



Fort Myers Beach Local Planning Agency

**Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931**

Agenda

Tuesday, February 9, 2021

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

- A. Minutes from 1/12/2021 Meeting

V. PUBLIC HEARINGS

- A. VAR20200091 5730 Estero Blvd

Recommend approval of a variance from Land Development Code Chapter 34 Article IV Division 2 Sec. 34-1174(b) to allow the construction of two (2) accessory structures - a garage and pool - in front of the principal structure.

- B. DCI 2020-0009 Myerside CPD Rezoning
DCI 2020-0009 Myerside CPD Rezoning

VI. ADMINISTRATIVE AGENDA

- A. Comprehensive Plan Update Status

The Corradino Group will provide a project status of the Comprehensive Plan updates

VII. LPA MEMBERS ITEMS/REPORTS

VIII. LPA ATTORNEY ITEMS/REPORTS

IX. COMMUNITY DEVELOPMENT ITEMS/REPORTS

X. ITEMS FOR NEXT MONTHS AGENDA

XI. PUBLIC COMMENT

XII. ADJOURNMENT

NOTE: THIS MEETING IS TELEVISED LIVE ON COMCAST CHANNEL 98.

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 accommodations, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202		Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the Town Clerk's Office.
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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 Local Planning Agency

**Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931**

Minutes

Tuesday, January 12, 2021

9:00 AM

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members present: Chair Megan Heil, Jane Plummer, Scott Safford, Karen Swanbeck and Patrick Vanasse.

Excused: Forrest Critser and Dan Hughes.

II. INVOCATION

LPA Member Safford.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A. Draft minutes - December 1, 2020

LPA Member Vanasse moved to approve the minutes; second by LPA Member Swanbeck.

Motion approved; 5-0 with LPA Members Critser and Hughes excused.

V. PUBLIC HEARINGS

A. Chapter 6 Land Development Code Amendments

Community Development Services Director Jason Green reviewed the changes. He noted that the biggest change related to garages and he recommended that the section be removed. He suggested that they have a separate conversation regarding zoning and aesthetics under the building code. Director Green discussed the section concerning the types of doors, which was not edited.

LPA Member Safford questioned the owner-builder exemption. Town Attorney Herin replied that one must be an individual to pull an owner-builder permit. The State determined that owner meant an individual, not a

corporation, not a trust or a partnership.

LPA Member Vanasse discussed cleaning up the code.

Director Green stated that nothing new was added and strikeouts and underlines were changes to other documents.

LPA Member Vanasse suggested changing 20 days to appeal to 30 calendar days.

Discussion was held regarding storage on vacant lots, including exercise equipment.

Town Attorney Herin clarified that property owners were responsible for maintaining their landscape around sidewalks.

Director Green will check on requiring screens for residential structures.

Discussion was held concerning screening air conditioners on roofs, lighting residential halls and staircases 24/7, no temperature control for storage areas, converting storage to livable areas, flood insurance rating and the value of accessory structures.

No public comment.

Chair Heil moved to approve the text amendments to Chapter 6 Land Development Code Amendments with the changes discussed and forward it to Council with a recommendation of approval; second by LPA Member Safford.

Motion approved; 5-0 with LPA Member Critser and Hughes excused.

VI. ADMINISTRATIVE AGENDA

No agenda.

VII. LPA MEMBERS ITEMS/REPORTS

Chair Heil stated she could not attend the joint Chair session with Town Council on January 21, 2021. No LPA Members were available to attend the meeting, so she will prepare a report to submit in her absence.

No items from other members.

VIII. LPA ATTORNEY ITEMS/REPORTS

No items.

IX. COMMUNITY DEVELOPMENT ITEMS/REPORTS

Director Green indicated there were two applications for the Historic Preservation Board.

X. ITEMS FOR NEXT MONTHS AGENDA

Director Green indicated there would be two items to discuss.

XI. PUBLIC COMMENT

No public comment.

XII. ADJOURNMENT

LPA Member Plummer moved to adjourn; second by LPA Member Swanbeck.

Motion approved; 5-0 with LPA Members Critser and Hughes excused.

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

Yellow Sheet Number: **2021-158**

1. Requested Motion:

Meeting Date: February 9, 2021

Recommend approval of a variance from Land Development Code Chapter 34 Article IV Division 2 Sec. 34-1174(b) to allow the construction of two (2) accessory structures - a garage and pool - in front of the principal structure.

Why the action is necessary:

The LDC requires a variance be granted in order to allow an accessory structure in front of the principal structure.

What the action accomplishes:

Permits the garage to be detached from the house and allows the pool to be forward of the house.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

5. Background:

The applicant needs a variance from Land Development Code Chapter 34 Article IV Division 2 Sec. 34-1174(b) to allow the construction of two (2) accessory structures - a garage and pool - in front of the principal structure. Otherwise, the Land Development Code mandates that all accessory structures be placed behind the front of the primary structure.

Attachments:

1. VAR20200091 - 5730 Estero Blvd - Staff Report_revised-C1
2. PH APP
3. PH -B APP - Original
4. PH-B APP Revised
5. Survey from Application
6. Letters to Adjacent Property Owners
7. 5730 Estero - VAR - Notice To Neighbors

Financial Impact:

6. Alternative Action

7. Staff Recommendations:

8. Recommended Approval:

Jason Green, Community Development
Services

Date: February 04,
2021

John R Herin Jr, Town Attorney

Date: February 04,
2021

Date: February 04,
2021

Amy Baker, Town Clerk



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20200091

CASE NAME: 5730 Estero Blvd, front yard setback variance

LPA HEARING DATE: February 9, 2021 at 9.00 AM

**STAFF
RECOMMENDATION:**

**PREPARED/
SUBMITTED BY:** Carl Benge/ Jason Green AICP

I. APPLICATION SUMMARY

Applicant/Owner: Joe McHarris

Request: The applicant is seeking a variance from Sec. 34-1174(b) of the Land Development Code ("LDC") to allow the construction of two (2) accessory structures - a detached garage and pool - forward of the primary structure

Subject property: See attached survey

Physical Address: 5730 Estero Blvd

STRAP #: 33-46-24-W2-0030B.0030

FLU: Mixed Residential

Zoning: Residential Single Family (RS)
Current use(s): Single-Family Dwelling

Adjacent zoning and land uses:

North: RESIDENTIAL SINGLE FAMILY (RS)
Gulf, Single-family residence

South: RESIDENTIAL SINGLE FAMILY (RS)
Gulf, Single-family residence

East: RESIDENTIAL SINGLE FAMILY (RS)
Single-family residence

West: Waterbody
Gulf

II. BACKGROUND AND ANALYSIS

Background:

Joe McHarris, the applicant for 5730 Estero Blvd, are requesting a variance from Sec. 34-1174.(b) of the LDC, to would allow the construction of two (2) accessory structures - a detached garage and pool - in front of the primary structure. The applicant asserts there is insufficient room to the side and rear of property to allow for the improvements to comply with the setback requirements in the LDC.

The house was built in 1946 with renovation occurring in 1982, 1999, 2000, 2013, 2018, and 2019. The applicant bought the property in January of 2017 and wishes to make renovations and upgrades to the home. The applicant has applied for a building permit for the proposed new garage.

Analysis:

This property is typical of gulf properties. The primary structure is located at the rear of the property, away from the street and more towards the gulf. The proposed improvements will also be within building setback requirements, but are proposed to be located in front of the primary structure.

Neighborhood Compatibility:

In a review of aerial photography of the neighborhood, staff found some examples of properties with similar layouts as found at 5730 Estero Blvd. Staff also found other examples of property layouts similar to what the applicant proposes, with accessory structures forward of the primary structure.

Findings and Conclusions:

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

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

The existing house is pushed back towards the gulf. This is typical of many gulf front properties built prior to the Town adopting its current regulations and leaves little to no room on the side or rear. A variance would not be required if a breezeway or other structure connects the garage and primary structure together. The applicant argues that the breezeway is unnecessary. The proposed location of the accessory structures does not change the public view other than of the house façade, and to the neighbors, who the applicant states have no objections.

- 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.*

These conditions are not the result of owner actions. The house was built prior to the Town adopted regulation prohibiting accessory structures forward of the primary structure.

- 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 separation between structures allows the minimum for access.

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

Staff agrees with the applicant's statement that with or without the breezeway does not change the location or appearance of the garage and pool to the front the primary structure.

- 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.*

Basis of the variance is the location of the primary structure prevents locating accessory structures behind the primary structure. These conditions/circumstances which they are seeking are not of a nature as to amend the regulations in question.

III. RECOMMENDATION

Staff finds that approval of the requested variance to allow the detached garage and pool to be forward of the primary structure would not be needed if the garage were attached to the primary structure, allowing the pool to be located adjacent to the attached garage. The variance is required to allow the proposed garage and pool location to be in front of the primary structure, which was built to the rear of the property before the Town adopted location criteria for accessory structures, and

denial of the variance would prohibit the property owner from use of their property generally permitted to others.

Therefore, staff recommends **APPROVAL WITH CONDITIONS** of VAR20200091 for the detached garage and pool to be forward of the primary structure. As shown on site plan.

IV. CONDITIONS OF APPROVAL

1. *Approval of this variance does not give the developer an undeniable right to permit approval. Development or redevelopment of the subject property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and Land Development Code in effect at the time of permit approval, except as specifically modified herein.*
2. *The variances shall only apply to the garage and pool as shown on the provided site plan. Alterations or substantial damage to either structure shall render their respective variance to be null and void.*
3. *A restrictive covenant prohibiting conversion of the garage and storage area or any space above it to any unlawful uses, shall be recorded in the public records of Lee County.*
4. *Any violation of the conditions of approval shall be subject to a penalty of \$500 per day, per incident.*

Staff Report Exhibits:

A –Survey

B – Complete Application

C – Letter to Adjacent Property Owners

PROJECT NUMBER:

DATE: OCT 20 2020



Received by: 20200291

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

This is a two part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit *one ORIGINAL paper copy, fourteen (14) copies* of all required applications, supplemental information, exhibits and documents. Please do not print and copy the instructions at the end of the application. In addition to application fees, the applicant is required to pay for (2) sets of mailings to neighboring property owners within 500', and all advertising fees.

Site Address: 5730 Estero Blvd.

STRAP Number: 33-46-24-W2-0030B.0030

Applicant: Joe McHarris

Phone: 239-821-4999 (C)

Contact Name: Joe McHarris

Phone: 239-948-6688 (O)

Email: Joe@mcharris.com

Fax: _____

Current Zoning District: R

Future Land Use Map (FLUM) Category: Mixed Residential

FLUM Density Range: N/A

Platted Overlay: ☐ YES ☒ NO

ACTION REQUESTED

☐ Special Exception

☒ Variance

☐ Conventional Rezoning

☐ Planned Development ☐ Commercial ☐ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PROJECT NUMBER:

DATE:

PART I – General Information

A. Applicant*: Joe McHarris Phone: 239-821-4999

**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: 11338 Bonita Beach Road, suite 103, Bonita Springs

Email: Joe@mcharris.com Fax: n/a

Contact Name: Joe Phone: 239-821-4999

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: Joe McHarris Phone: 239-821-4999

Address: 11338 Bonita Beach Road, Suite 103, Bonita Springs, FL

Email: Joe@McHarris.com Fax: n/a

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

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PROJECT NUMBER: _____

DATE: _____

Name: _____

Phone: _____

Address: _____

Email: _____

Fax: _____

PART II - Nature of Request

Requested Action (each request requires a separate application)

☐ Special Exception

☒ Variance from LDC Section divison 2 - Section 34-1174

☐ Conventional Rezoning from _____ to _____

☐ Planned Development

☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD

☐ Amendment. List the project number: _____

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

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

PART III - Waivers

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

Code Section: _____

Description: _____

Code Section: _____

Description: _____

Code Section: _____

PROJECT NUMBER:

DATE:

Description: _____

PART IV - Property Ownership

☐ Single Owner (individual or husband and wife)

Name: Mr and Mrs Holcomb Phone: 612-819-9519

Mailing Address: 10224 ANTLERS RIDGE EDEN PRAIRIE MN 55347

Email: blholcomb57@gmail.com Fax: n/a

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

☐ Complete Disclosure of Interest Form (see below)

☐ Attach list of property owners as Exhibit 4-1

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

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

DISCLOSURE OF OWNERSHIP INTEREST

STRAP: 33-46-24-W2-0030B.0030

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

Brian and Karen Holcomb

100%

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

PROJECT NUMBER:

DATE:

Name, Address and Office

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

PROJECT NUMBER:

DATE:

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of Contract:

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

Name

Address

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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

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



Signature

Joe McHarris

Printed Name

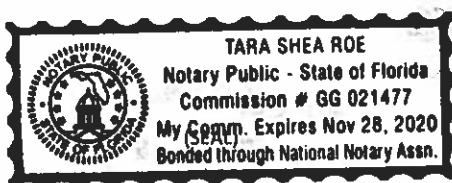
10/14/2020

PROJECT NUMBER:

DATE:

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this 14 day of October,
20 20, by JOSEPH McHARRIS.



Tara Shea Roe
Notary Public Signature

TARA SHEA ROE
Notary Printed Name

Personally Known ☒ or Produced Identification ☐

Type of Identification Produced: _____ My Commission Expires: Nov 28, 2020

PART V – Property Information

A. Legal Description:

STRAP: 33-46-24-W2-0030B.0030

Property Address: 5730 Estero Blvd.

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

☐ Yes. Property identified in subdivision: _____

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

B. Boundary Survey:

☒ Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida. Attach and label as Exhibit 5-2.

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 75 feet

PROJECT NUMBER:

DATE:

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

Frontage on street: 75 feet. Frontage on waterbody: 75 feet

Total land area: 16,500 ☐ acres ☒ square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):
5730 Estero Blvd.

☒ Attach Area Location Map as Exhibit 5-3

E. Property Restrictions (check applicable):

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

☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 5-4.

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

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

☒ Attach a list of surrounding property owners within 500 feet as Exhibit 5-6.

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

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

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

☐ Low Density

☐ Marina

☒ Mixed Residential

☐ Recreation

☐ Boulevard

☐ Wetlands

☐ Pedestrian Commercial

☐ Platted Overlay

H. Zoning (see official Zoning Map):

☒ RS (Residential Single-family)

☐ CF (Community Facilities)

☐ RC (Residential Conservation)

☐ IN (Institutional)

PROJECT NUMBER:

DATE:

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

PART VI

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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

PROJECT NUMBER:

DATE:

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

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



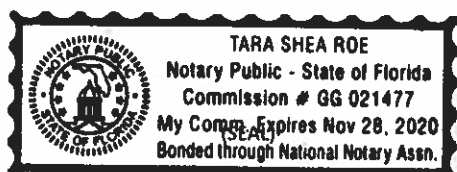
Signature of owner or authorized agent

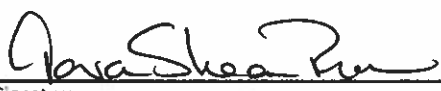
10/14/2020

Date

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this 14 day of OCTOBER,
2020, by JOSEPH McHARRIS.





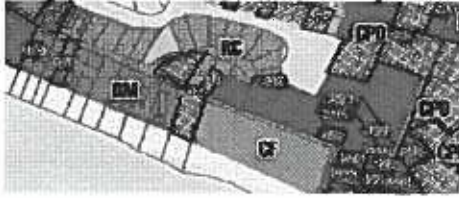
Notary Public Signature

TARA SHEA ROE

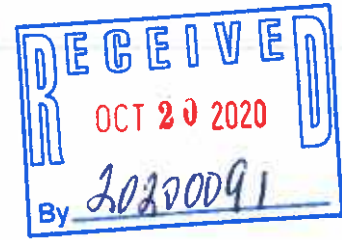
Notary Printed Name

Personally Known ☒ or Produced Identification ☐

Type of Identification Produced: _____ My Commission Expires: NOV 28, 2020

Town of Fort Myers Beach
Department of Community Development

Zoning Division

**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: <u>Holcom 6 RESIDENCE</u>
Authorized Applicant: <u>JOE McHARRIS</u>
LeePA STRAP Number: <u>33-46-24-W2-0030B, 0030</u>

Current Property Status:	
Current Zoning: <u>RESIDENTIAL</u>	
Future Land Use Map (FLUM) Category: <u>MIXED RESIDENTIAL</u>	
Comp Plan Density: <u>N/A</u>	Platted Overlay? ☐ Yes ☒ No

Variance is requested from:

LDC Section Number

Title of Section or Subsection

<u>DIVISION 2.- ACCESSORY USES, BUILDINGS</u>
<u>& STRUCTURES</u>
<u>SEC. 34-1174- Location & Setback Generally (b)</u>

Complete the narrative statements below for EACH variance requested.

PART I
Narrative Statements

Request for variance from 34 1174 (LDC Section number)

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

"No Accessory Use, Building or Structure shall be located closer to a Street Right of Way Line or Street Easement than the principle Building..."

BASED ON THE ABOVE, WE CAN NOT BUILD any structure Forward of the existing home unless it is ATTACHED to the main/principle structure. NO pools, NO garage/detached, Nothing.

The house was BUILT this way in 1948 AND has a NON-CONFORMING garage IN front of the principle structure today.
see exhibit "B"

Reasons for request

Explain why the variance is needed:

- 1.) This rule is designed for traditional properties NOT located on the Gulf. Gulf Home's typically reverse their frontage away from street & toward the back for better views of the water leaving open area along the street, like a back yard.
- 2.) There are other examples of Accessory structures being allowed with similar circumstances see attached examples Exhibit (A)
- 3.) We can meet the "Code" By adding a breeze way to our attached detached garage, making it part of the principle structure, then allowing the pool to be placed in the front yard, but this is silly

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

- 1.) NONE,
- 2.) PLEASE SEE ATTACHED letter exhibit "B" FROM BOTH adjacent Neigh Bours STATING they DO NOT have any issues with the plan (see ~~name~~ exhibit "C" & "D".
- 3.) The view FROM the ROAD & the Beach, will be exactly the same. The only change on the side is a connecting roof, which the Neigh Bours Acknowledged that they do NOT CARE ABOUT

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

- 1.) Adding a breeze way connecting the house to the garage just to meet a code that was not intended for gulf front houses

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

34-87(c)

- 1.) The property with the house is existing & with the house pushed back towards the curb.
 - The house has a detached garage currently forward (to street) of the principle structure
 - Taking off a breezeway to no-where is NOT essential to public health/policy, and this change is very minor & can NOT BE SEEN FROM PUBLIC VIEW, only the neighbors who have no objections
 - These type of conditions are inherent under these circumstances, see existing house, pool next door & exhibit "A".
- 2.) These conditions are NOT the result of owner action's AFTER Regulation adoption
- 3.) our request to remove a breezeway to no where & for no real reason is the minimum variance that will relieve the applicant's burden caused by the code.
- 4.) The granting of this variance will NOT BE INJURIOUS to the Neighborhood or otherwise be detrimental to public welfare
- 5.) These conditions/circumstances which we are seeking are NOT of a nature AS to amend the regulations in question.

PART 2 Submittal Requirements

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

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 ✓

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.

Exhibit 5-3

Location Map

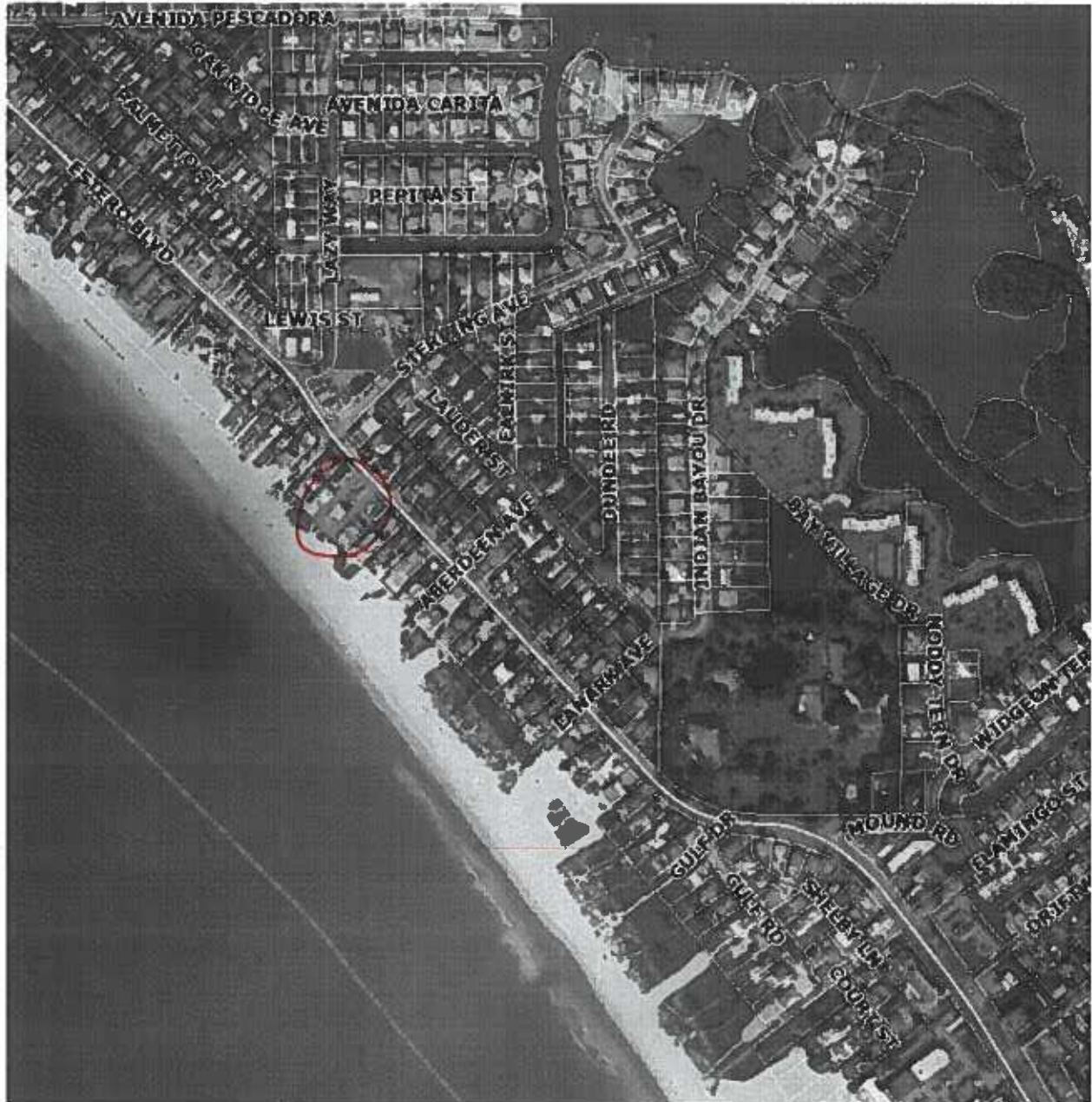


Exhibit 5-6

Surrounding Property Owners within 500 feet of 5730 Estero Blvd.

Exhibit A

Similar examples



STRAP	Folio	Owner Name	Site Address	Last Trans. Date	Last Trans. Amt	Just Value	Taxable Value
33-46-24-W2-00308.0020	10230359	CROWE KYLE R	5720 ESTERO BLVD, FORT MYERS BEA...	11-2015	\$ 935,000	\$ 1,888,737	\$ 1,888,737





STRAP	Folio	Owner Name	Site Address	Last Trans. Date	Last Trans. Am
33-46-24-W2-0030B.0060	10230363	DREBES LAWRENCE T JR TR	5760 ESTERO BLVD, FORT MYERS BEA...	7-2019	\$ 2,289,50

Exhibit B letter from the next door neighbor

August 18, 2020

Kyle Crowe
5720 Estero Blvd.
Fort Myers Beach, FL 33931

Kyle:

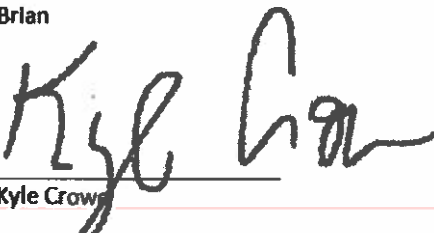
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If you have questions, please call me at (612) 819-9510.

Please sign below and return if you do not have any objection.

Thanks.

Brian



Kyle Crowe

August 18, 2020

Dick Rolfes
1016 Grand Isles Drive
Naples, FL 34108

Hi Dick:

Per our discussion last week, we are asking the town of Fort Myers Beach to give us a variance for the final phase of our remodel. The variance would allow for the removal of a covered structure that would connect the new garage to our house, leaving us with a detached garage on the south side of our lot towards the street with an adjacent pool to the north of the garage. I have also attached a site plan.

If you have questions, please call me at (612) 819-9510.

Please sign below and return in the enclosed Fed-Ex package if you do not have any objection.

Thanks.



Brian Holcomb
Bholcomb57@gmail.com

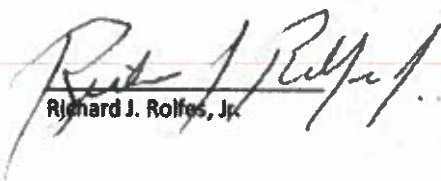
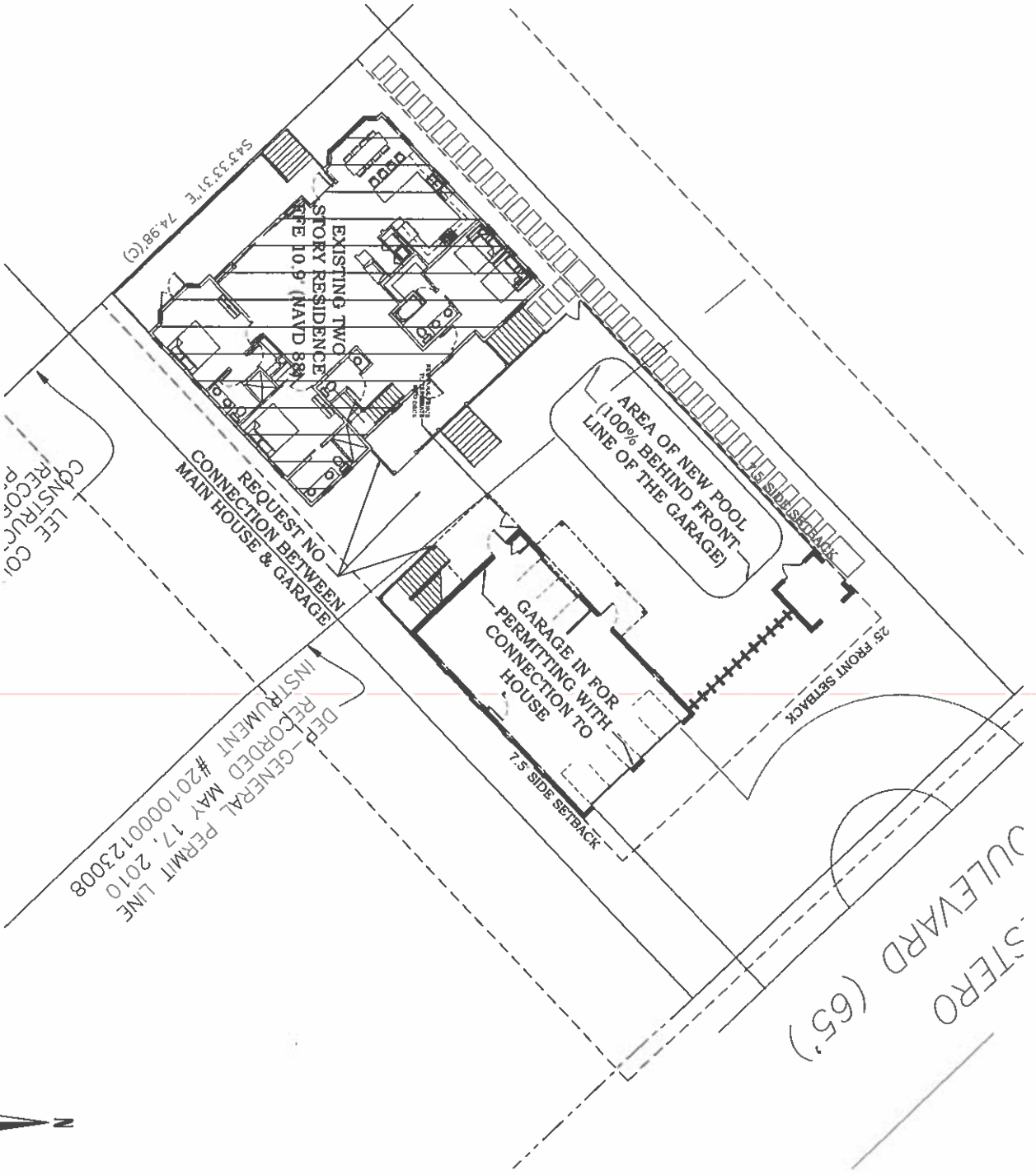

Richard J. Rolfes, Jr.

Exhibit "C"



ENLARGED
ARCHITECTURAL SITE PLAN
1/8" = 1'-0"



THE HOLCOMB RESIDENCE PHASE IV 5730 ESTERO BLVD PORT MYERS BEACH, FL 33931		McHARRIS PLANNING & DESIGN 11222 BOWEN ROAD SUITE 200 FORT MYERS, FL 33907 TEL: 888-744-6666 FAX: 888-744-6666 WWW.MCHARRIS.COM	
A2		FOR ARCHITECTURAL PURPOSES ONLY	

Exhibit D

Existing conditions





Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

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

Case Number:
Project Name:
Authorized Applicant:
LeePA STRAP Number:

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

Variance is requested from:

LDC Section Number

Title of Section or Subsection

Complete the narrative statements below for EACH variance requested.

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

PART I
Narrative Statements

Request for variance from _____ (LDC Section number)

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

Reasons for request

Explain why the variance is needed:

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

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

PART 2 Submittal Requirements

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

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

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

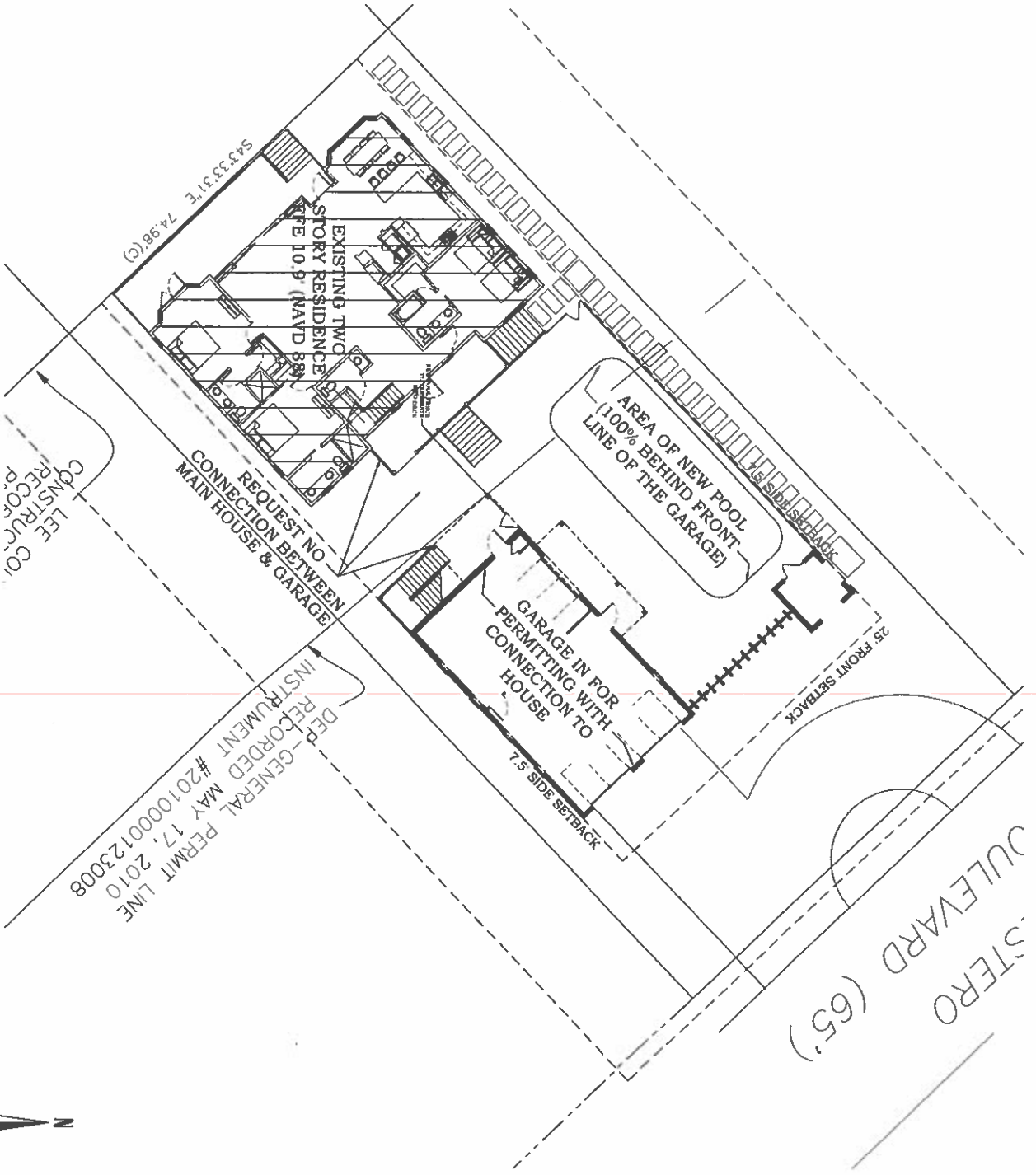
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LDC Section 34-87

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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;
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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.

Exhibit "C"



ENLARGED
ARCHITECTURAL SITE PLAN
SHEET 1 OF 1



THE HOLCOMB RESIDENCE PHASE IV 5730 ESTERO BLVD PORT MYERS BEACH, FL 33931		FOR ARCHITECTURAL PURPOSES ONLY		McHARRIS PLANNING & DESIGN 11222 BOWEN ROAD SUITE 200 FORT MYERS, FL 33907 TEL: 888-744-6666 FAX: 888-744-6666	
DATE: 11/10/2009 DRAWN BY: J. HARRIS CHECKED BY: J. HARRIS APPROVED BY: J. HARRIS	DATE: 11/10/2009 DRAWN BY: J. HARRIS CHECKED BY: J. HARRIS APPROVED BY: J. HARRIS	DATE: 11/10/2009 DRAWN BY: J. HARRIS CHECKED BY: J. HARRIS APPROVED BY: J. HARRIS	DATE: 11/10/2009 DRAWN BY: J. HARRIS CHECKED BY: J. HARRIS APPROVED BY: J. HARRIS	DATE: 11/10/2009 DRAWN BY: J. HARRIS CHECKED BY: J. HARRIS APPROVED BY: J. HARRIS	DATE: 11/10/2009 DRAWN BY: J. HARRIS CHECKED BY: J. HARRIS APPROVED BY: J. HARRIS

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August 18, 2020

Kyle Crowe
5720 Estero Blvd.
Fort Myers Beach, FL 33931

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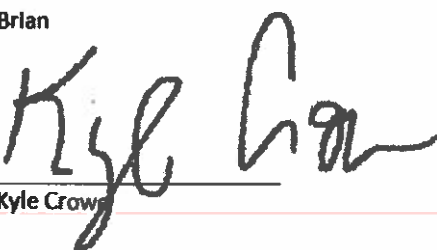
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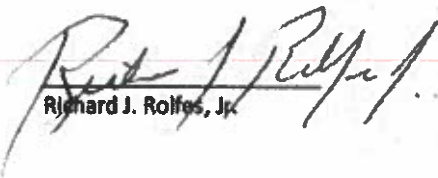
If you have questions, please call me at (612) 819-9510.

Please sign below and return in the enclosed Fed-Ex package if you do not have any objection.

Thanks.



Brian Holcomb
Bholcomb57@gmail.com


Richard J. Rolfes, Jr.



Town of Fort Myers Beach

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Case Number: VAR20200091

Case Name: 5730 Estero Blvd., Accessory Structures Location Variance

Applicant: Brian L & Karen D Holcomb

Location: 5730 Estero Blvd. STRAP #: 334624W20030B0030

Zoning: Residential Single Family (RS)

Request: Variances from Land Development Code Chapter 34 Article IV Division 2 Sec. 34-1174(b) for the proposed garage and pool to be in front of primary structure. The variance request is from the LDC requirement to allow the accessory structures in front of the primary structure.

Staff Report: Direct inquiries to:
Carl Benge, Community Development, email: cbenge@fmbgov.com
Fort Myers Beach Town Hall
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Notice is hereby given that the Local Planning Agency of the Town of Fort Myers Beach will hold a public hearing at a meeting beginning at **9:00 AM on February 9, 2021** regarding the case listed above. This hearing will take place at Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Florida, 33931.

You may appear in person, through counsel, or through an authorized agent and provide testimony, legal argument, or other evidence to become a participant in the hearing.

At this hearing the Local Planning Agency of Fort Myers Beach will review the case and make a recommendation to the Town Council on this matter. If any person should desire to have verbatim record of the proceedings, which record indicates the testimony and evidence presented, that person will have to make arrangements on their own.

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

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

Yellow Sheet Number: **2021-162**

1. Requested Motion:

Meeting Date: February 9, 2021

DCI 2020-0009 Myerside CPD Rezoning

Why the action is necessary:

The applicant has requested a rezoning from RC to CPD. The LPA is required to make a recommendation to the Town Council.

What the action accomplishes:

The LPA's recommendation provides guidance to the Town Council.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

The Town's Land Development Code appoints the LPA as the local planning agency with the responsibility to provide recommendations related to development applications.

5. Background:

The subject site is located at multiple addresses, 2661-2668 Estero, 125 School Street, and 131-151 School Street, at the intersection with Oak Street, School Street, and Estero Boulevard. The site is a combination of 12 lots platted as part of Winkler's subdivision in 1931 (Winkler's Subdivision, Block C, Lots 23-27 (2661-2668 Estero) Lot 28 (125 School Street) and Lots 29 – 34 (131-151 School Street). Each platted lot is approximately 25 feet in width and 150 feet in depth.

Based on information found on Lee County Property Assessor Field Cards, the six platted lots for 131-151 School Street appear to have been originally developed as three separate properties, each consisting of two of the platted lots, and each property having one structure. Property deeds show that the three individual properties came under common ownership by 1962 and have remained in common ownership since that time.

Prior Lee County zoning actions include Lee County Resolution Z-72-18 dated February 1, 1972 that granted a variance for an apartment under a duplex for personal home use on Lots 33 and 34. Additionally, ZVL2013-008 verified that the subject property consists of six plated lots.

Town records indicate that a rezoning to CPD was requested and denied by Town Council in 1996 (Res 96-31). The request was to build five multifamily dwelling units with commercial below. The original request was denied in February; while a revised and scaled down request was then denied in November 1996. The meeting minutes detail how the site was developed with multiple older structures that were in poor condition; while the applicant pointed out that the request did not include hotel uses and no access from School Street. The Town Council findings included the proposed commercial uses were not appropriate in the Boulevard Future Land Use Map category due to intrusion of a commercial use into a residential neighborhood.

The current property configuration resulted from the combination of three separate parcels in 2008 (STRAP #s 19-46-24-W3-0020C.0290, 19-46-24-W3-0020C.0310 and 19-46-24-W3-0020C.0330), and the addition of the remaining parcels comprising the the subject site, 2661-

2668 Estero Blvd. and 125 School Street, in 2016 after the Town Council granted a special exception to allow a Bed and Breakfast use (only on the added parcels). According to the current Lee County Property Appraiser records, the 2661-2668 Estero Boulevard consists of two single-family dwelling units; and one single-family dwelling with an apartment.

The current application requests a rezoning from the RC zoning district to CPD. All CPD rezoning applications are required to have a master concept plan, which the applicant submitted, identifying proposed development and how development is consistent with the Town's Comprehensive Plan and Land Development Code.

The applicant has provided a narrative with the original application in Supplemental PH-D documents explaining how it believes the proposed rezoning and master concept plan are consistent with the Comprehensive Plan, Land Development Code (including LDC Sec 34-85), and the Town's Design Guidelines. The original application requested 16 guest/hotel units developed over multiple phases. Since the original application, the applicant has responded to staff questions and review comments by submitting revised components of the request and the master concept plan. There have been two resubmittals containing modifications to the original application. The final submittal includes a request to allow 14 guest/hotel units over multiple phases; 600 sq. ft. of retail use, a restaurant, and rearranged building(s) to accommodate parking, stormwater, and other site modifications. The Schedule of Uses also includes Residential and Residential Accessory uses. Staff is unsure why these are mixed with the requested Lodging and Retail uses.

In addition the last submitted plan includes an update to requested deviations. The current request includes seven (7) deviations to various design and development criteria. The deviations requested would allow the applicant to decrease landscape buffers, setbacks, and design criteria, among others. Some of the deviations are to accommodate existing buildings with non-conforming setbacks, access location point separation, and parking space size.

The staff report outlines how the request is inconsistent with the Town's Comprehensive Plan and Land Development Code. Staff has recommended denial based on the findings in the staff report.

Attachments:

1. Myerside CPD Rezoning Staff Report LPA-C2_rev
2. 11-17-2020 P. Vanasse Response Letter to Jason Green and request to be scheduled for LPA(15932302_1)
3. DCI 2020009 Response to insufficiency July 2020
4. DCI 20200009 MYERSIDE REZONING APP
5. DCI 20200009 MYERSIDE REZONING SUPPLEMENTAL PH-D APP
6. Resolution 96-31 Denying rezoning to CPD for 5 multifamily units
7. 11.18.1996 Town Council Regular Minutes
8. SEZ2015-0006 MYERSIDE BNB TC Staff Report
9. 16-09, SEZ2015-0006 131-151 SCHOOL ST MYERSIDE B AND B FINAL

Financial Impact:

6. Alternative Action

Recommend approval or approval with conditions

7. Staff Recommendations:

Deny

8. **Recommended Approval:**

Date: February 04,
2021

John R Herin Jr, Town
Attorney

Date: February 04,
2021

Amy Baker, Town Clerk



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TYPE OF CASE: Commercial Planned Development (Rezoning)

CASE NUMBER: DCI2020009

CASE NAME: Myerside CPD

LPA

HEARING DATE: February 9, 2021

STAFF RECOMMENDATION: Denial of request to rezone to Commercial Planned Development. The request is inconsistent with the Comprehensive Plan and Land Development Code.

PREPARED/SUBMITTED BY: Jason Green, AICP

I. APPLICATION SUMMARY

Applicant/Agent: Myerside LLC / Beverly Grady, Roetzel and Andres

Request: To rezone 1+/- acre of land from RC to CPD with a mix of commercial uses as part of their Schedule of Uses, including Hotel, Resort, Multifamily, Single-family, Retail, Restaurant, and Consumption on Premises.

Physical Address: 2661-2668 Estero Blvd., 125 School St., 131-151 School St.

STRAP #: 194624W30020C.0230; -.0270; and -.0290

FLUM: Boulevard

Zoning: Residential Conservation

Current use(s): 2661-2668 Estero – Single-family (2) and a duplex; 125 School St. – Single-family; 131-151 School St – Bed and Breakfast (SEZ2015-0006, RES 16-09)

Adjacent zoning and land uses:

North:	Bay Oaks Park, Fort Myers Beach Elementary School (Institutional)
South:	Estero Blvd, Multifamily, Office, and Resort (Residential Multifamily, CO, CR)
East:	School St. FMB Library, FMB United Methodist, (Institutional)
West:	Single-family residences, Bay Oaks Park (RC, Institutional)

II. BACKGROUND (Portions of this section are borrowed from FMB Staff Report for SEZ2016-0006 B&B):

The subject site is located at multiple addresses, 2661-2668 Estero, 125 School Street, and 131-151 School Street, at the intersection with Oak Street, School Street, and Estero Boulevard. The site is a combination of 12 lots platted as part of Winkler's subdivision in 1931 (Winkler's Subdivision, Block C, Lots 23-27 (2661-2668 Estero) Lot 28 (125 School Street) and Lots 29 – 34 (131-151 School Street). Each platted lot is approximately 25 feet in width and 150 feet in depth.

Based on information found on Lee County Property Assessor Field Cards, the six platted lots for 131-151 School Street appear to have been originally developed as three separate properties, each consisting of two of the platted lots, and each property having one structure. Property deeds show that the three individual properties came under common ownership by 1962 and have remained in common ownership since that time.

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Town records indicate that a rezoning to CPD was requested and denied by Town Council in 1996 (Res 96-31). The request was to build five multifamily dwelling units with commercial below. The original request was denied in February; while a revised and scaled down request was then denied in November 1996. The meeting minutes detail how the site was developed with multiple older structures that were in poor condition; while the applicant pointed out that the request did not include hotel uses and no access from School Street. The Town Council findings included the proposed commercial uses were not appropriate in the Boulevard Future Land Use Map category due to intrusion of a commercial use into a residential neighborhood.

The current property configuration resulted from the combination of three separate parcels in 2008 (STRAP #s 19-46-24-W3-0020C.0290, 19-46-24-W3-0020C.0310 and 19-46-24-W3-0020C.0330), and the addition of the remaining parcels comprising the the subject site, 2661-2668 Estero Blvd. and 125 School Street, in 2016 after the Town Council granted a special exception to allow a Bed and Breakfast use (only on the added parcels). According to the current Lee County Property Appraiser records, the 2661-2668 Estero Boulevard consists of two single-family dwelling units; and one single-family dwelling with an apartment.

The current application requests a rezoning from the RC zoning district to CPD. All CPD rezoning applications are required to have a master concept plan, which the applicant submitted, identifying

proposed development and how development is consistent with the Town's Comprehensive Plan and Land Development Code.

The applicant has provided a narrative with the original application in Supplemental PH-D documents (see attached) explaining how it believes the proposed rezoning and master concept plan are consistent with the Comprehensive Plan, Land Development Code (including LDC Sec 34-85), and the Town's Design Guidelines. The original application requested 16 guest/hotel units developed over multiple phases. Since the original application, the applicant has responded to staff questions and review comments by submitting revised components of the request and the master concept plan. There have been two resubmittals containing modifications to the original application. The final submittal includes a request to allow 14 guest/hotel units over multiple phases; 600 sq. ft. of retail use, a restaurant, and rearranged building(s) to accommodate parking, stormwater, other site modifications, and a phasing plan.

In addition, the plan before the LPA includes an update to requested deviations (attachment 2). The applicant is requesting seven (7) deviations to various design and development criteria in the LDC. The deviations requested would allow the applicant to decrease landscape buffers, setbacks, and not comply with all design criteria, among others. Some of the deviations are to accommodate existing buildings with non-conforming setbacks, access location point separation, and parking space size.

Lots	Year Built	No. of Floors	No. of Dwelling Units	Sq. Footage of Unit
Lots 33 & 34	1969	Two stories	4 units	Base 812
				Apt 1 772
				Apt 2 784
				Apt 3 754
Lots 31 & 32	1957	Two stories	2 units	Base 768
				Apt 1 625
Lots 29 & 30	1958	One story	1 unit	504

Analysis:

Comprehensive Plan Consistency:

The subject property is located in Boulevard Future Land Use. The Boulevard category was developed to recognize existing commercial uses mixed amongst residential uses, but was also developed to protect neighborhoods from intrusion and expansion of commercial uses. "This category is not intended to allow commercial uses on all properties..." and goes on to describe what criteria the LPA must consider if an expansion of a commercial use is requested, as here.

*POLICY 4-B-5 "BOULEVARD": a mixed-use district along portions of Estero Boulevard, including less intense commercial areas, historic cottages, and mixed housing types. **This category is not intended to allow commercial uses on all properties**; its mixed-use nature is intended to remain permanently. For new residential development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map's "platted overlay" indicates a maximum density of 10 units per acre for legally existing dwelling units). **To obtain approval for new or expanded commercial activities, proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code.** These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning*

process. Non-residential uses (including motels and churches) now comprise 46.9% of the land in this category, and this percentage shall not exceed 70%.

Policy 4-B-5 also establishes density criteria. The Town has interpreted this Policy in a manner that six dwelling units per acre can translate up to 12 hotel units per acre pursuant to the multiplier allowed by the Comprehensive Plan and LDC unless the property is within the Platted Overlay. The subject property is located within the Platted Overlay; and as referenced in 4-B-5 above, the maximum density permitted is ten units per acre for legally existing dwelling units. The applicant has submitted an analysis of this policy, along with portions of SEZ 2016-0006 (Bed & Breakfast approval) staff report that it argues supports the concept that ten units per acre is allowed when calculating the multiplier for the conversion to hotel and lodging units.

Previous staff presentations of this policy appear not to have included an analysis of Policy 4-B-11 Platted Overlay, which states:

PLATTED OVERLAY: This is not a separate category on the Future Land Use Map, but is applied in addition to one of the eight categories listed above. Allowable land uses are the same as in the underlying category, but the maximum residential density is 10 units per acre. This density level applies in the Pedestrian Commercial category only for affordable units consistent with the adopted redevelopment plan; in other categories it applies only to recognize existing dwelling units that were built legally but which would be non-conforming under a density cap of 6 units per acre.

As stated in the Platted Overlay policy, these two policies are to be applied together, not separately. The last sentence is to recognize the ten units per acre maximum to avoid creating a non-conforming density for existing residential units. Prior to the Bed and Breakfast, there was approximately 10 or 11 units within 1 acre of land, which explains why the Overlay was adopted.

The applicant's argument is that SEZ 2015-0006 contemplated this question. The staff report for SEZ 2015-0006 never provided an analysis of Policy 4-B-11 in conjunction with Policy 4-B-5, as it should have. The potential impacts are a misapplication of Policy 4-B-5 when approving the Bed and Breakfast use that results in more hotel lodging units than intended. The applicant is seeking an interpretation, and ultimately a zoning change, that will result in the conversion of the existing residential units to a Hotel/Lodging use – not a Bed & Breakfast use. Generally, the intent of a Bed & Breakfast is to maintain the character of the surrounding residential area with limited impacts.

Policy 4-C-2 states that “the maximum intensity of allowable commercial development in any category may be controlled by height restrictions or by other provisions of this plan and the Land Development Code.” Staff previously found that the proposed special exception to allow a Bed & Breakfast does not increase the density or intensity within the approved area footprint. The current application clearly requests an increased intensity of commercial activity through the addition of retail and restaurant uses, as well as the conversion of single-family residential, duplex, and Bed and Breakfast units to **hotel lodging uses**. The Town Council reached the same conclusion and findings when the previous property owner requested to add commercial uses to this site in 1996 through the CPD rezoning process. Simply stated, this application requests hotel/lodging use that further intensifies the commercial development.

*Policy 4-C-2 COMMERCIAL INTENSITY: The maximum intensity of allowable commercial development in any category may be controlled by height regulations (see Policy 4-C-4) or by other provisions of this plan and the Land Development Code. Standards in the **Land Development Code will encourage more***

intense commercial uses only in the “Pedestrian Commercial” category. The Land Development Code shall specify maximum commercial intensities using floor-area-ratios (the total floor area of the building divided by the area of the site in the category allowing commercial uses). 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,

Policy 4-C-3 contains provision for locational requirement for commercial uses. For the Boulevard Future Land Use designation, the Policy states that mixed use development including commercial uses are permitted but the use must be sensitive to nearby residential areas and contribute to the public realm.

COMMERCIAL LOCATIONS: When evaluating proposals for new or expanded commercial uses in categories where they are permitted, the following principles shall apply:

- i. No rezonings for commercial uses shall be allowed in the “Low Density” category.*
- ii. Where new or expanded commercial uses are encouraged, as in the “Pedestrian Commercial” category, the Land Development Code shall specify its permitted form and extent and provide a streamlined approval process. Landowners may also use the planned development rezoning process to seek approval of other forms of commercial development in that category.*
- iii. In the “Mixed Residential” category, commercial uses are limited to lower-impact uses such as offices, motels, and public uses, and must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. Landowners may seek commercial rezoning only through the planned development process.*
- iv. In the “Boulevard” category, where mixed-use development including some commercial uses may be permissible, landowners may seek commercial rezoning only through the planned development process. **Proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code.***
- v. The following principles shall be considered by the town when evaluating requests for new commercial uses:*
 - a. Shopping and services for residents and overnight guests are strongly preferred over shopping and services that will attract additional day visitors during peak-season congestion.*
 - b. Shopping and services that **contribute to the pedestrian character** of the town are strongly preferred over buildings designed primarily for vehicular access.*
- vi. The neighborhood context of proposed commercial uses is of paramount importance. The sensitivity of a proposed commercial activity to nearby residential areas can be affected by:*
 - a. the type of commercial activities (such as traffic to be generated, hours of operation, and noise);*
 - b. its physical scale (such as the height, and bulk of proposed buildings); and*
 - c. the orientation of buildings and parking.*

Commercial activities that will intrude into residential neighborhoods because of their type, scale, or orientation shall not be approved.

The proposed CPD does not address commercial intrusion into the surrounding residential area or provide techniques that mitigate those impacts. Policy 4-C-3 directs new commercial uses to

contribute to the “public realm” and to “pedestrian character.” The proposed master concept plan does not provide for either of these requirements. Furthermore, approval of the requested deviations will allow multiple access points along School Street, elimination of otherwise required sidewalks and pedestrian connectivity along the western portion of School Street, a reduction to the required landscaping buffers along the at the perimeter of the property, while also deviating from required buffer depths to accommodate non-conforming setbacks of existing buildings.

Planned Development Considerations:

The Land Development Code includes a list of items that the LPA/Town Council must consider, if applicable, when reviewing approval of a requested planned development. These criteria are contained in LDC Section 34-85 and are reproduced and discussed below.

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

Staff finds that there is no ambiguity which must be corrected, the site is zoned RC. The current uses include residential with a Bed and Breakfast approved via Special Exception. No correction is required.

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

Conditions have not changed that make approval of the request appropriate. The Comprehensive Plan policies, as addressed earlier, are still applicable. No changes to the character of the neighborhood have occurred.

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

Staff finds the requested amendment is inconsistent with the intent of chapter 34 of the LDC. The master concept plan and deviations provide no mitigation for commercial intrusion. The Comprehensive Plan Policies discussed earlier direct expanded and new commercial development to be consistent with the Land Development Code. Existing conditions and requested deviations prohibit compliance.

4. *The testimony of any applicant.*

The LPA and Council will be able to hear from the applicant at the public hearings.

5. *The recommendation of staff and of the local planning agency.*

The staff recommendation is for denial due to lack of compliance with the Comprehensive Plan and Land Development Code.

6. *The testimony of the public.*

The public will have the opportunity to testify at the LPA AND TOWN Council public hearings.

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

The request is not consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan. The intensification of commercial uses and intrusion into residential uses is contrary to the policies discussed earlier. Staff finds that the request is not consistent with Policy 4-B-5, 4-B-11, 4-C-2, and 4-C-3.

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

Staff finds the application is not consistent with Policy 4-C-3, including implementing the required performance standards identified within the Land Development Code.

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

Staff finds that urban services are available and adequate as the subject property is already served by potable water and sewer. Insufficient sidewalks exist to address an intensification of commercial uses and additional pedestrian traffic. Without improvements to pedestrian facilities, commercial development becomes auto-oriented. The roadway network currently serves an Elementary School and Town Park and vehicle travel directions are regularly modified to address peak traffic periods for the school.

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

The proposed master concept plan proposes development of parking and structures in locations of protected tree species. Environmental staff has identified at least two mature protected trees that will be negatively impacted.

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

The proposed uses are not compatible with the existing and planned uses. The Town Council made this finding for a similar, but less intense development in 1996. Existing conditions and the applicable Town Comprehensive Plan Policies have not changed.

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.*

Commercial development within an area designated for school traffic can create challenges with timing and accessibility, partially due to the changes in traffic flow on a regular basis. The proposed development includes maintaining and intensifying the use of driveways along School Street. Several of these driveways are intended to stack parking that will backout onto School Street. Typical school afternoon peak periods don't coincide with typical commercial development afternoon peak periods (4PM-6PM), but the Bay Oak Park peak periods do overlap with commercial development. Access from Estero Boulevard allows for primary accessibility away from School Street.

Additional consideration for planned development is specified in the Town's Land Development Code. LDC Section 34-216 specifies that "the recommendation made to the town council must be supported by the guidelines set forth in § 34-85" as well the findings must address whether the criteria found in this section can be addressed. These criteria are discussed below:

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

The proposed uses are not appropriate at the subject location based on the Town's Comprehensive Plan Policies previously discussed and incorporated herein. The location was also part of a previous application in 1996 for a less intense commercial development subject to the same Goals, Objectives, and Policies as the current application. The intrusion of an expanded commercial use and the conversion of existing residential uses to hotel and lodging and/or commercial uses are not appropriate for this location that is a mix of residential and low impact commercial uses.

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

Staff finds that the proposed CPD, including the master concept plan, do not provide sufficient safeguards to the public interest. Items such as increased use and failure to improve unsafe access to School and Oak Street, lack of pedestrian facilities connecting a commercial development to adjacent facilities and uses, lack of landscaping and buffer mitigation efforts, and the various deviation requests to eliminate design requirements of the Land Development Code, individually and cumulatively, do not safeguard the public interest.

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

Staff finds that the request is inconsistent with the Comprehensive Plan and Land Development Code. The development conditions proposed by the applicant do not resolve those inconsistencies.

4. *The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development.*

The request is not appropriately located, does not meet the criteria in the Comprehensive Plan, and does not contribute to the public realm, therefore, the request is not consistent with the Comprehensive Plan.

III. STAFF RECOMMENDATION:

Based on the criteria required for evaluation, staff finds the requested rezoning from RC to CPD with a master concept plan for hotel and lodging, retail, and restaurant with consumption of alcohol on premises, is not consistent with the Town's Comprehensive Plan and Land Development Code.



November 17, 2020

Mr. Jason Green
Planner, Community Development
Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers Beach, Florida, 33931

Subject: DCI #20200009
Myerside Resort and Cottages
Response to recent staff questions & Request to be Scheduled for December LPA

Dear Mr. Green:

This letter is provided to request that the subject Planned Development Rezoning petition be placed on the December 8, 2020 LPA agenda. Additionally, this letter provides responses to recent questions from staff associated with density, parking and building code issues.

Density: Staff requested that we address allowed density on the subject property.

RESPONSE: See attached Density Narrative from Beverly Grady

Parking: Staff requested that we address back-out parking conditions as part of the PD:

RESPONSE: Sheet 2 of the attached MCP depicts existing conditions and identifies all parking spaces currently in use. Those spaces are identified by numbered diamonds. All parking spaces currently require back-out movements on either Estero Boulevard, School Street or Oak Street. As part of the proposed MCP, we have improved safety conditions by eliminating all back-out movements onto Estero Boulevard, which pose the most significant safety concern. The proposed centralized, off-street parking will only allow one point of ingress from Estro Boulevard and one point of egress onto School Street. This new configuration will reduce potential points of conflict and will improve circulation on and off the property. Additionally, the overall number of back-out parking spaces will be reduced from 18 to 11. All remaining back-out spaces are on Oak and School Streets, which are local roads with low posted speeds. These parking spaces have served existing buildings for many years and have not been a traffic or safety problem over that time. A deviation allowing back-out movements is included in the MCP and request as part of the rezoning petition.

Building Code: Staff requested that the Applicant meet with the Town of Fort Myers Beach Building Official to address potential improvements that may be required for existing buildings.

RESPONSE: Bob Stewart, (Myerside Resort and Cottages consultant) and Roland Weinmann met with town staff Jack McStravic and Steve Wick on Friday, Nov 13 2020, 10 a.m. to review the application for rezone by Myerside, LLC and to discuss potential challenges with respect to FEMA rules. Specifically, the group discussed

Page 1

if any existing buildings on the property, not being moved in the application, might have to be raised as a result of the rezone. It was concluded by the town that they did not see any reason why the existing buildings would need to be raised. The group then discussed commercial code requirements and the need to upgrade buildings, etc. They reviewed and discussed potential 50% rule challenges. It was concluded that the only potential challenge might be with the proposed restaurant renovation, but that careful planning and strategic permitting would likely provide for approvals within the 50% rule framework.

We believe that we have addressed your remain questions associated with this petition and look forward to hearing back from you related to the December LPA agenda.

Sincerely,



Patrick Vanasse, AICP
Director of Community Development

Cc: Attorney
Applicant
Encl.: Density Narrative
MCP



MEMO

TO: Patrick Vanasse

FROM: Beverly Grady

DATE: November 12, 2020

RE: Myerside - insertion into our submittal response to staff / Density

The Subject Property consists of Lots 23-34, Block C, Winkler Subdivision and is designated as Boulevard pursuant to Policy 4-B-5. Boulevard is defined as follows:

POLICY 4-B-5 “BOULEVARD”: a mixed-use district along portions of Estero Boulevard, including less intense commercial areas, historic cottages, and mixed housing types. This category is not intended to allow commercial uses on all properties; its mixed-use nature is intended to remain permanently. For new residential development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overly” indicates a maximum density of 10 units per acre for legally existing dwelling units). To obtain approval for new or expanded commercial activities, proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. Non-residential uses (including motels and churches) now comprise 46.9% of the land in this category, and this percentage shall not exceed 70%.

The maximum density is 10 units per acre for legally existing dwelling units. Lots 23 through 28 have five lawful dwelling units consisting of one unit in Buildings 1, 2, and 3 and two units in Building 4. Lots 29 through 34 have been recognized by the Town Council as having seven lawful dwelling units. Lots 29 through 34 have been approved by the Town Council with a special exception to operate as a bed-and-breakfast. See SEZ2015-0006 where the staff report sets forth a detailed history of Lots 29 through 34 that contain “seven dwelling units” (see page 3 of 12 of staff report) and also includes staff’s research of the Lee County Property Appraiser field cards and set forth Building 5 has two units, Building 6 has four units, and Building is one unit. Based upon the staff report and based on Council’s approval of the special exception, the approval of the special exception for bed-and-breakfast found that request consistent with the Town’s Comprehensive Plan and specifically Policy 4-C-2 Commercial Intensity, Policy 4-C-3 Commercial Location, for commercial uses, and cited that “the neighborhood context of the property commercial



uses is of paramount importance. Therefore, the Subject Property is entitled to the benefit of the platted overlay since it meets the criteria of 10 lawful dwelling units.

The Community Development staff testified in SEZ2015-0006 that “there were seven legal units on the property, she (staff) reviewed the platted overly for existing units which allowed 10 units per acre. The current zoning would allow seven units ... (see page 3 of LPA minutes January 12, 2016).

In summary, the Subject Property meets the criteria of lawfully existing 10 units to take the benefit of the platted overlay

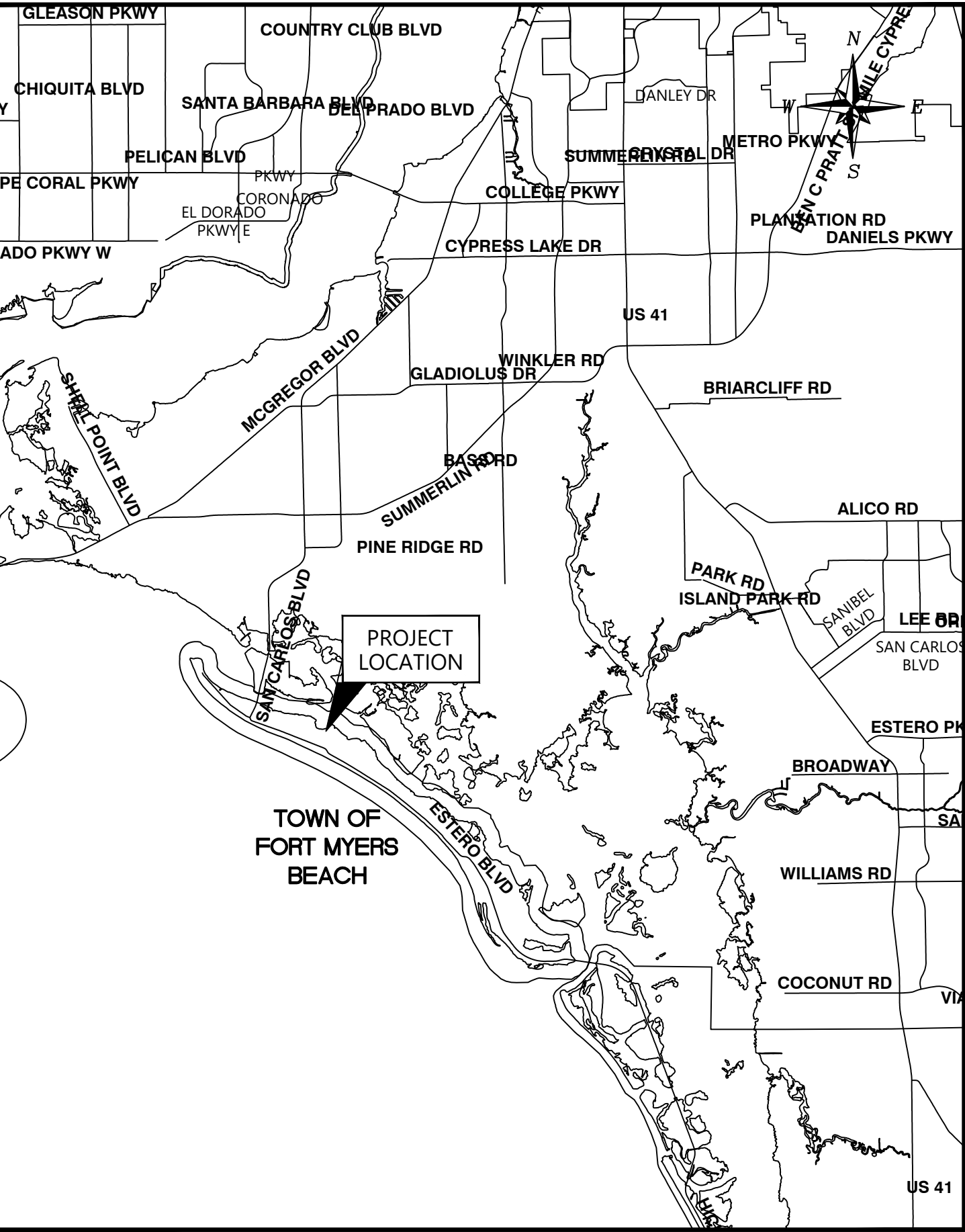
BG/ro

MASTER CONCEPT PLAN FOR

MYERSIDE RESORT AND COTTAGE

COMMERCIAL PLANNED DEVELOPMENT

TOWN OF FORT MYERS BEACH, SECTION 19, TOWNSHIP 46S, RANGE 24E,
LEE COUNTY, FLORIDA



VICINITY MAP
N.T.S.



SITE LOCATION MAP
N.T.S.

RWA

ENGINEERING

6610 Willow Park Drive
Suite 200
Naples, FL 34109

4983 Royal Gulf Circle
Fort Myers, FL 33966

19503 S West Villages Pkwy
Unit A5
Venice, FL 34293

Office: (239) 597-0575
Fax: (239) 597-0578
www.consult-rwa.com

Florida Certificates of Authorization
EB 7663 LB 6952

PREPARED FOR/OWNED BY:
MYERSIDE, LLC.
145 SCHOOL ST.
FORT MYERS BEACH, FL 33931

CONTENTS		
SHEET NUMBER	SHEET DESCRIPTION	
1	COVER SHEET	
2	MASTER CONCEPT PLAN-EXISTING CONDITIONS	
3	MASTER CONCEPT PLAN - PHASE 1	
4	MASTER CONCEPT PLAN - PHASE 2	
DATE:	JUNE 12, 2020	PROJECT No.: 200022.00.00
		SHEET No.: 1 OF 4

SCHEDULE OF USES

RESIDENTIAL:
DWELLING UNITS, SINGLE OR 2-UNIT OR MULTI-FAMILY

RESIDENTIAL ACCESSORY USES:
ACCESSORY APARTMENT, RESIDENTIAL ACCESSORY USE

LODGING:
BED AND BREAKFAST, HOTEL/MOTEL, GUEST UNITS,
RENTAL OF ANY PERMITTED UNIT PER PERIODS OF ONE
DAY OR LONGER,
RESORT

LODGING ACCESSORY UNITS:
ON-PREMISES CONSUMPTION OF ALCOHOLIC
BEVERAGES, RESORT ACCESSORY USE, PERSONAL
SERVICES, RECREATIONAL FACILITIES, CARETAKER UNIT

RETAIL:
SUBORDINATE COMMERCIAL USES, RETAIL STORE,
SMALL RESTAURANT

SITE DEVELOPMENT REGULATIONS

PRINCIPAL STRUCTURES
MINIMUM STREET SETBACK: 2.6 FEET FOR EXISTING BUILDING #3; 10 FEET FOR ALL OTHER EXISTING STRUCTURES AND
NEW OR RELOCATED STRUCTURES
MINIMUM SIDE SETBACK: 4.3 FEET FOR EXISTING STRUCTURES; 7 FEET FOR NEW OR RELOCATED STRUCTURES
MAXIMUM HEIGHT: 30 FEET PER LDC SECTION 34-631, MAXIMUM 3 STORIES
MINIMUM LOT SIZE: 20,000 SQUARE FEET
MINIMUM LOT WIDTH: 100 FEET
MINIMUM LOT DEPTH: 100 FEET
MINIMUM BUILDING SEPARATION: 15 FEET
MAXIMUM FLOOR AREA RATIO: 1.2

ACCESSORY STRUCTURES
MINIMUM SIDE SETBACK: SAME AS PRINCIPAL STRUCTURES, EXCEPT FOR THE ACCESSORY STRUCTURE TO BUILDING 7, WHICH
WILL HAVE A MINIMUM SETBACK OF 3 FEET; AND THE ACCESSORY GARAGE FOR BUILDING 4, WHICH
WILL HAVE A ± 5.9' MINIMUM SETBACK.

ALL OTHER DEVELOPMENT STANDARDS SHALL BE AS SET FORTH IN LDC CHAPTER 34 OR OTHER APPLICABLE PROVISIONS IN THE LDC.

GENERAL NOTES

- 1) THIS PROJECT WILL BE DEVELOPED IN 2 PHASES.
2) THIS MASTER CONCEPT PLAN IS FOR PLANNING PURPOSES ONLY. THE OVERALL CONFIGURATION, SIZE AND LOCATION OF THE
STRUCTURES AND OTHER IMPROVEMENTS MAY VARY SLIGHTLY. FINAL DESIGN AND IMPROVEMENT DETAILS SHALL BE PROVIDED AS
PART OF THE DEVELOPMENT ORDER (DO) PROCESS.
3) THIS PLANNED DEVELOPMENT IS A REDEVELOPMENT PROJECT, WHICH INCLUDES EXISTING SITE IMPROVEMENTS AND STRUCTURES AS
WELL AS PLANNED IMPROVEMENTS. THE INTENT OF THIS MCP IS TO REALISTICALLY DEPICT THOSE CONDITIONS AND REGULATE
ALLOWED USES; HOWEVER, IT SHOULD NOT RESTRICT THE ABILITY TO MAKE OTHER SITE IMPROVEMENTS IF THOSE ARE CONSISTENT
WITH THE GENERAL CONCEPT DEPICTED ON THE MCP AND IN COMPLIANCE WITH APPLICABLE LDC PROVISIONS.
4)PER LDC SECTION 34-2015(4) STACKING OF PARKING SPACES IS ALLOWED WHEN ASSOCIATED WITH A DRIVEWAY, CARPORT OR
UNDER-BUILDING PARKING.
5)PER LDC SECTION 34-2017, THE PARKING ASSOCIATED WITH THIS PROJECT IS CONSIDERED “LOW TURNOVER” AND THEREFORE
ALLOWS ALTERNATIVE UNPAVED SURFACES AS OUTLINED IN THE LDC.
6)PER LDC SECTION 34-1987(A), NO OFF-STREET LOADING AREA IS REQUIRED FOR THIS PROJECT.

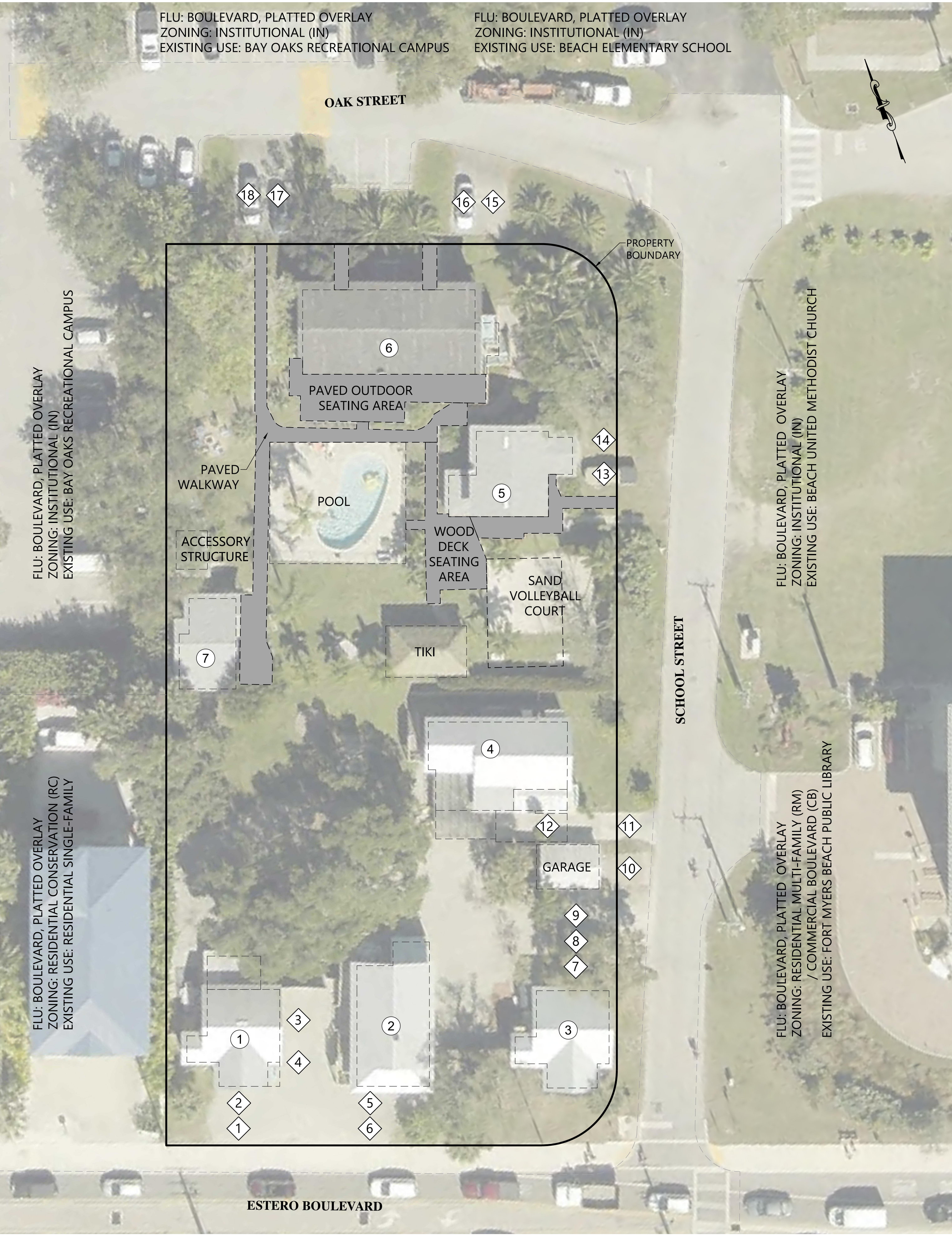
BUILDING DETAILS

- ① ONE STORY, ONE UNIT, +/-700 SF
② TWO STORIES, TWO UNITS, +/- 950 SF
③ ONE STORY, ONE UNIT, +/- 700 SF
④ PARTIAL TWO STORY, ONE UNIT, +/- 900 SF
⑤ TWO STORIES , TWO UNITS, +/- 1,393 SF
AND RESORT OFFICE, 269 SF
⑥ TWO STORIES, FOUR UNITS, +/- 3,122 SF
⑦ ONE STORY, ONE UNIT, +/- 504 SF

PARKING

REQUIRED SPACES: 32
PROVIDED SPACES: 34 (PHASE 1)
36 (PHASE 2)

X - EXISTING PARKING SPACES



0102040

DATE

11/11/2020

HD PV

DRAWN

PERFORMED

DATE

11/11/2020

2

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4

RWA

ENGINEERING

WWW.CONSL

Office: 239.5

Florida

Willi

Rea

CLIENT:

PROJECT:

TITLE:

DATE:

DESIGNED:

REV:

DRAWN:

PROJECT NO.:

SHEET NUMBER:

JUNE 12, 2020

PV

19

45S

24E

DLP

200022.00.00

2 OF 4

12 GUEST UNITS / 6.5 EQUIVALENCY UNITS

- ① ONE STORY, RESTAURANT, +/-700 SF
- ② TWO STORIES, TWO UNITS, +/- 950 SF
- ③ ONE STORY, RETAIL, +/- 700 SF
- ④ PARTIAL TWO STORY, ONE UNIT, +/- 900 SF
- ⑤ TWO STORIES, TWO UNITS, +/- 1,393 SF AND RESORT OFFICE, 269 SF
- ⑥ TWO STORIES, FOUR UNITS, +/- 3,122 SF
- ⑦ ONE STORY, ONE UNIT, +/- 504 SF

- SUBPHASE A: MOVE BUILDING 2
SUBPHASE B: BUILD CENTRALIZED PARKING AREA (GRAVEL + WHEEL STOPS WITH CONTROLLED POINTS OF INGRESS/EGRESS)
SUBPHASE C: CONVERT BUILDING 3 TO RETAIL USE
SUBPHASE D: CONVERT BUILDING 1 TO A RESTAURANT AND ADD OUTDOOR SEATING

- ALL STRUCTURES IDENTIFIED ON THIS SHEET (PHASE 1) ARE EXISTING STRUCTURES. ALL STRUCTURES TO REMAIN IN EXISTING LOCATIONS EXCEPT BUILDING 2, WHICH WILL BE RELOCATED FROM ITS CURRENT LOCATION (SEE SHEET 1) TO THE LOCATION IDENTIFIED ON THIS SHEET.
- INDIVIDUAL PARKING SPACES AND PARKING AREAS WILL MEET LDC DIVISION 26 REQUIREMENTS EXCEPT FOR SPACES SUBJECT TO DEVIATION 4 AS IDENTIFIED ON THE MCP.
- ALL PRINCIPAL STRUCTURES MEET OR EXCEED THE 15' MINIMUM SEPARATION REQUIREMENT.
- WATER MANAGEMENT REQUIREMENTS FOR REDEVELOPMENT PROJECTS CAN VARY SIGNIFICANTLY. THE WATER MANAGEMENT PLAN WILL BE DESIGNED AT TIME OF D.O.
- THIS CPD WILL PROVIDE OPEN SPACE IN ACCORDANCE WITH LDC SECTION 10-415 AND AS MODIFIED BY DIVISION #7.
- EXISTING STRUCTURES ARE DEEMED NON-CONFORMING BUILDINGS IN ACCORDANCE WITH LDC -SECTION 34-3202, POTENTIAL FUTURE IMPROVEMENTS TO THOSE BUILDINGS WILL COMPLY WITH DIVISION 2 OF THE LDC.

DEVIATION #1: A DEVIATION FROM LDC TABLE 34-3 DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICT THAT REQUIRES 15' SIDE SETBACKS FOR THE CR ZONING DISTRICT (PER LDC SEC 34-953 BUILDING PLACEMENT, SIZE, DESIGN, AND ALL OTHER PROPERTY DEVELOPMENT REGULATIONS IN A CPD ZONING DISTRICT SHALL BE THE SAME AS FOR THE CR ZONING DISTRICT FOR CPDS THAT ARE PRIMARILY LODGING...) TO ALLOW A $\pm 6.9'$ FOR BUILDING 1, $\pm 4.3'$ FOR BUILDING 7 AND $\pm 7'$ FOR BUILDING 8.

DEVIATION #2: A DEVIATION FROM LDC SECTION 34-1174(2)(A) THAT REQUIRES ACCESSORY STRUCTURE SETBACKS TO BE THE SAME AS PRINCIPAL STRUCTURES OR 15' TO ALLOW A 3' SIDE SETBACK FOR THE ACCESSORY STRUCTURE ASSOCIATED WITH BUILDING 7, AND +/- 5.9' FOR THE ACCESSORY GARAGE ASSOCIATED WITH BUILDING 4.

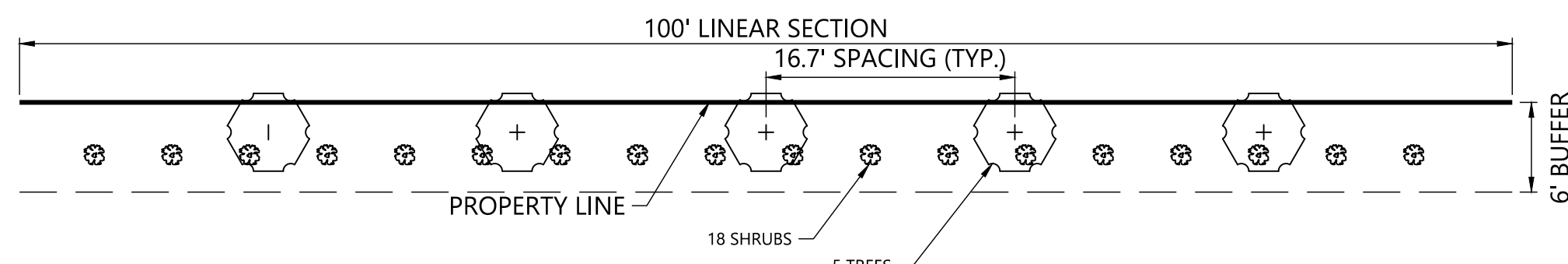
DEVIATION #3: A DEVIATION FROM LDC TABLE 34-3 DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICT THAT REQUIRES 10' STREET SETBACKS FOR THE CR ZONING DISTRICT (*PER LDC SEC 34-953 BUILDING PLACEMENT, SIZE, DESIGN, AND ALL OTHER PROPERTY DEVELOPMENT REGULATIONS IN A CPD ZONING DISTRICT SHALL BE THE SAME AS FOR THE CR ZONING DISTRICT FOR CPDS THAT ARE PRIMARILY LODGING...*) TO ALLOW A ±2.6' SETBACK FOR BUILDING 3.

DEVIATION #4: A DEVIATION FROM LDC SECTION 34-2015 (5), WHICH REQUIRES THAT “ALL PARKING LOTS MUST BE PROVIDED WITH SUFFICIENT MANEUVERING ROOM SO AS TO ALLOW AN EXITING VEHICLE TO LEAVE THE PARKING LOT IN A FORWARD MOTION...”, TO ALLOW EXITING VEHICLES TO LEAVE PARKING SPACES BY BACKING ONTO SCHOOL OR OAK STREETS.

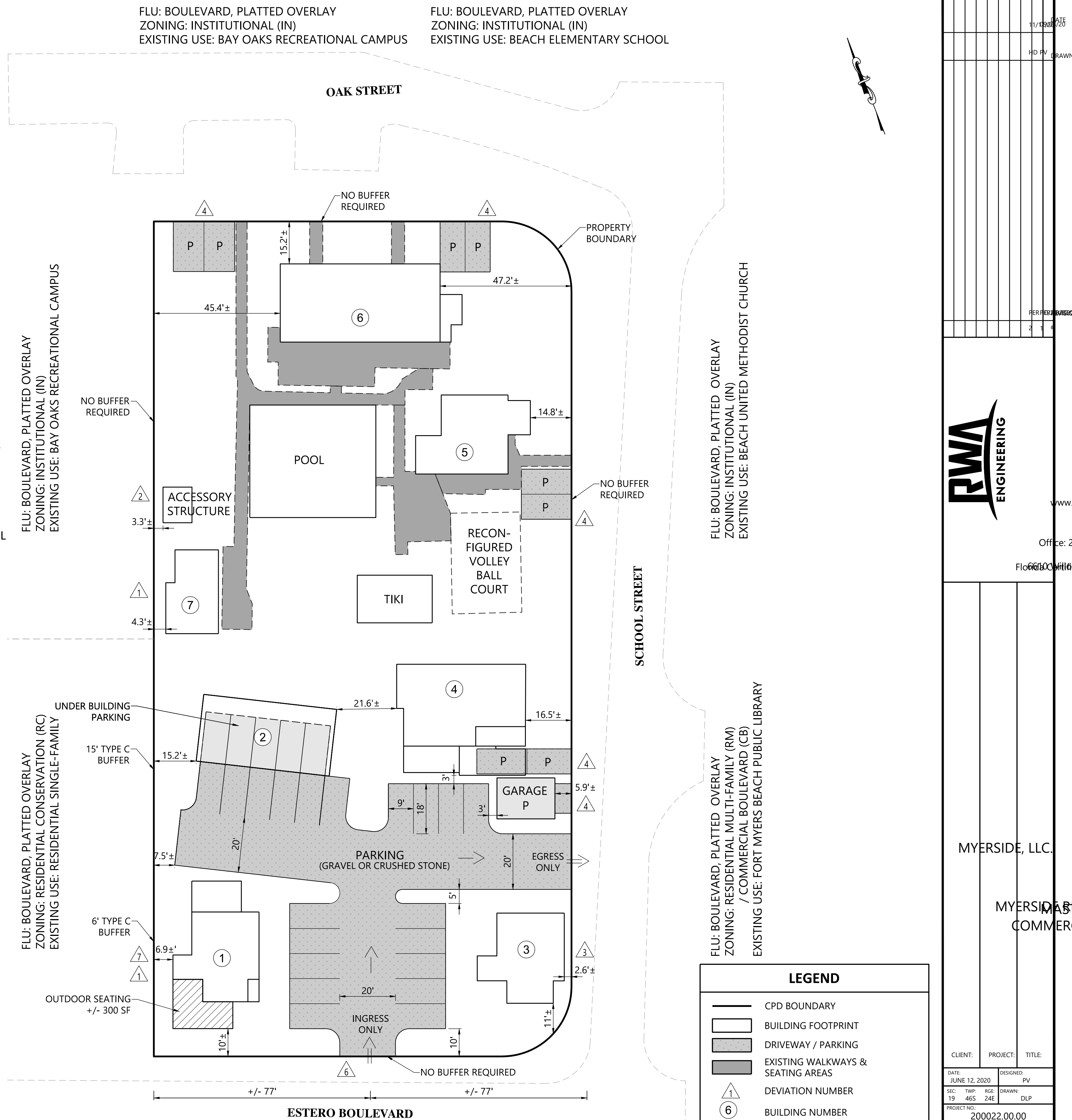
DEVIATION #5: A DEVIATION FROM THE DRIVEWAY SEPARATION REQUIREMENTS OF LDC SECTION 10-296 ALONG ESTERO BOULEVARD TO ALLOW A DRIVEWAY ACCESS TO THE SUBJECT PROPERTY THAT IS $\pm 77'$ FROM THE CLOSES ACCESS POINT TO THE NORTH AND ± 77 TO SCHOOL STREET.

DEVIATION #6: A DEVIATION FROM LDC SECTION 10-416(D) TABLE 10-18 WHICH REQUIRES A 15' TYPE C BUFFER WHEN A COMMERCIAL USE ABUTS A RESIDENTIAL USE, TO ALLOW A 6' TYPE C BUFFER AS INDICATED ON THE MASTER CONCEPT PLAN.

DEVIATION #7: A DEVIATION FROM LDC SECTION 34-202(b)(5), WHICH REQUIRED ARCHITECTURAL ELEVATIONS OR A THREE-DIMENSIONAL RENDERING, TO INSTEAD ALLOW PICTURES OF THE EXISTING STRUCTURES.



DEVIATION #7 BUFFER SECTION



DENSITY

14 GUEST UNITS / 7.3 EQUIVALENCY UNITS

BUILDING DETAILS

- 1 ONE STORY, RESTAURANT, +/-700 SF
- 2 TWO STORIES, TWO UNITS, +/- 950 SF
- 3 ONE STORY, RETAIL, +/- 700 SF
- 4 PARTIAL TWO STORY, ONE UNIT, +/- 900 SF
- 5 TWO STORIES , TWO UNITS, +/- 1,393 SF AND RESORT OFFICE, 269 SF
- 6 TWO STORIES, FOUR UNITS, +/- 3,122 SF
- 7 ONE STORY, ONE UNIT, +/- 504 SF
- 8 TWO STORIES, FOUR UNITS,+/- 1,600 SF

PHASING

PHASE 2

- ADD BUILDING 8. MAY BE NEW CONSTRUCTION OR EXISTING ISLAND COTTAGE MOVED TO THE SITE.

NOTES

- ALL STRUCTURES EXCEPT BUILDING 8 ARE EXISTING BUILDINGS.
- INDIVIDUAL PARKING SPACES AND PARKING AREAS WILL MEET LDC DIVISION 26 REQUIREMENTS EXCEPT FOR SPACES SUBJECT TO DEVIATION 4 AS IDENTIFIED ON THE MAP.
- ALL PRINCIPAL STRUCTURES MEET OR EXCEED 15' MINIMUM SEPARATION REQUIREMENT.
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SCHEDULE OF DEVIATIONS

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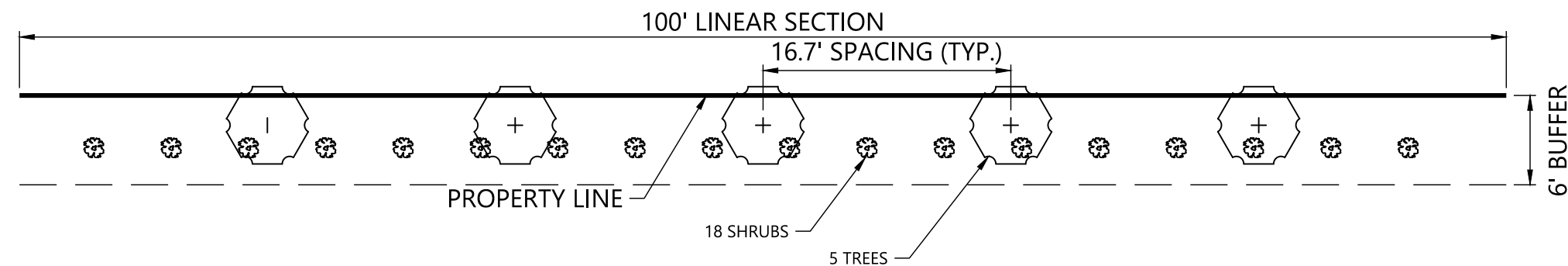
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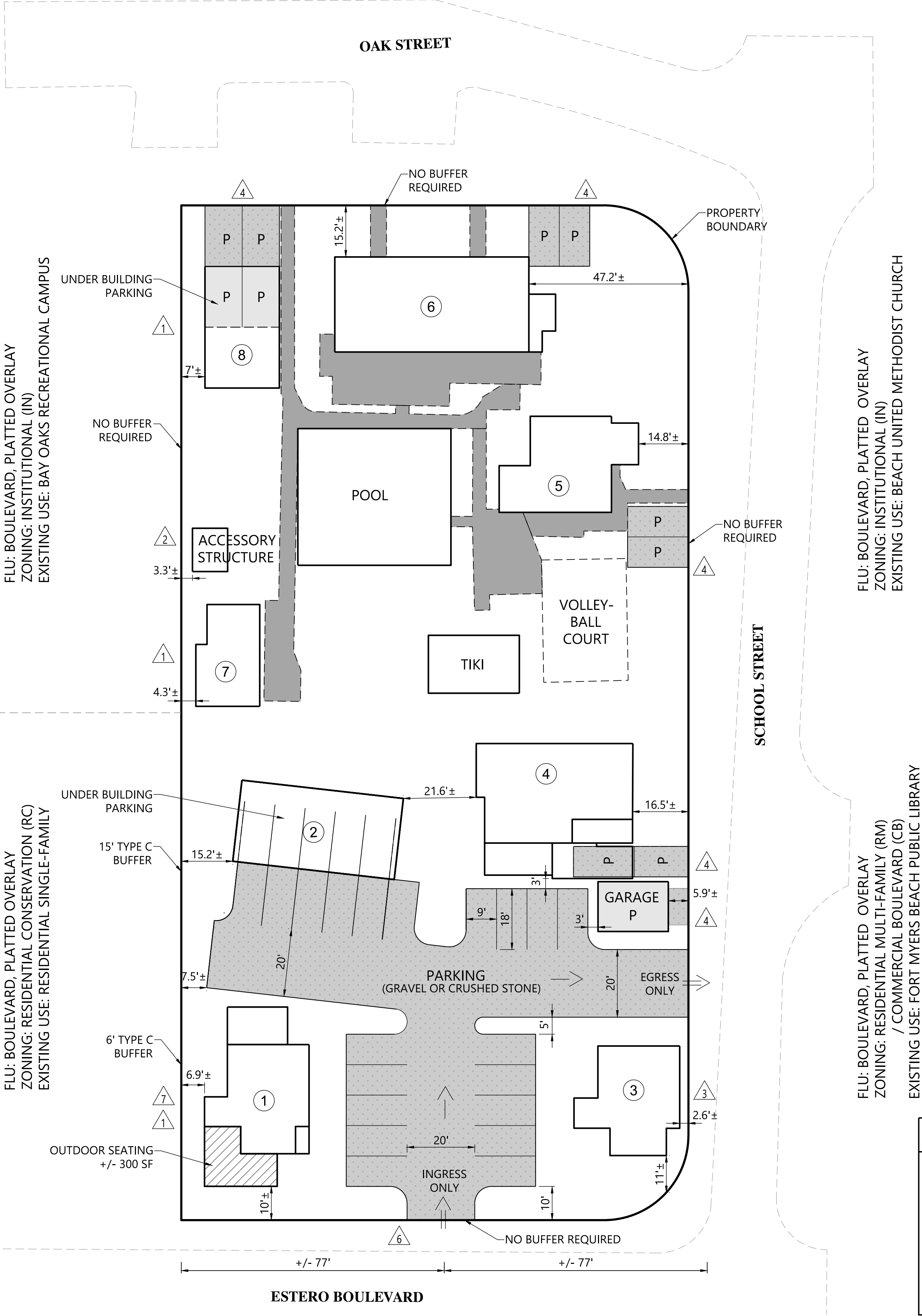
DEVIATION #7: A DEVIATION FROM LDC SECTION 34-202(b)(5), WHICH REQUIRED ARCHITECTURAL ELEVATIONS OR A THREE-DIMENSIONAL RENDERING, TO INSTEAD ALLOW PICTURES OF THE EXISTING STRUCTURES.



DEVIATION #7 BUFFER SECTION

FLU: BOULEVARD, PLATTED OVERLAY
ZONING: INSTITUTIONAL (IN)
EXISTING USE: BAY OAKS RECREATIONAL CAMPUS

FLU: BOULEVARD, PLATTED OVERLAY
ZONING: INSTITUTIONAL (IN)
EXISTING USE: BEACH ELEMENTARY SCHOOL



FLU: BOULEVARD, PLATTED OVERLAY
ZONING: INSTITUTIONAL (IN)
EXISTING USE: BEACH UNITED METHODIST CHURCH

FLU: BOULEVARD, PLATTED OVERLAY
ZONING: RESIDENTIAL MULTI-FAMILY (RM)
/ COMMERCIAL BOULEVARD (CB)
EXISTING USE: FORT MYERS BEACH PUBLIC LIBRARY

LEGEND

CPD BOUNDARY

BUILDING FOOTPRINT

DRIVEWAY / PARKING

EXISTING WALKWAYS & SEATING AREAS

1

DEVIATION NUMBER

6

BUILDING NUMBER

0102040

DATE

11/19/2020

HD PV

DRAWN

PERFORMED

DATE

11/19/2020

2

1

4

RWA

ENGINEERING

www.cons

Office: 239.5

Flo 66100

Willwa Ra

MYERSIDE, LLC.

MYERSIDE BEACH

COMMERCIAL

CLIENT:

PROJECT:

TITLE:

DATE:

JUNE 12, 2020

DESIGNED:

PV

SRC:

19

TWP:

45S

RES:

24E

DRAWN:

DLP

PROJECT NO.:

200022.00.00

SHEET NUMBER:

4 OF 4



July 10, 2020

VIA E-MAIL (kbhutada@fmbgov.com) AND REGULAR U. S. MAIL

Ms. Kelly Bhutada
Town of Fort Myers Beach - Community
Development
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Town of Fort Myers Beach

JUL 13 2020

Received by: _____

RE: DCI #20200009
Myerside Resort and Cottages
Response to Insufficiency Letter of February 19, 2020

Dear Ms. Bhutada:

This is our response to your February 19, 2020 insufficiency letter with regard to the above-referenced application. We have placed your comment first and provided a response following:

1. As required under PART-V (B) of Public Hearing application, please provide signed and sealed boundary survey and a sketch of legal description describing the entire continuous perimeter boundary of the property subject to the zoning action.

Response: By separate e-mail you have agreed that since this is platted property that no boundary survey or sealed sketch of legal description is required.

2. Please revised the master concept plan (MCP) to provide all details as given under Town's Land Development Code Sec. 34-212. Additionally provide Architectural elevation drawings.

Response: Enclosed is a revised 4-page Master Concept Plan dated June 12, 2020, which contains the following:

Schedule of Uses
Site Development Regulations
Building Details
Parking
Schedule of Deviations
General Notes
Phasing plans

Phase 1 contains sub-phase A, sub-phase B, sub-phase C, and sub-phase D. The timing of which can be altered as to the sequence of implementation of the phases. Also included is a revised list of deviations and justification for deviations to accompany the revised Master Concept Plan. Phase 1 includes the relocation of Building 2. Phase 2 includes adding Building 8 to the site. Since seven of the eight buildings exist, the architectural theme is established and the 8th building will be consistent with that architectural theme. Exhibit C to the Narrative reflect the architectural theme of Old Fort Myers Beach cottages for the Subject Property. Also enclosed is a revised Narrative regarding consistency with the Comprehensive Plan of Fort Myers Beach and the consistency with the criteria for rezoning in the Land Development Code.

3. Provide parking calculations compliance with Town's Land Development Code Chapter 34, Article IV, Division 26. Additionally, parking spaces provided on site plan exceeds actual parking spaces on the site. Please revise the MCP to provide correct details.

Response: Maximum parking requirements are based on the following:

- Building 1 - restaurant with outdoor seating - 8 spaces
- Building 2 - 2 guest units - 2.4 spaces
- Building 3 - retail - 2.1 spaces
- Building 4 - 1 guest units - 1.5 spaces
- Building 5 - 2 guest units and office - 4.5 spaces
- Building 6 - 4 units - 6 spaces
- Building 7 - 1 unit - 1.5 spaces
- Building 8 - 4 units - 4.8 spaces

There will be at least 32 parking spaces (which may include a bike rack).

-
4. The Proposed development provide parking that will encroach in to the public Right of Way (ROW). No parking space shall encroach in to the ROW, please revise MCP.

Response: Parking encroaching into the ROW has been removed from the MCP.

5. Provide proof of ownership of Red Shutter Cottage and provide authorization from the owner to move the structure on the island.

Response: This is a request for rezoning to Commercial Planned Development (CPD). There is no specific request for a named cottage which may or may not be transferred to the site. Building 8 will be an additional building of 1,600 square

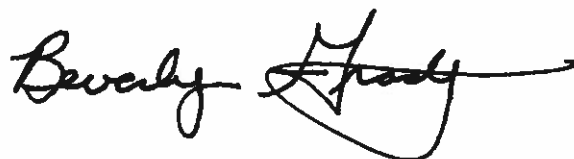
Ms. Kelly Bhutada - Town of Fort Myers Beach
July 10, 2020
Page 3

feet in compliance with the architecture typical of Fort Myers Beach cottages and proposed in Exhibit C.

Also enclosed please find a revised Exhibit 4-1 to Part IV - Property Ownership as the ownership for Lots 29 through 34 have been transferred to Myerside LLC.

Very truly yours,

ROETZEL & ANDRESS, LPA

A handwritten signature in black ink, appearing to read "Beverly Grady", with a stylized flourish at the end.

Beverly Grady

BG/ro

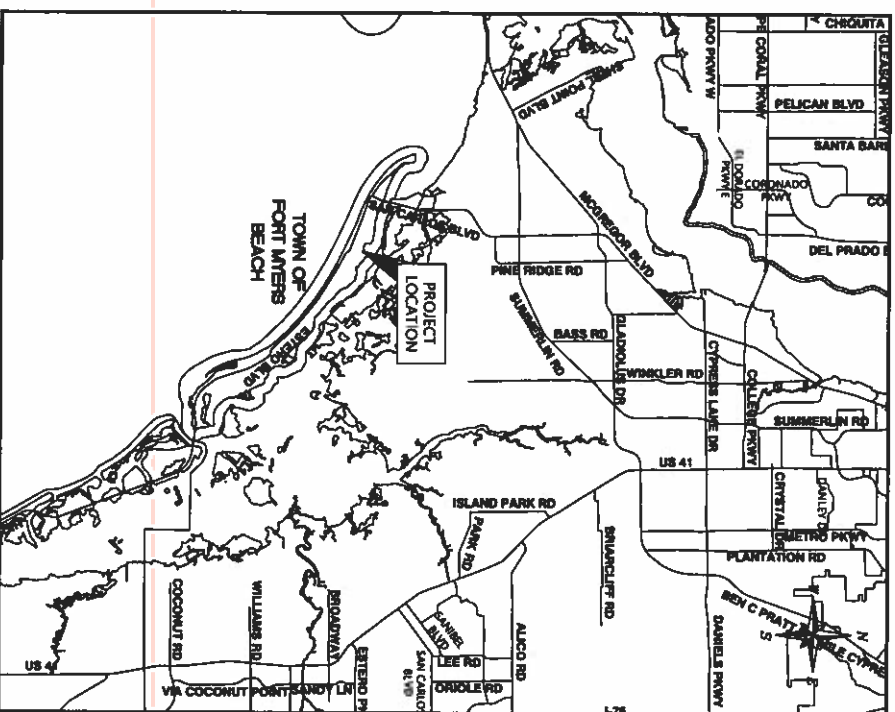
Enclosures (3 sets are provided):

- Revised Master Concept Plan
- Revised Deviations and Justifications
- Revised Narrative
- Exhibit C to Narrative
- Revised Exhibit 4-1 to Part IV - Property Ownership

MASTER CONCEPT PLAN FOR
MYERSIDE RESORT AND COTTAGE

PLANNED DEVELOPMENT

TOWN OF FORT MYERS BEACH, SECTION 19, TOWNSHIP 46S, RANGE 24E,
LEE COUNTY, FLORIDA



VICINITY MAP
N.T.S.



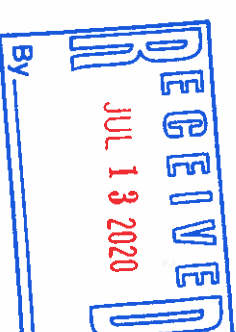
SITE LOCATION MAP
N.T.S.



6610 Withers Park Drive
Suite 200
Fort Myers, FL 33906
Myers, FL 34109

Office: (239) 597-0575
Fax: (239) 597-0578
www.rma-engineering.com
Florida Certificate of Authorization
ES 7663, LB 6952

PREPARED FOR/OWNED BY:
MYERSIDE, LLC.
145 SCHOOL ST.
FORT MYERS BEACH, FL 33931



CONTENTS	
SHEET NUMBER	SHEET DESCRIPTION
1	COVER SHEET
2	MASTER CONCEPT PLAN-EXISTING CONDITIONS
3	MASTER CONCEPT PLAN - PHASE 1
4	MASTER CONCEPT PLAN - PHASE 2
DATE: JUNE 12, 2020	PROJECT No.: 200022.00.00
	SHEET No.: 1 of 4

SCHEDULE OF USES

DWELLING UNITS, SINGLE OR 2-UNIT OR MULT-FAMILY
BED AND BREAKFAST
HOTEL/MOTEL
GUEST UNITS
RENTAL OF ANY PERMITTED UNIT PER PERIODS OF ONE DAY OR LONGER
RESORT
ACCESSORY APARTMENT
RESIDENTIAL ACCESSORY USE
ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES
RESORT ACCESSORY USE
PERSONAL SERVICES
SUBORDINATE COMMERCIAL USES
RECREATIONAL FACILITIES
RETAIL STORE, SMALL
RESTAURANT

BUILDING DETAILS

- ① ONE STORY, ONE UNIT, +/-700 SF
- ② TWO STORIES, TWO UNITS, +/- 950 SF
- ③ ONE STORY, ONE UNIT, +/- 700 SF
- ④ PARTIAL TWO STORY, ONE UNIT, +/- 900 SF
- ⑤ TWO STORIES, TWO UNITS, +/- 1,393 SF
- ⑥ AND RESORT OFFICE, 269 SF
- ⑦ TWO STORIES, FOUR UNITS, +/- 3,122 SF
- ⑧ ONE STORY, ONE UNIT, +/- 504 SF

PARKING

REQUIRED SPACES:	32
PROVIDED SPACES:	33 (PHASE 1)
	35 (PHASE 2)

SITE DEVELOPMENT REGULATIONS

PRINCIPAL STRUCTURES
MINIMUM STREET SETBACK: 4 FEET
MINIMUM SIDE SETBACK: 4.3 FEET
MAXIMUM HEIGHT: 30 FEET PER LDC SECTION 34-631, MAXIMUM 3 STORIES
MINIMUM LOT SIZE: 20,000 SQUARE FEET
MINIMUM LOT WIDTH: 100 FEET
MINIMUM LOT DEPTH: 100 FEET
MINIMUM BUILDING SEPARATION: 15 FEET
MAXIMUM FLOOR AREA RATIO: 1.2

ACCESSORY STRUCTURES
MINIMUM SIDE SETBACK: SAME AS PRINCIPAL STRUCTURES, EXCEPT FOR ACCESSORY SHED TO BUILDING 7, WHICH WILL HAVE A MINIMUM SETBACK OF 3 FEET.

ALL OTHER DEVELOPMENT STANDARDS SHALL BE AS SET FORTH IN LDC CHAPTER 34 OR OTHER APPLICABLE PROVISIONS IN THE LDC.

SCHEDULE OF DEVIATIONS

DEVIATION #1: A DEVIATION FROM LDC TABLE 34-3 DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICT THAT REQUIRES 15' SIDE SETBACKS FOR THE CR ZONING DISTRICT (PER LDC SEC 34-953 BUILDING PLACEMENT, SIZE, DESIGN, AND ALL OTHER PROPERTY DEVELOPMENT REGULATIONS IN A CPD ZONING DISTRICT SHALL BE THE SAME AS FOR THE CR ZONING DISTRICT FOR CPDS THAT ARE PRIMARILY LODGING...) TO ALLOW A 46.9' FOR BUILDING 1, 44.3' FOR BUILDING 7 AND 47' FOR BUILDING 8.
DEVIATION #2: A DEVIATION FROM LDC SECTION 34-1174(2)(A) THAT REQUIRES ACCESSORY STRUCTURE SETBACKS TO BE THE SAME AS PRINCIPAL STRUCTURES OR 15' TO ALLOW A 3' SIDE SETBACK FOR THE ACCESSORY SHED ASSOCIATED WITH BUILDING 7.
DEVIATION #3: A DEVIATION FROM LDC TABLE 34-3 DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICT THAT REQUIRES 10' STREET SETBACKS FOR THE CR ZONING DISTRICT (PER LDC SEC 34-953 BUILDING PLACEMENT, SIZE, DESIGN, AND ALL OTHER PROPERTY DEVELOPMENT REGULATIONS IN A CPD ZONING DISTRICT SHALL BE THE SAME AS FOR THE CR ZONING DISTRICT FOR CPDS THAT ARE PRIMARILY LODGING...) TO ALLOW A 44' FOR BUILDING 3.
DEVIATION #4: A DEVIATION FROM LDC SECTION 34-2015 (5), WHICH REQUIRES THAT "ALL PARKING LOTS MUST BE PROVIDED WITH SUFFICIENT MANEUVERING ROOM SO AS TO ALLOW AN EXITING VEHICLE TO LEAVE THE PARKING LOT IN A FORWARD MOTION...", TO ALLOW EXITING VEHICLES TO LEAVE PARKING SPACES BY BACKING ONTO SCHOOL OR OAK STREETS.
DEVIATION #5: A DEVIATION FROM LDC SECTION 34-2016, DIMENSIONAL REQUIREMENTS, DELINEATION OF PARKING SPACES, TO ALLOW COMPACT CAR PARKING SPACES 0 8' X 16' AS SPECIFICALLY IDENTIFIED ON THE MASTER CONCEPT PLAN.
DEVIATION #6: A DEVIATION FROM THE DRIVEWAY SEPARATION REQUIREMENTS OF LDC SECTION 10-296 ALONG ESTERO BOULEVARD TO ALLOW A DRIVEWAY ACCESS TO THE SUBJECT PROPERTY THAT IS 477' FROM THE CLOSES ACCESS POINT TO THE NORTH AND 477 TO SCHOOL STREET.
DEVIATION #7: A DEVIATION FROM LDC SECTION 10-416(D) TABLE 10-18 WHICH REQUIRES A 15' TYPE C BUFFER WHEN A COMMERCIAL USE ADJUTS A RESIDENTIAL USE, TO ALLOW A 6' TYPES C BUFFER AS INDICATED ON THE MASTER CONCEPT PLAN.

GENERAL NOTES

- 1) THIS PROJECT WILL BE DEVELOPED IN 2 PHASES.
- 2) THIS MASTER CONCEPT PLAN IS FOR PLANNING PURPOSES ONLY. THE OVERALL CONFIGURATION, SIZE AND LOCATION OF THE STRUCTURES AND OTHER IMPROVEMENTS MAY VARY SLIGHTLY. FINAL DESIGN AND IMPROVEMENT DETAILS SHALL BE PROVIDED AS PART OF THE DEVELOPMENT ORDER (DO) PROCESS.
- 3) THIS PLANNED DEVELOPMENT IS A REDEVELOPMENT PROJECT, WHICH INCLUDES EXISTING SITE IMPROVEMENTS AND STRUCTURES AS WELL AS PLANNED IMPROVEMENTS. THE INTENT OF THIS MCP IS TO REALISTICALLY DEPICT THOSE CONDITIONS AND REGULATE ALLOWED USES; HOWEVER, IT SHOULD NOT RESTRICT THE ABILITY TO MAKE OTHER SITE IMPROVEMENTS IF THOSE ARE CONSISTENT WITH THE GENERAL CONCEPT DEPICTED ON THE MCP AND IN COMPLIANCE WITH APPLICABLE LDC PROVISIONS.
- 4) PER LDC SECTION 34-2015(4) STACKING OF PARKING SPACES IS ALLOWED WHEN ASSOCIATED WITH A DRIVEWAY, CARPORT OR UNDER-BUILDING PARKING.
- 5) PER LDC SECTION 34-2017, THE PARKING ASSOCIATED WITH THIS PROJECT IS CONSIDERED "LOW TURNOVER" AND THEREFORE ALLOWS ALTERNATIVE UNPAVED SURFACES AS OUTLINED IN THE LDC.
- 6) PER LDC SECTION 34-1987(A), NO OFF-STREET LOADING AREA IS REQUIRED FOR THIS PROJECT.

June 25, 2020 7:41 AM K:\2020\20022.00.00 Myside Planned Development\0002 PD Support Services & MCP\MCP Plans\02 20022\0000C.MXD.dwg



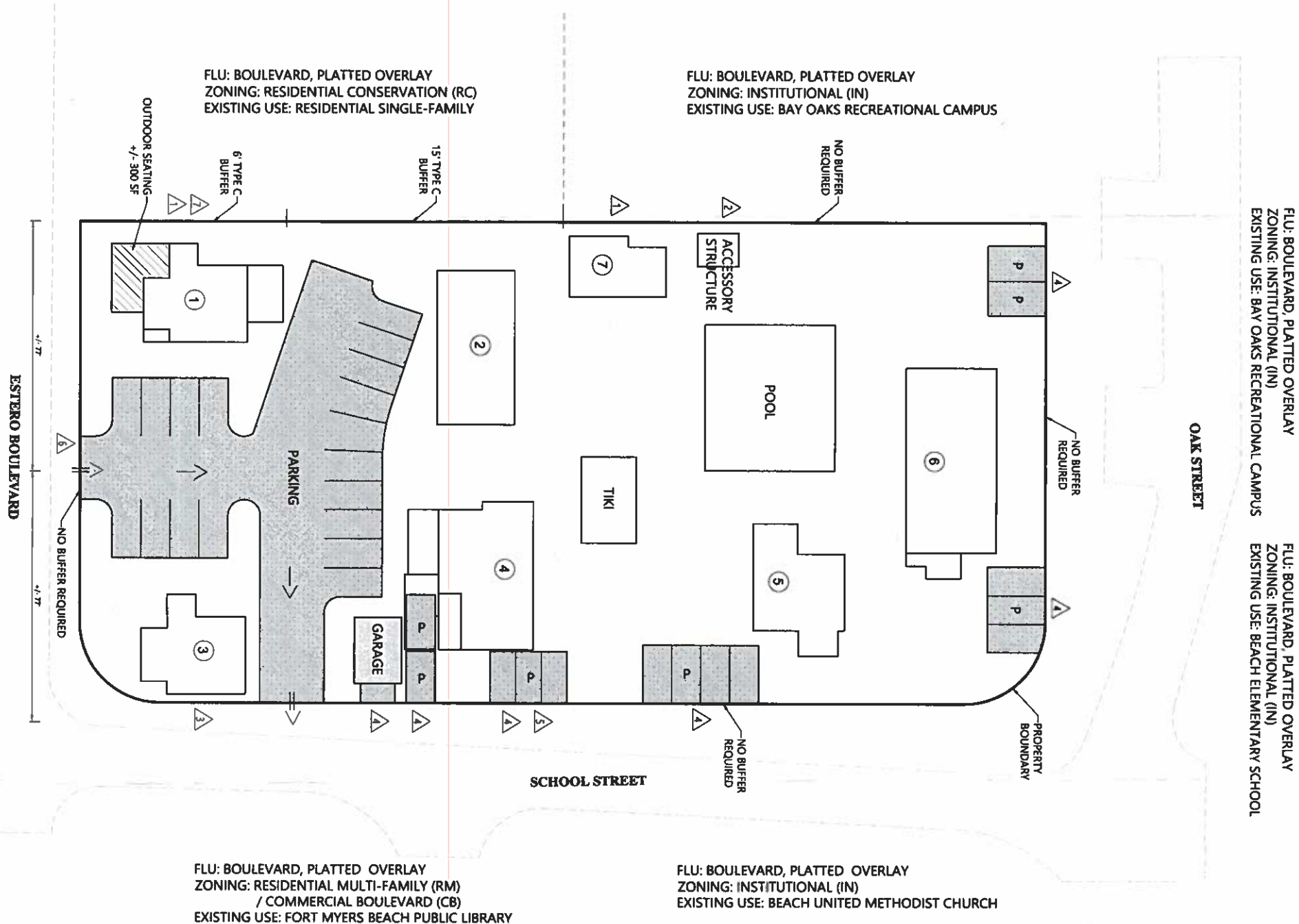
LEGEND	
	RPD BOUNDARY
	BUILDING FOOTPRINT
	DRIVEWAY
	DEVIATION NUMBER
	BUILDING NUMBER

BUILDING DETAILS

- ① ONE STORY, RESTAURANT, +/-700 SF
- ② TWO STORIES, TWO UNITS, +/- 950 SF
- ③ ONE STORY, RETAIL, +/- 700 SF
- ④ PARTIAL TWO STORY, ONE UNIT, +/- 900 SF
- ⑤ TWO STORIES, TWO UNITS, +/- 1,393 SF AND RESORT OFFICE, 269 SF
- ⑥ TWO STORIES, FOUR UNITS, +/- 3,122 SF
- ⑦ ONE STORY, ONE UNIT, +/- 504 SF

PHASING

PHASE 1
SUBPHASE A: MOVE BUILDING 2
SUBPHASE B: BUILD CENTRALIZED PARKING AREA (GRAVEL + WHEEL STOPS WITH CONTROLLED POINTS OF INGRESS/EGRESS)
SUBPHASE C: CONVERT BUILDING 3 TO RETAIL USE
SUBPHASE D: CONVERT BUILDING 1 TO A RESTAURANT AND ADD OUTDOOR SEATING

[illegible]

LEGEND	
	RPD BOUNDARY
	BUILDING FOOTPRINT
	DRIVEWAY
	DEVIATION NUMBER
	BUILDING NUMBER

- ① ONE STORY, RESTAURANT, +/-700 SF
- ② TWO STORIES, TWO UNITS, +/- 950 SF
- ③ ONE STORY, RETAIL, +/- 700 SF
- ④ PARTIAL TWO STORY, ONE UNIT, +/- 900 SF
- ⑤ TWO STORIES, TWO UNITS, +/- 1,393 SF AND RESORT OFFICE, 269 SF
- ⑥ TWO STORIES, FOUR UNITS, +/- 3,122 SF
- ⑦ ONE STORY, ONE UNIT, +/- 504 SF
- ⑧ TWO STORIES, FOUR UNITS, +/- 1,600 SF

PHASE 2
SUBPHASE A: ADD BUILDING 8 = EXISTING OFF-SITE COTTAGE THAT WILL BE MOVED TO SUBJECT PROPERTY





Myerside Resort and Cottages Planned Development Schedule of Deviations and Justifications

The Myerside Resort and Cottages CPD is a redevelopment project aimed at conserving historical beach cottages and improving the subject property to create an attractive and functional boutique resort that offers lodging, recreational amenities, and small accessory restaurant and retail components that will serve resort and the general public. The existing structures on site date back to the 1930's. Since then development regulations have changed significantly, making those existing building non-conforming. The CPD zoning option provides design flexibility to allow innovative projects and planning practices through the use of deviations and site-specific development standards. Through the CPD and the deviations below, nonconformities can be addressed, conditioned and legitimized. The deviations requested are needed because of existing historical conditions – i.e. building placement and site configuration. It should be noted that most of the buildings and site improvements have been in place for decades and have had no detrimental impact on adjacent properties. The proposed CPD is consistent with the Town's comprehensive plan and furthers the intent of the Boulevard future land use district. As stated in Policy 4-B-5, the Boulevard district allows, and promotes the conservation of historic cottages and the mixed-use nature of this area.

DEVIATION #1: A deviation from LDC Table 34-3 Dimensional Regulations in Conventional Zoning District that requires 15' side setbacks for the CR zoning district (*Per LDC Sec 34-953 Building placement, size, design, and all other property development regulations in a CPD zoning district shall be the same as for the CR zoning district for CPDs that are primarily lodging...*) to allow $\pm 6.9'$ for Building 1, $\pm 4.3'$ for Building 7 and $\pm 7'$ for Building 8.

JUSTIFICATION: Since this is an existing condition and the structures have been in these locations for decades, it is appropriate to grant relief from the side setback requirement for buildings 1, 7 and 8. The resort concept proposed is a continuance of the Fort Myers Beach early village design. It is important to recognize that the CPD proposes a village concept that is an improvement to this neighborhood and that a reduced setback is needed for this proposed village design. The proposed deviation simply legitimizes and allows the continuation of existing conditions that have had no detrimental impacts on adjacent properties.

DEVIATION #2: A deviation from LDC Section 34-1174(2)(a) that requires accessory structure setbacks to be the same as principal structures or 15' to allow a 3' side setback for the accessory shed associated with Building 7.

JUSTIFICATION: Since this is an existing condition and the structure has been in this location for decades, it is appropriate to grant relief from the side setback requirement for the accessory shed associated with Building 7. The proposed deviation simply legitimizes and allows the continuation of an existing condition that has no detrimental impact on adjacent properties. The shed abuts the public parking lot of the Bay Oaks pool facility and will continue to have no impact to public health, safety and welfare.

DEVIATION #3: A deviation from LDC Table 34-3 Dimensional Regulations in Conventional Zoning District that requires 10' street setbacks for the CR zoning district (*Per LDC Sec 34-953 Building placement, size, design, and all other property development regulations in a CPD zoning district shall be the same as for the CR zoning district for CPDs that are primarily lodging...*) to allow a $\pm 4'$ for Building 3.

JUSTIFICATION: Since this is an existing condition and the structure has been in this location for decades, it is appropriate to grant relief from the street setback requirement for Buildings 3. Building 3 is an integral part of the village resort concept proposed for this property. It has been in its current location for decades, it has no detrimental impact to adjacent properties and does not affect public health, safety and welfare. The proposed deviation legitimizes and allows the continuation of this existing condition.

DEVIATION #4: A deviation from LDC Section 34-2015 (5), which requires that "all parking lots must be provided with sufficient maneuvering room so as to allow an exiting vehicle to leave the parking lot in a forward motion...", to allow exiting vehicles to leave parking spaces by backing onto School or Oak Streets.

JUSTIFICATION: This deviation is requested to allow the continuation of existing conditions and to accomplish the village concept in which the existing parking is located on the periphery of the property and the recreational and open space areas are located at the center of the village complex. The proposed MCP and associated parking plan allows for some existing parking spaces to maintain their "back out" configuration along Oak Street and School Street. These parking spaces account for a small amount of the overall spaces and are in proximity and accessory to existing buildings. Moreover, Oak and School Streets are local roads with very low traffic volumes and low travel speeds. The existing back out spaces have not created unsafe conditions in the past nor will they do so in the future. The parking arrangement supports the village design and ease of access and convenience for patrons of the resort. Along Estero Boulevard where buildings 1 and 3 will be converted into ancillary restaurant and retail space, the parking has been centralized and formalized to improve access, circulation and general safety conditions by reducing access points, and eliminating back up parking spaces onto Estero Boulevard. The proposed improvement, in combination with the proposed deviation, will allow a much-improved parking plan, while allowing the village resort look and feel to be maintained.

DEVIATION #5: A deviation from LDC Section 34-2016, Dimensional requirements; delineation of parking spaces, to allow Compact Car parking spaces of 8' x 16' as specifically identified on the Master Concept Plan.

JUSTIFICATION: This deviation is requested in conjunction with deviation #4, to allow the continuation of existing parking conditions, and in support of the parking plan and village concept where accessory parking is proximate to individual buildings located on the periphery of the property. The proposed deviation allows for a slight reduction in parking space width and length. The proposed dimensions are consistent with compact parking spaces allowed throughout southwest Florida and the rest of the country. Some of the existing sub-standard spaces that are smaller than 8'x16' have been eliminated or moved slightly from their existing location to be consistent with the proposed deviation. The reduced dimensions will not have any impact on public health, safety and welfare.

DEVIATION #6: A deviation from the driveway separation requirements of LDC Section 10-296 along Estero Boulevard to allow a driveway access to the subject property that is $\pm 66'$ from the closes access point to the north and $\pm$ to School Street.

JUSTIFICATION: This is a request for a deviation from driveway access separation along Estero Boulevard. Currently, there are two driveway accesses from Estero Boulevard to the subject property. The two access points are being reduced to one access point. Phase 1 relocates Building 2 and creates one access point to a parking lot that will services the proposed accessory restaurant (Building 1) and retail (Building 3), as well as the guest units. This new configuration eliminates existing “back up” parking along Estero and limits the Estero access point to “ingress only” and the School access point to “egress only.” This configuration will improve circulation patterns and safety conditions. The proposed access point on Estero is located $\pm 77'$ from the nearest driveway to the north and $\pm 77'$ from School Street to the south.

DEVIATION #7: A deviation from LDC Section 10-416(d) Table 10-18 which requires a 15' Type C buffer when a commercial use abuts a residential use, to allow a 6' Types C buffer as indicated on the Master Concept Plan.

JUSTIFICATION: This deviation is requested in conjunction with deviation #1 and provides relief to the buffer separation requirement due to existing site conditions. Building 1 is located approximately 6.9' from the adjacent property line where code requires a 15' Type C buffer. Along the length of Building 1, this deviation will allow the required Type C plantings and fence to be located within a 6' strip rather than a 15' strip. The proposed buffer will provide the required Type C plantings and fence but the buffer width will be reduced to accommodate Building 1 that has been in this location for decades. This deviation meets the intent of the buffer requirement, while not having any detrimental impact on the adjacent property and public health, safety and welfare.

MYERSIDE RESORT AND COTTAGES NARRATIVE
SUPPORTING CONSISTENCY WITH FORT MYERS BEACH COMPREHENSIVE PLAN,
CRITERIA FOR REZONING LDC 34-85; DESIGN GUIDELINES,
Revised July 10, 2020

This is a request to rezone Lots 23-34, Block C, Winklers Subdivision from RC to Commercial Planned Development (CPD) for a resort community (Subject Property) Myerside Resort and Cottages. The Subject Property is located at 2661-2681 Estero Boulevard, 125 and 131-151 School Street – 3 contiguous parcels. The Subject Property is designated as Boulevard in the Future Land Use Map attached as Exhibit A which is defined as follows:

POLICY 4-B-5 “BOULEVARD”: a mixed-use district along portions of Estero Boulevard, including less intense commercial areas, historic cottages, and mixed housing types. This category is not intended to allow commercial uses on all properties; its mixed-use nature is intended to remain permanently. For new residential development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overly” indicates a maximum density of 10 units per acre for legally existing dwelling units). To obtain approval for new or expanded commercial activities, proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. Non-residential uses (including motels and churches) now comprise 46.9% of the land in this category, and this percentage shall not exceed 70%.

The Subject Property consists of 3 strap numbers and is located within the platted overlay which permits 10 dwelling units to the acre and requests a rezoning to CPD. Lots 23–28 are currently owned by Cottages at Myerside LLC and that parcel contains 5 structures with 5 dwelling units. Lots 29-34 which were owned by Weinmann Realty LLC have been transferred to Myerside LLC and that parcel contains 3 structures with 7 dwelling units. Although the official plat is sufficient for the legal description and boundary of the Subject Property, please find Exhibit 5-2 the survey attached for Lots 23-28 and the survey attached for Lots 29-34 to establish the location of the existing structures).

Lots 29-34 were approved for a special exception for a bed and breakfast inn by Council Resolution number 16-09 which is attached as Exhibit B. So the resort use has already been approved for half of the Property. (Note that since the Subject Property is platted in the official plat books no boundary survey is required for the Subject Property).

Boulevard is a mixed-use district. The Subject Property is surrounded by streets on three sides: Estero Boulevard, School Street and Oak Street. On the 4th side over one-half of the property line

is adjacent to a parking lot and also adjacent to a 2-story single-family home that is located on Estero Boulevard. The lot line adjacent to the parking lot and 2-story unit should be deemed a side lot line for purposes of property development regulations. The Master Concept Plan proposes an adequate buffer adjacent to the single-family lot. There is high density multi-family, offices and institutional uses surrounding the property. The Boulevard designation recognizes that non-residential uses are appropriate and states that the non-residential uses including motels and churches comprise 49% of the land and that the percentage shall not exceed 70%.

The subject site is located in a predominantly institutional area directly adjacent to the Bay Oaks Community Pool, across Oak Street from Bay Oaks Recreation Center ballfields, and Fort Myers Beach Elementary School and across School Street from the Fort Myers Beach United Methodist Church and public library. The site fronts on Estero Boulevard where the Boulevard contains a number of mixed uses in the area. The resort units on the Subject Property are centered around a center courtyard, tiki and pool area which replicates a village concept.

During Special Exception SEZ2015-00006 for the bed and breakfast inn which was approved in 2016, the record noted that at that time a number of improvements made by the Applicant had done much to promote safety, order, appearance and prosperity of the property and generally improved the same for the neighborhood.

There are 12 existing dwelling units on the 1.03-acre parcel. This is a phased resort redevelopment. This will be a phased project as the owners need to keep the hospitality use in operation while constructing the proposed improvements as shown on the 4-page Master Concept Plan and would request an extended period for actual construction.

The existing resort is described as follows:

Building 1	1 unit	700 S.F.	
Building 2	2 units	924 S.F.	
Building 3	1 unit	700 S.F.	
Building 4	1 unit	1,030 S.F.	
Building 5	2 units	1,267 S.F.	Office 250 S.F.
Building 6	4 units	3,200 S.F.	
Building 7	1 unit	504 S.F.	

Phase 1 consists of four (4) sub-phases which may occur in different order:

Sub-phase A: move Building 2

Sub-phase B: build centralized parking area (gravel and wheel stops with controlled points of ingress/egress)

Sub-phase C: convert Building 3 to retail use

Sub-phase D: convert Building 1 to restaurant and add outdoor seating

Phase 2 is the addition of Building 8 - 1 1,600 square foot cottage which architecture will be substantially similar to Exhibit C. Upon completion of the phases, there will be 15 units, 700 S. F. retail, and 700 S. F. restaurant with 300 S. F. outdoor seating.

The parking area will provide for 32 parking spaces, over half will be from a unified parking lot area.

The proposed resort units are consistent with the platted overlay and the conversion table in LDC Section 34-1801.

The design concept provides for historic-type cottages on the site consistent with the original Fort Myers Beach resort community. The Master Concept Plan proposes five guest units of less than 450 S. F. and two guest units between 450 and 750 S.F. and six guest units over 750 S.F. The guest units are the equivalent of 8.3 dwelling units.

The amenity center contains an existing pool, recreational area and a tiki hut which will serve beverages including alcoholic beverages.

The schedule of uses includes all the permitted and special exception uses in the Commercial Resort District and the uses of "retail, small," "personal services" and "restaurant" which are appropriate for a resort and those uses are sized to be a subordinate use of the resort.

The request is consistent with the goals, objectives, policies and intent and the intensities of the Fort Myers Beach comprehensive plan. It is consistent with the existing and the planned uses in this area of the Boulevard designation.

The design concept provides for a variety of beach cottages on the site consistent with the original Fort Myers Beach community. The design of the cottages are consistent with the architectural style so familiar to Fort Myers Beach and will provide hospitality and family-oriented resort services. Attached as Exhibit C are photos of the proposed cottage architectural elevations and design.

The Town found that the request for the bed-and-breakfast contributed to a mixed-use environment without increasing the intensity of use beyond what is there today. The visitors brought to the area by the lodging use will provide additional customers to support nearby commercial uses such as those at Seagrape Plaza. Additionally, it was recognized that by renovating existing 1950s structures the Applicant has helped preserve the Island's cottage-style architecture and scale. This request furthers that goal.

We respectfully submit that this proposed Master Concept Plan is supported by the Community Design Element of the Comprehensive Plan. That Element provides a vision for this area "School Street itself has also become a key connection from the bay to the beach, a palm-line showcase of restored and new cottages. ..." Existing and new in-fill development on School Street is in the spirit and scale of the Beach's classic cottages. The Master Concept Plan and proposal also is consistent with Goal 3 of the Comprehensive Plan which accomplishes the goal: "to revitalize specific transitional neighborhood." The Subject Property lies within "Heart of the Island" area identified for redevelopment in Objective 3-A. Goal 4 of the Comprehensive Plan provides "to keep Fort Myers Beach a healthy and vibrant 'small town' while capitalizing on the vitality and amenities available in a beach resort environment ..." The scale and design of the proposed resort use is consistent with the Beach's small town feeling and capitalizes on this location which is in

close proximity to the beach, the Gulf, as gulf/beach access is less than a 1/4-mile to the north and Pompano Street is even closer to the south.

The urban services to serve this resort already exist and have been serving the existing dwelling units (bed and breakfast) that exist on the site. There are no environmental areas on the site. In the Boulevard designation it provides that a planned development rezoning is required for commercial uses so that appropriate conditions can be placed.

The design of the cottage resort concept is consistent with the harmony of this mixed-use neighborhood. The parking plan provides for back-out parking onto the low volume local streets. The physical scale of the proposed cottages structures are consistent and an asset to the neighborhood. This proposal provides a balance to the rather large institutional structures in proximity to the proposed structures shown on the Master Concept Plan. The enclosed elevations in Exhibit C illustrate the beach architecture which meets the design criteria set forth in the Commercial Design criteria in LDC 34-991. The proposed design consists of traditional building forms. To maintain the historic concept, the site design provides for parking in close proximity to the cottages which results in more access points from the local streets – School Street and Oak Street.

The layout of the Master Concept Plan creates usable outdoor space with a compatible style and scale that is an asset to the pedestrian traffic on the surrounding streets. The proposed design is an enhancement to the Town's plan for the Boulevard area and is consistent with Policy 4-C-3 of the Comprehensive Plan, which provides direction concerning commercial locations for new or expanded commercial uses. In the Boulevard category "proposals must be sensitive to nearby residential uses, compliment any adjoining commercial uses, contribute to the public realm as described in this Comprehensive Plan, and meet the design concepts of this Plan and the Land Development Code." The scale and beach cottage architecture is consistent with the Comprehensive Plan and furthers its goals.

The minor commercial square footage is limited to 700 square feet of retail and 1,000 square feet of restaurant (700' indoor, 300' outdoor). These commercial uses would typically be considered as permitted as subordinate commercial due to the minimal square footage. Although they are located along Estero Boulevard and available to pedestrian travelers for shopping and food and beverage service, they are such a small size and scale that they meet the definition of subordinate commercial. These uses would not be a destination-type use. Policy 4-C-3 provides "the neighborhood context of proposed commercial uses is of paramount importance." The proposed resort use that includes small level of retail, food and beverage service is an asset to the surrounding institutional and residential uses in the neighborhood and are sufficiently small in scope that they are a supportive and subordinate use. In Case SEZ2015-00006, it was recognized in 2015 that the property had been used for short-term rentals in excess of a decade at that time. Staff found that the proposed resort use in 2015 was consistent with the Comprehensive Plan and the Land Development Code. We respectfully submit that the Master Concept Plan presents a unified theme and design that continues with a historic cottage design that is compatible with the surrounding neighborhood and vision for Fort Myers Beach. Upon completion of Phase 2, the site will consist of 13 resort units with a supportive yet small amount of commercial (retail, and food and beverage service) to support the resort use.

Each sub-phase request is for three years to obtain a development order and four years to complete the development order.

The proposed location for this resort use is an enhancement to the existing uses surrounding the site.

Attachments:

- Exhibit 5-2 survey Lots 23-28; survey Lots 29-34 [previously provided]
- Future Land Use Map (Exhibit A) [previously provided]
- Town Council Resolution 16-09 (Exhibit B) [previously provided]
- Architectural elevations (3) (Exhibit C)

EXHIBIT

Architectural
Elevations







EXHIBIT 4-1 TO PART IV – Property Ownership
[Revised July 10, 2020]

Cottages at Myerside LLC

19-46-24-W3-0020C.0230, Lots 23 through 26

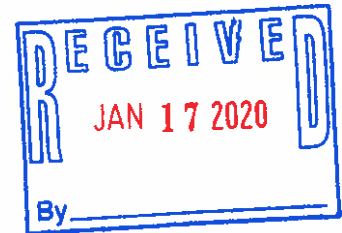
19-46-24-W3-0020C.0270, Lots 27 and 28

Myerside LLC

19-46-24-W3-0020C.0290, Lots 29 through 34

PROJECT NUMBER:

DATE:



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

This is a two part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit *one ORIGINAL paper copy, fourteen (14) copies* of all required applications, supplemental information, exhibits and documents. Please do not print and copy the instructions at the end of the application. In addition to application fees, the applicant is required to pay for (2) sets of mailings to neighboring property owners within 500', and all advertising fees.

Site Address: 2661-2681 ESTERO BLVD.; 125 SCHOOL ST.; 131-151 SCHOOL ST.

STRAP Number: 19-46-24-W3-0020C.0230; .0270; AND .0290

Applicant: MYERSIDE LLC

Phone: _____

Contact Name: _____

Phone: _____

Email: _____

Fax: _____

Current Zoning District: RESIDENTIAL CONSERVATION (RC)

Future Land Use Map (FLUM) Category: BOULEVARD

FLUM Density Range: MAX 10 DUPA

Platted Overlay: ☒ YES ☐ NO

ACTION REQUESTED

☐ Special Exception

☐ Variance

☐ Conventional Rezoning

☒ Planned Development ☐ Commercial ☐ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PROJECT NUMBER:

DATE:

PART I – General Information

A. Applicant*: MYERSIDE LLC 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: c/o Roetzel & Address, Beverly Grady, 2320 First Street, Fort Myers, FL 33901

Email: bgrady@ralaw.com Fax: (239) 337-0970

Contact Name: Beverly Grady Phone: (239) 337-3850

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: ROETZEL & ADDRESS Phone: (239) 337-3850

Address: 2320 FIRST STREET, FORT MYERS, FL 33901

Email: BGRADY@RALAW.COM Fax: (239) 337-0970

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

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PROJECT NUMBER:

DATE:

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II - Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☒ Planned Development
- ☒ Rezoning from RC 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: FMB Section 34-212(6) Traffic Impact Statement

Description: Waiver from Traffic Impact Statement

Code Section: _____

Description: _____

Code Section: _____

PROJECT NUMBER:

DATE:

Description: _____

PART IV – Property Ownership

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

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

☐ Complete Disclosure of Interest Form (see below)

☒ Attach list of property owners as Exhibit 4-1

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

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

DISCLOSURE OF OWNERSHIP INTEREST

STRAP: 19-46-24-W3-0020C.0230; .0270; AND .0290

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

Name and Address

Percentage Ownership

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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

PROJECT NUMBER:

DATE:

Name, Address and Office
COTTAGES AT MYERSIDE LLC

Percentage of Stock

ROLAND A. WEINMANN AND BEVERLEY A. MILLIGAN
WEINMANN RENTALS, INC.

50% EACH

ROLAND A. WEINMANN

51%

BEVERLEY A. MILLIGAN

49%

c/o 145 School St., Fort Myers Beach, FL 33931

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

Name and Address

Percentage of Interest

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

Name and Address

Percentage of Ownership

PROJECT NUMBER:

DATE:

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of Contract:

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

Name

Address

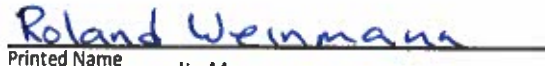
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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

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


Signature

MYERSIDE, LLC

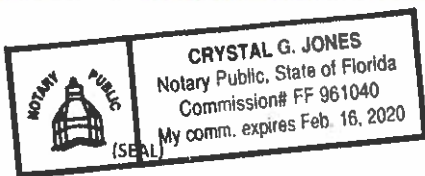

Printed Name Its Manager

PROJECT NUMBER:

DATE:

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this 6th day of January, 2020, by Roland Weimann.



Crystal G. Jones
Notary Public Signature

Crystal G. Jones
Notary Printed Name

Personally Known 1 or Produced Identification ✓

Type of Identification Produced: DLIC My Commission Expires: 02/16/2020

PART V - Property Information

A. Legal Description:

STRAP: 19-46-24-W3-0020C.0230; .0270; AND .0290

Property Address: 2661-2681 ESTERO BLVD., 125, 131-151 SCHOOL ST.

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

☒ Yes. Property identified in subdivision: WINKLER SUBDIVISION

Book: 8 Page: 45 Unit: Block: C Lot(s): 23-34

B. Boundary Survey:

Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida. Attach and label as Exhibit 5-2.

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 150' feet

PROJECT NUMBER:

DATE:

Depth (please provide an average width if irregular in shape) 300' feet

Frontage on street: 150' feet. Frontage on waterbody: N/A feet

Total land area: 1.03 ☒ acres ☐ square feet

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

1.3 MILES SOUTH OF SKY BRIDGE

☒ Attach Area Location Map as Exhibit 5-3

E. Property Restrictions (check applicable):

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

☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 5-4.

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

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

☒ Attach a list of surrounding property owners within 500 feet as Exhibit 5-6.

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

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

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

☐ Low Density

☐ Marina

☐ Mixed Residential

☐ Recreation

☒ Boulevard

☐ Wetlands

☐ Pedestrian Commercial

☐ Platted Overlay

H. Zoning (see official Zoning Map):

☐ RS (Residential Single-family)

☐ CF (Community Facilities)

☒ RC (Residential Conservation)

☐ IN (Institutional)

PROJECT NUMBER:

DATE:

PART VII

AFFIDAVIT

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

I, Roland Weinmann (name), as MANAGER (title) of MYERSIDE 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 County 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 Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

MYERSIDE LLC

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

[Signature]
Signature

MANAGER

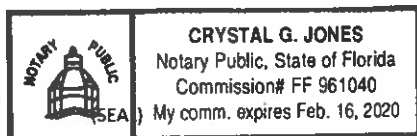
Title

Roland Weinmann
Typed or Printed Name

06/01/2020
Date

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this 16th day of January, 2020, by Roland Weinmann, as (title) owner/manager on behalf of (company name) MYERSIDE, LLC.



[Signature]
Notary Public Signature

Crystal G Jones

Revised 1/6/2017

Town of Fort Myers Beach
2525 Estero Blvd., Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Permits@FortMyersBeachFL.gov Fax: 239-765-0909

Page 11 of 15

PROJECT NUMBER:

DATE:

Notary Printed Name

Personally Known _____ or Produced Identification ✓

Type of Identification Produced: FL-DLC My Commission Expires: 02/16/2020

AUTHORIZATION FOR APPLICANT AND FOR AGENT

I, Roland Weinmann as a Member of Cottages at Myerside, LLC and a property owner hereby authorize:

1. Myerside, LLC to be the applicant to rezone Lots 23 through 28, Plat Book 8, Page 45, Block C to Commercial Planned Development; and
2. Roetzel & Andress, LPA to be an authorized agent for this rezoning application.

COTTAGES AT MYERSIDE, LLC

By: [Signature]

Printed Name: Roland Weinmann

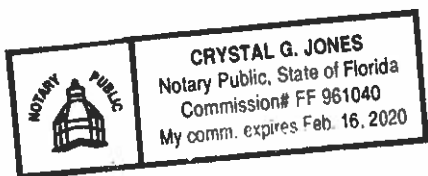
Title: Owner

STATE OF FLORIDA)
) §:
COUNTY OF LEE)

The foregoing instrument was acknowledged before me by means of [☒] physical presence OR [☐] online notarization, this 6th day of January, 2020 by Roland Weinmann as Manager of COTTAGES AT MYERSIDE LLC, on behalf of the limited liability company. He/She is [☐] is personally known to me OR [☒] who produced FL-DLIC as identification.

[NOTARY STAMP/SEAL]

Crystal G. Jones
Notary Public
Commission Expiration: 02/16/2020



AUTHORIZATION FOR APPLICANT AND FOR AGENT

I, ROLAND A. WEINMANN, as President of WEINMANN RENTALS, INC. and a property owner hereby authorizes:

1. Myerside, LLC to be the applicant to rezone Lots 19 through 34, Plat Book 8, Page 45, Block C to Commercial Planned Development; and
2. Roetzel & Andress, LPA to be an authorized agent for this rezoning application.

WEINMANN RENTALS, INC.

By:

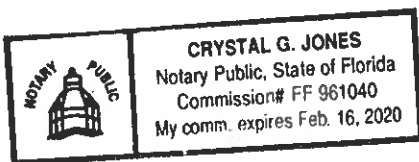
Roland A. Weinmann
Roland A. Weinmann, President

STATE OF FLORIDA)
) §:
COUNTY OF LEE)

The foregoing instrument was acknowledged before me by means of ☒ physical presence OR ☐ online notarization, this 6th day of January, 2020 by Roland A. Weinmann, President of WEINMANN RENTALS, INC., on behalf of the corporation. He is ☐ is personally known to me OR ☒ who produced FL-DIC as identification.

[NOTARY STAMP/SEAL]

Crystal G. Jones
Notary Public
Commission Expiration: 02/16/2020



O'Brien, Robin

From: O'Brien, Robin <RObrien@ralaw.com>
Sent: Wednesday, January 15, 2020 11:40 AM
To: green@fmbgov.com
Cc: Grady, Beverly
Subject: Myerside Resort and Cottages
Attachments: 4690_001.pdf

Jason:

On behalf of Beverly Grady, attached please find an Application for Waiver of Submittal Requires in connection with Myerside Resort and Cottages for your review and approval.

If you have any questions, please contact our office.

Thank you for your attention to this matter.

Robin O'Brien

Assistant to Sean M. Ellis, Beverly Grady, and Ashley L. Suarez



ROETZEL
2320 First Street, Suite 1000
Ft. Myers, FL 33901
Direct Phone No.: 239.338-4254
Main Phone No: 239.337.3850
Fax No.: 239.337.0970
Email: robrien@ralaw.com
www.ralaw.com
Roetzel & Andress, A Legal Professional Association

Both Robin O'Brien and Roetzel & Andress intend that this message be used exclusively by the addressee(s). This message may contain information that is privileged, confidential and exempt from disclosure under applicable law. Unauthorized disclosure or use of this information is strictly prohibited. If you have received this communication in error, please permanently dispose of the original message and notify Robin O'Brien immediately at 239-338-4254. Thank you.



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Application for Waiver of Submittal Requirements

Submit a request for waiver of submittal requirements prior to submitting an application for public hearing or administrative action. Requesting a waiver of submittal requirements simultaneously with an application may delay your application. The request and the director's response will become part of the application file.

Waiver is requested for items required for:

Public Hearing

- ☐ General Requirements
- ☐ DRI
- ☒ Planned Development
- ☐ Conventional Rezoning
- ☐ Special Exception
- ☐ Variance
- ☐ Appeal
- ☐ Other

Administrative Action

- ☐ General Requirements
- ☐ Planned Dev. Amendment
- ☐ Commercial Antenna
- ☐ Consumption on Premises
- ☐ Forced Relocation of a Business
- ☐ Interpretation of LDC
- ☐ Minimum Use Determination
- ☐ Setback Variance
- ☐ Other

Name of Project: MYERSIDE RESORT AND COTTAGES

Applicant: MYERSIDE, LLC

Strap Number: 19-46-24-W3-0020C.0230; .0270; AND .0290

Street Address: 2661-2681 ESTERO BLVD.; 125 SCHOOL ST., 131-151 SCHOOL ST.

Phone Number: c/o Beverly Grady: (239) 338-4207

Email: c/o Beverly Grady: bgrady@ralaw.com



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Application for Waiver of Submittal Requirements

Specific requirements from which waiver is sought

Section Number	Requirement
PART 2-Submittal Requirements	Traffic Impact Statement
(Supplement PH-D)	
Section 34-212 Application for Planned Development (6)	Traffic Impact Statement

Scope of project and reasons for request

Explain the nature of the project and give reasons why you think specific requirements are inapplicable or otherwise should be waived.

SEE ATTACHED EXHIBIT A

I hereby state that the information provided above is accurate to the best of my knowledge. I recognize that if my project changes from what is described above approval of this waiver request may no longer be valid.

Signature Beverly Spady

Date January 15, 2020

Signature

Date

Director's Decision ☐ Approved ☐ Denied

Comments:

Signature

Date

Revised 1/6/2017

Town of Fort Myers Beach
2525 Estero Blvd., Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Permits@FortMyersBeachFL.gov Fax: 239-765-0909

Page 2 of 2

SUBMIT

EXHIBIT A TO WAIVER REQUEST

Pursuant to Section 34-202(a), the director is authorized to grant a waiver from a submittal requirement. This is a request for a waiver from providing a traffic impact statement. The Subject Property is currently developed - one-half of the Property has been approved bed-and-breakfast use pursuant to SEZ2015-00006, the other half of the Property has existing five (5) dwelling units. This application is requesting rezoning to CPD for a total of 15 guest units with a subordinate commercial uses of 600 s.f. retail and 600 s.f. of interior restaurant, and 300 s.f. of outdoor seating for the restaurant. The restaurant will be added as part of Phase 4 of the project. Therefore, the impact of the proposal is basically the equivalent of the existing density on the Property. Although the retail and restaurant will be open to the public, they are of such a size that their primary purpose is servicing the guest units and servicing pedestrian traffic. Due to the size of the proposed food and beverage service and retail service, these will not be destination locations. Therefore, there is no traffic impact statement needed for redevelopment that has the equivalency with the existing development.

EXHIBIT 4-1 TO PART IV – Property Ownership

Cottages at Myerside LLC

19-46-24-W3-0020C.0230, Lots 23 through 26

19-46-24-W3-0020C.0270, Lots 27 and 28

Weinmann Rentals, Inc.

19-46-24-W3-0020C.0290, Lots 29 through 34

PLAT OF

WINKLER SUBDIVISION.

A Subdivision beginning at the north-east corner of section 30 in 46 S R 24 E, thence west on the line between sections 19 and 30, 538.7 feet, thence south 25° 05' west 284.7 feet to the Gulf of Mexico, the point of beginning of land therein described, thence north 25° 05' east 584.9 feet to the north line of said section 30, thence west on said section line 95.15 feet, thence north 25° 17' east 943.32 feet, thence north 89° 45' west 1409 feet more to the west line of lot 1, section 19, T 46 S R 24 E, thence south along the west line of said lot 1, 1600 feet more to the Gulf of Mexico, thence south easterly with the incursions of the Gulf of Mexico to the point of beginning, together with riparian rights.

J. J. JAVIER AND SON
CIVIL ENGINEERS - FORT MYERS,
FLORIDA 1310
FOR



CERTIFICATE OF OWNERSHIP

This is to certify that the within signed and sealed copies of the land therein described and have caused said land to be subdivided into lots, blocks and streets as shown and described herein, and have caused the same to be recorded in the public records of the State of Florida.

Signed, sealed and delivered in presence of me:

Notary Public for the State of Florida

STATE OF FLORIDA)
COUNTY OF LEE)

I DO HEREBY CERTIFY that on this day of February A.D. 1930 personally appeared before me, an officer duly authorized to administer and take oaths, J. J. Winkler and Lillian L. Winkler his wife, both well known to me, as the persons making the foregoing dedication, and they severally solemnly pledged the execution thereof to be the free act and deed for the uses and purposes therein mentioned, and the said Lillian L. Winkler the wife of said W. B. Winkler upon an examination taken separately and apart from her said husband did acknowledge that she executed the foregoing device, free, freely, voluntarily and without any constraint, duress, fraud, fear or compulsion of or from her said husband.

Witness my hand and official seal the date last aforesaid.

CERTIFICATE OF SURVEY

We the undersigned certify that the plat as shown is a correct representation of the land plotted, and that permanent reference monuments have been placed as shown.

J. J. JAVIER AND SON
or Harry K. Javerson

This plat accepted this 15th day of March 1930 in open meeting of the Board of County Commissioners of Lee County, Florida.

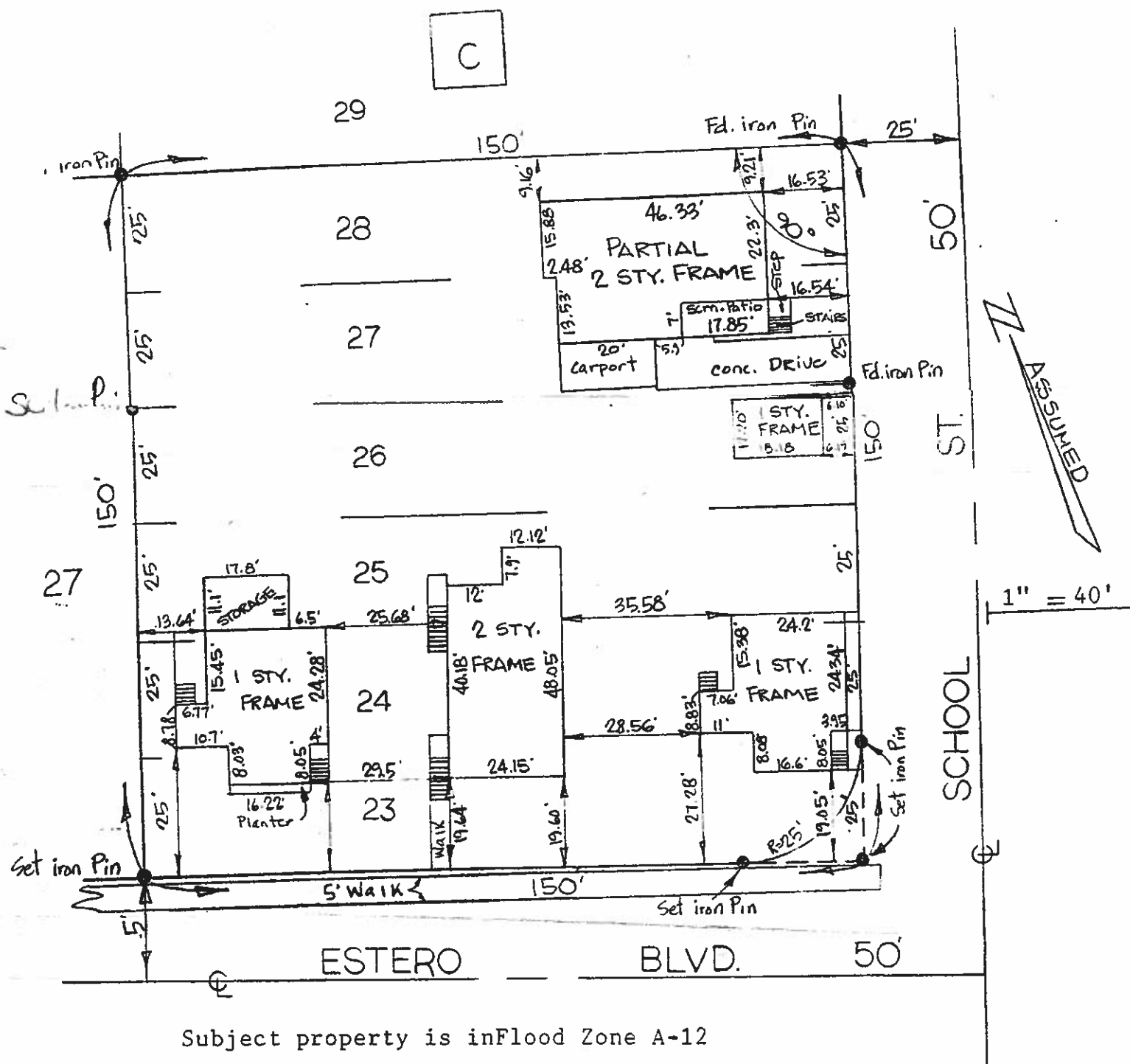
Approved: Chairman Clerk

PART V(A)
LEGAL

69226
Notary Public for the State of Florida
J. J. JAVIER AND SON
or Harry K. Javerson
Notary Public for the State of Florida

See C.C.M.B. 16 April 1939
Vacation of street line in limits of tract marked Block X in P.B. 16
Plat which has within limits of Block X
See P.B. 16 Page 6

FIELDBOOK 203 PAGE 40 DATE 1/7/14		SECTION 19 TWP 46 S, RGE 24 E																							
NORTH ARROW 	FOUNDATION LOCATION	FIELDBOOK PAGE	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2" style="text-align: center;">LEGEND</th> </tr> <tr> <td style="width: 10px; text-align: center;">●</td> <td>SET CONC. MON. WCAP I.D. # 3553</td> </tr> <tr> <td style="text-align: center;">○</td> <td>FD CONC. MON. WCAP</td> </tr> <tr> <td style="text-align: center;">○</td> <td>FD CONC. MON.</td> </tr> <tr> <td style="text-align: center;">○</td> <td>FD IRON PIN</td> </tr> <tr> <td style="text-align: center;">○</td> <td>ASSUMED ELEVATION</td> </tr> <tr> <td style="text-align: center;">○</td> <td>BENCHMARK</td> </tr> <tr> <td style="text-align: center;">○</td> <td>RECORDED</td> </tr> <tr> <td style="text-align: center;">○</td> <td>MEASURED</td> </tr> <tr> <td colspan="2" style="text-align: center;">CONT REVERSE SIDE</td> </tr> <tr> <td colspan="2" style="text-align: center;">FINAL SURVEY DATE</td> </tr> </table>	LEGEND		●	SET CONC. MON. WCAP I.D. # 3553	○	FD CONC. MON. WCAP	○	FD CONC. MON.	○	FD IRON PIN	○	ASSUMED ELEVATION	○	BENCHMARK	○	RECORDED	○	MEASURED	CONT REVERSE SIDE		FINAL SURVEY DATE	
LEGEND																									
●	SET CONC. MON. WCAP I.D. # 3553																								
○	FD CONC. MON. WCAP																								
○	FD CONC. MON.																								
○	FD IRON PIN																								
○	ASSUMED ELEVATION																								
○	BENCHMARK																								
○	RECORDED																								
○	MEASURED																								
CONT REVERSE SIDE																									
FINAL SURVEY DATE																									
SCALE 1" = 30' LEGAL DESCRIPTION (AS PROVIDED BY CLIENT) This is a boundary survey of the following : Lots 29 through 34, Block C, Winkler Subdivision as recorded in Plat Book 8, Page 45 of the Public Records of Lee County, Florida. The property address is 131, 145, 147 & 151 School St. per County Records. 2 PAGES 5-2																									
NOTES - REPRODUCTION OF THIS SKETCH IS NOT VALID UNLESS SEALED WITH AN EMBOSSED SURVEYOR'S SEAL. - NO INSTRUMENTS OF RECORD REFLECTING EASEMENTS, RIGHTS-OF-WAY, AND OR OWNERSHIP WERE FURNISHED THIS SURVEYOR EXCEPT AS SHOWN. - NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS HAVE BEEN LOCATED EXCEPT AS NOTED. - BEARINGS SHOWN HEREON ARE BASED ON <u>Angles are field measured</u> - THIS PROPERTY LIES IN FLOOD ZONE AE EL 12 & 13 NAVD88 PER F.I.R.M. PANEL NO. 12071C0554F, DATED 8/28/2008 - LAST DATE OF FIELDWORK 1/7/14 - ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF CERTIFICATE I hereby certify that the above described property was surveyed under my direction and the sketch of survey is true and correct to the best of my knowledge. This survey meets or exceeds the minimum technical standards set forth by the Florida Board of Land Surveyors, pursuant to Rule 61G17 - 6 Florida Administrative Code, and pursuant to Section 472.027 Florida Statute. There are no visible encroachments other than those shown hereon. P.L.S. MARK O. ALLEN P.L.S. #3553 LB #6558																									
MARK O. ALLEN, INC. PROFESSIONAL LAND SURVEYOR																									
FAX: (239) 992-6070 TELE: (239) 992-8900		10602 WOODS CIRCLE BONITA SPRINGS, FL 34135																							
DWN BY MG	CHK'D BY	ORDERED BY Beverly Milligan	SHEET 1 OF 1 DWG NO. 2014-3																						



SURVEY PLAT

For Lots 23-24-25-26-27-28, Block "C" WINKLER Subdivision as recorded in Plat Book 8 Page 45. Public Records of Lee County, Florida.

FOR: Donald Nyman

BY: S & H Land Survey Co.
7218 Drake Drive SW
Ft. Myers, Florida 33908

CERTIFICATE OF SURVEY: I hereby certify that the plat hereon meets the minimum technical standards set forth by the Florida Board of Land Surveyors, pursuant to Section 472.027, Florida Statutes

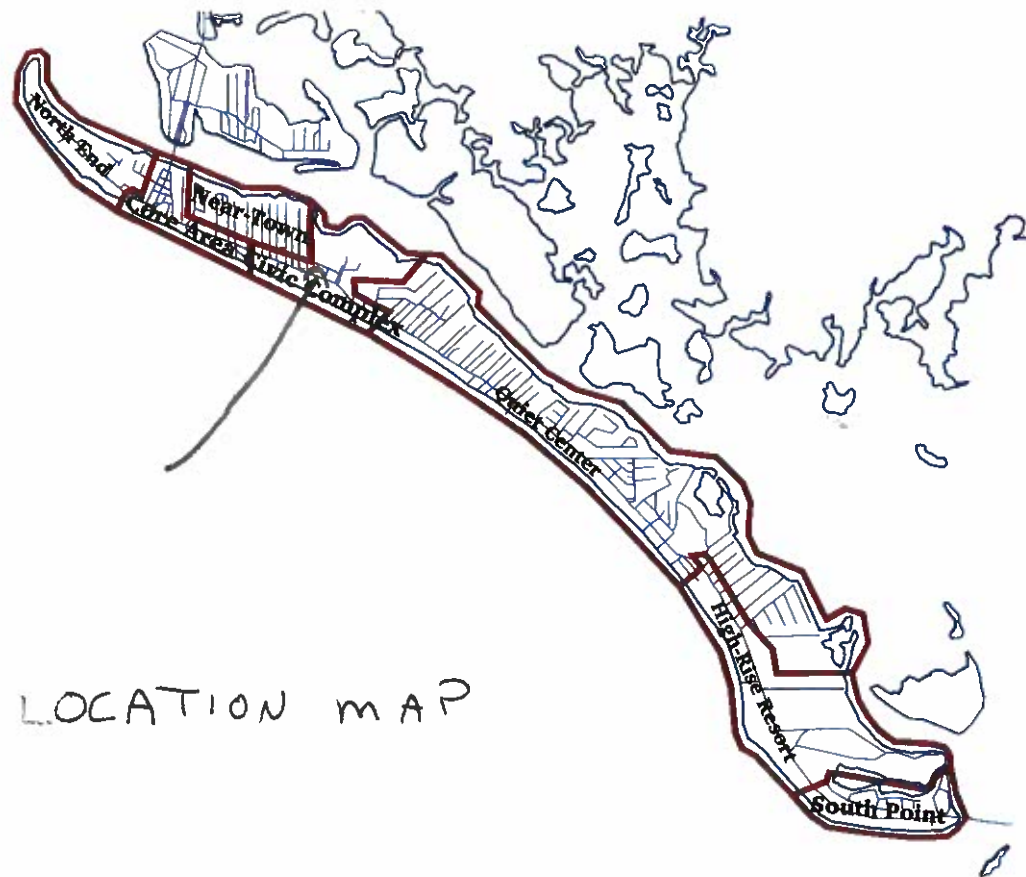
DATE: May 21, 1987

Richard L. Hardy
Reg. Land Surveyor #3135
State of Florida

2661-26671-2681 Estero Blvd. & 125 School St.

JOB 6208-A Boundary -Location

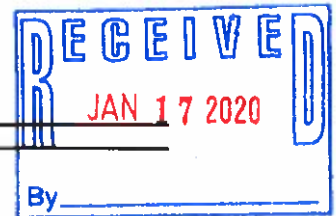
Richard L. Hardy



LOCATION MAP

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-D

Additional Required Information for a Planned Development Application

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

Project Name: MYERSIDE RESORT AND COTTAGES
Authorized Applicant: MYERSIDE LLC
STRAP Number(s): 19-46-24-W3-0020C.0230; 19-46-24-W3-00200C.0270; AND
19-46-24-W3-0020C.0290

Current Property Status:
Current Zoning: RC
Future Land Use Map (FLUM) Category: BOULEVARD
Platted Overlay? ☒ yes ☐ no FLUM Density Range:

Requested Action:

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

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

PART I
Narrative Statements

A. Comprehensive Plan Amendments (check one)

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

B. Phasing of Construction

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

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

C. Comprehensive Plan Compliance.

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

SEE ATTACHED NARRATIVE

D. Design Standards Compliance

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

SEE ATTACHED NARRATIVE

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

E. Decision-making Compliance

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

SEE ATTACHED NARRATIVE

F. Schedule of deviations and written justification

Provide a list of the requested deviations keyed to the Master Concept Plan, and provide a written justification for each deviation. The location of each deviation should be indicated on the Master Concept Plan.

See separate sheet for list of deviations and justification

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

G. Administrative amendments to approved Master Concept Plan

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

N/A

PART 2 Submittal Requirements

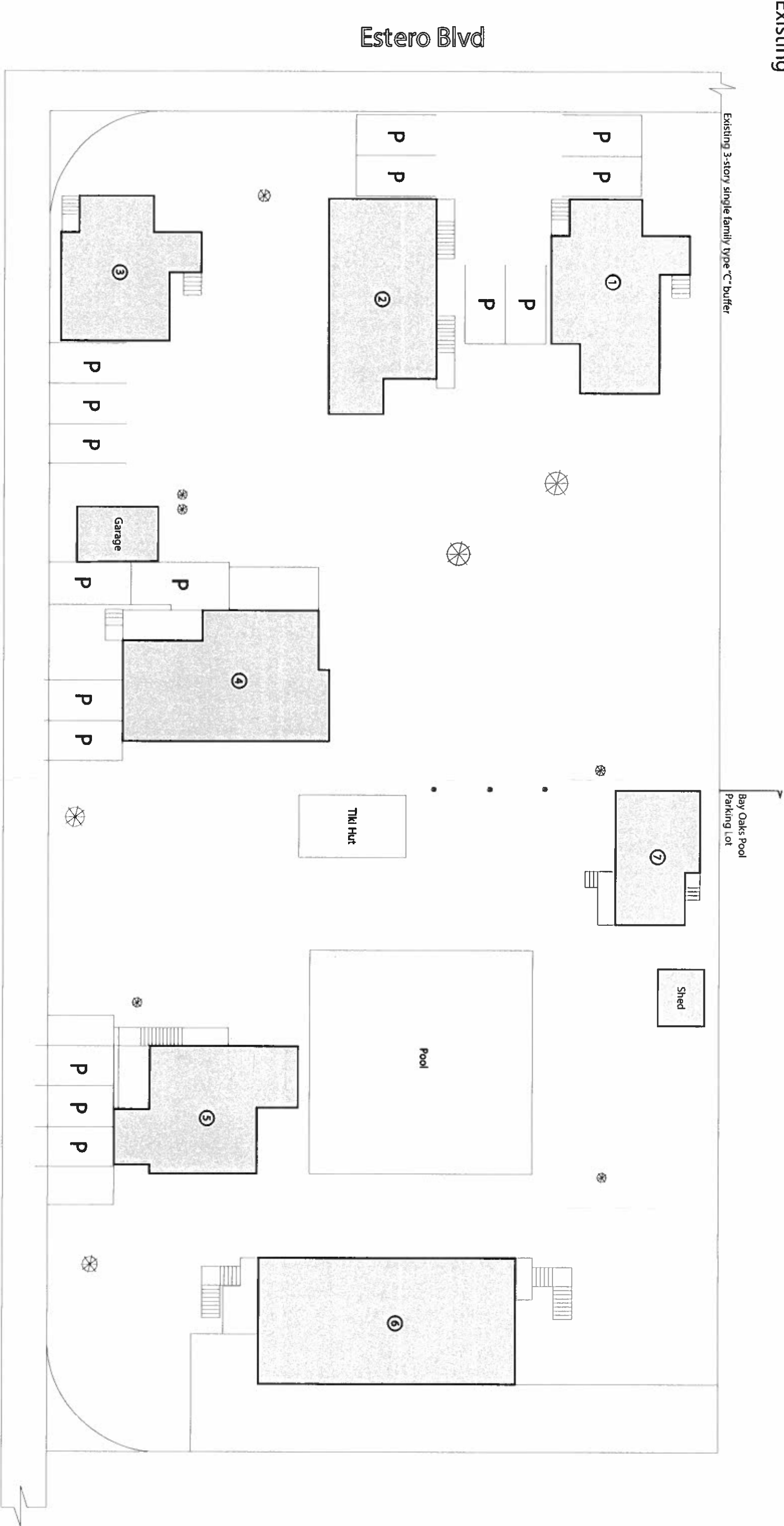
All applications for a planned development must submit fourteen (14) copies of this application form and all applicable exhibits.

Required Items

Public Hearing Request Form
Supplement Form PH-D
Master Concept Plan
Traffic Impact Statement
Architectural Elevations
Schedule of Uses

For DRI: A Binding letter of interpretation from DCA or a complete and sufficient ADA.

Master Concept Plan
Myerside Resort and Cottages
Existing



School St

Estero Blvd

Existing 3-story single family type "C" buffer

Bay Oaks Pool
Parking lot

Building Details Legend

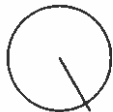
- ① One story, one unit, 700 sq/ft
- ② Two stories, three units, 950 sq/ft
- ③ One story, one unit, 700 sq/ft
- ④ Partial two story, two unit, 900 sq/ft
- ⑤ Two stories, two units + office, 1200 sq/ft
- ⑥ Two stories, four units, 1600 sq/ft
- ⑦ One story, one unit, 510 sq/ft

Existing

P

Existing structure
Parking space

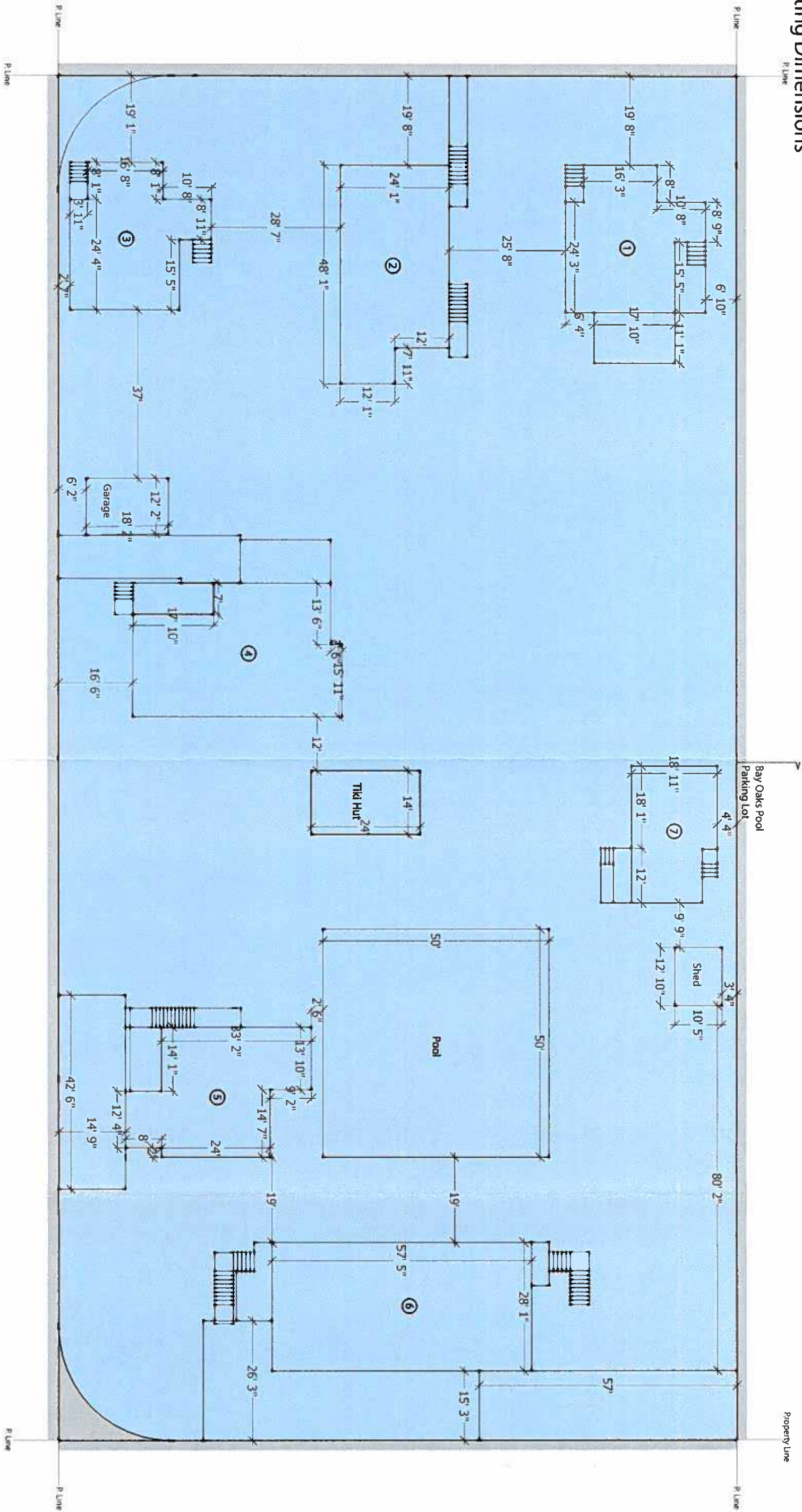
Max. height - 30'
Dwelling units - 13
Max. FAR - 1.2
24 parking spaces



5' 10' 20'

Sheet
1/8

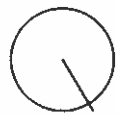
Master Concept Plan
Myerside Resort and Cottages
Existing Dimensions



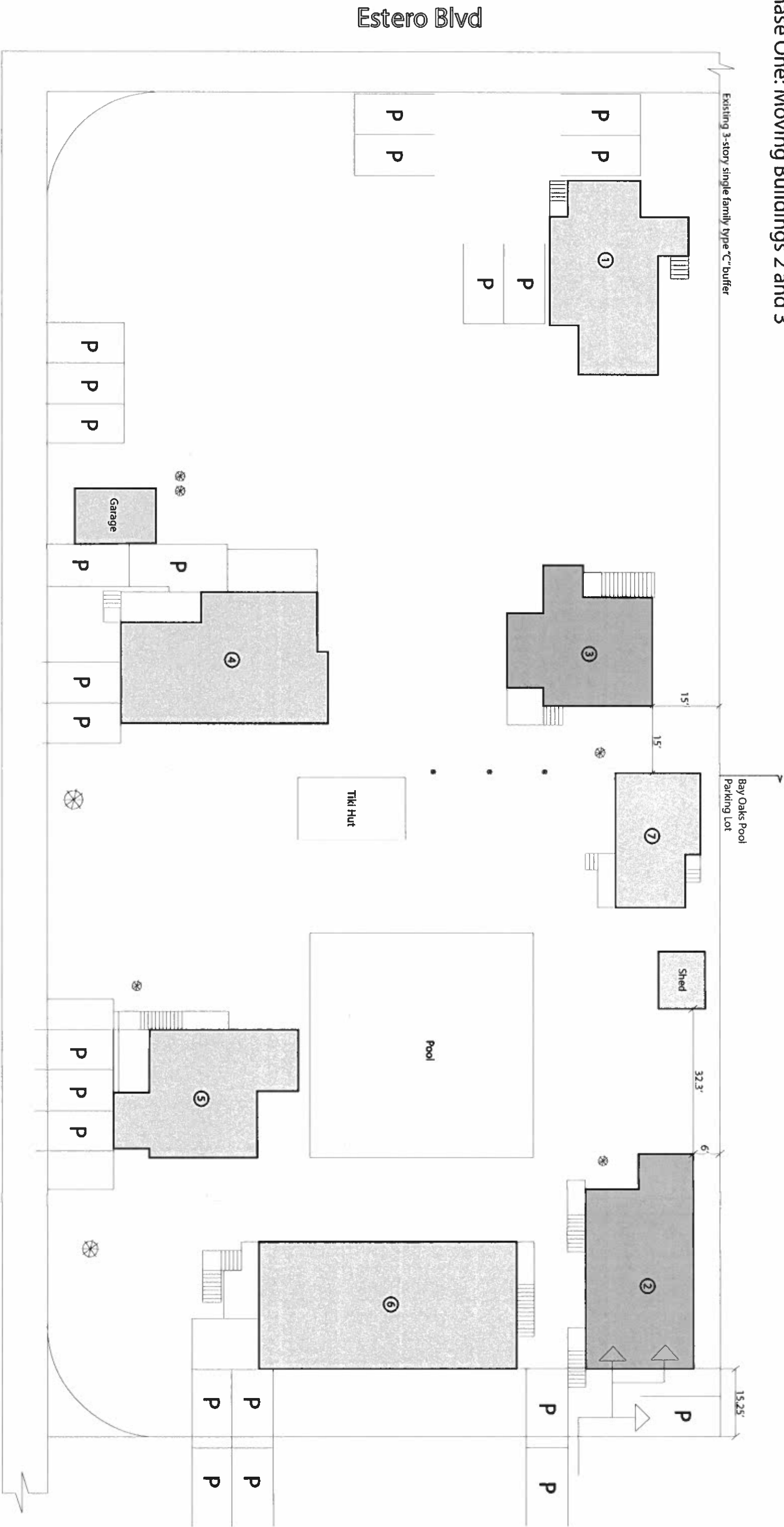
Structure Details Legend

- ① One story, one unit, 700 sq/ft
- ② Two stories, three units, 950 sq/ft
- ③ One story, one unit, 700 sq/ft
- ④ Partial two story, two unit, 900 sq/ft
- ⑤ Two stories, two units + office, 1200 sq/ft
- ⑥ Two stories, four units, 1600 sq/ft
- ⑦ One story, one unit, 510 sq/ft

Existing Dimensions



Master Concept Plan
Myerside Resort and Cottages
Phase One: Moving Buildings 2 and 3



School St

Estero Blvd

Phase one: move existing structures 2 and 3

- Existing structure
- Moved Structure
- Parking space
- Tree

Max. height - 30'
Guest units - 13
Max. FAR - 1.2
25 parking spaces

Structure Details Legend

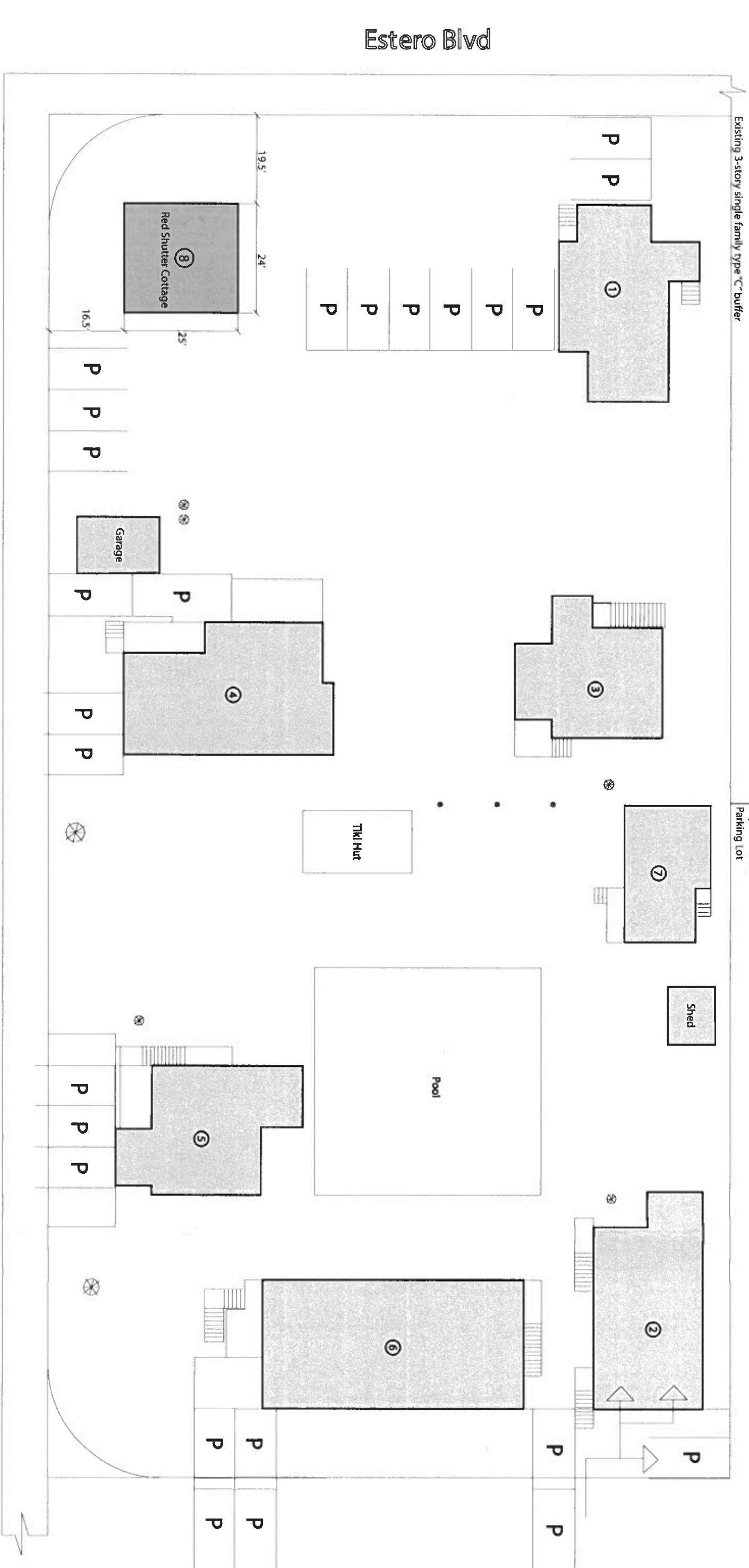
- ① One story, one unit, 700 sq/ft
- ② Two stories, three units, 950 sq/ft
- ③ One story, one unit, 700 sq/ft
- ④ Partial two story, two unit, 900 sq/ft
- ⑤ Two stories, two units + office, 1200 sq/ft
- ⑥ Two stories, four units, 1600 sq/ft
- ⑦ One story, one unit, 510 sq/ft



5' 10' 20'

Sheet
3/8

Master Concept Plan
Myerside Resort and Cottages
Phase Two: Relocate Red Shutter Cottage and Remodel



School St

Estero Blvd

Existing 3-story single family type "C" buffer

Bay Oaks Pool
Parking Lot

Shed

Pool

Tiki Hut

Red Shutter Cottage

Garage

Structure Details Legend

- ① One story, one unit, 700 sq/ft
- ② Two stories, three units, 950 sq/ft
- ③ One story, one unit, 700 sq/ft
- ④ Partial two story, two unit, 900 sq/ft
- ⑤ Two stories, two units + office, 1200 sq/ft
- ⑥ Two stories, four units, 1600 sq/ft
- ⑦ One story, one unit, 510 sq/ft

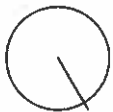
Max. height - 30'

Guest units - 13

Max. FAR - 1.2

27 parking spaces

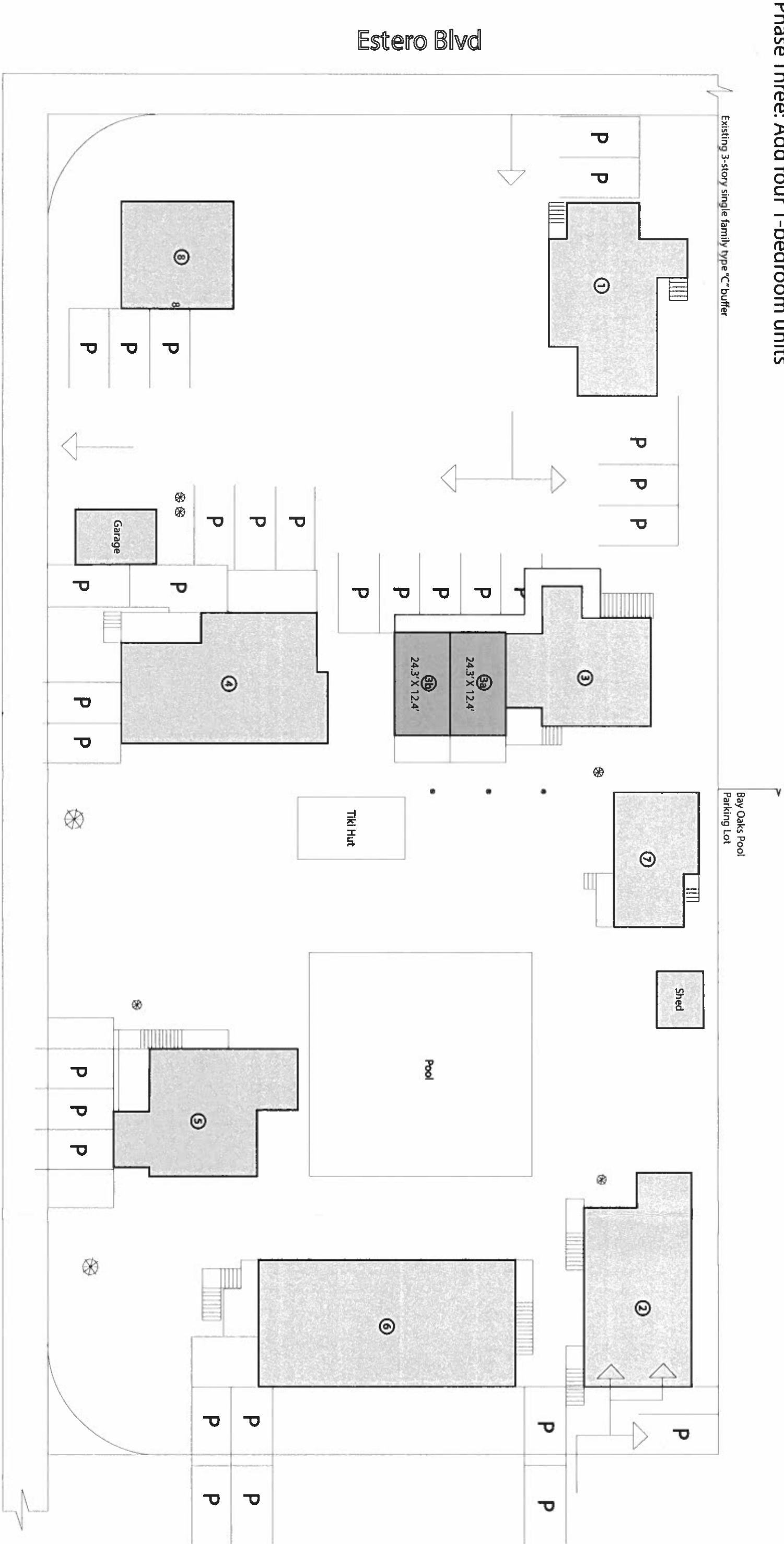
Phase two: add red shutter cottage



5' 10' 20'

Sheet
4/8

Master Concept Plan
Myerside Resort and Cottages
Phase Three: Add four 1-bedroom units



School St

Estero Blvd

Existing 3-story single family type "C" buffer

Bay Oaks Pool
Parking Lot

Shed

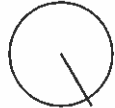
Pool

Tiki Hut

Garage

Structure Details Legend

- | | |
|---------------------------------------|---|
| ① One story, one unit, 700 sq/ft | ④ Partial two story, two unit, 900 sq/ft |
| ② Two stories, three units, 950 sq/ft | ⑤ Two stories, two units + office, 1200 sq/ft |
| ③ One story, one unit, 700 sq/ft | ⑥ Two stories, four units, 1600 sq/ft |
| *③⑨ Two story, two unit, 600 sq/ft | ⑦ One story, one unit, 510 sq/ft |
| *⑤⑨ Two story, two unit, 600 sq/ft | ⑧ One story, retail unit, 600 sq/ft |



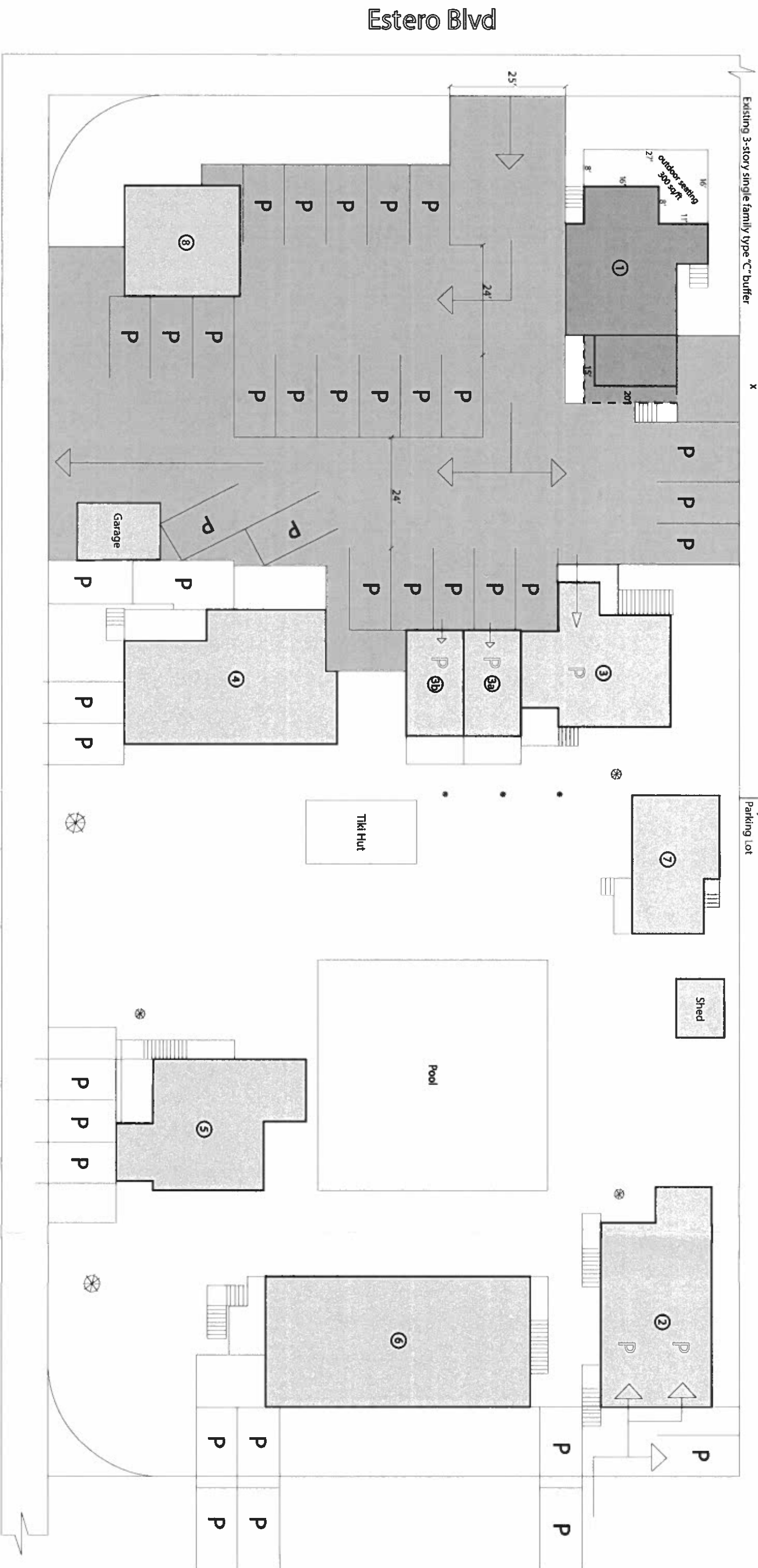
5' 10' 20'

Phase three: add four 1-bedroom
units to structure 3

- | | |
|--|--------------------|
| | Existing structure |
| | New structure * |
| | Parking space |
| | Tree |

Sheet
5/8

Master Concept Plan
Myerside Resort and Cottages
Phase Four: Remodel and Create Restaurant in Building 1
Create Additional Parking



Phase four: add 100 sq/ft* to building 1
and formalize parking

Existing structure

Change to building footprint

Remodel footprint

Parking space

Tree

- Max. height - 30'

Guest units - 16

Max. FAR - 1.2

43 parking spaces
- ① One story, one unit, 800 sq/ft (700+100)

② Two stories, three units, 950 sq/ft

③ One story, one unit, 700 sq/ft

③a Two story, two unit, 600 sq/ft

③b Two story, two unit, 600 sq/ft

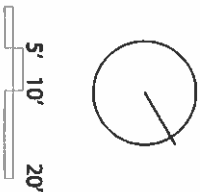
④ Partial two story, two unit, 900 sq/ft

⑤ Two stories, two units + office, 1,200 sq/ft

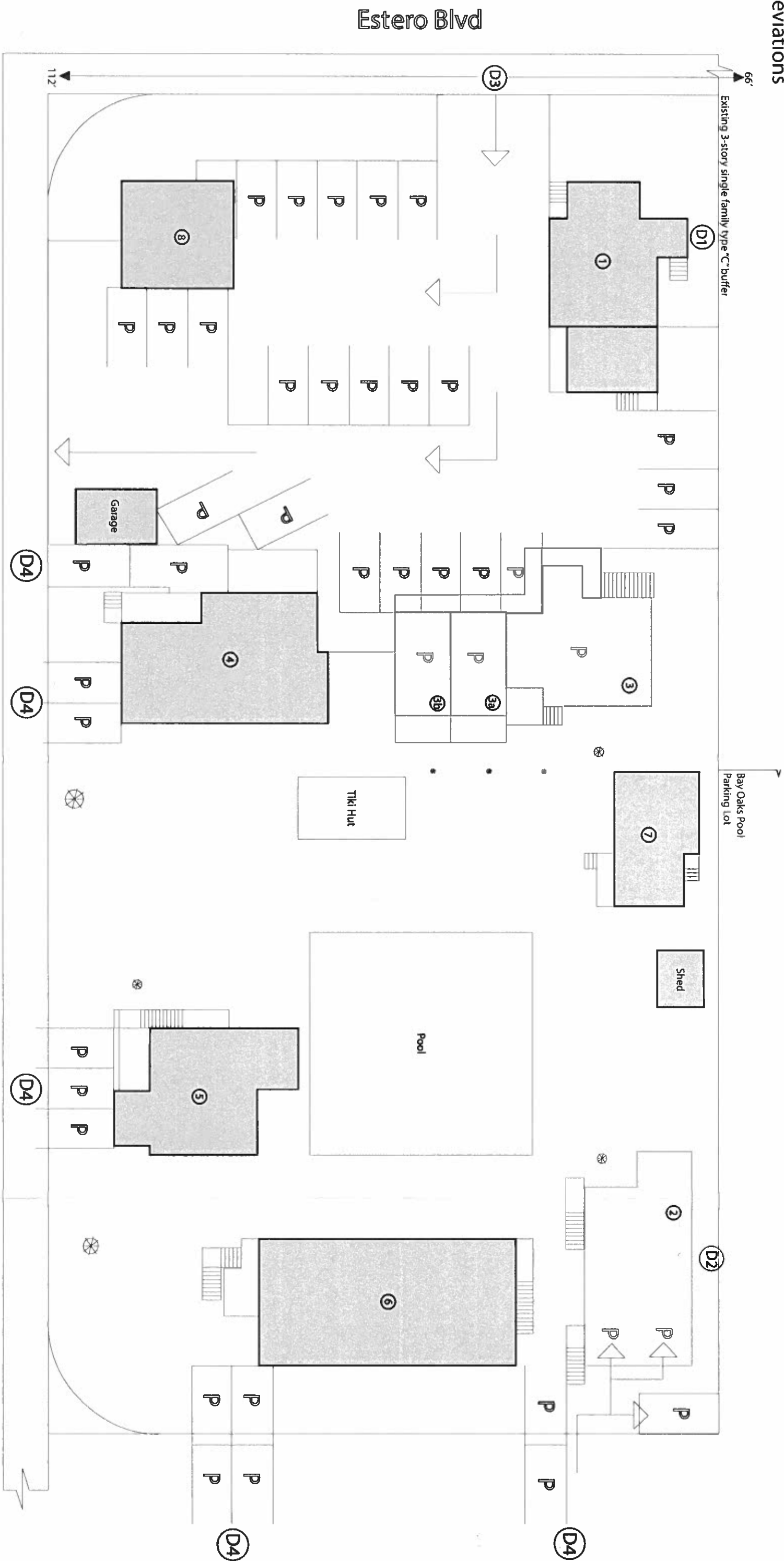
⑥ Two stories, four units, 1,600 sq/ft

⑦ One story, one unit, 510 sq/ft

⑧ One story, retail unit, 600 sq/ft



Master Concept Plan
Myerside Resort and Cottages
Deviations



- Deviations**
- D1 Existing building 1 - deviation of setback from 15' to 6.9'
 - D2 Move of building 2 - deviation of setback from 15' to 6'
 - D3 Deviation of driveway access separation of 66' to north and 112' to south
 - D4 Deviation to allow back-out parking



Existing structure



Existing raised structure above parking



Parking space



Tree

Max. height - 30'

Guest units - 16

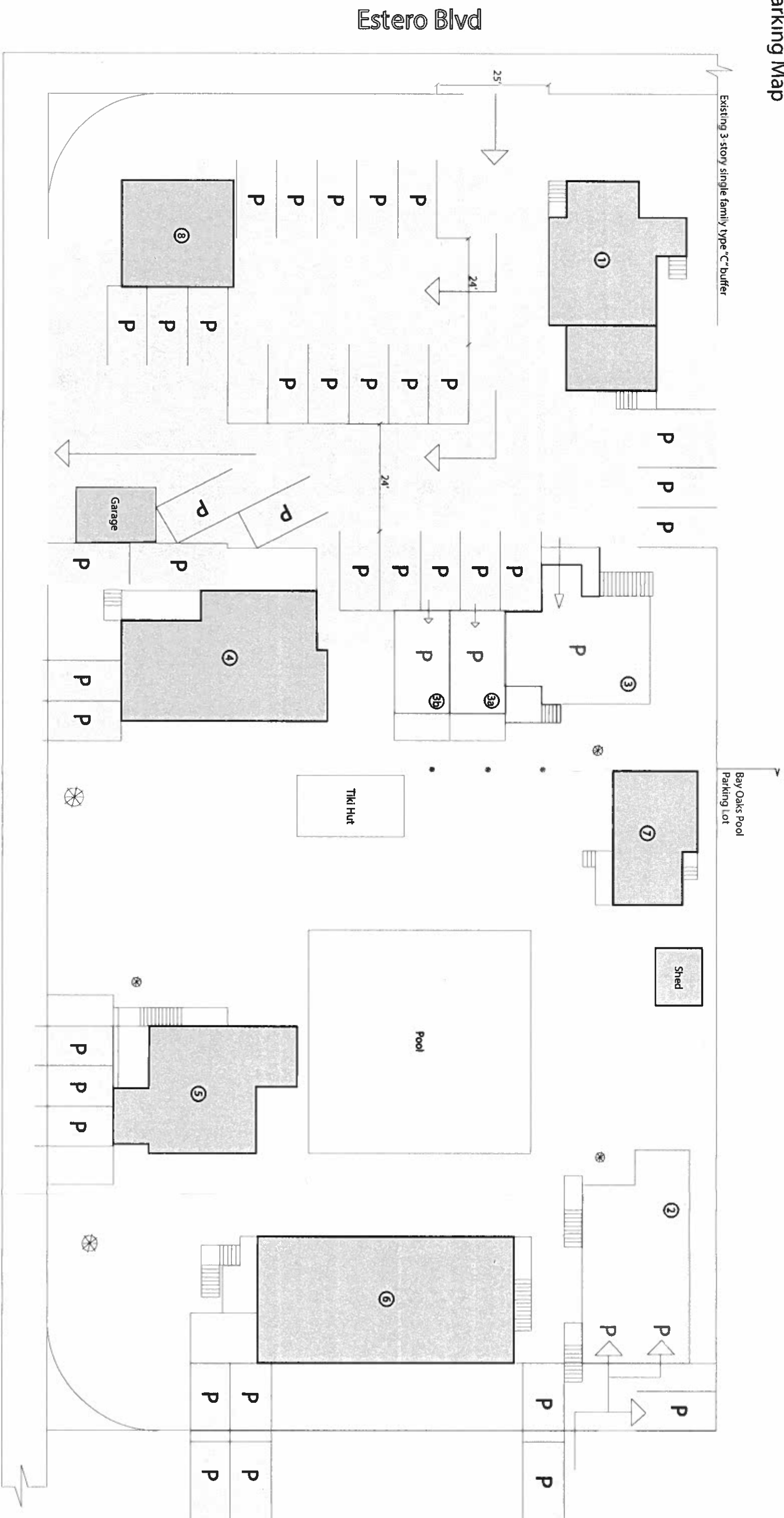
Max. FAR - 1.2

43 parking spaces

- Structure Details Legend**
- 1 One story, one unit, 700 sq/ft
 - 2 Two stories, three units, 950 sq/ft
 - 3 One story, one unit, 700 sq/ft
 - 3a Two story, two unit, 600 sq/ft
 - 3b Two story, two unit, 600 sq/ft
 - 4 Partial two story, two unit, 900 sq/ft
 - 5 Two stories, two units + office, 1200 sq/ft
 - 6 Two stories, four units, 1600 sq/ft
 - 7 One story, one unit, 510 sq/ft
 - 8 One story, retail unit, 600 sq/ft



Master Concept Plan
Myerside Resort and Cottages
Parking Map



School St

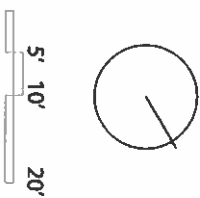
Estero Blvd

Structure Details Legend

- Existing structure
- Raised structure above parking
- Parking Pad
- Parking space
- Tree

- Max. height - 30'
- Guest units - 16
- Max. FAR - 1.2
- 43 parking spaces

- ① One story, one unit, 700 sq/ft
- ② Two stories, three units, 950 sq/ft
- ③ One story, one unit, 700 sq/ft
- ③a Two story, two unit, 600 sq/ft
- ③b Two story, two unit, 600 sq/ft
- ④ Partial two story, two unit, 900 sq/ft
- ⑤ Two stories, two units + office, 1200 sq/ft
- ⑥ Two stories, four units, 1600 sq/ft
- ⑦ One story, one unit, 510 sq/ft
- ⑧ One story, retail unit, 600 sq/ft



Parking layout and access map

Sheet
8/8

Deviation 4:

A deviation from Section 34-2015, location and design of parking to include allowance of stacking of cars where designated on the Master Concept Plan; to allow an exiting vehicle to leave parking spaces by backing out onto School Street or Oak Street; and elimination of turning bay for dead-end aisles, and from Section 34-2016, the dimension requirements to allow appropriate dimensions for parking of compact cars.

Justification: Deviation 4 is a request for relief from LDC Section 34-2015 to accomplish the village design. The parking plan includes back-out parking, parking along the west property side line; stacked parking; and elimination of turning bays at dead-end aisles. In addition, this request is for relief from Section 34-2016, the dimensional requirements to allow parking spaces to be reduced to provide parking to compact cars. This parking plan actually provides parking beyond the minimum Code requirement for number of spaces for resort use pursuant Section 34-2020. The parking will be operated by management so that vehicles parking under Buildings where the stacked parking will be carefully managed for those who are not moving their vehicle for a set period of time. The back-out parking is proposed in three areas on School Street and two areas on Oak Street, which are local roads with minimal traffic. The parking arrangement supports the village concept design in that having parking close to the cottages where the vehicles are kept on the perimeter so that the focus of the resort is the courtyard area with the surrounding resort cottages. The subordinate commercial of the 600 square foot of retail in Unit 8 and the food and beverage and outdoor seating (Phase 4 only) in Building 1 have parking provided. Parking is proximate to each cottage to include Buildings 2, 3, 4, 5 and 6, which is typical type parking use for cottages on Fort Myers Beach.

EXHIBIT TO SUPPLEMENT PH-D

Schedule of Uses

Dwelling unit, single or 2-unit or multi-family
Bed and breakfast
Hotel / motel
Guest units
Rental of any permitted unit for periods of one day or longer
Resort
Accessory apartment
Residential accessory uses
On-premises consumption of alcoholic beverages
Resort accessory use
Personal services
Subordinate commercial uses
Recreational facilities
Retail store, small
Restaurant

Property Development Regulations

Street setback 10 feet
Side setback 15 feet
Height maximum 30 feet per Section 34-631, maximum 3 stories
Minimum lot size 4,000 square feet
Minimum lot width 45 feet
Minimum lot depth 80 feet

COPY

ALL-STATE LEGAL®

3-1

O'Brien, Robin

From: O'Brien, Robin <RObrien@ralaw.com>
Sent: Wednesday, January 15, 2020 11:40 AM
To: green@fmbgov.com
Cc: Grady, Beverly
Subject: Myerside Resort and Cottages
Attachments: 4690_001.pdf

Jason:

On behalf of Beverly Grady, attached please find an Application for Waiver of Submittal Requires in connection with Myerside Resort and Cottages for your review and approval.

If you have any questions, please contact our office.

Thank you for your attention to this matter.

Robin O'Brien

Assistant to Sean M. Ellis, Beverly Grady, and Ashley L. Suarez

 ROETZEL

2320 First Street, Suite 1000

Ft. Myers, FL 33901

Direct Phone No.: 239.338-4254

Main Phone No: 239.337.3850

Fax No.: 239.337.0970

Email: robrien@ralaw.com

www.ralaw.com

Roetzel & Andress, A Legal Professional Association

Both Robin O'Brien and Roetzel & Andress intend that this message be used exclusively by the addressee(s). This message may contain information that is privileged, confidential and exempt from disclosure under applicable law. Unauthorized disclosure or use of this information is strictly prohibited. If you have received this communication in error, please permanently dispose of the original message and notify Robin O'Brien immediately at 239-338-4254. Thank you.



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Application for Waiver of Submittal Requirements

Submit a request for waiver of submittal requirements prior to submitting an application for public hearing or administrative action. Requesting a waiver of submittal requirements simultaneously with an application may delay your application. The request and the director's response will become part of the application file.

Waiver is requested for items required for:

Public Hearing

- ☐ General Requirements
- ☐ DRI
- ☒ Planned Development
- ☐ Conventional Rezoning
- ☐ Special Exception
- ☐ Variance
- ☐ Appeal
- ☐ Other

Administrative Action

- ☐ General Requirements
- ☐ Planned Dev. Amendment
- ☐ Commercial Antenna
- ☐ Consumption on Premises
- ☐ Forced Relocation of a Business
- ☐ Interpretation of LDC
- ☐ Minimum Use Determination
- ☐ Setback Variance
- ☐ Other

Name of Project: MYERSIDE RESORT AND COTTAGES

Applicant: MYERSIDE, LLC

Strap Number: 19-46-24-W3-0020C.0230; .0270; AND .0290

Street Address: 2661-2681 ESTERO BLVD.; 125 SCHOOL ST., 131-151 SCHOOL ST.

Phone Number: c/o Beverly Grady: (239) 338-4207

Email: c/o Beverly Grady: bgrady@ralaw.com



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Application for Waiver of Submittal Requirements

Specific requirements from which waiver is sought

Section Number	Requirement
PART 2-Submittal Requirements	Traffic Impact Statement
(Supplement PH-D)	
Section 34-212 Application for Planned Development (6)	Traffic Impact Statement

Scope of project and reasons for request

Explain the nature of the project and give reasons why you think specific requirements are inapplicable or otherwise should be waived.

SEE ATTACHED EXHIBIT A

I hereby state that the information provided above is accurate to the best of my knowledge. I recognize that if my project changes from what is described above approval of this waiver request may no longer be valid.

Beverly Chasdy

Signature

January 15, 2020

Date

Director's Decision ☐ Approved ☐ Denied

Comments:

Signature

Date

Revised 1/6/2017

Town of Fort Myers Beach
2525 Estero Blvd., Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Permits@FortMyersBeachFL.gov Fax: 239-765-0909

Page 2 of 2

SUBMIT

EXHIBIT A TO WAIVER REQUEST

Pursuant to Section 34-202(a), the director is authorized to grant a waiver from a submittal requirement. This is a request for a waiver from providing a traffic impact statement. The Subject Property is currently developed - one-half of the Property has been approved bed-and-breakfast use pursuant to SEZ2015-00006, the other half of the Property has existing five (5) dwelling units. This application is requesting rezoning to CPD for a total of 15 guest units with a subordinate commercial uses of 600 s.f. retail and 600 s.f. of interior restaurant, and 300 s.f. of outdoor seating for the restaurant. The restaurant will be added as part of Phase 4 of the project. Therefore, the impact of the proposal is basically the equivalent of the existing density on the Property. Although the retail and restaurant will be open to the public, they are of such a size that their primary purpose is servicing the guest units and servicing pedestrian traffic. Due to the size of the proposed food and beverage service and retail service, these will not be destination locations. Therefore, there is no traffic impact statement needed for redevelopment that has the equivalency with the existing development.

MYERSIDE RESORT AND COTTAGES NARRATIVE
SUPPORTING CONSISTENCY WITH FORT MYERS BEACH COMPREHENSIVE PLAN,
CRITERIA FOR REZONING LDC 34-85; DESIGN GUIDELINES.

This is a request to rezone Lots 23-34, Block C, Winklers Subdivision from RC to Commercial Planned Development (CPD) for a resort community (Subject Property) Myerside Resort and Cottages. The Subject Property is located at 2662-2681 Estero Boulevard, 125 and 131-151 School Street – 3 contiguous parcels. The Subject Property is designated as Boulevard in the Future Land Use Map attached as Exhibit A which is defined as follows:

POLICY 4-B-5 “BOULEVARD”: a mixed-use district along portions of Estero Boulevard, including less intense commercial areas, historic cottages, and mixed housing types. This category is not intended to allow commercial uses on all properties; its mixed-use nature is intended to remain permanently. For new residential development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overly” indicates a maximum density of 10 units per acre for legally existing dwelling units). To obtain approval for new or expanded commercial activities, proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. Non-residential uses (including motels and churches) now comprise 46.9% of the land in this category, and this percentage shall not exceed 70%.

The Subject Property consists of 3 strap numbers and is located within the platted overlay which permits 10 dwelling units to the acre and requests a rezoning to CPD. Lots 23-28 are currently owned by Cottages at Myerside LLC and that parcel contains 5 structures with 5 dwelling units. Lots 29-34 are currently owned by Weinman Realty LLC and that parcel contains 3 structures with 7 dwelling units. Although the official plat is sufficient for the legal description and boundary of the Subject Property, please find Exhibit 5-2 the survey attached for Lots 23-28 and the survey attached for Lots 29-34 to establish the location of the existing structures).

Lots 29-34 were approved for a special exception for a bed and breakfast inn by Council Resolution number 16-09 which is attached as Exhibit B. So the resort use has already been approved for half of the Property. (Note that since the Subject Property is platted in the official plat books no boundary survey is required for the Subject Property).

Boulevard is a mixed-use district. The Subject Property is surrounded by streets on three sides: Estero Boulevard, School Street and Oak Street. On the 4th side over one-half of the property line is adjacent to a parking lot and also adjacent to a 2-story single-family home that is located on Estero Boulevard. The lot line adjacent to the parking lot and 2-story unit should be deemed a side

lot line for purposes of property development regulations. The Master Concept Plan proposes an adequate buffer adjacent to the single-family lot. There is high density multi-family, offices and institutional uses surrounding the property. The Boulevard designation recognizes that non-residential uses are appropriate and states that the non-residential uses including motels and churches comprise 49% of the land and that the percentage shall not exceed 70%.

The subject site is located in a predominantly institutional area directly adjacent to the Bay Oaks Community Pool, across Oak Street from Bay Oaks Recreation Center ballfields, and Fort Myers Beach Elementary School and across School Street from the Fort Myers Beach United Methodist Church and public library. The site fronts on Estero Boulevard where the Boulevard contains a number of mixed uses in the area. The resort units on the Subject Property are centered around a center courtyard, tiki and pool area which replicates a village concept.

During Special Exception SEZ2015-00006 for the bed and breakfast inn which was approved in 2016, the record noted that at that time a number of improvements made by the Applicant had done much to promote safety, order, appearance and prosperity of the property and generally improved the same for the neighborhood.

There are 12 existing dwelling units on the 1.03-acre parcel. This is a phased resort redevelopment. This will be a phased project as the owners need to keep the hospitality use in operation while constructing the proposed improvements as shown on the 8-page Master Concept Plan and would request an extended period for actual construction.

Phase 1 proposes 12 guest units and the proposed size of the guest units are as follows:

Building 1	1 unit	700 S.F.	
Building 2	2 units	924 S.F.	
Building 3	1 unit	700 S.F.	
Building 4	1 unit	1,030 S.F.	
Building 5	2 units	1,267 S.F.	Office 250 S.F.
Building 6	4 units	3,200 S.F.	
Building 7	1 unit	504 S.F.	

Buildings 2 and 3 are relocated in Phase 1 to place the resort units around the amenity area.

Phase 2 also proposes 12 guest units and adds Building 8, which is 600 square feet of retail. This is an existing building to be relocated known as the Red Shutter Cottage, which will add to the Fort Myers Beach village ambiance and concept.

Phase 3 adds 4 new guest units labeled as 3a - 600 square feet, and 3b - 600 square feet for a total of 16 guest units. The parking is revised in this Phase so that there is only ingress from Estero Boulevard access point with egress onto School Street. There is no egress onto Estero Boulevard.

Phase 4 adds 100 interior square feet to Building 1 and adds 300 square feet of outdoor seating to Building 1. The square footage devoted to interior food and beverage service is 900 square feet.

Phase 4 revises the parking to provide for 42 parking spaces, over half will be from a unified parking lot area.

The proposed guest units are consistent with the platted overlay and the conversion table in LDC Section 34-1801.

The design concept provides for historic-type cottages on the site consistent with the original Fort Myers Beach resort community. The Master Concept Plan proposes five guest units of less than 450 S. F. and four guest units between 450 and 750 S.F. and six guest units over 750 S.F. The guest units are the equivalent of 8.3 dwelling units.

The amenity center contains an existing pool, recreational area and a tiki hut which serves beverages including alcoholic beverages.

The schedule of uses includes all the permitted and special exception uses in the Commercial Resort District and the uses of "retail, small," "personal services" and "restaurant" which are appropriate for a resort and those uses are sized to be a subordinate use of the resort.

The request is consistent with the goals, objectives, policies and intent and the intensities of the Fort Myers Beach comprehensive plan. It is consistent with the existing and the planned uses in this area of the Boulevard designation.

The design concept provides for a variety of beach cottages on the site consistent with the original Fort Myers Beach community. The design of the cottages are consistent with the architectural style so familiar to Fort Myers Beach and will provide hospitality and family-oriented resort services. Attached as Exhibit C are photos of the proposed cottage architectural elevations.

The Town found that the request for the bed-and-breakfast contributed to a mixed-use environment without increasing the intensity of use beyond what is there today. The visitors brought to the area by the lodging use will provide additional customers to support nearby commercial uses such as those at Seagrape Plaza. Additionally, it was recognized that by renovating existing 1950s structures the Applicant has helped preserve the Island's cottage-style architecture and scale. This request furthers that goal.

We respectfully submit that this proposed Master Concept Plan is supported by the Community Design Element of the Comprehensive Plan. That Element provides a vision for this area "School Street itself has also become a key connection from the bay to the beach, a palm-line showcase of restored and new cottages. ..." Existing and new in-fill development on School Street is in the spirit and scale of the Beach's classic cottages. The Master Concept Plan and proposal also is consistent with Goal 3 of the Comprehensive Plan which accomplishes the goal: "to revitalize specific transitional neighborhood." The Subject Property lies within "Heart of the Island" area identified for redevelopment in Objective 3-A. Goal 4 of the Comprehensive Plan provides "to keep Fort Myers Beach a healthy and vibrant 'small town' while capitalizing on the vitality and amenities available in a beach resort environment ..." The scale and design of the proposed resort use is consistent with the Beach's small town feeling and capitalizes on this location which is in

close proximity to the beach, the Gulf, as gulf/beach access is less than a 1/4-mile to the north and Pompano Street is even closer to the south.

The urban services to serve this resort already exist and have been serving the existing dwelling units (bed and breakfast) that exist on the site. There are no environmental areas on the site. In the Boulevard designation it provides that a planned development rezoning is required for commercial uses so that appropriate conditions can be placed.

The design of the cottage resort concept is consistent with the harmony of this mixed-use neighborhood. The parking plan provides for back-out parking onto the low volume local streets. The physical scale of the proposed cottages structures are consistent and an asset to the neighborhood. This proposal provides a balance to the rather large institutional structures in proximity to the proposed structures shown on the Master Concept Plan. The enclosed elevations illustrate the beach architecture which meets the design criteria set forth in the Commercial Design criteria in LDC 34-991. The proposed design consists of traditional building forms. To maintain the historic concept, the site design provides for parking in close proximity to the cottages which means that there need to be more access points from the local streets – School Street and Oak Street are appropriate.

The layout of the Master Concept Plan creates usable outdoor space with a compatible style and scale that is an asset to the pedestrian traffic on the surrounding streets. The proposed design is an enhancement to the Town's plan for the Boulevard area and is consistent with Policy 4-C-3 of the Comprehensive Plan, which provides direction concerning commercial locations for new or expanded commercial uses. In the Boulevard category "proposals must be sensitive to nearby residential uses, compliment any adjoining commercial uses, contribute to the public realm as described in this Comprehensive Plan, and meet the design concepts of this Plan and the Land Development Code." The scale and beach cottage architecture is consistent with the Comprehensive Plan and furthers its goals.

The minor commercial square footage is limited to 600 square feet of retail and in Phase 4 1,200 square feet of restaurant (900' indoor, 300' outdoor). These commercial uses would typically be considered as permitted as subordinate commercial due to the minimal square footage. Although they are located along Estero Boulevard and available to pedestrian travelers for shopping and food and beverage service, they are such a small size and scale that they meet the definition of subordinate commercial. These uses would not be a destination-type use. Policy 4-C-3 provides "the neighborhood context of proposed commercial uses is of paramount importance." The proposed resort use that includes small level of retail, food and beverage service is an asset to the surrounding institutional and residential uses in the neighborhood and are sufficiently small in scope that they are a supportive and subordinate use. In Case SEZ2015-00006, it was recognized in 2015 that the Property had been used for short-term rentals in excess of a decade at that time. Staff found that the proposed resort use in 2015 was consistent with the Comprehensive Plan and the Land Development Code. We respectfully submit that the Master Concept Plan presents a unified theme and design that continues with a cottage design that is compatible with the surrounding neighborhood and vision for Fort Myers Beach. Upon completion of Phase 4, the site will consist of 15 guest units with a supportive yet small amount of commercial (retail, and food and beverage service) to support the resort use.

Each phase request three years to obtain a development order and four years to complete the development order.

The proposed location for a resort cottage use is an enhancement to the existing uses surrounding the site.

Attachments:

- Exhibit 5-2 survey Lots 23-28; survey Lots 29-34
- Future Land Use Map (Exhibit A)
- Town Council Resolution 16-09 (Exhibit B)
- Architectural elevations (2) (Exhibit C)

NORTH
ARROW



SCALE
1" = 30'

FOUNDATION LOCATION

FIELDBOOK

PAGE

LEGEND

SET CONC. MON. WCAP I.D. # 3553
SET IRON PIN WCAP I.D. # 3553
FD. CONC. MON. WCAP
FD. CONC. MON.
FD. IRON PIN
ASSUMED ELEVATION
BENCHMARK
RECORDED
MEASURED

CONT REVERSE SIDE

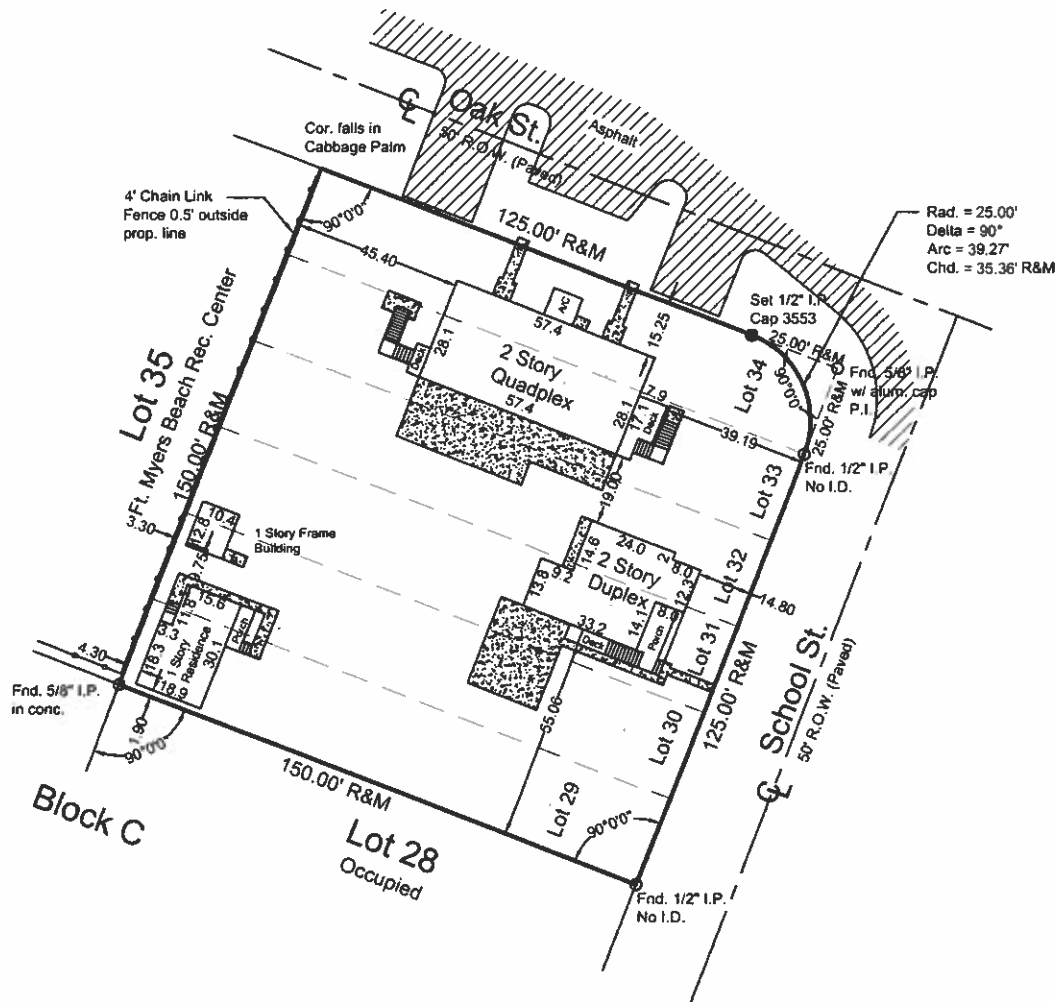
FINAL SURVEY DATE

LEGAL DESCRIPTION

(AS PROVIDED BY CLIENT)

This is a boundary survey of the following : Lots 29 through 34, Block C, Winkler Subdivision as recorded in Plat Book 8, Page 45 of the Public Records of Lee County, Florida.

The property address is 131, 145, 147 & 151 School St. per County Records.



NOTES

1. REPRODUCTION OF THIS SKETCH IS NOT VALID UNLESS SEALED WITH AN EMBOSSED SURVEYOR'S SEAL.
2. NO INSTRUMENTS OF RECORD REFLECTING EASEMENTS, RIGHTS-OF-WAY, AND OR OWNERSHIP WERE FURNISHED THIS SURVEYOR EXCEPT AS SHOWN.
3. NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS HAVE BEEN LOCATED EXCEPT AS NOTED.
4. BEARINGS SHOWN HEREON ARE BASED ON
Angles are field measured

5. THIS PROPERTY LIES IN FLOOD ZONE AE EL 12 & 13 NAVD88 PER F.I.R.M. PANEL NO. 12071C0554F, DATED 8/28/2008
6. LAST DATE OF FIELDWORK 1/7/14
7. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.

CERTIFICATE

I hereby certify that the above described property was surveyed under my direction and the sketch of survey is true and correct to the best of my knowledge. This survey meets or exceeds the minimum technical standards set forth by the Florida Board of Land Surveyors, pursuant to Rule 81G17 - 6 Florida Administrative Code, and pursuant to Section 472.027 Florida Statutes. There are no visible encroachments other than those shown hereon.

P.L.S.

MARK O. ALLEN P.L.S. #3553
LB #6558

FAX: (239) 992-6070
TELE: (239) 992-8900

MARK O. ALLEN, INC.
PROFESSIONAL LAND SURVEYOR

10602 WOODS CIRCLE
BONITA SPRINGS, FL 34135

DWN. BY
MG

CHK'D BY

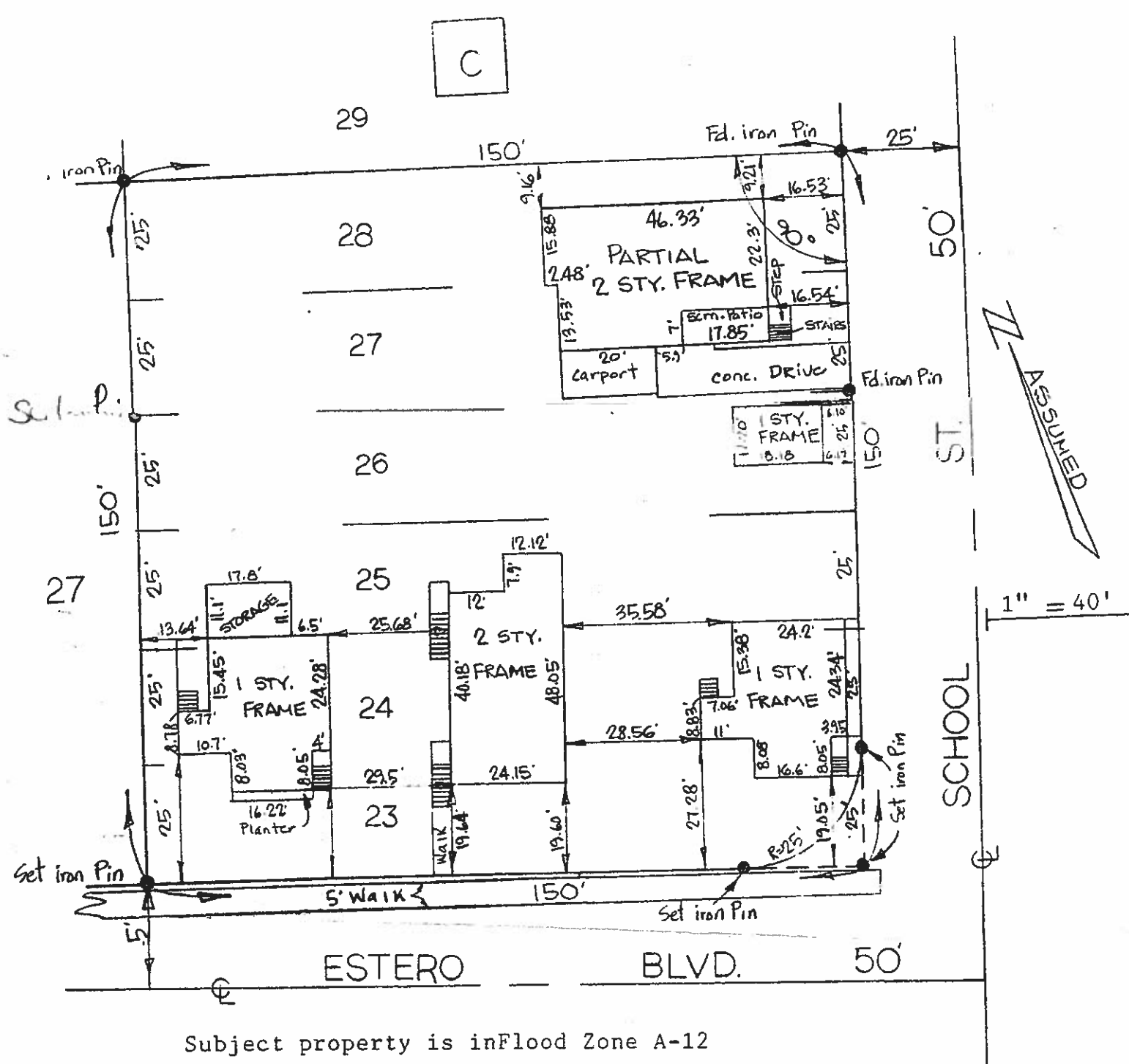
ORDERED BY
Beverly Milligan

SHEET 1 OF 1
DWG. NO. 2014-3

ALL-STATE LEGAL®

5-2
2 PAGES

324.645-2



Subject property is in Flood Zone A-12

SURVEY PLAT

For Lots 23-24-25-26-27-28, Block "C" WINKLER Subdivision as recorded in Plat Book 8 Page 45. Public Records of Lee County, Florida.

FOR: Donald Nyman

BY: S & H Land Survey Co.
7218 Drake Drive SW
Ft. Myers, Florida 33908

CERTIFICATE OF SURVEY: I hereby certify that the plat hereon meets the minimum technical standards set forth by the Florida Board of Land Surveyors, pursuant to Section 472.027, Florida Statutes

DATE: May 21, 1987

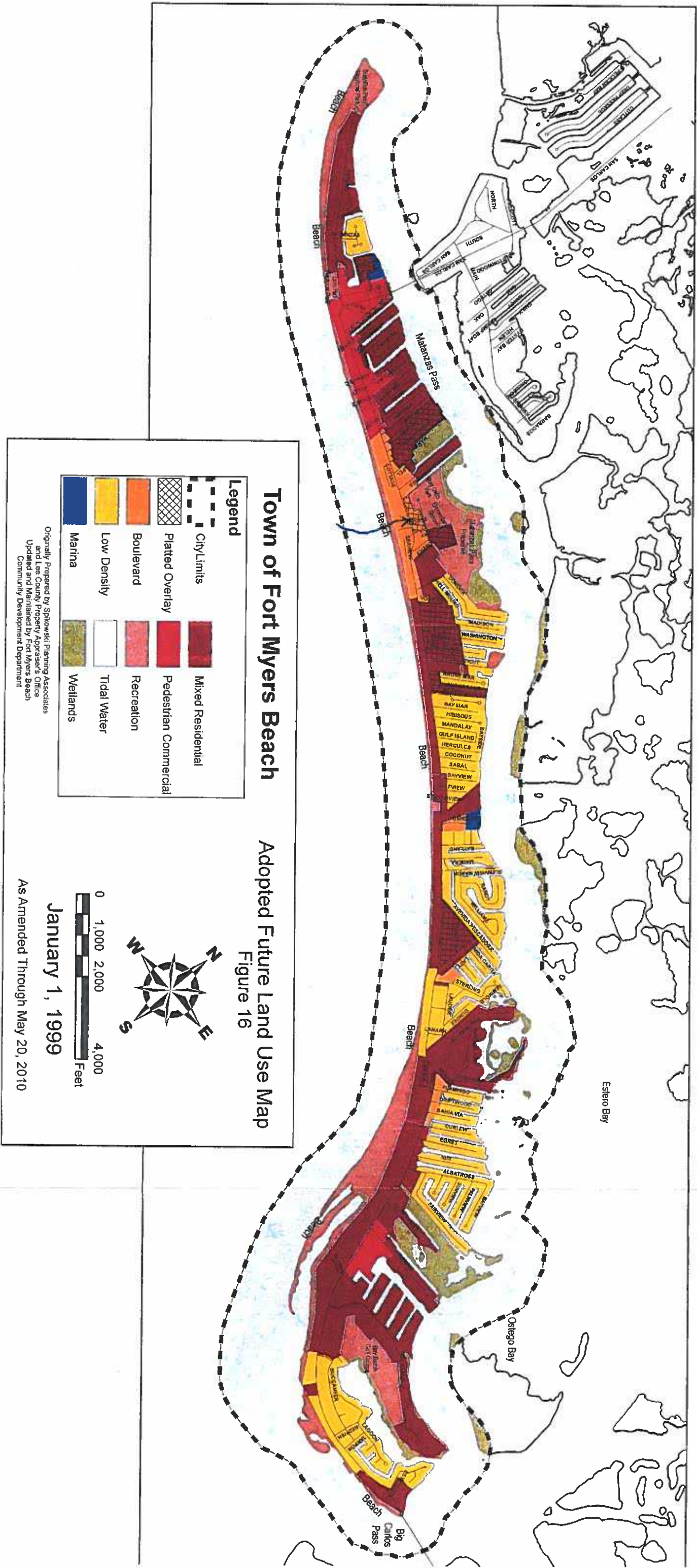
Richard L. Hardy
Reg. Land Surveyor #3135
State of Florida

2661-26671-2681 Estero Blvd. & 125 School St.

JOB 6208-A

Boundary -Location

Richard L. Hardy



Town of Fort Myers Beach

Adopted Future Land Use Map

Figure 16

Originally Prepared by Spikowski Planning Associates
and Lee County Property Appraiser's Office
Updated and Maintained by Fort Myers Beach
Community Development Department

January 1, 1999
As Amended Through May 20, 2010

RESOLUTION NUMBER 16-09

**RESOLUTION OF THE TOWN COUNCIL OF
 THE TOWN OF FORT MYERS BEACH FLORIDA
 SEZ 2015-0006– Bed-and-Breakfast Inn
 131-151 School Street**

WHEREAS, Myerside LLC, applicant and owner of the subject property, filed an application to obtain a special exception for a bed-and-breakfast inn in the Residential Conservation zoning district; and

WHEREAS, Applicant has indicated the STRAP number for the subject property is 29-46-24-W3-0020C.0290, and the subject property is legally described as indicated on attached Exhibit A; and

WHEREAS, the subject property is physically located at 131-151 School Street, Fort Myers Beach, Florida, and within the Boulevard future land use category; and

WHEREAS, a duly advertised public hearing was held before the Local Planning Agency (LPA) on January 12, 2016; and

WHEREAS, the LPA recommended approval subject to certain conditions after full and complete consideration to the Applicant's request, recommendations of Town staff, documents in the record, and the testimony of all interested persons, as required by Town Land Development Code (LDC) s. 34-84; and

WHEREAS, on March 7, 2016, 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 LDC s. 34-88; and

WHEREAS, the Town Council determined it is in the best interest of the Town to approve the request.

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Fort Myers Beach, Florida, as follows:

1. **Determination.**

Based upon the recommendations, testimony, and evidence presented by Town staff, LPA, and interested parties, Special Exception SEZ2015-0006 for a bed-and-breakfast inn, as depicted on attached Exhibit A is APPROVED, subject to the conditions set forth in this Resolution.

2. Conditions.

- a. All outdoor lighting on the site will be "fully shielded" or "Full cutoff" fixtures to reduce glare and light trespass onto adjacent properties.
- b. Outdoor activities will be limited to between the hours of 7 AM and 10 PM, unless associated with a special event permit issued by the Town of Fort Myers Beach.
- c. Approval is for a total of 7 units (6 rental units and one owner residence) consistent with the sit plan attached as Exhibit A.

3. Findings and Conclusions of Law.

In accordance with LDC s. 34-88, the Town Council finds as follows:

- a. There are changed or changing conditions that make approval of the special exception 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 or exceeds all performance and locational standards set forth for the proposed use.
- d. The request will have no negative effects on environmentally critical areas and natural resources.
- e. The request will be compatible with existing or planned uses and will not cause damage, hazard, nuisance, or other detriment to persons or property.
- f. The requested use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in the Land Development Code.

[Balance of page intentional left blank.]

THE FOREGOING RESOLUTION was adopted by the Town Council upon a motion by Council Member Hosafros, seconded by Council Member Mandel and upon being put to a vote the results was as follows:

Anita Cereceda, Mayor aye
Rexann Hosafros aye
Summer Stockton aye

Dan Andre, Vice Mayor aye
Alan Mandel aye

DULY PASSED AND ADOPTED this 7th day of March, 2016.

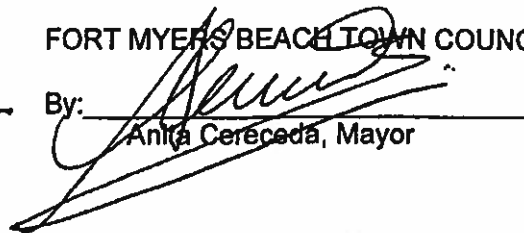
ATTEST:

By:

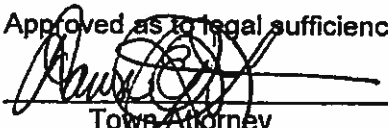

Michelle Mayher, Town Clerk

FORT MYERS BEACH TOWN COUNCIL

By:


Anita Cereceda, Mayor

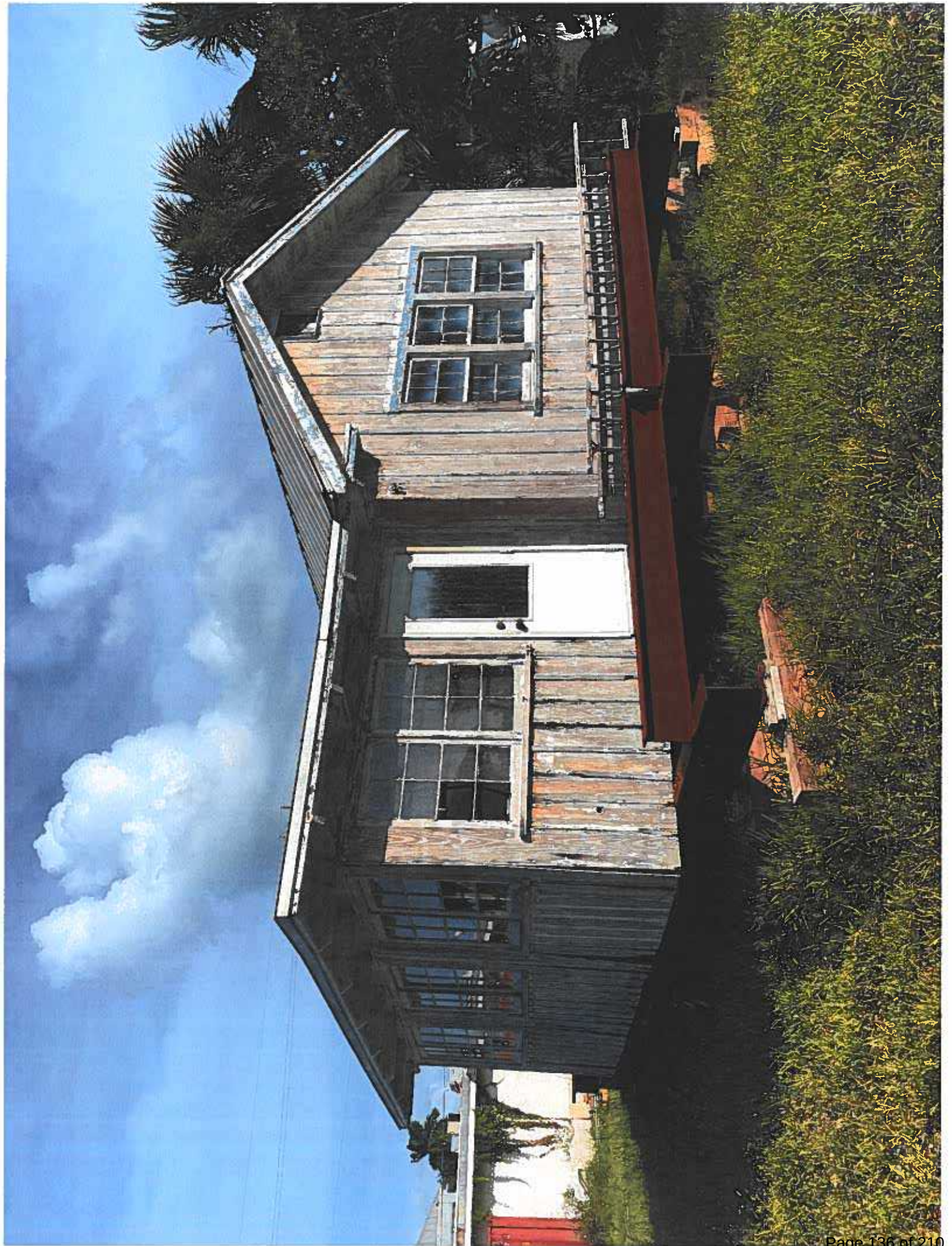
Approved as to legal sufficiency


Town Attorney

Exhibits

A: Legal Description and Site Plan (Survey prepared by Mark Allen attached to staff report)





MYERSIDE RESORT AND COTTAGES DEVIATIONS

Deviation 1:

A deviation from Section 34-953 from the property development regulations for this zoning district side setback from 15' to 6.9' and from Section 10-416(d) Type C buffer width from 15' to 6.9' from west property line for Building 1. D-1.

Justification: Since this is an existing situation and this structure has been in this location for decades, it is appropriate to grant relief from the side setback requirement and from the buffer requirement for Building 1. The concept proposed is a continuance of the Fort Myers Beach early village design. It is important to recognize the CPD proposes a village concept that is an improvement to this neighborhood and a reduced setback is appropriate in this village concept.

Deviation 2:

A deviation from Section 34-953 from the property development regulations for this zoning district side setback of 15' to 6.9' from the west property line for Building 2, the shed, and to 4.4' for Building 7. D-2.

Justification: Deviation 2 is a request for relief from the side setback as set forth in Deviation 1 for Building 1. Building 2 is being relocated from Estero Boulevard to the west property line adjacent to the same parking lot as Building 7 and the shed. Therefore, it is appropriate in the design to align Building 2 with Building 1 to accomplish the village concept. The reduced setback of Building 2 and Building 7 and the shed are appropriate when next to the adjacent parking lot use. The location of relocated Building 2 is appropriate in order to have appropriate spacing from Building 6 on Oak Street. There is no buffer required next to the adjoining use of parking lot so the only deviation for Deviation 2 is from the side setback. The village concept provides that Buildings 2, 3, 4, 5, 6 and 7 surround the courtyard with the amenities of a pool and a tiki hut. It is appropriate to grant setback relief to existing Building 7, relocated Building 2 and the shed to accommodate this village concept.

Deviation 3:

A deviation from the driveway access separation requirement of Section 10-296 along Estero Boulevard to allow a driveway access to the Subject Property that is 66' from the northernmost access and 112' along the south to School Street. D-3.

Justification: This is a request for a deviation from driveway access separation along Estero Boulevard. Currently there are two driveway accesses from Estero Boulevard to the Subject Property. In this CPD the two access points are being reduced to one access point. Phase 1 provides one access point to parking and Building 1. Phase 2 provides one access point to parking and Buildings 1 and 8. Phase 3 reduces access from Estero Boulevard to ingress only and the egress is from the parking lot is on School Street. This access design is maintained and improved in Phase 4. The proposed access point is located 66' from the access point to the north and 112' from School Street to the south.

**RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 96-31**

WHEREAS, Donald A. & Anne S. Nyman filed an application for a rezoning from TFC-2 (Two-Family Conservation) to Commercial Planned Development; and

WHEREAS, the subject property is located at 2661-2681 Estero Boulevard and 145 School Street, Ft. Myers Beach, and is described more particularly as:

LEGAL DESCRIPTION: In Section 19, Township 46 South, Range 24 East, Lee County, Florida:

Lots 23-28, Block C, WINKLERS SUBDIVISION as recorded in Plat Book 8, Page 45, of the Public Records of Lee County, Florida, lying in Section 18, Township 46 South, Range 24 East, Lee County, Florida.

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 19-46-24-02-0000C.0230 and 19-46-24-02-0000C.0270; and

WHEREAS, Donald A. & Anne S. Nyman, the owners of the subject parcel, authorized Humphrey & Knott, P.A., to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was advertised and held on November 28, 1995 before the Lee County Hearing Examiner who gave full consideration of the evidence available; and

WHEREAS, a public hearing was advertised and held on February 9, 1996 before the Fort Myers Beach Town Council who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons and denied the rezoning; and,

WHEREAS, the applicants applied for and received a F.S. 70.51 hearing and modified their application and requested a rehearing; and,

WHEREAS, a public rehearing was advertised and held on November 18, 1996 before the Fort Myers Beach Town Council who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE FORT MYERS BEACH TOWN COUNCIL, that the Council ~~APPROVES~~ / DENIES the requested rezoning from TFC-2 to CPD.

SECTION A. CONDITIONS:

The rezoning and Master Concept Plan are subject to the following conditions:

1. The development and use of the subject property is to be in substantial compliance with the approved Master Concept Plan entitled "Nyman - CPD" (7-14-96) as prepared by David Estes & Associates, except as may modified by the conditions herein. Total building area or intensity may not exceed 3,850 square feet of retail and office use and 5 multiple family units, as indicated on the Master Concept Plan.

2. This development may be developed in accordance with the following Property Development Regulations:

Minimum Setbacks:

Street:	70 feet (Estero Boulevard)
Side Street:	25 feet (School Drive)
Side:	15 feet
Rear:	15 feet
Minimum Open Space:	20%
Maximum Lot Coverage:	40%
Maximum Building Height:	30 feet above minimum flood elevation

3. The following will be the approved Schedule of Uses for this planned development:

5 MULTIPLE FAMILY UNITS
ALL PERMITTED USES OF THE CN-2 DISTRICT
SINGLE-FAMILY AND DUPLEX DWELLING UNITS - existing only

4. This zoning approval does not address the mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions may be required at the time of issuance of a local Development Order.
5. Approval of this rezoning does not give the Developer the undeniable right to receive any local Development Order approval that exceeds the Year 2010 Overlay use allocation, if such allocation exists, for the applicable district.
6. This development is to comply with all requirements of the Lee County Land Development Code as amended by the Town of Fort Myers Beach at the time of local Development Order approval, except as may be granted by deviation as part of this planned development.

SECTION B. DEVIATIONS:

The Master Concept Plan deviates from several Lee County development standards. The proposed deviations are granted or denied as set forth below:

Deviation 1, which requests relief from LDC Section 10-285 which provides for connection separation of 660 feet along an arterial road to a requested 125 feet along

Estero Boulevard from the center line of School Drive is APPROVED WITH THE CONDITION that the access point is designed and constructed as right-in/ right-out only with a raised traffic median.

Deviation 2, which requests relief from Section 10-285 of the Land Development Code (LDC) providing for a 660 foot connection separation along arterial roads to allow connection separation of 65 feet from the centerline of a private drive is APPROVED WITH THE CONDITION that the access point is designed and constructed as right-in/ right-out only with a raised traffic median.

Deviation 3, which requests relief from Section 34-934, note 10 that requires 50,000 square foot of commercial uses to permit five (5) dwelling units in a Commercial Planned Development containing 3,850 of commercial uses is APPROVED.

SECTION C. MASTER CONCEPT PLAN:

A reduced copy of the Master Concept Plan entitled "Nyman - CPD" 7/14/96, is attached and incorporated into this resolution by reference.

SECTION D. FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval or the requested rezoning:

1. The proposed uses, as conditioned, ~~are~~ / are not appropriate for the site and no changed or changing conditions make approval of this rezoning request inappropriate.
2. As conditioned, the CPD rezoning and approved deviations:
 - (A) ~~will not have~~ / will have an adverse impact on the intent of the Land Development Code
 - (B) ~~are~~ / are not consistent with the goals, objectives, policies and intent of the Lee Plan and with the densities, intensities, and general uses set forth in the Lee Plan specifically Policies 5.1.5, 6.1.2, 6.1.5, and 18.2.1.
 - (C) ~~meet or exceed~~ / do not meet all performance and locational standards set forth for the proposed uses.
 - (D) ~~are compatible~~ / are not compatible with existing or planned uses, and are ~~not~~ contrary to the public health, safety or welfare and will not cause damage, hazard, nuisance or other detriment to persons or property.
 - (E) ~~do not place an undue burden~~ / place an undue burden upon existing transportation facilities, or other facilities or services.

(F) ~~will comply~~ / will not comply with all applicable general zoning provisions and supplemental regulations pertaining to the uses set forth in the Land Development Code.

(G) ~~enhance~~ / do not enhance the achievement of the objectives of the CPD rezoning, and promote and preserve the protection of the public health, safety or welfare.

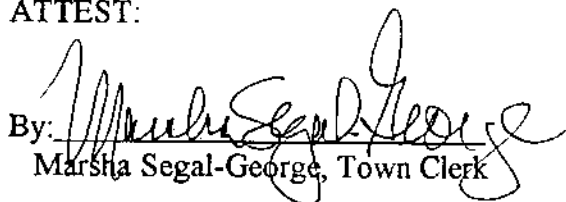
3. Urban services, as defined in the Lee Plan, ~~are or will~~ / will not be available and adequate to serve the proposed uses.
4. The conditions imposed on the CPD zoning and the approved deviations are reasonably related to the impacts on the public's interest created by or expected from the proposed uses, and, in conjunction with other land development regulations, will protect the public's interest, health, safety and welfare.

The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

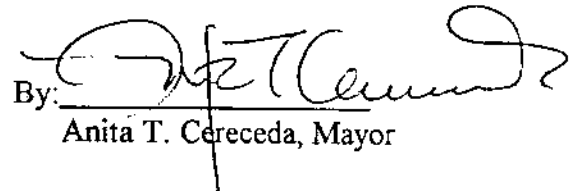
Anita T. Cereceda	<u>Yes</u>
Ted FitzSimons	<u>Yes</u>
William (Rusty) Isler	<u>Yes</u>
Garr Reynolds	<u>Yes</u>
Ray Murphy	<u>No</u>

DULY ADOPTED this 18th day of November, 1996.

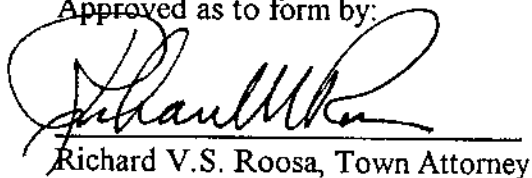
ATTEST:

By: 
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By: 
Anita T. Cereceda, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney

**FORT MYERS BEACH
TOWN COUNCIL MEETING
NOVEMBER 18, 1996**
Nations Bank, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA

I CALL TO ORDER

The meeting was opened on Monday, November 18, 1996, at 6:35 P.M. by Anita T. Cereceda, Mayor. Present at the meeting were: Anita T. Cereceda, Mayor and Council Member; Ted FitzSimons, Vice Mayor and Council Member; Council Members Rusty Isler, Ray Murphy, and Garr Reynolds; Marsha Segal-George, Town Manager; and Attorney Richard Roosa.

II PLEDGE OF ALLEGIANCE

All assembled recited the Pledge of Allegiance to the flag.

III INVOCATION

The invocation was given by Jim Overhulser of the Vineyard Christian Fellowship of Fort Myers Beach.

IV PUBLIC COMMENTS AND INQUIRIES

A CEIL SPUHLER

Mrs. Spuhler, who lives on Estero Boulevard, asked the Council to extend the slow speed zone from 500' to 1000'. She felt that this was important for three reasons: for the safety of swimmers who go out further during low tide, to soften the noise, and to make private owners aware of the fines. She felt that both rental craft and private craft should be under the same restrictions.

B SCOTT PORTER

Mr. Porter has a business, Flotilla Foods and Sundries, which is licensed by the County as a floating vendor, and licensed by the state as a restaurant. His licenses are in good standing, and he is based at a local marina, but the vessel safety ordinance, as proposed, would disallow his business. He asked the Council to grandfather his license.

C J. D. WILLIAMS

Mr. Williams, owner of Sundance Water Sports, spoke about the personal watercraft ordinance. The items that worry him the most are on page 7(27-50) and page 13(27-55B), which concern non-conforming licenses, which will allow about 35-40 waverunner stands on the island.

D TED PRIMICH

Mr. Primich, from the Lani Kai, recommended tying the number of waverunners allowed for each license to the number motel rooms, parking spaces, or beachfront footage. This proposed ordinance will cut his volume in half. With only eight waverunners he cannot pay his monthly rent and he will be out of business. Maybe a distinction between conforming and non-conforming licenses would help.

E SHARON FAIRCLOTH

Mrs. Faircloth, of Holiday Waverunners, is worried that increasing the idle speed zone to 1000' as suggested by LPA, although good for swimmers, would put the waverunners out so far that she cannot see them from shore. Their business only runs 6-8 watercraft, but she thinks it is fair to allow more if a place is big enough to handle it.

F LONNIE CLARK

Mr. Clark said the original purpose of Lee County 95-13 was to promote safety and to preserve and protect natural resources. Little Estero Island is a critical wildlife area and he thinks it should have the same setback requirements.

G JAMES TUCK

Mr. Tuck lives on Estero Boulevard, and wants to move the limit out to 1000 feet which will go a long way toward eliminating noise.

H CHRIS WEBBER

Mr. Webber, of Mid Island Water Sports, is OK with 1000 feet because of noise, but it does take his customers very far out. He recommended moving the buoys out to 700 or 750 feet. He also wanted to talk about the requirement for CPR. His insurance agent said it would be unenforceable, and if there was an accident while someone was on duty without CPR, the Town could be liable because they did not enforce the law. Also, the wording should be changed to one half hour before or after sunset and sunrise in order to agree with Coast Guard rules. He feels that the Town should allow more than 8 watercraft for the larger operations.

G BILL PERRY

Mr. Perry, of Aqua Sports, supports increasing the slow speed zone to 1000' and he will put his buoys out that far anyway because it makes his neighbors happy. He thinks that 1000 feet would help protect nesting areas and manatees in the back bay. The variance clause needs to be looked into and perhaps based on parking spaces or number of motel units.

V APPROVAL OF MINUTES FROM NOVEMBER 4, 1996

Motion: Mr. FitzSimons moved and Mr. Murphy seconded that the minutes be approved as read. The motion passed unanimously.

VI APPROVAL OF EXPENDITURES

Mr. FitzSimons asked about the bill for Spikowski and Associates. Marsha Segal-George said that the majority of the bill is for the LPA and a small amount is for helping the Town in working with the county and with unusual requests.

Motion: Mr. FitzSimons moved and Mr. Murphy seconded that the expenditure report be accepted. The motion passed unanimously.

VII COUNCIL MEMBERS' ITEMS AND REPORTS

A RAY MURPHY

Mr. Murphy noted that another person died on Estero Boulevard this week, and he suggested that the Town contact the county to light them up or get blinking lights. Marsha Segal-George asked if there had ever been any talk of raising the walkways (like speed bumps). Mr. Gucciardo asked if the Council would like this to be handled directly with the county or through the traffic committee. Mayor Cereceda suggested that he contact DOT before the next traffic meeting so they will be prepared to talk about the options at the meeting. Mr. FitzSimons wondered about battery operated blinkers or a button for the pedestrian to push. Mayor Cereceda said perhaps the sheriff could be contacted to give out tickets. Mr. Reynolds would like to see a sign at each crosswalk telling cars to stop when pedestrians are in the crosswalk. We also need publicity to get word out to remind people to stop for pedestrians.

B GARR REYNOLDS

He spoke about the personal watercraft ordinance, particularly that access to the gulf be required for a license, so that they are not using public access. He also agreed that a large hotel should be allowed more waverunners because it is an extension of their business.

He had planned to talk about Palmetto Street, but decided to wait until the next meeting so that the other Council members could study his proposal.

He reported that he polled the traffic committee and they unanimously recommend a 25 cent fare on the trolleys rather than having them be free. They also agreed that it was necessary to have 3 or 4 trolleys. Mr. Whitaker suggested having the fourth trolley only operate during peak hours, perhaps from 10 AM to 6. The committee also recommended closing Times Square to traffic and that commercial traffic be restricted. He also recommended adding a right turn lane on San Carlos.

C RUSTY ISLER

When Marsha Segal-George started working, the Town was in danger of losing the CRA project and the pool, but because of her expertise, both projects have been protected and are going forward. He presented her with a poster in thanks for her work.

D TED FITZSIMONS

Mr. FitzSimons had no items to bring to the Council.

E ANITA CERECEDA

Mayor Cereceda has been meeting with Times Square merchants, but there are still a lot of unresolved problems. She thinks it is now time for the Council to decide whether to close the road or not, so that the merchants can decide whether to sue or to move on and be happy. She would like to schedule the first public hearing for December 2, at 3:00 PM. There are still some legalities to be investigated, but Mr. Roosa thought they would be resolved by then.

She thinks it is time to buy another computer for volunteers or Council members to use, because there are only three terminals and they are always in use by the three staff members. Mr. Isler will look into it and bring cost estimates to the next meeting.

She publicly thanked the staff for their preparation for the meeting with the commission. She thought the meeting went well because they were so well-prepared.

She also thanked everyone for the opportunity to serve as mayor for the first year.

VIII PRESENTATION BY MR. FETZER ON THE TROLLEY

Mr. Fetzer said that core service is one trolley per hour, seven days a week, from Santini Plaza to Bowditch Point, and they also provide handicapped service. From December 15 to April, there will be two trolleys per hour. He prepared two options, one for one addition trolley, and the other for two additional. Option 1 would provide service every 20 minutes, and option 2 would be every 15 minutes. If the Town adds extra trolleys, they could extend the route to Carl Johnson if the Town would like. He said that service remains hourly year round in the rest of the county and is only increased on Fort Myers Beach during season. Several years ago they investigated the possibility of allowing trolleys to use the middle lane only if traffic is at a dead stop. Both the state and the county expressed concern because of taking away turn lanes, the problem of how trolleys would pass each other, and the safety of where people could deboard. Mayor Cereceda wondered about an express trolley where stops would be at crosswalks since traffic is supposed to stop at those anyway. Lee Tran's proposals are based on \$40 per hour (the national average is \$68), which he said is their standard operating cost. Since the Lee Tran has eight operational trolleys, and six of them are sitting idle, Mr. Gucciardo questioned why it costs \$40 for additional trolleys. He thought that additional trolleys should be billed for actual costs only. The Council asked if the Town can lease the idle trolleys, but Mr. Fetzer said that they cannot lease to a private party, and it would present a problem to lease to the Town because Lee Tran is the designated provider for the area. The Council questioned if the Town could buy the trolleys since they are devalued beyond their useful life, and Mr. Fetzer answered that they will have to auction them, probably next year, but that governmental entities have first chance at the bid. They have ordered new trolleys (which cost about \$580,000 new), and they need to receive them before they auction the old ones. In response to a question, he answered that back when the Town was provided four trolleys and they were free, there were 400,000 riders. Now there are 200,000 riders. The Council will need to let him know within a week if they want to add another trolley in December.

The Council took a break at 7:45 PM and reconvened at 7:52 PM.

IX PUBLIC REHEARING ON DONALD A. & ANNE S. NYMAN REQUEST (95-07-032.02Z)

Mr. Reynolds discussed a paper that he had distributed to the Council concerning the Nyman hearing. He requested that it be continued until a later date because the map shows a different zoning (RM2) and because the County staff did not do a review of the new request. He also mentioned that the request does not show the number of square feet of the five apartments.

Motion: Mr. Reynolds moved and Mr. FitzSimons seconded that the rehearing be continued until additional information is received. After discussion, Mr. Reynolds voted in favor of the motion. Mr. FitzSimons, Mr. Murphy, Mr. Isler and Mayor Cereceda voted against the motion. The motion failed.

Discussion: Mr. Isler suggested that they have the hearing, and then postpone it if they find they need more information after the information is given. Mr. Roosa said that the problem is that the map shows RM2 zoning, and the applicant made his application based on the map. It is the county's position that it is zoned

TFC2 (two family conservation.) Mr. Roosa explained that the Council first heard this case in February, the Council denied the request, and the Nymans applied for a special master hearing. They have redesigned their request to address the objections of the Council, and have now requested a rehearing. There is no procedure for it to be re-reviewed by the County. The Town asked for their input, but it was not necessary.

Mr. Roosa provided the Council with a resolution to be completed at the end of the hearing. In addition, he provided copies of the land plan, goals and objectives that the hearing officer decided were in compliance.

Matt Uhle reviewed the case which was first heard nine months ago. The parcel is at School Drive and Estero Boulevard, and includes six platted lots totaling 22,000 square feet. There are four structures containing five units which are 30-50 years old and not in great shape. The area is called "urban community" on future land use maps. The original proposal was for 6000 square feet of commercial building on two floors, with access points on School and Estero. The County staff did not approve the request because of their concern that it would violate the section of the comp plan which protects against commercial intrusion into a residential neighborhood. However the hearing examiner did not see it as a violation, and there was no neighborhood objection, just objection from the Civic Association. However In February the Council voted 4 to 1 to deny the request. The Nymans opted to take the request to a special master because they did not want to litigate, and they thought that with input from the Council, they could address the problem and make changes that would be agreeable. The Town Manager and the Town Attorney agreed.

The changes are: 1.) They removed the access point on School Drive; and 2.) They changed the use from 6000 feet commercial, to 3850 feet on the bottom retail, and 3850 feet or less in five apartment above. These two changes address the concerns of traffic and intrusion into a residential neighborhood and will reduce traffic by 25%. He noted that there are other buildings in the area that have residential above. They have also included extraordinary buffering (8' fence and tall trees) that was recommended by the hearing examiner. There will be no hotel/motel use and there is more parking. Certain restaurants might be allowed.

Mr. Roosa swore in Mike Roeder, a planner with Humphrey and Knott. They have left open the option of floodproofing the bottom and then the building won't have to be elevated. There will only be one floor of commercial and it will be on the first level in any case.

Mayor Cereceda opened the meeting to public comment.

A HAROLD HUBER

Mr. Roosa swore in Mr. Huber. He questioned if these are going to be rental units, and if so, does the Council plan to establish a minimum rental period for the units (daily, weekly, monthly.)

The public hearing was closed.

Mr. Roosa stated that the County has identified Estero as a constrained road, which takes away the impact of traffic, so the Council cannot use traffic as a limiting factor.

Mr. Isler said that the neighborhood, in this particular spot, is residential, except for the school, library and park, which support the neighborhood. He thinks that the request will damage the residential nature of the area, and that it will have a negative impact on the school.

Mr. FitzSimons noted that the plan doesn't add residential units, but it adds commercial traffic on a highly traveled area of the road. Also the pool is being added to the area soon.

Mr. Roosa asked the Council to vote on the individual parts of SSection D, paragraph 2:

A) Mayor Cereceda, Mr. FitzSimons, Mr. Isler and Mr. Reynolds voted that the request will have an adverse impact on the intent of the Land Development Code. Mr. Murphy voted that it will not.

B) Mayor Cereceda, Mr. FitzSimons, Mr. Isler and Mr. Reynolds voted that the request is not consistent with the goals of Lee Plan policies 5.1.5, 6.1.5, and 18.2.1. Mr. Murphy voted that it is.

C) Mayor Cereceda, Mr. FitzSimons, Mr. Isler and Mr. Reynolds voted that the request does not meet performance and locational standards. Mr. Murphy voted that it did.

D) Mayor Cereceda, Mr. FitzSimons, Mr. Isler and Mr. Reynolds voted that the request is not compatible with existing or planned uses. Mr. Murphy voted that it is.

E) Mr. FitzSimons, Mr. Isler and Mr. Reynolds voted that the request places an undue burden on existing facilities. Mayor Cereceda and Mr. Murphy voted that it does not.

F) Mayor Cereceda, Mr. FitzSimons, Mr. Isler, Mr. Murphy, and Mr. Reynolds voted that the request will not comply with zoning provisions.

G) Mayor Cereceda, Mr. FitzSimons, Mr. Isler and Mr. Reynolds voted that the request does not enhance the objectives of the CPD zoning. Mr. Murphy voted that it does.

Mr. Roosa asked the Council to vote on the remaining paragraphs in Section D:

1) Mayor Cereceda, Mr. FitzSimons, Mr. Isler and Mr. Reynolds voted that proposed uses are not appropriate for the site. Mr. Murphy voted that they are.

3) Mayor Cereceda, Mr. FitzSimons, Mr. Isler and Mr. Reynolds voted that urban services are not adequate to serve the proposed use. Mr. Murphy voted that they are.

4) Mr. Roosa determined that this question does not apply.

Motion: Mr. Isler moved and Mr. FitzSimons seconded that the request to rezone from TFC-2 to CPD be denied. Mayor Cereceda, Mr. FitzSimons, Mr. Isler and Mr. Reynolds voted in favor of the motion. Mr. Murphy voted against the motion. The motion passed.

X PUBLIC HEARING OF VESSEL SAFETY ORDINANCE

Mayor Cereceda read the titles and opened the meeting for public comment.

A SCOTT PORTER

Mr. Porter stated that Section 8, which prohibits floating vendors, would end his business for which he is already licensed. He is commercially registered (although no one else may board his boat because he is not a captain), and he is inspected by the health department. He operates about six months of the season, and has been in business for a year.

Marsha Segal-George stated that this is the only license that would be affected. Mr. Roosa suggested adding, after a comma, “except those with 1997 Lee County floating vendor licenses based in Fort Myers Beach and having no more than one boat.” Mr. Isler asked if the business could then be sold later and he was told that it could.

B SANDI SUTER

Mrs. Suter doesn’t think the Town needs floating vendors, and she is concerned that we are guaranteeing that Mr. Porter has a corner on the market and that might be considered restraint of trade.

C BILL PERRY

Mr. Perry vouched for Mr. Porter, and said that the Town should not take away his business. He suggested having a cap on the number of floating vendors allowed instead of grandfathering Mr. Porter. He stated that everyone else who has tried this business has gone out of business, so there is not a problem with cornering the market. He also stated that it is not fair to say that rental jet skis must go out 1000 feet, and then allow private ones to only go out 500’. In addition, you could have powerful power boats at 500 feet, but the small personal watercraft must go out 1000’. He thought travel should be slow speed for 1000’, except in channels, where travel would be at posted speed.

D LINDA KANE

In 1995 she applied for a floating vendors license and was denied because they said they no longer do floating vendors. She must pay high rental on beachfront property year round and it is unfair that Mr. Porter can operate only 3 months and not pay any rent.

E HEIDI MIHAIOFF

Ms. Mihailoff stated that she has no problem with requiring 1000 feet, except that it is a safety factor, since the water is much deeper, and most of the renters are not experienced, are minors, or are elderly. She would like the ordinance to state that in case of emergency, the rental owner can ignore idle speed so that the operators can get out to their renters more quickly. Regarding floating vendors, she is limited from serving tourists on the beach, yet he can serve from a boat.

F JIM WILLIAMS

Mr. Williams questioned the placement of the buoys. They are at 500’ and are set by the county, and he wondered if they would be moved out if the council moves the line to 1000’. The rule needs to be consistent. Regarding floating vendors, he recommends taking that definition out of the ordinance, because they are all excluded anyway.

G SCOTT PORTER

Mr. Porter stated that his license is tied to the restaurant, and perhaps if Ms. Kane was turned down for a floating vendor’s license, it was because she was applying for another type of business.

The public hearing closed.

Motion: Mr. FitzSimons moved that in Section 9(1), the wording be changed to “all waters within 1000 feet offshore from all beaches or offshore structures, except within marked channels” and that the last sentence of the paragraph be eliminated. There was no second. The motion died.

Motion: Mr. Murphy moved and Mr. Isler seconded that the words be added to Section 8 “except vendors with 1997 Lee County floating vendor licenses who are based in Fort Myers Beach and have only one boat.” The motion passed unanimously.

Motion: Mr. Isler moved and Mr. Murphy seconded that the ordinance be accepted with the above change. Mr. Isler, Mr. Murphy, Mayor Cereceda, and Mr. Reynolds voted in favor of the motion. Mr. FitzSimons voted against the motion. The motion passed.

Discussion: Mr. FitzSimons stated that he thought the area for slow speed should be 1000'. Marsha Segal-George offered a compromise. Since enforcement is a major issue, she suggested that after the Council passes all three water ordinances, that they give them 6 months to see if enforcement fixes some of the problems, then the Council can revisit it.

XI FIRST READING OF JET SKI ORDINANCE

Mayor Cereceda read the titles. The public hearing was opened.

A BARBARA KEENE

Mrs. Keene lives on the back bay and is concerned about jet skis on the back bay. There are fishermen sitting quietly around the mangrove islands, and there is an opportunity for collisions and for damage to the sea grass. The eco tours cannot hear over fast speed, but could hear if they are kept at idle speed. She would like the slow speed zone extended to 1000 feet.

B JOHANNA CAMPBELL

Mrs. Campbell pointed out that some rookeries have been lost on the back bay because the jet skis have been going around the mangroves and scaring off the birds. The 1000' limit was supported in the LPA meeting by all the vendors. If you want the tourists to come and see the birds, please do not disturb them. She asked the Council to keep the slow speed zone at 1000 feet.

C KATHLEEN FISHER

Ms. Fisher, of CRA Services, stated that jet skis are very small part of all the craft in our area. She does not think 1000 feet is too far. She would rather have her renters out farther where there is less congestion. She also spoke about the point that licenses are on commercial property, and they do not need to be tied to hotel rooms. She also asked the Council to provide the variance for their Dolphin Venture Tours that has been in business for three years.

D BILL PERRY

Mr. Perry, of Aqua Sports, said that he has talked to two jet ski manufacturers who have volunteered to lease the Town (for \$1.00) vehicles to be used for enforcement. He recommends the Town take them up on it and get it done in time for this season. The officers would be riding on vessels that can go up to 60 MPH so they can pull over most vehicles. He warned the Council that they cannot discriminate against personal water craft or they will face litigation by the manufacturers. If the Council moves the slow speed zone to 1000' for rentals, it should be for everyone. He said it is no problem to see the jet skis at 1000 feet. You can see a boat at one mile.

E JOHN MULHOLLAND

Mr. Mulholland agrees about enforcement or the ordinance is worthless. He said it is an excellent idea to get vehicles from the manufacturers.

F HEIDI MIHAIOFF

Ms. Mihailoff agreed that it is not a problem to see the jet skiers at 1000 feet, but it takes longer to go rescue them in case of an emergency. She understood that floating vendors are to service people on boats and parasails, not to people on the beach. If they are selling to people on the beach, they should be required to have restroom facilities.

G JIM WILLIAMS

Mr. Williams mentioned that on page 2, eco tours on jet skis must stop in order to communicate. He mentioned that since the Council just passed 500' limit on the vessel safety ordinance, then this one should agree. He mentioned the paragraph that allows vendors to have jet skis moored in the water, and he is afraid it looks like you could have floating waverunner stands. He likes the statement that PWVL license holders must comply with the Land Development Code.

The public hearing was closed.

Mr. Isler mentioned that on Section 27-54, the wording after the semicolon should be “or east of Big Carlos Pass Bridge”.

Marsha Segal-George stated that the LPA had put in a section for a variance if a vendor wants to apply for more than eight skis. They will have to make a separate application to the Council.

Mr. FitzSimons asked if they were going to leave this ordinance at 1000’, if all other boats can go fast after 500 feet. He also stated that Section 27-48(a3) needs to be changed to ½ hour before sunset and ½ hour after sunrise to conform to Coast Guard regulations.

Mr. Isler questioned whether there is a plan to post the rules around the rookeries better. Marsha Segal-George stated that the Town can only take the lead in our jurisdictional waters. She hopes having a seat on the Arnold Commission will help.

The ordinance was set for second public hearing on December 2.

The Council took a break at 10:15 PM and reconvened at 10:25 PM.

XII DRAFT DISCUSSION OF PUBLIC SERVICE TAX ORDINANCE

Marsha Segal-George recommended that this be moved to the next meeting. She explained that this ordinance is necessary in order to stake out the town’s territory, but that it needs more work.

XIII RESOLUTION OPPOSING OIL AND GAS EXPLORATION IN THE GULF

All members of the Council were in favor of sending this resolution to the Governor.

XIV RESOLUTION ON NATIONAL FLOOD INSURANCE PROGRAM (FEMA APPLICATION)

Motion: Mr. FitzSimons moved and Mr. Murphy seconded that the resolution be accepted. The motion passed unanimously.

XV COUNCIL REORGANIZATION

A ELECTION OF MAYOR AND VICE-MAYOR

Mr. Reynolds asked the Council to consider following the policy that Sanibel has of rotating the mayorship and vice-mayorship each year. He nominated Mr. FitzSimons for mayor and Mr. Isler for vice mayor, but they both declined the nomination.

Mr. Isler nominated Anita Cereceda for Mayor and Ted FitzSimons for Vice-Mayor. The vote was unanimously in favor.

B CHANGES IN ASSIGNMENTS

The Council agreed to leave the assignments unchanged.

XVI TOWN MANAGER’S ITEMS AND REPORTS

The Town Manager had no items to bring before the Council.

XVII TOWN ATTORNEY’S ITEMS AND REPORTS

The Town Attorney had no items to bring before the Council.

XVIII PUBLIC COMMENTS AND INQUIRIES

There were not public comments.

XIX ADJOURNMENT

The meeting was adjourned at 10:35 PM.

Respectfully submitted,

Peggy Salfen
Recording Secretary



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TYPE OF CASE: Special Exception [SEZ] to permit a Bed & Breakfast in the Residential Conservation (RC) Zoning District

CASE NUMBER: SEZ2015-0006

STAFF REPORT DATE: February 16, 2016

COUNCIL HEARING DATE: March 7, 2016

COUNCIL HEARING TIME: 2:00 PM

STAFF RECOMMENDATION: **APPROVE** (as conditioned)

I. APPLICATION SUMMARY

Applicant/Agent: Myerside LLC/Roland Weinmann

Request: A Special Exception for bed-and-breakfast inn use in the RC zoning district.

Subject property: See Exhibit A

Physical Address: 131-151 School Street

STRAP #: 29-46-24-W3-0020C.0290

FLU: Boulevard within Platted Overlay

Zoning: RC (Residential Conservation)

Current use(s): Lodging - weekly rental of 6 dwelling units
Residential – duplex dwelling unit occupied by Applicant

Adjacent zoning and land uses:

North: Church, IN (Institutional) & Single family, RC (Residential Conservation), Mixed Residential & Boulevard within Platted Overlay FLUM

South: Library (IN), Boulevard FLUM

East: Elementary School (IN), Mixed Residential FLUM

West: Single family (RC), Boulevard FLUM

II. BACKGROUND AND ANALYSIS

Background:

The subject site is located at 131-151 School Street at the intersection with Oak Street. The site is a combination of 6 lots platted as part of Winkler's subdivision in 1931 (Winkler's Subdivision, Block C, Lots 29 – 34) (See Exhibit B). Each lot is approximately 25 feet in width and 150 feet in depth.

Based on information found on Lee County Property Assessor Field Cards (see Exhibit C) the six platted lots appear to have been originally developed as three separate properties, each consisting of two of the platted lots, and each property having one structure.

Property deeds show that the three individual properties came under common ownership by 1962 and have remained in common ownership since that time.

The current property configuration resulted from the combination of three separate parcels in 2008 (STRAP #s 19-46-24-W3-0020C.0290, 19-46-24-W3-0020C.0310 and 19-46-24-W3-0020C.0330)

There is one prior zoning action on the property; Lee County Resolution Z-72-18 dated February 1, 1972 (See Exhibit D) that granted a variance for an apartment under a duplex for personal home use on Lots 33 and 34. Additionally, ZVL2013-008 verified that the subject property consists of six platted lots (See Exhibit E).

Currently there are three residential structures on the subject property; details for each structure, as shown in the Lee County Property Appraiser's records, are provided in the table below:

Lots	Year Built	No. of Floors	No. of Dwelling Units	Sq. Footage of Unit
Lots 33 & 34	1969	Two stories	4 units	Base 812 Apt 1 772 Apt 2 784 Apt 3 754
Lots 31 & 32	1957	Two stories	2 units	Base 768 Apt 1 625
Lots 29 & 30	1958	One story	1 unit	504

Salt Life Inn LLC (aka Myerside LLC), represented by Roland Weinmann and Beverly Milligan purchased the subject property on December 31, 2013. According to the Applicant, at the time of purchase the seven dwelling units on the property were not being used as vacation rentals, rather it was the “last step before homelessness” for a group of transient tenants. In the month between the closing and when the Applicant took possession of and moved onto the subject property the tenancy had completely turned over except for one individual. Only one of the seven dwelling units had a verified lease and many of the units were being sublet in whole or part(s) to others. The Applicant described finding individuals living in attics, in tents in the yard, and sleeping on beds in living rooms. One of the units was reportedly being used as a puppy mill. There are six documented incidents when Lee County Sheriff’s Deputy’s responded to disturbances on the property in 2014.

Between January and July 2014 the Applicant took steps, and went through the legal process, to evict non-paying tenants from the property; others left of their own accord. During this time the Applicant made significant improvements to the property; a summary of the permits issued for the property is provided in the following table.

Permit No	DESCRIPTION	PERMITTYPE	PERMITSUBTYPE
BLD14-0017	SFR * R/R KITCH + BATH CABINETS, SHOWER, SINKS, TOILET	BUILDING	REMODEL
COM14-0015	REMODEL IN UNITS C & D, ADD EXTERIOR DECK TO UNITS A & C	COMMERCIAL	REMODEL
COM14-0016	R/R WINDOWS WITH IMPACT	COMMERCIAL	REMODEL
DEM14-0001	SFR * INTERIOR DEMO	DEMO	SUBCONTRACTOR
ELE14-0142	KITCHEN REMODEL	ELECTRICAL	REMODEL
ELE14-0298	COMMERCIAL IN GROUND POOL	ELECTRICAL	SUBCONTRACTOR
FNC14-0009	WOOD PRIVACY FENCE	FENCE	COMMERCIAL
PLB14-0063	MOVE SINK	PLUMBING	TRADE
POL14-0060	COMMERCIAL IN GROUND POOL	POOLS AND SPAS	POOL IN GROUND

In addition to the renovations and additions reflected in the permits above, the Applicant made many aesthetic improvements to the property, including painting the structures’ exteriors and installing extensive landscaping comprised primarily of native species. Pictures of the renovations and property improvements are provided in Exhibit F.

The property re-opened for weekly rentals in January 2015, and reportedly had a successful first “season.” The Applicant reports having a mix of weekly and monthly rentals last year; enough business to hire two full-time staff members. It is the success of the Applicant’s rentals; the installation of signage indicating the “office” (the Applicant’s residence on the property), placement of commercial signage on the property, and hiring of staff members that precipitated this application for Special Exception.

The business activities on subject property came to attention of Fort Myers Code Enforcement in August 2015. Code Enforcement staff research revealed that no use permit, home occupation or commercial use, had been issued for the subject property. Therefore, a code violation (CE15-0344 see Exhibit G) was issued to the Applicant.

The weekly rental of dwelling units is a permitted use in the RC zoning district. However, this rental use does not include an on-site rental office, commercial signage, or on-site staff. Although a home occupation is also permitted by right in the RC district; the Town's home occupation regulations (See LDC 34-1772) specifically prohibit commercial signage or the employment of outside staff.

To resolve the code violation on the subject property the Applicant must obtain a use permit from the Town. The current business operations on the property require a commercial use permit. Issuance of the commercial use permit requires zoning verification that the use is permitted. This can be accomplished by obtaining a special exception for a bed and breakfast inn.

Applicant Request:

The Applicant has submitted a request for a special exception to permit a bed-and-breakfast inn in the RC district (see Exhibit H). The intent of the request for a bed-and-breakfast inn special exception is to bring the legally designated "use" of the subject property into conformity. A special exception will allow the applicant to obtain a Town issued certificate of use for a commercial business, versus operating as an agglomeration of seven separate legally permitted weekly rental units.

Setting/Context

The subject site is located in a predominately institutional area, directly adjacent to the Bay Oaks Community Pool, across Oak Street from the Bay Oaks Recreation Center ball fields and Fort Myers Beach Elementary School, and across School Street from the Fort Myers Beach United Methodist Church. There are two residential parcels between the subject property and Estero Boulevard. The dwelling units on the subject property are oriented around a center courtyard and pool area.

Special Exception Use

LDC Chapter 34 defines the term special exception as follows:

Use, special exception means a use or certain specified departures from the regulation of this chapter that may not be appropriate generally or without restriction throughout a zoning district, but which, when controlled as to the number, area, location or relation to neighborhood, would promote the public health, safety, welfare, order, comfort, convenience, appearance, or prosperity, and may be permitted, in accordance with applicable regulations.

As noted above, the subject property is primarily surrounded by institutional uses; there is one single-family residence adjacent to the subject property. The improvements the Applicant has made to the subject property over the past two years has done much to promote the safety, order, appearance and prosperity of the property and generally improved the same for the neighborhood. The evidence of this is the reduction in the number of incidents (involving people) Lee County Sheriff's Deputies responded to at/in the vicinity of the property; six in 2014 and two in 2015 (See Ex I).

The special exception process provides the opportunity to condition the requested use if the conditions are reasonably related to the impacts of the use that is the subject of the request.

Previous Approvals:

There is one previous approval on record for the property; Lee County Resolution Z-72-18. This Resolution granted a variance for an apartment under a duplex on Lots 33 and 34 of the subject property. See Ex. G.

Staff notes that the duplex referred to in Resolution Z-72-18 is recorded as a triplex on the field card for the property dated 1967 (See Ex.C).

Applicant's Reasons for Request:

The Applicant provided the following reasons for why the subject property qualifies for a Special Exception:

- A. There is precedent for this type of exception on Fort Myers Beach.*
- B. The property is zoned for weekly rentals, which is well suited for a bed and breakfast.*
- C. The property location, size, and layout is well suited to a bed and breakfast. Everything is aimed to the center.*
- D. We [the Applicant and his wife] would continue to enrich the natural environment, adding to the 100+ native plants we have already planted.*

Staff notes that there is a similar lodging establishment (the Mango Street Inn) located approximately a third of a mile north of the subject property. The Mango Street Inn property is zoned Residential Multi-family (RM) and is within the Mixed Residential future land use category. Bed-and-breakfast inns are also permitted in the RM zoning district by Special Exception.

Analysis:

Concerning how the requested special exception could impact surrounding properties, the Applicant has provided the following narrative:

There would be no negative impact on surrounding properties. The property currently has weekly zone rentals for vacationers (sic), so there is no increase in volume for its seven units as far as vehicle traffic is concerned. The immediate [surrounding] business may see positive increased flow [of patrons]. This exception would be another step forward in taking this property from a rundown, unsafe complex across from an elementary school, to a safe, attractive vacation destination on Fort Myers Beach.

The following section of this report provides analysis of the requests' consistency with the Town's Comprehensive Plan

Consistency of Request with Comprehensive Plan:

The subject property is classified by the Town's Comprehensive Plan as "Boulevard." The category descriptor policy is reproduced below:

*Policy 4-B-5 **"BOULEVARD"**: a mixed-use district along portions of Estero Boulevard including less intense commercial areas, historic cottages, and mixed housing types. This category is not intended to allow commercial uses on all properties; its mixed-use nature is intended to remain permanently. For new residential development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map's "platted overlay" indicates a maximum density of 10 units per acre for legally existing dwelling units). To obtain approval for new or expanded commercial activities, proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of the plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. Non-residential uses (including motels and churches) now comprise 46.9% of the land use in this category, and this percentage shall not exceed 70%.*

The subject property is located in an institutional district that includes the library, elementary school, a church, and the Bay Oaks Recreation Campus. The requested activity, a bed-and-breakfast inn, would contribute to a mixed-use environment without increasing the intensity of use beyond what is there today. The visitors brought to the area by the lodging use provide additional customers to support nearby commercial uses, such as those at Seagrape Plaza. Additionally, by renovating the existing c. 1950s structures the Applicant has helped preserve the island's cottage-style architecture and scale.

The proposal is supported by the Community Design Element of the Comprehensive Plan. This element provides a vision for the area: "School Street itself has also become a key connection from the bay to the beach, a palm-lined showcase of restored and new cottages . . . Existing and new infill development on School Street is in the spirit and scale of the Beach's classic cottages..."

The proposal supports Goal 3 of the Comprehensive Plan; to revitalize specific transitional neighborhoods. The subject property lies within the 'Heart of the Island' area identified for redevelopment in Objective 3-A.

The proposal supports Goal 4 of the Comprehensive Plan; "To keep Fort Myers Beach a healthy and vibrant "small town," while capitalizing on the vitality and amenities available in a beach-resort environment...." The scale and design of the proposed bed-and-breakfast inn use support the Beach's small town feel and capitalizes on the locations' close proximity to the Beach; the Gulf Beach Road access is less than a quarter mile to the north and Pompano Street is even closer to the south. The proximity of the subject property to the beach, commercial uses, and surrounding civic amenities allows "...people to move

around without their cars even in the midst of peak-season congestion,” as described in Objective 4-A of the Comprehensive Plan.

Policy 4-C-2 of the Comprehensive Plan addresses “Commercial Intensity.” This policy states that “the maximum intensity of commercial development in any [land use] category may be controlled by height restrictions or by other provisions of this plan and the Land Development Code. Standards in the Land Development Code will encourage more intense commercial uses only in the “Pedestrian Commercial” category.” The subject property is located in the “Boulevard” category; however the proposed bed-and-breakfast inn use will not expand or increase the intensity of commercial activity at location. Therefore it is staff’s opinion that there is no conflict with this policy.

Policy 4-C-3 of the Comprehensive Plan provides direction concerning commercial locations for new or expanded commercial uses. The policy states the in the “Boulevard” category, “Proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code.” The complimentary nature of the requested bed-and-breakfast inn to its surrounding nature is discussed above.

Policy 4-C-3 of the Comprehensive Plan also provides that “The neighborhood context of proposed commercial uses is of paramount importance.” The policy elaborates that the sensitivity of a proposed commercial activity to nearby residential areas can be affected by: they type of activity, its physical scale, and the orientation of buildings and parking.

It is staffs’ opinion that the requested bed-and-breakfast inn is not more intense that the current or previous rental use of the property. The Applicant’s improvements to the property have not enlarged the physical scale of the activity, and have reoriented activity on the site inward to the newly developed pool and patio area. In staff’s opinion the requested bed-and-breakfast inn use will not create an undue commercial intrusion into a residential neighborhood or disturb the “comfort” of adjacent residents.

Special Exception Considerations:

The Land Development Code, in Section 34-88, provides a series of “Considerations” that Town Council will consider when deciding on a special exception application, whenever applicable. These Considerations are discussed in order below:

- a. *Whether there exist changed or changing conditions which make approval of the request appropriate.*

The subject property has been used as combination of short-term rental units for at least the past decade. However the Applicant’s improvements to the property have changed its condition and the cliental it attracts. This constitutes changed conditions that make approval of the request appropriate. Furthermore, the requested special exception would provide a more stable basis for the continued use of the property and provide allowances that would enhance the quality of the rental establishment.

b. The testimony of any applicant.

The Council will be able to hear from the applicant at the public hearing.

c. The recommendation of staff and of the local planning agency.

The staff and LPA recommendations are contained in this staff report.

d. The testimony of the public.

The public testimony at the LPA public hearing is contained in the attached LPA meeting minutes. The public will have the opportunity to testify at the Town Council public hearing.

e. 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.

Based on the analysis provided in the "Consistency of Request with Comprehensive Plan" above it is staff's opinion that the requested Special Exception is consistent with the Fort Myers Beach Comprehensive Plan.

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

The subject property is located in a mixed-use land use category, "Boulevard," and surrounded by institutional uses. The discussion of compatibility with Comprehensive Plan Policy 4-C-3 above addresses the ability of the proposed use to meet or exceed what locational standards apply. Compatibility of the proposed use and ability to meet the applicable zoning regulations are discussed in items *h* and *i* below.

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

The subject property is fully developed and contains no environmentally critical areas or natural resources to protect, conserve, or preserve. The proposed bed-and-breakfast inn will have no negative effects on environmentally critical areas and natural resources. The property is currently developed and the Applicant has improved, and plans to continue improving, the open space areas of the property with extensive plantings of native species.

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

The proposed bed-and-breakfast inn will not cause damage, hazard, nuisance, or other detriment to persons or property. The property is uniquely situated for lodging use; surrounded by institutional uses, near the Seagrape Plaza commercial center, in close proximity to two public beach accesses, and a reasonable walk or short bike ride to the Downtown / Times Square area.

The pool and patio area of the site, where outdoor activity is concentrated, are oriented to the center of the property. The distance from the pool/patio area to nearest off-site residence is approximately 45 feet. The owner/resident of this property has provided a letter in support of the Applicant's request, see Exhibit J.

- i. *Whether a requested use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.*

The proposed bed-and-breakfast inn is in compliance with the RC zoning district and is being proposed as a special exception consistent with LDC Section 34-622 and Use Table 34-1. Compliance or ability to comply with the supplemental regulations pertaining to bed-and-breakfast inns is addressed below:

Division 19, Article IV, Chapter 34 of the LDC provides a definition of and standards for bed-and-breakfast inns. The definition is reproduced below:

Bed-and-breakfast inn means a public lodging establishment with nine or fewer guest units that serves breakfast to overnight guests. A bed-and-breakfast inn may be located in a single building or in a cluster of separate buildings.

The subject property currently contains seven dwelling units. Six of these units are rented. The Applicant and his wife live on-site in the seventh.

Division 19 further specifies that proposed bed-and-breakfast inns must meet the following requirements:

- (1) *Be licensed as transient public lodging establishment with the Florida Department of Business and Professional Regulation; and*
The Applicant is currently licensed.
- (2) *Pay the levied tourist development tax promulgated by the county and the state sales tax; and*
The Applicant currently pays these taxes.
- (3) *Provide and staff a front desk during regular business hours to arrange for the rental of guest units*
The Applicant can comply with this requirement if the Special Exception is approved.
- (4) *Guest units may not be occupied by the same guest for more than 60 days in a year.*
Please refer to discussion of LDC Sec. 34-1805 below.

Additionally:

Individual guest units in a bed-and-breakfast inn must be at least 120 square feet in size.

The smallest unit available at Myerside is approximately 504 square feet.

The intensity of bed-and-breakfast inns shall be calculated in the same manner as for hotel/motels, except that inns with three or fewer guest rooms per building are exempt from the requirement to use equivalency factors to measure density.

Based on the size of the existing dwelling units and the subject property, and the and the applicable future land use category the intensity calculation results 12 guest units, when the Platted Overlay is taken into consideration, or 7 guest units if the Platted Overlay is ignored.

Bed-and-Breakfast inns must supply a minimum of one off-street parking space for each guest room plus one space for the owners' quarters.

The subject property can accommodate up to 12 off-street parking spaces. This exceeds the seven that are required.

LDC Sec. 34-1805 provides additional regulations specific to bed-and-breakfast inns:

(a) Whenever guests are present, the owner or operator must live on the premises or on abutting property, or if the inn is in a cluster of separate buildings the owner or operator must live in one of the buildings.

The Applicant and his wife currently live on-site.

(b) The maximum continuous length of stay for guests is 90 days.

Note: This differs from the previously stated limitation of 60 days.

The Applicant can comply with this regulation if the special exception request is granted.

(c) Each guest unit must be accessed by a common corridor or outside door rather than through another guest unit or dwelling unit.

All the rental units at Myerside are accessed through outside doors.

(d) Food service is limited to breakfast and/or snacks and may be served only to overnight guests.

Myerside currently provides snacks and basic sundries to guests by way of baskets that are provided in their units. The Applicant plans to add breakfast items to these baskets if the special exception request is granted and has indicated that a catered breakfast may be provided in the future.

(e) A single non-illuminated identification sign up to four square feet in area may be mounted onto each building.

The Applicant will comply with this regulation if the special exception request is granted.

As evidenced by the responses provided above, the subject property meets or has the potential to meet the LDC requirements for bed-and-breakfast inns.

Special Exception Findings and Conclusions:

The Land Development Code, in Section 34-88, provides a series of *Findings* that Town Council must make before granting any special exception. The Town Council must find that the applicant has demonstrated that the requested special exception:

- a. Complies with the Fort Myers Beach Comprehensive Plan.
- b. Complies with the Land Development Code.
- c. Complies with other applicable town ordinances or codes.

Staff recommends that the Town Council find that the applicant **has** demonstrated that the requested special exception complies with both the Town's Comprehensive Plan and the Land Development Code. Town Council has the "Authority" to deny the request if Council finds "that granting the special exception is contrary to the public interest and the health, safety, comfort, convenience, and welfare of the citizens of the town".

III. STAFF RECOMMENDATION

Staff recommends **APPROVAL WITH CONDITIONS** of the requested special exception.

RECOMMENDED CONDITIONS OF APPROVAL

Staff recommends that approval of the special exception be subject to the following conditions:

1. *All outdoor lighting on the site will be "fully shielded" or "full cutoff" fixtures to reduce glare and light trespass onto adjacent properties.*
2. *Outdoor activities will be limited to between the hours of 7 AM to 10 PM, unless associated with a special event permit issued by the Town of Fort Myers Beach.*

V. LPA REVIEW & RECOMMENDATION

Community Development staff presented the special exception request for a bed and breakfast at 131-151 School Street, covering the LDC considerations and the required findings. The applicant briefly addressed the LPA noting that the project was a labor of love; when they first acquired the property it was a mess, but they saw an opportunity and despite the challenges have worked towards improving the property. Their special exception request is another step in that process. They are invested in the community and want to comply with regulations.

No members of the public addressed the LPA concerning this request.

The LPA asked several questions concerning such topics as the limitation on how long guests are permitted to stay, the differences between b&bs and hotels/motels, school board input on the request, visual buffering of the pool activity on the site from the elementary school, consumption on premises, appropriate types of special events, and pending code violations.

Staff and the applicant addressed the LPA's queries noting that length of stay is regulated by the LDC, the differences between b&bs and hotels/motels include length of stay and requirement that b&b live on site when guests are in residence, the ability of the b&bs to obtain temporary COP for special events, staff's recommendation to restrict outdoor activities on the site to the hours of 7AM to 10AM. With regard to pending code violations, staff conveyed that the special exception request is the method by which the outstanding code violation may be resolved. A use permit is required to resolve the code violation and a use permit cannot be issued for a b&b without approval of the requested special exception.

The LPA moved to recommend to Council that the special exception for a bed and breakfast be approved with conditions as stated with regards to lighting, outdoor activity hours and a third conditioning approval to the presented site plan of the existing seven units: six rental units and one residential unit. The motion was unanimously supported by the members present (5-0).

****After the January 12, 2016 LPA meeting, staff discovered incorrect information regarding the minimum length of stay permitted for b&bs was conveyed to the LPA. Although, the RC zoning district restricts the rental of lodgings to periods of one week or longer, this restriction applies to *dwelling units*. B&Bs by definition are permitted overnight (nightly) rentals. This correction was presented to the LPA at the February 9, 2016 meeting. The LPA discussed the difference in nightly and weekly rentals and concluded that the difference would not change their previous recommendation of approval as conditioned.**

IV. CONCLUSION

Staff recommends **APPROVAL** of the requested special exception conditioned as follows:

Exhibits:

- A – Site Survey/Plan and Aerial
- B – Subdivision Plat
- C – Property Assessor Field Cards
- D – Lee County Resolution Z-72-18
- E – ZVL2013-008
- F – Property Improvement Pictures
- G – CE15-0344
- H – Application Materials
- I – Lee County Sheriff's 2014-2015 Incidents Report for Subject Property
- J – Letter of Support
- K – January 12, 2016 LPA Meeting Minutes

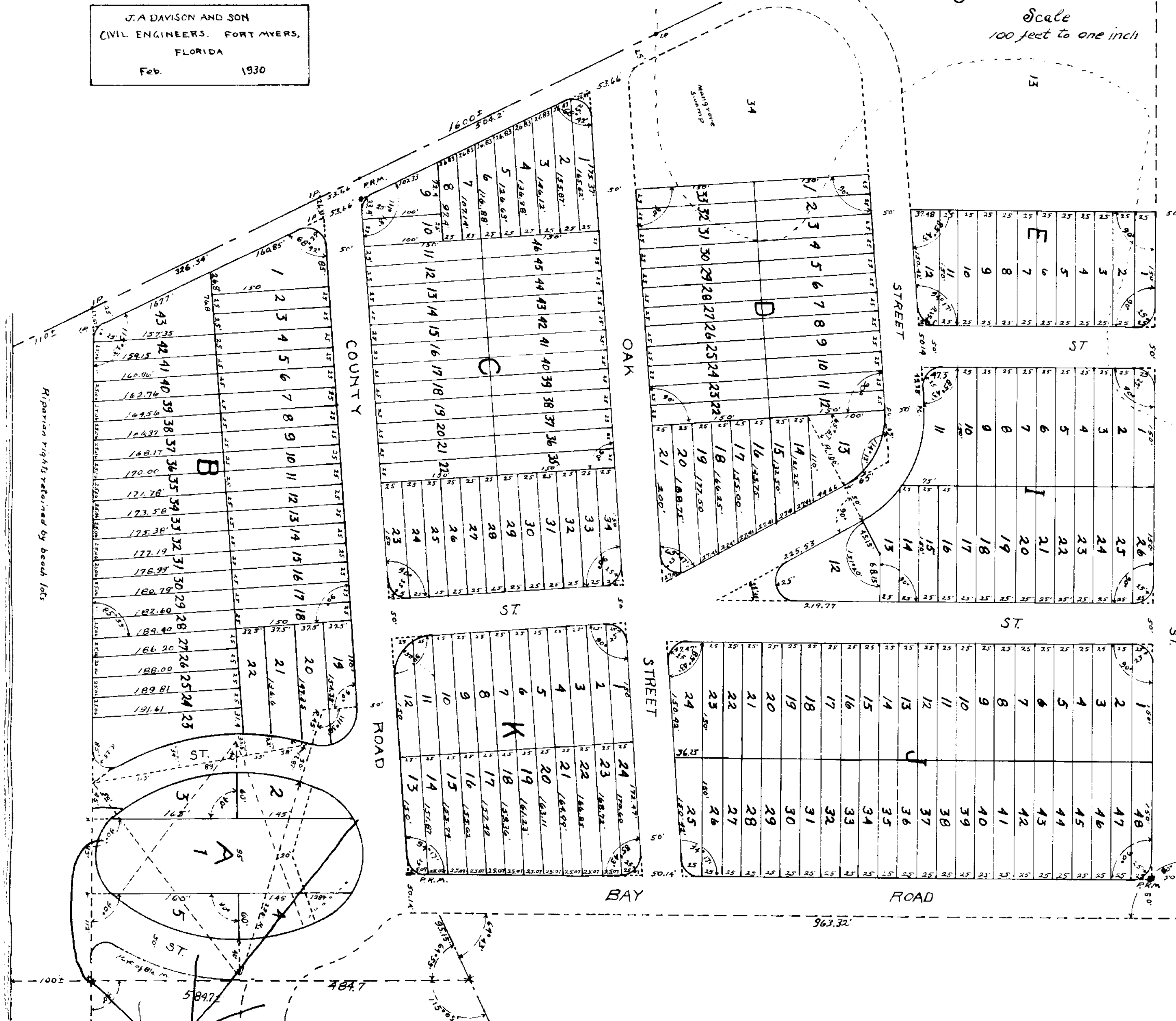
Exhibit A. Aerial View of 131-151 School Street & Site Plan



FIELDBOOK 203 PAGE 40 DATE 1/7/14		SECTION 19 ,TWP 46 S,RGE 24 E	
NORTH ARROW 4	FOUNDATION LOCATION	FIELDBOOK	PAGE
LEGAL DESCRIPTION (AS PROVIDED BY CLIENT) This is a boundary survey of the following : Lots 29 through 34, Block C, Winkler Subdivision as recorded in Plat Book 8, Page 45 of the Public Records of Lee County, Florida. The property address is 131, 145, 147 & 151 School St. per County Records.		LEGEND ■ SET CONC. MON. WCAP I.D.# 3553 ○ SET IRON PIN WCAP I.D.# 3553 □ FD. CONC. MON. WCAP □ FD. CONC. MON. ○ FD. IRON PIN ○ ASSUMED ELEVATION △ BENCHMARK R RECORDED M MEASURED CONT REVERSE SIDE FINAL SURVEY DATE	
SCALE 1"= 30'			
NOTES - REPRODUCTION OF THIS SKETCH IS NOT VALID UNLESS SEALED WITH AN EMBOSSED SURVEYOR'S SEAL. - NO INSTRUMENTS OF RECORD REFLECTING EASEMENTS, RIGHTS-OF-WAY, AND OR OWNERSHIP WERE FURNISHED THIS SURVEYOR EXCEPT AS SHOWN. - NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS HAVE BEEN LOCATED EXCEPT AS NOTED. - BEARINGS SHOWN HEREON ARE BASED ON <u>Angles are field measured</u> - THIS PROPERTY LIES IN FLOOD ZONE AE EL 12 & 13 NAVD88 PER F.I.R.M. PANEL NO. 12071C0554F DATED 8/28/2008 - LAST DATE OF FIELDWORK 1/7/14 - ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF. CERTIFICATE I hereby certify that the above described property was surveyed under my direction and the sketch of survey is true and correct to the best of my knowledge. This survey meets or exceeds the minimum technical standards set forth by the Florida Board of Land Surveyors, pursuant to Rule 61G17 - 6 Florida Administrative Code, and pursuant to Section 472.027 Florida Statutes. There are no visible encroachments other than those shown hereon. P.L.S. MARK O. ALLEN P.L.S. #3553 LB #6558			
MARK O. ALLEN, INC. PROFESSIONAL LAND SURVEYOR			
FAX: (239) 992-6070 TELE: (239) 992-8900		10602 WOODS CIRCLE BONITA SPRINGS, FL 34135	
DWN. BY MG	CHKD BY	ORDERED BY Beverly Milligan	SHEET 1 OF 1 DWG. NO. 2014-3

WINKLER SUBDIVISION.

J. A. DAVISON AND SON
CIVIL ENGINEERS. FORT MYERS,
FLORIDA
Feb. 1930



#69226
CLERK OF THE OFFICE OF THE
Clerk of the Circuit Court.
LEE COUNTY, FLA.
IN THE
5th Mar
H. B. 1930
State
J. J. Garner
Clerk of the Circuit Court

Exhibit C. Property Assessor Field Cards

LEE COUNTY, FLORIDA

DATE OF SALE	AMOUNT	EX. & PG. NO.	OWNER'S NAME	ADDRESS	DESCRIPTION
			KOCH, PAULINE FT. MYERS BEACH, FLA. 278742	145 SCHOOL ST.	WINKLERS SUBD. BLK C PB 8 PG 45 LOTS 29,30
2/2/68		000009	Mulloy, Edward J & Ida	145 School St FT. MYERS BEACH FLA 33931	
			19-46-24-02-0000C.0290		
			MULLOY EDWARD J + IDA 2160 SAN CARLOS BLVD FT. MYERS BEACH, FLA. 33931		
			BATCH 00009 03/31/77		

FACTOR	1971	1973	1974	1978
LAND	730	5630	5630	7500
BLDG	11220	4220	6000	6000
TOTAL	5530	9850	11630	13500

1. STORY HEIGHT									
BUILDING	R.100	+ 35	+ 50	+ 2	+ 12	YEAR BUILT	YEAR REAR		
1	R	✓	✓			1958			
2		✓	✓						
3		✓	✓						
4		✓	✓						

2. FOUNDATION									
HOME									
FOOTINGS									
PISTONS	(+30)	✓							
PLAN									
PIERS	(-4)								
WALL									
WOOD		✓							
C.A.									
TRILE									
BRICK									
CONCRETE									
STONE									
NOTES									

3. BASEMENT									
HOME									
CONC. FLR.	(-4)								
CONCRETE FLR.									
UNIMP. AREA									
HEATED AREA									
LIVE AREA	(+24)								
NOTES									

4. CONSTRUCTION									
WOOD		✓							
STEEL									
A.P.C.									
FRAME		✓							
ROOF									
C.A.									
TRILE									
BRICK									
STONE									
FIRE PROOF									
SEMI-FINISH									
PREFAB.									
NOTES									

5. EXTERIOR									
UNFINISHED									
PAINTED									
STUCCO									
WEATHER									
DOOR, ALUM.									
WIND, ALUM.									
CON. ALUM.									
FACE BRICK									
STONE									
COMPOSITION									
C.I.									
ALUMINUM									
ASBESTOS		✓							
W.D.									
ROOF									
SHEDS									
NOTES									

6. ROOF									
WOOD FRAME		✓							
TRILE FRAME									
CONCRETE									
FLAT									
SHED									
CASLE		✓							
HIP	(+1)								
GAMBREL	(+2)								
SHED									
COMPOSITION		✓							
C.I.									
ALUMINUM									
ASBESTOS									
WOOD									
CONC. TILE	(+1)								
CLAY TILE	(+4)								
GLASS	(+2)								
ROOF	(+2)	✓							
SHED									
NOTES									

7. ATTIC									
HOME		✓							
FLOOR									
UNIMP. AREA									
HEATED AREA									
LIVE AREA	(+10)								
NOTES									

8. INTERIOR									
UNFINISHED	(+12)								
TOTAL ROOMS									
BEDROOMS									
TOTAL BATHS									
KITCHEN									
BATHS									
STONES									
OFFICE									
WASHROOMS									
SHEDS									
HOUSE AREAS									
NOTES									

9. FLOORS									
HOME									
WIND									
DOOR									
HEAVY									
PINE									
HARDWOOD									
CONCRETE									
ASPHALT TILE									
CERAMIC TILE									
TRILE									
NOTES									

10. INTER. WALLS									
HOME									
UNFINISHED									
PLASTERED									
SHED									
DRY WALL		✓							
CEILING									
PAINTED									
UNIMP. MASONRY									
CURVED MASONRY									
NOTES									

11. CEILING									
HOME									
PLASTERED									
SHED									
DRY WALL		✓							
ACCOUSTIC									
PAINTED									
EXPOSED BEAMS									
NOTES									

12. ELECTRICAL									
HOME									
NOTES									

13. HEATING									
HOME									
STOVE HEAT	(+4)	✓							
P.A. HEAT	(+2)								
CIRC. HOT AIR									
RADIANT									
WALL	(+2)								
FLUOR	(+2)								
NOTES									

14. RATE 1 X FRACTION X STORY HEIGHT									
HOME									
STOVE HEAT	(+4)	✓							
P.A. HEAT	(+2)								
CIRC. HOT AIR									
RADIANT									
WALL	(+2)								
FLUOR	(+2)								
NOTES									

15. RATE 2 X FRACTION X STORY HEIGHT									
HOME									
STOVE HEAT	(+4)	✓							
P.A. HEAT	(+2)								
CIRC. HOT AIR									
RADIANT									
WALL	(+2)								
FLUOR	(+2)								
NOTES									

16. RATE 3 X FRACTION X STORY HEIGHT									
HOME									
STOVE HEAT	(+4)	✓							
P.A. HEAT	(+2)								
CIRC. HOT AIR									
RADIANT									
WALL	(+2)								
FLUOR	(+2)								
NOTES									

17. RATE 4 X FRACTION X STORY HEIGHT									
HOME									
STOVE HEAT	(+4)	✓							
P.A. HEAT	(+2)								
CIRC. HOT AIR									
RADIANT									
WALL	(+2)								
FLUOR	(+2)								
NOTES									

18. RATE 5 X FRACTION X STORY HEIGHT									
HOME									
STOVE HEAT	(+4)	✓							
P.A. HEAT	(+2)								
CIRC. HOT AIR									
RADIANT									
WALL	(+2)								
FLUOR	(+2)								
NOTES									

19. RATE 6 X FRACTION X STORY HEIGHT									
HOME									
STOVE HEAT	(+4)	✓							
P.A. HEAT	(+2)								
CIRC. HOT AIR									
RADIANT									
WALL	(+2)								
FLUOR	(+2)								
NOTES									

NOTES	OUTLDC.	TYPE	DESCRIPTION & SIZE		AREA	RATE	VALUE	ACC. DEPR.	APPRAISED VALUE	BASE BLDG. AREA	(1) 324	(2) 324	(3)	(4)
58 1701 AdL 150A	1	STOR	1 ST FR 8x8		64	4.2	256	15%	220	BASE BLDG. PRICE	12.81	23.44		
57 218 142 3310	2					7.32	1168	25%	350	FACTOR	1.02	1.02		
V/C 11/77 37	3									BASE VALUE	1233	2746		
	4									FIREPLACE	-	-		
			CLASSIFICATION	CODE	NO. OF ACRES	RATE	VALUE	DISC.	APPRAISED VALUE	PLUMBING	-	-		
					1.00					TOTAL ADJUST.	7816	1493		
			7500	0.1	75		5825	5830	7500	OTHER	-	-		
										TOTAL	5050	9239		
										GRADE	0-10	0-10		
			FRONTAGE	DEPTH	FACTOR	EQUIV. FRONT	UNIT PRICE	VALUE	INPL.	DISC.	APPRAISED VALUE	GRADE DIFFER.	90	90
			1-	30	1.06	520	25	1320	-	-	1330	SCHED. VALUE	455	8315
												NORMAL DEPR.	-	-
												ACC. DEPR.	12%	32%
												APPRAISED VALUE	4000	5650

1 19 46 24 02 C.031

MAP NO. 105451 SECT. 10P. FOR AREA. PARCEL NUMBER

[illegible]

LEE COUNTY, FLORIDA

1 19 46 24 02 C.033
 MAP NO. SEC. TWP. RGE. AREA PARCEL NUMBER

DATE OF SALE	AMOUNT	BK. & PG. NO.	OWNER'S NAME	ADDRESS	DESCRIPTION
			KOGH, PAULINE	145 SCHOOL RD.	WINKLERS SUBD.
			FT. MYERS BEACH, FLA. 28117		BLK C PB 8 PG 45
					LOTS 33, 34
03/1/78		00456/972	Mulloy, Edward J. & Ida	145 School St	
				FT. MYERS BEACH FLA 23931	
			19-46-24-02-0000C.0330		
			MULLOY EDWARD J + IDA		
			2160 SAN CARLOS BLVD		
			FT. MYERS BEACH, FLA. 33931		
			BATCH 00009 03/31/77		

FACTOR	1970	1971	1972	1973	1974	1977	1978
YEAR	1970	1971	1972	1973	1974	1977	1978
LAND	1330	1330	1330	5630	5630	5630	7500
QUOTES	13340	16780	16780	27560	33500	33500	33500
TOTAL	14670	18110	18110	33190	39130	39130	41000

15-2280123
15768

136
500

18

57

1596

REST
SFR

798 = 6% "47P"

Stange

348

2370

100%

5P

10

28

798

4281

210

115

TRI-PLEX 24
14

Final
1-17-70

5/5/70

[illegible]

RESOLUTION Z-72-18

The following resolution was offered by Commissioner Jim Sweeney, and seconded by Commissioner Kenneth Daniels, and upon poll of the members present the vote was as follows:

Julian Hudson	Aye
Walter Shirey	Aye
Jim Sweeney	Aye
Kenneth Daniels	Aye
Bruce Scott	Aye

WHEREAS, Edward & Ida Mulloy have requested a variance in an RU-2 zone, for an apartment under duplex for personal home use.

Lots 33 and 34, Block C, Winkler Subdivision, Plat Book 8, Page 45, Section 19, Township 46S, Range 24 East.

WHEREAS, a Public Hearing of the Lee County Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering adjacent areas, the Zoning Board recommended that the petition be approved for a Variance in an RU-2 zone to allow an apartment under a duplex.

WHEREAS, this Board after reviewing the records and recommendations of the Zoning Board and having given an opportunity for all interested persons to be heard after being duly sworn according to law, and upon due and proper consideration having been given to this matter does hereby uphold the findings of the Zoning Board.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Lee County, Florida, that the decision of the Zoning Board to approve a Variance in an RU-2 zone to allow an apartment under a duplex, be upheld, and said property is zoned accordingly.

PASSED AND ADOPTED this 1st. Day of February, 1972.

Record December 27, 1971

71-12-8



Town of Fort Myers Beach

Alan Mandel
Mayor

Joe Kosinski
Vice Mayor

Dan Andre
Council Member

Jo List
Council Member

Bob Raymond
Council Member

April 25, 2013

George W. Ganim
4666 Main Street
Bridgeport, Connecticut 06606

RE: 147 School Street

Dear Mr. Ganim,

In response to your request for a Zoning Verification Letter submitted April 10, 2013, be advised that the property located at address **147 School Street**, legally described as Lots 29 through 34, Block C, of that subdivision known as Winkler's Subdivision, as recorded in the Public Records of Lee County, Florida in Plat Book 8, Page 45, (hereinafter "subject property") is zoned RC (Residential Conservation) according to the Official Zoning Map of the Town of Fort Myers Beach. The subject properties are located within the Boulevard category on the Future Land Use Map (FLUM) in the Fort Myers Beach Comprehensive Plan. Lots 33 and 34 of the property were granted a variance in 1972 by Lee County, in Resolution Z-72-18 (attached), to allow an apartment under a duplex.

Please note that the Fort Myers Beach Land Development Code and Comprehensive Plan are available online at www.fortmyersbeachfl.gov/index.aspx?NID=180 for your reference. Paper copies of both documents are also available at Town Hall for a fee.

As stated above, the subject property is located within the RC zoning district (*See Figure A*). The Town of Fort Myers Beach Land Development Code (LDC) defines the RC zoning district, in Section 34-642, and describes its purpose as to "designate suitable locations for motels, resorts, and related services." The RC district has 'limited' land uses in the Residential and Lodging categories, and 'Restricted' land uses in the Office, Marine and Civic use categories. For a complete and comprehensive list of allowable uses see LDC Table 34-1.

Table 34-3 of the LDC lists the following property development dimensions for the RC district:

SETBACKS

Street	25'
Side	7.5'
Rear	20'
Water body	25'

Maximum Height	25' (as measured from Base Flood Elevation)
Maximum # of Stories	3 (includes ground level for parking/storage)
Minimum Lot Width	45'
Minimum Lot Depth	80'
Minimum Lot Area	4,000 square feet
Maximum Building Coverage	40%

The subject property consists of six platted lots, each approximately 25 feet in width and 150 feet in depth. These lots are not large enough to be developed individually, but they could be developed in three pairs of two lots. The three pairs would be 50 feet by 150 feet in size, and could be deemed lots of record, therefore the requirements of LDC Sec. 34-3273 shall apply. A residential building may be placed on a single nonconforming lot provided the lot has at least 40 feet in width, 75 feet in depth, and 4,000 square feet in area. Street and waterbody setbacks for the zoning district (as listed above) remain in effect, but side setbacks are 10% of the lot width or 5 feet, whichever is greater. Rear setbacks shall be 25% of lot depth, or 20 feet, whichever is smaller.

The Boulevard future land use category (*see Figure B*) is defined in the Town of Fort Myers Beach Comprehensive Plan as a mixed-use district along portions of Estero Boulevard, including less intense commercial areas, historic cottages, and mixed housing types. This category is not intended to allow commercial uses on all properties; its mixed-use nature is intended to remain permanently. For new residential development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map's "platted overlay" indicates a maximum density of 10 units per acre for legally existing dwelling units). To obtain approval for new or expanded commercial activities, proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in the Comprehensive Plan and meet the design concepts of the plan and the LDC.

The statements contained herein are provided for your convenience and only verify information that could be discovered by an average citizen consulting publicly available documents and/or documents you have provided. This zoning verification letter is not an interpretation of the Fort Myers Beach Land Development Code or the Fort Myers Beach Comprehensive Plan, and is not a development order, development permit, or action by the Town of Fort Myers Beach. If you require action by the Town of Fort Myers Beach, apply for a development permit, administrative action, or public hearing as provided in the Fort Myers Beach Land Development Code.

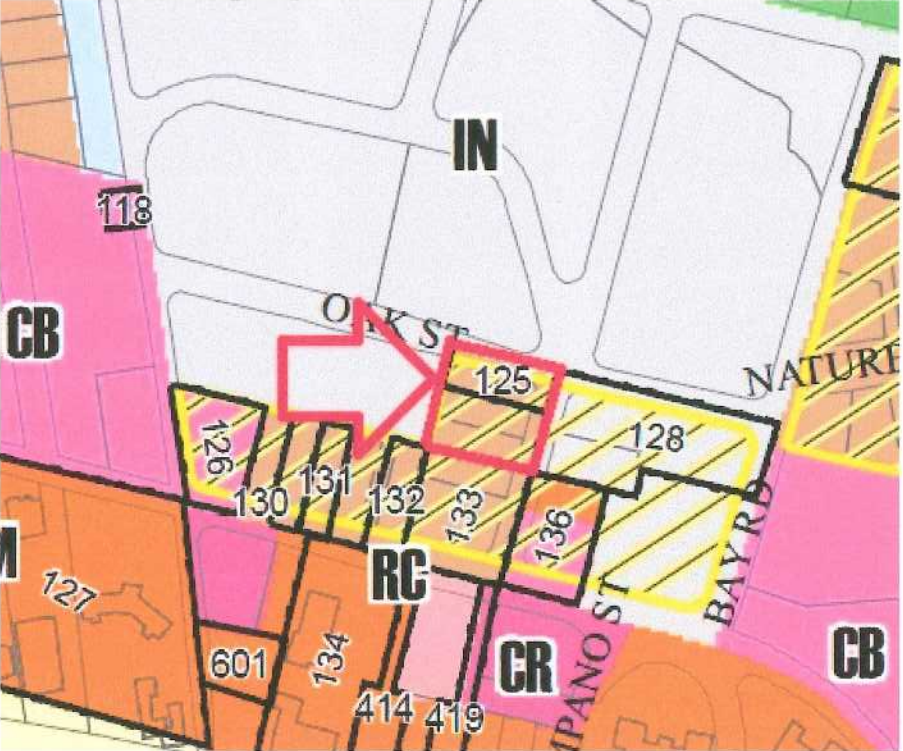
Please be aware that the information provided herein is based on current regulations and can be subject to change with enactment or amendment of ordinances. If you have any further questions, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Josh Overmyer".

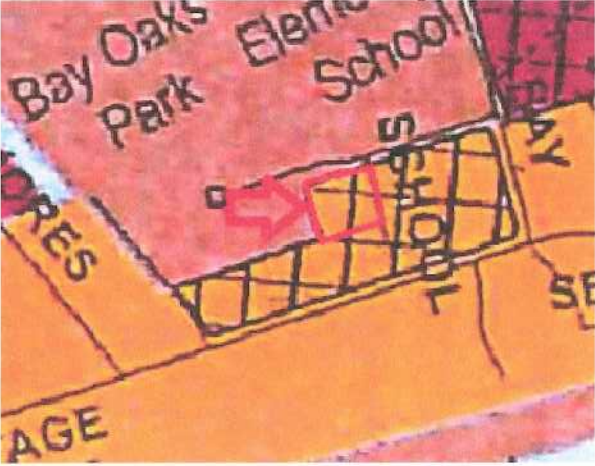
Josh Overmyer, CFM
Planning Coordinator
Department of Community Development
Town of Fort Myers Beach

Exhibit A – Zoning Map



Brown indicates RC (Residential Conservation) and the yellow cross-hatching signifies the Platted Overlay from the Comprehensive Plan

Exhibit B – Future Land Use Map



Town of Fort Myers Beach

Legend	
City Limits	Mixed Residential
Platted Overlay	Pedestrian Commercial
Boulevard	Recreation
Low Density	Tidal Water
Marina	Wetlands

RESOLUTION Z-72-18

The following resolution was offered by Commissioner Jim Sweeney, and seconded by Commissioner Kenneth Daniels, and upon poll of the members present the vote was as follows:

Julian Hudson	Aye
Walter Shirey	Aye
Jim Sweeney	Aye
Kenneth Daniels	Aye
Bruce Scott	Aye

WHEREAS, Edward & Ida Mulloy have requested a variance in an RU-2 zone, for an apartment under duplex for personal home use.

Lots 33 and 34, Block C, Winkler Subdivision, Plat Book 8, Page 45, Section 19, Township 46S, Range 24 East.

WHEREAS, a Public Hearing of the Lee County Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering adjacent areas, the Zoning Board recommended that the petition be approved for a Variance in an RU-2 zone to allow an apartment under a duplex.

WHEREAS, this Board after reviewing the records and recommendations of the Zoning Board and having given an opportunity for all interested persons to be heard after being duly sworn according to law, and upon due and proper consideration having been given to this matter does hereby uphold the findings of the Zoning Board.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Lee County, Florida, that the decision of the Zoning Board to approve a Variance in an RU-2 zone to allow an apartment under a duplex, be upheld, and said property is zoned accordingly.

PASSED AND ADOPTED this 1st. Day of February, 1972.

Heard December 27, 1971

71-12-8

Exhibit F. Before and After Renovations Pictures







Town of Fort Myers Beach

CODE COMPLIANCE

2523 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239) 765-0591

8/27/2015

MYERSIDE LLC
PO BOX 232
FORT MYERS BEACH FL 33932

CASE NUMBER: **CE15-0344**

Certified Mail: **7014 2870 0000 6232 3724**

SITE ADDRESS: **131-151 SCHOOL ST**
PARCEL STRAP NO: **194624W30020C0290**

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on **8/26/15** by Town of Fort Myers Beach Code Enforcement Officer **MOLLY JACOBS** indicates that the following items are a violation:

- ***Units are being marketed as available for daily rental.***
- ***Pool barrier fence has been installed; however the permit, number FNC15-0006, is still under review.***
- ***Units have been remodeled; however the remodel permit, number BLD14-0017, is still under review.***
- ***A change of use for buildings located on 131 thru 151 School Street.***

These items are a violation of the following Town Codes:

Town of Fort Myers Beach Land Development Code

- ***This property is zoned RC (Residential Conservation) which is a Limited use, allowing rental of any permitted dwelling unit to a single family for periods of one week or longer (see Sec. 34-2391-2410 for rules)***
- ***Sec. 6-111 Adoptions; amendments, adopting the Florida Building Code as amended. Florida Building Code section:***
 - 105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any required impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.***



Town of Fort Myers Beach

CODE COMPLIANCE

2523 Estero Blvd Fort Myers Beach, Florida 33931

Phone: (239) 765-0202 Fax: (239) 765-0591

You are hereby directed to abate or remedy these violations on or before **9/15/15**.

The violation(s) can be abated or corrected by taking the following actions:

- ***Dwelling units may not be rented less than a week***
- ***Obtain a USE permit and pass all subsequent inspections***
- ***Obtain a fence permit and pass all subsequent inspections***
- ***Obtain a remodel permit and pass all subsequent inspections***

ONCE YOU HAVE ABATED OR CORRECTED THE VIOLATIONS, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED BY A CODE OFFICER TO VERIFY THAT THE VIOLATION(S) HAVE BEEN ABATED OR CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

If you fail to correct the violation(s) by the date specified above, or if the violation(s) is (are) abated and reoccur(s), the case may be scheduled for hearing before the Town of Fort Myers Beach Special Magistrate. The Code Enforcement Division may, in their discretion, schedule the case for a hearing and seek a finding of a violation by the Special Magistrate even if you have corrected the violation prior to the time set for the hearing.

You will be provided with a Notice of Hearing specifying the date, time and location of the hearing if one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and Town of Fort Myers Beach Land Development Code, Section 2-427(b), a fine of up to \$250.00 per day for the first violation or \$500.00 per day for a repeat violation may be imposed for each day the violation continues to exist past the date set for compliance by the Special Magistrate. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to \$5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation has been corrected prior to the hearing.

Please contact the Town of Fort Myers Beach Code Enforcement Division at (239) 765-0202 if you have any questions concerning this Notice of Violation.

Respectfully,

MOLLY JACOBS

Code Enforcement Officer
Town of Fort Myers Beach



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

This is a two part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit *one ORIGINAL paper copy, eleven (11) copies and one digital/electronic copy* of all required applications, supplemental information, exhibits and documents. Please do not print and copy the instructions at the end of the application.

PROJECT NUMBER: SE22015-0006 DATE: 11/24/15

Site Address: 145 School ST- FT. MYERS BEACH 33931

STRAP Number: 1A-46-24W30020C0290

Applicant: Roland Weinmann (Myerside) Phone: 239-765-0297

Contact Name: Roland Weinmann Phone: 239-314-8009

Email: roland@myerside.com Fax: _____

Current Zoning District: RC

Future Land Use Map (FLUM) Category: Boulevard

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

ACTION REQUESTED

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

SUPPLEMENTAL FORM REQUIRED

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

FIELDBOOK 203 PAGE 40 DATE 1/7/14		SECTION 19 ,TWP 46 S,RGE 24 E	
NORTH ARROW 4	FOUNDATION LOCATION	FIELDBOOK	PAGE
SCALE 1"= 30'	LEGAL DESCRIPTION (AS PROVIDED BY CLIENT) This is a boundary survey of the following : Lots 29 through 34, Block C, Winkler Subdivision as recorded in Plat Book 8, Page 45 of the Public Records of Lee County, Florida. The property address is 131, 145, 147 & 151 School St. per County Records.		LEGEND ■ SET CONC. MON. WCAP I.D.# 3553 ○ SET IRON PIN WCAP I.D.# 3553 □ FD. CONC. MON. WCAP □ FD. CONC. MON. ○ FD. IRON PIN ○ ASSUMED ELEVATION △ BENCHMARK R RECORDED M MEASURED CONT REVERSE SIDE FINAL SURVEY DATE
NOTES - REPRODUCTION OF THIS SKETCH IS NOT VALID UNLESS SEALED WITH AN EMBOSSED SURVEYOR'S SEAL. - NO INSTRUMENTS OF RECORD REFLECTING EASEMENTS, RIGHTS-OF-WAY, AND OR OWNERSHIP WERE FURNISHED THIS SURVEYOR EXCEPT AS SHOWN. - NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS HAVE BEEN LOCATED EXCEPT AS NOTED. - BEARINGS SHOWN HEREON ARE BASED ON <u>Angles are field measured</u> - THIS PROPERTY LIES IN FLOOD ZONE AE EL 12 & 13 NAVD88 PER F.I.R.M. PANEL NO. 12071C0554F DATED 8/28/2008 - LAST DATE OF FIELDWORK 1/7/14 - ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.		CERTIFICATE I hereby certify that the above described property was surveyed under my direction and the sketch of survey is true and correct to the best of my knowledge. This survey meets or exceeds the minimum technical standards set forth by the Florida Board of Land Surveyors, pursuant to Rule 61G17 - 6 Florida Administrative Code, and pursuant to Section 472.027 Florida Statutes. There are no visible encroachments other than those shown hereon. P.L.S. MARK O. ALLEN P.L.S. #3553 LB #6558	
MARK O. ALLEN, INC. PROFESSIONAL LAND SURVEYOR			
FAX: (239) 992-6070 TELE: (239) 992-8900		10602 WOODS CIRCLE BONITA SPRINGS, FL 34135	
DWN. BY MG	CHKD BY	ORDERED BY Beverly Milligan	SHEET 1 OF 1 DWG. NO. 2014-3

PART I - General Information

A. Applicant*: Roland Weinmann Phone: 239-314-8009

**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: 145 School ST. FT. MYERS BEACH FL. 33931

Email: roland@myerside.com Fax: _____

Contact Name: Roland Weinmann Phone: 239-314-8009

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: Roland Weinmann Phone: 239-314-8009

Address: 145 School ST. Ft. Myers Beach 33931

Email: roland@myerside.com Fax: _____

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

Name: Beverley Milligan Phone: 239-529-8785

Address: 145 School St. Ft. Myers Beach 33931

Email: bev@myerside.com Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II - Nature of Request

Requested Action (each request requires a separate application)

- ☒ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____
- ☐ 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 (individual or husband and wife)
- Name: _____ Phone: _____
- Mailing Address: _____
- Email: _____ Fax: _____

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

- ☐ Complete Disclosure of Interest Form (see below)
- ☐ Attach list of property owners as Exhibit 4-1
- ☐ Attach map showing property owners interests as Exhibit 4-2 (for multiple parcels)
- ☐ For condominiums and timeshares see Explanatory Notes Part IV (Page 11)

DISCLOSURE OF OWNERSHIP INTEREST

STRAP: 19-46-24-W3-0020C.0290

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
<u>Roland Weimann</u>	_____
<u>145 School ST. Ft. Myers Beach 33931</u>	<u>51 %</u>
<u>_____</u>	_____
<u>Beverley Mulligan</u>	_____
<u>145 School ST. Ft. Myers Beach 33931</u>	<u>49 %</u>

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.

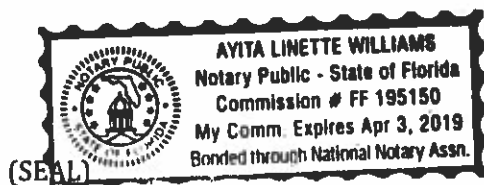
The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.


Signature

Roland Weinmann
Printed Name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was sworn to (or affirmed) and subscribed before me on 11-24-15 (date) by Roland Weinmann (name of person providing oath or affirmation), who is personally known to me or who has produced personally known (type of identification) as identification.




Signature

Ayta Linette Williams
Printed Name

PART V - Property Information

A. Legal Description:

STRAP: 19-46-24-W3-0020C.0290

Property Address: 131-151 School ST. FT. MYERS BEACH 33931

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

☒ Yes. Property identified in subdivision: Winklers

Book: 8 Page: 45 Unit: _____ Block: C Lot(s): 2A-34

B. Boundary Survey:

☐ Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida. Attach and label as Exhibit 5-2.

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 150 feet

Depth (please provide an average width if irregular in shape) 150 feet

Frontage on street: 300 feet. Frontage on waterbody: 0 feet

Total land area: 21,778.00 ☐ acres ☒ square feet

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

School ST. connects with Estero Blvd. approx. 1 mile south of Big Carlos Pass Bridge. Across from Town Library

☒ Attach Area Location Map as Exhibit 5-3

E. Property Restrictions (check applicable):

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

☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 5-4.

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

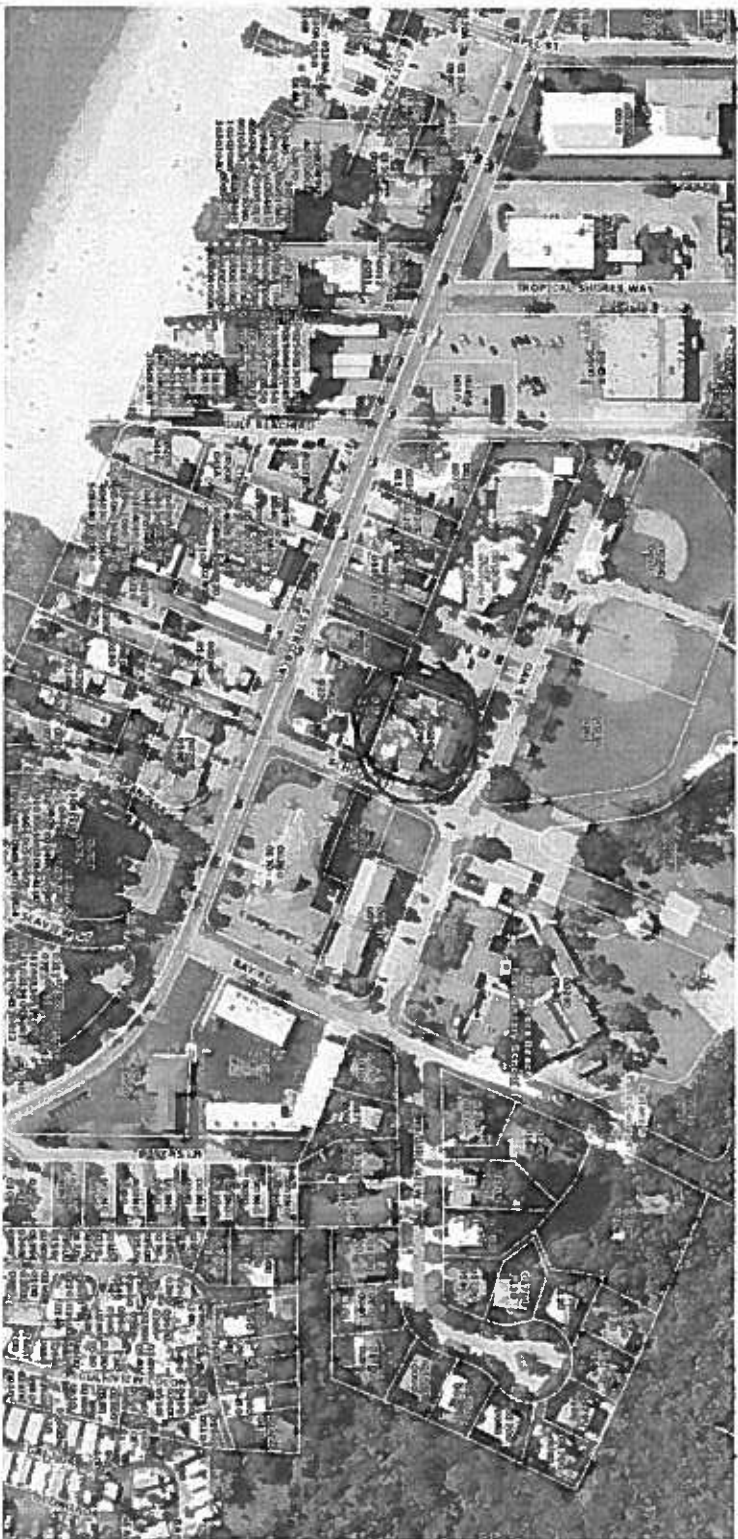


Exhibit S-3

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

- ☒ Attach a list of surrounding property owners within 500 feet as Exhibit 5-6.
- ☒ Attach a map showing the surrounding property owners as Exhibit 5-7.
- ☒ Provide Staff with two (2) sets of surrounding property owner mailing labels.

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

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

H. Zoning (see official Zoning Map):

- | | |
|---|--|
| ☐ RS (Residential Single-family) | ☐ CF (Community Facilities) |
| ☒ RC (Residential Conservation) | ☐ IN (Institutional) |
| ☐ RM (Residential Multifamily) | ☐ BB (Bay Beach) |
| ☐ RPD (Residential Planned Development) | ☐ EC (Environmentally Critical) |
| ☐ CM (Commercial Marine) | ☐ DOWNTOWN |
| ☐ CO (Commercial Office) | ☐ SANTOS |
| ☐ CB (Commercial Boulevard) | ☐ VILLAGE |
| ☐ CR (Commercial Resort) | ☐ SANTINI |
| ☐ CPD (Commercial Planned Development) | |

PART VII

AFFIDAVIT

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

I, Roland Weinmann (name), as Owner (title) of MYERSIDE 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 County 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 Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

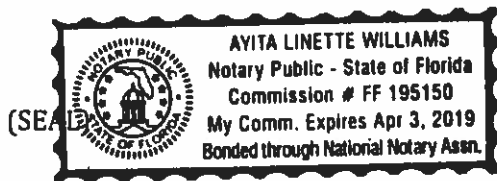
Myerside LLC
Name of Entity (corporation, partnership, LLP, LLC, etc)

[Signature] President
Signature Title

Roland Weinmann Nov. 24 2015
Typed or Printed Name Date

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was sworn to (or affirmed) and subscribed before me on Nov. 24, 2015 (date) by Roland Weinmann (name of person providing oath or affirmation), who is personally known to me ~~or who has produced~~ personally known (type of identification) as identification.



Ayta Linette Williams
Signature

Ayta Linette Williams
Printed Name

10/12/2012

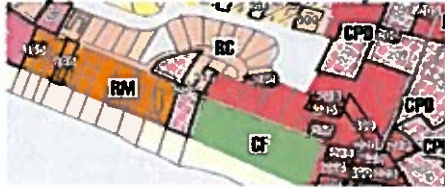
Town of Fort Myers Beach
2523 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0591

Page 10 of 13

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Town of Fort Myers Beach
Department of Community Development



Zoning Division

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:	Myerside
Authorized Applicant:	Roland Weinmann
LeePA STRAP Number(s):	1A-46-24W 3002 OC 0290

Current Property Status:	
Current Zoning:	RC
Future Land Use Map (FLUM) Category:	Boulevard
Platted Overlay?	☒ yes ☐ no
FLUM Density Range:	10 du./acre

Requested Action:

☐	Use of premises in the EC (Environmentally Critical) zoning district for:
☒	Use of premises in the <u>RC</u> zoning district for:
Bed and Breakfast	

PART I
Narrative Statements

A. Request for: (indicate the proposed use that requires a special exception)

Bed and Breakfast

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:

- A: There is precedent for this type of exemption on Ft. Myers Beach
- B: The property is zoned for weekly rentals, which is well suited for a bed and breakfast
- C: The property location, size and layout is well suited to B+B. - Everything is aimed to the
- D: We would continue to enrich the natural environment adding to the 100+ native plants we have all planted.

Granting the requested Special Exception could impact surrounding properties as follows:

There would be no negative impact on surrounding properties. The property currently has weekly zone, rentals for vacationers, so there is no increase in volume for its 7 units as far as vehicle traffic is concerned. The immediate businesses may see positive increased flow. This exemption would be another step forward in taking this property from a run down, unsafe complex across from an elementary school, to a safe, attractive vacation destination on Ft. Myers Beach.

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.

For New Communication Towers:

- a. Lee County Application for Communication Tower
- b. Shared-Use Plan Agreement

For Consumption of Alcoholic Beverages (COP) license approval:

- a. Notarized authorization from the Property Owner to apply for permit
- b. A statement indicating the type of establishment, the type of state license to be acquired, and the planned hours of operation. Also indicate if the request includes outdoor seating areas and indicate the seating areas and capacity on the site plan.
- c. A map showing the locations of other properties within 500 feet of the request where consumption-on-premises uses are already in operation.
- d. The site plan must include the public entrances and exits to the building, the floor area and proposed seating capacity, and floor area and seating capacity of any areas within the building subdivided between restaurant and bar/lounge areas. The site plan should also indicate the parking area, including the spacing and the locations of entrances and exits.

For transit terminals:

The site plan must indicate the location of the bus stalls; commuter parking areas, if provided; taxi waiting stalls; circulation pattern for buses including the entrances and exits; and the location of any building(s) housing the terminal and waiting areas.

For use of the EC zoning district:

- a. If the location of the request is in the portion of the EC zoning district between Estero Boulevard and the Gulf of Mexico, provide a survey meeting the requirements of Chapter 62B-33.0081 of the Florida Administrative Code, also including the precise location of the (1978) Coastal Construction Setback Line for Estero Island recorded in Plat Book 33, Page 3, of the Official Records of Lee County, Florida.
- b. The site plan must indicate the precise location of the request on the subject property and any related details of the existing conditions or planned improvements to the subject property. For areas in the EC zoning district between Estero Boulevard and the Gulf of Mexico, the precise location of the request in relation to the (1978) Coastal Construction Setback Line must be shown on the site plan.

Guide to Filing Supplement PH-A for Special Exceptions

Case Number will be inserted by Community Development staff.

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

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

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

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

Requested Action: Indicate the nature of the request and include the current zoning of the property.

Part 1 Narrative Statements:

“Request for...”

Indicate the nature of the request that requires a special exception, and explain why it requires a special exception. Describe the relationship of the requested use to any existing use(s) of the property, if applicable.

“The property qualifies for a special exception because...”

Explain why the request and the subject property qualify for a special exception. Address the standards for decision-making for special exceptions that are provided in the Land Development Code, as follows:

- Whether there exist changed or changing conditions which make approval of the request appropriate.
- Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
- Whether the request meets or exceeds all performance and locational standards for the proposed use.
- Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.

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

"Granting the requested special exception could impact surrounding properties as follows..."

Explain how this request, if granted for the subject property, could affect the surrounding properties and the existing or planned uses on those properties.

Part 2 Submittal Requirements

Public Hearing Application Form. Applications for special exception consist of the Public Hearing form and the supplemental form PH-A. Both parts of the application form must be completed and submitted.

Site Plan. The site plan should be to scale and should indicate the location of the request on the property. Existing buildings and other improvements (such as swimming pools, fences, decks, or parking lots) should also be shown on the site plan. The site plan should also indicate the existing uses on adjacent properties. Also include any additional relevant detail related to the specific request.

Exhibit I. LCSO 2014-2015 Incidents Report



Lee County Sheriff's Office

Incidents By Location

Search for **certain closed** incidents reported to the Lee County Sheriff's Office for the **past 2 1/2 years**.

The text you enter to be searched for must be a **street address**. Do not include city or state. If you specify an exact address (number, street name, street type), it will return incidents for **only** that exact spelling/address. If you type part of the address it will return incidents where that sequence of letters appears as **part** of the address, therefore returning more results.

Due to active investigations, incidents will be delayed 48 hours before appearing here.

Total: 294

<u>Occured Date</u>	<u>Incident Type</u>	<u>Address</u>	<u>City</u>	<u>Disposition</u>	<u>Incident Number</u>
2015-12-15 16:21:22	DISTURBANCE	5321 TICE ST; OAK HAMMOCK MIDDLE SCHOOL	FORT MYERS	ARREST/NTA	15-540076
2015-12-16 11:21:55	BURGLARY-BUSIN	18500 THREE OAKS PKY; THREE OAKS MIDDLE SCHOOL	FORT MYERS	REPORT TAKEN	15-541506
2015-12-19 13:47:56	RECOVER VEHICLE	12770 GATEWAY BLVD; GATEWAY CHARTER HIGH SCHOOL	FORT MYERS	REPORT TAKEN	15-547082
2014-03-18 08:37:22	DISTURBANCE	151 SCHOOL ST	FORT MYERS BEAC	REPORT TAKEN	14-105846
2014-04-27 15:25:13	DISTURBANCE	145 SCHOOL ST	FORT MYERS BEAC	CONDITION CORRECTED	14-166712
2014-05-06 22:51:41	DISTURBANCE	SCHOOL ST / ESTERO BLVD	FORT MYERS BEAC	HANDLED BY DEPUTY	14-181262
2014-12-08 19:56:38	DISTURBANCE	OAK ST & SCHOOL ST	FORT MYERS BEAC	CONDITION CORRECTED	14-498798
2015-02-27 18:02:46	INDECENT EXP	151 SCHOOL ST; BAY OAKS REC PARK	FORT MYERS BEAC	GONE ON ARRIVAL	15-086322
	DISTURBANCE				15-261634

2014-02-26 15:45:00			LEHIGH ACRES		
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Florida law protects the identity of **victims** in sex crimes and child abuse cases. In accordance with Florida State Statute s. 119.071(2)(h)1. F.S., incidents related to sexual crimes or child abuse will **NOT** be published. Also note, incidents reported to area police departments or other agencies are not available on our website.



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Due to active investigations, incidents will be delayed 48 hours before appearing here.

Total: 294

<u>Occured Date</u>	<u>Incident Type</u>	<u>Address</u>	<u>City</u>	<u>Disposition</u>	<u>Incident Number</u>
2015-07-21 20:28:17	DISTURBANCE	SCHOOL ST / ESTERO BLVD	FORT MYERS BEAC	CONDITION CORRECTED	15-304981
2015-07-22 14:27:16	ANIMAL	SCHOOL ST / ESTERO BLVD	FORT MYERS BEAC	HANDLED BY DEPUTY	15-306263
2015-08-29 15:00:00	RECOVER PROP	SCHOOL ST & ESTERO BLVD	FORT MYERS BEAC	REPORT TAKEN	15-367393
2014-01-07 11:51:03	HARASSMENT	151 SCHOOL ST, A	FT MYERS BEACH	CONDITION CORRECTED	14-008765
2014-02-06 03:00:11	STOLEN VEHICLE	151 SCHOOL ST, CTOR	FT MYERS BEACH	CRIME REPORT TAKEN	14-048469
2014-01-07 08:33:26	DISTURBANCE	200 SCHOOLSIDE DR	LEHIGH ACRES	TRESPASS WARNING ISSUED	14-008421
2014-02-22 03:11:03	DISTURBANCE	303 SCHOOLSIDE DR	LEHIGH ACRES	CONDITION CORRECTED	14-071319
2014-02-24 15:18:22	DISTURBANCE	200 SCHOOLSIDE CT; LEHIGH ELEMENTARY SCHOOL	LEHIGH ACRES	CANCELLED PER COMPLAINANT	14-074608
2014-02-26 08:59:13	DISTURBANCE	715 THOMAS SHERWIN AVE S ; EAST LEE COUNTY HIGHSCHOOL	LEHIGH ACRES	CONDITION CORRECTED	14-076962
	DISTURBANCE	304 SCHOOLSIDE DR		REPORT TAKEN	14-077666

2015-06-24 19:23:32		SCHOOL ST / OAK ST; BASEBALL FIELD	FORT MYERS BEAC	GONE ON ARRIVAL	
2015-06-24 19:41:15	DISTURBANCE	SCHOOL ST / ESTERO BLVD; BASEBALL FIELD	FORT MYERS BEAC	GONE ON ARRIVAL	15-261654

Florida law protects the identity of **victims** in sex crimes and child abuse cases. In accordance with Florida State Statute s. 119.071(2)(h)1. F.S., incidents related to sexual crimes or child abuse will **NOT** be published. Also note, incidents reported to area police departments or other agencies are not available on our website.

Exhibit J. Letter of Support

To: Town of Ft. Myers Beach
Attn.: Town Council &
Planning Commission

December 6, 2015

Re: Special Exception -131-151 School St.

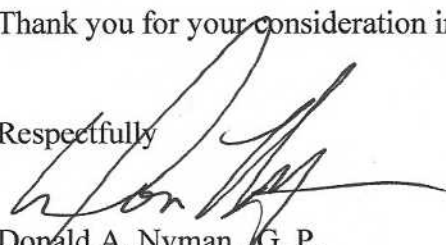
Dear Sirs;

I own the property immediately adjacent to 131-151 School St. I understand the owners of Myerside LLC have applied for a special exemption to have the subject property become a Bed & Breakfast. Over the last two years, I and my tenants have watched as Roland Weinmann and Beverley Milligan, the owners of Myerside LLC have worked to change the subject property from being a drug infested menace to the community to a respectable and beautiful property. Their efforts have rendered the property an asset to the community as opposed to being a liability to all, the neighborhood has become a safer place to live.

For the reasons stated above I believe it to be in the best interest of the community to Grant the exemption requested by Myerside. I strongly encourage all parties involved to vote in favor of the requested exemption.

Thank you for your consideration in this matter.

Respectfully



Donald A. Nyman, G. P.
Nyman Ltd. Partnership, Owner of
2661-6281 Estero Blvd & 125 School Street
Ft. Myers Beach, Fl

Mailing address : 1728 S.E. 40th Terrace
Cape Coral, Fl. 33904



**FORT MYERS BEACH
LOCAL PLANNING AGENCY (LPA)
MINUTES
Town Hall
2525 Estero Boulevard
Fort Myers Beach, Florida 33931
Tuesday, January 12, 2016**

I. CALL TO ORDER

Meeting was called to order at 9:00 a.m. by Chair Zuba. Members present: Bruce Butcher, Al Durrett, Suzanne Katt, Jane Plummer, Joanne Shamp, James Steele and Hank Zuba.

Town Attorney: Dawn Lehnert

Staff: Matt Noble and Megan Will.

II. PLEDGE OF ALLEGIANCE

III. INVOCATION

IV. MINUTES - November 17, 2015

Ms. Shamp reviewed unrecorded comments from the November 17, 2015 meeting. She verified that the correct number of current seasonal parking lots was two. Ms. Shamp did not recall the partial motion. Mr. Noble will clarify the cost of a permit.

Under the REORGANIZATION categories, add of the Local Planning Agency and Historic Preservation Board to distinguish between the two.

MOTION: Ms. Shamp moved to approve the minutes as amended, second by Mr. Steele.

VOTE: Motion approved; 7-0.

V. SEZ2015-0006

Obtain a special exception to operate a bed and breakfast inn on the subject property.

Town Attorney Lehnert swore in those providing testimony.

Chair Zuba requested ex parte communication. Mr. Butcher - site visit; Ms. Plummer - site visit; Mr. Durrett - site visit; Chair Zuba - site visit, he spoke to an employee (Gil) and he inspected one of the units; Ms. Shamp - site visit; Mr. Steele - site visit and Ms. Katt - site visit.

Ms. Will reviewed the request and she noted that staff found that it was consistent and supported many of the goals and objectives of the Comprehensive Plan. The applicant chose to restore the existing structures onsite rather than rebuild, they would physically revitalize a transitional neighborhood in the heart of the Island and the scale and design of the site fit with Goal 4 and it was very close to the beach and other amenities. She indicated that increasing commercial intensity on the site was a 0 sum game. There were currently seven legal rentals that could be rented on a weekly basis; as a Bed and Breakfast (BNB) it would have six legal weekly rentals because the owners would live in one of the units. The special exception request came as a result of operating without the correct use permit for a BNB. In order to have an office onsite, they had to be considered a BNB. In order to be considered a BNB, they had to request a commercial use permit.

Ms. Will reported that under special exception considerations, staff contended that improvements made to the property and neighborhood were evidence of changing conditions, which made the request appropriate. Staff found the request was compatible with the surrounding land uses, the closest adjacent single family home provided support for the request and the redevelopment renovation focused the activity inward, which provided a buffer from adjacent properties.

Ms. Will reviewed specific requirements BNBs were required to meet. Staff recommended approval with the conditions that all outdoor lighting would be fully shielded or use full cutoff fixtures to reduce glare and light trespass to adjacent properties and outdoor activities would be limited to the hours of 7 a.m. to 10 p.m. unless associated with a special event permit.

Ms. Plummer questioned why there was a limit (60 to 90 days) on how long guests were permitted to stay. Ms. Will responded that it was a Town regulation, but it could be changed. Ms. Plummer felt it was restrictive for a small business, especially in the summer.

Mr. Butcher questioned the difference between BNBs and hotels/motels. Ms. Will replied that Code differentiated between the two and hotels/motels were open to nightly rentals, unlike BNBs. Owners of BNBs were required to live onsite when guests were present.

Ms. Shamp questioned whether the school commented on the request. Ms. Will stated that she had not received comments. Ms. Plummer stated that Renee Malloy indicated that the school was pleased. Ms. Shamp questioned whether more buffering would be required to prevent a visual passage between the school and pool activity. Ms. Will remarked that the owner intended to increase the landscaping onsite. Ms. Shamp expressed concern regarding Consumption on Premises (COP) on the property. Ms. Will indicated that they would have the ability to request a COP in conjunction with special events under the RC zoning. Ms. Shamp questioned whether there was a way to limit the kind of special events in order to limit the impact to the school and the park. Ms. Will noted that staff recommended restrictions on outdoor activities.

Chair Zuba questioned whether there were pending code violations. Ms. Will replied that there was an outstanding code case on the property in relation to obtaining a permit for the fence, which had been obtained and was final. Some of the remodeling activities were pending completion. The CO had been issued for all units in the complex. If the special exception was approved, they would be allowed to make an application for the commercial use permit. Once the application was submitted and staff reviewed it, inspections by the fire department, code inspection and building inspection would have to be passed.

Roland Weinmann and Beverly Milligan thanked staff for the fantastic job they did. Ms. Milligan stated that it was a labor of love. Town Attorney Lehnert clarified that the approval was conditional on the site plan of six units and one residential unit. She suggested adding a condition to limit the number of units on the site in accordance to the site plan. Ms. Plummer was not in favor of adding the condition to limit expansion. Ms. Will clarified that there were seven legal units on the property. She reviewed the platted overlay for existing units, which allowed ten units per acre. The current zoning would allow seven units and the applicant requested the SEZ for seven units.

Mr. Butcher questioned whether the Mango Inn offered weekly or nightly rentals. Ms. Will thought they had a three night minimal rental; however, they were zoned RM. Mr. Butcher questioned whether the applicants intended to stay there year round. Ms. Milligan responded that they would be onsite when they had guests and if they couldn't be there, someone else would.

Ms. Shamp remarked that the applicants made a stunning transformation of the property. She questioned whether they would increase the landscaping along the fence facing the school. Ms. Milligan replied that they were working on it and landscaping was being planted on the inside of the fence. Ms. Shamp questioned whether they would object to conditioning special events and COP. Ms. Milligan responded that they would prefer not to have those conditions and that they would comply with the existing conditions. Their vision for the property was to market for reunions and they would like to do weddings. Ms. Katt thanked the applicants for improving the property. Chair Zuba agreed that it looked attractive and was an upgrade to the neighborhood. He questioned whether the 90 day limit influenced the applicants. Ms. Milligan stated that it would be nice to have flexibility.

Mr. Durrett questioned whether there was a way to renew a 90 day lease. Ms. Will replied that Code limited stays to 90 days at a time, but they could check-out and check back in. Ms. Shamp questioned whether there was something in the Code that prevented guests from bringing their own alcohol. Ms. Will stated that Code was silent on the topic.

MOTION: Ms. Shamp moved to approve SEZ2015-0006 with the conditions as stated with regard to lighting, outdoor activity hours and the addition of a third condition that approval was conditioned to the presented site plan of the existing seven units, which are six rental units and one residential unit; second by Ms. Plummer.

VOTE: Motion approved; 7-0.

VI. LPA MEMBER ITEMS AND REPORTS

Mr. Steele questioned Town Attorney Lehnert regarding whether LPA members could attend meetings concerning the proposed downtown project. Town Attorney Lehnert replied in the affirmative and she recommended keeping track of any meetings he attended. She reviewed Sunshine Laws.

Mr. Butcher questioned whether he could offer his opinion to anyone. Town Attorney Lehnert responded yes, but he might want to keep track of who he spoke to.

VII. LPA ATTORNEY ITEMS - no items.

VIII. COMMUNITY DEVELOPMENT ITEMS - no items.

IX. ITEMS FOR NEXT MONTH'S AGENDA - no items.

X. PUBLIC COMMENT

Anita Cereceda, Mayor, appreciated the work Mr. Weinmann and Ms. Milligan did on the property. She indicated that she would attend more meetings to better understand different points of view. She thanked the LPA in advance for the hard work they would be doing in the coming year.

Dean Kirkesner, owner of Rebel Water Sports, thanked the LPA for grandfathering in his business. He stated that he sent Ms. Will an email that would help the Town get rid of the riffraff. He indicated that Ms. Will went to Town Council and stated that the LPA's intent was to grandfather in the PWVL addresses only. He thought the LPA grandfathered the businesses, not the PWVL addresses. He requested that LPA tell staff, the Town Attorney and Council what their intent was when they grandfathered in businesses. Town Attorney Lehnert responded that a question was raised as to what they intended to grandfather. Some locations did not have a permit that was issued by the Town to substantiate the grandfathering. Staff redrafted the grandfathering provision to allow those property owners to substantiate the existence of their business, which required a tax certificate, business tax receipts, paid taxes on the furniture vending business and permission from the property owner on which the business was located. All of those requirements must be dated back prior to January 1, 2015.

Ms. Shamp clarified that her intent in the motion was to grandfather the business where they were currently operating. Ms. Plummer discussed the 10% side setback in relation to jet ski operators.

XI. ADJOURNMENT

MOTION: Mr. Steele moved to adjourn the meeting; second by Ms. Shamp.

VOTE: Motion approved; 7-0.

Meeting adjourned at 10:06 a.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

- End of document

Handwritten signature and date "2-9-16".

RESOLUTION NUMBER 16-09

**RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
SEZ 2015-0006– Bed-and-Breakfast Inn
131-151 School Street**

WHEREAS, Myerside LLC, applicant and owner of the subject property, filed an application to obtain a special exception for a bed-and-breakfast inn in the Residential Conservation zoning district; and

WHEREAS, Applicant has indicated the STRAP number for the subject property is 29-46-24-W3-0020C.0290, and the subject property is legally described as indicated on attached Exhibit A; and

WHEREAS, the subject property is physically located at 131-151 School Street, Fort Myers Beach, Florida, and within the Boulevard future land use category; and

WHEREAS, a duly advertised public hearing was held before the Local Planning Agency (LPA) on January 12, 2016; and

WHEREAS, the LPA recommended approval subject to certain conditions after full and complete consideration to the Applicant's request, recommendations of Town staff, documents in the record, and the testimony of all interested persons, as required by Town Land Development Code (LDC) s. 34-84; and

WHEREAS, on March 7, 2016, 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 LDC s. 34-88; and

WHEREAS, the Town Council determined it is in the best interest of the Town to approve the request.

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Fort Myers Beach, Florida, as follows:

1. Determination.

Based upon the recommendations, testimony, and evidence presented by Town staff, LPA, and interested parties, Special Exception SEZ2015-0006 for a bed-and-breakfast inn, as depicted on attached Exhibit A is APPROVED, subject to the conditions set forth in this Resolution.

2. Conditions.

- a. All outdoor lighting on the site will be "fully shielded" or "Full cutoff" fixtures to reduce glare and light trespass onto adjacent properties.
- b. Outdoor activities will be limited to between the hours of 7 AM and 10 PM, unless associated with a special event permit issued by the Town of Fort Myers Beach.
- c. Approval is for a total of 7 units (6 rental units and one owner residence) consistent with the sit plan attached as Exhibit A.

3. Findings and Conclusions of Law.

In accordance with LDC s. 34-88, the Town Council finds as follows:

- a. There are changed or changing conditions that make approval of the special exception 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 or exceeds all performance and locational standards set forth for the proposed use.
- d. The request will have no negative effects on environmentally critical areas and natural resources.
- e. The request will be compatible with existing or planned uses and will not cause damage, hazard, nuisance, or other detriment to persons or property.
- f. The requested use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in the Land Development Code.

[Balance of page intentional left blank.]

THE FOREGOING RESOLUTION was adopted by the Town Council upon a motion by Council Member Hosafros, seconded by Council Member Mandel and upon being put to a vote the results was as follows:

Anita Cereceda, Mayor aye
Rexann Hosafros aye
Summer Stockton aye

Dan Andre, Vice Mayor aye
Alan Mandel aye

DULY PASSED AND ADOPTED this 7th day of March, 2016.

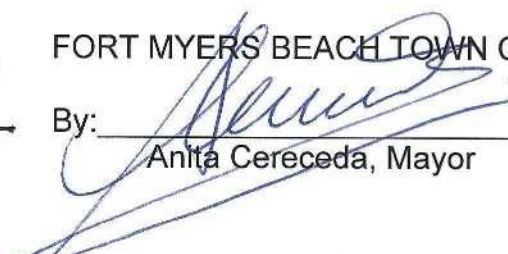
ATTEST:

By:


Michelle Mayher, Town Clerk

FORT MYERS BEACH TOWN COUNCIL

By:


Anita Cereceda, Mayor

Approved as to legal sufficiency


Town Attorney

Exhibits

A: Legal Description and Site Plan (Survey prepared by Mark Allen attached to staff report)

FIELDBOOK PAGE

Page 209 of 210

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

Yellow Sheet Number: **2021-163**

1. Requested Motion:

Meeting Date: February 9, 2021

The Corradino Group will provide a project status of the Comprehensive Plan updates

Why the action is necessary:

What the action accomplishes:

2. Agenda:

ADMINISTRATIVE AGENDA

3. Requirement/Purpose:

5. Background:

Staff and the Town's Comprehensive Plan Consultant will provide an presentation updating the LPA on the status of the Comprehensive Plan update.

Attachments:

Financial Impact:

6. Alternative Action

7. Staff Recommendations:

8. Recommended Approval:

Jason Green, Community Development
Services

Date: February 03,
2021

John R Herin Jr, Town Attorney

Date: February 03,
2021

Amy Baker, Town Clerk

Date: February 04,
2021