



Fort Myers Beach Local Planning Agency

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

Agenda

Tuesday, May 13, 2025

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

V. APPROVAL OF MINUTES

A. Local Planning Agency - April 29, 2025

VI. PUBLIC COMMENT

VII. PUBLIC HEARINGS

A. Salty Crab Restaurant CPD

1154 Estero Blvd.: AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING TO REZONE THE PROPERTY LOCATED AT 1154 ESTERO BOULEVARD, GENERALLY IDENTIFIED AS STRAP NUMBER 24-46-23-W3-00011.0000 IN FORT MYERS BEACH, FROM DOWNTOWN TO COMMERCIAL PLANNED (CPD) TO ALLOW FOR A) AN INCREASE IN FLOOR AREA RATIO FROM 1.2 TO 1.96; B) DECREASE STREET SETBACK FROM 10 FEET TO 0 FEET; C) DECREASE SIDE SETBACKS FROM 20 FEET TO 0 FEET; D) A 100% REDUCTION IN PARKING REQUIREMENTS FROM 58 SPACES TO 0 SPACES; E) INCREASED SIGNAGE FROM 32 SF TO 94.6 SF AND E) CONDITIONS; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

B. Estero Island Beach Club Timeshare CPD

AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING TO REZONE THE PROPERTY LOCATED AT 1836 ESTERO BOULEVARD, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-03200.00CE & 19-46-24-W4-03200.1010, TO REZONE FROM DOWNTOWN TO

COMMERCIAL PLANNED DEVELOPMENT (CPD) AND REQUEST FOUR (4) DEVIATIONS FROM REQUIREMENTS TO PROVIDE; 1) OPERABLE DOORS ALONG ESTERO BLVD, 2) SCREENING MATERIAL ON THE GROUND FLOOR, 3) INCREASE BUILD-TO LINE SETBACKS, AND 4) INCREASE THE MAXIMUM ALLOWED HEIGHT BY 18-FEET; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

VIII. ADMINISTRATIVE AGENDA

A. Public Notice

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING LAND DEVELOPMENT CODE SECTION 34-236, NOTICES TO REQUIRE APPLICANTS FOR REZONINGS, DEVELOPMENT AGREEMENTS AND DEVELOPMENTS OF REGIONAL IMPACT TO PROVIDE MAILED AND POSTED PUBLIC NOTICING PRIOR TO LPA AND TOWN COUNCIL HEARINGS; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING AN EFFECTIVE DATE.

IX. LPA MEMBERS ITEMS/REPORTS

X. LPA ATTORNEY ITEMS/REPORTS

XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS

XII. ITEMS FOR NEXT MONTHS AGENDA

XIII. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON YOUTUBE.

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

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



In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings. 239-765-0202



Fort Myers Beach Local Planning Agency

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

Minutes

Tuesday, April 29, 2025

9:00 AM

DRAFT

ORDER OF BUSINESS

I. CALL TO ORDER

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

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

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

The motion carried unanimously.

V. APPROVAL OF MINUTES

A. Local Planning Agency - April 8, 2025

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

The motion carried unanimously.

VI. PUBLIC COMMENT

Tom Torgerson, resident, commended the Freeland family for retooling the Arches project and the LPA for unanimously recommending approval. He supported the project and the second addition to the Lighthouse Resort on the agenda. He was concerned about using the development agreement for complex projects. He questioned whether it was being used so that large projects could circumvent the more thorough CPD (Commercial Planned Development) process. He thought the development agreement was intended for smaller projects to keep costs down.

VII. PUBLIC HEARINGS

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

A. VAR20250060, 170 Curlew St

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

Chair Cereceda read the title of the resolution. No ex parte communications were disclosed. The applicant did not receive the agenda or background materials. Town Attorney Stuparich recommended continuing the hearing after the following item so that the applicant can review the materials.

LPA Member Sudduth moved to continue the hearing after B. is heard, seconded by LPA Member Dunlap.

The motion carried unanimously.

The hearing was reopened.

Community Development Principal Planner Judith Frankel reviewed a copy of the agenda and background materials with the applicant during the break.

She reviewed the background of the request as stated on the yellow sheet. The pool was already installed, but no one noticed that the enclosure had a different setback, so the applicant asked for a variance. The applicant wanted the enclosure to follow the line of their home. Staff recommended denial because it was a typical-sized lot, there were no extraordinary conditions, and it was not a de minimis request. The applicant said there was a structure before, but staff did not find evidence.

LPA Member Plummer commented that the covered screen appeared to be directly off the house's edge in the survey. Principal Planner Frankel replied that the screen existed, but the pool was not on the survey. The screened enclosure would be where the pool was and was on the site plan. LPA Member Plummer discussed being able to walk around the pool. Principal Planner Frankel noted there were no objections from the neighbors.

James and Tammy Bradford distributed a picture of their site and reviewed the history of the property. All the documentation he had was lost in the hurricane. He talked to all the neighbors, and they supported the request. He described the pool construction details and why the enclosure was denied.

No public comment.

LPA Member Eckmann moved to approve the resolution, subject to conditions of approval established by staff, the findings and conclusions met the criteria

and rigid compliance was not essential to protect the public, seconded by LPA Member Sudduth.

The motion carried unanimously by roll call vote.

B. VAR20250072, 274 Curlew St

274 CURLEW ST: A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250072, REQUESTING A VARIANCE FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 274 CURLEW STREET, GENERALLY REFERED TO AS STRAP NUMBER 34-46-24-W4- 01200.00B0 IN FORT MYERS BEACH, TO VARY 13.5 FEET FROM REQUIRED 25-FOOT WATERBODY SETBACK TO ALLOW A WRAP- AROUND DECK 11.5 FEET FROM THE PROPERTY LINE IN THE RS ZONING DISTRICT; AND PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the resolution. Ex parte communications: LPA Member McLean discussed the property with the company that elevated his house and is elevating this one. No disclosures from other members. The applicant confirmed receipt of the agenda and background materials.

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

Kara Stewart represented the applicant. The variance was to reconstruct the deck on the property that was being elevated. They received a letter of no objection from the neighbor.

No public comment.

LPA Member Dunlap moved to approve the resolution, including the findings and conclusions and finding substantial evidence to support the motion, seconded by LPA Member Sudduth.

The motion carried unanimously by roll call vote.

C. VAR20250045, 277 Primo Dr

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

Chair Cereceda read the title of the resolution. Ex parte communications:

Chair Cereceda talked with the applicant regarding the project. No disclosures from other members.

Planner Propst reviewed the background of the request as stated on the yellow sheet. She recommended denial because it did not appear to be de minimis and there were no extraordinary circumstances. She read the criteria in the staff report. Chair Cereceda noted that people with pools were dramatically impacted by all the hurricanes. Since storms were part of their future, she wondered if this was not a reasonable change to allow property owners to make. Planner Propst replied that if the town council and LPA felt it was important for people to elevate their pools, they may want to consider code changes. Right now, it was a choice and not considered a necessity. LPA Member McLean asked whether the neighborhood submitted input.

Planner Propst will check and get back to them.

Kara Stewart represented the applicants and addressed the reasons Planner Propst recommended denial. She felt there were exceptional conditions because there were two water-body setbacks in two different directions. The house could not be moved to improve the situation. She referred to the code regarding accessory structures. She distributed aerial views to show the extensive landscape. She discussed future flooding issues and indicated the garage was too small. LPA Member Dunlap clarified that the setback to natural body waters was 25 feet and would remain that way. Ms. Stewart added that they were only affecting the canal.

LPA Member Eckmann asked whether the setback from the canal was 10 feet, and if so, why they needed a variance. Planner Propst replied that it was an attached structure. LPA Member Eckmann noted he did not have a reason to approve the request because the code was against it. LPA Member Sudduth questioned the square footage above the new elevated garage. LPA Member Dunlap asked whether the code allowed a wall to be built around pools to prevent water encroachment. Planner Propst responded that a wall above four feet would not be allowed closer than 25 feet to the canal. Ms. Stewart noted the new garage was 227 by 22 and LPA Member Sudduth indicated it was about 440 square feet above base flood.

Ms. Stewart clarified that FEMA changed the flood elevation of the property and now it was in a higher flooding area, reinforcing the need to elevate. She added that there were boathouses along the canal that restricted the views much more than this request.

Public comment:

Larry McManus, resident, was concerned about the view because they already had a lot of landscaping. He read a speech about property values, losing view corridors and upholding the code. He stated that they already had a pool and a two-car garage.

James Bradford, resident, thought the town did a good job of trying to satisfy everyone since they incorporated. He noted that the views were not the same as they used to be, but there were still elements on the island they had to enjoy. He asked them to consider the minor modification.

Tom Kolar, applicant, stated that the downstairs pool was not functional and he could not park his truck in the garage because it was not large enough. Tommy Kolar, the applicant's son, stated that his dad was building this

project for his kids and grandkids. He described how the living situation with children getting older was difficult with separate living floors. He did not see how their project would block the neighbor's view because he used to live in that house.

Public comment closed.

Chair Cereceda stated this is an example of a changing lifestyle and it was a constantly evolving community. She felt they would see more requests in light of the hurricanes.

LPA Member Plummer noted it could be built if it were not attached. She lived with water on two sides of her property and 25-foot setbacks were a lot. She wondered how much of a view there could be with all the landscape.

LPA Member Eckmann liked the project, but they had rejected elevated pools in the past for the same reasons. He did not see any leeway to approve it within the context of the code.

LPA Member McLean shared LPA Member Eckmann's view. Opposition from the neighbor was also a factor for him. He recognized that everyone would prefer elevated pools, but he struggled with the rules.

LPA Member Dunlap noted that everyone living on water would elevate their pools today. He felt this was a one-off for a trend that was inevitable. He agreed it was a challenge with the way the code was written.

LPA Member Sudduth stated that the house next door had no view before Ian because of the heavy landscape. He described how he could not see the house from the canal or down the street.

LPA Member Boan thought there was a hardship because of the double setbacks, climate change and the hurricanes.

Chair Cereceda moved to approve the resolution, finding competent and substantial information that satisfied the findings, conclusions and conditions necessary for the request, seconded by LPA Member Dunlap.

The motion carried 8-1 with LPA Member McLean dissenting. The request will go before the Town Council.

D. VAR20250012; 722 Estero Boulevard

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

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

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

Principal Planner Frankel reviewed the background of the request as stated on the yellow sheet, along with the criteria. Staff recommended approval with conditions.

Jim Ink represented the applicant and utilized PowerPoint for his presentation. Slides included: Request Statement, Aerial, Pre-lan Survey, Post-lan Survey, Design, Floor Plan, Elevations, Existing Approvals, Variances, Variance - Findings and Conclusions and Suggested Motion. No public comment.

LPA Member McLean moved to approve the resolution, agreeing with the staff report and conditions attached, seconded by LPA Member Eckmann. The motion carried unanimously by roll call vote.

E. SEZ20250033, 7150 Estero Blvd

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

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

Planner Propst reviewed the background of the request as stated on the yellow sheet. She noted that the applicant asked for an additional area of the pool deck, which was not recommended for approval by staff. The staff recommended approval of like-for-like replacements with conditions. The pool deck expansion was not consistent with the comprehensive plan.

Lloyd Welker, Treasurer of the Criciente Condo Association, indicated that they would remove the pool deck expansion.

Public comment:

Charles Arthur, condo resident, requested clarification of the staff's recommendation to exclude the expansion. He stated the expansion was needed and a large part of the property was already seaward of the CCCL (Coastal Construction Control Line). He added that the expansion provided safety for the residents.

Terry Smith, condo resident, felt it was important for safety issues and it was a very small area. He did not think the expansion would make a substantial

difference.

Cynthia Clark, a condo resident, agreed that it was dangerous because getting around people in chairs was difficult.

Darlene Fredricko, condo resident, stated it was a safety hazard and they just needed a little more room to get by the chairs.

Public comment closed.

LPA Member McLean moved to approve the resolution and allow expansion of the pool deck per the testimony that it was a safety issue, met the findings and conclusions and was consistent with the comp plan, seconded by LPA Member Sudduth. LPA Member Eckmann clarified that the square footage was as shown in the exhibit presented.

The motion carried unanimously by roll call vote.

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

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

Chair Cereceda read the title of the ordinance. Ex parte communications: LPA Member Dunlap met with the developer, received emails and social media, LPA Member Sudduth heard from residents, received emails and social media, LPA Member Eckmann received emails, LPA Member Plummer spoke to Tom Torgerson and received emails, LPA Member Boan attended the presentation, had discussions with residents and received emails, LPA Member McLean met with the developer, spoke to residents and received emails and Chair Cereceda talked to residents, social media, met with Tina and the applicants, had a presentation of the project and spoke with Mr.

Torgerson.

Planner Propst stated that the development agreement met all the criteria for the resolution and confirmed that the LPA had reviewed the addendum regarding elevations. She reviewed the background of the request as stated on the yellow sheet.

Tina Ekblad from Sage Entitlement has previously been qualified as an expert in her field.

Tyler Peterson reviewed his qualifications as an architect. The LPA agreed to accept Mr. Peterson as an expert in his field.

Attorney Joe Madden represented the applicant.

LPA Member Dunlap asked two questions about negotiations and recommendations. He felt it was important to note that the development agreements had the ambiance of being a negotiated settlement or negotiated recommendation between the two parties. He did not believe that was the case here. He did not want the LPA or the public to believe there was a by-inference recommendation because it was a negotiated document. It ended up in a place that was not advanceable beyond what the staff would have taken it should they have been able to and therefore, it exists as it exists on behalf of the applicant. Planner Propst agreed. Town Attorney Stuparich added that the staff would always ask for more and there had to be a point of closure. Chair Cereceda stated that the number one question asked of her was: "So, you're telling me that the town staff and the property owner negotiated this and it's just coming before you guys for an approval?". LPA Member Dunlap stated that that was the distinction he was trying to make to ensure that they process it through the lens of a raw document without recommendations or over-influence from staff.

Planner Propst indicated that the deviations listed were no longer included and would be addressed by the applicant. LPA Member Boan asked whether the 2,000-square-foot sunset deck on the fifth floor was included in the FAR (Floor Area Ratio) calculation. Planner Propst replied that it should be. LPA Member Boan asked what the base flood elevation was and LPA members responded that it was 21. Planner Propst indicated that the FDEP (Florida Department of Environmental Protection) would set the height. Planner Propst described what would be allowed in the 10-foot building setback.

Ms. Ekblad distributed updated documents and noted they were included in her presentation. She stated that deviations 2 and 7 were pulled because they were unnecessary. Slides included the Previous and current Architecture, Consulting Team, Property History, Downtown Core, Changing Conditions, Times Square Redevelopment, Redevelopment Request, First (Ground) Floor, Second Floor, Third & Fourth Floors, Hotel Equivalency, Rooftop, Deviation - Building Height, Colored Height Exhibit, Bridge Perspective, Building Height, New & Expanded Commercial and Benefits.

Chair Cereceda called for a 30-minute recess. Public comment:

Barry Lawrence, former Sunset Grill employee, supported Mr. Persaud. He commented on the change of view from the Matanzas Bridge and said people

should pay attention to the road. He supported new businesses on the island and living in the future.

Tom Torgerson, resident, was opposed to the project due to the height and density. The town needed and wanted to rebuild, but not this much density. He mentioned the public benefits Margaritaville offered and discussed his height and density negotiations. He described the view coming over the bridge. He brought up missing inventory and wanted more hotel rooms, but not in this location. Mr. Torgerson stated they were in excess of 2.5 FAR and could build back by right.

Barry Frank, resident, noted it was time to start building back and advocated for progress. He wanted to see progress.

Lori Webster, resident, talked about the view from the bridge and commented that this project would change that. She did not think the project had public benefits because it benefited the applicant, not the public. She brought up the height and asked why large projects were able to avoid the CPD process. It was not a bad project, but it was bad for that location. A FAR of 2.5 was well above what that area could sustain.

Will Bustin, a business owner, supported Mr. Persaud because he supported small businesses. He did not see a downfall to the project.

Natalie Stickland, owner of 3 Escargot, described her years working in Times Square and supported this project.

Fred Malone, Buffalo Grill owner in Times Square, noted that many people he spoke to supported the project. He encouraged people to listen to the facts, not rumors. He said it was expensive to build back and urged them to work with him. He asked them not to consider the view from the bridge because other projects would be built. He hoped people would ignore social media. He felt there were more positives than negatives.

Glen Huggin opened a business on the island before Ian destroyed it. He stated that the people made the town special. He applauds Mr. Persaud for rebuilding and feels that social media helped to divide people and made it difficult for any business. He stated they had to figure out how to move forward without fighting against each other.

Dyan Matschurek, resident, described the three groups of people she talked to in Times Square and said there is a need for hotel rooms on the beach. She supported the project.

John Albion, business owner, described how Times Square was created and explained why he supported the project. He felt the area was one of the few in the county that was pedestrian-friendly and the hotel was essential to the beach. He thought it was good to have the mixed-use in that location.

Tom Brady, resident, did not support the project because of the height. He felt they were asking for much more and should build by code. He agreed that the development agreement was not the correct avenue for this project. He stated they were losing public parking.

Public comment closed.

Ms. Ekblad read the definition of FAR regarding patios. She clarified the hotel inventory chart, reviewed Ordinance 1804 concerning height and the

rooftop terrace. She requested that they add a statement that they will provide the payments to replace the Times Square pavers before the certificate of occupancy. She stated that the employees would park off-site. LPA Member Eckmann did not buy the justification for the building height or the justification for 50 hotel rooms. Ms. Ekblad explained that the height was consistent with other buildings. She noted that the requested uses need a certain amount of square footage. Increasing the FAR comes with an increase in height because the enclosed air-conditioned space on the ground floor was limited. The current inventory and the need for more rooms were discussed concerning the 50 rooms. LPA Member Eckmann asked whether the project could go forward with 30 rooms and Ms. Ekblad did not have an answer, but she would try to get one. LPA Member Sudduth questioned whether 50 rooms were because of economics. Ms. Ekblad noted that the team could talk about fewer rooms. LPA Member Dunlap suggested they start with what they could do by right and what they were asking for. Mr. Persaud, applicant, asked for 50 hotel rooms because that would bring back about 100 people to Times Square. He added that he only had a 1/2 acre on that lot and tried to be conscious of the height with the setback design. He said he might be able to go with 30, but the purpose of the hotel rooms was to bring people into Times Square, which benefited everyone. LPA Member Dunlap asked whether Mr. Persaud agreed to pay impact fees retroactively and he agreed. LPA Member Dunlap asked whether Mr. Persaud would agree to pay for a portion of the wave mitigation walls. Mr. Persaud replied that he had already talked to other business owners and they would schedule the wave mitigation presentation with JR Evans. He noted he was willing to work with the team. LPA Member Dunlap compared Times Square to a symphony. He confirmed that Mr. Persaud had not done anything this complicated before and said it was a venture capital transaction, not financially, but from a project standpoint that he had not done before. Mr. Persaud commented that his contractor was seasoned and described how he remodeled the Top O' Mast. LPA Member McLean described how Mr. Persaud was maxing out the envelope and the equivalency factor did not make sense. Mr. Persaud repeated the need to bring people back to Times Square. LPA Member Boan stated that Mr. Persaud asked for a big lift beyond anything they had dealt with. Public benefits had to be perpetual in nature and not an amenity. He did not think adding 10 feet in front of his building was a benefit and he did not see sufficient public benefits to justify the end. LPA Member Plummer discussed being careful with the first project to avoid setting a precedent for maxed-out buildings. They had to do it right the first time. Mr. Persaud reiterated that his lot was very small and anything below 2.5 on similar small lots would not work. Those owners would not be able to build back and setting a precedent for 2.0 would deter developers from touching those lots because it would not work. He anticipated the project would take two years to complete. Chair Cereceda felt the lot was too small for what he presented. She did not

think the public benefits justified the addition. She suggested that a benefit would be for him to donate his property adjacent to the pier. She described the change to allow two stories over flood for Times Square businesses after Ian. His project was larger than anything they ever anticipated. She could start talking about the project if he removed the top floor and put the rooftop deck on the third floor. She was also concerned about the stacking of cars, delivery vehicles and the safety of driving in the congestion. Chair Cereceda felt that even by right, this was an intense project for the parcel and the fourth floor for her was a no.

LPA Member Sudduth applauded his effort and it would have been nice if they started with two floors over parking. He thought a rooftop deck would be good because it was a revenue generator and maybe he could give up some rooms. He felt that the project went farther than they could digest. Mr.

Persaud said that he had done the numbers and this project cost a lot of money. LPA Members Sudduth and Dunlap asked whether Mr. Persaud would be willing to consider their suggestions and modify the agreement so they could go through it. Mr. Persaud replied that he would let the staff know how he would proceed.

LPA Member Eckmann moved to recommend denial because there was no justification for the height deviation in number one or deviation number five for the equivalency factor, FAR and the five deviations in the proposed development agreement were inconsistent with the comp plan, seconded by LPA Member Plummer. LPA Member Eckmann withdrew his motion.

LPA Member Eckmann moved to recommend denial of the development agreement because the five deviations were inconsistent with the comp plan and the perceived public benefits were not commensurate, seconded by LPA Member Plummer.

The motion carried unanimously by roll call vote.

Since there was a technical glitch, Town Clerk Baker reread the motion and confirmed that LPA members agreed with the vote.

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

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

AN EFFECTIVE DATE.

Chair Cereceda read the title of the ordinance.

Attorney Megan Strayhorn represented the applicant and Patrick Vanasse has been accepted as an expert witness. Rachel Hansen from the Neighborhood Company reviewed her education and background in planning. The LPA unanimously consented to accept Ms. Hansen as an expert in her field. The applicant confirmed receipt of the agenda and background materials.

Principal Planner Frankel reviewed the background of the request as stated on the yellow sheet. The staff recommended approval without conditions. Attorney Strayhorn started her presentation with Applications, Hearing Process and Basis of Review. Tommy Kolar, applicant, talked about the history of the property. Patrick Vanasse continued the presentation with CPD Boundary Change & Rezoning Request, Aerial of the Property before Ian and Master Concept Plans for Lighthouse Island Resort.

Public comment:

Tom Torgerson, resident, supported the request because it will be an enhancement and improvement to the area.

Public comment closed.

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

The motion carried unanimously by roll call vote.

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

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

Chair Cereceda read the title of the ordinance. Ex parte communications: All LPA members met with the applicants and Mr. Vanasse.

Principal Planner Frankel reviewed the background of the request as stated on the yellow sheet. She reviewed the history of the property and the deviations. Although the staff had parking concerns, they found that the CPD amendment met the Land Development Code (LDC) criteria and was compliant with the comprehensive plan.

LPA Member Boan asked whether there was an enforcement mechanism for the parking. Principal Planner Frankel replied that any parking plan would have to be a separate agreement. Town Attorney Stuparich added that they could add a condition in the ordinance requiring a separate parking agreement. LPA Member Eckmann brought up people using Uber for transportation from the airport.

Attorney Megan Stayhorn introduced the team. She stated the rooms increased from 75 to 130, but the retail space was significantly reduced. Patrick Vanasse with the Neighborhood Company described the renovations after lan, the parking credit and the property they donated to the town. The PowerPoint started with Key Points, Proposed Plan, Renderings of Building 1, View from the new Pool Deck, a Family-Friendly Path Between the Resort and the Bridge, New Building 5 with 3 Stories above Parking, the Facade of the Building, an Elevated Pool with Restaurant and Wine Bar, Views from the Bridge, Exterior Elevations, Density/Intensity, Transportation, Parking, Consistency with the Comp Plan, Compliance with LDC and CPD Criteria, Location, Public Benefits/Special Benefits, Deviations & Justifications, Hotel Room Update, Concur with Staff Report and Conclusion.

No public comment.

LPA Member Plummer was still concerned regarding the reduction in parking. LPA Member McLean was not concerned because he believed people would Uber in and people walked to Times Square from that location in the past.

LPA Member Sudduth shared the concern, but thought the applicants would take care of it for their business if needed.

Principal Planner Frankel indicated they could add a lighting condition to the pathway between the bridge and the resort building. She was not sure whether the height of the garage would allow for car lifts.

LPA Member Boan explained why this project differed from the previous item. He noted the applicants would have to figure out the parking if it did not work. LPA Member Eckmann mentioned that the equivalency factor was less than half and was not concerned about the parking. LPA Member Sudduth added that lighting the path would help with safety.

Chair Cereceda moved to approve the ordinance, finding the request consistent with the comp plan and the public benefits commensurate with the request, including the staff conditions in the staff report and adding a condition to light the hidden path and based on competence and substantial commentary and testimony in this case, seconded by LPA Member Dunlap. The motion carried unanimously by roll call vote.

VIII. ADMINISTRATIVE AGENDA

No items.

IX. LPA MEMBERS ITEMS/REPORTS

LPA Member Dunlap asked if they could add the conclusions of the unanimous variance votes to the agenda.

LPA Member Eckmann asked if they could add tabs to the agenda package. Town Clerk Baker replied that the tabs were already there and she could put them all on the board portal so they could access items with minimal training. LPA Member Eckmann announced that St. Peter Church reopened and had their first indoor service on Palm Sunday.

Chair Cereceda would like to discuss the development agreements in the future.

X. LPA ATTORNEY ITEMS/REPORTS

No items.

XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS

No items.

XII. ITEMS FOR NEXT MONTHS AGENDA

Estero Island Beach Club, Salty Crab and Fish Tale Marina.

Planner Propst revealed this is her last LPA hearing with the town. She will be around until June 6, 2025. Another public outreach meeting at the library will be held on May 10, 2025, from 10:00 a.m. to 1:00 p.m.

XIII. ADJOURNMENT

Chair Cereceda adjourned the meeting at 4:30 p.m.

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

Yellow Sheet Number: **2025-390**

1. Request:

Meeting Date: May 13, 2025

1154 Estero Blvd.: AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING TO REZONE THE PROPERTY LOCATED AT 1154 ESTERO BOULEVARD, GENERALLY IDENTIFIED AS STRAP NUMBER 24-46-23-W3-00011.0000 IN FORT MYERS BEACH, FROM DOWNTOWN TO COMMERCIAL PLANNED (CPD) TO ALLOW FOR A) AN INCREASE IN FLOOR AREA RATIO FROM 1.2 TO 1.96; B) DECREASE STREET SETBACK FROM 10 FEET TO 0 FEET; C) DECREASE SIDE SETBACKS FROM 20 FEET TO 0 FEET; D) A 100% REDUCTION IN PARKING REQUIREMENTS FROM 58 SPACES TO 0 SPACES; E) INCREASED SIGNAGE FROM 32 SF TO 94.6 SF AND E) CONDITIONS; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The LPA makes recommendations to the Town Council on rezoning.

What the action accomplishes:

This actions provides the recomendation necessary to move the application to the Town Council.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

RVi Planning and Landscape Architecture, on behalf of Greg Powers and Clownfish Restaurant Holdings, LLC (Applicant) is requesting a rezoning from Downtown zoning to Commercial Planned Development (CPD). This request is to rebuild the Salty Crab restaurant and a ground-level ice cream shop at 1154 Estero Boulevard ("Property") after the existing establishment was destroyed in Hurricane Ian. The proposed CPD includes 5,256.88 square feet of the property landward of the Lee County 1978 Coastal Construction Control Line (CCCL) and codification of the consumption on premises and outdoor seating area waterward of the CCCL.

Prior to Hurricane Ian, the site included a two-story structure with covered porch areas and beachside dining including 1,561 square feet of outdoor seating and consumption on premises (Resolution 10-15 and COP2012-0005) area seaward of the 1978 Lee County Coastal Control Line (CCCL).

Attachments:

1. Ordinance 25-xx with Exhibit A - Conditions
2. Exhibit B: Master Concept Plan-Salty Crab CPD 2025-04-14
3. LPA Staff Report
4. Application for Public Hearing
5. Application for Planned Development
6. Boundary Survey
7. Project Narrative
8. Elevations and Renderings
9. Deviations and Justifications with Elevations
10. Floor Plans
11. Pedestrian and Parking Distances
12. Development Standards v1.0 CPD

13. COP Resolution10-15 - Estero Beach Holdings LLC (Nemos on the Beach)
14. COP 2012-0005 Expansion Administrative Approval COP2012-0005
15. Survey showing pre-Ian COP
16. Business Impact Estimate - Ordinance 25-XX - Salty Crab

Financial Impact:

Unknown

6. Alternative Action

Approve with Conditions

7. Staff Recommendations:

8. Recommended Approval:

_____	Date: May 06, 2025
Judith Frankel, Principal Planner	
_____	Date: May 06, 2025
Georgina Cid, Community Development Manager	
_____	Date: May 06, 2025
Frankie Kropacek, Operations & Compliance Director	
_____	Date: May 06, 2025
nancy stuparich, Town Attorney	
_____	Date: May 06, 2025
Amy Baker, Town Clerk	

ORDINANCE 25-xx

AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/REPEALING WITH CONDITIONS/DENYING TO REZONE THE PROPERTY LOCATED AT 1154 ESTERO BOULEVARD, GENERALLY IDENTIFIED AS STRAP NUMBER 24-46-23-W3-00011.0000 IN FORT MYERS BEACH, FROM DOWNTOWN TO COMMERCIAL PLANNED (CPD) TO ALLOW FOR A) AN INCREASE IN FLOOR AREA RATIO FROM 1.2 TO 1.96; B) DECREASE STREET SETBACK FROM 10 FEET TO 0 FEET; C) DECREASE SIDE SETBACKS FROM 20 FEET TO 0 FEET; D) A 100% REDUCTION IN PARKING REQUIREMENTS FROM 58 SPACES TO 0 SPACES; E) INCREASED SIGNAGE FROM 32 SF TO 94.6 SF AND E) CONDITIONS; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, Clownfish Restaurant Holdings, LLC the owner, and RVi Planning and Landscape Architecture, as agents for the property located at 1125 Estero Boulevard, Ft Myers Beach, FL 33931, parcels generally identified as STRAP number 24-46-23-W3-00011.0000 in the Town of Fort Myers Beach, filed an application to rezone the property from the Downtown zoning district to a CPD with a corresponding Master Concept Plan (MCP) with certain deviations to the Land Development Code (LDC) for a restaurant and

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

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) May 13th, 2025; and

WHEREAS, on _____ 2025 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the LDC; and

WHEREAS, the Town Council voted to have a second reading of the proposed Ordinance and a public hearing on this matter was noticed in the Fort Myers News-Press more than 10 days prior to the Town Council on _____, 2025; and

WHEREAS, at the _____, 2025 public hearing, the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34- 85; and

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

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

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

WHEREAS, Exhibit A provides the conditions of approval to be used during the permitting process; and

WHEREAS, Exhibit B provides the Master Concept Plan and the schedule of uses for this CPD to be used during the permitting process; and

WHEREAS, the Town Council approved Resolution 10-15 and COP 2012-005 to allow for Consumption on Premises (COP) in outdoor seating areas seaward of the 1978 CCCL; and

WHEREAS, the Town Council finds that this request to rezone the property from the Downtown to CPD with Master Concept Plan with five deviations to the LDC in order to increase the size of a restaurant; and

WHEREAS, the requested deviations from the LDC include:

Deviation #1

Deviate from LDC §34-645 Table 34-2 for a STREET SETBACK that specifies in the CR zoning district no building or structure shall be placed closer than 10 feet (to Estero Boulevard); to allow a 0-foot street setback.

Deviation #2

Deviate from LDC §34-645 Table 34-2 for SIDE SETBACKS that specifies in the CR zoning district no building or structure on a water-front property shall be placed closer than 20 feet as a side setback; to allow a 0-foot side setback on the western boundary and a 0-foot setback on the eastern boundary (abutting Margaritaville).

Deviation #3

Deviate from LDC §34-645 Table 34-2 for FLOOR AREA RATIO that specifies in the CR zoning district a maximum of 1.2; to allow a 1.96 floor area ratio.

Deviation #4

Deviate from LDC §34-2020(d)(2) (a) and (h) for restaurants requires a minimum parking of eight spaces per 1,000 square feet of total floor area plus any outdoor seating area. The

proposed development requests to allow no required parking spaces, a reduction of 58 spaces or a 100% deviation.

Deviation #5

Deviate from LDC §30-5.(a)(1)a.1. - Permitted signs in Commercial Districts that permits a parcel of land containing one or two business establishments, each separate business establishment shall be allowed a maximum of 32 square feet of sign area; to allow five signs for the Salty Crab Bar and Grill with a combined sign area of 94.6 SF – a deviation of 62.6 SF (with the largest sign limited to 20.1 SF).

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

- a. The rezoning would carry out the policies and requirements of the Comprehensive Plan and Land Development Code.
- b. The Town Council carefully considered the testimony of the applicant, the recommendations of staff and of the local planning agency, and testimony from the public.
- c. The rezoning would be consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses in the Comprehensive Plan.
- d. The rezoning would meet or exceed all performance and locational standards set forth for the proposed use.
- e. Urban services are available and adequate to serve the proposed use.
- f. The rezoning would protect, conserve, or preserve environmentally critical areas and natural resources.
- g. The rezoning would be compatible with existing and planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- h. The rezoning would not place an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.
- i. The rezoning, with the mitigating factors volunteered by the applicant and the special conditions imposed by the Town Council, is consistent with the Fort Myers Beach Comprehensive Plan, Land Development Code, and other applicable town ordinances or codes.
- l. The proposed use or mix of uses is appropriate at the subject location.
- m. Sufficient safeguards to the public interest are provided by the recommended special conditions to the master concept plan and by other applicable regulations.
- n. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

WHEREAS, the Town Council made the following formal findings before making final decisions on the eight requested deviations from "by-right" requirements of the Land

Development Code (see LDC 34-216):

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

WHEREAS, the Town Council finds that this application to approve Ordinance 25-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, IT IS HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

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

Section 2. The Town Council determines the Applicant **did/did not** meet its burden of proof, that the request to approve Town of Fort Myers Beach's Ordinance 25- and the conditions of approval for the commercial planned development zoning, **does/does not** meet the requirements of the Town Comprehensive Plan and LDC. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **APPROVE/APPROVE WITH CONDITIONS/DENY** the requested application.

Section 3. Town Ordinance 25-xx is adopted and the Conditions of Approval for the Property's CPD set forth in Exhibit A and the attached Master Concept Plan in Exhibit B, attached hereto and incorporated herein by this reference are approved.

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

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

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

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

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

DULY PASSED AND ADOPTED on this ____ day of _____ 2025.

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

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

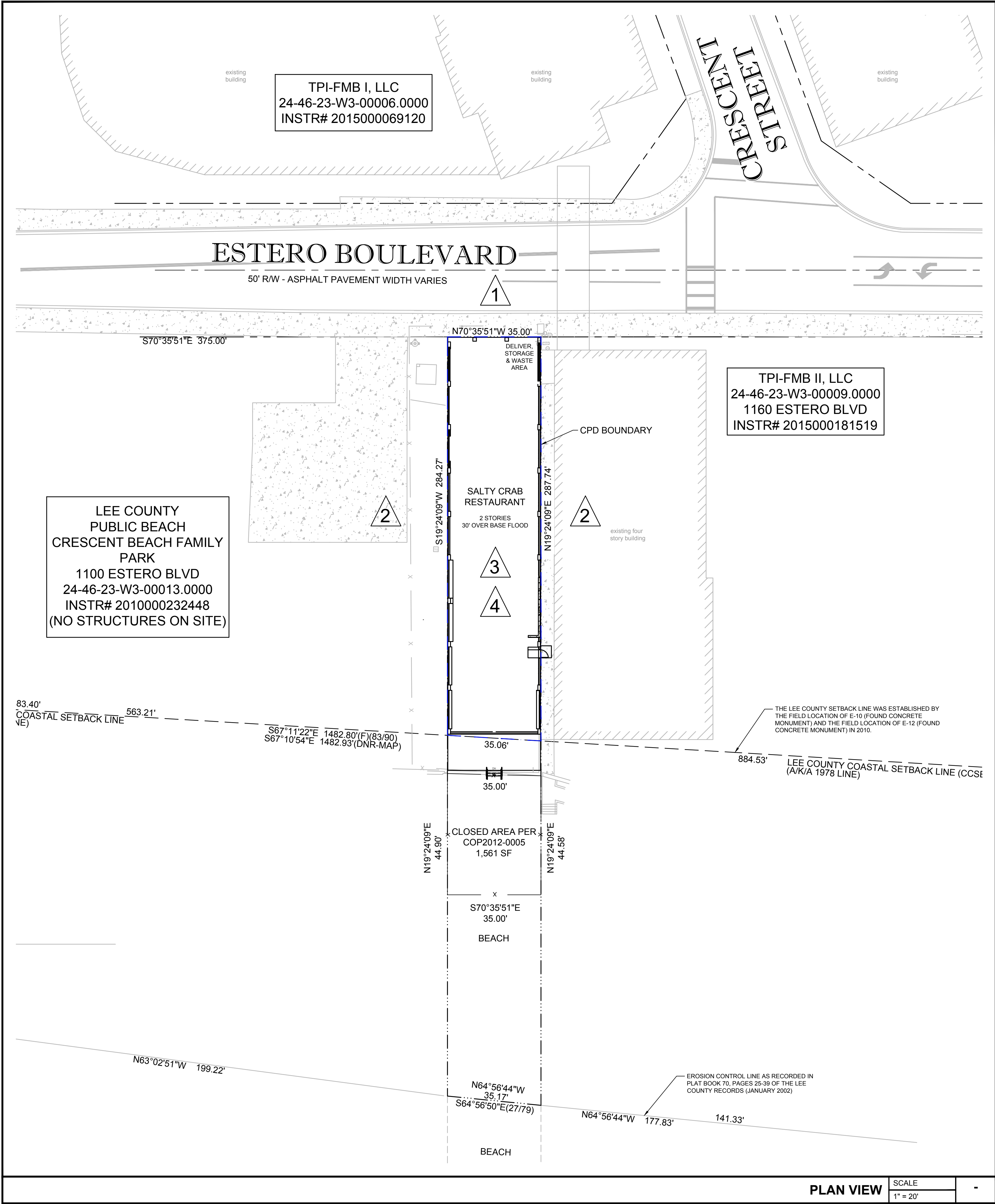
This Resolution was filed in the Office of the Town Clerk on this ____ day of _____ 2025.

Exhibits:

- A- Conditions of Approval
- B - Master Concept Plan (MCP)

Exhibit A: Conditions of Approval

1. A photometric plan must be provided with the Development Order application to determine compliance with turtle-friendly lighting restrictions in LDC Sec. 34-1834.
2. Applicant will provide cantilevered shade structure(s) from the Estero Boulevard façade to shade the public sidewalk that abuts the property.
3. Final architectural design must be generally consistent with renderings provided in addition to the Master Concept Plan.
4. The applicant must apply for and receive all state and local permits required for the reconstruction of all proposed structures.



LEGEND

- PROPERTY LINE
- EXISTING TO REMAIN
- EXISTING CONCRETE TO REMAIN
- SETBACK/BUFFER
- DEVIATION TRIANGLE

VICINITY MAP



AERIAL MAP



SITE DATA

SITE ADDRESS:	1154 ESTERO BOULEVARD FORT MYERS BEACH, FLORIDA 33931
STRAP NUMBER:	24-46-23-W3-00011.0000
FOLIO ID:	10127257
SITE AREA:	0.23 AC (10,010 SF)
CPD AREA:	0.12 AC (5,256.88 SF)
BUILDING AREA:	9,300 SF (MAXIMUM)
FLOOR AREA RATIO:	1.77
EXISTING ZONING:	DOWNTOWN
EXISTING LAND USE:	VACANT LOT
DEVELOPED USE:	RESTAURANT
BASE FLOOD ELEVATIONS:	FEMA: 19.60' FDEP: 20.30'
MAX BUILDING HEIGHT:	BFE + 30' FEMA: 49.60' FDEP: 50.30'

ARCHITECT/ ENGINEER OF RECORD

BDG ARCHITECTS
400 N Ashley Dr Ste 600
Tampa, Florida 33602
P: 813.323.9233
F: 813.323.9238
www.bdgip.com



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SALTY CRAB CPD
1154 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA 33931

JOB NO. 230064

DATE: 04-14-25

DRAWN BY: IEG

SCALE: 1" = 20'

SHEET TITLE:
MASTER CONCEPT
PLAN

SHEET NUMBER:

CP-1



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TYPE OF CASE: Commercial Planned Development

CASE NUMBER: CPD20240136

CASE NAME: Salty Crab Restaurant Commercial Planned Development

LPA

HEARING DATE: May 13th, 2025

STAFF

RECOMMENDATION: APPROVAL WITH CONDITIONS

**PREPARED/
SUBMITTED BY:** Judith Frankel, AICP

I. APPLICATION SUMMARY

Applicant/Owner: Clownfish Restaurant Holdings/ RVi Planning and Landscape Architecture

Request: Commercial Planned Development Rezoning of one parcel of 5,256.88 SF.

Subject property: See attached plan

Physical Address: 1154 Estero Boulevard

STRAP #s: 24-46-23-W3-00011.0000

FLU: Pedestrian Commercial

Zoning: Downtown

Adjacent zoning and land uses:

North:	Commercial Planned Development, Hotel Resort
South:	Environmental Critical (EC) Beach and Gulf waters
East:	Downtown (D) Hotel Resort
West:	Downtown (D) County Park

II. BACKGROUND AND ANALYSIS

Background:

RVi Planning and Landscape Architecture, on behalf of Greg Powers and Clownfish Restaurant Holdings, LLC (Applicant) is requesting a rezoning from Downtown zoning to Commercial Planned Development (CPD). This request is to rebuild the Salty Crab restaurant and an ice cream shop at 1154 Estero Boulevard ("Property") after the existing establishment was destroyed in Hurricane Ian. The proposed CPD includes 5,256.88 square feet of the property landward Lee County 1978 Coastal Construction Control Line (CCCL) and codification of the consumption on premises and outdoor seating area waterward of the CCCL.

Prior to Hurricane Ian, the site included a two-story structure with covered porch areas and beachside dining including 1,561 square feet of outdoor seating and consumption on premises (Resolution 10-15 and COP2012-0005) area seaward of the 1978 Lee County Coastal Control Line (CCCL).

Analysis:

F.A.R.

The development is subject to a maximum Floor Area Ratio (FAR). CPD are subject to the regulation of the CR zoning. Per LDC Section 34-645 Table 34-3 in the Commercial Resort (CR) District the permitted FAR is 1.2. Although the site is in the Downtown District with an allowable FAR of up to 1.8 in certain locations. Here is the breakdown of the *gross floor area* request:

- The lot landward of the CCCL is 5,256.88
- The proposed footprint of the building is 5,156 square feet
- The total floor area is a maximum of 9,300 square feet combining the two stories
- The FAR proposed is 1.77

The district allows for floor area very similar to the requested, allowing up to 1.8 and removing the dead areas show a usable space in the ballpark of the 1.2 FAR for the district and consistent with the Downtown District's 1.4 FAR. The Future Land Use designation for this site in the Comprehensive Plan is Pedestrian Commercial allows up to a 2.5 FAR. The

requested FAR is less than the maximum and is found to be compliant with the Comprehensive Plan.

Height

This application does not request additional height or stories. The permitted height in the CR district at this location is a maximum of 30 feet above base flood elevation. The FEMA BFE+1 at this location is 19'6" feet and the FDEP LHSM is 20'3" feet. The proposed structure will meet this requirement. The permitted stories at this location in the Commercial Resort District a building may be no taller than three (3) stories. The proposed building is two stories, which will meet this requirement.

Parking

LDC §34-2020(d)(2) (a) and (h) for restaurants requires a minimum parking of eight spaces per 1,000 square feet of total floor area plus any outdoor seating area. The proposed development requests to allow no required parking spaces, a reduction of 58 spaces or a 100% deviation.

The property is a non-conforming lot that was platted in the 1950s by Lee County, prior to the current regulations were enacted. The site operated as a restaurant successfully for decades with no onsite parking being provided. The applicant is requesting to allow a similar restaurant to be rebuilt. It is in the FLU category of pedestrian commercial and the downtown zoning district both of which are intended to allow for uses in close proximity that can be reached through alternative transportation to individual vehicles. Additionally, several commercial and public parking lots are available near the site.

Schedule of Uses:

SCHEDULE OF USES: The requested schedule of uses for this CPD is limited to the following:

RETAIL

Principal:

- Bar or cocktail lounge
- Personal services
- Restaurant
- Retail store, small

Accessory:

- On-premises consumption of alcoholic beverages (per approval in COP2012-0005)
- ATM

OFFICE

Principal:

- Administrative offices

Accessory:

- Commercial accessory use

Neighborhood Compatibility:

The general location is 500 feet south of Times Square on the Gulf side of Estero Boulevard in the “Core Area” of Fort Myers Beach, Florida. This is the most intensive and pedestrian-oriented node within the Town and serves as the main tourist and entertainment district. The northwestern boundary of the site abuts Crescent Beach Park, owned and operated by Lee County, and to the southeast abuts the Margaritaville Beach Resort beachside pool and building. It is less than 100 feet from the Estero Boulevard and Crescent Park signalized intersection and a few hundred feet south of a new bus pull off and stop that will be part of the SR 865 improvements to be completed by FDOT. The intent of the Downtown zoning district is to create a desired quality and character of the center of the pedestrian-oriented commercial activities within the town. There is a mix of resort/hotel and commercial properties that surround the subject property. In the general vicinity there are some of Fort Myers Beach’s most high intensity establishments. This location is appropriate for a restaurant and bar and is compatible with the surrounding land use as well as the Comprehensive Plan.

Infrastructure Impacts:

On-site access and circulation are unable to be accommodated at this location historically and as proposed to be redeveloped. The site is unable to accommodate a parking area as the width of the property would not allow for parking that would meet modern drive isle and parking space depths. Vehicular access to the site could be considered a safety concern at the busy signalized intersection of Estero Boulevard and Crescent Street.

Requested Deviations: Please see the Applicant’s submitted document titled Deviations and Justifications to review the applicant provided explanations.

1. Deviate from LDC §34-645 Table 34-2 for a STREET SETBACK that specifies in the CR zoning district no building or structure shall be placed closer than 10 feet (to Estero Boulevard); to allow a 0-foot street setback.

The LDC requires the use of the standards of the CR zone, however this site is in the Downtown zone which permits a 0-foot setback. The proposed development will provide shade structures cantilevered from the front façade to shade the public sidewalk. This is a benefit to the public and would not be possible with a 10-foot setback.

2. Deviate from LDC §34-645 Table 34-2 for SIDE SETBACKS that specifies in the CR zoning district no building or structure on a water-front property shall be placed closer than 20 feet as a side setback; to allow a 0-foot side setback on the western boundary and a 0-foot setback on the eastern boundary (abutting Margaritaville).

The Downtown district requires build-to-lines that would make the proposed development setback of 0-feet in compliance. However, a CPD requires the setbacks of the CR district which is inconsistent with the intent of the area.

3. Deviate from LDC §34-645 Table 34-2 for FLOOR AREA RATIO that specifies in the CR zoning district a maximum of 1.2; to allow a 1.96 floor area ratio.

The LDC requires the use of the standards of the CR zone, however this site is in the Downtown zone which permits a 1.8 FAR. The applicant requests that the LPA consider

that by removing the loading/dry storage and circulation areas from the ground floor and counting all areas on the second story results in a floor area of 6,755, or an FAR of 1.29.

4. Deviate from LDC §34-2020(d)(2) (a) and (h) for restaurants requires a minimum parking of eight spaces per 1,000 square feet of total floor area plus any outdoor seating area. The proposed development requests to allow no required parking spaces, a reduction of 58 spaces or a 100% deviation. The parking requirements for the proposed development are as follows:

REQUIRED PARKING	8 SPACES PER 1,000 SF (including outdoor seating)
BUILDING SIZE	9,300 SF + 1,561 SF (COP WITH OUTDOOR SEATING) / 1,000 SF = 87 SPACES x 0.67 = 58 spaces

The previous restaurant operated for many years without onsite parking being provided. The request is to allow a similar restaurant to be rebuilt after being destroyed by Hurricane Ian. It is in the pedestrian commercial area and the downtown district both of which are to allow for uses in close proximity that can be reached through alternative transportation to individual vehicles.

5. Deviate from LDC §30-5.(a)(1)a.1. - Permitted signs in Commercial Districts that permits a parcel of land containing one or two business establishments, each separate business establishment shall be allowed a maximum of 32 square feet of sign area; to allow five signs for the Salty Crab Bar and Grill with a combined sign area of 94.6 SF – a deviation of 62.6 SF (with the largest sign limited to 20.1 SF)

Please see the sign images attached to the Deviations and Justifications document provided by the applicant. *The proposed Salty Crab restaurant will house two businesses: The Salty Crab Bar and Grill and Sweet Willy's Ice Cream Shoppe. The Signage for Sweet Willy's complies with the code section with two signs of 16 square feet (SF) of sign area each for a total of 32 SF. No deviation is needed for the signs for this business. The deviation request is only for the Salty Crab. The Salty Crab is in a unique placement in the Downtown Core. It has facades and visibility on three sides: Estero Boulevard, Crescent Park, and the beach. The signs are of moderate size ranging from 14.2 SF to 20.1 SF each.*

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 was destroyed due to 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 a restaurant at this location.
- (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. The request is consistent with the goals, objectives, policies, and intent, and densities, intensities, and general uses as set for the in the Fort Myers Beach Comprehensive Plan.
- (8) Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
 - 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 which is the portion of the property landward of the 1978 CCCL 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, hazard, nuisance or other detriment to the commercial or civic property uses of Fort Myers Beach. The site abuts the Margaritaville resort and with zero lots lines will impact the view from several guest rooms on the northwest side of the abutting building.
- (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. An undue burden on the transportation system is not anticipated.
- (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 proposed application complies with the Comprehensive Plan.
- (2) This chapter.
The proposed uses comply with this chapter except in regards 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: Restaurant use is appropriate in this zone and FLU category.

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: The proposed shade structures over the public sidewalk benefit the public.

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:

Policy 4-C-4 – The proposed building height is consistent with the Comprehensive Plan and the LDC.

Policy 7-J-2 – Increased traffic impacts are not anticipated as the site's prior use and intensity will remain similar.

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

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

a. Staff concurs. LPA should consider whether rigid compliance to the 1.2 FAR limit is necessary to protect public policy in this case.

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. Staff concurs

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 finds that the CPD with deviations does meet the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC and recommends **Approval with conditions** of CPD20240136, a request for a CPD with deviations. If the Town's LPA recommends approval for the variance, staff recommend the following conditions of approval.

Recommended Conditions of Approval

1. A photometric plan must be provided with the Development Order application to determine compliance with turtle-friendly lighting restrictions in LDC Sec. 34-1834.
2. Applicant will provide cantilevered shade structure(s) from the Estero Boulevard façade to shade the public sidewalk that abuts the property.

3. Final architectural design must be generally consistent with renderings provided in addition to the Master Concept Plan.
4. The applicant must apply for and receive all state and local permits required for the reconstruction of all proposed structures.

PROJECT NUMBER:

DATE:



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

This is 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 *one ORIGINAL paper copy, fourteen (14) copies* of all required applications, supplemental information, exhibits and documents. Please do not print and copy the instructions at the end of the application. In addition to application fees, the applicant is required to pay for (2) sets of mailings to neighboring property owners within 500', and all advertising fees.

Site Address: 1154 Estero Blvd, Fort Myers Beach, FL 33931

STRAP Number: 24-46-23-W3-00011.0000

Applicant: Clownfish Restaurant Holdings, LLC Phone: 813-817-6190

Contact Name: Greg Powers Phone: 727-210-0987

Email: keith.diaz@purepm.com Fax: _____

Current Zoning District: Downtown (D) and Environmentally Critical (EC)

Future Land Use Map (FLUM) Category: Pedestrian Commercial and Recreation

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

ACTION REQUESTED

☐ Special Exception

☒ Variance

☐ Conventional Rezoning

☐ Planned Development ☐ Commercial ☐ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PROJECT NUMBER:

DATE:

PART I – General Information

A. Applicant*: Clownfish Restaurant Holdings, LLC Phone: 813-817-6190

**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: 11201 Corporate Circle North Suite 100, St. Petersburg, FL 33716

Email: keith.diaz@purepm.com Fax: _____

Contact Name: Greg Powers Phone: 727.210.0987

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: Fred Drovdlc, AICP Phone: 239-318-6707

Address: RVI Planning, 1514 Broadway #201, Fort Myers, FL 34195

Email: fdrovdlc@rviplanning.com Fax: 239-989-3370

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

Name: Keith Diaz, PE Phone: 813-817-6190

Address: 2926 Richmond St. Philadelphia, PA 19134

Email: keith.diaz@purepm.com Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PROJECT NUMBER:

DATE:

Name: _____

Phone: _____

Address: _____

Email: _____

Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

☐ Special Exception

☒ Variance from LDC Section 34 - 2020

☐ Conventional Rezoning from _____ to _____

☐ Planned Development

☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD

☐ Amendment. List the project number: _____

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

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

PART III – Waivers N/A

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: _____

PROJECT NUMBER:

DATE:

Description: _____

PART IV – Property Ownership

☐ Single Owner (individual or husband and wife)

Name: _____

Phone: _____

Mailing Address: _____

Email _____

Fax: _____

☒ 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 4-1

☐ Attach map showing property owners interests as Exhibit 4-2 (for multiple parcels)

☐ For condominiums and timeshares see Explanatory Notes Part IV (Page 11)

DISCLOSURE OF OWNERSHIP INTEREST

STRAP: 24-46-23-W3-00011.0000

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

Name and Address

Percentage Ownership

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

PROJECT NUMBER:

DATE:

Name, Address and Office

Clownfish Restaurant Holdings, LLC

Percentage of Stock

Greg Powers

100

11201 CORPORATE CIRCLE NORTH, SUITE #120

ST. PETERSBURG, FL 33716

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

PROJECT NUMBER:

DATE:

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

Date of Contract:

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

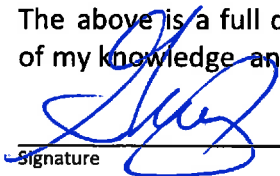
Name

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



Greg Powers

Printed Name

SIGN HERE

PROJECT NUMBER:

DATE:

**STATE OF FLORIDA)
COUNTY OF LEE)**

Subscribed and sworn to (or affirmed) before me this _____ day of _____,
20_____, by _____.

Notary Public Signature

(SEAL)

Notary Printed Name

Personally Known _____ or Produced Identification _____

Type of Identification Produced: _____ My Commission Expires: _____

PART V – Property Information

A. Legal Description:

STRAP: 24-46-23-W3-00011.0000

Property Address: 1154 Estero Blvd, Fort Myers Beach, FL 33931

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? ☐ No. Attach a legible copy of the legal description as Exhibit 5-1.

☒ Yes. Property identified in subdivision: Crescent Park Addition Subdivision

Book: 4 Page: 46 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 5-2.

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 35.0+/- feet

PROJECT NUMBER:

DATE:

Depth (please provide an average width if irregular in shape) 284.27 feet

Frontage on street: 35' Estero feet. Frontage on waterbody: 35' feet

Total land area: 10,356 ☐ acres ☒ square feet

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

The Property is generally located south of Crescent Beach Family Park and 500-feet
from the San Carlos Blvd / Estero Blvd intersection.

☒ Attach Area Location Map as Exhibit 5-3

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 5-4.

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

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 5-6.

☒ Attach a map showing the surrounding property owners as Exhibit 5-7.

☒ 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

H. Zoning (see official Zoning Map):

☐ RS (Residential Single-family)

☐ CF (Community Facilities)

☐ RC (Residential Conservation)

☐ IN (Institutional)

PROJECT NUMBER:

DATE:

- | | |
|--|---|
| ☐ RM (Residential Multifamily) | ☐ BB (Bay Beach) |
| ☐ RPD (Residential Planned Development) | ☒ EC (Environmentally Critical) |
| ☐ CM (Commercial Marina) | ☒ DOWNTOWN |
| ☐ CO (Commercial Office) | ☐ SANTOS |
| ☐ CB (Commercial Boulevard) | ☐ VILLAGE |
| ☐ CR (Commercial Resort) | ☐ SANTINI |
| ☐ CPD (Commercial Planned Development) | |

PART VI

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Greg Powers 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;

PROJECT NUMBER:

DATE:

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 of owner or authorized agent

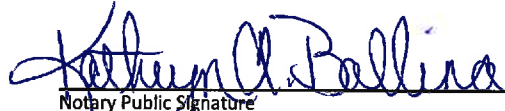
5/2/24
Date

STATE OF FLORIDA)

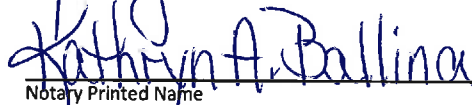
COUNTY OF ~~LEE~~

Pinellas

Subscribed and sworn to (or affirmed) before me this 2 day of May, 2024, by Greg Powers.


Notary Public Signature

(SEAL)


Notary Printed Name

Personally Known X or Produced Identification _____

Type of Identification Produced: _____ My Commission Expires: December 3, 2027



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: Salty Crab CPD
Authorized Applicant: Clownfish Restaurant Holdings LLC
STRAP Number(s): 24-46-23-W3-00011.0000

Current Property Status: Vacant (destroyed restaurant)
Current Zoning: Downtown (D) and Environmentally Critical (EC)
Future Land Use Map (FLUM) Category: Pedestrian Commercial and Recreation
Platted Overlay? ☐ yes, ☒ no FLUM Density Range:

Requested Action:

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

PART I Narrative Statements

A. Comprehensive Plan Amendments (check one)

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

B. Phasing of Construction

☒	The development is to be constructed in a single phase.
☐	The development is to be constructed in phases as follows: (describe proposed phasing below)

C. Comprehensive Plan Compliance.

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

See Request Narrative Comprehensive Plan Compliance-CPD

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.

Request Narrative Comprehensive Plan Compliance-CPD

E. Decision-making Compliance

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

Request Narrative Comprehensive Plan Compliance-CPD

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 the Deviations and Justifications CPD



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

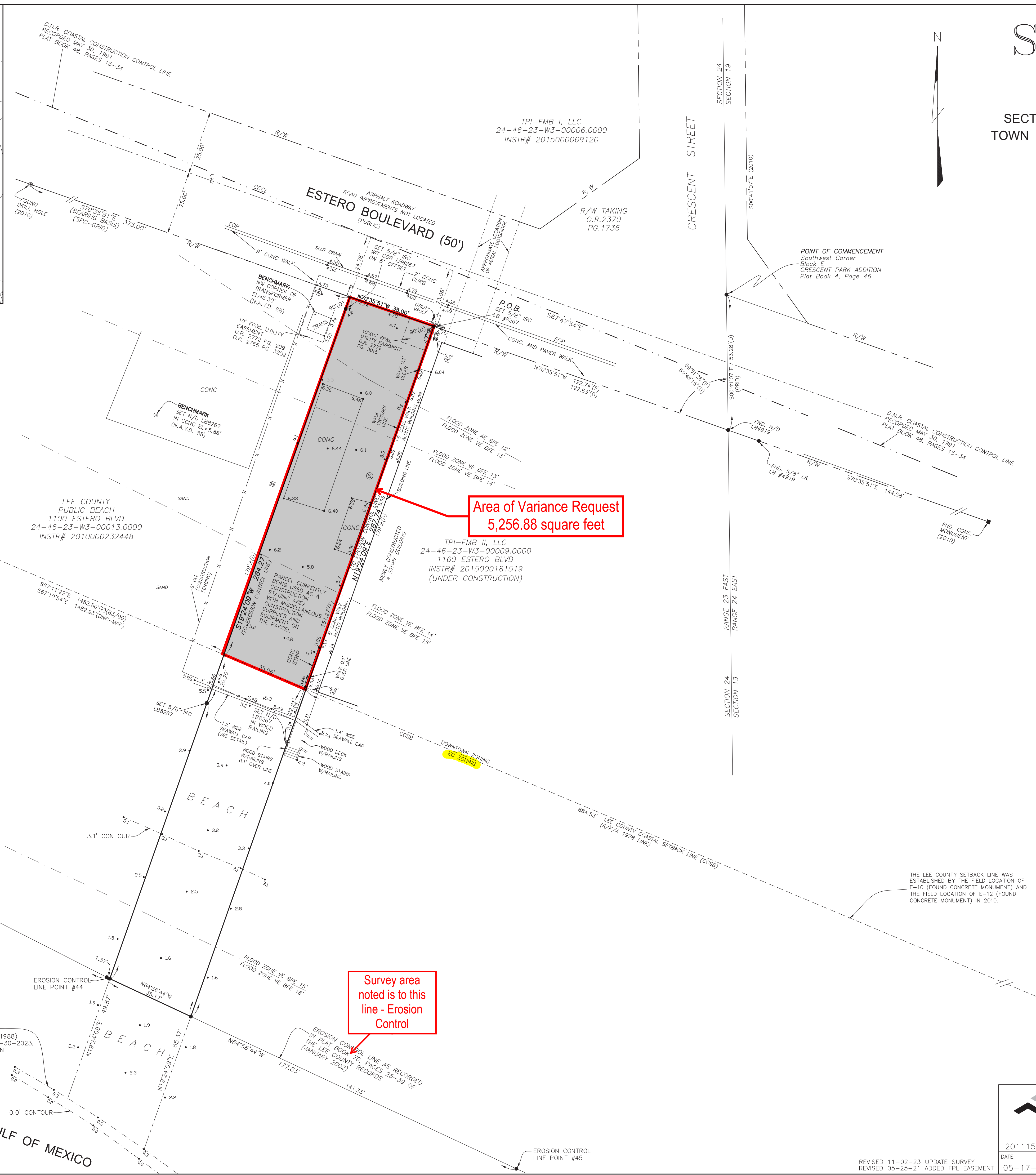
been provided on this form for many of the required narrative statements, though they can be attached on separate sheets. A master concept plan must include the following required information:

- 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.



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



DESCRIPTION:
AS RECORDED IN INSTRUMENT #2015000177606:

FROM THE SW CORNER OF BLOCK E, CRESCENT PARK ADDITION, AS RECORDED IN PLAT BOOK 4, PAGE 46 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, ON THE EAST LINE OF SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, RUN ALONG SAID LINE FOR 53.28 FEET TO THE SOUTH LINE OF EXISTING ROAD 179 FEET, MORE OR LESS, TO THE POINT OF BEGINNING OF SAID SECTION RUN NORTHWESTERLY AT AN INCLUDED ANGLE OF 69° 48' 15" WITH SAID SECTION LINE, ALONG THE SOUTH SIDE OF SAID RIGHT-OF-WAY FOR 122.63 FEET TO THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED; THENCE CONTINUE ALONG THE SOUTH LINE OF SAID RIGHT-OF-WAY FOR A DISTANCE OF 35 FEET; THENCE RUN SOUTHWESTERLY PERPENDICULAR TO SAID ROAD A DISTANCE OF 179 FEET, MORE OR LESS, TO THE GULF OF MEXICO; THENCE RUN SOUTHWESTERLY ALONG THE WEST LINE OF SAID ROAD PERPENDICULAR TO THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED, BEING APPROXIMATELY 35 FEET, MORE OR LESS, THENCE RUN NORTHERLY AND PERPENDICULAR WITH THE RIGHT-OF-WAY OF THE EXISTING COUNTY ROAD 179 FEET, MORE OR LESS, TO THE POINT OF BEGINNING,

NOTES:
SURVEY BASED ON THE DESCRIPTION SHOWN HEREON, THE RECORD PLAT OF CRESCENT PARK (PLAT BOOK 4, PAGE 39), THE "EROSION CONTROL LINE" (PLAT BOOK 70, PAGE 25), THE "LEE COUNTY COASTAL CONSTRUCTION SETBACK LINE" (ORDINANCE 76-3 AND RECORDED 1978), THE "COASTAL CONSTRUCTION CONTROL LINE MAPS" (1991), RIGHT-OF-WAY CONTROL SURVEY MAPS OF ESTERO BOULEVARD (PREPARED BY THIS FIRM) DATED APRIL 16, 2010 PREVIOUS SURVEYS BY THIS FIRM AND FOUND MONUMENTATION.

BEARINGS ARE BASED ON THE NORTH AMERICAN DATUM (NAD) OF 1983/1990 ADJUSTMENT,
FLORIDA MERCATOR WEST ZONE HOLDING NGS CONTROL POINT 800B-2 TIED TO THE FLORIDA
HIGH PRECISION GEODETIC NETWORK UNLESS NOTED OTHERWISE.

STATE PLANE COORDINATES ARE BASED ON THE NORTH AMERICAN DATUM OF 1983/1990
ADJUSTMENT, FLORIDA MERCATOR WEST ZONE AS SHOWN AND NOTED HEREON HOLDING NGS
CONTROL POINT "BOOB-2".

DIMENSIONS ARE IN FEET AND DECIMAL PARTS THEREOF.

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

ELEVATIONS ARE BASED ON NAVD OF 1988 AND NGS BENCHMARKS F-245 AND BOOB-2.

PARCEL LIES IN FLOOD ZONES AE AND VE, WITH BASE FLOOD ELEVATIONS OF 12', 13', 14', 15, and 16' (NAVD 1988) AS SHOWN. THIS INFORMATION TAKEN FROM FLOOD INSURANCE RATE MAP 12071C0554G, COMMUNITY NAME: TOWN OF FORT MYERS BEACH AND COMMUNITY NUMBER: 120673 WITH EFFECTIVE DATE AND INDEX DATE BEING 11-17-2022. THAT PORTION OF THE PARCEL LAYING WITHIN FLOOD ZONE AE IS WITHIN A FEMA DESIGNATED LIMMA AREA.

THE FEMA FLOOD ZONE INFORMATION INDICATED HEREON IS BASED ON MAPS SUPPLIED BY THE FEDERAL GOVERNMENT. THIS FLOOD INFORMATION MUST BE VERIFIED WITH ALL PERMITTING REGULATORY ENTITIES PRIOR TO COMMENCING ANY WORK OR APPLICATION DEPENDENT ON SAID FLOOD INFORMATION.

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 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 LINE WAS FIELD LOCATED ON MAY 12, 2021 AND WAS ESTABLISHED BY FIELD LOCATING THE CONTOUR ELEVATION OF 0.26' (N.A.V.D. OF 1988) PER APPROVAL LETTER RECEIVED BY DEP ON NOVEMBER 19, 2012. THIS LINE IS SHOWN FOR REFERENCE ONLY AS THE EROSION CONTROL LINE IS UNDERSTOOD TO BE THE WATERWARD BOUNDARY OF THIS SITE.

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

THE PROPERTY IS SUBJECT TO ANY CLAIM THAT ANY PART OF SAID LAND IS OWNED BY THE STATE OF FLORIDA BY RIGHT OF SOVEREIGNTY, RIPARIAN RIGHTS AND THE TITLE TO FILLED-IN LANDS, IF ANY. OWNERSHIP TO THE EROSION CONTROL LINE NEEDS TO BE CONFIRMED WITH STATE LANDS.

PARCEL CONTAINS 0.23 ACRES (10,010 SQUARE FEET), MORE OR LESS. AREA WAS CALCULATED FROM THE RIGHT-OF-WAY OF ESTERO BOULEVARD TO THE EROSION CONTROL LINE.

ADDRESS: 1154 ESTERO BLVD, FORT MYERS BEACH, FL 33931

STRAP NO: 24-46-23-W3-00011.0000

DATE OF LAST FIELD WORK: 11-02-2023

Stephen F.
Shawles II, P.S.M.

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

[illegible]

Stephen F. Shawles
STEPHEN F. SHAWLES II, P.S.M., NO. LS6419
PROFESSIONAL SURVEYOR & MAPPER
STATE OF FLORIDA

- THIS CERTIFICATION IS ONLY FOR THE LANDS DESCRIBED HEREON.
- IT IS NOT A CERTIFICATION OF TITLE, ZONING, SETBACKS, OR FREEDOM OF ENCUMBRANCES.
- THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF ABSTRACT OF TITLE AND ALL MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY AT LAW.

BOUNDARY SURVEY
1154 ESTERO BOULEVARD - FORT MYERS BEACH



HALEY WARD

Engineering | Environmental | Surveying
13041 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919

2011159.001SR.DWG						FLORIDA CERTIFICATE OF AUTHORIZATION NUMBERS EB32664 & LB8267	
DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-T-R)		
05-17-21	11159.001	SFS	1" = 20'	1 OF 1	24-46-23		



SALTY CRAB CPD

Request Narrative & Comprehensive Plan Compliance

I. Request

On behalf of Greg Powers and Clownfish Restaurant Holdings, LLC (“Applicant”) RVI Planning and Landscape Architecture is pleased to submit the enclosed petition for a Commercial Planned Development (CPD) zoning from Downtown to CPD for the rebuild of the Salty Crab restaurant at 1154 Estero Boulevard (“Property”) after the existing establishment was destroyed in Hurricane Ian.

The CPD includes 5,256.88 square feet of the property landward Lee County 1978 Coastal Construction Control Line (CCCL)¹ only and codification of the consumption on premises and outdoor seating area waterward of the CCCL.

II. Property History & Existing Conditions

Originally constructed in the 1980’s, the primary use of the building has been commercial and well-known in the community as The Salty Crab Bar & Grill. The original building was a mix of one- and two-story structures and covered patios and walkways. There was no onsite parking provided and loading was completed in the beach access and parking area for Crescent Park abutting the property.

Prior to Hurricane Ian, the Property included a two-story structure with covered porch areas and beachside dining including 1,561 square feet of outdoor seating and consumption on premises (Resolution 10-15 and COP2012-0005) area seaward of the seawall and the 1978 Lee County Coastal Control Line (CCCL). An aerial exhibit depicting the project location is attached to this application as Exhibit 5-3 – Areal Location Maps. The exhibit also includes before and after pictures of the property to identify the original structure.

The general location is 500 feet south of Times Square on the Gulf side of Estero Boulevard in the Town of Fort Myers Beach, Florida. This is the most intensive and pedestrian-oriented node within the Town and serves as the main tourist and entertainment district. The northern boundary of the site abuts Crescent Beach Family Park’s Public Parking lot, owned and operated by Lee County, and to the south abuts the Margaritaville Beach Resort beachside pool and building. It is less than 100 feet from the Estero Boulevard and Crescent Park signalized intersection and a few hundred feet south of a new bus pull off and stop that will be part of the SR 865 improvements to be completed by FDOT. See Exhibits 5-3 FDOT SR865 for details.

The regulatory environment for the property is that it has two zoning classifications - Downtown (D) and Environmentally Critical (EC). The Downtown district area landward of the CCCL occupies 5,256.88 square feet. The future land use categories (FLUC) of the property are Pedestrian Commercial and Recreation. No changes are proposed. Like the zoning, the Pedestrian Commercial portion of the site will be redeveloped with the restaurant structure while the outdoor seating and COP area will be in the Recreation FLUC as has been historically documented. As indicated by the name of the underlying future land use, the property is sited within a dynamic, tourist-oriented area of the Town intended for pedestrian oriented, commercial uses – precisely what is intended by the proposed redevelopment and associated parking variance.

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

The lot was originally pre-platted as part of the Crescent Park Subdivision formed in the 1950's (see Exhibit 5-1 Plat-PB4-PG46). According to the boundary survey the site has an area of 10,010 square feet, or (0.23 acres), with an average depth of 286 feet and 35 feet wide. Per LDC 34-3277(1) the lot does not meet the minimum width for those created prior to 1962 which is 40 feet and can therefore be considered a legally nonconforming lot.

III. Surrounding Land Uses

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

The purpose of the Downtown zoning district is to create a desired quality and character of the center of the pedestrian-oriented commercial activities within the town. There is a mix of resort/hotel and commercial properties that surround the subject property. In the general vicinity are some of Fort Myers Beach's most high intensity establishments in Times Square including abutting the Margaritaville Resort.

Table 1 – Surrounding Land Uses

	Future Land Use	Zoning	Existing Land Uses
North	Pedestrian Commercial	CPD	Margaritaville
South	Recreation	Environmental Conservation	Gulf of Mexico
West	Pedestrian Commercial	Downtown	Crescent Park
East	Pedestrian Commercial	Downtown	Margaritaville

IV. Proposed Development

The site's historic use and location provide for an ideal rebuild of the Salty Crab restaurant. Situated in an area of town that encourages pedestrian walkability and has substantial public parking within ¼ mile walking distance (see Exhibit 5-3 Walkability and Parking Map), the site has been proven to successfully operate without designated parking spaces.

As a property in the Downtown district, the Town's Land Development Code implies this area is intended to create a quality and character for the center of pedestrian-oriented commercial activities within the town. In addition, the supporting Pedestrian Commercial future land use promotes the park-once concept and is primarily a commercial district situated around activity centers such as Times Square.

The proposed restaurant, a two-story structure with outdoor seating, will be landward of the 1978 CCCL in the Downtown district area only. In addition to the 2-story building there will be a 1,561 square foot outdoor seating and consumption on premise (COP) area seaward of the existing seawall and the 1978 CCCL consistent with the use and area that was part of the former structure as demonstrated in Exhibit 5-3 - Pre-Ian Survey COP Location Area. The lot is an undersized legally non-conforming lot that is only 35 feet wide. Because of the size of the lot and location surrounded by Lee County Crescent Park to the west and Margaritaville to the east there is limited room for a structure. The development program to rebuild the restaurant requires a variance because there historically been no parking, and no room to add such a feature, and similarly,

limited floor area requiring relief from the floor area ratio permitted, yet complying with height and stories permitted in the Comprehensive Plan.

HEIGHT, STORIES and FAR

Per the LDC requirements for height, stories and floor-to-area ratio (FAR) the project is located on the south side of Estero Boulevard adjacent to the Times Square area in the Downtown district fronting on Estero Boulevard. The CPD zoning district applies the development standards of the Commercial Resort District per LDC §34-645 Table 34-3.

Height

The permitted height in the Commercial Resort District at this location is a maximum of 30 feet above base flood elevation. The FEMA BFE+1 at this location is 19'6" feet and the FDEP LHSM is 20'3" feet. The proposed structure will meet this requirement.

Stories

The permitted stories at this location in the Commercial Resort District a building may be no taller than three (3) stories. The proposed building is two stories, which will meet this requirement.

FAR

As defined in the LDC Section 34-633, floor area ratio is the gross floor area of all buildings on a site divided by the site's lot area. Gross floor area includes the total floor area of all stories of a building within the surrounding exterior walls (whether the walls are solid or screened), plus all area below an elevated building that is six feet or more in height, plus all stories of covered parking, but not including any area whose roof is screened rather than solid (such as swimming pool enclosures).

Per LDC Section 34-645 Table 34-3 in the Commercial Resort (CR) District the permitted FAR is 1.2. Although it is in the Downtown District with an allowable FAR of up to 1.8 in certain locations. Here is the breakdown of the *gross floor area* request:

- The lot landward of the CCCL is 5,256.88
- The proposed footprint of the building is 5,156 square feet
- The total floor area is a maximum of 9,300 square feet combining the two stories
- The FAR proposed is 1.77

Net Request

The ground floor building plan, or the area below base flood, includes 1,285 square feet of loading area and dry storage. It also includes 1,260 square feet of area of circulation and open areas used for elevators, stairwells, and customer circulation areas – a total of 2,545 square feet.

Removing the loading/dry storage and circulation areas from the ground floor and counting all areas on the second story results in a floor area of 6,755, or an FAR of 1.29.

Justification

The former restaurant occupied less floor area than the proposed structure because it was a single-story structure with a small second floor that only occupied a portion of the available area. The structure was built long before modern FEMA flood regulations and was able to have most if the operation and seating at ground level. The land is in the VE FEMA flood zone which highly restricts the infrastructure that can be rebuilt at grade.

Because of the limitations of uses on the first floor, the second floor is the true useful space and therefore expanded from the original. The flood elevation at this site is 20 feet at FDEP design flood elevation.

The new restaurant will increase the area on the second floor to a full level while the at grade floor will be fully covered and enclosed and considered floor area. However, the first-floor uses, because of the limitations of uses and required elevation, is occupied by a significant amount of dead space. The ground floor building plan includes 1,285 square feet of loading area and dry storage. It also includes 1,260 square feet of area of circulation and open areas used for elevators, stairwells, and customer circulation areas – a total of 2,545 square feet. Removing the loading/dry storage and circulation areas from the ground floor only results in a floor area of 6,755, or an FAR of 1.29.

Rigid compliance to the 1.2 FAR limit is not necessary to protect public policy. The district allows for floor area very similar to the requested, allowing up to 1.8 and removing the dead areas show a useable space in the ballpark of the 1.2 FAR for the district and consistent with the Downtown District's 1.4 FAR.

The lot is limited in size with no options to create room for dead spaces such as storage to be outside of an enclosed first floor area. The lot was originally pre-platted as part of the Crescent Park Subdivision formed in the 1950's (see Exhibit 5-1 Plat-PB4-PG46). According to the boundary survey the site has an area of 10,010 square feet, or (0.23 acres), with an average depth of 286 feet and 35 feet wide. Per LDC 34-3277(1) the lot does not meet the minimum width for those created prior to 1962 which is 40 feet and can therefore be considered a legally nonconforming lot.

Also, the need for the deviation is due to Hurricane Ian destroying the former structure as the new structure must adhere to flood regulations making the second floor essential to be full-sized which enlarges the floor area of the total structure. The second floor now must provide room for a kitchen, restrooms, bar and serving areas and seating where most of the backhouse functions were on the ground floor formerly.

Because of a business at this location needing to place most functional aspects of a commercial business, particularly a restaurant, on the second floor, removing ground floor uses that serve functions such as circulation and dead storage and dumpster and delivery areas is the minimum variance. Strict adherence to the policy of 1.2 FAR would create a limited second floor, which is where the primary functions of a restaurant must be located, while counting storage and dead space on the first floor. This would greatly limit the overall functionality and viability of rebuilding a restaurant at this location.

INGRESS/EGRESS

Access and circulation are unable to be accommodated at this location historically and as redeveloped.

PARKING

LDC §34-2020(d)(2) (a) and (h) for restaurants requires a minimum parking of eight spaces per 1,000 square feet of total floor area plus any outdoor seating area. The proposed development requests to allow no required parking spaces, a reduction of 58 spaces or a 100% deviation. The parking requirements for the proposed development are as follows:

REQUIRED PARKING

- 8 SPACES PER 1,000 SF (including outdoor seating)

BUILDING SIZE

- $9,300 \text{ SF} + 1,561 \text{ SF (COP WITH OUTDOOR SEATING)} / 1,000 \text{ SF} = 87 \text{ SPACES}$
 $\times 0.67 = 58 \text{ spaces}$

Justification

The property is considered a non-conforming lot that was platted in the 1950s, long before the current regulations were enacted.

The site operated successfully for decades with no onsite parking being provided. The request is to allow a similar restaurant to be rebuilt after being destroyed by Hurricane Ian. It is in the pedestrian commercial area and the downtown district both of which are to allow for uses in close proximity that can be reached through alternative transportation to individual vehicles.

In addition to the park once and pedestrian oriented character of the area, the lot is approximately 35 feet wide at the Estero Boulevard frontage. Due to the limited width and the following factors, onsite parking cannot be accommodated:

1. The LDC Sec. 34-676(d)(1) prevents an access point onto Estero Boulevard Properties fronting on Estero Boulevard. The code states, "Existing driveways and parking spaces shall be relocated from Estero Boulevard to secondary streets, and new driveways shall connect only to secondary streets, except where these requirements would prohibit all reasonable access to a property."
2. The location near the signalized intersection at Estero Boulevard and Crescent Street and the pedestrian crossing at the same location make a curb cut onto Estero Boulevard a safety concern.
3. Access from side streets is not available due to the neighboring properties uses and because of lack of available property width to accommodate ingress/egress onto the site. To the south is the Margaritaville structure and to the north is parking for Crescent Park owned and operated by Lee County.

Historically, the restaurant has been successful despite the lack of onsite parking. The property is a platted lot established prior the Land Development Code and an undersized commercial lot per code minimums. As a property in the Downtown zoning district, the location and use meets the purpose of the district as a pedestrian-oriented commercial space with walk-up access from both Estero Boulevard and the Beach for a desirable service of food and beverage near the Times Square area.

A significant amount of public parking opportunities is located within the ¼ mile walkshed of the proposed restaurant. Exhibit 5-3 titled, "Walkability and Parking Proximity", shows more than 800 spaces within the typical ¼ mile walkshed. Also in support of walk-in patrons are 254 rooms in the Margaritaville Resort next to the restaurant, Lani Kai's 100+ rooms, Lighthouse Resort Inn & Suites 75 rooms, Diamond Head Beach Resort's 124 rooms, Best Western Plus's 100 rooms, and many timeshare and short-term rentals units in the area.

The site is unable to accommodate a parking area as the width of the property would not allow for parking that would meet modern drive isle and parking space depths. Perhaps a parallel parking design would provide some spaces but causes issues with safety and the LDC. But even if that were proposed, due to developed properties to the north and south an access from a side street is not possible and curb cuts onto Estero Boulevard do not meet code and would be

considered a safety concern at the busy signalized intersection of Estero Boulevard and Crescent Street.

Finally, the historic use of the property has been a restaurant without onsite parking and is located in an area that encourages and experiences significant pedestrian activity. Granting the variance will not negatively impact compatibility, public health, safety, or welfare.

Like uses in the immediate area, such as the Times Square restaurants and Margaritaville, demonstrate the compatibility and consistency with the historical character of the area.

The restaurant use and location promotes the use of alternative forms of transportation, with a future bus stop within a few hundred feet (in front of Crescent Park as part of the SR865 redevelopment plan), and is well served by pedestrian connectivity.

The direct access to a restaurant from Estero Boulevard and the beach complements the area and serves residents and visitors of the beach.

VI. Infrastructure

The subject property was developed as a restaurant for decades and has been adequately served by public utilities and services due to its urban location and general proximity to the Town's and County's investment in infrastructure. Only a marginal increase in usage rates is likely for this CPD, thus additional evidence of infrastructure availability is not required by the application.

VII. Decision-making Compliance

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

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

The rezoning of the property to CPD is not because of error or ambiguity but rather prevents future discrepancy issues between what would have been allowed for setbacks in the Downtown district and the larger floor area ratio necessary for functional build back of the restaurant. The CPD zoning district allows for specific development regulations to meet unique site designs such as those required when constructing on a legal non-conforming lot (width) and unique nature of the pre-existing restaurant that had no parking. The CPD allows for a unique design to promote things such as retail uses that are walkable in the Downtown area and unique setbacks.

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

The Town of Fort Myers Beach and Estero Island have been changed by Hurricane Ian. Furthermore, the building code and flood zones have changed significantly since the site was first developed decades ago. Rebuilding this restaurant requires a significantly different structure than the original structure. The original restaurant was able to have many functions on the ground floor such as kitchen and bar equipment and other permanent features such as restrooms that are no longer permitted below base flood elevation, particularly in the FEMA VE Zone that occupies all of this property. As such the primary restaurant must be on the second

floor creating a roof over the ground floor area that now counts as floor area but has limited usefulness to the restaurant.

The proposed CPD will allow for development of a unique, safe and modern structure, that complies with current development standards and is more resilient to future weather events while building back an historic restaurant in a wonderful location in the middle of the pedestrian area at Times Square.

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

N/A

(4) The testimony of any applicant.

As a quasi-judicial process, the CPD zoning will allow for substantive and competent evidence to be presented to and considered by the Local Planning Agency for recommendation and Town Council for a decision or conditions for approval. The testimony presented will conclude that the request is consistent with the goals, objective and policies of the Comprehensive Plan and all applicable development regulations.

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

The Town Council will consider the staff report and recommendation as well as the report and recommendation of the LPA, which will be rendered after a public hearing where the staff and applicant will present evidence, the public will speak, and the LPA is permitted to ask questions of all parties.

(6) The testimony of the public.

During the quasi-judicial process, the public is invited to present evidence for support, concerns, or issues with the proposed development in an advertised forum according to Sunshine laws of Florida. The competent and substantive evidence presented will be strongly considered by the applicant.

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

The proposed development considers Fort Myers Beach Comprehensive Plan and does not seek to increase density, height or change use. The site will comply with modern post-disaster buildback policies in the Comprehensive Plan and LDC, by meeting flood regulations and life safety and ADA requirements. The requested floor area ratio increase will be compatible with surrounding building mass in this intensive Downtown core near Times Square.

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

The proposed use is a build back of an existing use that is substantially the same. The location is appropriate for the use and has proper placement and access on Estero Boulevard near Times Square.

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

The proposed request will need very similar urban services that have been in place for quite some time in this location.

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

The proposed development will occur on impacted portions of the site where development historically occurred. No new impacts to environmentally sensitive areas are proposed. The project will comply with all local and state regulations pertaining to the area seaward of the 1978 CCCL through compliance with the stringent EC zoning district.

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

The proposed development is identical in use and density with the former use of the property. The increased floor area will be designed in such a way to not create negative impacts to the surrounding land 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.

The proposed development is identical in use and density with the former use of the property.

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

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

The use and location have historically been the Salty Crab Restaurant until Hurricane Ian.

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

The site plan, development standards and schedule of uses are designed and limited to ensure there are sufficient safeguards to the public interest, relating to access, uses, building placement, design, and setbacks.

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

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

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

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

N/A

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

N/A

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

The proposed building height demonstrates consistency with the Comprehensive Plan and LDC.

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

N/A

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

N/A

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

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

VIII. Comprehensive Plan Consistency Narrative

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

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

The proposed CPD rezone includes pedestrian shading and streetscape aesthetics with retail services on the ground floor in direct compliance with this policy.

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

Uses and development in the areas waterward of the 1978 Coastal Construction Control Line (CCCL) will continue to comply with the above policy. The approved COP area and outdoor seating seaward of the CCCL is to be replaced in accordance with the provisions of the LDC. Other portions of the Property are

disturbed/developed. The development program will be designed and constructed to the latest South Florida Water Management District and Department of Environmental Protection standards to ensure high-quality development that protects natural resources.

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

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

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

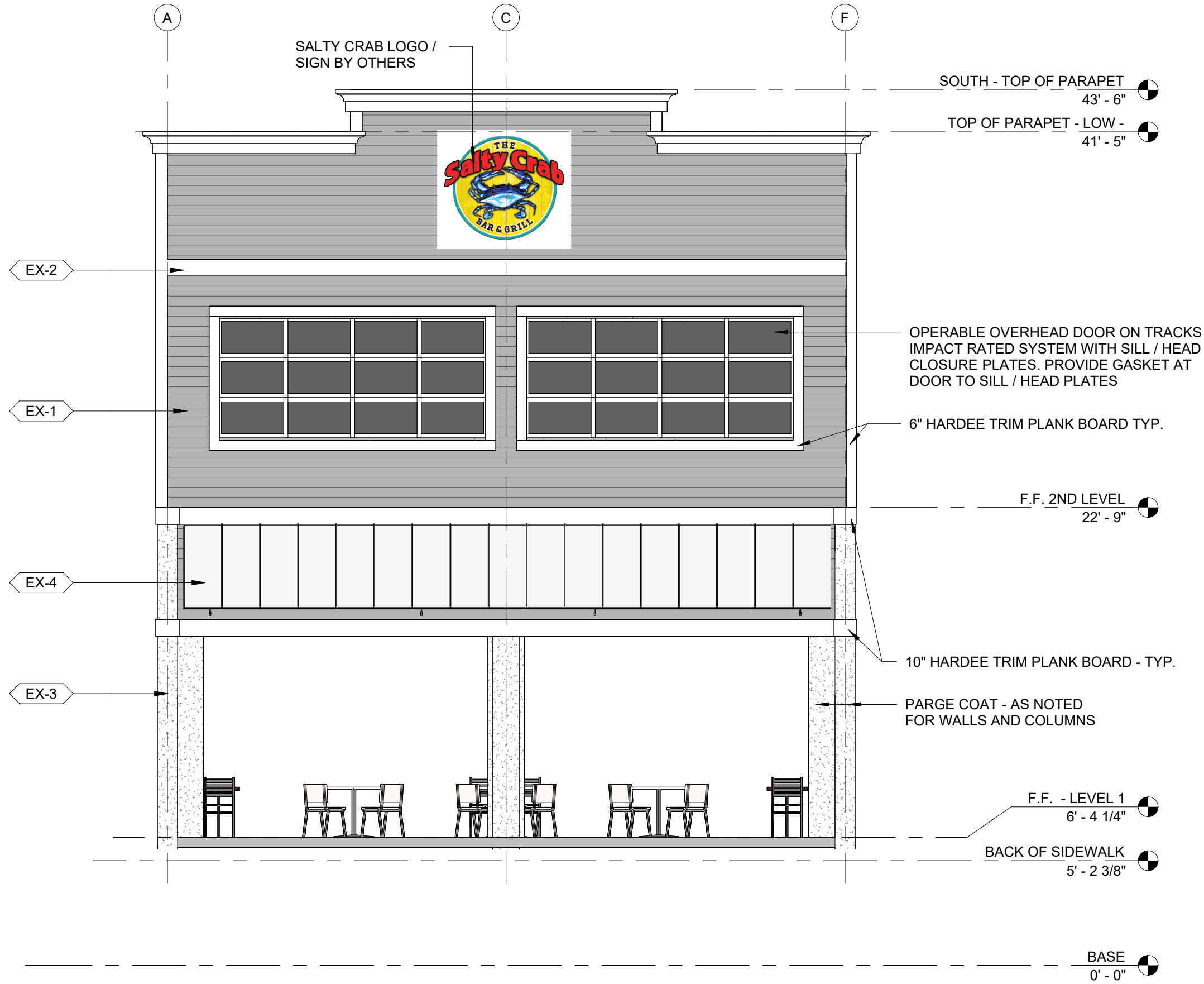
OBJECTIVE 6-E DUNES AND BEACHES

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

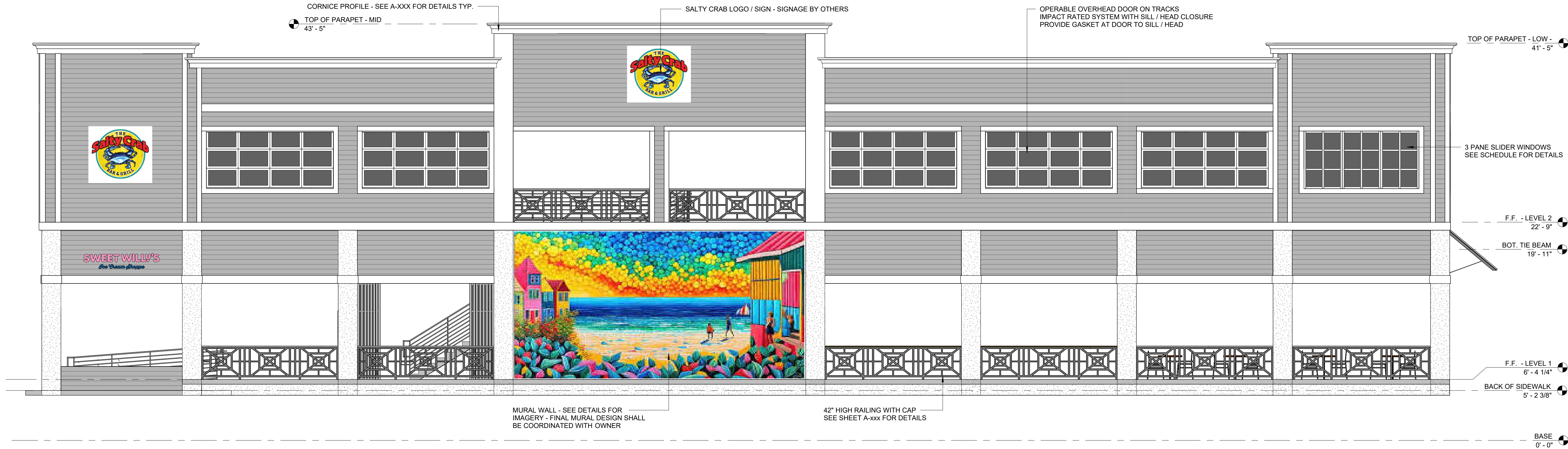
POLICY 6-H-5 WATER QUALITY

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

SCHEDULE - EXTERIOR FINISHES				
MARK	MFR	MODEL/SERIES	DESCRIPTION	Color
EX-1	James Hardie	Plank Siding -	8 1/4" plank with 7" exposure	as selectedfrom full manuf. color list
EX-2	James Hardie	Trim planks	10" trim plank	as selectedfrom full manuf. color list
EX-3	T.B.D.	T.B.D.	Parge Coat Application	as selectedfrom full manuf. color list
EX-4	Mapes	T.B.D.	Aluminum	as selectedfrom full manuf. color list



① SOUTH ELEVATION
3/16" = 1'-0"



② WEST ELEVATION
3/16" = 1'-0"

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A STATEMENT ON "ALL" SIGNED AND SEALED PLANS THAT TO THE BEST OF THE ARCHITECT'S KNOWLEDGE THE PLANS AND SPECIFICATIONS COMPLY WITH THE MINIMUM BUILDING CODES.

SEAL

Architect of Record:
Greg Walden, NCARB, AIA, LEED AP

ISSUE	BY	DATE	DESCRIPTION

PROJECT INFORMATION BLOCK			
JOB #	230064	DATE	2/25/2025
DRAWN BY:	Author	CHECKED BY:	Checker

SHEET TITLE

EXTERIOR ELEVATIONS

SHEET NUMBER

A201

[illegible]

A STATEMENT ON "ALL" SIGNED AND SEALED PLANS THAT TO THE BEST OF THE ARCHITECT'S KNOWLEDGE THE PLANS AND SPECIFICATIONS COMPLY WITH THE MINIMUM BUILDING CODES.

SEAL

Architect of Record:
Greg Walden, NCARB, AIA, LEED AP

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PROJECT INFORMATION BLOCK	
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JOB #	230064
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DATE:	2/25/2025
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CHECKED BY:	Checker

SHEET TITLE

3D REPRESENTATION

SHEET NUMBER

A900

BUILDING SETBACKS

1. Deviate from LDC §34-645 Table 34-2 for a STREET SETBACK that specifies in the CR zoning district no building or structure shall be placed closer than 10 feet (to Estero Boulevard); to allow a 0-foot street setback.

JUSTIFICATION: The Downtown district requires build to lines that would make the proposed development setback of 0-feet in compliance. However, a CPD requires the setbacks of the CR district which is inconsistent with the intent of the area. The setback allows for shade structures to be on the façade of the entrance providing shade on the sidewalk.

2. Deviate from LDC §34-645 Table 34-2 for SIDE SETBACKS that specifies in the CR zoning district no building or structure on a water-front property shall be placed closer than 20 feet as a side setback; to allow a 0-foot side setback on the western boundary and a 0-foot setback on the eastern boundary (abutting Margaritaville).

JUSTIFICATION: The Downtown district requires build to lines that would make the proposed development setback of 0-feet in compliance. However, a CPD requires the setbacks of the CR district which is inconsistent with the intent of the area.

FLOOR AREA RATIO

3. Deviate from LDC §34-645 Table 34-2 for FLOOR AREA RATIO that specifies in the CR zoning district a maximum of 1.2; to allow a 1.96 floor area ratio.

JUSTIFICATION: As defined in the LDC Section 34-633, floor area ratio is the gross floor area of all buildings on a site divided by the site's lot area. Gross floor area includes the total floor area of all stories of a building within the surrounding exterior walls (whether the walls are solid or screened), plus all area below an elevated building that is six feet or more in height, plus all stories of covered parking, but not including any area whose roof is screened rather than solid (such as swimming pool enclosures).

Per LDC Section 34-645 Table 34-3 in the Commercial Resort (CR) District the permitted FAR is 1.2. Although it is in the Downtown District with an allowable FAR of up to 1.8 in certain locations. Here is the breakdown of the gross floor area request:

- The lot landward of the CCCL is 5,256.88
- The proposed footprint of the building is 5,156 square feet.
- The total floor area is a maximum of 9,300 square feet combining the two stories
- The FAR proposed is 1.77

Net Request

The ground floor building plan, or the area below base flood, includes 1,285 square feet of loading area and dry storage. It also includes 1,260 square feet of area of circulation and open areas used for elevators, stairwells, and customer circulation areas – a total of 2,545 square feet.

Removing the loading/dry storage and circulation areas from the ground floor and counting all areas on the second story results in a floor area of 6,755, or an FAR of 1.29.

Narrative

The former restaurant occupied less floor area than the proposed structure because it was a single-story structure with a small second floor that only occupied a portion of the available area. The structure was built long before modern FEMA flood regulations and was able to have most if the operation and seating at ground level. The land is in the VE FEMA flood zone which highly restricts the infrastructure that can be rebuilt at grade. Because of the limitations of uses on the first floor, the second floor is the true useful space and therefore expanded from the original. The flood elevation at this site is 20 feet at FDEP design flood elevation.

The new restaurant will increase the area on the second floor to a full level while the at grade floor will be fully covered and enclosed and considered floor area. However, the first-floor uses, because of the limitations of uses and required elevation, is occupied by a significant amount of dead space. The ground floor building plan includes 1,285 square feet of loading area and dry storage. It also includes 1,260 square feet of area of circulation and open areas used for elevators, stairwells, and customer circulation areas – a total of 2,545 square feet. Removing the loading/dry storage and circulation areas from the ground floor only results in a floor area of 6,755, or an FAR of 1.29.

Rigid compliance to the 1.2 FAR limit is not necessary to protect public policy. The district allows for floor area very similar to the requested, allowing up to 1.8 and removing the dead areas show a useable space in the ballpark of the 1.2 FAR for the district and consistent with the Downtown District's 1.4 FAR.

The lot is limited in size with no options to create room for dead spaces such as storage to be outside of an enclosed first floor area. The lot was originally pre-plated as part of the Crescent Park Subdivision formed in the 1950's (see Exhibit 5-1 Plat-PB4-PG46). According to the boundary survey the site has an area of 10,010 square feet, or (0.23 acres), with an average depth of 286 feet and 35 feet wide. Per LDC 34-3277(1) the lot does not meet the minimum width for those created prior to 1962 which is 40 feet and can therefore be considered a legally nonconforming lot.

Also, the need for the deviation is due to Hurricane Ian destroying the former structure as the new structure must adhere to flood regulations making the second floor essential to be full-sized which enlarges the floor area of the total structure. The second floor now

must provide room for a kitchen, restrooms, bar and serving areas and seating where most of the backhouse functions were on the ground floor formerly.

Because of a business at this location needing to place most functional aspects of a commercial business, particularly a restaurant, on the second floor, removing ground floor uses that serve functions such as circulation and dead storage and dumpster and delivery areas is the minimum variance. Strict adherence to the policy of 1.2 FAR would create a limited second floor, which is where the primary functions of a restaurant must be located, while counting storage and dead space on the first floor. This would greatly limit the overall functionality and viability of rebuilding a restaurant at this location.

PARKING

4. Deviate from LDC §34-2020(d)(2) (a) and (h) for restaurants requires a minimum parking of eight spaces per 1,000 square feet of total floor area plus any outdoor seating area. The proposed development requests to allow no required parking spaces, a reduction of 58 spaces or a 100% deviation. The parking requirements for the proposed development are as follows:

REQUIRED PARKING

8 SPACES PER 1,000 SF (including outdoor seating)

BUILDING SIZE

9,300 SF + 1,561 SF (COP WITH OUTDOOR SEATING) / 1,000 SF = 87 SPACES x 0.67 = 58 spaces

JUSTIFICATION: The property is considered a non-conforming lot that was platted in the 1950s, long before the current regulations were enacted.

The site operated successfully for decades with no onsite parking being provided. The request is to allow a similar restaurant to be rebuilt after being destroyed by Hurricane Ian. It is in the pedestrian commercial area and the downtown district both of which are to allow for uses in close proximity that can be reached through alternative transportation to individual vehicles.

In addition to the park once and pedestrian oriented character of the area, the lot is approximately 35 feet wide at the Estero Boulevard frontage. Due to the limited width and the following factors, onsite parking cannot be accommodated:

1. The LDC Sec. 34-676(d)(1) prevents an access point onto Estero Boulevard Properties fronting on Estero Boulevard. The code states, "Existing driveways and parking spaces shall be relocated from Estero Boulevard to secondary streets, and new driveways shall connect only to secondary streets, except where these requirements would prohibit all reasonable access to a property."

2. The location near the signalized intersection at Estero Boulevard and Crescent Street and the pedestrian crossing at the same location make a curb cut onto Estero Boulevard a safety concern.
3. Access from side streets is not available due to the neighboring properties uses and because of lack of available property width to accommodate ingress/egress onto the site. To the south is the Margaritaville structure and to the north is parking for Crescent Park owned and operated by Lee County.

Historically, the restaurant has been successful despite the lack of onsite parking. The property is a platted lot established prior the Land Development Code and an undersized commercial lot per code minimums. As a property in the Downtown zoning district, the location and use meets the purpose of the district as a pedestrian-oriented commercial space with walk-up access from both Estero Boulevard and the Beach for a desirable service of food and beverage near the Times Square area.

A significant amount of public parking opportunities are located within the ¼ mile walkshed of the proposed restaurant. Exhibit 5-3 titled, “Walkability and Parking Proximity”, shows more than 800 spaces within the typical ¼ mile walkshed. Also in support of walk-in patrons are 254 rooms in the Margaritaville Resort next to the restaurant, Lani Kai’s 100+ rooms, Lighthouse Resort Inn & Suites 75 rooms, Diamond Head Beach Resort’s 124 rooms, Best Western Plus’s 100 rooms, and many timeshare and short-term rentals units in the area.

The site is unable to accommodate a parking area as the width of the property would not allow for parking that would meet modern drive isle and parking space depths. Perhaps a parallel parking design would provide some spaces but causes issues with safety and the LDC. But even if that were proposed, due to developed properties to the north and south an access from a side street is not possible and curb cuts onto Estero Boulevard do not meet code and would be considered a safety concern at the busy signalized intersection of Estero Boulevard and Crescent Street.

Finally, the historic use of the property has been a restaurant without onsite parking and is located in an area that encourages and experiences significant pedestrian activity. Granting the variance will not negatively impact compatibility, public health, safety, or welfare.

- Like uses in the immediate area, such as the Times Square restaurants and Margaritaville, demonstrate the compatibility and consistency the with historical character of the area.
- The restaurant use and location promotes the use of alternative forms of transportation, with a future bus stop within a few hundred feet (in front of Crescent Park as part of the SR865 redevelopment plan), and is well served by pedestrian connectivity.
- The direct access to a restaurant from Estero Boulevard and the beach complements the area and serves residents and visitors of the beach.

SIGNAGE

5. Deviate from LDC §30-5.(a)(1)a.1. - Permitted signs in Commercial Districts that permits a parcel of land containing one or two business establishments, each separate business establishment shall be allowed a maximum of 32 square feet of sign area; to allow five signs for the Salty Crab Bar and Grill with a combined sign area of 94.6 SF – a deviation of 62.6 SF (with the largest sign limited to 20.1 SF)

JUSTIFICATION: The proposed Salty Crab restaurant will house two businesses: The Salty Crab Bar and Grill and Sweet Willy's Ice Cream Shoppe. The Signage for Sweet Willy's complies with the code section with two signs of 16 square feet (SF) of sign area each for a total of 32 SF. No deviation is needed for the signs for this business.

The deviation request is only for the Salty Crab. The Salty Crab is in a unique placement in the Downtown Core. It has facades and visibility on three sides: Estero Boulevard, Crescent Park, and the beach. It is in a highly pedestrian location but also has visibility as you come off the bridge in your vehicle and round the Times Square area. The reason for this deviation is to allow for signage to address the pedestrian scale and the traveler as well.

The proposed Salty Crab signs are tasteful and attractive and of moderate size ranging from 14.2 SF to 20.1 SF each. There are five signs proposed: two on Estero, two on the façade facing Crescent Park and Times Square, and one on facing the beach over the COP seating area of the restaurant.

The first sign facing Estero Boulevard is placed over the entrance to the restaurant at just over 10 feet from grade for recognition by pedestrians. This sign is the smallest at 14.2 SF. A second sign is placed at the top of the second floor for those from farther away. The first sign facing Crescent Park and Times Square is also placed over the entrance area with another centered on the second floor of the building. Both signs are 20.1 SF. Lastly, a 20.1 SF sign placed on the second floor facing the beach.

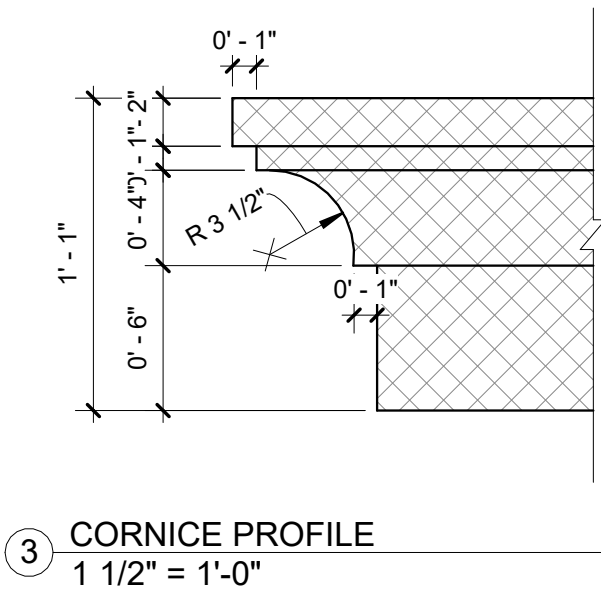
The signs we designed to be the minimal size necessary to see the writing and the crab image from a moderate distance without dominating the façade or overwhelming the location. The Salty Crab has used this design and size in its other locations and feel the design adds to the beach vibe as fun and playful.

Attached are the elevations and signage plans for reference.

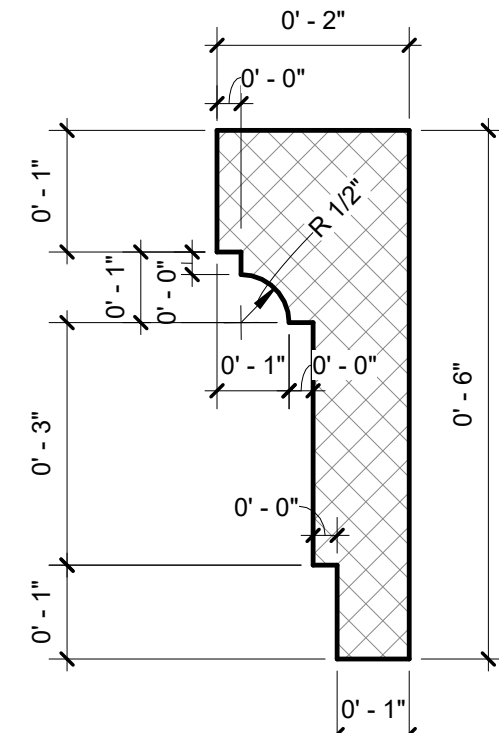
SCHEDULE - EXTERIOR FINISHES				
MARK	MFR	MODEL/SERIES	DESCRIPTION	Color
EX-1	James Hardie	Plank Siding -	8 1/4" plank with 7" exposure	As selected from full list - Manuf. color guide
EX-2	James Hardie	Trim planks	10" trim plank	As selected from full list - Manuf. color guide
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EX-4	Mapes	T.B.D.	Aluminum	As selected from full list - Manuf. color guide



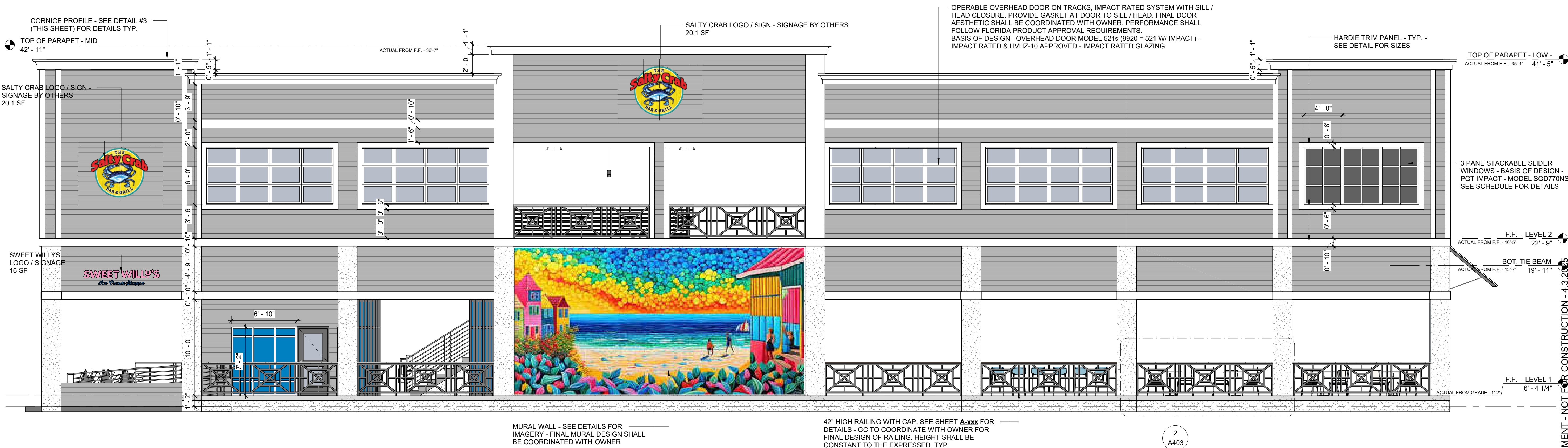
1 SOUTH ELEVATION
3/16" = 1'-0"



3 CORNICE PROFILE
1 1/2" = 1'-0"



4 EAST CORNICE PROFILE
6" = 1'-0"



2 WEST ELEVATION
3/16" = 1'-0"

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SEAL

Architect of Record:
GREGORY P. WALDEN, NCARB, AIA
License # FL AR97560

ISSUE	BY	DATE	DESCRIPTION
1	JP	4.3.2025	DESIGN DEVELOPMENT

PROJECT INFORMATION BLOCK
JOB # 230064
DATE 4/3/2025
DRAWN BY: Author
CHECKED BY: Checker

SHEET TITLE

EXTERIOR ELEVATIONS

SHEET NUMBER

A201

bdg
architects

400 N Ashley Drive
Suite 600
Tampa, FL 33602

P: 813 - 323 - 9233
Lic #: AA - 0003590
W: www.bdgllp.com

Salty Crab

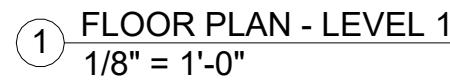
SEAL

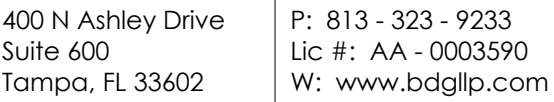
Architect of Record:
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PROJECT INFORMATION BLOCK	
JOB #	230064
DATE:	4/3/2025
DRAWN BY:	Author
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A202







1154 Estero Blvd, Fort Myers Beach, FL 33931

[illegible]

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SEAL

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PROJECT INFORMATION BLOCK

JOB #	230064
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DATE: 2/25/2025

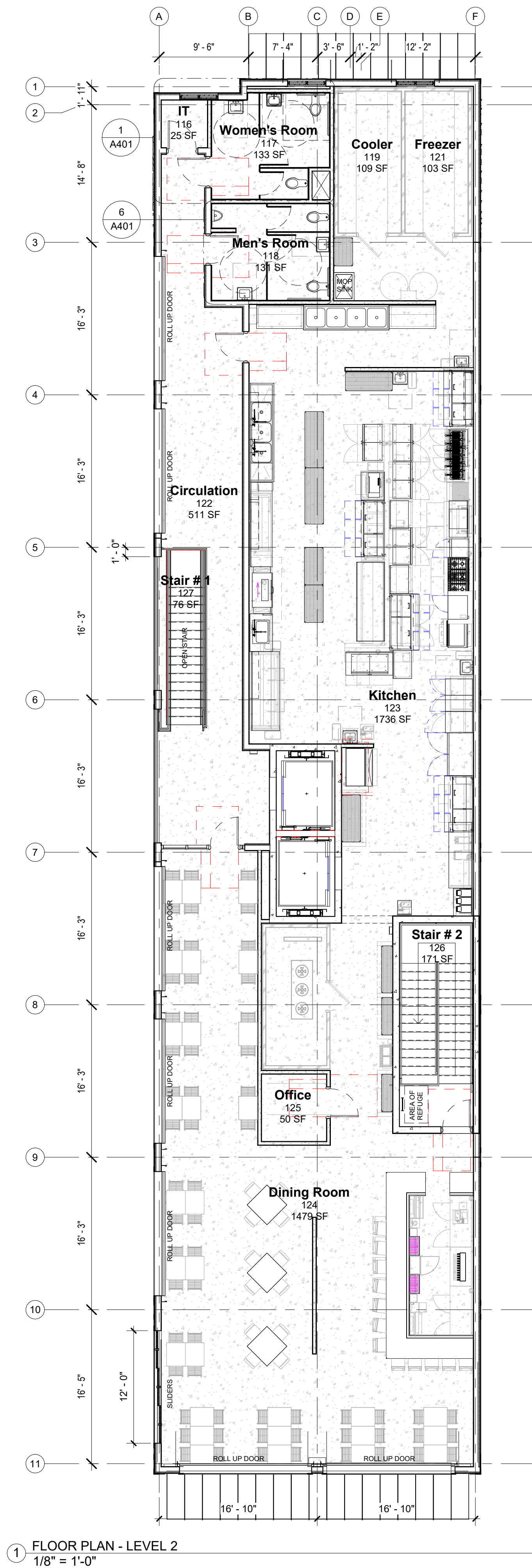
DRAWN BY: JEP
CHECKED BY: GW

SHEET TITLE

2ND FLOOR PLAN

SHEET NUMBER

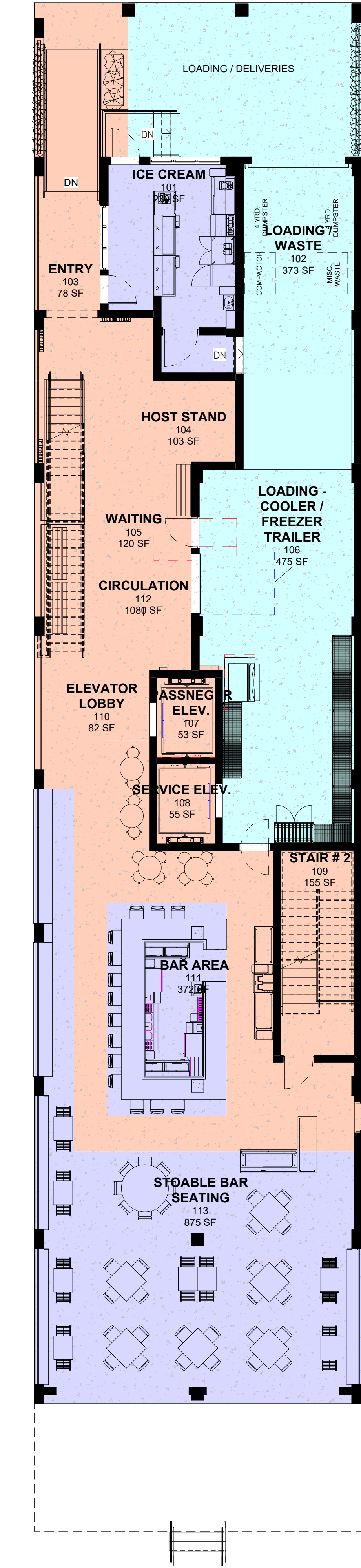
A102



PLAN NORTH



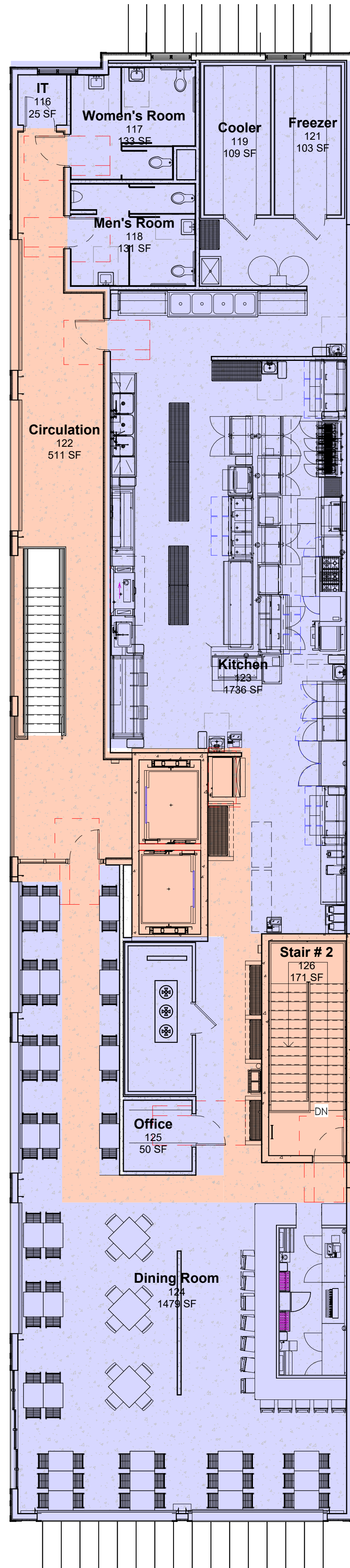
TRUE NORTH



1 AREA PLAN - LEVEL 1
1/8" = 1'-0"

OVERALL 1ST FLOOR AREA PLAN

- MOBILE SERVE AREAS - RELOCATABLE ELEMENTS
TOTAL SQ. FT. = 1,640
- CIRCULATION SPACE - (ELEVATORS, STAIRWELLS, CIRCULATION)
TOTAL SQ. FT. = 1,260
- LOADING / DRY STORAGE - 1ST LEVEL
TOTAL SQ. FT. = 1,285



2 AREA PLAN - LEVEL 2
1/8" = 1'-0"

OVERALL 2ND FLOOR SQUARE FOOTAGES

- RESTAURANT USE (KITCHEN AREA, BAR, DINING , RESTROOMS)
TOTAL SQ. FT. = 3,850
- CIRCULATION SPACE - (ELEVATORS, STAIRWELLS, CIRCULATION)
TOTAL SQ. FT. = 1,365
- LOADING / DRY STORAGE -
TOTAL SQ. FT. = 0

OVERALL TOTAL BUILDING SQUARE FOOTAGES - BOTH FLOORS

- RESTAURANT USE (KITCHEN AREA, BAR, DINING , RESTROOMS)
TOTAL SQ. FT. = 5,290
- CIRCULATION SPACE - (ELEVATORS, STAIRWELLS, CIRCULATION)
TOTAL SQ. FT. = 2,625
- LOADING / DRY STORAGE -
TOTAL SQ. FT. = 1,285

FOOTPRINT -
TOTAL SQ. FT. = 5,156

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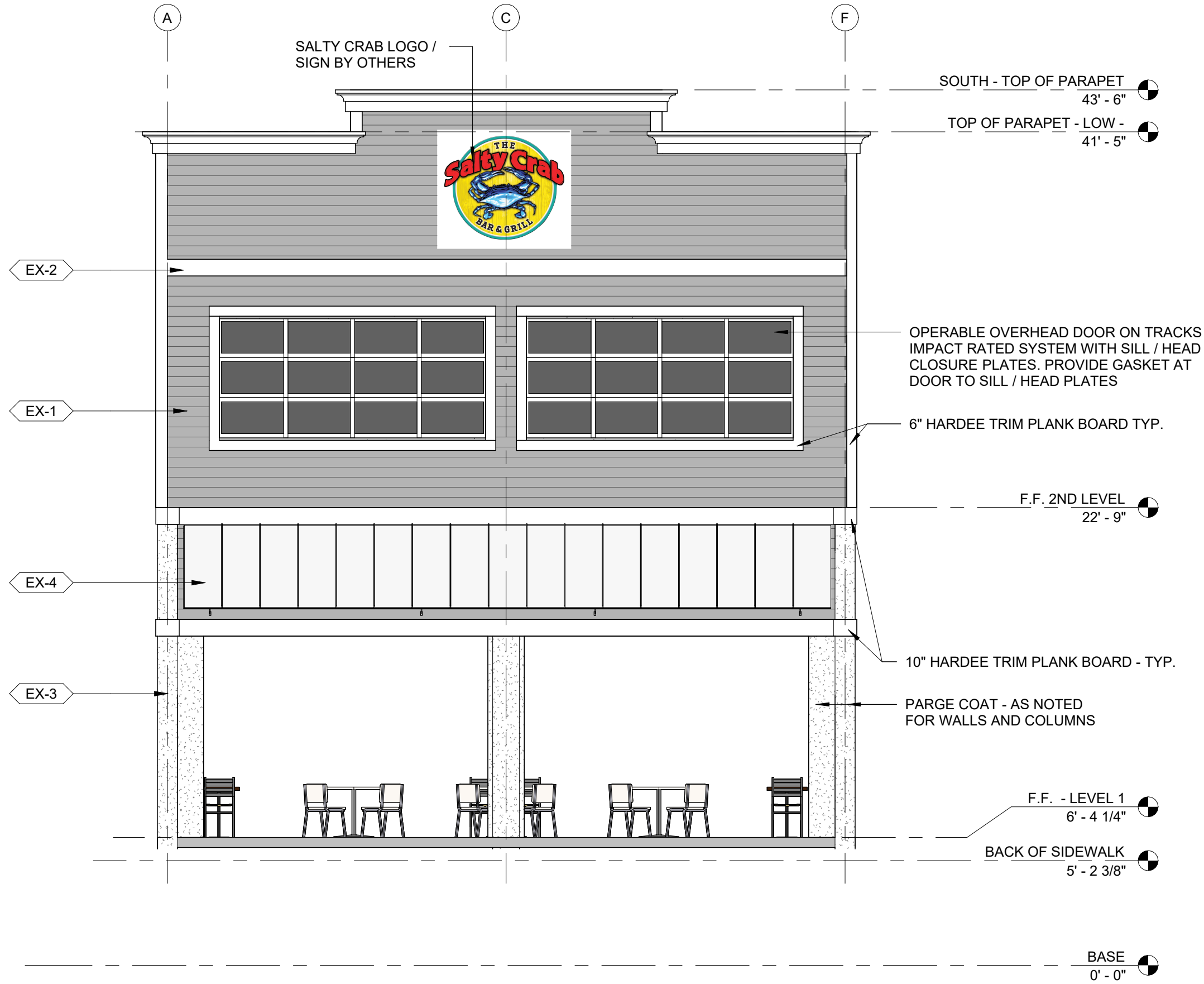
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AREA PLANS

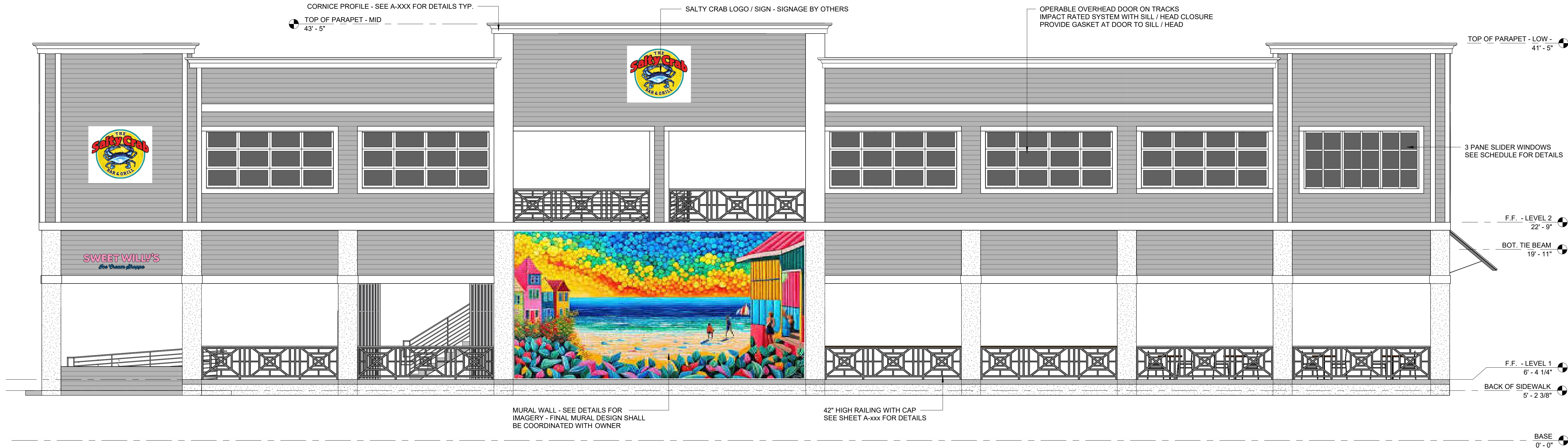
SHEET NUMBER

A103

SCHEDULE - EXTERIOR FINISHES				
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DRAWN BY:	Author		
CHECKED BY:	Checker		

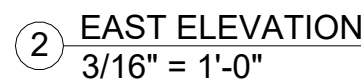
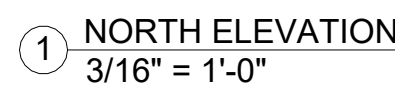
SHEET TITLE

EXTERIOR ELEVATIONS

SHEET NUMBER

A201

KEYNOTES - EXTERIOR ELEVATIONS	
KEY	NOTES



1154 Estero Blvd, Fort Myers Beach, FL 33931

[illegible]

A STATEMENT ON "ALL" SIGNED AND SEALED PLANS THAT TO THE BEST OF THE ARCHITECT'S KNOWLEDGE THE PLANS AND SPECIFICATIONS COMPLY WITH THE MINIMUM BUILDING CODES.

SEAL

Architect of Record:
Greg Walden, NCARB, AIA, LEED AP

[illegible]

PROJECT INFORMATION BLOCK	
JOB #	230064
DATE:	2/25/2025
DRAWN BY:	Author
CHECKED BY:	Checker

SHEET TITLE

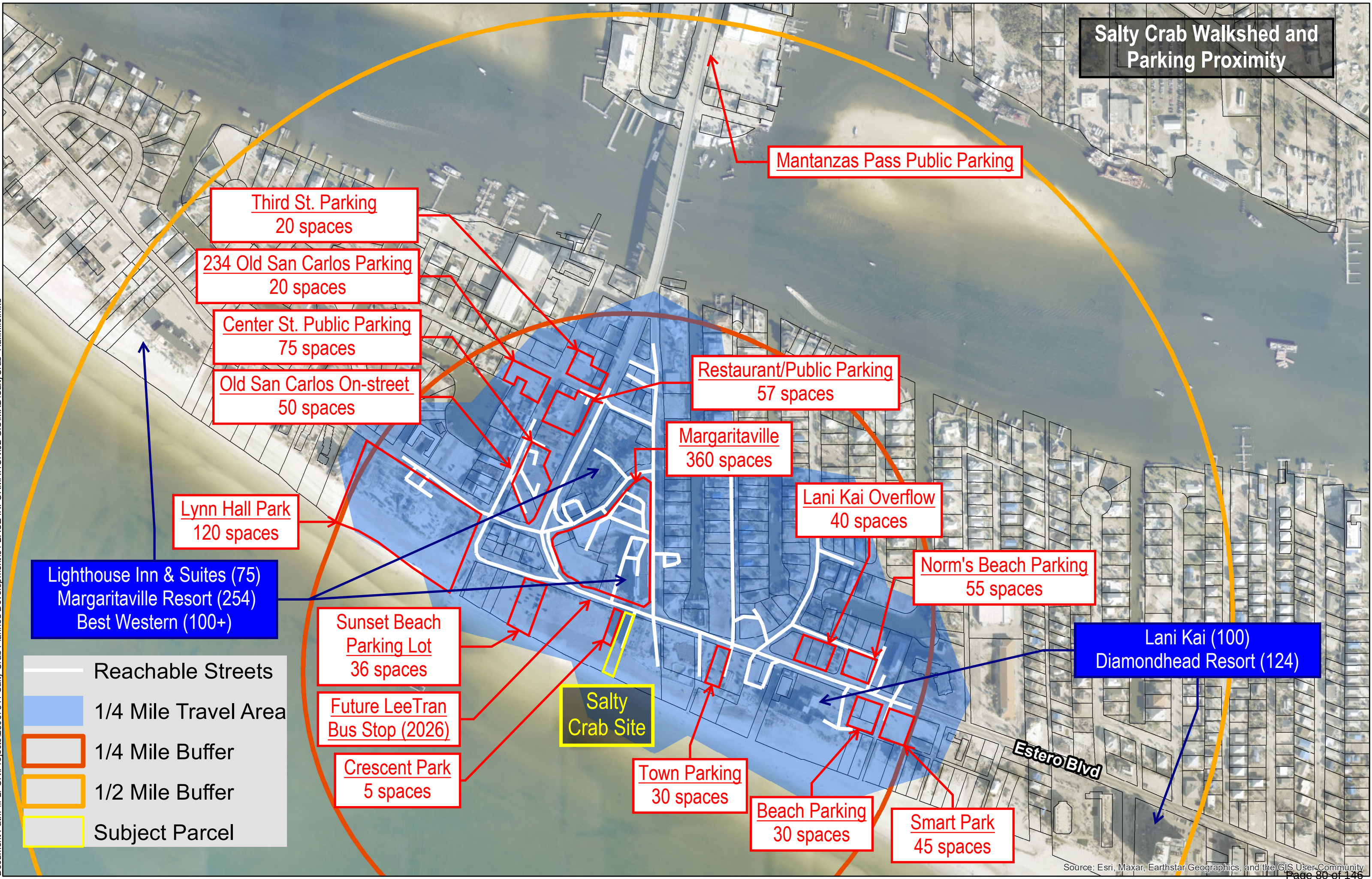
EXTERIOR ELEVATIONS

SHEET NUMBER

A202



Salty Crab Walkshed and Parking Proximity



Third St. Parking
20 spaces

234 Old San Carlos Parking
20 spaces

Center St. Public Parking
75 spaces

Old San Carlos On-street
50 spaces

Lynn Hall Park
120 spaces

Lighthouse Inn & Suites (75)
Margaritaville Resort (254)
Best Western (100+)

Sunset Beach
Parking Lot
36 spaces

Future LeeTran
Bus Stop (2026)

Crescent Park
5 spaces

Salty
Crab Site

Town Parking
30 spaces

Beach Parking
30 spaces

Smart Park
45 spaces

Restaurant/Public Parking
57 spaces

Margaritaville
360 spaces

Lani Kai Overflow
40 spaces

Norm's Beach Parking
55 spaces

Lani Kai (100)
Diamondhead Resort (124)

Estero Blvd



SALTY CRAB CPD Development Standards

Minimum Setbacks^{1 and 2}

North (Estero Boulevard):	0 feet building setback
East (abutting Margaritaville):	0 feet building setback
West (abutting Crescent Park):	0 feet building setback
South (rear):	25 feet
1978 LC CCCL:	0 feet (principal)/0 feet (accessory)

Maximum Building Height: 3 stories and 30 feet above base flood

Maximum FAR:³ 1.77

Parking Spaces:⁴ 0

1. See deviation #1
2. See deviation #2
3. See deviation #3
4. See deviation #4

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 10-15

NEMOS ON THE BEACH COP

WHEREAS applicant Estero Beach Holdings, LLC has requested a special exception in the DOWNTOWN zoning district to allow consumption-on-premises of alcoholic beverages in a restaurant providing an outdoor seating area that is within 500 feet of a dwelling unit under separate ownership, including an existing patio surfaced with paver blocks located landward of an existing retaining wall but within the EC zoning district, to include beer, wine and liquor; and

WHEREAS the subject property is located at 1154 Estero Boulevard, Fort Myers Beach, FL 33931; and

WHEREAS the applicant has indicated that the STRAP for the subject property is 24-46-23-W3-00011.0000 and the legal description of the subject property is attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on June 8, 2010; at which time the LPA gave full and complete consideration to the request of the Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) section 34-88, and recommended approval of applicant's request, with various recommended conditions of approval as set forth more fully in LPA Resolution No. 2010-06; and

WHEREAS at its meeting of June 8, 2010, the LPA instructed Town staff to bring this application forward to Town Council without the necessity of having approved LPA minutes; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Town council on July 12, 2010, at which time the town council gave full and complete consideration to the request of Applicant, LPA resolution 2010-06, the recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-88.

IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2101-06 and the standards for granting special exceptions, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES** the applicant's request for a special exception to permit consumption on premises of beer, wine and liquor in the DOWNTOWN zoning district, with such approval subject to the following conditions:

CONDITIONS OF APPROVAL:

1. *The area of the subject establishment used for consumption on premises must be confined entirely to the areas shown on the floor plan attached hereto and incorporated herein by reference as **Exhibit B**, including the interior of the first floor of the building, the front porch and the rear patio.*

2. *Music and other audible entertainment are prohibited before 10:00 am and after 10:00 pm each day in outdoor seating areas and must comply at all times with applicable ordinances.*

3. *Sales, service, and consumption of alcoholic beverages must not begin earlier than 7:00 AM and must end no later than 2:00 AM during each day.*

4. *The use must comply at all times with the provisions of LDC Section 34-1264(k), as may be amended from time to time, and must at all times be licensed as a permanent public food service establishment with seating, in accordance with Chapter 509, Florida Statutes, and applicable state agency rules.*

5. *The use must comply at all times with lighting standards, including the regulations for the protection of Sea Turtles provided in LDC chapter 14, article II.*

6. *The special permit approved by the Lee County Hearing Examiner in case # 95-07-162.02S is hereby declared null and void.*

FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-88 regarding consideration of eligibility for a special exception, the Town Council makes the following findings and reach the following conclusions:

1. Changed or changing conditions **exist** that make the requested approval, as conditioned, appropriate:

The location of the request was approved in 1995 for consumption of alcoholic beverages on the premises in conjunction with a restaurant, and the allowable seating areas were established through the appeal in 1007. The Comprehensive Plan and Land Development Code do not distinguish classes of restaurants that (in addition to non-alcoholic beverages and food) serve beer only, beer and wine only, or beer, wine, and liquor. The applicant's request does not implicate a change in use except insofar as the approved use was limited by special conditions attached to a prior special permit, subsequently modified by Town Council determination of an administrative appeal. The modifications to the allowable seating area through the 2007 appeal have made it possible for the establishment to obtain a special restaurant (SRX) series beverage license.

2. The requested special exception, as conditioned, **is** consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan:

*The subject property is in the Pedestrian Commercial FLUM category on Estero Boulevard and other bars, hotels, restaurants and retail stores. Comp Plan **Policy 4-B-6**, regarding the Pedestrian Commercial FLUM, states that commercial activities must*

contribute to the pedestrian-oriented public realm. The beach and streets northward to Lynn Hall Park and southward to the Lani Kai are heavily traveled by pedestrian beachgoers. The existing restaurant is oriented toward this foot traffic, though it has essentially no parking area for patrons arriving by automobile. The outdoor seating areas are located on porches and patios separated by railings and elevation from the sidewalks and the beach.

3. The requested special exception, as conditioned, **meets or exceeds** all performance and locational standards set forth for the proposed use.

A restaurant is a use permitted by right in the Downtown zoning district. Because dwelling units under separate ownership are located within 500 feet of the subject property, a special exception is necessary in order to allow an outdoor seating area. Performance and locational standards for the restaurant use were addressed through permitting for prior remodeling activities and through the 1995 variance as modified by the 2007 administrative appeal. There are no specific performance or locational standards in Town regulations for a restaurant with outdoor seating areas that serves beer, wine, and liquor, that differ from the standards that apply to a restaurant with outdoor seating that serves beer and wine only.

4. The requested special exception, as conditioned, **will** protect, conserve, or preserve environmentally critical areas and natural resources:

Construction of additional structures in environmentally critical areas has not been requested or permitted. The existing wood retaining wall is not proposed to be replaced or expanded. As conditioned, the use will be required to comply with current sea turtle protection standards.

5. The requested special exception, as conditioned, **will** be compatible with existing or planned uses and **will** cause damage, hazard, nuisance or other detriment to persons or property:

The existing surrounding uses include a hotel, a shopping center, bars and restaurants, and a few dwelling units. Within the Pedestrian Commercial Future Land Use Map category, adjacent lots could potentially be redeveloped with commercial or mixed use buildings in accord with the regulations of the DOWNTOWN zoning district or through planned development rezoning. The recommended conditions clearly restrict the use to specific areas of the floor plan and prohibit any further expansion.

6. The requested special exception, as conditioned, **will** be in compliance with the applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34:

The existing restaurant use has already received a variance related to parking requirements, and was required to comply with lighting and other similar requirements set forth in LDC Chapter 34 at the time of remodeling. The consumption on premises of alcoholic beverages use, as conditioned, will be required to comply with the applicable standards in LDC Chapter 34, Article IV, Division 5, for consumption on premises in a restaurant regardless of the type or series of state license. The appropriate limitations on an outdoor seating area for consumption on premises that is allowed by special exception are for Town Council to determine through the hearing process, during which

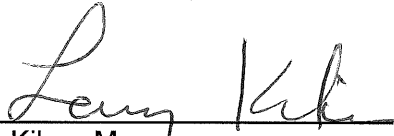
process they should find that the conditions attached are reasonably related to the special exception requested.

Upon Motion made by Vice Mayor Raymond and seconded by Council Member List, this Resolution was

DULY PASSED AND ADOPTED ON THIS 12th DAY OF JULY, 2010.

Larry Kiker, Mayor	aye	Bob Raymond, Vice Mayor	aye
Tom Babcock	absent	Jo List	aye
Alan Mandel	aye		

DULY PASSED AND ADOPTED THIS 12th DAY OF JULY 2010,

By: 
Larry Kiker, Mayor

ATTEST:

By: 
Michelle D. Mayher, Town Clerk

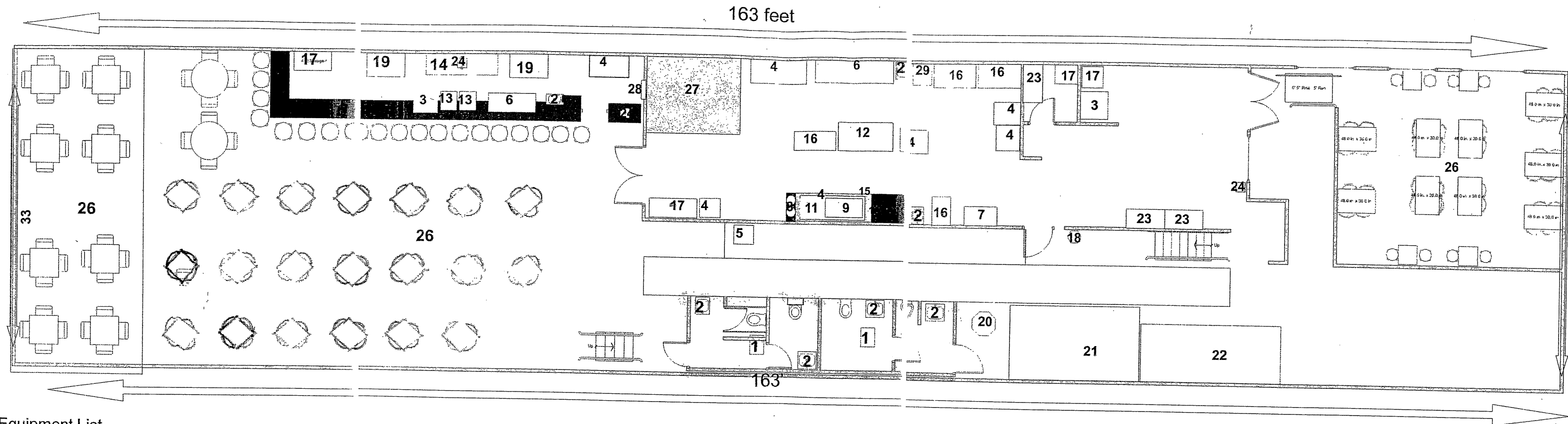
Approved as to form and legal sufficiency:

By: 
for James T. Humphrey, Town Attorney

Exhibit "A" Attachment

From the SW corner of Block E, CRESCENT PARK ADDITION, as recorded in Plat Book 4, Page 46 of the Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South, Range 23 East, run along said line for 53.28 feet to the South line of existing county road (Estero Blvd.) right of way 50 feet wide; thence run Northwesterly at an included angle of $69^{\circ} 48' 15''$ with said section line, along the South side of said right-of-way for 122.63 feet to the Point of Beginning of the land hereby conveyed; thence continue along the South line of said right-of-way for a distance of 35 feet; thence run Southwesterly perpendicular to said road a distance of 179 feet, more or less, to the Gulf of Mexico; thence run Southeasterly along said Gulf of Mexico to a point perpendicular to the Point of Beginning of the lands hereby conveyed, being approximately 35 feet, more or less, thence run Northerly and perpendicular with the right-of-way of the existing county road 179 feet, more or less, to the Point of Beginning, being on Estero Island, Lee County, Florida.

Nemo's On The Beach



Equipment List

- | | |
|------------------------------------|-----------------------------|
| 1. Ventilation Fan | 20. Grease Trap |
| 2. Hand Sinks | 21. Propane Tank Area |
| 3. Ice Machine | 22. Dumpster Area |
| 4. Refrierator/Freezer | 23. Dry Storage |
| 5. Mop Sink | 24. POS System |
| 6. 3-Compartment sink w/drainboard | 25. Bar |
| 7. Steam Table | 26. Table & Chairs |
| 8. 2 Burner Stove | 27. Walk In Cooler |
| 9. Flat - Top Griddle | 28. Draft Beer Taps |
| 10. Fryer | 29. Steamer |
| 11. Char Broiler | 30. Portable Fire Extinguis |
| 12. Sandwich Prep Table | |
| 13. Ice Bins | |
| 14. Bottle Beer Refrigerator | |
| 15. Hood with Suppression System | |
| 16. Work Table | |
| 17. Pepsi Bag N Box System | |
| 18. Water Heater | |
| 19. Bottle Chillers | |

**ADMINISTRATIVE APPROVAL
TOWN OF FORT MYERS BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT
COP2012-0005
Nemo's on the Beach COP in the EC**

WHEREAS, Patrick Ciniello, president of Estero Beach Holdings, LLC applied for administrative approval for expansion of outdoor seating into the Environmentally Critical zoning district for sales, service and consumption on premises of alcoholic beverages in conjunction with a restaurant under the provisions of Ordinance 12-03; and

WHEREAS, the subject property is located at 1154 Estero Boulevard, Fort Myers Beach, FL and is legally described in the attached **Exhibit A**; and

WHEREAS, the current zoning of the subject property is DOWNTOWN and EC (Environmentally Critical); and

WHEREAS, the applicant submitted an application containing the information required by Fort Myers Beach Land Development Code (LDC) Section 34-1264(g)(1); and

WHEREAS, the subject property currently contains a restaurant with a 4COP-SRX alcohol beverage license ("Nemo's on the Beach"); and

WHEREAS, the applicant submitted a survey of the subject property which is attached hereto and incorporated herein as **Exhibit B**; and

WHEREAS, a site plan, as submitted by the applicant, depicting the 'area of expansion' for the sales, service and consumption on premises of alcoholic beverages into the EC district is attached hereto and incorporated herein as **Exhibit C**; and

WHEREAS, the hours of service for indoor and outdoor consumption on premises is limited to from 7:00AM to 2:00AM of the following day, as approved in Resolution 10-15; and

WHEREAS, the hours for outdoor entertainment are limited to from 10:00AM to 10:00PM and must comply at all times with applicable noise ordinances as approved in Resolution 10-15; and

WHEREAS, the Director makes the following findings of fact:

1. All applicable standards have been met;
2. The premises are suitable in regard to location, site characteristics, and intended purpose; and

3. All the preceding clauses introduced by "WHEREAS" are incorporated herein as findings of fact;

NOW, THEREFORE, the Director **APPROVES** the requested administrative approval for expansion of outdoor seating into the Environmentally Critical zoning district for sales, service and consumption on premises of alcoholic beverages in conjunction with a restaurant under the provisions of Ordinance 12-03,

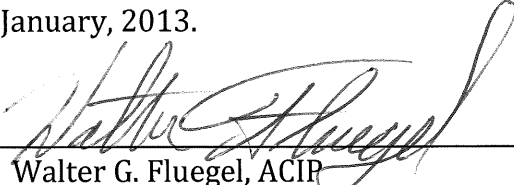
SUBJECT TO the following conditions:

1. The area of expansion of the licensed premises in the EC zoning district must be under the same ownership as the principal upland licensed premise (as licensed by the State of Florida Division of Alcoholic Beverages and Tobacco) and the upland licensed premises must be located immediately adjacent to and contiguous with the EC zoning district.
2. Patrons of the permitted establishment may not bring any alcoholic beverages or coolers into the licensed premise in the EC zoning district, nor may they consume any alcohol on the premises that has not been purchased from the permitted establishment.
3. Alcohol served in the EC zoning district may not be dispensed in glass or aluminum containers of any type.
4. The permit holder shall be responsible for ensuring that the licensed premises in the EC zoning district is at all times free of litter and debris. Refuse containers that meet the requirements of LDC Section 34-1264(g)(1)b.iv.4. must be provided.
5. Hours of service and consumption for the area of the licensed premises that is labeled 'Proposed Enclosed Area' on **Exhibit C** shall be limited to between the hours of 11:00AM and one (1) hour after Sunset or 9:00 PM, whichever is earlier, except for any additional hours that may have been granted by a special events permit.
6. Entertainment within the area of the licensed premises that is located in the EC zoning district may not extend into the area labeled 'Proposed Enclosed Area' as shown on **Exhibit C**.
7. Applicant shall maintain a valid Certificate of Insurance that covers the area of the licensed premises that is located in the EC zoning district.
8. The maximum area of expansion is 1,561 square feet as depicted on **Exhibit C** and labeled 'Proposed Enclosed Area.'
9. The permit holder shall establish dominion and control of the area of expansion in the EC zoning district with rope and post. The installation of the rope and post will require Florida Department of Environmental Protection (DEP) approval as well as applicable Town building permits.
10. A maximum of one six-foot wide pedestrian access opening is allowed per one hundred feet of the rope and post along the side parallel to the waterline. Each access point in the rope and post to the beach shall contain a sign, at each entrance, stating on both sides, "NO ALCOHOL ALLOWED BEYOND THIS POINT." The sign shall have a maximum dimension of two (2) feet by one (1) foot.

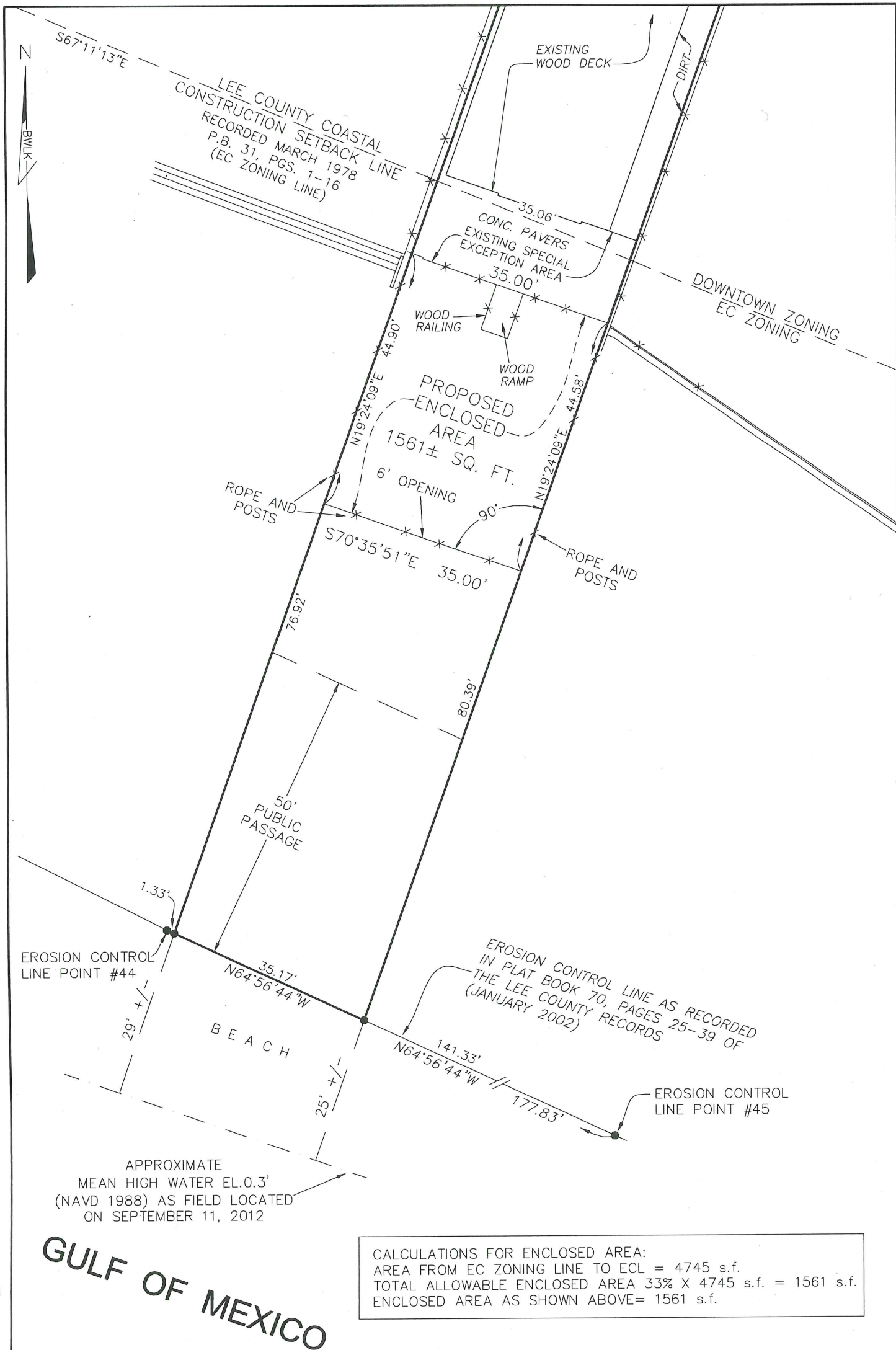
11. The property shall comply with all sea turtle protection requirements contained in Chapter 14 of the Land Development Code. All beach furniture, including but not limited to beach chairs, table and umbrellas shall be removed from the beach by one (1) hour after sunset or 9:00 PM whichever is earlier

APPROVED this 15th day of January, 2013.

By: _____


Walter G. Fluegel, ACIP
Director of Community Development
Town of Fort Myers Beach

From the SW corner of Block E, CRESCENT PARK ADDITION, as recorded in Plat Book 4, Page 46 of the Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South, Range 23 East, run along said line for 53.28 feet to the South line of existing county road (Estero Blvd.) right of way 50 feet wide; thence run Northwesterly at an included angle of 69° 48' 15" with said section line, along the South side of said right-of-way for 122.63 feet to the Point of Beginning of the land hereby conveyed; thence continue along the South line of said right-of-way for a distance of 35 feet; thence run Southwesterly perpendicular to said road a distance of 179 feet, more or less, to the Gulf of Mexico; thence run Southeasterly along said Gulf of Mexico to a point perpendicular to the Point of Beginning of the lands hereby conveyed, being approximately 35 feet, more or less, thence run Northerly and perpendicular with the right-of-way of the existing county road 179 feet, more or less, to the Point of Beginning, being on Estero Island, Lee County, Florida.



CALCULATIONS FOR ENCLOSED AREA:
 AREA FROM EC ZONING LINE TO ECL = 4745 s.f.
 TOTAL ALLOWABLE ENCLOSED AREA 33% X 4745 s.f. = 1561 s.f.
 ENCLOSED AREA AS SHOWN ABOVE= 1561 s.f.

NEMOS ON THE BEACH - DETAIL

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS

13041-1 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919-5910 (239) 481-1331

DETAIL_40032.DWG

DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-T-R)
9-14-12	40032	S. PIERCE	1" = 20'	2 OF 2	24-46-23

1978 Lee County Coastal
Construction Control Line (CCCL)

PRE-IAN COP AND
OUTDOOR SEATING
WATERWARD OF CCCL
(1,087 SQUARE FEET)



Business Impact Estimate

Proposed ordinance's title/reference:

Ordinance 25-XX Rezoning from Downtown to CPD with deviations for the redevelopment of the salty Crab restaurant and an ice cream shop

AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING TO REZONE THE PROPERTY LOCATED AT 1154 ESTERO BOULEVARD, GENERALLY IDENTIFIED AS STRAP NUMBER 24-46-23-W3-00011.0000 IN FORT MYERS BEACH, FROM THE PROPERTY FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) TO ALLOW FOR A) AN INCREASE FAR, B) DECREASED SETBACKS, AND C) A 100% REDUCTION IN PARKING REQUIREMENTS; D) INCREASED SIGNS AND E) CONDITIONS; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Town is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the Town is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☒ The proposed ordinance is enacted to implement the following:

¹ See Section 166.041(4)(c), Florida Statutes.

- a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
- b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
- c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
- d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the Town hereby publishes the following information:

1. Summary of the proposed ordinance, (e.g. statement of the public purpose serving the public health, safety, morals and welfare):

The proposed ordinance approves CPD with five deviations to redevelop a restaurant with an ice cream shop.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Town, 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 Town's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

Any costs incurred by the applicant will be to further their commercial business, this has been requested by the applicant themselves.

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:

The proposed approval of the applicant's CPD with deviations will be relevant only to the applicant and their lot/business.

4. Additional information the governing body deems useful (if any):

N/A

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

Yellow Sheet Number: **2025-391**

1. Request:

Meeting Date: May 13, 2025

AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING TO REZONE THE PROPERTY LOCATED AT 1836 ESTERO BOULEVARD, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-03200.00CE & 19-46-24-W4-03200.1010, TO REZONE FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) AND REQUEST FOUR (4) DEVIATIONS FROM REQUIREMENTS TO PROVIDE; 1) OPERABLE DOORS ALONG ESTERO BLVD, 2) SCREENING MATERIAL ON THE GROUND FLOOR, 3) INCREASE BUILD-TO LINE SETBACKS, AND 4) INCREASE THE MAXIMUM ALLOWED HEIGHT BY 18-FEET; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

LPA MAKES RECOMMENDATIONS TO THE TOWN COUNCIL ON REZONING

What the action accomplishes:

THIS ACTION PROVIDES THE RECOMMENDATION NECESSARY TO MOVE THE APPLICATION TO THE TOWN COUNCIL

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

ORDINANCE

5. Background:

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

Attachments:

1. 24-XX_EIBC_CPD ORDINANCE_jas_ns
2. Exhibit A: CPD SCHEDULE OF USES
3. Exhibit A1: CONDITIONS OF APPROVAL
4. Exhibit B: Master Concept Plan
5. LPA STAFF REPORT
6. Applicant's Narrative
7. REVISED ARCHITECTURAL VIEW AND HEIGHT EXHIBIT
8. AREAS DEVELOPED SEAWARD OF CCCL
9. APPLICANT'S DEVIATIONS AND JUSTIFICATIONS
10. Business Impact Estimate - Ordinance 25-XX - EIBC

Financial Impact:

N/A

6. **Alternative Action**

ADOPT WITH CONDITIONS

7. **Staff Recommendations:**

N/A

8. **Recommended Approval:**

Judith Frankel, Principal Planner

Date: May 01, 2025

Georgina Cid, Community Development Manager

Date: May 02, 2025

Frankie Kropacek, Operations & Compliance Director

Date: May 04, 2025

nancy stuparich, Town Attorney

Date: May 06, 2025

Amy Baker, Town Clerk

Date: May 06, 2025

ORDINANCE 24-XX
(Estero Island Beach Club)

AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING TO REZONE THE PROPERTY LOCATED AT 1836 ESTERO BOULEVARD, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-03200.00CE & 19-46-24-W4-03200.1010 TO REZONE FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) AND REQUEST FOUR (4) DEVIATIONS FROM REQUIREMENTS TO PROVIDE 1) OPERABLE DOORS ALONG ESTERO BLVD, 2) SCREENING MATERIAL ON THE GROUND FLOOR, 3) INCREASE BUILD-TO LINE SETBACKS, AND 4) INCREASE THE MAXIMUM ALLOWED HEIGHT BY 18-FEET; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, Estero Island Beach Club Association, Inc., owner, and Fred Drovdlc, AICP with RVi Planning & Landscape Architecture, as agents for the owner (collectively “Applicant”) of property generally located 1836 and 1840 Estero Blvd, Fort Myers Beach and identified as STRAP numbers 19-46-24-W4-03200.00CE and 19-46-24-W4-03200.1010 (“the Property”), filed an application to rezone the Property from Downtown zoning district to Commercial Planned Development, with an attached Master Concept Plan (MCP) in order to redevelop a timeshare condominium and associated facilities, on the Property’s 1.92+/- acres more or less; and

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

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

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on May 13th, 2025; and

WHEREAS, at the May 13th, 2025 public hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the Town of Fort Myers Beach Land Development Code (“LDC”); and

WHEREAS, at the May 13th, 2025 public hearing the LPA recommended approval by a ____ to ____ vote based on a finding that the approval **is/is not** in compliance and consistent with the Town of Fort Myers Beach Comprehensive Plan and the LDC; and

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

WHEREAS, on _____, 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 legally advertised in the _____ on the ____ day of _____, which is 10 days prior to the Town Council on _____, 2025; and

WHEREAS, at the _____, 2025 public hearing, the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the LDC; and

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

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

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

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

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

Deviation #1

Deviate from LDC §34-995(b)(1) and (4) regarding entrances, requires a primary entrance and views into the first floor of commercial buildings where: (1)The primary entrance to all buildings shall face the street; and (4) Where building frontages exceed 50 feet, operable doors or entrances with public access shall be provided along streets at intervals averaging no greater than 50 feet.

Deviation #2

Deviate from LDC §34-992(c) requiring the principal facades of hotel buildings that will not contain commercial uses below base flood elevation to screen under-building parking areas in a manner acceptable to the town manager or designee; to allow 50%

of the under building parking area of the building façade fronting on Estero Boulevard and Palm Avenue to be fully screened and a 5-foot hedge in the unscreened areas to help hide vehicles.

Deviation #3

Deviate from LDC §34-674(a)(1) that requires build to lines in the Downtown District in this location be from five feet to 10 feet; to not require build to lines but rather minimum building setbacks for the building on Estero Boulevard of 15 feet, a minimum building setback of 10 feet from Palm Avenue, and a minimum building setback of 30 feet from Miramar Street.

Deviation #4

Deviate from LDC §34-675(b)(3)c that requires a maximum height of 30 feet above base flood elevation and no taller than three stories for properties on the south side of Estero Boulevard east of the main pedestrian crossing in the Downtown zoning district to allow a height of: Five (5) stories [four (4) stories over ground level parking]; and 48 feet above FDEP design flood elevation (DFE).

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

- a. Minor ambiguities were resolved through the deviation process.
- b. Long-standing blighted conditions on the subject property can be ameliorated through approval of this rezoning.
- c. The rezoning would carry out the policies and requirements of the Comprehensive Plan and LDC.
- d. The Town Council carefully considered the testimony of the Applicant, the recommendations of staff and of the LPA, and testimony from the public.
- e. The rezoning would be consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses in the Comprehensive Plan.
- f. The rezoning would meet or exceed all performance and locational standards set forth for the proposed use.
- g. Urban services are available and adequate to serve the proposed use.
- h. The rezoning would protect, conserve, or preserve environmentally critical areas and natural resources.
- i. The rezoning would be compatible with existing and planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- j. The rezoning would not place an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.
- k. The rezoning, with the mitigating factors volunteered by the Applicant and the special conditions imposed by the Town Council, is consistent with the Fort Myers Beach Comprehensive Plan, LDC, and other applicable town ordinances or codes.
- l. The proposed use or mix of uses is appropriate at the subject location.
- m. Sufficient safeguards to the public interest are provided by the recommended special conditions to the Master Concept Plan and by other applicable regulations.

- n. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
- o. The rezoning meets all specific requirements of the Comprehensive Plan that are relevant to the request, including the following:
 - Policy 4-C-4 on building heights taller than the standard height limit
 - Policy 4-C-6 on hotel/motel densities
 - Policy 4-C-8 on density transfers
 - Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts

WHEREAS, the Town Council made the following formal findings before making final decisions on the four requested deviations from "by-right" requirements of the LDC (see LDC 34-216 and 34-1803):

1. All aspects of the proposed development, as limited by the special conditions being imposed by the Town Council, are compatible with the surrounding area, including building height, traffic flow, and intensity of use.
2. The proposed development, as modified by these deviations, clearly exceeds all standards of the Fort Myers Beach Comprehensive Plan.
3. The proposed development, with the modified deviations being approved, does not exceed any maximum intensities contained in the Fort Myers Beach Comprehensive Plan.
4. Granting these deviations will enhance the achievement of the objectives of the proposed development.
5. The general intent of the LDC to protect public health, safety, and welfare will be preserved and promoted with these deviations.
6. These deviations operate to the benefit, or at least not to the detriment, of the public interest.
7. These deviations are consistent with the Fort Myers Beach Comprehensive Plan.

WHEREAS, the Town Council finds that this application to APPROVE/ APPROVE WITH CONDITIONS/ DENY Ordinance 25-__ as provided herein **consistent/ not consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC.

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

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

Section 2. The Town Council determines the Applicant did meet its burden of proof that the requested rezoning in Ordinance No. 25-__ **does/ does not** meet the requirements of the Town Comprehensive Plan and LDC. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council hereby **DENIES/ APPROVES/ APPROVES WITH CONDITIONS** the requested rezoning.

Section 3. Town Ordinance 25-__ is adopted subject to the Schedule of Uses and conditions

of approval in Exhibit A and the Master Concept Plan in Exhibit B, both of which are attached hereto and incorporated herein by this reference.

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

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

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

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

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

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

ADOPTED this _____ day of _____ 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, LLP, Town Attorney

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

EXHIBITS

Exhibit A – Schedule of Uses and Conditions of Approval

Exhibit B – Master Concept Plan

Exhibit A; part 1: Conditions of Approval

1. Development shall provide signage warning exiting vehicles of pedestrian traffic within the Town's Palm Ave. and Palm Ave. beach access points.
2. The final architectural design shall be substantially similar to the design approved by the Town Council.
3. The applicant shall provide a more detailed landscaping plan utilizing a type-B buffer and using largely 'Florida Friendly' species, or other salt-tolerant plants and trees.
4. Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.



ESTERO ISLAND BEACH CLUB CPD

Schedule of Uses

Principal:

- Administrative offices
- Beach access
- Essential services and essential service equipment
- Home occupation, no outside help
- Hotel/motel
- Hotel/condo
- Parking, surface and garage
- Recreational facilities –private on-site
- Rental of any permitted dwelling unit for periods of one day or longer
- Resort accessory uses
- Timeshare units (fractional ownership)
- Temporary uses

Accessory:

Resort accessory uses, including:

- Rental of beach furniture and cabanas
- Meeting space
- Signs
- Business center
- Subordinate commercial uses



CONDITIONS OF APPROVAL AND PUBLIC BENEFITS

1. CONDITIONS OF APPROVAL:

- a. Height – The proposed structure is a single building of 67.7 feet in total height from sea level, a deviation of 18 feet above the LDC:
 - 48.2 feet above FDEP design flood elevation (DFE)
- b. Stories – five (5) stories [four (4) stories over ground level parking]
- c. Floor Area Ratio – maximum floor area is 100,000 square feet resulting in an FAR of 1.2.
- d. Minimum of 75 parking spaces.
- e. No access points on Estero Boulevard; one access on Miramar Street and one on Palm Avenue.

2. PUBLIC BENEFITS: The landowner commits to construct and/or manage the public features, special benefits and amenities identified below, *as subject to approval by the applicable permitting agencies*. The items listed in this section are to in place no later than the date that the first Certificate of Occupancy is issued for the Estero Island Beach Club timeshare, unless otherwise specified:

- a. Public Parking for Beach Access #30 (Miramar Street) - construct seven parking spaces on EIBC property parallel to Miramar Street right-of-way and establish a use easement for the Town of Fort Myers Beach in perpetuity. The spaces are to be completed at the time of the first certificate of occupancy. The spaces are to be installed and then turned over to the Town for long term maintenance and operation.
- b. Five-foot Sidewalk on the EIBC side of Miramar Street – install a public sidewalk that connects to the public sidewalk on Estero Boulevard and runs to the Lee County CCCL line along Beach Access #30 to be completed at the time of the first certificate of occupancy. The sidewalk is to be installed and then turned over to the Town for long term maintenance.
- c. Bike Rack for Public Beach Access #30 at end of Proposed Sidewalk on Miramar Street – a bike rack will be installed at the end of the new sidewalk by the Lee County CCCL line to be completed at the time of the first certificate of occupancy.
- d. Extension of Miramar Street pavement – extend the street pavement to the Lee County CCCL line, approximately 45 feet to be completed at the time of the first certificate of occupancy.
- e. Beach Accessibility – install a Mobi Mat for disabled person's access at the end new sidewalk or at the end of the extended pavement of Miramar Street for increased accessibility to be completed at the time of the first certificate of occupancy. The mat is to be installed and then turned over to the Town for long term maintenance.
- f. Seating and Bike Racks on Estero Boulevard – nested in the landscaping proposed along Estero Boulevard will be a public seating area and bike rack that will be shaded with landscaping.



- g. Landscape Buffers – a 15' landscaping buffer on Estero Boulevard and 5' buffers along Miramar Street and Palm Avenue according to the conceptual landscape plan.

MASTER CONCEPT PLAN

JOB DESCRIPTION

AUTHORITY HAVING JURISDICTION
TOWN OF FORT MYERS BEACH

FLORIDA BUILDING CODE - BUILDING - 8TH EDITION (2023)

SHEET #	Description
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Location Map

SCALE: 1:300



Project No.: FL-32-901

Drawn:	Checked:
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Date: 02/18/2017

Scale:	AS NOTED
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Sheet Title:

COVER SHEET

Report Number:

T=0

**MECA Engineering
Corporation**





Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Commercial Planned Development (CPD)

CASE NUMBER: CPD20240015

CASE NAME: 1836 Estero Blvd (incl. all associated addresses) CPD rezoning request to develop a timeshare building with four (4) deviations from the Land Development Code.

LPA

HEARING DATE: May 13th, 2025, at 9 AM

STAFF

RECOMMENDATION: Approve with Conditions

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

I. APPLICATION SUMMARY

Applicant/Owner: Estero Island Beach Club Association Timeshare

Request: A Commercial Planned Development (CPD) rezoning for the re-development of a 75-unit timeshare condominium. The applicant is requesting four deviations: 1) relief from requirements that buildings with more than 50-feet of frontage on Estero Blvd. provide operable doors for public access no more than 50-feet apart, and relief from requirements that the building provide an entrance facing Estero Blvd.; 2) relief from the requirement to screen under-building parking areas; 3) relief from requirements for build to lines but rather to provide minimum setbacks for the building on Estero Boulevard of 15 feet, a minimum building setback of 10 feet from Palm Avenue, and a minimum building setback of 30 feet from Miramar Street and; 4) an additional 18-feet in height above the Design Flood Elevation (DFE)

Subject property: See attached Master Concept Plan

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

STRAP #: 19-46-24-W4-03200.00CE & 19-46-24-W4-03200.1010

FLU: Pedestrian Commercial and Recreation

Zoning: Downtown and Environmentally Critical (EC not part of rezone)

Adjacent zoning and land uses:

North: DOWNTOWN
Temporarily Occupied Commercial

South: ENVIRONMENTALLY CRITICAL AREA (EC)
Beach

East: DOWNTOWN
Hotel

West: DOWNTOWN
Commercial/ Residential

III. BACKGROUND AND ANALYSIS

Background:

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

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

Analysis:

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

- (1) The primary entrance to all buildings shall face the street
- (4) Where building frontages exceed 50 feet, operable doors or entrances with public access shall be provided along streets at intervals averaging no greater than 50 feet;

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

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

Deviation #2: Deviate from LDC §34-992(c) requiring the principal facades of hotel buildings that will not contain commercial uses below base flood elevation to screen under-building parking areas in a manner acceptable to the town manager or designee; to allow 50% of the under building parking area of the building façade fronting on Estero Boulevard and Palm Avenue to be fully screened and a 5-foot hedge in the unscreened areas to help hide vehicles.

JUSTIFICATION: The use before the storm and the current proposal is for rebuilding the pre-existing timeshare units. Even though timeshare is categorized as hotel/motel and considered a commercial use, there is no storefront or retail/office uses on the ground floor because the V-Zone and the nature of the timeshare uses.

Because of the increased design flood elevations as determined by FDEP being over 20 feet from grade there is an opportunity to leave the parking area partially unscreened to allow a view through the understory parking. The conceptual enhanced landscape plan is proposing a 15-foot wide buffer along Estero Boulevard and 5-foot landscape buffer on the Palm Avenue and Miramar Avenue streets, as well as a living walls hiding car parking areas and a minimum 60" hedge row abutting the building parking areas to hide majority of the parked cars.

STAFF ANALYSIS: The applicant has proposed a series of plantings around the building which will partially obscure the ground-floor area, including parked vehicles. This requirement is somewhat at-odds with the LDC requirement that

ground-floors on the beach-side of Estero be developed free of obstructions to mitigate risks during a storm event. Staff believes that with the proposed landscape screening that the intent of the code has been respected, while at the same time meeting floodplain safety regulations.

Deviation #3: Deviate from LDC §34-674(a)(1) that requires build to lines in the Downtown District in this location be from five feet to 10 feet; to not require build to lines but rather minimum building setbacks for the building on Estero Boulevard of 15 feet, a minimum building setback of 10 feet from Palm Avenue, and a minimum building setback of 30 feet from Miramar Street.

APPLICANT JUSTIFICATION: The minimum 15-foot setback on Estero Boulevard is to provide for softening of the mass and height by providing distance from the right-of-way/property line to be used for landscaping and shade enhancement. It also allows for hedge row plantings to hide the understory parked cars from view of Estero Boulevard.

The setback on Miramar creates room for new beach access parking space, a 5-foot buffer and sidewalk and improves the setback of the building from abutting the single-family homes on the other side of the street to the extent it was prior to Hurricane Ian, which was 15-feet or less.

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

STAFF ANALYSIS: While the requirement for newly developed commercial structures to be placed no more than 10-feet from the property lines is meant to encourage engagement from pedestrians and forces parking area to be placed behind structures, the applicant has requested a modest change to accommodate additional landscape buffers/ materials

1. **Deviation #4:** Deviate from LDC §34-675(b)(3)c that requires a maximum height of 30 feet above base flood elevation and no taller than three stories for properties on the south side of Estero Boulevard east of the main pedestrian crossing in the Downtown zoning district to allow a height of:
 - Five (5) stories [four (4) stories over ground level parking].
 - 48 feet above FDEP design flood elevation (DFE)

APPLICANT JUSTIFICATION: The BFE at this location is 15' and the FDEP design flood elevation (DFE) to the Lowest Horizontal Structural Member (LHSM) is 19.5 feet (NAVD). The proposed structure is a single building of 67'2" feet to mean high roof in total height.

The height calculation is as follows: $19.5' - 67.2' = 47.7'$ of height above the DFE/FDEP required flood height. The allowed height is 30' above BFE so the deviation request is for 17.7, rounded up 5 inches to 18' for flexibility in design, above what is allowed for in the LDC. The final proposed height of the building then is 67.7' with the extra 5 inches for rounding.

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

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

Also, in the general vicinity are some of Fort Myers Beach's most high intensity establishments, including the Lani Kai Resort approximately 900 feet north of the site and the new Margaritaville Resort just $\frac{1}{4}$ mile north. 700 feet to the south of the subject property is the Neptune Resort, which recently filed for redevelopment of a 6-story structure and doubling the number of hotel rooms from 71 to 140 keys. Thus, the site is well located for redevelopment of timeshare resort uses in relation to similar uses, densities, and intensities in the Town's Downtown area.

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

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

The revised designs have taken the critiques of the previous design from the wider community into account and have proposed a more modestly-tall building which will have a larger footprint compared to the previously proposed structure. While the large area of open space has been removed to meet the more sprawling design, the structure is much more "human scale" when compared to other resort-style projects in the area. While the applicant is requesting an additional 18-feet of height the additional height is being utilized mainly to accommodate the 75-units which the applicant is entitled to.

Staff agrees that the additional height is a proper request while utilizing a Planned Development rezoning process and will retain the general scale of what existed on-site, pre-storm.

IV. FINDINGS AND CONDITIONS

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

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

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

Staff response: No errors or ambiguities exist.

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

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

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

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

(4) The testimony of any applicant.

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

(6) The testimony of the public.

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

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

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

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

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

Staff response: The urban services exist in this location.

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

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

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

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

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

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

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

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

(1) The Fort Myers Beach Comprehensive Plan.

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

(2) This chapter.

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

(3) Any other applicable town ordinances or codes.

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

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

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

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

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

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

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

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

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

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

Staff response: Not applicable.

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

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

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

Staff response: The request for additional height is proposed as part of the planned development rezoning process. The requested height appears to be appropriate for the location, providing a "human scaled" structure which is relatively similar in height to the buildings which existed prior to the storm.

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

Staff response: Not applicable.

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

Staff response: Not applicable.

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

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

Findings for Deviation Requests:

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

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

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

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

Staff response: The proposed deviations preserve public health.

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

interest; and

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

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

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

V. CONDITIONS OF APPROVAL

1. Development shall provide signage warning exiting vehicles of pedestrian traffic within the Town's Palm Ave. and Palm Ave. beach accesses.
2. The final architectural design shall be substantially similar to the design approved by the Town Council.
3. The applicant shall provide a more detailed landscaping plan utilizing a type-B buffer and using largely 'Florida Friendly' species, or other salt-tolerant plants and trees.
4. Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.

VI. STAFF RECOMMENDATIONS

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

Staff recommends **APPROVAL** of Ord. 24-XX with the four (4) deviations contained therein.

VII. EXHIBITS

Exhibit A – Schedule of Uses

Exhibit B – Master Concept Plan



ESTERO ISLAND BEACH CLUB CPD Request Narrative & Comprehensive Plan Compliance

I. Request

Estero Island Beach Club Association, Inc. ("Applicant") is requesting approval to rezone two (2) parcels totaling 1.92+/-acres, from the Downtown zoning district to Commercial Planned Development (CPD), while maintaining 0.78+/-acres of land seaward of the 1978 Lee County Coastal Construction Control Line (CCCL) within the EC zoning district. The CPD will allow for the post-disaster redevelopment of the site with the 75 multi-family/timeshare units, the same density existing prior to Hurricane Ian. Maximum number of stories requested is five (5) stories (four (4) stories of units over one level of parking) and a maximum height of 50 feet over 50 feet measured from FDEP Design Flood Elevation – Lowest Horizontal Structural Member (20.3 feet), a total of 70' from grade.

II. Property History & Existing Conditions

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

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

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

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

The existing site was permitted and built prior to the incorporation of the Town of Fort Myers Beach, which resulted in the property and its improvements being legal non-conforming, as the Town adopted a maximum building height of three stories and 30 feet in the Downtown District in this location, and a maximum density of 6 units per acre. The built site density was 39 du/ac (75 DUs on 1.92 acres landward of the CCCL).

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

III. Surrounding Land Uses

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

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

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

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

Table 1 – Surrounding Land Uses

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

IV. Proposed Development

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

HEIGHT, STORIES and FAR

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

Height

The permitted height in the Downtown District at this location is a maximum of 30 feet above base flood elevation per LDC §34-675(b)(3)c. The BFE+1 at this location is 16 feet and the FDEP LHSM is 20'3" feet.

The proposed structure is a single building of 70 feet in total height from sea level:

- 54 feet as measured from one foot over base flood elevation (BFE+1) or
- 50 feet above FDEP design flood elevation (DFE)

Stories

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

- Five (5) stories [four (4) stories over ground level parking]

FAR

The FAR permitted at this location in the Downtown zoning district per LDC §34-675(c)(2) is 1.2. Per LDC §34-633 the gross floor area includes the total floor area of all stories of a building within the surrounding exterior walls (whether the walls are solid or screened), plus all area below an elevated building that is six feet or more in height, plus all stories of covered parking, but not including any area whose roof is screened rather than solid (such as swimming pool enclosures).

The land area used in the calculation is the gross square footage within the site's private property line, minus wetlands, canals or other waterbodies, and minus any land designated "recreation" on the comprehensive plan's future land use map. The area of the subject property landward of the 1978 Lee County CCCL is 1.92 acres or 83,635.2 square feet.

- The maximum floor area is 100,000 square feet resulting in an FAR of 1.2.

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

DENSITY

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

INGRESS/EGRESS

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

PARKING

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

The former site provided 87 parking spaces. The proposed site plan proposed 91. The parking requirements are determined in LDC §34-2020(d) for standard residential units, while timeshare units are under hotel parking in §34-1804 that requires for 1.5 spaces per unit larger than 450 square feet. The worst-case parking requirement would be 75 dwelling units x 1.5 spaces per unit = 112.5 spaces. §34-676(a) provides off-street parking reductions in the Downtown district, which in this location is by multiplying the requirement by 67 percent; therefore, the worst-case requirement would be 112.5 spaces x .67 = 75 spaces.

EXISTING AMENITIES

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

V. Public Benefits

The proposed zoning requests height and stories above the maximum permitted in the current Comprehensive Plan Downtown Land Use Category and Land Development Code Regulations. According to the Town's Comprehensive Plan FLU Policy 4-C-4 states that requests for additional height can be made and "the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal."

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

1. Public Parking for Beach Access #30 (Miramar Street)

- Currently there are no public parking spaces Miramar Street for the beach access along and no right-of way available. EIBC proposes to construct seven parallel spaces within the EIBC property line and establish a use easement for the Town of Fort Myers Beach.

2. Five-foot Sidewalk on the EIBC side of Miramar Street

- Currently there is no sidewalk along Miramar Street and no right-of way available. EIBC proposes a public sidewalk that connects to the public sidewalk on Estero Boulevard and runs to the Lee County CCCL line.

3. Bike Rack for Public Beach Access #30 at end of Proposed Sidewalk

- For those residents and visitors who are biking or using other forms of alternative transportation a bike rack will be placed at the end of the sidewalk by the Lee County CCCL line.

4. Extension of Miramar Street pavement

- Lee County code did not require pavement of Miramar Street beyond the access to the abutting properties. EIBC is proposing to extend the street pavement to the Lee County CCCL line, approximately 45 feet.

5. Beach Accessibility – Mobi Mat for disabled person's access

- Propose a Mobi Mat at the end new sidewalk or at the end of the extended pavement of Miramar Street for increased accessibility.

6. Seating and Bike Racks on Estero Boulevard

- Nested in the landscaping proposed along Estero Boulevard will be a public seating area and bike rack that will be shaded with landscaping.

7. Landscape Buffers

- The code does not require landscaping. EIBC is proposing a 15' landscaping buffer on Estero Boulevard and 5' buffers along Miramar Street and Palm Avenue according to the conceptual landscape plan.

VI. Infrastructure

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

VII. Post-Disaster Buildback Compliance

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

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

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

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

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

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

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

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

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

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

The proposed request is to rezone the property from Downtown to a Commercial Planned Development (CPD) zoning category. The proposed development is to comply with the development regulations of the Downtown zoning district except for those identified in the deviations request for height, number of stories and design standards regarding primary entrance locations and screening of parking areas and to allow the density of the former building. Through this rezoning petition the proposed building will comply with all LDC regulations as outlined in the development standards portion of this application. Further, §VII of this request narrative provides detailed consistency between the proposed project and the town's comprehensive plan.

VIII. Decision-making Compliance

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

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

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

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

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

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

N/A

- (4) The testimony of any applicant.

As a quasi-judicial process, the CPD zoning will allow for substantive and competent evidence to be presented to and considered by the Local Planning Agency for recommendation and Town Council for a decision or conditions for approval. The testimony presented will conclude that the request is consistent with the goals, objective and policies of the Comprehensive Plan and all applicable development regulations.

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

The Town Council will consider the staff report and recommendation as well as the report and recommendation of the LPA, which will be rendered after a public hearing where the staff and applicant will present evidence, the public will speak, and the LPA is permitted to ask questions of all parties.

(6) The testimony of the public.

During the quasi-judicial process, the public is invited to present evidence for support, concerns, or issues with the proposed development in an advertised forum according to Sunshine laws of Florida.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

N/A

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

N/A

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

The proposed building height demonstrates consistency with the surrounding development patterns, both existing and proposed. The proposed eight (8) story structure will be located on the southernmost portion of the site adjacent to the 13-story Diamond Head Beach Resort. This will maximize separation from nearby single-family homes and also significantly increase the public viewshed of the Gulf of Mexico from Estero Blvd. Surrounding heights are analyzed on the Surrounding Heights Map to further demonstrate the proposed height will be compatible with the built form in this Downtown core of the Town.

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

N/A

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

N/A

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

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

IX. Comprehensive Plan Consistency Narrative

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

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

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

sidewalk connectivity throughout and increase views of the Gulf of Mexico that generally improve the aesthetics of Estero Boulevard.

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

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

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

The MCP and development parameters propose ground floor parking and a narrow façade with the building arranged perpendicularly to the beach and Estero Boulevard. In doing so, the pedestrian walkway along Estero boulevard will benefit from a larger view of the Gulf, which is increasing from 40 feet to 90+/- feet.

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

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

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

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

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

OBJECTIVE 7-E UPGRADE ESTERO BOULEVARD.

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

OBJECTIVE 6-E DUNES AND BEACHES

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

POLICY 6-H-5 WATER QUALITY

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

X. Conclusion

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

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

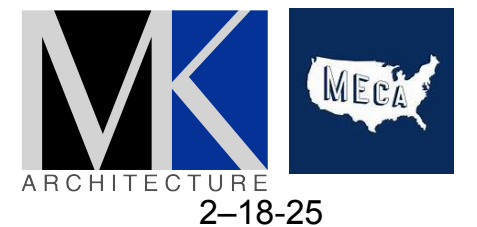
The newly constructed building will contribute to Fort Myers Beach's aesthetic character, including substantial increases to views of the Gulf, and improved community appearance and safety along Estero Blvd.

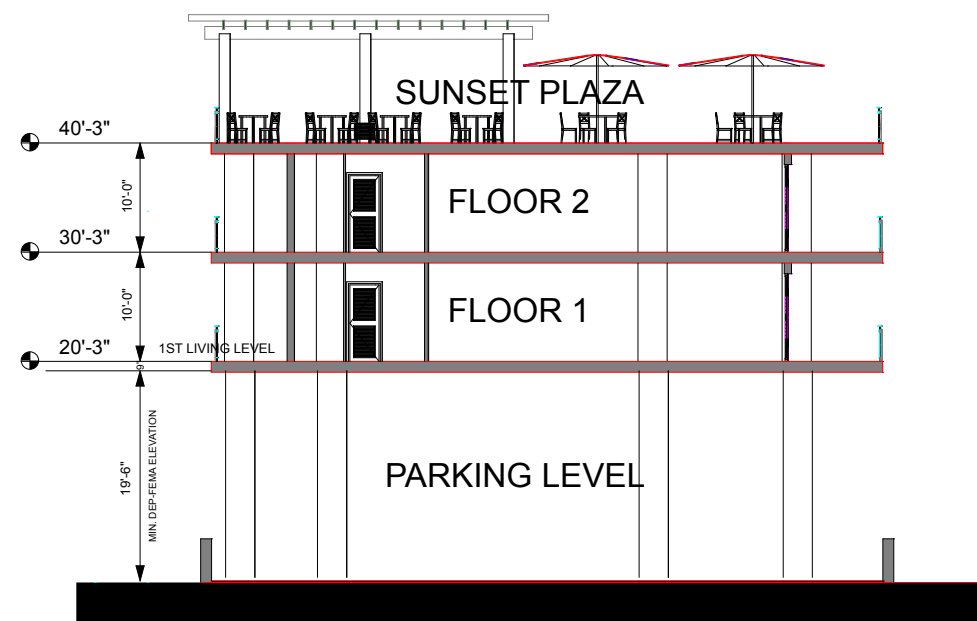
As proposed through the CPD request and the Master Concept Plan, the CPD rezoning will be consistent with the vision and implementing goals, objectives and policies of the Town's Comprehensive Plan and Land Development Code Regulations. For these reasons, the Applicant respectfully requests approval of this petition.



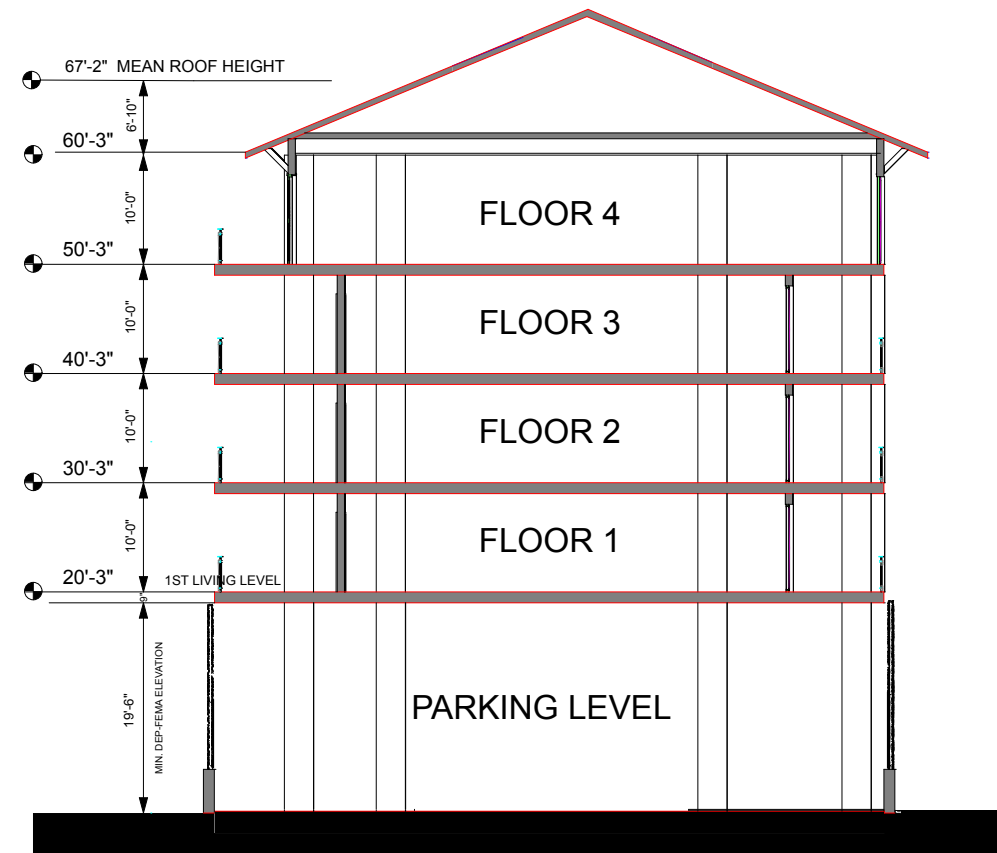
A NEW REBUILD FOR ESTERO ISLAND BEACH CLUB FORT MYERS BEACH, FLORIDA

VIEW CORRIDORS FROM ESTERO BOULEVARD





BUILDING SECTION AT 2-STORY OVER PARKING



BUILDING SECTION AT 4-STORY OVER PARKING

BUILDING SECTIONS

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



2-18-25

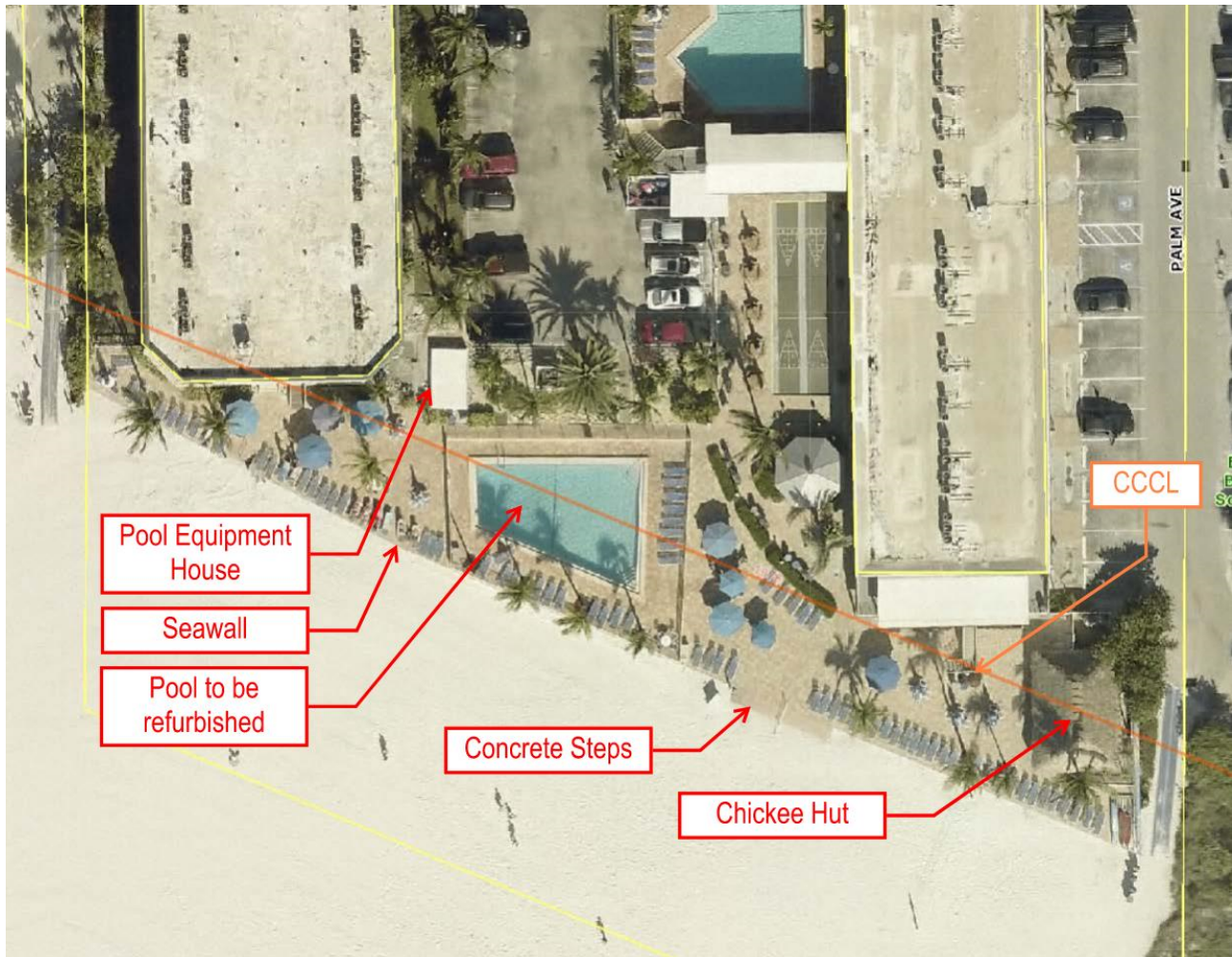
Estero Island Beach Club CPD Development Waterward of CCCL

As shown in the exhibit below – an aerial from early 2022 – there was some limited development waterward of the Lee County 1978 CCCL, shown in orange on the image.

The exhibit and the Master Concept Plan (MCP) is noted to establish within the CPD that the following are permitted to be rebuilt between the CCCL and the existing retaining/sea wall:

- Decking/pavers
- Refurbishment of existing pool and pool equipment as necessary (it should be noted that the majority of the pool equipment was landward of the CCCL in the white square structure).

The chickee hut is not being pursued at this time.





Estero Island Beach Club CPD

Schedule of Deviations and Justifications

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

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

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

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

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

2. Deviate from LDC §34-992(c) requiring the principal facades of hotel buildings that will not contain commercial uses below base flood elevation to screen under-building parking areas in a manner acceptable to the town manager or designee; to allow 50% of the under building parking area of the building façade fronting on Estero Boulevard and Palm Avenue to be fully screened and a 5-foot hedge in the unscreened areas to help hide vehicles.

JUSTIFICATION: The use before the storm and the current proposal is for rebuilding the pre-existing timeshare units. Even though timeshare is categorized as hotel/motel and considered a commercial use, there is no storefront or retail/office uses on the ground floor because the V-Zone and the nature of the timeshare uses.

Because of the increased design flood elevations as determined by FDEP being over 20 feet from grade there is an opportunity to leave the parking area partially unscreened to allow a view through the understory parking. The conceptual enhanced landscape plan is proposing a 15-foot wide buffer along Estero Boulevard and 5-foot landscape buffer on the Palm Avenue and Miramar Avenue streets, as well as a living walls hiding car parking areas and a minimum 60" hedge row abutting the building parking areas to hide majority of the parked cars.

3. Deviate from LDC §34-673(a)(1) that requires build to lines in the Downtown District in this location be from five feet to 10 feet; to not require build to lines but rather minimum building setbacks for the building on Estero Boulevard of 15 feet, a minimum building setback of 10 feet from Palm Avenue, and a minimum building setback of 30 feet from Miramar Street.

JUSTIFICATION: The minimum 15-foot setback on Estero Boulevard is to provide for softening of the mass and height by providing distance from the right-of-way/property line to be used for landscaping and shade enhancement. It also allows for hedge row plantings to hide the understory parked cars from view of Estero Boulevard.

The setback on Miramar creates room for new beach access parking space, a 5-foot buffer and sidewalk and improves the setback of the building from abutting the single-family homes on the other side of the street to the extent it was prior to Hurricane Ian, which was 15-feet or less.

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

4. Deviate from LDC §34-675(b)(3)c that requires a maximum height of 30 feet above base flood elevation and no taller than three stories for properties on the south side of Estero Boulevard east of the main pedestrian crossing in the Downtown zoning district to allow a height of:
 - Five (5) stories [four (4) stories over ground level parking].
 - 48.2 feet above FDEP design flood elevation (DFE)

JUSTIFICATION: The BFE at this location is 15' and the FDEP design flood elevation (DFE) to the Lowest Horizontal Structural Member (LHSM) is 19.5 feet (NAVD). The proposed structure is a single building of 67'2" feet to mean high roof in total height.

The height calculation is as follows: $19.5' - 67.2' = 47.7'$ of height above the DFE/ FDEP required flood height. The allowed height is 30' above BFE so the deviation request is for 17.7, rounded up 5 inches to 18' for flexibility in design, above what is allowed for in the LDC. The final proposed height of the building then is 67.7' with the extra 5 inches for rounding.

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

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

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

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



Business Impact Estimate

Proposed ordinance's title/reference:

Ordinance 25-XX CPD Approval for the Rebuild of 75-unit Time-share

AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING TO REZONE THE PROPERTY LOCATED AT 1836 ESTERO BOULEVARD, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-03200.00CE & 19-46-24-W4-03200.1010 TO REZONE FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) AND REQUEST FOUR (4) DEVIATIONS FROM REQUIREMENTS TO PROVIDE 1) OPERABLE DOORS ALONG ESTERO BLVD, 2) SCREENING MATERIAL ON THE GROUND FLOOR, 3) INCREASE BUILD-TO LINE SETBACKS, AND 4) INCREASE THE MAXIMUM ALLOWED HEIGHT BY 18-FEET; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Town is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the Town 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 Town hereby publishes the following information:

1. Summary of the proposed ordinance, (e.g. statement of the public purpose serving the public health, safety, morals and welfare):

The proposed ordinance approves CPD with deviations to redevelop a 75-unit timeshare and requesting additional height.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Town, 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 Town's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

Any costs incurred by the applicant will be to further their commercial business, this has been requested by the applicant themselves.

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:

The proposed approval of the applicant's CPD with deviations will be relevant only to the applicant and their lot/business.

4. Additional information the governing body deems useful (if any):

N/A

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

Yellow Sheet Number: **2025-383**

1. Request:

Meeting Date: May 13, 2025

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING LAND DEVELOPMENT CODE SECTION 34-236, NOTICES TO REQUIRE APPLICANTS FOR REZONINGS, DEVELOPMENT AGREEMENTS AND DEVELOPMENTS OF REGIONAL IMPACT TO PROVIDE MAILED AND POSTED PUBLIC NOTICING PRIOR TO LPA AND TOWN COUNCIL HEARINGS; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING AN EFFECTIVE DATE.

Why the action is necessary:

The LPA reviews ordinances relating to the Land Development Code and makes recommendations to the Town Council.

What the action accomplishes:

2. Agenda:

ADMINISTRATIVE AGENDA

3. Requirement/Purpose:

Ordinance

5. Background:

The LPA previously discussed amending the public notice requirements for public hearings. The ordinance presented here includes the recommendations made during that discussion as well as input from the Town Attorney. This amendment to the ordinance will require public notice to be completed by the applicant instead of by Town Staff.

Attachments:

1. Public Notice Ordinance 4.23.25

Financial Impact:

6. Alternative Action

7. Staff Recommendations:

8. Recommended Approval:

Judith Frankel, Principal Planner

Date: May 01, 2025

Georgina Cid, Community Development Manager

Date: May 02, 2025

Frankie Kropacek, Operations & Compliance Director

Date: May 04, 2025

nancy stuparich, Town Attorney

Date: May 06, 2025

Amy Baker, Town Clerk

Date: May 06, 2025

ORDINANCE NO. 25-xx

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA
AMENDING LAND DEVELOPMENT CODE SECTION 34-236, NOTICES
TO REQUIRE APPLICANTS FOR REZONINGS, DEVELOPMENT
AGREEMENTS AND DEVELOPMENTS OF REGIONAL IMPACT TO
PROVIDE MAILED AND POSTED PUBLIC NOTICING PRIOR TO LPA
AND TOWN COUNCIL HEARINGS; PROVIDING FOR SEVERABILITY,
CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND
PROVIDING AN EFFECTIVE DATE.**

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

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

WHEREAS, the Town recognizes that redevelopment of the Town, following hurricane Ian requires evaluation and updates to the Land Development Code; and

WHEREAS, the Town Council desires updates to the Fort Myers Beach Land Development Code to clarify, improve and create consistency among sections; and

WHEREAS, the proposed changes to the Land Development Code are not more restrictive or burdensome to development; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on February 11th, 2025, at time which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted _____, to recommend _____ of this Ordinance; and

WHEREAS, on _____, 2025, the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons to adopt Ordinance 25-xx as provided herein and approved scheduling an adoption public hearing; and

WHEREAS, a Business Impact Estimate was prepared and posted on the City's website on the ____ day of _____, 2024, as required by Section 166.041(4), Florida Statutes; and

WHEREAS, an advertisement of the public hearing for adoption of the Ordinance was published in the News-Press on the ____ day of _____, 2025, which is 10 days prior to the second reading of the proposed Ordinance as required by Section 166.041; and

WHEREAS, on the ____ day of _____, 2024, the Town Council held a second reading of the Ordinance; at which time the Town Council gave full and complete consideration to the recommendations of staff and the LPA, and the testimony of all interested persons; and

WHEREAS, the Town finds that it is in the best interests of the health, safety, and welfare of the Town’s business owners, residents, and visitors to adopt the proposed change.

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

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

Section 2. LDC Sec. 34-236 is hereby amended to read as provided in Exhibit A.

Section 3. The Town Council intends that the provisions of this ordinance be made a part of the Fort Myers Beach Code of Ordinances, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the Town Manager without further process.

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

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

Section 6. This ordinance shall become effective upon adoption by the Town Council.

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

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

ADOPTED this ____ day of _____ 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

The foregoing Ordinance was filed in the Office of the Town Clerk on the ____ day of _____, 2025.

Attached Exhibits

Exhibit A – Proposed Noticing Requirements

Exhibit A

Sec. 34-236. Notices.

(a) Minimum required information. A notice of public hearing under this chapter shall contain the following minimum required information:

(1) Action proposed.

a. Rezoning, development agreements and developments of regional impact. All required notices shall indicate the existing zoning of the property, the proposed zoning, and the general location of the property by reference to common street names and addresses, with sufficient clarity so as to advise the public, but need not describe the proposed plans or details thereof, or the specific legal description of the property.

b. Special exceptions and variances. All required notices shall indicate the existing zoning of the property; the proposed use by special exception, or the requirement from which the variance is being requested and the actual degree of variance being requested; and the location of the property by reference to common street names and addresses, with sufficient clarity so as to advise the public, but need not describe the proposed plans or details thereof or the specific legal description of the property.

c. Quasi-Judicial and Administrative Appeals. The notice shall summarize the decision or action upon which the appeal is based with sufficient clarity so as to advise the public of the subject matter.

(2) Time and place of hearing. The notice shall specify the date, time and place that the public hearing will be held by the local planning agency or the town council.

(3) Public availability of information. The notice shall indicate ~~where~~ that copies of the proposed amendment application may be obtained or reviewed, ~~or where the application for public hearing may be reviewed.~~ by contacting Town Hall staff

(4) Location of record of notice. A copy of such notice shall be kept available for public inspection during the regular business hours at Town Hall ~~and at the director's office.~~

(b) Method of providing notice. Notices of hearings before the local planning agency and the town council shall be provided by the applicant or their agent in accordance with applicable statutes and subsection (a) of this section. All noticed requests shall utilize layman's language, i.e., "apartment building" rather than "multi-family dwelling," "restaurant" rather than "business zoning."

(c) Mailed notices.

a. Applications for Commercial, Institutional and Multi-family development. The property owners list and map of surrounding property owners required by §§ 34-202(a)(6) and (a)(7) of this chapter is for the purpose of mailing notice to property owners within 500 feet of the property described. ~~The notice is a courtesy only and is not jurisdictional.~~ The applicant or their agent must provide proof of mailed notices 7 calendar days prior to the scheduled public hearing date. Proof must be provide via map of 500 ft radius, list of mailing addresses and photographs of mailed notices with paid postage stamp. Accordingly, the failure to mail or to timely mail such notice, ~~or failure of any affected property owners to receive mailed notice,~~ will not constitute a defect in notice ~~or bar~~ and deny the public hearing from being heard as scheduled.

b. Single-Family or Two-Family Home variances. These applications are exempt from 34-202(a)(6) and (a)(7) The applicant or their agent must provide photographic proof of mailed notices 7 calendar days prior to the scheduled public hearing date. The applicant shall mail written courtesy notices to the abutting property owners and property owners parallel to the subject property line across any right-of-way, of the planning and zoning board meeting date and location ten days prior to the meeting.

(d) Posted notices. The applicant or their agent is responsible for posting a notice of a public hearing on site at least 7 calendar days prior to a scheduled meeting. A professionally lettered sign must be posted at each property boundary that fronts a public right-of-way. Photographic proof must be received by the Town Clerk 7 days in advance of the scheduled

hearing with the LPA or Town Council. Failure to post the notice or staff receipt of proof of posted notice will constitute a defect in notice and require rescheduling of the hearing.

(1)The posted notice, 18 inches by 24 inches, must be placed in a prominent place on the property by the applicant/agent at their own expense denoting the following: application request, date and time of hearing, hearing body (i.e. LPA or Town Council), location of hearing and phone number of Town Hall directing interested parties to contact for information.