Fort Myers Beach Town Council

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

AMENDED Agenda **Monday, May 19, 2025** **9:00 AM**

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

V. SWEARING IN CEREMONY

NEW William McKannay, Town Manager

VI. PUBLIC COMMENT

VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS

VIII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

IX. APPROVAL OF MINUTES

A. Town Council - April 21, 2025

B. Town Council - May 5, 2025

X. CONSENT AGENDA - NO ITEMS

XI. ITEMS REMOVED FROM CONSENT AGENDA

XII. PUBLIC HEARINGS

A. St. Peters Drive
Dedication of St Peters Drive (Private Road) to the Town of Fort Myers Beach

B. 21391 Widgeon Terrace
Appeal of a Building Official Decision to Issue Permits # 24233 / 23477 Related to Construction of an Elevated Swimming Pool at 21391 Widgeon Terrace, Fort Myers Beach

C. Resolution 25-150; VAR20250045, 277 Primo Dr.
A RESOLUTION OF THE FORT MYERS BEACH TOWN COUNCIL APPROVING, APPROVING WITH CONDITIONS, DENYING 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 ALLOW A SETBACK OF 12.6 FEET INSTEAD OF THE REQUIRED 25 FEET WATERBODY SETBACK FROM A CANAL, IN ORDER TO BUILD A NEW GARAGE AND AN ELEVATED POOL FOR THE EXISTING SINGLE-FAMILY RESIDENCE IN THE RC ZONING DISTRICT; AND PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

D. Resolution 25-152; SEZ20250038, 7150 Estero Blvd. (Creciente Condo South)

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

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

This agenda item is a Second Reading and Final Public Hearing on proposed Ordinance 25-07.

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

F. Ordinance 25-10; DCI20250035.1, 1051 Fifth Street, Lighthouse Resort CPD Expanded Boundary

This agenda item is a First Reading and Public Hearing on proposed Ordinance 25-10. If approved at First Reading, a Second Reading and final adoption hearing will be scheduled for June 16, 2025, at 9:00 AM or at another time identified by Town Council.

ORDINANCE TITLE:
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.

G. Ordinance 25-11; DCI20250035.2, 1051 Fifth Street & 1060 Third Street (Lighthouse Island Resort)

This agenda item is a First Reading and Public Hearing on proposed Ordinance 25-11. If approved at First Reading, a Second Reading and final adoption hearing will be scheduled for June 16, 2025, at 9:00 AM or at another time identified by Town Council.

ORDINANCE TITLE:
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.

H. Ordinance 25-06; DA20250001 - 1028, 1046 Estero Boulevard (Times Square)

This agenda item is a First Reading and Public Hearing on proposed Ordinance 25-06. If approved at First Reading, a Second Reading and final adoption hearing will be scheduled for June 16, 2025, at 9:00 AM or at another time identified by Town Council.

ORDINANCE TITLE:
AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING 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 AS AMENDED BY RESOLUTION 24-247 FOR THE PURPOSE OF REDEVELOPMENT OF THE PROPERTY TO ALLOW A COMMERCIAL DEVELOPMENT WITH A MAXIMUM OF 42,210 SQUARE FEET, 31 HOTEL ROOMS, AND A MEAN ROOF HEIGHT OF 38 FEET 8 INCHES ABOVE THE 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.

XIII. ADMINISTRATIVE AGENDA

A. Resolution 25-149, Angie Brewer Third Amendment and STA #6

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, APPROVING A THIRD AMENDMENT TO AN AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND ANGIE BREWER & ASSOCIATES, LC TO EXTEND THE TERM OF THE CONSULTANT AGREEMENT FOR FUNDING MANAGEMENT SERVICES FOR SRF AND OR OTHER GRANTS OR LOANS AVAILABLE TO THE TOWN, TO DECEMBER 6, 2025; APPROVING SUPPLEMENTAL TASK AUTHORIZATION NO. 6 FOR THE UNINTERRUPTED CONTINUATION OF THESE SERVICES; AUTHORIZING THE MAYOR TO SIGN THE AMENDMENT AND SUPPLEMENTAL TASK AUTHORIZATION AND THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; PROVIDING FOR SEVERABILITY AND

PROVIDING FOR AN EFFECTIVE DATE.

B. Resolution 25-151; Lee County Lift Station Easement Amendment

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, GRANTING AN AMENDED EASEMENT TO EXPAND THE AREA OF AN EXISTING EASEMENT GRANTED TO LEE COUNTY FOR THE PLACEMENT AND OPERATION OF COUNTY-OWNED SEWER MAINS, PIPES, AND FACILITIES; AND PROVIDING FOR AN EFFECTIVE DATE.

C. Resolution 25-146; First Amendment to SPA-24-12-EN, ICS Emergency Measures - Hurricane Milton

UPDATED

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RETROACTIVELY APPROVING A FIRST AMENDMENT TO THE EMERGENCY SERVICE PROVIDER AGREEMENT SPA-24-12-EN DATED DECEMBER 16, 2024 BETWEEN THE TOWN OF FORT MYERS BEACH AND ICS MATERIALS, INC. TO 1) EXTEND THE TERM OF SERVICE FROM NOVEMBER 6, 2024 TO DECEMBER 21, 2024 FOR DEBRIS AND HAZARD CLEAN UP SERVICES DUE TO HURRICANE MILTON: AND 2) INCREASE THE NOT TO EXCEED AMOUNT BY $123,287.00 FROM $300,000.00 TO $423,287.00; AND PROVIDING FOR AN EFFECTIVE DATE.

D. Resolution 25-147; First Amendment to SPA-24-10-EN, ICS Hurricane Helene-CAT B

UPDATED

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RETROACTIVELY APPROVING THE FIRST AMENDMENT TO THE EMERGENCY SERVICE PROVIDER AGREEMENT SPA-24-10-EN DATED OCTOBER 4, 2024 BETWEEN THE TOWN OF FORT MYERS BEACH AND ICS MATERIALS, INC. FOR DEBRIS AND HAZARD CLEAN UP SERVICES DUE TO HURRICANE HELENE TO 1) EXTEND THE TERM OF THE AGREEMENT TO OCTOBER 8, 2024; AND 2) INCREASE THE NOT TO EXCEED AMOUNT BY $17,942.40 FROM $200,000.00 TO $217,942.40; AND PROVIDING FOR AN EFFECTIVE DATE.

UPDATED E. Resolution 25-148; First Amendment to SPA-24-13-EN, ICS Sand Screening - Hurricane Milton

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RETROACTIVELY APPROVING THE FIRST AMENDMENT TO THE EMERGENCY SERVICE PROVIDER AGREEMENT SPA-24-13-EN DATED DECEMBER 18, 2024 BETWEEN THE TOWN OF FORT MYERS BEACH AND ICS MATERIALS, INC. TO AMEND THE NOT TO EXCEED AMOUNT BY $53,971.69 FROM $900,000.00 TO $953,971.69; AND PROVIDING FOR AN EFFECTIVE DATE.

XIV. FINAL PUBLIC COMMENT

XV. TOWN MANAGER'S ITEMS

XVI. TOWN ATTORNEY'S ITEMS

A. Temporary Residential Uses Post-Emergency/Disaster
Discussion of the Status of Temporary Residential Housing Post-Emergency/Disaster and SB250/SB180

XVII. COUNCILMEMBERS ITEMS AND REPORTS

A. Parallelogram Lots
DISCUSSION: Concerns with the Existing Parallelogram Lot Ordinance adopted in 2023, Particularly as the Ordinance has been Applied to Lots Located at 250 and 254 Miramar Street. (Maximum allowed time - not to exceed 30 minutes)

XVIII. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON YOUTUBE.

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

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

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

Fort Myers Beach Town Council

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

Minutes **Monday, April 21, 2025** **9:00 AM**

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ORDER OF BUSINESS

I. CALL TO ORDER

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

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Town Attorney Stuparich requested a continuance to May 5, 2025, for the Lien Reduction Request under Public Hearings.
Regarding the Administrative Appeal under Public Hearings, she stated that the building official was unable to attend the meeting today to answer questions. She added that relevant information was omitted from the agenda materials. If the appeal is continued to May 5, they will have the information.

Council Member King moved to approve the final agenda, seconded by Council Member Safford.
The motion carried unanimously.

V. PUBLIC COMMENT

Tom Brady, resident and President of Protect FMB, distributed a handout and described his work experience. He explained that the Seagate appeal was not a lawsuit; they asked for a review of the town council's decision. He noted they do not attack the organizations' whistleblowers and are not against development.
They do not support Seagate because it has 17 stories and has not received the approval of the LPA (Local Planning Agency). They trusted council members to make a good decision and he urged them to stop mischaracterizing Protect FMB.
Jim Boan, resident and President of the HOA, discussed whether St. Peter's Drive was private or public. After the three hurricanes, it was clear that the drainage issues had to be addressed. He described the work the town did to address the drainage. Operations & Compliance Director Frankie Kropacek confirmed that the

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road was still privately owned. Mr. Boan noted that St. Peter's has been open to the public and the town maintained the road and right-of-way. The HOA requested that the town consider accepting ownership of the road and the right-of-way.

Bill Veach, resident, noted that the development agreement with exceptions had been passed and thought it was a good idea to review if it was doing what it was supposed to do. The development agreements were supposed to help the little guys offset expenses, but he saw only big projects using them. He suggested putting a cap on what one can ask for and making it so it works for smaller projects. He urged the town to look into adopting the Lee County lobbyist rules because they were a lot more rigid. He felt that it seemed like the developers had the town council's ear through prolonged meetings and negotiations outside the public eye. There was not a lot of public input outside of what happened in council. He encouraged them to have town halls and sit down with constituents to find out what people thought about the way the town was going.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Vice Mayor Atterholt noted that the Anchorage Advisory Committee (AAC) was having the Cruiser's Appreciation Day on Sunday at Bayside Veterans' Park from 1:00 p.m. to 3:30 p.m. The event was to thank and support those who utilize the Mooring Field.

Council Member King thanked the town staff for their efforts on Friday, regarding the town manager hiring process. He thanked Finance Director Joe Onzick for his time with the town.

No items from other members.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

No items.

VIII. PRESENTATION

A. Donation - Road to Paradise

Restore Fort Myers Beach Arches, Inc.
Steven Ray McDonald and Earl Morgan
Presentation of Arches Painting

Ray McDonald described picking up pieces of the arches after they were torn down in 1979. He presented an oil painting of the arches painted titled “Road to Paradise” by Jan Ellen Atkielski for display at the new Town Hall. He stated this painting was made possible through a donation from the Freeland family. Lee County Commissioner, David Mulicka, remembered being on the swing bridge when he was young. The county will help build the arches and the memorial structure at Bowditch Park. Mr. McDonald invited everyone to the Erickson & Jensen seafood docks on May 3 for a Cinco de Mayo event.

B. Florida Department of Transportation (FDOT)

Bridge Construction updates

Ethan Pervis from the Florida Department of Transportation explained what was happening on San Carlos Blvd. He utilized PowerPoint for his

presentation. Slides included Project Limits, Project Improvements & Goals, Project Update and Community Engagement. The project was estimated to be completed by Fall 2025. Project Administrator Edgar explained how the bridge traffic would change after the project was done.

A discussion was held regarding the possibility of opening two lanes of traffic for people leaving the beach and other engineering questions. Project Administrator Edgar could not answer some of the questions and indicated he would get back to them. Vice Mayor Atterholt hoped that Communications Director, Nicole Berzin could post the pictures to the town's website to help educate people. Mayor Allers asked if they could obtain the traffic automation that showed the traffic flow with cars and arrows to post to the town's website. Mr. Pervis will contact Community Outreach Specialist Katelyn Carmona to send it and other educational materials.

IX. APPROVAL OF MINUTES

A. Approval of Minutes - April 7, 2025

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

The motion carried unanimously.

B. Management & Planning Session - April 9, 2025

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

The motion carried unanimously.

X. CONSENT AGENDA - NO ITEMS

XI. ITEMS REMOVED FROM CONSENT AGENDA

XII. PUBLIC HEARINGS

A. Request for Lien Reduction - 8124 Estero Blvd.

Request for Reduction and Forgiveness of a Code Enforcement Lien/Fine for Property Located at 8124 Estero Blvd, Fort Myers Beach, Fl. by Dennis Prock, represented by Attorney Noel Davies

Mayor Allers read the request. Town Attorney Stuparich requested a continuance to May 5, 2025, to discuss an alternative resolution. Attorney Noel Davies indicated that things would be worked out by then.

Council Member Woodson moved for a continuance to May 5, 2025, seconded by Council Member King.

The motion carried unanimously by roll call vote.

B. Appeal of 213191 Widgeon Terrace

Administrative Appeal of Building Permit # 242333 / 234477
(Construction of Swimming Pool)
Appellant: Himmelstein Associates, LLC
Property Owner: Todd R. Plaisted
Property Address: 21391 Widgeon Terrace

Mayor Allers read the item. Town Attorney Stuparich stated that some items were omitted from the agenda packet. The building official was unable to attend the meeting and it was his final decision. She felt he needed to be available to answer questions.

The applicant and his attorney were not in attendance. Attorney Robert Burandt stated the appeal was outside 30 days and it was sent to the wrong party. He asked why they would continue it instead of dismissing it. He thought the appeal should have gone before the magistrate. Town Attorney Stuparich agreed but indicated that the council did not have an opportunity to review supporting documents regarding the representation. She did not want to discuss any issues without the appellant there.

Council Member King moved that they dismiss the administrative appeal, seconded by Council Member Woodson.

Town Attorney Stuparich commented that there was a reference to the town's response in the packet and she reviewed other issues that have occurred since the appeal was filed on November 15, 2024. The appeal was filed in December, but the review process was transferred to the special magistrate. Attorney Burandt stated that the council had already discussed these issues at a past meeting and denied it. The appellant filed a petition in the circuit court and has no say now. They were still waiting for a decision from the judge. He asked that they dismiss the appeal because it was too late.

Council King amended his motion.

Council Member King moved to deny the administrative appeal, seconded by Council Member Woodson.

The motion carried 4-1 by roll call vote, with Vice Mayor Atterholt dissenting.

XIII. ADMINISTRATIVE AGENDA

A. Extension of Town Manager's Employment Contract

Approve an amendment to the Town Manager's contract, extending the term for additional 30 day periods as needed with a $1,000 pay adjustment for each 30 day period extension.

Town Manager Hyatt stated he would continue for 30 days with the option for another 30 days.

Mayor Allers moved to approve the amended contract for 30 days with an additional $1,000.00, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

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B. Resolution 25-125, Ratification of Task Orders 3 & 4 CDBG-DR Administration

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, TO RATIFY AND APPROVE TASK ORDERS 3 & 4 WITH TIDAL BASIN FOR CDBG-DR GRANT ADMINISTRATION SERVICES IN THE AMOUNTS OF $163,864.57 AND $291,785.90; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Kropacek explained that the funds had already been built into the grant and were not coming out of the town's budget. The resolution is 25-124, not 25-125.

Council Member King moved to approve the resolution, seconded by Council Member Safford.
The motion carried unanimously by roll call vote.

XIV. FINAL PUBLIC COMMENT

Ed Rood, resident, clarified that he was not against Protect FMB. He discussed the process of getting projects approved. He had full confidence in the town council to make decisions. He did not agree with them filing a lawsuit against the town. He asked the town attorney to explain to the council why she feels the way she does.

XV. TOWN MANAGER'S ITEMS

Town Manager Hyatt stated they would have to schedule a special meeting to ratify the new town manager's contract. A resident survey will be online tomorrow and he encouraged everyone to participate.

XVI. TOWN ATTORNEY'S ITEMS

Town Attorney Stuparich learned there might be disagreements about who owned St. Peters Road. She felt more research was needed to determine whether it was private or public. Mr. Boan repeated that the HOA wanted the town council to take over the road and right-of-way.

Vice Mayor Atterholt moved that the council consent to allow the town attorney to work with Mr. Boan to see if they can reach a resolution, seconded by Mayor Allers.
The motion carried unanimously by roll call vote.

A. Resolution 25-123, Community Redevelopment Agency (CRA)

Town Attorney Stuparich read the title of the resolution. She explained that the purpose is to put on the record that the town has begun creating a CRA before the legislature prohibits it in July 2025. Council Member King commented that he received information from the Florida League of Cities that the legislature may remove the ban on creating new CRAs.

Council Member Woodson moved to approve the resolution, seconded by Mayor Allers.
The motion carried unanimously by roll call vote.

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XVII. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Safford asked whether they would be interested in spending one day at the town hall for a couple of hours so people could talk to them. Vice Mayor Atterholt suggested having a place to sit and talk to constituents would be nice and he was open to the idea. All town council members agreed. Town Manager Hyatt noted there was a conference room in the new town hall designated for council members and other spaces available.

Council Member Woodson will meet with the town attorney to discuss the contract with the new manager afterward. She addressed Ed Rood's concerns and asked the town attorney to explain her position. Town Attorney Stuparich explained that they would be curtailing First Amendment rights and they would put themselves at a legal risk. She explained why they should not ask individuals to give up their constitutional rights if they want to participate in some committees. Mayor Allers stated he would never support something like that. He did not think the issue needed to go any further.

Council Member King reported that a fishing pier would not be at the Big Carlos Pass Bridge, but he will research whether there will be a pier on the north bridge. He asked the council to consider annexing San Carlos Island. He received support to discuss it at an M&P. Town Attorney Stuparich will prepare background information for the M&P.

No items from other members.

Town Manager Hyatt stated it could be a few weeks before the town hall was ready. Community Services Director Jeff Hauge explained what was going on with the piles behind the town hall.

XVIII. ADJOURNMENT

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

The meeting was adjourned at 10:48 a.m.

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Fort Myers Beach Town Council

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

Minutes **Monday, May 5, 2025** **9:00 AM**

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ORDER OF BUSINESS

I. CALL TO ORDER

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

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Item D. under Public Hearings has been resolved and Item E. will be moved to the top of the Public Hearings.
Council Member King moved to approve the final agenda, seconded by Council Member Safford.
The motion carried unanimously.

V. PUBLIC COMMENT

Chris Mosteiro, resident, commented on redevelopment and was concerned about large-scale projects intruding on residential areas. Residents did not want to see high-rises on the island and asked how they would keep the small-town feeling they had.
Leah Greg, resident, thanked Town Attorney Stuparich for hosting the Sunshine training. She discussed consistently applying land development codes to developments. She did not understand why the LPA (Local Planning Agency) voted against Seagate but voted for the Arches. She described the inconsistencies and asked that they apply the code consistently.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member King recognized his wife on their 35th wedding anniversary.
No items from other members.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

Dave Nusbaum, Chair of the Marine & Environmental Resources Task Force (MERTF), reported on private and public canals and noted it was a mixed bag.

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MERTF voted 5-2 to recommend that the town council research funding mechanisms to dredge the canals. MERTF unanimously voted to support the dune planting project. MERTF unanimously recommended that the town remind property owners to remove Australian Pines and category one invasive plants from their property. Chair Nusbaum described the Mulholland Stewardship Award and invited the community to go to the town's website to complete an application.
Chris Riedel King, Chair of the Anchorage Advisory Committee (AAC), noted that canals were a crossover issue with MERTF. She distributed a recap of the Cruiser's Appreciation Day and summarized the highlights. She thanked everyone for their support. She stated the AAC was reconciling all the different documents regarding their responsibilities.

VIII. PRESENTATION

A. Wave Mitigation Wall

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

Ms. Fountain introduced herself and Austin Wise. They utilized PowerPoint for the presentation. Slides included Background and Context, Sea Level Rise, Historic Storms within 50 Miles, Size, Surge Levels, Regulatory Framework, Wave Mitigation Strategies, Benefits for Public and Private Stakeholders, Real-World Examples, Cost, Maintenance and Funding, Recommendations and Next Steps. Ms. Fountain reviewed how she got the flood maps changed with FEMA (Federal Emergency Management Agency). Town Attorney Stuparich thought that impact fees could be used for funding, but she would defer to the study parameters. Ms. Fountain noted that gaps in the wall did not concern her and they would design around property owners who did not want the wall. She stated the next step would be a study and she would prepare a scope. Council members reached consent for Ms. Fountain to proceed

IX. APPROVAL OF MINUTES

A. Special Town Council - April 18, 2025

Council Member King moved to approve the minutes, seconded by Council Member Woodson.
The motion carried unanimously.

X. CONSENT AGENDA

Council Member Safford moved to approve the consent agenda, seconded by Council Member Woodson.
The motion carried unanimously.

A. Resolutions 25-125 through 25-128; Extension of Local Emergency - Hurrican Ian

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT

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

Council Member Safford moved to approve the resolution, seconded by Council Member Woodson.
The motion carried unanimously.

B. Resolutions 25-129 through 25-132; Extension of Local Emergency - Hurrican Idalia

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

Council Member Safford moved to approve the resolution, seconded by Council Member Woodson.
The motion carried unanimously.

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

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

Council Member Safford moved to approve the resolution, seconded by Council Member Woodson.
The motion carried unanimously.

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

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

AN EFFECTIVE DATE AND A TERMINATION DATE.

Council Member Safford moved to approve the resolution, seconded by Council Member Woodson.
The motion carried unanimously.

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

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

Council Member Safford moved to approve the resolution, seconded by Council Member Woodson.
The motion carried unanimously.

XI. ITEMS REMOVED FROM CONSENT AGENDA

XII. PUBLIC HEARINGS

Town Attorney Stuparich explained the quasi-judicial procedures. Town Clerk Baker confirmed that all agenda items were properly advertised and noticed. She swore in those providing testimony. She clarified that there was an additional public hearing for a small amendment that was legislative in nature, so discussions were more robust.

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

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

ORDINANCE TITLE:
AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REZONING OF PROPERTY LOCATED AT 1011 THIRD STREET, FORT MYERS BEACH, FLORIDA (STRAP NUMBER 24-46-23-W3-00202.0060) FROM DOWNTOWN TO RESIDENTIAL PLANNED DEVELOPMENT (RPD) WITH THREE DEVIATIONS: 1) REQUEST TO APPLY PROPERTY DEVELOPMENT REGULATIONS FOR THE DOWNTOWN ZONING DISTRICT, RATHER THAN THE RESIDENTIAL MULTI-FAMILY STANDARDS IN SEC. 34-943 REQUIRING USE OF THE RM DEVELOPMENT REGULATIONS, 2) REDUCTION OF THE REQUIRED 5-FOOT SIDE YARD SETBACKS TO ALLOW FOR DEVELOPMENT ON THE EASTERN PROPERTY LINE and 3) REQUESTING A FLOOR AREA

RATIO (FAR) OF 1.7, AN INCREASE OVER THE 1.0 FAR ALLOWED IN SEC. 34-675(C)(3); PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance. The property owner confirmed receipt of the agenda and background materials. Ex parte communications: Council Member Safford was familiar with the property and had a conversation with Mr. Markman, Council Member Woodson knows the property and Mayor Allers is familiar with the property. No disclosures from Council Member King and Vice Mayor Atterholt.

Community Development Senior Planner Jason Smalley reviewed the background of the request and the deviations as stated on the blue sheet. Planner Matt Noble represented the applicant and indicated the adjacent property had a FAR (Floor Area Ratio) of 1.8, so 1.7 was in character with the area. The property was designed consistent with the downtown zoning district and offered better water management on the site. A detention pond and vaulting would be added to the site. Mr. Noble described his qualifications as an expert in his field.

Vice Mayor Atterholt moved to accept Mr. Noble as an expert in his field, seconded by Council Member Safford. The motion carried unanimously.

No public comment.

Council Member King moved to approve the ordinance based on staff recommendations and conditions, seconded by Mayor Allers.

The motion carried unanimously by roll call vote.

B. Ordinance 25-04 ARCHES RESORT CPD

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

ORDINANCE TITLE:

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE REZONING OF 4.98 ACRES OF PROPERTY MORE SPECIFICALLY DESCRIBED HEREIN FROM COMMERCIAL MARINA (2 PARCELS), RESIDENTIAL CONSERVATION (5 PARCELS), COMMERCIAL OFFICE (1 PARCEL) AND DOWNTOWN (2 PARCELS) TO A COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, TO ALLOW A MIXED-USE DEVELOPMENT INCLUDING 263 LODGING UNITS, COMMERCIAL/ RETAIL SPACE AND PUBLIC OPEN SPACE, MORE SPECIFICALLY DESCRIBED AS 436, 441, 445, 450 HARBOR COURT; 435 AND 438 BONITA STREET; 935 AND 939 THIRD STREET AND 401 OLD SAN

CARLOS BLVD , ALSO IDENTIFIED AS THE FOLLOWING STRAP NUMBERS: 24-46-23-W3-00027.0000; 24-26-23-W3-00026.0020, 24-46-23-W3-0030B.0200, 24-46-23-W3-0030B.0190, 24-46-23-W3-0030C.0060,24-46-23- W3-0030C.0040, 24-46-23-W3-0030A.0110, 24-46-23-W3-0030A.0030, 24-46-23- W3-0030A.0020, 24-46-23-W3-0030A.0010 FORT MYERS BEACH, INCLUDING DEVIATIONS FOR HEIGHT, SETBACKS, HOTEL UNITS, PARKING, LANDSCAPING AND ACCESS; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance. Ex parte communications: Council Member Safford talked with Mr. Freeland and the Neighborhood Company, received emails for and against the project and had a site visit, Council Member Woodson had a couple of calls and a meeting with Mr. Freeland, met with the neighbors, participated in a site call at Mr. Mosteiro's home and she lives in the neighborhood, Vice Mayor Atterholt visited Mr. Mosteiro at his home, had a meeting with the applicant, the Neighborhood Company and received emails for and against, Council Member King met with the applicant, a couple of the neighbors and received emails for and against and Mayor Allers met with the Neighborhood Company and the applicant, met with Mr. Mosteiro at his home, received emails for and against and spent time walking around the neighborhood.

Attorney Megan Strayhorn represented the applicant and stated she received the agenda and background materials. Patrick Vanasse, Ken Gallander and Ted Treesh will testify as experts.

Community Development Principal Planner Judith Frankel noted there were two applications - the Commercial Planned Development (CPD) and the comprehensive plan amendment. She provided a brief overview of the process. She indicated the CPD would be heard first, but the project could not proceed if the comprehensive plan amendment was not approved. She said the CPD came first, so the council could see what the change would look like. She reviewed the background of the request as stated on the blue sheet. The LPA voted unanimously for approval with conditions. Principal Planner Frankel read the deviations. Staff found that the deviations did not meet the criteria and recommended denial of the application because of expected neighborhood intrusion and intense use.

Attorney Strayhorn utilized PowerPoint for the presentation. Slides included Subject Property, Aerial, Existing and Proposed Future Land Use Maps, Background and Public Input & Public Record.

Council Member Woodson moved to include all the items as part of the record, seconded by Vice Mayor Atterholt.

The motion carried unanimously.

The presentation continued with the Basis of Review, CPD Rezoning Request, CPD Presentation, Updates Since LPA, Revised Master Concept Plan, Drainage Concerns, Pre-Ian Subject Property, Illustrative Master Plan, Resort from the Water, Aerial of the Resort, Building A, Open Air Market,

Building B, New Roadway for the Entrance, Linear Park and Memorial Garden, Public Promenade, Ferry Condition and discussion of separate agreement, Ferry Terminal Area, Mid-Point of Promenade, Chapel, Building E, Landscape by Pool, View from Third Street, View from Harbor Court, View from the Bridge, Public Benefits/Special Benefits, Key Points, Comprehensive Plan Consistency and Findings and Conclusions.

Public comment:

Marilyn Anderson, resident, commented on the drainage issue, noise concerns, add a privacy screen along the rooftop lounge in Building A, Building B was too big and too close to the neighbors, push back the railing on the sundeck and enclose the back side of the parking garage. Build a new wall along Arches Way, fix the angle of Arches Way Road and stop the ambient music at 9:00 p.m.

Chris Mosteiro, resident, distributed a letter regarding drainage issues to council members and asked that it be added to the record. The Freelands have not maintained the drains in perpetuity like they were supposed to. He was concerned about noise on the Sunset deck because it did not have a buffer.

Phillip Teal, resident, was concerned about the entrance from Harbor Court and Bonita Street. They did not want dead-end streets because big trucks could not make U-turns. He noted they could build a roundabout connecting Bonita Street to Harbor Court. He illustrated how that could work.

Leah Greg, resident, discussed how the density statistics could be manipulated. She thought every public benefit was a revenue generator.

Her points of contention were drainage, gates at the entrance and the rooftop bar was not a public benefit. She asked the council to negotiate because they were almost there.

Bill Veach, resident, liked the project, but did not like the commercial intrusion into residential neighborhoods. He was concerned about the phases and noted that the eventual buffer would be used for construction vehicles that could go on for decades. He suggested they permit one phase at a time. He felt the timing, scope and phasing were issues and the ferry was not a public benefit.

Tom Torgerson, resident, commented that developers talked about getting what Margaritaville got and more, but they wanted to give less or nothing back. He applauded the Arches project and thought it was good for the island. It was a unique project in a unique location. He thought there was still room for more negotiations. He was concerned with the phasing because it was so big.

Robin Atwood, resident, was concerned about the noise carrying across the canal. She described their quiet evenings in a quiet neighborhood and said she did not want pool parties. She described people looking into their lives and did not like that. The building should be lower. She described construction trucks and not having a pleasant life.

Tim Shadle, resident, commented that the project was massive and intrusive and they would lose the marina barns. He described the loss of wet slips and

dry boat storage.
Public comment closed.
Attorney Strayhorn stated they were aware of the drainage issues and an engineer would provide a drainage plan. She addressed the gates and said they would do whatever the council suggested. Mr. Vanasse explained the drainage issues and noted that Moss Marina was the highest point in the neighborhood. He said it was a complex situation and they would do their part to mitigate flooding. He addressed the comp plan amendment and said they were within their right. He explained why the proposed map change was consistent with the comp plan. Mayor Allers stated that drainage was a major problem and constantly flooded. A substantial public benefit would be to alleviate the flooding, which had to be addressed. Mr. Vanasse responded that they would provide a drainage outfall on their property. Mayor Allers said one of the two properties on Third Street could potentially solve the drainage issue. He wants to eliminate the phases, fix the drainage issue and provide a park that could be enjoyed immediately. That would move the needle for him to send it to a second hearing. Mr. Vanasse did not think negotiations at the last hour were consistent with the spirit of how CPDs should be assessed.
He felt what they provided was a significant benefit. He stated they did not own the properties on Third Street and could not be asked to do something not on their property.
Vice Mayor Atterholt clarified that the wet boat slips would increase. Attorney Strayhorn stated that drainage was the council's primary focus and asked that the town staff work with them to figure out something. She indicated that a lot of the drainage issues were because of the lack of infrastructure, and not necessarily due to Moss Marina. Mr. Vanasse explained that the town asked Moss Marina to put in drainage to direct the water towards the back bay, but it did not work due to the elevation. Attorney Strayhorn reviewed the six phases of the project. Mr. Freeland stated that the phasing was for flexibility and thought some phases could be consolidated. Public comment requests were addressed. An additional buffer will be added to the Sunset Terrace to prevent people from looking into residential homes. Council Member Safford was not a fan of the music playing until midnight and suggested ending at 10:00 p.m. Mr. Freeland suggested that the hours be consistent with the businesses on Old San Carlos.
Council Member Woodson addressed the roundabout idea from Mr. Teal. At the minimum, she wanted to see gates at the end of Bonita, Third and Harbor Court with signs indicating they were dead ends. She did not want a park on Third Street. Mr. Gallander discussed adding gates and a hammerhead configuration so vehicles could turn around.
Hours of operation were discussed. Emergency Services & Compliance Director Thomas Yozzo said that the ordinances follow Florida statutes for alcoholic beverages, which are 7:00 a.m. to 2:00 a.m.; however, the town's noise ordinances are in effect before 2:00 a.m. Mr. Freeland said he would restrict the music on the backside of the bodega/restaurant. All the open

decks facing residential neighborhoods would have the same restriction.
Mr. Vanasse stated they would offer valet parking and self-parking. He thought a gate on Harbor Court was a good idea and wanted all the traffic to drive through the resort and exit on Arches Way. Council Member Safford asked about offering a discount to residents. Mr. Freeland was not sure, but they would research it.
Principal Planner Frankel read the findings, conclusions and conditions. A discussion was held regarding the definition of ambient and amplified sound. Director Yozzo replied that the town enforced decibel levels.
Mayor Allers felt there were holes in their basket of benefits, but he supported sending it to a second hearing. Vice Mayor Atterholt thought the project did a good job of opening the bayfront to the public and commended them for coming back with a more modest proposal. Council Member Woodson felt they could get to a good ending and supported it.

Vice Mayor Atterholt moved to approve the ordinance based on conditions that have been identified in the staff report and the adoption of the comprehensive plan amendment proposed in Ordinance 25-04 at the time of approval and send it to a second reading on June 2, 2025, at 9:00 a.m., seconded by Council Member Woodson.
The motion carried unanimously by roll call vote.

C. Ordinance 25-05, Comprehensive Plan Amendment - Marina and Mixed Residential to Pedestrian Commercial FLU ARCHES RESORT

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

ORDINANCE TITLE:
AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING THE TOWN OF FORT MYERS BEACH ADOPTED FUTURE LAND USE MAP DATED JANUARY 1, 1999, CONTAINED IN THE TOWN'S COMPREHENSIVE PLAN, FOR PROPERTIES LOCATED AT 450, 445, 441, & 436 HARBOR COURT, 435 & 438 BONITA STREET, FORT MYERS BEACH FLORIDA, ALSO IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00027.0000; 24-26-23-W3-00026.0020, 24-46-23-W3-0030B.0200, 24-46-23-W3-0030B.0190, 24-46-23-W3-0030C.0060,24-46-23-W3-0030C.0040, 24-46-23-W3-0030A.0110, FORT MYERS BEACH, AMENDING THE FUTURE LAND USE MAP FOR THESE PARCELS FROM MIXED RESIDENTIAL (4PARCELS) AND MARINA (2 PARCELS) TO PEDESTRIAN COMMERCIAL; PROVIDING
FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance. Principal Planner Frankel reviewed the background of the request as stated on the blue sheet. The LPA unanimously recommended approval. She read the findings and conclusions. Staff recommended denial; however, if the town council finds that the concurrent CPD application adequately demonstrates that the proposed development is "clearly in the public interest, not just in the private interest of a petitioning landowner," approval could be granted.
Attorney Strayhorn reviewed the Background, Basis of Review, Public Input & Public Record and CPA Request. Mr. Vanasse continued with the Existing and Proposed Future Land Use Map, Consistency with Comp Plan and Downtown Core Vision and Findings & Conclusion.
Public comment:
Chris Mosteiro, resident, thanked the applicant for listening to residents. He discussed an existing land survey on page 447 that showed how low the neighborhood was compared to the marina. He said the neighborhood needed drains in addition to outfalls.
Leah Greg, resident, agreed with Mr. Mosteiro and recommended that the council member visit the neighborhood. She appreciated the effort to add signs, but questioned whether anyone would pay attention. She felt the traffic would increase exponentially and be a safety risk if public access were allowed. She discussed the flooding and had to figure out how to pay for the drainage.
Public comment closed.

Council Member King moved to approve the ordinance based on the findings of fact that the planner made and the testimony from the applicant's planner and send it to a second hearing on June 2, 2025, at 9:00 a.m., seconded by Council Member Woodson.
The motion carried unanimously by roll call vote.

D. Lien Reduction Request - 8124 Estero Blvd.

Lien Reduction Request by Noel Davies, Esquire Regarding Property Located at 8124 Estero Blvd, Fort Myers Beach, Florida

Town Attorney Stuparich reported this item has been resolved.

E. Request for Rehearing and Reconsideration of Denial of Appeal of 213191 Widgeon Terrace

Request for Rehearing and Reconsideration of Denial of Appeal of 213191 Widgeon Terrace – Administrative Appeal of Building Permit # 24233 / 23477 – April 21, 2025 Agenda Item XII, B. (Construction of Swimming Pool), Pursuant to Town Code Sec. 34-93.

Town Attorney Stuparich explained that there was a mix-up in noticing, the building official was not present at the hearing and there were a couple of issues with the agenda packet. She was not opposed to the rehearing and thought it was the correct thing to do.
Attorney Robert Hartsell agreed there were mix-ups and he requested a rehearing. Town Attorney Stuparich noted the rehearing was tentatively

scheduled for May 19, 2025, if granted.
Attorney Robert Burandt represented the property owner and noted that they opposed the denial.

Mayor Allers moved to grant the request for the rehearing on May 19, 2025, at 9:00 a.m. and reconsideration of the denial of the appeal, seconded by Council Member King.
The motion carried unanimously by roll call vote.

XIII. ADMINISTRATIVE AGENDA

A. Resolution 25-121, Tier 1 Change Order #1

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AND AUTHORIZING THE TOWN MANAGER TO EXECUTE CHANGE ORDER #1 TO CONTRACT ITB-23-18-UT BETWEEN THE TOWN OF FORT MYERS BEACH AND ANDREW SITEWORK LLC.; INCREASING THE CONTRACT AMOUNT BY $757,545.41; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Operations & Compliance Director Frankie Kropacek explained that streets would be added to the contract.

Council Member Safford moved to approve the resolution, seconded by Council Member King.
The motion carried unanimously by roll call vote.

B. Resolution 25-145; Approving Town Manager Employment Agreement

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

Mayor Allers read the title of the resolution. Council Member Woodson stated they had reached a decision and she reviewed the highlights of the negotiations as stated in Exhibit A.

Mayor Allers moved to approve the resolution, seconded by Council Member King.
The motion carried unanimously by roll call vote.

XIV. FINAL PUBLIC COMMENT

No public comment.

XV. TOWN MANAGER'S ITEMS

Town Manager Hyatt indicated strategic planning would be on Wednesday and

DRAFT

Thursday this week. The town was off probation as of November 18, 2025, and an audit will be conducted to get back into the CRS (Community Rating System) program. Mr. McKanney will start on May 19, 2025, and Town Manager Hyatt will step into a support role for the next two weeks. There is no M&P meeting in May.

XVI. TOWN ATTORNEY'S ITEMS

Town Attorney Stuparich clarified that Mr. McKanney would attend the May 19, 2025, meeting. She thanked everyone for their patience with the lengthy meetings and explained why they were necessary. She indicated that the Magistrate issued an order of violation for La Ola and gave them until March 1 to come into compliance. La Ola appealed the decision to the circuit court and the appellant's brief was recently filed. The town was in the process of presenting its brief.

XVII. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Safford asked whether the town could designate two parking spots for 10-minute maximum parking to allow for takeout orders. Town Manager Hyatt asked him to identify a location. Council Member Safford suggested that they be under the bridge next to Harbor House. Director Yozzo noted they would have to create new signs, but the 10-minute parking would not be enforceable.

Mayor Allers asked about using resident parking passes in places other than under the bridge and allowing it year-round. Council Member Safford and Director Yozzo will research where to locate 10-minute parking spots and a consensus was reached to open up resident parking.

Council Member Woodson brought up the September deadline for temporary use permits for RVs and motor homes. She noted they needed to decide soon so that people could make plans. Town Attorney Stuparich will review the ordinance and report at the next meeting.

Vice Mayor Atterholt asked whether they were interested in inviting a Quantum representative to their next M&P. All members agreed.

Mayor Allers asked about designating parking spots for Uber and Lyft drop-offs on Third Street. He received support for adding it to an M&P.

XVIII. ADJOURNMENT

Council Member King moved to adjourn, seconded by Mayor Allers.

The motion carried unanimously.

The meeting was adjourned at 5:08 PM.

DRAFT

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2025-417**

1. **Request:**

Meeting Date: May 19, 2025

Dedication of St Peters Drive (Private Road) to the Town of Fort Myers Beach

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**

4. **Submitter of Information:**

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5. **Background:**
The Town has received a request from Jim Boen, on behalf of the Homeowners' Association in current private possession of St. Peters Drive, to dedicate St. Peters Drive as a public road. Dedication may be accepted and approved via resolution by the town counsel, which will require the Town to articulate a beneficial public purpose in accepting responsibility for the road. Acceptance of the dedication may also be required in compliance with Fl. Stat. 95.361, independent of any voluntary resolution, if the Homeowners' Association presents sufficient evidence that the Town has been regularly maintaining and repairing the road for the last seven years.

Attachments:
1. Memorandum of Private Road Dedication
2. 05092025_Saint Peters Drive
3. Sketch of landscape islands
4. Minutes of HOA
5. Legal description of road

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

nancy stuparich, Town Attorney	Created/Initiated - 5/9/2025
Jeff Hauge, Community Services Director	Approved - 5/13/2025
nancy stuparich, Town Attorney	Approved - 5/13/2025
Amy Baker, Town Clerk	Approved - 5/13/2025
Andy Hyatt, Town Manager	Final Approval - 5/13/2025

VOSE LAW FIRM LLP
ATTORNEYS & COUNSELORS AT LAW

M E M O R A N D U M

TO: **Mayor, Vice Mayor and Town Council Members, Town of Fort Myers Beach**
FROM: **Town Attorneys Nancy Stuparich, Esq., and Taylor Simonds, Esq.**
DATE: **May 2, 2025**
SUBJECT: **Dedication of Private Roads for Public Use**

Background

This memorandum provides guidance for understanding statutory processes for dedication of a private road for use by the public. The analysis assumes that the roadway at issue is indeed owned by a private individuals or a private entity. Legal interest in the roadway would need to be verified by completion of a title examination. In addition, dedication of a private road for public use is permitted at common law if a private individual or private entity intentionally offers the road to a governing body for public use, and if such offer is formally accepted for use by the governing body for the benefit of the public. Acceptance of a private roadway for public use must achieve a public purpose for the benefit of the public, and not a mere convenience to private owners.

I. Dedication by Recording

At common law, a private individual or entity can dedicate a roadway following confirmation of ownership by the recording of a right-of-way deed granting public rights of access and use of a private road or by recording an executed plat, which specifically identifies roads for public use. Either type of recording must be with the consent and signature of all individuals and entities holding title over the subject road. Recording such a deed or plat operates as an offer which the public *may,* but is not required to accept—under Section 177.081, Florida Statutes, there is no obligation for any governing body to perform acts of construction or maintenance upon dedicated areas unless such obligation is voluntarily assumed by the governing body. The governmental entity may accept such an offer by resolution. Alternatively, and even without formal acceptance, such voluntarily assumption may also be presumed under the following statutory circumstances.

II. Statutory Dedication

Section 95.361, Florida Statutes, provides that a private road may be deemed "dedicated to the public" whether or not a formal dedication occurs if the following criteria are met:

(1) If the road was (a) **constructed by a governmental entity** and (b) has been **maintained or repaired continuously and uninterruptedly** by the county, municipality, or the Department of Transportation (c) for **4 years**; or

(2) If the road was (a) **constructed by a nongovernmental entity** or it **cannot be determined** who constructed the road, and (b) has been **regularly maintained or repaired** by a county, municipality, or Department of Transportation (c) for **7 years**.

In other words, a significant pattern of maintenance—voluntarily provided by a governmental entity—is necessary to demonstrate that the government has taken ownership of the road for purposes of public dedication.

Though not required, if a government entity files a certified map in the office of the clerk of the circuit court of the county where the road is located, which shows the lands and recites that the road has been vested in a government entity in accordance with the above criteria (or by any other means of acquisition), such filing operates as evidence of government ownership of the land in the absence of a formal conveyance of title. The map must be certified by the following persons, respectively, based on the circumstances: (a) the secretary of the Department of Transportation, or the secretary's designee, if the road is a road in the State Highway System or State Park Road System; (b) the chair and clerk of the board of county commissioners of the county, if the road is a county road; or (c) the mayor and clerk of the municipality, if the road is a municipal road or street.

II. Proof of Maintenance

The standard for proving a pattern of maintenance is relatively high, and "[t]he test is not whether the maintenance is proper, or frequent, or thorough, or open and obvious [...] [but] whether the maintenance was appropriate to the circumstances." Campbell v. Dep't of Transportation, 267 So. 3d 541, 546 (Fla. 4th DCA 2019).

For example, the 1st DCA declined to grant summary judgment determining that sufficient maintenance had occurred to demonstrate a public dedication of a road under the following circumstances: (1) a work order listed the road as maintained by the county for grading, (2) an affidavit by the superintendent of the County Road and Bridge Department stated the county had maintained the road for twenty years, (3) the road was designated with a green road sign, indicating county-maintained roads, and (4) road matrices for the county had listed the road as an unpaved county road for the years 1997, 2001, and 2008. Mathers v. Wakulla Cnty., 219 So. 3d 140 (Fla. 1st DCA 2017).

In sum, a public dedication of a road requires the party seeking dedication to demonstrate that a county or municipality has been taking voluntary, consistent responsibility for maintenance of the road over a period of either four years (for roads constructed by a governmental entity) or seven years (for a non-governmental entity). The subjectivity of this requirement and the limited availability of case law defining what amounts to sufficient maintenance creates a high bar for private entities to reach in order to require a government to take control and ownership over a road. However, this challenge is only relevant if such government is unwilling to take ownership over the road and the parties lack significant recorded evidence of maintenance.

As with all government expenditures, a public purpose must be identified in support of a decision to take over the maintenance and control of a private road.

Otherwise, many owners of private roads will look to a governing entity to avoid future maintenance expenses by shifting this expense to the public at large. Acceptance of a private road to aid the public in travel or for emergency vehicle or other needed governmental access are two possible considerations for establishment of a public purpose. A governing body should include findings appropriate under the circumstances and a public purpose in support of a decision to accept a private roadway for public use and maintenance.

Saint Peters Drive

Good Morning Town Council:

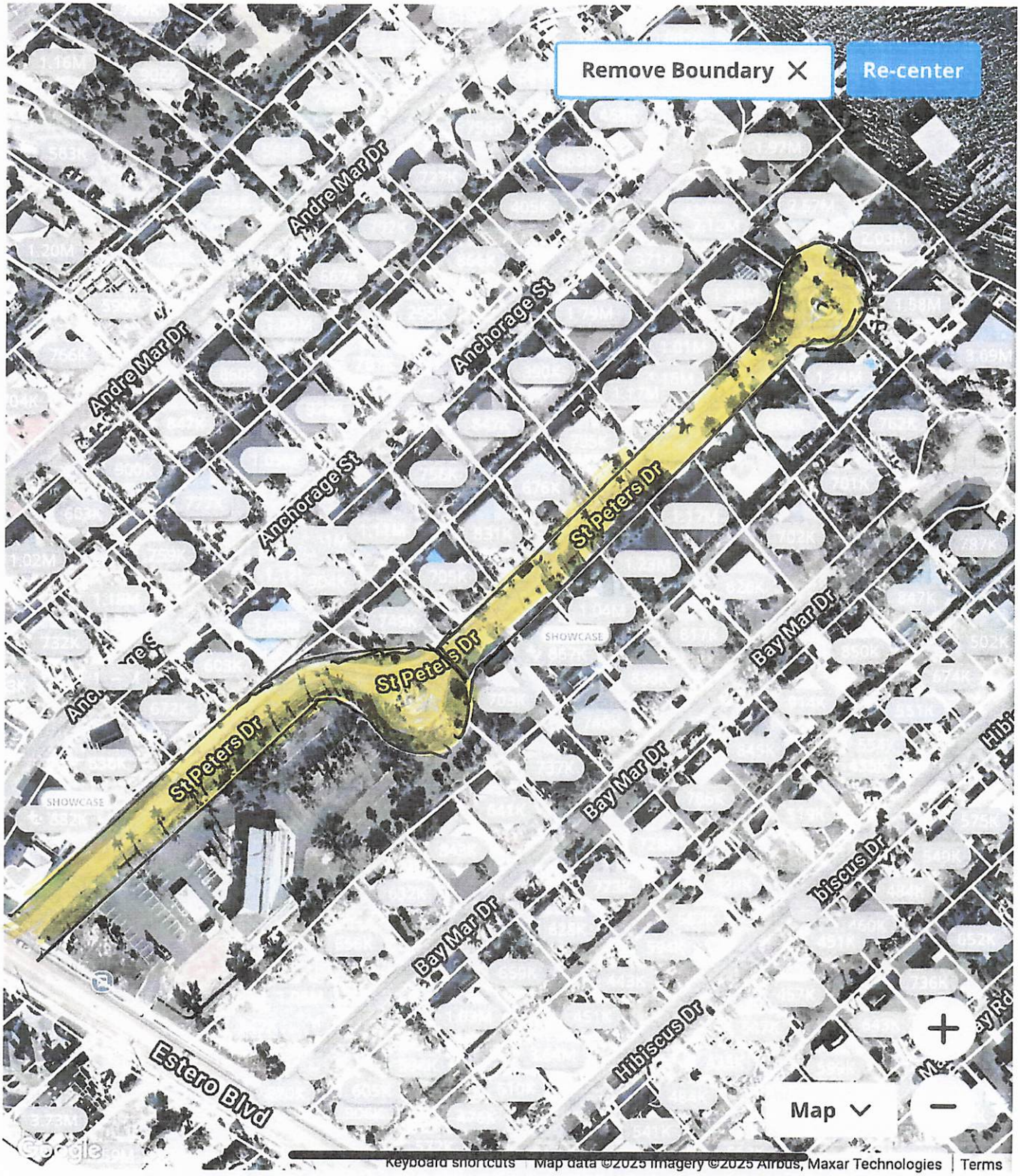
My name is James Boan. I reside at 21067 Saint Peters Drive in the Mantazas Pointe subdivision. Mantazas Pointe consists of 19 single family homes on Saint Peters Drive. I'm on the Homeowners Association Board. At the annual meeting this year, the members voted to authorize me to approach the Town about taking ownership and jurisdiction of Saint Peters Drive. After the meeting, I sent Vice-Mayor Atterholt a note asking for direction on this matter. He suggested I come before the Council to make the request

Since I purchased my home there have been two opinions concerning the status of the road. One position was the road was public and the other that it is private. The later position is based on when Lee County approved the plat of Subdivision. The road was intended to have a "gate" and therefore had to be privately owned. Subsequently, either the newly incorporated town or the fire department denied the installation of the gate. Nothing more was done, thus it remains private. The other opinion is that it must be public because it is open to the public, the town has repaved/repaired it, and has, on occasions, regraded the drainage swale in the right of way. Either way, nothing was done to investigate the status quo and the residents didn't think much about it.

Then came Ian, Helene and Milton. It was clear that there were drainage issues that needed to be addressed. One of the issues was caused by some of the residents on Anchorage that got a bobcat and excavated a "pit" in the right of way. Last April, Frankie Kropacek met with some of the residents and myself. We discussed the drainage issues and I asked him about the status of ownership of the road. Under the tier 1grant, the town regraded the right of way coming off of Estero and the swale along the north side of the home. The swale around the homes on the cul-de-sac was also regraded . Frankie has confirmed that the road is currently privately owned.

In conclusion, Saint Peters drive has been continuously open to the public and the road and the right of way have had maintenance provided by the town. The homeowners contribute to the towns' road maintenance program through their real estate taxes and respectfully request the the town consider accepting ownership of the road and right of way.

SAINT PETERS



SAINT PETERS ②

① THE HOA WOULD LIKE TO MAINTAIN THE TWO LANDSCAPED ISLANDS

MINUTES OF THE 2025 ANNUAL MEETING

MATANZAS POINTE HOMEOWNERS ASSOCATION

ROLL CALL

Roll call was taken by President Matt Fancher and a quorum was declared. Those in attendance were Greg Boyd, Madeline Boyd, Dan Schumacher, Matt Fancher, Landon Doggett, Louis Monaco, Dan and Kristen Soden, James Boan, David Pistilli and Robert Brownlee. Proxies were held for Gaylord Hendrix.

MINUTES OF THE PREVIOUS MEETING

Minutes of the previous meeting were distributed for review. It was moved by James Boan and seconded by Landon Doggett that the minutes be accepted as written. Motion carried unanimously.

REPORTS OF OFFICERS

Treasurer's Report: Dan Soden distributed and presented the Treasurer's report. It was noted that our reserves have been depleted given expenses incurred from hurricane Ian as repairs were 2x of revenues from annual dues. Jim Boan moved to accept the Treasurer's Report, Landon Doggett seconded, carried unanimously.

OLD BUSINESS

Paving and Road Update:

Jim Boan, on behalf of MP HOA spoke to the city about the fire hydrant and road. The town has agreed to have the fire hydrant relocated. Jim reported that the city has asked Andrew's site work to move the fire hydrant to the center of the circle as part of their ongoing work on the island. Frankie Kropacek (city staff) said the relocation will be completed as part of Andrew's Phase II work on the beach; they are currently a few months away from completing Phase I. The timeline is undetermined. Jim also reported that in discussions with Town Staff and Vice Mayor Jim Atterholt, the town has indicated support for de-privatizing and taking ownership of St. Peters Drive. This would be very beneficial to all residents as the cost to repave the street will be significant. Greg Boyd requested that we understand any conditions which may need to be met by the town, such as required widening, drainage inputs etc. It is requested that any questions/ concerns/ comments on this topic be sent to the HOA email address following distribution of the minutes. We will compile all responses and provide Jim for follow up with the town.

Following a majority vote of all present indicating support for the town to take over the road, Madeline Boyd made a motion that all are in agreement to move forward with these next steps, which carried unanimously.

Action Item: ***Please send all questions and comments on the change of road ownership to the town to:*** *matanzaspointHOA1@gmail.com* ***by March 31, 2025th.***

East Circle:

Motion unanimously carried that no action will be taken regarding re-landscaping the East Circle until Andrews makes necessary repairs and the fire hydrant is relocated.

Mailboxes:

Motion carried unanimously to take no action regarding the sticky key locks in the mailboxes. It was suggested that all users use WD-40 on the locks for easier functionality. Sanding down the edges of the new keys to reduce burrs may help as well.

Drainage Swale:

Following the inconsistent grade work and damage caused by Andrews' sitework on the swale, it was recommended that no further action be taken on the swale with the city. Mark Ashton, Town Staff stated that the town will not undertake any efforts to maintain it. It was agreed upon that all owners are responsible for maintaining, clearing and cleaning the portion of the swale on their property. Motion carried unanimously.

Derelict Properties:

20188: Strong concerns were raised by all present regarding the condition of 21088 St Peters Drive, and that action is needed to address this with the owners. The deteriorating condition of the house and yard is potentially affecting the ability to sell property on the street, is a health and safety hazard, and has been untouched since Hurricane Ian with no visible signs of progress to repair to demolish.

21084: Concerns were also expressed regarding the continued storage of heavy equipment (not used on the jobsite) by the contractors at 21084 Saint Peters Drive. No action at this time given the ongoing work at the house with deference toward rebuilding, but it is documented for a second time that the front yard is being used for storage by the contractor. Completion of construction should resolve this issue.

A motion offered by Landon Doggett and seconded by Greg Boyd passed unanimously that a letter will be sent to the owners of 21088 St Peters Drive requesting an update and timeline on the demolition or rebuild of the property.

Action Item: HOA will send above communication to property owners at 21088 St. Peters Drive.

NEW BUSINESS

HOA Bylaws Update: It is understood that our Deed Restrictions were last redone by an attorney more than 10 years ago and some provisions need updating as they have become obsolete or impossible to fulfill due to changing conditions (example: timeline to build a new home). As a first step toward updating the following action will be taken:

***Action Item*: HOA Secretary will send copy of the most current "DEED OF RESTRICTION" to all residents along with the meeting minutes. All residents are asked to review and submit any comments, suggested changes or questions to the HOA email matanzaspointehoa1@gmail.com by March 31, 2025. Those will be compiled and reviewed by the board to determine the next steps.**

Joanne Klempner made a motion to approve the above action, unanimously carried by all.

DUES

Given the increased costs incurred by Hurricane Ian, a motion unanimously carried to increase the dues to $500.00 per year to rebuild our reserves back to pre-Ian levels over a multi-year period. Dues amounts will be revisited each year at the annual meeting and will be increased or decreased as needed based on expenses.

***Action Item*: HOA will send Dues Notification to all Residents in the Amount of $500.00, payable by April 30th. Dues can be dropped off to Dan Soden at 21072 St. Peters or mailed to the HOA PO Box at the address below.**

Matanzas Pointe HOA
PO BOX 6604
FMB 33932

ELECTION OF OFFICERS:

Landon Doggett nominated Robert Brownlee to assume the board member at large position, previously held by Joyce Schumaker. Robert accepted the nomination. All other members agreed to serve in their current roles.

The slate of officers for 2024, agreed to by all present, is:

Matt Fancher, President

Jim Boan, Vice President

Dan Soden, Treasurer

Joanne Doyle, Secretary,

Robert Brownlee, Board Member at large.

Landon Doggett moved to adjourn the meeting at 6:50PM, approved by all.

2025 DUES NOTIFICATION

MATANZAS POINT HOMEOWNERS' ASSOCIATION

Due to higher expenses following Hurricane Ian we have raised our annual dues to $500 per year.

Dues must be paid by April 30th 2025

Please mail your dues to:

Matanzas Point HOA, PO Box 6604, Fort Myers Beach FL 33932

You can also drop your check at Dan Soden's home@ 21072 St Peters. Please leave securely at the house or deliver personally as Dan may be traveling.

Thank you in advance for your timely payment.

DEED OF RESTRICTIONS

WHEREAS, Grantor is the owner of the property described in the attached exhibits and it is the desire of the Grantor that uniform restrictions upon usage and type of building and development on said lots be enforced, and that such lots shall be conveyed to purchasers for the proper usages and purposes set out herein:

NOW THEREFORE, the said Grantor does establish the following restrictions on all lots contained in that certain real property. Each and every lot shall be subject to the following restrictions for the next ensuing twenty (20) years from date of recording, 1983. These restrictions and covenants are deemed to be considered as an addition to any restrictions enacted by City, County or State Zoning Boards or Authorities.

1. No lot shall be used except for residential purposes and no building shall be erected, altered, placed or permitted to remain on any lot other than one single family dwelling on pilings not to exceed two and one-half (2 ½) stories in height with an enclosed garage under said building.

2. No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure shall have been approved by an architectural control committee as to quality of workmanship and as to location with respect to topography. Finish floor elevations shall not be less than + 12.5 NGVD (National Geodetic Vertical Datum). No fence or wall shall be erected, placed or altered on any lot nearer to any street than the rear building line unless similarly approved.

3. The architectural control committee shall be composed of three (3) member who reside locally. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee, nor any designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of a majority of the lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers or duties. The Developer or his designated representative shall remain a member of said committee until all lots are sold.

4. The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within 30 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

5. All buildings shall be required to be completed with one year of issuance of building permit and all construction shall be of new top grade material.

6. No dwelling shall be permitted on any lot containing less than 1400 square feet of floor space on one level, excluding screened porches and garages. All building shall be set back a minimum of 25 feet from the street right-of-way. No building or structure of any kind, including eave over-hangs; shall be built within 10 feet of any side lot line or 20 feet from rear lot line.

7. All changes in the elevations of the lands incident to construction shall be made in a manner which will not interfere with the drainage or otherwise cause undue hardship to adjoining property.

8. Easements for installations and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear and side five (5) feet of each lot, except bay lots, where said easement will not exist along the bay.

9. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

10. No storage or any material or object shall be permitted beneath any home constructed upon pier, piling, or stilts unless with an enclosed garage so utilizing such underlying areas. This restriction includes automobiles, trucks, boats and recreational vehicles as well as lawnmowers. No commercial vehicles shall be maintained or kept on any of the premises, other than those referred to as pick-up trucks not to exceed three-fourths (¾) ton category. Said commercial vehicles to be kept within enclosed garage.

11. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any lot at any time as residence either temporarily or permanently.

12. No lot shall be used for or maintained as a dumping ground for rubbish, trash, or other waste. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

13. No weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon the premises, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon; and in the event that the Grantee herein shall fail or refuse to keep the demised premises free of weeds underbrush, of refuse piles or other unsightly growths or objects, then the Grantor may enter upon the lands and remove the same at the expense of the owner, and such entry shall not be deemed a trespass.

14. Clothes shall not be hung outside the premises in such a manner as to be visible from the street.

15. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept providing that they are not kept, bred or maintained for any commercial purpose and are not to exceed two (2) in number.

16. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

17. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five (5) square feet advertising the property for sale.

18. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of 20 years from the date these covenants are recorded. After which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then record owners of the lots has been recorded agreeing to change said covenants in whole or in part.

19. Enforcement of these covenants shall be by proceedings at law or in equity against any person or persons violating or to recover damages.

20. Invalidation of any one to these covenants by judgement or court order shall in no wise effect any of the other provisions which shall remain in full force and effect.

21. The Grantor herein shall offer the individual Lot Owners an opportunity to form an Association at such time as deemed advisable but no later than the closing of all lots in the subdivision. The minimum annual dues with be not less than $50.00

22. The subdivision shall be known as Matanzas Pointe.

23. A dwelling may be rented no more often than once per month, with a minimum stay of one (1) week. Note that a month is defined specifically as a calendar month. Rentals are further limited to no more than one (1) single family.

HOWELL F. DAVIS & ASSOCIATES, INC.

HFD CONSULTING ENGINEERS AND SURVEYORS

8933 McGREGOR BLVD., FORT MYERS, FL 33907

(813) 481-1331

OR 1695 PG3436

Description of a Parcel of Land
Lying in Section 29, T-46-S, R-25-E
Lee County, Florida
Ingress, Egress and Utility Easement

A tract or parcel of land situated in the State of Florida, County of Lee, Section 29, Township 46 South, Range 25 East, being a part of Lot 58 of Case's Subdivision (recorded in Plat Book 1 at Page 58 of the public records of said Lee County) and further bounded and described as follows:

Starting at the intersection of the northeasterly right-of-way line of Estero Boulevard and the northwesterly line of said Lot 58 of Case's Subdivision; thence N 45° 00' 00" E along said northwesterly line for 608.00 feet; thence S 45° 00' 00" E for 100.07 feet to the point of beginning of the herein described ingress, egress and utility easement; thence continue S 45° 00' 00" E for 2.00 feet; thence S 45° 00' 00" W for 37.52 feet to a point on a curve concave to the southwest having a radius of 60.00 feet and to which point a radial line bears N 09° 18' 57" E; thence southeasterly along said curve through a central angle of 69° 37' 31" for 72.91 feet to a point of cusp with a curve concave to the southeast having a radius of 60.00 feet; thence northeasterly along said curve through a central angle of 56° 03' 32" for 58.70 feet; thence N 85° 00' 00" E for 480.48 feet to the beginning of a curve concave to the southeast having a radius of 70.00 feet; thence northeasterly along said curve through a central angle of 82° 36' 30" for 52.06 feet to a point of reverse curve concave to the southwest having a radius of 55.00 feet; thence northeasterly, northwesterly and southwesterly along said curve through a central angle of 265° 12' 59" for 254.59 feet to a point of reverse curve concave to the northwest having a radius of 70.00 feet; thence southwesterly along said curve through a central angle of 82° 36' 30" for 52.06 feet; thence S 85° 00' 00" W for 493.78 feet to the point of beginning.

Bearings are assumed as N 85° 00' 00" E on the northeasterly line of Lot 58, Case's Subdivision.

BF/LAN

March

Oct 26 1 29 PM '83

RECORDED IN OFFICIAL RECORDS LEE COUNTY, FLORIDA RECORD VERIFIED

CLERK OF CIRCUIT COURT

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2025-407**

1. **Request:**

Meeting Date: May 19, 2025

Appeal of a Building Official Decision to Issue Permits # 24233 / 23477 Related to Construction of an Elevated Swimming Pool at 21391 Widgeon Terrace, Fort Myers Beach

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	Other	Nancy Stuparich, Town Attorney

5. **Background:**

Subsequent to the administrative appeal which was heard on April 21, 2025, a request for a rehearing and reconsideration was timely received from Shai Ozery, Esq. on behalf of Himmelstein Associates, LLC.. As requested by the attorney, a copy of the request for rehearing and reconsideration was provided to Town Council and to the property owner. The Town Attorney has reviewed the request and does not object to the rehearing, which could be scheduled for May 19th, 2025 or another date identified by the Town Council.

Attachments:

1. Notice of Appeal Hearing
2. 12.12.24 - 2nd Renewed Admin Appeal w. Exhibits
3. Town of Fort Myers Beach's Response
4. Exhibit A to the Town's Response (Approval letter for Building Permit 242333)
5. Exhibit B to the Town's Response (Ordinance 24-30)
6. Warranty Deed - Plaisted
7. Declaration of Condominium
8. Sec. 34-86 Administrative Appeals
9. Permit 234477
10. Permit 242333

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Jason Freeman, Deputy Town Clerk / Legislative Liaison	Created/Initiated - 5/7/2025
nancy stuparich, Town Attorney	Approved - 5/12/2025
Amy Baker, Town Clerk	Approved - 5/12/2025
Andy Hyatt, Town Manager	Final Approval - 5/13/2025

From:	Amy Baker
To:	Shai Ozery
Cc:	Robert Burandt; Robert Himmelstein; Nancy Stuparich; Robert Hartsell
Subject:	Notice of Appeal Hearing
Date:	Monday, May 12, 2025 4:17:00 PM
Attachments:	Notice of Appeal Hearing, Himmelstein 21391 Widgeon Ter. 5.19.25.pdf image001.png image002.png image003.png image004.png image005.png image006.png image007.png

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Mr. Ozery,

Please see the attached Notice of Appeal Hearing.

Amy Baker
Town Clerk
Town of Fort Myers Beach
2731 Oak St
Fort Myers Beach, FL 33931
Phone: (239) 765-0202
FMBgov.com

As of January 1, 2024 the Town has implemented online records request. Please consider submitting your request through the portal. **Any requests received via email will be transferred by staff to this portal, with all responses coming from *"Town of Fort Myers Beach Public Records"***

https://fortmyersbeachfl.nextrequest.com/

May 12, 2025

Via Email

Mr. Ozery,

This letter serves as notice that your *Request for Rehearing and Reconsideration of Denial of Appeal of 213191 Widgeon Terrace of Building Permit # 24233 / 23477 – April 21, 2025 Agenda Item XII, B. (Consideration of Swimming Pool), Pursuant to Town Code Sec. 34.93,* was approved by the Fort Myers Beach Town Council at their May 5, 2025 meeting. Your appeal has been scheduled for May 19, 2025.

The agenda will be published prior to the meeting. Once published, a copy of the agenda materials for the May 5th meeting will be available on the Town's website at: https://www.fortmyersbeachfl.gov/209/Meetings-Agendas

Please let me know if you have any questions.

Sincerely,

Amy Baker, Town Clerk

Cc:
Shai Ozery
Robert Hartsell
Himmelstein Associates, LLC
Robert Burandt
Nancy Stuparich
File

Town of Fort Myers Beach

NOTICE OF ADMINISTRATIVE APPEAL with
[SECOND RENEWED] ADMINISTRATIVE APPEAL
BUILDING PERMIT # 242333 / #234477 (213191 Widgeon Terrace)

COME NOW, Appellants, HIMMELSTEIN ASSOCIATES, LLC, ROBERT HIMMELSTEIN, and STEPHANIE HIMMELSTEIN, by and through the undersigned counsel, hereby give notice of Administrative Appeal and files this Administrative Appeal ("**Appeal**") of the Town of Fort Myers Beach Building Permit #242333 / #234477 pursuant to Fort Myers Beach Code Section 34-86 (Appeals from Administrative Action) the building permit and site plan issued to Todd R. Plaisted, Trustee of the Todd R. Plaisted Revocable Trust Agreement ("**Plaisted**" or "**Applicant**"), for 21391 Widgeon Terrace, Fort Myers Beach, Florida ("**Subject Property**") on November 19, 2024, for the construction of an above ground pool and states as follows in support:

1. The Appellants are HIMMELSTEIN ASSOCIATES, LLC, that owns real property with a single-family dwelling at 21381 Widgeon Terrace, Fort Myers Beach, Florida, ROBERT HIMMELSTEIN, and STEPHANIE HIMMELSTEIN who are principles in HIMMELSTEIN ASSOCIATES, LLC, and reside in the residence at 21381 Widgeon Terrace, Fort Myers Beach, Florida ("**Appellants**").

2. The Appellants own the adjacent property and share a common property boundary with the residence at issue in this case located at 21391 Widgeon Terrace, Fort Myers Beach ("Subject Property").

3. Both properties are located in and part of the in the Flamingo Harbour Condominium Association boundaries. Both properties are governed by the Declaration of Condominium documents and the condominium association governance.

4. Both properties (as well as other units in the association) are located on the waterfront and are highly susceptible to flooding and severe weather events.

5. The Appellants (as well as other units in the association) rely on the Town of Fort Myers Beach ("Town") land development code's ("LDC") protections in regards to pervious surfaces to prevent flooding and its concomitant damages to neighboring properties.

6. The property owner of the subject property, Mr. Todd Plaisted ("Plaisted"), applied for and was granted a variance for the construction of an above ground swimming pool on the subject property. On March 4, 2024, the Town granted a variance from side and waterfront setbacks requirement contained in the Town Land Development Code Table 34-3 which mandates that accessory structures including swimming pools associated with a single-family home waterfront lot in the RC zoning district to provide a minimum 10-foot side setback for lots 100 feet wide or greater and a 25-foot setback from the mean high-water line. Appellants have challenged that variance by way of a Writ of Certiorari and the case remains pending before the 20th Judicial Circuit in Lee County under Case No. 24-CA-002551.

7. Plaisted applied for a construction permit from the Town to construct an above ground swimming pool on the subject property. The permit was issued and revoked several times during its approval course. Appellants first discovered and obtained a copy of the Building Permit #242333, issued on September 8, 2024, and subsequently on November 15, 2024 (which relies upon information submitted with #234477 that was issued on July 1, 2024, on July 8, 2024), and files this appeal within 30 days of November 15th, 2024.[1]

8. Appellants have filed an administrative appeal after each issuance of the permit including this "Second Renewed" administrative appeal. Each of these substantive appeals argues that the permit was issued based on flawed survey that erroneously delineates the subject property boundaries into Flamingo Harbour owned property to improperly gain pervious surface to defy the

[1] The subject permit was issued and revoked, and subsequently re-issued no earlier than November 15th, 2024. *See* 11.15.24 and 11.19.24 correspondence from Town of Fort Myers Beach, Town Attorney's Office, attached hereto as composite Exhibit A and the Town of Fort Myers Beach, Permit Package No. 242333, attached hereto as Exhibit B.

pervious surface requirements of the Town's LDC's. This deficiency on impervious surface subjects the neighboring properties to potential threats of floods and poor drainage.

BASIS OF APPEAL

9. Plaisted, owner of the Subject Property and Applicant, is using incorrect property boundaries according to the recorded survey. Specifically, Plaisted is using condominium "common area" land square footage to increase his private lot size square footage in order to improperly and inappropriately decrease his impervious surface calculation sheet, to appear to be less than .67 of their lot size.[2]

10. Common areas of condominium, or "limited common elements," are not individual property of condominium property owners under Florida law. Section 718.108 Florida Statutes. As such, the Applicant is not permitted to use such area, designated clearly as "limited common elements" and thus, common area property as his own private land in order to manufacturer a larger lot size. *See* Generally page 5, Section J of Exhibit C.

11. The original and amended condominium plats[3] ("**Condo. Plat**") states that limited common elements are: "All those lands lying East of the platted unit line and West of the Mean High Tide Line along Estero Bay," which the Applicant has included within his calculation of his own lot size. *Id*. The Applicant has instead represented to the Town, that his private property extends to the Mean High Tide Line, by way of the incorrect and inaccurate survey submitted with the subject Permit Application.

[2] Please note that surveyor, Stephen Shawless is in actual possession of surveyor, Scott Whitaker's survey on auto-CAD and has measured the overall area of the property to be 8,063 feet, and calculates the property at over 71 percent impervious surface ratio.

[3] *See* Composite Exhibit C – Declaration of Condominium of Flamingo Harbour Condominium, OR 1357, P. 1089, and Amended No. 1 Flamingo Harbour Condominium, Condo. Plat Book 7, P. 104.

12. Attached to this Appeal is a copy of the engineer of record's drainage plan, though no survey is actually attached or included.[4] Importantly, the survey incorrectly states that:

> **[R]ecord data indicates ownership to the edge of water. Estero bay is tidally influenced and requires a mean high-water determination to establish the property boundary…"[5]**

13. Importantly, the drainage plan also states:

> **The geological shoreline and mean high water profile is show hereon per instruction from client…[6]**

14. The Condo. Plat states that limited common elements are: "All those lands lying East of the platted unit line and West of the Mean High Tide Line ("MHTL") along Estero Bay," thus, the private property owner of this lot does not own the common area, which is separately owned by the land Condominium Association. *See* Exhibit C; *See* Section 718.108 Florida Statutes.

15. It should be noted that the Applicant is not only using the incorrect boundaries of his property, but also failed to disclose within the Community Development Department Application for Public Hearing, that there are deed restrictions and covenants on the Subject Property.

16. The Subject Property is Unit M-1 of the Flamingo Harbor Condominium. The property data from Lee County submitted for Permit #242333 / #234477 shows that the land unit of measure is "UT." "UT" represents the unit measure. The unit measure is the unit as depicted in the Condo. Plat, demonstrating clearly that the unit boundaries do not include the lands lying east of the platted unit line and west of the Mean High Tide Line, along the Estero Bay.[7]

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[4] Exhibit B - Town of Fort Myers Beach, Permit Package No. 242333, p. 23 "Drainage Plan."
[5] *Id*.
[6] Exhibit B - Town of Fort Myers Beach, Permit Package No. 242333, p. 23 "Drainage Plan."
[7] *See* Composite Exhibit C – Declaration of Condominium of Flamingo Harbour Condominium, OR 1357, P. 1089, and Amended No. 1 Flamingo Harbour Condominium, Condo. Plat Book 7, P. 104.

17. Prior boundary surveys for Permit #242333 / #234477, submitted by the Applicant, as part of the Variance Application demonstrate the "limited common elements" as west of the MHTL, just as reflected by the Condo. Plat.[8] The boundary survey properly referred to the Condo. Plat as well as a shocking admission by the Applicant, in the form of a handwritten note on the upper right-hand side of the boundary survey, stating "sixty-seven percent (67%) lot coverage," demonstrating that the existing property is already meeting the sixty-seven percent (67%) impervious surface calculation prior to the addition of the swimming pool. *Id*.

18. The surveys since submitted by the Applicant[9], do not properly represent the boundaries. These surveys are incorrectly using Mean High Water as the unit boundary. The surveys from LANDTEC state a convenient disclaimer, as listed below:

> GENERAL NOTES:
>
> **1. THIS SURVEY IS BASED UPON RECORD INFORMATION PROVIDED BY CLIENT. NO SPECIFIC SEARCH OF THE PUBLIC RECORD HAS BEEN MADE BY THIS OFFICE UNLESS OTHERWISE NOTED.**
>
> *Id*.

19. Therefore, the drainage plan from Application, specifically the impervious surface calculation, is wrong since it is using incorrect boundary information and states, along with the prior submitted surveys, that they were based upon information provided by the client, not the Condo. Plat.

20. LDC Section 6-14. **Neighborhood Flooding** - To minimize neighborhood flooding from normal daily rainfall, **no more than 67 percent of the total lot area within a residential zoning district shall be covered with impervious surfaces**. The plans must indicate the method

[8] *See* Exhibit D – Applicant's Variance Application, at p. 18.
[9] *See* Exhibit E – Prior 242333 Permit Application.

used to maintain a one-inch (interior lot) or 1.6 inch (waterfront lot) rainfall on-site when more than 500 square feet of impervious surface is proposed. *Emphasis Added.*

21. Accordingly, the permit for the swimming pool at the subject property was improperly granted as the subject property already reached the Section 6-*14* threshold of permeable surfaces prior to approval and subjects the Appellants property to flooding as contemplated by LDC Section 6-14.

WHEREFORE, Appellants respectfully request that the subject permit application and issuance be revoked, and for any and all other relief deemed just and proper.

Respectfully re-filed this December 13, 2024

By: /s/ Robert N. Hartsell
Robert N. Hartsell, Esq.
Florida Bar No. 636207
Robert@Hartsell-Law.com
Shai Ozery, Esq.
Florida Bar No. 118371
Shai@ Hartsell-Law.com
ROBERT N. HARTSELL, P.A.
61 NE 1st Street, Suite C,
Pompano Beach, FL 33060
Telephone: 954-778-1052
Counsel for the Appellant

EXHIBIT A

VOSE LAW FIRM LLP
ATTORNEYS & COUNSELORS AT LAW

GRETCHEN R.H. ("BECKY") VOSE‡
WADE C. VOSE†
NANCY A. STUPARICH
PAUL R. WATERS
GARRETT M. OLSEN
STEPHANIE M. VELO
CHLOE E. BERRYMAN
MARIA RONDEL

†BOARD CERTIFIED IN CITY, COUNTY & LOCAL GOVERNMENT LAW

‡RATED AV PREEMINENT BY MARTINDALE-HUBBELL

November 15, 2024

VIA U.S. MAIL AND ELECTRONIC MAIL

Hartsell Ozery P.A.
Attn: Robert N. Hartsell
61 NE 1st Street, Suite C
Pompano Beach, FL 33060
robert@hartsellozery.com
shai@hartsellozery.com

RE: Town's Response to Renewed Administrative Appeal of Building Permit #242333, dated September 30, 2024

Dear Mr. Hartsell,

Our firm represents the Town of Fort Myers Beach ("Town"). I am contacting you regarding the Renewed Administrative Appeal of permit #242333 filed by your client, Himmelstein Associates, LLC, on September 30, 2024, regarding the property located at 213191 Widgeon Terrace, Fort Myers Beach, Florida 33931.

Please note that the Town's records do not reflect issuance of a building permit on that date. Per the Town's records, permit #242333 was created on August 26, 2024. Subsequently thereafter, a rejection letter was provided to the property owner on September 3, 2024, due to the outstanding items related to flood. For this reason, the permit remains pending until the requirements pertaining to flood are satisfied. For more information regarding permit #242333, please see the enclosed permit summary.

In view of this information, please advise if you wish to pursue the appeal on behalf of your client or if you intend to withdraw the appeal since the permit has not yet been issued. If you would like to continue with the appeal, we will work on scheduling the appeal before the Town's Special Magistrate.

Should you have any questions or wish to discuss this matter further, please do not hesitate to contact our office at 407-645-3735.

Sincerely,

Maria Rondel, Esquire
Assistant Town Attorney

Cc: Robert B. Burandt, Esq. o/b/o Todd Plaisted

VOSE LAW FIRM LLP

Fwd: Permit # 242333

Maria Rondel <mrondel@voselaw.com> Fri, Nov 15, 2024 at 1:12 PM
To: Maria Rondel <mrondel@voselaw.com>

From: **Fort Myers Beach** <wo@iworq.net>
Date: Fri, Nov 15, 2024, 12:13 PM
Subject: Permit # 242333
To: <nstuparich@voselaw.com>

FMBeach
FORT MYERS BEACH © ESTERO ISLAND

Permit #:	242333
Permit Date:	08/26/24
Permit Type:	
Permit Type:	Residential
Sub Type:	Pool- Below Ground
Type of Construction:	
Type of Occupancy / Use:	Residential
Contractor Business Name/Applicant:	BIG GATOR POOLS AND SPAS
Contact Name:	DARELL SIZEMORE
Contractor/Applicant Email:	office@biggatorpoolsandspas.com/ Permits@thebidgator.com
Contractor/Applicant Phone #:	239-770-8543
Property Owner's Email:	todd@plaistedcompanies.com
Current Use:	R
Proposed Use:	R
Scope of Work:	ELEVATED POOL
Project Cost:	150000
Square Feet:	547
Issued Date:	09/09/2024
Expiration Date:	03/09/2025
Finaled Date:	
Closed Date:	

Repair Damage Due To:
Storm Damage:
Status: WAITING ON RESUBMITTAL
Assigned To:

Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
344624W1022M00010	21391 WIDGEON TER	FLAMINGO HARBOUR CONDO CONDO PLAT 7 PG 104 UNIT M-1	PLAISTED TODD R TR FOR TODD R PLAISTED TRUST		RM-2

Contractors

Contractor	Primary Contact	Phone	Address	Contractor Type	License	License #
Big Gator Pools and Spas LLC	Kristin Riddle	239-770-8543	1749 NE 10th Ter Unit 6	Certified Pool/Spa Servicing Contractor	General Liability	NN1754021
FAVAZZA ELECTRIC INC	VINCENT J FAVAZZA JR		1320 SE 2ND TER	Certified Electrical	LIABILITY	1100
FAVAZZA ELECTRIC INC	VINCENT J FAVAZZA JR		1320 SE 2ND TER	Certified Electrical	STATE OF FLORIDA	EC13013506
FAVAZZA ELECTRIC INC	VINCENT J FAVAZZA JR		1320 SE 2ND TER	Certified Electrical	WORKMAN'S COMP	934809419
Big Gator Pools and Spas LLC	Kristin Riddle	239-770-8543	1749 NE 10th Ter Unit 6	Certified Pool/Spa Servicing Contractor	Certified Residential Pool/Spa Contractor	CPC1459908
Big Gator Pools and Spas LLC	Kristin Riddle	239-770-8543	1749 NE 10th Ter Unit 6	Certified Pool/Spa Servicing Contractor	WC - EXEMPT	825229613

Inspections

Date	Inspection Type	Description	Scheduled Date	Completed Date	Inspector	Status
08/26/2024	Engineered Drainage Letter					Open

Plan Reviews

Date	Review Type	Description	Assigned To	Review Status
08/26/2024	Notice of Commencement		Andrew Garry	DONE
08/26/2024	Review Flood		Carl Thomas	RESUBMITTAL REQUIRED
08/26/2024	Review Res. Plan review		Joe Specht	REVIEWED FOR COMPLIANCE
08/26/2024	Review Zoning		Kendra Rosa	REVIEWED FOR COMPLIANCE
08/26/2024	Review Stormwater		James Warner	REVIEWED FOR COMPLIANCE
08/26/2024	Review Environmental		Chadd Chustz	REVIEWED W/CONDITIONS
08/26/2024	Review FMB Application		Kendra Rosa	DONE
08/26/2024	Elec. Sub Permit Req.	FAVAZZA ELECTRIC INC	Kendra Rosa	DONE

09/03/2024	Rejection Letter Sent	1st Flood Rejection Letter	Marilyn Silva	DONE

Fees

Fee	Description	Notes	Amount
FMB-Third Party Review Costs	Pass Through Fees from Tetra Tech Engineering		$292.50
		Total	**$292.50**

Payments

Date	Paid By	Description	Payment Type	Accepted By	Amount
09/03/2024	Kristin J Riddle	993655			$292.50
				Outstanding Balance	**$0.00**

Notes

Date	Note	Created By:
08/26/2024	FEES WAIVED PER MANAGEMENT	Kendra Rosa

Uploaded Files

Date	File Name
09/03/2024	22248238-Flood Rejection Letter 242333.pdf
08/26/2024	22146305-NOC.pdf
08/26/2024	22142238-e6a7f9c2a6758bbe26577846f02b5530_noc_21391_widgeon.pdf
08/26/2024	22141715-DRAIN24-338-01-DRAINAGE-R(ESIGN) (1).pdf
08/26/2024	22141711-Subcontractor form_Favazza Electric_Plaisted Pool_08222024.pdf
08/26/2024	22141709-Plaisted Pool Application Paperwork.pdf
08/26/2024	22141706-PLAISTED MOORE REV24-08-19 signed (1).pdf

VOSE LAW FIRM LLP
ATTORNEYS & COUNSELORS AT LAW

GRETCHEN R.H. ("BECKY") VOSE‡
WADE C. VOSE†
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PAUL R. WATERS
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MARIA RONDEL

†BOARD CERTIFIED IN CITY, COUNTY & LOCAL GOVERNMENT LAW

‡RATED AV PREEMINENT BY MARTINDALE-HUBBELL

November 19, 2024

VIA U.S. MAIL AND ELECTRONIC MAIL

Hartsell Ozery P.A.
Attn: Robert N. Hartsell
61 NE 1st Street, Suite C
Pompano Beach, FL 33060
robert@hartsellozery.com
shai@hartsellozery.com

RE: Updated Status of Building Permit #242333

Dear Mr. Hartsell,

As you may already know, our firm represents the Town of Fort Myers Beach ("Town"). I am contacting you regarding the updated status of the building permit #242333, associated with the property located at 21391 Widgeon Terrace, Fort Myers Beach, Florida 33931, owned by Todd Plaisted.

On November 15, 2024, our office provided you with a letter containing the Town's response to the Renewed Administrative Appeal of Building Permit #242333, dated September 30, 2024, indicating that the subject permit has not been issued and was pending due to the outstanding flood comment. Please note that, since the transmission of that letter, the Town's Building Official has issued permit #242333. Enclosed, you will find a screenshot of the building permit records.

Please advise us of the status of your appeal by contacting the Town Building Official or by calling our office at 407-645-3735 or sending me an email at mrondel@voselaw.com and cdarcy@voselaw.com.

Sincerely,

Maria Rondel, Esquire
Assistant Town Attorney

Cc: Robert B. Burandt, Esq. o/b/o Todd Plaisted
Joe Specht (jspecht@fmbgov.com); Sarah Propst (sarah.propst@fmbgov.com);
Frank Kropacek (fkropacek@fmbgov.com);
Becky Vose, Esq. (bvose@voselaw.com); Nancy Stuparich, Esq. (nstuparich@voselaw.com)

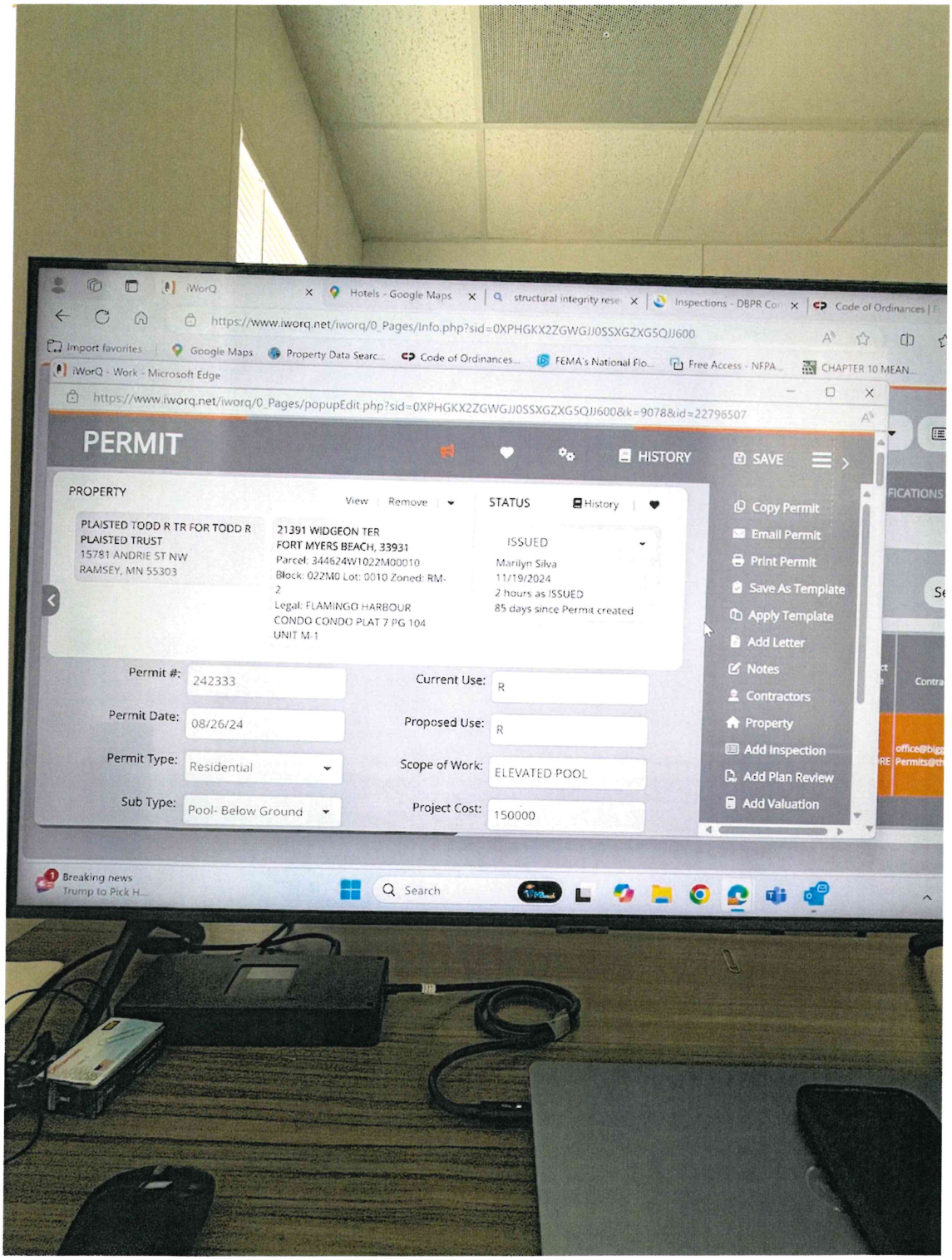

iWorQ
Hotels - Google Maps
https://www.iworq.net/iworq/0_Pages/Info.php?sid=0XPHGKX2ZGWGJJ0SSXGZXG5QJJ600
iWorQ - Work - Microsoft Edge
https://www.iworq.net/iworq/0_Pages/popupEdit.php?sid=0XPHGKX2ZGWGJJ0SSXGZXG5QJJ600&k=9078&id=22796507
PERMIT
HISTORY
SAVE
PROPERTY
View
Remove
STATUS
History
PLAISTED TODD R TR FOR TODD R
PLAISTED TRUST
15781 ANDRIE ST NW
RAMSEY, MN 55303
21391 WIDGEON TER
FORT MYERS BEACH, 33931
Parcel: 344624W1022M00010
Block: 022M0 Lot: 0010 Zoned: RM-2
Legal: FLAMINGO HARBOUR CONDO CONDO PLAT 7 PG 104 UNIT M-1
ISSUED
Marilyn Silva
11/19/2024
2 hours as ISSUED
85 days since Permit created
Copy Permit
Email Permit
Print Permit
Save As Template
Apply Template
Add Letter
Notes
Contractors
Property
Add Inspection
Add Plan Review
Add Valuation
Permit #: 242333
Permit Date: 08/26/24
Permit Type: Residential
Sub Type: Pool- Below Ground
Current Use: R
Proposed Use: R
Scope of Work: ELEVATED POOL
Project Cost: 150000
Search

EXHIBIT B

Reviewed for Compliance **Permit 243333**

Town of Fort Myers Beach
Building Department

2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239)765-0909

Approval Letter

BUILD RESPONSIBLY!
GO TO:
https://www.fortmyersbeachfl.gov/DocumentCenter/View/16329/BUILD-RESPONSIBLY

Date: 11/15/2024

Permit #: 242333

Address: 21391 Widgeon Ter.

Applicant: BIG GATOR POOLS AND SPAS

Scope of Work: ELEVATED POOL

Review Type	Reviewer	Review Status
Zoning Review	Kendra Rosa	Reviewed for Compliance
Flood Review	Carl Thomas	Approved w/ Conditions
Plan Review	Joe Specht	Reviewed for Compliance
Stormwater Review	James Warner	Reviewed for Compliance
Environmental Review	Chad Chutz	Reviewed w/ Conditions
Public Works Review		Not Required
Beach Water Review		Not Required

Permit Conditions:

Flood Conditions: APPROVED -W- CONDITIONS

-STRUCTURE MUST HAVE HYDROSTATIC RELIEF VALVES

*PLANS STATE POOL IS IN COMPLIANCE WITH SECTION FBC SECTION 3.2.2.4 (ANCHORED TO RESIST FLOOD LOADS) AND 322.3.3.1 (COMPLIANCE WITH ASCE 24-14 - FLOOD RESISTANT DESIGN)

Environmental Conditions: DO NOT CAUSE EROSION OR SEDIMENTATION INTO WATERWAYS
Install and maintain best management practices for erosion control and sedimentation throughout construction.
DO NOT DISCHARGE WATER INTO WATERWAYS OR THE BEACH
NOTICE: Under no circumstances shall any swimming pool or ground water be discharged either directly or indirectly onto the beach, or into canals, wetlands, or any other tidal waters. Discharge of pool water into waterways or the Environmentally Critical Zone may be considered an irreparable and irreversible violation of Florida Statutes and Town Code with a penalty of up to $5,000 per violation.
DO NOT DISCHARGE CHLORINATED POOL WATER.
Disposal of swimming pool water: Prior to disposing of any swimming pool water, chlorine and bromine levels must be reduced by not adding chlorine or bromine for a least five (5) days or until levels are below 0.1 mg per liter.
Dechlorinated pool water can be discharged into roadside swales to allow for percolation of the water into the ground without any runoff to canals, beaches, wetlands, other tidal waters, or onto adjoining properties.
PROTECT NATIVE TREES
Native Trees to be protected in accordance with the Tree Protection Code.

buildingpermits@fmbgov.com

Jobsite copy

App. No. 0007

Reviewed for Compliance

Permit 243333

Pool or Spa Application

Job Information:

Owner Name: TODD R PLAISTED Phone # 612-868-7699

Owner Email: TODD@PLAISTEDCOMPANIES.COM

Owner Mailing Address (if different): 15781 ANDRIE ST NW, RAMSEY, MN 55303

STRAP #: 34-46-24-W1-0022M0.0010

Job Address: 21391 WIDGEON TER Fort Myers Beach, FL 33931 Lee County

Contractor's Information:

Contractor Business Name: BIG GATOR POOLS & SPAS License #: CPC 1459908

Qualifiers Name: KRISTIN RIDDLE Email: PERMITS@THEBIGGATOR.COM

Phone# 239-770-8543 Address: 1749 NE 10TH TER, UNIT 6, CAPE CORAL, FL 33909

Scope of work: INSTALLATION OF NEW RESIDENTIAL POOL & STEM WALL

Estimated sqft: 546.92 Estimated cost value: 150,000 **if over $5000 a NOC is required*

Are you using Private Provider services for Plan Review? NO ■ YES ☐ Inspections? NO ■ YES ☐

Pool Safety Feature (Check One)

☐ Barrier ☒ Alarms ☐ Self- Closing Latching Doors

☐ Pool Cover ☐ Removable Ladder (for above ground pools with a wall height of 48'' or greater)

Pool/Spa Type: Fiberglass ☐ Masonry ■ Above Ground, *provide pool dimensions:* _____

House under Construction? ☐YES ■ NO

Retaining Wall ■YES ☐ NO

Pool Resurface ☐YES ☐ NO

(Pool resurfacing) Provide a drawing of the pool showing the location of all the markings.

Pool Const. Drawings Mastered ☐ YES ■ NO

Pool Master#_____

PERMIT REQUIREMENTS TO BE SUBMITTED WITH APPLICATION- The following must be included with the application

An electronic set of digitally signed and sealed engineering plans

☐ Engineered plan & details for pool construction, and plumbing and equipment's TDH calculations

☐ One (1) Sealed Boundary Survey showing (**existing conditions**) Per LDC Sec. 34-639.(b)(5)

☐ One (1) site plan clearly showing:

Property dimensions

Pool/deck dimensions and setbacks

Footer details (if applicable)

Pool equipment location and setbacks

Proposed finished elevation above existing grade

Equipment overflow line

Silt Fence

■ One (1) Stormwater Pollution Protection Plan (SWPPP)

1) Site Plan

2) Narrative detailing best management practices (BMPs) as outlined by the State of Florida Erosion and Sediment Control Designer and Reviewer Manual. Manual Link: https://www.flrules.org/Gateway/reference.asp?No=Ref-04227

You may use a copy of your Boundary survey as a site plan however, you must block out the title block, seal, and any other information as you are not to "write or draw" on a sealed survey*

DRAINAGE REQUIREMENTS TO BE SUBMITTED WITH APPLICATION

☐ Impervious Surface Calculation Sheet: if impervious surface is less than 500 square feet

☐ One (1) Engineered drainage plan if 500 square feet of impervious is created

**Please note, an increase of impervious surface by 500 square feet or more, an as-built inspection shall be performed by the developers engineer or designated representative. The Engineer shall submit a signed and sealed letter of substantial compliance to the Director along with a final inspection request.

☐ Waiver of submittal requirements form- If there is no change or replacement of material and elevations are the same a Waiver of survey requirements can be submitted to the director.

Phone # (239) 765-0202
Buildingpermits@fmbgov.com

Jobsite copy

Reviewed for Compliance

Permit 243333

NOTICE OF COMMENCEMENT

Permit No. _____
Tax Folio No. 10230971
State of FL
County of LEE

The undersigned hereby gives notice that improvement will be made to certain real property, and in accordance with Chapter 713, Florida Statutes, the following information is provided in the Notice of Commencement.

1. **Description of property:** (legal description of property and street address if available)
21391 WIDGEON TER, FMB, FL 33931; STRAP 34-46-24-W1-002M0.0010

2. **General description of improvement:**
INSTALLATION OF NEW RESIDENTIAL POOL & STEM WALL

3. **Owner information**
Name TODD R. PLAISTED
Address 15781 ANDRIE ST NW, RAMSEY, MN 55303
Phone 612-868-7699 Fax _____
Interest in property OWNER
Name and address of fee simple titleholder (if other than Owner)

4. **Contractor**
Name BIG GATOR POOLS AND SPAS
Address 1749 NE 10TH TER, UNITE CAPE CORAL FL 33909
Phone 239-770-8543 Fax _____

5. **Surety**
Name _____
Address _____
Amount of bond: $ _____ Phone _____ Fax _____

6. **Lender:**
Name _____
Address _____
Phone _____ Fax _____

7. **Persons within the State of Florida designated by Owner** upon whom notices or other documents may be served as provided by Section 713.13(1)(a)7., Florida Statutes
Name _____
Address _____
Phone _____ Fax _____

8. **In addition to himself or herself, Owner designates** the following person(s) to receive a copy of the Lienor's Notice as provided in Section 713.13(1)(b), Florida Statutes
Name _____
Address _____
Phone _____ Fax _____

9. **Expiration date of notice of commencement** (the expiration date is 1 year from date of recording unless a different date is specified) _____

WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER PAYMENT UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BY RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF COMMENCEMENT

Todd Plaisted — OWNER

(Signature of Owner or Lessee, or Owner's or Lessee's Authorized Officer/Director/Partner/Manager) (Signatory's Title/Office)

STATE OF Florida COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of ✓ physical presence OR ____online notarization, this 22 day of August 2024, by Todd Plaisted ✓ who is personally known to me OR ____ who has produced _____ as identification.

Notary Public State of Florida
Barbara J Donner
My Commission HH 381045
Expires 2/12/2027

Barbara J Donner
Notary Public Signature

Town of Fort Myers Beach
2525 Estero Blvd Fort Myers Beach, FL 33931
Phone: 239 765-0202 Buildingpermits@fmbgov.com

Jobsite copy

Reviewed for Compliance

Permit 243333

Aquatics Drawings For:

Todd Plaisted & Kelly Moore

21391 WIDGEOM TERRACE
FT. MYERS BEACH, FL. 33921

Myriam L Murphy

Digitally signed by Myriam L Murphy
Date: 2024.08.19 16:44:53 -04'00'

DRAWING SCHEDULE

P-1	POOL& PIPING PLAN
P-2	SITE PLAN
P-3	ELEVATIONS
P-4	POOL DETAILS
P-5	SUB SHELL DETAIL
P-6	TDH WORKSHEETS
P-7	GENERAL NOTES & DETAILS

PLANS PREPARED BY:
DESIGNS BY ATO Z
DRAWN BY: MJS

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

WRITTEN DIMENSIONS ON DRAWINGS SHALL HAVE PRECEDENCE OVER SCALED DIMENSION. CONTRACTOR SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS OF THE PROJECT. THE ENGINEER OF RECORD MUST BE NOTIFIED OF ANY VARIATIONS FROM DIMENSIONS AND CONDITIONS SHOWN BY THESE DRAWINGS WHERE REQUIRED. SHOP DETAILS AND DRAWINGS MUST BE SUBMITTED TO THE ENGINEER OF RECORD FOR APPROVAL BEFORE PROCEEDING WITH FABRICATION.
PLANS ARE DESIGNED PER 2020 FLORIDA BUILDING CODE 7th EDITION AND 2017 NATIONAL ELECTRIC CODE UNLESS NOTED OTHERWISE.

COVER SHEET

TODD PLAISTED
21391 WIDGEOM TERRACE
FT MYERS BEACH, FLORIDA 33921

No.	Revision/Issue	Date
1.	CLIP CORNER OF STRUCTURE	8/13/24

Project
Date 2/15/23
Scale AS LISTED

P-0

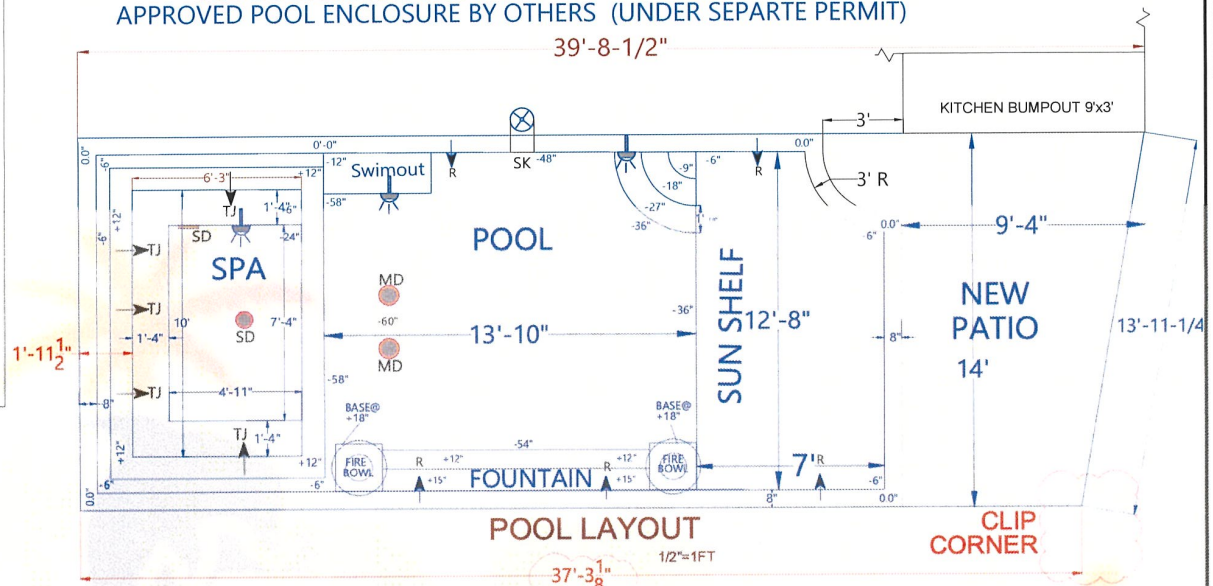
Jobsite copy

Reviewed for Compliance

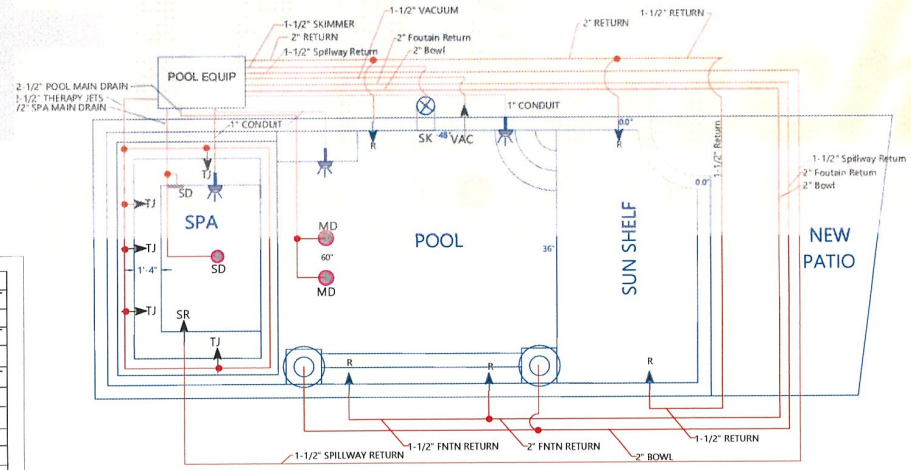
Permit 243333

LEGEND	
AF	AUTO FILL
BU	BUBBLER
CD	CONDUIT
DJ	DECK JET
FR	FLOOR RETURN
GD	GUTTER DRAINS
MD	POOL MAIN DRAIN
ND	NEG.EDGE MAIN DRAIN
R	RETURN
SD	SPA MAIN DRAIN
SK	SKIMMER
TJ	THERAPY JET
V	VACUUM

ALL WINDOWS & DOORS LEADING
TO POOL AREA SHALL BE ALARMED
APPROVED POOL ENCLOSURE BY OTHERS (UNDER SEPARTE PERMIT)



POOL LAYOUT
1/2"=1FT



PIPIING LAYOUT
3/8"=1FT

POOL DATA				
POOL SQ/FT	174.5	SQ/FT	52	LIN FT
POOL VOLUME	5,221.0	GAL.		
SUNSHELF SQ/FT	88.5	SQ/FT	39.5	LIN FT
SUNSHELF VOLUME	331	GAL.		
SPA SQ/FT	62.5	SQ/FT	32	LIN FT
SPA VOLUME	701	GAL.		
TOTAL SQ/FT	325.5	SQ/FT		
TOTAL VOLUME	6,253.0	GAL.		

PLANS PREPARED BY:
DESIGNS BY ATO Z
DRAWN BY: MJS

THESE ENGINEERING DRAWINGS ARE GIVEN IN CONFIDENCE
NO USE OR DISSEMINATION MAY BE MADE WITHOUT PRIOR WRITTEN CONSENT OF THE ENGINEER. ALL RIGHTS ARE HEREBY RESERVED
WRITTEN DIMENSIONS ON DRAWINGS SHALL HAVE PRECEDENCE OVER SCALED DIMENSION. CONTRACTOR SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS OF THE PROJECT. THE ENGINEER OF RECORD MUST BE NOTIFIED OF ANY VARIATIONS FROM DIMENSIONS AND CONDITIONS SHOWN BY THESE DRAWINGS WHERE REQUIRED. SHOP DETAILS AND DRAWINGS MUST BE SUBMITTED TO THE ENGINEER OF RECORD FOR APPROVAL BEFORE PROCEEDING WITH FABRICATION
PLANS ARE DESIGNED PER 2020 FLORIDA BUILDING CODE 7th EDITION AND 2017 NATIONAL ELECTRIC CODE UNLESS NOTED OTHERWISE

POOL & PIPING PLAN
TODD PLAISTED
21391 WIDGEOM TERRACE
FT MYERS BEACH, FLORIDA 33921

No.	Revision/Issue	Date
1.	CLIP CORNER OF STRUCTURE	8/13/24

Project
Date 2/15/23
Scale AS LISTED
P-1

Jobsite copy

App. No. 0011

Permit 243333

Reviewed for Compliance

Jobsite copy

PLANS PREPARED BY:
DESIGNS BY ATO Z
DRAWN BY: MJS

THESE ENGINEERING DRAWINGS ARE GIVEN IN CONFIDENCE AND THEY AND THE INFORMATION THEREIN SHALL NOT BE USED OR REPRODUCED IN ANY MANNER WITHOUT PRIOR WRITTEN CONSENT OF THE ENGINEER. ALL RIGHTS ARE HEREBY RESERVED

WRITTEN DIMENSIONS ON DRAWINGS SHALL HAVE PRECEDENCE OVER SCALED DIMENSIONS. CONTRACTOR SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE JOB. ANY DISCREPANCIES SHALL BE REPORTED TO THE ENGINEER OF RECORD IMMEDIATELY. THE ENGINEER OF RECORD SHALL BE NOTIFIED OF ANY VARIATIONS FROM DIMENSIONS AND CONDITIONS SHOWN ON THESE DRAWINGS PRIOR TO PROCEEDING WITH ANY PORTION OF THE WORK AFFECTED WHERE REQUIRED, SHOP DETAILS AND DRAWINGS MUST BE SUBMITTED TO THE ENGINEER OF RECORD FOR APPROVAL BEFORE PROCEEDING WITH FABRICATION

THESE PLANS ARE DESIGNED PER 2020 FLORIDA BUILDING CODE 7th EDITION AND 2017 NATIONAL ELECTRIC CODE UNLESS NOTED OTHERWISE

SITE PLAN

TODD PLAISTED

2139 1 WIDGEOM TERRACE
FT MYERS BEACH, FLORIDA 33921

No.	Revision/Issue	Date
1.	CLIP CORNER OF STRUCTURE	8/12/24

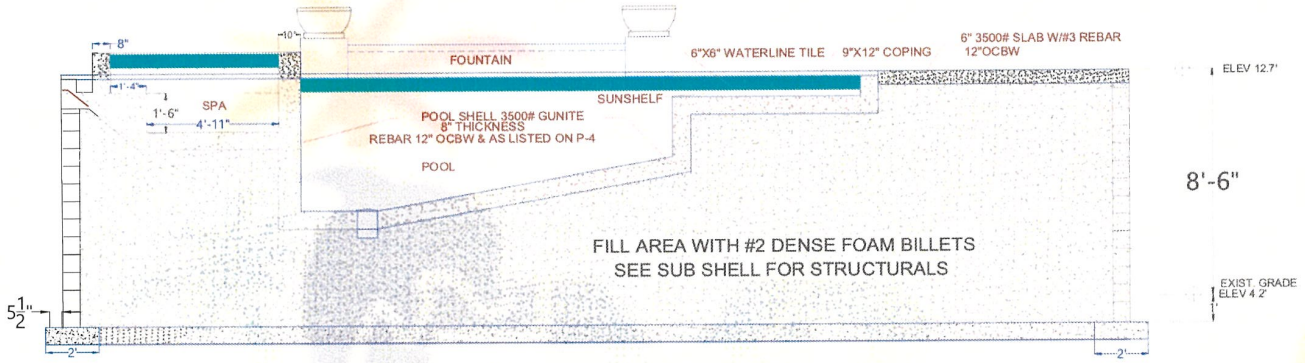
Project
Date 1/25/23
Scale AS LISTED

P-2

App. No. 0012

Reviewed for Compliance

Permit 243333



POOL ELEVATION

1/2"=1FT

PLANS PREPARED BY:
DESIGNS BY ATO Z

DRAWN BY: MJS

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POOL ELEVATION

TODD PLAISTED

21391 WIDGEOM TERRACE

FT MYERS BEACH, FLORIDA 33921

No.	Revision/Issue	Date
1.	CLIP CORNER OF STRUCTURE	8/13/24

Project

Date 2/15/23

Scale AS LISTED

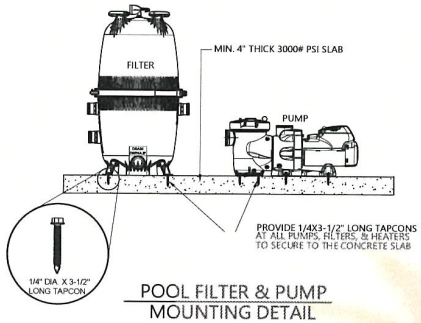
P-3

Jobsite copy

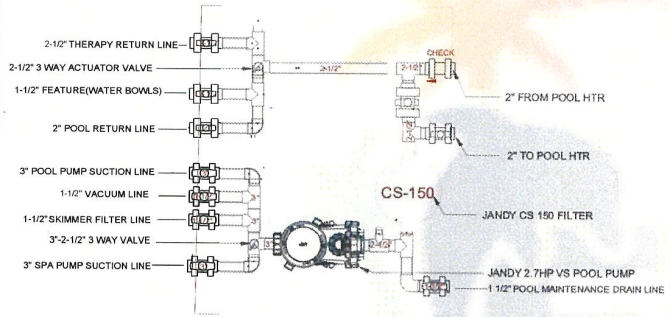
App. No. 0013

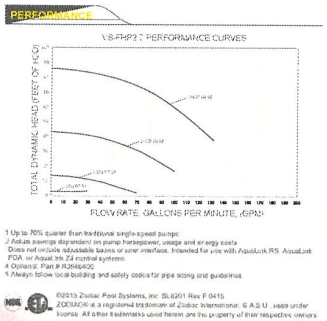
Reviewed for Compliance

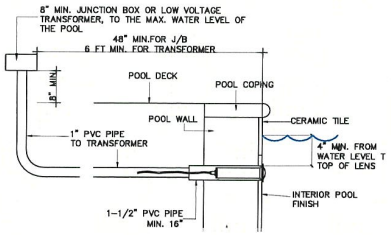
Permit 243333



POOL FILTER & PUMP MOUNTING DETAIL

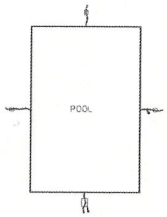






NICHELESS LIGHT DETAIL
NO SCALE

TO ALL POOL EQUIPMENT



NOTE: PROVIDE CONTINUOUS SINGLE # 8 COPPER BONDED IN FOUR POINTS(360°) AROUND POOL & SPA

NOTE: THIS DIAGRAM IS DIAGRAMIC ONLY AND IT COMPLY'S WITH N.E.C. 2017 ART 680.26 (B) & (C)

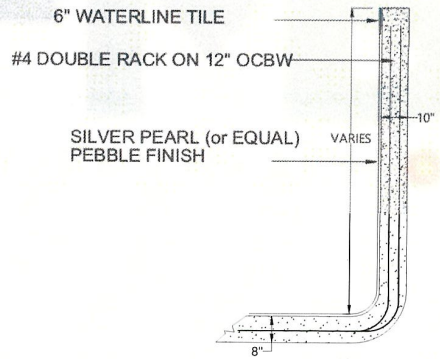
PROVIDE 4 #8 COPPER BONDING TAILS (ONE EACH SIDE) CLAMPED TO POOL WALL STEEL FOR DECK BONDING

BOND WIRE SHALL BE SECURED TO POOL STEEL WITH APPROVED CLAMP.

POOL BOND SCHEMATIC
NTS

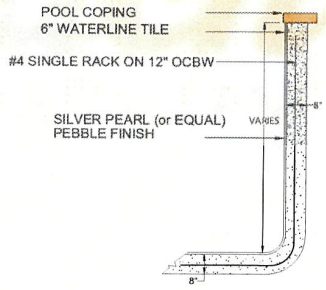
EQUIPMENT LIST

MARK	QTY	MFG	MODEL	DESCRIPTION
①	1	JANDY	VSPHP270DV2A	2.7 HP VARI SPEED POOL PUMP 115-230 1PH.
②	1	JANDY	CS150	150 SQ FT CART. FILTER (120 GPM)
③	1	HAYWARD	W-400	1-1/2" VAC LOCK SAFETY FITTING
④	4	CUSTOM MOLDED	25524-200-0000	2" FIP WALL FITTING
⑤	3	JANDY	JLU4C -12W -xxx	12V 12WATT RGBW NICHLESS LIGHT
⑥	1	HAYWARD	SP-1072S2	1-1/2"-2" SIDEWALL SKIMMER
⑦	5	WATERWAY	210-3400	2" X 1" THERAPY JETS
⑧	OPT	JANDY CHOOSE	JXI400	400 MBH GAS POOL HEATER Available in Natural or Propane
⑨	OPT	OR JANDY	JT 3000T	137 MBH POOL HEAT PUMP
⑩	OPT	JANDY	RSPS-*	MULTI CHANNEL SYSTEM CONTROLER
⑪	OPT	JANDY	IQ30A	WI-FI ATENNA
⑫	OPT	JANDY	6614LD	CONTROL PANEL W/BREAKERS
⑬	OPT	JANDY	7443	SPA SIDE REMOTE
⑭	OPT	CUSTOM MOLDED	SPG-56-5000	1" AUTOFILL (OT TYPE)



POOL-SPA.COMMON WALL DETAIL

SCALE: NTS



TYP.WALL DETAIL

SCALE: NTS

PLANS PREPARED BY: DESIGNS BY ATO Z

DRAWN BY: MJS

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POOL DETAILS

TODD PLAISTED

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FT MYERS BEACH, FLORIDA 33921

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Project

Date 2/15/23

Scale AS LISTED

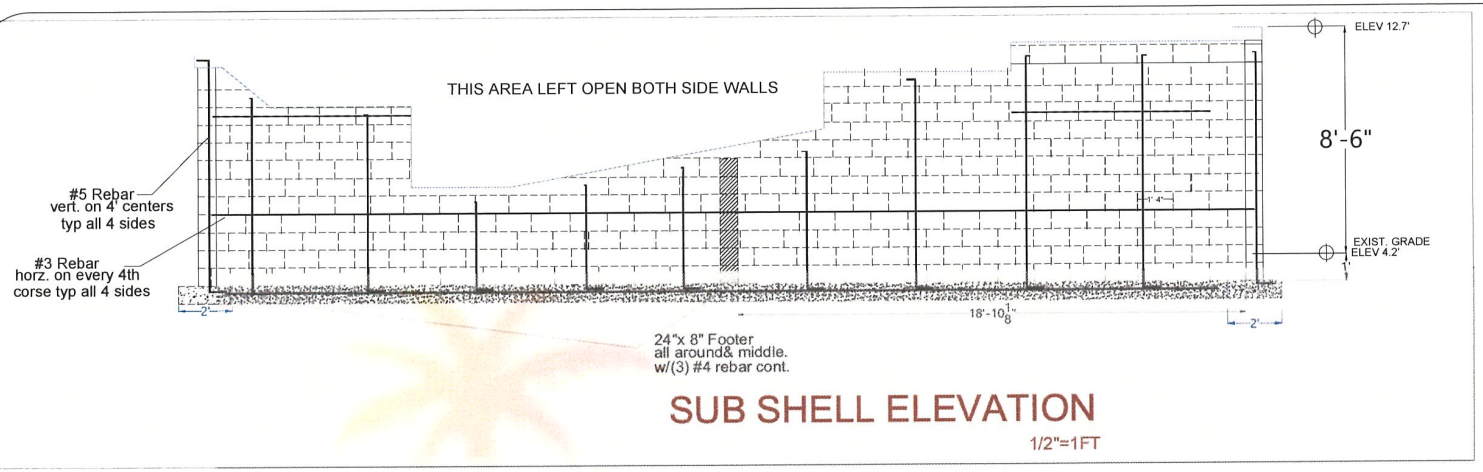
P-4

Jobsite copy

App. No. 0014

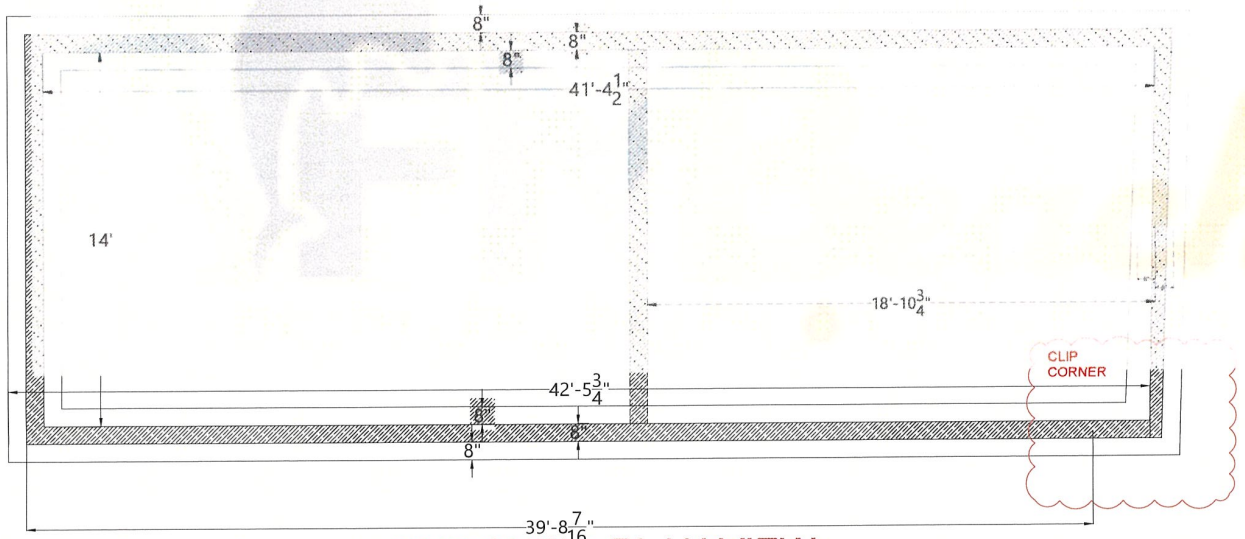
Reviewed for Compliance

Permit 243333



SUB SHELL ELEVATION

1/2"=1FT



SUB SHELL PLAN VIEW

1/2"=1FT

PLANS PREPARED BY:
DESIGNS BY ATO Z
DRAWN BY: MJS

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SUB SHELL DETAILS

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Project

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Scale AS LISTED

P-5

Jobsite copy

App. No. 0015

Reviewed for Compliance

Permit 243333

SIMPLIFIED TOTAL DYNAMIC HEAD (TDH) CALCULATION WORKSHEET

POOL/SPA

Home Owner/ Property Name: PLAISTED-MOORE Date: 02/15/23 Job # :

Property Address: 21391 WIDGEOM TERRACE City/State/Zip: FT MYERS BEACH, FLORIDA 34921

"This form must be filled out for each pump on the above listed project"

DETERMINE MAXIMUM SYSTEM FLOW RATE:

1. Calculate Pool Volume: 263.8 SQ/FT X 2.827 ADV.DEPTH X 7.48 = 5,578 Volume gal/cu ft.

Determine 3 (min/hr. 180.00

3. Determine Max. Flow Rate: Gal 5,578.0 / 180.00 = 31.0 + 80 Feature 111.0 Total

4. Spa Jets: 7 X 12 gpm/jet = 84.0 Gallons Spa flow rate in Spa Mode

Gallons

(For single pump / spa combo, use higher of No. 3 or No. 4 in the following calculations for the pool and spa) pump / spa

Higther flow rate 111.0

DETERMINE PIPE SIZE & TDH:

Branch Piping to Be 3 velocity @ 6fps 138 gpm GPM Max Flow Rate 0.04

Trunk Piping to Be 2.5 velocity @ 8fps 117 gpm GPM Max Flow Rate 0.09

Return Piping to Be 2.5 velocity @ 10fps 146 gpm GPM Max Flow Rate 0.13

DETERMINE SIMPLIFIED TDH:

1. Friction Loss (In suction pipe) in: 3.0 per/ft 100gpm 0.07
2. Friction Loss (In return pipe) in: 2.0 per/ft 100gpm 0.16
3. Length of Suction Pipe (in Linear Feet) 100.0 X 0.07 = 7
4.. Length of Return\ Pipe (in Linear Feet) 100.0 X 0.16 = 16

TDH in piping: 23.0 (added 3 and 4 from above)
Filter Loss in TDH: 1.5 (from filter data sheet)
Heater loss is TDH: 10.0 (from heater data sheet)
Total All Other Loss: 11.0 (record additional loss items on "additional notes")
Total TDH: 45.5

FLOW AND FRICTION LOSSES PER FT. - SCH 40 PIPE						
Velocity - Feet Per Second						
Pipe Size	6 FT/S		8 FT/S		10 FT/S	
1"	16 gpm.	0.14	21 gpm.	0.23	26gpm.	0.35
1 1/2"	37 gpm.	0.08	50 gpm.	0.14	62 gpm.	0.24
2"	62 gpm.	0.06	82 gpm.	0.10	103 gpm.	0.16
2 1/2"	88 gpm.	0.05	117 gpm.	0.09	146 gpm.	0.13
3"	138 gpm.	0.04	181 gpm.	0.07	227 gpm.	0.10
4"	234 gpm.	0.03	313 gpm.	0.05	392 gpm.	0.07
5"	534 gpm.	0.02	712 gpm.	0.03	890 gpm.	0.05

SIMPLIFIED TOTAL DYNAMIC HEAD (TDH) CALCULATION WORKSHEET p2

POOL/SPA PUMP

	MAKE	MODEL	HP	
Pump Selection:	JANDY	VSFHP270AUT	2.7	Using pump curve for TDH and System Flow Rate

	MAKE	MODEL	MAX FLOW	REPL DATE
Main Drain Cover:	CUSTOM	25516-400	146	5 YRS

(System Flow Rate must not exceed approved cover flow rate)

NOTE: Minimum system flow based on min. flow per skimmer of 35 GPM

MAIN DRAIN PLUMBING METHOD USED:

X A. Dual outlets in parallel to one pump
B. Dual outlets in parallel to dual pumps in par
C. Parallel dual outlets to two pumps
D. Dual outlets on different planes
E. Three or more outlets in parallel symmetric
F. Three or more outlets in parallel eccentrically tapped piping
G. Three or more outlets in parallel looped piping
Single unblockable channel outlets to single pump. (Channel drain @316 gpm. Max flow rate)
I. Single unblockable channel outlets to two pumps. (Channel drain @217 w/2 ports & 278 gpm. w/3 ports){See Note 4)

NOTES:

If a variable speed pump is used, use the Max. pump flow calculations
For side wall drains, use appropriate side wall drain flaw as published by manufacturer.
Insert manufacturer's name and approved maximum flow.
See installation instructions for number of ports to be used
suction
Pump and Filtermake, model, and location can not change without submitting a revised plan TDH worksheet
Pump curve for pump specified shall be attached to these sheets.

ADDITIONAL NOTES:

ADDITIONAL ESTIMATING, HEAD LOSSES IN FITTINGS, 45'S AND TEES (INCLUDED)

Myriam Murphy
Engineer of Record
859-866-9620
Telephone No.
bobstaubach@gmail.com
E-Mail Address

PLANS PREPARED BY:
DESIGNS BY ATO Z
DRAWN BY: MJS

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TDH CALCULATIONS
TODD PLAISTED
21391 WIDGEOM TERRACE
FT MYERS BEACH, FLORIDA 33921

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Project
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P-6

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App. No. 0016

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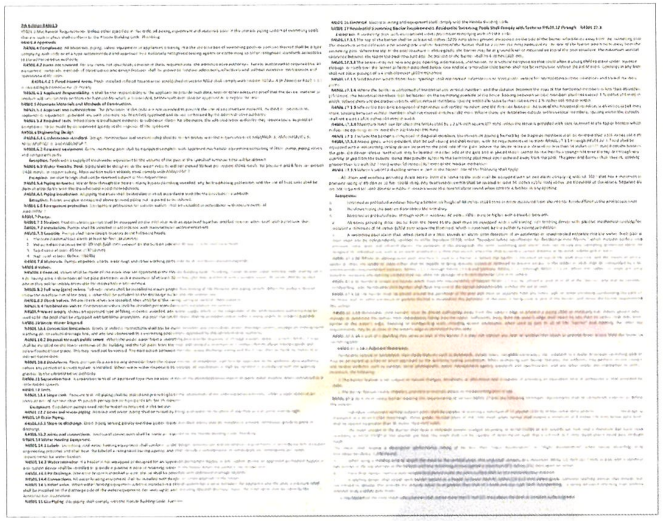
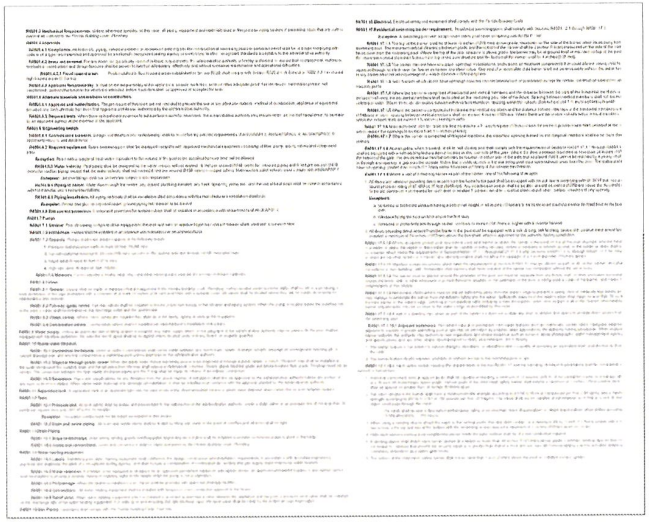
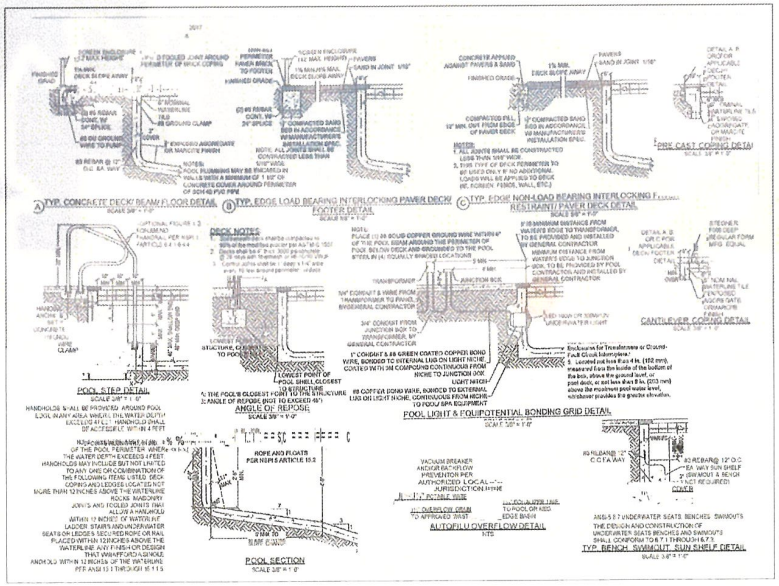
Permit 243333







PLANS PREPARED BY:
DESIGNS BY ATO Z
DRAWN BY: RJS

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ADDITIONAL DETAILS

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FT MYERS BEACH, FLORIDA 33921

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P-7

Jobsite copy

App. No. 0017

Reviewed for Compliance Permit 243333

DETAILED SCOPE OF WORK WORKSHEET

(Information required with application. Use of this worksheet is optional.)

Provide a detailed description below of any and all work being proposed. Show work location (#1-13) on site plan.

1) PLEASE SEE DETAILED ENGINEERING DRAWINGS & SCOPE OF WORK FOR POOL, SPA AND WALL.

2)

3)

4)

5)

6)

7)

8)

9)

10)

11)

12)

13)

Town of Fort Myers Beach
2525 Estero Blvd. Fort Myers Beach, FL 33931
Phone # (239) 765 -0202
Buildingpermits@fmbfl.com

Jobsite copy

App. No. 0018

Reviewed for Compliance

Qualifier Acknowledgement

Permit 243333

This page is required for ALL Building Permit Applications

ACKNOWLEDGEMENT OF TOWN OF FORT MYERS BEACH REGULATIONS BY THE QUALIFIER

NOTICE OF ADDITIONAL RESTRICTIONS: In addition to the requirements of this permit, there may be additional restrictions applicable to this property that maybe found in the public records of this County, and there may be additional permits required from other governmental entities such as the Water Management District, State agencies, or Federal agencies. I acknowledge that any demolition or renovation of an existing structure must comply with Florida Statutes s. 469.003, Florida Building Code, and any other relevant regulations, including state and federal law. I understand that I am responsible for notifying the Department of Environmental Protection in advance of any intentions to remove asbestos, when applicable, in accordance with state and federal law.

WARNING OF WORK IN THE COUNTY RIGHT-OF-WAYS: This permit does not authorize construction or installation of any structure or utility, above or below ground, within any right of way or easement reserved for access, drainage or utility purposes. This restriction specifically prohibits fencing, sprinkler systems, landscaping other than sod, signs, water, sewer, cable and drainage work therein. If such improvements are necessary, a separate permit for that purpose must be obtained from the Building Department.

INSPECTIONS: This permit is void if the first inspection is not made within six (6) months from the date issued or if no inspection has been made for a period of six (6) months from the most recently passed inspection. The permit is void if the zoning classification is violated. Applicant agrees to comply with the sanitary regulations and understands that the proposed structure may not be used or occupied until an approved certificate of occupancy is issued. Applicant further understands that failure to obtain permit or misrepresentation of the improvements is a misdemeanor and upon conviction, applicant can be punished as provided by the law. Failure to comply with the mechanics lien law can result in the property owner paying twice for improvements

NOTICE OF CLEARING RESTRICTIONS: Issuance of a Demolition Permit for a structure does not authorize removal of vegetation beyond the footprint of the structure. A Demo Permit is not a clearing permit.

WORK IN THE SPECIAL FLOOD HAZARD AREA: Be advised that Substantial Damage/Substantial Improvement requirements will apply to structures located in the Special Flood Hazard Area with Finished Floor Elevations below the Base Flood Elevation.

CERTIFICATION: Application is hereby made to obtain a permit to do the work and installations as indicated. I, **THE QUALIFIER,** certify that I have not performed any work or installation prior to the issuance of a permit and that all work will be performed to meet the standards of all laws regulating construction in this jurisdiction. The permit or application fee may have additional fees imposed for failing to obtain permits prior to commencement of construction. The permit application or approved permit expires if work is not commenced within 180 days from the date of issuance. I, **THE QUALIFIER** understand that the structure cannot be used or occupied until a certificate of occupancy is issued. By signing this permit application, I, **THE QUALIFIER**, agree that I have been retained by the property owner to provide contracting services for the trade for which I am listed. Furthermore, it is my responsibility to notify the Building Plan Review and Inspection Division should I no longer be **THE QUALIFIER** responsible for providing said contracting services. I, **THE QUALIFIER** , agree that I understand the review and issuing of this permit does not exempt me from complying with all County Codes and Ordinances.

NOTICE OF COMMENCEMENT INFORMATION Per Florida Statutes 713.135 a Notice of Commencement (NOC) is required for construction of improvements totaling more than $2,500, with certain exceptions. For A/C Repairs or Replacements a notice of commencement is required for improvements more than or equal to $15,000. The applicant shall file with the issuing authority prior to the first inspection either a certified copy of the recorded NOC or a notarized statement that the NOC has been filed for recording, along with a copy thereof. In order to comply with the state requirement, permits will be placed in inspection hold until proof of the NOC is filed with the building permitting and inspection department. The issuing authority shall not perform or approve subsequent inspections until the applicant files by mail, facsimile, hand delivery, email or any other means such as certified copy with the issuing authority.

WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.

Job Street Address: 21391 WIDGEON TER, FORT MYERS BEACH, FL 33931

I, Kristin Riddle (Qualifier), hereby certify that all answers to the questions in this registration and any supplementary information attached to and made part of this registration is honest and true.

Kristin Riddle
Typed or printed name of Qualifier

Kristin Riddle
Signature of Qualifier

STATE OF Oh COUNTY OF Wood

The foregoing instrument was certified and subscribed before me by means of X physical presence OR _____ online notarization, this 22nd day of August, 20 24, by Kristin Riddle, _____ who is personally known to me OR X who has produced drivers license as identification.

Melissa Malloy LaRocco
Notary Public Signature

MELISSA MALLOY LAROCCO
Notary Public
State of Ohio
My Comm. Expires
April 13, 2028

Town of Fort Myers Beach
2525 Estero Blvd. Fort Myers Beach, FL 33931
Phone # (239) 765-0202
Buildingpermits@fmbgov.com

Jobsite copy

Reviewed for Compliance

Owner Acknowledgement

Permit 243333

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ACKNOWLEDGEMENT OF TOWN OF FORT MYERS BEACH REGULATIONS BY OWNER OR AUTHORIZED AGENT OF OWNER

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ERTIFICATION: Application is hereby made to obtain a permit to do the work and installations as indicated. I, **THE OWNER OR AUTHORIZED AGENT OF OWNER**, certify that I have ot performed any work or installation prior to the issuance of a permit and that all work will be performed to meet the standards of all laws regulating construction in this isdiction. The permit or application fee may have additional fees imposed for failing to obtain permits prior to commencement of construction. The permit application or pproved permit expires if work is not commenced within 180 days from the date of issuance. I, **THE OWNER OR AUTHORIZED AGENT OF OWNER** understand that the structure annot be used or occupied until a certificate of occupancy is issued. By signing this permit application, I, **THE OWNER OR AUTHORIZED AGENT OF OWNER**, agree that I have been ntained by the property owner to provide contracting services for the trade for which I am listed. Furthermore, it is my responsibility to notify the Building Plan Review and nspection Division should I no longer be **THE OWNER OR AUTHORIZED AGENT OF OWNER** responsible for providing said contracting services. I, **THE OWNER OR AUTHORIZED GENT OF OWNER**, agree that I understand the review and issuing of this permit does not exempt me from complying with all State and local County Codes and Ordinances.

IOTICE OF COMMENCEMENT INFORMATION Per Florida Statutes 713.135 a Notice of Commencement (NOC) is required for construction of improvements totaling more than 2,500, with certain exceptions. For A/C Repairs or Replacements a notice of commencement is required for improvements more than or equal to $15,000. The applicant shall file ith the issuing authority prior to the first inspection either a certified copy of the recorded NOC or a notarized statement that the NOC has been filed for recording, along with a opy thereof. In order to comply with the state requirement, permits will be placed in inspection hold until proof of the NOC is filed with the building permitting and inspection epartment. The issuing authority shall not perform or approve subsequent inspections until the applicant files by mail, facsimile, hand delivery, email or any other means such as ertified copy with the issuing authority.

VARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR 'ROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO)BTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.

ob Street Address: 21391 WIDGEON TER. FORT MYERS BEACH, FL 33931

Signature of Property Owner

TODD PLAISTED

Typed or printed name of Property Owner

STATE OF Florida COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of ✓ physical presence OR ____ online notarization, this 22 day of August, 2024, by Todd Plaisted

✓ who is personally known to me OR ____ who has produced _____ as identification.

Barbara J. Donner

Notary Public Signature

Notary Public State of Florida
Barbara J Donner
My Commission HH 361045
Expires 2/12/2027

If An Owner Agent is Being Named, Please complete below

I, _____ (Property Owner), hereby certify that _____ is my authorized AUTHORIZED AGENT/representative of the property described herein. All answers to the questions in this registration and any supplementary information attached to and made part of this registration is honest and true.

Town of Fort Myers Beach
2525 Estero Blvd. Fort Myers Beach, FL 33931
Phone # (239) 765 -0202
Buildingpermits@fmbgov.com

Jobsite copy

POOL ENCLOSURE AFFIDAVIT

This is to certify that I am applying for a Pool and Deck permit. The enclosure will be a separate permit. However, I understand in accordance with the Zoning Regulations of the Town of Fort Myers Beach Land Development Code, A PERMANENT ENCLOSURE MUST BE IN PLACE AND AN ENCLOSURE PERMIT POSTED PRIOR TO A FINAL INSPECTION AND CERTIFICATE OF COMPLIANCE BEING ISSUED FOR MY PERMIT.

Contractor/ Owner Name: BIG GATOR POOLS & SPAS / KRISTIN RIDDLE
Project Address: 2391 WIDGEON TER, FORT MYERS BEACH, FL 33931
Reference/ Building Permit: _____

Residential Pools, Spas, or Water Features in Coastal High Hazard Areas (V Zones)

Pools, spas, or water features located within the areas of special flood hazard are designated as coastal high- hazard areas or **"V" Zones**. These areas have special flood hazards associated with wave wash and scour; therefore, the following additional provisions apply:
FBC R 322.3.3.1 (2017) Pools in Coastal High Hazard areas shall be designed and constructed in conformance with ASCE 24.

The Design Professional must certify that the pool, spa, or water feature including **deck and foundation, either at-grade or elevated,** has been designed and site located to assure that:

- It will not be subject to breaking up or floating out of the ground
- It will not increase wave or debris impact forces during the storm surge water forces of a coastal flood
- It will not increase the damage potential or jeopardize the integrity to the foundation and elevated portion of any nearby.

Town of Fort Myers Beach
2525 Estero Blvd. Fort Myers Beach, FL 33931
Phone # (239) 765 -0202
Buildingpermits@fmbgov.com

Jobsite copy

Reviewed for Compliance

Permit 243333

Pool or Spa Application

RESIDENTIAL SWIMMING POOL SPA AND HOT TUB SAFETY ACT
REQUIREMENT

PERMIT# _____

ADDRESS: 21391 WIDGEON TER, FORT MYERS BEACH, FL 33931

I, KRISTIN RIDDLE, License # CPC 1459908
(Please print contractor's Name)

Hereby affirm that one of the following methods will be used to meet the requirements of Chapter 515, Florida Statutes:

☐ The pool will be isolated from access to the home by an enclosure that meets the pool barrier requirements of Florida Statute, Section 515.29.

☐ The pool will be equipped with an approved safety pool cover that complies with ASTM F1346-91 (Standard Performance Specifications for Safety Covers for Swimming Pools, Spas, and Hot Tubs).

☐ All doors and windows providing direct access from the home to the pool will be equipped with an exit alarm that has a minimum sound pressure rating of 85 decibels at 10 feet; ALL ALARMS MUST BE PERMANENTLY ATTACHED (BY BEING SCREWED IN) TO ALL WINDOWS AND DOORS LEADING TO POOL AREA.

☐ All doors providing direct access from the home to the pool will be equipped with a self-closing, self-latching device with a release mechanism placed no lower than 54" above the floor or deck.

☒ A swimming pool alarm that, when placed in a pool, sounds an alarm upon detection of an accidental or unauthorized entrance into the water. Such pool alarm must meet and be independently certified to ASTM Standard F2208, titled "Standard Safety Specification for Residential Pool Alarms." Which includes surface motion, pressure, sonar, laser, and infrared alarms.

********** IN ADDITION **********

I understand that a barrier must be placed around the perimeter of the pool and must be separate from any fence, wall, or other enclosure surrounding the yard unless the fence, wall, or other enclosure or portion thereof is situated on the perimeter of the pool, is being used as part of the barrier, and meets the barrier requirements of this section. I also understand that not having one of the above installed at time of final inspection will constitute a violation of Chapter 515 F.S.

I understand that not having one of the above installed before filling the pool with water, will constitute a violation of Chapter 515 F.S

Kristin Riddle
Contractor's Signature

Owner's Signature

KRISTIN RIDDLE
Contractor's Name (Please Print)

TODD PLAISTED
Owner's Name (Please Print)

Town of Fort Myers Beach
2525 Estero Blvd. Fort Myers Beach, FL 33931
Phone # (239) 765 -0202
Buildingpermits@fmbgov.com

Jobsite copy

App. No. 0022

Pool or Spa Application

Regulations and information

1. Town of Fort Myers Beach is regulated by the Florida Building Code 8th Edition (2023). For more information about the code or to purchase the code, visit www.floridabuilding.org.
2. To be an owner builder you must maintain the home as your primary residence for a minimum of one year after CO. You must be present for the permitting process, the construction process, the inspection process, and at CO.

a. Properties in a corporation, trust, or LLC cannot submit owner builder permits.

3. A Florida certified design professional must sign and seal all plans for structural components.
4. If this site is located in a Coastal High Hazard Area, (V-Zone) the entire pool and pool shell must meet the required Design Flood Elevation. All Pools are considered accessory structures and may not be attached to the primary structure.
5. If the pool is seaward of the CCCL, a DEP permit must accompany your plans.
6. Plans for structural components must be designed, signed and sealed by a Florida State Certified Design Professional.
7. If removing protected trees or vegetation, it is required to submit a vegetation permit application.
8. Pool discharge may not be directed toward any natural waterbody or canal.
9. Spot Survey is required within 10 days after the approved slab inspection, As-built Survey before CO.
10. It is the contractor's responsibility to contact the Building Department when all final inspections are complete and obtain a Certificate of Occupancy or a Certificate of Completion.
11. **Sec. 32-109. - Pool areas.**

a) **Lighting of pool decks, pool facilities, swimming pools, and spas** shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required footcandles.

b) **Lighting of the pool water surfaces, and the pool wet deck** surfaces shall comply with the minimum light levels set forth in applicable federal and state laws designed to protect public safety.

c) **Above-water lighting of pool decks, pool facilities, swimming pools, and spas** shall otherwise adhere to the applicable requirements for acceptable light fixtures set forth herein.

d) **Underwater lighting of pools or spa** light shall:

1. Be mounted horizontally in the wall,
2. Not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach, and
3. Shall comply with **minimum light levels** set forth in applicable federal and state laws designed to protect public safety.

12. **Stormwater Pollution Protection Plan (SWPPP) Information**
Due to the nature of excavation and dewatering activities proposed, the Town recommends Pool Contractors submit a Stormwater Pollution Protection Plan (SWPPP) to mitigate erosion of sediment into the Town's stormwater system and surrounding surface waters. The SWPPP shall comply with all applicable Federal, State, and Town regulations.

IN-GROUND INSPECTIONS REQUIRED:

***Notice of Commencement –** a recorded document to submitted to the Building Dept/ need on job site before first inspection.

142- SWP3- Silt Fence-Silt Fence shall be installed prior to construction

101-Foundation/ Stem Wall- Wall /Pile caps if applicable

108-Shell Steel- Structural, including main drain

109-Pool Deck- Structural

304- Shell Bonding- Electrical Bonding of Pool Steel

304- Deck Bonding - Electrical Bonding of Pool Deck

305- Pool Safety- Final electric and barrier code inspection shall be completed prior to filling the pool with water

751- As-Built Survey to be submitted to the Town of Fort Myers Beach (required per Ordinance 20-15 Sec. 34-639)

****If your pool is elevated, you will need to submit a **Structure As-Built/ Height verification survey**-This is to verify the structural height of the building measuring from slab to the tallest horizontal member****

Phone # (239) 765 -0202
Building@fmbeachfl.com

Jobsite copy

Rev 02/06/24
Guidelines subject to change without notice.

Reviewed for Compliance

Permit 243333

Impervious Surface Calculation Sheet

This calculations sheet is a necessary attachment for all of the Town of Fort Myers Beach building permit applications that involve a change to a properties impervious surfaces. In order to assure compliance with this limit to impervious surfaces in the LDC, an accurate calculation of the amount of impervious surface coverage is needed. A short definition of impervious surface is "any hard surface that prevents or restricts the flow of water into the soil". Examples of imperious surfaces include rooftops, sidewalks, parking lots, patios, pools, roads or any driveway made of asphalt, concrete, gravel or paver blocks. Please complete the following information:

Site Address: 21391 WIDGEON TER **Permit #:** _____

Lot Dimensions: _____ **Total Lot Area (Multiply length x width of Lot):** 9540.96

Use the following Table to Calculate Total Impervious Surface Area, (proposed and existing) attach additional sheet if necessary.

Impervious Surface Item	Proposed	Existing	Dimensions	Area (Ft2)
Single Family/Duplex	☐	☑		2205
Addition	☐	☐		
Accessory Building	☐	☐		
Driveway (calculations based site improvements, exclude ROW)	☐	☑		2320
Patio, Deck, Porches (include curbing and any gravel/shell, compacted surfaced areas) Sidewalks or Walkways (include pavers) (Exclude landscape beds)	☐ ☐	☐ ☐		961.63
Recreational Area (basketball court, tennis court, pools, etc.)	☑	☐		546.92
Other	☐	☐		

Impervious Calculation: 6033.55 **Total sq.ft. of impervious surface/** 9540.96 **sq ft. Total Lot Area=** .6324 **(must be less than .67)**

I verify that the above information is true and accurate to the best of my knowledge and that I have included all existing or proposed impervious surfaces. I understand that providing incorrect information may result in the need to remove impervious surfaces if it is discovered that the maximum coverage has been exceeded or creates an impact to surrounding properties.

Kristin Riddle
Signature of Applicant

KRISTIN RIDDLE
Printed Name of Applicant

8/22/24
Date

Jobsite copy

App. No. 0024

Reviewed for Compliance **Permit 243333**

Town of Fort Myers Beach

Stormwater Pollution Protection Plan

(To be submitted with application.)

Permit No: _____
Strap #: 34-46-24-W1-002M0.0010
Job Site Address: 21391 WIDGEON TER, FORT MYERS BEACH, FL 33931
Project Description: NEW RESIDENTIAL POOL & STEM WALL
Site Contact Name: DARELL SIZEMORE
Title: OWNER
Phone #: 239-770-8543
Email: PERMITS@THEBIGGATOR.COM
Size of construction parcel(sqft): 9540.96
Amount of proposed developed area(sqft): 546.92

Identification of additional water or wetlands:

☐ Gulf ☒ Bay ☐ Canal ☐ Beach ☐ Other(please specify)_____

Identification of where the discharge is going:

☐ Catch basin ☐ Canal ☒ Swale or ditch ☐ Other (please specify)_____

Types of Stormwater and De-watering Erosion controls:

☒ Silt Screens ☐ Hay bales ☐ Berms ☐ Sediment Box ☐ Turbidity Booms/Screens
☐ Other (please specify) _____

**If using a Silt fence, it must be trenched to a depth of 8" below the ground surface.*

Provide a sketch including the following:

1)Silt fence location.
2)Locations of discharge from the site.
3)Narrative detailing best management practices (BMPs) as outlined by the State of Florida Erosion and SedimentControl Designer and Reviewer Manual. Manual Link: https://www.flrules.org/Gateway/reference.asp?No=Ref

Contractor shall contact the Building Department @ inspections@fmbgov.com to request an inspection once the silt fence (or erosion control) is installed.

Stormwater Pollution Protection Plan (SWPPP) Information

Due to the nature of excavation and dewatering activities proposed, the Town recommends Pool Contractors submit a Stormwater Pollution Protection Plan (SWPPP) to mitigate erosion of sediment into the Town's Stormwater system and surrounding surface waters. The SWPPP shall comply with all applicable Federal, State, and Town regulations

Jobsite copy

App. No. 0025

Reviewed for Compliance

Permit 243333

Town of Fort Myers Beach

Stormwater Pollution Protection Plan

(To be submitted with application.)

- SITE SKETCH -

SEE ATTACHED DRAINAGE PLAN

Jobsite copy

App. No. 0026

Reviewed for Compliance **Permit 243333**

SUB-CONTRACTOR CONFIRMATION FORM

Permit # _____ Primary Contractor: BIG GATOR POOLS & SPAS

Job Site Address: 21391 WIDGEON TER, FORT MYERS FL 33931

The qualifier of each sub-trade (electric, plumbing, mechanical, roofing) performing work under a general contractor must complete this form and email to inspections@fmbgov.com.

Sub- Contractors Information:

Company Name: FAVAZZA ELECTRIC INC

Qualifier Name: VINCENT FAVAZZA

Address: 1320 SE 2ND TER, CAPE CORAL, FL 33990

License #: EC 13013506

Phone and email: 239-789-6026; FAVAZZAELECTRIC@GMAIL.COM

Qualifier's Affidavit:

KNOW ALL MEN that I VINCENT FAVAZZA do hereby certify that my company is responsible for the (choose one)

● Electric ○ Mechanical ○ Plumbing ○ Roofing, on the above-mentioned permit.

I CERTIFY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

I, VINCENT FAVAZZA (Qualifier), hereby certify that all answers to the questions in this registration and any supplementary information attached to and made part of this registration is honest and true.

_____
Signature of Qualifier

VINCENT FAVAZZA
Typed or printed name of Qualifier

STATE OF FL **COUNTY OF** Lee

The foregoing instrument was certified and subscribed before me by means of ____ physical presence OR ✓ online notarization, this 22nd day of August 2024, by Vincent Favazza ✓ who is personally known to me OR ____ who has produced _____ as identification.

Michelle Irene Waterman
Notary Public Signature

(SEAL)

Michelle Irene Waterman
Comm.: HH 424722
Expires: Jul. 23, 2027
Notary Public - State of Florida

Town of Fort Myers Beach
2525 Estero Blvd. Fort Myers Beach, FL 33931
Phone # (239) 765 -0202 inspections@fmbgov.com

02/06/24

Jobsite copy

Kevin C. Karnes, Lee County Clerk of Circuit Court
INSTR. # 2023000206388, Doc Type NOC, Pages 1, Recorded 6/13/2023 at 10:33 AM, Deputy Clerk: SSTIDI2 ERECORD
Rec Fees: $10.00
Reviewed for Compliance Permit 243333

NOTICE OF COMMENCEMENT

Permit No. _____
Tax Folio No. 10230971
State of FL
County of LEE

The undersigned hereby gives notice that improvement will be made to certain real property, and in accordance with Chapter 713, Florida Statutes, the following information is provided in the Notice of Commencement.

1. **Description of property**: (legal description of property and street address if available).
21391 WIDGEON TER, FORT MYERS BEACH, FL 33931; STRAP: 34-46-24-W1-022M0.0010; FLAMINGO HARBOUR CONDO CONDO PLAT 7 PG 104 UNIT M-1

2. **General description of improvement**:
INSTALLATION OF NEW RESIDENTIAL POOL AND STEM WALL

3. **Owner information**:
Name TODD R PLAISTED
Address 15781 ANDRIE ST NW, RAMSEYY, MN 55303
Phone 62-868-7699 Fax _____
Interest in property OWNER
Name and address of fee simple titleholder (if other than Owner)

4. **Contractor**:
Name BIG GATOR POOLS AND SPAS
Address 1749 NE 10TH TER, UNIT 6, CAPE CORAL, FL 33909
Phone 239-770-8543 Fax _____

5. **Surety**:
Name _____
Address _____
Amount of bond: $ _____ Phone _____ Fax _____

6. **Lender**:
Name _____
Address _____
Phone _____ Fax _____

7. **Persons within the State of Florida designated by Owner** upon whom notices or other documents may be served as provided by Section 713.13(1)(a)7., Florida Statues:
Name _____
Address _____
Phone _____ Fax _____

8. **In addition to himself or herself, Owner designates** the following person(s) to receive a copy of the Lienor's Notice as provided in Section 713.13(1)(b), Florida Statues.
Name _____
Address _____
Phone _____ Fax _____

9. **Expiration date of notice of commencement** (the expiration date is 1 year from date of recording unless a different date is specified) _____

WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER PAYMENT UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BY RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF COMMENCEMENT.

Todd R Plaisted — owner

(Signature of Owner or Lessee, or Owner's or Lessee's Authorized Office/Director/Partner/Manager) (Signatory's Title/Office)

STATE OF Minnesota COUNTY OF Sherburne

The foregoing instrument was certified and subscribed before me by means of ✓ physical presence OR ___ online notarization, this 23rd day of May, 2023 by Todd Plaisted ___ who is personally known to me OR ✓ who has produced _____ as identification.

Michelle Sue Nilson
Notary Public
Minnesota
My Commission Expires January 31, 2024

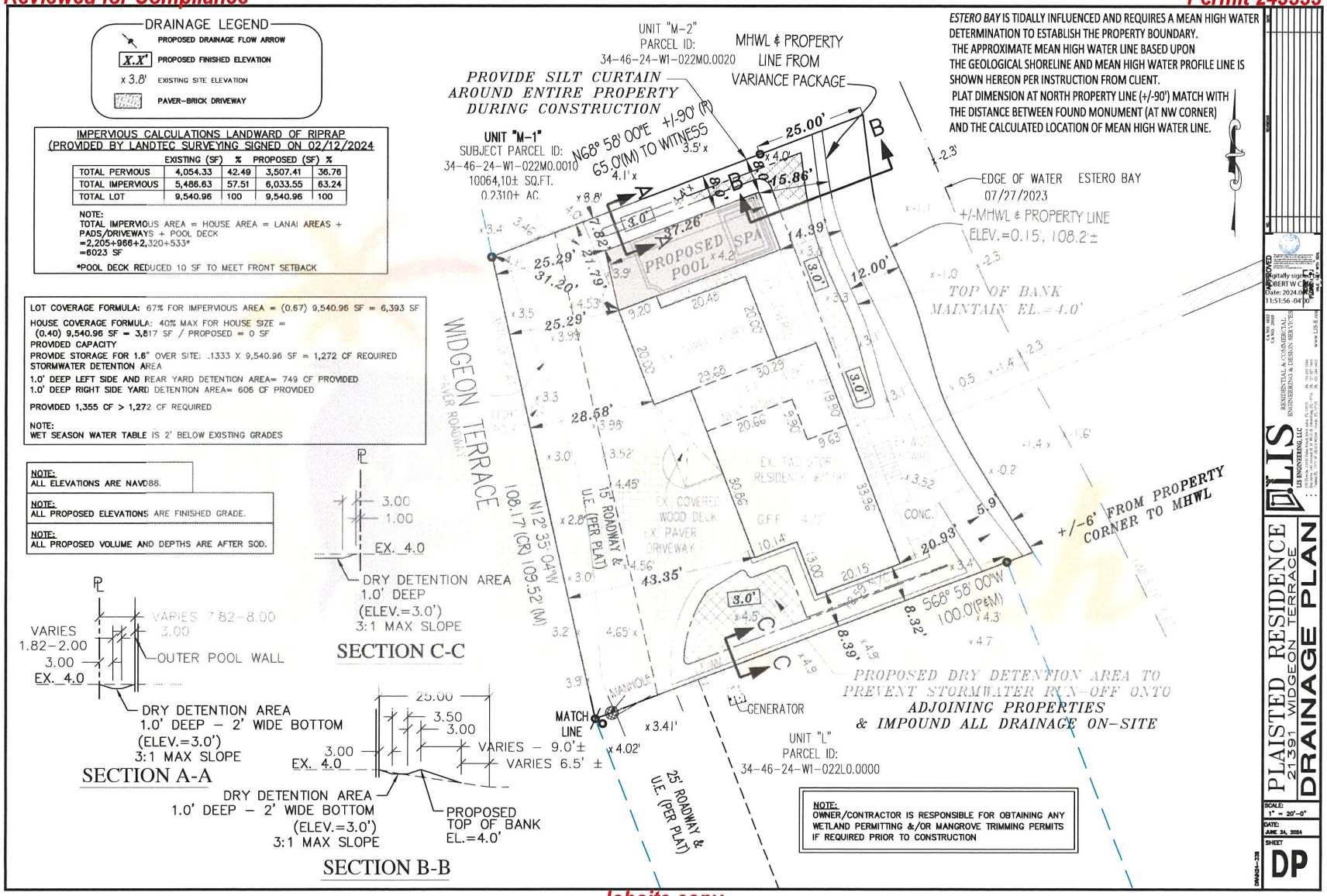
Notary Public Signature

Town of Fort Myers Beach
2523 Estero Blvd, Fort Myers Beach, FL 33931
Phone [illegible] permitting@fortmyersbeachfl.gov.com

Jobsite copy

Reviewed for Compliance

Permit 243333



Jobsite copy

App. No. 0029

EXHIBIT C

12123227

THIS INSTRUMENT PREPARED BY:
RICHARD D. DeBOEST
ATTORNEY AT LAW
P. O. BOX 1451
FORT MYERS, FLORIDA 33902

DECLARATION OF CONDOMINIUM

OF

REC 1357 PG 1089

FLAMINGO HARBOUR CONDOMINIUM

Flamingo Bayou, Inc., a Florida corporation, herein called "developer" on behalf of itself, its sucessors, grantees and assigns, to its grantees and assigns and their heirs, successors and assigns hereby make this Declaration of Condominium:

1. SUBMISSION TO CONDOMINIUM - The lands located in Lee County, Florida, owned by Developer and described in attached Exhibit "D", are submitted to the condominium form of ownership.

2. NAME AND SCOPE - The name of the condominium is FLAMINGO HARBOUR CONDOMINIUM, and will consist of 13 residential units consisting of land only (a Land Condominium).

3. NAME - ASSOCIATION - The name of the condominium association is FLAMINGO HARBOUR CONDOMINIUM ASSOCIATION, INC. This association shall be incorporated as a non-profit Florida corporation.

4. DEFINITIONS - The terms used herein shall have the meanings stated in the Condominium Act (Florida Statutes, Chapter 718) and as follows unless the context otherwise requires:

A. UNIT - A part of the condominium property which is subject to exclusive ownership.

B. UNIT OWNER - The owner of a Condominium parcel.

C. UNIT NUMBER - The letter, number, or combination thereof which is designated upon the surveyor plans, and which is used as the identification of a unit.

D. ASSESSMENT - Means a share of the funds required for the payment of common expenses which from time to time is assessed against the unit owner.

E. ASSOCIATION - The corporation responsible for the operation of the condominium.

ALLEN, KNUDSEN, SWARTZ, DeBOEST, RHOADS & EDWARDS, P. A. ATTORNEYS AT LAW P. O. BOX 1450 COLLIER ARCADE FORT MYERS, FLORIDA

RECORD VERIFIED - CHARLIE GREEN CLERK
BY G WORKMAN D.C.

F. BOARD OF ADMINISTRATION - means the Board of Directors responsible for administration of the association.

G. COMMON ELEMENTS - The portions of the condominium property not included in the units as defined in Florida Statute 718.108, including:

(.1) Those portions of the land that do not constitute the units.

(.2) Improvements which are not included within the units.

(.3) Easements.

(.4) Installations for the furnishing of services to more than one unit or to the common elements, such as electricity, gas, water and sewer.

(.5) Personal property - tangible personal property may be purchased, sold, leased, replaced and otherwise dealt with by the association, through its Board of Directors, on behalf of the members of the association, without the necessity of any joinder by the members.

H. LIMITED COMMON ELEMENTS - means and includes those portions of the common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

I. COMMON EXPENSES - All expenses and assessments properly incurred by the association for the condominium.

J. COMMON SURPLUS - means the excess of all receipts of the association including but not limited to assessments, rents, profits and revenues on account of the common elements over the amount of the common expenses.

K. PERSON - means an individual, corporation, trustee, or other legal entity capable of holding title to real property.

L. SINGULAR, PLURAL, GENDER - Whenever the context so permits, the use of the plural shall include the singular, the plural, and use of any gender shall be deemed to include all genders.

ALLEN, KNUDSEN, SWARTZ, DEBOEST, RHOADS & EDWARDS, P.A.
ATTORNEYS AT LAW
P. O. BOX 1460
COLLIER ARCADE
FORT MYERS, FLORIDA

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M. CONDOMINIUM DOCUMENTS - means the declaration and its attached exhibits, which set forth the nature of the property rights in the condominium and the covenants running with the land which govern these rights. All the condominium documents shall be subject to the provisions of the declaration.

N. CONDOMINIUM PARCEL - means a unit together with the undivided share in the common elements which is appurtenant to the unit.

O. CONDOMINIUM PROPERTY - means the lands and personal property subject to condominium ownership, whether or not contiguous and all improvements thereon and all easements and rights appurtenant thereto.

P. OPERATION - means and includes the administration and management of the condominium property.

5. UNITS SHALL BE CONSTITUTED AS FOLLOWS:

A. REAL PROPERTY - Each unit (which is the parcel of land graphically depicted and numbered on the surveyor plans), all appurtenances thereto, for all purposes, constitute a separate parcel of real property, which may be owned in fee simple and which may be conveyed, transferred and encumbered in the same manner as any other parcel of real property, independently of all other parts of the property, subject only to the provisions of the Condominium Documents and applicable laws.

B. BOUNDARIES - Since the unit has been defined herein as land, the only boundary each unit shall have is its perimeter boundary as shown on the surveyor plans.

C. EXCLUSIVE USE - Each unit owner shall have the exclusive use of his unit, subject to easements.

D. APPURTENANCES - The ownership of each unit shall include, and there shall pass as appurtenances thereto whether or not separately described, all of the right, title and interest of a unit owner in the condominium property which shall include but not be limited to:

ALLEN, KNUDSEN, SWARTZ, DeBOEST, RHOADS & EDWARDS, P. A.
ATTORNEYS AT LAW
P. O. BOX 1480
COLLIER ARCADE
FORT MYERS, FLORIDA

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(.1) COMMON ELEMENTS - an undivided share of the common elements as defined in Chapter 718.108, Florida Statutes.

(.2) ASSOCIATION MEMBERSHIP and an undivided share in the common surplus and property, real and personal, held by the association.

E. EASEMENTS - The following non-exclusive easements are hereby granted from the Developer to each unit owner, to the association and its employees, agents and hired contractors, to utility companies, unit owners' families in residence, guests, invitees and to governmental and emergency services are hereby granted and created:

(.1) INGRESS AND EGRESS - Easement as shown on the plot plan for ingress and egress, to units and public ways.

(.2) MAINTENANCE, REPAIR AND REPLACEMENT - Easements through the units and common elements for maintenance, repair and replacements. Such access is to be only during reasonable hours except that access may be had at any time in case of emergency.

(.3) UTILITIES - Easement as shown on the plot plan for conduits, ducts, plumbing, wiring and other facilities for the furnishing of services to other units and the common elements.

(.4) Emergency, regulatory, law enforcement and other public services in the lawful performance of their duties upon the condominium property.

G. MAINTENANCE - The responsibility for the maintenance of a unit shall be as follows:

(.1) BY THE ASSOCIATION - The association shall maintain, repair, and replace at the association's expense:

(i) The roads and all other common elements;

(ii) Provided that if the maintenance and repair and replacement of any of the above shall be made necessary because of the negligence, act or omission of a unit

ALLEN, KNUDSEN, SWARTZ, DeBOEST, RHOADS & EDWARDS, P. A.
ATTORNEYS AT LAW
P. O. BOX 1480
COLLIER ARCADE
FORT MYERS, FLORIDA

App. No. 0033
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owner, his family, lessees, invitees and guests, in that event the work shall be done by the association at the expense of the unit owner; and the cost shall be secured as an assessment.

(iii) All incidental damage caused to a unit by work done or ordered by the association shall be promptly repaired by and at the expense of the association.

(.2) BY THE UNIT OWNER - The responsibility of the unit owner shall be as follows:

(i) To maintain, repair and replace at his expense, all portions of the unit and improvements placed upon the unit by or at the order of the owner except the portions to be maintained, repaired and replaced by the association.

H. ALTERATION AND IMPROVEMENT - No owner shall make any alterations in the portions of the improvements which are to be maintained by the association or remove any portion thereof or make any additions thereto, or do any work which would jeopardize the safety or soundness of the common elements, or impair any easements.

J. COMMON ELEMENTS -

(.1) The common elements shall be owned by the unit owners in such undivided shares as are set forth in Exhibit "D".

(.2) No action for partition of the common elements shall lie.

(.3) The maintenance and operation of the common elements shall be the responsibility of the association which shall not, however, prohibit management contracts.

(.4) Each unit owner and the association shall be entitled to use the common elements in accordance with the purposes for which they are intended, but no such use shall hinder or encroach upon the lawful rights of owners of other units.

(.5) Enlargement or material alteration of or substantial additions to the common elements may be effectuated only by amendment to the declaration.

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6. FISCAL MANAGEMENT - The fiscal management of the condominium including budget, fiscal year, assessments, lien for and collection of assessments, and accounts shall be as set forth in the By-Laws.

7. ASSOCIATION - The administration of the condominium by the Board of Directors and its powers and duties shall be as set forth in the By-Laws.

8. INSURANCE - The insurance which shall be carried upon the property shall be governed by the following provisions:

A. UNIT OWNERS - Each unit owner shall obtain and maintain insurance at his own expense, affording coverage upon buildings and other insurable improvements constructed upon his unit against loss due to fire, windstorm and extended coverage, and flood insurance, if available.

B. ASSOCIATION - The Association shall maintain public liability and property damage insurance in such amounts as shall be decided by the association. The association may purchase such other insurance as they may deem necessary.

C. PREMIUMS - Premiums upon insurance policies purchased by the association shall be paid by the association and charged as common expenses.

D. ALL INSURANCE POLICIES PURCHASED by the association shall be for the benefit of the association and the unit owners and their mortgagees as their respecitve interests may appear.

E. INSURANCE ADJUSTMENTS - Each unit owner shall be deemed to have delegated to the Board of Directors his right to adjust with insurance companies all losses under policies purchased by the Association.

9. USE RESTRICTIONS - The use of the property of the condominium shall be in accordance with the following provisions:

A. LAWFUL USE - All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the require-

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ments of governmental bodies which require maintenance, modification or repair upon condominium property shall be the same as the responsibility for the repair and maintenance of the property concerned as expressed earlier in this Declaration.

B. REGULATIONS - Reasonable regulations concerning the use of the condominium property may be made and amended from time to time by a majority vote of the association. Copies of such regulations and amendments thereto shall be posted conspicuously and shall be furnished by the association to all unit owners. No regulation may discriminate against any group or class of users.

C. ALL UNITS shall be used for residential purposes only.

D. THE BOARD OF DIRECTORS of the association shall constitute the architectural control committee and no hourses or other structures may be erected upon the units without the prior written approval of the committee. The committee may consider size, setback, style, color, landscaping and any other factor they consider to be pertinent in making their decision.

E. NO HOUSE TRAILER or mobile home shall be used as a residence upon the condominium property.

F. NO UNIT may be subdivided.

G. IN ORDER TO PROTECT the value of all the units, the association may enter upon units to perform groundskeeping and exterior maintenance of structures so that they are at all times presentable and in good condition and appearance if the owner fails to do so after 30 days' written notice delivered or mailed to the owner's last known address and the costs thereof shall be secured as an assessment against the unit.

H. UNITS A THROUGH L, inclusive, are restricted to single family or duplex residential purposes only, and Unit M to fourplex residential purposes only.

10. LIENS -

A. PROTECTION OF PROPERTY - All liens against a unit other than for mortgages, taxes or special assessments, will be satisfied or otherwise removed within 30 days from the

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date the lien attaches. All taxes and special assessments upon a unit shall be paid before becoming delinquent.

B. NOTICE OF LIEN - An owner shall give notice to the association of every lien upon his unit other than for mortgages, taxes and special assessments within seven (7) business days after the attaching of the lien.

C. NOTICE OF SUIT - An owner shall give notice to the association of every suit or other proceedings which may affect the title to his unit, such notice to be given within seven (7) business days after the owners receives knowledge thereof.

D. FAILURE TO COMPLY with this section concerning liens will not affect the validity of any judicial sale.

11. COMPLIANCE AND DEFAULT - Each owner and the association shall be governed by and shall comply with the terms of the condominium documents as they may be amended from time to time.

A. FAILURE TO COMPLY shall be grounds for relief, which relief may include but shall not be limited to an action to recover sums due for damages or injunctive relief or both, and which actions may be maintained by the association or by an aggrieved owner.

B. IN ANY SUCH PROCEEDING the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney fees as may be awarded by the Court.

C. IN THE EVENT that the grievance is that of an owner or owners against the Board of Directors or a member thereof, prior to the institution of litigation, written notice in detail of the grievance shall be given the Directors and they shall be allowed a period of 20 days in which to cure or correct.

D. NO WAIVER OF RIGHTS - The failure of the association or any owner to enforce any covenant, restriction or other provision of the condominium documents shall not constitute a waiver of the right to do so thereafter as to later infractions.

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12. AMENDMENTS - Amendments to any of the condominium documents shall be in accordance with the following:

A. AN AMENDMENT may be proposed either by the Board of Directors or by any owner and may be considered at any meeting of the owners, regular or special, of which due notice has been given according to the By-Laws, which notice includes notice of the substance of the proposed amendment. Passage shall be evidenced by a certificate executed with the formalities of a deed signed by the President or Vice-President and Secretary of the association that it has been enacted by the affirmative vote of the required percentage of unit owners (which vote may be evidenced by written approval of owners not present and the separate written joinder of mortgagees where required; shall include the recording data identifying the Declaration and which shall become effective when recorded according to law.

B. CORRECTORY AMENDMENT - Whenever it shall appear that there is a defect, error or omission in any of the condominium documents amendment of which will not materially adversely affect the property rights of unit owners, a 51% vote of the owners shall be the required percentage, or the procedure set forth in F. S. 718.110(5) may be used.

C. REGULAR AMENDMENTS - An amendment which does not change the configuration or size of any condominium unit in any material fashion, materially alter or modify the appurtenances to such unit, change the proportion or percentage by which the owner of the parcel shares the common expenses and owns the common surplus or materially adversely affects the property rights of owners may be enacted by a 66 2/3% vote.

D. EXTRAORDINARY AMENDMENTS - An amendment which will have the effect of doing any of the things mentioned in "C" above shall require the affirmative vote of all the record owners of the affected units and all record owners of liens thereon and the affirmative vote of the owners of all other units. This section shall be deemed to include enlarge-

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ment of, material alteration of or substantial additions to the common elements only if the same will have a material adverse effect on the owners' property rights; which shall otherwise be treated as regular amendments. Any vote changing the percentage of ownership of the common elements or sharing the common expenses shall be conducted by secret ballot.

13. TERMINATION - The condominium shall be terminated if at all, in the following manner:

A. BY THE AGREEMENT of 66 2/3% of the owners which agreement shall be evidenced by an instrument or instruments executed in the manner required for conveyance of land. The termination shall become effective when such Agreement has been recorded according to law.

B. SHARES OF UNIT OWNERS AFTER TERMINATION - After termination of the condominium, the owners shall continue to own the parcels which were formerly their units in fee simple and also the limited common elements land abutting their unit shown on the plot plan and the holders of mortgages and liens against the former unit or units owned by such owners shall have mortgages and liens upon such parcels. All funds held by the association except for the reasonably necessary expenses of winding up shall be disbursed to the unit owners in the shares set forth in Exhibit "D". The costs incurred by the association in connection with a termination shall be a common expense.

C. FOLLOWING TERMINATION - The road shall remain burdened with a non-exclusive easement for ingress and egress and public utilities in favor of the property parcels which were units and limited common elements in the condominium prior to the termination, or in the alternative the owners may elect to deed the road to the county as a public road if the county will accept it or to a non-profit corporation in which all the owners would be members, formed to maintain the road.

D. THE MEMBERS OF THE LAST BOARD OF DIRECTORS shall continue to have such powers as in this Declaration are granted,

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notwithstanding the fact that the association itself may be dissolved upon a termination, subject to the limitations of F. A. Chapter 617 (1977).

14. PROVISIONS PERTAINING TO THE DEVELOPER -

A. SO LONG AS THE DEVELOPER holds more than one unit for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Developer:

(.1) Assessment of the Developer as a unit owner for capital improvements.

(.2) Any action by the association that would be detrimental to the sale of units or the completion of the project by the Developer including such use of unsold units and common areas as may facilitate completion and/or sale, maintenance of a sales office, showing the property and display of signs.

B. UNTIL A MAJORITY OF THE BOARD OF DIRECTORS of the association is elected from owners other than the Developer or its nominees, the Developer reserves the right for itself, or its nominees, to provide and charge for management which shall be fair and reasonable.

15. RIGHTS OF MORTGAGEES - Where a mortgagee of a first mortgage of record obtains title to a unit by foreclosure, such mortgagee and its successors and assigns shall not be liable for such unit's assessments or share of the common expenses which become due prior to acquisition of title unless such share is secured by a claim of lien for assessments recorded prior to the recordation of the subject mortgage. In a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor for his share of the common expenses up to the time of the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. See F. S. 718.116(1)(a).

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Also, such mortgagee may occupy, lease, sell or otherwise dispose of such unit without the approval of the association.

16. ENFORCEMENT OF ASSESSMENT LIENS - Liens for assessments may be foreclosed by suit brought in the name of the association in like manner as a foreclosure of mortgage on real property. During his occupancy, the foreclosed owner shall be required to pay a reasonable rental and the association shall be entitled to the appointment of a receiver to collect the same, and the association shall have all the powers provided in F. S. 718.116, including specifically interest at ten (10) percent per annum on unpaid assessments and reasonable attorney's feets incident to the collection of such assessment or enforcement of such lien, with or without suit.

17. MEMBERS - The qualification of members, the manner of their admission and voting by members shall be as follows:

A. ALL OWNERS OF UNITS in the condominium shall be members of the Association, and no other persons or entities shall be entitled to membership.

B. MEMBERSHIP IN THE ASSOCIATION shall be established by the recording in the Public Records of Lee County, Florida, a deed or other instrument establishing a change of record title to a unit in the condominium and delivery to the association of a copy of such instrument, the new owner thereby becoming a member of the association. The membership of the prior owner shall be thereby terminated. Provided, however, that the change of ownership and occupancy of the new owner must have been in compliance with this declaration and the association need not recognize membership or ownership in any person until its requirements have been complied with.

18. INDEMNIFICATION - Every Director of the association shall be indemnified by the association against all expenses and liabilities, including counsel fees, reasonably incurred or imposed upon him in connection with any proceedings to which

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he may be a party, or in which he may become involved by reason of his being or having been a Director of the association, or any settlement thereof, whether or not he is a Director at the time such expenses are incurred, except in cases wherein the Director is adjudged tuilty of nonfeasance, misfeasance or malfeasance in the performance of his duties, or shall have breached his fiduciary duty to the members of the association. Provided however, that the association shall not be liable for payment of a voluntary settlement unless it is first approved by the Board of Directors.

19. COMMON EXPENSES AND COMMON SURPLUS - The percentage of sharing common expenses and the percentage of ownership of common surplus are shown on Exhibit "C" to this declaration and are based on the approximate square footage within each unit. The manner of sharing the common expenses will be such that units of approximately equal square footage will pay the same dollar assessment, and the dollar assessments on units of different sizes will be fair in relation to the others.

20. SEVERABILITY - If any provision of this declaration or the exhibits thereto, as now constituted or as later amended, or any section, sentence, clause, phrase or word, or the application thereof in any circumstances is held invalid, the validity of the remainder and of the application of any such provision, section, sentence, clause, phrase or word in other circumstances shall not be affected thereby.

21. UNTIL THE COMPLETION OF THE CONTEMPLATED IMPROVEMENTS to the condominium property, the Developer specifically reserves the right, without joinder of any person, to make such changes in the declaration and its attachments or in the plan of development, as may be required by any lender, governmental authority or as may be, in its judgment, necessary or desirable. This paragraph shall take precedence over any other provision of the declaration or its attachments.

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OR 1357 PG 1102

THIS DECLARATION OF CONDOMINIUM and attachments hereto made and entered into this 13th day of June, 1979.

FLAMINGO BAYOU, INC.,
A Florida Corporation

(Corporate Seal)

By C. A. Cartwright (SEAL)
President

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me this 13th day of June, 1979, by C. A. CARTWRIGHT, President of FLAMINGO BAYOU, INC., a Florida corporation, on behalf of the corporation.

Sharon M. Wells
Notary Public

My Commission expires:

Notary Public, State of Florida at Large
My Commission Expires Nov. 8, 1980

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EXHIBIT "A"

OFF. REC. 1357 PG 1103

BY-LAWS

OF

FLAMINGO HARBOUR CONDOMINIUM ASSOCIATION, INC.

1. IDENTITY - These are the By-Laws of FLAMINGO HARBOUR CONDOMINIUM ASSOCIATION, INC., a non-profit Florida corporation formed for the purpose of administering Flamingo Harbour Condominium, which is located at Fort Myers Beach, Florida, upon the lands described in the Declaration of Condominium. (The corporation shall hereafter be referred to as the Association).

(.1) OFFICE - The office of the Association shall be at the Condominium.

(.2) FISCAL YEAR - The fiscal year of the Association shall be the calendar year.

(.3) SEAL - The seal of the Association shall bear the name of the Association, the word "Florida", and the year of establishment.

2. MEMBERS' MEETINGS -

(.1) ANNUAL MEMBERS' MEETINGS shall be held at the Condominium or at such other convenient location as may be determined by the Board of Directors, at such hour and upon such date each year as may be determined by the Board, for the purpose of electing Directors and of transacting any business authorized to be transacted by the members.

(.2) SPECIAL MEMBERS' MEETINGS shall be held whenever called by the President, Vice President, or by a majority of the Board of Directors, and when called by written notice from ten (10) percent of the entire membership. As

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to the meeting required when unit owners other than the Developer are entitled to elect a member or members of the Board of Directors, the meeting may be called and notice given by any unit owner if the Association fails to do so.

(.3) NOTICE OF MEMBERS' MEETINGS - Notice of the annual meeting shall be sent to each unit owner by United States mail at least 14 days prior to the annual meeting. A post office certificate of mailing shall be obtained and retained as proof of such mailing. Written notice of the meeting shall also be posted in a conspicuous place on the condominium property at least 14 days prior to the annual meeting.

The Board of administration shall also mail a meeting notice and copies of the proposed annual budget of common expenses to the unit owners not less than 30 days prior to the meeting at which the budget will be considered.

Notice of a special meeting to elect a director or directors from the unit owners other than the Developer is specified in By-Law 3(.2)(D)(ii).

Notice of a special meeting called by the Board at the written request of ten (10) percent of the owners because of a budget exceeding 115% of that of the preceding year requires not less than 10 days' written notice to each unit owner.

Notice of other special meetings not covered above shall be in writing and mailed to each member first class, postage pre-paid not less than 10 days prior to the meeting.

However, unit owners may waive notice of specific meetings and may take action by written agreement without meetings where it is in the best interest of the condominium to do so.

All notice of meetings shall state clearly and particularly the purpose or purposes of the meeting.

(.4) A QUORUM at members' meetings shall consist of persons entitled to cast a majority of the votes of the entire membership. The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such member for the purpose of determining a quorum. Decisions made by owners of a majority of the units represented at a meeting at which a quorum is present shall be binding and sufficient for all purposes except an amendment to the condominium documents or such other decision as may by law or said documents require a larger percentage in which case the percentage required in the documents or law shall govern.

(.5) EACH UNIT shall have one indivisible vote, and the vote of the owners of a unit owned by more than one person or by a corporation or other entity shall be cast by the person named in a certificate signed by all of the owners of the unit and filed with the Secretary of the Association. The certificate shall be valid until revoked by a

subsequent certificate. If such a certificate is not on file, the vote of such unit shall not be considered in determining the requirement for a quorum nor for any other purpose. No certificate is required for a unit owned by husband and wife and either spouse may cast the vote of that unit.

(.6) PROXIES Votes may be cast in person or by proxy. Proxies shall be in writing, signed and dated and shall be valid only for the particular meeting designated therein and must be filed with the Secretary before or at the appointed time of the meetings.

(.7) APPROVAL OR DISAPPROVAL of a unit owner upon any matter, whether or not the subject of an Association meeting, shall be by the same person who would cast the vote of such owner if in an Association meeting.

(.8) ADJOURNED MEETINGS - If any meeting of members cannot be organized because a quorum has not attended, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

(.9) THE ORDER OF BUSINESS AT ANNUAL MEMBERS' MEETINGS, and, as far as applicable at all other members' meetings, shall be:

(a) Election of Chairman of the meeting, unless the President or Vice-President of the Association is present when he (or she) shall preside.

(b) Calling of the roll and certifying of proxies.

(c) Proof of Notice of meeting or waiver of notice.

(d) Reading and disposal of any unapproved minutes.

(e) Reports of Directors.

(f) Reports of Committees.

(g) Election of Directors.

(h) Unfinished business.

(i) New business.

(j) Adjournment.

3. BOARD OF DIRECTORS -

(.1) MEMBERSHIP - The affairs of the Association shall be managed initially by a Board of three Directors selected by the Developer. Boards elected subsequent to the time members other than the Developer are entitled to elect a majority of the Directors shall be composed of any odd number of Directors that the Owners may decide. Other than Directors selected by the Developer, each Director shall be a person entitled to cast a vote in the meetings of the Association. The Developer shall be entitled to select at least one Director as long as it holds at least 5% of the units that will ultimately be operated by the Association for sale in the ordinary course of business.

(.2) DESIGNATION OF DIRECTORS shall be in the following manner:

(a) Members of the Board of Directors except those selected by the Developer shall be elected by a majority of those present and voting at the annual meeting of the members of the Association or at a special meeting called

for pursuant to Paragraph 3 (.2)(D)(ii) under F.S. 718.301.

(b) Except as to vacancies provided by removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by a majority vote of the remaining Directors.

(c) Any Director except those selected by the Developer, may be removed with or without cause by concurrence of a majority of the members of the Association, either by written agreement or at a special meeting of the members called for that purpose either by a majority of the Board of Directors or by 10% of the members. The vacancy in the Board of Directors so created shall be filled by the members of the Association at the same meeting.

(d)

(i) When unit owners other than the Developer own fifteen percent (15) or more of the units that will be operated ultimately by the Association, the unit owners other than the Developer shall be entitled to elect not less than one-third of the members of the Board of Directors of the Association. Unit owners other than the Developer shall be entitled to elect not less than a majority of the members of the Board of Directors 3 years after 50% of the units that will be operated ultimately by the Association have been conveyed to purchasers, or 3 months after 90% of the units that will be operated ultimately by the Association have been conveyed to purchasers, or when all of the units that will be operated ultimately by the Association have been completed and some of them have been sold and none of

the others are being offered for sale by the Developer in the ordinary course of business or when some of the units have been conveyed to purchasers, and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business, whichever shall first occur.

(ii) Within 60 days after unit owners other than the Developer are entitled to elect a member or members of the Board of Directors, the Association shall call and give not less than 30 or more than 40 days' notice of a meeting of the unit owners for this purpose.

(iii) Prior to or not more than 60 days after unit owners other than the Developer elect a majority of the members of the Board of Directors of the Association, the Developer shall relinquish control of the Association and shall deliver to the Association all property of the unit owners and of the Association held by or controlled by the Developer, as specified in F.S. 718.301.

(.3) THE TERM OF EACH DIRECTOR'S SERVICE shall extend until the next annual meeting of the members and thereafter until his successor is duly elected and qualified or until he is removed in the manner elsewhere provided. Provided however, that in order to provide a continuity of experience, the members at the first annual meeting after the Developer has relinquished control of the Association may vote to give up to one-half of the Board members terms of two years so that a system of staggered terms will be

initiated.

(.4) THE ORGANIZATION MEETING of the newly elected Board of Directors shall be held at such place and time as shall be fixed by the Directors, provided a quorum shall be present.

(.5) REGULAR MEETINGS OF THE BOARD OF DIRECTORS may be held at such time and place as shall be determined from time to time, by a majority of the Directors, but not less than quarterly. Notice of regular meetings shall be given to each Director personally or by mail, telephone or telegraph, at least three (3) days prior to the day named for such meeting.

(.6) SPECIAL MEETINGS OF THE DIRECTORS MAY BE called by the President and must be called by the Secretary at the written request of one-third of the Directors. Not less than three (3) days' notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting, except in an emergency.

(.7) WAIVER OF NOTICE - Any Director may waive notice of a meeting before, at or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

(.8) MEETINGS OF THE BOARD OF DIRECTORS shall be open to all unit owners to attend and listen but not be heard or participate (unless a majority of the Directors consent thereto) and notice of meetings shall be posted conspicuously

on the condominium property forty-eight (48) hours in advance for the attention of unit owners except in an emergency.

(.9) A QUORUM AT DIRECTORS' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board. If at any meeting of the Board there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

(.10) THE PRESIDING OFFICER at Directors' meetings shall be the President of the Board if such an officer has been elected; and if none, then the Vice-President shall preside. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

(.11) DIRECTORS SHALL SERVE WITHOUT PAY, but shall be entitled to reimbursement for expenses reasonably incurred.

4. POWERS AND DUTIES OF THE BOARD OF DIRECTORS - All of the powers and duties of the Association existing under the Condominium Act, Declaration of Condominium, and these By-Laws shall be exercised exclusively by the Board of Directors,

or its duly authorized agents, contractors, or employees subject only to the approval by unit owners when such is sphcifically required. Such powers and duties of the Directors shall include but shall not be limited to the following:

(.1) TO MAKE AND COLLECT ASSESSMENTS AGAINST members to defray the costs of the condominium.

(.2) TO USE THE PROCEEDS OF ASSESSMENTS in the exercise of its powers and duties.

(.3) THE MAINTENANCE, REPAIR, REPLACEMENT AND OPERATION of the condominium property.

(.4) THE RECONSTRUCTION OF IMPROVEMENTS AFTER CASUALTY and the further improvement of the property.

(.5) TO APPROVE OR DISAPPROVE PROPOSED TRANSACTIONS in the manner provided by the Condominium Declaration.

(.6) TO ENFORCE by legal means the provisions of applicable laws, the condominium documents, the ByLaws of the Association, and the regulations for the use of the property in the condominium.

(.7) TO CONTRACT FOR MANAGEMENT of the condominium.

(.8) TO PAY TAXES AND ASSESSMENTS which are liens against any part of the condominium other than individual units and the appurtenances thereto, and to assess the same against the unit subject to such liens.

(.9) TO CARRY INSURANCE for the protection of the unit owners and the Association against casualty and liabilities.

(.10) TO PAY THE COST OF ALL POWER, WATER, SEWER and other utility services rendered to the condominium and not billed to owners of individual units.

(.11) TO EMPLOY PERSONNEL and designate other officers for reasonable compensation and grant them such duties as seems appropriate for proper administration of the purposes of the Association.

(.12) TO BRING SUIT, EXECUTE CONTRACTS, DEEDS, MORTGAGES, LEASES and other instruments by its officers and to own, convey and encumber real and personal property.

(.13) THE DIRECTORS MAY, pursuant to F.S. 617.10 (3) impose fines in such reasonable sums as they deem appropriate, not to exceed $100.00, against unit owners for violations of the Condominium Documents, including the Rules and Regulations, by owners or their guests or lessees.

5. OFFICERS

(.1) THE EXECUTIVE OFFICERS of the Association shall be the President, a VicePresident, a Secretary and a Treasurer, all of whom shall be elected annually by and from the Board of Directors and who may be peremptorily removed by a majority vote of the Directors at any meetings. Any person may hold two or more offices except that the President shall not also be the Secretary or Assistant Secretary.

(.2) THE PRESIDENT shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of President of a corporation.

(.3) THE VICEPRESIDENT shall in the absence or disability of the President exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

(.4) THE SECRETARY shall keep the minutes of all proceedings of the Directors and the members. He shall attend to the giving and serving of all notices to the members and Directors and other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary of the Association and as may be required by the Directors or the President. The Assistant Secretary will perform the duties of the Secretary when the Secretary is absent.

(.5) THE TREASURER shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He shall keep the assessment rolls and accounts of the members; he shall keep the books of the Association in accordance with good accounting practices; and he shall perform all other duties incident to the office of the Treasurer of a corporation.

(.6) THE COMPENSATION of all officers and employees of the Association shall be fixed by the Directors. This

provision shall not preclude the Board of Directors from employing a Director as an employee of the Association or preclude the contracting with a Director for the management of the condominium.

7. MINUTES OF ALL MEETINGS OF UNIT OWNERS and of the Board of Directors shall be kept in a businesslike manner and these plus records of all receipts and expenditures and all other records shall be available for inspection by unit owners and Board members at all reasonable times.

8. FISCAL MANAGEMENT shall be in accordance with the following provisions:

A. BUDGET A proposed annual budget of

(.1) common expenses shall be prepared by the Board of Directors which shall include all anticipated expenses for operation, maintenance and administration of the condominium including insurance, management fees, if any, and which may accrue a reserve for deferred maintenance and depreciation. It will contain a reasonable allowance for contingencies, and provide funds for all unpaid operating expense previously incurred.

(.2) A copy of the proposed annual budget shall be mailed to the unit owners not less than thirty days prior to a meeting of the owners at which the budget will be considered together with a notice of the meeting. Should a quorum fail to be present or represented at the meeting or fail to adopt the budget presented or a revised budget, then and in that

event the Directors shall have the authority to adopt a budget.

(.3) The first budget shall be made by the Developer.

B. ASSESSMENTS The shares of the unit owners of the common expenses shall be made payable monthly in advance or, in the discretion of the Directors, quarterly in advance and shall become due on the first day of each month or the first day of each quarter. The amounts shall be no less than are required to provide funds in advance for payment of all the anticipated current operating expenses and for all of the unpaid operating expense previously incurred.

C. EMERGENCY ASSESSMENTS - Assessments for the expenses of emergencies which cannot be paid from the contingency account shall be made only by the Board of Directors and the time of payment shall likewise be determined by them.

D. ASSESSMENT ROLL - The assessments for common expenses according to the budget shall be set forth upon a roll of the units which shall be available for inspection at all reasonable times by unit owners. Such roll shall indicate for each unit the name and address of the owner, the assessments paid and unpaid. A certificate made by a duly authorized representative of the Directors as to the status of a unit's account may be relied upon for all purposes for any person for whom made other than the unit owner.

E. LIABILITY FOR ASSESSMENTS - A unit owner shall be liable for all assessments coming due while he is the owner of a unit, and such owner and his grantees after a

voluntary conveyance, shall be jointly and severally liable for all unpaid assessments due and payable up to the time of such voluntary conveyance. Such liability may not be avoided by waiver of the use or enjoyment of any common elements, or by abandonment of the unit for which the assessments are made, per Florida Statute 718.116.

F. LIEN FOR ASSESSMENTS - The unpaid portion of an assessment which is due together with interest thereon and reasonable attorney's fees for collection, shall be secured by a lien upon:

(.1) THE UNIT, and all appurtenances thereto when a notice claiming the lien as been recorded by the Association in accordance with the requirements of Florida Statute 718.116. Such lien shall be subordinate to any prior recorded mortgage on the unit.

(.2) ALL TANGIBLE PERSONAL PROPERTY located in the unit except that such lien shall be subordinate to prior liens and security interests of record.

(.3) COLLECTION:

(i) INTEREST: APPLICATION OF PAYMENTS - Assessments paid on or before ten (10) days after the date due shall not bear interest, but all sums not paid on or before ten (10) days shall bear interest at the rate of 10% per annum from the date due until paid. All payments upon account shall be first applied to interest and then to the assessment payment first due. All interest collected shall be credited to the common expense account.

(ii) SUIT - The Association, at its option, may enforce collection of delinquent assessment accounts by suit at law or by foreclosure of the lien securing the assessments, or by any other remedy available under the laws of the State of Florida, and in either event the Association shall be entitled to recover the payments which are delinquent at the time of judgment or decree, together with interest thereon at the rate of 10% per annum, and all costs incident to the collection and the proceedings, including reasonable attorney's fees. Per F.S. 718.116(5)(b) the Association must deliver or mail by certified mail to the unit owner a written notice of its intention to foreclose the lien 30 days before commencing foreclosure.

G. ACCOUNTS All sums collected from assessments may be mingled in a single fund, but they shall be held in trust for the unit owners in the respective shares in which they are paid and shall be credited to accounts from which shall be paid the expenses for which the respective assessments are made. These accounts shall be as follows:

(.1) COMMON EXPENSE ACCOUNT - to which shall be credited collections of assessments for all common expenses.

(.2) ALTERATION AND IMPROVEMENT ACCOUNT - to which shall be credited all sums collected for alteration and improvement assessments, if any.

(.3) CONTINGENCY ACCOUNT - which shall be credited all sums collected for contingencies and emergencies.

H. THE DEPOSITORY of the Association shall be such bank or banks in Florida as shall be designated from time to time by the Directors and in which the monies for the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

I. AN AUDIT of the accounts of the Association shall be made annually and a copy of the report shall be furnished to each member within 30 days after its completion and delivery to the Directors, or at the annual meeting.

J. FIDELITY BONDS shall be required by the Board of Directors from all officers and directors of the Association who control or disburse Association funds. The amount of such bonds shall be determined by the Directors. The premiums on such bonds shall be paid by the Association.

9. PARLIAMENTARY RULES - Roberts Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Declaration, the By-Laws of the Association or with the Laws of the State of Florida.

10. AMENDMENTS Amendments to the By-Laws shall be proposed in the following manner:

(.1) NOTICE of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

(.2) A RESOLUTION adopting a proposed amendment must receive approval of a majority of the votes of the

entire membership of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing.

(.3) INITIATION - An amendment may be proposed by either a majority of the Board of Directors or by ten (10) percent of the membership of the Association.

(.4) EFFECTIVE DATE - An amendment when adopted shall become effective only after being recorded according to law.

(.5) THESE BY-LAWS shall be deemed amended, if necessary, so as to make the same consistent with the provisions of the Declaration of Condominium, or the Condominium Act.

(.6) PROPOSAL TO AMEND EXISTING BY-LAWS shall contain the full text of the By-Laws to be amended. New words shall be underlined and words to be deleted shall be lined through with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying "SUBSTANTIAL REWORDING OF BY-LAW. SEE BY-LAW #_____ FOR PRESENT TEXT."

11. WEIGHT OF VOTES cast by members of the Association shall be one vote for each unit.

12. IN THE EVENT THE DIRECTORS DEEM IT NECESSARY to do so, they and the owners may act by written agreement without meetings, which written agreement may be executed in counterparts.

OFF. REC. 1357 PG 1121

The foregoing was adopted as the By-Laws of Flamingo Harbour Condominium Association, at the first meeting of the Board of Directors.

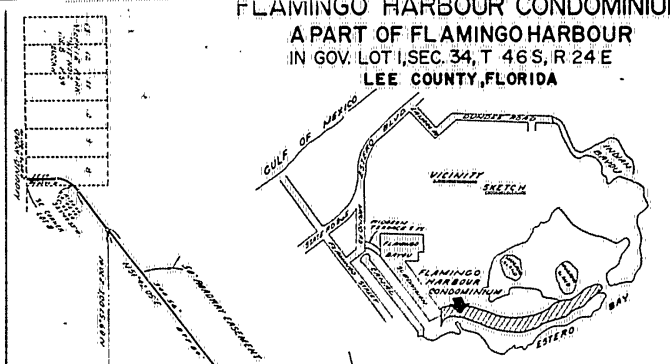
C. A. Cartwright

CONDO PLAT BOOK 5 PAGE 372

FLAMINGO HARBOUR CONDOMINIUM
A PART OF FLAMINGO HARBOUR
IN GOV. LOT 1, SEC. 34, T 46 S, R 24 E
LEE COUNTY, FLORIDA

EXHIBIT "B"

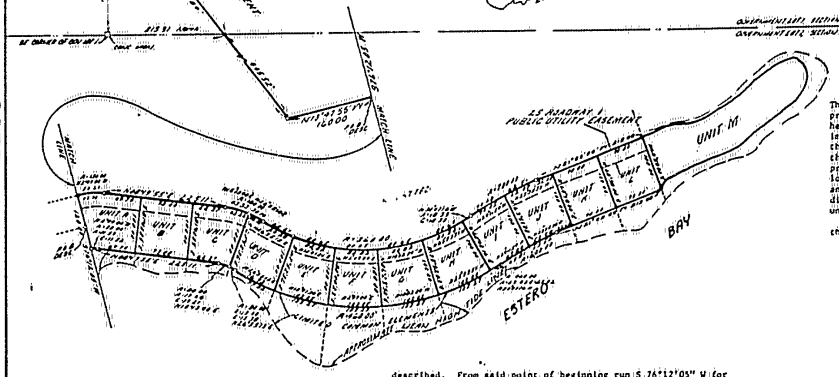
OFF. REC. 1357 PG 1122



SCALE
100 0 100

DESCRIPTION OF LIMITED COMMON ELEMENTS

All those lands lying East of the platted unit line and West of the Mean High Tide Line along Estero Bay.



SURVEYOR'S CERTIFICATE

The undersigned, a surveyor duly authorized to practice under the laws of the State of Florida, hereby certifies that the construction of the improvements is substantially complete so that the material, together with the provisions of the Declaration describing the condominium property, is an accurate representation of the location and dimensions of the improvements, and that the identification, location, and dimensions of the common elements and of each unit can be determined from these materials.

CERTIFIED TO FLAMINGO BAYOU, INC., dated this 13 day of June, 1979.

Duane Hall
Duane Hall
Registered Land Surveyor
Florida Certificate #1615

DESCRIPTION: A tract of land lying in Government Lot 1, Section 34, Township 46 South, Range 24 East, Estero Island, Florida, which tract is described as follows: From the southeast corner of Lot 8, Block H, Unit 2, McPhie Park, according to the plat recorded in Plat Book 8 at page 59 of the public records of Lee County, Florida, run westerly along the south line of said Lot 8 for 10 feet; thence run northerly perpendicular to said south line and along the east line of a roadway easement 50 feet wide for 55.54 feet to a point of curvature; thence run northeasterly along the southeasterly line of said roadway easement along the arc of a curve to the right with a radius of 50 feet (said curve having a central angle of 51°45'05") for 45.16 feet to a point of tangency; thence run N 51°42'05" E along said southeasterly line of said roadway easement along a line 295 feet (as measured on a perpendicular) northwesterly of and parallel with the northwesterly line of Block C of Flamingo Park (now the centerline of Flamingo Street) as shown on the plat recorded in Plat Book 3 at page 66 of said public records for 877.84 feet; thence run N 13°47'55" W along the northeasterly line of said roadway easement for 160 feet to the point of beginning of the lands hereinafter described. From said point of beginning run S 76°12'05" W for 60 feet; thence run northwesterly, northerly and northeasterly along the westerly line of a roadway easement 25 feet wide along the arc of a curve to the right having a radius of 130 feet (chord bearing N 2°46'00" W - chord distance 69.90 feet) for 50.21 feet to a point of tangency; thence run N 8°19'55" E along said westerly line of said roadway easement for 225.11 feet to a point of curvature; thence run northeasterly along said westerly line of said roadway easement along the arc of a curve to the right having a radius of 180.00 feet (chord bearing N 20°01'28" E - chord distance 72.96 feet) for 73.47 feet to a point of reverse curvature; thence run northeasterly, northerly and northwesterly along said westerly line of said roadway easement along the arc of a curve to the left having a radius of 360.00 feet (chord bearing N 0°15'53" E - chord distance 381.35 feet) for 401.89 feet to a point of reverse curvature; thence run northwesterly along the arc of a curve to the right having a radius of 700.00 feet (chord bearing N 26°28'24" W - chord distance 136.78 feet) for 137.00 feet to a point of tangency; thence run N 21°02'00" W along said westerly line of said roadway easement for 212.00 feet; thence run S 40°58'58" W for 10 feet more or less to the waters of Flamingo Harbor; thence run northeasterly, northerly and northeasterly along said waters to the waters of Estero Bay; thence run in a southerly direction along said waters to an intersection with a line bearing N 76°12'05" E passing through the point of beginning; thence run S 76°12'05" W along said line to the point of beginning. TOGETHER WITH the hereinabove described roadway easement 50 feet wide extending from Mound Road to the southerly line of the hereinabove described parcel.

DUANE HALL & ASSOCIATES, INC.

FLAMINGO HARBOUR CONDOMINIUM

EXHIBIT "C"

PERCENTAGES OF OWNERSHIP

Units A through L, inclusive	1/14th of the whole
Unit M	2/14ths of the whole
	14/14ths

ALLEN, KNUDSEN, SWARTZ, DeBOEST, RHOADS & EDWARDS, P. A.
ATTORNEYS AT LAW
P. O. BOX 1480
COLLIER ARCADE
FORT MYERS, FLORIDA

FLAMINGO HARBOUR CONDOMINIUM

EXHIBIT "D"

LEGAL DESCRIPTION

A tract of land lying in Government Lot 1, Section 34, Township 46 South, Range 24 East, Estero Island, Florida, which tract is described as follows: From the southeast corner of Lot 8, Block H., Unit 2, McPhie Park, according to the plat recorded in Plat Book 8 at page 59 of the public records of Lee County, Florida, run westerly along the south line of said Lot 8 for 10 feet; thence run northerly perpendicular to said south line and along the east line of a roadway easement 50 feet wide for 55.54 feet to a point of curvature; thence run northeasterly along the southeasterly line of said roadway easement along the arc of a curve to the right with a radius of 50 feet (said curve have a central angle of 51°45'05") for 45.16 feet to a point of tangency; thence run N 51°42'05" E along said southeasterly line of said roadway easement along a line 295 feet (measured on a perpendicular) northwesterly of and parallel with the northwesterly line of Block C of Flamingo Park (now the centerline of Flamingo Street) as shown on the plat recorded in Plat Book 9 at page 66 of said public records for 877.84 feet; thence run N 13°47'55" W along the northeasterly line of said roadway easement for 160 feet to the point of beginning of the lands herein described. From said point of beginning run S 76°12'05" W for 60 feet; thence run northwesterly, northerly and northeasterly along the westerly line of a roadway easement 25 feet wide along the arc of a curve to the right having a radius of 130 feet (chord bearing N 2°44'00" W - chord distance 49.90 feet) for 50.21 feet to a point of tangency; thence run N 8°19'55" E along said westerly line of said roadway easement for 225.11 feet to a point of curvature; thence run northeasterly along said westerly line of said roadway easement along the arc of a curve to the right having a radius of 180.00 feet (chord bearing N 20° 01'28" E - chord distance 72.96 feet) for 73.47 feet to a point of reverse curvature; thence run northeasterly, northerly and northwesterly along said westerly line of said roadway easement along the arc of a curve to the left having a radius of 360.00 feet (chord bearing N 0°15'53" E - chord distance 381.35 feet) for 401.89 feet to a point of reverse curvature; thence run northwesterly along the arc of a curve to the right having a radius of 700.00 feet (chord bearing N 26°28'24" W - chord distance 136.78 feet) for 137.00 feet to a point of tangency; thence run N 21°02'00" W along said westerly line of said roadway easement for 212.00 feet; thence

ALLEN, KNUDSEN, SWARTZ, DEBOEST, RHOADS & EDWARDS, P. A.
ATTORNEYS AT LAW
P. O. BOX 1480
COLLIER ARCADE
FORT MYERS, FLORIDA

run S 0°68'58" W for 10 feet more or less to the waters of Flamingo Harbor; thence run northwesterly, northerly and northeasterly along said waters to the waters of Estero Bay; thence run in a southerly direction along said waters to an intersection with a line bearing N 76°12'05" E passing through the point of beginning; thence run S 76°12'05" W along said line to the point of beginning. TOGETHER WITH the hereinabove described roadway easement 50 feet wide extending from Mound Road to the southerly line of the hereinabove described parcel.

ALLEN, KNUDSEN, SWARTZ, DeBOEST, RHOADS & EDWARDS, P. A.
ATTORNEYS AT LAW
P. O. BOX 1480
COLLIER ARCADE
FORT MYERS, FLORIDA

State of Florida

Department of State

OFF. REC. 1357 PG 1126

I certify that the attached is a true and correct copy of the Articles of Incorporation of FLAMINGO HARBOUR CONDOMINIUM ASSOCIATION, INC., a corporation not for profit organized under the Laws of the State of Florida, filed on June 5, 1979, as shown by the records of this office.

The charter number for this corporation is 747514.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the 6th day of June, 1979.

Secretary of State

CER 101
12-78

FLORIDA — STATE OF THE ARTS

FILED

Jun 6 4 7 PM '73

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLES OF INCORPORATION

OF

FLAMINGO HARBOUR CONDOMINIUM ASSOCIATION, INC.

(A NONPROFIT FLORIDA CORPORATION)

OFF REC 1357 PG 1127

ARTICLE I.

The name of this corporation is FLAMINGO HARBOUR CONDOMINIUM ASSOCIATION, INC.

ARTICLE II.

The purpose for which this corporation is organized is to act as the governing association of Flamingo Harbour Condominium, located at Fort Myers Beach, Florida.

ARTICLE III.

The qualification of members and the manner of their admission shall be as follows: Any person or persons who hold title in fee simple to a condominium unit in the Condominium shall by virtue of such ownership be a member of this corporation.

ARTICLE IV.

This corporation shall exist perpetually.

ARTICLE V.

The names and residences of the subscribers to these Articles of Incorporation are as follows:

Green Keltner
4253 Bay Beach Lane S. W.
Apt. H-6
Fort Myers Beach, Florida 33931

C. A. Cartwright
Carnoustie Drive
General Delivery
Bonita Springs, Florida

Sharon M. Willis
6308 Panther Drive
Apartment T-5
Fort Myers, Florida 33907

ARTICLE VI.

The affairs of the corporation are to be managed initially by a Board of three (3) Directors who will be elected each year at the annual meeting of the Condominium Association as provided

for in the By-Laws. At such time as the Developer has relinquished control of the Association as provided by the Condominium Act, the Board may be composed of any odd number of Directors that the members decide (as provided for in the By-Laws).

ARTICLE VII.

The names of the officers who are to serve until the first election or appointment under the Articles of Incorporation are:

President - Green Keltner

Vice President - C. A. Cartwright

Secretary-Treasurer - Sharon M. Willis

ARTICLE VIII.

The number of persons constituting the first Board of Directors shall be three (3) and their names and addresses are as follows:

Green Keltner
4253 Bay Beach Lane S. W.
Apt. H-6
Fort Myers Beach, Florida 33931

C. A. Cartwright
Carnoustie Drive
General Delivery
Bonita Springs, Florida

Sharon M. Willis
6308 Panther Drive
Apartment T-5
Fort Myers, Florida 33907

ARTICLE IX.

The By-Laws of the corporation are to be made, altered or rescinded by a majority vote of the members and Directors of the corporation.

ARTICLE X.

Amendments to these Articles of Incorporation may be proposed and adopted as follows:

An Amendment may be proposed by either the Board of Directors or by any owner and may be considered at any meeting of the owners, regular or special, of which due notice has been given according to the By-Laws, which includes a notice of the substance of the proposed amendment.

The Amendment must be approved by a vote of a majority of the members of the corporation.

ARTICLE XI.

Each unit in the condominium shall have one (1) full vote, which vote shall be cast by a designated owner as provided for in the Declaration of Condominium.

ARTICLE XII.

This corporation reserves the right to amend or repeal any provisions contained in these Articles of Incorporation.

ARTICLE XIII.

This corporation shall have all the powers permitted by law together with such additional specific powers as are contained in the Declaration and ByLaws.

ARTICLE XIV.

No part of the net earnings of this corporation shall inure to the benefit of any member or individual, except through the acquisition, construction, management, maintenance, or care of association property or through the rebate of the excess membership due, fees, or assessments.

IN WITNESS WHEREOF, the undersigned subscribers have executed these Articles of Incorporation this 21st day of June, 1979.

Green Keltner (SEAL)

C. A. Cartwright (SEAL)

Sharon M. Willis (SEAL)

STATE OF FLORIDA
COUNTY OF LEE

Before me, the undersigned, a Notary Public authorized to take acknowledgments in the State and County aforesaid, personally appeared Green Keltner, C. A. Cartwright and Sharon M. Willis, known to me and known to be the persons who executed the foregoing

Articles of Incorporation, and they acknowledged before me that they executed those Articles of Incorporation.

WITNESS my hand and seal this 21st day of May, 1979.

Notary Public

My Commission Expires:
Notary Public, State of Florida at Large
My Commission Expires Aug. 24, 1981

OR 1357 PG 1131

CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE FOR THE SERVICE OF PROCESS WITHIN FLORIDA, NAMING AGENT UPON WHOM PROCESS MAY BE SERVED

IN COMPLIANCE WITH SECTION 48.091, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED:

FIRST--THAT FLAMINGO HARBOUR CONDOMINIUM ASSOCIATION, INC., a Florida Corporation
(NAME OF CORPORATION)

DESIRING TO ORGANIZE OR QUALIFY UNDER THE LAWS OF THE STATE OF FLORIDA,

WITH ITS PRINCIPAL PLACE OF BUSINESS AT CITY OF FORT MYERS BEACH (CITY),

STATE OF FLORIDA (STATE), HAS NAMED C.A. CARTWRIGHT (NAME OF RESIDENT AGENT),

LOCATED AT 2800 ESTERO BOULEVARD
(STREET ADDRESS AND NUMBER OF BUILDING, POST OFFICE BOX ADDRESSES ARE NOT ACCEPTABLE)

CITY OF FORT MYERS BEACH, STATE OF FLORIDA, AS ITS AGENT TO ACCEPT SERVICE OF PROCESS WITHIN FLORIDA.

FILED
JUN 19 11 21 AM '79
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

SIGNATURE [signature]
(CORPORATE OFFICER)

TITLE PRESIDENT

DATE May 1, 1979

SAL GERACI
CLERK OF CIRCUIT COURT
JUN 19 11 21 AM '79
RECORDED IN OFFICIAL RECORDS
LEE COUNTY, FLORIDA
RECORD VERIFIED

HAVING BEEN NAMED TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE STATED CORPORATION, AT THE PLACE DESIGNATED IN THIS CERTIFICATE, I HEREBY AGREE TO ACT IN THIS CAPACITY, AND I FURTHER AGREE TO COMPLY WITH THE PROVISIONS OF ALL STATUTES RELATIVE TO THE PROPER AND COMPLETE PERFORMANCE OF MY DUTIES.

SIGNATURE C. A. Cartwright
(RESIDENT AGENT)

DATE May 1, 1979

AMENDMENT NO. 1

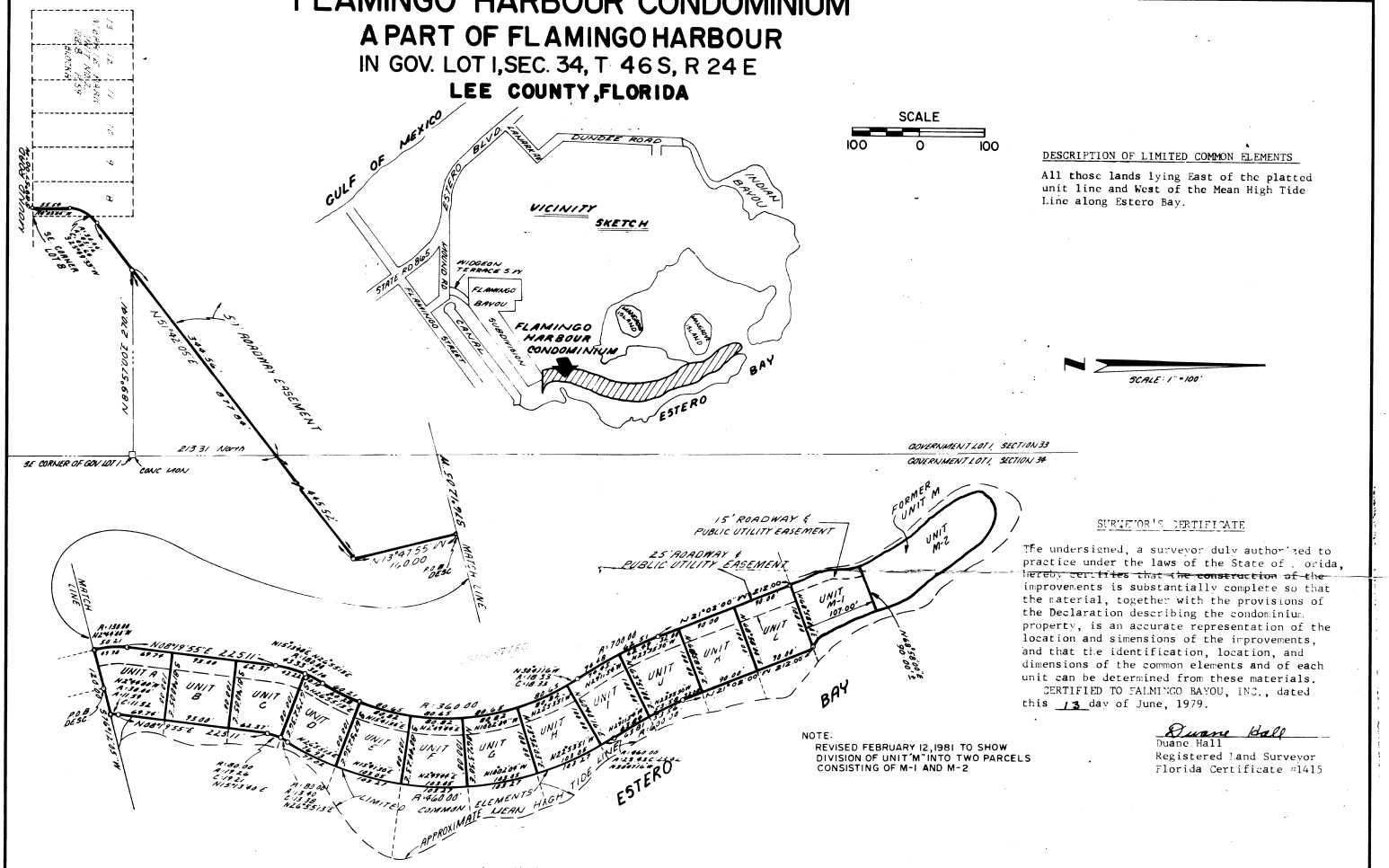
FLAMINGO HARBOUR CONDOMINIUM

A PART OF FLAMINGO HARBOUR

IN GOV. LOT 1, SEC. 34, T. 46 S, R 24 E

LEE COUNTY, FLORIDA

CONDOMINIUM
PLAT BOOK 7 PAGE 104



NOTE:
REVISED FEBRUARY 12, 1981 TO SHOW DIVISION OF UNIT "M" INTO TWO PARCELS CONSISTING OF M-1 AND M-2

DESCRIPTION OF LIMITED COMMON ELEMENTS

All those lands lying East of the platted unit line and West of the Mean High Tide Line along Estero Bay.

SURVEYOR'S CERTIFICATE

The undersigned, a surveyor duly authorized to practice under the laws of the State of Florida, hereby certifies that the construction of the improvements is substantially complete so that the material, together with the provisions of the Declaration describing the condominium property, is an accurate representation of the location and dimensions of the improvements, and that the identification, location, and dimensions of the common elements and of each unit can be determined from these materials.

CERTIFIED TO FALMINGO BAYOU, INC., dated this 13 day of June, 1979.

Duane Hall
Duane Hall
Registered Land Surveyor
Florida Certificate #1415

DESCRIPTION: A tract of land lying in Government Lot 1, Section 34, Township 46 South, Range 24 East, Estero Island, Florida, which tract is described as follows: From the southeast corner of Lot 8, Block H., Unit 7, McPhie Park, according to the plat recorded in Plat Book 8 at page 59 of the public records of Lee County, Florida, run westerly along the south line of said Lot 8 for 10 feet; thence run northerly perpendicular to said south line and along the east line of a roadway easement 50 feet wide for 55.54 feet to a point of curvature; thence run northeasterly along the southeasterly line of said roadway easement along the arc of a curve to the right with a radius of 50 feet (said curve having a central angle of 51°45'05") for 45.16 feet to a point of tangency; thence run S 51°42'05" E along said southeasterly line of said roadway easement along a line 295 feet (as measured on a perpendicular) northwesterly of and parallel with the northwesterly line of Block C of Flamingo Park (now the centerline of Flamingo Street) as shown on the plat recorded in Plat Book 9 at page 66 of said public records for 877.84 feet; thence run N 13°47'55" W along the northeasterly line of said roadway easement for 160 feet to the point of beginning of the lands herein described. From said point of beginning run S 76°12'05" W for 60 feet; thence run northwesterly, northerly and northeasterly along the westerly line of a roadway easement 25 feet wide along the arc of a curve to the right having a radius of 140 feet (chord bearing N 2°44'00" W - chord distance 49.90 feet) for 50.21 feet to a point of tangency; thence run N 8°19'55" E along said westerly line of said roadway easement for 225.11 feet to a point of curvature; thence run northeasterly along said westerly line of said roadway easement along the arc of a curve to the right having a radius of 180.00 feet (chord bearing N 20°01'28" E - chord distance 77.46 feet) for 78.41 feet to a point of reverse curvature; thence run northeasterly, northerly and northwesterly along said westerly line of said roadway easement along the arc of a curve to the left having a radius of 360.00 feet (chord bearing N 0°15'53" W - chord distance 381.15 feet) for 401.89 feet to a point of reverse curvature; thence run northwesterly along the arc of a curve to the right having a radius of 700.00 feet (chord bearing N 76°28'24" W - chord distance 136.78 feet) for 137.00 feet to a point of tangency; thence run N 21°02'00" W along said westerly line of said roadway easement for 212.00 feet; thence run S 0°68'58" E for 10 feet more or less to the waters of Flamingo Harbor; thence run northwesterly, northerly and northeasterly along said waters to the waters of Estero Bay; thence run in a southerly direction along said waters to an intersection with a line bearing N 76°12'05" E passing through the point of beginning; thence run S 76°12'05" W along said line to the point of beginning. TOGETHER WITH the hereinabove described roadway easement 50 feet wide extending from Bound Road to the southerly line of the hereinabove described parcel.

DUANE HALL & ASSOCIATES, INC.
CIVIL ENGINEERS — LAND SURVEYORS — LAND PLANNERS
PO BOX 6790 FORT MYERS FLORIDA 33901

Date 4-2-79 Dwn by J.O. Chk'd by
Proj No 793765 File No

EXHIBIT D

TABLE OF CONTENTS

VARIANCE APPLICATION FOR TODD PLAISTED POOL

WITH THE TOWN OF FORT MYERS BEACH CODE 34-638

1.	Photograph of neighbor's residence/pool (21401 Widgeon Terrace, Fort Myers Beach, FL
2.	Lee County Property Appraiser's Printout
3.	Survey showing where the pool is to be located
4.	Photograph of residence and property line
5 and 6.	Photographs for the planned area for the pool
7.	Photograph of the applicant's house from the back bay
8.	Boundary Survey (by Bean, Whitaker, Lutz & Kareh, Inc.)
9.	List of surrounding property owners within 500 feet of the perimeter
10.	Map showing the parcel boundaries within the 500 feet radius
11.	Two (2) sets of mailing labels providing the names and addresses of the owners on the list (attached hereto as no. 9)

1

Property Data

STRAP: 34-46-24-W1-022L0.0000 Folio ID: 10230970

Generated on 7/19/2022 3:13 PM

Owner Of Record - Sole Owner [Change Address]

ELFMAN JOEL TR
FOR SUSAN R ELFMAN TRUST
21401 WIDGEON TER
FORT MYERS BEACH FL 33931

Site Address

Site Address maintained by E911 Program Addressing

21401 WIDGEON TER
FORT MYERS BEACH FL 33931

Property Description

Do not use for legal documents!

FLAMINGO HARBOUR CONDO OR 1357 PG 1089 UNIT L

[Tax Map Viewer] [View Comparables]

[Pictometry Aerial Viewer]

Current Working Values

Just	1,675,764

Attributes

Land Units Of Measure	UT
Units	1.00
Total Number of Buildings	1
Total Bedrooms / Bathrooms	3 / 3.0
Gross Living Area	2,082
1st Year Building on Tax Roll	1990
Historic Designation	No

Image of Structure

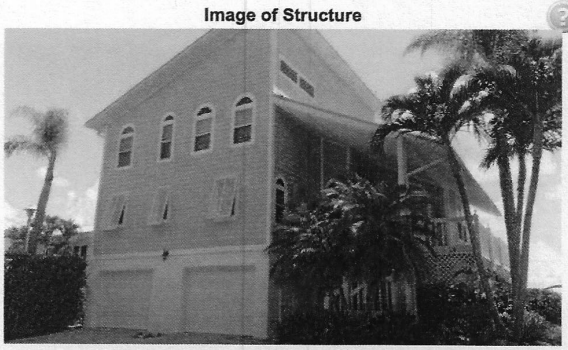


Photo Date June of 2021 ☐ View other photos

Last Inspection Date: 06/02/2021

Exemptions

Generated on 7/19/2022 3:13 PM

Values (2021 Tax Roll)

Generated on 7/19/2022 3:13 PM

Taxing Authorities

Generated on 7/19/2022 3:13 PM

Sales / Transactions

Generated on 7/19/2022 3:13 PM

Picture is of neighbors house

NEIGHBOR'S
#2 HOUSE
PROPERTY LINE

2

Property Data

STRAP: 34-46-24-W1-022M0.0010 Folio ID: 10230971

Generated on 7/19/2022 3:11 PM

Owner Of Record - Sole Owner [Change Address]

PLAISTED TODD R
15781 ANDRIE ST NW
RAMSEY MN 55303

Site Address

Site Address maintained by E911 Program Addressing

21391 WIDGEON TER
FORT MYERS BEACH FL 33931

Property Description

Do not use for legal documents!

FLAMINGO HARBOUR CONDO
CONDO PLAT 7 PG 104
UNIT M-1

[Tax Map Viewer] [View Comparables]

[Pictometry Aerial Viewer]

Current Working Values

Just	1,533,867

Attributes

Land Units Of Measure	UT
Units	1.00
Total Number of Buildings	1
Total Bedrooms / Bathrooms	4 / 3.0
Gross Living Area	2,691
1st Year Building on Tax Roll	1983
Historic Designation	No

Image of Structure

Photo Date June of 2021 View other photos

Last Inspection Date: 06/02/2021

Exemptions

Generated on 7/19/2022 3:11 PM

Values (2021 Tax Roll)

Generated on 7/19/2022 3:11 PM

Taxing Authorities

Generated on 7/19/2022 3:11 PM

Sales / Transactions

Generated on 7/19/2022 3:11 PM

Please see Applicant's Home

3

Received
Electronically
Oct 27, 2021
South District
EXEMPT
File Number:
0194953-003 EE
GATE TO LOT M-2
PROPERTY LINE
EXISTING DRIVEWAY
NEW PATIO
SUN SHELF
FOUNTAIN
SPA
POOL
PAVERS
POOL EQUIP
A/C BELOW
DECK ABOVE @12.7
EXISTING HOUSE
DECK ABOVE @ 21.5
DECK @ 12.7'
HOUSE
DECK ABOVE @ 12.7
ROCK & SHELL
M.H.W MARK
DRIVEWAY
BENCHMARK
ELEV 3.54'
POOL LAYOUT PLAN
TODD PLAISTED
21391 WIDGAN TERRACE
FT MYERS BEACH, FLORIDA 33921
PLANS PREPARED FOR:
ISLAND CONSTRUCTION
ISLAND POOLS
&
SPAS
6901 Alico Rd
Fort Myers FL
ENGINEER OF RECORD:
UNIQUE ENGINEERING
SOLUTIONS LLC
COA# 33913
R DOUGLAS HALL P.E.
FL# 53759
Project 5202
Date 10/21/21
Scale 3/16" = 1'-0"
Sheet P-01

Exhibit #3

4

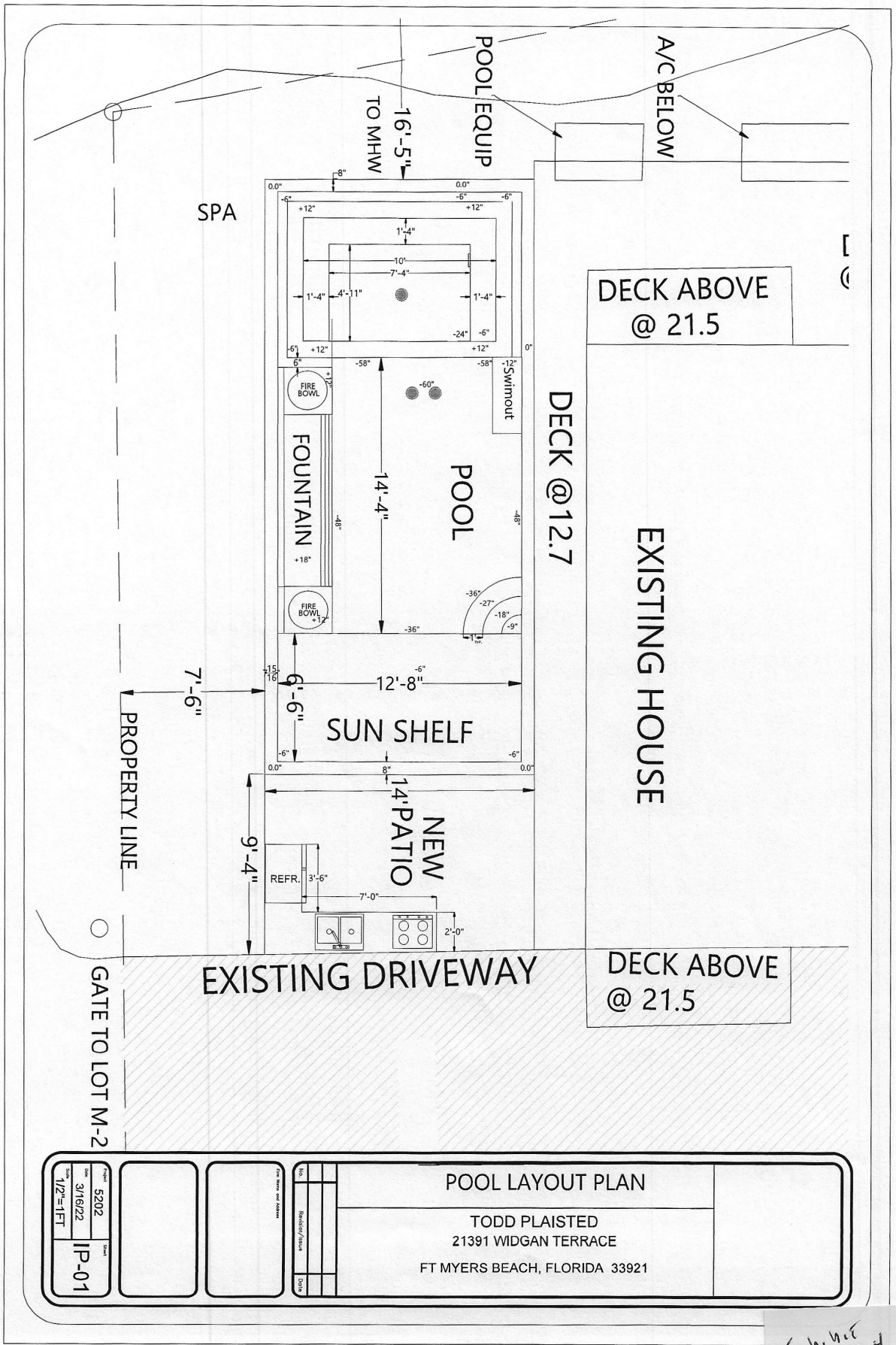

16'-5"
TO MHW
POOL EQUIP
A/C BELOW
SPA
DECK ABOVE
@ 21.5
DECK @12.7
EXISTING HOUSE
FIRE BOWL
FOUNTAIN
POOL
Swimout
14'-4"
FIRE BOWL
SUN SHELF
12'-8"
6'-6"
7'-6"
PROPERTY LINE
NEW
14' PATIO
9'-4"
REFR.
3'-6"
7'-0"
2'-0"
EXISTING DRIVEWAY
DECK ABOVE
@ 21.5
GATE TO LOT M-2
POOL LAYOUT PLAN
TODD PLAISTED
21391 WIDGAN TERRACE
FT MYERS BEACH, FLORIDA 33921
Project 5202
Date 3/16/22
Scale 1/2"=1FT
Sheet IP-01
Revision/Issue
Date

Exhibit #4

5

NEIGHBOR 2
NEXT DOOR 1
PLASTER

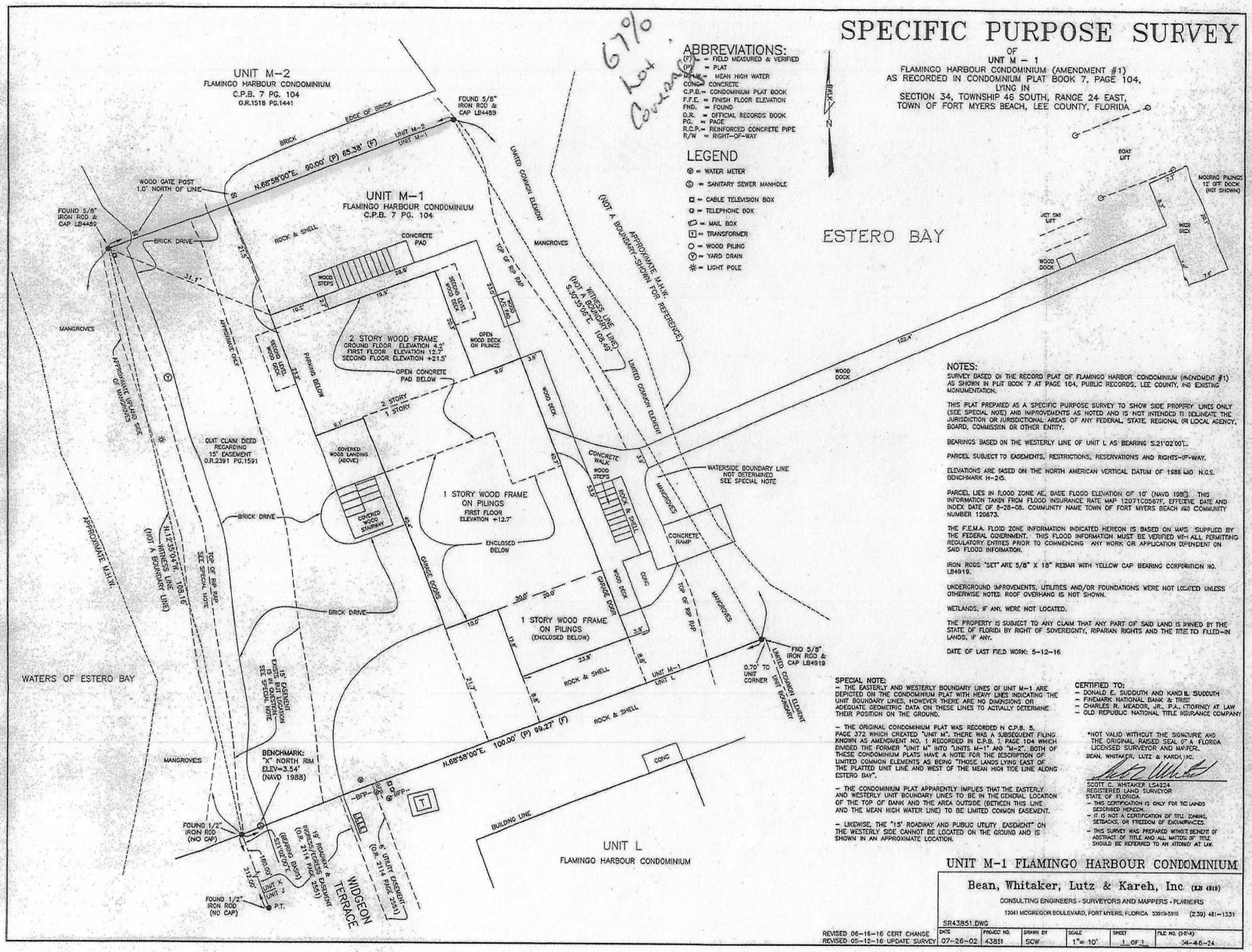
6

PLASTER
HOUSE
PLASTER
NEIGHBOR
#2

7

PLAISTED
PLAISTED HOUSE
NEIGHBOR #2

8


SPECIFIC PURPOSE SURVEY
OF
UNIT M – 1
FLAMINGO HARBOUR CONDOMINIUM (AMENDMENT #1)
AS RECORDED IN CONDOMINIUM PLAT BOOK 7, PAGE 104,
LYING IN
SECTION 34, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA
67% Lot Coverage
ABBREVIATIONS:
(F) = FIELD MEASURED & VERIFIED
(P) = PLAT
MHW = MEAN HIGH WATER
CONC = CONCRETE
C.P.B. = CONDOMINIUM PLAT BOOK
F.F.E. = FINISH FLOOR ELEVATION
FND. = FOUND
O.R. = OFFICIAL RECORDS BOOK
PG. = PAGE
R.C.P. = REINFORCED CONCRETE PIPE
R/W = RIGHT-OF-WAY
LEGEND
W = WATER METER
S = SANITARY SEWER MANHOLE
C = CABLE TELEVISION BOX
T = TELEPHONE BOX
M = MAIL BOX
T = TRANSFORMER
O = WOOD PILING
Y = YARD DRAIN
L = LIGHT POLE
UNIT M-2
FLAMINGO HARBOUR CONDOMINIUM
C.P.B. 7 PG. 104
O.R.1518 PG.1441
UNIT M-1
FLAMINGO HARBOUR CONDOMINIUM
C.P.B. 7 PG. 104
UNIT L
FLAMINGO HARBOUR CONDOMINIUM
ESTERO BAY
WATERS OF ESTERO BAY
FOUND 5/8" IRON ROD & CAP LB4489
WOOD GATE POST 1.0' NORTH OF LINE
EDGE OF BRICK
BRICK
N.65°58'00"E. 90.00' (P) 89.38' (F)
BRICK DRIVE
ROCK & SHELL
CONCRETE PAD
WOOD STEPS
RECESSED WOOD DECK
OPEN WOOD DECK ON PILINGS
2 STORY WOOD FRAME
GROUND FLOOR ELEVATION 4.2'
FIRST FLOOR ELEVATION 12.7'
SECOND FLOOR ELEVATION +21.5'
OPEN CONCRETE PAD BELOW
PARKING BELOW
2 STORY
1 STORY
COVERED WOOD LANDING (ABOVE)
CONCRETE WOOD STAIRWAY
QUIT CLAIM DEED REGARDING 15' EASEMENT O.R.2391 PG.1591
1 STORY WOOD FRAME ON PILINGS
FIRST FLOOR ELEVATION +12.7'
ENCLOSED BELOW
1 STORY WOOD FRAME ON PILINGS (ENCLOSED BELOW)
GARAGE DOORS
CONC.
CONCRETE RAMP
CONCRETE WALK
WOOD STEPS
WOOD DECK
MANGROVES
LIMITED COMMON ELEMENT
APPROXIMATE MEAN HIGH WATER LINE (NOT A BOUNDARY LINE) S.30°35'06"E. 108.49
APPROXIMATE MHW (NOT A BOUNDARY LINE)
N.12°55'04"W. 108.16'
APPROXIMATE UPLAND SIDE OF MANGROVES
WATERSIDE BOUNDARY LINE SEE SPECIAL NOTE
TOP OF RIP RAP
TOP OF RIP RAP SEE SPECIAL NOTE
15' EASEMENT EXISTS BUT LOCATION IS UNDETERMINED SEE SPECIAL NOTE
BENCHMARK: "X" NORTH RIM ELEV=3.54' (NAVD 1988)
FOUND 1/2" IRON ROD (NO CAP)
FOUND 5/8" IRON ROD & CAP LB4919
0.70' TO UNIT CORNER
LIMITED COMMON ELEMENT UNIT BOUNDARY
UNIT M-1
UNIT L
N.65°58'00"E. 100.00' (P) 99.27' (F)
BUILDING LINE
CONC
BFP
FFE
T
P.T.
N.65°58'00"E. 115.00'
S21°02'07"E. 312.00'
K
16' ROADWAY & UTILITY EASEMENT (O.R. 2171 PAGE 2551) (BEARING BASIS)
WIDGEON TERRACE
5' UTILITY EASEMENT (O.R. 2174 PAGE 2551)
BOAT LIFT
MOORING PILINGS 12' OFF DOCK (NOT SHOWN)
JET SKI LIFT
WOOD DOCK
102.4'
NOTES:
SURVEY BASED ON THE RECORD PLAT OF FLAMINGO HARBOR CONDOMINIUM (AMENDMENT #1) AS SHOWN IN PLAT BOOK 7 AT PAGE 104, PUBLIC RECORDS, LEE COUNTY, AND EXISTING MONUMENTATION.
THIS PLAT PREPARED AS A SPECIFIC PURPOSE SURVEY TO SHOW SIDE PROPERTY LINES ONLY (SEE SPECIAL NOTE) AND IMPROVEMENTS AS NOTED AND IS NOT INTENDED TO DELINEATE THE JURISDICTION OR JURISDICTIONAL AREAS OF ANY FEDERAL, STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER ENTITY.
BEARINGS BASED ON THE WESTERLY LINE OF UNIT L AS BEARING S.21°02'00"E.
PARCEL SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY.
ELEVATIONS ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 AND N.G.S. BENCHMARK H-245.
PARCEL LIES IN FLOOD ZONE AE, BASE FLOOD ELEVATION OF 10' (NAVD 1988). THIS INFORMATION TAKEN FROM FLOOD INSURANCE RATE MAP 12071C0567F, EFFECTIVE DATE AND INDEX DATE OF 8-28-08, COMMUNITY NAME TOWN OF FORT MYERS BEACH AND COMMUNITY NUMBER 120673.
THE F.E.M.A. FLOOD ZONE INFORMATION INDICATED HEREON IS BASED ON MAPS SUPPLIED BY THE FEDERAL GOVERNMENT. THIS FLOOD INFORMATION MUST BE VERIFIED WITH ALL PERMITTING REGULATORY ENTITIES PRIOR TO COMMENCING ANY WORK OR APPLICATION DEPENDENT ON SAID FLOOD INFORMATION.
IRON RODS "SET" ARE 5/8" X 18" REBAR WITH YELLOW CAP BEARING CORPORATION NO. LB4919.
UNDERGROUND IMPROVEMENTS, UTILITIES AND/OR FOUNDATIONS WERE NOT LOCATED UNLESS OTHERWISE NOTED. ROOF OVERHANG IS NOT SHOWN.
WETLANDS, IF ANY, WERE NOT LOCATED.
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.
DATE OF LAST FIELD WORK: 5-12-16
SPECIAL NOTE:
– THE EASTERLY AND WESTERLY BOUNDARY LINES OF UNIT M-1 ARE DEPICTED ON THE CONDOMINIUM PLAT WITH HEAVY LINES INDICATING THE UNIT BOUNDARY LINES, HOWEVER THERE ARE NO DIMENSIONS OR ADEQUATE GEOMETRIC DATA ON THESE LINES TO ACTUALLY DETERMINE THEIR POSITION ON THE GROUND.
– THE ORIGINAL CONDOMINIUM PLAT WAS RECORDED IN C.P.B. 5, PAGE 372 WHICH CREATED "UNIT M". THERE WAS A SUBSEQUENT FILING KNOWN AS AMENDMENT NO. 1 RECORDED IN C.P.B. 7, PAGE 104 WHICH DIVIDED THE FORMER "UNIT M" INTO "UNITS M-1" AND "M-2". BOTH OF THESE CONDOMINIUM PLATS HAVE A NOTE FOR THE DESCRIPTION OF LIMITED COMMON ELEMENTS AS BEING "THOSE LANDS LYING EAST OF THE PLATTED UNIT LINE AND WEST OF THE MEAN HIGH TIDE LINE ALONG ESTERO BAY".
– THE CONDOMINIUM PLAT APPARENTLY IMPLIES THAT THE EASTERLY AND WESTERLY UNIT BOUNDARY LINES TO BE IN THE GENERAL LOCATION OF THE TOP OF BANK AND THE AREA OUTSIDE (BETWEEN THIS LINE AND THE MEAN HIGH WATER LINE) TO BE LIMITED COMMON EASEMENT.
– LIKEWISE, THE "15' ROADWAY AND PUBLIC UTILITY EASEMENT" ON THE WESTERLY SIDE CANNOT BE LOCATED ON THE GROUND AND IS SHOWN IN AN APPROXIMATE LOCATION.
CERTIFIED TO:
– DONALD E. SUDDUTH AND KANDI M. SUDDUTH
– FINEMARK NATIONAL BANK & TRUST
– CHARLES R. MEADOR, JR., P.A., ATTORNEY AT LAW
– OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
*NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
BEAN, WHITAKER, LUTZ & KAREH, INC.
SCOTT C. WHITAKER LS4324
REGISTERED LAND SURVEYOR
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.
UNIT M-1 FLAMINGO HARBOUR CONDOMINIUM
Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)
CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS
13041 McGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919-5915 (239) 481-1331
SR43851.DWG
REVISED 06-16-16 CERT CHANGE
REVISED 05-12-16 UPDATE SURVEY
DATE 07-26-02
PROJECT NO. 43851
DRAWN BY SCW
SCALE 1"= 10'
SHEET 1 OF 1
FILE NO. (34-46-24) 34-46-24

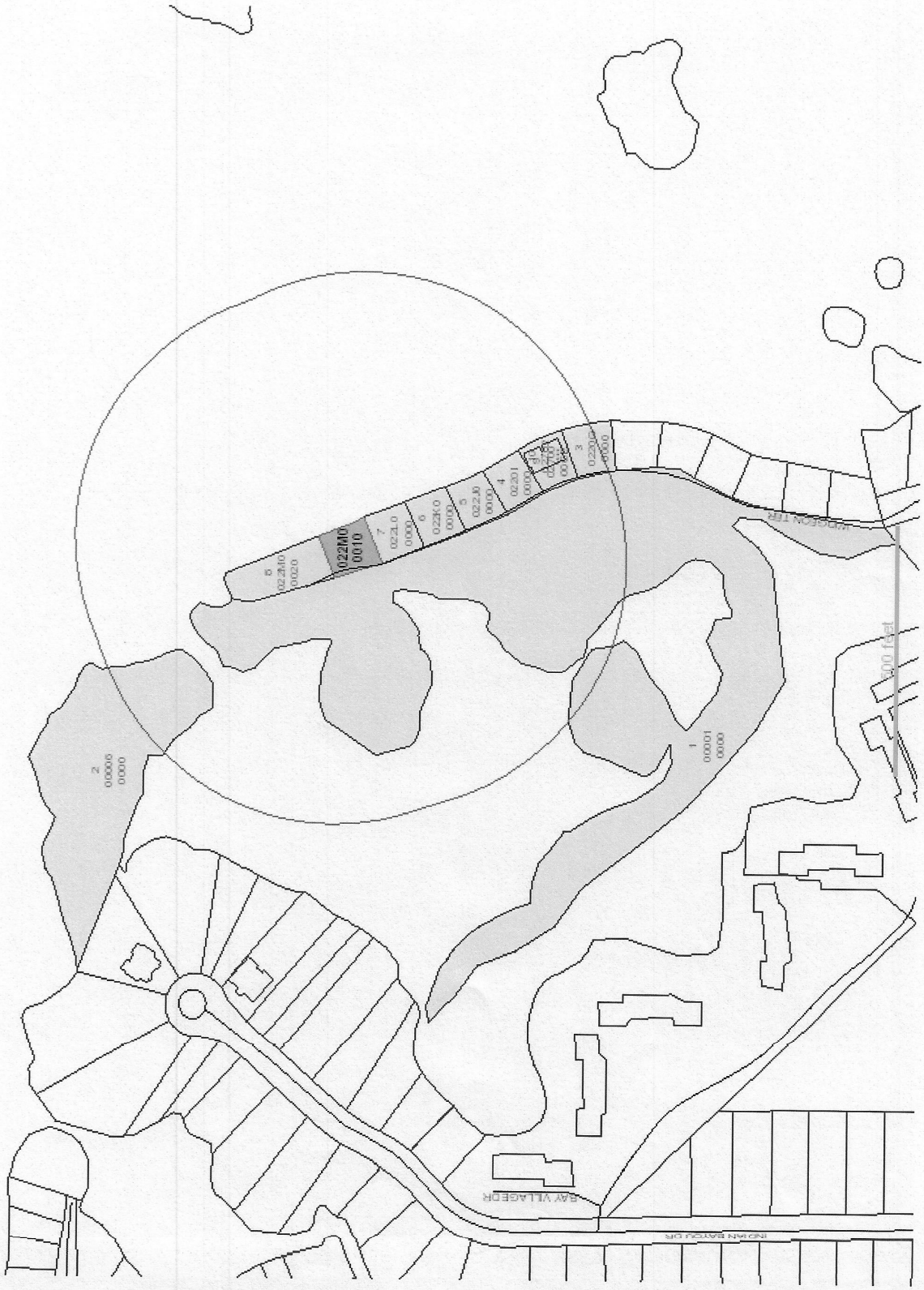
App. No. 0091

9

Buffer: 50 Date: 8/1/2022 12:00:00 AM List Size: 12

FolioId	STRAP	OwnerName	MailAddress	MailCity	MailState	MailZip	SiteNumb	SiteStreet	SiteCity	SiteZip	Legal
10230971	34-46-24-W1-022M0.0010	PLAISTED TODD R	15781 ANDRIE ST NW	RAMSEY	MN	55303	21391	WIDGEON	FORT MYERS I	33931	FLAMINGO HARBOUR CONDO<CR>CONDO PLAT 7 PG 104<CR>UNIT M-1
10450516	33-46-24-W2-00001.0000	TIITF STATE OF FLORIDA	3900 COMMONWEALTH	TALLAHASSEE	FL	32399		ACCESS U	FORT MYERS I	33931	PARL LYING IN THE NW 1/4 <CR>OF SECT 34 AND THE NW 1/4 <CR>OF SECT 33
10230325	33-46-24-W2-00006.0000	SOUTHERN LIVING RVP LLC	602-B CENTER RD	FORT MYERS	FL	33907		ACCESS U	FORT MYERS BEACH		PARL IN SEC 33<CR>DESC OR 819 PG 146 LESS<CR>PLATTED AREA LESS 6.100
10230965	34-46-24-W1-0220G.0000	SOUTH 8TH AVE LLC +	1241 71ST AVE	GREELEY	CO	80634	21451	WIDGEON	FORT MYERS I	33931	FLAMINGO HARBOUR CONDO<CR>OR 1357 PG 1089<CR>UNIT G
10230967	34-46-24-W1-0220I.0000	CS AND BD LLC	27 STONEY CREEK DR	EGG HARBOR TWI	NJ	8234	21431	WIDGEON	FORT MYERS I	33931	FLAMINGO HARBOUR CONDO<CR>OR 1357 PG 1089<CR>UNIT I
10230968	34-46-24-W1-022J0.0000	KNAUL FELICIA MARIE & CARLIN ROBERT G &	11355 FOUR FILLIES RD	PINECREST	FL	33156	21421	WIDGEON	FORT MYERS I	33931	FLAMINGO HARBOUR CONDO<CR>OR 1357 PG 1089<CR>UNIT J
10230969	34-46-24-W1-022K0.0000	EVLYNA	21411 WIDGEON TER	FORT MYERS BEA	FL	33931	21411	WIDGEON	FORT MYERS I	33931	FLAMINGO HARBOUR CONDO<CR>OR 1357 PG 1089<CR>UNIT K
10230970	34-46-24-W1-022L0.0000	ELFMAN JOEL TR	21401 WIDGEON TER	FORT MYERS BEA	FL	33931	21401	WIDGEON	FORT MYERS I	33931	FLAMINGO HARBOUR CONDO<CR>OR 1357 PG 1089<CR>UNIT L
10230972	34-46-24-W1-022M0.0020	HIMMELSTEIN ASSOCIATES LLC	PO BOX 218	SOMERS POINT	NJ	8244	21381	WIDGEON	FORT MYERS I	33931	FLAMINGO HARBOUR CONDO<CR>CONDO PLAT 7 PG 104<CR>UNIT M-2
10562801	34-46-24-W1-02700.00CE	FLAMINGO HARBOUR VILLAS					21441/443	WIDGEON	FORT MYERS I	33931	FLAMINGO HARBOUR VILLAS<CR>AS DESC IN INST 2013000113031<CR>COMMON ELEMENTS
10562802	34-46-24-W1-02702.1441	WILSON WILLIAM SAMUEL JR & BRUCK DEBORAH	68 W INDIAN LN	EAGLEVILLE	PA	19403	21441	WIDGEON	FORT MYERS I	33931	FLAMINGO HARBOUR VILLAS<CR>AS DESC IN INST 2013000113031<CR>UNIT 21441
10562803	34-46-24-W1-02702.1443	KRUSCHE	1840 S TWIN WILLOWS I	NEW BERLIN	WI	53146	21443	WIDGEON	FORT MYERS I	33931	FLAMINGO HARBOUR VILLAS<CR>AS DESC IN INST 2013000113031<CR>UNIT 21443

10


022M0
0010
BAY VILLAGE DR
RIO VAN BARGO DR

11

Reviewed for Compliance PERMIT 234477

Town of Fort Myers Beach
Building Department

EXHIBIT E

2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239)765-0909

Approval Letter

BUILD RESPONSIBLY!
GO TO:
https://www.fortmyersbeachfl.gov/DocumentCenter/View/16329/BUILD-RESPONSIBLY

Date: 6/28/24

Permit #: 234477

Address: 21391 WIDGEON TER FORT MYERS BEACH, 33931

Applicant: Big Gator Pools and Spas

Scope of Work: New elevated pool

Review Type	Reviewer	Review Status
Zoning Review	KENDRA ROSA	Reviewed for Compliance
Flood Review	JOE SPECHT	Reviewed for Compliance
Plan Review	JOE SPECHT	Reviewed for Compliance
Stormwater Review	ELI LEE	Reviewed w/ Conditions
Environmental Review	CHADD CHUSTZ	Reviewed w/ Conditions
Public Works Review		Not Required
Beach Water Review		Not Required

Permit Conditions:

ENVIRONMENTAL - COMPLY WITH LIGHTING STANDARDS
All exterior lighting shall comply with Land Development Code Chapter 34, DIVISION 20: Lighting Standards and Chapter 32, ARTICLE V. Sea Turtle Conservation Code.

PREVENT EROSION OFF SITE AND INTO WATERWAYS
Install and maintain best management practices for erosion control and sedimentation throughout construction.

PROTECT NATIVE TREES
Native Trees to be protected in accordance with the Tree Protection Code.

REMOVE ALL DEBRIS FROM SITE
All debris shall be removed BEFORE placing any fill and commencing construction of any new structures.

Please make sure you have the link below saved as a favorite so you can check the address for the CCCL.

STORM WATER - The engineer and homeowner will be held responsible for any flooding caused by water discharge from property, and will be required to address the issue at the discretion of the Town.

Stormwater approved revised drainage plan labeled "DRAIN24-338-01-DRAINAGE-R(ESIGN).pdf"

buildingpermits@fmbgov.com

JOBSITE COPY

Reviewed for Compliance PERMIT 234477

Pool or Spa Application

Job Information:

Owner Name: TODD R PLAISTED Phone # 612-868-7699

Owner Email: todd@plaistedcompanies.com

Owner Mailing Address (if different): 15781 ANDRIE ST NW, RAMSEY, MN 55303

STRAP #: 34-46-24-W1-022M0.0010

Job Address: 21391 WIDGEON TER, FORT MYERS BEACH, FL 33931 Fort Myers Beach, FL 33931 Lee County

Contractor's Information:

Contractor Business Name: BIG GATOR POOLS & SPAS License #: CPC 1459908

Qualifiers Name: KRISTIN RIDDLE Email: OFFICE@BIGGATORPOOLSANDSPAS.COM

Phone# 239-770-8543 Address: 1749 NE 10TH TER, UNIT 6, CAPE CORAL, FL 33909

Scope of work: INSTALLTION OF NEW RESIDENTIAL POOL & STEM WALL

Estimated sqft: 553 Estimated cost value: 150,000 **if over $2500 a NOC is required*

Are you using Private Provider services for Plan Review? NO ■ YES ☐ Inspections? NO ■ YES ☐

Pool Safety Feature (Check One)

☐ Barrier ☒ Alarms ☐ Self- Closing Latching Doors

☐ Pool Cover ☐ Removable Ladder (for above ground pools with a wall height of 48" or greater)

Pool/Spa Type: Fiberglass ☐ Masonry ■ Above Ground, *provide pool dimensions:* _____

House under Construction? ☐ YES ■ NO

Retaining Wall ■ YES ☐ NO

Pool Resurface ☐ YES ■ NO Pool Const. Drawings Mastered ☐ YES ☒ NO

(Pool resurfacing) Provide a drawing of the pool showing the location of all the markings.

Pool Master# _____

PERMIT REQUIREMENTS TO BE SUBMITTED WITH APPLICATION- The following must be included with the application

An electronic set of digitally signed and sealed engineering plans

☐ Engineered plan & details for pool construction, and plumbing and equipment's TDH calculations

☐ One (1) Sealed Boundary Survey showing (**existing conditions**) Per LDC Sec. 34-639.(b)(5)

☐ One (1) site plan clearly showing:

Property dimensions

Pool/deck dimensions and setbacks

Footer details (if applicable)

Pool equipment location and setbacks

Proposed finished elevation above existing grade

Equipment overflow line

Silt Fence

☐ One (1) Stormwater Pollution Protection Plan (SWPPP)

1) Site Plan
2) Narrative detailing best management practices (BMPs) as outlined by the State of Florida Erosion and Sediment Control Designer and Reviewer Manual. Manual Link: https://www.flrules.org/Gateway/reference.asp?No=Ref-04227

You may use a copy of your Boundary survey as a site plan however, you must block out the title block, seal, and any other information as you are not to "write or draw" on a sealed survey*

DRAINAGE REQUIREMENTS TO BE SUBMITTED WITH APPLICATION

☐ Impervious Surface Calculation Sheet: if impervious surface is less than 500 square feet

☐ One (1) Engineered drainage plan if 500 square feet of impervious is created

**Please note, an increase of impervious surface by 500 square feet or more, an as-built inspection shall be performed by the developers engineer or designated representative. The Engineer shall submit a signed and sealed letter of substantial compliance to the Director along with a final inspection request.

☐ Waiver of submittal requirements form- If there is no change or replacement of material and elevations are the same a Waiver of survey requirements can be submitted to the director.

Phone # (239) 765 -0202
BuildingPermits@fmbgov.com

JOBSITE COPY

Rev 02/18/23
Guidelines subject to change without notice.

Reviewed for Compliance PERMIT 234477

DETAILED SCOPE OF WORK WORKSHEET

Provide a detailed description below of any and all work being proposed. Show work location (#1-13) on site plan.

1) Please see detailed engineered drawings & scope of work for pool + spa + wall

2)

3)

4)

5)

6)

7)

8)

9)

10)

11)

12)

13)

Town of Fort Myers Beach
2525 Estero Blvd. Fort Myers Beach, FL 33931
Phone # (239) 765 -0202
Buildingpermits@fmbgov.com

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Reviewed for Compliance PERMIT 234477

Impervious Surface Calculation Sheet

This calculations sheet is a necessary attachment for all of the Town of Fort Myers Beach building permit applications that involve a change to a properties impervious surfaces. In order to assure compliance with this limit to impervious surfaces in the LDC, an accurate calculation of the amount of impervious surface coverage is needed. A short definition of impervious surface is "any hard surface that prevents or restricts the flow of water into the soil". Examples of imperious surfaces include rooftops, sidewalks, parking lots, patios, pools, roads or any driveway made of asphalt, concrete, gravel or paver blocks. Please complete the following information:

Site Address: 21391 Widgeon Ter **Permit #:** _____

Lot Dimensions: 108.49 x 100 **Total Lot Area (Multiply length x width of Lot):** 10,849

Use the following Table to Calculate Total Impervious Surface Area, (proposed and existing) attach additional sheet if necessary.

Impervious Surface Item	Proposed	Existing	Dimensions	Area (Ft2)
Single Family/Duplex	☐	☑		2691 SF
Addition	☐	☐		
Accessory Building	☐	☐		
Driveway (calculations based site improvements, exclude ROW)	☐	☐		1800 SF
Patio, Deck, Porches (include curbing and any gravel/shell, compacted surfaced areas) Sidewalks or Walkways (include pavers) (Exclude landscape beds)	☐ ☐	☐ ☐	23.9x8.8 21x90 3x40	2220.32 SF *The Pool will be going at the location that is already labeled as having a concrete pad and rock & Shell. Impervious surface should not change.
Recreational Area (basketball court, tennis court, pools, etc.)	☐	☐		
Other	☐	☐		

Impervious Calculation: .61 **Total sq.ft. of impervious surface/** 6711.32 **sq ft. Total Lot Area=** 10849

(must be less than .67)

I verify that the above information is true and accurate to the best of my knowledge and that I have included all existing or proposed impervious surfaces. I understand that providing incorrect information may result in the need to remove impervious surfaces if it is discovered that the maximum coverage has been exceeded or creates an impact to surrounding properties.

Kristin Riddle — Signature of Applicant

Kristin Riddle — Printed Name of Applicant

4/20/2023 — Date

JOBSITE COPY

Reviewed for Compliance PERMIT 234477

Qualifier Acknowledgement

This page is required for ALL Building Permit Applications

ACKNOWLEDGEMENT OF TOWN OF FORT MYERS BEACH REGULATIONS BY THE QUALIFIER

NOTICE OF ADDITIONAL RESTRICTIONS: In addition to the requirements of this permit, there may be additional restrictions applicable to this property that maybe found in the public records of this County, and there may be additional permits required from other governmental entities such as the Water Management District, State agencies, or Federal agencies. I acknowledge that any demolition or renovation of an existing structure must comply with Florida Statutes s. 469.003, Florida Building Code, and any other relevant regulations, including state and federal law. I understand that I am responsible for notifying the Department of Environmental Protection in advance of any intentions to remove asbestos, when applicable, in accordance with state and federal law.

WARNING OF WORK IN THE COUNTY RIGHT-OF-WAYS: This permit does not authorize construction or installation of any structure or utility, above or below ground, within any right of way or easement reserved for access, drainage or utility purposes. This restriction specifically prohibits fencing, sprinkler systems, landscaping other than sod, signs, water, sewer, cable and drainage work therein. If such improvements are necessary, a separate permit for that purpose must be obtained from the Building Department.

INSPECTIONS: This permit is void if the first inspection is not made within six (6) months from the date issued or if no inspection has been made for a period of six (6) months from the most recently passed inspection. The permit is void if the zoning classification is violated. Applicant agrees to comply with the sanitary regulations and understands that the proposed structure may not be used or occupied until an approved certificate of occupancy is issued. Applicant further understands that failure to obtain permit or misrepresentation of the improvements is a misdemeanor and upon conviction, applicant can be punished as provided by the law. Failure to comply with the mechanics lien law can result in the property owner paying twice for improvements

NOTICE OF CLEARING RESTRICTIONS: Issuance of a Demolition Permit for a structure does not authorize removal of vegetation beyond the footprint of the structure. A Demo Permit is not a clearing permit.

WORK IN THE SPECIAL FLOOD HAZARD AREA: Be advised that Substantial Damage/Substantial Improvement requirements will apply to structures located in the Special Flood Hazard Area with Finished Floor Elevations below the Base Flood Elevation.

CERTIFICATION: Application is hereby made to obtain a permit to do the work and installations as indicated. I, **THE QUALIFIER,** certify that I have not performed any work or installation prior to the issuance of a permit and that all work will be performed to meet the standards of all laws regulating construction in this jurisdiction. The permit or application fee may have additional fees imposed for failing to obtain permits prior to commencement of construction. The permit application or approved permit expires if work is not commenced within 180 days from the date of issuance. I, **THE QUALIFIER** understand that the structure cannot be used or occupied until a certificate of occupancy is issued. By signing this permit application, I, **THE QUALIFIER**, agree that I have been retained by the property owner to provide contracting services for the trade for which I am listed. Furthermore, it is my responsibility to notify the Building Plan Review and Inspection Division should I no longer be **THE QUALIFIER** responsible for providing said contracting services. I, **THE QUALIFIER** , agree that I understand the review and issuing of this permit does not exempt me from complying with all County Codes and Ordinances.

NOTICE OF COMMENCEMENT INFORMATION Per Florida Statutes 713.135 a Notice of Commencement (NOC) is required for construction of improvements totaling more than
$2,500, with certain exceptions. For A/C Repairs or Replacements a notice of commencement is required for improvements more than or equal to $15,000. The applicant shall file with the issuing authority prior to the first inspection either a certified copy of the recorded NOC or a notarized statement that the NOC has been filed for recording, along with a copy thereof. In order to comply with the state requirement, permits will be placed in inspection hold until proof of the NOC is filed with the building permitting and inspection department. The issuing authority shall not perform or approve subsequent inspections until the applicant files by mail, facsimile, hand delivery, email or any other means such
as certified copy with the issuing authority.

WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.

Job Street Address: 21391 Widgeon Ter, Fort Myers Beach, FL 33931

I, Kristin Riddle (Qualifier), hereby certify that all answers to the questions in this registration and any supplementary information attached to and made part of this registration is honest and true.

Kristin Riddle
Typed or printed name of Qualifier

Kristin Riddle
Signature of Qualifier

STATE OF OH COUNTY OF Wood

The foregoing instrument was certified and subscribed before me by means of ✓ physical presence OR ___ online notarization, this 21 day of April, 2023, by Kristin Riddle, ___ who is personally known to me OR ✓ who has produced drivers license as identification.

Notary Public Signature

MELANIE MCCLOSKEY
Notary Public
State of Ohio
My Comm. Expires
October 3, 2027

Town of Fort Myers Beach
2525 Estero Blvd. Fort Myers Beach, FL
Phone # (239) 765 -0202
Buildingpermits@fmbgov.com

JOBSITE COPY

Reviewed for Compliance PERMIT 234477

Pool or Spa Application

POOL ENCLOSURE AFFIDAVIT

This is to certify that I am applying for a Pool and Deck permit. The enclosure will be a separate permit. However, I understand in accordance with the Zoning Regulations of the Town of Fort Myers Beach Land Development Code, A PERMANENT ENCLOSURE MUST BE IN PLACE AND AN ENCLOSURE PERMIT POSTED PRIOR TO A FINAL INSPECTION AND CERTIFICATE OF COMPLIANCE BEING ISSUED FOR MY PERMIT.

Contractor/ Owner Name: Big Gator Pools & Spas / Kristin Riddle
Project Address: 21391 Widgeon Ter, Fort Myers Beach, FL 33931
Reference/ Building Permit: _____

Residential Pools, Spas, or Water Features in Coastal High Hazard Areas (V Zones)

Pools, spas, or water features located within the areas of special flood hazard are designated as coastal high- hazard areas or **"V" Zones**. These areas have special flood hazards associated with wave wash and scour; therefore, the following additional provisions apply:
FBC R 322.3.3.1 (2017) Pools in Coastal High Hazard areas shall be designed and constructed in conformance with ASCE 24.

The Design Professional must certify that the pool, spa, or water feature including **deck and foundation, either at-grade or elevated,** has been designed and site located to assure that:

- It will not be subject to breaking up or floating out of the ground
- It will not increase wave or debris impact forces during the storm surge water forces of a coastal flood
- It will not increase the damage potential or jeopardize the integrity to the foundation and elevated portion of any nearby.

Town of Fort Myers Beach
2525 Estero Blvd. Fort Myers Beach, FL 33931
Phone # (239) 765 -0202
Buildingpermits@fmbgov.com

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Reviewed for Compliance PERMIT 234477

SUB-CONTRACTOR CONFIRMATION FORM

Permit # _____ Primary Contractor: Kristin Riddle

Job Site Address: 21391 Widgeon Ter, Fort Myers Beach, FL 33931

The qualifier of each sub-trade (electric, plumbing, mechanical, roofing) performing work under a general contractor must complete this form and email to inspections@fmbgov.com.

Sub- Contractors Information:

Company Name: NCS Electric

Qualifier Name: Jack Schwartz

Address: 1749 Northeast 10th Ter, Units 5, 7, & 8, Cape Coral, FL 33909

License #: EC 13010997

Phone and email: 239-573-3456

Qualifier's Affidavit:

KNOW ALL MEN that I Kristin Riddle do hereby certify that my company is responsible for the (choose one)

◉ Electric ○ Mechanical ○ Plumbing ○ Roofing, on the above-mentioned permit.

I CERTIFY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

I, Kristin Riddle (Qualifier), hereby certify that all answers to the questions in this registration and any supplementary information attached to and made part of this registration is honest and true.

Kristin Riddle
Signature of Qualifier

Kristin Riddle
Typed or printed name of Qualifier

STATE OF OH COUNTY OF Wood

The foregoing instrument was certified and subscribed before me by means of ✓ physical presence OR ___online notarization, this 21 day of April, 2023, by Kristin Riddle who is personally known to me OR ✓ who has produced drivers license as identification.

Notary Public Signature

(SEAL)

NOTARY PUBLIC STATE OF OHIO

MELANIE MCCLOSKEY
Notary Public
State of Ohio
My Comm. Expires
October 3, 2027

JOBSITE COPY

Reviewed for Compliance PERMIT 234477

Town of Fort Myers Beach

Stormwater Pollution Protection Plan

(To be submitted with application.)

Permit No: _____
Strap #: 34-46-24-W1-022M0.0010
Job Site Address: 21391 Widgeon Ter, Fort Myers Beach, FL 33931
Project Description: New Residential Pool + Stem Wall
Site Contact Name: Darell Sizemore
Title: Owner
Phone #: 239-770-8543
Email: office@BigGatorPoolsAndSpas.com
Size of construction parcel(sqft): 10,800
Amount of proposed developed area(sqft): 560 SF

Identification of additional water or wetlands:

☐ Gulf ☒ Bay ☐ Canal ☐ Beach ☐ Other(please specify)_____

Identification of where the discharge is going:

☐ Catch basin ☐ Canal ☒ Swale or ditch ☐ Other (please specify)_____

Types of Stormwater and De-watering Erosion controls:

☒ Silt Screens ☐ Hay bales ☐ Berms ☐ Sediment Box ☐ Turbidity Booms/Screens
☐ Other (please specify) _____

**If using a Silt fence, it must be trenched to a depth of 8" below the ground surface.*

Provide a sketch including the following:

1)Silt fence location.
2)Locations of discharge from the site.
3)Narrative detailing best management practices (BMPs) as outlined by the State of Florida Erosion and SedimentControl Designer and Reviewer Manual. Manual Link: https://www.flrules.org/Gateway/reference.asp?No=Ref

Contractor shall contact the Building Department @ inspections@fmbgov.com to request an inspection once the silt fence (or erosion control) is installed.

Stormwater Pollution Protection Plan (SWPPP) Information

Due to the nature of excavation and dewatering activities proposed, the Town recommends Pool Contractors submit a Stormwater Pollution Protection Plan (SWPPP) to mitigate erosion of sediment into the Town's Stormwater system and surrounding surface waters. The SWPPP shall comply with all applicable Federal, State, and Town regulations

Reviewed for Compliance PERMIT 234477

Town of Fort Myers Beach

Stormwater Pollution Protection Plan

(To be submitted with application.)

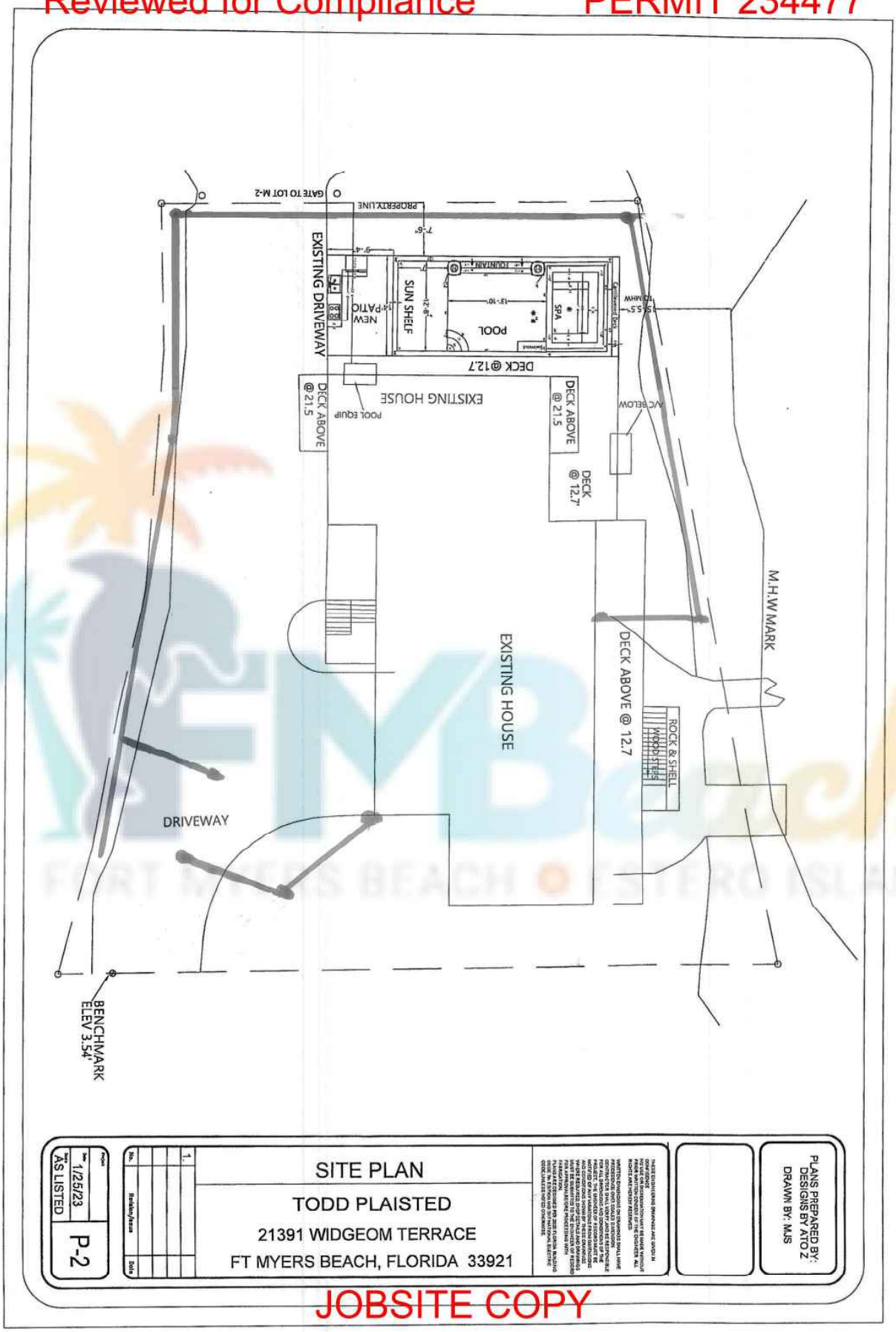
- SITE SKETCH -

See next page

FMBeach
FORT MYERS BEACH • ESTERO ISLAND

JOBSITE COPY

Reviewed for Compliance PERMIT 234477



JOBSITE COPY

App. No. 0106

Reviewed for Compliance PERMIT 234477

Owner Acknowledgement

This page is required for ALL Building Permit Applications

ACKNOWLEDGEMENT OF TOWN OF FORT MYERS BEACH REGULATIONS BY OWNER OR AUTHORIZED AGENT OF OWNER

NOTICE OF ADDITIONAL RESTRICTIONS: In addition to the requirements of this permit, there may be additional restrictions applicable to this property that maybe found in the public records of this County, and there may be additional permits required from other governmental entities such as the Water Management District, State agencies, or Federal agencies. I acknowledge that any demolition or renovation of an existing structure must comply with Florida Statutes s. 469.003, Florida Building Code, and any other relevant regulations, including state and federal law. I understand that I am responsible for notifying the Department of Environmental Protection in advance of any intentions to remove asbestos, when applicable, in accordance with state and federal law.

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INSPECTIONS: This permit is void if the first inspection is not made within six (6) months from the date issued or if no inspection has been made for a period of six (6) months from the most recently passed inspection. The permit is void if the zoning classification is violated. Applicant agrees to comply with the sanitary regulations and understands that the proposed structure may not be used or occupied until an approved certificate of occupancy is issued. Applicant further understands that failure to obtain permit or misrepresentation of the improvements is a misdemeanor and upon conviction, applicant can be punished as provided by the law. Failure to comply with the mechanics lien law can result in the property owner paying twice for improvements

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WORK IN THE SPECIAL FLOOD HAZARD AREA: Be advised that Substantial Damage/Substantial Improvement requirements will apply to structures located in the Special Flood Hazard Area with Finished Floor Elevations below the Base Flood Elevation.

CERTIFICATION: Application is hereby made to obtain a permit to do the work and installations as indicated. I, THE OWNER OR AUTHORIZED AGENT OF OWNER, certify that I have not performed any work or installation prior to the issuance of a permit and that all work will be performed to meet the standards of all laws regulating construction in this jurisdiction. The permit or application fee may have additional fees imposed for failing to obtain permits prior to commencement of construction. The permit application or approved permit expires if work is not commenced within 180 days from the date of issuance. I, THE OWNER OR AUTHORIZED AGENT OF OWNER understand that the structure cannot be used or occupied until a certificate of occupancy is issued. By signing this permit application, I, THE OWNER OR AUTHORIZED AGENT OF OWNER, agree that I have been retained by the property owner to provide contracting services for the trade for which I am listed. Furthermore, it is my responsibility to notify the Building Plan Review and Inspection Division should I no longer be THE OWNER OR AUTHORIZED AGENT OF OWNER responsible for providing said contracting services. I, THE OWNER OR AUTHORIZED AGENT OF OWNER, agree that I understand the review and issuing of this permit does not exempt me from complying with all State and local County Codes and Ordinances.

NOTICE OF COMMENCEMENT INFORMATION Per Florida Statutes 713.135 a Notice of Commencement (NOC) is required for construction of improvements totaling more than $2,500, with certain exceptions. For A/C Repairs or Replacements a notice of commencement is required for improvements more than or equal to $15,000. The applicant shall file with the issuing authority prior to the first inspection either a certified copy of the recorded NOC or a notarized statement that the NOC has been filed for recording, along with a copy thereof. In order to comply with the state requirement, permits will be placed in inspection hold until proof of the NOC is filed with the building permitting and inspection department. The issuing authority shall not perform or approve subsequent inspections until the applicant files by mail, facsimile, hand delivery, email or any other means such as certified copy with the issuing authority.

WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.

Job Street Address: 21391 Widgeon Ter, Fort Myers Beach, FL 33931

Signature of Property Owner

Todd Plaisted

Typed or printed name of Property Owner

STATE OF Florida COUNTY OF LEE

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

OR ___ online notarization, this 13th day of JUNE, 2023, by ___

✔ who is personally known to me OR ___ who has produced ___ as identification.

Notary Public Signature

Notary Public State of Florida
David A Ward
My Commission HH 321902
Expires 10/14/2026

If An Owner Agent is Being Named, Please complete below

I, Todd Plaisted (Property Owner), hereby certify that KRISTEN RIDDLE - contractor is my authorized AUTHORIZED AGENT/representative of the property described herein. All answers to the questions in this registration and any supplementary information attached to and made part of this registration is honest and true.

Town of Fort Myers Beach
2525 Estero Blvd. Fort Myers Beach, FL 33931
Phone # (239) 765 -0202
Buildingpermits@fmbgov.com

Rev 02/18/23
Guidelines subject to change without notice.

JOBSITE COPY

App. No. 0107

Reviewed for Compliance PERMIT 234477

Pool or Spa Application

RESIDENTIAL SWIMMING POOL SPA AND HOT TUB SAFETY ACT REQUIREMENT

PERMIT# _____

ADDRESS: 21391 Widgeon Ter. Fort Myers Beach, FL 33931

I, Kristin Riddle, License # CPC 1459908
(Please print contractor's Name)

Hereby affirm that one of the following methods will be used to meet the requirements of Chapter 515, Florida Statutes.

☐ The pool will be isolated from access to the home by an enclosure that meets the pool barrier requirements of Florida Statute, Section 515.29.

☐ The pool will be equipped with an approved safety pool cover that complies with ASTM F1346-91 (Standard Performance Specifications for Safety Covers for Swimming Pools, Spas, and Hot Tubs).

☐ All doors and windows providing direct access from the home to the pool will be equipped with an exit alarm that has a minimum sound pressure rating of 85 decibels at 10 feet; ALL ALARMS MUST BE PERMANENTLY ATTACHED (BY BEING SCREWED IN) TO ALL WINDOWS AND DOORS LEADING TO POOL AREA.

☐ All doors providing direct access from the home to the pool will be equipped with a self-closing, self-latching device with a release mechanism placed no lower than 54" above the floor or deck.

☒ A swimming pool alarm that, when placed in a pool, sounds an alarm upon detection of an accidental or unauthorized entrance into the water. Such pool alarm must meet and be independently certified to ASTM Standard F2208, titled "Standard Safety Specification for Residential Pool Alarms." Which includes surface motion, pressure, sonar, laser, and infrared alarms.

********** IN ADDITION **********

I understand that a barrier must be placed around the perimeter of the pool and must be separate from any fence, wall, or other enclosure surrounding the yard unless the fence, wall, or other enclosure or portion thereof is situated on the perimeter of the pool, is being used as part of the barrier, and meets the barrier requirements of this section. I also understand that not having one of the above installed at time of final inspection will constitute a violation of Chapter 515 F.S.

I understand that not having one of the above installed before filling the pool with water, will constitute a violation of Chapter 515 F.S

Kristin Riddle — Contractor's Signature

Owner's Signature

Kristin Riddle — Contractor's Name (Please Print)

Todd Plaisted — Owner's Name (Please Print)

Town of Fort Myers Beach
2525 Estero Blvd. Fort Myers Beach, FL 33931
Phone # (239) 765 -0202
Buildingpermits@fmbgov.com

Rev 02/18/23
Guidelines subject to change without notice.

JOBSITE COPY

Kevin C. Karnes, Lee County Clerk of Circuit Court
INSTR. # 2023000206388, Doc Type NOC, Pages 1, Recorded 6/13/2023 at 10:33 AM, County Clerk SSTILLS ERECORD
Rec Fees: $10.00

Reviewed for Compliance PERMIT 234477

NOTICE OF COMMENCEMENT

Permit No. _____
Tax Folio No. 10230971
State of FL
County of LEE

The undersigned hereby gives notice that improvement will be made to certain real property, and in accordance with Chapter 713, Florida Statutes, the following information is provided in the Notice of Commencement.

1. **Description of property**: (legal description of property and street address if available).
21391 WIDGEON TER, FORT MYERS BEACH, FL 33931; STRAP: 34-46-24-N1-022M0.0010; FLAMINGO HARBOUR CONDO CONDO PLAT 7 PG 104 UNIT M-1

2. **General description of improvement**:
INSTALLATION OF NEW RESIDENTIAL POOL AND STEM WALL

3. **Owner information**:
Name TODD R PLAISTED
Address 15781 ANDRIE ST NW, RAMSEYY, MN 55303
Phone 62-868-7699 Fax _____
Interest in property OWNER
Name and address of fee simple titleholder (if other than Owner)

4. **Contractor**:
Name BIG GATOR POOLS AND SPAS
Address 1749 NE 10TH TER, UNIT 6, CAPE CORAL, FL 33909
Phone 239-770-8543 Fax _____

5. **Surety**:
Name _____
Address _____
Amount of bond: $ _____ Phone _____ Fax _____

6. **Lender**:
Name _____
Address _____
Phone _____ Fax _____

7. **Persons within the State of Florida designated by Owner** upon whom notices or other documents may be served as provided by Section 713.13(1)(a)7., Florida Statues:
Name _____
Address _____
Phone _____ Fax _____

8. **In addition to himself or herself, Owner designates** the following person(s) to receive a copy of the Lienor's Notice as provided in Section 713.13(1)(b), Florida Statues.
Name _____
Address _____
Phone _____ Fax _____

9. **Expiration date of notice of commencement** (the expiration date is 1 year from date of recording unless a different date is specified) _____

WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER PAYMENT UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BY RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF COMMENCEMENT.

Todd R Plaisted — owner

(Signature of Owner or Lessee, or Owner's or Lessee's Authorized Office/Director/Partner/Manager) (Signatory's Title/Office)

STATE OF Minnesota COUNTY OF Sherburne

The foregoing instrument was certified and subscribed before me by means of ✓ physical presence OR ___ online notarization, this 23rd day of May, 2023 by Todd Plaisted, ___ who is personally known to me OR ✓ who has produced _____ as identification.

Michelle Sue Nilson
Notary Public
Minnesota
My Commission Expires January 31, 2024

Notary Public Signature

Town of Fort Myers Beach
[illegible]

JOB SITE COPY

Reviewed for Compliance

PERMIT 234477

PAGE 1 OF 1

SCALE: 1"=30'

TYPE OF SURVEY:

- ☐ BOUNDARY
- ☐ ALTA/NSPS
- ■ CONSTRUCTION
- ■ TOPOGRAPHIC
- ☐ CONDOMINIUM
- ☐ SPECIAL PURPOSE

PRINTING INSTRUCTIONS

WHEN PRINTING THIS PDF IN ADOBE, SELECT "ACTUAL SIZE" TO ENSURE CORRECT SCALING. DO NOT USE "FIT".

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

A OR AL = ARC LENGTH	P = PLAT
C/O = CLEANOUT	PC = POINT OF CURVE
CA = CENTRAL ANGLE	PCC = POINT OF COMPOUND CURVE
CATV = CABLE TV RISER	PH = POOL HEATER
CF = CALCULATED FROM FIELD	PI = POINT OF INTERSECTION
CH = CHORD DISTANCE	POB = POINT OF BEGINNING
CONC. = CONCRETE	POC = POINT OF COMMENCEMENT
CR = CALCULATED FROM RECORD	PP = POOL PUMP
DE = DRAINAGE EASEMENT	PRC = POINT OF REVERSE CURVE
EL OR ELEV = ELEVATION	PT = POINT OF TANGENCY
EM = ELECTRIC METER	QTR = QUARTER
F.F.E. = FINISHED FLOOR ELEV.	R = RADIUS
FIR = FOUND IRON ROD	RNG = RANGE
FN = FOUND NAIL	SEC = SECTION
FND = FOUND	TR = TELEPHONE RISER
G.F.F = GARAGE FINISHED FLOOR	TWP = TOWNSHIP
L = LEGAL DESCRIPTION	UE = UTILITY EASEMENT
M = MEASURED	UP = UTILITY POLE
OHC = OVERHEAD CABLE	WM = WATER METER
	WV = WATER VALVE

SYMBOLS - NOT-TO-SCALE
(SOME ITEMS IN LEGEND MAY NOT APPEAR ON DRAWING):

- = UTILITY POLE
- = LIGHT POLE
- = CATCH BASIN
- = FIRE HYDRANT
- = MANHOLE
- = WATER VALVE
- WM = WATER METER
- = HANDICAP PARKING SPACE
- = SEC. QTR. CORNER
- = SECTION CORNER
- W = WELL
- ℄ = CENTER LINE
- ℘ = PARTY WALL
- AC = AIR CONDITIONER
- SD = SEPTIC LID
- x = ELEV. SHOT

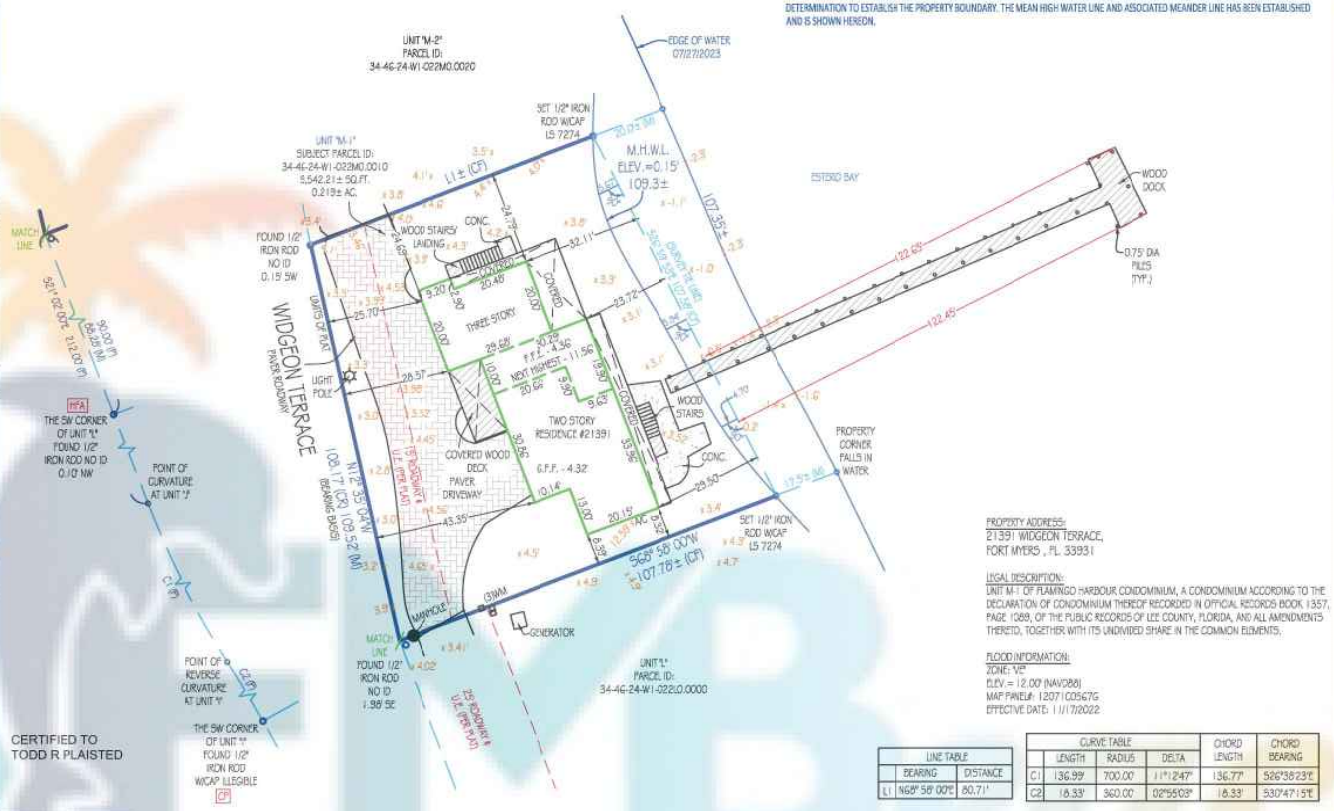
CERTIFICATION

I HEREBY CERTIFY THAT THIS SURVEY MEETS THE STANDARDS OF PRACTICE AS OUTLINED IN CHAPTER 5J-17.051 & 5J-17.052 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, AND THAT THE ELECTRONIC SIGNATURE AND SEAL HEREON MEETS PROCEDURES AS SET FORTH IN CHAPTER 5J-17.062, PURSUANT TO SECTION 472.025, FLORIDA STATUTES.

SIGNATURE _____ DATE: 8-24-2023

PABLO ALVAREZ - PROFESSIONAL SURVEYOR AND MAPPER FLORIDA REGISTRATION NO. 7274 (NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OR THE ELECTRONIC SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER SHOWN ABOVE)

4. RECORD DATA INDICATES OWNERSHIP TO THE EDGE OF WATER. ESTERO BAY IS TIDALLY INFLUENCED AND REQUIRES A MEAN HIGH WATER DETERMINATION TO ESTABLISH THE PROPERTY BOUNDARY. THE MEAN HIGH WATER LINE AND ASSOCIATED MEANDER LINE HAS BEEN ESTABLISHED AND IS SHOWN HEREON.



CERTIFIED TO
TODD R. PLAISTED

PROPERTY ADDRESS:
21391 WIDGEON TERRACE,
FORT MYERS, FL. 33931

LEGAL DESCRIPTION:
UNIT M-1 OF FLAMINGO HARBOUR CONDOMINIUM, A CONDOMINIUM ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF RECORDED IN OFFICIAL RECORDS BOOK 1357, PAGE 1088, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND ALL AMENDMENTS THERETO, TOGETHER WITH ITS UNDIVIDED SHARE IN THE COMMON ELEMENTS.

FLOOD INFORMATION:
ZONE: VE*
ELEV. = 12.00' (NAVD88)
MAP PANEL#: 12071C0567G
EFFECTIVE DATE: 11/17/2022

LINE TABLE		
	BEARING	DISTANCE
L1	N68° 58' 00"E	80.71'

CURVE TABLE				CHORD LENGTH	CHORD BEARING
	LENGTH	RADIUS	DELTA		
C1	136.99'	700.00'	11°12'47"	136.77'	S26°38'23"E
C2	18.33'	360.00'	02°55'03"	18.33'	S30°47'15"E

Aerial Photograph
May not show latest improvements. Not-to-scale.

GENERAL NOTES:
1. THIS SURVEY IS BASED UPON RECORD INFORMATION PROVIDED BY CLIENT. NO SPECIFIC SEARCH OF THE PUBLIC RECORD HAS BEEN MADE BY THIS OFFICE UNLESS OTHERWISE NOTED.
2. AS INDICATED ABOVE, UNDER "PURPOSE OF SURVEY", IF THIS SURVEY HAS BEEN PREPARED FOR A PURCHASE OR REFINANCE, ITS SCOPE IS LIMITED TO THE DETERMINATION OF TITLE DEFICIENCIES, AND IS NOT INTENDED FOR USE IN DESIGN OR CONSTRUCTION PURPOSES. LANDTEC SURVEYING ASSUMES NO RESPONSIBILITIES FOR ERRORS RESULTING FROM FAILURE TO ADHERE TO THIS CLAUSE.
3. ANY FENCES SHOWN HEREON ARE ILLUSTRATIVE OF THEIR GENERAL POSITION ONLY. FENCE TIES SHOWN ARE TO GENERAL CENTERLINE OF FENCE. THIS OFFICE WILL NOT BE RESPONSIBLE FOR DAMAGES RESULTING FROM THE REMOVAL OF, OR CHANGES MADE TO, ANY FENCES UNLESS WE HAVE PROVIDED A SURVEY SPECIFICALLY LOCATING SAID FENCES FOR SUCH PURPOSES. DETERMINATION OF FENCE POSITIONS SHOULD BE BASED SOLELY ON THEIR PHYSICAL RELATIONSHIP TO THE MONUMENTED BOUNDARY LINES.
4. GRAPHIC REPRESENTATIONS MAY HAVE BEEN EXAGGERATED TO MORE CLEARLY ILLUSTRATE MEASURED RELATIONSHIPS - DIMENSIONS SHALL HAVE PRECEDENCE OVER SCALED POSITIONS.
5. UNDERGROUND IMPROVEMENTS HAVE NOT BEEN LOCATED EXCEPT AS SPECIFICALLY SHOWN.
6. ELEVATIONS ARE BASED UPON NATIONAL GEODETIC VERTICAL DATUM (N.G.V.D. 1929) OR NORTH AMERICAN VERTICAL DATUM (N.A.V.D. 1988) AS SHOWN ABOVE.
7. ALL BOUNDARY AND CONTROL DIMENSIONS SHOWN ARE FIELD MEASURED AND CORRESPOND TO RECORD INFORMATION UNLESS SPECIFICALLY NOTED OTHERWISE.
8. ANY CORNERS SHOWN AS "SET" HAVE EITHER BEEN SET ON THE DATE OF FIELD WORK, OR WILL BE SET WITHIN 2 BUSINESS WEEKS OF SAID DATE AND ARE IDENTIFIED WITH A CAP MARKED LS (LICENSED SURVEYOR) #7274.

BEARING REFERENCE:
CENTER LINE OF 93rd AVENUE AS N 88°46'09" W
AS REFERENCED IN SUBJECT PROPERTY LEGAL DESCRIPTION.
ALL BEARINGS SHOWN HEREON REFERENCED THERETO.

Job Number : 179798-SW	Field: K.A.
Drawn By: E.I.	Date of Field Work : 07/28/2023

PURPOSE OF SURVEY: PROPERTY IMPROVEMENTS-OTHER

REVISIONS	
UPDATE - E.I. - 08/23/2023	

LINETYPES:

- BOUNDARY
- EASEMENT
- WOOD FENCE
- OVERHEAD CABLE
- BUILDING
- CHAIN LINK FENCE
- PLASTIC FENCE

Elevations, if shown:
Benchmark: DN3725
Benchmark Elev.: 3.27'
Benchmark Datum: NAVD 88
Elevations on Drawing are In:
N.G.V.D.29 ☐ N.A.V.D.88 ■

"CP" = CONTROLLING POINT (POINT OF ROTATION) "HFA" = HELD FOR ALIGNMENT - ALL OTHER MONUMENTATION AND IMPROVEMENTS RELATIVE THERETO

Platted Easements & Notable Conditions (unplatted easements also listed if provided): IF APPLICABLE, RECIPIENTS OF THIS SURVEY SHOULD REVIEW THE POSITION OF ANY FENCE LINES SHOWN AND THEIR RELATIONSHIP TO THE BOUNDARY LINE.

- 15' ROADWAY AND UTILITY EASEMENT ALONG WESTERLY BOUNDARY LINE OF SUBJECT LOT.
- PAVER DRIVEWAY EXTENDS THROUGH THE WESTERLY EASEMENT.
- PAVER DRIVEWAY CROSSES THE BOUNDARY LINE ON NORTHERLY AND SOUTHERLY SIDES OF LOT AS SHOWN.
- WOOD DOCK CROSSES THE BOUNDARY LINE ON EASTERLY SIDE OF LOT AS SHOWN.

This survey has been issued by the following Landtec Surveying office:
700 W. Hillsboro Blvd. Suite 4-100
Deerfield Beach, FL 33441
Office: (561) 367-3587 Fax: (561) 465-3145
www.LandtecSurvey.com

LANDTEC SURVEYING and Sign
LICENSED BUSINESS No. 8507

JOBSITE COPY

Appeal Bates #14

App. No. 0110

Page 159 of 969

Reviewed for Compliance

21391 WIDGEON TERRACE
FORT MYERS BEACH

SITE LOCATION

JOBSITE COPY

PERMIT 234477

PERMIT: 2024.04.03

PROJECT INFORMATION

Private Residence

21391 WIDGEON TERRACE
FORT MYERS BEACH, FL

A 0.1

MICHAEL D. STEWART, PE
FLA REG. #72459

Appeal Bates #15

App. No. 0111

Reviewed for Compliance

PERMIT 234477

DRAINAGE SHEET NOTES:

1. PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITY APPROPRIATE EROSION CONTROL DEVICES SHALL BE INSTALLED TO CONTROL AND REDUCE SOIL EROSION AND SEDIMENT TRANPORT TO OFFSITE AREAS. THE CONTRACTOR SHALL MAINTAIN THESE DEVICES THROUGHOUT THE DURATION OF CONSTRUCTION. ALL DEVICES SHALL REMAIN IN PLACE UNTIL THE SURROUNDING AREAS ARE ESTABLISHED.
2. CONSTRUCTION ACTIVITIES SHALL ENSURE THAT SURFACE WATER RUNOFF DURING CONSTRUCTION SHALL NOT BE GREATER THAN THAT OF THE SURFACE WATER RUNOFF DURING PRE-CONSTRUCTION CONDITIONS.
3. FINAL LOT GRADING SHALL BE SUCH THAT SURFACE WATER RUNOFF IS DIRECTED INTO EXISTING ADJACENT DRAINAGE CONVEYANCES. HISTORICAL RUNOFF PATERN SHALL BE MAINTAINED.

NOTE:
SCOPE OF WORK IS LIMITED TO DOOR REPLACEMENTS, STAIR RECONSTRUCTION, DECK EXTENSION AND THE ADDITION OF A POOL/POOL DECK. THE PROPOSED SCOPE ADDS 547 SF OF IMPERVIOUS AREA TO THE SITE. THIS IS ALL WITHIN THE BUILDING COVERAGE REQUIREMENTS, AND SHALL NOT SIGNIFICANTLY ALTER OR IMPACT HISTORICAL DRAINAGE PATTENS IN THE AREA.

FLOOD ZONE INFORMATION

ZONE: VE
BASE FLOOD ELEVATION: 12.0' NAVD
DESIGN FLOOD ELEVATION: 13.0' NAVD

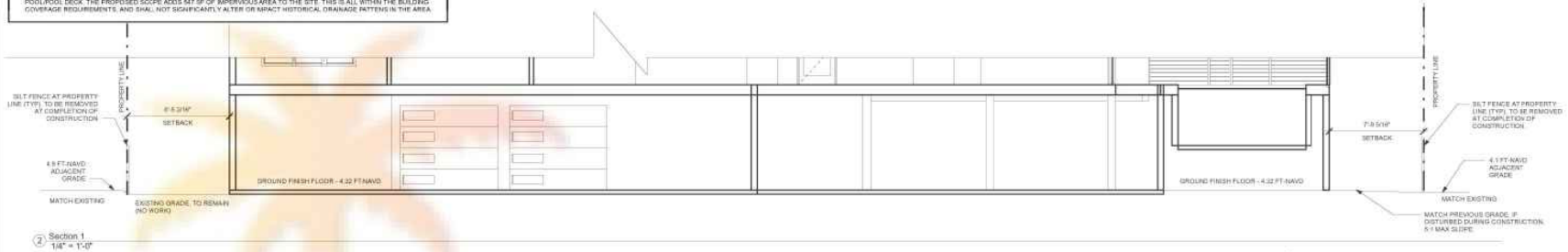
LEGAL DISCRIPTION

UNIT M-1 OF FLAMINGO HARBOUR CONDOMINIUM, A CONDOMINIUM ACCORDING OT THE DECLARATION OF CONDOMINIUM THEREOF RECORDED IN OFFICIAL RECORDS BOOK 1357, PAGE 1998, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND ALL AMENDMENTS THERETO, TOGETHER WITH ITS UNDIVIDED SHARE IN THE COMMON ELEMENTS.

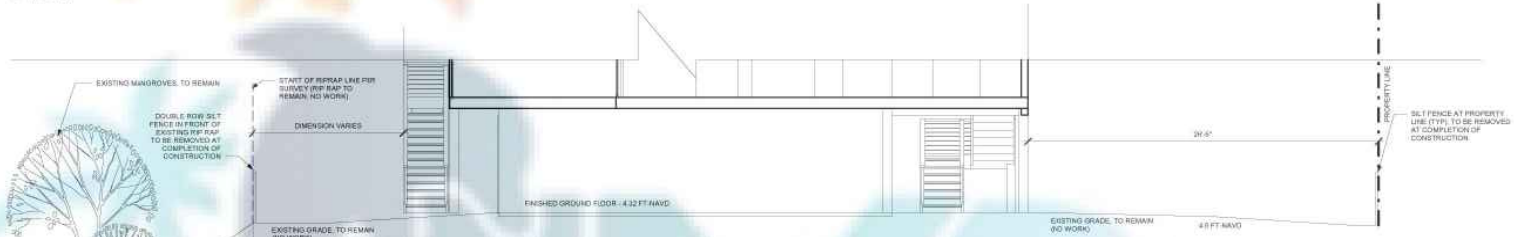
STREET ADDRESS
21391 WIDGEON TERRACE,
FORT MYERS BEACH, FL

BUILDING COVERAGE CALCULATIONS

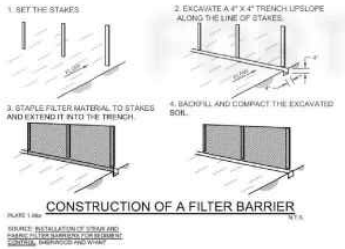
		TOTAL LOT AREA	%	REMARKS
TOTAL		9540.96	100%	TOTAL LOT AREA PER SURVEY
BUILDING COVERAGE		3445	36%	
MAX ALLOWED		3816.38	40%	



2 Section 1
1/4" = 1'-0"



3 Section 2
1/4" = 1'-0"



CONSTRUCTION OF A FILTER BARRIER

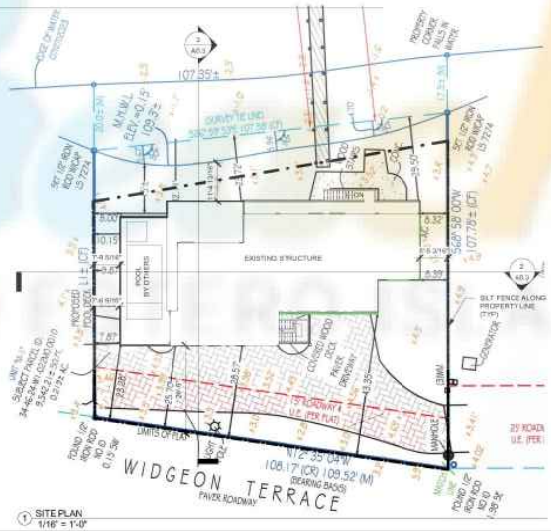
IMPERVIOUS CALCULATIONS

	EXISTING (SF)	%	PROPOSED (SF)	%
TOTAL PERVIOUS	4054.33	42.49	3507.41	36.76
TOTAL IMPERVIOUS	5486.63	57.51	6033.55	63.24
TOTAL LOT	9540.96	100	9540.96	100

NOTE:
IMPERVIOUS CALCULATIONS ARE PER INFORMATION PROVIDED BY THE SURVEYOR. A BUILDING COVERAGE CALCULATION HAS ALSO BEEN PROVIDED.

NOTE:
SITE PLAN DOES NOT CONSTITUTE A SURVEY. A LICENSED SURVEYOR SHALL SET ALL CORNER PINS AND VERIFY FINISHED FLOOR ELEVATION PRIOR TO CONSTRUCTION.

FINISH FLOOR ELEVATION (NAVD) (MINIMUM IS FLOOR + 12" OR 18" ABOVE CROWN OF THE ROAD.) PER SURVEY BY OTHERS.



1 SITE PLAN
1/16" = 1'-0"

JOBSITE COPY

PERMIT: 2024.04.03

PROJECT INFORMATION

Private Residence

[PROJECT ADDRESS]
21391 WIDGEON TERRACE
FORT MYERS BEACH, FL

[DRAWN BY]

[SHEET NAME]

[SHEET NUMBER]
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0.2

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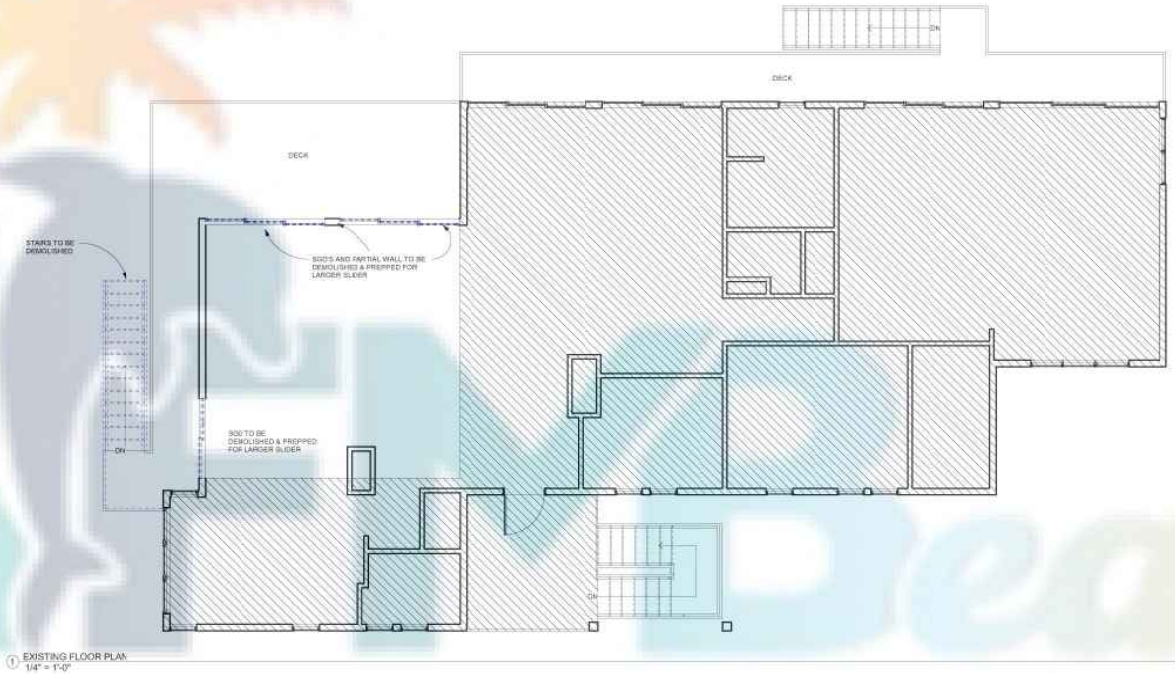
PROFESSIONAL ENGINEERING SERVICES

Appeal Bates #16

App. No. 0112

Reviewed for Compliance

PERMIT 234477



1 EXISTING FLOOR PLAN
1/4" = 1'-0"

PERMIT: 2024.04.03

PROJECT INFORMATION

Private Residence

[PROJECT ADDRESS]
21391 WIDGEON TERRACE
FORT MYERS BEACH, FL

[DRAWN BY]

[SHEET NAME]

[SHEET NUMBER]

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JOBSITE COPY

Appeal Bates #17

App. No. 0113

Reviewed for Compliance

PERMIT P34477

FLOOR PLAN GENERAL NOTES:

GENERAL
VERIFY FLOOR ELEVATIONS W/ FLOOD REQUIREMENTS.

ALL EXTERIOR WINDOWS & DOORS ARE DIMENSIONED TO CENTER LINE U.N.O.

ALL HANDRAILS AND GUARD RAILS TO BE 34" AFF. U.N.O. DESIGNED AND INSTALLED TO NOT ALLOW THE PASSAGE OF A 4" SPHERE. PROVIDE TOE RAILING AS REQ'D, NAA 2" A.F.F. COORD. FINAL MATERIAL, DESIGN, AND FINISH WITH OWNER. HANDRAILS AND GUARDS MUST COMPLY WITH ALL THE REQUIREMENTS OF THE FBC.

PROVIDE METAL THRESHOLD (MT) AT DOORS LEADING TO THE GARAGE, ELEVATOR DOOR AND ALL EXTERIOR DOORS. TYP. U.N.O.

COORDINATE ATTIC ACCESS LOCATIONS W/ FINAL TRUSS LAYOUT.

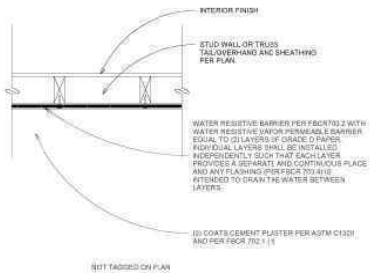
SEE STRUCTURAL DRAWINGS FOR ALL LOAD BEARING WALL, COLUMN AND FILLED CELL LOCATIONS.

EXTEND POURED SLAB EDGE @ DOORS 1 1/2" TYP. BEYOND STEM WALL.

FOR WALLS THAT ABUT NON-CONDITIONED SPACE USE "DENSARMOR"
FOR WALLS THAT ARE IN DIRECT CONTACT WITH WET AREAS, USE "DENSARMOR PLUS".
FOR WALLS AND CEILING AT A TUB/SHOWER USE CEMENT BOARD SHEATHING W/ TILE FINISH SELECTED BY THE OWNER.

DOOR SCHEDULE

Mark	Height	Width	Function	Type	Pressures (+/-)	FLA #
1	8' - 0"	16' - 0"	Exterior	18068 SGD	+45.4/-47.47	251.4
2	8' - 0"	16' - 0"	Exterior	18068 SGD	+45.4/-47.47	251.4



NOT TAGGED ON PLAN

EXISTING AREA CALCULATIONS:

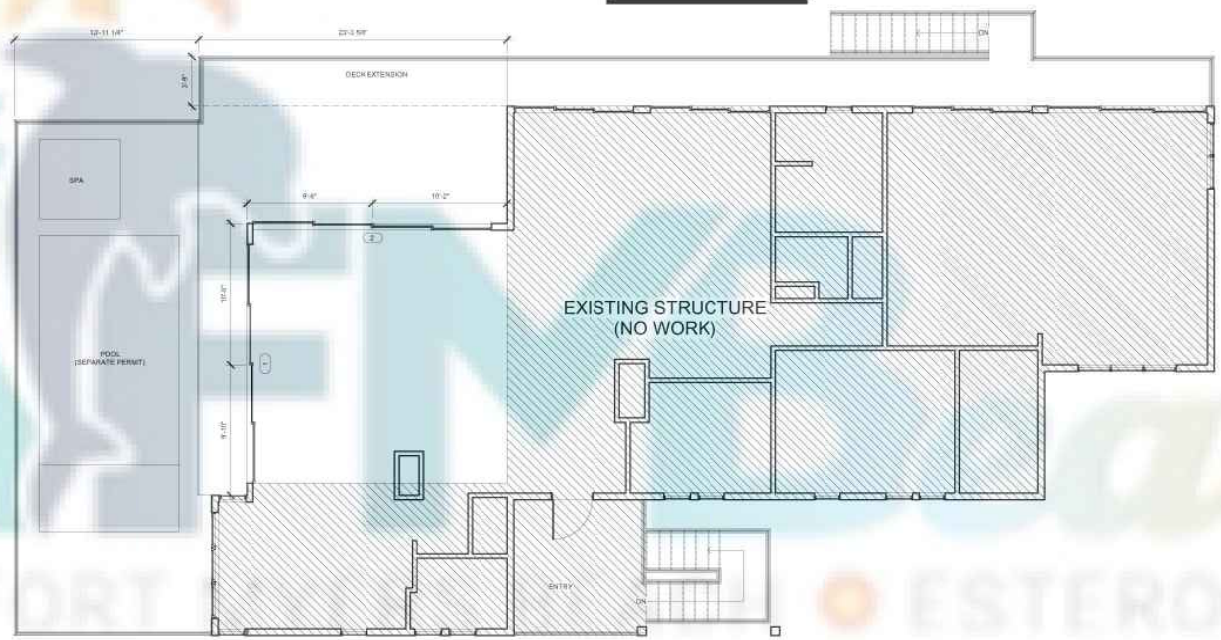
A/C LIVING AREA 1ST FLOOR:	1464 SF
A/C LIVING AREA 2ND FLOOR:	600 SF
GARAGE:	664 SF
DECK:	615 SF
ENTRY:	160 SF
TOTAL UNDER ROOF	2723 SF

AREA CALCULATIONS:

A/C LIVING AREA 1ST FLOOR:	1464 SF
A/C LIVING AREA 2ND FLOOR:	600 SF
DECK ADDITION TOTAL:	**351 SF**
GARAGE:	664 SF
TOTAL DECK:	966 SF
ENTRY:	150 SF
TOTAL UNDER ROOF	4074 SF

NOT TO SCALE

③ WATER RESISTIVE BARRIER DETAIL
1/2" = 1'-0"



② PROPOSED FLOOR PLAN
1/4" = 1'-0"

JOBSITE COPY

PERMIT: 2024.04.03

PROJECT INFORMATION

Private Residence

[PROJECT ADDRESS]
21391 WIDGEON TERRACE
FORT MYERS BEACH, FL

[DRAWN BY] [TB & RGS]

[SHEET NAME]
[SHEET NUMBER]

A 1.1

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PROFESSIONAL ENGINEERING SERVICES

Appeal Bates #18

App. No. 0114

Reviewed for Compliance

PERMIT 234477

ELEVATION TYPICAL NOTES:

ROOF NOTE:
- SEE ROOF PLAN FOR GENERAL ROOF NOTES AND ROOF MATERIAL SELECTION NOTES.

TYPICAL ARCHITECTURAL NOTES:
- VERIFY ALL STRUCTURAL ELEMESTS WITH STRUCTURAL ENGINEER.
- COORDINATE ALL INTERIOR WALL SOFFITS AND CEILING TREATMENTS WITH OWNER.
- ROOF AND BEARING HEIGHTS ARE SHOWN RELATIVE TO A REFERENCE ELEVATION BASED ON TOP OF SLAB U.N.O.
- ALL HANDRAILS AND GUARD RAILS TO BE 36" AFF U.N.O. W/ ALL ELEMENTS SPACED SO AS TO NOT ALLOW THE PASSAGE OF A 4" SPHERE. PROVIDE TOE RAILING AS REQ'D. MAX 2" A.F.F. COORD. FINAL MATERIAL, DESIGN, AND FINISH WITH OWNER. HANDRAILS AND GUARDS MUST COMPLY WITH THE REQUIREMENTS OF THE FBC 2020 7th EDITION.

② FRONT ELEVATION
1/4" = 1'-0"

③ LEFT ELEVATION
1/4" = 1'-0"

JOBSITE COPY

PERMIT: 2024.04.03

PROJECT INFORMATION

Private Residence

[PROJECT ADDRESS]
21391 WIDGEON TERRACE
FORT MYERS BEACH, FL

[DRAWN BY] [TB & RGS]

[SHEET NAME]
[SHEET NUMBER]

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PROFESSIONAL ENGINEERING SERVICES

Appeal Bates #19

App. No. 0115

Reviewed for Compliance

PERMIT 234477

ELEVATION TYPICAL NOTES:

ROOF NOTE:
SEE ROOF PLAN FOR GENERAL ROOF NOTES AND ROOF MATERIAL SELECTION NOTES.
TYPICAL ARCHITECTURAL NOTES:
-VERIFY ALL STRUCTURAL ELEMENTS WITH STRUCTURAL ENGINEER
-COORDINATE ALL INTERIOR WALL SOFFITS AND CEILING TREATMENTS WITH OWNER.
-ROOF AND BEARING HEIGHTS ARE SHOWN RELATIVE TO A REFERENCE ELEVATION BASED ON TOP OF SLAB U.N.O.
-ALL HANDRAILS AND GUARD RAILS TO BE 36" AFF U.N.O. W/ ALL ELEMENTS SPACED SO AS TO NOT ALLOW THE PASSAGE OF A 4" SPHERE. PROVIDE TOE RAILING AS REQ'D. MAX 2" A.F.F. COORD. FINAL MATERIAL, DESIGN, AND FINISH WITH OWNER. HANDRAILS AND GUARDS MUST COMPLY WITH THE REQUIREMENTS OF THE FBC 2023 7th EDITION.

2 REAR ELEVATION
1/4" = 1'-0"

3 RIGHT ELEVATION
1/4" = 1'-0"

JOBSITE COPY

PERMIT: 2024.04.03

PROJECT INFORMATION

Private Residence

[PROJECT ADDRESS]
21391 WIDGEON TERRACE
FORT MYERS BEACH, FL

[DRAWN BY]

[SHEET NAME]

[SHEET NUMBER]
A 2.1

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PROFESSIONAL ENGINEERING SERVICES

Appeal Bates #20

App. No. 0116

Reviewed for Compliance

PERMIT 234477

PERMIT: 2024.04.03

PROJECT INFORMATION

Private Residence

21391 WIDGEON TERRACE
FORT MYERS BEACH, FL

R
1.0

MICHAEL D. STEWART, PE
FLA REG. #72459

JOBSITE COPY

Appeal Bates #21

Reviewed for Compliance

PERMIT 234477

PERMIT: 2024.04.03

PROJECT INFORMATION

Private Residence

21391 WIDGEON TERRACE
FORT MYERS BEACH, FL

R
1.1

MICHAEL D. STEWART, PE
FLA REG. #72459

JOBSITE COPY

Appeal Bates #22

Reviewed for Compliance

PERMIT 234477

PERMIT: 2024.04.03

PROJECT INFORMATION

Private Residence

[PROJECT ADDRESS]
21391 WIDGEON TERRACE
FORT MYERS BEACH, FL

[DRAWN BY] [TYP. B. REQ.]

[SHEET NAME]

[SHEET NUMBER]

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1.2

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PROFESSIONAL ENGINEERING SERVICES

FORT MYERS BEACH ESTERO ISLAND

JOBSITE COPY

Appeal Bates #23

App. No. 0119

Reviewed for Compliance

PERMIT 234477

PERMIT: 2024.04.03

PROJECT INFORMATION

Private Residence

21391 WIDGEON TERRACE
FORT MYERS BEACH, FL

R
1.3

MICHAEL D. STEWART, PE
FLA REG. #72459

JOBSITE COPY

Appeal Bates #24

App. No. 0120

Reviewed for Compliance

PERMIT 234477

21391 WIDGEON TERRACE
FORT MYERS BEACH

SCOPE OF PROJECT:

CONCEPT ELEVATIONS FOR EXTERIOR SIDING RENOOVATIONS
CONCEPT ELEVATIONS FOR POOL AND DECK STRUCTURE (STRUCTURAL POOL & DECK PERMIT DRAWINGS BY OTHERS)
CONCEPT ELEVATIONS FOR SCREEN CADE ADDITION (SCREEN CAGE PERMIT DRAWINGS BY OTHERS)
DRAINAGE PLAN ENGINEERING FOR THE ABOVE REFERENCED SCOPE
ENLARGING (2) SLIDING GLASS DOOR OPENINGS - SEE STRUCTURAL.

SITE LOCATION

PERMIT: 2024.04.03
REVISION: 2024.04.09
REVISION: 2024.04.25

PROJECT INFORMATION

Private Residence

21391 WIDGEON TERRACE
FORT MYERS BEACH, FL

A 0.1

MICHAEL D. STEWART, PE
FLA REG. #72459

JOBSITE COPY

Appeal Bates #25

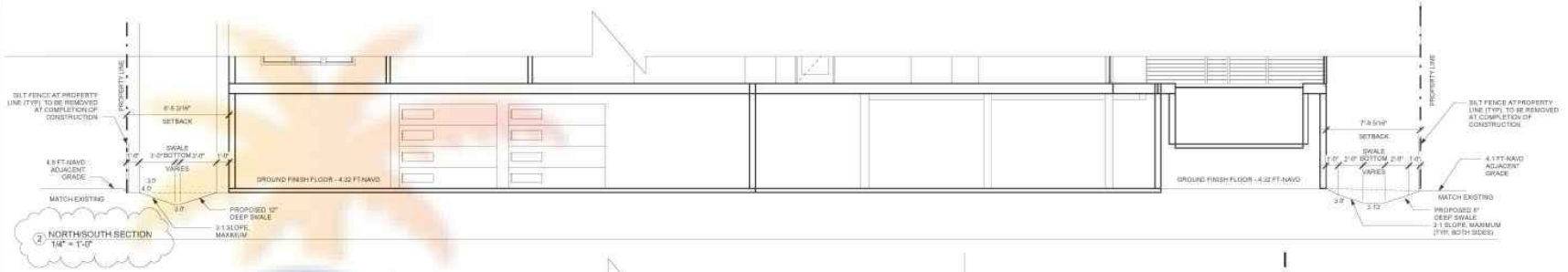
App. No. 0121

Reviewed for Compliance

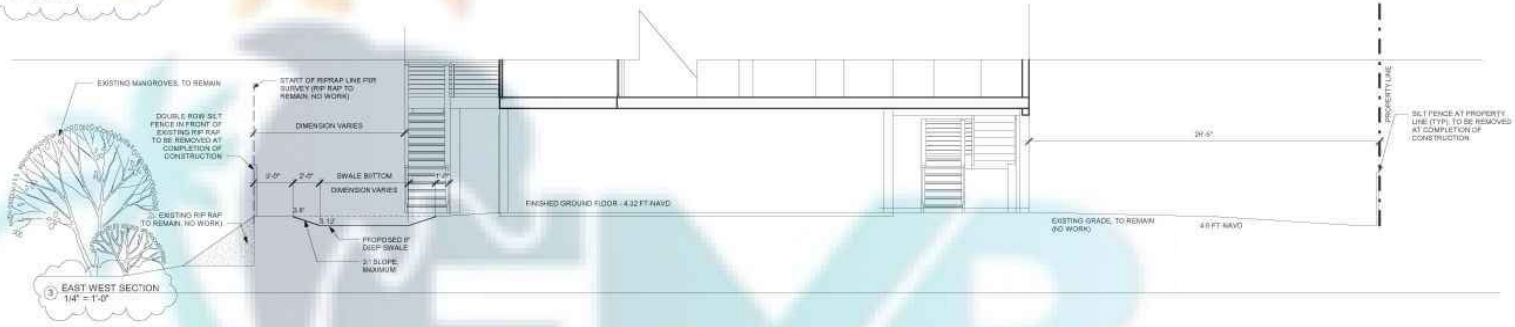
PERMIT P34477

DRAINAGE SHEET NOTES:

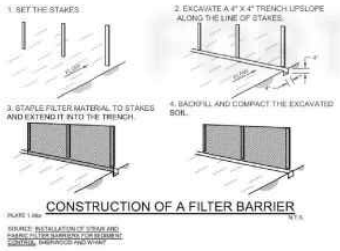
1. PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITY APPROPRIATE EROSION CONTROL DEVICES SHALL BE INSTALLED TO CONTROL AND REDUCE SOIL EROSION AND SEDIMENT TRANPORT TO OFFSITE AREAS. THE CONTRACTOR SHALL MAINTAIN THESE DEVICES THROUGHOUT THE DURATION OF CONSTRUCTION. ALL DEVICES SHALL REMAIN IN PLACE UNTIL THE SURROUNDING AREAS ARE ESTABLISHED.
2. CONSTRUCTION ACTIVITIES SHALL ENSURE THAT SURFACE WATER RUNOFF DURING CONSTRUCTION SHALL NOT BE GREATER THAN THAT OF THE SURFACE WATER RUNOFF DURING PRE-CONSTRUCTION CONDITIONS.
3. FINAL LOT GRADING SHALL BE SUCH THAT SURFACE WATER RUNOFF IS DIRECTED INTO EXISTING ADJACENT DRAINAGE CONVEYANCES. HISTORICAL RUNOFF PATERN SHALL BE MAINTAINED.



2 NORTH/SOUTH SECTION
1/4" = 1'-0"



3 EAST WEST SECTION
1/4" = 1'-0"



CONSTRUCTION OF A FILTER BARRIER

PERMIT: 2024.04.03
REVISION: 2024.04.09
REVISION: 2024.04.25

PROJECT INFORMATION

Private Residence

[PROJECT ADDRESS]
21391 WIDGEON TERRACE
FORT MYERS BEACH, FL

[DRAWN BY] [TYP. B INCL.]

[SHEET NAME]
[SHEET NUMBER]

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PROFESSIONAL ENGINEERING SERVICES

JOBSITE COPY

FM Beach
FORT MYERS BEACH • ESTERO ISLAND

Appeal Bates #26

App. No. 0122

Reviewed for Compliance

PERMIT 234477

DRAINAGE SHEET NOTES:

1. PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITY APPROPRIATE EROSION CONTROL DEVICES SHALL BE INSTALLED TO CONTROL AND REDUCE SOIL EROSION AND SEDIMENT TRANPORT TO OFFSITE AREAS. THE CONTRACTOR SHALL MAINTAIN THESE DEVICES THROUGHOUT THE DURATION OF CONSTRUCTION. ALL DEVICES SHALL REMAIN IN PLACE UNTIL THE SURROUNDING AREAS ARE ESTABLISHED.
2. CONSTRUCTION ACTIVITIES SHALL ENSURE THAT SURFACE WATER RUNOFF DURING CONSTRUCTION SHALL NOT BE GREATER THAN THAT OF THE SURFACE WATER RUNOFF DURING PRE-CONSTRUCTION CONDITIONS.
3. FINAL LOT GRADING SHALL BE SUCH THAT SURFACE WATER RUNOFF IS DIRECTED INTO EXISTING ADJACENT DRAINAGE CONVEYANCES. HISTORICAL RUNOFF PATERN SHALL BE MAINTAINED.

NOTE:
SCOPE OF WORK IS LIMITED TO DOOR REPLACEMENTS, STAIR RECONSTRUCTION, DECK EXTENSION AND THE ADDITION OF A POOL/POOL DECK. THE PROPOSED SCOPE ADDS 547 SF OF IMPERVIOUS AREA TO THE SITE AS SUCH, A SWALE AREA ABLE TO STORE 1 IF OF RAINFALL OVER THE SITE HAS BEEN PROPOSED AS PART OF THE IMPROVEMENTS.

SWALE CAPACITY CALCULATION

REQUIRED:

PROVIDE 1.0" OVER THE SITE 1320' x 9541 SF = 1,271.5 CF

PROPOSED:

NORTHERN SWALE VOLUME = 1/2 x (3.5-3.13) x (949-406) = 420 CF

SOUTHERN SWALE VOLUME = 1/2 x (4-3) x (955-286) + 1/2 x (3-2) x (286+125) = 835 CF

TOTAL SWALE VOLUME = 420 + 835 = 1255 CF > 1272 CF

IMPERVIOUS CALCULATIONS

	EXISTING (SF)	%	PROPOSED (SF)	%
TOTAL PERVIOUS	4054.33	42.49	3507.41	36.76
TOTAL IMPERVIOUS	5486.63	57.51	6033.55	63.24
TOTAL LOT	9540.96	100	9540.96	100

NOTE:
TOTAL IMPERVIOUS AREA = HOUSE AREA + LANAI AREAS + PAVERS/DRIVEWAYS + POOL DECK
= 2295 + 998 + 2220 +520
= 6033 SF

FLOOD ZONE INFORMATION

ZONE: VE
BASE FLOOD ELEVATION: 12.0' NAVD
DESIGN FLOOD ELEVATION: 13.0' NAVD

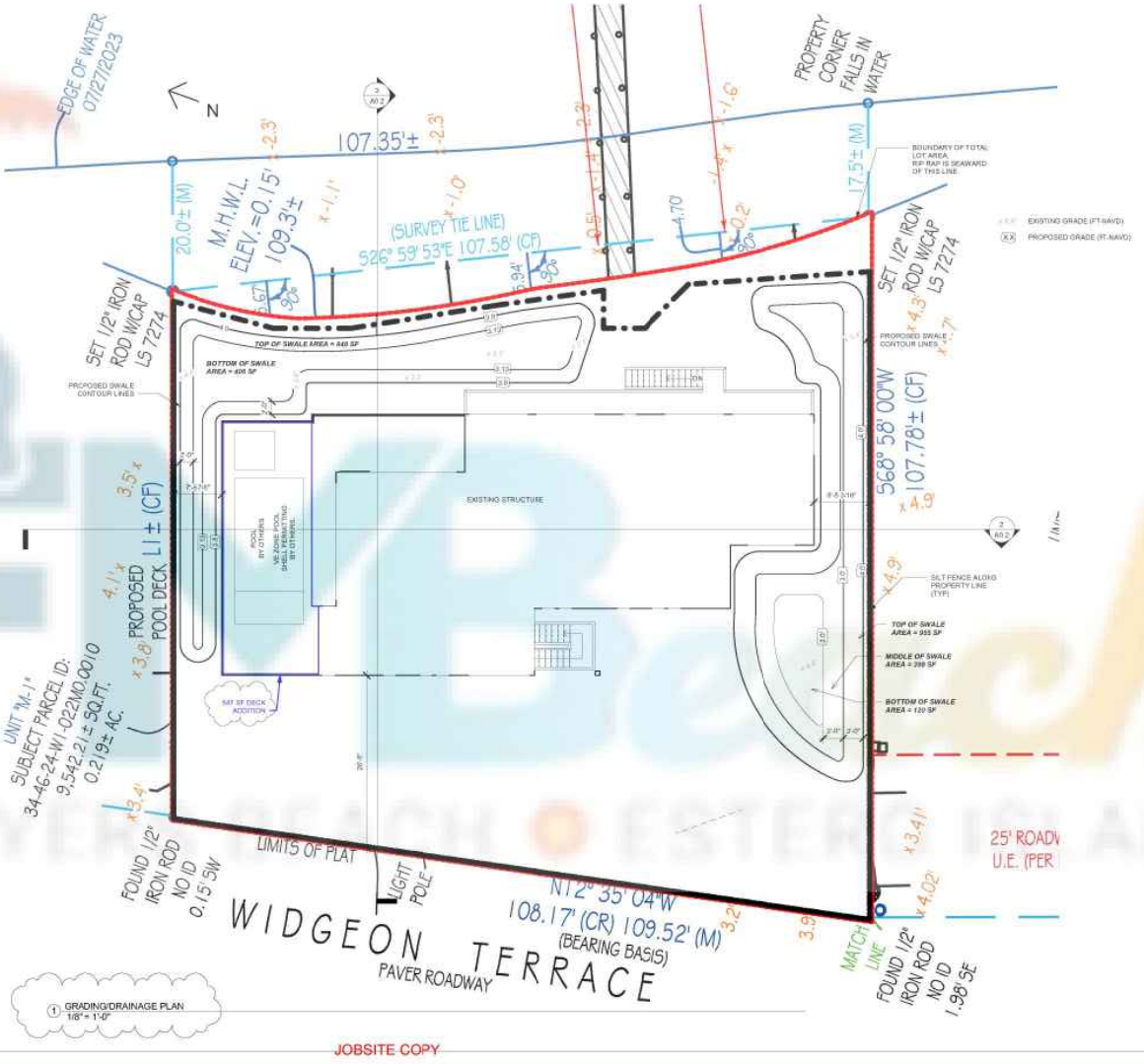
LEGAL DISCRIPTION

UNIT M-1 OF FLAMINGO HARBOUR CONDOMINIUM, A CONDOMINIUM ACCORDING OT THE DECLARATION OF CONDOMINIUM THEREOF RECORDED IN OFFICIAL RECORDS BOOK 1357, PAGE 1998, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND ALL AMENDMENTS THERETO, TOGETHER WITH ITS UNDIVIDED SHARE IN THE COMMON ELEMENTS.

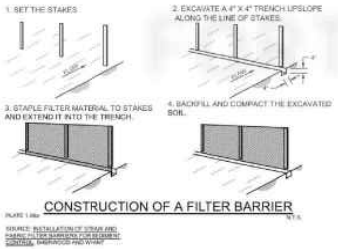
STREET ADDRESS
21391 WIDGEON TERRACE,
FORT MYERS BEACH, FL

BUILDING COVERAGE CALCULATIONS

		TOTAL LOT AREA	%	REMARKS
TOTAL		9540.96	100%	TOTAL LOT AREA IS AREA LANDWARD OF RIPRAP
BUILDING COVERAGE		2205	23%	
MAX ALLOWED		3816.39	40%	



1 GRADING/DRAINAGE PLAN
1/8" = 1'-0"



CONSTRUCTION OF A FILTER BARRIER

SOURCE: INSTALLATION OF STRAW AND FABRIC FILTER BARRIERS FOR RESIDENTIAL CONSTRUCTION, FAMPHOUSE AND MYAKKA

JOBSITE COPY

PERMIT: 2024.04.03
REVISION: 2024.04.09
REVISION: 2024.04.25

PROJECT INFORMATION

Private Residence

[PROJECT ADDRESS]
21391 WIDGEON TERRACE
FORT MYERS BEACH, FL

[DRAWN BY] [TYP. 8 INCH]

[SHEET NAME]
[SHEET NUMBER]
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0.3

MICHAEL D. STEWART, PE
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PROFESSIONAL ENGINEERING SERVICES

Appeal Bates #27

App. No. 0123

Reviewed for Compliance

PERMIT 234477

1 EXISTING FLOOR PLAN
1/4" = 1'-0"

PERMIT: 2024.04.03
REVISION: 2024.04.09
REVISION: 2024.04.25

PROJECT INFORMATION

Private Residence

[PROJECT ADDRESS]
21391 WIDGEON TERRACE
FORT MYERS BEACH, FL

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JOBSITE COPY

Appeal Bates #28

App. No. 0124

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FLOOR PLAN GENERAL NOTES:

GENERAL
VERIFY FLOOR ELEVATIONS W/ FLOOD REQUIREMENTS.

ALL EXTERIOR WINDOWS & DOORS ARE DIMENSIONED TO CENTER LINE U.N.O.

ALL HANDRAILS AND GUARD RAILS TO BE 34" AFF. U.N.O. DESIGNED AND INSTALLED TO NOT ALLOW THE PASSAGE OF A 4" SPHERE. PROVIDE TOE RAILING AS REQ'D, NAKA 2" A.F.F. COORD. FINAL MATERIAL, DESIGN, AND FINISH WITH OWNER. HANDRAILS AND GUARDS MUST COMPLY WITH ALL THE REQUIREMENTS OF THE FBC.

PROVIDE METAL THRESHOLD (MT) AT DOORS LEADING TO THE GARAGE, ELEVATOR DOOR AND ALL EXTERIOR DOORS. TYP. U.N.O.

COORDINATE ATTIC ACCESS LOCATIONS W/ FINAL TRUSS LAYOUT.

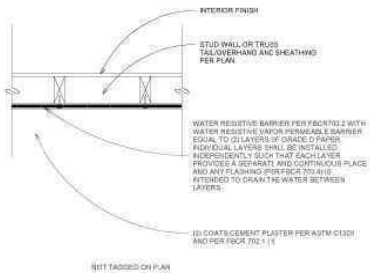
SEE STRUCTURAL DRAWINGS FOR ALL LOAD BEARING WALL, COLUMN AND FILLED CELL LOCATIONS.

EXTEND POURED SLAB EDGE @ DOORS 1 1/2" TYP. BEYOND STEM WALL.

FOR WALLS THAT ABUT NON-CONDITIONED SPACE USE "DENSARMOR"
FOR WALLS THAT ARE IN DIRECT CONTACT WITH WET AREAS, USE "DENSARMOR PLUS".
FOR WALLS AND CEILING AT A TUB/SHOWER USE CEMENT BOARD SHEATHING W/ TILE FINISH SELECTED BY THE OWNER.

DOOR SCHEDULE

Mark	Height	Width	Function	Type	Pressures (+/-)	FLA #
1	8' - 0"	16' - 0"	Exterior	18068 SGD	+45.4/-47.67	251.4
2	8' - 0"	16' - 0"	Exterior	18068 SGD	+45.4/-47.67	251.4



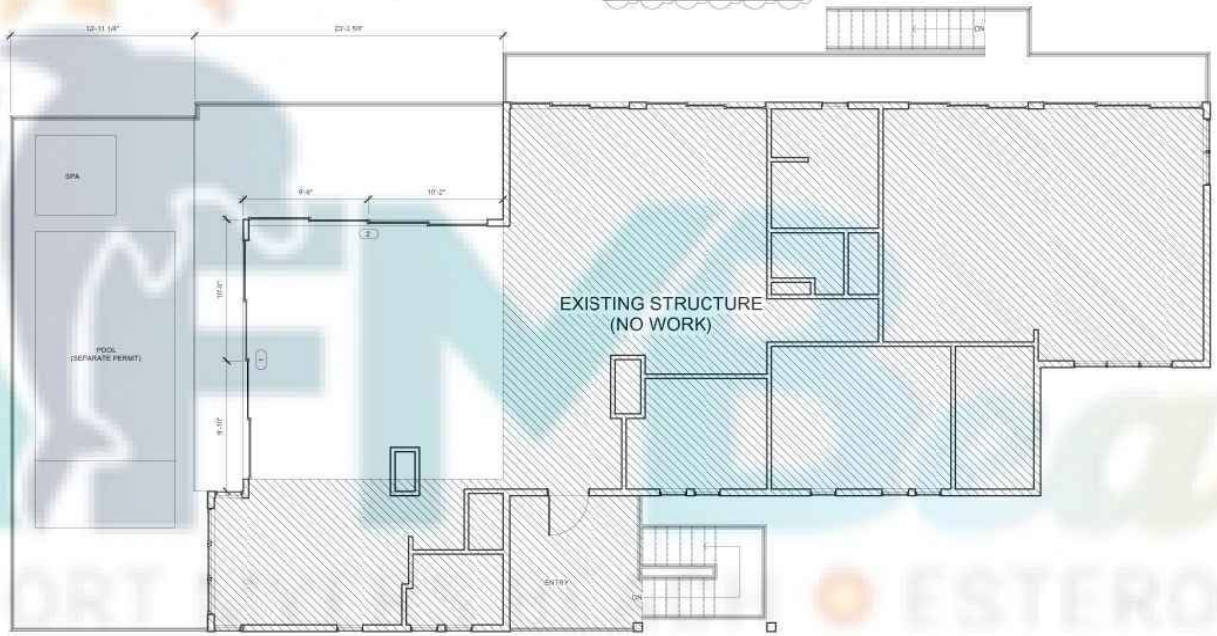
NOT TAGGED ON PLAN

EXISTING AREA CALCULATIONS:	
A/C LIVING AREA 1ST FLOOR:	2091 SF
A/C LIVING AREA 2ND FLOOR:	600 SF
GARAGE:	864 SF
LOWER UTILITY:	210 SF
CARPORT:	1170 SF
DECK:	555 SF
ENTRY:	160 SF
TOTAL:	5760 SF

PROPOSED AREA CALCULATIONS:	
A/C LIVING AREA 1ST FLOOR:	2091 SF
A/C LIVING AREA 2ND FLOOR:	600 SF
DECK ADDITION:	**547 SF**
GARAGE:	864 SF
LOWER UTILITY:	210 SF
CARPORT:	1170 SF
DECK:	555 SF
ENTRY:	160 SF
TOTAL:	6602 SF

NOT TO SCALE

③ WATER RESISTIVE BARRIER DETAIL
1/2" = 1'-0"



② PROPOSED FLOOR PLAN
1/4" = 1'-0"

PERMIT: 2024.04.03
REVISION: 2024.04.09
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Appeal Bates #29

App. No. 0125

Reviewed for Compliance

PERMIT 234477

ELEVATION TYPICAL NOTES:

ROOF NOTE:
- SEE ROOF PLAN FOR GENERAL ROOF NOTES AND ROOF MATERIAL SELECTION NOTES.

TYPICAL ARCHITECTURAL NOTES:
- VERIFY ALL STRUCTURAL ELEMENTS WITH STRUCTURAL ENGINEER.
- COORDINATE ALL INTERIOR WALL SOFFITS AND CEILING TREATMENTS WITH OWNER.
- ROOF AND BEARING HEIGHTS ARE SHOWN RELATIVE TO A REFERENCE ELEVATION BASED ON TOP OF SLAB U.N.O.
- ALL HANDRAILS AND GUARD RAILS TO BE 36" AFF U.N.O. W/ ALL ELEMENTS SPACED SO AS TO NOT ALLOW THE PASSAGE OF A 4" SPHERE. PROVIDE TOE RAILING AS REQ'D. MAX 2" A.F.F. COORD. FINAL MATERIAL, DESIGN, AND FINISH WITH OWNER. HANDRAILS AND GUARDS MUST COMPLY WITH THE REQUIREMENTS OF THE FBC 2020 7th EDITION.

② FRONT ELEVATION
1/4" = 1'-0"

③ LEFT ELEVATION
1/4" = 1'-0"

JOBSITE COPY

PERMIT: 2024.04.03
REVISION: 2024.04.09
REVISION: 2024.04.25

PROJECT INFORMATION

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21391 WIDGEON TERRACE
FORT MYERS BEACH, FL

[DRAWN BY] [TYP. B REQ.]

[SHEET NAME]
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Appeal Bates #30

App. No. 0126

Reviewed for Compliance

PERMIT 234477

ELEVATION TYPICAL NOTES:

ROOF NOTE:
- SEE ROOF PLAN FOR GENERAL ROOF NOTES AND ROOF MATERIAL SELECTION NOTES

TYPICAL ARCHITECTURAL NOTES:
- VERIFY ALL STRUCTURAL ELEMENTS WITH STRUCTURAL ENGINEER
- COORDINATE ALL INTERIOR WALL SOFFITS AND CEILING TREATMENTS WITH OWNER.
- ROOF AND BEARING HEIGHTS ARE SHOWN RELATIVE TO A REFERENCE ELEVATION BASED ON TOP OF SLAB U.N.O.
- ALL HANDRAILS AND GUARD RAILS TO BE 36" AFF U.N.O. W/ ALL ELEMENTS SPACED SO AS TO NOT ALLOW THE PASSAGE OF A 4" SPHERE. PROVIDE TOE RAILING AS REQ'D. MAX 2" A.F.F. COORD. FINAL MATERIAL, DESIGN, AND FINISH WITH OWNER. HANDRAILS AND GUARDS MUST COMPLY WITH THE REQUIREMENTS OF THE FBC 2021 7th EDITION.

2 REAR ELEVATION
1/4" = 1'-0"

3 RIGHT ELEVATION
1/4" = 1'-0"

JOBSITE COPY

PERMIT: 2024.04.03
REVISION: 2024.04.09
REVISION: 2024.04.25

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FORT MYERS BEACH, FL

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Appeal Bates #31

App. No. 0127

Reviewed for Compliance

PERMIT 234477

GENERAL NOTES

ALL DETAILS AND SECTIONS SHOWN ON THE DRAWINGS ARE INTENDED TO BE IDENTICAL AND SHALL BE CONSTRUCTED TO APPLY TO ANY SIMILAR SITUATION SHALL BE VERIFIED IN THE WORK EXCEPT WHERE A DIFFERENT DETAIL IS SHOWN.

THE CONTRACTOR SHALL VERIFY ALL CONDITIONS AND DIMENSIONS AT THE JOB SITE PRIOR TO COMMENCING WORK. THE CONTRACTOR SHALL REPORT ALL DISCREPANCIES BETWEEN THE DRAWING AND EXISTING CONDITIONS TO THE DESIGNER PRIOR TO ORDERING AND AGAIN PRIOR TO COMMENCING WORK.

ALL BOLTS, NUTS, WASHERS, STRAPS, AND FASTENERS INCLUDING NAILS, SHALL BE HOT DIP GALVANIZED OR ASTM A 153 STEEL CONSTRUCTION ANCHORAGE SHALL BE PROVIDED AS SHOWN ALL TRUSSES, SHALL SECTIONS, BEAMS, POSTS, AND FOOTINGS WITH THE USE OF STRAPS AND CONNECTORS AS SPECIFIED HEREIN.

IF ALUMINUM IS TO BE USED IN ANY AREAS ALL FASTENERS IN CONTACT SHALL BE ALUMINUM ALSO, OR A BARRIER SHALL BE PROVIDED TO PREVENT GALVANIC ACTION BETWEEN DISSIMILAR METALS.

ALL OPENINGS AND OPENING LOCATIONS ARE BASED IN NOMINAL MODULAR SIZES. DIMENSIONS MAY VARY DUE TO FRAMING, BLOCKING, TRUSS ALIGNMENT, OR OTHER CONDITIONS NECESSARY TO COMPLETE CONSTRUCTION. DIMENSIONS MAY NOT BE IDENTICAL TO THE ACTIVE REQUIREMENT DUE TO THE MANUFACTURE AND/OR BUILDER'S THAT MAY EXIST.

PROVIDE CAULKING AND WEATHER STRIPPING AT ALL EXTERIOR DOORS AND WINDOWS. ALL OTHER WEATHERPROOFING IS BY THE GENERAL CONTRACTOR OR THE ARCHITECT IF ONE IS ON THE JOB.

STRUCTURAL DRAWINGS SHALL BE USED IN CONJUNCTION WITH JOB SPECIFICATIONS AND ARCHITECTURAL, MECHANICAL, ELECTRICAL, PLUMBING, AND SITE DRAWINGS. CONSULT THESE DRAWINGS FOR SLEEVES, DEPRESSIONS, AND CURBS NOT SHOWN ON STRUCTURAL DRAWINGS.

CONTRACTOR SHALL LOCATE ALL BURIED UTILITIES PRIOR TO EXCAVATION TO FOR DIGGING FOOTINGS. THE STRUCTURAL ENGINEER SHALL BE NOTIFIED OF POTENTIAL CONFLICTS OF BURIED CONDITIONS AND BURIED UTILITIES.

CODE REQUIREMENTS: THE BUILDING/STRUCTURE IS DESIGNED IN ACCORDANCE WITH THE 2023 EDITION/REVISION OF THE FLORIDA BUILDING CODE. FOLLOW ALL APPLICABLE PROCEDURES FOR ALL PHASES OF CONSTRUCTION.

TEMPORARY CONDITIONS: THE STRUCTURAL INTEGRITY OF THE COMPLETED STRUCTURE DEPENDS ON INTERACTION OF VARIOUS CONNECTED COMPONENTS. PROVIDE BRACING AS IS REQUIRED, INCLUDING, AND OTHER TEMPORARY SUPPORTS AS REQUIRED TO SAFELY COMPLETE THE WORK. THE STRUCTURE AS SHOWN ON THE DRAWINGS HAS BEEN DESIGNED FOR ITS FINAL CONFIGURATION. CONSTRUCTION ONLY.

THE STRUCTURE IS DESIGNED TO BE SELF SUPPORTING AND STABLE AFTER THE BUILDING IS COMPLETE. IT IS THE CONTRACTOR'S SOLE RESPONSIBILITY TO MAINTAIN SUFFICIENT TEMPORARY BRACING AND GUYING TO ENSURE SAFETY OF THE STRUCTURE AND ITS COMPONENTS DURING CONSTRUCTION. THIS INCLUDES THE ADDITION OF NECESSARY BRACING, SHEETING, TEMPORARY BRACING, GUYS OR TIE DOWNS.

WOOD FRAMING NOTES:

ALL FRAMING SHALL BE IN CONFORMANCE WITH THE FLORIDA RESIDENTIAL CODE, THE INTERNATIONAL RESIDENTIAL CODE AND ALL LOCAL BUILDING REGULATIONS. ALL LUMBER IN CONTACT WITH CONCRETE OR MASONRY SHALL BE PRESSURE TREATED. ALL WOOD SHALL BE PROTECTED FROM WEATHER AT ALL TIMES. ALL WOOD SHALL BE FREE FROM DEFECTS AND DAMAGE THAT WOULD IMPAIR THE STRENGTH OF THE MEMBER. ALL WOOD FRAMING SHALL BE KEPT DRY AND WELL VENTILATED AT ALL TIMES. ALL WOOD FRAMING SHALL BE ERECTED PLUMB, LEVEL, AND TRUE AND SHALL BE BRACED AND ANCHORED AS SHOWN ON THE DRAWINGS AND AS NECESSARY FOR STABILITY. ALL WOOD FRAMING SHALL CONFORM TO MINIMUM STANDARDS AND GRADES FOR STRUCTURAL LIGHT FRAMING AS SET FORTH IN THE SOUTHERN PINE INSPECTION BUREAU STANDARD PS 20.

ALL WOOD FRAMING SHALL BE FABRICATED AND INSTALLED PER SPECIFICATIONS FOR WOOD CONSTRUCTION. ALL STRUCTURAL WOOD MEMBERS SHALL BE SOUTHERN YELLOW PINE #2 GRADE UNLESS OTHERWISE NOTED. FOOTLAND COLUMNS SHALL BE #1 OR NO 1.

ALL WOOD MEMBERS EXPOSED TO WEATHER OR IN CONTACT WITH MASONRY, CONCRETE, OR SOIL SHALL BE PRESSURE TREATED.

ALL METAL CONNECTORS AND FABRICATIONS SHALL COMPLY WITH ASTM A 653 SPECIFICATIONS.

WOOD BLOCK ALL JOISTS AND RAFTERS AT INTERIOR POINT OF SUPPORT.

WHERE WOOD FRAME WALLS ARE OVER WOOD BEAMS, PROVIDE A MINIMUM OF SPECIFIED AND DESIGNATED DIMENSION OF THE SECTION OF THE BEAM.

WHERE SPECIFIED ON "WOOD SCHEDULE" TYPICAL 2x4 FRAME BEARING WALL 2x4 FRAME WALL SHALL BE 2x4 DOUBLE STUDS @ 16" o.c. WITH SPLICED TO TOP PLATE. WHERE WALL OCCURS AT SECTION OF TESTING AND SELECT TO TIMBER WITH 16" MIN. 32 KSI STRUCTURAL GRADE 2x4 TOP PLATE AND 2x4 SILL PLATE AND 2x4 STUDS @ 16" o.c. WHERE WALL IS OVER CONCRETE. PROVIDE SPECIFIED ANCHOR BOLT TO TOP PLATE AND 2x4 SILL PLATE AND 2x4 STUDS @ 16" o.c. WHERE WALL OCCURS ON WOOD BEAM BELOW PROVIDE ANCHOR EMBEDDED TO BEAM AS SHOWN ON PLAN AND AS SHOWN ON FRAMING PLAN.

DOUBLE TOP PLATES SHALL BE OVERLAPPED AT CORNERS AND SECURED WITH (2) 16d NAILS. AND WALL SPACES SHALL BE 48" MINIMUM IN TWO WAYS OF THE WALL AS NOTED O.C. STAGGERED.

FASTEN MULTIPLE PLY BEAMS, COLUMNS AND CUTS TOGETHER WITH SPECIAL PROVIDED OR BEST MANUFACTURER'S REQUIREMENTS.

WHERE SPECIFIED ON "WOOD SCHEDULE" TYPICAL 2x4 FRAME BEARING WALL 2x4 FRAME WALL SHALL BE 2x4 DOUBLE STUDS @ 16" o.c. WITH SPLICED TO TOP PLATE. WHERE WALL OCCURS AT SECTION OF TESTING AND SELECT TO TIMBER WITH 16" MIN. 32 KSI STRUCTURAL GRADE 2x4 TOP PLATE AND 2x4 SILL PLATE AND 2x4 STUDS @ 16" o.c. WHERE WALL IS OVER CONCRETE. PROVIDE SPECIFIED ANCHOR BOLT TO TOP PLATE AND 2x4 SILL PLATE AND 2x4 STUDS @ 16" o.c. WHERE WALL OCCURS ON WOOD BEAM BELOW PROVIDE ANCHOR EMBEDDED TO BEAM AS SHOWN ON PLAN AND AS SHOWN ON FRAMING PLAN.

ENGINEERED LOOSE TRUSSES OR BOOSTED FRAMING MEMBERS SHALL BE DESIGNED BY THE TRUSS MANUFACTURER AND SHALL BE SUBMITTED TO THE ARCHITECT FOR REVIEW PRIOR TO FABRICATION. THE TRUSS MANUFACTURER SHALL PROVIDE ALL NECESSARY CALCULATIONS, SHOP DRAWINGS, AND ERECTION DRAWINGS FOR THE TRUSSES. THE TRUSS MANUFACTURER SHALL BE RESPONSIBLE FOR THE DESIGN OF ALL TRUSS MEMBERS AND CONNECTIONS. THE TRUSS MANUFACTURER SHALL PROVIDE ALL NECESSARY CALCULATIONS, SHOP DRAWINGS, AND ERECTION DRAWINGS FOR THE TRUSSES. THE TRUSS MANUFACTURER SHALL BE RESPONSIBLE FOR THE DESIGN OF ALL TRUSS MEMBERS AND CONNECTIONS.

ROOF SHEATHING SHALL BE EXPOSURE 1 PANEL GRADE, UNLESS OTHERWISE NOTED ON THE DRAWINGS. SHEATHING SHALL BE INSTALLED WITH FACE GRAIN PERPENDICULAR TO SUPPORTS, EXCEPT AS INDICATED ON THE DRAWINGS. STAGGER JOINTS OF ADJACENT PANELS BY AT LEAST ONE SPAN.

ROOF SHEATHING SHALL BE NAILED TO RAFTERS AND TRUSSES AS SHOWN ON THE DRAWINGS. NAILING SHALL BE AS SPECIFIED IN THE TABLE BELOW, UNLESS OTHERWISE NOTED ON THE DRAWINGS. USE RING SHANK NAILS WHERE SHEATHING IS THICKER THAN 1/2". NAILS SHALL BE DRIVEN FLUSH WITH THE SURFACE OF THE SHEATHING, BUT NOT SUNK BELOW IT. DO NOT OVERDRIVE NAILS.

Sheathing Thickness	Nail Size	Nail Spacing (Edges)	Nail Spacing (Field)
1/2"	8d Common	6" o.c.	12" o.c.
5/8"	8d Common	6" o.c.	12" o.c.
3/4"	8d Common	6" o.c.	12" o.c.

ALL ROOF AND WALL SHEATHING SHALL BE INSTALLED WITH FACE GRAIN PERPENDICULAR TO SUPPORTS, EXCEPT AS INDICATED ON THE DRAWINGS. STAGGER JOINTS OF ADJACENT PANELS BY AT LEAST ONE SPAN.

ALL LOAD BEARING WALLS, INCLUDING GABLE ENDS, SHALL BE SUPPORTED BY FOOTINGS AS SHOWN ON THE DRAWINGS. ALL NON-LOAD BEARING WALLS SHALL BE SUPPORTED BY FOOTINGS AS SHOWN ON THE DRAWINGS. ALL LOAD BEARING WALLS SHALL BE SUPPORTED BY FOOTINGS AS SHOWN ON THE DRAWINGS. ALL NON-LOAD BEARING WALLS SHALL BE SUPPORTED BY FOOTINGS AS SHOWN ON THE DRAWINGS.

ATTACH STRUCTURAL MEMBERS TO SUPPORTING MEMBERS AS SHOWN ON THE DRAWINGS. IF NO DETAIL IS SHOWN, USE THE FASTENING SCHEDULE IN THE 2023 FLORIDA RESIDENTIAL CODE. ALL CONNECTIONS SHALL BE MADE WITH THE SPECIFIED NUMBER AND TYPE OF FASTENERS. DO NOT OMIT FASTENERS.

WOOD FRAMING CONNECTIONS:

FRAMING ACCESSORIES AND CONNECTIONS, WHETHER SHOWN OR NOT, SHALL BE AS REQUIRED BY MANUFACTURER'S RECOMMENDATIONS FOR THE SPECIFIC USE. ALL CONNECTIONS SHALL BE MADE WITH THE SPECIFIED NUMBER AND TYPE OF FASTENERS. DO NOT OMIT FASTENERS.

ANCHOR BOLTS SHALL BE EMBEDDED A MINIMUM OF 7" INTO CONCRETE OR MASONRY. ANCHOR BOLTS SHALL BE LOCATED NOT MORE THAN 12" FROM THE END OF A PLATE AND NOT LESS THAN 7" FROM THE END OF A PLATE. ANCHOR BOLTS SHALL BE SPACED AS SHOWN ON THE DRAWINGS, BUT NOT MORE THAN 6' O.C. ALL ANCHOR BOLTS SHALL BE EQUIPPED WITH NUTS AND WASHERS. DO NOT OMIT ANCHOR BOLTS.

ALL WOOD FRAMING SHALL BE FABRICATED AND INSTALLED PER SPECIFICATIONS FOR WOOD CONSTRUCTION. ALL STRUCTURAL WOOD MEMBERS SHALL BE SOUTHERN YELLOW PINE #2 GRADE UNLESS OTHERWISE NOTED. FOOTLAND COLUMNS SHALL BE #1 OR NO 1.

ALL WOOD MEMBERS EXPOSED TO WEATHER OR IN CONTACT WITH MASONRY, CONCRETE, OR SOIL SHALL BE PRESSURE TREATED.

ALL METAL CONNECTORS AND FABRICATIONS SHALL COMPLY WITH ASTM A 653 SPECIFICATIONS.

WOOD BLOCK ALL JOISTS AND RAFTERS AT INTERIOR POINT OF SUPPORT.

WHERE WOOD FRAME WALLS ARE OVER WOOD BEAMS, PROVIDE A MINIMUM OF SPECIFIED AND DESIGNATED DIMENSION OF THE SECTION OF THE BEAM.

WHERE SPECIFIED ON "WOOD SCHEDULE" TYPICAL 2x4 FRAME BEARING WALL 2x4 FRAME WALL SHALL BE 2x4 DOUBLE STUDS @ 16" o.c. WITH SPLICED TO TOP PLATE. WHERE WALL OCCURS AT SECTION OF TESTING AND SELECT TO TIMBER WITH 16" MIN. 32 KSI STRUCTURAL GRADE 2x4 TOP PLATE AND 2x4 SILL PLATE AND 2x4 STUDS @ 16" o.c. WHERE WALL IS OVER CONCRETE. PROVIDE SPECIFIED ANCHOR BOLT TO TOP PLATE AND 2x4 SILL PLATE AND 2x4 STUDS @ 16" o.c. WHERE WALL OCCURS ON WOOD BEAM BELOW PROVIDE ANCHOR EMBEDDED TO BEAM AS SHOWN ON PLAN AND AS SHOWN ON FRAMING PLAN.

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FASTEN MULTIPLE PLY BEAMS, COLUMNS AND CUTS TOGETHER WITH SPECIAL PROVIDED OR BEST MANUFACTURER'S REQUIREMENTS.

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ENGINEERED LOOSE TRUSSES OR BOOSTED FRAMING MEMBERS SHALL BE DESIGNED BY THE TRUSS MANUFACTURER AND SHALL BE SUBMITTED TO THE ARCHITECT FOR REVIEW PRIOR TO FABRICATION. THE TRUSS MANUFACTURER SHALL PROVIDE ALL NECESSARY CALCULATIONS, SHOP DRAWINGS, AND ERECTION DRAWINGS FOR THE TRUSSES. THE TRUSS MANUFACTURER SHALL BE RESPONSIBLE FOR THE DESIGN OF ALL TRUSS MEMBERS AND CONNECTIONS.

DESIGN PARAMETERS:

APPLICABLE CODES

FLORIDA BUILDING CODE 2020 7th EDITION AND FBC RESIDENTIAL 2023 6th EDITION
EXISTING BUILDING CODE 2023
METHOD OF DESIGN
DESIGNED PURSUANT TO FLORIDA BUILDING CODE CHAP. 16, ASCE 7, ACI 318, AISC

BUILDING OCCUPANCY CLASSIFICATION

- [ ] GROUP A - ASSEMBLY
- [ ] GROUP B - BUSINESS
- [ ] GROUP E - DAY CARE CENTER
- [ ] GROUP F - FOOD & DRINK
- [ ] GROUP F - FACTORY INDUSTRIAL
- [ ] GROUP H - HAZARDOUS
- [ ] GROUP I - INSTITUTIONAL
- [ ] GROUP M - MERCANTILE
- [x] GROUP R - RESIDENTIAL
- [ ] GROUP S - STORAGE

BASIC WIND SPEED

- [x] 140 MPH ULTIMATE (108 MPH NOMINAL)
- [ ] 170 MPH ULTIMATE (132 MPH NOMINAL)

RISK CATEGORY

- [ ] I
- [ ] II
- [x] III
- [ ] IV

WIND BORNE DEBRIS REGION

- [ ] NO
- [x] YES
  - [x] IMPACT RESISTANT GLASS
  - [ ] IMPACT RESISTANT SHUTTERS
  - [ ] IMPACT RESISTANT MEMBRANES
  - [ ] IMPACT RESISTANT COMBINATION OF GLASS & STORM PANELS
  - [ ] N/A

INTERNAL PRESSURE COEFFICIENTS

- [ ] ENCLOSED
- [x] +0.18, -0.18 (PARTIALLY ENCLOSED)
- [ ] +0.55, -0.55 (PARTIALLY ENCLOSED)

BUILDING DESIGN LOADS: (ASCE7-16 & FBC CH 16)

ROOF	
TOP CHORD LIVE LOAD	20 PSF
BOTTOM CHORD LIVE LOAD	10 PSF
UNINHABITABLE ATTIC W/O STORAGE	10 PSF
UNINHABITABLE ATTIC W/ STORAGE	20 PSF
TOP CHORD DEAD LOAD	30 PSF
BOTTOM CHORD DEAD LOAD	10 PSF
FLOOR	
LIVE LOAD (RESIDENTIAL)	40 PSF
LIVE LOAD (ROOMS & CORRIDORS)	100 PSF
DEAD LOAD (WOOD TRUSSES)	20 PSF
DEAD LOAD (JOIST FLOORS)	10 PSF
DEAD LOAD (2" TOPPING)	25 PSF
DEAD LOAD (1/2" PLANKS ON 2" TOPPING)	15 PSF
LIVE LOAD (OFFICES, COMMERCIAL)	50 PSF
LIVE LOAD (CORRIDORS, COMMERCIAL)	100 PSF
LIVE LOAD (HOT & STORAGE, COMMERCIAL)	75 PSF

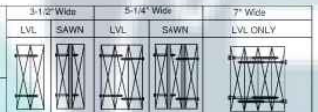
NOTE:
WHERE 20 PSF ROOF LIVE LOAD IS SPECIFIED, THIS IS NOT MEANT TO SIMULATE THE ACTUAL STRUCTURE IN QUESTION

Wind Pressure Summary for C&C Zones based Upon Areas Ch 30 Pt 1 (Table 1 of 2)
All wind pressures include a load factor of 0.6

Zone	Figure	A <= 10.00 sq ft psf	A => 10.00 sq ft psf	A => 20.00 sq ft psf	A => 50.00 sq ft psf
1	30.3-2G	33.16 -59.55	33.16 -59.55	28.63 -52.14	22.63 -43.74
1_OH	30.3-2G	9.60 -71.82	9.60 -71.20	9.60 -70.43	9.60 -69.49
2e	30.3-2G	33.16 -82.16	33.16 -82.16	28.63 -73.44	22.63 -61.91
2e_OH	30.3-2G	9.60 -94.22	9.60 -93.21	9.60 -88.32	9.60 -81.17
2n	30.3-2G	33.16 -82.16	33.16 -82.16	28.63 -73.44	22.63 -61.91
2n_OH	30.3-2G	9.60 -94.22	9.60 -93.21	9.60 -88.32	9.60 -81.17
3	30.3-2G	33.16 -82.16	33.16 -82.16	28.63 -73.44	22.63 -61.91
3_OH	30.3-2G	9.60 -116.83	9.60 -115.61	9.60 -97.70	9.60 -81.47
4	30.3-1	44.47 -48.24	44.47 -48.24	42.47 -46.04	39.82 -43.19
5	30.3-1	44.47 -59.55	44.47 -59.55	42.47 -56.84	39.82 -52.24

Wind Pressure Summary for C&C Zones based Upon Areas Ch 30 Pt 1 (Table 2 of 2)
All wind pressures include a load factor of 0.6

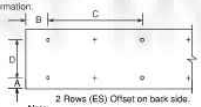
Zone	Figure	A <= 100.00 sq ft psf	A => 200.00 sq ft psf	A => 500.00 sq ft psf
1	30.3-2G	18.09 -26.93	18.09 -26.93	18.09 -26.93
1_OH	30.3-2G	9.60 -66.82	9.60 -67.84	9.60 -67.84
2e	30.3-2G	18.09 -53.19	18.09 -44.47	18.09 -44.47
2e_OH	30.3-2G	9.60 -79.27	9.60 -75.37	9.60 -75.37
2n	30.3-2G	18.09 -53.19	18.09 -44.47	18.09 -44.47
2n_OH	30.3-2G	9.60 -79.27	9.60 -75.37	9.60 -75.37
3	30.3-2G	18.09 -53.19	18.09 -44.47	18.09 -44.47
3_OH	30.3-2G	9.60 -69.00	9.60 -56.53	9.60 -54.55
4	30.3-1	37.92 -41.58	35.81 -39.58	33.16 -36.83
5	30.3-1	37.92 -46.24	35.81 -42.23	33.16 -36.83

Minimum Fastening Requirements for Multi-Ply Frame Members		3-1/2" Wide		5-1/4" Wide		7" Wide
		LVL	SAWN	LVL	SAWN	LVL ONLY
SAWN LUMBER SHOWN WITH 1/2" PLYWOOD SPACER						
Fastener Type	Depth	2-ply		3-ply		4-ply
10d Nails	7-1/4" ≤ d <14"	3 rows @ 12" o.c.		3 rows @ 12" o.c. (ES)		----
	d ≥ 14"	4 rows @ 12" o.c.		4 rows @ 12" o.c. (ES)		----
16d Nails	7-1/4" ≤ d <14"	2 rows @ 12" o.c.		2 rows @ 12" o.c. (ES)		----
	d ≥ 14"	3 rows @ 12" o.c.		3 rows @ 12" o.c. (ES)		----
1/2" ø Thru-Bolts	d ≥ 7-1/4"	2 rows @ 24" o.c.		2 rows @ 18" o.c. (ES)		----
SDS 1/4" x 3-1/2"		2 rows @ 24" o.c.		2 rows @ 24" o.c. (ES)		2 rows @ 24" o.c. (ES)
SDS 1/4" x 6"		----		----		2 rows @ 24" o.c. (ES)
5" TrussLok		----		2 rows @ 24" o.c. (ES)		
6" TrussLok		----		----		2 rows @ 24" o.c. (ES)

1. (ES) = Each Side, offset fasteners up to 1/2" o' the on center spacing.
2. Consult Georgia Pacific Specification Manual for Additional Information.
3. Fastener spacing based off the 2005 NDS Manual.

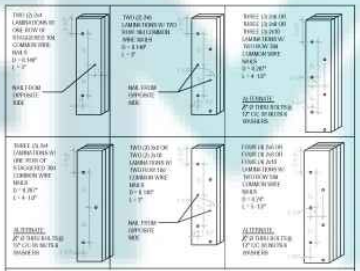
Fastener Clearances for Multi-Ply Members

Fastener Type	A	B		C		D
	Min.	Min.	Max	Min.	Max	Min.
10d & 16d Nails	2"	2"	6"	4"	12"	3"
Bolts & Screws	2"	4"	12"	4"	24"	3"



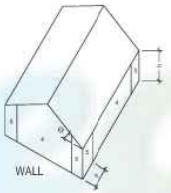
2 Rows (ES) Offset on back side.

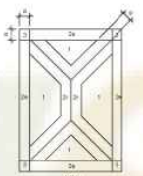
Note:
Edge Distances also apply to beams only fastened on one side.



BUILD-UP COLUMN DETAIL/NOTES:

1. ADJACENT NAILS ARE DRIVEN FROM OPPOSITE SIDES OF THE COLUMN.
2. ALL NAILS TO PENETRATE AT LEAST 3/4 OF THICKNESS OF LAST PENETRATION.
3. 15D = END DIST => 15D
4. 20D => SPACE BET. ADJ NAILS IN A ROW => 16min.
5. 15D = SPACE BET. ROWS OF NAILS => 20d
6. 5D => EDGI DIST => 20D
7. 2 OR MORE LONGITUDINAL ROWS OF NAILS ARE PROVIDED WHEN d = 3mm.
8. S = NAIL DIAMETER
   d = DEPTH (FACE WIDTH) OF INDIVIDUAL LAMINATIONS
   t min = THICKNESS OF THINNEST LAMINATION
9. WHEN ONE ROW OF NAILS ARE REQUIRED, ADJACENT NAILS SHALL BE STAGGERED
10. WHEN ONE ROW OF NAILS ARE REQUIRED, ADJACENT NAILS SHALL BE STAGGERED
11. WHEN THREE OR MORE LONGITUDINAL ROWS OF NAILS ARE USED, NAILS IN ADJACENT ROWS SHALL BE STAGGERED
12. WHEN BORED HOLES ARE DESIRED TO PREVENT SLITTING OF WOOD, THE DIAMETER OF THE BORED HOLE SHALL NOT EXCEED 75% OF NAIL DIAMETER FOR SOUTHERN PINE.
THESE DETAILS REPRODUCED FROM NDS SPECIFICATIONS 2005 EDITION





STRUCTURAL SHEATHING CONNECTORS

MINIMUM CONNECTIONS PER LEVEL ZONE

- (1) x (1): (SEE DETAIL) EDGE SPACING MAX 6 @ 4" O.C. EDGE; (SEE DETAIL) FIELD SPACING MAX 6 @ 12" O.C. FIELD
- (2) (3) (4) x (5): (SEE DETAIL) EDGE SPACING MAX 6 @ 4" O.C. EDGE; (SEE DETAIL) FIELD SPACING MAX 6 @ 12" O.C. FIELD
- (3) x (6): (SEE DETAIL) EDGE SPACING MAX 6 @ 4" O.C. EDGE; (SEE DETAIL) FIELD SPACING MAX 6 @ 12" O.C. FIELD
- (4): (SEE DETAIL) 16d COMMON WIRE NAILS @ 4" O.C. EDGE; (SEE DETAIL) 16d COMMON WIRE NAILS @ 8" O.C. FIELD
- (5): (SEE DETAIL) EDGE SPACING MAX 6 @ 4" O.C. EDGE; (SEE DETAIL) FIELD SPACING MAX 6 @ 12" O.C. FIELD

SEE SPECIFICATION FOR PLYWOOD GRADES AND THICKNESS

NOTES
1 PSI/FT-HR MEANS BTUH PER SQUARE FOOT OF SURFACE AREA PER HOUR PER DEGREE FAHRENHEIT OF TEMPERATURE DIFFERENCE BETWEEN THE TWO SURFACES
2. EDGE DISTANCE "E" = 1/2"Ø
3. WHERE REQUIRED, DESIGNATE "K" FACTOR TO BUILDING AREAS SIDE HEIGHT

NOTE:
WHERE 20 PSF ROOF LIVE LOAD IS SPECIFIED, THIS IS NOT MEANT TO SIMULATE THE ACTUAL STRUCTURE IN QUESTION

MICHAEL D. STEWART
LICENSE
No 72459
STATE OF FLORIDA
PROFESSIONAL ENGINEER

PERMIT: 2024.04.03

PROJECT INFORMATION

Private Residence

[PROJECT ADDRESS]
23391 Widgeon
Fort Myers Beach, FL

[DRAWN BY] MD

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Appeal Bates #32

App. No. 0128

Reviewed for Compliance

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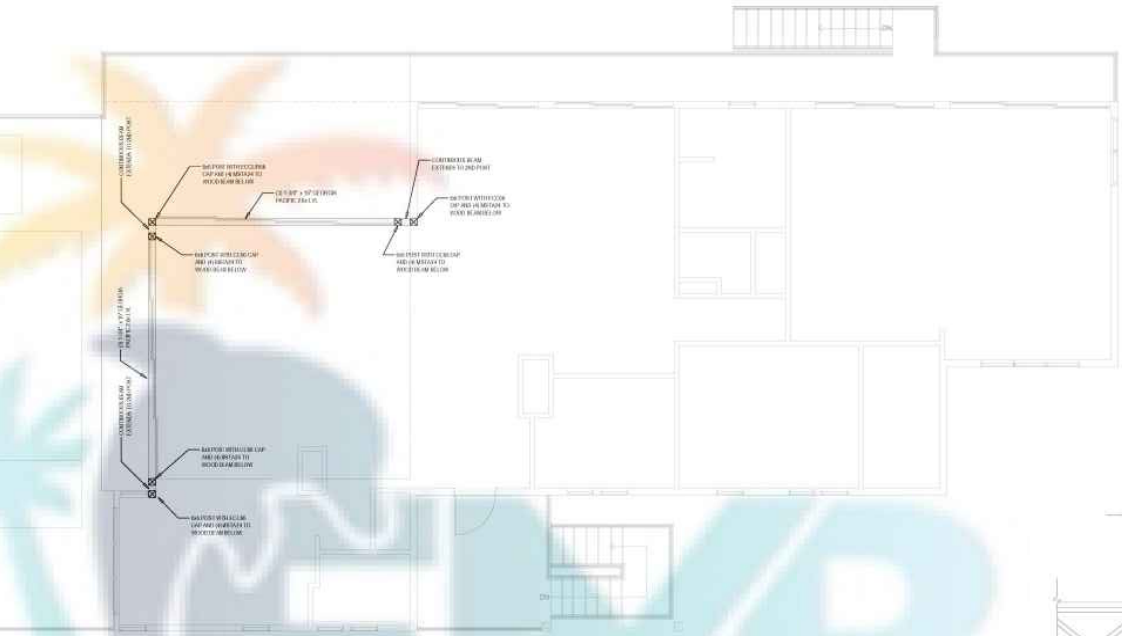
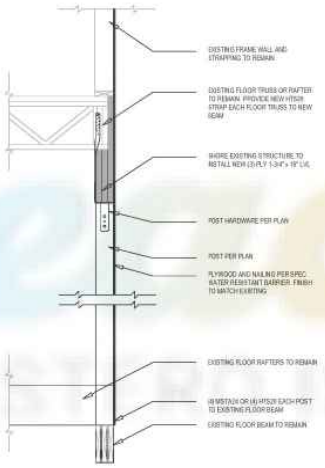


A
S1.1
Beam Plan
SCALE: 1/4" = 1' - 0"



1
S1.1
New Post and Beam Detail
NOT TO SCALE

PERMIT: 2024.04.03

Appeal Bates #33

PROJECT INFORMATION

Private Residence

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App. No. 0129

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PERMIT 234477

21391 WIDGEON TERRACE
FORT MYERS BEACH

SCOPE OF PROJECT:

CONCEPT ELEVATIONS FOR EXTERIOR SIDING RENOOVATIONS
CONCEPT ELEVATIONS FOR POOL AND DECK STRUCTURE (STRUCTURAL POOL & DECK PERMIT DRAWINGS BY OTHERS)
CONCEPT ELEVATIONS FOR SCREEN CADE ADDITION (SCREEN CAGE PERMIT DRAWINGS BY OTHERS)
DRAINAGE PLAN ENGINEERING FOR THE ABOVE REFERENCED SCOPE
ENLARGING (2) SLIDING GLASS DOOR OPENINGS - SEE STRUCTURAL.

SITE LOCATION

JOBSITE COPY

PERMIT: 2024.04.03
REVISION: 2024.04.09
REVISION: 2024.04.25
REVISION: 2024.04.29

PROJECT INFORMATION

Private Residence

21391 WIDGEON TERRACE
FORT MYERS BEACH, FL

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MICHAEL D. STEWART, PE
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Appeal Bates #34

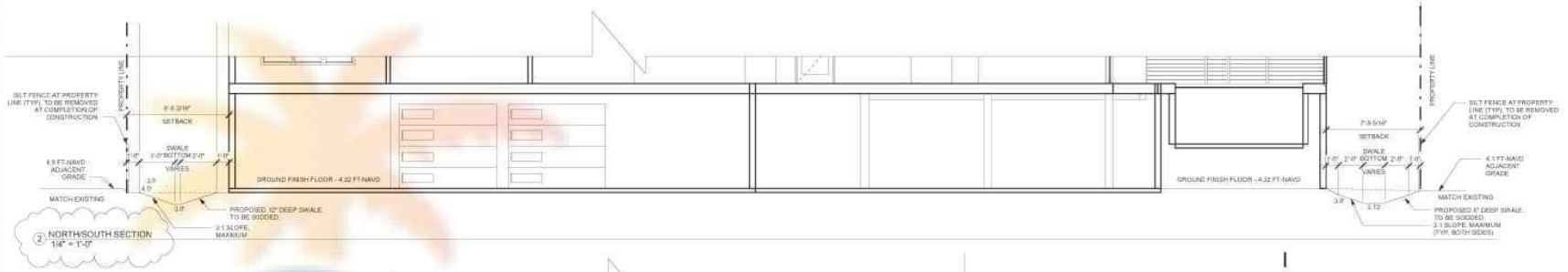
App. No. 0130

Reviewed for Compliance

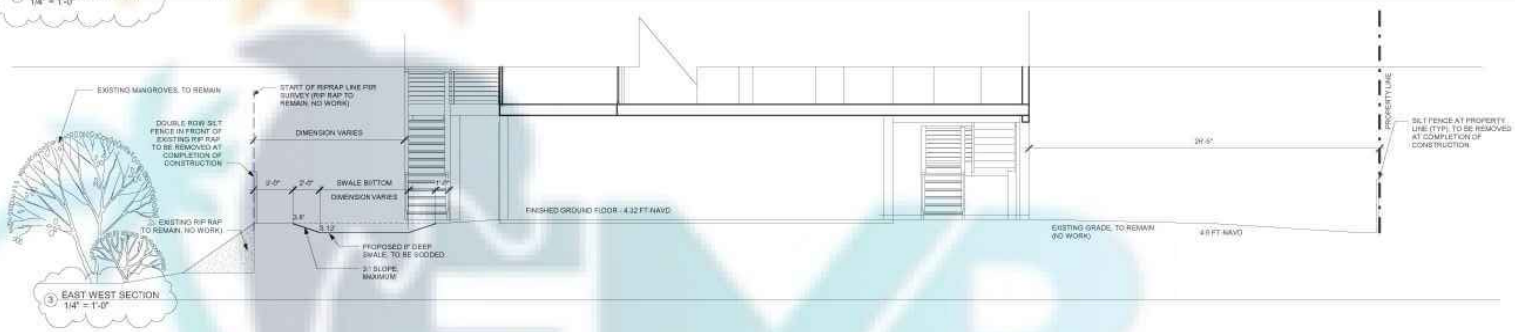
PERMIT P34477

DRAINAGE SHEET NOTES:

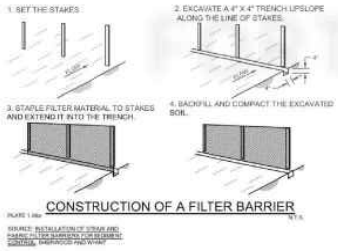
1. PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITY APPROPRIATE EROSION CONTROL DEVICES SHALL BE INSTALLED TO CONTROL AND REDUCE SOIL EROSION AND SEDIMENT TRANPORT TO OFFSITE AREAS. THE CONTRACTOR SHALL MAINTAIN THESE DEVICES THROUGHOUT THE DURATION OF CONSTRUCTION. ALL DEVICES SHALL REMAIN IN PLACE UNTIL THE SURROUNDING AREAS ARE ESTABLISHED.
2. CONSTRUCTION ACTIVITIES SHALL ENSURE THAT SURFACE WATER RUNOFF DURING CONSTRUCTION SHALL NOT BE GREATER THAN THAT OF THE SURFACE WATER RUNOFF DURING PRE-CONSTRUCTION CONDITIONS.
3. FINAL LOT GRADING SHALL BE SUCH THAT SURFACE WATER RUNOFF IS DIRECTED INTO EXISTING ADJACENT DRAINAGE CONVEYANCES. HISTORICAL RUNOFF PATERN SHALL BE MAINTAINED.



② NORTH/SOUTH SECTION
1/4" = 1'-0"



③ EAST WEST SECTION
1/4" = 1'-0"



CONSTRUCTION OF A FILTER BARRIER

SOURCE: INSTALLATION OF STRAW AND FABRIC FILTER BARRIERS FOR RESIDENTIAL CONSTRUCTION, FAMPHOCUS AND MYANT

JOBSITE COPY

PERMIT: 2024.04.03
REVISION: 2024.04.09
REVISION: 2024.04.25
REVISION: 2024.04.29

PROJECT INFORMATION

Private Residence

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Appeal Bates #35

Reviewed for Compliance

PERMIT 234477

DRAINAGE SHEET NOTES:

1. PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITY APPROPRIATE EROSION CONTROL DEVICES SHALL BE INSTALLED TO CONTROL AND REDUCE SOIL EROSION AND SEDIMENT TRANPORT TO OFFSITE AREAS. THE CONTRACTOR SHALL MAINTAIN THESE DEVICES THROUGHOUT THE DURATION OF CONSTRUCTION. ALL DEVICES SHALL REMAIN IN PLACE UNTIL THE SURROUNDING AREAS ARE ESTABLISHED.
2. CONSTRUCTION ACTIVITIES SHALL ENSURE THAT SURFACE WATER RUNOFF DURING CONSTRUCTION SHALL NOT BE GREATER THAN THAT OF THE SURFACE WATER RUNOFF DURING PRE-CONSTRUCTION CONDITIONS.
3. FINAL LOT GRADING SHALL BE SUCH THAT SURFACE WATER RUNOFF IS DIRECTED INTO EXISTING ADJACENT DRAINAGE CONVEYANCES. HISTORICAL RUNOFF PATERN SHALL BE MAINTAINED.

NOTE:
SCOPE OF WORK IS LIMITED TO DOOR REPLACEMENTS, STAIR RECONSTRUCTION, DECK EXTENSION AND THE ADDITION OF A POOL/POOL DECK. THE PROPOSED SCOPE ADDS 547 SF OF IMPERVIOUS AREA TO THE SITE AS SUCH, A SWALE AREA ABLE TO STORE 1"/F OF RAINFALL OVER THE SITE HAS BEEN PROPOSED AS PART OF THE IMPROVEMENTS.

SWALE CAPACITY CALCULATION

REQUIRED:

PROVIDE 1.9" OVER THE SITE 1320' x 9541 SF = 1,271.8 CF

PROPOSED:

NORTHERN SWALE VOLUME = 1/2 x (3.5-3.13) x (648+406) = 420 CF

SOUTHERN SWALE VOLUME = 1/2 x (4-3) x (955+288) + 1/2 x (3-2) x (288+120) = 826 CF

TOTAL SWALE VOLUME = 423 + 825 = 1255 CF > 1272 CF

TOTAL SWALE AREA = 648+406+955+288 = 2007 SF

PERCENTAGE OF LOT USED FOR SWALE = 2007 SF/ 9541 SF = 21.3 %

IMPERVIOUS CALCULATIONS

	EXISTING (SF)	%	PROPOSED (SF)	%
TOTAL PERVIOUS	4054.33	42.49	3507.41	36.76
TOTAL IMPERVIOUS	5486.63	57.51	6033.55	63.24
TOTAL LOT	9540.96	100	9540.96	100

NOTE:

TOTAL IMPERVIOUS AREA = HOUSE AREA + LANAI AREAS + PAOS/DRIVEWAYS + POOL DECK
= 2285 + 960 + 2325 +543
= 6013 SF

FLOOD ZONE INFORMATION

ZONE: VE
BASE FLOOD ELEVATION: 12.0' NAVD
DESIGN FLOOD ELEVATION: 13.0' NAVD

LEGAL DISCRIPTION

UNIT M-1 OF FLAMINGO HARBOUR CONDOMINIUM, A CONDOMINIUM ACCORDING OT THE DECLARATION OF CONDOMINIUM THEREOF RECORDED IN OFFICIAL RECORDS BOOK 1357, PAGE 1968, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND ALL AMENDMENTS THERETO, TOGETHER WITH ITS UNDIVIDED SHARE IN THE COMMON ELEMENTS.

STREET ADDRESS
21391 WIDGEON TERRACE,
FORT MYERS BEACH, FL

BUILDING COVERAGE CALCULATIONS

		TOTAL LOT AREA	%	REMARKS
TOTAL		9540.96	100%	TOTAL LOT AREA IS AREA LANDWARD OF RIPRAP
BUILDING COVERAGE		2205	23%	
MAX ALLOWED		3816.39	40%	

PERMIT: 2024.04.03
REVISION: 2024.04.09
REVISION: 2024.04.25
REVISION: 2024.04.29

Appeal Bates #36

PROJECT INFORMATION

Private Residence

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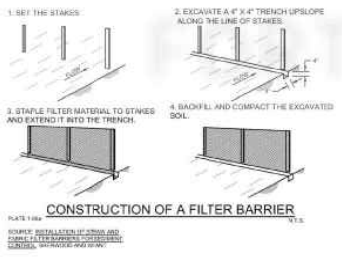
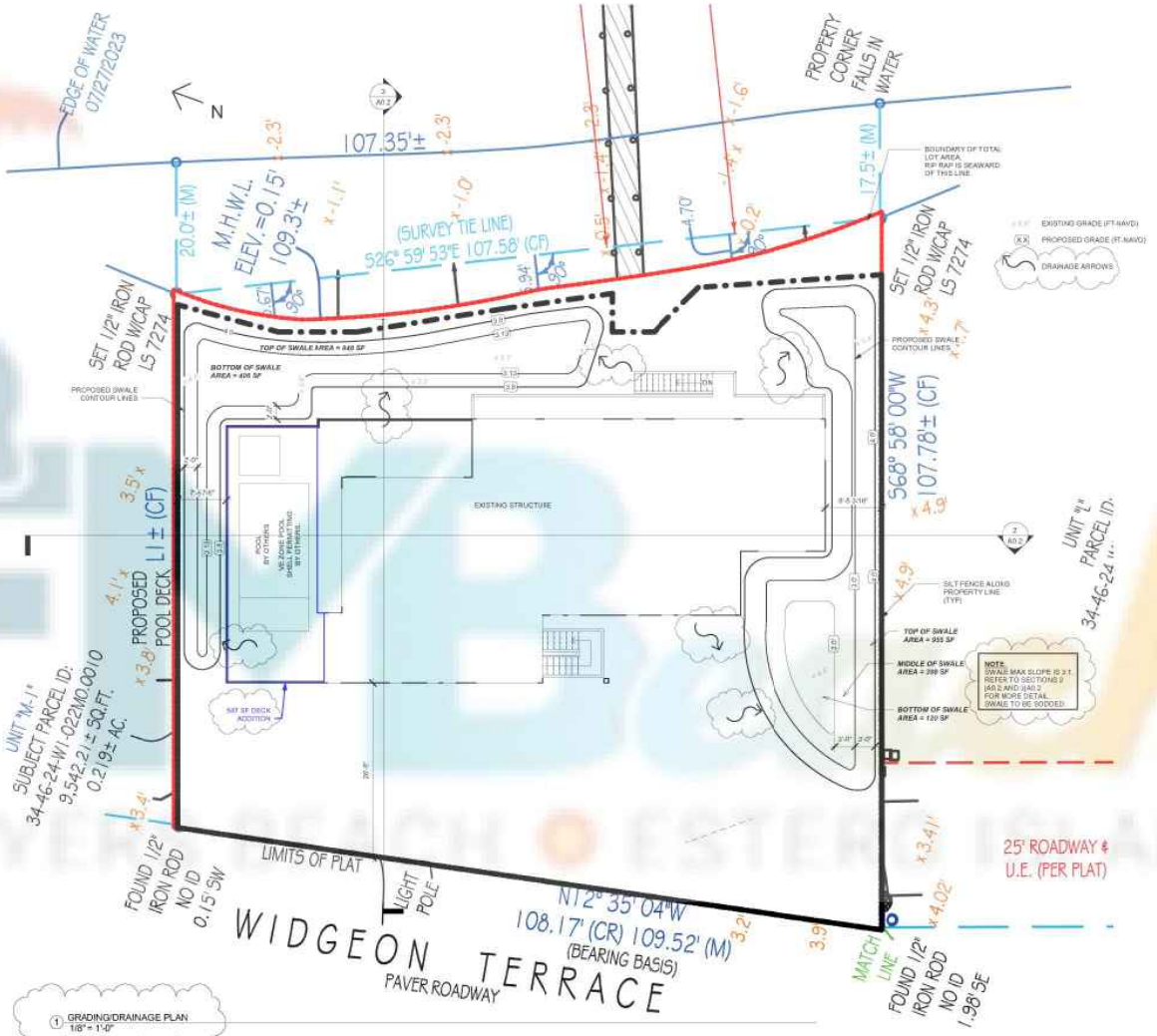


CONSTRUCTION OF A FILTER BARRIER

PLATE 1.06a

SOURCE: INSTALLATION OF STRAW AND FABRIC FILTER BARRIERS FOR SEDIMENT CONTROL, BMP PRACTICE AND DETAIL



1 GRADING/DRAINAGE PLAN
1/8" = 1'-0"

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PERMIT 234477

1 EXISTING FLOOR PLAN
1/4" = 1'-0"

PERMIT: 2024.04.03
REVISION: 2024.04.09
REVISION: 2024.04.25
REVISION: 2024.04.29

PROJECT INFORMATION

Private Residence

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Appeal Bates #37

App. No. 0133

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FLOOR PLAN GENERAL NOTES:

GENERAL
VERIFY FLOOR ELEVATIONS W/ FLOOD REQUIREMENTS.

ALL EXTERIOR WINDOWS & DOORS ARE DIMENSIONED TO CENTER LINE U.N.O.

ALL HANDRAILS AND GUARD RAILS TO BE 34" AFF. U.N.O. DESIGNED AND INSTALLED TO NOT ALLOW THE PASSAGE OF A 4" SPHERE. PROVIDE TOE RAILING AS REQ'D, NAA 2" A.F.F. COORD. FINAL MATERIAL, DESIGN, AND FINISH WITH OWNER. HANDRAILS AND GUARDS MUST COMPLY WITH ALL THE REQUIREMENTS OF THE FBC.

PROVIDE METAL THRESHOLD (MT) AT DOORS LEADING TO THE GARAGE, ELEVATOR DOOR AND ALL EXTERIOR DOORS. TYP. U.N.O.

COORDINATE ATTIC ACCESS LOCATIONS W/ FINAL TRUSS LAYOUT.

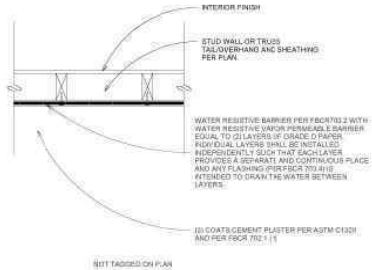
SEE STRUCTURAL DRAWINGS FOR ALL LOAD BEARING WALL, COLUMN AND FILLED CELL LOCATIONS.

EXTEND POURED SLAB EDGE @ DOORS 1 1/2" TYP. BEYOND STEM WALL.

FOR WALLS THAT ABUT NON-CONDITIONED SPACE USE "DENSARMOR"
FOR WALLS THAT ARE IN DIRECT CONTACT WITH WET AREAS, USE "DENSARMOR PLUS".
FOR WALLS AND CEILING AT A TUB/SHOWER USE CEMENT BOARD SHEATHING W/ TILE FINISH SELECTED BY THE OWNER.

DOOR SCHEDULE

Mark	Height	Width	Function	Type	Pressures (+/-)	FLA #
1	8' - 0"	16' - 0"	Exterior	18068 SGD	+45.4/-47.67	251.4
2	8' - 0"	16' - 0"	Exterior	18068 SGD	+45.4/-47.67	251.4



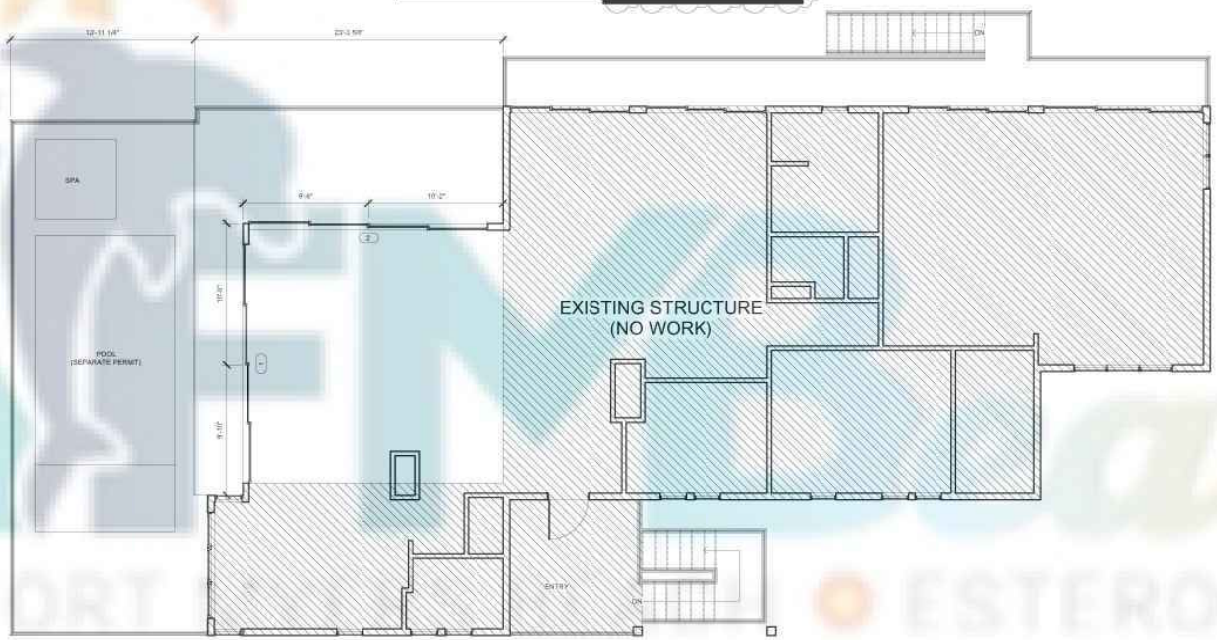
NOT TAGGED ON PLAN

EXISTING AREA CALCULATIONS:	
A/C LIVING AREA 1ST FLOOR:	2591 SF
A/C LIVING AREA 2ND FLOOR:	600 SF
GARAGE:	864 SF
LOWER UTILITY:	210 SF
CARPORT:	1170 SF
DECK:	555 SF
ENTRY:	160 SF
TOTAL:	5760 SF

PROPOSED AREA CALCULATIONS:	
A/C LIVING AREA 1ST FLOOR:	2591 SF
A/C LIVING AREA 2ND FLOOR:	600 SF
DECK ADDITION:	**547 SF**
GARAGE:	864 SF
LOWER UTILITY:	210 SF
CARPORT:	1170 SF
DECK:	555 SF
ENTRY:	160 SF
TOTAL:	6682 SF

NOT TO SCALE

③ WATER RESISTIVE BARRIER DETAIL
1/2" = 1'-0"



② PROPOSED FLOOR PLAN
1/4" = 1'-0"

PERMIT: 2024.04.03
REVISION: 2024.04.09
REVISION: 2024.04.25
REVISION: 2024.04.29

PROJECT INFORMATION

Private Residence

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Appeal Bates #38

App. No. 0134

Reviewed for Compliance

PERMIT P34477

ELEVATION TYPICAL NOTES:

ROOF NOTE:
- SEE ROOF PLAN FOR GENERAL ROOF NOTES AND ROOF MATERIAL SELECTION NOTES.

TYPICAL ARCHITECTURAL NOTES:
- VERIFY ALL STRUCTURAL ELEMENTS WITH STRUCTURAL ENGINEER.
- COORDINATE ALL INTERIOR WALL SOFFITS AND CEILING TREATMENTS WITH OWNER.
- ROOF AND BEARING HEIGHTS ARE SHOWN RELATIVE TO A REFERENCE ELEVATION BASED ON TOP OF SLAB U.N.O.
- ALL HANDRAILS AND GUARD RAILS TO BE 36" AFF U.N.O. W/ ALL ELEMENTS SPACED SO AS TO NOT ALLOW THE PASSAGE OF A 4" SPHERE. PROVIDE TOE RAILING AS REQ'D. MAX 2" A.F.F. COORD. FINAL MATERIAL, DESIGN, AND FINISH WITH OWNER. HANDRAILS AND GUARDS MUST COMPLY WITH THE REQUIREMENTS OF THE FBC 2020 7th EDITION.

② FRONT ELEVATION
1/4" = 1'-0"

③ LEFT ELEVATION
1/4" = 1'-0"

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PERMIT: 2024.04.03
REVISION: 2024.04.09
REVISION: 2024.04.25
REVISION: 2024.04.29

PROJECT INFORMATION

Private Residence

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Appeal Bates #39

App. No. 0135

Reviewed for Compliance

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ELEVATION TYPICAL NOTES:

ROOF NOTE:
SEE ROOF PLAN FOR GENERAL ROOF NOTES AND ROOF MATERIAL SELECTION NOTES
TYPICAL ARCHITECTURAL NOTES:
-VERIFY ALL STRUCTURAL ELEMENTS WITH STRUCTURAL ENGINEER
-COORDINATE ALL INTERIOR WALL SOFFITS AND CEILING TREATMENTS WITH OWNER.
-ROOF AND BEARING HEIGHTS ARE SHOWN RELATIVE TO A REFERENCE ELEVATION BASED ON TOP OF SLAB U.N.O.
-ALL HANDRAILS AND GUARD RAILS TO BE 36" AFF U.N.O. W/ ALL ELEMENTS SPACED SO AS TO NOT ALLOW THE PASSAGE OF A 4" SPHERE. PROVIDE TOE RAILING AS REQ'D, MAX 2" A.F.F. COORD. FINAL MATERIAL, DESIGN, AND FINISH WITH OWNER. HANDRAILS AND GUARDS MUST COMPLY WITH THE REQUIREMENTS OF THE FBC 2023 7th EDITION.

2 REAR ELEVATION
1/4" = 1'-0"

3 RIGHT ELEVATION
1/4" = 1'-0"

JOBSITE COPY

PERMIT: 2024.04.03
REVISION: 2024.04.09
REVISION: 2024.04.25
REVISION: 2024.04.29

PROJECT INFORMATION

Private Residence

[PROJECT ADDRESS]
21391 WIDGEON TERRACE
FORT MYERS BEACH, FL

[DRAWN BY] [TYP B RES]

[SHEET NAME]
[SHEET NUMBER]

A
2.1

MICHAEL D. STEWART, PE
FLA REG. #72459

Cell: (239) 292-1670
Email: MStewart@MStewartPE.com
PROFESSIONAL ENGINEERING SERVICES

Appeal Bates #40

App. No. 0136

Reviewed for Compliance

PERMIT 234477

Appeal Bates #41

App. No. 0137

JOBSITE COPY

DESIGN PARAMETERS:

APPLICABLE CODES:

FLORIDA BUILDING CODE 2020 7th EDITION AND FIRE/RESIDENTIAL 2020 8th EDITION
EXISTING BUILDING CODE 2021
METHOD OF DESIGN:
ENGINEER PERMANENT TO FLORIDA BUILDING CODE CHAP. 16, ASCE 7, ACCESS, ASNC

BUILDING CONSTRUCTION TYPE
- [ ] TYPE I-A
- [ ] TYPE I-B
- [ ] TYPE II-A
- [ ] TYPE II-B
- [ ] TYPE III-A
- [ ] TYPE III-B
- [ ] TYPE IV
- [ ] TYPE V-A
- [x] TYPE V-B

BUILDING OCCUPANCY CLASSIFICATION
- [ ] GROUP A - ASSEMBLY
- [ ] GROUP B - BUSINESS
- [ ] GROUP E - DAY CARE CENTERS
- [ ] GROUP F - FIRE/E RESCUE
- [ ] GROUP F - FACTORY INDUSTRIAL
- [ ] GROUP H - HAZARDOUS
- [ ] GROUP I - INSTITUTIONAL
- [ ] GROUP M - MERCANTILE
- [x] GROUP R - RESIDENTIAL
- [ ] GROUP S - STORAGE

EXPOSURE CATAGORY
- [ ] A
- [ ] C
- [ ] B
- [x] D

WIND-BORNE DEBRIS REGION
- [ ] NO
- [x] YES
  - [x] IMPACT RESISTANT GLASS
  - [ ] IMPACT RESISTANT SHUTTERS
  - [ ] IMPACT RESISTANT STORM PANELS
  - [ ] IMPACT RESISTANT COVERING FOR GLASS & DOOR PANELS
  - [ ] N/A

BASIC WIND SPEED
- [x] 170 MPH (ULTIMATE) (140MPH NOMINAL)
- [ ] 175 MPH (ULTIMATE) (145MPH NOMINAL)

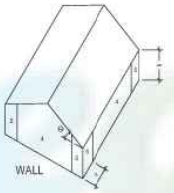
INTERNAL PRESSURE COEFFICIENTS
- [ ] +0.18 (ENCLOSED)
- [x] +0.55, -0.55 (PARTIALLY ENCLOSED)
- [ ] N/A

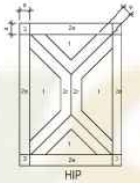
Wind Pressure Summary for C&C Zones based Upon Areas Ch 30 Pt 1 (Table 1 of 2)
All wind pressures include a load factor of 0.6

Zone	Figure	A <= 10.00 sq ft psf	A = 10.00 sq ft psf	A = 20.00 sq ft psf	A = 50.00 sq ft psf
1	30.3-2C	33.16 -59.55	33.16 -59.55	28.63 +52.74	23.63 +43.74
1_OH	30.3-2C	9.60 -71.61	9.60 -71.20	9.60 +70.43	9.60 +69.80
2e	30.3-2C	33.16 -82.16	33.16 -82.16	28.63 -71.16	23.63 +61.91
2e_OH	30.3-2C	9.60 -94.22	9.60 -93.21	9.60 +88.12	9.60 +83.17
2r	30.3-2C	33.16 -82.16	33.16 -82.16	28.63 -71.16	23.63 +61.91
2r_OH	30.3-2C	9.60 -94.22	9.60 -93.21	9.60 +88.12	9.60 +83.17
3	30.3-2C	33.16 -82.16	33.16 -82.16	28.63 -71.16	23.63 +61.91
3_OH	30.3-2C	9.60 +116.83	9.60 +110.41	9.60 +97.95	9.60 +81.47
4	30.3-1	44.47 -48.24	44.47 -48.24	42.47 -46.24	39.82 -43.58
5	30.3-1	44.47 -59.55	44.47 -59.55	42.47 -55.58	39.82 -50.24

Wind Pressure Summary for C&C Zones based Upon Areas Ch 30 Pt 1 (Table 2 of 2)
All wind pressures include a load factor of 0.6

Zone	Figure	A = 100.00 sq ft psf	A = 200.00 sq ft psf	A > 500.00 sq ft psf
1	30.3-2C	18.09 -26.93	18.09 -26.93	18.09 -26.93
1_OH	30.3-2C	9.60 +60.62	9.60 +47.84	9.60 +47.84
2e	30.3-2C	18.09 -53.19	18.09 -44.47	18.09 -44.47
2e_OH	30.3-2C	9.60 +79.27	9.60 +75.37	9.60 +75.37
2r	30.3-2C	18.09 -53.19	18.09 -44.47	18.09 -44.47
2r_OH	30.3-2C	9.60 +79.27	9.60 +75.37	9.60 +75.37
3	30.3-2C	18.09 -53.19	18.09 -44.47	18.09 -44.47
3_OH	30.3-2C	9.60 +69.00	9.60 +56.53	9.60 +56.53
4	30.3-1	37.82 -41.58	35.81 -39.58	33.16 -36.93
5	30.3-1	37.82 -48.24	35.81 -42.23	33.16 -36.93





STRUCTURAL SHEATHING CONNECTORS

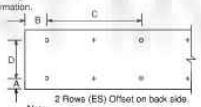
BUILDING DESIGN LOADS: [ASCE7-16 & FBC CH 16]

Minimum Fastening Requirements for Multi-Ply Frame Members		3-1/2" Wide		5-1/4" Wide		7" Wide
SAWN LUMBER SHOWN WITH 1/2" PLYWOOD SPACER		LVL	SAWN	LVL	SAWN	LVL ONLY
Fastener Type	Depth	2-ply		3-ply		4-ply
10d Nails	7-1/4" ≤ d <14"	3 rows @ 12" o.c.		3 rows @ 12" o.c. (ES)		----
	d ≥ 14"	4 rows @ 12" o.c.		4 rows @ 12" o.c. (ES)		----
16d Nails	7-1/4" ≤ d <14"	2 rows @ 12" o.c.		2 rows @ 12" o.c. (ES)		----
	d ≥ 14"	3 rows @ 12" o.c.		3 rows @ 12" o.c. (ES)		----
1/2" ø Thru-Bolts	d ≥ 7-1/4"	2 rows @ 24" o.c.		2 rows @ 18" o.c. (ES)		----
SDS 1/4" x 3-1/2"		2 rows @ 24" o.c.		2 rows @ 24" o.c. (ES)		2 rows @ 24" o.c. (ES)
SDS 1/4" x 6"		----		----		2 rows @ 24" o.c. (ES)
5" TrussLok		----		2 rows @ 24" o.c. (ES)		----
6" TrussLok		----		----		2 rows @ 24" o.c. (ES)

1. (ES) = Each Side, offset fasteners up to 1/2" of the on center spacing.
2. Consult Georgia Pacific Specification Manual for Additional Information.
3. Fastener spacing based off the 2005 NDS Manual.

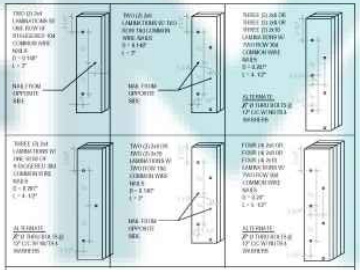
Fastener Clearances for Multi-Ply Members

Fastener Type	A	B		C		D
	Min.	Min.	Max	Min.	Max	Min.
10d & 16d Nails	2"	2"	6"	4"	12"	3"
Bolts & Screws	2"	4"	12"	4"	24"	3"



2 Rows (ES) Offset on back side.

Note:
Edges Distances also apply to beams only fastened on one side.



BUILD-UP COLUMN DETAIL/NOTES:

1. ADJACENT NAILS ARE DRIVEN FROM OPPOSITE SIDES OF THE COLUMN.
2. ALL NAILS TO PENETRATE AT LEAST 3/4 OF THICKNESS OF LAST PENETRATION.
3. 1SD = END DIST. = 15D
4. 2SD = SPACE BET. ROWS OF NAILS = 2SD
5. 1SD = EDGE DIST. = 2SD
6. 2 OR MORE LONGITUDINAL ROWS OF NAILS ARE PROVIDED WHEN d > 3mm.
7. D = NAIL DIAMETER
   d = DEPTH (FACE WIDTH) OF INDIVIDUAL LAMINATIONS
   t min. = THICKNESS OF THINNEST LAMINATION
8. WHEN ONE ROW OF NAILS ARE REQUIRED, ADJACENT NAILS SHALL BE STAGGERED.
9. WHEN ONE ROW OF NAILS ARE REQUIRED, ADJACENT NAILS SHALL BE STAGGERED.
10. WHEN THREE OR MORE LONGITUDINAL ROWS OF NAILS ARE USED, NAILS IN ADJACENT ROWS SHALL BE STAGGERED.
11. WHEN THREE OR MORE LONGITUDINAL ROWS OF NAILS ARE USED, NAILS IN ADJACENT ROWS SHALL BE STAGGERED.
12. WHEN BORED HOLES ARE DESIRED TO PREVENT SPLITTING OF WOOD, THE DIAMETER OF THE BORED HOLE SHALL NOT EXCEED 75% OF NAIL DIAMETER FOR SOUTHERN PINE.
THESE DETAILS REPRODUCED FROM NDS SPECIFICATIONS 2005 EDITION

PERMIT: 2024.04.03

PROJECT INFORMATION

Private Residence

[PROJECT ADDRESS]
21395 Widgeon
Fort Myers Beach, FL

DRAWN BY: MSS

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SHEET NUMBER

S0.1

MICHAEL D. STEWART, PE
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Cape Coral, FL
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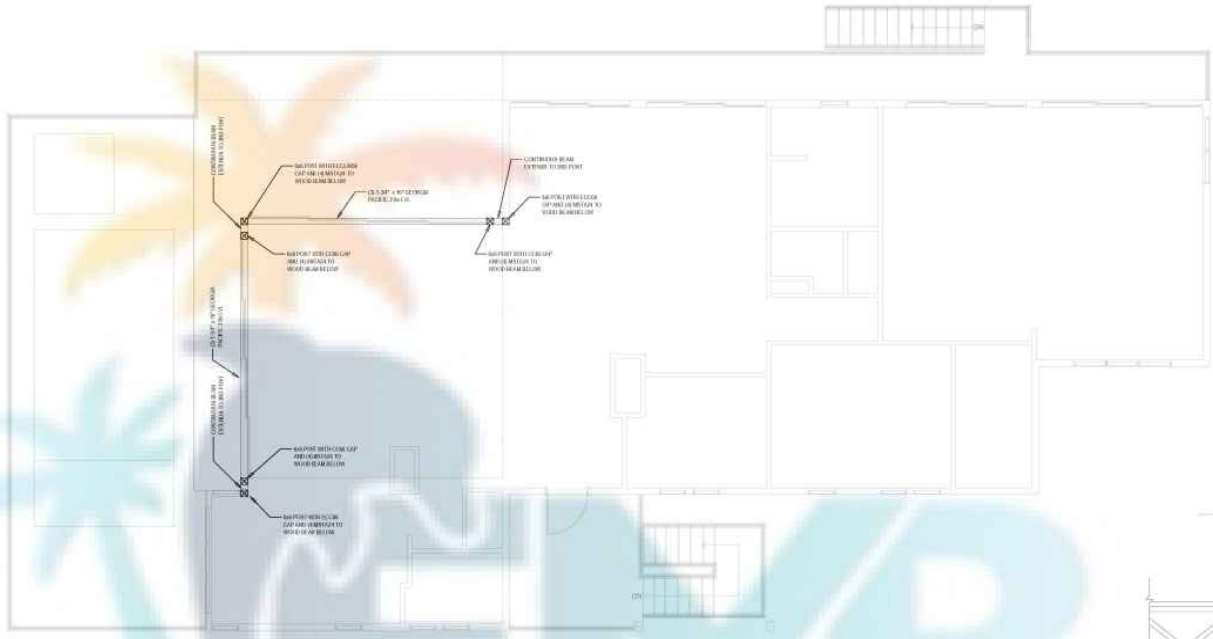
PROFESSIONAL ENGINEERING SERVICES

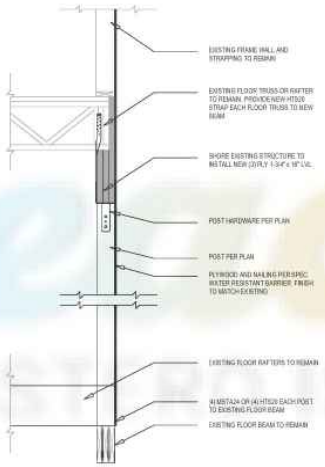
Reviewed for Compliance

PERMIT 234477



A S1.1 **Beam Plan**

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



1 S1.1 **New Post and Beam Detail**

NOT TO SCALE

MICHAEL D. STEWART LICENSE No 72459 STATE OF FLORIDA PROFESSIONAL ENGINEER

PERMIT: 2024.04.03

PROJECT INFORMATION

Private Residence

[PROJECT ADDRESS]
2139 Widgeon
Fort Myers Beach, FL

[DRAWN BY] MSS

[COPYRIGHT 2023]

SHEET NUMBER

S1.1

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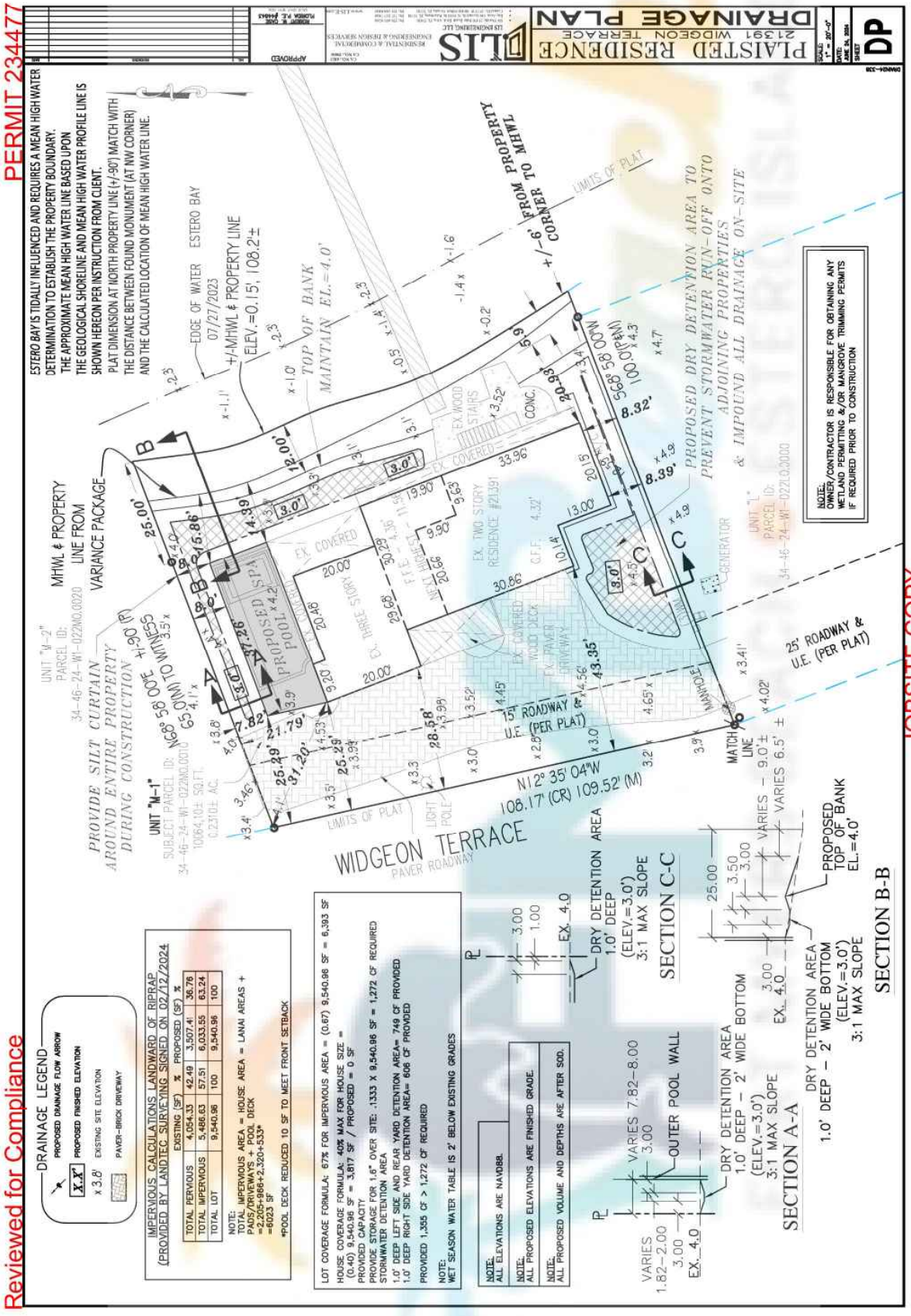
JOBSITE COPY

Appeal Bates #42

App. No. 0138


PERMIT 234477
Reviewed for Compliance
JOBSITE COPY
PLASTED RESIDENCE
21391 WIDGEON TERRACE
DRAINAGE PLAN
DP
DRAINAGE LEGEND
PROPOSED DRAINAGE FLOW ARROW
PROPOSED FINISHED ELEVATION
EXISTING SITE ELEVATION
PAVER-BRICK DRIVEWAY
ESTERO BAY IS TIDALLY INFLUENCED AND REQUIRES A MEAN HIGH WATER DETERMINATION TO ESTABLISH THE PROPERTY BOUNDARY. THE APPROXIMATE MEAN HIGH WATER LINE BASED UPON THE GEOLOGICAL SHORELINE AND MEAN HIGH WATER PROFILE LINE IS SHOWN HEREON PER INSTRUCTION FROM CLIENT.
PLAT DIMENSION AT NORTH PROPERTY LINE (+/-90') MATCH WITH THE DISTANCE BETWEEN FOUND MONUMENT (AT NW CORNER) AND THE CALCULATED LOCATION OF MEAN HIGH WATER LINE.
EDGE OF WATER ESTERO BAY 07/27/2023
+/-MHWL & PROPERTY LINE ELEV.=0.15', 108.2'±
TOP OF BANK MAINTAIN EL.=4.0'
+/-6' FROM PROPERTY CORNER TO MHWL
LIMITS OF PLAT
MHWL & PROPERTY LINE FROM VARIANCE PACKAGE
PROVIDE SILT CURTAIN AROUND ENTIRE PROPERTY DURING CONSTRUCTION
UNIT "M-2" PARCEL ID: 34-46-24-W1-022MO.0020
UNIT "M-1" SUBJECT PARCEL ID: 34-46-24-W1-022MO.0010 10664.10± SQ.FT. 0.2310± AC.
+/-90° (R) M68° 58' 00"E 65.00' (M) TO WITNESS
PROPOSED POOL
EX. COVERED
EX. THREE STORY RESIDENCE #21391
EX. TWO STORY RESIDENCE #21391
EX. WOOD STAIRS
CONC.
EX. COVERED WOOD DECK
EX. PAVER DRIVEWAY
C.F.F. 4.32'
F.F.E. 11.50'
GENERATOR
MANHOLE
MATCH LINE
UNIT "L" PARCEL ID: 34-46-24-W1-022L0.0000
PROPOSED DRY DETENTION AREA TO PREVENT STORMWATER RUN-OFF ONTO ADJOINING PROPERTIES & IMPOUND ALL DRAINAGE ON-SITE
S68° 58' 00"W (P&M) 100.00'
WIDGEON TERRACE
PAVER ROADWAY
N12° 35' 04"W 108.17' (CR) 109.52' (M)
15' ROADWAY U.E. (PER PLAT)
25' ROADWAY & U.E. (PER PLAT)
LIGHT POLE
NOTE: OWNER/CONTRACTOR IS RESPONSIBLE FOR OBTAINING ANY WETLAND PERMITTING &/OR MANGROVE TRIMMING PERMITS IF REQUIRED PRIOR TO CONSTRUCTION
IMPERVIOUS CALCULATIONS LANDWARD OF RIPRAP (PROVIDED BY LANDTEC SURVEYING SIGNED ON 02/12/2024
TOTAL PERVIOUS 4,054.33 42.49 3,507.41 36.76
TOTAL IMPERVIOUS 5,486.63 57.51 6,033.55 63.24
TOTAL LOT 9,540.96 100 9,540.96 100
NOTE: TOTAL IMPERVIOUS AREA = HOUSE AREA + LANAI AREAS + PADS/DRIVEWAYS + POOL DECK =2,205+968+2,320+533* =6023 SF
*POOL DECK REDUCED 10 SF TO MEET FRONT SETBACK
LOT COVERAGE FORMULA: 67% FOR IMPERVIOUS AREA = (0.67) 9,540.96 SF = 6,393 SF
HOUSE COVERAGE FORMULA: 40% MAX FOR HOUSE SIZE = (0.40) 9,540.96 SF = 3,817 SF / PROPOSED = 0 SF
PROVIDED CAPACITY
PROVIDE STORAGE FOR 1.6" OVER SITE: .1333 X 9,540.96 SF = 1,272 CF REQUIRED STORMWATER DETENTION AREA
1.0' DEEP LEFT SIDE AND REAR YARD DETENTION AREA= 749 CF PROVIDED
1.0' DEEP RIGHT SIDE YARD DETENTION AREA= 606 CF PROVIDED
PROVIDED 1,355 CF > 1,272 CF REQUIRED
NOTE: WET SEASON WATER TABLE IS 2' BELOW EXISTING GRADES
NOTE: ALL ELEVATIONS ARE NAVD88.
NOTE: ALL PROPOSED ELEVATIONS ARE FINISHED GRADE.
NOTE: ALL PROPOSED VOLUME AND DEPTHS ARE AFTER SOD.
SECTION A-A
SECTION B-B
SECTION C-C
DRY DETENTION AREA 1.0' DEEP – 2' WIDE BOTTOM (ELEV.=3.0') 3:1 MAX SLOPE
OUTER POOL WALL
VARIES 7.82–8.00
VARIES 1.82–2.00
VARIES – 9.0'±
VARIES 6.5' ±
PROPOSED TOP OF BANK EL.=4.0'
EX. 4.0
3.00
3.50
25.00
1.00

Reviewed for Compliance

PERMIT 234477

PAGE 1 OF 1

SCALE:1"=30'

TYPE OF SURVEY:
- ■ BOUNDARY
- □ ALTA/NSPS
- ■ CONSTRUCTION
- ■ TOPOGRAPHIC
- □ CONDOMINIUM
- □ SPECIAL PURPOSE

PRINTING INSTRUCTIONS

WHEN PRINTING THIS PDF IN ADOBE SELECT "ACTUAL SIZE" TO ENSURE CORRECT SCALING. DO NOT USE "FIT".

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

A or AL = ARC LENGTH	EL or ELEV = ELEVATION
CA = CENTRAL ANGLE	EM = ELECTRIC METER
CATV = CABLE TV RISER	FIR = FOUND IRON ROD
CF = CALCULATED FROM FIELD	FN = FOUND NAIL
CR = CALCULATED FROM RECORD	FND = FOUND
CH = CHORD DISTANCE	L= LEGAL DESCRIPTION
C/O = CLEANOUT	M = MEASURED
CONC. = CONCRETE	OHC = OVERHEAD CABLE
DE = DRAINAGE EASEMENT	P = PLAT
PI = POINT OF INTERSECTION	R = RADIUS
PT = POINT OF TANGENCY	SEC = SECTION
PC = POINT OF CURVE	TWP = TOWNSHIP
PRC = POINT OF REVERSE CURVE	RNG = RANGE
PCC = POINT OF COMPOUND CURVE	QTR = QUARTER
POB = POINT OF BEGINNING	TR = TELEPHONE RISER
POC = POINT OF COMMENCEMENT	UE = UTILITY EASEMENT
PH = POOL HEATER	UP = UTILITY POLE
PP = POOL PUMP	WM = WATER METER
	WV = WATER VALVE

SYMBOLS - NOT-TO-SCALE
(SOME ITEMS IN LEGEND MAY NOT APPEAR ON DRAWING):

= UTILITY POLE	= WELL
= LIGHT POLE	= CENTER LINE
= CATCH BASIN	= PARTY WALL
= FIRE HYDRANT	AC = AIR CONDITIONER
= MANHOLE	= SEPTIC LID
= WATER VALVE	= ELEV. SHOT
WM = WATER METER	
= HANDICAP PARKING SPACE	
= SEC. QTR. CORNER	
= SECTION CORNER	

CERTIFICATION

I HEREBY CERTIFY THAT THIS SURVEY MEETS THE STANDARDS OF PRACTICE AS OUTLINED IN CHAPTER 5J-17.051 & 5J-17.052 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, AND THAT THE ELECTRONIC SIGNATURE AND SEAL HEREON MEETS PROCEDURES AS SET FORTH IN CHAPTER 5J-17.062, PURSUANT TO SECTION 472.025, FLORIDA STATUTES.

SIGNATURE _____ DATE: 2-12-2024

PABLO ALVAREZ - PROFESSIONAL SURVEYOR AND MAPPER FLORIDA REGISTRATION NO. 7274 (NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OR THE ELECTRONIC SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER SHOWN ABOVE)

IMPERVIOUS / PERVIOUS

EXISTING IMPROVEMENTS
TOTAL IMPERVIOUS = 5486.63 SQ FT 57.51%
TOTAL PERVIOUS = 4054.33 SQ FT 42.49%
TOTAL LOT = 9540.96 SQ FT 100%

CALCULATION INCLUDING PROPOSED IMPROVEMENTS
TOTAL IMPERVIOUS = 6033.55 SQ FT 63.24%
TOTAL PERVIOUS = 3507.41 SQ FT 36.76%
TOTAL LOT = 9540.96 SQ FT 100%

PROPERTY ADDRESS:
21391 WIDGEON TERRACE,
FORT MYERS , FL. 33931

LEGAL DESCRIPTION:
UNIT M-1 OF FLAMINGO HARBOUR CONDOMINIUM, A CONDOMINIUM ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF RECORDED IN OFFICIAL RECORDS BOOK 1357, PAGE 1089, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND ALL AMENDMENTS THERETO, TOGETHER WITH ITS UNDIVIDED SHARE IN THE COMMON ELEMENTS.

FLOOD INFORMATION:
ZONE: "VE"
ELEV. = 12.00' (NAVD88)
MAP PANEL#: 12071C0567G
EFFECTIVE DATE: 11/17/2022

LINE TABLE		
	BEARING	DISTANCE
L1	N68° 58' 00"E	80.71'

CURVE TABLE					
	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD BEARING
C1	136.99'	700.00'	11°12'47"	136.77'	S26°36'23"E
C2	18.33'	360.00'	02°55'03"	18.33'	S30°47'15"E

BEARING REFERENCE:
CENTERLINE OF 93RD AVENUE AS N 88°46'09" W AS REFERENCED IN SUBJECT PROPERTY LEGAL DESCRIPTION. ALL BEARINGSS SHOWN HEREON REFERENCED THERETO

PURPOSE OF SURVEY: CONSTRUCTION PERMITS

REVISIONS
02/12/2024 - POOL SITE PLAN - SG

Job Number : 179798-SW	Field: K.A.
Drawn By : E.I.	Date of Field Work : 07/28/2023

LINETYPES:
BOUNDARY, EASEMENT, WOOD FENCE, OVERHEAD CABLE, BUILDING, CHAIN LINK FENCE, PLASTIC FENCE

Elevations, if shown:
Benchmark: DP3725
Benchmark Elev.: 3.27
Benchmark Datum: NAVD88
Elevations on Drawing are in: N.G.V.D.29 ☐ N.A.V.D.88 ■

Aerial Photograph
May not show latest improvements. Not-to-scale.

GENERAL NOTES:
1. THIS SURVEY IS BASED UPON RECORD INFORMATION PROVIDED BY CLIENT. NO SPECIFIC SEARCH OF THE PUBLIC RECORD HAS BEEN MADE BY THIS OFFICE UNLESS OTHERWISE NOTED.
2. AS INDICATED ABOVE, UNDER "PURPOSE OF SURVEY", IF THIS SURVEY HAS BEEN PREPARED FOR A PURCHASE OR REFINANCE, ITS SCOPE IS LIMITED TO THE DETERMINATION OF TITLE DEFICIENCIES, AND IS NOT INTENDED FOR USE IN DESIGN OR CONSTRUCTION PURPOSES. LANDTEC SURVEYING ASSUMES NO RESPONSIBILITIES FOR ERRORS RESULTING FROM FAILURE TO ADHERE TO THIS CLAUSE.
3. ANY FENCES SHOWN HEREON ARE ILLUSTRATIVE OF THEIR GENERAL POSITION ONLY. FENCE TIES SHOWN ARE TO GENERAL CENTERLINE OF FENCE. THIS OFFICE WILL NOT BE RESPONSIBLE FOR DAMAGES RESULTING FROM THE REMOVAL OF, OR CHANGES MADE TO, ANY FENCES UNLESS WE HAVE PROVIDED A SURVEY SPECIFICALLY LOCATING SAID FENCES FOR SUCH PURPOSES. DETERMINATION OF FENCE POSITIONS SHOULD BE BASED SOLELY ON THEIR PHYSICAL RELATIONSHIP TO THE MONUMENTED BOUNDARY LINES.
4. GRAPHIC REPRESENTATIONS MAY HAVE BEEN EXAGGERATED TO MORE CLEARLY ILLUSTRATE MEASURED RELATIONSHIPS - DIMENSIONS SHALL HAVE PRECEDENCE OVER SCALED POSITIONS.
5. UNDERGROUND IMPROVEMENTS HAVE NOT BEEN LOCATED EXCEPT AS SPECIFICALLY SHOWN.
6. ELEVATIONS ARE BASED UPON NATIONAL GEODETIC VERTICAL DATUM (N.G.V.D. 1929) OR NORTH AMERICAN VERTICAL DATUM (N.A.V.D. 1988) AS SHOWN ABOVE.
7. ALL BOUNDARY AND CONTROL DIMENSIONS SHOWN ARE FIELD MEASURED AND CORRESPOND TO RECORD INFORMATION UNLESS SPECIFICALLY NOTED OTHERWISE.
8. ANY CORNERS SHOWN AS "SET" HAVE EITHER BEEN SET ON THE DATE OF FIELD WORK, OR WILL BE SET WITHIN 5 BUSINESS DAYS OF SAID DATE AND ARE IDENTIFIED WITH A CAP MARKED LS (LICENSED SURVEYOR) #6539.

"CP" = CONTROLLING POINT (POINT OF ROTATION) "HFA" = HELD FOR ALIGNMENT - ALL OTHER MONUMENTATION AND IMPROVEMENTS RELATIVE THERETO

Platted Easements & Notable Conditions (unplatted easements also listed if provided): IF APPLICABLE, RECIPIENTS OF THIS SURVEY SHOULD REVIEW THE POSITION OF ANY FENCE LINES SHOWN AND THEIR RELATIONSHIP TO THE BOUNDARY LINE.
- 15' ROADWAY AND UTILITY EASEMENT ALONG WESTERLY BOUNDARY LINE OF SUBJECT LOT.
- PAVER DRIVEWAY EXTENDS THROUGH THE WESTERLY EASEMENT.
- PAVER DRIVEWAY CROSSES THE BOUNDARY LINE ON NORTHERLY AND SOUTHERLY SIDES OF LOT AS SHOWN
- WOOD DOCK CROSSES THE BOUNDARY LINE ON EASTERLY SIDE OF LOT AS SHOWN

This survey has been issued by the following Landtec Surveying office:
700 W. Hillsboro Blvd. Suite 4-100
Deerfield Beach, FL 33441
Office: (561) 367-3587 Fax: (561) 465-3145
www.LandtecSurvey.com
LANDTEC SURVEYING and Lien
LICENSED BUSINESS No. 6507

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Appeal Bates #44
App. No. 0140
Page 189 of 969

Reviewed for Compliance

PERMIT 234477

Aquatics Drawings For:

Todd Plaisted & Kelly Moore

21391 WIDGEOM TERRACE
FT. MYERS BEACH, FL. 33921

DRAWING SCHEDULE

P-1	POOL& PIPING PLAN
P-2	SITE PLAN
P-3	ELEVATIONS
P-4	POOL DETAILS
P-5	SUB SHELL DETAIL
P-6	TDH WORKSHEETS
P-7	GENERAL NOTES & DETAILS

PLANS PREPARED BY:
DESIGNS BY ATO Z
DRAWN BY: MJS

THESE ENGINEERING DRAWINGS ARE GIVEN IN CONFIDENCE.
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COVER SHEET
TODD PLAISTED
21391 WIDGEOM TERRACE
FT MYERS BEACH, FLORIDA 33921

No.	Revision/Issue	Date
1.		

Project
Date 2/15/23
Scale AS LISTED

P-0

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Appeal Bates #45

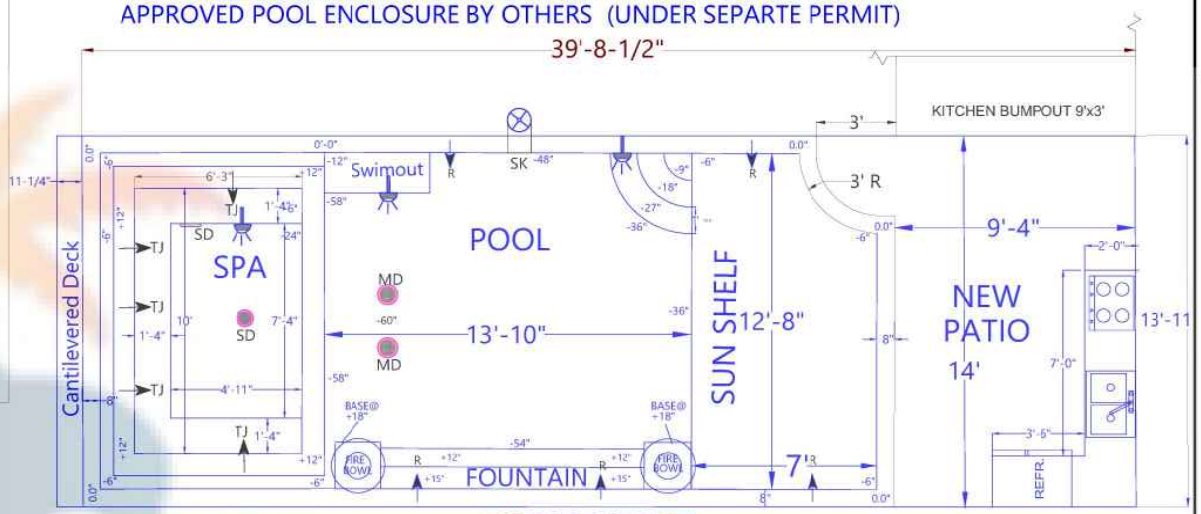
App. No. 0141

Reviewed for Compliance

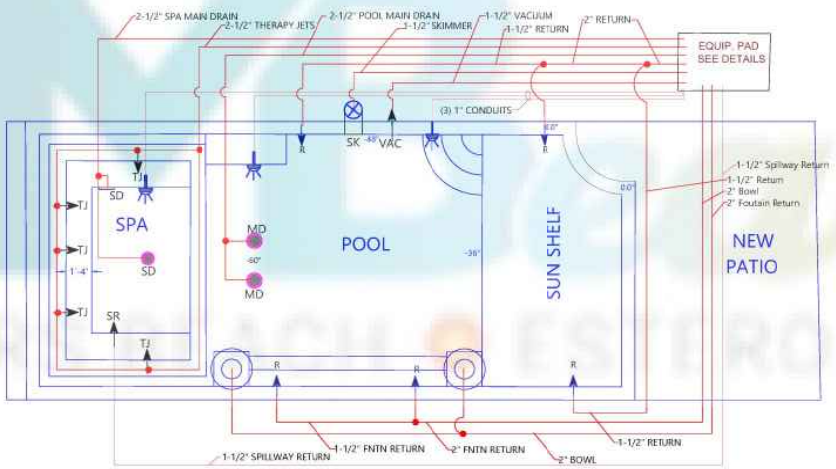
PERMIT 234477

LEGEND	
AF	AUTO FILL
BU	BUBBLER
CD	CONDUIT
DJ	DECK JET
FR	FLOOR RETURN
GD	GUTTER DRAINS
MD	POOL MAIN DRAIN
ND	NEG.EDGE MAIN DRAIN
R	RETURN
SD	SPA MAIN DRAIN
SK	SKIMMER
TJ	THERAPY JET
V	VACUUM

ALL WINDOWS & DOORS LEADING
TO POOL AREA SHALL BE ALARMED
APPROVED POOL ENCLOSURE BY OTHERS (UNDER SEPARTE PERMIT)



POOL LAYOUT
1/2"=1FT



PIPIING LAYOUT
3/8"=1FT

POOL DATA				
POOL SQ/FT	174.5	SQ/FT	52	LIN FT
POOL VOLUME	5,221.0	GAL.		
SUNSHELF SQ/FT	88.5	SQ/FT	39.5	LIN FT
SUNSHELF VOLUME	331	GAL.		
SPA SQ/FT	62.5	SQ/FT	32	LIN FT
SPA VOLUME	701	GAL.		
TOTAL SQ/FT	325.5	SQ/FT		
TOTAL VOLUME	6,253.0	GAL.		

PLANS PREPARED BY:
DESIGNS BY ATO Z
DRAWN BY: MJS

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POOL & PIPING PLAN
TODD PLAISTED
21391 WIDGEOM TERRACE
FT MYERS BEACH, FLORIDA 33921

No.	Revision/Issue	Date
1.		

Project
Date 2/15/23
Scale AS LISTED
P-1

JOBSITE COPY

Appeal Bates #46

App. No. 0142

PERMIT 234477

PLANS PREPARED BY:
DESIGNS BY ATO Z
DRAWN BY: MJS

SITE PLAN

TODD PLAISTED

2391 WIDGEON TERRACE
FT MYERS BEACH, FLORIDA 33921

No.	Revision/Issue	Date
1.		

Project
Date 1/25/23
Scale AS LISTED

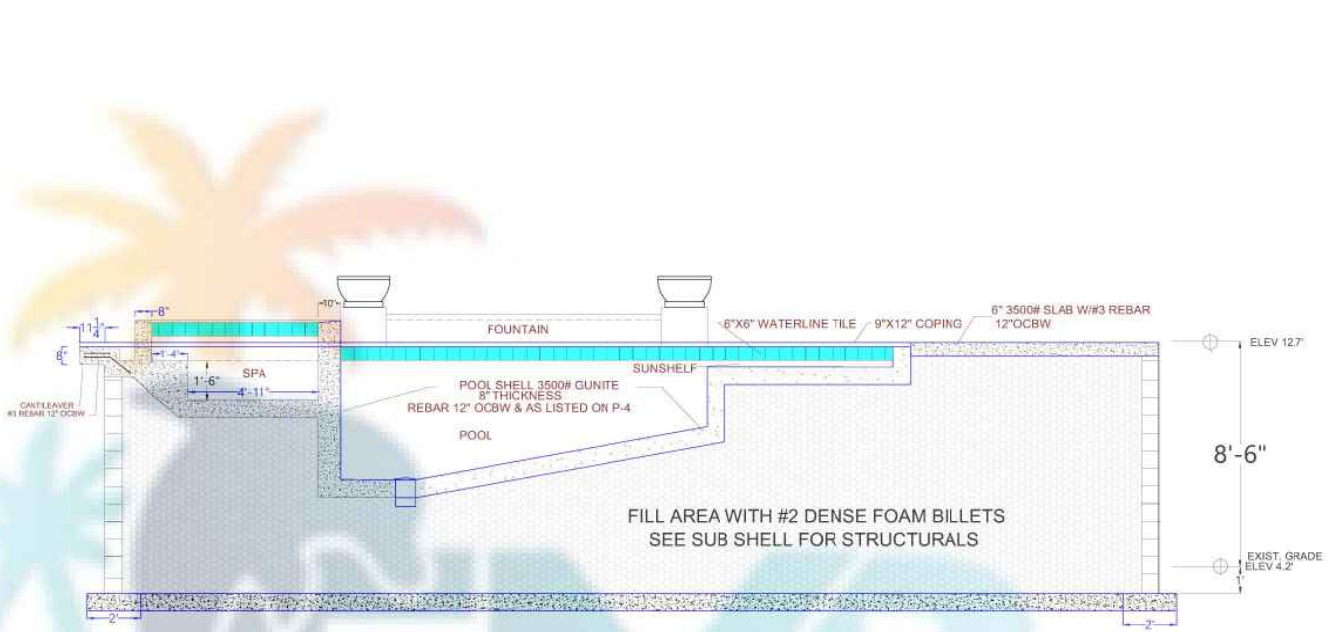
P-2

Reviewed for Compliance

JOBSITE COPY

Reviewed for Compliance

PERMIT 234477



POOL ELEVATION

1/2"=1FT

PLANS PREPARED BY:
DESIGNS BY ATO Z
DRAWN BY: MJS

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POOL ELEVATION
TODD PLAISTED
21391 WIDGEOM TERRACE
FT MYERS BEACH, FLORIDA 33921

No.	Revision/Issue	Date
1.		

Project
Date 2/15/23
Scale AS LISTED
P-3

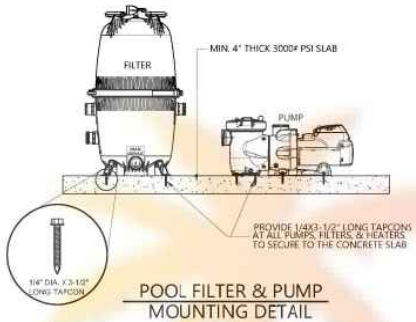
JOBSITE COPY

Appeal Bates #48

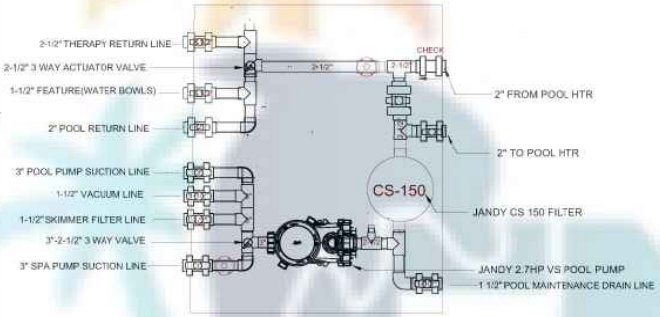
App. No. 0144

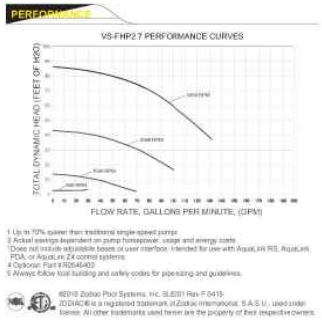
Reviewed for Compliance

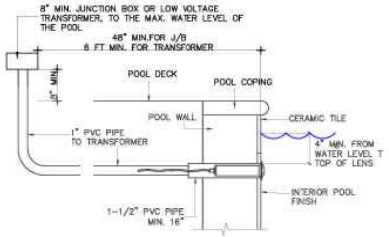
PERMIT 234477



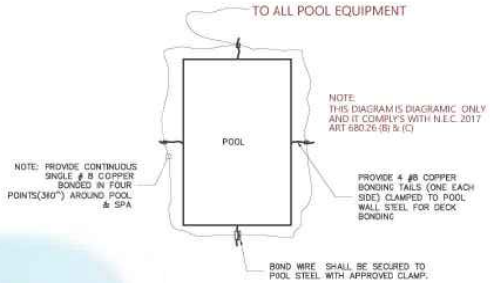
POOL FILTER & PUMP MOUNTING DETAIL







NICHELESS LIGHT DETAIL
NO SCALE



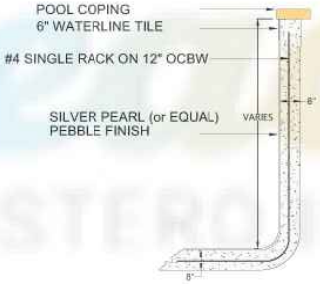
POOL BOND SCHEMATIC
N.T.S

EQUIPMENT LIST

MARK	QTY	MFG	MODEL	DESCRIPTION
1	1	JANDY	VSPHP270DV2A	2.7 HP VARI SPEED POOL PUMP 1-5-230 1PH.
2	1	JANDY	CS150	150 SQ FT CART. FILTER (120 GPM)
3	1	HAYWARD	W-400	1-1/2" VAC LOCK SAFETY FITTING
4	4	CUSTOM MOLDED	25524-200-0000	2" FIP WALL FITTING
5	3	JANDY	JLU4C -12W -xxx	12V 12WATT RGBW NICHLESS LIGHT
6	1	HAYWARD	SP-1072S2	1-1/2"-2" SIDEWALL SKIMMER
7	5	WATERWAY	210-3400	2" X 1" THERAPY JETS
8	OPT	JANDY CHOOSE	JXI400	400 MBH GAS POOL HEATER Available in Natural or Propane
9	OPT	OR JANDY	JT 3000T	137 MBH POOL HEAT PUMP
10	OPT	JANDY	RSPS-*	MULTI CHANNEL SYSTEM CONTROLER
11	OPT	JANDY	IQ30A	WI-FI ATENNA
12	OPT	JANDY	6614LD	CONTROL PANEL W/BREAKERS
13	OPT	JANDY	7443	SPA SIDE REMOTE
14	OPT	CUSTOM MOLDED	SPG-56-5000	1" AUTOFILL (OT TYPE)

POOL-SPA.COMMON WALL DETAIL

SCALE: NTS



TYP.WALL DETAIL

SCALE: NTS

PLANS PREPARED BY:
DESIGNS BY ATO Z
DRAWN BY: MJS

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POOL DETAILS
TODD PLAISTED
21391 WIDGEOM TERRACE
FT MYERS BEACH, FLORIDA 33921

No.	Revision/Issue	Date
1.		

Project
Date 2/15/23
Scale AS LISTED
P-4

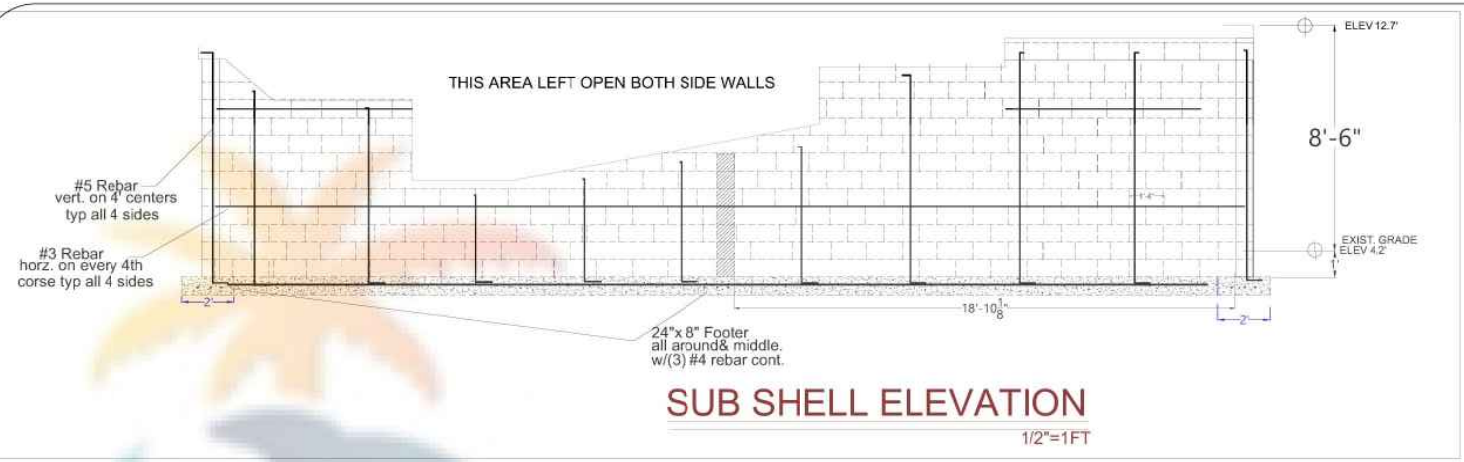
JOBSITE COPY

Appeal Bates #49

App. No. 0145

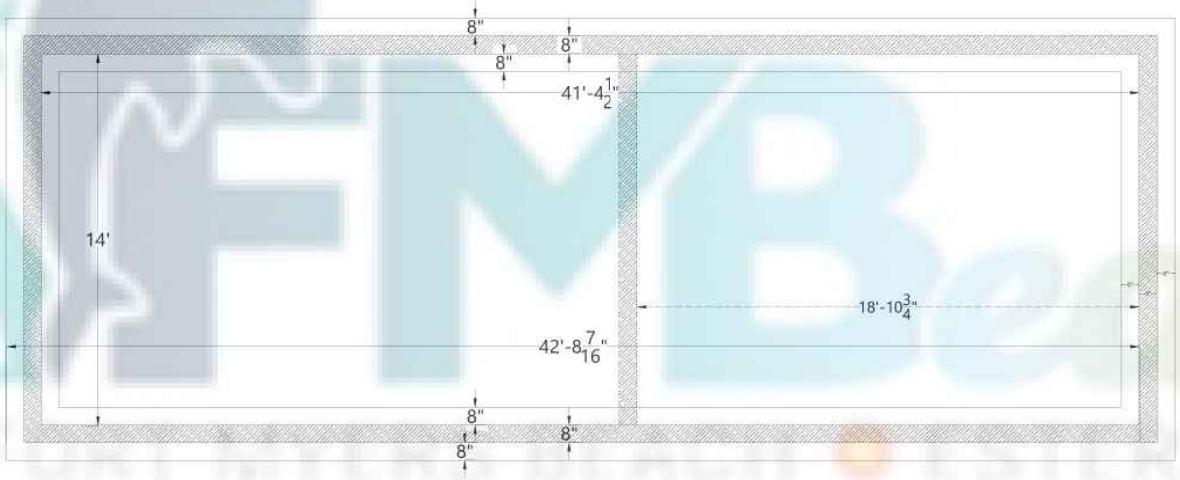
Reviewed for Compliance

PERMIT 234477



SUB SHELL ELEVATION

1/2"=1FT



SUB SHELL PLAN VIEW

1/2"=1FT

PLANS PREPARED BY:
DESIGNS BY ATO Z
DRAWN BY: MJS

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SUB SHELL DETAILS

TODD PLAISTED

21391 WIDGEOM TERRACE

FT MYERS BEACH, FLORIDA 33921

No.	Revision/Issue	Date
1.		

Project

Date 2/15/23

Scale AS LISTED

P-5

JOBSITE COPY

Appeal Bates #50

App. No. 0146

Reviewed for Compliance

PERMIT 234477

SIMPLIFIED TOTAL DYNAMIC HEAD (TDH) CALCULATION WORKSHEET

POOL/SPA

Home Owner/ Property Name: PLAISTED-MOORE Date: 02/15/23 Job # :

Property Address: 21391 WIDGEOM TERRACE City/State/Zip: FT MYERS BEACH, FLORIDA 34921

"This form must be filled out for each pump on the above listed project"

DETERMINE MAXIMUM SYSTEM FLOW RATE:

1. Calculate Pool Volume: 263.8 (SQ/FT) X 2.827 (AVV.DEPTH) X 7.48 = 5,578 (Volume) gal/cu ft.

Determine 3 min/hr. 180.00

3. Determine Max. Flow Rate: Gal 5,578.0 / 180.00 = 31.0 + 80 (Feature) 111.0 (Total)

4. Spa Jets: 7 X 12 gpm/jet = 84.0 (Gallons) Spa flow rate in Spa Mode

(For single pump / spa combo, use higher of No. 3 or No. 4 in the following calculations for the pool and spa) pump / spa

Higther flow rate 111.0

DETERMINE PIPE SIZE & TDH:

Branch Piping to Be	3	velocity @ 6fps	138 gpm	GPM Max Flow Rate	0.04
Trunk Piping to Be	2.5	velocity @ 8fps	117 gpm	GPM Max Flow Rate	0.09
Return Piping to Be	2.5	velocity @ 10fps	146 gpm	GPM Max Flow Rate	0.13

DETERMINE SIMPLIFIED TDH:

1. Friction Loss (In suction pipe) in:	3.0	per/ft 100gpm	0.07		
2. Friction Loss (In return pipe) in:	2.0	per/ft 100gpm	0.16		
3. Length of Suction Pipe	(in Linear Feet) 100.0	X	0.07	=	7
4. Length of Return\ Pipe	(in Linear Feet) 100.0	X	0.16	=	16

TDH in piping:	23.0	(added 3 and 4 from above)
Filter Loss in TDH:	1.5	(from filter data sheet)
Heater loss is TDH:	10.0	(from heater data sheet)
Total All Other Loss:	11.0	(record additional loss items on "additional notes")
Total TDH:	45.5	

FLOW AND FRICTION LOSSES PER FT. - SCH 40 PIPE

Velocity - Feet Per Second

Pipe Size	6 FT/S		8 FT/S		10 FT/S	
1"	16 gpm.	0.14	21 gpm.	0.23	26gpm.	0.35
1 1/2"	37 gpm.	0.08	50 gpm.	0.14	62 gpm.	0.24
2"	62 gpm.	0.06	82 gpm.	0.10	103 gpm.	0.16
2 1/2"	88 gpm.	0.05	117 gpm.	0.09	146 gpm.	0.13
3"	138 gpm.	0.04	181 gpm.	0.07	227 gpm.	0.10
4"	234 gpm.	0.03	313 gpm.	0.05	392 gpm.	0.07
5"	534 gpm.	0.02	712 gpm.	0.03	890 gpm.	0.05

SIMPLIFIED TOTAL DYNAMIC HEAD (TDH) CALCULATION WORKSHEET p2

POOL/SPA PUMP

	MAKE	MODEL	HP	
Pump Selection:	JANDY	VSFHP270AUT	2.7	Using pump curve for TDH and System Flow Rate

	MAKE	MODEL	MAX FLOW	REPL DATE
Main Drain Cover:	CUSTOM	25516-400	146	5 YRS

(System Flow Rate must not exceed approved cover flow rate)

NOTE: Minimum system flow based on min. flow per skimmer of 35 GPM

MAIN DRAIN PLUMBING METHOD USED:

X A. Dual outlets in parallel to one pump
B. Dual outlets in parallel to dual pumps in par
C. Parallel dual outlets to two pumps
D. Dual outlets on different planes
E. Three or more outlets in parallel symmetric
F. Three or more outlets in parallel eccentrically tapped piping
G. Three or more outlets in parallel looped piping
Single unblockable channel outlets to single pump. (Channel drain @316 gpm. Max flow rate)
I. Single unblockable channel outlets to two pumps. (Channel drain @217 w/2 ports & 278 gpm. w/3 ports)(See Note 4)

NOTES:

If a variable speed pump is used, use the Max. pump flow calculations
For side wall drains, use appropriate side wall drain flaw as published by manufacturer.
Insert manufacturer's name and approved maximum flow.
See installation instructions for number of ports to be used
suction
Pump and Filtermake, model, and location can not change without submitting a revised plan TDH worksheet
Pump curve for pump specified shall be attached to these sheets.

ADDITIONAL NOTES:

ADDITIONAL ESTIMATING, HEAD LOSSES IN FITTINGS, 45'S AND TEES (INCLUDED)

Myriam Murphy
Engineer of Record
859-866-9620
Telephone No.
bobstaubach@gmail.com
E-Mail Address

PLANS PREPARED BY:
DESIGNS BY ATO Z
DRAWN BY: MJS

THESE ENGINEERING DRAWINGS ARE GIVEN IN CONFIDENCE AND UNDER NO CIRCUMSTANCES ARE TO BE REPRODUCED, IN WHOLE OR IN PART, OR MADE KNOWN TO ANY PERSON, FIRM OR CORPORATION WITHOUT THE PRIOR WRITTEN CONSENT OF THE ENGINEER. ALL RIGHTS ARE HEREBY RESERVED.

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TDH CALCULATIONS
TODD PLAISTED
21391 WIDGEOM TERRACE
FT MYERS BEACH, FLORIDA 33921

No.	Revision/Issue	Date
1.		

Project
Date 2/15/23
Scale AS LISTED
P-6

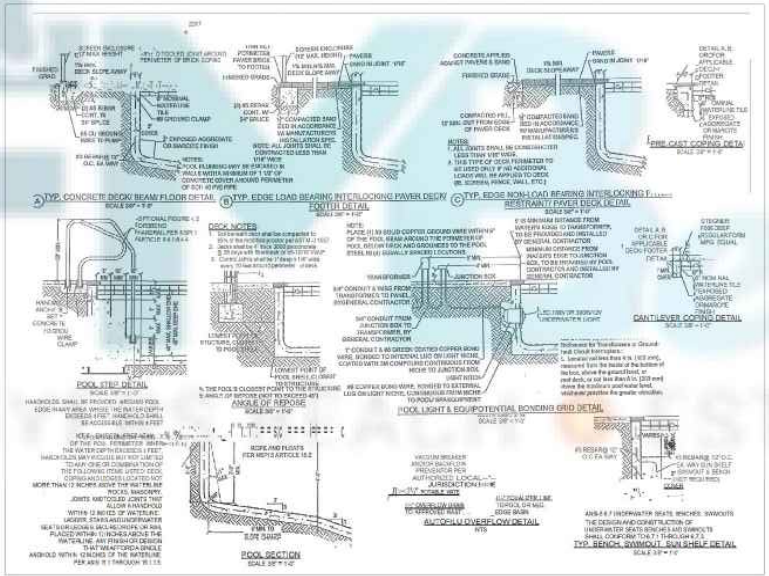
JOBSITE COPY

Appeal Bates #51

App. No. 0147

Reviewed for Compliance

PERMIT 234477



PLANS PREPARED BY:
DESIGNS BY ATO Z
DRAWN BY: MJS

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PLANS ARE DESIGNED PER 2020 FLORIDA BUILDING CODE 7TH EDITION AND ANY NATIONAL ELECTRIC CODE UNLESS NOTED OTHERWISE

ADDITIONAL DETAILS

TODD PLAISTED

21391 WIDGEOM TERRACE

FT MYERS BEACH, FLORIDA 33921

No.	Revision/Issue	Date
1.		

Project

Date 2/15/23

Scale AS LISTED

P-7

JOBSITE COPY

Appeal Bates #52

App. No. 0148

MEMORANDUM

TO: **Mayor Allers, Vice-Mayor Atterholt, Council Members King, Woodson & Safford**

FROM: **Nancy Stuparich, Town Attorney**

RE: ***[SECOND RENEWED] ADMINISTRATIVE APPEAL BUILDING PERMIT # 242333 / #234477 (21391 Widgeon Terrace) FILED BY HIMMELSTEIN ASSOCIATES, LLC, ROBERT HIMMELSTEIN, AND STEPHANIE HIMMELSTEIN***

DATE: **March 3, 2025**

The TOWN OF FORT MYERS BEACH ("the Town") files this Response to the Administrative Appeal of a decision by the Town's Building Official, which was filed by HIMMELSTEIN ASSOCIATES, LLC, ROBERT HIMMELSTEIN, and STEPHANIE HIMMELSTEIN (collectively referred to as "Appellant") on December 13, 2024.

The appeal is of Building Permit #242333/#234477 issued for construction of an enclosed elevated pool at property located at 21391 Widgeon Terrace, Fort Myers Beach, Florida, and owned by Todd R. Plaisted as Trustee for the Todd R. Plaisted Trust ("Plaisted"). Building Permit #242333 was issued on November 15, 2024. A copy of the permit is attached as Exhibit A.

Appellants claim "Plaisted is using incorrect property boundaries according to the recorded survey. Specifically, Plaisted is using condominium "common area" land square footage to increase his private lot size square footage in order to improperly and inappropriately decrease his impervious surface calculation sheet, to appear to be less than .67 of their lot size." Appellants seek review of an administrative decision pursuant to Section 34-86 of the Land Development Code. Appellants' argument is substantively and procedurally flawed. For these reasons, the appeal should be denied with prejudice.

DISCUSSION: Section 34-86 of the Land Development Code provides for the Town Council to review appeals of administrative decisions as follows:

> (a) Function. The town council will hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, determination, or action of any administrative official charged with the administration and enforcement of the provisions of this code, or any other ordinance or portion of this code which provides for similar review; provided, however, that:

(1)No appeal to the town council shall lie from any act by such administrative official pursuant to:

a.An order, resolution, or directive of the town council directing him to perform such act; or

b.Any ordinance or other regulation or provision in this code which provides a different appellate procedure.

(2) The appeal to the town council shall be in writing on forms provided by the director, and shall be duly filed within 30 calendar days, but not thereafter, after such act or decision by the administrative official. The appeal shall specify the grounds for the appeal.

(3) No appeal shall be considered by the town council where it appears to be a circumvention of an established or required procedure. Specifically, in no case may an appeal be heard when the town council determines that the case should more appropriately be heard on a request for a variance.

(4) Appeals from administrative action do not require a public hearing before the local planning agency.

(b) Considerations.

(1) In reaching its decision, the town council shall consider the following criteria, as well as any other issues which are pertinent and reasonable:

a. Whether the appeal is of a nature properly brought for decision, or whether there is an established procedure for handling the request other than through the appeal process (i.e., a variance or special exception, etc.).

b.The intent of the ordinance which is being applied or interpreted.

c. The effect the ruling will have when applied generally to this code.

(2) Staff recommendations, the testimony of the appellant, and testimony of the general public shall also be considered.

> (c) Authority. In exercising its authority, the town council may reverse, affirm, or modify any decision or action of any administrative official charged with the administration or enforcement of this chapter.

Substantive Defect. As provided in Section 34-86(a), Appellants' allege that the Town's Building Official erred in the approval of Building Permit #242333/#234477. Building Permit #234477 was revoked on or about 6/28/2024 due to the inclusion of incorrect survey information in the Town's permit database known as IWorks.

Building Permit#242333 permitted construction of an elevated swimming pool and accessory uses based on a survey that included in its calculation the area associated with the real property as described in the deed transferring title to the property to Plaisted. A copy of the deed was included in the building permit application and provides that Plaisted owns:

> Unit M-1 of FLAMINGO HARBOUR CONDOMINIUM, a Condominium according to the Declaration of Condominium thereof recorded in Official Records Book 1357, page 1089, of the Public Records of Lee County, Florida, and all amendments thereto, together with its undivided share in the common elements.

The Declaration of Condominium contains definitions for "common elements" and "limited common elements." A "limited common element" (area) is defined on page 2 of the Declaration of Condominium as meaning and including those portions of the common elements which are reserved for the use of a certain unit or units to the exclusion of other units. In other words, an area identified as a limited common element can only be used by the owner of the lot located adjacent to it, subject to any limitations and restrictions imposed by the Declaration for the benefit of the other condominium owners.

The Declaration does not itself restrict Plaisted from using the limited common area for purposes such as the calculation of impervious area. Because there was no such restriction in the Declaration and because only Plaisted could use the limited common area property, it was proper for the surveyor to include, and Town staff to rely on the surveyor's calculation of impervious area to include Plaisted's limited common element for purposes of construction of the Plaisted swimming pool. There is no error in the engineer's review of the building permit based on the survey that shows and included, the limited common area as part of the calculation of impervious area, as required by the Land Development Code.

Therefore, the Town's Building Official did not err in his administrative duty to administer Building Permit # 242333 since it was reasonable to rely on the engineer's analysis of

impervious area based on the surveyor's calculation. For this reason, the administrative appeal should be denied.

Procedural Defect. In addition to no substantive basis to approve the appeal as stated above, based on Section 34-86(a)(1)(b), the administrative appeal should be denied on procedural grounds. Any appeal of a decision by the Fort Myers Beach Building Official must be subject to review as provided in Ordinance 24-30 by one of the Town's Special Magistrates. A copy of Ordinance 24-30 is attached as Exhibit C. Ordinance 24-30 provides a different appellate procedure for review of decisions by the Building Official, and therefore is not proper for review by the Town Council.

Moreover, Appellant claims a miscalculation of impervious surface area as required by Section 6-14 of the Land Development Code based on an erroneous survey that includes a portion of condominium common area not owned by Plaisted, as well as an adverse impact to its property as a result of the miscalculation. Appellant's claims are not subject to review by the Town Council since the claims are based on calculations associated with issuance of Building Permit 242333, which is subject to review by one of the Town's Special Magistrates within 30 days of issuance of Building Permit 242333. Moreover, any claim of a miscalculation of impervious surface area related to Building Permit 234477 is moot since that building permit was revoked.

Attachments:
Exhibit A – Approval Letter for Building Permit 242333
Exhibit B - Copy of Ordinance 24-30

ADD A COPY OF THE PERMIT THAT IS THE SUBJECT OF THE APPEAL

ORDINANCE NO. 24-30

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING: 1) DIVISION 3 "UNSAFE BUILDING ABATEMENT CODE" OF ARTICLE I "PROPERTY MAINTENANCE CODES"; AND 2) DIVISION 2 "LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS" OF ARTICLE II "BUILDING CODES" OF CHAPTER 6 "MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS" OF THE LAND DEVELOPMENT CODE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, TO AMEND EXISTING PROVISIONS RELATED TO APPEALS OF THE BUILDING OFFICIAL'S DECISIONS; DIVESTING THE LEE COUNTY'S CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS OF THE RESPONSIBILITY FOR REVIEW OF APPEALS OF THE TOWN BUILDING OFFICIAL'S DECISIONS REGARDING UNSAFE BUILDINGS; AUTHORIZING THE TOWN OF FORT MYERS BEACH SPECIAL MAGISTRATES TO HEAR APPEALS OF THE TOWN'S BUILDING OFFICIAL'S DECISIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

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

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

WHEREAS, on September 28, 2022, residences and businesses in the Town of Fort Myers Beach were destroyed by Hurricane Ian, resulting in the loss of lives, the displacement of lives and catastrophic financial losses; and

WHEREAS, although the Town, residents and businesses have engaged in recovery efforts to repair and rebuild structures in existence prior to Hurricane Ian, the Building Official has identified structures that have sustained significant damage and remain in an unsafe condition; and

WHEREAS, the Town's "Unsafe Building Abatement Code" incorporates the 1985 Standard Unsafe Building Abatement Code to provide a procedure for the Building Official to follow if a structure is determined to be unsafe and requires demolition, with exceptions; and

WHEREAS, the Unsafe Building Abatement Code currently provides that any appeals of the Building Official decision would be reviewed by the Lee County's Construction Board of Adjustment and Appeals (the "Board"); and

WHEREAS, the Interlocal Agreement between the Town and the Lee County Board of County Commissioners related to the Board's appellate review of the Town's Building Official's decisions has expired; and

WHEREAS, it is in the Town's best interest to reassign the responsibility of appellate review of the Town's Building Official's decisions to the Town of Fort Myers Beach Special Magistrate; and

WHEREAS, on the 9th day of September 2024, the Town Council held a first reading of the Ordinance and gave full and complete consideration to the request of the proposed ordinance to amend the Unsafe Building Abatement Code as provided herein; and

WHEREAS, a second reading was scheduled for October 28, 2024 and was continued to November 18, 2024; and

WHEREAS, a Business Impact Estimate was prepared and posted on the City's website as required by Section 166.041(4), Florida Statutes; and

WHEREAS, an advertisement of the public hearing for adoption of the Ordinance was published 10 days prior to the second reading of the proposed Ordinance as required by Section 166.041, Florida Statutes; and

WHEREAS, on the 18th day of November 2024, the Town Council held a second and final reading of the Ordinance; and

WHEREAS, the Town Council determined that adoption of the Ordinance as provided herein is in the best interest of the health, safety and welfare of the public.

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

Section 1. That 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. That Section 6-37 of Division 3 "Unsafe Building Abatement Code" of Article I "Property Maintenance Codes," is hereby amended to read as follows:

DIVISION 3. - UNSAFE BUILDING ABATEMENT CODE

Sec. 6-37. - Exceptions and revisions.

a) Section 105 of Chapter I, Administration is hereby amended as follows:

Section 105, relating to the board of adjustment and appeals, is deleted, and replaced by the procedures set forth for the delegation of authority to the Town of Fort Myers Beach Special

Magistrates ~~Lee County's Construction Board of Adjustment and Appeals~~ found in division 2 of article II of this chapter. Any reference to the board of adjustment and appeal as may be in other Chapters shall be amended as provided herein by reference.

b) Sections 302.1.1(4) and 302.1.2-302.1.4 in Chapter III, Inspection and Notice of Noncompliance are hereby amended as follows:

302.1.1(4) A statement advising that any person having any legal interest in the property may appeal the notice by the Building Official to the Town of Fort Myers Beach Special Magistrates ~~Lee County Board of Adjustment and Appeals~~; and that such appeal shall be in writing and shall be filed with the Building Official within 30 days from the date of the notice in accordance with Division 2 of Article II of Chapter 6 of the Fort Myers Beach Code of Ordinances and that failure to appeal in the time specified will constitute a waiver of all rights to an administrative hearing.

302.1.2 The notice and all attachments thereto shall be served upon the property owner as identified on the records of the Lee County Property Appraiser and posted on the property. Failure of the building official to serve any person or entity other than the owner of record shall not invalidate any proceedings hereunder nor shall it relieve any other person or entity served from any obligation imposed on that person or entity.

302.1.3 The notice shall be served either personally by hand delivery by Town staff or a process server or by certified mail, postage prepaid, return receipt requested, to the owner of record at the address shown for the owner on the Lee County Property Appraiser's website. Notice shall also be mailed to the address of the building or structure involved in the proceedings. The failure of any person or entity to receive notice, either actual or constructive, other than the owner of record, shall not invalidate any proceedings under this section. Service by certified or registered mail as herein described shall be effective on the date the notice was received as indicated on the return receipt.

302.1.4 Proof of service of the notice shall be by written affidavit indicating the date, time and manner in which service was made. In the event service is not perfected by certified mailing or hand delivery, the property owner shall be subject to constructive service using the methods as provided in Chapter 49, Florida Statutes.

c) *Chapter VI, Implementation* is hereby amended as follows:

601.2.2 Subsequent to posting the building, the building official may cause the building to be repaired to the extent required to render it safe or if the notice required demolition, to cause the building or structure to be demolished and all debris removed from the premise. The cost of repair or demolition, and all reasonable attorney's fees and costs, and costs of notices related thereto, and all collection costs and expenses and the administrative fee as provided hereinafter, shall constitute a lien on the property and shall be collected in a manner provided by law.

d) *Chapter VII, Recovery of Cost of Repair or Demolition* is hereby amended as follows:

If the building official proceeds to demolish the building or structure as set forth herein, the town council shall, by proper resolution, assess the entire cost of such demolition and removal, and all reasonable attorney's fees and costs, and costs of notices related thereto, and all collection costs and expenses plus an administrative fee in an amount as adopted by the town council by resolution, against the real property upon which such cost and fee was incurred, which assessment, when made, shall constitute a lien upon the property superior to all others except taxes. The lien shall be filed in the public land records of the county. The resolution of assessment and lien must indicate the nature of the assessment and lien, the lien amount, and an accurate description of the property affected. The lien becomes effective on the date of filing such notice of lien and shall bear interest from such date at the rate of ten percent per annum until paid. If the resulting lien remains unpaid the town may:

(1) File suit to foreclose on the liened property as provided by law in suits to foreclose mortgages; or

(2) Follow any other lawful process or procedure available for enforcement or collection of the lien, including, but not limited to, the Uniform Method of Collection in accordance with any general law of the state relating to the enforcement or collection of municipal liens.

Section 3. That Division 2 "Lee County's Boards of Adjustment and Appeals" of Article II "Building Codes," of Chapter 6 "Maintenance Codes, Building Codes and Coastal Regulations," of the Land Development Code of the Town of Fort Myers Beach, Florida, are hereby amended to read as follows:

DIVISION 2. - ~~LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS~~ APPEALS OF DECISIONS BY THE TOWN'S BUILDING OFFICIAL

Sec. 6-71. - Applicability of division.

This division shall include, but not be limited to, any contractor, owner, agent, manufacturer or supplier providing construction services or materials regulated by standard codes enforced by the Town of Fort Myers Beach.

Sec. 6-72. - Intent of division.

The town has adopted various standard codes relating to building, plumbing, mechanical, gas, electrical, unsafe buildings, housing and fire. This division is intended to be construed in conjunction with these codes.

~~**Sec. 6-73. - Boards established; jurisdiction.**~~

~~Lee County has established a construction board of adjustment and appeals known as the Lee County Board of Adjustment and Appeals. The purpose of that board is to hear and decide appeals from the decision of the county's building official and fire official or their designees on any of the various standard codes regulated and enforced by the county except the plumbing code~~

~~and mechanical code. Lee County has also established separate boards of adjustment and appeals to arbitrate matters involving the plumbing code and mechanical code.~~

~~**Sec. 6-74. – Delegation of authority to Lee County's Boards of Adjustment and Appeals.**~~

~~(a) The Town of Fort Myers Beach hereby delegates to each of the three Lee County Boards of Adjustment and Appeals the authority to make decisions on appeals that may be filed in accordance with § 6-80 of this division.~~

~~(b) The town attorney will provide legal advice to each of the three Lee County Boards of Adjustment and Appeals when warranted.~~

~~**Secs. 6-75—6-79. - Reserved.**~~

Secs. 6-73—6-79. - Reserved.

Sec. 6-80. - Right of appeal; notice of appeal.

(a) Whenever the building official or fire official or their designees shall reject or refuse to approve the mode or manner of construction to be followed or materials to be used, or when it is claimed that the provisions of a code do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of a code or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the building official or fire official or their designees to the Town of Fort Myers Beach Special Magistrates ~~Lee County's appropriate Board of Adjustment and Appeals~~. Notice of appeal shall be in writing and filed within 30 days after the decision is rendered by the building official or fire official or their designees. All requests for appeal shall be on forms provided by the building official with payment of the appropriate fee.

(b) In the case of a building or structure which in the opinion of the building official is unsafe or dangerous, the building official may, in his order, limit the time for such appeal to a shorter period.

Sec. 6-81. - Variations and modifications.

(a) ~~Lee County's Boards of Adjustment and Appeals~~ A Town of Fort Myers Beach Special Magistrate, pursuant to an appeal from a decision of the building official or fire official or their designees, may vary the application of a code to any particular case when, in its opinion and based upon sufficient evidence, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of a code or public interest, or when, in its opinion and based upon sufficient evidence to the contrary, the interpretation of the building official or fire official or their designees should be modified or reversed.

(b) Any decision of ~~Lee County Boards of Adjustment and Appeals~~ the Town of Fort Myers Beach Special Magistrate to vary the application of any provision of a code or to modify an order of the building official or fire official or their designees shall specify the variation or modification made, the conditions upon which it is made, and the reasons therefor.

(c) Variances to the floodplain regulations must meet the additional criteria in article IV of this chapter.

Sec. 6-82. - Decisions.

(a) Every decision of ~~Lee County's Boards of Adjustment and Appeals~~ the Town of Fort Myers Beach Special Magistrate shall be final; subject, however, to any remedy an aggrieved party might have at law or in equity. Every decision shall be in writing. ~~and shall indicate the vote upon the decision. Every decision of Lee County's Boards of Adjustment and Appeals shall be signed and attested to by the chairman of the board.~~

(b) ~~Lee County's Boards of Adjustment and Appeals~~ The Town of Fort Myers Beach Special Magistrate shall, in every case, reach a decision without unreasonable or unnecessary delay.

(c) If a decision of any of the Town of Fort Myers Beach Special Magistrates ~~Lee County's Boards of Adjustment and Appeals~~ reverses or modifies a refusal, order or disallowance of the building official or fire official or their designees or varies the application of any provision of a code, the appropriate official shall immediately take action in accordance with such decision.

(d) Any aggrieved person may obtain judicial review of the decision of ~~Lee County's Boards of Adjustment and Appeals~~ the Town of Fort Myers Beach Special Magistrate by filing a petition for writ of certiorari in the circuit court. Such petition must be filed within 30 calendar days after the ~~board of adjustment and appeals'~~ Special Magistrate's decision, but not thereafter, pursuant to the Florida Rules of Civil Procedure. The original petition for writ of certiorari must be filed with the clerk of the circuit court. Copies of the petition shall be filed with the building official for forwarding to the town attorney.

Secs. 6-83—6-110. - Reserved.

Section 4. That the town council intends that the provisions of this ordinance be made a part of the Fort Myers Beach, Florida, 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 5. 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 6. If any section, subsection, sentence, clause, word, 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 shall become effective upon adoption by the Town Council.

The foregoing Ordinance was adopted by the town council upon a motion by Council Member King and seconded by Mayor Allers, and upon being put on a roll call vote, the results were as follows:

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

ADOPTED this 18th day of November 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers (Nov 22, 2024 13:44 EST)

Dan Allers, Mayor

ATTEST:

Amy Baker (Nov 25, 2024 13:06 EST)

Amy Baker, Town Clerk

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

Nancy Stuparich (Nov 25, 2024 12:20 EST)

Vose Law Firm, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 22nd day of November 2024.

Kevin C. Karnes, Lee County Clerk of the Circuit Court & Comptroller
INSTR# 2024000061667, DocType D, Pages 2, Recorded 3/4/2024 at 4:40 PM, DeputyClerk MTAYLORESTEP
Rec Fees: $18.50 Deed Doc: $0.70

Prepared by and return to:
THOMAS G. ECKERTY, Esq
Attorney at Law
12734 Kenwood Lane, Suite 89
Fort Myers, FL 33907-5638

THIS DOCUMENT PREPARED WITHOUT EXAMINATION OF TITLE

Strap No: 34-46-24-W1-022M0.0010

Recording: $18.50
Documentary Stamps: $0.70
Consideration: $0.00

WARRANTY DEED

THIS WARRANTY DEED made this 26 day of JANUARY, 2024, between **TODD R. PLAISTED**, (the "Grantor"), whose post office address is 15781 Andrie Street NW, Ramsey, Minnesota 55303, and,

TODD R. PLAISTED, Trustee of The Todd R. Plaisted Revocable Trust Agreement, with full power and authority to protect, conserve, sell, lease, encumber or otherwise manage and dispose of said property (the "Grantee"), whose post office address is 15781 Andrie Street NW, Ramsey, Minnesota 55303.

W I T N E S S E T H:

That the Grantor, for and in consideration of the sum of Ten Dollars ($10.00) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee all that certain land, located in Lee County, State of Florida, and more particularly described as follows:

Unit M-1 of FLAMINGO HARBOUR CONDOMINIUM, a Condominium according to the Declaration of Condominium thereof recorded in Official Records Book 1357, page 1089, of the Public Records of Lee County, Florida, and all amendments thereto, together with its undivided share in the common elements.

The Real Property or its Address is commonly known as: **21391 Widgeon Terrace, Fort Myers Beach, Florida 33931**

THIS PROPERTY IS NOT THE HOMESTEAD OF THE GRANTOR.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS OF RECORD AND TAXES.

TO HAVE AND TO HOLD the premises aforesaid, with all and singular the rights, privileges, appurtenances and immunities thereto belonging unto the said Grantee and its successors and assigns, forever; the said Grantor hereby covenanting that the said premises are free and clear from any encumbrance, except as set forth above, that it is lawfully seized of an indefeasible estate in fee simple to said premises and may convey the same, and that it will warrant and defend the title to said premises unto said Grantee and its successors and assigns, forever, against the lawful claims and demands of all persons whomsoever, except real property taxes for the year 2024 and thereafter.

IN WITNESS WHEREOF, the said first party have signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

Todd R. Plaisted

Witness #1 Signature

Alex Plaisted
Witness #1 Name

5711 164th Ln NW Ramsey MN 55303
Witness #1 Address

Witness #2 Signature

Jack Holter
Witness #2 Name

10615 53rd ST NE Albertville, MN 55301
Witness #2 Address

STATE OF MN
COUNTY OF Sherburne

The foregoing instrument was acknowledged before me, **by means of [X] physical presence or ☐ online notarization,** this 26 day of January, 2024, by Todd R. Plaisted, who provided Driver's License as identification.

NOTARY STAMP OR SEAL

TODD STEVEN SCHWARZROCK
NOTARY PUBLIC
MINNESOTA
My Commission Expires 01/31/2025

NOTARY PUBLIC: Todd Schwarzrock
My Commission No:
My Commission Expires: 1-31-25

12123227

THIS INSTRUMENT PREPARED BY:
RICHARD D. DeBOEST
ATTORNEY AT LAW
P. O. BOX 1451
FORT MYERS, FLORIDA 33902

DECLARATION OF CONDOMINIUM

OF

OR 1357 PG 1089

FLAMINGO HARBOUR CONDOMINIUM

Flamingo Bayou, Inc., a Florida corporation, herein called "developer" on behalf of itself, its sucessors, grantees and assigns, to its grantees and assigns and their heirs, successors and assigns hereby make this Declaration of Condominium:

1. SUBMISSION TO CONDOMINIUM - The lands located in Lee County, Florida, owned by Developer and described in attached Exhibit "D", are submitted to the condominium form of ownership.

2. NAME AND SCOPE - The name of the condominium is FLAMINGO HARBOUR CONDOMINIUM, and will consist of 13 residential units consisting of land only (a Land Condominium).

3. NAME - ASSOCIATION - The name of the condominium association is FLAMINGO HARBOUR CONDOMINIUM ASSOCIATION, INC. This association shall be incorporated as a non-profit Florida corporation.

4. DEFINITIONS - The terms used herein shall have the meanings stated in the Condominium Act (Florida Statutes, Chapter 718) and as follows unless the context otherwise requires:

A. UNIT - A part of the condominium property which is subject to exclusive ownership.

B. UNIT OWNER - The owner of a Condominium parcel.

C. UNIT NUMBER - The letter, number, or combination thereof which is designated upon the surveyor plans, and which is used as the identification of a unit.

D. ASSESSMENT - Means a share of the funds required for the payment of common expenses which from time to time is assessed against the unit owner.

E. ASSOCIATION - The corporation responsible for the operation of the condominium.

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-1-

RECORD VERIFIED - SAL CURACI CLERK
BY G WORKMAN D.C.

F. BOARD OF ADMINISTRATION - means the Board of Directors responsible for administration of the association.

G. COMMON ELEMENTS - The portions of the condominium property not included in the units as defined in Florida Statute 718.108, including:

(.1) Those portions of the land that do not constitute the units.

(.2) Improvements which are not included within the units.

(.3) Easements.

(.4) Installations for the furnishing of services to more than one unit or to the common elements, such as electricity, gas, water and sewer.

(.5) Personal property - tangible personal property may be purchased, sold, leased, replaced and otherwise dealt with by the association, through its Board of Directors, on behalf of the members of the association, without the necessity of any joinder by the members.

H. LIMITED COMMON ELEMENTS - means and includes those portions of the common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

I. COMMON EXPENSES - All expenses and assessments properly incurred by the association for the condominium.

J. COMMON SURPLUS - means the excess of all receipts of the association including but not limited to assessments, rents, profits and revenues on account of the common elements over the amount of the common expenses.

K. PERSON - means an individual, corporation, trustee, or other legal entity capable of holding title to real property.

L. SINGULAR, PLURAL, GENDER - Whenever the context so permits, the use of the plural shall include the singular, the plural, and use of any gender shall be deemed to include all genders.

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M. CONDOMINIUM DOCUMENTS - means the declaration and its attached exhibits, which set forth the nature of the property rights in the condominium and the covenants running with the land which govern these rights. All the condominium documents shall be subject to the provisions of the declaration.

N. CONDOMINIUM PARCEL - means a unit together with the undivided share in the common elements which is appurtenant to the unit.

O. CONDOMINIUM PROPERTY - means the lands and personal property subject to condominium ownership, whether or not contiguous and all improvements thereon and all easements and rights appurtenant thereto.

P. OPERATION - means and includes the administration and management of the condominium property.

5. UNITS SHALL BE CONSTITUTED AS FOLLOWS:

A. REAL PROPERTY - Each unit (which is the parcel of land graphically depicted and numbered on the surveyor plans), all appurtenances thereto, for all purposes, constitute a separate parcel of real property, which may be owned in fee simple and which may be conveyed, transferred and encumbered in the same manner as any other parcel of real property, independently of all other parts of the property, subject only to the provisions of the Condominium Documents and applicable laws.

B. BOUNDARIES - Since the unit has been defined herein as land, the only boundary each unit shall have is its perimeter boundary as shown on the surveyor plans.

C. EXCLUSIVE USE - Each unit owner shall have the exclusive use of his unit, subject to easements.

D. APPURTENANCES - The ownership of each unit shall include, and there shall pass as appurtenances thereto whether or not separately described, all of the right, title and interest of a unit owner in the condominium property which shall include but not be limited to:

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ATTORNEYS AT LAW
P. O. BOX 1480
COLLIER ARCADE
FORT MYERS, FLORIDA

(.1) COMMON ELEMENTS - an undivided share of the common elements as defined in Chapter 718.108, Florida Statutes.

(.2) ASSOCIATION MEMBERSHIP and an undivided share in the common surplus and property, real and personal, held by the association.

E. EASEMENTS - The following non-exclusive easements are hereby granted from the Developer to each unit owner, to the association and its employees, agents and hired contractors, to utility companies, unit owners' families in residence, guests, invitees and to governmental and emergency services are hereby granted and created:

(.1) INGRESS AND EGRESS - Easement as shown on the plot plan for ingress and egress, to units and public ways.

(.2) MAINTENANCE, REPAIR AND REPLACEMENT - Easements through the units and common elements for maintenance, repair and replacements. Such access is to be only during reasonable hours except that access may be had at any time in case of emergency.

(.3) UTILITIES - Easement as shown on the plot plan for conduits, ducts, plumbing, wiring and other facilities for the furnishing of services to other units and the common elements.

(.4) Emergency, regulatory, law enforcement and other public services in the lawful performance of their duties upon the condominium property.

G. MAINTENANCE - The responsibility for the maintenance of a unit shall be as follows:

(.1) BY THE ASSOCIATION - The association shall maintain, repair, and replace at the association's expense:

(i) The roads and all other common elements;

(ii) Provided that if the maintenance and repair and replacement of any of the above shall be made necessary because of the negligence, act or omission of a unit

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owner, his family, lessees, invitees and guests, in that event the work shall be done by the association at the expense of the unit owner; and the cost shall be secured as an assessment.

(iii) All incidental damage caused to a unit by work done or ordered by the association shall be promptly repaired by and at the expense of the association.

(.2) BY THE UNIT OWNER - The responsibility of the unit owner shall be as follows:

(i) To maintain, repair and replace at his expense, all portions of the unit and improvements placed upon the unit by or at the order of the owner except the portions to be maintained, repaired and replaced by the association.

H. ALTERATION AND IMPROVEMENT - No owner shall make any alterations in the portions of the improvements which are to be maintained by the association or remove any portion thereof or make any additions thereto, or do any work which would jeopardize the safety or soundness of the common elements, or impair any easements.

J. COMMON ELEMENTS -

(.1) The common elements shall be owned by the unit owners in such undivided shares as are set forth in Exhibit "D".

(.2) No action for partition of the common elements shall lie.

(.3) The maintenance and operation of the common elements shall be the responsibility of the association which shall not, however, prohibit management contracts.

(.4) Each unit owner and the association shall be entitled to use the common elements in accordance with the purposes for which they are intended, but no such use shall hinder or encroach upon the lawful rights of owners of other units.

(.5) Enlargement or material alteration of or substantial additions to the common elements may be effectuated only by amendment to the declaration.

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6. FISCAL MANAGEMENT - The fiscal management of the condominium including budget, fiscal year, assessments, lien for and collection of assessments, and accounts shall be as set forth in the By-Laws.

7. ASSOCIATION - The administration of the condominium by the Board of Directors and its powers and duties shall be as set forth in the By-Laws.

8. INSURANCE - The insurance which shall be carried upon the property shall be governed by the following provisions:

A. UNIT OWNERS - Each unit owner shall obtain and maintain insurance at his own expense, affording coverage upon buildings and other insurable improvements constructed upon his unit against loss due to fire, windstorm and extended coverage, and flood insurance, if available.

B. ASSOCIATION - The Association shall maintain public liability and property damage insurance in such amounts as shall be decided by the association. The association may purchase such other insurance as they may deem necessary.

C. PREMIUMS - Premiums upon insurance policies purchased by the association shall be paid by the association and charged as common expenses.

D. ALL INSURANCE POLICIES PURCHASED by the association shall be for the benefit of the association and the unit owners and their mortgagees as their respecitve interests may appear.

E. INSURANCE ADJUSTMENTS - Each unit owner shall be deemed to have delegated to the Board of Directors his right to adjust with insurance companies all losses under policies purchased by the Association.

9. USE RESTRICTIONS - The use of the property of the condominium shall be in accordance with the following provisions:

A. LAWFUL USE - All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the require-

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ments of governmental bodies which require maintenance, modification or repair upon condominium property shall be the same as the responsibility for the repair and maintenance of the property concerned as expressed earlier in this Declaration.

B. REGULATIONS - Reasonable regulations concerning the use of the condominium property may be made and amended from time to time by a majority vote of the association. Copies of such regulations and amendments thereto shall be posted conspicuously and shall be furnished by the association to all unit owners. No regulation may discriminate against any group or class of users.

C. ALL UNITS shall be used for residential purposes only.

D. THE BOARD OF DIRECTORS of the association shall constitute the architectural control committee and no hourses or other structures may be erected upon the units without the prior written approval of the committee. The committee may consider size, setback, style, color, landscaping and any other factor they consider to be pertinent in making their decision.

E. NO HOUSE TRAILER or mobile home shall be used as a residence upon the condominium property.

F. NO UNIT may be subdivided.

G. IN ORDER TO PROTECT the value of all the units, the association may enter upon units to perform groundskeeping and exterior maintenance of structures so that they are at all times presentable and in good condition and appearance if the owner fails to do so after 30 days' written notice delivered or mailed to the owner's last known address and the costs thereof shall be secured as an assessment against the unit.

H. UNITS A THROUGH L, inclusive, are restricted to single family or duplex residential purposes only, and Unit M to fourplex residential purposes only.

10. LIENS -

A. PROTECTION OF PROPERTY - All liens against a unit other than for mortgages, taxes or special assessments, will be satisfied or otherwise removed within 30 days from the

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date the lien attaches. All taxes and special assessments upon a unit shall be paid before becoming delinquent.

B. NOTICE OF LIEN - An owner shall give notice to the association of every lien upon his unit other than for mortgages, taxes and special assessments within seven (7) business days after the attaching of the lien.

C. NOTICE OF SUIT - An owner shall give notice to the association of every suit or other proceedings which may affect the title to his unit, such notice to be given within seven (7) business days after the owners receives knowledge thereof.

D. FAILURE TO COMPLY with this section concerning liens will not affect the validity of any judicial sale.

11. COMPLIANCE AND DEFAULT - Each owner and the association shall be governed by and shall comply with the terms of the condominium documents as they may be amended from time to time.

A. FAILURE TO COMPLY shall be grounds for relief, which relief may include but shall not be limited to an action to recover sums due for damages or injunctive relief or both, and which actions may be maintained by the association or by an aggrieved owner.

B. IN ANY SUCH PROCEEDING the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney fees as may be awarded by the Court.

C. IN THE EVENT that the grievance is that of an owner or owners against the Board of Directors or a member thereof, prior to the institution of litigation, written notice in detail of the grievance shall be given the Directors and they shall be allowed a period of 20 days in which to cure or correct.

D. NO WAIVER OF RIGHTS - The failure of the association or any owner to enforce any covenant, restriction or other provision of the condominium documents shall not constitute a waiver of the right to do so thereafter as to later infractions.

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12. AMENDMENTS - Amendments to any of the condominium documents shall be in accordance with the following:

A. AN AMENDMENT may be proposed either by the Board of Directors or by any owner and may be considered at any meeting of the owners, regular or special, of which due notice has been given according to the By-Laws, which notice includes notice of the substance of the proposed amendment. Passage shall be evidenced by a certificate executed with the formalities of a deed signed by the President or Vice-President and Secretary of the association that it has been enacted by the affirmative vote of the required percentage of unit owners (which vote may be evidenced by written approval of owners not present and the separate written joinder of mortgagees where required; shall include the recording data identifying the Declaration and which shall become effective when recorded according to law.

B. CORRECTORY AMENDMENT - Whenever it shall appear that there is a defect, error or omission in any of the condominium documents amendment of which will not materially adversely affect the property rights of unit owners, a 51% vote of the owners shall be the required percentage, or the procedure set forth in F. S. 718.110(5) may be used.

C. REGULAR AMENDMENTS - An amendment which does not change the configuration or size of any condominium unit in any material fashion, materially alter or modify the appurtenances to such unit, change the proportion or percentage by which the owner of the parcel shares the common expenses and owns the common surplus or materially adversely affects the property rights of owners may be enacted by a 66 2/3% vote.

D. EXTRAORDINARY AMENDMENTS - An amendment which will have the effect of doing any of the things mentioned in "C" above shall require the affirmative vote of all the record owners of the affected units and all record owners of liens thereon and the affirmative vote of the owners of all other units. This section shall be deemed to include enlarge-

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ment of, material alteration of or substantial additions to the common elements only if the same will have a material adverse effect on the owners' property rights; which shall otherwise be treated as regular amendments. Any vote changing the percentage of ownership of the common elements or sharing the common expenses shall be conducted by secret ballot.

13. TERMINATION - The condominium shall be terminated if at all, in the following manner:

A. BY THE AGREEMENT of 66 2/3% of the owners which agreement shall be evidenced by an instrument or instruments executed in the manner required for conveyance of land. The termination shall become effective when such Agreement has been recorded according to law.

B. SHARES OF UNIT OWNERS AFTER TERMINATION - After termination of the condominium, the owners shall continue to own the parcels which were formerly their units in fee simple and also the limited common elements land abutting their unit shown on the plot plan and the holders of mortgages and liens against the former unit or units owned by such owners shall have mortgages and liens upon such parcels. All funds held by the association except for the reasonably necessary expenses of winding up shall be disbursed to the unit owners in the shares set forth in Exhibit "D". The costs incurred by the association in connection with a termination shall be a common expense.

C. FOLLOWING TERMINATION - The road shall remain burdened with a non-exclusive easement for ingress and egress and public utilities in favor of the property parcels which were units and limited common elements in the condominium prior to the termination, or in the alternative the owners may elect to deed the road to the county as a public road if the county will accept it or to a non-profit corporation in which all the owners would be members, formed to maintain the road.

D. THE MEMBERS OF THE LAST BOARD OF DIRECTORS shall continue to have such powers as in this Declaration are granted,

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notwithstanding the fact that the association itself may be dissolved upon a termination, subject to the limitations of F. A. Chapter 617 (1977).

14. PROVISIONS PERTAINING TO THE DEVELOPER -

A. SO LONG AS THE DEVELOPER holds more than one unit for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Developer:

(.1) Assessment of the Developer as a unit owner for capital improvements.

(.2) Any action by the association that would be detrimental to the sale of units or the completion of the project by the Developer including such use of unsold units and common areas as may facilitate completion and/or sale, maintenance of a sales office, showing the property and display of signs.

B. UNTIL A MAJORITY OF THE BOARD OF DIRECTORS of the association is elected from owners other than the Developer or its nominees, the Developer reserves the right for itself, or its nominees, to provide and charge for management which shall be fair and reasonable.

15. RIGHTS OF MORTGAGEES - Where a mortgagee of a first mortgage of record obtains title to a unit by foreclosure, such mortgagee and its successors and assigns shall not be liable for such unit's assessments or share of the common expenses which become due prior to acquisition of title unless such share is secured by a claim of lien for assessments recorded prior to the recordation of the subject mortgage. In a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor for his share of the common expenses up to the time of the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. See F. S. 718.116(1)(a).

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Also, such mortgagee may occupy, lease, sell or otherwise dispose of such unit without the approval of the association.

16. ENFORCEMENT OF ASSESSMENT LIENS - Liens for assessments may be foreclosed by suit brought in the name of the association in like manner as a foreclosure of mortgage on real property. During his occupancy, the foreclosed owner shall be required to pay a reasonable rental and the association shall be entitled to the appointment of a receiver to collect the same, and the association shall have all the powers provided in F. S. 718.116, including specifically interest at ten (10) percent per annum on unpaid assessments and reasonable attorney's feets incident to the collection of such assessment or enforcement of such lien, with or without suit.

17. MEMBERS - The qualification of members, the manner of their admission and voting by members shall be as follows:

A. ALL OWNERS OF UNITS in the condominium shall be members of the Association, and no other persons or entities shall be entitled to membership.

B. MEMBERSHIP IN THE ASSOCIATION shall be established by the recording in the Public Records of Lee County, Florida, a deed or other instrument establishing a change of record title to a unit in the condominium and delivery to the association of a copy of such instrument, the new owner thereby becoming a member of the association. The membership of the prior owner shall be thereby terminated. Provided, however, that the change of ownership and occupancy of the new owner must have been in compliance with this declaration and the association need not recognize membership or ownership in any person until its requirements have been complied with.

18. INDEMNIFICATION - Every Director of the association shall be indemnified by the association against all expenses and liabilities, including counsel fees, reasonably incurred or imposed upon him in connection with any proceedings to which

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he may be a party, or in which he may become involved by reason of his being or having been a Director of the association, or any settlement thereof, whether or not he is a Director at the time such expenses are incurred, except in cases wherein the Director is adjudged tuilty of nonfeasance, misfeasance or malfeasance in the performance of his duties, or shall have breached his fiduciary duty to the members of the association. Provided however, that the association shall not be liable for payment of a voluntary settlement unless it is first approved by the Board of Directors.

19. COMMON EXPENSES AND COMMON SURPLUS - The percentage of sharing common expenses and the percentage of ownership of common surplus are shown on Exhibit "C" to this declaration and are based on the approximate square footage within each unit. The manner of sharing the common expenses will be such that units of approximately equal square footage will pay the same dollar assessment, and the dollar assessments on units of different sizes will be fair in relation to the others.

20. SEVERABILITY - If any provision of this declaration or the exhibits thereto, as now constituted or as later amended, or any section, sentence, clause, phrase or word, or the application thereof in any circumstances is held invalid, the validity of the remainder and of the application of any such provision, section, sentence, clause, phrase or word in other circumstances shall not be affected thereby.

21. UNTIL THE COMPLETION OF THE CONTEMPLATED IMPROVEMENTS to the condominium property, the Developer specifically reserves the right, without joinder of any person, to make such changes in the declaration and its attachments or in the plan of development, as may be required by any lender, governmental authority or as may be, in its judgment, necessary or desirable. This paragraph shall take precedence over any other provision of the declaration or its attachments.

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OR 1357 PG 1102

THIS DECLARATION OF CONDOMINIUM and attachments hereto made and entered into this 13th day of June, 1979.

FLAMINGO BAYOU, INC.,
A Florida Corporation

(Corporate Seal)

By C. A. Cartwright (SEAL)
President

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me this 13th day of June, 1979, by C. A. CARTWRIGHT, President of FLAMINGO BAYOU, INC., a Florida corporation, on behalf of the corporation.

Sharon M. Wells
Notary Public

My Commission expires:

Notary Public, State of Florida at Large
My Commission Expires Nov. 8, 1980

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EXHIBIT "A"

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BY-LAWS

OF

FLAMINGO HARBOUR CONDOMINIUM ASSOCIATION, INC.

1. IDENTITY - These are the By-Laws of FLAMINGO HARBOUR CONDOMINIUM ASSOCIATION, INC., a non-profit Florida corporation formed for the purpose of administering Flamingo Harbour Condominium, which is located at Fort Myers Beach, Florida, upon the lands described in the Declaration of Condominium. (The corporation shall hereafter be referred to as the Association).

(.1) OFFICE - The office of the Association shall be at the Condominium.

(.2) FISCAL YEAR - The fiscal year of the Association shall be the calendar year.

(.3) SEAL - The seal of the Association shall bear the name of the Association, the word "Florida", and the year of establishment.

2. MEMBERS' MEETINGS -

(.1) ANNUAL MEMBERS' MEETINGS shall be held at the Condominium or at such other convenient location as may be determined by the Board of Directors, at such hour and upon such date each year as may be determined by the Board, for the purpose of electing Directors and of transacting any business authorized to be transacted by the members.

(.2) SPECIAL MEMBERS' MEETINGS shall be held whenever called by the President, Vice President, or by a majority of the Board of Directors, and when called by written notice from ten (10) percent of the entire membership. As

to the meeting required when unit owners other than the Developer are entitled to elect a member or members of the Board of Directors, the meeting may be called and notice given by any unit owner if the Association fails to do so.

(.3) NOTICE OF MEMBERS' MEETINGS - Notice of the annual meeting shall be sent to each unit owner by United States mail at least 14 days prior to the annual meeting. A post office certificate of mailing shall be obtained and retained as proof of such mailing. Written notice of the meeting shall also be posted in a conspicuous place on the condominium property at least 14 days prior to the annual meeting.

The Board of administration shall also mail a meeting notice and copies of the proposed annual budget of common expenses to the unit owners not less than 30 days prior to the meeting at which the budget will be considered.

Notice of a special meeting to elect a director or directors from the unit owners other than the Developer is specified in By-Law 3(.2)(D)(ii).

Notice of a special meeting called by the Board at the written request of ten (10) percent of the owners because of a budget exceeding 115% of that of the preceding year requires not less than 10 days' written notice to each unit owner.

Notice of other special meetings not covered above shall be in writing and mailed to each member first class, postage pre-paid not less than 10 days prior to the meeting.

However, unit owners may waive notice of specific meetings and may take action by written agreement without meetings where it is in the best interest of the condominium to do so.

All notice of meetings shall state clearly and particularly the purpose or purposes of the meeting.

(.4) A QUORUM at members' meetings shall consist of persons entitled to cast a majority of the votes of the entire membership. The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such member for the purpose of determining a quorum. Decisions made by owners of a majority of the units represented at a meeting at which a quorum is present shall be binding and sufficient for all purposes except an amendment to the condominium documents or such other decision as may by law or said documents require a larger percentage in which case the percentage required in the documents or law shall govern.

(.5) EACH UNIT shall have one indivisible vote, and the vote of the owners of a unit owned by more than one person or by a corporation or other entity shall be cast by the person named in a certificate signed by all of the owners of the unit and filed with the Secretary of the Association. The certificate shall be valid until revoked by a

subsequent certificate. If such a certificate is not on file, the vote of such unit shall not be considered in determining the requirement for a quorum nor for any other purpose. No certificate is required for a unit owned by husband and wife and either spouse may cast the vote of that unit.

(.6) PROXIES Votes may be cast in person or by proxy. Proxies shall be in writing, signed and dated and shall be valid only for the particular meeting designated therein and must be filed with the Secretary before or at the appointed time of the meetings.

(.7) APPROVAL OR DISAPPROVAL of a unit owner upon any matter, whether or not the subject of an Association meeting, shall be by the same person who would cast the vote of such owner if in an Association meeting.

(.8) ADJOURNED MEETINGS - If any meeting of members cannot be organized because a quorum has not attended, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

(.9) THE ORDER OF BUSINESS AT ANNUAL MEMBERS' MEETINGS, and, as far as applicable at all other members' meetings, shall be:

(a) Election of Chairman of the meeting, unless the President or Vice-President of the Association is present when he (or she) shall preside.

(b) Calling of the roll and certifying of proxies.

(c) Proof of Notice of meeting or waiver of notice.

(d) Reading and disposal of any unapproved minutes.

(e) Reports of Directors.

(f) Reports of Committees.

(g) Election of Directors.

(h) Unfinished business.

(i) New business.

(j) Adjournment.

3. BOARD OF DIRECTORS -

(.1) MEMBERSHIP - The affairs of the Association shall be managed initially by a Board of three Directors selected by the Developer. Boards elected subsequent to the time members other than the Developer are entitled to elect a majority of the Directors shall be composed of any odd number of Directors that the Owners may decide. Other than Directors selected by the Developer, each Director shall be a person entitled to cast a vote in the meetings of the Association. The Developer shall be entitled to select at least one Director as long as it holds at least 5% of the units that will ultimately be operated by the Association for sale in the ordinary course of business.

(.2) DESIGNATION OF DIRECTORS shall be in the following manner:

(a) Members of the Board of Directors except those selected by the Developer shall be elected by a majority of those present and voting at the annual meeting of the members of the Association or at a special meeting called

for pursuant to Paragraph 3 (.2)(D)(ii) under F.S. 718.301.

(b) Except as to vacancies provided by removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by a majority vote of the remaining Directors.

(c) Any Director except those selected by the Developer, may be removed with or without cause by concurrence of a majority of the members of the Association, either by written agreement or at a special meeting of the members called for that purpose either by a majority of the Board of Directors or by 10% of the members. The vacancy in the Board of Directors so created shall be filled by the members of the Association at the same meeting.

(d)

(i) When unit owners other than the Developer own fifteen percent (15) or more of the units that will be operated ultimately by the Association, the unit owners other than the Developer shall be entitled to elect not less than one-third of the members of the Board of Directors of the Association. Unit owners other than the Developer shall be entitled to elect not less than a majority of the members of the Board of Directors 3 years after 50% of the units that will be operated ultimately by the Association have been conveyed to purchasers, or 3 months after 90% of the units that will be operated ultimately by the Association have been conveyed to purchasers, or when all of the units that will be operated ultimately by the Association have been completed and some of them have been sold and none of

the others are being offered for sale by the Developer in the ordinary course of business or when some of the units have been conveyed to purchasers, and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business, whichever shall first occur.

(ii) Within 60 days after unit owners other than the Developer are entitled to elect a member or members of the Board of Directors, the Association shall call and give not less than 30 or more than 40 days' notice of a meeting of the unit owners for this purpose.

(iii) Prior to or not more than 60 days after unit owners other than the Developer elect a majority of the members of the Board of Directors of the Association, the Developer shall relinquish control of the Association and shall deliver to the Association all property of the unit owners and of the Association held by or controlled by the Developer, as specified in F.S. 718.301.

(.3) THE TERM OF EACH DIRECTOR'S SERVICE shall extend until the next annual meeting of the members and thereafter until his successor is duly elected and qualified or until he is removed in the manner elsewhere provided. Provided however, that in order to provide a continuity of experience, the members at the first annual meeting after the Developer has relinquished control of the Association may vote to give up to one-half of the Board members terms of two years so that a system of staggered terms will be

initiated.

(.4) THE ORGANIZATION MEETING of the newly elected Board of Directors shall be held at such place and time as shall be fixed by the Directors, provided a quorum shall be present.

(.5) REGULAR MEETINGS OF THE BOARD OF DIRECTORS may be held at such time and place as shall be determined from time to time, by a majority of the Directors, but not less than quarterly. Notice of regular meetings shall be given to each Director personally or by mail, telephone or telegraph, at least three (3) days prior to the day named for such meeting.

(.6) SPECIAL MEETINGS OF THE DIRECTORS MAY BE called by the President and must be called by the Secretary at the written request of one-third of the Directors. Not less than three (3) days' notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting, except in an emergency.

(.7) WAIVER OF NOTICE - Any Director may waive notice of a meeting before, at or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

(.8) MEETINGS OF THE BOARD OF DIRECTORS shall be open to all unit owners to attend and listen but not be heard or participate (unless a majority of the Directors consent thereto) and notice of meetings shall be posted conspicuously

on the condominium property forty-eight (48) hours in advance for the attention of unit owners except in an emergency.

(.9) A QUORUM AT DIRECTORS' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board. If at any meeting of the Board there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

(.10) THE PRESIDING OFFICER at Directors' meetings shall be the President of the Board if such an officer has been elected; and if none, then the Vice-President shall preside. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

(.11) DIRECTORS SHALL SERVE WITHOUT PAY, but shall be entitled to reimbursement for expenses reasonably incurred.

4. POWERS AND DUTIES OF THE BOARD OF DIRECTORS - All of the powers and duties of the Association existing under the Condominium Act, Declaration of Condominium, and these By-Laws shall be exercised exclusively by the Board of Directors,

or its duly authorized agents, contractors, or employees subject only to the approval by unit owners when such is sphcifically required. Such powers and duties of the Directors shall include but shall not be limited to the following:

(.1) TO MAKE AND COLLECT ASSESSMENTS AGAINST members to defray the costs of the condominium.

(.2) TO USE THE PROCEEDS OF ASSESSMENTS in the exercise of its powers and duties.

(.3) THE MAINTENANCE, REPAIR, REPLACEMENT AND OPERATION of the condominium property.

(.4) THE RECONSTRUCTION OF IMPROVEMENTS AFTER CASUALTY and the further improvement of the property.

(.5) TO APPROVE OR DISAPPROVE PROPOSED TRANSACTIONS in the manner provided by the Condominium Declaration.

(.6) TO ENFORCE by legal means the provisions of applicable laws, the condominium documents, the ByLaws of the Association, and the regulations for the use of the property in the condominium.

(.7) TO CONTRACT FOR MANAGEMENT of the condominium.

(.8) TO PAY TAXES AND ASSESSMENTS which are liens against any part of the condominium other than individual units and the appurtenances thereto, and to assess the same against the unit subject to such liens.

(.9) TO CARRY INSURANCE for the protection of the unit owners and the Association against casualty and liabilities.

(.10) TO PAY THE COST OF ALL POWER, WATER, SEWER and other utility services rendered to the condominium and not billed to owners of individual units.

(.11) TO EMPLOY PERSONNEL and designate other officers for reasonable compensation and grant them such duties as seems appropriate for proper administration of the purposes of the Association.

(.12) TO BRING SUIT, EXECUTE CONTRACTS, DEEDS, MORTGAGES, LEASES and other instruments by its officers and to own, convey and encumber real and personal property.

(.13) THE DIRECTORS MAY, pursuant to F.S. 617.10 (3) impose fines in such reasonable sums as they deem appropriate, not to exceed $100.00, against unit owners for violations of the Condominium Documents, including the Rules and Regulations, by owners or their guests or lessees.

5. OFFICERS

(.1) THE EXECUTIVE OFFICERS of the Association shall be the President, a VicePresident, a Secretary and a Treasurer, all of whom shall be elected annually by and from the Board of Directors and who may be peremptorily removed by a majority vote of the Directors at any meetings. Any person may hold two or more offices except that the President shall not also be the Secretary or Assistant Secretary.

(.2) THE PRESIDENT shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of President of a corporation.

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(.3) THE VICEPRESIDENT shall in the absence or disability of the President exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

(.4) THE SECRETARY shall keep the minutes of all proceedings of the Directors and the members. He shall attend to the giving and serving of all notices to the members and Directors and other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary of the Association and as may be required by the Directors or the President. The Assistant Secretary will perform the duties of the Secretary when the Secretary is absent.

(.5) THE TREASURER shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He shall keep the assessment rolls and accounts of the members; he shall keep the books of the Association in accordance with good accounting practices; and he shall perform all other duties incident to the office of the Treasurer of a corporation.

(.6) THE COMPENSATION of all officers and employees of the Association shall be fixed by the Directors. This

provision shall not preclude the Board of Directors from employing a Director as an employee of the Association or preclude the contracting with a Director for the management of the condominium.

7. MINUTES OF ALL MEETINGS OF UNIT OWNERS and of the Board of Directors shall be kept in a businesslike manner and these plus records of all receipts and expenditures and all other records shall be available for inspection by unit owners and Board members at all reasonable times.

8. FISCAL MANAGEMENT shall be in accordance with the following provisions:

A. BUDGET A proposed annual budget of

(.1) common expenses shall be prepared by the Board of Directors which shall include all anticipated expenses for operation, maintenance and administration of the condominium including insurance, management fees, if any, and which may accrue a reserve for deferred maintenance and depreciation. It will contain a reasonable allowance for contingencies, and provide funds for all unpaid operating expense previously incurred.

(.2) A copy of the proposed annual budget shall be mailed to the unit owners not less than thirty days prior to a meeting of the owners at which the budget will be considered together with a notice of the meeting. Should a quorum fail to be present or represented at the meeting or fail to adopt the budget presented or a revised budget, then and in that

event the Directors shall have the authority to adopt a budget.

(.3) The first budget shall be made by the Developer.

B. ASSESSMENTS The shares of the unit owners of the common expenses shall be made payable monthly in advance or, in the discretion of the Directors, quarterly in advance and shall become due on the first day of each month or the first day of each quarter. The amounts shall be no less than are required to provide funds in advance for payment of all the anticipated current operating expenses and for all of the unpaid operating expense previously incurred.

C. EMERGENCY ASSESSMENTS - Assessments for the expenses of emergencies which cannot be paid from the contingency account shall be made only by the Board of Directors and the time of payment shall likewise be determined by them.

D. ASSESSMENT ROLL - The assessments for common expenses according to the budget shall be set forth upon a roll of the units which shall be available for inspection at all reasonable times by unit owners. Such roll shall indicate for each unit the name and address of the owner, the assessments paid and unpaid. A certificate made by a duly authorized representative of the Directors as to the status of a unit's account may be relied upon for all purposes for any person for whom made other than the unit owner.

E. LIABILITY FOR ASSESSMENTS - A unit owner shall be liable for all assessments coming due while he is the owner of a unit, and such owner and his grantees after a

voluntary conveyance, shall be jointly and severally liable for all unpaid assessments due and payable up to the time of such voluntary conveyance. Such liability may not be avoided by waiver of the use or enjoyment of any common elements, or by abandonment of the unit for which the assessments are made, per Florida Statute 718.116.

F. LIEN FOR ASSESSMENTS - The unpaid portion of an assessment which is due together with interest thereon and reasonable attorney's fees for collection, shall be secured by a lien upon:

(.1) THE UNIT, and all appurtenances thereto when a notice claiming the lien as been recorded by the Association in accordance with the requirements of Florida Statute 718.116. Such lien shall be subordinate to any prior recorded mortgage on the unit.

(.2) ALL TANGIBLE PERSONAL PROPERTY located in the unit except that such lien shall be subordinate to prior liens and security interests of record.

(.3) COLLECTION:

(i) INTEREST; APPLICATION OF PAYMENTS - Assessments paid on or before ten (10) days after the date due shall not bear interest, but all sums not paid on or before ten (10) days shall bear interest at the rate of 10% per annum from the date due until paid. All payments upon account shall be first applied to interest and then to the assessment payment first due. All interest collected shall be credited to the common expense account.

(ii) SUIT - The Association, at its option, may enforce collection of delinquent assessment accounts by suit at law or by foreclosure of the lien securing the assessments, or by any other remedy available under the laws of the State of Florida, and in either event the Association shall be entitled to recover the payments which are delinquent at the time of judgment or decree, together with interest thereon at the rate of 10% per annum, and all costs incident to the collection and the proceedings, including reasonable attorney's fees. Per F.S. 718.116(5)(b) the Association must deliver or mail by certified mail to the unit owner a written notice of its intention to foreclose the lien 30 days before commencing foreclosure.

G. ACCOUNTS All sums collected from assessments may be mingled in a single fund, but they shall be held in trust for the unit owners in the respective shares in which they are paid and shall be credited to accounts from which shall be paid the expenses for which the respective assessments are made. These accounts shall be as follows:

(.1) COMMON EXPENSE ACCOUNT - to which shall be credited collections of assessments for all common expenses.

(.2) ALTERATION AND IMPROVEMENT ACCOUNT - to which shall be credited all sums collected for alteration and improvement assessments, if any.

(.3) CONTINGENCY ACCOUNT - which shall be credited all sums collected for contingencies and emergencies.

H. THE DEPOSITORY of the Association shall be such bank or banks in Florida as shall be designated from time to time by the Directors and in which the monies for the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

I. AN AUDIT of the accounts of the Association shall be made annually and a copy of the report shall be furnished to each member within 30 days after its completion and delivery to the Directors, or at the annual meeting.

J. FIDELITY BONDS shall be required by the Board of Directors from all officers and directors of the Association who control or disburse Association funds. The amount of such bonds shall be determined by the Directors. The premiums on such bonds shall be paid by the Association.

9. PARLIAMENTARY RULES - Roberts Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Declaration, the By-Laws of the Association or with the Laws of the State of Florida.

10. AMENDMENTS Amendments to the By-Laws shall be proposed in the following manner:

(.1) NOTICE of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

(.2) A RESOLUTION adopting a proposed amendment must receive approval of a majority of the votes of the

entire membership of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing.

(.3) INITIATION - An amendment may be proposed by either a majority of the Board of Directors or by ten (10) percent of the membership of the Association.

(.4) EFFECTIVE DATE - An amendment when adopted shall become effective only after being recorded according to law.

(.5) THESE BY-LAWS shall be deemed amended, if necessary, so as to make the same consistent with the provisions of the Declaration of Condominium, or the Condominium Act.

(.6) PROPOSAL TO AMEND EXISTING BY-LAWS shall contain the full text of the By-Laws to be amended. New words shall be underlined and words to be deleted shall be lined through with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying "SUBSTANTIAL REWORDING OF BY-LAW. SEE BY-LAW #_____ FOR PRESENT TEXT."

11. WEIGHT OF VOTES cast by members of the Association shall be one vote for each unit.

12. IN THE EVENT THE DIRECTORS DEEM IT NECESSARY to do so, they and the owners may act by written agreement without meetings, which written agreement may be executed in counterparts.

OFF. REC. 1357 PG 1121

The foregoing was adopted as the By-Laws of Flamingo Harbour Condominium Association, at the first meeting of the Board of Directors.

C. A. Cartwright

EXHIBIT "B"

OFF. REC. 1357 PG 1122

FLAMINGO HARBOUR CONDOMINIUM

A PART OF FLAMINGO HARBOUR

IN GOV. LOT 1, SEC. 34, T 46 S, R 24 E

LEE COUNTY, FLORIDA

DESCRIPTION: A tract of land lying in Government Lot 1, Section 34, Township 46 South, Range 24 East, Pecora Island, Florida, which tract is described as follows: Commencing at the corner of Lot 8, Block M, Unit 2, Monroe Park, according to the plat recorded in Plat Book 11, Page 39 of the public records of Lee County, Florida; thence run S 31°42'00" W along the southeasterly line of said Block M for 10 feet; thence run northeasterly perpendicular to said south-easterly line of Block M for 55.54 feet to the east line of a roadway easement 50 feet wide for ingress and egress; thence run S 31°42'00" W along said east line for 50 feet to the point of beginning of the tract of land hereinafter described. From said point of beginning run S 76°17'00" W for 60 feet; thence run northwesterly, northerly and northeasterly along the arc of a curve to the right having a radius of 130 feet (chord bearing N 31°42'00" W, chord distance 49.89 feet) for 50 feet; thence run N 31°42'00" W along said westerly line of said roadway easement for 233.11 feet to a point of curvature; thence run northeasterly along said westerly right of way line along the arc of a curve to the left having a radius of 180.00 feet (chord bearing N 10°01'30" E, chord distance 72.15 feet) for 72.57 feet; thence run N 21°45'00" W along said westerly line of said roadway easement for 135.35 feet to a point of reverse curvature; thence run northwesterly along the arc of a curve to the right having a radius of 120 feet (chord bearing N 10°01'30" E, chord distance 48.11 feet) for 48.41 feet to a point of tangency; thence run N 21°42'00" E along said westerly line of said roadway easement for 135.78 feet) for 137.00 feet to a point of tangency; thence run N 31°42'00" E along said westerly line of said roadway easement for 100 feet more or less to the waters of Flamingo Harbour; thence run northeasterly, easterly, southeasterly, southerly, southwesterly, westerly and northwesterly along said waters to an intersection with a line which bears N 76°17'00" E from the point of beginning; thence run S 76°17'00" W along said line for 60 feet, more or less, to the point of beginning. TOGETHER WITH the Northeasterly 50 feet of Block C of Flamingo Park (now the centerline of vacated Flamingo Drive) according to the plat thereof recorded in Plat Book 11, Page 68 of said public records (or 50 feet, more or less, measured perpendicularly northwesterly and southeasterly from the northeasterly line of said Block C) and the Northeasterly 50 feet of Lots 1 and 2, Block M, Unit 2, Monroe Park (now the centerline of vacated Flamingo Drive) according to the plat thereof recorded in Plat Book 11, Page 39 of said public records (or 50 feet, more or less, measured perpendicularly northwesterly and southeasterly from the northeasterly line of said Block M) and lying between the northeasterly extensions of the northwesterly and southeasterly lines of said Block M, LESS AND EXCEPT the Northeasterly 50 feet (as measured on a perpendicular) of Lot 1, Block M, Unit 2, Monroe Park (now the centerline of vacated Flamingo Drive) according to the plat thereof recorded in Plat Book 11, Page 39 of said public records (or 50 feet, more or less, measured perpendicularly northwesterly and southeasterly from the northeasterly line of said Lot 1) and LESS AND EXCEPT the Northeasterly 50 feet (as measured on a perpendicular) of Lot 1, Block C of Flamingo Park (now the centerline of vacated Flamingo Drive) according to the plat thereof recorded in Plat Book 11, Page 68 of said public records (or 50 feet, more or less, measured perpendicularly northwesterly and southeasterly from the northeasterly line of said Lot 1) and LESS AND EXCEPT the Northeasterly 50 feet (as measured on a perpendicular) of Lot 1, Block C of Flamingo Park (now the centerline of vacated Flamingo Drive) according to the plat thereof recorded in Plat Book 11, Page 68 of said public records (or 50 feet, more or less, measured perpendicularly northwesterly and southeasterly from the northeasterly line of said Block C) and lying between the northeasterly extensions of the northwesterly and southeasterly lines of said Block C, LESS AND EXCEPT the Northeasterly 50 feet (as measured on a perpendicular) of Lot 1, Block C of Flamingo Park (now the centerline of vacated Flamingo Drive) according to the plat thereof recorded in Plat Book 11, Page 68 of said public records (or 50 feet, more or less, measured perpendicularly northwesterly and southeasterly from the northeasterly line of said Lot 1) and LESS AND EXCEPT the Northeasterly 50 feet (as measured on a perpendicular) of Lot 1, Block C of Flamingo Park (now the centerline of vacated Flamingo Drive) according to the plat thereof recorded in Plat Book 11, Page 68 of said public records (or 50 feet, more or less, measured perpendicularly northwesterly and southeasterly from the northeasterly line of said Block C) and lying between the northeasterly extensions of the northwesterly and southeasterly lines of said Block C,

OFF 1357 PG 1123

FLAMINGO HARBOUR CONDOMINIUM

EXHIBIT "C"

PERCENTAGES OF OWNERSHIP

Units A through L, inclusive	1/14th of the whole
Unit M	2/14ths of the whole
	14/14ths

ALLEN, KNUDSEN, SWARTZ, DeBOEST, RHOADS & EDWARDS, P. A.
ATTORNEYS AT LAW
P. O. BOX 1480
COLLIER ARCADE
FORT MYERS, FLORIDA

FLAMINGO HARBOUR CONDOMINIUM

EXHIBIT "D"

LEGAL DESCRIPTION

A tract of land lying in Government Lot 1, Section 34, Township 46 South, Range 24 East, Estero Island, Florida, which tract is described as follows: From the southeast corner of Lot 8, Block H., Unit 2, McPhie Park, according to the plat recorded in Plat Book 8 at page 59 of the public records of Lee County, Florida, run westerly along the south line of said Lot 8 for 10 feet; thence run northerly perpendicular to said south line and along the east line of a roadway easement 50 feet wide for 55.54 feet to a point of curvature; thence run northeasterly along the southeasterly line of said roadway easement along the arc of a curve to the right with a radius of 50 feet (said curve have a central angle of 51°45'05") for 45.16 feet to a point of tangency; thence run N 51°42'05" E along said southeasterly line of said roadway easement along a line 295 feet (measured on a perpendicular) northwesterly of and parallel with the northwesterly line of Block C of Flamingo Park (now the centerline of Flamingo Street) as shown on the plat recorded in Plat Book 9 at page 66 of said public records for 877.84 feet; thence run N 13°47'55" W along the northeasterly line of said roadway easement for 160 feet to the point of beginning of the lands herein described. From said point of beginning run S 76°12'05" W for 60 feet; thence run northwesterly, northerly and northeasterly along the westerly line of a roadway easement 25 feet wide along the arc of a curve to the right having a radius of 130 feet (chord bearing N 2°44'00" W - chord distance 49.90 feet) for 50.21 feet to a point of tangency; thence run N 8°19'55" E along said westerly line of said roadway easement for 225.11 feet to a point of curvature; thence run northeasterly along said westerly line of said roadway easement along the arc of a curve to the right having a radius of 180.00 feet (chord bearing N 20° 01'28" E - chord distance 72.96 feet) for 73.47 feet to a point of reverse curvature; thence run northeasterly, northerly and northwesterly along said westerly line of said roadway easement along the arc of a curve to the left having a radius of 360.00 feet (chord bearing N 0°15'53" E - chord distance 381.35 feet) for 401.89 feet to a point of reverse curvature; thence run northwesterly along the arc of a curve to the right having a radius of 700.00 feet (chord bearing N 26°28'24" W - chord distance 136.78 feet) for 137.00 feet to a point of tangency; thence run N 21°02'00" W along said westerly line of said roadway easement for 212.00 feet; thence

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ATTORNEYS AT LAW
P. O. BOX 1460
COLLIER ARCADE
FORT MYERS, FLORIDA

run S 0°68'58" W for 10 feet more or less to the waters of Flamingo Harbor; thence run northwesterly, northerly and northeasterly along said waters to the waters of Estero Bay; thence run in a southerly direction along said waters to an intersection with a line bearing N 76°12'05" E passing through the point of beginning; thence run S 76°12'05" W along said line to the point of beginning. TOGETHER WITH the hereinabove described roadway easement 50 feet wide extending from Mound Road to the southerly line of the hereinabove described parcel.

ALLEN, KNUDSEN, SWARTZ, DeBOEST, RHOADS & EDWARDS, P. A.
ATTORNEYS AT LAW
P. O. BOX 1480
COLLIER ARCADE
FORT MYERS, FLORIDA

State of Florida

Department of State

OFF. REC. 1357 PG 1126

I certify that the attached is a true and correct copy of the Articles of Incorporation of FLAMINGO HARBOUR CONDOMINIUM ASSOCIATION, INC., a corporation not for profit organized under the Laws of the State of Florida, filed on June 5, 1979, as shown by the records of this office.

The charter number for this corporation is 747514.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the 6th day of June, 1979.

Secretary of State

CER-101
12-78

FLORIDA — STATE OF THE ARTS

FILED
JUN 6 4 47 PM '73
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLES OF INCORPORATION

OF

FLAMINGO HARBOUR CONDOMINIUM ASSOCIATION, INC.

(A NONPROFIT FLORIDA CORPORATION)

OFF. REC. 1357 PG 1127

ARTICLE I.

The name of this corporation is FLAMINGO HARBOUR CONDOMINIUM ASSOCIATION, INC.

ARTICLE II.

The purpose for which this corporation is organized is to act as the governing association of Flamingo Harbour Condominium, located at Fort Myers Beach, Florida.

ARTICLE III.

The qualification of members and the manner of their admission shall be as follows: Any person or persons who hold title in fee simple to a condominium unit in the Condominium shall by virtue of such ownership be a member of this corporation.

ARTICLE IV.

This corporation shall exist perpetually.

ARTICLE V.

The names and residences of the subscribers to these Articles of Incorporation are as follows:

Green Keltner
4253 Bay Beach Lane S. W.
Apt. H-6
Fort Myers Beach, Florida 33931

C. A. Cartwright
Carnoustie Drive
General Delivery
Bonita Springs, Florida

Sharon M. Willis
6308 Panther Drive
Apartment T-5
Fort Myers, Florida 33907

ARTICLE VI.

The affairs of the corporation are to be managed initially by a Board of three (3) Directors who will be elected each year at the annual meeting of the Condominium Association as provided

for in the By-Laws. At such time as the Developer has relinquished control of the Association as provided by the Condominium Act, the Board may be composed of any odd number of Directors that the members decide (as provided for in the By-Laws).

ARTICLE VII.

The names of the officers who are to serve until the first election or appointment under the Articles of Incorporation are:

President - Green Keltner

Vice President - C. A. Cartwright

Secretary-Treasurer - Sharon M. Willis

ARTICLE VIII.

The number of persons constituting the first Board of Directors shall be three (3) and their names and addresses are as follows:

Green Keltner
4253 Bay Beach Lane S. W.
Apt. H-6
Fort Myers Beach, Florida 33931

C. A. Cartwright
Carnoustie Drive
General Delivery
Bonita Springs, Florida

Sharon M. Willis
6308 Panther Drive
Apartment T-5
Fort Myers, Florida 33907

ARTICLE IX.

The By-Laws of the corporation are to be made, altered or rescinded by a majority vote of the members and Directors of the corporation.

ARTICLE X.

Amendments to these Articles of Incorporation may be proposed and adopted as follows:

An Amendment may be proposed by either the Board of Directors or by any owner and may be considered at any meeting of the owners, regular or special, of which due notice has been given according to the By-Laws, which includes a notice of the substance of the proposed amendment.

The Amendment must be approved by a vote of a majority of the members of the corporation.

ARTICLE XI.

Each unit in the condominium shall have one (1) full vote, which vote shall be cast by a designated owner as provided for in the Declaration of Condominium.

ARTICLE XII.

This corporation reserves the right to amend or repeal any provisions contained in these Articles of Incorporation.

ARTICLE XIII.

This corporation shall have all the powers permitted by law together with such additional specific powers as are contained in the Declaration and ByLaws.

ARTICLE XIV.

No part of the net earnings of this corporation shall inure to the benefit of any member or individual, except through the acquisition, construction, management, maintenance, or care of association property or through the rebate of the excess membership due, fees, or assessments.

IN WITNESS WHEREOF, the undersigned subscribers have executed these Articles of Incorporation this 21st day of May, 1979.

Green Keltner (SEAL)

C. A. Cartwright (SEAL)

Sharon M. Willis (SEAL)

STATE OF FLORIDA

COUNTY OF LEE

Before me, the undersigned, a Notary Public authorized to take acknowledgments in the State and County aforesaid, personally appeared Green Keltner, C. A. Cartwright and Sharon M. Willis, known to me and known to be the persons who executed the foregoing

OFF. REC. 1357 PG 1130

Articles of Incorporation, and they acknowledged before me that they executed those Articles of Incorporation.

WITNESS my hand and seal this 11th day of May, 1979.

Notary Public

My Commission Expires:
Notary Public, State of Florida at Large
My Commission Expires Aug. 24, 1981

OR 1357 PG 1131

CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE FOR THE SERVICE OF PROCESS WITHIN FLORIDA, NAMING AGENT UPON WHOM PROCESS MAY BE SERVED

IN COMPLIANCE WITH SECTION 48.091, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED:

FIRST--THAT FLAMINGO HARBOUR CONDOMINIUM ASSOCIATION, INC., a Florida Corporation
(NAME OF CORPORATION)

DESIRING TO ORGANIZE OR QUALIFY UNDER THE LAWS OF THE STATE OF FLORIDA,

WITH ITS PRINCIPAL PLACE OF BUSINESS AT CITY OF FORT MYERS BEACH (CITY),

STATE OF FLORIDA (STATE), HAS NAMED C.A. CARTWRIGHT (NAME OF RESIDENT AGENT),

LOCATED AT 2800 ESTERO BOULEVARD
(STREET ADDRESS AND NUMBER OF BUILDING, POST OFFICE BOX ADDRESSES ARE NOT ACCEPTABLE)

CITY OF FORT MYERS BEACH, STATE OF FLORIDA, AS ITS AGENT TO ACCEPT SERVICE OF PROCESS WITHIN FLORIDA.

FILED
6 APR 11 '79
CLERK CIRCUIT COURT
LEE COUNTY, FLORIDA

SIGNATURE [signature]
(CORPORATE OFFICER)

TITLE PRESIDENT

DATE March, 1979

SAL GERACI
CLERK OF CIRCUIT COURT
Jun 19 11 21 AM '79
OFFICIAL RECORDS
LEE COUNTY, FLORIDA
RECORD VERIFIED

HAVING BEEN NAMED TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE STATED CORPORATION, AT THE PLACE DESIGNATED IN THIS CERTIFICATE, I HEREBY AGREE TO ACT IN THIS CAPACITY, AND I FURTHER AGREE TO COMPLY WITH THE PROVISIONS OF ALL STATUTES RELATIVE TO THE PROPER AND COMPLETE PERFORMANCE OF MY DUTIES.

SIGNATURE C. A. Cartwright
(RESIDENT AGENT)

DATE March, 1979

Sec. 34-86. Appeals from administrative action.

(a) *Function.* The town council will hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, determination, or action of any administrative official charged with the administration and enforcement of the provisions of this code, or any other ordinance or portion of this code which provides for similar review; provided, however, that:

(1) No appeal to the town council shall lie from any act by such administrative official pursuant to:

a. An order, resolution, or directive of the town council directing him to perform such act; or

b. Any ordinance or other regulation or provision in this code which provides a different appellate procedure.

(2) The appeal to the town council shall be in writing on forms provided by the director, and shall be duly filed within 30 calendar days, but not thereafter, after such act or decision by the administrative official. The appeal shall specify the grounds for the appeal.

(3) No appeal shall be considered by the town council where it appears to be a circumvention of an established or required procedure. Specifically, in no case may an appeal be heard when the town council determines that the case should more appropriately be heard on a request for a variance.

(4) Appeals from administrative action do not require a public hearing before the local planning agency.

(b) *Considerations.*

(1) In reaching its decision, the town council shall consider the following criteria, as well as any other issues which are pertinent and reasonable:

a. Whether the appeal is of a nature properly brought for decision, or whether there is an established procedure for handling the request other than through the appeal process (i.e., a variance or special exception, etc.).

b. The intent of the ordinance which is being applied or interpreted.

c. The effect the ruling will have when applied generally to this code.

(2) Staff recommendations, the testimony of the appellant, and testimony of the general public shall also be considered.

(c) *Authority.* In exercising its authority, the town council may reverse, affirm, or modify any decision or action of any administrative official charged with the administration or enforcement of this chapter.

Permit #: 234477
Permit Date: 06/22/23
Permit Type:
Permit Type: Residential
Sub Type: Pool- Above Ground
Type of Construction: N/A
Type of Occupancy / Use: Residential
Contractor Business Name/Applicant: Big Gator Pools and Spas
Contact Name: Kristin Riddle - contractor
Contractor/Applicant Email: Office@BigGatorPoolsandSpas.com
Contractor/Applicant Phone #: 239-770-8543
Property Owner's Email: todd@plaistedcompanies.com
Current Use: R
Proposed Use: R
Scope of Work: New elevated pool
Project Cost: 150000
Gross Square Feet: 546
Issued Date: 07/01/2024
Expiration Date: 01/01/2025
Finaled Date:
Closed Date:
Repair Damage Due To:
Storm Damage:
Floodplain:
Status: REVOKED
Assigned To:

Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
344624W1022M00010	21391 WIDGEON TER	FLAMINGO HARBOUR CONDO CONDO PLAT 7 PG 104 UNIT M-1	PLAISTED TODD R		RM-2

Contractors

Contractor	Primary Contact	Phone	Address	Contractor Type	License	License #
Big Gator Pools and Spas LLC	Kristin Riddle	239-770-8543	1749 NE 10th Ter Unit 6	Certified Pool/Spa Servicing Contractor	General Liability	NN1754021

JJ Electrical Services LLC	Randy Higgie	239-398-4042	525 98th Ave N	Certified Electrical	Liability	P101.578.733.1
JJ Electrical Services LLC	Randy Higgie	239-398-4042	525 98th Ave N	Certified Electrical	Workman's Comp	NXT4YRJBDY-00-WC
Big Gator Pools and Spas LLC	Kristin Riddle	239-770-8543	1749 NE 10th Ter Unit 6	Certified Pool/Spa Servicing Contractor	Certified Residential Pool/Spa Contractor	CPC1459908
Big Gator Pools and Spas LLC	Kristin Riddle	239-770-8543	1749 NE 10th Ter Unit 6	Certified Pool/Spa Servicing Contractor	WC - EXEMPT	825229613
JJ Electrical Services LLC	Randy Higgie	239-398-4042	525 98th Ave N	Certified Electrical	State of Florida	EC13008653

Inspections

Date	Inspection Type	Description	Scheduled Date	Completed Date	Inspector	Status
06/22/2023	NOC		06/22/2023	06/22/2023	Misty Alexander	Pass
04/30/2024	Engineered Drainage Letter	Pile report				Open
06/22/2023	As-Built Survey Inspection					Open

Plan Reviews

Date	Review Type	Description	Assigned To	Review Status
06/22/2023	Notice of Commencement		Misty Alexander	DONE
03/14/2024	Review Flood		Joe Specht	REVIEWED FOR COMPLIANCE
03/14/2024	Review Res. Plan review		Joe Specht	REVIEWED FOR COMPLIANCE
06/22/2023	Review Zoning		Kendra Rosa	RESUBMITTAL REQUIRED
03/14/2024	Review Stormwater		Eli Lee	RESUBMITTAL REQUIRED
03/14/2024	Review Environmental	COMPLY WITH LIGHTING STANDARDS All exterior lighting shall comply with Land Development Code Chapter 34, DIVISION 20: Lighting Standards and Chapter 32, ARTICLE V. Sea Turtle Conservation Code. PREVENT EROSION OFF SITE AND INTO WATERWAYS Install and maintain best management practices for erosion control and sedimentation throughout construction. PROTECT NATIVE TREES Native Trees to be protected in accordance with the Tree Protection Code. REMOVE ALL DEBRIS FROM SITE All debris shall be removed BEFORE placing any fill and commencing construction of any new structures. Please make sure you have the link below saved as a favorite so you can check the address for the CCCL.	Chadd Chustz	REVIEWED FOR COMPLIANCE
06/22/2023	Review FMB Application		Misty Alexander	DONE
06/22/2023	Elec. Sub Permit Req.	NCS Electric EC13010997	Misty Alexander	DONE
06/26/2023	Rejection Letter Sent	initial zoning review rejection letter 234477	Ed Larkin	DONE
06/28/2023	Resubmitted (Zoning Review)	The original submittal is an elevated pool. Please refer to my previous rejection.	Kendra Rosa	RESUBMITTAL REQUIRED

06/30/2023	Rejection Letter Sent	2nd zoning review rejection letter 234477	Ed Larkin	DONE
08/28/2023	Resubmitted (Zoning Review)	Resub 2 Zoning	Kendra Rosa	RESUBMITTAL REQUIRED
08/31/2023	Rejection Letter Sent	3rd Zoning review rejection letter has been uploaded to the permit portal, and available to view.	Korey Lastinger	DONE
12/07/2023	Resubmitted (Zoning Review)	Resub 3 uploaded 12.7.23- Variance needs to be approved through council before zoning can be approved	Kendra Rosa	REVIEWED FOR COMPLIANCE
03/14/2024	Rejection Letter Sent	1st Stormwater Rejection Letter	Brooke Price	DONE
03/19/2024	Resubmitted (Stormwater Review)	Resub 1 Stormwater	Eli Lee	RESUBMITTAL REQUIRED
03/19/2024	Rejection Letter Sent	2nd Stormwater Rejection Letter	Brooke Price	DONE
04/05/2024	Resubmitted (Stormwater Review)	Resub 2 STORM WATER	Eli Lee	RESUBMITTAL REQUIRED
04/09/2024	Rejection Letter Sent	3rd Stormwater Rejection Letter	Brooke Price	DONE
04/29/2024	Resubmitted (Stormwater Review)	RESUB 3 STORM WATER	Eli Lee	RESUBMITTAL REQUIRED
04/30/2024	Resubmitted (Stormwater Review)	Resub 4 Stormwater	Eli Lee	REVIEWED W/CONDITIONS
05/01/2024	Resubmitted (Zoning Review)	zoning was re-assigned a review due to the site plan on the drainage plan not being consistent with the approved site plan	Kendra Rosa	RESUBMITTAL REQUIRED
05/01/2024	Rejection Letter Sent	4th Zoning Rejection Letter	Brooke Price	DONE
06/28/2024	Resubmitted (Zoning Review)	Resub 5 - Resub to Zoning Revision to Stormwater	Kendra Rosa	REVIEWED FOR COMPLIANCE
06/28/2024	Revision Submitted (Stormwater)	Resub 5 - Resub to Zoning Revision to Stormwater	Eli Lee	REVIEWED W/CONDITIONS

Fees

Fee	Description	Notes	Amount
POL – Pools (Above Ground, Below Ground, Spas) (2024)	Includes: Application Processing Fee Building Review and Inspection Environmental Review Flood Review Stormwater Review Zoning Review		$850.00
* MISC- DBPR & DCA Admin Fees			$21.25
*MISC – Resubmittal Fee after 1st resubmittal (2024)	(if our reviewers request more information and the information provided by the permit holder does not fulfill request) Enter number of resubmittals after 1st.		$60.00
*MISC – Resubmittal Fee after 1st resubmittal (2024)	(if our reviewers request more information and the information provided by the permit holder does not fulfill request) Enter number of resubmittals after 1st.		$180.00
Engineering Fees	10.30.541.32210		$292.50
		Total	**$1,403.75**

Attached Letters

Date	Letter	Description
07/01/2024	Building Permit	
05/01/2024	Building Permit	

Payments

Date	Paid By	Description	Payment Type	Accepted By	Amount

06/22/2023	Kristin Riddle	Invoice: 636599	$871.25
04/29/2024	Kristin Riddle	Invoice: 874091	$240.00
04/30/2024	Kristin Riddle	Invoice: 876556	$292.50
		Outstanding Balance	**$0.00**

Notes

Date	Note	Created By:
08/26/2024	PERMIT REVOKED PER BUILDING OFFICIAL- SEE NEW PERMIT 242333	Kendra Rosa
08/13/2024	Waiting on new plans, assign to zoning when received.	Andrew Garry
08/12/2024	There was a clerical error regarding the documents that got uploaded as the approved plans (what zoning approved was not part of the approved documents) and we need to make sure that those documents are correct. The attorney said that revoking the permit until we received those documents was the best way to ensure that everyone can clearly see what is happening.	Andrew Garry
05/01/2024	Big Gator Pools and Spas LLC needs to update Worker's Comp Insurance. Submit updated insurance certificates listing the Town of Fort Myers Beach as the certificate holder, or waiver to contractorregistration@fmbgov.com. Reference the permit number.	Kory Lastinger

Uploaded Files

Date	File Name
07/15/2024	21593627-Change of Subcontractor_Electrical_Plaisted_Pool_07122024.pdf
07/15/2024	21593625-Subcontractor form_JJ Electrical_Plaisted_Pool_07112024.pdf
07/01/2024	21272363-JOBSITE COPY 234477.pdf
06/28/2024	21266095-DRAIN24-338-01-DRAINAGE-R(ESIGN).pdf
05/01/2024	20344042-234477 4th Zoning Rejection Letter.pdf
04/30/2024	20318553-21391 WIDGEON TERRACE PERMIT REVISION 2024.04.29.pdf
04/30/2024	20318551-response letter 21391 widgeon ter.pdf
04/29/2024	20291163-21391 Widgeon Esign Permit.pdf
04/09/2024	19607036-234477 3rd Stormwater Rejection Letter.pdf
04/05/2024	19578381-Site Plan.pdf
04/05/2024	19578379-NEW SURVEY.pdf
04/05/2024	19578348-2nd Stormwater Response Letter.pdf
03/19/2024	18985116-234477 2nd Stormwater Rejection Letter.pdf
03/19/2024	18981938-179798-SW PROPOSED SITE PLAN-PERVIOUS IMPERVIOUS CALCS.pdf
03/19/2024	18981935-Cover Letter - Response.pdf
03/19/2024	18981931-REJECTION LETTER-FMB-TH-ILEN.pdf
03/14/2024	18933727-234477 1st Stormwater Rejection Letter.pdf
12/07/2023	17695276-COVER LETTER for Rejections.docx
12/07/2023	17695273-Variance App ZONING.pdf
12/07/2023	17695269-WidgeonTer-S&S-SitePlan-2023-11-09.pdf
12/07/2023	17695267-NEW SURVEY.pdf
12/07/2023	17695263-16707844-3rd+Zoning+Review+Rejection+Letter+234477.pdf
08/31/2023	16707844-3rd Zoning Review Rejection Letter 234477.pdf
08/28/2023	16663752-179798-SW CONST TOPO BOUNDARY SURVEY.pdf
06/30/2023	15939526-2nd zoning review rejection letter 234477.pdf
06/28/2023	15907463-Revision - above ground pool.pdf
06/26/2023	15880362-initial zoning review rejection letter 234477.pdf
06/21/2023	7b5cc6ac3ab4aee4c965ab7386dbed95_variance_app_-_21391_widgeon_-_pool.pdf
06/21/2023	e6a7f9c2a6758bbe26577846f02b5530_noc_21391_widgeon.pdf
06/21/2023	0356153327eee35ccb18edeb35b0c9c1_online_parcel_inquiry_lee_county_property_appraiser.pdf
06/21/2023	f7c30819e7d6470f8b0c36f4d389f768_plaistedmoorerev1signedsealed_1_.pdf
06/21/2023	e79f0cdb86e4daa29b918d5858314e39_permit_documents.pdf

Permit #: 242333
Permit Date: 08/26/24
Permit Type:
Permit Type: Residential
Sub Type: Pool- Below Ground
Type of Construction:
Type of Occupancy / Use: Residential
Contractor Business Name/Applicant: BIG GATOR POOLS AND SPAS
Contact Name: DARELL SIZEMORE
Contractor/Applicant Email: office@biggatorpoolsandspas.com/ Permits@thebidgator.com
Contractor/Applicant Phone #: 239-770-8543
Property Owner's Email: todd@plaistedcompanies.com
Current Use: R
Proposed Use: R
Scope of Work: ELEVATED POOL
Project Cost: 150000
Gross Square Feet: 547
Issued Date: 09/09/2024
Expiration Date: 08/13/2025
Finaled Date:
Closed Date:
Repair Damage Due To:
Storm Damage:
Floodplain:
Status: ISSUED
Assigned To:

Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
344624W1022M00010	21391 WIDGEON TER	FLAMINGO HARBOUR CONDO CONDO PLAT 7 PG 104 UNIT M-1	PLAISTED TODD R TR FOR TODD R PLAISTED TRUST		RM-2

Contractors

Contractor	Primary Contact	Phone	Address	Contractor Type	License	License #
Big Gator Pools and Spas LLC	Kristin Riddle	239-770-8543	1749 NE 10th Ter Unit 6	Certified Pool/Spa Servicing Contractor	General Liability	NN1754021

FAVAZZA ELECTRIC INC	VINCENT J FAVAZZA JR		1320 SE 2ND TER	Certified Electrical	LIABILITY	1100
FAVAZZA ELECTRIC INC	VINCENT J FAVAZZA JR		1320 SE 2ND TER	Certified Electrical	STATE OF FLORIDA	EC13013506
FAVAZZA ELECTRIC INC	VINCENT J FAVAZZA JR		1320 SE 2ND TER	Certified Electrical	WORKMAN'S COMP	934809419
Big Gator Pools and Spas LLC	Kristin Riddle	239-770-8543	1749 NE 10th Ter Unit 6	Certified Pool/Spa Servicing Contractor	Certified Residential Pool/Spa Contractor	CPC1459908
Big Gator Pools and Spas LLC	Kristin Riddle	239-770-8543	1749 NE 10th Ter Unit 6	Certified Pool/Spa Servicing Contractor	WC - EXEMPT	825229613

Inspections

Date	Inspection Type	Description	Scheduled Date	Completed Date	Inspector	Status
02/13/2025	Pool - 109 Deck Steel	Call Doug prior to arrival 239-922-7223 Gate Code: 1133	02/14/2025	02/14/2025	*Inspection Requests	Pass
02/12/2025	Pool - 108 Shell Steel	Please call Doug prior to arrival 239-922-7223 Gate Code is 1133	02/13/2025		Ashley Shepard	Cancelled
02/12/2025	Pool - 116 Deck Bonding	Please call Doug prior to arrival 239-922-7223 Gate Code is 1133	02/13/2025	02/13/2025	James Cook	Pass
02/12/2025	Pool - 118 Shell Bonding	Please call Doug prior to arrival 239-922-7223 Gate Code is 1133	02/13/2025	02/13/2025	James Cook	Pass
02/10/2025	Pool - 108 Shell Steel	Please contact Doug prior to arrival 239-922-7223. Gate Code is 1133.	02/13/2025		Joe Specht	Pass
02/10/2025	Pool - 109 Deck Steel	Please contact Doug prior to arrival 239-922-7223. Gate Code is 1133.	02/13/2025		Evan Nelms	Cancelled by Contractor
02/10/2025	Pool - 116 Deck Bonding	Please contact Doug prior to arrival 239-922-7223. Gate Code is 1133.	02/12/2025	02/12/2025	James Cook	Cancelled by Contractor
02/10/2025	Pool - 118 Shell Bonding	Please contact Doug prior to arrival 239-922-7223. Gate Code is 1133.	02/11/2025	02/11/2025	James Cook	Cancelled by Contractor
01/16/2025	Pool - 101 Foundation / Stem Wall	Per Joe Especht's request, we are requesting Joe as an inspector. Gate Code 1133	01/17/2025	01/17/2025	Joe Specht	Pass
01/08/2025	Pool - 101 Foundation / Stem Wall	Please contact Darell when you have a ballpark time of your arrival. 419-327-0529 Please call Darell prior to arrival Gate Code is 1133	01/09/2025		Evan Nelms	Pass
01/06/2025	Pool - 101 Foundation / Stem Wall	NO FOUNDATION DRAWINGS ARE INCLUDED IN THE MATERIALS SUBMITTED BY THE CONTRACTOR, CONTRACTOR REP ON SITE DARREL INDICATED THAT HE UNDERSTOOD THE	01/08/2025		Evan Nelms	Partial

		PROBLEM AND WOULD SEE TO IT THAT FOUNDATION DRAWINGS WERE SUBMITTED TO THE TOWN,			
01/06/2025	Pool - 142 Silt Fence	SILT FENCE NEEDS SOME MAINTENANCE. INSPECTOR DISCUSSED WITH CONTRACTOR ON SITE.	01/08/2025	Evan Nelms	Partial
		REQUIRED BEFORE CC -STRUCTURE MUST HAVE HYDROSTATIC RELIEF VALVES			
11/21/2024	Outstanding for CO CC	*PLANS STATE POOL IS IN COMPLIANCE WITH SECTION FBC SECTION 3.2.2.4 (ANCHORED TO RESIST FLOOD LOADS) AND 322.3.3.1 (COMPLIANCE WITH ASCE 24-14 - FLOOD RESISTANT DESIGN)			Open
08/26/2024	Engineered Drainage Letter				Open

Plan Reviews

Date	Review Type	Description	Assigned To	Review Status
08/26/2024	Notice of Commencement		Andrew Garry	DONE
08/26/2024	Review Flood		Carl Thomas	REVIEWED W/CONDITIONS
08/26/2024	Review Res. Plan review		Joe Specht	REVIEWED FOR COMPLIANCE
08/26/2024	Review Zoning		Kendra Rosa	REVIEWED FOR COMPLIANCE
08/26/2024	Review Stormwater		James Warner	REVIEWED FOR COMPLIANCE
08/26/2024	Review Environmental		Chadd Chustz	REVIEWED W/CONDITIONS
08/26/2024	Review FMB Application		Kendra Rosa	DONE
08/26/2024	Elec. Sub Permit Req.	FAVAZZA ELECTRIC INC	Kendra Rosa	DONE
09/03/2024	Rejection Letter Sent	1st Flood Rejection Letter	Marilyn Silva	DONE
01/08/2025	Revision Submitted (Plan Review)	Revision 1 Plan	Joe Specht	REVIEWED FOR COMPLIANCE

Fees

Fee	Description	Notes	Amount
FMB-Third Party Review Costs	Pass Through Fees from Tetra Tech Engineering		$292.50
		Total	**$292.50**

Attached Letters

Date	Letter	Description
11/15/2024	Building Permit	

Payments

Date	Paid By	Description	Payment Type	Accepted By	Amount
09/03/2024	Kristin J Riddle	993655			$292.50
				Outstanding Balance	**$0.00**

Notes

Date	Note	Created By:
08/26/2024	FEES WAIVED PER MANAGEMENT	Kendra Rosa

Uploaded Files

Date	File Name
01/08/2025	23724966-PLAISTED MOORE REV25-01-02 signed.pdf
11/15/2024	23204687-JOBSITE COPY 242333.pdf
09/03/2024	22248238-Flood Rejection Letter 242333.pdf
08/26/2024	22146305-NOC.pdf
08/26/2024	22142238-e6a7f9c2a6758bbe26577846f02b5530_noc_21391_widgeon.pdf
08/26/2024	22141715-DRAIN24-338-01-DRAINAGE-R(ESIGN) (1).pdf
08/26/2024	22141711-Subcontractor form_Favazza Electric_Plaisted Pool_08222024.pdf
08/26/2024	22141709-Plaisted Pool Application Paperwork.pdf
08/26/2024	22141706-PLAISTED MOORE REV24-08-19 signed (1).pdf

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2025-392**

1. **Request:**

Meeting Date: May 19, 2025

A RESOLUTION OF THE FORT MYERS BEACH TOWN COUNCIL APPROVING, APPROVING WITH CONDITIONS, DENYING 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 ALLOW A SETBACK OF 12.6 FEET INSTEAD OF THE REQUIRED 25 FEET WATERBODY SETBACK FROM A CANAL, IN ORDER TO BUILD A NEW GARAGE AND AN ELEVATED POOL FOR THE EXISTING SINGLE-FAMILY RESIDENCE IN THE RC ZONING DISTRICT; AND PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Variances may be approved by the LPA or recommendations from the LPA may be sent to the Town Council for consideration.

What the action accomplishes:

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

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	Resolution	Sarah Propst, Community Development, Planning Manager

5. **Background:**

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

Attachments:

1. NS Resolution 25-150
2. Staff report
3. Exhibit A Concept Plan
4. Exhibit B Complete Application

Financial Impact:

unknown

6. **Alternative Action**

Recommend approval with conditions

7. **Management Recommendations:**

Recommend denial

8. **Recommended Approval:**

Kendra Rosa, Zoning Coordinator	Created/Initiated - 5/7/2025
Frankie Kropacek, Community Development Director	Approved - 5/9/2025
nancy stuparich, Town Attorney	Approved - 5/12/2025
Amy Baker, Town Clerk	Approved - 5/13/2025
Andy Hyatt, Town Manager	Final Approval - 5/13/2025

RESOLUTION 25-150
FORT MYERS BEACH TOWN COUNCIL

A RESOLUTION OF THE FORT MYERS BEACH TOWN COUNCIL APPROVING, APPROVING WITH CONDITIONS, DENYING 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 ALLOW A SETBACK OF 12.6 FEET INSTEAD OF THE REQUIRED 25 FEET WATERBODY SETBACK FROM A CANAL, IN ORDER TO BUILD A NEW GARAGE AND AN ELEVATED POOL FOR THE EXISTING SINGLE-FAMILY RESIDENCE IN THE RC ZONING DISTRICT; AND PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. ,

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

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

WHEREAS, Thomas and Melinda Kolar ("Applicant"), owners of the property located at 277 Primo Drive (Property), are requesting a variance from LDC Table 34-3 of 12.4 feet from the required 25-foot waterbody setback from a canal to allow a waterbody setback of 12.6 feet to construct a new garage and an elevated pool for the existing single-family residence in the RC zoning district; and

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

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

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on April 29, 2025, and at the hearing, 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 Section 34-87 of the LDC. The LPA voted 6-1 to recommend approval of the variance finding it consistent with the Comprehensive Plan and the Land Development Code requirements for a variance; and

WHEREAS, on May 19, 2023 the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the

documents in the record, and testimony of all interested persons as required by 34-87 of the LDC; and

WHEREAS, the Town Council determined it is in the best interest of the Town to approve/ approve with conditions/ deny the request.

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

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

Section 2. The Town Council determines the Applicant did/ did not meet its burden of proof that the requested Variance does/ does not meet the requirements of the Town Comprehensive Plan and LDC, and approving/ approving with conditions/ denying the Variance is in the best interest of the Town to approve/ approve with conditions/ deny. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties and public, the Town Council APPROVES/APPROVES WITH CONDITIONS/DENIES the variance from LDC Table 34-3.

Section 3. In approving the Variance, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-87 of the LDC:

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

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

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

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

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

Section 4. If the Town Council approves the requested variance, the following conditions of approval are imposed on the Applicant and the Property:

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

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

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

Dan Allers, Mayor	___
Jim Atterholt, Vice Mayor	___
John R. King	___
Bill Veach	___
Karen Woodson	___

DULY PASSED AND ADOPTED THIS 19th day of May, 2025.

Town of Fort Myers Beach

By: _____
Dan Allers, Mayor

Approved as to legal sufficiency:

By: _____
Vose Law Firm, Town Attorney

ATTEST:

By: _____
Amy Baker, Town Clerk

EXHIBIT A: Site Plan

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE:	**Variance**
CASE NUMBER:	**VAR20250045**
CASE NAME:	**277 Primo Drive; a variance from Table 34-3 of 12.4 feet from the required 25-foot waterbody setback to allow a 12.6-foot setback.**
LPA HEARING DATE:	**April 29, 2025**
TOWN COUNCIL HEARING DATE:	**May 19, 2025**
STAFF RECOMMENDATION:	**DENIAL**
PREPARED/ SUBMITTED BY:	**Sarah Propst, AICP, PMP**

I. APPLICATION SUMMARY

Applicant/Owner:	Thomas and Melinda Kolar
Request:	A variance from Table 34-3 of 12.4 feet from the required 25-foot waterbody setback from a canal for an RC zoned waterbody lot. To allow a waterbody setback of 12.6 feet from the canal on the west side of the property to build a new garage and an elevated pool for the existing single-family residence.
Subject property:	See attached site plan
Physical Address:	277 Primo Drive
STRAP #:	19-46-24-W4-0150D.0260
FLU:	Mixed Residential
Zoning:	Residential Conservation (RC)

Adjacent zoning and land uses:

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

II. BACKGROUND AND ANALYSIS

Background:

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

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

Analysis:

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

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

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

waterbody setback of 12.6 feet from the canal to build a garage and an elevated pool for the existing single-family residence.

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

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

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

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

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

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

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

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

   The request is for the minimum variance that would allow the Applicant to elevate a pool and build a garage in that location. The proposed new garage

has a similar waterbody setback as the elevated pool and may be approved as part of the same application.

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

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

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

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

III. RECOMMENDATION

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

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

At the LPA hearing on April 29, 2025 the LPA heard the case. Chair Cereceda made a motion to approve the request with conditions, the motion was seconded by Member Dunlap and was recommended for approval with a vote of 6-1.

IV. CONDITIONS

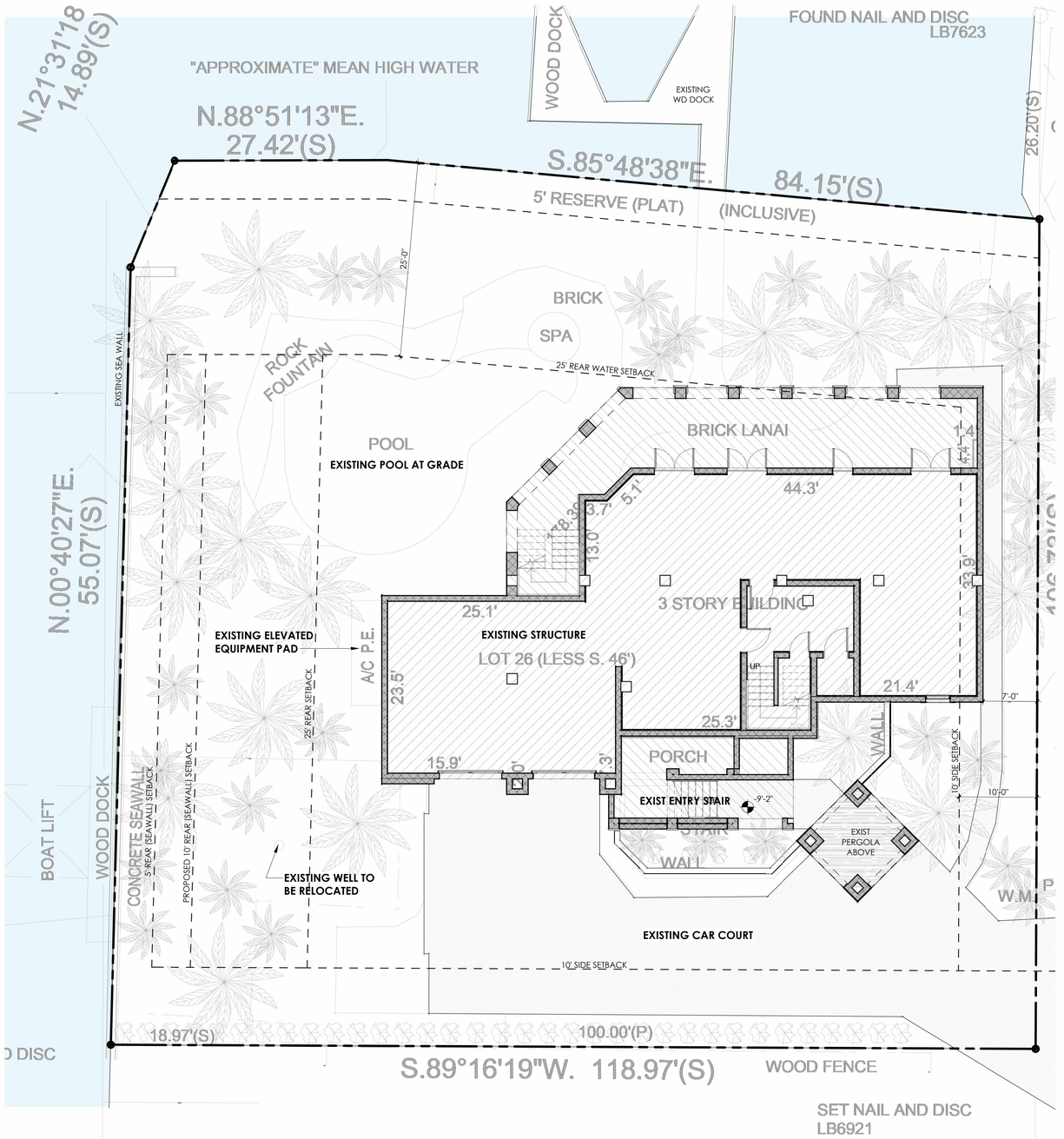
If approval of the request is granted, the following conditions should be considered for incorporation into the resolution of approval.

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

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

V. EXHIBITS

Exhibit A: Concept Plan
Exhibit B: Complete Application Packet



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

KOLAR RESIDENCE

DATE: 02/14/2025

MHK ARCHITECTURE COPYRIGHT © 2025

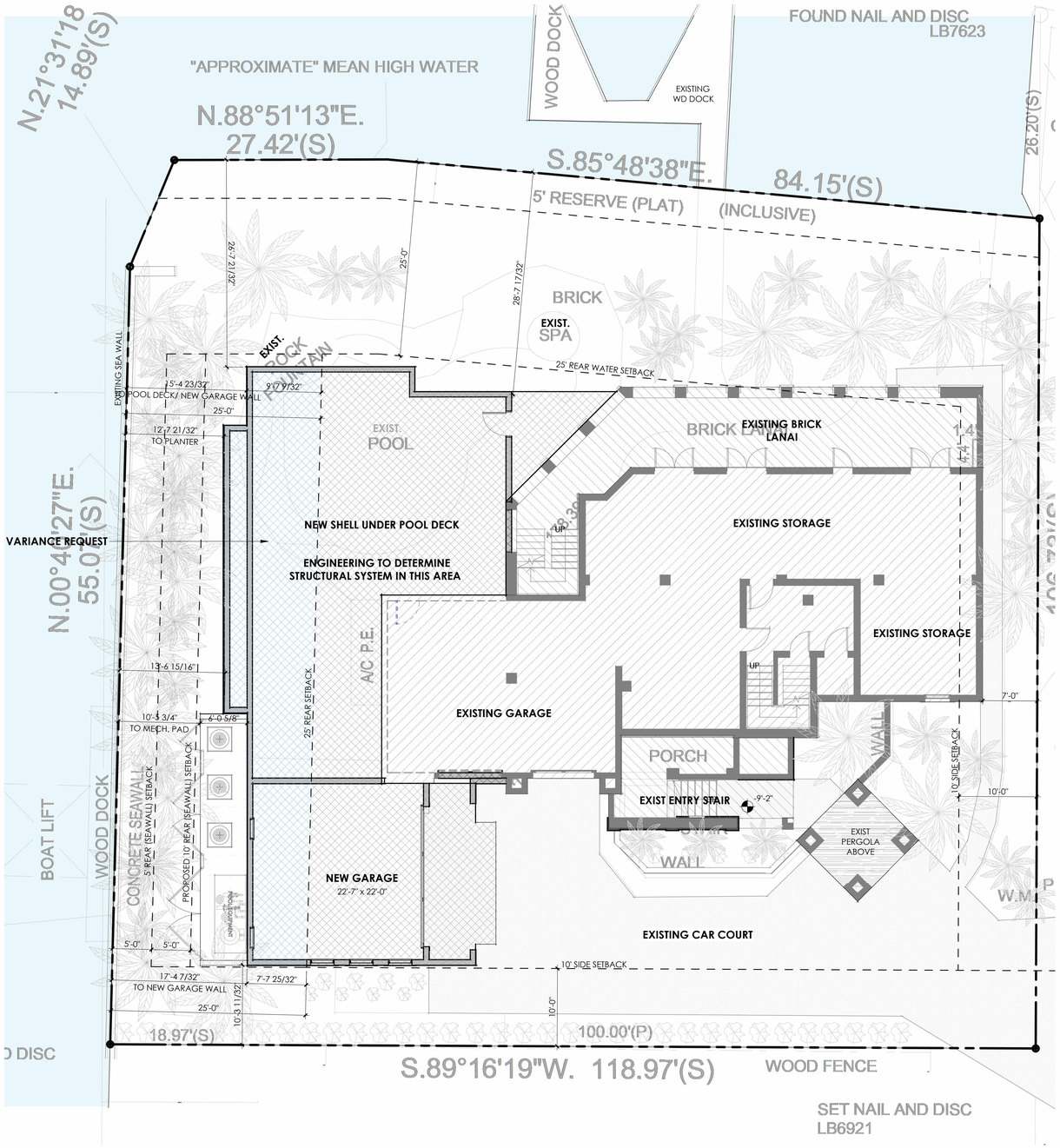
SK1 | MHK ARCHITECTURE

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

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

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

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



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

KOLAR RESIDENCE

DATE: 02/14/2025

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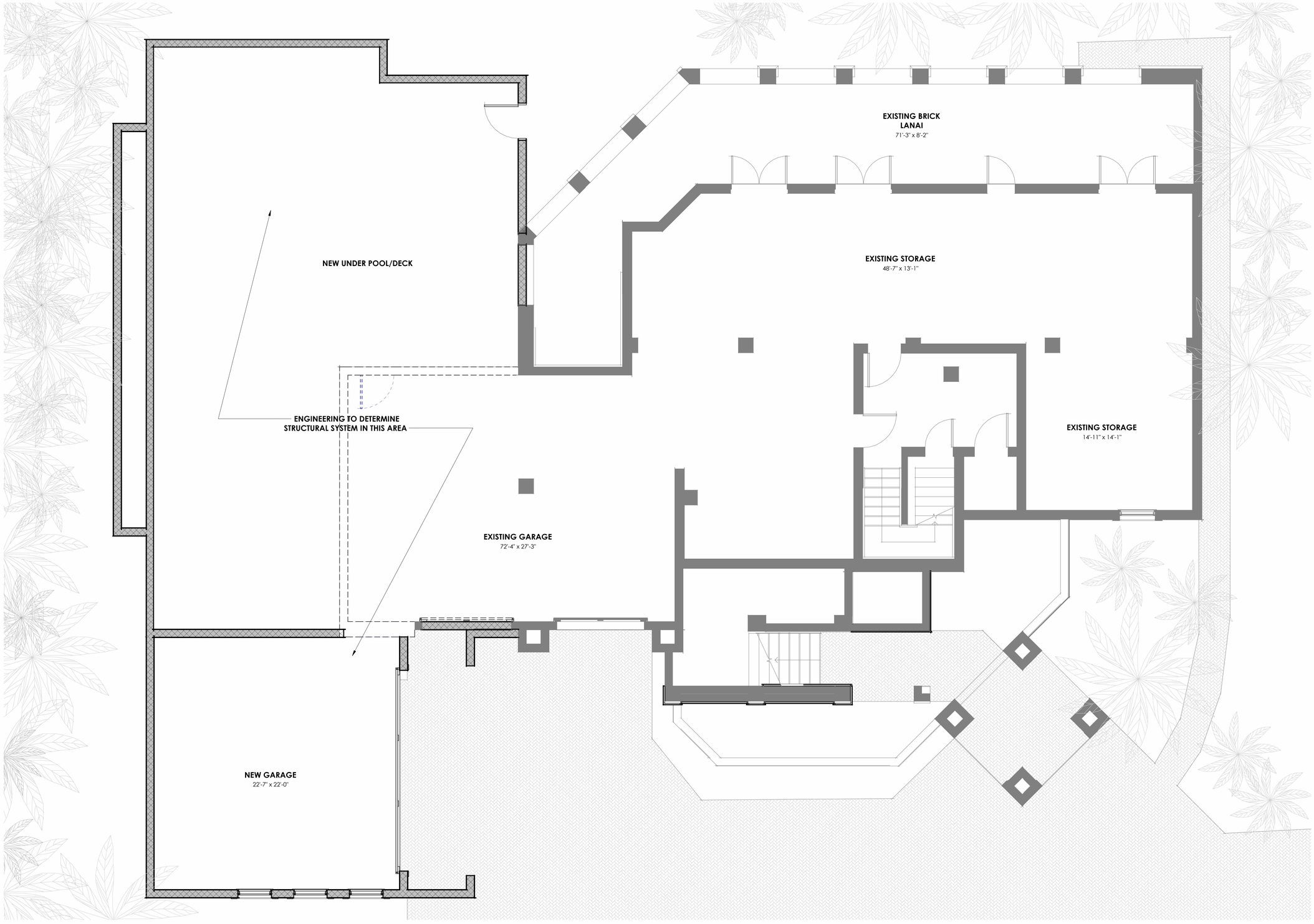
SK1.1 | MHK ARCHITECTURE



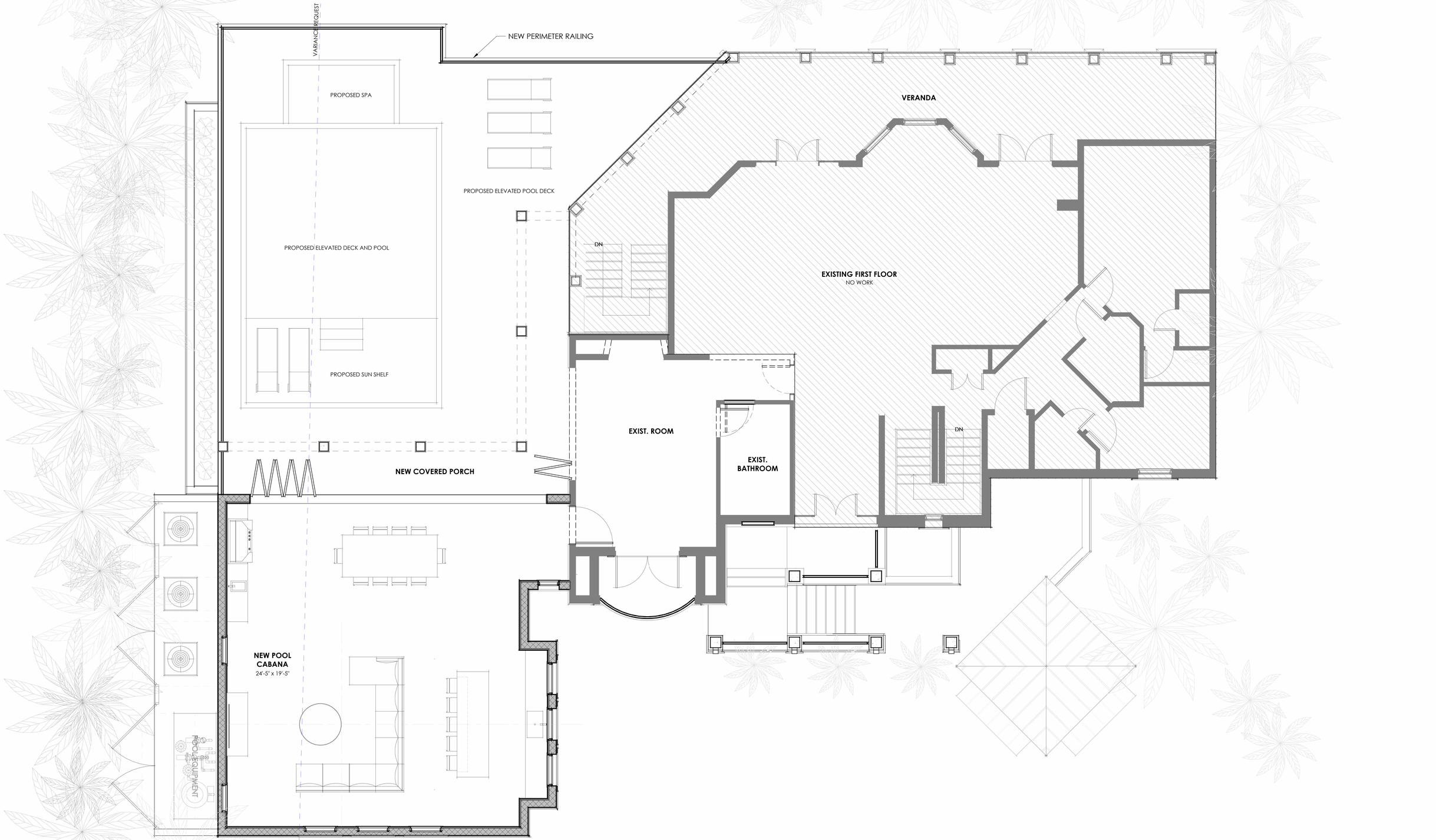
1 GROUND FLOOR PLAN
SCALE: 1/4" = 1'-0"

KOLAR RESIDENCE

DATE: 02/14/2025

MHK ARCHITECTURE COPYRIGHT © 2025

SK2 | MHK ARCHITECTURE



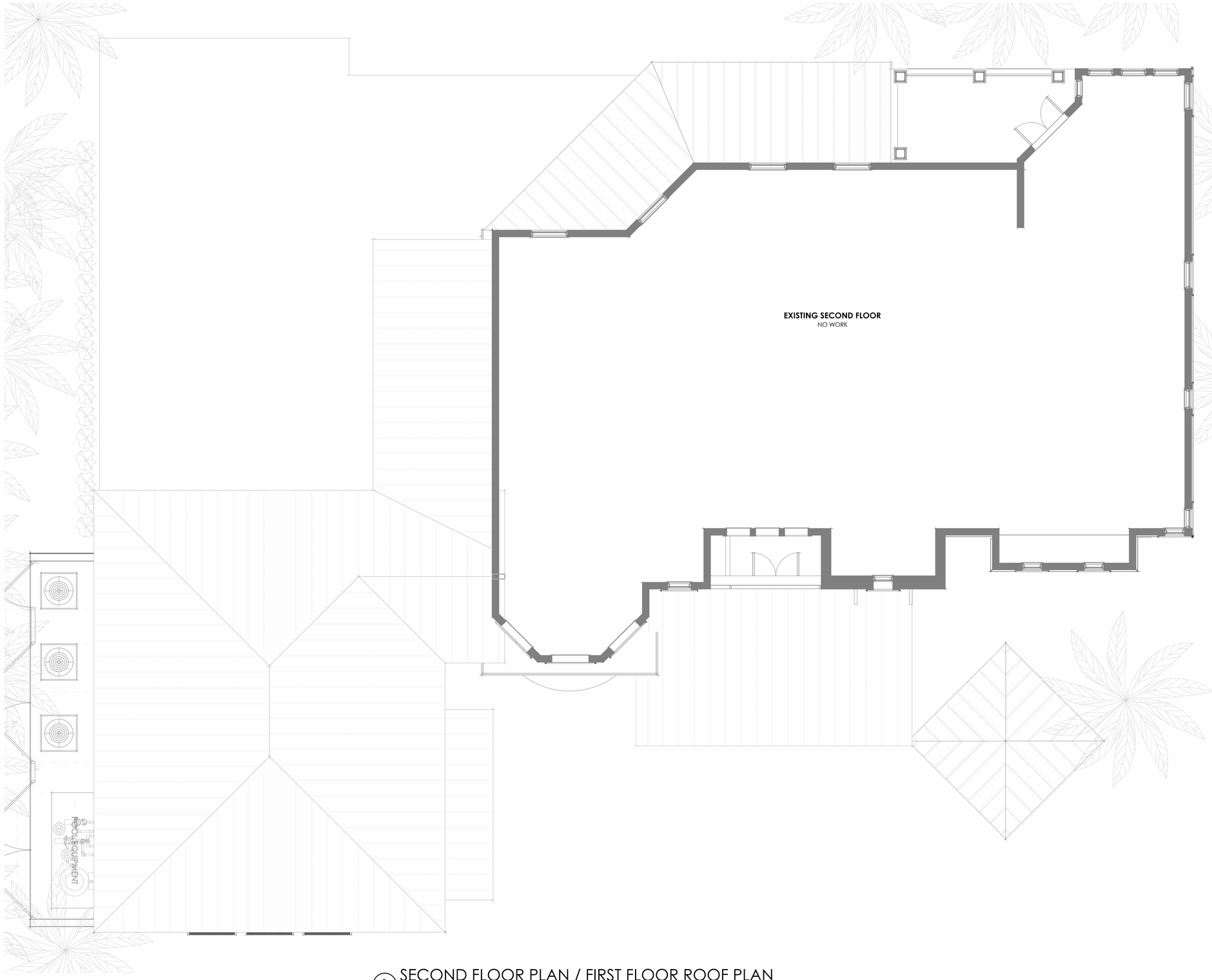
1 FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"

KOLAR RESIDENCE

DATE: 02/14/2025

MHK ARCHITECTURE COPYRIGHT © 2025

SK3 | MHK ARCHITECTURE



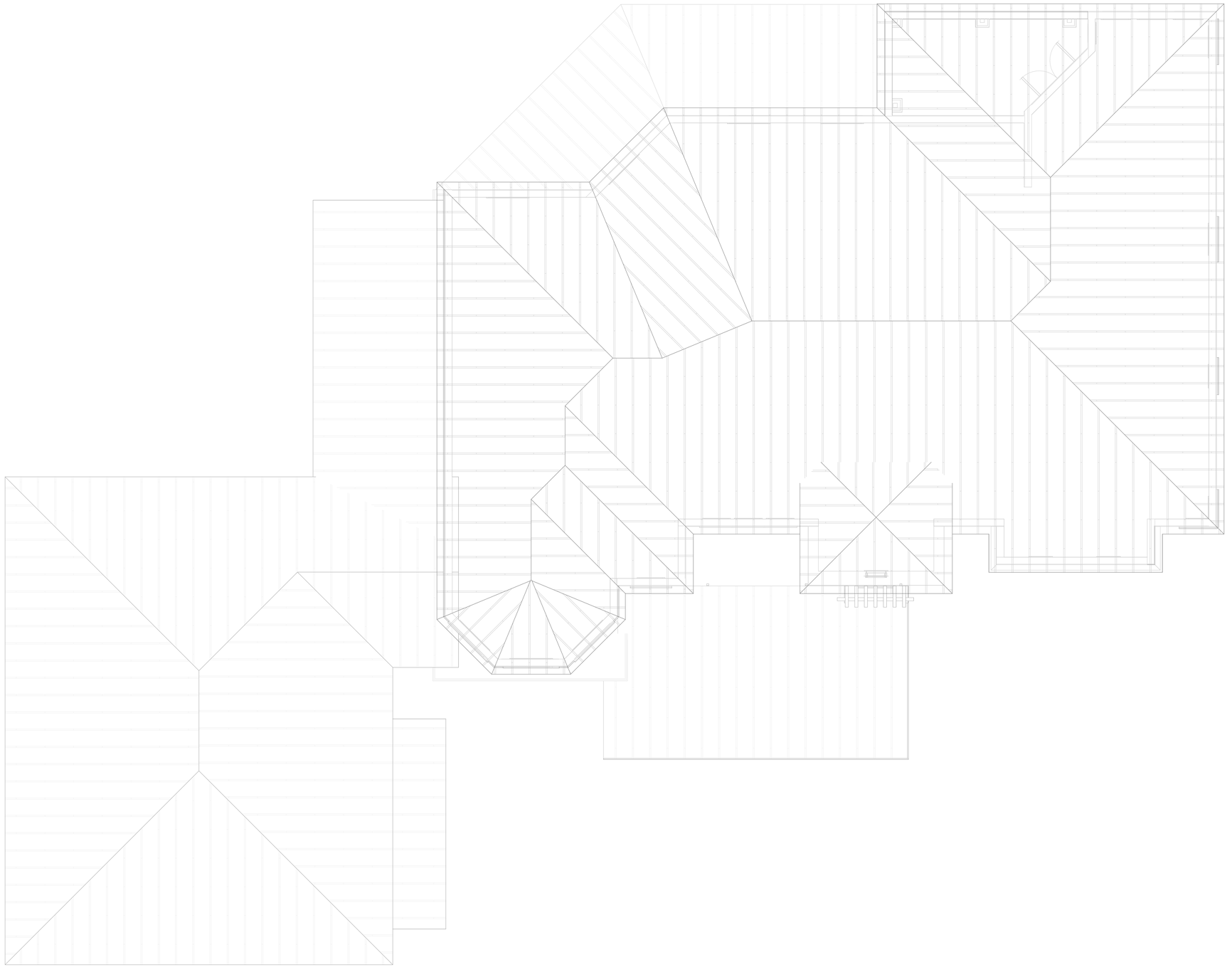
1 SECOND FLOOR PLAN / FIRST FLOOR ROOF PLAN
SCALE: 1/4" = 1'-0"

KOLAR RESIDENCE

DATE: 02/14/2025

MHK ARCHITECTURE COPYRIGHT © 2025

SK4 | MHK ARCHITECTURE



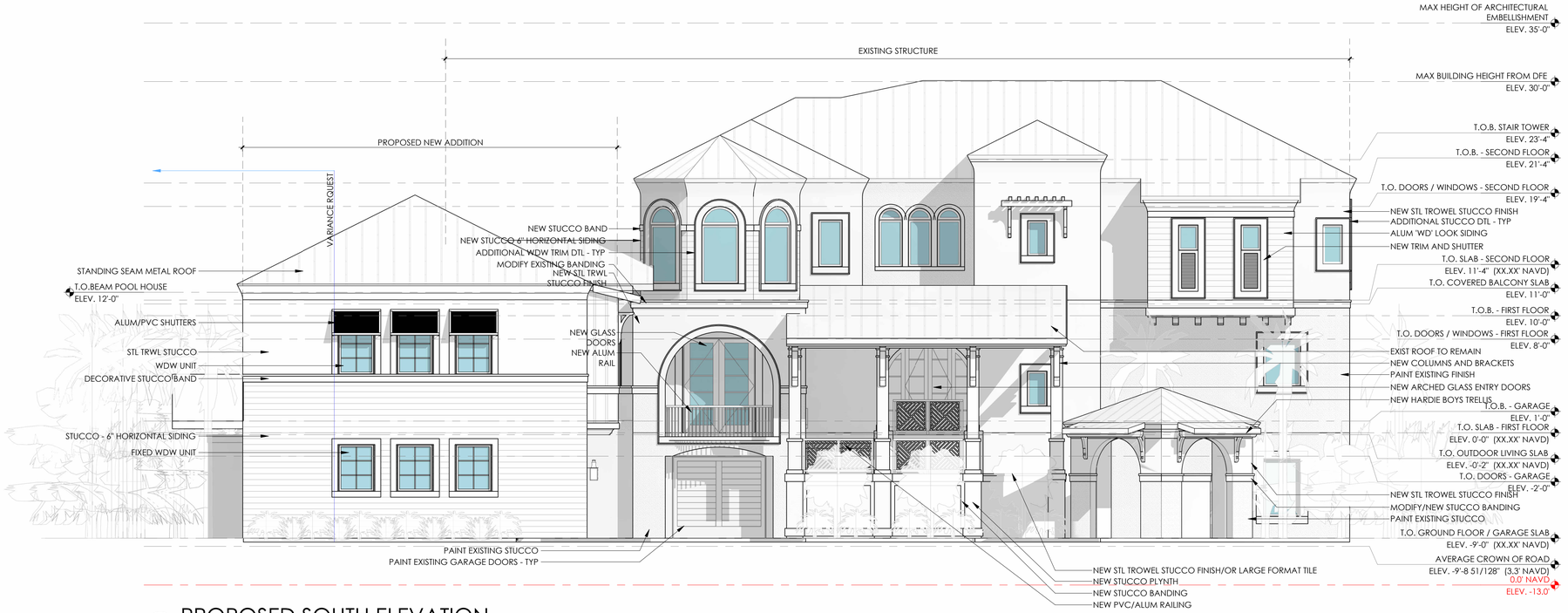
1 ROOF PLAN
SCALE: 1/4" = 1'-0"

KOLAR RESIDENCE

DATE: 02/14/2025

MHK ARCHITECTURE COPYRIGHT © 2025

SK5 | MHK ARCHITECTURE



1 PROPOSED SOUTH ELEVATION

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

2 SOUTHEAST PERPSPECTIVE

SCALE:

3 PROPOSED EAST ELEVATION

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

KOLAR RESIDENCE

DATE: 02/14/2025

MHK ARCHITECTURE COPYRIGHT © 2025

SK6 | MHK ARCHITECTURE

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

KOLAR RESIDENCE

DATE: 02/14/2025

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SK7 | MHK ARCHITECTURE

COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

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

Site Address: 277 Primo Drive

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

Applicant: Thomas & Melinda Kolar Phone: _____

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

Email: stewart.karalyn@gmail Fax: _____

Current Zoning District: RC

Future Land Use Map (FLUM) Category: Mixed Residential

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

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

PART I – General Information

A. Applicant*: Thomas & Melinda Kolar Phone: _____

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

Applicant Mailing Address: 277 Primo Dr., FMB 33931

Email: _____ Fax: _____

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

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

COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: Kara Stewart Phone: 239-770-4198

Address: _____

Email: stewart.karalyn@gmail.com Fax: _____

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

Name: Tommy Kolar Phone: 239-233-4363

Address: _____

Email: _____ Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

☐ Special Exception

☑ Variance from LDC Section 34 - 638, 1176(d)

☐ Conventional Rezoning from _____ to _____

☐ Planned Development

☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD

☐ Amendment. List the project number: _____

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

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

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

_____

_____

PART III – Waivers

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

Code Section: _____ Description: _____

_____

Code Section: _____ Description: _____

_____

Code Section: _____ Description: _____

_____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

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

Signature

Thomas Kolar
Printed Name

STATE OF Florida **COUNTY OF** Lee

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

[SEAL]

Notary Public Signature

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

PART V
Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address	Percentage Ownership

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

Name, Address and Office	Percentage of Stock

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

Name and Address	Percentage of Interest

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

Name and Address	Percentage of Ownership

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

Name, Address and Office	Percentage of Stock

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

_____ _____
Signature Printed Name

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

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

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

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

COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

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

Signature | Title

Thomas Kolar | 2-19-25

Typed or Printed Name | Date

STATE OF Florida **COUNTY OF** Lee

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

Seal

Notary Public Signature

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

PART VI– Property Information

A. Legal Description:

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

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

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

☑ Yes. Property identified in subdivision: Crescent Park

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

B. Boundary Survey:

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

C. Property Dimensions:

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

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

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

Total land area: 13073 ☐ acres ☑ square feet

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

Over bridge go left to Primo at end of road

☑ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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

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

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

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

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

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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

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

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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

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

line. Exhibit 6-2

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

Explanatory Notes – Part IV & V

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

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

Case # _____ Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

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

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

Current Property Status: Single Family			
Current Zoning: RC			
Future Land Use Map (FLUM) Category: Mixed Residential			
Comp Plan Density: 6du/acre	**Platted Overlay?**	☐ **Yes**	✔ **No**

Variance is requested from:

LDC Section Number	**Title of Section or Subsection**
34-1176 (d)	Swimming pools, tennis courts, porches....
34-638 (d)(3)(b)	Waterbody Setbacks
34-638 (d)(1)(g)(3)	Mechanical Equipment

Complete the narrative statements below for EACH variance requested.

Case # _____ Date Received: _____

PART I

Narrative Statements

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

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

Reasons for request

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

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

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

SEE ATTACHMENT "B"

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

PART 2
Submittal Requirements

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

Required Items

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

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

Cover page

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

Narrative statements

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

Site plan

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

LDC Section 34-87

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT B

Kolar Residence
277 Primo Variance

Possible Effects on Neighbor:

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

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

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

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

Hardship:

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

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

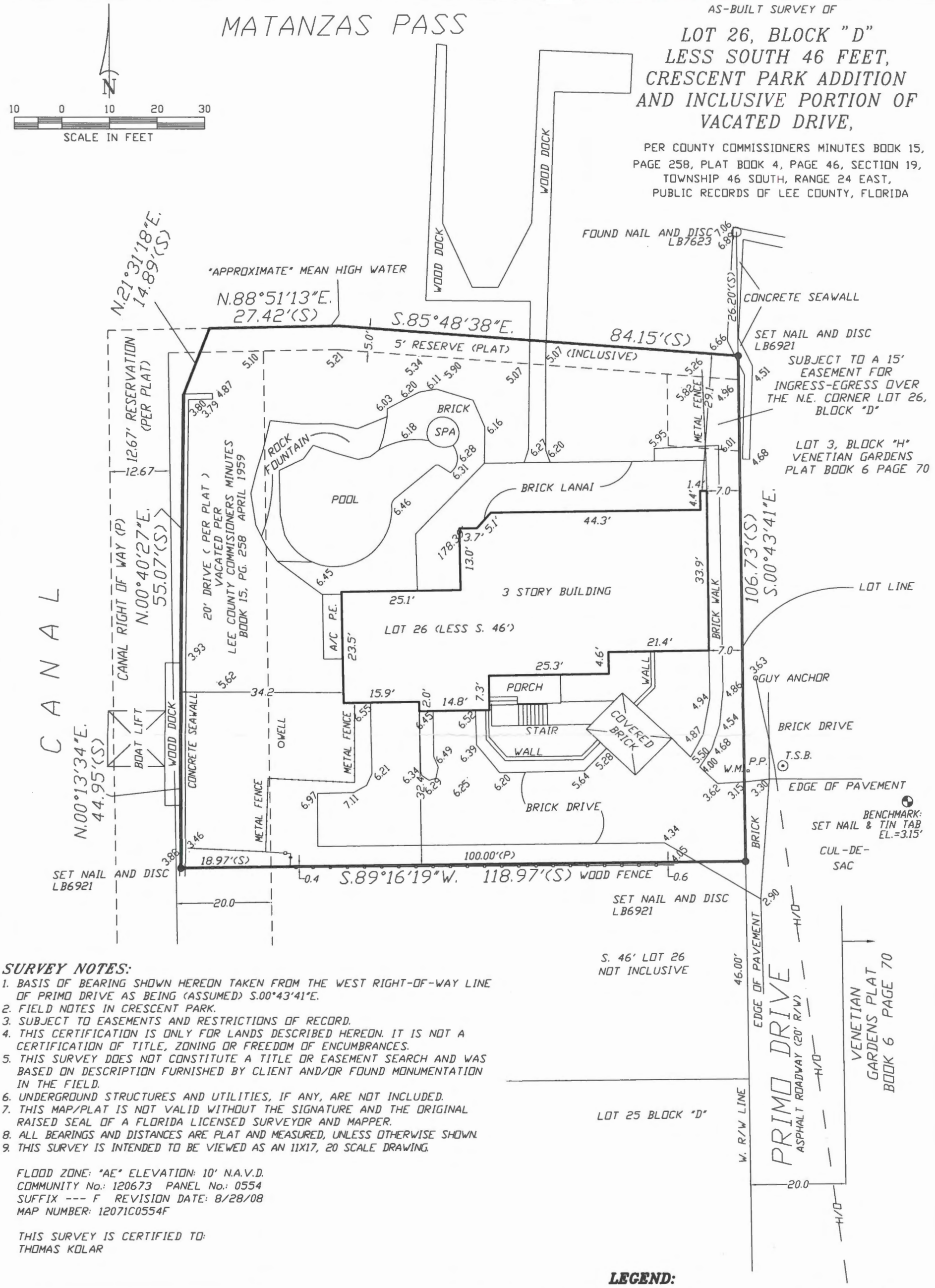
The existing garage was not constructed with today's vehicle sizes in mind. See Exhibit "C". The existing garage is rather small in size and unable to accommodate the larger vehicles of today. The proposed garage will allow for the storage of the larger vehicles of today. As mentioned above, the code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

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

AS-BUILT SURVEY OF

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

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



SURVEY NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE WEST RIGHT-OF-WAY LINE OF PRIMO DRIVE AS BEING (ASSUMED) S.00°43'41"E.
2. FIELD NOTES IN CRESCENT PARK.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SURVEY DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. THIS SURVEY IS INTENDED TO BE VIEWED AS AN 11X17, 20 SCALE DRAWING.

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

THIS SURVEY IS CERTIFIED TO:
THOMAS KOLAR

REVISED:	DESCRIPTION:	BY:

DATE OF LAST FIELD WORK: 4/30/19

CERTIFICATE OF AUTHORIZATION: LB #6921

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

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

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

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

LEGEND:

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

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2025-404**

1. **Request:**

Meeting Date: May 19, 2025

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

Why the action is necessary:

LPA reviews Special Exceptions and makes recommendations to the Town Council.

What the action accomplishes:

Approval of the Special Exception would allow like-for-like replacement of riprap, aluminum fences, sidewalks, pool, and pool deck along with 494 sq. ft. pool deck extension in the EC zoning district.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Resolution

4. **Submitter of Information:**
Sarah Propst, Community Development, Planning Manager

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5. **Background:**

The applicant is requesting a special exception to allow like-for-like replacement of riprap, aluminum fences, sidewalks, pool, and pool deck along with a 494 sq. ft. pool deck expansion in the Environmentally Critical (EC) zoning district seaward of the 1978 Coastal Construction Control Line (CCCL). Section 34-652(e) of the Town's LDC allows repair and reconstruction of accessory structures like pool, pool deck, fence, and riprap into the EC district only by special exception.

Attachments:

1. Resolution 25-152, SEZ20250033 7150 Estero Blvd
2. Staff report
3. Exhibit A- Site Plan
4. Exhibit B- Completed Application
5. Exhibit C- Letters of No Objection
6. Exhibit D- Letter from Attorney
7. Exhibit E- Condominium Board approval

Financial Impact:

Unknown

6. **Alternative Action**

Recommend approval with conditions/ Denial

7. **Management Recommendations:**

Recommend approval with conditions for like-for-like replacement of the riprap, aluminum fences, sidewalks, pool, and the pool deck. Recommend denial for expansion of pool deck by 494 sq.ft. in the EC zoning district.

8. **Recommended Approval:**

Judith Frankel, Principal Planner	Created/Initiated - 5/7/2025
Frankie Kropacek, Community Development Director	Approved - 5/9/2025
nancy stuparich, Town Attorney	Approved - 5/12/2025
Amy Baker, Town Clerk	Approved - 5/13/2025
Andy Hyatt, Town Manager	Final Approval - 5/13/2025

RESOLUTION NUMBER 25-152

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

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

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

WHEREAS, applicant Lloyd M Welker on behalf of owner Creciente Condo South, is requesting a special exception to allow replacement of riprap, aluminum fences and pool deck with 494 sq. ft. pool deck extension in Environmentally Critical zoning district seaward of 1978 CCCL; and

WHEREAS, the STRAP number for the subject property is 03-47-24-W1-02400.8000; and

WHEREAS, the Property is located in the "Mixed Residential" and "Recreation" category of the Future Land Use Map of the Comprehensive Plan; and

WHEREAS, the Property is located in the "Multi-family Residential" and the "Environmentally Critical" zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on April 29, 2025, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-88 of the LDC. The LPA found that the request is consistent with the comprehensive plan and the requirements of the LDC and voted 7 to 0 recommending approval with conditions of the Special Exception; and

WHEREAS, on May 19, 2025 the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the

documents in the record, and testimony of all interested persons as required by 34-88 of the LDC; and

WHEREAS, the Town Council determined it **is/ is not** in the best interest of the Town to approve/approve with conditions/deny the request.

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

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

Section 2. The Town Council determines the Applicants **did/ did not** meet their burden of proof that the requested Special Exception **does/ does not** meet the requirements of and is consistent with the Town's Comprehensive Plan and LDC, and approving the Special Exception **is/ is not** in the best interest of the Town to approve. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicants, Town staff, and interested parties and public, the Town Council **APPROVES/APPROVES WITH CONDITIONS/DENIES** the special exception request to allow replacement of riprap, aluminum fences and pool deck with an additional 494 sq. ft. pool deck expansion in Environmentally Critical zoning district seaward of 1978 CCCL.

Section 3. In **approving/ approving with conditions/ denying** the Special Exception, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-88 of the LDC:

A. Changed or changing conditions which make approval of the request appropriate.
B. The request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
C. The request meets all performance and locational standards for the proposed use.
D. The request will protect, conserve, or preserve environmentally critical areas and natural resources.
E. The request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
F. The requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code; and

In accordance with the additional regulations and considerations found in Section 6-366 of the LDC:

A. Any repairs must comply with all relevant local and state floodplain regulations.
B. Repairs may not damage existing dunes or dune vegetation.
C. Repairs, other than those limited to emergency repairs to enclose a damaged structure, may not be completed during sea turtle nesting season.

D. A new special exception must be applied for each time the structure is repaired.

Section 4. If the Town Council **approves/denies** the requested special exception and the following conditions of approval are imposed on the Applicants and the Property:

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

B. The applicant must obtain an approved lighting plan as outlined in LDC Sec. 34-1834.

C. Each time the structure is repaired, the applicant must request a new special exception approval and permit prior to beginning construction.

D. Construction may not occur during sea turtle season.

E. Failure to comply with any of the above-mentioned conditions of approval for the Special Exception will render this approval null and void.

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

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

ADOPTED this ___day of May 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

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

_____
Vose Law Firm, Town Attorney

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

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE:	**Special Exception**
CASE NUMBER:	**SEZ20250033**
CASE NAME:	**Special Exception for replacement of riprap, aluminum fences, pool, sidewalks, and pool deck with an addition of 494 sq. ft. pool deck in EC zoning district**
LPA HEARING DATE:	**April 29, 2025**
STAFF RECOMMENDATION:	**Approval with conditions for like-for-like replacement and Denial for pool deck expansion in EC zoning district**
PREPARED/ SUBMITTED BY:	**Sarah Propst, AICP, PMP**

I. APPLICATION SUMMARY

Applicant/Owner:	Lloyd M Welker, Creciente Condo South
Request:	Special Exception for like-for-like replacement of riprap, aluminum fences, pool, sidewalks, and pool deck and a 494 sq. ft. pool deck addition in the EC zoning district.
Subject property:	See attached site plan
Physical Address:	7150 Estero Boulevard
STRAP #:	03-47-24-W1-02400.8000
FLU:	Medium Residential and Recreational
Zoning:	Residential Multifamily (RM) & Environmentally Critical (EC)

Adjacent zoning and land uses:

North:	COMMERCIAL Santini
South:	GULF OF MIEXICO
East:	MIXED RESIDENTIAL AND RECREATIONAL RM and EC
West:	MIXED RESIDENTIAL AND RECREATIONAL Commercial Office, RM and EC

II. BACKGROUND AND ANALYSIS

Background:
The applicant is requesting a special exception to allow like-for-like replacement of riprap, aluminum fences, pool, sidewalks, and pool deck along with and an additional 494 sq. ft. pool deck expansion in the Environmentally Critical (EC) zoning district seaward of the 1978 Coastal Construction Control Line (CCCL). Section 34-652(e) of the Town's LDC allows repair and reconstruction of accessory structures including pools, pool decks, fences and riprap into the EC district only by special exception.

Analysis:
The purpose of the EC zoning district is to designate beaches and significant wetlands whose preservation is deemed critical to the Town of Fort Myers Beach through its comprehensive plan. The site's current multi-family residential use has been in place since 1972, before the establishment of the 1978 CCCL. The Applicant is proposing the reconstruction of the riprap, aluminum fences, pool, sidewalks, existing pool deck and landscaping which lie partially in the EC district and beyond the 1978 CCCL. The Applicant is also asking to expand the pool deck area by an additional 494 sq. ft. in the EC zoning district. The LDC does not support new development in the EC zoning district.

Neighborhood Compatibility:
Creciente Condo South has been at this location with this pool layout since 1972. Granting a special exception for the proposed replacement of riprap and fences along with 494 sq. ft. extension of the pool deck would not impact the character of the neighborhood.

Findings and Conclusions:

Special Exception Findings

Section 6-366(b)(3) Regulations and Considerations

LDC Section 6-366 includes additional regulations and considerations for special exception approval of repairs in the EC zoning district:

1. *Any repairs must comply with all relevant local and state floodplain regulations.* The development will comply with local and state floodplain requirements.

2. *Repairs may not damage existing dunes or dune vegetation.* The repairs are proposed in conjunctions with Environmental review to ensure that no dunes or native vegetation will be impacted. Any plantings proposed will be required to be Florida friendly, or otherwise acceptable to the Town and Florida DEP.

3. *Repairs, other than those limited to emergency repairs to enclose a damaged structure may not be completed during sea turtle nesting season.* Sea turtle nesting season begins May 1st and ends on October 31st. Construction will be completed outside of nesting season.

4. *A new special exception must be applied for each time the structure is repaired.* This is included as one of the conditions for approval.

LDC Sec. 34-88(b) sets forth the required findings and conclusions for the approval of a special exception:

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

   The existing pool deck, aluminum fences, riprap and landscaping were damaged during Hurricane Ian.

2) *Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.*

   Policy 5-D-1 states: Development (other than minor structures) shall not be allowed seaward of the 1978 Coastal Construction Control Line. Development seaward of the 1991 Coastal Construction Control Line may be permitted provided it complies with this comprehensive plan and all state and local permitting requirements.

The proposed like-for-like replacement of riprap, aluminum fences, pool, sidwalks, and previously existing pool deck does not create any new development or change the location from what previously existed on the site. Staff believes that the previously existing portion of the proposed request does not fall within the definition of development in the Town's code of ordinance:

- The LDC defines *Development* as (1) A subdivision, as defined in this chapter; or (2) Any improvement to land, as defined in this chapter.
- The LDC defines *Improvement* to land as any change to land or to any structure on the land, and shall include any movement or grading of land, except grading which is incidental to the removal of exotic vegetation and which is not prohibited by ch. 22 of this LDC; clearing of indigenous plant communities; and the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; provided, however, that any change to a building which does not involve a change in the building floor area shall not be deemed an improvement to land.

The proposed 494 sq. ft. expansion of the pool deck into the EC zoning district is deemed as an improvement in EC zoning district and is not consistent with Policy 5-D-1 of the Town's Comprehensive Plan.

3) *Whether the request meets or exceeds all performance and locational standards for the proposed use.*

The request will comply with local, state, and federal air, noise and water pollution standards. It will not adversely affect water quality, and it will not create a nuisance to adjacent properties.

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

The request will maintain what was previously constructed on this property with minor modifications. It will not have an additional negative impact.

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

There is no anticipated negative impact or injury to surrounding properties.

6) *Whether a requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code.*

The proposed repairs to the riprap, pool deck, fence, and landscaping will all be completed in compliance with the Town's Land Development Code.

III. RECOMMENDATION

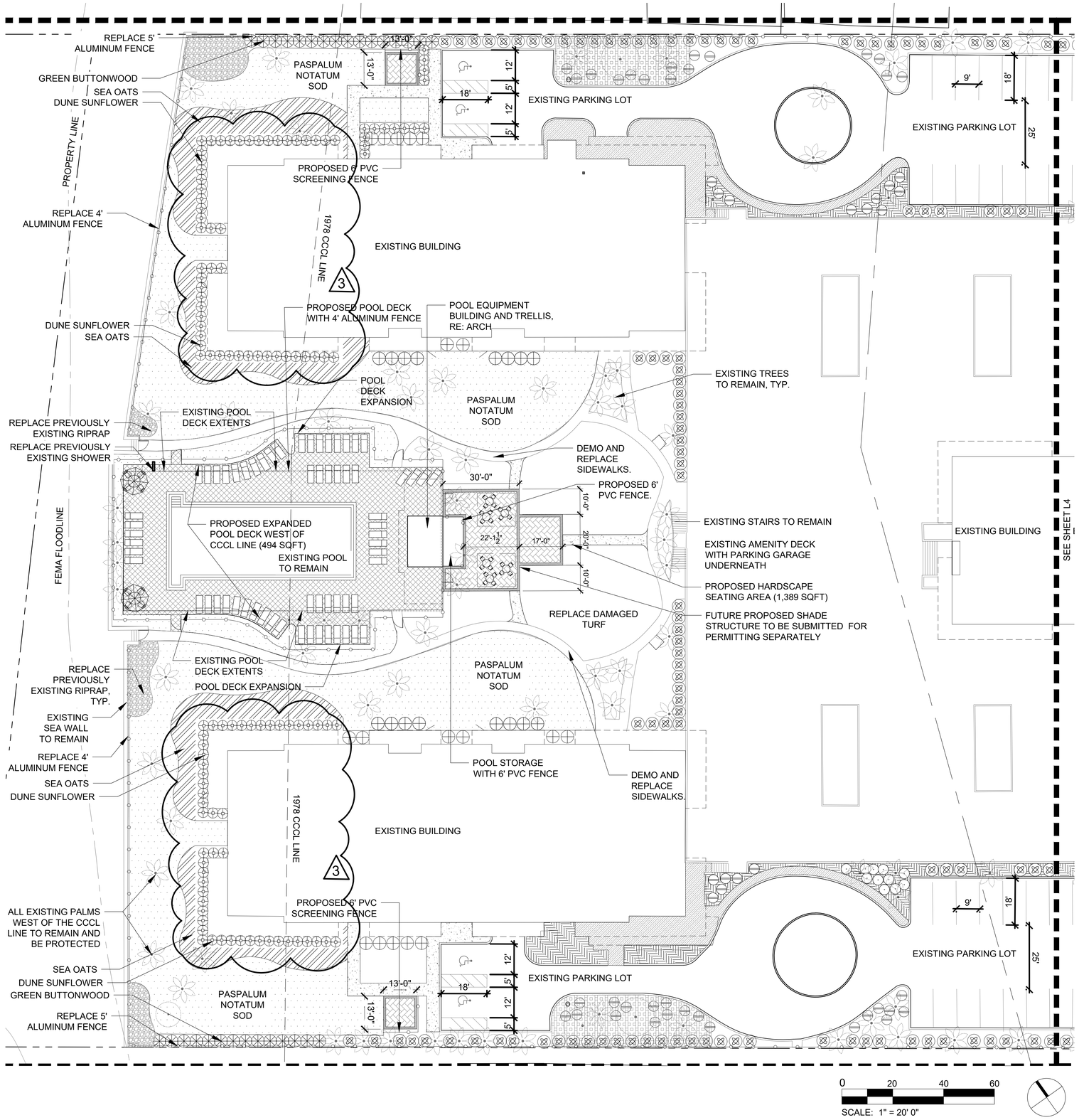
Staff finds that the special exception to replace the previously existing riprap, aluminum fences, and pool deck are in compliance with LDC Sec. 34-88(b). Therefore, staff recommends approval with conditions of SEZ20250033 for the like-for-like reconstruction of the riprap, aluminum fences, pool, sidewalks, and previously existing pool deck.

Staff finds that the request for pool deck expansion by 494 sq. ft. is not in compliance with LDC Sec. 34-88(b). Therefore, staff recommends denial for the proposed pool deck expansion in EC zoning district.

If LPA recommends approval for the requests, staff recommends the following conditions of approval.

III. CONDITIONS OF APPROVAL

1) Approval of this special exception does not give the Applicant an undeniable right to permit approval. Development of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
2) The applicant must obtain an approved lighting plan as outlined in LDC Sec. 34-1834.
3) Each time the structure is repaired, the applicant must request a new special exception approval and permit prior to beginning construction.
4) Construction shall not occur during sea turtle season.
5) Failure to comply with any of the above-mentioned conditions of approval for the Special Exception will render this approval null and void.



PLANT SCHEDULE

CODE	CODE	QTY	BOTANICAL NAME	COMMON NAME
TREES				
+	CON SER	6	CONOCARPUS ERECTUS F. SERICEUS	SILVER BUTTONWO
EXISTING TREES				
	EXT PAL	124	EXISTING PALM	EXISTING PALM
	EXT TRE	4	EXISTING TREE	EXISTING TREE
SHRUBS				
	CHR ICA	52	CHRYSOBALANUS ICACO 'RED TIP'	RED TIP COCO PLU
	CLU GUT	166	CLUSIA GUTTIFERA	SMALL LEAF CLUSI
	CON ERE	30	CONOCARPUS ERECTUS	BUTTONWOOD
	HEL DEB	118	HELIANTHUS DEBILIS	DUNE SUNFLOWER
	ZAM INT	108	ZAMIA INTEGRIFOLIA	COONTIE
EXISTING SHRUB				
	EXT SHR	43	EXISTING SHRUB	EXISTING SHRUB
SHRUB AREAS				
	UNI SE2	386	UNIOLA PANICULATA	SEA OATS
CODE	CODE	QTY	BOTANICAL NAME	COMMON NAME
GROUND COVERS				
	ERN LIT	185	ERNODEA LITTORALIS	GOLDEN CREEPER
	PAS VAG	17,684 SF	PASPALUM VAGINATUM	SEASHORE PASPA
TURF				
	PAS NOT	1,468 SF	PASPALUM NOTATUM	BAHIAGRASS

PAVING SCHEDULE

	DESCRIPTION
	CONCRETE PAVING
	CONCRETE FLUSH CURB
	POOL DECK PAVING
	PEDESTRIAN PAVER
	STAMPED CONCRETE
	FLAGSTONE PAVER WITH SHELL FILL

MEAD LANDSCAPE DESIGN
AESTHETIC EDGE DESIGN

MEAD LANDSCAPE DESIGN
5600 11th St South
St Petersburg, FL, 33705

CONSULTANTS

OWNER

CRECIENTE CONDOS
7150 ESTERO BLVD
FORT MYERS BEACH, FL 33931

SIGNATURE & SEAL

REGISTERED LANDSCAPE ARCHITECT THOMAS MEAD LA 6667354 STATE OF FLORIDA

REVISIONS

REV 3	REMOVED PROPOSED WALL	3/26/2025
REV 2	DO RE-SUBMITTAL	2/14/2025
REV 1	DO RE-SUBMITTAL	12/10/2024
NO..	DO SUBMITTAL	08/30/2024
NO.	COMMENTS	DATE

SHEET INFORMATION

DATE	08/30/2024
JOB NUMBER	113644
DRAWN BY	CB
CHECKED BY	TM

REGISTERED LANDSCAPE ARCHITECT THOMAS MEAD LA 6667354 STATE OF FLORIDA

Digitally signed by Thomas G Mead
DN: CN=Thomas G Mead, O=, OU=, E=, C=US
Date: 2025.03.26 08:14:44 -04'00'

Sunshine811

SITE PLAN

L5

Copyright 2024 BrightView Design Group

COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

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

Site Address: Creciente Condo South, Fort Myers, FL 33931

STRAP Number: 03-47-24-W1-02400.8000

Applicant: Lloyd Welker Phone: 614-620-0645

Contact Name: Billiejean Tietze Phone: 843-801-4029

Email: billiejean@permitflow.com Fax: _____

Current Zoning District: Residential - multi density

Future Land Use Map (FLUM) Category: _____

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

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

PART I – General Information

A. Applicant*: Lloyd M Welker Phone: 614-620-0645

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

Applicant Mailing Address: 5150 Johnstown Road New Albany, Ohio 43054

Email: lloydwelker@sprynet.com Fax: _____

Contact Name: Billiejean Tietze Phone: 843-801-4029

COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: Gino Villani Phone: 4147882859

Address: 12120 W. Carpenter Ave. Greenfield, WI 53228

Email: gino@villani Fax: _____

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

Name: Brandon Eells Phone: 2393226533

Address: 5811 Youngquist Rd, Fort Myers, FL 33912

Email: brandon.eells@wcgfl.com Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

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

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

_____

_____

PART III – Waivers

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

Code Section: N/A Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

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

Signature

Lloyd M Welker
Printed Name

STATE OF Florida **COUNTY OF** Lee

The foregoing instrument was certified and subscribed before me by means of ___ physical presence OR ✓ online notarization, this 30th day of January, 2025, by Lloyd M Welker, ☑ who is personally known to me OR ☐ who has produced

_____ as identification.

Notary Public Signature

PEGGY SCARPATI
Notary Public - State of Florida
Commission # HH 366800
My Comm. Expires Mar 23, 2027
Bonded through National Notary Assn.

PART V
Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address	Percentage Ownership
N/A	

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

Name, Address and Office	Percentage of Stock
Mike Close 7146 Estero Blvd Unit 811 Fort Myers Beach, FL 33931 President	1/172
Sheila McGinnis 7150 Estero Blvd Unit 900 Fort Myers Beach FL 33931 Vice President	1/172
Lloyd M Welker 7146 Estero Blvd Unit 414 Fort Myers Beach, FL 33931 Co Treasurer	1/172
Becky Werner 7150 Estero Blvd Unit 506 Fort Myers Beach, FL 33931 Secretary	1/172

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

Name and Address	Percentage of Interest
n/a	

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

Name and Address	Percentage of Ownership
N/A	

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

Name, Address and Office	Percentage of Stock

COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address

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

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

Signature: _____ Printed Name: LLOYD M WELKER

AFFIDAVIT

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

I, Lloyd M Welker (name), as Co Treasurer (title) of Creciente Condominium Association (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

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

COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

Creciente Condo South, Fort Myers, FL 33931
Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

Co Treasurer
Title

Lloyd M Welker
Typed or Printed Name

1/29/2025
Date

STATE OF Florida **COUNTY OF** Lee

The foregoing instrument was certified and subscribed before me by means of ___ physical presence OR ☑ online notarization, this 30th day of January, 2025, by Lloyd M Welker ☑ who is personally known to me OR ☐ who has produced _____ as identification.

Seal

Notary Public Signature

PEGGY SCARPATI
Notary Public - State of Florida
Commission # HH 366800
My Comm. Expires Mar 23, 2027
Bonded through National Notary Assn.

PART VI– Property Information

A. Legal Description:

STRAP: 03-47-24-W1-02400.8000

Property Address: The Creciente Condo South, Fort Myers, FL 33931

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

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

☐ Yes. Property identified in subdivision: _____

Book: _____ Page: _____ Unit: _____ Block: 02400 Lot(s): 8000

B. Boundary Survey:

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

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 385 feet

Depth (please provide an average width if irregular in shape) 575 feet

Frontage on street: 392 feet. Frontage on waterbody: 383 feet

Total land area: 221375 ☐ acres ☑ square feet

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

3 min North bound from the Big Carlos Bridge

☑ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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

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

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

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

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

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

Case# _____ Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-A

Additional Required Information for a Special Exception Application

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

Project Name: Creciente Condo
Authorized Applicant: LLoyd Welker
LEEPA STRAP Number(s): 03-47-24-W1-02400.8000

Current Property Status: Condominium Association 9 stories 68 units
Current Zoning: Residential-Multi Family
Future Land Use Map (FLUM) Category:
Platted Overlay? ☐ **yes** ☐ **no** **FLUM Density Range:**

Requested Action:

☑ Use of premises in the EC (Environmentally Critical) zoning district for:
Repair/Replacement of hurricane damage to the property.
☐ Use of premises in the _____ zoning district for:

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

Case# _____ Date Received: _____

PART I
Narrative Statements

A. **Request for:** (indicate the proposed use that requires a special exception)

• Re-establishment of existing pool deck and extension of pool
deck past the CCCL line (under 500 sf)
• Remove and replace all sidewalks like for like
• Re-establishment of Irrigation
• Re-establishment of Plantings/sod to include native vegetation
• Re-establishment of Fence & gates (to include pool safety fencing and perimeter)
• Re-establishment of Rip Rap
• Replace the previously existing shower station at the NW corner of the pool area
• Proposed future Retaining Walls
• Replace Bollard Lights along the sidewalks

B. **Reasons for request:** (state how the property qualifies for a special exception and what impact granting the request could have on surrounding properties. Direct these statements toward the guidelines in LDC Section 34-88)

The property qualifies for a Special Exception because:
PLEASE SEE ATTACHED: Response to PHA Application Sect B

Granting the requested Special Exception could impact surrounding properties as follows:
PLEASE SEE ATTACHED: Response to PHA Application Sect B

PART 2
Submittal Requirements

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

Required Items

- Public Hearing Request Form
- Supplemental form PH-A
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; all proposed structures and uses for the site; and any proposed fencing and screening.
- Fee in the amount of $3800.00/$3300.00 for an amendment

For New Communication Towers:

a. Lee County Application for Communication Tower
b. Shared-Use Plan Agreement

Response to Section B

B. **Reasons for request:**

The devastation caused by Hurricane Ian has had a profound financial and emotional impact on the homeowners. For the past two years, they have been displaced, forced to seek alternative living arrangements while the full extent of the damage was assessed. Now that assessments are complete and repairs are underway, our primary goal is to restore the property to its pre-storm condition while prioritizing the safety and well-being of the homeowners.

As part of this process, we are repairing and replacing items damaged or destroyed by the hurricane. Additionally, we are making aesthetic enhancements to align the property with surrounding homes, many of which have undergone similar post-storm restorations.

Through the planning phase, it became evident that certain updates were necessary—not only to mitigate future storm damage but also to replace outdated features with more efficient, modern alternatives. These improvements are essential for enhancing the property's resilience and ensuring compliance with current safety and functionality standards.

One key improvement includes the installation of a retaining wall to protect the buildings from future damage by stabilizing the soil. This will help mitigate the risk of foundation shifting and structural weakening. By implementing this preventative measure, we aim to enhance the property's long-term stability and safeguard it against potential future storms.

Granting the requested Special Exception could impact surrounding properties as follows:

Granting the requested Special Exception could have a positive impact on surrounding properties by enhancing the overall aesthetic and structural standards of the area. The proposed repairs and updates will align the property with neighboring homes that have undergone similar renovations following Hurricane Ian, contributing to a cohesive and well-maintained neighborhood appearance.

Additionally, the planned improvements—such as incorporating modern, storm-resistant materials and designs—can serve as a model for future upgrades in the area. By promoting higher construction standards and resilience, these enhancements have the potential to increase property values and foster a safer, more durable community.

Importantly, all repairs and updates will be contained within the property boundaries and will not impact surrounding properties in any way. These improvements are focused solely on restoring and reinforcing the buildings while maintaining the integrity of neighboring properties.

SURVEY PLAT

OF
A PARCEL OF LAND
LYING IN
SECTION 3, TOWNSHIP 47 SOUTH, RANGE 24 EAST,
TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA

0 20 40 60

N

DESCRIPTION:

THE CRECIENTE CONDOMINIUM SOUTH, OFFICIAL RECORD BOOK 849, PAGES 120–174 AND IN CONDOMINIUM PLAT BOOK 2 AT PAGE 237 AND THE CRECIENTE CONDOMINIUM EAST, OFFICIAL RECORD BOOK 1242, PAGES 101–149 AND THE CRECIENTE CONDOMINIUM NORTH, OFFICIAL RECORD BOOK 1056, PAGES 832–874

NOTES:

SURVEY BIASED ON THE CONDOMINIUM PLAT OF RECORD, THE "COASTAL CONSTRUCTION CONTROL LINE" (PLAT BOOK 48, PAGES 15 THROUGH 34), THE "LEE COUNTY COASTAL CONTROL SET–BACK LINE" (PLAT BOOK 31, PAGES 1–16), PREVIOUS SURVEYS CONTAINED IN THIS FIRMS RECORDS, RIGHT–OF–WAY CONTROL, SURVEY MAPS OF ESTERO BOULEVARD DATED APRIL 16, 2010 AND FOUND MONUMENTATION.

BEARINGS AND COORDINATES SHOWN HEREON ARE STATE PLANE GRID FOR THE FLORIDA WEST ZONE (NORTH AMERICAN DATUM OF 1983/1990 ADJUSTMENT) BASED ON GLOBAL POSITIONING SYSTEM (GPS) TIES TO THE FLORIDA HIGH PRECISION GEODETIC NETWORK HOLDING NATIONAL GEODETIC SURVEY CONTROL MONUMENT BOOB–2 WITH THE WEST LINE OF ESTERO BOULEVARD AS S18°34'14"E.

ELEVATIONS SHOWN HEREON ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 AND NGS BENCHMARK "BOOB 2".

DIMENSIONS ARE IN FEET AND DECIMAL PARTS THEREOF.

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

IRON ROD'S "SET" ARE 5/8" X 18" REBAR WITH PLASTIC CAP BEARING CORPORATION NO. LB8267.

PARCEL LIES IN FLOOD ZONE VE, BASE FLOOD ELEVATIONS OF 13' AND 14' NAVD 1988, PER FLOOD INSURANCE RATE MAP NUMBER 12071C0567G, INDEX DATE BEING 11–17–2022 (COMMUNITY NAME: TOWN OF FORT MYERS BEACH AND COMMUNITY NUMBER 120673).

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

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

WETLANDS, IF ANY, WERE NOT LOCATED.

THIS PLAT PREPARED AS A SPECIFIC PURPOSE BOUNDARY SURVEY TO SHOW THE EXISTING CONDITIONS IN CERTAIN AREAS OF THE CONDOMINIUM TO AID IN THE DESIGN OF ADDITIONAL IMPROVEMENTS AND IS NOT INTENDED TO DELINEATE THE JURISDICTION OR JURISDICTIONAL AREAS OF ANY FEDERAL, STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER ENTITY.

SURVEY MEETS OR EXCEEDS THE ACCURACY STANDARDS OF AN URBAN SURVEY (1:15,000).

COMBINED PARCEL CONTAINS 5.56 ACRES (242,166 SQUARE FEET) AS DESCRIBED, MORE OR LESS.

CRECIENTE CONDO NORTH PARCEL STRAP#: 03–47–24–W1–02500.00CE
CRECIENTE CONDO NORTH PARCEL ADDRESS: 7148 ESTERO BLVD, FORT MYERS BEACH, FL 33931.

CRECIENTE CONDO EAST PARCEL STRAP#: 03–47–24–W1–02800.00CE
CRECIENTE CONDO EAST PARCEL ADDRESS: 7144 ESTERO BLVD, FORT MYERS BEACH, FL 33931.

CRECIENTE CONDO SOUTH PARCEL STRAP#: 03–47–24–W1–02400.00CE
CRECIENTE CONDO SOUTH PARCEL ADDRESS: 7150 ESTERO BLVD, FORT MYERS BEACH, FL 33931.

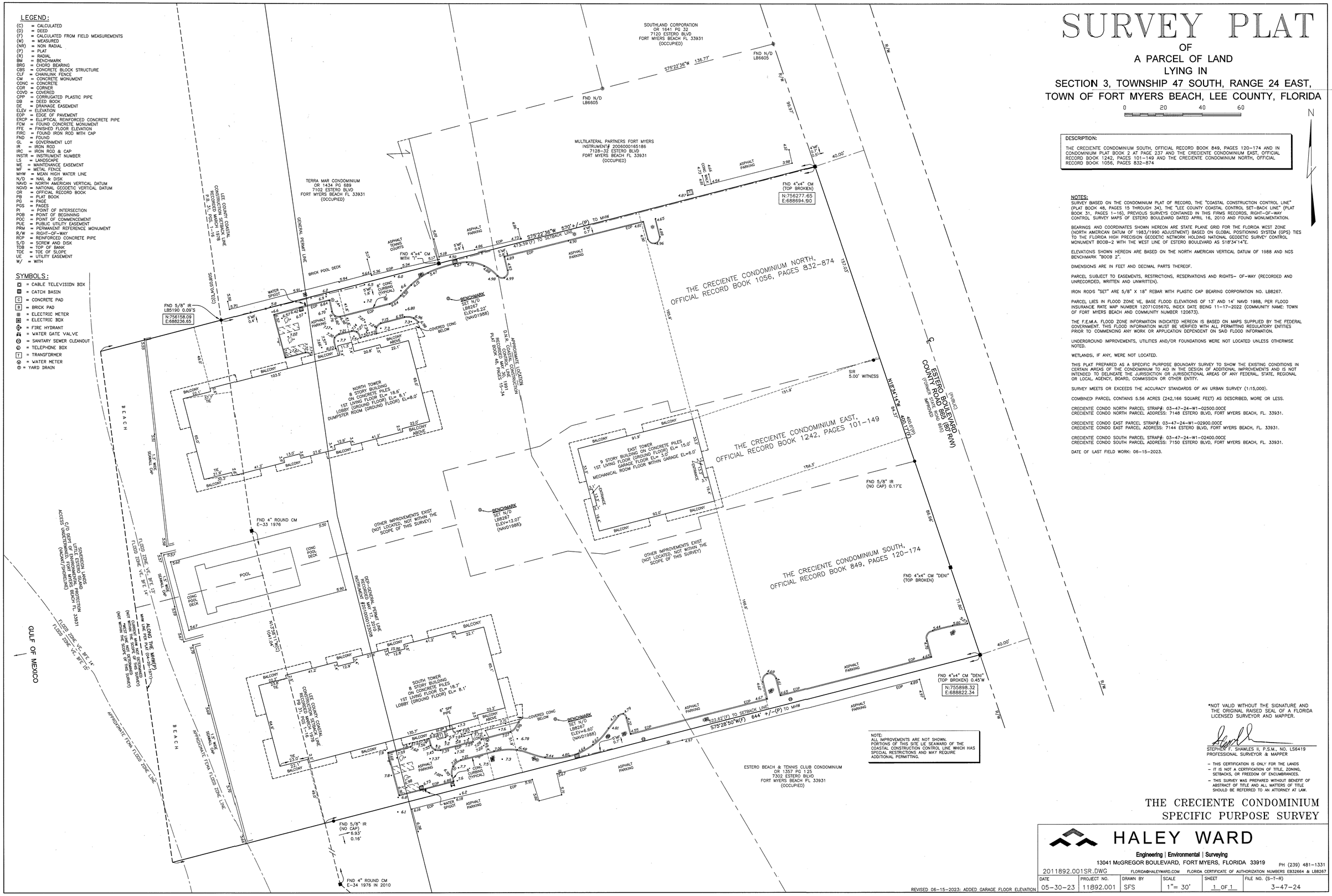
DATE OF LAST FIELD WORK: 06–15–2023.

LEGEND:

(C) = CALCULATED
(D) = DEED
(F) = CALCULATED FROM FIELD MEASUREMENTS
(M) = MEASURED
(NR) = NON RADIAL
(P) = PLAT
(R) = RADIAL
BM = BENCHMARK
BRG = CHORD BEARING
CBS = CONCRETE BLOCK STRUCTURE
CLF = CHAINLINK FENCE
CM = CONCRETE MONUMENT
CONC = CONCRETE
COR = CORNER
COVD = COVERED
CPP = CORRUGATED PLASTIC PIPE
DB = DEED BOOK
DE = DRAINAGE EASEMENT
ELEV = ELEVATION
EOP = EDGE OF PAVEMENT
ERCP = ELLIPTICAL REINFORCED CONCRETE PIPE
FCM = FOUND CONCRETE MONUMENT
FFE = FINISHED FLOOR ELEVATION
FIRC = FOUND IRON ROD WITH CAP
FND = FOUND
GL = GOVERNMENT LOT
IR = IRON ROD
IRC = IRON ROD & CAP
INSTR = INSTRUMENT NUMBER
LS = LANDSCAPE
ME = MAINTENANCE EASEMENT
MF = METAL FENCE
MHW = MEAN HIGH WATER LINE
N/D = NAIL & DISK
NAVD = NORTH AMERICAN VERTICAL DATUM
NGVD = NATIONAL GEODETIC VERTICAL DATUM
OR = OFFICIAL RECORD BOOK
PB = PLAT BOOK
PG = PAGE
PGS = PAGES
PI = POINT OF INTERSECTION
POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
PUE = PUBLIC UTILITY EASEMENT
PRM = PERMANENT REFERENCE MONUMENT
R/W = RIGHT–OF–WAY
RCP = REINFORCED CONCRETE PIPE
S/D = SCREW AND DISK
TOB = TOP OF BANK
TOE = TOE OF SLOPE
UE = UTILITY EASEMENT
W/ = WITH

SYMBOLS:

= CABLE TELEVISION BOX
= CATCH BASIN
C = CONCRETE PAD
B = BRICK PAD
= ELECTRIC METER
= ELECTRIC BOX
= FIRE HYDRANT
= WATER GATE VALVE
S = SANITARY SEWER CLEANOUT
= TELEPHONE BOX
T = TRANSFORMER
= WATER METER
= YARD DRAIN



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

STEPHEN F. SHAWLES II, P.S.M., NO. LS6419
PROFESSIONAL SURVEYOR & MAPPER

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

THE CRECIENTE CONDOMINIUM
SPECIFIC PURPOSE SURVEY

HALEY WARD
Engineering | Environmental | Surveying
13041 McGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919 PH (239) 481–1331
FLORIDA@HALEYWARD.COM FLORIDA CERTIFICATE OF AUTHORIZATION NUMBERS EB32664 & LB8267

2011892.001SR.DWG					
DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S–T–R)
05–30–23	11892.001	SFS	1"= 30'	1 OF 1	3–47–24

REVISED 06–15–2023: ADDED GARAGE FLOOR ELEVATION

Creciente Condominium Association, Inc.
7150 Estero Blvd, Fort Myers Beach, FL 33931

NON ELECTORAL FINAL REPORT

VOTE to rebuild our Pool

Non electoral Vote Data

Start Date
03.03.2025
Opt-In Deadline
03.30.2025
End Date
03.31.2025

172
Total units

107
Units Voted
Online electronic ballot

32
units voted by mail/email

TALLY

YES (ELECTRONIC)		107 Votes
YES (MAIL/EMAIL)		32 Votes
NO		0 Votes

107+32 = 139 yes 80.8% of 172 units

TOTAL VOTES = 137 YES TOTAL UNITS 172 PERCENT = 79.6%

Unit	MAILING LIST NAMES	OWNER 1 LAST NAME	OWNER 1 FIRST NAME	Ballot for special exception with Town of Fort Myers Beach	VOTE
100	Setting Sun Holdings, LLC	Bina	David	Electronic Ballot	Yes
101	Setting Sun Holdings, LLC	Bina	David	Electronic Ballot	Yes
103	Setting Sun Holdings, LLC	Bina	David	Electronic Ballot	Yes
105	Creciente Condo Assoc	Creciente Condo Assoc			
110	Julie B Chaikin	Chaikin	Julie	Electronic Ballot	Yes
111	Cynthia Ward Clark	Clark	Cynthia	Electronic Ballot	Yes
112	Dale & Constance Fuhrman	Fuhrman	Dale	Electronic Ballot	Yes
114	Lou & Sylvia Cerruti	Cerruti	Lou	Electronic Ballot	Yes
120	Ann Marso	Marso	Ann	Electronic Ballot	Yes
121	Michael & Madeline Thompson	Thompson	Michael	Electronic Ballot	Yes
122	Jean-Pierre Rasaiah	Rasaiah	Jean-Pierre	Electronic Ballot	Yes
123	Christine Zizzo	Zizzo	Christine	Electronic Ballot	Yes
200	Michael Timpone	Timpone	Michael	Mailed/emailed vote	YES
201	Tom Mosser	Mosser	Tom		
202	Sue Ann Waite	Waite	Sue Ann		
203	Robert & Karen Belka	Belka	Robert	Mailed/emailed vote	YES
204	David & Cynthia Riggs	Riggs	David	Electronic Ballot	Yes
205	Bill & Kandice Sullivan	Sullivan	Bill	Electronic Ballot	Yes
206	Chris & Linda Opekar	Opekar	Chris	Electronic Ballot	Yes
207	Phil & Mickey Wilson	Wilson	Phil	Electronic Ballot	Yes
210	Peter & Denise Simenauer	Simenauer	Peter	Electronic Ballot	Yes
211	Gerald (Jerry) & Marilyn McHale	McHale	Jerry		
212	Barry Stillwell	Stillwell	Barry	Electronic Ballot	Yes
213	Robert McGah	McGah	Robert		
214	Gil & Marion Samson	Samson	Gil	Electronic Ballot	Yes
215	Nicolas & Jennifer Stecker	Stecker	Nicolas	Electronic Ballot	Yes
216	Joseph & Grace Mihalov Grace A TR for Grace A Mihalov Trust	Mihalov	Joseph	Electronic Ballot	Yes
217	Mary Kathleen Jones	Jones	Mary Kathleen		
220	Fran Grier	Grier	Fran	Electronic Ballot	Yes
221	William & Karen Norberg	Norberg	William		
222	James Clark & Connie Sutton	Clark	James		
223	James M Boland & Cynthia Goettelman	Boland	James	Electronic Ballot	Yes
300	Ken & Dee Platt	Platt	Ken	Mailed/emailed vote	YES
301	Michael & Pamela Olcese	Olcese	Michael	Electronic Ballot	Yes
302	Gene & Tracy Villani c/o GTV, LLC	Villani	Gene	Electronic Ballot	Yes
303	Steve & Sue Cady	Cady	Steve	Electronic Ballot	Yes
304	William & Kathleen Chambers	Chambers	William	Electronic Ballot	Yes
305	Julie Luca-Wong & Jeff Wong	Wong	Jeff		
306	Ken & Dana Zuber	Zuber	Ken	Electronic Ballot	Yes
307	Robin St. Denis & Raymond Pether	St. Denis	Robin	Electronic Ballot	Yes
310	Veronica & Nicholas Nahernak	Nahernak	Veronica	Electronic Ballot	Yes
311	Linda Branam	Branam	Linda	Electronic Ballot	Yes
312	Barry & Denise McDonald	McDonald	Barry	Electronic Ballot	Yes
313	Steve & Donna Taylor	Taylor	Steve	Mailed/emailed vote	YES
314	Bonnie Roberts	Roberts	Bonnie	Electronic Ballot	Yes
315	David & Mary DeGraaf	DeGraaf	David	Electronic Ballot	Yes
316	Jeffrey & Gwen Casperson	Casperson	Jeffrey	Electronic Ballot	Yes

317	Gerald & Marilyn McHale	McHale	Jerry		
320	Dewayne and DeAnna Leseman	Leseman	Dewayne	Electronic Ballot	Yes
321	Richard Miller	Miller	Richard	Electronic Ballot	Yes
322	Steve & Donna Schneider	Schneider	Steve	Electronic Ballot	Yes
323	Bill & Jane Sweet	Sweet	Bill	Electronic Ballot	Yes
400	NTFL 7150 FM LLC c/oTom & Nancy Somodi	Somodi	Tom	Mailed/emailed vote	YES
401	Raymond Timpone	Timpone	Raymond	Mailed/emailed vote	YES
402	Arnold & Maria Heuzen	Heuzen	Arnold		
403	Jeff Crane	Crane	Jeff	Electronic Ballot	Yes
404	Suzanne Simmons Deacon	Deacon	Suzanne	Mailed/emailed vote	YES
405	Doug & Jody Vanderwielen	Vanderwielen	Doug	Electronic Ballot	Yes
406	Anthony Gallagher	Gallagher	Anthony		
407	Scott & Michelle Adams	Adams	Scott	Electronic Ballot	Yes
410	Richard & Sandy Preves	Preves	Richard	Electronic Ballot	Yes
411	Mike and Jane Martin	Martin	Mike	Electronic Ballot	Yes
412	CG Other LLC	Hathaway	Greg	Electronic Ballot	Yes
413	Robert & Elizabeth Mastin	Mastin	Robert	Electronic Ballot	Yes
414	Lloyd & Mary Jo Welker	Welker	Lloyd	Electronic Ballot	Yes
415	James V Kurinskas Revocable Trust and Ann C Kurinskas Revocable Trust	Kurinskas	Jim	Electronic Ballot	Yes
416	Michael & Jacqueline MacDonald	MacDonald	Michael		
417	Tom & Lynn Hobby	Hobby	Tom	Mailed/emailed vote	YES
420	Darlene DiFederico | C/O 5353 Coral Ave, LLC	DiFederico	Darlene	Electronic Ballot	Yes
421	Paul & Maggie Bazylak	Bazylak	Paul	Electronic Ballot	Yes
422	Kelly & Beth Turton	Turton	Kelly	Electronic Ballot	Yes
423	James & Shelley Patterson and Nancy Weller	Patterson	James	Electronic Ballot	Yes
500	Craig & Kathleen Luce	Luce	Craig	Electronic Ballot	Yes
501	Joe & Maraby Allardt	Allardt	Joe	Mailed/emailed vote	YES
502	Jeff Werner	Werner	Jeff	Electronic Ballot	Yes
503	David & JoRae Winter	Winter	David	Mailed/emailed vote	YES
504	Jay and Lisa Goodman	Goodman	Jay	Electronic Ballot	Yes
505	Robert & Becky Quirey c/o Quirey Trust	Quirey	Robert	Electronic Ballot	Yes
506	Rebecca Werner	Werner	Rebecca	Electronic Ballot	Yes
507	Peter & Beverlee Dunphy	Dunphy	Peter	Electronic Ballot	Yes
510	Judy Kruger	Kruger	Judy	Electronic Ballot	Yes
511	Rick LaMacchio & Jana Cleveger	LaMacchio	Rick	Mailed/emailed vote	YES
512	Eduardo Marabotto & Annette Muller	Marabotto	Eduardo	Mailed/emailed vote	YES
513	Robert & Clare Radice	Radice	Robert		
514	Jay Weiner	Weiner	Jay	Mailed/emailed vote	YES
515	PK & Sheela Prahalad	Prahalad	PK		
516	Rick LaMacchio & Jana Clevenger	LaMacchio	Rick	Mailed/emailed vote	YES
517	Carol Buzzard	Buzzard	Carol	Electronic Ballot	Yes
520	Maria Boha (Steven Boha, POA)	Boha	Maria	Electronic Ballot	Yes
521	Robert Driesbach	Driesbach	Robert		
522	Jodi Deller	Deller	Jodi	Electronic Ballot	Yes
523	Elaine Warren	Warren	Elaine		
600	Robert & Donna Wardanian	Wardanian	Robert		
601	Buckeye Lane LLC c/o Robert A Quirey	Buckeye lane LLC		Electronic Ballot	Yes

602	Angel & Yamely Rivera	Rivera	Angel		
603	John R Brackett	Brackett	John R	Electronic Ballot	Yes
604	James & Diane Bell	Bell	James		
605	Kenneth Santl	Santl	Kenneth	Mailed/emailed vote	YES
606	Ron & Susan Jordan	Jordan	Ron	Electronic Ballot	Yes
607	Lucille (Ceel) Spuhler (in care of her daughter, Lucille Joy Spuhler)	Spuhler	c/o her daughter Lucille Joy Spuhler		
610	Charles & Josie Chartier	Chartier	Charles	Electronic Ballot	Yes
611	Craig And Kathy Luce	Luce	Craig	Electronic Ballot	Yes
612	Michael & Teresa Murphy	Murphy	Michael	Electronic Ballot	Yes
613	Howard W. Ray	Ray	Howard W.	Mailed/emailed vote	YES
614	Kenneth & Carol Kucharek	Kucharek	Kenneth	Electronic Ballot	Yes
615	Robert A. Witt	Witt	Robert A.	Electronic Ballot	Yes
616	D&S Square LLC	Hall	Dale	Mailed/emailed vote	YES
617	James & Rosalie Macri	Macri	James		
620	Allen & Mary Whitenack	Whitenack	Allen	Electronic Ballot	Yes
621	Gary Cassone, MD	Cassone, MD	Gary		
622	Mark & Jane Murray	Murray	Mark	Mailed/emailed vote	YES
623	David & Kathryn Lewis	Lewis	David	Electronic Ballot	Yes
700	Rich & Chris Iott	Iott	Chris	Mailed/emailed vote	YES
701	Richard & Ellen McGlasson	McGlasson	Richard	Mailed/emailed vote	YES
702	Mary Ellen Peters	Peters	Mary Ellen		
703	Doreen Ouellette & Debby Holek	Holek	Debra	Electronic Ballot	Yes
704	Wayne & Kay Mayes	Mayes	Wayne	Electronic Ballot	Yes
705	Thomas & Mary Ellen Corcoran	Corcoran	Thomas	Electronic Ballot	Yes
706	Mike & Kathleen McBride	McBride	Mike		
707	Mike Daus	Daus	Mike	Electronic Ballot	Yes
710	James V Kurinskas Revocable Trust and Ann C Kurinskas Revocable Trust	Kurinskas	James	Electronic Ballot	Yes
711	Joyce & John Wayhart	Wayhart	Joyce	Electronic Ballot	Yes
712	Eva Johnson	Johnson	Eva		
713	James V Kurinskas	Kurinskas	James	Electronic Ballot	Yes
714	Nancy Valdiserri	Valdiserri	Nancy	Mailed/emailed vote	YES
715	Russell Kelley	Kelley	Russell	Electronic Ballot	Yes
716	Robert & Arlene Hughes	Hughes	Robert A.	Mailed/emailed vote	YES
717	Barbara Runser	Runser	Barbara	Electronic Ballot	Yes
720	Steve & Valerie Dzikowski	Dzikowski	Steve	Electronic Ballot	Yes
721	Fran Yenny	Yenny	Fran		
722	Alex & Cheri Whitenack	Whitenack	Alex	Electronic Ballot	Yes
723	Darrell Beard	Beard	Darrell	Mailed/emailed vote	YES
800	Billie & Charlie Dragoo-Garcia	Dragoo-Garcia	Billie	Electronic Ballot	Yes
801	Steve & Angie Fisher	Fisher	Steve	Mailed/emailed vote	YES
802	Bruce & Marcy Cole	Cole	Bruce	Electronic Ballot	Yes
803	Richard and Ellen McGlasson	McGlasson	Richard	Mailed/emailed vote	YES
804	Andrew & Susan Gumm	Gumm	Andrew	Mailed/emailed vote	YES
805	Chuck Adrian & Joanie Williamitis (Velma Jane passed away January 2023)	Adrian	Chuck	Electronic Ballot	Yes
806	Rose Hu & Binbin Guo	Hu	Rose		
807	Frank and Kathleen Tomasino	Tomasino	Frank	Electronic Ballot	Yes
810	Ray & Jean Pittao	Pittao		Electronic Ballot	Yes
811	Michael & Christine Close	Close	Michael	Mailed/emailed vote	YES
812	Dr. Gregory Subtelny	Subtelny	Dr. Gregory	Mailed/emailed vote	YES
813	Renato & Loly Simenauer	Simenauer	Renato	Electronic Ballot	Yes
814	John & Sharon Mastic	Mastic	John		

815	Paris Kolar	Kolar	Paris		
816	Michael and Margie Arnst	Arnst	Michael	Electronic Ballot	Yes
817	William & Cheryl Thompson	Thompson	William	Mailed/emailed vote	YES
820	Mary Melzer	Melzer	Mary		
821	Julie Chaikin	Chaikin	Julie	Electronic Ballot	Yes
822	Frank & Mary Ventrella	Ventrella	Frank	Mailed/emailed vote	YES
823	Andrew & Cheryl Smith	Smith	Andrew		
900	Terry Smith & Sheila McGinnis	Smith	Terry	Electronic Ballot	Yes
901	Peter & Ann Thornton	Thornton	Peter	Electronic Ballot	Yes
902	Michael & Bonnie Flanagan	Flanagan	Michael		
903	Patrick & Candace Brousseau	Brousseau	Patrick	Electronic Ballot	Yes
904	Sandra & Douglas Lange	Lange	Sandra	Electronic Ballot	Yes
905	Dennis & Anna Billias	Billias	Dennis	Electronic Ballot	Yes
906	Mary Fox	Fox	Mary	Electronic Ballot	Yes
907	Daniel A. & Sandra L. Nye	Nye	Daniel A.	Electronic Ballot	Yes
910	Daniel A. & Sandra L. Nye	Nye	Daniel A.	Electronic Ballot	Yes
911	Ronald & Rita Deller	Deller	Ronald	Electronic Ballot	Yes
912	Dave & Jane Borson	Borson	Dave	Electronic Ballot	Yes
913	Alex & Patricia Spadoni	Spadoni	Alex		
914	Richard Pavlak	Pavlak	Richard	Mailed/emailed vote	YES
915	Kenneth & Linda Staelgraeve	Staelgraeve	Kenneth	Electronic Ballot	Yes
916	Elaine Rupp	Rupp	Elaine	Electronic Ballot	Yes
917	Lynn D. Fisher, Trustee	Fisher	Lynn	Electronic Ballot	Yes
920	Todd & Linda Taylor c/o TLT Properties LLC	Taylor / TLT Properties LLC)	Todd	Electronic Ballot	Yes
921	Jerome & Angela Henson	Henson	Jerome	Mailed/emailed vote	YES
922	David & Deborah Roskowski	Roskowski	David	Electronic Ballot	Yes
923	Raffaele & Caroline Stanzione	Stanzione	Raffaele		

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!

Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Raymond M. Timpone Jr.

Name: RAYMOND M. TIMPONE JR

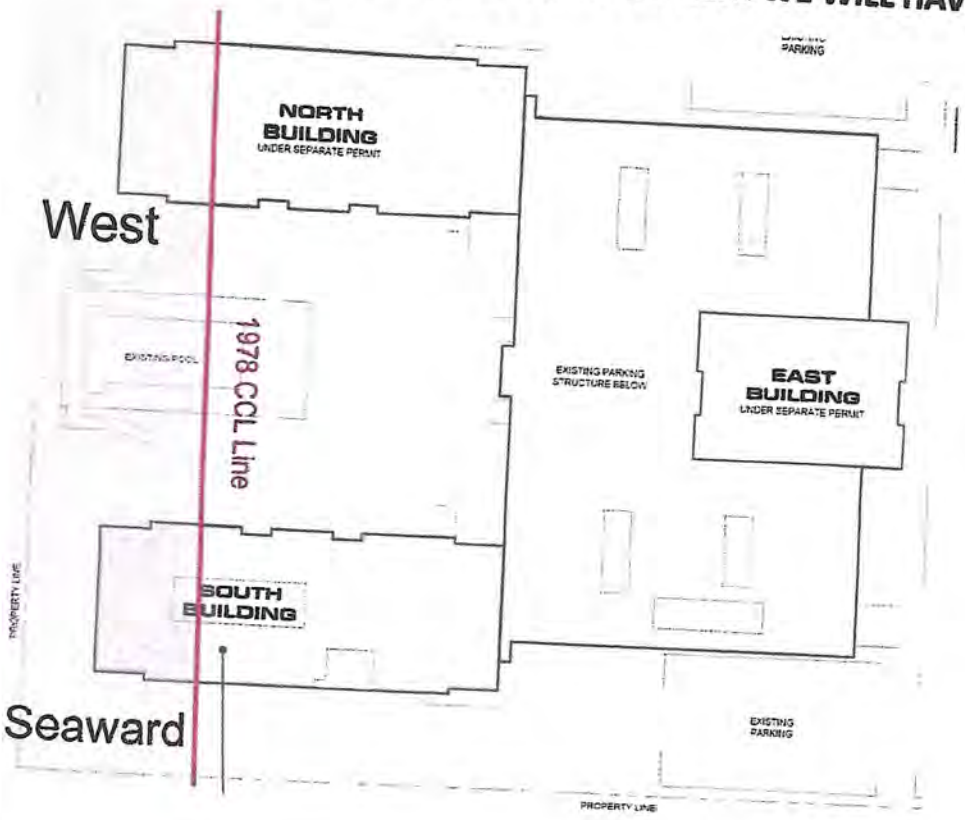
Vote to rebuild our Pool

Creciente Unit # : 200

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

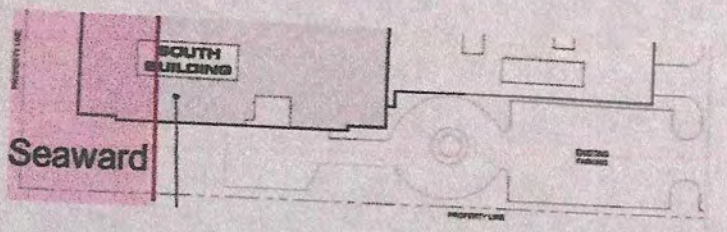
Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Robert J. Belka

Name: ROBERT J. BELKA

Creciente Unit # : 203



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Kenneth R. Platt

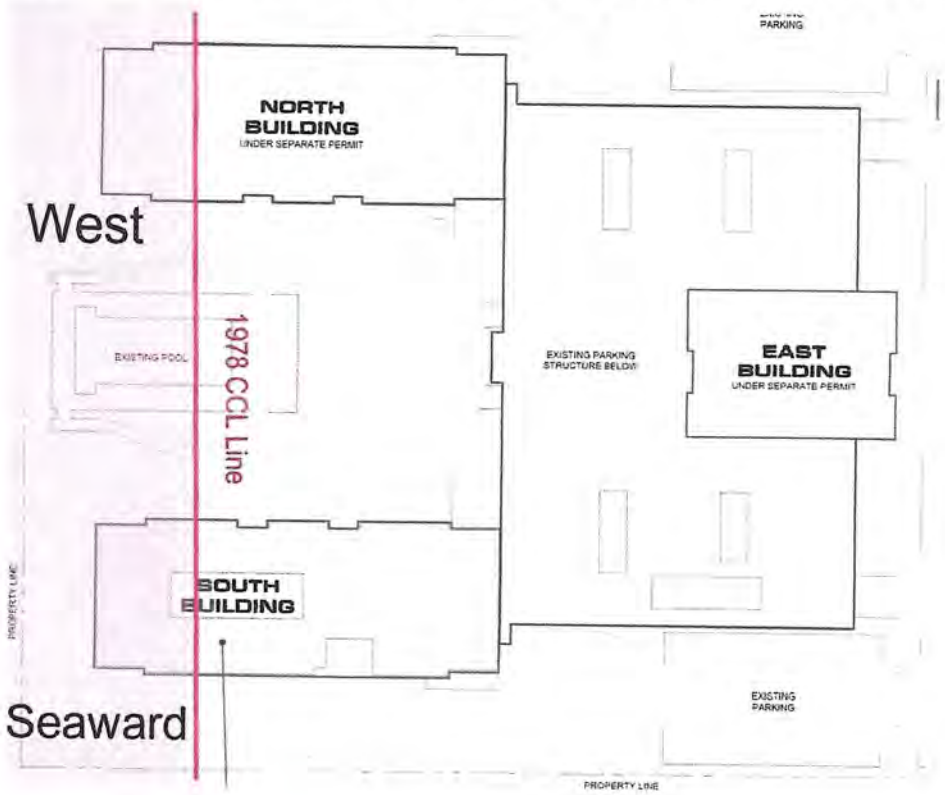
Name: KENNETH R. PLATT

Creciente Unit # : 300

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

[X] I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: _____

Name: Steve and Donna Taylor

Vote to rebuild our Pool

Creciente Unit # : 313 North

the CCCL (Coastal Construction Control Line)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!

Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

X I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: NTFL FH LLC

Name: Thomas Somodi

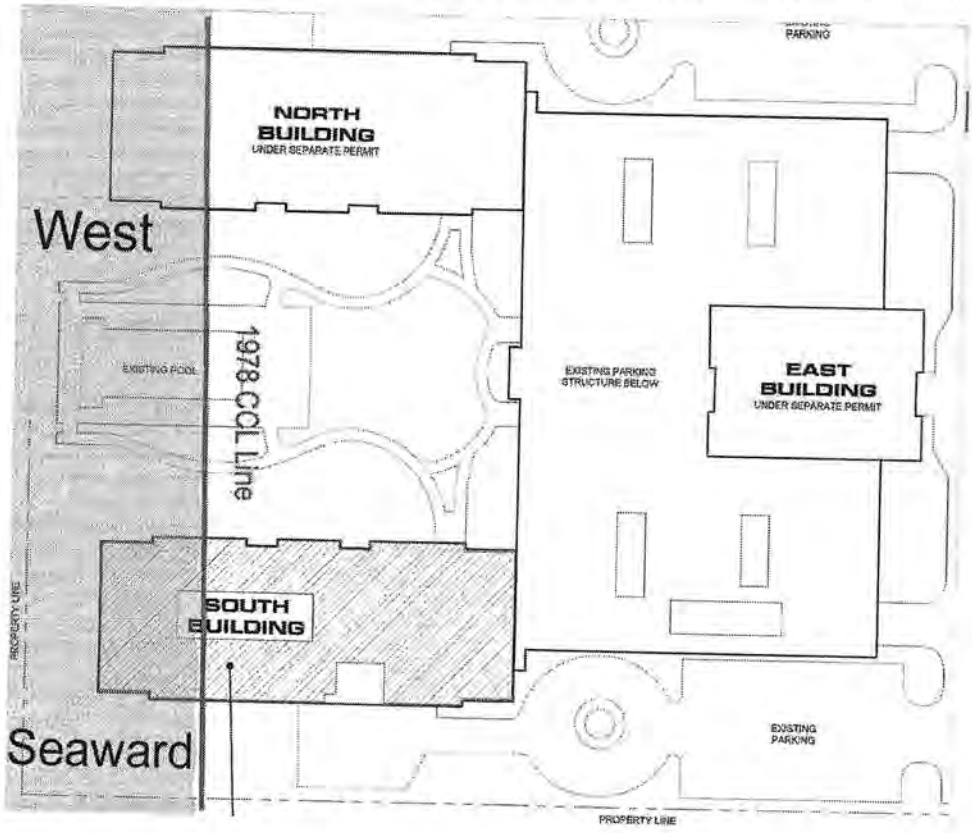
Creciente Unit #: 400 - South

Sent from my iPhone

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Raymond M Timpone Jr.

Name: RAYMOND M. TIMPONE, JR

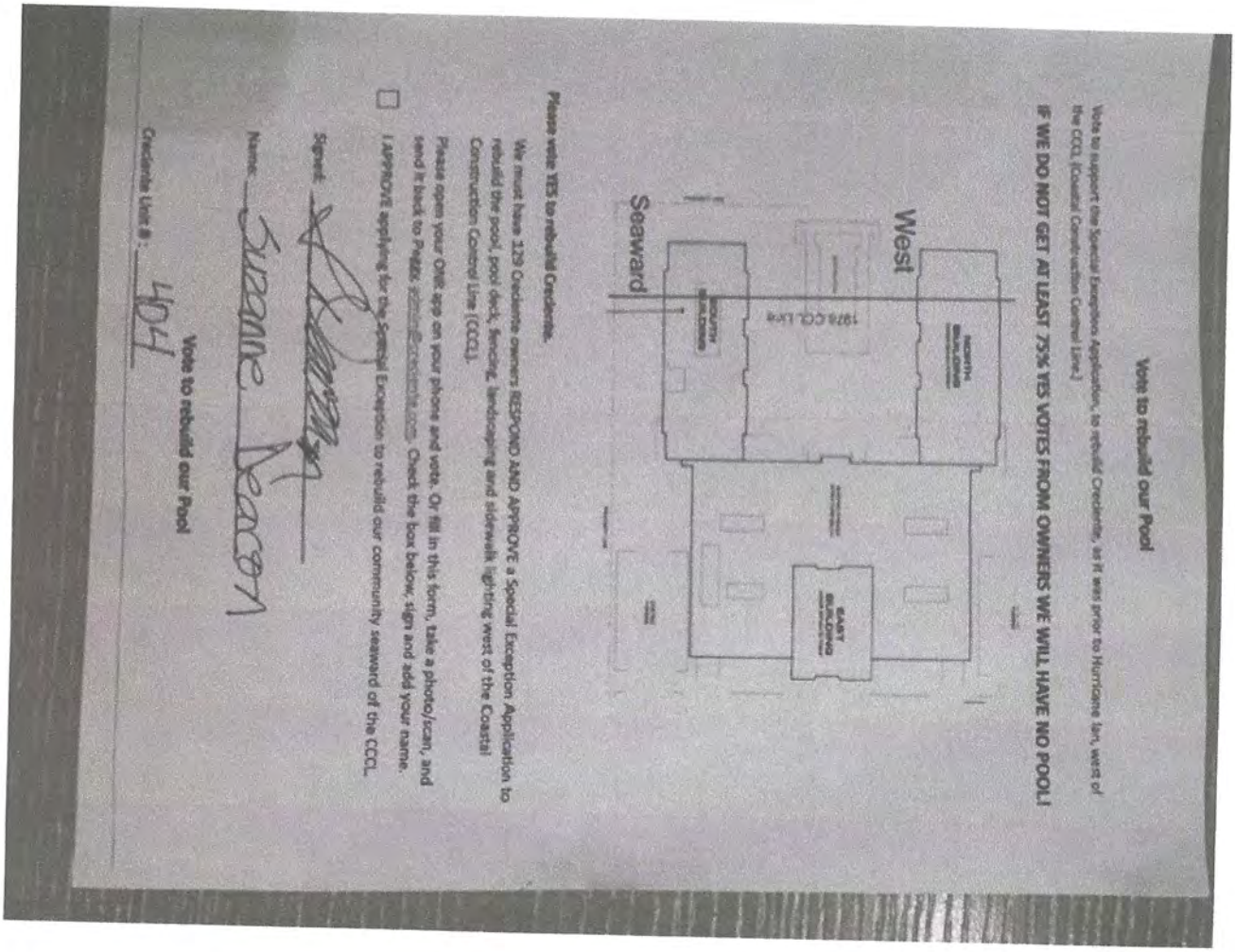
Vote to rebuild our Pool

Creciente Unit # : 401

Outlook

Vote for 404 attached

From Jane Martin <janemartinfb@gmail.com>
Date Wed 3/5/2025 6:15 PM
To Creciente Admin <admin@creciente.com>; peter.thornton@comcast.net <peter.thornton@comcast.net>



Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!

West

Seaward

1974 CCCL Line

SOUTH BUILDING

EAST BUILDING

Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☐ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Suzanne Deacon

Name: Suzanne Deacon

Vote to rebuild our Pool

Creciente Unit # : 404

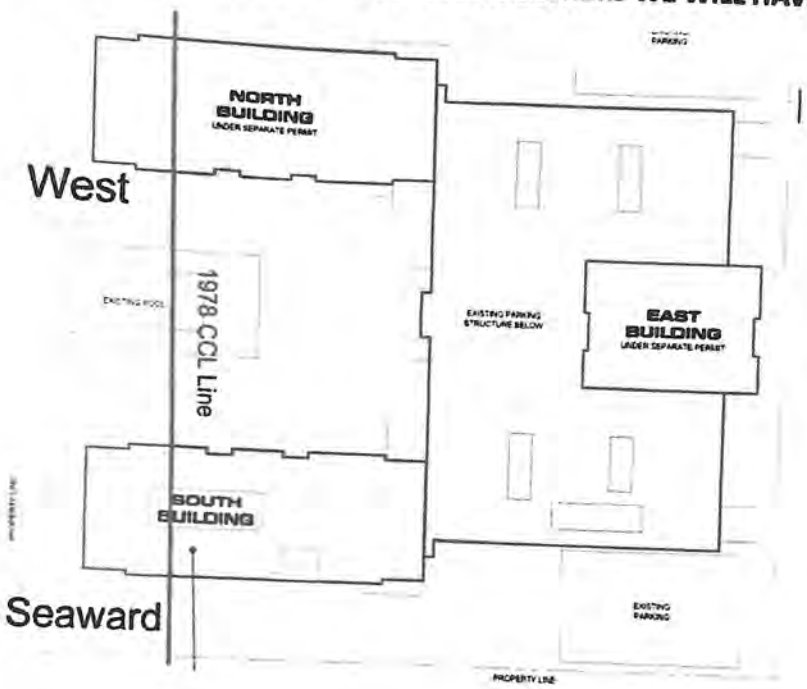
Jane Martin

616-318-1298 cell
Janemartinfb@gmail.com

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Thomas J Hobby

Name: Thomas J. Hobby

Vote to rebuild our Pool

Creciente Unit # : 417

Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPRO
rebuild the pool, pool deck, fencing, landscaping and sidewa
Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill i
send it back to Peggy, admin@creciente.com. Check the bo

X I APPROVE applying for the Special Exception to rebuild our

Signed: Joseph E. Allardt

Name: JOSEPH E. ALLARDT

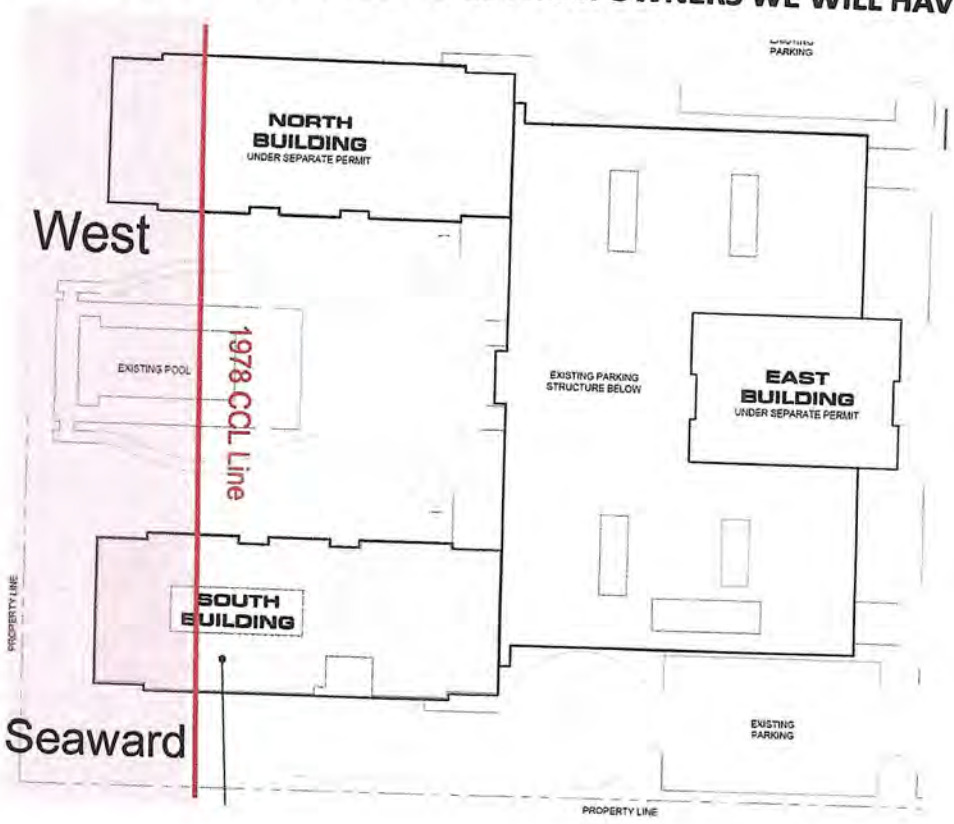
Vote to rebuild our Poo

Creciente Unit # : 501

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

[J] I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

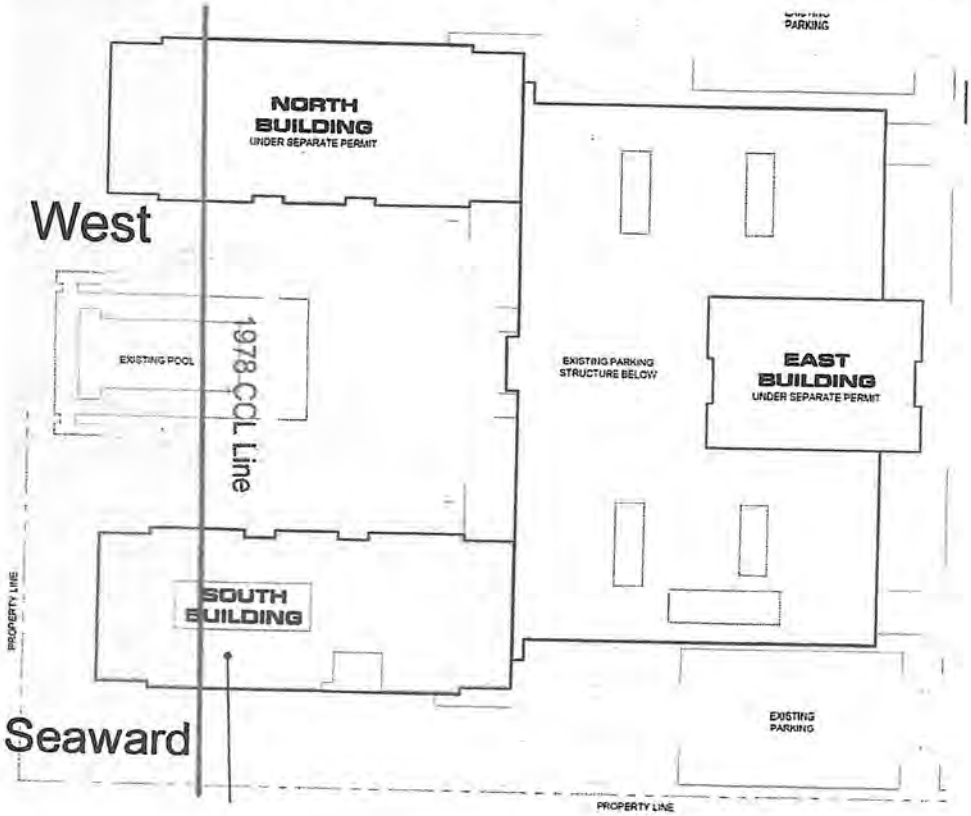
Signed: _____

Name: Jo Winter 503

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Richard A LaMacchio

Name: RICHARD A LAMACCHIO

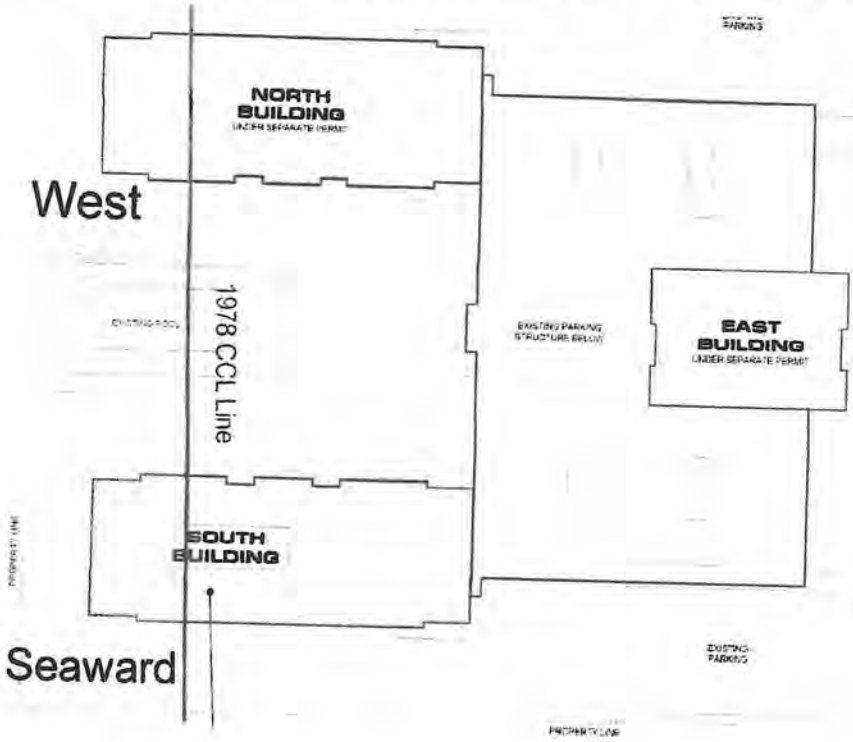
Vote to rebuild our Pool

Creciente Unit # : 511 N

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: _____

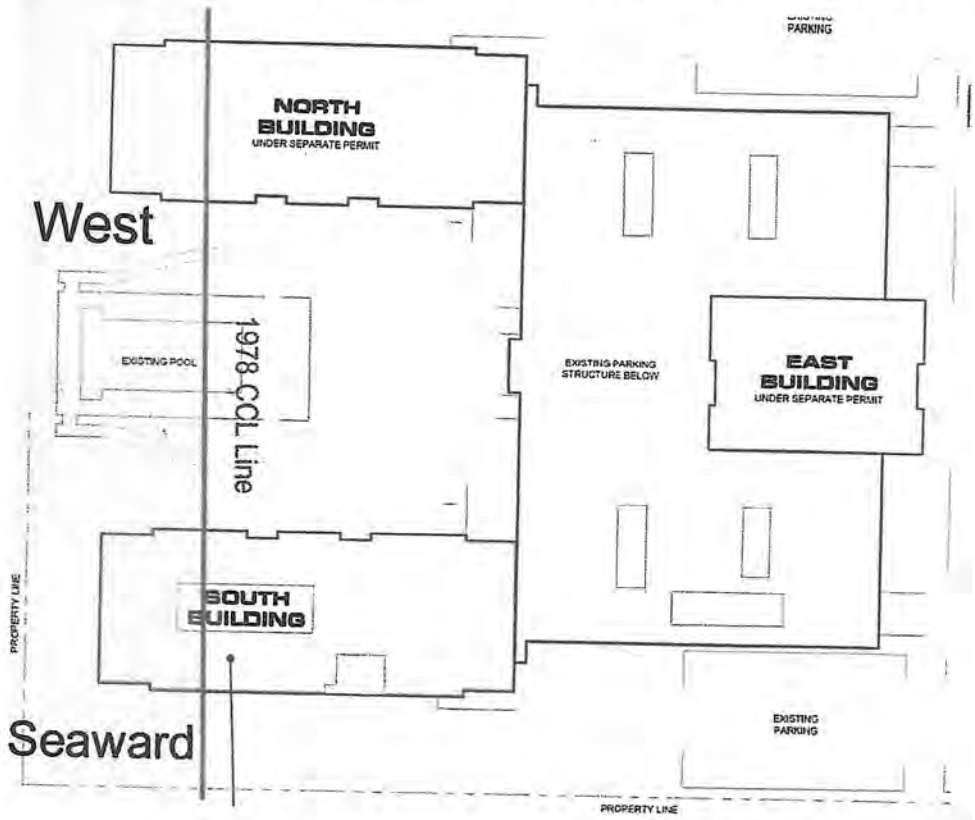
Name: Eduardo Macabotto

UNIT # 512

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Jay S. Weiner

Name: JAY S. WEINER

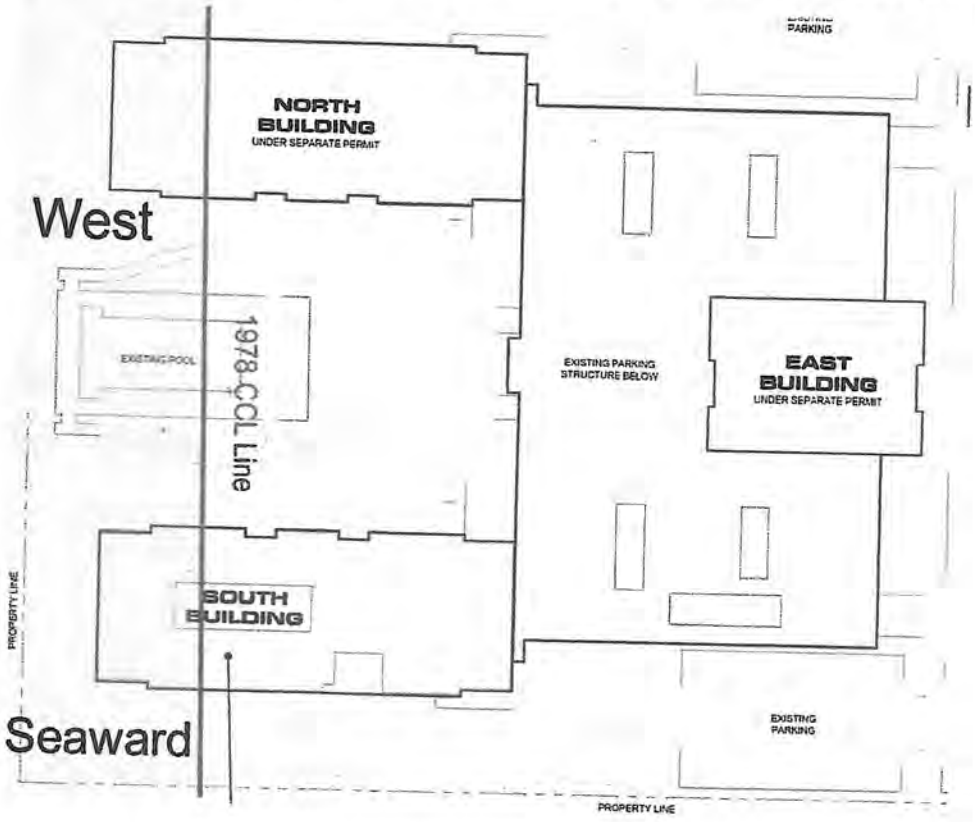
Vote to rebuild our Pool

Creciente Unit # : 514

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Richard A LaMacchio

Name: RICHARD A LAMACCHIO

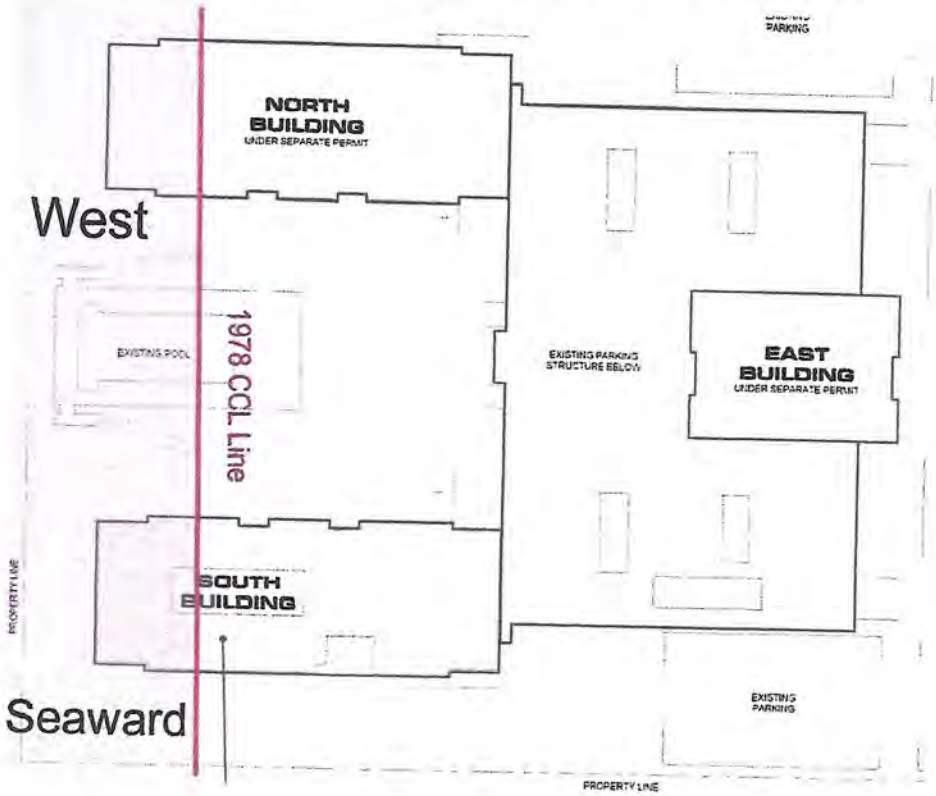
Vote to rebuild our Pool

Creciente Unit # : 516 N

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

[X] I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Ken Santl

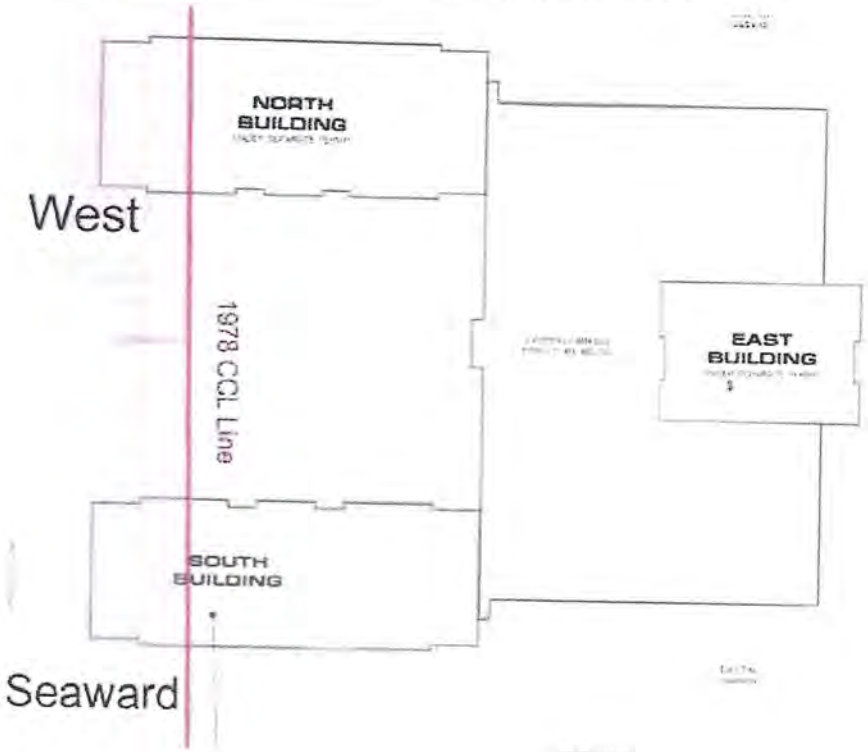
Name: Kenneth D. Santl

Creciente Unit # : 605

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!



Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

X I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Howard W. Ray

Name: Howard W. Ray

Unit 613

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!

Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL).

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Dale Hall

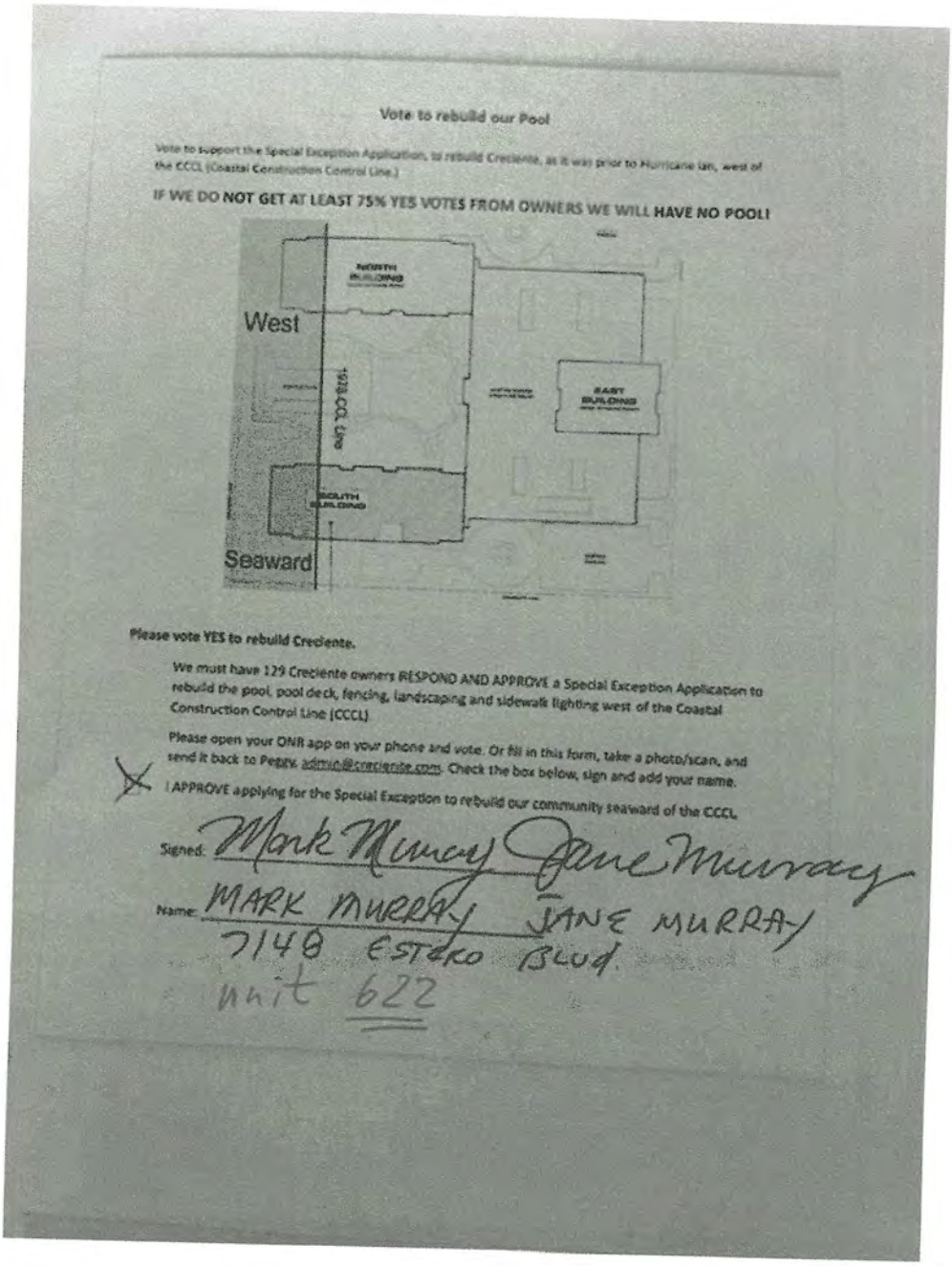
Name: Dale Hall UNIT 616

Outlook

Vote YES to rebuild pool

From Mark Murray <dudemurray58@gmail.com>
Date Mon 3/3/2025 5:52 PM
To Creciente Admin <admin@creciente.com>

This vote is from Mark and Jane Murray
7148 Estero Blvd. - Unit 622



Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL HAVE NO POOL!

Please vote YES to rebuild Creciente.

We must have 129 Creciente owners RESPOND AND APPROVE a Special Exception Application to rebuild the pool, pool deck, fencing, landscaping and sidewalk lighting west of the Coastal Construction Control Line (CCCL)

Please open your ONR app on your phone and vote. Or fill in this form, take a photo/scan, and send it back to Peggy, admin@creciente.com. Check the box below, sign and add your name.

X I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Mark Murray Jane Murray

Name: MARK MURRAY JANE MURRAY
7148 ESTERO BLVD
unit 622

Sent from my iPhone

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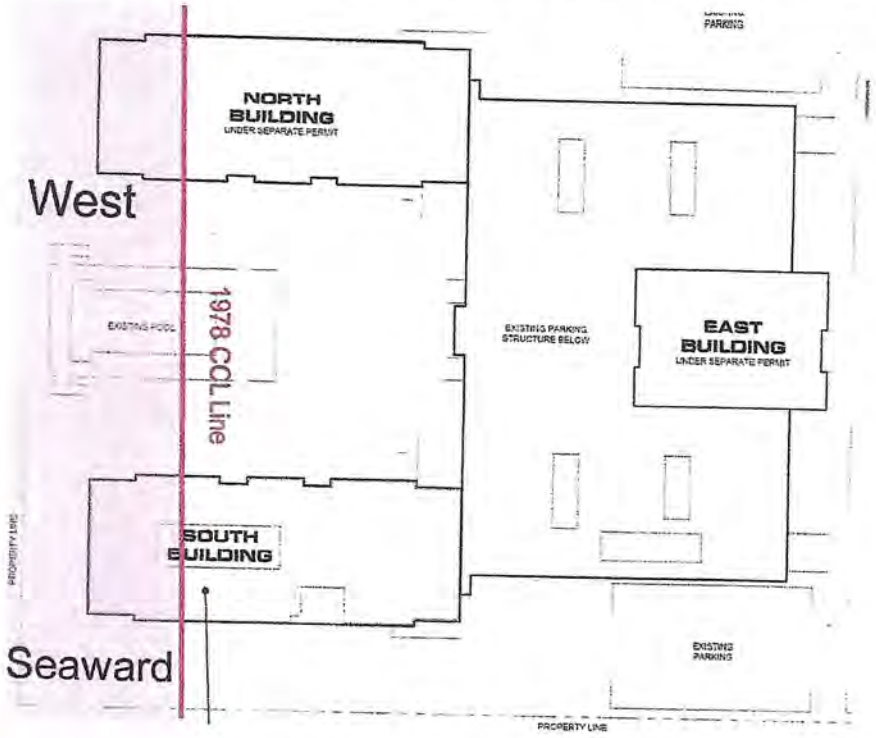

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Signed: Christine Flott, TTEE

Name: Christine F. Iott

Creciente Unit # 700

Vote to rebuild our Pool

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the CCCL (Coastal Construction Control Line.)

IF WE DO NOT GET AT LEAST 75% YES VOTES FROM OWNERS WE WILL H

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send it back to Peggy, admin@creciente.com. Check the box below, sign and

☑ I APPROVE applying for the Special Exception to rebuild our community sea

Signed: _____

Name: ELLEN McGLASSON

Vote to rebuild our Pool

Creciente Unit # : 701

Sent from my iPhone

the CCCL. Signed: Nancy Valdiserri

3/3/2025

Name: Nancy Valdiserri

Vote to rebuild our Pool

Creciente Unit # : North 714

yes! rebuild our Pool!

Vote to rebuild our Pool

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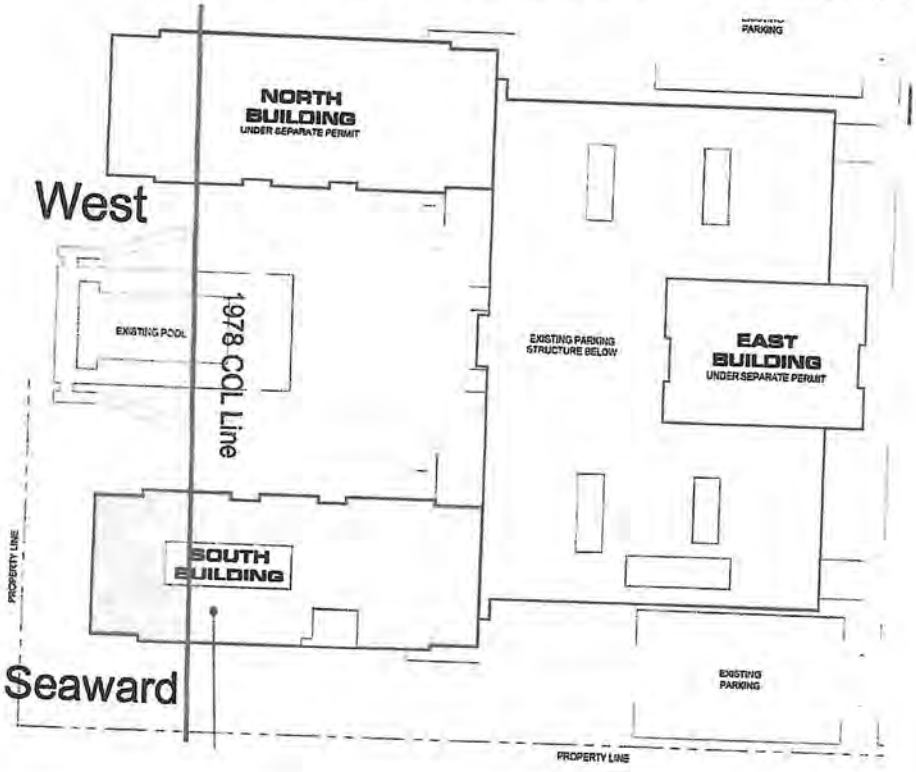

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☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: _____

Name: Robert J. Hughes

Vote to rebuild our Pool

Creciente Unit # : 716

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

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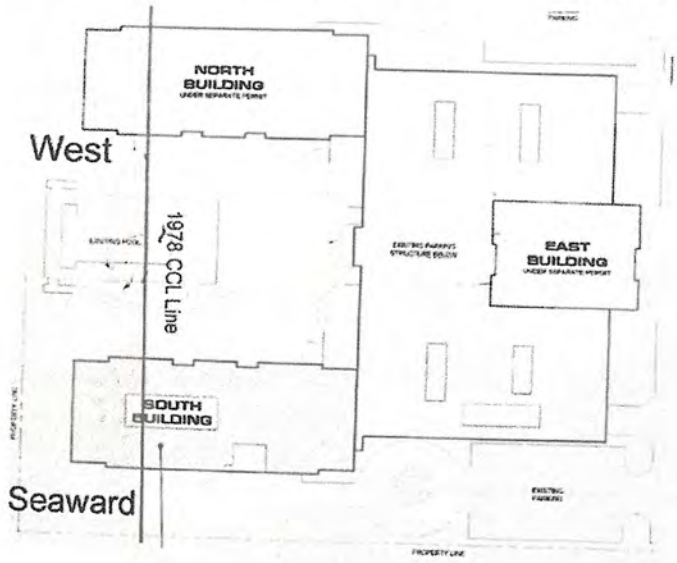

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[X] I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Darrell Beard

Name: DARRELL BEARD

CRECIENTE UNIT # 723

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

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☑ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: _____

Name: Steve Fisher

Vote to rebuild our Pool

Creciente Unit # : 801

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hu
the CCCL (Coastal Construction Control Line.)

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send it back to Peggy, admin@creciente.com. Check the box below, sign a

☑ I APPROVE applying for the Special Exception to rebuild our community se

Signed:

Name: RICHARD McGLASSON

Vote to rebuild our Pool

Creciente Unit # : 803

Vote to rebuild our Pool

Vote to support the Special Exception Application, to rebuild Creciente, as it was prior to Hurricane Ian, west of the CCCL (Coastal Construction Control Line.)

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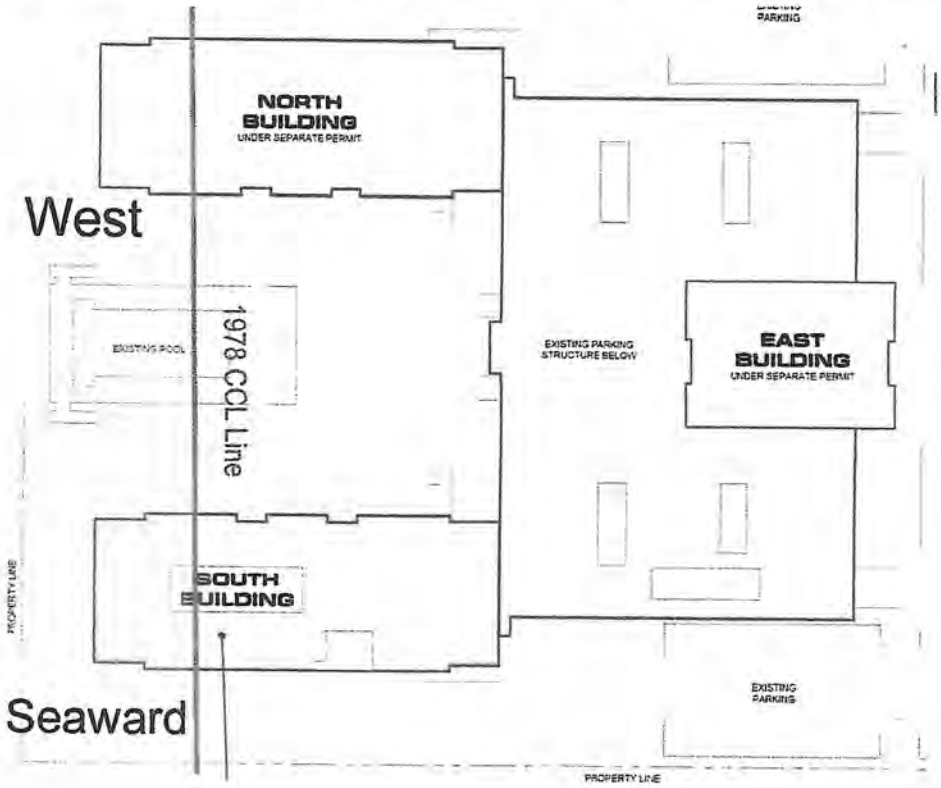

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☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Susan M. Gumm

Name: ANDREW/SUSAN GUMM

Creciente Unit # : 804

Vote to rebuild our Pool

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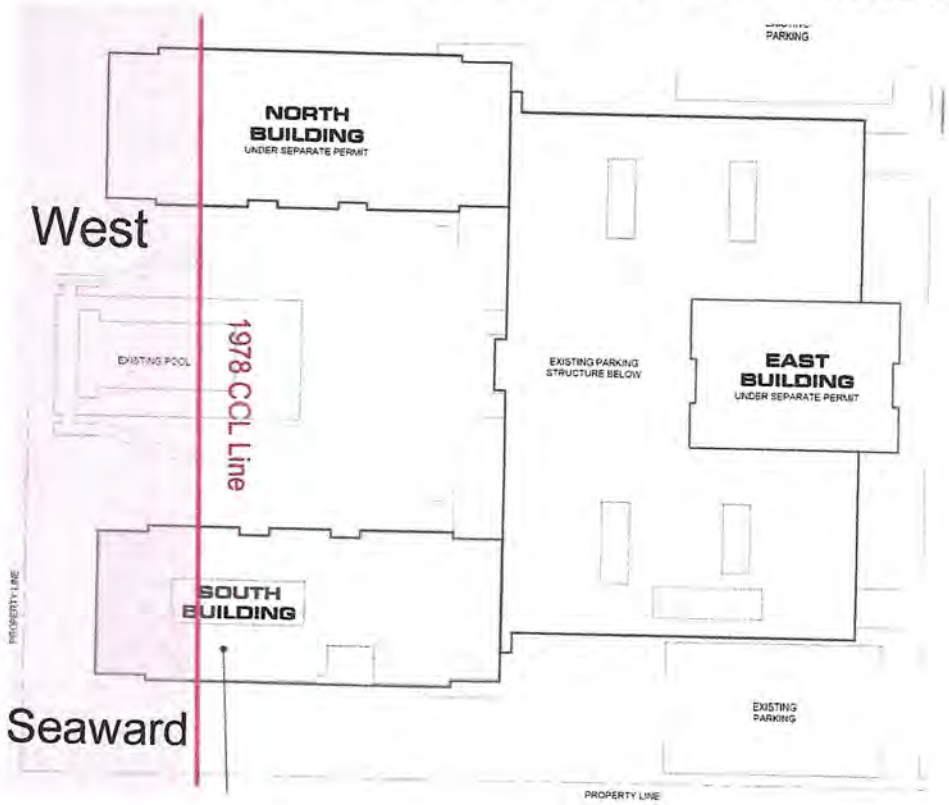

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☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Michael T Close

Name: MICHAEL CLOSE

Creciente Unit # : 811

Vote to rebuild our Pool

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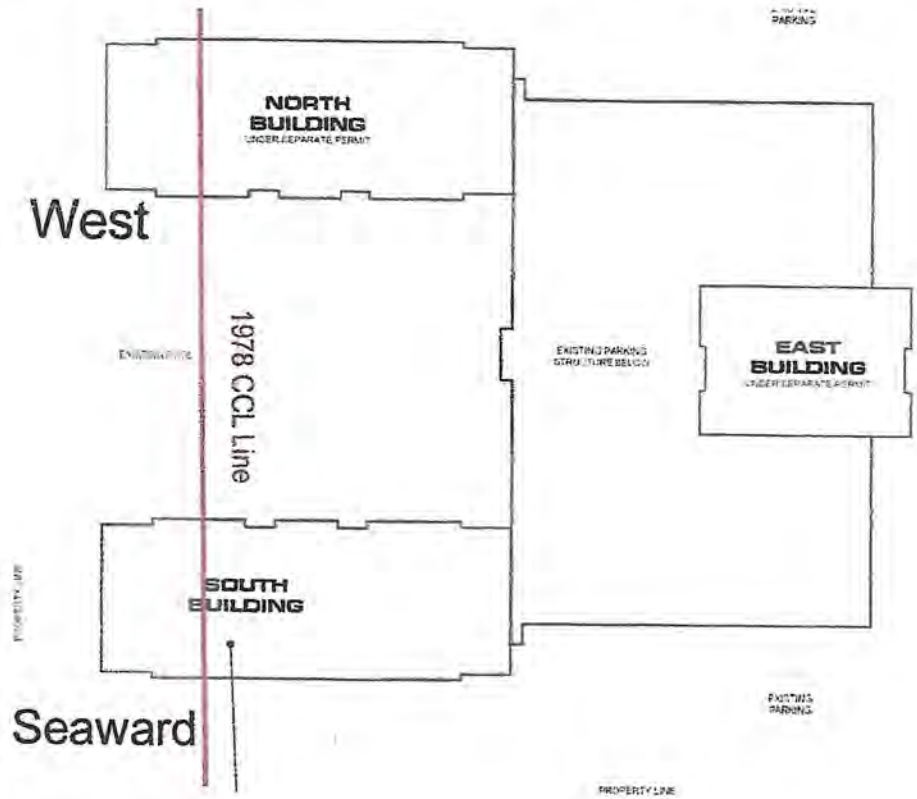

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☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Gregory Subtelny

Name: Gregory D. Subtelny

Vote to rebuild our Pool

Creciente Unit # : 812

Vote to rebuild our Pool

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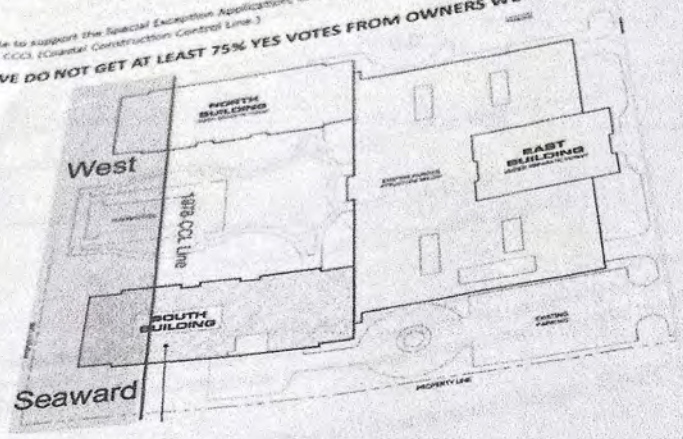

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☒ *I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.*

Signed: Cheryl Thompson

Name: Cheryl Thompson

Creciente Unit # : 817

box

Vote to rebuild our Pool

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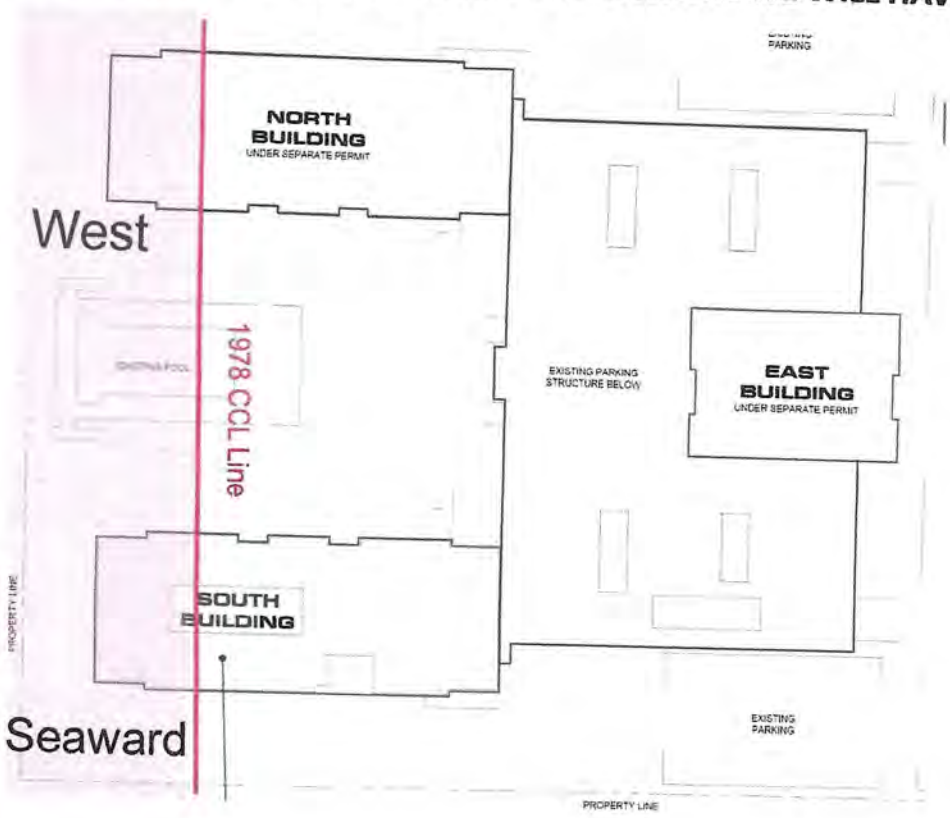

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Signed: _____

Name: Christina Petretta

Vote to rebuild our Pool

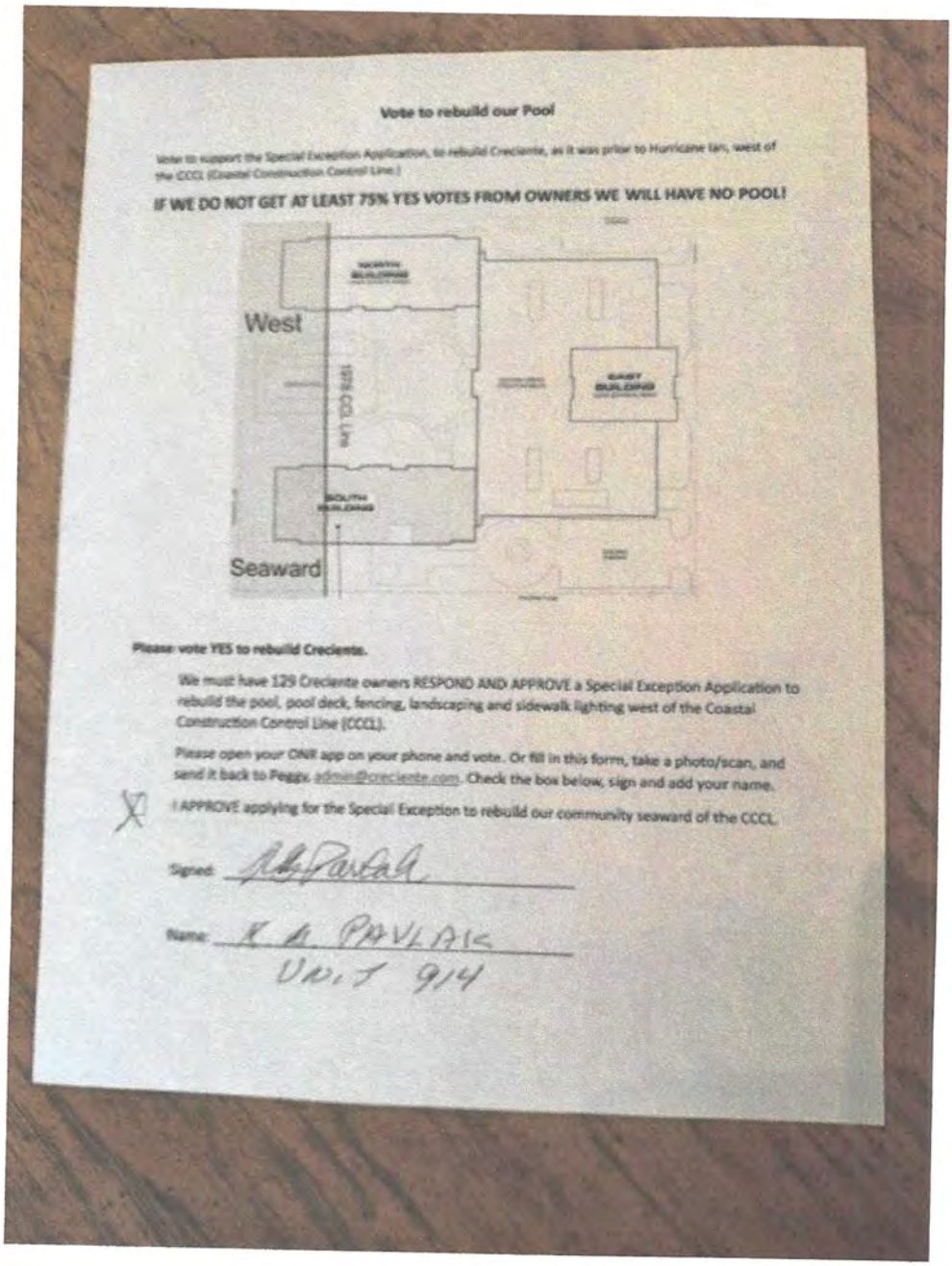
Creciente Unit # : 822 East

Outlook

Vote from Richard Pavlak

From Sandra Dilley <sandra.dilley29@gmail.com>
Date Mon 3/3/2025 2:32 PM
To Creciente Admin <admin@creciente.com>
Cc rpavlak930@aol.com <rpavlak930@aol.com>

Hi Peggy, i'm sending this for my father Richard Pavlak in unit 914.



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Signed: R Pavlak

Name: R A PAVLAK
Unit 914

Sandra Keller
937.620.0148

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☒ I APPROVE applying for the Special Exception to rebuild our community seaward of the CCCL.

Signed: Angela Henson

Name: Angela Henson

Creciente Unit #: 921

Vote to rebuild our Pool

Michelle H. Kaiser, Esq., LL.M., M.B.A.
Senior Attorney
Phone: 239.552.3205 Fax: 239.263.1633
MKaiser@beckerlawyers.com

Becker & Poliakoff
Six Mile Corporate Park
12140 Carissa Commerce Court, Suite 200
Fort Myers, Florida 33966

Northern Trust Building
4001 Tamiami Trail North, Suite 270
Naples, Florida 34103

March 7, 2025

Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers Beach, Florida 33931

Re: **Creciente Condominium Association, Inc.**
Town of Fort Myers Beach Special Exception Application

To Whom It May Concern:

Please be advised this Firm represents Creciente Condominium Association, Inc. (the "Association"). In that capacity we have been directed to provide this letter of opinion to the Town of Fort Myers Beach concerning the Association's Special Exception application to reconstruct the pool, fence, and seawall that were destroyed in Hurricane Ian.

Specifically, Section 34-201(a)(1)b.3. of the Town of Fort Myers Beach Municipal Code of Ordinances provides as follows:

> (a) *Initiation of application.* An application for a rezoning, development of regional impact, special exception, appeal from administrative action, or variance may be initiated by:
>
> > (1) A landowner, or his authorized representative, for his own property; provided, however, that:
> > …
> >
> > > b. Where the property is a condominium or a timeshare condominium, as defined and regulated in F.S. chs. 718 and 721, respectively, an application or petition may be initiated by both the condominium association and no less than 75 percent of the total number of condominium unit owners, or by both the owners' association and no less than 75 percent of timeshare condominium unit owners.
> > >
> > > …

> **3. So as to protect the legal rights of nonparticipating unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents or timeshare documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions therein, or any federal or state law regulating condominiums or timeshare plans, or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.** (emphasis added).

This opinion letter is intended to comply with Section 34-201(a)(1)b.3., cited above, confirming that following our examination of the Second Consolidated Amended and Restated Declaration of Condominium, the Restated and Amended Articles of Incorporation, Fourth Amended and Restated By-Laws for the Association, as amended from time to time, there is no prohibition in such documents concerning the Association's authority to submit the subject Special Exception application.

The subject Special Exception application does not violate any rights of a Unit Owner contained in the foregoing documents and there is no federal or state law regulating condominiums which would prohibit the Association with filing the subject Special Exception Application.

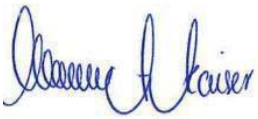
We express no opinion in this letter as to any consent, approval, authorization, or other action or filing necessary for future assertions by the Association. We express no opinion as to the laws of any jurisdiction other than the laws of the State of Florida and the laws of the United States of America.

The opinions expressed above concern only the effect of the laws (excluding the principles of conflict of laws) of the State of Florida and the United States of America as currently in effect. We assume no obligation to supplement this opinion if any applicable laws change after the date of this opinion, or if we become aware of any facts that might change the opinions expressed above after the date of this opinion.

This opinion is given solely for the use and benefit only of the Association as it pertains to its Special Exception application and is limited in its use to reliance by the Town of Fort Myers Beach and may not be relied upon by any other parties, furnished to any other party, quoted, or otherwise used without the prior express written consent of the undersigned Firm.

This opinion is as of the date hereof and we disclaim any obligation to advise you of any change which hereafter may be brought to our attention.

Sincerely,



Michelle H. Kaiser, Esquire, LL.M., M.B.A.
For the Firm

MHK/lt
cc: Board of Directors
Joseph E. Adams, Esquire
Katie O. Berkey, Esquire, AICP

Creciente Condominium Association, Inc.
7150 Estero Blvd Fort Myers Beach, FL 33931

March 7, 2025

To: The Town of Fort Myers Beach

From: Creciente Condominium Association Board

At a duly called board meeting of March 6 th 2025 the Creciente Condominium Association Board the following motion was made by Michael Close, President and seconded by Lloyd Welker, Co Treasurer.

> We certify that our board has approved the rebuild of Creciente property west of the CCCL line, we further certify that the required number of owners has approved this rebuild and that all were notified and voted via electronic measure or US mail. We further certify that our attorney has approved this rebuild complies with all our declarations and other recorded documents.

A roll call ballot of all seven (7) board members was called by the Secretary

Cynthia Clark	Yes
Michael Close	Yes
Sheila McGinnis	Yes
Ann thornton	Yes
John Wayhart	Yes
Lloyd Welker	Yes
Becky Werner	Yes

The Motion Passed 7 yes 0 No

Respectfully:

Michael Close, President

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2025-397**

1. **Request:**

Meeting Date: May 19, 2025

This agenda item is a Second Reading and Final Public Hearing on proposed Ordinance 25-07.

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

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

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

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	Ordinance	Jason Smalley, Senior Planner

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

Attachments:
1. Ordinance 25-07 with attached Exhibit A
2. Exhibit B to Ordinance - Master Concept Plan
3. Exhibit C to Ordinance - Schedule of Uses
4. TC Staff Report
5. Applicant Narrative
6. 1011 Third St Survey
7. LEEPA Tax Records
8. Full Architectural Plans
9. Architectural Elevations
10. Drainage Plan

11. Public Hearing Application

Financial Impact:
N/A

6. **Alternative Action**
Approve with Conditions

7. **Management Recommendations:**
N/A

8. **Recommended Approval:**

Judith Frankel, Principal Planner	Created/Initiated - 5/7/2025
Frankie Kropacek, Community Development Director	Approved - 5/9/2025
nancy stuparich, Town Attorney	Approved - 5/12/2025
Amy Baker, Town Clerk	Approved - 5/13/2025
Andy Hyatt, Town Manager	Final Approval - 5/13/2025

ORDINANCE 25-07

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REZONING OF PROPERTY LOCATED AT 1011 THIRD STREET, FORT MYERS BEACH, FLORIDA (STRAP NUMBER 24-46-23-W3-00202.0060) FROM DOWNTOWN TO RESIDENTIAL PLANNED DEVELOPMENT (RPD) WITH THREE DEVIATIONS: 1) REQUEST TO APPLY PROPERTY DEVELOPMENT REGULATIONS FOR THE DOWNTOWN ZONING DISTRICT, RATHER THAN THE RESIDENTIAL MULTI-FAMILY STANDARDS IN SEC. 34-943 REQUIRING USE OF THE RM DEVELOPMENT REGULATIONS; 2) ELIMINATION OF THE REQUIRED 5-FOOT SIDE YARD SETBACKS TO ALLOW FOR A 0-FOOT SIDE-YARD SETBACK ON THE EASTERN PROPERTY LINE; AND 3) REQUESTING AN INCREASE IN THE FLOOR AREA RATIO (FAR) OF 0.7, FOR A FAR OF 1.7 FAR WHERE AN FAR OF 1.0 IS ALLOWED IN SEC. 34-675(C)(3); PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

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

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

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

WHEREAS, the requested deviations from the LDC include:

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

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

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

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

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

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

WHEREAS, on the 5th day of May 2025 the Town Council held a first reading of the proposed Ordinance to rezone the Property with deviations, and gave full and complete consideration of the Applicant's request, the LPA's recommendation, including their finding of consistency with the Comprehensive Plan, staff's recommendation, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the LDC; and

WHEREAS, the Town Council voted to have a second reading of the proposed Ordinance and a public hearing on the 19th day of May 2025, which was noticed in the Fort Myers News-Press more than 10 days prior to the public hearing on the 19th day of May, 2025; and

WHEREAS, at the May 19th, 2025 public hearing, the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34- 85; and

WHEREAS, the Applicant has paid all fees associated with notice, advertisement, and consulting services required by the Town related to this rezoning request; and

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

WHEREAS, a Business Impact Estimate has been prepared and was published on the Town's website on the ___ day of _____, 2025; and

WHEREAS, the Town Council considered all relevant factors and made the following formal

findings before making its final decision on the requested rezone to a Commercial Planned Development (see LDC 34-85 and 34-216):

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

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

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

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

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

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

WHEREAS, the Town Council finds that this application to approve Ordinance 25-07, which is, **consistent/inconsistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve/approve with conditions/deny** the Application.

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

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

Section 2. The Town Council determines the Applicant **did/did not** meet its burden of proof that the requested rezoning request **does/does not** meet the requirements of the Town Comprehensive Plan and LDC. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties the Town Council **APPROVE/APPROVE WITH CONDITIONS/DENY** the requested application.

Section 3. Town Ordinance 25-07 is adopted and the Conditions of Approval, in Exhibit A, for the Property's RPD, the attached Master Concept Plan in Exhibit B, and the Schedule of Uses in Exhibit C, attached hereto and incorporated herein by this reference are approved.

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

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

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

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

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

DULY PASSED AND ADOPTED on this ___ day of _____2025.

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

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

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

_____
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ___ day of _____2025.

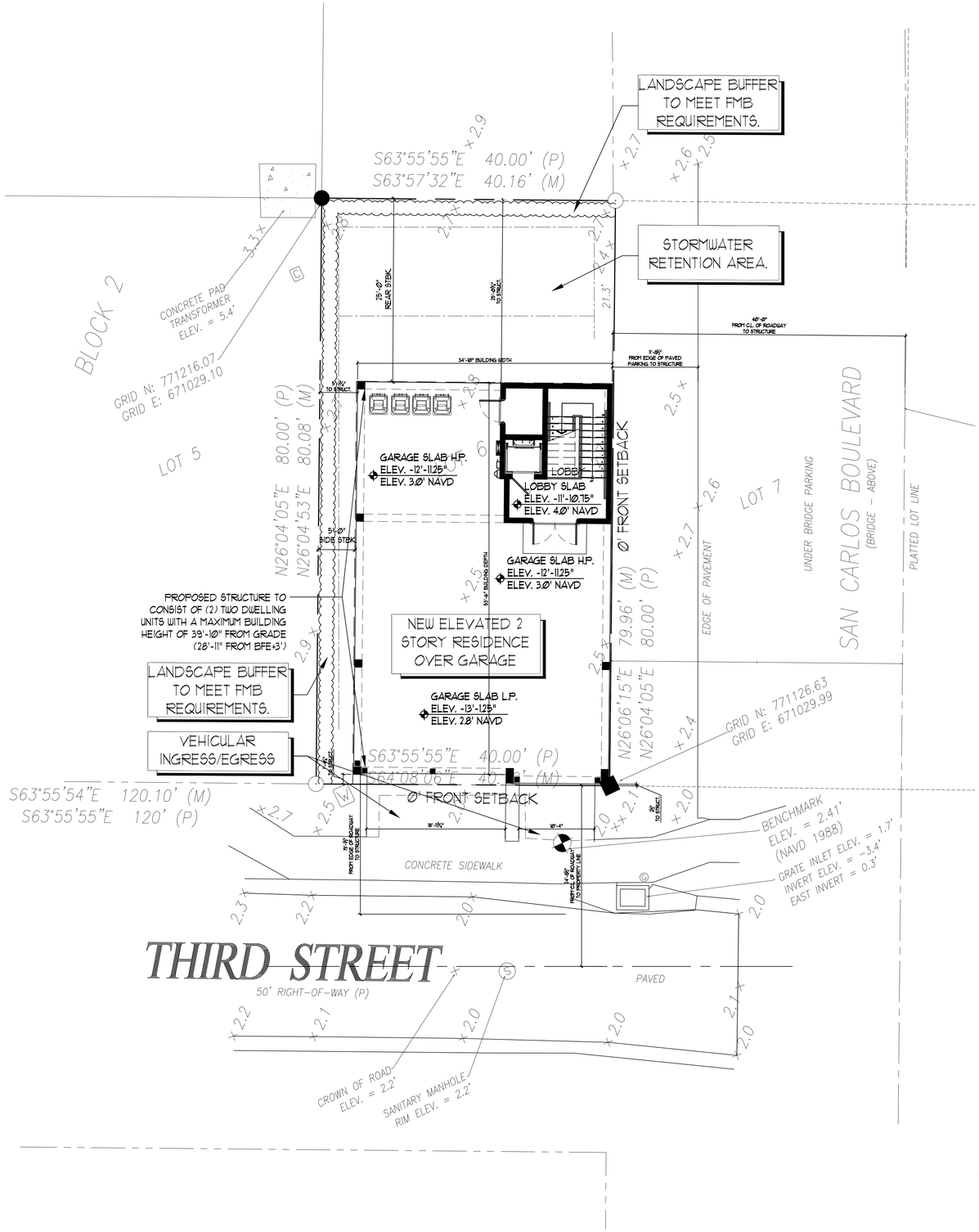
Exhibits:

A- Conditions of Approval (on the following page)
B- Master Concept Plan (MCP)
C- Schedule of Uses

Exhibit A: Conditions of Approval

1) The applicant must work with the County and/ or State DOT to ensure that the proposed plan will not interfere with the bridge ROW.

2) All other LDC requirements shall be met.



ZONING DATA

ZONE:

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

FLOOD ZONE (2019):

AE-11

B.F.E.:	11.00' N.A.V.D.
D.F.E. +3.00' =	14' N.A.V.D.
PROPOSED HABITABLE FLOOR:	15.9' N.A.V.D.

MAX BUILDING HEIGHT:

ALLOWABLE:	30'-0" FROM D.F.E.
PROPOSED:	28'-11" FROM D.F.E.*
	39'-10" FROM GRADE

TWO HABITABLE FLOORS ABOVE FEMA
*MEASURED FROM B.F.E. +3' TO TOP OF PARAPET WALL.

DENSITY:

TWO DWELLING UNITS
A/C AREA: 1,659 S.F. PER UNIT
3 BEDROOMS PER UNIT

CONSTRUCTION TO BE COMPLETED IN ONE PHASE.

LOT COVERAGE CALCULATIONS

LOT SIZES INCREMENTS OR PORTION (INCREMENT IN SQUARE FEET)	MAX. BUILDING AREA (% OF LOT AREA)	LOT SIZE IN SQUARE FEET*
LOT SIZE	———	3,212
MAX PERMITTED IMPERVIOUS AREA	61%	2,152
PROVIDED IMPERVIOUS AREA		2,058
PROVIDED FOOTPRINT OF STRUCTURE		1,873
PROVIDED FLOOR AREA RATIO	1.61	

MASTER CONCEPT PLAN

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

KYLE A VAYDA
CERTIFICATE
N° AR102813
STATE OF FLORIDA
REGISTERED ARCHITECT

Date

Revisions

ALL IDEAS, DESIGNS, ARRANGEMENTS, AND PLANS INDICATED OR REPRESENTED BY THIS DRAWING ARE OWNED BY, AND THE PROPERTY OF BECK ARCHITECTURAL GROUP, LLC. AND WERE CREATED, EVOLVED AND DEVELOPED FOR USE ON AND IN CONNECTION WITH THE SPECIFIED PROJECT. NONE OF SUCH IDEAS, DESIGNS, ARRANGEMENTS OR PLANS SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE PRIOR WRITTEN PERMISSION OF BECK ARCHITECTURAL GROUP, LLC. VISUAL CONTACT WITH THESE DRAWINGS SHALL CONSTITUTE PROOF OF ACCEPTANCE OF THESE RESTRICTIONS. IN THE EVENT OF DISCREPANCIES BETWEEN THE DRAWINGS AND SPECIFICATIONS, THE DRAWINGS SHALL HAVE PRECEDENCE OVER FIGURED DIMENSIONS. CONTRACTORS SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE JOB. THE ARCHITECT MUST BE NOTIFIED OF ANY VARIATIONS. SHOP DRAWINGS MUST BE SUBMITTED TO THE ARCHITECT FOR REVIEW BEFORE PROCEEDING WITH FABRICATION. (TYPICAL ALL NOTES).

FL LICENSE NUMBER AA102813

1011 THIRD STREET

FORT MYERS BEACH, FLORIDA

BECK
ARCHITECTURAL GROUP

ARCHITECT:
BECK ARCHITECTURAL GROUP, LLC.
804 ANCHOR RODE DR.
NAPLES, FL 34103
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PHONE: (239) 431-1686

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

REVIEW SET

MCP

Schedule of Uses

Dwelling unit:
Two-family

Property Development Regulations

Built-to lines are 0 to five feet for Third Street.
Building frontage shall be at least 35 percent of the lot frontage.
Minimum rear setbacks are 25 feet from rear property lines.
Minimum side setbacks are five feet from side property lies, except they may be 0 feet adjacent to the parking lot under the Sky Bridge.
Building height shall be limited to 30 feet above base flood elevation plus 1 additional foot and no taller than three stories.

Floor area ratio (FAR) shall not exceed 1.7.

Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE:	**Residential Planned Development**
CASE NUMBER:	**DCI Rezoning 20240275**
CASE NAME:	**1011 Third Street, rezoning to Residential Planned Development (RPD) with deviations.**
TOWN COUNCIL HEARING DATE:	**May 8th, 2025**
STAFF RECOMMENDATION:	**Approval with conditions**
PREPARED/ SUBMITTED BY:	**Jason Smalley, Senior Planner**

I. APPLICATION SUMMARY

Applicant/Owner:	Merschman I LLC./Matthew Noble
Request:	Rezone the property at 1011 Third St to a Residential Planned Development to allow the development of a two-unit residential structure and request three deviations 1) remove the requirement that RPDs apply the zoning regulations for the Residential Multi-Family (RM) zoning district, and instead apply the development regulations for the Downtown zoning district (the current zoning of the lot); 2) reduce the side-yard setback on the east-side of the property from 5-feet to zero-feet and; 3) request an increase of the Floor Area Ratio (FAR) from 1.0 to 1.7.
LPA Outcome:	During the April 8th, 2025 meeting the LPA members briefly discussed the request to use Downtown zoning rather than the RM district which the code calls for when creating a Residential Planned Development (RPD). After some discussion about the design of the pool on the roof the LPA voted 6-0-1 with one abstention to unanimously recommend approval of the rezoning.
Subject property:	See Exhibit A
Physical Address:	1011 Third Street
STRAP #:	24-46-23-W3-00202.0060

FLU: Pedestrian Commercial

Zoning: Downtown

Adjacent zoning and land uses:

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

II. BACKGROUND AND ANALYSIS

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

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

Front: 0-5-foot Build-To Line
Side: 5-feet
Rear: 25-feet
Maximum Height: 40-feet above Design Flood Elevation (DFE; BFE+1' freeboard)

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

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

Deviations:

1. The applicant is requesting to use the Downtown zoning district Property Development Regulations (PDRs), found in sec. 34-674 and 34-675, as the underlying rules for the development of this site, rather than the Residential Multi-Family (RM) PDRs required by sec. 34-943.
    a. This will have the effect of reducing the baseline setbacks which are 6.5', 7.5' or 10' for one and two-family structures in the RM district, and replacing it with a 5' setback in Downtown, as well as providing for a greater baseline FAR as compared to the RM district. Staff is unclear why the applicant has chosen to request this deviation, considering that they are requesting a Planned Development with deviations for setbacks and FAR.

2. A request to reduce the setback on the east-side of the property from the required 5-foot distance to zero (0), effectively allowing the building to be on the property line directly adjacent to the Town's parking lot and the Matanzas Bridge right-of-way.
    a. Staff has no concern about the request considering the uses surrounding the property are as intense –or more intense-- and the proposed residence poses little risk of any nuisances which may negatively affect the Town's parking lot. Any concerns with the bridge right-of-way would be dealt with during the permitting phase with the easement owner.

3. The applicant is requesting to increase the FAR from 1.0 allowed in sec. 34-675(c)(3) to 1.7 FAR to increase the allowed developable area of the lot. The actual FAR of the proposed structure is 1.61.
    a. Staff recognizes that the lot in-question is relatively small and that any development would require taller more dense construction to make the project economically feasible. While the applicant is requesting additional FAR beyond what their project calls for, staff recognizes that the project is proposing less density than what existed prior to the hurricanes, even if the intensity of the project is increasing.

Neighborhood Compatibility:

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

IV. FINDINGS AND CONCULSIONS

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

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

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

Staff response: No errors or ambiguities exist.

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

Staff response: The structure which was destroyed during the storm was a 4-unit multi-family home which is being rebuilt with less density, but taller, and with additional square footage.
(3) The impact of a proposed change on the intent of this chapter.
Staff response: No impact on the intent of this chapter will occur.
(4) The testimony of any applicant.
(5) The recommendation of staff and of the local planning agency.
(6) The testimony of the public.
(7) Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.
Staff response: The expanded Floor Area Ratio is consistent with the Town of Fort Myers Beach Comprehensive Plan Future Land Use designation. Policy 4-E-1 addresses Pre-Disaster Buildback, but does not speak to Post Disaster Buildback.
(8) Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
Staff response: The proposed development will be required to meet performance standards set forth in 34-2031 and 34-2032.
(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.
Staff response: The urban services exist in this location.
(10) Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.
Staff response: The request will have no impact on designated environmentally critical areas and natural resources. The request does not include any revision to the environmentally critical areas and does not impact open space or preserves.
(11) Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
Staff response: The proposed density and intensity are compatible with surrounding uses.
(12) Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.
Staff response: The location is compatible and due to the decrease in overall density staff would expect fewer trips to/ from the property.
(13) For planned development rezonings, see § 34-216 for additional considerations

LDC Sec. 34-85 (c) Findings: Before granting any rezoning, the town council shall find that the requested zoning district complies with:
(1) The Fort Myers Beach Comprehensive Plan.
Staff response: The proposed uses and requested deviations for the RPD comply with the Comprehensive Plan.
(2) This chapter.
Staff response: The proposed uses comply with this chapter.
(3) Any other applicable town ordinances or codes.
Staff response: The proposed request complies with the town ordinances and codes.
(4) For planned development rezonings, see § 34-216 of this chapter for additional findings

LDC Sec. 34-216(b)(2) The recommendation made to the town council must be supported by the guidelines set forth in § 34-85 of this chapter. In addition, the findings must address whether the following criteria can be satisfied:
a. The proposed use or mix of uses is appropriate at the subject location;

Staff response: The proposed two dwelling units, are less intense than the previous four dwelling units and less intense than many uses allowed within the underlying Downtown zone.

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

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

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

Staff response: No special conditions are requested as part of this application.

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

1. Policies 4-B-4 and 4-C-3 on commercial uses in the "mixed residential" category.
Staff response: Not applicable.
2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "boulevard" category.
Staff response: Not applicable.
3. Policy 4-C-4 on building heights taller than the standard height limit.
Staff response: No additional height is requested.
4. Policy 4-C-8 on density transfers.
Staff response: Not applicable.
5. Policy 4-E-1 on pre-disaster build back.
Staff response: Not applicable.
6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.
Staff response: There are no anticipated adverse traffic impacts

V. RECOMMENDATION

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

VI. CONDITIONS OF APPROVAL

1) The applicant must work with the County and/ or State DOT to ensure that the proposed plan will not interfere with the bridge ROW.

2) All other LDC requirements shall be met.

ATTACHMENTS

Exhibit A: Master Concept Plan
Exhibit B: Schedule of Uses and Deviations

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

Previous Use

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

Proposed Project

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

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

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

Proposed Variance

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

Building Placement

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

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

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

Building Height

Section 34-675(b) (2) provides that a maximum of 30 feet above base flood elevation and no taller than three stories. The building plans demonstrate that the proposed building is consistent with this requirement as the plan show less than 29 feet (28 10 ¾ feet) above base flood elevation.

Project Location

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

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

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

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

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

Comprehensive Plan & Zoning Designation

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

Revised Policy FLU 1-B-7 provides that the Pedestrian Commercial is primarily a commercial district applied to the intense activity centers of Times Square including Old San Carlos and nearby portions of Estero Boulevard and the area around Villa Santini Plaza.

The site is zoned Downtown. The LDC, in Section 34-87, contains Findings that the town council must find that all of the following exist:

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

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

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

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

3. *That the variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property.*

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

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

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

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

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

Final Thoughts

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

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

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

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

LEGEND

- = BENCHMARK, SET PK NAIL AND DISK – "CHW INC. LB 5075"
- = FOUND 5/8" REBAR – NO IDENTIFICATION
- = FOUND PK NAIL AND DISK – "LB 642"
- = SET 5/8" REBAR AND CAP – "CHW INC. LB 5075"
- = FOUND 5/8" REBAR AND CAP – "PLS 5463"
- = FOUND 5/8" REBAR AND CAP – "PLS 3196"
- = FOUND 4" X 4" CONCRETE MONUMENT WITH 1/4" REBAR
- (C) = CALCULATED DATA
- (M) = FIELD MEASURED DATA
- (P) = RECORD PLAT DATA
- GRID N: = STATE PLANE NORTHING COORDINATE (FLORIDA WEST ZONE)
- GRID E: = STATE PLANE EASTING COORDINATE (FLORIDA WEST ZONE)
- x3.1 = SPOT ELEVATION, NAVD 1988
- = WOOD UTILITY POLE
- [C] = CABLE BOX
- (S) = SANITARY SEWER MANHOLE
- ⊗ = SANITARY SEWER CLEAN–OUT
- [E] = ELECTRIC BOX OR PANEL
- © = GAS VALVE
- [W] = WATER METER
- = ROYAL PALM
- = COCONUT PALM

SURVEYOR'S NOTES

1. BEARINGS SHOWN HEREON ARE GRID BEARINGS BASED UPON THE NORTH AMERICAN DATUM OF 1983, 1990 ADJUSTMENT (NAD83/90) FLORIDA WEST ZONE. DISTANCES SHOWN ARE GROUND DISTANCES MEASURED IN FEET. COORDINATES SHOWN ARE GRID COORDINATES.

2. NO UNDERGROUND IMPROVEMENTS OR FOUNDATIONS WERE LOCATED UNDER THE SCOPE OF THIS SURVEY.

3. THIS PARCEL LIES IN FLOOD ZONE "AE" BASED ON FEMA FLOOD INSURANCE RATE MAP PANEL 12071C0554G, DATED NOVEMBER 17, 2022. THIS PARCEL HAS A BASE FLOOD ELEVATION OF 11.0' (NAVD 1988).

4. BOUNDARY INFORMATION SHOWN HEREON IS BASED UPON THE RECORD PLAT AND LEGAL DESCRIPTION PROVIDED, AND FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP OF STATE ROAD 865 SECTION 12530–2614, NO SEARCH OF THE PUBLIC RECORD WAS PERFORMED BY THIS SURVEYOR. THERE MAY BE OTHER SETBACKS AND/OR EASEMENTS NOT KNOWN TO THIS SURVEYOR.

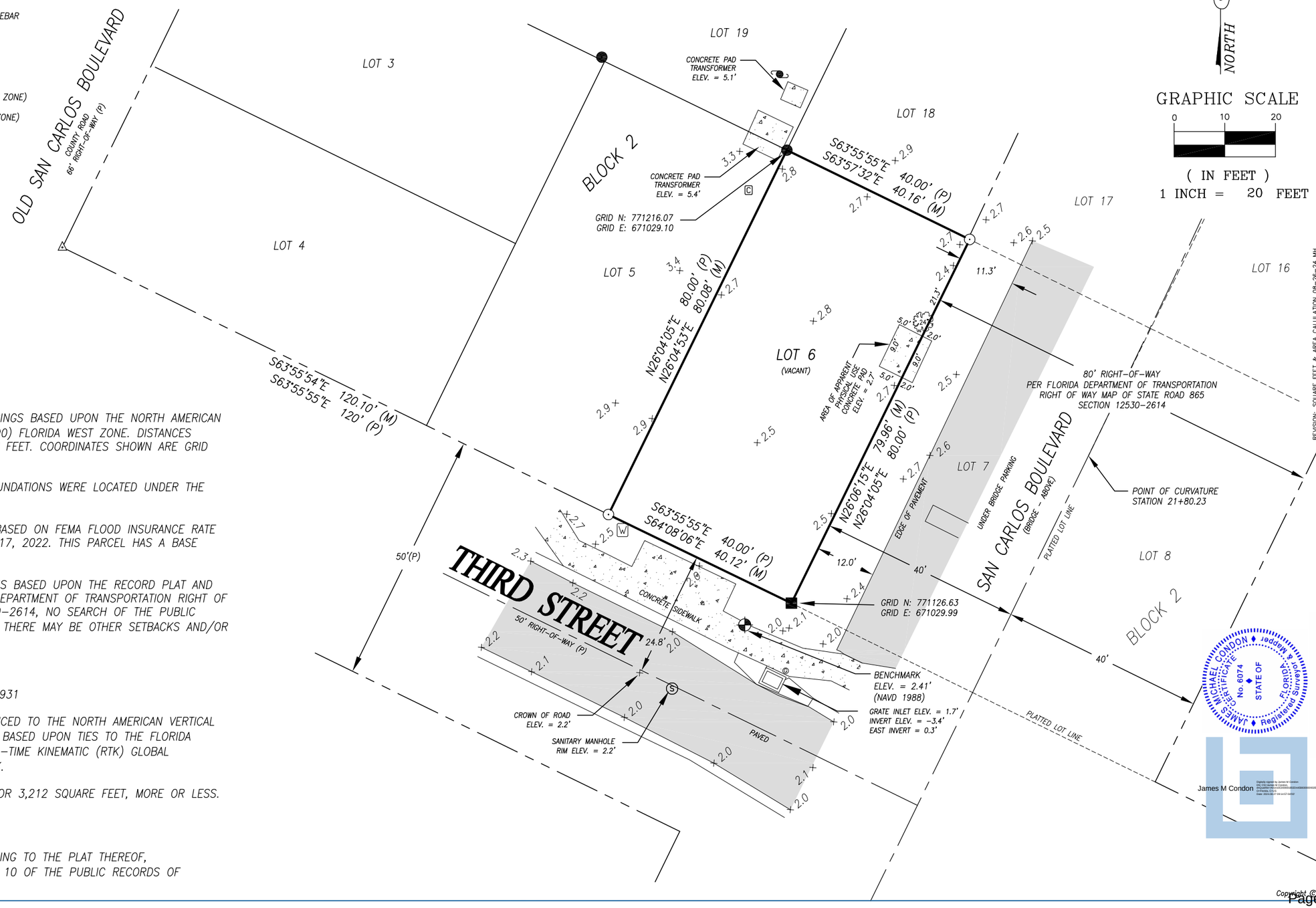
5. THE STREET ADDRESS IS:
   1011 THIRD STREET 1–4
   FORT MYERS BEACH, FLORIDA 33931

6. ELEVATIONS SHOWN HEREON ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD '88). ELEVATIONS ARE BASED UPON TIES TO THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) REAL–TIME KINEMATIC (RTK) GLOBAL POSITIONING SYSTEM (GPS) CONTROL NETWORK.

7. PARCEL SURVEYED CONTAINS 0.074 ACRE, OR 3,212 SQUARE FEET, MORE OR LESS.

LEGAL DESCRIPTION

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



JOB NO. 23–0720
SHEET NO. 1 OF 1

CERTIFIED TO: AFONOVA NELSON DESIGN GROUP

DRAWN BY: FA
CHECKED BY: TLR
FIELD BOOK: N/A

REVISION: SQUARE FEET & AREA, CALULATION 08–26–24 MH

CHW Professional Consultants
12631 Westlinks Drive, Units 5-6
Fort Myers, FL 33913
(239) 332-6085
www.chw-inc.com
est. 1988 FLORIDA CA-5075

DRAWING SCALE: 1" = 20'
REVISION DATE: 08/26/24
REVISED BY: MH

COMPUTER FILE: 230720
SURVEY DATE: 11/21/2023
SIGNATURE DATE: 08/27/2024

JAMES M. CONDON, PSM
Professional Surveyor & Mapper Fla. License No.6074

This map prepared by:
CERTIFICATE OF AUTHORIZATION NO. LB 5075
NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

MICHAEL CONDON CERTIFICATE No. 6074 STATE OF FLORIDA Professional Surveyor & Mapper

James M Condon
Digitally signed by James M Condon
DN: CN=James M Condon, E=jcondon@chw-inc.com, O=CHW, OU=Professional Surveyor & Mapper, C=US
Date: 2024.09.27 08:14:23 -04'00'

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Lee County Property Appraiser
PRINTED ON: Oct 3, 2024 11:14am

2022 HISTORICAL

CARD 1 of 1 (1) Folio 10127279

Cell ID 126014624

PARCEL NO: **24-46-23-W3-00202.0060**

OWNER'S NAME
MERSCHMAN I LLC

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

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

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

SITE ADDRESS **1011 THIRD ST 1-4 33931**
ASSESSOR **PB** INSPECTOR **124** INSPECTION DATE **Tuesday, September 21, 2021**

IMP TYPE **114** FAMILY CONVERSION MODEL **1** SINGLE FAMILY RESIDENTIAL

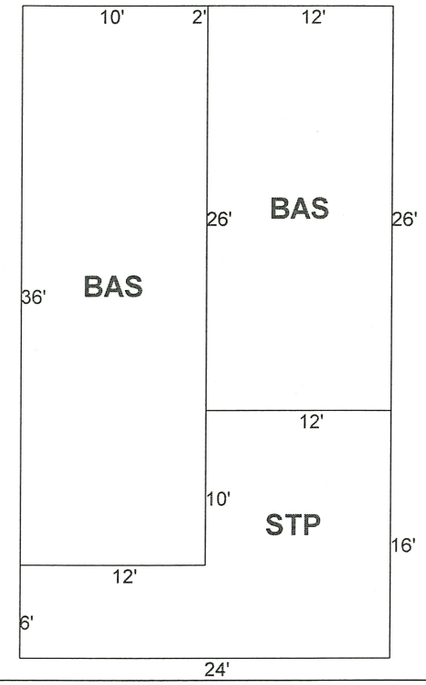
BUILDING CHARACTERISTICS

ELEMENT	CODE	TYPE / DESCRIPTION
EXTERIOR WALL	26	*VINYL/ALUMINUM SIDING*
EXTERIOR WALL	0	*NONE*
ROOF STRUCT	14	*ELONGATED HIP*
ROOF COVER	12	*MODULAR METAL\SHINGLE*
DRIVEWAY	*3	FOUNDATION *1
ELEVATION	*6	STORIES 1
INTERIOR WALL	4	*PLYWOOD PANEL*
INTERIOR WALL	0	*NONE*
INT FLOOR	9	*PINE/LAMINATE/LUXURY VINYL*
INT FLOOR	0	*NONE*
HEATING FUEL	4	*ELECTRIC*
HEATING TYPE	3	*FORCED AIR-NOT DUCTED*
AIR COND TYPE	2	*WINDOW UNIT*
CENTRAL VAC		X A/C UNIT
QUALITY	3	*AVERAGE*
CONDITION	*1	
BEDROOMS	3	X SHOWER
BATHROOMS	4	X SINK
FULL BATH		X URINAL
½ BATH		X TOILET
¾ BATH		X BIDET
CEILING HT	*4	X KITCHEN 3
TRAY CEILINGS		WET BAR/UTILITY
OUTDOOR SHOWER		SPRINKLER (Y/N) N

BUILDING SUBAREA DETAIL

AREA TYPE	YEAR BUILT	GROSS AREA	PCT BASE	ADJ AREA	CAP	COST VALUE
BAS	1972	432	100	432	-	31,810
BAS	1972	312	100	312	-	22,974
APT	1972	432	100	432	-	31,810
AP2	1972	312	100	312	-	22,974
AP3	1972	196	100	196	-	14,432
STP	1972	264	10	26	-	1,914
LCP	1972	264	5	13	-	957
TOTALS:		2,212		1,723		126,872

EFF AREA	STRUCT INDEX	EFF BASE RATE	REPLACEMENT COST NEW	ACTUAL YR BLT	EFF YR BLT	ECON OBS	FUNC OBS	NORMAL DEPR	REMAINING WORTH	COST VALUE
1,723	0.88	116.88	201,384	1972	1984	0%	0%	37%	63%	126,872



EXTRA FEATURES

LINE	CODE	NAME	DESCRIPTION	LENGTH	WIDTH	UNITS	UNIT PRICE	PCT COND	L/B	YEAR	ANN DEPR	DEPR ADJ	CAP FLAG	COST VAL

TOTAL OF EXTRA FEATURE VALUES: 0

LAND

LINE	CODE	DESCRIPTION	ZONING	FRONT	DEPTH	DF	CF	TYPE	UNIT PRICE	UNITS	U T	TOT ADJ	ADJ UNIT PRICE	LAND VALUE	CAP	EVAL NOTES
1	800	MF<10	C-1	0	0	1.00	1.00	0	60.00	3,093.00	SF	1.00	60.00	185,580	-	PB

TOTAL OF LAND LINE VALUES: 185,580

PERMIT

NUMBER	DATE	CO/CC	ASGN	VALUE	NOTE

SALES

BOOK/PAGE OR INSTRUMENT #	DATE	TYPE INST	OVR CODE	V I	SALE PRICE
2021000264538	08/2021	01	01	I	1,050,000
2020000182526	08/2020	01	01	I	675,000
2018000207442	08/2018	01	01	I	480,000
4358/1095	06/2004	06	06	I	335,000
3576/2091	01/2002	06	06	I	290,000
3372/3762	01/2001	08	08	I	66,600
3356/3190	01/2001	06	06	I	257,500
3224/2044	01/2000	06	06	I	143,400
2948/3935	04/1998	06	06	I	175,000
724 /326	08/1971				14,000

COST SUMMARY

	2022	2021
BUILDING COST VALUE	126,872	108,300
BUILDING EXTRA FEATURES	0	0
LAND EXTRA FEATURES	0	0
LAND VALUE	185,580	112,000
COST APPROACH VALUE	312,452	220,300
INCOME APPROACH VALUE	*	*
SALES APPROACH VALUE	525,306	352,262
OVERRIDE BUILDING VALUE	-	-
OVERRIDE LAND VALUE	-	-
MARKET VALUE	525,306	352,262

NOTES 92 BPMT PA BAS/FLL+INC UOP/STP STP 27/26 SS+ASB/CB+ AL SLAB 99 SALE PB ADD ELEC FAND WAC & LCP IMP26/15 FLL/BAS 2001 SALE REVW PM BR 2/3 LCP DEL SLAB **02 SALE MB BAS/FLL*05 SALE JRH FLL/APT STORY 1/2 TRI/QUAD PER TENANT 1-1/1, 1-2/1 AND 2 STUDIOS* DESKTP RVW 7/5/2012 HUDSONJ RR/FAM CONV. DESKTP RVW 10/21/2016 HUDSONJ*18 SALE MP * *2020 SALE JEH * * '21 SALE JEH

0001 steinerd

ALL INFORMATION IS SUBJECT TO CHANGE WITHOUT NOTICE

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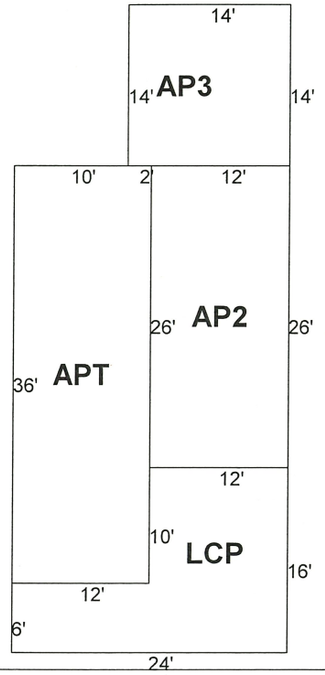
Floor 0



1011 THIRD STREET

FORT MYERS BEACH, FLORIDA

FRONT (NORTH) ELEVATION

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

ABBREVIATIONS LIST:

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

REVISION LOG

ARCHITECT SHEET INDEX

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

GENERAL NOTES

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

RESIDENTIAL CODE INFORMATION

ALL RESIDENTIAL CONSTRUCTION SHALL COMPLY WITH 2023 FLORIDA BUILDING CODE, BUILDING, PLUMBING, MECHANICAL, FUEL GAS. THE CODE IS COMPILED WITH THE 2017 ADDITION OF THE NATIONAL ELECTRICAL CODE ADOPTED BY REFERENCE. THE NATIONAL ELECTRICAL CODE IS REFERENCED STANDARD NFPA-10Ø.

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

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

BUILDING DATA

1. WIND LOAD DATA:
   REFER TO DRAWINGS BY STRUCTURAL ENGINEER
2. ELEVATION OF FIRST HABITABLE FLOOR IS 15.9
3. APPLICABLE FLOOD ZONE: AE-11
4. COUNTY ZONING: FORT MYERS BEACH
5. BUILDING TYPE OF CONSTRUCTION: 3-B
6. MAX BUILDING HEIGHT: 30'
   TO MEAN ROOF HEIGHT OR TOP OF PARAPET
7. LOT COVERAGE CALCULATIONS :
   REFER TO SITE PLAN SHEET A-2

LEGAL DESCRIPTION

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

SITE REQUIREMENTS

1. REQUIRED BUILDING SETBACKS:

FRONT SETBACK:	Ø'-Ø"
REAR SETBACK:	25'-Ø"
SIDE SETBACK:	5'-Ø"
SIDE SETBACK:	Ø'-Ø"

2. FMB WATER AND SEWER

SQUARE FOOTAGE CALCS.

GROUND FLOOR LOBBY:	247 S.F.
FIRST FLOOR A/C:	1659 S.F.
SECOND FLOOR A/C:	1659 S.F.
TOTAL A/C SQUARE FOOTAGE	3,565 S.F.
STORAGE:	40 S.F.
GARAGE:	1596 S.F.
ROOF TOP DECK	1595 S.F.
TOTAL NON A/C AREA:	3,231 S.F.
GROSS AREA:	6,796 S.F.

DESIGN PROFESSIONALS

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

GENERAL CONTRACTOR:
AFONOVA NELSON HOMES
9220 BONITA BEACH ROAD SE, STE 215
BONITA SPRINGS, FLORIDA 34135
CONTACT: MICHAEL NELSON
PHONE: (239) 315-3081
EMAIL: MIKE@AFONOVANELSON.COM

STRUCTURAL ENGINEER:
SOUTHERN ENGINEERING OF SWFL
14091 OAK HAMMOCK LANE
FORT MYERS, FLORIDA 33905
CONTACT: CHRIS SCOTT MILLER
EMAIL: CSM@SOUTHERNENGINEERING.COM
PHONE: (239) 288-5292

CIVIL ENGINEER:
GODDARD ENGINEERING, LLC
CONTACT: MATTHEW GODDARD
EMAIL: MGODDARDPE@GMAIL.COM
PHONE: (239) 776-3608

KYLE A VAYDA
CERTIFICATE
N° AR102813
STATE OF FLORIDA
REGISTERED ARCHITECT

Revisions	Date
ADDENDUM A. FMB STAFF COMMENTS	1.14.25

ALL IDEAS, DESIGNS, ARRANGEMENTS, AND PLANS INDICATED OR REPRESENTED BY THIS DRAWING ARE, OWNED BY, AND THE PROPERTY OF BECK ARCHITECTURAL GROUP, LLC. AND WERE CREATED, EVOLVED AND DEVELOPED FOR USE ON AND IN CONNECTION WITH THE SPECIFIED PROJECT. NONE OF SUCH IDEAS, DESIGNS, ARRANGEMENTS OR PLANS SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM, OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE WRITTEN PERMISSION OF BECK ARCHITECTURAL GROUP, LLC. EXCEPT TO THE EXTENT REQUIRED FOR USE IN THE PROJECT. VISUAL CONTACT WITH THESE DRAWINGS SHALL HAVE PRECEDENCE OVER SCALED DIMENSIONS. CONTRACTORS SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE JOB. ANY DISCREPANCIES SHALL BE REPORTED TO THE ARCHITECT BEFORE PROCEEDING WITH FABRICATION OR ITEMS AS NOTED.

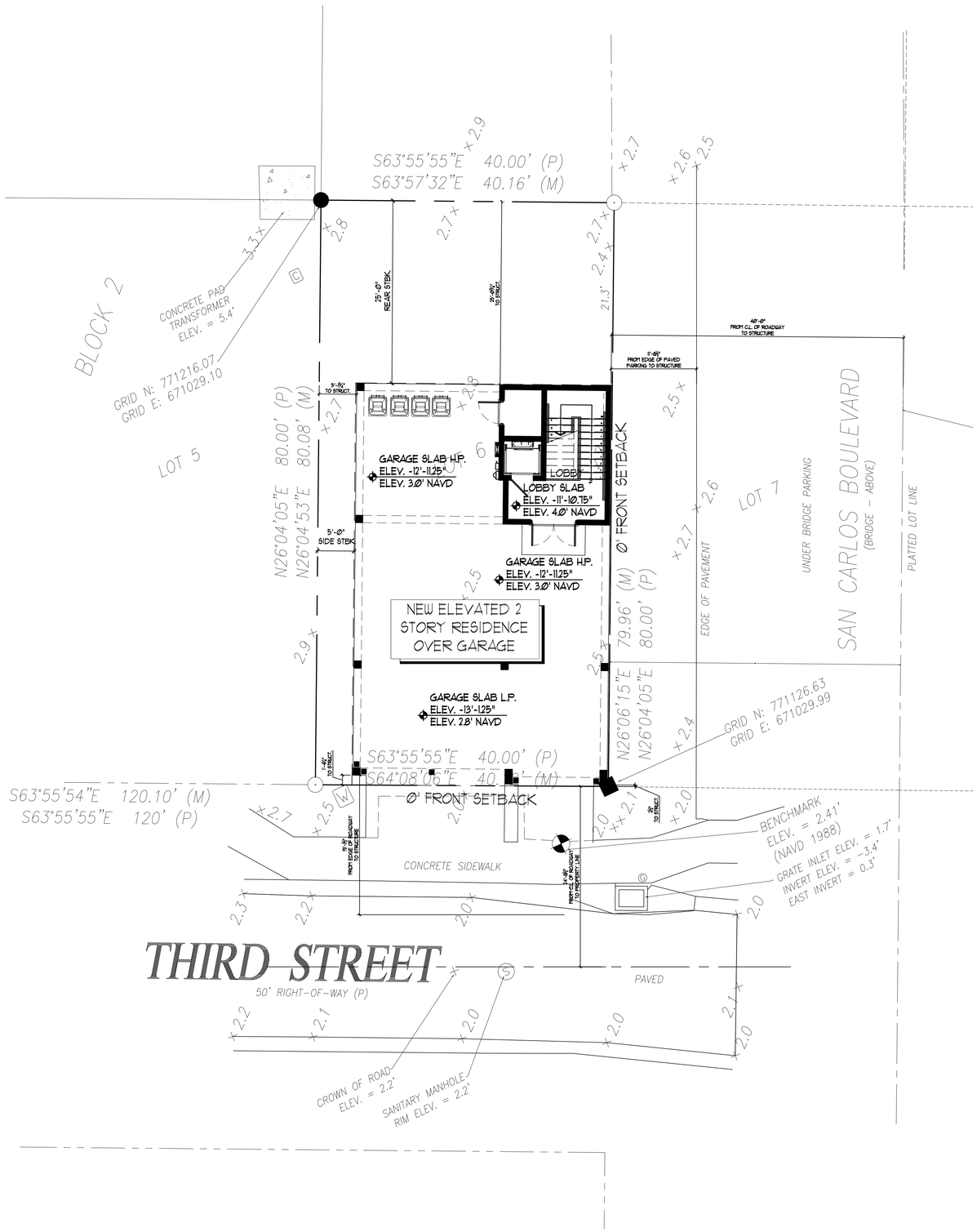
REVIEW SET

1011 THIRD STREET
FORT MYERS BEACH, FLORIDA

BECK
ARCHITECTURAL GROUP

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

A1



N

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

ZONING DATA

ZONE:

VILLAGE OF FORT MYERS BEACH
ZONING:

FLOOD ZONE (2019):

X
B.F.E.: 11.00' N.A.V.D.
D.F.E. 4.00' + 12' N.A.V.D.

MAX BUILDING HEIGHT:

30'-0"
F.E.M.A. HABITABLE FLOOR + 3'-0" RESILIENCY PROVISION

GENERAL NOTES

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

KYLE A VAYDA
CERTIFICATE
N° AR102813
STATE OF FLORIDA
REGISTERED ARCHITECT

Date
Revisions

ALL IDEAS, DESIGNS, ARRANGEMENTS, AND PLANS INDICATED OR REPRESENTED BY THIS DRAWING ARE OWNED BY, AND THE PROPERTY OF BECK ARCHITECTURAL GROUP, LLC. AND WERE CREATED, EVOLVED AND DEVELOPED FOR USE ON AND IN CONNECTION WITH THE SPECIFIED PROJECT. NONE OF SUCH IDEAS, DESIGNS, ARRANGEMENTS OR PLANS SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE PRIOR WRITTEN PERMISSION OF BECK ARCHITECTURAL GROUP, LLC. VISUAL CONTACT WITH THESE DRAWINGS SHALL CONSTITUTE PROOF OF ACCEPTANCE OF THESE RESTRICTIONS. IN THE EVENT OF DISCREPANCIES BETWEEN DRAWINGS, THE LARGER SCALE DRAWING SHALL HAVE PRECEDENCE OVER SCALED DIMENSIONS. CONTRACTORS SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE JOB. ANY DISCREPANCIES SHALL BE REPORTED TO THE ARCHITECT BEFORE PROCEEDING WITH FABRICATION OR CONSTRUCTION. DO NOT SCALE DRAWINGS. CONTRACTOR SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE JOB. ANY DISCREPANCIES SHALL BE REPORTED TO THE ARCHITECT BEFORE PROCEEDING WITH FABRICATION (SECTION 4.8 NOTED).

REVIEW SET

1011 THIRD STREET
FORT MYERS BEACH, FLORIDA

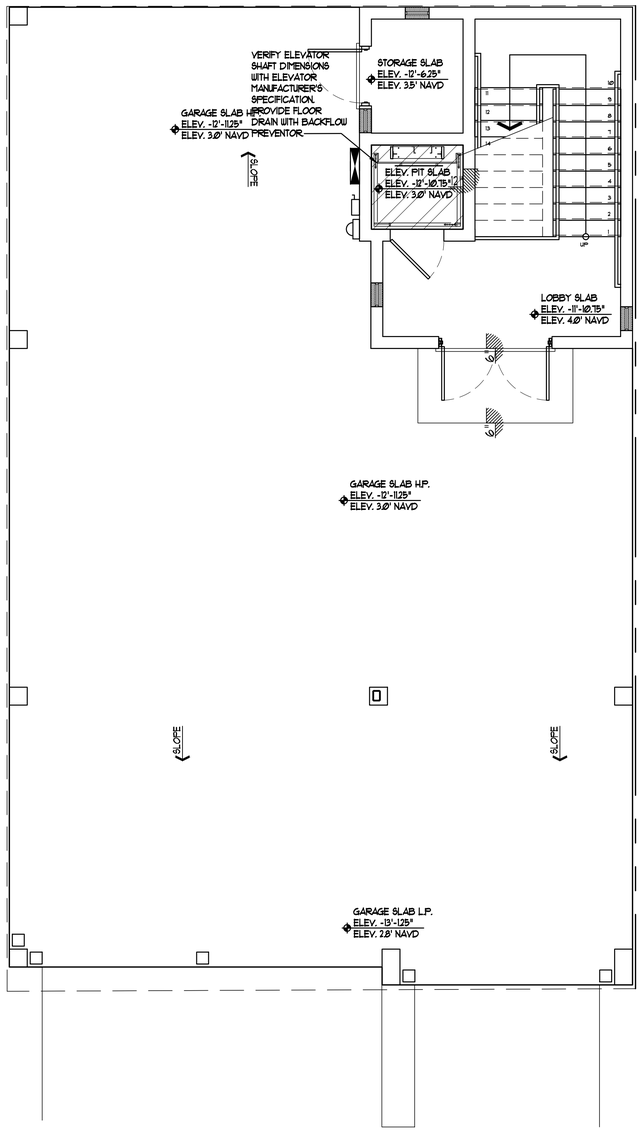
BECK
ARCHITECTURAL GROUP

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

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

A2

804 ANCHOR RODE DRIVE NAPLES, FLORIDA WWW.BECKARCHITECTURAL.COM (239) 431.1686
FL LICENSE NUMBER AA102813



N

GROUND FLOOR SLAB PLAN

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

REVIEW SET

KYLE A VAYDA
CERTIFICATE
N° AR102813
STATE OF FLORIDA
REGISTERED ARCHITECT

Revisions

Date

ALL IDEAS, DESIGNS, ARRANGEMENTS, AND PLANS INDICATED OR REPRESENTED BY THIS DRAWING ARE OWNED BY, AND THE PROPERTY OF SUCH IDEAS, DESIGNS, ARRANGEMENTS OR PLANS SHALL BE USED BY OR DISCLOSED TO, ANY PERSON, FIRM OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE WRITTEN PERMISSION OF BECK ARCHITECTURAL GROUP, LLC. CONTRACTOR SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS. DO NOT SCALE DRAWING. ANY DISCREPANCIES SHALL BE REPORTED TO THE ARCHITECT BEFORE PROCEEDING WITH FABRICATION OR INSTALLATION. ALL CONSTRUCTION SHALL COMPLY WITH ALL APPLICABLE CODES AND ORDINANCES.

FL LICENSE NUMBER AA102813

1011 THIRD STREET

FORT MYERS BEACH, FLORIDA

BECK
ARCHITECTURAL GROUP

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

PROJ. #: 2404-05

DRAWN BY: K.A.V.

DATE: 9.18.24

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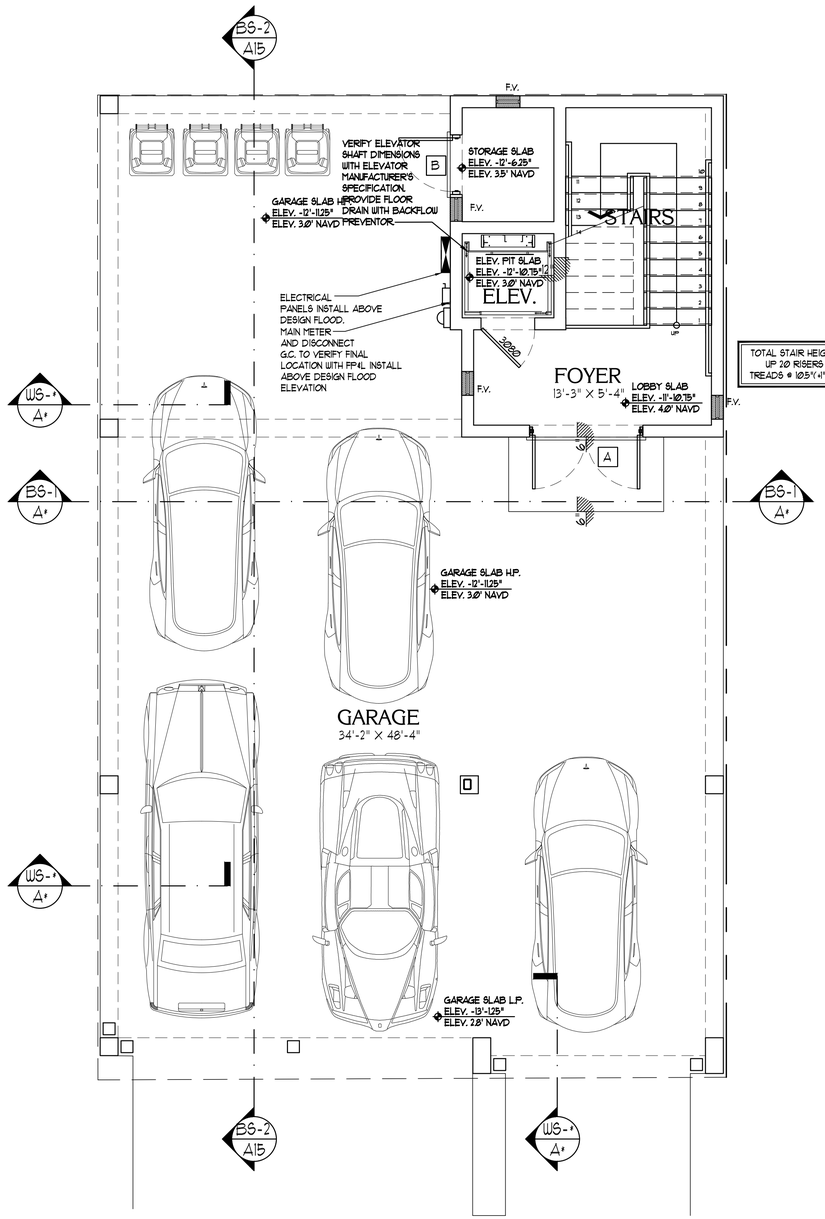
804 ANCHOR RODE DRIVE NAPLES, FLORIDA WWW.BECKARCHITECTURAL.COM (239) 431.1686



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GROUND FLOOR NOTE PLAN

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

FLOOD VENT CALCULATIONS

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

FLOOD RESISTANT MATERIALS

ALL STRUCTURAL & FINISH MATERIALS BELOW THE DESIGN FLOOD ELEVATION (12.00' NAVD) SHALL BE CONSTRUCTED OF APPROVED MATERIALS AS LISTED BELOW FROM FEMA TECHNICAL BULLETIN 2-08 (2023). "FLOOD DAMAGE-RESISTANT MATERIAL REQUIREMENTS"

STRUCTURAL MATERIALS	
EXTERIOR WALLS	CONCRETE MASONRY
FLOOR (SLAB)	CONCRETE (C.I.P.)
INTERIOR WALLS	P.T. LUMBER
INTERIOR SHEATHING	NON-PAPER-FACED GYPSUM BOARD
FINISH MATERIALS	
FLOORING	STONE TILE (MORTAR SET)
WINDOWS/DOORS	DECAY-RESISTANT WOOD***
BASEBOARD/TRIM	PVC LUMBER
PAINT	LATEX OR OIL-BASED
WATERPROOF TYPE STAIR TREADS	STONE & DECAY-RESISTANT WOOD ***

***DECAY RESISTANT WOOD PER FBC (2023), RESIDENTIAL, R322.2 & FEMA TB-2. AWPA U1 REFERENCED FOR ACCEPTABLE DECAY RESISTANT WOOD SPECIES.

LEGEND

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

GENERAL NOTES

1. THE G.C. IS TO VERIFY ALL WINDOW AND DOOR ROUGH OPENING SIZES WITH INSTALLATION REQUIREMENTS PRIOR TO INSTALL.
2. ALL DOORS AND WINDOWS PROVIDING DIRECT ACCESSES FROM THE HOME SHALL MEET THE RESIDENTIAL POOL SAFETY ACT. (CHAPTER 45, FBC 2023 RESIDENTIAL EDITION)
3. ALL WINDOWS AND FRENCH DOORS SHALL BE IMPACT RESISTANT. GARAGE DOORS SHALL BE IMPACT RESISTANT. MAHOGANY ENTRY DOORS SHALL ALSO BE IMPACT RESISTANT.
4. ALL SCREEN DOORS ARE TO BE SELF LATCHING, SELF CLOSING AND HAVE ALARMS. G.C. IS TO VERIFY THAT ALL EXITS TO THE POOL AREA MEET THE POOL SAFETY ACT.
5. G.C. PROVIDE SOUND INSULATION FOR ALL INTERIOR WALLS AND CEILINGS, AND INSULATE ALL EXTERIOR WALLS.
6. POOL DESIGN AND LANDSCAPING BY OTHERS.
7. A 42" HIGH A.F.F. (BALCONY) AND 36" HIGH (STAIR) ALUMINUM OR COMPOSITE RAILING SHALL BE CONSTRUCTED SUCH THAT A 4" SPHERE SHALL NOT PASS THROUGH AT ANY POINT (TYP.) (SECTION R312 OF THE FBC 2023). G.C. TO VERIFY HANDRAIL IS INSTALLED TO MEET A CIRCULAR CROSS SECTION WITH A DIAMETER OF 1-1/4" - 2". OR PROVIDE A NONCIRCULAR CROSS SECTION WITH EQUIVALENT GRASP ABILITY PERFORMANCE TO MEET THE FBC 2023 R311.7.8.3.
8. THE GARAGE SHALL BE SEPARATED FROM THE RESIDENCE BY NOT LESS THAN 1/2" TYPE "X" GYPSUM BOARD, AND 5/8" TYPE "X" GYPSUM BOARD FROM HABITABLE ROOMS ABOVE THE GARAGE AS PER RESIDENTIAL FBC 2023 R302.6.
9. OPENINGS BETWEEN THE GARAGE AND RESIDENCE SHALL BE EQUIPED WITH SOLID WOOD DOORS NOT LESS THAN 1 3/8" IN THICKNESS, SOLID OR HONEYCOMB-CORE STEEL DOORS NOT LESS THAN 1 3/8", OR 20 MIN. FIRE-RATED DOORS, EQUIPED WITH A SELF-CLOSING DEVICE, PER SEC. R302.5.1
10. DUCT WORK WHICH PENETRATE THE WALLS BETWEEN THE GARAGE AND THE RESIDENCE SHALL BE CONSTRUCTED OF A MIN. OF NO. 26 GAGE SHEET METAL OR OTHER APPROVED MATERIAL AS PER R302.5.2. OF THE RESIDENTIAL 2023 F.B.C.
11. ALL GROUND FLOOR ELEVATIONS REFERENCED FROM FINISHED CONCRETE SLAB ELEV. 0'-0" (4.0' NAVD).
12. G.C. TO VERIFY POSITIVE SLOPE OF FINISHED FLOOR TO ENSURE PROPER DRAINAGE AT LANAIS, COVERED ENTRY, OUTDOOR LIVING, BALCONIES, AND GARAGES.
13. G.C. TO PROVIDE ICYNENE INSULATION AT THE UNDERSIDE OF ALL ROOF TRUSSES INCLUDING GARAGES, LANAIS, AND BALCONIES IF APPLICABLE. G.C. TO ALSO PROVIDE MAKE UP AIR EQUAL TO ULTRA AIR ADEQUATE FOR THIS SYSTEM. G.C. TO PROVIDE (2) VENTS INSTALLED INSIDE THE GARAGE OPEN TO THE ATTIC SPACE.
14. MAKE UP AIR FOR KITCHEN HOOD WILL BE PROVIDED BY A BROAN UNIVERSAL AUTOMATIC MAKE-UP AIR DAMPER SIZED AT A RATE APPROX. EQUAL TO THE EXHAUST AIR RATE. MAKEUP AIR SYSTEM SHALL BE EQUIPED WITH A MEANS OF CLOSURE AND SHALL BE AUTOMATICALLY CONTROLLED TO START AND OPERATE SIMULTANEOUSLY WITH THE EXHAUST SYSTEM AS REQUIRED PER M1503.4.
15. G.C. TO COORDINATE W/ ELECTRICAL DRAWINGS FOR SIZE & LOCATION OF A/C PADS, POOL EQUIPMENT, ELECTRICAL METER, ELECTRICAL PANELS & H.B.
16. ALL ELECTRICAL, PLUMBING AND MECHANICAL EQUIPMENT TO BE SLAB ON GRADE AND ABOVE ELEVATION +12.00' NAVD.
17. REFER TO STRUCTURAL DRAWINGS FOR EXACT LOCATION OF STRUCTURAL WALLS, COLUMNS, AND BEAMS.
18. REFER TO LOW ROOF PLAN FOR WET DECK SLOPE / DRAINAGE LOCATIONS.
19. REFER TO INTERIOR DRAWINGS FOR FINAL CEILING HEIGHTS AND INFORMATION.
20. ALL STEAM SHOWERS SHALL HAVE A SLOPED CEILING AT A MIN. 1/2" PER FT. G.C. TO COORDINATE LOCATION OF EQUIPMENT WITH ARCHITECT AND/OR INTERIOR DESIGNER PRIOR TO INSTALLATION

REVIEW SET

KYLE A VAYDA
CERTIFICATE #
N° AR102813
STATE OF FLORIDA
REGISTERED ARCHITECT

Date

Revisions

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1011 THIRD STREET

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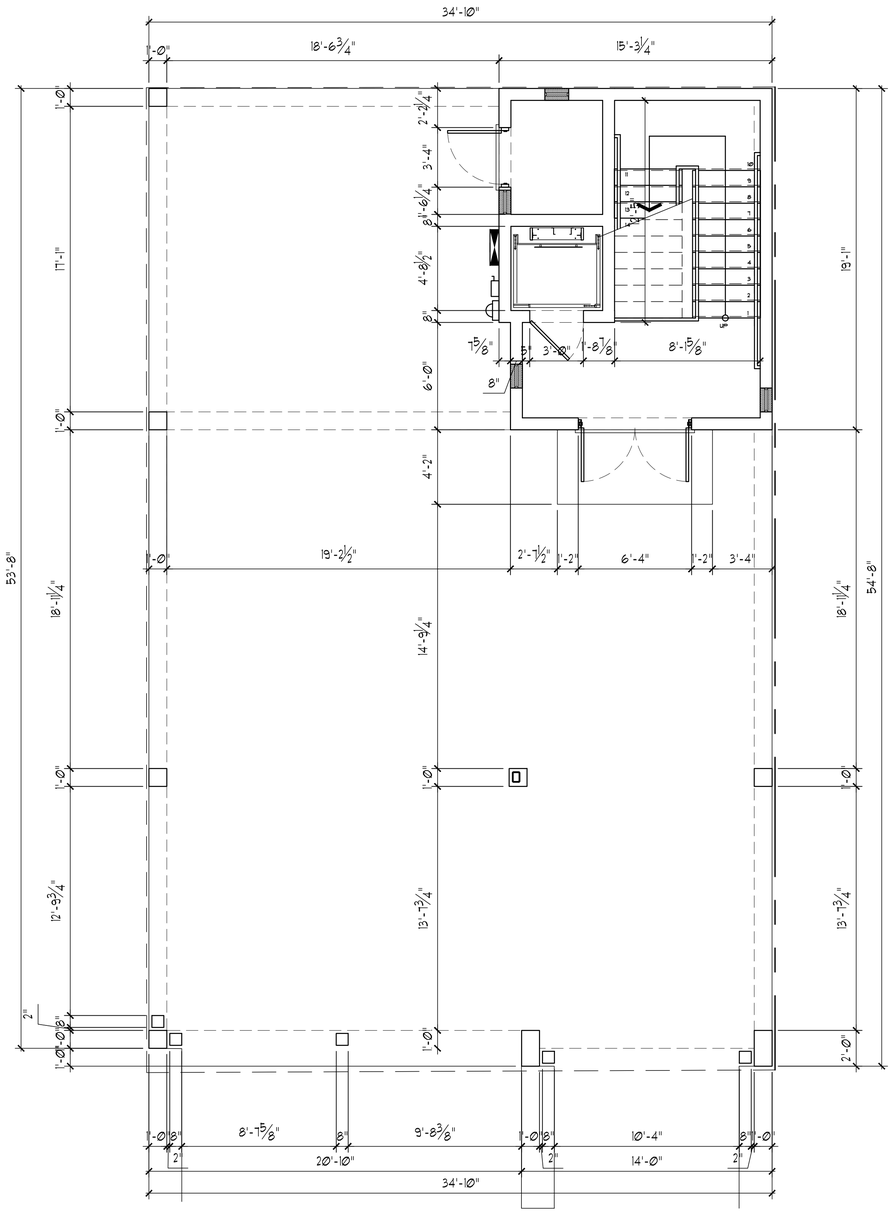

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GROUND FLOOR DIMENSION PLAN

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

REVIEW SET

1011 THIRD STREET

FORT MYERS BEACH, FLORIDA

Revisions

Date

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KYLE A VAYDA
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FL LICENSE NUMBER AA102813

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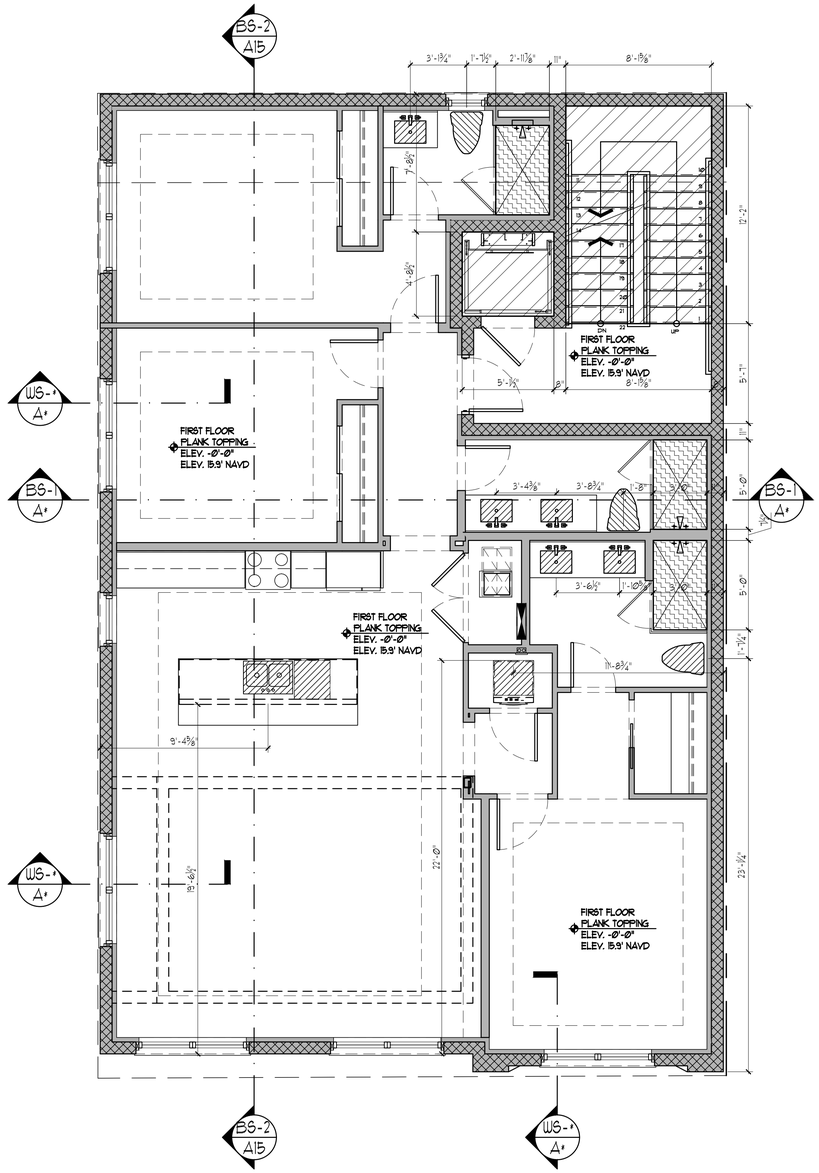

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FIRST FLOOR SLAB PLAN

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

REVIEW SET

1011 THIRD STREET

FORT MYERS BEACH, FLORIDA

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KYLE A VAYDA
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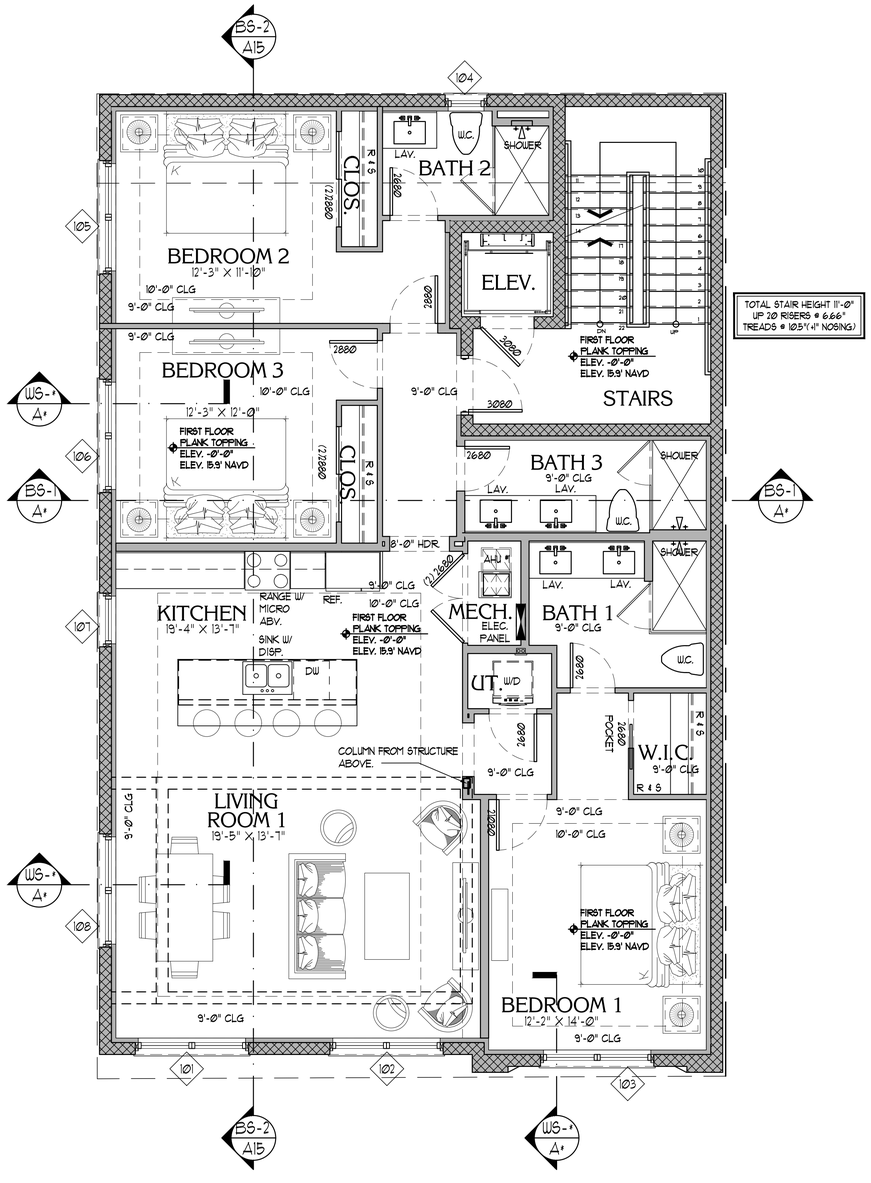

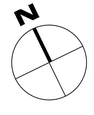

FIRST FLOOR NOTE PLAN

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

LEGEND

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

GENERAL NOTES

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3. ALL WINDOWS AND FRENCH DOORS SHALL BE IMPACT RESISTANT. GARAGE DOORS SHALL BE IMPACT RESISTANT. MAHOGANY ENTRY DOORS SHALL ALSO BE IMPACT RESISTANT.
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10. DUCT WORK WHICH PENETRATE THE WALLS BETWEEN THE GARAGE AND THE RESIDENCE SHALL BE CONSTRUCTED OF A MIN. OF NO. 26 GAGE SHEET METAL OR OTHER APPROVED MATERIAL AS PER R302.5.2. OF THE RESIDENTIAL 2023 F.B.C.
11. ALL FIRST FLOOR ELEVATIONS REFERENCED FROM FINISHED CONCRETE SLAB ELEV. 0'-0" (15.9' NAVD).
12. G.C. TO VERIFY POSITIVE SLOPE OF FINISHED FLOOR TO ENSURE PROPER DRAINAGE AT LANAIS, COVERED ENTRY, OUTDOOR LIVING, BALCONIES, AND GARAGES.
13. G.C. TO PROVIDE ICYNENE INSULATION AT THE UNDERSIDE OF ALL ROOF TRUSSES INCLUDING GARAGES, LANAIS, AND BALCONIES IF APPLICABLE. G.C. TO ALSO PROVIDE MAKE UP AIR EQUAL TO ULTRA AIR ADEQUATE FOR THIS SYSTEM. G.C. TO PROVIDE (2) VENTS INSTALLED INSIDE THE GARAGE OPEN TO THE ATTIC SPACE.
14. MAKE UP AIR FOR KITCHEN HOOD WILL BE PROVIDED BY A BROAN UNIVERSAL AUTOMATIC MAKE-UP AIR DAMPER SIZED AT A RATE APPROX. EQUAL TO THE EXHAUST AIR RATE. MAKEUP AIR SYSTEM SHALL BE EQUIPED WITH A MEANS OF CLOSURE AND SHALL BE AUTOMATICALLY CONTROLLED TO START AND OPERATE SIMULTANEOUSLY WITH THE EXHAUST SYSTEM AS REQUIRED PER M1503.4.
15. G.C. TO COORDINATE W/ ELECTRICAL DRAWINGS FOR SIZE & LOCATION OF A/C PADS, POOL EQUIPMENT, ELECTRICAL METER, ELECTRICAL PANELS & H.B.
16. ALL ELECTRICAL, PLUMBING AND MECHANICAL EQUIPMENT TO BE SLAB ON GRADE AND ABOVE ELEVATION 12.00' NAVD.
17. REFER TO STRUCTURAL DRAWINGS FOR EXACT LOCATION OF STRUCTURAL WALLS, COLUMNS, AND BEAMS.
18. REFER TO LOW ROOF PLAN FOR WET DECK SLOPE / DRAINAGE LOCATIONS.
19. REFER TO INTERIOR DRAWINGS FOR FINAL CEILING HEIGHTS AND INFORMATION.
20. ALL STEAM SHOWERS SHALL HAVE A SLOPED CEILING AT A MIN. 1/2" PER FT. G.C. TO COORDINATE LOCATION OF EQUIPMENT WITH ARCHITECT AND/OR INTERIOR DESIGNER PRIOR TO INSTALLATION

REVIEW SET

KYLE A VAYDA
CERTIFICATE
N° AR102813
STATE OF FLORIDA
REGISTERED ARCHITECT

Date

Revisions

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FL LICENSE NUMBER AA102813

1011 THIRD STREET

FORT MYERS BEACH, FLORIDA

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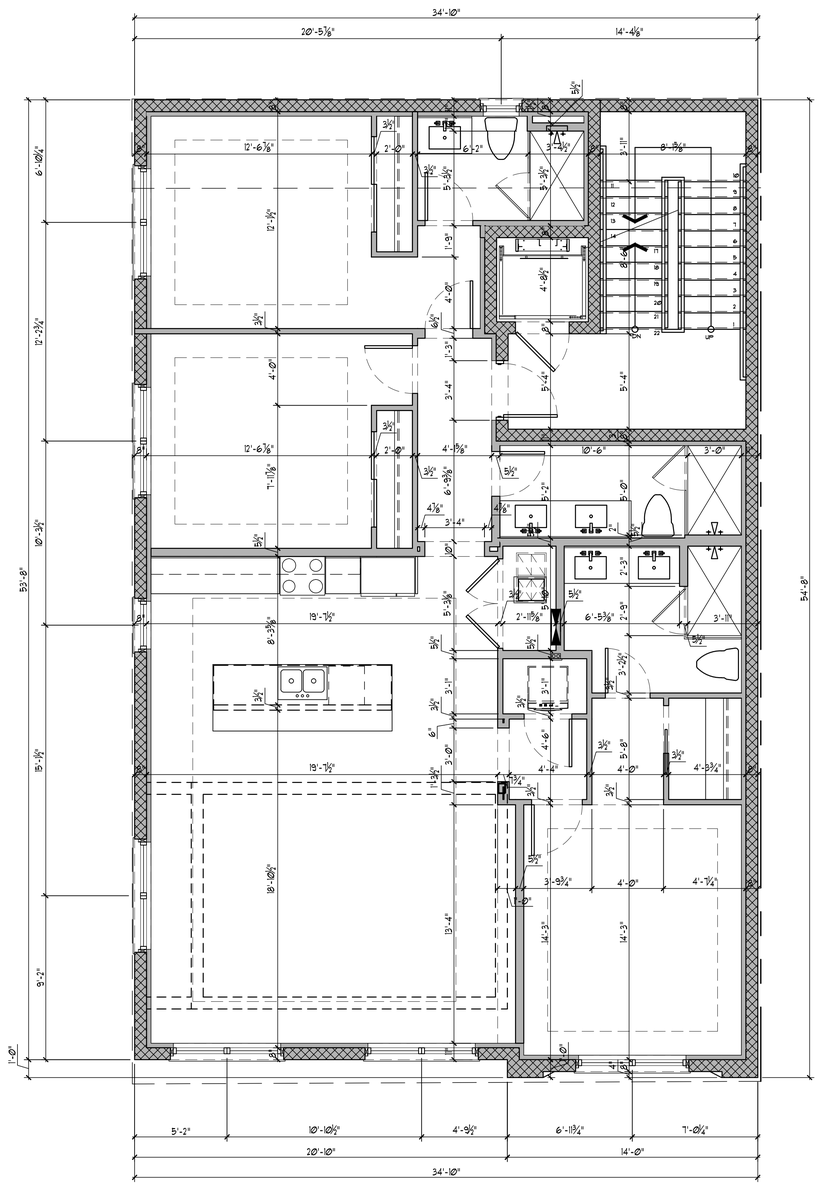

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FIRST FLOOR DIMENSION PLAN

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

REVIEW SET

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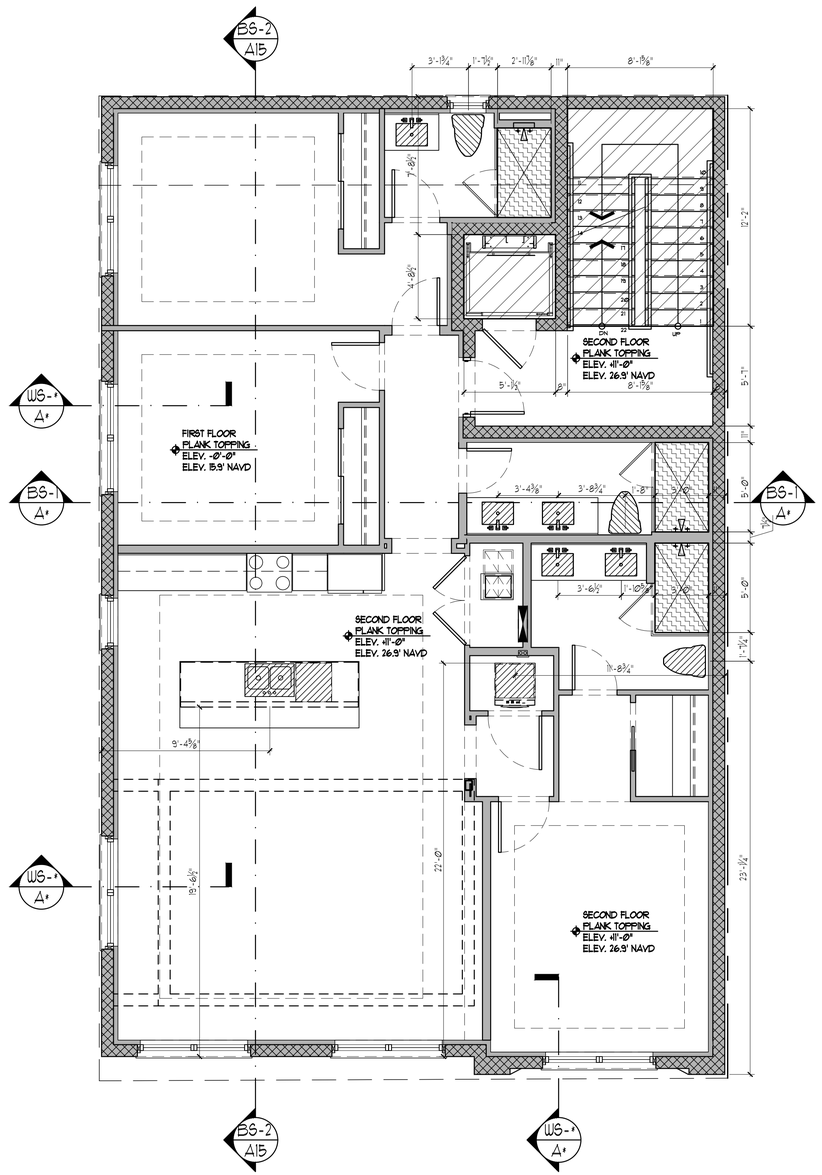

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SECOND FLOOR SLAB PLAN

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

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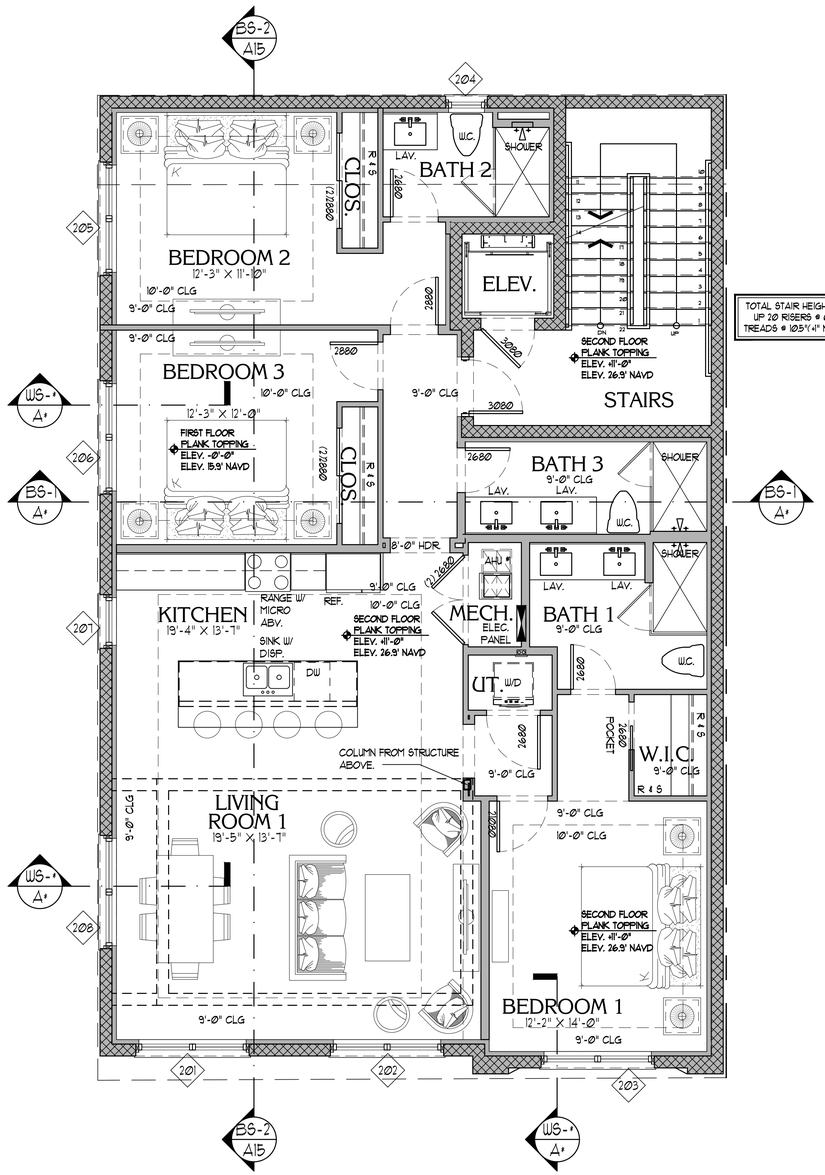
A9

REVIEW SET



N

SECOND FLOOR NOTE PLAN

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

LEGEND

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

GENERAL NOTES

1. THE G.C. IS TO VERIFY ALL WINDOW AND DOOR ROUGH OPENING SIZES WITH INSTALLATION REQUIREMENTS PRIOR TO INSTALL.
2. ALL DOORS AND WINDOWS PROVIDING DIRECT ACCESSES FROM THE HOME SHALL MEET THE RESIDENTIAL POOL SAFETY ACT. (CHAPTER 45, FBC 2023 RESIDENTIAL EDITION)
3. ALL WINDOWS AND FRENCH DOORS SHALL BE IMPACT RESISTANT. GARAGE DOORS SHALL BE IMPACT RESISTANT. MAHOGANY ENTRY DOORS SHALL ALSO BE IMPACT RESISTANT.
4. ALL SCREEN DOORS ARE TO BE SELF LATCHING, SELF CLOSING AND HAVE ALARMS. G.C. IS TO VERIFY THAT ALL EXITS TO THE POOL AREA MEET THE POOL SAFETY ACT.
5. G.C. PROVIDE SOUND INSULATION FOR ALL INTERIOR WALLS AND CEILINGS, AND INSULATE ALL EXTERIOR WALLS.
6. POOL DESIGN AND LANDSCAPING BY OTHERS.
7. A 40" HIGH A.F.F. (BALCONY) AND 36" HIGH (STAIR) ALUMINUM OR COMPOSITE RAILING SHALL BE CONSTRUCTED SUCH THAT A 4" SPHERE SHALL NOT PASS THROUGH AT ANY POINT (TYP.) (SECTION R312 OF THE FBC 2023). G.C. TO VERIFY HANDRAIL IS INSTALLED TO MEET A CIRCULAR CROSS SECTION WITH A DIAMETER OF 1-1/4" - 2" OR PROVIDE A NONCIRCULAR CROSS SECTION WITH EQUIVALENT GRASP ABILITY PERFORMANCE TO MEET THE FBC 2023 R311.7.8.3.
8. THE GARAGE SHALL BE SEPARATED FROM THE RESIDENCE BY NOT LESS THAN 1/2" TYPE "X" GYPSUM BOARD, AND 5/8" TYPE "X" GYPSUM BOARD FROM HABITABLE ROOMS ABOVE THE GARAGE AS PER RESIDENTIAL FBC 2023 R302.6.
9. OPENINGS BETWEEN THE GARAGE AND RESIDENCE SHALL BE EQUIPPED WITH SOLID WOOD DOORS NOT LESS THAN 1 3/8" IN THICKNESS, SOLID OR HONEYCOMB-CORE STEEL DOORS NOT LESS THAN 1 3/8", OR 20 MIN. FIRE-RATED DOORS, EQUIPPED WITH A SELF-CLOSING DEVICE, PER SEC. R302.5.1
10. DUCT WORK WHICH PENETRATE THE WALLS BETWEEN THE GARAGE AND THE RESIDENCE SHALL BE CONSTRUCTED OF A MIN. OF NO. 26 GAGE SHEET METAL OR OTHER APPROVED MATERIAL AS PER R302.5.2. OF THE RESIDENTIAL 2023 F.B.C.
11. ALL SECOND FLOOR ELEVATIONS REFERENCED FROM FINISHED CONCRETE SLAB ELEV. +11'-Ø" (26.9 NAVD).
12. G.C. TO VERIFY POSITIVE SLOPE OF FINISHED FLOOR TO ENSURE PROPER DRAINAGE AT LANAIS, COVERED ENTRY, OUTDOOR LIVING, BALCONIES, AND GARAGES.
13. G.C. TO PROVIDE ICYNENE INSULATION AT THE UNDERSIDE OF ALL ROOF TRUSSES INCLUDING GARAGES, LANAIS, AND BALCONIES IF APPLICABLE. G.C. TO ALSO PROVIDE MAKE UP AIR EQUAL TO ULTRA AIR ADEQUATE FOR THIS SYSTEM. G.C. TO PROVIDE (2) VENTS INSTALLED INSIDE THE GARAGE OPEN TO THE ATTIC SPACE.
14. MAKE UP AIR FOR KITCHEN HOOD WILL BE PROVIDED BY A BROAN UNIVERSAL AUTOMATIC MAKE-UP AIR DAMPER SIZED AT A RATE APPROX. EQUAL TO THE EXHAUST AIR RATE. MAKEUP AIR SYSTEM SHALL BE EQUIPPED WITH A MEANS OF CLOSURE AND SHALL BE AUTOMATICALLY CONTROLLED TO START AND OPERATE SIMULTANEOUSLY WITH THE EXHAUST SYSTEM AS REQUIRED PER M1503.4.
15. G.C. TO COORDINATE W/ ELECTRICAL DRAWINGS FOR SIZE & LOCATION OF A/C PADS, POOL EQUIPMENT, ELECTRICAL METER, ELECTRICAL PANELS & H.B.
16. ALL ELECTRICAL, PLUMBING AND MECHANICAL EQUIPMENT TO BE SLAB ON GRADE AND ABOVE ELEVATION +12.00' NAVD.
17. REFER TO STRUCTURAL DRAWINGS FOR EXACT LOCATION OF STRUCTURAL WALLS, COLUMNS, AND BEAMS.
18. REFER TO LOW ROOF PLAN FOR WET DECK SLOPE / DRAINAGE LOCATIONS.
19. REFER TO INTERIOR DRAWINGS FOR FINAL CEILING HEIGHTS AND INFORMATION.
20. ALL STEAM SHOWERS SHALL HAVE A SLOPED CEILING AT A MIN. 1/2" PER FT. G.C. TO COORDINATE LOCATION OF EQUIPMENT WITH ARCHITECT AND/OR INTERIOR DESIGNER PRIOR TO INSTALLATION

REVIEW SET

KYLE A VAYDA
CERTIFICATE
N° AR102813
STATE OF FLORIDA
REGISTERED ARCHITECT

Date

Revisions

ALL IDEAS, DESIGNS, ARRANGEMENTS, AND PLANS INDICATED OR REPRESENTED BY THIS DRAWING ARE OWNED BY, AND THE PROPERTY OF BECK ARCHITECTURAL GROUP, LLC. AND WERE CREATED, EVOLVED AND DEVELOPED FOR USE ON AND IN CONNECTION WITH THE SPECIFIED PROJECT. NONE OF SUCH IDEAS, DESIGNS, ARRANGEMENTS OR PLANS SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE PRIOR WRITTEN PERMISSION OF BECK ARCHITECTURAL GROUP, LLC. VISUAL CONTACT WITH THESE DRAWINGS SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF ACCEPTANCE OF THESE RESTRICTIONS. ALL DIMENSIONS SHALL HAVE PRECEDENCE OVER SCALED DIMENSIONS. CONTRACTORS SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE JOB. ANY DISCREPANCIES SHALL BE REPORTED TO THE ARCHITECT BEFORE PROCEEDING WITH FABRICATION OR CONSTRUCTION. DRAWINGS NOT TO BE SCALED FOR PERMITTING OR CONSTRUCTION PURPOSES.

1011 THIRD STREET

FORT MYERS BEACH, FLORIDA

FL LICENSE NUMBER AA102813

BECK
ARCHITECTURAL GROUP

ARCHITECT:
BECK ARCHITECTURAL GROUP, LLC.
804 ANCHOR RODE DR.
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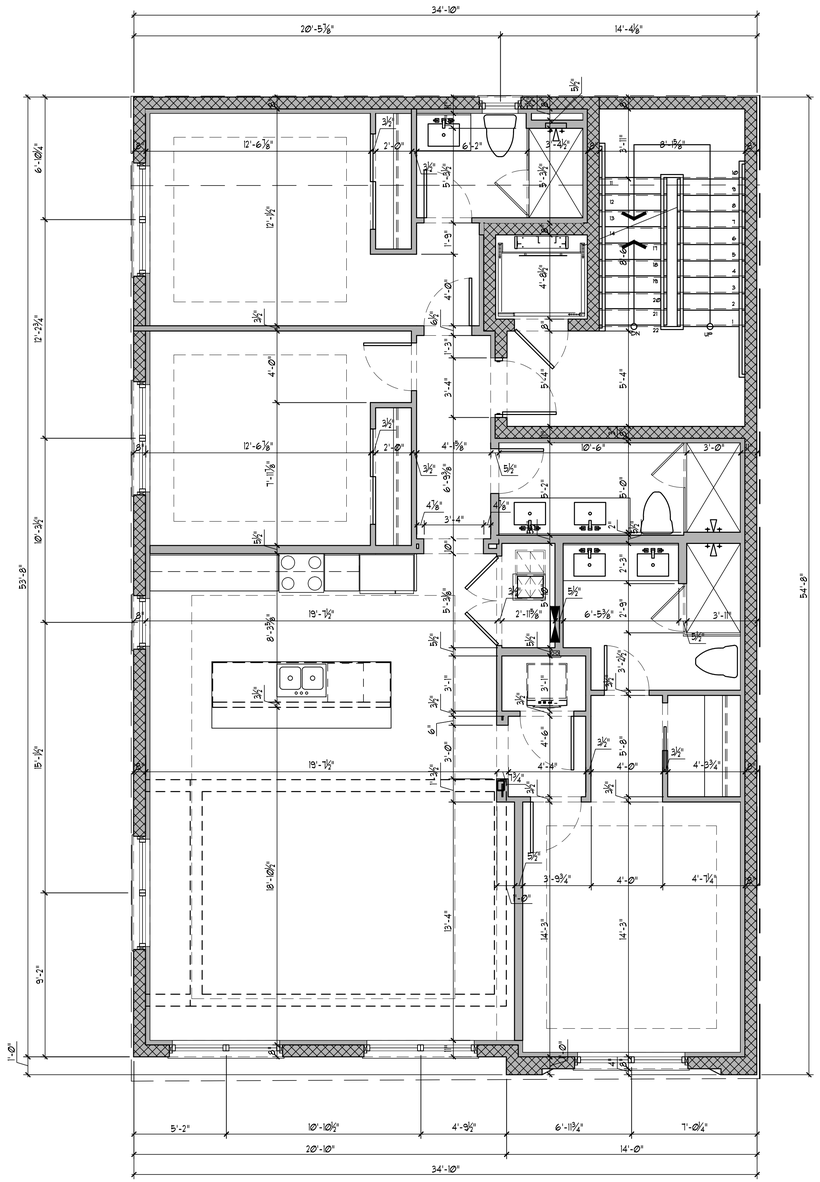
PHONE: (239) 431-1686

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

A10



N

SECOND FLOOR DIMENSION PLAN

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

REVIEW SET

1011 THIRD STREET

FORT MYERS BEACH, FLORIDA

804 ANCHOR RODE DRIVE NAPLES, FLORIDA WWW.BECKARCHITECTURAL.COM (239) 431.1686

FL LICENSE NUMBER AA102813

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STATE OF FLORIDA
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ARCHITECT:
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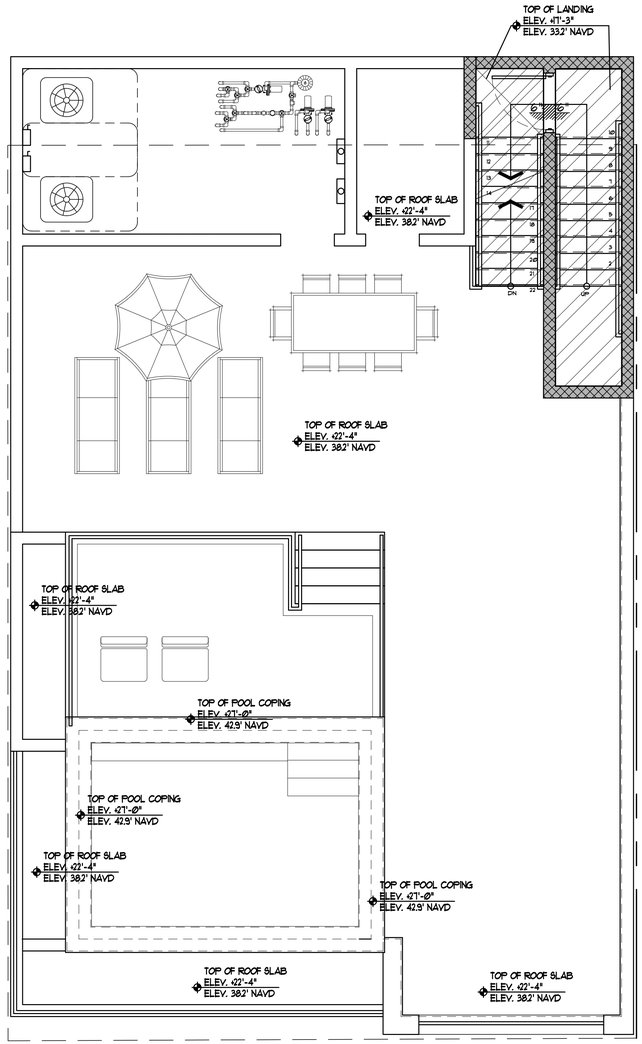
PROJ. #: 2404-05
DRAWN BY: K.A.V.
DATE: 9.18.24

A11



N

THIRD FLOOR SLAB PLAN

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

REVIEW SET

KYLE A VAYDA
CERTIFICATE
N° AR102813
STATE OF FLORIDA
REGISTERED ARCHITECT

Revisions

Date

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FL LICENSE NUMBER AA102813

1011 THIRD STREET

FORT MYERS BEACH, FLORIDA

BECK
ARCHITECTURAL GROUP

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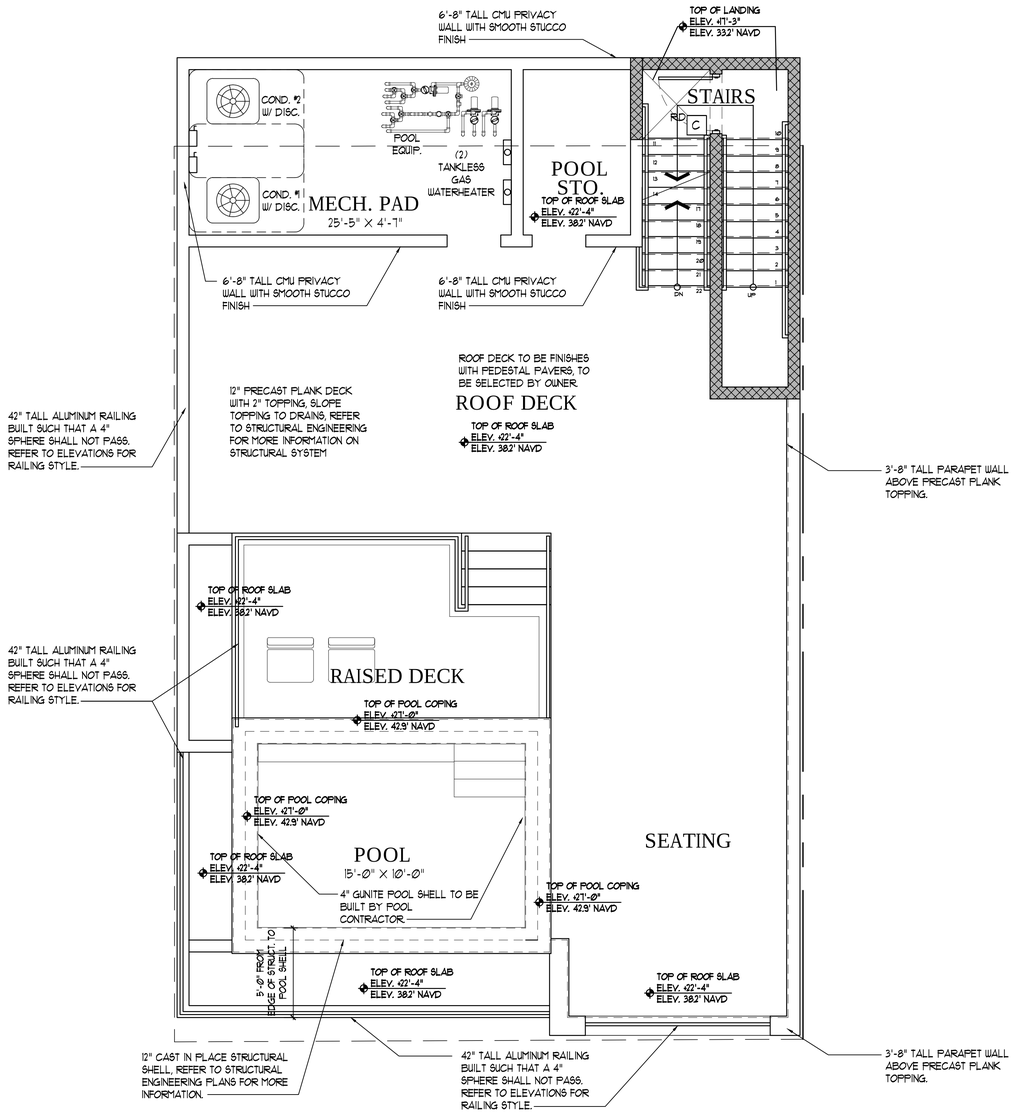
PROJ. #: 2404-05
DRAWN BY: K.A.V.
DATE: 9.18.24

A12

804 ANCHOR RODE DRIVE NAPLES, FLORIDA WWW.BECKARCHITECTURAL.COM (239) 431.1686



N

ROOF DECK PLAN

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

LEGEND

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

GENERAL NOTES

1. THE G.C. IS TO VERIFY ALL WINDOW AND DOOR ROUGH OPENING SIZES WITH INSTALLATION REQUIREMENTS PRIOR TO INSTALL.
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10. DUCT WORK WHICH PENETRATE THE WALLS BETWEEN THE GARAGE AND THE RESIDENCE SHALL BE CONSTRUCTED OF A MIN. OF NO. 26 GAGE SHEET METAL OR OTHER APPROVED MATERIAL AS PER R302.5.2. OF THE RESIDENTIAL 2023 F.B.C.
11. ALL FIRST FLOOR ELEVATIONS REFERENCED FROM FINISHED CONCRETE SLAB ELEV. 0'-0" (11.30' NAVD.).
12. G.C. TO VERIFY POSITIVE SLOPE OF FINISHED FLOOR TO ENSURE PROPER DRAINAGE AT LANAIS, COVERED ENTRY, OUTDOOR LIVING, BALCONIES, AND GARAGES.
13. G.C. TO PROVIDE ICYNENE INSULATION AT THE UNDERSIDE OF ALL ROOF TRUSSES INCLUDING GARAGES, LANAIS, AND BALCONIES IF APPLICABLE. G.C. TO ALSO PROVIDE MAKE UP AIR EQUAL TO ULTRA AIR ADEQUATE FOR THIS SYSTEM. G.C. TO PROVIDE (2) VENTS INSTALLED INSIDE THE GARAGE OPEN TO THE ATTIC SPACE.
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15. G.C. TO COORDINATE W/ ELECTRICAL DRAWINGS FOR SIZE & LOCATION OF A/C PADS, POOL EQUIPMENT, ELECTRICAL METER, ELECTRICAL PANELS & H.B.
16. ALL ELECTRICAL, PLUMBING AND MECHANICAL EQUIPMENT TO BE SLAB ON GRADE AND ABOVE ELEVATION +9.00' NAVD.
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18. REFER TO LOW ROOF PLAN FOR WET DECK SLOPE / DRAINAGE LOCATIONS.
19. REFER TO INTERIOR DRAWINGS FOR FINAL CEILING HEIGHTS AND INFORMATION.
20. ALL STEAM SHOWERS SHALL HAVE A SLOPED CEILING AT A MIN. 1/2" PER FT. G.C. TO COORDINATE LOCATION OF EQUIPMENT WITH ARCHITECT AND/OR INTERIOR DESIGNER PRIOR TO INSTALLATION

REVIEW SET

KYLE A VAYDA
CERTIFICATE #
N° AR102813
STATE OF FLORIDA
REGISTERED ARCHITECT

Date

Revisions

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1011 THIRD STREET

FORT MYERS BEACH, FLORIDA

FL LICENSE NUMBER AA102813

BECK
ARCHITECTURAL GROUP

ARCHITECT:
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804 ANCHOR RODE DR.
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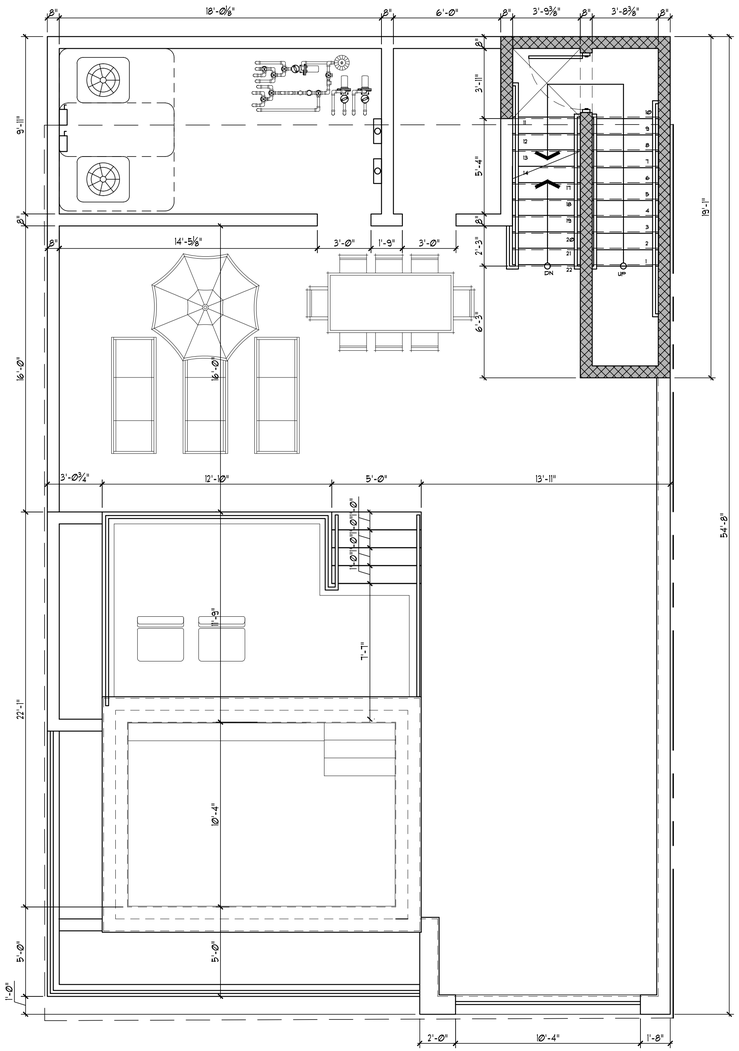
EMAIL: KYLE@BECKARCHITECTURAL.COM
PHONE: (239) 431-1686

PROJ. #: 2404-05

DRAWN BY: K.A.V.

DATE: 9.18.24

A13



N

THIRD FLOOR DIMENSION PLAN

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

REVIEW SET

A14

1011 THIRD STREET

FORT MYERS BEACH, FLORIDA

Revisions

Date

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KYLE A VAYDA
CERTIFICATE
N° AR102813
STATE OF FLORIDA
REGISTERED ARCHITECT

FL LICENSE NUMBER AA102813

BECK
ARCHITECTURAL GROUP

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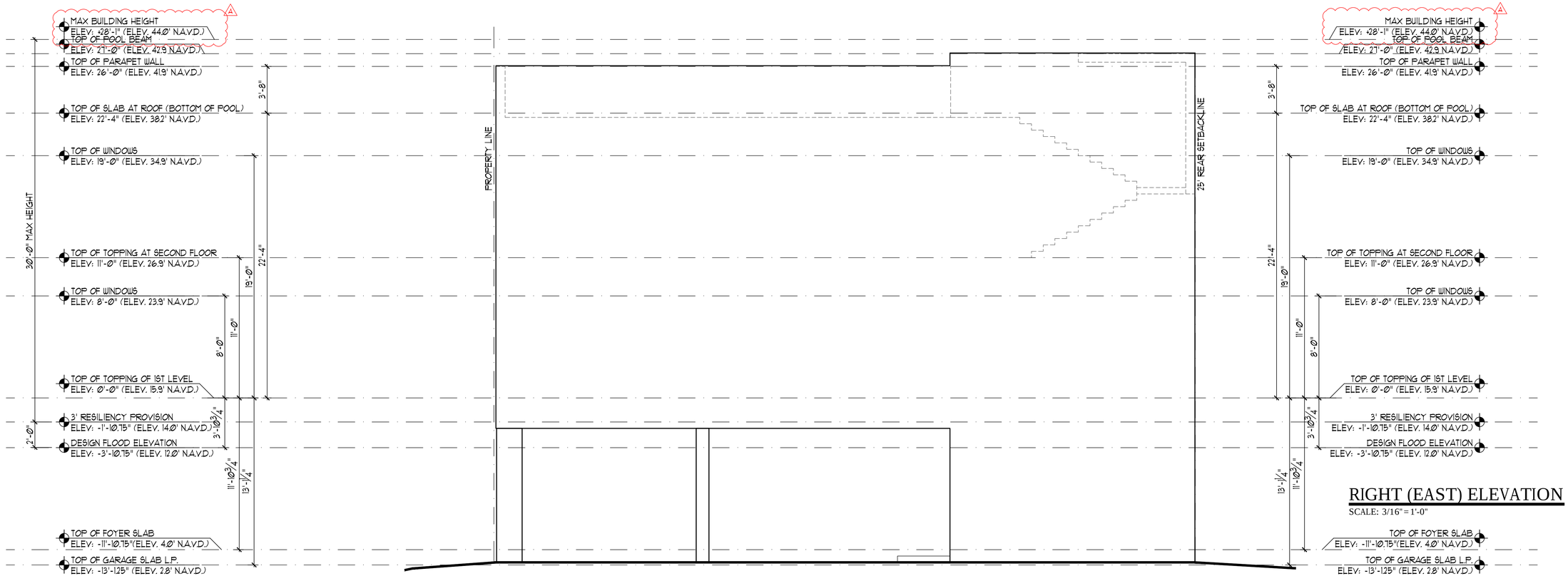
DRAWN BY: K.A.V.
DATE: 9.18.24

804 ANCHOR RODE DRIVE NAPLES, FLORIDA WWW.BECKARCHITECTURAL.COM (239) 431.1686

FRONT (SOUTH) ELEVATION

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



RIGHT (EAST) ELEVATION

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

KYLE A VAYDA
CERTIFICATE
N° AR102813
STATE OF FLORIDA
REGISTERED ARCHITECT

Revisions	Date
ADDENDUM A. FMB STAFF COMMENTS	1.14.25

ALL IDEAS, DESIGNS, ARRANGEMENTS, AND PLANS INDICATED OR REPRESENTED BY THIS DRAWING ARE, OWNED BY, AND THE PROPERTY OF BECK ARCHITECTURAL GROUP, LLC AND WERE CREATED AND DEVELOPED FOR USE ON AND IN CONNECTION WITH THE SPECIFIED PROJECT. NONE OF SUCH IDEAS, DESIGNS, ARRANGEMENTS OR PLANS SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM, OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE PRIOR WRITTEN PERMISSION OF BECK ARCHITECTURAL GROUP, LLC. CONTRACTORS SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS SHALL TAKE PRECEDENCE OVER SCALED DIMENSIONS. CONTRACTORS SHALL VERIFY AND BE RESPONSIBLE FOR ALL CONDITIONS AND DIMENSIONS ON THE JOB AND SHALL NOTIFY THE ARCHITECT OF ANY DISCREPANCIES BEFORE PROCEEDING WITH FABRICATION ON ITEM AS NOTED.

1011 THIRD STREET

FORT MYERS BEACH, FLORIDA

BECK
ARCHITECTURAL GROUP

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

REVIEW SET

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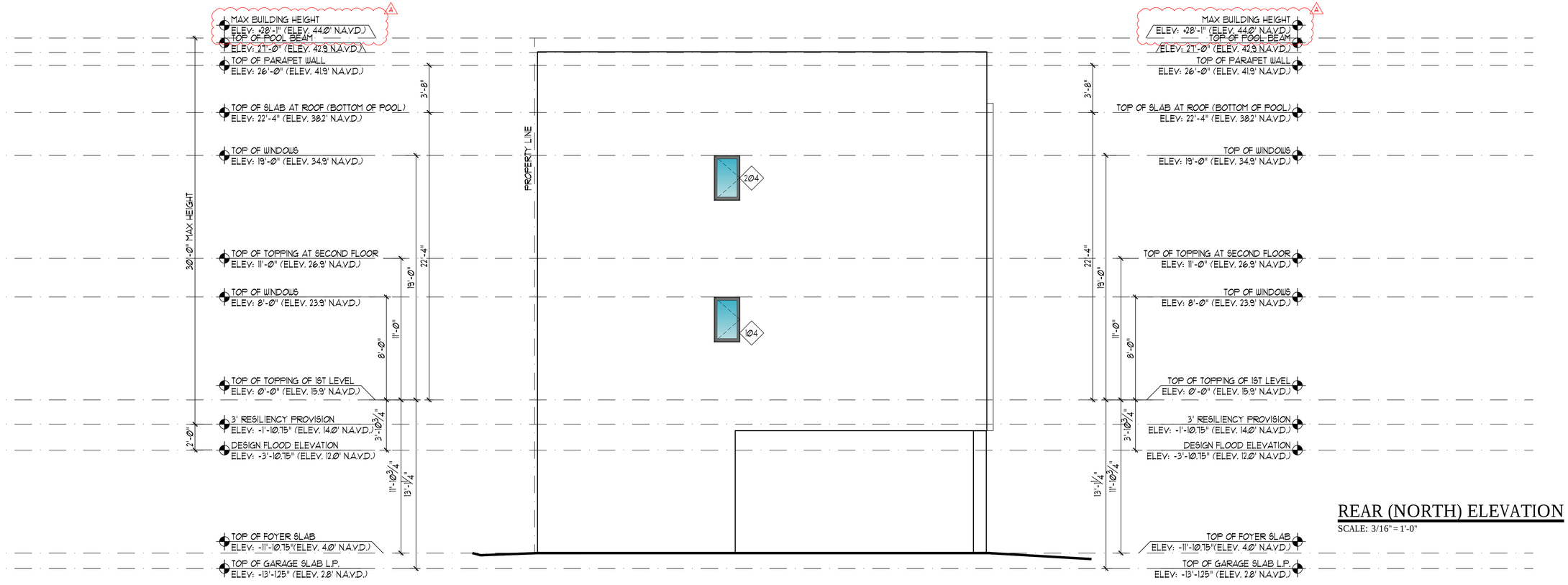

REAR (NORTH) ELEVATION

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

LEFT (WEST) ELEVATION

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

KYLE A VAYDA
CERTIFICATE
N° AR102813
STATE OF FLORIDA
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Revisions	Date
ADDENDUM A. FMB STAFF COMMENTS	1.14.25

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1011 THIRD STREET

FORT MYERS BEACH, FLORIDA

BECK ARCHITECTURAL GROUP

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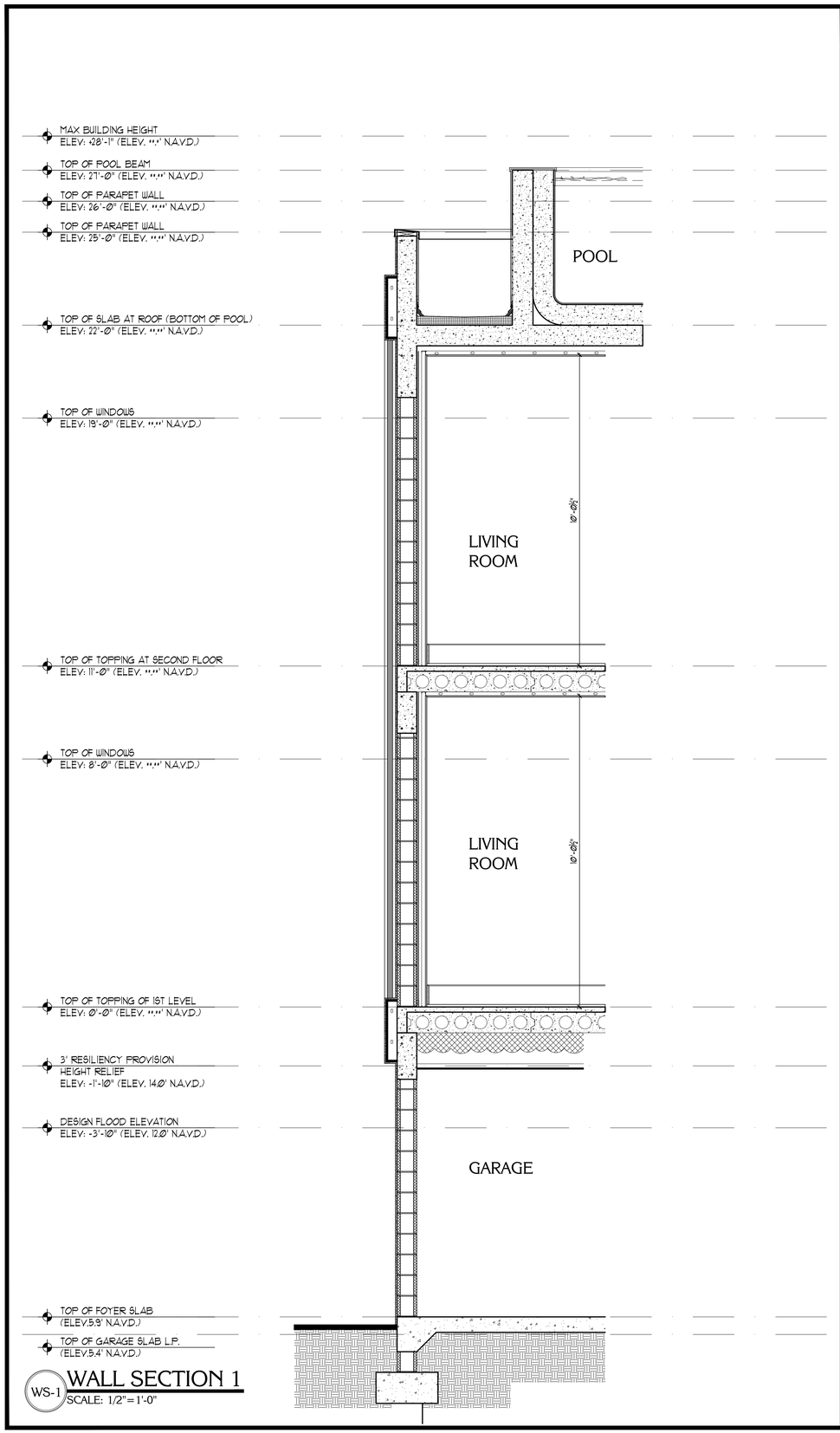
PROJ. #: 2404-05
DRAWN BY: K.A.V.
DATE: 9.18.24

REVIEW SET

A17

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



WS-1 WALL SECTION 1
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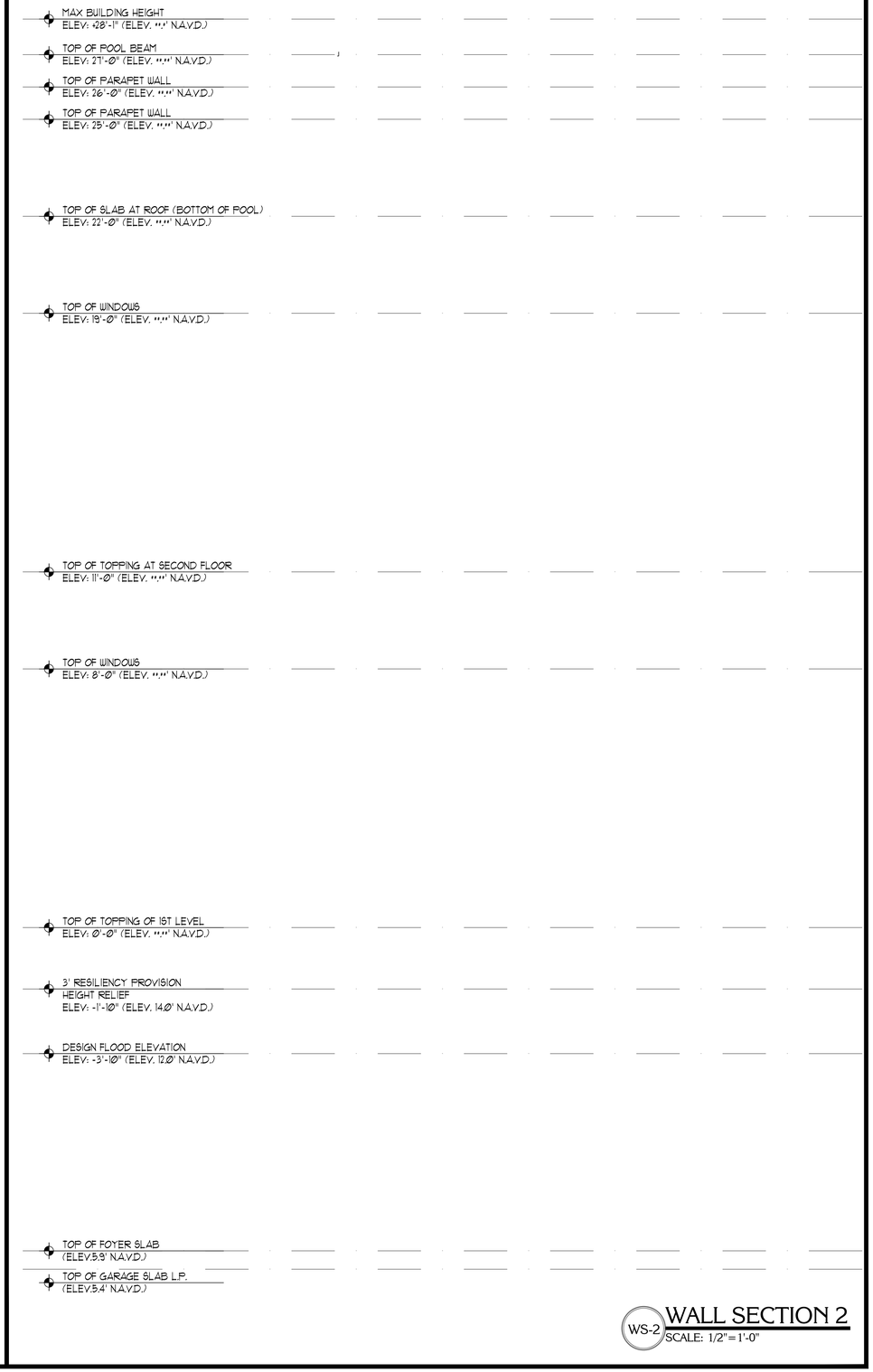

WS-2 WALL SECTION 2
SCALE: 1/2"=1'-0"

KYLE A VAYDA
CERTIFICATE
N° AR102813
STATE OF FLORIDA
REGISTERED ARCHITECT

Date

Revisions

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1011 THIRD STREET

FORT MYERS BEACH, FLORIDA

BECK
ARCHITECTURAL GROUP

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

REVIEW SET

A17

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

EXTERIOR WINDOW SCHEDULE

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

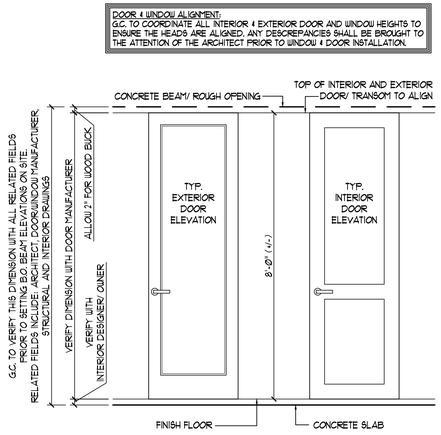
EXTERIOR DOOR SCHEDULE

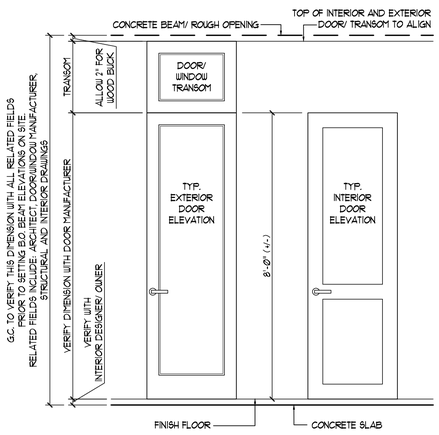
UNIT No.	SIZE	DESCRIPTION	TRANSOM	DOOR FRAME	MANUFACTURER	LOCATION	PROTECTION	REMARKS:
GROUND FLOOR:								
A	(2) 3'-0" X 8'-0"	CUSTOM ENTRY DOOR	N/A	ALUM.	PGT	LOBBY	IMPACT	
B	3'-0" X 8'-0"	OUTSWING FIBERGLASS DOOR	N/A	FIBERGLASS	PLASTPRO	STORAGE	IMPACT	
ROOF TOP DECK:								
C	3'-0" X 8'-0"	OUTSWING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

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

GLAZING SPECIFICATION:
ALL GLAZING SHALL MEET OR EXCEED PERFORMANCE DATA BELOW.
IMPACT-RESISTANT GLASS: LAMINATED + INSULATED GLASS (DUAL-PANE)
U-FACTOR VALUE: 0.32 SHGC: 0.28
NOTE: ANY GLAZING ALTERNATIVES MUST BE APPROVED BY ARCHITECT + COMPLY WITH ENERGY CALCULATION REQUIREMENTS

DOOR + WINDOW ALIGNMENT:
G.C. TO COORDINATE ALL INTERIOR + EXTERIOR DOOR AND WINDOW HEIGHTS TO ENSURE THE HEADS ARE ALIGNED. ANY DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT PRIOR TO WINDOW + DOOR INSTALLATION.





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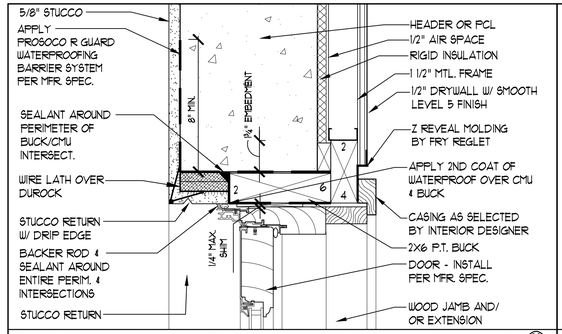
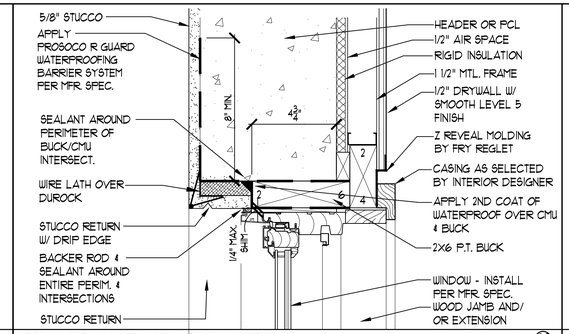
A18

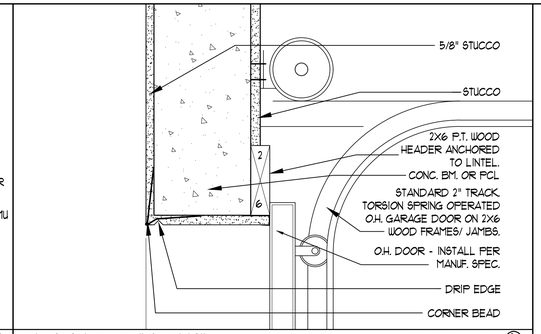
804 ANCHOR RODE DRIVE NAPLES, FLORIDA 34103 (239) 431-1686 WWW.BECKARCHITECTURAL.COM



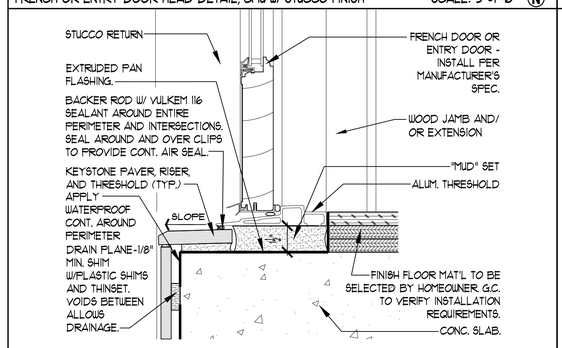
FRENCH OR ENTRY DOOR HEAD DETAIL, CMU w/ STUCCO FINISH — SCALE: 3"=1'-Ø" (N)



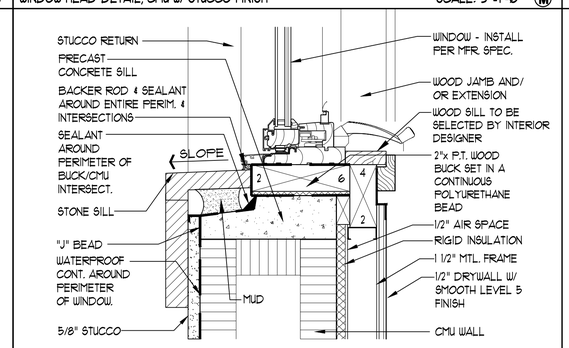
WINDOW HEAD DETAIL, CMU w/ STUCCO FINISH — SCALE: 3"=1'-Ø" (M)



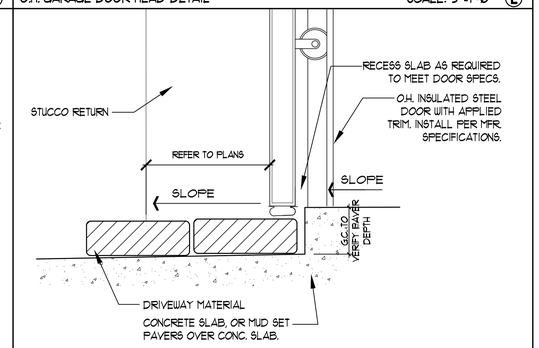
O.H. GARAGE DOOR HEAD DETAIL — SCALE: 3"=1'-Ø" (L)



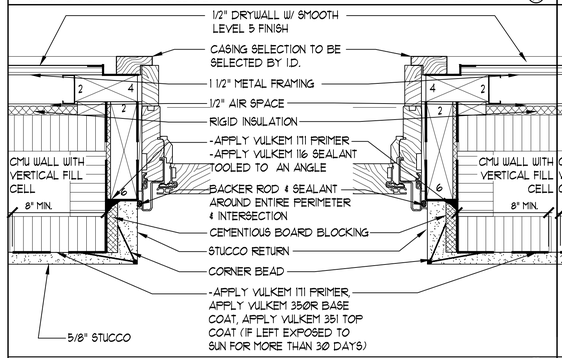
FRENCH OR ENTRY DOOR SILL DETAIL — SCALE: 3"=1'-Ø" (K)



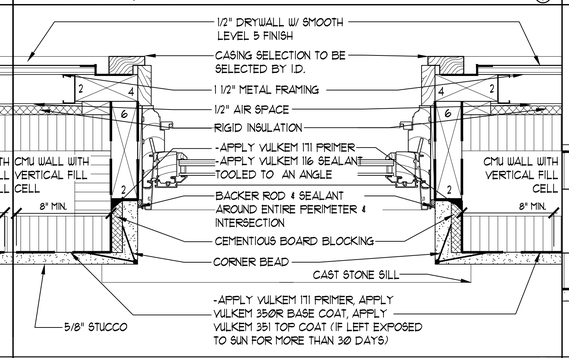
WINDOW SILL DETAIL, CMU w/ STUCCO FINISH & STONE SILL — SCALE: 3"=1'-Ø" (J)



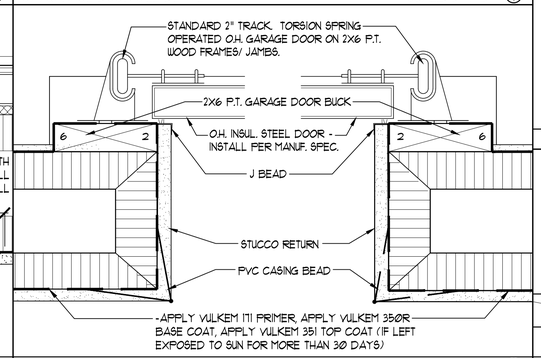
O.H. GARAGE DOOR SILL DETAIL — SCALE: 3"=1'-Ø" (I)



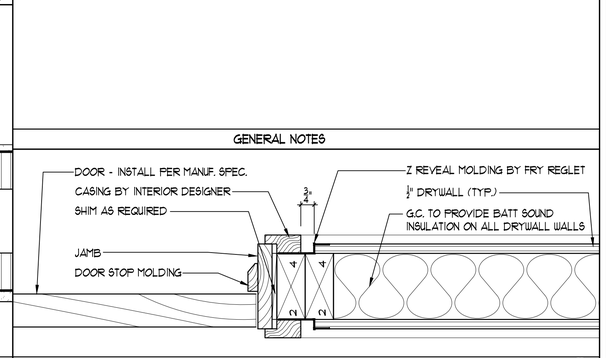
FRENCH DOOR JAMB, CMU w/ STUCCO FINISH — SCALE: 3"=1'-Ø" (G)



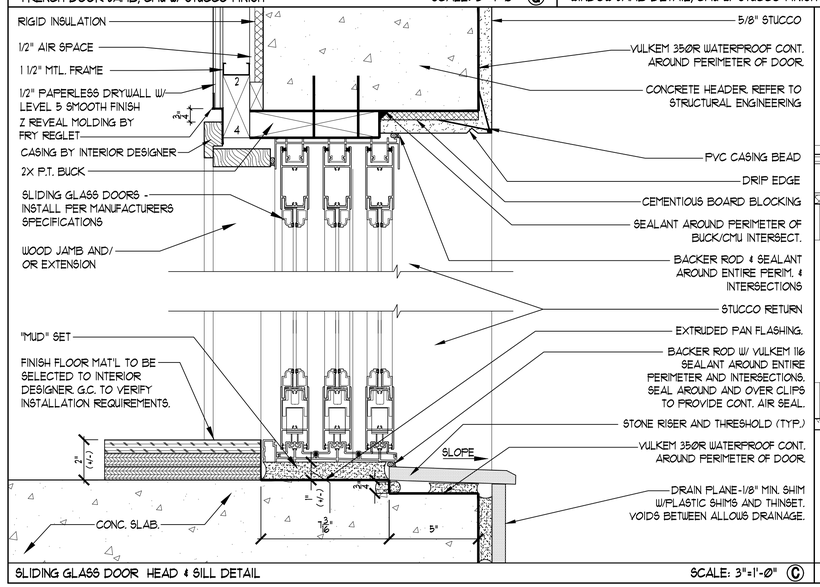
WINDOW JAMB DETAIL, CMU w/ STUCCO FINISH — SCALE: 3"=1'-Ø" (F)



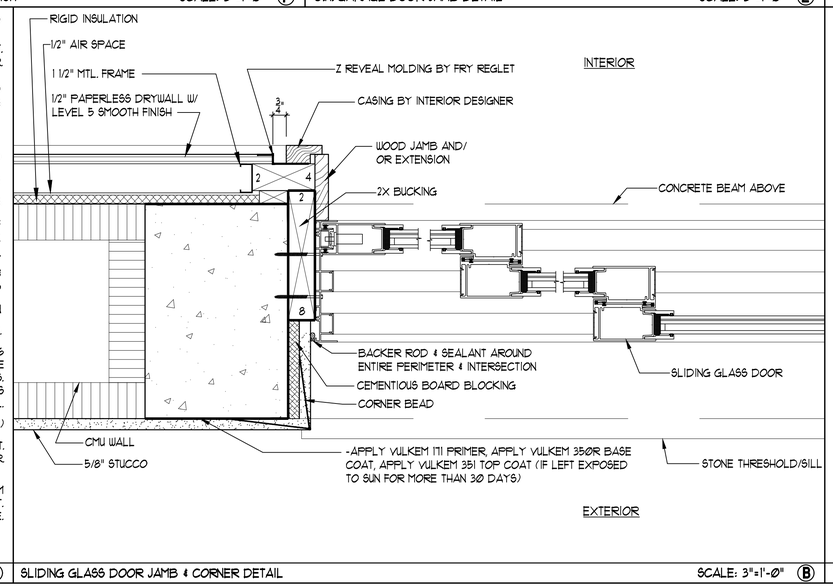
O.H. GARAGE DOOR JAMB DETAIL — SCALE: 3"=1'-Ø" (E)



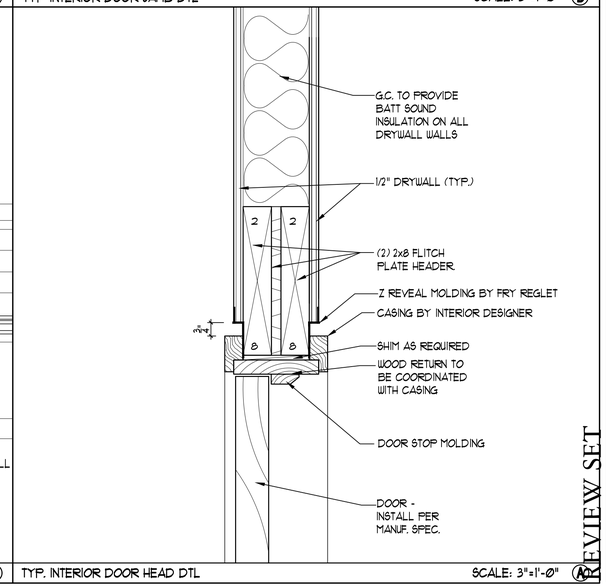
TYP INTERIOR DOOR JAMB DTL — SCALE: 3"=1'-Ø" (D)



SLIDING GLASS DOOR HEAD & SILL DETAIL — SCALE: 3"=1'-Ø" (C)



SLIDING GLASS DOOR JAMB & CORNER DETAIL — SCALE: 3"=1'-Ø" (B)



TYP. INTERIOR DOOR HEAD DTL — SCALE: 3"=1'-Ø" (A)

REVIEW SET

DOOR AND WINDOW INSTALLATION:

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

1. FILL SMALL VOIDS AND CRACKS (UP TO 1/2 INCH) IN THE CMU SURFACE WITH PROSOCO R-GUARD JOINT & SEAM FILLER. USE A DRY JOINT KNIFE OR TROWEL TO PRESS AND SPREAD 1 INCH BEYOND EACH SIDE TO A THICKNESS OF 20-30 MILS.

2. APPLY A THICK BEAD OF PROSOCO R-GUARD FASTFLASH IN EACH CORNER AND IN A ZIGZAG PATTERN OVER THE CONCRETE BLOCK INSIDE THE ROUGH OPENING AND WALL FACE SURROUNDING THE ROUGH OPENING. USE A DRY JOINT KNIFE OR TROWEL TO SPREAD THE WET PRODUCT TO CREATE A SEAMLESS FLASHING MEMBRANE WHICH PROTECTS THE ROUGH OPENING AND EXTENDS 4-6 INCHES OVER THE FACE OF THE WALL. APPLY ADDITIONAL FASTFLASH TO CREATE AN OPAQUE, MONOLITHIC FLASHING MEMBRANE WHICH IS FREE OF VOIDS OR PINHOLES. ALLOW TO SKIN OVER.

3. APPLY TWO THICK BEADS OF PROSOCO R-GUARD FASTFLASH OR JOINT AND SEAM FILLER ALONG THE PERIMETER FACES OF THE WOOD BUCK BEFORE ATTACHING IT TO THE STRUCTURE WHILE STILL WET. INSTALL ANCHOR BOLTS OR TAPCONS (SEE STRUCTURAL DRAWINGS & FLORIDA PRODUCT APPROVALS FOR REQUIRED TYPE OF ANCHOR).

4. AFTER INSTALLATION OF THE WOOD BUCK, SPOT AND COVER THE INSTALLED HEADS OF THE ANCHOR BOLTS OR TAPCONS. APPLY A THICK BEAD OF PROSOCO R-GUARD FASTFLASH OR JOINT & SEAM FILLER TO ALL INSIDE CORNERS OF THE WOOD BUCK. USE A DRY JOINT KNIFE OR TROWEL TO PRESS AND SPREAD 1 INCH BEYOND EACH SIDE TO A THICKNESS OF 20 - 30 MILS.

5. APPLY A THICK BEAD OF PROSOCO R-GUARD FASTFLASH OR JOINT & SEAM FILLER TO THE PERIMETER JOINT BETWEEN THE WOOD BUCK AND THE CMU WALL. USE A DRY TROWEL OR SPATULA TO TOOL AND SEAL THE JOINT, CREATE A PROFILE THAT DIRECTS BULK WATER AWAY FROM THE JOINT. ALLOW JOINT & SEAM FILLER TO SKIN OVER. APPLY A THICK BEAD OF PROSOCO R-GUARD FASTFLASH OVER THE INSIDE OF THE WOOD BUCK EXTENDING IT ONTO THE WALL SURROUNDING THE ROUGH OPENING. USE A DRY JOINT KNIFE OR TROWEL TO SPREAD THE WET PRODUCT TO CREATE A SEAMLESS FLASHING MEMBRANE WICH PROTECTS THE WOOD BUCK AND EXTENDS 4-6 INCHES OVER THE FACE OF THE WALL.
APPLY ADDITIONAL FASTFLASH AS NEEDED TO CREATE AN OPAQUE, MONOLITHIC FLASHING MEMBRANE WHICH IS FREE OF VOIDS OR PINHOLES.

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

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

GENERAL NOTES

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

A19

ELECTRICAL NOTES

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

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

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

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

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

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

7. ALL DISCONNECT SWITCHES SHALL BE RATED FOR 10,000 A.I.C. UNLESS OTHERWISE NOTED. ALL FUSES SHALL BE RATED FOR 100,000 A.I.C. AND SHALL BE CURRENT LIMITING.

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

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

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

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

12. ALL EXTERIOR RECEPTACLES SHALL BE WEATHERPROOF AND G.F.I.

13. ALL EXTERIOR DISCONNECT SWITCHES SHALL BE WEATHERPROOF.

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

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

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

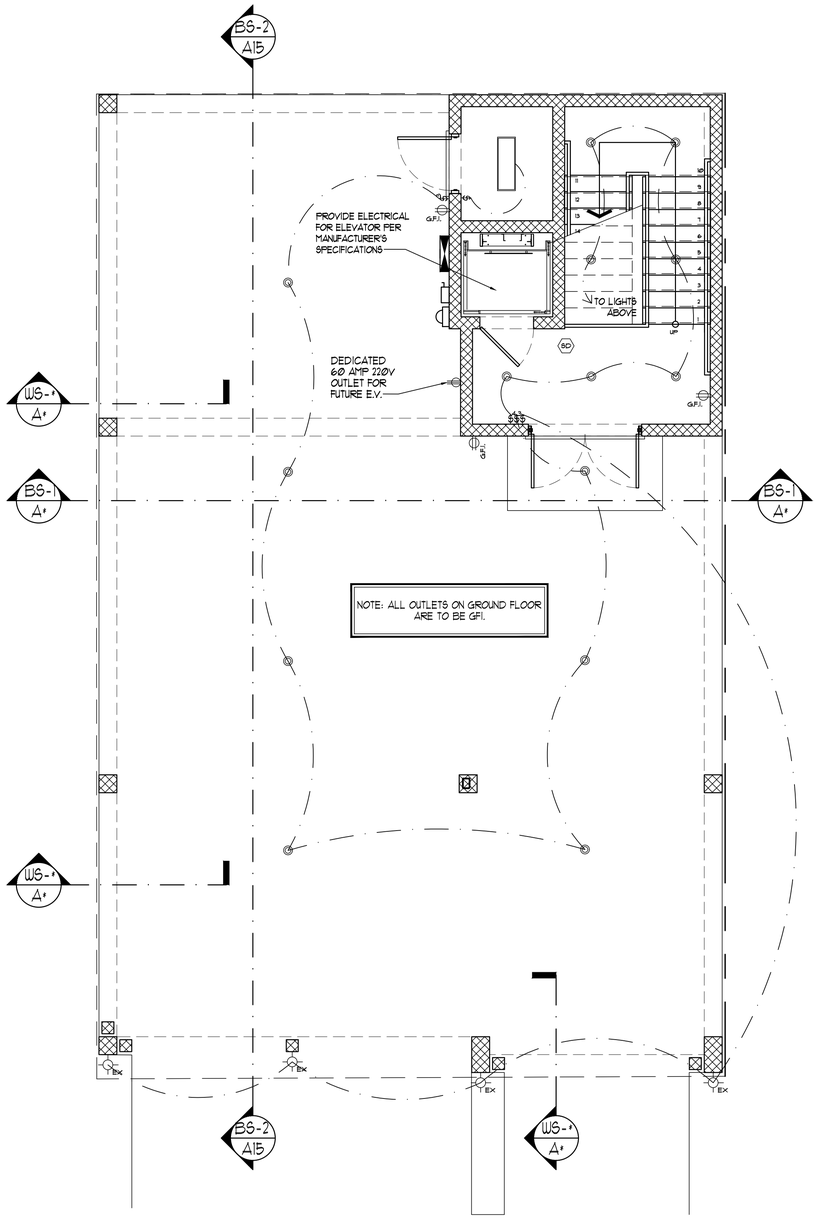
17. ALL RECESSED CANS MUST BE IC RATED FIXTURES WITH NO BULB LARGER THAN 75 WATTS.

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

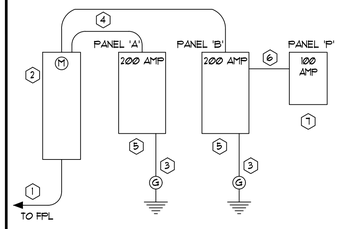
19. ALL WORK SHALL BE COORDINATED WITH OTHER TRADES TO AVOID INTERFERENCE WITH THE PROGRESS OF CONSTRUCTION.

20. THE ELECTRICAL CONTRACTOR SHALL GUARANTEE ALL MATERIALS AND WORKMANSHIP FREE FROM DEFECTS FOR A PERIOD OF NOT LESS THAN (1) YEAR FROM THE DATE OF ACCEPTANCE. CORRECTION OF ANY DEFECTS SHALL BE COMPLETED WITHOUT ADDITIONAL CHARGE, AND SHALL INCLUDE REPLACEMENT OR REPAIR OF ANY OTHER PHASE OF THE INSTALLATION WHICH MAY HAVE BEEN DAMAGED THEREBY.

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

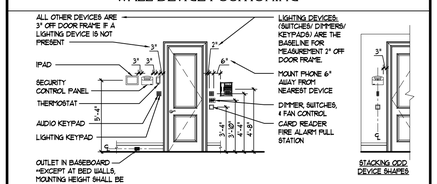


RISER DIAGRAM



RISER DIAGRAM LEGEND
1. 2" PVC SCH. 80 RISER FROM BEND 24" BELOW GRADE, FOR SERVICE ENTRANCE CONDUCTORS SIZED, INSTALLED & MAINTAINED BY FPL.
2. 400 AMP METER MAIN COMBO
3. GROUNDING: PROVIDE ALL GROUNDING REQ'D. BY NEC.
4. 3 - 2" PVC W/(2) 250 AL, (1) 3/8 AL N, (1) #4 AL G
5. PANELS A & B: 200 AMP 40 CIRCUIT MLO PANEL. LOCATE PANELS A & B IN GARAGE AS SHOWN ON FLOOR PLAN DRAWINGS.
6. 1-1/2" PVC W/(2) #4 AL, (1) #2 AL N, (1) #4 AL G
7. PANEL P FOR POOL EQUIPMENT: 100AMP 12 CIRCUIT NEMA 3R PANEL. POOL PANEL TO BE LOCATED ADJACENT TO POOL EQUIPMENT.

WALL DEVICE POSITIONING



NOTE: WHEN GANGING LIGHTING WITH AUDIO KEYPADS, THE LIGHTING KEYPADS WILL ALWAYS BE ON THE DOOR SIDE.

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THE ABOVE DEVICE LOCATIONS ARE "TYPICAL". INSTALLER MUST CONFIRM ALL LOCATIONS AND DIMENSION REQUIREMENTS W/ THE BUILDER AND HOME OWNER.

ELECTRICAL LEGEND

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

SERVICE LOAD CALCS.

4,293 S.F. @ 3 WATT/S.F.	12.9
(4) SMALL APPLIANCE @ 1.5	6.0
RANGE	1.5
EXHAUST HOOD @ .5	0.5
DISPOSAL	.8
REFRIGERATOR @ 1.5	1.5
FREEZER @ 1.5	1.5
DISHWASHER @ 1.5	1.5
(2) WASHER @ 1.5	3.0
(2) DRYER @ 4.5	9.0
(2) GAS TANKLESS WATER HEATER @.1	.2
ELEVATOR	4.5
	42.9 KW
FIRST 10,000 WATTS @ 100%	10.0
BALANCE @ 40%	13.16
20 KW AC HEAT @ 65%	14.0
TOTAL	37.16 KW
SPA PUMP	1.5
POOL PUMP	1.5
POOL HEAT (HEAT PUMP)	3.5
POOL LIGHTING	.5
IRRIGATION PUMP	1.5
EXTERIOR LIGHTING	2.0
	10.5 KW

TOTAL LOAD:
47.66 KW / 240 VOLTS = 199 AMPS
TOTAL DEMAND LOAD
SERVICE CONNECTORS BY FP&L

N

GROUND FLOOR ELECTRICAL PLAN

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

REVIEW SET

KYLE A VAYDA
CERTIFICATE
N° AR102813
STATE OF FLORIDA
REGISTERED ARCHITECT

Date

Revisions

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FL LICENSE NUMBER AA102813

1011 THIRD STREET

FORT MYERS BEACH, FLORIDA

BECK
ARCHITECTURAL GROUP

ARCHITECT:
BECK ARCHITECTURAL GROUP, LLC.
804 ANCHOR RODE DR.
NAPLES, FL 34103
CONTACT: KYLE VAYDA
EMAIL: KYLE@BECKARCHITECTURAL.COM
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PROJ. #: 2404-05
DRAWN BY: K.A.V.
DATE: 9.18.24

E1

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ELECTRICAL NOTES

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

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

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

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

7. ALL DISCONNECT SWITCHES SHALL BE RATED FOR 10,000 A.I.C. UNLESS OTHERWISE NOTED. ALL FUSES SHALL BE RATED FOR 100,000 A.I.C. AND SHALL BE CURRENT LIMITING.

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

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

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

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13. ALL EXTERIOR DISCONNECT SWITCHES SHALL BE WEATHERPROOF.

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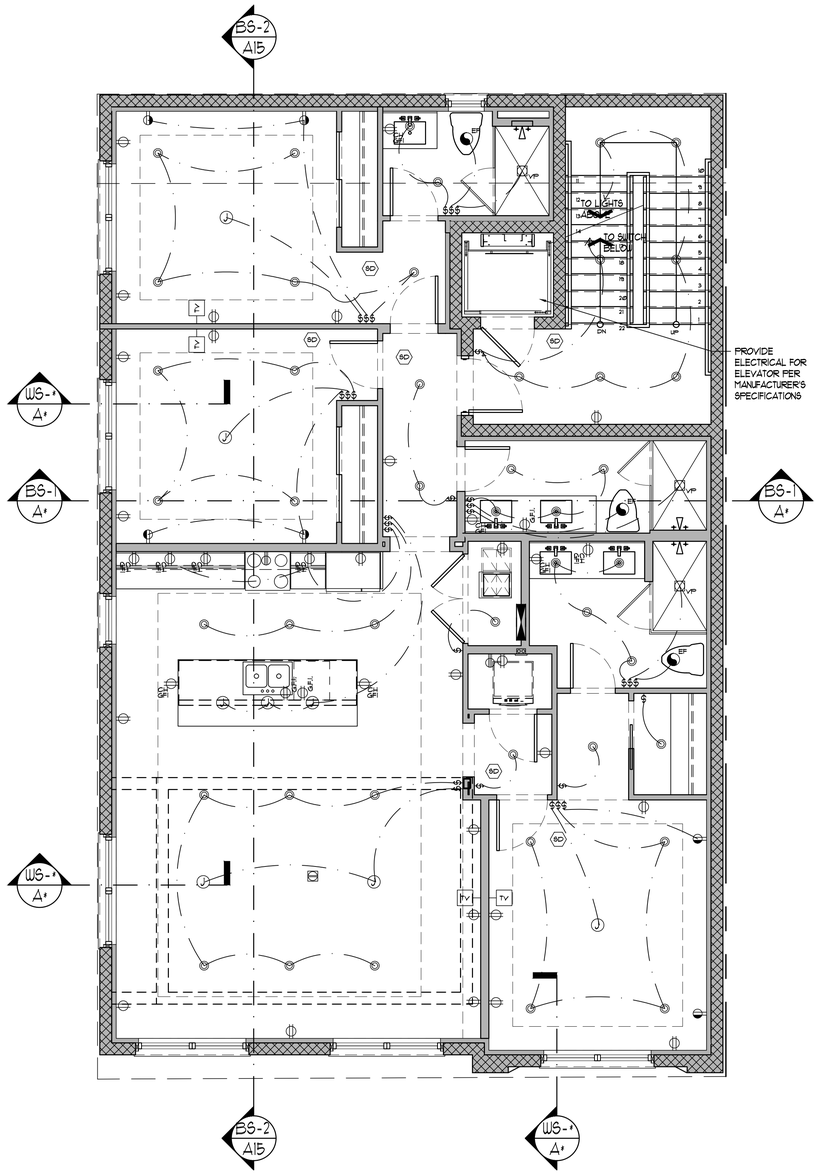
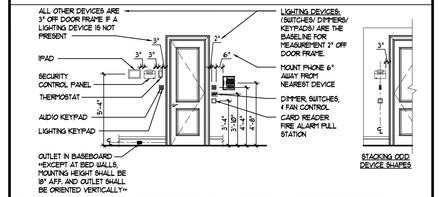


WALL DEVICE POSITIONING



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N

FIRST FLOOR ELECTRICAL PLAN

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

KYLE A VAYDA
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1011 THIRD STREET

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BECK
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PROJ. #: 2404-05

DRAWN BY: K.A.V.

DATE: 9.18.24

REVIEW SET

E2

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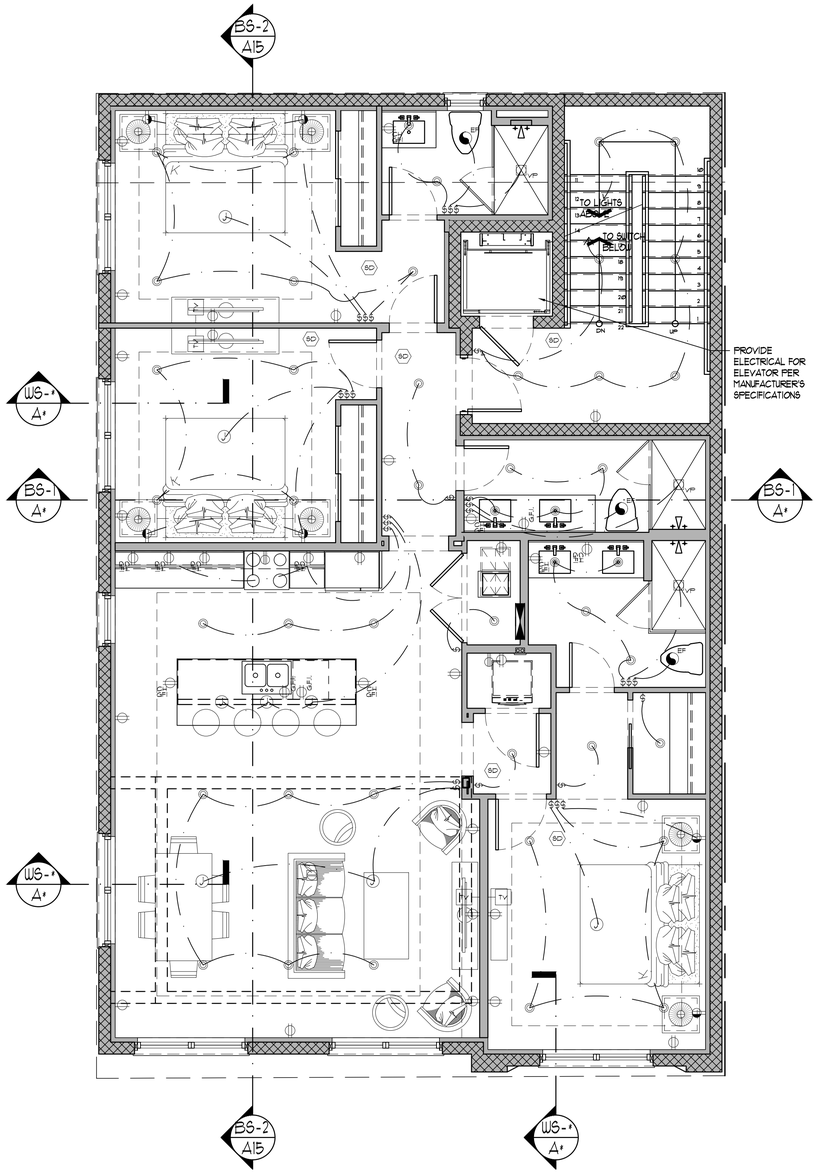
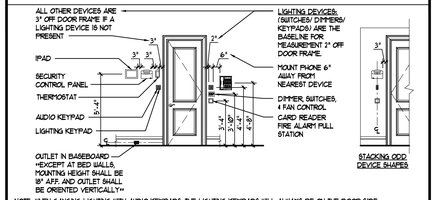


WALL DEVICE POSITIONING



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- DISCONNECT

N

SECOND FLOOR ELECTRICAL PLAN

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

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REVIEW SET

1011 THIRD STREET
FORT MYERS BEACH, FLORIDA

BECK
ARCHITECTURAL GROUP

ARCHITECT:
BECK ARCHITECTURAL GROUP, LLC.
804 ANCHOR RODE DR.
NAPLES, FL 34103
CONTACT: KYLE VAYDA
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PROJ. #:	2404-05
DRAWN BY:	K.A.V.
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E3

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

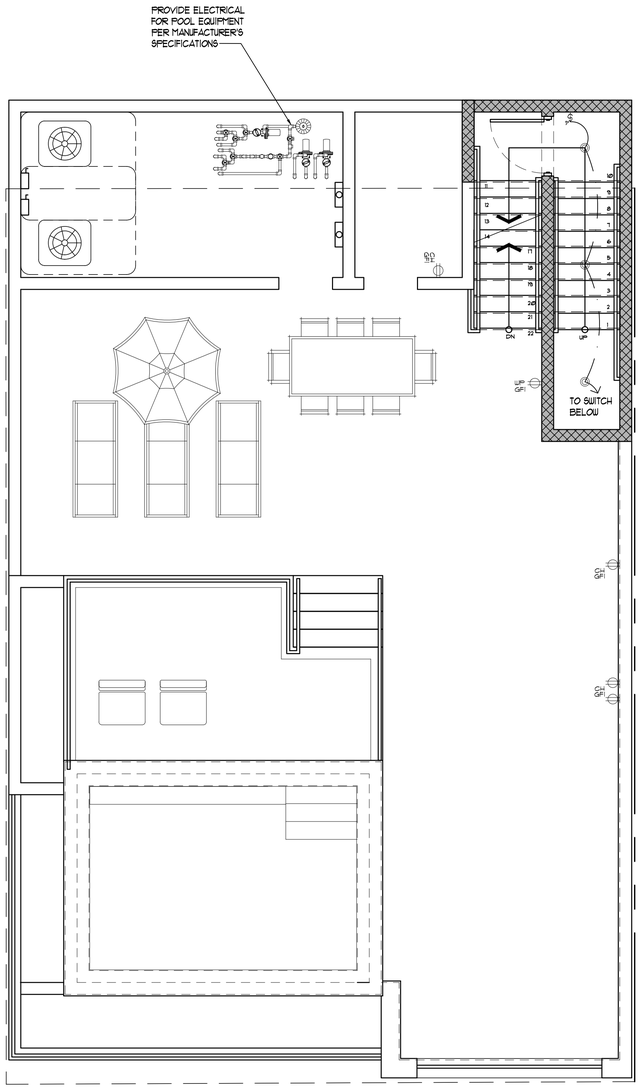
17. ALL RECESSED CANS MUST BE IC RATED FIXTURES WITH NO BULB LARGER THAN 75 WATTS.

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

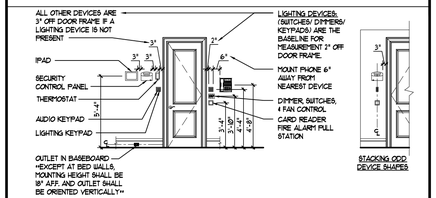
19. ALL WORK SHALL BE COORDINATED WITH OTHER TRADES TO AVOID INTERFERENCE WITH THE PROGRESS OF CONSTRUCTION.

20. THE ELECTRICAL CONTRACTOR SHALL GUARANTEE ALL MATERIALS AND WORKMANSHIP FREE FROM DEFECTS FOR A PERIOD OF NOT LESS THAN (1) YEAR FROM THE DATE OF ACCEPTANCE. CORRECTION OF ANY DEFECTS SHALL BE COMPLETED WITHOUT ADDITIONAL CHARGE, AND SHALL INCLUDE REPLACEMENT OR REPAIR OF ANY OTHER PHASE OF THE INSTALLATION WHICH MAY HAVE BEEN DAMAGED THEREBY.

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



WALL DEVICE POSITIONING



NOTE: WHEN GANGING LIGHTING WITH AUDIO KEYPADS, THE LIGHTING KEYPADS WILL ALWAYS BE ON THE DOOR SIDE.

* ALL DIMENSIONS ARE A.F.F. (ABOVE FINISHED FLOOR) *

THE ABOVE DEVICE LOCATIONS ARE "TYPICAL".
INSTALLER MUST CONFIRM ALL LOCATIONS AND DIMENSION REQUIREMENTS W/ THE BUILDER AND HOME OWNER.

ELECTRICAL LEGEND

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

N

SECOND FLOOR ELECTRICAL PLAN

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

KYLE A VAYDA
CERTIFICATE #
N° AR102813
STATE OF FLORIDA
REGISTERED ARCHITECT

FL LICENSE NUMBER AA102813

Date

Revisions

ALL IDEAS, DESIGNS, ARRANGEMENTS, AND PLANS INDICATED OR REPRESENTED BY THIS DRAWING ARE OWNED BY, AND THE PROPERTY OF BECK ARCHITECTURAL GROUP, LLC. AND WERE CREATED, EVOLVED AND DEVELOPED FOR USE ON AND IN CONNECTION WITH THE SPECIFIED PROJECT. NONE OF SUCH IDEAS, DESIGNS, ARRANGEMENTS OR PLANS SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE PRIOR WRITTEN PERMISSION OF BECK ARCHITECTURAL GROUP, LLC. UNTIL THE DELIVERY OF SUCH DRAWINGS FINAL FULL PAYMENT DUE FOR SAID DRAWINGS, CONTRACTORS SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE JOB AND THIS OFFICE MUST BE NOTIFIED OF ANY VARIATIONS FROM THE DIMENSIONS AND CONDITIONS SHOWN BY THESE DRAWINGS BEFORE PROCEEDING WITH FABRICATION OR ITEM AS NOTED.

1011 THIRD STREET

FORT MYERS BEACH, FLORIDA

BECK
ARCHITECTURAL GROUP

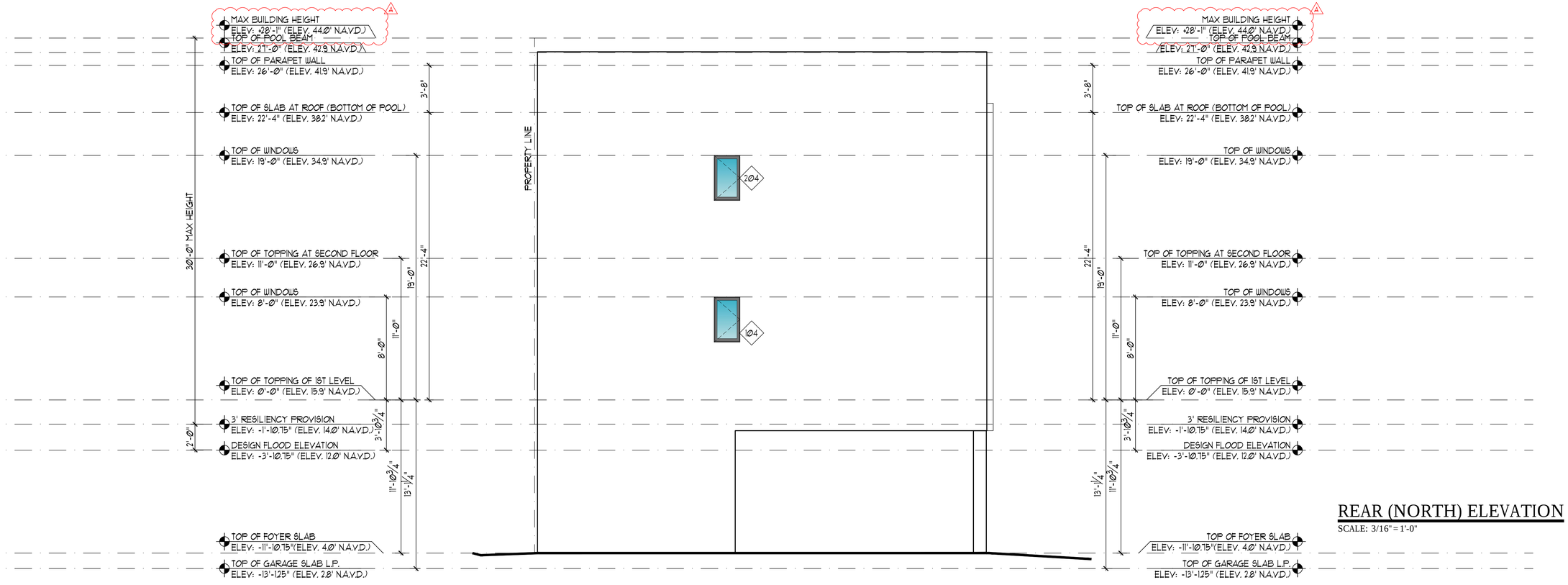
ARCHITECT:
BECK ARCHITECTURAL GROUP, LLC.
804 ANCHOR RODE DR.
NAPLES, FL 34103
CONTACT: KYLE VAYDA
EMAIL: KYLE@BECKARCHITECTURAL.COM
PHONE: (239) 431-1686

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

E4

REVIEW SET

804 ANCHOR RODE DRIVE NAPLES, FLORIDA WWW.BECKARCHITECTURAL.COM (239) 431.1686



REAR (NORTH) ELEVATION

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

LEFT (WEST) ELEVATION

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

KYLE A VAYDA
CERTIFICATE
N° AR102813
STATE OF FLORIDA
REGISTERED ARCHITECT

Revisions	Date
ADDENDUM A. FMB STAFF COMMENTS	1.14.25

ALL IDEAS, DESIGNS, ARRANGEMENTS, AND PLANS INDICATED OR REPRESENTED BY THIS DRAWING ARE, OWNED BY, AND THE PROPERTY OF BECK ARCHITECTURAL GROUP, LLC AND WERE CREATED, EVOLVED AND DEVELOPED FOR USE ON AND IN CONNECTION WITH THE SPECIFIED PROJECT. NONE OF SUCH IDEAS, DESIGNS, ARRANGEMENTS OR PLANS SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM, OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE EXPRESS WRITTEN PERMISSION OF BECK ARCHITECTURAL GROUP, LLC. ALL COMMON LAW RIGHTS ARE HEREBY RESERVED AND DO NOT LAPSE UPON PUBLICATION OF THESE DRAWINGS. ALL RIGHTS ARE EXPRESSLY RESERVED UNDER THE COPYRIGHT LAWS OF THE UNITED STATES. THESE DRAWINGS SHALL HAVE PRECEDENCE OVER SCALED DIMENSIONS. CONTRACTORS SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE JOB. ANY DISCREPANCIES SHALL BE REPORTED TO THE ARCHITECT BEFORE PROCEEDING WITH FABRICATION. DO NOT SCALE DRAWINGS. ALL SHOP DRAWINGS SHALL BE SUBMITTED TO THE ARCHITECT FOR REVIEW BEFORE PROCEEDING WITH FABRICATION. DO NOT SCALE DRAWINGS.

1011 THIRD STREET

FORT MYERS BEACH, FLORIDA

BECK ARCHITECTURAL GROUP

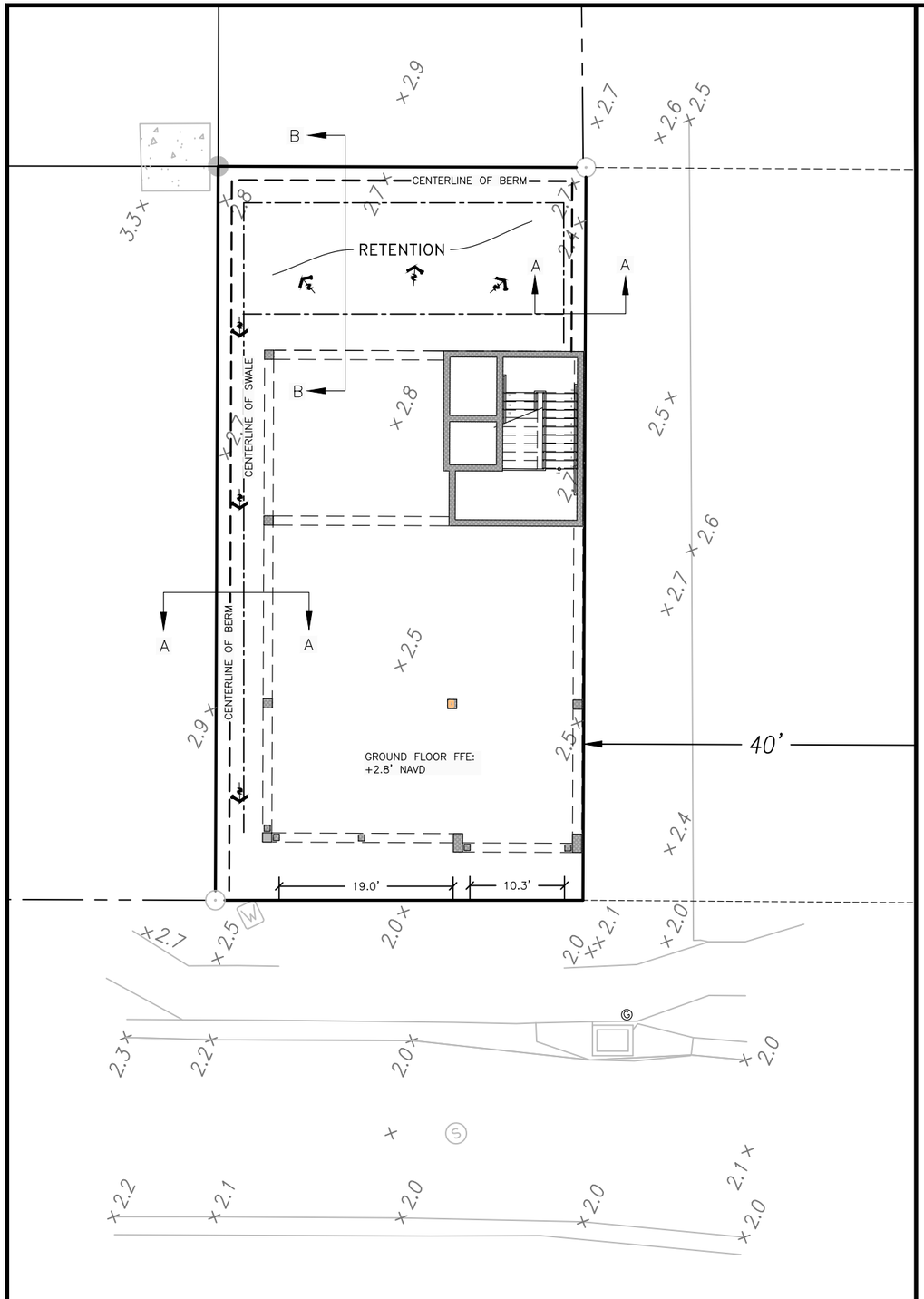
ARCHITECT:
BECK ARCHITECTURAL GROUP, LLC.
804 ANCHOR RODE DR.
NAPLES, FL 34103
CONTACT: KYLE VAYDA
EMAIL: KYLE@BECKARCHITECTURAL.COM
PHONE: (239) 431-1686

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

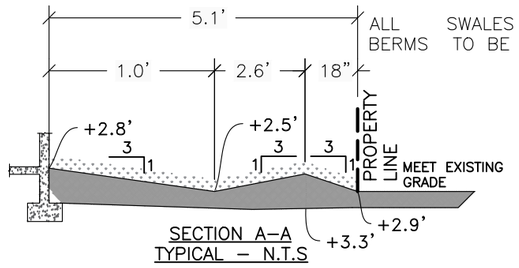
REVIEW SET

A17

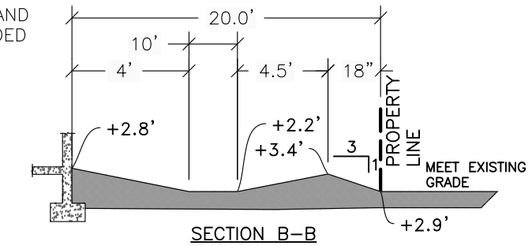
804 ANCHOR RODE DRIVE NAPLES, FLORIDA (239) 431-1686 WWW.BECKARCHITECTURAL.COM



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



SECTION A–A
TYPICAL – N.T.S



SECTION B–B
TYPICAL – N.T.S

LEGEND

FLOW DIRECTION

+X.X EXISTING GRADE

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

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

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

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

MATTHEW GODDARD LICENSE No 86472 STATE OF FLORIDA PROFESSIONAL ENGINEER

THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY
Matthew D. Goddard
Digitally signed by Matthew D. Goddard
Date: 2024.06.03 21:15:42 -04'00'
ON 6/3/2024
PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SHA AUTHENTICATION CODE MUST BE VERIFIED ON ANY ELECTRONIC COPES

1011 THIRD STREET
MULTI–FAMILY RESIDENCE
STORMWATER MANAGEMENT PLAN

DATE: 06/1/2024

REV.

REV.

N

0 15 30
1" = 15'

GELLC: 24–119

1

COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

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

Site Address: 1011 Third St 1-4

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

Applicant: Merschman I LLC Phone: 1-217-898-4220

Contact Name: Matthew Noble Phone: 1-239-898-5182

Email: anobleplan@gmail.com Fax: _____

Current Zoning District: Downtown

Future Land Use Map (FLUM) Category: Commercial FKA PedestrianCommercial

FLUM Density Range: 1-6 DU/AC Platted Overlay: ☐ YES ☐ NO

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

PART I – General Information

A. Applicant*: George Merschman Phone: 217-899-4220

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

Applicant Mailing Address: 1421 East Lake Shore Dr. Springfield IL 62712

Email: geomerschman@hotmail.com Fax: _____

Contact Name: Matthew Noble Phone: 239-898-4220

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

B. Relationship of Applicant to subject property:

- [x] Owner*
- [ ] Land Trust*
- [ ] Partnership*
- [ ] Corporation*
- [ ] Association*
- [ ] Condominium*
- [ ] Subdivision*
- [ ] Timeshare Condo*
- [ ] Contract Purchaser*
- [ ] Authorized Representative*
- [ ] Other* (please indicate)_____

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

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

Name: Matthew A. Noble Phone: 239-898-5182

Address: 2107 Andrea Ln, Fort Myers, FL 33912

Email: anobleplan@gmail.com Fax: _____

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

Name: Tom Jandovitz Phone: 239-494-4400

Address: 9220 Bonita Beach Rd SE#215

Email: Tom@afonovanelson.com Fax: _____

Name: Kyle Vayda, Beck Architectural Group Phone: 239-431-1686

Address: 804 Anchor Rode Dr. Naples, FL 34103

Email: Kyle@beckarchitectural.com Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

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

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

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

_____

_____

PART III – Waivers

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

Code Section: _____ Description: _____

_____

Code Section: _____ Description: _____

_____

Code Section: _____ Description: _____

_____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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

_____ _____
Signature Printed Name

STATE OF _____ COUNTY OF _____

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

(SEAL) _____
Notary Public Signature

PART V
Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

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

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

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

Name, Address and Office	Percentage of Stock

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

Name and Address	Percentage of Interest

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

Name and Address	Percentage of Ownership

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

Name, Address and Office	Percentage of Stock

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

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

_____ _____
Signature Printed Name

AFFIDAVIT

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

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

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

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

Merschman I LLC

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

Signature _____ Title _____

George Merschman

Typed or Printed Name _____ Date _____

STATE OF _____ COUNTY OF _____

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

Seal

Notary Public Signature

PART VI– Property Information

A. Legal Description:

STRAP: 24-46-23-w3-00202.0060

Property Address: 1011 Third St. 1-4

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

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

☑ Yes. Property identified in subdivision: Business Center

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

B. Boundary Survey:

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

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

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 40 feet

Depth (please provide an average width if irregular in shape) 80 feet

Frontage on street: 40 feet. Frontage on waterbody: 0 feet

Total land area: 3212 ☐ acres ☑ square feet

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

Located in Downtown on Third Street just side of the Sky Bridge.
Located adjacent to Public Parking lot which is under the Sky Bridge.

☑ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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

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

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

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

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

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

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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

line. Exhibit 6-2

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

Explanatory Notes – Part IV & V

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

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

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2025-402**

1. **Request:**

Meeting Date: May 19, 2025

This agenda item is a First Reading and Public Hearing on proposed Ordinance 25-10. If approved at First Reading, a Second Reading and final adoption hearing will be scheduled for June 16, 2025, at 9:00 AM or at another time identified by Town Council.

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

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	Ordinance	Judith Frankel, Principal Planner

5. **Background:**

The applicant, Neighborhood Company on behalf of the property owner Lighthouse Island Resort, Inc. is requesting to expand the boundary of the existing Commercial Planned Development (CPD) as approved in Resolution 18-17. The requested expansion would add the parcel located at 1060 Third Street. The applicant is also requesting to amend the Master Concept Plan, schedule of uses, deviations, and conditions for this CPD under a separate ordinance.

The two subject parcels total 1.87 acres and are located directly east of the Matanzas Pass Bridge. The property has a Future Land Use (FLU) Designation of Pedestrian Commercial. The larger parcel fronting San Carlos Boulevard and Fifth Street has a zoning designation of Commercial Planned Development (CPD) and the corner parcel at 1060 Third Street has a zoning designation of Downtown.

At the April 29th LPA meeting the LPA voted 7 to 0 to recommend approval of this application.

Attachments:

1. Ordinance 25-10 expanded CPD boundaries for 1051 Fifth Lighthouse ab
2. Exhibit A to Ordinance - Resolution 18-17-Lighthouse-CPD
3. Exhibit B to Ordinance - Boundary Survey
4. TC Staff Report
5. Business Impact Estimate CPD expansion lighthouse

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Judith Frankel, Principal Planner	Created/Initiated - 5/7/2025
Frankie Kropacek, Community Development Director	Approved - 5/9/2025
nancy stuparich, Town Attorney	Approved - 5/12/2025
Amy Baker, Town Clerk	Approved - 5/12/2025
Andy Hyatt, Town Manager	Final Approval - 5/13/2025

ORDINANCE 25-10

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

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

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

WHEREAS, Lighthouse Island Resort, Inc., the owner, and The Neighborhood Company, as agents for the property located at 1051 Fifth Street and 1060 Third Street, Ft Myers Beach, FL 33931, parcels generally identified as STRAP numbers 24-46-23-W3-00205.0060 and 24-46-23-W3-00203.0150 in the Town of Fort Myers Beach, filed applications to rezone the property from the CPD adopted in Resolution 18-17 (1051 Fifth Street) to CPD with expanded boundaries (addition of 1060 Third Street); and

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

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on April 29th, 2025; and

WHEREAS, at the April 29th, 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 Land Development Code; and

WHEREAS, at the April 29th, 2025 public hearing the LPA found that the request **is** consistent with the comprehensive plan and the requirements of the LDC

and voted 7 to 0 to recommend **approval**; and

WHEREAS, on May 19, 2025 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the LDC; and

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

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

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

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

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

WHEREAS, Exhibit A is a copy of Resolution 18-17, which created the existing CPD; and

WHEREAS, Exhibit B identifies the expanded boundaries, which governs future development; and

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

a. The rezoning would carry out the policies and requirements of the Comprehensive Plan and Land Development Code.
b. The 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 25-10, which is, **consistent/not consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve/approve with conditions/deny** the Application.

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

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

Section 2. The Town Council determines the Applicant **did/did not** meet its burden of proof, that the request to approve Town of Fort Myers Beach's Ordinance 25-02 and the conditions of approval for the commercial planned development zoning, **does/does not** meet the requirements of the Town Comprehensive Plan and LDC. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **APPROVES/APPROVES WITH CONDITIONS/DENIES** the requested application.

Section 3. Town Ordinance 25-10 is adopted and incorporates by reference the schedule of uses and conditions of approval for the Property's CPD as set forth in Exhibit A and the attached Master Concept Plan in Exhibit B.

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.

Attachments:

A – Resolution 18-17 (Schedule of Uses and Conditions of Approval)
B – Expanded Boundary Survey

ORDINANCE 18-17

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AN AMENDMENT TO THE CURRENT ZONING MAP FROM DOWNTOWN ZONING DISTRICT TO COMMERCIAL PLANNED DEVELOPMENT (CPD) AND AN AMENDMENT TO THE LIGHTHOUSE ISLAND RESORT MASTER CONCEPT PLAN PREVIOUSLY AMENDED AND APPROVED BY RESOLUTION 13-29, TO INCLUDE THE TWO PARCELS CONTAINING APPROXIMATELY 4,000 SQUARE FEET, AS DEVELOPED WITH MODIFIED CONDITIONS OF APPROVAL AND DEVIATIONS; GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00203.019A AND A PORTION OF LOT 14 CONSIDERED PART OF TOWN RIGHT-OF-WAY; PETITION DCI18-0002; PROVIDING FOR SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, Lighthouse Island Resort, Inc. filed application to rezone the property from the Downtown zoning district to CPD with amended Master Concept Plan (MCP), in order to add two developed portions of property containing 4,000+/- square feet, and increase the total rooms from 72 to 75, to the Lighthouse Island Resort development located primarily at 1051 Fifth Street in the Town of Fort Myers Beach; and

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

WHEREAS, the property requested to be rezoned and included with the Lighthouse Island Resort are adjacent to the Lighthouse Island Resort property; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on October 9, 2018; and

WHEREAS, at the October 9th, 2018 public hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, as required by Town Land Development Code (LDC) s. 34-85; and

WHEREAS, at the October 9th, 2018 public hearing the LPA recommended approval based on findings and considerations as outlined in the staff report, by a 7-0 vote, subject to certain conditions and deviations; and

WHEREAS, on November 5th, 2018 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

WHEREAS, a second reading of the proposed Ordinance and a public hearing on this matter legally advertised and held before the Town Council on November 19th, 2018 at which time the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

WHEREAS, this approval is subject to the findings and considerations beginning on packet page 21 through 24, with the exception to Policy 4-E-1, which should read the predisaster buildback policy is being utilized for this development.

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

The Town Council votes to **APPROVE.** the request to rezone the subject property to CPD with MCP, subject to the deviations and conditions set for with specificity.

CONDITIONS:

Condition 1.

The development of this project must be consistent with the five (5) page Master Concept Plan entitled "Master Concept Plan (CPD) for Lighthouse Island Resort" last revised 3-12-2013, except as modified by the conditions and deviations below. Phase 1-A is not accepted. A modified MCP set shall be submitted for the record and include any conditions of approval and deviations herein.

Condition 2.

The following limitations apply to the project and uses:

a. Schedule of Uses

All uses permitted by right in the Downtown zoning district with the following limitations:
Restaurant is limited to 4,300 square feet
Retail is limited to 5,000 square feet
Office is limited to 420 square feet
Hotel/Motel units limited to a maximum of 75 lawfully existing guest units, which total includes the unit for the caretaker and the permanent transfer of all dwelling units from 2639/2641 Estero Blvd. (19-46-24-W3-0020C.0180) for the exceptional circumstance to benefit the Heart of the Island recreational, historic, environmental, and cultural resources of the Town; to be used for increased access and egress, increase public access of the parcel, increase access to public facilities, non-occupied buildings and permanent ownership by the Town.

b. Site Development Regulations

Building placement, size, design, and all other property development regulations shall be the same as for the CR (Commercial Resort) zoning district unless approved as deviations as part of the approved zoning resolution.

Condition 3.

Maximum building height may not exceed 37 feet above Base Flood Elevation. No additional building height is approved within this planned development.

Condition 4.
Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.

Condition 5.
The final design of the building within this planned development must be approved by the Town Manager prior to the approval of any permits. The design must be in substantial compliance with the Town of Fort Myers Beach Comprehensive Plan, the Land Development Code, and all other applicable requirements.

Condition 6.
The 5,000 square feet of retail uses are limited to the ground floor of the Phase 2 building as depicted on the approved Master Concept Plan. The ground floor will have to be dry flood proofed and must be constructed in compliance with Chapter 6 of the Land Development Code.

Condition 7.
At no time will the total number of Hotel/Motel units exceed 75 guest units.

Condition 8.
Prior to approval of a development order, the correct sidewalk easement must be recorded in the Public Records of Lee County, Florida.

Condition 9.
Prior to seeking any building permits for development on this site, the developer must combine the existing platted lots into one lot of record as part of the local development order for this CPD project not later than February 28, 2019.

Condition 10.
Prior to each local development order approval, the developer must provide a current tally of the square feet for each use approved in all previous local development orders.

Condition 11.
The total square feet of existing and proposed buildings must not exceed 58,432 square feet of total building area for buildings used as hotel/motel guest units.

Condition 12.
Any off-site parking, other than the existing approved 5 off-site parking spaces, must be addressed through an amendment to this CPD.

Condition 13.
Any outdoor seating for the restaurant and any sign that will require a deviation must be addressed through an amendment to this CPD.

Condition 14.
This development must comply with all requirements of the LDC at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

Condition 15.
This CPD project must be constructed to build-out no later than December 31, 2025. A completed building permit and start of construction to the next phase shall occur prior to December 31, 2023.

Condition 16.
All signs containing commercial messages, including those shown for the proposed restaurant in Phase II-A, must be in compliance with LDC Chapter 30, except as approved herein by deviations.

Condition 17.
The deviation for internal illumination of signs is approved only for the existing signs. If the signage is moved, removed, or damaged beyond repair, the deviation will be null and void, and any new signage must comply with the regulations of the LDC.

Condition 18.
Any violation of these conditions shall be subject to a maximum $500 per incident, per day fine.

DEVIATIONS:

Deviation #1
Deviation 1 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Crescent Street); to allow a connection separation of 83 feet from Fifth Avenue. This deviation is unchanged from the previously approved MCP and is APPROVED.

Deviation #2
Deviation 2 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Crescent Street); to allow a connection separation of 115 feet from Third Street. This deviation is unchanged from the previously approved MCP and is APPROVED.

Deviation #3
Deviation 3 was from a previous Lee County LDC requirement, and is no longer necessary. The Fort Myers Beach LDC does not regulate building separation within a project site.

Deviation #4
Deviation 4 requests relief from LDC Table 34-3 which requires certain setbacks for structures, buildings, and pavement from the development perimeters; to allow the reduced setbacks of 7.4', 4.5', 3', 2.6', 1.5, 1.4', & 0', from the development perimeter as depicted on the Master Concept

Plan. All of the setbacks were previously approved on the existing MCP for this project. This deviation is **APPROVED.**

Deviation #5

Deviation 5 requests relief from LDC Table 34-3 which provides the property development regulations for the Fort Myers Beach Commercial Resort (CR) zoning district; to allow street setbacks of 4.5', 2.0', and 0' along San Carlos Boulevard. All of the setbacks were previously approved on the existing MCP for this project. This deviation is **APPROVED.**

Deviation #6

Deviation 6 requests relief from LDC Section 34-2016 which requires 90 degree parking spaces to be a minimum of 18' in length; to allow 90 degree parking spaces to be 16' in length for Phase 2 parking only. This deviation is **APPROVED** as depicted on the approved Master Concept Plan and with the condition that these parking spaces will be removed at the time Phase 5 is constructed.

Deviation #7

Deviation 7 requests relief from LDC Section 34-2016(a) which requires parking aisles between parking spaces to be 22' in width to allow the parking aisles to be 20' in width for some areas for the Phase 2 parking only. This deviation is **APPROVED** as depicted on the approved Master Concept Plan and with the condition that these parking aisles will be removed at the time Phase 5 is constructed.

Deviation #8

Deviation 8 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Fifth Avenue); to allow a connection separation of 83 feet from two existing driveways. This deviation is **APPROVED.**

Deviation #9

Deviation 9 requests relief from the F.A.R. requirements of LDC Section 34-953 and Table 34-3 to allow additional F.A.R. to exceed the total of 66,852 square feet of residential and commercial uses to the extent necessary to develop on-site under building parking. This deviation is **APPROVED.**

Deviation #10

Deviation 10 requests relief from LDC Section 30-153(b)(1) which allows a maximum of 32 square feet of signage; to allow 126 square feet of total signage for Lighthouse Island Resort. This deviation is **APPROVED.**

Deviation #11

Deviation 11 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign; to allow 25'6" for the Lighthouse "Sign D". This deviation is **APPROVED.**

Deviation #12

Deviation 12 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign and 18 inches for the sign base; to allow the bottom of the sign at 4.1' and an overall height of 10.4' for "Sign A" on Third Street. This deviation is **APPROVED,** provided that the top of the sign face shall not exceed 8.1', as depicted in Sign Detail "A".

Deviation #13

Deviation 13 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign and 18 inches for the sign base; to allow the bottom of the sign at 4.1' and an overall sign height of 9.7' for "Sign B" on Crescent Street." This deviation is APPROVED, provided that the top of the sign face shall not exceed 8.1', as depicted in Sign Detail "B".

Deviation #14

Deviation 14 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign and 18 inches for the sign base; to allow the bottom of the sign at 4.1' and an overall height of 9.7' for "Sign C" on Fifth Street. This deviation is APPROVED, provided that the top of the sign face shall not exceed 8.1', as depicted in Sign Detail "C".

Deviation #15

Deviation 15 requests relief from LDC Section 30-154(b) which requires that all signs be set back a minimum 3 foot from any public right-of-way; to allow a 0' setback for "Sign A" located on Third Street. This deviation is APPROVED.

Deviation #16

Deviation 16 requests relief from LDC Section 30-154(b) which requires a minimum 3 foot setback from any public right-of-way; to allow "Sign B" to remain located entirely within the right-of-way at the intersection of Crescent Street and Fifth Street. This deviation is APPROVED.

Deviation #17

Deviation 17 requests relief from LDC Sec. 34-154(a) for internal illumination of the sign faces to remain as existing, where they would otherwise be required to emit light only from the letters and symbols of the sign face, subject to Condition #18. This deviation is APPROVED.

CODIFICATION AND SCRIVENER'S ERRORS.

The Town Council intends that this ordinance will not be made part of the Fort Myers Beach Code of Ordinances; typographical errors that do not affect the intent can be corrected with the authorization of the Town Manager or designee, without the need for a public hearing. Only the specific deviations granted by the Town Council and associated plan sheets reflecting those approvals with or without conditions are so incorporated.

EFFECTIVE DATE.

This ordinance becomes effective immediately upon its adoption.

THE FOREGOING ORDINANCE was enacted by the Town Council upon a motion by Council Member Joanne Shamp and seconded by Council Member Dennis Boback and, upon being put to a roll call vote, the result was as follows:

Tracey Gore, Mayor	NAY	Bruce Butcher	AYE
Anita Cereceda	AYE	Joanne Shamp, Vice Mayor	AYE
Dennis Boback	AYE		

DULY PASSED AND ENACTED this 19th day of November 2018.

ATTEST:

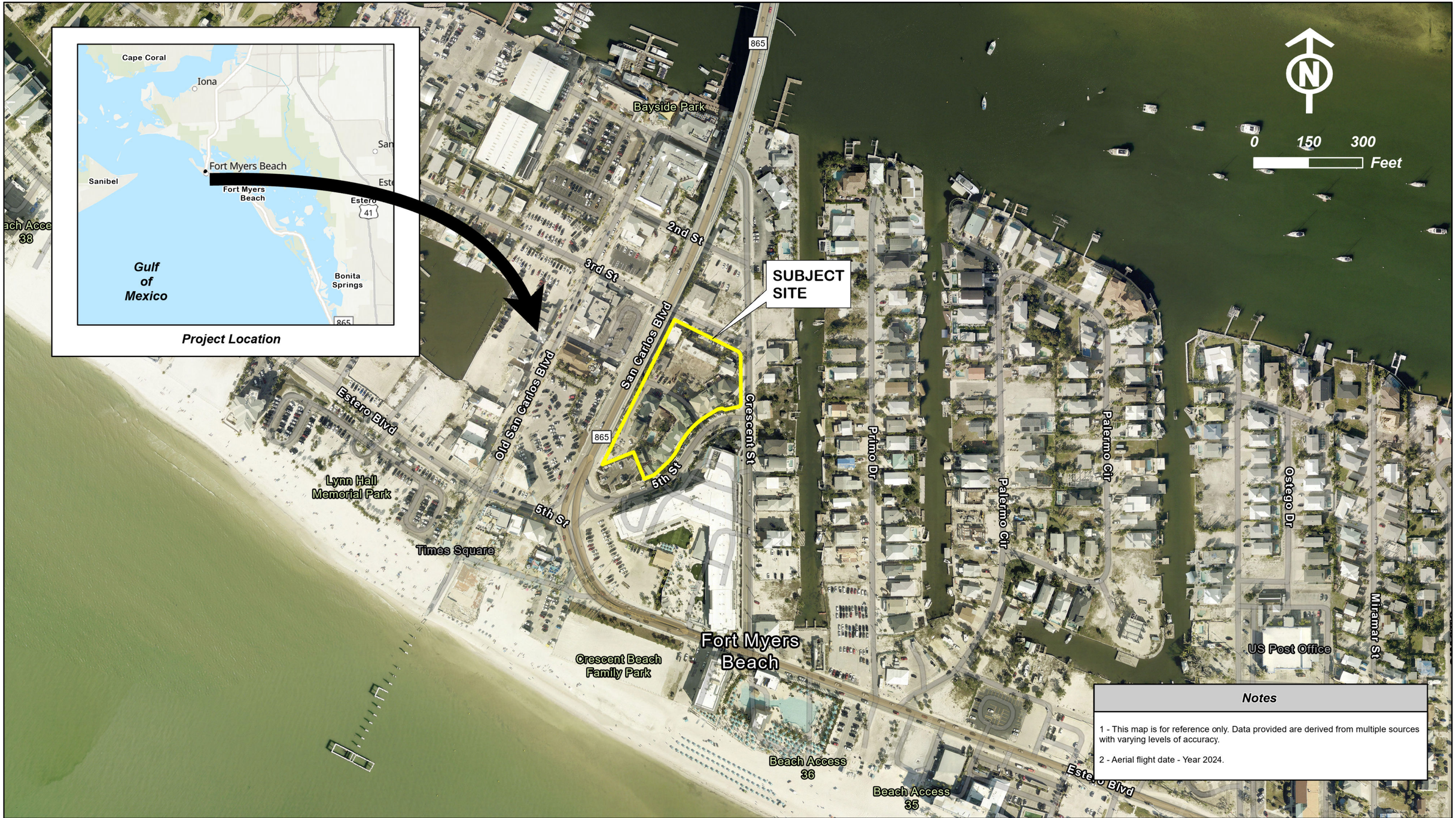
By: _____
Michelle D. Mayher, Town Clerk

TOWN OF FORT MYERS BEACH

By: _____
Tracey Gore, Mayor

Approved as to form by:

By: _____
Peterson Law Group, Town Attorney



Notes

1 - This map is for reference only. Data provided are derived from multiple sources with varying levels of accuracy.

2 - Aerial flight date - Year 2024.

THE NEIGHBORHOOD COMPANY

Lighthouse Island Resort (CPD)

Project Location

FILE NO:	220037.01.01
DRAWN BY:	F.L.
DESIGN BY:	P.V.
DATE:	January 2025

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

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

CASE NUMBER: **DCI Rezoning 20250035.1**

CASE NAME: **Lighthouse Island Resort**

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

TOWN COUNCIL HEARING DATE: **May 19th, 2025**

STAFF RECOMMENDATION: **Approval**

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

I. APPLICATION SUMMARY

Applicant/Owner:	Lighthouse Island Resort, Inc./The Neighborhood Company
Request:	Amend the existing CPD RES#18-17 (See Exhibit A) to expand the boundary to include and rezone 1060 Third Street from Downtown to CPD
Subject property:	See Exhibit B
Physical Address:	1051 Fifth Street and 1060 Third Street
STRAP #:	24-46-23-W3-00205.0060 and 24-46-23-W3-00203.0150)
FLU:	Pedestrian Commercial
Zoning:	CPD/Downtown

Adjacent zoning and land uses:

North:	DOWNTOWN Residential
South:	CPD Margaritaville Resort
East:	RESIDENTIAL MULTIFAMILY (RM) Residential
West:	DOWNTOWN and CPD

II. BACKGROUND AND ANALYSIS

The applicant, Neighborhood Company on behalf of the property owner Lighthouse Island Resort, Inc. is requesting to expand the boundary of the existing Commercial Planned Development (CPD) as approved in Resolution 18-17. The requested expansion would add the parcel located at 1060 Third Street. The applicant is also requesting to amend the Master Concept Plan, schedule of uses, deviations, and conditions for this CPD under a separate ordinance.

The two subject parcels total 1.87 acres and are located directly east of the Matanzas Pass Bridge. The property has a Future Land Use (FLU) Designation of Pedestrian Commercial. The larger parcel fronting San Carlos Boulevard and Fifth Street has a zoning designation of Commercial Planned Development (CPD) and the corner parcel at 1060 Third Street has a zoning designation of Downtown.

The Lighthouse Island Resort has been in operation for over 60 years. In 1977, approximately half an acre of the existing property was part of a larger Florida Department of Transportation taking associated with construction of the Matanzas Pass Bridge. This action reduced the property from 32 original platted lots to 20. The former Fourth Street court was vacated to the resort.

The original Lighthouse Resort CPD was approved in 1999, when the existing property was rezoned from C-1 to CPD to facilitate redevelopment. Since that time, there have been five amendments to the CPD.

At the April 29th LPA meeting the LPA voted 7 to 0 to recommend approval of this application.

Analysis:

The parcel at 1060 Third Street was sold to the applicant in 2021. The inclusion of this parcel into the existing CPD will allow the entire resort to operate within one zoning district with consistent regulations. The land uses across both Third Street and Crescent Street are residential. The property previously operated as a vacation short term rental with 3 units according to the Lee County Property Appraiser records.

Neighborhood Compatibility:

The parcel at 1060 Third Street abuts the existing Lighthouse Resort CPD on two sides and residential uses on the other two sides. The inclusion of this parcel in the abutting CPD is compatible with the surrounding neighborhood.

IV. FINDINGS AND CONCULSIONS

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

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

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

Staff response: No errors or ambiguities exist.

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

Staff response: The Lighthouse Resort survived Hurricane Ian but incurred significant damages. The applicant aims to continue as a resort with an increased capacity.

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

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

(4) The testimony of any applicant.

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

(6) The testimony of the public.
(7) Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.
Staff response: The expanded boundary is consistent with the Town of Fort Myers Beach Comprehensive Plan. The parcels are located in the Pedestrian Commercial FLU which is intended to be up to 90% commercial.
(8) Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
Staff response: The proposed development will be required to meet performance standards set forth in 34-2031 and 34-2032.
(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.
Staff response: The urban services exist in this location.
(10) Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.
Staff response: The request will have no impact on designated environmentally critical areas and natural resources. The request does not include any revision to the environmentally critical areas.
(11) Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
Staff response: The expanded boundary is compatible.
(12) Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.
Staff response: The location is compatible.
(13) For planned development rezonings, see § 34-216 for additional considerations

LDC Sec. 34-85 (c) Findings: Before granting any rezoning, the town council shall find that the requested zoning district complies with:
(1) The Fort Myers Beach Comprehensive Plan.
Staff response: The proposed expansion area for the CPD complies with the Comprehensive Plan.
(2) This chapter.
Staff response: The proposed uses comply with this chapter.
(3) Any other applicable town ordinances or codes.
Staff response: The proposed request complies with the town ordinances and codes.
(4) For planned development rezonings, see § 34-216 of this chapter for additional findings

LDC Sec. 34-216(b)(2) The recommendation made to the town council must be supported by the guidelines set forth in § 34-85 of this chapter. In addition, the findings must address whether the following criteria can be satisfied:
a. The proposed use or mix of uses is appropriate at the subject location;
Staff response: The uses are appropriate in this location as it is within the FLU category of Pedestrian Commercial.
b. Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations.
Staff response: No special conditions are proposed.
c. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development;
Staff response: No special conditions are requested as part of this application.

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

1. Policies 4-B-4 and 4-C-3 on commercial uses in the "mixed residential" category.
Staff response: Not applicable.
2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "boulevard" category.
Staff response: Not applicable.
3. Policy 4-C-4 on building heights taller than the standard height limit.
Staff response: No additional height is requested.
4. Policy 4-C-8 on density transfers.
Staff response: Not applicable.
5. Policy 4-E-1 on pre-disaster build back.
Staff response: Not applicable.
6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.
Staff response: There are no anticipated adverse traffic impacts

V. RECOMMENDATION

Staff finds that the CPD amendment meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC. Staff recommends **approval** of DCI20250035.1.

Exhibit A: Resolution18-17 Lighthouse Resort CPD
Exhibit B: Property Boundary Map

Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the Fort Myers Beach website by the time notice of the proposed ordinance is published.

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

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Fort Myers Beach is of the view that a business impact estimate is not required by state law[1] for the proposed ordinance, but the Fort Myers Beach is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

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

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

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

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

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance amends the existing CPD zoning designation for 1051 Fifth Street to include the property located at 1061 Third Street. The Town Council approved a CPD for the property at 1051 Fifth Street in 2018 through Resolution 18-17 which currently provides the zoning regulations for the site. The applicant is seeking through this ordinance to include the parcel at 1061 Third Street in the CPD.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Fort Myers Beach, including the following, if any:
(a) An estimate of direct compliance costs that businesses may reasonably incur;
(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
(c) An estimate of the Fort Myers Beach regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

There are unlikely to be direct compliance costs associated with Ordinance 25-xx.

Ordinance 25-xx does not impose any new charge or fee on businesses.

There are no new charges or fees that will be imposed on businesses by the ordinance.

The Town will not likely incur additional costs.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

This rezoning does not increase restrictions on existing businesses.

4. Additional information the governing body deems useful (if any):[*You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: Fort Myers Beach staff solicited comments from businesses in the Fort Myers Beach as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on Fort Myers Beach website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses*).

Not applicable.

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2025-403**

1. **Request:**

Meeting Date: May 19, 2025

This agenda item is a First Reading and Public Hearing on proposed Ordinance 25-11. If approved at First Reading, a Second Reading and final adoption hearing will be scheduled for June 16, 2025, at 9:00 AM or at another time identified by Town Council.

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

Why the action is necessary:
The Town Council reviews requests for CPD amendments.

What the action accomplishes:
The action will allow for the further development of the Lighthouse Island Resort.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	Ordinance	Judith Frankel, Principal Planner

5. **Background:**
The subject property is located at 1051 Fifth Street and 1061 Third Street. The Town Council approved a CPD for the property at 1051 Fifth Street in 2018 through Resolution 18-17 which currently provides the zoning regulations for the site. This request is to amend the CPD to: 1) allow an increase in lodging units from 75 to a maximum of 130 units, 2) an increase in the maximum allowed height from 37-feet above Base Floor Elevation (BFE) to 40.5-feet above BFE, and modify some of the site conditions through 11 deviations. The existing CPD contains a deviation of F.A.R. requirements to exclude ground-level parking from the F.A.R. calculation. The applicant seeks to maintain that previously approved deviation. The applicant is seeking, under a separate ordinance, to include the parcel at 1061 Third Street in the CPD.

At the April 29th, 2025 LPA meeting, the LPA voted 7 to 0 to recommend approval with condition of this application. The LPA recommended adding a condition of approval to include lighting of the western boundary pathway as a part of the project's Development Order.

Attachments:
1. Ordinance 25-11 Change of Use Lighthouse CPD with Exhibit A
2. Exhibit B to Ordinace - Master Concept Plan

3. TC Staff Report
4. Exhibit A to TC Staff Report - Resolution 18-17-Lighthouse-CPD
5. Exhibit A1 to TC Staff Report - MCP for Resolution 18-17
6. Exhibit B to TC Staff Report - Boundary Survey
7. Exhibit C to TC Staff Report - Master Concept Plan
8. Applicant Project Narrative
9. Applicant Deviations and Justifications
10. Applicant Proposed Commitments
11. Applicant Proposed Conditions of Approval
12. Architectural Elevations Building 5 (Applicant Exhibit)
13. Platted Lot (Applicant Exhibit)
14. Applicant Parking Analysis
15. Business Impact Estimate CPD lighthouse

Financial Impact:
Unknown

6. **Alternative Action**
Approve with Conditions

7. **Management Recommendations:**

8. **Recommended Approval:**

Judith Frankel, Principal Planner	Created/Initiated - 5/12/2025
Frankie Kropacek, Community Development Director	Approved - 5/12/2025
nancy stuparich, Town Attorney	Approved - 5/12/2025
Amy Baker, Town Clerk	Approved - 5/13/2025
Andy Hyatt, Town Manager	Final Approval - 5/13/2025

ORDINANCE 25-11

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

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

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

WHEREAS, Lighthouse Island Resort, Inc., the owner, and The Neighborhood Company, as agents for the property located at 1051 Fifth Street and 1060 Third Street, Ft Myers Beach, FL 33931, parcels generally identified as STRAP numbers 24-46-23-W3-00205.0060 and 24-46-23-W3-00203.0150 in the Town of Fort Myers Beach, filed applications to rezone the property from the CPD adopted in Resolution 18-17 (1051 Fifth Street) to CPD with expanded boundaries (addition of 1060 Third Street); and a CPD amendment to revise the schedule of uses, density, height and the corresponding Master Concept Plan (MCP) with certain deviations to the Land Development Code (LDC) for a hotel resort; and

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

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on April 29, 2025; and

WHEREAS, on May 19, 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 Ordinance 25-10 to extend the boundary of the CPD adopted in Resolution 18-17 to include 1060 Third Street; and

WHEREAS, the Town Council finds that this request to rezone the property from the CPD adopted in Resolution 18-17 as amended in Ordinance 25-10, to CPD with Master Concept Plan with nine deviations to the LDC in order to increase the size of the existing hotel resort; and

WHEREAS, the requested deviations from the LDC include:

Deviation #1

Deviation 1 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Fifth Avenue); to allow a connection separation of 83 feet from two existing driveways.

Deviation #2

Deviation 2 requests relief from the F.A.R. requirements of LDC Sec. 34-633, which includes covered parking in the FAR calculation to exclude the under-building parking from this resort's FAR calculation.

Deviation #3

Deviation 3 requests relief from LDC Section 30-5(a)(1)b.3.iii which allows a maximum height of 5 feet for a monument sign to allow an overall height of 9.7' for "Sign C" on Fifth Street.

Deviation #4

Deviation 4 requests relief from LDC Sec. 30-5(a)(1)b.1 for internal illumination of the sign faces to remain as existing, where they would otherwise be required to emit light only from the letters and symbols of the sign face.

Deviation #5

A deviation from LDC Division 4, Table 34-3 for the CR zoning district which limits height to 30 feet zoned height and three (3) stories to allow a maximum zoned height of 40 feet 5 inches above base flood elevation and a maximum of four (4) stories consisting of three (3) stories above one (1) level of parking.

Deviation #6

A deviation from LDC Division 4, Table 34-3 for the CR zoning district which requires street setbacks of 10 feet to instead allow for build-to lines of 0’ and 6.75’ feet along San Carlos Boulevard, Third Street, and Fifth Street.

Deviation #7

A deviation from LDC Section 30-5(a)(1)a which allows a maximum of 32 square feet of signage for a parcel of land containing one or two business establishments to allow a mural-style sign on the east elevation of Building 5 of 104 square feet, as depicted on the MCP.

Deviation #8

A deviation from LDC Section 30-5(a)(1)a which allows a maximum of 32 square feet of signage for a parcel of land containing one or two business establishments to allow a mural-style sign on the south elevation of Building 5 of 100 square feet, as depicted on the MCP.

Deviation #9

A deviation from LDC Section 30-5(a)(1)b.3.iii which allows a maximum height of 5 feet for a monument sign to allow an overall height of 10 feet for a monument sign at the corner of Crescent Street and Fifth Street, as depicted on the MCP.

Deviation #10

A deviation from LDC Section 30-8(16) which prohibits pole signs to allow a decorative wayfinding pole sign on the corner of Third Street and San Carlos Boulevard, as depicted on the MCP.

Deviation #11

A deviation from LDC Sec. 34-1804(A) and Sec. 34-2020, which regulates parking for hotels/motels and other accessory uses, to allow a 58% reduction in parking requirements for a total of 82 on-site parking spaces.

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

a. The rezoning would carry out the policies and requirements of the Comprehensive Plan and Land Development Code.

b. The Town Council carefully considered the testimony of the applicant, the recommendations of staff and of the local planning agency, and testimony from the public.

c. The rezoning would be consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses in the Comprehensive Plan.

d. The rezoning would meet or exceed all performance and locational standards set forth for the proposed use.

e. Urban services are available and adequate to serve the proposed use.

f. The rezoning would protect, conserve, or preserve environmentally critical areas and natural resources.

g. The rezoning would be compatible with existing and planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.

h. The rezoning would not place an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.

i. The rezoning, with the mitigating factors volunteered by the applicant and the special conditions imposed by the Town Council, is consistent with the Fort Myers Beach Comprehensive Plan, Land Development Code, and other applicable town ordinances or codes.

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

m. Sufficient safeguards to the public interest are provided by the recommended special conditions to the master concept plan and by other applicable regulations.

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

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

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

WHEREAS, the Town Council finds that this application to approve Ordinance 25-11 which is, **consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve with conditions** the Application.

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

Section 1. The above recitals are true, correct, incorporated herein by this reference, and

adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council determines the Applicant **did/did not** meet its burden of proof, that the request to approve Town of Fort Myers Beach's Ordinance 25-11 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 25-11 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)

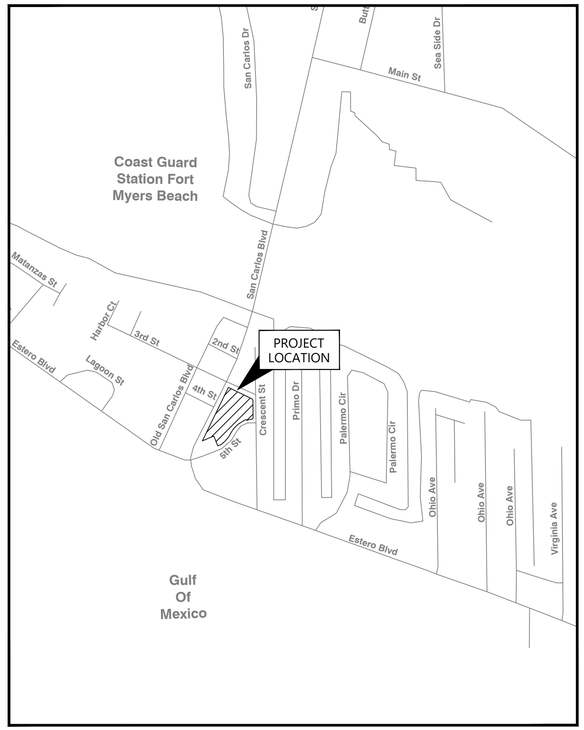
Exhibit A: Conditions of Approval

1. Final architectural design must be generally consistent with renderings provided in addition to the Master Concept Plan.
2. Prior approval of a development orders the MCP must be revised to reflect the conditions of approval as determined by the ordinance.
3. Applicant must receive approval from the Town Manager for “back out” parking along Third Street per LDC Sec. 34-2015.
4. The installation and use of the proposed “pedestrian pathway” is subject to approval by FDOT. Within six months of zoning approval by the town council, the property owner will coordinate with FDOT regarding enhancements to the San Carlos Boulevard/Matanzas Pass Bridge right-of-way.
5. Lighting of the pedestrian walkway that runs along the San Carlos Blvd/Sky Bridge must be lighted for safety. Lighting must emanate from the subject property and be included in the photometric plan to be approved at the time of D.O.
6. All signs in or near the ROW will require sight-triangle analysis per Sec. 30(a)(4).
7. Access through and along the resort pathway connecting the existing sidewalk arcade on Fifth Street to San Carlos Boulevard, must be open to the general public during the resort’s restaurant operational hours to encourage pedestrian movement between the east and west sides of the resort.
8. All landscaping materials will be native varieties/Florida friendly species.
9. At the time of Development Order on the property boundary survey, the LIMWA (Limit of moderate wave action) Boundary line (Coastal A Zone) must be demonstrated.
10. At the time of Development Order the architectural elevation sheets 5 through 7 must have the lowest horizontal member added on the cross-section details.
11. Applicant must provide at least 1 bike rack.
12. Consumption of Premises (COP) Service of alcohol for on-premises consumption is approved at the locations depicted on the Master Concept Plan, subject to these limitations:
    a. For Building 5 COP will be located on the elevated pool deck.
    b. For the tiki bar and pool deck on the south end of the property between Buildings 3 and 5, limited to the areas depicted on the Master Concept Plan.
    c. For the tiki bar and pool deck on the north end of the property between Buildings 2 and 6, limited to the areas depicted on the Master Concept Plan.
13. Hours of operation for outdoor areas will be limited to the following unless otherwise temporarily altered by the Town’s special event use regulations in LDC Section 34-1264. All other hours of operation will be regulated by the LDC.
    a. Pool deck (Building 5): 9:00am to 12:00am
    b. Pool deck and tiki bar (south end between Buildings 3 and 5): 9:00am to 2:00am
    c. Pool deck and tiki bar (north end between Buildings 2 and 6): 9:00am to 10:00pm

MASTER CONCEPT PLAN FOR

LIGHTHOUSE ISLAND RESORT CPD

SECTION 24, TOWNSHIP 46S, RANGE 23E,
FORT MYERS BEACH, FLORIDA



VICINITY MAP
N.T.S.

SITE LOCATION MAP
N.T.S.

PROJECT TEAM:

MHK ARCHITECTURE

THE NEIGHBORHOOD COMPANY

TR TRANSPORTATION CONSULTANTS, INC

PREPARED FOR:

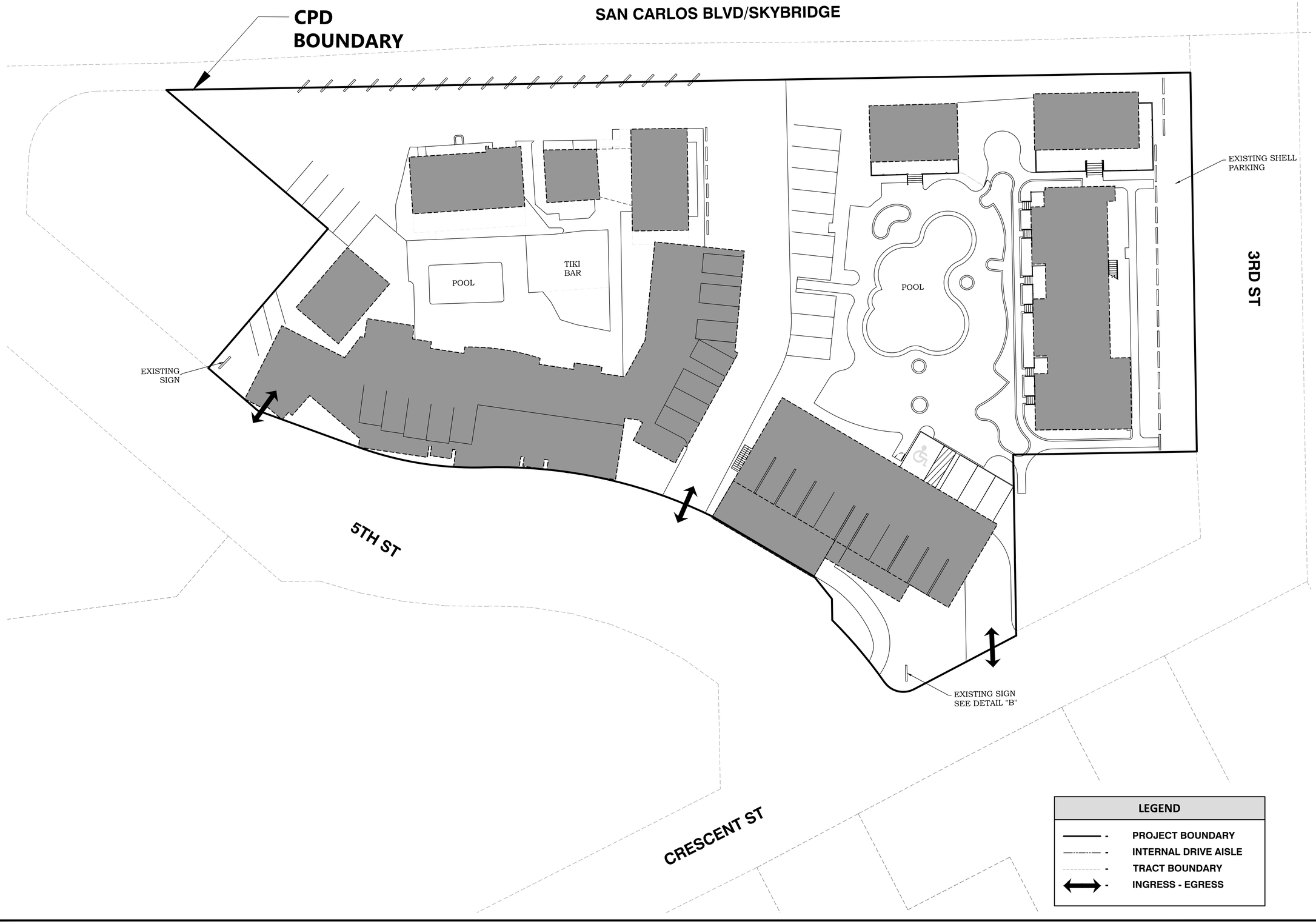
LIGHTHOUSE ISLAND RESORT INC

1051 FIFTH ST
FORT MYERS BEACH, FL 33931

CONTENTS

SHEET NUMBER	SHEET DESCRIPTION
1	COVER SHEET
2	EXISTING CONDITIONS
3	MASTER CONCEPT PLAN
4	NOTES

DATE:	PROJECT No.:	SHEET No.:
January, 2025	240050.01.01	1 OF 4



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#	REVISION	DRAWN	DATE

THE NEIGHBORHOOD COMPANY
5618 WHISPERING WILLOW WAY | FORT MYERS, FL 33908
WWW.THENEIGHBORHOOD.COMPANY

CLIENT: LIGHTHOUSE ISLAND RESORT INC

PROJECT: LIGHTHOUSE ISLAND RESORT CPD

TITLE: EXISTING CONDITIONS

PROJECT NO.: 220050.01.01
DATE: 01/25
DRAWN: F.L.
DESIGN: P.V.
SHEET NUMBER: 2 OF 4

SAN CARLOS BLVD/SKYBRIDGE

PROPOSED PEDESTRIAN PATHWAY

CPD BOUNDARY

0' BUILDING SETBACK

5

6

7 8

PROPOSED WALL SIGN

POOL AT 200 LEVEL

PROPOSED BUILDING 5

RESTAURANT WITH OUTDOOR SEATING AT 200 LEVEL

EXISTING BUILDING 4

EXISTING POOL

EXISTING TIKI

TIKI

3

EXISTING SIGN

EXISTING BUILDING 3

2

6

5TH ST

CREDIT GIVEN FOR 7 OFF-SITE PARKING SPACES

EXISTING BUILDING 2

7

EXISTING BUILDING 6

6

EXISTING BUILDING 7

10

PROPOSED WAYFINDING SIGN

EXISTING POOL

PARKING

3RD ST

EXISTING BUILDING 8

TIKI

PARKING

PROPOSED BUILDING 1

6

9' BUILDING SETBACK

9

PROPOSED SIGN

CRESCENT ST

LEGEND

- EXISTING BUILDING FOOTPRINT
- PROPOSED BUILDING FOOTPRINT
- DECK AREA
- ACCESSWAY+ PARKING
- BUFFERS AND OPEN SPACE
- OUTDOOR COP BOUNDARY
- PATHWAYS + SIDEWALKS
- PUBLIC BENCH
- VEHICULAR INGRESS / EGRESS
- DEVIATIONS
- SHARED LANE

0 20 40

#	REVISION	DRAWN	DATE

THE NEIGHBORHOOD COMPANY
5618 WHISPERING WILLOW WAY | FORT MYERS, FL 33908
WWW.THENEIGHBORHOOD.COMPANY

CLIENT: LIGHTHOUSE ISLAND RESORT INC

PROJECT: LIGHTHOUSE ISLAND RESORT CPD

TITLE: MASTER CONCEPT PLAN (MCP)

PROJECT NO: 220050.01.01
DRAWN: F.L.
DATE: 01/25
DESIGN: P.V.
SHEET NUMBER: 3 OF 4

CONDITIONS:

1. THE DEVELOPMENT OF THIS PROJECT MUST BE CONSISTENT WITH THE MASTER CONCEPT PLAN ENTITLED "MASTER CONCEPT PLAN (CPD) FOR LIGHTHOUSE ISLAND RESORT " LAST REVISED [DATE TBD], EXCEPT AS MODIFIED BY THE CONDITIONS AND DEVIATIONS BELOW.
2. THE FOLLOWING LIMITATIONS APPLY TO THE PROJECT AND USES:
   A. SCHEDULE OF USES

      ALL USES PERMITTED BY RIGHT IN THE DOWNTOWN ZONING DISTRICT WITH THE FOLLOWING LIMITATIONS:

      RESTAURANT IS LIMITED TO 4,300 SQUARE FEET

      RETAIL IS LIMITED TO 500 SQUARE FEET ACCESSORY TO THE PRIMARY RESORT USE

      OFFICE IS LIMITED TO 420 SQUARE FEET ACCESSORY TO THE PRIMARY RESORT USE

      HOTEL/MOTEL UNITS LIMITED TO A MAXIMUM OF 130 LAWFULLY EXISTING GUEST UNITS

      ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES, INCLUDING OUTDOOR SEATING AREAS AS DEPICTED ON THE MCP

   B. BUILDING PLACEMENT, SIZE, DESIGN, AND ALL OTHER PROPERTY DEVELOPMENT REGULATIONS SHALL BE THE SAME AS FOR THE CR (COMMERCIAL RESORT) ZONING DISTRICT UNLESS APPROVED AS DEVIATIONS AS PART OF THE APPROVED ZONING RESOLUTION.
3. MAXIMUM ZONED BUILDING HEIGHT MAY NOT EXCEED 40 FEET 5 INCHES ABOVE BASE FLOOD ELEVATION.
4. APPROVAL OF THIS ZONING REQUEST DOES NOT ADDRESS MITIGATION OF THE PROJECT'S VEHICULAR OR PEDESTRIAN TRAFFIC IMPACTS. ADDITIONAL CONDITIONS CONSISTENT WITH THE LDC MAY BE REQUIRED TO OBTAIN A LOCAL DEVELOPMENT ORDER.
5. THE FINAL DESIGN OF THE BUILDING WITHIN THIS PLANNED DEVELOPMENT MUST BE APPROVED BY THE TOWN MANAGER PRIOR TO THE APPROVAL OF ANY PERMITS. THE DESIGN MUST BE IN SUBSTANTIAL COMPLIANCE WITH THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, THE LAND DEVELOPMENT CODE, AND ALL OTHER APPLICABLE REQUIREMENTS.
6. AT NO TIME WILL THE TOTAL NUMBER OF HOTEL/MOTEL UNITS EXCEED 130 GUEST UNITS.
7. PRIOR TO APPROVAL OF A DEVELOPMENT ORDER, THE CORRECT SIDEWALK EASEMENT MUST BE RECORDED IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.
8. PRIOR TO EACH LOCAL DEVELOPMENT ORDER APPROVAL, THE DEVELOPER MUST PROVIDE A CURRENT TALLY OF THE SQUARE FEET FOR EACH USE APPROVED IN ALL PREVIOUS LOCAL DEVELOPMENT ORDERS.
9. THE TOTAL SQUARE FEET OF EXISTING AND PROPOSED BUILDINGS MUST NOT EXCEED 58,432 SQUARE FEET OF TOTAL BUILDING AREA FOR BUILDINGS USED AS HOTEL/ MOTEL GUEST UNITS.
10. ANY OFF-SITE PARKING, OTHER THAN THE EXISTING APPROVED 7 OFF-SITE PARKING SPACES, MUST BE ADDRESSED THROUGH AN AMENDMENT TO THIS CPD.
11. THIS DEVELOPMENT MUST COMPLY WITH ALL REQUIREMENTS OF THE LDC AT TIME OF LOCAL DEVELOPMENT ORDER APPROVAL, EXCEPT AS MAY BE GRANTED BY DEVIATION AS PART OF THIS PLANNED DEVELOPMENT. IF CHANGES TO THE MASTER CONCEPT PLAN ARE SUBSEQUENTLY PURSUED, APPROPRIATE APPROVALS WILL BE NECESSARY.
12. THIS CPD PROJECT MUST OBTAIN A DEVELOPMENT ORDER WITHIN FIVE YEARS OF THE DATE OF APPROVAL BY THE TOWN COUNCIL.
13. ALL SIGNS CONTAINING COMMERCIAL MESSAGES, INCLUDING THOSE SHOWN FOR THE PROPOSED RESTAURANT, MUST BE IN COMPLIANCE WITH LDC CHAPTER 30, EXCEPT AS APPROVED HEREIN BY DEVIATIONS.
14. THE DEVIATION FOR INTERNAL ILLUMINATION OF SIGNS IS APPROVED ONLY FOR THE EXISTING SIGNS. IF THE SIGNAGE IS MOVED, REMOVED, OR DAMAGED BEYOND REPAIR, THE DEVIATION WILL BE NULL AND VOID, AND ANY NEW SIGNAGE MUST COMPLY WITH THE REGULATIONS OF THE LDC.

HEIGHT *:

- EXISTING BUILDING 2: 26 FEET 3.25 INCHES
- EXISTING BUILDING 3: 35 FEET 10 INCHES
- EXISTING BUILDING 4: 23 FEET 2.5 INCHES
- EXISTING BUILDING 6: 10 FEET 2 INCHES
- EXISTING BUILDING 7: 19 FEET 11.75 INCHES
- EXISTING BUILDING 8: 26 FEET 3.25 INCHES

* HEIGHT IS MEASURED FROM BASE FLOOD ELEVATION PLUS 3 FEET OF ALLOWABLE FREEBOARD

GENERAL NOTES:

1. THIS MASTER CONCEPT PLAN (MCP) IS CONCEPTUAL IN NATURE. THE OVERALL CONFIGURATION, SIZE AND LOCATION OF THE STRUCTURE(S) AND OTHER IMPROVEMENTS MAY VARY. FINAL DESIGN AND IMPROVEMENT DETAILS WILL BE PROVIDED AS PART OF THE DEVELOPMENT ORDER (D.O.) PROCESS.
2. WATER MANAGEMENT REQUIREMENTS FOR REDEVELOPMENT PROJECTS CAN VARY SIGNIFICANTLY. THE WATER MANAGEMENT PLAN WILL BE DESIGNED AT THE TIME OF D.O.
3. TOTAL CPD DEVELOPMENT AREA: ±1.87
4. IN COMPLIANCE WITH LDC SECTION 34-1803(A)(2), THE MAXIMUM OF 130 ROOMS/LODGING UNITS ARE ALLOWED DUE TO EXCEPTIONAL CIRCUMSTANCES AND PUBLIC BENEFIT PROVIDED BY THIS CPD.

MAXIMUM INTENSITY:

- MAXIMUM OF 130 GUEST UNITS
- MAXIMUM ZONED HEIGHT: 40'5" ABOVE BASE FLOOD ELEVATION
- MAXIMUM FLOOR AREA RATIO (FAR): 1.2 OR 58,432 SF

PARKING:

- TOTAL PARKING PROVIDED: 99 SPACES, INCLUSIVE OF 8 GOLF CART PARKING SPACES, CREDIT FOR 2 BICYCLE PARKING SPACES, AND 7 ON-STREET PARKING SPACES.
  - O BUILDING 1: 7 SPACES
  - O BUILDING 2: 12 SPACES
  - O BUILDING 3: 15 SPACES
  - O BUILDING 5: 25 SPACES
  - O OPEN SURFACE PARKING: 23 SPACES
- BICYCLE PARKING CREDIT: 2 SPACES (MINIMUM OF TWO BIKE RACKS WILL BE PROVIDED ON SITE)

DEVIATIONS:

1. DEVIATION FROM LDC SECTION 10-285(A) WHICH REQUIRES A MINIMUM CONNECTION SEPARATION OF 125 FEET ALONG A LOCAL ROAD (FIFTH AVENUE); TO ALLOW A CONNECTION SEPARATION OF 83 FEET FROM TWO EXISTING DRIVEWAYS.
2. DEVIATION FROM THE FAR REQUIREMENTS OF LDC SEC. 34-633, WHICH INCLUDES COVERED PARKING IN THE FAR CALCULATION TO EXCLUDE THE UNDER-BUILDING PARKING FROM THIS RESORT'S FAR CALCULATION.
3. DEVIATION 3 REQUESTS RELIEF FROM LDC SECTION 30-5(A)(1)B.3.III WHICH ALLOWS A MAXIMUM HEIGHT OF 5 FEET FOR A MONUMENT SIGN TO ALLOW AN OVERALL HEIGHT OF 9.7' FOR "SIGN C" ON FIFTH STREET.
4. DEVIATION 4 REQUESTS RELIEF FROM LDC SEC. 30-5(A)(1)B.1 FOR INTERNAL ILLUMINATION OF THE SIGN FACES TO REMAIN AS EXISTING, WHERE THEY WOULD OTHERWISE BE REQUIRED TO EMIT LIGHT ONLY FROM THE LETTERS AND SYMBOLS OF THE SIGN FACE.
5. A DEVIATION FROM LDC DIVISION 4, TABLE 34-3 FOR THE CR ZONING DISTRICT WHICH LIMITS HEIGHT TO 30 FEET ZONED HEIGHT AND THREE (3) STORIES TO ALLOW A MAXIMUM ACTUAL HEIGHT OF 40.5 FEET ABOVE BASE FLOOD ELEVATION AND A MAXIMUM OF FOUR (4) STORIES CONSISTING OF THREE (3) STORIES ABOVE ONE (1) LEVEL OF PARKING.
6. A DEVIATION FROM LDC DIVISION 4, TABLE 34-3 FOR THE CR ZONING DISTRICT WHICH REQUIRES STREET SETBACKS OF 10 FEET TO INSTEAD ALLOW FOR BUILD-TO LINES OF 0 FEET AND 6.75 FEET ALONG SAN CARLOS BOULEVARD, THIRD STREET AND FIFTH STREET.
7. A DEVIATION FROM LDC SECTION 30-5(A)(1)A WHICH ALLOWS A MAXIMUM OF 32 SQUARE FEET OF SIGNAGE FOR A PARCEL OF LAND CONTAINING ONE OR TWO BUSINESS ESTABLISHMENTS TO ALLOW A MURAL-STYLE SIGN ON THE EAST ELEVATION OF BUILDING 5 OF 104 SQUARE FEET, AS DEPICTED ON THE MCP.
8. A DEVIATION FROM LDC SECTION 30-5(A)(1)A WHICH ALLOWS A MAXIMUM OF 32 SQUARE FEET OF SIGNAGE FOR A PARCEL OF LAND CONTAINING ONE OR TWO BUSINESS ESTABLISHMENTS TO ALLOW A MURAL-STYLE SIGN ON THE SOUTH ELEVATION OF BUILDING 5 OF 100 SQUARE FEET, AS DEPICTED ON THE MCP.
9. A DEVIATION FROM LDC SECTION 30-5(A)(1)B.3.III WHICH ALLOWS A MAXIMUM HEIGHT OF 5 FEET FOR A MONUMENT SIGN TO ALLOW AN OVERALL HEIGHT OF 10 FEET FOR A MONUMENT SIGN AT THE CORNER OF CRESCENT STREET AND FIFTH STREET, AS DEPICTED ON THE MCP.
10. A DEVIATION FROM LDC SECTION 30-8(16) WHICH PROHIBITS POLE SIGNS TO ALLOW A DECORATIVE WAYFINDING POLE SIGN ON THE CORNER OF THIRD STREET AND SAN CARLOS BOULEVARD, AS DEPICTED ON THE MCP.
11. A DEVIATION FROM LDC SEC. 34-1804(A) AND SEC. 34-2020, WHICH REGULATE PARKING FOR HOTELS/MOTELS AND OTHER ACCESSORY USES, TO ALLOW A 58% REDUCTION IN PARKING REQUIREMENTS FOR A TOTAL OF 82 ON-SITE PARKING SPACES AND 99 TOTAL PARKING SPACES, INCLUSIVE OF 7 PREVIOUSLY APPROVED ON-STREET PARKING SPACES, 8 GOLF CART PARKING SPACES, AND CREDIT FOR 2 BICYCLE PARKING SPACES.

#	REVISION	DRAWN	DATE

THE NEIGHBORHOOD COMPANY
5618 WHISPERING WILLOW WAY | FORT MYERS, FL 33908
WWW.THENEIGHBORHOOD.COMPANY

CLIENT: LIGHTHOUSE ISLAND RESORT INC

PROJECT: LIGHTHOUSE ISLAND RESORT (CPD)

TITLE: NOTES

PROJECT NO. 220050.01.01 | DATE: 01/25 | DRAWN: F.L. | DESIGN: P.V. | SHEET NUMBER: 4 OF 4

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE:	**Commercial Planned Development Amendment**
CASE NUMBER:	**DCI Rezoning 20250035.2**
CASE NAME:	**Lighthouse Island Resort**
LPA HEARING DATE:	**April 29th, 2025**
TOWN COUNCIL HEARING DATE:	**May 19th, 2025**
STAFF RECOMMENDATION:	**Approval with Conditions**
PREPARED/ SUBMITTED BY:	**Judith Frankel, AICP**

I. APPLICATION SUMMARY

Applicant/Owner:	Lighthouse Island Resort, Inc./The Neighborhood Company
Request:	Amend the existing CPD RES#18-17 to 1) increase hotel density from 75 units to 130 units, 2) increase maximum height from 37' above BFE to 40.5' above BFE, 3) provide a revised MCP without phasing, and 4) modifications of existing conditions and deviations.
Subject property:	See Exhibit B
Physical Address:	1051 Fifth Street and 1060 Third Street
STRAP #:	24-46-23-W3-00205.0060 and 24-46-23-W3-00203.0150)
FLU:	Pedestrian Commercial
Zoning:	CPD/Downtown

Adjacent zoning and land uses:

North:	DOWNTOWN Residential
South:	CPD Margaritaville Resort
East:	RESIDENTIAL MULTIFAMILY (RM) Residential

West: DOWNTOWN and CPD
Commercial, Parking and Matanzas Pass Bridge

II. BACKGROUND AND ANALYSIS

The applicant, The Neighborhood Company, on behalf of the property owner Lighthouse Island Resort, Inc., is requesting to amend the CPD approved in Resolution 18-17. The requested amendment will alter the Master Concept Plan, schedule of uses, deviations, and conditions for this CPD. The applicant is requesting to amend the CPD boundary under a separate ordinance.

The property totals 1.87 acres and is located directly east of the Matanzas Pass Bridge. The property has a Future Land Use (FLU) Designation of Pedestrian Commercial. The larger parcel fronting San Carlos Boulevard and Fifth Street has a zoning designation of Commercial Planned Development (CPD) and the corner parcel at 1060 Third Street has a zoning designation of Downtown.

The Lighthouse Island Resort has been in operation in its present location for over 60 years. There have been several changes to the site during this time. The most notable occurred in 1977 when approximately half an acre of property was utilized by the Florida Department of Transportation (FDOT) for the construction of the Matanzas Pass Bridge. This action reduced the property from 32 original platted lots to 20. (*See the applicant provided document titled Platted Lot Exhibit.)* The former Fourth Street court was vacated to the resort at that time.

The original Lighthouse Resort CPD was approved in 1999, when the existing property was rezoned from C-1 to CPD to facilitate redevelopment. At the time of rezoning, the resort consisted of 72 hotel units spread over multiple one- and two-story wood frame buildings, a tiki bar, and basic resort amenities. Since that time, there have been five amendments to the CPD. An amendment in 2003 added additional permitted uses, expanded restaurant square footage, and added deviations including perimeter setbacks and parking space dimensions; an amendment in 2013 created a five phase Master Concept Plan (MCP) and added additional deviations for floor area ratio (FAR) relief and signage size and placement; a second amendment in 2013 added a deviation for sign illumination; an amendment in 2018 increased the total hotel units from 72 to 75 through a density transfer; and an administrative amendment in 2024 made minor adjustments to the MCP for the pool deck.

At the April 29th, 2025 LPA meeting, the LPA voted 7 to 0 to recommend approval with condition of this application. The LPA recommended adding a condition of approval to include lighting of the western boundary pathway as a part of the project's Development Order.

Analysis:
The Lighthouse Island Resort has been a longstanding feature and community-member of Fort Myers Beach. The resort has grown over the last 60 years to evolve with the Town. The current proposal aims to continue that growth. Per the applicant:

> *Like many hotels on Fort Myers Beach, the Lighthouse Island Resort suffered significant damage as a result of Hurricane Ian. Although the resort was able to reopen, it is currently operating at approximately 60% of its pre-Ian capacity as a direct result of damage from the storm. A combination of current economic conditions and a desire to create a more family-friendly destination resort has led the property owners to request additional hotel units and height, as well as*

incorporating the parcel at the corner of Crescent Street and Third Street into the CPD.

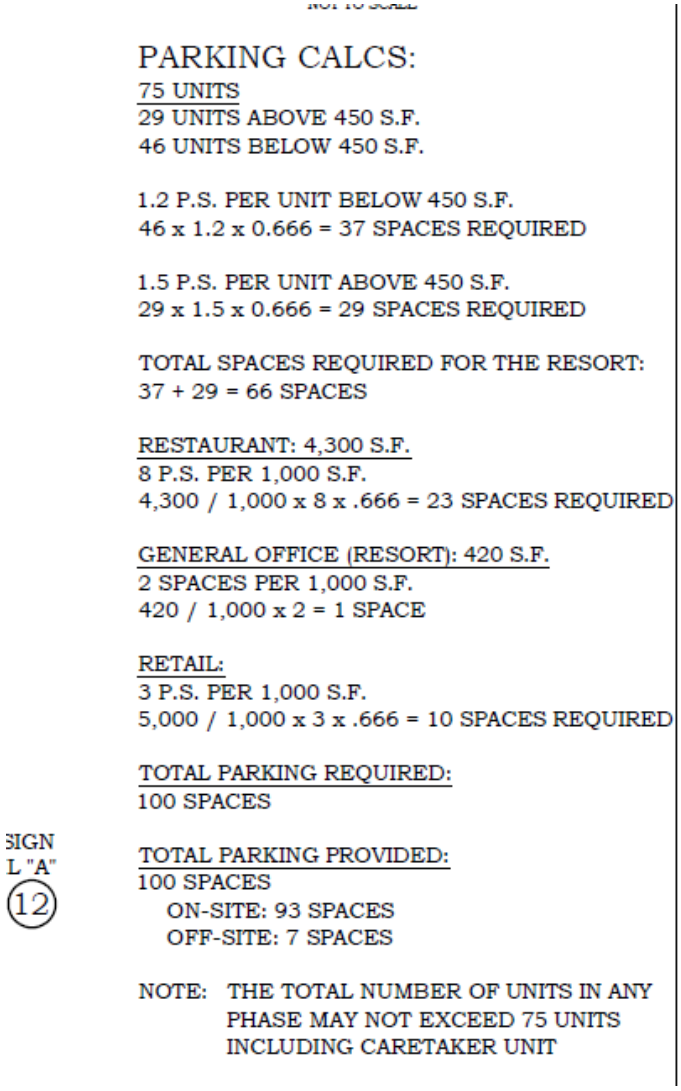
The proposed increased density will potentially add more visitors to the Town's downtown core, adding to the revitalization of Times Square and the business district on Old San Carlos Boulevard. Staff are concerned about the sufficiency of the parking for the increased density and the LPA should determine if Deviation #11 is appropriate for the proposed amendment.

Parking

POLICY 7-A-2 PARKING: "*Even though existing parking lots are not used to capacity; parking is not abundant at Fort Myers Beach. The welcome rebirth of commercial activity near Times Square will increase the demand for parking."* This will potentially be true of this resort and staff are concerned that sufficient parking will not be available for hotel guests. The applicant provides golf cart parking spaces and bicycle racks although these may be utilized during a guest's stay it is not feasible for visitors to travel from off-island by these methods. Staff agree with the applicant that once at the resort the guests can travel to many destinations on foot, by bicycle or public transit.

The MCP from the 2018 CPD amendment notes 7 off-site parking spaces to be available in the 5th phase of the development. These spaces are not mentioned in the resolution itself, and their location is not noted on the MCP. The resolution does not contain any deviations for parking. However, the development was allowed to use the 7 off-site parking spaces towards their required 100 spaces.

The parking calculations below are taken from the approved MCP for Resolution 18-17.



Equivalency Factor

As stated by the applicant in their narrative and noted in Condition 2 of the existing CPD resolution 18-17, the hotel units were limited to 75. These units included a caretaker unit and the transfer of development rights for 3 dwelling units from 2639/2641 Estero Blvd. which is owned by the Town of Fort Myers Beach. It seems that at the time of this resolution in 2018 staff and the applicant had determined that the transfer of these rights was necessary to increase number of units at the resort.

Staff determination of necessary equivalency factor for 130 lodging units on 1.87 acres is 11.59. The FLU is Pedestrian Commercial which allows 6 DUs per acre for 11.22 DUs/acre at this site. 11.22 multiplied by a factor of 11.59 equals 130 units. The first table comparison provided on page 12 of the applicant's Narrative provides an equivalency factor based on the original platting of the land. The applicant provided Platted Lots exhibit demonstrates the original platting of the site for many small single-family lots. The justification provided by the applicant for a density calculation based on the original platting is not false, but is not full representation of the number of proposed units per acre. The second table shown on page 12 of the applicant provided Narrative is a clearer view of the density as compared to other nearby properties.

The original Lighthouse Resort CPD was approved for 72 units on a total of ±1.673 acres, or a density of 43 units per acre. A CPD amendment in 2018 added three units for a total of 75, or a density of 40 units per acre (net density decreased because of additional acreage added to the CPD in 2013 and 2018). The current request is for 130 units on 1.87 acres for a density of 69.5 units per acre. Per LDC Section 34-1803(a)(2) equivalency factors exceeding the allowances in the table (see above) can be requested under exceptional circumstances and through the provision of public benefits.
The proposal amendment does further several Comprehensive Plan goals, including the revitalization of the downtown core (Objective 3-D) and the provision of pedestrian-oriented commercial uses (Policy 4-B-6). Staff advise the LPA to consider if the proposed public benefits are balanced with this proposed increase in density.

Neighborhood Compatibility:

The Lighthouse Island Resort is in the downtown area of Fort Myers Beach, which is intended as the commercial center for the Town. The site is neighboring the Margaritaville Resort and Times Squares, both are attractions for visitors and residents. This is an appropriate location for the proposed uses.

Schedule of Uses
All uses permitted by right in the downtown zoning district with the following limitations:

- Restaurant use is limited to 4,300 square feet
- Retail is limited to 500 square feet accessory to the primary resort use
- Office is limited to 420 square feet accessory to the primary resort use
- Hotel/motel units limited to a maximum of 130 lawfully existing guest units

Proposed Deviations:
See applicant document titled Deviations and Justifications for an analysis by the applicant.

Deviation #1

Deviation 1 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Fifth Avenue); to allow a connection separation of 83 feet from two existing driveways. (existing Deviation in Resolution 18-17)

This deviation is necessary to maintain the current driveway access points for the property.

Deviation #2

Deviation 2 requests relief from the F.A.R. requirements of LDC Sec. 34-633, which includes covered parking in the FAR calculation to exclude the under-building parking from this resort's FAR calculation. (existing Deviation in Resolution 18-17)

This deviation adjusts the language used in Resolution 18-17 which listed the exact square forage to be excluded from the FAR calculation. This re-write allows all ground level parking areas to be excluded.

Deviation #3

Deviation 3 requests relief from LDC Section 30-5(a)(1)b.3.iii which allows a maximum height of 5 feet for a monument sign to allow an overall height of 9.7' for "Sign C" on Fifth Street. (existing Deviation in Resolution 18-17)

This deviation was previously approved and there are no proposed changes to the existing sign. The amendments to the deviation language are consistent with the Town's amended sign code (Ord. 23-01), which no longer specifies a maximum height for the base of a monument sign.

Deviation #4

Deviation 4 requests relief from LDC Sec. 30-5(a)(1)b.1 for internal illumination of the sign faces to remain as existing, where they would otherwise be required to emit light only from the letters and symbols of the sign face. (existing Deviation in Resolution 18-17)

This deviation was previously approved and there are no proposed changes to existing illuminated signage. The amendments to the deviation language simply update the LDC reference consistent with the Town's amended sign code (Ord. 23-01).

Deviation #5

A deviation from LDC Division 4, Table 34-3 for the CR zoning district which limits height to 30 feet zoned height and three (3) stories to allow a maximum zoned height of 40 feet 5 inches above base flood elevation and a maximum of four (4) stories consisting of three (3) stories above one (1) level of parking.

This deviation will allow for an increase from a maximum height above BFE of 37-feet to a maximum height above BFE to 40.5-feet as measured to the mean roof height. The applicant is proposing a range of building heights for the resort however these heights are not marked on the MCP. Building 5 is located closest to the Matanzas Pass bridge and is the structure to be mainly impacted by this increase in height. The infill development (Building 1) on the Crescent Street parcel proposed to be added to the CPD will be under 30 feet, providing a transition from residential uses on the east side of Crescent Street. 3.5-feet in this locate will not be injurious to the surrounding neighborhood.

Deviation #6

A deviation from LDC Division 4, Table 34-3 for the CR zoning district which requires street setbacks of 10 feet to instead allow for build-to lines of 0’ and 6.75’ feet along San Carlos Boulevard, Third Street, and Fifth Street.

The existing CPD had approved deviations for perimeter and street setbacks, ranging from 0’ to 7.4’ The requested deviation reflects the existing conditions and proposed buildings fronting Third Street, Fifth Street, and San Carlos Boulevard. Relief from the required 10’ street setback promotes pedestrian access to the Downtown district by bringing buildings closer to the “public realm” and is consistent with the vision of the Pedestrian Commercial future land use designation, which emphasizes a pedestrian-friendly downtown.

Deviation #7

A deviation from LDC Section 30-5(a)(1)a which allows a maximum of 32 square feet of signage for a parcel of land containing one or two business establishments to allow a mural-style sign on the **east elevation of Building 5** of 104 square feet, as depicted on the MCP.

The Lighthouse Island Resort comprises ±1.87 acres, which is a significantly larger area than the average parcel containing one or two business establishments. Due to the scale of the resort and the situation of the resort as surrounded by roadways, it is reasonable to permit multiple signs totaling more than the LDC maximum of 32 square feet. See the applicant provided rendering for greater detail on the signs.

Deviation #8

A deviation from LDC Section 30-5(a)(1)a which allows a maximum of 32 square feet of signage for a parcel of land containing one or two business establishments to allow a mural-style sign on the **south elevation of Building 5** of 100 square feet, as depicted on the MCP.

The Lighthouse Island Resort comprises ±1.87 acres, which is a significantly larger area than the average parcel containing one or two business establishments. Due to the scale of the resort and the situation of the resort as surrounded by roadways, it is reasonable to permit multiple signs totaling more than the LDC maximum of 32 square feet. See the applicant provided rendering for greater detail on the signs.

Deviation #9

A deviation from LDC Section 30-5(a)(1)b.3.iii which allows a maximum height of 5 feet for a monument sign to allow an overall height of 10 feet for a monument sign at the **corner of Crescent Street and Fifth Street**, as depicted on the MCP.

A deviation was previously approved for a 9.7' monument sign in this location. This deviation proposes a replacement monument sign with an architectural embellishment that is 10' and an actual sign height of 3'4". The proposed sign is consistent with the architectural style of the resort. See the applicant document title Deviations and Justifications for a depiction of this sign.

Deviation #10

A deviation from LDC Section 30-8(16) which prohibits pole signs to allow a decorative wayfinding pole sign on the corner of **Third Street and San Carlos Boulevard**, as depicted on the MCP.

This deviation is for an artistic wayfinding sign intended to both direct pedestrians and add color to the public realm.

Deviation #11

A deviation from LDC Sec. 34-1804(A) and Sec. 34-2020, which regulates parking for hotels/motels and other accessory uses, to allow a 58% reduction in parking requirements for a total of 82 on-site parking spaces.

The existing CPD was approved with 100 parking spaces for Phase V at buildout, which included parking for 75 hotel units, 4,300 SF of restaurant, 420 SF of office space, and 5,000 SF of retail uses. Of the 100 approved spaces, 93 were on-site and 7 were off-site. The previously approved parking calculations utilized the 33% parking reduction applicable to specific areas within the Downtown zoning district.

The current CPD amendment proposes 82 on-site LDC-compliant parking spaces. This is a reduction from the previously required 93 on-site spaces for 75 hotel units and accessory retail and restaurant uses. The present amendment proposes 130 hotel units and minimal retail and reduces the on-site parking count to 82 spaces. The applicant notes that there are 7 street parking spaces adjacent to the resort, but these are public parking spots regulated by the Town. If the applicant would like to restrict their use for only hotel guests, the spots must be leased from the Town through an agreement. The applicant is also noting that they are providing 8 golf cart spaces and 2 bicycle parking spaces. It is unlikely that hotel guests will travel to the resort by golf cart or bicycle. although they may utilize them while visiting. Staff advise the LPA to consider if this reduction is appropriate.

See the applicant provide document titled Parking Analysis.

IV. FINDINGS AND CONCULSIONS

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

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

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

Staff response: No errors or ambiguities exist.

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

Staff response: The resort was partially damaged by Hurricane Ian.

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

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

(4) The testimony of any applicant.

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

(6) The testimony of the public.

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

Staff response: The requests, including but not limited to the increased density and height requests, are consistent with the Town of Fort Myers Beach Comprehensive Plan.

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

Staff response: The proposed development will be required to meet performance standards set forth in 34-2031 and 34-2032.

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

Staff response: The urban services exist in this location.

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

Staff response: The request will have no impact on designated environmentally critical areas and natural resources. The request does not include any revision to the environmentally critical areas.

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

Staff response: The requested uses are compatible.

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

Staff response: The location is compatible.

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

LDC Sec. 34-85 (c) Findings: Before granting any rezoning, the town council shall find that the requested zoning district complies with:

(1) The Fort Myers Beach Comprehensive Plan.

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

(2) This chapter.

Staff response: The proposed uses comply with this chapter.

(3) Any other applicable town ordinances or codes.

Staff response: The proposed request complies with the town ordinances and codes except for the requested deviations and the proposed equivalency factor.

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

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

a. The proposed use or mix of uses is appropriate at the subject location;
Staff response: The proposed uses are appropriate.
b. Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations.
Staff response: Sufficient safeguards are provided for the public interest.
c. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development;
Staff response: The special conditions are related to the impact on the public's interest.
d. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:

1. Policies 4-B-4 and 4-C-3 on commercial uses in the "mixed residential" category.
Staff response: Not applicable.
2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "boulevard" category.
Staff response: Not applicable.
3. Policy 4-C-4 on building heights taller than the standard height limit.
Staff response: Additional height is requested. The Town's Comprehensive Plan allows for additional height through this policy for parcels that are contiguous from taller buildings. The Lighthouse Island Resort CPD currently allows a maximum height of 37 feet above base flood elevation. Margaritaville is directly south of the subject property, allowing a maximum of four stories or 40 feet. The proposed amendment is requesting a zoned height of 40'5" above base flood elevation, which is consistent with the neighboring Margaritaville
4. Policy 4-C-8 on density transfers.
Staff response: Not applicable.
5. Policy 4-E-1 on pre-disaster build back.
Staff response: Not applicable.
6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.
Staff response: There are no additional anticipated adverse traffic impacts. The submitted TIS is under review with comments to be provided at the time of Town Council hearing.

Findings for Deviation Requests:

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

a. Each item enhances the achievement of the objectives of the planned development; and
Staff response: The requested deviations are related to an efficient functioning of the MCP except for deviation #11.

b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted;
Staff response: The proposed deviations preserve public health.

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

Staff response: The deviations are not a detriment to the public interest.

d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.
Staff response: The deviations are consistent with the comprehensive plan

V. RECOMMENDATION

Prior to this application being heard by the Town Council the applicant must add the following items to the MCP:

- Define where trash/solid waste will be collected and removed from the site on the MCP.
- The MCP must note the height of each building.
- Demonstrate COP areas on MCP to reflect the condition of approval

Staff recommend that the LPA consider the parking space reduction request in deviation #11 and determine if that is appropriate for the site or if the request should be altered. A minimum of one parking space per room (130) would better accommodate guests and employees. The applicant is offering programmatic alternatives to driving for both guests and employees, but staff is not able to evaluate the effectiveness of those policies. (See applicant provided document Proposed Condition and Commitments for program details.)

Staff find that the CPD amendment meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC. If the LPA determines that deviation #11 is appropriate, staff recommends **approval with conditions** of DCI20250035.2. The recommended conditions are listed below and are intended to reduce the potential for nuisance to the neighboring residential parcels.

Proposed Conditions of Approval

1. Final architectural design must be generally consistent with renderings provided in addition to the Master Concept Plan.
2. Prior approval of a development order the MCP must be revised to reflect the conditions of approval as determined by the ordinance.
3. Applicant must receive approval from the Town Manager for “back out” parking along Third Street per LDC Sec. 34-2015.
4. The installation and use of the proposed “pedestrian pathway” is subject to approval by FDOT. Within six months of zoning approval by the town council, the property owner will coordinate with FDOT regarding enhancements to the San Carlos Boulevard/Matanzas Pass Bridge right-of-way.
5. All signs in or near the ROW will require sight-triangle analysis per Sec. 30(a)(4).
6. Access through and along the resort pathway connecting the existing sidewalk arcade on Fifth Street to San Carlos Boulevard, must be open to the public during the resort’s restaurant operational hours to encourage pedestrian movement between the east and west sides of the resort.
7. All landscaping materials will be native varieties/Florida friendly species.
8. At the time of Development Order on the property boundary survey, the LIMWA (Limit of moderate wave action) Boundary line (Coastal A Zone) must be demonstrated.
9. At the time of Development Order the architectural elevation sheets 5 through 7 must have the lowest horizontal member added on the cross-section details.

10. The applicant must provide at least 1 bike rack.
11. Consumption of Premises (COP) Service of alcohol for on-premises consumption is approved at the location depicted on the Master Concept Plan, subject to these limitations:
    a. For Building 5, on the elevated pool deck.
    b. For the tiki bar and pool deck on the south end of the property between Buildings 3 and 5, limited to the areas depicted on the Master Concept Plan.
    c. For the tiki bar and pool deck on the north end of the property between Buildings 2 and 6, limited to the areas depicted on the Master Concept Plan.
12. Hours of operation for outdoor areas will be limited to the following unless otherwise temporarily altered by the Town's special event use regulations in LDC Section 34-1264. All other hours of operation will be regulated by the LDC.
    a. Pool deck (Building 5): 9:00am to 12:00am
    b. Pool deck and tiki bar (south end between Buildings 3 and 5): 9:00am to 2:00am
    c. Pool deck and tiki bar (north end between Buildings 2 and 6): 9:00am to 10:00pm

ORDINANCE 18-17

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AN AMENDMENT TO THE CURRENT ZONING MAP FROM DOWNTOWN ZONING DISTRICT TO COMMERCIAL PLANNED DEVELOPMENT (CPD) AND AN AMENDMENT TO THE LIGHTHOUSE ISLAND RESORT MASTER CONCEPT PLAN PREVIOUSLY AMENDED AND APPROVED BY RESOLUTION 13-29, TO INCLUDE THE TWO PARCELS CONTAINING APPROXIMATELY 4,000 SQUARE FEET, AS DEVELOPED WITH MODIFIED CONDITIONS OF APPROVAL AND DEVIATIONS; GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00203.019A AND A PORTION OF LOT 14 CONSIDERED PART OF TOWN RIGHT-OF-WAY; PETITION DCI18-0002; PROVIDING FOR SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, Lighthouse Island Resort, Inc. filed application to rezone the property from the Downtown zoning district to CPD with amended Master Concept Plan (MCP), in order to add two developed portions of property containing 4,000+/- square feet, and increase the total rooms from 72 to 75, to the Lighthouse Island Resort development located primarily at 1051 Fifth Street in the Town of Fort Myers Beach; and

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

WHEREAS, the property requested to be rezoned and included with the Lighthouse Island Resort are adjacent to the Lighthouse Island Resort property; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on October 9, 2018; and

WHEREAS, at the October 9th, 2018 public hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, as required by Town Land Development Code (LDC) s. 34-85; and

WHEREAS, at the October 9th, 2018 public hearing the LPA recommended approval based on findings and considerations as outlined in the staff report, by a 7-0 vote, subject to certain conditions and deviations; and

WHEREAS, on November 5th, 2018 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

WHEREAS, a second reading of the proposed Ordinance and a public hearing on this matter legally advertised and held before the Town Council on November 19th, 2018 at which time the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

WHEREAS, this approval is subject to the findings and considerations beginning on packet page 21 through 24, with the exception to Policy 4-E-1, which should read the predisaster buildback policy is being utilized for this development.

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

The Town Council votes to **APPROVE.** the request to rezone the subject property to CPD with MCP, subject to the deviations and conditions set for with specificity.

CONDITIONS:

Condition 1.

The development of this project must be consistent with the five (5) page Master Concept Plan entitled "Master Concept Plan (CPD) for Lighthouse Island Resort" last revised 3-12-2013, except as modified by the conditions and deviations below. Phase 1-A is not accepted. A modified MCP set shall be submitted for the record and include any conditions of approval and deviations herein.

Condition 2.

The following limitations apply to the project and uses:

a. Schedule of Uses

All uses permitted by right in the Downtown zoning district with the following limitations:
Restaurant is limited to 4,300 square feet
Retail is limited to 5,000 square feet
Office is limited to 420 square feet
Hotel/Motel units limited to a maximum of 75 lawfully existing guest units, which total includes the unit for the caretaker and the permanent transfer of all dwelling units from 2639/2641 Estero Blvd. (19-46-24-W3-0020C.0180) for the exceptional circumstance to benefit the Heart of the Island recreational, historic, environmental, and cultural resources of the Town; to be used for increased access and egress, increase public access of the parcel, increase access to public facilities, non-occupied buildings and permanent ownership by the Town.

b. Site Development Regulations

Building placement, size, design, and all other property development regulations shall be the same as for the CR (Commercial Resort) zoning district unless approved as deviations as part of the approved zoning resolution.

Condition 3.

Maximum building height may not exceed 37 feet above Base Flood Elevation. No additional building height is approved within this planned development.

Condition 4.
Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.

Condition 5.
The final design of the building within this planned development must be approved by the Town Manager prior to the approval of any permits. The design must be in substantial compliance with the Town of Fort Myers Beach Comprehensive Plan, the Land Development Code, and all other applicable requirements.

Condition 6.
The 5,000 square feet of retail uses are limited to the ground floor of the Phase 2 building as depicted on the approved Master Concept Plan. The ground floor will have to be dry flood proofed and must be constructed in compliance with Chapter 6 of the Land Development Code.

Condition 7.
At no time will the total number of Hotel/Motel units exceed 75 guest units.

Condition 8.
Prior to approval of a development order, the correct sidewalk easement must be recorded in the Public Records of Lee County, Florida.

Condition 9.
Prior to seeking any building permits for development on this site, the developer must combine the existing platted lots into one lot of record as part of the local development order for this CPD project not later than February 28, 2019.

Condition 10.
Prior to each local development order approval, the developer must provide a current tally of the square feet for each use approved in all previous local development orders.

Condition 11.
The total square feet of existing and proposed buildings must not exceed 58,432 square feet of total building area for buildings used as hotel/motel guest units.

Condition 12.
Any off-site parking, other than the existing approved 5 off-site parking spaces, must be addressed through an amendment to this CPD.

Condition 13.
Any outdoor seating for the restaurant and any sign that will require a deviation must be addressed through an amendment to this CPD.

Condition 14.
This development must comply with all requirements of the LDC at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

Condition 15.
This CPD project must be constructed to build-out no later than December 31, 2025. A completed building permit and start of construction to the next phase shall occur prior to December 31, 2023.

Condition 16.
All signs containing commercial messages, including those shown for the proposed restaurant in Phase II-A, must be in compliance with LDC Chapter 30, except as approved herein by deviations.

Condition 17.
The deviation for internal illumination of signs is approved only for the existing signs. If the signage is moved, removed, or damaged beyond repair, the deviation will be null and void, and any new signage must comply with the regulations of the LDC.

Condition 18.
Any violation of these conditions shall be subject to a maximum $500 per incident, per day fine.

DEVIATIONS:

Deviation #1
Deviation 1 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Crescent Street); to allow a connection separation of 83 feet from Fifth Avenue. This deviation is unchanged from the previously approved MCP and is APPROVED.

Deviation #2
Deviation 2 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Crescent Street); to allow a connection separation of 115 feet from Third Street. This deviation is unchanged from the previously approved MCP and is APPROVED.

Deviation #3
Deviation 3 was from a previous Lee County LDC requirement, and is no longer necessary. The Fort Myers Beach LDC does not regulate building separation within a project site.

Deviation #4
Deviation 4 requests relief from LDC Table 34-3 which requires certain setbacks for structures, buildings, and pavement from the development perimeters; to allow the reduced setbacks of 7.4', 4.5', 3', 2.6', 1.5, 1.4', & 0', from the development perimeter as depicted on the Master Concept

Plan. All of the setbacks were previously approved on the existing MCP for this project. This deviation is **APPROVED.**

Deviation #5

Deviation 5 requests relief from LDC Table 34-3 which provides the property development regulations for the Fort Myers Beach Commercial Resort (CR) zoning district; to allow street setbacks of 4.5', 2.0', and 0' along San Carlos Boulevard. All of the setbacks were previously approved on the existing MCP for this project. This deviation is **APPROVED.**

Deviation #6

Deviation 6 requests relief from LDC Section 34-2016 which requires 90 degree parking spaces to be a minimum of 18' in length; to allow 90 degree parking spaces to be 16' in length for Phase 2 parking only. This deviation is **APPROVED** as depicted on the approved Master Concept Plan and with the condition that these parking spaces will be removed at the time Phase 5 is constructed.

Deviation #7

Deviation 7 requests relief from LDC Section 34-2016(a) which requires parking aisles between parking spaces to be 22' in width to allow the parking aisles to be 20' in width for some areas for the Phase 2 parking only. This deviation is **APPROVED** as depicted on the approved Master Concept Plan and with the condition that these parking aisles will be removed at the time Phase 5 is constructed.

Deviation #8

Deviation 8 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Fifth Avenue); to allow a connection separation of 83 feet from two existing driveways. This deviation is **APPROVED.**

Deviation #9

Deviation 9 requests relief from the F.A.R. requirements of LDC Section 34-953 and Table 34-3 to allow additional F.A.R. to exceed the total of 66,852 square feet of residential and commercial uses to the extent necessary to develop on-site under building parking. This deviation is **APPROVED.**

Deviation #10

Deviation 10 requests relief from LDC Section 30-153(b)(1) which allows a maximum of 32 square feet of signage; to allow 126 square feet of total signage for Lighthouse Island Resort. This deviation is **APPROVED.**

Deviation #11

Deviation 11 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign; to allow 25'6" for the Lighthouse "Sign D". This deviation is **APPROVED.**

Deviation #12

Deviation 12 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign and 18 inches for the sign base; to allow the bottom of the sign at 4.1' and an overall height of 10.4' for "Sign A" on Third Street. This deviation is **APPROVED,** provided that the top of the sign face shall not exceed 8.1', as depicted in Sign Detail "A".

Deviation #13

Deviation 13 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign and 18 inches for the sign base; to allow the bottom of the sign at 4.1' and an overall sign height of 9.7' for "Sign B" on Crescent Street." This deviation is APPROVED, provided that the top of the sign face shall not exceed 8.1', as depicted in Sign Detail "B".

Deviation #14

Deviation 14 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign and 18 inches for the sign base; to allow the bottom of the sign at 4.1' and an overall height of 9.7' for "Sign C" on Fifth Street. This deviation is APPROVED, provided that the top of the sign face shall not exceed 8.1', as depicted in Sign Detail "C".

Deviation #15

Deviation 15 requests relief from LDC Section 30-154(b) which requires that all signs be set back a minimum 3 foot from any public right-of-way; to allow a 0' setback for "Sign A" located on Third Street. This deviation is APPROVED.

Deviation #16

Deviation 16 requests relief from LDC Section 30-154(b) which requires a minimum 3 foot setback from any public right-of-way; to allow "Sign B" to remain located entirely within the right-of-way at the intersection of Crescent Street and Fifth Street. This deviation is APPROVED.

Deviation #17

Deviation 17 requests relief from LDC Sec. 34-154(a) for internal illumination of the sign faces to remain as existing, where they would otherwise be required to emit light only from the letters and symbols of the sign face, subject to Condition #18. This deviation is APPROVED.

CODIFICATION AND SCRIVENER'S ERRORS.

The Town Council intends that this ordinance will not be made part of the Fort Myers Beach Code of Ordinances; typographical errors that do not affect the intent can be corrected with the authorization of the Town Manager or designee, without the need for a public hearing. Only the specific deviations granted by the Town Council and associated plan sheets reflecting those approvals with or without conditions are so incorporated.

EFFECTIVE DATE.

This ordinance becomes effective immediately upon its adoption.

THE FOREGOING ORDINANCE was enacted by the Town Council upon a motion by Council Member Joanne Shamp and seconded by Council Member Dennis Boback and, upon being put to a roll call vote, the result was as follows:

Tracey Gore, Mayor	NAY	Bruce Butcher	AYE
Anita Cereceda	AYE	Joanne Shamp, Vice Mayor	AYE
Dennis Boback	AYE		

DULY PASSED AND ENACTED this 19th day of November 2018.

ATTEST:

By: _____
Michelle D. Mayher, Town Clerk

TOWN OF FORT MYERS BEACH

By: _____
Tracey Gore, Mayor

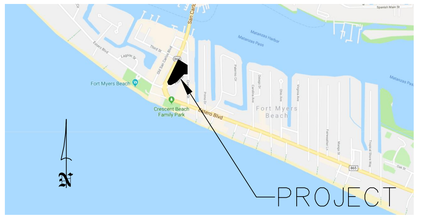
Approved as to form by:

By: _____
Peterson Law Group, Town Attorney

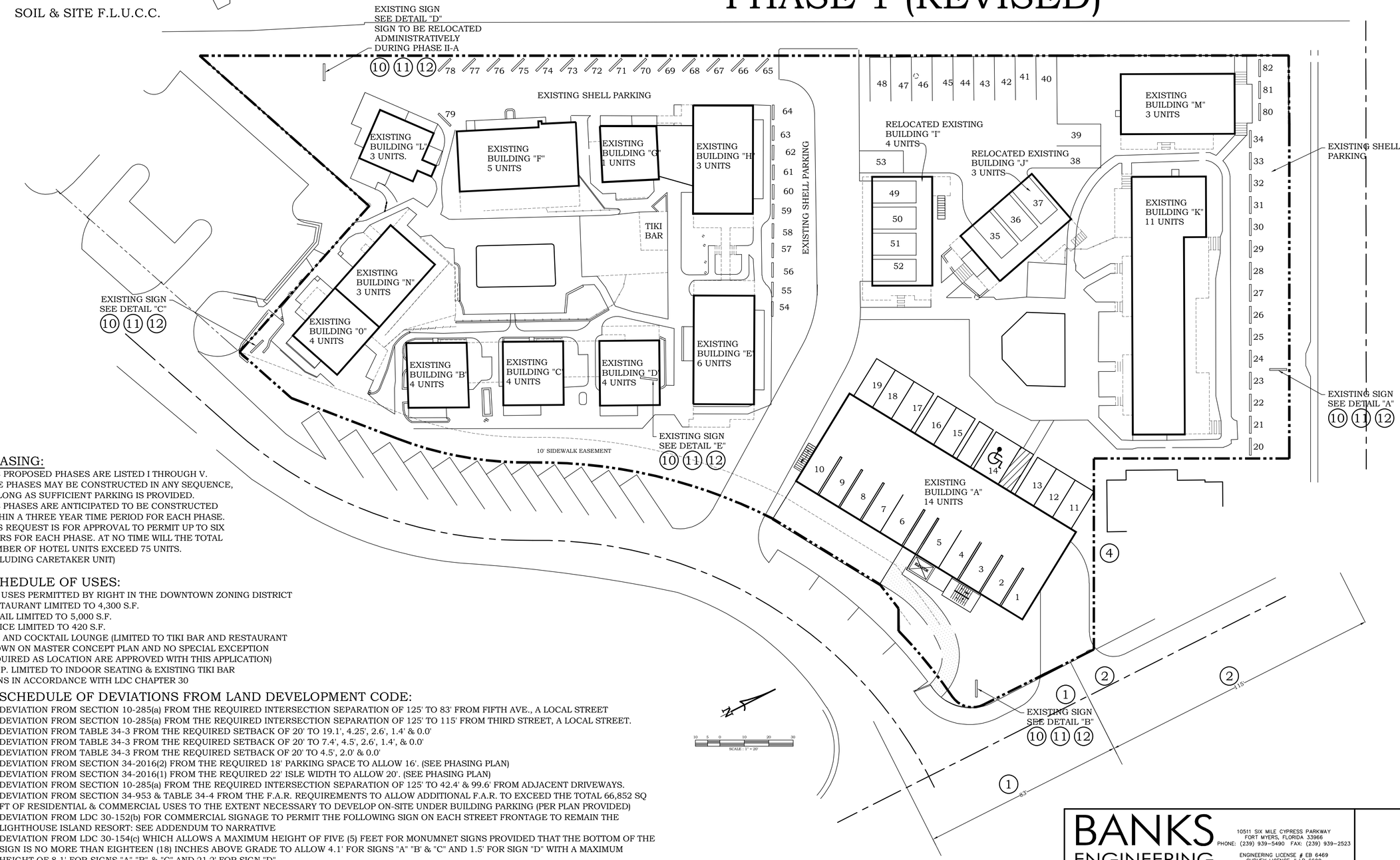
MASTER CONCEPT PLAN (CPD)
FOR
LIGHTHOUSE ISLAND RESORT
PHASE 1 (REVISED)

SOILS# 26 FLUCC # 147

SOIL & SITE F.L.U.C.C.



LOCATION MAP
NOT TO SCALE



PHASING:

THE PROPOSED PHASES ARE LISTED I THROUGH V.
THE PHASES MAY BE CONSTRUCTED IN ANY SEQUENCE, SO LONG AS SUFFICIENT PARKING IS PROVIDED.
THE PHASES ARE ANTICIPATED TO BE CONSTRUCTED WITHIN A THREE YEAR TIME PERIOD FOR EACH PHASE.
THIS REQUEST IS FOR APPROVAL TO PERMIT UP TO SIX YEARS FOR EACH PHASE. AT NO TIME WILL THE TOTAL NUMBER OF HOTEL UNITS EXCEED 75 UNITS.
(INCLUDING CARETAKER UNIT)

SCHEDULE OF USES:

ALL USES PERMITTED BY RIGHT IN THE DOWNTOWN ZONING DISTRICT
RESTAURANT LIMITED TO 4,300 S.F.
RETAIL LIMITED TO 5,000 S.F.
OFFICE LIMITED TO 420 S.F.
BAR AND COCKTAIL LOUNGE (LIMITED TO TIKI BAR AND RESTAURANT SHOWN ON MASTER CONCEPT PLAN AND NO SPECIAL EXCEPTION REQUIRED AS LOCATION ARE APPROVED WITH THIS APPLICATION)
C.O.P. LIMITED TO INDOOR SEATING & EXISTING TIKI BAR
SIGNS IN ACCORDANCE WITH LDC CHAPTER 30

SCHEDULE OF DEVIATIONS FROM LAND DEVELOPMENT CODE:

1. DEVIATION FROM SECTION 10-285(a) FROM THE REQUIRED INTERSECTION SEPARATION OF 125' TO 83' FROM FIFTH AVE., A LOCAL STREET
2. DEVIATION FROM SECTION 10-285(a) FROM THE REQUIRED INTERSECTION SEPARATION OF 125' TO 115' FROM THIRD STREET, A LOCAL STREET.
3. DEVIATION FROM TABLE 34-3 FROM THE REQUIRED SETBACK OF 20' TO 19.1', 4.25', 2.6', 1.4' & 0.0'
4. DEVIATION FROM TABLE 34-3 FROM THE REQUIRED SETBACK OF 20' TO 7.4', 4.5', 2.6', 1.4', & 0.0'
5. DEVIATION FROM TABLE 34-3 FROM THE REQUIRED SETBACK OF 20' TO 4.5', 2.0' & 0.0'
6. DEVIATION FROM SECTION 34-2016(2) FROM THE REQUIRED 18' PARKING SPACE TO ALLOW 16'. (SEE PHASING PLAN)
7. DEVIATION FROM SECTION 34-2016(1) FROM THE REQUIRED 22' ISLE WIDTH TO ALLOW 20'. (SEE PHASING PLAN)
8. DEVIATION FROM SECTION 10-285(a) FROM THE REQUIRED INTERSECTION SEPARATION OF 125' TO 42.4' & 99.6' FROM ADJACENT DRIVEWAYS.
9. DEVIATION FROM SECTION 34-953 & TABLE 34-4 FROM THE F.A.R. REQUIREMENTS TO ALLOW ADDITIONAL F.A.R. TO EXCEED THE TOTAL 66,852 SQ FT OF RESIDENTIAL & COMMERCIAL USES TO THE EXTENT NECESSARY TO DEVELOP ON-SITE UNDER BUILDING PARKING (PER PLAN PROVIDED)
10. DEVIATION FROM LDC 30-152(b) FOR COMMERCIAL SIGNAGE TO PERMIT THE FOLLOWING SIGN ON EACH STREET FRONTAGE TO REMAIN THE LIGHTHOUSE ISLAND RESORT: SEE ADDENDUM TO NARRATIVE
11. DEVIATION FROM LDC 30-154(c) WHICH ALLOWS A MAXIMUM HEIGHT OF FIVE (5) FEET FOR MONUMNET SIGNS PROVIDED THAT THE BOTTOM OF THE SIGN IS NO MORE THAN EIGHTEEN (18) INCHES ABOVE GRADE TO ALLOW 4.1' FOR SIGNS "A" "B' & "C" AND 1.5' FOR SIGN "D" WITH A MAXIMUM HEIGHT OF 8.1' FOR SIGNS "A" "B" & "C" AND 21.2' FOR SIGN "D"
12. DEVIATION FROM LDC 30-93(b) WHICH REQUIRES THREE (3) FOOT SETBACK FROM ANY SIDEWALK, BIKE PATH OR STREET RIGHT-OF-WAY TO ALLOW 0.0' FOR SIGN "A", 0.0' FOR SIGN "B" & 1.16' FOR SIGN "C"

LOCATION MAP
NOT TO SCALE

PARKING CALCS:

75 UNITS
14 UNITS ABOVE 450 S.F.
61 UNITS BELOW 450 S.F.

1.2 P.S. PER UNIT BELOW 450 S.F.
61 x 1.2 x 0.666 = 49 SPACES REQUIRED

1.5 P.S. PER UNIT ABOVE 450 S.F.
14 x 1.5 x 0.666 = 14 SPACES REQUIRED

TOTAL SPACES REQUIRED FOR THE RESORT:
49 + 14 = 63 SPACES

TOTAL PARKING REQUIRED:
63 SPACES

TOTAL PARKING PROVIDED:
89 SPACES
ON-SITE: 85 SPACES
OFF-SITE: 4 SPACES

NOTE: THE TOTAL NUMBER OF UNITS IN ANY PHASE MAY NOT EXCEED 75 UNITS INCLUDING CARETAKER UNIT

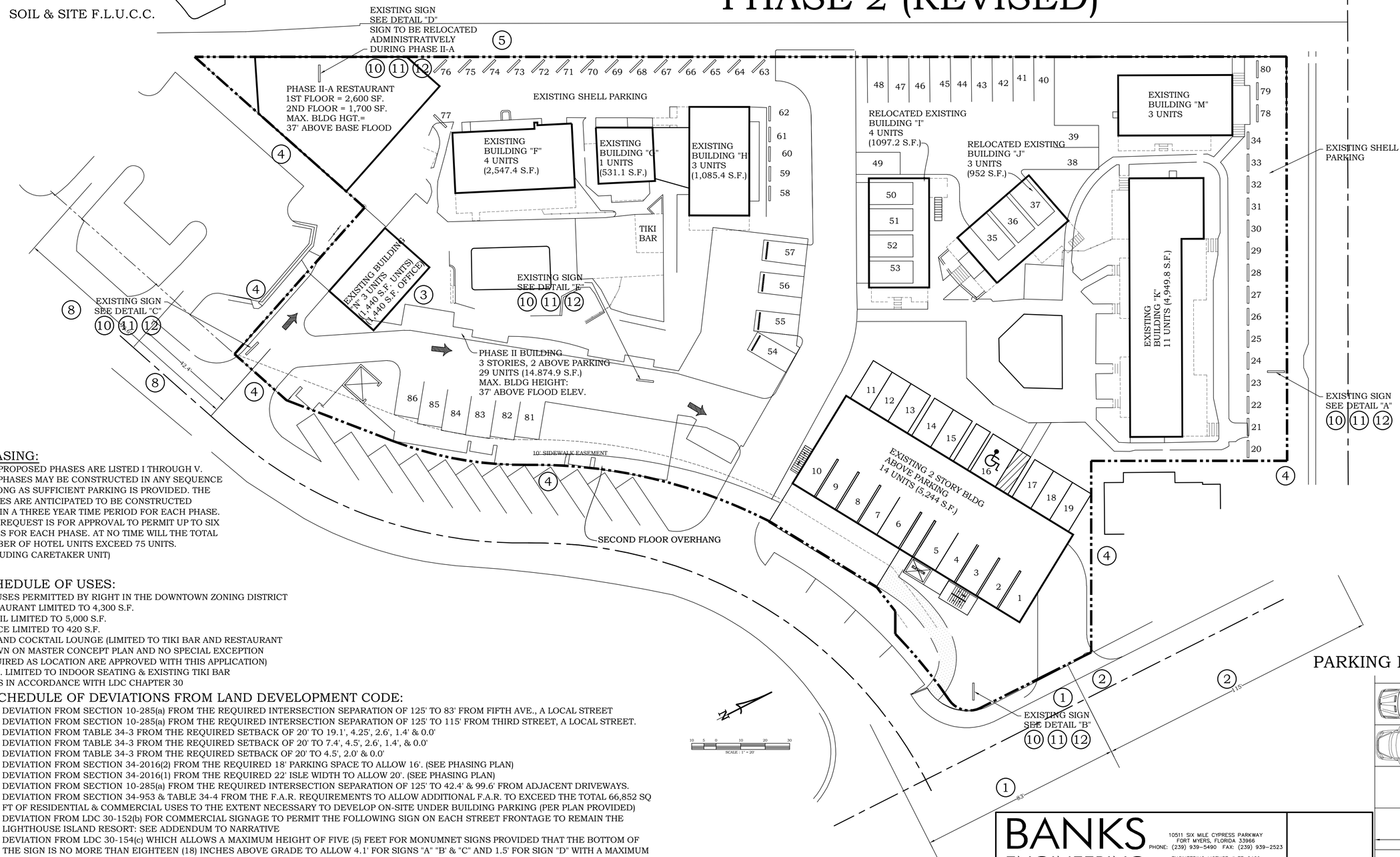
BANKS ENGINEERING
Professional Engineers, Planners, & Land Surveyors
Serving The State Of Florida
10511 SIX MILE CYPRESS PARKWAY
FORT MYERS, FLORIDA 33966
PHONE: (239) 939-5490 FAX: (239) 939-2523
ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6690
WWW.BANKSENG.COM

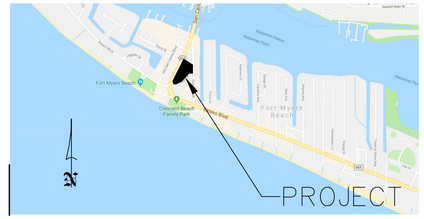
REVISED: 10-24-18
EXHIBIT IV-K

MASTER CONCEPT PLAN (CPD)
FOR
LIGHTHOUSE ISLAND RESORT
PHASE 2 (REVISED)

SOILS# 26 FLUCC # 147

SOIL & SITE F.L.U.C.C.





LOCATION MAP
NOT TO SCALE

LOCATION MAP
NOT TO SCALE

PARKING CALCS: PHASE 2

75 UNITS
19 UNITS ABOVE 450 S.F.
56 UNITS BELOW 450 S.F.

1.2 P.S. PER UNIT BELOW 450 S.F.
56 x 1.2 x 0.666 = 45 SPACES REQUIRED

1.5 P.S. PER UNIT ABOVE 450 S.F.
19 x 1.5 x 0.666 = 19 SPACES REQUIRED

TOTAL SPACES REQUIRED FOR THE RESORT:
45 + 19 = 64 SPACES

GENERAL OFFICE (RESORT): 420 S.F.
2 SPACES PER 1,000 S.F.
420 / 1,000 x 2 = 1 SPACE

TOTAL PARKING REQUIRED:
65 SPACES

TOTAL PARKING PROVIDED:
91 SPACES
ON-SITE: 89 SPACES
OFF-SITE: 2 SPACES

PARKING CALCS: PHASE 2-A

64 SPACES REQUIRED FOR PHASE 2 UNITS
1 SPACE REQUIRED FOR PHASE 2 OFFICE

RESTAURANT: 4,300 S.F.
8 P.S. PER 1,000 S.F.
4,300 / 1,000 x 8 x .666 = 23 SPACES REQUIRED

TOTAL PARKING REQUIRED:
65 SPACES FROM PHASE 2
23 SPACES FROM PHASE 2-A
65 + 23 = 88 SPACES REQUIRED

TOTAL PARKING PROVIDED:
93 SPACES
ON-SITE: 89 SPACES
OFF-SITE: 4 SPACES

NOTE: THE TOTAL NUMBER OF UNITS IN ANY PHASE MAY NOT EXCEED 75 UNITS INCLUDING CARETAKER UNIT

PHASING:

THE PROPOSED PHASES ARE LISTED I THROUGH V. THE PHASES MAY BE CONSTRUCTED IN ANY SEQUENCE SO LONG AS SUFFICIENT PARKING IS PROVIDED. THE PHASES ARE ANTICIPATED TO BE CONSTRUCTED WITHIN A THREE YEAR TIME PERIOD FOR EACH PHASE. THIS REQUEST IS FOR APPROVAL TO PERMIT UP TO SIX YEARS FOR EACH PHASE. AT NO TIME WILL THE TOTAL NUMBER OF HOTEL UNITS EXCEED 75 UNITS. (INCLUDING CARETAKER UNIT)

SCHEDULE OF USES:

ALL USES PERMITTED BY RIGHT IN THE DOWNTOWN ZONING DISTRICT
RESTAURANT LIMITED TO 4,300 S.F.
RETAIL LIMITED TO 5,000 S.F.
OFFICE LIMITED TO 420 S.F.
BAR AND COCKTAIL LOUNGE (LIMITED TO TIKI BAR AND RESTAURANT SHOWN ON MASTER CONCEPT PLAN AND NO SPECIAL EXCEPTION REQUIRED AS LOCATION ARE APPROVED WITH THIS APPLICATION)
C.O.P. LIMITED TO INDOOR SEATING & EXISTING TIKI BAR
SIGNS IN ACCORDANCE WITH LDC CHAPTER 30

SCHEDULE OF DEVIATIONS FROM LAND DEVELOPMENT CODE:

1. DEVIATION FROM SECTION 10-285(a) FROM THE REQUIRED INTERSECTION SEPARATION OF 125' TO 83' FROM FIFTH AVE., A LOCAL STREET
2. DEVIATION FROM SECTION 10-285(a) FROM THE REQUIRED INTERSECTION SEPARATION OF 125' TO 115' FROM THIRD STREET, A LOCAL STREET.
3. DEVIATION FROM TABLE 34-3 FROM THE REQUIRED SETBACK OF 20' TO 19.1', 4.25', 2.6', 1.4' & 0.0'
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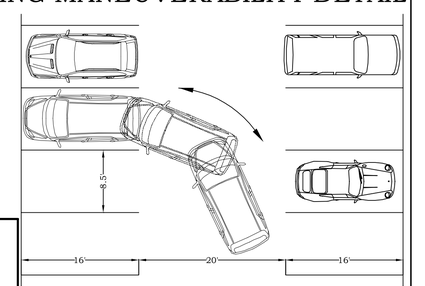
9. DEVIATION FROM SECTION 34-953 & TABLE 34-4 FROM THE F.A.R. REQUIREMENTS TO ALLOW ADDITIONAL F.A.R. TO EXCEED THE TOTAL 66,852 SQ FT OF RESIDENTIAL & COMMERCIAL USES TO THE EXTENT NECESSARY TO DEVELOP ON-SITE UNDER BUILDING PARKING (PER PLAN PROVIDED)
10. DEVIATION FROM LDC 30-152(b) FOR COMMERCIAL SIGNAGE TO PERMIT THE FOLLOWING SIGN ON EACH STREET FRONTAGE TO REMAIN THE LIGHTHOUSE ISLAND RESORT: SEE ADDENDUM TO NARRATIVE
11. DEVIATION FROM LDC 30-154(c) WHICH ALLOWS A MAXIMUM HEIGHT OF FIVE (5) FEET FOR MONUMNET SIGNS PROVIDED THAT THE BOTTOM OF THE SIGN IS NO MORE THAN EIGHTEEN (18) INCHES ABOVE GRADE TO ALLOW 4.1' FOR SIGNS "A" "B' & "C" AND 1.5' FOR SIGN "D" WITH A MAXIMUM HEIGHT OF 8.1' FOR SIGNS "A" "B" & "C" AND 21.2' FOR SIGN "D"
12. DEVIATION FROM LDC 30-93(b) WHICH REQUIRES THREE (3) FOOT SETBACK FROM ANY SIDEWALK, BIKE PATH OR STREET RIGHT-OF-WAY TO ALLOW 0.0' FOR SIGN "A", 0.0' FOR SIGN "B" & 1.16' FOR SIGN "C"

PARKING MANEUVERABILITY DETAIL



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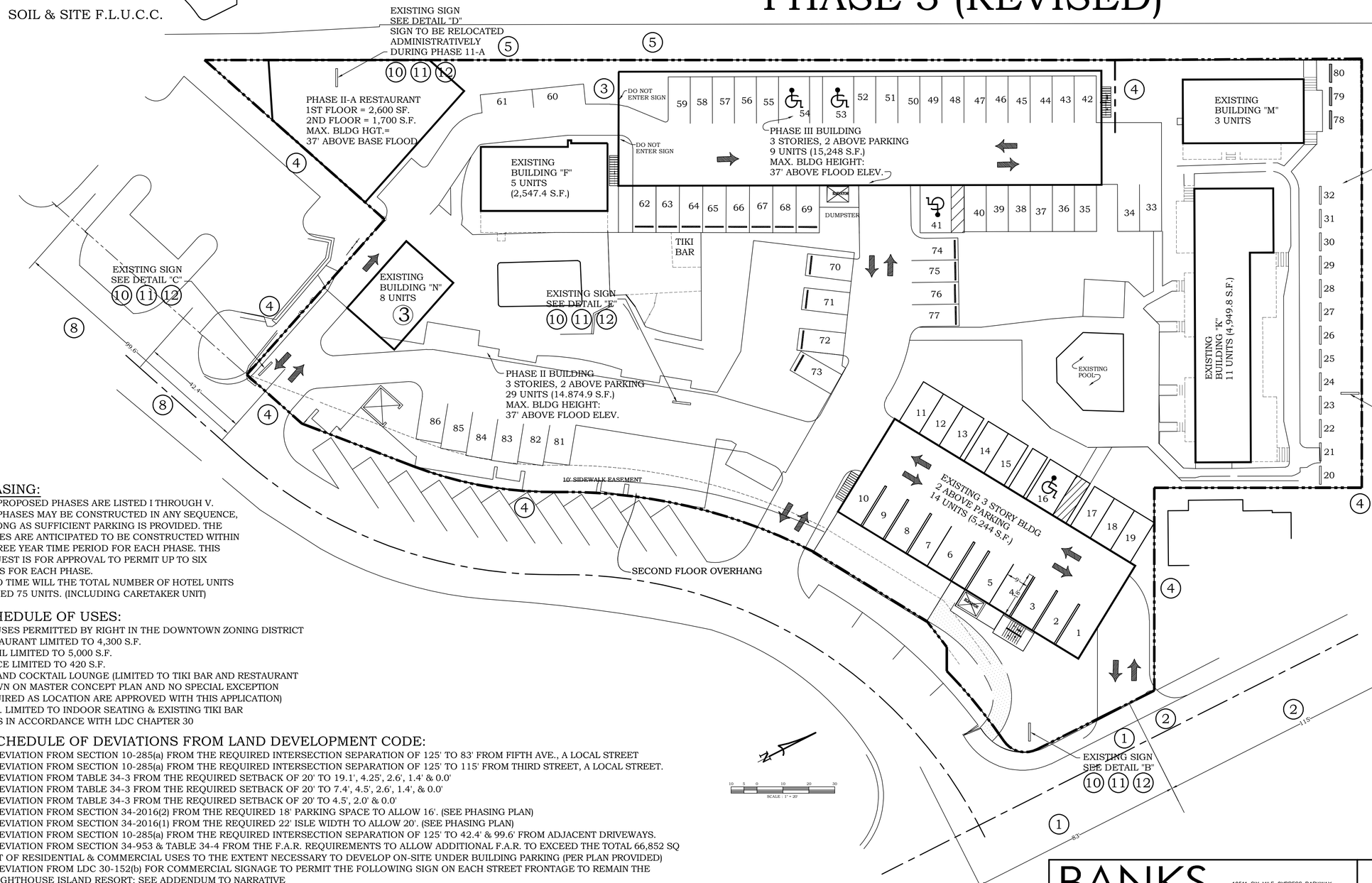
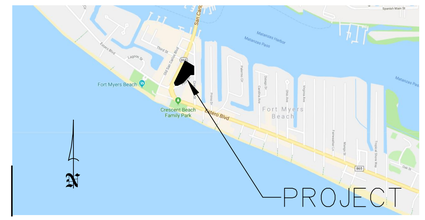
REVISED: 10-24-2018
EXHIBIT IV-K

MASTER CONCEPT PLAN (CPD)
FOR
LIGHTHOUSE ISLAND RESORT
PHASE 3 (REVISED)

SOILS# 26 FLUCC # 147

SOIL & SITE F.L.U.C.C.





LOCATION MAP
NOT TO SCALE

LOCATION MAP
NOT TO SCALE

PARKING CALCS:

75 UNITS
29 UNITS ABOVE 450 S.F.
46 UNITS BELOW 450 S.F.

1.2 P.S. PER UNIT BELOW 450 S.F.
46 x 1.2 x 0.666 = 37 SPACES REQUIRED

1.5 P.S. PER UNIT ABOVE 450 S.F.
29 x 1.5 x 0.666 = 29 SPACES REQUIRED

TOTAL SPACES REQUIRED FOR THE RESORT:
37+29 = 66 SPACES

GENERAL OFFICE (RESORT): 420 S.F.
2 SPACES PER 1,00 S.F.
420 / 1,000 x 2 = 1 SPACE

RESTAURANT: 4,300 S.F.
8 P.S. PER 1,000 S.F.
4,300 / 1,000 x 8 x .666 = 23 SPACES REQUIRED

TOTAL PARKING REQUIRED:
90 SPACES

TOTAL PARKING PROVIDED:
91 SPACES
ON-SITE: 89 SPACES
OFF-SITE: 2 SPACES

NOTE: THE TOTAL NUMBER OF UNITS IN ANY PHASE MAY NOT EXCEED 75 UNITS INCLUDING CARETAKER UNIT

PHASING:

THE PROPOSED PHASES ARE LISTED I THROUGH V.
THE PHASES MAY BE CONSTRUCTED IN ANY SEQUENCE, SO LONG AS SUFFICIENT PARKING IS PROVIDED. THE PHASES ARE ANTICIPATED TO BE CONSTRUCTED WITHIN A THREE YEAR TIME PERIOD FOR EACH PHASE. THIS REQUEST IS FOR APPROVAL TO PERMIT UP TO SIX YEARS FOR EACH PHASE.
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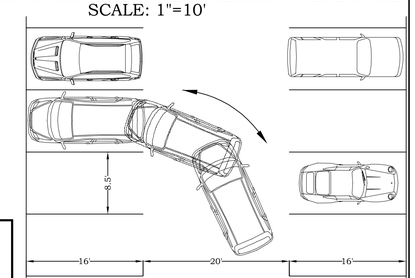
PARKING MANEUVERABILITY DETAIL
SCALE: 1"=10'



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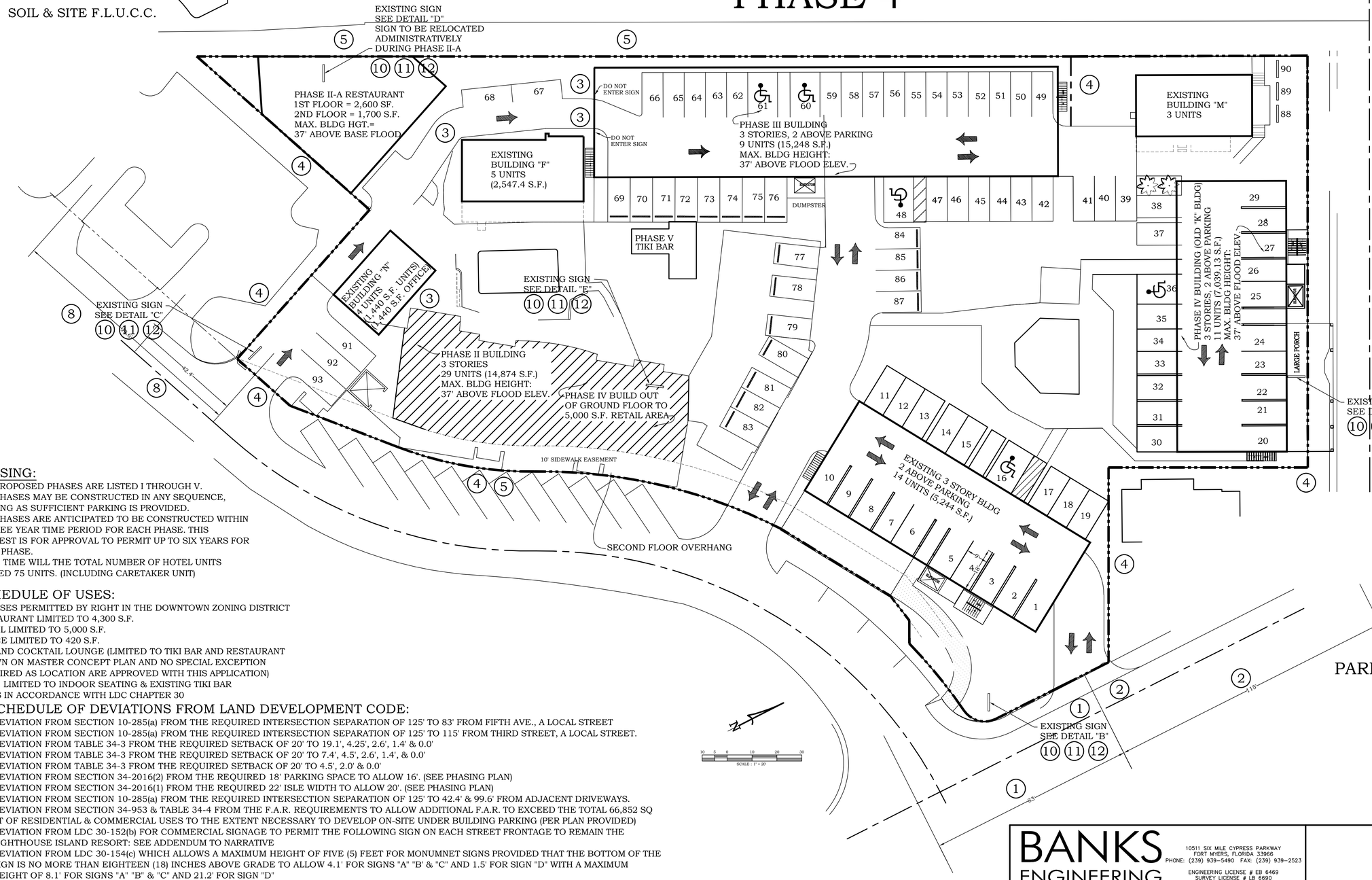
REVISED: 10-24-18

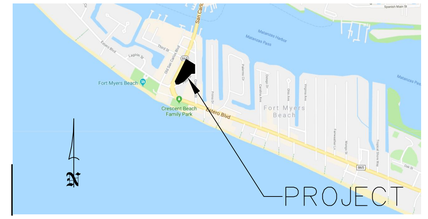
EXHIBIT IV-K

MASTER CONCEPT PLAN (CPD)
FOR
LIGHTHOUSE ISLAND RESORT
PHASE 4

SOILS# 26 FLUCC # 147

SOIL & SITE F.L.U.C.C.





LOCATION MAP
NOT TO SCALE

LOCATION MAP
NOT TO SCALE

PARKING CALCS:

75 UNITS
29 UNITS ABOVE 450 S.F.
46 UNITS BELOW 450 S.F.

1.2 P.S. PER UNIT BELOW 450 S.F.
46 x 1.2 x 0.666 = 37 SPACES REQUIRED

1.5 P.S. PER UNIT ABOVE 450 S.F.
29 x 1.5 x 0.666 = 29 SPACES REQUIRED

TOTAL SPACES REQUIRED FOR THE RESORT:
37+ 29 = 66 SPACES

GENERAL OFFICE (RESORT): 420 S.F.
2 SPACES PER 1,00 S.F.
420 / 1,000 x 2 = 1 SPACE

RESTAURANT: 4,300 S.F.
8 P.S. PER 1,000 S.F.
4,300 / 1,000 x 8 x .666 = 23 SPACES REQUIRED

RETAIL:
3 P.S. PER 1,000 S.F.
5,000 / 1,000 x 3 x .666 = 10 SPACES REQUIRED

TOTAL PARKING REQUIRED:
100 SPACES

TOTAL PARKING PROVIDED:
100 SPACES
ON-SITE: 96 SPACES
OFF-SITE: 4 SPACES

NOTE: THE TOTAL NUMBER OF UNITS IN ANY PHASE MAY NOT EXCEED 75 UNITS INCLUDING CARETAKER UNIT

PHASING:

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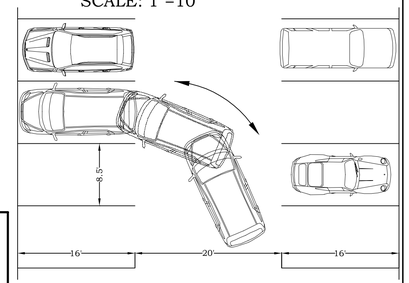
PARKING MANEUVERABILITY DETAIL
SCALE: 1"=10'



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REVISED: 10-24-2018
EXHIBIT IV-K

MASTER CONCEPT PLAN (CPD)

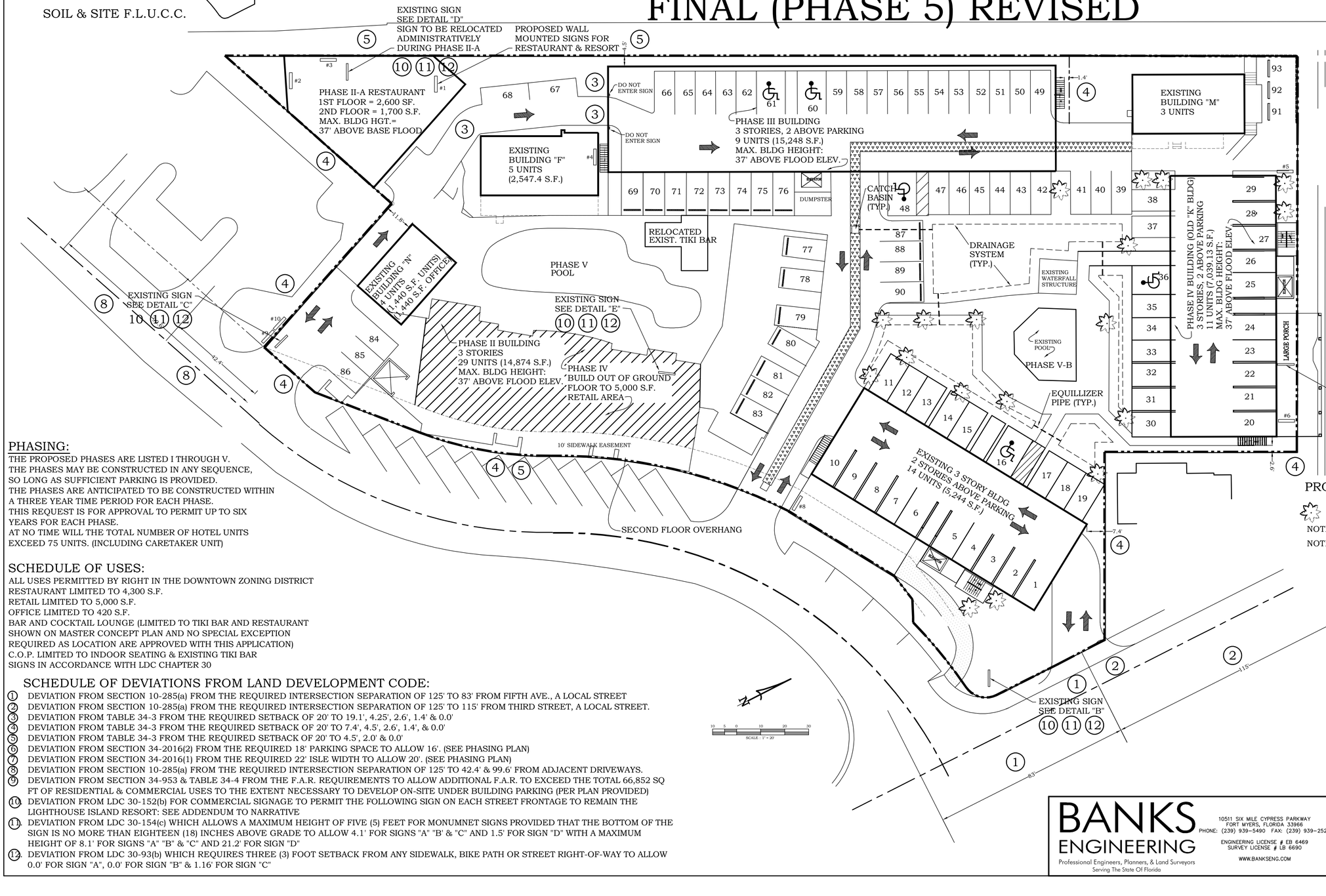
FOR

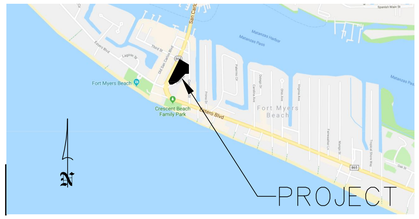
LIGHTHOUSE ISLAND RESORT

FINAL (PHASE 5) REVISED

SOILS# 26 FLUCC # 147

SOIL & SITE F.L.U.C.C.





LOCATION MAP
NOT TO SCALE

LOCATION MAP
NOT TO SCALE

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46 UNITS BELOW 450 S.F.

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TOTAL SPACES REQUIRED FOR THE RESORT:
37 + 29 = 66 SPACES

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8 P.S. PER 1,000 S.F.
4,300 / 1,000 x 8 x .666 = 23 SPACES REQUIRED

GENERAL OFFICE (RESORT): 420 S.F.
2 SPACES PER 1,000 S.F.
420 / 1,000 x 2 = 1 SPACE

RETAIL:
3 P.S. PER 1,000 S.F.
5,000 / 1,000 x 3 x .666 = 10 SPACES REQUIRED

TOTAL PARKING REQUIRED:
100 SPACES

TOTAL PARKING PROVIDED:
100 SPACES
ON-SITE: 93 SPACES
OFF-SITE: 7 SPACES

NOTE: THE TOTAL NUMBER OF UNITS IN ANY PHASE MAY NOT EXCEED 75 UNITS INCLUDING CARETAKER UNIT

PROPOSED TREES:

	QUANTITY
COCONUT PALM / QUEEN PALM	67

NOTE: THE EXISTING PALMS WILL BE RELOCATED AND NEW ONES ADDED.

NOTE: THIS SITE IS COMPLETLY DEVELOPED LAND AND THERE ARE NO ENVIRONMENTALLY SENSITIVE LANDS. EXHIBIT II-F-1

NOTE: THE NEAREST PUBLIC TRANSIT STOP IS BEACH TROLLEY STOP #2 IN TIMES SQUARE.

PHASING:

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REVISED: 10/25/2018
EXHIBIT II-D
EXHIBIT II-F-4
EXHIBIT IV-F
EXHIBIT IV-G
EXHIBIT IV-I
EXHIBIT IV-K

AS BUILT SURVEY OF

PART OF BLOCK 3 & 5 BUSINESS CENTER SUBDIVISION & LOT 16, BLOCK "E" CRESCENT PARK ADDITION SUBDIVISION

SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST
(PLAT BOOK 9, PAGE 10)
LEE COUNTY, FLORIDA

REVISED:	DESCRIPTION:	BY:

Phillip M Mould, P.S.M. 6515
State of Florida
Digitally signed by Phillip M Mould, P.S.M. 6515 State of Florida
Date: 2023.03.16 19:43:41 -04'00'

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
LS6515 - STATE OF FLORIDA

DATE OF LAST FIELD WORK: 2/22/23

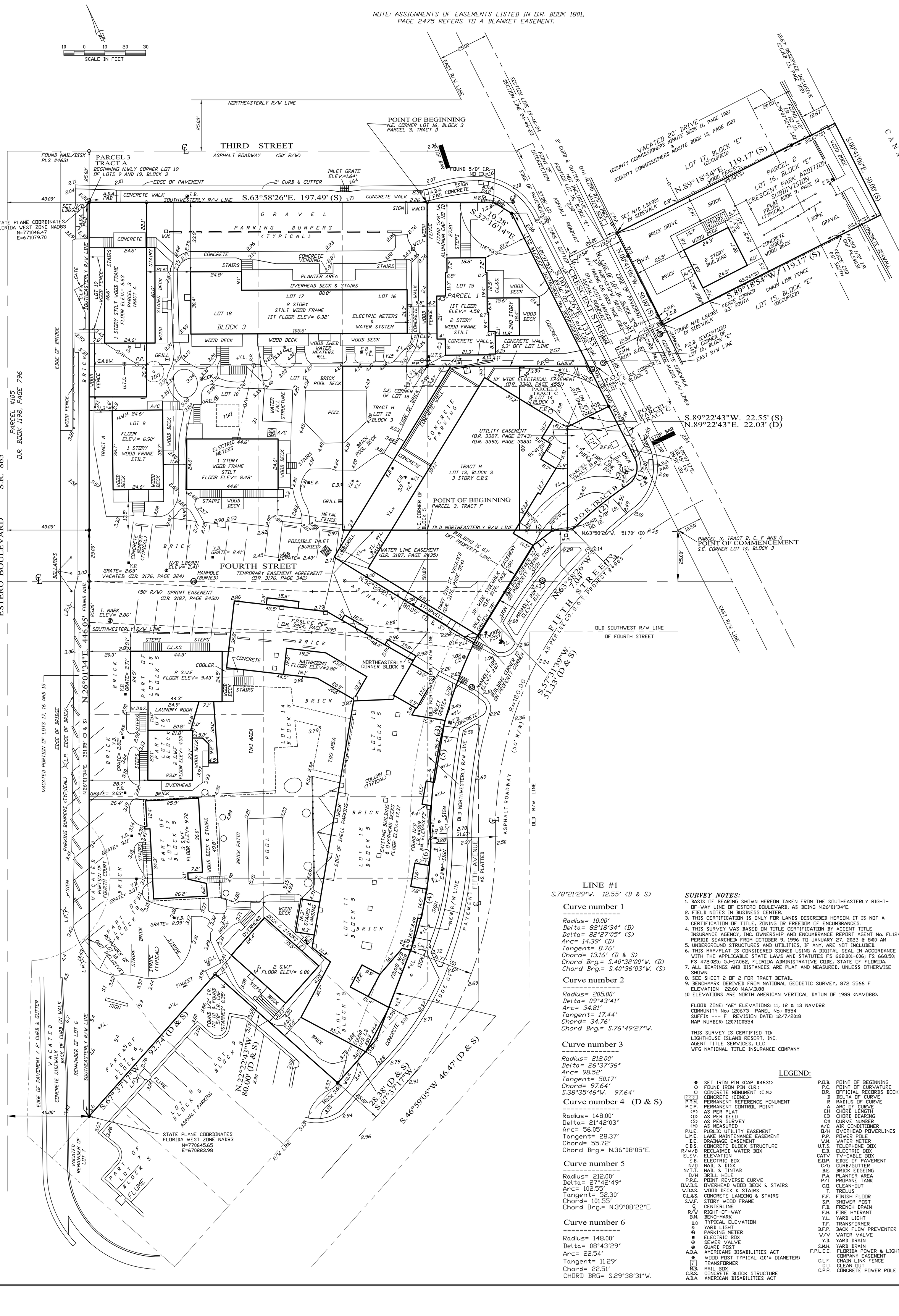
DRAWN:	CHECK:	SCALE	PROJ. #
RLB	PMM	1"=20'	LHR 2-16-23
SURVEY DATE	FILE NO.		SHT.- 1
2/22/23	46-23-24		OF - 2

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

FLORIDA CERTIFICATE OF AUTHORIZATION LB6921

10 0 10 20 30
SCALE IN FEET

NOTE: ASSIGNMENTS OF EASEMENTS LISTED IN O.R. BOOK 1801, PAGE 2475 REFERS TO A BLANKET EASEMENT.



LINE #1

S.78°21'29"W. 12.55' (D & S)

Curve number 1

Radius= 10.00'
Delta= 82°18'34" (D)
Delta= 82°27'05" (S)
Arc= 14.39' (D)
Tangent= 8.76'
Chord= 13.16' (D & S)
Chord Brg.= S.40°32'00"W. (D)
Chord Brg.= S.40°36'03"W. (S)

Curve number 2

Radius= 205.00'
Delta= 09°43'41"
Arc= 34.81'
Tangent= 17.44'
Chord= 34.76'
Chord Brg.= S.76°49'27"W.

Curve number 3

Radius= 212.00'
Delta= 26°37'36"
Arc= 98.52'
Tangent= 50.17'
Chord= 97.64'
S.38°35'46"W. 97.64'

Curve number 4 (D & S)

Radius= 148.00'
Delta= 21°42'03"
Arc= 56.05'
Tangent= 28.37'
Chord= 55.72'
Chord Brg.= N.36°08'05"E.

Curve number 5

Radius= 212.00'
Delta= 27°42'49"
Arc= 102.55'
Tangent= 52.30'
Chord= 101.55'
Chord Brg.= N.39°08'22"E.

Curve number 6

Radius= 148.00'
Delta= 08°43'29"
Arc= 22.54'
Tangent= 11.29'
Chord= 22.51'
CHORD BRG= S.29°38'31"W.

SURVEY NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD, AS BEING N.26°01'34"E.
2. FIELD NOTES IN BUSINESS CENTER.
3. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
4. THIS SURVEY WAS BASED ON TITLE CERTIFICATION BY ACCENT TITLE INSURANCE AGENCY, INC. OWNERSHIP AND ENCUMBRANCE REPORT AGENT No. FL1245 PERIOD SEARCHED: FROM OCTOBER 9, 1996 TO JANUARY 27, 2023 @ 8:00 AM
5. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
6. THIS MAP/PLAT IS CONSIDERED SIGNED USING A DIGITAL SEAL IN ACCORDANCE WITH THE APPLICABLE STATE LAWS AND STATUTES FS 668.001-006; FS 668.50; FS 472.025; 5J-17.062, FLORIDA ADMINISTRATIVE CODE, STATE OF FLORIDA.
7. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
8. SEE SHEET 2 OF 2 FOR TRACT DETAIL.
9. BENCHMARK DERIVED FROM NATIONAL GEODETIC SURVEY, 872 5566 F ELEVATION 22.60 N.A.V.D.88
10. ELEVATIONS ARE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).

FLOOD ZONE: "AE" ELEVATIONS: 11, 12 & 13 NAVD88
COMMUNITY No.: 120673 PANEL No.: 0554
SUFFIX --- F REVISION DATE: 12/7/2018
MAP NUMBER: 12071C0554

THIS SURVEY IS CERTIFIED TO:
LIGHTHOUSE ISLAND RESORT, INC.
AGENT TITLE SERVICES, LLC
WFG NATIONAL TITLE INSURANCE COMPANY

LEGEND:

●	SET IRON PIN (CAP #4631)	P.O.B.	POINT OF BEGINNING
O	FOUND IRON PIN (I.R.)	P.C.	POINT OF CURVATURE
□	CONCRETE MONUMENT (C.M.)	O.R.	OFFICIAL RECORDS BOOK
▨	CONCRETE (CONC.)	D	DELTA OF CURVE
P.R.M.	PERMANENT REFERENCE MONUMENT	R	RADIUS OF CURVE
P.C.P.	PERMANENT CONTROL POINT	A	ARC OF CURVE
(P)	AS PER PLAT	CH	CHORD LENGTH
(D)	AS PER DEED	CB	CHORD BEARING
(S)	AS PER SURVEY	C#	CURVE NUMBER
(M)	AS MEASURED	A/C	AIR CONDITIONER
P.U.E.	PUBLIC UTILITY EASEMENT	O/H	OVERHEAD POWERLINES
L.M.E.	LAKE MAINTENANCE EASEMENT	P.P.	POWER POLE
D.E.	DRAINAGE EASEMENT	W.M.	WATER METER
C.B.S.	CONCRETE BLOCK STRUCTURE	U.T.S.	TELEPHONE BOX
R/W/B	RECLAIMED WATER BOX	E.B.	ELECTRIC BOX
ELEV.	ELEVATION	CATV	TV-CABLE BOX
E.B.	ELECTRIC BOX	E.O.P.	EDGE OF PAVEMENT
N/D	NAIL & DISK	C/G	CURB/GUTTER
N/T.T.	NAIL & TINTAB	B.E.	BRICK EDGEING
D/H	DRILL HOLE	P.A.	PLANTER AREA
P.R.C.	POINT REVERSE CURVE	P/T	PROPANE TANK
O.W.D.S.	OVERHEAD WOOD DECK & STAIRS	C.O.	CLEAN-OUT
W.D.&S.	WOOD DECK & STAIRS	T.	TRELLIS
C.L.&S.	CONCRETE LANDING & STAIRS	F.F.	FINISH FLOOR
S.W.F.	STORY WOOD FRAME	S.P.	SHOWER POST
℄	CENTERLINE	F.D.	FRENCH DRAIN
R/W	RIGHT-OF-WAY	F.H.	FIRE HYDRANT
B.M.	BENCHMARK	Y.L.	YARD LIGHT
0.0	TYPICAL ELEVATION	T.F.	TRANSFORMER
✻	YARD LIGHT	B.F.P.	BACK FLOW PREVENTER
ⓟ	PARKING METER	W/V	WATER VALVE
◙	ELECTRIC BOX	Y.D.	YARD DRAIN
⊙	SEWER VALVE	S.M.H.	YARD DRAIN
⊘	GUARD POST	F.P.L.C.E.	FLORIDA POWER & LIGHT COMPANY EASEMENT
A.D.A.	AMERICANS DISABILITIES ACT	C.L.F.	CHAIN LINK FENCE
⊕	WOOD POST TYPICAL (10"± DIAMETER)	C.O.	CLEAN OUT
T	TRANSFORMER	C.P.P.	CONCRETE POWER POLE
M.B.	MAIL BOX		
C.B.S.	CONCRETE BLOCK STRUCTURE		
A.D.A.	AMERICAN DISABILITIES ACT		

AS BUILT SURVEY OF

PART OF BLOCK 3 & 5 BUSINESS CENTER SUBDIVISION & LOT 16, BLOCK "E" CRESCENT PARK ADDITION SUBDIVISION

SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST
(PLAT BOOK 9, PAGE 10)
LEE COUNTY, FLORIDA

10 0 10 20 30
SCALE IN FEET

LEGEND:

●	SET IRON PIN (CAP #4631)	P.O.B.	POINT OF BEGINNING
○	FOUND IRON PIN (I.R.)	P.C.	POINT OF CURVATURE
□	CONCRETE MONUMENT (C.M.)	O.R.	OFFICIAL RECORDS BOOK
[CONC.]	CONCRETE (CONC.)	D	DELTA OF CURVE
P.R.M.	PERMANENT REFERENCE MONUMENT	R	RADIUS OF CURVE
P.C.P.	PERMANENT CONTROL POINT	A	ARC OF CURVE
(P)	AS PER PLAT	CH	CHORD LENGTH
(D)	AS PER DEED	CB	CHORD BEARING
(S)	AS PER SURVEY	C#	CURVE NUMBER
(M)	AS MEASURED	A/C	AIR CONDITIONER
P.U.E.	PUBLIC UTILITY EASEMENT	O/H	OVERHEAD POWERLINES
L.M.E.	LAKE MAINTENANCE EASEMENT	P.P.	POWER POLE
D.E.	DRAINAGE EASEMENT	W.M.	WATER METER
C.B.S.	CONCRETE BLOCK STRUCTURE	U.T.S.	TELEPHONE BOX
R/W/B	RECLAIMED WATER BOX	E.B.	ELECTRIC BOX
ELEV.	ELEVATION	CATV	TV-CABLE BOX
E.B.	ELECTRIC BOX	E.O.P.	EDGE OF PAVEMENT
N/D	NAIL & DISK	C/G	CURB/GUTTER
N/T.T.	NAIL & TINTAB	B.E.	BRICK EDGEING
D/H	DRILL HOLE	P.A.	PLANTER AREA

O.W.D.S.	OVERHEAD WOOD DECK & STAIRS	P/T	PROPANE TANK
W.D.&S.	WOOD DECK & STAIRS	C.O.	CLEAN-OUT
C.L.&S.	CONCRETE LANDING & STAIRS	T.	TRELUS
S.W.F.	STORY WOOD FRAME	F.F.	FINISH FLOOR
℄	CENTERLINE	S.P.	SHOWER POST
R/W	RIGHT-OF-WAY	F.D.	FRENCH DRAIN
B.M.	BENCHMARK	F.H.	FIRE HYDRANT
0.0	TYPICAL ELEVATION	Y.L.	YARD LIGHT
✳	YARD LIGHT	T.F.	TRANSFORMER
❷	PARKING METER	B.F.P.	BACK FLOW PREVENTER
■	ELECTRIC BOX	W/V	WATER VALVE
⊙	SEWER VALVE	Y.D.	YARD DRAIN
⊘	GUARD POST	S.M.H.	YARD DRAIN
A.D.A.	AMERICANS DISABILITIES ACT	F.P.L.C.E.	FLORIDA POWER & LIGHT COMPANY EASEMENT
⊕	WOOD POST TYPICAL (10"± DIAMETER)	C.L.F.	CHAIN LINK FENCE
[T]	TRANSFORMER	C.O.	CLEAN OUT
M.B.	MAIL BOX	C.P.P.	CONCRETE POWER POLE
C.B.S.	CONCRETE BLOCK STRUCTURE		

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

DATE OF LAST FIELD WORK: 9/10/22			
DRAWN: RLB	CHECK: PMM	SCALE 1"=20'	PROJ. # LHR 2-16-23
SURVEY DATE 9/10/22		FILE NO. 46-23-24	SHT.- 2 OF - 2
FLORIDA CERTIFICATE OF AUTHORIZATION LB6921			

NORTHEASTERLY R/W LINE
SECTION LINE 19-46-24
SECTION LINE 24-46-23
TOWNSHIP LINE
12.67' RESERVED INCLUSIVE (C.C.M.B. 13, PAGE 102)
VACATED 20' DRIVE (COUNTY COMMISSIONERS MINUTE BOOK 11, PAGE 192) (COUNTY COMMISSIONERS MINUTE BOOK 13, PAGE 102)
20.00'
S.78°07'12"E. 1.81'
FOUND 1/2" I.R. NO ID
12.67'
℄ THIRD STREET
ASPHALT ROADWAY (50' R/W)
25.00'
PARCEL 3
TRACT A
BEGINNING N.WLY CORNER LOT 19 OF LOTS 9 AND 19, BLOCK 3
POINT OF INTERSECTION
POINT OF BEGINNING
N.E. CORNER LOT 16, BLOCK 3 PARCEL 3, TRACT D
S.63°58'26"E. 9.42' (D)
S.63°58'26"E. 9.39' (S)
ASPHALT ROADWAY
EAST R/W LINE
LOT 17, BLOCK "E"
N.89°18'54"E. 119.17' (S)
95.50'(S)
23.67'(S)
S.00°41'06"E. 50.00' (S)
CANAL
40.00'
S.63°58'26"E. 28.00' (D)
SOUTHWESTERLY R/W LINE
N.63°58'26"W. 197.49' (S)
N.63°58'26"W. 137.00' (D & S)
NORTHERLY LINE LOT 15
32.49'
SET N/D LB6921 IN SIDEWALK
PARCEL 2
LOT 16, BLOCK "E"
CRESCENT PARK ADDITION SUBDIVISION
PLAT BOOK 9, PAGE 10
NORTHEASTERLY LINE OF PARCEL 3, TRACT D
10.28' (S)
S.32°16'14"E.
N.32°16'14"W. 9.38' (D)
S.00°41'26"E. 89.57' (S)
S.00°37'53"E. 89.46' (D)
LESS & EXCEPT PER DEED
N.00°41'06"W. 50.00' (S)
PORTION NOT INCLUSIVE W. LINE OF LOT 16, BLOCK "E"
N.00°45'10"W. 50.00'
O.R. 2833, PAGE 2363
13.50'
12.50'
23.67'(S)
FOUND 1/2" I.R. CAP PLS4631
95.54'(S)
S.89°18'54"W. 119.17' (S)
LOT 15, BLOCK "E"
PARCEL 3 TRACT A
LOT 19
LOT 18
LOT 17
LOT 16
LOT 15
SOUTHEASTERLY LINE OF PARCEL 3, TRACT D
N.26°01'34"E. 80.00'
BLOCK 3
℄ CRESCENT STREET
105.41'
R/W TAKING OR. 2833, PAGE 2363
ASPHALT ROADWAY (25' R/W)
WEST R/W LINE
S.E. CORNER OF 15 TRACT E P.O.C.
N.E. CORNER OF 14 BLOCK 3
N.63°58'26"W. 3.36' (S)
N.63°58'26"W 3.92' (D)
FOUND N/D LB6921 IN SIDEWALK
P.O.B. (EXCEPTION) S.W. CORNER OF LOT 16, BLOCK "E" EAST R/W LINE
26.00'
S.E.CORNER OF LOT 16, BLOCK 3
N.63°58'09"W. 86.25' (S)
PARCEL 3 TRACT D
LOT 9
LOT 10
LOT 11
LOT 12 PARCEL 3 TRACT H
LOT 13 PARCEL 3 TRACT H
11.51' N.63°58'26"W.
N.57°26'35"E. 109.20' (D & S)
37.12' (S) 37.14' (D)
116°43'07"
S.00°40'55"E. 22.86' (D)
S.00°37'29"E. S.00°37'17"E. 13.56' 13.27' (D)
PARCEL 3 TRACT C LOT 14 BLOCK 3
1.20' (S) 1.22' (D)
22.55' 22.03' (D)
S.89°22'43"W. N.89°22'43"E.
PDB
PARCEL 3 TRACT E 29.43'
PDB PARCEL 3 TRACT C
N.62°16'44"W. 26.26' (S) N.62°13'33"W. 25.65' (D)
91°41'20" (S) 91°35'40" (D)
N.26°01'34"E. 80' (D & S)
S.00°37'17"E. 28.51' (S)
PARCEL 3 TRACT B
50.32' (D & S)
49.10' N.26°01'34"E.
(1)
E.B.
53.98' (D) 53.98' (S)
PDB PARCEL 3 TRACT G
N.63°58'26"W. 2.24' (D & S)
(2)
NORTH R/W LINE
25.00'
90°0'0"
PDB PARCEL 3 TRACT B
N.63°58'26"W. 51.78' 60.91' (D & S) N.63°58'26"W.
12.50'
PARCEL 3, TRACT B, C, F AND G S.E. CORNER LOT 14, BLOCK 3 POINT OF COMMENCEMENT
P.O.B. PARCEL 3 TRACT F
OLD NORTHEASTERLY R/W LINE
N.63°58'26"W. 61.21' (S) 60.91' (D)
N.63°58'26"W. 122.38' (S) 122.12' (D)
L1
N.63°58'26"W 7.04'
PROJECT #4-905-5
AS PER LEE CO. D.O.T.
R=180.00
S.57°31'39"W. 51.33' (D & S)
PARCEL 3 TRACT F
N.32°28'21"W. 80.09' (D & S)
NORTHEASTERLY LINE OF PARCEL 3, TRACT D
50.00' (D) 50.02' (S)
N.26°01'34"E. N.26°01'16"E.
PARCEL 3 TRACT G
℄ FOURTH STREET
SPRINT EASEMENT (O.R. 3187, PAGE 2430) (50' R/W)
25.00'
50.00' (S) 50.00' (D)
S.26°01'34"W. S.25°59'59"W.
OLD SOUTHWESTERLY R/W LINE OF FOURTH STREET
S.63°58'26"E. 165.22' (S) 165.19' (D)
OLD SOUTHWEST R/W LINE OF FOURTH STREET
PARCEL 3 TRACT F NORTHEASTERLY CORNER OF BLOCK 5
OLD NORTHWESTERLY R/W LINE
ESTERO BOULEVARD S.R. 865
SOUTHWESTERLY OF CORNER OF LOT 9
N.63°58'26"W. 165.03' (S) 165.21' (D)
SOUTHWESTERLY R/W LINE
NORTHWESTERLY LINE OF PARCEL 3, TRACT D
S.26°01'34"W. 65.00' (D & S)
28.00' (D & S) N.63°58'26"W.
S.26°01'34"E. 95.00' (D & S)
NORTHWESTERLY LINE OF LOT 9
S.26°01'34"W. 95.00' (D & S))
PARCEL 3 TRACT D
LOT 9
LOT 10
LOT 11
PARCEL 3 TRACT H
LOT 12
LOT 13
PARCEL 3 TRACT H
PARCEL 3 TRACT C LOT 14 BLOCK 3
PARCEL 3 TRACT E 29.43'
PARCEL 3 TRACT B
PARCEL 3 TRACT G
PARCEL 3 TRACT F
PARCEL 3 TRACT D
LOT 15
LOT 16
LOT 17
LOT 18
LOT 19
BLOCK 5
LOT 13
LOT 12
LOT 11
LOT 10
LOT 9
LOT 8
LOT 7
PART OF LOT 15
PART OF LOT 16
PART OF LOT 17
PART OF LOT 18
PART OF LOT 6
VACATED PORTION OF LOTS 17, 16 AND 15
S.26°01'34"W. 446.05' (S)
286.05' (D & S)
S.26°01'34"W.
NORTHWESTERLY LINE OF PARCEL 3, TRACT D
SOUTHEASTERLY LINE OF PARCEL 3, TRACT D
N.26°01'34"E. 123.01' (S) 122.80' (D)
OLD NORTHWESTERLY R/W LINE
OLD R/W LINE
℄ FIFTH STREET
ASPHALT ROADWAY (50' R/W)
℄ FIFTH AVENUE AS PLATTED
NEW R/W LINE
P.R.C.
31.67' (S)
P.C.
31.77' (S)
(3) (4) (5) (6)
R=212.00
R=148.00
R=10.00
VACATED REMAINDER OF LOT 6
VACATED REMAINDER OF LOT 7
VACATED REMAINDER OF LOT 18 (NOT INCLUSIVE)
NORTHEASTERLY CORNER OF LOT 9, BLOCK 5
PARCEL 3 TRACT D SOUTHEASTERLY LINE OF
PARCEL 3, TRACT D SOUTHWESTERLY LINE OF
S.22°22'43"E. 80.00' (D & S)
92.74' (D & S)
N.67° 37'17"E.
NORTHWESTERLY LINE OF LOT 7, BLOCK 5
SOUTHWESTERLY CORNER OF LOT 9
28.38' (D & S)
N.67°37'17"E.
25.00'
25.00'
N.46°59'05"E 46.47' (D & S)
OLD R/W LINE
NORTHWESTERLY R/W LINE OF FIFTH AVENUE
40.00'

Curve number 1

Radius= 10.00'
Delta= 82°18'34" (D)
Delta= 82°27'05" (S)
Arc= 14.39' (D)
Tangent= 8.76'
Chord= 13.16' (D & S)
Chord Brg.= S.40°32'00"W. (D)
Chord Brg.= S.40°36'03"W. (S)

Curve number 2

Radius= 205.00'
Delta= 09°43'41"
Arc= 34.81'
Tangent= 17.44'
Chord= 34.76'
Chord Brg.= S.76°49'27"W.

Curve number 3

Radius= 212.00'
Delta= 26°37'36"
Arc= 98.52'
Tangent= 50.17'
Chord= 97.64'
S.38°35'46"W. 97.64'

Curve number 4 (D & S)

Radius= 148.00'
Delta= 21°42'03"
Arc= 56.05'
Tangent= 28.37'
Chord= 55.72'
Chord Brg.= N.36°08'05"E.

Curve number 5

Radius= 212.00'
Delta= 27°42'49"
Arc= 102.55'
Tangent= 52.30'
Chord= 101.55'
Chord Brg.= N.39°08'22"E.

Curve number 6

Radius= 148.00'
Delta= 08°43'29"
Arc= 22.54'
Tangent= 11.29'
Chord= 22.51'
CHORD BRG= S.29°38'31"W.

LINE #1
S.78°21'29"W. 12.55' (D & S)

PARCEL 1:
LOT 15, BLOCK 3, BUSINESS CENTER SUBDIVISION, ACCORDING TO PLAT THEREOF AS RECORDED IN PLAT BOOK 9, PAGE 9, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA. LESS AND EXCEPT THE FOLLOWING: BEGINNING AT THE NORTHEASTERLY CORNER OF LOT 15; THENCE RUN SOUTH 00 DEGREES 37 MINUTES 53 SECONDS EAST ON THE EASTERLY LINE OF LOT 15 FOR 89.46 FEET TO THE SOUTHEASTERLY CORNER OF LOT 15; THENCE RUN NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST ON THE SOUTHERLY LINE OF LOT 15 FOR 3.92 FEET; THENCE RUN NORTH 00 DEGREES 37 MINUTES 53 SECONDS WEST ON A LINE PARALLEL TO AND 3.0 FEET WESTERLY OF THE EASTERLY LINE OF LOT 15 FOR 83.95 FEET; THENCE RUN NORTH 32 DEGREES 16 MINUTES 14 SECONDS WEST FOR 9.38 FEET TO THE NORTHERLY LINE OF LOT 15; THENCE RUN SOUTH 63 DEGREES 58 MINUTES 26 SECONDS EAST FOR 9.42 FEET TO THE POINT OF BEGINNING.

PARCEL 2:
LOT 16, BLOCK E, OF THAT CERTAIN SUBDIVISION KNOWN AS CRESCENT PARK ADDITION, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LEE COUNTY, FLORIDA IN PLAT BOOK 4, PAGE 46, TOGETHER WITH ALL LAND LYING BETWEEN THE EAST HALF OF SAID LOT 16 AND THE CANAL, LESS AND EXCEPT THE FOLLOWING: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 16, THENCE RUN NORTH 0 DEGREES 37 MINUTES 53 SECONDS WEST ALONG THE WEST LINE OF LOT 16 FOR 50.00 FEET TO THE NORTHWEST CORNER OF LOT 16; THENCE RUN NORTH 89 DEGREES 22 MINUTES 07 SECONDS EAST ON THE NORTH LINE OF LOT 16 FOR 13.50 FEET; THENCE RUN SOUTH 0 DEGREES 37 MINUTES 53 SECONDS EAST FOR 50.00 FEET TO THE SOUTH LINE OF LOT 16; THENCE RUN SOUTH 89 DEGREES 22 MINUTES 07 SECONDS WEST ALONG SAID SOUTH LINE FOR 13.50 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

TRACT A:
A TRACT OF LAND LYING IN PART OF LOTS 9 AND 19, BLOCK 3, BUSINESS CENTER AS RECORDED IN PLAT BOOK 9, PAGES 9 AND 10, PUBLIC RECORDS OF LEE COUNTY, FLORIDA DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 19, BLOCK 3 OF THE AFORESAID BUSINESS CENTER; THENCE RUN SOUTH 63 DEGREES 58 MINUTES 26 SECONDS EAST, ALONG THE NORTHEASTERLY LINE OF SAID LOT 19 FOR 28.00 FEET; THENCE RUN SOUTH 26 DEGREES 01 MINUTES 34 SECONDS WEST, FOR 95.00 FEET TO A POINT LYING IN THE AFORESAID LOT 9; THENCE RUN NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST, FOR 28.00 FEET TO THE NORTHWESTERLY LINE OF SAID LOT 9 AND SOUTHEASTERLY RIGHT OF WAY LINE OF ESTERO BOULEVARD (STATE ROAD 865); THENCE RUN NORTH 26 DEGREES 01 MINUTES 34 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE TO THE POINT OF BEGINNING.

TRACT B:
A PORTION OF LOT 14, BLOCK 3, BUSINESS CENTER, A SUBDIVISION ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 9, PAGE 9 AND 10 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHEAST CORNER OF THE AFORESAID LOT 14; THENCE RUN NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST, ALONG THE SOUTH LINE OF SAID LOT 14 FOR 51.70 FEET TO THE POINT OF BEGINNING, SAID POINT LYING ON THE RIGHT OF WAY LINE OF FIFTH STREET; THENCE CONTINUE NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST, ALONG SAID RIGHT OF WAY LINE FOR 2.24 FEET; THENCE RUN NORTH 26 DEGREES 01 MINUTES 34 SECONDS EAST FOR 50.32 FEET; THENCE RUN NORTH 89 DEGREES 22 MINUTES 43 SECONDS EAST, FOR 22.03 FEET TO A POINT ON THE RIGHT OF WAY LINE OF CRESCENT STREET; THENCE RUN SOUTH 00 DEGREES 37 MINUTES 17 SECONDS EAST ALONG SAID CRESCENT STREET RIGHT OF WAY LINE FOR 28.51 FEET TO A POINT OF CURVATURE; THENCE RUN SOUTHWESTERLY FOR 14.37 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 10.00 FEET, A CENTRAL ANGLE OF 82 DEGREES 18 MINUTES 34 SECONDS, A CHORD BEARING OF SOUTH 40 DEGREES 32 MINUTES 00 SECONDS WEST, AND A CHORD DISTANCE OF 13.16 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN SOUTHWESTERLY FOR 34.81 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 205.00 FEET, A CENTRAL ANGLE OF 09 DEGREES 43 MINUTES 41 SECONDS, A CHORD BEARING OF SOUTH 76 DEGREES 49 MINUTES 27 SECONDS WEST, AND A CHORD DISTANCE OF 34.76 FEET TO THE POINT OF BEGINNING.

TRACT C:
A PARCEL OF LAND LYING AND BEING IN LOT 14, BLOCK 3, BUSINESS CENTER SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF CIRCUIT COURT IN PLAT BOOK 9, PAGE 10, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS:
COMMENCING AT THE SOUTHERLY CORNER OF SAID LOT 14 PROCEED NORTHERLY ALONG THE EASTERLY BOUNDARY LINE OF SAID LOT FOR 53.89 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ON THE SAME COURSE FOR A DISTANCE OF 35.67 FEET; THENCE DEFLECT LEFT 116 DEGREES 43 MINUTES 00 SECONDS AND PROCEED WESTERLY ON THE LINE COMMON TO SAID LOT 14 AND 15 OF SAID SUBDIVISION FOR A DISTANCE OF 37.14 FEET; THENCE DEFLECT LEFT 90 DEGREES AND RUN SOUTHERLY ALONG THE WESTERLY BOUNDARY OF SAID LOT 14, (SAME BEING THE LINE COMMON TO SAID LOT 14 AND 13 OF SAID SUBDIVISION) FOR A DISTANCE OF 80 FEET; THENCE DEFLECT LEFT 90 DEGREES AND RUN EASTERLY FOR A DISTANCE OF 23.50 FEET; THENCE DEFLECT LEFT 90 DEGREES FOR A DISTANCE OF 49.10 FEET; THENCE DEFLECT RIGHT 91 DEGREES 35 MINUTES 40 SECONDS FOR 29.43 FEET TO THE POINT OF BEGINNING.
LESS AND EXCEPT THE FOLLOWING:
PART OF LOT 14, BLOCK 3, BUSINESS CENTER, A SUBDIVISION IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, AS SHOWN ON THE PLAT RECORDED IN PLAT BOOK 9, PAGES 9 AND 10 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHEASTERLY CORNER OF SAID LOT 14; THENCE RUN SOUTH 00 DEGREES 37 MINUTES 53 SECONDS EAST ALONG THE EASTERLY LINE OF LOT 14 FOR 35.57 FEET; THENCE RUN NORTH 62 DEGREES 02 MINUTES 23 SECONDS WEST FOR 3.99 FEET; THENCE RUN NORTH 00 DEGREES 37 MINUTES 53 SECONDS WEST ON A LINE PARALLEL TO AND 3.0 FEET WESTERLY OF THE EASTERLY LINE OF LOT 14 FOR 35.42 FEET TO THE NORTHERLY LINE OF LOT 14; THENCE RUN SOUTH 63 DEGREES 58 MINUTES 26 SECONDS EAST FOR 3.92 FEET TO THE POINT OF BEGINNING.

TRACT D:
A TRACT OR PARCEL OF LAND LYING IN BLOCKS 3 AND 5 AND A PORTION OF VACATED FOURTH STREET AND A PORTION OF VACATED FIFTH AVENUE, ALL LYING IN BUSINESS CENTER, AS RECORDED IN PLAT BOOK 9, AT PAGES 9 AND 10, PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND ALSO LYING IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, FORT MYERS BEACH, LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHEASTERLY CORNER OF LOT 16, BLOCK 3 OF THE AFORESAID BUSINESS CENTER; THENCE RUN NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST ALONG THE SOUTHWESTERLY RIGHT OF WAY LINE OF THIRD STREET (50 FEET WIDE) FOR 137.00 FEET; THENCE RUN SOUTH 26 DEGREES 01 MINUTES 34 SECONDS WEST FOR 95.00 FEET; THENCE RUN NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST, FOR 28.00 FEET TO A POINT ON THE NORTHWESTERLY LINE OF LOT 9 OF THE AFORESAID BLOCK 3 AND THE SOUTHEASTERLY RIGHT OF WAY LINE OF ESTERO BOULEVARD; THENCE RUN SOUTH 26 DEGREES 01 MINUTES 34 SECONDS WEST, FOR 65.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 9, BLOCK 3; THENCE CONTINUE SOUTH 26 DEGREES 01 MINUTES 34 SECONDS WEST, FOR 286.05 FEET TO A POINT ON THE NORTHWESTERLY LINE OF LOT 7 OF THE AFORESAID BLOCK 5; THENCE RUN NORTH 67 DEGREES 37 MINUTES 17 SECONDS EAST, ALONG THE NORTHERLY LINE OF LOTS 7, 8 AND 9 OF SAID BLOCK 5 FOR 92.74 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 9, BLOCK 5; THENCE RUN SOUTH 22 DEGREES 22 MINUTES 43 SECONDS EAST, ALONG THE EASTERLY LINE OF SAID LOT 9 FOR 80.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 9 AND THE NORTHWESTERLY RIGHT OF WAY LINE OF FIFTH AVENUE; THENCE RUN NORTH 67 DEGREES 37 MINUTES 17 SECONDS EAST, FOR 28.38 FEET; THENCE RUN NORTH 46 DEGREES 59 MINUTES 05 SECONDS EAST, FOR 46.47 FEET TO A POINT OF CURVATURE; THENCE RUN NORTHEASTERLY FOR 56.05 FEET ALONG THE ARC OF A CURVE CONCAVE NORTHWESTERLY, WITH A RADIUS OF 148.00 FEET, A DELTA OF 21 DEGREES 42 MINUTES 03 SECONDS, A CHORD BEARING OF NORTH 36 DEGREES 08 MINUTES 05 SECONDS EAST, AND A CHORD DISTANCE OF 55.72 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN NORTHEASTERLY FOR 98.52 FEET ALONG THE ARC OF A CURVE CONCAVE SOUTHEASTERLY, WITH A RADIUS OF 212.00 FEET, A DELTA OF 26 DEGREES 37 MINUTES 36 SECONDS, A CHORD BEARING OF NORTH 38 DEGREES 35 MINUTES 44 SECONDS EAST, AND A CHORD DISTANCE OF 97.64 FEET; THENCE RUN NORTH 32 DEGREES 28 MINUTES 21 SECONDS WEST (NOT RADIAL TO THE PREVIOUSLY DESCRIBED LINE) FOR 80.09 FEET; THENCE RUN NORTH 57 DEGREES 26 MINUTES 35 SECONDS EAST, FOR 109.20 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF LOT 15, BLOCK 3 OF THE AFORESAID BUSINESS CENTER, THENCE RUN NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST, ALONG SAID SOUTHWESTERLY LINE OF LOT 15 FOR 11.51 FEET TO THE SOUTHEASTERLY CORNER OF THE AFORESAID LOT 16, BLOCK 3; THENCE RUN NORTH 26 DEGREES 01 MINUTES 34 SECONDS EAST FOR 80.00 FEET TO THE POINT OF BEGINNING.

TRACT E:
A TRACT OF LAND LYING IN PART OF LOT 14, BLOCK 3, BUSINESS CENTER AS RECORDED IN PLAT BOOK 9, AT PAGES 9 AND 10, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHEASTERLY CORNER OF LOT 14, BLOCK 3, OF THE AFORESAID BUSINESS CENTER, THENCE RUN NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST, ALONG THE LINE COMMON TO LOTS 14 AND 15 FOR 3.92 FEET; THENCE RUN SOUTH 00 DEGREES 37 MINUTES 17 SECONDS EAST, FOR 22.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 00 DEGREES 37 MINUTES 17 SECONDS EAST, FOR 13.27 FEET; THENCE RUN NORTH 62 DEGREES 13 MINUTES 33 SECONDS WEST, FOR 25.65 FEET; THENCE RUN NORTH 26 DEGREES 01 MINUTES 34 SECONDS EAST, FOR 1.20 FEET; THENCE RUN NORTH 89 DEGREES 22 MINUTES 43 SECONDS EAST, FOR 22.03 FEET TO THE POINT OF BEGINNING.

TRACT F:
A TRACT OF LAND BEING PART OF FOURTH STREET AS SHOWN ON THE PLAT OF BUSINESS CENTER AS RECORDED IN PLAT BOOK 9, AT PAGES 9 AND 10, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHEASTERLY CORNER OF BLOCK 3, OF THE AFORESAID BUSINESS CENTER; THENCE RUN NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST, ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF FOURTH STREET FOR 122.12 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST, ALONG SAID NORTHERLY RIGHT OF WAY LINE FOR 165.21 FEET; THENCE RUN SOUTH 25 DEGREES 59 MINUTES 59 SECONDS WEST, FOR 50.00 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF SAID FOURTH STREET; THENCE RUN SOUTH 63 DEGREES 58 MINUTES 26 SECONDS EAST, ALONG SAID SOUTHERLY RIGHT OF WAY LINE FOR 165.19 FEET TO THE NORTHEASTERLY CORNER OF BLOCK 5 AND THE NORTHWESTERLY RIGHT OF WAY LINE OF FIFTH AVENUE AS SHOWN ON THE PLAT OF THE AFORESAID BUSINESS CENTER; THENCE RUN NORTH 26 DEGREES 01 MINUTES 34 SECONDS EAST, FOR 50.00 FEET TO THE POINT OF BEGINNING.

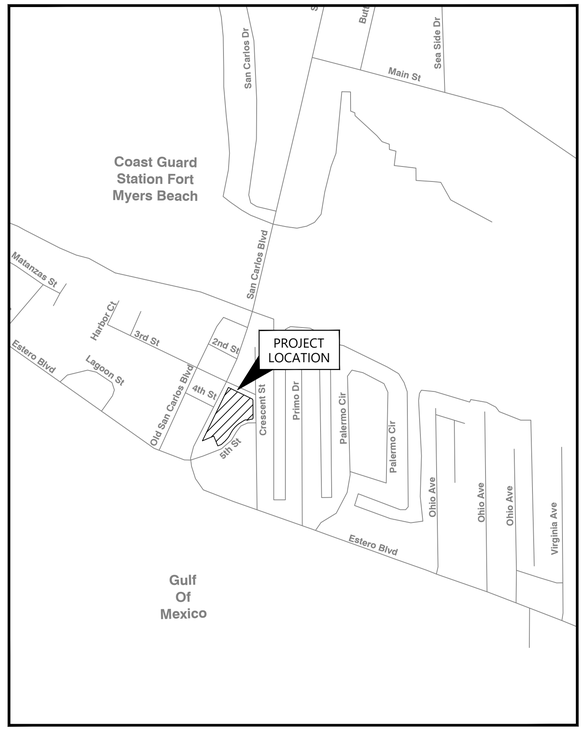
TRACT G:
A TRACT OF LAND LYING IN PART OF FOURTH STREET AND PART OF FIFTH STREET AS SHOWN ON THE PLAT OF BUSINESS CENTER AS RECORDED IN PLAT BOOK 9, AT PAGES 9 AND 10, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT 14, BLOCK 3, OF THE AFORESAID BUSINESS CENTER, THENCE RUN NORTH 63 DEGREES 58 MINUTES 26 SECONDS WEST, ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF FOURTH STREET FOR 60.91 FEET TO THE POINT OF BEGINNING; THENCE RUN SOUTH 78 DEGREES 21 MINUTES 29 SECONDS WEST, FOR 12.55 FEET; THENCE RUN SOUTH 57 DEGREES 31 MINUTES 39 SECONDS WEST, FOR 51.33 FEET TO A POINT OF UNCOMMON CURVATURE; THENCE RUN SOUTHWESTERLY FOR 102.54 FEET ALONG THE ARC OF A CURVE CONCAVE SOUTHEASTERLY, WITH A RADIUS OF 212.00 FEET, A DELTA OF 27 DEGREES 42 MINUTES 49 SECONDS, A CHORD BEARING OF SOUTH 39 DEGREES 08 MINUTES 22 SECONDS WEST AND A CHORD DISTANCE OF 101.55 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN SOUTHWESTERLY FOR 22.54 FEET ALONG THE ARC OF A CURVE CONCAVE NORTHWESTERLY, WITH A RADIUS OF 148.00 FEET, A DELTA OF 08 DEGREES 43 MINUTES 29 SECONDS, A CHORD BEARING OF SOUTH 29 DEGREES 38 MINUTES 48 SECONDS WEST, AND A CHORD DISTANCE OF 22.51 FEET TO A POINT ON THE NORTHWESTERLY RIGHT OF WAY LINE OF THE AFORESAID FIFTH STREET; THENCE RUN NORTH 26 DEGREES 01 MINUTES 34 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE FOR 122.80 FEET TO THE NORTHEASTERLY CORNER OF BLOCK 5 OF THE AFORESAID BUSINESS CENTER AND THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE AFORESAID FOURTH STREET; THENCE CONTINUE NORTH 26 DEGREES 01 MINUTES 34 SECONDS EAST, FOR 50.00 FEET TO THE NORTHEASTERLY RIGHT OF WAY LINE OF SAID FOURTH STREET; THENCE RUN SOUTH 63 DEGREES 58 MINUTES 26 SECONDS EAST, ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE FOR 61.21 FEET TO THE POINT OF BEGINNING.
LESS ANY PORTION THEREOF LYING WITHIN TRACT D AS DESCRIBED HEREIN.

TRACT H:
LOTS 12 AND 13, BLOCK 3, BUSINESS CENTER, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, AT PAGES 9 AND 10, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA. LESS ANY PORTION THEREOF LYING WITHIN TRACT D AS DESCRIBED HEREIN.

MASTER CONCEPT PLAN FOR

LIGHTHOUSE ISLAND RESORT CPD

SECTION 24, TOWNSHIP 46S, RANGE 23E,
FORT MYERS BEACH, FLORIDA



VICINITY MAP
N.T.S.

SITE LOCATION MAP
N.T.S.

PROJECT TEAM:

MHK ARCHITECTURE

THE NEIGHBORHOOD COMPANY

TR TRANSPORTATION CONSULTANTS, INC

PREPARED FOR:

LIGHTHOUSE ISLAND RESORT INC

1051 FIFTH ST
FORT MYERS BEACH, FL 33931

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2	EXISTING CONDITIONS
3	MASTER CONCEPT PLAN
4	NOTES

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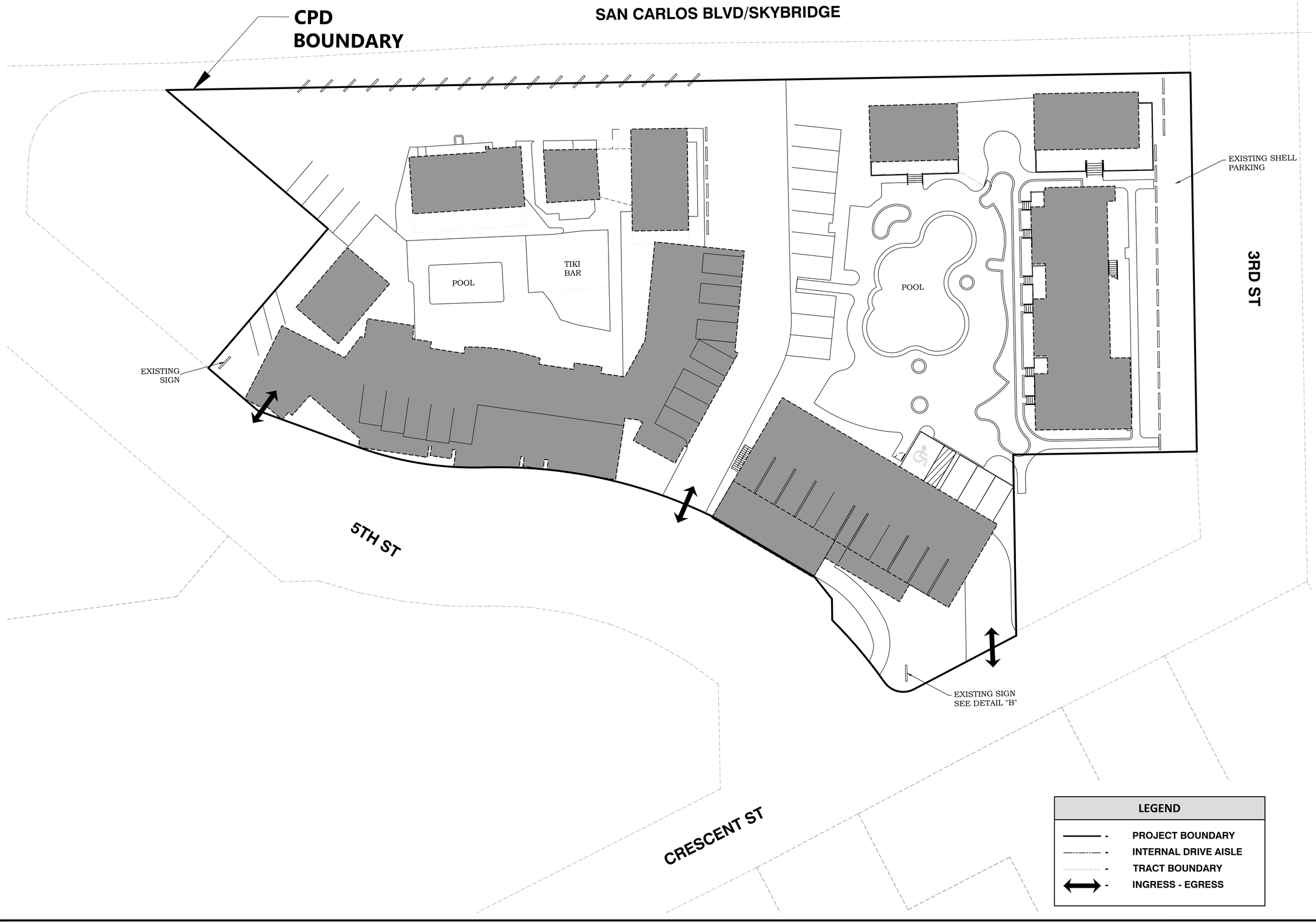
January, 2025	240050.01.01	1 OF 4



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#	REVISION	DRAWN	DATE

THE NEIGHBORHOOD COMPANY
5618 WHISPERING WILLOW WAY | FORT MYERS, FL 33908
WWW.THENEIGHBORHOOD.COMPANY

CLIENT: LIGHTHOUSE ISLAND RESORT INC

PROJECT: LIGHTHOUSE ISLAND RESORT CPD

TITLE: EXISTING CONDITIONS

PROJECT NO.: 220050.01.01
DATE: 01/25
DRAWN: F.L.
DESIGN: P.V.
SHEET NUMBER: 2 OF 4

SAN CARLOS BLVD/SKYBRIDGE

PROPOSED PEDESTRIAN PATHWAY

CPD BOUNDARY

0' BUILDING SETBACK

5

6

7 8

PROPOSED WALL SIGN

POOL AT 200 LEVEL

PROPOSED BUILDING 5

RESTAURANT WITH OUTDOOR SEATING AT 200 LEVEL

EXISTING BUILDING 4

EXISTING POOL

EXISTING TIKI

TIKI

3

EXISTING SIGN

EXISTING BUILDING 3

2

6

5TH ST

CREDIT GIVEN FOR 7 OFF-SITE PARKING SPACES

EXISTING BUILDING 2

7

EXISTING BUILDING 6

6

EXISTING BUILDING 7

10

PROPOSED WAYFINDING SIGN

EXISTING POOL

PARKING

3RD ST

EXISTING BUILDING 8

TIKI

PARKING

PROPOSED BUILDING 1

6

9' BUILDING SETBACK

9

PROPOSED SIGN

CRESCENT ST

LEGEND

- EXISTING BUILDING FOOTPRINT
- PROPOSED BUILDING FOOTPRINT
- DECK AREA
- ACCESSWAY+ PARKING
- BUFFERS AND OPEN SPACE
- OUTDOOR COP BOUNDARY
- PATHWAYS + SIDEWALKS
- PUBLIC BENCH
- VEHICULAR INGRESS / EGRESS
- DEVIATIONS
- SHARED LANE

0 20 40

#	REVISION	DRAWN	DATE

THE NEIGHBORHOOD COMPANY
5618 WHISPERING WILLOW WAY | FORT MYERS, FL 33908
WWW.THENEIGHBORHOOD.COMPANY

CLIENT: LIGHTHOUSE ISLAND RESORT INC

PROJECT: LIGHTHOUSE ISLAND RESORT CPD

TITLE: MASTER CONCEPT PLAN (MCP)

PROJECT NO: 220050.01.01
DRAWN: F.L.
DATE: 01/25
DESIGN: P.V.
SHEET NUMBER: 3 OF 4

CONDITIONS:

1. THE DEVELOPMENT OF THIS PROJECT MUST BE CONSISTENT WITH THE MASTER CONCEPT PLAN ENTITLED "MASTER CONCEPT PLAN (CPD) FOR LIGHTHOUSE ISLAND RESORT " LAST REVISED [DATE TBD], EXCEPT AS MODIFIED BY THE CONDITIONS AND DEVIATIONS BELOW.
2. THE FOLLOWING LIMITATIONS APPLY TO THE PROJECT AND USES:
   A. SCHEDULE OF USES

      ALL USES PERMITTED BY RIGHT IN THE DOWNTOWN ZONING DISTRICT WITH THE FOLLOWING LIMITATIONS:

      RESTAURANT IS LIMITED TO 4,300 SQUARE FEET

      RETAIL IS LIMITED TO 500 SQUARE FEET ACCESSORY TO THE PRIMARY RESORT USE

      OFFICE IS LIMITED TO 420 SQUARE FEET ACCESSORY TO THE PRIMARY RESORT USE

      HOTEL/MOTEL UNITS LIMITED TO A MAXIMUM OF 130 LAWFULLY EXISTING GUEST UNITS

      ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES, INCLUDING OUTDOOR SEATING AREAS AS DEPICTED ON THE MCP

   B. BUILDING PLACEMENT, SIZE, DESIGN, AND ALL OTHER PROPERTY DEVELOPMENT REGULATIONS SHALL BE THE SAME AS FOR THE CR (COMMERCIAL RESORT) ZONING DISTRICT UNLESS APPROVED AS DEVIATIONS AS PART OF THE APPROVED ZONING RESOLUTION.
3. MAXIMUM ZONED BUILDING HEIGHT MAY NOT EXCEED 40 FEET 5 INCHES ABOVE BASE FLOOD ELEVATION.
4. APPROVAL OF THIS ZONING REQUEST DOES NOT ADDRESS MITIGATION OF THE PROJECT'S VEHICULAR OR PEDESTRIAN TRAFFIC IMPACTS. ADDITIONAL CONDITIONS CONSISTENT WITH THE LDC MAY BE REQUIRED TO OBTAIN A LOCAL DEVELOPMENT ORDER.
5. THE FINAL DESIGN OF THE BUILDING WITHIN THIS PLANNED DEVELOPMENT MUST BE APPROVED BY THE TOWN MANAGER PRIOR TO THE APPROVAL OF ANY PERMITS. THE DESIGN MUST BE IN SUBSTANTIAL COMPLIANCE WITH THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, THE LAND DEVELOPMENT CODE, AND ALL OTHER APPLICABLE REQUIREMENTS.
6. AT NO TIME WILL THE TOTAL NUMBER OF HOTEL/MOTEL UNITS EXCEED 130 GUEST UNITS.
7. PRIOR TO APPROVAL OF A DEVELOPMENT ORDER, THE CORRECT SIDEWALK EASEMENT MUST BE RECORDED IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.
8. PRIOR TO EACH LOCAL DEVELOPMENT ORDER APPROVAL, THE DEVELOPER MUST PROVIDE A CURRENT TALLY OF THE SQUARE FEET FOR EACH USE APPROVED IN ALL PREVIOUS LOCAL DEVELOPMENT ORDERS.
9. THE TOTAL SQUARE FEET OF EXISTING AND PROPOSED BUILDINGS MUST NOT EXCEED 58,432 SQUARE FEET OF TOTAL BUILDING AREA FOR BUILDINGS USED AS HOTEL/ MOTEL GUEST UNITS.
10. ANY OFF-SITE PARKING, OTHER THAN THE EXISTING APPROVED 7 OFF-SITE PARKING SPACES, MUST BE ADDRESSED THROUGH AN AMENDMENT TO THIS CPD.
11. THIS DEVELOPMENT MUST COMPLY WITH ALL REQUIREMENTS OF THE LDC AT TIME OF LOCAL DEVELOPMENT ORDER APPROVAL, EXCEPT AS MAY BE GRANTED BY DEVIATION AS PART OF THIS PLANNED DEVELOPMENT. IF CHANGES TO THE MASTER CONCEPT PLAN ARE SUBSEQUENTLY PURSUED, APPROPRIATE APPROVALS WILL BE NECESSARY.
12. THIS CPD PROJECT MUST OBTAIN A DEVELOPMENT ORDER WITHIN FIVE YEARS OF THE DATE OF APPROVAL BY THE TOWN COUNCIL.
13. ALL SIGNS CONTAINING COMMERCIAL MESSAGES, INCLUDING THOSE SHOWN FOR THE PROPOSED RESTAURANT, MUST BE IN COMPLIANCE WITH LDC CHAPTER 30, EXCEPT AS APPROVED HEREIN BY DEVIATIONS.
14. THE DEVIATION FOR INTERNAL ILLUMINATION OF SIGNS IS APPROVED ONLY FOR THE EXISTING SIGNS. IF THE SIGNAGE IS MOVED, REMOVED, OR DAMAGED BEYOND REPAIR, THE DEVIATION WILL BE NULL AND VOID, AND ANY NEW SIGNAGE MUST COMPLY WITH THE REGULATIONS OF THE LDC.

HEIGHT *:

- EXISTING BUILDING 2: 26 FEET 3.25 INCHES
- EXISTING BUILDING 3: 35 FEET 10 INCHES
- EXISTING BUILDING 4: 23 FEET 2.5 INCHES
- EXISTING BUILDING 6: 10 FEET 2 INCHES
- EXISTING BUILDING 7: 19 FEET 11.75 INCHES
- EXISTING BUILDING 8: 26 FEET 3.25 INCHES

* HEIGHT IS MEASURED FROM BASE FLOOD ELEVATION PLUS 3 FEET OF ALLOWABLE FREEBOARD

GENERAL NOTES:

1. THIS MASTER CONCEPT PLAN (MCP) IS CONCEPTUAL IN NATURE. THE OVERALL CONFIGURATION, SIZE AND LOCATION OF THE STRUCTURE(S) AND OTHER IMPROVEMENTS MAY VARY. FINAL DESIGN AND IMPROVEMENT DETAILS WILL BE PROVIDED AS PART OF THE DEVELOPMENT ORDER (D.O.) PROCESS.
2. WATER MANAGEMENT REQUIREMENTS FOR REDEVELOPMENT PROJECTS CAN VARY SIGNIFICANTLY. THE WATER MANAGEMENT PLAN WILL BE DESIGNED AT THE TIME OF D.O.
3. TOTAL CPD DEVELOPMENT AREA: ±1.87
4. IN COMPLIANCE WITH LDC SECTION 34-1803(A)(2), THE MAXIMUM OF 130 ROOMS/LODGING UNITS ARE ALLOWED DUE TO EXCEPTIONAL CIRCUMSTANCES AND PUBLIC BENEFIT PROVIDED BY THIS CPD.

MAXIMUM INTENSITY:

- MAXIMUM OF 130 GUEST UNITS
- MAXIMUM ZONED HEIGHT: 40'5" ABOVE BASE FLOOD ELEVATION
- MAXIMUM FLOOR AREA RATIO (FAR): 1.2 OR 58,432 SF

PARKING:

- TOTAL PARKING PROVIDED: 99 SPACES, INCLUSIVE OF 8 GOLF CART PARKING SPACES, CREDIT FOR 2 BICYCLE PARKING SPACES, AND 7 ON-STREET PARKING SPACES.
  - O BUILDING 1: 7 SPACES
  - O BUILDING 2: 12 SPACES
  - O BUILDING 3: 15 SPACES
  - O BUILDING 5: 25 SPACES
  - O OPEN SURFACE PARKING: 23 SPACES
- BICYCLE PARKING CREDIT: 2 SPACES (MINIMUM OF TWO BIKE RACKS WILL BE PROVIDED ON SITE)

DEVIATIONS:

1. DEVIATION FROM LDC SECTION 10-285(A) WHICH REQUIRES A MINIMUM CONNECTION SEPARATION OF 125 FEET ALONG A LOCAL ROAD (FIFTH AVENUE); TO ALLOW A CONNECTION SEPARATION OF 83 FEET FROM TWO EXISTING DRIVEWAYS.
2. DEVIATION FROM THE FAR REQUIREMENTS OF LDC SEC. 34-633, WHICH INCLUDES COVERED PARKING IN THE FAR CALCULATION TO EXCLUDE THE UNDER-BUILDING PARKING FROM THIS RESORT'S FAR CALCULATION.
3. DEVIATION 3 REQUESTS RELIEF FROM LDC SECTION 30-5(A)(1)B.3.III WHICH ALLOWS A MAXIMUM HEIGHT OF 5 FEET FOR A MONUMENT SIGN TO ALLOW AN OVERALL HEIGHT OF 9.7' FOR "SIGN C" ON FIFTH STREET.
4. DEVIATION 4 REQUESTS RELIEF FROM LDC SEC. 30-5(A)(1)B.1 FOR INTERNAL ILLUMINATION OF THE SIGN FACES TO REMAIN AS EXISTING, WHERE THEY WOULD OTHERWISE BE REQUIRED TO EMIT LIGHT ONLY FROM THE LETTERS AND SYMBOLS OF THE SIGN FACE.
5. A DEVIATION FROM LDC DIVISION 4, TABLE 34-3 FOR THE CR ZONING DISTRICT WHICH LIMITS HEIGHT TO 30 FEET ZONED HEIGHT AND THREE (3) STORIES TO ALLOW A MAXIMUM ACTUAL HEIGHT OF 40.5 FEET ABOVE BASE FLOOD ELEVATION AND A MAXIMUM OF FOUR (4) STORIES CONSISTING OF THREE (3) STORIES ABOVE ONE (1) LEVEL OF PARKING.
6. A DEVIATION FROM LDC DIVISION 4, TABLE 34-3 FOR THE CR ZONING DISTRICT WHICH REQUIRES STREET SETBACKS OF 10 FEET TO INSTEAD ALLOW FOR BUILD-TO LINES OF 0 FEET AND 6.75 FEET ALONG SAN CARLOS BOULEVARD, THIRD STREET AND FIFTH STREET.
7. A DEVIATION FROM LDC SECTION 30-5(A)(1)A WHICH ALLOWS A MAXIMUM OF 32 SQUARE FEET OF SIGNAGE FOR A PARCEL OF LAND CONTAINING ONE OR TWO BUSINESS ESTABLISHMENTS TO ALLOW A MURAL-STYLE SIGN ON THE EAST ELEVATION OF BUILDING 5 OF 104 SQUARE FEET, AS DEPICTED ON THE MCP.
8. A DEVIATION FROM LDC SECTION 30-5(A)(1)A WHICH ALLOWS A MAXIMUM OF 32 SQUARE FEET OF SIGNAGE FOR A PARCEL OF LAND CONTAINING ONE OR TWO BUSINESS ESTABLISHMENTS TO ALLOW A MURAL-STYLE SIGN ON THE SOUTH ELEVATION OF BUILDING 5 OF 100 SQUARE FEET, AS DEPICTED ON THE MCP.
9. A DEVIATION FROM LDC SECTION 30-5(A)(1)B.3.III WHICH ALLOWS A MAXIMUM HEIGHT OF 5 FEET FOR A MONUMENT SIGN TO ALLOW AN OVERALL HEIGHT OF 10 FEET FOR A MONUMENT SIGN AT THE CORNER OF CRESCENT STREET AND FIFTH STREET, AS DEPICTED ON THE MCP.
10. A DEVIATION FROM LDC SECTION 30-8(16) WHICH PROHIBITS POLE SIGNS TO ALLOW A DECORATIVE WAYFINDING POLE SIGN ON THE CORNER OF THIRD STREET AND SAN CARLOS BOULEVARD, AS DEPICTED ON THE MCP.
11. A DEVIATION FROM LDC SEC. 34-1804(A) AND SEC. 34-2020, WHICH REGULATE PARKING FOR HOTELS/MOTELS AND OTHER ACCESSORY USES, TO ALLOW A 58% REDUCTION IN PARKING REQUIREMENTS FOR A TOTAL OF 82 ON-SITE PARKING SPACES AND 99 TOTAL PARKING SPACES, INCLUSIVE OF 7 PREVIOUSLY APPROVED ON-STREET PARKING SPACES, 8 GOLF CART PARKING SPACES, AND CREDIT FOR 2 BICYCLE PARKING SPACES.

#	REVISION	DRAWN	DATE

THE NEIGHBORHOOD COMPANY
5618 WHISPERING WILLOW WAY | FORT MYERS, FL 33908
WWW.THENEIGHBORHOOD.COMPANY

CLIENT: LIGHTHOUSE ISLAND RESORT INC

PROJECT: LIGHTHOUSE ISLAND RESORT (CPD)

TITLE: NOTES

PROJECT NO. 220050.01.01 | DATE: 01/25 | DRAWN: F.L. | DESIGN: P.V. | SHEET NUMBER: 4 OF 4

LIGHTHOUSE ISLAND RESORT
COMMERCIAL PLANNED DEVELOPMENT (CDP) AMENDMENT

NARRATIVE & JUSTIFICATION

BACKGROUND & REQUEST

The subject property is located at 1051 Fifth Street/1060 Third Street, Fort Myers Beach, FL 33931. The property consists of 2 parcels (24-46-23-W3-00205.0060 and 24-46-23-W3-00203.0150) totaling ±1.87 acres, situated on the east side of the base of the Matanzas Pass Bridge, between Third and Fifth Street (See Figure 1). The property has a Future Land Use (FLU) Designation of Pedestrian Commercial. The larger parcel fronting San Carlos Boulevard and Fifth Street has a zoning designation of Commercial Planned Development (CPD) and the corner parcel at 1060 Third Street has a zoning designation of Downtown. Lighthouse Island Resort Inc is the property owner and applicant for this CPD amendment request.

Figure 1. Project Location

5618 Whispering Willow Way, Fort Myers, FL 33908 | 239.398.2016
www.theneighborhood.company

The Neighborhood Company, on behalf of Lighthouse Island Resort, Inc, is submitting this Planned Development Amendment Application to request the following:

- Modification of CPD boundary to include STRAP # 24-46-23-W3-00203.0150.
- Increase the maximum number of hotel units from 75 to 130.
- Increase the maximum height of Building 5 from 37 feet above base flood elevation to a zoned height of 40 feet 5 inches above base flood elevation.
- Cleanup of the original five phase MCP.

HISTORY OF THE RESORT AND CPD

The Lighthouse Island Resort is an iconic Fort Myers Beach landmark that has been in operation for over 60 years. Four generations of the Kolar family have owned and operated the resort since 1954, when it was known as Memory Lane Motel Cottages & Apartments. In 1977, approximately half an acre of the existing property was part of a larger Florida Department of Transportation taking associated with construction of the Matanzas Pass Bridge. The taking reduced the Kolar family's property from 32 original platted lots to 20, with the former Fourth Street court vacated to the resort.

The original Lighthouse Resort CPD was approved in 1999, when the existing property was rezoned from C-1 to CPD to facilitate redevelopment. At the time of rezoning, the resort consisted of 72 hotel units spread over multiple one- and two-story wood frame buildings, a tiki bar, and basic resort amenities. As part of the

original CPD approval, the owners conveyed four parcels and a sidewalk easement along Third Street to the Town in order to promote pedestrian-oriented access to the Downtown district. At the core of the original CPD rezone was a desire to redevelop the property consistent with the vision of the Town's newly adopted Comprehensive Plan and the Pedestrian Commercial land use designation, which emphasized a vibrant mix of uses within a walkable, pedestrian-friendly downtown. The redevelopment also led to more resilient buildings, as the new structures were built above the base flood elevation and to the more stringent building code at the time.

Since its original approval, there have been five amendments to the CPD. An amendment in 2003 added additional permitted uses, expanded restaurant square footage, and added deviations including perimeter setbacks and parking space dimensions; the first amendment in 2013 created a five phase Master Concept Plan (MCP) and added additional deviations for floor area ratio (FAR) relief and signage size and placement; the second amendment in 2013 added a deviation for sign illumination; an amendment in 2018 increased the total hotel units from 72 to 75 through a density transfer; and an administrative amendment in 2024 made minor adjustments to the MCP for the pool deck.

PROPOSED AMENDMENT

Like many hotels on Fort Myers Beach, the Lighthouse Island Resort suffered significant damage as a result of Hurricane Ian. Although the resort was able to reopen, it is currently operating at approximately 60% of its pre-Ian capacity as a direct result of damage from the storm. A combination of current economic conditions and a desire to create a more family-friendly destination resort has led the property owners to request additional hotel units and height, as well as incorporating the parcel at the corner of Crescent Street and Third Street into the CPD.

The proposed amendment and redevelopment of the Lighthouse Island Resort includes the following:

- A luxury, family-friendly hotel with a maximum of 130 units.
- A cohesive, unified CPD that encompasses the entirety of the Lighthouse Island Resort properties.
- Cleanup of the original five-phase MCP including:
    - Condensing the five sheet MCP into one sheet for clarity.
    - Reductions of the permitted 5,000 SF of retail uses to 500 SF accessory to the resort and relocation of the proposed restaurant from the south end of the property to the corner of Crescent Street and Fifth Street.
- A pedestrian path that will enhance the walkability of the Downtown district.

The Kolar family are multi-generational island business owners who are committed to the Fort Myers Beach community. They want to add to their existing resort in a way that will help the redevelopment of the island and the creation of a cohesive, walkable downtown that will connect Old San Carlos Boulevard and Crescent Street and complement Times Square and Margaritaville.

Redevelopment, Resiliency and Economic Feasibility

Hurricane Ian had a significant impact on the Lighthouse Island Resort, as it did to many hotels and resorts on the island. The Town of Fort Myers Beach, its residents, and businesses remain strong and are working tirelessly on the recovery and reconstruction of their island and its economy.

Prior to Hurricane Ian, Fort Myers Beach had a significant hotel inventory of approximately 2,156 rooms, which was below the peak inventory that existed prior to Hurricane Charley in 2004. Post Ian, the Lee County Visitor and Convention Bureau estimates that only 1,152 rooms are currently available for occupancy as of January 2025, representing a decline of over 46% in available rooms. This significant reduction in hotel room supply significantly impacts the Town's economy and impedes the road to recovery. Tourism affects all facets of the local economy - it creates jobs and small business opportunities for local residents. Tourism and visitors to the island support local bars, restaurants and entertainment venues, contribute to the Town and County's tax base, and these visitors help provide the critical mass needed for certain business such as grocery stores and pharmacies to be viable and for services to thrive. As such, it is vital that we rebuild the hotel stock and that we promote a strong tourism economy. Redevelopment and reconstruction of hotels and resorts will bring visitors back to the island, which in turn will help reopen and keep restaurants, bars, and retail stores thriving. In combination, all these key commercial uses will provide a strong economic engine for the Town.

Fort Myers Beach will once again be the robust tourist destination it was before Hurricane Ian, but challenges such as new FEMA and Florida Building Code regulations, the need to harden and construct resilient structures, and insurance changes will seriously affect the ability to rebuild. The high cost of construction, limited availability of labor, the need for modern amenities that meet today's consumer expectations, high interest rates, overall inflation, and the significant risks associated with local tourism (i.e., red tide, COVID, major storms) seriously affect investment decisions and what type of hotel can be rebuilt. In order to offset these high costs and to hedge against unforeseen risks, hotels will need to be bigger than they once were.

The Kolar family have evaluated these challenges, along with the desire to create a more family-oriented destination that will continue to be an asset to the Town of Fort Myers Beach. The requested resort improvements seek to strike a balance between the need to address today's economic and regulatory

realities and delivering a design that respects the surrounding context and community character. The redeveloped Lighthouse Island Resort will not only provide additional hotel rooms to bolster the economy and replenish units lost since Hurricane Charley and Ian, but will also provide the following additional public benefits and amenities:

- Enhancement and improvements to the right-of-way which include:
    - Landscaping and open space features
    - Wayfinding that will identify nearby destinations such as restaurants, retail, and beach access
- Bicycle parking.
- Bicycles for guests to reduce vehicular traffic.
- Participation in the Don't Rent a Car (DRaC) program.
- Golf cart parking.
- Promotion of the Fort Myers Beach Elementary School, including flexible work schedules for employees whose children attend the Beach School.
- Support the Town's vision as a family-oriented destination by providing a family-friendly resort that honors its longstanding heritage on this island.

LOCATION, SITE DEVELOPMENT/DESIGN & COMPATIBILITY

Location

The Lighthouse Island Resort is located in the heart of the Downtown district, which has always been identified as a redevelopment area and the preferred location for the Town's most dense and intense development. With its location directly abutting the Matanzas Pass Bridge, it serves as an important connection between the Old San Carlos Boulevard commercial corridor and the Crescent Street corridor.

The property begins at the northeast corner of San Carlos Boulevard and Fifth Street and extends north to Third Street, between the Matanzas Pass Bridge and Crescent Street (see Fig. 1 Project Location). Along with Margaritaville to the south and Times Square to the southwest, the Lighthouse Island Resort creates a distinct "bookend" for the Downtown district.

As envisioned in the Comprehensive Plan and in the 1999 "Old San Carlos Boulevard – Crescent Master Plan", the desire for this area of the island is to "expand the Times Square pedestrian-friendly zone along Old San Carlos Boulevard from Times Square to Matanzas Pass, connecting the beach to the bay." The plan emphasized infill activity as a way to "improve economic opportunities and create a sense of place without further interfering with traffic flow on busy Estero Boulevard." The Lighthouse is ideally situated to connect pedestrians to both Crescent Street and Old San Carlos Boulevard; the proposed redevelopment

features a pedestrian pathway that cuts through the middle of the resort to connect the existing sidewalk arcade on Fifth Street to San Carlos Boulevard (see "Shared Lane" as depicted on the MCP).

The development supports the Town's "Park-Once" strategy by providing sufficient parking for resort guests and reducing the need for guests to utilize a car during their stay. A major component of the "Park-Once" concept, as described in the Old San Carlos Plan, is connecting "popular destinations in such a way that the walk is part of the attraction, not a hurdle to overcome." The proposed pedestrian path will feature lush landscaping and wayfinding, creating both an attraction and useful expansion of the pedestrian network. The connection between the Old San Carlos and Crescent Street corridors creates a walkable district, thereby reducing the need for vehicle travel. The typical "pedestrian shed", or distance the average person can comfortably walk, is a quarter mile (1,320 feet) or a 5-minute walk. There are numerous destinations within comfortable walking distance from the Lighthouse Resort, including restaurants, retail, and beach access – most within 500 feet or less. In addition to the enhanced pathway that will provide pedestrian connection under the Matanzas Pass Bridge, the Lighthouse will provide dedicated bicycle and golf cart parking onsite and will participate in the Don't Rent a Car (DRAC) program, supporting multi-model transportation options.

Surrounding Uses

The future land use category, zoning districts, and existing land uses surrounding the property are as follows:

	FUTURE LAND USE	ZONING DISTRICT	EXISTING LAND USES
NORTH	Pedestrian Commercial	Downtown	Vacant
SOUTH	Pedestrian Commercial	Downtown and Bigelow Plaza CPD	Public parking lot and Margaritaville Resort
EAST	Pedestrian Commercial with Platted Overlay	ROW and Residential Multi-Family	Crescent Blvd. and residential
WEST	Pedestrian Commercial	ROW, Shipwreck CPD, and Downtown	San Carlos Blvd. bridge, public parking lot, and various commercial uses

The subject property is located on the east side of the base of the Matanzas Pass Bridge with vacant commercial property to the north, the bridge right-of-way and a mix of commercial uses to the west, the Crescent Street corridor and residential uses to the east, and Margaritaville to the south. As mentioned previously, the resort is in the heart of the Downtown district and the Pedestrian Commercial future land use designation. The majority of the surrounding properties are developed to a similar intensity as the Lighthouse, consistent with the vision of both the zoning district and the future land use designation. Having been in operation at the same location since 1960, it's clear that the resort has been able to exist harmoniously with the surrounding uses. The proposed increase in density and height will be limited to two

buildings within the greater Lighthouse Resort and will therefore have little impact on the surrounding properties.

Figure 2. Surrounding Zoning

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Figure 3. Proposed MCP

Site Design

The existing resort consists of eight buildings, a tiki bar and restaurant area, pool and pool deck area, and associated parking. The site was intentionally designed with the majority of the buildings fronting Fifth Street and Crescent Street, with the buildings on Fifth Street cantilevered over the sidewalk to provide a pedestrian-friendly arcade consistent with the "Old San Carlos Boulevard – Crescent Master Plan". The five phases of the original MCP allowed for a transition from older, one- and two-story structures with fewer units to larger, more modern buildings. The proposed increase in height and density is consistent with the existing final phase of the MCP, which proposed the resort's largest and most intense building adjacent to the Matanzas Pass Bridge. The proposed building at the corner of Crescent Street and Fifth Street replaces the restaurant originally proposed in Phase II of the MCP.

Height

The Town's Comprehensive Plan allows for additional height through Policy 4-C-4 for parcels that are contiguous (or directly across a street) from taller buildings. The Lighthouse Island Resort currently allows a maximum height of 37 feet above base flood elevation. The resort buildings vary in height from single-story, cottage-style units to the current maximum of three stories. Margaritaville is directly south of the subject property, allowing a maximum of four stories or 40 feet. The proposed amendment is requesting a maximum height of four stories (three stories over parking) or a zoned height of 40'5" above base flood elevation, which is consistent with Margaritaville (see Figure 3). The increase in maximum height of 3.5 feet will allow for Building 5 to add roughly one additional foot of height per story of hotel rooms and allows for a sloped roof with attractive architectural embellishments. The infill development (Building 1) on the Crescent Street parcel proposed to be added to the CPD will be under 30 feet, providing a transition from residential uses on the east side of Crescent Street.

The resort's existing buildings are already varied in height and intensity, allowing for building massing that is well-integrated into the core of the Downtown district. Rather than a single, monolithic building, the Lighthouse has a village-style design that fits with the character of downtown Fort Myers Beach. The requested amendment for additional height will only be applicable to Building 5, which is be located on the western edge of the property, closest to the main Downtown commercial corridors and directly abutting the Matanzas Pass Bridge.

EXTERIOR ELEVATION - WEST

SCALE: 3/32" = 1'-0"

Figure 3: Building Height Exhibit

Density/Intensity

The subject property consists of ±1.87 acres and has a future land use designation of Pedestrian Commercial. The Pedestrian Commercial future land use category allows a maximum density of 6 dwelling units per acre (except where the Future Land Use Map's "platted overlay" indicates a maximum density of 10 units per acre for affordable units consistent with the adopted redevelopment plan), with equivalency factors for hotel units of various sizes.

Comprehensive Plan land-use category:	**Equivalency factors for guest units of various sizes[1](in square feet):**		
	< 450	**450 to 750**	**750 to 1,000**
Mixed Residential	2.0	1.5	1.0
Boulevard	2.5	2.0	1.5
Pedestrian Comm. [2]	3.0	2.5	2.0
(all others)	0.0	0.0	0.0
[1] see § 34-1802			
[2] see also § 34-1803(b)			

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The original Lighthouse Resort CPD was approved for 72 units on a total of ±1.673 acres, or a density of 43 units per acre. A CPD amendment in 2018 added three units for a total of 75, or a density of 40 units per acre (net density decreased as a result of additional acreage added to the CPD in 2013 and 2018).

Per LDC Section 34-1803(a)(2) equivalency factors exceeding the allowances in the table (see above) can be requested under exceptional circumstances and through the provision of public benefits. As supported throughout this narrative and evidenced by the damage caused by Hurricane Ian, the proposed redevelopment meets the exceptional circumstance requirement and provides numerous public benefits as outlined in the section below.

When considering density, it is important to analyze the requested increase in the context of not only surrounding development, but also in relation to recently approved projects which were approved for density above the base permitted by the LDC. Margaritaville is often used as a reference point when discussing lodging density increases and is a particularly appropriate comparison given its proximity to the Lighthouse Resort. Comparisons are also provided for The Neptune Resort and The Myerside, both of which were approved for increased density for redevelopment and feature similar resort amenities. Additionally, the same density comparison methodology was utilized for The Neptune and The Myerside. It is important to note that, unlike the three comparison redevelopment projects, the Lighthouse Resort is proposing strictly infill development rather than a ground-up rebuild of an entire site.

To achieve 130 units, the requested density will require an equivalency ratio of 6.5. This is based on the Lighthouse property being comprised of 20 platted lots within the Business Center Subdivision, with each platted lot permitted 1 unit by right:

- 130 units / 20 platted lots = 6.5 equivalency ratio

By comparison, Margaritaville utilized an equivalency ratio of 9.1 to achieve 254 units. It's important to note that Margaritaville did not utilize platted lots as a base density, but rather the base of 6 dwelling units/acre that is permitted in the Pedestrian Commercial future land use designation.

- Margaritaville: 4.78 ac (Dev. Area) x 6 du/ac (Base Density) = 28 units (by right units rounded down)
    - 28 x 9.1 (equivalency ratio/multiplier) = 254

The table below compares the percentage increase in equivalency ratio for the Lighthouse in comparison to similar projects. The 117% increase in equivalency ratio represents the lowest increase of the comparison projects.

PROJECT	MAX EQUIVALENCY RATIO PER LDC	REQUESTED/APPROVED EQUIVALENCY RATIO	PERCENT INCREASE
Lighthouse	*3.0*	*6.5*	*117%*
Margaritaville	3.0	9.1	203%
Neptune	2.5	6.2	148%
Myerside	2.5	4.1	125%

Another way of comparing density is gross units per acre. 130 units on ±1.87 acres equates to a density of 69.5 units per acre, which is consistent with the comparison projects below.

PROJECT	DENSITY (UNITS/ACRE)
Lighthouse	*69.5*
Margaritaville	50.3
Neptune	73.6
Myerside	43.7

In addition to density, the development is also subject to a maximum Floor Area Ratio (FAR). The current CPD defaults to the Commercial Resort (CR) zoning district standards for all development standards, except for approved conditions and deviations. Condition 11 limits total square footage of hotel guest units to 58,432 SF and Deviation 9 allows the FAR to exceed the maximum of residential/commercial uses to provide for under building parking.

The Comprehensive Plan allows a FAR of up to 2.5 in the Pedestrian Commercial Future Land Use category, but LDC Section 34-645 limits the maximum FAR within the Commercial Resort (CR) zoning district to 1.2. This application proposes amending Deviation 9 to clarify that the FAR calculation will not include under building parking and will not exceed the maximum FAR of 1.2.

Public Benefits

The Lighthouse Island Resort will provide numerous public benefits to the Town of Fort Myers Beach, its residents, and visitors. Public benefits being provided include the following:

- Enhanced pedestrian pathway that connects Crescent Street to the Old San Carlos Boulevard corridor
- Participation in the DRaC program
- Golf Cart Parking
- Bicycles for Resort Guests & Bicycle racks for the public
- Implementation of Park-Once Initiative

- Hardened and resilient structures
- Significant positive economic impact: ad valorem taxes, impact fees, bed tax, employment, capital improvement costs, secondary impacts in supporting other local businesses
- Support of FMB Elementary School through informing/educating staff about the school and providing flexible work schedules to facilitate drop-off and pick-up

Transportation, Parking and Pedestrian Access

A traffic impact statement is being prepared by TR Transportation Consultants and will be provided in a subsequent submittal.

The Lighthouse Island Resort is an example of a multimodal development. Visitors will be able to reach the property by walking, vehicle, bicycle, and the Fort Myers Beach "Trollee". The development proposes vehicle parking both on-street and beneath its hotel buildings and golf cart and bicycle parking throughout the site in order to encourage the "Park-Once" concept. The existing CPD was approved with 100 parking spaces for Phase V at buildout, which included parking for 75 hotel units, 4,300 SF of restaurant, 420 SF of office space, and 5,000 SF of retail uses. This amendment proposes a deviation from required parking to maintain the 100 spaces that were approved in the original CPD. Although the number of units will increase by 55 units, the 5,000 SF of retail is removed from the schedule of uses and providing 100 spaces consistent with the original MCP will provide sufficient parking for resort guests and the public.

Compatibility

As presented above and further discussed in the Rezoning Approval Criteria below, careful consideration was given to designing infill redevelopment that fits into the fabric of both the existing resort and downtown Fort Myers Beach, while remaining feasible from a regulatory and economic standpoint. By honoring the Lighthouse Island Resort's heritage as an iconic destination, and through the proposed thoughtful site design and public benefits, the proposed amendment ensures compatibility with surrounding properties. The Lighthouse has a long and beloved history on Fort Myers Beach and will continue to be an asset to the island for years to come by providing a family-oriented destination resort for visitors, by building a resort that is open to local residents, by providing public benefits and by being active participants in developing Town-wide mobility solutions and promoting the Beach School.

REZONING APPROVAL CRITERIA

The proposed rezoning request from Downtown to Commercial Planned Development (CPD) must be found consistent with the established rezoning criteria provided in LDC Section 34-85 and Section 34-216 as well as post-disaster build back criteria in accordance with Policy 4-D-1 of the Fort Myers Beach Comprehensive Plan and LDC Section 34-3238. The following narrative demonstrates compliance with the Town of Fort Myers Beach Comprehensive Plan and Land Development Code.

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THE FOLLOWING ADDRESSES APPLICABLE SECTIONS PROVIDED FOR IN THE PLANNED DEVELOPMENT APPLICATION – SUPPLEMENT PH-D FORM:

A. COMPREHENSIVE PLAN AMENDMENTS

The Lighthouse Island Resort is consistent with the following Comprehensive Plan Amendments which are pending and could affect the future use of this property:

Policy FLU-4-A-2 The Town of Fort Myers Beach values its vibrant economy and walkable commercial areas. Through this plan, the town will ensure that new commercial activities, when allowed, will contribute to the pedestrian-oriented public realm. All new development is encouraged to provide for amenities that enhance the public realm, including, but not limited to: art, benches, bike racks, trash receptacles, right-of-way landscaping, etc.

Policy 4-C-2 FLU1-C-2 COMMERCIAL INTENSITY: The maximum intensity of allowable commercial development in any category may be controlled by height and Floor to Area Ratio (FAR) regulations or by other provisions of this plan and the Land Development Code. Standards in the Land Development Code will encourage more intense commercial uses on properties with frontage on Estero Boulevard and only in the “Pedestrian Commercial” “Mixed-Use” and “Boulevard” categories.

Policy FLU-1-C-6 MOTEL TRANSIENT DENSITIES: The Land Development Code shall provide for the usage of commercial, mixed-use, or transient residential FAR, and minimum hotel/motel unit sizes as the basis for calculating transient residential unit.

Policy CD-3-A-3 MAINTAIN PEDESTRIAN CIRCULATION

Maintain the pedestrian circulation plan:

a. Bayside sidewalk and streetscape improvements for Estero Boulevard within the Core area with underground utilities and improved sidewalks.

ii. Sidewalks (5' wide minimum sidewalk) along all streets in the Core Area.

iii. Bike path along Estero Boulevard utilizing Crescent Street to Third Street across to Old San Carlos and then connecting back to Estero Boulevard and north to Bowditch Point.

iv. Old San Carlos as a pedestrian spine linking Times Square and the marina by implementing public sidewalks and major crosswalks designed to work in conjunction with arcades or plazas located on private property.

v. A new public pedestrian plaza at the east of Old San Carlos.

vi. New on-street parking and sidewalk on the south side of Crescent Street.

vii. Third and Fourth Streets with on-street parking and sidewalks on both sides of the street.

Proposed improvements with the pedestrian, parking, mass transit, and traffic circulation concepts in the Transportation Element of this plan.

POLICY T-1-D-2 REDUCE NEED OF CAR: Promote compact development, enhance pedestrian realm, and promote modes of transportation other than single occupancy vehicles.

B. PHASING OF CONSTRUCTION

The redevelopment is to be constructed in a single phase

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C. COMPREHENSIVE PLAN COMPLIANCE

COMMNITY DESIGN ELEMENT:

GOAL 3 To revitalize and improve specific transitional neighborhoods.

OBJECTIVE 3-D TIMES SQUARE - Stimulate the revitalization of the downtown core area (near Times Square) as the nucleus of commercial and tourist activities.

This redevelopment will play an integral role in supporting Object 3-D, which is to revitalize the downtown core area. As called for in the 1999 Old San Carlos Boulevard – Crescent Street Master Plan, redevelopment was desired within the area to create a strong sense of place and achieve a Park-Once strategy for the downtown core. The proposed infill redevelopment strengthens the eastern bookend for a cohesive downtown area. This development will expand the Times Square pedestrian friendly zone along Old San Carlos Boulevard, providing pedestrian connection through the resort. The proposed pedestrian path will feature lush landscaping and wayfinding, creating both an attraction and useful expansion of the pedestrian network. The connection between the Old San Carlos and Crescent Street corridors creates a walkable district, thereby reducing the need for vehicle travel.

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FUTURE LAND USE ELEMENT

GOAL 4: To keep Fort Myers Beach a healthy and vibrant "small town," while capitalizing on the vitality and amenities available in a beach–resort environment and minimizing the damage that a hurricane could inflict.

OBJECTIVE 4-A SMALL-TOWN CHARACTER — Maintain the small-town character of Fort Myers Beach and the pedestrian-oriented "public realm" that allows people to move around without their cars even in the midst of peak-season congestion.

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

POLICY 4-A-2: The Town of Fort Myers Beach values its vibrant economy and walkable commercial areas. Through this plan, the town will ensure that new commercial activities, when allowed, will contribute to the pedestrian oriented public realm.

POLICY 4-A-7 Estero Bay also provides great benefits to the town and can be enhanced by improving public access and reversing the decline in water quality. The Conservation and Coastal Management Elements of this Plan outline the town's efforts on these matters.

The devastation caused by Hurricane Ian has emphasized the need for more resilient structures on Fort Myers Beach. The Lighthouse Island Resort, though left standing, sustained significant damage and intends to redevelop to a more sustainable resort with additional public benefits. As expressed in Object 4-A, the desire is for the small-town character of Fort Myers Beach to be maintained while continuing the pedestrian-oriented "public realm" that encourages people to move around without their cars even in the midst of peak-season congestion. In planning the redevelopment of the property, the owners have considered what is needed in this area of the island for both visitors and residents to achieve this goal.

With the construction of new buildings that meet Florida Building Code and FEMA standards, the site will be more resilient and able to withstand impacts from future hurricanes. Through the reconfiguration of the access to the property, hardscape enhancements, enhanced pedestrian pathways, and a restaurant and tiki bar/pool open to the public, the Lighthouse will contribute to Fort Myers Beach's goal of being a healthy

and vibrant “small town” while capitalizing on the vitality and amenities available in this beach resort environment.

OBJECTIVE 4-B FUTURE LAND USE MAP CATEGORIES

Reduce the potential for further overbuilding through a new Future Land Use Map that protects remaining natural and historic resources, preserves the small-town character of Fort Myers Beach, and protects residential neighborhoods against commercial intrusions.

POLICY 4-B-6 “PEDESTRIAN COMMERCIAL”: a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around the Villa Santini Plaza. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for affordable units consistent with the adopted redevelopment plan). Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet the design concepts of this plan and the Land Development Code. Where commercial uses are permitted, residential uses are encouraged in upper floors. All “Marina” uses in Policy 4-B-7 are also allowed on parcels that were zoned for marinas prior to adoption of this plan. Nonresidential uses (including motels and churches) now comprise 58.9% of the land in this category, and this percentage shall not exceed 90%.

The mixed-use resort supports the Pedestrian Commercial future land use designation policy of the Comprehensive Plan in several ways. The overall site design creates a resort that is approachable and human scale. The original rezone of the property from C-1 to CPD emphasized the public realm and the creation of a human scaled development through the use of build-to lines and pedestrian arcades; this amendment proposes to continue to emphasize pedestrian and multi-modal access to the resort. The subject property is a perfect location for visitors to use as their home base as they explore all the island has to offer through walking and bicycling.

OBJECTIVE 4-C APPLYING THE FUTURE LAND USE

MAP — The Future Land Use Map shall be interpreted in accordance with the following policies.

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

Code may allow floor-area-ratios in the "Pedestrian Commercial" category as high as 2.5, and in other categories as high as 1.5.

Under the provisions of Policy 4-C-2, Pedestrian Commercial can achieve a Floor Area Ratio (FAR) of 2.5. The current maximum FAR allowed under the Commercial Resort (CR) zoning district is 1.2. The development will be consistent with the maximum FAR of 1.2, with a deviation for removing under building parking from the calculation of total square footage for the FAR.

OBJECTIVE 4-D POST-DISASTER REDEVELOPMENT — Provide for the organized and healthy reconstruction of Fort Myers Beach after a major storm by showcasing successful local examples of floodproofing, by requiring redevelopment activities to meet stricter standards for flood- and wind-resistance, and by improving the current post-disaster build back policy.

The new buildings associated with the proposed infill project will be more resilient, complying with the latest and more stringent state requirements.

COASTAL MANAGEMENT ELEMENT

GOAL 5: To keep the public aware of the potential effects of hurricanes and tropical storms and to plan a more sustainable redevelopment pattern that protects coastal resources, minimizes threats to life and property, and limits public expenditures in areas subject to destruction by storms.

POLICY 5-A-1 The town shall maintain and enforce building codes at least as stringent as required by Florida law to limit the potential damage of structures from hurricanes and tropical storms. These codes shall include wind-resistance commensurate with the risk of a coastal environment and building elevation requirements that conform with federal laws and Flood Insurance Rate Maps.

The Coastal Management Element addresses special coastal management concerns which are specific to the Town of Fort Myers Beach and its need to protect resources, human life, and property, which are all vulnerable to events such as hurricanes and flooding. The proposed development will be constructed in compliance with Florida Building Codes and FEMA standards, complying with Goal 5 and Policy 5-A-1.

TRANSPORTATION ELEMENT

GOAL 7: To improve peak-season mobility without reducing the permeability of Estero Boulevard to foot traffic or damaging the small-town character of Fort Myers Beach. The town seeks to reduce speeding, improve evacuation capabilities, and improve mobility through balanced transportation

improvements such as a continuous system of sidewalks and bikeways, a network of trolleys and water taxis linked to off-island systems, and parking options matched to road capacity.

POLICY 7-A-2 PARKING: Even though existing parking lots are not used to capacity; parking is not abundant at Fort Myers Beach. The welcome rebirth of commercial activity near Times Square will increase the demand for parking. The Town of Fort Myers Beach will address parking shortages through the methods outlined in this plan.

POLICY 7-D-3 ALTERNATE TRAVEL MODES: The town shall support alternatives to car travel to free up road capacity for trips that do require a car. Public funding sources shall include county/state gasoline taxes and road impact fees. The town shall modify Its road impact fee ordinance by 1999 to allow these fees to be spent (within legal limits) on capital improvements that relieve road congestion, such as better sidewalks, trolley improvements, and off-island parking areas.

The Transportation Element of the Comprehensive Plan acknowledges that conventional traffic solutions, like road widening and alternative routes, are ineffective for Fort Myers Beach and instead emphasizes alternative modes of transportation to relieve congestion on constrained roadways. The following are mitigation solutions cited by the Comprehensive Plan and ways in which the proposed project supports each strategy.

- **Make it easier for visitors to arrive without a car (Policy 7-D-1)**
    - Participation in the DRaC program, which incentivizes resort guests to travel to the island without a car by providing a discounted rate to those who do not bring a car.
    - The mix of uses provided within the resort will be easily accessible by pedestrians/bicycles, creating internal capture of trips that would otherwise add to traffic on Estero Boulevard and other local roads.
    - Bicycles will be available for guest use, encouraging use of the bike/pedestrian network.
    - Golf cart parking will be provided.
- **Create a hidden-path system (7-D-5)**
    - A separated pedestrian path system will be integrated throughout the resort and connected to downtown.
    - Wayfinding will direct pedestrian traffic to various destinations throughout downtown.

OBJECTIVE 7-I LEVEL-OF-SERVICE STANDARD: Maintain minimum acceptable levels of service for the transportation system.

POLICY 7-J-2 TRAFFIC IMPACT ANALYSES: A thorough traffic impact analysis is currently required only for major rezonings and very large development orders. The town shall amend its Land Development Code during 2010 to:

i. **decrease the thresholds for requiring traffic impact analyses;**

ii. **require them to study the cumulative impacts of potential development; and**

iii. **use the results in assessing whether impacts are acceptable, and whether an improved design could offset some of the impacts.**

A traffic impact statement is being prepared by TR Transportation Consultants, Inc. and will be provided in a subsequent submittal.

UTILITIES ELEMENT:

GOAL 8: To improve the existing systems that provide safe drinking water, irrigation water, sewer service, and solid waste disposal in order to reduce environmental impacts on land and water while keeping costs as economical as possible.

POLICY 8-A-1 Mandatory customer connections to water and sewer utilities shall continue to be the policy of the Town of Fort Myers Beach.

Complying with GOAL 8 and Policy 8-A-1, the Lighthouse Island Resort is already connected to central water and sewer utilities.

D. DESIGN STANDARDS COMPLIANCE

The post-hurricane redevelopment of the Lighthouse Island Resort will be generally consistent with the overall purpose and intent of the existing CPD, which was found consistent with LDC standards.

As demonstrated through the architectural elevations prepared by MHK Architecture and included in this submittal, the Lighthouse is designed in a contemporary coastal architectural style. The redeveloped resort achieves the goals set forth in the Comprehensive Plan and the Land Development Code by creating a development that will enhance the town's sense of place, implements the design concepts in the LDC, and creates an attractive destination which will enhance the island and its property values.

E. DECISION MAKING COMPLIANACE

The following considerations from LDC Sec. 34-85 shall be considered by town council whenever applicable:

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

There are no known errors or ambiguity that must be corrected in relation to the requested CPD amendment. If any exist, they will be discussed and resolved during staff review and public hearings before the Local Planning Agency (LPA) and Town Council. Utilizing the proposed CPD rezone request, reductions or elimination of any existing non-conformities will be corrected as applicable.

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

The Lighthouse Island Resort suffered significant damage as a result of Hurricane Ian. Although the resort was able to reopen, it is currently operating at approximately 60% of its pre-Ian capacity as a direct result of damage from the storm. Infill redevelopment of the resort is consistent with the 1999 Old San Carlos Boulevard – Crescent Street Master Plan, which called for the expansion of the Times Square pedestrian-friendly zone and recommending redevelopment to be built to the sidewalk in order to help create a strong "sense of place" and achieve a "Park-Once" strategy that encourages pedestrian activity throughout the corridor. The hurricane's destruction has presented an opportunity to achieve the desires as expressed through the Comprehensive Plan and the Old San Carlos Boulevard – Crescent Street Master Plan.

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

The proposed change will not have any impact on the intent of this chapter (LDC). The CPD amendment will allow the redevelopment of damaged structures to become an economic driver for the Town of Fort Myers Beach as well as a benefit to island residents and tourists.

(4) The testimony of any applicant.

The professional experts retained by the applicant to support this petition will provide testimony at both the Local Planning Agency (LPA) hearing and the Town Council hearing.

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

The Town staff will review the petition and provide a written report to be presented to the local planning agency at their appropriate public hearing. The petition along with the staff's report and the LPA recommendation will then be presented to the Town Council at the designated public hearing.

(6) The testimony of the public.

The public will be provided with the opportunity to present testimony to the LPA and Town Council.

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

As evidenced through this narrative, the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

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

The proposed location is ideal for the requested uses. The Lighthouse Island Resort is located in the heart of the Downtown district, which has always been identified as a redevelopment area and the preferred location for the Town's most dense and intense development. With its location directly abutting the Matanzas Pass Bridge, it serves as an important connection between the Old San Carlos Boulevard commercial corridor and the Crescent Street corridor.

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

Urban services are in place and utilized by the existing Lighthouse development and will remain in place to adequately serve the subject site. It is critical to note that adequate services were in place for well over 2,000 hotel/motel units prior to both Hurricanes Charley and Ian, but now approximately only 1,152 hotel/motel units are online. 2020 Census data also shows that the overall permanent population in Fort Myers Beach has declined roughly 11% since the 1990 Census. The Town's population estimates associated with transient lodging also show a decline over the last 30 years and the percentage of the in-season population attributed transient lodging has declined from 24% to 18%.

- 1990 Peak Season Population Estimate – Lodging: 3,620 or 24% of the overall population.
- 2020 Peak Season Population Estimate – Lodging: 3,133 or 18% of the total population.

Based on the data outlined above, existing urban services are and will be available to support not only the proposed Lighthouse Island Resort but many other proposed projects that will assist in the rebuilding of Fort Myers Beach.

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

The proposed redevelopment is located on a developed site which does not contain any environmentally critical areas or natural resources.

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

The request is compatible with existing or known planned commercial, residential and civic uses adjacent to the subject redevelopment and will not cause damage, hazard, nuisance or other detriment to persons or property of Fort Myers Beach. The proposed infill redevelopment will be compatible with existing uses and will complement the nearby downtown commercial uses.

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

This criteria will be addressed upon completion of the TIS.

CONCLUSION

As detailed in the above narrative, supporting application documents, and the proposed MCP, the application demonstrates consistency and compliance with both the Fort Myers Beach Comprehensive Plan and Land Development Code. Addressing the unique characteristics of the subject property through the CPD amendment process and compliance with today's Florida Building Codes and FEMA standards, the Kolar family will provide a project that will provide multiple public benefits and improve upon their legacy as multi-generational businessowners in the Town of Fort Myers Beach.

LIGHTHOUSE ISLAND RESORT

COMMERCIAL PLANNED DEVELOPMENT (CDP) AMENDMENT

SCHEDULE OF DEVIATIONS AND JUSTIFICATIONS

Deviation #1: Deviation 1 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Fifth Avenue); to allow a connection separation of 83 feet from two existing driveways. *(Existing)*

Deviation #2: Deviation 2 requests relief from the F.A.R. requirements of LDC Sec. 34-633, which includes covered parking in the FAR calculation to exclude the under-building parking from this resort's FAR calculation. *(Existing)*

> **Justification:** The requested language change is simply for clarification consistent with similarly approved deviations and does not change the previously permitted deviation to exclude under building parking from the FAR calculation.

Deviation #3: Deviation 3 requests relief from LDC Section 30-5(a)(1)b.3.iii which allows a maximum height of 5 feet for a monument sign to allow an overall height of 9.7' for "Sign C" on Fifth Street. *(Existing)*

> **Justification:** This deviation was previously approved and there are no proposed changes to the existing sign. The amendments to the deviation language are consistent with the Town's amended sign code (Ord. 23-01), which no longer specifies a maximum height for the base of a monument sign.

Deviation #4: Deviation 4 requests relief from LDC Sec. 30-5(a)(1)b.1 for internal illumination of the sign faces to remain as existing, where they would otherwise be required to emit light only from the letters and symbols of the sign face. *(Existing)*

> **Justification:** This deviation was previously approved and there are no proposed changes to existing illuminated signage. The amendments to the deviation language simply update the LDC reference consistent with the Town's amended sign code (Ord. 23-01).

Deviation #5: A deviation from LDC Division 4, Table 34-3 for the CR zoning district which limits height to 30 feet zoned height and three (3) stories to allow a maximum zoned height of 40 feet 5 inches above base flood elevation and a maximum of four (4) stories consisting of three (3) stories above one (1) level of parking.

> **Justification:** The Town's Comprehensive Plan allows for additional height through Policy 4-C-4 for parcels that are contiguous (or directly across a street) from taller buildings. The Lighthouse Island Resort currently allows a maximum height of 37 feet above base flood elevation. The resort buildings vary in height from single-story, cottage-style units to the current maximum of three stories. Margaritaville is directly south of the subject property, allowing a maximum of four stories or 40 feet. The proposed amendment is requesting a maximum height of four stories (three stories

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over parking) or 40 feet 5 inches above base flood elevation, which is consistent with Margaritaville (see Figure 3). The increase in maximum height of 3.5 feet will allow for Building 5 to add roughly one additional foot of height per story of hotel rooms and allows for a sloped roof with attractive architectural embellishments. The infill development (Building 1) on the Crescent Street parcel proposed to be added to the CPD will be under 30 feet, providing a transition from residential uses on the east side of Crescent Street.

The resort's existing buildings are already varied in height and intensity, allowing for building massing that is well-integrated into the core of the Downtown district. Rather than a single, monolithic building, the Lighthouse has a village-style design that fits with the character of downtown Fort Myers Beach. The requested amendment for additional height will only be applicable to Building 5, which is be located on the western edge of the property, closest to the main Downtown commercial corridors and directly abutting the Matanzas Pass Bridge. The granting of this deviation will not create negative impacts to the health, safety and welfare of the island's residents and visitors.

Deviation #6: A deviation from LDC Division 4, Table 34-3 for the CR zoning district which requires street setbacks of 10 feet to instead allow for build-to lines of 0' and 6.75' feet along San Carlos Boulevard, Third Street, and Fifth Street.

Justification: The existing CPD had approved deviations for perimeter and street setbacks, ranging from 0' to 7.4'; these deviations were based on proposed buildings at various phases of the five-phase development. The requested deviation reflects the existing conditions and proposed buildings fronting Third Street, Fifth Street, and San Carlos Boulevard. Relief from the required 10' street setback promotes pedestrian access to the Downtown district by bringing buildings closes to the "public realm" and is consistent with the vision of the Pedestrian Commercial future land use designation, which emphasizes a pedestrian-friendly downtown. The site was intentionally designed with the majority of the buildings fronting Fifth Street and Crescent Street, with the buildings on Fifth Street cantilevered over the sidewalk to provide a pedestrian-friendly arcade consistent with the "Old San Carlos Boulevard – Crescent Master Plan". As depicted on the MCP, the proposed street setbacks are also consistent with the previously approved deviations for setbacks of 7.4', 4.5', 3', 2.6', 1.5, 1.4', and 0'.

Deviation #7: A deviation from LDC Section 30-5(a)(1)a which allows a maximum of 32 square feet of signage for a parcel of land containing one or two business establishments to allow a mural-style sign on the east elevation of Building 5 of 104 square feet, as depicted on the MCP.

Justification: The Lighthouse Island Resort comprises ±1.87 acres, which is a significantly larger area than the average parcel containing one or two business establishments. Due to the scale of the resort and the fact that the property is surrounded on all sides by major roadways, it is reasonable to permit multiple signs totaling more than 32 square feet. The proposed mural-style sign will be located on the east elevation of Building 5 and will provide an attractive, contemporary visual from the Matanzas Pass Bridge. At 104 square feet, it will fit the scale of the proposed building. The rendering below represents the proposed sign.

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BUILDING 5, EAST ELEVATION
8'-0" X 13'-0"
104 SF

Deviation #8: A deviation from LDC Section 30-5(a)(1)a which allows a maximum of 32 square feet of signage for a parcel of land containing one or two business establishments to allow a mural-style sign on the south elevation of Building 5 of 100 square feet, as depicted on the MCP.

> **Justification:** The Lighthouse Island Resort comprises ±1.87 acres, which is a significantly larger area than the average parcel containing one or two business establishments. Due to the scale of the resort and the fact that the property is surrounded on all sides by major roadways, it is reasonable to permit multiple signs totaling more than 32 square feet. The proposed mural-style sign will be located on the south elevation of Building 5 and will provide an attractive, contemporary visual from Fifth Street and at street level. At 100 square feet, it will fit the scale of the proposed building.

Deviation #9: A deviation from LDC Section 30-5(a)(1)b.3.iii which allows a maximum height of 5 feet for a monument sign to allow an overall height of 10 feet for a monument sign at the corner of Crescent Street and Fifth Street, as depicted on the MCP.

> **Justification:** A deviation was previously approved for a 9.7' monument sign in this location. This deviation proposes a replacement monument sign with an architectural embellishment that is 10' and an actual sign height of 3'4". The proposed sign is consistent with the architectural style of the resort and pays homage to the iconic lighthouse design of the resort's historic signage. The rendering below represents the proposed sign.

BUILDING 1/2, CORNER
6'-10" X 3'-4"
22.78 SF

Deviation #10: A deviation from LDC Section 30-8(16) which prohibits pole signs to allow a decorative wayfinding pole sign on the corner of Third Street and San Carlos Boulevard, as depicted on the MCP.

Justification: The proposed wayfinding sign will allow pedestrians—whether resort guests, other visitors, or residents—to easily locate amenities within the resort, nearby landmarks such as Times Square, and nearby retail/restaurants. The sign's location at the corner of Third Street and the underpass of the Matanzas Pass bridge is ideal for capturing a significant amount of foot traffic, as Third Street provides connection from the Crescent Street corridor to the Old San Carlos Boulevard corridor. These pathways are part of the proposed pedestrian pathway network that runs through the resort and helps to enhance the pedestrian-oriented downtown area. The design of the sign will be consistent with the Lighthouse Island Resort branding and will enhance the beachy aesthetic of the resort.

Deviation #11: A deviation from LDC Sec. 34-1804(A) and Sec. 34-2020, which regulate parking for hotels/motels and other accessory uses, to allow a 58% reduction in parking requirements for a total of 82 on-site parking spaces and 99 total parking spaces, inclusive of 7 previously approved on-street parking spaces, 8 golf cart parking spaces, and credit for 2 bicycle parking spaces.

Justification: The existing CPD was approved with 100 parking spaces for Phase V at buildout, which included parking for 75 hotel units, 4,300 SF of restaurant, 420 SF of office space, and 5,000 SF of retail uses. Of the 100 approved spaces, 93 were on-site and 7 were off-site. The previously approved parking calculations utilized the 33% parking reduction applicable to specific areas within the Downtown zoning district. This deviation from the required parking proposes maintaining the 7 approved off-site, reducing the on-site parking from 93 to 82, and adding 8 golf cart and 2 bicycle parking spaces, for a total of 99 spaces provided. A detailed parking analysis breaking down the required parking by use has been provided. Although the number of hotel units will increase by 55

LIGHTHOUSE ISLAND RESORT

COMMERCIAL PLANNED DEVELOPMENT (CDP) AMENDMENT

PROPOSED CONDITIONS/COMMITMENTS:

TRAFFIC MITIGATION

1. **Don't Rent a Car (DRaC) Program**

    a. To help mitigate traffic congestion, the owner and resort operator will promote various marketing initiatives that support and encourage all guests to use alternative modes of transportation rather than drive a vehicle to or while on the island. Such efforts will include:

    - A dedicated page on the resort website outlining and promoting alternative modes of transportation and informing guests on ways to reduce vehicular trips including:
        - Information on the walkability of the area and businesses of interest to guests within walking distance;
        - Bicycle rentals;
        - Shuttle service;
        - Car hailing and taxi service;
        - Fort Myers Beach's LeeTran "TROLLEE" and seasonal TRAM Service Schedules and Route Maps, and
        - Food delivery service
    - Establish partnerships with businesses on the island, especially in the "Downtown", to provide incentives and discounts for guests. Hotel guests who do not drive onto the island will receive monetary discounts or vouchers for future stays and/or with participating local businesses, such as restaurants, bike rentals, and tour/tourism operators.
    - Participate in townwide traffic mitigation efforts, such as:
        - Off-island parking and transport initiatives, e.g. taxi or ride share discounts for those staying at the hotel.
        - Off-site parking availability identification systems.
        - Evaluating and improving LeeTran's "TROLLEE" and seasonal TRAM service and rider/user experience.

2. **Bicycles**

    a. The property owner or resort operator will provide for rent or complementary bicycles with bike locks, and dedicated bike parking at the resort for hotel guests.

    b. Minimum of 2 bicycle parking spaces (multiple bike racks) for public use.

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3. **Multi-Use Pathways:**

    a. Bicycle and pedestrian pathways will be provided throughout the property and will be open to guests and the public. The pathways will provide interconnection and ease of access to popular downtown venues to reduce vehicular trips.

    b. Enhancement and improvements will be made to the Third Street right-of-way that include but are not limited to:

        - Landscaping, benches, and open space features;
        - Wayfinding that will identify nearby destinations such as restaurants, retail, and beach access.

    c. Pathway enhancements and improvements will be made to the San Carlos Boulevard/Matanzas Pass Bridge right-of-way, subject to approval from FDOT.

        - Within six months of zoning approval by the town council, the property owner will coordinate with FDOT regarding enhancements to the San Carlos Boulevard/Matanzas Pass Bridge right-of-way.

    d. At the time of Development Order for Building 5, lighting will be provided for the San Carlos Boulevard/Matanzas Pass Bridge right-of-way. Lighting will meet requirements for "Nonresidential Walkways & Bikeways" per LDC Sec. 34-1833.

4. **Golf Cart Parking**

    a. The Lighthouse Resort will provide 8 dedicated golf cart parking spaces available to guests or the public.

DESIGN

5. **Architecture & Site Design**
    a. Final design must be generally consistent with renderings provided in addition to the Master Concept Plan.

6. **Landscaping & Buffering**
    a. All landscaping materials will be native varieties/Florida friendly species.

FORT MYERS BEACH ELEMENTARY SCHOOL

7. **Promoting the Beach School**
    a. The property owner or resort operator will work with the Town, Fort Myers Beach Chamber of Commerce, the School District of Lee County, and Fort Myers Beach Elementary School to promote the opportunity for resort employees to enroll their children at Fort Myers Beach Elementary School. Educational materials will be provided to employees regarding enrollment and after school care programs.

8. **Flexible Work Schedules**
    a. The resort will allow flexible work schedules for employees to accommodate pick up and drop off of children attending Fort Myers Beach Elementary School.

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COP, HOURS OF OPERATION & AMPLIFIED SOUND

9. Consumption on Premises (COP)

a. Service of alcohol for on-premises consumption is approved at the location depicted on the Master Concept Plan, subject to these limitations:

- Service to outdoor areas is permitted as follows:

    1. For Building 5, on the elevated pool deck.
    2. For the tiki bar and pool deck on the south end of the property between Buildings 3 and 5, limited to the areas depicted on the Master Concept Plan.
    3. For the tiki bar and pool deck on the north end of the property between Buildings 2 and 6, limited to the areas depicted on the Master Concept Plan.

10. Hours of Operation

a. Hours of operation for outdoor areas will be limited to the following unless otherwise temporarily altered per the Town's special event use regulations in LDC Section 34-1264. All other hours of operation will be regulated by the LDC.

b. Pool deck (Building 5): 9:00am to 12:00am

c. Pool deck and tiki bar (south end between Buildings 3 and 5): 9:00am to 2:00am

d. Pool deck and tiki bar (north end between Buildings 2 and 6): 9:00am to 10;00pm

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THE NEIGHBORHOOD COMPANY

LIGHTHOUSE ISLAND RESORT

COMMERCIAL PLANNED DEVELOPMENT (CDP) AMENDMENT

DEVELOPMENT CONDITIONS

1. The development of this project must be consistent with the Master Concept Plan entitled "Master Concept Plan (CPD) for Lighthouse Island Resort " last revised [date TBD], except as modified by the conditions and deviations below.

2. The following limitations apply to the project and uses:

    a. Schedule of Uses
    All uses permitted by right in the Downtown zoning district with the following limitations:
    Restaurant is limited to 4,300 square feet
    Retail is limited to 500 square feet accessory to the primary resort use
    Office is limited to 420 square feet accessory to the primary resort use
    Hotel/Motel units limited to a maximum of 130 guest units
    On-premises consumption of alcoholic beverages, including outdoor seating areas as depicted on the MCP

    b. Building placement, size, design, and all other property development regulations shall be the same as for the CR (Commercial Resort) zoning district unless approved as deviations as part of the approved zoning resolution.

3. Maximum building height may not exceed 40 feet 5 inches above Base Flood Elevation.

4. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.

5. The final design of the building within this planned development must be approved by the Town Manager prior to the approval of any permits. The design must be in substantial compliance with the Town of Fort Myers Beach Comprehensive Plan, the Land Development Code, and all other applicable requirements.

6. At no time will the total number of Hotel/Motel units exceed 130 guest units.

7. Prior to approval of a development order, the correct sidewalk easement must be recorded in the Public Records of Lee County, Florida.

8. Prior to each local development order approval, the developer must provide a current tally of the square feet for each use approved in all previous local development orders.

9. The total square feet of existing and proposed buildings must not exceed 58,432 square feet of total building area for buildings used as hotel/ motel guest units.

10. Any off-site parking, other than the existing approved 7 off-site parking spaces, must be addressed through an amendment to this CPD.

11. This development must comply with all requirements of the LDC at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

12. This CPD project must obtain a development order within five years of the date of approval by the town council.

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13. All signs containing commercial messages, including those shown for the proposed restaurant, must be in compliance with LDC Chapter 30, except as approved herein by deviations.
14. The deviation for internal illumination of signs is approved only for the existing signs. If the signage is moved, removed, or damaged beyond repair, the deviation will be null and void, and any new signage must comply with the regulations of the LDC.

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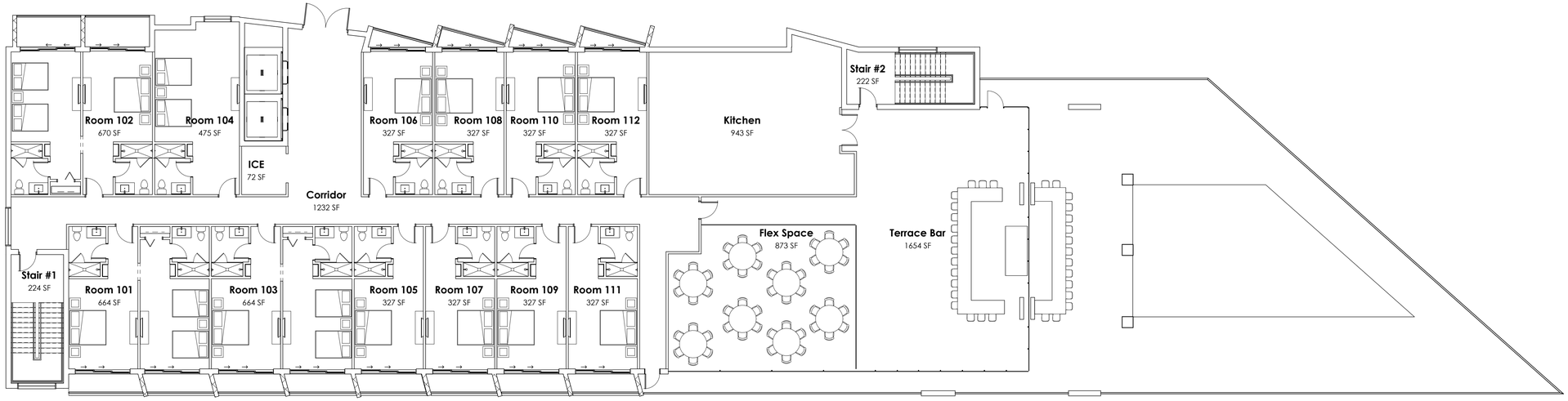
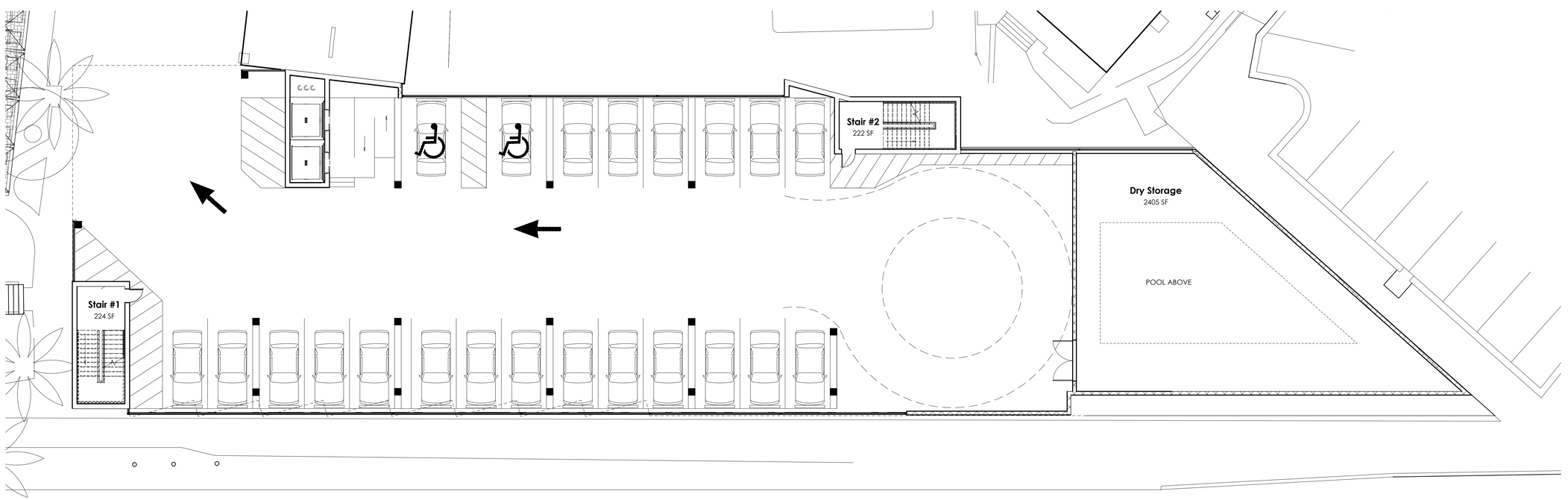
LIGHTHOUSE RESORT - BLDG 5

MHK ARCHITECTURE COPYRIGHT © 2025

SK1 | MHK ARCHITECTURE



2 SK - LEVEL 1
SCALE: 3/32" = 1'-0"



1 SK - GROUND LEVEL
SCALE: 3/32" = 1'-0"

LIGHTHOUSE RESORT - BLDG 5

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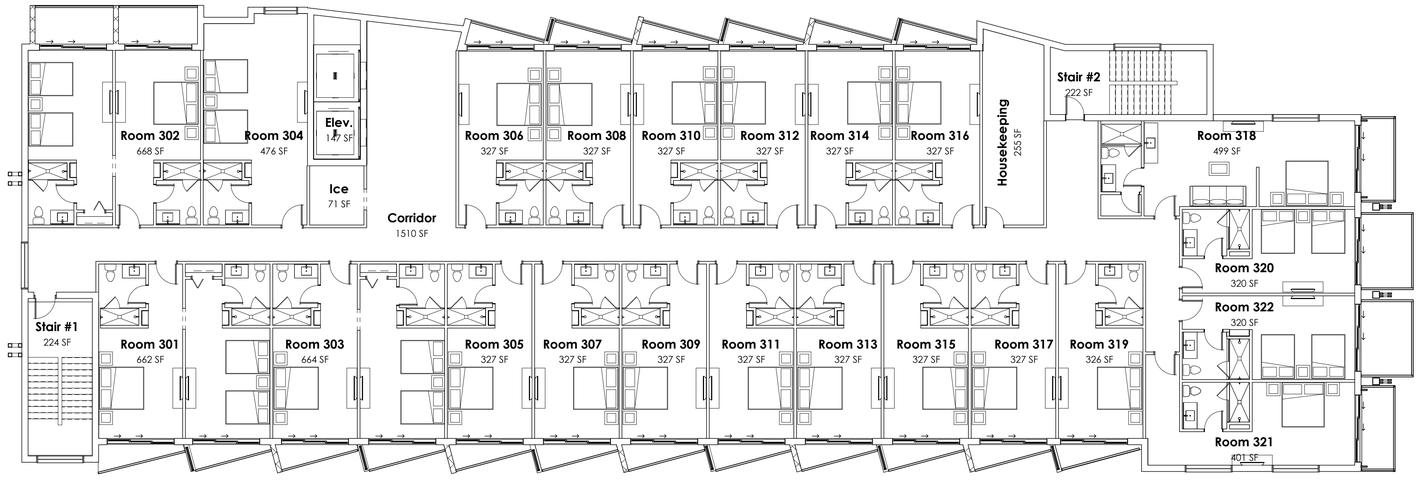
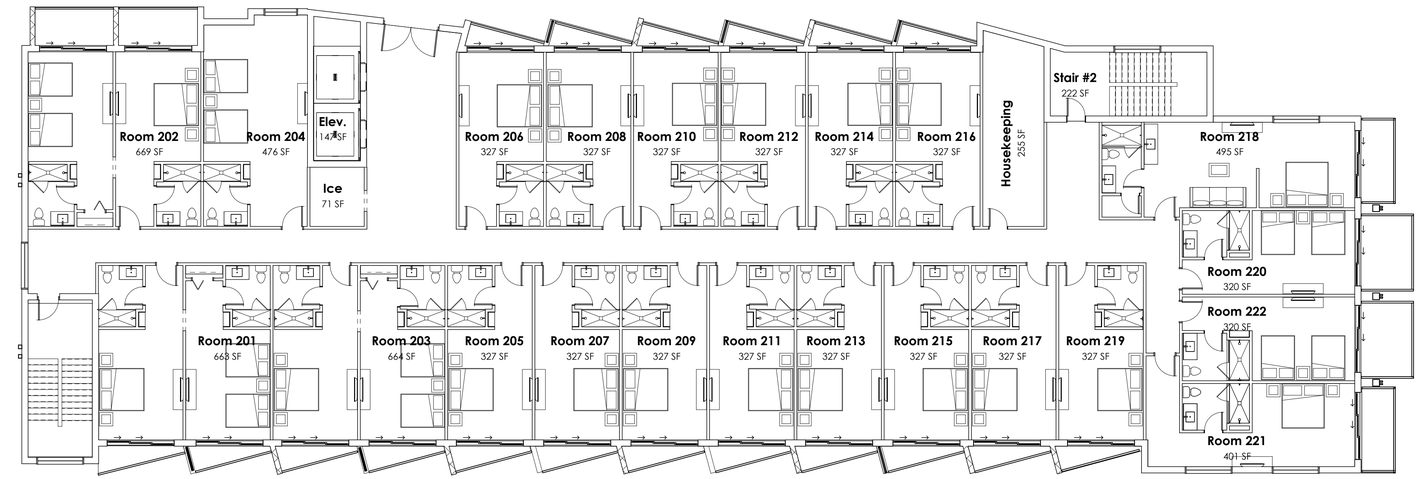
SK2 | MHK ARCHITECTURE



2 SK - LEVEL 3

SCALE: 3/32" = 1'-0"



1 SK - LEVEL 2

SCALE: 3/32" = 1'-0"

LIGHTHOUSE RESORT - BLDG 5

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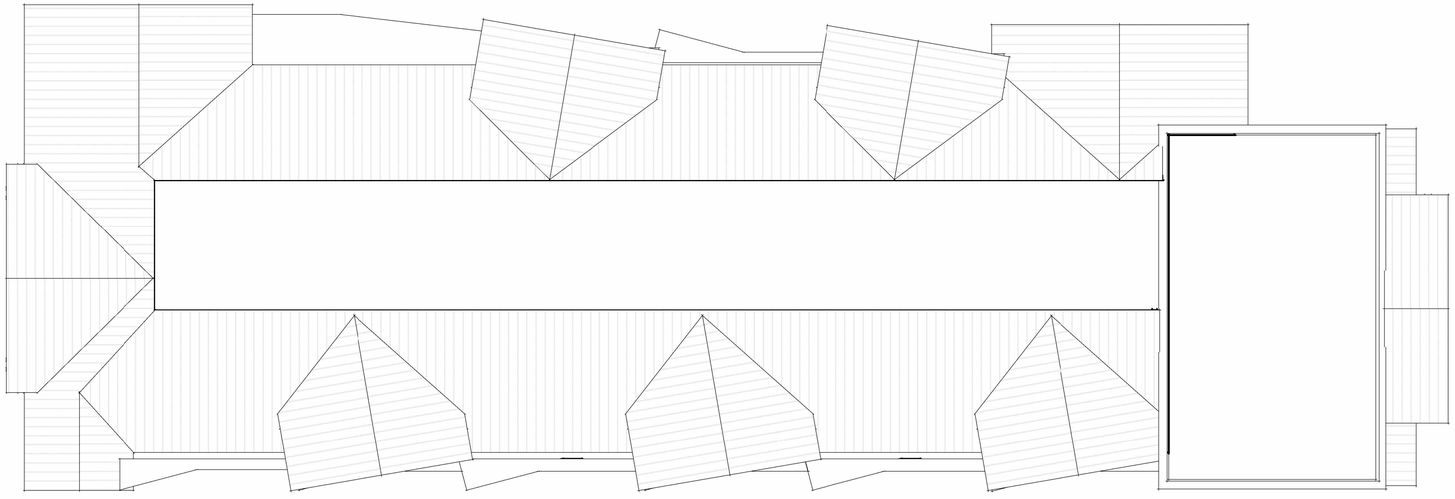
SK3 | MHK ARCHITECTURE



1 SK - ROOF PLAN
SCALE: 3/32" = 1'-0"

LIGHTHOUSE RESORT - BLDG 5

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SK4 | MHK ARCHITECTURE

1 EXTERIOR ELEVATION - NORTH
SCALE: 3/32" = 1'-0"

2 EXTERIOR ELEVATION - SOUTH
SCALE: 3/32" = 1'-0"

3 EXTERIOR ELEVATION - EAST
SCALE: 3/32" = 1'-0"

4 EXTERIOR ELEVATION - WEST
SCALE: 3/32" = 1'-0"

LIGHTHOUSE RESORT - BLDG 5

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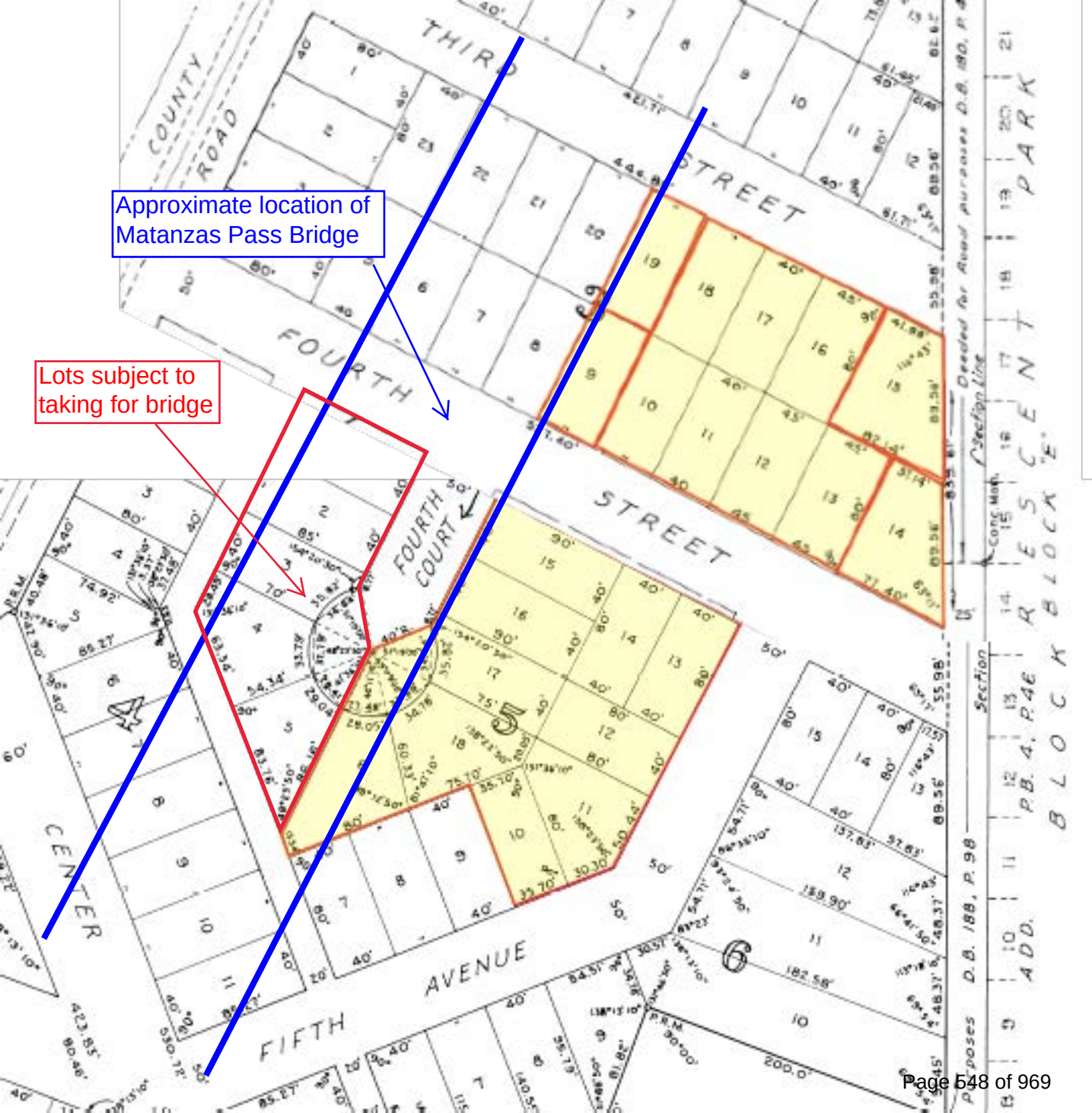
SK5 | MHK ARCHITECTURE


Approximate location of Matanzas Pass Bridge
Lots subject to taking for bridge
THIRD STREET
FOURTH STREET
FOURTH COURT
FIFTH AVENUE
CENTER
COUNTY ROAD
PARK CRESCENT
BLOCK "E"
Section
P.B. 4, P.4E
D.B. 188, P. 98
ADD.

Lighthouse Island Resort
Parking Analysis

Resort Lodging Units Required

Typical Unit Size	# of Units	Parking Ratio	Spaces
Up to 450 SF	94	1.2 spaces per unit	112.8
Greater than 450 SF	36	1.5 spaces per unit	54
		Subtotal	**166.8**

Restaurant Required

Restaurant Uses	Square Footage	Parking Ratio	Spaces
Restaurant (interior to Building 5)*	4,300	None required*	0
Tiki bar areas	2,116	15 per 1,000 SF or 1 per 200 SF	32
		Subtotal	**32**
	TOTAL REQUIRED FOR RESORT & RESTAURANT		**198.5**
	TOTAL REQUIRED FOR RESORT with a 50% Reduction		**99**

Provided

	Standard on-site parking spaces	**82**
	Golf Cart parking:	**8**
	Bicycle parking:	**2**
	Previously approved on-street parking	**7**
	TOTAL PARKING PROVIDED	**99**

*Per LDC 34-2020(d)(2)h.1: "When a restaurant is located within the same building as the principal use, and is clearly provided primarily for the employees and customers of the principal use, no additional parking spaces are required."

Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the Fort Myers Beach website by the time notice of the proposed ordinance is published.

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

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Fort Myers Beach is of the view that a business impact estimate is not required by state law[1] for the proposed ordinance, but the Fort Myers Beach is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

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

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

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

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

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance amends and existing CPD zoning designation for 1051 Fifth Street and 1061 Third Street. The Town Council approved a CPD for the property at 1051 Fifth Street in 2018 through Resolution 18-17 which currently provides the zoning regulations for the site. The applicant is seeking through this ordinance to include the parcel at 1061 Third Street in the CPD.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Fort Myers Beach, including the following, if any:
(a) An estimate of direct compliance costs that businesses may reasonably incur;
(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
(c) An estimate of the Fort Myers Beach regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

There are unlikely to be direct compliance costs associated with Ordinance 25-xx.

Ordinance 25-xx does not impose any new charge or fee on businesses.

There are no new charges or fees that will be imposed on businesses by the ordinance.

The Town will not likely incur additional costs.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

This rezoning does not increase restrictions on existing businesses.

4. Additional information the governing body deems useful (if any):[*You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: Fort Myers Beach staff solicited comments from businesses in the Fort Myers Beach as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on Fort Myers Beach website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses*).

Not applicable.

1. **Request:**

Meeting Date: May 19, 2025

This agenda item is a First Reading and Public Hearing on proposed Ordinance 25-06. If approved at First Reading, a Second Reading and final adoption hearing will be scheduled for June 16, 2025, at 9:00 AM or at another time identified by Town Council.

ORDINANCE TITLE:
AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING 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 AS AMENDED BY RESOLUTION 24-247 FOR THE PURPOSE OF REDEVELOPMENT OF THE PROPERTY TO ALLOW A COMMERCIAL DEVELOPMENT WITH A MAXIMUM OF 42,210 SQUARE FEET, 31 HOTEL ROOMS, AND A MEAN ROOF HEIGHT OF 38 FEET 8 INCHES ABOVE THE 100-YEAR STORM ELEVATION; PROVIDING FOR TERMS AND CONDITIONS INCLUDING BUT NOT LIMITED TO THE IDENTIFICATION OF THE PROPOSED USE OF THE PROPERTY, A FINDING OF CONSISTENCY WITH THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, COMMITMENTS AND DEVELOPMENT OBLIGATIONS, DEVIATIONS NEEDED FOR DEVELOPMENT; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:
The Town Council has two public hearings for any approval of a development agreement.

What the action accomplishes:
Approval of the DA would allow a commercial development which exceeds the zoning allowed height, intensity, and hotel equivalency factor.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	Ordinance	Sarah Propst, Community Development, Planning Manager

5. **Background:**
The applicant is requesting a home rule development agreement (DA) for property that was previously developed as the Sunset Beach Tropical Grill, formerly known as Top O' Mast restaurant, and a paid parking lot. This property is between the Times Square Pedestrian Plaza and the beach and is directly adjacent to Crescent Beach Park. The total property is approximately .9 acres; however, the 1978 Coastal Construction Control Line (CCCL) splits the property between the Downtown and EC zoning districts. The developable portion of the property is 23,452 square feet of land zoned Downtown.

The Downtown zoning district allows the uses requested in this DA: retail, hotel, and restaurant. Additionally, the area for consumption on premises (COP) on the beach was previously confirmed through *Persaud Properties FL Investments LLC v. Town of Fort Myers Beach, No. 2D19-1282 (Fla. 2d DCA 2019)*, which is attached for reference. The DA is proposed to resolve

conflicts with the zoning district allowed height and number of stories, intensity or floor area ratio (FAR), criteria for calculation of FAR, hotel equivalency factor, build-to lines, and commercial design standards.

The applicant has proposed changes since the LPA hearing. The new structure is one story shorter, the FAR is decreased, and the number of rooms has been decreased to 31.

Attachments:

1. Ordinance 25-06 ab.2
2. Exhibit A to Ordinance 2025-06 Draft Development Agreement with Exhibits (1)
3. TC Staff Report
4. Exhibit A to TC Staff Report - Resolution 24-247, Development Agreements with Deviations
5. Exhibit B to TC Staff Report - COP Nonconforming Use Litigation
6. Exhibit C to Staff Report - Project Narrative
7. Exhibit D to Staff Report - Application
8. Business Impact Estimate Ordinance 25-06

Financial Impact:

unknown

6. **Alternative Action**

Suggest changes and recommend approval or denial to Town Council

7. **Management Recommendations:**

Schedule a second hearing.

8. **Recommended Approval:**

Sarah Propst, Community Development, Planning Manager	Created/Initiated - 5/5/2025
Judith Frankel, Principal Planner	Approved - 5/7/2025
Frankie Kropacek, Community Development Director	Approved - 5/7/2025
nancy stuparich, Town Attorney	Approved - 5/12/2025
Amy Baker, Town Clerk	Final Approval - 5/12/2025

ORDINANCE NO. 25-06

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 AS AMENDED BY RESOLUTION 24-247 FOR THE PURPOSE OF REDEVELOPMENT OF THE PROPERTY TO ALLOW A COMMERCIAL DEVELOPMENT WITH A MAXIMUM OF 42,210 SQUARE FEET, 31 HOTEL ROOMS, AND A MEAN ROOF HEIGHT OF 38 FEET 8 INCHES ABOVE THE 100-YEAR STORM ELEVATION; PROVIDING FOR TERMS AND CONDITIONS INCLUDING BUT NOT LIMITED TO THE IDENTIFICATION OF THE PROPOSED USE OF THE PROPERTY, A FINDING OF CONSISTENCY WITH THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, COMMITMENTS AND DEVELOPMENT OBLIGATIONS, DEVIATIONS NEEDED FOR DEVELOPMENT; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, Persaud Properties FL Investments, LLC (the "Developer") wishes to develop certain parcels of land in the Town of Fort Myers Beach, as more explicitly described in the Home Rule Development Agreement, attached hereto as Exhibit "A" (the "Development Agreement"); and

WHEREAS, the Developer presented the Development Agreement to the Town's Local Planning Agency ("LPA") at the April 29, 2025 meeting and the LPA voted to recommend denial of the Home Rule Development Agreement by a vote of 7 to 0, finding the redevelopment project as proposed to be inconsistent with the Comprehensive Plan and Land Development Code; and

WHEREAS, the Town Council held its first reading and public hearing on the Home Rule Development Agreement at its May 19, 2025 Town Council meeting, and determined that the Home Rule Development Agreement and the accompanying application **satisfied/did not satisfy** the guidelines and criteria set forth in Sections 2-100 and 2-96 of the Town's Code of Ordinances and the procedures for approval of development agreements in Exhibit A to Resolution Number 24-73, as amended by Resolution 2-247; and

WHEREAS, the Town Council voted to schedule the second reading and adoption public hearing of the Ordinance on June 16, 2025; and

WHEREAS, thereafter the Town Council held the second and final reading and public hearing on the Home Rule Development Agreement on June 16, 2025; and

WHEREAS, a Business Impact Estimate was prepared and posted on the Town's website on the 6th day of May 2025, as required by Section 166.041(4), Florida Statutes; and

WHEREAS, the Town Council determined that adoption of the ordinance, as provided herein is in the best interests of the health, safety, welfare, and morals of the Town's residents.

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

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

Section 2. The Town Council hereby formally approves the Home Rule Development Agreement attached hereto as Exhibit "A" and authorizes the Property Owner to proceed with the redevelopment as further outlined therein.

Section 3. The Town Clerk is directed to record a copy of the Home Rule Development Agreement in the Official Records of Lee County, Florida.

Section 4. This Ordinance shall become effective upon adoption by the Town Council.

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

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

ADOPTED this ____ day of _____, 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

_____
Dan Allers, Town Mayor

ATTEST:

_____
Amy Baker, Town Clerk

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

_____
Vose Law Firm, Town Attorney

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

Attachments:
Exhibit A – Home Rule Development Agreement with Exhibits

HOME RULE DEVELOPMENT AGREEMENT
(Draft 5-02-2025)

THIS DEVELOPMENT AGREEMENT (hereinafter, "Agreement" or "Development Agreement") is entered into this _____ day of _____ 2025, by and between **THE TOWN OF FORT MYERS BEACH,** FLORIDA, a municipality of the State of Florida (hereinafter "Town"), having its principal office at 2731 Oak Street, Fort Myers Beach, FL, and **PERSAUD PROPERTIES FL INVESTMENTS LLC**, a Florida limited liability company (hereinafter "Developer"), whose address is 385 Seminole Way, Fort Myers Beach, FL 33931.

WHEREAS, Section 2-100 of the Town's Land Development Code, authorizes it to enter into a home rule development agreement pursuant to article VIII, § 1(f), of the Constitution of the State of Florida and F.S. chs. 163, 166 and 380, and specifically recognized by the State Legislature in F.S. § 163.3220(5); and

WHEREAS, the Developer has requested approval of this Development Agreement pursuant to Section 2-96 of the Town's Land Development Code and Resolution 24-247, as amended; and

WHEREAS, Developer owns approximately .9 +/- acres of land located within the Town, said property, of which 23,452 square feet is located landward of the 1978 Coastal Construction Control Line (hereinafter "CCCL"), being legally described in Exhibit "A" attached hereto (hereinafter, "the Property"); and

WHEREAS, the Town and the Developer desire to enter into this Agreement to provide for the approval and a comprehensive understanding of the development parameters consistent with the Town's Land Development Code and Comprehensive Plan as set forth herein; and

WHEREAS, a public hearing was held before the Town of Fort Myers Beach Local Planning Agency("LPA") on the 29th day of April, 2025, and the LPA reviewed the request and by a vote of 7-0 recommended denial to the Town Council; and

WHEREAS, the Town conducted two public hearings on the _____ day of _____, 2025, and the _____ day of _____, 2025, prior to entering into this Agreement, both of which were properly noticed on the Town's website and by mailing to affected property owners within a 500 foot radius of the boundaries of the real property at the addresses of such property owners found on the Lee County Property Appraiser's website prior to the first public hearings; and

WHEREAS, the Town Council has determined after consideration of the recommendation of the LPA, Town staff, and following two public hearings, which provided an opportunity for comment, testimony and evidence from the Developer, Town staff, and the public, the Town Council has determined that based upon competent and substantive evidence the Development Agreement is reasonable and not arbitrary and in the best interest of the Town and the residents of the Town Fort Myers Beach.

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, for the purposes set forth in Section 2-100 and 2-96 of the Town's Land Development Code, the benefits to accrue to each party, and for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the Town and the Developer agree as follows:

1. Recitals. The foregoing recitations are true and correct and are incorporated herein by reference. All exhibits to this Agreement are deemed a part hereof.

2. Property Subject to this Agreement. The real property described in Exhibit "A" is subject to the terms and conditions of this Agreement ("Property").

3. Ownership. Developer represents that it is the legal and equitable owner, having an interest in the Property pursuant to Instrument Nos.: 2014000160173 and 2016000115839 recorded July 31, 2014, and May 31, 2016, respectively, in the Official Records of Lee County, Florida, and as such may lawfully enter into this Agreement. The Town is in receipt of a title opinion from a Florida attorney upon which it can rely for the purpose of confirmation of the Developer's ownership representation.

4. Proposed Development and Use of the Property. The proposed Uses and development of the Property will be consistent with the following:

a. The maximum development parameters are 42,210 square feet for a restaurant, retail, and 31 hotel rooms with appurtenant facilities including service bars and sunset terrace in substantial compliance with the Site Plan and Floor Plans dated May 1, 2025 and attached as Exhibit B. The proposed development will reestablish the previous commercial uses that occurred on-site and incorporate boutique hotel units.

b. Vehicular Access/Transportation: The development will be served by Estero Blvd. Vehicles will have direct access to onsite valet service for the parking lifts.

c. Parking. While no onsite parking is required under applicable Town Code provisions, the eastern portion of the ground floor of the proposed building will be developed with parking facilities that include lifts to maximize onsite parking. The development will include valet parking to serve hotel and restaurant customers.

d. Commercial Area. The combined square footage of all development areas, including open air first floor commercial retail, bar, and pedestrian areas served by roll up doors has a total ~~equivalency of a~~ FAR of 1.8 (42,210 square feet).

    i. First (Ground) Floor: Approximately 8,243 square feet of the first floor will be developed for commercial, retail, and service bar with patio. The design exceeds applicable Town Code provisions by providing an increased front setback.

    ii. Second Floor: The second floor will be developed with an approximately 5,303 square foot commercial restaurant and 12,575 square feet of hotel

DRAFT

uses, including 12 rooms. These measurements do not include open air patios consistent with FAR calculations.

iii. Third Floor: The third floors will be developed with 13,441 square feet of hotel uses, including 19 rooms. These measurements do not include open air patios consistent with FAR calculations. The design exceeds applicable Town Code provisions by providing an increased front setback.

iv. Roof Top Service Bar & Sunset Terrace: The roof will provide a publicly accessible sunset terrace and service bar. 2,299 square feet is provided for stairs, elevators, restrooms and a service kitchen. This measurement does not include the remaining open rooftop area consistent with FAR calculations.

e. Height: The height of the structure will be 3 stories, 28 feet 2 inches above the 100 year storm elevation for the mean roof height. The maximum building height of 38 feet 8 inches above the 100 year storm elevation for the mean roof height includes the rooftop sunset terrace and service bar.

f. Setbacks: While the applicable Town Code provisions requires a zero (0) foot setback on sides and road frontage, the development will provide a minimum ten (10) foot front setback to allow enhanced pedestrian access with an increased front setback for the third and fourth floors.

5. Public Facilities. The following public facilities will serve the Proposed Development on the Property:

A. Potable Water: Potable water will be supplied by Town of Fort Myers Beach and is presently adequate to serve the Proposed Development. Notwithstanding the foregoing, nothing in this Agreement will be interpreted nor is it the intent of the parties to create a reservation of capacity. Capacity for the project will be based on its availability at the time of submission of a Development Order. The Developer is responsible for improvements to the utility system required to service the proposed development.

B. Sanitary Sewer: Wastewater services will be provided solely by Lee County, which are presently adequate to serve the Proposed Development. Notwithstanding the foregoing, nothing in this Agreement will be interpreted nor is it the intent of the parties to create a reservation of capacity. Capacity for the project will be based

on availability at the time of submission of a Development Order. The Developer is responsible for improvements to the utility system required to service the proposed development.

C. Solid Waste: Developer will coordinate solid waste services with Lee County, the Town, or a third-party service provider, adequate to serve the Proposed Development, prior to issuance of the development order. Notwithstanding the foregoing, this does not create a reservation of capacity. Capacity for the project will be based on availability at the time of submission of a building permit.

D. Drainage: Drainage will be in accordance with the applicable permits to be issued by the Town of Fort Myers Beach. The Developer is responsible for improvements to the drainage system required to service the proposed development.

E. Fire and Rescue Fire control and rescue services will be provided by the Fort Myers Beach Fire Control District, and Emergency Medical Services will be provided by Lee County Emergency Medical Services. It is the responsibility of the developer to verify the adequacy of service available from the designated entities at the time of development order approval.

In the event new or additional facilities are needed to serve the project, the Developer will bear the burden of the cost of such facilities to be constructed and provide a schedule to the Town to assure that the public facilities and services will be available concurrent with the impact of the development project.

F. Environmentally Sensitive Land. There are no environmentally sensitive lands on-site.

G. Threatened and Endangered Species. There are no threatened or endangered species on-site.

H. Conflicts. Any conflict between the matters set forth in this paragraph and paragraph 9 and other paragraphs in this Agreement will be resolved in favor of the terms and conditions in this paragraph and paragraph 9. Moreover, this Agreement identifies known instances in which the proposed redevelopment conflicts with the Town's existing Land Development Code. Any ambiguity with respect to whether this Development Agreement or an ordinance is to

control will be interpreted to favor the ordinance. Failure of this Development Agreement to address a particular permit condition, term or restriction will not relieve the owner or developer of the necessity of complying with the laws governing said permitting requirements, conditions, terms or restrictions. Any matter or action required under existing ordinances of the town will not be otherwise amended, modified or waived, unless such modification, amendment or waiver is expressly provided for in the Development Agreement with specific reference to the Code provision so waived, modified or amended ("Deviations").

6. Impact Fees. Impact fees, when adopted by Town Ordinance for all new development and change in use, will be calculated at time of issuance of a development order and payment will be required prior to building permit approval. Offsite impacts will be evaluated by the Town at the time of development order application.

7. Development Permits Needed for Proposed Development. A list of all known governmental permits needed for the Proposed Development is set forth below:

Town of Fort Myers Beach Development Order
Town of Fort Myers Beach Building Permit
South Florida Water Management District Water Use Permit (dewatering)
FDEP Wastewater Permit
FDEP Coastal Construction Permit(s)
LCDOH Potable Water Permit

The failure of this Agreement to address a particular permit, condition, term or restriction will not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, or restrictions. The Developer will be responsible at its sole cost for obtaining any required approval and will not in any manner obligate the Town or any other governmental agency to grant other required permit approvals. Any reliance on this Agreement or expenditures in pursuance of its terms or any rights accruing to the Developer will not vest any development right in the Developer or the project to a continuation of this Agreement.

8. Developer Commitments and Obligations. For and in consideration of the benefits received pursuant to this Agreement, the Developer agrees to the following commitments, obligations and associated public benefits, which are deemed to be in the public interest:

a. Provide, at Developer's cost and expense, a dedicated ADA compliant, minimum ten-foot walkway through Developer's property for public pedestrian access between the Time Square Pedestrian Plaza and the Beach.

b. Provide, at Developer's cost and expense, an ADA compliant access mat for disabled public access to the sandy beach from the ten-foot walkway.

c. Provide, at Developer's cost and expense, adjacent to the ten-foot walkway under cover, a community gathering area including benches, a foot wash, and drinking fountains for use by the public.

d. Provide, at Developer's cost and expense publicly accessible temporary restrooms adjacent to the community gathering area.

e. Provide, at Developer's cost and expense, onsite bike racks on the Developer's property for use by the general public and to alleviate blocking the adjacent Times Square Pedestrian Plaza.

f. The creation of retail spaces for local and legacy small vendors who have been in the area for decades on the first (ground) and second floor of the property to recreate the active pedestrian environment of the original Time Square Pedestrian Plaza.

g. Provide the opportunity for future public connectivity on the second floor to adjoining buildings to create a continuous walkway as envisioned by the Time Square community at no expense to the Town.

h. To recess the building off the Time Square property line to eliminate encroachments into the Time Square Pedestrian Plaza and allow for enhancements, which may include landscaping, potted plants, awnings, shade structures, and benches etc. to support pedestrian movement and public gathering.

i. Provide public access to the sunset terrace with service bar and restrooms proposed for the building rooftop to provide additional area for public gathering and sunset viewing directly on the beachfront.

j. Establish an operational agreement and make a proportionate payment prior to certificate of occupancy to replace the damaged pavers fronting the property with a sustainable material to support the revitalization of the remainder of the Times Square Pedestrian Plaza.

k. Developer is committed to beginning redevelopment immediately following approval of this Development Agreement to jumpstart the redevelopment of the Time Square Pedestrian Plaza. Strict permit timelines are provided in Paragraph 22.

9. Deviations. The following deviations are granted pursuant to this Agreement in compliance with the Comprehensive Plan, and found to achieve the objectives of the proposed development, benefit the public interest, and preserve and promote the public health, safety and welfare:

a. Deviation from LDC Section 34-675(b)(1) which limits building height within the Times Square Pedestrian Plaza to 30 feet above base flood elevation and no taller than 3 stories to allow a maximum height of 38 feet 8 inches above the 100 year storm elevation for the mean roof height to support the publicly accessible sunset terrace and service bar.

b. Deviation from LDC Section 34-633 which requires FAR to be calculated to include all stories of a building within the surrounding exterior walls and all area below an elevated building that is six feet or more in height, and all stories of

covered parking to allow the elimination of the first (ground) floor covered parking and the public walkway from the FAR calculations.

c. Deviation from LDC Section 34-1803 which provides Hotel Equivalency Factors for the number of guest units that can be substituted for residential dwelling units to allow an Equivalency Factor of 9.7 to permit 31 boutique hotel rooms and a total of 26,016 square feet for a Boutique Hotel.

d. Deviation from LDC Section 34-674(a)(1)a. requiring a build-to-line of 0 feet to the Times Square Pedestrian Plan to allow a 10-foot front setback to eliminate encroachments into the Time Square Pedestrian Plaza.

e. Deviation from LDC Section 34-677 which requires commercial design standards to apply to all commercial and mixed-use buildings to allow the proposed architectural renderings as provided in Exhibit C consistent with the coordination and efforts of the Times Square owners.

10. Consistency with the Comprehensive Plan. The Proposed Development outlined in this Agreement is consistent with the Town of Fort Myers Beach Comprehensive Plan and Land Development Code. The deviations approved as part of this Agreement are necessary for the zoning district or land use plan designations on the Property that is the subject of this Agreement. The Town's Comprehensive Plan allows the proposed project to be more than 2 stories above flood elevation in height as a matter of right due to its location in a redevelopment area. The Town's Comprehensive Plan also allows the height to be increased as provided in Policy 4-C-4 in redevelopment zoning districts (i.e. Downtown zoning district) and in the event the increase is approved as part of a planned development rezoning. This Agreement has been reviewed and approved by the Town in a manner consistent with the procedures required of a planned development rezoning and this approval and procedure is deemed tantamount to and commensurate to a planned development for purposes of determining consistency with the Comprehensive Plan as outlined in Resolution 24-247. Notwithstanding the foregoing, the deviations identified in paragraph 9 are approved

11. Existing Ordinances. Any matter or thing required to be performed under existing ordinances of the Town will not be otherwise amended, modified or waived, except as such modification, amendment or waiver is expressly provided for herein.

12. Post Development Agreement Requirements. Prior to the issuance of any building permits being issued for the development the following must occur:

a. All existing and proposed utilities and the manner in which existing utilities will be extended to the site and/or expanded for the use of the development including water, sewer, gas, electricity, cable television, and other utilities will have been approved by the Town; and

b. The proposed drainage plan for the proposed project will have been approved by the South Florida Water Management District. If an interconnection is required to

the Town's stormwater management system, approval by the Town will be necessary; and

c. The proposed grading plan and elevation requirements of the town, including, but not limited to those related to the National Flood Insurance Program as applicable to the town will have been approved by the town; and

d. The traffic impact and parking plans for the proposed project will have been approved by the town; and

e. All other town requirements necessary for the initial building permits to build the proposed project on the Land.

f. The Town will not have any liability whatsoever for any expenses or other damages that may be incurred as a result of denial of the Development Agreement or for denial of building permits due to the failure to meet the Town's requirements as to any Post-Development Agreement requirements.

13. Amendment and Termination.

a. This Agreement may be amended or terminated with the Parties' mutual consent, in writing signed by both Parties.

b. This Agreement may be amended administratively by Town staff and the Developer without the need for approval by Town Council to provide for changes to the site plan and/or the Conceptual Plans provided such changes do not include increased building intensity, density, increased height, reduction in open space, reduction in public benefits. Substantial Deviations from the approved Conceptual Plans will require approval by Town Council. Substantial Deviations include but are not limited to, negative external impacts to adjacent properties.

c. At Developer's option, Developer may terminate this Agreement at any time prior to the issuance by the Town of a building permit for any portion of the Proposed Development of the Property. Notwithstanding the foregoing, in the event of termination, Developer will not leave any improvements in an unsafe condition.

14. Notices. All notices required or permitted under this Agreement will be in writing and will be mailed by certified mail, return receipt requested to the following addresses, or to such other person or address as any Party may designate from time to time in writing:

If to the Developer: Terry Persaud
PERSAUD PROPERTIES FL INVESTMENTS LLC
385 Seminole Way
Fort Myers Beach, FL 33931

with a copy to: Joseph M. Madden Jr.
MADDEN LAW FIRM LLC

2277 Main Street
Fort Myers, FL 33901
jmadden@myfloridaattorney.com

If to the Town: Town Manager

with a copy to: Town Attorney

15. Remedies. Any material breach of this Agreement may be enforced by either party as against the other by appropriate action in law or equity filed in a court of competent jurisdiction; provided, however, no such action may be brought until the defaulting party has been given notice and ninety (90) days in which to cure the default. If the default cannot reasonably be cured within the ninety (90) day period, such period will be extended if the cure is commenced within such ninety (90) days and the defaulting party is proceeding with due diligence for such period of time reasonably required to complete such cure.

16. Governing Law. This Agreement will be construed and interpreted according to the laws of the State of Florida, and venue with respect to any litigation between the Parties related to this Agreement will be exclusively in Lee County, Florida.

17. Enforcement. In the event the Developer, upon approval of the Development Agreement, fails to comply with the terms of this Agreement, the Town may bring an action in a court of law with competent jurisdiction to protect its rights and interests as provided herein. All associated reasonable costs and attorney's fees will be reimbursed to the Town if an action at law is necessary regardless of whether the Town is the prevailing party thereunder. In no event will the Town be liable for payment of the Developer's attorney fees.

18. Post Development Agreement Liability. The parties acknowledge that the Town will not have any liability for any expenses or other damages that may be incurred as a result of denial of building permits due to the failure of the proposed development to meet the Town's requirements as to any Post-Development Agreement requirements.

19. Severability. If any part, term, or provision of this Agreement is held to be illegal, void, or unenforceable, the remaining portions or provisions of this Agreement will not be affected or impaired, each remaining provision will remain in full force and effect, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

20. Entire Agreement; Termination of Prior Agreements. This Agreement embodies the whole agreement of the Parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement will supersede all previous communications, representations, or agreements, either verbal or written, regarding the Proposed Development of the Property between the Parties.

21. Covenants Running with the Land and Successors and Assigns. The obligations imposed and entitlements created pursuant to this Agreement will run with the property and bind Developer's successors and assigns to the covenants as set forth in this Agreement and will be enforceable by and against the Parties hereto, their personal representatives, heirs, successors,

grantees, and assigns. The obligations of the Developer may be assigned to one or more successor developers or, property owners associations, and the Developer will thereafter be relieved of all obligations hereunder.

22. Effective Date and Duration. This Agreement will become effective upon full execution by both Parties and recording of the Agreement in the Public Records of Lee County pursuant to paragraph 23 below. The Developer must apply for a development order for at least a portion of the development contemplated herein within 90 days of the effective date. In the event no building permits are applied for by the Developer within a year of the effective date, the Agreement will terminate. Construction activities must be completed within 2 years of building permit issuance. If requested by the Developer, the term of the Agreement may be extended at the sole discretion of the Town Council and a finding that the Developer is unable to fulfill its obligations due to circumstances beyond its control. The development of the project may proceed in phases in any sequence. Notwithstanding the provisions of this paragraph, unless terminated as provided herein, or pursuant to paragraph 13 above, the obligations imposed and entitlements created pursuant to this Agreement will run with the property will be enforceable by and against the Parties hereto, their personal representatives, heirs, successors, grantees, and assigns.

23. Recording of Agreement. This Agreement will be recorded by the Town in the Public Records of Lee County within fourteen (14) days of approval by the Town. The costs of recording this Agreement will be paid by the Developer.

24. Representation and Warranties. The parties make the following representations to each other as stated herein:

A. The execution, delivery and performance of this Agreement by the Developer and a third party will not violate any law, or the term s of any agreement by which they are bound.

B. The Town and Developer have the power and authority to enter into this Agreement, and to perform the development as set forth herein, and all the documents have been duly authorized, executed, and delivered and the transactions contemplated herein have been duly authorized.

C. This Agreement constitutes a valid and legally binding obligation of the Developer and the Town after independent investigation by both of the information contained herein and is enforceable in accordance with its terms.

BALANCE OF THE PAGE LEFT PURPOSELY BLANK

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year written below.

WITNESSES:

PERSAUD PROPERTIES FL INVESTMENTS LLC,
a Florida limited liability company

Print Name: _____

Print Name _____

By: _____
Name:
Title:

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2025, by _____, as _____ of PERSAUD PROPERTIES FL INVESTMENTS LLC, a Florida limited liability company, who is personally known to me or who produced _____ as identification.

_____
Notary Public Signature

My Commission Expires:

_____
Type/Print Notary Public Name

Commission No.:_____

DRAFT

TOWN OF FORT MYERS BEACH

Dan Allers, Town Mayor

ATTEST

Amy Baker, Town Clerk

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

Vose Law Firm, Town Attorney

Exhibits:

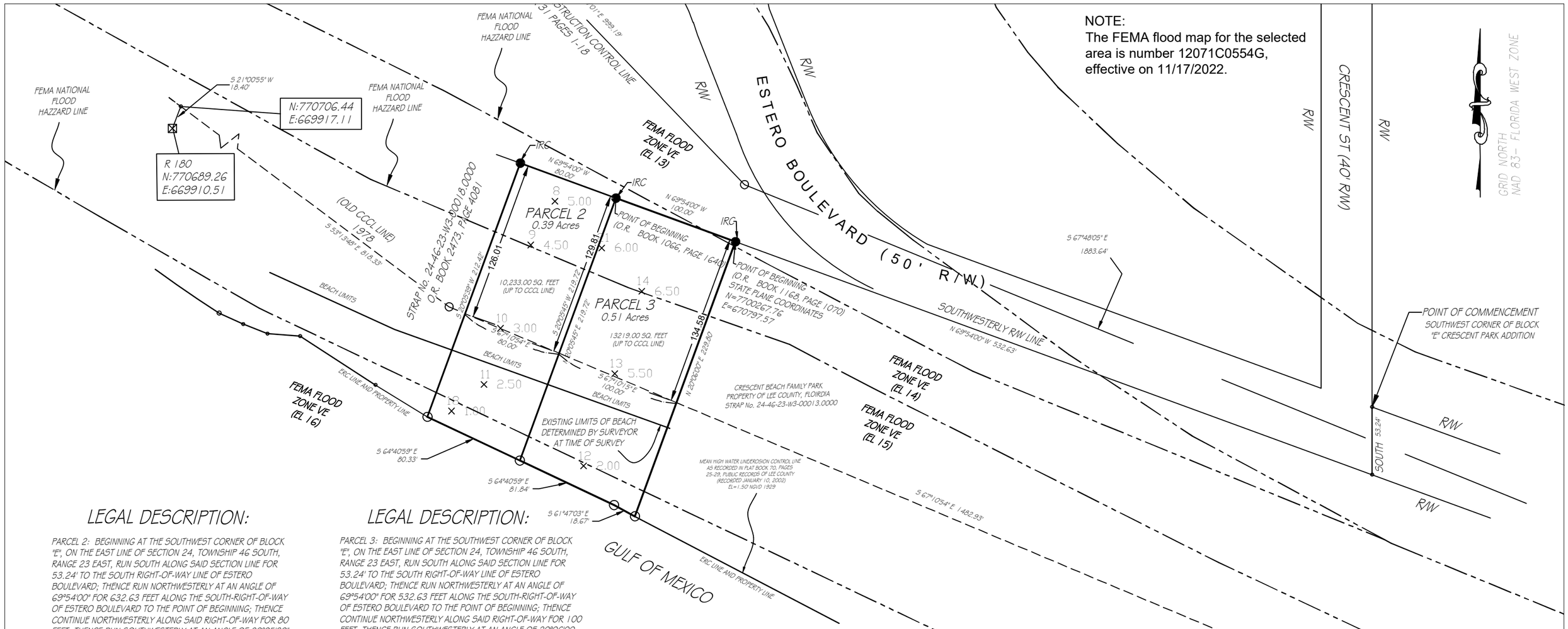
A. Legal Description and Sketch of the Property
B. Site Plan and Floor Plans dated May 1, 2025
C. Conceptual Renderings dated May 1, 2025

DRAFT

Exhibit A

Legal Description and Sketch of the Property:

DRAFT



LEGAL DESCRIPTION:

PARCEL 2: BEGINNING AT THE SOUTHWEST CORNER OF BLOCK "E", ON THE EAST LINE OF SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, RUN SOUTH ALONG SAID SECTION LINE FOR 53.24' TO THE SOUTH RIGHT-OF-WAY LINE OF ESTERO BOULEVARD; THENCE RUN NORTHWESTERLY AT AN ANGLE OF 69°54'00" FOR 632.63 FEET ALONG THE SOUTH-RIGHT-OF-WAY OF ESTERO BOULEVARD TO THE POINT OF BEGINNING; THENCE CONTINUE NORTHWESTERLY ALONG SAID RIGHT-OF-WAY FOR 80 FEET; THENCE RUN SOUTHWESTERLY AT AN ANGLE OF 20°05'39" FOR 126.01 FEET TO A POINT OF INTERSECTION WITH "COASTAL CONSTRUCTION LINE": THENCE RUN SOUTHEASTERLY ALONG SAID "COASTAL CONSTRUCTION LINE" TO A POINT ON A LINE PERPENDICULAR TO ESTERO BOULEVARD; THENCE RUN NORTHEASTERLY ALONG SAID PERPENDICULAR LINE AT AN ANGLE OF 20°05'45" FOR A DISTANCE OF 129.81 FEET TO THE POINT OF BEGINNING.

LEGAL DESCRIPTION:

PARCEL 3: BEGINNING AT THE SOUTHWEST CORNER OF BLOCK "E", ON THE EAST LINE OF SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, RUN SOUTH ALONG SAID SECTION LINE FOR 53.24' TO THE SOUTH RIGHT-OF-WAY LINE OF ESTERO BOULEVARD; THENCE RUN NORTHWESTERLY AT AN ANGLE OF 69°54'00" FOR 532.63 FEET ALONG THE SOUTH-RIGHT-OF-WAY OF ESTERO BOULEVARD TO THE POINT OF BEGINNING; THENCE CONTINUE NORTHWESTERLY ALONG SAID RIGHT-OF-WAY FOR 100 FEET; THENCE RUN SOUTHWESTERLY AT AN ANGLE OF 20°06'00 FOR A DISTANCE OF 129.81 TO A POINT OF INTERSECTION WITH "COASTAL CONSTRUCTION LINE":THENCE RUN SOUTHEASTERLY ALONG SAID "COASTAL CONSTRUCTION LINE" FOR 100 FEET TO A POINT ON A LINE PERPENDICULAR TO ESTERO BOULEVARD, ;THENCE RUN NORTHEASTERLY ALONG SAID PERPENDICULAR LINE AT AN ANGLE OF 20°06'00" FOR A DISTANCE OF 134.58 FEET TO THE POINT OF BEGINNING.

SURVEY FOR:

PERSAUD PROPERTIES FL INVESTMENTS

1028, 1046 ESTERO BOULEVARD
SECTION 24, TOWNSHIP 46, RANGE 23 EAST
TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA
FEBRUARY 28, 2024

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

GENERAL SURVEY NOTES:

1. BASIS OF BEARING SHOWN HEREIN TAKEN FROM THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD, AS BEING N.69°54'00"W.
2. FIELD NOTES IN S.E. 1/4 SECTION 24-46-23
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SURVEY DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. THIS SURVEY IS INTENDED TO BE VIEWED AS AN 11X17, 80 SCALE DRAWING.
10. ELEVATIONS ARE NORTH AMERICAN VERTICAL DATUM OF 1988 (N.A.V.D.)
    FLOOD ZONE, VE ELECATION: 14.00'
    FLOOD ZONE, VE ELEVATION: 15.00'
11. PARCEL ADDRESS:
    PARCEL 1: 1028 ESTERO BOULEVARD, FORT MYERS BEACH, FL 33931
    PARCEL 2: 1046 ESTERO BOULEVARD, FORT MYERS BEACH, FL 33931
12. DATE OF LAST FIELD WORK: 2/14/24

PLEASE NOTE

INFORMATION REGARDING THE PRESENCE, SIZE AND LOCATION OF UNDERGROUND UTILITIES MAY BE SHOWN HEREON. THE INFORMATION SHOWN MAY HAVE BEEN BASED ON THE LOCATION OF ABOVE GROUND APPURTENANCES, AVAILABLE DESIGN PLANS, AND/OR FLAGS AND PAINT PLACED BY THE UNDERGROUND PROTECTION SERVICE. NO CERTIFICATION IS MADE TO THE ACCURACY OF THOROUGHNESS OF THE INFORMATION CONCERNING UNDERGROUND UTILITIES AND STRUCTURES SHOWN HEREON. PER GEORGIA LAW, THE UNDERGROUND UTILITIES PROTECTION SERVICE MUST BE CALLED PRIOR TO THE COMMENCEMENT OF ANY AND ALL EARTH DISTURBING ACTIVITIES.

0 75 150 225

SCALE 1"=75'

ROYAL SURVEYORS, INC.
P.O. BOX 224 OCILLA, GEORGIA 31798
Phone: (229) 468-7108 Fax: (229) 468-7829 www.Royalsurveyors.net

ROYAL SURVEYORS, INC. OCILLA, GA. (229) 468-7108

MITCHEL R. RHETT License Number 3931 STATE OF FLORIDA Original Signature and Raised Seal Required

M Rhett

Legend

- IRC: Iron Pin Set With Cap
- No Corner Set
- Iron Pin Found
- R/W MARKER FOUND
- FEMA FLOOD ZONES

Exhibit B

Site Plan and Floor Plans
May 1, 2025

DRAFT

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PDS ARCHITECTURE

TIME SQUARE RESORT

FORT MYERS BEACH, FLORIDA

PERSAUD PROPERTIES FL INVESTMENTS LLC
361 SEMINOLE WAY
FORT MYERS BEACH, FL 33931

PDS ARCHITECTURE, INC.
12800 UNIVERSITY DRIVE, SUITE 402
FORT MYERS, FL 33907

SAGE ENTITLEMENTS
97 NICKAJACK N
SANTA ROSA BEACH FL 32459

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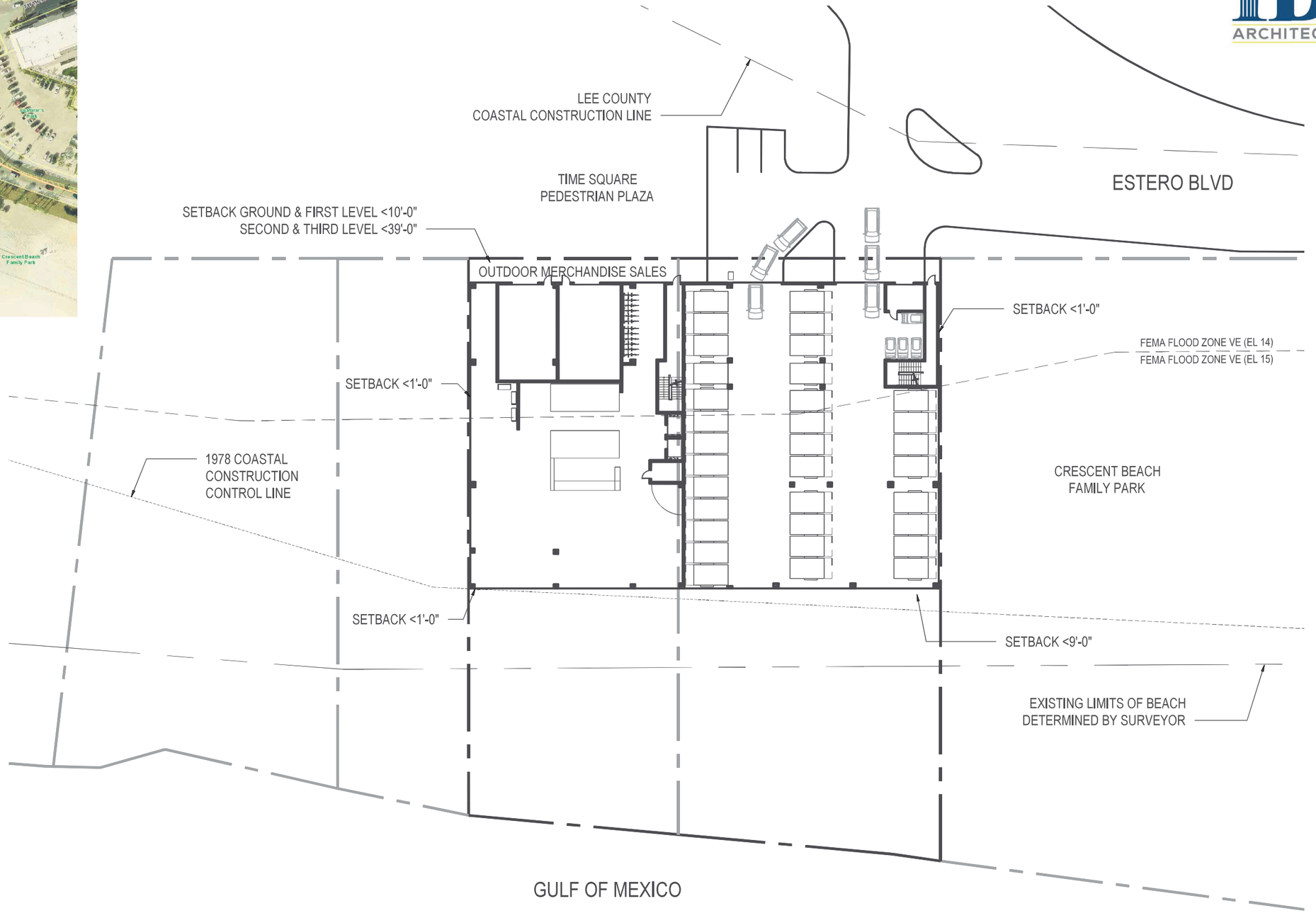
FORM IS OUR FUNCTION

LOCATION MAP



SITE PLAN

5-1-25

PERSUAD PROPERTIES 1028 ESTERO BLVD - FT MYERS BEACH, FL

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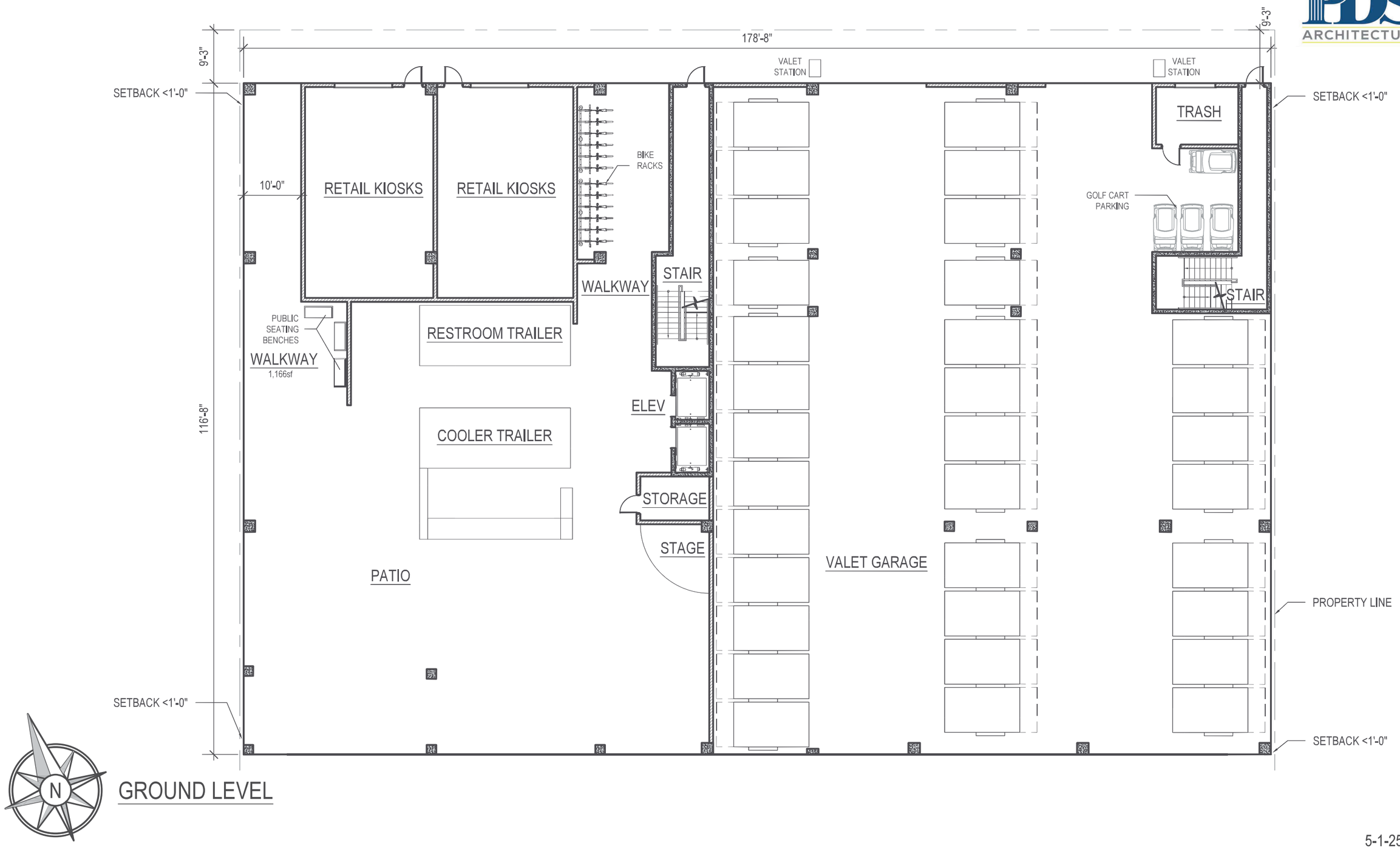

GROUND LEVEL

5-1-25

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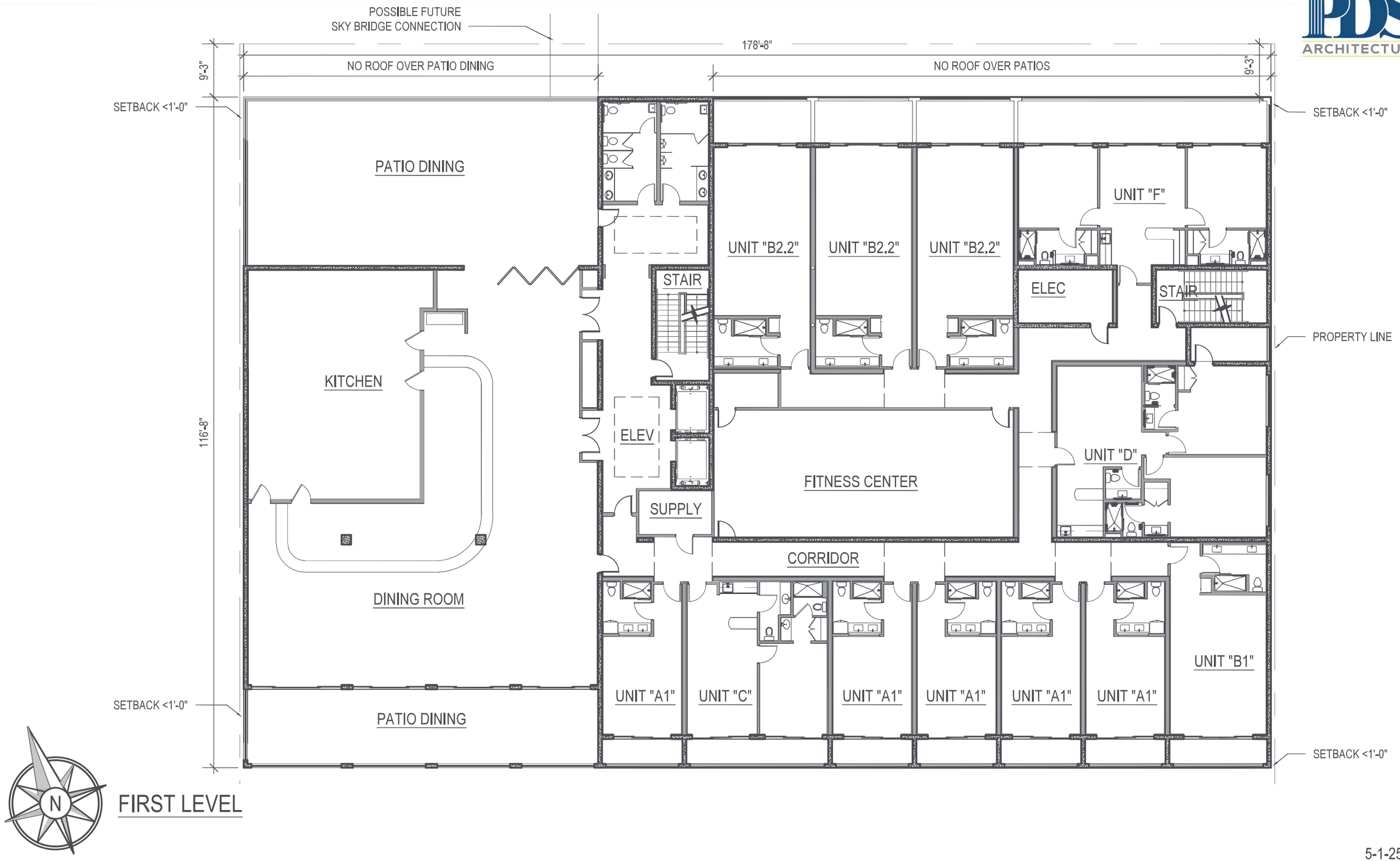

FIRST LEVEL

5-1-25

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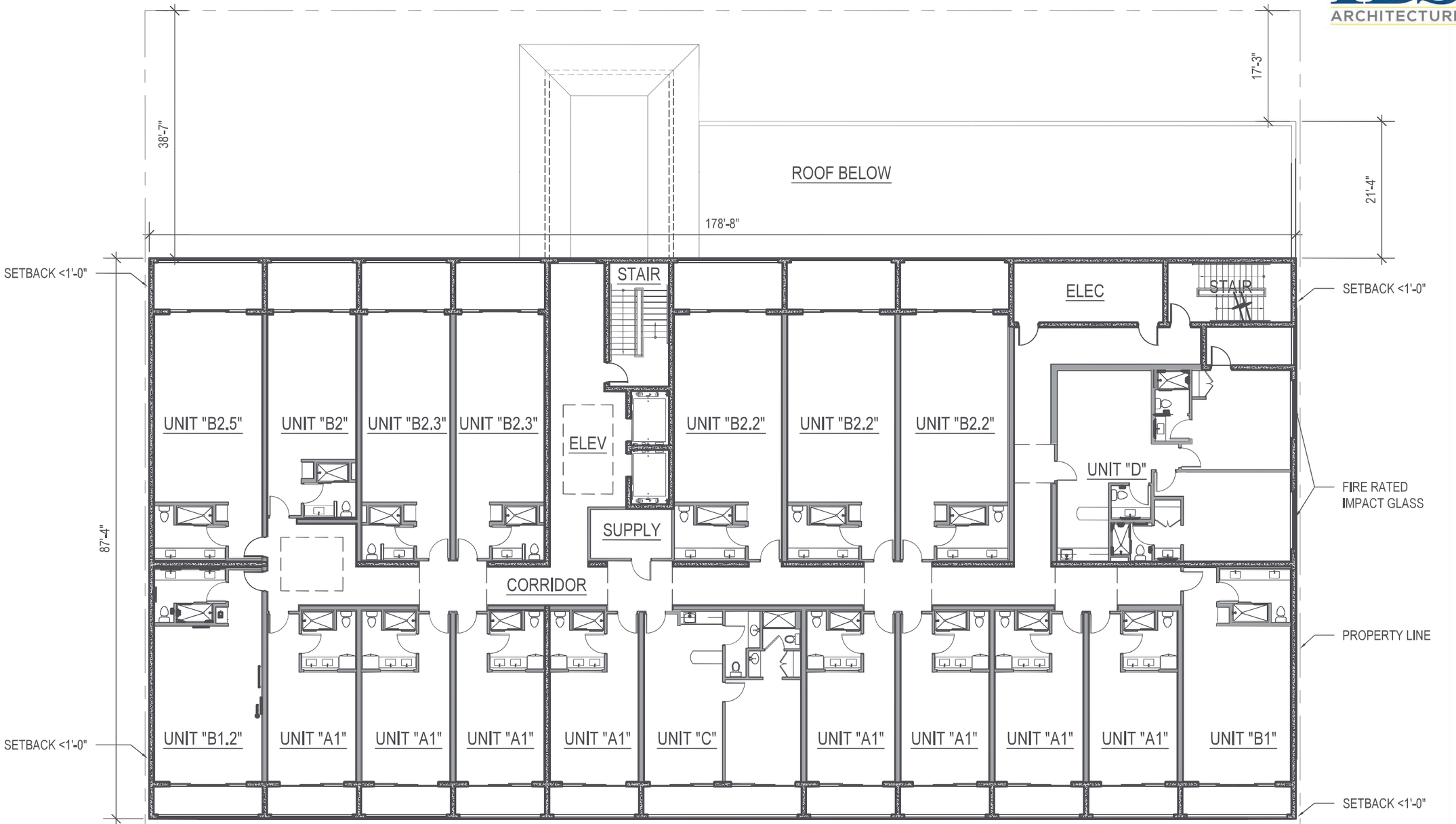

SECOND LEVEL

5-1-25

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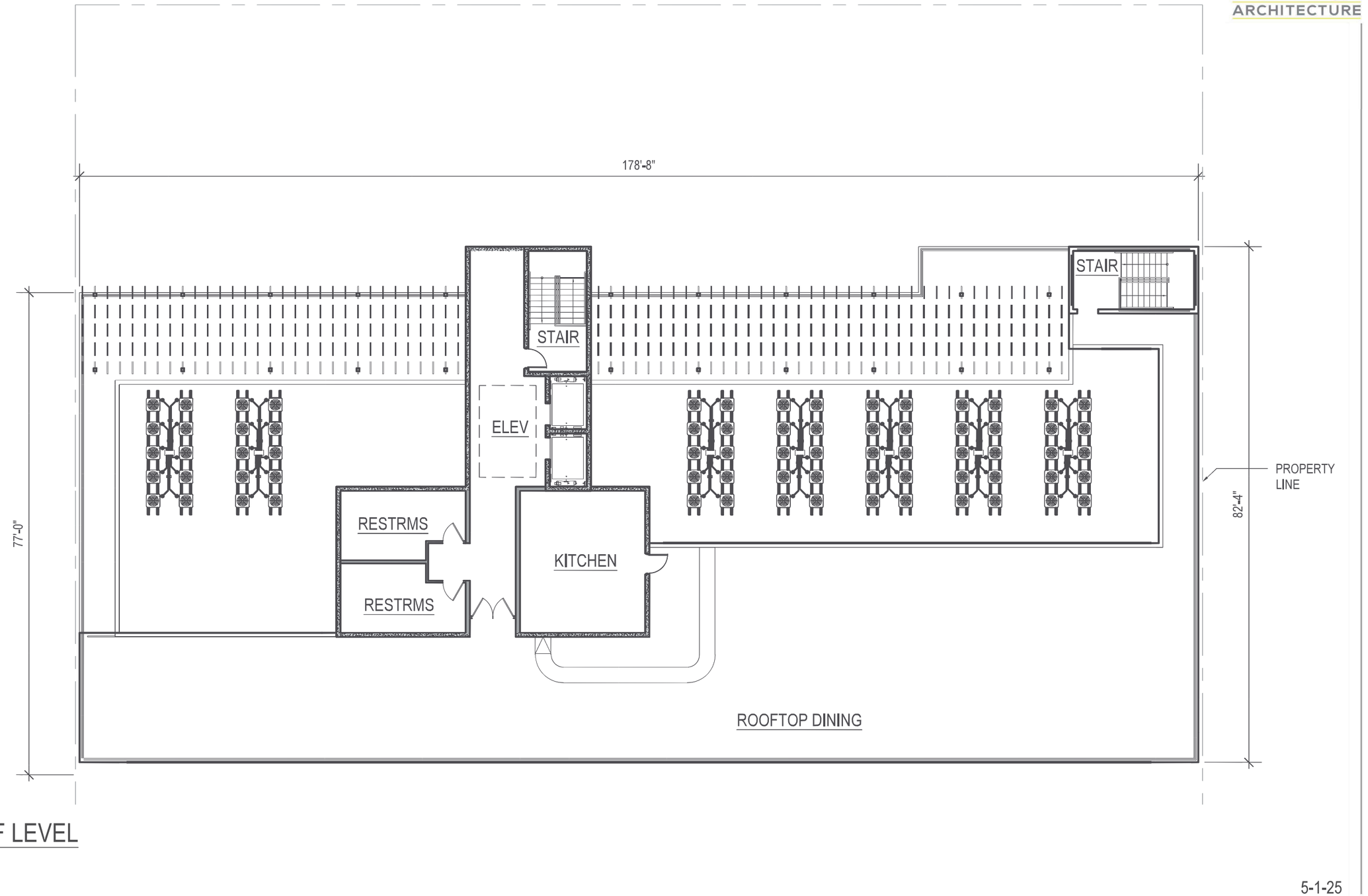

ROOF LEVEL

5-1-25

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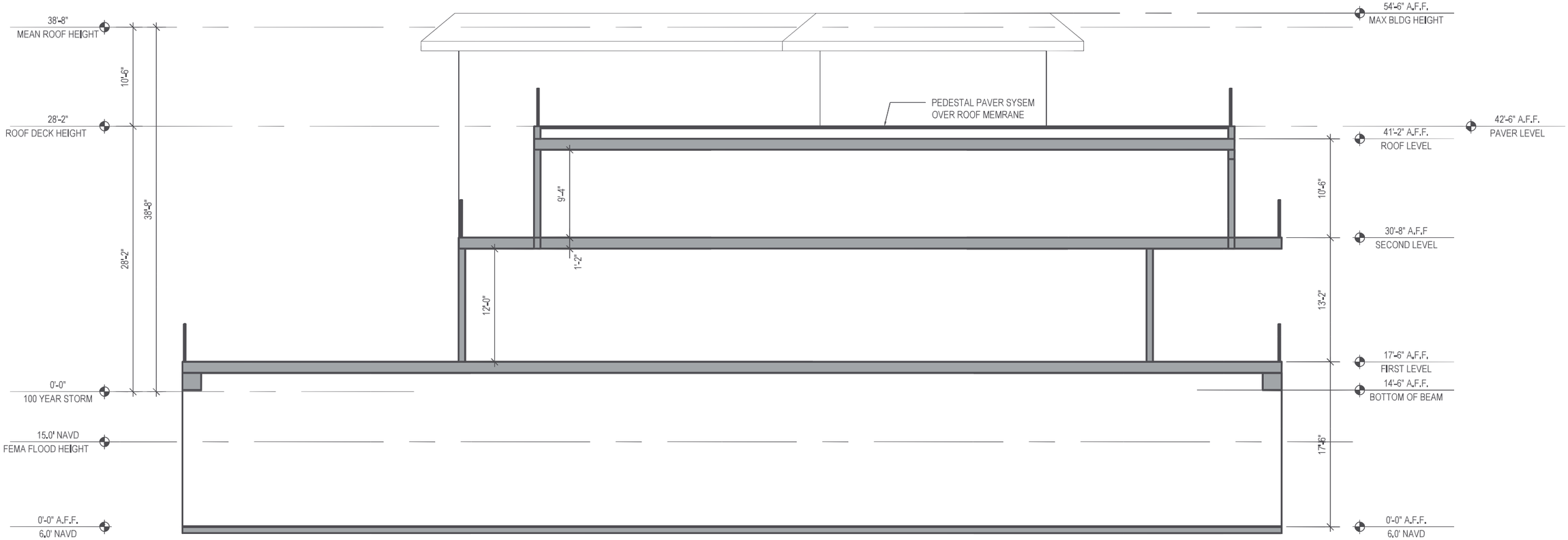

BUILDING HEIGHT DIAGRAM

5-1-25

PERSUAD PROPERTIES 1028 ESTERO BLVD - FT MYERS BEACH, FL

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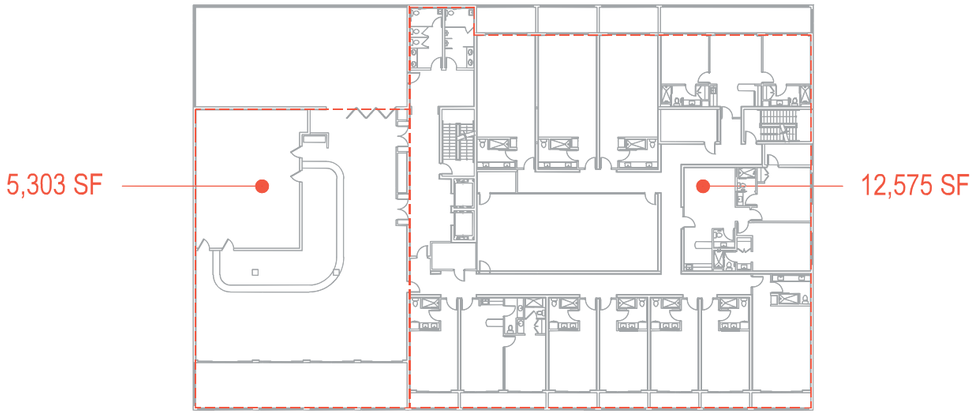
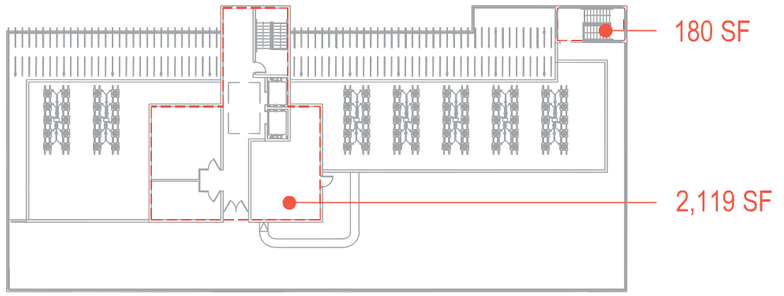
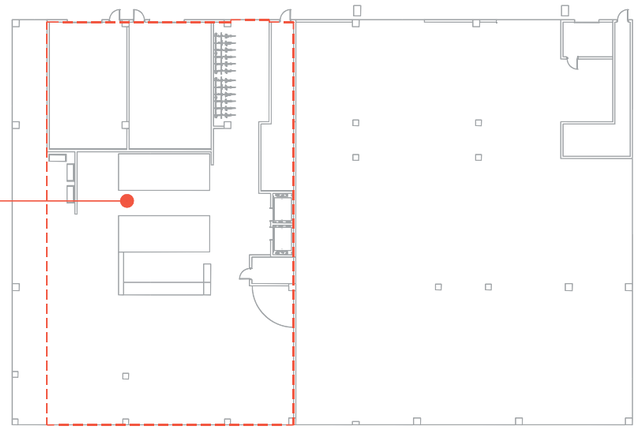


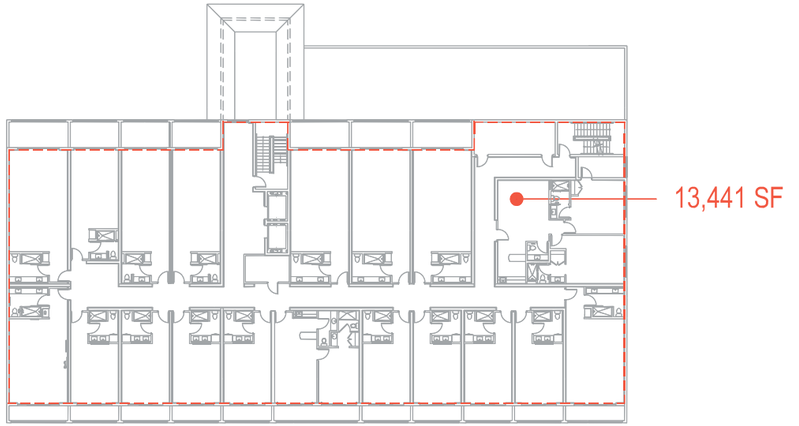
FIRST LEVEL



ROOF LEVEL



GROUND ELVEL



SECOND LEVEL

SITE AREA	23,450sf
FAR 1.8	42,210sf
GROUND LEVEL	8,243sf
FIRST LEVEL	17,878sf
RESTAURANT	5,303sf
HOTEL	12,575sf
SECOND LEVEL	13,441sf
ROOF DECK AMENITY	2,299sf
TOTAL BUILDING AREA	41,861sf

5-1-25

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Exhibit C

Conceptual Renderings
May 1, 2025

DRAFT

PDS ARCHITECTURE

FORM IS OUR FUNCTION

5-1-25

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Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

TYPE OF CASE:	**Development Agreement**
CASE NUMBER:	**DA 20240170**
CASE NAME:	**1028 & 1046 Estero Blvd; Development Agreement to allow a hotel with 31 rooms, a restaurant, and a maximum height of 38 feet 8 inches.**
LPA HEARING DATE:	**April 29, 2025 at 9 AM**
TOWN COUNCIL HEARING DATE:	**May 19, 2025 at 9 AM**
PREPARED/ SUBMITTED BY:	**Sarah Propst, AICP, PMP**

I. APPLICATION SUMMARY

Applicant/Owner:	Tina Ekblad, AICP, MPA, Sage Entitlements, LLC/ Persaud Properties FL Investments, LLC
Request:	Development Agreement for a commercial development with 30 hotel units, a maximum of 42,210 square feet and a maximum height of 38 feet 8 inches.
Subject property:	See attached Master Concept Plan
Physical Address:	1028 and 1046 Estero Blvd
STRAP #:	24-46-23-W3-00017.0000 & 24-46-23-W3-00016.0000
FLU:	Pedestrian Commercial
Zoning:	Downtown

Adjacent Zoning, Future Land Use, and Current Uses:

North:	Downtown, Pedestrian Commercial Food truck
South:	Environmentally Critical (EC), Recreation Beach

East: Downtown, Pedestrian Commercial
Crescent Beach Park

West: Downtown, Pedestrian Commercial
Vacant

II. BACKGROUND AND ANALYSIS

Background:
Tina Ekblad, AICP, on behalf of Persaud Properties FL Investments, LLC, is proposing a development agreement (DA) for the property that was previously developed as the Sunset Beach Tropical Grill, formerly Top O' Mast restaurant and a paid parking lot. This property is between the Times Square Pedestrian Plaza and the beach and is directly adjacent to Crescent Beach Park. The total property is approximately .9 acres; however the 1978 Coastal Construction Control Line (CCCL) splits the property between the Downtown and EC zoning districts. The developable portion of the property is 23,452 square feet of land zoned Downtown.

The Downtown zoning district allows the uses requested by this DA: retail, hotel, and restaurant. Additionally, the area for consumption on premises (COP) on the beach was previously confirmed through *Persaud Properties FL Investments LLC v. Town of Fort Myers Beach, No. 2D19-1282 (Fla. 2d DCA 2019)*, which is attached for reference. The DA is proposed to resolve conflicts with the zoning district allowed height and number of stories, intensity or floor area ratio (FAR), criteria for calculation of FAR, hotel equivalency factor, build-to lines, and commercial design standards.

Analysis:
The Comprehensive Plan and the Land Development Code (LDC) anticipated the redevelopment of the Downtown Zoning District. A Community Redevelopment Agency (CRA) plan was adopted in 1993 and the comprehensive plan land use policies incorporate the CRA plan through improvements to the district. The comprehensive plan speaks specifically to the type of development that is desirable in Times Square, the improvements that are important to Times Square, and to height.

Policy 4-B-6*: "PEDESTRIAN COMMERCIAL"**: a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around the Villa Santini Plaza. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map's "platted overlay" indicates a maxi- mum density of 10 units per acre for afford- able units consistent with the adopted redevelopment plan). Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet the design concepts of this plan and the Land Development Code. Where commercial uses are permitted, residential uses are encouraged in upper floors.*

OBJECTIVE 4-F: *REDEVELOPMENT — Take positive steps to redevelop areas that are reaching obsolescence or beginning to show blight by designing and implementing public improvements near Times Square to spur private*

redevelopment there, by supporting the conversion of the Villa Santini Plaza into a pedestrian precinct, by providing an opportunity for landowners to replace vulnerable mobile homes and recreational vehicles with permanent structures in the Gulfview Colony/Red Coconut area, and by providing building code relief for historic buildings.

Policy 4-F-2: *SPECIFIC REDEVELOPMENT PLANS: This comprehensive plan anticipates substantial redevelopment over the coming years. Specific concepts have been developed for three specific areas:*

i. ***Times Square*** *– The Estero Island CRA's plan for the Times Square area is reflected in this plan, bounded by the "Pedestrian Commercial" category at Times Square. Implementation of that plan will be on-going as discussed through this comprehensive plan and in accordance with the specific regulations provided in the Land Development Code. The Times Square redevelopment plan is described in Community Design Policies 3-D-1 through 3-D-13.*

3-D-1 through 3-D-9 include the following policies:

1) Create a Downtown Redevelopment Agency to revitalize the downtown and make it a lively, safe, and comfortable environment,
2) Implement a Core Area Master Plan
3) Sidewalk improvements and pedestrian safety measures,
4) Pedestrian circulation plan including bike paths, improved crosswalks, a pedestrian plaza where the Bayside Veterans Park was developed, on street parking, mass transit and traffic circulation improvements;
5) Parking improvements;
6) Streetscape improvements, including underground utilities;
7) Integration of exfiltration systems in stormwater management;
8) Providing technical assistance for dry floodproofing;
9) Enhancements to Lynn Hall Park.

This proposed DA meets portions of policy 4-B-6, policies 4-F-2 and policies 3-D-1 through 3-D-9 through commitments (found on pages 5-6 of the development agreement) to:

1) Provide a dedicated ADA compliant, minimum ten-foot walkway through the property for pedestrian access between the Times Square Pedestrian Plaza and the Beach.
2) Provide an ADA compliant access mat from the 10-foot wide public walkway to the public sandy beach.
3) Provide a covered community gathering area, adjacent to the 10-foot walkway. The space will include benches, a foot wash, and drinking fountains for use by the public.
4) Permanently provide publicly accessible restroom trailer adjacent to the community gathering space
5) Provide onsite bike racks on the property for use by the general public and to alleviate blocking the adjacent Times Square Pedestrian Plaza.
6) Provision of retail spaces for local and legacy small vendors who have been in the area for decades on the first (ground) and second floor of the property to recreate the active pedestrian environment of the original Times Square Pedestrian Plaza.

7) To recess the building off the Times Square property line to eliminate encroachments into the Times Square Pedestrian Plaza and allow for enhancements, which may include landscaping, potted plants, awnings, and benches etc. to support pedestrian movement and public gathering.
8) Make a proportionate payment to replace the damaged pavers fronting the property with a resilient material to support the revitalization of the remainder of the Times Square Pedestrian Plaza.

Policy 4-C-4 *Building heights: The Land Development Code shall limit the height of new buildings under most conditions to two stories above flood elevation (exceptions may include the buildback situations (see Policies 4-D-1 and 4-E-1)), and different heights may be applied to officially designated redevelopment areas such as Times Square, Red Coconut/Gulf View Colony, and Villa Santini Plaza). In those few cases where individual parcels of land are so surrounded by tall buildings on lots that are contiguous (or directly across a street) that this two-story height limit would be unreasonable, landowners may seek relief through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The town will approve, modify, or deny such requests after evaluating the level of unfairness that would result from the specific circumstances and the degree the specific proposal conforms with all aspects of this comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria. Particular attention would be paid to any permanent view corridors to Gulf or Bay waters that could be provided in exchange for allowing a building to be taller than two stories. In each case, the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal.*

This comprehensive plan policy is somewhat unclear. Staff interprets the policy to say two different things: 1) the designated redevelopment areas, including Times Square, may be allowed different heights, and 2) In some parts of the island there are already many tall buildings and additional tall buildings may be appropriate in these locations.

The proposed DA is diagonal across Estero Boulevard and separated by Crescent Beach Park from Margaritaville. Margaritaville is a Commercial Planned Development (CPD) with a maximum height of 4 stories and 52 feet above grade. The applicant is proposing a 3-story structure with a rooftop dining area that will include enclosed space for elevators, a kitchen, and restrooms, the main structure height will be 28 feet 2 inches above 100-year storm elevation and the mean roof height of the elevator tower/kitchen and restroom area on the rooftop will be 38 feet 8 inches above the 100-year storm elevation. The deviation request is for the height from the required 100- year storm elevation to the mean height of the roof because that is how the LDC measures building height.

The LDC categorizes the Downtown zoning district, which includes Times Square, as a redevelopment district. The Purpose (Section 34-671) states: *The purpose of the Downtown district is create the desired quality and character for the center of pedestrian-oriented commercial activities within the town. New commercial buildings*

are expected to accommodate pedestrians by providing storefronts near sidewalks and by offering shade and shelter along major streets. Old San Carlos Boulevard will serve as the town's "Main Street" and will be anchored by pedestrian plazas at each end.

This DA proposes two retail spaces facing the pedestrian plaza. The applicant is requesting a deviation to set the building façade 10 feet back from the pedestrian plaza. Some shade structures are proposed in this setback, however, staff recommends additional shade structures, an arcade, or loggia to create additional shade and interest along the front façade. These types of shade structures are recommended per Section 34-674(a)(3*) Awnings, canopies, and marquees over sidewalks and pedestrian walkways are encouraged by the commercial design standards (§§ 34-991—34-1010 of this chapter) and are required along Old San Carlos Boulevard*. The applicant is providing a 10-foot wide, covered public walkway easement along the west side of the building, as well as a public, covered patio area facing the beach.

List of Uses

1. Commercial Space. Approximately 15,845 square feet of commercial space is provided in this development. Uses include retail space on the pedestrian plaza, a beach bar approved by previous COP, a restaurant on the second floor, and a rooftop restaurant and bar.

2. Hotel Units. The proposed DA includes a 31-unit boutique hotel. The requested equivalency factor to achieve this number of units is 9.7.

3. Parking. The commercial development will be accessible through an ingress/egress point on Estero Blvd and provide parking with valet service and car lifts for their hotel guests. Developments on the Times Square pedestrian plaza are not required to provide parking, therefore all parking will exceed the requirements and shared parking is not proposed.

4. Pedestrian Walkway. A 10-foot-wide covered walkway will be provided on the western side of the structure. This will be a public access easement and allow pedestrians a path to a patio area with restrooms, benches, a drinking fountain, and a foot wash station. The beach is adjacent to this public patio space and an ADA accessible mat will provide access from the patio to the sandy beach.

5. Consumption on Premises (COP). The property was previously approved for COP, the documentation regarding that case is attached to the staff report. This development agreement does not change the COP use.

Deviations from the Code

The attached document entitled *Project Narrative* includes the applicant's complete justification for the deviations on pages 10-14.

1. **Request to deviate from LDC Section 34-675(b)(1) which limits building height within the Times Square Pedestrian Plaza to 30 feet above base flood elevation and no taller than 3 stories to allow: 3 stories and 28 feet**

and 2 inches. This request increases if the rooftop restaurant/bar is considered appropriate. Addition of the rooftop restaurant/bar will increase the building height to 38 feet 8 inches.

2. **Request to deviate from LDC Section 34-633 which requires floor area ratio (FAR) to be calculated to include all stories of a building within the surrounding exterior walls and all areas below an elevated building that are six feet or more in height, and all stories of covered parking to allow: The elimination of the first (ground) floor covered parking from the FAR calculations.**

3. **Request to deviate from LDC Section 34-1803 which provides Hotel Equivalency Factors for the number of guest units that can be substituted for residential dwelling units to allow: An Equivalency Factor of 9.7 to permit 31 hotel rooms and a total of 26,016 square feet for a Boutique Hotel.**

4. **Request to deviate from LDC Section 34-674(a)(1)a. requiring a build-to-line of 0 feet to the Times Square Pedestrian Plan to allow: A 10-foot front setback.**

5. **Request to deviate from LDC Section 34-677 which requires commercial design standards to apply to all commercial and mixed-use buildings to allow: The proposed architectural renderings as provided in Exhibit C.**

Applicant Proposed Public Benefits

A full description of the applicant proposed public benefits can be found in the *Project Narrative*, pages 16-18.

1. A minimum 10-foot pedestrian walkway under cover from the pedestrian plaza to the sandy beach;

2. An ADA compliant mat from the 10-foot pedestrian walkway to the sandy beach.

3. A refresh station adjacent to the walkway and under cover for public gathering and relaxation that includes a bathroom trailer, public benches, a footwash station, and water fountain;

4. An increased front building setback to eliminate encroachment into the pedestrian plaza;

5. Times Square paver replacement and funding;

6. Public bicycle parking;

7. Ground (first) floor retail;

8. Rooftop Sunset Terrace and Service Bar

General Description of Development
The DA proposes a development consisting of three stories including a ground floor and a partial 4th story for a sunset deck with a restaurant and bar. The proposed development will include, at ground level, retail space, 66 parking spaces for guests, a covered beach access easement and a patio area with a restroom trailer, benches, foot rinse station, and drinking fountain. An ADA compliant mat will be provided from the walkway easement to the sandy beach. The second story will include a restaurant with patio dining. The second and third floors will contain 31 hotel units with hotel amenities.

The rooftop may either include only the elevator and stairwell tower with no publicly accessible space or an additional level of dining. The rooftop restaurant/bar, if deemed appropriate, will include enclosed restrooms and a kitchen and open-air dining and beach viewing area. The rooftop enclosed areas have been designed to be located behind the elevator and stairwell tower, to decrease the visual impact of the additional height.

The proposed development will provide retail, dining, and hotel accommodations in the Times Square area as well as parking for hotel guests.

Neighborhood Compatibility:
The proposed development is adjacent to a temporary restaurant and located between two beach parks and the site of the pier. The proposed uses do not appear to create conflict with the adjacent uses.

Findings and Conclusions:
The applicant has provided a DA meeting the minimum statutory requirements of the Code of Ordinances. The DA has been processed in accordance with the procedures in the Administrative Code (attached as Exhibit B).

III. RECOMMENDATION

The development agreement in your agenda packet is the product of preliminary negotiations between the applicant and Town staff, in compliance with the processes and procedures of the administrative code section (Ordinance 24-247 attached as Exhibit B). The proposed uses and some of the proposed public benefits being proposed are encouraged through the comprehensive plan policies.

Staff recommends the following items for discussion:

1) Programming or intent of the 10-foot public access easement. Applicant must ensure the space is not encroached by other uses and structures. Signage for the public access easement may be appropriate. (Developer Commitment: item a, p.5)
2) Additional refinement of term the “proportionate share” of the paver replacement in Times Square. (Developer Commitment: item h, p. 6)
3) Building design considerations to ensure a cohesive aesthetics.

4) Shade structures, loggia, or arcade may be appropriate to create visual interest and shade over the 10-foot setback from the pedestrian plaza. (Developer Commitment: item f, p. 6)
5) Programming or intended use of the 10-foot setback space in front of the ground level retail. (Developer Commitment: item f, p. 6)

At the LPA hearing on April 29, 2025 the LPA discussed concerns over the height of the proposed development, the FAR intensity of the development, and the number of proposed hotel rooms. The LPA recommended denial with a vote of 7-0

IV. CONDITIONS OF APPROVAL

Conditions of approval are contained within the DA.

Staff Report Exhibits:
A – Ordinance 24-247 Procedures for development agreement with deviations
B – COP Litigation
C – Project Narrative
D – Application documents

RESOLUTION NUMBER 24- 247

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING RESOLUTION 24-73, CONTAINING THE PROCEDURES FOR DEVELOPMENT AGREEMENTS WITH DEVIATIONS TO CLARIFY THAT THESE DEVELOPMENT AGREEMENTS ARE HOME RULE DEVELOPMENT AGREEMENTS AND TO AMEND RELATED NOTICE REQUIREMENTS FOR CONSISTENCY WITH NOTICE REQUIREMENTS IN SECTION 2-98 AND CHAPTER 34 OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE AND REQUIRE A RECOMMENDATION FROM THE TOWN MANAGER REGARDING THE PROPOSED DEVELOPMENT AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

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

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

WHEREAS, on April 1, 2024, the Town Council of the Town of Fort Myers Beach adopted Resolution 24-73, approving an administrative code setting forth procedures for the application and approval of home rule development agreements, which among other things may provide for deviations; and

WHEREAS, the Town Council wishes to amend Resolution 24-73 for clarity and consistency with notice provisions in Section 2-98 and Chapter 34 of the Town's Land Development Code; and

WHEREAS, the Town Council has determined it is in the best interests of the residents of Fort Myers Beach to adopt this Resolution.

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

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

Section 2. The Town Council hereby adopts the changes as set forth in Exhibit "A."

Section 3. This Resolution shall be effective retroactive to April 1, 2024 upon adoption by the Town Council.

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

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
John R. King, Councilmember	Aye
Scott Safford, Councilmember	Aye
Karen Woodson, Councilmember	Aye

ADOPTED this 18th day of November 2024, by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 25th day of November 2024.

EXHIBIT A

TOWN OF FORT MYERS BEACH
ADMINISTRATIVE CODE PROVIDING
PROCEDURES FOR HOME RULE DEVELOPMENT AGREEMENTS

Pursuant to Section 2-100 and 2-96 of the Town's Land Development Code, the Town may enter into a Home Rule Development Agreement with a property owner. A Home Rule Development Agreement is a non-statutory development agreement authorized pursuant to the Town's home rule authority that may allow for approval of amendments, modifications, deviations, variances or exceptions from the Town's Land Development Code, and, if appropriate under the provisions of the Town's Comprehensive Plan, relief from the building height limitations in the Comprehensive Plan. Approval of a Home Rule Development Agreement and the deviations provided for in such Home Rule Development Agreement shall be considered tantamount to and commensurate to a planned development for purposes of determining consistency with the Comprehensive Plan. Approval of a Home Rule Development Agreement shall be subject to the procedures set forth herein.

1. *Home Rule Development Agreement Application Procedures.*

The following information/exhibits shall be required with the application for a Home Rule Development Agreement (hereinafter sometimes referred to as "Development Agreement"):

1.1. Legal description and address of the parcel of land which will be the subject of the Development Agreement (hereinafter "Land").

1.2. The name, address and telephone number of the applicant and any attorney or agent who is or will be representing the applicant.

1.3. A title opinion from a Florida attorney (which opinion is in a form acceptable to and in favor of the town), which shall identify and provide the names, addresses and telephone numbers of all legal and equitable owners having interest in the Land, as well as all mortgage or lien holders, holders of easement interests, and other encumbrances, upon the Land. As of the date of recordation of any Development Agreement, the applicant shall be required by the town to update the foregoing information in this subparagraph to the date of recording of the Development Agreement.

1.4. An application signed by, or on behalf of, the owner and any lien holder(s) as to the Land subject to the Development Agreement, and if not signed by the owner a notarized consent signed by the owner authorizing the person to sign the application.

1.5. Payment of any required application fee as set by resolution of the town council.

1.6. A survey of the Land showing the approximate location of all environmentally sensitive lands, or lands subject to the jurisdiction of the U.S. Army Corps of Engineers, Florida Department of Environmental Regulation, the Southwest Florida Water Management District or Lee County, Florida.

1.7. A statement and finding demonstrating that the proposed Development Agreement will be consistent with the comprehensive plan of the town.

1.8. The desired duration of the Development Agreement shall not be less than the expected completion of the development on the Land.

1.9. Development uses and regulations currently legally permitted on the Land, including densities, intensities, heights of structures, and setbacks; and, if different, any of the same that are currently on the Land, or that were on the Land at any time in the last 24 months.

1.10. Development uses and regulations, including densities, intensities, heights of structures, and setbacks being requested on the Land.

1.11. A description of the public facilities which will provide services to support the development, the approximate date that new public facilities, if needed, will be constructed, and a schedule to assure that the public facilities and services will be available concurrent with the impacts of development.

1.12. A description of any current or proposed reservation or dedication of land for public purposes.
1.13. Any deed restrictions existing or being imposed upon the Land, and a description of any current or proposed reservation or dedication of land for public purposes.

1.14. The application must explicitly identify each instance of conflict with existing ordinances and expressly provide for the Development Agreement to control, or else all of the provisions of such conflicting ordinances shall control to the extent that the Development Agreement fails to expressly provide otherwise. Any ambiguity with respect to whether a Development Agreement or an ordinance is to control shall be interpreted to favor the ordinance. A statement listing all contemplated zoning districts or land use modifications or requests for more flexibility that will be required if the proposed Development Agreement were to be approved.

1.15. A sketch of site plan showing where buildings (with heights), structures, parking, and other features/amenities of the proposed development shall be located. If the Land is located on the water, any view corridors or public access location(s), if any, will be located.

1.16. A statement that a copy of the Development Agreement with Deviations Application has been furnished by First Class U.S. Mail to all property owners within 100 feet of the boundaries of the Land at the addresses of such property owners found on the Lee County Property Appraiser website, and a list of such property owners and addresses.
1.17. A concise and complete recital of the proposed contents of the Development Agreement using the Form of Development Agreement with Deviations attached as Ex. "A".

2. *Development Agreement Minimum Content Requirements.*

The following information shall be required within a Development Agreement.

2.1. A legal description of the land subject to the agreement and the identification of all persons having legal or equitable ownership therein.
2.2. The duration of the development agreement, which duration shall not be less than the anticipated time period needed to fully build out the development.
2.3. The development rights to be permitted on the land, and setting forth densities, intensities, building height(s), and setbacks. Uses of the land shall be those allowed in the underlying zoning district unless otherwise specifically provided, such as when a special exception is a part of the development agreement.
2.4. A description of the public facilities and services, including on-site improvements that will serve the proposed project, including designation of the entity or agency that shall be providing such facilities. Additionally, if new facilities are needed to serve the project, the date by which such facilities will be constructed and a schedule to assure that public facilities and services shall be available concurrent with the impact of the development project.
2.5. A description of any reservation or dedication of land for public purposes. The Development Agreement shall provide specifically how the land dedication obligation for the project, if any, is to be met. In the event that land or any interest herein is to be conveyed to the town or other entity in discharge of the foregoing, the Development Agreement shall provide that such conveyance or dedication will be by warranty deed or easement, or other instrument in form and substance acceptable to the town attorney, together with evidence of title in form acceptable to the town attorney prepared by an attorney who is a member of the Florida Bar, or a title company licensed in Florida, all depicting who is the owner in fee simple of the land subject to the conveyance or dedication, and the holders of any other interest or liens affecting said land.
2.6. A description of all local permits approved or needed to be approved for the development of the Land, specifically to include at least the following:

Any required submission to the Southwest Florida Regional Planning Council and any required permission of the State of Florida, Department of Environmental Regulation,

the U.S. Corps of Army Engineers, the Southwest Florida Water Management District, the U.S. Environmental Protection Agency or any other required governmental permission. The Development Agreement shall specifically provide that said development permission will be obtained at the sole cost of the owner of the Land, and that any approvals previously given, including the Development Agreement, shall not in any manner obligate the town or any other governmental agency to grant other permit approvals. Under these conditions, action in reliance on the Development Agreement or expenditures in pursuance of its terms or any rights accruing to the project owner thereunder shall not vest any development rights in the owner of the Land or the project to a continuation of the Development Agreement.

2.7. A specific finding in the Development Agreement that the proposed project permitted or proposed is consistent with the town's Comprehensive Plan and Land Development Code, or that, if deviations are necessary for the zoning district or land use plan designations on the subject Land, such Development Agreement specifically lists such deviations in detail.

2.8. Statement in the Development Agreement showing how sidewalk and pedestrian travel is being addressed in a conceptual plan showing the proposed layout of streets, lots, green areas, conservation areas, bike ways, parks, public facilities and such other amenities.

2.9. A statement in the Development Agreement describing how environmentally sensitive land, if any, will be preserved and managed.

2.10. A statement in the Development Agreement describing how threatened or endangered species are being protected.

2.11. A statement in the Development Agreement explicitly identifying each instance of conflict with existing ordinances and expressly providing for the Development Agreement to control, or else all of the provisions of such conflicting ordinances shall control to the extent that the Development Agreement fails to expressly provide otherwise. Any ambiguity with respect to whether a Development Agreement or an ordinance is to control shall be interpreted to favor the ordinance. A statement indicating that failure of the Development Agreement to address a particular permit condition, term or restriction shall not relieve the owner or developer of the necessity of complying with the laws governing said permitting requirements, conditions, terms or restriction.

2.12. A provision that any matter or action required under existing ordinances of the town shall not be otherwise amended, modified or waived, unless such modification, amendment or waiver is expressly provided for in the Development Agreement with specific reference to the Code provision so waived, modified or amended ("deviations").

2.13. Agreement whereby if the applicant, upon approval of the Development Agreement, fails to comply with the terms of the agreement, the town may bring an action in a court of law with competent jurisdiction to protect its rights and interests. All associated reasonable costs and attorney's fees shall be reimbursed to the town if an action at law is necessary regardless of whether the Town is the prevailing party

2.14 Post-Development Agreement requirements. An acknowledgement that prior to the issuance of any building permits being issued for the development that:

2.14.1 All existing and proposed utilities and the manner in which existing utilities will be extended to the site and/or expanded for the use of the development including water, sewer, gas, electricity, cable television, and other utilities shall have been approved by the Town;

2.14.2 The proposed drainage plan for the proposed project shall have been approved by the Town;

2.14.3 The proposed grading plan and elevation requirements of the town, including, but not limited to those related to the National Flood Insurance Program as applicable to the town shall have been approved by the town;

2.14.3. The traffic impact and parking plans as applicable to the town shall have been approved by the town; and

2.14.4 All other town requirements are met that are necessary for the initial building permits to build the project on the Land.

2.15. An acknowledgement that the town shall not have any liability whatsoever for any expenses or other damages that may be incurred as a result of denial of the Development Agreement or for denial of building permits due to the failure to meet the town's requirements as to any Post-Development Agreement requirements.

2.16. A description of any special or public benefit to the Town as a result of the development such as, the promotion of economic development, affordable housing, hurricane recovery, provision of needed public facilities, provision of public land or recreation, and/or elimination of blight.

2.17. A finding that the proposed Development Agreement is reasonable and not arbitrary and in the best interest of the town.

3. *Home Rule Development Agreement Review Procedures.*

The following regulations shall be followed during the review of a Development Agreement.

3.1. Staff negotiation. The town manager or the town manager's designee (typically the town planner) shall review the proposed project and shall meet and hold preliminary nonbinding negotiations with the applicant regarding the appropriate terms and conditions on which said Land should be developed. At such time as a tentative agreement is reached as to the recommended terms and conditions of the Development Agreement, or the town manager or town manager's designee deems that no further negotiations would be useful because of the unlikely possibility of reaching a concurrence on the terms and conditions of a Development Agreement, the proposal shall be reduced to a nonbinding and unexecuted writing. Such tentative agreement, whether oral or written, shall not give rise to any development rights or equitably or legally vest any development rights in the owner of the Land or other substantially affected person.

3.2. Reduction of proposal to writing

3.2.1. In the event that the town manager or the town manager's designee and the applicant have negotiated the terms of a mutually acceptable, nonbinding and tentative Development Agreement, the terms of that Development Agreement shall be reduced to writing in a contractual form for review and for further discussion, consideration and approval or disapproval as provided herein. The Development Agreement may include a provision that authorizes administrative amendments to the site plan provided that height, density and intensity are not increased, and the plan remains consistent with the Town's Comprehensive Plan.

3.2.2. In the event that the town manager or town manager's designee and the applicant have been unable to negotiate a mutually satisfactory Development Agreement, within thirty (30) days of said determination by the town manager or the town manager's designee, the applicant may prepare a proposed Development Agreement consistent with all requirements hereof for review by the town's Local Planning Agency ("LPA").

3.2.3 The town manager, or designee will make a recommendation as to whether the town council should approve or not approve a Development Agreement prior to adoption and approval of the Development Agreement.

3.3. Public hearings

3.3.1. At such time as the Development Agreement has been reduced to written nonbinding contractual form, or the applicant has prepared a Development Agreement as set forth above in subsection 3.2, the town manager or town manager's designee shall transmit such Development Agreement to the LPA.

3.3.2. A public hearing shall be held by the LPA concerning said application, and the LPA shall issue a recommendation for approval, approval with conditions, or denial of the Development Agreement to the town council. Thereafter, two public hearings shall be held by the town council prior to approval of the Development Agreement. The Development Agreement shall be adopted by Ordinance, following two readings of the title at the two public hearings and publication of a notice 10 days in advance of the second public hearing in a newspaper of general circulation.

3.3.3. Notice of the public hearings shall be available on the town's website, and a notice shall be mailed to all property owners within a five hundred (500) foot radius of the boundaries of the Land at the addresses of such property owners found on the Lee County Property Appraiser website prior to the first public hearing in accordance with notice procedures in Chapter 34 of the Land Development Code. A Development Agreement shall comply with notice requirements in Chapter 34 of the Land Development Code. Notwithstanding the foregoing, as provided in Section 2-98, failure to comply with Chapter 34 notice requirements shall not be a basis for invalidating a Development Agreement.

3.3.3.4. At the public hearings and in compliance with any and all procedures established by law for the conduct of said hearings, the LPA and the Town Council shall accept any public comment on the terms of the Development Agreement. Following the final Town Council public hearing, the town clerk shall immediately dispatch, postage prepaid by regular, first class, U.S. mail and in writing, a copy of the determination of the Town Council to the applicant, or anyone who has requested a copy advising them of the town council's decision. The determination shall state that the decision of the town council is final agency action.

4. *Development Agreement Execution Procedures and Recording.*

Development Agreements shall be executed as established below:

4.1. All Development Agreements shall be executed on behalf of the applicant by all persons having legal or equitable title in the Land subject to the Development Agreement, including the fee simple owner and any mortgagees or other lien holders or owners of other equitable interests in the Land, unless the town attorney approves the execution of the development agreement without the necessity of such joinder or subordination in that the substantial interests of the town will not be adversely affected thereby.

4.2 Development Agreements shall not be executed on behalf of the town and shall not be recorded unless and until all Post-Development Agreement requirements have been met as set forth in Sec. 2-14 above. The applicant shall bear the expense of recording the Development Agreement, which shall be recorded by the town clerk.

5. *Amendment to Development Agreement.*

5.1 Except for Administrative Amendments, if allowed in the Development Agreement, an amendment to a Development Agreement shall not occur unless and until there have been hearings thereon before the LPA and before the Town Council in the same manner as for the original hearings for the Development Agreement.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL

OF FLORIDA

SECOND DISTRICT

PERSAUD PROPERTIES FL INVESTMENTS, LLC, Appellant, v. TOWN OF FORT MYERS BEACH, Appellee.	)	Case No. 2D19-1282

Opinion filed December 11, 2020.

Appeal from the Circuit Court for Lee County; Alane C. Laboda, Judge.

Jennifer R. Cowan, Kevin S. Hennessy, and Richard P. Green of Lewis, Longman & Walker, P.A., St. Petersburg; and Nicole J. Poot of Lewis, Longman & Walker, P.A., St. Petersburg (substituted as counsel of record), for Appellant.

Hudson C. Gill and Jeffrey L. Hochman of Johnson, Anselmo, Murdoch, Burke, Piper & Hochman, P.A., Fort Lauderdale, for Appellee.

BLACK, Judge.

Persaud Properties FL Investments, LLC, owns beachfront property in the Town of Fort Myers Beach. The property includes a restaurant and bar with a license to

sell alcohol on the premises, including permitting alcohol sale on the part of the property which extends into the Environmentally Critical zone—the beach. The property, by virtue of the ability to allow the sale and consumption of alcohol in the Environmentally Critical (EC) zone, had been a nonconforming use under the Town's municipal code of ordinances until a 2019 determination by the Town that Persaud had abandoned the nonconforming use of the property. Upon the abandonment determination, the property lost its status as a grandfathered nonconforming use and was required to comply with current zoning regulations, which prohibit alcohol sales in the EC zone. The trial court ruled in the Town's favor in Persaud's action for declaratory relief, inverse condemnation, deprivation of due process rights, and injunction and entered a judgment finding that the Town had properly determined that Persaud had abandoned the nonconforming use of the property. We reverse.

Persaud's property is located in two zoning districts in the Town: downtown, which permits the sale of alcohol and its consumption on premises, and EC, which prohibits alcohol sales. The Town adopted the ordinance at issue in 1995. At the time of the adoption, the property in question operated with a liquor license and sold and served alcohol in what was later zoned as EC. The prior owner of the property had a valid liquor license and when Persaud purchased the property it obtained the license, transferring it to the company. In October 2014, Persaud closed the bar and restaurant to begin extensive renovations. The Town was well aware of the renovations as various construction permits had to be issued and inspections had to occur; additionally, during the renovation period, multiple stop-work orders were issued by the Town. Upon completion of the renovations in October 2015, Persaud sought the necessary approval

to reopen and begin selling alcohol on the premises, including in the EC zone. During the one-year period of closure and at the request of Persaud, the property's liquor license had been held in escrow or "inactive status" by the Department of Alcoholic Beverages and Tobacco, a fact which had been known to the Town and which was important to a Town planner for purposes of the abandonment issue. Nonetheless, the Town advised Persaud that it could not sell alcohol in the EC zone because the nonconforming use had been abandoned pursuant to a provision of the Town's land development code. Persaud then filed suit against the Town.

The operative complaint included a count for declaratory relief, as well as counts alleging a taking under state law and deprivation of due process under the Florida Constitution and a count seeking a mandatory injunction. Both Persaud and the Town moved for summary judgment. After a hearing, the court entered judgment in favor of the Town on all counts.

The parties agree that there are no factual issues in dispute. Because our conclusion as to the entry of judgment in favor of the Town on the declaratory relief count renders moot the remaining issues on appeal, we address only the issue of whether the trial court incorrectly determined, as a matter of law, that Persaud had abandoned the nonconforming use of its property pursuant to the Town's land development code. "We review de novo the trial court's determination that the [Town] was entitled to—and that [Persaud] was not entitled to—a judgment as a matter of law." See Highlands-In-The-Woods, L.L.C. v. Polk County, 217 So. 3d 1175, 1178 (Fla. 2d DCA 2017); see also Harkless v. Laubhan, 278 So. 3d 728, 732 (Fla. 2d DCA 2019) (stating that review of the legal conclusions in a declaratory judgment is de novo (citing

Reed v. Honoshofsky, 76 So. 3d 948, 951 (Fla. 4th DCA 2011))). "Municipal ordinances are subject to the same rules of construction as are state statutes." Angelo's Aggregate Materials, Ltd. v. Pasco County, 118 So. 3d 971, 975 (Fla. 2d DCA 2013) (quoting Rinker Materials Corp. v. City of North Miami, 286 So. 2d 552, 553-54 (Fla. 1973)). However, "[s]ince zoning regulations are in derogation of private rights of ownership, words used in a zoning ordinance should be given their broadest meaning when there is no definition or clear intent to the contrary and the ordinance should be interpreted in favor of the property owner." Rinker Materials Corp., 286 So. 2d at 553; see also City of Miami Beach v. 100 Lincoln Rd., Inc., 214 So. 2d 39, 39 (Fla. 3d DCA 1968) ("Since zoning laws are in derogation of the common law, as a general rule they are subject to strict construction in favor of the right of a property owner to the unrestricted use of his property." (citing Wright v. De Fatta, 152 So. 2d 10, 14 (La. 1963))). Moreover, zoning ordinances, like statutes that are in derogation of the common law, "will not be interpreted to displace the common law further than is clearly necessary. Rather, the courts will infer that such a statute [or ordinance] was not intended to make any alteration other than was specified and plainly pronounced." See Essex Ins. Co. v. Zota, 985 So. 2d 1036, 1048 (Fla. 2008) (quoting Carlile v. Game & Fresh Water Fish Comm'n, 354 So. 2d 362, 364 (Fla. 1977)), superseded on other grounds by statute as recognized in Essex Ins. Co. v. Integrated Drainage Sols., Inc., 124 So. 3d 947, 951 (Fla. 2d DCA 2013). "[T]he presumption is that no change in the common law is intended unless the statute is explicit in this regard." Id. (emphasis omitted) (quoting Carlile, 354 So. 2d at 364); see also Major League Baseball v. Morsani, 790 So. 2d 1071, 1078 (Fla. 2001) ("The presumption is that no change in the common law is

intended unless the statute is explicit and clear in that regard. Unless a statute unequivocally states that it changes the common law, or is so repugnant to the common law that the two cannot coexist, the statute will not be held to have changed the common law." (quoting State v. Ashley, 701 So. 2d 338, 341 (Fla. 1997))).

At issue is the proper interpretation of section 34-1264(h)(2) of the Town's land development code.[1] Section 34-1264 is specific to the "sale or service for on-premises consumption" of alcoholic beverages, and it provides that "[a]n establishment engaged in the sale or service of alcoholic beverages may thereafter become a nonconforming use due to a change in regulations, as provided in division 3 of article V of this chapter." Town of Fort Myers Beach, Fla., Code of Ordinances, Appendix A–Land Development Code ch. 34, art. IV, div. 5, § 34-1264(h)(2) (2019); see Town of Fort Myers Beach, Fla., Code of Ordinances, Appendix A–Land Development Code ch. 34, art. V, div. 3, § 34-3241(a) (2019) ("Nonconforming uses generally. . . . For purposes of this division, the term 'nonconforming use' means a use or activity which was lawful prior to the adoption of any ordinance from which this code is derived, or the adoption of any revision or amendment to this code, . . . but which fails, by reason of such adoption, revision, or amendment, to conform to the use requirements where the property is

[1]Although Persaud argues that section 34-1264(h)(2) does not apply to its property because the nonconforming use was not authorized by "special exception, administrative approval, or other approval" as defined in section 34-1264, we do not address that assertion because it was not before the trial court. We therefore resolve this case without deciding whether section 34-1264(h)(2) is applicable to nonconforming uses, like Persaud's property, that were not authorized by "special exception, administrative approval, or other approval" but were preexisting lawful uses that become nonconforming uses through changes in the code and are permitted to continue pursuant to section 34-3241(c). See Town of Fort Myers Beach, Fla., Code of Ordinances, Appendix A–Land Development Code ch. 34, art. IV, div. 3, § 34-3241(c) (2019).

located."). Section 34-1264(h)(2) further provides that "[n]onconforming uses may continue until there is an abandonment of the permitted location for a continuous nine-month period" and that abandonment "mean[s] failure to use the location for consumption on the premises purposes as authorized by the special exception, administrative approval, or other approval." Town of Fort Myers Beach, Fla., Code of Ordinances, Appendix A–Land Development Code ch. 34, art. IV, div. 5, § 34-1264(h)(2).[2]

Persaud contends that a correct interpretation and application of the abandonment provision of the Town's code requires an intent to have abandoned the nonconforming use. In support of this argument, Persaud cites City of Miami Beach v. State ex rel. Parkway Co., 174 So. 443 (Fla. 1937), Peters v. Thompson, 68 So. 2d 581 (Fla. 1953), Sarasota County v. Bow Point on the Gulf Condominium Developers, LLC, 974 So. 2d 431 (Fla. 2d DCA 2007), Hobbs v. Department of Transportation, 831 So. 2d 745 (Fla. 5th DCA 2002), and Lewis v. City of Atlantic Beach, 467 So. 2d 751 (Fla. 1st DCA 1985). Persaud argues that the trial court erred in refusing to apply the common law as discussed in these cases to the issue of abandonment.

In City of Miami Beach, the supreme court concluded that the word "discontinued," as used in the city's nonconforming use ordinance, did not mean "a temporary cessation for the purpose of making repairs or extensions"; rather, it meant

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[2]Section 34-3244, governing nonconforming uses generally, similarly provides that "[w]hen a nonconforming use is discontinued or abandoned for nine consecutive months, the use shall not thereafter be carried out or reestablished except in conformance with all current regulations." Town of Fort Myers Beach, Fla., Code of Ordinances, Appendix A–Land Development Code ch. 34, art. V., div. 3, § 34-3244 (2019). However, section 34-3244 does not define discontinue or abandon.

"a discontinuance of business of that sort at that place." 174 So. at 445. Peters similarly addressed a nonconforming use zoning regulation that included an "abandonment, or discontinuance" provision. 68 So. 2d at 582. In Peters, the court upheld the county's finding that the nonconforming use, the sale of alcoholic beverages within 1500 feet of another establishment selling alcoholic beverages, had been discontinued. Id. In reaching its conclusion, the court "noted that no effort [had been] made to renew the [liquor] license" during the period in which the property was closed. Id. This court, in Bow Point, very clearly held that the trial court had applied the correct law when it determined "that the suspension of Bow Point's motel operation for sixteen months during necessary repairs and renovations did not constitute a discontinuance of the nonconforming use." 974 So. 2d at 433.[3] Lewis expressly states that "[a]bandonment occurs when the landowner intentionally and voluntarily foregoes further nonconforming use of the property" and that "[t]emporary cessation of a

[3]Although City of Miami Beach, Peters, and Bow Point address "discontinuance" as applied to nonconforming uses, discontinue is defined as "to abandon or terminate," see Discontinue, Merriam-Webster.com, https://www.merriam-webster.com/dictionary/discontinue (last visited Oct. 15, 2020), and discontinuance provisions and abandonment provisions have been interpreted without distinction, compare Bow Point, 974 So. 2d at 432 ("[A] discontinuance provision is one of the methods by which nonconforming uses may be gradually eliminated over the course of time. Other methods include attrition, destruction, and obsolescence."), with Crandon v. State ex rel. Uricho, 28 So. 2d 159, 160 (Fla. 1946) ("[W]e are not required to determine whether 'discontinuance' as used in the resolution contemplates an intent to abandon the use of the property."), and Lewis, 467 So. 2d at 754-55 ("The general rule is that nonconforming uses may be eliminated by attrition (amortization), abandonment, and acts of God as speedily as is consistent with proper safeguards and the rights of those persons affected." (first citing Bixler v. Pierson, 188 So. 2d 681, 683 (Fla. 4th DCA 1966); and then citing 82 Am. Jur. 2d Zoning and Planning § 179 (1985))). But cf. Crandon, 28 So. 2d at 160 (noting that the court was not "required to say that discontinuance is synonymous with abandonment"). Moreover, it is clear in each of these cases that the intent of the property owner was considered when determining whether the nonconforming use had been discontinued.

nonconforming use or the temporary vacancy of buildings used for the nonconforming use does not operate to effect abandonment of the nonconforming use." 467 So. 2d at 755 (first citing 82 Am. Jur. 2d Zoning and Planning § 216 (1985); then citing City of Miami Beach, 174 So. at 445); and then citing Quinnelly v. City of Prichard, 291 So. 2d 295, 299 (Ala. 1974)). The final case cited by Persaud, Hobbs, reiterates the state of the law with regard to abandonment provisions in zoning ordinances. Citing both Peters and Lewis, as well as Crandon v. State ex rel. Uricho, 28 So. 2d 159 (Fla. 1946), Hobbs reaffirms that a nonconforming use is abandoned by the property owner only when there is an intent to do so. 831 So. 2d at 748-49; see also Abandon, Black's Law Dictionary (11th ed. 2019) (defining "abandon" as "[t]o relinquish or give up with the intention of never again reclaiming one's rights or interest in"); Abandon, Black's Law Dictionary (5th ed. 1979) ("[Abandon] includes the intention, and also the external act by which it is carried into effect."); Abandonment, Black's Law Dictionary (5th ed. 1979) ("In determining whether one has abandoned his property or rights, the intention is the first and paramount object of the inquiry, for there can be no abandonment without the intention to abandon.").

The zoning regulations in each of the cases cited by Persaud are indistinguishable from the ordinance at issue here in that each provided that a grandfathered nonconforming use would lose its grandfathered status upon the discontinuance or abandonment of the use for a set period of time. And like those ordinances, the abandonment provision of the Town's code does not explicitly and unequivocally announce that the common law does not apply to it; in fact, the Town's code of ordinances provides as a general rule that "[a]ll words and phrases shall be

construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning." Town of Fort Myers Beach, Fla., Code of Ordinances ch. 1, § 1-2.(a) (2019).

Further supporting our conclusion that abandonment as used in the Town's ordinance includes an intent element is the definition of "used for" in section 1-2. of the code: "The term 'used for' includes the term 'arranged for,' 'designed for,' 'maintained for,' and 'occupied for.' " Town of Fort Myers Beach, Fla., Code of Ordinances, Appendix A–Land Development Code ch. 1, § 1-2.(c) (2019). The evidence unequivocally supports the conclusion that Persaud was both maintaining and occupying the property for the sale of alcoholic beverages on the premises, including within the EC zone, as it had done previously and as the Town was fully aware.

Strictly construing the Town's ordinance in favor of the property owner, as we must, abandonment of a nonconforming use requires more than the passage of nine months while the property was closed for renovations; it requires voluntary cessation of the nonconforming use with the intent that the cessation of such use be permanent. The trial court erred in failing to apply the common law and in determining, as a matter of law, that Persaud had abandoned the nonconforming use of its property where there was no evidence that Persaud intended to discontinue selling alcohol in the EC zone.

Persaud did not abandon or discontinue the nonconforming use of the property during the one-year period of closure where renovations and construction were ongoing. Persaud is therefore entitled, under the applicable provisions of the Town's

municipal code, to maintain the property's status as a grandfathered nonconforming use. Our conclusion with regard to the declaratory action requires a reversal of the judgment as to all other counts. Cf. Lewis, 467 So. 2d at 755-56. Accordingly, we reverse the judgment in favor of the Town and remand for entry of a judgment in favor of Persaud on the declaratory relief count.

Reversed and remanded.

SMITH, J., and CASE, JAMES R., ASSOCIATE SENIOR JUDGE, Concur.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327

January 20, 2021

CASE NO.: 2D19-1282
L.T. No.: 17-CA-1026

PERSAUD PROPERTIES FL INVESTMENTS, LLC	v.	THE TOWN OF FORT MYERS BEACH, FLORIDA
Appellant / Petitioner(s),		Appellee / Respondent(s).

BY ORDER OF THE COURT:

Appellee's motion for rehearing and for clarification as to counts II and III is denied.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

HUDSON C. GILL, ESQ.
KEVIN S. HENNESSY, ESQ.
NICOLE J. POOT, ESQ.
LINDA DOGGETT, CLERK
JEFFREY L. HOCHMAN, ESQ.
MICHAEL E. CHIONOPOULOS, ESQ.
RICHARD PAUL GREEN, ESQ.

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Mary Elizabeth Kuenzel
Clerk

Tina M. Ekblad, MPA, AICP
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1028 & 1046 Estero Boulevard

Development Agreement Application

Project Narrative

May 2, 2025

Located in Lee County, Florida, the Town of Fort Myers Beach (“**Town**”) is a barrier island community that has developed over many years. Formally incorporated on December 31, 1995[1] the Town has a vision for its future growth outlined within the Comprehensive Plan (“**Comp Plan**”) and Land Development Code (“**LDC**”). Many properties within the Town are evaluating options for redevelopment. Initially these considerations were due to the damage from Hurricane Ian that occurred on September 28, 2022. However, the additional impacts associated with other weather events, Hurricane Helene on September 26, 2024, and Hurricane Milton on October 9, 2024, are also supporting redevelopment considerations. Over 2 years since the initial storm and five months after the most recent hurricanes, much of the Town continues to recover and rebuild with the implications of severe weather front of mind.

The recovery and rebuilding of commercial properties within the Town includes design features that reflect past development while incorporating new structures consistent with the new building code, floodplain and coastal setback regulations. The proposed development for 1028 and 1046 Estero Boulevard is the same. Identified by Parcels 24-46-23-W3-00017.0000 and 24-46-23-W3-00016.000 (“**Property**”) and purchased by Persaud Properties FL Investments, LLC on July 28, 2014 and May 6, 2016, the properties were previously developed with a restaurant and commercial parking lot.

Figure 1. Property Location

[1] Fort Myers Beach (“FMB”) Comprehensive Plan (“CP”), Community Design Element (“CDE”), Page 3-1

At .9-acres the Property is within the Downtown Core planning area, specifically District 2 Times Square, as well as the Pedestrian Commercial and Recreational future land use ("**FLU**") categories and the Downtown ("**Downtown district**") and Environmentally Critical ("**EC**") zoning districts. The proposed redevelopment of the Property seeks to re-establish the restaurant, retail and parking that existed on-site prior to Hurricane Ian and incorporate hotel units on the upper floors. This redevelopment plan will be accomplished through the requested Development Agreement and Site Plan with Deviations ("**DA**"). Deviations are requested to provide flexibility related to the site design and mixed-use structure while ensuring compliance to the maximum extent possible, with the Town's Land Development Code ("**LDC**"). Subsequent to the Development Agreement, formal applications will be filed for a Development Order ("**DO**") and building permit consistent with the Town's LDC.

I. BACKGROUND & ANALYSIS

a. Development Agreement Framework

On April 1, 2024 the Town Council approved Ordinance 24-73, which was amended by Ordinance 24-247 on November 18, 2024, outlining the process for the DA. These procedures establish:

> *"A Home Rule Development Agreement is a non-statutory development agreement authorized pursuant to the Town's home rule authority that may allow for approval of amendments, modifications, variances, deviations, or exceptions from the Town's Land Development Code, and, if appropriate under the provisions of the Town's Comprehensive Plan, relief from the building height limitation in the Comprehensive Plan. Approval of a Home Rule Development Agreement and the deviations provided for in such a Home Rule Development Agreement shall be considered tantamount to and commensurate to a planned development for purposes of determining consistency with the Comprehensive Plan."*

As part of the DA process, a specific finding is required to be provided that the "proposed project permitted or proposed is consistent with the Town's Comp Plan and LDC or that if deviations are necessary for the zoning district or land use plan designations on the subject land, such Development Agreement specifically lists such deviation in detail." Additionally, a statement is to be provided in the DA to "explicitly identify each instance of conflict with existing ordinances and expressly providing the for the Development Agreement to control…"

Persaud Properties FL Investments, LLC ("**Persaud Properties**") is submitting this DA application to establish a specific site plan with floor plans for the redevelopment of the Property and request deviations to promote redevelopment within the Times Square Pedestrian Plaza. The DA identifies the anticipated uses, density, intensity, duration of the agreement, proposed public benefits and the requested deviations to establish the conceptual parameters and guide the detailed review of future building plans and calculations that will be submitted with subsequent permits. Construction will not begin until all required permits are secured.

b. Property Background & Redevelopment

Prior to Hurricane Ian, the Property was developed with a restaurant, retail shops, and commercial parking lot. In 2014, the former Top O' Mast restaurant was sold to the current owner and remodeled into the Sunset Beach Tropical Grill, a 8,244 square foot family-style restaurant, with 760 square foot retail (ice cream store and gift shop) fronting the pedestrian plaza. The former structure had 0 foot setbacks on the sides and rear of the Property with a 2 foot setback along the frontage of the pedestrian plaza. The Top O'Mast had been located on the Property for approximately 40 years prior to the sale in 2014. The Property is located within a redevelopment area identified by the Comp Plan[2] and LDC.[3] The intent of the redevelopment area is to "simulate the revitalization of the downtown core area (near Times Square) as the nucleus of commercial and tourist activities."[4] Implementing this intent, Policies 3-D-1 thru 3-D-9 describe the anticipated redevelopment for the Downtown Core Area to promote sidewalk improvements and pedestrian circulation, improve parking, design streetscaping, and implement stormwater management. The Downtown district implements these policies by "...creat[ing] the desired quality and character for the center of pedestrian-oriented commercial activities within the Town."[5] "New commercial buildings are expected to accommodate pedestrians by providing storefronts near sidewalks and by offering shade and shelter along major streets."[6] The Downtown district includes by-right property development regulations related to building placement, setbacks, frontage, height, floor area ratio, and parking reductions based on street frontage.

The proposed redevelopment maintains the previous primary use of the Property - a restaurant, retail, and parking - while incorporating boutique hotel units into the upper floors. Due to the Property's location within the Velocity ("**VE**") flood zone, the ground level uses are generally open with enclosed area proposed to utilize breakaway walls and roll up doors. A 10-foot-wide public walking path and a public gathering area are proposed within the first (ground) floor of the building near the western property boundary. The DA request incorporates deviations to the by-right property development regulations to support the proposed redevelopment and remove encroachments into the Times Square Pedestrian Plaza.

c. Comprehensive Plan

The Town adopted the Comp Plan in 1999 and since that time it has not been evaluated comprehensively for consistency with State building codes, coastal building regulations and the Federal floodplain requirements. Per the FLU map, the Property is within 2 FLU designations, Pedestrian Commercial and Recreation.

Pedestrian Commercial – described by Policy 4-B-6 as "a primarily commercial district applied to the intense activity centers of Times Square... For new development, the maximum density is 6 dwelling units per acre... Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet

[2] FMB, CP, Future Land Use ("FLU") Policy 4-F-2
[3] Downtown Zoning District.
[4] FMB, CP, FLU Objective 3-D
[5] FMB, Land Development Code ("**LDC**") Section 34-671
[6] *Ibid*.

the design concepts of this plan and the Land Development Code. Where commercial uses are permitted, residential uses are encouraged in upper floors." At the time of adoption, 58.9% of land area within the Pedestrian Commercial FLU was non-residential. The requested redevelopment retains the non-residential uses of the Property from the adoption of the FLU category and does not alter this previous percentage.

Recreation – the portion of the Property seaward of the 1978 Coastal Construction Control Line is within the Recreational FLU. Consistent with Policy 4-B-8, this portion of the Property is not proposed for structural redevelopment but is included in the Boundary Survey attached to the Development Agreement.

The Property has a State level approval for outdoor consumption on premises that incorporates the sandy beach beyond the 1978 CCCL. The Owner has retained this approval and plans to continue to provide this service with the redevelopment of the Property consistent with the December 11, 2020 decision and January 20, 2021 reaffirmation for *Persaud Properties FL Investments LLC v. Town of Fort Myers Beach, No. 2D19-1282 (Fla. 2d DCA 2019).*

In addition to the FLU categories, the Property is also within the Downtown Core planning area which guides the character of development within the area. The Comp Plan breaks the Downtown Core Area into four districts; the Property is within District 2, Times Square. The Times Square area is the historic commercial center of the Island dating as far back as 1940[7] and the concentration of commercial uses previously developed in this area was identified as a positive attribute for the Town.[8] This planning area is described as "... the lively commercial/tourist center of town, is on the upswing following the recently completed CRA improvements. The new pedestrian mall, with its palm trees and outdoor dining areas, sets the design theme for further public and private improvements."[9] This vision is described in Objective 3-D and Policies 3-D-1 through 3-D-9[10] and as related to the Property describes interconnected pedestrian circulation, improving parking related to Times Square and implementing stormwater management systems.

Prior to Hurricane Ian, District 2, Times Square included a mix of intense ground level commercial development flanking a pedestrian mall that cannot be easily duplicated due to the floodplain regulations that have become significantly more restrictive since the Comp Plan was adopted in 1999.[11] Unfortunately, this planning area (and the others) have not been updated for consistency with changes in State building codes, coastal building regulations and Federal floodplain requirements. Today, redevelopment cannot include permanent enclosed (dry floodproofed) ground level commercial space due to Times Square Pedestrian Plaza being within a Velocity flood zone. Specifically, enclosed usable space constructed on the Property needs to be elevated above a minimum Base Flood Elevation (**"BFE"**) of 14 to 15 feet and a minimum of 20 feet to comply with the FDEP 100 year flood elevation.

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[7] FMB, CP, CDE, page 3-3
[8] FMB, CP, FLU, page 4-27
[9] FMB, CP, CDE, page 3-4
[10] **Note:** Policy 4-F-2 identifies that the Times Square Redevelopment Plan is outlined in Community Design Element Policies 3-D-1 to 3-D-13. However, Policies 3-D-10 through 3-D-13 are no longer included in the Comp Plan.
[11] FMB, CP, FLU, page 4-27

To balance the vision of the Comp Plan with the federal floodplain requirements, the proposed redevelopment utilizes breakaway walls and roll up doors to organize retail space fronting the pedestrian plaza and an open air restaurant service bar on the first floor. Due to the minimum elevation associated with the FDEP 100 year storm, the first (ground) floor is more than 20 feet in height enabling the area between the FEMA BFE of 15 feet and FDEP 100 year flood elevation of 20 feet to be utilized for mechanical, electrical and plumbing infrastructure to support the desired first (ground) floor uses. All materials below the required flood elevations will be breakaway construction and quick disconnect consistent with current FEMA standards. A minimum 10-foot-wide public walkway is provided within the structural footprint and along the western property boundary to provide pedestrian interconnectivity between the Times Square Pedestrian Plaza and the sandy beach. ADA compliant access mats are proposed to provide disabled access to the sandy beach. Parking lifts are proposed to provide parking in excess of the requirements of the Downtown zoning district and support the desired commercial intensity. As the structure increases in height, the building façade fronting the Times Square Pedestrian Plaza incorporates open patio spaces and step backs in the facade to increase the separation from the adjacent pedestrian plaza and provide architectural interest. Additionally, in recognition of the by-right property development regulations in this area, an opportunity for a future public pedestrian bridge connections is provided on the second floor to the north.

The uses proposed for the Property are consistent with the visioning statements of the comp plan, the Pedestrian Commercial FLU category, and Downtown zoning district. As a primarily commercial district, ***the Pedestrian Commercial FLU supports the most intense commercial development within the Town***.[12] ***The Times Square Pedestrian Plaza has the greatest flexibility in property development regulations and FAR within the Downtown zoning district***.[13] The requested FAR and associated deviations are also consistent with the Pedestrian Commercial FLU and locations for commercial uses outlined in Policy 4-C-3. The proposed redevelopment provides commercial intensity within the by-right FAR calculations on an existing commercial property within an identified commercial activity center of the Town[14] without existing residential units. A deviation is requested to eliminate the vehicular parking and public walkway from the FAR as these areas do not support primary commercial activity and support the principle uses. The redevelopment of the previous restaurant, retail, and parking with the additional boutique hotel use are all commercial uses permitted by the Downtown zoning district.

The Comp Plan also considers requests for additional height in Policy 4-C-4; which specifically indicates "different heights may be applied to officially designated redevelopment areas such as Times Square…" The Town is to consider the requests "after evaluating the level of unfairness that would result from the specific circumstances and the degree the specific proposal conforms with all aspects of the comprehensive plan…" with particular attention to any permanent view corridors and the public benefits resulting from the proposal. The Downtown zoning district permits properties abutting the Times Square Pedestrian Plaza to have a height of 3 stories and 30 feet by right, taller than the standard reference in Policy 4-C-4 by-right.

[12] FMB, CP, FLU, Policy 4-C-2
[13] FMB, LDC Section 34-671thru 34-676
[14] FMB, CP, FLU, Policy 4-B-6

The proposed redevelopment of the Property includes a deviation to increase the height of the structure to 4 stories and 38 feet 8 inches above the 100 year flood elevation for the maximum mean roof height to support a rooftop sunset terrace and service bar that will be open to the public. The additional story and public sunset terrace was requested during staff negotiations to provide additional public benefit. Without the rooftop sunset terrace, the structure is consistent with the by-right height of the Downtown zoning district.

The Property's development area is limited to 23,452 square feet (.53 acres) by the 1978 Coastal Construction Control Line ("**CCCL**") which limits the developable depth of the Property to 126 to 134 feet and approximately 180 feet of frontage along the Times Square Pedestrian Plaza, a very limited area for a commercial structure. As a result of the Federal floodplain regulations prohibiting enclosed commercial space on the first (ground) floor, the applicant is requesting deviations related to the how FAR is measured and additional height to provide the desired public access rooftop terrace. Supporting this request, the applicant has incorporated several public benefits as outlined later in this narrative:

- A minimum 10-foot public pedestrian walkway under cover from the pedestrian plaza to the sandy beach;
- ADA improvements to provide public handicapped access from the public walkway to the sandy beach;
- A public refresh station adjacent to the walkway and under cover for public gathering and relaxation that includes public benches, a foot wash, and water fountain;
- A temporary bathroom trailer that is open to the public adjacent to the refresh station;
- An increased front building setback to eliminate encroachment into the pedestrian plaza;
- Times Square paver replacement and funding;
- Public bicycle parking;
- Ground (first) floor retail;
- Rooftop Sunset Terrace and Service Bar
- Opportunity for a future public pedestrian walkover

The proposed redevelopment is consistent with the Town's Comp Plan, provides the design concepts encouraged and anticipated by Policies 3-D-1 to 3-D-9, 4-F-2, and establishes appropriate public benefits for the requested height increase consistent with Policy 4-C-4.

d. Downtown Zoning District

The Property is within a redevelopment zoning district known as Downtown, which implements Policies 3-D-1 through 3-D-9 of the Town's Comp Plan. The purpose of the Downtown district is to "...create the desired quality and character for the center of pedestrian-oriented commercial activities within the Town."[15] "New commercial buildings are expected to accommodate pedestrians by providing storefronts near sidewalks and by offering shade and shelter along major streets."[16] The Downtown district includes by-right property development regulations related to building placement, setbacks, frontage, height, floor area ratio, and parking reductions based on street frontage. The proposed design

[15] FMB, LDC Section 34-671
[16] *Ibid*.

provides many of the property development regulations envisioned when the Downtown district was established in 2003 by Ordinance 03-03 and adapts to the new floodplain and coastal building requirements.

To achieve the desired "strengthened mix of businesses and services; reduction of traffic congestion and pedestrian vehicular conflicts"[17] and improve parking to serve the businesses and visitors as described by the Town's Comp Plan within the Downtown Core, commercial intensity is necessary. Times Square is described as "... the lively commercial/tourist center of town, is on the upswing following the recently completed CRA improvements. The new pedestrian mall, with its palm trees and outdoor dining areas, sets the design theme for further public and private improvements."[18] Prior to Hurricane Ian, Times Square was a variety of intense ground level commercial development flanking a pedestrian mall. This unique configuration was identified as an appropriate location commercial square footage and described as "an urban beach environment" that the comp plan desired.[19] As the "lively commercial/tourist center"[20] of Town it is appropriate to not only re-establish the previous commercial uses but incorporate additional commercial intensity to support the existing and anticipated retail due to the lack of residential in the nearby area.

Prior to Hurricane Ian, across the Times Square Pedestrian Plaza (north) from the Property were retail and restaurant uses. Local Color and West Coast Surf Shop, two retail locations, have not returned after Hurricane Ian. The La Ola Surfside restaurant has returned to the area utilizing a trailer for the preparation and sale of food with outdoor seating and entertainment. Other trailers had been preparing and selling food with outdoor seating and entertainment. Although given the current FEMA directives relative to these temporary structures, many have been removed.

The parcel adjacent to the Property to west was open retail and beach rentals. Historical Google Earth imagery demonstrates no permanent structures were constructed. Further west was the former Kilwins/Dairy Queen and County Pier. Since Hurricane Ian, no new structures or trailers have returned to these parcels and the Dairy Queen was recently cleaned up. However, given the location and past uses of these properties it is anticipated the future redevelopment will be with permanent structures for intense commercial uses. The proposed redevelopment of the Property is consistent with the former and future anticipated uses of the adjacent properties to the north and west.

Beyond the Times Square Pedestrian Plaza, along the Gulf, to the east and west are 2 Lee County Parks. To the west is the Lynn Hall Memorial Park which includes paid public parking with public beach access. Prior to the hurricane the park also provided public restrooms and picnic facilities. To the east is the Crescent Beach Family Park which previously provided temporary bathroom facilities and public beach access. Due to the recent hurricanes the park is currently closed. Generally, when open and fully operational, these Lee County parks are accessible from Dawn to Dusk. The proposed redevelopment of the Property is complimentary and consistent with these public facilities, providing members of the

[17] FMB, CP, CDE, page 3-5
[18] FMB, CP, CDE, page 3-4
[19] FMB, CP, FLU, page 4-27.
[20] FMB, CP, CDE, page 3-4

public with locations to purchase food, small retail goods, and pedestrian interconnectivity between public beach access and the public pedestrian plaza.

e. Requested Development

The proposed development seeks to reestablish the previous commercial uses that occurred on-site and incorporate boutique hotel units. Prior to submitting the Development Agreement application, a community meeting was held on June 11, 2024 at the Diamond Head Resort to present the preliminary plans for the Times Square redevelopment; which includes the Property. Generally, the initial renderings were received positively, however several adjustments were made to achieve the current design.

- 10-foot front setback – Increasing the front setback from the required 0-foot build-to-line eliminates encroachments into the pedestrian plaza. The applicant has committed to enhancing this area with benches, landscaping, shade structures, etc for the public and will coordinate the appropriate location with Town Staff during the development order process.
- Second floor outdoor patio – Two usable outdoor patios supporting the restaurant are proposed on the second floor at the front and rear facades establishing usable outdoor space and promoting interaction with the pedestrian plaza and sandy beach below.
- Future pedestrian bridge connections – Provided along the north and west façade to promote interconnection with adjacent parcels when developed.
- Third Floor setback – The front structural setback of the third floors has been increased from the first (ground) floor setback by 38 feet ensuring the adjacent pedestrian plaza remains open.
- Rooftop Sunset Terrace – The roof will be publicly accessible to provide public gathering and unobstructed views of the Gulf to the public.

The maximum development parameters of the Property will be 41,861 square feet of commercial uses to promote retail, restaurant, and hotel rooms. A deviation is requested to eliminate the ground floor parking and pedestrian walkway from the Floor Area Ratio (**"FAR"**) calculations. The Development Agreement includes a Site Plan, Floor Plans and Conceptual Renderings of the proposed design and enhanced concepts for the proposed structure to guide the future detailed architectural elevations and address the needed flexibility from the Commercial Design Standards to accompany future permit applications.

i. First (Ground) Floor

Ground floor commercial and enclosed residential space is required by the Commercial Design Standards of the Town's LDC and cannot be provided with the changes made to the floodplain mapping and regulations from 2008 onward. The Property is within a VE flood zone and FDEP 100 year floodzone which requires significant elevation of enclosed space and severely limits the enclosures and improvements that can occur at the ground level. Consistent with Goal 4, the proposed site design capitalizes on the beach-resort environment provided by the Property's location between the Times Square Pedestrian Plaza and the sandy beach. The uses proposed for the first (ground) floor reflect the uses previously developed on the Property; retail fronting the pedestrian plaza, a service bar, and a

parking lot adjacent to Crescent Beach Family Park. Public amenities and a pedestrian walkway are proposed to promote interconnectivity between the pedestrian plaza and sandy beach.

1. Parking

Consistent with the previous development, the eastern portion of the first (ground) floor is proposed to be utilized for parking with vehicle lifts to exceed the parking requirements of the Downtown zoning district. The FDOT design plans for Fifth Street and Matanzas Pass Bridge maintain the vehicular access to Estero Boulevard, which will lead to the proposed valet parking consistent with the previous access and parking on-site. The Downtown zoning district does not require parking for properties adjacent to the Times Square Pedestrian Plaza.[21] However, the proposed redevelopment increases the commercial intensity of the Property and the 3 anticipated public parking garages[22] within the Downtown zoning district have not been constructed. Consistent with Policy 3-D-5, the redevelopment plan incorporates a parking area with vertical car lifts to provide vehicular parking that supports the boutique hotel rooms, which are a new commercial use for the Property. Due to the limited area available for a commercial structure, the applicant is proposing to utilize a valet parking service and vertical car lifts. The valet service will ensure that cars are appropriately parked in the lifts and transitioned as needed based on length of stay. Additionally, the valet will be on hand to monitor vehicular access from Estero Boulevard as compared to the movement of pedestrians toward the Times Square Pedestrian Plaza eliminating conflicts.

Based on the proposed floor plans and required parking ratios for hotel rooms as outlined in the LDC, 66 parking spaces are required to support the hotel. The proposed design provided 33 car lifts, or 66 vehicle spaces for cars, in excess of the standard LDC requirement and the 67% reduction permitted for other properties within the Downtown zoning district.

	Rooms	**Spaces**	**Total Spaces**
Less than 450 SF	23	1.2	25.2
Greater than 450 SF	27	1.5	40.5
		Total Spaces Required	**65.7**

Table 1. Required Parking Calculations

2. Commercial Area

To promote a pedestrian-oriented public realm as desired by Objective 4-A, the design provides an increased front building setback and incorporates open air retail on the first (ground) floor fronting the pedestrian plaza. The area of the increased setback is proposed to be enhanced with benches, landscaping, shade structures, etc to encourage interaction between the public within the pedestrian plaza and proposed commercial retail.

Approximately 8,243 square feet[23], the western portion of the first floor, is proposed to be utilized for commercial retail, service bar, and bicycle parking. While much of these uses are open-air, the square footage is included in the FAR calculations for the proposed structure. The design for the retail

[21] FMB LDC Section 34-676(a)(3)
[22] FMB LDC Section 34-676(e)
[23] Consistent with LDC Section 34-633(1) this measurement is the inside face of the structure.

areas includes roll up doors and break away walls to provide separation and maintain compliance with Federal floodplain regulations. To activate the pedestrian plaza, as envisioned by the Times Square sub-district, the retail space is proposed at the front of the structure.

To further promote pedestrian circulation as desired by Policies 4-A-2 and 4-A-4, a minimum 10-foot-wide pedestrian walkway is provided undercover of the second story from the pedestrian plaza to the sandy beach along the western property boundary. A "mobi-mat," an ADA improvement for handicapped access, is proposed from the public walkway to the sandy beach improving public access to the beach. Within the footprint of the structure, adjacent to the proposed walkway is additional public seating to provide an area for gathering and interaction with a footwash, water fountain, and temporary bathroom trailer also proposed to support the public. At the rear of the first (ground) floor is an open-air service bar and patio area for additional gathering and interaction. The service bar is proposed in it's historical location and to ensure it does not compete with other restaurant properties that may front Times Square in the future. With the adjacent Crescent Beach Family Park, the proposed design will support walk-up patrons of all abilities from the park in addition to the connection provided from the Times Square Pedestrian Plaza.

Collectively, the front setback enhancements, walkway, handicapped access, public benches, refresh station, temporary bathrooms, service bar and patio promote increased public interactions at the ground level from the Times Square Pedestrian Plaza through the property to the sandy beach as well as with the adjacent Crescent Beach Family Park to the east consistent with Policies 4-A-1, 4-A-2, and 4-A-4.

3. Replacing Pedestrian Plaza Pavers

Beyond the limits of the Property, the applicant is proposing to collaborate with the Town to replace the existing damaged colored Times Square pavers with a sustainable material. The applicant has agreed to coordinate with Town Staff to provide the funds representing the Property's proportionate share of the replacement cost associated with removing the pavers and installing a new sustainable material. The applicant has also committed that these funds will be provided to the Town prior to a Certificate of Occupancy.

ii. Second and Third Floors

The second floor is designed to support 5,303 square feet utilized for a commercial restaurant and 12,575 square feet for 12 boutique hotel rooms. The third floor supports 13,441 square feet and with 19 boutique hotel rooms. A fitness area, bathrooms, electrical equipment, elevators, stairs and supply areas are included in the square footage calculations provided.

1. Restaurant with Outdoor Patios

The restaurant proposed for the second story replaces the previous family style restaurant that existed on the Property prior to Hurricane Ian. The restaurant use is proposed along the western portion of the building with open air patios fronting the Times Square Pedestrian Plaza and sandy beach. The patios provide outdoor gathering space and promote interactions between patrons and pedestrians within the Times Square Pedestrian Plaza and along the beachfront. In addition to providing outdoor gathering space and the opportunity for interactions at the ground level, the outdoor

patios promote a step back in the building façade increasing the façade setback along the pedestrian plaza and the beach promoting architectural interest and reducing the encroachment into the immediately adjacent pedestrian plaza.

To further the desire for interconnectivity between uses within the Times Square sub-district and in acknowledgement of the required floodplain elevation, the second story floor plans also include the opportunity for a future pedestrian walkover to the north. While these connections cannot be constructed with the proposed building, they can be established through a private agreement between owners when the property to the north redevelops.

2. Boutique Hotel Rooms

The proposed building design includes 31 boutique hotel rooms and a total of 26,016 square feet for the boutique hotel uses. A second step back increasing the building setback by a maximum of 38 feet to the pedestrian plaza is provided in the building façade fronting the pedestrian plaza for the third story further ensuring the building does not overcrowd the immediately adjacent pedestrian plaza. The rear façade of the second and third story are also proposed to have patios to provide visual interest and break up the rear façade along the beach front.

Considering the previous and anticipated commercial uses of the area, the available public facilities, and the identified redevelopment area for a tourist center as outlined in Objective 3-D, the proposed redevelopment incorporates a boutique hotel into the requested uses. To support the boutique hotel, a deviation is requested to increase the hotel equivalency factors in LDC Section 34-1803 interconnecting residential density and commercial hotel rooms. Policy 4-B-12 establishes hotels as a commercial use and the Downtown zoning district permits this use by right. However, LDC Section 34-1803 calculates the permitted quantity of commercial hotel rooms by residential density to protect commercial intrusion in existing residential neighborhoods. The Times Square Pedestrian Plaza is not an existing residential neighborhood but rather an intense commercial plaza and identified as the "nucleus of commercial and tourist activities" per Objective 3-D. The requested boutique hotel rooms support the anticipated tourist activities as envisioned by the comp plan. The development adjacent to the plaza should not be limited by residential density but rather the Comp Plan's limits regarding FAR, building height, and the property development regulations regarding setbacks and roof design for commercial intensity. These existing limitations as implemented by the Comp Plan and LDC appropriately regulate the size of the commercial building and the proposed architectural features and setbacks ensure the proposed structure does not encroach or overwhelm the pedestrian plaza.

Furthermore, the Town has not replaced the many hotels rooms that were destroyed or closed as result of hurricane activity that has occurred over the past 2 years. According to data obtained from the Fort Myers Beach Chamber at the end of February, approximately 623 hotel rooms were destroyed and 127 hotels rooms have not yet reopened. Within the Downtown Core 4 motel properties with a total of 65 rooms were destroyed and have not rebuilt. The requested 31 units represents 47% of the available 65 rooms within the Downtown Core and less than 10% of the previous island wide inventory.

iii. Rooftop

Through the negotiation process with Town Staff, the applicant was requested to consider utilizing the roof of the proposed structure for a public gathering area.

1. Rooftop Sunset Terrace & Service Bar

The roof of the proposed structure is proposed to be utilized as a publicly accessible sunset terrace and service bar. The Property's unique location on the Gulf promotes an unobstructed view of the Gulf and nightly sunsets. The applicant is proposing to provide public access to the elevator bank to the roof of the building enabling the public to reach the rooftop for access to the terrace and service bar. Enclosed facilities to support a kitchen and restrooms are proposed, although the footprint has been limited ensuring the majority of the roof along the southern property boundary remains open for viewing.

The inclusion of the Sunset Terrace necessitates a deviation from the by-right height of the Downtown zoning district. The mean height of the elevator bank accessing the rooftop is 8 feet and 8 inches above the by-right 30 feet in height allowed. Without this requested public benefit, the structure is compliant with the height limitations of the Downtown district.

iv. Sandy Beach

The Property includes a 15,752 square foot area beyond the 1978 CCCL and within the Recreation FLU and Environmental Critical Zoning District. Prior to Hurricane Ian, the sandy beach was utilized for Outdoor Consumption on Premise ("**COP**") consistent with permits approved by the State of Florida.

The applicant intends to continue to utilize this state approval consistent with the restaurant and service bar proposed within the Downtown zoning district. This use is the maintenance of an approved use and not an expansion subject to LDC Section 34-1264(g). Per *Persaud Properties FL Investments LLC v. Town of Fort Myers Beach, No. 2D19-1282 (Fla. 2d DCA 2019),* the property received determination of vested rights in the form of a "grandfathered nonconforming use" making it uniquely entitled for alcohol sales on the beach adjacent to the property. That decision was filed December 11, 2020 and reaffirmed January 20, 2021 when the Second District Court of Appeals denied a motion to rehear the matter.

f. Requested Deviations

i. *Building Height & Liner Commercial Area*

1. **Request to deviate from LDC Section 34-675(b)(1) which limits building height within the Times Square Pedestrian Plaza to 30 feet above base flood elevation and no taller than 3 stories to allow:**

   A maximum mean roof height of 4 stories 38 feet 8 inches above the 100 year storm elevation, to provide the publicly accessible sunset terrace and service bar structure.

Justification for Deviation #1: The Pedestrian Commercial FLU and Downtown zoning district and Times Square sub-area are the most intense commercial areas within the Town of Fort Myers Beach. Consistent with the vision for the Times Square Pedestrian Plaza, the proposed development reestablishes the previous commercial retail, restaurant and parking and incorporates boutique hotel rooms within the by-right height requirement.

Policy 4-C-4 of the Comp Plan specifically identifies "different heights may be applied to officially designated redevelopment areas such as Times Square." Requests for additional height need to be demonstrate consistency with the comprehensive plan, "…including its land-use and design policies, pedestrian orientation, and natural resource criteria. [With] particular attention paid to any permanent view corridors to Gulf or Bay waters that could be provided…"

Policy 4-F-2 identifies the Times Square area as a redevelopment area and is implemented by the redevelopment zoning district known as Downtown. The building requirements associated with the Property's flood zone increases the dimension of the structural members between floors, requires breakaway walls, and significantly limits the permitted enclosed space on the first (ground) floor to a dimension that is not feasible for traditional enclosed commercial uses. As a result, the proposed redevelopment provides open-air retail and a service bar and patio on the first (ground) floor to activate the pedestrian plaza consistent with the floodplain requirements.

During the Staff negotiations regarding the Development Agreement, the applicant was requested to consider utilizing the roof of the proposed structure for a public gathering area. To accommodate this request, the applicant was required to extend the elevator bank to the roof of the building and improve the roof deck to support the anticipated weight. With the establishment of a Sunset Terrace, the public would have access to an unencumbered view of the Gulf. When considering other amenities to support the public, enclosed bathrooms, a kitchen and service bar, and shade structures were incorporated adjacent to the elevator bank. These improvements increase the height of the structure by 10 feet and exceed the by-right height limitations by 8 feet 8 inches.

ii. Floor Area Ratio

2. **Request to deviate from LDC Section 34-633 which requires FAR to be calculated to include all stories of a building within the surrounding exterior walls and all area below an elevated building that is six feet or more in height, and all stories of covered parking to allow:**

   The elimination of the covered parking and public walkway from the FAR calculations.

Justification for Deviations #3 and 4: The Downtown zoning district establishes a by-right FAR of 1.8 for commercial and mixed uses and the Town's Comp Plan establishes a larger maximum FAR in Policy 4-C-2 of 2.5. LDC Section 34-633(1) specifies "gross floor area includes the total floor area of all stories of a building within the surrounding exterior walls (whether the walls are solid or screened), plus all area below an elevated building that is six feet or more in height, plus all stories of covered parking…" When considered together, the Comp Plan and LDC establish FAR as a measure of commercial intensity that includes parking structures and enclosed (dryflood proofed) space on the first floor. At the time these requirements were adopted, commercial retail space could be provided below base flood elevation to shield parking and provide an active street front. However, the current building requirement for the VE flood zone and CCCL significantly limits the permitted enclosed space to a dimension that is not feasible for commercial uses below base flood elevation. Without the ability to utilize the area below base flood elevation for commercial space, a deviation is requested to eliminate the area of the parking and pedestrian walkway from the calculation of FAR.

The elimination of parking and pedestrian parking from the FAR calculation is consistent with by-right FAR for the Downtown zoning district as parking is not required and the pedestrian walkway will be public space, not commercial. Policy 4-C-3 identifies that new or expanded commercial uses are encouraged in the Pedestrian Commercial FLU with the design and extent outlined in the LDC. The FAR as measured is consistent with these policies by calculating the commercial retail, restaurant, and hotel rooms; which are, appropriate uses for the Property's unique location in an established tourist center with no adjacent, existing residential neighborhoods.

iii. Hotel Equivalency

3. **Request to deviate from LDC Section 34-1803 which provides Hotel Equivalency Factors for the number of guest units that can be substituted for residential dwelling units to allow:**

An Equivalency Factor of 9.7 to permit 26,016 square feet for 31 hotel rooms and supporting services within a Boutique Hotel.

Justification for Deviation #5: The Property has .53 acres within the Downtown district, which supports 3.18 dwelling units. A hotel equivalency factor of 3 is utilized for hotel rooms under 450 square feet, permitting 9.54 hotel rooms for the Property by right.

The applicant desires 31 hotels rooms at a mix of sizes to support the traditional commercial retail uses within the Times Square Pedestrian Plaza. A hotel equivalency of 9.7 is necessary to increase the permitted 3.18 dwelling units to 31 hotel rooms, regardless of size.

.53 acres X 6 dwelling units per acre = 3.18 dwelling units

X 9.7 Equivalency Factor

31 Hotel Rooms

With the hurricane activity that the Town has seen over the past two years there are several hotels or motels that have not reopened and many more that were destroyed and have not started rebuilding. Based on data provided by the Fort Myers Beach Chamber as of the end of February 2025, there are approximately 127 hotel rooms that have not reopened in addition to the 623 rooms that were destroyed. There have been hotel redevelopments approved or under consideration by the Town Council; however these approvals do not achieve the 623 rooms that were destroyed and have not been rebuilt. The proposed development would re-establish 31 hotel rooms, less than 10% of the inventory that was destroyed, in an appropriate location within the Town for nightly turnover accommodations.

Hotels are a commercial use per Policy 4-B-12 of the Comp Plan and Policy 4-C-6 requires a hotel equivalency factor between guest units and residential density. This policy is implemented by LDC 34-1803 which provides an equivalency factor between 3 and 2 to relate the residential density to hotel rooms. This relationship to residential density provides protections against commercial intrusion into existing residential neighborhoods. However, it inhibits additional commercial uses and the ability promote the desired "lively commercial/tourist center"[24] as desired by the Downtown Core.

[24] FMB, CP, CDE, Page 3-4

Achieving the desired "strengthened mix of businesses and services; reduction of traffic congestion and pedestrian vehicular conflicts" and improve parking to serve the businesses and visitors[25] in the Times Square sub-district with the required structural improvements to accommodate the floodplain requires additional commercial intensity. Prior to Hurricane Ian the Times Square sub-district was a variety of intense ground level commercial uses flanking a pedestrian mall. This unique configuration was identified as appropriate by the Town's comp plan, defined as an "urban beach environment", and acknowledged as difficult to rebuild at the time of adoption for the comp plan.[26] Since then, redevelopment has only become more difficult. The Town has acknowledged that supporting redevelopment within the commercial core of Times Square is appropriate. The transitional commercial uses that have occurred in Times Square since Hurricane Ian demonstrate additional intensity is necessary to maintain the "lively commercial/tourist center" envisioned by the comp plan and offset the financial outlay necessary to rebuild consistent with floodplain regulations. The proposed redevelopment incorporates additional commercial square footage as boutique hotel rooms to direct overnight stays into the "nucleus of commercial and tourist activities" as described in Objective 3-D and support the anticipated retail and restaurant uses that are available to local residents as desired by Policy 4-A-9. The tourist visitors that will utilize the proposed hotel rooms will patron the proposed restaurant and retail in addition to walking and biking to the existing and future commercial businesses along Old San Carlos Boulevard, the Bayfront Pedestrian Plaza, Crescent Street and near by areas providing greater support to all businesses within the Downtown Core. Additionally, tourist visitors provide support during the "post beach" hours rather than the current beach hours with patrons leaving the area between 4 and 5. The additional visits and revenue generated by the post beach hour business provides greater financial support to existing and future businesses during slower periods; such as "Slow Season."

Policy 4-C-3 encourages new or expanded commercial uses to occur within the Pedestrian Commercial FLU category, provides the design and extent for the uses as well as a "streamlined approval process" for in the LDC while appropriately identifying the neighborhood context is of "paramount importance." Consistent with this policy, the Times Square sub-district is not an existing residential neighborhood but rather was and will remain an intense commercial plaza that is identified as the nucleus of commercial & tourist activities per Objective 3-D. The redevelopment of the previous commercial uses with the addition of the hotel rooms will not promote commercial intrusion into a residential neighborhood. The adjacent properties are either public parks or current undeveloped, although are anticipated to also be redeveloped with intense commercial uses. To support the boutique hotel units and ensure additional demand is not placed on limited public parking, the applicant is proposing to provide parking at the LDC required ratios, without the reduction for the Downtown zoning district.

Therefore, development adjacent to the plaza should not be artificially limited by residential density. The limits established related to Floor Area Ratio, building height, and the property development regulations regarding setbacks and roof design appropriately address the desired commercial uses and vision to establish a "nucleus of commercial and tourist activities" in the Times Square area as

[25] FMB, CP, CDE, Page 3-5
[26] FMB, CP, FLU, page 4-27

described by Objective 3-D. These existing limitations as implemented by the Comp Plan and LDC appropriately regulate the size of the commercial building and the proposed architectural features ensure the proposed structure does not encroach or overwhelm the pedestrian plaza. The unenclosed outdoor patios on the second floor promote a step back in the building façade along the pedestrian plaza. The façade of third floor is also stepped back from the pedestrian plaza. Additionally, patios are incorporated into the rooms on the third floor along the beach. These design features promote visual interest, architectural enhancements and additional light to reach the plaza in all seasons.

iv. Building Placement

4. **Request to deviate from LDC Section 34-674(a)(1)a. requiring a build-to-line of 0 feet to the Times Square Pedestrian Plan to allow:**

   A 10-foot front setback.

Justification of Deviation #6: The Property fronts the Times Square Pedestrian Plaza and is within a VE-15 and VE-14 flood zone requiring the elevation of structures within this area to 15 feet above base flood elevation. With a required elevation of 15 feet, the requested setback of 10 feet will eliminate encroachments into the Pedestrian Plaza that previously impacted the area. With the proposed increased façade setbacks on the second and third floor this deviation will also ensure the proposed commercial structure does not create a canyon effect along the Times Square Pedestrian Plaza. Within the proposed first (ground) floor setback, the applicant is proposing the area be utilized for enhancements, which may include landscaping, potted plants, awnings, shade structures benches etc. and outdoor merchandise sales to promote interactions with the adjacent public pedestrian plaza.

v. Commercial Design Standards

5. **Request to deviate from LDC Section 34-677 which requires commercial design standards to apply to all commercial and mixed-use buildings to allow:**

   The proposed architectural renderings as provided in Exhibit C.

Justification of Deviation #8: The Development Agreement incorporates several exhibits to implement the proposed site plan and floor plans. Exhibit B is the Site Plan and Floor Plans dated February 17, 2025 and Exhibit C are a Conceptual Rendering of the future building. Together these exhibits demonstrate the anticipated architectural features of the proposed structure for more detailed review at the time of Development Order and Building Permit applications.

LDC Section 34-992(d)2 permits compliance with architectural standards to be established with the submittal of a development order application. The Conceptual Renderings are provided as exhibits to the DA to demonstrate the anticipated elements of the future building architecture. Providing a framework for review and approval of the detailed architectural plans with the development order applications.

g. <u>Public Benefits</u>

The Town's Comp Plan identifies the Times Square redevelopment area as "the nucleus of commercial and tourist activities" and seeks to "stimulate the revitalization of the downtown core area

(near Times Square).[27] With this guidance in mind, the applicant has incorporated several public benefits into the proposed site design and floor plans.

i. *Public Walkway, Handicap Access, Gathering, Refresh Area & Temporary Bathroom Trailers*

The Property fronts on the Times Square Pedestrian Plaza and the Crescent Beach Family Park. To promote additional pedestrian interconnectivity between these public spaces, the proposed redevelopment incorporates a minimum 10-foot pedestrian walkway supporting Objective 4-A and Policy 4-A-2 and the desired "public realm". The walkway is proposed adjacent to the western property boundary, under the second story of the structure in the open first (ground) floor. The second floor of the structure is proposed to be elevated to 21.3 feet above base flood, 6.3 feet above the required base flood elevation ensuring adequate headspace for all pedestrians on the first (ground floor). At the terminus of the public walkway, "mobi-mats" (an ADA compliant improvement) for handicapped access to the sandy beach are proposed. This improvement would establish the only handicapped access to the beach within the Times Square area.

Proximate to the pedestrian walkway, under the cover of the second floor, the proposed floor plan includes public seating benches to establish a shaded public gathering area. Proximate to the seating area, a drinking fountain, foot wash, and a temporary bathroom trailer are also proposed establishing a refresh area for the public traversing between the pedestrian plaza and the sandy beach.

Collectively, these design features facilitate mobility for all visitors and community interaction between the Times Square Pedestrian Plaza and the sandy beach without utilizing Estero Boulevard consistent with Policy 1-A-3, Objective 2-A and Policies 2-A-1, Objective 3-D, and Policy 4-A-4.

ii. *Increased Building Setback*

Other design features that promote benefits to the public include the 10 foot building setback from the Times Square Pedestrian Plaza. This increased setback provides an area for outdoor merchandise sales along with other enhancements (shade structures, landscaping, benches, etc.) that do not encroach or reduce the area for pedestrian activity within the plaza. Additionally, the 29-foot setback of the third stories increases the separation from the pedestrian plaza ensuring the structure doesn't overcrowd the adjacent public area. The design of the proposed enhancements for the increased front setback will be coordinated with Town Staff during the Development Order process.

iii. Ground Floor Open Air Retail

Ground floor commercial and enclosed residential space is required by the Commercial Design Standards of the Town's LDC and cannot be provided with the changes made to the floodplain mapping and regulations from 2008 onward. The Property is within a VE flood zone which requires significant elevation of enclosed space and severely limits the enclosures and improvements that can occur at the ground level. Consistent with Goal 4, the proposed site design capitalizes on the beach-resort

[27] FMB, CP, CDE, Objective 3-D

environment provided by the Property's location between the Times Square Pedestrian Plaza and the sandy beach.

Prior to Hurricane Ian, across the Times Square Pedestrian Plaza (north) from the Property was retail and restaurant uses. Local Color and West Coast Surf Shop, two retail locations, have not returned. Other businesses are establishing trailers for the preparation and sale of food with outdoor seating and entertainment although it is unclear if these uses will remain given the current FEMA directives.

The proposed design of the ground (first) floor incorporates open air retail space that utilizes roll up doors and break away walls to provide separation and maintain compliance with Federal floodplain regulations and meet the intent of the Town's Downtown district for "commercial buildings to accommodate pedestrians by providing storefronts near sidewalks and offering shade and shelter along major streets."[28] These retail spaces will provide a viable location for smaller business owners and retailers that desire to come back to or establish in Times Square. This type of design will also serve to encourage additional pedestrian activity within the Times Square Pedestrian Plaza consistent with the intent of the

iv. Public Bicycle Parking

The applicant has been a property owner within the Times Square Pedestrian Plaza for several years prior to Hurricane Ian. During this time, patrons were frequently observed traveling to the commercial businesses within Times Square by bicycle. Unfortunately, bicycles would be secured to light poles, signs, palm trees, etc, which would then encroach into the path of travel for pedestrians. To promote a clear path of travel within the existing Pedestrian Plaza, the proposed design incorporates a robust public bicycle parking area into the ground (first) floor.

v. Future Connectivity for Elevated Pedestrian Bridges & Connections

The proposed development is the first to seek approval from the Town for redevelopment within the Times Square Pedestrian Plaza. However, the properties across the Times Square Pedestrian Plaza (north) and adjacent to the west also have the opportunity to redevelop with multi-story structures by right. The side and front setbacks of these structures are 0 feet, putting them in close proximity to the proposed structure. In recognition of these by-right setbacks, the floor plans for the second story incorporates opportunities for future elevated pedestrian interconnections between the proposed structure and adjacent commercial structures. The applicant acknowledges these interconnections will require private agreements and private funding which would be negotiated at the time of future permitting efforts. Incorporating the potential interconnections into the proposed floor plans enhances pedestrian connectivity and supports these future efforts.

vi. Publicly Accessible Roof Top Sunset Terrace & Service Bar

Through the negotiation process with Town Staff, the applicant was requested to consider utilizing the roof top of the proposed structure for a public gathering area. The roof of the proposed

[28] Fort Myers Beach, LDC 34-671

structure is proposed to be utilized as a publicly accessible sunset terrace and service bar. The Property's unique location on the Gulf promotes an unobstructed view of the sunset over the Gulf. The applicant is proposing to provide public access to the elevator bank to the roof of the building enabling the public to reach the rooftop for access to the terrace and service bar.

vii. *Times Square Paver Replacement*

In support of the greater redevelopment of the Times Square Pedestrian Plaza, the applicant has agreed to work with the Town to fund improvements to the damaged paver system within the plaza. The applicant will coordinate with Town Staff to calculate and pay the Property's fair share of the replacement of the existing damaged colored pavers to a more sustainable material. The applicant is committed to providing the required payment prior to the Certificate of Occupancy for the structure.

II. CONCLUSIONS

The proposed redevelopment of the Property considered the floodplain and coastal setback regulations while adapting and implementing the vision statements of the Town's Comp Plan. Consistent with Objective 3-D which seeks to "stimulate the revitalization of the downtown core area (near Times Square) as the nucleus of commercial and tourist activities" the requested redevelopment seeks to re-establish the commercial retail and restaurant uses that existed prior to Hurricane Ian and incorporate 50 boutique hotel rooms.

The Property is an appropriate location for increased commercial intensity due to its location within the Times Square Pedestrian Plaza, the anticipated intensity of the Pedestrian Plaza at a FAR of 1.8, and the lack of existing residential uses within the surrounding area. The addition of the boutique hotel rooms will provide additional support/patronage to the previous and proposed restaurant and retail uses within the Times Square Pedestrian Plaza. The proposed design incorporates multiple features that will also support the redevelopment of the larger Times Square area, such as the various locations for public gathering and interaction on the ground floor and roof top, area for future pedestrian walk overs, increased setbacks for the building façade from the Pedestrian Plaza at various levels, pedestrian connectivity between the Times Square Pedestrian Plaza and the sandy beach, and a funding mechanism to replace and improve the existing plaza material.

The requested uses are consistent with the FLU and zoning of the Property. The deviations requested promote a more integrated commercial development consistent with the Property's location and appropriate public benefits with design enhancements to justify the requests.

APPLICATION FOR DEVELOPMENT AGREEMENT with DEVIATIONS

[LDC Section 2-94]

Project Name: 1028 & 1046 Estero Boulevard

Current Zoning: Downtown

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1. **Name of Applicant:** Persaud Properties FL Investments, LLC
   Address: 385 Seminole Way
   City, State, Zip: Fort Myers Beach, FL 33931
   Phone Number: 612 245-3050
   E-mail Address: persaudprop@gmail.com

2. **Relationship of Applicant to owner (check one) and provide Affidavit of Authorization form:**
   ☐ Applicant is the sole owner of the property.
   ☒ Applicant has been authorized by the owner(s) to represent them for this action.

3. **Authorized Agent: (If different than applicant) Name of the person who is to receive all Town-initiated correspondence regarding this application.**
   a. **Company Name:** Sage Entitlements, LLC
   Contact Person: Tina M. Ekblad, MPA, AICP
   Address: 97 Nickajack N
   City, State, Zip: Santa Rosa Beach, FL 3259
   Phone Number: 561-797-0288 Email: tekblad@sageentitlements.com

   b. **Additional Agent(s):** Provide the names of other agents that the Town may contact concerning this application.

4. **Property owner(s): If multiple owners (corporation, partnership, trust, association), provide a list with owner interest.**
   Name: Persaud Properties FL Investments, LLC
   Address: 385 Seminole Way
   City, State, Zip: Fort Myers Beach, FL 33931
   Phone Number: 612-245-3050 E-mail: persaudprop@gmail.com

5. **Disclosure of Interest**
   ☒ Attach Disclosure of Interest Form.

6. **STRAP Number(s)**
   24-46-23-W3-00017.0000 & 00016.0000

7. **Street Address of Property:** 1028 & 1046 Estero Boulevard, Fort Myers Beach, FL

8. **Legal Description (must submit one):**
   ☒ Legal description (metes and bounds) and sealed sketch of the legal description.
   OR
   ☐ Legal description (NO metes and bounds) if the property is located within a subdivision platted per F.S. Chapter 177, and is recorded in the Official Records of Lee County under Instruments or Plat Books. (Click here to see an example of a legal description with no metes and bounds.)

9. **Future Land Use:** Pedestrian Commercial & Recreation

10. **Zoning District:** Downtown & Environmentally Critical

10. **Written Narrative:** Provide a written narrative statement explaining exactly what is proposed.

11. **Deviations:** If any relief is requested from the provisions of the Land Development Code (LDC), provide a **written explanation** of the specific relief requested (a schedule of deviations). Explain what conditions currently exist which warrant this request for relief from the regulations (a written justification for each of the requested deviations). Include specific references to any section (number{s} and name{s}) of the LDC from which relief is sought including why the requested relief is necessary and how it will affect the project. All deviation requests must be specifically keyed to the location on the Master Concept Plan. LDC 34-932(b)

12. **Master Concept Plan (MCP):** Provide a MCP and detailed drawings of any deviations or changes being proposed at a size of 24"x36" consistent with LDC 34-212(4)

SUBMITTAL REQUIREMENT CHECKLIST ***Clearly label your attachments as noted in bold below.***		
☒	Completed application	
☐	Filing Fee	
☒	**Affidavit of Authorization** Form	
☐	**Additional Agents**	
☐	**Multiple Owners** List	
☒	**Disclosure of Interest** Form	
☒	**Legal description (must submit one)**	
	☒	Legal description (metes and bounds) and sealed sketch of legal description
		OR
	☐	Legal description (NO metes and bounds) if the property is located within a subdivision platted per F.S. Chapter 177, and is recorded in the Official Records of Lee County under Instruments or Plat Books. (Click here to see an example of a legal description with no metes and bounds.)
☒	**Narrative of Request**	
☒	**Schedule of Deviations** (if applicable)	
☒	**MCP** and detailed drawings of any proposed deviations (if applicable) (24"x36")	

Note: All information submitted with the application becomes a part of the public record and will be a permanent part of the file. Department staff will review this application for compliance with requirements of the Land Development Code. The applicant will be notified of any deficiencies.

Acceptance of an application in no way guarantees its approval. If the Town Manager determines that the requested amendment is beyond the scope of Land Development Code and that a public hearing is necessary, then all fees paid toward the administrative application may be applied toward an application for public hearing.

AFFIDAVIT OF AUTHORIZATION

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

I, Terry Persaud (name), as Manager (owner/title) of Persaud Properties FL Investments, LLC (company/property), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

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

Notes:

- *If the applicant is a corporation, then it is usually executed by the corp. pres. or v. pres.*
- *If the applicant is a Limited Liability Company (L.L.C.) or Limited Company (L.C.)., then the documents should typically be signed by the Company's "Managing Member."*
- *If the applicant is a partnership, then typically a partner can sign on behalf of the partnership.*
- *If the applicant is a limited partnership, then the general partner must sign and be identified as the "general partner" of the named partnership.*
- *If the applicant is a trustee, then they must include their title of "trustee."*
- *In each instance, first determine the applicant's status, e.g., individual, corporate, trust, partnership, estate, etc., and then use the appropriate format for that ownership.*

Under penalties of perjury, I declare that I have read the foregoing Affidavit of Authorization and that the facts stated in it are true.

Terry Persaud
Signature

11/8/2024
Date

**************NOTE: NOTARY PUBLIC IS NOT REQUIRED FOR ADMINISTRATIVE APPROVALS**************
ALL OTHER APPLICATION TYPES MUST BE NOTARIZED

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, this 8th day of November, 20 24, by Terry Persaud (name of person providing oath or affirmation), who is personally known to me or who has produced Florida DL (type of identification) as identification.

STAMP/SEAL

PHOOLCUMMARIE MOTILALL
NOTARY PUBLIC - MINNESOTA
MY COMMISSION EXPIRES 01/31/25

Signature of Notary Public

PHOOLCUMMARIE MOTILALL
NOTARY PUBLIC - MINNESOTA
MY COMMISSION EXPIRES 01/31/25

DISCLOSURE OF INTEREST
AFFIDAVIT

BEFORE ME this day appeared Terry Persaud, who, being first duly sworn and deposed says:

1. That I am the record owner, or a legal representative of the record owner, of the property that is located at 1028 & 1046 Estero Boulevard and is the subject of an Application for zoning action (hereinafter the "Property").

2. That I am familiar with the legal ownership of the Property and have full knowledge of the names of all individuals that have an ownership interest in the Property or a legal entity owning an interest in the Property.

[OPTIONAL PROVISION IF APPLICANT IS CONTRACT PURCHASER: In addition, I am familiar with the individuals that have an ownership interest in the legal entity that is under contract to purchase the Property.]

3. That, unless otherwise specified in paragraph 6 below, no Town of Fort Myers Beach Employee, Town Council Member, or Local Planning Agency Member has an Ownership Interest in the Property or any legal entity (Corporation, Company, Partnership, Limited Partnership, Trust, etc.) that has an Ownership Interest in the Property or that has contracted to purchase the Property.

4. That the disclosure identified herein does not include any beneficial Ownership Interest that a Town of Fort Myers Beach Employee, Town Council Member, or Local Planning Agency Member may have in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interest is for sale to the general public.

5. That, if the Ownership Interest in the Property changes and results in this affidavit no longer being accurate, the undersigned will file a supplemental Affidavit that identifies the name of any Town of Fort Myers Beach Employee, Town Council Member, or Local Planning Agency Member that subsequently acquires an interest in the Property.

6. Disclosure of Interest held by a Town of Fort Myers Beach Employee, Town Council Member, or Local Planning Agency Member.

Name and Address	Percentage of Ownership
NONE	N/A

Under penalty of perjury, I declare that I have read the foregoing and the facts alleged are true to the best of my knowledge and belief.

Property Owner

TERRY PERSAUD

Print Name

************NOTE: NOTARY PUBLIC IS NOT REQUIRED FOR ADMINISTRATIVE APPROVALS************
ALL OTHER APPLICATION TYPES MUST BE NOTARIZED

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, on November 8th (date) 2024. by Terry Persaud. (name of person providing oath or affirmation), who is personally known to me or who has produced Florida DL. (type of identification) as identification.

STAMP/SEAL

Signature of Notary Public

PHOOLCUMMARIE MOTILALL
NOTARY PUBLIC - MINNESOTA
MY COMMISSION EXPIRES 01/31/25

ADDITIONAL AGENTS

Company Name:	PDS Architecture		
Contact Person:	Tyler Petersen		
Address:	12800 University Drive, Suite 402		
City, State, Zip:	Fort Myers, FL 33907		
Phone Number:	239-437-8090	Email:	tyler@pdsinconline.com

Company Name:	Madden Law Firm, LLC		
Contact Person:	Joe Madden		
Address:	2277 Main St		
City, State, Zip:	Fort Myers, FL 33901		
Phone Number:	239-332-2100	Email:	JMadden@MyFloridaAttorney.com

Company Name:			
Contact Person:			
Address:			
City, State, Zip:			
Phone Number:		Email:	

Company Name:			
Contact Person:			
Address:			
City, State, Zip:			
Phone Number:		Email:	

Company Name:			
Contact Person:			
Address:			
City, State, Zip:			
Phone Number:		Email:	

Company Name:			
Contact Person:			
Address:			
City, State, Zip:			
Phone Number:		Email:	

INSTR # 2014000160173, Doc Type D, Pages 2, Recorded 08/01/2014 at 03:21 PM, Linda Doggett, Lee County Clerk of Circuit Court, Deed Doc. D $22050.00 Rec. Fee $18.50 Deputy Clerk DMAYS

Prepared by and return to:
Kahle & Ramunni, P.A.
1533 Hendry Street Suite 101
Fort Myers, FL 33901
239-791-3900
File Number: **140501**
Will Call No.:

Parcel Identification No. **24-46-23-W3-00017.0000**

[Space Above This Line For Recording Data]

Warranty Deed

(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made this **31st** day of **July, 2014** between **Steer-Mill, Inc., a Florida corporation** whose post office address is **1028 Estero Boulevard, Post Office Box 4026, Fort Myers Beach, FL 33932** of the County of **Lee**, State of **Florida**, grantor*, and **Persaud Properties FL Investment LLC, a Florida limited liability company** whose post office address is **361 Seminole Way, Fort Myers Beach, FL 33931** of the County of **Lee**, State of **Florida**, grantee*,

Witnesseth that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in **Lee County, Florida**, to-wit:

From the Southwest corner of Block E, CRESCENT PARK ADDITION, as per plat thereof recorded in Plat Book 4, Page 46, of the Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South of Range 23 East, run South along said line 53.24 feet to the South Line of County Road right-of-way 50 feet wide; thence run Northwesterly at an inclusive angle of 69° 54' with said Section line along the South line of said right-of-way 632.63 feet to the point of beginning of the land herein described.
From said point of beginning continue Northwesterly along South line of said right-of-way 80 feet; thence Southwesterly at included angle of 90° to the waters of the Gulf of Mexico; thence run Southeasterly along said waters to a point on a line perpendicular to the first mentioned County road, through point of beginning; thence run Northeasterly along said perpendicular line to the point of beginning.

and

From the Southwest corner of Block E, CRESCENT PARK ADDITION, as per plat thereof recorded in Plat Book 4, Page 46, of the Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South of Range 23 East, run South along said line 53.24 feet to the South Line of County Road right-of-way 50 feet wide; thence run Northwesterly at an inclusive angle of 69° 54' with said Section line along the South line of said right-of-way 532.63 feet to the point of beginning of land herein described; continue Northwesterly along South line of said right-of-way for 100 feet; thence Southwesterly perpendicular to said road to the waters of the Gulf of Mexico; thence Southeasterly along said waters to a point on a line perpendicular to said road through point of beginning; thence run Northeasterly along said perpendicular line to the point of beginning.

Grantor warrants that at the time of this conveyance, the subject property is not the Grantor's homestead within the meaning set forth in the constitution of the state of Florida, nor is it contiguous to or a part of homestead property.

Subject to taxes for 2014 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

DoubleTime®

and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

* "Grantor" and "Grantee" are used for singular or plural, as context requires.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Witness Name: Steven A. Ramuni

Witness Name: Lisa Pace

Steer-Mill, Inc., a Florida corporation

By: _____
Steven Strauss, President

(Corporate Seal)

State of Florida
County of Lee

The foregoing instrument was acknowledged before me this 28th day of July, 2014 by Steven Strauss, President of Steer-Mill, Inc., a Florida corporation, on behalf of the corporation. He [X] is personally known to me or [ ] has produced a driver's license as identification.

[Notary Seal]

LISA PACE
MY COMMISSION EXPIRES
December 20, 2015
#EE 145398
Bonded thru Notary Public Underwriters
NOTARY PUBLIC, STATE OF FLORIDA

_____
Notary Public

Printed Name: Lisa Pace

My Commission Expires: December 20, 2015

INSTR # 2016000115839, Doc Type D, Pages 3, Recorded 05/31/2016 at 02:59 PM, Linda Doggett, Lee County Clerk of Circuit Court, Deed Doc. D $21875.00 Rec. Fee $27.00 Deputy Clerk WMILLER

Prepared by and Return Recorded Original to:

Charles R. Meador, Jr., Attorney at Law
2085 Estero Boulevard
Fort Myers Beach, FL 33931
Telephone: (239) 463-6619
Facsimile: (239) 463-6454

Property Appraiser Parcel I.D. No. 24-46-23-W3-00016.0000
Grantee Taxpayer I.D. No. _____
Documentary Stamp Tax on Transfer: $21,875.00

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made this 6 day of May, A.D. 2016, between GRAND RESORT VI-FT. MYERS BEACH, LLC, a Florida limited liability company, whose post office address is 4805 Tamiami Trail North, Naples, FL 34103, hereinafter called Grantor, and PERSAUD PROPERTIES FL INVESTMENTS LLC, a Florida limited liability company, whose post office address is 361 Seminole Way, Fort Myers Beach, FL 33931, hereinafter called Grantee.

WITNESSETH, That said Grantor, for and in consideration of the sum of TEN AND NO/100'S DOLLARS ($10.00), and other good and valuable considerations to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said Grantee, and Grantee's heirs and assigns to have and to hold the same in fee simple forever, the following described land, situate, lying and being in Lee County, Florida, to-wit:

From the Southwest corner of Block E, Crescent Park, according to the map or plat thereof on file and recorded in Plat Book 4, at Page 46, Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South, Range 23 East, run South along said line 53.24 feet to the South line of a County Road right-of-way 50 feet wide; thence run Northwesterly at an included angle of 69 degrees 54' with said Section line along the South line of said right-of-way 532.63 feet to the point of beginning of land herein described; continue Northwesterly along the South line of said right-of-way for 100 feet; thence Southwesterly perpendicular to said road to the waters of the Gulf of Mexico; thence Southeasterly along said waters to a point on a line perpendicular to said road through the point of beginning; thence run Northeasterly along said perpendicular line to the point of beginning.

SUBJECT TO easements, restrictions and reservations of record and taxes for the current and subsequent years.

THIS DEED IS AN ABSOLUTE CONVEYANCE OF THE TITLE TO THE PROPERTY DESCRIBED HEREIN IN CONSIDERATION OF THE CANCELLATION OF THE PERSONAL LIABILITY OF THE GRANTOR/DEBTOR UNDER THAT CERTAIN MORTGAGE FROM THE GRANTOR/DEBTOR TO THE GRANTEE HEREIN, DATED JANUARY 4, 2016, AND RECORDED ON JANUARY 22, 2016, AT OFFICIAL RECORDS INSTRUMENT NO. 2016000015044, OF THE PUBLIC RECORDS OF LEE COUNTY,

FLORIDA, SAID MORTGAGE SECURING A PROMISSORY NOTE IN THE ORIGINAL AND CURRENT PRINCIPAL AMOUNT OF $3,125,000.00 (THE "MORTGAGE") AND THIS DEED IS NOT GIVEN AS ADDITIONAL SECURITY. THE CONSIDERATION OF THIS DEED IS THE FORBEARANCE OF THE GRANTEE, IN NOT INSTITUTING FORECLOSURE OF THE ABOVE REFERENCED MORTGAGE AND THE RELEASE OF THE GRANTORS FROM ANY PERSONAL LIABILITY UNDER THE AFOREMENTIONED MORTGAGE AND PROMISSORY NOTE.

IT IS THE INTENTION OF THE GRANTOR AND GRANTEE THAT THERE IS NOT A MERGER OF THE FEE TO THE PROPERTY DESCRIBED HEREIN WITH THE LIEN OF THE MORTGAGE SO THAT THE LIEN OF THE MORTGAGE IS PRESERVED IN FAVOR OF GRANTEE/MORTGAGEE.

GRANTEE HAS ACCEPTED THIS SPECIAL WARRANTY DEED UPON THE CONDITION THAT: (1) THE TITLE ACTUALLY CONVEYED IS AS WARRANTED HEREIN; AND (II) THE SPECIAL WARRANTY DEED IS VALID AND BINDING. IF TITLE TO THE PROPERTY IS NOT AS WARRANTED AND REPRESENTED, THEN GRANTEE HAS THE RIGHT TO DISCLAIM ANY RIGHT, TITLE OR INTEREST UNDER THIS SPECIAL WARRANTY DEED BECAUSE OF THE BREACH OF A CONDITION PRECEDENT TO TITLE, AND IN SUCH EVENT, GRANTEE SHALL THEN HAVE THE RIGHT AS IT MAY BE ADVISED TO FORECLOSE THE LIEN OF THE MORTGAGE AND SHALL NOT BE BOUND BY ANY RELEASE OR COVENANT NOT TO SUE AND/OR THE RELEASE OF PERSONAL LIABILITY. IF THIS SPECIAL WARRANTY DEED SHOULD BE DECLARED BY A COURT OF COMPETENT JURISDICTION, INCLUDING, BUT NOT LIMITED TO A FEDERAL BANKRUPTCY COURT, TO BE INVALID OR INEFFECTIVE FOR ANY REASON, OR SHOULD IT BE VACATED OR SET ASIDE, THEN THE CONSIDERATION FOR THIS SPECIAL WARRANTY DEED AND ANY SATISFACTION OF MORTGAGE WILL HAVE FAILED, AND THE MORTGAGE SHALL BE REVIVED AND THE RIGHTS, REMEDIES AND OBLIGATIONS OF GRANTORS AND GRANTEE SHALL BE RESTORED TO THE STATUS THEY WERE IMMEDIATELY PRIOR TO THE EXECUTION AND DELIVERY OF THIS SPECIAL WARRANTY DEED AND ANY SATISFACTION OF THE MORTGAGE, AND GRANTEE SHALL NOT BE BOUND BY ANY RELEASE OR COVENANT NOT TO SUE.

THIS DEED SHALL ALSO ACT AS A CANCELLATION, TERMINATION AND RELEASE OF THAT CERTAIN COMMERCIAL LEASE AGREEMENT BETWEEN GRANTOR HEREIN, AS LESSOR, AND GRANTEE HEREIN, AS LESSEE, DATED JANUARY 19, 2016, AND RECORDED ON JANUARY 22, 2016, AT OFFICIAL RECORDS INSTRUMENT NO. 2016000015045, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

AND, the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor warrants the title to the property for any act of the grantor and will defend it against the

lawful claims of all persons claiming by, through or under grantor.

*"Grantor" and "Grantee" are used for singular and plural, as context requires.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand and seal the day and year first above written.

Signed in the presence of:

GRAND RESORT VI-FT. MYERS BEACH, LLC

Marlene Kubasch
#1 Witness Name - print or type

By: _____(SEAL)
THOMAS R. TORGERSON, MANAGER

Sheryl Walton
#2 Witness Name - print or type

STATE OF Minnesota
COUNTY OF Kandiyohi

EXECUTION OF the foregoing instrument was acknowledged before me this 6 day of May, 2016, by THOMAS R. TORGERSON, MANAGER of GRAND RESORT VI-FT. MYERS BEACH, LLC, a Florida limited liability company , who is (CHECK ONE OF THE FOLLOWING AS APPLICABLE) [X] personally known to me, or [ ] who has produced (_____) as identification.

Kathleen C. Aamot
NOTARY PUBLIC - SIGNATURE ABOVE
NOTARY NAME - Kathleen A. Aamot
COMMISSION NO. - _____
COMMISSION EXP. DATE - January 31, 2018
(Notary Name/Commission No./Exp. Date - typed or printed)

(Notary Seal)

KATHLEEN A AAMOT
NOTARY PUBLIC
MINNESOTA
My Commission Expires Jan. 31, 2018

Madden Law Firm LLC

December 5, 2024

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

RE: Title Certification
Applicant: Persaud Properties FL Investment LLC

Dear Town of Fort Myers Beach:

Please be advised that our firm represents Persaud Properties FL Investment LLC.

This letter is in response to a request for title certification in support of a Development Agreement submittal for property located in the Town of Fort Myers Beach, Florida, and more particularly described on Exhibit "A" attached hereto and incorporated herein. This opinion of title is based upon Old Republic National Title Insurance Company's Title Commitment issued on November 18, 2024, relative to the subject property.

The author of this title opinion, Joseph M. Madden Jr., is a licensed Florida attorney, bearing Bar No. 848557, and is authorized to issue this opinion. And now, therefore:

1. The name of the owner of the fee title is Persaud Properties FL Investment LLC under Warranty Deed dated July 31, 2014, bearing Official Record Book Instrument Number 2014000160173, and Special Warranty Deed dated May 6, 2016, bearing Official Record Instrument Number 2016000115839, both being in the Public Records of Lee County, Florida.

2. There is the following mortgage(s) secured by this property that the author is aware of:

   a. None.

3. There is the following encumbrance(s) on the property:

   a. Lee County Coastal Construction Control line recorded in Plat Book 31-A, Page 1, as amended in Official Records Book 2224, page 1010 and Plat Book 48, Page 15.

   b. Resolution No. 01-06-11 of the Board of County Commissioners of Lee County, Florida, requesting the Board of Trustees of the Internal improvement Fund establish an erosion control line on Estero Island, Florida, recorded in Official Records Book 3556, page 2917, Resolution of the Board of Trustees of the Internal improvement Fund establishing an erosion control line on Estero Island, Florida, recorded in Official Records Book 3585, page 346, and Survey of Erosion Control Line recorded in Plat Book 70, page 25.

4. A copy of the Old Republic National Title Insurance Commitment is attached hereto together with copies of any applicable mortgage(s) and encumbrance(s) identified above as Exhibit "B".

5. The title documentation provided herein is certified unequivocally.

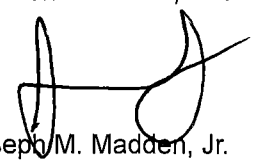
2277 Main St.
Fort Myers, Florida 33901
jmadden@myfloridaattorney.com

Telephone: 239.332.2100
Facsimile: 239.332.2150

Upon receipt, should you have any questions or comments, please advise. Thank you.

Sincerely,

Madden Law Firm, LLC



Joseph M. Madden, Jr.
Manager

JMM:sh
Enclosures
cc: Client(s)

EXHIBIT "A"

From the Southwest corner of Block E, CRESCENT PARK ADDITION, as per plat thereof recorded in Plat Book 4, Page 46, of the Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South of Range 23 East, run South along said line 53.24 feet to the South Line of County Road right-of-way 50 feet wide; thence run Northwesterly at an inclusive angle of 69° 54' with said Section line along the South line of said right-of-way 632.63 feet to the point of beginning of the land herein described. From said point of beginning continue Northwesterly along South line of said right-of-way 80 feet; thence Southwesterly at included angle of 90° to the waters of the Gulf of Mexico; thence run Southeasterly along said waters to a point on a line perpendicular to the first mentioned County road, through point of beginning; thence run Northeasterly along said perpendicular line to the point of beginning.

and

From the Southwest corner of Block E, CRESCENT PARK ADDITION, as per plat thereof recorded in Plat Book 4, Page 46, of the Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South of Range 23 East, run South along said line 53.24 feet to the South Line of County Road right-of-way 50 feet wide; thence run Northwesterly at an inclusive angle of 69° 54' with said Section line along the South line of said right-of-way 532.63 feet to the point of beginning of land herein described; continue Northwesterly along South line of said right-of-way for 100 feet; thence Southwesterly perpendicular to said road to the waters of the Gulf of Mexico; thence Southeasterly along said waters to a point on a line perpendicular to said road through point of beginning; thence run Northeasterly along said perpendicular line to the point of beginning.

EXHIBIT "B"

Transaction Identification Data, for which the Company assumes no liability as set forth in Commitment Condition 5.e.:

Issuing Agent:	**Madden Law Firm, LLC**
Issuing Office:	**2277 Main Street Fort Myers, FL 33901**
Loan ID Number:	
Commitment Number:	**24124092JLD**
Your File No.:	**10164.000**
Property Address:	**1028 Estero Blvd, Fort Myers Beach, FL 33931** **1046 Estero Blvd, Fort Myers Beach, FL 33931**

Old Republic National Title Insurance Company
12751 New Brittany Blvd, Suite 500
Ft. Myers, Florida 33907

SCHEDULE A
COMMITMENT

1. Commitment Effective Date: November 18, 2024 at 08:00am

2. Policy to be issued:

   (a) 2021 ALTA OWNER'S POLICY (with Florida Modifications) Proposed Insured:
   Proposed Policy Amount: N/A

   N/A – Prepared for the purpose of a title opinion letter

   (b) 2021 ALTA LOAN POLICY (with Florida Modifications) Proposed Insured:
   Proposed Policy Amount: N/A

   N/A

3. The estate or interest in the Land described at the Commitment Date is Fee Simple.

4. The Title is, at the Commitment Date, vested in: **Persaud Properties FL Investment LLC, a Florida limited liability company**

5. The Land is described as follows:

See Attached Legal Description

Issued through the Office of:
Madden Law Firm, LLC
2277 Main Street
Fort Myers, FL 33901
Phone: 239-332-2100

_____
Authorized Signature

This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by Old Republic National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I-Requirements; and Schedule B, Part II-Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

SCHEDULE B - I
COMMITMENT

Requirements

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.

2. Pay the agreed amount for the estate or interest to be insured.

3. Pay the premiums, fees, and charges for the Policy to the Company.

4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.

5. Warranty Deed from Persaud Properties FL Investment LLC, a Florida limited liability company to the proposed insured.

6. In addition thereto, the following is required:
The agent must:
(a) Determine that Persaud Properties FL Investment LLC, a Florida limited liability company is in good standing in the state of its formation; and
(b) Establish that the person(s) executing the deed or mortgage to be issued are authorized by law to execute said instruments on behalf of the company.
(c) If any managing member is a legal or commercial entity, require a good standing certificate from the date of purchase through to the present time, and proof of authority to execute documents on behalf of the legal or commercial entity.
(d) Obtain an affidavit from authorized signatory on behalf of said limited liability company should be recorded stating that i) The member/manager executing the deed or mortgage is authorized under the articles of organization and operating agreement, or Statement of Authority (if Florida LLC), and all necessary consents obtained; (ii) The LLC has not been dissolved; (iii) The LLC, nor any of its members are currently debtors to any bankruptcy proceedings and (iv) All members/managers of the LLC are identified.

7. Intentionally deleted.

8. Proof of payment of taxes for the year 2024 must be furnished.

9. Agent must obtain written authorization from The Company to issue this commitment since the amount of the policy or policies to be issued exceeds your agency limits. The transaction contemplated in connection with this Commitment is subject to the review and approval of the Company's State Underwriting Counsel and is not effective to bind the Company until that approval is obtained. The Company reserves the right to add additional items or make further requirements after such review.

10. Submit proof of payment of any assessments or liens due to City of Ft. Myers Beach, and proof that all municipal and any special taxing district charges, assessments or other development fees, if any, are paid.

This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by Old Republic National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I-Requirements; and Schedule B, Part II-Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

NOTE: If this requirement is not complied with, the following Exception will appear on Schedule B of any policy issued pursuant to this commitment: Any Assessment due to the County, and any assessments due to the municipality and to any special taxing district.

11. Submit proof of payment of any service charges and assessments for water, sewer, waste and gas, if any, through the date of closing. NOTE: If this requirement is not complied with, the following Exception will appear on Schedule B of any policy issued pursuant to this commitment: Any lien provided by Chapter 159, Florida Statutes or any county ordinance in favor of any city, county, town, village or port authority for unpaid service charges for service by any water, sewer or gas system supplying the insured land.

12. A survey, satisfactory to The Company, in conformity with the minimum standard detail requirements for ALTA/ACSM land title surveys, certified to the Company and its agents and parties to the transaction, through a current date no more than 90 days prior to closing, delineating the location of all plottable exceptions shown on Schedule B-II of this commitment disclosing the nature and extent of any encroachments, building setback lines, overlaps, boundary line discrepancies, or other matters adversely affecting title to the property to be insured; which will appear as exceptions in Schedule B of any Owner's Policy and Schedule B Part I of any Loan Policy to be issued. Additional requirements and/or exceptions will be made for matters disclosed by the survey.

13. Provide a satisfactory Owner's Affidavit of Possession and No Liens. Affidavit must (a) state that there are no parties in possession of the subject property other than said current record owner, or identify any parties in possession or tenants and set forth their nature of possession; (b) that there are no encumbrances upon the subject property other than as may be set forth in this Commitment; (c) there are no unrecorded assessments which are due and payable and all sewer and water bills are paid through the date of this Affidavit; (d) that there have been no improvements made to or upon the subject property within the last ninety (90) days for which there remain any outstanding and unpaid bills for labor, materials or supplies; (e) and disclose any unrecorded easements. Said affidavit, when properly executed at closing by the seller and/or mortgagor herein will serve to delete the standard lien, unrecorded easement and possession exceptions for the policy(ies) to be issued pursuant to this commitment.

14. Verify with the current owner that there are no open mortgages that would affect the subject property as a search of the Public Records does not reveal one.

Note: Taxes for the year 2024 became a lien on the land on January 1, 2024 and are due and payable on Nov. 1, 2024. Said taxes are unpaid. Tax ID Number 24-46-23-W3-00017.0000 and 24-46-23-W3-00016.0000.

NOTE: All recording references in this commitment/policy shall refer to the Public Records of Lee County, unless otherwise noted.

SCHEDULE B SECTION II IS CONTINUED ON AN ADDED PAGE

SCHEDULE B - II
COMMITMENT

Exceptions From Coverage

Some historical land records contain Discriminatory Covenants that are illegal and unenforceable by law. This Commitment and the Policy treat any Discriminatory Covenant in a document referenced in Schedule B as if each Discriminatory Covenant is redacted, repudiated, removed, and not republished or recirculated. Only the remaining provisions of the document will be excepted from coverage.

The Policy will not insure against loss or damage resulting from the terms and conditions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I-Requirements are met.

2. Facts which would be disclosed by an accurate and comprehensive survey of the premises herein described.

3. Rights or claims of parties in possession.

4. Construction, Mechanic's, Contractors' or Materialmen's lien claims, if any, where no notice thereof appears of record.

5. Easements or claims of easements not shown by the public records.

6. General or special taxes and assessments required to be paid in the year 2025 and subsequent years.

7. Any lien provided by County Ordinance or by Ch. 159, F.S., in favor of any city, town, village or port authority, for unpaid service charges for services by any water systems, sewer systems or gas systems serving the land described herein; and any lien for waste fees in favor of any county or municipality.

8. Rights of tenants and/or parties in possession, and any parties claiming, by through or under said tenants or parties in possession, as to any unrecorded leases or rental agreements.

9. Right of the United States of America and the State of Florida to any portion of said land which has been created by artificial means or has accreted to any such portion as so created.

10. Those portions of the property herein described being artificially filled in land in what was formerly navigable waters are subject to the right of the United States Government arising by reason of its control of navigable waters in the interest of navigation and commerce.

11. The right if any of the public to the use as a public beach or recreation area of any part of the land lying or formerly lying between the body of water abutting the subject property and the natural line of the vegetation bluff, extreme high water line or other apparent boundary lines separating the publicly used area from the upland private area, as it may have existed prior to the construction, if any, of sea wall or bulkhead thereon.

12. Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the lands

insured hereunder, including submerged, filled and artificially exposed land(s) and lands accreted to such lands in the Gulf of Mexico.

13. This policy excludes from coverage the rights of the United States of America and the State of Florida to regulate the use the navigable waters.

14. Riparian and Littoral Rights are not insured hereunder.

15. The property described in Schedule A is subject to various county special assessment districts and municipal taxing districts, and the liens created for any unpaid special assessments by virtue of the ordinances and resolutions creating these districts, and is subject to any acts and/or assessments thereof. There are no current unpaid assessments.

16. Lee County Coastal Construction Control line recorded in Plat Book 31-A, Page 1, as amended in Official Records Book 2224, page 1010 and Plat Book 48, Page 15.

17. Resolution No. 01-06-11 of the Board of County Commissioners of Lee County, Florida, requesting the Board of Trustees of the Internal improvement Fund establish an erosion control line on Estero Island, Florida, recorded in Official Records Book 3556, page 2917, Resolution of the Board of Trustees of the Internal improvement Fund establishing an erosion control line on Estero Island, Florida, recorded in Official Records Book 3585, page 346, and Survey of Erosion Control Line recorded in Plat Book 70, page 25.

EXHIBIT A

From the Southwest corner of Block E, CRESCENT PARK ADDITION, as per plat thereof recorded in Plat Book 4, Page 46, of the Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South of Range 23 East, run South along said line 53.24 feet to the South Line of County Road right-of-way 50 feet wide; thence run Northwesterly at an inclusive angle of 69° 54' with said Section line along the South line of said right-of-way 632.63 feet to the point of beginning of the land herein described. From said point of beginning continue Northwesterly along South line of said right-of-way 80 feet; thence Southwesterly at included angle of 90° to the waters of the Gulf of Mexico; thence run Southeasterly along said waters to a point on a line perpendicular to the first mentioned County road, through point of beginning; thence run Northeasterly along said perpendicular line to the point of beginning.

and

From the Southwest corner of Block E, CRESCENT PARK ADDITION, as per plat thereof recorded in Plat Book 4, Page 46, of the Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South of Range 23 East, run South along said line 53.24 feet to the South Line of County Road right-of-way 50 feet wide; thence run Northwesterly at an inclusive angle of 69° 54' with said Section line along the South line of said right-of-way 532.63 feet to the point of beginning of land herein described; continue Northwesterly along South line of said right-of-way for 100 feet; thence Southwesterly perpendicular to said road to the waters of the Gulf of Mexico; thence Southeasterly along said waters to a point on a line perpendicular to said road through point of beginning; thence run Northeasterly along said perpendicular line to the point of beginning.

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Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the Town's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:

Ordinance 25-06: 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 42,210 SQUARE FEET, 31 HOTEL ROOMS, AND A MEAN ROOF HEIGHT OF 38 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.

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 [City/Town/Village] is of the view that a business impact estimate is not required by state law[1] for the proposed ordinance, but the [City/Town/Village] 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;

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

☐ 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
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 (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):
The proposed ordinance adopts a development agreement proposed by a property owner.

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.

There are unlikely to be direct compliance costs associated with Ordinance 25-06.

Ordinance 25-06 does not impose any new charge or fee on businesses.

There are no new charges or fees that will be imposed on businesses by the ordinance.

The Town will not likely incur additional costs.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:
This ordinance applies to 2 parcels, owned by the entity proposing the Development Agreement.

4. Additional information the governing body deems useful (if any):
[*You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: [City/Town/Village] staff solicited comments from businesses in the [City/Town/Village] as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on [City/Town/Village] website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses*).

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2025-387**

1. **Request:**

Meeting Date: May 19, 2025

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, APPROVING A THIRD AMENDMENT TO AN AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND ANGIE BREWER & ASSOCIATES, LC TO EXTEND THE TERM OF THE CONSULTANT AGREEMENT FOR FUNDING MANAGEMENT SERVICES FOR SRF AND OR OTHER GRANTS OR LOANS AVAILABLE TO THE TOWN, TO DECEMBER 6, 2025; APPROVING SUPPLEMENTAL TASK AUTHORIZATION NO. 6 FOR THE UNINTERRUPTED CONTINUATION OF THESE SERVICES; AUTHORIZING THE MAYOR TO SIGN THE AMENDMENT AND SUPPLEMENTAL TASK AUTHORIZATION AND THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Town Council is required to approve expenditures over $75,000. The action is necessary to authorize Angie Brewer to continue as the grant administrator for the Tier 1 related funding sources (SRF loans, various grants).

What the action accomplishes:

Angie Brewer will be authorized to continue as the grant administrator for the Tier 1 related funding sources (SRF loans, various grants).

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Resolution	Linda Beck

5. **Background:**

Angie Brewer provides grant management administration services to the Town specifically related to the Stormwater and Water infrastructure projects, that involve several grants as well as State Revolving Fund (SRF) loans. Their contract expires June 8, 2025. The Town has a been utilizing a piggy-back agreement with Collier County as the basis for their agreement. Collier County has granted a 180-day administrative extension to their contract. Therefore, we are following suit by extending their contract by 180 days to an expiration date of December 6, 2025.

Angie Brewer is anticipating providing an additional $225,511 of services for the town as indicated in STA #6. The reason for this increase is four-fold:

1. As the Tier 1 project has accelerated, so has the amount time required to administer the grants and SRF Loans.
2. They are anticipating investing more time bringing the new finance director up to speed with the grant and SRF loan funding of the stormwater and water projects (Tier 1).
3. There is additional work associated with securing additional SRF funding needed for the project.
4. There is an additional grant through the Resilient Florida Grant Program that has administrative requirements.
5. They will be providing data for the utility rate study that is currently underway.

Attachments:

1. NS Resolution 25-149, Angie Brewer Third Amendment and STA 6 (3)

2. 25-149 Third Amendment to Angie Brewer Contract
3. 25-149, Angie Brewer Consultant Agreement Second Amendment STA 5
4. 25-149, Angie Brewer Conustant Agreement First Amendment
5. 25-149, Angie Brewer Consultant Agreement
6. 25-149, Collier County Angie Brewer Extension Until 12-06-2025
7. STA #6

Financial Impact:
The cost of the grant administration service is a not-to-exceed amount of $225,511. It will be funded by the Stormwater and Water Fund grants and loans and revenues.

6. **Alternative Action**
The Town Council may choose not to extend their contract. However, curtailing grant administration assistance for the Tier 1 project at this time is deemed unavisable.

7. **Management Recommendations:**
Staff recommends approval of the 180 day extension and STA #6

8. **Recommended Approval:**

Joe Onzick, Finance Director	Created/Initiated - 5/13/2025
nancy stuparich, Town Attorney	Approved - 5/13/2025
Amy Baker, Town Clerk	Approved - 5/13/2025
Andy Hyatt, Town Manager	Final Approval - 5/13/2025

RESOLUTION NO. 25-149

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, APPROVING A THIRD AMENDMENT TO AN AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND ANGIE BREWER & ASSOCIATES, LC TO EXTEND THE TERM OF THE CONSULTANT AGREEMENT FOR FUNDING MANAGEMENT SERVICES FOR SRF AND OR OTHER GRANTS OR LOANS AVAILABLE TO THE TOWN, TO DECEMBER 6, 2025; APPROVING SUPPLEMENTAL TASK AUTHORIZATION NO. 6 FOR THE UNINTERRUPTED CONTINUATION OF THESE SERVICES; AUTHORIZING THE MAYOR TO SIGN THE AMENDMENT AND SUPPLEMENTAL TASK AUTHORIZATION AND THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; PROVIDING FOR 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 ("Town") 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 Code of Ordinances allows for “piggybacking” agreements and contracts that have been competitively procured by other local governments; and

WHEREAS, pursuant to this procedure, the Town “piggybacked” on an existing agreement between Collier County and Angie Brewer & Associates, LC. (“Consultant”), whereby Consultant will provide the Town with professional consulting services to assist with SFR and/or other grant or loan funding resources available to the Town; and

WHEREAS, the Town Council approved the Agreement on February 16, 2021 for services until June 9, 2023; and

WHEREAS, on February 5, 2024 the Town retroactively approved a First Amendment to the Agreement, which extended the term of the Agreement to June 9, 2024; and

WHEREAS, on June 3, 2024 the Town approved a Second Amendment to the Agreement, which extended the term of the Agreement to June 8, 2025; and

WHEREAS, the Town desires to further amend the Agreement to extend the term of the Agreement to December 6, 2025; and

WHEREAS, extension of the term by exercise of the renewal option and approval of a Third Amendment will allow for further approval of a Supplemental Task Authorization No. 6 for continuation of contracted services in the amount of $225,511; and related

WHEREAS, approval of a Third Amendment to the Agreement and the related Supplemental Task Authorization No. 6 is in the best interest of the residents of Fort Myers Beach as it will provide for the uninterrupted delivery of service.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, THAT:

Section 1. That 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. That the Third Amendment to the Agreement between the Town and Consultant for the provision of consulting services as attached and incorporated herein as Exhibit "A" and Supplemental Task Authorization No. 6, attached as Exhibit "B" are approved.

Section 3. That the Mayor is authorized to execute the Third Amendment and Supplemental Task Authorization No. 6 and the Town Manager is authorized to expend budgeted funds on behalf of the Town as needed.

Section 4. That if any section, sentence, clause or phrase herein is held to be invalid by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution.

Section 5. That this Resolution shall become effective immediately upon its adoption.

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

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

ADOPTED this 19th day of May, 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

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

_____

Vose Law Firm, LLP, Town Attorney

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

THIRD AMENDMENT TO CONSULTANT AGREEMENT
ANGIE BREWER & ASSOCIATES, INC.

THIS THIRD AMENDMENT is made and entered into this 19th day of May, 2025, by and between the TOWN OF FORT MYERS BEACH, a Florida municipality, hereinafter referred to as the "Town", and Angie Brewer & Associates, LLC, hereinafter referred to as "Contractor", to that certain Consultant Agreement, dated February 16, 2021 ("Agreement") for consulting services concerning that certain Agreement, approved by the Town Council of the Town of Fort Myers Beach on February 16, 2021.

WITNESSETH:

WHEREAS, the services provided by Contractor to date have been beneficial to the Town, and as a result, the parties desire to extend the term of the initial contract and its second amendment by the exercise of a 180 day extension; and

WHEREAS, the parties further desire to include and/or modify existing terms and conditions in the initial Agreement as provided herein; and

WHEREAS, Section 119.0701, Fla. Stat., requires that certain public agency contracts must include certain statutorily required provisions concerning a Contractor's compliance with Florida's Public Records Act; and

WHEREAS, Section 768.28, Fla. Stat., sets forth certain mandatory limitations on indemnification and liability for Florida public agencies; and

WHEREAS, Florida law requires that public agency contracts be subject to non-appropriation and thereby contingent upon appropriation during the public agency's statutorily mandated annual budget approval process; and

WHEREAS, Section 448.095, Fla. Stat., imposes certain obligations on public agencies with regard to the use of the E-Verify system by their contractors and subcontractors; and

WHEREAS, Section 286.101, Florida Statutes contains a list of "foreign countries of concern" including, the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such "foreign country of concern" and any entity that does business with a state agency or political subdivision must disclose certain of their dealings with those "foreign countries of concern" to the Florida Department of Financial Services; and

WHEREAS, Sections 287.133 and 287.135, Florida Statutes contain restrictions on local governments contracting with companies that are considered "Scrutinized Companies" or who appear on convicted vendor lists; and

WHEREAS, additional terms consistent with Sections 282.3185(5) and (6) related to data management and Section 287.05701 related to social government and corporate activism are also added by virtue of this Addendum

NOW, THEREFORE, in consideration of the covenants set forth herein, the parties agree to this addendum as follows:

1. Amendment. This Addendum hereby amends and supplements the terms of the Agreement. In the event of a conflict between the terms of the Agreement and terms of the Addendum, the terms of the Addendum shall prevail.

2. Public Records Compliance. Contractor agrees that, to the extent that it may "act on behalf" of the Town within the meaning of Section 119.0701(1)(a), Florida Statutes in providing its services under this Agreement, it shall:

(a) Keep and maintain public records required by the public agency to perform the service.

(b) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.

(d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

(e) Pursuant to Section 119.0701(2)(a), Fla. Stat., **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS**

RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

TOWN HALL
6231 ESTERO BLVD.
FORT MYERS BEACH, FL. 33931
(239)765-0202
AMY@FMBGOV.COM

3. Public Records Compliance Indemnification. Contractor agrees to indemnify and hold the Town harmless against any and all claims, damage awards, and causes of action arising from the contractor's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Contractor authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Contractor in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.

4. Compliance/Consistency with Section 768.28, Fla. Stat. Any indemnification or agreement to defend or hold harmless by Town specified in the Agreement shall not be construed as a waiver of Town's sovereign immunity, and shall be limited to such indemnification and liability limits consistent with the requirements of Section 768.28, Fla. Stat. and subject to the procedural requirements set forth therein. Any other purported indemnification by Town in the Agreement in derogation hereof shall be void and of no force or effect.

5. Non-appropriation. Town's performance and obligation to pay under this Agreement is contingent upon an appropriation during the Town's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the Town Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year end shall be without penalty or expense to the Town subject to the Town paying all invoices for services rendered during the period the Agreement was funded by appropriations.

6. E-Verify Compliance. By entering into this Agreement, the Contractor is obligated to comply with the provisions of Section 448.095, Florida Statutes "Employment Eligibility," as amended from time to time. This includes but is not limited to register with and use the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, as amended and Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to the Town as a result of the termination of this Agreement in accordance with this

paragraph. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Florida Statutes, Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Florida Statutes.

7. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars ($1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars ($1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

Moreover, Contractor shall comply with the disclosure requirements set forth is section 286.101 (3) (a), F.S., which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of $100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of $50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of

Financial Services". Pursuant to section 268.101(7), F.S.: "In addition to any fine assessed under [section 286.101(7)(a), F.S.], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause."

8. Venue and Jurisdiction. Notwithstanding any of other provision to the contrary, this Agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally: i) consents to submit and does submit to the jurisdiction of the Circuit Court in and for Lee County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement; and ii) agrees to waive the right to file any action, suit or proceeding in, or remove any action, suit or proceeding to, any Federal Court.

9. Attorneys' Fees and Costs. Notwithstanding any of other provision to the contrary, if litigation ensues regarding this Agreement, each party hereto shall bear its own attorneys' fee and costs.

10. Public Entities Crime or Convicted Vendor List. Contractor agrees and assumes a continuous duty to disclose to the Town if the Contractor or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.

11. Data Management; Notice of Breach. Contractor shall cooperate with the Town and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports etc, which the Town must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.

12. Environmental and Social Government and Corporate Activism. The Town has not given preference or requested documentation from the Contractor based on Contractor's social, political or ideological interest. Contractor agrees to similarly not request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.

13. Taxes. The Town shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency, to the extent that the Town is exempt from same by Florida law, including but not limited to any sales or use tax.

14. Additional Terms. Notwithstanding any of other provision to the contrary, the parties agree as follows:

A. **Duration of Agreement**. This amendment shall document the exercise of a 180 day extension of the Agreement, beginning June 9, 2025, thereby extending the term of the Agreement to December 6, 2025.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this instrument on the days and year indicated below and the signatories below to bind the parties set forth herein.

Contractor:

_____

Print Name: Angie Brewer

Company: Angie Brewer & Associates, LLC

ATTEST:

_____
Amy Baker, Town Clerk

Town of Fort Myers Beach

_____
Dan Allers, Mayor

APPROVED AS TO FORM & SUFFICIENCY

_____
Vose Law Firm, Town Attorney

(Last Rev. 12/23)

RESOLUTION NO. 24-119

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, APPROVING A SECOND AMENDMENT TO AN AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND ANGIE BREWER & ASSOCIATES, LC TO EXTEND THE TERM OF THE CONSULTANT AGREEMENT FOR FUNDING MANAGEMENT SERVICES FOR SRF AND OR OTHER GRANTS OR LOANS AVAILABLE TO THE TOWN, TO JUNE 9, 2025 BY THE EXERCISE OF THE SECOND OF TWO ONE-YEAR RENEWAL OPTIONS; APPROVING SUPPLEMENTAL TASK AUTHORIZATION NO. 5 FOR THE UNINTERRUPTED CONTINUATION OF THESE SERVICES; AUTHORIZING THE MAYOR TO SIGN THE AMENDMENT AND SUPPLEMENTAL TASK AUTHORIZATION AND THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; PROVIDING FOR 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 ("Town") 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 Code of Ordinances allows for “piggybacking” agreements and contracts that have been competitively procured by other local governments; and

WHEREAS, pursuant to this procedure, the Town “piggybacked” on an existing agreement between Collier County and Angie Brewer & Associates, LC. (“Consultant”), whereby Consultant will provide the Town with professional consulting services to assist with SFR and/or other grant or loan funding resources available to the Town; and

WHEREAS, the Town Council approved the Agreement on February 16, 2021 for services until June 9, 2023; and

WHEREAS, on February 5, 2024 the Town retroactively approved a First Amendment to the Agreement, which extended the term of the Agreement to June 9, 2024; and

WHEREAS, the Town desires to further amend the Agreement for a second one-year renewal, which will extend the term of the Agreement to June 9, 2025; and

WHEREAS, extension of the term by exercise of the renewal option and approval of a Second Amendment will allow for further approval of a Supplemental Task Authorization No. 5 for continuation of contracted services in the amount of $245,996; and

WHEREAS, approval of a Second Amendment to the Agreement and the Supplemental Task Authorization No. 5 is in the best interest of the residents of Fort Myers Beach as it will provide for the uninterrupted delivery of service.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, THAT:

Becky Vose
Becky Vose (Jun 4, 2024 17:41 EDT)

Section 1. That 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. That the Second Amendment to the Agreement between the Town and Consultant for the provision of consulting services as attached and incorporated herein as Exhibit "A" and Supplemental Task Authorization No. 5, attached as Exhibit "B" are approved.

Section 3. That the Mayor is authorized to execute the Second Amendment and Supplemental Task Authorization No. 5 and the Town Manager is authorized to expend budgeted funds on behalf of the Town as needed.

Section 4. That if any section, sentence, clause or phrase herein is held to be invalid by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution.

Section 5. That this Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was adopted by the Town Council upon a motion by King and seconded by Mayor Allers, and upon being put to a vote, the result was as follows:

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

ADOPTED this 3rd day of June 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers
Dan Allers (Jun 4, 2024 17:31 EDT)

Dan Allers, Mayor

ATTEST:

Amy Baker

Amy Baker, Town Clerk

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

Becky Vose
Becky Vose (Jun 4, 2024 17:40 EDT)

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 3rd day of June 2024
.

TOWN OF FORT MYERS BEACH SERVICE AGREEMENT

SUPPLEMENTAL TASK AUTHORIZATION

_X_ Supplemental Task Authorization NO.: STA #5

CONTRACT/PROJECT NAME: 240-000-0116 Grant and Loan Services

CONSULTANT: Angie Brewer & Associates, LC PROJECT NO.: _____

SOLICIT NO.: _____ CONTRACT NO.: _____

REQUESTED BY: Joe Onzick DATE OF REQUEST: 05/23/2024

PURCHASE ORDER NUMBER:_____

Upon the completion and execution of this Supplemental Task Authorization by both parties, the Consultant/Provider is authorized to and shall proceed with the following:

EXHIBIT "A"	SCOPE OF PROFESSIONAL SERVICE:	DATED: 05/23/2024
EXHIBIT "B"	COMPENSATION & METHOD OF PAYMENT:	DATED: 05/23/2024
EXHIBIT "C"	TIME AND SCHEDULE OF PERFORMANCE:	DATED: 05/23/2024
EXHIBIT "D"	CONSULTANT'S/PROVIDER'S ASSOCIATED SUB-CONSULTANT(S)/SUB-CONTRACTORS:	DATED: N/A

It is understood and agreed that the acceptance of this modification by the CONSULTANT/PROVIDER constitutes an accord and satisfaction.

RECOMMENDED:

By: Joe Onzick (Jun 4, 2024 16:39 EDT) _____
Department Director Date

By: Frank Kropacek _____
Contracts Manager Date

ACCEPTED: Angie Brewer & Associates, LC

By: _____ 6/11/2024
Consultant/Provider Date

TOWN APPROVAL:

By: Andrew Hyatt (Jun 4, 2024 16:34 EDT) _____
Town Manager Date

By: Becky Vose Becky Vose (Jun 4, 2024 17:41 EDT) _____
Town Attorney Date

Date to Proceed: _____ Cost of STA: $245,996.00

Completion Due Date: June 8, 2025

Date: 05/23/2024

EXHIBIT A

SCOPE OF PROFESSIONAL SERVICES

240-000-0116 Grant and Loan Services

Overview

STA NO. 5: 240-000-0116 Grant and Loan Services

The following services will be provided by Angie Brewer & Associates, LC:

1: Program Coordination

Program Coordination – The Consultant shall coordinate with Town, FDEP, Consulting Engineers, Project Representatives and others as necessary to ensure that all requirements are met. This includes ongoing contact with all personnel related to the project. The Consultant will coordinate and be involved in site visits by funding agency representatives, ie. FDEP, EPA, OIG or DOL. The Consultant shall act as the Liaison between FDEP and the Town to identify and resolve issues regarding the SRF Loan Program. Also, all status and other reporting will be accomplished for successful management and completion of the project. This includes General Funding Services, SRF Loans, Federal and State Grants for specific projects for the Town's eligible activities. This currently includes Stormwater, Drinking Water and Wastewater improvement projects including Tier 1 and any other projects deemed by the Town to be in their best interests.

2: Funding Reconciliation

Funding Reconciliation – The Consultant shall review and compare the project information with the funding documents to ensure that all SRF requirements are met and consistency between all aspects of the project is achieved.

3: Processing

Pay Estimate(s) – The Consultant shall provide professional services to review and verify eligible costs per contractor pay estimate.

Engineering Invoice(s) – The Consultant shall provide professional services to review and verify eligible costs related to engineering.

FDEP Reimbursement Request(s) – The Consultant shall compile required documents and prepare Reimbursement Requests for submittal to FDEP. The Reimbursement Request shall include all properly authorized expenditures for which documentation is available on the date of preparation. The Consultant shall submit the Reimbursement Request to the Engineer for Certification and then to the Town for signature. The Consultant shall be responsible to ensure appropriate parties receive copies of the Reimbursement Request upon receiving the originally signed copy at its office.

Change Order(s) – The Consultant shall review and process Construction Contract Change Orders/Field Changes. This will result in a request for

eligibility determination to be submitted to FDEP. Upon receipt of eligibility determination, all appropriate project information will be modified to allow for the eventual reimbursement of costs if applicable.

4: Program Management

Program Management Meeting(s) – The Consultant shall prepare for and attend Program Management Meetings. Meeting minutes shall be prepared and disseminated to appropriate parties upon completion. These meetings are held for the purpose of discussing FDEP program requirements, reimbursement requests, eligibility requests' status, construction progress, contract changes/issues, payment procedures/status, monitoring issues, additional funding needs and other information regarding the project.

MBE/WBE Monitoring – The Consultant shall provide a form to be completed by the contractor and submitted with each pay estimate. The information submitted by the contractor shall be used to prepare the Minority/Women's Business Enterprises (MBE/WBE) Utilization Report. This report shall be submitted to the Town and FDEP on a monthly basis during construction.

Agency Monitoring Visit(s) – The Consultant shall prepare for and attend agency monitoring visits. The Consultant shall provide responses to any agency questions.

5: Davis-Bacon Compliance

Contractor Compliance Preparation – The Consultant shall review the contractor and subcontractors current Davis Bacon practices and policies to determine compliance with the funding program and funding agreement requirements. The Consultant shall suggest changes required to ensure compliance with the program requirements.

Provide Required Signage – The Consultant shall provide digital or physical copies of required signage with directions for posting the signs. The contractor is responsible for the production and display of the signs.

Compliance Monitoring – The Consultant shall provide monthly monitoring of Federal Labor Standards requirements, including labor interviews and verification of information reported by the contractors and subcontractors during construction.

Certified Payroll(s) – The Consultant shall provide professional services to review and verify certified payrolls as submitted by the contractors and subcontractors. The Consultant shall prepare detailed exception reports as required.

Coordination – The Consultant shall monitor all applicable federal and state regulations. The Consultant shall assist the contractors with conformance of additional wage rates as required for the program.

6: American Iron and Steel (AIS) Compliance

Contractor Compliance Preparation – The Consultant shall review the contractor and subcontractors current materials acquisition processes to determine compliance with the funding program and funding agreement requirements. The Consultant shall suggest methods to ensure compliance with the program requirements.

American Iron and Steel Compliance – The Consultant shall provide

monthly monitoring of the project for compliance with the American Iron and Steel requirements. The Consultant shall complete the required documentation for compliance.

4: Closeout and Audit Assistance

Project Closeout – Consultant shall prepare closeout information required for FDEP regarding the project. The Final Request for Reimbursement is included in this task. This includes the Final Construction Inspection, Preliminary Administrative Closeout, and Final Administrative Closeout conducted by FDEP representatives. The necessary closeout documents shall be prepared regarding final eligibility for construction, engineering, administration, design and other project costs and submitted to FDEP to allow closeout of the loan. This effort will result in the preparation, review and approval of the Final Loan Amendment.

Annual Audit Assistance – The Consultant shall provide necessary data to the Town to allow inclusion of the loan in the required Single Audit Report prepared as part of the Annual Audit. This also includes corresponding with FDEP regarding eligibility requests and assistance during the annual audit.

Project Specific Audit – The Consultant will also provide closeout and other information to the Town's Independent Auditors in order to allow for the required Project Audit within 12 months of execution of the Final Loan Amendment.

Hourly Breakdown:

Labor Category	Principal	Sr. Funding Manager	Senior Project Manager II	Sr. Funding Coordinator	Sr. Funding Specialist	Funding Specialist	Admin/ Clerk II	Admin/ Clerk I
Rate	$185.00	$155.00	$135.00	$110.00	$100.00	$88.00	$63.00	$54.00
Hours	192.00	372.00	156.00	228.00	276.00	350.00	468.00	348.00

Total Cost (of Job): $245,996.00

EXHIBIT B

Date: 05/23/2024

COMPENSATION AND METHOD OF PAYMENT FOR

240-000-0116 Grant and Loan Services

Section 1. BASIC SERVICES/TASK(S)

The TOWN shall compensate the CONSULTANT for providing and performing the Task(s) set forth and enumerated in EXHIBIT "A", entitled "SCOPE OF PROFESSIONAL SERVICES", as follows:

NOTE: A Lump Sum (L.S.) or Not-to-Exceed (N.T.E.) amount of compensation to be paid the CONSULTANT should be established and set forth below for each task or sub-task described and authorized in Exhibit "A". In accordance with Agreement Article 5.02(2) "Method of Payment", tasks to be paid on a Work-in-Progress payment basis should be identified (WIPP).

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (W.I.P.P.)
#1	Grant and Loan Services	$245,996.00	NTE	WIPP
TOTAL		$245,996.00	NTE	

(Unless list is continued on next page)

Section 2. ADDITIONAL SERVICES

The TOWN shall compensate the CONSULTANT for such ADDITIONAL SERVICES as are requested and authorized in writing for such amounts or on such a basis as may be mutually agreed to in writing by both parties to this Agreement. The basis and/or amount of compensation to be paid the CONSULTANT for ADDITIONAL SERVICES requested and authorized in writing by the TOWN shall be as set forth in Article 4 of this Agreement.

Should it be mutually agreed to base compensation for ADDITIONAL SERVICES on an hourly rate charge basis for each involved professional and technical employee's wage rate classification, the applicable hourly rates to be charged are as set forth and contained in ATTACHMENT NO. 1 hereto dated May 23, 2024, entitled "CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE".

Section 3. REIMBURSABLE EXPENSES AND COSTS

When the CONSULTANT'S compensation and method of payment is based on an hourly rate for professional and/or technical personnel, the CONSULTANT shall, in addition to such hourly rates as are set forth in Attachment No. 1 hereto, be entitled to reimbursement of out-of-pocket, non-personnel expenses and costs as set forth in ATTACHMENT NO. 2 hereto May 23, 2024 entitled "NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS".

ATTACHMENT NO. 1 TO EXHIBIT B

Date: 05/23/2024

CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE FOR
240-000-0116 Grant and Loan Services

Consultant or Sub-consultant Name: Angie Brewer & Associates, LC
(A separate Attachment No. 1 should be included for each Sub-Consultant)

(1) Project Position or Classification (Function to be Performed)	(2) Current Direct* Payroll Average Hourly Rate	(3) Multiplier**	(4) Hourly Rate To Be Charged (Column 2x3)
Hourly Rates are fully burdened to include all costs per Collier County Contract			

*NOTE: Direct Payroll hourly rate means the actual gross hourly wage paid.
**NOTE: Indicate applicable multiplier for indirect personnel costs, general administrative & overhead costs, and profit.
***NOTE: A separate personnel hourly rate schedule should also be attached for each Sub-Consultant listed in Exhibit "D".

ATTACHMENT NO. 2 TO EXHIBIT B

Date: 05/23/2024

NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS FOR
240-000-0116 Grant and Loan Services

CONSULTANT OR SUB-CONSULTANT NAME: Angie Brewer & Associates, LC
(A separate Attachment No. 2 should be included for each Sub-Consultant)

ITEM	BASIS OF CHARGE
N/A – Hourly Rates are fully burdened to include all costs per	
Collier County Contract	
NOTE: Receipts or in-house logs are required for all non-personnel reimbursable expenses unless exempt (such as meals).	
Administrative Services Fee – Applicable only when specifically authorized by the Town, for administering the procurement of special additional services, equipment, reimbursables etc. not covered under the costs and/or changes established in the Agreement.	

NOTE: N.T.E. indicates Not-To-Exceed

EXHIBIT C

Date: 05/23/2024

TIME AND SCHEDULE OF PERFORMANCE FOR

240-000-0116 Grant and Loan Services

This EXHIBIT “C” establishes times of completion for the various phases and tasks required to provide and perform the services and work set forth in EXHIBIT "A" of this Agreement. The times and schedule of performance set forth hereinafter is established pursuant to this Agreement.

Phase and/or Task Reference As Enumerated in EXHIBIT “A”	NAME OR TITLE Of Phase and/Task	Number Of Calendar Days For Completion Of Each Phase And/or Task	Cumulative Number Of Calendar Days For Completion From Date of Notice to Proceed
#1	Grant and Loan Services	365 days	365 days

EXHIBIT D

Date: 05/23/2024

CONSULTANT'S ASSOCIATED SUB-CONSULTANT(S) AND SUBCONTRACTOR(S) FOR

240-000-0116 Grant and Loan Services

CONSULTANT has identified the following Sub-Consultant(s) and/or Subcontractor(s) which may be engaged to assist the CONSULTANT in providing and performing services and work on this Project:

(If none, enter the word "none" in the space below.)

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm				Sub-Consultant Services are Exempted from Prime Consultant's Insurance Coverage	
					Yes	No
	NONE					

FIRST AMENDMENT TO CONSULTANT AGREEMENT
ANGIE BREWER & ASSOCIATES, LC

THIS FIRST AMENDMENT is made and entered into this 5th day of February, 2024, by and between the TOWN OF FORT MYERS BEACH, a Florida municipality, hereinafter referred to as the "Town", and Angie Brewer & Associates, LC, hereinafter referred to as "Contractor", to that certain Consultant Agreement, dated February 16, 2021 ("Agreement") for consulting services concerning that certain Agreement, approved by the Town Council of the Town of Fort Myers Beach on February 5, 2024.

WITNESSETH:

WHEREAS, the services provided by Contractor to date have been beneficial to the Town and as a result the parties desire to extend the term of the initial contract by the exercise of the first of two optional 1-year renewal contract periods retroactive to June 9, 2023; and

WHEREAS, the parties further desire to include and/or modify existing terms and conditions in the initial Agreement as provided herein; and

WHEREAS, Section 119.0701, Fla. Stat., requires that certain public agency contracts must include certain statutorily required provisions concerning a Contractor's compliance with Florida's Public Records Act; and

WHEREAS, Section 768.28, Fla. Stat., sets forth certain mandatory limitations on indemnification and liability for Florida public agencies; and

WHEREAS, Florida law requires that public agency contracts be subject to non-appropriation and thereby contingent upon appropriation during the public agency's statutorily mandated annual budget approval process; and

WHEREAS, Section 448.095, Fla. Stat., imposes certain obligations on public agencies with regard to the use of the E-Verify system by their contractors and subcontractors; and

WHEREAS, Section 286.101, Florida Statutes contains a list of "foreign countries of concern" including, the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such "foreign country of concern" and any entity that does business with a state agency or political subdivision must disclose certain of their dealings with those "foreign countries of concern" to the Florida Department of Financial Services; and

WHEREAS, Sections 287.133 and 287.135, Florida Statutes contain restrictions on local governments contracting with companies that are considered "Scrutinized Companies" or who appear on convicted vendor lists; and

WHEREAS, additional terms consistent with Sections 282.3185(5) and (6) related to data management and Section 287.05701 related to social government and corporate activism are also added by virtue of this Addendum

NOW, THEREFORE, in consideration of the covenants set forth herein, the parties agree to this addendum as follows:

1. Amendment. This Addendum hereby amends and supplements the terms of the Agreement. In the event of a conflict between the terms of the Agreement and terms of the Addendum, the terms of the Addendum shall prevail.

2. Public Records Compliance. Contractor agrees that, to the extent that it may "act on behalf" of the Town within the meaning of Section 119.0701(1)(a), Florida Statutes in providing its services under this Agreement, it shall:

(a) Keep and maintain public records required by the public agency to perform the service.

(b) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.

(d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

(e) Pursuant to Section 119.0701(2)(a), Fla. Stat., **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS**

RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

TOWN HALL
2525 ESTERO BLVD.
FORT MYERS BEACH, FL. 33931
(239)765-0202
AMY@FMBGOV.COM

3. Public Records Compliance Indemnification. Contractor agrees to indemnify and hold the Town harmless against any and all claims, damage awards, and causes of action arising from the contractor's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Contractor authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Contractor in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.

4. Compliance/Consistency with Section 768.28, Fla. Stat. Any indemnification or agreement to defend or hold harmless by Town specified in the Agreement shall not be construed as a waiver of Town's sovereign immunity, and shall be limited to such indemnification and liability limits consistent with the requirements of Section 768.28, Fla. Stat. and subject to the procedural requirements set forth therein. Any other purported indemnification by Town in the Agreement in derogation hereof shall be void and of no force or effect.

5. Non-appropriation. Town's performance and obligation to pay under this Agreement is contingent upon an appropriation during the Town's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the Town Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year end shall be without penalty or expense to the Town subject to the Town paying all invoices for services rendered during the period the Agreement was funded by appropriations.

6. E-Verify Compliance. By entering into this Agreement, the Contractor is obligated to comply with the provisions of Section 448.095, Florida Statutes "Employment Eligibility," as amended from time to time. This includes but is not limited to register with and use the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, as amended and Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to the Town as a result of the termination of this Agreement in accordance with this

paragraph. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Florida Statutes, Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Florida Statutes.

7. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars ($1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars ($1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

Moreover, Contractor shall comply with the disclosure requirements set forth is section 286.101 (3) (a), F.S., which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of $100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of $50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of

Financial Services". Pursuant to section 268.101(7), F.S.: "In addition to any fine assessed under [section 286.101(7)(a), F.S.], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause."

8. Venue and Jurisdiction. Notwithstanding any of other provision to the contrary, this Agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally: i) consents to submit and does submit to the jurisdiction of the Circuit Court in and for Lee County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement; and ii) agrees to waive the right to file any action, suit or proceeding in, or remove any action, suit or proceeding to, any Federal Court.

9. Attorneys' Fees and Costs. Notwithstanding any of other provision to the contrary, if litigation ensues regarding this Agreement, each party hereto shall bear its own attorneys' fee and costs.

10. Public Entities Crime or Convicted Vendor List. Contractor agrees and assumes a continuous duty to disclose to the Town if the Contractor or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.

11. Data Management; Notice of Breach. Contractor shall cooperate with the Town and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports etc, which the Town must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.

12. Environmental and Social Government and Corporate Activism. The Town has not given preference or requested documentation from the Contractor based on Contractor's social, political or ideological interest. Contractor agrees to similarly not request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.

13. Taxes. The Town shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency, to the extent that the Town is exempt from same by Florida law, including but not limited to any sales or use tax.

14. Additional Terms. Notwithstanding any of other provision to the contrary, the parties agree as follows:

A. **Duration of Agreement**. This amendment shall document the exercise of the first of two optional year renewals of the Agreement, retroactive to June 9, 2023, thereby extending the term of the Agreement to June 9, 2024. The parties may agree to exercise the second of two optional year renewals upon expiration of this first

optional year renewal on June 9, 2024. The exercise of a second optional year renewal shall be documented by a Second Amendment to the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this instrument on the days and year indicated below and the signatories below to bind the parties set forth herein.

Contractor:

Print Name: Mark A. Brewer

Company: Angie Brewer & Associates, LC

ATTEST:

Amy Baker (Feb 20, 2024 12:47 EST)

Amy Baker, Town Clerk

Town of Fort Myers Beach

Dan Allers

Dan Allers (Feb 18, 2024 15:31 EST)

Dan Allers, Mayor

APPROVED AS TO FORM & SUFFICIENCY

Nancy Stuparich

Nancy Stuparich (Feb 16, 2024 15:27 EST)

Vose Law Firm, Town Attorney

(Last Rev. 12/23)

First Amendment to Consultant Agreement Angie Brewer and Assoc. Inc. Edited - MB Signed

Final Audit Report 2024-02-20

Created:	2024-02-16
By:	Jason Freeman (jasonf@fmbgov.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAN9UvvcN5GwQFWat_la7QjZ8a__2DM-_X

"First Amendment to Consultant Agreement Angie Brewer and Assoc. Inc. Edited - MB Signed" History

Document created by Jason Freeman (jasonf@fmbgov.com)
2024-02-16 - 6:27:17 PM GMT

Document emailed to Dan Allers (allersd@fmbgov.com) for signature
2024-02-16 - 6:27:22 PM GMT

Document emailed to Amy Baker (AMY@FMBGOV.COM) for signature
2024-02-16 - 6:27:22 PM GMT

Document emailed to Nancy Stuparich (nstuparich@voselaw.com) for signature
2024-02-16 - 6:27:23 PM GMT

Email viewed by Amy Baker (AMY@FMBGOV.COM)
2024-02-16 - 6:30:10 PM GMT

Email viewed by Nancy Stuparich (nstuparich@voselaw.com)
2024-02-16 - 8:27:12 PM GMT

Document e-signed by Nancy Stuparich (nstuparich@voselaw.com)
Signature Date: 2024-02-16 - 8:27:35 PM GMT - Time Source: server

Email viewed by Dan Allers (allersd@fmbgov.com)
2024-02-18 - 8:30:55 PM GMT

Document e-signed by Dan Allers (allersd@fmbgov.com)
Signature Date: 2024-02-18 - 8:31:06 PM GMT - Time Source: server

Adobe Acrobat Sign

Document e-signed by Amy Baker (AMY@FMBGOV.COM)
E-signature obtained using URL retrieved through the Adobe Acrobat Sign API
Signature Date: 2024-02-20 - 5:47:19 PM GMT - Time Source: server

Agreement completed.
2024-02-20 - 5:47:19 PM GMT

CONSULTANT AGREEMENT

AGREEMENT, made and entered into on February 16, 2021, by and between Angie Brewer & Associates, LC, hereinafter referred to as the "Consultant" and the Town of Fort Myers Beach, hereinafter referred to as the "Client".

Whereas, the Client desires to obtain the services of the Consultant for Funding Management Services to include Planning, Application, Administration, Compliance and Program Management Services for the SRF Program or other grant and/or loan funding sources; and

Whereas, the Consultant desires to provide services to the Client, to assist with the successful Funding Management Services to include Planning, Application, Administration, Compliance and Program Management Services for the SRF Program or other grant and/or loan funding sources; and

Whereas, on the 9th day of June, 2020, the Consultant was awarded a contract with Collier County, Florida, pursuant to Request for Proposal Solicitation 20-7690 – Loan and/or Grant Acquisition and Compliance Services (the "Collier County Agreement"); and

Whereas, the Collier County Agreement provides for an initial term commencing June 9, 2020 and continuing until June 9, 2023 with two (2) optional one (1) year renewals; and

Whereas, the Town of Fort Myers Beach has determined that utilizing the procurement process conducted by Collier County and the execution of this contract is beneficial to the citizens of the Town of Fort Myers Beach;

NOW, THEREFORE, in consideration of the premises aforesaid and the covenants and agreements hereinafter set forth, the parties hereto mutually covenant and agree as follows:

1. **Commencement.** The Consultant shall commence the Work immediately upon receipt of a Purchase Order, Notice to Proceed or signed Task Authorization from the Client.

2. **Scope.** The Consultant agrees to provide all necessary and proper Funding Management Services to include Planning, Application, Administration, Compliance and Program Management Services for the SRF Program or other grant and/or loan funding sources as outlined in the written proposals to be submitted by the Consultant to the Client.

3. **Payment.** The Consultant will provide services as required by the project on a "Lump Sum" or a Task Completion basis. The Client shall make payment to the Consultant within 30 days of receipt of an invoice for services performed. No costs will be incurred by the Consultant above the limit authorized without prior approval from the Client.

4. **Notices.** All notices from the Client to the Consultant shall be mailed to the following address:

Angie Brewer & Associates, LC
9080 58th Drive East, Suite 200
Bradenton, Florida 34202

All notices from the Consultant to the Client shall be mailed to the address given to the Consultant for:

TOWN OF FORT MYERS BEACH
2525 ESTERO BOULEVARD
FORT MYERS BEACH, FL 33931

Either party may provide notice to the other of any change in contact or mailing address as set forth above.

5. **No Partnership.** Nothing herein contained shall create or be construed as creating a partnership between the Client and the Consultant.

6. **Default and Termination.** Upon the failure of either party to perform pursuant to the terms of this Agreement, either party may terminate this agreement upon thirty (30) days written notice. The Consultant shall be compensated for all services provided and costs incurred related to this Agreement through the date of termination. The defaulting party may cure, during the notice period, and this agreement shall remain in full force and effect.

7. **Agreement.** This Agreement is the entire Agreement of the parties and consists of the attached component parts, all of which are as fully a part of the Agreement as if herein set out verbatim.

8. **Changes.** Within the general scope of this Agreement the Client may, at any time, by written notice to Consultant, issue additional instructions, require additional services or direct the omission of services covered by this Agreement. In such event, there will be made an equitable adjustment in price and/or time of performance.

9. **Compliance.** The Consultant shall comply with all local, state and federal laws relative to the performance of these services.

10. **Insurance.** The Consultant will provide proof of all applicable and available insurance required by the Client.

11. **Performance.** The Client is to provide cooperation and information to the Consultant, as reasonably required, to assist the Consultant in the performance of its obligations pursuant to this Agreement. Consultant shall be the sole liaison between all parties and funding agencies involved with the work authorized under this Agreement. The Client shall provide the Consultant all requested information, instructions and requests for any actions on a timely basis to allow the appropriate performance of Consultant's work.

12. **Indemnity and Liability.** The Client hereby indemnifies and holds Consultant, its directors, officers, agents and employees harmless against any and all claims, actions, or demands against Consultant, its directors, officers, agents and employees and against any and

all damages, liabilities or expenses, including counsel fees, for injury to or death of any person and for loss of or damage to any all property arising out of the negligent acts, errors, or omissions of the Client under this Agreement. The Consultant hereby indemnifies and holds Client, its directors, officers, agents and employees harmless against any and all claims, actions, or demands against Client, its directors, officers, agents and employees and against any and all damages, liabilities or expenses, including counsel fees, for injury to or death of any person and for loss of or damage to any all property arising out of the negligent acts, errors, or omissions of the Consultant under this Agreement.

13. **Standards.** All services hereunder shall be performed by employees, agents, or subcontractors of Consultant who are experienced and skilled in their profession and in accordance with the standards of workmanship in their professions. Consultant's findings, recommendations, and professional advice shall be based on practices and procedures customary in its profession. Proprietary information utilized in the performance of the work by the Consultant shall remain the sole property of the Consultant.

14. **Venue.** In the event of any litigation arising from this Agreement, shall be held in the Circuit Court of the Twelfth (12TH) Judicial Circuit of Florida, in and for Manatee County.

15. **Statutory Labor Rate Changes.** The Parties agree that a change in the State or Federal Minimum Wage Rate will result in a commensurate increase to Hourly Labor Rates, Lump Sum, Task Completion or other compensation under this Agreement.

IN WITNESS WHEREOF, the Client and the Consultant, have each, respectively, by an authorized person or agent, hereunder set their hands and seals on the date and year first written above.

Town of Fort Myers Beach JF (C

By: _____

ROGER T. HERNSTADT - TOWN MANAGER
Name and Title

ATTEST:

Witness: _____

Angie Brewer & Associates, LC

By: _____

Mark A. Brewer, President
Name and Title

ATTEST:

Witness: _____

FIRST AMENDMENT TO AGREEMENT #20-7690

FOR

LOAN AND/OR GRANT ACQUISITION AND COMPLIANCE SERVICES

THIS AMENDMENT is made and entered into on this 24th day of July, 2020, by and between **Angie Brewer & Associates, L.C., a Florida limited liability company** (the "Vendor") and **Collier County**, a political subdivision of the State of Florida, (the "County"):

WHEREAS, on June 9, 2020 (Agenda Item 16.C.4), the County entered into an Agreement with Vendor to provide loan and/or grant acquisition and compliance services; and

WHEREAS, the Agreement contained a Scrivener's Error on the Exhibit "B" Fee Schedule wherein the percentage shown in line a. on the chart had transposed numbers; and

WHEREAS, the parties desire to amend the Agreement to correct the referenced Scrivener's Error.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, it is agreed by the parties as follows:

1. The percentage amount shown in line a. below should equal the fractional amount shown of $68.00/1,000.

2. The correction is reflected on the chart below.

For all services related to the acquisition or compliance of loans and/or grants:	Estimated % of Cost per $1,000
a. Under $2 million	a. $68.00/1,000 or ~~6.08~~ 6.80%
b. Between $2 million and $5 million	b. $43.00/1,000 or 4.30%
c. Over $5 million but less than $15 million	c. $31.00/1,000 or 3.10%
d. Between $15 million and $25 million	d. $24.00/1,000 or 2.40%
e. Over $25 million	e. $18.00/1,000 or 1.80%

Remainder of Page Left Intentionally Blank
Signature Page to Follow

IN WITNESS WHEREOF, the parties hereto, have each, respectively, by an authorized person or agent, have executed this Amendment on the date and year first written above.

VENDOR
ANGIE BREWER & ASSOCIATES, L.C.

By: _____
Signature

Mark A. Brewer, President
↑Type/print signature and title↑

7/24/20
Date

Vendor's Witnesses:

_____
First Witness

Ken Wahlers
↑Type/print witness name↑

_____
Second Witness

Yolanda Grijalva
↑Type/print witness name↑

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: _____
Sandra Herrera,
Director of Procurement Services Division

7/24/20
Date

Approved as to Form and Legality:

_____
Jeffrey A. Klatzkow, County Attorney

Collier County

Contract Renewal or Extension Request Form

CONTRACT RENEWAL OR EXTENSION REQUEST FORM

Contract #:	20-7690	Solicitation Title:	Loan and/or Grant Acquisition and Compliance Services
Name of Requester:	Donna Deeter	Division Name:	PUD
Company Name:	Angie Brewer & Associates, L.C.	Name of Company Agent:	Mark A. Brewer
Vendor Email:	president@angiebrewer.com	Vendor Phone Number:	941-756-5800
Current Term:	06/08/2025	Requested Term:	180 Day Extension

SECTION 1a. APPLICABLE TO RENEWAL

Fill out the Renewal section if there are renewals identified and available per the contract.
Ex: 1- 1 Yr. Renewal of 2

☐ Request to Exercise 1st Renewal
☐ Request to Exercise 2nd Renewal
☐ Request to Exercise 3rd Renewal
☐ Request to Exercise 4th Renewal
☐ Renewal to Exercise an Evergreen
☐ Renewal Includes Price Increase*
☐ Increase Accepted by the Division*
☐ Other: _____

*The original solicitation document and/or resultant contract must contain a provision permitting price increases. Submit a new request ticket for "Contract Amendment" with supporting documentation accepted by the Division for any renewals with Price Increases.

SECTION 1b. APPLICABLE TO EXTENSION

Fill out the Extension section if no renewals are identified in the contract or if all renewals have been exhausted.
Ex: No Renewals/ Ext Available

☑ Request to Exercise Administrative Extension (180 days)

☐ Request Extension *Beyond* the Administrative Extension (180 days)
*If selecting this option, an Executive Summary must be provided with this form.

SECTION 2a. RENEWAL AFFIRMED

Project Manager/Contract Agent affirms the Vendor meets the following requirements:

☐ That the Contractor has performed in a satisfactory manner.
☐ The renewal is subject to the terms and conditions outlined in the initial contract. Cost and term modifications are addressed in the original solicitation document and/or resultant contract.
☐ That the renewal is done for a set period of time identified in the solicitation document and/or contract, commencing at the end of the contract period.

Applicable only to Price Increases:

☐ The request for a price increase has been evaluated and the supporting documentation justifies the request.

SECTION 2b. EXTENSION AFFIRMED

Project Manager/Contract Agent affirms the following requirements to extend:

☑ The extension period is identified in the original solicitation document and/or resultant contract.
☑ The extension period is for the same terms and conditions.
☑ The existing contract will be terminated upon issuance of the new contract without further notice.
☑ Any (non-blanket) Purchase Order that extends beyond the expiration date of the original contract will survive and remain subject to the terms and conditions of that contract until the completion or termination of the Purchase Order.

SECTION 3. APPROVALS

THE VENDOR HEREBY AGREES TO THE SAME TERMS AND CONDITIONS AND IS AN AUTHORIZED AGENT OF THE COMPANY WITH THE AUTHORITY TO EXECUTE THIS FORM ON THE COMPANY'S BEHALF.

***If the signer is NOT an authorized agent listed on Sunbiz, please also submit a Corporate Resolution, Limited Power of Attorney, Secretary's Certificate, or notarized letter from one of the listed principals giving that person signature authority.**

Project Manager/ Contract Agent Name and Date: Tara Castillo	Signature: CastilloTara Digitally signed by CastilloTara Date: 2024.12.04 11:00:27 -05'00'
Vendor – Authorized Signatory Name and Date: Mark A. Brewer	Signature: Mark A. Brewer Digitally signed by Mark A. Brewer Date: 2024.12.04 14:43:01 -05'00'
Procurement Director or Designee's Name: Sandra Srnka	Signature: Sandra Srnka Digitally signed by Sandra Srnka Date: 2024.12.05 11:44:14 -05'00'

Procurement Use Only

☐ Approved Renewal Term	Approved Term:
☐ Approved Renewal Term with Price Increase	Approved Term:
☐ Renewal Term with Price Increase is subject to Board Approval	Date Board Approved:
☑ Approved Administrative Extension Term	Approved Extension Term: 06/09/2025- 12/06/2025
☐ Extension is subject to Board Approval	Date Board Approved Term:

Notes:

Any further extension would require board approval.

TOWN OF FORT MYERS BEACH SERVICE AGREEMENT

SUPPLEMENTAL TASK AUTHORIZATION

_X_ Supplemental Task Authorization NO.: STA #6

CONTRACT/PROJECT NAME: 240-000-0116 Grant and Loan Services

CONSULTANT: Angie Brewer & Associates, LC PROJECT NO.: _____

SOLICIT NO.: _____ CONTRACT NO.: _____

REQUESTED BY: Joe Onzick DATE OF REQUEST: 04/28/2025

PURCHASE ORDER NUMBER: _____

Upon the completion and execution of this Supplemental Task Authorization by both parties, the Consultant/Provider is authorized to and shall proceed with the following:

EXHIBIT "A"	SCOPE OF PROFESSIONAL SERVICE:	DATED: 04/28/2025
EXHIBIT "B"	COMPENSATION & METHOD OF PAYMENT:	DATED: 04/28/2025
EXHIBIT "C"	TIME AND SCHEDULE OF PERFORMANCE:	DATED: 04/28/2025
EXHIBIT "D"	CONSULTANT'S/PROVIDER'S ASSOCIATED SUB-CONSULTANT(S)/SUB-CONTRACTORS:	DATED: N/A

It is understood and agreed that the acceptance of this modification by the CONSULTANT/PROVIDER constitutes an accord and satisfaction.

RECOMMENDED:

By: _____ By: _____
Department Director Date Contracts Manager Date

ACCEPTED: Angie Brewer & Associates, LC

By: _____
Consultant/Provider Date

TOWN APPROVAL:

By: _____ By: _____
Town Manager Date Town Attorney Date

Date to Proceed: _____ Cost of STA: $225,511.00

Completion Due Date: December 8, 2025

Date: 04/28/2025

EXHIBIT A

SCOPE OF PROFESSIONAL SERVICES

240-000-0116 Grant and Loan Services

Overview

STA NO. 6: 240-000-0116 Grant and Loan Services

The following services will be provided by Angie Brewer & Associates, LC:

1: Program Coordination

Program Coordination – The Consultant shall coordinate with Town, FDEP, Consulting Engineers, Project Representatives and others as necessary to ensure that all requirements are met. This includes ongoing contact with all personnel related to the project. The Consultant will coordinate and be involved in site visits by funding agency representatives, ie. FDEP, EPA, OIG or DOL. The Consultant shall act as the Liaison between FDEP and the Town to identify and resolve issues regarding the SRF Loan Program. Also, all status and other reporting will be accomplished for successful management and completion of the project. This includes General Funding Services, SRF Loans, Federal and State Grants for specific projects for the Town's eligible activities. This currently includes Stormwater, Drinking Water and Wastewater improvement projects including Tier 1 and any other projects deemed by the Town to be in their best interests.

2: Funding Reconciliation

Funding Reconciliation – The Consultant shall review and compare the project information with the funding documents to ensure that all SRF requirements are met and consistency between all aspects of the project is achieved.

3: Processing

Pay Estimate(s) – The Consultant shall provide professional services to review and verify eligible costs per contractor pay estimate.

Engineering Invoice(s) – The Consultant shall provide professional services to review and verify eligible costs related to engineering.

FDEP Reimbursement Request(s) – The Consultant shall compile required documents and prepare Reimbursement Requests for submittal to FDEP. The Reimbursement Request shall include all properly authorized expenditures for which documentation is available on the date of preparation. The Consultant shall submit the Reimbursement Request to the Engineer for Certification and then to the Town for signature. The Consultant shall be responsible to ensure appropriate parties receive copies of the Reimbursement Request upon receiving the originally signed copy at its office.

Change Order(s) – The Consultant shall review and process Construction Contract Change Orders/Field Changes. This will result in a request for

eligibility determination to be submitted to FDEP. Upon receipt of eligibility determination, all appropriate project information will be modified to allow for the eventual reimbursement of costs if applicable.

4: Program Management

Program Management Meeting(s) – The Consultant shall prepare for and attend Program Management Meetings. Meeting minutes shall be prepared and disseminated to appropriate parties upon completion. These meetings are held for the purpose of discussing FDEP program requirements, reimbursement requests, eligibility requests' status, construction progress, contract changes/issues, payment procedures/status, monitoring issues, additional funding needs and other information regarding the project.

MBE/WBE Monitoring – The Consultant shall provide a form to be completed by the contractor and submitted with each pay estimate. The information submitted by the contractor shall be used to prepare the Minority/Women's Business Enterprises (MBE/WBE) Utilization Report. This report shall be submitted to the Town and FDEP on a monthly basis during construction.

Agency Monitoring Visit(s) – The Consultant shall prepare for and attend agency monitoring visits. The Consultant shall provide responses to any agency questions.

5: Davis-Bacon Compliance

Contractor Compliance Preparation – The Consultant shall review the contractor and subcontractors current Davis Bacon practices and policies to determine compliance with the funding program and funding agreement requirements. The Consultant shall suggest changes required to ensure compliance with the program requirements.

Provide Required Signage – The Consultant shall provide digital or physical copies of required signage with directions for posting the signs. The contractor is responsible for the production and display of the signs.

Compliance Monitoring – The Consultant shall provide monthly monitoring of Federal Labor Standards requirements, including labor interviews and verification of information reported by the contractors and subcontractors during construction.

Certified Payroll(s) – The Consultant shall provide professional services to review and verify certified payrolls as submitted by the contractors and subcontractors. The Consultant shall prepare detailed exception reports as required.

Coordination – The Consultant shall monitor all applicable federal and state regulations. The Consultant shall assist the contractors with conformance of additional wage rates as required for the program.

6: American Iron and Steel (AIS) Compliance

Contractor Compliance Preparation – The Consultant shall review the contractor and subcontractors current materials acquisition processes to determine compliance with the funding program and funding agreement requirements. The Consultant shall suggest methods to ensure compliance with the program requirements.

American Iron and Steel Compliance – The Consultant shall provide

monthly monitoring of the project for compliance with the American Iron and Steel requirements. The Consultant shall complete the required documentation for compliance.

4: Closeout and Audit Assistance

Project Closeout – Consultant shall prepare closeout information required for FDEP regarding the project. The Final Request for Reimbursement is included in this task. This includes the Final Construction Inspection, Preliminary Administrative Closeout, and Final Administrative Closeout conducted by FDEP representatives. The necessary closeout documents shall be prepared regarding final eligibility for construction, engineering, administration, design and other project costs and submitted to FDEP to allow closeout of the loan. This effort will result in the preparation, review and approval of the Final Loan Amendment.

Annual Audit Assistance – The Consultant shall provide necessary data to the Town to allow inclusion of the loan in the required Single Audit Report prepared as part of the Annual Audit. This also includes corresponding with FDEP regarding eligibility requests and assistance during the annual audit.

Project Specific Audit – The Consultant will also provide closeout and other information to the Town's Independent Auditors in order to allow for the required Project Audit within 12 months of execution of the Final Loan Amendment.

Hourly Breakdown:

Labor Category	Principal	Sr. Funding Manager	Senior Project Manager II	Sr. Funding Coordinator	Sr. Funding Specialist	Funding Specialist	Admin/ Clerk II	Admin/ Clerk I
Rate	$185.00	$155.00	$135.00	$110.00	$100.00	$88.00	$63.00	$54.00
Hours	176.00	341.00	143.00	209.00	253.00	321.00	429.00	319.00

Total Cost (of Job): $225,511.00

EXHIBIT B

Date: 04/28/2025

COMPENSATION AND METHOD OF PAYMENT FOR

240-000-0116 Grant and Loan Services

Section 1. BASIC SERVICES/TASK(S)

The TOWN shall compensate the CONSULTANT for providing and performing the Task(s) set forth and enumerated in EXHIBIT "A", entitled "SCOPE OF PROFESSIONAL SERVICES", as follows:

NOTE: A Lump Sum (L.S.) or Not-to-Exceed (N.T.E.) amount of compensation to be paid the CONSULTANT should be established and set forth below for each task or sub-task described and authorized in Exhibit "A". In accordance with Agreement Article 5.02(2) "Method of Payment", tasks to be paid on a Work-in-Progress payment basis should be identified (WIPP).

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (W.I.P.P.)
#1	Grant and Loan Services	$225,511.00	NTE	WIPP
TOTAL		$225,511.00	NTE	

(Unless list is continued on next page)

Section 2. ADDITIONAL SERVICES

The TOWN shall compensate the CONSULTANT for such ADDITIONAL SERVICES as are requested and authorized in writing for such amounts or on such a basis as may be mutually agreed to in writing by both parties to this Agreement. The basis and/or amount of compensation to be paid the CONSULTANT for ADDITIONAL SERVICES requested and authorized in writing by the TOWN shall be as set forth in Article 4 of this Agreement.

Should it be mutually agreed to base compensation for ADDITIONAL SERVICES on an hourly rate charge basis for each involved professional and technical employee's wage rate classification, the applicable hourly rates to be charged are as set forth and contained in ATTACHMENT NO. 1 hereto dated April 28, 2025, entitled "CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE".

Section 3. REIMBURSABLE EXPENSES AND COSTS

When the CONSULTANT'S compensation and method of payment is based on an hourly rate for professional and/or technical personnel, the CONSULTANT shall, in addition to such hourly rates as are set forth in Attachment No. 1 hereto, be entitled to reimbursement of out-of-pocket, non-personnel expenses and costs as set forth in ATTACHMENT NO. 2 hereto April 28, 2025 entitled "NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS".

ATTACHMENT NO. 1 TO EXHIBIT B

Date: 04/28/2025

CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE FOR
240-000-0116 Grant and Loan Services

Consultant or Sub-consultant Name: Angie Brewer & Associates, LC
(A separate Attachment No. 1 should be included for each Sub-Consultant)

(1) Project Position or Classification (Function to be Performed)	(2) Current Direct* Payroll Average Hourly Rate	(3) Multiplier**	(4) Hourly Rate To Be Charged (Column 2x3)
Hourly Rates are fully burdened to include all costs per Collier County Contract			

*NOTE: Direct Payroll hourly rate means the actual gross hourly wage paid.
**NOTE: Indicate applicable multiplier for indirect personnel costs, general administrative & overhead costs, and profit.
***NOTE: A separate personnel hourly rate schedule should also be attached for each Sub-Consultant listed in Exhibit "D".

ATTACHMENT NO. 2 TO EXHIBIT B

Date: 04/28/2025

NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS FOR
240-000-0116 Grant and Loan Services

CONSULTANT OR SUB-CONSULTANT NAME: Angie Brewer & Associates, LC
(A separate Attachment No. 2 should be included for each Sub-Consultant)

ITEM	BASIS OF CHARGE
N/A – Hourly Rates are fully burdened to include all costs per	
Collier County Contract	
NOTE: Receipts or in-house logs are required for all non-personnel reimbursable expenses unless exempt (such as meals).	
Administrative Services Fee – Applicable only when specifically authorized by the Town, for administering the procurement of special additional services, equipment, reimbursables etc. not covered under the costs and/or changes established in the Agreement.	

NOTE: N.T.E. indicates Not-To-Exceed

EXHIBIT C

Date: 04/28/2025

TIME AND SCHEDULE OF PERFORMANCE FOR

240-000-0116 Grant and Loan Services

This EXHIBIT “C” establishes times of completion for the various phases and tasks required to provide and perform the services and work set forth in EXHIBIT "A" of this Agreement. The times and schedule of performance set forth hereinafter is established pursuant to this Agreement.

Phase and/or Task Reference As Enumerated in EXHIBIT “A”	NAME OR TITLE Of Phase and/Task	Number Of Calendar Days For Completion Of Each Phase And/or Task	Cumulative Number Of Calendar Days For Completion From Date of Notice to Proceed
#1	Grant and Loan Services	180 days	180 days

EXHIBIT D

Date: 04/28/2025

CONSULTANT'S ASSOCIATED SUB-CONSULTANT(S) AND SUBCONTRACTOR(S) FOR

240-000-0116 Grant and Loan Services

CONSULTANT has identified the following Sub-Consultant(s) and/or Subcontractor(s) which may be engaged to assist the CONSULTANT in providing and performing services and work on this Project:

(If none, enter the word "none" in the space below.)

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm				Sub-Consultant Services are Exempted from Prime Consultant's Insurance Coverage	
					Yes	No
	NONE					

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2025-405**

1. **Request:**

Meeting Date: May 19, 2025

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, GRANTING AN AMENDED EASEMENT TO EXPAND THE AREA OF AN EXISTING EASEMENT GRANTED TO LEE COUNTY FOR THE PLACEMENT AND OPERATION OF COUNTY-OWNED SEWER MAINS, PIPES, AND FACILITIES; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The Town Council must grant easements on Town owned property.

What the action accomplishes:

The easement amendment will allow for the County to access all of the associated infrastructure for repairs and maintenance.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Resolution	Sarah Propst, Community Development, Planning Manager, Nancy Stuparich, Town Attorney

5. **Background:**

Lee County was granted an easement for a pump station in 1976. The County has determined that some of the infrastructure for the pump station is located outside the easement and is requesting an amendment to the easement area to include all the pump station equipment.

Attachments:

1. Final Resolution Approving Amendment to Utility Easement

Financial Impact:

None

6. **Alternative Action**

7. **Management Recommendations:**

Approve the requested amendment.

8. **Recommended Approval:**

Jason Freeman, Deputy Town Clerk / Legislative Liaison	Created/Initiated - 5/7/2025
Sarah Propst, Community Development, Planning Manager	Approved - 5/7/2025
Frankie Kropacek, Community Development Director	Approved - 5/7/2025
nancy stuparich, Town Attorney	Approved - 5/12/2025
Amy Baker, Town Clerk	Approved - 5/13/2025
Andy Hyatt, Town Manager	Final Approval - 5/13/2025

RESOLUTION NUMBER 25-151

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, GRANTING AN EASEMENT TO EXPAND THE AREA OF AN EXISTING EASEMENT GRANTED TO LEE COUNTY FOR THE PLACEMENT AND OPERATION OF COUNTY-OWNED SEWER MAINS, PIPES, AND FACILITIES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on or about September 15, 1976, the Town of Fort Myers Beach granted Lee County, Florida, an easement over a 20 ft x 20 ft portion of land owned by the Town, located at 2523/2525 Estero Blvd, Fort Myers Beach ("Utility Easement"), and the Utility Easement was recorded in OR 1164, Page 2010, Public Records of Lee County, Florida; and

WHEREAS, the County has requested an amendment to the Utility Easement to expand the Utility Easement Area based upon the County's determination that some of the Lift Station Facilities (underground and aboveground) extend outside the Utility Easement Area; and

WHEREAS, in recognition that the County's operation of the Lift Station Facilities provides a benefit to the general public, the Town Council is agreeable to amending the Utility Easement as provided in the Amendment to Utility Easement in Exhibit A; and

WHEREAS, the Town Council has determined that granting the Amendment to the Utility Easement serves a public purpose and is in the best interests of the Town and its residents.

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

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

Section 2. The Town Council hereby approves and authorizes the Mayor to execute the Amendment to Utility Easement, a copy of which is attached hereto as Exhibit A.

Section 3. Upon acceptance by Lee County, Florida, the County shall record the Amendment to Utility Easement in Exhibit A in the Public Records of Lee County, Florida and provide a recorded copy to the Town Clerk for inclusion in the Town's public records.

Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

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

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

ADOPTED this ___ day of _____ 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

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

_____
Vose Law Firm, LLP, Town Attorney

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

This instrument prepared by:
Lee County, Dept of County Lands
1500 Monroe St, 4th Floor
Fort Myers, FL 33901

Project: Lift Station 2278
STRAP: 19-46-24-W3-00450.A000

AMENDMENT TO UTILITY EASEMENT

This Amendment is executed this ____ day of _____, 2025 by the **TOWN OF FORT MYERS BEACH, FLORIDA**, a political subdivision of the State of Florida, whose mailing address is 2525 Estero Blvd, Fort Myers Beach, FL 33931 (the "**Town**", as Grantor), and **LEE COUNTY**, a political subdivision of the State of Florida, whose mailing address for purposes of this Amendment is Lee County, Department of County Lands,1500 Monroe Street, 4th Floor, Fort Myers, FL 33901 (the "**County**", as Grantee).

Recitals:

A. By *Utility Easement* dated September 15, 1976 recorded in OR 1164, Page 2010, Public Records of Lee County, Florida, the County was granted an easement over a 20 ft x 20 ft portion of land owned by the Town, located at 2523/2525 Estero Blvd, Fort Myers Beach, Lee County, as more particularly depicted and described therein (the "**Easement Area**"), for the placement and operation of County-owned underground sewer mains, pipes and facilities, including without limitation a lift station (collectively, the "**Lift Station Facilities**").

B. The County has determined that some of the Lift Station Facilities (underground and aboveground) extend outside the Easement Area and has requested that the Easement Area be expanded accordingly.

C. In recognition that the County's operation of the Lift Station Facilities provides a benefit to the general public, the Town is agreeable to amending the *Utility Easement* as requested.

D. This Amendment was approved by the Town of Fort Myers Beach Town Council on the ___ day of _____, 2025, and the Mayor was authorized to execute this Amendment.

E. Conveyance of the additional easement area for use by the County for its Lift Station Facilities is in the best interest of the public.

NOW THEREFORE, the parties agree as follows:

1. Grant. Grantor, for and in consideration of $10.00 and the public benefit provided by the County's Lift Station Facilities, does hereby grant and convey to the County a perpetual easement, for the installation and maintenance of the County's Lift Station Facilities, underground and aboveground, in, under and upon the 8.54 ft x 20 ft area depicted and described on the attached Exhibit A-1, labelled thereon as the "**Additional Easement Area**."

2. Restoration. With reference to the County's existing restoration obligations under the *Utility Easement*, the County shall replace or restore all sod, grass, flowers, trees, shrubs, ornamental plantings, driveways, sidewalks, and sprinkler systems located within the Additional Easement Area or Grantor's adjoining property, to their pre-existing condition, when disturbed by the County.

3. Ratification. All terms of the *Utility Easement* not amended hereby and not inconsistent herewith remain in full force and effect.

IN WITNESS WHEREOF, Grantor has caused this Amendment to be executed in Grantor's name.

TOWN OF FORT MYERS BEACH, FLORIDA

BY: _____
Dan Allers, Mayor

ATTEST:
AMY BAKER
TOWN CLERK

_____
TOWN CLERK

APPROVED AS TO FORM BY:

_____
TOWN ATTORNEY

ACCEPTANCE

Approved and accepted for and on behalf of Lee County, Florida, this ____ day of _____, 2025.

ATTEST:
KEVIN C. KARNES,
CLERK OF CIRCUIT COURT

By: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Kevin Ruane, Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY:

BY: _____
County Attorney's Office

Attachment:
Exhibit A-1 – *Sketch and Description of Additional Easement Area (2 pages)*

EXHIBIT A-1

Sketch of Additional Easement Area

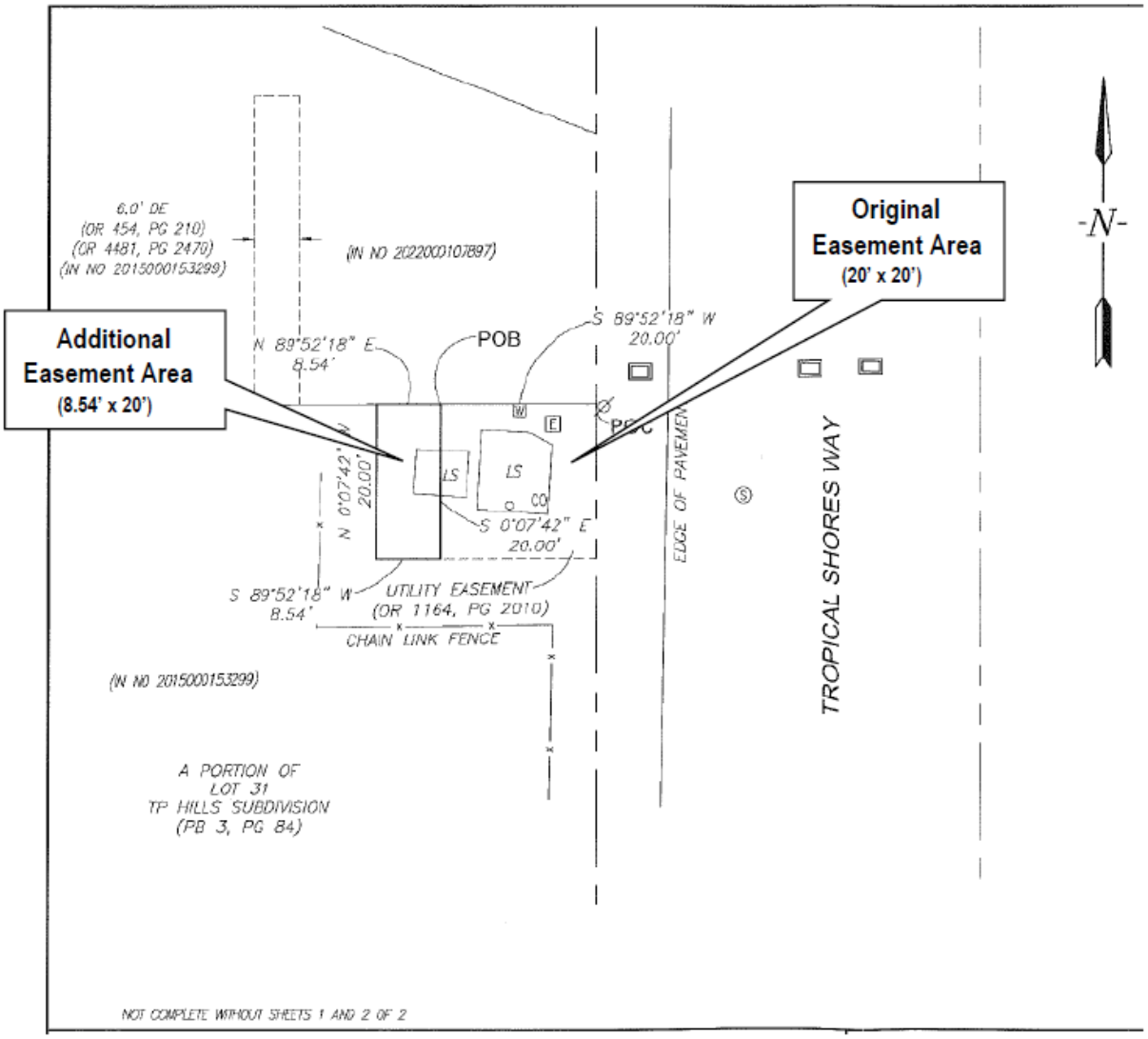


Exhibit A-1 (cont'd)

Description of Additional Easement Area

Lying within Lot 31, TP Hills Subdivision, Plat Book 3, Page 84, Public Records of Lee County, Florida, being more particularly described as follows:

Commence at the northeast corner of the utility easement recorded in Official Records Book 1164, Page 2010, Public Records of Lee County, Florida; thence along the north line of said easement, South 89°52'18" West, for 20.00 feet to the northwest corner of said utility easement and the Point of Beginning of the herein described parcel:

Thence along the west line of said utility easement, South 00°07'42" East, for 20.00 feet to the southwest corner of said easement; thence departing said easement, South 89°52'18" West, for 8.54 feet; thence North 00°07'42" West, for 20.00 feet to a point of intersection with the boundary of the lands described in Instrument Number 2015000153299 of said Public Records; thence along said boundary, North 89°52'18" East, for 8.54 feet to the Point of Beginning of the parcel described herein.

Containing 171 square feet, more or less.

* * *

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2025-344**

1. **Request:**

Meeting Date: May 19, 2025

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RETROACTIVELY APPROVING A FIRST AMENDMENT TO THE EMERGENCY SERVICE PROVIDER AGREEMENT SPA-24-12-EN DATED DECEMBER 16, 2024 BETWEEN THE TOWN OF FORT MYERS BEACH AND ICS MATERIALS, INC. TO 1) EXTEND THE TERM OF SERVICE FROM NOVEMBER 6, 2024 TO DECEMBER 21, 2024 FOR DEBRIS AND HAZARD CLEAN UP SERVICES DUE TO HURRICANE MILTON: AND 2) INCREASE THE NOT TO EXCEED AMOUNT BY $123,287.00 FROM $300,000.00 TO $423,287.00; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Hurricane Milton impacts resulted in dangers to public health and safety blocking the right of way with overwash sand and numerous hazards on the beach that needed to be removed for public health and safety.

What the action accomplishes:

The action taken removed overwash sand, debris and other hazards to public health and safety from the Right of Way, Town Property, and the Beach. This resolution compensates ICS Materials Inc. for Emergency Actions taken to remove hazards to public health and safety caused by Hurricanes Helene and Milton.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Resolution	Chadd Chustz, Environmental Projects Manager

5. **Background:**

Hurricane Milton was an extremely powerful and destructive hurricane which became the second-most intense Atlantic hurricane ever recorded over the Gulf of Mexico, behind only Hurricane Rita in 2005. Milton made landfall on the west coast of the U.S. state of Florida, less than two weeks after Hurricane Helene devastated the state's Big Bend region. The thirteenth named storm, ninth hurricane, fourth major hurricane, and second Category 5 hurricane of the 2024 Atlantic hurricane season, Milton is, so far, the strongest tropical cyclone worldwide in 2024.

The contract was necessary to assist with hazards to public health and safety resulting from the destruction caused by Hurricane Milton and was procured under the powers delegated by the local state of emergency proclamation.

Attachments:

1. Final 25-146, RESOLUTION 1st Amendment SPA-24-12 ICS Milton Cat B (2) (2)
2. 1st Amendment to ICS- Emergency Service Provider Agreement SPA-24-12-EN
3. SPA 24-12-EN Hurricane MILTON ICS Contract 241122 Executed
4. 24-287, Ratify ICS Contract Hurricane Milton Beach Cleanup Signed
5. INV101224-31 ICS Hurricane Milton Additional Side by Sides 10.11.24 - 10.12.24 ($936.00)
6. INV110124-31 ICS Milton Hourly Trucking Disposal 10.18.24 - 11.01.24 ($15,714.00)
7. INV122124-31 ICS Milton Hourly Work 10.19.24 - 12.21.24 ($150,469.00)

Financial Impact:

Emergency protective measures taken in the contracted time of SPA-24-12-EN to protect public health and safety following Hurricane Milton qualify for Category B Public Assistance from FEMA for Category B work completed by January 11, 2025.

6. **Alternative Action**

Do not approve the 1st amendment to SPA-24-12-EN.

7. **Management Recommendations:**

Approve the 1st Amendment to SPA-24-12-EN.

8. **Recommended Approval:**

Chadd Chustz, Environmental Projects Manager	Created/Initiated - 4/25/2025
Frankie Kropacek, Community Development Director	Approved - 4/28/2025
Joe Onzick, Finance Director	Approved - 4/28/2025
nancy stuparich, Town Attorney	Approved - 5/14/2025
Amy Baker, Town Clerk	Approved - 5/14/2025
Andy Hyatt, Town Manager	Final Approval - 5/14/2025

RESOLUTION NUMBER 25-146

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RETROACTIVELY APPROVING A FIRST AMENDMENT TO THE EMERGENCY SERVICE PROVIDER AGREEMENT SPA-24-12-EN DATED DECEMBER 16, 2024 BETWEEN THE TOWN OF FORT MYERS BEACH AND ICS MATERIALS, INC., TO 1) EXTEND THE TERM OF SERVICE FROM NOVEMBER 6, 2024 TO DECEMBER 21, 2024 FOR DEBRIS AND HAZARD CLEAN UP SERVICES DUE TO HURRICANE MILTON: AND 2) INCREASE THE NOT TO EXCEED AMOUNT BY $123,287.00 FROM $300,000.00 TO $423,287.00; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII(2)(b) of the Florida Constitution provides 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 ("Town") empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on October 5, 2024, Governor Ron DeSantis by Executive Order No. 24-214 declared a State of Emergency throughout a certain area designated as Emergency Area ("Emergency Area"), based upon the serious threat to the public health, safety, and welfare posed by Tropical Storm Milton (the "Storm"); and

WHEREAS, on October 6, 2024, the Florida Department of Environmental Protection issued Emergency Final Order OGC NO. 24-2580 for an Emergency Area of 61 counties, including Lee County; and

WHEREAS, on October 6**,** 2024 the Florida Department of Environmental Protection issued Emergency Procurement Order OGC NO. 24-2580 to suspend, to the extent necessary to ensure said emergency response functions, the effect of any statute, rule, or order, including Chapter 255 and Sections 287.055(3)(a)-(d), 4(a)-(d), 5(a)-(c), and 287.057(3), Florida Statutes, and Chapters 60A- 1.002(4), 60A-1.021(2), and 60A-1.043(1)-(3), and 60D-5, Florida Administrative Code, to the extent needed to procure any and all necessary supplies, commodities, services, temporary premises, and other resources to include, without limiting the generality of the foregoing, any and all statutes, rules, and orders which affect budgeting, leasing, printing, purchasing, travel, the conditions of employment, and the compensation of employees as set forth in an established Tracker item at the Florida Emergency Operations Center, as prescribed in the State Comprehensive Emergency Management Plan, as directed by the State Coordinating Officer, or as directed by the Executive Office of the Governor; and

WHEREAS, on October 6, 2024 the Town of Fort Myers Beach approved Resolution 24-214 declaring a state of local emergency as authorized by Section 252.38(3), Florida Statutes, thereby waiving the procedures and formalities otherwise required of political subdivisions and allowing for expedited actions to protect public health, safety, and welfare during Tropical Storm Milton, which later became a hurricane; and

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

WHEREAS, the Town of Fort Myers Beach Code Sec. 2-480 (d) provides the basis for emergency purchase for the Town Manager to make, or authorize others to make, emergency purchases of supplies,

services or construction items when there exists a threat to public health, welfare or safety, provided that such emergency purchases are made with such competition as is practicable under the circumstances.

WHEREAS, on November 22, 2024, the Town Manager retroactively entered into an Emergency Service Provider Agreement (SPA-24-12) with ICS Materials Inc. ("ICS") for emergency removal of debris and other hazards to public health and safety in the Town of Fort Myers Beach caused by Hurricane Milton, and to dispose of the debris at an authorized waste management facility to protect the health and welfare of the citizens and visitors of the Town of Fort Myers Beach, as well as to abate the socioeconomic impacts on the community caused by debris impairing navigable waterways. The term of the agreement was from October 7, 2024 to November 6, 2024; and

WHEREAS, on December 16, 2024, the Town Council ratified contract SPA-24-12 between the Town of Fort Myers Beach and ICS Materials Inc.; and

WHEREAS, SPA-24-12 provided for a not-to-exceed amount of $300,000.00 for costs and services associated with removal and disposal of debris and hazards; and

WHEREAS, the debris and hazards deposited onto the beaches, right-of-way, and Town property by Hurricane Milton substantially exceeded anticipated volume, requiring additional resources, time and efforts by ICS Materials Inc. to remove and dispose of debris; and

WHEREAS, to date the Town has received debris removal and disposal services provided by ICS, as supported by the reasonable circumstances and supporting invoices, in the amount of $423,287.00, of which $167,119.00 remains unpaid; and

WHEREAS, removal and disposal of all debris and hazards was necessary as in the best interest of the health, safety and welfare of the residents of the Town;

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

Section 1. The above recitals are true and correct and are hereby incorporated by reference as though fully set forth herein and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. This Resolution approves the First Amendment to SPA-24-12 with ICS Materials Inc. attached as Exhibit A.

Section 3. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

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

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

ADOPTED this ____ day of _____ 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

ATTEST: **Town of Fort Myers Beach**

_____ _____

Amy Baker, Town Clerk **Dan Allers, Mayor**

APPROVED AS TO FORM & SUFFICIENCY

_____

Vose Law Firm, Town Attorney

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

FIRST AMENDMENT TO EMERGENCY SERVICE PROVIDER AGREEMENT
ICS MATERIALS, INC.

THIS FIRST AMENDMENT is made and entered into this _____ day of _____, 2025, by and between the TOWN OF FORT MYERS BEACH, a Florida municipality, hereinafter referred to as the "Town", and ICS Materials Inc. hereinafter referred to as "ICS", to that certain Emergency Service Provider Agreement SPA-24-12-EN, dated November 22, 2024 ("SPA-24-12") for ongoing emergency services as ratified by the Town Council of the Town of Fort Myers Beach on December 16, 2024.

.

WITNESSETH:

WHEREAS, on November 22, 2024, the Town Manager retroactively entered into SPA-24-12 with ICS, with a not-to-exceed amount of $300,000.00, for a term of 30 days (from the 7th day of October to the 6th day of November 2024) to take emergency measures to remove debris and other hazards to public health and safety in the Town of Fort Myers Beach caused by Hurricane Milton and to dispose of the debris at an authorized waste management facility to protect the health and welfare of the citizens and visitors of the Town of Fort Myers Beach, as well as to abate the socioeconomic impacts on the community caused by debris impairing navigable waterways; and

WHEREAS, on December 16, 2024, the Town Council ratified contract SPA-24-12 between the Town of Fort Myers Beach and ICS; and

WHEREAS, SPA-24-12 provided for a not-to-exceed amount of $300,000.00 for costs associated with removal and disposal of debris and hazards; and

WHEREAS, the debris and hazards deposited onto the beaches, right-of-way, and Town property by Hurricane Milton substantially exceeded anticipated volume, requiring additional resources, time and efforts by ICS to remove and dispose of debris; and

WHEREAS, the total value of debris removal and disposal services provided by ICS, as supported by the reasonable circumstances and supporting invoices, is $423,287.00; and

WHEREAS, removal and disposal of all debris and hazards was necessary as in the best interest of the health, safety and welfare of the residents of the Town;

WHEREAS, the parties further desire to increase the not-to-exceed amount of the initial Agreement from $300,000.00 by $123,287.00 for a total contract not-to-exceed amount of $423,287.00; and

WHEREAS, to date, payment has been made in the amount of $256,168.00 and $167,119.00 is due and owing to ICS for needed work beyond the initial term of the agreement.

NOW, THEREFORE, in consideration of the covenants set forth herein, the parties agree to this Amendment as follows:

1. Amendment. This Amendment hereby retroactively amends and supplements the terms of the Agreement. In the event of a conflict between the terms of the Agreement and terms of this Amendment, the terms of this Amendment shall prevail.

2. Not-to-Exceed Amount. Exhibit "B" of the Agreement is hereby amended to read as follows:

Compensation under this Agreement shall not exceed $423,287.00.

3. Term. The term of the agreement shall be extended from November 6, 2024 to December 21, 2024, which allows for the completion of all work and final payment.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this instrument on the days and year indicated below and the signatories below to bind the parties set forth herein.

Provider:

_____

Print Name: _____

Title: _____

Company: ICS Materials Inc.

ATTEST:

_____
Amy Baker, Town Clerk

Town of Fort Myers Beach

_____
Dan Allers, Mayor

APPROVED AS TO FORM & SUFFICIENCY

_____
Vose Law Firm, Town Attorney

Rev. 2-25

EMERGENCY SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT is entered into on this 16 **day of** December **2024** by and between the **TOWN OF FORT MYERS BEACH**, 2731 Oak Street, Fort Myers Beach, FL 33931, a chartered municipality of the State of Florida (hereafter "Town"), and **ICS MATERIALS, INC.** with an address of **16301 Palm Beach Blvd, Unit 3, Alva, FL 33920** (hereafter "Provider).

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

1. Scope of Services. Provider will perform all services and work necessary as set forth in "Scope of Services" attached as Exhibit "A". Provider warrants and represents that it is qualified, willing and able to provide and perform all services in accordance with the terms of this Agreement. The parties have the ability to modify the Scope of Services by mutual written agreement, except that the Town has the unilateral right to exclude specified services hereunder for any reason upon prior written notice to Provider and Provider will not be entitled to compensation for such excluded services unless those services have already been performed by Provider.

2. Term. The term of this Agreement is **30 days** retroactive from **7th Day of October** to the **6th day of November 2024.**

3. Payment Obligation. The Town will pay for all requested and authorized services rendered hereunder by the Provider and completed in accordance with this Agreement, as set forth in attached Exhibit "B". The Provider's invoice statements must contain a breakdown of charges, description of services and work provided or performed, and, where appropriate, supportive documentation of charges consistent with the basis of compensation set forth in this Agreement. In the event of a dispute as to the Town's payment obligation, the Town will pay the undisputed amount, if any, within 30 days of the date of the invoice.

3. Provider's Obligations. The Provider's obligations include, but are not limited to, the following:

   a) *Licensure.* The Provider will maintain all licenses and certifications required by governmental agencies responsible for regulating and licensing the services provided and performed by the Provider.

   b) *Provision of Services.* The Provider will perform all services pursuant to this Agreement in accordance with generally accepted standards of professional practice and in accordance with the laws, statutes, ordinances, codes, rules, regulations and requirements of governmental agencies that regulate or have jurisdiction over the services to be provided or performed by the Provider. All personnel assigned by Provider hereunder will be qualified to perform such duties. Provider will designate one person as the point of contact for the Town regarding its duties hereunder. Provider is solely responsible for all taxes incurred by Provider and will make all deductions required of employers by state, federal and local laws.

c) *Non-Waiver.* Neither review, approval, nor acceptance by Town of data, studies, reports, memoranda, and incidental professional services, work and materials furnished hereunder by the Provider will in any way relieve Provider of responsibility for the adequacy, completeness and accuracy of its services, work and materials.

d) *Indemnity and Hold Harmless*. The Provider agrees to indemnify and hold harmless the Town, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Provider and persons employed or utilized by Provider in providing services under this Agreement.

e) *Non-Public Information*. The Provider agrees, during the term of this Agreement, not to divulge, furnish or make available to any third person, firm, or organization, without the Town's prior written consent, or unless incident to the proper performance of Provider's obligations hereunder, or as provided for or required by law, any non-public information concerning the services to be rendered by Provider. Provider will require all of its employees and agents to comply with the provisions of this paragraph.

f) *Statutory Duties.* The duties and obligations imposed upon the Provider by this Agreement and the rights and remedies available to the Town hereunder will be in addition to, and not a limitation of, any otherwise imposed or available by law or statute.

g) *Disclosure.* The Provider warrants it has not employed or retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for it, any fee, commission, percentage, gift or other compensation contingent upon or resulting from the award or making of this Agreement.

5. Commencement and Completion of Work. The Town will provide written notice to the Provider regarding commencement of services under this Agreement. Time is of the essence in the performance of this Agreement. The Provider agrees to commence work promptly and carry on all services and work as may be required in a timely and diligent manner to completion. Should the Provider fail to commence, provide, perform, and complete any of the services and work required hereunder in a timely and diligent manner, the Town may terminate this Agreement, in addition to any other remedies the Town may have.

6. Insurance. The Provider will have, and maintain, during the entire period of this Agreement, all such insurance (or self-insurance) as set forth on Exhibit "C". Each Certificate of Insurance must include the name and type of policy and coverages provided; the amount or limit applicable to each coverage provided; the date of expiration of

coverage; the designation of the Town of Fort Myers Beach as additional insured and as certificate holder, except as to Professional Liability Insurance and Workers' Compensation Insurance.
Should any of these policies be cancelled before the expiration date thereof, Provider will instruct the issuing company to mail 30 days written notice to the Town of such cancellation.

7. Inclusion of Additional Documents. Any request for bids and/or request for proposal, along with all exhibits or other attachments thereto as issued by the Town, are hereby incorporated by reference. In addition, the following Exhibits are attached hereto and hereby incorporated by reference: Exhibit "A"; Exhibit "B"; Exhibit "C"; Exhibit "D; Exhibit "E".

8. Termination of Agreement. Either party may terminate this Agreement without cause upon 30 calendar days' prior written notice to the other, in which case the Town will compensate the Provider for all services performed prior to the effective date of termination and reimbursable expenses then due.

9. Assignment, Transfer and Subcontracts. The Provider may not assign or transfer any of its rights, benefits, or obligations hereunder, except for transfers that result from the merger or consolidation of Provider with a third party. The Provider has the right, subject to the Town's prior written approval, to employ other persons and firms to serve as subcontractors to Provider in connection with its performance of services and work pursuant to this Agreement.

10. Maintenance of Records. The Provider will keep and maintain adequate records and supporting documentation applicable to all the services, work, information, expense, costs, invoices and materials provided and performed pursuant to this Agreement. Said records and documentation will be retained by the Provider for a minimum of three years from the date of termination of this Agreement, or for such period as required by law. The Town and its authorized agents will, with reasonable prior notice, have the right to audit, inspect and copy all such records and documentation as often as the Town deems necessary during the term of this Agreement and the next succeeding three years.

11. Public Records. The following provisions are required by §119.0701, Fla. Stat., and may not be amended. Provider shall keep and maintain public records required by the Town to perform the services required under this Contract. Upon request from Town's custodian of public records, Provider shall provide Town with a copy of any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. Contractor shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract's term and following completion of the Contract if Contractor does not transfer the public records to Town. Upon completion of the Contract, Contractor may transfer, at no cost, to Town all public records in possession of Contractor or keep and maintain public records required by Town to perform the services required under the Contract. If Contractor transfers all public records to Town upon completion of the Contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of the

Contract, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Town, upon request from Town's custodian of public records, in a format that is compatible with Town 's information technology systems. The failure of Contractor to comply with the provisions set forth in this Section shall constitute a Default and Breach of this Agreement, for which, the Town may terminate the Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF THE PUBLIC RECORDS AT (239) 765-0202, FMBPUBLICRECORDS@FMBGOV.COM, 2731 OAK ST. ESTERO BOULEVARD, FORT MYERS BEACH, FLORIDA 33931.

12. References to Town. Public Records Compliance Indemnification. Provider agrees to indemnify and hold the Town harmless against any and all claims, damage awards, and causes of action arising from the Provider's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by Provider's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Provider authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Provider in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.

13. References to Town. All references to "the Town" or "the Town of Fort Myers Beach" are deemed to include its employees, agents, and authorized representatives.

14. Modification. Except as set forth in Paragraph 1 above, modifications to this Agreement will be valid only when made in writing and signed by both parties. In the event of a conflict between the requirements, provisions, or terms of this Agreement and any subsequent written modification hereto, the most recently executed document will take precedence.

15. E-Verify Compliance. By entering into this Agreement, the Contractor is obligated to comply with the provisions of Section 448.095, Florida Statutes "Employment Eligibility," as amended from time to time. This includes but is not limited to register with and use the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, as amended and Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to the Town as a result of the termination of this Agreement in accordance with this paragraph. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Florida Statutes, Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien,

and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Florida Statutes.

a. Town, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but Contractor otherwise complied, shall promptly notify Contractor and Contractor shall immediately terminate the contract with the subcontractor.

b. A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), Fla. Stat. Contractor acknowledges that upon termination of this AGREEMENT by the Town for a violation of this section by Contractor, Contractor may not be awarded a public contract for at least one (1) year. Contractor further acknowledges that Contractor is liable for any additional costs incurred by the Town as a result of termination of any contract for a violation of this section.

c. *Subcontracts.* Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

16. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars ($1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars ($1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

17. Non-appropriation. Town's performance and obligation to pay under this Agreement is contingent upon an appropriation during the Town's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by

memorandum from the Town Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year end shall be without penalty or expense to the Town subject to the Town paying all invoices for services rendered during the period the Agreement was funded by appropriations.

18. Compliance/Consistency with Scrutinized Companies **Provisions of Florida Statutes.** Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars ($1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars ($1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

19. Disclosure Requirements for "Foreign Countries of Concern." Contractor shall comply with the disclosure requirements set forth is Section 286.101(3)(a), Florida Statutes, which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of $100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of $50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to section 268.101(7), Florida Statutes: "In addition to any fine assessed under [section 286.101(7)(a), Florida Statutes], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause."

20. Venue and Jurisdiction. Notwithstanding any of other provision to the contrary, this Agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally consents to submit and does submit to the jurisdiction of the Circuit Court in and for Lee County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement.

21. Attorneys' Fees and Costs. Notwithstanding any of other provision to the contrary, if litigation ensues regarding this Agreement, each party hereto shall bear its own attorneys' fees and costs.

22. Public Entities Crime or Convicted Vendor List. Contractor agrees and assumes a continuous duty to disclose to the Town if the Contractor or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.

23. Data Management; Notice of Breach. Contractor shall cooperate with the Town and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports, etc., which the Town must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.

24. Environmental and Social Government and Corporate Activism. The Town has not given preference or requested documentation from the Contractor based on Contractor's social, political or ideological interest. Contractor agrees to similarly not request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.

25. Taxes. The Town shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency to the extent that the Town is exempt from same by Florida law, including but not limited to any sales or use tax.

26. No coercion for labor or services. The Contractor swears under penalty of perjury that the Contractor does not use coercion for labor or services as defined as follows:

"Coercion" means:

1. Using or threatening to use physical force against any person;
2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
5. Causing or threatening to cause financial harm to any person;
6. Enticing or luring any person by fraud or deceit; or
7. Providing a controlled substance as outlined in Schedule I or Schedule II of Sec. 893.03, Fla. Stat. to any person for the purpose of exploitation of that person.

27. Additional Terms. The parties further agree as follows:

A. Federal Emergency Management Agency Supplemental Conditions. The terms and conditions contained in the Federal Emergency Management Supplemental Conditions attached as Exhibit E are incorporated by reference herein.

28. Miscellaneous Provisions.

a) *Applicable Law.* This Agreement is governed by the laws of the State of Florida.

b) *Non-Discrimination.* The Provider covenants that in the furnishing of services hereunder, no person on the grounds of race, color, national origin, handicap, or sex will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

c) *Headings.* The headings of the Articles, Sections, Exhibits, and Attachments in this Agreement are for the purpose of convenience only and may not be deemed to expand, limit or change the provisions contained in such Articles, Section, Exhibits and Attachments.

d) *Entire Agreement.* This Agreement, including any Exhibits, constitutes the entire Agreement between the parties and supersedes all prior agreements or understandings, written or oral, relating to the matters set forth herein.

e) *Notices.* All notices required under this Agreement must be in writing and sent via U.S. Postal Service, first class mail, to the other party's address as listed at the beginning of this Agreement. Either party may change its address by prior written notice to the other party.

IN WITNESS WHEREOF, the parties have executed this Agreement as set forth below.

TOWN OF FORT MYERS BEACH

BY: _____
Andrew Hyatt, Town Manager

ATTEST:

BY: _____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

BY: _____
Town Attorney

PROVIDER: **ICS Materials**

BY: _____
Signature

_____
Witness Signature

Jason Clark
Printed name of person signing

Sara Louis
Printed name of witness

President
Title (printed)

EXHIBIT "A"

TO THE EMERGENCY SERVICE PROVIDER AGREEMENT DATED THE 7th DAY OF OCTOBER 2024 BETWEEN THE TOWN AND PROVIDER.

1. *SCOPE OF SERVICES*: The Provider will perform the following services under this Agreement:

Provide emergency measures to protect public life, health, and safety within the jurisdiction of the Town of Fort Myers Beach as directed by Town Staff including:

- Clear roads of storm generated overwash sand and debris by collecting, removing, transporting and staging storm generated overwash sand and debris from the right of way and public areas to Town Staff approved disaster debris management sites and landfills.
- Collect, remove and dispose of storm related construction, demolition and vegetative debris from the beach to Town Staff approved disaster debris management sites and landfills.
- Clear beach accesses of storm generated overwash sand and debris by collecting, removing, transporting and staging storm generated overwash sand and debris from the right of way and public areas to Town Staff approved disaster debris management sites and landfills.

Storm-related debris must be properly disposed of at Town approved and permitted waste management facility authorized to accept the type of debris offered for disposal. The Provider shall provide the Town with all compliance documentation including tipping fee receipts, truck tickets, waste disposal facility location and disposal facility permit information.

Newton Park, Bay Oaks Recreational Campus, and Waistina Way Parking Lot shall be used as the Disaster Debris Management Site for staging and handling of debris as directed by Town Staff. All debris Receipt documentation of proper disposal of debris from the disposal facility shall be submitted to Town Staff within 7 days of disposal.

All Provider operators and subcontractors shall provide the Town with complete Florida Recovery Obligation Calculation Individual and Team Forms daily to support operator and equipment claims.

Provider shall comply with all Federal, State, and Local Rules and guidelines for Storm debris removal and construction on the Beach, including the United States Fish and Wildlife Service 2015 Statewide Programmatic Biological Opinion, the State issued Executive Order 24-2222, the Florida Fish & Wildlife Conservation Guidelines for Driving on the Beach, and the Florida Department of Environmental Protection Guidance for Establishment, Operation, and Closure of Disaster Debris Management Sites, United States National Marine Fisheries Service Sea Turtle and Saw Fish Construction Conditions, and the United States Fish and Wildlife Service EHP FEMA Statewide Programmatic Consultation.

EXHIBIT "B"

TO THE EMERGENCY SERVICE PROVIDER AGREEMENT DATED THE 7th DAY OF OCTOBER 2024 BETWEEN THE TOWN AND PROVIDER.

PAYMENT OBLIGATION

The Town will pay the Provider as follows for all services listed in Exhibit "A":

The Town will compensate the Provider on a time and materials basis for staff labor, equipment and vehicle equipment usage, and actual disposal costs incurred in the performance of the scope of services listed in Exhibit A and at the rates identified in Exhibit D.

The Provider will receive no compensation for mobilization to the site.

Invoicing for services must include the following documentation to support labor, equipment and vehicle usage, and disposal charges:

- List of vehicles and equipment used in providing services with type of equipment vehicle including capacity and size necessary to determine correct equipment rental rates.
- Proof of proper disposal of debris including but not limited to receipts for tipping fees for other charges from a properly permitted solid waste disposal facility
- Daily records for each operator assigned to the project describing work performed and equipment used in providing services claimed
- Supervisor and employee-approved timecards or timesheets which support the number of hours charged for individual staff members

The Provider will not be reimbursed for any fuel, mileage, or other expenses incidental to the operation of equipment or vehicles. The Provider will be reimbursed for properly documented staff time as may be required by federal, state or local regulations or laws.

Compensation under this Agreement shall not exceed $300,000.

EXHIBIT "C"

INSURANCE: The Provider shall obtain and maintain the following insurance coverages:

a) Workers Compensation Coverage to comply for all employees for Statutory Limits in compliance with the applicable State and Federal laws;

b) Employer's Liability with a minimum limit per accident in accordance with statutory requirements.

c) Commercial General Liability Insurance with minimum limits of $500,000 per occurrence and $500,000 aggregate for Bodily Injury Liability and a minimum limit of $500,000 for Property Damage Liability, or a minimum combined single limit of $1,000,000.

d) Business Automobile Liability Insurance with minimum limits of $500,000 per person and $500,000 per accident for Bodily Injury Liability and a minimum limit of $500,000 for Property Damage Liability, or a minimum combined single limit of $500,000, with coverage including owned vehicles, hired and non-owned vehicles, and employee non-ownership.

EXHIBIT "D"

ICS Materials Inc. Rate Sheet			
Project:	Hurricane Milton		
Location:	Fort Myers Beach, FL		
Category	Description	Hourly Rate	
Equipment:	740 B - Off Road End Dump	$	208.23
	950 CAT Loader	$	135.07
	Mid Island Tractor	$	95.00
	ISC Kubota Tractor	$	95.00
	Rake Attachment	$	19.55
	Kubota Skidsteer	$	85.64
	Clamshell Attachment	$	6.91
	CAT D3 Dozer	$	125.64
	Broom Sweeper	$	142.99
	12 CY Dump Trailer	$	35.00
	2500 Dodge Ram	$	36.62
	Side by Side	$	28.00
Labor:	Supervisor Standard Time	$	78.00
	Supervisor Overtime	$	117.00
	Operator Standard Time	$	50.00
	Operator Overtime	$	75.00
	Laborer Standard Time	$	43.00
	Laborer Overtime	$	64.50

EXHIBIT "E"

ADDITIONAL TERMS – SUPPLEMENTAL FEDERAL EMERGENCY MANAGEMENT AGENCY SUPPLEMENTAL CONDITIONS

FEDERAL EMERGENCY MANAGEMENT AGENCY PUBLIC ASSISTANCE

The supplemental conditions contained in this section are intended to cooperate with, to supplement, and to modify the general conditions and other specifications. In cases of disagreement with any other section of this contract, the Supplemental Conditions shall govern. This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract.

Pursuant uniform requirements of federal awards (2 CFR Part 200.23) the definition of CONTRACTOR is an entity that receives a Contract / Purchase Order.

Compliance with Federal Law, Regulations and Executive Orders: The Sub-Recipient (Town) agrees to include in the subcontract that (i) the subcontractor is bound by the terms of the Federally- Funded Subaward and Grant Agreement, (ii) the subcontractor is bound by all applicable state and Federal laws and regulations, and (iii) the subcontractor shall hold the Division and Sub-Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law.

Specifically, the Contractor shall be responsible for being knowledgeable and performing any and all services under this contract in accordance with the following governing regulations along with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

- 2 C.F.R. Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 44 C.F.R. Part 206
- The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121 et seq., and Related Authorities
- FEMA Public Assistance Program and Policy Guide

Access to Records: The contractor agrees to provide the Town, the Florida Department of Emergency Management, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representative's access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. (3) The contractor agrees to provide the FEMA Administrator or his authorized representatives' access to construction or other work sites pertaining to the work being completed under the contract. (4) In compliance with section 1225 of the Disaster Recovery Act of 2018, the Town and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

Affirmative Socioeconomic Steps If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Changes: To be allowable under a FEMA grant or cooperative agreement award, the cost of any contract change, modification, amendment, addendum, change order, or constructive change must be necessary, allowable, allocable, within the scope of the grant or cooperative agreement, reasonable for the scope of work, and otherwise allowable.

DHS Seal, Logo, and Flags: The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval. The contractor shall include this provision in any subcontracts.

Domestic Preference for Procurements 200.322 As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

For purposes of this section: "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

License and Delivery of Works Subject to Copyright and Data Rights: The Contractor grants to the Town, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the Town or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the Town data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the Town.

No Obligation by Federal Government: The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

Prohibition on Covered Telecommunications Equipment or Services
(a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy, #405-143-1 Prohibitions on Expending FEMA Award Funds forcovered Telecommunications Equipment or Services As used in this clause –

(b) Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

(i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
(ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
(iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
(iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

(1) This clause does not prohibit contractors from providing — (i). A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or (ii). Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to: (i). Covered telecommunications equipment or services that: i. Are not used as a substantial or essential component of any system; and ii. Are not used as critical technology of any system. (ii). Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) Reporting requirement.

(1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause: (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer

number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended. (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph(e), in all subcontracts and other contractual instruments.

Program Fraud and False or Fraudulent Statements or Related Acts: The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

Rights to Inventions Made Under a Contract or Agreement: Exempt from FEMA Public Assistance Funding

Suspension and Debarment: (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. (3) This certification is a material representation of fact relied upon by the Town. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Town, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Procurement of Recovered Materials (§200.323) (Over $10,000): In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired— Competitively within a timeframe providing for compliance with the contract performance schedule; Meeting contract performance requirements; or At a reasonable price. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines webpage:

https://www.epa.gov/smm/comprehensive- procurement-guideline-cpg-program.

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

Termination for Cause and Convenience (over $10,000): See Standard Purchase Order and/or Contract Terms and Conditions

Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352 (as amended) (over $100,000): Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient."

Contractors must sign and submit a certification to the Town with each bid or offer exceeding $100,000. See Certifications and Assurances and the end of this document.

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) (over $100,000): Where applicable, all contracts awarded by the solicitor in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of $27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Town or FEMA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

For contracts that are only subject to Contract Work Hours and Safety Standards Act and are not subject to the other statutes in 29 C.F.R. § 5.1
"Further Compliance with the Contract Work Hours and Safety Standards Act.

(1) The contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.
(2) Records to be maintained under this provision shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

Clean Air Act (over $150,000): 1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. 2. The contractor agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. 3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act (over $150,000): 1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. 2. The contractor agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. 3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

Administrative, Contractual, or Legal Remedies (over $250,000): Unless otherwise provided in this contract, all claims, counter-claims, disputes and other matters in question between the local government and the contractor, arising out of or relating to this contract, or the breach of it, will be decided by arbitration, if the parties mutually agree, or in a Florida court of competent jurisdiction.

CONSTRUCTION ACTIVITIES

Equal Employment Opportunity Clause (§60-1.4): Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4.

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor

union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part an the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Davis Bacon Act: Exempt under FEMA Public Assistance Funding

Copeland Anti-Kickback Act: Exempt under FEMA Public Assistance Funding

STATE OF FLORIDA PROVISIONS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSITANCE PROGRAM

Applicable Laws - The Town and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. The Town shall include this provision in all contracts issued.

Data Collection: The Project shall be conducted in accordance with the terms and conditions set forth under this Agreement, all applicable Department permits and the eligible Project task items established below. All data collection and processing, and the resulting product deliverables, shall comply with the standards and technical specifications contained in the Department's Monitoring Standards for Beach Erosion Control Projects (2014) and all associated state and federal permits, unless otherwise specified in the approved scope of work for an eligible Project item. The monitoring standards may be found at: Project Monitoring (floridadep.gov)

In order to comply with Florida Auditor General report 2014-064 regarding conflicts of interest and to be consistent with Section 287.057(I7)(a)(I), F.S., **all monitoring data and statistical analysis must be provided directly and concurrently from the monitoring contractor to the Florida Department of Environmental Protection/Town/permittee/engineering consultant**. The Town's engineering consultant must provide an adequate mitigation plan, consistent with Section 287.057(17)(a)(I), F.S., including a description of organizational, physical, and electronic barriers to be used by the Town's engineering consultant, that addresses conflicts of interest when contracting multi-disciplinary firms for Project engineering and post-construction environmental monitoring services, or when the Project engineering consultant firm subcontracts for post-construction environmental monitoring. Environmental monitoring includes hardbottom, seagrass, and mangrove resources.

Equal Employment Opportunity: No person on the ground of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of, otherwise subjected to discrimination.

Inspector General Cooperation: The Parties agree to comply with Section 20.055(5), Florida Statutes, for the inspector general to have access to any records, data and other information deemed necessary to carry out his or her duties and incorporate into all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

Lobbying: No funds received pursuant to this Agreement may be expended for lobbying the Legislature, the judicial branch or a state agency.

Local Preference: Pursuant to Section 255.0991, F.S. local vendor preference is not applicable

Physical Access and Inspection: Grantor personnel shall be given access to and may observe and inspect work being performed under this Agreement, with reasonable notice and during normal business hours, including by any of the following methods:

i. The Town shall provide access to any location or facility on which Town is performing work, or storing or staging equipment, materials or documents.

ii. TheTown shall permit inspection of any facility, equipment, practices, or operations required in performance of any work pursuant to this Agreement; and,

iii. The Town shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any work or legal requirements pursuant to this Agreement.

Record Retention: A. The contractor shall maintain and retain sufficient records demonstrating its compliance with the terms of the Agreement for a period of at least five (5) years after final payment is

made and shall allow the Town, the State, or its authorized representatives access to such records for audit purposes upon request.

Statutory Notices Relating to Unauthorized Employment: The Town shall consider the employment by any Contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement

Statutory Notices Relating to Subcontracts: Pursuant to Sections 287.133 and 287.134, F.S., the following restrictions apply to persons placed on the convicted vendor list or the discriminatory vendor list:

i. **Public Entity Crime.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

ii. **Discriminatory Vendors**. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

iii. **Notification**. The Grantee shall notify Department if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list or the discriminatory vendor list during the life of the Agreement. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and posts the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at (850) 487-0915.

Compliance with Federal Law, Regulations, And Executive Orders and Acknowledgement of Federal Funding

Certification

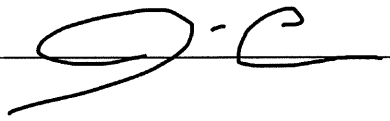
This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

If the Contractor subcontracts any of the work required under this Agreement, a copy of the signed subcontract must be available to the Town for review and approval. The Contractor agrees to include in the subcontract that (1) the subcontractor is bound by the terms of this Agreement, (ii) the subcontractor is bound by all applicable state and federal laws and regulations, and (iii) the subcontractor shall hold the Town and the Grantor Agency harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law. The Town may document in the quarterly report the Contractor's progress in performing its work under this agreement.

On behalf of my firm, I acknowledge, the grant requirements identified in this document.

Vendor/Contractor Name ICS Materials Inc

Date 11/22/2024

Authorized Signature 

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY and VOLUNTARY EXCLUSION

Contractor Covered Transactions

(1) The prospective subcontractor of the Sub-recipient, Town, certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the Sub-recipient's subcontractor is unable to certify to the above statement, the prospective contract shall attach an explanation to this form.

CONTRACTOR

ICS Materials Inc

By: _____
Signature

Jason Clark - President
Name and Title

16301 Palm Beach Blvd. Unit 3
Street Address

Alva, FL 33920
City, State, Zip

RRA8DYJAMNK3
UEI Unique Entity Identifier (for SAM.gov verification)

11/22/2024
Date

Sub-Recipient Name: Town of Fort Myers Beach

DEM Contract Number: TBD

FEMA Project Number: TBD

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

TOWN OF FORT MYERS BEACH
ANTICIPATED DISADVANTAGED, MINORITY, WOMEN OR VETERAN PARTICIPATION STATEMENT

Status will be verified. Unverifable statuses will require the PRIME to either provide a revised statement or provide source documentation that validates a status.

A. PRIME VENDOR/CONTRACTOR INFORMATION

PRIME NAME	PRIME FEID NUMBER	CONTRACT DOLLAR AMOUNT

IS THE PRIME A FLORIDA-CERTIFIED DISADVANTAGED, MINORITY OR WOMEN BUSINESS ENTERPRISE? (DBE/MBE/WBE) OR HAVE A SMALL DISADVANTAGED BUSINESS 8A CERTIFICATION FROM THE SMALL BUSINESS ADMINISTRATION? A SERVICE DISABLED VETERAN?	VETERAN Y N DBE? Y N MBE? Y N WBE? Y N SDB 8A? Y N	IS THE ACTIVITY OF THIS CONTRACT...	CONSTRUCTION ? Y N CONSULTATION? Y N OTHER? Y N		
IS THIS SUBMISSION A REVISION?	Y N	IF YES, REVISION NUMBER_____			

B. IF PRIME HAS SUBCONTRACTOR OR SUPPLIER WHO IS A DISADVANTAGED MINORITY, WOMEN-OWNED, SMALL BUSINESS CONCERN OR SERVICE DISABLED VETERAN, PRIME IS TO COMPLETE THIS NEXT SECTION

DBE M/WBE VETERAN	SUBCONTRACTOR OR SUPPLIER NAME	TYPE OF WORK OR SPECIALTY	ETHNICITY CODE (See Below)	SUB/SUPPLIER DOLLAR AMOUNT	PERCENT OF CONTRACT DOLLARS
			TOTALS:		

C. SECTION TO BE COMPLETED BY PRIME VENDOR/CONTRACTOR

NAME OF SUBMITTER	DATE	TITLE OF SUBMITTER
EMAIL ADDRESS OF PRIME (SUBMITTER)	**TELEPHONE NUMBER**	**FAX NUMBER**

NOTE: This information is used to track and report anticipated DBE or MBE participation in federally-funded contracts. The anticipated DBE or MBE amount is voluntary and will not become part of the contractual terms. This form must be submitted at time of response to a solicitation. If and when awarded a County contract, the prime will be asked to update the information for the grant compliance files.

ETHNICITY	CODE
Black American	BA
Hispanic American	HA
Native American	NA
Subcont. Asian American	SAA
Asian-Pacific American	APA
Non-Minority Women	NMW
Other: not of any other group listed	O

D. SECTION TO BE COMPLETED BY TOWN OF FORT MYERS BEACH

DEPARTMENT NAME	FMB CONTRACT # (ITB/RFP or PO/REQ)	GRANT PROGRAM/CONTRACT

ACCEPTED BY:	DATE

LOBBYING CERTIFICATION
(To be submitted with each bid or offer exceeding $100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

ICS Materials Inc
Contractor (Firm Name)

Signature of Contractor's Authorized Official

Jason Clark - President
Name and Title of Contractor's Authorized Official

11/22/2024
Date

RESOLUTION NUMBER 24-287

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN SEPTEMBER 27, 2024, UNDER THE EMERGENCY PROCUREMENT POLICY TO CONTRACT WITH ICS MATERIALS INC. TO TAKE EMERGENCY PROTECTIVE MEASURES TO REMOVE HAZARDS TO PUBLIC HEALTH AND SAFETY FROM THE BEACH; AUTHORIZING PAYMENT OF INVOICE INV101824-31 IN THE AMOUNT OF $256,167.25; 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 ("Town") empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on October 5, 2024 Governor Ron DeSantis by Executive Order No. 24-214, declared a State of Emergency throughout the Emergency Area based upon the serious threat to the public health, safety, and welfare posed by the Storm; and

WHEREAS, on October 6, 2024, the Florida Department of Environmental Protection issued Emergency Final Order OGC NO. 24-2580 for an Emergency Area of 61 counties including Lee County; and

WHEREAS, on October 6**,** 2024 the Florida Department of Environmental Protection issued Emergency Procurement Order OGC NO. 24-2580 to suspend, to the extent necessary to ensure said emergency response functions, the effect of any statute, rule, or order, including Chapter 255 and Sections 287.055(3)(a)-(d), 4(a)-(d), 5(a)-(c), and 287.057(3), Florida Statutes, and Chapters 60A- 1.002(4), 60A-1.021(2), and 60A-1.043(1)-(3), and 60D-5, Florida Administrative Code, to the extent needed to procure any and all necessary supplies, commodities, services, temporary premises, and other resources to include, without limiting the generality of the foregoing, any and all statutes, rules, and orders which affect budgeting, leasing, printing, purchasing, travel, the conditions of employment, and the compensation of employees as set forth in an established Tracker item at the Florida Emergency Operations Center, as prescribed in the State Comprehensive Emergency Management Plan, as directed by the State Coordinating Officer, or as directed by the Executive Office of the Governor; and

WHEREAS, on October 6, 2024 the Town of Fort Myers Beach approved Resolution 24-214 declaring a state of local emergency as authorized by Section 252.38(3), Florida Statutes, thereby waiving the procedures and formalities otherwise required of political subdivisions by; and

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

WHEREAS, the Town of Fort Myers Beach Code Sec. 2-480 (d) provides the basis for emergency purchase for the Town Manager to make, or authorize others to make, emergency purchases of supplies, services or construction items when there exists a threat to public health, welfare or safety; provided that such emergency purchases are made with such competition as is practicable under the circumstances.

WHEREAS, on November 22, 2024 the Town Manager entered into a contract with ICS Materials, Inc. for a term of 30 days (from 7th Day of October to the 6th day of November 2024.) to remove debris deposited by Hurricane Milton from the righto of way, town properties and beaches within the Town's jurisdiction in order to protect the health and welfare of the citizens and visitors of the Town of Fort Myers Beach, as well as to protect the financial well-being of the businesses in the Town that depend on tourism; and

WHEREAS, the contract with ICS Materials, Inc. was for a not-to-exceed amount of $300,000, which requires ratification by the Town Council;

WHEREAS, the ICS Materials, Inc. invoice INV101824-31 in the amount of $256,167.25 requires approval for payment by the Town Council;

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

Section 1. The above recitals are true and correct and are hereby incorporated by reference as though fully set forth herein and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. This Resolution memorializes and ratifies the actions of the Town to contract with ICS MATERIALS INC. for removal of hazards to public safety from the right of way, Town properties, and the beach for a period of 30 days for a not-to-exceed amount of $300,000 and approves the Town Manager’s emergency procurement.

Section 3. This Resolution authorizes payment of invoice INV101824-31 in the amount $256,167.25 to ICS MATERIALS INC. for services rendered.

Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

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

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

ADOPTED this 16th day of December 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers
Dan Allers (Feb 1, 2025 09:12 EST)

Dan Allers, Mayor

ATTEST:

Amy Baker (Jan 31, 2025 16:21 EST)

Amy Baker, Town Clerk

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

Nancy Stuparich
Nancy Stuparich (Jan 31, 2025 12:53 EST)

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 18th day December 2024.

ICS Materials Inc.
16301 Palm Beach Blvd Unit 3
Alva, FL 33920 US
(239) 839-0862
info@floridacontractors.us

Invoice

BILL TO
Town of Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

INVOICE	INV101224-31
DATE	10/12/2024
TERMS	Net 7
DUE DATE	10/19/2024

DESCRIPTION	QTY	RATE	AMOUNT
Town of Fort Myers Beach Project: Hurricane Milton Additional Side by Side Work Date: October 11, 2024	1	351.00	351.00
Date: October 12, 2024	1	585.00	585.00

SUBTOTAL	936.00
TAX	0.00
TOTAL	936.00
BALANCE DUE	**$936.00**

ICS Materials Inc.
16301 Palm Beach Blvd Unit 3
Alva, FL 33920 US
(239) 839-0862
info@floridacontractors.us

Invoice

BILL TO
Town of Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

INVOICE	INV110124-31
DATE	11/01/2024
TERMS	Net 7
DUE DATE	11/08/2024

ACTIVITY	QTY	RATE	AMOUNT
Town of Fort Myers Beach Project: Hurricane Milton Dates: 10.18.24 - 10.21.24 C and D debris disposal From: Clear ROW to final disposal facility Hourly Rate: $90/hr Total Hours: 57 hrs	57	90.00	5,130.00
Disposal fees from landfill: $1,134.00	1	1,134.00	1,134.00
Dates: 10.31.24 - 11.01.24 C and D debris removal From: Fort Myers Beach to School Street Hourly Rate: $90/hr Total Hours: 105 hrs	105	90.00	9,450.00

SUBTOTAL	15,714.00
TAX	0.00
TOTAL	15,714.00
BALANCE DUE	**$15,714.00**

ICS Materials Inc.
16301 Palm Beach Blvd Unit 3
Alva, FL 33920 US
(239) 839-0862
info@floridacontractors.us

Invoice

BILL TO
Town of Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

INVOICE	INV122124-31
DATE	12/21/2024
TERMS	Net 7
DUE DATE	12/28/2024

DESCRIPTION	QTY	RATE	AMOUNT
Town of Fort Myers Beach Project: Hurricane Milton	1	150,469.75	150,469.75

Dates: 10.19.24 - 12.13.24

Hourly Work Invoice
Equipment, Operators, Labor & Supervision:

10.19.24 - $2,457.35
10.21.24 - $6,605.22
10.22.24 - $2,492.12
10.23.24 - $3,491.10
10.24.24 - $4,816.99
10.25.24 - $5,900.94
10.26.24 - $8,720.25
10.30.24 - $5,655.68
10.31.24 - $3,599.64
11.01.24 - $6,217.85
11.02.24 - $7,769.23
11.04.24 - $9,387.12
11.05.24 - $5,887.86
11.06.24 - $7,116.46
11.07.24 - $8,351.98
11.08.24 - $7,377.90
11.11.24 - $8,791.12
11.12.24 - $6,197.58
11.13.24 - $2,154.17
11.18.24 - $9,675.05
11.21.24 - $1,850.69
11.22.24 - $6,213.98
12.02.24 - $5,800.90
12.13.24 - $3,459.66

12.18.24 - $1,116.68
12.19.24 - $7,128.88
12.21.24 - $2,233.36

Total: $150,469.75

SUBTOTAL	150,469.75
TAX	0.00
TOTAL	150,469.75
BALANCE DUE	**$150,469.75**

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2025-345**

1. **Request:**

Meeting Date: May 19, 2025

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RETROACTIVELY APPROVING THE FIRST AMENDMENT TO THE EMERGENCY SERVICE PROVIDER AGREEMENT SPA-24-10-EN DATED OCTOBER 4, 2024 BETWEEN THE TOWN OF FORT MYERS BEACH AND ICS MATERIALS, INC. FOR DEBRIS AND HAZARD CLEAN UP SERVICES DUE TO HURRICANE HELENE TO 1) EXTEND THE TERM OF THE AGREEMENT TO OCTOBER 8, 2024; AND 2) INCREASE THE NOT TO EXCEED AMOUNT BY $17,942.40 FROM $200,000.00 TO $217,942.40; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The hazards caused and deposited by Hurricane Helene was greater than expected, requiring additional time and efforts by ICS Materials Inc. to remove and dispose of hazards, thereby prompting the Town Manager to take emergency action to increase the not-to-exceed amount from $200,000.00 to $220,000.00

What the action accomplishes:

This resolution funds the additional costs associated with SPA-24-10-EN to remove hazards in the Town of Fort Myers Beach caused by Hurricane Helene.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Resolution	Chadd Chustz, Environmental Projects Manager

5. **Background:**

On September 23, 2024 Governor Ron DeSantis by Executive Order No. 24-208, as amended by Executive Order No. 24-209, declared a State of Emergency based upon the serious threat to the public health, safety, and welfare posed by the developing tropical storm, that later became known as Hurricane Helene.

On September 24, 2024, the Florida Department of Environmental Protection issued Emergency Final Order OGC NO. 24-2534 and Emergency Procurement Order OGC NO. 24-2533 to suspend the effect of any statute, rule or order, on the procurement of services, to the extent necessary to ensure emergency response functions.

On September 23, 2024 the Town of Fort Myers Beach approved Resolution 24-192 declaring a state of local emergency as authorized by Section 252.38(3), Florida Statutes, thereby waiving the procedures and formalities otherwise required.

In accordance with the Town of Fort Myers Beach Code Sec. 2-480 (d) that provides the basis for emergency purchase of services for the Town Manager to make when there exists a threat to public health, welfare or safety; provided, on October 4th, 2025 the Town Manager entered into a contract with ICS Materials, Inc. to remove debris deposited by Hurricane Helene from the beaches, right of way, and Town properties within the Town's jurisdiction. This was necessary to protect the health and welfare of the citizens and visitors of the Town of Fort Myers Beach, as well as to protect the financial well-being of the businesses in the Town that depend on tourism.

Attachments:

1. Final 25-147, RESOLUTION 1st Amendment SPA-24-10-EN ICS Helene Cat B-2 (2)

2. 1st Amendment to ICS- Helene Emergency SPA-24-10-EN-2
3. SPA-24-10-EN Hurricane Helene ICS Contract FINAL - signed
4. INV100124-29 ICS for Hurricane Helene Work - 10.01.24 - 2 ($2,840.40)
5. INV100424-29 ICS for Hurricane Helene Trucking - 10.04.24 ($14,112.00)
6. INV100824-29-2 ICS for Hurricane Helene Trucking 10.08.24 -2 ($990.00)

Financial Impact:
In a letter dated October 2, 2024, the Preseident of the United States amended the cost sharing arrangements regarding Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq., and it is therefore expected that total eligible costs associated with Emergency Measures qualifying for FEMA Category A public assistance will be reimbursed 100% for work completed before Decmber 23, 2024.

6. **Alternative Action**
Do not approve 1st Amendment to SPA-24-10-EN

7. **Management Recommendations:**
Approve 1st Amendment to SPA-24-10-EN

8. **Recommended Approval:**

Chadd Chustz, Environmental Projects Manager	Created/Initiated - 5/13/2025
nancy stuparich, Town Attorney	Approved - 5/14/2025
Amy Baker, Town Clerk	Approved - 5/14/2025
Andy Hyatt, Town Manager	Final Approval - 5/14/2025

RESOLUTION NUMBER 25-147

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RETROACTIVELY APPROVING THE FIRST AMENDMENT TO THE EMERGENCY SERVICE PROVIDER AGREEMENT SPA-24-10-EN DATED OCTOBER 4, 2024 BETWEEN THE TOWN OF FORT MYERS BEACH AND ICS MATERIALS, INC. FOR DEBRIS AND HAZARD CLEAN UP SERVICES DUE TO HURRICANE HELENE TO 1) EXTEND THE TERM OF THE AGREEMENT TO OCTOBER 8, 2024; AND 2) INCREASE THE NOT TO EXCEED AMOUNT BY $17,942.40 FROM $200,000.00 TO $217,942.40; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII(2)(b) of the Florida Constitution provides 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 ("Town") empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on September 23, 2024 Governor Ron DeSantis by Executive Order No. 24-208, as amended by Executive Order No. 24-209, declared a State of Emergency a certain area designated as Emergency Area ("Emergency Area"), based upon the serious threat to the public health, safety, and welfare posed by Hurricane Helene; and

WHEREAS, on September 24, 2024, the Florida Department of Environmental Protection issued Emergency Final Order OGC NO. 24-2534 for an Emergency Area of 61 counties including Lee County; and

WHEREAS, on September 24, 2024**,** the Florida Department of Environmental Protection issued Emergency Procurement Order OGC NO. 24-2533 to suspend, to the extent necessary to ensure said emergency response functions, the effect of any statute, rule, or order, including Chapter 255 and Sections 287.055(3)(a)-(d), 4(a)-(d), 5(a)-(c), and 287.057(3), Florida Statutes, and Chapters 60A- 1.002(4), 60A-1.021(2), and 60A-1.043(1)-(3), and 60D-5, Florida Administrative Code, to the extent needed to procure any and all necessary supplies, commodities, services, temporary premises, and other resources to include, without limiting the generality of the foregoing, any and all statutes, rules, and orders which affect budgeting, leasing, printing, purchasing, travel, the conditions of employment, and the compensation of employees as set forth in an established Tracker item at the Florida Emergency Operations Center, as prescribed in the State Comprehensive Emergency Management Plan, as directed by the State Coordinating Officer, or as directed by the Executive Office of the Governor; and

WHEREAS, on September 23, 2024 the Town of Fort Myers Beach approved Resolution 24-192 declaring a state of local emergency as authorized by Section 252.38(3), Florida Statutes, thereby waiving the procedures and formalities otherwise required of political subdivisions; and

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

WHEREAS, the Town of Fort Myers Beach Code Sec. 2-480 (d) provides the basis for emergency

purchase for the Town Manager to make, or authorize others to make, emergency purchases of supplies, services or construction items when there exists a threat to public health, welfare or safety; provided that such emergency purchases are made with such competition as is practicable under the circumstances.

WHEREAS, on October 4, 2024 the Town Manager retroactively entered into an Emergency Service Provider Agreement (SPA-24-10) with ICS Materials, Inc. ("ICS") for a term of 10 days (from September 27, 2024 to October 7, 2024) to remove debris deposited by Hurricane Helene from the beaches, right of way, and Town property within the Town's jurisdiction in order to protect the health and welfare of the citizens and visitors of the Town of Fort Myers Beach, as well as to protect the financial well-being of the businesses in the Town that depend on tourism; and

WHEREAS, on October 28, 2024, the Town Council ratified contract SPA-24-10-EN between the Town of Fort Myers Beach and ICS; and

WHEREAS, SPA-24-10 provided for a not-to-exceed amount of $200,000.00 for costs and services associated with removal and disposal of debris and hazards; and

WHEREAS, the debris and hazards deposited onto the beaches, right-of-way, and Town property by Hurricane Helene substantially exceeded anticipated volume, requiring additional resources, time and efforts by ICS to remove and dispose of debris; and

WHEREAS, to date the Town has received debris removal and disposal services provided by ICS, as supported by the reasonable circumstances and supporting invoices, in the amount of $217,942.40, of which $17,042.40 remains unpaid; and

WHEREAS, removal and disposal of all debris and hazards was necessary as in the best interest of the health, safety and welfare of the residents of the Town;

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

Section 1. The above recitals are true and correct and are hereby incorporated by reference as though fully set forth herein and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. This Resolution approves the First Amendment to SPA-24-10 with ICS Materials Inc. attached as Exhibit A.

Section 3. This resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

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

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

ADOPTED this ____ day of May 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

ATTEST: **Town of Fort Myers Beach**

_____ _____

Amy Baker, Town Clerk **Dan Allers, Mayor**

APPROVED AS TO FORM & SUFFICIENCY

_____

Vose Law Firm, Town Attorney

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

FIRST AMENDMENT TO EMERGENCY SERVICE PROVIDER AGREEMENT
ICS MATERIALS, INC.

THIS FIRST AMENDMENT is made and entered into this _____ day of _____, 2025, by and between the TOWN OF FORT MYERS BEACH, a Florida municipality, hereinafter referred to as the "Town", and ICS Materials Inc. hereinafter referred to as "ICS", to that certain Emergency Service Provider Agreement SPA-24-10-EN, dated October 4th, 2024 ("SPA-24-10") for ongoing emergency services as ratified by the Town Council of the Town of Fort Myers Beach on October 28, 2024.

.

WITNESSETH:

WHEREAS, on October 4, 2024 the Town Manager retroactively entered into SPA-24-10 with ICS, with a not-to-exceed amount of $200,000.00, for a term of 10 days (from September 27, 2024 to October 7, 2024) to remove debris deposited by Hurricane Helene from the beaches, right of way, and Town property within the Town's jurisdiction in order to protect the health and welfare of the citizens and visitors of the Town of Fort Myers Beach, as well as to protect the financial well-being of the businesses in the Town that depend on tourism; and

WHEREAS, on October 28, 2024, the Town Council ratified contract SPA-24-10-EN between the Town of Fort Myers Beach and ICS; and

WHEREAS, SPA-24-10 provided for a not-to-exceed amount of $200,000.00 for costs associated with debris removal and disposal services; and

WHEREAS, the debris and hazards deposited onto the beaches, right-of-way, and Town property by Hurricanes Helene and Milton substantially exceeded anticipated volume, requiring additional resources, time and efforts by ICS Materials Inc. to remove and dispose of debris; and

WHEREAS, the total value of debris removal and disposal services provided by ICS, as supported by the reasonable circumstances and supporting invoices, is $217,942.40; and

WHEREAS, removal and disposal of all debris and hazards was necessary as in the best interest of the health, safety and welfare of the residents of the Town; and

WHEREAS, the parties further desire to increase the not-to-exceed amount of the initial Agreement from $200,000.00 by $17,942.40 for a total contract not-to-exceed amount of $217,942.40; and

WHEREAS, to date, payment has been made in the amount of $200,000.00 and $17,942.40 is due and owing to ICS for needed work beyond the initial term of the agreement.

NOW, THEREFORE, in consideration of the covenants set forth herein, the parties agree to this Amendment as follows:

1. Amendment. This Amendment hereby retroactively amends and supplements the terms of the Agreement. In the event of a conflict between the terms of the Agreement and terms of this Amendment, the terms of this Amendment shall prevail.

2. Not-to-Exceed Amount. Exhibit "B" of the Agreement is hereby amended to read as follows:

Compensation under this Agreement shall not exceed $217,942.40.

3. Term. The term of the agreement shall be extended from October 7, 2024 to October 8, 2024, which allows for the completion of all work and final payment.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this instrument on the days and year indicated below and the signatories below to bind the parties set forth herein.

Provider:

_____

Print Name: _____

Title: _____

Company: ICS Materials Inc.

ATTEST:

_____
Amy Baker, Town Clerk

Town of Fort Myers Beach

_____
Dan Allers, Mayor

APPROVED AS TO FORM & SUFFICIENCY

_____
Vose Law Firm, Town Attorney

Rev. 2-25

EMERGENCY SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT is entered into on this **4th day of October 2024** by and between the **TOWN OF FORT MYERS BEACH**, 2731 Oak Street, Fort Myers Beach, FL 33931, a chartered municipality of the State of Florida (hereafter "Town"), and **ICS MATERIALS, INC.** with an address of **9160 FORUM CORPORATE PKWY #350, FORT MYERS, FL 33905** (hereafter "Provider).

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

1. Scope of Services. Provider will perform all services and work necessary as set forth in "Scope of Services" attached as Exhibit "A". Provider warrants and represents that it is qualified, willing and able to provide and perform all services in accordance with the terms of this Agreement. The parties have the ability to modify the Scope of Services by mutual written agreement, except that the Town has the unilateral right to exclude specified services hereunder for any reason upon prior written notice to Provider and Provider will not be entitled to compensation for such excluded services unless those services have already been performed by Provider.

2. Term. The term of this Agreement is **10 days** retroactive from **27th Day of September to** the **7th day of October 2024.**

3. Payment Obligation. The Town will pay for all requested and authorized services rendered hereunder by the Provider and completed in accordance with this Agreement, as set forth in attached Exhibit "B". The Provider's invoice statements must contain a breakdown of charges, description of services and work provided or performed, and, where appropriate, supportive documentation of charges consistent with the basis of compensation set forth in this Agreement. In the event of a dispute as to the Town's payment obligation, the Town will pay the undisputed amount, if any, within 30 days of the date of the invoice.

3. Provider's Obligations. The Provider's obligations include, but are not limited to, the following:

   a) *Licensure.* The Provider will maintain all licenses and certifications required by governmental agencies responsible for regulating and licensing the services provided and performed by the Provider.

   b) *Provision of Services.* The Provider will perform all services pursuant to this Agreement in accordance with generally accepted standards of professional practice and in accordance with the laws, statutes, ordinances, codes, rules, regulations and requirements of governmental agencies that regulate or have jurisdiction over the services to be provided or performed by the Provider. All personnel assigned by Provider hereunder will be qualified to perform such duties. Provider will designate one person as the point of contact for the Town regarding its duties hereunder. Provider is solely responsible for all taxes incurred by Provider and will make all deductions required of employers by state, federal and local laws.

c) *Non-Waiver.* Neither review, approval, nor acceptance by Town of data, studies, reports, memoranda, and incidental professional services, work and materials furnished hereunder by the Provider will in any way relieve Provider of responsibility for the adequacy, completeness and accuracy of its services, work and materials.

d) *Indemnity and Hold Harmless*. The Provider agrees to indemnify and hold harmless the Town, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Provider and persons employed or utilized by Provider in providing services under this Agreement.

e) *Non-Public Information.* The Provider agrees, during the term of this Agreement, not to divulge, furnish or make available to any third person, firm, or organization, without the Town's prior written consent, or unless incident to the proper performance of Provider's obligations hereunder, or as provided for or required by law, any non-public information concerning the services to be rendered by Provider. Provider will require all of its employees and agents to comply with the provisions of this paragraph.

f) *Statutory Duties.* The duties and obligations imposed upon the Provider by this Agreement and the rights and remedies available to the Town hereunder will be in addition to, and not a limitation of, any otherwise imposed or available by law or statute.

g) *Disclosure.* The Provider warrants it has not employed or retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for it, any fee, commission, percentage, gift or other compensation contingent upon or resulting from the award or making of this Agreement.

5. Commencement and Completion of Work. The Town will provide written notice to the Provider regarding commencement of services under this Agreement. Time is of the essence in the performance of this Agreement. The Provider agrees to commence work promptly and carry on all services and work as may be required in a timely and diligent manner to completion. Should the Provider fail to commence, provide, perform, and complete any of the services and work required hereunder in a timely and diligent manner, the Town may terminate this Agreement, in addition to any other remedies the Town may have.

6. Insurance. The Provider will have, and maintain, during the entire period of this Agreement, all such insurance (or self-insurance) as set forth on Exhibit "C". Each Certificate of Insurance must include the name and type of policy and coverages provided; the amount or limit applicable to each coverage provided; the date of expiration of

coverage; the designation of the Town of Fort Myers Beach as additional insured and as certificate holder, except as to Professional Liability Insurance and Workers' Compensation Insurance.
Should any of these policies be cancelled before the expiration date thereof, Provider will instruct the issuing company to mail 30 days written notice to the Town of such cancellation.

7. Inclusion of Additional Documents. Any request for bids and/or request for proposal, along with all exhibits or other attachments thereto as issued by the Town, are hereby incorporated by reference. In addition, the following Exhibits are attached hereto and hereby incorporated by reference: Exhibit “A”; Exhibit “B”; Exhibit “C”; Exhibit “D; Exhibit “E”.

8. Termination of Agreement. Either party may terminate this Agreement without cause upon 30 calendar days’ prior written notice to the other, in which case the Town will compensate the Provider for all services performed prior to the effective date of termination and reimbursable expenses then due.

9. Assignment, Transfer and Subcontracts. The Provider may not assign or transfer any of its rights, benefits, or obligations hereunder, except for transfers that result from the merger or consolidation of Provider with a third party. The Provider has the right, subject to the Town's prior written approval, to employ other persons and firms to serve as subcontractors to Provider in connection with its performance of services and work pursuant to this Agreement.

10. Maintenance of Records. The Provider will keep and maintain adequate records and supporting documentation applicable to all the services, work, information, expense, costs, invoices and materials provided and performed pursuant to this Agreement. Said records and documentation will be retained by the Provider for a minimum of three years from the date of termination of this Agreement, or for such period as required by law. The Town and its authorized agents will, with reasonable prior notice, have the right to audit, inspect and copy all such records and documentation as often as the Town deems necessary during the term of this Agreement and the next succeeding three years.

11. Public Records. The following provisions are required by §119.0701, Fla. Stat., and may not be amended. Provider shall keep and maintain public records required by the Town to perform the services required under this Contract. Upon request from Town’s custodian of public records, Provider shall provide Town with a copy of any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. Contractor shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract’s term and following completion of the Contract if Contractor does not transfer the public records to Town. Upon completion of the Contract, Contractor may transfer, at no cost, to Town all public records in possession of Contractor or keep and maintain public records required by Town to perform the services required under the Contract. If Contractor transfers all public records to Town upon completion of the Contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of the

Contract, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Town, upon request from Town's custodian of public records, in a format that is compatible with Town 's information technology systems. The failure of Contractor to comply with the provisions set forth in this Section shall constitute a Default and Breach of this Agreement, for which, the Town may terminate the Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF THE PUBLIC RECORDS AT (239) 765-0202, FMBPUBLICRECORDS@FMBGOV.COM, 2731 OAK ST. ESTERO BOULEVARD, FORT MYERS BEACH, FLORIDA 33931.

12. References to Town. Public Records Compliance Indemnification. Provider agrees to indemnify and hold the Town harmless against any and all claims, damage awards, and causes of action arising from the Provider's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by Provider's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Provider authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Provider in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.

13. References to Town. All references to "the Town" or "the Town of Fort Myers Beach" are deemed to include its employees, agents, and authorized representatives.

14. Modification. Except as set forth in Paragraph 1 above, modifications to this Agreement will be valid only when made in writing and signed by both parties. In the event of a conflict between the requirements, provisions, or terms of this Agreement and any subsequent written modification hereto, the most recently executed document will take precedence.

15. E-Verify Compliance. By entering into this Agreement, the Contractor is obligated to comply with the provisions of Section 448.095, Florida Statutes "Employment Eligibility," as amended from time to time. This includes but is not limited to register with and use the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, as amended and Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to the Town as a result of the termination of this Agreement in accordance with this paragraph. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Florida Statutes, Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien,

and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Florida Statutes.

a. Town, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but Contractor otherwise complied, shall promptly notify Contractor and Contractor shall immediately terminate the contract with the subcontractor.

b. A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), Fla. Stat. Contractor acknowledges that upon termination of this AGREEMENT by the Town for a violation of this section by Contractor, Contractor may not be awarded a public contract for at least one (1) year. Contractor further acknowledges that Contractor is liable for any additional costs incurred by the Town as a result of termination of any contract for a violation of this section.

c. *Subcontracts.* Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

16. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars ($1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars ($1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

17. Non-appropriation. Town's performance and obligation to pay under this Agreement is contingent upon an appropriation during the Town's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by

memorandum from the Town Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year end shall be without penalty or expense to the Town subject to the Town paying all invoices for services rendered during the period the Agreement was funded by appropriations.

18. Compliance/Consistency with Scrutinized Companies **Provisions of Florida Statutes.** Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars ($1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars ($1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

19. Disclosure Requirements for "Foreign Countries of Concern." Contractor shall comply with the disclosure requirements set forth is Section 286.101(3)(a), Florida Statutes, which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of $100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of $50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to section 268.101(7), Florida Statutes: "In addition to any fine assessed under [section 286.101(7)(a), Florida Statutes], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause."

20. Venue and Jurisdiction**.** Notwithstanding any of other provision to the contrary, this Agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally consents to submit and does submit to the jurisdiction of the Circuit Court in and for Lee County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement.

21. Attorneys' Fees and Costs**.** Notwithstanding any of other provision to the contrary, if litigation ensues regarding this Agreement, each party hereto shall bear its own attorneys' fees and costs.

22. Public Entities Crime or Convicted Vendor List. Contractor agrees and assumes a continuous duty to disclose to the Town if the Contractor or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.

23. Data Management; Notice of Breach. Contractor shall cooperate with the Town and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports, etc., which the Town must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.

24. Environmental and Social Government and Corporate Activism**.** The Town has not given preference or requested documentation from the Contractor based on Contractor's social, political or ideological interest. Contractor agrees to similarly not request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.

25. Taxes. The Town shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency to the extent that the Town is exempt from same by Florida law, including but not limited to any sales or use tax.

26. No coercion for labor or services**.** The Contractor swears under penalty of perjury that the Contractor does not use coercion for labor or services as defined as follows:

"Coercion" means:

1. Using or threatening to use physical force against any person;
2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
5. Causing or threatening to cause financial harm to any person;
6. Enticing or luring any person by fraud or deceit; or
7. Providing a controlled substance as outlined in Schedule I or Schedule II of Sec. 893.03, Fla. Stat. to any person for the purpose of exploitation of that person.

27. Additional Terms. The parties further agree as follows:

A. Federal Emergency Management Agency Supplemental Conditions. The terms and conditions contained in the Federal Emergency Management Supplemental Conditions attached as Exhibit E are incorporated by reference herein.

28. Miscellaneous Provisions.

a) *Applicable Law.* This Agreement is governed by the laws of the State of Florida.

b) *Non-Discrimination*. The Provider covenants that in the furnishing of services hereunder, no person on the grounds of race, color, national origin, handicap, or sex will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

c) *Headings.* The headings of the Articles, Sections, Exhibits, and Attachments in this Agreement are for the purpose of convenience only and may not be deemed to expand, limit or change the provisions contained in such Articles, Section, Exhibits and Attachments.

d) *Entire Agreement*. This Agreement, including any Exhibits, constitutes the entire Agreement between the parties and supersedes all prior agreements or understandings, written or oral, relating to the matters set forth herein.

e) *Notices*. All notices required under this Agreement must be in writing and sent via U.S. Postal Service, first class mail, to the other party's address as listed at the beginning of this Agreement. Either party may change its address by prior written notice to the other party.

IN WITNESS WHEREOF, the parties have executed this Agreement as set forth below.

TOWN OF FORT MYERS BEACH ATTEST:

BY: Andrew Hyatt (Oct 6, 2024 12:36 EDT)
Andrew Hyatt, Town Manager,

BY:
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

BY: Nan[illegible] Stuparich (Oct 4, 2024 18:34 EDT)
Town Attorney

PROVIDER: **ICS Materials**

BY: jason clark (Oct 4, 2024 18:00 EDT)
Signature

Witness Signature

Jason Clark
Printed name of person signing

Sara Louis
Printed name of witness

President
Title (printed)

EXHIBIT "A"

TO THE EMERGENCY SERVICE PROVIDER AGREEMENT DATED THE 7th DAY OF OCTOBER 2024 BETWEEN THE TOWN AND PROVIDER.

1. *SCOPE OF SERVICES*: The Provider will perform the following services under this Agreement:

Provide emergency measures to protect public life, health, and safety within the jurisdiction of the Town of Fort Myers Beach as directed by Town Staff including:

- Clear roads of storm generated overwash sand and debris by collecting, removing, transporting and staging storm generated overwash sand and debris from the right of way and public areas to Town Staff approved disaster debris management sites and landfills.
- Collect, remove and dispose of storm related construction, demolition and vegetative debris from the beach to Town Staff approved disaster debris management sites and landfills.
- Clear beach accesses of storm generated overwash sand and debris by collecting, removing, transporting and staging storm generated overwash sand and debris from the right of way and public areas to Town Staff approved disaster debris management sites and landfills.

Storm-related debris must be properly disposed of at Town approved and permitted waste management facility authorized to accept the type of debris offered for disposal. The Provider shall provide the Town with all compliance documentation including tipping fee receipts, truck tickets, waste disposal facility location and disposal facility permit information.

Newton Park, Bay Oaks Recreational Campus, and Waistina Way Parking Lot shall be used as the Disaster Debris Management Site for staging and handling of debris as directed by Town Staff. All debris Receipt documentation of proper disposal of debris from the disposal facility shall be submitted to Town Staff within 7 days of disposal.

All Provider operators and subcontractors shall provide the Town with complete Florida Recovery Obligation Calculation Individual and Team Forms daily to support operator and equipment claims.

Provider shall comply with all Federal, State, and Local Rules and guidelines for Storm debris removal and construction on the Beach, including the United States Fish and Wildlife Service 2015 Statewide Programmatic Biological Opinion, the State issued Executive Order 24-2222, the Florida Fish & Wildlife Conservation Guidelines for Driving on the Beach, and the Florida Department of Environmental Protection Guidance for Establishment, Operation, and Closure of Disaster Debris Management Sites, United States National Marine Fisheries Service Sea Turtle and Saw Fish Construction Conditions, and the United States Fish and Wildlife Service EHP FEMA Statewide Programmatic Consultation.

EXHIBIT "B"

TO THE EMERGENCY SERVICE PROVIDER AGREEMENT DATED THE 7th DAY OF OCTOBER 2024 BETWEEN THE TOWN AND PROVIDER.

PAYMENT OBLIGATION

The Town will pay the Provider as follows for all services listed in Exhibit "A":

The Town will compensate the Provider on a time and materials basis for staff labor, equipment and vehicle equipment usage, and actual disposal costs incurred in the performance of the scope of services listed in Exhibit A and at the rates identified in Exhibit D.

The Provider will receive no compensation for mobilization to the site.

Invoicing for services must include the following documentation to support labor, equipment and vehicle usage, and disposal charges:

- List of vehicles and equipment used in providing services with type of equipment vehicle including capacity and size necessary to determine correct equipment rental rates.
- Proof of proper disposal of debris including but not limited to receipts for tipping fees for other charges from a properly permitted solid waste disposal facility
- Copies of Florida Recovery Obligation Calculation Individual and Team Forms for each operator assigned to the project describing work performed and equipment used in providing services claimed
- Supervisor and employee-approved timecards or timesheets which support the number of hours charged for individual staff members

The Provider will be reimbursed for use of equipment and vehicles based on hourly rates in accordance with the currently applicable Blue Book Rental Rates used by the Federal Highway Administration for performance of work under Federal transportation projects. The Provider will not be reimbursed for any fuel, mileage, or other expenses incidental to the operation of equipment or vehicles. The Provider will be reimbursed for properly documented staff time as may be required by federal, state or local regulations or laws.

Compensation under this Agreement shall not exceed $200,000.

EXHIBIT "C"

INSURANCE: The Provider shall obtain and maintain the following insurance coverages:

a) Workers Compensation Coverage to comply for all employees for Statutory Limits in compliance with the applicable State and Federal laws;

b) Employer's Liability with a minimum limit per accident in accordance with statutory requirements.

c) Commercial General Liability Insurance with minimum limits of $500,000 per occurrence and $500,000 aggregate for Bodily Injury Liability and a minimum limit of $500,000 for Property Damage Liability, or a minimum combined single limit of $1,000,000.

d) Business Automobile Liability Insurance with minimum limits of $500,000 per person and $500,000 per accident for Bodily Injury Liability and a minimum limit of $500,000 for Property Damage Liability, or a minimum combined single limit of $500,000, with coverage including owned vehicles, hired and non-owned vehicles, and employee non-ownership.

EXHIBIT "D"

ICS Rate Sheet	
Project:	Hurricane Helene Emergency Protective Measures

Category	Description	Hourly Rate
Equipment:	740 B - Off Road End Dump	$ 208.23
	950 CAT Loader	$ 135.07
	Mid Island Tractor	$ 95.00
	ISC Kubota Tractor	$ 95.00
	Rake Attachment	$ 19.55
	Kubota Skidsteer	$ 85.64
	Clamshell Attachment	$ 6.91
	CAT D3 Dozer	$ 125.64
	Broom Sweeper	$ 142.99
	12 CY Dump Trailer	$ 35.00
	2500 Dodge Ram	$ 36.62
Labor:	Supervisor Standard Time	$ 78.00
	Supervisor Overtime	$ 117.00
	Operator Standard Time	$ 50.00
	Operator Overtime	$ 75.00
	Laborer Standard Time	$ 43.00
	Laborer Overtime	$ 64.50

EXHIBIT "E"

ADDITIONAL TERMS – SUPPLEMENTAL FEDERAL EMERGENCY MANAGEMENT AGENCY SUPPLEMENTAL CONDITIONS

FEDERAL EMERGENCY MANAGEMENT AGENCY
PUBLIC ASSISTANCE

The supplemental conditions contained in this section are intended to cooperate with, to supplement, and to modify the general conditions and other specifications. In cases of disagreement with any other section of this contract, the Supplemental Conditions shall govern. This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract.

Pursuant uniform requirements of federal awards (2 CFR Part 200.23) the definition of CONTRACTOR is an entity that receives a Contract / Purchase Order.

Compliance with Federal Law, Regulations and Executive Orders: The Sub-Recipient (Town) agrees to include in the subcontract that (i) the subcontractor is bound by the terms of the Federally- Funded Subaward and Grant Agreement, (ii) the subcontractor is bound by all applicable state and Federal laws and regulations, and (iii) the subcontractor shall hold the Division and Sub-Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law.

Specifically, the Contractor shall be responsible for being knowledgeable and performing any and all services under this contract in accordance with the following governing regulations along with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

- 2 C.F.R. Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 44 C.F.R. Part 206
- The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121 et seq., and Related Authorities
- FEMA Public Assistance Program and Policy Guide

Access to Records: The contractor agrees to provide the Town, the Florida Department of Emergency Management, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representative's access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. (3) The contractor agrees to provide the FEMA Administrator or his authorized representatives' access to construction or other work sites pertaining to the work being completed under the contract. (4) In compliance with section 1225 of the Disaster Recovery Act of 2018, the Town and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

Affirmative Socioeconomic Steps If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Changes: To be allowable under a FEMA grant or cooperative agreement award, the cost of any contract change, modification, amendment, addendum, change order, or constructive change must be necessary, allowable, allocable, within the scope of the grant or cooperative agreement, reasonable for the scope of work, and otherwise allowable.

DHS Seal, Logo, and Flags: The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval. The contractor shall include this provision in any subcontracts.

Domestic Preference for Procurements 200.322 As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

For purposes of this section: ''Produced in the United States'' means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. ''Manufactured products'' means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

License and Delivery of Works Subject to Copyright and Data Rights: The Contractor grants to the Town, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the Town or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the Town data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the Town.

No Obligation by Federal Government: The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

Prohibition on Covered Telecommunications Equipment or Services
(a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy, #405-143-1 Prohibitions on Expending FEMA Award Funds forcovered Telecommunications Equipment or Services As used in this clause –

(b) Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

(i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
(ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
(iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
(iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

(1) This clause does not prohibit contractors from providing — (i). A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or (ii). Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to: (i). Covered telecommunications equipment or services that: i. Are not used as a substantial or essential component of any system; and ii. Are not used as critical technology of any system. (ii). Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) Reporting requirement.

(1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause: (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer

number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended. (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph(e), in all subcontracts and other contractual instruments.

Program Fraud and False or Fraudulent Statements or Related Acts: The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

Rights to Inventions Made Under a Contract or Agreement: Exempt from FEMA Public Assistance Funding

Suspension and Debarment: (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. (3) This certification is a material representation of fact relied upon by the Town. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Town, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Procurement of Recovered Materials (§200.323) (Over $10,000): In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired— Competitively within a timeframe providing for compliance with the contract performance schedule; Meeting contract performance requirements; or At a reasonable price. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines webpage:

https://www.epa.gov/smm/comprehensive- procurement-guideline-cpg-program.

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

Termination for Cause and Convenience (over $10,000): See Standard Purchase Order and/or Contract Terms and Conditions

Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352 (as amended) (over $100,000): Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient."

Contractors must sign and submit a certification to the Town with each bid or offer exceeding $100,000. See Certifications and Assurances and the end of this document.

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) (over $100,000): Where applicable, all contracts awarded by the solicitor in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of $27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Town or FEMA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

For contracts that are only subject to Contract Work Hours and Safety Standards Act and are not subject to the other statutes in 29 C.F.R. § 5.1
"Further Compliance with the Contract Work Hours and Safety Standards Act.

(1) The contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.
(2) Records to be maintained under this provision shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

Clean Air Act (over $150,000): 1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. 2. The contractor agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. 3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act (over $150,000): 1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. 2. The contractor agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. 3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

Administrative, Contractual, or Legal Remedies (over $250,000): Unless otherwise provided in this contract, all claims, counter-claims, disputes and other matters in question between the local government and the contractor, arising out of or relating to this contract, or the breach of it, will be decided by arbitration, if the parties mutually agree, or in a Florida court of competent jurisdiction.

CONSTRUCTION ACTIVITIES

Equal Employment Opportunity Clause (§60-1.4): Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4.

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor

union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part an the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Davis Bacon Act: Exempt under FEMA Public Assistance Funding

Copeland Anti-Kickback Act: Exempt under FEMA Public Assistance Funding

STATE OF FLORIDA PROVISIONS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSITANCE PROGRAM

Applicable Laws - The Town and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. The Town shall include this provision in all contracts issued.

Data Collection: The Project shall be conducted in accordance with the terms and conditions set forth under this Agreement, all applicable Department permits and the eligible Project task items established below. All data collection and processing, and the resulting product deliverables, shall comply with the standards and technical specifications contained in the Department's Monitoring Standards for Beach Erosion Control Projects (2014) and all associated state and federal permits, unless otherwise specified in the approved scope of work for an eligible Project item. The monitoring standards may be found at: Project Monitoring (floridadep.gov)

In order to comply with Florida Auditor General report 2014-064 regarding conflicts of interest and to be consistent with Section 287.057(I7)(a)(I), F.S., **all monitoring data and statistical analysis must be provided directly and concurrently from the monitoring contractor to the Florida Department of Environmental Protection/Town/permittee/engineering consultant**. The Town's engineering consultant must provide an adequate mitigation plan, consistent with Section 287.057(17)(a)(I), F.S., including a description of organizational, physical, and electronic barriers to be used by the Town's engineering consultant, that addresses conflicts of interest when contracting multi-disciplinary firms for Project engineering and post-construction environmental monitoring services, or when the Project engineering consultant firm subcontracts for post-construction environmental monitoring. Environmental monitoring includes hardbottom, seagrass, and mangrove resources.

Equal Employment Opportunity: No person on the ground of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of, otherwise subjected to discrimination.

Inspector General Cooperation: The Parties agree to comply with Section 20.055(5), Florida Statutes, for the inspector general to have access to any records, data and other information deemed necessary to carry out his or her duties and incorporate into all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

Lobbying: No funds received pursuant to this Agreement may be expended for lobbying the Legislature, the judicial branch or a state agency.

Local Preference: Pursuant to Section 255.0991, F.S. local vendor preference is not applicable

Physical Access and Inspection: Grantor personnel shall be given access to and may observe and inspect work being performed under this Agreement, with reasonable notice and during normal business hours, including by any of the following methods:
i. The Town shall provide access to any location or facility on which Town is performing work, or storing or staging equipment, materials or documents.
ii. TheTown shall permit inspection of any facility, equipment, practices, or operations required in performance of any work pursuant to this Agreement; and,
iii. The Town shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any work or legal requirements pursuant to this Agreement.

Record Retention: A. The contractor shall maintain and retain sufficient records demonstrating its compliance with the terms of the Agreement for a period of at least five (5) years after final payment is

made and shall allow the Town, the State, or its authorized representatives access to such records for audit purposes upon request.

Statutory Notices Relating to Unauthorized Employment: The Town shall consider the employment by any Contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement

Statutory Notices Relating to Subcontracts: Pursuant to Sections 287.133 and 287.134, F.S., the following restrictions apply to persons placed on the convicted vendor list or the discriminatory vendor list:

i. **Public Entity Crime.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

ii. **Discriminatory Vendors**. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

iii. **Notification**. The Grantee shall notify Department if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list or the discriminatory vendor list during the life of the Agreement. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and posts the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at (850) 487-0915.

Compliance with Federal Law, Regulations, And Executive Orders and Acknowledgement of Federal Funding

Certification

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

If the Contractor subcontracts any of the work required under this Agreement, a copy of the signed subcontract must be available to the Town for review and approval. The Contractor agrees to include in the subcontract that (1) the subcontractor is bound by the terms of this Agreement, (ii) the subcontractor is bound by all applicable state and federal laws and regulations, and (iii) the subcontractor shall hold the Town and the Grantor Agency harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law. The Town may document in the quarterly report the Contractor's progress in performing its work under this agreement.

On behalf of my firm, I acknowledge, the grant requirements identified in this document.

Vendor/Contractor Name ICS Materials Inc

Date 10/04/24

Authorized Signature jason clark (Oct 4, 2024 18:00 EDT)

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY and VOLUNTARY EXCLUSION

Contractor Covered Transactions

(1) The prospective subcontractor of the Sub-recipient, Town, certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the Sub-recipient's subcontractor is unable to certify to the above statement, the prospective contract shall attach an explanation to this form.

CONTRACTOR

ICS Materials Inc

By: jason clark (Oct 4, 2024 18:00 EDT)
Signature

Jason Clark President
Name and Title

16301 Palm Beach Blvd Unit 3
Street Address

Alva, FL 33920
City, State, Zip

47-4953418
UEI Unique Entity Identifier (for SAM.gov verification)

10/04/24
Date

Sub-Recipient Name: Town of Fort Myers Beach

DEM Contract Number: TBD

FEMA Project Number: TBD

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

TOWN OF FORT MYERS BEACH

ANTICIPATED DISADVANTAGED, MINORITY, WOMEN OR VETERAN PARTICIPATION STATEMENT

Status will be verified. Unverifiable statuses will require the PRIME to either provide a revised statement or provide source documentation that validates a status.

A. PRIME VENDOR/CONTRACTOR INFORMATION

PRIME NAME	PRIME FED NUMBER	CONTRACT DOLLAR AMOUNT

IS THE PRIME A FLORIDA-CERTIFIED DISADVANTAGED, MINORITY OR WOMEN BUSINESS ENTERPRISE? (DBE/MBE/WBE) OR HAVE A SMALL DISADVANTAGED BUSINESS 8A CERTIFICATION FROM THE SMALL BUSINESS ADMINISTRATION? A SERVICE DISABLED VETERAN?	VETERAN Y N DBE? Y N MBE? Y N WBE? Y N SDB 8A? Y N	IS THE ACTIVITY OF THIS CONTRACT...			
		CONSTRUCTION ?	Y	N	
		CONSULTATION?	Y	N	
		OTHER?	Y	N	
IS THIS SUBMISSION A REVISION?	Y N	IF YES, REVISION NUMBER_____			

B. IF PRIME HAS SUBCONTRACTOR OR SUPPLIER WHO IS A DISADVANTAGED MINORITY, WOMEN-OWNED, SMALL BUSINESS CONCERN OR SERVICE DISABLED VETERAN, PRIME IS TO COMPLETE THIS NEXT SECTION

DBE M/WBE VETERAN	SUBCONTRACTOR OR SUPPLIER NAME	TYPE OF WORK OR SPECIALTY	ETHNICITY CODE (See Below)	SUB/SUPPLIER DOLLAR AMOUNT	PERCENT OF CONTRACT DOLLARS
			TOTALS:		

C. SECTION TO BE COMPLETED BY PRIME VENDOR/CONTRACTOR

NAME OF SUBMITTER	DATE	TITLE OF SUBMITTER
EMAIL ADDRESS OF PRIME (SUBMITTER)	**TELEPHONE NUMBER**	**FAX NUMBER**

NOTE: This information is used to track and report anticipated DBE or MBE participation in federally-funded contracts. The anticipated DBE or MBE amount is voluntary and will not become part of the contractual terms. This form must be submitted at time of response to a solicitation. If and when awarded a County contract, the prime will be asked to update the information for the grant compliance files.

ETHNICITY	CODE
Black American	BA
Hispanic American	HA
Native American	NA
Subcont. Asian American	SAA
Asian-Pacific American	APA
Non-Minority Women	NMW
Other: not of any other group listed	O

D. SECTION TO BE COMPLETED BY TOWN OF FORT MYERS BEACH

DEPARTMENT NAME	FMB CONTRACT # (IFB/RFP or PO/REQ)	GRANT PROGRAM/CONTRACT

ACCEPTED BY:	DATE

LOBBYING CERTIFICATION
(To be submitted with each bid or offer exceeding $100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

ICS Materials Inc
Contractor (Firm Name)

jason clark (Oct 4, 2024 18:00 EDT)
Signature of Contractor’s Authorized Official

Jason Clark President
Name and Title of Contractor’s Authorized Official

10/04/24
Date

SPA-24-10-EN Hurricane Helene ICS Contract FINAL

Final Audit Report 2024-10-06

Created:	2024-10-04
By:	Jason Freeman (jasonf@fmbgov.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAFV7ASgtpHDlfokBpOTPmEoRcAawHpNQT

"SPA-24-10-EN Hurricane Helene ICS Contract FINAL" History

Document created by Jason Freeman (jasonf@fmbgov.com)
2024-10-04 - 8:53:22 PM GMT

Document emailed to Andrew Hyatt (andyhyatt@fmbgov.com) for signature
2024-10-04 - 8:53:30 PM GMT

Document emailed to Amy Baker (AMY@FMBGOV.COM) for signature
2024-10-04 - 8:53:30 PM GMT

Document emailed to Nancy Stuparich (nstuparich@voselaw.com) for signature
2024-10-04 - 8:53:30 PM GMT

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2024-10-04 - 8:53:31 PM GMT

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2024-10-04 - 9:11:18 PM GMT

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2024-10-04 - 9:57:04 PM GMT

Document e-signed by jason clark (jason@floridacontractors.us)
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2024-10-04 - 10:33:58 PM GMT

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Signature Date: 2024-10-04 - 10:34:51 PM GMT - Time Source: server

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2024-10-05 - 8:05:12 PM GMT

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Signature Date: 2024-10-05 - 8:05:35 PM GMT - Time Source: server

Email viewed by Andrew Hyatt (andyhyatt@fmbgov.com)
2024-10-06 - 4:36:44 PM GMT

Document e-signed by Andrew Hyatt (andyhyatt@fmbgov.com)
Signature Date: 2024-10-06 - 4:36:54 PM GMT - Time Source: server

Agreement completed.
2024-10-06 - 4:36:54 PM GMT

ICS Materials Inc.
16301 Palm Beach Blvd Unit 3
Alva, FL 33920 US
(239) 839-0862
info@floridacontractors.us

Invoice

BILL TO
Town of Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

INVOICE	INV100124-29
DATE	10/01/2024
TERMS	Net 7
DUE DATE	10/08/2024

DESCRIPTION	QTY	RATE	AMOUNT
Project: Town of Fort Myers Beach Hurricane Helene Emergency Protective Measures Date: 10.01.24 - Supplemental (2/2) ICS Daily - Subs, Equipment, Operators, Labor & Supervision: 10.01.24 (2/2) - $2,840.40	1	2,840.40	2,840.40

SUBTOTAL	2,840.40
TAX	0.00
TOTAL	2,840.40
BALANCE DUE	**$2,840.40**

ICS Materials Inc.
16301 Palm Beach Blvd Unit 3
Alva, FL 33920 US
(239) 839-0862
info@floridacontractors.us

Invoice

BILL TO
Town of Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

INVOICE	INV100424-29
DATE	10/08/2024
TERMS	Net 7
DUE DATE	10/15/2024

DESCRIPTION	QTY	RATE	AMOUNT
Town of Fort Myers Beach Project: Hurricane Helene Trucking Dates: 10.03.24 - 10.04.24 Hourly trucking for C and D disposal Number of Loads: 49 loads Time per load: 3 hrs/load Total load hours: 49 loads * 3 hrs/load = 147 hours Rate: $90 per hour	147	90.00	13,230.00
Dump fees for C and D disposal Number of Loads: 49 loads Cubic Yards (CY) = 18 CY/Load 49 Loads * 18 CY/Load = 882 CY Rate: $1 / CY	882	1.00	882.00

SUBTOTAL	14,112.00
TAX	0.00
TOTAL	14,112.00
BALANCE DUE	**$14,112.00**

ICS Materials Inc.
16301 Palm Beach Blvd Unit 3
Alva, FL 33920 US
(239) 839-0862
info@floridacontractors.us

Invoice

BILL TO
Town of Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

INVOICE	INV100824-29-2
DATE	10/08/2024
TERMS	Net 7
DUE DATE	10/15/2024

DESCRIPTION	QTY	RATE	AMOUNT
Town of Fort Myers Beach Project: Hurricane Helene Trucking Date: 10.08.24 Hourly trucking for Clearing ROW and C and D disposal Two Additional Tickets Number of hours: 11 Rate: $90 per hour	11	90.00	990.00

SUBTOTAL	990.00
TAX	0.00
TOTAL	990.00
BALANCE DUE	**$990.00**

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2025-346**

1. **Request:**

Meeting Date: May 19, 2025

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RETROACTIVELY APPROVING THE FIRST AMENDMENT TO THE EMERGENCY SERVICE PROVIDER AGREEMENT SPA-24-13-EN DATED DECEMBER 18, 2024 BETWEEN THE TOWN OF FORT MYERS BEACH AND ICS MATERIALS, INC. TO AMEND THE NOT TO EXCEED AMOUNT BY $53,971.69 FROM $900,000.00 TO $953,971.69; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Hurricane Milton caused significant overwash sand and debris to be deposited onto the beach, the right of way, and Town property.

What the action accomplishes:

Resolution funds additional time and effort needed to removed overwash sand and debris from beach, right of way and Town Property, screen overwash sand, place and grade screen sand, and dispose of debris at approved upland waste management facility.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Resolution	Chadd Chustz, Environmental Projects Manager

5. **Background:**

Hurricane Milton was an extremely powerful and destructive hurricane which became the second-most intense Atlantic hurricane ever recorded over the Gulf of Mexico, behind only Hurricane Rita in 2005. Milton made landfall on the west coast of the U.S. state of Florida, less than two weeks after Hurricane Helene devastated the state's Big Bend region. The thirteenth named storm, ninth hurricane, fourth major hurricane, and second Category 5 hurricane of the 2024 Atlantic hurricane season, Milton is, so far, the strongest tropical cyclone worldwide in 2024.

Attachments:

1. Final Resolution 25-148, 1st Amendment SPA-24-13 ICS Milton Cat A SAND-2 (1)
2. 1st Amendment to ICS- Emergency Service Provider Agreement SPA-24-13-EN-2
3. 25-23, Ratify ICS Contract Hurricane MILTON Sand Screening Signed
4. SPA-24-13-EN - ICS Sand Screening MILTON Debris Removal Disposal Executed
5. INV111224-31 ICS Hurricane Milton Load Ticket 11.12.24 ($40,000.00)
6. INV111924-31 ICS Hurricane Milton Surveying and Asbuilts - 11.19.24 ($160.00)
7. INV121024-31 ICS Hurricane Milton Sand Haul Out 12.10.24 ($13,811.69)

Financial Impact:

4834-DR-FL Amendment 005 authorized FEMA to provide reimbursement for costs associated with debris removal (Category A) due to Hurricane Milton in Lee County at 100 percent of the total eligible costs.

6. **Alternative Action**

Do not approve 1st amendment to SPA-24-13-EN

7. **Management Recommendations:**

Approve 1st amendment to SPA-24-13-EN.

8. **Recommended Approval:**

Chadd Chustz, Environmental Projects Manager	Created/Initiated - 4/28/2025
Frankie Kropacek, Community Development Director	Approved - 4/28/2025
nancy stuparich, Town Attorney	Approved - 5/14/2025
Amy Baker, Town Clerk	Approved - 5/14/2025
Andy Hyatt, Town Manager	Final Approval - 5/14/2025

RESOLUTION NUMBER 25-148

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RETROACTIVELY APPROVING THE FIRST AMENDMENT TO THE EMERGENCY SERVICE PROVIDER AGREEMENT SPA-24-13-EN DATED DECEMBER 18, 2024 BETWEEN THE TOWN OF FORT MYERS BEACH AND ICS MATERIALS, INC; AMENDIN. TO AMEND THE NOT TO EXCEED AMOUNT BY $53,971.69 FROM $900,000.00 TO $953,971.69; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII(2)(b) of the Florida Constitution 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 ("Town") empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on October 5, 2024 Governor Ron DeSantis by Executive Order No. 24-214, declared a State of Emergency throughout a certain area designated as Emergency Area ("Emergency Area"), based upon the serious threat to the public health, safety, and welfare posed by the Storm; and

WHEREAS, on October 6, 2024, the Florida Department of Environmental Protection issued Emergency Final Order OGC NO. 24-2580 for an Emergency Area of 61 counties including Lee County; and

WHEREAS, on October 6**,** 2024 the Florida Department of Environmental Protection issued Emergency Procurement Order OGC NO. 24-2580 to suspend, to the extent necessary to ensure said emergency response functions, the effect of any statute, rule, or order, including Chapter 255 and Sections 287.055(3)(a)-(d), 4(a)-(d), 5(a)-(c), and 287.057(3), Florida Statutes, and Chapters 60A- 1.002(4), 60A-1.021(2), and 60A-1.043(1)-(3), and 60D-5, Florida Administrative Code, to the extent needed to procure any and all necessary supplies, commodities, services, temporary premises, and other resources to include, without limiting the generality of the foregoing, any and all statutes, rules, and orders which affect budgeting, leasing, printing, purchasing, travel, the conditions of employment, and the compensation of employees as set forth in an established Tracker item at the Florida Emergency Operations Center, as prescribed in the State Comprehensive Emergency Management Plan, as directed by the State Coordinating Officer, or as directed by the Executive Office of the Governor; and

WHEREAS, on October 6, 2024 the Town of Fort Myers Beach approved Resolution 24-214 declaring a state of local emergency as authorized by Section 252.38(3), Florida Statutes, thereby waiving the procedures and formalities otherwise required of political subdivisions, allowing for expedited actions to protect public health, safety, and welfare during Tropical Storm Milton, which later became a hurricane; and

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

WHEREAS, the Town of Fort Myers Beach Code Sec. 2-480 (d) provides the basis for emergency purchase for the Town Manager to make, or authorize others to make, emergency purchases of supplies, services or construction items when there exists a threat to public health, welfare or safety; provided that such emergency purchases are made with such competition as is practicable under the circumstances.

WHEREAS, on October 24, 2024 the Town Manager entered into an Emergency Service Provider Agreement ("SPA-24-13") with ICS Materials Inc. ("ICS")with a not-to-exceed amount of $900,000.00 for a term of 94 days, from the 2nd day of November to the 4th day of February 2025, to screen debris from sand overwashed by Hurricane Milton to produce beach compatible sand, and returning screened sand to the beach to protect upland properties and the health and welfare of the citizens and visitors of the Town of Fort Myers Beach, as well as to protect the financial well-being of the businesses in the Town that depend on tourism; and

WHEREAS, on the 8th day of January, 2025 the Town Council ratified contract SPA-24-13 between the Town of Fort Myers Beach and ICS Materials Inc.; and

WHEREAS, SPA-24-13 provided for a not-to-exceed amount of $900,000.00 for costs and services associated with removal and screening of sand and disposal of debris; and

WHEREAS, the overwash sand and debris deposited onto the beaches, right-of-way, and Town property by Hurricane Milton substantially exceed anticipated volume, requiring additional resources, time and efforts by ICS Materials Inc. to remove and screen sand, and dispose of debris; and

WHEREAS, to date the Town has received sand screening and debris disposal services provided by ICS, as supported by the reasonable circumstances and supporting invoices, in the amount of $953,971.69, of which $53,971.69 remains unpaid; and

WHEREAS, screening of sand and disposal of debris was necessary as in the best interest of the health, safety and welfare of the residents of the Town.

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

Section 1. The above recitals are true and correct and are hereby incorporated by reference as though fully set forth herein and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. This Resolution approves the First Amendment to SPA-24-13-EN with ICS Materials Inc. attached as Exhibit A.

Section 3. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

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

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

ADOPTED this ____ day of _____ 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

ATTEST: **Town of Fort Myers Beach**

Amy Baker, Town Clerk **Dan Allers, Mayor**

APPROVED AS TO FORM & SUFFICIENCY

Vose Law Firm, Town Attorney

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

FIRST AMENDMENT TO EMERGENCY SERVICE PROVIDER AGREEMENT
ICS MATERIALS, INC.

THIS FIRST AMENDMENT is made and entered into this _____ day of _____, 2025, by and between the TOWN OF FORT MYERS BEACH, a Florida municipality, hereinafter referred to as the "Town", and ICS Materials Inc. hereinafter referred to as "ICS", to that certain Emergency Service Provider Agreement SPA-24-13-EN, dated October 24, 2024 ("SPA-24-13") for ongoing emergency services as ratified by the Town Council of the Town of Fort Myers Beach on January 8, 2025.

.

WITNESSETH:

WHEREAS, on October 24, 2024 the Town Manager entered into SPA-24-13- with ICS, with a not-to-exceed amount of $900,000.00 for a term of 94 days (from November 2, 2024 to February 4, 2025) to screen debris from sand overwashed by Hurricane Milton to produce beach compatible sand, and returning screened sand to the beach to protect upland properties and the health and welfare of the citizens and visitors of the Town of Fort Myers Beach, as well as to protect the financial well-being of the businesses in the Town that depend on tourism; and

WHEREAS, on the 8th day of January, 2025 the Town Council ratified contract SPA-24-13 between the Town of Fort Myers Beach and ICS; and

WHEREAS, SPA-24-13 provided for a not-to-exceed amount of $900,000.00 for costs associated with removing and screening sand and disposing of debris; and

WHEREAS, the overwash sand and debris deposited onto the beaches, right-of-way, and Town property by Hurricane Milton substantially exceed anticipated volume, requiring additional resources, time and efforts by ICS to remove and screen sand, and dispose of debris; and

WHEREAS, the total value of services provided by ICS Materials Inc., as supported by the reasonable circumstances and supporting invoices, is $953,971.69; and

WHEREAS, safe removal and screening of sand and disposal of debris was necessary as in the best interest of the health, safety and welfare of the residents of the Town;

WHEREAS, the parties further desire to increase the not-to-exceed amount of the initial agreement from $900,000.00 by $53,971.69 for a total contract not-to-exceed amount of $53,971.69; and

WHEREAS, to date, payment has been made in the amount of $900,000.00 and $53,971.69 is due and owing to ICS for needed work beyond the initial term of the agreement.

NOW, THEREFORE, in consideration of the covenants set forth herein, the parties agree to this Amendment as follows:

1. Amendment. This Amendment hereby retroactively amends and supplements the terms of the Agreement. In the event of a conflict between the terms of the Agreement and terms of this Amendment, the terms of this Amendment shall prevail.

2. Not-to-Exceed Amount. Exhibit "B" of the Agreement is hereby amended to read as follows:

Compensation under this Agreement shall not exceed ~~$900,000~~ $953,971.69.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this instrument on the days and year indicated below and the signatories below to bind the parties set forth herein.

Provider:

_____

Print Name: _____

Title: _____

Company: ICS Materials Inc.

ATTEST:

_____
Amy Baker, Town Clerk

Town of Fort Myers Beach

_____
Dan Allers, Mayor

APPROVED AS TO FORM & SUFFICIENCY

_____
Vose Law Firm, Town Attorney

Rev. 2-25

RESOLUTION NUMBER 25-23

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RATIFYING SPA-24-13-EN FOR ACTION OF THE TOWN TAKEN OCTOBER 24, 2024 REGARDING THE WAIVING OF THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND CONTRACTING WITH ICS MATERIALS INC. TO SCREEN DEBRIS FROM SAND OVERWASHED BY HURRICANE MILTON TO PRODUCE BEACH COMPATIBLE SAND, PLACE AND GRADE BEACH COMPATIBLE SAND ONTO THE BEACH, REMOVE DEBRIS FROM THE BEACH, REMOVE DEBRIS SAND FROM RIGHT OF WAY AND TOWN PROPERTY AND DELIVER TO DEBRIS MANAGEMENT SITE, AND DISPOSE OF DEBRIS AT AUTHORIZED WASTE MANAGEMENT SITE; AND APPROVING PAYMENT OF ICS MATERIALS INC. INVOICE NO'S. INV121024-31, INV121024-31, INV121124-31, INV121924-31 AND INV122324-31 IN THE AMOUNT $ 721,814.17; 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 ("Town") empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on October 5, 2024 Governor Ron DeSantis by Executive Order No. 24-214, declared a State of Emergency throughout the Emergency Area based upon the serious threat to the public health, safety, and welfare posed by the Storm; and

WHEREAS, on October 6, 2024, the Florida Department of Environmental Protection issued Emergency Final Order OGC NO. 24-2580 for an Emergency Area of 61 counties including Lee County; and

WHEREAS, on October 6**,** 2024 the Florida Department of Environmental Protection issued Emergency Procurement Order OGC NO. 24-2580 to suspend, to the extent necessary to ensure said emergency response functions, the effect of any statute, rule, or order, including Chapter 255 and Sections 287.055(3)(a)-(d), 4(a)-(d), 5(a)-(c), and 287.057(3), Florida Statutes, and Chapters 60A- 1.002(4), 60A-1.021(2), and 60A-1.043(1)-(3), and 60D-5, Florida Administrative Code, to the extent needed to procure any and all necessary supplies, commodities, services, temporary premises, and other resources to include, without limiting the generality of the foregoing, any and all statutes, rules, and orders which affect budgeting, leasing, printing, purchasing, travel, the conditions of employment, and the compensation of employees as set forth in an established Tracker item at the Florida Emergency Operations Center, as prescribed in the State Comprehensive Emergency Management Plan, as directed by the State Coordinating Officer,

or as directed by the Executive Office of the Governor; and

WHEREAS, on October 6, 2024 the Town of Fort Myers Beach approved Resolution 24-214 declaring a state of local emergency as authorized by Section 252.38(3), Florida Statutes, thereby waiving the procedures and formalities otherwise required of political subdivisions by; and

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

WHEREAS, the Town of Fort Myers Beach Code Sec. 2-480 (d) provides the basis for emergency purchase for the Town Manager to make, or authorize others to make, emergency purchases of supplies, services or construction items when there exists a threat to public health, welfare or safety; provided that such emergency purchases are made with such competition as is practicable under the circumstances.

WHEREAS, on October 24th, 2024 the Town Manager entered into a contract with ICS Materials, Inc. for a term of 94 days (from 2nd day of November to the 4th day of February 2025) to screen debris from sand over washed by Hurricane Milton to produce beach compatible sand, and returning screened sand to the beach to protect upland properties and the health and welfare of the citizens and visitors of the Town of Fort Myers Beach, as well as to protect the financial well-being of the businesses in the Town that depend on tourism; and

WHEREAS, the contract with ICS Materials, Inc. was for a not-to-exceed amount of $900,000.00, which requires ratification by the Town Council;

WHEREAS, the ICS Materials, Inc. invoice XXX in the amount of $ $427,870.00 requires approval for payment by the Town Council;

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

Section 1. The above recitals are true and correct and are hereby incorporated by reference as though fully set forth herein and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. This Resolution memorializes and ratifies the actions of the Town to contract with ICS MATERIALS INC. for screening debris from over wash sand and returning screened sand to the beach for a period of 94 days for a not-to-exceed amount of $900,000.00 and approves the Town Manager's emergency procurement.

Section 3. This Resolution authorizes payment of invoices INV121024-31, INV121024-31, INV121124-31, INV121924-31 AND INV122324-31 in the amount of $ 721,814.17 to ICS MATERIALS INC. for services rendered.

Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

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

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

ADOPTED this 8th day of January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers
Dan Allers (Jan 14, 2025 11:54 EST)

Dan Allers, Mayor

ATTEST:

Amy Baker (Jan 14, 2025 16:29 EST)

Amy Baker, Town Clerk

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

Nathan A. Reinhart (Jan 16, 2025 09:07 EST)

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 13th day January 2025.

EMERGENCY SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT is entered into on this **24th day of October, 2024** by and between the **TOWN OF FORT MYERS BEACH**, 2731 Oak Street, Fort Myers Beach, FL 33931, a chartered municipality of the State of Florida (hereafter "Town"), and **ICS Materials, INC.** with an address of **16301 Palm Beach Blvd, Unit 3, Alva, FL 33920** (hereafter "Provider).

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

1. Scope of Services. Provider will perform all services and work necessary as set forth in "Scope of Services" attached as Exhibit "A". Provider warrants and represents that it is qualified, willing and able to provide and perform all services in accordance with the terms of this Agreement. The parties have the ability to modify the Scope of Services by mutual written agreement, except that the Town has the unilateral right to exclude specified services hereunder for any reason upon prior written notice to Provider and Provider will not be entitled to compensation for such excluded services unless those services have already been performed by Provider.

2. Term. The term of this Agreement is **94 Days** retroactive from **2nd Day of November, 2024 to the 4th Day of February, 2024.**

3. Payment Obligation. The Town will pay for all requested and authorized services rendered hereunder by the Provider and completed in accordance with this Agreement, as set forth in attached Exhibit "B". The Provider's invoice statements must contain a breakdown of charges, description of services and work provided or performed, and, where appropriate, supportive documentation of charges consistent with the basis of compensation set forth in this Agreement. In the event of a dispute as to the Town's payment obligation, the Town will pay the undisputed amount, if any, within 60 days of the date of the invoice.

4. Provider's Obligations. The Provider's obligations include, but are not limited to, the following:

    a) *Licensure.* The Provider will maintain all licenses and certifications required by governmental agencies responsible for regulating and licensing the services provided and performed by the Provider.

    b) *Provision of Services.* The Provider will perform all services pursuant to this Agreement in accordance with generally accepted standards of professional practice and in accordance with the laws, statutes, ordinances, codes, rules, regulations and requirements of governmental agencies that regulate or have jurisdiction over the services to be provided or performed by the Provider. All personnel assigned by Provider hereunder will be qualified to perform such duties. Provider will designate one person as the point of contact for the Town regarding its duties hereunder. Provider is solely responsible for all taxes incurred by Provider and will make all deductions required of employers by state, federal and local laws.

c) *Non-Waiver.* Neither review, approval, nor acceptance by Town of data, studies, reports, memoranda, and incidental professional services, work and materials furnished hereunder by the Provider will in any way relieve Provider of responsibility for the adequacy, completeness and accuracy of its services, work and materials.

d) *Indemnity and Hold Harmless.* The Provider agrees to indemnify and hold harmless the Town, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Provider and persons employed or utilized by Provider in providing services under this Agreement.

e) *Non-Public Information.* The Provider agrees, during the term of this Agreement, not to divulge, furnish or make available to any third person, firm, or organization, without the Town's prior written consent, or unless incident to the proper performance of Provider's obligations hereunder, or as provided for or required by law, any non-public information concerning the services to be rendered by Provider. Provider will require all of its employees and agents to comply with the provisions of this paragraph.

f) *Statutory Duties.* The duties and obligations imposed upon the Provider by this Agreement and the rights and remedies available to the Town hereunder will be in addition to, and not a limitation of, any otherwise imposed or available by law or statute.

g) *Disclosure.* The Provider warrants it has not employed or retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for it, any fee, commission, percentage, gift or other compensation contingent upon or resulting from the award or making of this Agreement.

5. Commencement and Completion of Work. The Town will provide written notice to the Provider regarding commencement of services under this Agreement. Time is of the essence in the performance of this Agreement. The Provider agrees to commence work promptly and carry on all services and work as may be required in a timely and diligent manner to completion. Should the Provider fail to commence, provide, perform, and complete any of the services and work required hereunder in a timely and diligent manner, the Town may terminate this Agreement, in addition to any other remedies the Town may have.

6. Insurance. The Provider will have, and maintain, during the entire period of this Agreement, all such insurance (or self-insurance) as set forth on Exhibit "C". Each Certificate of Insurance must include the name and type of policy and coverages provided; the amount or limit applicable to each coverage provided; the date of expiration of

coverage; the designation of the Town of Fort Myers Beach as additional insured and as certificate holder, except as to Professional Liability Insurance and Workers' Compensation Insurance.
Should any of these policies be cancelled before the expiration date thereof, Provider will instruct the issuing company to mail 30 days written notice to the Town of such cancellation.

7. Inclusion of Additional Documents. Any request for bids and/or request for proposal, along with all exhibits or other attachments thereto as issued by the Town, are hereby incorporated by reference. In addition, the following Exhibits are attached hereto and hereby incorporated by reference: Exhibit "A"; Exhibit "B"; Exhibit "C"; Exhibit "D; Exhibit "E".

8. Termination of Agreement. Either party may terminate this Agreement without cause upon 30 calendar days' prior written notice to the other, in which case the Town will compensate the Provider for all services performed prior to the effective date of termination and reimbursable expenses then due.

9. Assignment, Transfer and Subcontracts. The Provider may not assign or transfer any of its rights, benefits, or obligations hereunder, except for transfers that result from the merger or consolidation of Provider with a third party. The Provider has the right, subject to the Town's prior written approval, to employ other persons and firms to serve as subcontractors to Provider in connection with its performance of services and work pursuant to this Agreement.

10. Maintenance of Records. The Provider will keep and maintain adequate records and supporting documentation applicable to all the services, work, information, expense, costs, invoices and materials provided and performed pursuant to this Agreement. Said records and documentation will be retained by the Provider for a minimum of three years from the date of termination of this Agreement, or for such period as required by law. The Town and its authorized agents will, with reasonable prior notice, have the right to audit, inspect and copy all such records and documentation as often as the Town deems necessary during the term of this Agreement and the next succeeding three years.

11. Public Records. The following provisions are required by §119.0701, Fla. Stat., and may not be amended. Provider shall keep and maintain public records required by the Town to perform the services required under this Contract. Upon request from Town's custodian of public records, Provider shall provide Town with a copy of any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. Contractor shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract's term and following completion of the Contract if Contractor does not transfer the public records to Town. Upon completion of the Contract, Contractor may transfer, at no cost, to Town all public records in possession of Contractor or keep and maintain public records required by Town to perform the services required under the Contract. If Contractor transfers all public records to Town upon completion of the Contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of the

Contract, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Town, upon request from Town's custodian of public records, in a format that is compatible with Town 's information technology systems. The failure of Contractor to comply with the provisions set forth in this Section shall constitute a Default and Breach of this Agreement, for which, the Town may terminate the Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF THE PUBLIC RECORDS AT (239) 765-0202, FMBPUBLICRECORDS@FMBGOV.COM, 2731 OAK ST. ESTERO BOULEVARD, FORT MYERS BEACH, FLORIDA 33931.

12. References to Town. Public Records Compliance Indemnification. Provider agrees to indemnify and hold the Town harmless against any and all claims, damage awards, and causes of action arising from the Provider's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by Provider's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Provider authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Provider in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.

13. References to Town. All references to "the Town" or "the Town of Fort Myers Beach" are deemed to include its employees, agents, and authorized representatives.

14. Modification. Except as set forth in Paragraph 1 above, modifications to this Agreement will be valid only when made in writing and signed by both parties. In the event of a conflict between the requirements, provisions, or terms of this Agreement and any subsequent written modification hereto, the most recently executed document will take precedence.

15. E-Verify Compliance. By entering into this Agreement, the Contractor is obligated to comply with the provisions of Section 448.095, Florida Statutes "Employment Eligibility," as amended from time to time. This includes but is not limited to register with and use the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, as amended and Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to the Town as a result of the termination of this Agreement in accordance with this paragraph. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Florida Statutes, Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien,

and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Florida Statutes.

a. Town, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but Contractor otherwise complied, shall promptly notify Contractor and Contractor shall immediately terminate the contract with the subcontractor.

b. A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), Fla. Stat. Contractor acknowledges that upon termination of this AGREEMENT by the Town for a violation of this section by Contractor, Contractor may not be awarded a public contract for at least one (1) year. Contractor further acknowledges that Contractor is liable for any additional costs incurred by the Town as a result of termination of any contract for a violation of this section.

c. *Subcontracts.* Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

16. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars ($1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars ($1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

17. Non-appropriation. Town's performance and obligation to pay under this Agreement is contingent upon an appropriation during the Town's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by

memorandum from the Town Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year end shall be without penalty or expense to the Town subject to the Town paying all invoices for services rendered during the period the Agreement was funded by appropriations.

18. Disclosure Requirements for "Foreign Countries of Concern." Contractor shall comply with the disclosure requirements set forth is Section 286.101(3)(a), Florida Statutes, which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of $100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of $50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to section 268.101(7), Florida Statutes: "In addition to any fine assessed under [section 286.101(7)(a), Florida Statutes], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause."

19. Venue and Jurisdiction. Notwithstanding any of other provision to the contrary, this Agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally consents to submit and does submit to the jurisdiction of the Circuit Court in and for Lee County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement.

20. Attorneys' Fees and Costs. Notwithstanding any of other provision to the contrary, if litigation ensues regarding this Agreement, each party hereto shall bear its own attorneys' fees and costs.

21. Public Entities Crime or Convicted Vendor List. Contractor agrees and assumes a continuous duty to disclose to the Town if the Contractor or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.

22. Data Management; Notice of Breach. Contractor shall cooperate with the Town and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports, etc., which the Town must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.

23. Environmental and Social Government and Corporate Activism. The Town has not given preference or requested documentation from the Contractor based on Contractor's social, political or ideological interest. Contractor agrees to similarly not request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.

24. Taxes. The Town shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency to the extent that the Town is exempt from same by Florida law, including but not limited to any sales or use tax.

25. No coercion for labor or services. The Contractor swears under penalty of perjury that the Contractor does not use coercion for labor or services as defined as follows:

"Coercion" means:

1. Using or threatening to use physical force against any person;
2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
5. Causing or threatening to cause financial harm to any person;
6. Enticing or luring any person by fraud or deceit; or
7. Providing a controlled substance as outlined in Schedule I or Schedule II of Sec. 893.03, Fla. Stat. to any person for the purpose of exploitation of that person.

26. Additional Terms. The parties further agree as follows:

A. Federal Emergency Management Agency Supplemental Conditions. The terms and conditions contained in the Federal Emergency Management Supplemental Conditions attached as Exhibit E are incorporated by reference herein.

27. Miscellaneous Provisions.

a) *Applicable Law.* This Agreement is governed by the laws of the State of Florida.

b) *Non-Discrimination.* The Provider covenants that in the furnishing of services hereunder, no person on the grounds of race, color, national origin, handicap, or sex will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

c) *Headings.* The headings of the Articles, Sections, Exhibits, and Attachments in this Agreement are for the purpose of convenience only and may not be deemed to expand, limit or change the provisions contained in such Articles, Section, Exhibits and Attachments.

d) *Entire Agreement.* This Agreement, including any Exhibits, constitutes the entire Agreement between the parties and supersedes all prior agreements or understandings, written or oral, relating to the matters set forth herein.

e) *Notices.* All notices required under this Agreement must be in writing and sent via U.S. Postal Service, first class mail, to the other party's address as listed at the beginning of this Agreement. Either party may change its address by prior written notice to the other party.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have executed this Agreement as set forth below.

TOWN OF FORT MYERS BEACH

BY: _____
Andrew Hyatt, Town Manager,

ATTEST:

BY: _____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

BY: _____
Town Attorney

PROVIDER: **ICS Materials, INC.**

BY: _____
Signature

_____
Witness Signature

Jason Clark
Printed name of person signing

Sara Louis
Printed name of witness

President
Title (printed)

EXHIBIT "A"

TO THE EMERGENCY SERVICE PROVIDER AGREEMENT DATED October 24, 2024 BETWEEN THE TOWN AND PROVIDER.

1. *SCOPE OF SERVICES:* The Provider will perform the following services under this Agreement:

Screen overwash sand from Hurricane Milton to produce beach compatible sand that is free of all debris.

Place and grade beach compatible sand onto the beach as directed by the Town.

Remove debris from beach prior to placing sand on beach.

Remove debris sand from right of way and Town property and deliver to Town debris management site.

Dispose of screener debris byproduct and beach debris at permitted disposal site.

Follow all local, state and federal regulations.

EXHIBIT "B"

TO THE EMERGENCY SERVICE PROVIDER AGREEMENT DATED October 24, 2024 BETWEEN THE TOWN AND PROVIDER.

PAYMENT OBLIGATION

The Town will pay the Provider as follows for all services listed in Exhibit "A":

The Town will compensate the Provider on a volume and weight basis in the performance of the scope of services listed in Exhibit A and at the rates identified in Exhibit D. Tipping fees at final disposal site(s) shall be the responsibility of the Contractor and passed through to the Town without markup, unless approved otherwise.

Invoicing for services must include the following documentation to support debris collection, sand processing, sand delivery, sand grading and debris disposal charges:

- All debris monitor documentation including debris load tickets and daily reports required for the Town to obtain FEMA reimbursement
- Proof of proper disposal of debris including, but not limited to scale tickets and receipts for tipping fees from an authorized solid waste disposal facility

Compensation under this Agreement shall not exceed **$900,000.00**

EXHIBIT "C"

INSURANCE: The Provider shall obtain and maintain the following insurance coverages:

a) Workers Compensation Coverage to comply for all employees for Statutory Limits in compliance with the applicable State and Federal laws;

b) Employer's Liability with a minimum limit per accident in accordance with statutory requirements.

c) Commercial General Liability Insurance with minimum limits of $500,000 per occurrence and $500,000 aggregate for Bodily Injury Liability and a minimum limit of $500,000 for Property Damage Liability, or a minimum combined single limit of $1,000,000.

d) Business Automobile Liability Insurance with minimum limits of $500,000 per person and $500,000 per accident for Bodily Injury Liability and a minimum limit of $500,000 for Property Damage Liability, or a minimum combined single limit of $500,000, with coverage including owned vehicles, hired and non-owned vehicles, and employee non-ownership.

EXHIBIT "D"

	Task	Unit	Unit Price
1	Sand Screener & Equipment Mobilization & Demobilization	Lump Sum	$12,000.00
2	Beach Compatible Sand Production	Cubic Yard	$11.50
3	Deliver, Place & Grade Sand onto Beach		
3a	On Road Truck Delivery from DDMS to Beach Access	Cubic Yard	$7.00
3a	Off Road Truck Delivery from Beach Access to Beach	Cubic Yard	$7.00
3a	Place and Grade onto Beach	Cubic Yard	$6.49
3b	Off Road Truck Delivery from DDMS directly to Beach, Place and Grade	Cubic Yard	$13.49
4	Remove Sand from right of way and deliver to DDMS	Cubic Yard	$10.00
5	Debris Removal & Disposal at Landfill	Cubic Yard	$14.00
6	Vegetation Landfill Dump Fee (Estimated Pass through Cost, No Mark Up)	Ton	$42.37
7	Construction and Demo Landfill Dump Fee (Estimated Pass through Cost, No Mark Up)	Ton	$67.78
8	Surveying & Asbuilts	Lump Sum	$40,000.00

EXHIBIT "E"

ADDITIONAL TERMS – SUPPLEMENTAL FEDERAL EMERGENCY MANAGEMENT AGENCY SUPPLEMENTAL CONDITIONS

FEDERAL EMERGENCY MANAGEMENT AGENCY PUBLIC ASSISTANCE

The supplemental conditions contained in this section are intended to cooperate with, to supplement, and to modify the general conditions and other specifications. In cases of disagreement with any other section of this contract, the Supplemental Conditions shall govern. This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract.

Pursuant uniform requirements of federal awards (2 CFR Part 200.23) the definition of CONTRACTOR is an entity that receives a Contract / Purchase Order.

Compliance with Federal Law, Regulations and Executive Orders: The Sub-Recipient (Town) agrees to include in the subcontract that (i) the subcontractor is bound by the terms of the Federally-Funded Subaward and Grant Agreement, (ii) the subcontractor is bound by all applicable state and Federal laws and regulations, and (iii) the subcontractor shall hold the Division and Sub-Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law.

Specifically, the Contractor shall be responsible for being knowledgeable and performing any and all

services under this contract in accordance with the following governing regulations along with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

- 2 C.F.R. Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 44 C.F.R. Part 206
- The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121 et seq., and Related Authorities
- FEMA Public Assistance Program and Policy Guide

Access to Records: The contractor agrees to provide the Town, the Florida Department of Emergency Management, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representative's access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. (3) The contractor agrees to provide the FEMA Administrator or his authorized representatives' access to construction or other work sites pertaining to the work being completed under the contract. (4) In compliance with section 1225 of the Disaster Recovery Act of 2018, the Town and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

Affirmative Socioeconomic Steps If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Changes: To be allowable under a FEMA grant or cooperative agreement award, the cost of any contract change, modification, amendment, addendum, change order, or constructive change must be necessary, allowable, allocable, within the scope of the grant or cooperative agreement, reasonable for the scope of work, and otherwise allowable.

DHS Seal, Logo, and Flags: The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval. The contractor shall include this provision in any subcontracts.

Domestic Preference for Procurements 200.322 As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

For purposes of this section: "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

License and Delivery of Works Subject to Copyright and Data Rights: The Contractor grants to the Town, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the Town or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the Town data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the Town.

No Obligation by Federal Government: The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

Prohibition on Covered Telecommunications Equipment or Services
(a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy, #405-143-1 Prohibitions on Expending FEMA Award Funds forcovered Telecommunications Equipment or Services As used in this clause –

(b) Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

(i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
(ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
(iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
(iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

(1) This clause does not prohibit contractors from providing — (i). A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or (ii). Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to: (i). Covered telecommunications equipment or services that: i. Are not used as a substantial or essential component of any system; and ii. Are not used as critical technology of any system. (ii). Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d)Reporting requirement.

(1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause: (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer

number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended. (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph(e), in all subcontracts and other contractual instruments.

Program Fraud and False or Fraudulent Statements or Related Acts: The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

Rights to Inventions Made Under a Contract or Agreement: Exempt from FEMA Public Assistance Funding

Suspension and Debarment: (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. (3) This certification is a material representation of fact relied upon by the Town. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Town, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Procurement of Recovered Materials (§200.323) (Over $10,000): In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired— Competitively within a timeframe providing for compliance with the contract performance schedule; Meeting contract performance requirements; or At a reasonable price. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines webpage:

https://www.epa.gov/smm/comprehensive- procurement-guideline-cpg-program.

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

Termination for Cause and Convenience (over $10,000): See Standard Purchase Order and/or Contract Terms and Conditions

Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352 (as amended) (over $100,000): Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient."

Contractors must sign and submit a certification to the Town with each bid or offer exceeding $100,000. See Certifications and Assurances and the end of this document.

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) (over $100,000): Where applicable, all contracts awarded by the solicitor in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of $27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Town or FEMA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

For contracts that are only subject to Contract Work Hours and Safety Standards Act and are not subject to the other statutes in 29 C.F.R. § 5.1
"Further Compliance with the Contract Work Hours and Safety Standards Act.

(1) The contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.
(2) Records to be maintained under this provision shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

Clean Air Act (over $150,000): 1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. 2. The contractor agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. 3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act (over $150,000): 1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. 2. The contractor agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. 3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

Administrative, Contractual, or Legal Remedies (over $250,000): Unless otherwise provided in this contract, all claims, counter-claims, disputes and other matters in question between the local government and the contractor, arising out of or relating to this contract, or the breach of it, will be decided by arbitration, if the parties mutually agree, or in a Florida court of competent jurisdiction.

CONSTRUCTION ACTIVITIES

Equal Employment Opportunity Clause (§60-1.4): Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4.

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor

union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part an the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Davis Bacon Act: Exempt under FEMA Public Assistance Funding

Copeland Anti-Kickback Act: Exempt under FEMA Public Assistance Funding

STATE OF FLORIDA PROVISIONS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSITANCE PROGRAM

Applicable Laws - The Town and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. The Town shall include this provision in all contracts issued.

Data Collection: The Project shall be conducted in accordance with the terms and conditions set forth under this Agreement, all applicable Department permits and the eligible Project task items established below. All data collection and processing, and the resulting product deliverables, shall comply with the standards and technical specifications contained in the Department's Monitoring Standards for Beach Erosion Control Projects (2014) and all associated state and federal permits, unless otherwise specified in the approved scope of work for an eligible Project item. The monitoring standards may be found at: Project Monitoring (floridadep.gov)

In order to comply with Florida Auditor General report 2014-064 regarding conflicts of interest and to be consistent with Section 287.057(l7)(a)(l), F.S., **all monitoring data and statistical analysis must be provided directly and concurrently from the monitoring contractor to the Florida Department of Environmental Protection/Town/permittee/engineering consultant.** The Town's engineering consultant must provide an adequate mitigation plan, consistent with Section 287.057(17)(a)(l), F.S., including a description of organizational, physical, and electronic barriers to be used by the Town's engineering consultant, that addresses conflicts of interest when contracting multi-disciplinary firms for Project engineering and post-construction environmental monitoring services, or when the Project engineering consultant firm subcontracts for post-construction environmental monitoring. Environmental monitoring includes hardbottom, seagrass, and mangrove resources.

Equal Employment Opportunity: No person on the ground of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of, otherwise subjected to discrimination.

Inspector General Cooperation: The Parties agree to comply with Section 20.055(5), Florida Statutes, for the inspector general to have access to any records, data and other information deemed necessary to carry out his or her duties and incorporate into all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

Lobbying: No funds received pursuant to this Agreement may be expended for lobbying the Legislature, the judicial branch or a state agency.

Local Preference: Pursuant to Section 255.0991, F.S. local vendor preference is not applicable

Physical Access and Inspection: Grantor personnel shall be given access to and may observe and inspect work being performed under this Agreement, with reasonable notice and during normal business hours, including by any of the following methods:

i. The Town shall provide access to any location or facility on which Town is performing work, or storing or staging equipment, materials or documents.

ii. TheTown shall permit inspection of any facility, equipment, practices, or operations required in performance of any work pursuant to this Agreement; and,

iii. The Town shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any work or legal requirements pursuant to this Agreement.

Record Retention: A. The contractor shall maintain and retain sufficient records demonstrating its compliance with the terms of the Agreement for a period of at least five (5) years after final payment is

made and shall allow the Town, the State, or its authorized representatives access to such records for audit purposes upon request.

Statutory Notices Relating to Unauthorized Employment: The Town shall consider the employment by any Contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement

Statutory Notices Relating to Subcontracts: Pursuant to Sections 287.133 and 287.134, F.S., the following restrictions apply to persons placed on the convicted vendor list or the discriminatory vendor list:

i. **Public Entity Crime.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

ii. **Discriminatory Vendors.** An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

iii. **Notification.** The Grantee shall notify Department if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list or the discriminatory vendor list during the life of the Agreement. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and posts the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at (850) 487-0915.

Compliance with Federal Law, Regulations, And Executive Orders and Acknowledgement of Federal Funding

Certification

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

If the Contractor subcontracts any of the work required under this Agreement, a copy of the signed subcontract must be available to the Town for review and approval. The Contractor agrees to include in the subcontract that (1) the subcontractor is bound by the terms of this Agreement, (ii) the subcontractor is bound by all applicable state and federal laws and regulations, and (iii) the subcontractor shall hold the Town and the Grantor Agency harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law. The Town may document in the quarterly report the Contractor's progress in performing its work under this agreement.

On behalf of my firm, I acknowledge, the grant requirements identified in this document.

Vendor/Contractor Name ICS Materials Inc

Date 10/31/2024

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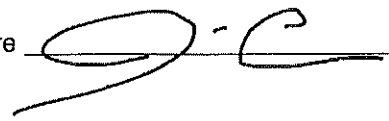
Authorized Signature 

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY and VOLUNTARY EXCLUSION

Contractor Covered Transactions

(1) The prospective subcontractor of the Sub-recipient, Town, certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the Sub-recipient's subcontractor is unable to certify to the above statement, the prospective contract shall attach an explanation to this form.

CONTRACTOR

ICS Materials Inc

By: _____
Signature

Jason Clark - President
Name and Title

16301 Palm Beach Blvd. Unit 3
Street Address

Alva, FL 33920
City, State, Zip

RRA8DYJAMNK3
UEI Unique Entity Identifier (for SAM.gov verification)

10/31/2024
Date

Sub-Recipient Name: Town of Fort Myers Beach

DEM Contract Number: TBD

FEMA Project Number: TBD

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

TOWN OF FORT MYERS BEACH
ANTICIPATED DISADVANTAGED, MINORITY, WOMEN OR VETERAN PARTICIPATION STATEMENT

Status will be verified. Unverifiable statuses will require the PRIME to either provide a revised statement or provide source documentation that validates a status.

A. PRIME VENDOR/CONTRACTOR INFORMATION

PRIME NAME	PRIME FDD NUMBER	CONTRACT DOLLAR AMOUNT

IS THE PRIME A FLORIDA-CERTIFIED DISADVANTAGED, MINORITY OR WOMEN BUSINESS ENTERPRISE? (DBE/MBE/WBE) OR HAVE A SMALL DISADVANTAGED BUSINESS 8A CERTIFICATION FROM THE SMALL BUSINESS ADMINISTRATION? A SERVICE DISABLED VETERAN?	VETERAN Y N DBE? Y N MBE? Y N WBE? Y N SDB 8A? Y N	IS THE ACTIVITY OF THIS CONTRACT... CONSTRUCTION? Y N CONSULTATION? Y N OTHER? Y N
IS THIS SUBMISSION A REVISION?	Y N	IF YES, REVISION NUMBER_____

B. IF PRIME HAS SUBCONTRACTOR OR SUPPLIER WHO IS A DISADVANTAGED MINORITY, WOMEN-OWNED, SMALL BUSINESS CONCERN OR SERVICE DISABLED VETERAN, PRIME IS TO COMPLETE THIS NEXT SECTION

DBE M/WBE VETERAN	SUBCONTRACTOR OR SUPPLIER NAME	TYPE OF WORK OR SPECIALTY	ETHNICITY CODE (See Below)	SUB/SUPPLIER DOLLAR AMOUNT	PERCENT OF CONTRACT DOLLARS
			TOTALS		

C. SECTION TO BE COMPLETED BY PRIME VENDOR/CONTRACTOR

NAME OF SUBMITTER	DATE	TITLE OF SUBMITTER
EMAIL ADDRESS OF PRIME (SUBMITTER)	**TELEPHONE NUMBER**	**FAX NUMBER**

NOTE: This information is used to track and report anticipated DBE or MBE participation in federally funded contracts. The anticipated DBE or MBE amount is voluntary and will not become part of the contractual terms. This form must be submitted at time of response to a solicitation. If and when awarded a County contract, the prime will be asked to update the information for the grant compliance files.

ETHNICITY	CODE
Black American	BA
Hispanic American	HA
Native American	NA
Subcont. Asian American	SAA
Asian-Pacific American	APA
Non-Minority Women	NMW
Other not of any other group listed	O

D. SECTION TO BE COMPLETED BY TOWN OF FORT MYERS BEACH

DEPARTMENT NAME	FMB CONTRACT # (FB/RFP or PO/REQ)	GRANT PROGRAM/CONTRACT

ACCEPTED BY:	DATE

LOBBYING CERTIFICATION
(To be submitted with each bid or offer exceeding $100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

ICS Materials Inc
Contractor (Firm Name)

Signature of Contractor's Authorized Official

Jason Clark - President
Name and Title of Contractor's Authorized Official

10/31/2024
Date

[Remainder of Page Intentionally Left Blank]

ICS Materials Inc.
16301 Palm Beach Blvd Unit 3
Alva, FL 33920 US
(239) 839-0862
info@floridacontractors.us

Invoice

BILL TO
Town of Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

INVOICE	INV111224-31
DATE	11/12/2024
TERMS	Net 7
DUE DATE	11/19/2024

DESCRIPTION	QTY	RATE	AMOUNT
Dates: 11.12.24 Additional ticket 9376273 that monitors verified Remove sand from right of way and deliver to DDMS Quantity: 16 Cubic Yards Rate: $10.00/CY	16	10.00	160.00

SUBTOTAL	160.00
TAX	0.00
TOTAL	160.00
BALANCE DUE	**$160.00**

ICS Materials Inc.
16301 Palm Beach Blvd Unit 3
Alva, FL 33920 US
(239) 839-0862
info@floridacontractors.us

Invoice

BILL TO
Town of Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

INVOICE	INV111924-31
DATE	11/19/2024
TERMS	Net 7
DUE DATE	11/26/2024

DESCRIPTION	QTY	RATE	AMOUNT
Project: Town of Fort Myers Beach Hurricane Milton Description: Surveying & Asbuilts Rate: $40,000.00 Quantity: 1 Lump Sum	1	40,000.00	40,000.00

SUBTOTAL	40,000.00
TAX	0.00
TOTAL	40,000.00
BALANCE DUE	**$40,000.00**

ICS Materials Inc.
16301 Palm Beach Blvd Unit 3
Alva, FL 33920 US
(239) 839-0862
info@floridacontractors.us

Invoice

BILL TO
Town of Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

INVOICE	INV121024-31-2
DATE	12/10/2024
TERMS	Net 7
DUE DATE	12/17/2024

DESCRIPTION	QTY	RATE	AMOUNT
Project: Town of Fort Myers Beach Hurricane Milton Date: 12.10.24 Additional beach compatible sand production on 12.10.24 (Cubic Yards) Rate: $11.50 / CY	431.75	11.50	4,965.13
Delivery from DDMS to Beach Access (Cubic Yards) Rate: $7.00 / CY	431.75	7.00	3,022.25
Delivery from Beach Access to Beach (Cubic Yards) Rate: $7.00 / CY	431.75	7.00	3,022.25
Place and Grade - (Cubic Yards) Rate: $6.49 / CY	431.75	6.49	2,802.06

SUBTOTAL	13,811.69
TAX	0.00
TOTAL	13,811.69
BALANCE DUE	**$13,811.69**

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2025-410**

1. **Request:**

Meeting Date: May 19, 2025

Discussion of the Status of Temporary Residential Housing Post-Emergency/Disaster and SB250/SB180

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**
TOWN ATTORNEY'S ITEMS

3. **Requirement/Purpose:**

4. **Submitter of Information:**
Nancy Stuparich, Town Attorney

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5. **Background:**
Council Member Woodson requested the Town Attorney provide an update at the 5/19/25 meeting related to the status of temporary residential housing post-emergency/disaster.

Recently, the Florida Legislature has proposed SB 180, which is pending signature by Governor DeSantis and will be effective on July 1, 2025. SB 180 impacts redevelopment efforts in Fort Myers Beach and other emergency management changes that will impact the Town's residents and the Town's ability to recover post-emergency/disaster.

Attachments:
1. Reference on Pages 2-3 February 28, 2025 FEMA letter
2. SB250
3. SB180
4. SB180 Post-analysis
5. FLC Bill Analysis

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Amy Baker, Town Clerk	Created/Initiated - 5/7/2025
nancy stuparich, Town Attorney	Approved - 5/13/2025
Amy Baker, Town Clerk	Approved - 5/13/2025
Andy Hyatt, Town Manager	Final Approval - 5/13/2025

U.S. Department of Homeland Security
Region 4
3005 Chamblee Tucker
Road Atlanta, GA 30341

FEMA

February 28, 2025

Andy Hyatt, Town Manager
Town of Fort Myers Beach 2731
Oak Street
Fort Myers Beach, FL 33931

Re: Fort Myers Beach - Response to FEMA Letter Dated February 6,2025

Dear Mr. Hyatt:

We received your letter on February 18, 2025, requesting additional clarification on the decision to place the Town of Fort Myers Beach on probation with the National Flood Insurance Program. You asked about additional work and documentation needed to complete requirements for Action Items 2, 3 and 5.

These action items were outlined in the July 19, 2024, letter notifying the Town that outstanding deficiencies and violations in the floodplain management program related to Hurricane Ian **must be remedied by Nov. 18, 2024**. Otherwise, FEMA's regulations (Title 44 Code of Federal Regulations 59.24(b) Suspension of Community Eligibility) required FEMA to place the Town on probation. That letter also stated that if probation was to go into effect the Town would no longer be eligible for Community Rating System participation and would be retrograded to Class 10 effective on April 1, 2025.

We have responded to each of your questions below.

Action Item 2

Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations.

Follow-up Action Item #2 Questions

Question 1: What exactly has not been completed in the crosswalk assessment tool that prevents the Town from being in compliance with Action Item #2?

> FEMA Response: Of the 1,665 addresses listed in the crosswalk data submitted by the Town, 1,583 had no permit or any other information listed. FEMA is unable to determine what, if any, actions have taken place with these properties. FEMA cannot consider the assessment of all floodplain development to be complete without updated status information on these properties. Status updates could include, but are not limited to, Permit issued/pending, Notice of Violation Issued/Pending, Notification Letter sent, awaiting response, Administrative Hearing pending, etc. The status will be determined by what phase of the Town's enforcement process the property is currently in.

Question 2: What specific permitting paperwork is still required that has not been submitted previously submitted to EMA in the letter dated 11/21/2024?

FEMA Response: The Town will need to submit updated spreadsheets that clearly indicate the status of these properties and what, if any, actions have been taken.

Question 3: Are there specific properties you are referring to that the Town needs to assess that were not covered in the previous documentation presented to FEMA in the letter dated 11/21/2024?

FEMA Response: FEMA is not requiring data on any properties besides those already identified.

Action Item 3

Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant.

Follow-up Action Item #3 Questions

Question 1. What exactly has not been completed in the crosswalk assessment tool that prevents the Town from being in compliance with Action item #3?

FEMA Response: FEMA cannot determine if the Town is leveraging its code enforcement process without the missing information mentioned above. Submission of the data spelled out in response to Action Item 1 will allow FEMA to confirm the Town is pursuing its code enforcement process appropriately.

Question 2: What additional documentation would you like the Town to provide that has not been previously presented to FEMA in the letter dated 11/21/2024?

FEMA Response: The documentation spelled out above, indicating status of the properties in question will satisfy FEMA's requirement and assure the Agency that the Town is appropriately enforcing its ordinance.

Question 3: The Town has provided you with its code requirements to provide a Notice of Violation to non-compliant structures giving them 30 days to come into compliance. If they do not, they are scheduled for a magistrate hearing for a ruling. The Town will be seeking abatement of these structures at these hearings. Is the Town's current code process sufficient to meet action item #3?

FEMA Response: If the process outlined above conforms to the Town's ordinance and any relevant State or Federal regulation then it will be deemed sufficient so long as the Town can demonstrate that it is be enforced consistently throughout the Town on all properties deemed out of compliance. Submission of the status updates requested above will demonstrate the consistent enforcement of this process.

Action Item 5

Remove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

Follow-up Action Item #5 Questions

Question 1: Do temporary housing trailers [such as recreational vehicles, park trailers, or other similar] need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?

FEMA Response: Temporary housing for disaster survivors that has been permitted by the Town of Fort Myers Beach is acceptable.

Question 2: Do temporary food trucks and/or trailers need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024 [if these are licensed as vehicles and can be moved in the event of an approaching storm?]

FEMA Response: Food trucks are vehicles and should be regulated in the SFHA similar to any licensed and road-ready vehicle in the Town's jurisdiction. Trailers that have been placed on a foundation or modified to include any structural attachments are to be elevated and anchored to meet the Town's Floodplain Management Regulations. Connex boxes, storage containers or any other similar units should not be placed in the SFHA without being elevated and properly anchored to meet the Town's Floodplain Management Regulations.

Question 3: Do temporary storage containers need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?

FEMA Response: Storage containers are not to be placed in the Special Flood Hazard Area (V zone, Coastal A, or A zone) without meeting the Town's Floodplain Management Regulations. All non-compliant structures are to be removed. Connex boxes, storage containers or any other similar units should not be placed in the SFHA without being elevated and properly anchored to meet the Town's Floodplain Management Regulations.

Question 4: Will unsafe homes, [structures,] and businesses need to be required to be [demolished or] removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?

FEMA Response: The Town would need to continue to leverage their code enforcement process to ensure non-compliant structures are brought into compliance. They should be reviewed on a case-by-case basis and would need to be monitored and be brought into compliance to the maximum extent possible.

Question 5: Will non-compliant substantially damaged homes, [structures,] or businesses that have been deemed in violation and cited by the Town be held against the town if they are not demolished after a magistrate ruling [requiring demolition?]

FEMA Response: The Town would need to continue to leverage their code enforcement process to ensure non-compliant structures are brought into compliance. They should be reviewed on a case-by-case basis and would need to be monitored and be brought into compliance to the maximum extent possible.

FEMA remains committed to assisting the Town of Fort Myers Beach as it navigates the probation process. As in the past, staff remain available to work, in person, with the Town to assist in resolving these compliance issues.

If you have any questions or would like to arrange in-person technical assistance to address these issues, please contact FEMA Region 4 Office, Jason Hunter, Floodplain Management and Insurance Branch Chief, at jason.hunter@fema.dhs.gov or 404-909-6125.

Sincerely,

JACQUELINE S BELL

Digitally signed by JACQUELINE S BELL
Date: 2025.02.28 14:11:01 -05'00'

Jacky S. Bell
Director, Mitigation Division

cc:

Jason Hunter, Region Floodplain Management & Insurance Branch Chief

Jillian Kraynak, Florida NFIP State Coordinator

An act relating to natural emergencies; creating ss. 125.023 and 166.0335, F.S.; defining the term "temporary shelter"; prohibiting counties and municipalities, respectively, from prohibiting temporary shelters on residential property for a specified timeframe under certain circumstances; amending s. 252.35, F.S.; requiring the Division of Emergency Management to post a model contract for debris removal on its website by a specified date; requiring the model contract to be annually updated by a specified date; requiring the division to prioritize technical assistance and training relating to natural disasters and emergencies to fiscally constrained counties; requiring the division to administer a revolving loan fund for certain local government projects; amending s. 252.363, F.S.; increasing the timeframe to exercise rights under a permit or other authorization; limiting the timeframe to exercise rights under a permit or other authorization to a certain timeframe when multiple natural emergencies occur; providing for retroactive application; creating s. 252.391, F.S.; defining the term "local governmental entity"; encouraging local governmental entities to develop an emergency financial plan for major disasters; providing the contents of the emergency financial plan; recommending annual review of the emergency financial plan; amending s. 252.40, F.S.; authorizing local governments to create

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

inspection teams for the review and approval of certain expedited permits; encouraging local governments to establish certain interlocal agreements; encouraging local governments to develop plans related to temporary accommodations of certain individuals; amending s. 287.055, F.S.; revising the definition of the term "continuing contract"; providing for the future expiration and reversion of specified statutory text; amending s. 288.066, F.S.; creating the Local Government Emergency Revolving Bridge Loan Program within the Department of Economic Opportunity to provide certain financial assistance to local governments impacted by federally declared disasters; conforming provisions to changes made by the act; providing construction; authorizing the department to provide interest-free loans to eligible local governments through specified means; requiring the department to prescribe a loan application; requiring the department to determine the loan amount based on certain factors; authorizing the department to deny a loan application and providing specified reasons for such denial; requiring the department to provide certain notice and make loan information available to eligible local governments; requiring loan repayments to be returned to the loan fund; providing that funds appropriated for the program are not subject to reversion; providing for expiration; creating s. 366.98, F.S.; providing liability protection for public utilities in certain

circumstances; authorizing the Florida Public Service Commission to resolve certain issues; providing applicability; amending s. 489.117, F.S.; authorizing a registered contractor to engage in contracting under certain circumstances; providing an expiration timeframe for such authorization; authorizing the local jurisdiction to discipline the registered contractor under certain circumstances; creating s. 553.7922, F.S.; requiring local governments impacted by certain emergencies to approve special processing procedures to expedite certain permits; amending s. 553.80, F.S.; prohibiting certain local governments from raising building inspection fees during a certain timeframe; providing for future expiration; prohibiting counties and municipalities located within a certain area from adopting or amending certain moratoriums, amendments, or procedures for a specified period; declaring that such moratoriums, amendments, or procedures are null and void; providing for retroactive application; providing that certain comprehensive plan amendments, land development regulations, site plans, and development permits or orders may be enforced; providing for expiration; amending s. 823.11, F.S.; authorizing certain persons to engage in a process relating to the removal and destruction of derelict vessels; providing appropriations; providing for the transfer of certain appropriated funds to the Economic Development Trust Fund of the Department of Economic Opportunity;

requiring that loan repayments be repaid to the Economic Development Trust Fund; authorizing certain independent special fire control districts to file a specified report on an alternative schedule; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 125.023, Florida Statutes, is created to read:

125.023 Temporary shelter prohibition.—

(1) For the purposes of this section, the term "temporary shelter" includes, but is not limited to, a recreational vehicle, trailer, or similar structure placed on a residential property.

(2) Notwithstanding any other law, ordinance, or regulation to the contrary, following the declaration of a state of emergency issued by the Governor for a natural emergency as defined in s. 252.34(8) during which a permanent residential structure was damaged and rendered uninhabitable, a county may not prohibit the placement of one temporary shelter on the residential property for up to 36 months after the date of the declaration or until a certificate of occupancy is issued on the permanent residential structure on the property, whichever occurs first, if all of the following circumstances apply:

(a) The resident makes a good faith effort to rebuild or renovate the damaged permanent residential structure, including, but not limited to, applying for a building permit, submitting a plan or design to the county, or obtaining a construction loan.

(b) The temporary shelter is connected to water and electric utilities and does not present a threat to health and human safety.

(c) The resident lives in the temporary structure.

Section 2. Section 166.0335, Florida Statutes, is created to read:

166.0335 Temporary shelter prohibition.—

(1) For the purposes of this section, the term "temporary shelter" includes, but is not limited to, a recreational vehicle, trailer, or similar structure placed on a residential property.

(2) Notwithstanding any other law, ordinance, or regulation to the contrary, following the declaration of a state of emergency issued by the Governor for a natural emergency as defined in s. 252.34(8) during which a permanent residential structure was damaged and rendered uninhabitable, a municipality may not prohibit the placement of one temporary shelter on the residential property for up to 36 months after the date of the declaration or until a certificate of occupancy is issued on the permanent residential structure on the property, whichever occurs first, if all of the following circumstances apply:

(a) The resident makes a good faith effort to rebuild or renovate the damaged permanent residential structure, including, but not limited to, applying for a building permit, submitting a plan or design to the municipality, or obtaining a construction loan.

(b) The temporary shelter is connected to water and electric utilities and does not present a threat to health and human safety.

(c) The resident lives in the temporary structure.

Section 3. Effective upon becoming a law, paragraphs (bb), (cc), and (dd) are added to subsection (2) of section 252.35, Florida Statutes, to read:

252.35 Emergency management powers; Division of Emergency Management.—

(2) The division is responsible for carrying out the provisions of ss. 252.31-252.90. In performing its duties, the division shall:

(bb) Post on its website a model of a local government contract for debris removal to be used by political subdivisions. The initial model contract must be posted to the website no later than June 1, 2023, and, thereafter, the model contract must be annually updated and posted to the website no later than June 1.

(cc) Prioritize technical assistance and training to fiscally constrained counties as defined in s. 218.67(1) on aspects of safety measures, preparedness, prevention, response, recovery, and mitigation relating to natural disasters and emergencies.

(dd) Administer a revolving loan program for local government hazard mitigation projects.

Section 4. Paragraph (a) of subsection (1) of section 252.363, Florida Statutes, is amended to read:

252.363 Tolling and extension of permits and other authorizations.—

(1)(a) The declaration of a state of emergency issued by the Governor for a natural emergency tolls the period remaining to exercise the rights under a permit or other authorization for

the duration of the emergency declaration. Further, the emergency declaration extends the period remaining to exercise the rights under a permit or other authorization for 24 ~~6~~ months in addition to the tolled period. The extended period to exercise the rights under a permit or other authorization may not exceed 48 months in total in the event of multiple natural emergencies for which the Governor declares a state of emergency. The tolling and extension of permits and other authorizations under this paragraph shall apply retroactively to September 28, 2022. This paragraph applies to the following:

1. The expiration of a development order issued by a local government.

2. The expiration of a building permit.

3. The expiration of a permit issued by the Department of Environmental Protection or a water management district pursuant to part IV of chapter 373.

4. Permits issued by the Department of Environmental Protection or a water management district pursuant to part II of chapter 373 for land subject to a development agreement under ss. 163.3220-163.3243 in which the permittee and the developer are the same or a related entity.

5. The buildout date of a development of regional impact, including any extension of a buildout date that was previously granted as specified in s. 380.06(7)(c).

6. The expiration of a development permit or development agreement authorized by Florida Statutes, including those authorized under the Florida Local Government Development Agreement Act, or issued by a local government or other governmental agency.

Section 5. Section 252.391, Florida Statutes, is created to read:

252.391 Emergency financial plans.—

(1) As used in this section, the term "local governmental entity" means a county, municipality, or district school board.

(2) Each local governmental entity is encouraged to develop an emergency financial plan for major natural disasters that may impact its jurisdiction. Disasters include, but are not limited to, hurricanes, tornadoes, floods, and wildfires.

(3) Each emergency financial plan should be based on the likely frequency of the disaster's occurrence. The financial plan should include a calculation of the costs for the natural disaster event and a determination of the financial resources available to the local governmental entity. If insufficient funds are available to address the disaster event, the emergency financial plan should identify strategies to close the gap between the disaster event costs and the local governmental entity's financial capacity. Such strategies may include rainy day funds, reprioritizing its annual budget, and borrowing.

(4) Local governmental entities should annually review their emergency financial plans to address changes in conditions.

Section 6. Subsections (3) and (4) are added to section 252.40, Florida Statutes, to read:

252.40 Mutual aid arrangements.—

(3) Local governments may create inspection teams to review and approve expedited permits for temporary housing solutions, repairs, and renovations after a natural disaster. Local governments are encouraged to establish interlocal agreements

with other jurisdictions to provide additional inspection services during a state of emergency.

(4) Municipalities and counties are encouraged to develop and adopt plans to provide temporary accommodations for contractors, utility workers, first responders, and others dispatched to aid in hurricane recovery efforts. Public areas, including, but not limited to, fairgrounds and parking lots, may be used for tents and trailers for such temporary accommodations.

Section 7. Effective upon becoming a law, paragraph (g) of subsection (2) of section 287.055, Florida Statutes, is amended to read:

287.055 Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.—

(2) DEFINITIONS.—For purposes of this section:

(g) A "continuing contract" is a contract for professional services entered into in accordance with all the procedures of this act between an agency and a firm whereby the firm provides professional services to the agency for projects in which the estimated construction cost of each individual project under the contract does not exceed $4 million, for study activity if the fee for professional services for each individual study under the contract does not exceed $500,000, or for work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except that the contract must provide a termination clause. Firms providing professional services under continuing

contracts shall not be required to bid against one another. The term "continuing contract" includes contracts executed through December 31, 2023, for professional services to the agency for projects related to repairs and remediation to a specific site due to damage caused by Hurricane Ian in which the estimated construction cost for each individual project does not exceed $15 million.

Section 8. The amendments made by this act to s. 287.055(2)(g), Florida Statutes, expire on January 1, 2024, and the text of that paragraph shall revert to that in existence on the day before the date that this act became a law, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of the text which expire pursuant to this section.

Section 9. Section 288.066, Florida Statutes, as created by section 1 of chapter 2023-1, Laws of Florida, is amended to read:

288.066 Local Government Emergency Revolving Bridge Loan Program.—

(1) CREATION.—The Local Government Emergency Revolving Bridge Loan Program is created~~, subject to appropriation,~~ within the department to provide financial assistance to local governments impacted by federally declared disasters ~~Hurricane Ian or Hurricane Nicole~~. The purpose of the loan program is to assist these local governments in maintaining government operations by bridging the gap between the time that the declared disaster occurred and the time that additional funding sources or revenues are secured to provide them with financial

assistance.

(2) ELIGIBILITY.—To be eligible for a loan under the program, a local government must be a county or a municipality located in an area designated in a ~~the~~ Federal Emergency Management Agency disaster declaration ~~declarations for Hurricane Ian or Hurricane Nicole~~. The local government must show that it may suffer or has suffered substantial loss of its tax or other revenues as a result of the disaster ~~hurricane~~ and demonstrate a need for financial assistance to enable it to continue to perform its governmental operations. Access to and eligibility for the loan program supersedes any local government charter or borrowing limitations that would otherwise financially constrain the local government's ability to recover from a disaster.

(3) LOAN TERMS.—

(a) The department may provide interest-free loans to eligible local governments through a promissory note or other form of written agreement evidencing an obligation to repay the borrowed funds to the department.

(b) The amount of each loan must be based upon demonstrated need ~~and must be disbursed to the local government in a lump sum~~.

(c) The term of the loan is up to 24 months ~~1 year, unless otherwise extended by the department~~. However, the department may extend loan terms for up to 6 months based on the local government's financial condition.

(4) APPLICATION.—The department shall prescribe a loan application and may request any other information determined necessary by the department to review and evaluate the

application. The eligible local government must submit a loan application within the 12 months after the date that the federal disaster was declared. Upon receipt of an application, the department shall review the application and may request additional information as necessary to complete the review and evaluation. If the loan application is approved, the department shall determine the amount to be loaned, which may be a lower amount than requested, based on the information provided and the total amount of funds available to be loaned and in relation to demonstrated need from other eligible applicants. If the loan application is denied, reasons for the denial may include, but are not limited to, the loan risk, an incomplete application, failure to demonstrate need, or the fact that receiving a loan may negatively affect the local government's eligibility for other federal programs.

(5) ~~(4)~~ USE OF LOAN FUNDS.—A local government may use loan funds only to continue local governmental operations or to expand or modify such operations to meet disaster-related needs. The funds may not be used to finance or supplant funding for capital improvements or to repair or restore damaged public facilities or infrastructure.

(6) ~~(5)~~ LOAN REPAYMENT.—

(a) The local government may make payments against the loan at any time without penalty. Early repayment is encouraged as other funding sources or revenues become available to the local government.

(b) Loans become due and payable in accordance with the terms of the agreement.

(7) ~~(6)~~ ADMINISTRATION.—

(a) Upon the issuance of a federal disaster declaration, the department shall provide notice of application requirements and the total amount of funds available and shall make loan information available to eligible local governments. Based upon the amount of funds in the Economic Development Trust Fund available to be loaned and anticipated balances, the department may make funds available in an amount reasonably related to the anticipated need, based upon the impacts of the federal disaster, up to the total amount available ~~The department may approve loans in the 2022-2023 fiscal year or the 2023-2024 fiscal year up to the total amount appropriated~~.

(b) The department must coordinate with the Division of Emergency Management or other applicable state agencies to assess whether such loans would affect reimbursement under federal programs for disaster-related expenses.

(c) All repayments of principal and interest must be returned to the loan fund and made available as provided in this section. Notwithstanding s. 216.301, funds appropriated for this program are not subject to reversion ~~Upon receipt of any loan payment from a local government, the department shall transfer the funds to the General Revenue Fund~~.

(8) ~~(7)~~ RULES.—The department may adopt rules to implement this section.

(9) ~~(8)~~ EXPIRATION.—This section expires July 1, 2038. A loan may not be awarded after June 30, 2038 ~~June 30, 2027~~. Upon expiration, all unencumbered funds and loan repayments made on or after July 1, 2038, must be transferred ~~revert~~ to the General Revenue Fund.

Section 10. Section 366.98, Florida Statutes, is created to

read:

366.98 Public utility liability arising out of emergencies and disasters.—

(1) A public utility is not liable for damages based in whole or in part on changes in the reliability, continuity, or quality of utility services which arise in any way out of an emergency or disaster, including, but not limited to, a state of emergency declared under s. 252.36. Consistent with the commission's jurisdiction over public utility rates and service, issues relating to the sufficiency of a public utility's disaster preparedness and response shall be resolved by the commission.

(2) This section does not create a new cause of action. In the event that there is a conflict between this section and any other section of the Florida Statutes, this section shall control.

Section 11. Effective upon becoming a law, subsection (5) is added to section 489.117, Florida Statutes, to read:

489.117 Registration; specialty contractors.—

(5) Notwithstanding paragraph (1)(b), a registered contractor may engage in contracting only for work covered by the registration within an area for which a state of emergency is declared pursuant to s. 252.36 for a natural emergency. This authorization terminates 24 months after the expiration of the declared state of emergency. The local jurisdiction that licenses the registered contractor may discipline the registered contractor for violations occurring outside the licensing jurisdiction which occur during the period such work is authorized under this subsection.

Section 12. Section 553.7922, Florida Statutes, is created to read:

553.7922 Local government-expedited approval of certain permits.—Following a state of emergency declared pursuant to s. 252.36 for a natural emergency, local governments impacted by the emergency shall approve special processing procedures to expedite permit issuance for permits that do not require technical review, including, but not limited to, roof repairs, reroofing, electrical repairs, service changes, or the replacement of one window or one door. Local governments may waive application and inspection fees for permits expedited under this section.

Section 13. Effective upon becoming a law, present subsections (8) and (9) of section 553.80, Florida Statutes, are redesignated as subsections (9) and (10), respectively, and a new subsection (8) is added to that section, to read:

553.80 Enforcement.—

(8) Effective January 1, 2023, local governments located in areas designated in the Federal Emergency Management Agency disaster declarations for Hurricane Ian or Hurricane Nicole may not raise building inspection fees, as authorized by s. 125.56(2) or s. 166.222 and this section, before October 1, 2024. This subsection expires June 30, 2025.

Section 14. (1) A county or municipality located entirely or partially within 100 miles of where either Hurricane Ian or Hurricane Nicole made landfall shall not propose or adopt any moratorium on construction, reconstruction, or redevelopment of any property damaged by Hurricane Ian or Hurricane Nicole; propose or adopt more restrictive or burdensome amendments to

its comprehensive plan or land development regulations; or propose or adopt more restrictive or burdensome procedures concerning review, approval, or issuance of a site plan, development permit, or development order, to the extent that those terms are defined by s. 163.3164, Florida Statutes, before October 1, 2024, and any such moratorium or restrictive or burdensome comprehensive plan amendment, land development regulation, or procedure shall be null and void ab initio. This subsection applies retroactively to September 28, 2022.

(2) Notwithstanding subsection (1), any comprehensive plan amendment, land development regulation amendment, site plan, development permit, or development order approved or adopted by a county or municipality before or after the effective date of this section may be enforced if:

(a) The associated application is initiated by a private party other than the county or municipality.

(b) The property that is the subject of the application is owned by the initiating private party.

(3) This section shall take effect upon becoming a law and expire June 30, 2025.

Section 15. Paragraph (d) is added to subsection (2) of section 823.11, Florida Statutes, to read:

823.11 Derelict vessels; relocation or removal; penalty.—

(2)

(d) Notwithstanding the additional 45 days provided in sub-subparagraph (b)2.b. during which an owner or a responsible party may not be charged for a violation of this section, the commission, an officer of the commission, a law enforcement agency or officer specified in s. 327.70, or, during a state of

emergency declared by the Governor, the Division of Emergency Management or its designee, may immediately begin the process set forth in s. 705.103(2)(a) and, once that process has been completed and the 45 days provided herein have passed, any vessel that has not been removed or repaired such that it is no longer derelict upon the waters of this state may be removed and destroyed as provided therein.

Section 16. For the 2023-2024 fiscal year, the sums of $1 million in nonrecurring funds from the General Revenue Fund and $10 million in nonrecurring funds from the Federal Grants Trust Fund are appropriated to the Division of Emergency Management to fund the Safeguarding Tomorrow Through Ongoing Risk Mitigation Act Revolving Loan Program. These funds shall be placed in reserve. The division is authorized to submit a budget amendment for release of the funds held in reserve for approval by the Legislative Budget Commission pursuant to chapter 216, Florida Statutes. Release is contingent upon documentation of an award or other approval by the Federal Emergency Management Agency and the division's approved intended use plan for the funds.

Section 17. (1) For the 2023-2024 fiscal year, the sum of $50 million in nonrecurring funds is appropriated from the General Revenue Fund to the Economic Development Trust Fund of the Department of Economic Opportunity to fund the Local Government Emergency Revolving Bridge Loan Program.

(2) Funds appropriated in section 3 of chapter 2023-1, Laws of Florida, for the Local Government Emergency Bridge Loan Program which have not been loaned to a local government pursuant to a loan agreement as of July 1, 2023, shall be transferred by nonoperating budget authority to the Economic

Development Trust Fund of the Department of Economic Opportunity to be used for the Local Government Emergency Revolving Bridge Loan Program.

(3) Notwithstanding sections 1 and 3 of chapter 2023-1, Laws of Florida, all loan repayments for loans made under the Local Government Emergency Bridge Loan Program shall be repaid into the Economic Development Trust Fund and be made available for loans under the Local Government Emergency Revolving Bridge Loan Program.

Section 18. Notwithstanding the timeframe specified in s. 189.0695 (2)(c) and (d), Florida Statutes, an independent special fire control district located entirely or partially within 50 miles of where Hurricane Ian made landfall that was required to submit its final report of the performance review by July 1, 2023, may file such report no later than January 1, 2024.

Section 19. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon becoming a law, this act shall take effect July 1, 2023.

An act relating to emergencies; amending s. 83.63, F.S.; requiring certain tenants to be given specified opportunities or notice; creating s. 163.31795, F.S.; defining the terms "cumulative substantial improvement period" and "local government"; prohibiting certain local governments from adopting ordinances for substantial improvements or repairs to a structure which include cumulative substantial improvement periods; amending s. 163.31801, F.S.; prohibiting certain entities from assessing impact fees for specified replacement structures; providing an exception; providing construction; amending s. 193.155, F.S.; revising the square footage limitations for certain changes, additions, and improvements to damaged property; amending s. 215.559, F.S.; removing a reference to a certain report; revising public hurricane shelter funding prioritization requirements for the Division of Emergency Management; amending s. 250.375, F.S.; authorizing certain servicemembers to provide medical care in specified circumstances; amending s. 252.35, F.S.; revising requirements for the state comprehensive emergency management plan; requiring such plan to include an update on the status of certain emergency management capabilities; requiring the division to collaborate with the Department of Health; revising responsibilities of the division; requiring the division to develop a certain template; revising the purpose of certain training

programs; requiring the division to set the minimum number of training hours that specified individuals must complete biennially; authorizing such training to be provided by certain entities; requiring the division to conduct an annual hurricane readiness session in each region designated by the division for a specified purpose; requiring all county emergency management directors, and authorizing other county and municipal personnel, to attend such session; requiring that the session include specified topics and needs; removing a specified reporting requirement; amending s. 252.355, F.S.; authorizing the Department of Veterans' Affairs to provide certain information to specified clients or their caregivers; requiring the Florida Housing Finance Corporation to enter into memoranda of understanding with specified agencies for a certain purpose; providing that specified persons may use special needs shelters in certain circumstances; amending s. 252.3611, F.S.; directing specified entities to submit specified contracts and reports to the Legislature under specified conditions; requiring such contracts to be posted on a specified secure contract system; requiring the division to report annually to the Legislature specified information on expenditures relating to emergencies; providing requirements for such report; amending s. 252.363, F.S.; providing for the tolling and extension of certain determinations; providing for retroactive application; amending s. 252.365, F.S.; requiring

agency heads to notify the Governor and the division of the person designated as the emergency coordination officer annually by a specified date; amending s. 252.3655, F.S.; creating the natural hazards risks and mitigation interagency coordinating group; providing the purpose of the group; providing for the membership and administration of the group; requiring agency representatives to provide information relating to natural hazards to this state, agency resources, and efforts to address and mitigate risks and impacts of natural hazards; requiring the group to meet in person or by communications media technology at least quarterly for specified purposes; requiring specified agency heads to meet at least annually to strategize and prioritize state efforts; requiring the division, on behalf of the group, to prepare an annual progress report and submit such report to the Governor and Legislature; revising requirements for such report; amending s. 252.37, F.S.; requiring the division to notify the Legislature of its intent to accept or apply for federal funds under certain circumstances; requiring the division to take steps to maximize the availability and expedite the distribution of financial assistance from the Federal Government to state and local agencies; requiring that such steps include the standardization and streamlining of the application process for federal financial assistance and the provision of assistance to applicants for a specified purpose; requiring the division to use

certain federal funds to implement such requirements; amending s. 252.373, F.S.; conforming a cross-reference; amending s. 252.38, F.S.; requiring political subdivisions to annually provide specified notification to the division before a specified date; creating s. 252.381, F.S.; requiring counties and municipalities to post certain information on their websites; requiring counties and municipalities to develop a poststorm permitting plan; providing requirements for such plan; requiring counties and municipalities to update such plan by a specified date annually; requiring counties and municipalities to publish on their websites a specified storm recovery guide by a specified date annually; providing requirements for such guide; requiring certain counties and municipalities to publish on their websites updates to such guide as soon as practicable following a storm; prohibiting certain counties and municipalities from increasing building permit or inspection fees within a specified timeframe; requiring counties and municipalities to allow individuals to receive certain letters electronically on or before a specified date; requiring certain counties and municipalities to use their best efforts to open a permitting office for a minimum number of hours per week; amending s. 252.385, F.S.; revising reporting requirements for the division; revising requirements for a specified list; requiring the Department of Health and the Agency for Persons with

Disabilities to assist the division with certain determinations; creating s. 252.422, F.S.; defining the term "impacted local government"; prohibiting impacted local governments from proposing or adopting certain moratoriums, amendments, or procedures for a specified timeframe; authorizing the enforcement of certain amendments, plans, permits, and orders under certain circumstances; authorizing any person to file suit to enforce specified provisions; authorizing counties and municipalities to request a specified determination by a court; prohibiting counties and municipalities from taking certain actions until the court has issued a preliminary or final judgment; requiring plaintiffs to provide certain notification before filing suit; requiring impacted local governments to take certain actions upon receipt of such notification or a suit may be filed; providing for reasonable attorney fees and costs; authorizing the use of a certain summary procedure; requiring the court to advance the cause on the calendar; requiring the Office of Program Policy Analysis and Government Accountability to conduct a study on certain local government actions after hurricanes; specifying requirements for the study and legislative recommendations; requiring the office to submit a report to the Legislature by a specified date; creating s. 252.505, F.S.; requiring that certain contracts include a specified provision; defining the term "emergency recovery period"; amending s. 373.423,

F.S.; requiring the Department of Environmental Protection to submit a Flood Inventory and Restoration Report to the division by a specified date; requiring the department to work with specified entities to compile information for the report; providing specifications for the report; requiring the owner of certain infrastructure to submit certain information to the department; requiring the department to review and update the report biannually; requiring the department to submit an updated report to the division by a specified date; amending s. 380.0552, F.S.; revising the maximum evacuation clearance time for permanent residents of the Florida Keys Area, which time is an element for which amendments to local comprehensive plans in the Florida Keys Area must be reviewed for compliance; requiring the Department of Commerce to conduct baseline modeling scenarios and gather data to determine the number of building permit allocations for distribution in the Florida Keys Area; requiring that such allocations be distributed in a specified manner and over a specified timeframe; prohibiting such allocations from exceeding a specified number; requiring that permits be issued for certain parcels and the distribution of such permits prioritize specified allocations; amending s. 400.063, F.S.; conforming a cross-reference; amending s. 403.7071, F.S.; providing that local governments are authorized and encouraged to add certain addendums to certain contracts and agreements; requiring counties

and municipalities to apply to the department for authorization to designate at least one debris management site; authorizing municipalities to apply jointly with a county or adjacent municipality for authorization of a debris management site if such entities approve a memorandum of understanding; providing requirements for such memorandum; creating s. 489.1132, F.S.; providing definitions; requiring a hurricane preparedness plan to be available for inspection at certain worksites; requiring certain equipment to be secured in a specified manner no later than 24 hours before the impacts of a hurricane are anticipated to begin; providing penalties; requiring the Florida Building Commission to establish specified best practices and report findings to the Legislature by a specified date; amending s. 553.902, F.S.; revising the definition of the term "renovated building"; requiring the division to consult with specified entities to develop certain recommendations and provide a report to the Legislature by a specified date; prohibiting certain counties from proposing or adopting certain moratoriums, amendments, or procedures for a specified timeframe; declaring that such moratoriums, amendments, or procedures are null and void; providing for retroactive application; authorizing the enforcement of certain amendments, plans, permits, and orders under certain circumstances; authorizing certain residents and business owners to bring a civil action for

declaratory and injunctive relief against a county or municipality that violates specified provisions; providing for reasonable attorney fees and costs under specified circumstances; providing for future expiration; providing a directive to the Division of Law Revision; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 83.63, Florida Statutes, is amended to read:

83.63 Casualty damage.—If the premises are damaged or destroyed other than by the wrongful or negligent acts of the tenant so that the enjoyment of the premises is substantially impaired:~~,~~

(1) The tenant may terminate the rental agreement and immediately vacate the premises. The tenant may vacate the part of the premises rendered unusable by the casualty, in which case the tenant's liability for rent shall be reduced by the fair rental value of that part of the premises damaged or destroyed. If the rental agreement is terminated, the landlord shall comply with s. 83.49(3).

(2) The tenant must be given:

(a) The opportunity to collect his or her belongings from the premises when it is safe to do so; or

(b) Notice of the date by which the tenant will be able to collect his or her belongings from the premises, which must occur within a reasonable time.

Section 2. Section 163.31795, Florida Statutes, is created

to read:

163.31795 Participation in the National Flood Insurance Program.—

(1) For purposes of this section, the term:

(a) "Cumulative substantial improvement period" means the period during which an aggregate of improvements or repairs are considered for purposes of determining substantial improvement as defined in s. 161.54(12).

(b) "Local government" has the same meaning as in s. 163.2514.

(2) A local government that is participating in the National Flood Insurance Program may not adopt or enforce an ordinance for substantial improvements or repairs to a structure which includes a cumulative substantial improvement period.

Section 3. Subsection (14) is added to section 163.31801, Florida Statutes, to read:

163.31801 Impact fees; short title; intent; minimum requirements; audits; challenges.—

(14) A local government, school district, or special district may not assess an impact fee for the reconstruction or replacement of a previously existing structure if the replacement structure is of the same land use as the original structure and does not increase the impact on public facilities beyond that of the original structure. However, if the replacement structure increases the demand on public facilities due to a significant increase in size, intensity, or capacity of use, a local government, school district, or special district may assess an impact fee in an amount proportional to the difference in the demand between the replacement structure and

the original structure. Any such fee must be reasonably connected to, or have a rational nexus with, the need for additional capital facilities and the increased impact generated by the reconstruction or replacement of a previously existing structure.

Section 4. Paragraph (b) of subsection (4) of section 193.155, Florida Statutes, is amended to read:

193.155 Homestead assessments.—Homestead property shall be assessed at just value as of January 1, 1994. Property receiving the homestead exemption after January 1, 1994, shall be assessed at just value as of January 1 of the year in which the property receives the exemption unless the provisions of subsection (8) apply.

(4)

(b)1. Changes, additions, or improvements that replace all or a portion of homestead property, including ancillary improvements, damaged or destroyed by misfortune or calamity shall be assessed upon substantial completion as provided in this paragraph. Such assessment must be calculated using the homestead property's assessed value as of the January 1 immediately before the date on which the damage or destruction was sustained, subject to the assessment limitations in subsections (1) and (2), when:

a. The square footage of the homestead property as changed or improved does not exceed 130 ~~110~~ percent of the square footage of the homestead property before the damage or destruction; or

b. The total square footage of the homestead property as changed or improved does not exceed 2,000 ~~1,500~~ square feet.

2. The homestead property's assessed value must be increased by the just value of that portion of the changed or improved homestead property which is in excess of 130 ~~110~~ percent of the square footage of the homestead property before the damage or destruction or of that portion exceeding 2,000 ~~1,500~~ square feet.

3. Homestead property damaged or destroyed by misfortune or calamity which, after being changed or improved, has a square footage of less than 100 percent of the homestead property's total square footage before the damage or destruction shall be assessed pursuant to subsection (5).

4. Changes, additions, or improvements assessed pursuant to this paragraph must be reassessed pursuant to subsection (1) in subsequent years. This paragraph applies to changes, additions, or improvements commenced within 5 years after the January 1 following the damage or destruction of the homestead.

Section 5. Paragraph (b) of subsection (1) of section 215.559, Florida Statutes, is amended to read:

215.559 Hurricane Loss Mitigation Program.—A Hurricane Loss Mitigation Program is established in the Division of Emergency Management.

(1) The Legislature shall annually appropriate $10 million of the moneys authorized for appropriation under s. 215.555(7)(c) from the Florida Hurricane Catastrophe Fund to the division for the purposes set forth in this section. Of the amount:

(b) Three million dollars in funds shall be used to construct or retrofit facilities used as public hurricane shelters. Each year the division shall prioritize the use of

these funds for projects included in the annual report ~~of the Shelter Development Report~~ prepared in accordance with s. 252.385(3). The division shall ~~must~~ give funding priority to projects located in counties ~~regional planning council regions~~ that have shelter deficits, projects that are publicly owned, other than schools, and ~~to~~ projects that maximize the use of state funds.

Section 6. Section 250.375, Florida Statutes, is amended to read:

250.375 Medical officer authorization.—A servicemember trained to provide medical care who is serving under the direction of the Florida National Guard State Surgeon and is assigned to a military duty position and authorized by the Florida National Guard to provide medical care within the scope of the servicemember's professional licensure by virtue of such duty position may provide such medical care to military personnel and civilians within this state ~~physician who holds an active license to practice medicine in any state, a United States territory, or the District of Columbia,~~ while serving ~~as a medical officer~~ with or in support of the Florida National Guard, pursuant to federal or state orders, ~~may practice medicine on military personnel or civilians~~ during an emergency or declared disaster ~~or during federal military training~~.

Section 7. Paragraphs (y) through (dd) of subsection (2) of section 252.35, Florida Statutes, are redesignated as paragraphs (x) through (cc), respectively, paragraphs (a), (c), and (n) and present paragraph (x) of that subsection are amended, and a new paragraph (dd) is added to that subsection, to read:

252.35 Emergency management powers; Division of Emergency

Management.—

(2) The division is responsible for carrying out the provisions of ss. 252.31-252.90. In performing its duties, the division shall:

(a) Prepare a state comprehensive emergency management plan, which must ~~shall~~ be integrated into and coordinated with the emergency management plans and programs of the Federal Government. The division shall adopt the plan as a rule in accordance with chapter 120. The plan must be implemented by a continuous, integrated comprehensive emergency management program. The plan must contain provisions to ensure that the state is prepared for emergencies and minor, major, and catastrophic disasters, and the division shall work closely with local governments and agencies and organizations with emergency management responsibilities in preparing and maintaining the plan. The state comprehensive emergency management plan must be operations oriented and:

1. Include an evacuation component that includes specific regional and interregional planning provisions and promotes intergovernmental coordination of evacuation activities. This component must, at a minimum: contain guidelines for lifting tolls on state highways; ensure coordination pertaining to evacuees crossing county lines; set forth procedures for directing people caught on evacuation routes to safe shelter; establish strategies for ensuring sufficient, reasonably priced fueling locations along evacuation routes; and establish policies and strategies for emergency medical evacuations.

2. Include a shelter component that includes specific regional and interregional planning provisions and promotes

coordination of shelter activities between the public, private, and nonprofit sectors. This component must, at a minimum: contain strategies to ensure the availability of adequate public shelter space in each county ~~region of the state~~; establish strategies for refuge-of-last-resort programs; provide strategies to assist local emergency management efforts to ensure that adequate staffing plans exist for all shelters, including medical and security personnel; provide for a postdisaster communications system for public shelters; establish model shelter guidelines for operations, registration, inventory, power generation capability, information management, and staffing; and set forth policy guidance for sheltering people with special needs.

3. Include a postdisaster response and recovery component that includes specific regional and interregional planning provisions and promotes intergovernmental coordination of postdisaster response and recovery activities. This component must provide for postdisaster response and recovery strategies according to whether a disaster is minor, major, or catastrophic. The postdisaster response and recovery component must, at a minimum: establish the structure of the state's postdisaster response and recovery organization; establish procedures for activating the state's plan; set forth policies used to guide postdisaster response and recovery activities; describe the chain of command during the postdisaster response and recovery period; describe initial and continuous postdisaster response and recovery actions; identify the roles and responsibilities of each involved agency and organization; provide for a comprehensive communications plan; establish

procedures for coordinating and monitoring statewide mutual aid agreements reimbursable under federal public disaster assistance programs; provide for rapid impact assessment teams; ensure the availability of an effective statewide urban search and rescue program coordinated with the fire services; ensure the existence of a comprehensive statewide medical care and relief plan administered by the Department of Health; and establish systems for coordinating volunteers and accepting and distributing donated funds and goods.

4. Include additional provisions addressing aspects of preparedness, response, recovery, and mitigation as determined necessary by the division.

5. Address the need for coordinated and expeditious deployment of state resources, including the Florida National Guard. In the case of an imminent major disaster, procedures should address predeployment of the Florida National Guard, and, in the case of an imminent catastrophic disaster, procedures should address predeployment of the Florida National Guard and the United States Armed Forces.

6. Establish a system of communications and warning to ensure that the state's population and emergency management agencies are warned of developing emergency situations, including public health emergencies, and can communicate emergency response decisions.

7. Establish guidelines and schedules for annual exercises that evaluate the ability of the state and its political subdivisions to respond to minor, major, and catastrophic disasters and support local emergency management agencies. Such exercises shall be coordinated with local governments and, to

the extent possible, the Federal Government.

8. Assign lead and support responsibilities to state agencies and personnel for emergency support functions and other support activities.

9. Include the public health emergency plan developed by the Department of Health pursuant to s. 381.00315.

10. Include an update on the status of the emergency management capabilities of the state and its political subdivisions. The update must include the emergency management capabilities related to public health emergencies, as determined in collaboration with the Department of Health.

The complete state comprehensive emergency management plan must be submitted to the President of the Senate, the Speaker of the House of Representatives, and the Governor on February 1 of every even-numbered year.

(c) Assist political subdivisions in preparing and maintaining emergency management plans. Such assistance must include the development of a template for comprehensive emergency management plans, including plans for natural disasters, and guidance on the development of mutual aid agreements.

(n) Implement training programs to maintain this state's status as a national leader in emergency management and improve the ability of state and local emergency management personnel to prepare and implement emergency management plans and programs. This must ~~shall~~ include a continuous training program for agencies and individuals who ~~that~~ will be called on to perform key roles in state and local postdisaster response and recovery

efforts and for local government personnel on federal and state postdisaster response and recovery strategies and procedures. The division shall specify requirements for the minimum number of training hours that county or municipal administrators, county or city managers, county or municipal emergency management directors, and county or municipal public works directors or other officials responsible for the construction and maintenance of public infrastructure must complete biennially in addition to the training required pursuant to s. 252.38(1)(b). Such training may be provided by the division or, for county personnel, by a foundation that is a not-for-profit corporation under s. 501(c)(3) of the Internal Revenue Code and has a governing board that includes in its membership county commissioners and professional county staff. If training is provided by a foundation, such training must be approved by the division.

~~(x) Report biennially to the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the Governor, no later than February 1 of every odd-numbered year, the status of the emergency management capabilities of the state and its political subdivisions. This report must include the emergency management capabilities related to public health emergencies, as determined in collaboration with the Department of Health.~~

(dd) Conduct, by April 1 of each year, an annual hurricane readiness session in each region designated by the division to facilitate coordination between all emergency management stakeholders. Each county emergency management director or his or her designee shall, and other county and municipal personnel

may, attend the session for his or her region. A session must include, but is not limited to, guidance on timelines for preparation and response, information on state and federal postdisaster resources and assistance, guidance to promote efficient and expedited rebuilding of the community after a hurricane, best practices for coordination and communication among entities engaged in postdisaster response and recovery, and discussion of any outstanding county or municipal preparedness or readiness needs.

Section 8. Subsection (4) of section 252.355, Florida Statutes, is renumbered as subsection (5), paragraph (b) of subsection (2) is amended, and a new subsection (4) is added to that section, to read:

252.355 Registry of persons with special needs; notice; registration program.—

(2) In order to ensure that all persons with special needs may register, the division shall develop and maintain a special needs shelter registration program. During a public health emergency in which physical distancing is necessary, as determined by the State Health Officer, the division must maintain information on special needs shelter options that mitigate the threat of the spread of infectious diseases.

(b) To assist in identifying persons with special needs, home health agencies, hospices, nurse registries, home medical equipment providers, the Department of Veterans' Affairs, the Department of Children and Families, the Department of Health, the Agency for Health Care Administration, the Department of Education, the Agency for Persons with Disabilities, the Department of Elderly Affairs, and memory disorder clinics

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

shall, and any physician licensed under chapter 458 or chapter 459 and any pharmacy licensed under chapter 465 may, annually provide registration information to all of their special needs clients or their caregivers. The Florida Housing Finance Corporation shall enter into memoranda of understanding with the Department of Elderly Affairs and with the Agency for Persons with Disabilities to ensure special needs registration information is provided to residents of low-income senior independent living properties and independent living properties for persons with intellectual or developmental disabilities funded by the Florida Housing Finance Corporation, respectively. The division shall develop a brochure that provides information regarding special needs shelter registration procedures. The brochure must be easily accessible on the division's website. All appropriate agencies and community-based service providers, including aging and disability resource centers, memory disorder clinics, home health care providers, hospices, nurse registries, and home medical equipment providers, shall, and any physician licensed under chapter 458 or chapter 459 may, assist emergency management agencies by annually registering persons with special needs for special needs shelters, collecting registration information for persons with special needs as part of the program intake process, and establishing programs to educate clients about the registration process and disaster preparedness safety procedures. A client of a state-funded or federally funded service program who has a physical, mental, or cognitive impairment or sensory disability and who needs assistance in evacuating, or when in a shelter, must register as a person with special needs. The registration program shall give persons with

special needs the option of preauthorizing emergency response personnel to enter their homes during search and rescue operations if necessary to ensure their safety and welfare following disasters.

(4) The caregiver of a person with special needs who is eligible for admission to a special needs shelter, and all persons for whom he or she is the caregiver, shall be allowed to shelter together in the special needs shelter. If a person with special needs is responsible for the care of persons without special needs, those persons shall be allowed to use the special needs shelter with the person with special needs.

Section 9. Effective January 1, 2026, subsection (2) of section 252.3611, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

252.3611 Transparency; audits.—

(2) If ~~When~~ the duration of a declaration of a state of ~~an~~ emergency issued by the Governor exceeds 90 days:

(a)1. The Executive Office of the Governor or the appropriate agency, within 72 hours after ~~of~~ executing a contract executed with moneys authorized for expenditure to support the response to the declared state of emergency, must ~~the Executive Office of the Governor or the appropriate agency shall~~ submit a copy of such contract to the Legislature. For contracts executed during the first 90 days of the declared state of emergency, the Executive Office of the Governor or the appropriate agency shall submit a copy to the Legislature within the first 120 days of the declared state of emergency.

2. All contracts executed to support the response to a declared state of emergency, including contracts executed before

a declared state of emergency to secure resources or services in advance or anticipation of an emergency, must be posted on the secure contract tracking system required under s. 215.985(14).

(b) The Executive Office of the Governor or the appropriate agency shall submit monthly reports to the Legislature of all state expenditures, revenues received, and funds transferred by an agency during the previous month to support the declared state of emergency.

(5) Annually, by January 15, the division shall report to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the appropriations committee of each house of the Legislature on expenditures related to emergencies incurred over the year from November 1 of the previous year. The report must include:

(a) A separate summary of each emergency event, whether complete or ongoing, and key actions taken by the division.

(b) Details of expenditures, separated by emergency event and agency, for preparing for, responding to, or recovering from the event. The report must specify detailed expenditures for the entire report time period; specify total expenditures for the event; and indicate amounts that are being or are anticipated to be reimbursed by the Federal Emergency Management Agency or other federal entity, amounts ineligible for reimbursement, and any amounts deobligated by the Federal Emergency Management Agency or other federal entity for reimbursement. The division shall review expenditures by state agencies to ensure that efforts, purchases, contracts, or expenditures are not duplicated.

(c) An accounting of all inventory and assets purchased,

separated by emergency event and agency, for preparing for, responding to, or recovering from the event, including motor vehicles, boats, computers, and other equipment, and the current status of such assets, including divestment, sale, or donation by the state. The report must include a detailed accounting for the entire report time period and specify a total for the event.

Section 10. Paragraph (a) of subsection (1) of section 252.363, Florida Statutes, is amended to read:

252.363 Tolling and extension of permits and other authorizations.—

(1)(a) The declaration of a state of emergency issued by the Governor for a natural emergency tolls the period remaining to exercise the rights under a permit or other authorization for the duration of the emergency declaration. Further, the emergency declaration extends the period remaining to exercise the rights under a permit or other authorization for 24 months in addition to the tolled period. The extended period to exercise the rights under a permit or other authorization may not exceed 48 months in total in the event of multiple natural emergencies for which the Governor declares a state of emergency. The tolling and extension of permits and other authorizations under this paragraph shall apply retroactively to September 28, 2022, except in the case of the formal determination of the delineation of the extent of wetlands under s. 373.421, in which case tolling and extension of determinations under this paragraph shall apply retroactively to January 1, 2023. This paragraph applies to the following:

1. The expiration of a development order issued by a local government.

2. The expiration of a building permit.

3. The expiration of a permit issued by the Department of Environmental Protection or a water management district pursuant to part IV of chapter 373.

4. Permits issued by the Department of Environmental Protection or a water management district pursuant to part II of chapter 373 for land subject to a development agreement under ss. 163.3220-163.3243 in which the permittee and the developer are the same or a related entity.

5. The buildout date of a development of regional impact, including any extension of a buildout date that was previously granted as specified in s. 380.06(7)(c).

6. The expiration of a development permit or development agreement authorized by Florida Statutes, including those authorized under the Florida Local Government Development Agreement Act, or issued by a local government or other governmental agency.

7. The formal determination of the delineation of the extent of wetlands under s. 373.421.

Section 11. Subsection (4) of section 252.365, Florida Statutes, is amended to read:

252.365 Emergency coordination officers; disaster-preparedness plans.—

(4) On or before May 1 of each year, the head of each agency shall notify the Governor and the division in writing of the person initially designated as the emergency coordination officer for such agency and her or his alternate and of any changes in persons so designated thereafter.

Section 12. Section 252.3655, Florida Statutes, is amended

to read:

252.3655 Natural hazards risks and mitigation interagency coordinating group ~~workgroup~~.—

(1)(a) An interagency coordinating group ~~workgroup~~ is created for the purpose of sharing information on the current and potential risks and impacts of natural hazards throughout this ~~the~~ state, coordinating the ongoing efforts of state agencies in addressing and mitigating the risks and impacts of natural hazards, and collaborating on statewide initiatives to address and mitigate the risks and impacts of natural hazards. As used in this section, the term "natural hazards" includes, but is not limited to, extreme heat, drought, wildfire, sea-level change, high tides, storm surge, saltwater intrusion, stormwater runoff, flash floods, inland flooding, and coastal flooding.

(b) The agency head, or his or her designated senior manager, from each of the following agencies shall serve on the coordinating group:

1. Chief Resilience Officer of the Statewide Office of Resilience.

2. Department of Agriculture and Consumer Services.

3. Department of Commerce.

4. Department of Environmental Protection.

5. Department of Financial Services.

6. Department of Law Enforcement.

7. Department of Highway Safety and Motor Vehicles.

8. Department of Military Affairs.

9. Division of Emergency Management.

10. Department of Transportation.

11. Fish and Wildlife Conservation Commission.

12. Office of Insurance Regulation.

13. Public Service Commission.

14. Each water management district ~~Each agency within the executive branch of state government, each water management district, and the Florida Public Service Commission shall select from within such agency a person to be designated as the agency liaison to the workgroup~~.

(c) The director of the Division of Emergency Management, or his or her designee, shall serve as the administrator ~~liaison to and coordinator~~ of the coordinating group ~~workgroup~~.

(d) Each agency representative ~~liaison~~ shall provide information from his or her respective agency, including all relevant reports, on the current and potential risks and impacts of natural hazards to this state ~~to his or her agency~~, agency resources available, and efforts made by the agency to address and mitigate the risks and impacts of ~~against~~ natural hazards~~, and efforts made by the agency to address the impacts of natural hazards~~.

(e)1. The coordinating group ~~workgroup~~ shall meet in person or by means of communications media technology as provided in s. 120.54(5)(b)2. at least ~~teleconference on a~~ quarterly ~~basis~~ to share information, leverage agency resources, coordinate ongoing efforts, and provide information for inclusion in the annual progress report submitted pursuant to subsection (2). Agency heads for the agencies listed in paragraph (b) shall meet in person at least annually to collectively strategize and prioritize state efforts.

2. Information regarding the coordinating group, including

meeting agendas and reports, must be posted in a conspicuous location on the division's website.

(2)(a) On behalf of the coordinating group ~~workgroup~~, the division ~~of Emergency Management~~ shall prepare an annual progress report on the implementation of the state's hazard mitigation plan, developed and submitted in accordance with 42 U.S.C. s. 5165 and any implementing regulations, as it relates to natural hazards. At a minimum, the annual progress report must:

1. Assess each agency's ~~the relevance, level, and significance of current agency~~ efforts to address and mitigate the risks and impacts of natural hazards; ~~and~~

2. Strategize and prioritize ongoing efforts to address and mitigate the risks and impacts of natural hazards;

3. Provide recommendations regarding statutory changes and funding that may assist in addressing or mitigating the risks and impacts of natural hazards; and

4. Provide recommendations for state and local natural hazard mitigation strategies.

(b) ~~Each liaison is responsible for ensuring that the workgroup's annual progress report is posted on his or her agency's website.~~

~~(c)~~ By January 1 of each year, ~~2019, and each year thereafter,~~ the division on behalf of the coordinating group ~~workgroup~~ shall submit the annual progress report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 13. Paragraphs (c) and (d) of subsection (5) of section 252.37, Florida Statutes, are redesignated as paragraphs

(d) and (e), respectively, a new paragraph (c) is added to that subsection, and subsection (7) is added to that section, to read:

252.37 Financing.—

(5) Unless otherwise specified in the General Appropriations Act:

(c) If the division intends to accept or apply for federal funds for a division-administered program that is new, that will be implemented in a manner that is innovative or significantly different from the manner in which the program is typically administered, or that will require a state match for which the division will be required to seek new budget authority, the division must notify the Legislature of its intent to accept or apply for the federal funds. The notice must detail the federal program under which the funds will be accepted or applied for, the intended purpose and use of the funds, and the amount of funds, including the estimated state match.

(7) The division shall take steps to maximize the availability and expedite the distribution of financial assistance from the Federal Government to state and local agencies. Such steps must include the standardization and streamlining of the application process for financial assistance through the federal Public Assistance Program and provision of assistance to applicants in order to mitigate the risk of noncompliance with federal program requirements. The division shall use federal funds allocated as management costs or other funds as appropriated to implement this subsection.

Section 14. Paragraph (a) of subsection (2) of section 252.373, Florida Statutes, is amended to read:

252.373 Allocation of funds; rules.—

(2) The division shall allocate funds from the Emergency Management, Preparedness, and Assistance Trust Fund to local emergency management agencies and programs pursuant to criteria specified in rule. Such rules shall include, but are not limited to:

(a) Requiring that, at a minimum, a local emergency management agency either:

1. Have a program director who works at least 40 hours a week in that capacity; or

2. If the county has fewer than 75,000 population or is party to an interjurisdictional emergency management agreement entered into pursuant to s. 252.38(3)(c) ~~s. 252.38(3)(b)~~, that is recognized by the Governor by executive order or rule, have an emergency management coordinator who works at least 20 hours a week in that capacity.

Section 15. Paragraphs (a) and (b) of subsection (3) of section 252.38, Florida Statutes, are redesignated as paragraphs (b) and (c), respectively, a new paragraph (a) is added to that subsection, and paragraph (a) of subsection (1) is amended, to read:

252.38 Emergency management powers of political subdivisions.—Safeguarding the life and property of its citizens is an innate responsibility of the governing body of each political subdivision of the state.

(1) COUNTIES.—

(a) In order to provide effective and orderly governmental control and coordination of emergency operations in emergencies within the scope of ss. 252.31-252.90, each county within this

state shall be within the jurisdiction of, and served by, the division. Except as otherwise provided in ss. 252.31-252.90, each local emergency management agency shall have jurisdiction over and serve an entire county. Unless part of an interjurisdictional emergency management agreement entered into pursuant to paragraph (3)(c) ~~(3)(b)~~ which is recognized by the Governor by executive order or rule, each county must establish and maintain such an emergency management agency and shall develop a county emergency management plan and program that is coordinated and consistent with the state comprehensive emergency management plan and program. Counties that are part of an interjurisdictional emergency management agreement entered into pursuant to paragraph (3)(c) ~~(3)(b)~~ which is recognized by the Governor by executive order or rule shall cooperatively develop an emergency management plan and program that is coordinated and consistent with the state comprehensive emergency management plan and program.

(3) EMERGENCY MANAGEMENT POWERS; POLITICAL SUBDIVISIONS.—

(a) Each political subdivision shall notify the division on or before May 1 each year of the person designated as the emergency contact for the political subdivision and his or her alternate and of any changes in persons so designated thereafter. For a county, the emergency contact must be the county emergency management director.

Section 16. Section 252.381, Florida Statutes, is created to read:

252.381 Information related to natural emergencies; poststorm county and municipal permitting; operations.—

(1) Each county and municipality must post on its publicly

accessible website:

(a) A frequently asked questions web page related to natural emergency response, emergency preparedness, and public relief for residents following an emergency. The web page must answer questions concerning resident evacuations; safety tips; generator, food and drinking water, and wastewater and stormwater safety; damage assessment; debris cleanup; accessing assistance through the Federal Emergency Management Agency and this state; building recovery; natural emergency guidance; applicable laws; and what to do before, during, and after an emergency.

(b) A disaster supply list and a list of emergency shelters.

(c) Links to information about flood zones.

(d) A checklist for residents explaining next steps to take during postdisaster recovery.

(e) Information specific to persons with disabilities, including, but not limited to, guidelines for special needs shelter registration; an explanation of how to register for special needs shelters and where to obtain assistance with that process; guidelines as to the level of care that is or is not provided at a special needs shelter as well as situations when either a general population shelter or hospital should be considered; and any other postdisaster assistance or resources available to affected persons with disabilities impacted by a disaster.

(2)(a) Each county and municipality shall develop a poststorm permitting plan to expedite recovery and rebuilding by providing for special building permit and inspection procedures

after a hurricane or tropical storm. The plan must, at a minimum:

1. Ensure sufficient personnel are prepared and available to expeditiously manage postdisaster building inspection, permitting, and enforcement tasks. The plan must anticipate conditions that would necessitate supplemental personnel for such tasks and address methods for fulfilling such personnel needs, including through mutual aid agreements as authorized in s. 252.40, other arrangements, such as those with private sector contractors, or supplemental state or federal funding. The plan must include training requirements and protocols for supplemental personnel to ensure compliance with local floodplain management requirements that apply within the county or municipality.

2. Account for multiple or alternate locations where building permit services may be offered in person to the public following a hurricane or tropical storm during regular business hours.

3. Specify a protocol to expedite permitting procedures and, if practicable, for the waiver or reduction of applicable fees in accordance with and in addition to the procedures and waivers provided for under s. 553.7922. The plan must identify the types of permits that are frequently requested following a hurricane or tropical storm and methods to expedite the processing of such permits.

4. Specify procedures and resources necessary to promote expeditious debris removal following a hurricane or tropical storm.

(b) Each county and municipality shall update the plan no

later than May 1 annually.

(3)(a) By May 1 annually, each county and municipality shall publish on its website a hurricane and tropical storm recovery permitting guide for residential and commercial property owners. The guide must describe:

1. The types of poststorm repairs that require a permit and applicable fees.

2. The types of poststorm repairs that do not require a permit.

3. The poststorm permit application process and specific modifications the county or municipality commonly makes to expedite the process, including the physical locations where permitting services will be offered.

4. Local requirements for rebuilding specific to the county or municipality, including elevation requirements following substantial damage and substantial improvement pursuant to the National Flood Insurance Program (NFIP) and any local amendments to the building code.

(b) As soon as practicable following a hurricane or tropical storm, a county or municipality within the area for which a state of emergency pursuant to s. 252.36 for such hurricane or tropical storm is declared shall publish updates on its website to the information required under paragraph (a) which are specific to such storm, including any permitting fee waivers or reductions.

(4) For 180 days after a state of emergency is declared pursuant to s. 252.36 for a hurricane or tropical storm, a county or municipality within the area for which the state of emergency is declared may not increase building permit or

inspection fees.

(5) On or before May 1, 2026, each county and municipality must provide an online option for receiving, reviewing, and accessing substantial damage and substantial improvement letters. The county or municipality must allow homeowners to provide an e-mail address where they can receive digital copies of such letters.

(6) As soon as reasonably practicable following the landfall and passage of a hurricane or tropical storm, each county and municipality that has experienced a direct impact from a natural emergency must use its best efforts to open a permitting office at which residents can access government services for at least 40 hours per week.

Section 17. Subsections (2) and (3) of section 252.385, Florida Statutes, are amended to read:

252.385 Public shelter space; public records exemption.—

(2)~~(a)~~ The division shall administer a program to survey existing schools, universities, community colleges, and other state-owned, municipally owned, and county-owned public buildings and any private facility that the owner, in writing, agrees to provide for use as a public hurricane evacuation shelter to identify those that are appropriately designed and located to serve as such shelters. The owners of the facilities must be given the opportunity to participate in the surveys. The state university boards of trustees, district school boards, community college boards of trustees, and the Department of Education are responsible for coordinating and implementing the survey of public schools, universities, and community colleges with the division or the local emergency management agency.

~~(b) By January 31 of each even-numbered year, the division shall prepare and submit a statewide emergency shelter plan to the Governor and Cabinet for approval, subject to the requirements for approval in s. 1013.37(2). The emergency shelter plan must project, for each of the next 5 years, the hurricane shelter needs of the state, including periods of time during which a concurrent public health emergency may necessitate more space for each individual to accommodate physical distancing. In addition to information on the general shelter needs throughout this state, the plan must identify the general location and square footage of special needs shelters, by regional planning council region. The plan must also include information on the availability of shelters that accept pets. The Department of Health shall assist the division in determining the estimated need for special needs shelter space and the adequacy of facilities to meet the needs of persons with special needs based on information from the registries of persons with special needs and other information.~~

(3)(a) The division shall annually provide by October 15 to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report that includes~~, and the Governor~~ a list of facilities recommended to be retrofitted using state funds. State funds should be maximized and targeted to projects in counties ~~regional planning council regions~~ with hurricane evacuation shelter deficits. Additionally, the division shall prioritize on the list of recommended facilities other state-owned, municipal-owned, and county-owned public buildings, other than schools, for retrofitting using state funds. The owner or lessee of a public hurricane evacuation

shelter that is included on the list of facilities recommended for retrofitting is not required to perform any recommended improvements.

(b) The report required in paragraph (a) must include a statewide emergency shelter plan that must project, for each of the next 5 years, the hurricane shelter needs of the state. In addition to information on the general shelter needs throughout this state, the plan must identify, by county, the general location and square footage of special needs shelters. The plan must also include information on the availability of shelters that accept pets. The Department of Health and the Agency for Persons with Disabilities shall assist the division in determining the estimated need for special needs shelter space, the estimated need for general shelter space to accommodate persons with developmental disabilities, including, but not limited to, autism, and the adequacy of facilities to meet the needs of persons with special needs based on information from the registries of persons with special needs and other information.

Section 18. Section 252.422, Florida Statutes, is created to read:

252.422 Restrictions on county or municipal regulations after a hurricane.—

(1) As used in this section, the term "impacted local government" means a county listed in a federal disaster declaration located entirely or partially within 100 miles of the track of a storm declared to be a hurricane by the National Hurricane Center while the storm was categorized as a hurricane or a municipality located within such a county.

(2) For 1 year after a hurricane makes landfall, an impacted local government may not propose or adopt:

(a) A moratorium on construction, reconstruction, or redevelopment of any property.

(b) A more restrictive or burdensome amendment to its comprehensive plan or land development regulations.

(c) A more restrictive or burdensome procedure concerning review, approval, or issuance of a site plan, development permit, or development order, to the extent that those terms are defined in s. 163.3164.

(3) Notwithstanding subsection (2), a comprehensive plan amendment, land development regulation amendment, site plan, development permit, or development order approved or adopted by an impacted local government before or after the effective date of this act may be enforced if:

(a) The associated application is initiated by a private party other than the impacted local government and the property that is the subject of the application is owned by the initiating private party;

(b) The proposed comprehensive plan amendment was submitted to reviewing agencies pursuant to s. 163.3184 before landfall; or

(c) The proposed comprehensive plan amendment or land development regulation is approved by the state land planning agency pursuant to s. 380.05.

(4)(a) Any person may file suit against any impacted local government for declaratory and injunctive relief to enforce this section.

(b) A county or municipality may request a determination by

a court of competent jurisdiction as to whether such action violates this section. Upon such a request, the county or municipality may not enforce the action until the court has issued a preliminary or final judgment determining whether the action violates this section.

(c) Before a plaintiff may file suit, the plaintiff shall notify the impacted local government by setting forth the facts upon which the complaint or petition is based and the reasons the impacted local government's action violates this section. Upon receipt of the notice, the impacted local government shall have 14 days to withdraw or revoke the action at issue or otherwise declare it void. If the impacted local government does not withdraw or revoke the action at issue within the time prescribed, the plaintiff may file suit. The plaintiff shall be entitled to entry of a preliminary injunction to prevent the impacted local government from implementing the challenged action during pendency of the litigation. In any action instituted pursuant to this paragraph, the prevailing plaintiff shall be entitled to reasonable attorney fees and costs.

(d) In any case brought under this section, all parties are entitled to the summary procedure provided in s. 51.011, and the court shall advance the cause on the calendar.

(5) The Office of Program Policy Analysis and Government Accountability (OPPAGA) shall conduct a study on actions taken by local governments after hurricanes which are related to comprehensive plans, land development regulations, and procedures for review, approval, or issuance of site plans, permits, or development orders. The study must focus on the impact that local governmental actions, including moratoriums,

ordinances, and procedures, have had or may have on construction, reconstruction, or redevelopment of any property damaged by hurricanes. In its research, OPPAGA shall survey stakeholders that play integral parts in the rebuilding and recovery process. OPPAGA shall make recommendations for legislative options to remove impediments to the construction, reconstruction, or redevelopment of any property damaged by a hurricane and prevent the implementation by local governments of burdensome or restrictive procedures and processes. OPPAGA shall submit the report to the President of the Senate and the Speaker of the House of Representatives by December 1, 2025.

Section 19. Effective January 1, 2026, section 252.505, Florida Statutes, is created to read:

252.505 Breach of contract during emergency recovery periods for natural emergencies.—Each state or local government contract for goods or services related to emergency response for a natural emergency entered into, renewed, or amended on or after July 1, 2025, must include a provision that requires a vendor or service provider that breaches such contract during an emergency recovery period to pay a $5,000 penalty and damages, which may be either actual and consequential damages or liquidated damages. As used in this section, the term "emergency recovery period" means a 1-year period that begins on the date that the Governor initially declared a state of emergency for a natural emergency.

Section 20. Subsection (4) is added to section 373.423, Florida Statutes, to read:

373.423 Inspection.—

(4)(a) By September 1, 2026, the department shall submit a

Flood Inventory and Restoration Report to the Division of Emergency Management. The department must work with water management districts, local governments, and operators of public and private stormwater management systems to compile the necessary information for the report, which must:

1. Identify priority infrastructure needs within each water management district jurisdiction that may result in flooding or property damage or threaten human health if left unaddressed;

2. Identify locations that have both historic flooding occurrences, based on flood zones identified by the Federal Emergency Management Agency, and the potential to flood from future significant storm events, such as hurricanes and tropical storms;

3. For each location identified in subparagraph 1. or subparagraph 2., include an inspection and maintenance schedule and specific information on the age of the infrastructure, upstream impacts, and other factors that may lead to system failure if unaddressed; and

4. Include a list of facilities prioritized for funding to address flooding issues.

(b) The owner of any priority infrastructure identified in the report must submit an inspection and maintenance schedule to the department.

(c) The department must review and update the report on a biannual basis. The report must provide information regarding compliance with the inspection and maintenance schedules, include any additional revisions based on storm event experience, and revise the list of facilities as new flooding events take place and new projects are implemented to alleviate

infrastructure deficiencies which led to flooding events. The department must submit an updated report to the Division of Emergency Management by September 1 of each year in which the report is due.

Section 21. Paragraph (a) of subsection (9) of section 380.0552, Florida Statutes, is amended to read:

380.0552 Florida Keys Area; protection and designation as area of critical state concern.—

(9) MODIFICATION TO PLANS AND REGULATIONS.—

(a) Any land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the state land planning agency. The state land planning agency shall review the proposed change to determine if it is in compliance with the principles for guiding development specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, and must approve or reject the requested changes within 60 days after receipt. Amendments to local comprehensive plans in the Florida Keys Area must also be reviewed for compliance with the following:

1. Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or collection systems that meet or exceed the criteria in s. 403.086(11) for wastewater treatment and disposal facilities or s. 381.0065(4)(l) for onsite sewage treatment and disposal systems.

2. Goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24.5 ~~24~~ hours. The hurricane evacuation clearance time shall be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by the state land planning agency. For purposes of hurricane evacuation clearance time:

a. Mobile home residents are not considered permanent residents.

b. The City of Key West Area of Critical State Concern established by chapter 28-36, Florida Administrative Code, shall be included in the hurricane evacuation study and is subject to the evacuation requirements of this subsection.

Section 22. The Department of Commerce shall conduct baseline modeling scenarios and gather data in order to determine a number of building permit allocations to be distributed in the Florida Keys Area based upon the hurricane evacuation clearance time provided in s. 380.0552(9)(a), Florida Statutes, as amended by this act. The permit allocations must be distributed to counties and municipalities based on the number of vacant buildable lots within each jurisdiction. The permit allocations must be distributed over a period of at least 10 years but may not exceed 900 total permit allocations. All permits must be issued for vacant, buildable parcels, of which only one may be awarded for any individual parcel, and the distribution of which must prioritize allocations for owner-occupied residences, affordable housing, and workforce housing.

Section 23. Subsection (1) of section 400.063, Florida

Statutes, is amended to read:

400.063 Resident protection.—

(1) The Health Care Trust Fund shall be used for the purpose of collecting and disbursing funds generated from the license fees and administrative fines as provided for in ss. 393.0673(5), 400.062(3), 400.121(2), and 400.23(8). Such funds shall be for the sole purpose of paying for the appropriate alternate placement, care, and treatment of residents who are removed from a facility licensed under this part or a facility specified in s. 393.0678(1) in which the agency determines that existing conditions or practices constitute an immediate danger to the health, safety, or security of the residents. If the agency determines that it is in the best interest of the health, safety, or security of the residents to provide for an orderly removal of the residents from the facility, the agency may utilize such funds to maintain and care for the residents in the facility pending removal and alternative placement. The maintenance and care of the residents shall be under the direction and control of a receiver appointed pursuant to s. 393.0678(1) or s. 400.126(1). However, funds may be expended in an emergency upon a filing of a petition for a receiver, upon the declaration of a state of local emergency pursuant to s. 252.38(3)(b)5. ~~s. 252.38(3)(a)5.~~, or upon a duly authorized local order of evacuation of a facility by emergency personnel to protect the health and safety of the residents.

Section 24. Subsection (7) of section 403.7071, Florida Statutes, is amended, and subsection (8) is added to that section, to read:

403.7071 Management of storm-generated debris.—Solid waste

generated as a result of a storm event that is the subject of an emergency order issued by the department may be managed as follows:

(7) Unless otherwise specified in a contract or franchise agreement between a local government and a private solid waste or debris management service provider, a private solid waste or debris management service provider is not required to collect storm-generated yard trash, debris, or waste. Local governments are authorized and encouraged to add an addendum to existing contracts or franchise agreements for collection of storm-generated debris.

(8)(a) Each county and municipality shall apply to the department for authorization of at least one debris management site as described in subsection (2) and shall annually seek preauthorization for any previously approved debris management sites, as allowed by the department.

(b) A municipality may jointly apply for authorization of a debris management site with a county or at least one adjacent municipality, if the parties develop and approve a memorandum of understanding. Such memorandum must clearly outline the capacity of the debris management site and location of the site relative to each party. The memorandum of understanding must be approved annually as part of the preauthorization process described in paragraph (a).

Section 25. Section 489.1132, Florida Statutes, is created to read:

489.1132 Regulation of hoisting equipment used in construction, demolition, or excavation work during a hurricane.—

(1) As used in this section, the term:

(a) "Controlling entity" means the general contractor, prime contractor, or construction manager with overall responsibility for a construction project.

(b) "Hoisting equipment" means power-operated cranes, derricks, and hoists used in construction, demolition, or excavation work that are regulated by the Occupational Safety and Health Administration.

(c) "Mobile crane" means a type of hoisting equipment incorporating a cable-suspended latticed boom or hydraulic telescoping boom designed to be moved between operating locations by transport over a roadway. The term does not include a mobile crane with a boom length of less than 25 feet or a maximum rated load capacity of less than 15,000 pounds.

(d) "Tower crane" means a type of hoisting equipment using a vertical mast or tower to support a working boom in an elevated position if the working boom can rotate to move loads laterally either by rotating at the top of the mast or tower or by the rotation of the mast or tower itself, whether the mast or tower base is fixed in one location or ballasted and moveable between locations.

(2)(a) When a tower crane or mobile crane is located on a worksite, a hurricane preparedness plan for the crane must be available for inspection at the worksite.

(b) In preparation for a hurricane, the controlling entity must ensure that hoisting equipment is secured in the following manner no later than 24 hours before the impacts of the hurricane are anticipated to begin:

1. All hoisting equipment must be secured in compliance

with manufacturer recommendations relating to hurricane and high-wind events, including any recommendations relating to the placement, use, and removal of advertising banners and rigging.

2. Tower crane turntables must be lubricated before the event.

3. Fixed booms on mobile cranes must be laid down whenever feasible.

4. Booms on hydraulic cranes must be retracted and stored.

5. The counterweights of any hoists must be locked below the top tie-in.

6. Tower cranes must be set in the weathervane position.

7. All rigging must be removed from hoist blocks.

8. All power at the base of tower cranes must be disconnected.

(3) A person licensed under this part who intentionally violates this section is subject to discipline under ss. 455.227 and 489.129.

(4) The Florida Building Commission shall establish best practices for the utilization of tower cranes and hoisting equipment on construction job sites during hurricane season and report its findings to the Legislature by December 31, 2026.

Section 26. Subsection (6) of section 553.902, Florida Statutes, is amended to read:

553.902 Definitions.—As used in this part, the term:

(6) "Renovated building" means a residential or nonresidential building undergoing alteration that varies or changes insulation, HVAC systems, water heating systems, or exterior envelope conditions, if the estimated cost of renovation exceeds 30 percent of the assessed value of the

structure. However, if the alteration is a result of a natural disaster that is the subject of a declaration of a state of emergency by the Governor, the estimated cost of renovation must exceed 75 percent of the fair market value of the building before the natural disaster.

Section 27. The Division of Emergency Management shall consult with local governments, the Department of Business and Professional Regulation, the Department of Environmental Protection, and any other appropriate agencies to develop recommendations for statutory changes necessary to streamline the permitting process for repairing and rebuilding structures damaged during natural emergencies. By July 1, 2026, the division shall provide a report containing such recommendations to the President of the Senate and the Speaker of the House of Representatives.

Section 28. (1) Each county listed in the Federal Disaster Declaration for Hurricane Debby (DR-4806), Hurricane Helene (DR-4828), or Hurricane Milton (DR-4834), and each municipality within one of those counties, may not propose or adopt any moratorium on construction, reconstruction, or redevelopment of any property damaged by such hurricanes; propose or adopt more restrictive or burdensome amendments to its comprehensive plan or land development regulations; or propose or adopt more restrictive or burdensome procedures concerning review, approval, or issuance of a site plan, development permit, or development order, to the extent that those terms are defined by s. 163.3164, Florida Statutes, before October 1, 2027, and any such moratorium or restrictive or burdensome comprehensive plan amendment, land development regulation, or procedure shall be

null and void ab initio. This subsection applies retroactively to August 1, 2024.

(2) Notwithstanding subsection (1), any comprehensive plan amendment, land development regulation amendment, site plan, development permit, or development order approved or adopted by a county or municipality before or after the effective date of this act may be enforced if:

(a) The associated application is initiated by a private party other than the county or municipality.

(b) The property that is the subject of the application is owned by the initiating private party.

(3)(a) A resident of or the owner of a business in a county or municipality may bring a civil action for declaratory and injunctive relief against the county or municipality for a violation of this section. Pending adjudication of the action and upon filing of a complaint showing a violation of this section, the resident or business owner is entitled to a preliminary injunction against the county or municipality preventing implementation of the moratorium or the comprehensive plan amendment, land development regulation, or procedure. If such civil action is successful, the resident or business owner is entitled to reasonable attorney fees and costs.

(b) Attorney fees and costs and damages may not be awarded pursuant to this subsection if:

1. The resident or business owner provides the governing body of the county or municipality written notice that a proposed or enacted moratorium, comprehensive plan amendment, land development regulation, or procedure is in violation of this section; and

2. The governing body of the county or municipality withdraws the proposed moratorium, comprehensive plan amendment, land development regulation, or procedure within 14 days; or, in the case of an adopted moratorium, comprehensive plan amendment, land development regulation, or procedure, the governing body of a county or municipality notices an intent to repeal within 14 days after receipt of the notice and repeals the moratorium, comprehensive plan amendment, land development regulation, or procedure within 14 days thereafter.

(4) This section expires June 30, 2028.

Section 29. The Division of Law Revision is directed to replace the phrase "the effective date of this act" wherever it occurs in this act with the date this act becomes a law.

Section 30. Except as otherwise provided in this act, this act shall take effect upon becoming a law.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL:	CS/SB 180
INTRODUCER:	Community Affairs Committee and Senator DiCeglie
SUBJECT:	Emergency Preparedness and Response
DATE:	March 13, 2025 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shuler	Fleming	CA	**Fav/CS**
2.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 180 makes various changes throughout Florida Statutes regarding the preparation and response activities of state and local government when emergencies impact the state.

Specifically, the bill:

- Provides that the Department of Environmental Protection may waive or reduce the beach management project match requirements for counties impacted by erosion caused by Hurricane Debby, Hurricane Helene, or Hurricane Milton.
- Provides that certain agricultural equipment that was unable to be used for 60 days due to Hurricane Debby, Hurricane Helene, or Hurricane Milton would be assessed at salvage value on the 2025 property tax roll.
- Requires the Florida Division of Emergency Management (FDEM) to prioritize shelter retrofit funding for projects in counties with shelter deficits and projects other than schools.
- Allows Florida National Guard servicemembers to provide medical care to military personnel and civilians during emergencies.
- Revises legislative intent and provisions related to FDEM's planning and emergency management duties.
- Requires the Department of Veterans' Affairs to annually provide information on the special needs registry to their special needs clients and caregivers.
- Revises FDEM emergency expenditure auditing and reporting requirements.
- Revises requirements for agencies and their emergency coordination officers to notify and coordinate with FDEM.

- Renames the Natural Hazards Interagency Workgroup as the "Natural Hazards Risks and Mitigation Interagency Coordinating Group" and substantially revises the duties of the group.
- Specifies administerial requirements for FDEM related to federal funds, including specifically FEMA Public Assistance and Hazard Mitigation Grant Program funds.
- Requires political subdivisions to annually notify FDEM of their designated emergency contact.
- Revises FDEM public shelter space reporting, planning, and funding requirements.
- Creates requirements for county and municipal post-storm permitting and operations.
- Revises authorizations and requirements related to storm-generated debris.
- Prohibits counties and municipalities listed in the federal disaster declaration for Hurricane Debby, Hurricane Helene, or Hurricane Milton from adopting moratoriums or more restrictive or burdensome amendments or procedures to their comprehensive plans or land development regulations concerning review, approval, or issuance of a site plan, development permit, or development order before August 1, 2024, and provides a cause of action to residents and business owners.

The bill takes effect on July 1, 2025, unless otherwise expressly provided.

II. Present Situation:

Presidential Disaster and Emergency Declarations

When there is a disaster in the United States, the Governor of an affected state must request an emergency and major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.[1] All emergency and disaster declarations are made at the discretion of the President of the United States.[2] There are two types of disaster declarations: emergency declarations and major disaster declarations.[3] Both declarations allow for federal assistance to states and local governments, however they differ in scope, types, and amount of assistance available.[4]

The President can declare an emergency for any occasion where federal assistance is deemed necessary, and emergency declarations provide emergency services from the federal government in such cases. The total amount of assistance from an emergency declaration cannot exceed $5 million unless reported to Congress.[5]

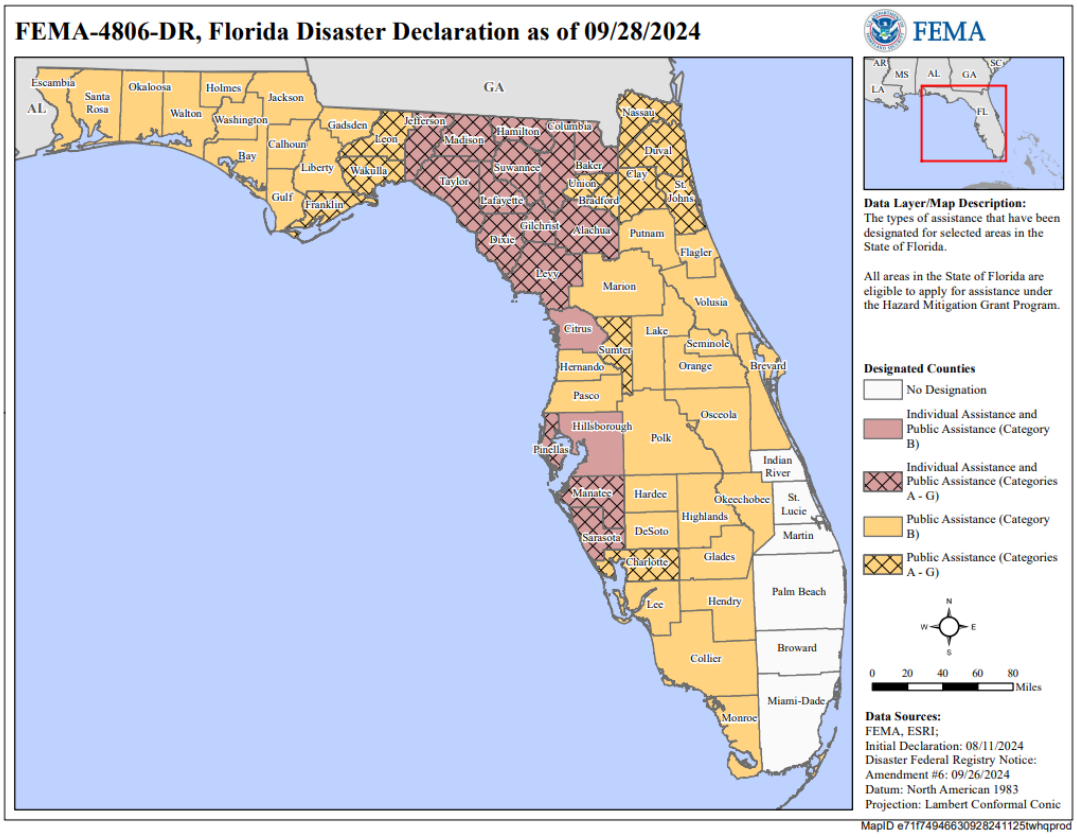
Following a request from the Governor, the President can declare a major disaster for any natural event, including hurricanes if the President deems that the disaster is of such a severity that it is beyond the combined capabilities of state and local governments to respond.[6] A major disaster declaration makes a wide range of federal assistance resources available for individuals and states for emergency and permanent work.[7]

[1] 42 U.S.C. §§ 5121-5207.
[2] FEMA, *How a Disaster Gets Declared*, https://www.fema.gov/disaster/how-declared (last visited Mar. 9, 2025).
[3] *Id.*
[4] *Id.*
[5] *Id.*
[6] *Id.*
[7] *Id.*

2024 Hurricane Season

Hurricane Debby

Forming into a tropical depression on August 3, 2024, Debby intensified into a Category 1 hurricane less than 12 hours before landfall.[8] Hurricane Debby made landfall near Steinhatchee in Taylor County around 7am on August 5, 2024.[9] Debby brought storm surge of 3 to 5 feet across portions of the Nature Coast and the southeast Big Bend, causing damage to areas where many were still recovering from Hurricane Idalia from the year before.[10] Debby's primary impact across the area was flooding from heavy rainfall due to the forward movement of the storm slowing after landfall.[11] Rainfall amounts of 8 to 12 inches resulted in widespread flooding in southeast Madison and eastern Lafayette counties, while in Suwannee and Gilchrist counties, rainfall amounts approaching 15" were observed.[12] Flooding lasted for several weeks in Madison county after landfall due to the influx of rainfall putting pressure on the groundwater system, which subsequently triggered new flooding as water came up from the ground.[13] Flooding along the Suwannee River continued 3 weeks after landfall.[14]



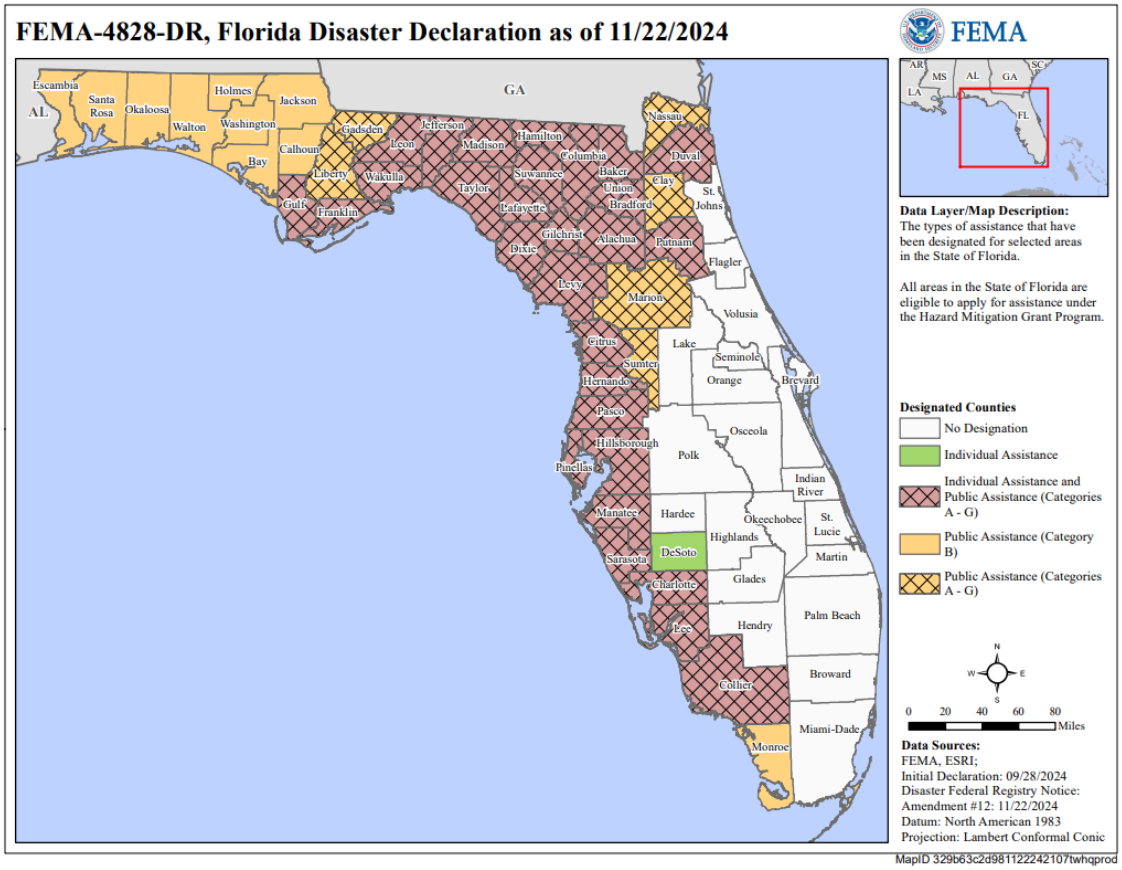
Disaster Declaration Map for Hurricane Debby

[8] National Weather Service, *Hurricane Debby Strikes the Florida Big Bend August 5, 2024*, https://www.weather.gov/tae/HurricaneDebby2024 (last visited Mar. 9, 2025).
[9] *Id.*
[10] *Id.*
[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] *Id.*

Hurricane Helene

Due to high oceanic heat and the abatement of wind shear, conditions were favorable for Helene to rapidly intensify from a category 1 hurricane into a category 4 hurricane from September 25 to September 26, 2024.[15] Helene hit a maximum of 140 mph for sustained winds just before making landfall near Perry, Florida, just east of the mouth of the Aucilla River around 11:10pm on September 26, 2024.[16] While the storm moved quickly across the state, this did not lessen the impacts.[17] The wind field of Helene was among the top 10% of all recorded storms resulting in widespread wind impacts and hurricane-force gusts extending further inland than most systems.[18] Much of the area affected by the storm experienced 4-8 inches of rainfall, but the heaviest amounts were observed near the Apalachicola State Forest where radar estimates indicated 10 to 18 inches of rain.[19] A large upper-level trough to the west of Helene helped funnel abundant tropical moisture northward well before landfall, creating conditions that led to significant impacts from heavy rainfall and flooding.[20] Many counties across the Panhandle reported flooding and washed-out roads.[21] The combination of Helene's large size and extremely fast forward motion contributed to catastrophic storm surge in the southeast Big Bend area and along the west coast of Florida.[22] In Cedar Key, the storm surge level of 9.3 ft exceeded the level of 6.89 ft observed during Hurricane Idalia the previous year.[23] Preliminary data for Taylor and Dixie counties estimated more than 15 ft of surge, while areas near Tampa saw levels over 6 ft.[24]

[15] National Weather Service, *Hurricane Helene Makes Landfall in the Florida Big Bend September 26-27, 2024*, https://www.weather.gov/tae/helene2024 (last visited Mar. 9, 2025).
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] *Id.*
[21] *Id.*
[22] *Id.*
[23] Emily Powell, Florida Climate Center, *Hurricane Helene Post-Storm Summary Report*, (Oct. 7, 2024), https://climatecenter.fsu.edu/images/docs/Hurricane-Helene-Summary-Report.pdf (last visited Mar. 9, 2025).
[24] *Id.*



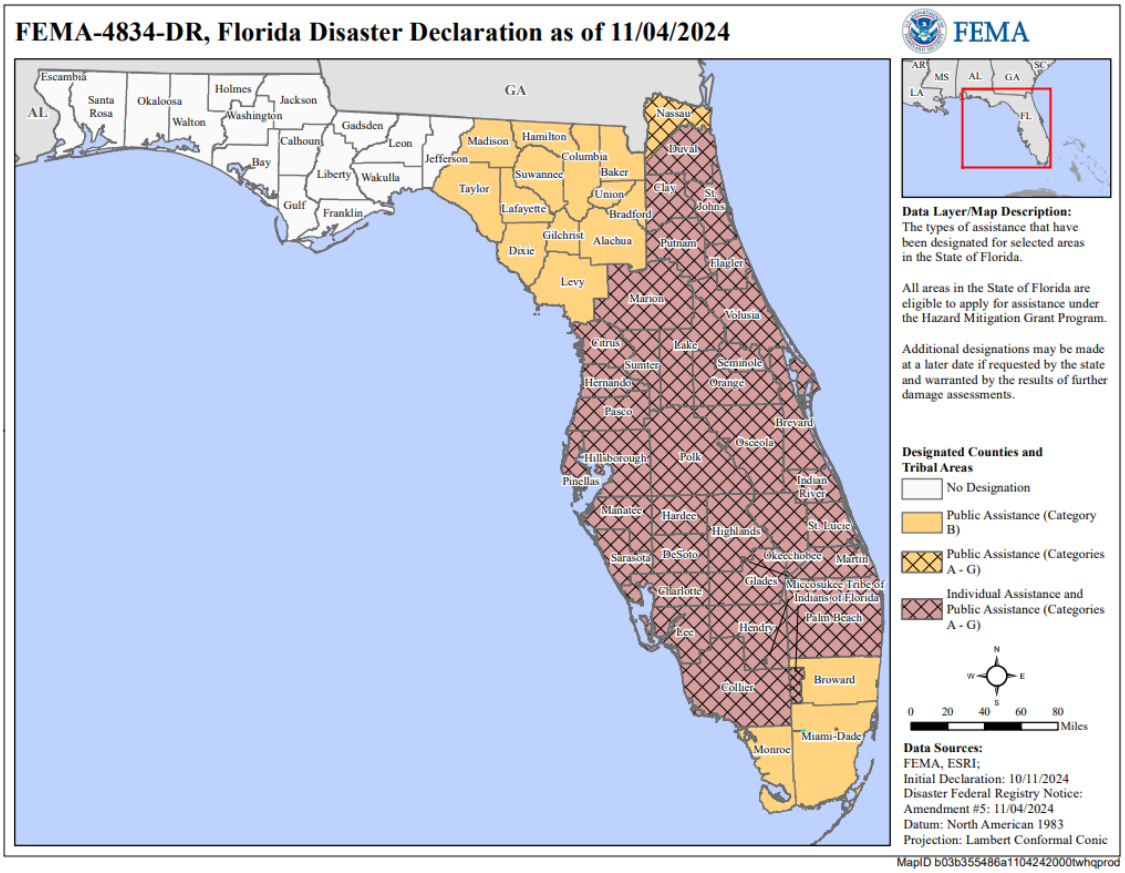
Disaster Declaration Map for Hurricane Helene

Hurricane Milton

Just shy of 2 weeks after Hurricane Helene's landfall in Florida, Hurricane Milton made landfall around 8:30 pm on October 9, 2024 in Siesta Key, Florida in Sarasota County.[25] At landfall, Milton was a category 3 hurricane with maximum sustained winds of 120 mph.[26] Hurricane Milton spawned a record tornado outbreak, resulting in a total of 47 confirmed tornados on October 9, 2024, covering 400 miles and causing 7 deaths and 14 injuries.[27] Though Milton moved quickly across the state, it produced extreme rainfall, with the highest amounts, nearly 20 inches, measured in the Clearwater Beach and St. Petersburg areas.[28] In the days and weeks following the storm, rainfall caused rivers and tributaries to reach major flood stages.[29] The hydrograph at Astor for the St. Johns River showed a new record high level on October 10, 2024, of 4.81 ft, while the Hillsborough River crested at a new record of 38.16 ft at Morris Bridge on October 12, 2024.[30] Storm surge in many areas was less than Hurricane Ian in 2022, but higher than experienced during Helene.[31] NOAA gages in Ft. Myers and Naples Bay North measured

[25] National Weather Service, *Hurricane Milton Impacts to East Central Florida*, https://www.weather.gov/mlb/HurricaneMilton_Impacts (last visited Mar. 9, 2025).
[26] Emily Powell, Florida Climate Center, *Post-Storm Summary Report on Hurricane Milton*, (Oct. 31, 2024), https://climatecenter.fsu.edu/images/docs/Hurricane-Milton-Report.pdf (last visited Mar. 9, 2025).
[27] *Id.*
[28] *Id.*
[29] *Id.*
[30] *Id.*
[31] *Id.*

storm surge above 5 feet.[32] Enormous amounts of sand were displaced along Florida's west-central coast following Hurricanes Helene and Milton, which eroded beaches and undid previous beach renourishment projects.[33]



Disaster Declaration Map for Hurricane Milton

Agricultural Losses Related to the 2024 Hurricane Season

Hurricanes Debby, Helene, and Milton caused significant impacts on agricultural production throughout the state. Debby impacted 2.2 million acres of agricultural lands that annually produce $3.17 billion in agricultural products; Helene affected 6.1 million acres with $8.74 billion of annual agricultural production; and Milton impacted 5.7 million acres annually producing $8.66 billion of agricultural products.[34] In terms of value, the three storms impacted the field and row crops, animals and animal products, vegetables, melons and potatoes, and greenhouse and nursery commodity groups the most.[35] Preliminary estimates of cumulative agricultural production losses in Florida for the 2024 hurricane season are between $402.3

[32] *Id.*
[33] *Id.*
[34] Christa D. Court, et. al., UF/IFAS, *Estimated Agricultural Losses Resulting from the 2024 Atlantic Hurricane Season, Presentation before the Florida Senate Committee on Agriculture*, (January 14, 2025), *available at* https://www.flsenate.gov/Committees/Show/AG/MeetingPacket/6223/10896_MeetingPacket_6223.pdf (last visited Mar. 9, 2025).
[35] *Id.*

million and $975.8 million.[36] Survey respondents have reported damage or destruction to a variety of agricultural assets, including livestock sheds and watering points, irrigation systems, honeybee boxes, tractors, vehicles, and heating and cooling systems for greenhouses.[37]

State Emergency Management Act

The State Emergency Management Act (Act), ch. 252, F.S., was enacted to be the legal framework for this state's emergency management activities, recognizing the state's vulnerability to a wide range of emergencies, including natural, manmade, and technological disasters.[38] In order to reduce the state's vulnerability to these circumstances and to prepare to respond to them, the act promotes the state's emergency readiness through enhanced coordination, long-term planning, and adequate funding.[39]

The Act also delineates the Governor's authority to declare a state of emergency, issue executive orders, and otherwise lead the state during emergencies. If the Governor finds that an emergency[40] has occurred or is imminent, he or she must declare a state of emergency.[41] An executive order or proclamation of a state of emergency shall identify whether the state of emergency is due to a minor,[42] major,[43] or catastrophic[44] disaster.[45] The state of emergency must continue until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist, but no state of emergency may continue for longer than 60 days unless renewed by the Governor.[46] Additionally, the Legislature may end a state of emergency by passing a concurrent resolution.[47]

Florida Division of Emergency Management

The Florida Division of Emergency Management (FDEM) administers programs to rapidly apply all available aid to impacted communities stricken by emergency.[48] The FDEM is responsible for carrying out the State Emergency Management Act and maintaining a comprehensive statewide program of emergency management to ensure that Florida is prepared to respond to emergencies, recover from them, and mitigate against their impacts.[49] In doing so, the FDEM coordinates

[36] *Id.*
[37] *Id.*
[38] Section 252.311(1), F.S.
[39] Section 252.311(2) and (3), F.S.
[40] "Emergency" means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property. *See* s. 252.34(4), F.S.
[41] Section 252.36(2), F.S.
[42] "Minor disaster" means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance. *See* s. 252.34(2)(c), F.S.
[43] "Major disaster" means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance. *See* s. 252.34(2)(b), F.S.
[44] "Catastrophic disaster" means a disaster that will require massive state and federal assistance, including immediate military involvement. *See* s. 252.34(2)(a), F.S.
[45] Section 252.36(4)(c), F.S.
[46] Section 252.36(2), F.S.
[47] Section 252.36(3), F.S.
[48] Section 14.2016(1), F.S.
[49] Section 252.35(1) and (2), F.S.

efforts with and among the federal government, other state agencies, local governments, school boards, and private agencies that have a role in emergency management.[50] The FDEM also serves as the administrator of federal funds awarded to the state and local governments through the Federal Emergency Management Agency (FEMA)'s mitigation grant programs.

Natural Hazards Interagency Workgroup

In 2017, the Legislature created the Natural Hazards Interagency Workgroup.[51] The group was created for the purpose of sharing information on the current and potential impacts of natural hazards throughout the state, coordinating the ongoing efforts of state agencies in addressing the impacts of natural hazards, and collaborating on statewide initiatives to address the impacts of natural hazards.[52] Each agency within the executive branch, each water management district, and the Florida Public Service Commission must designate a liaison to the workgroup.[53] FDEM is responsible for preparing an annual progress report on behalf of the workgroup on the implementation of the state's enhanced hazard mitigation plan, developed and submitted in accordance with 42 U.S.C. s. 5165 and any implementing regulations, as it relates to natural hazards.[54] The annual report is due to the Governor, President of the Senate, and Speaker of the House of Representatives by January 1 of each year.[55]

There are 25 agencies required to participate in the Workgroup. In its 2024 Annual Report, FDEM stated that nine agencies attended all four meetings, and five agencies attended three of the meetings.[56] Despite offering virtual attendance options, four agencies attended only one meeting, and six agencies attended no meetings in 2023.[57] Required agency attendance was down overall from 2022.[58]

Emergency Shelters

FDEM is required to prepare a Statewide Emergency Shelter Plan (SESP).[59] The SESP is submitted to the Governor and Cabinet for approval by January 31 of each even-numbered year.[60] The SESP identifies the general location and square footage of existing General Population and Special Needs shelter space, by Regional Planning Council (RPC) region, and projected space needs during the next 5 years.[61]

[50] Section 252.35(1), F.S.
[51] Chapter 2017-48, Laws of Fla.
[52] Section 252.3655(1)(a), F.S.
[53] Section 252.3655(1)(b), F.S.
[54] Section 252.3655(2), F.S.
[55] Section 252.3655(2)(c), F.S.
[56] Florida Division of Emergency Management, *Florida Natural Hazards Interagency Workgroup 252.3655 Florida Statues 2023 Annual Report*, (Jan. 1, 2024) *available at* https://portal.floridadisaster.org/mitigation/MitigateFL/External/F.S.%20252.3655%20Annual%20Reports/Florida%20Natural%20Hazards%20Interagency%20Work%20Group%20F.S.%20252.3655%202022%20Annual%20Report%201-1-2024.pdf (last visited Mar. 9, 2025).
[57] *Id.*
[58] *Id.*
[59] Sections 252.385(2)(b) and 1013.372(2) F.S.
[60] Section 252.385(2)(b), F.S.
[61] Florida Division of Emergency Management, Statewide Emergency Shelter Plan: State of Florida 2024, *available at* https://www.floridadisaster.org/globalassets/final_statewide-emergency-shelter-plan_2024.pdf (last visited Mar. 8, 2025).

Beginning with publication of the 2006 SESP, the FDEM monitors the status of the statewide inventory of special needs shelters.[62] Historically, special needs estimates were included in the total population hurricane evacuation shelter demand estimates and hurricane evacuation shelter capacities.[63] The FDEM was asked to separate the two shelter types and monitor progress toward improvement, following the 2004 hurricane season which revealed the need to improve special needs shelters.[64] Special needs shelter requirements differ from general population shelters as they require the provision of standby electric power, supported air-conditioning, and additional space per client to accommodate for caregivers and medical equipment.[65]

To ensure the needs of persons requiring special needs shelters are met, the FDEM maintains a special needs registry.[66] Individuals can register through a website maintained by the Florida Department of Health.[67]

Hurricane Loss Mitigation Program

In 1999, the Legislature created the Hurricane Loss Mitigation Program (HLMP) within the FDEM for funding programs for improving the wind resistance of residences and mobile homes.[68]

The HLMP is funded by an annual appropriation of $10 million from the Florida Hurricane Catastrophe Fund.[69] Specifically, current law requires the funds to be used as follows:

- $7 million must be directed toward programs that improve the wind resistance of residences and mobile homes, including loans, subsidies, grants, demonstration projects, and direct assistance; educating persons concerning the Florida Building Code; and other efforts to prevent or reduce losses or reduce the cost of building after a disaster.[70] Of this funding, 40 percent must be used to inspect and improve tie-downs for mobile homes and 10 percent hall be allocated to the Florida International University center dedicated to hurricane research.[71]
- $3 million must be directed toward retrofitting existing facilities used as public hurricane shelters. FDEM must prioritize the use of these funds for projects included in the annual Shelter Retrofit Report.[72]

Of the funds dedicated to the Shelter Retrofit Program, the FDEM must prioritize the use of the funds for projects included in the annual Shelter Retrofit Report.[73] The FDEM must similarly prioritize these funds to projects in regional planning council regions with shelter deficits and projects that maximize the use of state funds.[74]

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[62] *Id.*
[63] *Id.*
[64] *Id.*
[65] *Id.*
[66] Section 252.355, F.S.
[67] Fla. Dep't of Health, *Florida Special Needs Registry*, https://snr.flhealthresponse.com/ (last visited Mar. 9, 2025).
[68] Chapter 99-305, Laws of Fla.
[69] Section 215.559(1), F.S. *See* ch. 2024-231, Specific Appropriation 2716, Laws of Fla.
[70] Section 215.559(1)(a), F.S.
[71] Section 215.559, F.S.
[72] Section 215.559(1)(b), F.S.
[73] The Shelter Retrofit Report is prepared annually and submitted to the Governor and the Legislature. *See* s. 252.385, F.S.
[74] Section 215.559(1)(b), F.S.

In Fiscal Year 2021-2022, the FDEM reports that 1 new shelter retrofit agreement was executed and 8 projects were completed. At the end of the fiscal year, projects for 12 recipients were active in communities in 61 different locations across the state.[75]

On January 1 of each year, FDEM must submit an annual report and accounting of activities under the HLMP and an evaluation of the activities.[76] The report must be submitted to the Speaker of the House of Representatives, the President of the Senate, and the Majority and Minority Leaders of the House of Representatives and the Senate.[77] The Office of Insurance Regulation (OIR) must review the report and make recommendations to the insurance industry as deemed appropriate.[78]

The HLMP expires on June 30, 2032.[79]

FEMA Mitigation Grant Programs

FEMA was established in 1979 to centralize federal emergency and disaster activities.[80] The latter of FEMA's primary mission areas, hazard mitigation, is defined as any sustained action taken to reduce or eliminate the long-term risk to human life and property from hazards.[81] FEMA administers several mitigation grant programs designed to reduce and mitigate future natural disaster losses.[82]

Some of the FEMA mitigation grant programs are authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act).[83] These programs include the Hazard Mitigation Grant Program, the Hazard Mitigation Grant Program Post Fire, Pre-Disaster Mitigation (PDM) grant program, Safeguarding Tomorrow Revolving Loan Fund Program, the Public Assistance Grant Program, and the Building Resilient Infrastructure and Communities program.[84] The National Flood Insurance Act authorizes the Flood Mitigation Assistance grant, which was created with the goal of reducing or eliminating repetitive flood damage under the National Flood Insurance Program.[85] Funds received from any one of these grants can be used for hazard mitigation planning, mitigation activities, and management costs.[86]

[75] Division of Emergency Management, *Florida Hurricane Loss Mitigation Program: 2022 Annual Report* (January 1, 2023), https://www.floridadisaster.org/dem/mitigation/hurricane-loss-mitigation-program/ (last visited Mar. 9, 2025).
[76] Section 215.559(6), F.S. Hurricane Loss Mitigation Reports reside on the FDEM website: https://www.floridadisaster.org/dem/mitigation/hurricane-loss-mitigation-program/ (last visited Mar. 9, 2025).
[77] Section 215.559(6), F.S.
[78] Section 215.559(6), F.S.
[79] Section 215.559(7), F.S.
[80] FEMA, *About the Agency* (May 11, 2016), available at https://www.fema.gov/about/history (last visited Mar. 9, 2025).
[81] 44 C.F.R. s. 201.2.
[82] FEMA, *Hazard Mitigation Assistance Program and Policy Guide*, (July 30, 2024), *available at* https://www.fema.gov/sites/default/files/documents/fema_hma_guide_082024.pdf (last visited Mar. 9, 2025).
[83] 42 U.S.C. 5121 et seq.
[84] *See* FEMA, *Learn About HMA* (Feb. 18, 2025), https://www.fema.gov/grants/mitigation/learn (last visited Mar. 9, 2025).
[85] *Id*.
[86] FEMA, *Hazard Mitigation Assistance Program and Policy Guide*, at 44-45 (July 30, 2024), *available at* https://www.fema.gov/sites/default/files/documents/fema_hma_guide_082024.pdf (last visited Mar. 9, 2025).

Under most circumstances, in order for state, tribal, and local governments to receive a FEMA mitigation grant, the applicant must produce a hazard mitigation plan approved by FEMA that conforms to a specified set of requirements.[87] At a minimum, a hazard mitigation plan must outline processes for identifying the natural hazards, risks, and vulnerabilities of the area under the jurisdiction of the government.[88] Jurisdictions must update their plans and re-submit them to FEMA every 5 years to maintain eligibility.[89]

FEMA Public Assistance Grant Program

The FEMA Public Assistance (PA) Grant Program provides funding and direct assistance such as supplies and personnel to states, tribes, and territories to assist them in responding to and recovering from presidentially-declared major disasters or emergencies. PA is intended to supplement state and local resources when an incident exceeds their ability to respond and recover. PA is only available after the President declares an emergency or major disaster upon request by the governor of the affected state. Preliminary damage assessments by FEMA, in collaboration with state, local, and tribal governments, are used to determine if the estimated cost of assistance exceeds certain thresholds and whether PA should be authorized. In Florida, once PA is authorized, FDEM becomes the primary PA grant recipient. State, tribal, and local governments, as well as eligible nonprofit entities, may then apply for funding as "Applicants." Applicants must submit a request for grant funds to FDEM, which evaluates eligibility for PA with FEMA.[90]

Florida Recovery Obligation Calculation

FDEM has developed the Florida Recovery Obligation (F-ROC) for the purpose of standardizing, streamlining, and simplifying the PA process for Applicants in Florida. As part of F-ROC, FDEM has standardized all forms that applicants use to apply for PA. Applicants who participate agree to complete certain procurement activities before and after a disaster event. Participating applicants are required to have a recovery plan that specifies procedures, and ensure the plan is updated. A significant feature of F-ROC is the Disaster Readiness Assessment (DRA) that allows applicants to gain insight into their preparedness for disaster events. By answering a series of questions in the DRA about their experience, planning, and policies, applicants receive a Disaster Readiness Score. Applicants also receive points from a Post-Disaster Questionnaire. The combination of points from the applicant's baseline, the DRA, and the Post-Disaster Questionnaire may allow the applicant to receive up to 80 percent of their funding up front. The remainder of their funding is granted once supporting documents are validated.[91]

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[87] *Id*.
[88] 42 U.S.C. s. 5165(b)(2).
[89] FEMA, *Create a Hazard Mitigation Plan*, (Feb. 25, 2025) https://www.fema.gov/emergency-managers/risk-management/hazard-mitigation-planning/create-hazard-plan (last visited Mar. 9, 2025).
[90] Congressional Research Service, *A Brief Overview of FEMA's Public Assistance Program*, *available at* https://crsreports.congress.gov/product/pdf/IF/IF11529 (last visited Mar. 12, 2025).
[91] Division of Emergency Management, *F-ROC Approach and Overview for Leaders*, *available at* *https://portal.floridadisaster.org/projects/FROC/FROC_Documents/2.%20F-ROC%20Training%20Materials/Phase%201%20-%20Approach%20and%20Overview%20for%20Leaders/F-ROC%20Approach%20and%20Overview%20for%20Leaders.pdf* (last visited Mar. 12, 2025).

Florida National Guard Medical Officer Authorization

The Florida National Guard (FLNG) is the organized militia of the state.[92] Its mission includes maintaining readiness to support national and state security efforts, as well as leading or assisting in humanitarian and logistical operations. These operations include hurricane preparation and recovery and currently include assistance with the pandemic response. The Governor is the commander in chief of the FLNG and the Adjutant General is its chief of staff. [93] The FLNG has an Army component and an Air component, each of which has an Assistant Adjutant General who is also its Commander.[94]

Section 250.375, F.S., provides that physicians holding an active license to practice medicine in any other state, a U.S. territory, or the District of Columbia, while serving as medical officers in the FLNG pursuant to federal or state orders, are expressly authorized to practice medicine on military personnel or civilians during an emergency, declared disaster, or during federal military training.

Emergency Management - Counties and Municipalities

State policy for responding to disasters is to support local emergency response efforts while also recognizing the needs of residents and communities will likely be greater than can be met by local resources.[95] The Act provides specific authorization and emergency powers to counties, requiring each county to establish and maintain an emergency management agency and develop a county emergency management plan and program consistent with the state comprehensive emergency management plan and program.[96] Municipalities are encouraged to create their own emergency management plans but must coordinate with the county emergency management agency.[97]

County emergency management agencies must each have a director appointed by either their respective board of county commissioners or county chief administrative officer and serving at the pleasure of the appointing authority.[98] The county emergency management director may be a county constitutional officer[99] or an employee of such an officer.[100] Responsible for the organization, administration, and operation of the county emergency management agency, the director must coordinate the emergency activities, services, and programs of the agency throughout the county and serve as the county liaison to FDEM and other local emergency management entities.[101]

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[92] Section 250.02(2), F.S. The nonorganized militia is composed of all able-bodied citizens of the state and those individuals who have declared intentions to become citizens of the United States. FLA. CONST. art. X, sec. 2(a); and s. 250.02(1), F.S.
[93] Section 250.06(1), F.S.
[94] Florida National Guard, *Leadership*, https://fl.ng.mil/leadership/Pages/Assistant-Adjutant-General-Air.aspx (last visited Mar. 12, 2025).
[95] Section 252.311(3), F.S.
[96] Section 252.38(1)(a), F.S.
[97] Section 252.38(2), F.S.
[98] Section 252.38(1)(b), F.S.
[99] FLA. CONST. art. VIII, s. 1(d) requires the election of the following county officers: sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit courts.
[100] Section 252.38(1)(b), F.S.
[101] Section 252.38(1)(b), F.S.

Under the Act, the governing body of each political subdivision, defined as counties and municipalities,[102] may develop and enter into mutual aid agreements for reciprocal emergency aid and assistance when emergencies are too extensive for the county or municipality to handle without assistance.[103] After executing a mutual aid agreement, a copy must be sent to FDEM.[104] Mutual aid agreements must be consistent with the state comprehensive emergency management plan and program.[105] When an emergency occurs, the parties to the agreement have a duty to render assistance in accordance with the agreement.[106]

Community Planning

The Community Planning Act provides counties and municipalities with the power to plan for future development by adopting comprehensive plans.[107] Each county and municipality must maintain a comprehensive plan to guide future development.[108]

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.[109] A comprehensive plan provides the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area.[110]

A locality's comprehensive plan lays out the locations for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public facilities, and other categories of the public and private uses of land. A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.[111]

A comprehensive plan is implemented through the adoption of land development regulations[112] that are consistent with the plan, and which contain specific and detailed provisions necessary to implement the plan.[113] Such regulations must, among other prescriptions, regulate the subdivision of land and the use of land for the land use categories in the land use element of the comprehensive plan.[114] Substantially affected persons have the right to maintain administrative

[102] Section 252.34(10), F.S.
[103] Section 252.40(1), F.S.
[104] *Id.*
[105] *Id.*
[106] *Id.*
[107] Section 163.3167(1), F.S.
[108] Section 163.3167(2), F.S.
[109] Section 163.3194(3), F.S
[110] Section 163.3177(1), F.S.
[111] Section 163.3177(6), F.S.
[112] "Land development regulations" means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land, except that this definition does not apply in s. 163.3213. *See* s. 163.3164(26), F.S.
[113] Section 163.3202, F.S.
[114] *Id.*

actions which assure that land development regulations implement and are consistent with the comprehensive plan.[115]

Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first. State law requires a proposed comprehensive plan amendment to receive two public hearings, the first held by the local planning board, and subsequently by the governing board.[116]

Development Permits and Orders

The Community Planning Act defines "development" as "the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels."[117] When a party wishes to engage in development activity, they must seek a development permit from the appropriate local government having jurisdiction. Under the Community Planning Act, a development permit includes "any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land."[118] Once a local government has officially granted or denied a development permit, the official action constitutes a development order.[119] A development order vests certain rights related to the land.[120]

Building Permits and Inspections

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.[121]

Every local government must enforce the Florida Building Code and issue building permits.[122] It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons as may, by resolution or regulation, be directed to issue such permit.[123] A local government may charge reasonable fees as set forth in a schedule of fees adopted by the enforcing agency for the issuance of a building permit.[124] Such fees shall be used solely for carrying out the local government's responsibilities in enforcing the Building Code.[125] Enforcing the Building Code includes the direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspections, building permit processing, and fire

[115] Section 163.3213, F.S.
[116] Sections 163.3174(4)(a) and 163.3184, F.S.
[117] Section 163.3164(14), F.S.
[118] Section 163.3164(16), F.S.
[119] *See* s. 163.3164(15), F.S.
[120] *See* s. 163.3167(3), F.S.
[121] Section 553.72, F.S.
[122] Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.
[123] Sections 125.56(4)(a), 553.79(1), F.S.
[124] Section 553.80 F.S.
[125] *Id.*

inspections.[126] Local governments must post all building permit and inspection fee schedules on its website.[127]

Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the building code. The building code requires certain building, electrical, plumbing, mechanical, and gas inspections.[128] Construction work may not be done beyond a certain point until it passes an inspection.[129]

Current law provides a set of deadlines for the ordinary processing of building permits depending on the type of permit.[130] Various laws require or encourage local governments to further expedite the permitting process in certain situations, such as for the construction of public schools, state colleges and universities and affordable housing.[131]

General Overview of Property Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of a property as of January 1 of each year.[132] The property appraiser annually determines the "just value"[133] of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."[134] The state constitution prohibits the state from levying ad valorem taxes[135] and it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.[136]

Assessment of Damaged Agricultural Equipment

"Tangible personal property" means all goods, chattels, and other articles of value (not including vehicles) capable of manual possession and whose chief value is intrinsic to the article itself.[137] All tangible personal property is subject to ad valorem taxation unless expressly exempted.[138]

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[126] Section 553.80(7)(a)(1), F.S.
[127] Sections 125.56(4)(c) F.S. and 166.222(2) F.S.
[128] Florida Building Code, *2023 Florida Building Code: 8th Edition*, s. 110 (2023), *available at* https://codes.iccsafe.org/content/FLBC2023P1/chapter-1-scope-and-administration#FLBC2023P1_Ch01_SubCh02_Sec110 (last visited Mar. 9, 2025).
[129] *Id.* at s. 110.6.
[130] Section 553.792(1)(a), F.S.
[131] *See* sections 403.973(3), 420.5087(6)(c)8., and 553.80(6)(b)2., F.S.
[132] Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.
[133] Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. Art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm's-length transaction. *See, e.g., Walter v. Schuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *S. Bell Tel. & Tel. Co. v. Dade Cnty.*, 275 So. 2d 4 (Fla. 1973).
[134] *See* ss. 192.001(2) and (16), F.S.
[135] FLA. CONST. art. VII, s. 1(a).
[136] *See* FLA. CONST. art. VII, s. 4.
[137] Section 192.001(11)(d), F.S.
[138] Section 196.001(1), F.S.

Household goods and personal effects,[139] items of inventory,[140] and up to $25,000 of assessed value for each tangible personal property tax return[141] are exempt from ad valorem taxation.

For purposes of ad valorem property taxation, agricultural equipment that is located on property classified as agricultural under s. 193.461, F.S., and is obsolete and no longer usable for its intended purpose is deemed to have a market value no greater than its value for salvage.[142]

Beach Funding

Funding for Florida's critically eroded beaches is managed by the Beach Management Funding Assistance Program.[143] The program provides grants to local governments (up to 75% of project costs) for beach and inlet management projects to restore and nourish the state's most severely eroded beaches.[144] These projects protect upland structures and infrastructure, provide critical habitat for threatened and endangered species, provide recreational opportunities, and support local economies through tourism.[145]

The Department of Environmental Protection (DEP) accepts funding requests on an annual basis from local governments and municipalities for beach and inlet management projects.[146] To be eligible for funding, projects must be accessible to the public, located on the Gulf of Mexico, Atlantic Ocean or Straits of Florida, be designated by DEP as a critically eroded beach, and be consistent with the state's Strategic Beach Management Plan.[147]

The funds are cost-shared with local governments on local and federally authorized projects, with each level of government contributing about one-third of the cost of the entire program.[148] This funding has resulted in the restoration and subsequent maintenance of more than 253 miles, or 58%, of the state's 432.5 miles of critically eroded beaches.[149]

Solid Waste

Counties have the authority to provide and regulate waste and sewage collection and disposal.[150] A county may require that any person within the county demonstrate the existence of some

[139] Section 196.181, F.S.
[140] Section 196.185, F.S.
[141] Section 196.183, F.S.
[142] Section 193.4615, F.S.
[143] Fla. Dep't of Environmental Protection, *About the Beaches Funding Program*, https://floridadep.gov/rcp/beaches-funding-program (last visited Mar. 9, 2025).
[144] Section 161.101(1), F.S.
[145] Fla. Dep't of Environmental Protection, *About the Beaches Funding Program*, https://floridadep.gov/rcp/beaches-funding-program (last visited Mar. 9, 2025).
[146] Fla. Admin. Code R. 62B-36.005.
[147] Fla. Admin. Code Chapter 62B-36. *See also* Fla. Dep't of Environmental Protection, *About the Beaches Funding Program*, https://floridadep.gov/rcp/beaches-funding-program (last visited Mar. 9, 2025).
[148] Fla. Dep't of Environmental Protection, *About the Beaches Funding Program*, https://floridadep.gov/rcp/beaches-funding-program (last visited Mar. 9, 2025).
[149] *Id.*
[150] Section 125.01(1)(k), F.S.

arrangement or contract by which the person's solid waste[151] will be disposed of in a manner consistent with county ordinance or state or federal law.[152] Counties also have authority to adopt ordinances that govern the disposal of solid waste generated outside the county at the county's solid waste disposal facility.[153]

The DEP is responsible for implementing and enforcing the solid waste management program, which provides guidelines for the storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the state.[154] The program is required to include procedures and requirements to ensure cooperative efforts in solid waste management by counties and municipalities and groups of counties and municipalities where appropriate.[155]

Counties are responsible for operating solid waste disposal facilities, which are permitted through the DEP, in order to meet the needs of the incorporated and unincorporated areas of the county[156] and may contract with other persons to fulfill some or all of its solid waste responsibilities.[157] Each county must ensure that municipalities within its boundaries participate in the preparation and implementation of recycling and solid waste management programs through interlocal agreements or other means.[158] In providing services or programs for solid waste management, local governments and state agencies are encouraged to use the most cost-effective means for providing services and are encouraged to contract with private entities for any or all such services or programs to assure that those services are provided on the most cost-effective basis.[159] Local governments are expressly prohibited from discriminating against privately owned solid waste management facilities solely because they are privately owned.[160]

III. Effect of Proposed Changes:

State Emergency Management Act and FDEM Duties

Section 3 amends s. 215.559, F.S., to require FDEM to give funding priority for shelter retrofit projects located in counties that have shelter deficits and to projects that are publicly owned other than schools.

Section 5 amends s. 252.35, F.S., to revise legislative intent to specify that other departments and agencies of state government, county and municipal governments and school boards, and private agencies have a role in emergency management and that the Legislature intends that they

[151] Section 403.703(35), F.S. "Solid waste" is defined as sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.
[152] Section 125.01(1)(k)2., F.S.
[153] Section 403.706(1), F.S.
[154] Section 403.705, F.S.
[155] Section 403.705(2)(a), F.S.
[156] Section 403.706(1), F.S.
[157] Section 403.706(8), F.S.
[158] Section 403.706(3), F.S.
[159] Section 403.7063, F.S.
[160] *Id*.

coordinate to the greatest extent possible in the provision of emergency management efforts through FDEM.

The shelter planning component of the comprehensive emergency management plan is revised to require planning to ensure shelter space be available on a county basis, rather than a regional basis. The bill revises the annual requirement for FDEM to submit the state comprehensive emergency management plan to be due on October 1 of every odd-numbered-year. A separate reporting requirement on the emergency management capabilities of the state and its political subdivisions is consolidated into this report.

FDEM is directed to establish procedures to coordinate and monitor statewide mutual aid agreements reimbursable under federal public disaster assistance programs.

The requirement for FDEM to assist political subdivisions in preparing and maintaining emergency management plans is clarified to include the development of a template for comprehensive management plans and guidance on the development of mutual aid agreements.

The requirement for FDEM to implement training programs is clarified to include the purpose of maintaining Florida's status as a national leader in emergency management. FDEM must specify minimum biennial training requirements for county or municipal administrators, county or city managers, county or municipal emergency management directors, and county or municipal public works directors or other officials responsible for the construction and maintenance of public infrastructure, in addition to minimum training already required under the Act.

FDEM must complete an inventory of disaster response equipment, including an inventory of portable generators as already required by the Act.

The bill requires FDEM to conduct a hurricane readiness session by April 1 annually for the purpose of facilitating coordination between emergency management stakeholders. A session will be held in each region as designated by FDEM. County emergency management directors (or designees) must attend, and other county or municipal personnel may attend the session. The content of the session must include guidance on timelines for preparation and response, information on state and federal post-disaster resources and assistance, guidance to promote efficient and expedited rebuilding of the community after a hurricane, best practices for coordination and communication among entities engaged in post-disaster response and recovery, and discussion of any outstanding county or municipal preparedness or readiness needs

Section 6 amends s. 252. 355, F.S., to require the Department of Veterans' Affairs to annually provide information on the special needs registry to their special needs clients and caregivers.

Section 7 amends s. 252.3611, F.S., to revise emergency expenditure auditing and reporting requirements. Requirements for the reporting of contracts executed with funding authorized for use in responding to the emergency to apply when a declaration or extension of a state of emergency by the Governor lasts longer than 90 days. Under such circumstances, all contracts to be posted on the Florida Accountability Contract Tracking System (FACTS), including those executed before the declaration for resources or services in anticipation or advance of an emergency.

The Auditor General is required to post the results of audits of expenditures associated with emergencies on his or her official website.

FDEM is required to annually report by January 15 to the Legislature, including the appropriations committees, on expenditures incurred related to emergencies over the previous year. The report must summarize the event and actions taken by FDEM. It must detail expenditures by event and include an accounting of inventory and assets purchased.

Section 8 amends s. 252.365, F.S., to revise the requirement for agency emergency coordination officers to coordinate with FDEM to include identifying priorities for post-disaster long-term recovery activities. The requirement for agency heads to inform the Governor of who has been designated as the agency emergency coordination officer is revised to be required by May 1 annually.

Section 9 amends s. 252.3655, F.S., to rename the Natural Hazards Interagency Workgroup as the "Natural Hazards Risks and Mitigation Interagency Coordinating Group" and substantially revise the requirements of the group. The purpose for the group is amended to include work related to risks and mitigation. Administrative and reporting requirements for the group are substantially revised.

Rather than agencies, water management districts, and the Florida Public Service Commission selecting a designee for the group, the Chief Resilience Officer of the Statewide Office of Resilience and the heads of the Department of Agriculture and Consumer Services; the Department of Commerce.; the Department of Environmental Protection; the Department of Financial Services; the Department of Law Enforcement; the Department of Highway Safety and Motor Vehicles.; the Department of Military Affairs; the Division of Emergency Management.; the Department of Transportation; the Fish and Wildlife Conservation Commission; the Office of Insurance Regulation; the Public Service Commission; and the water management districts are required to serve.

Section 10 amends s. 252.37, F.S., to require FDEM to notify the Legislature if it intends to accept or apply for federal funds for a program administered by the FDEM that is new, will be implemented in an innovate or significantly different manner, for will require new budget authority for a state match. The notice must include detail on the program, and the intended use and amount of the funds.

The bill requires FDEM to maximize the availability and expedite the distribution of financial assistance from the Federal Government to state and local agencies. In doing so, FDEM must standardize and streamline the PA application process and the provision of assistance to applicants in order to mitigate the risk of noncompliance with federal requirements. FDEM must use federal finds to implement this requirement.

Section 11 creates s. 252.3713, F.S., related to the Hazard Mitigation Grant Program (HMGP), to specify administerial requirements for FDEM related to HMGP funds.

FDEM's designation as the entity responsible for administering the HMGP is explicitly codified. FDEM is limited to retaining no more than 25 percent of the total federal allocation of funds for use within the state, while the remaining 75 percent must be distributed to subrecipients in counties specified in the Presidential Disaster Declaration. Subrecipients are authorized to share their allocation with FDEM for regional use.

FDEM and subrecipients are directed to prioritize projects for reducing shelter deficits; mitigating impacts to public infrastructure, retrofitting of regional and local emergency management or operations centers, or other projects specified in FDEM rule.

FDEM is authorized to coordinate with state agencies and political subdivisions in developing and implementing innovative approaches to funding projects using HMGP grants.

Fiscally constrained counties are authorized to request that FDEM administer a HMGP grant the county receives and may request FDEM assistance in applying for HMGP grants.

FDEM is required to adopt rules to implement the section.

Section 13 amends s. 252.38, F.S., to direct political subdivisions to notify FDEM by May 1 annually of the person designated as the emergency contact and their alternate. Counties must designate the county's emergency director as the emergency contact.

Section 14 amends s. 252.385, F.S., to revise public shelter space reporting requirements for FDEM. The annual requirement for FDEM to provide a list of recommended shelter facilities is combined with a biennial statewide shelter plan into a single annual report. The report must be provided annually by October 15 to the Governor and Legislature.

State funds should be maximized and targeted to projects in counties, rather than in regions. FDEM is required to prioritize on the list of recommended facilities other state-owned, municipal-owned, and county-owned public buildings, other than schools, for retrofit using state funds.

The Agency for Persons with Disabilities is required to assist FDEM in planning the need for special needs shelter space.

Florida National Guard Medical Officer Authorization

Section 4 amends s. 250.375, F.S., to allow servicemembers who are trained to provide medical care and are assigned to a military duty position and authorized by FLNG to provide medical care because of that duty position to provide medical care to both military personnel and civilians during emergencies or declared disasters.

Community Post-Storm Permitting and Planning

Section 15 creates s, 252.392, F.S., related to post-storm county and municipal permitting and operations. Under the section, counties and municipalities are required to develop plans for post-storm permitting to expedite recovery and rebuilding by providing for special building permit

and inspection procedures after a hurricane or tropical storm and update them by May 1 annually. Counties and municipalities must plan to ensure sufficient personnel can manage building inspection, permitting, and enforcement; account for in-person locations for permitting services during business hours; protocols to expedite permitting and waive or reduce fees; and procedures to expedite debris removal.

Counties and municipalities must publish a guide on their website by May 1 annually intended for residential and commercial property owners. The guide must cover post-storm repairs that do and do not require permits and applicable fees; post-storm permitting procedures; and local rebuilding requirements.

Counties and municipalities are prohibited, for 180 days after the declaration of a state of emergency for a hurricane or tropical storm, form increasing building permit fees or inspection fees. During the same time period, counties and municipalities are required to have personnel available during business hours to process permits.

Section 18 provides that a county or municipality listed in the federal disaster declaration for Hurricane Debby, Hurricane Helene, or Hurricane Milton shall not propose or adopt a moratorium on construction, reconstruction, or redevelopment of property damaged by hurricanes; more restrictive or burdensome procedures to its comprehensive plan or land development regulations concerning the review, approval or issuance of a site plan, development permit, or development order. Any such moratorium or restrictive or burdensome comprehensive plan amendment, land development regulation, or procedure is null and void ab initio. This subsection applies retroactively to August 1, 2024. Any comprehensive plan amendment, land development regulation, development permit, or development order approved by a county or municipality under procedures adopted before the effective date of this act may be enforced under certain circumstances.

The bill creates a cause of action for residents or business owners in a county or municipality to seek declaratory and injunctive relief against the county or municipality that has proposed or enacted a moratorium or restrictive or burdensome comprehensive plan amendment, land development regulation, or procedure. The resident or business owner is entitled to a preliminary injunction until the court adjudicates the action. If the resident or business owner is successful, they are entitled to reasonable attorney fees and costs. Attorney fees and costs may not be awarded if the resident or business owner notifies the county or government that the moratorium or restrictive or burdensome comprehensive plan amendment, land development regulation, or procedure is in violation and the county or municipality withdraws the moratorium or restrictive or burdensome comprehensive plan amendment, land development regulation, or procedure within 14 days.

This section takes effect upon becoming a law.

Assessment of Damaged Agricultural Equipment

Section 2 amends s. 193.4518, F.S., providing that tangible personal property owned and operated by a farm, farm operation, or agricultural processing facility in certain counties shall be deemed to have a market value no greater than its salvage value, provided the tangible personal

property was unable to be used in the operation of the facility for at least 60 days due to the effects of Hurricane Debby, Hurricane Helene, or Hurricane Milton.

This valuation will be effective only for the 2025 tax year and is limited to properties in Alachua, Baker, Bradford, Brevard, Charlotte, Citrus, Clay, Collier, Columbia, DeSoto, Dixie, Duval, Flagler, Franklin, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Leon, Levy, Madison, Manatee, Marion, Martin, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, Sarasota, Seminole, St. Johns, St. Lucie, Sumter, Suwannee, Taylor, Union, Volusia, or Wakulla counties.

The deadline to apply for this assessment is August 1, 2025. If the application is denied by the property appraiser, a petition may be filed with the value adjustment board to request the property be assessed according to this provision. The petition must be filed on or before the 25th day after the property appraiser mails the 2025 notice of assessment.

This provision is effective upon becoming a law and applies retroactively to January 1, 2025.

Beach Funding

Section 1 amends s. 161.101, F.S., to provide that, for any county listed in a federal declaration of disaster in 2024 that was impacted by erosion caused by Hurricane Debby, Hurricane Helene, or Hurricane Milton, the DEP may waive or reduce the match requirements for local governments for local participation in beach management and erosion control projects. This subsection expires July 1, 2026.

Storm-generated Debris

Section 17 amends s. 403.7071, F.S., to revise authorizations and requirements related to storm-generated debris.

Local governments are authorized and encouraged to add an addendum to existing contracts or franchise agreements for collection of storm-generated debris

Counties and municipalities are required to apply to the DEP for authorization of at least one debris management site and seek annual preauthorization for previously approved sites as allowed for the department.

Municipalities are authorized to jointly apply for authorization of a debris management site with a county or an adjacent municipality, pursuant to a memorandum of understanding.

Effective Date

Section 20 provides that the bill will take effect on July 1, 2025, unless otherwise expressly provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the State Constitution provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. The mandate requirement does not apply to laws having an insignificant impact,[161] which for Fiscal Year 2025-2026 is forecast at approximately $2.4 million.

The Revenue Estimating Conference has not yet adopted an impact estimate concerning the assessment limitation on agricultural equipment in section 2. If the estimated reduction in authority exceeds $2.4 million, the mandates provisions may apply. If the bill does qualify as a mandate, the bill must be approved by a two-thirds vote of the membership of each house.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Section 19 of Article VII, Florida Constitution, requires increased taxes or fees to be passed in a separate bill and by two-thirds vote of the membership of each house of the Legislature. This bill does not increase any taxes or fees, and thus the increased tax or fee requirements do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet reviewed this bill.

[161] FLA. CONST. art. VII, s. 18(d). An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by $0.10. *See* Fla. S. Comm. on Cmty. Affairs, *Interim Report 2012-115: Insignificant Impact,* (Sept. 2011), available at: http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf (last visited Mar. 9, 2025).

B. Private Sector Impact:

Agricultural producers with agricultural equipment unable to be used due to hurricanes will experience property tax relief.

Residents and businesses affected by disasters may experience quicker post-storm permit processing times and reduced or waived permit and inspection fees.

C. Government Sector Impact:

Local governments affected by beach erosion from hurricanes in 2024 will be able to implement beach management and erosion projects with a reduced match or without having to put forward match funds.

Local governments may receive reduced property tax revenues due to the assessment limitation on agricultural equipment unable to be used due to hurricanes in 2024.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 161.101, 193.4518, 215.559, 250.375, 252.35, 252.355, 252.3611, 252.365, 252.3655, 252.37, 252.373, 252.38, 252.385, 400.063, and 403.7071.

This bill creates the following sections of the Florida Statutes: 252.3713 and 252.392.

This bill reenacts s. 252.55, F.S.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on March 11, 2025:
The committee substitute:

- Provides that the property tax assessment limitation on ag equipment unable to be used is effective upon becoming law and applies retroactively to Jan. 1, 2025.
- Requires that FDEM establish procedures for coordinating and monitoring statewide mutual aid agreements reimbursable under federal public disaster assistance programs.
- Revises the membership of the Natural Hazards Risks and Mitigation Interagency Coordinating Group.

- Requires FDEM to notify the Legislature when accepting or applying for federal funds for certain new or innovative programs or that will require new budget authority.
- Requires FDEM to standardize and streamline the application process for the federal Public Assistance Program and use federal funds to implement the requirement.
- Provides that FDEM may retain 25 percent of the total federal allocation of funds received under the HMGP.
- Creates a cause of action for residents or business owners affected by an unlawful burdensome regulation or moratorium to seek declaratory and injunctive relief.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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whether such action violates the law. Upon such request, the county or municipality may not enforce the action until the court has issued a preliminary or final judgment. Before a plaintiff may file suit, the plaintiff must notify the impacted local government by stating the facts upon which the complaint or petition is based and the reasons the impacted local government's action violates the law. Upon receipt of the notice, the impacted local government has 14 days to withdraw the action or declare it void. If the impacted local government does not withdraw or revoke the action at issue within the time prescribed, the plaintiff may file suit and is entitled to entry of a preliminary injunction to prevent the local government from implementing the challenged action during the pendency of the litigation. The prevailing plaintiff is entitled to reasonable attorney's fees and costs.

The bill provides that each state or local government contract for goods or services related to emergency response for a natural emergency entered into, renewed, or amended on or after July 1, 2025, must include a provision that requires a vendor or service provider that breaches such contract during an emergency recovery period (a one-year period that begins on the date the Governor declared a state of emergency for a natural emergency) to pay actual and consequential damages in addition to a $5,000 penalty.

The bill provides for the regulation of hoisting equipment used in construction, demolition, or excavation work during a hurricane, which includes securing hoisting equipment no later than 24 hours before the impacts of a hurricane are expected to begin. (Singer)

Emergency Preparedness and Response (Monitor)
SB 180 (DiCeglie) is a comprehensive bill revising Florida's emergency preparedness and response infrastructure. Of note to municipalities, the bill:

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- Authorizes the Department of Environmental Protection (DEP) to waive or reduce local government match requirements until July 2026 for beach erosion projects impacted by Hurricanes Debby, Helene, or Milton
- Specifies the Legislature's intent for other departments and agencies of the state, county and municipal governments and school boards, and private agencies that have a role in emergency management to coordinate to the greatest extent possible in the provision of emergency management efforts through the division
- Requires the Florida Division of Emergency Management (DEM) to include in its bi-annual state comprehensive emergency management plan an update on the status of the emergency management capabilities of the state and its political subdivisions
- Directs DEM to assist political subdivisions by developing a template for comprehensive emergency management plans and guiding the development of mutual aid agreements when requested

- The bill requires all political subdivisions to designate a person as their emergency contact, a person to serve as their alternate, and to notify DEM of these designations by May 1 of each year
- Mandates a continuous training program and authorizes DEM to specify requirements setting a minimum number of training hours that must be completed biennially by municipal administrators, managers, emergency management directors, public works directors, or other officials responsible for the construction and maintenance of public infrastructure
- The bill requires DEM to conduct an annual hurricane readiness session by April 1 of each year in each region designated by DEM to facilitate coordination between all emergency management stakeholders. The session must include but is not limited to:
  - Guidance on timelines for preparation and response

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  - Information on state and federal postdisaster resources and assistance
  - Guidance to promote efficient and expedited rebuilding of the community after a hurricane
  - Best practices for coordination and communication among entities engaged in postdisaster response and recovery
  - Discussion of any outstanding county or municipal preparedness or readiness needs
- If the duration of a declared state emergency issued by the Governor exceeds 90 days, regardless of an extension of the same declaration, the bill requires the Executive Office of the Governor or appropriate agency to submit a contract executed with moneys authorized for expenditure to support emergency response to the Legislature within 72 hours after executing. Contracts executed during the first 90 days must be submitted within 120 days of the declared state of emergency. All contracts executed before or during a declared state of emergency to secure resources or services must be posted on the secured contract tracking system.
- The bill mandates the Auditor General to update their audit of an emergency exceeding one year, prescribes several requirements to be included, and requires the Auditor General to post it on the appropriate website, in addition to reporting to the Legislative leaders and specified committee chairs annually by January 15.
- The bill also requires the head of specified state agencies or their designated senior manager to serve on a natural hazards risks and mitigation interagency coordinating group. The bill prescribes composition, responsibilities, and meeting requirements for the expanded interagency coordinating group.
- The bill charges DEM to administer the Federal Emergency Management Agency's Hazard Mitigation Grant Program [within the state] and allows them to adopt rules to implement this section.

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  - The bill clarifies that DEM may not retain more than 25% of funds received for use by the state, and must distribute a minimum of 75% for use by the subrecipients in the counties specified in the Presidential Disaster Declaration unless a subrecipient elects to share some or all of its allocation with DEM to be used for projects benefiting the region where the subrecipient is located. It also provides guidelines on prioritizing the projects applying to receive funds.
  - The bill permits a fiscally constrained county to request the division administer the grant for such county and may request additional assistance from the division in preparing applications for grants and developing a structure for implementing, monitoring the execution of, and closing out projects.
- The bill directs DEM to submit a report annually by October 15 to the Governor and Legislative leaders that includes a list of facilities recommended to be retrofitted using state funds in counties with hurricane evacuation shelter deficits.
- The bill instructs DEM to prioritize the list of facilities owned by the state, municipalities, and county-owned public buildings (other than schools) for retrofitting using state funds.
- The bill directs municipalities to develop a post-storm permitting plan to expedite recovery and rebuilding by providing for special building permit and inspection procedures following a hurricane or tropical storm. It requires the plan be updated no later than May 1 annually and must, at a minimum:
  - Ensure sufficient personnel are prepared and available to expeditiously manage post-disaster building inspection, permitting, and enforcement tasks
  - Anticipate conditions that would necessitate supplemental personnel for such tasks and address methods for fulfilling such personnel needs, including through mutual aid agreements, arrangements with private sector contractors, or supplemental state or federal funding

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  - Include training requirements and protocols for supplemental personnel to ensure compliance with local floodplain management requirements that apply within the county or municipality
  - Account for multiple or alternate locations where building permit services may be offered in person to the public during regular business hours
  - Specify a protocol to expedite the permitting procedures and, if practicable, for to waive or reduce applicable fees
  - Identify the types of permits frequently requested following a hurricane or tropical storm and methods to expedite the processing of such permits
  - Specify procedures and resources necessary to promote expeditious debris removal
- The bill requires that each county and municipality publish on its website annually by May 1 a hurricane and tropical storm recovery permitting guide for residential and commercial property owners that must describe:
  - The types of post-storm repairs that require a permit and applicable fees
  - The types of post-storm repairs that do not require a permit
  - The post-storm permit application process and specific modifications the local government commonly makes to expedite the process, including physical locations where permitting services will be offered
  - Local requirements for rebuilding specific to the county or municipality, including elevation requirements following substantial damage and substantial improvement pursuant to the National Flood Insurance Program (NFIP) and any local amendments to the building code
  - As soon as practicable following a hurricane or tropical storm, a county or municipality within an area declared to be in a state of emergency must publish updates on its website the information required above specific to such storm, including any permitting fee waivers or reductions

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For 180 days after a state of emergency is declared in an area, the county or municipality may not increase building permit or inspection fees and must have employees and supplemental personnel available during normal business hours to process permits.

The bill revises the storm-generated debris management statute:

- To authorize and encourage local governments to add an addendum to existing contracts or franchise agreements to collect storm-generated debris
- To allow each county and municipality to apply to DEP for authorization of at least one debris management site, and shall annually seek preauthorization for any previously approved sites, as allowed by DEP
- A municipality may jointly apply for authorization of a debris management site with a county or at least one adjacent municipality, if the parties develop and annually approve a memorandum of understanding (MOU) clearly outlining the capacity and location of the site relative to each party

The bill states that each county listed in the federal disaster declaration for Hurricanes Debby, Helen, or Milton (and each municipality within) shall not:

- Propose or adopt any moratorium on construction, reconstruction, or redevelopment of any property damaged by such hurricanes
- Propose or adopt more restrictive or burdensome amendments to its comprehensive plan or land development regulations
- Propose or adopt more restrictive or burdensome procedures concerning review approval or issuance of a site plan, development permit, or development order before October 1, 2027
- The bill does provide an exception to approve or adopt those applications if initiated by a private party other than the local government, or if the property that

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is the subject of the application is owned by the initiating private party. This exemption would take effect upon becoming law and expires June 30, 2028.

- Any such moratorium or restrictive or burdensome comprehensive plan amendment, land development regulation, or procedure shall be null and void ab initio.
- This provision would apply retroactively to August 1, 2024. (Singer)

Emergencies (Monitor)

HB 1337 (Giallombardo) and **SB 1566** (Simon) are comprehensive bills revising provisions related to emergency management and services in Florida. Of note to municipalities, the bills revise the powers of the Division of Emergency Management (DEM) by:

- Expanding coordination responsibility between the federal government and Florida's political subdivisions to command and control the state's departments, cabinet agencies, and municipal governments
- Expanding existing role in monitoring mutual aid agreements to also coordinate them
- Addressing the need for coordinated and expeditious deployment of state resources by facilitating annual training initiatives supporting the education of emergency management officials, elected and appointed officials, and stakeholders
- Requiring DEM to include in its state comprehensive emergency management plan an update on the status of the emergency management capabilities of the state and its political subdivisions

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2025-415**

1. **Request:**

Meeting Date: May 19, 2025

DISCUSSION: Concerns with the Existing Parallelogram Lot Ordinance adopted in 2023, Particularly as the Ordinance has been Applied to Lots Located at 250 and 254 Miramar Street. (Maximum allowed time - not to exceed 30 minutes)

Why the action is necessary:

At least two Town Council members have approved Mrs. Knight's request to be heard at this meeting.

What the action accomplishes:

2. **Agenda:**

COUNCILMEMBERS ITEMS AND REPORTS

3. **Requirement/Purpose:**

4. **Submitter of Information:**

Judith Frankel, Principal Planner, Frankie Kropacek, Community Development Director

---

5. **Background:**

Mrs. Becky Knight, together with other residents of Miramar Street, have requested to present their concerns regarding the new homes being built at 250 and 254 Miramar Street as well as Ordinance 23-08 on Parallelogram Lots. Following this sheet is the subject ordinance as well as the material presented to the Town Council on June 5th, 2023 when the ordinance was approved.

Attachments:

1. 23-08, Parallelograms Ordinance
2. Miramar Plat Book 6 page 31 1925
3. Town Council - June 5, 2023 (Minutes from First Reading)
4. Town Council - June 5, 2023 (Agenda Materials from Adoption Hearing)
5. LPA - Minutes related to Parallelogram Lots (Pages 1-3)

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Lizzette Roman, Town Clerk Administrative Coordinator	Created/Initiated - 5/7/2025
Frankie Kropacek, Community Development Director	Approved - 5/9/2025
nancy stuparich, Town Attorney	Approved - 5/12/2025
Amy Baker, Town Clerk	Approved - 5/12/2025
Andy Hyatt, Town Manager	Final Approval - 5/13/2025

ORDINANCE NO. 23-08

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 34, ARTICLE II., DIVISION 6, ADDING SECTIONS 34-269 PARALLELOGRAM LOT SETBACKS, AND ASSOCIATED DEFINITIONS IN CHAPTER 34, ARTICLE I., SECTION 34-2 DEFINITIONS; PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.

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

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

WHEREAS, the Town recognizes that redevelopment of the Town, following hurricane Ian requires evaluation and updates to the Land Development Code; and

WHEREAS, the Town Council desires updates to the Fort Myers Beach Land Development Code to clarify, improve and create consistency among sections; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on April 11, 2023, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted 7-0, to recommend approval of the requested amendment to Chapter 34., Section 34-269 and Section 34-2; and

WHEREAS, on May 15, 2023, the Town Council held a first reading of this proposed Ordinance; and

WHEREAS, on June 5, 2023, the Town Council held a second reading of this proposed Ordinance.

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. Chapter 34, Article III., Division 3, Section 34-269 Parallelogram Lot Setbacks, and Section 34-2 Definitions is hereby amended to read as found in attached Exhibit A

– Parallelogram Lot Setbacks and Amended Definitions:

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 Council Member Veach and seconded by council Member Woodson, and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	aye
Jim Atterholt, Vice Mayor	aye
John R. King, Council Member	aye
Bill Veach, Council Member	aye
Karen Woodson, Council Member	aye

ADOPTED this 5th day of June 2023, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers

Dan Allers, Mayor

ATTEST:

Amy Baker

Amy Baker, Town Clerk

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

John R. Herin, Jr.

John R. Herin, Jr., Town Attorney

Exhibits

Exhibit A – Parallelogram Lot Setbacks and Amended Definitions

Signature: Dan Allers
Dan Allers (Jun 6, 2023 16:11 EDT)

Email: allersd@fmbgov.com

Signature: John R. Herin, Jr.
John R. Herin, Jr. (Jun 7, 2023 18:54 EDT)

Email: jherin@foxrothschild.com

Signature: Amy Baker
AMY BAKER (Jun 9, 2023 11:31 EDT)

Email: AMY@FMBGOV.COM

Definitions Sec. 34-2:

Lot, Parallelogram is a four-sided parcel which has substantially parallel front and rear lot lines and substantially parallel side lot lines, which are not at a right angle (not 90°) to the front and rear lot lines.

Lot Measurement, Width is the shortest distance between the side lot lines at the front setback line. When side lot lines are not parallel, the lot width will be considered the average distance between the width measured at the front setback line and the rear setback line.

~~*Lot measurement, width.*~~

~~(1) For lots lawfully created prior to January 28, 1983, width of a lot shall be considered to be the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost points of the side lot lines in front (where they intersect with the street line) and the rearmost points of the side lot lines in the rear.~~

~~(2) For lots lawfully created after January 28, 1983, width of a lot shall be considered to be the distance between the side lot lines (or a front and side lot line for corner lots) as measured along the minimum required street setback line. See § 34-637(c) of this chapter for exceptions.~~

Sec. 34-269 – Parallelogram Lot Setbacks

(a) For parallelogram lots, created prior to January 2023, front and rear setbacks shall be measured as depicted in figure 34-0 and described in Section 34-269(a)(1).

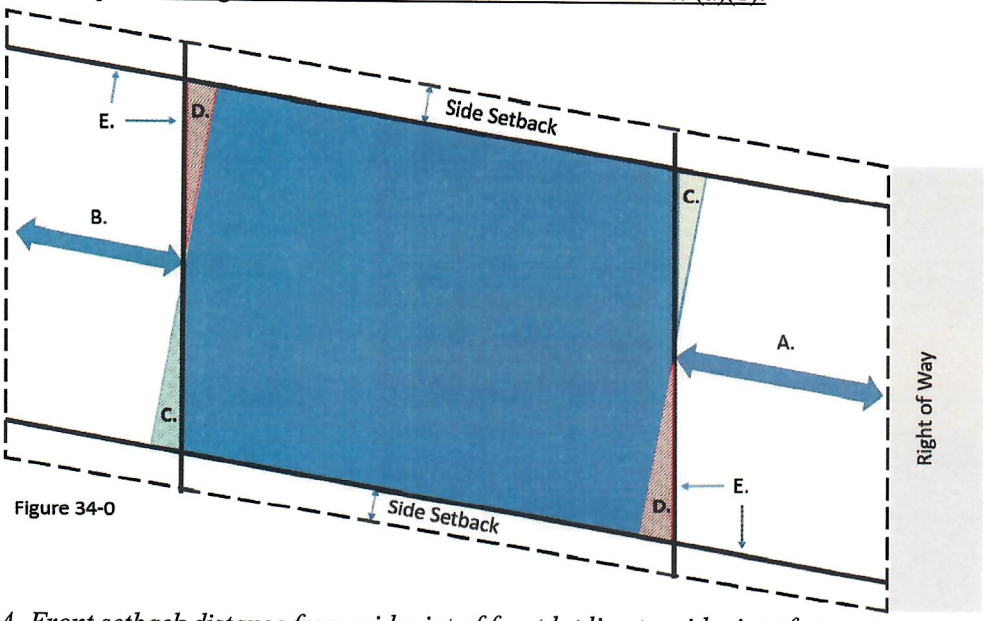
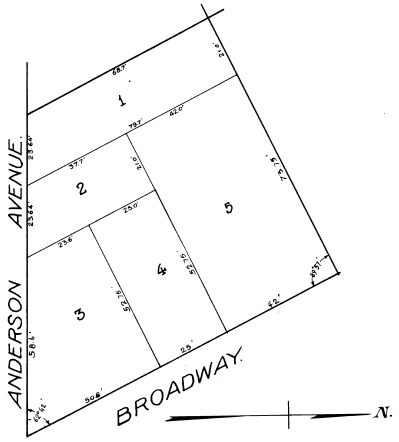


Figure 34-0

A. Front setback distance from midpoint of front lot line to midpoint of structure
B. Rear setback distance from midpoint of rear lot line to midpoint of structure
C. Encroachment area
D. Compensation area
E. Standard building setback lines

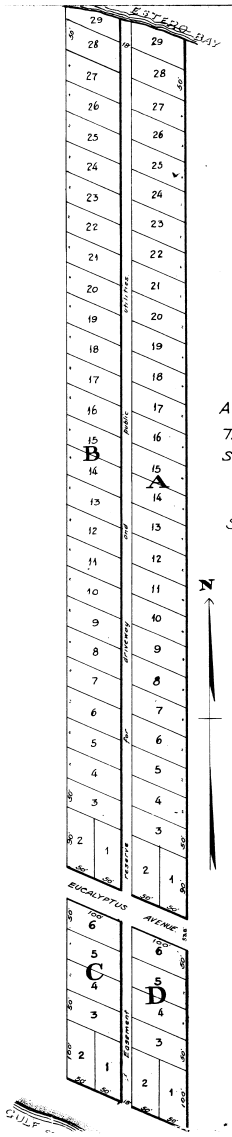
(1) The front setback shall be measured from the midpoint of the front lot line to the midpoint of the parallel front setback line. The rear setback shall be measured from the midpoint of the rear lot line to the midpoint of the parallel rear setback line. Principal structures may encroach into the front or rear setback on either side of the midpoint by no more than 8 feet but must offset that encroachment on the other side of the midpoint by a compensating area equivalent to the encroachment.



A RESUBDIVISON of LOT 15 & the SOUTHERLY 17 7/12 feet of LOT 13 of Western Division of BLOCK 11, of HOMESTEAD of JAMES EVANS as recorded in PLAT BOOK 2, PAGE 70, LEE COUNTY, FLORIDA.

Scale 20'=1" May, 1925.

SURVEYED & STAKED
BY
JOHN A. MYLER.
CIVIL ENGINEER
FORT MYERS FLORIDA



MIRAMAR

A SUBDIVISION of LOTS 13 and 14 of T. P. HILL'S SUBDIVISION of Gov't Lots 2, 3 & 4 of SECTION 19; TWP. 46, S.; RANGE 24, E.

ESTERO ISLAND,
LEE COUNTY, FLORIDA.

Scale 100ft=1inch May, 1925.

JOHN A. MYLER.
CIVIL ENGINEER.
FORT MYERS FLA.

3d 815

FILED IN THE OFFICE OF the
Clerk of the Circuit Court,
LEE COUNTY, FLORIDA
On this 21 day of May
A. D. 1925 at 2:20 P.M.
and recorded in Plat Book 3 page 3

B. Ordinance 23-07: Parallelogram Lot Setbacks

1st Reading and Public Hearing on proposed Ordinance 23-07 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 34, ARTICLE II., DIVISION 6, ADDING SECTIONS 34-269 PARALLELOGRAM LOT SETBACKS, AND ASSOCIATED DEFINITIONS IN CHAPTER 34, ARTICLE I., SECTION 34-2 DEFINITIONS; PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on June 5, 2023 at 9:00 AM

Mayor Allers read the title of the ordinance. Community Development Planner Sarah Propst utilized PowerPoint for her presentation. Slides included: Parallelogram Lots - Proposed Ordinance Amendments; New Definitions; New Diagram and Explanation.
Public comment:
Tyler Knafelc from Homebound described one of his client's experiences designing a house under old setbacks. (The recording skipped before he could finish the first sentence.)
Public comment closed.
Mayor Allers was cautious regarding changing side setbacks.
Council Member Veach was uncomfortable with reducing side setbacks for one builder's design.
Mayor Allers thought the design referred to would fit within the current setbacks.
Vice Mayor Atterholt commended the LPA for a reasonable and practical solution.
Mayor Allers liked the fact that the solution did not have an adverse effect on public safety.

Council Member Veach moved to move Ordinance 23-07 to a second reading on June 25, 2023, at 9:00 a.m.; second by Council Member Woodson.
Motion carried unanimously by roll call vote.

XI. ADMINISTRATIVE AGENDA

A. Resolution 23-45; Interlocal Agreement regarding Fort Myers Beach Elementary

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE SCHOOL BOARD OF LEE COUNTY AND THE TOWN OF FORT MYERS BEACH REGARDING THE REBUILD, EXPANSION AND OPERATION OF FORT MYERS BEACH ELEMENTARY SCHOOL; AUTHORIZING THE EXECUTION OF THE AGREEMENT BY THE MAYOR AND AUTHORIZING ALL APPROPRIATE TOWN OFFICIALS TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE INTERLOCAL

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2023-1017**

1. **Requested Motion:**

Meeting Date: June 5, 2023

Final Reading and Public Hearing on proposed Ordinance 23-08 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 34, ARTICLE II., DIVISION 6, ADDING SECTIONS 34-269 PARALLELOGRAM LOT SETBACKS, AND ASSOCIATED DEFINITIONS IN CHAPTER 34, ARTICLE I., SECTION 34-2 DEFINITIONS; PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.

Why the action is necessary:

The ordinance will allow the development of parallelogram lots with rectangular homes.

What the action accomplishes:

The ordinance will allow the development of parallelogram lots with rectangular homes.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	ordinance	

5. **Background:**

Several subdivisions within the community are platted with parallelogram lots. These oddly shaped lots make redevelopment more difficult because the homes have to be custom designed to fit the setbacks. The LPA recommended this ordinance amendment to allow encroachment into the setback of parallelogram lots to allow for rectangular homes.

Attachments:

1. Ordinance 23-08
2. Parallelogram lots June 5 TC
3. Exhibit A
4. Exhibit B Homebound Parallelogram Lot Proposal

Financial Impact:

unknown

6. **Alternative Action**

Recommend changes and adopt ordinance 23-08

7. **Management Recommendations:**

Approve and adopt ordinance 23-08 Parallelogram Lot Setbacks.

8. **Recommended Approval:**

Sarah Propst, Planning & Zoning	Created/Initiated - 5/15/2023
Sarah Propst, Planning & Zoning	Approved - 5/19/2023
Steve Poposki, Community Development Director	Approved - 5/19/2023
John R Herin Jr, Town Attorney	Approved - 5/24/2023
Amy Baker, Town Clerk	Approved - 5/24/2023
Andy Hyatt, Town Manager	Final Approval - 5/24/2023

ORDINANCE NO. 23-08

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 34, ARTICLE II., DIVISION 6, ADDING SECTIONS 34-269 PARALLELOGRAM LOT SETBACKS, AND ASSOCIATED DEFINITIONS IN CHAPTER 34, ARTICLE I., SECTION 34-2 DEFINITIONS; PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.

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

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

WHEREAS, the Town recognizes that redevelopment of the Town, following hurricane Ian requires evaluation and updates to the Land Development Code; and

WHEREAS, the Town Council desires updates to the Fort Myers Beach Land Development Code to clarify, improve and create consistency among sections; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on April 11, 2023, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted 7-0, to recommend approval of the requested amendment to Chapter 34., Section 34-269 and Section 34-2; and

WHEREAS, on May 15, 2023, the Town Council held a first reading of this proposed Ordinance; and

WHEREAS, on June 5, 2023, the Town Council held a second reading of this proposed Ordinance.

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. Chapter 34, Article III., Division 3, Section 34-269 Parallelogram Lot Setbacks, and Section 34-2 Definitions is hereby amended to read as found in attached Exhibit A

– Parallelogram Lot Setbacks and Amended Definitions:

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 ____ and seconded by ____ and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	___
Jim Atterholt, Vice Mayor	___
John R. King, Council Member	___
Bill Veach, Council Member	___
Karen Woodson, Council Member	___

ADOPTED this 5th day of June, 2023, 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:

_____
John R. Herin, Jr., Town Attorney

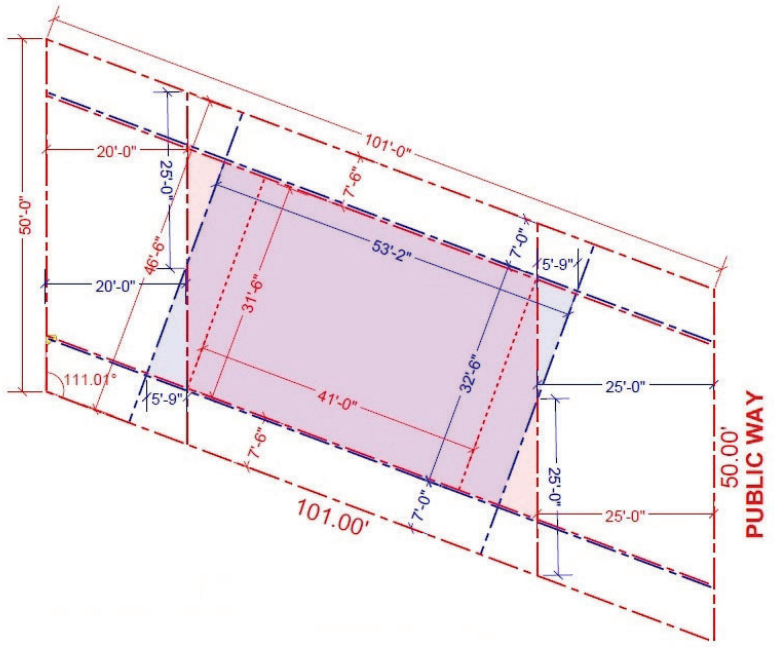
Exhibits
Exhibit A – Parallelogram Lot Setbacks and Amended Definitions

Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT

To:	**Town Council**
From:	**Sarah Propst, Community Development**
Date:	**June 5, 2023**
Re:	**Parallelogram Lot Setbacks**

BACKGROUND

The LPA asked that staff provide some options for quick fixes to codes, to resolve unnecessary conflicts. One item that was raised as an issue, at a previous LPA hearing, is reconstruction of homes on parallelogram lots. These lots were platted with side lot lines at an angle from the right of way. These oddly shaped lots result in a non-rectangular buildable area. In order to rebuild on these lots and utilize the maximum buildable area, a custom home would have to be designed to meet the angle of the by-right setbacks on these lots. Almost 150 lots on the island are parallelograms. A layout of the lot shape and buildable area is below for illustration of the issue:



Proposed Solution

The proposed solution would require that new homes on these parallelogram lots meet the side setback requirement but would provide flexibility on the front and rear setback requirements. This would allow rectangular shaped homes to sit at an angle from the right of way, one side of the home could be built up to eight feet into the front and rear setback. This is similar to what you see in the blue shaded box above. The 25-foot front setback and 20-foot rear setback would still be required but would be measured from the middle of the front and rear property lines, to the middle of the parallel setback line.

This code change would allow the construction of more standard, rectangular homes, rather than homes custom designed to meet the setbacks created by the parallelogram lots. The code change would result in a sawtooth pattern at the street front, this pattern is visible in many of the parallelogram lot neighborhoods. It appears that the original houses on these parcels were allowed similar flexibility.

Attached Exhibit A includes two definitions and a new section describing allowable setbacks for parallelogram lots. The new proposed definition for Lot Width Measurement replaces two previous ways to measure lot widths. The previous definitions were based on when the lot was created, which required the user to research subdivision plats. The new definition is based on the average lot width within the area where the building will be located on the lot.

Side Setbacks

The original presentation from Homebound, included a request to decrease side setbacks also. Due to the angle of the lots, the width of the buildable area is less than the lot width along the front and rear property line would indicate. On a square lot you subtract the side setbacks from the width of the lot (as indicated by the measurement of the front and rear lot line lengths). However, on the parallelogram lots, the front and rear property lines do not connect the parallel lines at the closest point. For example, on a 50-foot-wide parallelogram lot, the effective lot width is approximately 46.5 feet.

The code amendment to allow flexibility with front and rear setback for these lots provides an opportunity for the parallelogram lots to avoid expensive custom design costs required by the unique angles of the buildable area. However, providing a decrease in the required side setback for parallelogram lots would give the owners of those lots special treatment, not afforded to other property owners having the same width lots but a different shape.

Requested Input

The proposed language will allow the encroachment of up to eight feet in the front and the rear setbacks for rectangular homes on parallelogram lots. At the initial Town Council hearing on May 15th, 2023 Counselor Veach made a motion to set a second hearing date, it was seconded by Counselor Woodson and passed unanimously.

Exhibits

Exhibit A – Parallelogram Lot Setbacks and Amended Definitions
Exhibit B – Homebound Proposal

Definitions Sec. 34-2:

Lot, Parallelogram is a four-sided parcel which has substantially parallel front and rear lot lines and substantially parallel side lot lines, which are not at a right angle (not 90˚) to the front and rear lot lines.

Lot Measurement, Width is the shortest distance between the side lot lines at the front setback line. When side lot lines are not parallel, the lot width will be considered the average distance between the width measured at the front setback line and the rear setback line.

~~*Lot measurement, width.*~~
~~(1) For lots lawfully created prior to January 28, 1983, width of a lot shall be considered to be the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost points of the side lot lines in front (where they intersect with the street line) and the rearmost points of the side lot lines in the rear.~~
~~(2) For lots lawfully created after January 28, 1983, width of a lot shall be considered to be the distance between the side lot lines (or a front and side lot line for corner lots) as measured along the minimum required street setback line. See § 34-637(c) of this chapter for exceptions.~~

Sec. 34-269 – Parallelogram Lot Setbacks

(a) For parallelogram lots, created prior to January 2023, front and rear setbacks shall be measured as depicted in figure 34-0 and described in Section 34-269(a)(1).

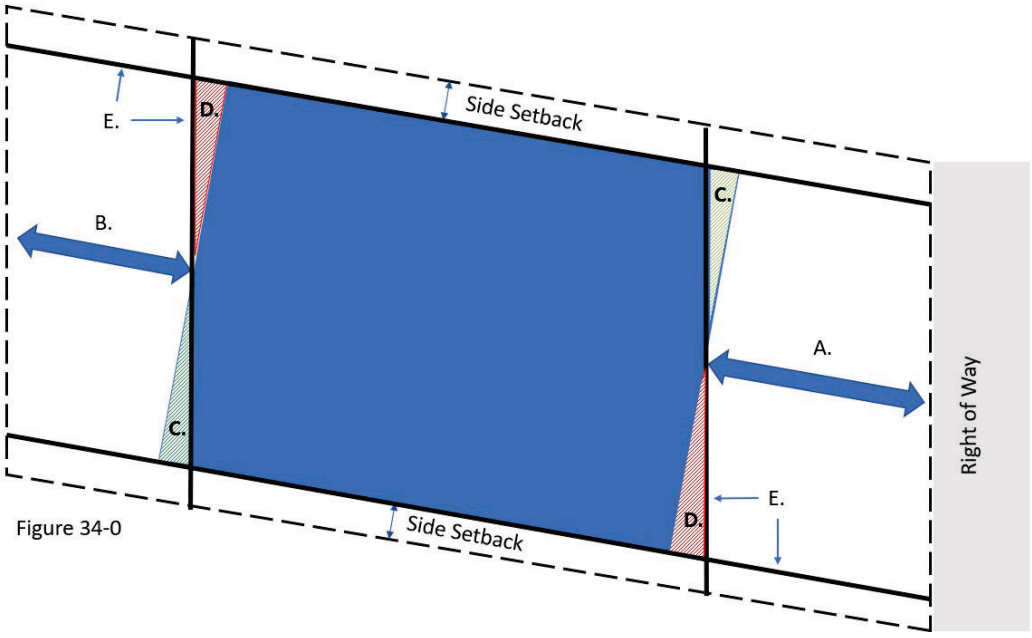


Figure 34-0

A. Front setback distance from midpoint of front lot line to midpoint of structure
B. Rear setback distance from midpoint of rear lot line to midpoint of structure
C. Encroachment area
D. Compensation area
E. Standard building setback lines

(1) The front setback shall be measured from the midpoint of the front lot line to the midpoint of the parallel front setback line. The rear setback shall be measured from the midpoint of the rear lot line to the midpoint of the parallel rear setback line. Principal structures may encroach into the front or rear setback on either side of the midpoint by no more than 8 feet but must offset that encroachment on the other side of the midpoint by a compensating area equivalent to the encroachment.

Homebound

HB PROPOSAL FOR SETBACK AMENDMENTS ON FORT MYERS BEACH PARALLELOGRAM LOTS

Date: 02/07/2023
Updated: 03/13/2023

EXISTING PROBLEM

Parallelogram shaped lots are relatively common across Fort Myers Beach and are adversely affected by the existing zoning code. Relative to a rectangular lot with identical dimensions, the skewed shape reduces lot width as the angle of the parallelogram increases beyond 90. The current code stops the reduction of side setbacks by lot width at 50' (50' x 15% = 7.5') with the 7.5' minimum side setback. With some lots having an effective width of 46.5' or less, their effective buildable area is brought down to 31.5' or less. Similarly, buildable depth is significantly reduced on these lots with current front and rear setbacks; as houses are typically constructed with rectangular footprints, there becomes an unusable triangle of space at both the front and the rear. Not only does this severely constrain what can be rebuilt on these, but it is also inconsistent with the streetscape of these lots prior to Hurricane Ian. Figure 1 below shows the "sawtooth" front building line of houses along Fairweather Lane.

Figure 1

SITES AFFECTED BY PARALLELOGRAM SHAPED LOTS

There are several streets across the island of Fort Myers Beach containing lots fitting into the parallelogram classification. The degree of hardship varies based on how far the obtuse angle is beyond 90 degrees. The lots below range from approximately 102-112 degrees with 112 degree angle lots having the most restricted buildable area. The higher degree angle lots not only constrain the effective lot width more, but also create less usable depth due to the extended “leftover” triangles within the buildable footprint beyond a typical rectangle. The proposed solution below accounts for the variability in angle by providing less relief to a lower degree angle lot and more relief for a higher degree angle lot. The affected streets we have documented are listed below but not necessarily limited to these locations:

- Miramar Street (32)
- Fairweather Lane (37)
- Voorhis Street (7)
- Eucalyptus Court (19)
- Madison Court (8)
- Estero Boulevard (between Voorhis St and Madison Ct)(4)
- Hercules Drive (18)
- Coconut Drive (23)

In total, we are estimating that 148 lots on these streets are affected by this lot shape.

PROPOSED SOLUTION

Figures 2-6 below show some of the more typical lot types we are seeing on these streets with existing setbacks (red), compared to a rectangular lot of the same dimensions (green), and overlaying our proposed changes (blue) to see how the buildable footprint is affected. These figures also provide insight into the variability of the relief based on the different degree angle lots typical of each street. A few notes while reviewing the visual aids:

- The equivalent rectangular lot (green) is intended to set a control or base standard for buildable footprint as zoning codes are typically designed to standard rectangular lots. The buildable footprint should be compared to both the existing (red) and proposed changes (blue) to understand how the hardships are alleviated and not giving too much leeway for these lots.
- When comparing the existing (red) and proposed (blue) overlaid diagrams, note that the buildable footprint area remains virtually unchanged and is simply reallocating the area to be more rectangular and constructable.

FRONT AND REAR SETBACKS

Due to the skewed shape of the lot (and in turn, buildable footprint), it is very difficult for a house to make use of the leftover triangles at both front and back beyond a standard rectangle. Our proposal is to maintain a 25' setback from the front property line and 20' setback from the rear property line but rotate the setback line at its midpoint so it is perpendicular to the side property lines. The resulting buildable footprint is rectangular in shape, maintains the same buildable area on the lot, and mimics the existing "sawtooth" pattern of the streetscape where these parallelogram lots exist (see Figure 1).

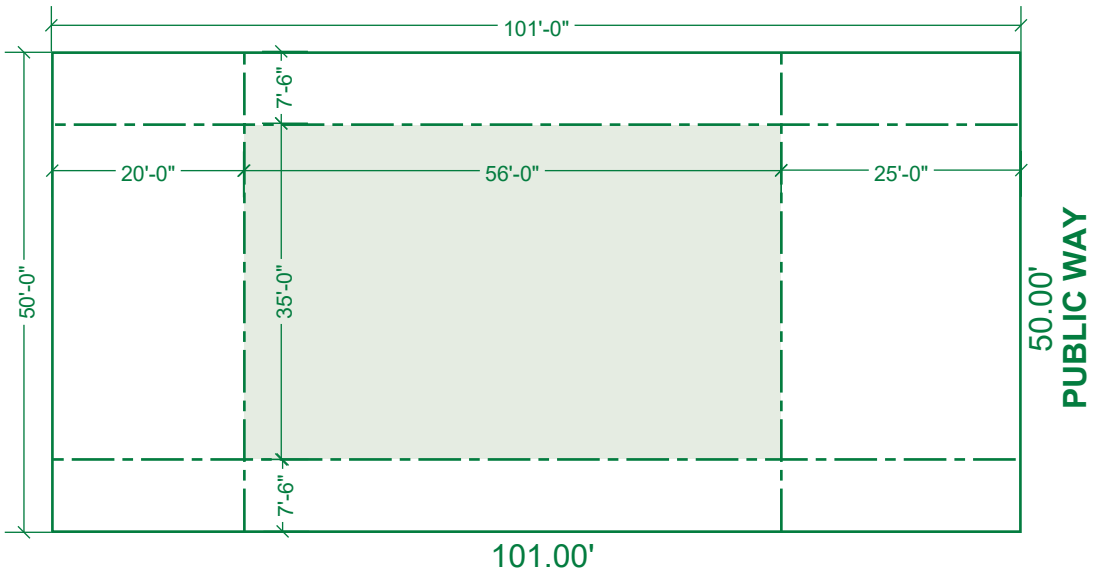
SIDE SETBACKS

Option A - The typical rules on side setbacks assumes minimum lot widths of 50' at which 15% of 50' = 7.5' setbacks and allows for a 35' buildable width. However, the parallelogram lots have 50' frontage and varying functional widths depending on the angle of the lot at which the 7.5' minimum becomes a hardship and limits the possible building width. The side setback based on lot width should be adjusted in a way that does not adversely affect the smallest or most constrained lots. Reducing the minimum side setback for parallelogram lots from 7.5’ to 6' allows for functional lot widths of as little as 40' at which they would still have a buildable width of 28' (as opposed to 25' with the 7.5' minimum).

Option B - After reviewing the initial proposal with Patrick Vanasse, he requested historical perspective with regards to the side yard setbacks for potential precedent of side setbacks of less than 7.5'. In our research, we discovered Ordinance 21-04 from 6/10/2021 amending Fort Myers Beach Land Development Code for both Administrative Setback Variances and General Requirements on Nonconforming Lots. There were previously modifications to setbacks for nonconforming lots under Section 34-3273 with a minimum footprint of 40' wide by 75' depth allowing a reduction of side setbacks to 10% of lot width or 5' minimum (whichever is greater). Ordinance 21-04 removed this relief in lieu of Section 34-268 for where Administrative Setback Variances were defined for lots with "an unusual shape or orientation"; this route likely made sense at the time to review on a case-by-case basis as fewer permits were going through the city and nonconforming lots were typically rarer.

As the majority of Fort Myers Beach residents are rebuilding post Hurricane Ian, it makes sense to revert back to incorporating modifications to setbacks for smaller nonconforming lots into the Land Development Code to aid in homeowners to start rebuilding quicker. With the reduction to 10% of lot width or 5' minimum side setbacks in mind for lots below 50' wide, I would also argue that lot width measurement should be redefined as the "effective lot width" based on dimension between side property lines along a line perpendicular to the side property line as all of these parallelogram lots have smaller effective widths than the current definition by the street frontage or along the street setback line (see appendix for existing lot width measurement definitions).

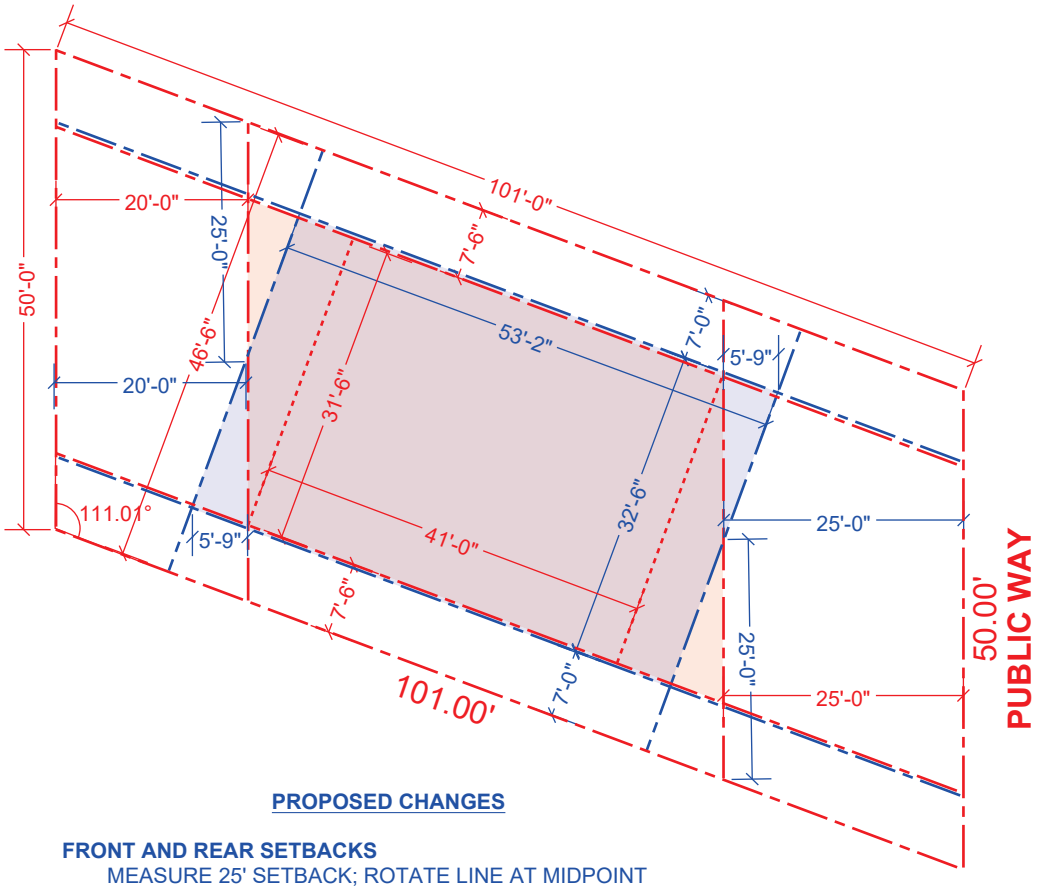
FIGURE 2
209 MIRAMAR STREET



EXISTING RECTANGULAR LOT (50'W x 101'D)

FRONT SETBACK
25'
REAR SETBACK
20'
SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
35'-0" WIDE
56'-0" DEEP



EXISTING PARALLELOGRAM LOT (50'W x 101'D)

FRONT SETBACK
25'
REAR SETBACK
20'
SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
31'-6" WIDE
41'-0" DEEP

PROP. PARALLELOGRAM LOT (50'W x 101'D)

FRONT SETBACK
25' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES
REAR SETBACK
20' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES
SIDE SETBACK
15% LOT WIDTH
OR 6.0' MIN.

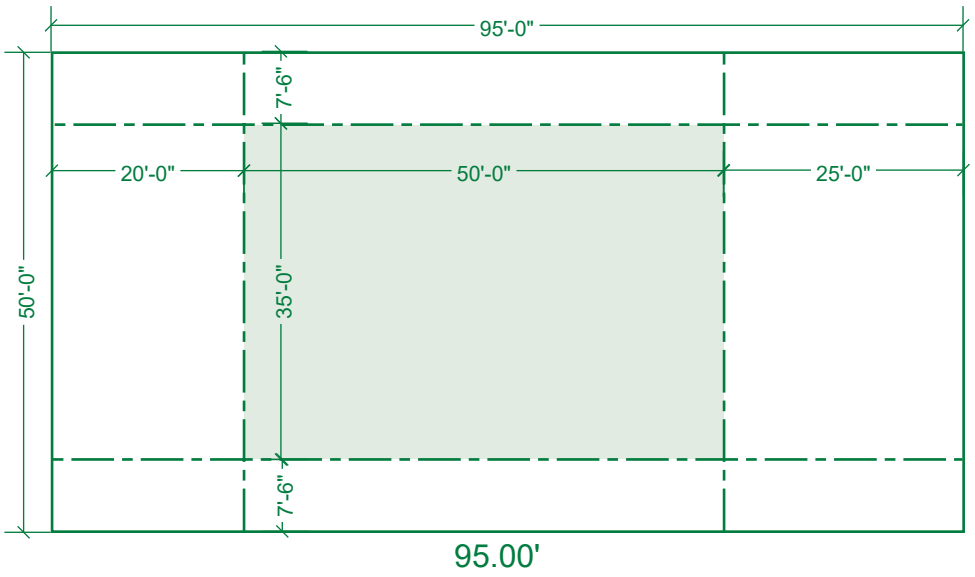
BUILDABLE FOOTPRINT
32'-6" WIDE (OPT. A)
36'-6" WIDE (OPT. B)
53'-2" DEEP

PROPOSED CHANGES

FRONT AND REAR SETBACKS
MEASURE 25' SETBACK; ROTATE LINE AT MIDPOINT PERPENDICULAR TO SIDE PROPERTY LINES TO EXTEND USABLE FOOTPRINT

SIDE SETBACKS
OPTION A - MAINTAIN 15% LOT WIDTH, BUT DECREASE MINIMUM TO 6'-0" MIN. SO BUILDABLE WIDTH NOT PUNISHED FOR SUB 50' LOT WIDTHS.
OPTION B - 10% LOT WIDTH, OR 5'-0", WHICHEVER IS GREATER.

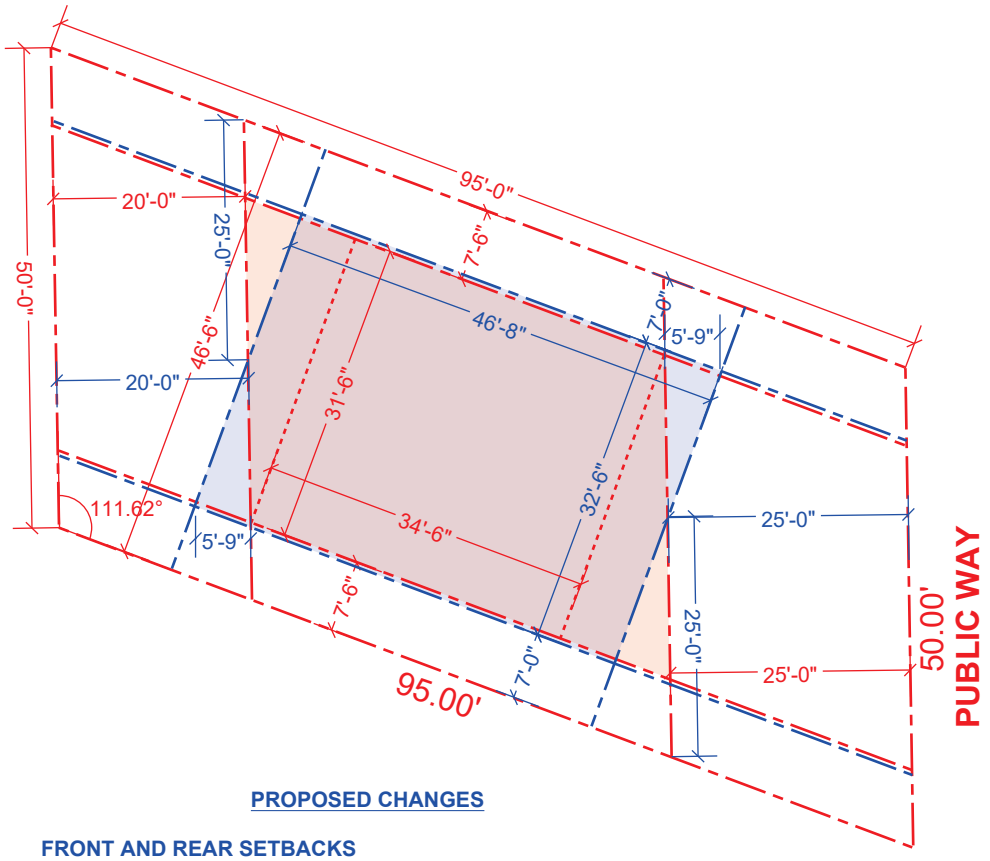
FIGURE 3
223 FAIRWEATHER LANE



EXISTING RECTANGULAR LOT (50'W x 95'D)

FRONT SETBACK
25'
REAR SETBACK
20'
SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
35'-0" WIDE
50'-0" DEEP



EXISTING PARALLELOGRAM LOT (50'W x 95'D)

FRONT SETBACK
25'
REAR SETBACK
20'
SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
31'-6" WIDE
34'-6" DEEP

PROP. PARALLELOGRAM LOT (50'W x 95'D)

FRONT SETBACK
25' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES
REAR SETBACK
20' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES
SIDE SETBACK
15% LOT WIDTH
OR 6.0' MIN.

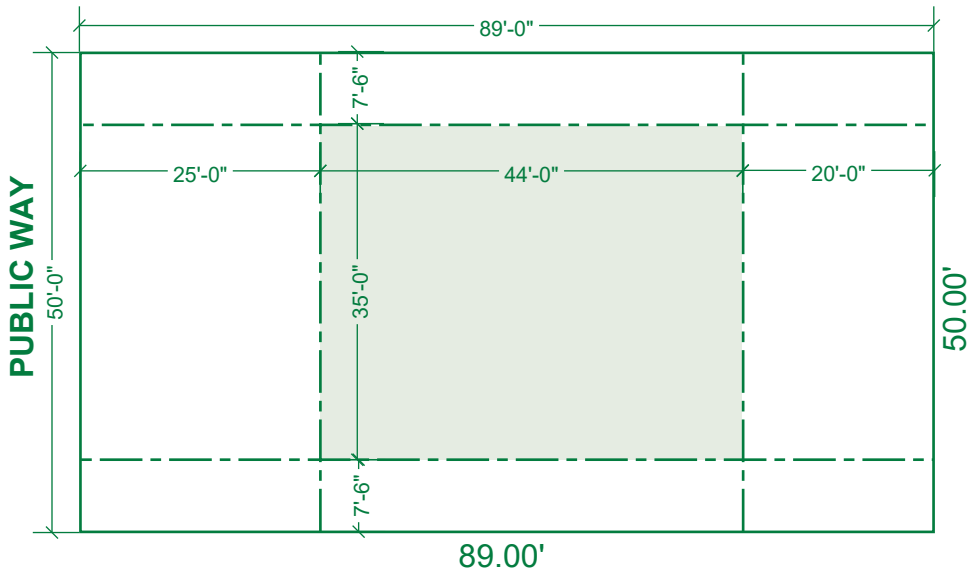
BUILDABLE FOOTPRINT
32'-6" WIDE (OPT. A)
36'-6" WIDE (OPT. B)
46'-8" DEEP

PROPOSED CHANGES

FRONT AND REAR SETBACKS
MEASURE 25' SETBACK; ROTATE LINE AT MIDPOINT PERPENDICULAR TO SIDE PROPERTY LINES TO EXTEND USABLE FOOTPRINT

SIDE SETBACKS
OPTION A - MAINTAIN 15% LOT WIDTH, BUT DECREASE MINIMUM TO 6'-0" MIN. SO BUILDABLE WIDTH NOT PUNISHED FOR SUB 50' LOT WIDTHS.
OPTION B - 10% LOT WIDTH, OR 5'-0", WHICHEVER IS GREATER.

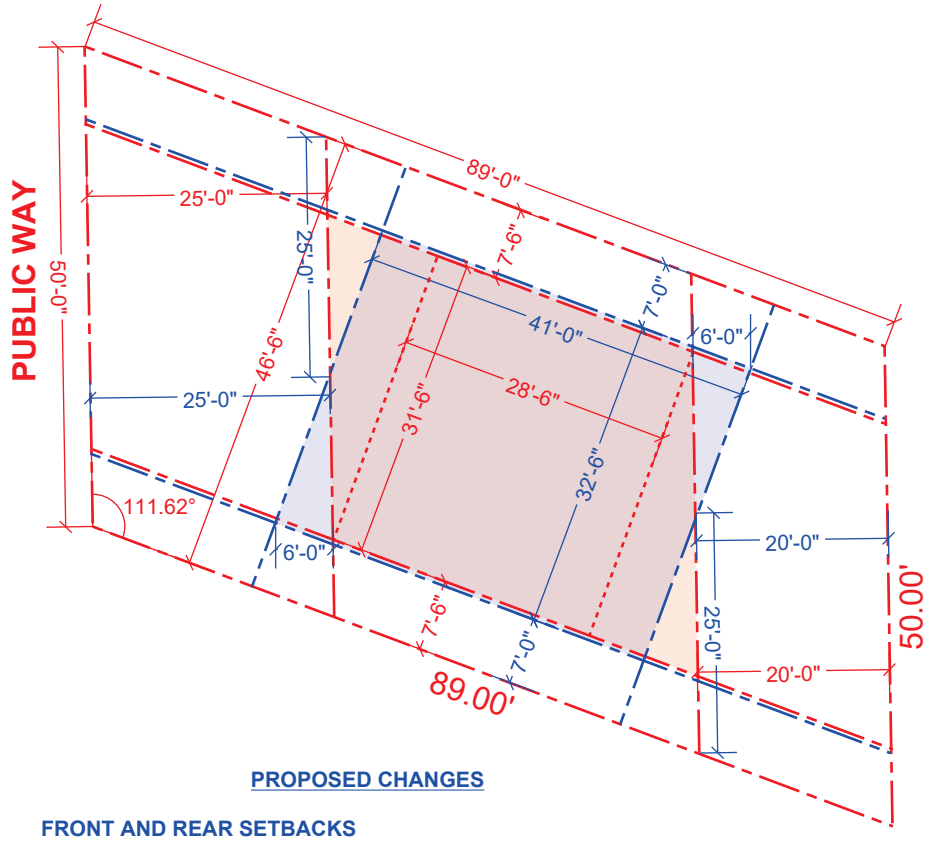
FIGURE 4
270 FAIRWEATHER LANE



EXISTING RECTANGULAR LOT (50'W x 89'D)

FRONT SETBACK
25'
REAR SETBACK
20'
SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
35'-0" WIDE
44'-0" DEEP



EXISTING PARALLELOGRAM LOT (50'W x 89'D)

FRONT SETBACK
25'
REAR SETBACK
20'
SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
31'-6" WIDE
28'-6" DEEP

PROP. PARALLELOGRAM LOT (50'W x 89'D)

FRONT SETBACK
25' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES
REAR SETBACK
20' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES
SIDE SETBACK
15% LOT WIDTH
OR 6.0' MIN.

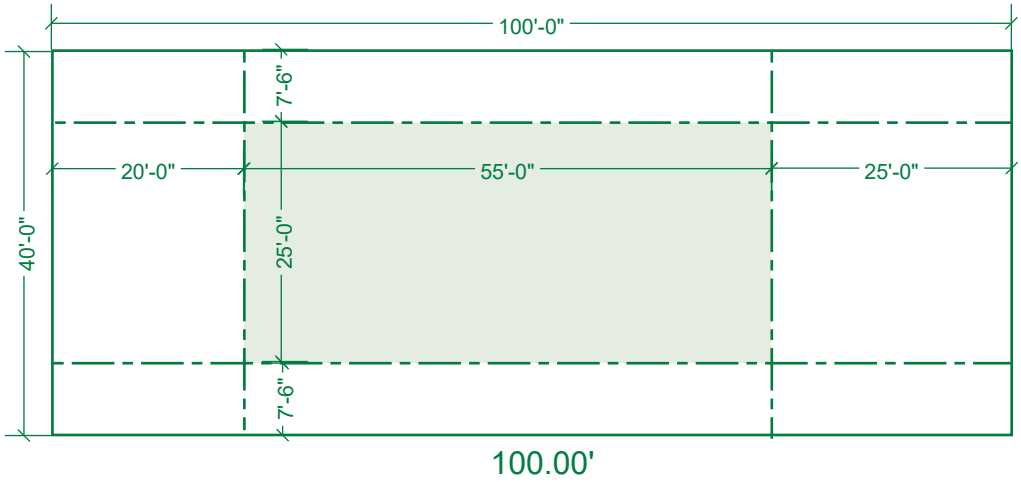
BUILDABLE FOOTPRINT
32'-6" WIDE (OPT. A)
36'-6" WIDE (OPT. B)
41'-0" DEEP

PROPOSED CHANGES

FRONT AND REAR SETBACKS
MEASURE 25' SETBACK; ROTATE LINE AT MIDPOINT PERPENDICULAR TO SIDE PROPERTY LINES TO EXTEND USABLE FOOTPRINT

SIDE SETBACKS
OPTION A - MAINTAIN 15% LOT WIDTH, BUT DECREASE MINIMUM TO 6'-0" MIN. SO BUILDABLE WIDTH NOT PUNISHED FOR SUB 50' LOT WIDTHS.
OPTION B - 10% LOT WIDTH, OR 5'-0", WHICHEVER IS GREATER.

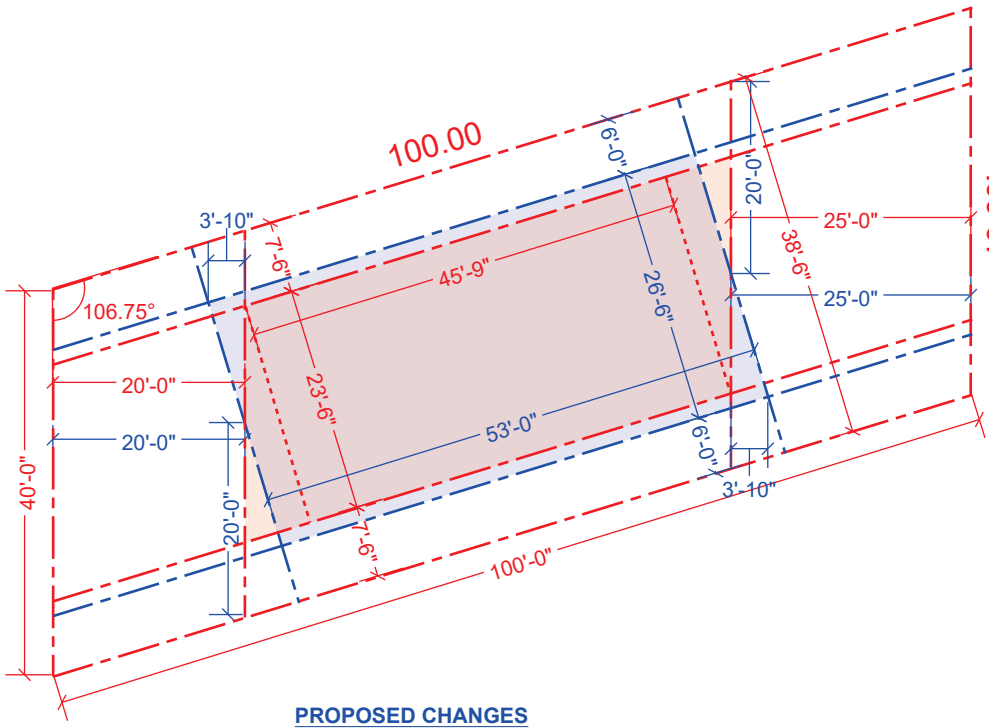
FIGURE 5
151 MADISON COURT



EXISTING RECTANGULAR LOT (40'W x 100'D)

FRONT SETBACK
25'
REAR SETBACK
20'
SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
25'-0" WIDE
55'-0" DEEP



EXISTING PARALLELOGRAM LOT (50'W x 101'D)

FRONT SETBACK
25'
REAR SETBACK
20'
SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
23'-6" WIDE
45'-9" DEEP

PROP. PARALLELOGRAM LOT (50'W x 101'D)

FRONT SETBACK
25' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES
REAR SETBACK
20' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES
SIDE SETBACK
15% LOT WIDTH
OR 6.0' MIN.

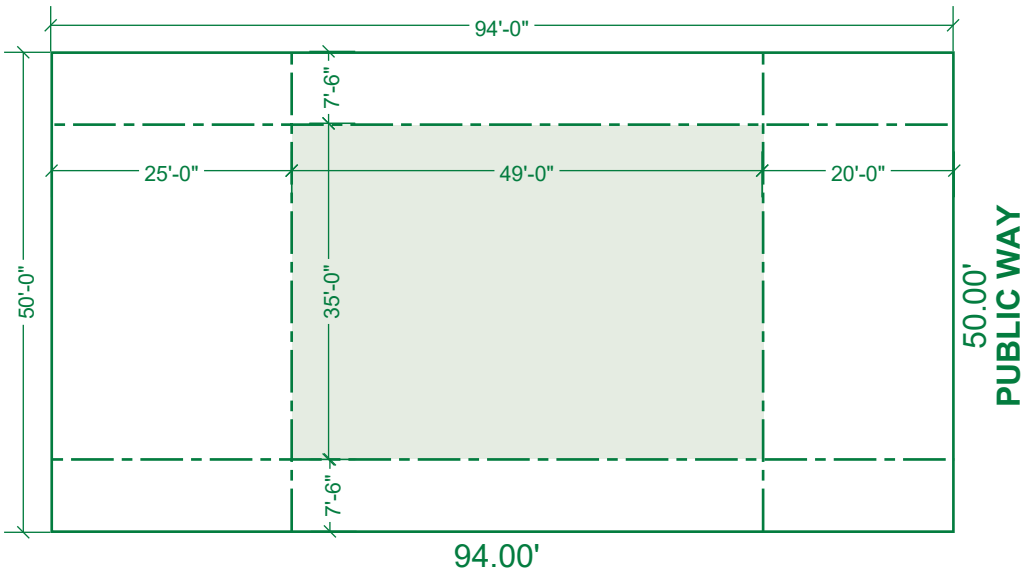
BUILDABLE FOOTPRINT
26'-6" WIDE (OPT. A)
28'-6" WIDE (OPT. B)
53'-0" DEEP

PROPOSED CHANGES

FRONT AND REAR SETBACKS
MEASURE 25' SETBACK; ROTATE LINE AT MIDPOINT PERPENDICULAR TO SIDE PROPERTY LINES TO EXTEND USABLE FOOTPRINT

SIDE SETBACKS
OPTION A - MAINTAIN 15% LOT WIDTH, BUT DECREASE MINIMUM TO 6'-0" MIN. SO BUILDABLE WIDTH NOT PUNISHED FOR SUB 50' LOT WIDTHS.
OPTION B - 10% LOT WIDTH, OR 5'-0", WHICHEVER IS GREATER.

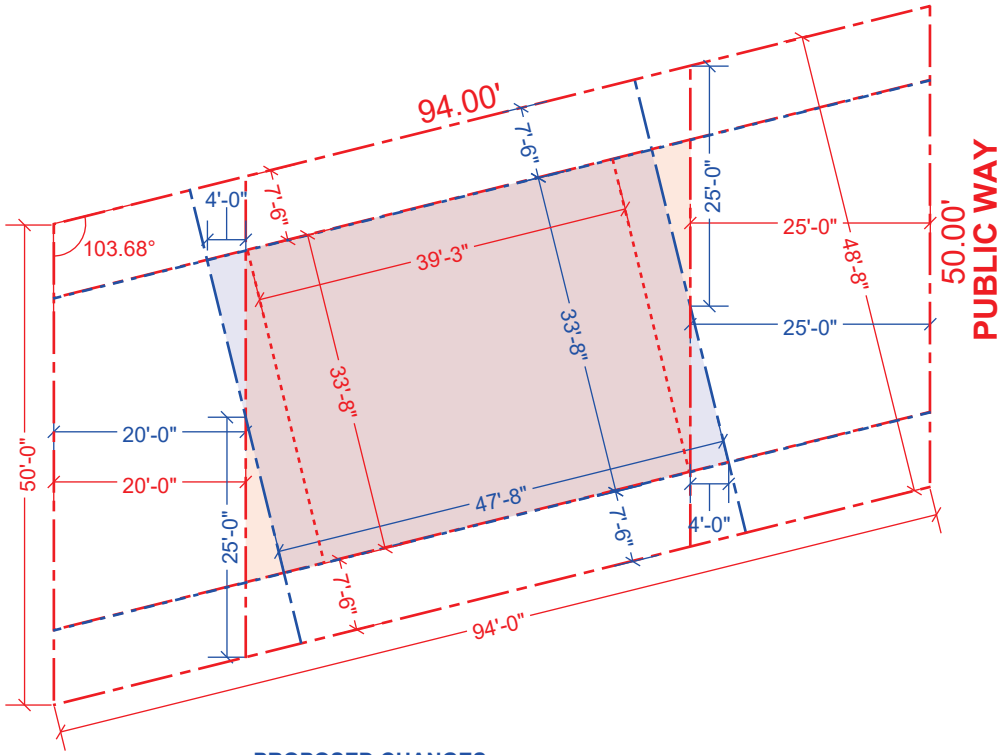
FIGURE 6
135 COCONUT DRIVE



EXISTING RECTANGULAR LOT (50'W x 94'D)

FRONT SETBACK
25'
REAR SETBACK
20'
SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
35'-0" WIDE
49'-0" DEEP



EXISTING PARALLELOGRAM LOT (50'W x 94'D)

FRONT SETBACK
25'
REAR SETBACK
20'
SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
33'-8" WIDE
39'-3" DEEP

PROP. PARALLELOGRAM LOT (50'W x 94'D)

FRONT SETBACK
25' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES
REAR SETBACK
20' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES
SIDE SETBACK
15% LOT WIDTH
OR 6.0' MIN.

BUILDABLE FOOTPRINT
33'-8" WIDE (OPT. A)
38'-8" WIDE (OPT. B)
47'-8" DEEP

PROPOSED CHANGES

FRONT AND REAR SETBACKS
MEASURE 25' SETBACK; ROTATE LINE AT MIDPOINT PERPENDICULAR TO SIDE PROPERTY LINES TO EXTEND USABLE FOOTPRINT

SIDE SETBACKS
OPTION A - MAINTAIN 15% LOT WIDTH, BUT DECREASE MINIMUM TO 6'-0" MIN. SO BUILDABLE WIDTH NOT PUNISHED FOR SUB 50' LOT WIDTHS.
OPTION B - 10% LOT WIDTH, OR 5'-0", WHICHEVER IS GREATER.

APPENDIX

Lot Width Measurement Definition

1 . Per Section 34-2 Definitions, Lot measurement, width.

- For lots lawfully created prior to January 28, 1983, width of a lot shall be considered to be the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost points of the side lot lines in front (where they intersect with the street line) and the rearmost points of the side lot lines in the rear.
- For lots lawfully created after January 28, 1983, width of a lot shall be considered to be the distance between the side lot lines (or a front and side lot line for corner lots) as measured along the minimum required street setback line. See § 34-637(c) of this chapter for exceptions.

2. Per Section 34-638 Minimum Setbacks, Lot width is measured from the property line adjacent to the right-of-way. Where the property is a corner lot, the front will be the side of the property that is deemed the front based on the setbacks (in relation to where the front setback, rear setback, and side setbacks are applied).

Fort Myers Beach Local Planning Agency

DiamondHead Beach Resort
2525 Estero Blvd.
Fort Myers Beach, FL 33931

Minutes **Tuesday, April 11, 2023** **9:00 AM**

ORDER OF BUSINESS

I. CALL TO ORDER

Members present: Chair Cereceda, LPA Member Boan, LPA Member Eckmann, LPA Memberer Plummer, LPA Member Safford, LPA Member Sudduth and LPA Member Vanasse.

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A. Approval of March 14, 2023 draft minutes

Correct the spelling of LPA Member **Boan**'s name.
LPA Member Plummer moved to approve the amended minutes; second by LPA Member Sudduth.
Motion carried unanimously.

V. PUBLIC COMMENT

No public comment.

VI. SUNSHINE LAW REFRESHER

Item removed from agenda.

VII. PUBLIC HEARINGS

A. Parallelogram lot regulations

Provide input regarding proposed parallelogram lot code language.
Community Development Planner Sarah Propst reviewed the background as stated on the yellow sheet. She displayed an example of a parallelogram lot and proposed ordinance amendments. She noted that she did not reduce

the side setback because that would give special treatment to a specific shaped lot.
LPA Member Eckmann agreed that side setbacks should not be reduced.
LPA Member Sudduth was willing to consider a reduced side setback so people could build back the way they were.
LPA Member Vanasse agreed that the side setbacks needed to be addressed comprehensively, not just with parallelogram lots. He questioned when the lots were five feet, when they changed and how many lots were involved.
LPA Member Boan thought the diagram and language were a good solution and they should consider grandfathering the lots affected. Planner Propst did not support grandfathering.
Public comment:
Samir from Homebound appreciated the relief on the front and the back and noted that very few home plans would fit on the lots. He indicated that he would have to apply for variances of less than a foot if the side setbacks were not addressed. He provided examples of homes on Fairweather Lane that would need a 9-inch variance on each side. He added that administrative variances would be more efficient for his clients and the town. Planner Propst did not think there would be a problem allowing an administrative variance under a certain size.
LPA Member Sudduth favored setting a rule for parallelograms and letting people build back. He did not think a five-foot setback was unreasonable.
Planner Propst questioned giving an advantage based on the shape of a lot.
LPA Member Vanasse supported giving people five-foot setbacks on streets that historically had five-foot setbacks. LPA Member Plummer agreed. LPA Member Eckmann clarified how the lots were measured. He did not support reducing side setbacks.
Samir suggested defining the effective lot width to avoid side setbacks.
Planner Propst indicated that they could create a cutoff point for lots less than 50 feet to allow a five-foot setback and it would apply for all shaped lots.
Community Development Senior Planner Jason Smalley was not opposed to the idea. He questioned how they would limit stairs and pool equipment from propagating in side yards and affecting stormwater. He recommended elevating electrical and mechanical equipment in those areas to keep stormwater swales clear. He indicated that nothing in the code prevented people from returning after the fact to fill in the compensating area in LPA Member Vanasse's design. He added that the compensating area was in a 200 to 300-square-foot range and staff would have to track those lots in the future. LPA Member Vanasse responded that his intent was for principal structures and custom homes had to follow the existing rules.
Chair Cereceda summarized that the proposed code language would be LPA Member Vanasse's Sec. 34-269, the intent of the additional space was meant to be open, the effective lot width of less than 50 feet could go to five feet and apply to any shape and specifically state that there would be no encroachment into the five feet.

LPA Member Vanasse moved to approve the proposed language he provided with a clean diagram inserted for the front and rear setback measurements for parallelogram lots and no action today on the side setbacks; second by LPA Member Sudduth.
Chair Cereceda suggested that Planner Propst add language for lots less than 50 feet and send it directly to the Town Council. LPA Member Eckmann brought up roofs encroaching.
LPA Member Vanasse amended his motion to remove any mention of the side setbacks and address it in a separate motion; second by LPA Member Sudduth.
Motion carried unanimously.

LPA Member Vanasse moved for staff to create a definition of effective width and create language where lots less than 50 feet from an effective width standpoint, be changed to a five-foot setback and specifically state that there are no encroachments for mechanicals, porches, etc. and staff could take it directly to Town Council; second by LPA Member Sudduth.
Motion carried unanimously.

B. Discussion regarding setbacks for houses in primarily nonresidential districts
Provide input regarding setbacks on residential uses in nonresidential districts.
Planner Propst noted that residential structures could be built in any zoning district. She utilized PowerPoint to display Residential Setbacks in Commercial Districts and Two Options to Consider. She requested feedback.
LPA Member Vanasse asked for examples and Planner Propst displayed a zoning map. She pulled up LEEPA (Lee County Property Appraiser) to show lots on Ave. E. LPA Member Vanasse questioned whether there were residential lots on Estero Blvd. and supported having single-family homes consistent with commercial zoning on Estero. He also supported the build-to line on Second and Third. Chair Cereceda agreed and suggested giving the allowance of conventional residential with the option of both to those on the beach side off of Estero and all LPA members agreed.
No public comment.
Planner Propst will bring back language for the next meeting.

VIII. ADMINISTRATIVE AGENDA

No items.

IX. LPA MEMBERS ITEMS/REPORTS

LPA Member Safford met with hotel developers and staff and the issues discussed were parking and height restrictions, setbacks and FAR. Back-up parking was not allowed and if they allowed an extra story, several people could build back. One proposal regarding setbacks was to use the ratio of the building as compared to

the lot. He noted that it was almost impossible for small businesses to get close to a FAR (Floor Area Ratio). LPA Member Vanasse mentioned being flexible regarding calculating FAR to exclude parking under buildings. LPA Member Safford indicated that, in his case, he had nothing to give back if he wanted something. Chair Cereceda did not like the discussion of getting something for giving back something. She felt the town should decide what they wanted to see and thought the clearest way forward for smaller lots was a CPD (Commercial Planned Development). LPA Member Safford would like to make the CPD process easier and less expensive. Planner Propst agreed that a CPD was the easiest way if the FAR could work. LPA Member Vanasse brought up eliminating parking requirements for businesses and building a parking garage as Punta Gorda did. LPA Member Plummer discussed hotels offering a concierge service to and from the airport to help alleviate traffic. LPA Member Safford noted that another parking suggestion was to make some streets one-way to allow for angled parking. He indicated that the group would meet again to discuss solutions to issues.

LPA Member Plummer suggested that people rake their trash up and wash their trash cans. She mentioned using bungee cords to keep the lids secure to prevent raccoons from getting in the trash.

LPA Member Vanasse felt they should consider allowing people to request a different way to measure FAR by not including the parking. He suggested not counting parking under a building as a story; allowing architectural embellishments to be excluded from height calculations and looking at whether the architectural guidelines needed to be changed or updated.

Chair Cereceda suggested that the LPA discuss calculating from the base flood elevation (BFE) as opposed to parking as soon as possible since it affected many people. Planner Propst questioned whether there was an interest in adding an allowance for an additional story or to start counting the floors at base flood elevation, so if it is below base flood elevation it does not count for height or stories in commercial districts. LPA Member Vanasse addressed residential and was open to allowing additional storage but no increase in height. Chair Cereceda noted that she would not be in town in July and part of August.

No items from other members.

X. LPA ATTORNEY ITEMS/REPORTS

No items.

XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS

Senior Planner Smalley indicated that many condo docks were destroyed or had to be repaired. He noted that the dock section in the code is geared toward single-family docks and lacked guidelines for multi-family docks. He could find out what existed before the hurricane, but the process in the code directed him to a development order, which was a long and expensive process, or a limited development order. He commented that most of the docks would be rebuilt under the direction of the US Army Corps of Engineers. LPA Member Eckmann described the process and which entities were involved with permits and rebuilding the docks. He noted that the town probably did not have the last word

on the docks.

XII. ITEMS FOR NEXT MONTHS AGENDA

Discussion about stories and parking per discussion by LPA Member Vanasse.

XIII. ADJOURNMENT

LPA Member Sudduth moved to adjourn; second by LPA Member Boan.
Motion carried unanimously.

The meeting was adjourned at 11:04 a.m.

Minutes adopted as presented, May 9, 2023.

Amy Baker, Town Clerk