements to support their request of increased height. The most notable benefits are the public bayside promenade area and the linear park and memorial garden. The additional height results in smaller building footprints which allows for greater setbacks and buffering from adjacent residential properties and the creation of the Linear Park & Memorial Garden.

Deviation #7: A deviation from LDC Table 34-3 which states that property setbacks in a CPD zoning district shall be the same as for the Commercial Resort zoning district to allow for adjusted building setback lines within the Resort Tract and adjusted side setbacks and build to lines for the buildings located within the Old San Carlos Tract as outlined within the enclosed Development Standards Exhibit.

Applicant Justification: This unique configuration of the properties which make up the Arches Bayfront Resort necessitates the requested deviation from setbacks and build-to lines. Under the Table 34-3 regulations, the section of the property which abuts Old San Carlos Boulevard would have a setback ranging from a minimum of 10' – 15' which would not support the Town's vision as presented in the Old San Carlos Boulevard-Crescent Street Master Plan of having all buildings built to the sidewalk. This deviation supports the desire to promote a building form that engages the public along Old San Carlos Boulevard, through building placement and design. The proposed build-to lines for the Old San Carlos Boulevard Tract are 0-5 feet for Old San Carlos Boulevard and 0 – 10 feet on Third Street. These build-to lines will create a human-scaled, walkable, engaging public realm along both Old San Carlos Boulevard and Third Street. The proposed side setback on the north side of the building is 0 feet, consistent with setbacks permitted in the Downtown district in which the property is located.

The proposed setbacks for the Resort Tract will allow the development to be designed in such a

manner that the active public areas are located along the Bayfront Promenade while the Linear Park and Memorial Garden will create a passive recreational area near Third Street and thus buffering the residential properties from the more intense uses. The setbacks will also allow the development to create five view corridors to the bay from Third Street. The granting of this deviation will not cause or result in any negative impacts to the community's health, safety, and welfare.

Staff Response: The deviation allows for a more cohesive urban streetscape along Old San Carlos Blvd and greater open space along the linear park and promenade areas.

Deviation #8: A deviation from LDC Section 34-2020, required parking regulations, to allow a parking reduction of 50% in accordance with LDC Section 34-676(a)(1).

Applicant Justification: LDC Section 34-676(a)(1) allows for the request of a 50% reduction from the off-street parking requirements for properties abutting Old San Carlos Boulevard through the deviation process. By virtue of the overall CPD's location and proximity to the water, the parking reduction will allow for consideration to be given to the alternative modes of transportation available to access the site. The Arches Bayside Resort intends to promote and support multimodal transportation through providing parking facilities for vehicles, golf carts, bicycles and docks for both vessel and personal watercraft and non-motorized personal watercraft as well as a water taxi/ferry dock. The resort will also have a stop for access to the Fort Myers Beach Trolley and Tram system.

The site creates the northern "bookend" of the expanded Times Square pedestrian-friendly zone along Old San Carlos Boulevard from Times Square to Matanzas Pass, connecting the beach to the bay as described in the Old San Carlos Boulevard – Crescent Master Plan.

The parking analysis demonstrates that a total of 338 vehicle parking spaces will be provided by the developer as well as 13 golf cart spaces, 26 bicycle spaces, and transient boat slips. 45 spaces of the 338 will be provided for paid public parking. The amount of parking meets and exceeds the code requirements, and the excess provides a significant public benefit that supports the Park Once initiative.

The proposed parking alternatives and access to alternative modes of transportation will reduce the need for parking within the downtown area and help alleviate traffic congestion on the island. The granting of this deviation will not create negative impacts to the health, safety and welfare of the island's residents and visitors.

Staff Response: Staff finds that a deviation from LDC sec. 34-2020 to allow for a 50% reduction of the total parking requirement does not align with sec. 34-676(a)(4) which requires other streets in the Downtown district to multiply the total requirement by .67 for a 33% reduction. The proposed development will be similar in nature to the existing Downtown District and this comparison is appropriate. The proposed development has more intense uses (i.e. event space) than the Old San Carlos businesses within the Downtown zoning district. The total required parking spaces for the resort calculated by use is 489.8. The number would be appropriately reduced in a manner similar to the abutting Downtown zoning by $490 \times .67 = 328$. 338 spaces are provided. The applicant is providing more than the required minimum, however this leaves only 10 parking spaces available to the public for commercial/shared parking, not the 45 spaces that the applicant has stated. Staff suggest allowing the applicant to conduct a parking study after the development is fully operational to determine if additional spaces could be allocated to public commercial parking. The applicant is proposing several operational programs to reduce the need for parking, but the full impact of those programs can't be known until the resort is in use.

Findings and Conclusions:

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

LDC Sec. 34-85 (b) Considerations. In reaching its decision, the town council shall consider the following, whenever applicable:

- (1) Whether there exists an error or ambiguity which must be corrected.
 - a. No errors or ambiguities exist.
- (2) Whether there exists changed or changing conditions which make approval of the request appropriate.
 - a. The site as exists is damaged and in need of repair or redevelopment due to the destruction caused by Hurricane Ian.
- (3) The impact of a proposed change on the intent of this chapter.
 - a. The proposed change will not have any impact on the intent of this chapter (LDC). The CPD rezone will allow the redevelopment of the damaged Moss Marina structures and adjoining properties
- (4) The testimony of any applicant.
 - a. 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.
- (6) The testimony of the public.
 - a. 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.
 - a. Provided the concurrent applicant for Future Land Use category amendment to the Comprehensive Plan is approved, the request is consistent with the goals, objectives, policies, and intent, and 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.
 - a. 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.
 - a. The urban services exist in this location.
- (10) Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.
 - a. The proposed redevelopment is located on a previously developed site which does not contain any environmentally critical areas or natural resources.
- (11) Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
 - a. The request is compatible with existing or known planned commercial, and civic uses adjacent to the subject redevelopment and will not cause damage, hazards, nuisance or other detriment to the commercial or civic property uses of Fort Myers Beach. It is less clear whether the proposed development will cause a nuisance to the abutting single-family residences. The property was previously a working marina without buffers and adequate landscaping and the proposed development will create additional open space and buffering to enhance the visual aesthetics of the area
- (12) Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity

to carry traffic generated by the development.

- a. The location of the proposed development, immediately adjacent to the Matanzas Pass Bridge and the Old San Carlos downtown area will contain any traffic impacts to the vicinity of the development. The addition of 239 lodging units will likely impact the flow of traffic in the downtown area through guests' arrivals and departures. Once guests are parked there would not be a need to move their vehicle until departure unless they have a planned excursion, as the beach, restaurants, bars and other amenities would be easily accessible on foot. Staff has concerns regarding the sufficiency of the parking provided for a commercial/shared parking lot.

(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.

The concurrent CPA application to amend the Future Land Use Category must be approved prior to the approval of this CPD application to comply with the Comprehensive Plan.

- (2) This chapter.

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

- (3) Any other applicable town ordinances or codes.

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

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

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

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

Staff response: The proposed mix of uses (lodging, commercial, restaurant) is appropriate in this location in general. However, the COP area of Building E and the request for ambient noise at that location may create a nuisance for the single-family home across the canal.

- 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: Linear Park buffer, bayfront public access, view corridors from neighborhood, separation between buildings acts as safeguards to the public interest.

The applicant is proposing signage to reduce resort vehicles for accessing that neighborhood. The abutting single-family neighborhood may be impacted by noise and increased traffic.

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

Staff response: All recommended conditions are related to 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:

Staff response: The CPA application to amend the Future Land Use Category must be approved prior to the approval of this CPD application to comply with the Comprehensive

Plan.

LDC sec. 34-216(a)(4) requires that the local planning agency's recommendation must approve, approve with modification, or reject each requested deviation based upon a finding that:

- a. Each item enhances the achievement of the objectives of the planned development; and
 - a. Staff concurs except for Deviation #8
- b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted; and
 - a. Staff concurs
- c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and
 - a. Staff concurs
- d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.
 - a. The CPA application to amend the Future Land Use Category must be approved prior to the approval of this CPD application to comply with the Comprehensive Plan.
- e. If the local planning agency concludes that the application omits necessary deviations, it may include the necessary deviations in its recommendation without an additional hearing.

III. RECOMMENDATIONS

Staff find that the CPD with deviations does not meet the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC and recommend **DENIAL** of CPD20230151, a request for a CPD with deviations. LDC Sec. 34-85 (b)(11) asks "Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property". While the request is compatible with the existing commercial uses in the downtown area, it appears incompatible with the neighboring single-family neighborhoods.

If the Town Council votes to approve the CPD, staff recommend the following conditions of approval.

Recommended Conditions of Approval

- An agreement must be established for elements not accounted for on the Master Concept Plan or in the conditions of the Ordinance. The applicant shall work with the Town Attorney to draft the agreement. These elements shall include:
 - Ferry/Water taxi Terminal
 - Non-motorized Watercraft Docking
 - Guest and Employee Shuttle
 - Don't Rent a Car (DRaC) Program
 - Bicycle Rental
 - Pump out and fueling services
 - Promotion of the Beach School

Development Conditions

- The owner will provide an accessible stabilized surface for the area between Harbor Court and Bonita Street for emergency personnel and vehicles, as noted on the MCP

- The MCP indicates the access points at Harbor Ct. and Bonita St. provide for “Emergency/Limited Access Only.” “Limited Access” is intended to allow vehicles that have unintentionally driven down Harbor Court or Bonita Street to temporarily access the Arches property; maneuver through the turn-around area; and then exit the property.
- All walkover/pedestrian bridges will be constructed at a height to permit fire and other emergency vehicles to pass underneath
- Night controlled access will be a system of gated sections with keypad or scanning capabilities to only allow employees, current registered owners/guests of the property and emergency personnel to enter and exit the property from these locations during the night (1 hour after sunset) only in areas noted on the MCP.
- Access to the Arches resort through the easement number 2008000332365 on First Street should be limited to vehicular travel. No pedestrian pathway is located along this 30-foot-wide easement.
- A detailed landscaping plan showing the location and type of planting must be provided with the development order application. All landscaping materials will be native varieties/Florida friendly species.
 - Along the western boundary (canal) adjacent to the Building E guest pool deck, a minimum 5-foot-wide buffer will be provided. This buffer will provide a minimum of 5 trees per 100 linear feet at a minimum of 12 feet tall at time of planting and a continuous opaque (clusia) hedge. Hedging must be provided at least 4 feet at time of planting along the canal adjacent to Building E and maintained at a minimum of 5-feet high.
- Vehicular access to the resort will be directed to Arches Way, and “Local Traffic Only” “No Thru Traffic” signage will be placed immediately west of the intersection of Third Street and Arches Way to minimize vehicular trips within that neighborhood.
- Ride hailing spot must be a separate spot from the LeeTran stop location. The ride hailing spot must be located to reduce potential impact on residential neighbors and be provided with lighting for safety. Location of the transit stop must be coordinated with LeeTran.
- Maximum allowed commercial space is 25,500 Square Feet.

Operational conditions

- Commercial parking for development is not permitted currently. However, the property owner may conduct a parking study after the development is fully operational for at least one-year to determine if and how many parking spaces could be allocated to a public commercial parking. This study will be review by the Town Manager or designee to determine if sufficient parking is available for a commercial parking lot.
- Hours of Operation:
 - The Arches Gateway Restaurant and rooftop deck at corner of San Carlos Blvd and 3rd St will operate 7:00am to midnight. Amplified sound will be oriented away from adjacent residential properties.
 - Sunset Deck: Hours of operation are 7am until midnight. Only ambient music is allowed on the Sunset Deck. Ambient music is permitted from 7am until 9pm.

Amplified sound will be oriented away from adjacent residential properties. Live music is not permitted at this location.

- Commercial plaza restaurant(s) along Bayfront Promenade: 7:00am to midnight
- Pool deck (Buildings B and C): 7:00am to midnight
- Pool deck (Building E): 7:00am to 9pm and ambient music only from 10am to until one hour after sunset. Amplified sound will be oriented away from adjacent residential properties. No alcohol sales will take place outdoors on the pool deck at Building E. Live music is not permitted at this location.
- Outdoor deck area by the Events Chapel and reception hall (Building D): 7:00am to midnight

IV. EXHIBITS

- a. Applicant Summary
- b. Applicant Narrative
- c. Supplemental plan
- d. Concept Renderings
- e. Deviations
- f. Proposed Commitments and Conditions
- g. Transportation Impact Statement
- h. Application
- i. Post Cards



THE ARCHES BAYFRONT RESORT
COMMERCIAL PLANNED DEVELOPMENT
Rezoning Application
#20230151

EXECUTIVE SUMMARY

INTRODUCTION

The Arches Bayfront resort was officially introduced to Fort Myers Beach over a year ago on May 15, 2023. The Freeland family, owners of Moss Marina, started to re-imagine a new future for the aging marina soon after Hurricane Ian. They assembled a stellar team of local professionals and the DPZ CoDesign firm to re-envision and design the subject property.

They began public outreach at the beginning of 2023 and met with numerous stakeholders including neighbors, residents, business owners, Local Planning Agency (LPA) and Town Council members. They evaluated development options, gathered public feedback and conducted multi-day design workshops to develop a new concept for the property. The resulting concept was for a mixed-use project that provided a “Bay Walk” public promenade, elevated civic plazas, a marina, multiple hotels with a maximum of 400 rooms, and up 18,500 square feet of commercial use for restaurant and retail space. A detailed site plan, architectural designs and numerous renderings were revealed at the public workshop on May 15th. Based on the overwhelming support they received at the workshop and through an on-line survey, they applied for a Comprehensive Plan Amendment (CPA) and Commercial Planned Development (CPD) to allow the proposed concept.

On April 9, 2024, the CPA for a Future Land Use Map change went before the LPA. To the surprise of the Applicant, the LPA recommended denial citing concerns over intensity of use and the inability to evaluate project details since the CPD was not being reviewed as a companion item. Pursuant to discussions with staff, stakeholders and elected officials, on May 6, 2024, the Applicant asked Town Council for a continuance to reevaluate the project, make adjustments and bring back the CPA and CPD as companion items to be evaluated concurrently.

A recurring comment heard from stakeholders was that they supported a mix-use project at this location but not at that scale. With that in mind, the Applicant set out to address all public comments and refine the existing concept by reducing the overall density and intensity, adopting a coastal architectural theme, enhancing public benefits and improving compatibility with surrounding uses.

The following document summarizes the changes made to the original concept, outlines the significant public benefits provided, describes why this is the right project in the right place and defines efforts made to ensure compatibility with surrounding uses.



BEFORE & AFTER SNAPSHOT

	<u>BEFORE</u>	<u>AFTER</u>
Density (lodging units):	400	263
Commercial Retail Space:	±18,500 SF, commercial retail space along bayfront promenade and on elevated deck	±25,500 SF, dispersed between Bayfront promenade to ensure viability and success of all businesses and at Old San Carlos/3 rd Street
Intensity/Floor Area Ratio:	2.07 or 450,929 SF	Proposed Concept: 1.93 - 417,879 SF Max. Request: 2.0 - 433,858 SF
Hotel Height (Zoned):	60-70 feet, 5 and 6 stories	±58 - ±81 feet, 5, 6 and 7 stories
Bayfront Promenade:	860 feet public promenade	±670 feet public promenade, where canal front access is eliminated to ensure compatibility with adjacent residential uses
Setbacks & Buffering from Residential Uses:	Min. 20-foot-wide greenbelt with minimum planting area of 7.5 feet	Min. 30-foot wide, with a majority at 40-foot wide, linear park with minimum planting area of 10 feet
Separation from closest residential homes:	25 feet minimum	38 feet minimum, with 55 feet or more from most homes.
View Corridors:	4 view corridors	5 enhanced view corridors, increase in light and air along skyline
Massing:	5 wider buildings	5 narrower buildings and smaller footprints
Parking:	381 total spaces, 1 large parking garage, 93 public spaces	338 total spaces, dispersed under building garages, 45 public spaces (38 within the under-building garages + 7 on-street)



Bike/Pedestrian Access:	Bike/ped access throughout	Access throughout but design features and wayfinding utilized to direct most of the bike/ped traffic toward bayfront and eastern portion of the resort
Vehicular Access:	Proposed vehicular connector between Harbor and Bonita	All access focused along Arches Way. Only local residential traffic to Harbor and Bonita Streets. Vehicular connectivity internal to resort. Elimination of vehicular connector between Harbor and Bonita, limited to multi-use pathway with increased buffering.
Intensity of Use & Gradient:	Density, amenities, retail and public activity was distributed throughout the site	Focused all access and most intense resort uses along Arches Way with reduced activity or intensity of use as you proceed to the west.
Architectural Theme:	Retro chic, stucco exterior with simple classic lines	Coastal architecture with Key West, Old Florida and St. Augustine Spanish influences. Showcasing metal roofs, varied rooflines, horizontal siding, cupolas and arches honoring FMB's history.
Public/Private Spaces:	Public spaces along promenade and elevated deck intermingled with hotel operations and guest experience	Separation of guest and public spaces. All public space at ground level. Deck levels relegated to hotel guests. Improves the public and hotel guest experiences and operations
Hotel-Resort Operations:	Back of the house hotel operations were comingled with public and guest experience	Improved hotel operations by clearly defining and separating back-of-the-house, guest, public, retail, marina, reception/banquet uses and areas.



Old San Carlos Parcel:

Arches café and parking

Bodega with rooftop restaurant & covered Outdoor Market providing versatile retail and market uses that are community based and create a sense of place and downtown attraction

PUBLIC BENEFITS

- Bayfront Promenade
 - Public access to bayfront
 - Splash pad for kids
 - Mix of food, entertainment and retail venues for public and resort guests
- Enhanced view corridors
- Implementation of Old San Carlos Plan
- Creating a cohesive downtown with two dynamic bookends that provide first-rate pedestrian plazas
- Downtown Ferry/Water Taxi Terminal and founding partner of Ferry System
- 45 Public Parking spaces
- Golf Cart Parking
- Bicycles for Resort Guests & Bicycle racks for the public
- Shuttle Service for employees and guests
- Participation in the DRAC program
- Implementation of Park Once Initiative
- Marina with Temporary Docking/Parking for non-motorized watercraft - paddle boards, kayaks and canoes, outfitters providing access to local water and natural environment
- Convenient Boat Pump Out and Fueling service
- Linear Park Memorial Garden Park honoring:
 - FMB history & historic FMB Arches
 - Hurricane Ian impacts & casualties
 - Hurricane Ian rebuild
- Outdoor Market – Farmers and Arts & Crafts Market which will support local businesses and create a social gathering place
- Revitalization of the Downtown and increasing visitor density by creating public spaces, facilitating public access and diversifying food, recreational and entertainment options.
- Replacement of stark, dry storage barns with attractive coastal architecture – form and good design are important, they define and create a sense of place
- Hardened and resilient structures
- Improved water management conditions
- 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



JUSTIFICATION & COMPATIBILITY

- **Great Downtown Location:**
 - Existing off-ramp from Skyway Bridge for easy and direct access
 - In area of Town meant to have highest allowable densities and intensities
 - Consistent with Old San Carlos Plan
 - Providing public access to the Bayfront
 - Creating great bookend to the downtown, connecting and activating Old San Carlos and creating a cohesive downtown
 - Within walkable downtown district which supports the “park once” intent by providing sufficient resort and guest parking in the heart of downtown
 - Helps create a vibrant and dynamic downtown where the mix of uses provides something for everyone, and reduces the need to leave the area
 - Beautiful, coastal resort concept offering a world class lodging, dining and shopping experience that complements the more lively and boisterous Times Square entertainment district
- **Density Reduction:** Reduced lodging density from 400 lodging units to 263, which is proportionally the same as Margaritaville. Requesting an equivalency factor of 9.1 which is the same as Margaritaville obtained.
- **Commercial Intensity:** Commercial intensity from a maximum of 18,500 SF to a maximum of 25,500 SF.
- **Improved Compatibility**
 - Increased setbacks
 - Increased buffers
 - Reduced massing
 - Increased view corridors
 - Varied heights
 - Focused all vehicular access along Aches Way to minimize traffic intrusion into adjacent neighborhood
 - Created an intensity of use/activity gradient with more intensity along Old San Carlos to less intensity along the abutting canal
 - Designed site to focus public activity along waterfront and eastern portion of the resort
 - Separated public and private uses more clearly to improve public and guest experience and ensure success of all venues/businesses
 - Eliminated the large parking garage and distributed parking under all buildings
 - Revised architectural design theme to be more coastal with casual elegance – Key West meets St. Augustine, but unique to Fort Myers Beach.
 - Maintained marina use while removing more intense commercial/industrial components
 - Separated and internalized all back-of-house activity to improve guest experience and operational efficiency while minimizing potential impacts on adjacent properties.



THE ARCHES BAYFRONT RESORT COMMERCIAL PLANNED DEVELOPMENT

Rezoning Application
#20230151

NARRATIVE

BACKGROUND & REQUEST

Freeland FL Holdings, LLC, is seeking concurrent applications for a Small-Scale Comprehensive Plan Future Land Use Map Amendment and Commercial Planned Development Rezoning of the subject property encompassing ten parcels, $\pm$ 4.98 acres (216,928 sq. ft.) located at 450, 445, 441, and 436 Harbor Ct., 435 and 438 Bonita St., 935 and 939 Third St., and 401 Old San Carlos Boulevard. A companion Comprehensive Plan Amendment application has been filed to designate all properties to the Pedestrian Commercial FLU Designation. This revised narrative provides additional evidence to support the rezoning request for the identified 10 properties. The request is for all 10 properties to be rezoned to a Commercial Planned Development (CPD) Zoning District from their current zoning districts as listed below. All properties are identified by STRAP Number, Address, Future Land Use designations and zoning districts in the table below:

STRAP #	ADDRESS	EXISTING FUTURE LAND USE	EXISTING ZONING
24-46-23-W3-00026.0020	450 Harbor Ct.	Marina	Commercial Marina
24-46-23-W3-00027.0000	450 Harbor Ct.	Marina	Commercial Marina
24-46-23-W3-0030B.0200	445 Harbor Ct.	Mixed Residential	Residential Conservation
24-46-23-W3-0030B.0190	441 Harbor Ct.	Mixed Residential	Residential Conservation
24-46-23-W3-0030C.0060	436 Harbor Ct.	Mixed Residential	Residential Conservation
24-46-23-W3-0030C.0040	435 Bonita St.	Mixed Residential	Residential Conservation
24-46-23-W3-0030A.0110	438 Bonita St.	Mixed Residential	Residential Conservation
24-46-23-W3-0030A.0030	935 Third St.	Pedestrian Commercial	Commercial Office
24-46-23-W3-0030A.0020	939 Third St.	Pedestrian Commercial	Downtown
24-46-23-W3-0030A.0010	401 Old San Carlos Blvd.	Pedestrian Commercial	Downtown



The Comprehensive Plan Future Land Use Map Amendment was reviewed by Town Staff and presented to the Local Planning Agency (LPA) on April 9, 2024. The LPA voted 4 – 2 to deny the request. Most dissenting members expressed concern over the two petitions not being reviewed concurrently and the lack of details contained in the simple map amendment. The Town Council on May 6, 2024, granted a continuance for the Comprehensive Plan Future Land Use Map Amendment to a date uncertain, until such time that it could be presented simultaneously with the Commercial Planned Development.

This revised narrative, along with the enclosed exhibits as part of the submittal, provides supplemental evidence to support the approval of the CPD rezoning and the companion Comprehensive Plan Future Land Use Map Amendment.

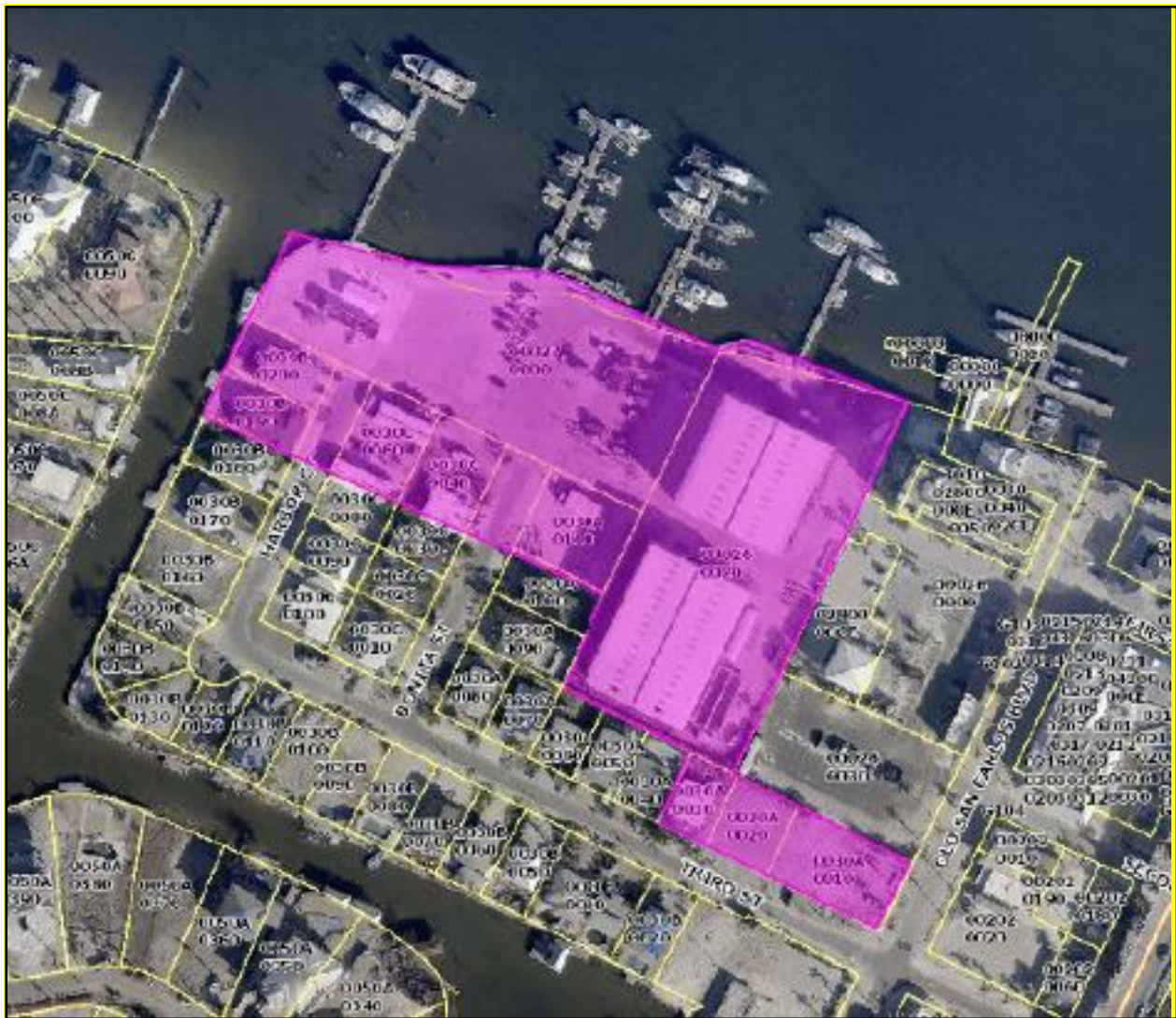


Figure 1. Location Map

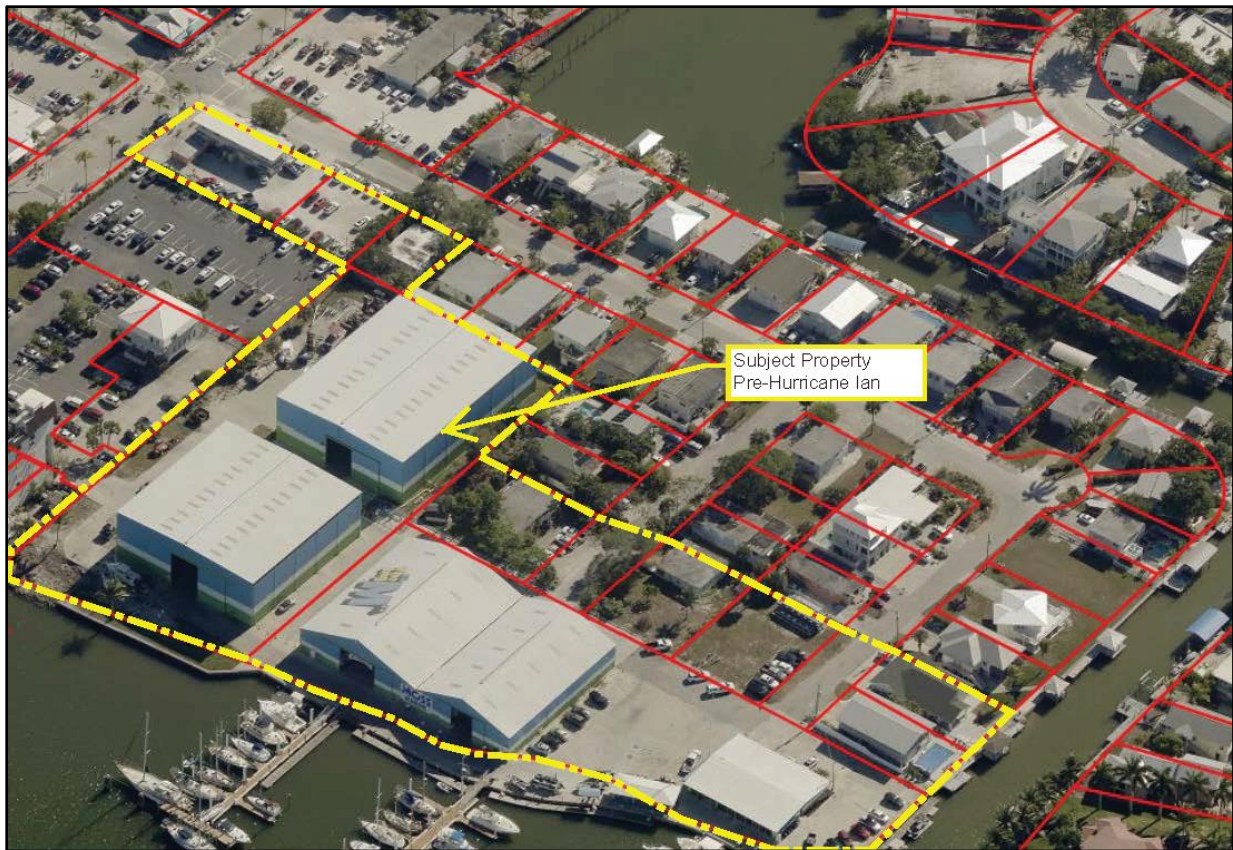


Figure 2. Pre-Hurricane Ian

Moss Marina has long been an iconic landmark on Fort Myers Beach. It was originally established as a marina by John and Betty Moss in 1969 and expanded by George Freeland in 1983. Due to the significant damage from Ian, the age of the marina and island-wide redevelopment efforts, the Freeland family saw an opportunity to reinvent the property and create a unique bayfront redevelopment project to complement the Fort Myers Beach downtown district. They also saw an opportunity to create a significant redevelopment project that would speed up the island's recovery, help revitalize the "main street", stimulate economic activity, and enhance visitation to our downtown. The proposed mixed-use resort will provide a world class hotel, marina, commercial retail, ancillary restaurant, bar and banquet space, an event chapel, and an outdoor market and bodega. The resort will also provide numerous public benefits such as public access to the waterfront and aquatic environment, a bayfront public promenade lined with commercial retail storefronts, multiple view corridors, a linear park & memorial garden, a water ferry/taxi and terminal, and public parking spaces in the heart downtown.



Figure 3. Post-Hurricane Ian

PROPOSED USE/DEVELOPMENT

Portions of Moss Marina, and some surrounding properties were destroyed by Hurricane Ian. In the aftermath of the storm, some neighbors decided to not rebuild and to sell their island properties. The purchase of several adjacent lots provided an opportunity for the Freelands to redevelop the marina into a vibrant, mixed-use resort. This proposed vision opens the bayfront to the public and enhances the downtown by creating a cohesive “main street” with complementary bookends that allow visitors and residents to experience the island’s beautiful beach and back bay environments. It also represents a significant investment and a mixed-use project that will be a catalyst to the revitalization of the downtown and the entire island. It strengthens the downtown “core” of the island, creates a destination of interest and a sense of place, and provides economic stimulus that will benefit other island businesses and the Town’s annual revenues.



The proposed Arches Bayfront Resort development is designed to be a multiple building mixed-use resort, which includes the following:

- A luxury hotel with a maximum of 263 lodging units (hotel and condo-hotel units)
- Ancillary restaurants, bars, banquet hall, lounge, and lobby space
- Bayfront Public Promenade with commercial storefronts
- Linear Park & Memorial Garden
- Outdoor Market
- Bodega and restaurant along Old San Carlos Blvd
- Marina with ancillary boat store and mariner's lounge
- Ferry/water taxi terminal and ferry/water taxi service
- Guest and Public Parking
- Wedding/Events Chapel

The resort will have a coastal architectural theme consisting of Key West, Old Florida and St. Augustine/Spanish influences. The buildings will showcase metal roofs, varied rooflines, horizontal siding, cupolas, and arches to reflect and honor the history of Fort Myers Beach.

The Freeland family are longtime island business owners who are committed to this community. They want to develop a unique resort project that will assist in the redevelopment of the island and create a cohesive walkable downtown that will connect and activate Old San Carlos Boulevard and complement Times Square and Margaritaville. The narrative below demonstrates how the Arches Bayfront Resort will transform the previous dry-boat storage structures and marina into a beautiful, world class resort offering quality lodging, dining, and shopping experiences.

LOCATION, SITE DEVELOPMENT/DESIGN & COMPATIBILITY

Location

The Arches Bayfront Resort is proposed in an ideal location. It has easy access on and off the Skyway Bridge, is located directly on the back bay, and it is in the heart of Downtown. The Downtown district has always been identified as a redevelopment area and the preferred location for the Town's most dense and intense development.

The property begins at the northwest corner of Old San Carlos Boulevard and Third Street and extends all the way to the back bay, encompassing ± 4.98 acres (see Fig. 1 Location Map). The Downtown location is easily accessible via the existing off-ramp from the Skyway Bridge that brings visitors directly to Old San Carlos Boulevard and the resort's entrance via Third Street and Arches Way.



As envisioned in the Comprehensive Plan and in the 1999 “Old San Carlos Boulevard – Crescent Master Plan”, the desired vision 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 also envisioned a “Bayfront Square” at the Matanzas Pass end of Old San Carlos Boulevard, providing “special public spaces which capture the ‘postcard’ character” of the Town and implementing the desire to connect the beach to the bay. The proposed development provides a natural extension of that vision, creating public access to the Matanzas Pass bayfront and the opportunity to further connect to the rest of downtown.

The development supports the Town’s “Park-Once” strategy by providing sufficient parking for resort guests and paid public parking in the downtown area that will support other businesses and venues such as Times Square. The Arches Bayfront resort will provide dedicated public bicycle parking onsite, a downtown ferry/water taxi terminal and service, docks for both motorized and non-motorized watercraft, and a dedicated beach tram and Uber stop, supporting multi-model transportation options. Downtown Fort Myers Beach is only ±300 yards (less than a quarter mile) wide between the Gulf and Bayfront, making it ideal for pedestrian travel. The short distance along Old San Carlos Boulevard 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 or a 5-minute walk. The Arches Bayfront, with its expansive pedestrian and bike network, creates a pedestrian-friendly environment which is a logical location for a mixed-use destination resort which will include lodging, dining and shopping for guests, residents and the general public.

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	Tidal Water	Beyond Town Boundary	Water body - Matanzas Pass
SOUTH	Mixed Residential w/ Platted Overlay and Pedestrian Commercial	Residential Conservation, Commercial Office, and Downtown	Vacant and Residential
EAST	Pedestrian Commercial	Downtown	Marina Village at Snug Harbor (fractional ownership hotel) parking lot and Commercial Retail
WEST	Tidal Water and Low Density	Residential Conservation and Residential Single- family	Canal and Single-family Residential beyond



The subject property is located on a small peninsula with Matanzas Pass to the north, a ± 70 foot canal to the west, commercial uses to the east and residential uses with another canal to the south. This peninsula creates a small enclave solidly anchored Downtown but physically separated from other neighborhoods. This land configuration allows for a logical extension of the Downtown district. The size of the property also offers the opportunity to design a resort that provides active and lively spaces combined with quieter and more serene, landscaped areas. The following sections evaluate the proposed resort in context with surrounding land uses and describes how it was carefully designed to ensure compatibility with those uses.

It should be noted that the subject property has been and remains an active commercial marina with dry-stack storage, boat yard, and boat repair and maintenance uses. It is separated from other uses to the north and west by waterbodies and it abuts commercial uses to the east. These uses include the six-story Marina Village timeshare, parking lots, multiple restaurants, and lodging establishment. The only residential uses that abut the property are to the south, which have co-existed peacefully for many years. The proposed resort will replace the boat barns and the more intense marina uses with an amenity-rich resort which will maintain the recreational marina component that offers easy access and enjoyment of the local waters.

The proposed resort has been redesigned pursuant to comments and concerns expressed by some neighbors, the public, as well as LPA and Council members. The design improves upon previously proposed conditions and exceeds all required development standards to ensure compatibility with surrounding uses.

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Site Design

The Arches Bayfront Resort has been carefully designed to be compatible with adjacent properties by providing uses and buildings that fit within the surrounding context. It does this by creating an intensity-of-uses gradient within the property, adjusting building heights and massing according to their location and adjacent uses, funneling all access to the front of the resort along the newly created Arches Way, and by providing generous setbacks and buffering where adjacent to residential uses.

The resort is comprised of five primary buildings and one accessory ferry/water taxi terminal. These buildings are identified as A through F on the **attached site plan**. Building A will be a two-story structure located at the intersection of Old San Carlos Boulevard and Third Street. It will house a bodega with a rooftop restaurant and open deck. Under the deck will be an Outdoor Market that will be “open-air” but protected from the elements. Moving west, Arches Way will lead visitors and hotel guests to buildings B and C, the resort entrance and the public Bayfront Promenade. Buildings B and C will vary in height from five to seven stories and will form the heart of the resort where the lobby and the majority of amenities and rooms will be located. As we move to building D, the level of activity drops and so does the building mass. This six-story building is limited to hotel rooms, an events chapel, and reception/banquet space. Moving furthest west, Building E is the smallest hotel building and drops to five stories. This building will be comprised of condo-hotel units, which are larger suites catering to longer stays. Access to this building and the associated pool will be restricted to guests only and the canal-front area will be lushly buffered to ensure compatibility with residential uses across the canal.

Public access and the Bayfront Promenade were carefully evaluated and redesigned to create a similar intensity-of-use gradient and to provide a clear separation between public, guest, and operational spaces. The public promenade will provide a mix of dining, shopping, and entertainment venues. It will offer public access to the waterfront and a recreational marina that will include the downtown ferry/water taxi terminal, eco-tour charters, and non-motorized watercraft docking. The ferry/water taxi terminal building and the more active commercial spaces will be located closest to Old San Carlos at the base of buildings B and C. At the base of building D, commercial space is planned for a marine store and mariner’s lounge. Moving furthest west, there will be no commercial uses at the base of building E.

The site was also designed to create resort grounds that provide separation and buffering to adjacent residential properties, while also providing green space and passive public areas. That was achieved by locating an outdoor (farmer’s/arts and crafts) market closest to Old San Carlos Boulevard and leading visitors to a linear park that contains a memorial garden honoring the island’s history, commemorating the devastation of Hurricane Ian, and celebrating the rebuild of Fort Myers Beach. This linear park will be open to the public and will provide bicycle and pedestrian access through the resort and to the bayfront. Public spaces will be at ground level and will be interconnected. Guest amenities will be separate and provided



on upper deck levels. The hotel restaurant and sunset deck will be open to the public and will offer a more refined dining and cocktail bar experience than the more eclectic Bayfront Promenade. By separating and focusing uses to specific areas, the design can influence the level of activity, can create a better guest and public experience, and can help ensure the viability of the Bayfront Promenade businesses by concentrating the storefronts and foot traffic to one area.

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 Arches Bayfront Resort site is west of the Marina Village at Snug Harbor, a six-story condominium with an overall height of ± 71 feet. Across the canal to the west on Matanzas Court, a single-family residence exists which is 3 stories. The proposed project is requesting buildings that will vary between one and seven stories with a maximum zoned height of 81 feet (measured from base flood elevation plus 3 feet of freeboard to the mid-point to the main roof) and a total height of height of 102 feet measured from grade to top of the main roof (see Figure 5).



Figure 5: Building Height Exhibit

As described above, the site was designed to have multiple buildings to address uses, functionality, and architectural design, but above all, providing varying building heights allows for less massing, improved view corridors, and greater separation from adjacent uses. At two stories, Building A will be similar in height to other buildings along the Old San Carlos corridor, including Wahoo Willies, Shipwreck, and Yucatan. Buildings B and C will be five and seven stories, inclusive of three levels of parking and with the southern wing of Building B, closest to residences, dropping to five stories. Building D will be six stories inclusive of two levels of parking and Building E will be five stories with limited parking at the ground level. The tallest buildings will be located on the eastern and center portions of the property, closest to the Downtown commercial uses and the adjacent Marina Village at Snug Harbor, a six-story building with retail and hotel uses.



Allowing for additional height through the planned development process allows for narrower buildings with greater separation and greater setbacks from adjacent properties. This revised design allows for five view corridors versus the previous four. Additionally, those view corridors are wider and create more light and space along the skyline. The additional view corridor is located between Buildings B and C. While those buildings share a common three-story pedestal, the additional four stories are separated by over 60 feet. When compared to the previous site plan, that location was occupied by the widest “U-shaped” building and five-story parking garage. The previous building provided an uninterrupted mass of ±283 feet in width. Breaking up the hotel into multiple buildings reduces the massing and creates greater visual interest. Moreover, the revised design allows for greater setback and buffering where the previous greenbelt is being replaced by a wider Linear Park & Memorial Garden, which ranges in width from 30-50 feet with a minimum planting area of 10 feet.

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Setbacks (Yards) & Buffers

The development proposes the following setbacks/yards:

RESORT TRACT DEVELOPMENT STANDARDS	PRINCIPAL STRUCTURES	ACCESSORY STRUCTURES
MINIMUM FRONT YARD: EASTERN BOUNDARY	40 FEET	10 FEET
MINIMUM REAR- WATERFRONT: CANAL	25 FEET	SPS
MINIMUM SIDE – NON-WATERFRONT YARD: SOUTHERN BOUNDARY	30 FEET	SPS
MINIMUM SIDE - WATERFRONT: MATANZAS PASS	25 FEET	10 FEET ⁴
MINIMUM LOT AREA: 20,000 SF		
MINIMUM LOT WIDTH: 100 FEET		
MINIMUM LOT DEPTH: 100 FEET		
MAXIMUM BUILDING COVERAGE: N/A		
MINIMUM BUILDING SEPARATION	25 FEET	10 FEET
MAXIMUM ZONED HEIGHT ¹	81 FEET	N/A
MAXIMUM ACTUAL HEIGHT ²	102 FEET	N/A
MAXIMUM STORIES	7	3
MAXIMUM FLOOR AREA RATIO ³	2.0	N/A

1. MEASURED FROM DESIGN FLOOD ELEVATION TO MID-POINT OF MAIN ROOF
 2. MEASURED FROM GRADE TO PEAK OF MAIN ROOF
 3. INCLUSIVE OF ENTIRE CPD BOUNDARY
 4. ONLY APPLICABLE TO FERRY/WATER TAXI TERMINAL, PERGOLAS/SIMILAR STRUCTURES, AND ESSENTIAL/EMERGENCY SERVICE FACILITIES. WALLS, FENCES, RAILINGS, BOLLARDS, ETC., MAY BE LOCATED WITHIN THE THIS SETBACK.
- SPS: SAME AS PRINCIPAL STUCTURE



OLD SAN CARLOS TRACT DEVELOPMENT STANDARDS	PRINCIPAL STRUCTURES	ACCESSORY STRUCTURES
BUILD-TO LINE - OLD SAN CARLOS BOULEVARD (DEVIATION 7)	0 - 5 FEET	
BUILD-TO LINE - THIRD STREET (DEVIATION 7)	0 -10 FEET	
MINIMUM REAR YARD: EDGE OF PAVEMENT FROM ARCHES WAY ROADWAY	30 FEET	SPS
MINIMUM SIDE YARD (DEVIATION 7)	0 FEET	SPS
MINIMUM LOT AREA: 20,000 SF		
MINIMUM LOT WIDTH: 100 FEET		
MINIMUM LOT DEPTH: 80 FEET (DEVIATION 1)		
MAXIMUM BUILDING COVERAGE: N/A		
MINIMUM BUILDING SEPARATION	10 FEET	SPS
MAXIMUM ZONED HEIGHT ¹	30 FEET	N/A
MAXIMUM ACTUAL HEIGHT ²	45 FEET	N/A
MAXIMUM STORIES	2	N/A
MAXIMUM FLOOR AREA RATIO ³	2.0	N/A

1. MEASURED FROM DESIGN FLOOD ELEVATION TO MID-POINT OF MAIN ROOF

2. MEASURED FROM GRADE TO PEAK OF MAIN ROOF

3. INCLUSIVE OF ENTIRE CPD BOUNDARY

SPS: SAME AS PRINCIPAL STUCTURE

These allow for a design which promotes a pedestrian-oriented resort complex with parking placed below the primary hotel structures in order to provide more open space and pathways.

Residences to the west of the site are separated via the existing canal, a restricted access pool, and buffering along the property boundary adjacent to the canal. Buffering to adjacent residential properties will be provided through a linear park that will include landscaping, decorative fencing, a pathway, and a memorial garden with benches and monuments. Design features and wayfinding will be utilized to direct most of the pedestrian and bicycle traffic toward the bayfront and eastern portion of the resort and away from adjacent residential properties.



Density/Intensity

The Arches Bayfront Resort site consists of ± 4.98 acres and is subject to a companion Small-Scale Comprehensive Plan Map Amendment to change the property's future land use category from Marina and Mixed Residential to 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).

The original request for the Arches Bayfront Resort was for a lodging density of 400 units. The revised resort plan reduces lodging density to 263 units, which is a 34% reduction from the original request. Additional density above the base of 6 dwelling units per acre is necessary in order to develop a world class resort and the proposed mixed-use project with desired public benefits such as dining, shopping, and entertainment. Additional density is allowed per LDC Section 34-1803 through the use of equivalency ratios. Per LDC Section 34-1803(a)(2) equivalency ratios exceeding the allowances in the table can be requested under exceptional circumstances and through the provision of public benefits. As supported throughout this narrative and evidenced by the destruction caused by Hurricane Ian, the proposed redevelopment meets the exceptional circumstance requirement and is providing numerous public benefits as outlined below.

Specifically, the requested density will require an equivalency ratio of 9.1. This is the same equivalency ratio that was approved for the Margaritaville resort:

- Margaritaville: $4.78 \text{ AC (Dev. Area)} \times 6 \text{ du/ac (Base Density)} = 28 \text{ units (by right units rounded down)}$
 - $28 \times 9.1 \text{ (equivalency ratio/multiplier)} = 254$
- Arches Bayfront: $4.98 \text{ AC (Dev Area)} \times 6 \text{ du/ac (Base Density)} = 29 \text{ units (by right units rounded down)}$
 - $29 \times 9.1 \text{ (equivalency ratio/multiplier)} = 263$

As described above the location is ideal for the proposed resort. The Downtown core area is considered the nucleus of commercial and tourist activities on the island, and has always been identified as an appropriate area for higher densities and intensities. The proposed resort will be a counterpart to Margaritaville along the gulf and will proportionally have the same density as that landmark resort.

The development is also subject to a maximum Floor Area Ratio (FAR). In addition to density (lodging units), the development is also subject to a maximum Floor Area Ratio (FAR). The Comprehensive Plan allows a FAR of up to 2.5 in the Pedestrian Commercial Future Land Use category. LDC Section 34-645



allows for a maximum floor area ratio of 1.2 within the Commercial Resort (CR) zoning district and a maximum floor area ratio of 1.8 within the Downtown Redevelopment district. A deviation request has been included in this application to allow for a maximum FAR of 2.0 within the Arches Bayfront Resort CPD. The preliminary schematic design for the resort calls for an FAR of 1.93, which allows a maximum of 417,879 square feet inclusive of the commercial area, lodging units, and ground level under-building parking. An FAR of 2.0 (433,858 SF) is requested to provide some leeway for changes that may be needed as the projects proceeds to final design and permitting. The proposed FAR is considerably less than the maximum of 2.5 allowed through the Comprehensive Plan and is appropriate for the proposed mixed-use resort.

Public Benefits

The Arches Bayfront Resort will provide numerous public benefits to the Town of Fort Myers Beach, its residents and visitors. Public benefits being provided include the following:

- Bayfront Promenade
 - Public access to bayfront
 - Splash pad for kids
 - Mix of food, entertainment and retail venues for public and resort guests
- Enhanced view corridors
- Implementation of Old San Carlos Boulevard-Crescent Street Master Plan
 - Creating a cohesive downtown with two dynamic bookends that provide first-rate pedestrian plazas
- Downtown Ferry/Water Taxi Terminal and founding partner of Ferry System
- 45 Public Parking Spaces
- Golf Cart Parking
- Bicycles for Resort Guests & Bicycle racks for the public
- Shuttle Service for employees and guests
- Participation in the DRAC program
- Implementation of Park Once Initiative
- Marina with Temporary Docking/Parking for non-motorized watercraft - paddle boards, kayaks and canoes, outfitters providing access to local water and natural environment
- Convenient Boat Pump Out and Fueling service
- Memorial Garden Park honoring:
 - FMB history & historic FMB Arches
 - Hurricane Ian impacts & casualties
 - Hurricane Ian rebuild
- Outdoor Market – Farmers and Arts & Crafts Market which will support local businesses and create a social gathering place
- Revitalization of the Downtown and increasing visitor density by creating public spaces, facilitating public access and diversifying food, recreational and entertainment options.



- Replacement of stark, dry storage barns with attractive coastal architecture – form and good design are important, they define and create a sense of place
- Hardened and resilient structures
- Improved water management conditions
- 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

Significance of this Development

Most importantly, the Arches Bayfront Resort represents the most significant post-land redevelopment project proposed and can serve as a catalyst for the renewal of this island. No other project, to date, can provide the numerous benefits nor the memorable places and experiences it offers. The cumulative public benefits represent “actual game changers” - they implement long standing revitalization goals; they embrace urban design guidelines espoused by the Comprehensive Plan and LDC; they provide desired public spaces; they promote alternative modes of transportation and pedestrian activity; they support the “park once” concept; and they provide transportation mitigation measures such as the ferry, airport shuttle and DRAC program that represent a new approach and willingness for private entities to collaborate with the Town to devise public solutions. This redevelopment project is pivotable to the island’s rebirth and can influence how we move forward and the character of this island.

Transportation, Parking and Pedestrian Access

As depicted on the MCP, all traffic will be directed to the resort’s entrance along Arches Way via Old San Carlos Boulevard and Third Street. This will include deliveries, hotel guests, employees, and visitors who want to use the paid public parking. Access onto Bonita Street and Harbor Court, which in the previous design, provided access to the resort and marina will be limited to “local traffic only” and signs to that effect will be posted along Third Street. Through this application, a right-of-way (ROW) vacation is requested for the portions of Bonita Street and Harbor Court that fall wholly within the project boundary. Although the ROW will be vacated, the terminus of both local streets will be designed as small, landscaped squares that will allow emergency and limited local access. Resort traffic is not intended to use those local roads. All resort, marina and visitor parking is designed to be accessed via Arches Way. Arches Way will have sidewalks and pathways extending into the development. Pedestrians will be directed toward the Bayfront Promenade and Linear Park & Memorial Garden through design and wayfinding signage. The Linear Park will have decorative fencing and foliage to further separate and screen the resort from the residential properties to the south.

A traffic impact statement has been prepared by Hall Planning & Engineering, Inc. and concludes that the Arches Bayfront development will not have a detrimental impact on the Town of Fort Myers Beach. The



existing roadway network can accommodate the additional new vehicle trips the development is anticipated to generate upon the proposed 2027 buildout. Therefore, no roadway capacity improvements will be required as a result of this development. The trip generation of the Proposed 2027 Arches Development will add 20 new peak hour trips to the test link on Estero Boulevard. The resultant Proposed Development traffic contributes 1.7% at that location. Future traffic conditions with the Proposed Development will not cause Estero Boulevard to exceed the minimum LOS standard established by Policy 7-I-2 of the Comprehensive Plan for the Town of Fort Myers Beach.

The Arches Bayfront resort is an example of a multimodal development. Visitors will be able to reach the property by walking, vehicle, boat, bicycle, ferry and the Fort Myers Beach "Trollee". The development proposes vehicle parking both on-street and beneath its hotel buildings, public dock space for various types of boats and kayaks, a designated ferry/water taxi terminal, and golf cart and bicycle parking throughout the site in order to encourage the "Park-Once" concept. Located within the Downtown district, the development is entitled to apply the 50% reduction in required parking. For the basis of calculating the required parking, the following parking standards were applied.

- LDC Section 34-1804 which states, "the minimum requirement for off-street parking is 1.2 parking spaces for guest units up to 450 square feet."
- LDC Sec. 34-2020(2)(a) a. Bars and cocktail lounges. The minimum requirement is 15 spaces per 1,000 square feet of total floor area. If outdoor seating is provided, an additional one space per four outdoor seats or 75 square feet of outdoor seating area (whichever is greater) must be provided. See also subsection (2)h. of this section, pertaining to restaurants, and subsection (4) of this section.
- LDC Sec. 34-2020(2) e. Hotels and motels. The minimum requirement is 1.2 parking spaces for each guest unit up to 450 square feet and 1.5 spaces for each larger guest unit.
- LDC Sec. 34-2020(3) h. Restaurants. With the exceptions noted below, the minimum parking requirements for restaurants is eight spaces per 1,000 square feet of total floor area plus any outdoor seating area.
 1. Accessory restaurant. 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.
 2. Bars and cocktail lounges. If the restaurant contains a cocktail lounge or bar, the minimum requirement is eight spaces per 1,000 square feet of total floor area plus five additional spaces per 1,000 square feet of floor area used for the bar or cocktail lounge. If outdoor seating is provided, parking must also be provided for the area used for outdoor seating at these same rates.



- LDC Sec. 34-2020(4) b. Marinas and other water-oriented uses. Minimum requirements are as follows:
 1. Boat slips: One space per two slips.
 2. Dry storage: One space per six-unit stalls.
 3. Charter or party fishing boat services: One space per three people based on maximum passenger capacity of the boats using the dock or loading facility.
 4. Cruise ships: One space per three people based on the maximum passenger and crew capacity of the ship.
 5. Water taxis: Dedicated parking spaces are not required at stopping points for water taxis or water shuttles.
 6. Other uses: Other uses including accessory or ancillary marina uses such as restaurants, bars, or lounges, boat sales, etc. must be calculated separately in compliance with this division.

Based upon preliminary hotel unit size assumptions and square footage of the other proposed uses within the mixed-use development, the total number of spaces required for this redevelopment according to LDC standards is 293 parking spaces (see parking calculations table below). This number utilizes the 50% reduction as allowed for Old San Carlos Boulevard in LDC Sec. 34-676(a)(1). The Arches Bayfront Resort will provide 338 parking spaces which will result in an excess of 45 parking spaces. Additionally, 7 on-street parking spaces will be constructed along Third Street, which will result in a total of 45 public parking spaces. These additional paid public parking spaces will provide a public benefit to support the Town's "Park-Once" initiative.

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The Arches Bayside Resort Parking Analysis			
Resort Lodging Units Required			
Typical Unit Size	# of Units	Parking Ratio	Spaces
Up to 450 SF	218	1.2 spaces per unit	261.6
Greater than 450 SF	45	1.5 spaces per unit	67.5
		Subtotal	329.1
Multiple-Occupancy Complex Required			
Commercial Uses – Bayfront Promenade & 3 rd Street Building	Square Footage	Parking Ratio	Spaces
Retail/Restaurant*/Office/Services/Event Space	25,500	6 per 1,000 SF or 1 per 167 SF	153
Restaurant Bar Area (within restaurants)	1,200	6 per 1,000 SF or 1 per 167 SF	7.2
Restaurant Outdoor Seating Area	7,750	6 per 1,000 SF or 1 per 167 SF	46.5
		Subtotal	206.7
Marina Required			
Marina Uses	Slips	Parking Ratio	Spaces
Boat Slips	69	1 space per 2 slips	34.5
Charter or party fishing boat services	6	One space per three people based on maximum passenger capacity of the boats using the dock or loading facility (Average Estimated Max. Passengers per Boat: 8)	16
		Subtotal	50.5
		TOTAL REQUIRED FOR RESORT & MARINA	586.3
		TOTAL REQUIRED FOR RESORT & MARINA with a 50% Reduction per Deviation #8	293
Provided			
	TOTAL VEHICLE SPACES PROVIDED FOR RESORT & MARINA		293 (parking garage)
	DEDICATED PUBLIC PARKING SPACES PROVIDED		45(38 parking garage + 7 on-street)
	TOTAL PARKING SPACES PROVIDED		338**
	Golf Cart parking provided: None Required		13
	Bicycle parking provided: None Required		26

*Per LDC Sec. 34-2020(d)(4)(b)(3) and Deviation #8. Restaurant gross floor area limited to 19,125 SF or 75% of 25,500 SF of a multiple occupancy complex's gross floor area, and 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."

**Additional parking may be provided by stacking vehicles utilizing valet service, shared/offsite parking, or parking garage lifts



Compatibility

As presented above and further discussed in the Rezoning Criteria below, the applicant and design team have given careful consideration to assemble a redevelopment design which is compatible with surrounding uses. The redesigned resort provides attractive landscaping and extensive buffers, focusing public activity along the waterfront and eastern portion of the resort away from the neighboring residential development. The buildings have been designed with a coastal architectural theme and with varied heights. The placement of the buildings provides increased separation from adjacent residences and offers expanded view corridors. The walkable Linear Park & Memorial Garden buffers and shield adjacent uses and also create an attractive and a human-scale interface between the residential neighborhood and the resort.

Arches Bayfront Resort fulfills the desires expressed in the Comprehensive Plan and the Old San Carlos Boulevard – Crescent Street Master Plan to expand the Times Square pedestrian-friendly zone along Old San Carlos Boulevard and supports the “Park-Once” strategy. The Bodega with rooftop restaurant and covered Outdoor Market on Old San Carlos Boulevard provide versatile retail and outdoor market uses that engage the public and enhance the pedestrian-friendly nature of the boulevard. The “Park-Once” strategy is supported by the proposed downtown ferry/water taxi terminal and service, marina with temporary docking/ parking for both motorized and non-motorized watercraft, public parking spaces, golf cart parking, and bicycle racks.

The Arches Bayfront Resort will be an asset to the Town as evidenced by the considerate design, appropriate uses and construction of resilient and sustainable buildings. The mixed-use redevelopment of Moss Marine will provide numerous public benefits to the island and will become a destination for families will create fond memories year after year.



REZONING APPROVAL CRITERIA

The proposed rezoning request from Commercial Marina (CM), Downtown, and Residential Conservation (RC) 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 Arches Bayfront resort is consistent with the following Comprehensive Plan Amendments which are pending and could affect the future use of this property:

Policy FLU-1-A-5 The Town shall explore opportunities to provide innovative parking solutions on the Island to meet future demands. The town shall maximize efficient use of land, minimize gaps in the urban landscape, and improve urban form by encouraging redevelopment of existing surface parking lots; discouraging creation of new surface lots; consolidate parking in strategically located parking structures; and manage parking as a system. The Town shall consider/encourage the use of shared parking.

Policy FLU 1-A-9 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.

FLU-1-B—7 “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 up to 6 dwelling units per acre. Those developments previously vested with 10 units under the “platted overlay” may continue. 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.

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.

POLICY T-17-F-2 SHARED PARKING NEAR TIMES SQUARE: The town shall strive to alleviate parking congestion and enhance accessibility for visitors and residents near Time Square by supporting or encouraging the development of shared parking facilities or a parking garage.

B. PHASING OF CONSTRUCTION

A proposed phasing plan is included on Sheet 4 of 5 of the Master Concept Plan. There are 6 phases, which are as follows:

- Phase One: Building A fronting Old San Carlos and Third Street to include:
- Bodega/Corner Store, Restaurant, and Outdoor Market
 - Third Street improvements and portion of Arches Way

- Phase Two: Reconfiguration of the Marina Basin to include:
- Vessel and personal watercraft docks/slips
 - Non-motorized personal watercraft dock/slip and access

- Phase Three: Buildings B and C to include:



- Arrival and Entry Plaza
- Arches Way
- Bayfront Pedestrian Promenade: Retail, Restaurants, and Services
- Water /ferry/water taxi dock and terminal facility
- Underbuilding Parking
- Amenities, operations and support infrastructure

Phase Four: Building D to include:

- Bayfront Pedestrian Promenade
- Underbuilding Parking
- Amenities, operations, and support infrastructure

Phase Five: Building E to include:

- Bayfront Pedestrian Promenade
- Underbuilding Parking
- Amenities, operations, and support infrastructure

Phase Six: Linear Park & Memorial Garden

The phases are representative of a conceptual development program, but resequencing and combinations may occur during final design and by market forces.

C. COMPREHENSIVE PLAN COMPLIANCE

COMMUNITY DESIGN ELEMENT:

GOAL 1 To continually improve the appearance and functioning of transportation corridors, commercial areas, and links to natural and recreational areas.

OBJECTIVE 1-B OTHER PUBLIC SPACES – Beautify public spaces throughout the island.

The redevelopment of the Moss Marina property into the Arches Bayfront Resort will create publicly accessible amenities, including a Linear Park & Memorial Garden, five view corridors to the bay from Third Street, and a 670-foot-wide Bayfront Promenade. The view corridors will provide aesthetically pleasing visual links to the island's bayside in an area that was restricted due to the type of development that was previously in place. Landscaped sidewalks will connect the Linear Park & Memorial Garden to the Bayfront Promenade, allowing pedestrians to enjoy the natural beauty of the island and waterfront.



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.

Although the Arches Bayfront Resort property is not directly adjacent to Time Square, this development 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 creates the northern bookend for a cohesive downtown area. This development will create the expansion of the Times Square pedestrian friendly zone along Old San Carlos Boulevard to the Matanzas Pass bayfront. The addition of Arches Way extending from Third Street to the bay will provide vehicular access to the resort while encouraging pedestrian traffic through sidewalk interconnections. Pedestrians will be within short walking distance from the bay to the Gulf sides of the island and with retail shops, an outdoor market, Linear Park & Memorial Garden, and restaurants in between.

Additional enhancements such as landscaping, public art, bicycle parking, ferry dock, and watercraft docks interconnect via sidewalks create a development which is accessible via multiple modes of transportation and offers many types of activities to be enjoyed by the public. The creation of a destination to extend the downtown to the bayside of the island supports the vision of Objective 3-D to stimulate and revitalize the downtown core as the nucleus of commercial and tourist activities.

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-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.

Hurricane Ian destroyed many of the island's favorite establishments. As businesses look to rebuild, they must find a balance between the desire to remain the eclectic small town and the necessity of creating structures which are compliant with current codes and regulations. As the Freeland team redesigned the site, they considered the needs of the island and have found a balance which will give residents and visitors a pedestrian-oriented resort that will contribute to the small-town character of the island.

The new Bayfront Promenade provides public access to an area of the island which was previously occupied by a working marina, that will remain as a recreational marina. In addition, this area will contain other amenities open to the public such as the chapel event space, harborside docks, non-motorized vessel docking space, retail shops, ferry dock, and areas for sitting and observing the bay waters. This area will allow residents and visitors to interact and enjoy the beautiful scenery of the island.

The improved public access to the bayfront and the walkable elements of the proposed resort support the policies contained in Objective 4-A, including the creation of new commercial activities which contribute to the pedestrian-oriented public realm and improve public access to the bayfront. The Arches Bayfront Resort will include a redesign of the current stormwater management system to adhere to today's stringent standards, which will improve protection of the water quality of the bay.

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, it reduces the building footprints and creates more open/green space on the site than previously existed. The hotel units will be placed above grade-level retail and underbuilding parking, allowing the public access to parking, the Bayfront Promenade and the Linear Park & Memorial Garden. The entrance to the resort on the corner of Old San Carlos Boulevard and Third Street will feature a second-story restaurant and ground-level bodega with a covered area for an outdoor market below to encourage pedestrian activity. The Linear Garden & Memorial Park will be added along the southern boundary of the property to honor Fort Myers Beach history, Hurricane Ian impacts, and lives lost. The buildings will feature coastal architecture showcasing metal roofs, varied rooflines with cupolas and arches to honor the architectural history of Fort Myers Beach and to meet the code required design concepts. The marina uses permitted under the previous Marina future land use designation will continue as permitted through Policy 4-B-6, which permits pre-existing Marina uses.

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. A maximum FAR of 2.0 is proposed utilizing the Commercial Planned Development process to rezone the subject property from Downtown, Commercial Marina, and Residential Conservation to CPD, which is consistent with Policy 4-C-2.

OBJECTIVE 4-D POST-DISASTER REDEVELOPMENT — Provide for the organized and healthy reconstruction of Fort Myers Beach after a major storm by showcasing successful local examples



of floodproofing, by requiring redevelopment activities to meet stricter standards for flood- and wind-resistance, and by improving the current post-disaster build back policy.

The new buildings associated with the proposed project will be more resilient, complying with the latest and more stringent state requirements – labeled as Florida Building Code compliant structures, and eliminating the current non-conforming buildings and setbacks. Additionally, flood proofing will be provided, improving the resiliency of the island’s structures supporting the Objective 4-D.

COASTAL MANAGEMENT ELEMENT

GOAL 5: To keep the public aware of the potential effects of hurricanes and tropical storms and to plan a more sustainable redevelopment pattern that protects coastal resources, minimizes threats to life and property, and limits public expenditures in areas subject to destruction by storms.

POLICY 5-A-1 The town shall maintain and enforce building codes at least as stringent as required by Florida law to limit the potential damage of structures from hurricanes and tropical storms. These codes shall include wind-resistance commensurate with the risk of a coastal environment and building elevation requirements that conform with federal laws and Flood Insurance Rate Maps.

The Coastal Management Element addresses special coastal management concerns which are specific to the Town of Fort Myers Beach and its need to protect resources, human life, and property, which are all vulnerable to events such as hurricanes and flooding. Existing uses pre-date the requirement for stormwater management; redevelopment of this area will require compliance with current stormwater regulations, ensuring improvement over current conditions. 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)**
 - Shuttle service will be provided for guests and employees.
 - 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.
- **Encourage a reliable system of water taxis (7-D-4)**
 - The Arches Bayfront Resort will be a founding partner in a proposed water ferry system, with a ferry/water taxi terminal on site. The ferry route includes multiple stops along the island's entire bayfront, from the Pink Shell on the north end of the island to the Fish Tail Marina on the south end.
- **Create a hidden-path system (7-D-5)**
 - A separated bike/pedestrian path system will be integrated throughout the resort and connected to downtown.
 - Wayfinding will direct bike/pedestrian traffic towards the bayfront and public recreation areas.
 - ±670 feet of public promenade area provided.
- **Encourage shared parking lots (Policy 7-F-1)**
 - The project will provide 45 parking spaces in excess of the required parking, all dedicated to the public. This supports the Town's "Park Once" strategy, allowing visitors to utilize public parking that has convenient access to the beach, Times Square, the Bayfront Promenade, bars restaurants and water related activities.



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 has been prepared by Hall Planning & Engineering, Inc. and concludes that the Arches Bayfront development will not have a detrimental impact on the Town of Fort Myers Beach. The existing roadway network can accommodate the additional new vehicle trips the development is anticipated to generate upon the proposed 2027 buildout. Therefore, no roadway capacity improvements will be required as a result of this development. The trip generation of the Proposed 2027 Arches Development will add 20 new vehicles to the test link on Estero Boulevard. The resultant Proposed Development traffic contributes 1.7% at that location. Future traffic conditions with the Proposed Development will not cause Estero Boulevard to exceed the minimum LOS standard established by Policy 7-I-2 of the Comprehensive Plan for the Town of Fort Myers Beach.

UTILITIES ELEMENT:

GOAL 8: To improve the existing systems that provide safe drinking water, irrigation water, sewer service, and solid waste disposal in order to reduce environmental impacts on land and water while keeping costs as economical as possible.

POLICY 8-A-1 Mandatory customer connections to water and sewer utilities shall continue to be the policy of the Town of Fort Myers Beach.

Complying with GOAL 8 and Policy 8-A-1, the proposed redevelopment will connect to central water and sewer utilities.

Sanitary Sewer: Lee County Utilities will provide Sanitary Sewer. There is existing infrastructure that services the site and sufficient capacity for the proposed project. A service availability letter is attached as Exhibit XCP-3.



Potable Water: Town of Fort Myers Beach will provide potable water. There is existing infrastructure that services the site and sufficient capacity for the proposed project. A service availability letter is attached as Exhibit XCP-4.

Solid Waste: The Lee County Solid Waste Department will provide solid waste collection for the project. A service availability letter is attached as Exhibit XCP-6.

D. DESIGN STANDARDS COMPLIANCE

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

As described above, the Arches Bayfront resort offers a mixed-use form with commercial uses at ground level and lodging uses above. The building along Third and Old San Carlos Boulevard is set close to the roadway to activate the public realm and encourage pedestrian activity. Fenestration is prevalent at ground level to create an attractive and inviting environment. The pedestrian environment is further enhanced through the opening of the public bayfront promenade, the addition of sidewalks and the linear park & memorial park with attractive landscaping and buffers. The proposed architecture is quintessentially coastal and incorporates Key West design elements for an attractive and beachy feel.

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

The proposed project can be characterized as contemporary coastal and includes Key West style architectural elements. As described in the Height section above, close attention was given to developing a design in which height and scale are compatible with surrounding uses the importance and utilizing a wedding cake approach to maintain a human scale.

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

The proposed project will provide for a mixture of uses that enhance the island's aesthetics, commerce, entertainment and recreation attributes. As described above the addition of the Bayfront Promenade, Linear Park & Memorial Garden, and Outdoor Market all contribute to the downtown public realm, linking the bay to the Gulf.

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



A sense of place is cultivated by design choices, complementary uses, architecture, incorporating island character and history, and having locally owned and operated businesses. Arches Bayfront resort incorporates these elements while honoring the history of the island and its citizens. The redevelopment of a former marina with large storage buildings into an island destination will enhance the town's sense of place by creating spaces for people to gather, shop, eat and relax. The attractive, resilient resort buildings will increase property values and contribute to the tax base of the island so that it can maintain its infrastructure and remain the destination where people want to be.

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

As described throughout this narrative, Arches Bayfront resort strives to incorporate design concepts articulated in the Comprehensive Plan. The intent is to comply with the vision for the downtown, to improve the public realm, to provide attractive architecture and to encourage bicycle and pedestrian activity.

E. DECISION MAKING COMPLIANCE

The following considerations from LDC Sec. 34-85 shall be considered by town council whenever applicable:

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

There are no known errors or ambiguity that must be corrected in relation to the requested rezoning from CM, Downtown, and RC to CPD. If any exist, they will be discussed and resolved during staff review and public hearings before the Local Planning Agency (LPA) and Town Council. Utilizing the proposed CPD rezone request, reductions or elimination of any existing non-conformities will be corrected as applicable.

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

The site as existing is damaged and in need of redevelopment due to the destruction caused by Hurricane Ian. The property owners have evaluated the needs of the island and felt that the time was appropriate to expand the uses allowed onsite to better suit the island and its residents. The owners have obtained property which interconnects their existing marina to Old San Carlos Boulevard which has long been identified as an area where infill development should be encouraged. The 1999 Old San Carlos Boulevard – Crescent Street Master Plan called for the expansion of the Times Square pedestrian-friendly zone along Old San Carlos Boulevard, 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 rezone will allow the redevelopment of the damaged Moss Marina structures and adjoining properties 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 site is bound by water on two sides and has an existing marina use. The proposed redevelopment will provide a variety of uses which do not currently exist on the bayside of the island. The locational standards have been carefully considered to be compatible with the neighboring residential properties through building placement, design, buffering, and landscaping.



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

Urban services were in place and utilized by the existing Moss Marina 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 1,000 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 Arches Bayfront 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 previously developed site which does not contain any environmentally critical areas or natural resources.

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

The request is compatible with existing or known planned commercial, residential and civic uses adjacent to the subject redevelopment and will not cause damage, hazard, nuisance or other detriment to persons or property of Fort Myers Beach. The property was previously a working marina without buffers and adequate landscaping. The proposed redevelopment will be compatible with existing uses and will create additional open space and buffering to enhance the visual aesthetics for nearby residential properties.

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

The proposed request does not create any burden upon existing transportation or other services and facilities. The roads will have adequate capacity to serve the project as indicated within the TIS provided as part of this application. Adequate transportation services, utilities and recreational facilities were in place for well over 2,000 hotel/motel units prior to both Hurricanes Charley and Ian. With now just over



1,000 hotel/motel units available for occupancy, there will continue to be available transportation capacity and level of service to not only support the proposed Arches Bayfront redevelopment, but many more future transient lodging units and other non-residential developments needed in the Town. Additionally, the Town is actively working to promote alternative modes of transportation and provide mobility solutions to mitigate peak seasonal traffic.

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

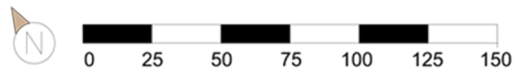
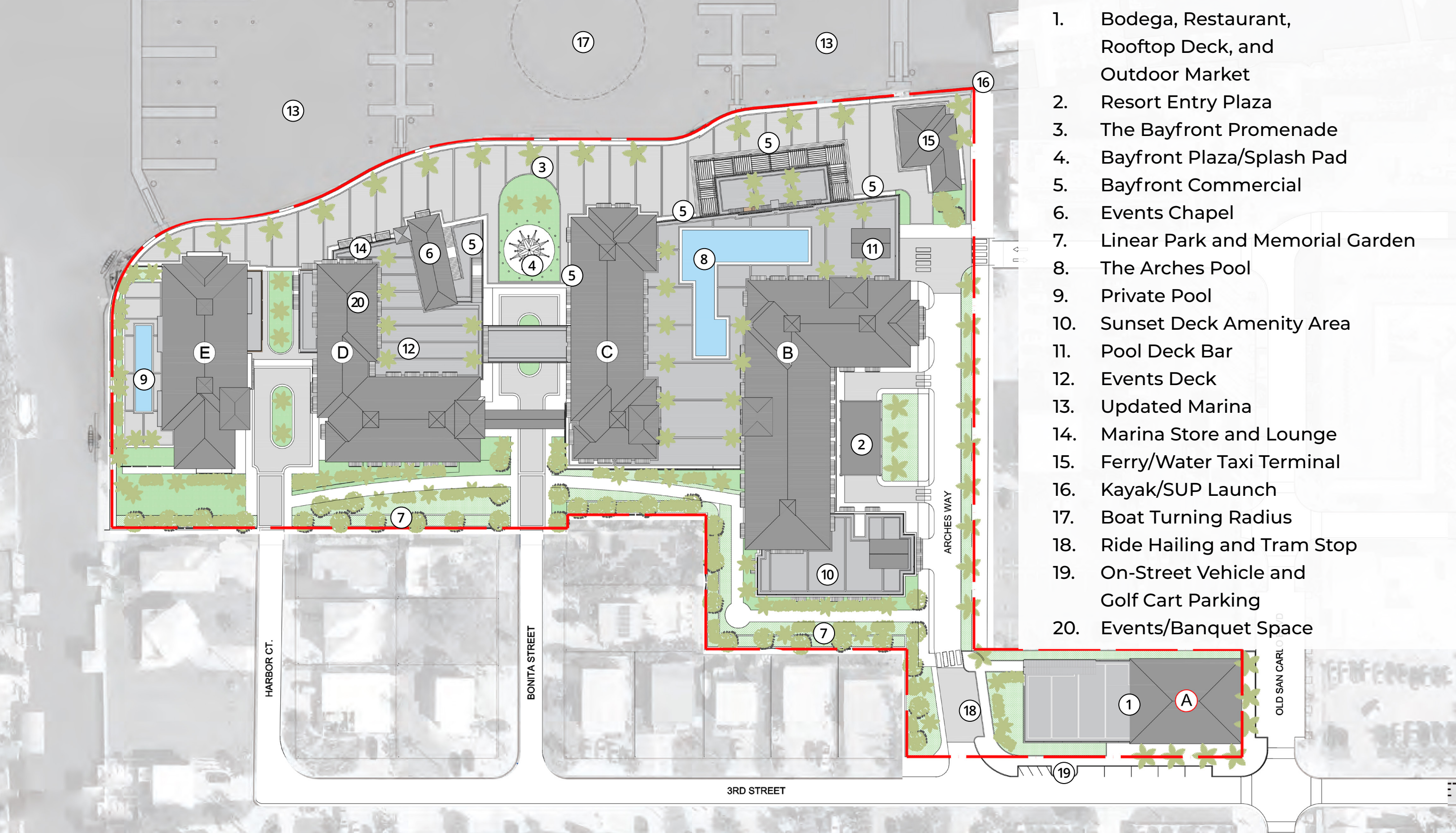
This request to rezone the subject property from CM, Downtown and RC to Commercial Planned Development (CPD) will be presented at public hearings before the LPA and the Town Council consistent with LDC Sec. 34-216(a)(1). As demonstrated throughout this narrative the proposed CPD meets the following findings criteria under LDC Sec. 34-216(2):

- a. The proposed uses are appropriate to the location as they are compatible with surrounding uses.
- b. Sufficient safeguards are in place or will be provided through applicable special conditions within the rezoning approval document, to protect the public interest.
- c. Special conditions will be provided through the rezoning approval document as determined to be necessary.
- d. The proposed uses meet all specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:
 1. Policies 4-B-6 and 4-C-3 on commercial rezonings in the "Pedestrian Commercial" category. See Section "C" within the above narrative.
 2. Policy 4-C-4 on building heights taller than the standard height limit. See Section "C" within the above narrative.
 3. Policy 4-C-8 on density transfers. Not Applicable.
 4. Policy 4-E-1 on pre-disaster build back. See Section "C" within the above narrative.
 5. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts. See Section "C" within the above narrative.

CONCLUSION

Through the careful consideration of public input, staff comments, LPA and Council discussions, the redesigned Arches Bayfront resort as proposed and detailed in the above narrative, supporting application documents, and the proposed MCP, demonstrate consistency and compliance with the Fort Myers Beach Comprehensive Plan and Land Development Code. Utilizing the CPD process, and compliance with today's Florida Building Codes and FEMA standards The Arches Bayfront Resort will provide design, uses and public benefits that complement and enhance the downtown, create positive redevelopment momentum for the island, and deliver a significant economic catalyst. The attractive, mixed-use resort will be an asset to the Town and will serve the needs of resort guests, island visitors, and residents alike.

MASTER PLAN
ILLUSTRATIVE MASTER PLAN



MASTER PLAN
CONCEPT ELEVATIONS + MAXIMUM HEIGHT

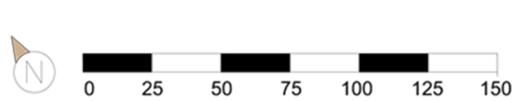
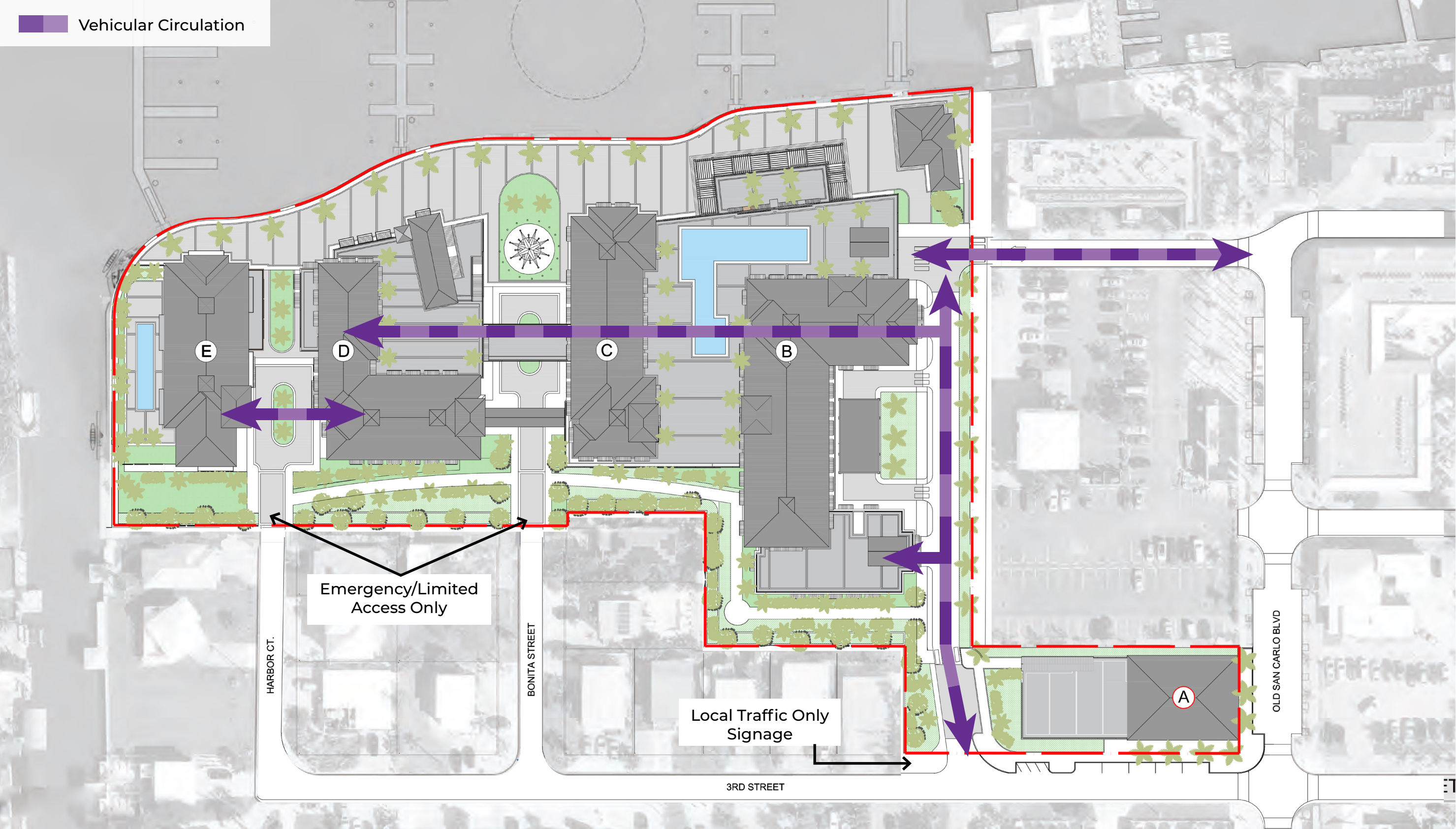


South Elevation
N.T.S

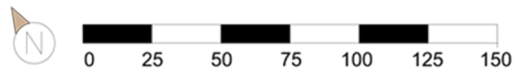
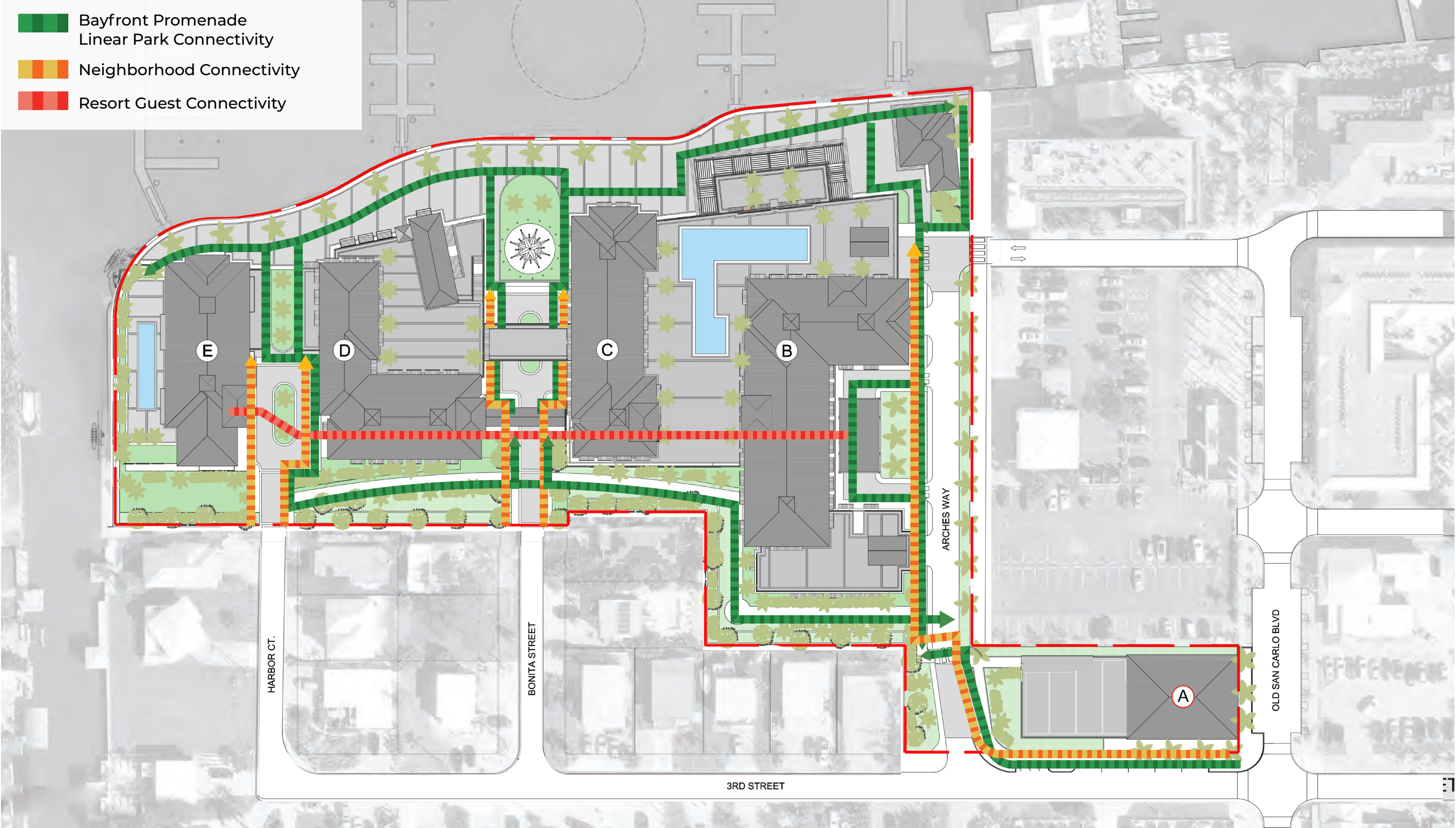


North Elevation
N.T.S

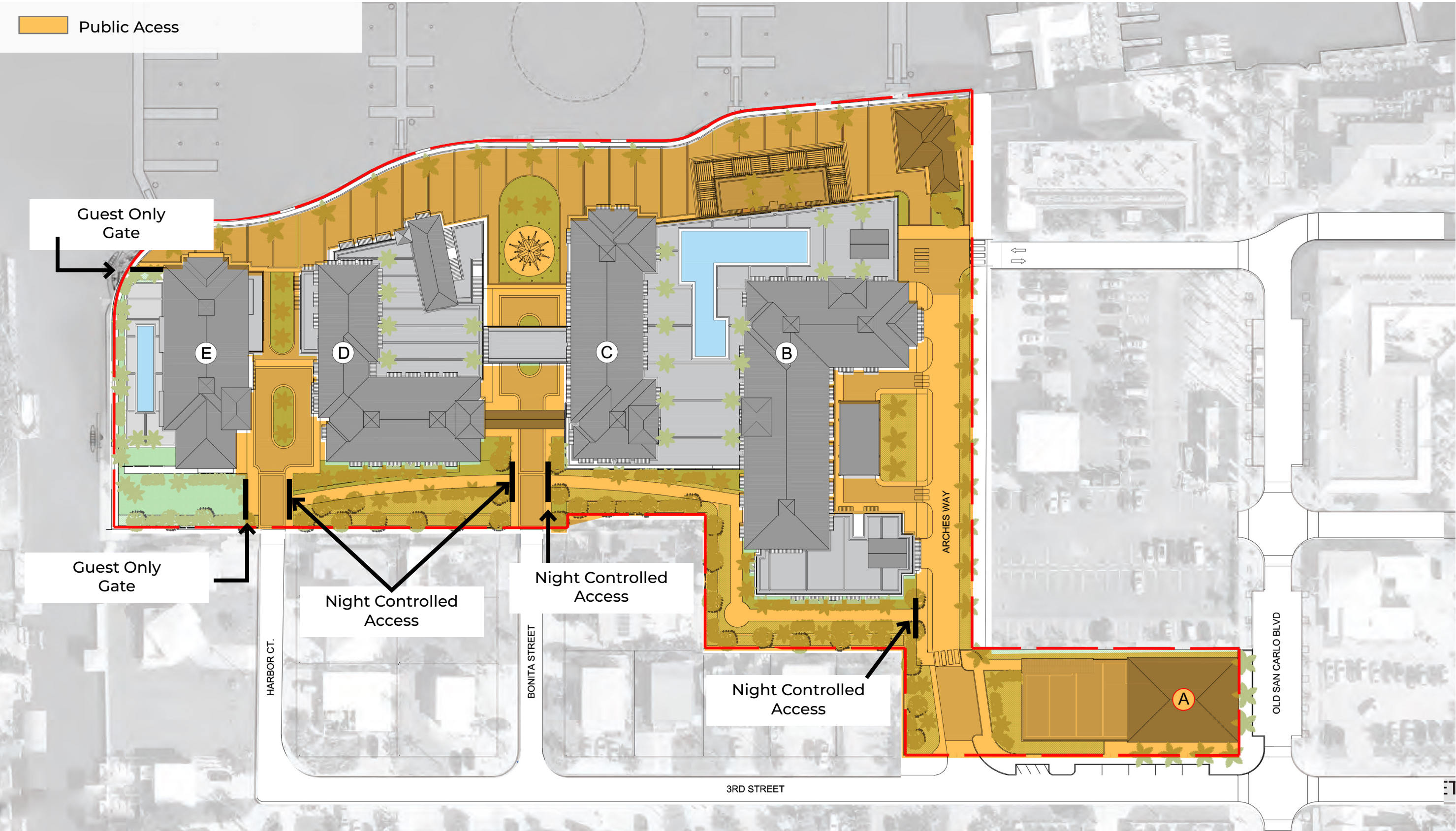
MASTER PLAN
VEHICULAR NETWORK PLAN



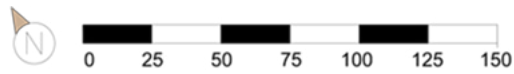
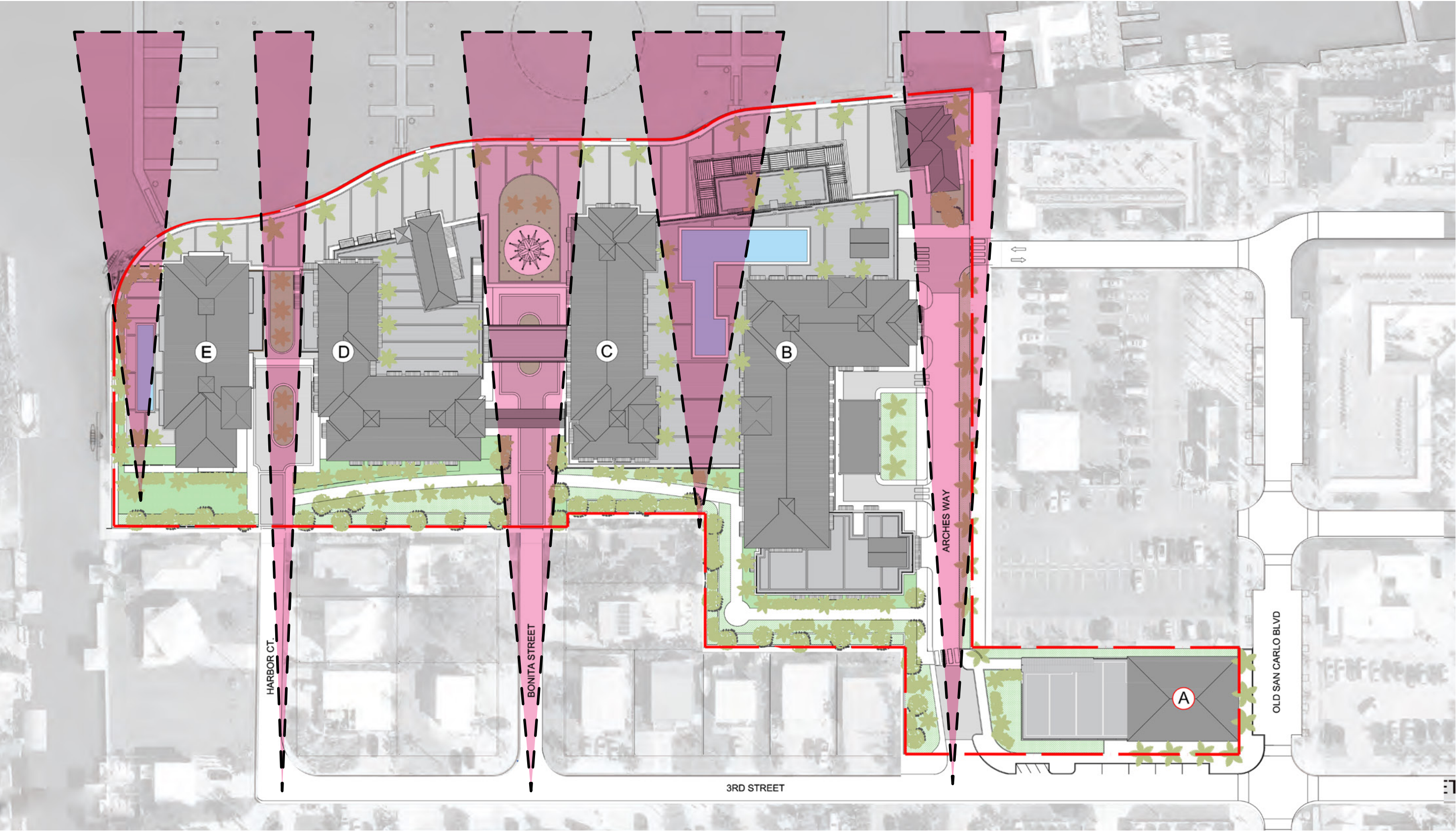
MASTER PLAN
PEDESTRIAN NETWORK PLAN



MASTER PLAN
PUBLIC ACCESS PLAN

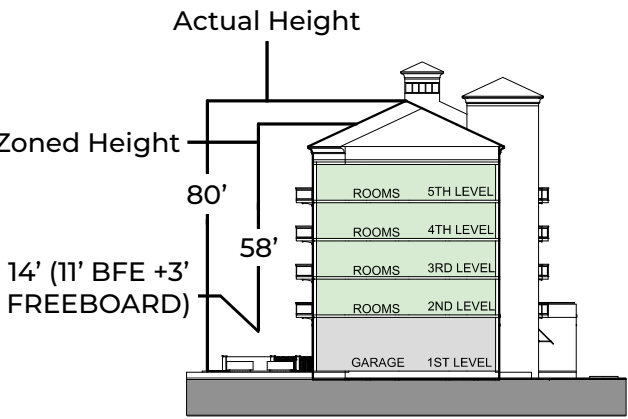


MASTER PLAN
VIEW CORRIDORS / SHEDS



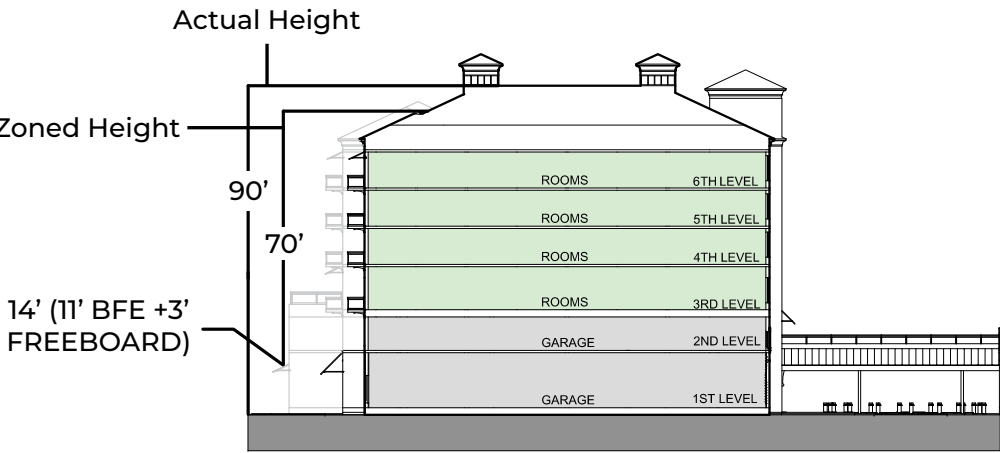
MASTER PLAN

REGULATING PLAN - HEIGHT DIAGRAM



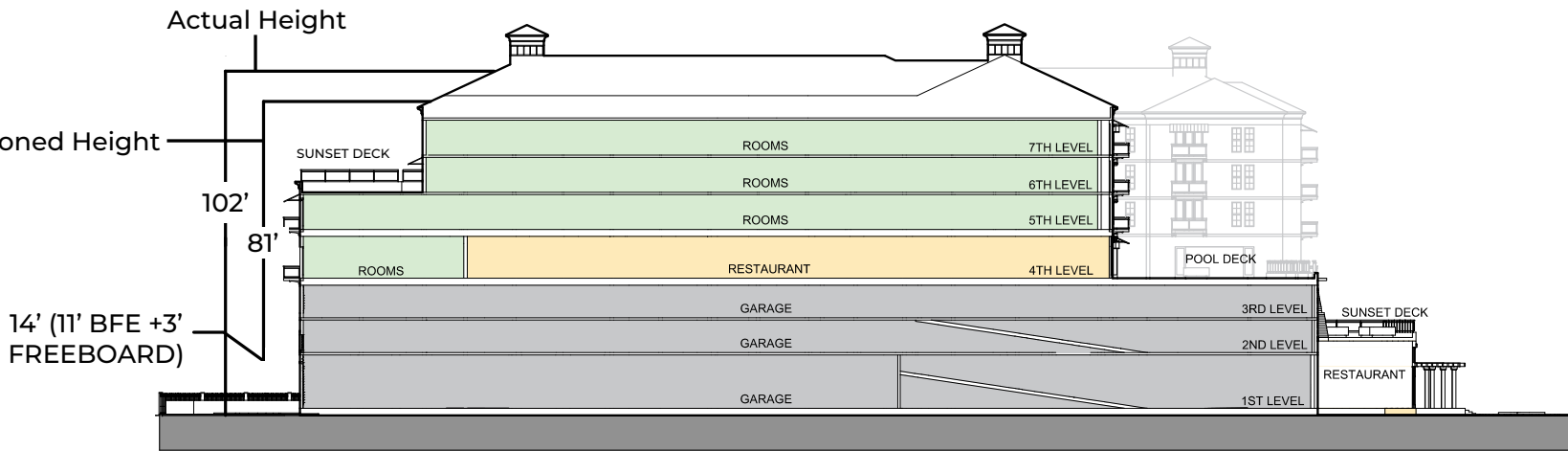
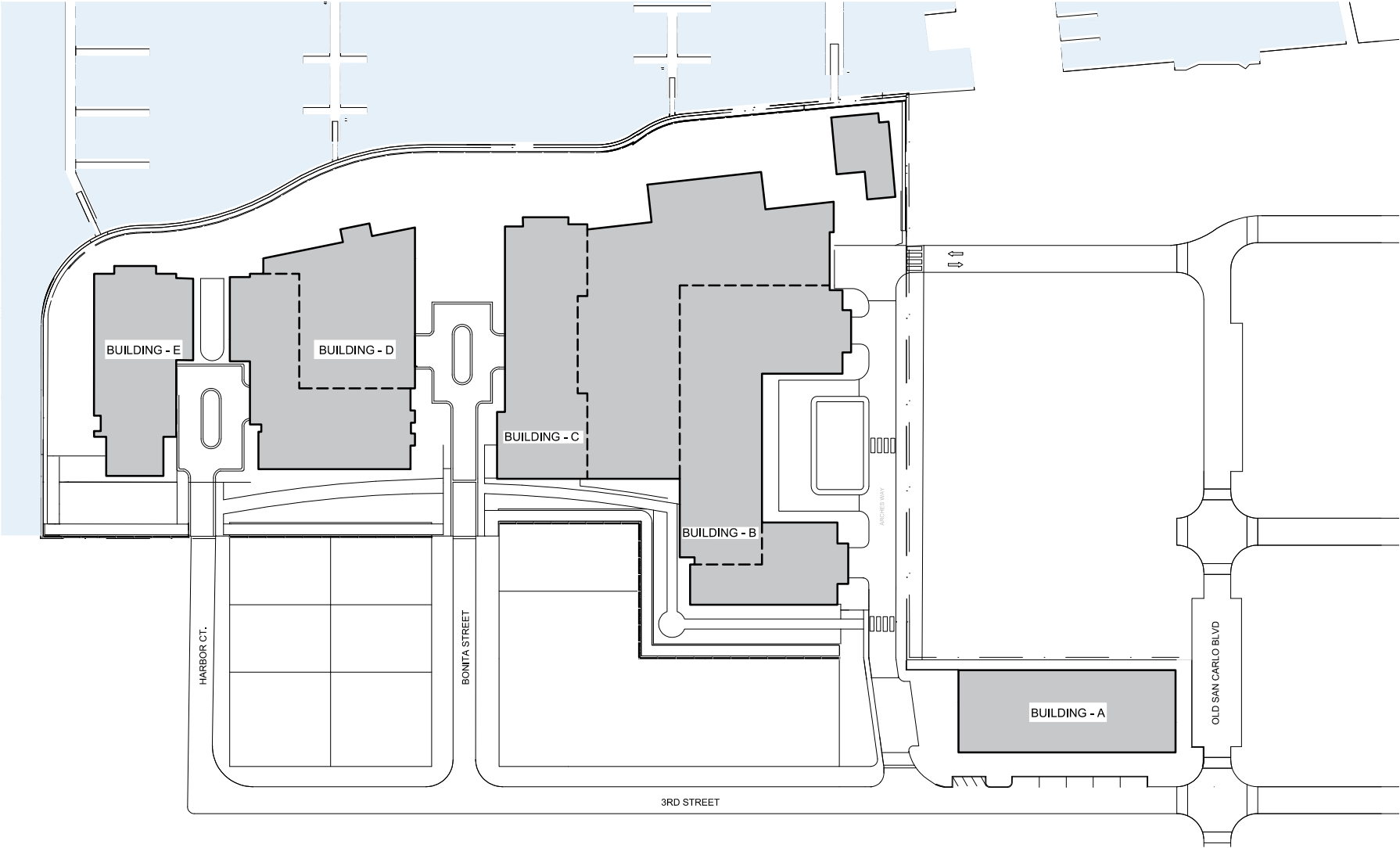
BUILDING - E

N.T.S



BUILDING - D

N.T.S

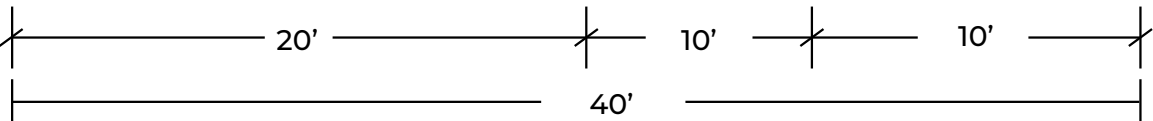
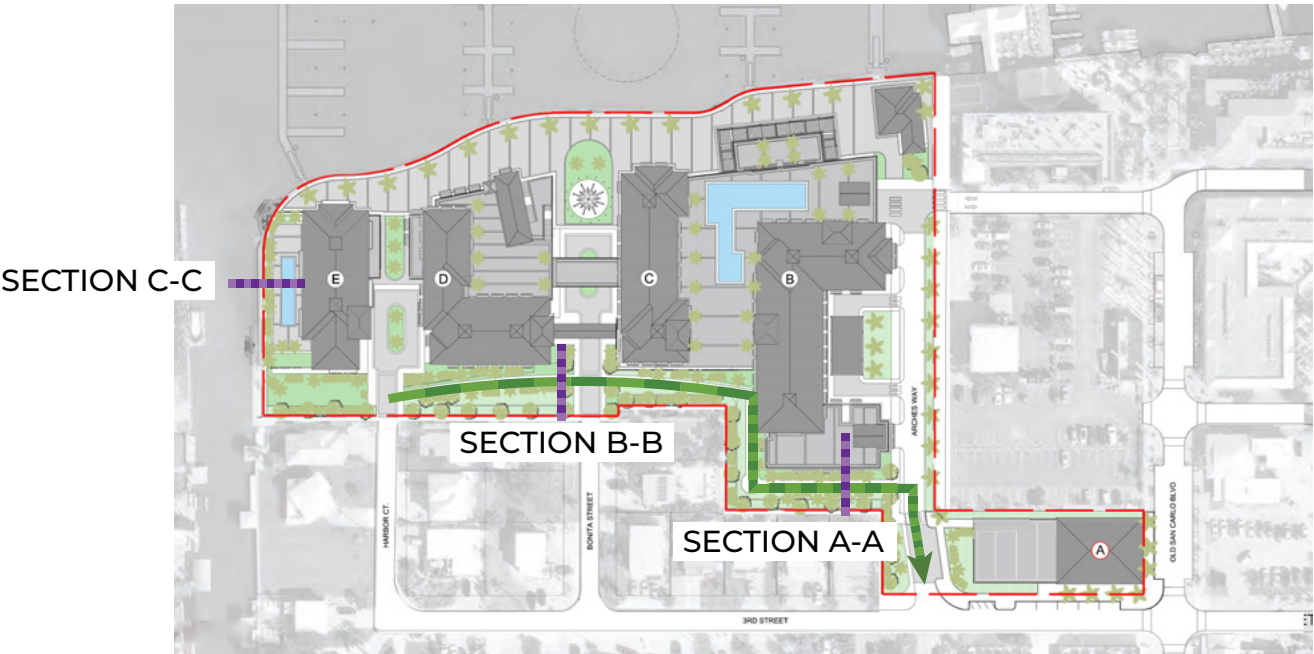


BUILDING - B + C

N.T.S

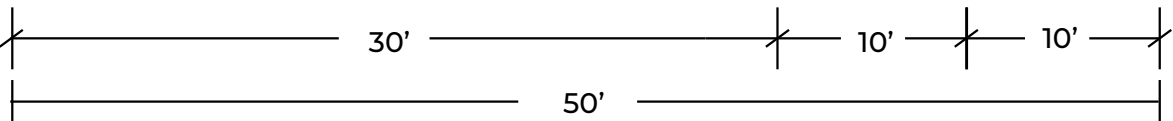
LINEAR PARK MEMORIAL GARDEN + BUFFER

TYPICAL SECTIONS



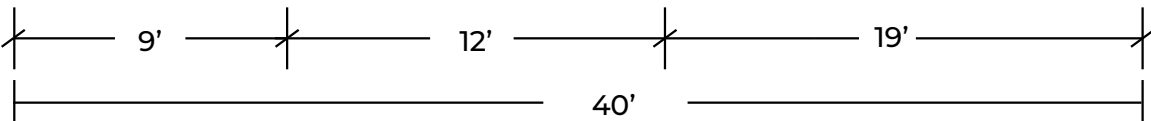
SECTION A-A

N.T.S



SECTION B-B

N.T.S



SECTION C-C

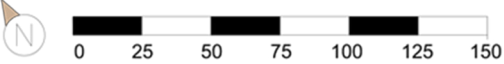
N.T.S

TECHICAL DRAWINGS
ARCHES MASTER PLAN LEVEL 100

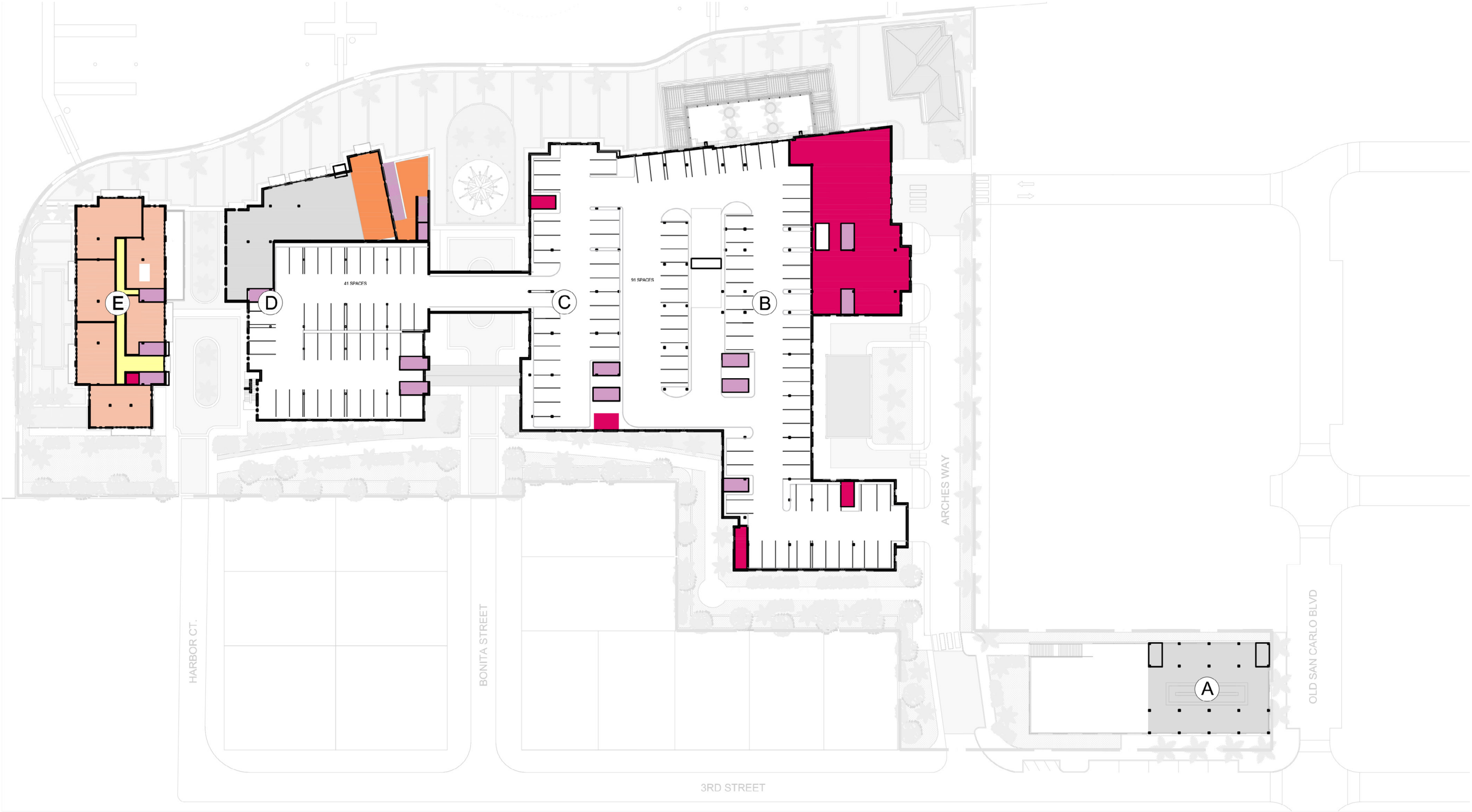


LEVEL 100

- | | |
|----------------------|----------------|
| LOBBY AND CORRIDORS | OUTDOOR MARKET |
| VERTICAL CIRCULATION | POOL |
| COMMERCIAL | |
| PARKING | |
| BACK OF HOUSE | |

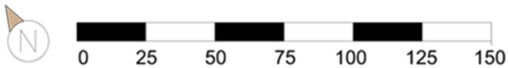


TECHICAL DRAWINGS
ARCHES MASTER PLAN LEVEL 200



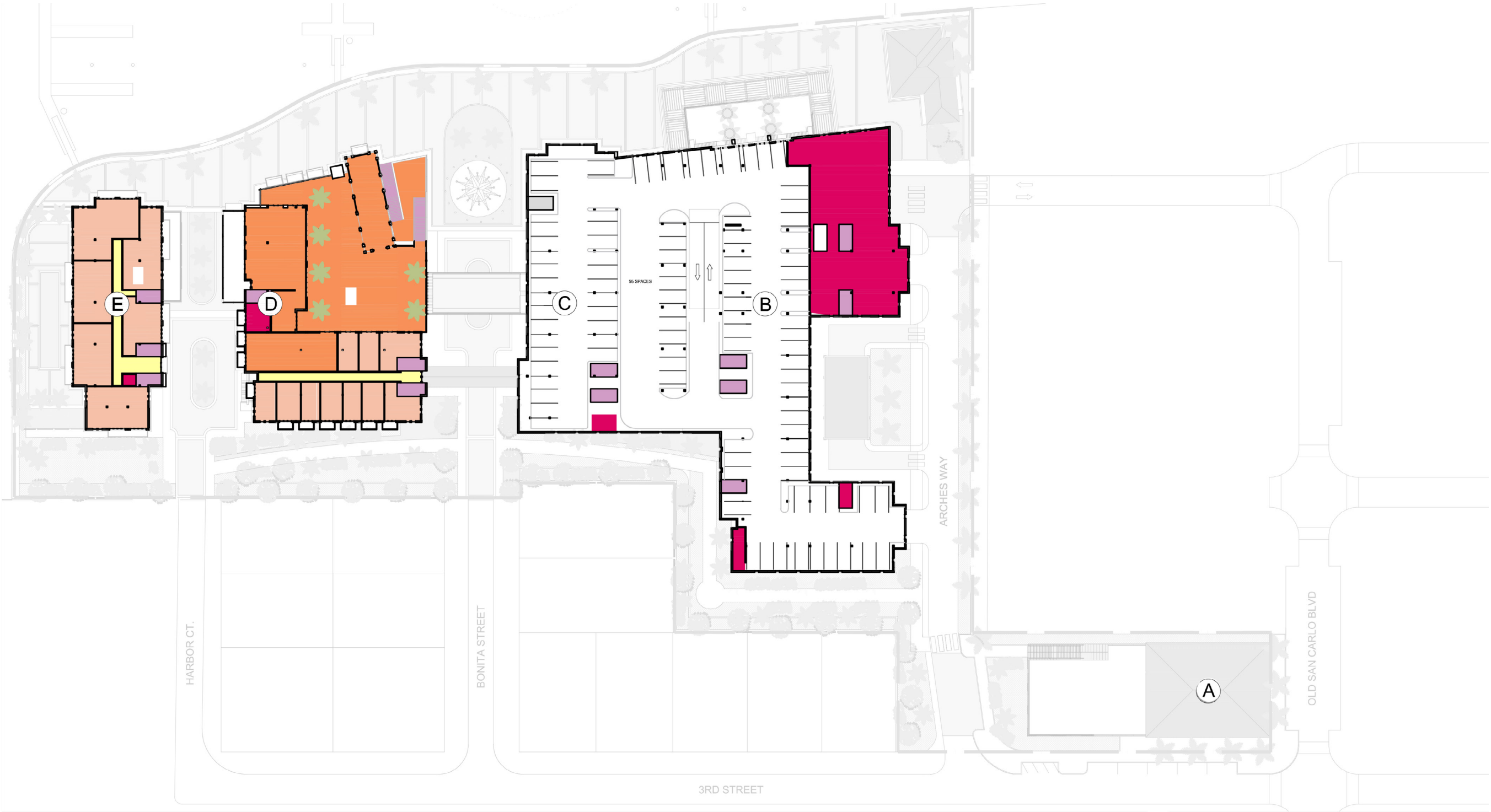
LEVEL 200

- | | | | |
|---|----------------------|---|-------------------|
|  | LOBBY AND CORRIDORS |  | EVENT SPACE |
|  | VERTICAL CIRCULATION |  | LODGING |
|  | COMMERCIAL |  | BACK OF THE HOUSE |
|  | PARKING | | |



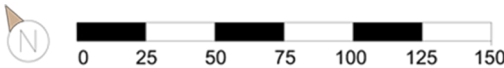
TECHICAL DRAWINGS

ARCHES MASTER PLAN LEVEL 300



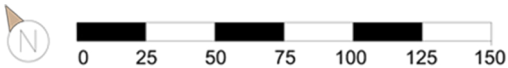
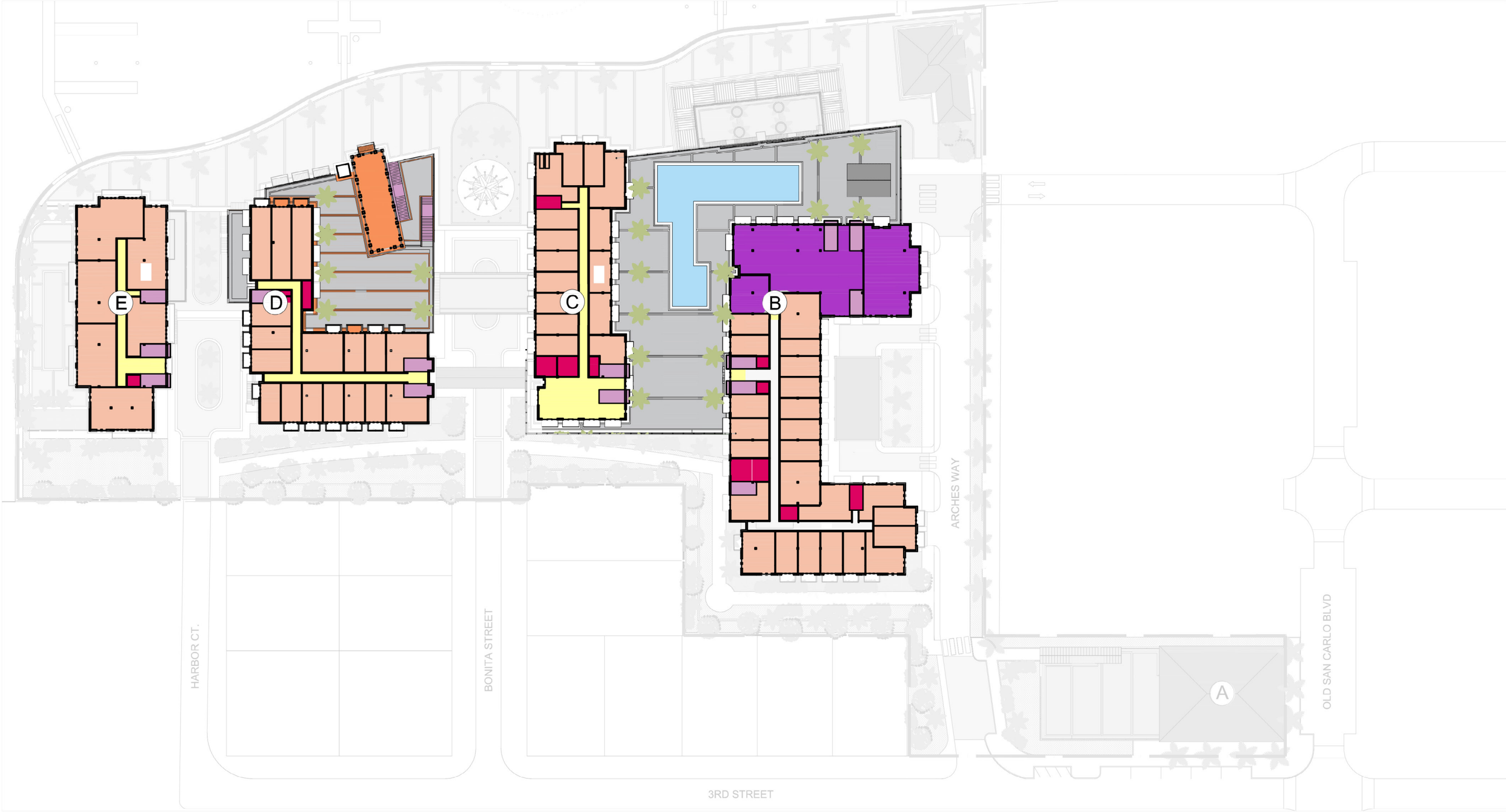
LEVEL 300

- | | | | |
|---|----------------------|---|-------------------|
|  | LOBBY AND CORRIDORS |  | EVENT SPACE |
|  | VERTICAL CIRCULATION |  | LODGING |
|  | PARKING |  | BACK OF THE HOUSE |



TECHICAL DRAWINGS

ARCHES MASTER PLAN LEVEL 400

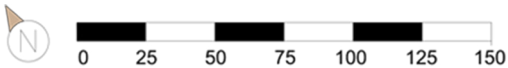


TECHICAL DRAWINGS
ARCHES MASTER PLAN LEVEL 500



LEVEL 500

- LOBBY AND CORRIDORS
- VERTICAL CIRCULATION
- BACK OF THE HOUSE
- LODGING



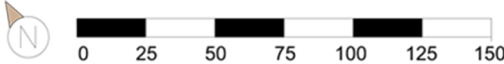
TECHICAL DRAWINGS

ARCHES MASTER PLAN LEVEL 600



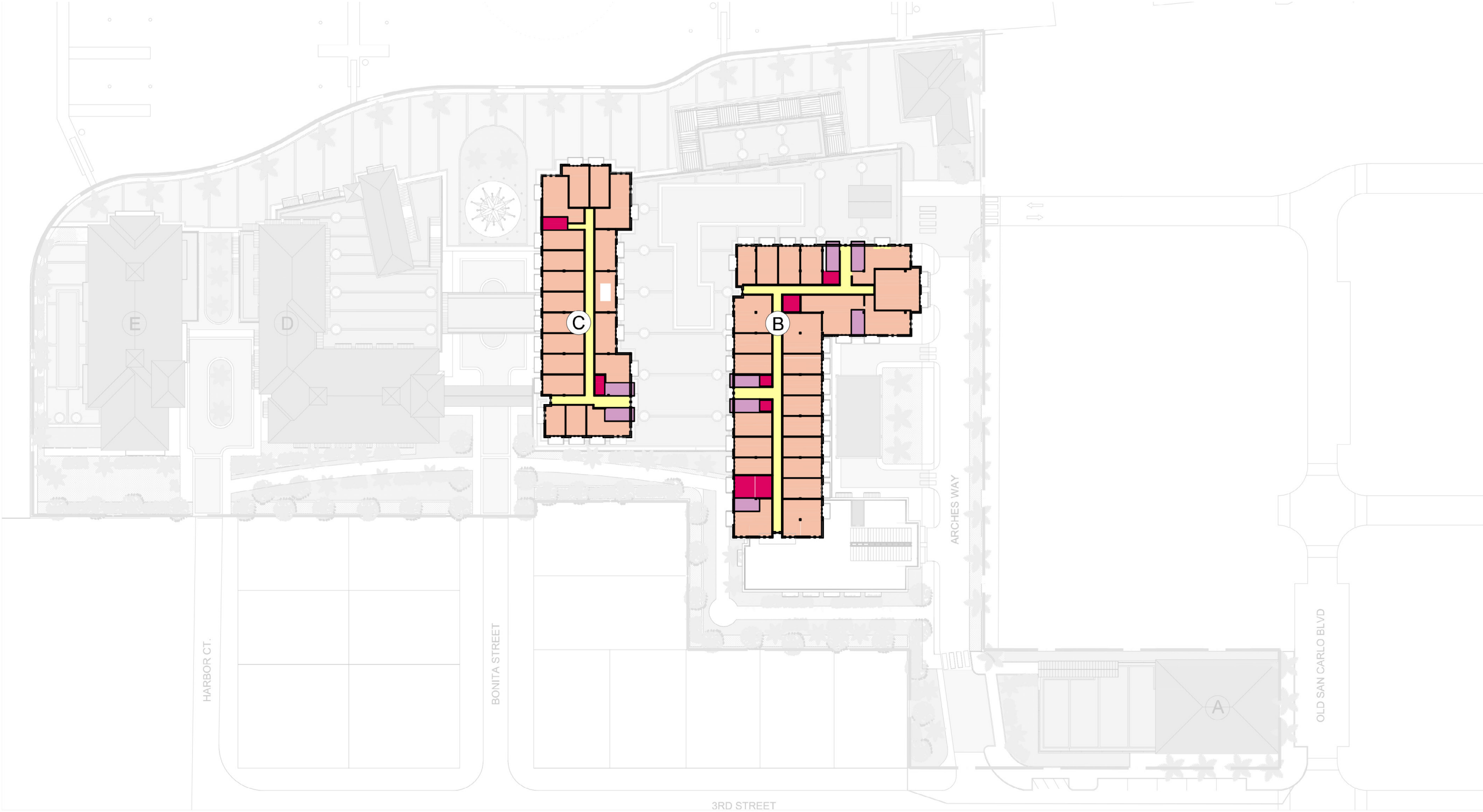
LEVEL 600

- LOBBY AND CORRIDORS
- VERTICAL CIRCULATION
- SUNSET DECK
- LODGING
- BACK OF THE HOUSE



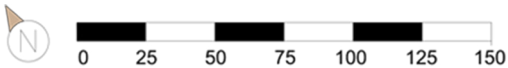
TECHICAL DRAWINGS

ARCHES MASTER PLAN LEVEL 700



LEVEL 700

- LOBBY AND CORRIDORS
- LODGING
- VERTICAL CIRCULATION
- BACK OF THE HOUSE



FAR CALCULATIONS					
Arches Harborside Resort					
Floor Level	Building A	Building B & C	Building D	Building E	Ferry/ Water Taxi Terminal
	FAR Area	FAR Area	FAR Area	FAR Area	FAR Area
100	4,960	55,461	21,117	9,496	1,572
200	4,960	53,148	20,935	8,855	-
300	-	53,148	10,545	8,855	-
400	-	31,598	10,545	8,855	-
500	-	31,598	10,545	8,855	-
600	-	26,143	10,545	-	-
700	-	26,143	-	-	-
Sub Totals:	9,920	277,239	84,232	44,916	1,572
	Gross Building Area	417,879			
	Gross Site Area	216,928.8 SF (4.98 ACRES)			
	FLOOR AREA RATIO	1.93			



























04T





THE ARCHES BAYFRONT RESORT
COMMERCIAL PLANNED DEVELOPMENT
Rezoning Application
#20230151

SCHEDULE OF DEVIATIONS AND JUSTIFICATIONS

Deviation #1: A deviation from LDC Table 34-3 which requires properties in the Commercial Resort (CR) zoning district to have a minimum lot width of 100 feet and a minimum lot depth of 100 feet. This deviation would allow for either a minimum lot width of 80 feet or minimum lot depth of 80 feet depending on the development's frontage on either Old San Carlos Boulevard or Third Street.

Justification: The deviation request will align the property development regulations within the Old San Carlos Tract with the dimensions of the property to avoid creating a non-conforming lot within the CPD. The property frontage measures approximately 80 feet on Old San Carlos Boulevard and approximately 200 feet on Third Street, which does not meet the intended CR zoning district dimensional regulations. The approval to deviate from the dimensional regulations will not result in any negative impacts to the community's health, safety, and welfare.

Deviation #2: A deviation from LDC Section 34-645(b) and Table 34-3, which allows for a maximum floor area ratio of 1.2 within the Commercial Resort (CR) zoning district and a maximum floor area ratio (FAR) of 1.8 within the Downtown Redevelopment district to allow for a maximum FAR of 2.0 within the Arches Bayfront Resort CPD.

Justification: The companion Comprehensive Plan Future Land Use Map Amendment will designate the entire subject property as Pedestrian Commercial, which allows a maximum FAR of 2.5. The proposed FAR of 2.0 is therefore consistent with the Comprehensive Plan. The increase in FAR is requested to allow a world-class resort that will offer guest amenities, event space, marina uses, public parking and commercial uses open to the public. Today's building codes, FEMA regulations, public spaces and hospitality standards calling for larger rooms and greater amenities dictate the need for an increased FAR. However, the FAR requested is far short of the 2.5 allowed within the Pedestrian Commercial Future Land Use category.

The CPD allows applicants to request an FAR of up to 2.5 within the Pedestrian Commercial Future Land Use designation. In support of the CPD and the request to increase the FAR to 2.0, the applicant is proposing the following public benefits:

- Bayfront Promenade
 - Public access to bayfront
 - Splash pad for kids
 - Mix of food, entertainment and retail venues for public and resort guests



- Enhanced view corridors
- Implementation of Old San Carlos Plan
- Creating a cohesive downtown with two dynamic bookends that provide first-rate pedestrian plazas
- Downtown Ferry/Water Taxi Terminal and founding partner of Ferry System
- 45 Public Parking spaces
- Golf Cart Parking
- Bicycles for Resort Guests & Bicycle racks for the public
- Shuttle Service for employees and guests
- Participation in the DRAC program
- Implementation of Park Once Initiative
- Marina with Temporary Docking/Parking for non-motorized watercraft - paddle boards, kayaks and canoes, outfitters providing access to local water and natural environment
- Convenient Boat Pump Out and Fueling service
- Linear Park Memorial Garden Park honoring:
 - FMB history & historic FMB Arches
 - Hurricane Ian impacts & casualties
 - Hurricane Ian rebuild
- Outdoor Market – Farmers and Arts & Crafts Market which will support local businesses and create a social gathering place
- Revitalization of the Downtown and increasing visitor density by creating public spaces, facilitating public access and diversifying food, recreational and entertainment options.
- Replacement of stark, dry storage barns with attractive coastal architecture – form and good design are important, they define and create a sense of place
- Hardened and resilient structures
- Improved water management conditions
- 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

The deviation for increased FAR is consistent with the Comprehensive Plan and will not result in any negative impacts to the community's health, safety, and welfare.



Deviation #3: A deviation from LDC Section 34-1803(a)(1), which allows the conversion of dwelling units to hotel/motel guest units per established equivalency factors as allowed per LDC Section 34-1804(a)(2). This deviation would allow an equivalency ratio of 9.1 and a maximum of 263 guest units.

Justification: The Arches Bayfront Resort property consists of ±4.98 acres and is currently pending a Small-Scale Comprehensive Plan Future Land Use Map Amendment to change from Marina and Mixed Residential future land use category to Pedestrian Commercial. The Pedestrian Commercial future land use category allows 6 dwelling units per acre with equivalency factors for hotel units of various sizes. The equivalency factors per LDC Sec. 34-1893(a)(1) for units within the Pedestrian Commercial FLU are 3.0 for units less than 450 square feet, 2.5 for units between 450 square feet and 750 square feet, and 2.0 for units between 750 square feet and 1,000 square feet which would allow at a minimum 60 hotel units up to a maximum of 90 hotel units.

The proposed additional hotel rooms are requested pursuant to LDC Sec. 34-1802(a)(2), which allows for additional units under “exceptional circumstances” and when providing public benefits. The exceptional circumstances include the devastation sustained due to Hurricane Ian, the construction requirements mandated through the Florida Building Code and FEMA, the increased cost of construction, high interest rates and the shortages of materials and labor. Additionally, through the planned development process, the applicant is proposing the following public benefits that contributed to the projects consistency with LDC Sec. 34-1803(a)(2):

- Bayfront Promenade
 - Public access to bayfront
 - Splash pad for kids
 - Mix of food, entertainment and retail venues for public and resort guests
- Enhanced view corridors
- Implementation of Old San Carlos Plan
- Creating a dynamic downtown that connects the beach to the bay with first-rate pedestrian plazas
- Downtown Ferry/Water Taxi Terminal and founding partner of Ferry System
- 45 Public Parking spaces
- Golf Cart Parking
- Bicycles for Resort Guests & Bicycle racks for the public
- Shuttle Service for employees and guests
- Participation in the DRAC program
- Implementation of Park Once Initiative
- Marina with Temporary Docking/Parking for non-motorized watercraft - paddle boards, kayaks and canoes, outfitters providing access to local water and natural environment
- Convenient Boat Pump Out and Fueling service
- Linear Park Memorial Garden Park honoring:
 - FMB history & historic FMB Arches
 - Hurricane Ian impacts & casualties



- Hurricane Ian rebuild
- Outdoor Market – Farmers and Arts & Crafts Market which will support local businesses and create a social gathering place
- Revitalization of the Downtown and increasing visitor density by creating public spaces, facilitating public access and diversifying food, recreational and entertainment options.
- Replacement of stark, dry storage barns with attractive coastal architecture – form and good design are important, they define and create a sense of place
- Hardened and resilient structures
- Improved water management conditions
- 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

These exceptional circumstances and public benefits support the 263 hotel units requested.

The deviation and justification as outlined above demonstrate the public benefits that will be provided by the Arches Bayfront Resort and the exceptional circumstances which have led to this request. The development of this pedestrian friendly resort will not adversely impact the public's health, safety, or welfare.

Deviation #4: A deviation from LDC note 1 of Table 10-9 which requires a solid wall not less than six feet in height and with the landscaping to be placed on the adjacent property side of the wall to allow for a six foot high decorative fence with solid columns and landscaping to be placed on the interior (resort side) of the decorative fence for the southern property line as depicted on the enclosed MCP.

Justification: The deviation is requested to allow for a 6-foot decorative fence to be provided at the southern property boundary where the resort is located adjacent to single-family residences. This decorative fence will have a minimum of 10' of landscaping planted to the interior of the fence between the resort and the existing single-family residences. This will provide approximately 35 to 50 feet of separation between the resort buildings and the residential property. The placement of the landscaping to the interior of the decorative fence will allow for ease of maintenance and enhancement of the Linear Park & Memorial Garden area. For additional buffering and compatibility with the residential development, the Linear Park & Memorial Garden area will be designed in such a manner that the public will be directed away from the residential development through sidewalks and wayfinding signage.

The proposed decorative fence with 10 feet of landscape plantings on the interior of the fence adjacent to the existing residential development will not cause or result in any negative impacts to the community's health, safety, and welfare.



Deviation #5: A deviation from LDC Section 26-77(b) which states that new or expanded seawalls are not allowed along natural waterbodies in order to allow the existing boat ramp to be replaced by seawall.

Justification: This deviation request is made so that the existing boat ramp, located on the northeast corner of property, shall be removed and replaced with a permitted, code compliant seawall. The existing private boat ramp is located on the Moss Marina site and no longer in use. Through the proposed Arches Bayfront Resort design, the site will provide a minimum 670-foot public bayfront promenade to be used by resort guests and the public. This bayfront promenade will provide access to the ferry/water taxi terminal, docks, ground floor retail and restaurants. The resort and seawall design will also comply with stormwater management so that runoff will not be discharged directly into the bay as currently occurs.

The proposed seawall construction will be a public benefit to the island, its residents and an improvement to the existing conditions thus supporting the intent of LDC Section 26-77(b) which is to protect the island's natural bodies of water.

Deviation #6: A deviation from LDC Table 34-3 which requires properties in the Commercial Resort (CR) zoning district to have a minimum height set at 30 feet and 3 stories to allow a maximum building zoned height of 81' (as defined in the FMBLDC) for the Resort Tract. Maximum building heights will be in compliance with the approved Master Concept Plan.

Justification: The comprehensive plan allows for additional height utilizing the planned development process in Policy 4-C-4 with implementing language in Section 34-1803(2) FMBLDC. This review allows additional height for consistency with existing building height and extraordinary public benefits. The proposed maximum height is similar to the adjacent Marina Village Condominium. The proposed height does not affect views from the peak of the skybridge above the existing skyline. This will ensure preservation of the views of the Gulf from vehicular traffic when arriving to the island via San Carlos Boulevard. The height is requested to allow for five view corridors varying in width from 25 to approximately 70 feet through the site toward the extensive bayfront promenade, waterfront, and sky. The additional view corridors and public access through the creation of a bayfront promenade will create a pedestrian plaza and reduce the building mass to present a human scaled experience along the bayfront and Arches Way. Additionally, the additional height results in smaller building footprints which allows for greater setbacks and buffering from adjacent residential properties and the creation of the Linear Park & Memorial Garden.

Deviation #7: A deviation from LDC Table 34-3 which states that property setbacks in a CPD zoning district shall be the same as for the Commercial Resort zoning district to allow for adjusted building setback lines within the Resort Tract and adjusted side setbacks and build to lines for the buildings located within the Old San Carlos Tract as outlined within the enclosed Development Standards Exhibit.

Justification: This unique configuration of the properties which make up the Arches Bayfront Resort necessitate the requested deviation from setbacks and build-to lines. Under the Table 34-3 regulations, the section of the property which abuts Old San Carlos Boulevard would have a setback ranging from a minimum of 10' – 15' which would not support the Town's vision as presented in the Old San Carlos Boulevard-Crescent Street Master Plan of having all buildings built to the sidewalk. This deviation supports the desire to promote a building form that engages the public along Old San Carlos



Boulevard, through building placement and design. The proposed build-to lines for the Old San Carlos Boulevard Tract are 0-5 feet for Old San Carlos Boulevard and 0 – 10 feet on Third Street. These build-to lines will create a human-scaled, walkable, engaging public realm along both Old San Carlos Boulevard and Third Street. The proposed side setback on the north side of the building is 0 feet, consistent with setbacks permitted in the Downtown district in which the property is located.

The proposed setbacks for the Resort Tract will allow the development to be designed in such a manner that the active public areas are located along the Bayfront Promenade while the Linear Park and Memorial Garden will create a passive recreational area near Third Street and thus buffering the residential properties from the more intense uses. The setbacks will also allow the development to create five view corridors to the bay from Third Street. The granting of this deviation will not cause or result in any negative impacts to the community's health, safety, and welfare.

Deviation #8: A deviation from LDC Section 34-2020, required parking regulations, to allow a parking reduction of 50% in accordance with LDC Section 34-676(a)(1).

Justification: LDC Section 34-676(a)(1) allows for the request of a 50% reduction from the off-street parking requirements for properties abutting Old San Carlos Boulevard through the deviation process. By virtue of the overall CPD's location and proximity to the water, the parking reduction will allow for consideration to be given to the alternative modes of transportation available to access the site. The Arches Bayside Resort intends to promote and support multimodal transportation through providing parking facilities for vehicles, golf carts, bicycles and docks for both vessel and personal watercraft and non-motorized personal watercraft as well as a water taxi/ferry dock. The resort will also have a stop for access to the Fort Myers Beach Trolley and Tram system.

The site creates the northern "bookend" of the expanded Times Square pedestrian-friendly zone along Old San Carlos Boulevard from Times Square to Matanzas Pass, connecting the beach to the bay as described in the Old San Carlos Boulevard – Crescent Master Plan.

The parking analysis demonstrates that a total of 338 vehicle parking spaces will be provided by the developer as well as 13 golf cart spaces, 26 bicycle spaces, and transient boat slips. 45 spaces of the 338 will be provided for paid public parking. The amount of parking meets and exceeds the code requirements and the excess provides a significant public benefit that supports the Park Once initiative.

The proposed parking alternatives and access to alternative modes of transportation will reduce the need for parking within the downtown area and help alleviate traffic congestion on the island. The granting of this deviation will not create negative impacts to the health, safety and welfare of the island's residents and visitors.



THE ARCHES BAYFRONT RESORT
COMMERCIAL PLANNED DEVELOPMENT
Rezoning Application
#20230151

PROPOSED CONDITIONS/COMMITMENTS:

TRAFFIC MITIGATION

1. Downtown Ferry/Water Taxi Terminal:

- a. The property owner supports the proposed Fort Myers Beach ferry and water taxi system as an alternative mode of transportation that can significantly mitigate traffic congestion issues on Fort Myers Beach. The owner will invest and participate in the ferry system and commits to construct a minimum 1,400 square foot, indoor, air-conditioned ferry terminal facility on the subject property. This location will serve as the downtown stop and provide ease of access to residents, hotel guests, and day-trippers. The owner also commits to providing ferry operations and ticketing space and a docking slip free of charge for the first 5 years of operations.

2. Non-Motorized Watercraft Docking:

- a. The property owner shall provide dedicated dock space, at no charge, for non-motorized watercrafts such as kayaks and paddle boards. The docking space is not a public launch. It is intended to serve hotel guests, and nearby residents and visitors who paddle to the site.

3. Guest & Employee Shuttle:

- a. The property owner and resort operator shall provide, at a minimum, twice daily in-season (December-April) shuttle service for hotel guests and employees to and from RSW Airport and the Beach Park-and-Ride located off Pine Ridge Road.

4. 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;
 - Ferry service;
 - 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. Water ferry/taxi 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.

5. 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 26 bicycle parking spaces (multiple bike racks) for public use.

6. Multi-Use Pathways:

- 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 the Bayfront Promenade, the Memorial and Linear Park, the Outdoor Market and downtown venues to reduce vehicular trips.

7. Public Parking

- a. The Arches Bayfront will provide 45 paid public parking spaces to promote and implement the Town's "Park Once" strategy and supports a vibrant and walkable downtown. 38 spaces will be on the resort property spaces and 7 spaces will be constructed by the owner along Third Street.
- b. Resort guest and public parking spaces will be clearly identified, will be managed by the resort, and will operate in accordance with public parking standards and fees.

8. Golf Cart Parking

- a. The Arches Bayfront will provide 13 dedicated golf cart parking spaces available to guests or the public.

9. Ride Hailing and Trolley/Tram Stop

- a. In order to support and encourage the use of transit, ride-hailing services and taxis, a dedicated transit stop (if approved by LeeTran), pick-up and drop-off area will be provided along 3rd Street adjacent to the Bodega/Restaurant/Outdoor Market building and ride-hailing stop near the Ferry/Water Taxi building. These areas will be generally configured and located as identified on the Master Concept Plan, or as finalized with input from



LeeTran and can serve as a downtown hub to facilitate the use of services such as Uber and Lift.

10. Vehicular Access to Resort

- a. Vehicular access to the resort will be focused and directed to Arches Way, and “Local Traffic Only” signage will be placed immediately west of the intersection of Third Street and Arches Way to minimize vehicular trips within that neighborhood.

MARINA

11. Design & Uses:

- a. Marina design, uses, and locations must be consistent with Policies 4-B-6, 4-B-7, and 5-E-7 of the Fort Myers Beach Comprehensive Plan and all applicable Town codes.

12. Pump Out and Fueling Service:

- a. The property owner shall coordinate with the Town of Fort Myers Beach to provide convenient on-site pump out and fueling services for mooring field users and the general boating public. As part of an agreement between the Town and the marina, would be established for mooring field users. A weekly pump out service fee would apply and would be defined within this agreement.

PUBLIC SPACES

13. Bayfront Promenade

- a. As part of the development of the resort the property owner will build a Bayfront Public Promenade as generally depicted on the Master Concept Plan. This promenade will include restaurants, storefronts and fully enclosed and air-conditioned commercial space. The promenade will be open to the public from sunrise until stores and restaurants along the promenade cease operation in the evening.
- b. The promenade will provide public access to the waterfront and will include access to the waterfront, a children’s splash pad, seating and landscaped areas as generally depicted on the attached renderings. An unobstructed walkable “clear zone” will be maintained at a minimum of 10 feet and an average 12 feet wide and that will vary in location within the Bayfront Public Promenade area as noted and shown on the approved Master Concept Plan.

14. Open Air Market (Farmers/Arts & Crafts Market)

- a. The property owner will build a covered open air market at the corner of Third Street and Arches Way as generally depicted on the MCP and project renderings.

15. Linear Park & Memorial Garden

- a. The property owner will develop a passive linear park along the southern boundary of the resort. This park will provide separation and buffering from adjacent residences and will include a decorative perimeter fence, a minimum ten-foot vegetated buffer, a bicycle/pedestrian pathway and will feature a Memorial Garden with sculptures and plaques honoring Fort Myers Beach history, commemorating Hurricane Ian and celebrating the rebuild of the island. The linear park and memorial garden will be open to the public and the design will be generally consistent with the attached conceptual renderings.



16. Public Access

- a. The resort is designed to provide bicycle and pedestrian access to the Bayfront Promenade, Outdoor Market, and the Linear Park & Memorial Garden via a network of sidewalks and pathways as depicted on the Master Concept Plan. The resort's bike/pedestrian pathways and Linear Park will be open to the public until one hour after sunset. The Bayfront Promenade will remain open until restaurants cease operations in the evening.
- b. The Bayfront Promenade and Linear Park will terminate at Building D as depicted on the Master Concept Plan. There will be no public access along the canal to ensure compatibility with adjacent residential uses.

DESIGN

17. Architecture & Site Design

- a. Final design must be generally consistent with renderings provided in addition to the Master Concept Plan.
- b. Architecture must be a coastal vernacular consisting of Key West, Old Florida, and St. Augustine/Spanish influences.

18. Landscaping & Buffering

- a. Perimeter buffers/landscaping must be generally consistent with the Master Concept Plan.
- b. Along the western boundary (canal) adjacent to the Building E guest pool deck, a minimum 5-foot-wide buffer will be provided. This buffer will provide a minimum of 5 trees per 100 linear feet at a minimum of 12 feet tall at time of planting and a continuous opaque (clusia) hedge row a minimum of 4 feet high at time of planting and maintained at a minimum of 5 feet high.
- c. A detailed landscaping plan showing the location and type of all plantings must be provided with the development order application.
- d. All landscaping material will be native varieties/Florida friendly species.

FORT MYERS BEACH ELEMENTARY SCHOOL

19. 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.

20. 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

21. 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:
 - i. Service to outdoor areas is permitted, or otherwise restricted as follows:
 - 1. For Buildings B & C, on the Level 400 deck area surrounding the pool and the hotel restaurant and Level 500 Building B's Sunset Deck area.
 - 2. For Building D, on the Level 200 deck adjacent to the Event Chapel and reception halls.
 - 3. No alcohol sales for Building E, at Level 100 around the pool deck
 - 4. For commercial plaza along the Bayfront Promenade (Level 100), limited to the restricted outdoor seating areas and surrounding the commercial/ferry water taxi building as depicted on the Master Concept Plan.
 - 5. For The Arches Gateway Restaurant (second story – Level 200) and ancillary rooftop deck at the corner of Old San Carlos and Third Street.

22. Hours of Operation & Amplified Sound

- a. Hours of operation and amplified sound 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. The Arches Gateway Restaurant and rooftop deck at corner of San Carlos Blvd and 3rd St: 7:00am to midnight. Amplified sound will be oriented away from adjacent residential properties.
- c. ~~Sunset Deck: 7:00am to midnight and amplified sound until 9pm. Amplified sound will be oriented away from adjacent residential properties.~~ Sunset Deck: Hours of operation are 7am until midnight. Only ambient music is allowed on the Sunset Deck. Ambient music is permitted from 7am until 9pm. Amplified sound will be oriented away from adjacent residential properties. Live music is not permitted at this location.
- d. Commercial plaza restaurant(s) along Bayfront Promenade: 7:00am to midnight
- e. Pool deck (Buildings B and C): 7:00am to midnight
- f. ~~Pool deck (Building E): 7:00am to one hour after sunset and amplified sound (ambient music only) from 10am to 1 hour after sunset. Amplified sound will be oriented away from adjacent residential properties.~~ Pool deck (Building E): 7:00am to 9pm and ambient music only from 10am to until one hour after sunset. Amplified sound will be oriented away from adjacent residential properties. No alcohol sales will take place outdoors on the pool deck at Building E. Live music is not permitted at this location.
- g. Outdoor deck area by the Events Chapel and reception hall (Building D): 7:00am to midnight



OTHER

23. Outdoor boat storage on land is prohibited.
24. ROW vacation for part of Harbor Court and Bonita St shall be required at the time of the Development Order.
25. Lighting and landscape plan required at time of Development Order approval.
26. State and Federal permitting required for environmental resource impacts. All applicable State and Federal permits shall be obtained and submitted to the Town of Fort Myers Beach (chadd@fmbgov.com) BEFORE commencement of any development activities.
27. The non-seawalled area separating The Arches Bayfront Resort and Marina Village will be filled and protected by a seawall. This improvement will allow pedestrian connection for Marina Village guests.
28. At the time of development order approval an accessible stabilized surface meeting the required width between Harbor Ct. and Bonita Street for emergency and fire personnel and vehicles will be provided. See MCP for notation.
29. All proposed walkovers will be designed at the time of development order approval to allow for emergency and fire vehicle access.

March 26, 2025

Mr. Patrick Vanasse
The Neighborhood
9961 Interstate Commerce Drive, Suite 230
Fort Myers, FL 33913

RE: The Arches Bayfront Resort CPD

Dear Mr. Vanasse:

TR Transportation Consultants, Inc. has reviewed the Traffic Impact Statement (TIS) comments issued by AIM Engineering & Surveying regarding the above project. The comments and TR Transportation's response to those comments are listed below for reference.

TIS Review:

Please reorganize the memorandum into a TIS report. In the current form, it is difficult and time consuming for the reader to follow what is going on. The responses to AIM Engineering & Surveying, Inc.'s September 11, 2024 comments do not need to be attached in the TIS, as this is now a new document. There is no need to reference the TIS that Hall Planning & Engineering, Inc. submitted previously. Please include trip generation, trip distribution, roadway segment analysis and intersection analyses in the TIS report with appropriate discussion, figures and tables. The ITE trip generation rates, FDOT Level of Service (LOS) tables, SYNCHRO analyses, raw traffic counts, etc. should be included as appendices. Please resubmit the TIS report as a stand-alone document and submit the electronic SYNCHRO files.

The report was reformatted and it included now as stand alone TIS. The data collected by HPE was to the best of our knowledge included in the Appendix of the TIS. The electronic SYNCHRO files will be emailed to Mr. Adams at AIM Engineering.

Page 6, Table 5 (LOS Conditions and Roadway Impacts for Estero Boulevard):

- a. It is unclear to the reader if the segment analysis is based on a one-way or two-way peak hour volume. Please indicate in the table whether the 1,300 vph value is a one-way or two-way peak hour volume.*
- b. The inclusion of an FDOT Level of Service D maximum volume in this table is unclear since it does not appear to be used in any analysis.*

Unless there is a specific reason for including a generalized FDOT service volume, we recommend deleting this column of the table.

- c. The column header for the 4th column in this table should be revised. We recommend revising this to "Project Traffic as % of Maximum Service Volume". We are not sure the 1,300 vph value is actually the maximum Level of Service C volume. Based on the wording of the Town of Fort Myers Beach Comprehensive Plan Policy 7-1-2, it would appear more likely that the 1,300 vph value is more representative of the maximum Level of Service E volume. In addition, the "25/1,300 = 0.85%" portion of this column header is incorrect. D.*
- d. Please make sure the number of project trips that is used in the roadway segment analysis matches the number of trips in the trip generation table and trip distribution figure.*

The revised report includes the Level of Service analysis on the adjacent roadway network. The LOS analysis volumes match the trip generation.

Page 7, SYNCHRO analyses – To help the reader understand the impacts the proposed development will have on intersections, please provide a table for the existing and future 2027 scenarios summarizing the LOS for each movement, the v/c ratio for each movement, and the overall LOS for each intersection for both the AM and PM peak hours. This should be provided in the intersection analysis section of the new TIS report.

The TIS now includes Tables summarizing the LOS analysis at the intersections.

Figure 1, Trip Distribution Graphic:

- a. In Table 1, Trip Generation, there are 28 AM peak hour trips entering the proposed Arches Hotel development, however, in Figure 1, there are 14 trips entering through the western entrance and 12 trips entering through the eastern entrance. Please revise the figure to depict 28 trips entering the proposed project during the AM peak hour.*

This was revised in the update TIS.

- b. The segment of 3rd Street between Old San Carlos Boulevard and Crescent Street is a one-way street for eastbound traffic, however, Figure 1 depicts westbound trips entering the development on this segment of 3rd Street. Please revise this figure to show inbound trips continuing on Crescent Street to 2nd Street (which is a one-way westbound roadway), turning west onto 2nd Street, and then continuing south on Old San Carlos Boulevard to reach 3rd Street west of Old San Carlos Boulevard where 3rd Street is a two-way roadway.*

This was revised in the update TIS.

- c. *The inbound PM peak hour trip on San Carlos Boulevard (entering the island from the bridge) depicts 4 PM peak hour trips, however the figure should depict 14 trips. Please revise the figure to show 14 inbound trips on San Carlos Boulevard at the intersection of 5th Street.*

This was revised in the updated TIS.

- d. *At the intersection of Estero Boulevard & Crescent Street, the figure depicts 10 PM peak hour trips making a U-turn from eastbound Estero Boulevard to westbound Estero Boulevard to exit the island via San Carlos Boulevard. Due to the geometry of this intersection, a U-turn is not conducive. Please assign the 10 PM peak hours trip to exit the development on 3rd Street eastbound to Crescent Avenue southbound to 5th Street westbound to access the bridge to exit the island. All trips exiting the development going to the bridge should use this route. Please update and revise any SYNCHRO analyses to reflect this revision.*

The U-turns were not shown at the Crescent Street intersection but in fact at the recently opened roundabout at the base of the bridge. The graphic was recreated to better illustrate this fact. A copy of the plan sheet for this roundabout is included in the Appendix of the TIS that illustrates the U-turn location at the roundabout.

5. *Please provide graphics that depict the existing and build-out AM/PM peak hour volumes for all of the intersections that are analyzed.*

Graphics are included in the Appendix of the report that illustrate the weekday AM and PM peak hour turning movements for the various time periods analyzed at the studied intersections.

All the changes to the SYNCHRO files were made as well as suggested. The eastbound left turn lane at Crescent Street is in fact approximately 170 feet in length based on the construction plans that are included in the Appendix of the report and this is reflected in the updated analysis.

If you have any additional questions, please do not hesitate to contact us.

Sincerely,



Ted B. Treesh
President

TRAFFIC IMPACT STATEMENT

FOR

ARCHES BAYFRONT RESPORT CPD REZONING

(PROJECT NO. F2501.09)

PREPARED BY:

**TR Transportation Consultants, Inc.
Certificate of Authorization Number: 27003
2726 Oak Ridge Court, Suite 503
Fort Myers, Florida 33901-9356
(239) 278-3090**

March 25, 2025

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- I. INTRODUCTION
- II. EXISTING CONDITIONS
- III. PROPOSED ZONING
- IV. TRIP GENERATION
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- VI. LEVEL OF SERVICE ANALYSIS & INTERSECTION ANALYSIS
- VII. CONCLUSION

I. INTRODUCTION

TR Transportation Consultants, Inc. has conducted a traffic impact statement to fulfill requirements set forth by the Town of Fort Myers Beach for projects seeking a Small Scale Comprehensive Land Use Amendment and a Commercial Planned Development Rezoning on ten parcels located on Harbor Court, Bonita Street, Third Street and Old San Carlos Boulevard in the downtown District of the Town of Fort Myers Beach, Florida. The site location is illustrate on the attached **Figure 1**.

The analysis in this report will determine the impacts of rezoning approximately 4.98 acres from Commercial Marina, Residential Conservation, Commercial Office and Downtown to a Commercial Planned Development (CPD) zoning. The zoning will permit the Resort to be developed after the existing Moss Marina was heavily damaged in Hurricane Ian to include up to 263 resort hotel rooms, 15,000 square feet of resort amenities 75 wet slips and a 336-space parking facility.

The transportation related impacts of the proposed application will be evaluated based on the estimated build-out year of the project and the impacts the proposed development will have on the surrounding roadway infrastructure. Access to the subject site will be provided to Harbor Court, Bonita Street, Third Street and Old San Carlos Boulevard.

This report supplements previous traffic studies prepared by Hall Planning & Engineering (HPE) and addresses comments issued by AIM Engineering & Surveying in their review of the HPE traffic studies as well as the last submittal by TR Transportation Consultants submitted to the Town of Fort Myers Beach dated February 21, 2025.



II. EXISTING CONDITIONS

The Arches Bayfront Resort is located on the Bay side of Fort Myers Beach in the Downtown area, at the western terminus of Old San Carlos Boulevard. Prior to Hurricane Ian, the site was occupied by Moss Marina since the late 1960's, which contained 55 wet slips as well as dry boat storage buildings for up to 210 boats. The site is bordered by the downtown area to the east, residential uses to the south, the Matanzas Pass to the north and canal access to the west.

Old San Carlos Boulevard is a two-lane local roadway that borders the site to the east. Old San Carlos Boulevard has on-street parking and has a posted speed limit of 25 mph. Old San Carlos Boulevard is under the jurisdiction of the Town of Fort Myers Beach.

Third Street, Harbor Court & Bonita Street are all local streets adjacent to the subject site that are under the jurisdiction of the Town of Fort Myers Beach.

Estero Boulevard is a two-lane undivided Arterial roadway that is located to the south of the project. Estero Boulevard has a posted speed limit of 25 mph and is under the jurisdiction of the Lee County Department of Transportation from the newly constructed roundabout to the east. From the roundabout to the western terminus at Bowditch Point Park, the roadway is under the jurisdiction of the Town of Fort Myers Beach. Estero Boulevard from Center Street to Big Carlos Pass has been designated as a “**Constrained Roadway**” by the Lee County Board of County Commissioners by Lee Plan Objective 37.2 and Policy 37.2.1, which indicates that due to scenic, historic, environmental, aesthetic, and right-of-way characteristics and considerations, a reduced peak hour Level of Service will be accepted on these roadways.

III. PROPOSED ZONING

The proposed request would amend the zoning from various zoning categories to a Commercial Planned Development (CPD) on the 4.98-acre site to permit the site to be redeveloped with a Resort Hotel and associated amenities. Access to the site will be provided to Harbor Court, Bonita Street, Third Street and Old San Carlos Boulevard. The site currently has a total of 55-wet slips and is requesting a total of 75-wet slips, therefore trip generation for the marina use was only based on the addition of 20 additional slips. In addition, per the HPE traffic studies previously submitted, the trips from the dry boat storage that is being eliminated from the site were removed from the trip generation potential of the site to reflect the overall trip generation of the CPD. **Table 1** summarizes the weekday peak hour trip generation characteristics of the site based on the requested rezoning.

Table 1
Arches Bayfront Resort Zoning Amendment
Land Uses

Use	Proposed
Resort Hotel	263 Rooms
Marina	20 Slips

Marina has 55 existing slips, requesting 75 total slips, increase is 20 slips

IV. TRIP GENERATION

The trip generation for the proposed uses within the development were determined by referencing the Institute of Transportation Engineer's (ITE) report, titled ***Trip Generation***, 11th Edition. Land Use Code 330 (Resort Hotel) was utilized for the trip generation purposes of the hotel rooms. Land Use Code 420 (Marina) was utilized for trip generation of the Marina use. The trip generation equations for these land uses are included in the Appendix of this report for reference. **Table 2** outlines the anticipated weekday AM and PM peak hour trip generation based on these land use categories.

Table 2
Trip Generation
The Arches Bayfront Resort

Land Use	Weekday A.M. Peak Hour			Weekday P.M. Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
Resort Hotel (263 Rooms)	61	23	84	46	62	108	n/a
Marina (20 Slips)	0	1	1	3	1	4	
Less Existing Dry Boat Storage Trips ¹ (210 Slips)	-33	-20	-53	-26	-26	-52	
Net New Trips	28	4	32	23	37	60	

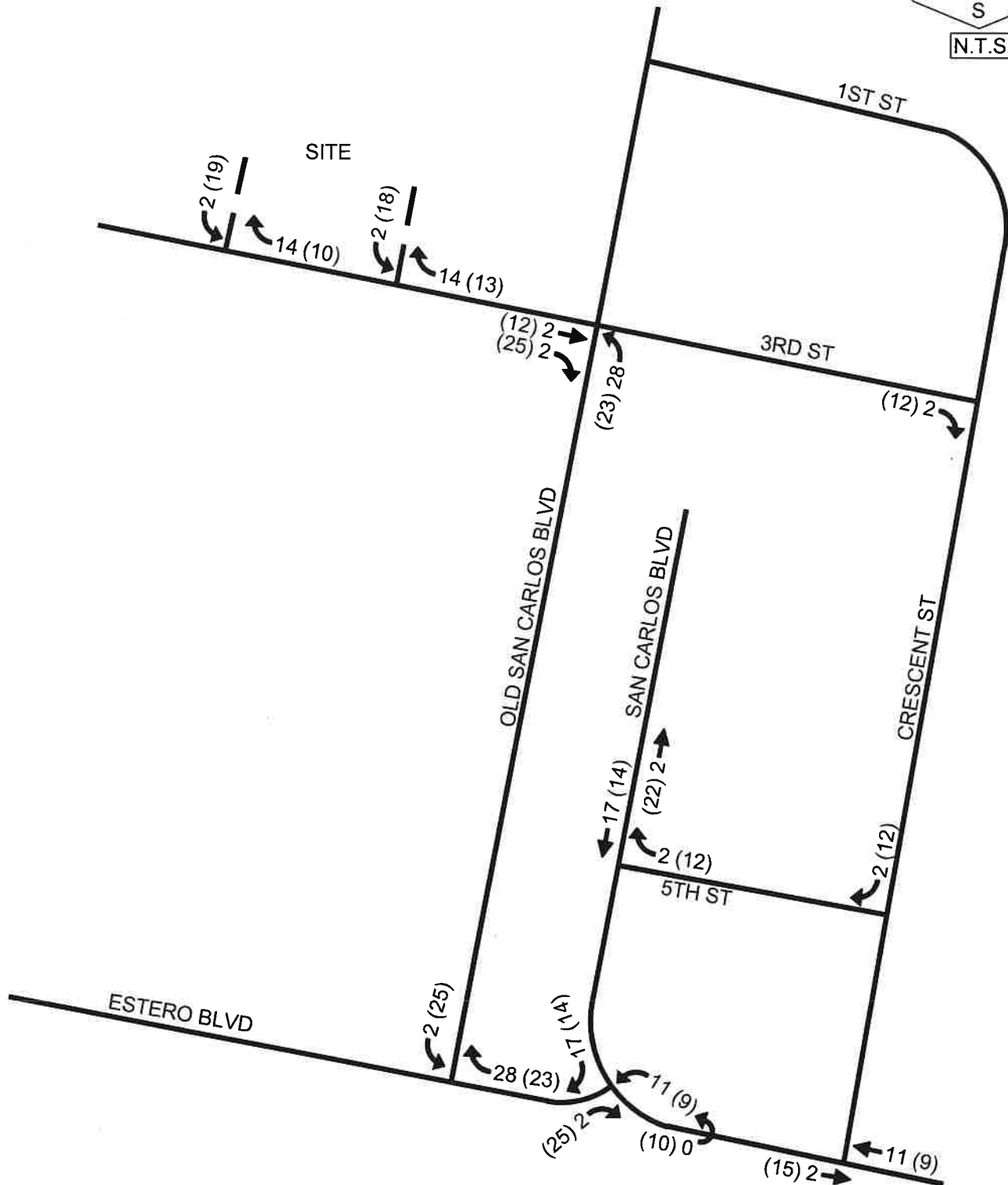
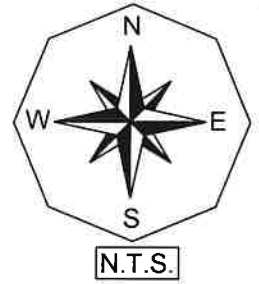
¹ Based on the trip generation calculation as reported in the HPE report for the dry boat storage use

V. TRIP DISTRIBUTION

The trips the proposed development is anticipated to generate, as shown in Table 2, were assigned to the surrounding roadway network. The trips were assigned based upon the routes drivers are anticipated to utilize to approach the subject site. The trip distribution was previously agreed upon in the HPE traffic analysis and reviewed by AIM Engineering. **Figure 2** illustrates the anticipated trip distribution. Also shown in Figure 2 is the site traffic assignment of the proposed development.

In order to determine which roadway segments surrounding the site will be significantly impacted, **Table 1A**, contained in the Appendix, was created. This table indicates which roadway links will experience a significant impact as a result of the added development traffic. Significant impact is defined as any roadway projected to experience greater than 10% of the Peak Hour – Peak Direction Level of Service “C” volumes.

The Level of Service Threshold volumes for each roadway link were taken from the Lee County Generalized Peak Hour Directional Service Volume table. This table is included in the Appendix of this report for reference. Based on the information contained within Table 1A, no roadway segment is shown to experience a significant impact due to the addition of the project traffic.



LEGEND

- ← 000 WEEKDAY AM PEAK HOUR SITE TRAFFIC
- ← (000) WEEKDAY PM PEAK HOUR SITE TRAFFIC

VI. LEVEL OF SERVICE ANALYSIS & INTERSECTION ANALYSIS

The future Level of Service analysis was based on the development build-out horizon, which was selected as the year 2027. Based on this horizon year analysis, the surrounding roadway network was analyzed under 2027 traffic conditions. Even though historical growth patterns have illustrated that there has been very little traffic increase on Estero Boulevard in the past eight (8) years, a growth rate of 2% per year, compounded annually, was applied to the existing traffic conditions for the traffic volume reported by Lee County for Estero Boulevard. The existing traffic data for Estero Boulevard was obtained from the Lee County 2024 *Lee County Public Facilities Level of Service and Concurrency Report*.

Table 2A in the Appendix of the report indicates the methodology utilized to obtain the year 2027 build-out traffic volumes as well as the growth rate utilized for each roadway segment analyzed. The data obtained from the 2024 Lee County resource is attached to the Appendix of this report for reference.

It should be noted that Estero Boulevard west of San Carlos Boulevard as well as the Matanzas Bridge has been designated as a “**Constrained Roadway**” by the Lee County Board of County Commissioners pursuant to Lee Plan Policy 37.2.2 and Table 2(a). As expected, during peak season, Estero Boulevard and San Carlos Boulevard over the Matanzas Pass Bridge are shown to operate at LOS “F” prior to any project trips being added to these segments.

The Lee County Department of Transportation has recently completed pedestrian and transit stop improvements to Estero Boulevard along Estero Boulevard to the south and FDOT has recently completed the construction project at the base of the San Carlos bridge and is still making improvements to the Matanzas Pass bridge to Buttonwood Drive that will create two travel lanes arriving to the beach over Matanzas Bridge. The improvements will also accommodate pedestrian movements through the intersection at the base of the bridge on the island.

Pursuant to Policy 7-1-2 of the Town of Fort Myers Beach Comprehensive Plan, which states:

The peak capacity of Estero Boulevard's congested segments is 1,300 vehicles per hour. The minimum acceptable level-of-service standard for Estero Boulevard shall be that average monthly traffic flows from 10:00 A.M. to 5:00 P.M. during each month do not exceed that level for more than four calendar months in any continuous twelve-month period. Measurements from the permanent count station at Donora Boulevard shall be used for this standard.

The latest count from the station at Donora Boulevard (Count Station #44) indicates that the two-way volume on Estero Boulevard is less than the 1,300 vehicles per hour, thus satisfying the Policy as contained in the Town's Comprehensive Plan. A copy of the latest count from the Lee County Traffic Data System (TCDS) is included in the Appendix of this report for reference.

Included in the Appendix of the report are graphics that illustrate the existing turning movements during the weekday AM and PM peak hours as well as the projected turning movements in the year 2027 with the project trips added to the intersections that were analyzed in the traffic study. The intersections include the following:

- Old San Carlos Boulevard @ 3rd Street (unsignalized)
- Old San Carlos Boulevard @ Estero Boulevard (signalized)
- Estero Boulevard @ Crescent Street (signalized)

The intersection analysis was completed utilizing the program **SYNCHRO**® based on the existing (2024) conditions as well as the projected 2027 conditions with the project trips added to the intersections. **Table 3** illustrates the intersection analysis summary for the intersection of Old San Carlos and 3rd Street, an unsignalized intersection. **Table 4** illustrates the analysis summary for the signalized intersection of Estero Boulevard and Old San Carlos Boulevard and **Table 5** is the analysis summary of Estero Boulevard and Crescent Street, a signalized intersection.

Table 3
Peak Hour Intersection Delay Summary
Old San Carlos @ 3rd Street
Arches Bayfront Resort CPD

Intersection		Time Period (Peak Hour)	2024 Existing Traffic Conditions		2027 Projected Background + Project Traffic Conditions	
			LOS	V/C	LOS	V/C
Old San Carlos Blvd. @ 3 rd St. (Unsignalized)	EBL	AM	A	0.02	A	0.026
		PM	A	0.044	A	0.091
	NBL	AM	A	0.019	A	0.037
		PM	A	0.013	A	0.032
	SBL	AM	A	0.005	A	0.005
		PM	A	0.015	A	0.016
	Int. Delay		AM	2.5 s/veh	3.3 s/veh	
	Int. Delay		PM	1.7 s/veh	2.6 s/veh	

Table 4
Peak Hour Intersection Delay Summary
Estero Blvd. @ Old San Carlos Blvd.
Arches Bayfront Resort CPD

Intersection		Time Period (Peak Hour)	2024 Existing Traffic Conditions		2027 Projected Background + Project Traffic Conditions	
			LOS	V/C	LOS	V/C
Old San Carlos @ Estero Blvd. (Signalized)	EBL/T	AM	B	0.24	B	0.26
		PM	B	0.50	B	0.55
	WBT/R	AM	B	0.53	B	0.59
		PM	A	0.38	B	0.42
	SBL/R	AM	B	0.06	B	0.07
		PM	B	0.13	B	0.33
	Int. LOS		AM	B (12.5)	B (13.2)	
	Int. LOS		PM	B (10.2)	B (13.0)	

Table 5
Peak Hour Intersection Delay Summary
Estero Blvd. @ Crescent St.
Arches Bayfront Resort CPD

Intersection		Time Period (Peak Hour)	2024 Existing Traffic Conditions		2027 Projected Background + Project Traffic Conditions	
			LOS	V/C	LOS	V/C
Estero Blvd. @ Crescent St. (Signalized)	EBL	AM	A	0.03	A	0.03
		PM	A	0.29	C	0.37
	EBT	AM	C	0.84	C	0.84
		PM	B	0.71	B	0.75
	WBT	AM	B	0.46	B	0.50
		PM	D	0.94	E	1.00
	SBL	AM	C	0.05	C	0.05
		PM	C	0.14	C	0.14
	Int. LOS	AM	B (20.0)		C (20.1)	
	Int. LOS	PM	C (29.1)		D (35.9)	

As noted in the application documents, there are many developer commitments that will help offset the traffic impacts of this project. These include the investment and participation in a water ferry/taxi system with the construction of a minimum of a 1,400 square foot terminal facility on the subject site to provide for a stop for a future water taxi/ferry to shuttle resort guest, residents, beach visitors, etc. to various points along Fort Myers Beach. The applicant will also provide twice daily during season shuttle service for hotel guest and employees to and from RSW and the Beach Park-and-Ride located at the site on Pine Ridge Road. The applicant will also participate in the Don't Rent A Car (DRaC) program that encourage guests of the Resort to not rent a car when staying at the Resort but to use the various other modes of transportation provided, such as the bicycle rentals, ferry service, shuttle service, car services such as Uber and Lyft and the Fort Myers Beach Trollee service. The site will also provide golf cart parking on-site and a tram stop on-site.

VII. CONCLUSION

The proposed zoning amendment of the Arches Bayfront Resort to permit the development of up to 263 Resort Hotel rooms and associated amenities along an additional 20 wet slips will not place an undue burden on the adjacent roadway network. The Level of Service information for the surrounding roadway network and intersections shows that Estero Boulevard is already over capacity during season based on data collected prior to Hurricane Ian. It will take some time for the Beach to rebuild and re-establish the population and traffic levels that existed in the peak season prior to Hurricane Ian. Recent improvements at the foot of the Mantazas Pass bridge have recently been completed by FDOT that will improve the traffic flow on and off the island as well as the pedestrian crossing of Estero Boulevard in the immediate area adjacent to Town Square.

The Resort hotel is requesting to replace the Moss Marine and boat storage building that was damaged in Hurricane Ian. The transportation commitments that the applicant is making include the investment and participation in a water ferry/taxi system, providing shuttle service twice daily during season for hotel guest and employees to and from RSW and the Beach Park-and-Ride located at the site on Pine Ridge Road, participation in the Don't Rent A Car (DRaC) program that encourage guests of the Resort to not rent a car when staying at the Resort and providing golf cart parking on-site and a tram stop on-site.

APPENDIX

LINK LEVEL OF SERVICE ANALYSIS
TABLE 1A & 2A

TABLE 1A
PEAK DIRECTION PROJECT TRAFFIC VS. 10% LOS C LINK VOLUMES
ARCHES BAYFRONT RESORT

TOTAL AM PEAK HOUR PROJECT TRAFFIC =		32 VPH	IN=	28	OUT=	4						
TOTAL PM PEAK HOUR PROJECT TRAFFIC =		60 VPH	IN=	23	OUT=	37						
<u>ROADWAY</u>	<u>SEGMENT</u>	<u>ROADWAY</u>		<u>LOS A</u>	<u>LOS B</u>	<u>LOS C</u>	<u>LOS D</u>	<u>LOS E</u>	<u>PERCENT</u>			
		<u>CLASS</u>	<u>VOLUME</u>	<u>VOLUME</u>	<u>VOLUME</u>	<u>VOLUME</u>	<u>VOLUME</u>	<u>VOLUME</u>	<u>TRAFFIC</u>	<u>TRAFFIC</u>	<u>PROJECT</u>	<u>PROJ/</u>
Estero Blvd.	E. of Old San Carlos	2LN	0	0	330	330	710	780	75%	28	8.4%	
	E. of Crescent St.	2LN	0	0	330	330	710	780	40%	15	4.5%	
Matanzas Pass Bridge San Carlos Blvd.	N. of Estero Blvd.	2LU	0	0	330	330	710	780	60%	22	6.7%	
	N. of Main St.	4LN	0	250	1,840	1,960	1,960	1,960	60%	22	1.2%	

* Level of Service thresholds were obtained from Lee County Generalized Peak Hour Directional Service Volume Table (April 2016)

TABLE 2A
LEE COUNTY TRAFFIC COUNTS AND CALCULATIONS
ARCHES BAYFRONT RESORT

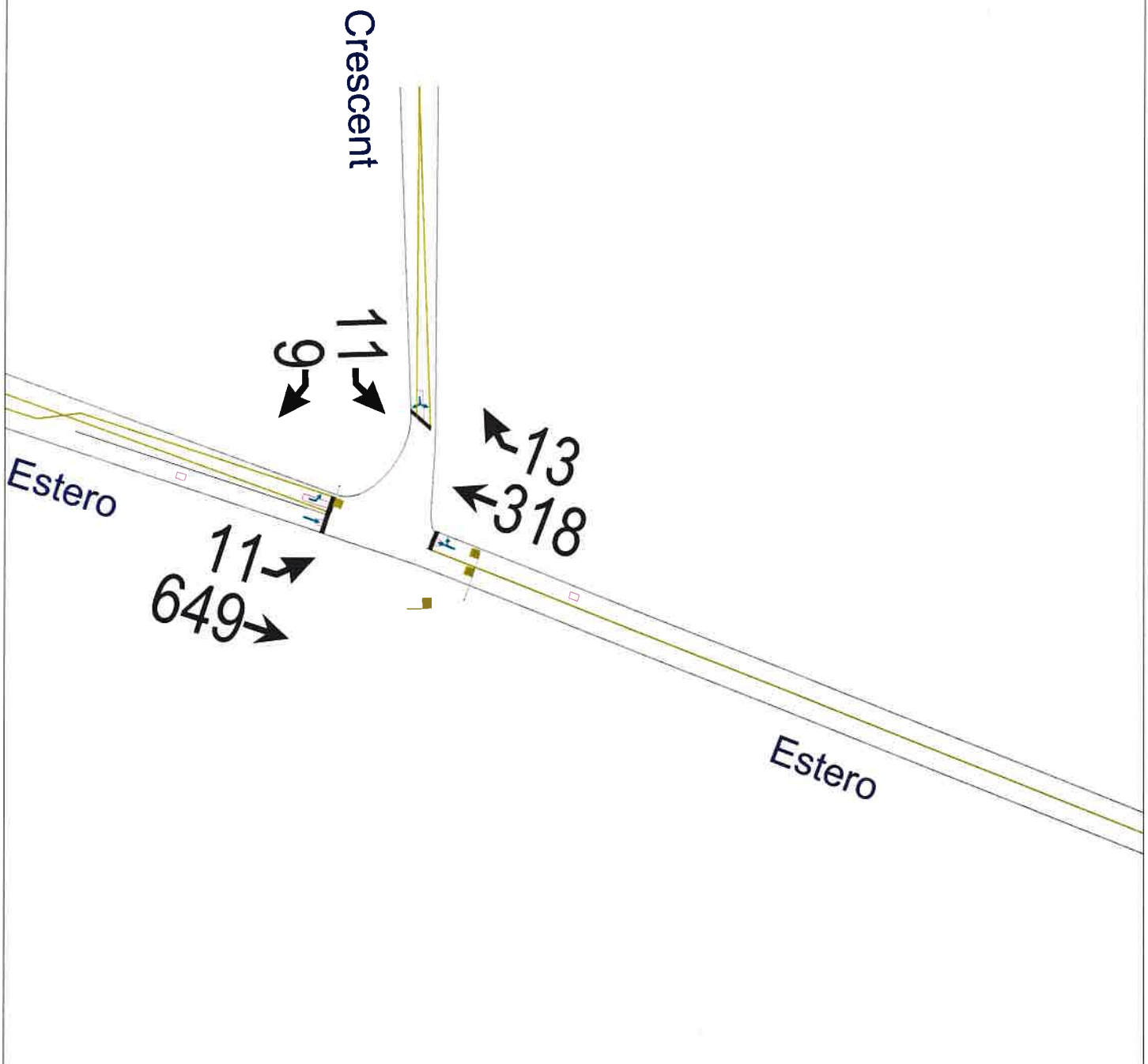
ROADWAY	SEGMENT	FDOT SITE #	BASE YR		2022	ADT	ADT	YRS OF GROWTH	ANNUAL RATE ¹	PK SEASON	PK DIR. ²	2027		PK HR	2027		BCKGRND	+ AM PROJ	PM PROJ	TRAFFIC	LOS	VOLUME	LOS
			PK SEASON	PERCENT								PROJECT	AM PROJ		TRAFFIC	LOS							
Estero Blvd.	E. of Old San Carlos	126044	13,500	12,200	12,200	9	2.00%	2.00%	253	268	C	75%	28	23	309	C	281	C					
	E. of Crescent St.	126044	13,500	12,200	12,200	9	2.00%	2.00%	722	782	F	40%	11	15	793	F	796	F					
Matanzas Pass Bridge	N. of Estero Blvd.	126008	22,728	23,000	23,000	9	2.00%	2.00%	1,063	1,151	F	60%	17	22	1,167	F	1,173	F					
	N. of Main St.	126008	22,728	23,000	23,000	9	2.00%	2.00%	1,063	1,151	C	60%	17	22	1,167	C	1,173	C					

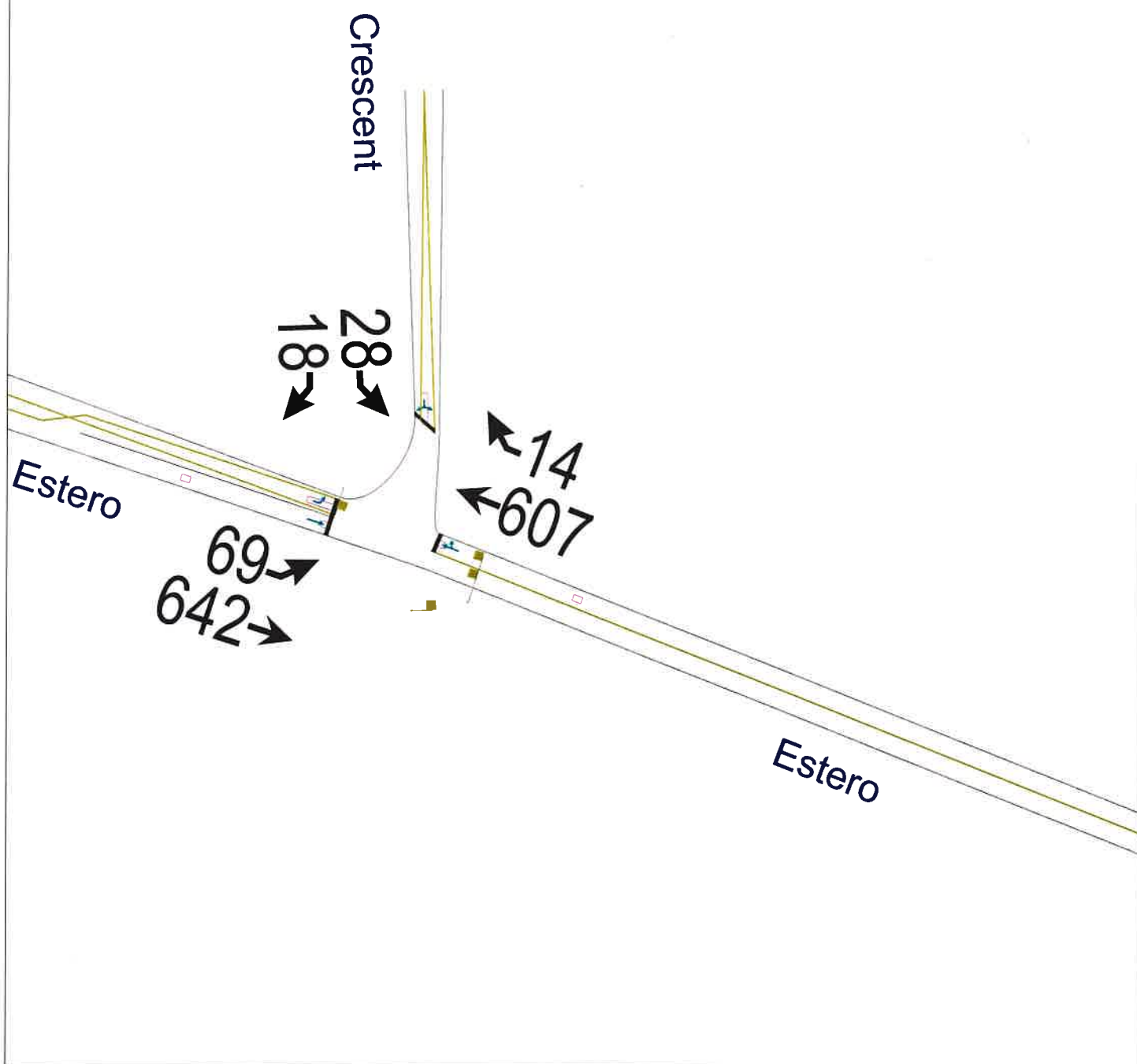
¹ Annual Growth Rate was calculating utilizing AADT data from FDOT Florida Traffic Online resource.

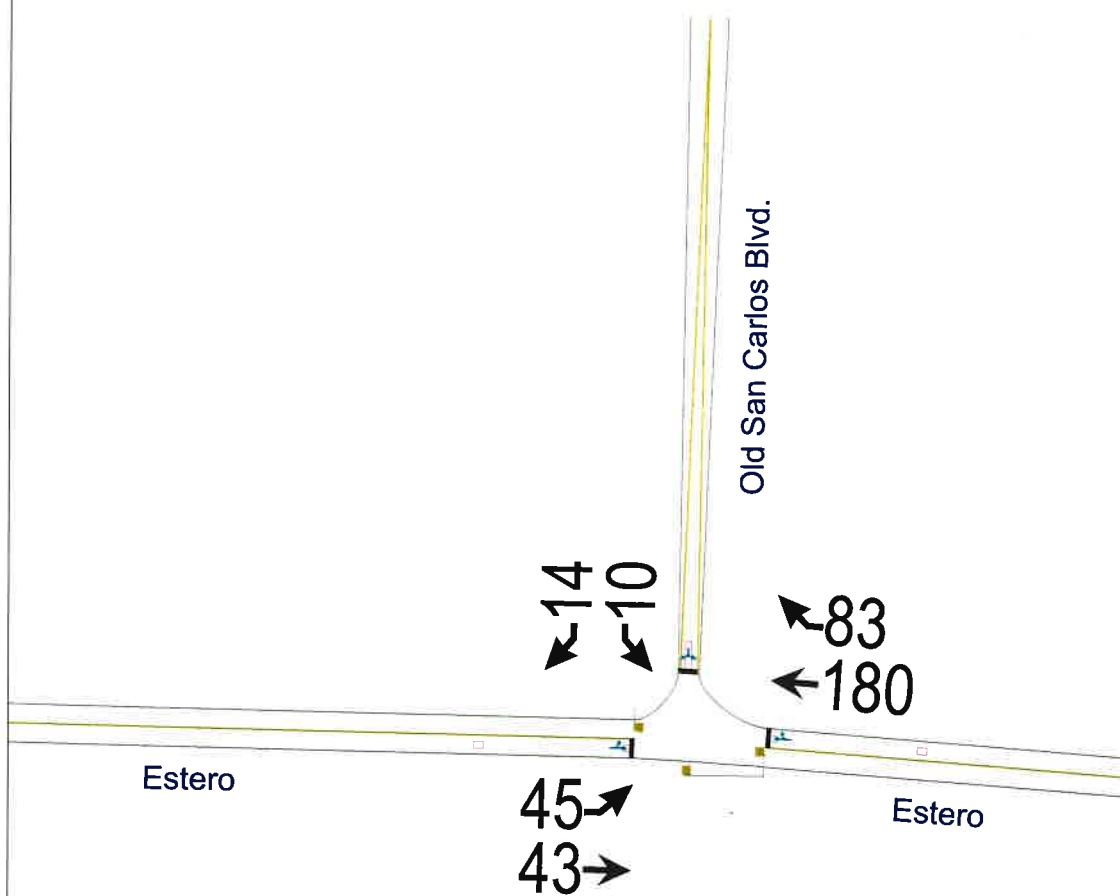
² Current peak hour peak season peak direction traffic volumes for Estero Blvd. & San Carlos Blvd. taken from Lee County Public Facilities Level of Service Report and Concurrency Report (2024)
Traffic Volume on Estero Blvd. E. of Old San Carlos Blvd. taken from turning movement count (2024 data)
2027 Volumes on Estero Blvd. E. of Old San Carlos taken from SYNCRO analysis sheets

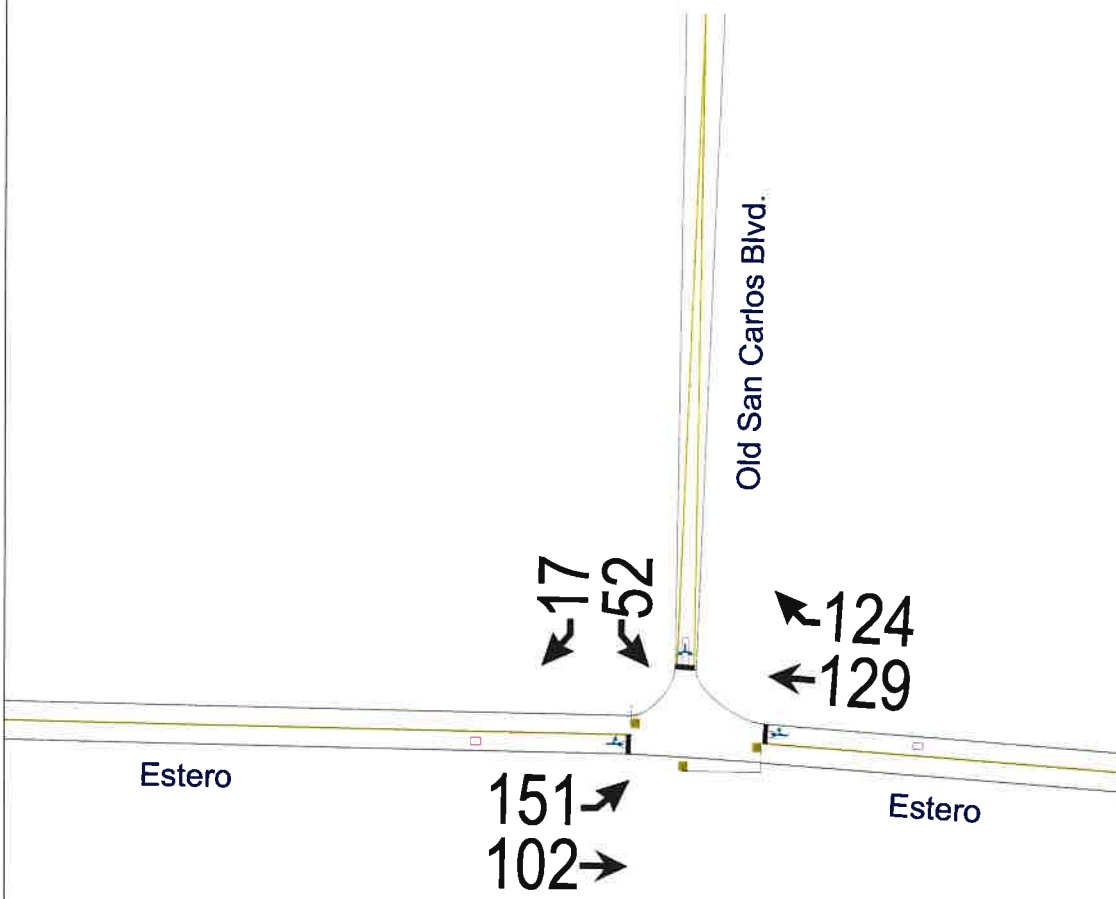
TRAFFIC VOLUME FIGURES

2024 EXISTING TRAFFIC

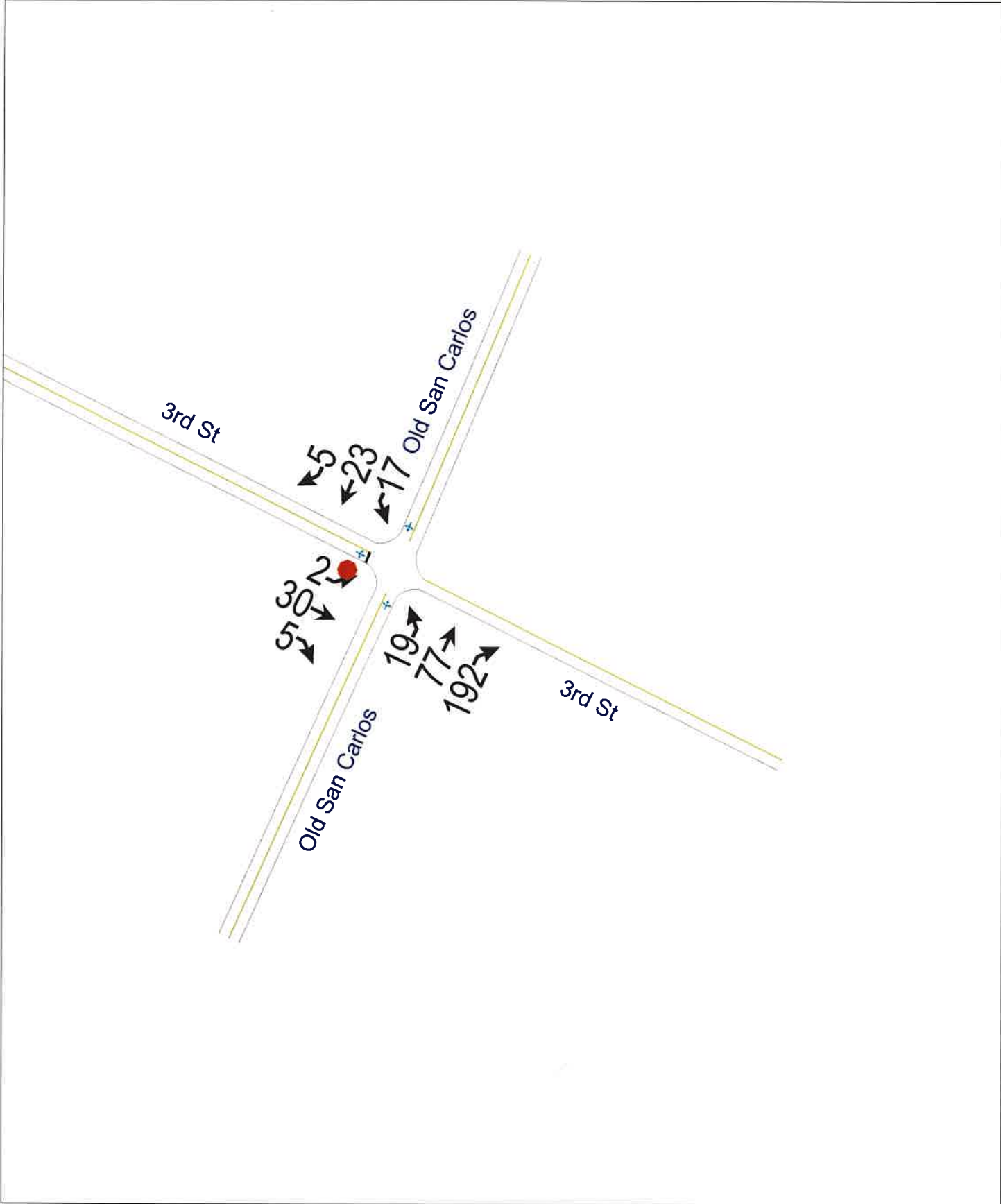




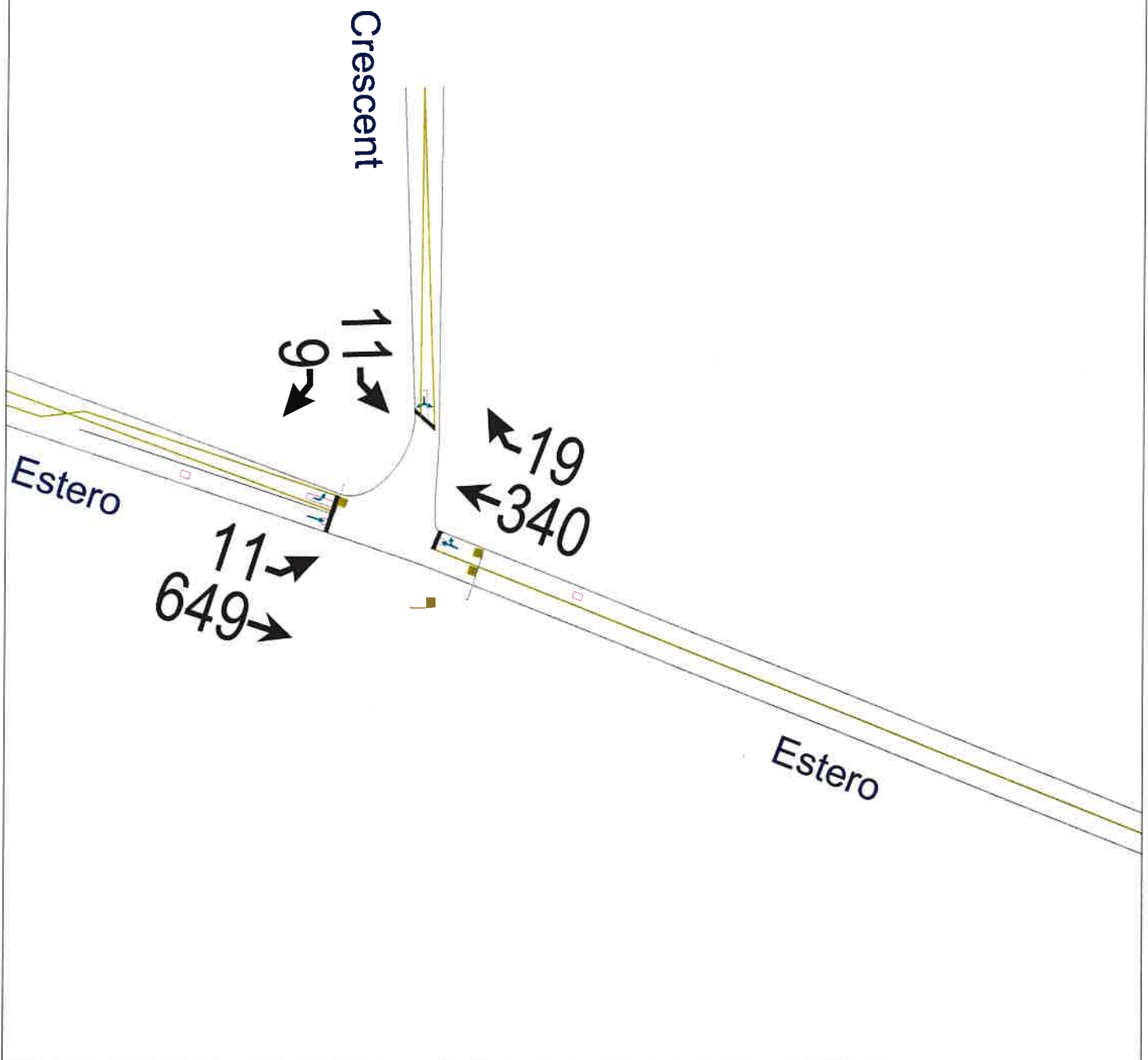


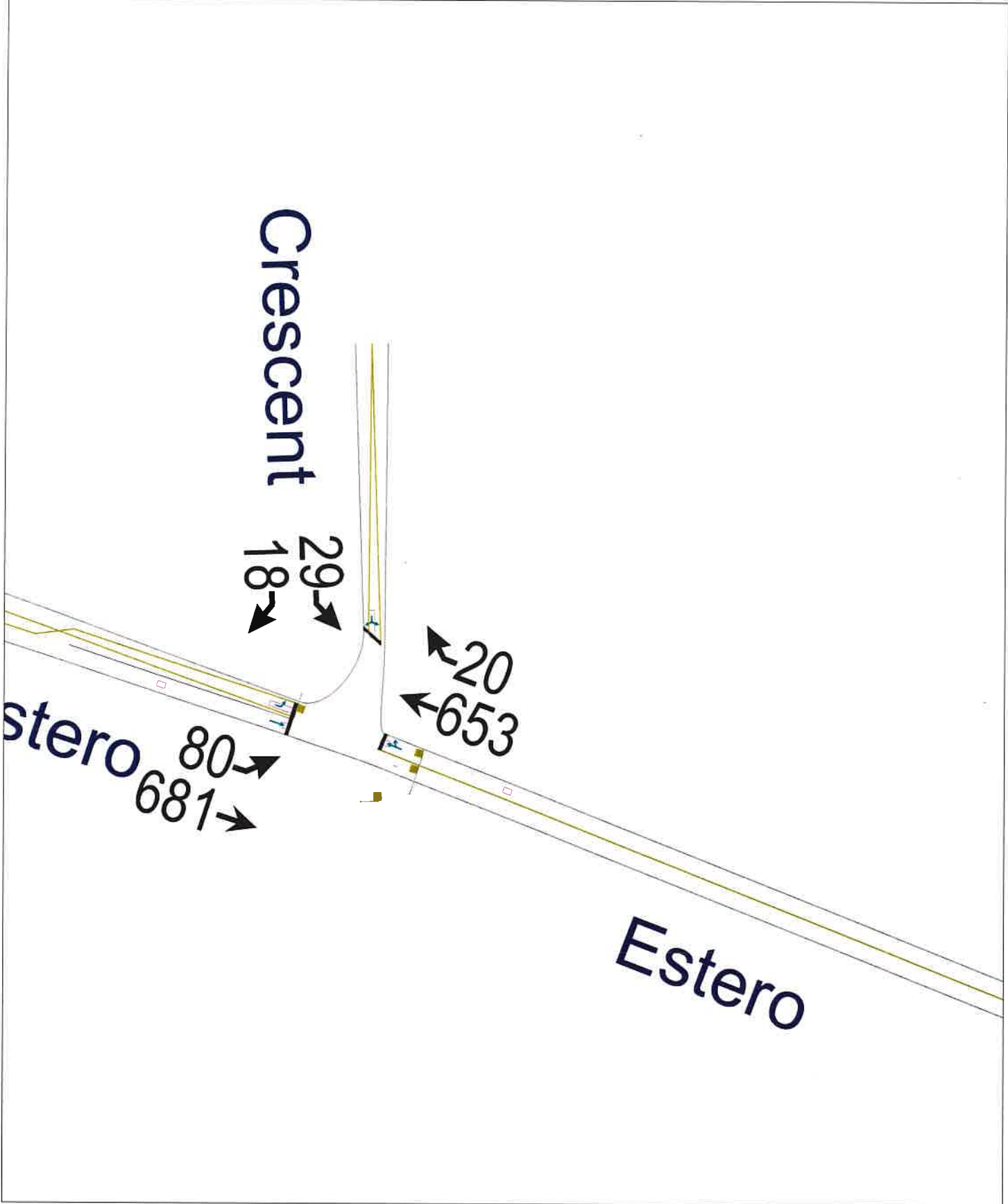


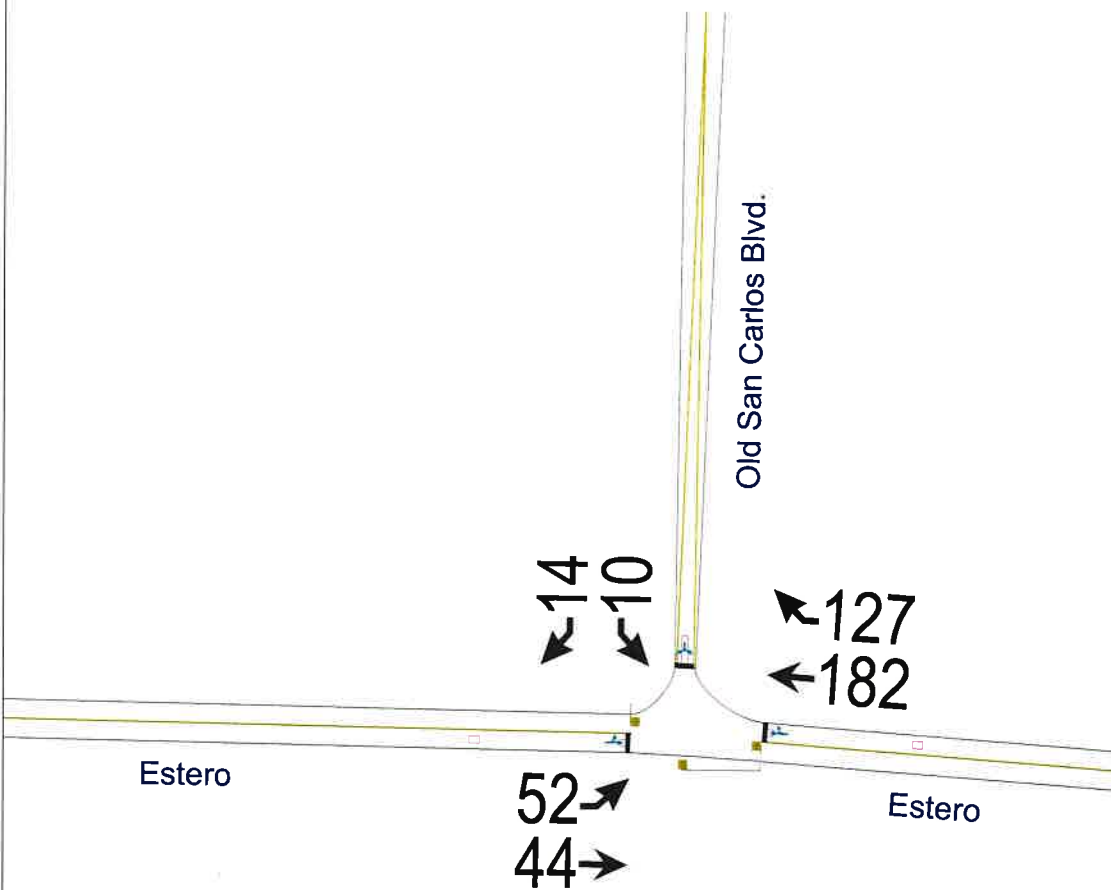


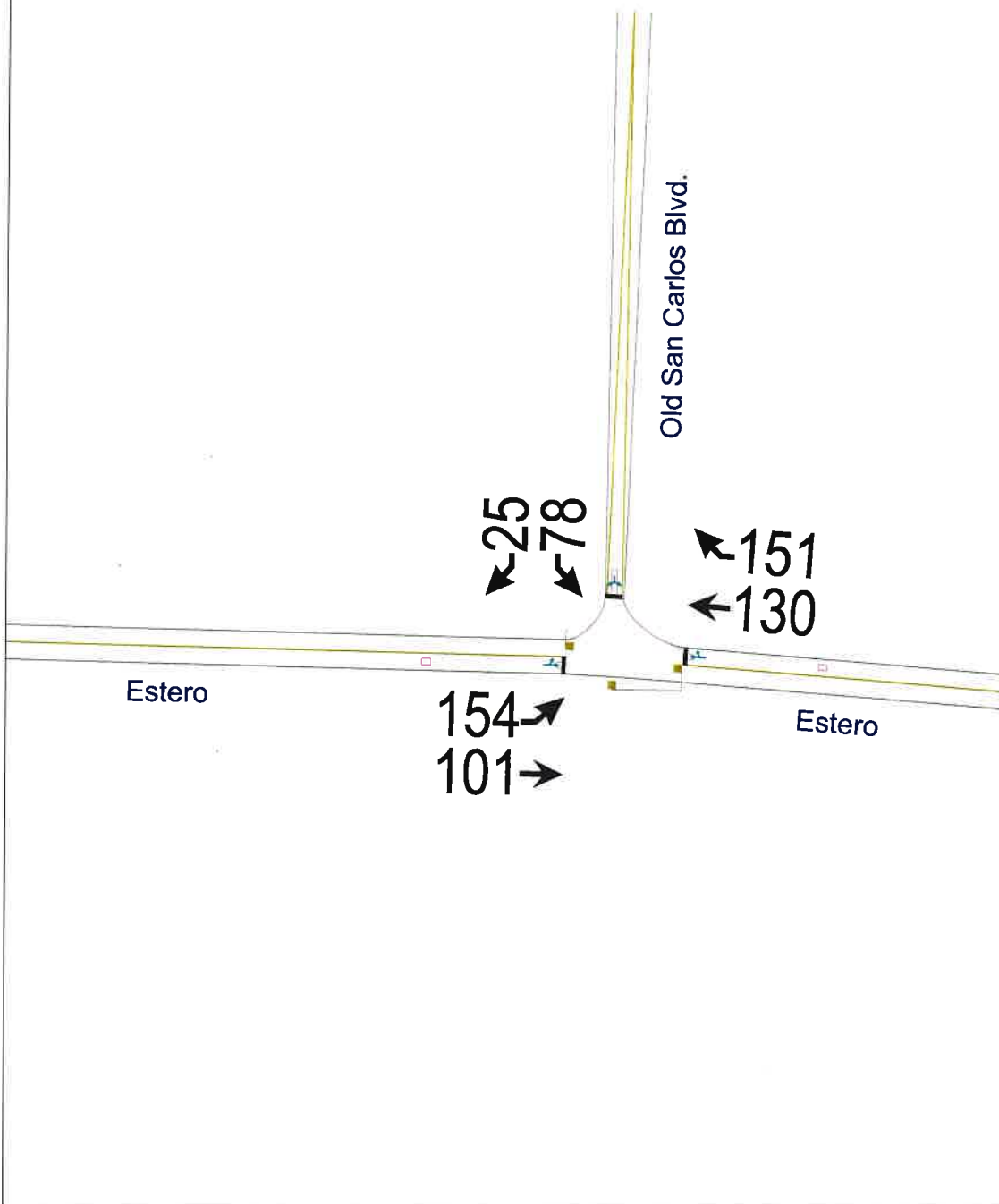


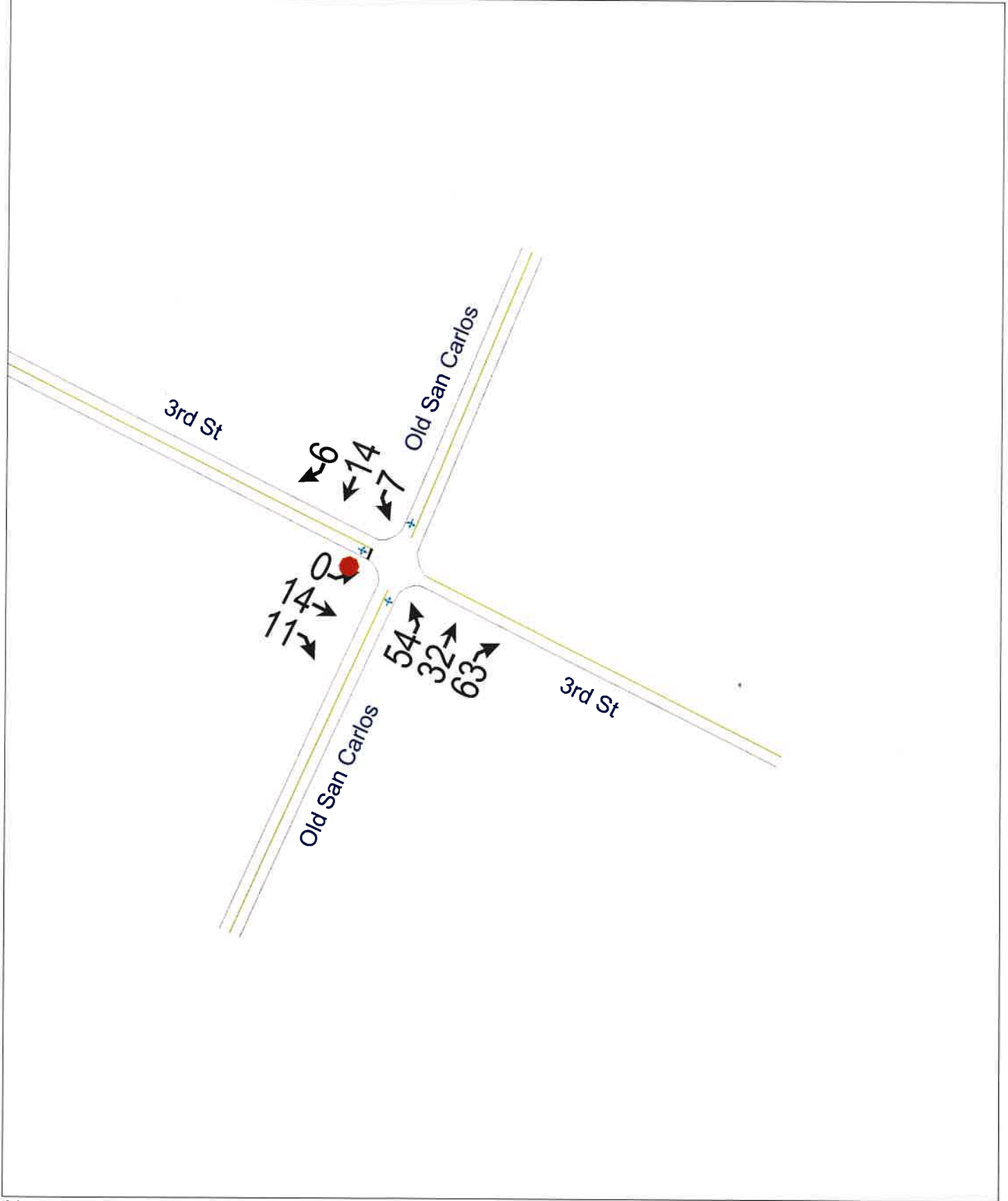
**2027 PROJECTED TRAFFIC VOLUMES
WITH PROJECT**

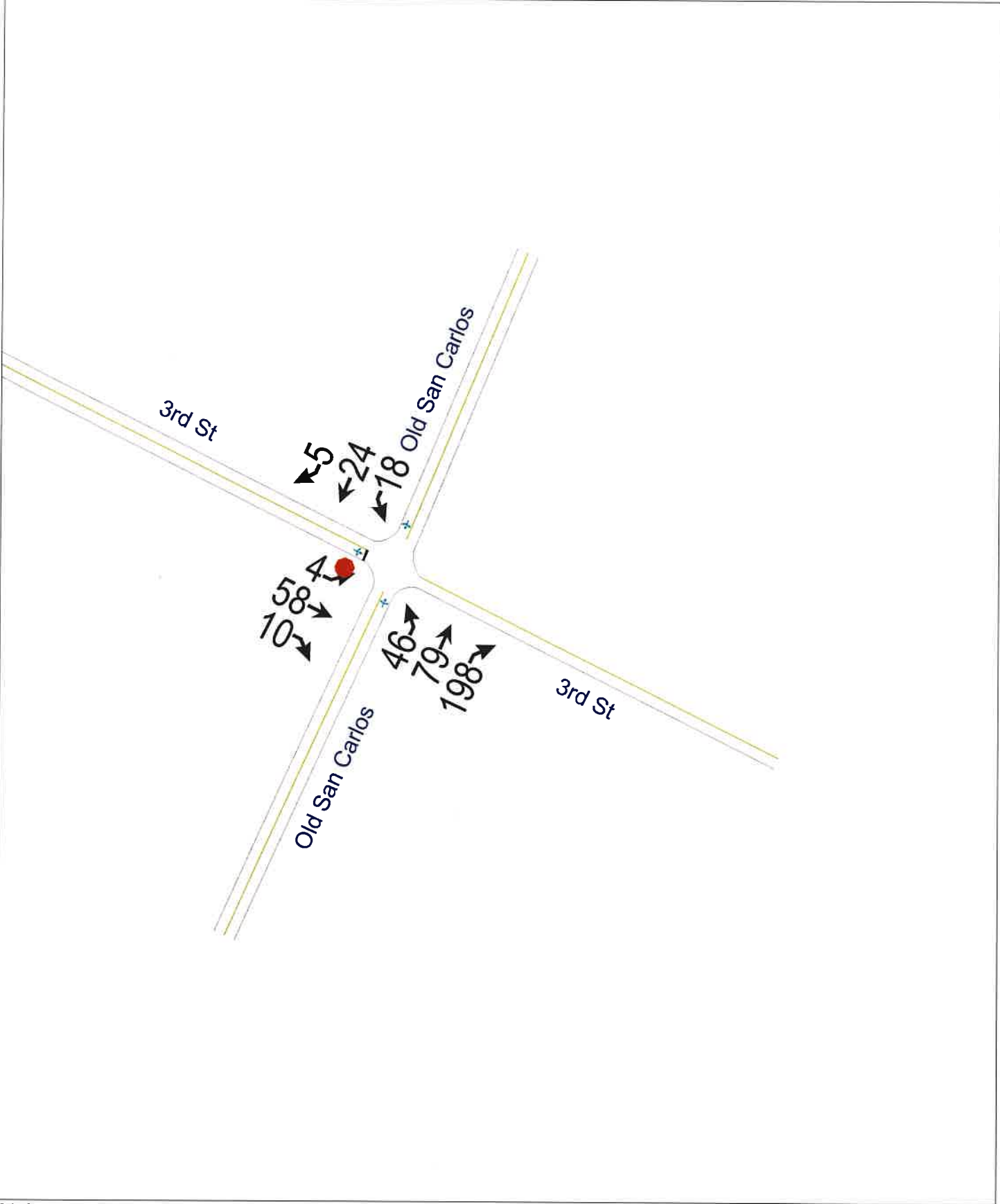












SYNCHRO ANALYSIS

OLD SAN CARLOS BLVD.

@

3RD STREET

Intersection												
Int Delay, s/veh	2.5											
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations		↕						↕			↕	
Traffic Vol, veh/h	0	10	9	0	0	0	28	31	61	7	14	6
Future Vol, veh/h	0	10	9	0	0	0	28	31	61	7	14	6
Conflicting Peds, #/hr	0	0	0	0	0	0	0	0	0	0	0	0
Sign Control	Stop	Stop	Stop	Stop	Stop	Stop	Free	Free	Free	Free	Free	Free
RT Channelized	-	-	None	-	-	None	-	-	None	-	-	None
Storage Length	-	-	-	-	-	-	-	-	-	-	-	-
Veh in Median Storage, #	-	0	-	-	-	-	-	0	-	-	0	-
Grade, %	-	0	-	-	0	-	-	0	-	-	0	-
Peak Hour Factor	92	92	92	92	92	92	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2	2	2	2	2	2	2
Mvmt Flow	0	11	10	0	0	0	30	34	66	8	15	7
Major/Minor	Minor2						Major1			Major2		
Conflicting Flow All	162	195	19				22	0	0	100	0	0
Stage 1	35	35	-				-	-	-	-	-	-
Stage 2	127	160	-				-	-	-	-	-	-
Critical Hdwy	6.42	6.52	6.22				4.12	-	-	4.12	-	-
Critical Hdwy Stg 1	5.42	5.52	-				-	-	-	-	-	-
Critical Hdwy Stg 2	5.42	5.52	-				-	-	-	-	-	-
Follow-up Hdwy	3.518	4.018	3.318				2.218	-	-	2.218	-	-
Pot Cap-1 Maneuver	829	700	1059				1593	-	-	1493	-	-
Stage 1	987	866	-				-	-	-	-	-	-
Stage 2	899	766	-				-	-	-	-	-	-
Platoon blocked, %								-	-		-	-
Mov Cap-1 Maneuver	808	0	1059				1593	-	-	1493	-	-
Mov Cap-2 Maneuver	808	0	-				-	-	-	-	-	-
Stage 1	967	0	-				-	-	-	-	-	-
Stage 2	895	0	-				-	-	-	-	-	-
Approach	EB						NB			SB		
HCM Control Delay, s	8.5						1.7			1.9		
HCM LOS	A											
Minor Lane/Major Mvmt	NBL	NBT	NBR	EBLn1	SBL	SBT	SBR					
Capacity (veh/h)	1593	-	-	1059	1493	-	-					
HCM Lane V/C Ratio	0.019	-	-	0.02	0.005	-	-					
HCM Control Delay (s)	7.3	0	-	8.5	7.4	0	-					
HCM Lane LOS	A	A	-	A	A	A	-					
HCM 95th %tile Q(veh)	0.1	-	-	0.1	0	-	-					

Intersection													
Int Delay, s/veh	1.7												
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR	
Lane Configurations		↕						↕			↕		
Traffic Vol, veh/h	2	30	5	0	0	0	19	77	192	17	23	5	
Future Vol, veh/h	2	30	5	0	0	0	19	77	192	17	23	5	
Conflicting Peds, #/hr	0	0	0	0	0	0	0	0	0	0	0	0	
Sign Control	Stop	Stop	Stop	Stop	Stop	Stop	Free	Free	Free	Free	Free	Free	
RT Channelized	-	-	None	-	-	None	-	-	None	-	-	None	
Storage Length	-	-	-	-	-	-	-	-	-	-	-	-	
Veh in Median Storage, #	-	0	-	-	-	-	-	0	-	-	0	-	
Grade, %	-	0	-	-	0	-	-	0	-	-	0	-	
Peak Hour Factor	92	92	92	92	92	92	92	92	92	92	92	92	
Heavy Vehicles, %	2	2	2	2	2	2	2	2	2	2	2	2	
Mvmt Flow	2	33	5	0	0	0	21	84	209	18	25	5	
Major/Minor	Minor2			Major1				Major2					
Conflicting Flow All	295	399	28					30	0	0	293	0	0
Stage 1	64	64	-					-	-	-	-	-	-
Stage 2	231	335	-					-	-	-	-	-	-
Critical Hdwy	6.42	6.52	6.22					4.12	-	-	4.12	-	-
Critical Hdwy Stg 1	5.42	5.52	-					-	-	-	-	-	-
Critical Hdwy Stg 2	5.42	5.52	-					-	-	-	-	-	-
Follow-up Hdwy	3.518	4.018	3.318					2.218	-	-	2.218	-	-
Pot Cap-1 Maneuver	696	539	1047					1583	-	-	1269	-	-
Stage 1	959	842	-					-	-	-	-	-	-
Stage 2	807	643	-					-	-	-	-	-	-
Platoon blocked, %								-	-	-	-	-	-
Mov Cap-1 Maneuver	675	0	1047					1583	-	-	1269	-	-
Mov Cap-2 Maneuver	675	0	-					-	-	-	-	-	-
Stage 1	944	0	-					-	-	-	-	-	-
Stage 2	796	0	-					-	-	-	-	-	-
Approach	EB			NB				SB					
HCM Control Delay, s	9.2			0.5				3					
HCM LOS	A												
Minor Lane/Major Mvmt	NBL	NBT	NBR	EBLn1	SBL	SBT	SBR						
Capacity (veh/h)	1583	-	-	905	1269	-	-						
HCM Lane V/C Ratio	0.013	-	-	0.044	0.015	-	-						
HCM Control Delay (s)	7.3	0	-	9.2	7.9	0	-						
HCM Lane LOS	A	A	-	A	A	A	-						
HCM 95th %tile Q(veh)	0	-	-	0.1	0	-	-						

Intersection												
Int Delay, s/veh	3.3											
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations		↕						↕			↕	
Traffic Vol, veh/h	0	14	11	0	0	0	54	32	63	7	14	6
Future Vol, veh/h	0	14	11	0	0	0	54	32	63	7	14	6
Conflicting Peds, #/hr	0	0	0	0	0	0	0	0	0	0	0	0
Sign Control	Stop	Stop	Stop	Stop	Stop	Stop	Free	Free	Free	Free	Free	Free
RT Channelized	-	-	None	-	-	None	-	-	None	-	-	None
Storage Length	-	-	-	-	-	-	-	-	-	-	-	-
Veh in Median Storage, #	-	0	-	-	-	-	-	0	-	-	0	-
Grade, %	-	0	-	-	0	-	-	0	-	-	0	-
Peak Hour Factor	92	92	92	92	92	92	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2	2	2	2	2	2	2
Mvmt Flow	0	15	12	0	0	0	59	35	68	8	15	7

Major/Minor	Minor2			Major1			Major2		
Conflicting Flow All	222	256	19	22	0	0	103	0	0
Stage 1	35	35	-	-	-	-	-	-	-
Stage 2	187	221	-	-	-	-	-	-	-
Critical Hdwy	6.42	6.52	6.22	4.12	-	-	4.12	-	-
Critical Hdwy Stg 1	5.42	5.52	-	-	-	-	-	-	-
Critical Hdwy Stg 2	5.42	5.52	-	-	-	-	-	-	-
Follow-up Hdwy	3.518	4.018	3.318	2.218	-	-	2.218	-	-
Pot Cap-1 Maneuver	766	648	1059	1593	-	-	1489	-	-
Stage 1	987	866	-	-	-	-	-	-	-
Stage 2	845	720	-	-	-	-	-	-	-
Platoon blocked, %									
Mov Cap-1 Maneuver	732	0	1059	1593	-	-	1489	-	-
Mov Cap-2 Maneuver	732	0	-	-	-	-	-	-	-
Stage 1	948	0	-	-	-	-	-	-	-
Stage 2	841	0	-	-	-	-	-	-	-

Approach	EB	NB	SB
HCM Control Delay, s	8.5	2.7	1.9
HCM LOS	A		

Minor Lane/Major Mvmt	NBL	NBT	NBR	EBLn1	SBL	SBT	SBR
Capacity (veh/h)	1593	-	-	1059	1489	-	-
HCM Lane V/C Ratio	0.037	-	-	0.026	0.005	-	-
HCM Control Delay (s)	7.3	0	-	8.5	7.4	0	-
HCM Lane LOS	A	A	-	A	A	A	-
HCM 95th %tile Q(veh)	0.1	-	-	0.1	0	-	-

Intersection												
Int Delay, s/veh	2.6											
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations		↕						↕			↕	
Traffic Vol, veh/h	4	58	10	0	0	0	46	79	198	18	24	5
Future Vol, veh/h	4	58	10	0	0	0	46	79	198	18	24	5
Conflicting Peds, #/hr	0	0	0	0	0	0	0	0	0	0	0	0
Sign Control	Stop	Stop	Stop	Stop	Stop	Stop	Free	Free	Free	Free	Free	Free
RT Channelized	-	-	None	-	-	None	-	-	None	-	-	None
Storage Length	-	-	-	-	-	-	-	-	-	-	-	-
Veh in Median Storage, #	-	0	-	-	-	-	-	0	-	-	0	-
Grade, %	-	0	-	-	0	-	-	0	-	-	0	-
Peak Hour Factor	92	92	92	92	92	92	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2	2	2	2	2	2	2
Mvmt Flow	4	63	11	0	0	0	50	86	215	20	26	5

Major/Minor	Minor2			Major1			Major2		
Conflicting Flow All	363	470	29	31	0	0	301	0	0
Stage 1	69	69	-	-	-	-	-	-	-
Stage 2	294	401	-	-	-	-	-	-	-
Critical Hdwy	6.42	6.52	6.22	4.12	-	-	4.12	-	-
Critical Hdwy Stg 1	5.42	5.52	-	-	-	-	-	-	-
Critical Hdwy Stg 2	5.42	5.52	-	-	-	-	-	-	-
Follow-up Hdwy	3.518	4.018	3.318	2.218	-	-	2.218	-	-
Pot Cap-1 Maneuver	636	492	1046	1582	-	-	1260	-	-
Stage 1	954	837	-	-	-	-	-	-	-
Stage 2	756	601	-	-	-	-	-	-	-
Platoon blocked, %									
Mov Cap-1 Maneuver	602	0	1046	1582	-	-	1260	-	-
Mov Cap-2 Maneuver	602	0	-	-	-	-	-	-	-
Stage 1	917	0	-	-	-	-	-	-	-
Stage 2	744	0	-	-	-	-	-	-	-

Approach	EB	NB	SB
HCM Control Delay, s	9.6	1	3
HCM LOS	A		

Minor Lane/Major Mvmt	NBL	NBT	NBR	EBLn1	SBL	SBT	SBR
Capacity (veh/h)	1582	-	-	864	1260	-	-
HCM Lane V/C Ratio	0.032	-	-	0.091	0.016	-	-
HCM Control Delay (s)	7.3	0	-	9.6	7.9	0	-
HCM Lane LOS	A	A	-	A	A	A	-
HCM 95th %tile Q(veh)	0.1	-	-	0.3	0	-	-

ESTERO BLVD.
@
OLD SAN CARLOS BLVD.

Lanes, Volumes, Timings
30: Estero/Estero & Old San Carlos Blvd.

Weekday AM Existing

03/26/2025

						
Lane Group	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations						
Traffic Volume (vph)	45	43	180	83	10	14
Future Volume (vph)	45	43	180	83	10	14
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12
Grade (%)		0%	0%		0%	
Storage Length (ft)	0			0	0	0
Storage Lanes	0			0	1	0
Taper Length (ft)	25				25	
Lane Util. Factor	1.00	1.00	1.00	1.00	1.00	1.00
Ped Bike Factor						
Fr't			0.958		0.922	
Flt Protected		0.975			0.979	
Satd. Flow (prot)	0	1635	1606	0	1513	0
Flt Permitted		0.703			0.979	
Satd. Flow (perm)	0	1179	1606	0	1513	0
Right Turn on Red				No		No
Satd. Flow (RTOR)						
Link Speed (mph)		25	25		25	
Link Distance (ft)		581	281		451	
Travel Time (s)		15.8	7.7		12.3	
Confl. Peds. (#/hr)						
Confl. Bikes (#/hr)						
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Growth Factor	100%	100%	100%	100%	100%	100%
Heavy Vehicles (%)	2%	2%	2%	2%	2%	2%
Bus Blockages (#/hr)	0	0	0	0	0	0
Parking (#/hr)						
Mid-Block Traffic (%)		0%	0%		0%	
Adj. Flow (vph)	49	47	196	90	11	15
Shared Lane Traffic (%)						
Lane Group Flow (vph)	0	96	286	0	26	0
Enter Blocked Intersection	No	No	No	No	No	No
Lane Alignment	Left	Left	Left	Right	Left	Right
Median Width(ft)		0	0		0	
Link Offset(ft)		0	0		0	
Crosswalk Width(ft)		27	44		30	
Two way Left Turn Lane						
Headway Factor	1.14	1.14	1.14	1.14	1.14	1.14
Turning Speed (mph)	15			9	15	9
Turn Type	pm+pt	NA	NA		Prot	
Protected Phases	7	4	8		5	
Permitted Phases	4		8			
Detector Phase	7	4	8		5	
Switch Phase						
Minimum Initial (s)	5.0	5.0	5.0		5.0	
Minimum Split (s)	9.5	24.5	24.5		24.5	
Total Split (s)	9.5	35.5	26.0		24.5	
Total Split (%)	15.8%	59.2%	43.3%		40.8%	

Scenario 4 2024 Existing AM 11:16 am 02/28/2024

Synchro 11 Report
Page 1

Lanes, Volumes, Timings
30: Estero/Estero & Old San Carlos Blvd.

Weekday AM Existing

03/26/2025



Lane Group	EBL	EBT	WBT	WBR	SBL	SBR
Maximum Green (s)	5.0	29.0	19.5		18.0	
Yellow Time (s)	3.5	4.5	4.5		4.5	
All-Red Time (s)	1.0	2.0	2.0		2.0	
Lost Time Adjust (s)		0.0	0.0		0.0	
Total Lost Time (s)		6.5	6.5		6.5	
Lead/Lag	Lead		Lag			
Lead-Lag Optimize?	Yes		Yes			
Vehicle Extension (s)	3.0	3.0	3.0		3.0	
Minimum Gap (s)	3.0	3.0	3.0		3.0	
Time Before Reduce (s)	0.0	0.0	0.0		0.0	
Time To Reduce (s)	0.0	0.0	0.0		0.0	
Recall Mode	None	None	None		Min	
Walk Time (s)		7.0	7.0		7.0	
Flash Dont Walk (s)		11.0	11.0		11.0	
Pedestrian Calls (#/hr)		10	10		10	
Act Effct Green (s)		11.4	11.4		9.2	
Actuated g/C Ratio		0.33	0.33		0.27	
v/c Ratio		0.24	0.53		0.06	
Control Delay		10.2	13.5		10.8	
Queue Delay		0.0	0.0		0.0	
Total Delay		10.2	13.5		10.8	
LOS		B	B		B	
Approach Delay		10.2	13.5		10.8	
Approach LOS		B	B		B	
Queue Length 50th (ft)		9	32		3	
Queue Length 95th (ft)		44	115		17	
Internal Link Dist (ft)		501	201		371	
Turn Bay Length (ft)						
Base Capacity (vph)		1031	958		833	
Starvation Cap Reductn		0	0		0	
Spillback Cap Reductn		0	0		0	
Storage Cap Reductn		0	0		0	
Reduced v/c Ratio		0.09	0.30		0.03	

Intersection Summary

Area Type: CBD

Cycle Length: 60

Actuated Cycle Length: 34.2

Natural Cycle: 60

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 0.53

Intersection Signal Delay: 12.5

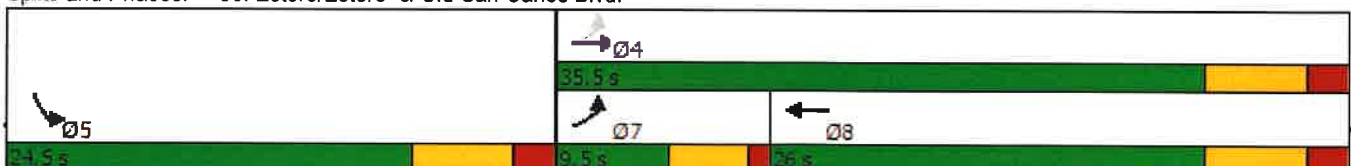
Intersection LOS: B

Intersection Capacity Utilization 41.8%

ICU Level of Service A

Analysis Period (min) 15

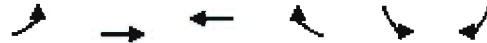
Splits and Phases: 30: Estero/Estero & Old San Carlos Blvd.



Lanes, Volumes, Timings
30: Estero/Estero & Old San Carlos Blvd.

Weekday PM Existing

03/26/2025



Lane Group	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations		↔	↔		↔	
Traffic Volume (vph)	151	102	129	124	52	17
Future Volume (vph)	151	102	129	124	52	17
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12
Grade (%)		0%	0%		0%	
Storage Length (ft)	0			0	0	0
Storage Lanes	0			0	1	0
Taper Length (ft)	25				25	
Lane Util. Factor	1.00	1.00	1.00	1.00	1.00	1.00
Ped Bike Factor			0.98			
Frt			0.934		0.968	
Flt Protected		0.971			0.963	
Satd. Flow (prot)	0	1628	1541	0	1563	0
Flt Permitted		0.668			0.963	
Satd. Flow (perm)	0	1120	1541	0	1563	0
Right Turn on Red				No		No
Satd. Flow (RTOR)						
Link Speed (mph)		25	25		25	
Link Distance (ft)		581	281		451	
Travel Time (s)		15.8	7.7		12.3	
Confl. Peds. (#/hr)						
Confl. Bikes (#/hr)			10	10		
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Growth Factor	100%	100%	100%	100%	100%	100%
Heavy Vehicles (%)	2%	2%	2%	2%	2%	2%
Bus Blockages (#/hr)	0	0	0	0	0	0
Parking (#/hr)						
Mid-Block Traffic (%)		0%	0%		0%	
Adj. Flow (vph)	164	111	140	135	57	18
Shared Lane Traffic (%)						
Lane Group Flow (vph)	0	275	275	0	75	0
Enter Blocked Intersection	No	No	No	No	No	No
Lane Alignment	Left	Left	Left	Right	Left	Right
Median Width(ft)		0	0		0	
Link Offset(ft)		0	0		0	
Crosswalk Width(ft)		27	44		30	
Two way Left Turn Lane						
Headway Factor	1.14	1.14	1.14	1.14	1.14	1.14
Turning Speed (mph)	15			9	15	9
Turn Type	pm+pt	NA	NA		Prot	
Protected Phases	7	4	8		6	
Permitted Phases	4					
Detector Phase	7	4	8		6	
Switch Phase						
Minimum Initial (s)	5.0	5.0	5.0		5.0	
Minimum Split (s)	9.5	24.5	24.5		24.0	
Total Split (s)	9.5	35.0	25.5		25.0	
Total Split (%)	15.8%	58.3%	42.5%		41.7%	

Scenario 2 2024 Existing PM 11:14 am 02/28/2024

Synchro 11 Report
Page 1

Lanes, Volumes, Timings
30: Estero/Estero & Old San Carlos Blvd.

Weekday PM Existing

03/26/2025

	EBL	EBT	WBT	WBR	SBL	SBR
Lane Group						
Maximum Green (s)	5.0	28.5	19.0		19.0	
Yellow Time (s)	3.5	4.5	4.5		4.0	
All-Red Time (s)	1.0	2.0	2.0		2.0	
Lost Time Adjust (s)		0.0	0.0		0.0	
Total Lost Time (s)		6.5	6.5		6.0	
Lead/Lag	Lead		Lag			
Lead-Lag Optimize?	Yes		Yes			
Vehicle Extension (s)	3.0	3.0	3.0		3.0	
Minimum Gap (s)	3.0	3.0	3.0		3.0	
Time Before Reduce (s)	0.0	0.0	0.0		0.0	
Time To Reduce (s)	0.0	0.0	0.0		0.0	
Recall Mode	None	None	None		Min	
Walk Time (s)		7.0	7.0		7.0	
Flash Dont Walk (s)		11.0	11.0		11.0	
Pedestrian Calls (#/hr)		10	10		0	
Act Effct Green (s)		17.2	16.6		12.7	
Actuated g/C Ratio		0.49	0.47		0.36	
v/c Ratio		0.50	0.38		0.13	
Control Delay		10.7	8.1		15.7	
Queue Delay		0.0	0.0		0.0	
Total Delay		10.7	8.1		15.7	
LOS		B	A		B	
Approach Delay		10.7	8.1		15.7	
Approach LOS		B	A		B	
Queue Length 50th (ft)		35	32		12	
Queue Length 95th (ft)		89	75		48	
Internal Link Dist (ft)		501	201		371	
Turn Bay Length (ft)						
Base Capacity (vph)		883	984		925	
Starvation Cap Reductn		0	0		0	
Spillback Cap Reductn		0	0		0	
Storage Cap Reductn		0	0		0	
Reduced v/c Ratio		0.31	0.28		0.08	

Intersection Summary

Area Type: CBD

Cycle Length: 60

Actuated Cycle Length: 35.1

Natural Cycle: 60

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 0.50

Intersection Signal Delay: 10.2

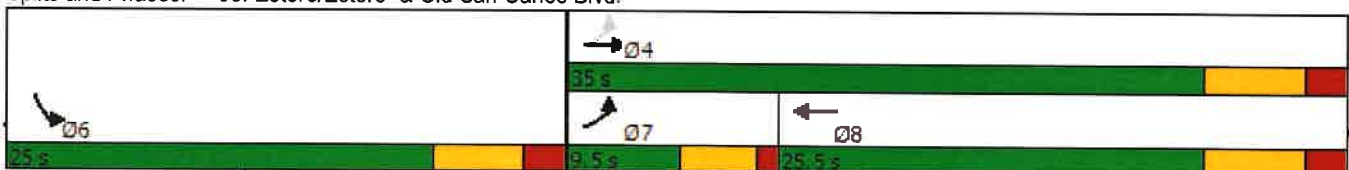
Intersection LOS: B

Intersection Capacity Utilization 51.4%

ICU Level of Service A

Analysis Period (min) 15

Splits and Phases: 30: Estero/Estero & Old San Carlos Blvd.



Lanes, Volumes, Timings
30: Estero/Estero & Old San Carlos Blvd.

Weekday AM Future

03/26/2025

						
Lane Group	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations						
Traffic Volume (vph)	52	44	182	127	10	14
Future Volume (vph)	52	44	182	127	10	14
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12
Grade (%)		0%	0%		0%	
Storage Length (ft)	0			0	0	0
Storage Lanes	0			0	1	0
Taper Length (ft)	25				25	
Lane Util. Factor	1.00	1.00	1.00	1.00	1.00	1.00
Ped Bike Factor						
Frt			0.945		0.922	
Flt Protected		0.974			0.979	
Satd. Flow (prot)	0	1633	1584	0	1513	0
Flt Permitted		0.669			0.979	
Satd. Flow (perm)	0	1122	1584	0	1513	0
Right Turn on Red				No		No
Satd. Flow (RTOR)						
Link Speed (mph)		25	25		25	
Link Distance (ft)		581	281		451	
Travel Time (s)		15.8	7.7		12.3	
Confl. Peds. (#/hr)						
Confl. Bikes (#/hr)						
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Growth Factor	100%	100%	100%	100%	100%	100%
Heavy Vehicles (%)	2%	2%	2%	2%	2%	2%
Bus Blockages (#/hr)	0	0	0	0	0	0
Parking (#/hr)						
Mid-Block Traffic (%)		0%	0%		0%	
Adj. Flow (vph)	57	48	198	138	11	15
Shared Lane Traffic (%)						
Lane Group Flow (vph)	0	105	336	0	26	0
Enter Blocked Intersection	No	No	No	No	No	No
Lane Alignment	Left	Left	Left	Right	Left	Right
Median Width(ft)		0	0		0	
Link Offset(ft)		0	0		0	
Crosswalk Width(ft)		27	44		30	
Two way Left Turn Lane						
Headway Factor	1.14	1.14	1.14	1.14	1.14	1.14
Turning Speed (mph)	15			9	15	9
Turn Type	pm+pt	NA	NA		Prot	
Protected Phases	7	4	8		6	
Permitted Phases	4					
Detector Phase	7	4	8		6	
Switch Phase						
Minimum Initial (s)	5.0	5.0	5.0		5.0	
Minimum Split (s)	9.5	24.5	24.5		24.5	
Total Split (s)	9.5	35.5	26.0		24.5	
Total Split (%)	15.8%	59.2%	43.3%		40.8%	

Scenario 3 2027 Future AM 11:15 am 02/28/2024

Synchro 11 Report
Page 1

Lanes, Volumes, Timings
30: Estero/Estero & Old San Carlos Blvd.

Weekday AM Future

03/26/2025



Lane Group	EBL	EBT	WBT	WBR	SBL	SBR
Maximum Green (s)	5.0	29.0	19.5		18.0	
Yellow Time (s)	3.5	4.5	4.5		4.5	
All-Red Time (s)	1.0	2.0	2.0		2.0	
Lost Time Adjust (s)		0.0	0.0		0.0	
Total Lost Time (s)		6.5	6.5		6.5	
Lead/Lag	Lead		Lag			
Lead-Lag Optimize?	Yes		Yes			
Vehicle Extension (s)	3.0	3.0	3.0		3.0	
Minimum Gap (s)	3.0	3.0	3.0		3.0	
Time Before Reduce (s)	0.0	0.0	0.0		0.0	
Time To Reduce (s)	0.0	0.0	0.0		0.0	
Recall Mode	None	None	None		Min	
Walk Time (s)		7.0	7.0		7.0	
Flash Dont Walk (s)		11.0	11.0		11.0	
Pedestrian Calls (#/hr)		10	10		10	
Act Effct Green (s)		12.2	12.2		8.2	
Actuated g/C Ratio		0.36	0.36		0.24	
v/c Ratio		0.26	0.59		0.07	
Control Delay		10.3	14.3		11.2	
Queue Delay		0.0	0.0		0.0	
Total Delay		10.3	14.3		11.2	
LOS		B	B		B	
Approach Delay		10.3	14.3		11.2	
Approach LOS		B	B		B	
Queue Length 50th (ft)		11	39		3	
Queue Length 95th (ft)		48	139		17	
Internal Link Dist (ft)		501	201		371	
Turn Bay Length (ft)						
Base Capacity (vph)		990	953		840	
Starvation Cap Reductn		0	0		0	
Spillback Cap Reductn		0	0		0	
Storage Cap Reductn		0	0		0	
Reduced v/c Ratio		0.11	0.35		0.03	

Intersection Summary

Area Type: CBD

Cycle Length: 60

Actuated Cycle Length: 34

Natural Cycle: 60

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 0.59

Intersection Signal Delay: 13.2

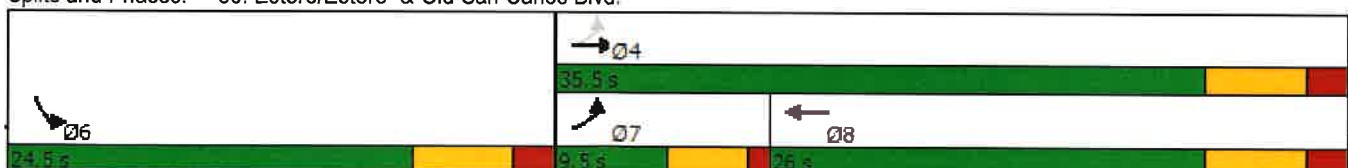
Intersection LOS: B

Intersection Capacity Utilization 45.4%

ICU Level of Service A

Analysis Period (min) 15

Splits and Phases: 30: Estero/Estero & Old San Carlos Blvd.



Lanes, Volumes, Timings
30: Estero/Estero & Old San Carlos Blvd.

Weekday PM Future

03/26/2025

						
Lane Group	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations						
Traffic Volume (vph)	154	101	130	151	78	25
Future Volume (vph)	154	101	130	151	78	25
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12
Grade (%)		0%	0%		0%	
Storage Length (ft)	0			0	0	0
Storage Lanes	0			0	1	0
Taper Length (ft)	25				25	
Lane Util. Factor	1.00	1.00	1.00	1.00	1.00	1.00
Ped Bike Factor						
Fr t			0.927		0.967	
Flt Protected		0.971			0.963	
Satd. Flow (prot)	0	1628	1554	0	1561	0
Flt Permitted		0.650			0.963	
Satd. Flow (perm)	0	1090	1554	0	1561	0
Right Turn on Red				No		No
Satd. Flow (RTOR)						
Link Speed (mph)		25	25		25	
Link Distance (ft)		581	281		451	
Travel Time (s)		15.8	7.7		12.3	
Confl. Peds. (#/hr)						
Confl. Bikes (#/hr)						
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Growth Factor	100%	100%	100%	100%	100%	100%
Heavy Vehicles (%)	2%	2%	2%	2%	2%	2%
Bus Blockages (#/hr)	0	0	0	0	0	0
Parking (#/hr)						
Mid-Block Traffic (%)		0%	0%		0%	
Adj. Flow (vph)	167	110	141	164	85	27
Shared Lane Traffic (%)						
Lane Group Flow (vph)	0	277	305	0	112	0
Enter Blocked Intersection	No	No	No	No	No	No
Lane Alignment	Left	Left	Left	Right	Left	Right
Median Width(ft)		0	0		0	
Link Offset(ft)		0	0		0	
Crosswalk Width(ft)		27	44		30	
Two way Left Turn Lane						
Headway Factor	1.14	1.14	1.14	1.14	1.14	1.14
Turning Speed (mph)	15			9	15	9
Turn Type	pm+pt	NA	NA		Prot	
Protected Phases	7	4			6	
Permitted Phases	4		8			
Detector Phase	7	4	8		6	
Switch Phase						
Minimum Initial (s)	5.0	5.0	5.0		5.0	
Minimum Split (s)	11.0	24.5	24.5		24.5	
Total Split (s)	11.0	35.5	24.5		24.5	
Total Split (%)	18.3%	59.2%	40.8%		40.8%	

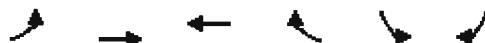
Scenario 1 2027 Future PM 10:18 am 02/28/2024 Baseline

Synchro 11 Report
Page 1

Lanes, Volumes, Timings
30: Estero/Estero & Old San Carlos Blvd.

Weekday PM Future

03/26/2025



Lane Group	EBL	EBT	WBT	WBR	SBL	SBR
Maximum Green (s)	5.0	29.0	18.0		18.0	
Yellow Time (s)	4.5	4.5	4.5		4.5	
All-Red Time (s)	1.5	2.0	2.0		2.0	
Lost Time Adjust (s)		0.0	0.0		0.0	
Total Lost Time (s)		6.5	6.5		6.5	
Lead/Lag	Lead		Lag			
Lead-Lag Optimize?	Yes		Yes			
Vehicle Extension (s)	3.0	3.0	3.0		3.0	
Minimum Gap (s)	3.0	3.0	3.0		3.0	
Time Before Reduce (s)	0.0	0.0	0.0		0.0	
Time To Reduce (s)	0.0	0.0	0.0		0.0	
Recall Mode	None	None	None		Min	
Walk Time (s)		7.0	7.0		7.0	
Flash Dont Walk (s)		11.0	11.0		11.0	
Pedestrian Calls (#/hr)		10	10		10	
Act Effct Green (s)		20.3	20.3		9.6	
Actuated g/C Ratio		0.46	0.46		0.22	
v/c Ratio		0.55	0.42		0.33	
Control Delay		13.6	10.1		19.0	
Queue Delay		0.0	0.0		0.0	
Total Delay		13.6	10.1		19.0	
LOS		B	B		B	
Approach Delay		13.6	10.1		19.0	
Approach LOS		B	B		B	
Queue Length 50th (ft)		40	41		24	
Queue Length 95th (ft)		128	119		65	
Internal Link Dist (ft)		501	201		371	
Turn Bay Length (ft)						
Base Capacity (vph)		809	830		687	
Starvation Cap Reductn		0	0		0	
Spillback Cap Reductn		0	0		0	
Storage Cap Reductn		0	0		0	
Reduced v/c Ratio		0.34	0.37		0.16	

Intersection Summary

Area Type: CBD

Cycle Length: 60

Actuated Cycle Length: 43.9

Natural Cycle: 60

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 0.55

Intersection Signal Delay: 13.0

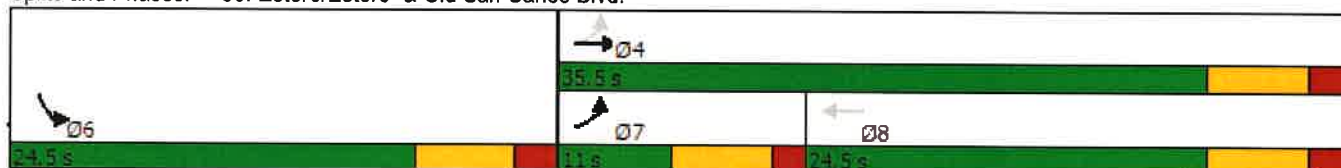
Intersection LOS: B

Intersection Capacity Utilization 56.0%

ICU Level of Service B

Analysis Period (min) 15

Splits and Phases: 30: Estero/Estero & Old San Carlos Blvd.



ESTERO BLVD.
@
CRESCENT STREET

Lanes, Volumes, Timings
3: Estero & Crescent

Weekday AM Existing
03/26/2025

						
Lane Group	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations						
Traffic Volume (vph)	11	649	318	13	11	9
Future Volume (vph)	11	649	318	13	11	9
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12
Grade (%)		0%	0%		0%	
Storage Length (ft)	170			0	0	0
Storage Lanes	1			0	1	0
Taper Length (ft)	25				25	
Lane Util. Factor	1.00	1.00	1.00	1.00	1.00	1.00
Ped Bike Factor			1.00		0.98	
Frt			0.995		0.939	
Flt Protected	0.950				0.973	
Satd. Flow (prot)	1593	1676	1666	0	1495	0
Flt Permitted	0.401				0.973	
Satd. Flow (perm)	672	1676	1666	0	1495	0
Right Turn on Red				No		No
Satd. Flow (RTOR)						
Link Speed (mph)		25	25		25	
Link Distance (ft)		387	531		289	
Travel Time (s)		10.6	14.5		7.9	
Confl. Peds. (#/hr)						
Confl. Bikes (#/hr)				20		20
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Growth Factor	100%	100%	100%	100%	100%	100%
Heavy Vehicles (%)	2%	2%	2%	2%	2%	2%
Bus Blockages (#/hr)	0	0	0	0	0	0
Parking (#/hr)						
Mid-Block Traffic (%)		0%	0%		0%	
Adj. Flow (vph)	12	705	346	14	12	10
Shared Lane Traffic (%)						
Lane Group Flow (vph)	12	705	360	0	22	0
Turn Type	pm+pt	NA	NA		Prot	
Protected Phases	7	4	8		6	
Permitted Phases	4					
Detector Phase	7	4	8		6	
Switch Phase						
Minimum Initial (s)	5.0	20.0	20.0		16.0	
Minimum Split (s)	15.0	26.5	26.5		24.5	
Total Split (s)	15.0	55.0	40.0		25.0	
Total Split (%)	18.8%	68.8%	50.0%		31.3%	
Maximum Green (s)	8.5	48.5	33.5		18.5	
Yellow Time (s)	4.5	4.5	4.5		4.5	
All-Red Time (s)	2.0	2.0	2.0		2.0	
Lost Time Adjust (s)	0.0	0.0	0.0		0.0	
Total Lost Time (s)	6.5	6.5	6.5		6.5	
Lead/Lag	Lead		Lag			
Lead-Lag Optimize?	Yes		Yes			
Vehicle Extension (s)	3.0	3.0	3.0		3.0	

Scenario 4 Base 24 Crescent- Estero AM 10:55 am 02/26/2024
RAH

Synchro 11 Report
Page 1

Lanes, Volumes, Timings
3: Estero & Crescent

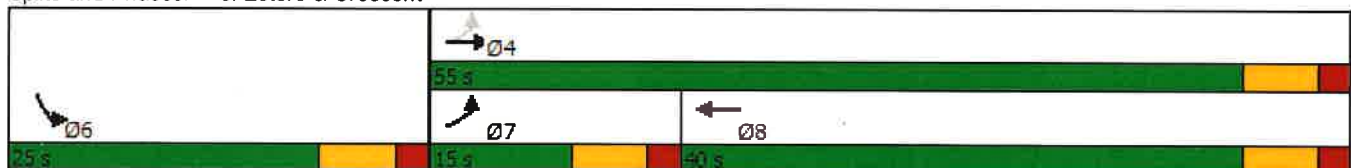
Weekday AM Existing
03/26/2025

						
Lane Group	EBL	EBT	WBT	WBR	SBL	SBR
Minimum Gap (s)	3.0	3.0	3.0		3.0	
Time Before Reduce (s)	0.0	0.0	0.0		0.0	
Time To Reduce (s)	0.0	0.0	0.0		0.0	
Recall Mode	None	None	None		Max	
Walk Time (s)		7.0	7.0		7.0	
Flash Dont Walk (s)		11.0	11.0		11.0	
Pedestrian Calls (#/hr)		36	36		36	
Act Effct Green (s)	32.7	32.7	30.6		18.9	
Actuated g/C Ratio	0.50	0.50	0.47		0.29	
v/c Ratio	0.03	0.84	0.46		0.05	
Control Delay	6.9	23.1	14.2		21.6	
Queue Delay	0.0	0.0	0.0		0.0	
Total Delay	6.9	23.1	14.2		21.6	
LOS	A	C	B		C	
Approach Delay		22.8	14.2		21.6	
Approach LOS		C	B		C	
Queue Length 50th (ft)	2	216	81		6	
Queue Length 95th (ft)	8	343	197		27	
Internal Link Dist (ft)		307	451		209	
Turn Bay Length (ft)	170					
Base Capacity (vph)	461	1281	916		436	
Starvation Cap Reductn	0	0	0		0	
Spillback Cap Reductn	0	0	0		0	
Storage Cap Reductn	0	0	0		0	
Reduced v/c Ratio	0.03	0.55	0.39		0.05	

Intersection Summary

Area Type: CBD
 Cycle Length: 80
 Actuated Cycle Length: 64.9
 Natural Cycle: 70
 Control Type: Actuated-Uncoordinated
 Maximum v/c Ratio: 0.84
 Intersection Signal Delay: 20.0
 Intersection LOS: B
 Intersection Capacity Utilization 62.1%
 ICU Level of Service B
 Analysis Period (min) 15

Splits and Phases: 3: Estero & Crescent



Lanes, Volumes, Timings
3: Estero & Crescent

Weekday PM Existing
03/26/2025

						
Lane Group	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations						
Traffic Volume (vph)	69	642	619	14	28	18
Future Volume (vph)	69	642	619	14	28	18
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12
Grade (%)		0%	0%		0%	
Storage Length (ft)	170			0	0	0
Storage Lanes	1			0	1	0
Taper Length (ft)	25				25	
Lane Util. Factor	1.00	1.00	1.00	1.00	1.00	1.00
Ped Bike Factor			1.00		0.98	
Frt			0.997		0.946	
Flt Protected	0.950				0.971	
Satd. Flow (prot)	1593	1676	1670	0	1507	0
Flt Permitted	0.128				0.971	
Satd. Flow (perm)	215	1676	1670	0	1507	0
Right Turn on Red				No		No
Satd. Flow (RTOR)						
Link Speed (mph)		25	25		25	
Link Distance (ft)		387	531		289	
Travel Time (s)		10.6	14.5		7.9	
Confl. Peds. (#/hr)						
Confl. Bikes (#/hr)				20		20
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Growth Factor	100%	100%	100%	100%	100%	100%
Heavy Vehicles (%)	2%	2%	2%	2%	2%	2%
Bus Blockages (#/hr)	0	0	0	0	0	0
Parking (#/hr)						
Mid-Block Traffic (%)		0%	0%		0%	
Adj. Flow (vph)	75	698	673	15	30	20
Shared Lane Traffic (%)						
Lane Group Flow (vph)	75	698	688	0	50	0
Turn Type	pm+pt	NA	NA		Prot	
Protected Phases	7	4	8		5	
Permitted Phases	4					
Detector Phase	7	4	8		5	
Switch Phase						
Minimum Initial (s)	5.0	20.0	20.0		16.0	
Minimum Split (s)	15.0	26.5	26.5		24.5	
Total Split (s)	15.0	55.5	40.5		24.5	
Total Split (%)	18.8%	69.4%	50.6%		30.6%	
Maximum Green (s)	8.5	49.0	34.0		18.0	
Yellow Time (s)	4.5	4.5	4.5		4.5	
All-Red Time (s)	2.0	2.0	2.0		2.0	
Lost Time Adjust (s)	0.0	0.0	0.0		0.0	
Total Lost Time (s)	6.5	6.5	6.5		6.5	
Lead/Lag	Lead		Lag			
Lead-Lag Optimize?	Yes		Yes			
Vehicle Extension (s)	3.0	3.0	3.0		3.0	

Scenario 3 Future 27 Crescent- Estero AM 10:51 am 02/26/2024
RAH

Synchro 11 Report
Page 1

Lanes, Volumes, Timings
3: Estero & Crescent

Weekday PM Existing
03/26/2025

	↗	→	←	↖	↘	↙
Lane Group	EBL	EBT	WBT	WBR	SBL	SBR
Minimum Gap (s)	3.0	3.0	3.0		3.0	
Time Before Reduce (s)	0.0	0.0	0.0		0.0	
Time To Reduce (s)	0.0	0.0	0.0		0.0	
Recall Mode	None	None	None		Max	
Walk Time (s)		7.0	7.0		7.0	
Flash Dont Walk (s)		11.0	11.0		11.0	
Pedestrian Calls (#/hr)		36	36		36	
Act Effct Green (s)	44.0	44.0	33.1		18.2	
Actuated g/C Ratio	0.58	0.58	0.44		0.24	
v/c Ratio	0.29	0.71	0.94		0.14	
Control Delay	9.3	15.8	45.0		26.0	
Queue Delay	0.0	0.0	0.0		0.0	
Total Delay	9.3	15.8	45.0		26.0	
LOS	A	B	D		C	
Approach Delay		15.1	45.0		26.0	
Approach LOS		B	D		C	
Queue Length 50th (ft)	14	208	319		20	
Queue Length 95th (ft)	30	331	#554		48	
Internal Link Dist (ft)		307	451		209	
Turn Bay Length (ft)	170					
Base Capacity (vph)	282	1102	762		364	
Starvation Cap Reductn	0	0	0		0	
Spillback Cap Reductn	0	0	0		0	
Storage Cap Reductn	0	0	0		0	
Reduced v/c Ratio	0.27	0.63	0.90		0.14	

Intersection Summary

Area Type: CBD

Cycle Length: 80

Actuated Cycle Length: 75.4

Natural Cycle: 80

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 0.94

Intersection Signal Delay: 29.1

Intersection LOS: C

Intersection Capacity Utilization 71.0%

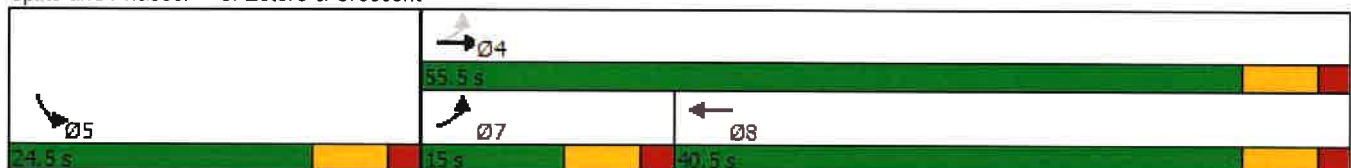
ICU Level of Service C

Analysis Period (min) 15

95th percentile volume exceeds capacity, queue may be longer.

Queue shown is maximum after two cycles.

Splits and Phases: 3: Estero & Crescent



Lanes, Volumes, Timings
3: Estero & Crescent

Weekday AM Future

03/26/2025

						
Lane Group	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations						
Traffic Volume (vph)	11	649	340	19	11	9
Future Volume (vph)	11	649	340	19	11	9
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12
Grade (%)		0%	0%		0%	
Storage Length (ft)	170			0	0	0
Storage Lanes	1			0	1	0
Taper Length (ft)	25				25	
Lane Util. Factor	1.00	1.00	1.00	1.00	1.00	1.00
Ped Bike Factor			1.00		0.98	
Frt			0.993		0.939	
Flt Protected	0.950				0.973	
Satd. Flow (prot)	1593	1676	1661	0	1495	0
Flt Permitted	0.374				0.973	
Satd. Flow (perm)	627	1676	1661	0	1495	0
Right Turn on Red				No		No
Satd. Flow (RTOR)						
Link Speed (mph)		25	25		25	
Link Distance (ft)		387	531		289	
Travel Time (s)		10.6	14.5		7.9	
Confl. Peds. (#/hr)						
Confl. Bikes (#/hr)				20		20
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Growth Factor	100%	100%	100%	100%	100%	100%
Heavy Vehicles (%)	2%	2%	2%	2%	2%	2%
Bus Blockages (#/hr)	0	0	0	0	0	0
Parking (#/hr)						
Mid-Block Traffic (%)		0%	0%		0%	
Adj. Flow (vph)	12	705	370	21	12	10
Shared Lane Traffic (%)						
Lane Group Flow (vph)	12	705	391	0	22	0
Turn Type	pm+pt	NA	NA		Prot	
Protected Phases	7	4	8		5	
Permitted Phases	4					
Detector Phase	7	4	8		5	
Switch Phase						
Minimum Initial (s)	5.0	20.0	20.0		16.0	
Minimum Split (s)	15.0	26.5	26.5		24.5	
Total Split (s)	15.0	55.0	40.0		25.0	
Total Split (%)	18.8%	68.8%	50.0%		31.3%	
Maximum Green (s)	8.5	48.5	33.5		18.5	
Yellow Time (s)	4.5	4.5	4.5		4.5	
All-Red Time (s)	2.0	2.0	2.0		2.0	
Lost Time Adjust (s)	0.0	0.0	0.0		0.0	
Total Lost Time (s)	6.5	6.5	6.5		6.5	
Lead/Lag	Lead		Lag			
Lead-Lag Optimize?	Yes		Yes			
Vehicle Extension (s)	3.0	3.0	3.0		3.0	

Scenario 3 Future 27 Crescent- Estero AM 10:51 am 02/26/2024
RAH

Synchro 11 Report
Page 1

Lanes, Volumes, Timings
3: Estero & Crescent

Weekday AM Future

03/26/2025

	EBL	EBT	WBT	WBR	SBL	SBR
Lane Group	EBL	EBT	WBT	WBR	SBL	SBR
Minimum Gap (s)	3.0	3.0	3.0		3.0	
Time Before Reduce (s)	0.0	0.0	0.0		0.0	
Time To Reduce (s)	0.0	0.0	0.0		0.0	
Recall Mode	None	None	None		Max	
Walk Time (s)		7.0	7.0		7.0	
Flash Dont Walk (s)		11.0	11.0		11.0	
Pedestrian Calls (#/hr)		36	36		36	
Act Effct Green (s)	32.7	32.7	30.6		18.9	
Actuated g/C Ratio	0.50	0.50	0.47		0.29	
v/c Ratio	0.03	0.84	0.50		0.05	
Control Delay	7.0	23.1	14.9		21.6	
Queue Delay	0.0	0.0	0.0		0.0	
Total Delay	7.0	23.1	14.9		21.6	
LOS	A	C	B		C	
Approach Delay		22.8	14.9		21.6	
Approach LOS		C	B		C	
Queue Length 50th (ft)	2	216	91		6	
Queue Length 95th (ft)	8	343	218		27	
Internal Link Dist (ft)		307	451		209	
Turn Bay Length (ft)	170					
Base Capacity (vph)	444	1281	914		436	
Starvation Cap Reductn	0	0	0		0	
Spillback Cap Reductn	0	0	0		0	
Storage Cap Reductn	0	0	0		0	
Reduced v/c Ratio	0.03	0.55	0.43		0.05	

Intersection Summary

Area Type: CBD

Cycle Length: 80

Actuated Cycle Length: 64.9

Natural Cycle: 70

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 0.84

Intersection Signal Delay: 20.1

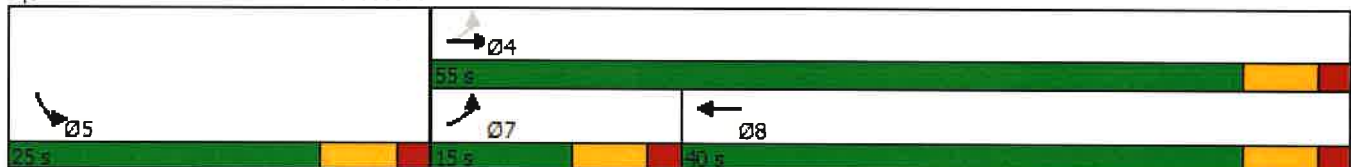
Intersection LOS: C

Intersection Capacity Utilization 62.1%

ICU Level of Service B

Analysis Period (min) 15

Splits and Phases: 3: Estero & Crescent



Lanes, Volumes, Timings
3: Estero & Crescent

Weekday PM Future

03/26/2025

						
Lane Group	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations						
Traffic Volume (vph)	80	681	653	20	29	18
Future Volume (vph)	80	681	653	20	29	18
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12
Grade (%)		0%	0%		0%	
Storage Length (ft)	170			0	0	0
Storage Lanes	1			0	1	0
Taper Length (ft)	25				25	
Lane Util. Factor	1.00	1.00	1.00	1.00	1.00	1.00
Ped Bike Factor			1.00		0.98	
Frt			0.996		0.948	
Flt Protected	0.950				0.970	
Satd. Flow (prot)	1593	1676	1668	0	1511	0
Flt Permitted	0.100				0.970	
Satd. Flow (perm)	168	1676	1668	0	1511	0
Right Turn on Red				No		No
Satd. Flow (RTOR)						
Link Speed (mph)		25	25		25	
Link Distance (ft)		387	531		289	
Travel Time (s)		10.6	14.5		7.9	
Confl. Peds. (#/hr)						
Confl. Bikes (#/hr)				20		20
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Growth Factor	100%	100%	100%	100%	100%	100%
Heavy Vehicles (%)	2%	2%	2%	2%	2%	2%
Bus Blockages (#/hr)	0	0	0	0	0	0
Parking (#/hr)						
Mid-Block Traffic (%)		0%	0%		0%	
Adj. Flow (vph)	87	740	710	22	32	20
Shared Lane Traffic (%)						
Lane Group Flow (vph)	87	740	732	0	52	0
Turn Type	pm+pt	NA	NA		Prot	
Protected Phases	7	4	8		6	
Permitted Phases	4					
Detector Phase	7	4	8		6	
Switch Phase						
Minimum Initial (s)	5.0	20.0	20.0		16.0	
Minimum Split (s)	15.0	26.5	26.5		24.5	
Total Split (s)	15.0	55.0	40.0		25.0	
Total Split (%)	18.8%	68.8%	50.0%		31.3%	
Maximum Green (s)	8.5	48.5	33.5		18.5	
Yellow Time (s)	4.5	4.5	4.5		4.5	
All-Red Time (s)	2.0	2.0	2.0		2.0	
Lost Time Adjust (s)	0.0	0.0	0.0		0.0	
Total Lost Time (s)	6.5	6.5	6.5		6.5	
Lead/Lag	Lead		Lag			
Lead-Lag Optimize?	Yes		Yes			
Vehicle Extension (s)	3.0	3.0	3.0		3.0	

Scenario 1 Future 27 Crescent-Estero PM 7:02 pm 02/20/2024 Baseline

Synchro 11 Report
Page 1

Lanes, Volumes, Timings 3: Estero & Crescent

Weekday PM Future

03/26/2025

	↖	→	←	↗	↘	↙
Lane Group	EBL	EBT	WBT	WBR	SBL	SBR
Minimum Gap (s)	3.0	3.0	3.0		3.0	
Time Before Reduce (s)	0.0	0.0	0.0		0.0	
Time To Reduce (s)	0.0	0.0	0.0		0.0	
Recall Mode	None	None	None		Max	
Walk Time (s)		7.0	7.0		7.0	
Flash Dont Walk (s)		11.0	11.0		11.0	
Pedestrian Calls (#/hr)		36	36		36	
Act Effct Green (s)	44.9	44.9	33.7		18.6	
Actuated g/C Ratio	0.59	0.59	0.44		0.24	
v/c Ratio	0.37	0.75	1.00		0.14	
Control Delay	11.1	17.5	58.1		25.7	
Queue Delay	0.0	0.0	0.0		0.0	
Total Delay	11.1	17.5	58.1		25.7	
LOS	B	B	E		C	
Approach Delay		16.8	58.1		25.7	
Approach LOS		B	E		C	
Queue Length 50th (ft)	16	235	~399		21	
Queue Length 95th (ft)	35	376	#611		50	
Internal Link Dist (ft)		307	451		209	
Turn Bay Length (ft)	170					
Base Capacity (vph)	257	1067	734		367	
Starvation Cap Reductn	0	0	0		0	
Spillback Cap Reductn	0	0	0		0	
Storage Cap Reductn	0	0	0		0	
Reduced v/c Ratio	0.34	0.69	1.00		0.14	

Intersection Summary

Area Type: CBD

Cycle Length: 80

Actuated Cycle Length: 76.6

Natural Cycle: 90

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 1.00

Intersection Signal Delay: 35.9

Intersection LOS: D

Intersection Capacity Utilization 74.0%

ICU Level of Service D

Analysis Period (min) 15

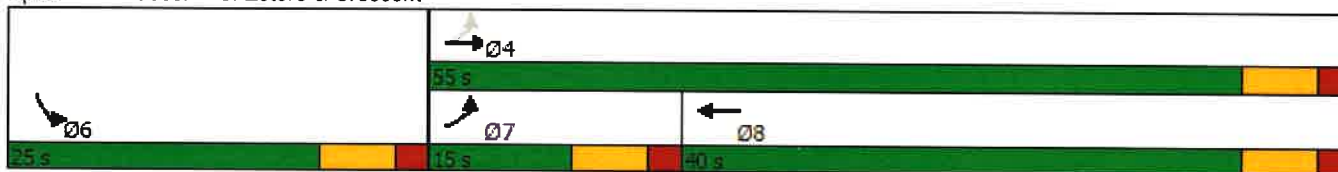
~ Volume exceeds capacity, queue is theoretically infinite.

Queue shown is maximum after two cycles.

95th percentile volume exceeds capacity, queue may be longer.

Queue shown is maximum after two cycles.

Splits and Phases: 3: Estero & Crescent



PCS 44
PEAK SEASON ADJUSTMENT
FACTOR

PCS 44 - Estero Blvd n of Denora Blvd

2022 AADT = 12,200 VPD

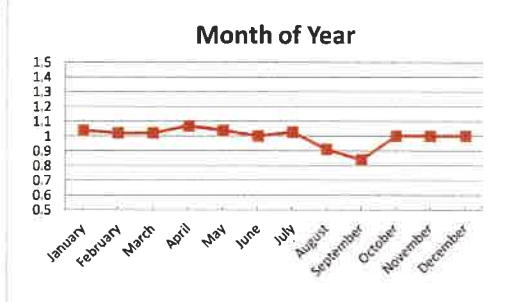
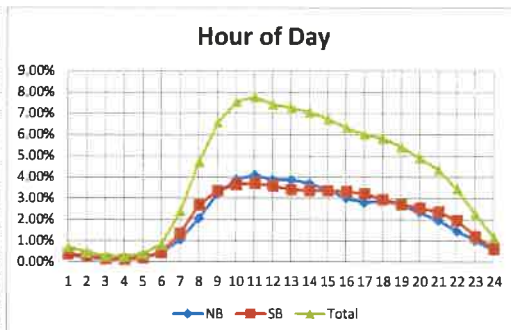
Hour	NB	SB	Total
0	0.33%	0.38%	0.70%
1	0.20%	0.26%	0.46%
2	0.12%	0.15%	0.27%
3	0.14%	0.10%	0.24%
4	0.19%	0.19%	0.38%
5	0.40%	0.44%	0.84%
6	1.05%	1.36%	2.40%
7	2.04%	2.69%	4.72%
8	3.21%	3.36%	6.57%
9	3.89%	3.65%	7.55%
10	4.08%	3.69%	7.78%
11	3.87%	3.56%	7.43%
12	3.86%	3.40%	7.26%
13	3.71%	3.34%	7.06%
14	3.39%	3.34%	6.74%
15	3.01%	3.32%	6.33%
16	2.79%	3.21%	6.00%
17	2.87%	2.95%	5.81%
18	2.70%	2.71%	5.41%
19	2.34%	2.55%	4.88%
20	1.97%	2.35%	4.32%
21	1.47%	1.97%	3.43%
22	1.02%	1.22%	2.25%
23	0.54%	0.63%	1.16%

Avg 10:00 AM-5:00 PM 6.80%
12200*0.068 829.6

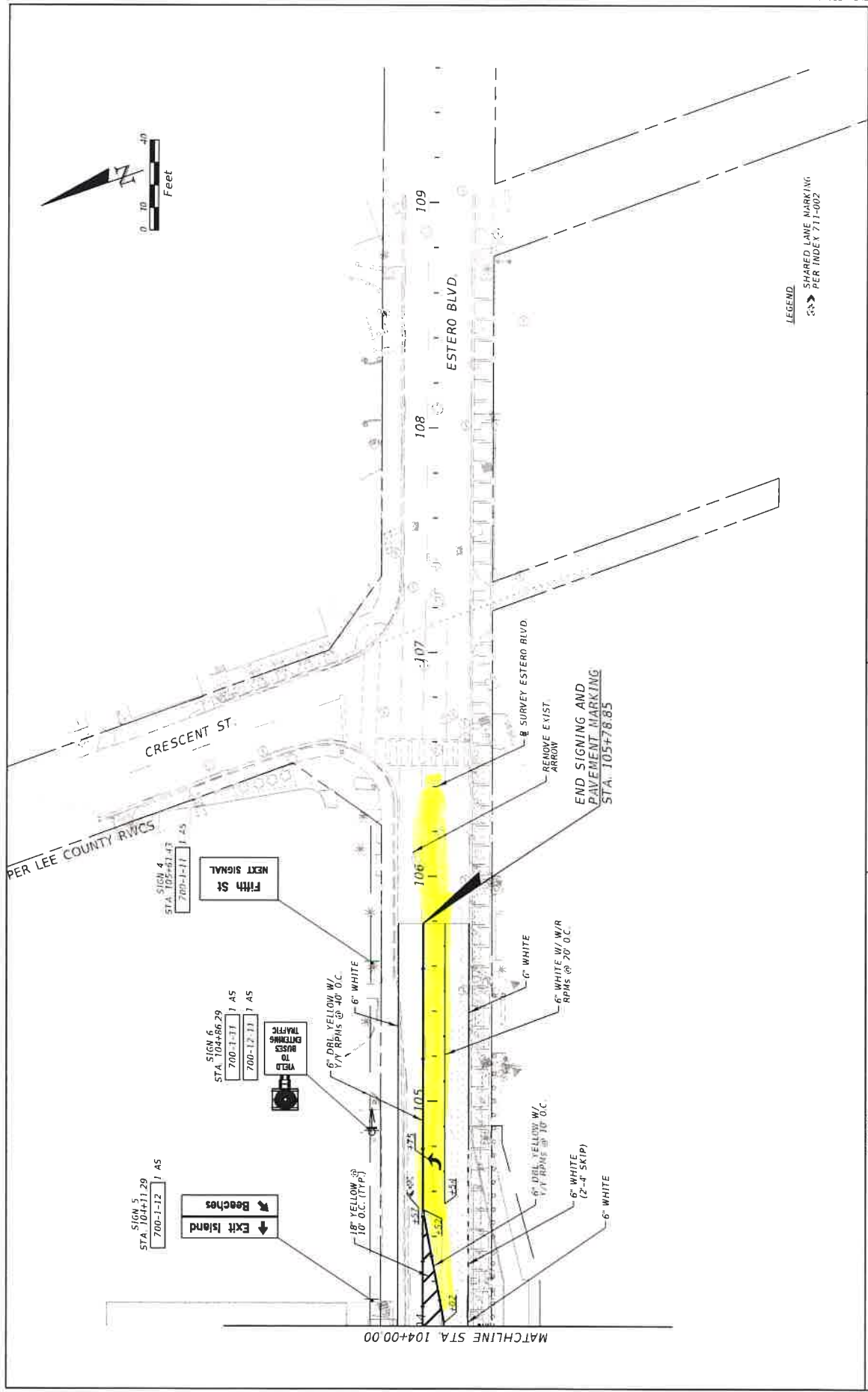
Month of Year	Fraction
January	1.04
February	1.02
March	1.02
April	1.07
May	1.04
June	1
July	1.03
August	0.91
September	0.84
October	1
November	1
December	1

Day of Week	Fraction
Sunday	0.94
Monday	0.98
Tuesday	0.99
Wednesday	1.03
Thursday	1.02
Friday	1.03
Saturday	1.01

Month of Year	Average	Avg Monthly Demand
January	1.04	862.8
February	1.02	846.2
March	1.02	846.2
April	1.07	887.7
May	1.04	862.8
June	1.00	829.6
July	1.03	854.5
August	0.91	754.9
September	0.84	696.9
October	1.00	829.6
November	1.00	829.6
December	1.00	829.6

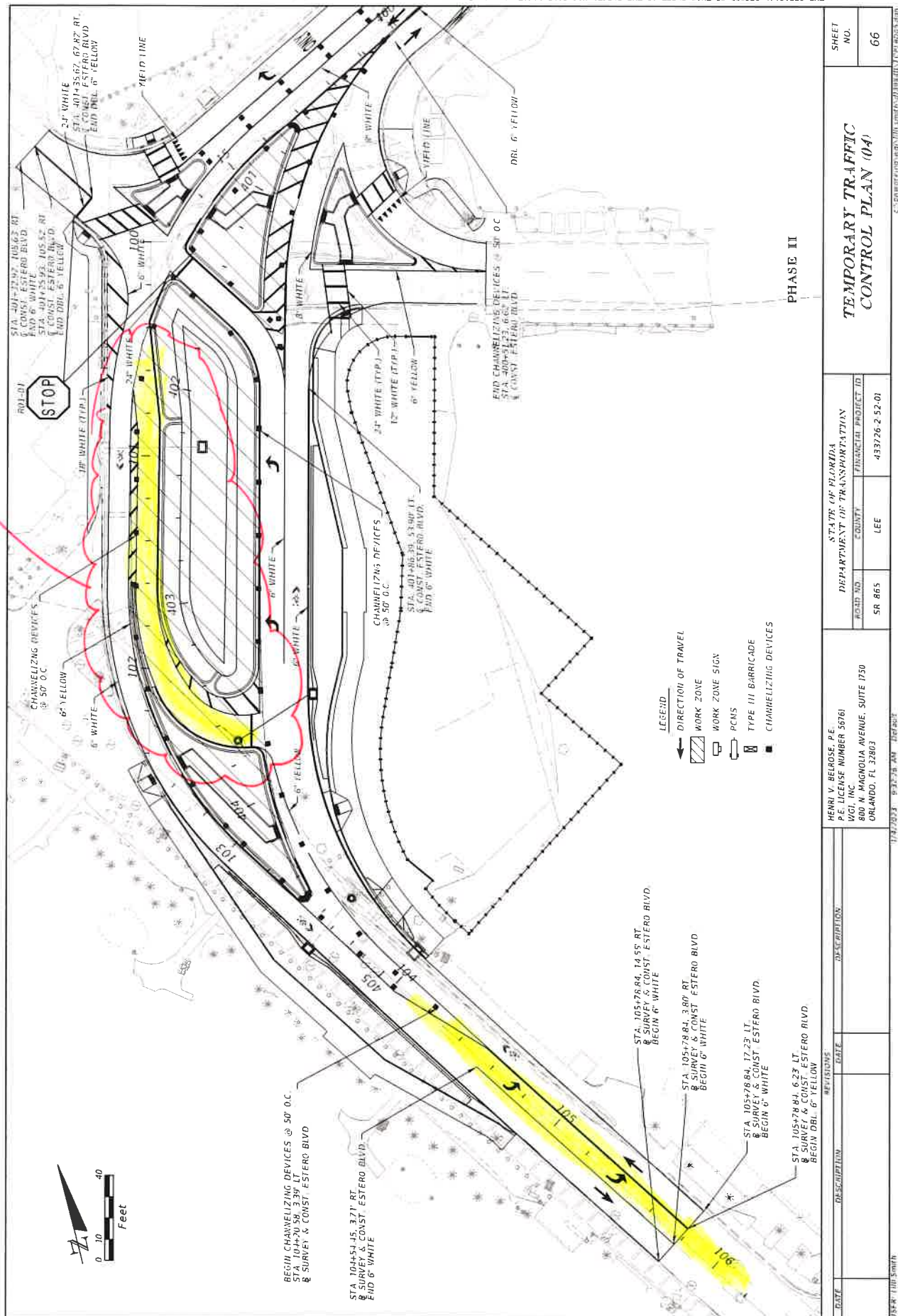


FDOT PLANS
SR 739/SAN CARLOS BLVD./ESTERO
BLVD.



DATE		DESCRIPTION	DATE	DESCRIPTION	HENRI V. BELROSE, P.E. P.E. LICENSE NUMBER 56761 WGI, INC 800 N. MAGNOLIA AVENUE, SUITE 1750 ORLANDO, FL 32803		STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		SIGNING AND PAVEMENT MARKING PLAN (13)		SHEET NO. 5-18
					147-223 2-07-97 PM 007/007						
							ROAD NO SR 865	COUNTY LEE	FINANCIAL PROJECT ID 433726-2-52-01		
UPPER PLAN SHEETS											

U-turn location



TRAFFIC COUNT
ESTERO BLVD.
@
CRESCENT ST.



43 Barkley Circle, Suite 200
 Fort Myers, FL 33907
 Phone 239-433-4231 Fax 239-433-9632
 www.tdmcivilengineering.com

Project Name: Arches - FMB
 Date Completed: 2/13/2024

AM Start Time	Estero Eastbound @ Crescent				Estero Westbound @ Crescent				Crescent Northbound @ Estero				Crescent Southbound @ Estero				Total
	Left	Thru	Right	Peds	Left	Thru	Right	Peds	Left	Thru	Right	Peds	Left	Thru	Right	Peds	
7:00	9	121	0	0	0	55	4	4	0	0	0	0	2	0	0	0	191
7:15	4	155	0	0	0	73	1	1	0	0	0	0	4	0	0	0	237
7:30	6	163	0	0	0	76	1	1	0	0	0	0	3	0	2	0	251
7:45	5	172	0	0	0	79	3	3	0	0	0	0	2	0	0	0	261
8:00	3	165	0	0	0	74	2	2	0	0	0	0	5	0	1	1	250
8:15	4	164	0	0	0	70	6	6	0	0	0	0	1	0	3	3	248
8:30	2	155	0	0	0	81	4	4	0	0	0	0	3	0	1	1	246
8:45	2	165	0	0	0	93	1	1	0	0	0	0	2	0	4	4	267
9:00																	0
Total	35	1260	0	0	0	601	22	22	0	0	0	0	22	0	11	0	1951

PM Start Time	Estero Eastbound @ Crescent				Estero Westbound @ Crescent				Crescent Northbound @ Estero				Crescent Southbound @ Estero				Total
	Left	Thru	Right	Peds	Left	Thru	Right	Peds	Left	Thru	Right	Peds	Left	Thru	Right	Peds	
4:00	16	145	0	0	0	142	6	6	0	0	0	0	8	0	3	3	320
4:15	21	151	0	0	0	151	9	9	0	0	0	0	9	0	2	2	343
4:30	18	159	0	0	0	149	3	3	0	0	0	0	7	0	2	2	338
4:45	14	161	0	0	0	148	2	2	0	0	0	0	5	0	3	3	333
5:00	21	164	0	0	0	151	4	4	0	0	0	0	10	0	6	6	356
5:15	18	162	0	0	0	154	3	3	0	0	0	0	7	0	4	4	348
5:30	14	159	0	0	0	151	3	3	0	0	0	0	5	0	3	3	335
5:45	16	157	0	0	0	151	4	4	0	0	0	0	6	0	5	5	339
6:00																	0
Total	138	1258	0	0	0	1197	34	34	0	0	0	0	57	0	28	0	2712

PM Peak Hour
 69 →
 ← 69
 14
 ← 607 Estero Blvd.
 642 →

**LEE COUNTY PUBLIC FACILITIES
LEVEL OF SERVICE AND
CONCURRENCY REPORT**

LEE COUNTY ROAD LINK VOLUMES (County- and State-Maintained Roadways)

Link No.	ROAD NAME	LOCATION		ROAD TYPE	PERFORMANCE STANDARD		2023 100TH HIGHEST HOUR		2028 FUTURE FORECAST*		Notes		
		FROM	TO		LOS ⁽¹⁾	CAPACITY ⁽²⁾	LOS ⁽¹⁾	VOLUME ⁽²⁾	V/C ⁽³⁾	VOLUME ⁽²⁾		V/C ⁽³⁾	
04800	CEMETERY RD	BUCKINGHAM RD	HIGGINS AVE	2LN	E	860	C	315	0.37	C	331	0.38	
04900	CHAMBERLIN PKWY	AIRPORT ENT	DANIELS PKWY	4LN	E	1,790	C	450	0.25	C	473	0.26	(4), Port Authority maintained
05000	COCONUT RD	WEST END	VIA VENETTO BLVD	2LN	E	860	C	275	0.32	C	289	0.34	(4), non-county maintained to east
05100	COLLEGE PKWY	MCGREGOR BLVD	WINKLER RD	6LD	E	2,980	D	2,600	0.87	E	2,733	0.92	
05200	COLLEGE PKWY	WINKLER RD	WHISKEY CREEK DR	6LD	E	2,980	D	1,838	0.62	D	1,932	0.65	
05300	COLLEGE PKWY	WHISKEY CREEK DR	SUMMERLIN RD	6LD	E	2,980	D	1,838	0.62	D	1,932	0.65	
05400	COLLEGE PKWY	SUMMERLIN RD	US 41	6LD	E	2,980	D	1,830	0.61	D	1,923	0.65	
05500	COLONIAL BLVD	MCGREGOR BLVD	SUMMERLIN RD	6LD	E	2,840	D	2,589	0.91	D	2,721	0.96	(4)
05600	COLONIAL BLVD	SUMMERLIN RD	US 41	6LD	E	2,840	D	2,589	0.91	D	2,721	0.96	
06200	COLONIAL BLVD	DYNASTY DR	SR 82	6LD	D	3,040	D	2,104	0.69	D	2,211	0.73	(4)
06300	COLUMBUS BLVD	SR 82	MILWAUKEE BLVD	2LN	E	860	C	105	0.12	C	110	0.13	(4)
06400	CONSTITUTION BLVD	JS 41	CONSTITUTION CIR	2LN	E	860	C	371	0.43	C	390	0.45	
06500	CORBETT RD	SR 78 (PINE ISLAND RD)	LITTLETON RD	2LN	E	860	C	30	0.03	C	32	0.04	(4)
06600	CORKSCREW RD	JS 41	THREE OAKS PKWY	4LD	E	1,900	C	971	0.51	C	1,021	0.54	
06700	CORKSCREW RD	THREE OAKS PKWY	W OF I-75	4LD	E	1,900	C	1,582	0.83	C	1,663	0.88	
06800	CORKSCREW RD	E OF I-75	BEN HILL GRIFFIN BLVD	4LD	E	1,900	C	1,069	0.56	C	1,124	0.59	
06900	CORKSCREW RD	BEN HILL GRIFFIN BLVD	ALICO RD	4LD	E	1,960	C	1,186	0.61	C	1,246	0.64	Corkscrew Woods/Wildblue
07000	CORKSCREW RD	ALICO RD	COUNTY LINE	2LN	E	1,140	D	668	0.59	E	1,412	1.24	Vercana Village RPD
07100	COUNTRY LAKES BLVD	LUCKETT RD	TICE ST	2LN	E	860	C	145	0.17	C	154	0.18	(4)
07200	CRYSTAL DR	JS 41	METRO PKWY	2LN	E	860	C	505	0.59	C	531	0.62	
07300	CRYSTAL DR	METRO PKWY	PLANTATION RD	2LN	E	860	C	366	0.43	C	385	0.45	
07400	CYPRESS LAKE DR	MCGREGOR BLVD	SOUTH POINT BLVD	4LD	E	1,940	D	1,142	0.59	D	1,200	0.62	
07500	CYPRESS LAKE DR	SOUTH POINT BLVD	WINKLER RD	4LD	E	1,940	D	1,449	0.75	D	1,523	0.79	
07600	CYPRESS LAKE DR	WINKLER RD	SUMMERLIN RD	4LD	E	1,940	D	1,449	0.75	D	1,523	0.79	
07700	CYPRESS LAKE DR	SUMMERLIN RD	US 41	6LD	E	2,940	D	2,064	0.70	D	2,169	0.74	
07800	DANIELS PKWY	US 41	METRO PKWY	6LD	E	2,680	D	2,307	0.86	D	2,425	0.90	unincorporated Lee County
07900	DANIELS PKWY	METRO PKWY	SIX MILE PKWY	6LD	E	2,680	D	2,307	0.86	D	2,425	0.90	unincorporated Lee County, constrained
08000	DANIELS PKWY	SIX MILE PKWY	PALOMINO LN	6LD	E	3,040	E	2,953	0.97	E	3,108	1.02	unincorporated Lee Co; constrained; Dan Falls
08100	DANIELS PKWY	PALOMINO LN	I-75	6LD	E	3,040	E	2,953	0.97	E	3,104	1.02	unincorporated Lee County; constrained
08200	DANIELS PKWY	I-75	TREELINE AVE	6LD	E	3,260	E	2,963	0.91	E	3,114	0.96	unincorporated Lee County
08300	DANIELS PKWY	TREELINE AVE	CHAMBERLIN PKWY	6LD	E	3,260	E	2,963	0.91	E	3,114	0.96	unincorporated Lee County
08400	DANIELS PKWY	CHAMBERLIN PKWY	GATEWAY BLVD	6LD	E	3,260	E	3,197	0.98	E	3,360	1.03	unincorporated Lee County
08500	DANIELS PKWY	GATEWAY BLVD	SR 82	4LD	E	2,160	E	2,304	1.07	E	2,469	1.14	unincorporated Lee County; Timber Creek RPD
08600	DANLEY DR	US 41	METRO PKWY	2LN	E	860	C	395	0.46	C	415	0.48	
08700	DAVIS RD	MCGREGOR BLVD	IONA RD	2LN	E	860	C	17	0.02	C	18	0.02	(4)
08800	DEL PRADO BLVD	CAPE CORAL PKWY	SE 46TH ST	6LD	E	2,660	D	2,069	0.78	D	2,175	0.82	
08900	DEL PRADO BLVD	SE 46TH ST	CORONADO PKWY	6LD	E	2,660	D	2,069	0.78	D	2,175	0.82	
09000	DEL PRADO BLVD	CORONADO PKWY	CORNWALLIS PKWY	6LD	E	2,660	D	2,069	0.78	D	2,174	0.82	
09100	DEL PRADO BLVD	CORNWALLIS PKWY	CORAL POINT DR	6LD	E	2,660	E	2,600	0.98	E	2,733	1.03	
09200	DEL PRADO BLVD	CORAL POINT DR	HANCOCK B. PKWY	6LD	E	2,800	D	2,041	0.73	D	2,145	0.77	
09300	DEL PRADO BLVD	HANCOCK B. PKWY	SR 78	6LD	E	2,800	C	1,757	0.63	C	1,847	0.66	(4)
09400	DEL PRADO BLVD	US 41	SLATER RD	2LN	E	860	C	538	0.63	D	643	0.75	Crane Landing Golf Course Community
09700	EAST 21ST ST	JOEL BLVD	GRANT AVE	2LN	E	860	C	30	0.03	C	32	0.04	(4)
09800	ESTERO BLVD	BIG CARLOS PASS BRIDGE	PESCADORA AVE	2LN	E	726	A	264	0.36	A	277	0.38	(4), constrained
09900	ESTERO BLVD	PESCADORA AVE	VOORHIS ST	2LN	E	726	D	648	0.89	D	681	0.94	(4), constrained
10000	ESTERO BLVD	VOORHIS ST	TROPICAL SHORES WAY	2LN	E	726	D	648	0.89	D	681	0.94	(4), constrained
10100	ESTERO BLVD	TROPICAL SHORES WAY	CENTER ST	2LN	E	671	E	722	1.08	E	759	1.13	(4), constrained
14400	ESTERO PKWY	US 41	THREE OAKS PKWY	4LD	E	2,000	B	921	0.46	B	1,092	0.55	non-county main; T and T DBI/Cyc Vw CPD

LEE COUNTY ROAD LINK VOLUMES (County- and State-Maintained Roadways)

Link No.	ROAD NAME	LOCATION		ROAD TYPE	PERFORMANCE STANDARD		2023 100TH HIGHEST HOUR			2028 FUTURE FORECAST*			Notes
		FROM	TO		LOS ⁽¹⁾	CAPACITY ⁽²⁾	LOS ⁽¹⁾	VOLUME ⁽²⁾	V/C ⁽³⁾	LOS ⁽¹⁾	VOLUME ⁽²⁾	V/C ⁽³⁾	
19400	ORANGE RIVER BLVD	STALEY RD	BUCKINGHAM RD	2LN	E	1,000	C	368	0.37	C	387	0.39	
19500	ORIOLE RD	SAN CARLOS BLVD	ALICO RD	2LN	E	860	C	131	0.15	C	138	0.16	
19600	ORTIZ AVE	COLONIAL BLVD	SR 82	2LN	E	900	F	1,115	1.24	F	1,172	1.30	City of Fort Myers
19700	ORTIZ AVE	LUCKETT RD	LUCKETT RD	2LN	E	900	F	947	1.05	F	995	1.11	partially located in City of Fort Myers
19800	ORTIZ AVE	LUCKETT RD	SR 80	2LN	E	900	B	374	0.42	B	393	0.44	(4)
19900	PALM BEACH BLVD (SR 80)	PROSPECT AVE	ORTIZ AVE	4LD	D	1,900	C	1,306	0.69	C	1,471	0.77	
20000	PALM BEACH BLVD (SR 80)	ORTIZ AVE	1-75	6LD	D	2,814	C	1,453	0.52	C	1,624	0.58	
20100	PALM BEACH BLVD (SR 80)	1-75	SR 31	6LD	D	2,814	C	1,840	0.65	C	2,030	0.72	
20200	PALM BEACH BLVD (SR 80)	SR 31	BUCKINGHAM RD	4LD	D	1,900	F	2,275	1.20	F	2,604	1.37	
20300	PALM BEACH BLVD (SR 80)	BUCKINGHAM RD	WERNER DR	4LD	D	1,942	E	1,943	1.00	F	2,277	1.17	River Hall (f.k.a. Hawks Haven)
20330	PALM BEACH BLVD (SR 80)	WERNER DR	JOEL BLVD	4LD	C	1,785	C	1,457	0.82	C	1,735	0.97	
20400	PALM BEACH BLVD (SR 80)	JOEL BLVD	HENDRY CO. LINE	4LD	C	1,785	C	1,295	0.73	C	1,541	0.86	
20500	PALOMINO LN	DANIELS PKWY	PENANCE BLVD	2LN	E	860	C	343	0.40	C	405	0.47	The Springs at Daniels Road
20600	PARK MEADOWS DR	SUMMERLIN RD	US 41	2LN	E	860	C	202	0.23	C	219	0.26	
20800	PENANCE BLVD	RANCHETTE RD	SIX MILE PKWY	2LN	E	860	C	150	0.17	C	180	0.21	
20900	PINE ISLAND RD	STRINGFELLOW RD	BURNED STORE RD	2LN	E	950	E	594	0.63	E	640	0.67	constrained
21400	PINE ISLAND RD (SR 78)	CITY LIMITS E OF BARRETT RD	US 41	4LD	D	1,900	F	1,902	1.00	F	2,312	1.22	
21500	PINE ISLAND RD (SR 78)	US 41	BUS 41	4LD	D	1,900	D	1,637	0.86	D	1,861	0.98	
21600	PINE RIDGE RD	SAN CARLOS BLVD	SUMMERLIN RD	2LN	E	860	C	459	0.53	C	549	0.64	Heritage Isles
21700	PINE RIDGE RD	SUMMERLIN RD	GLADIOLUS DR	2LN	E	860	C	280	0.33	C	486	0.56	Heritage Isles
21800	PINE RIDGE RD	GLADIOLUS DR	MCGREGOR BLVD	2LN	E	860	C	280	0.33	C	294	0.34	
21900	PLANTATION RD	SIX MILE PKWY	DANIELS PKWY	2LN	E	860	C	317	0.37	C	333	0.39	
22000	PLANTATION RD	DANIELS PKWY	IDLEWILD ST	2LN	E	860	D	651	0.76	D	684	0.80	
22050	PLANTATION RD	IDLEWILD ST	COLONIAL BLVD	4LN	E	1,790	C	673	0.38	C	707	0.40	
22100	PONDELLA RD	SR 78	ORANGE GROVE BLVD	4LD	E	1,890	B	994	0.53	B	1,045	0.55	
22200	PONDELLA RD	ORANGE GROVE BLVD	US 41	4LD	E	1,890	B	1,319	0.70	B	1,386	0.73	
22300	PONDELLA RD	US 41	BUS 41	4LD	E	1,890	B	1,396	0.74	B	1,467	0.78	
22400	PRITCHETT PKWY	SR 78	RICH RD	2LN	E	860	C	78	0.09	D	658	0.76	(4), Brightwater RPD (f.k.a. Stoneybrook North)
22500	RANCHETTE RD	PENANCE BLVD	IDLEWILD ST	2LN	E	860	C	105	0.12	C	110	0.13	(4)
22600	RICH RD	SLATER RD	PRITCHETT PKWY	2LN	E	860	C	62	0.07	C	65	0.08	(4)
22700	RICHMOND AVE	LEELAND HEIGHTS	E 12TH ST	2LN	E	860	C	129	0.15	C	149	0.17	pre-development order res development
22800	RICHMOND AVE	E 12TH ST	GREENBRIAR BLVD	2LN	E	860	C	129	0.15	C	198	0.23	pre-development order res development
23230	SAN CARLOS BLVD	US 41	THREE OAKS PKWY	2LN	E	860	C	324	0.38	C	341	0.40	
23000	SAN CARLOS BLVD (SR 865)	MANTANZAS PASS BRIDGE	MAIN ST	2LD	D	1,900	C	1,114	0.59	C	1,208	0.64	constrained
23100	SAN CARLOS BLVD (SR 865)	MAIN ST	SUMMERLIN RD	4LD	D	1,900	C	1,114	0.59	C	1,208	0.64	
23180	SAN CARLOS BLVD (SR 865)	SUMMERLIN RD	KELLY RD	2LD	D	1,180	C	702	0.59	C	762	0.65	
23200	SAN CARLOS BLVD (SR 865)	KELLY RD	GLADIOLUS DR	4LD	D	1,180	C	702	0.59	C	762	0.65	
23260	SANIBEL BLVD	US 41	LEE RD	2LN	E	860	C	501	0.58	C	527	0.61	
23300	SANIBEL CAUSEWAY	SANIBEL SHORELINE	TOLL PLAZA	2LN	E	1,140	F	1,172	1.03	F	1,232	1.08	
23400	SHELL POINT BLVD	MCGREGOR BLVD	PALM ACRES	2LN	E	860	C	269	0.31	C	283	0.33	
23500	SIX MILE PKWY (SR 739)	US 41	METRO PKWY	4LD	D	1,900	F	2,109	1.11	F	2,341	1.23	
23600	SIX MILE CYPRESS	METRO PKWY	DANIELS PKWY	4LD	E	2,000	B	1,630	0.82	B	1,713	0.86	unincorporated Lee County
23700	SIX MILE CYPRESS	DANIELS PKWY	WINKLER EXT.	4LD	E	1,900	B	1,272	0.67	B	1,434	0.75	unincorporated Lee Co; Cr Mnr RPD/Jk VIII RPD
23800	SIX MILE CYPRESS	WINKLER EXT.	CHALLENGER BLVD	4LD	E	1,900	B	1,200	0.63	B	1,261	0.66	incorporated Lee County
23900	SIX MILE CYPRESS	CHALLENGER BLVD	COLONIAL BLVD	6LD	E	2,860	A	1,200	0.42	A	1,261	0.44	incorporated Lee County
24000	SLATER RD	SR 78	NALLE GRADE RD	2LN	E	1,010	C	444	0.44	C	467	0.46	
24100	SOUTH POINTE BLVD	CYPRESS LAKE DR	COLLEGE PKWY	2LD	E	910	C	514	0.56	C	540	0.59	
24200	SR 31 (ARCADIA RD)	SR 80	SR 78	2LN	D	766/1180	E	966	1.26	E	1,168	0.99	

FDOT TRAFFIC INFORMATION
ONLINE TRAFFIC DATA
SAN CARLOS BLVD.
N. OF MANTANZA PASS BRIDGE

FLORIDA DEPARTMENT OF TRANSPORTATION
TRANSPORTATION STATISTICS OFFICE
2023 HISTORICAL AADT REPORT

COUNTY: 12 - LEE

SITE: 6008 - SR 865/SAN CARLOS BLVD, 200' S OF PRESCOTT/N OF MATANZAS PASS, PTMS10, LCPR8

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2023	23000 X	0	0	9.00	53.80	5.90
2022	22000 X	0	0	9.00	53.70	8.30
2021	22000 T	0	0	9.00	53.10	4.10
2020	21500 S	0	0	9.00	52.80	5.70
2019	22000 F	0	0	9.00	53.30	3.10
2018	21982 C	0	0	9.00	54.50	2.60
2017	22000 F	0	0	9.00	54.50	3.60
2016	22352 C	N 11136	S 11216	9.00	54.50	2.80
2015	22387 C	N 11098	S 11289	9.00	53.80	2.80
2014	22728 C	N 11284	S 11444	9.00	53.90	5.20
2013	22603 C	N 11213	S 11390	9.00	54.30	3.10
2012	22194 C	N 11021	S 11173	9.00	54.70	3.00
2011	22541 C	N 11204	S 11337	9.00	54.60	3.50
2010	21796 C	N 10844	S 10952	9.08	55.72	2.80
2009	20711 C	N 9603	S 11108	9.75	56.00	3.10

AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; R = FOURTH YEAR ESTIMATE
V = FIFTH YEAR ESTIMATE; 6 = SIXTH YEAR ESTIMATE; X = UNKNOWN
*K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K30 VALUES

**LEE COUNTY
GENERALIZED LEVEL OF SERVICE
VOLUMES**

Lee County
Generalized Peak Hour Directional Service Volumes
Urbanized Areas

April 2016

c:\input5

Uninterrupted Flow Highway						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	130	420	850	1,210	1,640
2	Divided	1,060	1,810	2,560	3,240	3,590
3	Divided	1,600	2,720	3,840	4,860	5,380
Arterials						
Class I (40 mph or higher posted speed limit)						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	140	800	860	860
2	Divided	*	250	1,840	1,960	1,960
3	Divided	*	400	2,840	2,940	2,940
4	Divided	*	540	3,830	3,940	3,940
Class II (35 mph or slower posted speed limit)						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	*	330	710	780
2	Divided	*	*	710	1,590	1,660
3	Divided	*	*	1,150	2,450	2,500
4	Divided	*	*	1,580	3,310	3,340
Controlled Access Facilities						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	160	880	940	940
2	Divided	*	270	1,970	2,100	2,100
3	Divided	*	430	3,050	3,180	3,180
Collectors						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	*	310	660	740
1	Divided	*	*	330	700	780
2	Undivided	*	*	730	1,440	1,520
2	Divided	*	*	770	1,510	1,600
Note: the service volumes for I-75 (freeway), bicycle mode, pedestrian mode, and bus mode should be from FDOT's most current version of LOS Handbook.						

TRAFFIC DATA FROM LEE COUNTY
TRAFFIC DATA SYSTEM
STATION #44
ESTERO BLVD.
(N. OF DONORA BLVD.)

Location Info	
Location ID	44
Type	I-SECTION
Functional Class	-
Located On	ESTERO BLVD
NORTH OF	DONORA BLVD
Direction	2-WAY
Community	-
MPO_ID	
HPMS ID	
Agency	Lee County

Count Data Info	
Start Date	3/16/2022
End Date	3/17/2022
Start Time	12:00 AM
End Time	12:00 AM
Direction	2-WAY
Notes	
Count Source	
File Name	DataQuery_2022-22-03T08-45-47_SSM HD.txt
Weather	
Study	
Owner	LeeAuto
QC Status	Accepted

Interval: 15 mins					
Time	15 Min				Hourly Count
	1st	2nd	3rd	4th	
00:00 - 01:00	23	24	27	32	106
01:00 - 02:00	25	20	25	16	86
02:00 - 03:00	13	11	10	10	44
03:00 - 04:00	8	6	5	12	31
04:00 - 05:00	6	6	15	20	47
05:00 - 06:00	28	29	33	50	140
06:00 - 07:00	60	73	98	125	356
07:00 - 08:00	144	157	201	251	753
08:00 - 09:00	223	251	270	282	1026
09:00 - 10:00	285	298	302	276	1161
10:00 - 11:00	247	224	236	253	960
11:00 - 12:00	157	185	203	284	829
12:00 - 13:00	222	195	193	222	832
13:00 - 14:00	245	132	209	207	793
14:00 - 15:00	202	213	206	176	797
15:00 - 16:00	200	150	160	141	651
16:00 - 17:00	116	129	123	144	512
17:00 - 18:00	157	147	149	193	646
18:00 - 19:00	175	180	180	168	703
19:00 - 20:00	166	174	150	200	690
20:00 - 21:00	173	163	141	136	613
21:00 - 22:00	145	108	111	143	507
22:00 - 23:00	127	101	79	75	382
23:00 - 24:00	54	44	33	36	167
TOTAL					12832

TRAFFIC DATA FROM HPE REPORT



43 Barkley Circle, Suite 200
Fort Myers, FL 33907
Phone 239-433-4231 Fax 239-433-9632
www.tdmcivilengineering.com

Project Name: Arches - FMB
Date Completed: 2/13/2024

AM Start Time	Estero Eastbound @ Old San Carlos				Estero Westbound @ Old San Carlos				Old San Carlos Northbound @ Estero				Old San Carlos Southbound @ Estero				Total
	Left	Thru	Right	Peds	Left	Thru	Right	Peds	Left	Thru	Right	Peds	Left	Thru	Right	Peds	
7:00	5	7	0	0	0	21	12	0	0	0	0	0	1	0	0	0	46
7:15	6	3	0	0	0	30	14	0	0	0	0	0	3	0	0	0	57
7:30	5	10	0	0	0	39	23	0	0	0	0	0	0	0	2	0	79
7:45	7	5	0	0	0	23	16	0	0	0	0	0	5	0	1	0	58
8:00	6	9	0	0	0	35	14	0	0	0	0	0	2	0	1	0	68
8:15	11	13	0	0	0	35	24	0	0	0	0	0	3	0	5	0	92
8:30	18	11	0	0	0	46	14	0	0	0	0	0	1	0	4	0	95
8:45	10	10	0	0	0	64	31	0	0	0	0	0	4	0	4	0	124
9:00																	0
Total	69	70	0	0	0	293	149	0	0	0	0	0	20	0	18	0	618

PM Start Time	Estero Eastbound @ Old San Carlos				Estero Westbound @ Old San Carlos				Old San Carlos Northbound @ Estero				Old San Carlos Southbound @ Estero				Total
	Left	Thru	Right	Peds	Left	Thru	Right	Peds	Left	Thru	Right	Peds	Left	Thru	Right	Peds	
4:00	45	32	0	0	0	36	35	0	0	0	0	0	8	0	9	0	166
4:15	33	33	0	0	0	28	28	0	0	0	0	0	18	0	1	0	140
4:30	44	19	0	0	0	29	35	0	0	0	0	0	12	0	3	0	142
4:45	29	18	0	0	0	36	26	0	0	0	0	0	14	0	4	0	127
5:00	29	29	0	0	0	34	27	0	0	0	0	0	8	0	5	0	132
5:15	24	20	0	0	0	33	14	0	0	0	0	0	7	0	6	0	104
5:30	16	22	0	0	0	24	30	0	0	0	0	0	6	0	2	0	100
5:45	30	16	0	0	0	46	24	0	0	0	0	0	8	0	11	0	136
6:00																	0
Total	250	187	0	0	0	266	218	0	0	0	0	0	82	0	42	0	1046



43 Barkley Circle, Suite 200
 Fort Myers, FL 33907
 Phone 239-433-4231 Fax 239-433-9632
 www.tdmcivilengineering.com

Project Name: _____
 Date Completed: _____
 Arches - FMB
 2/13/2024

AM Start Time	Estero Eastbound @ Crescent				Estero Westbound @ Crescent				Crescent Northbound @ Estero				Crescent Southbound @ Estero				Total
	Left	Thru	Right	Peds	Left	Thru	Right	Peds	Left	Thru	Right	Peds	Left	Thru	Right	Peds	
7:00	9	121	0	0	0	55	4	0	0	0	0	0	2	0	0	0	191
7:15	4	155	0	0	0	73	1	0	0	0	0	0	4	0	0	0	237
7:30	6	163	0	0	0	76	1	0	0	0	0	0	3	0	2	0	251
7:45	5	172	0	0	0	79	3	0	0	0	0	0	2	0	0	0	261
8:00	3	165	0	0	0	74	2	0	0	0	0	0	5	0	1	0	250
8:15	4	164	0	0	0	70	6	0	0	0	0	0	1	0	3	0	248
8:30	2	155	0	0	0	81	4	0	0	0	0	0	3	0	1	0	246
8:45	2	165	0	0	0	93	1	0	0	0	0	0	2	0	4	0	267
9:00																	0
Total	35	1260	0	0	0	601	22	0	0	0	0	0	22	0	11	0	1951

PM Start Time	Estero Eastbound @ Crescent				Estero Westbound @ Crescent				Crescent Northbound @ Estero				Crescent Southbound @ Estero				Total
	Left	Thru	Right	Peds	Left	Thru	Right	Peds	Left	Thru	Right	Peds	Left	Thru	Right	Peds	
4:00	16	145	0	0	0	142	6	0	0	0	0	0	8	0	3	0	320
4:15	21	151	0	0	0	151	9	0	0	0	0	0	9	0	2	0	343
4:30	18	159	0	0	0	149	3	0	0	0	0	0	7	0	2	0	338
4:45	14	161	0	0	0	148	2	0	0	0	0	0	5	0	3	0	333
5:00	21	164	0	0	0	151	4	0	0	0	0	0	10	0	6	0	356
5:15	18	162	0	0	0	154	3	0	0	0	0	0	7	0	4	0	348
5:30	14	159	0	0	0	151	3	0	0	0	0	0	5	0	3	0	335
5:45	16	157	0	0	0	151	4	0	0	0	0	0	6	0	5	0	339
6:00																	0
Total	138	1258	0	0	0	1197	34	0	0	0	0	0	57	0	28	0	2711



43 Barkley Circle, Suite 200
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Project Name: Arches - FMB
Date Completed: 2/13/2024

AM Start Time	Third Eastbound @ Old San Carlos				Third Westbound @ Old San Carlos				Old San Carlos Northbound @ Third				Old San Carlos Southbound @ Third				Total
	Left	Thru	Right	Peds	Left	Thru	Right	Peds	Left	Thru	Right	Peds	Left	Thru	Right	Peds	
7:00	0	4	1		0	0	0	0	4	2	12		1	2	0		26
7:15	1	2	1		0	0	0	0	7	4	4		0	3	0		22
7:30	0	0	0		0	0	0	0	12	1	13		0	2	0		28
7:45	0	2	0		0	0	0	0	4	2	11		0	3	0		22
8:00	0	2	0		0	0	0	0	7	6	13		1	1	1		31
8:15	0	2	3		0	0	0	0	8	9	11		0	5	0		38
8:30	0	1	4		0	0	0	0	4	7	18		4	1	4		43
8:45	0	5	2		0	0	0	0	9	9	19		2	7	1		54
9:00	1	18	11		0	0	0	0	55	40	101		8	24	6		264
Total																	

PM Start Time	Third Eastbound @ Old San Carlos				Third Westbound @ Old San Carlos				Old San Carlos Northbound @ Third				Old San Carlos Southbound @ Third				Total
	Left	Thru	Right	Peds	Left	Thru	Right	Peds	Left	Thru	Right	Peds	Left	Thru	Right	Peds	
4:00	1	5	1		0	0	0	0	4	18	70		4	6	1		110
4:15	0	8	1		0	0	0	0	3	20	38		2	6	1		79
4:30	0	10	2		0	0	0	0	7	20	54		7	5	1		106
4:45	1	7	1		0	0	0	0	5	19	30		4	6	2		75
5:00	2	6	2		0	0	0	0	3	11	28		8	7	0		67
5:15	0	4	1		0	0	0	0	3	10	33		3	8	2		64
5:30	1	3	0		0	0	0	0	6	13	18		2	4	0		47
5:45	0	8	2		0	0	0	0	5	15	27		2	12	0		71
6:00	5	51	10		0	0	0	0	36	126	298		32	54	7		619
Total																	

APPENDIX B: TRAFFIC VOLUME COUNT INTERSECTION TALLY SHEET

Cars = passenger cars, minivans, SUVs, vans, and pickup trucks
Trucks = other trucks and buses (Record as 1000 lbs or less)

Intersection Volume Count

N/S Street Ad Sai Carlos Boulevard Date 2/13/24 Time 7:40 to 7:45
 EW Street Esters Boulevard Weather sierra Observer sierra
 Intersection Control Stop sign

APPENDIX B: TRAFFIC VOLUME COUNT INTERSECTION TALLY SHEET

Intersection Volume Count

Cars = passenger cars, cars, vans, motorcycles, and pick-up trucks
Trucks = other trucks and buses. (Record school buses with SB.)

NS Street Crescent street
EW Street Esten Boulevard
Intersection Control Light

Date 02/15/10 Time 1:50 ID 7
Weather NIC
Observer NICK

The diagram shows a four-way intersection with the following traffic flow indicators:

- Top-Left Quadrant:** Arrows for Trucks and Cars moving right.
- Top-Right Quadrant:** Arrows for Cars and Trucks moving left.
- Bottom-Left Quadrant:** Arrows for Trucks and Cars moving right.
- Bottom-Right Quadrant:** Arrows for Trucks and Cars moving left.

Tally marks are present in the central intersection area and at the four corners, indicating vehicle counts for both cars and trucks.

APPENDIX B: TRAFFIC VOLUME COUNT INTERSECTION TALLY SHEET

Count passenger cars, schoolbuses, motorcycles, and pickup trucks. Trucks other than schoolbuses (if used) schoolbuses with 1000

Intersection Volume Count

N/S Street Old San Carlos Boulevard Time 7:00 to 7:15
 Date 2-24
 E/W Street Third Street
 Intersection Control Stop Sign Weather Clear
 Observer ---

The diagram shows a four-way intersection. Each approach (Northbound, Southbound, Eastbound, Westbound) has two lanes: a left-turn lane and a through/right-turn lane. Arrows indicate the direction of traffic flow for each lane. Handwritten tally marks are present in the 'Cars' lanes for Northbound, Southbound, and Westbound approaches. A large 'X' is drawn in the 'Cars' lane for the Eastbound right-turn movement.

TRIP GENERATION EQUATIONS

Resort Hotel (330)

Vehicle Trip Ends vs: Rooms

On a: **Weekday,**

Peak Hour of Adjacent Street Traffic,

One Hour Between 7 and 9 a.m.

Setting/Location: General Urban/Suburban

Number of Studies: 6

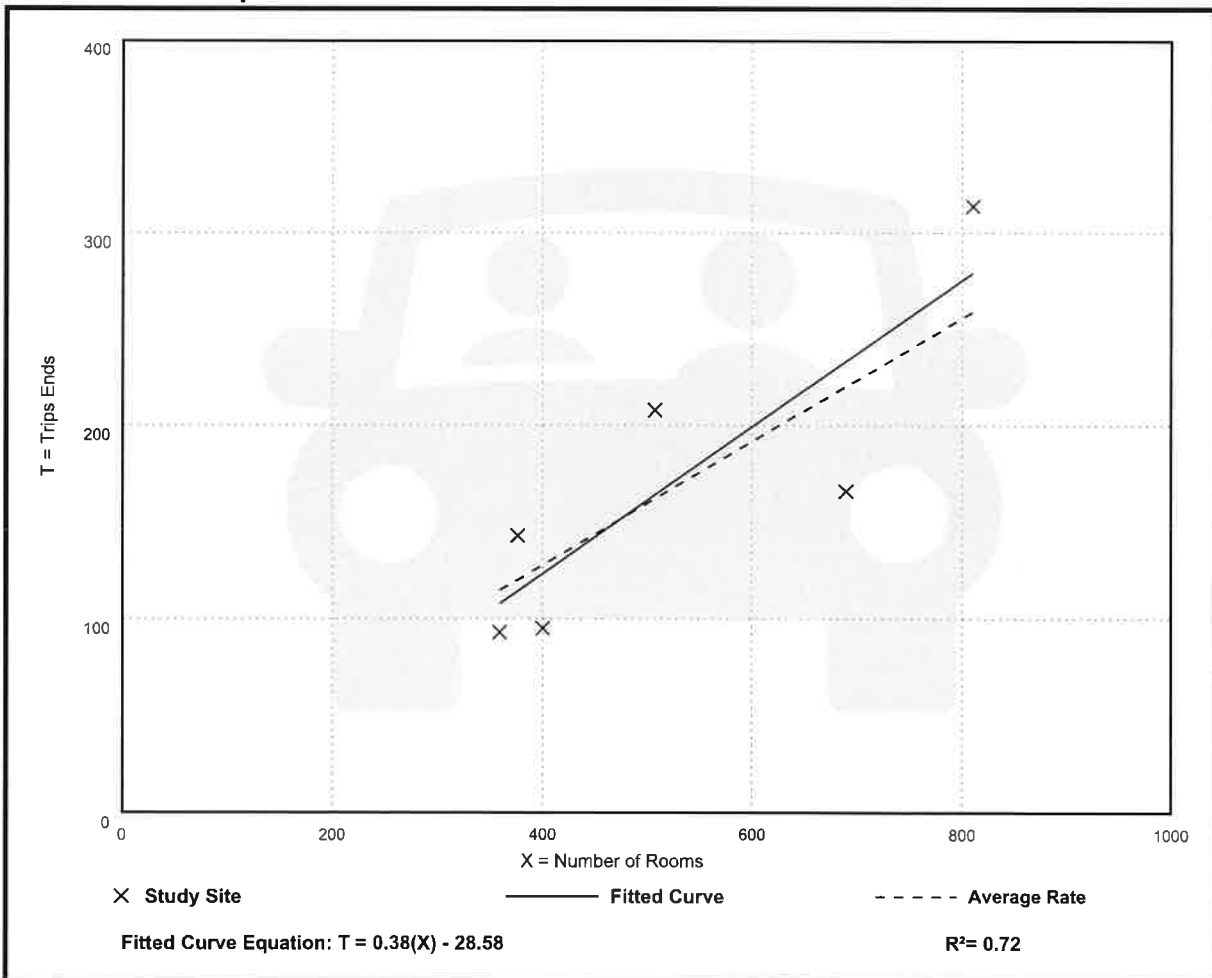
Avg. Num. of Rooms: 524

Directional Distribution: 72% entering, 28% exiting

Vehicle Trip Generation per Room

Average Rate	Range of Rates	Standard Deviation
0.32	0.24 - 0.41	0.08

Data Plot and Equation



Resort Hotel (330)

Vehicle Trip Ends vs: Rooms

On a: **Weekday,**

Peak Hour of Adjacent Street Traffic,

One Hour Between 4 and 6 p.m.

Setting/Location: General Urban/Suburban

Number of Studies: 9

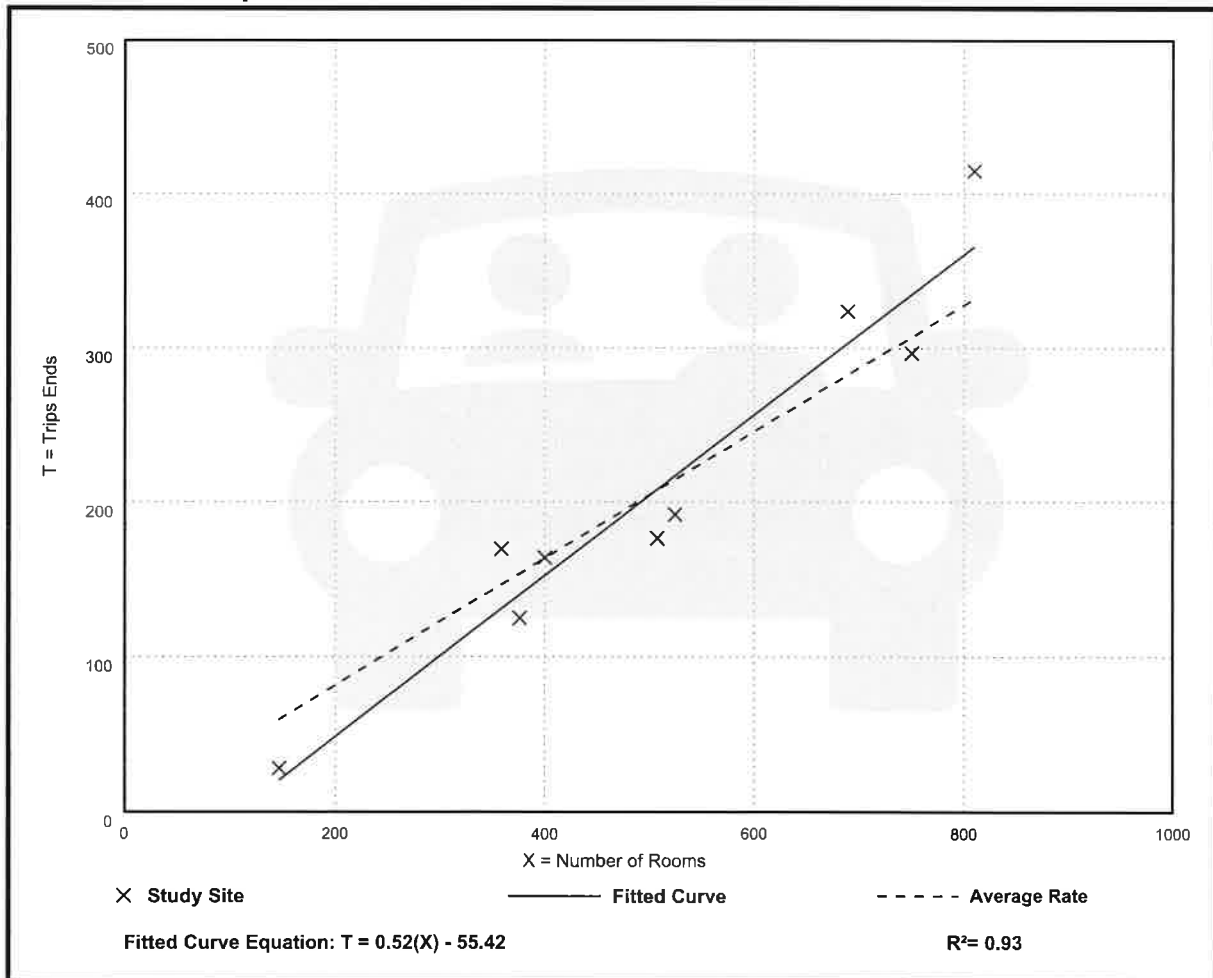
Avg. Num. of Rooms: 507

Directional Distribution: 43% entering, 57% exiting

Vehicle Trip Generation per Room

Average Rate	Range of Rates	Standard Deviation
0.41	0.19 - 0.51	0.08

Data Plot and Equation



Resort Hotel (330)

Vehicle Trip Ends vs: Rooms

On a: Weekday,

AM Peak Hour of Generator

Setting/Location: General Urban/Suburban

Number of Studies: 6

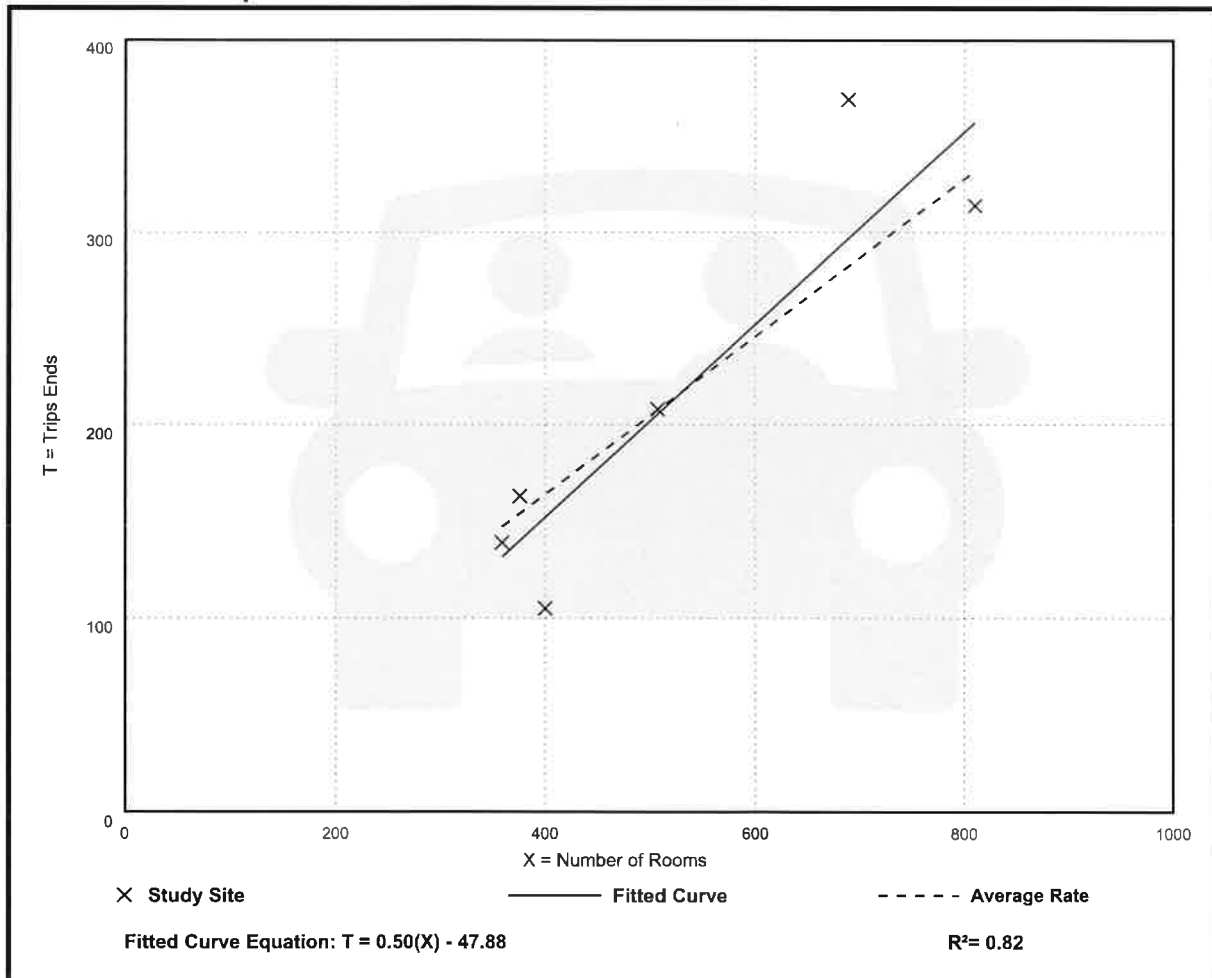
Avg. Num. of Rooms: 524

Directional Distribution: 63% entering, 37% exiting

Vehicle Trip Generation per Room

Average Rate	Range of Rates	Standard Deviation
0.41	0.26 - 0.54	0.09

Data Plot and Equation



Marina (420)

Vehicle Trip Ends vs: Berths
On a: Weekday

Setting/Location: General Urban/Suburban

Number of Studies: 2

Avg. Num. of Berths: 939

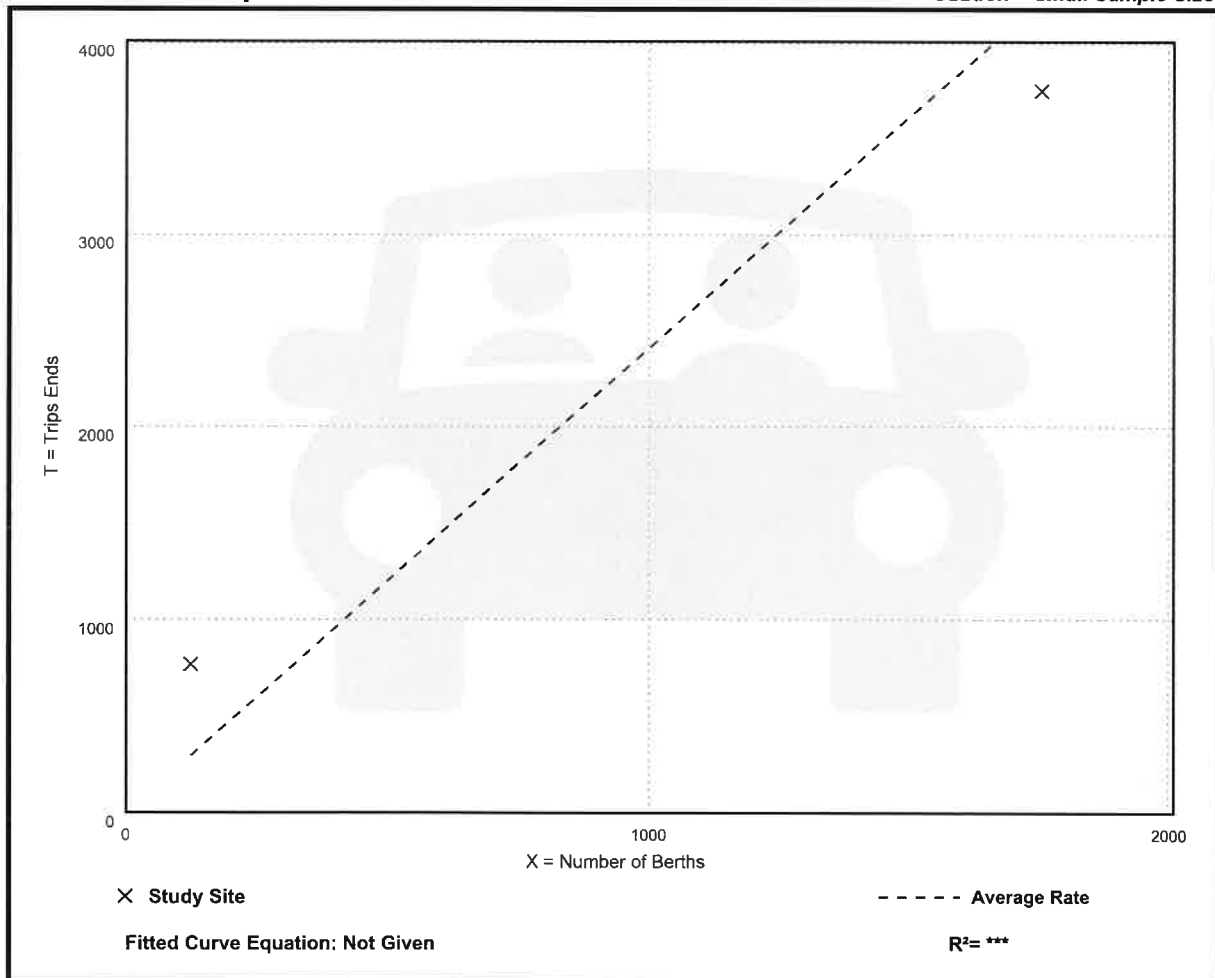
Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per Berth

Average Rate	Range of Rates	Standard Deviation
2.41	2.14 - 6.21	***

Data Plot and Equation

Caution – Small Sample Size



Marina (420)

Vehicle Trip Ends vs: Berths

On a: **Weekday,**

Peak Hour of Adjacent Street Traffic,

One Hour Between 7 and 9 a.m.

Setting/Location: General Urban/Suburban

Number of Studies: 1

Avg. Num. of Berths: 300

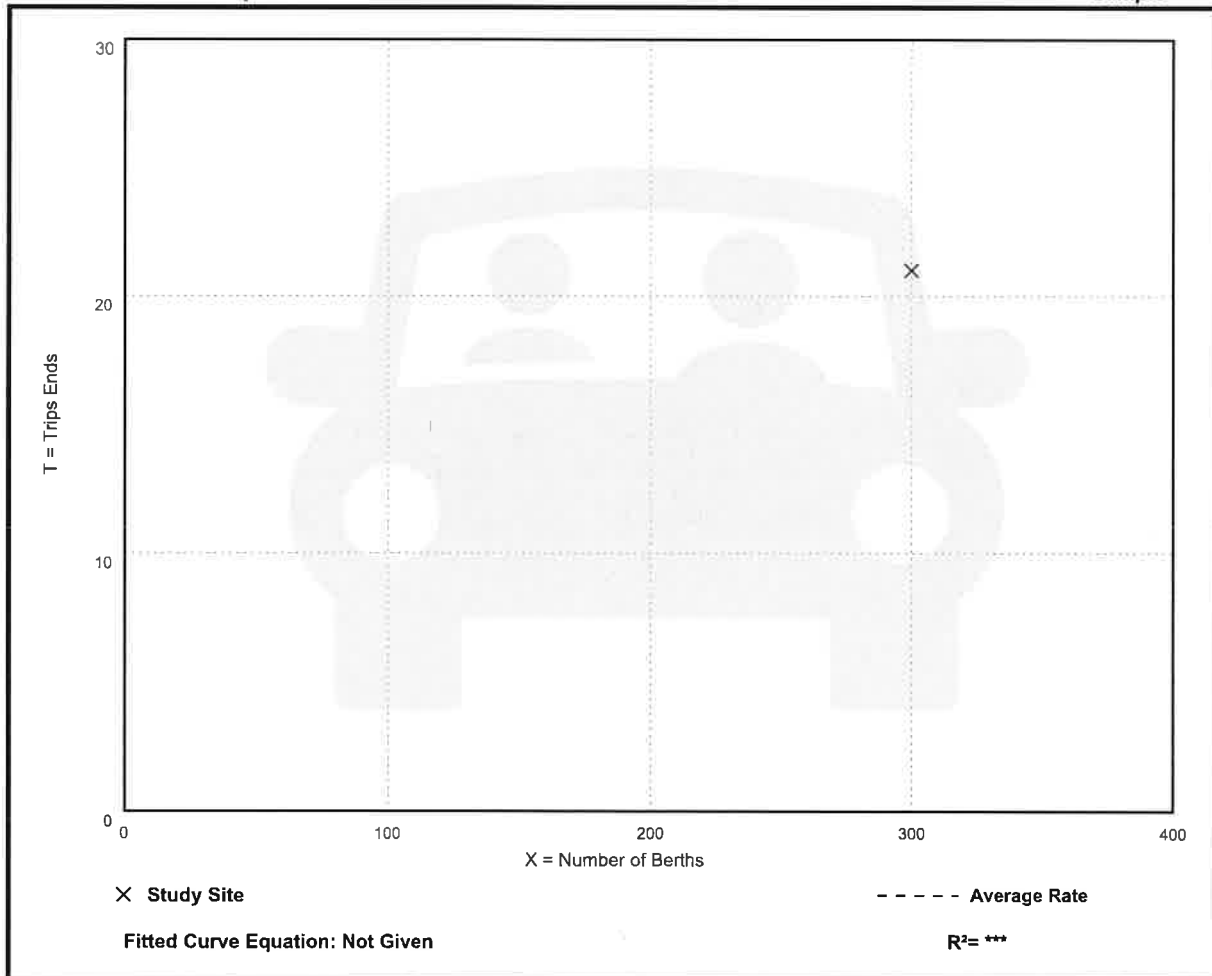
Directional Distribution: 33% entering, 67% exiting

Vehicle Trip Generation per Berth

Average Rate	Range of Rates	Standard Deviation
0.07	0.07 - 0.07	***

Data Plot and Equation

Caution – Small Sample Size



Marina (420)

Vehicle Trip Ends vs: Berths

On a: **Weekday,**

Peak Hour of Adjacent Street Traffic,

One Hour Between 4 and 6 p.m.

Setting/Location: General Urban/Suburban

Number of Studies: 1

Avg. Num. of Berths: 300

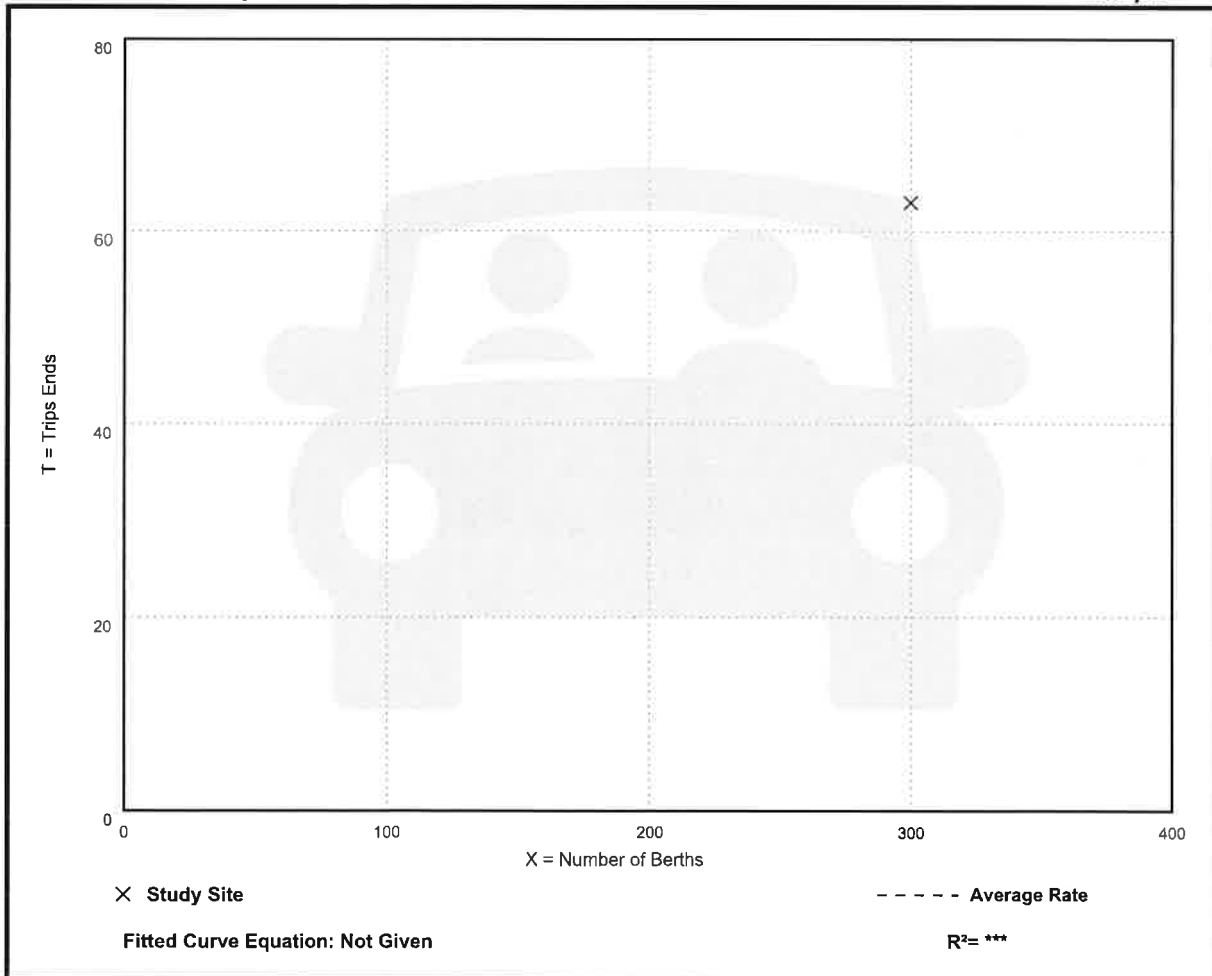
Directional Distribution: 60% entering, 40% exiting

Vehicle Trip Generation per Berth

Average Rate	Range of Rates	Standard Deviation
0.21	0.21 - 0.21	***

Data Plot and Equation

Caution – Small Sample Size



MEMORANDUM



AIM Engineering & Surveying, Inc.

Tampa Office
201 E. Kennedy Boulevard, Suite 1800
Tampa, Florida 33602
813-627-4144
www.aimengr.com

Date: April 4, 2025

To: Judith Frankel, AICP – Principal Planner, Community Development
Town of Fort Myers Beach
Kendra Rosa – Zoning Coordinator, Town of Fort Myers Beach

From: Michael Adams, AICP – AIM Engineering & Surveying

Subject: Arches Bayfront Resort Traffic Impact Statement – Review Comments

We have reviewed the March 25, 2025 Traffic Impact Statement (TIS) prepared by TR Transportation Consultants, Inc. for the proposed Arches Bayfront Resort. Based on our review of the information provided, we have the following comments:

1. Page 1, paragraph 3: Please include what the project build-out year will be (2027).
2. Page 1, Paragraph 4: Please remove this paragraph. There is no need to mention the HPE TIS as this TIS replaces that one. Add a paragraph that explains to the reader that this report will analyze the impact of the project's trip generation and trip distribution on the area roadway segments and intersections.
3. Page 3, Existing Conditions: A description of the bridge over Mantanzas Pass and San Carlos Boulevard north of Main Street needs to be included since those roadways are analyzed in the TIS.
4. Page 4, Proposed Zoning: First paragraph, please remove the phrase "per the HPE traffic studies previously submitted,".
5. Page 5, Trip Distribution: Please correct the spelling of the title "Trip Distribution". Please check and correct spelling throughout the document as there are other instances of misspelled words.
 - a. In the first paragraph, please remove "The trip distribution was previously agreed upon in the HPE traffic analysis and reviewed by AIM Engineering." Please replace this with "The trip distribution was previously agreed to by the Town of Ft. Myers Beach."
 - b. In the second paragraph on page 5, it states that "Significant impact is defined as any roadway projected to experience greater than 10% of the Peak Hour – Peak Direction Level of Service "C" volumes. The specific source of this "definition" of significant impact should be documented in this report.
 - c. Please move Table 1A from the appendix to this section of the report and relabel Table 1A to be Table 3. In addition, comments related to Table 1A are provided below:

- i. Please explain what the column "Percent Project Traffic" is, how the percentages were calculated, and what its purpose is in the analysis.
 - ii. Please indicate in the table what peak hour volumes are included in the "Project Traffic" column. Are these a.m. peak hour volumes? P.m. peak hour volumes? Maximum peak hour volumes?
 - iii. The Estero Boulevard segments should be classified as 2-lane, undivided segments (i.e., 2LU).
 - d. Third paragraph on page 5 - Please include the date of the Lee County Generalized Peak Hour Directional Service Volume table that was used.
6. Page 7, Level of Service Analysis & Intersection Analysis:
- a. Please move Table 2A to this section of the report and re-number as Table 4. Other comments regarding Table 2A are as follows:
 - i. Nine (9) years are included in the column labeled "Yrs of Growth". Footnote #1 implies that the annual growth rate was calculated using nine years of AADT volume data from the Florida Traffic Online database. There are no historic growth trend analyses conducted using the FDOT's Traffic Trends software included in any of the appendices. In addition, there are no annual growth rate calculations (conducted using any other method) included in an appendix. If annual growth rates were actually calculated, this information should be included in an appendix (and the word "calculating" should be replaced with the word "calculated" in the footnote.) If growth rate calculations were not conducted, footnote #1 should be deleted. Also, if the text states that "there has been very little traffic increase on Estero Boulevard in the past eight (8) years", the inclusion of 9 years in the "Yrs of Growth" column (instead of 8 years) seems questionable.
 - ii. Please delete the column labeled "Percent Project Traffic" unless it was used in the analysis.
 - iii. What year is the "Base Year" in the Base Year ADT column? Please include the year in this table.
 - iv. Were the K-Factors, D-factors, and T-Factors listed in the top right corner of this table used to support the roadway segment analysis? If yes, their use should be explained in the text. If not, this information should be deleted.
 - v. It is unclear to where the volumes in the "2023 Pk HR PK Season Peak Dir" column were derived from. In the "Lee County Public Facilities Level of Service Report and Concurrency Report (2024)" found in the appendix, the volume shown for San Carlos Boulevard, for example, is 1,114. Please provide clarification.
 - vi. Please add a column for 2027 AM PK HR PK Season Peak Direction Volume. It appears that the column presently in the table is for PM Peak Hour.
 - vii. Please check the calculations of the 2027 Background +AM Project Volume and the 2027 Background +PM Project Volume columns. For example, the segment of Estero Boulevard east of Old San Carlos Boulevard has volume of 281 in the 2027 Background +PM Project Volume whereas it should be 291 ($268+23=291$).
 - viii. In footnote #2, please change "SYNCRO" to "SYNCHRO".
7. Page 8, Second Paragraph: Please revise the first sentence to state that "The latest traffic count from the station at Donora Boulevard (Count Station # 44) indicates the two-way hourly volumes on Estero Boulevard during March 16, 2022 were less than 1,300 vehicles per hour." Please delete the (TCDS) reference in the second sentence. Please include a table that summarizes the

existing (2022) a.m. and p.m. peak hour two-way volumes, the 2027 a.m. and p.m. peak hour two-way background traffic volumes, and the 2027 a.m. and p.m. peak hour two-way total traffic volumes (i.e., background + project traffic volumes) for this location on Estero Boulevard.

8. Page 9, Table 3: Renumber to Table 5. Please use only two decimal places for the v/c ratios in the table.
9. Page 9, Table 4: Renumber to Table 6, Please revise the last two lines of the table to indicate that this line in the table is the intersection LOS *and delay*.
10. Page 10, Table 5: Renumber to Table 7. Please revise the last two lines of the table to indicate that this line in the table is the intersection LOS *and delay*. In addition, the westbound through movement in the 2027 PM peak hour has a v/c ratio of 1.00. Please adjust the SYNCHRO analysis to show no v/c ratios of 1.00 or higher.
11. Page 10, Last Paragraph: Please delete this paragraph. Please replace this paragraph with a summary of the intersection analysis tables (Tables 3-5).
12. Page 11, Second Paragraph: Please delete this paragraph.
13. Traffic Volume Figures (in the Appendix):
 - a. 2024 Existing Traffic: Please ensure that the same hours are used for the AM and PM peak hours at all intersections for consistency. For example, the Estero Boulevard/Crescent Street intersection uses the PM peak hour volumes from 5:00 to 6:00 PM, while the other two intersections use the volumes from 4:00 to 5:00 PM. Please revise and update all appropriate traffic volume figures and the SYNCHRO analyses with the correct traffic volumes.
 - b. Future 2027 Traffic: Please verify that all movement volumes include both background and project traffic volumes. For example, at the Estero Boulevard/Old San Carlos Boulevard intersection, the southbound left-turn movement volume is shown as 10 vehicles. This 2027 volume is exactly the same as the 2024 existing traffic volume. Please revise the 2027 peak hour traffic volume figures to show background volumes, project traffic volumes, and total traffic volumes.
14. SYNCHRO analyses:
 - c. For the Estero Boulevard/Crescent Street intersection, please change the following:
 - i. Existing AM Peak Hour scenario:
 1. Please revise the SYNCHRO analysis with the correct traffic volumes (see comment 13).
 - ii. Future 2027 AM Peak Hour scenario:
 1. Please revise the SYNCHRO analysis with the correct traffic volumes (see comment 13).
 - iii. Existing PM Peak Hour scenario:
 1. Please revise the SYNCHRO analysis with the correct traffic volumes (see comment 13).
 - iv. Future 2027 PM Peak Hour scenario:
 1. Please revise the SYNCHRO analysis with the correct traffic volumes (see comment 13).

2. Please revise the SYNCHRO analysis so that the westbound through movement has a v/c ratio less than 1.00.
- d. For the Old San Carlos Boulevard/3rd Street intersection, please revise the following:
 - i. Future 2027 AM Peak Hour scenario:
 1. Please revise the traffic volumes to the correct volumes on the revised traffic volume figures (see comment 13).
- e. For the Estero Boulevard/Old San Carlos Boulevard intersection, please revise the following:
 - i. Existing AM Peak Hour scenario:
 1. For the eastbound left-turn movement, please revise the yellow time to 4.5 seconds and the all red time to 2.0 seconds.
 2. No movement should be under 15 seconds.
 - ii. Future 2027 AM Peak Hour scenario:
 1. For the eastbound left-turn movement, please revise the yellow time to 4.5 seconds and the all red time to 2.0 seconds.
 2. No movement should be under 15 seconds.
 - iii. Existing PM Peak Hour scenario:
 1. For the eastbound left-turn movement, please revise the yellow time to 4.5 seconds and the all red time to 2.0 seconds.
 2. No movement should be under 15 seconds.
 - iv. Future 2027 PM Peak Hour scenario:
 1. For the eastbound left-turn movement, please revise the all red time to 2.0 seconds.
 2. No movement should be under 15 seconds.

If you have any questions about any of these comments and would like to discuss these in more detail, please contact us at your earliest convenience.



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

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

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

TIME: 9 AM

DATE: LPA April 8, 2025; 1st Town Council May 5, 2025; 2nd Town Council June 2, 2025

CASE: 20230151 and 202320230152

ADDRESS: 450/445/441/436 Harbor Court, 435/438 Bonita Street, 935/939 Third Street and 401 Old San Carlos Blvd.

APPLICANT: Freeland FL Holdings, LLC./The Neighborhood Company

REQUEST: Requesting a rezoning to a CPD for a 239 unit resort hotel with restaurants, retail and public space

TOWN CONTACT: JUDITH FRANKEL JFRANKEL@FMBGOV.COM

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

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



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Fort Myers Beach, FL 33931

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

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

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

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

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

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

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



February 25, 2025

Town of Fort Myers Beach
Community Development Department
Attn: Ms. Judith Frankel
2525 Estero Blvd.
Fort Myers Beach, FL 33931

**Subject: Response to Staff Email (01-15-25) Comments for DCI Application #20230151
CPD Rezone - Moss Marina/The Arches Bayfront Resort**

Dear Ms. Frankel:

Please accept this letter and revised documents in response to your email dated January 15, 2025, providing further comments/notes based on our coordination call. We have also included revised application/supplemental submittal documents, and a response document related to unresolved TIS comments from the town.

In reply to your review comments, we offer the following responses in **bold**:

Fire Comments:

1. Previously there was access provided between Harbor Ct and Bonita Street, can this be added back? Even with green space, we could have the required stabilized base to provide for access?

Response: The applicant commits to providing at the time of development order approval an accessible stabilized surface meeting the required width between Harbor Ct. and Bonita Street for emergency and fire personnel and vehicles. The MCP (Sheet 2) has been revised to note this commitment.

2. There appear to be walkovers added that may affect access between buildings C & D?

Response: The applicant is agreeable to a condition that all proposed walkovers will be designed at time of development order approval to allow fire and emergency vehicle access.

3. Provide information/clarification on what the Night Controlled Access will be?

Response: Night controlled access will be a system of gated sections with keypad or scanning capabilities to only allow employees, current registered owners/guests of the property and emergency personnel to enter and exit the property from these locations during the night (1 hour after sunset).

Comments/Points of Clarification were prepared by Judith Frankel, AICP:

1. Promenade width.

RESPONSE: As conceptually proposed, the promenade width will vary depending on final development plans at the time of development order approval. The applicant is proposing the following condition to ensure the promenade width is adequate for pedestrians to comfortably walk:

- An unobstructed walkable “clear zone” will be maintained at a minimum of 10 feet and an average 12 feet wide and that will vary in location within the Bayfront Public Promenade area as noted and shown on the approved Master Concept Plan.

2. Proposed Number of Boat Slips:

RESPONSE: Per our parking analysis outlined in the narrative, there are 75 proposed boat slips, inclusive of 6 charter/party fishing boat slips.

3. Updated renderings, including for Building E buffer detail:

RESPONSE: See the attached renderings and exhibit for the proposed Type A buffer adjacent to the canal and Building E.

4. Expected use (or restrictions) of north access from Old San Carlos to Arches Way; safety considerations for pedestrians i.e. lights, sidewalks

RESPONSE: This existing access will continue to function as it does today. All modes of transportation can use this access to move between properties as permitted. An existing ingress/egress easement is in place to allow access between Old San Carlos and the existing Moss Marine property and the proposed Arches Way. While we cannot restrict existing access, no guests, owners and/or visitors in vehicles, biking, walking, or on transit will be directed to use this access. The majority will be directed to the Arches development via 3rd Street to the proposed Arches Way roadway.

5. Conditions related to noise/sound mitigation from Bldg. E

RESPONSE: The Applicant proposes the following condition:

- Outdoor live amplified music or entertainment will not be permitted on Building E’s guest pool deck. Amplified ambient music will be permitted from 10am to 1 hour after sunset.

6. Seawall at Boat Ramp permit – potential Deviation with condition for DEP approval

RESPONSE: The current submittal includes Deviation #5 that seeks a deviation from LDC Section 26-77(b), which states that new or expanded seawalls are not allowed along natural waterbodies in order to allow the existing boat ramp to be filled-in and

capped with a seawall. This effort will not include any expansion or intrusion into the “Back-Bay” and corrects and eliminates an unsafe condition where the existing derelict boat ramp will be filled-in.

The applicant has retained a consultant to further coordinate and seek approval with all state and federal agencies.

7. Detail of arrangement with Town for facility use or reservation for the Town

RESPONSE: The applicant will coordinate with the Town at the time of development order approval to have a legally binding agreement between the Town and the developer/operator for use of the applicable facilities (pump out/fueling services for the town’s mooring field) within the Arches development.

8. Details of COP for sunset deck due to proximity to neighbors, i.e. music restrictions

RESPONSE: MCP Sheet 3 of 5 indicates the locations of the proposed outdoor consumption on premises (COP). As stated previously, outdoor amplified music or entertainment (amplified sound) will not be oriented towards adjacent residential uses and is permitted until 9 pm within Building B’s Sunset Deck area.

9. Bonita Street/Harbor Ct turn arounds to prevent resident driveway use

RESPONSE: The MCP indicates the access points at Harbor Ct. and Bonita St. provide for “Emergency/Limited Access Only.” “Limited Access” is intended to allow vehicles that have unintentionally driven down Harbor Court or Bonita Street to temporarily access the Arches property; maneuver through the turn-around area; and then exit the property. Buildings D and E will have gates restricting access to the buildings so that non-guest/owner vehicles will not be able to have access to the under-building parking areas. Signage will be placed along 3rd Street informing motorists that 3rd Street is for local traffic only (DEAD-END or NO THRU TRAFFIC) and direct visitors and guests/owners down Arches Way to the main entrance.

We look forward to coordinating with you further and are available to answer questions related to this response.

Sincerely,

The Neighborhood Company



Kenrick S. Gallander, AICP
Vice President and Partner

cc: File: #24011.01.02
Mr. Ben Freeland
Mr. Thomas Freeland



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: 401 San Carlos Blvd

STRAP Number: See attached parcel information narrative

Applicant: Freeland FL Holdings, LLC Phone: 615-337-7671

Contact Name: Ken Gallander/Pat Vanasse - The Neighborhood Company Phone: 850-803-5621

Email: kg@theneighborhood.company; pv@theneighborhood.company Fax: _____

Current Zoning District: DOWNTOWN, MARINA, & RESIDENTIAL CONSERVATION

Future Land Use Map (FLUM) Category: PEDESTRIAN COMMERCIAL, MARINA, & MIXED RESIDENTIAL

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

ACTION REQUESTED

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

SUPPLEMENTAL FORM REQUIRED

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

PART I – General Information

A. Applicant*: Ben Freeland Phone: (615) 337-7671

**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: 5333 Hickory Hollow Parkway, Anitoch, TN 37013

Email: Ben.Freeland@freelandauto.com Fax: _____

Contact Name: Ben Freeland Phone: (615) 337-7671



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: Ken Gallander/Pat Vanasse - The Neighborhood Company Phone: 850-803-5621
Address: 5618 Whispering Willow Way
Email: kg@theneighborhood.company; pv@theneighborhood.company Fax: _____

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

Name: Bruce Strayhorn Esq. Phone: (239) 334-1260
Address: 2125 1st Street, Fort Myers, FL 33901
Email: bruce@strayhornlaw.com Fax: _____

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

PART II – Nature of Request

Requested Action (each request requires a separate application)

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

- ☐ Appeal of Administrative Action
- ☐ Vacation ☐ Right-of-Way ☐ Easement
- ☒ Other. Please Explain: Comprehensive Plan Map Change
- _____
- _____

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: 34-212(6) Description: _____
Temporary waiver of Traffic Impact Statement to allow methodology determination

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

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

Signature

Printed Name

STATE OF _____ COUNTY OF _____

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

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

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

_____ as identification.

(SEAL)

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

_____	_____
Signature	Printed Name

AFFIDAVIT

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

I, Ben Freeland (name), as Managing Member (title)
of Freeland FL Holdings, LLC (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Freeland FL Holdings, LLC

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: See application narrative

Property Address: 401 San Carlos 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.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 640 feet
Depth (please provide an average width if irregular in shape) 390 feet
Frontage on street: 430 feet. Frontage on waterbody: 660 feet
Total land area: 4.98 ☒ acres ☐ square feet

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

NW corner of Old San Carlos Blvd and Third street and extending NW along the
bayfront to the canal on the western property line.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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: 401 San Carlos Blvd

STRAP Number: See attached parcel information narrative

Applicant: Freeland FL Holdings, LLC Phone: 615-337-7671

Contact Name: Ken Gallander/Pat Vanasse - The Neighborhood Company Phone: 850-803-5621

Email: kg@theneighborhood.company; pv@theneighborhood.company Fax: _____

Current Zoning District: Downtown, Marina, Mixed Residential

Future Land Use Map (FLUM) Category: PEDESTRIAN COMMERCIAL, MARINA, & MIXED RESIDENTIAL

FLUM Density Range: N/A Platted Overlay: ☐ YES ☒ NO

ACTION REQUESTED

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

SUPPLEMENTAL FORM REQUIRED

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

PART I – General Information

A. Applicant*: Ben Freeland Phone: (615) 337-7671

**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: 5333 Hickory Hollow Parkway, Antioch TN 37013

Email: ben.freeland@freelandauto.com Fax: _____

Contact Name: Ben Freeland Phone: (615) 337-7671



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: Ken Gallander/Pat Vanasse - The Neighborhood Company Phone: 850-803-5621
Address: 5618 Whispering Willow Way
Email: kg@theneighborhood.company; pv@theneighborhood.company Fax: _____

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

Name: Bruce Strayhorn Esq Phone: 239-334-1260
Address: 2125 1st Street, Suite 201, Fort Myers, FL 33901
Email: bruce@StrayhornLaw.com Fax: _____

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

PART II – Nature of Request

Requested Action (each request requires a separate application)

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☐ Other. Please Explain: _____

PART III – Waivers

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

Code Section: 34-212(6) Description: _____
Temporary waiver of TIS at submittal to allow for methodology determination.

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

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

Signature

Printed Name

STATE OF _____ COUNTY OF _____

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

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

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

_____ as identification.

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

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, Ben Freeland (name), as Managing Member (title)
of Freeland FL Holdings, LLC (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

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



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

Freeland FL Holdings, LLC

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

Signature

Ben Freeland

Typed or Printed Name

Managing Member

Title

Date

STATE OF TN COUNTY OF Rutherford

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 10th day of August, 2023, by [Signature] ☒ who is personally known to me OR ☐ who has produced [Signature] as identification.

Seal



[Signature]
Notary Public Signature Exp. 1-17-27

PART VI- Property Information

A. Legal Description:

STRAP: See attached property narrative

Property Address: 401 San Carlos 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.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 640 feet
Depth (please provide an average width if irregular in shape) 391 feet
Frontage on street: 430 feet. Frontage on waterbody: 660 feet
Total land area: 4.98 ☒ acres ☐ square feet

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

NW corner of Old San Carlos and Third Street and extending to bay west to canal.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-D

Additional Required Information for a Planned Development Application

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

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

Project Name: Arches Bayfront CPD
Authorized Applicant: Freeland FL Holdings, LLC
STRAP Number(s): See Parcel Narrative

Current Property Status: Marina, Residential and vacant lands
Current Zoning: Downtown, Mixed Residential, Marina
Future Land Use Map (FLUM) Category: PED, COMMERCIAL, MARINA, & MIXED RESIDENTIAL
Platted Overlay? ☐ yes, ☒ no FLUM Density Range:

Requested Action:

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

PART I Narrative Statements

A. Comprehensive Plan Amendments (check one)

☐	There are NO Comprehensive Plan Amendments pending that could affect the future use of this property.
☒	The following Comprehensive Plan Amendments ARE pending and could affect the future use of this property (list the amendment and give a brief explanation of its possible effect)
Map Change to move Mixed Residential and Marina Parcels into Pedestrian Commerical	
See attached request statement for details	

B. Phasing of Construction

☐	The development is to be constructed in a single phase.
☒	The development is to be constructed in phases as follows: (describe proposed phasing below)
See attached request statement	

C. Comprehensive Plan Compliance.

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

See attached request statement

D. Design Standards Compliance

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

See attached request statement

E. Decision-making Compliance

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

See attached request statement

F. Schedule of deviations and written justification

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

See attached request statement



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

[illegible]

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

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

3/30/2021

Guide to Filing Supplement PH-D for Planned Developments

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

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

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

Case Number will be inserted by Community Development staff.

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

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

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

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

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

Part 1 Narrative Statements:

Comprehensive Plan Amendments

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

Construction Phasing

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

Comprehensive Plan Compliance

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

Design Standards Compliance

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

Decision-making compliance

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

Schedule of deviations and written justification

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

Administrative amendments

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

Part 2 Submittal Requirements

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

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

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

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

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

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

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



I, Ben Freeland, as authorized member of Freeland FL Holdings, LLC owner of property located at 450, 445, 441, and 436 Harbor Ct., 435 and 438 Bonita St., 935 and 939 Third St., and 401 Old San Carlos Boulevard Fort Myers Beach, FL, identified by STRAP Number(s), SEE PAGE 2, hereby authorizes The Neighborhood Company regarding the above-referenced property to serve as agent for the Town of Fort Myers Beach Application for Public Hearings: Other – Comp Plan Amendment & Planned Development – Commercial.

By Signed: _____

Print Name: Ben Freeland

Title: _____

STATE OF _____

CITY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2025 by Ben Freeland, as _____ of Freeland FL Holding, LLC, on behalf of the company(s), who ☐ is personally known to me OR ☐ has produced a(n) driver's license as identification.

(NOTARY STAMP)

Notary Public, State of _____

Print Name: _____

My Commission Expires: _____



STRAP #	ADDRESS
24-46-23-W3-00026.0020	450 Harbor Ct.
24-46-23-W3-00027.0000	450 Harbor Ct.
24-46-23-W3-0030B.0200	445 Harbor Ct.
24-46-23-W3-0030B.0190	441 Harbor Ct.
24-46-23-W3-0030C.0060	436 Harbor Ct.
24-46-23-W3-0030C.0040	435 Bonita St.
24-46-23-W3-0030A.0110	438 Bonita St.
24-46-23-W3-0030A.0030	935 Third St.
24-46-23-W3-0030A.0020	939 Third St.
24-46-23-W3-0030A.0010	401 Old San Carlos Blvd.



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 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.**

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Fort Myers Beach is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the Fort Myers Beach is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☒ The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;

¹ See Section 166.041(4)(c), Florida Statutes.

- b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
- c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
- d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the 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 zoning district map for the Town of Fort Myers Beach. This serves the public health, safety and orderly development of the Town.

Fort Myers Beach. The Neighborhood Company ("Applicant"), on behalf of Freeland FL Holdings, LLC, owners of the property generally located at 450, 445, 441 & 436 Harbor Court, 435 & 438 Bonita Street, 935 and 939 Third Street, 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 ("Property"), filed an application to rezone the properties from Commercial Marina, Residential Conservation, Commercial Office and Downtown to a CPD with a corresponding Schedule of Uses and Master Concept Plan (MCP) with certain deviations from the Land Development Code (LDC) to include a resort

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].*

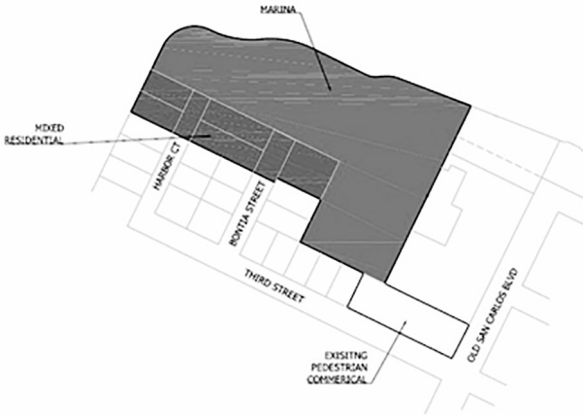
Not applicable.

NOTICE OF PUBLIC HEARINGS/ COMPREHENSIVE PLAN AMENDMENT AND ZONING CHANGE

Notice is hereby given that the Town of Fort Myers Beach Town Council will hold two public hearings, the first at 9:00 AM on Monday, May 5, 2025, and the second on Monday, June 2, 2025, regarding the ordinances listed below. The public hearings will consist of two requests: 1) a change to the Future Land Use Map from Marina to Pedestrian Commercial (two parcels) and Mixed Residential to Pedestrian Commercial (4 parcels) in the Comprehensive Plan and 2) a request to rezone property from Commercial Marina (2 parcels), Residential Conservation (5 parcels), Commercial Office (1 parcel) and Downtown (2 parcels) to a Commercial Planned Development (CPD) zoning district, as more specifically described below:

1. ORDINANCE 25-05

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 CONTAINED IN THE TOWN'S COMPREHENSIVE PLAN, FOR PROPERTIES LOCATED AT 450, 445, 441, & 436 HARBOR COURT, 435 & 438 BONITA STREET, FORT MYERS BEACH FLORIDA, ALSO IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00027.0000; 24-26-23-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, AMENDING THE FUTURE LAND USE MAP FOR THESE PARCELS FROM MIXED RESIDENTIAL (4 PARCELS) AND MARINA (2 PARCELS) TO PEDESTRIAN COMMERCIAL; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.



2. ORDINANCE 25-04

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE REZONING OF 4.98 ACRES OF PROPERTY MORE SPECIFICALLY DESCRIBED HEREIN FROM COMMERCIAL MARINA (2 PARCELS), RESIDENTIAL CONSERVATION (5 PARCELS), COMMERCIAL OFFICE (1 PARCEL) AND DOWNTOWN (2 PARCELS) TO A COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, TO ALLOW A MIXED-USE DEVELOPMENT INCLUDING 263 LODGING UNITS, COMMERCIAL/ RETAIL SPACE AND PUBLIC OPEN SPACE, MORE SPECIFICALLY DESCRIBED AS 436, 441, 445, 450 HARBOR COURT; 435 AND 438 BONITA STREET; 935 AND 939 THIRD STREET AND 401 OLD SAN CARLOS BLVD , ALSO IDENTIFIED AS THE FOLLOWING STRAP NUMBERS: 24-46-23-W3-00027.0000; 24-26-23-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, INCLUDING DEVIATIONS FOR HEIGHT, SETBACKS, HOTEL UNITS, PARKING, LANDSCAPING AND ACCESS; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.



The public hearings will take place at the Town Hall located at 2731 Oak Street, Fort Myers Beach, FL 33931.

All interested individuals may appear and be heard with respect to the case(s) above.

If any person should choose to appeal a decision made at any of these public hearings, such person would need a record of the proceedings, and for that purpose may need to ensure that a verbatim record of the proceedings is made, which record indicates the testimony and evidence upon which the appeal is to be based.

Copies of the full ordinance text are available at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30am and 4:30 PM, Monday through Friday. Reasonable accommodation will be made in accordance with the Americans with Disabilities Act. If you are need of reasonable accommodation, contact Town Hall at 239-765-0202. Anna Baker, Town Clerk.

1. **Request:**

Meeting Date: May 5, 2025

This agenda item is a First Reading and Public Hearing on proposed Ordinance 25-05 (commonly referred to as the Arches Redevelopment Project Small Scale Comprehensive Plan Amendment). If approved at First Reading, a Second Reading will be scheduled for June 2, 2025, at 9:00 AM prior to adoption of Ordinance 25-04 or at another time identified by Town Council.

ORDINANCE TITLE:

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, CONTAINED IN THE TOWN'S COMPREHENSIVE PLAN, FOR PROPERTIES LOCATED AT 450, 445, 441, & 436 HARBOR COURT, 435 & 438 BONITA STREET, FORT MYERS BEACH FLORIDA, ALSO IDENTIFIED AS STRAP

NUMBERS 24-46-23-W3-00027.0000; 24-26-23-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, AMENDING THE FUTURE LAND USE MAP FOR THESE PARCELS FROM MIXED RESIDENTIAL (4PARCELS) AND MARINA (2 PARCELS) TO PEDESTRIAN COMMERCIAL; PROVIDING

FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The Town Council reviews amendments to the Comprehensive Plan Future Land Use Map and makes decisions regarding any amendments.

What the action accomplishes:

The approval by the Town Council will allow the proposed amendment to be sent to the State of Florida Department of Economic Opportunity for final adoption.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Ordinance

4. **Submitter of Information:**

5. **Background:**

Freeland FL Holdings LLC, owner of the subject property, and The Neighborhood Company, applicant for the owner, are requesting a Comprehensive Plan Future Land Use Map Amendment. The amendment requests a change of 3.53 acres of Marina Future Land Use (FLU), known as Moss Marina, and 1 acre of Mixed Residential FLU, to Pedestrian Commercial. There are no proposed text amendments to the Comprehensive Plan. The applicant has also applied for a Commercial Planned Development that encompasses three additional properties that are already mapped as Pedestrian Commercial and do not need to be amended.

On April 8th, 2025 the LPA voted unanimously to recommend approval of this Comprehensive Plan Amendment.

Attachments:

1. Ordinance 25-05 Comprehensive Plan Small Scale Amendment
2. Exhibits A and B to Ordinance 25-05: Maps of CPA Area Existing and Proposed
3. Staff Report CPA
4. Exhibit A: Applicant Narrative

5. Exhibit B: Application
6. Boundary Survey
7. Business Impact Estimate Arches Comp Plan Amend
8. Newspress Publication

Financial Impact:

Unknown

6. Alternative Action

Approve

7. Management Recommendations:

8. Recommended Approval:

Georgina Cid, Community Development Manager
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 4/18/2025
Approved - 4/21/2025
Approved - 4/29/2025
Approved - 4/29/2025
Final Approval - 4/29/2025

ORDINANCE 25-05

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 CONTAINED IN THE TOWN'S COMPREHENSIVE PLAN, FOR PROPERTIES LOCATED AT 450, 445, 441, & 436 HARBOR COURT, 435 & 438 BONITA STREET, FORT MYERS BEACH FLORIDA, ALSO IDENTIFIED AS STRAP

NUMBERS 24-46-23-W3-00027.0000; 24-26-23-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, AMENDING THE FUTURE LAND USE MAP FOR THESE PARCELS FROM MIXED RESIDENTIAL (4PARCELS) AND MARINA (2 PARCELS) TO PEDESTRIAN COMMERCIAL; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW,SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, James Inc ("Applicant"), on behalf of Freeland FL Holdings, LLC, owners of the property generally 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 ("Property"), filed an application for a small-scale future land use map amendment to change the future land use of the property from Marina and Mixed Residential to Pedestrian Commercial; and

WHEREAS, the Property is in the Marina and Mixed Residential Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach, and is under common control of the owners as listed in the public records of Lee County Property Appraiser; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on September 10th, 2024, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted **XXX to XXX** to recommend approval of the small scale map amendment request as consistent with the Town's Comprehensive Plan, and

WHEREAS, on May 5, 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 Fort Myers Beach Land

Development Code (“LDC”); and

WHEREAS, the Town Council scheduled a second reading of the proposed Ordinance and a public hearing on this matter to be legally advertised and held before the Town Council on June 5, 2025; and at which time the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, including the consideration and findings in the staff report, the documents in the record, and the testimony of all interested persons, as required by Section 34-92 of the LDC and Policy 4-C-10 of the 1999 Comprehensive Plan (1999); and

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

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

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

Section 2. The Town Council determines the Applicant **did/did not** meet its burden of proof that the requested small scale map amendment request **does/does not** meet the requirements of the Town Comprehensive Plan and LDC and approving the request for a small-scale Future Land Use Map Amendment from Marina and Mixed Residential to Pedestrian Commercial **is/is not** in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties and **Section 34-92** of the Land Development Code, the Town Council **APPROVES/DENIES** the requested small scale future land use map amendment of the Property.

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

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

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

Section 6. The proposed action does not result in a more restrictive or burdensome amendment to the Town’s Comprehensive Plan or Land Development Code and has been requested by the property owner.

Section 7. Issuance of a development permit by the Town consistent with this Ordinance does not create any right to obtain a permit from a State or Federal agency and does not create any liability on the part of the Town for issuance of the permit if the applicant fails to obtain requisite approvals

or fulfill the obligations imposed by a State or Federal agency or undertakes actions that result in a violation of State or Federal law.

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

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

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

ADOPTED this ____ day of June 2025, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

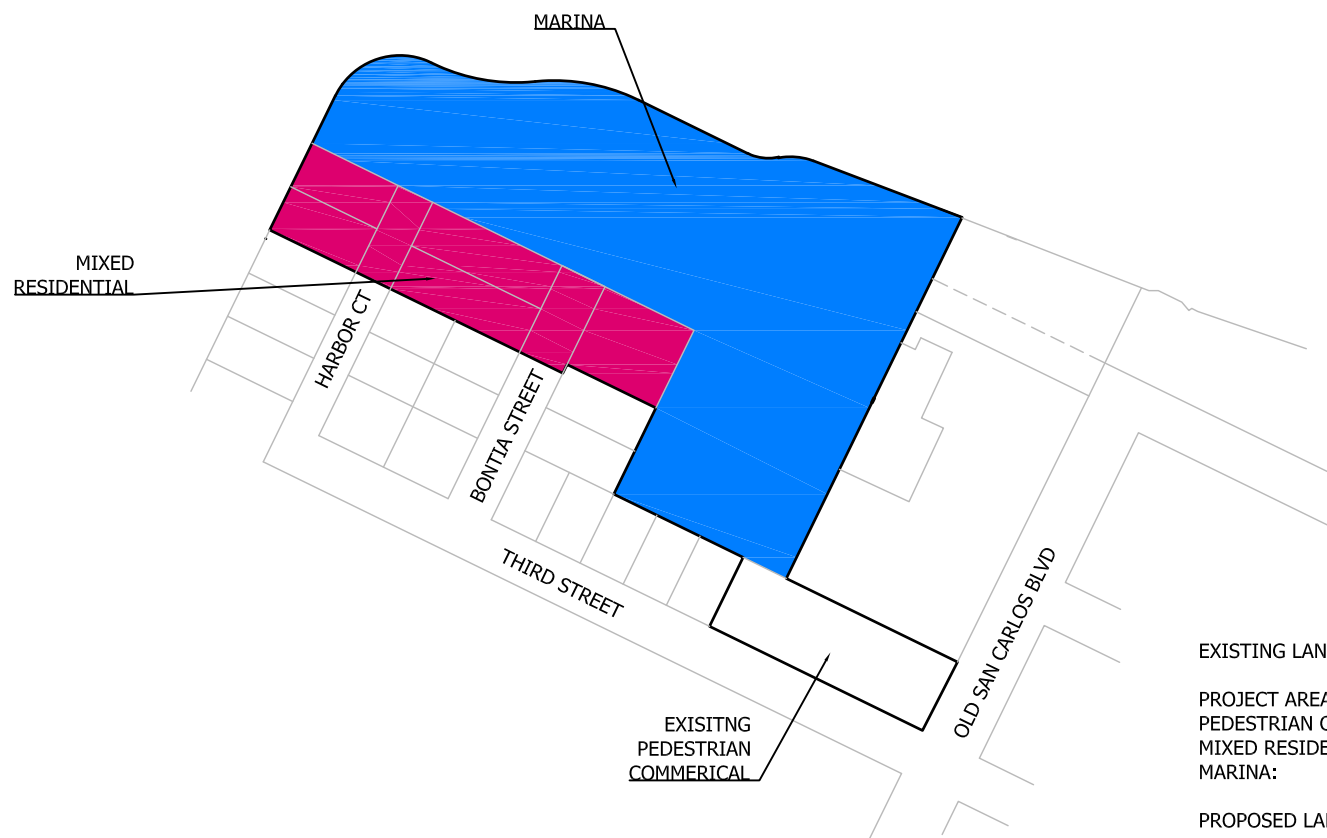
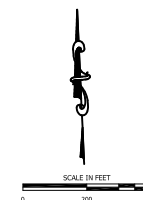
Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of June 2025.

Exhibits

Exhibit A Existing Future Land Use Map

Exhibit B Proposed Future Land Use Map



EXISTING LAND USE TABLE

PROJECT AREA:	4.98 AC	100%
PEDESTRIAN COMMERCIAL:	0.45 AC	9.0%
MIXED RESIDENTIAL:	1.00 AC	20.1%
MARINA:	3.53 AC	70.90%

PROPOSED LAND USE TABLE

PEDESTRIAN COMMERCIAL:	4.98 AC	100%
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INK ENGINEERING, INC
2055 West First Street
Fort Myers, Florida 33901
E-mail: ink@inkengineeringinc.net

EXISTING COMPREHENSIVE PLAN MAP

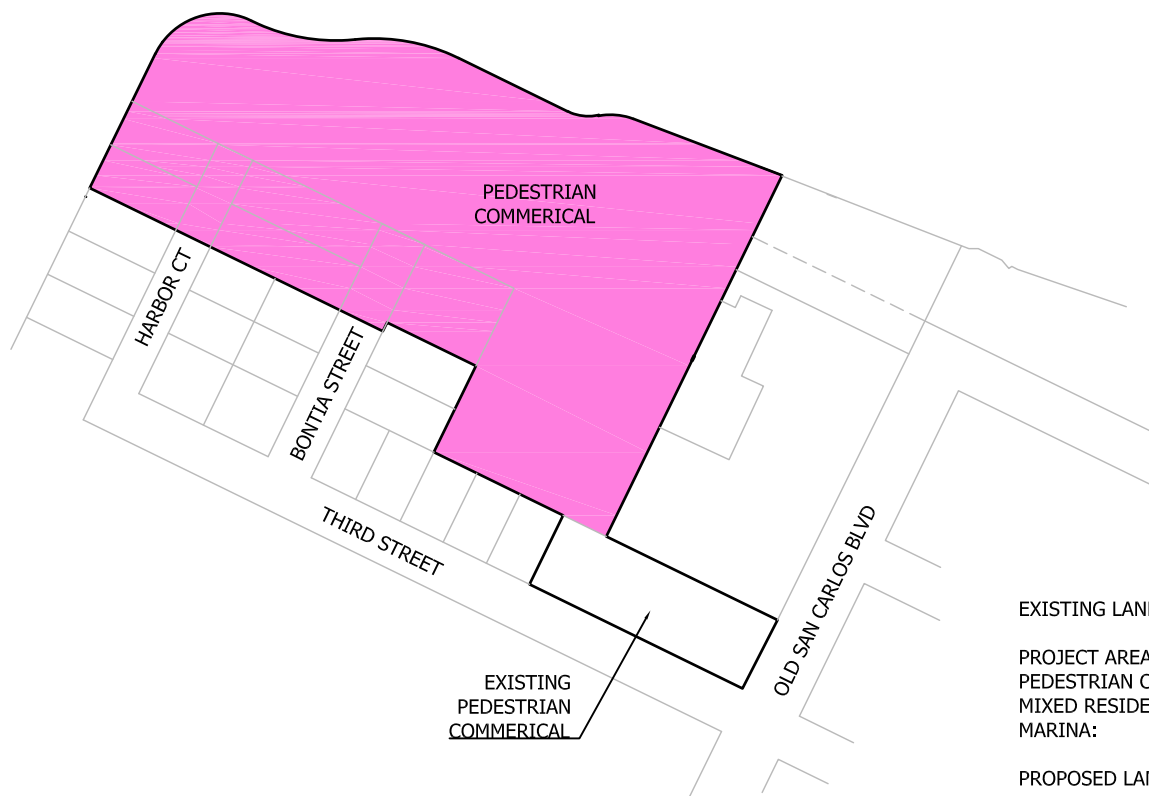
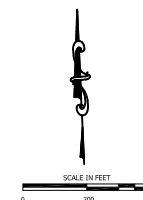
JOB #: 22037

ARCHES BAYSIDE CPA MAP AMENDMENT

DATE: 03.2024

450 HARBOR COURT, FT MYERS BEACH, FL

SHEET: 1 OF 2



EXISTING LAND USE TABLE

PROJECT AREA:	4.98 AC	100%
PEDESTRIAN COMMERCIAL:	0.45 AC	9.0%
MIXED RESIDENTIAL:	1.00 AC	20.1%
MARINA:	3.53 AC	70.90%

PROPOSED LAND USE TABLE

PEDESTRIAN COMMERCIAL:	4.98 AC	100%
------------------------	---------	------

INK ENGINEERING, INC
 2055 West First Street
 Fort Myers, Florida 33901
 E-mail: ink@inkengineeringinc.net

PROPOSED COMPREHENSIVE PLAN MAP

JOB #: 22037

ARCHES BAYSIDE CPA MAP AMENDMENT

DATE: 03.2024

450 HARBOR COURT, FT MYERS BEACH, FL

SHEET: 2 OF 2



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Comprehensive Plan Amendment

CASE NUMBER: CPA20230152

CASE NAME: Arches Bayfront Comprehensive Plan Future Land Use Map Amendment (450 Harbor Court, 445 Harbor Court, 441 Harbor Court, 436 Harbor Court, 435 Bonita Street, 438 Bonita Street)

LPA HEARING DATE: April 8th, 2025

TOWN COUNCIL HEARING DATE: May 5th, 2025

STAFF RECOMMENDATION: DENIAL

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

I. APPLICATION SUMMARY

Applicant/Owner: Freeland FL Holdings, LLC/The Neighborhood Company

Request: Comprehensive plan future land use map amendment to change 3.53 acres of Future Land Use Marina and 1.0 acre of Future Land Use Mixed Residential to Future Land Use Pedestrian Commercial

Subject property: See attached plan

Physical Address: 450 Harbor Court, 445 Harbor Court, 441 Harbor Court, 436 Harbor Court, 435 Bonita Street & 438 Bonita Street

STRAP #s: 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

FLU: Marina & Mixed Residential (Platted Overlay)

Zoning: Commercial Marina (CM) & Residential Conservation (RC)

Adjacent zoning and land uses:

North: Tidal Waters, Matanzas Pass

South: RESIDENTIAL CONSERVATION (RC)
Mixed Residential (Platted Overlay)

East: DOWNTOWN (D)
Pedestrian Commercial

West: Tidal Waters, Canal

II. BACKGROUND AND ANALYSIS

Background:

Freeland FL Holdings LLC, owner of the subject property, and The Neighborhood Company, applicant for the owner, are requesting a Comprehensive Plan Future Land Use Map Amendment. The amendment requests a change of 3.53 acres of Marina Future Land Use (FLU), known as Moss Marina, and 1 acre of Mixed Residential FLU, to Pedestrian Commercial. There are no proposed text amendments to the Comprehensive Plan.

The applicant has also applied for a Commercial Planned Development that encompasses three additional properties that are already mapped as Pedestrian Commercial and do not need to be amended. Those properties are shown on the attached area map (Exhibit A), outlined but not in color, they are 935 & 939 Third Street and 401 Old San Carlos Blvd.

Moss Marina was established in 1969. Matanzas View subdivision was platted in 1952, the first homes appear to have been built in the early 1950s. This neighborhood appears to have been primarily single family and two-family homes prior to hurricane Ian. More than half of the pre-Ian homes are still standing, however staff does not know what portion of the homes are currently habitable.

On April 8th, 2025 the LPA voted unanimously to recommend approval of this Comprehensive Plan Amendment.

Analysis:

The **Marina FLU** is defined as “*designed for prime sites that can provide access to the valuable waters around Fort Myers Beach. This category provides services for recreational boating, including related accessory uses provide that they don’t displace recreational marina services. Cruise ships and similar uses that draw large amounts of vehicular traffic are not permitted in this category. Specific regulations will be places in the Land Development Code.*” And Marina Uses are described by the Comprehensive Plan as “*involving the use of prime waterfront sites to support recreational boating,*

such as wet or dry boat storage, sales/rentals of boats and supplies, and boat repair.”

Marina FLU allows a maximum floor area ratio (FAR) of 1.5 and no density is listed in the Comprehensive Plan for the Marina FLU.

The **Mixed Residential FLU** is defined as *“designed for older subdivisions with mixed housing types on smaller lots, newer high-rise buildings, and mobile homes and RV parks. This category will ensure that Fort Myers Beach retains a variety of neighborhoods and housing types. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for legally existing dwelling units. Commercial activities are limited to lower-impact uses such as offices, motels, churches, and public uses, and must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. The qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. Non-residential uses (including motels and churches) now comprises 7.9% of the land in this category, and this percentage shall not exceed 12%.”* The Mixed Residential FLU allows a maximum floor area ratio (FAR) of 1.5 and typically allows a density of six dwelling units per acre. This neighborhood is in the platted overlay which allows up to 10 dwelling units per acre for legally existing dwelling units. The single acre that is currently FLU Mixed Residential appears to have contained a mix of single-family and two-family dwelling units prior to Hurricane Ian.

The combined Marina and Mixed Residential parcels could allow a total of 295,990 square feet of floor area, through a CPD. The current zoning districts allow a lower square footage. The proposed change to Pedestrian Commercial could allow a total of 493,317 square feet of floor area, through a CPD. This is an increase of almost 200,000 square feet of development potential.

Neighborhood Compatibility:

The current Comprehensive Plan refers to this area as the “north end” in one section and the “core area”, in another section. It describes that “north end” area as follows: *“The north end of the island retains its residential and resort identity. Its motel rooms, older cottages and high-rises all benefit from their proximity to Bowditch Point and the downtown “core area,” yet are comfortably removed from seasonal traffic congestion and outdoor entertainment activities that many residents find intrusive.”* The 1999 Comprehensive Plan does not provide a vision or plan for this part of the “core area”.



Figure from Page 2-2 of 1999 Town of Fort Myers Beach Comprehensive Plan

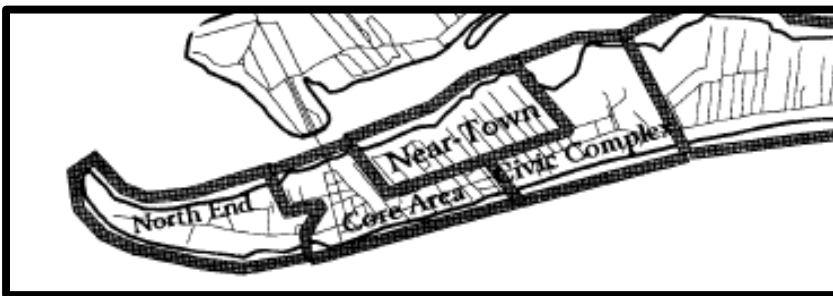
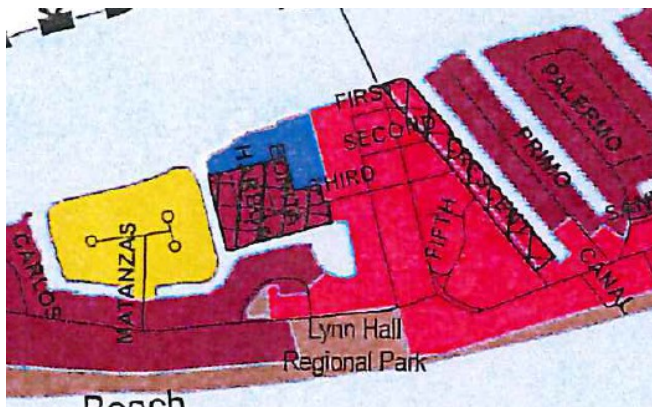


Figure from Page 3-4 of 1999 Town of Fort Myers Beach Comprehensive Plan

The 1999 Comprehensive Plan intended the North End to be quiet and downtown adjacent, whereas the Core Area was to be part of the action with a high level of commercial activity. Unfortunately, it is unclear whether the area of proposed future land use amendment was intended to be part of the North End or the Core Area. The addition of an intense commercial area which is accessible through the neighborhood will create additional traffic and noise impacts which would not be appropriate in a quiet neighborhood but would be acceptable in a downtown neighborhood.



1999 Comprehensive Plan Future Land Use Map

The pattern of Platted Overlay districts on both the east and west side of the Pedestrian Commercial District, creates a buffer between the higher impact downtown and the lower density residential districts. Elimination of that buffer between the intense commercial district and the neighborhoods could increase conflict. Uses that create additional noise in residential neighborhoods have been of particular concern to the Town of Fort Myers Beach in the past. Careful evaluation of outdoor music and activities will be necessary to ensure that nearby homes are not negatively impacted by proposed development on this site.

Infrastructure Impacts:

Evaluation of infrastructure impacts is important to ensure that the Town of Fort Myers Beach will be able to accommodate the additional development that will be allowed with the change from Marina and Mixed Residential to Pedestrian Commercial. The uses that are allowed in Pedestrian Commercial can have a much higher impact on traffic, water use and stormwater. While the applicant is proposing a rezoning to Commercial Planned Development (CPD), it would be possible for other developments to be proposed and approved in that area, therefore, we must consider what impact other uses may have on the Town's infrastructure.

Traffic

The change from Marina and Residential to Pedestrian Commercial will increase density and intensity in the region and this could impact on the surrounding streets. The applicant has not provided an analysis of the maximum development that could occur with the amendment of the Future Land Use Map.

The traffic impact statement for the proposed CPD application is still going through reviews. A final analysis of that traffic impact statement will be available when the review for the CPD is complete. The applicant's CPD is proposing the main entrance to the site from Old San Carlos Boulevard, through the existing Marina Village parking lot. However, it is important to note that Harbor Court and Bonita Street have public rights of way and traffic will be allowed through those streets. This will increase automobile and pedestrian traffic on Third Street, Harbor Court and Bonita Street, which are not wide streets and do not have pedestrian and cyclist infrastructure.

Staff notes that if the proposed resort use were to be approved and developed on these parcels there may be a higher trip capture in the downtown area.

Water

The applicant provided a conceptual water and sewer usage that was accepted by Tetrattech, the Town's engineering reviewer. The usage is based primarily on resort hotel room and restaurant uses, which have a higher demand than most uses that could be developed in the Pedestrian Commercial FLU.

Tetrattech is in the process of completing a hydraulic model for the Town of Fort Myers Beach to determine future infrastructure needs. Per Tetrattech, "The (current) model shows that as long as Lee County Utilities (LCU) and/or the existing Moss

Marina Pump Station (PS) can provide enough supply at sufficient pressure, the FMB water distribution system has ample capacity to support the calculated peak hour water demand for the new development.”

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

Stormwater

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

Overall Impacts

Approval of the Comprehensive Plan Map Amendment will allow additional development on this 4.53 acres which will increase demand on infrastructure. There is currently insufficient infrastructure to serve bicycle and pedestrian needs which are appropriate for the Pedestrian Commercial FLU and potentially insufficient right-of-way width to provide the infrastructure. It is important for the Town of Fort Myers Beach to evaluate capacity and infrastructure availability for development at the time of the amendment to the comprehensive plan future land use map.

Since the Fort Myers Beach Comprehensive Plan was approved in 1999 there have been changes in Marina operators. The Comprehensive Plan identifies 4 marinas. The Island Bay Marina was destroyed by Hurricane Ian and has not yet been rebuilt. The Snook Bight Marina appears to be now located at the former Mid-Island Marina (Comp. Plan Map on page 5-18) location. Fish Tale Marina remains at the original location. Neither of the remaining marinas are located in close proximity to the downtown area. Although the proposed CPD would increase the wet slips. The dry dock storage and servicing of boats would no longer be present.

Findings and Conclusions:

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

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

The Town Council must make a decision based on whether the proposed Comprehensive Plan Amendment is in the best interest of the Town of Fort Myers Beach. The following segments of the Comprehensive Plan may assist the Town Council in determining that interest and impact.

- The Marina Future Land Use Category limits the uses and therefore the potential economic impact of the land. Policy 4-B-7 “MARINA” in the Comprehensive Plan is designed to provide water access to the water bodies around Fort Myers Beach. All marina uses listed in 4-B-7 are permitted in the “PEDESTERIAN COMMERCIAL”. As Fort Myers Beach is an island both visual and physical access to the water is an important component. The changes in the Future Use Category will not necessarily limit access to water.
- In the Coastal Management Element the section on Land Use Conflicts notes, “In a few cases, marinas are completely surrounded by residential dwellings and the only road access is by residential street, thus limiting future expansion potential to protect other existing uses.” This site currently falls into this category. The re-zoning proposal provides an alternate access road to the site that avoids use of the existing residential streets by the proposed development. However, this is not a restriction of the FLU category.
- Policy FLU 1-B-7 “PEDESTERIAN COMMERCIAL”, states that commercial activities must contribute to the pedestrian-oriented public realm. The proposed map amendment would allow further development to contribute to this goal for Old San Carlos and Times Square. Any new development in this area would be required to be pedestrian oriented. This land use category also encourages a mix of uses to contribute to the vibrancy of the area.
- Objective 3-D “Times Square” is to “stimulate the revitalization of the downtown core area (near Times Square) as the nucleus of commercial and tourist activities”. The enlargement of the Pedestrian Commercial FLU would increase the number available land uses permitted at the site. As stated by the applicant: “The Old San Carlos Boulevard commercial corridor will benefit from the expansion of the Pedestrian Commercial designation and a redevelopment project on the bay will complement the recently completed Margaritaville Resort and the proposed redevelopment of Times Square on the gulf side. This creates two significant anchors and will encourage a vibrant and sustainable downtown district. The Old San Carlos corridor has long been identified as an area where infill development should be encouraged.

The proposed FLU map amendment will increase the potential for nuisance issues for the surrounding single-family homes. Issues of noise, traffic (visitor/guest vehicles and delivery/service/sanitation vehicles), view obstruction and general congestion can be associated with significant increases in commercial and lodging activities. These concerns are addressed in the companion CPD application. The Town Council must determine the thoroughness of those mitigating measures as proposed in the CPD application.

Staff finds that the request to amend the Future Land Use Map to change 3.53 acres of Marina FLU and 1.0 acre of Mixed Residential FLU to Pedestrian Commercial FLU is not clearly in the public interest. Creating additional commercial land adjacent to the existing downtown does not necessarily provide a benefit to the Town and will result in traffic and noise impacts to nearby residential uses through elimination of

the buffer between the intense commercial district and the neighborhood which could increase conflict. Additionally, the area lacks sufficient pedestrian and bicycle infrastructure to support the proposed amendment which will increase density and intensity

RECOMMENDATION

Staff has reviewed the request for a Comprehensive Plan Amendment and found that the Comprehensive Plan Amendment request does not meet the requirements set forth in sec. 34-92 and Comprehensive Plan Policy 4-C-10. Therefore, staff recommends **DENIAL** of CPA20230152, a request for a Comprehensive Plan Amendment to change 3.53 acres of Marina FLU and 1.0 acre of Mixed Residential FLU to Pedestrian Commercial FLU. However, if the Town Council find that the concurrent CPD application for this area 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. **APPROVAL** of CPA20230152 would be recommended if the CPD application is found by the Town Council to sufficiently address Policy 4-C-10.

III. EXHIBITS

Exhibit A: Applicant Narrative

Exhibit B: Application



**THE ARCHES BAYFRONT RESORT
FUTURE LAND USE MAP AMENDMENT
CPA20230152**

PROJECT NARRATIVE AND JUSTIFICATION

BACKGROUND & REQUEST

Freeland FL Holdings, LLC, is seeking a Small-Scale Comprehensive Plan Future Land Use Map Amendment and a rezoning of the subject property, comprised of 10 parcels and encompassing ± 4.98 acres. It is located at 450, 445, 441, and 436 Harbor Ct., 435 and 438 Bonita St., 935 and 939 Third St., and 401 Old San Carlos Boulevard. The Comprehensive Plan Amendment is requested to designate all properties to the Pedestrian Commercial Future Land Use designation. This means that 7 of the 10 parcels or ± 4.53 acres are subject to the map change. The concurrent rezoning petition is to rezone all 10 properties to Commercial Planned Development (CPD) Zoning District to develop a luxury mixed-use resort with significant public amenities. All properties are identified by STRAP Number, Address, Future Land Use designations and zoning districts in the table below:

STRAP #	ADDRESS	EXISTING FUTURE LAND USE	EXISTING ZONING
24-46-23-W3-00026.0020	450 Harbor Ct.	Marina	Commercial Marina
24-46-23-W3-00027.0000	450 Harbor Ct.	Marina	Commercial Marina
24-46-23-W3-0030B.0200	445 Harbor Ct.	Mixed Residential	Residential Conservation
24-46-23-W3-0030B.0190	441 Harbor Ct.	Mixed Residential	Residential Conservation
24-46-23-W3-0030C.0060	436 Harbor Ct.	Mixed Residential	Residential Conservation
24-46-23-W3-0030C.0040	435 Bonita St.	Mixed Residential	Residential Conservation
24-46-23-W3-0030A.0110	438 Bonita St.	Mixed Residential	Residential Conservation
24-46-23-W3-0030A.0030	935 Third St.	Pedestrian Commercial	Commercial Office
24-46-23-W3-0030A.0020	939 Third St.	Pedestrian Commercial	Downtown
24-46-23-W3-0030A.0010	401 Old San Carlos Blvd.	Pedestrian Commercial	Downtown



The two petitions were previously filed by Ink Engineering, Inc. on behalf of Freeland FL Holdings, LLC in 2023. The Comprehensive Plan Future Land Use Map Amendment has been reviewed by Town Staff and presented to the Local Planning Agency (LPA) on April 9, 2024. The LPA voted 4 – 2 to deny the request. The Town Council on May 6, 2024, granted a continuance for the Comprehensive Plan Future Land Use Map Amendment to a date uncertain, until such time that it could be presented simultaneously with the Commercial Planned Development rezoning request.

The proposed development concept has been revised to address LPA and public comments. As such, this application for a Small-Scale Comprehensive Plan Future Land Use Map Amendment is being submitted concurrently to the revised CPD documents. These applications are meant to be reviewed as companion items and therefore the narratives have been simplified to reduce redundancy among documents. This narrative and justification report provides evidence and support for the approval of the Comprehensive Plan Future Land Use Map Amendment. The requested change from Marina and Mixed Residential future land use designation to Pedestrian Commercial will allow for the development of the proposed resort at the density and intensity outlined in the CPD petition, including the following:

- 263 hotel units
- 15,000 SF commercial uses
- 336 total parking spaces (with 96 dedicated public spaces)
- Maximum FAR of 2.0

It is important to note these companion items are meant to address the LPA's concern that supporting the proposed map change without the companion CPD created an unknown and allowed a wide range of commercial uses and potential intensities allowed under the Pedestrian Commercial Future Land Use Category. Evaluating and voting on these petitions concurrently provides assurance that the development proposed within the CPD is the only development that can move forward on the subject property. Once approved, the CPD with all its limitations, conditions, commitments and constraints becomes the property's zoning district and dictates what is allowed and developable on this site. Any desire to change the approved CPD would require a CPD Amendment and, if applicable, additional public hearings. As such, it is acknowledged that both requests are inextricably linked and have to be approved as companion items to allow The Arches Bayfront Resort to move forward.

The proposed map change provides a logical extension of the Pedestrian Commercial Future Land Use category and implements the Downtown Core Area vision articulated in the comprehensive plan. The subject property is currently designated Marina on the Future Land Use Map and is home to a commercial marina which has peacefully coexisted with residential uses along Harbor Court and Bonita Street. The proposed map change will allow the continuation of recreational marina uses while allowing a hotel resort which will help revitalize the Downtown Core as intended and expressed on page 3-5 of the Comprehensive



Plan, “Core Area Vision,”

*“The Downtown Core Area **boasts a revitalized entertainment area with tree-shaded outdoor cafes, pedestrian streets, and an “old Estero Island” character to the buildings.***

“Old San Carlos Boulevard is an active pedestrian-friendly “Main Street” linking Times Square and the marina on the Bay side. The street is framed with refurbished and new buildings designed to flood regulations with stores on the ground level. On-street parking is available. Continuous tree-lined sidewalks and safe intersections promote pedestrian safety and comfort. The corner at Third Street has become as a focal point midway between Times Square and the Bay side, with “corner stores” providing a variety of goods and services.

Moreover, the proposed map change and proposed Arches Bayfront Resort are consistent with elements identified in the “Community Design and Livability” section of the comprehensive plan.

“Using design to promote compatibility of mixed land uses, making good neighbors of commercial uses (somewhere to walk to get a quart of milk), and accommodating residential uses of varying types and affordability.”

“Encourage private investment in the economic life, physical form, and natural amenities of the town, directing infill change and redevelopment toward the town’s vision through such means as:

- *Focusing planning efforts on specific areas that are in transition, and reinforcing the quality of existing stable neighborhoods.*
- *Improving linkages to and sharing the town’s precious sensitive resource areas in ways that sustain their viability over time, and creating mechanisms for responsible stewardship of these areas.*
- *Reserving the most important sites at the end of street vistas for civic and religious buildings or monuments and designing other buildings to fit together as ensembles rather standing out as icons.*
- *Strengthen views to the waterfront to promote a feel of shared use of these irreplaceable amenities.”*



The proposed minor map amendment is requested and justified based upon exceptional circumstances and extensive public benefits discussed extensively in the CPD application and summarized as follows:

- Bayfront Promenade
 - Public access to bayfront
 - Splash pad for kids
 - Mix of food, entertainment and retail venues for public and resort guests
- Enhanced view corridors
- Implementation of Old San Carlos Plan
- Creating a cohesive downtown with two dynamic bookends that provide first-rate pedestrian plazas
- Downtown Ferry/Water Taxi Terminal and founding partner of Ferry System
- 96 Public Parking spaces
- Golf Cart Parking
- Bicycles for Resort Guests & Bicycle racks for the public
- Shuttle Service for employees and guests
- Participation in the DRAC program
- Implementation of Park Once Initiative
- Marina with Temporary Docking/Parking for non-motorized watercraft - paddle boards, kayaks and canoes, outfitters providing access to local water and natural environment
- Convenient Boat Pump Out and Fueling service
- Linear Park Memorial Garden Park honoring:
 - FMB history & historic FMB Arches
 - Hurricane Ian impacts & casualties
 - Hurricane Ian rebuild
- Outdoor Market – Farmers and Arts & Crafts Market which will support local businesses and create a social gathering place
- Revitalization of the Downtown and increasing visitor density by creating public spaces, facilitating public access and diversifying food, recreational and entertainment options.
- Replacement of stark, dry storage barns with attractive coastal architecture – form and good design are important, they define and create a sense of place
- Hardened and resilient structures
- Improved water management conditions
- 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

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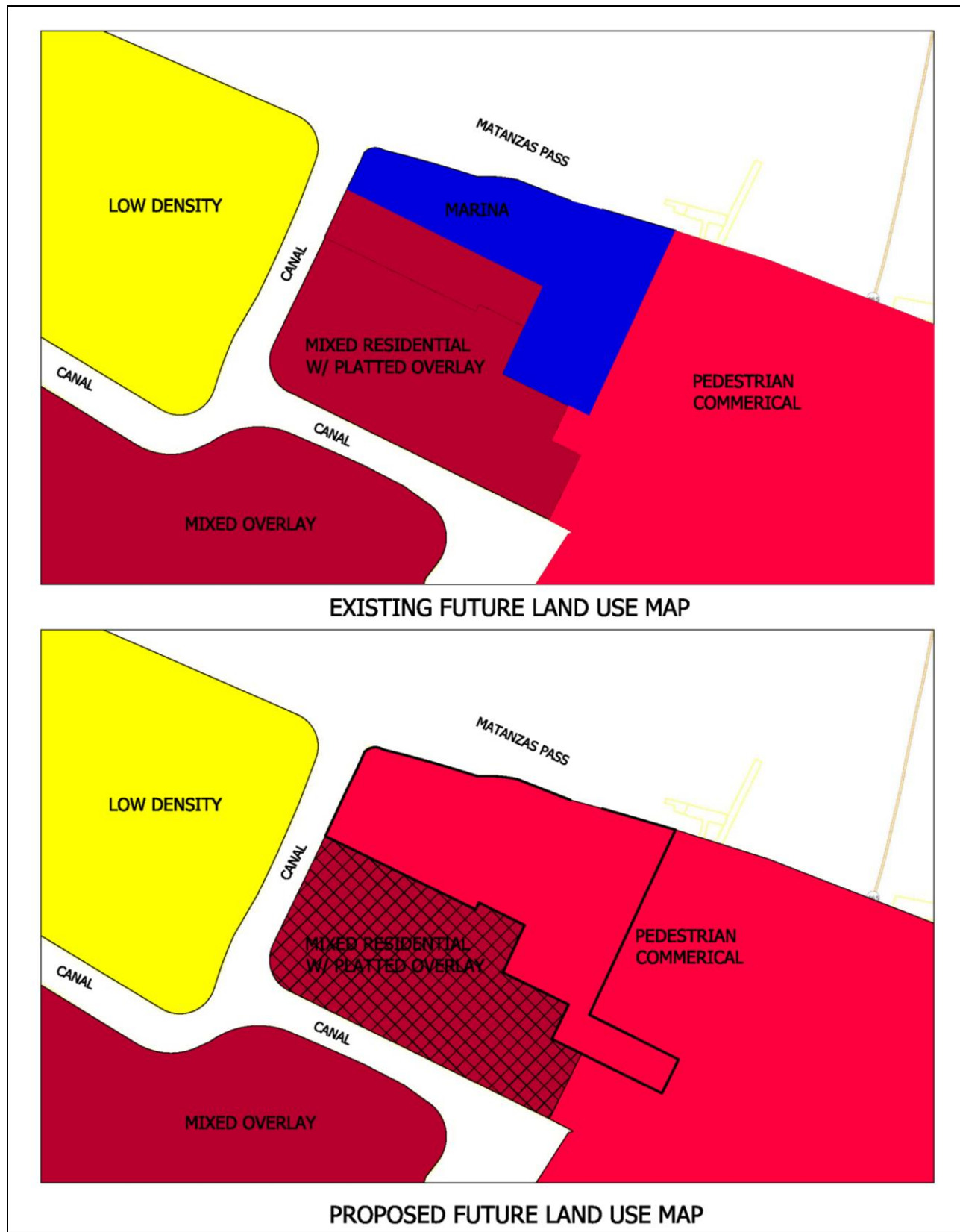


Figure 1. Existing and Proposed Future Land Use Map



EXISTING CONDITIONS & SURROUNDING LAND USES

Moss Marina has long been an iconic landmark on Fort Myers Beach. It was originally established as a marina by John and Betty Moss in 1969 and was expanded by George Freeland in 1983. Having received significant damage due to Hurricane Ian, ownership felt that through the rebuilding process they had a unique opportunity to create a mixed-use bayfront development to complement the Fort Myers Beach downtown district.

The future land use designations and existing land uses surrounding the property are as follows:

- North: Matanzas Pass Bay
- South: Mixed Residential, developed with a blend of single-family/duplex residential and vacation rentals
- East: Pedestrian Commercial, developed with primarily hotel and commercial uses
- West: Canal



Figure 2. Location Map



CONSISTENCY WITH FLORIDA STATUTES & FORT MYERS BEACH COMPREHENSIVE PLAN

Florida Statutes Chapter 163.3177 regulates Comprehensive Plans, including map and text amendments. Map amendments are permitted, subject to specific conditions:

8. *Future land use map amendments shall be based upon the following analyses:*
 - a. *An analysis of the availability of facilities and services.*
 - b. *An analysis of the suitability of the plan amendment for its proposed use considering the character of the development land, soils, topography, natural resources, and historic resources on site.*
 - c. *An analysis of the minimum amount of land needed to achieve the goals and requirements of this section.*

The Town of Fort Myers Beach requires that all map amendments address Comprehensive Plan Policy 4-C-10, which states:

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

The following analysis addresses the proposed map change and its consistency with both Florida Statutes and relevant Goals, Objectives, and Policies of the Comprehensive Plan.

Public Facilities Impacts

Traffic Circulation: A Traffic Impact Statement has been submitted. The Town's traffic consultant provided comments on January 3, 2024. A coordination meeting with town staff was held on January 17, 2024, and the TIS was resubmitted on March 1, 2024. Currently, the TIS is being updated for the pending CPD application for resubmittal. Per the TIS report, the existing roadway network can accommodate the estimated 20 new trips the project will add to Estero Boulevard. No roadway capacity improvements are required as a result of the proposed development.

Sanitary Sewer: Lee County Utilities will provide Sanitary Sewer. There is existing infrastructure that services the site and sufficient capacity for the proposed project. A service availability letter is attached as Exhibit XCP-3.



- Potable Water:* Town of Fort Myers Beach will provide potable water. There is existing infrastructure that services the site and sufficient capacity for the proposed project. A service availability letter is attached as Exhibit XCP-4.
- Surface Water:* The property pre-dates the requirement for stormwater management systems. Redevelopment of the property will require issuance of an Environmental Resource Permit from SFWMD/FDEP for water quality and quantity.
- Parks:* There is no impact to the existing Town Park system. Any rezoning which may provide for residential uses would be evaluated at time of zoning for park impacts that may need to be mitigated.
- Recreation:* There are no impacts to the recreation of the Town. The companion rezone proposes to add recreation facilities as a public benefit.
- Open Space:* Any proposed uses will comply with the Town's Open Space requirements as required by the Land Development Code.
- Fire Protection:* Fire Protection is provided by the Fort Myers Beach Fire and Rescue District. A service availability letter confirming sufficient capacity for the proposed project is attached as Exhibit XCP-5.
- Solid Waste:* The Lee County Solid Waste Department will provide solid waste collection for the project. A service availability letter confirming sufficient capacity for the proposed project is attached as Exhibit XCP-6.
- Safety:* The Lee County Sheriff's Office has jurisdiction in the Town for Public Safety. A service availability letter confirming sufficient capacity for the proposed project is attached as Exhibit XCP-7.
- Mass Transit:* LeeTran has jurisdiction in the Town for Mass Transit services. A service availability letter confirming sufficient capacity for the proposed project is attached as Exhibit XCP-8.
- Environmental:* The subject property does not have any jurisdictional wetlands. There are no upland environmental impacts. Currently, the adjacent state lands are operating



as a marina with wet slip dockage. The facility has operational authorization from FDEP and ACOE with conditions to address current environmental impacts. Any change in development will be required to be consistent with the comprehensive plan, land development code, FDEP, and ACOE rules, regulations, and requirements.

Historical Resources: The site has been developed for a significant period. There are no known Historic Resources on the site.

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Comprehensive Plan Community Design Element

GOAL 1: To continually improve the appearance and function of transportation corridors, commercial areas, and links to the natural and recreational areas.

OBJECTIVE 1-B OTHER PUBLIC SPACES — Beautify public spaces throughout the island.

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

OBJECTIVE 2-B SIDE STREETS — Encourage residents to achieve a higher ambition for their residential streets, improving their walkability, comfort, beauty, interconnectedness, and safety.

GOAL 2: To upgrade residential neighborhoods throughout Estero Island.

OBJECTIVE 2-A HIDDEN PATHS — Create an additional interconnected system of pedestrian and bicycle pathways throughout the island to improve mobility and promote community interaction.

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.

The CPA petition proposes to expand the Pedestrian Commercial Future Land Use designation along the bayfront by redesignating the entire subject property from a combination of Mixed Residential, Marina, and Pedestrian Commercial to Pedestrian Commercial. The area along the Matanzas Pass shoreline is currently designated Marina, which has extremely limited uses. The Pedestrian Commercial designation does not prevent continuation of those marina-related uses but expands the development options and the potential to provide greater public access to the waterfront.

Currently, public access to the bayfront is limited to Bayfront Park at the end of Old San Carlos Boulevard, a few restaurants in the downtown district and Mid Island, and Mound Key Park. Approval of this application and the companion CPD rezone will provide public access to over 670 feet of waterfront and publicly accessible land consisting of the Bayfront Promenade and Linear Park & Memorial Garden. Detailed descriptions of these amenities can be found in the companion CPD petition. The requested change will also allow the ability, through a CPD rezone, to add a resort inclusive of hotel, marina, retail, and other commercial uses at the bayfront end of the downtown corridor.



The Old San Carlos Boulevard commercial corridor will benefit from the expansion of the Pedestrian Commercial designation and a redevelopment project on the bay will complement the recently completed Margaritaville Resort and the proposed redevelopment of Times Square on the gulf side. This creates two significant anchors and will encourage a vibrant and sustainable downtown district. The Old San Carlos corridor has long been identified as an area where infill development should be encouraged. The 1999 “Old San Carlos Boulevard – Crescent Street Master Plan” called for the expansion of the Times Square pedestrian-friendly zone along Old San Carlos Boulevard, recommending redevelopment standards that help create a strong “sense of place” and encourage pedestrian activity throughout the corridor by **“connecting the beach to the bay”**. The Master Plan also outlines the **“Park-Once”** strategy to complement pedestrian-focused design:

Those who must drive to Fort Myers Beach should park in a safe central location and enjoy their visit on foot or use the trolley. This ‘Park-Once’ pattern can be seen in mature towns and in healthy historic communities all around the globe, especially in favorite vacation spots.

The addition of public parking through the redevelopment of the existing marina supports the Park-Once strategy and will be, as the Master Plan suggests, “conveniently located, easily identifiable, safe, and connected to popular destinations in such a way that the walk is part of the attraction, not a hurdle to overcome.”

As described in the companion CPD petition, the project emphasizes pedestrian and bicycle access and the creation of interconnections to the whole of downtown. Downtown Fort Myers Beach is only ±300 yards (less than a quarter mile) wide between the Gulf and Bayfront, making it ideal for pedestrian travel. The short distance along Old San Carlos Boulevard creates a walkable district, thereby reducing the need for vehicle travel. The typical “pedestrian shed”, or distance the average person is able to comfortably walk, is a quarter mile or a 5-minute walk. The expansion of the Pedestrian Commercial designation creates a logical pedestrian shed connecting the proposed project to the Old San Carlos Corridor and Times Square. This site has the ability to add a mixture of uses that enhances the downtown environment and provides a bayfront anchor for an active, vibrant, and sustainable downtown district.



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-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.

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%.

On September 28, 2022, Hurricane Ian swept ashore with a storm surge that caused catastrophic damage to the island. The town suffered a crippling blow with a great loss of property. As redevelopment occurs, it is important that the “small town” identity of Fort Myers Beach remains, honoring the historical legacy of the island. However, replacing structures to meet current codes for flood elevation and other resiliency policies comes at a significant cost. It is extremely difficult, and often nearly impossible, to replace what was lost



while keeping the same eclectic form that took decades to build. Therefore, adaptations to the traditional definition of small town are necessary for the successful redevelopment and future sustainability of Fort Myers Beach.

The proposed expansion of the Pedestrian Commercial future land use designation creates an opportunity for Fort Myers Beach to retain its “small town” identity while still adapting to the challenges of current development standards. Through thoughtful application of a CPD, the redevelopment of the subject property can focus on human-scaled design, environmentally sound planning practices, and a significant addition to the pedestrian-oriented public realm that is encouraged by the Comprehensive Plan.

As mentioned previously, the current uses permitted under the Marina designation are not in conflict with a map change to Pedestrian Commercial, as Policy 4-B-6 permits pre-existing Marina uses. The proposed change would allow for the continuation of a recreational marina, but with high-class amenities and greater public access to the waterfront.

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.

While the proposed map change has no direct impact on Coastal Management, the companion CPD rezone proposes a project that significantly activates the bayfront with plazas, parks/open space areas, and walkability integrated into a vibrant and sustainable downtown district. Existing uses pre-date the requirement for stormwater management; redevelopment of this area will require compliance with current stormwater regulations, which ensures an improvement from current conditions.

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.



OBJECTIVE 7-D VARIETY OF TRAVEL MODES — The Town of Fort Myers Beach shall make efforts every year to improve mobility for its residents and visitors, striving for a balanced transportation system that allows safe movement even during peak periods of traffic congestion. These efforts may include further subsidies to improve the trolley system, the use of impact fees to improve sidewalks, and creation of critical links on the hidden-path system.

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.

OBJECTIVE 7-I LEVEL-OF-SERVICE STANDARD — Maintain minimum acceptable levels of service for the transportation system.

Transportation is an important concern regarding any development on the island. Approval of this map change does not grant any specific uses on a property. Currently, the existing marina zoning district provides the schedule of allowable uses, which can continue consistent with the redesignation to Pedestrian Commercial. Although the proposed map change has no direct impact on transportation management, the Pedestrian Commercial future land use designation, by definition, emphasizes a pedestrian-oriented public realm. The proposed CPD, as discussed previously, seeks to prioritize the creation of new bike and pedestrian networks which will help to reduce traffic associated with redevelopment. Additionally, the CPD petition proposes a water taxi/ferry system that will provide a new alternative method of transportation to multiple destinations on the Island.

The Comprehensive Plan requires that a development maintain specific levels of service. The map change would only allow the potential of adding uses in addition to the Marina. A Traffic Impact Statement has been submitted concurrently and demonstrates consistency with Objective 7-1 and Policy 7-J-2.

It is worth noting that, despite the proposed increase in hotel rooms requested in the companion CPD petition, the Town of Fort Myers Beach has significantly fewer hotel rooms open as of June 2024 than prior to Hurricane Ian. Including new rooms from Margaritaville opened post-Ian, the Lee County Visitor & Convention Bureau estimates that only 42.9% of all pre-Ian hotel rooms are currently open (see table below). Equating increased traffic with the addition of hotel rooms is a common assumption; however, the data clearly indicates that new hotel rooms have not even replaced the rooms closed due to Hurricane Ian. Anecdotal reports of increased traffic post-Ian are more likely a result of a combination of construction-related trips, change in transportation operations and an uptick in day trips from mainland residents.



HOTEL ROOMS (as of 6-10-2024)		
	Pre-Ian Room Count	Post-Ian Room Count (%)
Fort Myers Beach	2,156	1,069 (42.9%)*

*Includes new properties open post-Ian.

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 as a way 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. More detailed descriptions of public benefits can be found in the companion CPD petition.

- **Make it easier for visitors to arrive without a car (Policy 7-D-1)**
 - Shuttle service provided for guests and employees
 - Participation in the DRAC program
 - Mix of uses easily accessible by pedestrians/bicycles and creating internal capture
 - Bicycles provided for guest use
 - Golf cart parking provided
- **Encourage a reliable system of water taxis (7-D-4)**
 - Founding partner in water taxi/ferry system
 - Downtown water taxi/ferry terminal on site
- **Create a hidden-path system (7-D-5)**
 - Separated bike/pedestrian path system integrated throughout the resort and connected to downtown
 - Wayfinding to direct bike/pedestrian traffic towards bayfront
 - ±860' of public promenade area

Additionally, the proposed project supports and enhances the Town's "Park Once" strategy by locating a "fully-amenitized" resort in the heart of downtown where guests who drive can meet all their needs within walking distance. Moreover, the project will provide centrally located public parking spaces that allow day trippers to park once and have convenient access to the beach, Times Square, the Bayfront Promenade, the Old San Carlos Boulevard corridor, and water related activities.



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: 401 San Carlos Blvd
STRAP Number: See attached parcel information narrative
Applicant: Freeland FL Holdings, LLC Phone: 615-337-7671
Contact Name: James Ink PE c/o Ink Engineering, Inc Phone: 239-940-2504
Email: jink@inkeengineeringinc.net Fax: _____
Current Zoning District: Downtown, Marina, Residential Conversation
Future Land Use Map (FLUM) Category: Pedestrian Commerical, Marina, Mixed Residential
FLUM Density Range: _____ Platted Overlay: ☒ YES ☐ NO

ACTION REQUESTED

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

SUPPLEMENTAL FORM REQUIRED

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

PART I – General Information

A. Applicant*: Ben Freeland Phone: (615) 337-7671
**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: 5333 Hickory Hollow Parkway, Anitoch, TN 37013
Email: Ben.Freeland@freelandauto.com Fax: _____
Contact Name: Ben Freeland Phone: (615) 337-7671



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: James Ink PE, c/o Ink Engineering, Inc Phone: (239) 940-2504

Address: 2055 West First Street, Fort Myers, FL 33901

Email: jink@inkengineeringinc.net Fax: _____

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

Name: Bruce Strayhorn Esq. Phone: (239) 334-1260

Address: 2125 1st Street, Fort Myers, FL 33901

Email: bruce@strayhornlaw.com Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

- ☐ Appeal of Administrative Action
- ☐ Vacation ☐ Right-of-Way ☐ Easement
- ☒ Other. Please Explain: Comprehensive Plan Map Change
- _____
- _____

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: 34-212(6) Description: _____
Temporary waiver of Traffic Impact Statement to allow methodology determination

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

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

Signature

Printed Name

STATE OF _____ COUNTY OF _____

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

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

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

_____ as identification.

(SEAL)

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

_____	_____
Signature	Printed Name

AFFIDAVIT

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

I, Ben Freeland (name), as Managing Member (title)
of Freeland FL Holdings, LLC (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

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



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

Freeland FL Holdings, LLC

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: See application narrative

Property Address: 401 San Carlos 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.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 640 feet
Depth (please provide an average width if irregular in shape) 390 feet
Frontage on street: 430 feet. Frontage on waterbody: 660 feet
Total land area: 4.98 ☒ acres ☐ square feet

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

NW corner of Old San Carlos Blvd and Third street and extending NW along the
bayfront to the canal on the western property line.

☒ 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 |

NOTES:
SURVEY BASED ON THE PLAT OF MATANZAS VIEW, RECORDED DEEDS, PREVIOUS SURVEYS BY THIS FIRM, SURVEY BY BENTON LAND SURVEYORS DATED 02-02-89, FOUND MONUMENTATION AND AN OPINION OF TITLE ISSUED BY STRAYHORN, PERSONS-MULICKA & FISHER WITH AN EFFECTIVE DATE OF MARCH 6, 2023.

BEARINGS BASED ON THE U.S. ARMY CORP OF ENGINEERS MATANZAS PASS SURVEY DATED APRIL 1993 WITH THE CENTERLINE OF THE CHANNEL AS BEARING N72°05'47"W.

STATE PLANE COORDINATES LABELED (27) ARE FLORIDA WEST ZONE-1927 DATUM BASED ON THE U.S. ARMY CORPS OF ENGINEERS MATANZAS PASS SURVEY DATED APRIL 1993 AND COORDINATES LABELED (83/07) ARE BASED ON SURVEY-GRADE GPS OBSERVATIONS BASED ON FLORIDA WEST ZONE (NAD 1983/2007 ADJUSTMENT) HOLDING CONTROL POINT BO0B2.

ELEVATIONS BASED ON NAVD OF 1988 AND NGS BENCHMARK BM NO 2 1965.

PARCEL LIES IN FLOOD ZONE AE WITH A BASE FLOOD ELEVATION OF 11' PER FLOOD INSURANCE RATE MAP 12071C05546, WITH AN EFFECTIVE DATE AND INDEX DATE OF NOVEMBER 17TH, 2022 (COMMUNITY NAME: LEE COUNTY AND COMMUNITY NUMBER 125124). SUBJECT TO ADDITIONAL RESTRICTIONS AND DESIGN CRITERIA WITHIN THE LIMWA (LIMIT OF MODERATE WAVE ACTION) LINES AS APPLICABLE AND SHOWN HEREON.

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.

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

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

WETLANDS, IF ANY, WERE NOT LOCATED. THIS SURVEY DOES NOT REFLECT ANY ENVIRONMENTAL MATTERS.

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.

THE MEAN HIGH WATER ELEVATION AS SHOWN HEREON WAS ESTABLISHED BY EXTENDING THE ELEVATION (0.14' NAVD 1988) AT MEAN HIGH WATER INTERPOLATION POINT 872-5366 PER DEP PROCEDURAL APPROVAL DATED JUNE 29, 2011.

DATE OF LAST FIELD WORK 07-02-2023.

PARCEL IDENTIFICATION LIST:

PARCEL ADDRESS: DOCK
PARCEL STRAP #24-46-23-W3-00000.0010
CONTAINS 0.01 ACRES OR (615 SQ FT) MORE OR LESS.

PARCEL ADDRESS: 450 HARBOR COURT, FORT MYERS BEACH, FL 33931

PARCEL STRAP #24-46-23-W3-00027.0000

CONTAINS 1.66 ACRES OR (72,248 SQ FT) MORE OR LESS.

AND
PARCEL STRAP #24-46-23-W3-00028.0020

CONTAINS 1.87 ACRES OR (81,583 SQ FT) MORE OR LESS.

PARCEL ADDRESS: 441 HARBOR COURT, FORT MYERS BEACH, FL 33931

PARCEL STRAP #24-46-23-W3-00308.0190

CONTAINS 0.11 ACRES OR (5,000 SQ FT) MORE OR LESS.

PARCEL ADDRESS: 445 HARBOR COURT, FORT MYERS BEACH, FL 33931

PARCEL STRAP #24-46-23-W3-00308.0200

CONTAINS 0.12 ACRES OR (5,046 SQ FT) MORE OR LESS.

PARCEL ADDRESS: 436 HARBOR COURT, FORT MYERS BEACH, FL 33931

PARCEL STRAP #24-46-23-W3-00300.0060

CONTAINS 0.17 ACRES OR (7,527 SQ FT) MORE OR LESS.

PARCEL ADDRESS: 435 BONITA STREET, FORT MYERS BEACH, FL 33931

PARCEL STRAP #24-46-23-W3-00300.0040

CONTAINS 0.17 ACRES OR (7,509 SQ FT) MORE OR LESS.

PARCEL ADDRESS: 438 BONITA STREET, FORT MYERS BEACH, FL 33931

PARCEL STRAP #24-46-23-W3-0030A.0110

CONTAINS 0.21 ACRES OR (9,299 SQ FT) MORE OR LESS.

PARCEL ADDRESS: 935 THIRD STREET, FORT MYERS BEACH, FL 33931

PARCEL STRAP #24-46-23-W3-0030A.0030

CONTAINS 0.09 ACRES OR (4,000 SQ FT) MORE OR LESS.

PARCEL ADDRESS: 939 THIRD STREET, FORT MYERS BEACH, FL 33931

PARCEL STRAP #24-46-23-W3-0030A.0020

CONTAINS 0.13 ACRES OR (5,760 SQ FT) MORE OR LESS.

PARCEL ADDRESS: 401 OLD SAN CARLOS BOULEVARD, FORT MYERS BEACH, FL

PARCEL STRAP #24-46-23-W3-0030A.0010

CONTAINS 0.23 ACRES OR (10,000 SQ FT) MORE OR LESS.

DESCRIPTION PER TITLE OPINION:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, SAID PARCEL BEING LOTS 19, 20 AND 21, BLOCK B, LOTS 4 THROUGH 7, BLOCK C, LOTS 1 THROUGH 3, 11 AND 12, BLOCK A, MATANZAS VIEW, RECORDED IN PLAT BOOK 9, PAGE 40, AND LANDS DESCRIBED IN PARCELS 2, 3 AND 4 IN OFFICIAL RECORDS BOOK 2738, PAGE 2444, AND LANDS DESCRIBED IN INSTRUMENT NUMBER 202100006561, AND LANDS DESCRIBED IN INSTRUMENT NUMBER 202100006557 RECORDED IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION FORMED BY THE WESTERLY RIGHT-OF-WAY LINE OF OLD SAN CARLOS BOULEVARD (MEASURED 33' FROM THE CENTERLINE AND PERPENDICULAR THERETO) AND THE NORTH RIGHT-OF-WAY LINE OF THIRD STREET (50' WIDE), SAID POINT BEING THE SOUTHEASTERLY CORNER OF LOT 1, BLOCK A, MATANZAS VIEW, PLAT BOOK 9, PAGE 40, RECORDED IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND RUNS THENCE; N63°57'56"W ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 4.00 FEET TO THE SOUTHEASTERLY CORNER OF LOT 4, BLOCK A AS SHOWN ON SAID PLAT; THENCE N26°02'04"E DEPARTING SAID NORTH RIGHT-OF-WAY LINE AND ALONG THE EASTERLY LINE OF SAID LOT 4 FOR 80.00 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 4; THENCE N63°57'56"W ALONG THE NORTHERLY LINE OF LOTS 4, 5 AND 6, BLOCK A OF SAID PLAT FOR 150.00 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 6; THENCE N26°05'15"E ALONG THE EASTERLY LINE OF SAID LOT 9, AND LOT 10, BLOCK A OF SAID PLAT FOR 100.00 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 10; THENCE N63°57'56"W ALONG THE NORTHERLY LINE OF SAID LOT 10 FOR 103.09 FEET TO AN INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF BONITA STREET (50' WIDE); THENCE N26°02'04"E ALONG SAID RIGHT-OF-WAY LINE FOR 90.21 FEET TO THE NORTHWESTERLY CORNER OF LOT 12, BLOCK A OF SAID PLAT; THENCE N63°54'45"W ALONG THE NORTHERLY LINE OF SAID BONITA STREET FOR 50.00 FEET TO THE NORTHEASTERLY CORNER OF LOT 5, BLOCK C OF SAID PLAT; THENCE S26°02'04"W ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BONITA STREET FOR 100.26 FEET TO THE NORTHEASTERLY CORNER OF LOT 3, BLOCK C OF SAID PLAT; THENCE N63°57'56"W DEPARTING SAID RIGHT-OF-WAY LINE OF BONITA STREET AND ALONG THE NORTHERLY LINE OF LOTS 3 AND 8, BLOCK C OF SAID PLAT FOR 149.87 FEET TO AN INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF HARBOR COURT (40' WIDE), SAID POINT BEING THE NORTHWESTERLY CORNER OF SAID LOT 8; THENCE N26°02'04"E ALONG THE EASTERLY LINE OF SAID RIGHT-OF-WAY LINE OF SAID HARBOR COURT FOR 100.40 FEET TO THE NORTHWESTERLY CORNER OF LOT 6, BLOCK C OF SAID PLAT; THENCE N63°54'45"W ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID HARBOR COURT FOR 40.00 FEET TO THE NORTHEASTERLY CORNER OF LOT 20, BLOCK B OF SAID PLAT; THENCE S26°02'04"W ALONG THE WESTERLY LINE OF SAID RIGHT-OF-WAY LINE FOR 100.43 FEET TO THE NORTHEASTERLY CORNER OF LOT 18, BLOCK B OF SAID PLAT; THENCE N63°57'56"W DEPARTING SAID RIGHT-OF-WAY LINE AND ALONG THE NORTHERLY LINE OF SAID LOT 18 FOR 100.00 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 18; THENCE N26°02'04"E ALONG THE WESTERLY LINE OF LOT 19, BLOCK B OF SAID PLAT FOR 50.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 20; THENCE N26°05'15"E ALONG THE WESTERLY LINE OF SAID LOT 20 FOR 50.52 FEET TO THE SOUTHWEST CORNER OF LOT 21, BLOCK B OF SAID PLAT; THENCE N26°05'15"E ALONG THE WESTERLY LINE OF SAID LOT 21 FOR 55.00 FEET TO A POINT OF CURVATURE AND THE SOUTHWESTERLY CORNER OF SAID PARCEL 4 DESCRIBED IN OFFICIAL RECORDS BOOK 2738, PAGE 2444; THENCE ALONG THE NORTHERLY LINE OF SAID LANDS AND SAID CURVE TO THE RIGHT WITH A RADIUS OF 75.00 FEET, A DELTA ANGLE OF 90°00'00", A CHORD BEARING OF N71°05'15"E, A CHORD LENGTH OF 106.07 FEET, FOR 117.81 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG SAID LANDS AND SAID CURVE TO THE LEFT WITH A RADIUS OF 200.00 FEET, A DELTA ANGLE OF 31°47'16", A CHORD BEARING OF S79°48'23"E, A CHORD LENGTH OF 109.54 FEET, FOR 110.96 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG SAID LANDS AND SAID CURVE TO THE RIGHT WITH A RADIUS OF 200.00 FEET, A DELTA ANGLE OF 31°47'16", A CHORD BEARING OF S79°48'23"E, A CHORD LENGTH OF 109.54 FEET, FOR 110.96 FEET TO A POINT OF TANGENCY; THENCE S63°54'45"E SAID LANDS FOR 126.19 FEET TO A POINT OF CURVATURE; THENCE ALONG SAID LANDS AND SAID CURVE TO THE LEFT WITH A RADIUS OF 50.00 FEET, A DELTA ANGLE OF 38°27'45", A CHORD BEARING OF S83°08'38"E, A CHORD LENGTH OF 32.94 FEET, FOR 33.56 FEET TO A NON-TANGENT LINE; THENCE S26°05'15"W FOR 0.85 FEET TO A NON-TANGENT CURVE; THENCE ALONG THE LANDS DESCRIBED IN INSTRUMENT NUMBER 202100006561 AND SAID CURVE TO THE RIGHT WITH A RADIUS OF 67.22 FEET, A DELTA ANGLE OF 31°35'19", A CHORD BEARING OF S84°59'23"E, A CHORD LENGTH OF 36.59 FEET, FOR 37.06 FEET TO A POINT OF TANGENCY; THENCE S69°11'50"E ALONG SAID LANDS FOR 165.78 FEET TO POINT "A"; THENCE S25°58'52"W ALONG THE WESTERLY LINE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2260, PAGE 2267, OFFICIAL RECORDS BOOK 2260, PAGE 2271 AND INSTRUMENT #201600083457 FOR 418.36 FEET TO THE SOUTHWEST CORNER OF PARCEL 3 OF LANDS DESCRIBED IN INSTRUMENT #201600083457 AND THE NORTHWEST CORNER OF LOT 2, BLOCK A, SAID PLAT; THENCE S63°57'56"E ALONG THE NORTHERLY LINE OF LOT 2 AND 1, BLOCK A OF SAID PLAT FOR 197.00 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 1 AND THE WESTERLY RIGHT-OF-WAY LINE OF SAID OLD SAN CARLOS BOULEVARD; THENCE S26°02'04"W ALONG SAID RIGHT-OF-WAY LINE FOR 80.00 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH A PORTION OF A BUTLER ACT PARCEL RECORDED IN OFFICIAL RECORDS BOOK 3423, PAGE 344 AS RECORDED IN INSTRUMENT NUMBER 202100006557:

COMMENCING AT SAID POINT A, N25°58'52"E FOR 35.94 FEET TO THE POINT OF BEGINNING; THENCE N67°32'03"W FOR 17.67 FEET; THENCE N18°42'53"E FOR 10.60 FEET; THENCE N71°17'07"W FOR 21.45 FEET; THENCE N22°31'17"E FOR 10.02 FEET; THENCE S71°17'05"E FOR 41.19 FEET; THENCE ALONG SAID BUTLER ACT PARCEL S25°58'52"W FOR 21.93 FEET; TO THE POINT OF BEGINNING.

CONTAINS 208,587 SQUARE FEET 4.79 ACRES MORE OR LESS.

BEARINGS BASED ON THE U.S. ARMY CORP OF ENGINEERS MATANZAS PASS SURVEY DATED APRIL 1993 WITH THE CENTERLINE OF THE CHANNEL AS BEARING N72°05'47"W.

SURVEY PLAT

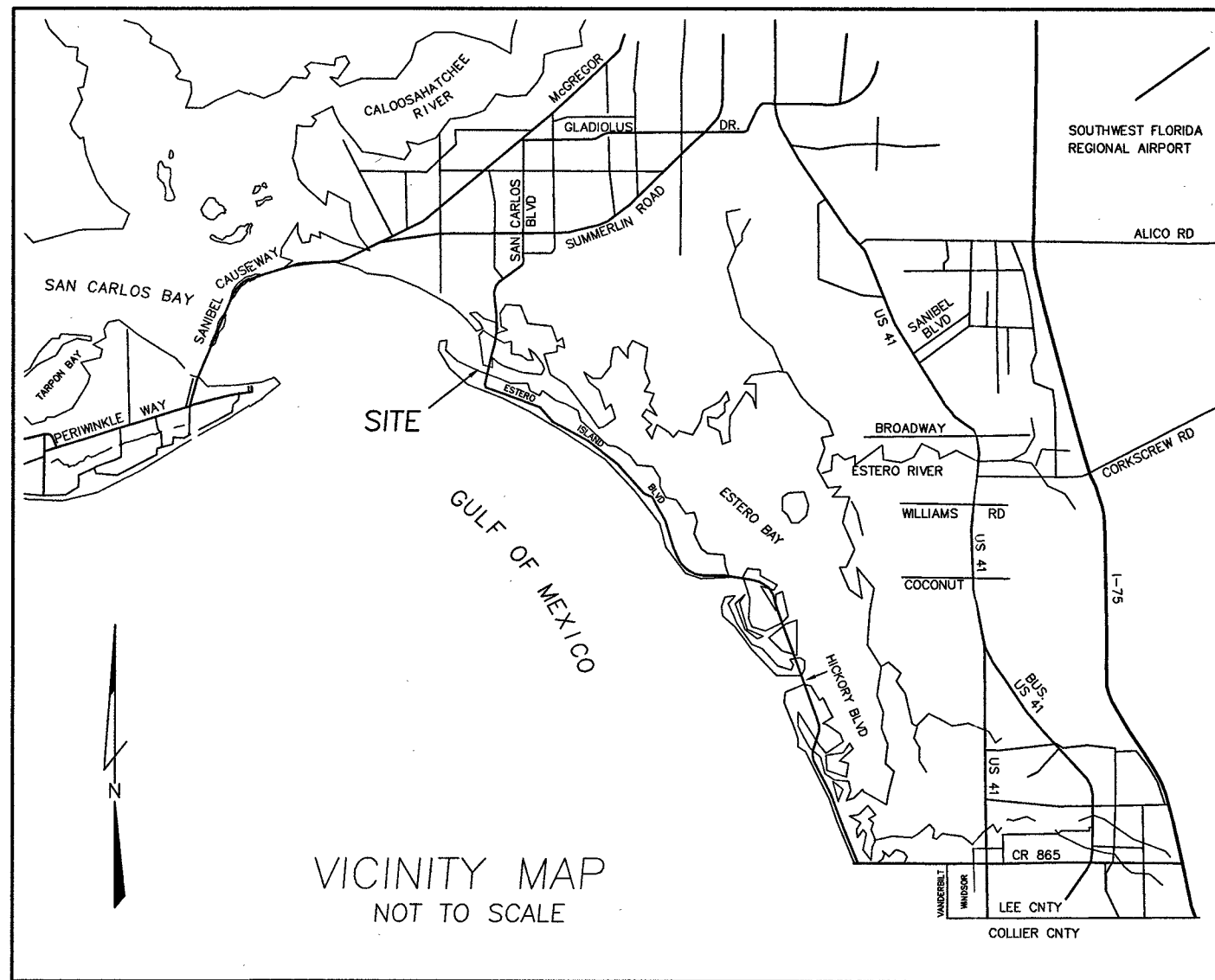
OF

A PARCEL OF LAND

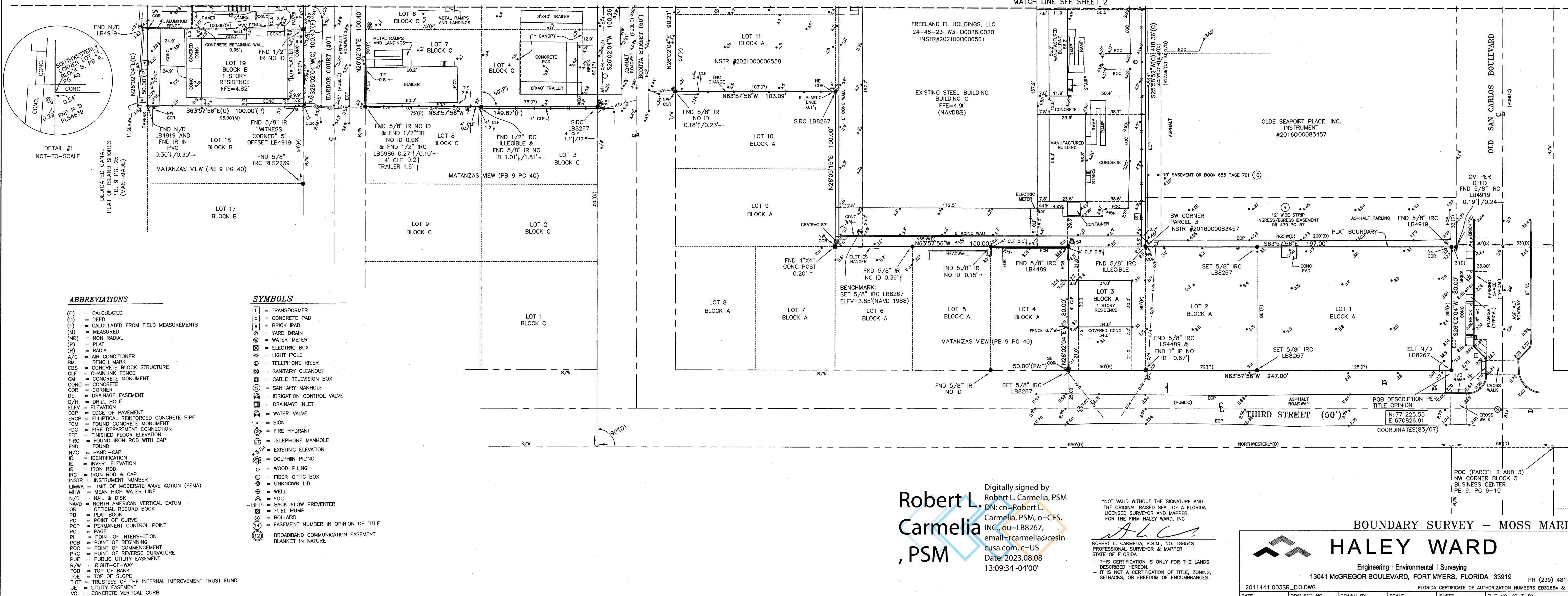
LYING IN

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

0 30' 60' 90'
SCALE 1"=30'



VICINITY 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
BM = BENCHMARK
CBS = CONCRETE BLOCK STRUCTURE
CLF = CHAINLINK FENCE
CM = CONCRETE MONUMENT
CONC = CONCRETE
COR = CORNER
DE = DRAINAGE EASEMENT
D/H = DRILL HOLE
ELEV = ELEVATION
EOP = EDGE OF PAVEMENT
ERCP = ELLIPTICAL REINFORCED CONCRETE PIPE
FCM = FOUND CONCRETE MONUMENT
FDC = FIRE DEPARTMENT CONNECTION
FFE = FINISHED FLOOR ELEVATION
FRC = FOUND IRON ROD WITH CAP
FND = FOUND
H/C = HAND-ON
ID = IDENTIFICATION
IE = INVERT ELEVATION
IR = IRON ROD
IRC = IRON ROD & CAP
INSTR = INSTRUMENT NUMBER
LIMWA = LIMIT OF MODERATE WAVE ACTION (FEMA)
MHW = MEAN HIGH WATER LINE
N/D = NAIL & DISK
NAVD = NORTH AMERICAN VERTICAL DATUM
OR = OFFICIAL RECORD BOOK
PB = PLAT BOOK
PC = POINT OF CURVE
PCP = PERMANENT CONTROL POINT
PI = PAGE
POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
PRC = POINT OF REVERSE CURVATURE
PUE = PUBLIC UTILITY EASEMENT
R/W = RIGHT-OF-WAY
TOB = TOP OF BANK
TOE = TOP OF SLOPE
TITF = TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
UE = UTILITY EASEMENT
VC = CONCRETE VERTICAL CURB

SYMBOLS

1 = TRANSFORMER
C = CONCRETE PAD
B = BRICK PAD
Y = YARD DRAIN
W = WATER METER
E = ELECTRIC BOX
L = LIGHT POLE
T = TELEPHONE RISER
S = SANITARY CLEANOUT
C = CABLE TELEVISION BOX
M = SANITARY MANHOLE
I = IRRIGATION CONTROL VALVE
D = DRAINAGE INLET
V = WATER VALVE
S = SIGN
H = FIRE HYDRANT
M = TELEPHONE MANHOLE
E = EXISTING ELEVATION
D = DOLPHIN PILING
I = INVERT PILING
F = FIBER OPTIC BOX
U = UNKNOWN LID
W = WELL
F = FDC
B = BACK FLOW PREVENTER
P = FUEL PUMP
B = BOLLARD
E = EASEMENT NUMBER IN OPINION OF TITLE
12 = BROADBAND COMMUNICATION EASEMENT
BLANKET IN NATURE

Robert L. Carmelia, PSM
Digitally signed by Robert L. Carmelia, PSM
DN: cn=Robert L. Carmelia, PSM, o=CES, INC., ou=LB8267, email=rcarmelia@cesin.com, c=US
Date: 2023.08.08 13:09:34 -04'00'

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

BOUNDARY SURVEY - MOSS MARINA

HALEY WARD

Engineering | Environmental | Surveying

13041 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919

PH (239) 481-1331

2011441.003SR_DO.DWG
DATE 09-14-22 PROJECT NO. 1441.003 DRAWN BY RC/MAB SCALE 1"= 30' SHEET 1 OF 2 FILE NO. (S-T-R) 24-46-23

REVISED: 07-20-23 UPDATE SURVEY TO DEVELOPMENT ORDER STANDARDS
REVISED: 01-24-23 ADD AREAS FOR PARCELS; CHANGE INSTRUMENT NUMBER

Curve number 1 Radius= 75.00 Delta= 90°00'00" Arc= 117.81 Tangent= 75.00 Chord= 106.07 Chord Brg N71°05'15"E N71°03'00"E(D)	Curve number 2 Radius= 200.00 Delta= 31°47'16" Arc= 110.96 Tangent= 56.95 Chord= 109.54 Chord Brg S79°48'23"E S79°50'40"E(D)	Curve number 3 Radius= 200.00 Delta= 31°47'16" Arc= 110.96 Tangent= 56.95 Chord= 109.54 Chord Brg S79°48'23"E S79°50'40"W(D)	Curve number 4 Radius= 50.00 Delta= 38°27'45" Arc= 33.36(C) Tangent= 32.17(D) Chord= 17.44 Chord Brg S83°08'38"E(C) S82°23'10"E(D)	Curve number 5 Radius= 75.00 Delta= 10°54'52" Arc= 14.29 Tangent= 7.17 Chord= 14.27 Chord Brg N31°32'41"E
Curve number 6 Radius= 67.22(D&C) Delta= 31°35'19" Arc= 37.06(D&C) Tangent= 19.01 Chord= 36.59(D&C) Chord Brg S84°59'23"E(C) S86°04'38"E(D)	Curve number 7 Radius= 75.00 Delta= 79°05'08" Arc= 103.52 Tangent= 61.92 Chord= 95.50 Chord Brg S76°32'41"E			

(BEARING BASIS)
S72°05'47"E

CENTERLINE OF FEDERAL CHANNEL
D.O. FILE NO. 57-36395

RANGE 200'

MATANZAS PASS

SPECIAL NOTE:
THE INFORMATION REGARDING BOUNDARIES OF RIPARIAN RIGHTS REPRESENTS THE GENERALLY ACCEPTED METHODOLOGY FOR DETERMINING SUCH RIPARIAN LINES. HOWEVER, A BINDING DETERMINATION OF RIPARIAN BOUNDARIES CAN ONLY BE MADE BY AGREEMENTS OF THE AFFECTED PARTIES OR BY A FINAL ADJUDICATION OF A COURT OF COMPETENT JURISDICTION. ACCEPTANCE OF THIS SURVEY AND ISSUANCE OF A PERMIT DOES NOT CONSTITUTE A BINDING DETERMINATION OF RIPARIAN BOUNDARIES.

SPECIAL EASEMENT NOTE:
APPARENT 10' FPL EASEMENT PER DRAWING PREPARED BY SEAN WATKINS, LUTZ & KASSEL, INC. DATED 8-8-13. RECORDING INFORMATION NOT PROVIDED IN TITLE COMMENT AND ITS EXISTENCE NOT VERIFIED BY THIS FIRM.

SURVEY PLAT

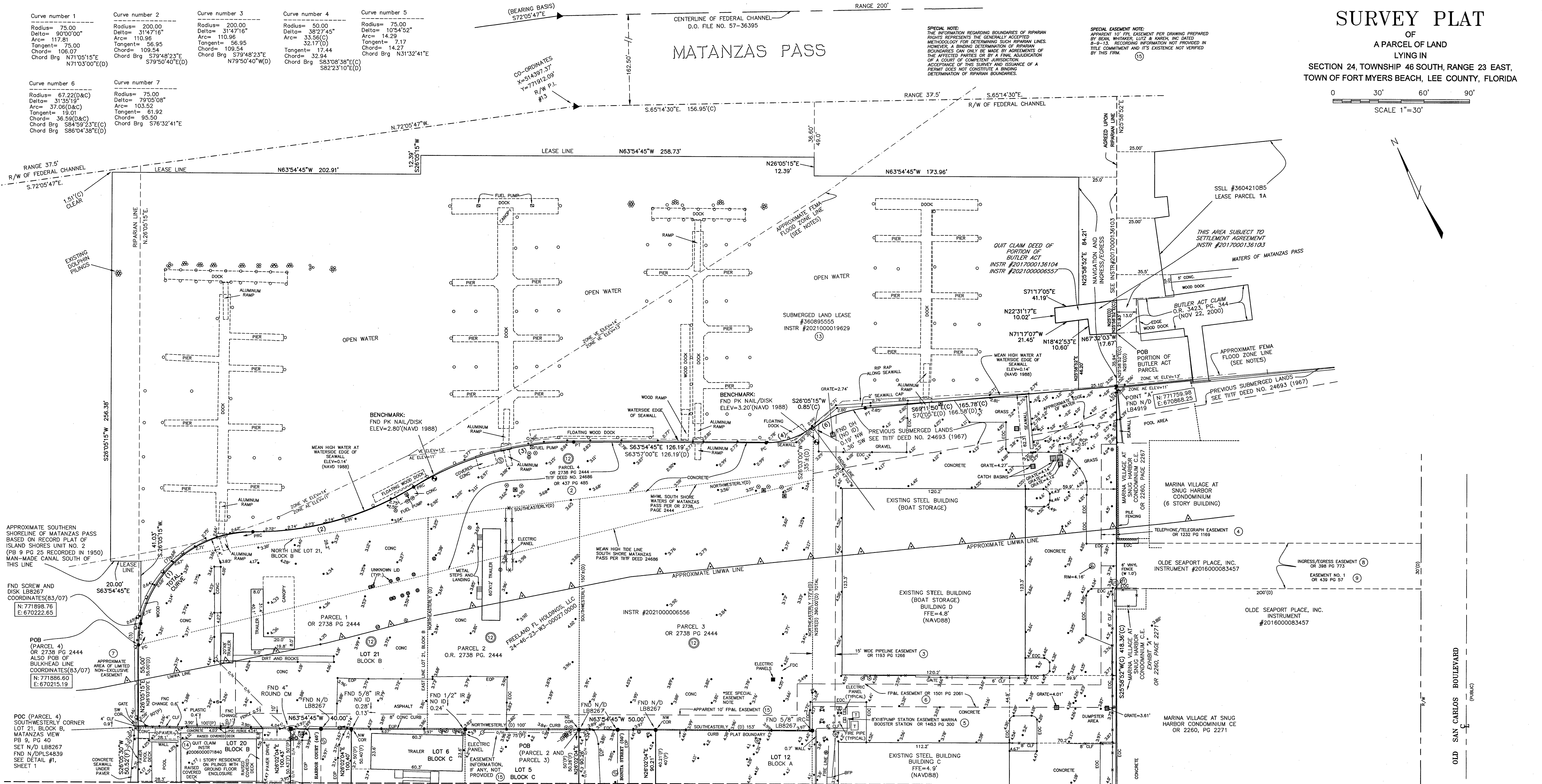
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SCALE 1"=30'



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- 14 = SIGN
- 15 = FIRE HYDRANT
- 16 = EXISTING ELEVATION
- 17 = POINT OF COMMENCEMENT
- 18 = POINT OF REVERSE CURVATURE
- 19 = PERMANENT REFERENCE MONUMENT
- 20 = PUBLIC UTILITY EASEMENT
- 21 = RIGHT-OF-WAY
- 22 = TOP OF BANK
- 23 = TOE OF SLOPE
- 24 = MONITORING WELL
- 25 = BACK FLOW PREVENTER
- 26 = FUEL PUMP
- 27 = BOLLARD
- 28 = EASEMENT NUMBER IN OPINION OF TITLE
- 29 = BROADBAND COMMUNICATION EASEMENT
- 30 = BLANKET IN NATURE

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BOUNDARY SURVEY - MOSS MARINA

HALEY WARD

Engineering | Environmental | Surveying

13041 McGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919

PH (239) 481-1331

201141.003SR_DO.DWG			FLORIDA CERTIFICATE OF AUTHORIZATION NUMBERS EB32664 & LB8267		
DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-T-R)
09-23-22	1441.003	RC/MAB	1" = 30'	2 OF 2	24-46-23

REVISED: 07-20-23 UPDATE SURVEY TO DEVELOPMENT ORDER STANDARDS
REVISED: 01-24-23 CHANGE INSTRUMENT NUMBER



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 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.**

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Fort Myers Beach is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the Fort Myers Beach is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☒ The proposed ordinance is enacted to implement the following:
 - 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

¹ See Section 166.041(4)(c), Florida Statutes.

- 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 zoning district map for the Town of Fort Myers Beach. This serves the public health, safety and orderly development of the Town. Fort Myers Beach. Freeland FL Holdings LLC, owner of the subject property, and The Neighborhood Company, applicant for the owner, are requesting a Comprehensive Plan Future Land Use Map Amendment. The amendment requests a change of 3.53 acres of Marina Future Land Use (FLU), known as Moss Marina, and 1 acre of Mixed Residential FLU, to Pedestrian Commercial. There are no proposed text amendments to the Comprehensive Plan. The applicant has also applied for a Commercial Planned Development that encompasses three additional properties that are already mapped as Pedestrian Commercial and do not need to be amended.

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 Comprehensive Plan map amendment 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].*

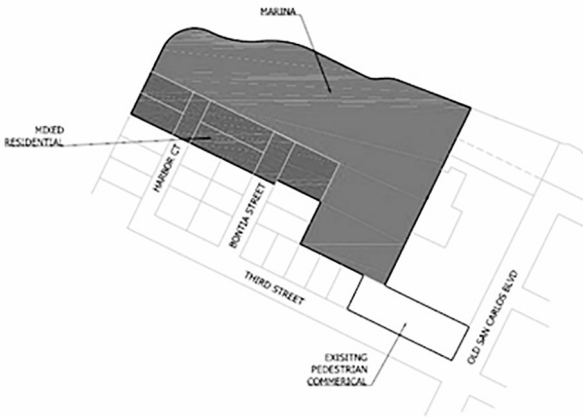
Not applicable.

NOTICE OF PUBLIC HEARINGS/ COMPREHENSIVE PLAN AMENDMENT AND ZONING CHANGE

Notice is hereby given that the Town of Fort Myers Beach Town Council will hold two public hearings, the first at 9:00 AM on Monday, May 5, 2025, and the second on Monday, June 2, 2025, regarding the ordinances listed below. The public hearings will consist of two requests: 1) a change to the Future Land Use Map from Marina to Pedestrian Commercial (two parcels) and Mixed Residential to Pedestrian Commercial (4 parcels) in the Comprehensive Plan and 2) a request to rezone property from Commercial Marina (2 parcels), Residential Conservation (5 parcels), Commercial Office (1 parcel) and Downtown (2 parcels) to a Commercial Planned Development (CPD) zoning district, as more specifically described below:

1. ORDINANCE 25-05

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 CONTAINED IN THE TOWN'S COMPREHENSIVE PLAN, FOR PROPERTIES LOCATED AT 450, 445, 441, & 436 HARBOR COURT, 435 & 438 BONITA STREET, FORT MYERS BEACH FLORIDA, ALSO IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00027.0000; 24-26-23-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, AMENDING THE FUTURE LAND USE MAP FOR THESE PARCELS FROM MIXED RESIDENTIAL (4 PARCELS) AND MARINA (2 PARCELS) TO PEDESTRIAN COMMERCIAL; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.



2. ORDINANCE 25-04

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE REZONING OF 4.98 ACRES OF PROPERTY MORE SPECIFICALLY DESCRIBED HEREIN FROM COMMERCIAL MARINA (2 PARCELS), RESIDENTIAL CONSERVATION (5 PARCELS), COMMERCIAL OFFICE (1 PARCEL) AND DOWNTOWN (2 PARCELS) TO A COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, TO ALLOW A MIXED-USE DEVELOPMENT INCLUDING 263 LODGING UNITS, COMMERCIAL/ RETAIL SPACE AND PUBLIC OPEN SPACE, MORE SPECIFICALLY DESCRIBED AS 436, 441, 445, 450 HARBOR COURT; 435 AND 438 BONITA STREET; 935 AND 939 THIRD STREET AND 401 OLD SAN CARLOS BLVD , ALSO IDENTIFIED AS THE FOLLOWING STRAP NUMBERS: 24-46-23-W3-00027.0000; 24-26-23-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, INCLUDING DEVIATIONS FOR HEIGHT, SETBACKS, HOTEL UNITS, PARKING, LANDSCAPING AND ACCESS; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.



The public hearings will take place at the Town Hall located at 2731 Oak Street, Fort Myers Beach, FL 33931.

All interested individuals may appear and be heard with respect to the case(s) above.

If any person should choose to appeal a decision made at any of these public hearings, such person would need a record of the proceedings, and for that purpose may need to ensure that a verbatim record of the proceedings is made, which record indicates the testimony and evidence upon which the appeal is to be based.

Copies of the full ordinance text are available at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30am and 4:30 PM, Monday through Friday. Reasonable accommodation will be made in accordance with the Americans with Disabilities Act. If you are need of reasonable accommodation, contact Town Hall at 239-765-0202 and ask for Town Clerk.

1. **Request:**

Meeting Date: May 5, 2025

Lien Reduction Request by Noel Davies, Esquire Regarding Property Located at 8124 Estero Blvd, Fort Myers Beach, Florida

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

4. **Submitter of Information:**

Thomas Yozzo, Emergency
Services Director

5. **Background:**

This matter was continued from the April 21, 2025 to allow the parties to attempt resolution. The Town Council will be updated at the meeting as discussion is ongoing.

A request for reduction of a code enforcement lien/fine was received from Attorney Noel Davis on behalf of his client, Dennis Prock. The reasons for the request are set forth in detail in the request.

Attachments:

1. 20230476 Code Enforcement Lien Reduction Request - Application and Supporting documentation 03.19.2025
2. 20230476 Satisfaction, Release, and Discharge of Lien
3. 20230476 Summary of Town Staff Research
4. 20230476 Initial Photographic Evidence 05.08.2023
5. 20230476 Warranty Deed - Recorded 09.06.2018
6. 20230476 Property Data STRAP: 03-47-24-W3-00300.0180
7. 20230476 Permit No. 181910
8. 20230476 Notice of Violation Dated March 6, 2023
9. 20230476 Code Enforcement Inspection Photos May 8, 2023
10. 20230476 Notice of Code Enforcement Hearing 2023
11. 20230476 Code Enforcement Order - 06.15.2023
12. 20230476 Permit 234329 - Request to Void
13. 20230476 Email to Homeowner sent 10.23.2024
14. 20230476 Code Enforcement Inspection Photos April 11, 2025

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Lizzette Roman, Town Clerk Administrative Coordinator
nancy stuparich, Town Attorney

Created/Initiated - 4/25/2025
Approved - 4/28/2025

Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Approved - 4/28/2025
Final Approval - 4/29/2025



Town of Fort Myers Beach

CODE ENFORCEMENT LIEN REDUCTION REQUEST APPLICATION (LDC Sec. 2-432)

A copy of the order imposing the lien must be submitted with this application. A non-refundable \$200.00 application fee will be due at the time the application is submitted.

Code Enforcement Case Number: 20230476

Date: March 17, 2025

Date Subject Property was brought into Compliance with Town Code: January 15, 2020

Reasoning for reduction (factual):

As indicated by Officer Marcio Chavez in his October 23, 2024, inspection of the property, a violation of Permit #181910 never existed, and I have been in compliance with the Permit requirements since the above-referenced date. Furthermore, a notice of violation was never issued to me, and so the code enforcement proceeding against me was unlawful.

Reasoning compliance not accomplished by time lien was recorded:

As indicated above, no non-compliance ever existed.

Amount of reduction requested: \$46,900.00

Outstanding Mortgage Information. Please include date(s) recorded and whether currently in default.

Recorded on January 16, 2025, Instrument #2025000015439. Not in default.

Recorded on April 19, 2019, Instrument #2019000089369. Not in default.

All documents or other evidence that supports reduction request must be included in the application.

Applicant Signature: [Signature]

Date: 3/17/2025

Applicant Printed Name: Dennis Prock

STATE OF FLORIDA COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of physical presence OR online notarization, this 17th day of MARCH, 2025 by Dennis Prock who is personally known to me OR ☒ who has produced Drivers license as identification.

[Signature]
(SEAL) Notary Public Signature

My Commission Expires:



AFFIDAVIT

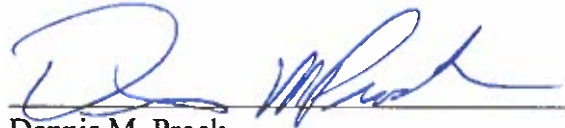
I, Dennis M. Prock, the undersigned Affiant, after being duly sworn, depose and say the following:

1. I am the fee simple owner of the real property (hereinafter the "Property") located at 8124 Estero Boulevard, Fort Myers Beach, FL 33931.
2. In 2018, a permit was issued by the Town of Fort Myers Beach, Permit #181910 and the Property was renovated and the lower level was enclosed. The final inspection was completed and passed on January 13, 2020, by Mark Keohane.
3. In September of 2022, Hurricane Ian damaged the lower level of the Property. To minimize the damage to the Property, I placed durarock in three parts of the lower level and applied for a permit, Permit #23429, to enclose the garages as I had in 2020. Thereafter, I decided to leave the garages open to look more like a carport and never enclosed the garages. The permit was thereafter voided.
4. Subsequently, and unbeknownst to me, the Town of Fort Myers Beach brought forth a code enforcement proceeding against the Property.
5. However, the Town of Fort Myers Beach never issued a notice of violation for the Property. In fact, the Notice of Violation associated with the code enforcement proceeding against the Property was issued to Tyler Flora, the owner of real property located at 8214 Estero Boulevard, Fort Myers Beach, Florida 33931, for code enforcement violations applicable to his property, on March 6, 2023.
6. Thereafter, the Town of Fort Myers Beach issued a Notice of Code Enforcement Hearing for the code enforcement proceeding against the Property on May 15, 2023. However, the Notice of Violation attached to the Notice of Code Enforcement Hearing was the violation addressed to Mr. Flora's property, and made no mention of the Property.
7. The Town of Fort Myers Beach sent a certified letter regarding the Notice of Code Enforcement Hearing which I neither received nor signed for.
8. Notwithstanding, the Code Enforcement Board issued an Order on June 16, 2023, finding that I had violated the code provisions cited in the Notice of Violation to Mr. Flora. Additionally, the Order found a violation of Town of Fort Myers Beach LDC Sec. 6-441, which was neither cited as a violated provision in the Notice of Violation to Mr. Flora nor is it applicable to the Property.
9. Pursuant to the order, a lien was placed on the Property on December 15, 2023 (the "Lien"). I discovered the Lien when I was applying for a loan on the Property and immediately drove down to City Hall and met with Tom Yozzo, the Code Compliance Manager.
10. Mr. Yozzo sent Code Enforcement Officer Marcio Chavez to the Property for an inspection on October 23, 2024 who indicated that I was in compliance with Permit #181910. This permit was finalized on January 15, 2020, and there were no violations. As indicated above, a notice of violation was never issued for the Property. Therefore, the Order should never have been issued against the Property.

11. Affiant further states that Affiant is familiar with the nature of an oath, and with the penalties as provided by the laws of the State of Florida for falsely swearing to statements made in an instrument of this nature. Affiant further certifies that Affiant has read the full facts of this affidavit and understands its context.

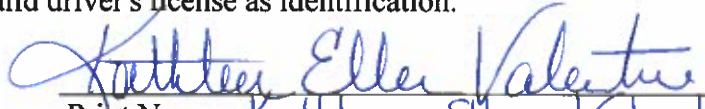
[Affiant's signature on next page]

FURTHER AFFIANT SAYETH NAUGHT.


Dennis M. Prock

STATE OF FLORIDA
COUNTY OF Lee

The foregoing instrument was sworn to and subscribed before me by means of X physical presence or _____ online notarization, on this 17th day of March, 2025, by Dennis M. Prock, who _____ is personally known to me or X produced a valid driver's license as identification.


Print Name: Kathleen Ellen Valentine
My commission expires:

(PLACE NOTARIAL SEAL)





Town of Fort Myers Beach
CODE COMPLIANCE
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

March 06, 2023

CASE NUMBER:	20230293
CERTIFIED MAIL:	7022 2410 0002 8638 6223

TYLER FLORA
8214 ESTERO BLVD
FORT MYERS BEACH, FL 33931

SITE ADDRESS: 8214 ESTERO BLVD
PARCEL STRAP NO: 034724W3003000230

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on by Town of Fort Myers Beach Code Enforcement Officer **James Campbell** indicates that the property is in violation of the following Town Code(s):

Work Without a Permit- Installation of Additional Structure and Electrical Panel.

Sec. 6-111, Adopting FBC 105.1 The Florida Building Code is hereby adopted by reference and made a part of this article, including all revisions and amendments approved in accordance with state law.

FBC 105.1 Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any required impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

The Violation(s) can be brought into compliance by obtaining a proper permit. You are hereby directed to bring these violations into compliance within 10 days of receipt of this notice.

ONCE THIS VIOLATION(S) IS IN COMPLIANCE, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED TO VERIFY THAT THE VIOLATION(S) HAS BEEN CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

If you fail to correct the violation(s) by the date specified above, or if the violation(s) is brought into compliance and reoccur(s), the case may be scheduled for hearing before the Town of Fort Myers Beach Special Magistrate. The Code Enforcement Division may, in their discretion, schedule the case for a hearing and seek a finding of a violation by the Special Magistrate even if you have corrected the violation prior to the time set for the hearing.

You will be provided with a Notice of Hearing specifying the date, time and location of the hearing if, one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and Town of Fort Myers Beach Land Development Code, Section 2-427(b), a fine of up to \$250.00 per day for the first violation or \$500.00 per day for a repeat violation may be imposed for each day the violation continues to exist past the date set for compliance by the Special Magistrate. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to \$5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation has been corrected prior to the hearing.

Please contact the Town of Fort Myers Beach Code Enforcement Division at (239) 765-0202 or code@fmbgov.com if you have any questions concerning this Notice of Violation.

Respectfully,

James Campbell

Code Enforcement Officer
Town of Fort Myers Beach



Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

May 15, 2023

TOWN OF FORT MYERS BEACH,
Petitioner,

vs.

PROCK DENNIS M
8124 ESTERO BLVD
FORT MYERS BEACH, FL 33931,

Respondent.

Case Number:	20230476
Certified Mail:	7022 3330 0000 8180 5808
Regular Mail:	5/15/2023

SITE ADDRESS: 8124 ESTERO BLVD
PARCEL STRAP NO: 034724W3003000180

NOTICE OF CODE ENFORCEMENT HEARING

YOU ARE HEREBY NOTIFIED that, pursuant to Chapter 2, Article V of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that (an) uncorrected violation(s) of one or more codes of the Town of Fort Myers Beach, as described in the **NOTICE OF VIOLATION**, previously provided to you, exists on the above-described property. A hearing before the Town's Code Enforcement Special Magistrate concerning the violation(s) has been scheduled for:

06/15/2023 at 11:00 A.M. at Diamondhead Beach Resort, located at 2000 Estero Boulevard, Fort Myers Beach, Florida.

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate will consider the case, even though you are not present, and may assess fines or take other actions that will affect your rights. If you believe you have come into compliance, it is **your** responsibility to contact the Code Enforcement Division so that an inspection can be performed to determine compliance.

Patrick Morris

Code Enforcement Officer
Town of Fort Myers Beach

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE MAY NEED TO ENSURE AT THEIR OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 2525 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202 EXT 1400, WITHIN 2 WORKING DAYS PRIOR TO THE MEETING DATE.



Town of Fort Myers Beach
CODE COMPLIANCE
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

March 06, 2023

CASE NUMBER:	20230293
CERTIFIED MAIL:	7022 2410 0002 8638 6223

TYLER FLORA
8214 ESTERO BLVD
FORT MYERS BEACH, FL 33931

SITE ADDRESS: 8214 ESTERO BLVD
PARCEL STRAP NO: 034724W3003000230

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on by Town of Fort Myers Beach Code Enforcement Officer **James Campbell** indicates that the property is in violation of the following Town Code(s):

Work Without a Permit- Installation of Additional Structure and Electrical Panel.

Sec. 6-111, Adopting FBC 105.1 The Florida Building Code is hereby adopted by reference and made a part of this article, including all revisions and amendments approved in accordance with state law.

FBC 105.1 Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any required impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

The Violation(s) can be brought into compliance by obtaining a proper permit. You are hereby directed to bring these violations into compliance within 10 days of receipt of this notice.

ONCE THIS VIOLATION(S) IS IN COMPLIANCE, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED TO VERIFY THAT THE VIOLATION(S) HAS BEEN CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

If you fail to correct the violation(s) by the date specified above, or if the violation(s) is brought into compliance and reoccur(s), the case may be scheduled for hearing before the Town of Fort Myers Beach Special Magistrate. The Code Enforcement Division may, in their discretion, schedule the case for a hearing and seek a finding of a violation by the Special Magistrate even if you have corrected the violation prior to the time set for the hearing.

You will be provided with a Notice of Hearing specifying the date, time and location of the hearing if, one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and Town of Fort Myers Beach Land Development Code, Section 2-427(b), a fine of up to \$250.00 per day for the first violation or \$500.00 per day for a repeat violation may be imposed for each day the violation continues to exist past the date set for compliance by the Special Magistrate. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to \$5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation has been corrected prior to the hearing.

Please contact the Town of Fort Myers Beach Code Enforcement Division at (239) 765-0202 or code@fmbgov.com if you have any questions concerning this Notice of Violation.

Respectfully,

James Campbell

Code Enforcement Officer
Town of Fort Myers Beach

PARCEL #: 03-47-24-W3-00300.0180

This Document Prepared By and Return To:

Town of Fort Myers Beach Code Enforcement Department

2525 Estero Blvd.

Fort Myers Beach, FL 33931

**CODE COMPLIANCE SPECIAL MAGISTRATE
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA**

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner.

vs.

CASE NO. 20230476

PROCK, DENNIS,

Respondent.

CODE ENFORCEMENT ORDER

THIS CAUSE came on for public hearing on June 15, 2023, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, Dennis Prock, not present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and orders as follows:

A. FINDINGS OF FACT:

1. The Respondent, Dennis Prock ("Respondent"), is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property located at 8124 Estero Blvd., Fort Myers Beach, FL, 33931 ("Property"), legally described as:

Lot 18, of that certain subdivision known as Grand Ole' Man, according to the map plat thereof recorded at Plat Book 29, Pages 26 and 27, in the Public Records of Lee County, Florida.

2. The Respondent was served with a Notice of Violation ("NOV") alleging the existence of a violation of the Town of Fort Myers Beach Code of Ordinances ("Town Code") on the Property.

3. The NOV specified that Respondent was required to correct the violation by a specified amount of time, but Respondent failed to do so.
4. The Respondent was served with a Notice of Hearing as a result of non-compliance with the NOV, and therefore, this case is properly before the Special Magistrate.
5. The following violation exists on the Property:

LOWER-LEVEL ENCLOSURE WITHOUT PERMIT

B. CONCLUSION OF LAW:

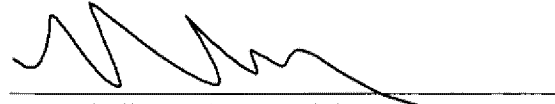
1. Respondent, by reason of the foregoing facts, is in violation of Town Code LDC Sec. 6-111, Adopting FBC 105.1- Permit required; LDC Sec 6-441- Permits; inspections.
2. Based upon the competent substantial evidence presented at the hearing, the Special Magistrate of the Town of Fort Myers Beach has determined that this Order of Enforcement is hereby warranted.

C. ORDER/IMPOSITION OF FINE:

1. The Special Magistrate has considered the gravity of the violation(s), any actions by the Respondent to correct the violation(s); and any previous violations committed by the Respondent and hereby orders the aforementioned violation(s) occurred.
2. Respondent is assessed \$100.00 in administrative costs and fees.
3. Respondent is ordered to come into compliance within six (6) months.
4. If the violation has been corrected, the amount ordered by the Special Magistrate for administrative costs and fees in the amount of \$100.00 is still ordered.
5. In the event that the said violation is not corrected **PRIOR TO DECEMBER 15, 2023**, a fine of **\$150.00 per day** shall be imposed against Respondent and the Property, beginning on that date and continuing for each day that the aforesaid violation continues to exist.
6. In the event that the violation is not corrected by the above-mentioned date and/or the costs ordered herein have not been paid, a hearing to impose a lien against all real and personal property of Respondent for the amount ordered will be held before the Special Magistrate on **a date, time, and location to be determined**, and could result in litigation in Circuit Court.

7. **The Respondent is ordered to contact the Town of Fort Myers Beach Code Enforcement Department to re-inspect the property to verify compliance. A COMPLIANCE RE-INSPECTION WILL NOT be conducted unless the Respondent contacts the Town of Fort Myers Beach Code Enforcement Department.**

ORDERED this 15th day of June 2023, and executed this 16 day of June 2023.


Myrnabelle Roche, Special Magistrate

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

Pursuant to Chapter 162.09 (3), Florida Statutes, A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon and other real or personal property owned by the violator.

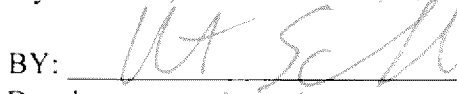
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copy of the Order was sent by U.S. Mail on the 20 day of June 2023 to:

Dennis Prock
8124 Estero Blvd.
Fort Myers Beach, FL 33931


Code Compliance Coordinator

I certify this document to a be true and correct copy of the original on file in Town Hall, Fort Myers Beach, State of Florida, County of Lee.

BY: 
Dated 6/20/23

This instrument was prepared by:

Noel J. Davies, Esq.
Davies Duke, PLLC
1415 Panther Lane, Suite 442
Naples, FL 34109
239-216-2792

**SATISFACTION, RELEASE AND DISCHARGE OF LIEN
(CODE ENFORCEMENT ORDER)**

STATE OF FLORIDA
COUNTY OF LEE

WHEREAS, the undersigned, Andy Hyatt, as Town Manager of the lienor herein, Town of Fort Myers Beach, Florida, a municipal corporation of the State of Florida, having recorded a Code Enforcement Order, Case No. 20230476, against the property of Dennis Prock on the 20th day of June, 2023, in Lee County, Florida, described as:

Lot 18, of that subdivision known as Grand Ole' Man, according to the map plat thereof recorded at Plat Book 29, Pages 26 and 27, in the Public Records of Lee County, Florida.

(8124 Estero Blvd, Fort Myers Beach, FL 33931)

NOW, THEREFORE, the undersigned, does hereby acknowledge that the code enforcement lien, which is the subject of the Code Enforcement Order, was invalid, improper and filed incorrectly and is hereby satisfied, released and discharged, and does direct the Clerk of said Circuit Court to cancel, satisfy, release and discharge the lien and Code Enforcement Order in accordance with Florida Statute §713.21.

Signed, sealed, and delivered this ____ day of _____, 2025.

**Town of Fort Myers Beach, Florida, a municipal
corporation of the State of Florida**

By: _____
Printed Name: Andy Hyatt
Its: Town Manager

STATE OF _____
COUNTY OF _____

The foregoing instrument was sworn to and subscribed before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____ 2025, by Andy Hyatt as Town Manager of Town of Fort Myers Beach, a municipal corporation of the State of Florida, on behalf of the Town. He ☐ is personally known to me or ☐ has produced a driver's license as identification.

Notary Seal:

Notary Public
Printed Name: _____
My Commission Expires: _____

- Initial Inspection was done and found in violation on 03/09/2023
- Property was purchased by Dennis Prock on 08/30/2018 and the case was created and opened in 2023.
- The Property Owner at the time of the permit #181910 was Dennis Prock but the permit was in a Gomez Janel TR for Janel Gomez Trust.
- The permit application was an owner builder by Dennis Prock and received by the Town on 10/16/2018.
- Permit #181910 issued on 09/23/2019 and finaled on 01/06/2022.
- NOV was addressed to Tyler Flora to the violation property at 8214 Estero Blvd, Fort Myers Beach, FL 33931 by Code Officer James Campbell.
- The NOV Certified Mailer was correctly addressed to Dennis Prock at 8124 Estero Blvd, Fort Myers Beach, FL 33931.
- NOV was for Work without a permit- Installation of additional structure and electrical.

- Certified Mail signed by an agent Mc Varda for received unsure of exact spelling due to handwriting.
- Reinspection on 05/08/2023 showing violation continues.
- NOH issued to Prock, Dennis on 05/15/2025 for 06/15/2023.
- SM order signed receiving copy of Order on 06/21/23 by Dennis Prock.
- Completion Request Form received on 11/19/2024 to void existing permit #234329 to re-apply with change of plans from Dennis Prock.
- Permit #234329 voided on 11/19/2024 as requested.
- Case closed on 10/23/2024 due to permit #181910 being issued and finalized but pre-lan and email sent with lien amount due.
- On 04/11/2025 property was inspected and found to be in violation of work without permits. No new case created at this time due to Lien Case #20230293.

SE

S

SW

120

150

180

210

240

☼ 180°S (T) ● 26°24'15"N, 81°53'24"W ±13ft ▲ 16ft



Work underway
PJM

08 May 2023, 10:40:26 AM

10.00
9810.00
9810.00

THIS INSTRUMENT PREPARED BY AND RETURN TO:
WILLIAM E. SHENKO, JR.
WILLIAM E. SHENKO, JR., P.A.
1661 ESTERO BOULEVARD, SUITE 24
FORT MYERS BEACH, FL 33931

Property Appraisers Parcel Identification (Folio) Numbers: 03-47-24-W3-00300.0180

SPACE ABOVE THIS LINE FOR RECORDING DATA

THIS WARRANTY DEED, made the 30th day of August, 2018 by

JANEL GOMEZ, a single woman, Individually and as Trustee of the Janel Gomez Revocable Trust dated March 20, 1998, and restated January 3, 2018, herein called the grantor, to

DENNIS M. PROCK, whose post office address is 8010 Estero Boulevard, Fort Myers Beach, FL 33931, hereinafter called the Grantee:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH: That the grantor, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee all that certain land situate in Lee County, State of Florida, viz.:

Lot 18, of that certain subdivision known as Grand Ole' Man, according to the map plat thereof recorded at Plat Book 29, Pages 26 and 27, in the Public Records of Lee County, Florida.

TOGETHER, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

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, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2017.

IN WITNESS WHEREOF, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

1. T. R.
Witness #1 Signature for Janel Gomez
Thomas Rossiky
Witness #1 Printed Name
2. Ana L. Ferreira
Witness #2 Signature for Janel Gomez
Ana L. Ferreira
Witness #2 Printed Name

Janel Gomez
JANEL GOMEZ, Individually and as
Trustee of the Janel Gomez Revocable
Trust dated March 20, 1998, and restated
January 3, 2018
1051 Oakpoint Circle, Apopka, FL 32712

STATE OF FLORIDA
COUNTY OF Seminole

The foregoing instrument was acknowledged before me this 30th day of August, 2018 by JANEL GOMEZ, who () is personally known to me or (X) has produced Florida Driver License as identification.

Signature of Notary Janet C Thompson
Type/Print Name of Notary Janet C Thompson
Commission Number 166091033
Commission Expiration Date April 6, 2021



**Property Data**

STRAP: 03-47-24-W3-00300.0180 Folio ID: 10234194

Hurricanes Helene/Milton Tax Roll Value Letter Hurricane Ian Tax Roll Value Letter

Generated on 4/9/2025 9:04 AM

Owner Of Record - Sole Owner[\[Change Mailing Address\]](#)

PROCK DENNIS M
8124 ESTERO BLVD
FORT MYERS BEACH FL 33931

Site AddressSite Address maintained by [E911 Program Addressing](#)

8124 ESTERO BLVD
FORT MYERS BEACH FL 33931

Property Description

Do not use for legal documents!



GRAND OLE MAN PB 29 PG 27 LOT 18

[View Recorded Plat at LeeClerk.org](#) - Use this link to do an Official Records search on the Lee County Clerk of Courts website, using 29 and 27 for the book and page numbers.

Attributes and Location Details

Total Bedrooms / Bathrooms	3 / 3.0
Gross Living Area	2,584
1st Year Building on Tax Roll	1987
Historic Designation	No

Township	Range	Section	Block	Lot
47	24E	03	00300	0180
Municipality	Latitude	Longitude		
Town of Fort Myers Beach	26.40405	-81.89003		

[View Parcel on Google Maps](#)[\[Tax Map Viewer \]](#) [\[View Comparables \]](#)[\[Pictometry Aerial Viewer \]](#)**Image of Structure**◀ Photo Date December of 2020 ▶ ☐ View other photos

Last Inspection Date: 12/09/2020

Property Values / Exemptions / TRIM Notices

Generated on 4/9/2025 9:04 AM

Property Details (Current as of 4/8/2025)

Generated on 4/9/2025 9:04 AM

**Property Details (2024 Tax Roll)**

Generated on 4/9/2025 9:04 AM

Taxing Authorities

Generated on 4/9/2025 9:04 AM

Sales / Transactions ⓘ

Generated on 4/9/2025 9:04 AM

Building / Construction Permit Data

Generated on 4/9/2025 9:04 AM

Parcel Numbering History ⓘ

Generated on 4/9/2025 9:04 AM

Solid Waste (Garbage) Roll Data

Generated on 4/9/2025 9:04 AM

Flood and Storm Information

Generated on 4/9/2025 9:04 AM

Generated on 4/9/2025 9:04 AM

[Previous Parcel Number](#) [Next Parcel Number](#) [New Query](#) [Search Results](#) [Home](#)



Residential PERMIT

Permit Number:
181910

To check the status of your permit or schedule inspections go to the website below.
<http://www.fortmyersbeachfl.gov/971/Building-Services>

DATE ISSUED:
09/23/2019
EXPIRES

Next business day inspections need to be requested before 4 p.m. Requests received after 4 p.m. cannot be scheduled until two business days after the request is received.

If your permit requires any fire inspections please schedule by emailing: prevention@fmbfire.org along with the permit number, site address, inspection type & any notes to the inspector

JOB LOCATION: 8124 ESTERO BLVD		Strap #: 034724W3003000180
PROPERTY OWNER: GOMEZ JANEL TR FOR JANEL GOMEZ TRUST 1670 COTTONWOOD CREEK PL LAKE MARY FL 32746	CONTRACTOR Owner-Builder-Contractor 8124 Estero Blvd. Fort Myers Beach FL 33931 Fort Myers Beach FL 33931	PERMIT TYPE: Residential SUBTYPE: zAddition / Alteration
DESCRIPTION OF WORK: LOWER LEVEL ENCLOSED & NEW WINDOWS		
NOTES		

DATE BY	DATE BY	DATE BY
* Roof Insp Affidavit	BLD - 130 Sheathing/Straps/Engineering	Window/Door/Shutter - 106 Final Building
BLD - 101 Footing/ Grade Beam/ Pile Cap	BLD - 951 Sea Turtle Light	Window/Door/Shutter - 950 Sea Turtle
BLD - 103 Tie Beam Elevation	ROF - 501 Roof Dry In	Glass
BLD - 104 Column Piling, Fill Cells	ROF - 503 Roof Final	
BLD - 105 Rough Framing	ELE - 304 Rough Electric	
BLD - 106 Final Building	ELE - 305 Final Electric	
BLD - 107 Insulation		

WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.

THIS CARD MUST BE PLACED ON A BOARD AT EYE LEVEL SO IT CAN BE READ FROM STREET AND BE PROTECTED FROM THE WEATHER.

NOTICE: IN ADDITION TO THE REQUIREMENTS OF THIS PERMIT THERE MAY BE ADDITIONAL RESTRICTIONS APPLICABLE TO THIS PROPERTY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY, AND THERE MAY BE ADDITIONAL PERMITS REQUIRED FROM OTHER GOVERNMENTAL ENTITIES SUCH AS WATER MANAGEMENT DISTRICTS, STATE AGENCIED, OR FEDERAL AGENCIES. THIS PERMIT IS VOID IF THE FIRST INSPECTION IS NOT MADE WITH SIX (6) MONTHS FROM THE DATE ISSUED OR IF NO INSPECTION HAS BEEN MADE FOR A PERIOD OF SIX (6) MONTHS FROM THE MOST RECENT PASSED INSPECTION. BUILDING PLANS MUST BE ON JOB AT TIME OF INSPECTION. REINSPECTION FEE \$50.00.



Permit #: 181910

Permit Date: 10/17/18

Permit Type:

Permit Type: Residential

Sub Type: zAddition / Alteration

Type of Construction: I-A

Type of Occupancy / Use: Residential

Contractor Business Name/Applicant: OWNER BUILDER

Contact Name:

Contractor/Applicant Email: DPROCK@FYC.COM

Contractor/Applicant Phone #: 2394634150

Property Owner's Email:

Current Use: Residential

Proposed Use: Residential

Scope of Work: LOWER LEVEL ENCLOSED & NEW WINDOWS

Project Cost: 129400

Gross Square Feet: 0

Issued Date: 09/23/2019

Expiration Date:

Final Date: 01/15/2020

Closed Date:

Repair Damage Due To: FINALED

Storm Damage:

Floodplain:

Status: FINALED

Assigned To:

Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
034724W3003000180	8124 ESTERO BLVD	GRAND OLE MAN PB 29 PG 27 LOT 18	GOMEZ JANEL TR FOR JANEL GOMEZ TRUST		RS-1

Contractors

Contractor	Primary Contact	Phone	Address	Contractor Type	License	License #
MD Electric, Inc	Michael Dagnese	239-463-7300	3046 Shell Mound Blvd. Fort Myers Beach FL 33931	Certified Electrical	State of Florida	20374596

MD Electric, Inc	Michael Dagnese	239-463-7300	3046 Shell Mound Blvd. Fort Myers Beach FL 33931	Certified Electrical	State of Florida	A106554335
MD Electric, Inc	Michael Dagnese	239-463-7300	3046 Shell Mound Blvd. Fort Myers Beach FL 33931	Certified Electrical	Electrical Contractor License	EC13002139
Owner-Builder- Contractor	Gomez Jane L. Tr. for Jane L. Gomez Trust	239-463-4150	8124 Estero Blvd. Fort Myers Beach FL 33931	Certified Building		

Inspections

Date	Inspection Type	Description	Scheduled Date	Completed Date	Inspector	Status
01/08/2020	Electrical - 305 Electric Final	Requested by: PROCK DENNIS M - , 98328	01/10/2020	01/13/2020	Mark Keohane	Pass
01/09/2020	Building - 106 Final Building		01/10/2020	01/13/2020	Mark Keohane	Pass
06/14/2019	Electrical - 305 Electric Final	Requested by: PROCK DENNIS M - , 28462	06/17/2019	06/17/2019	Mark Keohane	Cancelled by Contractor
06/13/2019	Electrical - 305 Electric Final	Requested by: PROCK DENNIS M - , 38832 Not ready	06/14/2019	06/14/2019	Jack McStravic	Cancelled
04/04/2019	Building - 105 Rough Framing / Windows, Door, Wall Dry In		04/05/2019	04/05/2019	Mark Keohane	Pass
04/04/2019	Building - 107 Insulation		04/05/2019	04/05/2019	Mark Keohane	Pass
03/29/2019	Building - 105 Rough Framing / Windows, Door, Wall Dry In	239-463-4150 need to strap header	04/01/2019	04/01/2019	Mark Keohane	Partial
03/29/2019	Building - 107 Insulation	All but 1st level	04/01/2019	04/01/2019	Mark Keohane	Partial
03/28/2019	Electrical - 304 Rough Electric		03/29/2019	03/29/2019	Jack McStravic	Pass
03/26/2019	Building - 105 Rough Framing / Windows, Door, Wall Dry In		03/29/2019	03/29/2019	Jack McStravic	Partial
03/26/2019	Roof - 503 Roof Final		03/29/2019	03/29/2019	Jack McStravic	Pass
03/26/2019	Window / Door / Shutter - 106 Final Building		03/29/2019	03/29/2019	Jack McStravic	Pass
06/13/2019	Outstanding for CO CC	Light Bulb and Shielding Cut Sheets must be provided before C/O/ NEED ROOFING SUB ATTACHED				Open

Plan Reviews

Date	Review Type	Description	Assigned To	Review Status
10/17/2018	Review FMB Application		Ilen Exposito	DONE
10/17/2018	Notice of Commencement	RECEIVED ORIGINAL TO RECORD	Ilen Exposito	DONE
10/17/2018	Review Flood	SENT COMMENTS ON 11/8/2018	Rae Burns	RESUBMITTAL REQUIRED
10/17/2018	Review Res. Plan review	Pending Flood Review	Jack McStravic	REVIEWED FOR COMPLIANCE

10/17/2018	Review Environmental	SENT COMMENTS ON 11/8/2018	Rae Burns	RESUBMITTAL REQUIRED
10/17/2018	Review Zoning	SENT COMMENTS ON 11/8/2018	Sarah Propst	RESUBMITTAL REQUIRED
11/26/2018	Review Zoning		Sarah Propst	REVIEWED FOR COMPLIANCE
11/28/2018	Resubmitted (Flood Review)		Rae Burns	REVIEWED FOR COMPLIANCE
12/05/2018	Resubmitted (Environmental Review)		Rae Burns	REVIEWED W/CONDITIONS
All the windows will need to be made with turtle-friendly glass.				
12/14/2018	Reviews completed- Notification sent	Please provide cut sheets for the proposed lighting and light bulbs to be used before the C/O is issued.	Ilen Exposito	REVIEWED W/CONDITIONS
12/14/2018	Elec. Sub Permit Req.	MD ELECTRIC INC EC13002139	Misty Alexander	REVIEWED FOR COMPLIANCE
12/14/2018	Roof Sub Permit Req.		*	
09/23/2019	Completion Permit Requested		Misty Alexander	REVIEWED FOR COMPLIANCE

Fees

Fee	Description	Notes	Amount
* MISC- DBPR & DCA Admin Fees			\$5.50
Building Permit	24.24.000.32201	990	\$495.00
FMB-Residential Plan Review	24.24.515.32200		\$50.00
FMB- Application Fee			\$25.00
FMB-Zoning Residential	24.24.515.32200		\$25.00
FMB-Environmental Plan Review			\$25.00
FMB-Flood Plain Fees COM	24.24.515.32200		\$100.00
RES- Residential Roof - Enter number of Squares	24.24.000.32201		\$75.00
ELE-Elec New / Addition / Alteration	24.24.000.32201		\$75.00
*Recording Services	24.24.000.34110		\$12.00
*Completion Permit	24.24.000.32200		\$0.00
*Completion Permit	24.24.000.32200		\$200.00
Total			\$1,087.50

Attached Letters

Date	Letter	Description	
09/23/2019		Building Permit	COMPLETION
12/14/2018		Building Permit	

Payments

Date	Paid By	Description	Payment Type	Accepted By	Amount
12/14/2018	OWNER	#03023d	CARD	Ilen Exposito	\$875.50
04/04/2019	OWNER-BUILDER	cash payment	cash	Misty Alexander	\$12.00
09/23/2019	DENNIS PROCK	VISA	08466D	Misty Alexander	\$0.00
09/23/2019	DENNIS PROCK	VISA	08466D	Misty Alexander	\$200.00
Outstanding Balance					\$0.00

Notes

Date	Note	Created By:
------	------	-------------

12/13/2018

Light Bulb and Shielding Cut Sheets must be provided before C/O

Rae Burns

11/28/2018

TURTLE GLASS INSPECTION NEEDS TO BE ADDED TO PERMIT BOAD

Ilen Exposito

Uploaded Files

Date	File Name
01/15/2020	6111527-PROCK LAMPS.pdf
01/15/2020	6111526-PROCK CEILING LT.pdf
01/15/2020	6111525-PROCK EXT WALL MNT.pdf
09/23/2019	5654798-181910 COMPLETION REQUEST.pdf
04/11/2019	4751239-cost sheets-cost construction form.pdf
04/09/2019	4737030-181910 NOC.pdf
02/25/2019	4549304-181910 ELECTRIC SUB APP.pdf
12/14/2018	4329521-181910.pdf
12/13/2018	4324681-4247584-building zoning floodplain environmental enclose basement.pdf
12/04/2018	4247584-building zoning enclose basement.pdf
11/28/2018	4232237-8124 Estero.msg
11/28/2018	4232235-REPAIR COST FORM.pdf
11/28/2018	4232223-8124 Estero permit 181910.msg
11/28/2018	4232095-Dennis Prock - NFRC and Spec Sheets for order 1.pdf
11/28/2018	4232089-APPRAISAL.pdf
11/28/2018	4229427-4057199-PLANS.pdf
10/17/2018	4057236-APP- OWNER BUILDER.pdf
10/17/2018	4057199-PLANS.pdf



Town of Fort Myers Beach
CODE COMPLIANCE
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

March 06, 2023

CASE NUMBER:	20230293
CERTIFIED MAIL:	7022 2410 0002 8638 6223

TYLER FLORA
8214 ESTERO BLVD
FORT MYERS BEACH, FL 33931

SITE ADDRESS: 8214 ESTERO BLVD
PARCEL STRAP NO: 034724W3003000230

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on by Town of Fort Myers Beach Code Enforcement Officer **James Campbell** indicates that the property is in violation of the following Town Code(s):

Work Without a Permit- Installation of Additional Structure and Electrical Panel.

Sec. 6-111, Adopting FBC 105.1 The Florida Building Code is hereby adopted by reference and made a part of this article, including all revisions and amendments approved in accordance with state law.

FBC 105.1 Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any required impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

The Violation(s) can be brought into compliance by obtaining a proper permit. You are hereby directed to bring these violations into compliance within 10 days of receipt of this notice.

ONCE THIS VIOLATION(S) IS IN COMPLIANCE, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED TO VERIFY THAT THE VIOLATION(S) HAS BEEN CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

If you fail to correct the violation(s) by the date specified above, or if the violation(s) is brought into compliance and reoccur(s), the case may be scheduled for hearing before the Town of Fort Myers Beach Special Magistrate. The Code Enforcement Division may, in their discretion, schedule the case for a hearing and seek a finding of a violation by the Special Magistrate even if you have corrected the violation prior to the time set for the hearing.

You will be provided with a Notice of Hearing specifying the date, time and location of the hearing if, one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and Town of Fort Myers Beach Land Development Code, Section 2-427(b), a fine of up to \$250.00 per day for the first violation or \$500.00 per day for a repeat violation may be imposed for each day the violation continues to exist past the date set for compliance by the Special Magistrate. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to \$5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation has been corrected prior to the hearing.

Please contact the Town of Fort Myers Beach Code Enforcement Division at (239) 765-0202 or code@fmbgov.com if you have any questions concerning this Notice of Violation.

Respectfully,

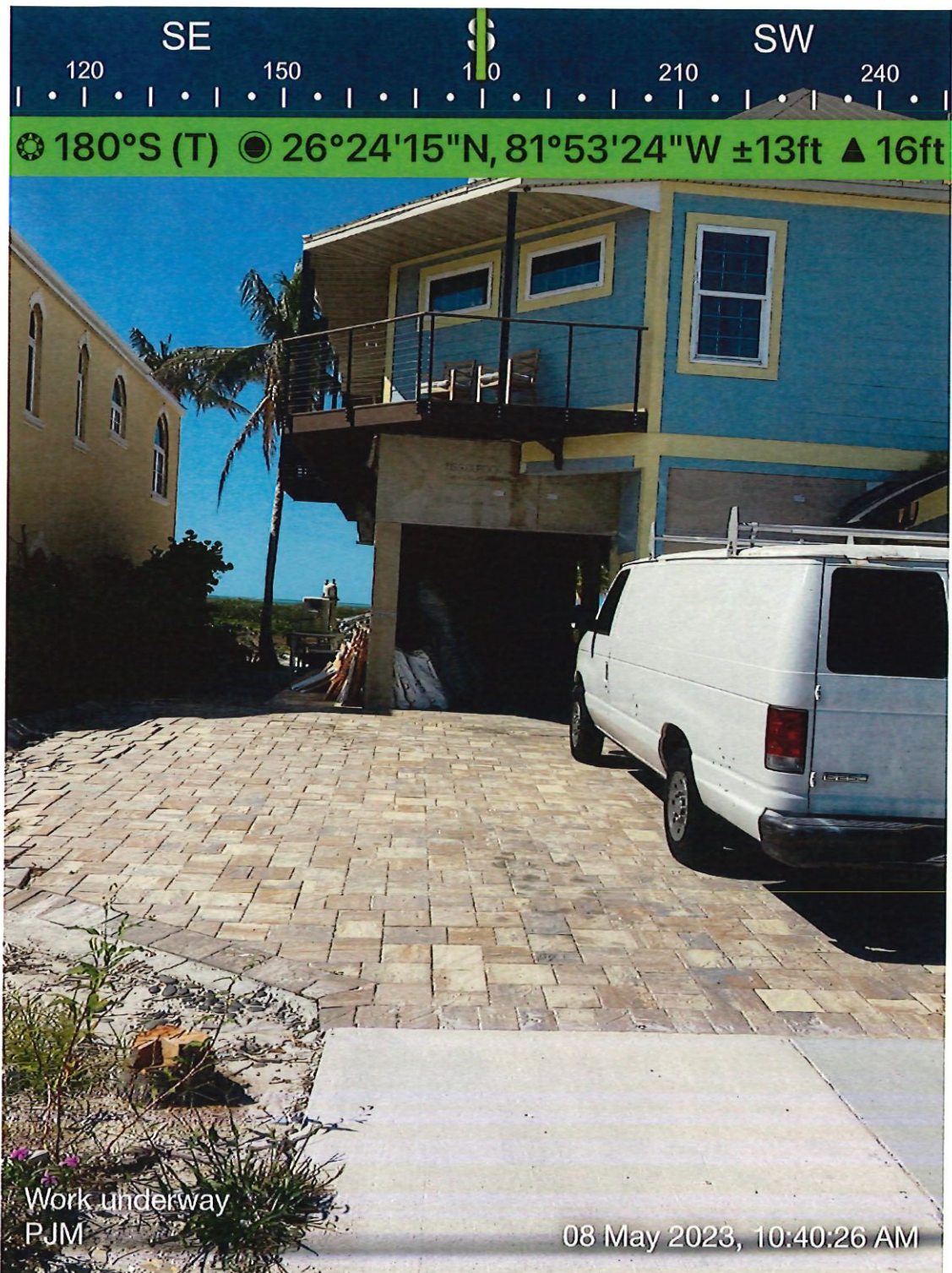
James Campbell
Code Enforcement Officer
Town of Fort Myers Beach

SE 150 S 180 SW 210 240 W 270
☼ 205°SW (T) ☉ 26°24'15"N, 81°53'24"W ±13ft ▲ 11ft



Work underway
PJM

08 May 2023, 10:40:31 AM





Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

May 15, 2023

TOWN OF FORT MYERS BEACH,
Petitioner,

vs.

PROCK DENNIS M
8124 ESTERO BLVD
FORT MYERS BEACH, FL 33931,

Respondent.

SITE ADDRESS: 8124 ESTERO BLVD
PARCEL STRAP NO: 034724W3003000180

Case Number:	20230476
Certified Mail:	7022 3330 0000 8180 5808
Regular Mail:	5/15/2023

NOTICE OF CODE ENFORCEMENT HEARING

YOU ARE HEREBY NOTIFIED that, pursuant to Chapter 2, Article V of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that (an) uncorrected violation(s) of one or more codes of the Town of Fort Myers Beach, as described in the **NOTICE OF VIOLATION**, previously provided to you, exists on the above-described property. A hearing before the Town's Code Enforcement Special Magistrate concerning the violation(s) has been scheduled for:

06/15/2023 at 11:00 A.M. at Diamondhead Beach Resort, located at 2000 Estero Boulevard, Fort Myers Beach, Florida.

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate will consider the case, even though you are not present, and may assess fines or take other actions that will affect your rights. If you believe you have come into compliance, it is **your** responsibility to contact the Code Enforcement Division so that an inspection can be performed to determine compliance.

Patrick Morris

Code Enforcement Officer
Town of Fort Myers Beach

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE MAY NEED TO ENSURE AT THEIR OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 2525 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202 EXT 1400, WITHIN 2 WORKING DAYS PRIOR TO THE MEETING DATE.

Tracking Number:

Remove X

70223330000081805808

Copy

Add to Informed Delivery (<https://informedelivery.usps.com/>)

Latest Update

Your item was delivered to an individual at the address at 12:53 pm on May 22, 2023 in BONITA SPRINGS, FL 34135.

Get More Out of USPS Tracking:

USPS Tracking Plus[®]

Feedback

Delivered

Delivered, Left with Individual
BONITA SPRINGS, FL 34135
May 22, 2023, 12:53 pm

Departed USPS Regional Facility

FORT MYERS FL DISTRIBUTION CENTER
May 22, 2023, 12:02 am

In Transit to Next Facility

May 21, 2023

Arrived at USPS Regional Facility

FORT MYERS FL DISTRIBUTION CENTER
May 15, 2023, 10:34 pm

USPS in possession of item

FORT MYERS BEACH, FL 33931
May 15, 2023, 2:21 pm

- Hide Tracking History

Text & Email Updates



USPS Tracking Plus®



Product Information



See Less

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

SE S SW
120 150 180 210 240
181°S (T) 26°24'14"N, 81°53'24"W ±13ft ▲ 21ft



NOTICE OF CODE ENFORCEMENT HEARING
2515 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

May 15, 2023

TOWN OF FORT MYERS BEACH,
Petitioner,

vs.

PROCK DENNIS M.
8124 ESTERO BLVD
FORT MYERS BEACH, FL 33931,

Respondent.

SITE ADDRESS: 8124 ESTERO BLVD
PARCEL STRAP NO: 034724W3003000189

Case Number:	20230478
Certified Mail:	7022 3330 0000 8189 5808
Regular Mail:	5/15/2023

NOTICE OF CODE ENFORCEMENT HEARING

YOU ARE HEREBY NOTIFIED that, pursuant to Chapter 2, Article V of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that (an) uncorrected violation(s) of one or more codes of the Town of Fort Myers Beach, as described in the NOTICE OF VIOLATION, previously provided to you, exists on the above-described property. A hearing before the Town's Code Enforcement Special Magistrate concerning the violation(s) has been scheduled for:

05/15/2023 at 11:00 A.M. at Diamondhead Beach Resort, located at 2000 Estero Boulevard, Fort Myers Beach, Florida.

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate will consider the case, even though you are not present, and may assess fines or take other actions that will affect your rights. If you believe you have come into compliance, it is your responsibility to contact the Code Enforcement Division so that an inspection can be performed to determine compliance.

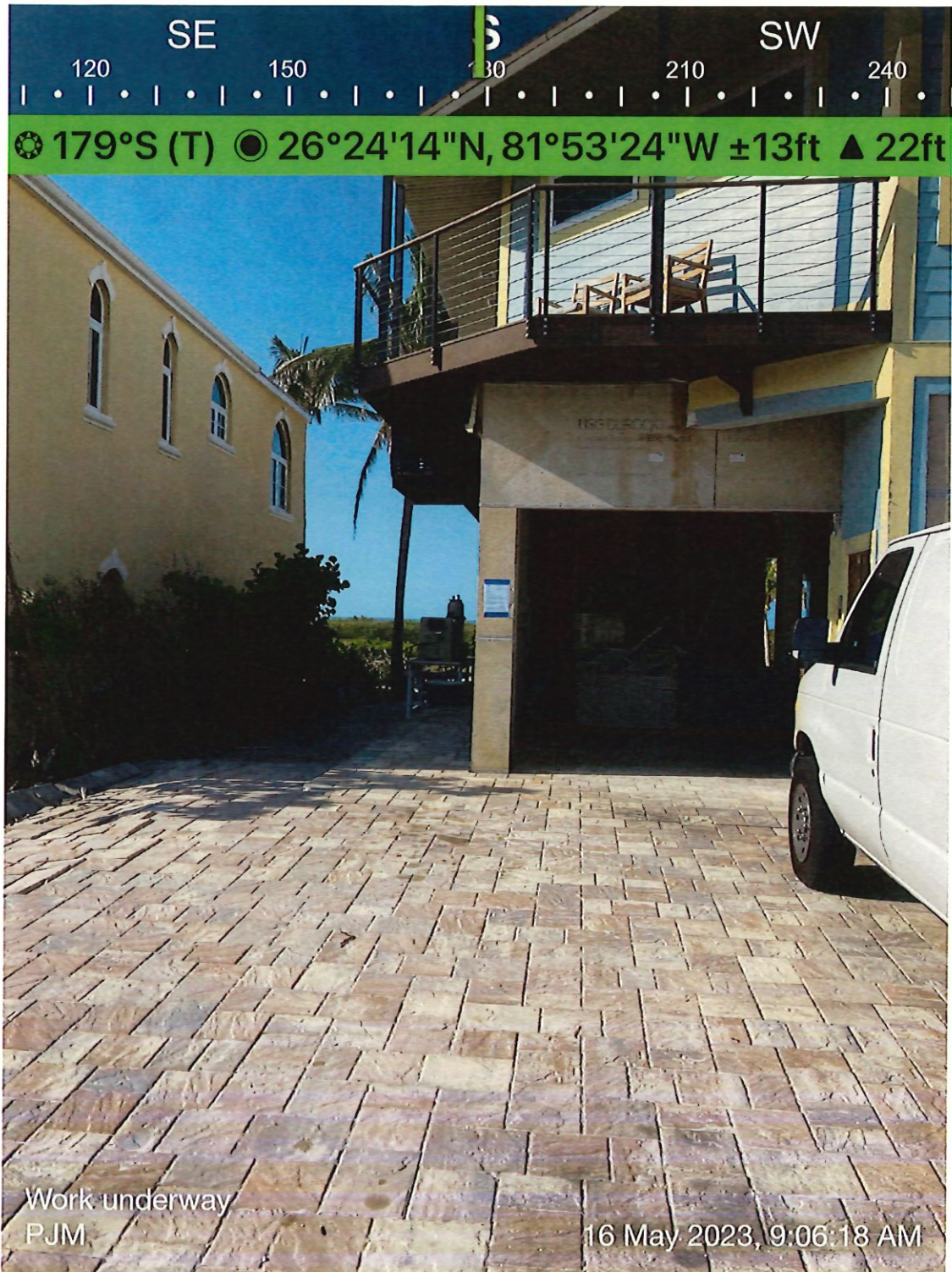
Patrick Morris
Code Enforcement Officer
Town of Fort Myers Beach

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE MAY NEED TO ENSURE AT THEIR OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 2505 ESTERO BLVD, FORT MYERS BEACH, FL 33931, TELEPHONE NUMBER (239) 765-0202 EXT 1400, WITHIN 2 WORKING DAYS PRIOR TO THE MEETING DATE.

Work underway
PJM

16 May 2023, 9:06:05 AM



Fort Myers Beach, FL 33931

Certified Mail Fee	\$4.15
--------------------	--------

Extra Services & Fees (check box, add fee as appropriate)		\$3.25
☐ Return Receipt (hardcopy)	\$	\$1.00
☐ Return Receipt (electronic)	\$	\$1.00
☐ Certified Mail Restricted Delivery	\$	\$1.00
☐ Adult Signature Required	\$	\$1.00
☐ Adult Signature Restricted Delivery	\$	\$1.00

Postage	\$0.63
---------	--------

Total Postage and Fees	\$8.13
------------------------	--------

Sent To

Street and Apt. No., or PO Box No.

City, State, ZIP+4®

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions



Town of Fort Myers Beach
POSTING AFFIDAVIT
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0591

Code Enforcement Case #: 20230476

Respondent: PROCK DENNIS M

Violation Address: 8124 ESTERO BLVD

STRAP #: 034724W3003000180

I, Patrick Morris, hereby state that I personally posted the NOH in a
conspicuous place on the front of the site at the physical address of 8124 ESTERO BLVD on the
16 day of MAY, 20 23.

Patrick Morris
Signature

STATE OF FL COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of X physical presence OR
 online notarization, this 16 day of May, 20 23, by Patrick Morris,
X who is personally known to me OR who has produced as identification.

Kristin Schumacher
(SEAL) Notary Public Signature

My Commission Expires:



PARCEL #: 03-47-24-W3-00300.0180
This Document Prepared By and Return To:
Town of Fort Myers Beach Code Enforcement Department
2525 Estero Blvd.
Fort Myers Beach, FL 33931

**CODE COMPLIANCE SPECIAL MAGISTRATE
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA**

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs.

CASE NO. 20230476

PROCK, DENNIS,

Respondent.

CODE ENFORCEMENT ORDER

THIS CAUSE came on for public hearing on June 15, 2023, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, Dennis Prock, not present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and orders as follows:

A. FINDINGS OF FACT:

1. The Respondent, Dennis Prock ("Respondent"), is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property located at 8124 Estero Blvd., Fort Myers Beach, FL, 33931 ("Property"), legally described as:

Lot 18, of that certain subdivision known as Grand Ole' Man, according to the map plat thereof recorded at Plat Book 29, Pages 26 and 27, in the Public Records of Lee County, Florida.
2. The Respondent was served with a Notice of Violation ("NOV") alleging the existence of a violation of the Town of Fort Myers Beach Code of Ordinances ("Town Code") on the Property.

3. The NOV specified that Respondent was required to correct the violation by a specified amount of time, but Respondent failed to do so.
4. The Respondent was served with a Notice of Hearing as a result of non-compliance with the NOV, and therefore, this case is properly before the Special Magistrate.
5. The following violation exists on the Property:

LOWER-LEVEL ENCLOSURE WITHOUT PERMIT

B. CONCLUSION OF LAW:

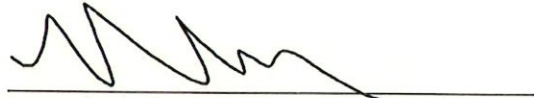
1. Respondent, by reason of the foregoing facts, is in violation of Town Code LDC Sec. 6-111, Adopting FBC 105.1- Permit required; LDC Sec 6-441- Permits; inspections.
2. Based upon the competent substantial evidence presented at the hearing, the Special Magistrate of the Town of Fort Myers Beach has determined that this Order of Enforcement is hereby warranted.

C. ORDER/IMPOSITION OF FINE:

1. The Special Magistrate has considered the gravity of the violation(s), any actions by the Respondent to correct the violation(s); and any previous violations committed by the Respondent and hereby orders the aforementioned violation(s) occurred.
2. Respondent is assessed \$100.00 in administrative costs and fees.
3. Respondent is ordered to come into compliance within six (6) months.
4. If the violation has been corrected, the amount ordered by the Special Magistrate for administrative costs and fees in the amount of \$100.00 is still ordered.
5. In the event that the said violation is not corrected **PRIOR TO DECEMBER 15, 2023**, a fine of **\$150.00 per day** shall be imposed against Respondent and the Property, beginning on that date and continuing for each day that the aforesaid violation continues to exist.
6. In the event that the violation is not corrected by the above-mentioned date and/or the costs ordered herein have not been paid, a hearing to impose a lien against all real and personal property of Respondent for the amount ordered will be held before the Special Magistrate on a **date, time, and location to be determined**, and could result in litigation in Circuit Court.

7. The Respondent is ordered to contact the Town of Fort Myers Beach Code Enforcement Department to re-inspect the property to verify compliance. A COMPLIANCE RE-INSPECTION WILL NOT be conducted unless the Respondent contacts the Town of Fort Myers Beach Code Enforcement Department.

ORDERED this 15th day of June 2023, and executed this 16 day of June 2023.


Myrnabelle Roche, Special Magistrate

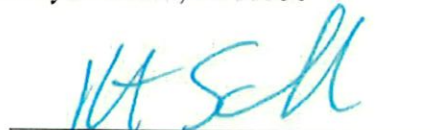
APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

Pursuant to Chapter 162.09 (3), Florida Statutes, A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon and other real or personal property owned by the violator.

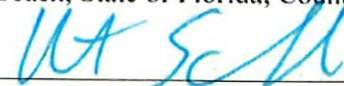
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copy of the Order was sent by U.S. Mail on the 20 day of June 2023 to:

Dennis Prock
8124 Estero Blvd.
Fort Myers Beach, FL 33931


Code Compliance Coordinator

I certify this document to a be true and correct copy of the original on file in Town Hall, Fort Myers Beach, State of Florida, County of Lee.

BY: 
Dated 6/20/23

SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

PROCK DENNIS M
8124 ESTERO BLVD
FORT MYERS BEACH, FL 33931



9590 9402 8027 2305 8904 17

2. Article Number (Transfer from service label)

7022 3330 0000 7544 7743

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

☐ Agent☒ Addressee

B. Received by (Printed Name)

DENNIS M PROCK

C. Date of Delivery

6/21/23

D. Is delivery address different from item 1?
If YES, enter delivery address below:☐ Yes☒ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

Registered Mail
Registered Mail Restricted Delivery
(over \$500)

☐ Priority Mail Express®☐ Registered Mail™☐ Registered Mail Restricted Delivery☐ Signature Confirmation™☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

USPS TRACKING#



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9590 9402 8027 2305 8904 17

United States
Postal Service

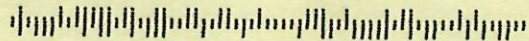
• Sender: Please print your name, address, and ZIP+4® in this box •

Town of Fort Myers Beach
2525 Estero Blvd.
Fort Myers Beach, FL 33931

Town of Fort Myers Beach

JUN 23 2023

Received by: _____





Permit #: 234329

Permit Date: 06/15/23

Permit Type:

Permit Type: Residential

Sub Type: Remodel

Type of Construction: N/A

Type of Occupancy / Use: Residential

Contractor Business Name/Applicant: Owner-Builder

Contact Name: Dennis Prock

Contractor/Applicant Email: dprock@prockops.com

Contractor/Applicant Phone #: 573-578-9410

Property Owner's Email: dprock@prockops.com

Current Use: 8124 estero

Proposed Use: FT Myers Beach Fl 33913

Scope of Work: Exterior - lower level enclosure

Project Cost: 18750

Gross Square Feet: 1

Issued Date:

Expiration Date:

Finaled Date:

Closed Date:

Repair Damage Due To:

Storm Damage:

Floodplain:

Status: VOID

Assigned To:

Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
034724W3003000180	8124 ESTERO BLVD	GRAND OLE MAN PB 29 PG 27 LOT 18	PROCK DENNIS M		RS-1

Contractors

Contractor	Primary Contact	Phone	Address	Contractor Type	License	License #
Dennis Prock	Dennis Prock		8124 Estero Blvd.	Owner Builder		

Inspections

Date	Inspection Type	Description	Scheduled Date	Completed Date	Inspector	Status
06/15/2023	NOC					Open

Plan Reviews

Date	Review Type	Description	Assigned To	Review Status
06/15/2023	Owner Builder AFFIDAVIT		*	
06/15/2023	Review Flood		*	
06/15/2023	Review FMB Application		*	
06/15/2023	Review Zoning	Lower level build back	*	
06/15/2023	Review Res. Plan review		*	
06/15/2023	Notice of Commencement		*	
06/15/2023	Incomplete submittal	Need owner builder disclosure statement, Need NOA's for any exterior windows or doors	Misty Alexander	RESUBMITTAL REQUIRED

Fees

Fee	Description	Notes	Amount
	*** IMPACT FEES NOT INCLUDED ***		
	Enter Commercial Calculation if over 6,500 sqft.		
	Includes:		
	Application Processing Fee		
	Building Plan Review and Inspection		
	Environmental Review		
	Flood Review		
	Stormwater Review		\$0.00
	Zoning Review		
	Electrical Review and Electrical Inspection		
	Mechanical Review and Mechanical Inspection		
	Plumbing Review and Plumbing Inspection		
	Roof		
	Sewer Connection		
* MISC- DBPR & DCA Admin Fees			\$0.00
		Total	\$0.00

Notes

Date	Note	Created By:
06/15/2023	3X the fee as this is an active code case	Misty Alexander

Uploaded Files

Date	File Name
11/19/2024	23239380-Completion Request - VOID - 234329.pdf
06/12/2023	eac3103eb7b27a8605117162d27b93c_06122023.pdf
06/12/2023	15727874-2023-06-12_151046.pdf



Town of Fort Myers Beach Building Department

Completion Request

Date: 11/19/2024

Permit #: 234329

Address: 8124 ESTERO BLVD Ft Myers Beach, FL 33931

Contractor / Applicant: OWNER BUILDER

Scope of Work: L

Notes: REQUESTING TO VOID EXISTING PERMIT TO
REAPPLY WITH A CHANGE OF PLANS

Applicant Signature

Email: buildingpermits@fmbgov.com

Town of Fort Myers Beach - 2525 Estero Blvd Fort Myers Beach, FL 33931 - (239) 765-0202

2/18/2023

Danielle Batt

From: dennis prock <dprock316@gmail.com>
Sent: Wednesday, October 23, 2024 3:57 PM
To: Danielle Batt; Frank Grimes
Subject: Re: case #20230476 at 8124 Estero Blvd

Greetings, thanks for getting me the information. I will work with you all a possible reduction. Thanks again. Dennis

On Wed, Oct 23, 2024 at 3:54 PM Danielle Batt <dbatt@fmbgov.com> wrote:

Good afternoon,

As requested by the Code Compliance Manager T. Yozzo I am emailing you the information requested. I did have Officer Chavez out to the property today for reinspection as requested and he advised the property is now in compliance. I calculated from 12/15/2023 to 10/23/2024 (312 days) at \$150.00/daily totaling \$46,800.00 and the \$100.00 administrative fee as the Magistrate order reads totaling \$46,900.00. I will be stopping the daily accruing cost on 10/23/2024 due to compliance at \$46,800.00 and once the lien has been paid in full I will be happy to request the Special Magistrate close the order, have the lien be released and close the case. Thank you for contacting the Town of Fort Myers Beach.

Respectfully,



Officer D. Batt

Compliance Coordinator

Town of Fort Myers Beach

2731 Oak Street

Fort Myers Beach, FL 33931

Phone: 239-765-0202

Direct Line: 239-922-4049

FMBgov.com





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

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.





1. **Request:**

Meeting Date: May 5, 2025

Request for Rehearing and Reconsideration of Denial of Appeal of 213191 Widgeon Terrace – Administrative Appeal of Building Permit # 24233 / 23477 – April 21, 2025 Agenda Item XII, B. (Construction of Swimming Pool), Pursuant to Town Code Sec. 34-93.

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**

Subsequent to the administrative appeal which was heard on April 21, 2025, a request for a rehearing and reconsideration was timely received from Shai Ozery, Esq. on behalf of Himmelstein Associates, LLC.. As requested by the attorney, a copy of the request for rehearing and reconsideration was provided to Town Council and to the property owner. The Town Attorney has reviewed the request and does not object to the rehearing, which could be scheduled for May 19th, 2025 or another date identified by the Town Council.

Attachments:

1. 04.22.25 Himmelstein Motion and Request for Rehearing of April 21, 2025 Agenda Item XII, B

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Jason Freeman, Deputy Town Clerk / Legislative Liaison
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 4/28/2025
Approved - 4/29/2025
Approved - 4/29/2025
Final Approval - 4/29/2025



HARTSELL | OZERY, P.A.
61 N.E. 1ST Street, Suite C
Pompano Beach, Florida 33060
(954) 778-1052
www.HartsellOzery.com

April 22, 2025

Town of Fort Myers Beach, Florida
Honorable Dan Allers - Mayor
Honorable Jim Atterholt - Vice Mayor
Honorable John R. King - Council Member
Honorable Scott Safford - Council Member
Honorable Karen Woodson - Council Member
2731 Oak Street
Fort Myers Beach, FL 33931

Amy Baker – Town Clerk
Amy@fmbgov.com

Nancy Stuparich – Town Attorney
nstuparich@voselaw.com

RE: Request for Rehearing and Reconsideration of Denial of Appeal of 213191 Widgeon Terrace – Administrative Appeal of Building Permit # 24233 / 23477 – April 21, 2025 Agenda Item XII, B. (Construction of Swimming Pool), Pursuant to Town Code Sec. 34-93.

Appellant: Himmelstein Associates, LLC
Property Owner: Todd R. Plaisted.
Property Address: 21391 Widgeon Terrace

Dear Mayor and Council,

By way of introduction, my name is Shai Ozery, and our firm, Hartsell Ozery, P.A. represents Himmelstein Associates, LLC, Robert Himmelstein, and Stephanie Himmelstein (“**Himmelsteins**”) in a legal capacity, as it pertains to the above-mentioned Second Renewed Administrative Appeal Building Permit # 242333 / #234477 (213191 Widgeon Terrace (“**Administrative Appeal**”) to the Town of Fort Myers Beach (“**Town**” or “**the Town**”). Please let this serve as our request for a rehearing and to reconsider the Administrative Appeal, in order for the Town to rehear the Administrative Appeal, after providing proper notice of the agenda items for consideration by the Town Council, to all interested parties, including the Himmelsteins.

The subject Administrative Appeal came before this Council on April 21, 2025, at the General Town Council Meeting (“**the Meeting**”) with the Himmelsteins absent, the Administrative Appeal

was summarily denied. Neither the Himmelsteins, nor the undersigned counsel, were provided notice of the Meeting, despite requesting such acutal notice via email.¹ The Town's April 21, 2025 denial of the Administrative Appeal should be reconsidered and a rehearing granted, pursuant to Town Code Sec. 34-93. As grounds, the Town failed to provide the Himmelsteins proper notice under Florida law, required for to parties to quasi-judicial hearings, denied the Administrative Appeal without competent substantial evidence, and published the wrong agenda and corresponding materials, failing to bring up the correct Administrative Appeal for the Town Council's consideration. The Himmelsteins, **as party Appellants, were entitled to notice of the Meeting, as a quasi-judicial hearing, under Florida law and the Town failed to do so, depriving the Himmelsteins of basic due process.**

"...[C]ertain standards of basic fairness must be adhered to in order to afford due process. *See Hadley*, 411 So.2d at 184; *City of Miami v. Jervis*, 139 So.2d 513 (Fla. 3d DCA 1962). Consequently, a quasi-judicial decision based upon the record is not conclusive if minimal standards of due process are denied. *See Morgan v. United States*, 298 U.S. 468, 480–81, 56 S.Ct. 906, 911–12, 80 L.Ed. 1288 (1936); *Western Gillette, Inc. v. Arizona Corp. Comm'n*, 121 Ariz. 541, 592 P.2d 375 (Ct.App.1979). **A quasi-judicial hearing generally meets basic due process requirements if the parties are provided notice of the hearing and an opportunity to be heard.** In quasi-judicial zoning proceedings, the parties must be able to present evidence, cross-examine witnesses, and be informed of all the facts upon which the commission acts. *Coral Reef Nurseries, Inc. v. Babcock Co.*, 410 So.2d 648, 652 (Fla. 3d DCA 1982)."

Jennings v. Dade County, 589 So. 2d 1337, 1340 (Fla. 3d DCA 1991). Due process requirements of notice of the Meeting and opportunity to be heard, were not fulfilled by the Town and provided to the Himmelsteins, as demonstrated below. Additionally, the denial was based upon the absence of the Himmelsteins at the Meeting, an improper consideration as the basis for denial, and failure to base the denial upon competent substantial evidence. *See Brevard County v. Snyder*, 627 So.2d 469 (Fla. 1993).

The Town issued the subject Approval Letter on November 15, 2024.² The Himmelsteins filed their Administrative Appeal, less than thirty (30) days after, on December 13, 2024,³ and served upon the Town, Town Clerk, Town Attorney, Town Zoning, Town Planning and the property owner, Todd Plaisted's Counsel to ensure all interested parties receive notice.

Receiving no reply, on February 19, 2025, the undersigned followed up and emailed the Town again.⁴ At which point the Town requested the attachments be resent, despite service three (3) months prior, which the undersigned promptly provided, and the Town confirmed receipt of.⁵

¹ Exhibit A – 02.24.25 Himmelstein Request for Procedural Timeline.

² Exhibit B – 11.15.24 Approval Letter.

³ Exhibit C – 12.13.24 2nd Renewed Administrative Appeal.

⁴ Exhibit D – 02.19.25 Follow up Email No. 1.

⁵ *Id.*

However, with still no notice as to when the Administrative Appeal may be heard, the undersigned once again reached out regarding an anticipated procedural timeline on February 24, 2025⁶ to which the Town did not respond and the undersigned received no communication from, until the notified on April 21, 2025 that a hearing had already taken place and the Administrative Appeal denied. It is our understanding that as a result of the recent devastation caused by hurricanes in the Gulf, that the Town has been tasked with burdensome responsibilities in the face of rebuilding and restructuring, however, the Himmelsteins made multiple attempts obtain notice of the Meeting to no avail, resulting in the Town proceeding with and denying the Administrative Appeal in the Himmelsteins' absence, by a vote of 4 to 1.

The denial came even after several recommendations from the Town Attorney to continue the matter so that not only the Himmelsteins could be present, due to what appeared to be known as a miscommunication, but also so that the Building Official whose decision it was to issue the subject permit being appealed, could be present as well.⁷ Despite significant concerns of an appeal and lack of basic elements of fairness, being raised by the Town Attorney, as well as recommendation to continue the agenda item to May 5, 2025, the Council summarily denied the Administrative Appeal. Also concerning was that nobody in attendance asked whether all parties were provided actual notice.

“The ‘core’ of due process is the right to notice and an opportunity to be heard.”

Yearby v. Miami-Dade Cnty. Bd. of Cnty. Com'rs, 2021 WL 2076041, at *3 (Fla.Cir.Ct.)(citing *Carillon Cmty. Residential v. Seminole Cty.*, 45 So. 3d 7, 9 (Fla. 5th DCA 2010)). The Himmelsteins are undisputedly parties to the quasi-judicial hearing, as the Appellants, and were not provided notice of the Meeting, in contravention of Florida law, depriving them of necessary due process, and warranting the granting of the instant request for rehearing.

Again it should also be noted that even the agenda that was published, contained the wrong materials and incorrect appeal to begin with. As such, the appropriate appeal was not published as an agenda item, nor was notice sent out to the Appellants, the Himmelsteins or their counsel. As a general matter, it is well established that Florida tribunals favor a determination of a claim on its merits.⁸

Lastly, argument was made that the Town Council did not have jurisdiction to hear the matter. We respectfully request that this Council grant the rehearing request, reconsider the Administrative Appeal, in order for the Town to rehear the Administrative Appeal, after providing proper notice

⁶ Exhibit A – 02.24.25 Himmelstein Request for Procedural Timeline.

⁷ https://www.youtube.com/live/G7ewXu-qn-A?si=ZQjTa1ka_gyrLCb9&t=3080.

⁸ In the context of a “default” courts have well-established proposition that “under Florida law, ‘if there be any reasonable doubt in the matter of vacating a default, it should be resolved in favor of granting the application and allowing a trial upon the merits of the case.’” *Contreras v. Stambul, LLC*, 306 So. 3d 1143, 1144 (Fla. 3d DCA 2020) (quoting *State Bank of Eau Gallie v. Raymond*, 138 So. 40, 43 (Fla. 1931)). *See also Cardet v. Resol. Tr. Corp.*, 563 So. 2d 167, 168 (Fla. 3d DCA 1990) (“The purpose of the rule is to speed the action toward conclusion on the merits where possible, not to expedite litigation by ex parte actions and surprise”).

of the agenda items for consideration by the Town Council, to all interested parties, including the Himmelsteins.

Thank you for your attention to this matter.

Respectfully submitted by:

/s/ Shai Ozery

Robert N. Hartsell, Esq.

Florida Bar No. 636207

Robert@Hartsell-Law.com

Shai Ozery, Esq.

Florida Bar No. 118371

Shai@Hartsell-Law.com

ROBERT N. HARTSELL, P.A.

61 NE 1st Street, Suite C,

Pompano Beach, FL 33060

Telephone: 954-778-1052

Counsel for the Himmelsteins, Appellants

cc: Robert Burandt, Esq, *Counsel for the Plaisteds*, via email.

Exhibit A

JS

From: Jordan Snyder jordan@hartsellozery.com
Subject: Re: [2ND RENEWED] ADMINISTRATIVE APPEAL dated November 15, 2024 BUILDING PERMIT # 242333 / #234477 (213191 Widgeon Terrace)
Date: February 24, 2025 at 1:42 PM
To: Sarah Propst sarah.propst@fmbgov.com
Cc: Shai Ozery shai@hartsellozery.com, Kendra Rosa Kendra@fmbgov.com, Amy Baker Amy@fmbgov.com

Sarah,

Thank you for confirming receipt. Please let us know if you require any additional documentation. Additionally, would you be able to provide us with an anticipated procedural timeline?

Regards,

Jordan Snyder

On Wed, Feb 19, 2025 at 3:37 PM Sarah Propst <sarah.propst@fmbgov.com> wrote:

Shai and Jordan,

Thank you very much for resending these. We have received the documents. Please reach out if there are any questions

Have a lovely day,

Sarah Propst, AICP, PMP

Sr. Planner/Project Manager

Town of Fort Myers Beach

2731 Oak St

Fort Myers Beach, FL. 33931

Cell: (757) 269-1203

FMBgov.com



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

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From: Shai Ozery <shai@hartsellozery.com>
Sent: Wednesday, February 19, 2025 1:12 PM
To: Kendra Rosa <Kendra@fmbgov.com>
Cc: Sarah Propst <sarah.propst@fmbgov.com>; Jordan Snyder <jordan@hartsellozery.com>; Amy Baker <Amy@fmbgov.com>
Subject: Fwd: [2ND RENEWED] ADMINISTRATIVE APPEAL dated November 15, 2024 BUILDING PERMIT # 242333 / #234477 (213191 Widgeon Terrace)

Good afternoon Ms. Rosa,

Please see the (2nd) Administrative Appeal service email below. If you have any trouble accessing the documents, please let us know.

Thank you.

Sincerely,

Shai Ozery, Esq.

Partner

Hartsell | Ozery, P.A.

(Licensed to Practice Law in Florida and Colorado)



Website: www.hartsellozery.com

Office: (954) 778-1052

Address: 61 NE 1st Street,
Suite C,
Pompano Beach, Florida 33060

Begin forwarded message:

From: Shai Ozery <shai@hartsellozery.com>

Subject: [2ND RENEWED] ADMINISTRATIVE APPEAL dated November 15, 2024 BUILDING PERMIT # 242333 / #234477 (213191 Widgeon Terrace)

Date: December 13, 2024 at 5:42:18 PM EST

To: Kendra@fmbgov.com, bvose@voselaw.com, Sarah Propst <sarah.propst@fmbgov.com>, amy@fmbgov.com, mrondel@voselaw.com

Cc: Robert Hartsell <robert@hartsellozery.com>, robert@capecoralattorney.com

Dear Town Attorney and Town Clerk

Our firm represents the Appellants, HIMMELSTEIN ASSOCIATES, LLC, ROBERT HIMMELSTEIN, and STEPHANIE HIMMELSTEIN in a legal capacity.

Please find the 2nd RENEWED Admin Appeal on permit reissued on September 9, 2024, and then again on November 15, 2024.

Please find attached hereto for filing: A **2nd RENEWED Administrative Appeal** filed pursuant

to Fort Myers Beach Code Section 34-86 (Appeals from administrative action) the building permit and site plan issued for **213191 Widgeon Terrace (App. Bates No. 149)**, Fort Myers Beach, Florida (subject property) and exhibits, attached in PDF hereto. Please use the original Admin Appeal Fee \$1000 that was accepted previously and has not been returned

Links to the applicable documents for the appeal maybe set forth below, if the documents are too large for attachment.

Please let us know if you have any questions or concerns.

Sincerely,

Shai Ozery, Esq.
Partner
Hartsell | Ozery, P.A.

(Licensed to Practice Law in Florida and Colorado)



Website: www.hartsellozery.com
Office: (954) 778-1052
Address: 61 NE 1st Street,
Suite C,
Pompano Beach, Florida 33060

[Click to Download](#)

12.12.24 - 2nd Renewed Admin Appeal APPX.pdf

47.4 MB

[Click to Download](#)

12.12.24 - 2nd Renewed Admin Appeal w. Exhibits.pdf

57 MB

[Click to Download](#)

CDD 2nd Renewed Admin Appeal 12.13.24.pdf

10 MB

[Click to Download](#)

CDD Supp. PH-F 2nd Renewed Admin. Appeal 12.13.24.pdf

441 KB

EXHIBIT B



Reviewed for Compliance

Permit 243333

Town of Fort Myers Beach Building Department

2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

Approval Letter

BUILD RESPONSIBLY!

GO TO:

<https://www.fortmyersbeachfl.gov/DocumentCenter/View/16329/BUILD-RESPONSIBLY>

Date: 11/15/2024

Permit #: 242333

Address: 21391 Widgeon Ter.

Applicant: BIG GATOR POOLS AND SPAS

Scope of Work: ELEVATED POOL

Review Type	Reviewer	Review Status
Zoning Review	Kendra Rosa	Reviewed for Compliance
Flood Review	Carl Thomas	Approved w/ Conditions
Plan Review	Joe Specht	Reviewed for Compliance
Stormwater Review	James Warner	Reviewed for Compliance
Environmental Review	Chad Chutz	Reviewed w/ Conditions
Public Works Review		Not Required
Beach Water Review		Not Required

Permit Conditions:

Flood Conditions: APPROVED -W- CONDITIONS

-STRUCTURE MUST HAVE HYDROSTATIC RELIEF VALVES

*PLANS STATE POOL IS IN COMPLIANCE WITH SECTION FBC SECTION 3.2.2.4 (ANCHORED TO RESIST FLOOD LOADS) AND 322.3.3.1 (COMPLIANCE WITH ASCE 24-14 - FLOOD RESISTANT DESIGN)

Environmental Conditions: DO NOT CAUSE EROSION OR SEDIMENTATION INTO WATERWAYS

Install and maintain best management practices for erosion control and sedimentation throughout construction.

DO NOT DISCHARGE WATER INTO WATERWAYS OR THE BEACH

NOTICE: Under no circumstances shall any swimming pool or ground water be discharged either directly or indirectly onto the beach, or into canals, wetlands, or any other tidal waters. Discharge of pool water into waterways or the Environmentally Critical Zone may be considered an irreparable and irreversible violation of Florida Statutes and Town Code with a penalty of up to \$5,000 per violation.

DO NOT DISCHARGE CHLORINATED POOL WATER.

Disposal of swimming pool water: Prior to disposing of any swimming pool water, chlorine and bromine levels must be reduced by not adding chlorine or bromine for a least five (5) days or until levels are below 0.1 mg per liter.

Dechlorinated pool water can be discharged into roadside swales to allow for percolation of the water into the ground without any runoff to canals, beaches, wetlands, other buildingwaters@fortmyersbeachfl.gov properties.

PROTECT NATIVE TREES

Native Trees to be protected in accordance with the Tree Protection Code.

Jobsite copy

App. No. 0007

NOTICE OF COMMENCEMENT

Permit No. _____

Tax Folio No. 10230971State of FLCounty of LEE

The undersigned hereby gives notice that improvement will be made to certain real property, and in accordance with Chapter 713, Florida Statutes, the following information is provided in the Notice of Commencement.

1. Description of property: (legal description of property and street address if available)

21391 WIDEON TER, FMB, FL 33931; STRAP 34-46-24-W1-002M0-0010

2. General description of improvement:

INSTALLATION OF NEW RESIDENTIAL POOL & STEM WALL

3. Owner information:

Name TODD R. PLAISTEDAddress 15181 ANDRIE ST NW, RAMSEY, MN 55303Phone 612-868-7699 Fax _____Interest in property OWNER

Name and address of fee simple titleholder (if other than Owner) _____

4. Contractor

Name BIG GATOR POOLS AND SPASAddress 1149 NE 10TH TER, UNIT 6 CORAL FL 33991Phone 239-770-8543 Fax _____

5. Surety

Name _____

Address _____

Amount of bond: \$ _____

Phone _____

Fax _____

6. Lender:

Name _____

Address _____

Phone _____

Fax _____

7. Persons within the State of Florida designated by Owner upon whom notices or other documents may be served as provided by Section 713.13(1)(a)7, Florida Statutes:

Name _____

Address _____

Phone _____

Fax _____

8. In addition to himself or herself, Owner designates the following person(s) to receive a copy of the Lender's Notice as provided in Section 713.13(1)(h), Florida Statutes:

Name _____

Address _____

Phone _____

Fax _____

9. Expiration date of notice of commencement (the expiration date is 1 year from date of recording unless a different date is specified): _____

WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER PAYMENT UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF COMMENCEMENT.

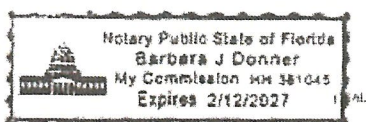
Todd R. Plaisted
(Signature of Owner or Lessee, or Owner's or Lessee's Authorized Officer/Director/Partner/Manager)

OWNER

(Signatory's Title/Office)

STATE OF Florida COUNTY OF LeeThe foregoing instrument was certified and subscribed before me by means of ☒ physical presenceOR ☐ online notarization, this 22 day of August 2024, by Todd Plaisted who is

personally known to me OR _____ as identification.



Barbara J. Donner
Notary Public, Notary

Taken at Fort Myers Beach,
2256 Estero Blvd. Fort Myers Beach, FL 33931
Phone: 239-765-0202 Bulletin@notary.com

Jobsite copy

Exhibit C

From: Shai Ozery shai@hartsellozery.com 
Subject: [2ND RENEWED] ADMINISTRATIVE APPEAL dated November 15, 2024 BUILDING PERMIT # 242333 / #234477 (213191 Widgeon Terrace)
Date: December 13, 2024 at 5:42 PM
To: Kendra@fmbgov.com, bvose@voselaw.com, Sarah Propst sarah.propst@fmbgov.com, amy@fmbgov.com, mrondel@voselaw.com
Cc: Robert Hartsell robert@hartsellozery.com, robert@capecoralattorney.com

SO

Dear Town Attorney and Town Clerk

Our firm represents the Appellants, HIMMELSTEIN ASSOCIATES, LLC, ROBERT HIMMELSTEIN, and STEPHANIE HIMMELSTEIN in a legal capacity.

Please find the 2nd RENEWED Admin Appeal on permit reissued on September 9, 2024, and then again on November 15, 2024.

Please find attached hereto for filing: A **2nd RENEWED Administrative Appeal** filed pursuant to Fort Myers Beach Code Section 34-86 (Appeals from administrative action) the building permit and site plan issued for **213191 Widgeon Terrace (App. Bates No. 149)**, Fort Myers Beach, Florida (subject property) and exhibits, attached in PDF hereto. Please use the original Admin Appeal Fee \$1000 that was accepted previously and has not been returned

Links to the applicable documents for the appeal maybe set forth below, if the documents are too large for attachment.

Please let us know if you have any questions or concerns.

Sincerely,

Shai Ozery, Esq.

Partner

Hartsell | Ozery, P.A.

(Licensed to Practice Law in Florida and Colorado)



Website: www.hartsellozery.com

Office: (954) 778-1052

Address: 61 NE 1st Street,
Suite C,
Pompano Beach, Florida 33060

12.12.24 - 2nd Renewed Admin
Appeal APPX.pdf
47.4 MB



12.12.24 - 2nd Renewed Admin
Appeal w. Exhibits.pdf
57 MB



CDD 2nd Renewed Admin Appeal
12.13.24.pdf



CDD Supp. PH-F 2nd Renewed
Admin. Appeal 12.13.24.pdf
441 KB



Exhibit D

SO

From: Shai Ozery shai@hartsellozery.com
Subject: Re: [2ND RENEWED] ADMINISTRATIVE APPEAL dated November 15, 2024 BUILDING PERMIT # 242333 / #234477 (213191 Widgeon Terrace)
Date: February 19, 2025 at 2:27 PM
To: Kendra Rosa Kendra@fmbgov.com
Cc: Jordan Snyder jordan@hartsellozery.com, Amy Baker Amy@fmbgov.com, Nancy Stuparich nstuparich@voselaw.com

Please see attached and confirm receipt. Thank you and if there are any further issues, please let us know.

Shai Ozery, Esq.

Partner

Hartsell I Ozery, P.A.

(Licensed to Practice Law in Florida and Colorado)



Website: www.hartsellozery.com

Office: (954) 778-1052

Address: 61 NE 1st Street,
Suite C,
Pompano Beach, Florida 33060

12.12.24 - 2nd Renewed Admin
Appeal APPX.pdf



12.12.24 - 2nd Renewed Admin
Appeal w. Exhibits.pdf



CDD 2nd Renewed Admin Appeal
12.13.24.pdf



CDD Supp. PH-F 2nd Renewed
Admin. Appeal 12.13.24.pdf



On Feb 19, 2025, at 2:25 PM, Kendra Rosa <Kendra@fmbgov.com> wrote:

Hi Shai,

Can you resend the links? I tried to download them, but they are expired.

<image001.png>

Kendra Rosa

Zoning Coordinator

Town of Fort Myers Beach

2731 Oak Street

Fort Myers Beach, FL 33931

Phone: (239) 765-0202

<image002.png>

<image003.png><image004.png><IMAGE005.PNG>
<image006.png><image007.png>

Frequently asked questions

From: Shai Ozery <shai@hartsellozery.com>

Sent: Friday, December 13, 2024 5:42 PM

To: Kendra Rosa <Kendra@fmbgov.com>; Becky Vose <bvose@voselaw.com>; Sarah Propst <sarah.propst@fmbgov.com>; Amy Baker <Amy@fmbgov.com>; mrondel@voselaw.com

Cc: Robert Hartsell <robert@hartsellozery.com>; robert@capecoralattorney.com

Subject: [2ND RENEWED] ADMINISTRATIVE APPEAL dated November 15, 2024
BUILDING PERMIT # 242333 / #234477 (213191 Widgeon Terrace)

[Download full resolution images](#)

[Available until Jan 12, 2025](#)

Dear Town Attorney and Town Clerk

Our firm represents the Appellants, HIMMELSTEIN ASSOCIATES, LLC, ROBERT HIMMELSTEIN, and STEPHANIE HIMMELSTEIN in a legal capacity.

Please find the 2nd RENEWED Admin Appeal on permit reissued on September 9, 2024, and then again on November 15, 2024.

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Sincerely,

Shai Ozery, Esq.

Partner

Hartsell I Ozery, P.A.

(Licensed to Practice Law in Florida and Colorado)



Website: www.hartsellozery.com
Office: (954) 778-1052
Address: 61 NE 1st Street,
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[Click to Download](#)

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47.4 MB

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CDD Supp. PH-F 2nd Renewed Admin. Appeal 12.13.24.pdf
441 KB

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

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<image009.png><image005.png><image008.png><image007.png><image004.png><image001.png><image010.png><image006.png>

From: Sarah Propst sarah.propst@fmbgov.com
Subject: RE: [2ND RENEWED] ADMINISTRATIVE APPEAL dated November 15, 2024 BUILDING PERMIT # 242333 / #234477 (213191 Widgeon Terrace)
Date: February 19, 2025 at 3:37 PM
To: Shai Ozery shai@hartsellozery.com, Kendra Rosa Kendra@fmbgov.com
Cc: Jordan Snyder jordan@hartsellozery.com, Amy Baker Amy@fmbgov.com

SP

Shai and Jordan,

Thank you very much for resending these. We have received the documents. Please reach out if there are any questions

Have a lovely day,

Sarah Propst, AICP, PMP

Sr. Planner/Project Manager

Town of Fort Myers Beach

2731 Oak St

Fort Myers Beach, FL. 33931

Cell: (757) 269-1203

FMBgov.com



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

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From: Shai Ozery <shai@hartsellozery.com>
Sent: Wednesday, February 19, 2025 1:12 PM
To: Kendra Rosa <Kendra@fmbgov.com>
Cc: Sarah Propst <sarah.propst@fmbgov.com>; Jordan Snyder <jordan@hartsellozery.com>; Amy Baker <Amy@fmbgov.com>
Subject: Fwd: [2ND RENEWED] ADMINISTRATIVE APPEAL dated November 15, 2024 BUILDING PERMIT # 242333 / #234477 (213191 Widgeon Terrace)

Good afternoon Ms. Rosa,

Please see the (2nd) Administrative Appeal service email below. If you have any trouble accessing the documents, please let us know.

Thank you.

Sincerely,

Shai Ozery, Esq.

Partner

Hartsell | Ozery, P.A.

(Licensed to Practice Law in Florida and Colorado)





Website: www.hartsellozery.com
Office: (954) 778-1052
Address: 61 NE 1st Street,
Suite C,
Pompano Beach, Florida 33060

Begin forwarded message:

From: Shai Ozery <shai@hartsellozery.com>
Subject: [2ND RENEWED] ADMINISTRATIVE APPEAL dated
**November 15, 2024 BUILDING PERMIT # 242333 / #234477 (213191
Widgeon Terrace)**
Date: December 13, 2024 at 5:42:18 PM EST
To: Kendra@fmbgov.com, bvose@voselaw.com, Sarah Propst
<sarah.propst@fmbgov.com>, amy@fmbgov.com,
mrondel@voselaw.com
Cc: Robert Hartsell <robert@hartsellozery.com>,
robert@capecoralattorney.com

Dear Town Attorney and Town Clerk

Our firm represents the Appellants, HIMMELSTEIN ASSOCIATES, LLC, ROBERT
HIMMELSTEIN, and STEPHANIE HIMMELSTEIN in a legal capacity.

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Please let us know if you have any questions or concerns.

Sincerely,

Shai Ozery, Esq.
Partner
Hartsell | Ozery, P.A.
(Licensed to Practice Law in Florida and Colorado)





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Office: (954) 778-1052
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1. **Request:**

Meeting Date: May 5, 2025

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AND AUTHORIZING THE TOWN MANAGER TO EXECUTE CHANGE ORDER #1 TO CONTRACT ITB-23-18-UT BETWEEN THE TOWN OF FORT MYERS BEACH AND ANDREW SITEWORK LLC.; INCREASING THE CONTRACT AMOUNT BY \$757,545.41; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The Town is continuing its commitment to make necessary water and stormwater improvements for the benefit of island residents, businesses and visitors. Andrew Sitework has been engaged to construct the Tier 1 Water and Stormwater Improvements Project. To ensure cost effectiveness, the proposed change order will add construction of water and stormwater improvements along Gulf Island Drive, Bayside Road, Coral Road, Dolphin Land and Coquina Road which are within the vicinity of the Tier 1 project area.

What the action accomplishes:

This resolution approves and authorizes the Town Manager to execute change order #1 to ITB-23-18-UT.

- Approves the addition of water and stormwater improvements along Gulf Island Drive, Bayside Road, Coral Road, Dolphin Land and Coquina Road at a cost of \$757,545.41.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

5. **Background:**

The Town Council approved Contract ITB-23-18-UT with Andrew Sitework LLC. for \$23,009,179.00 with Resolution No. 23-158 on November 20, 2023. To ensure cost effectiveness, the proposed change order will add construction of water and stormwater improvements along Gulf Island Drive, Bayside Road, Coral Road, Dolphin Land and Coquina Road, which are within the vicinity of the current Andrew Sitework LLC project area.

Attachments:

1. Resolution 25-121 Change Order 1 to ITB-23-18-UT
2. Attachment A to Resolution 25-121 (Change Order 1 to ITB-23-18-UT)

Financial Impact:

The Tier 1 Water and Stormwater Improvements Project is currently being funded with a combination of State Revolving Loan funds, Hazard Mitigation Grant Program funds, a State legislative appropriation, Lee County funds, and Town funds. Staff will pursue additional SRF funding for the Change Order #1 expenses. The \$200,862 of the Town Portion will be funded by Insurance Proceeds for the Water Distribution System.

6. **Alternative Action**

Do not approve change order #1.

7. **Management Recommendations:**

Approve change order #1 to Contract ITB-23-18-U

8. **Recommended Approval:**

Jason Freeman, Deputy Town Clerk / Legislative Liaison
Joe Onzick, Finance Director
Jeff Hauge, Community Services Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 3/24/2025
Approved - 4/22/2025
Approved - 4/22/2025
Approved - 4/28/2025
Approved - 4/28/2025
Final Approval - 4/28/2025

RESOLUTION NUMBER 2025-121

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AND AUTHORIZING THE TOWN MANAGER TO EXECUTE CHANGE ORDER #1 TO CONTRACT ITB-23-18-UT BETWEEN THE TOWN OF FORT MYERS BEACH AND ANDREW SITEWORK LLC. TO ADD ADDITIONAL WATER AND STORMWATER IMPROVEMENTS NEEDED ALONG GULF ISLAND DRIVE, BAYSIDE ROAD, CORAL ROAD, DOLPHINE LANE AND COQUINA ROAD; APPROVING AN INCREASE TO THE PROJECT COST IN THE AMOUNT OF \$757,545.41 TO COMPLETE THESE ADDITONAL IMPROVEMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, the Town is committed to completing necessary water and stormwater system improvements for the Town residents, businesses, and visitors; and

WHEREAS, the Town Council approved Contract ITB-23-18-UT with Andrew Sitework LLC. for \$23,009,179.00 to construct the Tier 1 Water and Stormwater Improvements Project; and

WHEREAS, it is in the best interest of the Town to approve the requested Change Order #1 of Contract ITB-23-18-UT to increase the contract amount by \$757,545.41 to continue water and stormwater improvements along Gulf Island Drive, Bayside Road, Coral Road, Dolphin Land and Coquina Road.

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

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

Section 2. The Town Council hereby approves Change Order #1 of Contract ITB-23-18-UT between the Town of Fort Myers Beach and Andrew Sitework LLC, increasing the contract amount by \$757,545.41. A copy of Change Order #1 of Contract ITB-23-18-UT is attached hereto as Attachment "A".

Section 3. The Town Manager is authorized to execute the Change Order.

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

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

ADOPTED this 5th 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of _____ 2025.

CONSTRUCTION CONTRACT - CHANGE ORDERNo.: 1

(A Change Order requires approval by the Finance Director and Town Manager for expenditures under \$25,000, approval by the Town Council for expenditures over \$25,000).

CONTRACT/PROJECT NAME: TIER 1 SIDE STREETS WATER AND STORMWATER IMPROVEMENTS

CONTRACTOR: Andrew Sitework, LLC PROJECT NO.: ITB-23-18-UT

CONTRACT NO.: ITB-23-18-UT BID NO.: ITB-23-18-UT

CHANGE REQUESTED BY: Utilities Department DATE OF REQUEST: 3/12/25

Upon the completion and execution of this Change Order by both parties to the Contract the Contractor is authorized to and shall proceed to make the following changes in the Contract Documents:

(If you need space other than what has been provided, please attach additional sheets.)

Description: Extending 890 LF of 6" PVC water main on 3 streets (Coral, Dolphin, and Coquina) and extending 1140 LF of 8" PVC water main on 2 streets (Bayside and Gulf Island). These streets were not in the original project scope but after further review the existing water mains were undersized and needed to be replaced.

Purpose of Change Order: Water Main Extensions for Coral Rd, Dolphin Ln, Coquina Rd, Bayside Rd, and Gulf Island Dr including all restoration efforts and miscellaneous items to complete the work.

Attachments: (List documents supporting change)

Andrew Sitework Proposal and SOV
Dated 3/11/25

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIME:
Original Contract Price <u>\$23,009,179.00</u>	Original Contract Time <u>1470</u> Calendar Days
Previous Change Order No. <u>0</u> to No. <u>1</u> <u>\$0</u>	Net Change from previous Change Orders <u>0</u> Calendar Days
Contract Price prior to this Change Order <u>\$23,009,179.00</u>	Contract Time prior to this Change Order <u>1470</u> Calendar Days
Net Increase (Decrease) of this Change Order <u>\$757,545.41</u>	Net Increase (Decrease) of this Change Order <u>0</u> Calendar Days
Contract Price with all approved Change Orders <u>\$23,766,724.41</u>	Contract Time with all approved Change Orders <u>1470</u> Calendar Days

It is understood and agreed that the acceptance of this modification by the CONTRACTOR constitutes an accord and satisfaction, and represents payment in full (both time and money) for all costs arising out of, or incidental to, the above mentioned change.

RECOMMENDED:

ACCEPTED

TOWN APPROVAL:

By: _____
Consultant (if applicable) Date

By: _____
Contractor

By: _____
Finance Director (Under \$25,000)

By: _____
Department Director Date

Date Accepted: _____

Date Approved: _____

Contracts Management

(CORPORATE SEAL)

By: _____
Town Manager (Under \$25,000)

APPROVED:

Date Approved: _____

Town Attorney Date

By: _____
Mayor, Town Council
(Over \$25,000)
Date Approved: _____



Andrew Sitework LLC.

2511 Palm Avenue

Fort Myers, FL 33916

Ph 239.226.1606 Fax 239.226.1605

March 11, 2025,

Tier 1 Side Streets

Change Order #1

Summary of work

Change Order #1 Summary:

During the execution of our Tier 1 contract obligations, our teams identified multiple streets with undersized water mains. During our Tier 1 progress meetings, Andrew Sitework proposed an upgrade of the existing water mains, increasing their diameter from 2 inches up to 8 inches.

The streets highlighted in this report are located within Group C (Gulf Island and Bayside) and Group D (Coral Dolphin and Coquina). The accompanying documentation outlines the total costs associated with the replacement and restoration of service, encompassing all necessary restoration efforts between Right of way to Right of way.



ANDREW SITEWORK LLC.

TO



JOB

**Tier 1 Side Streets
Change Order #1**

CONTACT: Mark Ashton **DATE:** March 11, 2025
PHONE: (239) 765-0202 **PROPOSAL TO BE VALID FOR: 30 Days**
Email: mashton@fmbgov.com
TERMS: As Stated in Contract

PROJECT SUMMARY PER ATTACHED SCHEDULE:

Change Order #1 Total: \$757,545.41

PROPOSED BY:

Andrew Sitework

Ralph C Andrew III
Project Manager

ACCEPTED BY:

SIGN: _____

NAME: _____

TITLE: _____

DATE: _____

TIER 1 SIDE STREETS ADDED QUANTITIES CO#1

**Tier 1 Side Streets Water & Storm Improvements
FINAL QUANTITIES - March 11, 2025**

		Unit	Quantity	Unit Price	Total
CORAL ROAD FINAL COST (D)					
DOLPHIN LANE FINAL COST (D)					
COQUINA RD FINAL COST (D)					
Item #	Description				
20	F&I 6" C900 DR-14 PVC WM	EA	890.00	\$70.00	\$ 62,300.00
23	Reconnect/Install New Water Meters	EA	23.00	\$471.00	\$ 10,833.00
24	1" Water Service (Short)	EA	10.00	\$1,600.00	\$ 16,000.00
25	1" Water Service (Long)	EA	13.00	\$2,125.00	\$ 27,625.00
42	Fire Hydrant Assembly	EA	3.00	\$8,893.00	\$ 26,679.00
41	6" Gate Valve with Valve Box	EA	3.00	\$2,483.00	\$ 7,449.00
9	Replace Asphalt Pavement (Full Depth)	SY	193.00	\$95.00	\$ 18,335.00
10	Mill Existing Asphalt Pavement	SY	2052.00	\$6.50	\$ 13,338.00
11	Asphalt Pavement	TN	280.00	\$238.00	\$ 66,640.00
17	Restoration	LF	450.00	\$17.00	\$ 7,650.00
12	R&R Concrete Driveways	SF	832.00	\$19.00	\$ 15,808.00
13	R&R Paver Driveways	SF	912.00	\$18.00	\$ 16,416.00
15	R&R Unpaved Driveways	SF	2034.00	\$2.00	\$ 4,068.00
2	General Requirements	%	2.50%	\$293,141.00	\$ 7,328.53
7	Maintenance of Traffic	%	2.50%	\$293,141.00	\$ 7,328.53
79	Dewatering	%	2.50%	\$293,141.00	\$ 7,328.53
					\$ 315,126.58

BAYSIDE TO GULF-ISLAND (C.)					
Item #	Description				
19	F&I 8" C900 DR-14 PVC WM	EA	1140.00	\$89.00	\$ 101,460.00
21	Connection to Existing 8" Water Main	EA	2.00	\$4,356.00	\$ 8,712.00
23	Reconnect/Install New Water Meters	EA	25.00	\$471.00	\$ 11,775.00
24	1" Water Service (Short)	LF	14.00	\$1,600.00	\$ 22,400.00
25	1" Water Service (Long)	EA	11.00	\$2,123.00	\$ 23,353.00
31	8" x 8" Tee/Wye	EA	1.00	\$2,100.00	\$ 2,100.00
36	8" Cap	EA	2.00	\$806.00	\$ 1,612.00
40	8" Gate Valve with Valve Box	EA	2.00	\$3,634.00	\$ 7,268.00
42	Fire Hydrant Assemblies	EA	3.00	\$8,617.00	\$ 25,851.00
9	Replace Asphalt Pavement (Full Depth)	SY	165.00	\$70.00	\$ 11,550.00
10	Mill Existing Asphalt Pavement	SY	2200.00	\$5.50	\$ 12,100.00
11	Asphalt Pavement	TN	285.00	\$216.00	\$ 61,560.00
17	Swale Grading & Restoration	LF	430.00	\$12.00	\$ 5,160.00
12	R&R Concrete Driveways	SF	2906.00	\$19.40	\$ 56,376.40
13	R&R Paver Driveways	SF	3405.00	\$16.00	\$ 54,480.00
15	R&R Unpaved Driveways	SF	1159.00	\$5.00	\$ 5,795.00
2	General Requirements	%	2.50%	\$411,552.40	\$ 10,288.81
7	Maintenance of Traffic	%	2.50%	\$411,552.40	\$ 10,288.81
79	Dewatering	%	2.50%	\$411,552.40	\$ 10,288.81
					\$ 442,418.83

Change Order #1 Total Costs **\$ 757,545.41**



- TETRA TECH**
- 
- 1100017 A.C.
Vardawalker, P.E.
P.E. No. 74415, FL
201 East Pine Street, Suite 100
Orlando, Florida 32801
Engineering Business No. 2428
- CONFORMED**
- DATE _____
- 10600 CHEVROLET WAY, SUITE 300
ESTERO FL 33928
PHONE: (239) 390-1467 FAX: (407) 839-3790
- www.tetratech.com

[illegible]

TOWN OF FORT MYERS BEACH
WATER AND STORMWATER SYSTEM IMPROVEMENTS
TIER 1 SIDE STREETS
OVERALL KEY PLAN

Project No.:	200-74765-18005
Designed By:	
Drawn By:	BMM
Checked By:	
C-201 Sheet Bar Measures 1 inch	

1. **Request:**

Meeting Date: May 5, 2025

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AND AUTHORIZING THE THE MAYOR TO SIGN AN EMPLOYMENT AGREEMENT BETWEEN THE TOWN AND WILLIAM MCKANNAY TO SERVE AS THE TOWN MANAGER IN ACCORDANCE WITH THE TERMS AND CONDITIONS CONTAINED IN THE EMPLOYMENT AGREEMENT ATTACHED AS EXHIBIT A TO THE RESOLUTION; PROVIDING FOR CONFLICTS, SEVERABILITY; AND AN EFFECTIVE DATE.

Why the action is necessary:

Town Council approval is required to formally appoint Mr. McKannay as Town Manager and authorizes the execution of his Employment Agreement.

What the action accomplishes:

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Talissa Oliveira, Human
Resources Director

5. **Background:**

The Town Council has selected William McKannay to serve as the Town Manager of the Town of Fort Myers Beach. Town Council appointed Councilor Woodson as the contract negotiator and directed the Town Attorney to draft an Employment Agreement which has been accepted and signed by William McKannay and attached to this Resolution as **Exhibit "A."**

This agenda item seeks Council approval of the Employment Agreement attached to the Resolution and authorizes the Mayor to sign the agreement on behalf of the Town Council.

Attachments:

1. Draft Resolution 25-145 Employment Agreement with W.McKannay ns rev.
2. Exhibit A - Town Manager Employment Agreement - William McKannay (Signed)

Financial Impact:

The proposed compensation and benefits fall within the town manager's department budget.

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Talissa Oliveira, Human Resources Director
Talissa Oliveira, Human Resources Director
Joe Onzick, Finance Director
nancy stuparich, Town Attorney

Created/Initiated - 4/23/2025
Approved - 4/23/2025
Approved - 4/28/2025
Approved - 4/28/2025

Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Approved - 4/28/2025
Final Approval - 4/28/2025

RESOLUTION NO. 25-145

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR TO SIGN AN EMPLOYMENT AGREEMENT BETWEEN THE TOWN AND WILLIAM MCKANNAY TO SERVE AS THE TOWN MANAGER IN ACCORDANCE WITH THE TERMS AND CONDITIONS CONTAINED IN THE EMPLOYMENT AGREEMENT ATTACHED AS EXHIBIT A TO THE RESOLUTION; PROVIDING FOR CONFLICTS, SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, Andy Hyatt was employed to serve as the Town Manager as of the 1st day of May, 2023 and as required by Mr. Hyatt's employment agreement, he provided notice to the Town Council of his intent to not extend the term of his agreement; and

WHEREAS, the Town advertised the anticipated vacancy and received 66 applications and thereafter at its public meeting on the 7th day of April, 2025, selected 5 individuals (Michael Brillhart, Scott Moye, William Lawrence, Jeremy Shaffer, William McKannay) and 2 alternates for interviews on Friday, April 18, 2025; and

WHEREAS, prior to April 18, 2025, William Lawrence was determined to not possess the minimum requirements for the position, and Scott Moye withdrew his application; and

WHEREAS, on April 18, 2025, the Town held a public "meet and great" with William McKannay, Michael Brillhart, Patrick Jordan, Jeremy Shaffer and John Trew, which was followed by individual interviews with each Council Member as well as public interviews at a Special Town Council Meeting on the same day; and

WHEREAS, at the Special Town Council Meeting, the Town Council selected William McKannay as the top ranked Town Manager candidate and thereafter asked Councilor Woodson to negotiate an employment agreement with Mr. McKannay; and

WHEREAS, a copy of the negotiated employment agreement, which has been accepted and signed by William McKannay, is attached as Exhibit A for review and approval by the Town Council; and

WHEREAS, the Town Council finds that approving the Employment Agreement attached as Exhibit A is in the best interest of the businesses, residents, and visitors of the Town.

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

Section 1. The foregoing Whereas clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and made a specific part of this Resolution.

Section 2. The Employment Agreement between the Town and William McKannay, attached as Exhibit A is approved.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed and severed to the extent of such conflict or unenforceability as may be determined by a court of competent jurisdiction.

Section 4. This Resolution shall become effective immediately upon adoption.

THE FOREGOING RESOLUTION was adopted by the Town Council upon motion by Council Member _____ and seconded by Council Member _____, and upon being put to a vote, the result was as follows:

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

ADOPTED this 5th day of May 2025, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of May 2025.

EMPLOYMENT AGREEMENT
BETWEEN
WILLIAM MCKANNAY
AND
THE TOWN OF FORT MYERS BEACH

THIS EMPLOYMENT AGREEMENT made and entered into on this 18th day of April 2025, by the TOWN OF FORT MYERS BEACH, a Florida municipal corporation, hereinafter referred to as the “Town” and WILLIAM MCKANNAY, herein after referred to as “Employee”.

WHEREAS, on April 18, 2025, the Town Council voted to employ the services of William McKannay, as the Town Manager of the Town of Fort Myers Beach, Florida, as provided for in Section 6.01 of the Town Charter; and

WHEREAS, it is the desire of the Town Council:

- (1) To retain the services of Employee as Town Manager and to provide inducement for him to remain in such employment; and
- (2) To make possible full work productivity by assuring Employee’s morale and peace of mind with respect to future work security; and
- (3) To provide a means for terminating Employee’s services at such time that it is deemed expedient to do so by decision of either or both parties; and
- (4) To establish standards of performance for Employee to act as a guide to ensure accountability; and

WHEREAS, Employee desires to accept employment as the Town Manager of the Town of Fort Myers Beach, Florida under the terms and conditions set forth herein.

WHEREAS, on May 5, 2025, the Town Council by Resolution 25-145 approved the terms and conditions negotiated by the parties as contained in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

Section 1. Duties.

1.1 The Town hereby agrees to employ Employee as the Town Manager of the Town to perform the functions and duties specified in the Town Charter and Code of Ordinances of the Town, and to perform other such legally permissible and proper duties and functions, consistent with the office of the Town Manager, as the Town Council shall from time-to-time assign. Employee shall not engage in any outside employment during the term of this Agreement without the specific approval of the Town Council.

1.2. Annually, the Town Council shall define such goals and performance objectives that they determine necessary for the proper operation of the Town. Goals and objectives shall be established annually and prioritized by the Town Council.

1.3 This Agreement is contingent upon the successful completion of a pre-employment drug and background screening, in accordance with the Town's Drug & Alcohol-Free Workplace Policy as outlined in the Town's Employee Handbook, as well as a general background verification.

Section 2. Effective Date & Term.

2.1 The term of this Agreement shall be effective as of May 19, 2025, until May 31, 2027, or as of the date this Agreement is terminated by either party in accordance with the provisions set forth herein.

2.2 Nothing in this Agreement shall prevent, limit, interfere with, or otherwise restrict

the rights of the Town and the Town Council to terminate the services of the Employee at any time, with or without cause or notice, subject only to the provisions set forth in Sections 4.1 and 4.2 of this Agreement.

2.3 Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Employee to resign at any time from his position with the Town, subject only to the provisions set forth in Section 4.3 of this Agreement.

2.4 Employee shall notify the Town Council, at least one hundred twenty (120) days prior to the expiration of this Agreement of Employee's desire to continue to serve as Town Manager. By means of a formal vote at least ninety (90) days prior to the expiration date of this Agreement, the Town Council may extend this Agreement for additional one (1) year periods on the same terms and conditions as set forth herein. If this Agreement is not extended or terminated as provided herein, it shall terminate on the date specified in Section 2.1 with no further action required by the Town or Employee.

2.5. At least one hundred and twenty days (120) days prior to the expiration of any of the extension periods provided for herein, the Employee can also give notice of intent to renegotiate any of the employment terms herein. The parties may contract for renewal of Employee's position after the extension periods provided herein.

Section 3. Salary.

3.1 Town agrees to pay Employee for services rendered during the term of this Agreement commencing upon the Effective Date of this Agreement in the amount of \$200,000.00 per year, payable in equal installments in accordance with the Town's existing pay periods, plus longevity increases as provided for other Town employees.

3.2 The Town Council shall meet to review and evaluate the performance of the

Employee annually, with the first review to occur in May 2026, one year after the Effective Date of this Agreement. Beginning on the second year of employment, performance evaluations shall take place annually in February. The performance evaluation standards shall be established by Town Council and will be provided to the Employee as part of the onboarding process. These standards are intended to serve as a guideline; however, the Town Council reserves the right to determine the criteria by which the Employee is evaluated. In any given year in which the Employee receives a favorable annual review, the Employee may be eligible to receive an annual merit increase retroactive to the first full pay period following the Employee's anniversary date. (May 19, 2025)

3.3 Employee shall also be eligible to receive any pay plan adjustments (cost of living adjustments) and lump sum payments that are made available to Town staff.

Section 4. Termination or Resignation.

4.1 Except as provided in Section 4.2, if Employee is terminated during such time that Employee is ready, willing, and able to perform the duties of Town Manager under this Agreement, the Town agrees to pay Employee twenty (20) weeks of "Salary" as set forth in Section 3 ("Salary"). Severance Pay shall not include those items enumerated in Section 5 "Benefits," Section 6 "Hours of Work," Section 7 "Professional Development," or Section 10 "Other Terms and Conditions." Such Severance Pay may not exceed an amount greater than as set out in and defined in Section 215.425(d), Florida Statutes. In consideration of receiving the Severance Pay, Employee shall execute a general release in favor of the Town and in a form acceptable to the Town Attorney. Employee will also receive payment for any annual leave, not in excess of 250 hours, accrued prior to the effective date of the termination by the Town Council to be paid to Employee within forty-five (45) days of termination as provided herein. After the payments

described in the immediately preceding sentence, the Town shall have no further financial obligation to Employee pursuant to this Agreement except for the payment of pension benefits, benefits earned under this Agreement, and benefits otherwise required by law. This Section shall not prevent Employee from collecting any money earned by participating in the Town's deferred compensation plans (e.g., 401(a) and 457) as they may be amended from time to time.

4.2 In the event Employee is terminated either (i) for misconduct as defined in Section 443.036(29), Florida Statutes, as determined by a majority of the Town Council or (ii) "with cause" as determined by a majority of the Town Council (both subject to the "reconsideration" request as provided for in Section 6.02 of the Town Charter), the Town shall have no obligation to pay the Severance Pay enumerated in Section 4.1 above. For purposes of this Agreement, "with cause" is defined as and limited to any of the following:

- (a) a violation of state or local ethics laws and codes, including, but not limited to the Florida Code of Ethics for Public Officers and Employees, the Town's Code of Ethics¹, the Public Records Law, Sunshine Law, or the Lee County Code of Ethics; or
- (b) failure to follow Town policy; or
- (c) a breach of this Agreement; or
- (d) violence or threatened violence, threats, or threatening behavior to a Town appointed or elected official, employee, customer, or resident; or
- (e) theft of Town money or property; or
- (f) falsifying records; or

¹ Part III of Chapter 112, *Fla. Stat.*, "Code of Ethics For Public Officers and Employees".

- (g) gross insubordination²; or
- (h) illegal harassment or retaliation; or
- (i) failing an alcohol or drug test; or
- (j) commission of an unlawful act in the performance of official duties; or
- (k) improper performance of any lawful act; or
- (l) failure or omission to perform an act when there is an obligation to perform that act; or
- (m) neglect of duty; or
- (n) habitual drunkenness; or
- (o) incompetence in performing official duties; or
- (p) inability to perform official duties due to absence, disability, or other reason; or
- (q) arrest for a felony or for a misdemeanor related to the performance of official duties, or indicted or informed against for the commission of a federal felony or misdemeanor or state felony or misdemeanor; or
- (r) violation of any substantive Town policy, rule, or regulation, which would subject any other Town employee to termination; or
- (s) the commission of any fraudulent act against the interest of the Town; or
- (t) the commission of any act which involves moral turpitude; or

In the event Employee is terminated pursuant to this Section 4.2, the Town shall have no further financial obligation to Employee pursuant to this Agreement except for the payment of pension benefits, benefits earned under this Agreement, and benefits otherwise required by law.

² The deliberate refusal to obey a lawful instruction of the Town Council, expressly defying a lawful instruction of the Town Council, or challenging the authority of the Town Council.

This Section shall not prevent Employee from collecting any money earned from participating in the Town's deferred compensation plans (e.g., 401(a) and 457) as they may be amended from time to time.

4.3 In the event that Employee voluntarily resigns the position of Town Manager during the term of this Agreement, Employee shall give the Town at least one hundred and twenty (120) days written notice prior to the effective date of such resignation. The Town may elect, at its sole discretion, to accelerate the resignation date. Whether or not the Town elects to accelerate Employee's resignation, as of the effective date of the resignation, the Town shall have no further financial obligation to Employee pursuant to this Agreement except for the payment of pension benefits, benefits earned under this Agreement, and benefits otherwise required by law. This Section shall not prevent Employee from collecting any money earned from participating in the Town's deferred compensation plans (e.g., 401(a) and 457) as they may be amended from time to time.

Section 5. Allowances and Benefits.

5.1 The Town will pay for Employee's cellular telephone and provide a company laptop. Additionally, except as otherwise provided herein, the Town will provide Employee with benefits and allowances provided to all Town employees during the term of this Agreement consistent with the Town's Employee Handbook, as may be amended from time to time. The Town agrees to pay one hundred percent (100%) of the total premium cost of the Employee's health, dental and vision insurance provided to Town staff, and 50% of family and spouse health, dental and vision insurance coverage. The Town reserves the right to amend, modify, terminate, or otherwise change or adjust any benefits as it sees fit, if it is done for all similarly situated employees in accordance with 9.2 below.

If any additional communication and/or electronic equipment is mutually determined by the Town and Employee to be required so that Employee can provide the Town Manager services provided for herein, Town shall pay such additional costs so long as such costs have been budgeted by the Town. If Employee uses any private digital or electronic devices to conduct Town business, in accordance with applicable law Employee is responsible for retaining and providing the Town upon request all public records (as defined by applicable law) on any private digital or electronic devices. It shall be a breach of this Agreement if Employee fails to turn over all available public records to the Town that are within the employee's possession pursuant to Florida State Law. The provisions of this paragraph shall survive the termination of this Agreement.

5.2 Employee shall have the right to participate in the Town's pension plan. The Town will contribute (10%) of the employees' salary into the selected plan. Employee shall vest twenty percent (20%) per year up to one hundred (100%) percent.

5.3 The Town agrees to reimburse the Employee up to \$22,500 for reasonable and necessary relocation expenses, upon submission of itemized receipts. Reimbursement shall be processed in the first pay period following the Employee's official start date and the Town's receipt and approval of all supporting documentation. This reimbursement shall be considered taxable income and is subject to applicable federal, state, and local tax withholdings in accordance with IRS regulations.

Should the Employee voluntarily resign from employment prior to completing one (1) year of continuous service, the full amount reimbursed must be repaid to the Town within thirty (30) calendar days of the Employee's effective date of separation.

Section 6. Hours of Work.

6.1 The Employee will be allowed to take planned Annual Leave as shall be deemed

appropriate during normal office hours consistent with the Town's Employee Handbook and applicable policies.

6.2 Employee acknowledges and agrees to live on Estero Island.

Section 7. Professional Development and Reasonable Expenses.

7.1 The Town hereby agrees to budget for and pay the reasonable and necessary professional association dues, travel, registration costs, and subsistence expenses of Employee for professional and official travel, provided such travel is directly related to the Employee's role and supports the continued professional development of the Employee, as well as the effective execution of the Town's official business. This includes but is not limited to participation in conferences, seminars, and meetings such as the Annual Conference of the International City Management Association, the Florida League of Cities, and other recognized municipal professional associations relevant to the Employee's duties. Participation in such events must be scheduled so as not to disrupt or interfere with ongoing Town operations and should be coordinated in a manner that ensures continuity of leadership and service delivery during the Employee's absence.

7.2 The Town also agrees to budget for and to pay the reasonable and necessary professional fees, travel, and subsistence expense of the Employee for short courses, institutes, and seminars that are necessary for Employee's professional development and in alignment with the Employee's role and the effective execution of the Town's official business.

7.3 No less than thirty (30) days before any travel provided for herein, Employee shall notify the Town Council of Employee's absence from the Town.

7.4 The Town agrees to reimburse Employee for reasonable expenses incurred in the performance of his duties upon submission of receipts, invoices, or other documentation thereof

upon approval of Town Council.

Section 8. Indemnification.

8.1 The Town shall provide a legal defense, and indemnification, under the same terms and conditions as provided to the other employees of the Town in accordance with the requirements and provisions of the Town Charter and Code of Ordinances of the Town. The Town shall have the right to compromise and settle any such claim or suit and pay the amount of any such settlement or judgment rendered thereon, in its sole discretion.

8.2 The Town shall bear the full cost of any fidelity or other bonds which may in the future be required of the Employee by law or ordinance.

8.3 Public Official's Liability Insurance - Town shall provide Public Officials Liability Insurance coverage applicable for all acts or omissions of the Town Manager acting within the scope of his employment, subject to and as provided for in the Annual Budget and as may be otherwise provided to Town Council members, Department Heads, and based solely upon the policies of insurance held by the Town from time to time.

Section 9. Other Terms and Conditions of Employment.

9.1 The Town Council, in consultation with the Employee, shall establish such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in direct conflict with the provisions of this Agreement, the Town Charter, the Town Code of Ordinances, or any other applicable law.

9.2 All other provisions of the Town Charter, Town Code of Ordinances, and rules and regulations of the Town relating to benefits as outlined in the schedule of benefits for the Executive staff as they now exist or hereafter may be amended from time to time, shall also apply to the

Employee as it would be to other general employees of the Town not covered by a collective bargaining agreement, in addition to said benefits numerated specifically for the benefit of the Employee herein.

9.3 The Town may at any time during the term of this Agreement reduce the salary, compensation, or other financial benefits of the Employee, during an across-the-board reduction for all general employees of the Town or upon majority vote of the Town Council.

9.4 Employee shall accrue and be entitled to annual leave, sick leave, and holidays in the same manner as Directors of the Town. Employee accrues at a rate of nineteen (19) hours per month. Remote work may be available in accordance with the Town's Remote Work policy. Any extended periods of remote work must be approved by the Town Council in advance.

9.5 Employee shall be entitled to utilize accrued annual leave and sick leave as needed, provided such use does not disrupt the operation of the Town. Use of leave shall not exceed the amount of leave accrued annually, unless otherwise authorized in accordance with qualified leave provisions, such as those provided under applicable law or Town policy.. Accrued annual leave or sick leave must be used to maintain Employee in pay status when Employee is on approved leave from work or when Employee is unable to attend work due to illness, or for other approved absences from work. Nothing in this Agreement shall require the Town to maintain Employee in a paid status once all accrued leave balances have been exhausted

9.6 Upon termination or resignation with appropriate notice, Employee shall be entitled to a pay out of unused annual leave hours up to a maximum of 250 at the rate in effect at the time of termination or resignation.

Section 10. Notices.

10.1 Notices pursuant to this Agreement shall be given by deposit in the custody of the

United States Postal Service, postage prepaid, return receipt requested, addressed as follows:

Town: Mayor
Town of Fort Myers Beach
6231 Estero Boulevard
Fort Myers Beach, FL 33931

With a copy to: Town Attorney
6231 Estero Boulevard
Fort Myers Beach, FL 33931

Employee: William McKannay
As on file

10.2 Alternatively, notices required pursuant to this Agreement may be personally given by hand delivery or a commercially recognized overnight carrier. Notice shall be deemed given as of the date of personal service, overnight delivery, or as of the date of deposit of such written notice with the United States Postal Service addressed to the parties as stated above and to the Employee at the address on file with the Town.

Section 11. General Provisions.

11.1 It is understood and agreed that this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and that the parties agree that there are no commitments, agreement, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

11.2 No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed by both parties.

11.3 The waiver by either party of a breach of any provision of this Agreement by the other shall not operate or be construed as a waiver of any subsequent breach by that party.

11.4 If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, illegal, invalid, or unenforceable, the remainder of this Agreement, or portions thereof, shall not be affected and shall remain in full force and effect.

11.5 The rights and obligations herein granted are personal in nature and cannot be transferred or assigned by the Town Manager.

11.6 In the event of litigation, both parties are responsible for paying their respective costs.

11.7 Provisions of this Agreement, which by their terms extend beyond the termination, expiration or suspension of this Agreement will survive and remain effective in accordance with their terms and to the extent necessary to the intended preservation of such rights and obligations.

11.8 The parties acknowledge that this Agreement is the result of continual and ongoing negotiation between the parties of equal bargaining power and any ambiguities herein should not be construed against either party but should be given a fair and reasonable interpretation.

11.9 The headings or captions of Paragraphs in this Agreement are for reference only, do not define or limit the provisions of such Paragraphs and shall not affect the interpretation of such provisions.

11.10 This Agreement may be executed by facsimile signature or by other electronic means, such as electronic signature in one or more counterparts by the parties which, taken together, shall constitute one binding agreement.

11.11 Employee acknowledges that the legal counsel that prepared this Agreement is representing the Town rather than Employee and that Employee has been advised to seek the advice of independent counsel. Employee acknowledges that he has had the opportunity to seek the advice of independent counsel. Employee has obtained all information necessary to make an

informed decision regarding this Agreement and that any claims regarding any possible conflict of interest regarding this Agreement or its preparation are freely and voluntarily waived.

11.12 While Employee is employed by the Town and thereafter, Employee shall cooperate with the Town in any internal investigation or administrative, regulatory or judicial proceeding as reasonably requested by the Town (including, without limitation, Employee being available to the Town upon reasonable notice for interviews and factual investigations, appearing at the Town's request to give testimony without requiring service of subpoena or other legal process, volunteering to the Town all pertinent information and turning over to the Town all relevant public records, whether owned by the Town or otherwise, which are or may come into Employee's possession, all at times and on schedules that are reasonably consistent with Employee's other permitted activities and commitments).

Section 12. Waiver of Jury Trial

BOTH THE TOWN AND EMPLOYEE KNOWINGLY, VOLUNTARILY, AND IRREVOCABLY WAIVE THEIR RIGHT TO A TRIAL BY JURY IN ANY CIVIL PROCEEDINGS THAT MAY BE INITIATED BY EITHER PARTY WITH RESPECT TO ANY TERM OR CONDITION OF THIS AGREEMENT.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Town of Fort Myers Beach, Florida, has caused this Agreement to be signed and executed on its behalf by its Mayor, and duly attested to by its Town Clerk, and approved as to form by the Town Attorney, and the Employee has signed and executed this Agreement, on the day and year first above written.

**TOWN OF FORT MYERS BEACH,
FLORIDA**

EMPLOYEE

Dan Allers, Mayor



William McKannay

ATTEST:

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND SUFFICIENCY FOR THE
USE AND RELIANCE OF THE TOWN ONLY:**

Town Attorney