



Fort Myers Beach Local Planning Agency

Town Hall Council Chambers
6231 Estero Boulevard
Fort Myers Beach, FL 33931

AMENDED Agenda

Tuesday, October 14, 2025

9:00 AM

ORDER OF BUSINESS

- I. CALL TO ORDER
- II. INVOCATION
- III. PLEDGE OF ALLEGIANCE
- IV. APPROVAL OF FINAL AGENDA
- V. APPROVAL OF MINUTES

A. Local Planning Agency - September 9, 2025

- VI. PUBLIC COMMENT
- VII. PUBLIC HEARINGS

UPDATED A. Ordinance 25-21; CPA20250188, 1668 I Street (Beach Bar Signage)
AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/ DENYING AN AMENDMENT TO THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, PREVIOUSLY APPROVED BY ORDINANCE 24-18 FOR THE PARCEL LOCATED AT 1668 I STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0070B.0110 FORT MYERS BEACH, TO INCLUDE A DEVIATION FOR ADDITIONAL SIGNAGE; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. **ORDINANCE ATTACHED**

UPDATED B. Ordinance 25-22, CPD20250201, 125, 131-151 School Street and 2661-1681 Estero Blvd. (Cottages at Myerside)
AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING/APPROVING WITH CONDITIONS/ DENYING AN AMENDMENT TO THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, PREVIOUSLY APPROVED BY ORDINANCE 24-15 FOR THE PARCEL LOCATED FOR THE PROPERTY LOCATED AT 125, 131-151 SCHOOL STREET AND

2661-2681 ESTERO BLVD., FORT MYERS BEACH, GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0020C.0230; 19-46-24-W3- 0020C.0270; 19-46-24-W3-0020C.0290 IN FORT MYERS BEACH; PROVIDING FOR REVISIONS TO SCHEDULE OF USES TO INCLUDE OUTDOOR CONSUMPTION ON PREMISES AS A USE ASSOCIATED WITH THE HOTEL AND RESTAURANT USE, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS AND PROVIDING FOR AN EFFECTIVE DATE. **ORDINANCE ATTACHED**

- C. Ordinance 25-19; DA20250186, 50 Old San Carlos (Kilwins Times Square)

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING OR DENYING A HOME RULE DEVELOPMENT AGREEMENT FOR PROPERTY LOCATED AT 50 OLD SAN CARLOS BOULEVARD, FORT MYERS BEACH, FL, STRAP NOS. 24-46-23-W3-00208.002A OWNED BY CARLOS L. CHAVEZ AS TRUSTEE FOR THE CARLOS L. CHAVEZ TRUST, AS AUTHORIZED BY SECTION 2-100 OF THE TOWN'S LAND DEVELOPMENT CODE AND IN COMPLIANCE WITH THE PROCEDURES FOR APPLICATION AND APPROVAL OF DEVELOPMENT AGREEMENTS WITH DEVIATIONS SET FORTH IN RESOLUTION NUMBER 24-247 FOR THE PURPOSE OF REDEVELOPMENT OF THE PROPERTY TO ALLOW A MIXED USE DEVELOPMENT WITH COMMERCIAL AT THE OPEN GROUND LEVEL AND SINGLE FAMILY RESIDENTIAL ABOVE.; PROVIDING FOR TERMS AND CONDITIONS INCLUDING BUT NOT LIMITED TO THE IDENTIFICATION OF THE PROPOSED USE OF THE PROPERTY, A FINDING OF CONSISTENCY WITH THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, COMMITMENTS AND DEVELOPMENT OBLIGATIONS, DEVIATIONS NEEDED FOR DEVELOPMENT; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

- UPDATED** D. VAR20250227, 1741 Estero Boulevard (The Goodz)

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20250227, A VARIANCE TO AMEND PREVIOUSLY APPROVED VARIANCE (VAR 20240270) ADDING A VARIANCE FROM LDC 34-2020 TO REDUCE PARKING REQUIREMENT, IN THE DOWNTOWN ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 1741 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0080B.0010 ; AND PROVIDING FOR AN EFFECTIVE DATE. **RESOLUTION ATTACHED**

UPDATED E. SEZ20250228, 1741 Estero Blvd (The Goodz)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING SPECIAL EXCEPTION SEZ20250228 TO ALLOW CONSUMPTION ON PREMISES (COP) IN THE OUTDOOR PATIO AT THIRD FLOOR WITHIN 500 FEET OF DWELLING UNITS FOR THE PROPERTY LOCATED AT 1741 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0080B.0010; AND PROVIDING FOR AN EFFECTIVE DATE.

RESOLUTION ATTACHED**F.** Ordinance 25-24, Impact Fee Study

AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA ADOPTING AN IMPACT FEE STUDY DATED AUGUST 25, 2025 AND PREPARED BY DP GUTHRIE LLC; AMENDING ARTICLE IV ENTITLED "IMPACT FEES" IN CHAPTER 2 ENTITLED ADMINISTRATION OF THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES TO 1) INCORPORATE UPDATED INFORMATION CONTAINED IN THE REFERENCED IMPACT FEE STUDY, 2) REDUCE THE NUMBER OF IMPACT FEE CATEGORIES AND SPECIFIC USES, 3) CHANGE THE METHOD OF CALCULATION OF FEES FOR SINGLE FAMILY HOMES FROM PER DWELLING TO SQUARE FOOTAGE RANGE TO REFLECT THE TYPICAL IMPACT OF LARGER HOMES, 4) REDUCE THE AMOUNT OF FEES BASED ON UPDATED POPULATION AND PROJECT EXPECTATIONS, AND 5) PROVIDING FOR AN UPDATE EVERY FOUR (4) YEARS PAYABLE FROM COLLECTED IMPACT FEES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

VIII. ADMINISTRATIVE AGENDA**A.** 2026 Calendar

Discuss and approve the monthly schedule for LPA meetings in 2026.

IX. LPA MEMBERS ITEMS/REPORTS**X. LPA ATTORNEY ITEMS/REPORTS****XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS****XII. ITEMS FOR NEXT MONTHS AGENDA****XIII. ADJOURNMENT**

NOTE: THIS MEETING IS STREAMED LIVE ON YOUTUBE.

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

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



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



Fort Myers Beach Local Planning Agency

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

Minutes

Tuesday, September 9,
2025

9:00 AM

DRAFT

ORDER OF BUSINESS

I. CALL TO ORDER

Members present: Chair Cereceda, LPA Members Boan, Dunlap, Eckmann, McLean and Sudduth (virtually).

Excused: LPA Member Plummer

LPA Member Dunlap moved to excuse LPA Member Plummer, seconded by LPA Member Boan.

The motion carried unanimously.

LPA Member McLean moved to allow LPA Member Sudduth to participate virtually, seconded by LPA Member Eckmann.

The motion carried unanimously.

II. INVOCATION

Chair Cereceda remembered Betty Simpson.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

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

The motion carried unanimously.

V. APPROVAL OF MINUTES

A. Local Planning Agency - August 12, 2025

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

The motion carried unanimously.

VI. PUBLIC COMMENT

No public comment.

VII. PUBLIC HEARINGS

Town Attorney Stuparich explained the quasi-judicial procedures and the

expedited variance process. Town Clerk Baker confirmed that all agenda items were properly noticed. She swore in those providing testimony.

- A. SEZ20250208, Fishing Pier at County ROW at Old San Carlos Blvd Ext. **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20250208 TO ALLOW RECONSTRUCTION OF THE PIER WITH ELEVATED WALKWAYS, LIGHTING IN EC ZONING DISTRICT SEAWARD OF 1978 CCCL, FOR THE PROPERTY LOCATED AT COUNTY R/W AS LEGALLY RECORDED IN PLAT BOOK 9, PAGE 9, EXTENSION OF OLD SAN CARLOS BLVD. IN PUBLIC RECORD OF LEE COUNTY, FLORIDA; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.**

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

Community Development Senior Planner Smalley reviewed the background of the request as stated on the yellow sheet. The county requested the removal of the condition that barred development during turtle season. Staff recommended approval with the removal of said condition.

Lee County Facilities Construction Management Director Ehab Guirguis revealed that they received the FDEP (Florida Department of Environmental Protection) permit for the fishing pier and the job was out for bid today. He expected 12 months of construction, during which wildlife would be monitored. He described the light system to avoid wildlife issues. The decking material would be concrete and the pilings would be replaced. The county will look into repurposing existing materials. Lee County Commissioner David Mulicka complimented everyone for their support. LPA Member Dunlap returned the compliment.

No public comment.

LPA Member Dunlap moved to approve the resolution with the turtle condition removed, contingent upon DEP's permit, seconded by LPA Member Eckmann. The motion carried unanimously by roll call vote.

- B. SEZ20250217, 50/58 Estero Boulevard (Bowditch Park) **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20250217 TO ALLOW LIKE-FOR-LIKE REPLACEMENT OF BOARDWALKS, PAVER DECK, SIDEWALK, DECKING AND BENCHES IN EC ZONING DISTRICT SEAWARD OF 1978 CCCL, FOR THE PROPERTY LOCATED AT 50/58 ESTERO BOULEVARD COMMONLY REFERED TO AS STRAP NUMBER 24-46-23-w1-0080d.0400; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.**

Chair Cereceda read the title of the resolution. Ex parte communications: LPA Members Boan and Dunlap and Chair Cereceda received an email. No

disclosures from other members.

Senior Planner Jason Smalley reviewed the background of the request as stated on the yellow sheet. Staff recommended approval with conditions. If the item moves forward, the condition regarding no construction during turtle season will be removed. If the state issues a waiver, construction may proceed without permission from the town.

Lee County Facilities Construction Management Director Ehab Guirguis stated that construction would be monitored every day and they would be careful not to interrupt wildlife. The timeline for completion was eight months after all permits were issued and approval by the commissioners. Lee County Commissioner David Mulicka thanked the LPA for approving the expedited variance process.

No public comment.

LPA Member Eckmann moved to approve the resolution with conditions and remove condition 3, seconded by LPA Member McLean.

The motion carried unanimously by roll call vote.

C. SEZ20250116, 6612 Estero Boulevard (Island Winds Condominium Assoc.)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20250116 TO ALLOW LIKE-TO-LIKE REPLACEMENT OF A TIKI HUT IN EC ZONING DISTRICT SEAWARD OF 1978 CCCL, FOR THE PROPERTY LOCATED AT 6612 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Chair Cereceda read the title of the resolution. LPA Member Sudduth revealed a conflict of interest and will submit Form 8B. No ex parte communication disclosures from members.

Senior Planner Smalley reviewed the background of the request as stated on the yellow sheet.

Dave Nusbaum, President of the Island Winds Condominium Association, reviewed the history of the property and the tiki hut, which Hurricane Ian destroyed. He noted that they hired a coastal engineering firm to obtain an FDEP permit, which was issued this year. A wildlife specialist stated that, in their opinion, rebuilding the tiki hut would not impact future sea turtle nesting. The tiki hut was 300 yards from the high-water mark. He described the many ways that Island Winds was a steward of the environment.

Property Manager Tim Ryan indicated that the tiki hut would be built by a member of the Seminole tribe and a foot away from the CCCL (Coastal Construction Control Line).

Public comment:

Chip Faust, General Manager of the Hilton Seawatch on the Beach, supported the restoration of the tiki hut.

Public comment closed.

LPA Member McLean moved to approve the resolution, including the

conditions, seconded by Chair Cereceda.

The motion carried unanimously by roll call vote, with LPA Member Sudduth abstaining.

D. VAR20240302, 435 Madison Court

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/PROVING WITH CONDITIONS/DENYING VARIANCE 20240302, REQUESTING 1)A VARIANCE FROM LDC SECTION 34 TABLE 34-3 TO ALLOW A 19.5 FOOT SETBACK WHERE A 25 FOOT SETBACK IS REQUIRED; AND 2) A VARIANCE FROM LDC SECTION 34-1174(D)(1)A TO ALLOW AN ACCESSORY STRUCTURE SETBACK OF 3.2-FEET WHERE A 5 FOOT SETBACK IS REQUIRED FOR THE PROPERTY LOCATED AT 435 MADISON COURT GENERALLY REFERED TO AS STRAP NUMBER 24-46-23-W1-0060D.025F IN FORT MYERS BEACH; AND PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

Community Development Planner Jason Green reviewed the background of the requests as stated on the yellow sheet. He noted there were no objections from the neighbors and staff recommended approval with standard conditions. Planner Green addressed drafting a policy regarding seawalls in the wrong place, specifically on Donora Blvd.

Tina Eckblad, applicant, stated that she agreed with the staff report and that the house, pool and boat dock were constructed.

Public comment:

Barbara Hill, resident, indicated that she was unaware of the request before the meeting.

Public comment closed.

LPA Member Boan moved to approve the resolution with two conditions, seconded by LPA Member Dunlap.

The motion carried unanimously by roll call vote.

E. VAR20250177, 101 Gulf Drive

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/PROVING WITH CONDITIONS/DENYING VARIANCE 20250177, REQUESTING A VARIANCE FROM LDC SECTION 34 TABLE 34-3 TO ALLOW A 10 FOOT SETBACK WHERE A 20 FOOT SETBACK IS REQUIRED FOR A NEW SINGLE-FAMILY HOUSE AT THE PROPERTY LOCATED AT 101 GULF DRIVE GENERALLY REFERED TO AS STRAP NUMBER 33-46-24-W3-0040G.008A IN FORT MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

were disclosed.

Planner Green reviewed the background of the request as stated on the yellow sheet. Staff recommended denial of the request because it was a design choice.

Rick Dobbs, applicant, explained that the property used to be a rental, but they wanted to make it their permanent home now. He noted that they spent \$200,000.00 on a remodel they completed days before Hurricane Ian. Mr. Dobbs described the design of his new home and asked for their consideration. No public comment.

LPA Member Boan moved to approve the resolution, including the staff conditions, seconded by LPA Member Dunlap.

The motion carried unanimously by roll call vote.

F. Development Agreement; 110-130 and 134/138 Connecticut Street (First Baptist Church of Fort Myers)

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING OR DENYING A HOME RULE DEVELOPMENT AGREEMENT FOR PROPERTY LOCATED AT 110-130 CONNECTICUT STREET (PARCEL 1) AND 134/138 CONNECTICUT STREET (PARCEL 2) FORT MYERS BEACH, FL, STRAP NOS. 29-46-24-W1-00151.0010 AND 29-46-24-W1-00151.001A AND OWNED BY FIRST BAPTIST CHURCH OF FORT MYERS, AS AUTHORIZED BY SECTION 2-100 OF THE TOWN'S LAND DEVELOPMENT CODE AND IN COMPLIANCE WITH THE PROCEDURES FOR APPLICATION AND APPROVAL OF DEVELOPMENT AGREEMENTS WITH DEVIATIONS SET FORTH IN RESOLUTION NUMBER 24-73 AS AMENDED IN RESOLUTION 247 FOR THE PURPOSE OF REDEVELOPMENT OF THE PROPERTIES TO ALLOW A CHURCH FACILITY AND 12 SINGLE-FAMILY HOMES; PROVIDING FOR TERMS AND CONDITIONS INCLUDING BUT NOT LIMITED TO THE IDENTIFICATION OF THE PROPOSED USE OF THE PROPERTY, A FINDING OF CONSISTENCY WITH THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, COMMITMENTS AND DEVELOPMENT OBLIGATIONS, DEVIATIONS NEEDED FOR DEVELOPMENT; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the ordinance. Town Attorney Stuparich described the procedure for a home rule development agreement. Ex parte communications: LPA Member Dunlap had a conversation with Jonathan Thomas, LPA Members Eckmann and Boan received an email from Steve and Jean Guzy and LPA Member McLean read the same email. Chair Cereceda had conversations with Butch and Sean Critser and lives in the neighborhood.

Planner Green reviewed the background of the request as stated on the yellow sheet. Staff had concerns regarding the intensity of institutional uses

encroaching on the neighborhood. However, those concerns could be alleviated through development restrictions, limitations on use and density and intensity situations. He indicated the draft final was on page 214 to review. Staff found that the document was sufficient as far as the submittal. Chair Cereceda was concerned about what appeared to be a conflict between 12 single-family homes and all the other uses included in the RC zoning district. She cited the lack of specificity with development agreements and felt Numbers 1 and 2 conflicted with each other. LPA Member McLean stated that it was one of his concerns. Town Attorney Stuparich explained that the uses as of right based on the document would be residential for the single-family homes, as well as the uses that are in residential conservation. Chair Cereceda commented that they do not have that right unless the zoning is changed. She listed the other uses allowed in the RC zone and felt those uses conflicted with Number 1. LPA Member Dunlap noted that they could carve out some uses.

Planner Green brought up setbacks. LPA Member McLean pointed out that the 4,200 square foot single-family homes did not fall under the category of small. LPA Member Boan felt there should be a requirement regarding how the alleys were built.

Adding language to drainage was discussed and Planner Green deferred to the applicant because they may have done some pre-engineering on the site. Planner Green noted that the staff report found that the findings were consistent with the comprehensive plan. He indicated that the amendments of termination were typical in his experience and he did not think that it hurt to list items that could not be administratively changed. LPA Member Dunlap would like to see what changes were made so they can adjust the documents or find additional language to make it easier for staff and the applicant to work together. Planner Green will incorporate his request into the Land Development Code (LDC) rewrite to clarify the distinction between administrative and non-administrative matters.

Chair Cereceda discussed a scenario where the developer decided to terminate the development agreement after the land was rezoned. She felt it was another conflict because part of the conditioning of the development agreement was 12 single-family homes, not a daycare facility. If the daycare facility were allowed just in the zoning and the development agreement were to go away, they would be left with a daycare facility.

Neil Montgomery, applicant, reviewed the background of how they got there and described the two types of development agreements. She offered to add a paragraph stating that the bed and breakfast and community home care were prohibited uses.

Jonathan Thomas listed his qualifications as a developer to be qualified as an expert.

LPA Member Dunlap moved to accept Mr. Thomas as an expert in his field, seconded by LPA Member McLean.

The motion carried unanimously.

Mr. Thomas is with S.J. Collins and described his experience, reviewed their

history with the church and explained how they ended up with the development agreement by collaborating with the town. He described where they were in the process and hoped to start construction on the church next year. Construction on the single-family homes would begin after the church was completed. He addressed the parking system and commented that he would follow the code.

LPA Member Boan asked why the homes were so large. Mr. Thomas replied that they intended to add elevated pools and it counted as part of the structure. Mr. Thomas described the amenities.

Al Quattrone described his qualifications in engineering and planning matters to be qualified as an expert.

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

The motion carried unanimously.

Mr. Quattrone utilized PowerPoint for his presentation, which was not displayed in the meeting. The presentation is included in the agenda packet materials. He noted the project received two affirmative votes from the church, and the latest set of plans was approved. As soon as they receive their permits, they can move forward.

LPA Member Boan thought it might be helpful to provide renderings of the single-family homes since they were not small, affordable homes on small lots. If they could not offer specifics, he suggested they remove the words small and affordable. A discussion continued regarding changing the zoning if the developer cancels the agreement. Mr. Quattrone suggested adding a condition that the agreement should not be terminated without another agreement to be put in place.

Public comment:

Ollie Curran, resident, supported the project but was against Airbnbs. Barbara Hill, resident, supported the church but expressed concern about the ambiguity of the RC zoning and would like to hear a solution before the zoning is approved. She was against short-term rentals.

Forrest Critser, resident and church member, described how they increased attendance over the years and how they served the community. He noted they had an agreement with the Mound House regarding overflow parking. He said they wanted to be a full partner with the town.

Jackie Carbone, resident, stated they needed the church back and described the activities that used to be held there.

Norbert Demars, resident, supported the church, but stated that short-term rentals have ruined their neighborhood. He described how they disrupted the neighbors. He mentioned the abuses on lot number two over the last 26 years. He asked who would enforce the restrictions on lot two, given that complaints had been ignored in the past.

Donna Gallagher, resident, indicated she was a member of the church and it did a lot for the community.

Mark Techler, resident, felt that this was a project they should be rooting for. He thought it was one of the least intensive requests for the size of the

property.

Public comment closed.

Town Attorney Stuparich distributed the letters of support to members for review.

Planner Green indicated that they would need something in the development agreement to limit daily, weekly or monthly rentals, but the RC allows it. Mr. Quattrone said they were building single-family homes, but some of them would probably end up as rentals. Chair Cereceda asked whether he would add a limitation that only allowed monthly rentals. He felt it would be unfair to hold them to a standard they were not holding anyone else to. He added that the Vrbo (Vacation Rental by Owner) issue had to be addressed island-wide and they should not pick winners and losers. LPA Member Eckmann agreed it was a big issue that needed to be solved at the council level.

LPA Member Dunlap moved to enter the letters of support into the record, seconded by LPA Member Boan.

The motion carried unanimously.

Ms. Montgomery agreed not to have daily rentals on the main drag, but they want to be consistent with the RC zoning district.

Changes to the development agreement: require a shared stormwater management system, add "as amended" to the LDC under conflicts and add a condition that the agreement should not be terminated without another agreement in place. Town Attorney Stuparich addressed the primary uses in the RC zoning district and proposed language changes. She moved down the list of changes and modified language in the appropriate sections as discussed. Regarding a condition prohibiting weekly rentals, Planner Green pointed out that the surrounding property was zoned RC, which allowed weekly rentals.

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

The motion carried unanimously by roll call vote.

- G. Rezoning, 110-130 Connecticut Street (First Baptist Church of Fort Myers) **AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING THE REZONING FROM INSTITUTIONAL (IN) TO RESIDENTIAL CONSERVATION (RC) FOR THE PROPERTY LOCATED AT 110-130 CONNECTICUT STREET., ALSO RESPECTIVELY IDENTIFIED AS STRAP NUMBER 29-46-24-W1-00151.0010 IN FORT MYERS BEACH; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Attorney Stuparich explained why this item was not needed.

VIII. ADMINISTRATIVE AGENDA**A. Expedited Special Exception Ordinance**

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING SECTION 34-232 "REQUIRED HEARINGS" OF DIVISION 5 "PUBLIC HEARINGS AND REVIEW" OF ARTICLE II "ZONING PROCEDURES" OF CHAPTER 34 "ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES" TO REQUIRE ONLY ONE PUBLIC HEARING BEFORE THE LOCAL PLANNING AGENCY ("LPA") FOR SPECIAL EXCEPTIONS THAT ONLY REPLACE "LIKE FOR LIKE" STRUCTURES THAT WERE EXISTING PRIOR TO A NATURAL DISASTER EVENT, IF THE DECISION BY ELIGIBLE MEMBERS OF THE LPA IS UNANIMOUS AND THE TOWN CLERK DOES NOT RECEIVE A REQUEST FOR AN ADDITIONAL PUBLIC HEARING BEFORE THE TOWN COUNCIL FROM ANYONE, INCLUDING TOWN STAFF, WITHIN 10 DAYS AFTER THE LPA DECISION; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW AND AN EFFECTIVE DATE.

Chair Cereceda read the title of the ordinance. Town Attorney Stuparich explained the expedited process.

No public comment.

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

The motion carried unanimously by roll call vote.

IX. LPA MEMBERS ITEMS/REPORTS

LPA Member Boan thanked DiamondHead for hosting their meetings.

LPA Member Eckmann noted that St. Peter Lutheran Church was open and invited everyone to attend.

LPA Member Dunlap suggested recapping the unanimous variance approvals to demonstrate the benefits to the community and the applicants. Town Clerk Baker indicated they were listed on the town's website once they were signed. Chair Cereceda will work with Town Clerk Baker to draft a report.

No items from other members.

X. LPA ATTORNEY ITEMS/REPORTS

No items.

XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS

No items.

XII. ITEMS FOR NEXT MONTHS AGENDA

Impact fees.

XIII. ADJOURNMENT

LPA Member Dunlap moved to adjourn, seconded by LPA Member Boan. The motion carried unanimously.

The meeting was adjourned at 3:56 p.m.

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

Yellow Sheet Number: **2025-704**

1. Request:

Meeting Date: October 14, 2025

AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/ DENYING AN AMENDMENT TO THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, PREVIOUSLY APPROVED BY ORDINANCE 24-18 FOR THE PARCEL LOCATED AT 1668 I STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0070B.0110 FORT MYERS BEACH, TO INCLUDE A DEVIATION FOR ADDITIONAL SIGNAGE; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The LPA hears the CPD Amendment cases and makes recommendations to the Town Council.

What the action accomplishes:

The LPA's recommendations will be forwarded to the Town Council.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

The applicant, Renee Oij of Sign Permits Plus, representing the property owner B & B Properties of Fort Myers, is requesting an amendment to the list of deviations for the existing Commercial Planned Development (CPD) approved under Ordinance 24-18. This amendment seeks to include a deviation allowing additional signage totaling 108 square feet, where the Land Development Code (LDC) Section 30-5 permits a maximum of 32 square feet.

The request would permit the installation of three non-illuminated signs: a 29.5 sq. ft. sign facing I Street, a 29.5 sq. ft. sign facing Avenue E, and a 48.8 sq. ft. sign facing the Gulf/Beach area.

In 2024, the Town of Fort Myers Beach Town Council approved Ordinance 24-18, rezoning the subject property from Downtown to Commercial Planned Development to facilitate the redevelopment of a bar and dwelling unit. Signage was not addressed during that approval. The applicant now proposes these three signs totaling 108 square feet, exceeding the 32-square-foot maximum allowed per establishment by LDC Section 30-5. Therefore, the applicant seeks an amendment to the existing CPD to include this deviation for additional signage.

Attachments:

1. NEW Ordinance 25-21 CPD Amendment to include signage for 1668 I Street
2. Staff Report
3. Exhibit A Ord 24-18, 1668 I St - Beach Bar
4. EXHIBIT B, Amended list of deviation and conditions of approval
5. Exhibit C- Signage Plan
6. Application
7. 25-21, business-impact-estimate CPD20250188

Financial Impact:

Unknown

6. Alternative Action

Deny

7. Staff Recommendations:

Approval with conditions

8. Recommended Approval:

Georgina Cid, Community Development Manager

Date: October 07, 2025

Frankie Kropacek, Community Development Director

Date: October 07, 2025

nancy stuparich, Town Attorney

Date: October 08, 2025

Amy Baker, Town Clerk

Date: October 08, 2025

**ORDINANCE 25-21
(PD AMENDMENT - Beach bar)**

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING/APPROVING WITH CONDITIONS/ DENYING AN AMENDMENT TO THE COMMERCIAL PLANNED DEVELOPMENT (CPD) APPROVED BY ORDINANCE 24-18 FOR THE PROPERTY LOCATED AT 1668 I STREET, FORT MYERS BEACH, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0070B.0110 IN FORT MYERS BEACH; PROVIDING FOR AMENDMENT TO THE DEVIATIONS TO INCLUDE A DEVIATION TO ALLOW THREE SIGNS OF TOTAL 108 SQUARE FEET WHERE A MAXIMUM ONE SIGN OF 32 SQUARE FEET IS PERMITTED; PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, B & B Properties of Fort Myers, is the owner of 1668 I Street known as Beach Bar and identified as Strap number 19-46-24-W4-0070B.0110, and has filed an application to amend the deviations identified in Ordinance 24-18, which rezoned the property to Commercial Planned Development (“CPD), to allow three signs of total 108 square feet where maximum 32 square feet is permitted by LDC Section 30-5(a)(1) a.1; and

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

WHEREAS, Section 34-214 of the Town’s Land Development Code contains the criteria for review of amendments to existing planned developments, with specific criteria for amendments to approved master concept plans in subsections (a) and (b) and states in subsection (c) that “[s]ome amendments can be approved administratively as provided in § 34-219 of this chapter; the remainder shall proceed through the public hearing process described in § 34-216 of this chapter”; and

WHEREAS, Section 34-216 of the LDC requires a public hearing before the LPA and provides that the LPA’s recommendation to the Town Council must be supported by the rezoning guidelines set forth in [§ 34-85](#) of the LDC as well as compliance with the following criteria:

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

- b. Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations;
- c. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development;
- d. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development . . .

WHEREAS, Section 34-216(4) further provides that “[i]f the local planning agency determines that a proposed condition is insufficient, it may recommend an alternate condition for consideration by the town council” and “if the application includes a schedule of deviations pursuant to §§ [34-212](#)(3) and [34-932](#)(b) of this chapter, the local planning agency's recommendation must approve, approve with modification, or reject each requested deviation based upon a finding that:

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

WHEREAS, the Town Council approved Ordinance 24-18 rezoning the property from downtown to commercial planned development (“CPD”), with conditions and deviations based on competent and substantial evidence in support of and satisfaction of the requirements of the Comprehensive Plan and the LDC; and

WHEREAS, Section 30-5 (a)(1) a.1. of the LDC provides “For a parcel of land containing one or two business establishments, each separate business establishment shall be allowed a maximum of 32 square feet of sign area”; and

WHEREAS, the applicant is proposing three signs of total 108 square feet, including an existing illuminated sign of 29.5 sq. ft. sign facing I Street, a new non-illuminated 29.5 sq. ft. sign facing Avenue E and a new non-illuminated 48.8 sq. ft. sign facing the Gulf or Beach area”; and

WHEREAS, the proposed signage is consistent with other commercial businesses in neighboring Commercial Planned Developments; and

WHEREAS, in accordance with Section 34-216 of the Land Development Code, a public hearing was held before the Local Planning Agency (LPA) on October 14, 2025 to consider the requested amendment to the CPD, as approved in Ordinance 24-15, for the sole purpose of

including outdoor consumption of alcoholic beverages on the property as an accessory use to the approve hotel and restaurant uses; and

WHEREAS, the LPA gave full and complete consideration of the information contained in the application, the recommendations by Town staff, the documents included in the agenda materials, and the testimony of all interested persons, as required by Section 34-216 of the Town Land Development Code (“LDC”); and

WHEREAS, at the October 14, 2025 public hearing the LPA found that the request **is/is not** consistent with the requirements of the Town’s Comprehensive Plan and the LDC, and based on competent and substantial evidence in the materials presented to it and the testimony during the public hearing, voted ___ to _____ to recommend **approval/approval with conditions/denial** of the requested amendment to Ordinance 24-18; and

WHEREAS, on November 17, 2025 the Town Council held a first reading of Ordinance 25-22 and gave full and complete consideration to the application, the recommendation of the LPA, the recommendation of Town staff, the documents in the agenda materials, and the testimony of all interested persons; and

WHEREAS, the Town Council approved scheduling a second reading and adoption public on December 15, 2025 regarding Ordinance 25-21 and the second public hearing was advertised on the ___ day of _____ in the _____; and

WHEREAS, a Business Impact Estimate was posted on the Town’s website on the ___ day of _____, 2025; and

WHEREAS, all outstanding fees pursuant to Section _____ have been paid; and

WHEREAS, on December 15, 2025, the second public hearing was held and the Town Council gave full and complete consideration to the application, the recommendation of the LPA, the recommendation of the Town staff, requirements of the Comprehensive Plan and the Land Development Code, the documents in the agenda materials, and the testimony of all interested persons.

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

Section 1. **Recitals.** The above WHEREAS are true, correct, and incorporated herein by reference.

Section 2. **Findings and Determination.**

a. Based on competent substantial evidence presented during both public hearings before the Town Council, the Town Council finds and determines that the applicant **did/did not** meet its burden of proof that the requested amendment to the commercial planned development **does/does not** meet the requirements of the Town Comprehensive Plan and Land Development Code. The Town Council specifically finds that the proposed amendment to include a deviation

to allow three signs of total 108 square feet where maximum 32 square feet is permitted by LDC Section 30-5(a)(1) a.1 is consistent with the Comprehensive Plan and compatible with the existing and planned uses of surrounding properties, as well as consistent with the character of the area, and will not result in any adverse impact on adjacent lands. No evidence was presented to reject the findings previously made at the time of adoption of Ordinance 24-18 and its findings are specifically restated and incorporated herein by reference.

b. Accordingly, the Town Council **approves / approves with conditions / denies** the requested amendment to the list of deviations contained in Ordinance 24-18 as provided herein for the CPD zoning of the Property with the following Exhibits attached, restated, and incorporated by reference: Exhibit A Ordinance 24-18 with Master Concept Plan; Exhibit B, Amended List of Deviations and Conditions of Approval from Ordinance 24-18; and Exhibit C Signage Plan. Nothing in this decision is intended in any way to otherwise change the approvals, conditions and deviations contained in Ordinance 24-18. All other provisions of Ordinance 24-18 except as modified herein remain in full force and effect.

Section 3. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted LDC or Town Code provision, ordinance, or statute, the most restrictive shall apply.

Section 4. Any typographical errors that do not affect the intent of this Ordinance may be corrected with notice to and authorization of the Town Manager without further process.

Section 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 6. This Ordinance will take effect upon adoption by the Town Council.

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

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

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

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this ____ day of December 2025.

Exhibits:

Exhibit A – Ordinance 24-18, with Master Concept Plan

Exhibit B – Amended List of Deviations and Conditions from Ordinance 24-18

Exhibit C – Signage Plan



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

TYPE OF CASE: Commercial Planned Development Amendment

CASE NUMBER: Ord 25-21, DCI Rezoning 20250188

CASE NAME: Beach Bar

**LPA
HEARING DATE:** October 14th, 2025

**STAFF
RECOMMENDATION:** Approval with conditions

**PREPARED/
SUBMITTED BY:** Sakshi, LEED AP ND/ Jason Green, AICP

I. APPLICATION SUMMARY

Applicant/Owner: Renee Oij from Sign Permits Plus/ B & B Properties of Fort Myers

Request: Amend the existing CPD Ordinance#24-18 (See Exhibit A) to include a deviation to allow three signs of total 108 square feet.

Physical Address: 1668 I Street

STRAP #: 19-46-24-W4-0070B.0110

FLU: Pedestrian Commercial

Adjacent zoning and land uses:

North: DOWNTOWN
Vacant, previously residential

South: Environmentally Critical/Recreation
Beach

East: DOWNTOWN
Residential

West: DOWNTOWN
Vacant

II. BACKGROUND AND ANALYSIS

The applicant, Renee Oij from Sign Permits Plus on behalf of the property owner B & B Properties of Fort Myers is requesting an amendment to the list of deviations for an existing Commercial Planned Development (CPD) as approved in ordinance 24-18, to include a deviation for additional signage of total 108 square feet where maximum 32 square feet is permitted by LDC Section 30-5. The request will allow the Applicant to install three signs, including an existing illuminated sign of 29.5 sq. ft. sign facing I Street, non-illuminated 29.5 sq. ft. sign facing Avenue E and a non-illuminated 48.8 sq. ft. sign facing the Gulf or Beach area.

In 2024, Town of Fort Myers beach's Town Council approved and adopted ordinance 24-18, a request to rezone the subject property from Downtown to Commercial Planned Development for the redevelopment of a bar and dwelling unit. The signage was not addressed during the approval of the CPD. The Applicant is now proposing three signs of total 108 square feet where only a sign of maximum 32 square feet is permitted per establishment by LDC Section 30-5. The Applicant is therefore requesting an amendment to existing CPD to include a deviation to allow additional signage.

Analysis:

The subject property has supported bar and residence since at least 1995. The bar use received approval through Lee County Special Permit Case 95-10-173 and has been in operation since that time. A reduction in parking requirements from 10 parking spaces to 0 parking spaces was approved per Lee County Resolution BZA-88-339. Pre Ian, the property included a ground floor retail store with alcohol sales and a second story with two residential units, for a total of approximately 3,690 square feet, per the Lee Property Appraiser property details.

In 2024, Town Council approved and adopted Ordinance 24-18, a request to rezone the subject property from Downtown Zoning to Commercial Planned Development with one deviation, for the redevelopment of a bar and residential dwelling. As per the approved Master Concept Plan, the ground floor open area will be used as a bar which will open to the beach where a sand seating area is located. A residence is proposed on the second and third floor of the structure. The total proposed gross square footage is 5,822 square feet. The signage was not addressed during the CPD approval.

LDC Section 30-5, permits a wall sign of maximum 32 square feet area per establishment. The code is silent on sign language for establishments set on larger site area, establishments situated at a significant street setback and sign requirements for establishments abutting multiple streets or beach frontage. To ensure clear visibility of the signage, the Town has previously approved multiple signs totaling up to more than 32 square feet in area for different establishments- like La De Dah beach bar & Grill and Salty Rim Bar in Margaritaville. The staff plans to address this ambiguity in code during the Land Development code update.

At this time, the Applicant is proposing three signs of total 108 square feet where only a sign of maximum 32 square feet is permitted per establishment by LDC Section 30-5. The Applicant is therefore requesting an amendment to existing CPD to include a deviation to allow additional signage.

Neighborhood Compatibility:

The Beach Bar is in the downtown area of Fort Myers Beach, which is intended as the commercial center for the Town. The use has existed on this site since at least 1995 and is compatible with

the neighboring uses. The proposed sign facing the beach will be non-illuminated and compliant with the Town's Sea Turtle Conservation code.

Proposed Deviations:

Deviation #1

Request to deviate from 34-675(c)3 that states, "Floor area ration (FAR). Floor area ratios (see 34-633) of the chapter) shall not exceed: (3) 1.0 for all other properties in the Downtown District" to allow an FAR of 1.4 consistent with properties fronting Estero Blvd per 34-675 (c)(2).

This deviation was previously approved and there are no proposed changes to existing FAR or language of the deviation.

Deviation #2

Requesting a deviation from LDC 30-5, to allow three (3) wall signs for a total of 108 square feet where a total of 32 square feet is allowed by code.

The subject property is a corner lot with I street as primary street and Avenue E as side street. The rear of the property abuts the Beach area and Gulf of Mexico. The code is silent on sign language for establishments abutting multiple streets or beach frontage. To ensure clear visibility of the signage, the Town has previously approved multiple signs totaling more than 32 square feet in downtown area of the Town and the staff believes the request to permit additional signage is reasonable for the subject property. See the applicant provided rendering in Exhibit C for greater detail on the signs.

IV. FINDINGS AND CONCLUSIONS

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

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

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

Staff response: No errors or ambiguities exist.

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

Staff response: The Applicant has the choice to construct one sign of 32 square feet, consistent with the Town's LDC. The request to provide three signs of total area higher than 32 square feet is a design choice, not a changing condition.

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

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

(4) The testimony of any applicant.

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

(6) The testimony of the public.

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

Staff response: The proposed development is in compliance with the intent and intensity of the Pedestrian Commercial future land use district.

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

Staff response: The proposed development will be required to meet performance standards set forth in 34-2031 and 34-2032.

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

Staff response: The urban services exist in this location.

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

Staff response: The request will have no impact on designated environmentally critical areas and natural resources. The request does not include any revision to the environmentally critical areas.

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

Staff response: The Beach Bar is in the downtown area of Fort Myers Beach, which is intended as the commercial center for the Town. The use has existed on this site since at least 1995 and the request to allow three signs of total 108 sq. ft. area is compatible with the neighboring uses.

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

Staff response: The location is compatible.

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

LDC Sec. 34-85 (c) Findings: Before granting any rezoning, the town council shall find that the requested zoning district complies with:

(1) The Fort Myers Beach Comprehensive Plan.

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

(2) This chapter.

Staff response: The proposed uses comply with this chapter.

(3) Any other applicable town ordinances or codes.

Staff response: The proposed request complies with all other town ordinances and codes.

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

LDC Sec. 34-216(b)(2) The recommendation made to the town council must be supported by the guidelines set forth in [§ 34-85](#) of this chapter. In addition, the findings must address whether the following criteria can be satisfied:

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

Staff response: The uses are appropriate in this location as it is within the FLU category of Pedestrian Commercial.

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

Staff response: No special conditions are proposed.

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

Staff response: No special conditions are requested as part of this application.

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

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

Staff response: Not applicable.

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

Staff response: Not applicable.

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

Staff response: No additional height is requested.

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

Staff response: Not applicable.

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

Staff response: Not applicable.

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

Staff response: There are no anticipated adverse traffic impacts

V. RECOMMENDATION

Staff finds that the CPD amendment meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC. Staff recommends **approval with conditions** of DCI20250188.

VI. AMENDED LIST OF CONDITIONS OF APPROVAL (removed as ~~strike through~~, added as underlined)

1. Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
2. The proposed development must be substantially in compliance with the Master Concept Plan attached to the ordinance.
3. A Landscaping Plan and Photometric Plan must be approved prior to CO.
4. From BZA-88-339: The commercial use shall be limited to the retail sales of beach oriented convenience items, including packaged food and beverage and beach recreational rentals; and

5. From BZA-88-339: Public access shall be limited to the beach on Gulf side of the business.
6. From 95-10-173: The Special Permit for consumption on premises in conjunction with outdoor seating is limited to the use in conjunction with the existing retail use. The use of a bar/service bar on this property is prohibited. However, this does not prohibit the sale of draft beer or wine which is poured from a large bottle, so long as it is consumed only in the designated locations. There will be no waiter or waitress service: the customers must order their drinks from inside the premises and directly from the person who pours the drinks.
7. From 95-10-173: The location of the Special Permit for consumption on premises in conjunction with outdoor seating is limited to the outdoor deck area (approximately 10 feet by 40 feet as shown on Attachment B to the Staff report) which separates the retail use the beach area, and on the first 50 feet of the beach which extends south from the deck area toward the water. The seating for both areas may not exceed 75 seats.
8. The alcohol consumption portion of the beach area will be clearly marked.
9. From 95-10-173: Hours of operation for the outdoor seating area are limited to 10:00 a.m. to 10:00 p.m., daily.
10. From 95-10-173: Live entertainment is limited to the hours of 10 a.m. to 8 p.m., daily.
11. The conditions of Resolution No. BZA-88-339 and from Special Permit 95-10-173 will remain in full force and effect to the extent that they are not in conflict with this ordinance.
12. All signs containing commercial messages, including those shown for the proposed bar, must be in compliance with LDC Chapter 30, except as approved herein by deviations.
13. The approval for the CPD Amendment is contingent to the Town Council's approved and adopted Ordinance#24-18, approving with conditions a request to rezone the property located at 1668 I street, Fort Myers Beach, from downtown to Commercial Planned Development (CPD) zoning, with deviations, for a bar and residence. Any violation of the conditions of approval for the CPD approval shall render the CPD Amendment approval null and void.

ATTACHMENTS:

Exhibit A –Ordinance 24-18

Exhibit B – Amended List of Deviations and conditions of Approval

Exhibit C – Signage Plan

ORDINANCE 24-18

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING WITH CONDITIONS A REQUEST TO REZONE THE PROPERTY LOCATED AT 1668 I STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0070B.0110 FORT MYERS BEACH, FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, WITH DEVIATIONS, FOR A BAR AND RESIDENCE; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, B & B Properties of Fort Myers, as owner, and Jim Ink, Ink Engineering Inc., as agent for the owner of property located at 1668 I Street, and generally identified as STRAP numbers 19-46-24-W4-0070B.0110 ("Subject Property") in the Town of Fort Myers Beach, filed an application to rezone the property from the Downtown Zoning District to Commercial Planned Development (CPD) with a Master Concept Plan (MCP) and a request for certain deviations to the Land Development Code (LDC) in order to develop a bar and residence; and

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

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on June 11, 2024; and

WHEREAS, at the June 11, 2024 public hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, as required by Town Land Development Code (LDC) sec. 34-85; and

WHEREAS, at the June 11, 2024 public hearing the LPA found that the request is **consistent** with the comprehensive plan and the requirements of the LDC and voted to recommend **approval with conditions** of the rezoning by a 6-0 vote; and

WHEREAS, on August 19, 2024 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

WHEREAS, the Town Council voted to have a second reading of the proposed Ordinance and a public hearing on this matter was legally noticed in the News Press 10 days prior to the Town Council’s meeting on September 9, 2024 at which time the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34- 85; and

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

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

WHEREAS, the Town Council finds approval of the request with requirements and conditions to be in the interest of the public’s health, safety, and welfare as well as in compliance with the comprehensive plan and the Land Development Code; and

WHEREAS, Exhibit A provides the approved Master Concept Plan (MCP), which future development should be substantially in compliance with; and

WHEREAS, Exhibit B is the schedule of uses, conditions of approval, and approved deviations for this CPD, to be used during the permitting process; and

WHEREAS, the Town Council finds that this request to rezone the property from the Downtown Zoning District to CPD with MCP with certain deviations to the Land Development Code (LDC) in order to develop a bar and residence, is a unique and individual application which does not set precedent for future development or rezoning applications. Approved deviations include:

Deviation #1

Request to deviate from 34-675(c)3 that states, Floor area ratio (FAR). Floor area ratios (see 34-633) of the chapter) shall not exceed: (3) 1.0 for all other properties in the Downtown District” to allow an FAR of 1.4 consistent with properties fronting Estero Blvd per 34-675(c)(2).

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

- a. Minor ambiguities were resolved through the deviation process.
- b. The Town Council carefully considered the testimony of the applicant, the recommendations of staff and of the local planning agency, and testimony from the public.
- c. The rezoning would be consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses in the Comprehensive Plan.
- d. The rezoning would meet or exceed all performance and locational standards set forth for the proposed use.

- e. Urban services are available and adequate to serve the proposed use.
- f. The rezoning would protect, conserve, or preserve environmentally critical areas and natural resources.
- g. The rezoning would be compatible with existing and planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- h. The rezoning would not place an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.
- i. The rezoning, with the mitigating factors volunteered by the applicant and the special conditions imposed by the Town Council, is consistent with the Fort Myers Beach Comprehensive Plan, Land Development Code, and other applicable town ordinances or codes.
- l. The proposed use or mix of uses is appropriate at the subject location.
- m. Sufficient safeguards to the public interest are provided by the recommended special conditions to the master concept plan and by other applicable regulations.
- n. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

WHEREAS, the Town Council made the following formal findings before making final decisions on the one requested deviation from "by-right" requirements of the Land Development Code (see LDC 34-216):

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

WHEREAS, the Town Council finds that this application to approve Ordinance 24-02 which is, **consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve with conditions** the Application.

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

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

Section 2. The Town Council determines the Applicant **did** meet its burden of proof, that the request to approve Town of Fort Myers Beach's Ordinance No. 24-05 and the conditions of approval for the CPD **does** meet the requirements of the Town Comprehensive Plan and LDC. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **APPROVE WITH CONDITIONS AND REQUIREMENTS** as contained in the Master Concept Plan in Exhibit A and the schedule of uses, deviations, and conditions of approval for the Property's CPD set forth in Exhibit B, which shall be attached to and incorporated by this reference to approval of the Ordinance.

Section 3. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted LDC or Town Code provision, ordinance, or statute, the most restrictive shall apply.

Section 4. Any typographical errors that do not affect the intent of this Ordinance may be corrected with notice to and authorization of the Town Manager without further process.

Section 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 6. This Ordinance will take effect immediately upon adoption by the Town Council.

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

DULY PASSED AND ADOPTED on this 9th day of September 2024.

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

FORT MYERS BEACH TOWN COUNCIL

Dan Allers
Dan Allers (Nov 11, 2024 07:35 EST)

Dan Allers, Mayor

ATTEST:

Amy Baker
Amy Baker (Nov 14, 2024 10:11 EST)

Amy Baker, Town Clerk

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

Nancy Stuparich
Nancy Stuparich (Nov 11, 2024 20:45 EST)

Vose Law Firm, LLP, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 8th day of November 2024.

Attachments:

A – Master Concept Plan (MCP)

B – Schedule of Uses, Conditions of Approval and Deviation

Exhibit B

Schedule of Uses

- Dwelling unit, single-family
- Administrative Office
- Commercial Accessory Uses
- ATM
- On-Premises consumption of alcoholic beverages – existing conditions
- Bar or Cocktail Lounge – existing conditions
- Retail Store, Small – existing conditions

Deviation

Request to deviate from 34-675(c)3 that states, “Floor area ration (FAR). Floor area ratios (see 34-633) of the chapter) shall not exceed: (3) 1.0 for all other properties in the Downtown District” to allow an FAR of 1.4 consistent with properties fronting Estero Blvd per 34-675(c)(2).

Conditions

1. Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
2. The proposed development must be substantially in compliance with the Master Concept Plan attached to the ordinance.
3. A Landscaping Plan and Photometric Plan must be approved prior to CO.
4. From BZA-88-339: The commercial use shall be limited to the retail sales of beach-oriented convenience items, including packaged food and beverage and beach recreational rentals; and
5. From BZA-88-339: Public access shall be limited to the beach on Gulf side of the business.
6. From 95-10-173: The Special Permit for consumption on premises in conjunction with outdoor seating is limited to the use in conjunction with the existing retail use. The use of a bar/service bar on this property is prohibited. However, this does not prohibit the sale of draft beer or wine which is poured from a large bottle, so long as it is consumed only in the designated locations. There will be no waiter or waitress service: the

customers must order their drinks from inside the premises and directly from the person who pours the drinks.

7. From 95-10-173: The location of the Special Permit for consumption on premises in conjunction with outdoor seating is limited to the outdoor deck area (approximately 10 feet by 40 feet as shown on Attachment B to the Staff report) which separates the retail use from the beach area, and on the first 50 feet of the beach which extends south from the deck area toward the water. The seating for both areas may not exceed 75 seats. The alcohol consumption portion of the beach area will be clearly marked.
8. From 95-10-173: Hours of operation for the outdoor seating area are limited to 10:00 a.m. to 10:00 p.m., daily.
9. From 95-10-173: Live entertainment is limited to the hours of 10 a.m. to 8 p.m., daily.
10. The conditions of Resolution No. BZA-88-339 and from Special Permit 95-10-173 will remain in full force and effect to the extent that they are not in conflict with this ordinance.

24-18, DCI20240143, 1668 I St - Beach Bar

Final for signatures

Final Audit Report

2024-11-14

Created:	2024-11-08
By:	Amy Baker (AMY@FMBGOV.COM)
Status:	Signed
Transaction ID:	CBJCHBCAABAAWssd2PG7kaDQLmpNgFT9wNbwlcZBV2Nk

"24-18, DCI20240143, 1668 I St - Beach Bar Final for signature s" History

-  Document created by Amy Baker (AMY@FMBGOV.COM)
2024-11-08 - 8:32:15 PM GMT
-  Document emailed to Dan Allers (allersd@fmbgov.com) for signature
2024-11-08 - 8:32:20 PM GMT
-  Document emailed to Nancy Stuparich (nstuparich@voselaw.com) for signature
2024-11-08 - 8:32:20 PM GMT
-  Document emailed to Amy Baker (AMY@FMBGOV.COM) for signature
2024-11-08 - 8:32:20 PM GMT
-  Email viewed by Dan Allers (allersd@fmbgov.com)
2024-11-11 - 12:35:36 PM GMT
-  Document e-signed by Dan Allers (allersd@fmbgov.com)
Signature Date: 2024-11-11 - 12:35:50 PM GMT - Time Source: server
-  Email viewed by Nancy Stuparich (nstuparich@voselaw.com)
2024-11-12 - 1:45:13 AM GMT
-  Document e-signed by Nancy Stuparich (nstuparich@voselaw.com)
Signature Date: 2024-11-12 - 1:45:36 AM GMT - Time Source: server
-  Document e-signed by Amy Baker (AMY@FMBGOV.COM)
Signature Date: 2024-11-14 - 3:11:45 PM GMT - Time Source: server- Signature captured from device with phone number XXXXXXXX0014
-  Agreement completed.
2024-11-14 - 3:11:45 PM GMT

EXHIBIT B- AMENDED LIST OF DEVIATIONS AND CONDITIONS OF APPROVAL (removed as ~~strike through~~, added as underlined)

Deviation #1: Request to deviate from 34-675(c)3 that states, “Floor area ration (FAR). Floor area ratios (see 34-633) of the chapter) shall not exceed: (3) 1.0 for all other properties in the Downtown District” to allow an FAR of 1.4 consistent with properties fronting Estero Blvd per 34-675 (c)(2).

Deviation #2: Requesting a deviation from LDC 30-5, to allow three (3) wall signs for a total of 108 square feet where a total of 32 square feet is allowed by code. The request will allow the Applicant to install three signs, including an existing illuminated sign of 29.5 sq. ft. sign facing I Street, a new non-illuminated 29.5 sq. ft. sign facing Avenue E and a new non-illuminated 48.8 sq. ft. sign facing the Gulf or Beach area.

AMENDED LIST OF CONDITIONS OF APPROVAL

1. Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
2. The proposed development must be substantially in compliance with the Master Concept Plan attached to the ordinance.
3. A Landscaping Plan and Photometric Plan must be approved prior to CO.
4. From BZA-88-339: The commercial use shall be limited to the retail sales of beach oriented convenience items, including packaged food and beverage and beach recreational rentals; and
5. From BZA-88-339: Public access shall be limited to the beach on Gulf side of the business.
6. From 95-10-173: The Special Permit for consumption on premises in conjunction with outdoor seating is limited to the use in conjunction with the existing retail use. The use of a bar/service bar on this property is prohibited. However, this does not prohibit the sale of draft beer or wine which is poured from a large bottle, so long as it is consumed only in the designated locations. There will be no waiter or waitress service: the customers must order their drinks from inside the premises and directly from the person who pours the drinks.
7. From 95-10-173: The location of the Special Permit for consumption on premises in conjunction with outdoor seating is limited to the outdoor deck area (approximately 10 feet by 40 feet as shown on Attachment B to the Staff report) which separates the retail use the beach area, and on the first 50 feet of the beach which extends south from the deck area toward the water. The seating for both areas may not exceed 75 seats.

8. The alcohol consumption portion of the beach area will be clearly marked.
9. From 95-10-173: Hours of operation for the outdoor seating area are limited to 10:00 a.m. to 10:00 p.m., daily.
10. From 95-10-173: Live entertainment is limited to the hours of 10 a.m. to 8 p.m., daily.
11. The conditions of Resolution No. BZA-88-339 and from Special Permit 95-10-173 will remain in full force and effect to the extent that they are not in conflict with this ordinance.
12. All signs containing commercial messages, including those shown for the proposed bar, must be in compliance with LDC Chapter 30, except as approved herein by deviations.
13. The approval for the CPD Amendment is contingent to the Town Council's approved and adopted Ordinance#24-18, approving with conditions a request to rezone the property located at 1668 I street, Fort Myers Beach, from downtown to Commercial Planned Development (CPD) zoning, with deviations, for a bar and residence. Any violation of the conditions of approval for the CPD approval shall render the CPD Amendment approval null and void.

CONTROL STATIONS USED:

1) FOOT FPN STATION: FT.MYERS2
 LAT: 26°35'27.50615N, LONG. 81°51'50.98482"W,
 N: 820515.68, E: 700556.97
 NAD83/2011, FL WEST ZONE
 ELEVATION: 35.62 FEET NAVD 88,

2) NGS STATION: BOOB 2 1955
 PUBLISHED:
 LAT: 26.45250524N,
 LONG: -81.89624036W
 N: 753534.48, E: 533962.27
 NAD27/1979, FL WEST ZONE
 ELEVATION: 6.25' NAVD 29
 NGS NCAT CONVERSION:
 LAT: 26.40717375N,
 LONG: -81.89604795W
 N: 753698.01, E: 690191.18
 NAD83/2011, FL WEST ZONE
 ELEVATION: 5.07' NAVD 88
 CONVERGENCE: 00°02'46.44
 SCALE FACTOR: 0.99994250
 MEASURED:
 LAT: 26.40717602N,
 LONG: -81.89604759W
 N: 753698.84, E: 690191.31
 NAD83/2011, FL WEST ZONE
 ELEVATION: 5.07' NAVD 88

3) CCCL STATION: 12-83-A25A
 PUBLISHED:
 LAT: 26.45286604N,
 LONG: -81.95519589W
 N: 770130.38, E: 514596.20
 NAD27/1979, FL WEST ZONE
 NGS NCAT CONVERSION:
 LAT: 26.45286351N,
 LONG: -81.9551976491W
 N: 770294.03, E: 670,825.13
 NAD83/2011, FL WEST ZONE
 CONVERGENCE: 00°01'11.85
 SCALE FACTOR: 0.99994142
 MEASURED:
 LAT: 26.45286604N,
 LONG: -81.95538890W
 N: 770294.95, E: 670825.73
 NAD83/2011, FL WEST ZONE

NOTE: MONUMENTATION
 MOSTLY DESTROYED BY
 RECENT CONSTRUCTION OF
 ESTERO BLVD**

**COASTAL CONSTRUCTION
 CONTROL LINE
 PB 48, PG 15
 RECORDED MAY 30, 1991
 LEE COUNTY PUBLIC RECORDS**

**FND. CCCL DISK
 12-83-A25A
 NAD83/2011
 LAT: 26.45286604
 LONG: -81.95538890
 N: 770294.95
 E: 670825.73
 FL WEST ZONE**

**FND. CCCL C.M.
 & NOS STATION
 BOOB 2 1955
 NAD83/2011
 LAT: 26.40717602
 LONG: -81.89604759
 N: 753698.84
 E: 690191.31
 FL WEST ZONE**

LINE	BEARING	DISTANCE
L1	S59°59'11"E	10.11'
L2	S60°54'43"E	28.57'
L3	S82°12'04"E	16.07'
L4	N47°37'33"W	11.38'
L5	S67°44'54"E	102.06'
L6	S67°48'48"E	86.53'
L7	S74°40'08"E	106.17'
L8	S61°53'52"E	102.63'
L9	S61°36'36"E	31.98'
L10	N77°05'21"E	85.53'
L11	S55°12'42"E	609.40'
L12	S59°19'43"E	98.41'
L13	S59°17'33"E	694.83'
L14	S60°21'09"E	103.58'
L15	S60°12'12"E	103.58'
L16	S56°40'49"E	88.63'
L17	S53°16'37"E	108.91'
L18	S53°27'39"E	850.32'
L19	S47°11'00"E	1320.81'
L20	S47°04'45"E	947.92'
L21	S48°14'30"E	904.47'
L22	S45°23'38"E	1124.60'
L23	S43°31'06"E	927.22'
L24	S39°09'46"E	1099.56'
L25	S53°49'22"E	908.90'
L26	S11°21'11"E	111.11'
L27	S18°21'00"E	106.312'
L28	S10°18'49"E	1292.22'
L29	S30°03'37"E	1181.94'
L30	S30°01'09"E	623.26'
L31	S15°11'16"E	513.11'
L32	N15°19'52"E	134.23'
L33	N15°19'52"E	137.98'

BENCHMARK	SET NAIL & DISK, #LB450
▲	SET 5/8" IRON ROD, #LB450
●	FOUND NAIL & DISK, AS NOTED
○	FOUND 5/8" IRON ROD, AS NOTED
□	FOUND CONCRETE MONUMENT, AS NOTED
▣	DRAINAGE STRUCTURE
⊗	SANITARY MANHOLE
⊙	WOOD POWER POLE
⊕	GUY ANCHOR
⊖	TEMPORARY ELECTRIC SERVICE POLE
⊗	SANITARY CLEAN-OUT
⊙	WATER METER
⊕	WATER FAUCET
⊖	GARBAGE CAN ON POST
LS	LICENSED SURVEYOR
LB	LICENSED BUSINESS
PLS	PROFESSIONAL LAND SURVEYOR
END	FOUND
FNDP	EDGE OF PAVEMENT
N/D	IRON ROD
N/D	NAIL & DISK
C.M.	CONCRETE MONUMENT
ID.	IDENTIFICATION
Δ	AS MEASURED
(P)	AS PER RECORD PLAT
(D)	AS PER DESCRIPTION
(C)	CALCULATED BASED ON INSTRUMENTS
OKAT	OFFICIAL RECORDING REFERENCE
PB	PLAT BOOK
PG	PAGE
CONC.	CONCRETE
R/W	RIGHT OF WAY
O/A	OVERHEAD UTILITIES
CCOL	COASTAL CONSTRUCTION CONTROL LINE (1991)
CCSL	COASTAL CONSTRUCTION SETBACK LINE (1978)
FDSP	FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
FDOT	FLORIDA DEPARTMENT OF TRANSPORTATION
FFRN	FLORIDA FOREMAN REFERENCE NETWORK
NAD	NATIONAL GEODETIC SURVEY
NAD2029	NATIONAL GEODETIC VERTICAL DATUM OF 1929
NAD83	NORTH AMERICAN VERTICAL DATUM OF 1983
NXV188	NXSS COORDINATE CONVERSION AND TRANSFORMATION TOOL
5.11.11	ELEVATION POINT

NO.	DATE	REVISION DESCRIPTION	BY

OF A PARCEL LYING IN
SECTION 19, TOWNSHIP 46 SOUTH,
RANGE 24 EAST,
LEE COUNTY, FLORIDA.

(AS PER ORI #2009000330729)

LOT 11, BLOCK B, CRESCENT BEACH SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN PLAT BOOK 4, PAGE 45, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

THIS PLAT WAS PREPARED AS A BOUNDARY AND TOPOGRAPHIC AND TIDAL WATER SURVEY.

THIS SURVEY PREPARED BASED ON THE RECORD PLAT OF CRESCENT BEACH
SUBDIVISION, AND EXISTING MONUMENTATION.

BEARINGS ARE BASED ON NORTH AMERICAN DATUM OF 1983/2011; THE SIDE
BOUNDARIES OF SAID PARCEL AS BEARING S19°22'58"W.

ELEVATIONS ARE BASED ON NORTH AMERICAN DATUM OF 1988, FROM NATIONAL GEODETIC SURVEY BENCHMARKS, 1) 872 5366 TIDAL 2, ELEVATION: 2.27 FEET AND 2) BOOB 2, ELEVATION: 5.03 FEET.

AS PER FDEP TIDAL WATER SURVEY PROCEDURAL APPROVAL, DATED 09/29/2023:
TIDAL DATUM ELEVATIONS, NAVD 88, NTDE 1983-2001, AT SITE: MEAN HIGH WATER
0.26 FEET; MEAN LOW WATER -1.59 FEET; AND SEASONAL HIGH WATER 3.0 FEET.
TIDAL DATUM ELEVATIONS INTERPOLATED USING TIDE INTERPOLATION POINTS 100229,
100230 AND 100222 FOR PERMITTING PURPOSES.

THIS TIDAL WATER SURVEY COMPLIES WITH CHAPTER 177, PART II, FLORIDA STATUTES.

THE COASTAL CONSTRUCTION CONTROL & SETBACK LINE MONUMENTS AND THE MEAN HIGH WATER LINE, 0.00' CONTOUR AND SEASONAL HIGH WATER LINE LOCATED WITH CARLSON BRX7 ROVER GPS SYSTEM USING REAL TIME KINEMATICS METHOD; SOFTWARE CARLSON SURVPC VERSION 6.16.

COASTAL CONSTRUCTION SETBACK LINE (CCSL) MONUMENTS E-6 THRU E-11 AND
REFERENCE MONUMENTS NOT FOUND. DESTROYED BY EROSION AND/OR CONSTRUCTION
OR COVERED BY STORM DEBRIS.

PARCEL LIES IN THE FLOOD ZONES WITH BASE FLOOD ELEVATIONS AS SHOWN. THIS INFORMATION TAKEN FROM FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP NO. 12071C0554G, EFFECTIVE DATE NOVEMBER 17, 2022.

UNDERGROUND IMPROVEMENTS, OTHER THAN THOSE SHOWN, IF ANY, WERE NOT LOCATED.

THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF AN ABSTRACT OF TITLE AND ALL MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY AT LAW. PARCEL SUBJECT TO ALL EASEMENTS AND RIGHTS OF WAY OF RECORD.

SURVEYOR'S CERTIFICATION:

I HEREBY CERTIFY TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, THAT THIS PLAT OF THE HEREON DESCRIBED PROPERTY IS A TRUE REPRESENTATION OF A FIELD SURVEY MADE UNDER MY DIRECTION AND CONFORMS TO THE STANDARDS OF PRACTICE FOR PROFESSIONAL SURVEYORS AND MAPPERS AS OUTLINED IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE.

KENNETH E. TRASK
PROFESSIONAL LAND SURVEYOR
FLORIDA LICENSE NO. LS4684

NOTICE:
THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.

K.F. Trask, P.A.

Land Surveyors

Florida Licensed Business No. LB8450

OWNER OF RECORD:
B+B PROPERTIES OF FORT MYERS
21050 SAINT PETERS DR
FORT MYERS BEACH, FL 33931

PROPERTY ADDRESS:
1668 1ST STREET
FORT MYERS BEACH, FL 33931

date	dwg	scale	job#	sheet
9-25-23	23-41SR	1"=20'	23-41	1 of 1

PROPERTY REGULATIONS

ADDRESS: 16681 1 STREET, FT MYERS BEACH, FL 33931
STRAP: 19-46-24-W4-00708.0110
ZONING: DOWNTOWN
LAND USE: PEDESTRIAN COMMERCIAL

OWNER: DALE & DEBRA WEIDELING
711 MATANZAS CT, FT MYERS BEACH, FL 33931

FEMA FLOOD: VE: 14.00' IN BUILDABLE AREA
VE: 15.00' SEAWARD OF 1978 CCCL LINE
FDEP CCCL ELEV: 19.83' LOWEST STRUCTURAL HORIZONTAL BEAM

PROPERTY REGULATIONS IN DOWNTOWN DISTRICT
MIN. FRONT BUILD TO LINE: 5 FT
MAXIMUM FRONT BUILD TO LINE: 10 FT
MINIMUM REAR SETBACK: 25 FT
MINIMUM SIDE SETACK: 5 FT
MAXIMUM BUILDING HEIGHT: 30 FT ABOVE BASE FLOOD
MAXIMUM NUMBER OF STORIES: 3 (1ST FLOOR OPEN)
PARKING: RESIDENTIAL = 2 PER UNIT
FLOOR AREA RATIO: 1.0 (10,367 SF)
BUILDING FRONTAGE - 34-675(a) 35% MINIMUM

GENERAL NOTES

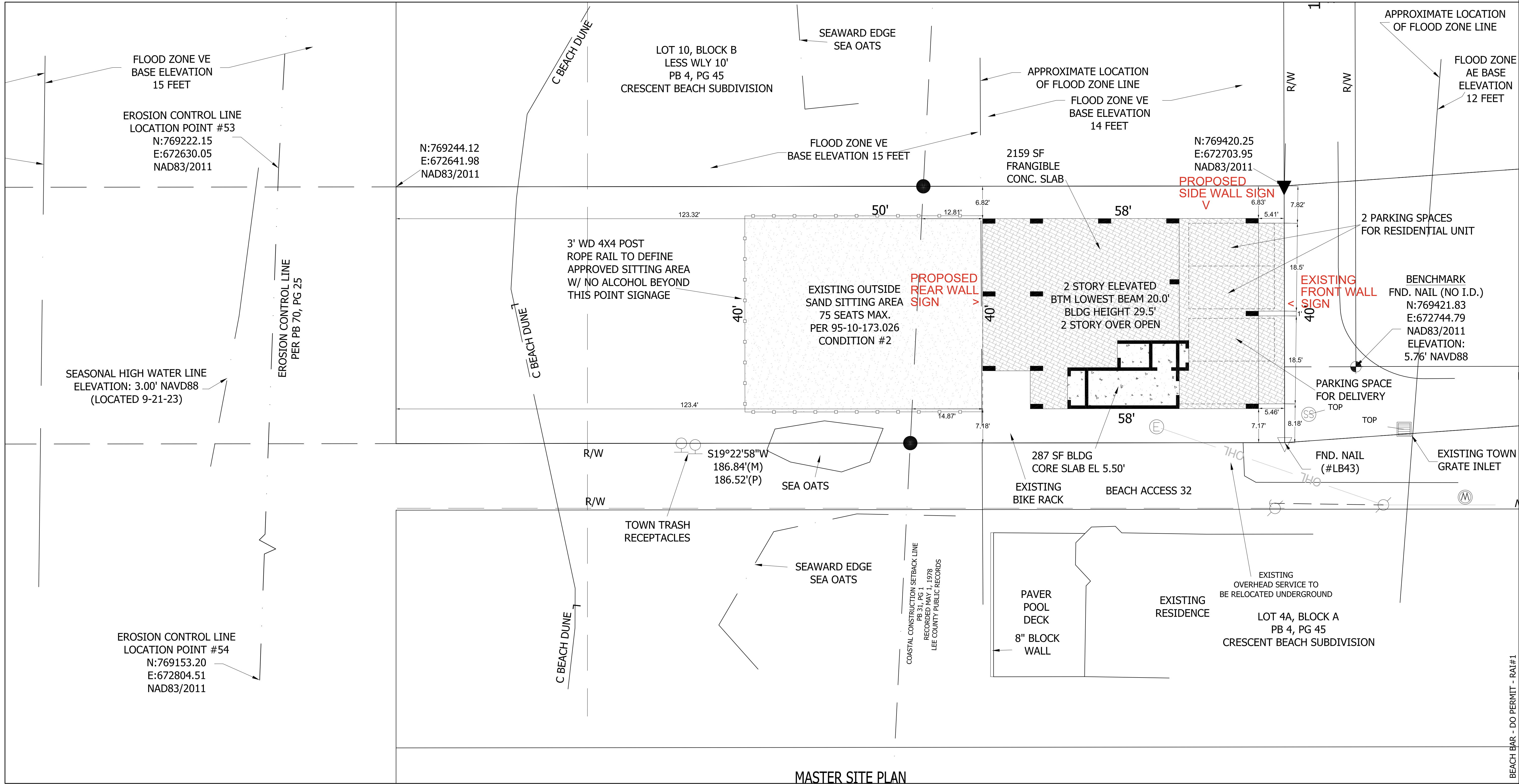
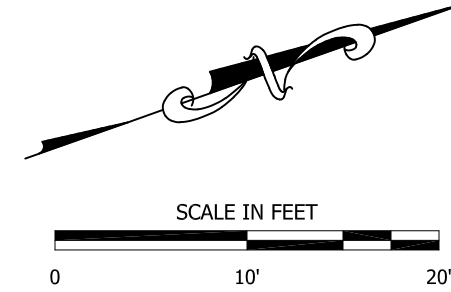
- THE LOCATION OF EXISTING UTILITIES ARE APPROXIMATE. CONTRACTOR RESPONSIBLE TO LOCATE ANY EXISTING UTILITY.
- PRIOR TO ANY WORK, CONTRACTOR SHALL CONTACT SUNSHINE STATE ONE CALL OF FLORIDA, 800-432-4770 OR 811 FOR LOCATION OF UTILITY LINES.
- SPECIAL DEVELOPMENT ENTITLEMENTS PER ORDINANCE 95-10-173.025 COP & RESOLUTION BZA-88-339 FOR GROUND LEVEL COMMERCIAL USE.

DEVELOPMENT SITE DATA

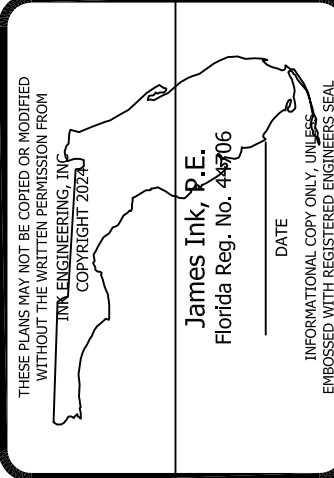
PRE-DEVELOPMENT SITE DATA
PARCEL AREA 0.23 ACRES
DESTROYED STRUCTURE FOOTPRINT 1,600 SF
DESTROYED DECK AREA 400 SF
EXISTING IMPERVIOUS AREA 100 SF
TOTAL HISTORICAL IMPERVIOUS AREA 2,100 SF
TOTAL HISTORICAL PERVIOUS AREA 7,986 SF
TOTAL PARCEL AREA 10,086 SF
ALLOWABLE IMPERVIOUS AREA (67%) 6,757 SF

DEVELOPMENT SITE DATA

POST-DEVELOPMENT SITE DATA
PARCEL AREA 0.23 ACRES
STRUCTURE FOOTPRINT 2,240 SF
STRUCTURE UNDER AIR 3,190 SF
TOTAL IMPERVIOUS AREA 2,446 SF
TOTAL PERVIOUS AREA 7,640 SF (75%)
ALLOWABLE IMPERVIOUS AREA (67%) 6,757 SQFT
PROPOSED TOTAL BUILDING AREA 2,446 SF
TOTAL PARCEL AREA 10,086 SF
PARCEL AREA (CPD ONLY) 4,159 SF
PARCEL AREA (EC ONLY) 5,927 SF
ALLOWABLE FLOOR AREA RATIO (1.4 CPD) 5,822 SF
ALLOWABLE FLOOR AREA RATION (0.01 EC) 60 SF
TOTAL ALLOWABLE FLOOR AREA RATIO 5,882 SF
PROPOSED FLOOR AREA 5,813 SF
PROPOSED FLOOR AREA RATIO 1.39
PROPOSED BUILDING FRONTAGE 74%



MASTER SITE PLAN
THE BEACH BAR
B&B PROPERTIES OF FORT MYERS
1668 1 STREET, FORT MYERS BEACH, FL 33931



PROJECT NO.	23002
PROJECT MANAGER	James Ink P.E.
DRAWN BY	BWM
DATE	12.2023
SCALE	1"= 10'
SHEET NO.	4
OF	8

Proposed sign on
side elevation of building



RIGHT (NORTHWEST) ELEVATION

TOTAL SQ FT = 29.5 Sq Ft



3300 PALM AVENUE, FT. MYERS, FL 33901
PHONE: 239.278.4245
FAX: 239.278.3912

ALL ELECTRICAL WORK TO BE DONE
IN COMPLIANCE WITH NFPA 70-17



This sign, including, but not limited to, all plastic or similar components thereof, has been designed in compliance with the 2020 Florida Building Code 7th Edition, 1609 Wind Loads, ASCE/SEI 7-16 Wind Loads, 3107, and NFPA 70-17

CUSTOMER APPROVAL:

SIGNATURE

DATE

JOB DESCRIPTION:

Wall

COMPANY:

Beach Bar

CONTACT:

DRAWING NUMBER:

24-0323 01 G

PHONE:

INITIAL DRAWING DATE:

3/27/2024

E-MAIL:

REVISION

4/17 E

REVISION

4/22 F

REVISION

4/24 G

Rev G - Added border to rear wall letters

SCALE: NONE

ADDRESS:

1668 I Street Ft Myers Beach Fl

FILEPATH:

Z:\grfx\Jobs\Slevens Construction\The Beach Bar (Beach Pub)\Ft. Myers Beach, 1668 I Street\EL24-0323, Package\Drawings\24-0323 01 G the Beach Bar - Wall.cdr

SHEET 2 of 6

THIS DESIGN IS THE EXCLUSIVE PROPERTY OF LEE DESIGNS LLC AND IS NOT TO BE USED IN WHOLE OR PART BY ANY OTHER PARTIES WITHOUT WRITTEN PERMISSION BY LEE DESIGNS LLC DIMENSIONS AND COLORS MAY VARY SLIGHTLY DUE TO LIMITATIONS WITH FABRICATION MATERIALS



Proposed Sign on
side elevation

MANUFACTURE & INSTALL ONE (1) SINGLE FACED, NON ILLUMINATED WALL SIGN ON BACKER PANEL.

BACKER TO BE ALL ALUMINUM CONSTRUCTION OVER INTERNAL ANGLE BRACING, FINISH TO BE SMOOTH. ALL COPY AND LOGO TO BE .25" FLAT CUT OUT DIBOND WITH PRINTED GRAPHIC APPLIED FIRST SURFACE. TO MOUNT TO EXTERIOR WALL ABOVE ENTRANCE.

BLACK



3300 PALM AVENUE, FT. MYERS, FL 33901

PHONE: 239.278.4245

FAX: 239.278.3912

**ALL ELECTRICAL WORK TO BE DONE
IN COMPLIANCE WITH NFPA 70-17**



This sign, including, but not limited to, all plastic or similar components thereof, has been designed in compliance with the 2020 Florida Building Code 7th Edition, 1609 Wind Loads, ASCE/SEI 7-16 Wind Loads, 3107, and NFPA 70-17

CUSTOMER APPROVAL:

SIGNATURE

DATE

JOB DESCRIPTION:

Wall

COMPANY:

Beach Bar

DRAWING NUMBER:

24-0323 01 G

INITIAL DRAWING DATE:

3/27/2024

REVISION

4/17 E

REVISION

4/22 F

REVISION

4/24 G

Rev G - Added border to rear wall letters

CONTACT:

PHONE:

E-MAIL:

SCALE: 1/2" = 1'-0"

ADDRESS:

1668 I Street Ft Myers Beach Fl

FILEPATH:

Z:\gfrk\S Jobs\Slevens Construction\The Beach Bar (Beach Pub)\Ft. Myers Beach, 1668 I Street\EL24-0323_Package\Drawings\24-0323 01 G the Beach Bar - Wall.cdr

SHEET 1 of 6

THIS DESIGN IS THE EXCLUSIVE PROPERTY OF LEE DESIGNS LLC AND IS NOT TO BE USED IN WHOLE OR PART BY ANY OTHER PARTIES WITHOUT WRITTEN PERMISSION BY LEE DESIGNS LLC DIMENSIONS AND COLORS MAY VARY SLIGHTLY DUE TO LIMITATIONS WITH FABRICATION MATERIALS



Proposed sign on
on Rear Elevation
(Beach Side)

REAR (SOUTHWEST) ELEVATION

TOTAL SQ FT = 48.8 Sq Ft



3300 PALM AVENUE, FT. MYERS, FL 33901

PHONE: 239.278.4245

FAX: 239.278.3912

ALL ELECTRICAL WORK TO BE DONE
IN COMPLIANCE WITH NFPA 70-20 NEC 2020



This sign, including but not limited to, all plastic or similar components thereof, has been designed in compliance with the 2023 Florida Building Code 8th EDITION, 1609 Wind Loads, ASCE/SEI 7-22 Wind Loads, 3107, NFPA 70-20 NEC 2020

CUSTOMER APPROVAL:

SIGNATURE

DATE

JOB DESCRIPTION:
Wall 3

PROJECT MANAGER:
Elisha White

DESIGNER:
MB

COMPANY:
The Beach Bar

DRAWING NUMBER:
24-0323 03 G

INITIAL DRAWING DATE:
3/27/2024

REVISION
4/17 E

REVISION
4/22 F

REVISION
4/24 G

Rev G - Added border to rear wall letters

CONTACT:

PHONE:

E-MAIL:

SCALE: NONE

ADDRESS:
1668 I Street Ft Myers Beach Fl

FILEPATH:
Z:\gfrk\Jobs\Slevens Construction\The Beach Bar (Beach Pub)\Ft. Myers Beach, 1668 I Street\EL24-0323_Package\Drawings\24-0323 01 G the Beach Bar - Wall.cdr

SHEET 6 of 6

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24'-5"

2'-0"

THE BEACH BAR

MANUFACTURE & INSTALL ONE (1) SET OF SINGLE FACED, NON ILLUMINATED
FLAT CUT OUT LETTERS

.25" FLAT CUT OUT DIBOND WITH SMOOTH PAINTED FINISHE.

TO MOUNT TO EXTERIOR WALL ABOVE REAR ENTRANCE.



PMS#116c

Proposed sign on
on Rear Elevation
(Beach Side)



3300 PALM AVENUE, FT. MYERS, FL 33901

PHONE: 239.278.4245

FAX: 239.278.3912

ALL ELECTRICAL WORK TO BE DONE
IN COMPLIANCE WITH NFPA 70-17



This sign, including, but not limited to, all plastic or similar components thereof, has been designed in compliance with the 2020 Florida Building Code 7th Edition, 1609 Wind Loads, ASCE/SEI 7-16 Wind Loads, 3107, and NFPA 70-17

CUSTOMER APPROVAL:

SIGNATURE

DATE

JOB DESCRIPTION:

Wall 3

COMPANY:

Beach Bar

DRAWING NUMBER:

24-0323 03 G

INITIAL DRAWING DATE:

3/27/2024

REVISION

4/17 E

REVISION

4/22 F

REVISION

4/24 G

Rev G - Added border to rear wall letters

CONTACT:

PHONE:

E-MAIL:

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

ADDRESS:

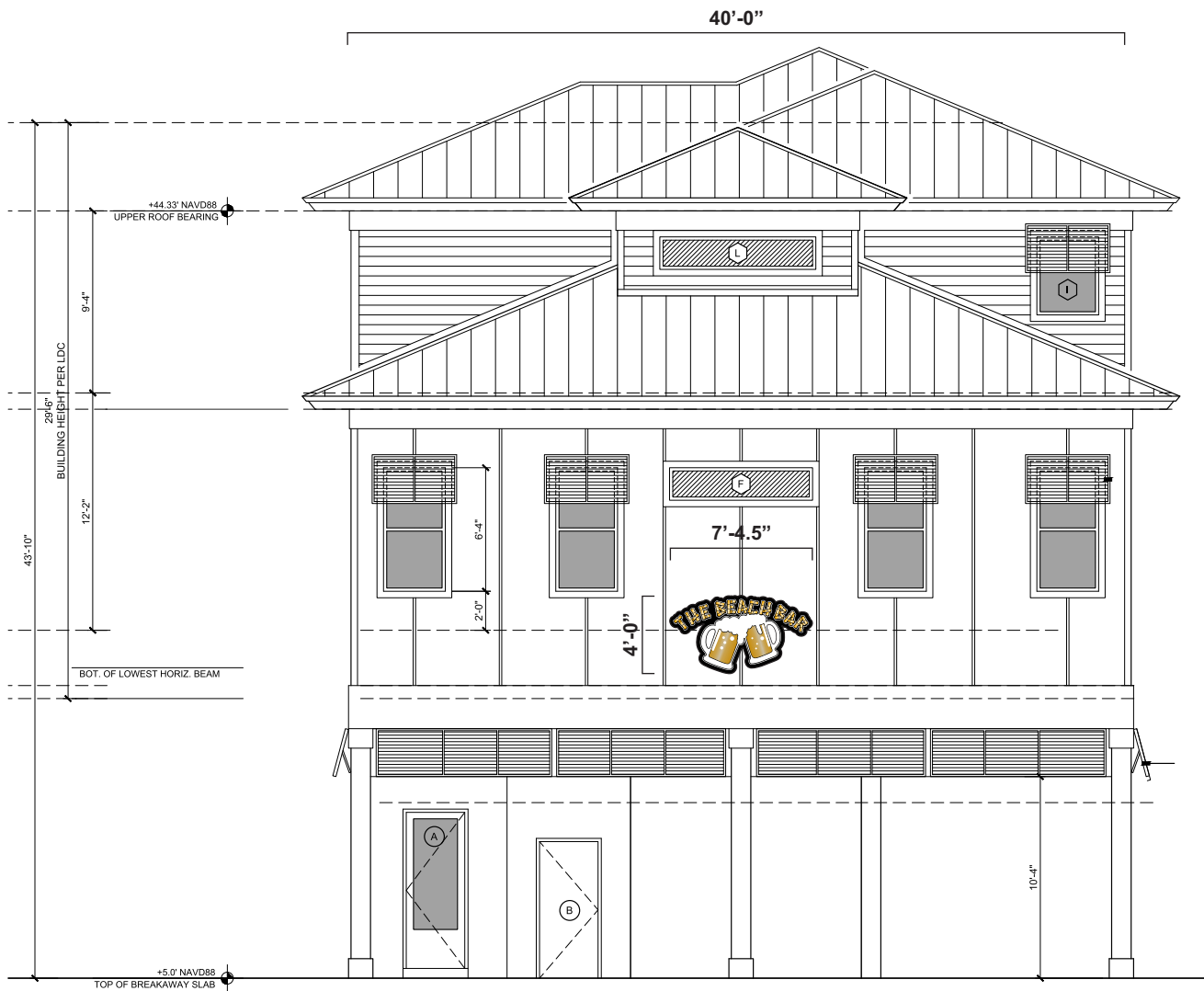
1668 I Street Ft Myers Beach Fl

FILEPATH:

Z:\grfx\IS Jobs\Slevens Construction\The Beach Bar (Beach Pub)\Ft. Myers Beach, 1668 I Street\EI24-0323_Package\Drawings\24-0323 01 G the Beach Bar - Wall.cdr

SHEET 5 of 6

THIS DESIGN IS THE EXCLUSIVE PROPERTY OF LEE DESIGNS LLC AND IS NOT TO BE USED IN WHOLE OR PART BY ANY OTHER PARTIES WITHOUT WRITTEN PERMISSION BY LEE DESIGNS LLC DIMENSIONS AND COLORS MAY VARY SLIGHTLY DUE TO LIMITATIONS WITH FABRICATION MATERIALS



Existing Sign on
Front Elevation

FRONT ELEVATION
TOTAL SQ FT = 29.5 Sq Ft



3300 PALM AVENUE, FT. MYERS, FL 33901
PHONE: 239.278.4245
FAX: 239.278.3912

ALL ELECTRICAL WORK TO BE DONE
IN COMPLIANCE WITH NFPA 70-17



This sign, including, but not limited to, all plastic or similar components thereof, has been designed in compliance with the 2020 Florida Building Code 7th Edition, 1609 Wind Loads, ASCE/SEI 7-16 Wind Loads, 3107, and NFPA 70-17

CUSTOMER APPROVAL:

SIGNATURE

DATE

JOB DESCRIPTION:
Wall 2

COMPANY:
Beach Bar

CONTACT:

DRAWING NUMBER:
24-0323 02 G

PHONE:

INITIAL DRAWING DATE:
3/27/2024

E-MAIL:

REVISION
4/17 E

REVISION
4/22 F

REVISION
4/24 G

Rev G - Added border to rear wall letters

SCALE: NONE

ADDRESS:
1668 I Street Ft Myers Beach Fl

FILEPATH:
Z:\grfx\Jobs\Slevens Construction\The Beach Bar (Beach Pub)\Ft. Myers Beach, 1668 I Street\EL24-0323, Package\Drawings\24-0323 01 G the Beach Bar - Wall.cdr

SHEET 4 of 6

THIS DESIGN IS THE EXCLUSIVE PROPERTY OF LEE DESIGNS LLC AND IS NOT TO BE USED IN WHOLE OR PART BY ANY OTHER PARTIES WITHOUT WRITTEN PERMISSION BY LEE DESIGNS LLC DIMENSIONS AND COLORS MAY VARY SLIGHTLY DUE TO LIMITATIONS WITH FABRICATION MATERIALS



Existing Sign on Front Elevation

MANUFACTURE & INSTALL ONE (1) SINGLE FACED, ILLUMINATED WALL SIGN ON BACKER PANEL.

BACKER TO BE ALL ALUMINUM CONSTRUCTION OVER INTERNAL ANGLE BRACING, FINISH TO BE SMOOTH. ALL COPY AND LOGO TO BE .75" WHITE ACRYLIC PUSH THRU WITH OPAQUE PRINTED GRAPHICS APPLIED FIRST SURFACE.

TO BE ILLUMINATED USING AMBER LED's

BLACK



3300 PALM AVENUE, FT. MYERS, FL 33901
PHONE: 239.278.4245
FAX: 239.278.3912

ALL ELECTRICAL WORK TO BE DONE IN COMPLIANCE WITH NFPA 70-17



This sign, including, but not limited to, all plastic or similar components thereof, has been designed in compliance with the 2020 Florida Building Code 7th Edition, 1609 Wind Loads, ASCE/SEI 7-16 Wind Loads, 3107, and NFPA 70-17									
						CUSTOMER APPROVAL:			
						SIGNATURE		DATE	
JOB DESCRIPTION: Wall 2						PROJECT MANAGER: Elisha White		DESIGNER: MB	
COMPANY: Beach Bar		DRAWING NUMBER: 24-0323 02 G		INITIAL DRAWING DATE: 3/27/2024		REVISION 4/17 E		REVISION 4/22 F	
CONTACT:		PHONE:		E-MAIL:		REVISION 4/24 G		Rev G - Added border to rear wall letters	
ADDRESS: 1668 I Street Ft Myers Beach Fl						SCALE: 1/2" = 1'-0"			
FILEPATH: Z:\grfx\IS Jobs\Slevens Construction\The Beach Bar (Beach Pub)\Ft. Myers Beach, 1668 I Street\EI24-0323, Package\Drawings\24-0323 01 G the Beach Bar - Wall.cdr						SHEET 3 of 6			
THIS DESIGN IS THE EXCLUSIVE PROPERTY OF LEE DESIGNS LLC AND IS NOT TO BE USED IN WHOLE OR PART BY ANY OTHER PARTIES WITHOUT WRITTEN PERMISSION BY LEE DESIGNS LLC DIMENSIONS AND COLORS MAY VARY SLIGHTLY DUE TO LIMITATIONS WITH FABRICATION MATERIALS									

8-30-25



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

This is a first part of a two-part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit a complete Public Hearing application with required, supplemental information, exhibits and documents to zoningpermits@fmbgov.com. Please do not submit the instructions at the end of the application.

Site Address: 1668 I Street, Fort Myers Beach, FL 33931

STRAP Number: 19-46-24-W4-0070B.0110

Applicant: B & B Properties of Fort Myers, (Sign Permits Plus, agent) Phone: 813-898-7580

Contact Name: Renee Oij, Lindsay Oij and/or Lance Oij Phone: 941-518-4342

Email: renee@signpermitsplus.com Fax: _____

Current Zoning District: CPD

Future Land Use Map (FLUM) Category: _____

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

ACTION REQUESTED

SUPPLEMENTAL FORM REQUIRED

☐ Special Exception

PH-A

☒ ~~Variance~~

PH-B

☐ Conventional Rezoning

PH-C

☒ Planned Development ☐ Commercial ☐ Residential

PH-D

☐ Master Concept Plan Extension

PH-E

☐ Appeal of Administrative Action

PH-F

☐ Vacation of Platted Right-of-way and Easement

PH-G

☐ Other – cite LDC Section: _____

attach on separate sheet

AMEND

PART I – General Information

A. Applicant*: Sign Permits Plus, Renee Oij, Lindsay Oij and/or Lance Oij Phone: 941-518-4342

**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: 235 Apollo Beach Blvd, Suite 507, Apollo Beach, FL 33572

Email: renee@signpermitsplus.com Fax: _____

Contact Name: Renee Oij Phone: 941-518-4342



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: Renee Oij, LRO LLC dba Sign Permits Plus Phone: 941-518-4342
Address: 235 Apollo Beach Blvd, Suite 507, Apollo Beach, FL 33572
Email: renee@signpermitsplus.com Fax: _____

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

Name: Lindsay Oij, LRO LLC dba Sign Permits Plus Phone: 813-898-7580
Address: 235 Apollo Beach Blvd, Suite 507, Apollo Beach, FL 33572
Email: lindsay@signpermitsplus.com Fax: _____

Name: Lance Oij, LRO LLC dba Sign Permits Plus Phone: 941-219-9062
Address: 235 Apollo Beach Blvd, Suite 507, Apollo Beach, FL 33572
Email: _____ Fax: _____

PART II - Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☒ ~~Variance from LDC Section~~ 30 - 5
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☒ Amendment. List the project number: 24-18 DC120240143
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☐ Other. Please Explain: _____

PART III – Waivers

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

Code Section: N/A Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: N/A Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

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

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

Greg Boyd
Signature

Greg Boyd

Printed Name

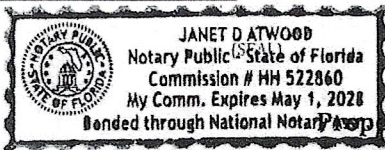
STATE OF FL COUNTY OF LEE

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

presence OR ☐ online notarization, this 7 day of July, 2025, by

Greg Boyd ☒ who is personally known to me OR ☐ who has produced

as identification.



Janet D Atwood

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership

N/A



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office	Percentage of Stock
N/A	

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

Name and Address	Percentage of Interest
N/A	

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

Name and Address	Percentage of Ownership
N/A	

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

Name, Address and Office	Percentage of Stock
N/A	



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
N/A	

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

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

_____ Signature	_____ Printed Name
--------------------	-----------------------

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

I, Greg Boyd (name), as Manager (title)
of B & B Properties of Fort Myers Beach LLC (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B & B Properties of Fort Myers Beach, LLC

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

Greg Boyd

Signature

Greg Boyd

Typed or Printed Name

Owner

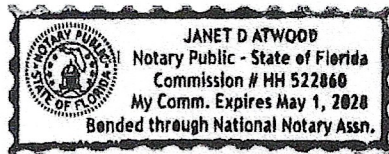
Title

7/2/2025

Date

STATE OF FL COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 7 day of July, 2025, by Greg Boyd ☒ who is personally known to me OR ☐ who has produced _____ as identification.



Janet D Atwood
Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 19-46-24-W4-0070B.0110

Property Address: 1668 I Street, Fort Myers Beach, FL 33931

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? ☐ No. Attach a legible copy of the legal description as Exhibit 6-1.

☒ Yes. Property identified in subdivision: Crescent Beach

Book: 4 Page: 45 Unit: _____ Block: B Lot(s): 11

B. Boundary Survey:

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 54' feet
 Depth (please provide an average width if irregular in shape) 186.72' (M) feet
 Frontage on street: 54' feet. Frontage on waterbody: _____ feet
 Total land area: 10086.09 ☐ acres ☒ square feet

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

Big Carlos Pass Bridge County Rd 865, Fort Myers Beach, FL 33931

Head west on Estero Blvd 3.9 mi Continue onto Estero Blvd 1.7 mi

Turn left onto Avenue E 177 ft Turn right onto I Street ☐

Destination will be on the left

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

- ☒ There are no deed restrictions and/or covenants on the subject property.
☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 6-4.
☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5.

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

- ☒ Attach a list of surrounding property owners within 500 feet as Exhibit 6-6.
☒ Attach a map showing the surrounding property owners as Exhibit 6-7.
☐ Provide Staff with two (2) sets of surrounding property owner mailing labels.

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

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

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-D

Additional Required Information for a Planned Development Application

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

Fee in the amount of \$8000.00 up to 1 acre +1000.00 per additional acre
\$2000.00 PD Amendment minor (< acre total property area)
\$4000.00 PD Reinstatement or \$6500.00 PD Amendment

Project Name: The Beach Bar - Amendment to CPD
Authorized Applicant: Renee Oij, Lindsay Oij and/or Lance Oij
STRAP Number(s): 19-46-24-W4-0070B.0110

Current Property Status: Mixed Use, Comm'l Ground floor, Residential upper floors
Current Zoning: CPD
Future Land Use Map (FLUM) Category:
Platted Overlay? ☐ yes, ☐ no FLUM Density Range:

Requested Action:

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

PART I Narrative Statements

A. Comprehensive Plan Amendments (check one)

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

B. Phasing of Construction

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

C. Comprehensive Plan Compliance.

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

Signage proposed with this request for deviation occupies a small percentage of
the building facades on which they will be attached. These signs are designed to
be the minimum necessary to be seen by pedestrians and drivers searching for
refreshments and a spot to rest while overlooking the beautiful beach. The
request is not a result of any illegal actions of the applicant. Instead, the request
is made in advance of any action. Granting the deviation serves the residents,
visitors and neighbors by providing clear identification of the business to allow
customers to easily navigate to the establishment. It is in keeping with the signage
granted to similar businesses within Fort Myers Beach and would not grant the
applicant special rights of privileges not afforded to others. The signs are
designed to be in compliance with turtle laws and remain non-illuminated
year-round.

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.

The proposed signage is integrated with and harmonious to the building
on which is will be attached complying with the Purpose and Intent of the Land
development code. The deviation, if granted, would positively impact
surrounding properties by making sure that customers of The Beach Bar know
where to go, and do not wander to adjacent properties in search of the location.
The signs that are proposed are non-illuminated so they do not provide any
visual disturbance to either the adjacent properties or aquatic neighbors.
There are turtle-friendly, plastic, flat cut-out letters letters proposed on the rear
elevation facing the beach and a non-illuminated logo sign proposed on the
side elevation.

E. Decision-making Compliance

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

The LDC recognizes that signage along Fort Myers Beach should serve residents and non-residents by providing information that decreases the probability of accidents, protects the public health, safety and general welfare.
Providing clear identification for The Beach Bar serves that purpose while creating signage that is attractive and integrated to the design of the building.
The yellow signage complements the yellow awnings on the building with a scale that does not create visual blight.
The building's large setback from Estero Boulevard, where vehicular traffic will be coming from, along with its customer entrances on I Street and the beach make is unique and worthy of relief from the regulations.
The proposed side elevation sign aids drivers traveling southbound while the proposed rear elevation sign provides customers entering from the beach information they need to navigate to the watering spot without confusion.

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.

Signage was not addressed in the Master Concept Plan.
This amendment is a request for deviation from LDC 30-5 (a) Permanent Signs,
1. Size, a. For a parcel of land containing one or two business establishments
each separate business establishment shall be allowed a maximum of 32
square feet of sign area
The Beach Bar is unusual in that its customer traffic is coming from both a pedestrian pathway from the beach and I Street that runs parallel to Estero Blvd.
That means they need to have identification on the building to allow both drivers and beach goers guidance to the entrance. The existing wall sign on the front elevation is partially obstructed by a palm tree to drivers on Estero Blvd, where customers must turn to navigate to I-Street. The building is setback over 150 feet from Estero Blvd which also decreases visibility of the existing signage.



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

[illegible]

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

Public Hearing Request Form
Supplement Form PH-D
Master Concept Plan
Traffic Impact Statement
Architectural Elevations
Schedule of Uses
Fee in the amount of \$8000.00 up to 1 acre +1000.00 per additional acre
\$2000.00 PD Amendment minor (< acre total property area)
\$4000.00 PD Reinstatement or \$6500.00 PD Amendment

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

Guide to Filing Supplement PH-D for Planned Developments

Amendments Applications for amendments to an approved Master Concept Plan or its attendant documentation will require as much information as is needed to describe the changes requested, to specify the incremental change in impacts expected from the amendment, and to detail the changes in surrounding land uses that have occurred since the original application. Some amendments can be approved administratively as provided in LDC Section 34-219, but all other amendments must proceed through the public hearing process.

Through a pre-application meeting with Community Development staff, prospective applicants can determine whether proposed amendments will require a public hearing, and can request waivers from any submittal requirements that are not necessary to specify the changes requested.

All other planned developments All other applications must complete and submit the Request for Public Hearing and Supplement PH-D, along with all required documents. Refer also to the instructions for the Request for Public Hearing form.

Case Number will be inserted by Community Development staff.

Project Name must be the same as the name used on the Request for Public Hearing form.

Authorized Applicant must be the same as on the Request for Public Hearing form.

STRAP numbers must be the same as on the Request for Public Hearing form.

Current status of property must be the same as on the Request for Public Hearing form.

Requested Action: Indicate whether the request is a DRI (Development of Regional Impact) that requires rezoning, a Planned Development, or an amendment to a Planned Development.

Part 1 Narrative Statements:

Comprehensive Plan Amendments

If Comprehensive Plan Amendments are pending that might affect the future use of the property, explain the amendments' possible effects.

Construction Phasing

If the project is to be constructed in multiple phases, describe the ordering and timing of the proposed phasing. In the absence of a phasing plan, phasing of development would be governed by the limitations of LDC Section 34-220.

Comprehensive Plan Compliance

Explain how the proposed development complies with the Fort Myers Beach Comprehensive Plan. Address the Future Land Use Map category or categories applicable to the subject property and any other relevant policies.

Design Standards Compliance

For properties and/or projects as described in LDC Section 34-992, explain how the proposed development will comply with the standards in LDC Sections 34-991 through 34-997.

Decision-making compliance

Explain how the proposed development will comply with the standards for decision-making in LDC Section 34-85.

Schedule of deviations and written justification

Identify the deviations from the requirements of the Land Development Code that are requested for the proposed development and justify them in relation to the guidance in LDC Section 34-932(b).

Administrative amendments

If the request is for an amendment to a planned development, indicate which of the requested changes could not be approved administratively as allowed by LDC Section 34-219.

Part 2 Submittal Requirements

Public Hearing Application Form. Applications for rezoning, including Planned Developments and Planned Development amendments for which public hearing is required, consist of the Public Hearing form and the supplemental form PH-D. Both parts of the application form must be completed and submitted.

Master Concept Plan. The master concept plan consists of maps, graphic illustrations, and written statements concerning the development. Space has

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

- a. The general size, configuration, and location of each development phase, and a description of the phasing of construction, unless the development is to be constructed in a single phase.
- b. The maximum height of any proposed buildings or structures, using the Land Development Code's method of measuring building height (see LDC Section 34-631).
- c. Proposed principal and accessory uses, identified using the terminology employed in the Land Development Code. Employ the groupings of uses in Tables 34-1 and 34-2 of the Land Development Code, or specify individual uses if necessary.
- d. The density and intensity of the proposed uses, in terms of dwelling units by type, or through conversion factors for hotel/motel units. Provide gross square footages for types of commercial uses, and maximum Floor-Area Ratio.
- e. The minimum width and composition of proposed buffers along the perimeter of the property. References to the types of buffers required by LDC chapter 10 are acceptable.
- f. The location of any environmentally sensitive land and water, based on standard environmental data capable of verification by Town staff. Developments larger than one acre in size may require a protected species survey under LDC Section 10-473.
- g. The exact location of all points of vehicular ingress and egress from existing easements or rights-of-way into the development, with distances from other existing or planned rights-of-way or access points.
- h. Access and facilities for public transit, if applicable.
- i. The general location of stormwater management areas.
- j. The specific locations of requested deviations, including sample detail drawings illustrating their effects if applicable.
- k. The exact location of existing rights-of-way and easements, whether or not those easements are recorded.
- l. Proposed dedications, if any, including beach access, boat ramps, park or recreation areas, open space, or other easements.

Traffic Impact Statement. A traffic impact statement in the same format and to the same degree of detail required for development orders (LDC Section 10-286).

Architectural Elevations. Architectural elevations or three-dimensional renderings that show at minimum all building façades adjoining public streets. These drawings will serve for the sketch requirement of LDC Section 34-202(b)(5) as well. If aspects of the proposed design will not comply with the commercial design standards of LDC Sections 34-991 through 34-997 (if required), the applicant may request deviations from those standards.

Schedule of uses. A list of all proposed principal and accessory uses. Identify these uses by reference to the groups of uses in Tables 34-1 and 34-2 of the Land Development Code unless greater specificity is necessary. For amendments to planned developments that were approved under different regulations, the enumeration of uses in the schedule of uses supplied for the amendment must be specific enough to explain what uses were previously approved without future reference to prior regulations or approvals.



Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the Town's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference: (25-21)

AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/ DENYING AN AMENDMENT TO THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, PREVIOUSLY APPROVED BY RESOLUTION 24-18 FOR THE PARCEL LOCATED AT 1668 I STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0070B.0110 FORT MYERS BEACH, TO INCLUDE A DEVIATION FOR ADDITIONAL SIGNAGE; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☒ The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;

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

- b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
- c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
- d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

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

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance is to allow an amendment to the Commercial Planned Development (CPD) zoning, previously approved by ordinance 24-18 for the parcel located at 1668 I street, generally identified as Strap Number 19-46-24-W4-0070B.0110 Fort Myers Beach, to include a deviation for additional signage.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Town, including the following, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur;
- (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
- (c) An estimate of the Town's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

There are unlikely to be direct compliance costs associated with the ordinance.

The ordinance does not impose any new charge or fee on businesses.

There are no new charges or fees that will be imposed on businesses by the ordinance.

The Town will not likely incur additional costs.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

One property owner will be impacted by this proposed ordinance.

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

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

Yellow Sheet Number: **2025-705**

1. Request:

Meeting Date: October 14, 2025

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING/APPROVING WITH CONDITIONS/ DENYING AN AMENDMENT TO THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, PREVIOUSLY APPROVED BY ORDINANCE 24-15 FOR THE PARCEL LOCATED FOR THE PROPERTY LOCATED AT 125, 131-151 SCHOOL STREET AND 2661-2681 ESTERO BLVD., FORT MYERS BEACH, GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0020C.0230; 19-46-24-W3- 0020C.0270; 19-46-24-W3-0020C.0290 IN FORT MYERS BEACH; PROVIDING FOR REVISIONS TO SCHEDULE OF USES TO INCLUDE OUTDOOR CONSUMPTION ON PREMISES AS A USE ASSOCIATED WITH THE HOTEL AND RESTAURANT USE, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The LPA reviews the CPD Amendments and makes recommendations to the Town Council.

What the action accomplishes:

LPA's recommendations will be forwarded to the Town Council for consideration.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

ordinance.

5. Background:

The Neighborhood Company, applicant for Cottages at Myreside, LLC, is requesting an amendment to the schedule of uses for an existing CPD, resolution 24-15 (Exhibit A), to include outdoor consumption on premises as a use associated with the hotel and restaurant. The request will allow the applicant to serve alcoholic beverages on:

1. 690 sq. ft. outdoor dining patio in extension to the existing restaurant on the ground floor level; and
2. 3,000 sq. ft. of rooftop pool area on the third floor as an accessory to the hotel.

In 2024, the Town of Fort Myers Beach Town Council approved and adopted Ordinance 24-15, approving with conditions a request to rezone the subject property from Downtown to Commercial Planned Development to allow a mixed-use development including lodging, live/work units, retail, and restaurant uses. The outdoor consumption of alcoholic beverages was not addressed during the approval of the CPD.

The existing approved CPD resolution allows the following uses:

Lodging

Principal:

- Hotel/Motel (Inclusive of Hotel Condominiums)
- Guest Units

Accessory:

- Hotel/Motel Accessory Uses
- Personal Services
- Recreational Facilities

Residential

- Work/Live Units

Commercial

- Offices, General or Medical
- Personal Services
- Restaurant with Bar Area
- Retail Store, Small & Large
- Subordinate Commercial Uses

The Applicant is now requesting an amendment to the existing CPD to revise the schedule of uses and include outdoor consumption on premises on the ground floor as an accessory use for the restaurant and on the third floor rooftop patio as an accessory for the hotel. The hours of operation for the service of alcoholic beverages in the outdoor area will be 8 am to 10 pm Monday through Sunday.

Attachments:

1. NEW Ordinance 25-22 CPD Amendment - Cottages at Myerside
2. Staff Report
3. Exhibit A- 24-15, Myerside CPD
4. Exhibit B- Amended Schedule of Uses and condition of approval
5. Exhibit C- plans identifying COP area
6. Application
7. 25-22, business-impact-estimate CPD20250201

Financial Impact:

Unknown

6. Alternative Action

Deny

7. Staff Recommendations:

Approval with conditions

8. Recommended Approval:

Georgina Cid, Community Development Manager

Date: October 07, 2025

Frankie Kropacek, Community Development Director

Date: October 07, 2025

nancy stuparich, Town Attorney

Date: October 08, 2025

Amy Baker, Town Clerk

Date: October 08, 2025

ORDINANCE 25-22
(PD AMENDMENT - Cottages at Myerside)

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING/APPROVING WITH CONDITIONS/ DENYING AN AMENDMENT TO THE COMMERCIAL PLANNED DEVELOPMENT (CPD) APPROVED BY ORDINANCE 24-15 FOR THE PROPERTY LOCATED AT 125, 131-151 SCHOOL STREET AND 2661-2681 ESTERO BLVD., FORT MYERS BEACH, GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270; 19-46-24-W3-0020C.0290 IN FORT MYERS BEACH; PROVIDING FOR REVISIONS TO THE SCHEDULE OF PERMITTED USES TO INCLUDE OUTDOOR CONSUMPTION OF ALCOHOLIC BEVERAGES ON THE PROPERTY AS A USE ASSOCIATED WITH THE APPROVED HOTEL AND RESTAURANT USES; PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, Cottages at Myerside LLC, is the owner of 125, 131-151 School Street and 2661-2681 Estero Blvd known as Cottages at Myerside and identified as Strap number 19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270; 19-46-24-W3-0020C.0290, and has filed an application to amend the schedule of uses identified in Ordinance 24-15, which rezoned the property to Commercial Planned Development ("CPD), to allow outdoor on-premises consumption of alcoholic beverages on the property as a use associated with the approved restaurant and hotel; and

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

WHEREAS, Section 34-214 of the Town's Land Development Code contains the criteria for review of amendments to existing planned developments, with specific criteria for amendments to approved master concept plans in subsections (a) and (b) and states in subsection (c) that "[s]ome amendments can be approved administratively as provided in § 34-219 of this chapter; the remainder shall proceed through the public hearing process described in § 34-216 of this chapter"; and

WHEREAS, Section 34-216 of the LDC requires a public hearing before the LPA and

provides that the LPA’s recommendation to the Town Council must be supported by the rezoning guidelines set forth in [§ 34-85](#) of the LDC as well as compliance with the following criteria:

- a. The proposed use or mix of uses is appropriate at the subject location;
- b. Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations;
- c. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development;
- d. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development . . .

WHEREAS, Section 34-216(4) further provides that “[i]f the local planning agency determines that a proposed condition is insufficient, it may recommend an alternate condition for consideration by the town council” and “if the application includes a schedule of deviations pursuant to [§§ 34-212\(3\)](#) and [34-932\(b\)](#) of this chapter, the local planning agency's recommendation must approve, approve with modification, or reject each requested deviation based upon a finding that:

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

WHEREAS, the Town Council approved Ordinance 24-15 rezoning the property from downtown to commercial planned development (“CPD”), with conditions and deviations based on competent and substantial evidence in support of and satisfaction of the requirements of the Comprehensive Plan and the LDC; and

WHEREAS, Section 34-1264(b)(1) of the LDC provides “[e]xcept as may be exempted in subsections (a)(1) or (b)(2) of this section, no establishment for the sale or service of alcoholic beverages for consumption on the premises shall be located within 500 feet of a place of worship, religious facility, school (noncommercial), day care center (child), park, other establishment serving alcohol or a dwelling unit under separate ownership. Distance shall be measured from any public entrance or exit of the establishment in a straight line to the nearest property line”; and

WHEREAS, the proposed outdoor consumption on premise on the rooftop patio on third floor is proposed as an accessory to the hotel use and the service will be limited only to the hotel guests. The proposed outdoor consumption on premises is situated at 3,000 feet distance from a

religious facility, 550 feet from a school, more than 4,000 feet from a day care center (child), 780 feet from a park, 650 feet other establishment serving alcohol and more than 500 feet from a dwelling unit under separate ownership.

WHEREAS, Section 34-1264(b)(2) of the LDC provides “[r]estaurants are exempt from the locational standards for consumption on a premises code section, provided 1. The restaurant is in full compliance with state requirements; 2. The restaurant serves cooked, full-course meals, prepared daily on the premises; 3. Only a service bar is used, and the sale or service of alcoholic beverages is only to patrons ordering meals, or, 4. The other requirements of LDC Section 34-1264 (k) are met.”; and

WHEREAS, the restaurant use as approved in Ordinance 24-15 is in compliance with the requirements of LDC Section 34-1264(b)(2). Moreover, because the property is: 1) not directly adjacent to any residential units. The closest residential property is located on the other side of the Town owned vacant parcel with an entry to the pool parking lot; and 2) the adjacent to the public pool and surrounded by the Town’s Bay Oaks Recreational Facility, the library and the Fort Myers Beach Elementary School. elementary school, and therefore is compatible and not in conflict with adjacent uses; and

WHEREAS, in accordance with Section 34-216 of the Land Development Code, a public hearing was held before the Local Planning Agency (LPA) on October 14, 2025 to consider the requested amendment to the CPD, as approved in Ordinance 24-15, for the sole purpose of including outdoor consumption of alcoholic beverages on the property as an accessory use to the approve hotel and restaurant uses; and

WHEREAS, the LPA gave full and complete consideration of the information contained in the application, the recommendations by Town staff, the documents included in the agenda materials, and the testimony of all interested persons, as required by Section 34-216 of the Town Land Development Code (“LDC”); and

WHEREAS, at the October 14, 2025 public hearing the LPA found that the request **is/is not** consistent with the requirements of the Town’s Comprehensive Plan and the LDC, and based on competent and substantial evidence in the materials presented to it and the testimony during the public hearing, voted ___ to _____ to recommend **approval/approval with conditions/denial** of the requested amendment to Ordinance 24-15; and

WHEREAS, on November 17, 2025 the Town Council held a first reading of Ordinance 25-22 and gave full and complete consideration to the application, the recommendation of the LPA, the recommendation of Town staff, the documents in the agenda materials, and the testimony of all interested persons; and

WHEREAS, the Town Council approved scheduling a second reading and adoption public on December 15, 2025 regarding Ordinance 25-22 and the second public hearing was advertised on the ___ day of _____ in the _____; and

WHEREAS, a Business Impact Estimate was posted on the Town’s website on the ____

day of _____, 2025; and

WHEREAS, on December 15, 2025, the second public hearing was held and the Town Council gave full and complete consideration to the application, the recommendation of the LPA, the recommendation of the Town staff, requirements of the Comprehensive Plan and the Land Development Code, the documents in the agenda materials, and the testimony of all interested persons.

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

Section 1. **Recitals.** The above recitals are true, correct, and incorporated herein by reference.

Section 2. **Findings and Determination.**

a. Based on competent substantial evidence presented during both public hearings before the Town Council, the Town Council finds and determines that the applicant **did/did not** meet its burden of proof that the requested zoning amendment **does/does not** meet the requirements of the Town Comprehensive Plan and Land Development Code. The Town Council specifically finds that the proposed amendment to include outdoor consumption of alcoholic beverages on the premises as an accessory use to the approved hotel and restaurant uses is consistent with the Comprehensive Plan and compatible with the existing and planned uses of surrounding properties, as well as consistent with the character of the area, and will not result in any adverse impact on adjacent lands. No evidence was presented to reject the findings previously made at the time of adoption of Ordinance 24-15 and its findings are specifically restated and incorporated herein by reference.

b. Accordingly, the Town Council **approves / approves with conditions / denies** the requested amendment to the schedule of uses contained Ordinance 24-15 as provided herein for the CPD zoning of the Property with the following Exhibits attached, restated, and incorporated by reference: Exhibit A Ordinance 24-15 with Master Concept Plan; Exhibit B, Amended Schedule of Uses and Conditions of Approval; and Exhibit C Plan identifying COP area. Nothing in this decision is intended in any way to otherwise change the approvals, conditions and deviations contained in Ordinance 24-15. All other provisions of Ordinance 24-15 except as modified herein remain in full force and effect.

Section 3. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted LDC or Town Code provision, ordinance, or statute, the most restrictive shall apply.

Section 4. Any typographical errors that do not affect the intent of this Ordinance may be corrected with notice to and authorization of the Town Manager without further process.

Section 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such

decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 6. This Ordinance will take effect immediately upon adoption by the Town Council.

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

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

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

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this ____ day of December 2025.

Exhibits:

Exhibit A – Ordinance 24-15, with Master Concept Plan
Exhibit B – Amended Schedule of Uses and Conditions from Ordinance 24-15
Exhibit C - Plan identifying COP area



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

TYPE OF CASE: Commercial Planned Development Amendment

CASE NUMBER: Ord 25-22, DCI Rezoning 20250201

CASE NAME: 125, 131-151 School St and 2661-2681 Estero Blvd,
request to amend the existing Commercial Planned
Development for Cottages at Myreside to allow
outdoor consumption on premises.

LPA

HEARING DATE: October 14, 2025 at 9:00 AM

STAFF

RECOMMENDATION: Approve with conditions

**PREPARED/
SUBMITTED BY:** Sakshi, LEED AP ND/ Jason Green AICP, CFM

I. APPLICATION SUMMARY

Applicant/Owner: The Neighborhood Company/ Cottages At Myreside, LLC

Request: Amend schedule of uses for the existing CPD Ordinance#24-15 (See Exhibit A) to include outdoor consumption on premises use for the 3,000 sq. ft. rooftop patio and 690 sq. ft. outdoor space next to restaurant.

Subject property: Exhibit A – Adopted Ord 24-15 with Master Concept Plan

Physical Address: 125, 131-151 School St and 2661-2681 Estero Blvd

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

FLU: Boulevard

Zoning: Commercial Planned Development (24-15)

Adjacent zoning and land uses:

North: Institutional zoning/ Elementary school with baseball field

South: Commercial Office, Mixed Residential /Offices, multi-family residential

East: Institutional zoning / Library

West: Institutional zoning, Residential Conservation/ single-family and Town's Parking Lot

II. BACKGROUND AND ANALYSIS

Background:

The Neighborhood Company, applicant for Cottages at Myreside, LLC, is requesting an amendment to the schedule of uses for an existing CPD, resolution 24-15 (Exhibit A), to include outdoor consumption on premises as an accessory to the hotel and restaurant. The request will allow the Applicant to serve alcoholic beverages on

- (1) 690 sq. ft. outdoor dining patio in extension to the existing restaurant on the ground floor level; and
- (2) 3,000 sq. ft. of rooftop pool area on third floor as an accessory to the hotel.

In 2024, Town of Fort Myers beach's Town Council approved and adopted ordinance 24-15, approving with conditions a request to rezone the subject property from Downtown to Commercial Planned Development to allow a mixed-use development including lodging, live/work units, retail, and restaurant uses. The outdoor consumption of alcoholic beverages was not addressed during the approval of the CPD.

The existing approved CPD resolution allows the following uses:

Lodging

Principal:

- Hotel/Motel (Inclusive of Hotel Condominiums)
- Guest Units

Accessory:

- Hotel/Motel Accessory Uses
- Personal Services
- Recreational Facilities

Residential

- Work/Live Units

Commercial

- Offices, General or Medical
- Personal Services
- Restaurant with Bar Area
- Retail Store, Small & Large
- Subordinate Commercial Uses

The Applicant is now requesting an amendment to the existing CPD to revise the schedule of uses and include Outdoor consumption on premises on ground floor as an accessory use for the restaurant and on third floor rooftop patio as an accessory for the hotel. The hours of operation for the service of alcoholic beverages in outdoor area will be 8 am to 10 pm Monday through Sunday.

Analysis:

The subject property consists of three parcels (19-46-24-W3-0020C.0230; 19-46-24-W3- 0020C.0270; 19-46-24-W3-0020C.0230) totaling 1.03+/- acres, north of Estero Boulevard, west of School Street, and south of Oak Street. In 2024, Town of Fort Myers beach's Town Council adopted ordinance 24-15 and approved with conditions a CPD with Master Concept Plan for a mixed-use development including lodging, live/work units, retail, and restaurant uses. Six deviations were approved with the CPD. No additional deviations are requested at this time.

The Applicant now requests an amendment to the existing CPD to revise the schedule of uses and include Outdoor consumption on premises on ground floor as an accessory use for the restaurant and on third floor rooftop patio as an accessory for the hotel.

As per LDC Section 34-1264(b)(1) Except as may be exempted in subsections (a)(1) or (b)(2) of this section, no establishment for the sale or service of alcoholic beverages for consumption on the premises shall be located within 500 feet of a place of worship, religious facility, school (noncommercial), day care center (child), park, other establishment serving alcohol or a dwelling unit under separate ownership. Distance shall be measured from any public entrance or exit of the establishment in a straight line to the nearest property line. The proposed outdoor consumption on premise on rooftop patio on third floor is proposed as an accessory to the hotel use and the service will be limited only to the hotel guests. The proposed outdoor consumption on premises is situated at 3,000 feet distance from a religious facility, 550 feet from a school, more than 4,000 feet from a day care center (child), 780 feet from a park, 650 feet other establishment serving alcohol and more than 500 feet from a dwelling unit under separate ownership.

As per LDC Section 34-1264(b)(2), Restaurants are exempt from the locational standards for consumption on a premises code section, provided 1. The restaurant is in full compliance with state requirements; 2. The restaurant serves cooked, full-course meals, prepared daily on the premises; 3. Only a service bar is used, and the sale or service of alcoholic beverages is only to patrons ordering meals, or, 4. The other requirements of LDC Section 34-1264 (k) are met. The proposed restaurant is in compliance with the requirements of LDC Section 34-1264(b)(2) and staff has included a condition for ensure compliance with LDC Section 34-1264(k).

Neighborhood Compatibility:

These parcels are not directly adjacent to any residential units. The closest residential property is located on the other side of the Town owned vacant parcel with an entry to the pool parking lot. This proposed development will be adjacent to the public pool and surrounded by Bay Oaks Park, the library and the elementary school. The Amendment request to include outdoor consumption on premises as an accessory to the ground floor restaurant and on rooftop area as an accessory use to the hotel do not appear to create conflict with the adjacent uses.

Considerations, Findings and Conclusions:

LDC Sec. 34-85 and 34-216 sets forth the required findings and conclusions for the approval of a Planned Development Ordinance Amendment:

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

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

Staff response: There is no error or ambiguity regarding the allowed uses for this development.

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

Staff response: - The requested use for outdoor consumption on premises for the restaurant and the hotel is a design choice, not a changing condition.

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

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

(4) The testimony of any applicant.

Staff response: To be heard at the public hearing.

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

Staff response: Provided in this staff report and associated presentation.

(6) The testimony of the public.

Staff response: To be heard at the public hearing.

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

Staff response: This proposed amendment is consistent with the goals, objectives, policies and intent of the Comprehensive Plan.

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

Staff response: The proposed development will be required to meet performance standards set forth in 34-2031 and 34-2032.

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

Staff response: Urban services are available and adequate for these uses.

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

Staff response: The request will not cause any damage to the environment or natural resources.

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

Staff response: The proposed addition of outdoor consumption on premises on third floor roof top patio for hotel and outdoor consumption on premises on ground floor with the restaurant are unlikely to have a negative impact on the adjacent uses.

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

Staff response: The location is compatible.

LDC Sec. 34-85 (c) Findings: Before granting any rezoning, the town council shall find that the requested zoning district complies with:

(1) The Fort Myers Beach Comprehensive Plan.

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

(2) This chapter.

Staff response: The proposed uses comply with this chapter.

(3) Any other applicable town ordinances or codes.

Staff response: The proposed request complies with all other town ordinances and codes.

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

Sec. 34-216(b)(2). The recommendation made to the town council must be supported by the guidelines set forth in Sec. 34-85 of this chapter. In addition, the findings must address whether the following criteria can be satisfied:

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

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

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

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

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

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

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

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

Staff response: Not applicable.

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

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

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

Staff response: Not applicable.

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

Staff response: Not applicable.

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

Staff response: Not applicable.

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

Staff response: There are no anticipated adverse traffic impacts.

III. RECOMMENDATION

Staff finds that the amendment to the CPD meets the required findings and conclusions for the approval of a Planned Development Ordinance Amendment found in Sec. 34-85 and 34-216 of the land development code. Staff recommends approval with conditions of DCI20250201 to allow the outdoor consumption on premises at the Cottages at Myreside, with the attached conditions.

IV. CONDITIONS OF APPROVAL

1. The terms and conditions of all previous resolutions shall continue in full force except as expressly altered by this amendment.
2. The approved schedule of uses are limited to those detailed on the attached Exhibit B.
3. The outdoor consumption on premises request is permitted only as an accessory to the existing restaurant and the development must comply with LDC Section 34-1264(k).

V. APPROVED DEVIATIONS

No deviations have been requested associated with this amendment. All previously approved deviations apply.

Staff Report Exhibits:

Exhibit A – Ordinance 24-15, with Master Concept Plan

Exhibit B – Narrative and Revised Schedule of Uses
Exhibit C- Plan identifying COP area
Exhibit D- Conditions of Approval for CPD Amendment

ORDINANCE 24-15

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING WITH CONDITIONS THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 125, 131-151 SCHOOL STREET AND 2661-2681 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270; 19-46-24-W3-0020C.0290 IN FORT MYERS BEACH, TO ALLOW A MIXED USE DEVELOPMENT INCLUDING LODGING, LIVE/WORK UNITS, RETAIL, AND RESTAURANT USES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, Cottages at Myerside, LLC, the owner, and The Neighborhood Company, as agent for the property located at 125, 131-151 School Street and 2661-2681 Estero Blvd., parcels generally identified as STRAP numbers 19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270; 19-46-24-W3-0020C.0290 in the Town of Fort Myers Beach, filed applications to rezone the property from the CPD with Master Concept Plan (MCP) adopted in Ordinance 21-02 to CPD with Master Concept Plan (MCP) with certain deviations to the Land Development Code (LDC) in order to develop a mixed use development with 45 lodging units, 4 live-work units, and 9,000 square feet of commercial area; and

WHEREAS, the subject property is a combination of three parcels located in the Boulevard Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on May 14, 2024; and

WHEREAS, at the May 14, 2024 public hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the Town Land Development Code; and

WHEREAS, at the May 14, 2024 public hearing the LPA found that the request is consistent with the comprehensive plan and the requirements of the LDC and voted to recommend approval with conditions by a 6-0 vote; and

WHEREAS, on June 3, 2024 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the LDC; and

WHEREAS, the Town Council voted to have a second reading of the proposed Ordinance and a public hearing on this matter was noticed in the Fort Myers News-Press more than 10 days prior to the Town Council on June 17, 2024; and

WHEREAS, at the June 17, 2024 public hearing, the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34- 85; and

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

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

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

WHEREAS, Exhibit A provides the approved development regulations and the schedule of uses and conditions of approval for this CPD to be used during the permitting process; and

WHEREAS, Exhibit B is the approved Master Concept Plan (MCP), which future development should be substantially in compliance with; and

WHEREAS, the Town Council finds that this request to rezone the property from the CPD with MCP adopted in Ordinance 21-02 to CPD with MCP with six deviations to the LDC in order to develop a mixed-use development with 45 lodging units, 4 live-work units and 9,000 square feet of commercial area, is a unique application, which does not set precedent for future development or rezoning applications; and

WHEREAS, the requested deviations from the LDC include:

Deviation #1

Deviation from LDC Sec. 10-285, Table 10-1 – Connection Separation, which requires minimum separation between street and accessways, in order to allow driveway separations as depicted on the Master Concept Plan (MCP).

Deviation #2

Deviation from LDC Sec. 10-416 – Landscaping standards to allow the use of

an alternative landscape betterment plan pursuant to LDC Section 10-419. This section states applications are entitled to demonstrate that the intent of the landscaping standards can be more effectively accomplished through an alternate landscape betterment plan. The use of an alternate landscape betterment plan addresses all landscaping requirements pertaining to the redevelopment of the site; such as, but not limited to landscape islands, building perimeters, buffers, walls, parking and vehicular use areas.

Deviation #3

Deviation from LDC Sec. 34-1804(A) and Sec. 34-2020, which regulates parking for hotels/motels non-residential, residential, and combined use developments, to allow a 30% reduction in required parking and a minimum of three (3) individual uses within a master planned mixed use development.

Deviation #4

Deviation from LDC Division 4, Table 34-3 for the CR zoning district which limits height to 30 feet zoned height and three (3) stories to allow a maximum zoned height of 37 feet and a maximum of four (4) stories.

Deviation #5

Deviation from LDC Division 4, Table 34-3 for the CR zoning district which requires street setbacks of 10 feet to instead allow for build-to lines of 5 to 10 feet along Estero Boulevard and School Street.

Deviation #6

Deviation from LDC Sec. 34-1803(a)(1), which allows the conversion of dwelling units to hotel/motel guest units per established equivalency factors, in order to exceed said factors as allowed per LDC Sec. 34-1803(a)(2). This would allow a maximum intensity of 45 guest units rather than the 20 allowed per the existing table.

Deviation #7

A deviation from LDC Sec. 34-645(b) and Table 34-3, which allows a Floor Area Ratio (FAR) of 1.2. This would allow a maximum FAR of 1.3, which is below the maximum FAR allowed under the Boulevard Future Land Use category of 1.5.

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

- a. Minor ambiguities were resolved through the deviation process.
- b. The previous development on the subject property was destroyed by fire and adoption of the rezoning with deviations ameliorates longstanding design issues on the site.
- c. The rezoning would carry out the policies and requirements of the Comprehensive Plan

and Land Development Code.

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

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

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

WHEREAS, the Town Council finds that this application to approve Ordinance 24-15 which is, **consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve with conditions** the Application.

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

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

Section 2. The Town Council determines the Applicant **did** meet its burden of proof, that the request to approve Town of Fort Myers Beach's Ordinance 24-15 and the conditions of approval for the commercial planned development zoning, **does** meet the requirements of the Town Comprehensive Plan and LDC. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **APPROVE WITH CONDITIONS** the requested application.

Section 3. Town Ordinance 24-15 is adopted and the schedule of uses and conditions of approval for the Property's CPD set forth in Exhibit A, the attached Master Concept Plan in Exhibit B, and the attached Landscape Betterment Plan in Exhibit C, attached hereto and incorporated herein by this reference are approved.

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

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

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

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

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

DULY PASSED AND ADOPTED on this 17th day of June 2024.

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

FORT MYERS BEACH TOWN COUNCIL


Dan Allers (Jun 20, 2024 12:02 EDT)

Dan Allers, Mayor

ATTEST:



Amy Baker, Town Clerk

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


Nancy Stuparich (Jun 20, 2024 17:00 EDT)

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 20th day of June 2024.

Attachments:

- A – Conditions of Approval and Schedule of Uses
- B – Master Concept Plan (MCP)
- C – Alternative Landscape Betterment Plan

Exhibit A: CONDITIONS OF APPROVAL & SCHEDULE OF USE

Conditions of Approval

Staff finds that the CPD with deviations meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC and recommends approval of DCI20230246 with the attached conditions:

1. Any tenant with consumption on premises would be required to acquire a separate COP license.
2. The live-work units shall only be occupied by the owner or employees of the commercial establishments at Myerside. At no time shall the live work units be used as an extension to the lodging units or as a part of the boutique hotel. Any other tenants will have to demonstrate employment on the island.
3. The restaurant area shall be limited to 2,250 sq ft of the total 9,000 sq ft of commercial square footage.
4. A local development order is required prior to any development of the site, in accordance with this planned development approval.
5. All state and local permits, including but not limited to right of way and stormwater permits, must be applied for and received prior to site development.
6. All signage and landscaping must meet the Vehicle Visibility at Intersection requirements found in Sec. 34-3131.
7. The property owner commits to encouraging visitors and staff to arrive without an automobile. If the proposed development's parking needs exceed the on-site parking provided, the applicant shall provide valet parking and/or coordinate with adjacent property owners, and/or consider other parking options to provide adequate parking.

If a shared parking agreement is specifically sought with the Town to help offset the need for supplemental parking, the Town will provide up to 15 parking spaces within the Bay Oaks Recreation Center to the property owner. If the tenants of the development include health and wellness providers, such as, but not limited to the following listed below, the Town will allocate 5 of those parking spaces at no charge for each Town approved (Administrative approval by Town Manager or designee) provider, up to a maximum of 15 parking spaces. The property owner may petition the Town Council to accept alternative personal service providers other than those preferred health and wellness providers listed below.

- Medical Clinic, with an MD, physician's assistant or Nurse Practitioner who can write a prescription
- Urgent Care, with an MD, physician's assistant or Nurse Practitioner who can write a prescription
- Dentist
- Pharmacy
- Rehabilitation/Physical Therapy clinic
- Chiropractor

8. To help mitigate traffic congestion along Estero Boulevard, the hotel proprietor will promote various marketing initiatives that support and encourage all guests to use alternative modes of transportation rather than drive a vehicle to or while on the island.

Such efforts will include:

- Dedicated page(s) on the Myerside Hotel website outlining and promoting alternative modes of transportation in the area and various marketing incentives such as:
 - Information on the walkability of the area and those businesses of interest to guests within walking distance of Myerside.
 - Bicycle rental.
 - Fort Myers Beach's LeeTran "TROLLEE" and seasonal TRAM Service Schedules and Route Maps
 - Publix and other food delivery service options
 - Free resort fee
 - Restaurant discounts
 - Discounts on future stays
- Establish partnerships with businesses on the island, especially in the "Heart of the Island," to provide incentives and discounts for guests. Hotel guests who do not drive onto the island will receive monetary discounts or vouchers for future stays and/or with participating local businesses, such as restaurants, bike rentals, and tour/tourism operators.
- Participate in townwide traffic mitigation efforts, such as:
 - Off-island parking and transport initiatives, e.g. Water ferry/taxi discounts for those staying at the hotel.
 - Off-site parking availability identification systems.
 - Evaluating and improving LeeTran's "TROLLEE" and seasonal TRAM's service and rider/user experience.

9. The final development must be generally consistent with the Master Concept Plan, renderings, and landscape betterment plan attached to this ordinance.

SCHEDULE OF USE

Lodging

Principal:

- Hotel/Motel (Inclusive of Hotel Condominiums)
- Guest Units

Accessory:

- Hotel/Motel Accessory Uses
- Personal Services
- Recreational Facilities

Residential

- Work/Live Units

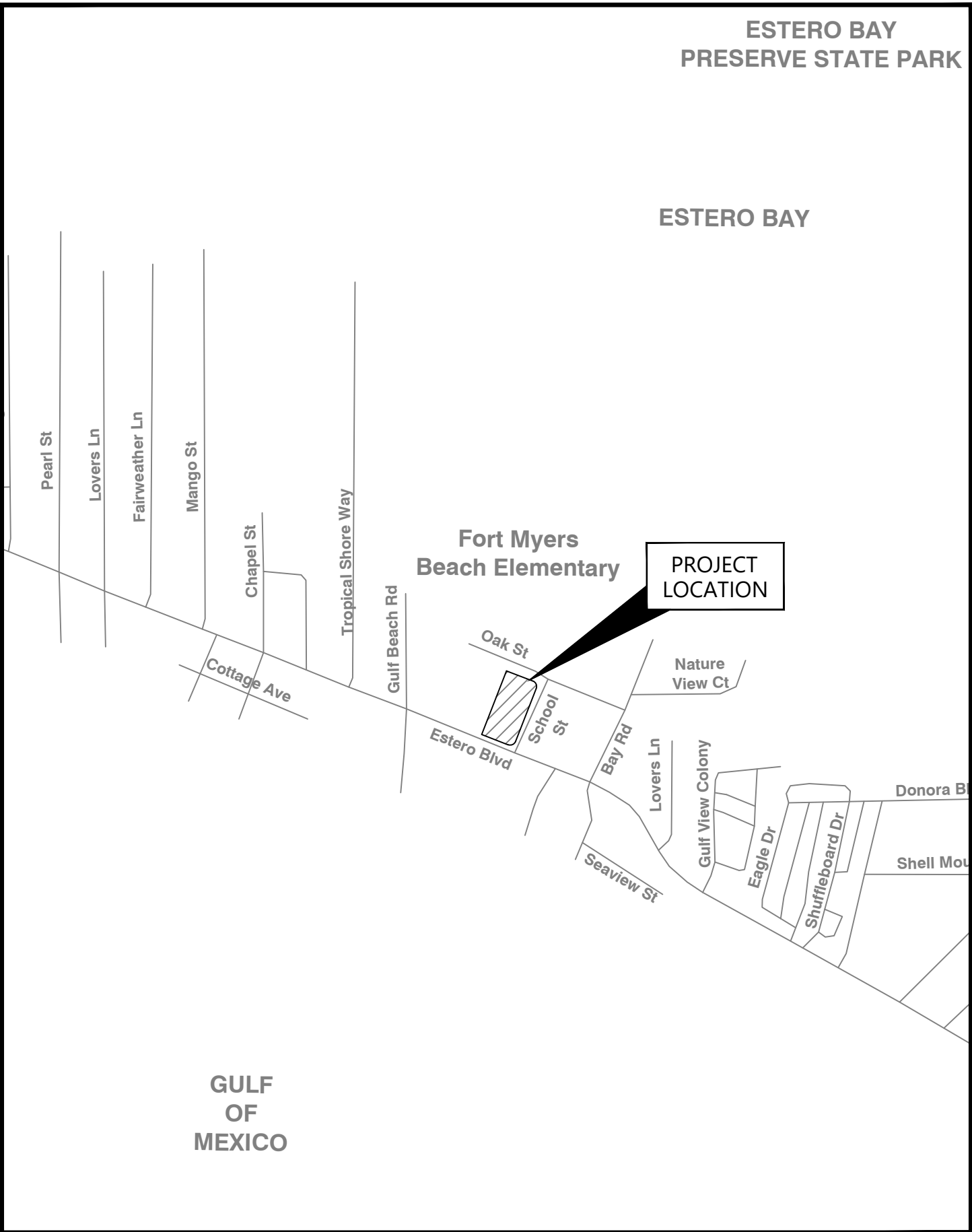
Commercial

- Offices, General or Medical
- Personal Services
- Restaurant with Bar Area
- Retail Store, Small & Large
- Subordinate Commercial Uses

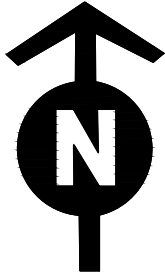
MASTER CONCEPT PLAN FOR

THE MYERSIDE CPD

SECTION 19, TOWNSHIP 46S, RANGE 24E,
FORT MYERS, FLORIDA



VICINITY MAP
N.T.S.



SITE LOCATION MAP
N.T.S.

PREPARED BY:



5618 WHISPERING WILLOW WAY
FORT MYERS, FL 33908

PREPARED FOR:

COTTAGES AT MYERSIDE, LLC
& MYERSIDE, LLC

145 SCHOOL ST
FORT MYERS BEACH, FL 33931

CONTENTS		
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1	COVER SHEET	
2	MASTER CONCEPT PLAN	
3	NOTES	
DATE:	PROJECT No.:	SHEET No.:
October, 2023	220050.01.01	1 OF 3

GENERAL NOTES:

1. THIS MASTER CONCEPT PLAN (MCP) IS CONCEPTUAL IN NATURE. THE OVERALL CONFIGURATION, SIZE AND LOCATION OF THE STRUCTURE(S) AND OTHER IMPROVEMENTS MAY VARY. FINAL DESIGN AND IMPROVEMENT DETAILS WILL BE PROVIDED AS PART OF THE DEVELOPMENT ORDER (D.O.) PROCESS.
2. WATER MANAGEMENT REQUIREMENTS FOR REDEVELOPMENT PROJECTS CAN VARY SIGNIFICANTLY. THE WATER MANAGEMENT PLAN WILL BE DESIGNED AT THE TIME OF D.O.
3. TOTAL CPD/DEVELOPMENT AREA: 1.03 +/- ACRES
4. FUTURE LAND USE MAP CATEGORY: BOULEVARD
5. THE PROJECT WILL BE DEVELOPED IN ONE PHASE.
6. NO ENVIRONMENTALLY SENSITIVE LAND OR WATER EXISTS ON SITE AS THIS SITE WAS IMPACTED BY PREVIOUS DEVELOPMENT AND HURRICANE IAN. NO PROTECTED SPECIES SURVEY IS REQUIRED PER APPROVED WAIVER.
7. ALL OTHER DEVELOPMENT STANDARDS SHALL BE SET FORTH IN LDC CHAPTER 24 OR OTHER APPLICABLE PROVISIONS OF THE LDC.
8. IN COMPLIANCE WITH LDC SECTION 34-1803(A)(2), THE MAXIMUM OF 45 ROOMS/LODGING UNITS AND FOUR (4) WORK/LIVE UNITS ARE ALLOWED DUE TO EXCEPTIONAL CIRCUMSTANCES AND PUBLIC BENEFIT PROVIDED BY THIS CPD.

SCHEDULE OF USES:

LODGING:

PRINCIPLE:

- HOTEL/MOTEL (INCLUSIVE OF HOTEL CONDOMINIUMS)
- GUEST UNITS

ACCESSORY:

- HOTEL/MOTEL ACCESSORY USES
- PERSONAL SERVICES
- RECREATIONAL FACILITIES

RESIDENTIAL:

- WORK/LIVE UNITS

COMMERCIAL:

- OFFICES. GENERAL, OR MEDICAL
- PERSONAL SERVICES
- RESTAURANT WITH BAR AREA
- RETAIL STORE, SMALL, & LARGE
- SUBORDINATE COMMERCIAL USES

MAXIMUM INTENSITY:

- MAXIMUM OF 45 HOTEL ROOMS/TRANSIENT LODGING UNITS
- MAXIMUM OF 4 WORK/LIVE UNITS
- MAXIMUM OF 9,000 SF OF COMMERCIAL SPACE
- MAXIMUM FLOOR AREA RATIO (F.A.R.): 1.3 OR 58,327 SF

PARKING:

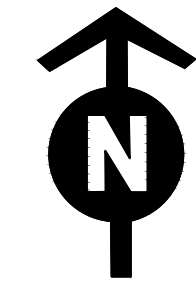
- REQUIRED: 91 SPACES WITH A 4 SPACE REDUCTION BY PROVIDING 16 BICYCLE SPACES = 87 SPACES
- PROVIDED: MIN. 60 SPACES (INCLUDING 3 ADA SPACES) WITH 31% PARKING REDUCTION

DEVIATIONS:

1. A DEVIATION FROM LDC SEC. 10-285, TABLE 10-1 - CONNECTION SEPARATION, WHICH REQUIRES MINIMUM SEPARATION BETWEEN STREET AND ACCESSWAYS, IN ORDER TO ALLOW DRIVEWAY SEPARATIONS AS DEPICTED ON THE MASTER CONCEPT PLAN (MCP).
2. A DEVIATION FROM LDC SEC. 10-416 - LANDSCAPING STANDARDS TO ALLOW THE USE OF ALTERNATIVE LANDSCAPE BETTERMENT PLAN PURSUANT TO LDC SECTION 10-419. THIS SECTION STATES APPLICATIONS ARE ENTITLED TO DEMONSTRATE THAT THE INTENT OF THE LANDSCAPING STANDARDS CAN BE MORE EFFECTIVELY ACCOMPLISHED THROUGH AN ALTERNATIVE LANDSCAPE BETTERMENT PLAN. THE USE OF AN ALTERNATIVE LANDSCAPE BETTERMENT PLAN ADDRESSES ALL LANDSCAPING REQUIREMENTS PERTAINING TO THE REDEVELOPMENT OF THE SITE; SUCH AS, BUT NOT LIMITED TO LANDSCAPE ISLANDS, BUILDING PERIMETERS, BUFFERS, WALLS, PARKING AND VEHICULAR USE AREAS.
3. A DEVIATION FROM LDC SEC. 34-1804(A) AND SEC. 34-2020, WHICH REGULATES PARKING FOR HOTELS/MOTELS AND OTHER ACCESSORY USES, TO ALLOW A 31% REDUCTION IN REQUIRED PARKING.
4. A DEVIATION FROM LDC DIVISION 4, TABLE 34-3 FOR THE CR ZONING DISTRICT WHICH LIMITS HEIGHT TO 30 FEET ZONED HEIGHT AND THREE (3) STORIES TO ALLOW A MAXIMUM ZONED HEIGHT OF 36 FEET AND A MAXIMUM OF FOUR (4) STORIES.
5. A DEVIATION FROM LDC DIVISION 4, TABLE 34-3 FOR THE CR ZONING DISTRICT WHICH REQUIRES STREET SETBACKS OF 10 FEET TO INSTEAD ALLOW FOR BUILD-TO LINES OF 5 TO 10 FEET ALONG ESTERO BOULEVARD AND SCHOOL STREET.
6. A DEVIATION FROM LDC SEC. 34-1803(A)(1), WHICH ALLOWS THE CONVERSION OF DWELLING UNITS TO HOTEL/MOTEL GUEST UNITS PER ESTABLISHED EQUIVALENCY FACTORS, IN ORDER TO EXCEED SAID FACTORS AS ALLOWED PER LDC SEC. 34-1803(A)(2). THIS WOULD ALLOW A MAXIMUM INTENSITY OF 45 GUEST UNITS RATHER THAN THE 30 ALLOWED PER THE EXISTING TABLE.

DEVELOPMENT STANDARDS:

Minimum Lot Size	
Lot Area	1.03 ± acre
Lot Width	145 feet
Lot Depth	300 feet
Build to Line (Estero Blvd. and School St.)	5 - 10 feet
Minimum Setbacks Principal Building	
Front Street (Estero Blvd.)	N/A
Side Street (School St.)	N/A
Side Yard	15 feet
Rear Yard (Oak St.)	20 feet
Minimum Setbacks Accessory Building	
Side Street (School St.)	10 feet
Side Yard	7.5 feet for dumpster enclosure, 15 feet for all other buildings/structures
Rear Yard (Oak St.)	10 feet
Maximum Zoned Height	37 feet (measured from base flood elevation + 3' of freeboard to mid-point of roof)
Maximum Actual Height	50 feet (measured from grade to peak of roof)
Maximum Stories	4 Stories
Maximum Floor Area Ratio	1.3

[illegible]

THE NEIGHBORHOOD

5618 WHISPERING WILLOW WAY | FORT MYERS, FL 33908
WWW.THENEIGHBORHOOD.COM/PANY

PROJECT NO.: 220050.01.01		CLIENT: COTTAGES AT MYERSIDE, LLC & MYERSIDE, LLC	
DATE: 10/23	DRAWING: F.L.	PROJECT: THE MYERSIDE COMMERCIAL PLANNED DEVELOPMENT (CPD)	
DESIGN: K.G.			
SHEET NUMBER: 3 OF 3		TITLE: NOTES	

PREPARED FOR/OWNED BY:
MYERSIDE, LLC ----
145 SCHOOL ST.
FORT MYERS BEACH, FL 33931
(239) 529-8785



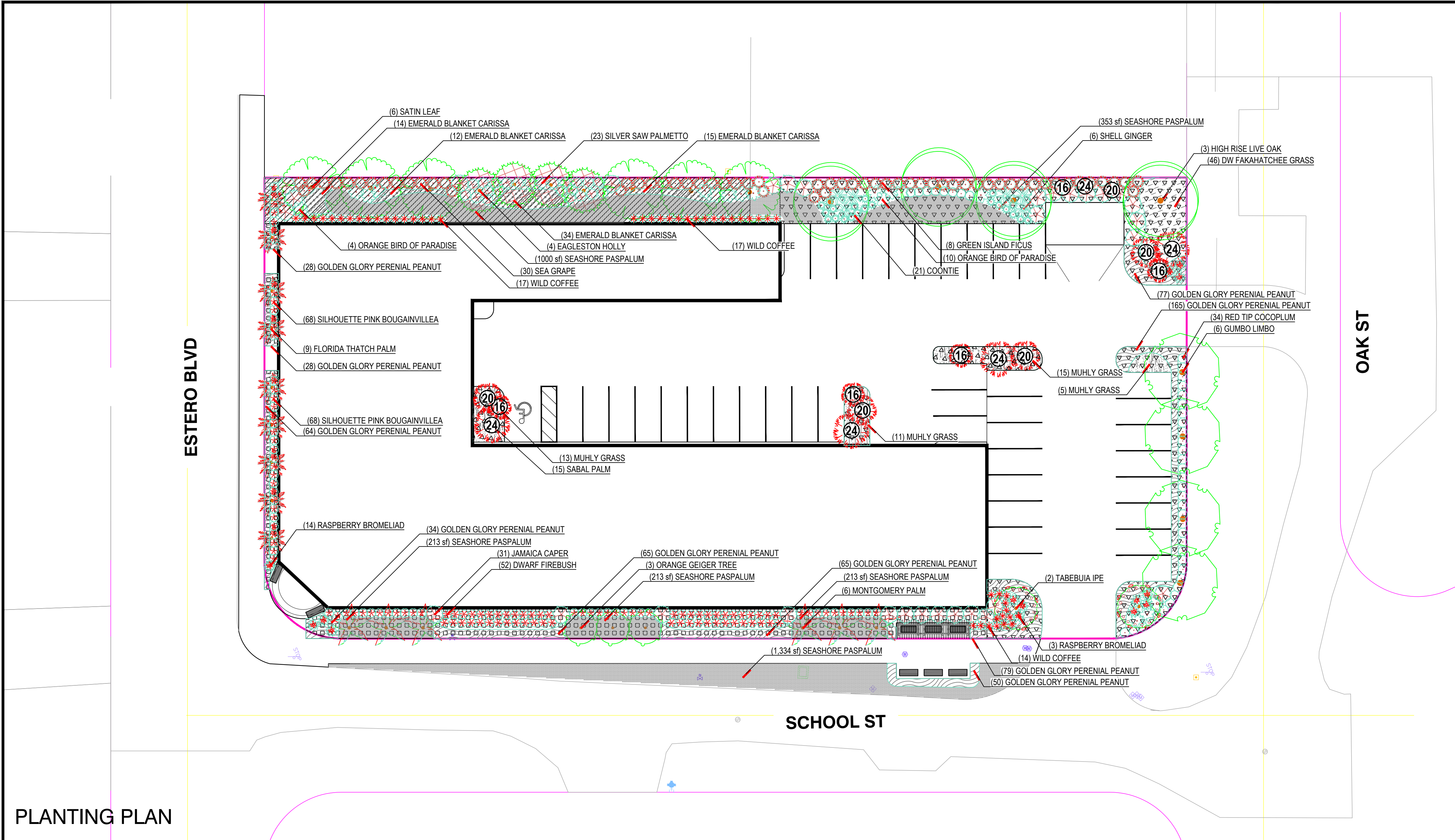
STRAP: 19-46-24-W3-0020C.0290
STRAP: 19-46-24-W3-0020C-0270
STRAP: 19-46-24-W3-0020C-0230

Sheet Number	Sheet Title
01	COVER SHEET
02	MASTER PLANTING PLAN
03	PERMIT CALCULATIONS & IRRIGATION PLAN
04	PERMIT LANDSCAPE NOTES
05	PERMIT LANDSCAPE NOTES
06	LANDSCAPE CONSTRUCTION NOTES
07	LANDSCAPE CONSTRUCTION DETAILS
08	LANDSCAPE CONSTRUCTION DETAILS

No.:	DATE:	DESCRIPTION:	APPROVED:

 RWA ENGINEERING	6610 Willow Park Drive Suite 200 Naples, FL 34109 12800 University Drive Suite 175 Fort Myers, FL 33907 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	LANDSCAPE ARCHITECT'S SEAL: PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES. JAMES M. MCCORD, STATE OF FLORIDA LICENSE NO. 6666582 RWA, INC. STATE OF FLORIDA BUSINESS CERTIFICATE NO. EB-0007663
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DATE: MARCH 2004	PROJECT No.: 200022 00 01	SHEET No.: 01 OF 08
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PLANTING PLAN

PLANT MATERIAL SCHEDULE

SYMBOL	QTY	BOTANICAL / COMMON NAME	MIN. SIZE	CALIPER	HEIGHT X SPREAD	NATIVE	SPACING
TREES							
	4	BURSERA SIMARUBA GUMBO LIMBO	45 GAL.	2" CAL	10' X 4'	YES	
	6	CHRYSOPHYLLUM OLIVIFORME SATIN LEAF	45 GAL.	2" CAL	10' X 4'	YES	
	3	CORDIA SEBESTENA ORANGE GEIGER TREE	30 GAL.	1" CAL	6' X 2'	YES	
	4	ILEX X ATTENUATA 'EAGLESTON' EAGLESTON HOLLY	30 GAL.	1" CAL	6' X 2'	YES	
	4	QUERCUS VIRGINIANA 'HIGH RISE' HIGH RISE LIVE OAK	45 GAL.	2" CAL	10' X 4'	YES	
	2	TABEUBIA IMPETIGINOSA TABEUBIA IPE	30 GAL.	1" CAL	6' X 2'	YES	
	4	SABAL PALMETTO SABAL PALM	FG		10' CT MIN. 16'-18' OA	YES	
	4	SABAL PALMETTO SABAL PALM	FG		10' CT MIN. 20'-22' OA	YES	
	4	SABAL PALMETTO SABAL PALM	FG		10' CT MIN. 24'-26' OA	YES	
	9	THRINAX RADIATA FLORIDA THATCH PALM	FG		14' OA	YES	
	6	VEITCHIA MONTGOMERYANA MONTGOMERY PALM	FG		16-18' OA	NO	
SHRUBS							
	14	AECHEMEA BLANCHETIANA 'RASPBERRY' RASPBERRY BROMELIAD	3 GAL.		18"	YES	
	68	BOUGAINVILLEA 'SILHOUETTE PINK' SILHOUETTE PINK BOUGAINVILLEA	3 GAL.		18"	YES	
	31	CAPPARIS CYNOPHALLOPHORA JAMAICA CAPER	15 GAL.		60"	YES	
	34	CHRYSOBALANUS ICACO 'RED TIP' RED TIP COCOPLUM	7 GAL.		24"	YES	
	61	COCCOLOBA UVIFERA SEA GRAPE	7 GAL.		36"	YES	
	8	FICUS MICROCARPA 'GREEN ISLAND' GREEN ISLAND FICUS	3 GAL.		12"	NO	
	52	HAMELIA PATENS 'COMPACTA' DWARF FIREBUSH	7 GAL.		24"	NO	
	48	PSYCHOTRIA NERVOSA WILD COFFEE	3 GAL.		18"	YES	
	23	SERENGETIA REPENS SILVER SAW PALMETTO	7 GAL.		24"	YES	
	17	STRELITZIA REGINAE ORANGE BIRD OF PARADISE	15 GAL.		48"	NO	
	21	ZAMIA PUMILA COONTIE	3 GAL.		12"	YES	
	6	ALPINIA ZERUMBET SHELL GINGER	15 GAL.		48"	NO	
	44	MUHLENBERGIA CAPILLARIS MUHLY GRASS	3 GAL.		18"	YES	48" OC
	46	TRIPSACUM FLORIDANUM DWARF FAKAHATCHEE	1 GAL.		12"	YES	36" OC
	757	ARACHIS GLABRATA 'GOLDEN GLORY' GOLDEN GLORY PERENIAL PEANUT	4" POT		3"	NO	18" OC
	75	CARISSA MACROCARPA EMERALD BLANKET CARISSA	3 GAL.		12"	NO	24" OC
TURF							
	3,337 SF	PASPALUM VAGINATUM SEASHORE PASPALUM			SOD		



FRONT ELEVATION

0' 5' 10' 20'

SCALE: 1"=10'

Select Certified

IRRIGATION ASSOCIATION

Experienced professionals. Efficient solutions.

OID, CIC, CLIA

DATE: MARCH 2004

SIC: 19 TWP: 46 S RGE: 24 E

DESIGNED: JMM

DRAWN: JMM

CLIENT: MYERSIDE, LLC

TITLE: MASTER PLANTING PLAN

PROJECT: MYERSIDE

PROJECT NO.: 200022 00 01

FILE NAME: 200022 00 01 LA PERMIT

SHEET NUMBER: 02 OF 08

THIS IS HAS BEEN ELECTRONICALLY SIGNED & SEAL BY JAMES M. MCCORD USING A DIGITAL SIGNATURE AND DATE. PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED & SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

JAMES M. MCCORD

FLORIDA LICENSE NO. 6666882

REV #

REVISION

DRAWN

CHECKED

DATE

RWA

ENGINEERING

12800 University Drive, Suite 175
Fort Myers, Florida 33907
(239) 597-0575 FAX: (239) 597-0578
www.consult-rwa.com
Florida Certificates of Authorization
EB 7663 LB6952

NOTES:

1. ALL SIZES ARE MINIMUMS. HEIGHT, SPREAD, CALIPER TAKE PRECEDENCE OVER CONTAINER SIZE.

2. QUANTITIES ARE PROVIDED FOR CONVENIENCE ONLY. CONTRACTOR TO VERIFY PRIOR TO BIDDING.

3. CONTRACTOR REQUIRED TO NOTIFY RWA, INC OF ANY / ALL CONFLICTS WITH PLANS & SITE CONDITIONS PRIOR TO INSTALLATION.

4. ALL CHANGES REQUIRE PRIOR APPROVAL FROM RWA, INC. ANY DEVIATIONS TO THE PLANS WITHOUT APPROVAL SHALL BE AT THE CONTRACTOR'S EXPENSE TO RECTIFY.

5. CONTRACTOR TO PROVIDE ACCURATE AS-BUILTS FOR APPROVED MODIFICATIONS TO THESE PLANS.

SURFACE WATER MANAGEMENT

- LANDSCAPING STANDARDS.**

- OF WATER EXCEPT THOSE PORTIONS OF A SHORELINE HAVING A WALL; EXISTING VEGETATION WITHIN THE BUFFER AREA MUST BE RETAINED; AND THE REMOVAL OR CONTROL OF EXOTIC PEST PLANTS MUST NOT INVOLVE THE USE OF HEAVY MECHANICAL EQUIPMENT.
34. FOR DEVELOPMENT ABUTTING WETLANDS: THERE MUST BE A 75' SEPARATION BETWEEN WETLANDS AND ALL BUILDINGS OR OTHER IMPERVIOUS SURFACES.
35. REQUIRED BUFFERS MAY BE USED FOR PASSIVE RECREATION SUCH AS PEDESTRIAN OR BIKE PATHS, PROVIDED THAT: NO REQUIRED TREES OR SHRUBS ARE ELIMINATED; NOT MORE THAN 20% OF THE WIDTH OF THE BUFFER IS IMPERVIOUS SURFACE; THE TOTAL WIDTH OF THE BUFFER AREA IS MAINTAINED; AND ALL OTHER LDC REQUIREMENTS ARE MET.

1. REQUIRED LANDSCAPING AREAS MUST PROVIDE AN AUTOMATIC IRRIGATION SYSTEM.
2. IRRIGATION SYSTEMS MUST BE DESIGNED TO ELIMINATE THE APPLICATION OF WATER TO IMPERVIOUS AREAS, INCLUDING ROADS, DRIVES, AND OTHER VEHICLE AREAS.
3. IRRIGATION SYSTEMS MUST ALSO BE DESIGNED TO AVOID IMPACTS ON INDIGENOUS PLANT COMMUNITIES.
4. IRRIGATION SYSTEMS MUST INCORPORATE A SYSTEM CONTROLLER SET TO CONSERVE WATER.
5. MOISTURE DETECTION DEVICES MUST BE INSTALLED IN ALL AUTOMATIC SPRINKLER SYSTEMS TO OVERRIDE THE SPRINKLER OPERATIONS DURING PERIODS OF INCREASED RAINFALL.
6. WHERE EXISTING IRRIGATION SYSTEMS ARE MODIFIED REQUIRING THE ACQUISITION OF A PERMIT, AUTOMATIC ACTIVATION SYSTEMS AND OVERRIDING MOISTURE DETECTION DEVICES MUST BE INSTALLED.
7. THE REQUIREMENT TO PROVIDE AN AUTOMATIC IRRIGATION SYSTEM DOES NOT APPLY TO TREES PLANTED IN ACCORDANCE WITH THE LDC OR TO CULTIVATED LANDSCAPED AREAS THAT ARE PLANTED 100% WITH NATIVE FLORIDA PLANT SPECIES. A TEMPORARY IRRIGATION SYSTEM IS STRONGLY ENCOURAGED TO IMPROVE SURVIVABILITY AFTER INITIAL PLANTING. ALL PLANTS THAT DO NOT SURVIVE MUST BE REPLANTED IN THE SAME MANNER AS FOR ALL OTHER REQUIRED.

1. APPLICATIONS PURSUANT TO THIS DIVISION ARE ENTITLED TO DEMONSTRATE THAT THE INTENT OF THIS DIVISION CAN BE MORE EFFECTIVELY ACCOMPLISHED THROUGH AN ALTERNATE LANDSCAPE BETTERMENT PLAN.

1. PLANT MATERIALS USED TO MEET THE REQUIREMENTS OF THIS DIVISION MUST MEET THE STANDARDS FOR FLORIDA NO. 1 OR BETTER PER FDACS.

2. ROOT BALL SIZES ON ALL TRANSPLANTED PLANT MATERIALS MUST ALSO MEET STATE STANDARDS.

3. AT LEAST 75% OF THE TREES AND 50% OF THE SHRUBS USED TO FULFILL THESE REQUIREMENTS MUST BE NATIVE FLORIDA SPECIES.

4. FOR REQUIRED TREES, AT LEAST 50% OF THE TREES AT INSTALLATION MUST BE A MIN OF 10' OA, 2" CAL, AND HAVE A 4' SPREAD. THE REMAINING REQUIRED TREES AT INSTALLATION MUST BE A MIN OF 6' OA, 1" CAL, AND HAVE A 3' SPREAD.

5. PALMS MUST HAVE A MIN OF 1' OF CLEAR TRUNK AT PLANTING.

6. COCONUT PALMS MUST BE VARIETIES THAT ARE RESISTANT TO LETHAL YELLOWING.

7. TREES HAVING AN AVG MATURE CROWN LESS THAN 20' MAY BE SUBSTITUTED BY GROUPING THEM TO CREATE THE EQUIVALENT OF 20' CROWN.

8. TREES ADJACENT TO WALKWAYS, BIKE PATHS, AND RIGHTS-OF-WAY MUST BE MAINTAINED WITH 8' OF CT.

9. LARGER TREES MAY BE SUBSTITUTED TO REDUCE THE MIN NUMBER OF GENERAL TREES. TREE CREDITS REQUIRE NO LESS THAN 16' OA AND 4" CAL AT INSTALLATION. MAX GENERAL TREES CREDITS CANNOT EXCEED 50%.

10. SHRUBS MUST BE A MIN OF 24" OA (48" OA FOR TYPE F BUFFERS), 3 GAL CONTAINER SIZE, AND BE SPACED 18'-36" OC.

11. BUFFER SHRUBS MUST BE MAINTAINED A MIN OF 36" OA INCHES (60" OA FOR TYPE F BUFFERS) WITHIN 1 YEAR AFTER INSTALLATION IN PERPETUITY, EXCEPT FOR VISIBILITY AT INTERSECTIONS AND WHERE PEDESTRIAN ACCESS IS PROVIDED.

12. REQUIRED HEDGES MUST BE PLANTED IN DOUBLE STAGGERED ROWS AND MAINTAINED SO AS TO FORM A CONTINUOUS, UNBROKEN, SOLID VISUAL SCREEN WITHIN ONE YEAR AFTER TIME OF PLANTING.

13. A 2" MIN LAYER, AFTER WATERING-IN, OF APPROVED MULCH MUST BE PLACED AND MAINTAINED AROUND ALL NEWLY INSTALLED TREES, SHRUBS AND GROUND COVER PLANTINGS. EACH TREE MUST HAVE A RING OF MULCH NO LESS THAN 24" BEYOND ITS TRUNK IN ALL DIRECTIONS. THE USE OF CYPRESS MULCH IS PROHIBITED.

14. HIGHLY INVASIVE EXOTIC PLANTS MUST BE REMOVED FROM THE DEVELOPMENT AREA AND BE MAINTAINED FREE FROM INVASIVE EXOTIC PLANTS IN PERPETUITY. INVASIVE EXOTIC PLANTS TO BE REMOVED INCLUDE: MELALEUCA, BRAZILIAN PEPPER, AUSTRALIAN PINE, EARLEAF ACACIA, DOWNY ROSEMYRTLE, TROPICAL SODA APPLE, WEDELIA, BEACH NAUJAKA, AND CHINABERRY.

15. THE FOLLOWING SPECIES OF EXOTIC PLANTS ARE CONSIDERED INVASIVE AND MAY NOT BE USED TO FULFILL ANY REQUIREMENTS OF THIS DIVISION: MELALEUCA, BRAZILIAN PEPPER, AUSTRALIAN PINE, EARLEAF ACACIA, DOWNY ROSEMYRTLE, TROPICAL SODA APPLE, WOMAN'S TONGUE, BISHOP WOOD, CARROTWOOD, ROSEWOOD, MURRAY RED GUM, BENJAMIN FIG, CUBAN LAUREL, CHINESE TALLOW, JAVA PLUM, ROSE APPLE, CORK TREE, WEDELIA, BEACH NAUJAKA, AND CHINABERRY.

16. EXCEPT FOR PROHIBITED SPECIES, EVERY CONSIDERATION MUST BE GIVEN TO RETAINING AS MUCH OF THE EXISTING PLANT MATERIAL AS POSSIBLE.

17. EACH EXISTING NATIVE TREE PRESERVED IN PLACE WHICH HAS A 4" CAL @ DBH WILL RECEIVE A 5:1 TREE CREDIT AGAINST THE TREE PLANTING REQUIREMENTS.

18. NATIVE PALMS PRESERVED IN PLACE WHICH ARE 8' CT WILL RECEIVE A 3:1 TREE CREDIT. EXISTING SABAL PALMS, IDENTIFIED ON THE DEVELOPMENT ORDER PLANS AND RELOCATED ON-SITE, WILL BE GIVEN A 2:1 CREDIT.

19. CREDITS FOR EXISTING TREES MAY NOT BE USED TO REDUCE THE REQUIRED PARKING CANOPY TREES.

20. EXISTING NATIVE TREES IN BUFFERS MAY BE USED FOR CREDIT APPLIED TO THE PERIMETER BUFFER PROVIDED THEY OCCUR WITHIN THE SAME SEGMENT (100' OR LESS) OF A REQUIRED BUFFER.

21. CREDITS WILL APPLY ONLY WHEN THE TREES ARE LABELED AS PROTECTED-CREDIT TREES. IF THE PROTECTED-CREDIT TREES DIE WITHIN 3 YEARS FROM THE DEVELOPMENT ORDER CERTIFICATE OF COMPLIANCE, THEY MUST BE REPLACED BY THE NUMBER OF CREDIT TREES TAKEN.

22. CREDITS WILL APPLY WHERE THE PRESERVED TREE IS IN A BARRICADED AREA AT LEAST 2/3 THE RADIUS OF THE DRIP LINE WITH A MIN RADIUS OF 2'.

23. FOR NATIVE PINE TREES, THE BARRICADED AREA MAY BE NO LESS THAN THE FULL DRIPLINE UNLESS OTHER MEASURES SUCH AS TIE-WALLS OR SPECIAL SLOPE TREATMENT ARE CONSTRUCTED FOR ADDITIONAL PROTECTION.

24. PRIOR TO THE LAND CLEARING STAGE OF DEVELOPMENT, TREE PROTECTIVE BARRIERS MUST BE INSTALLED PER THE DETAIL INCLUDED IN THESE DRAWINGS. FOR ALL OTHER PROTECTED VEGETATION, A BARRICADE MUST BE ERECTED AROUND THE PERIMETER OF THE VEGETATION.

25. NO ONE MAY NOT CAUSE OR PERMIT THE MOVEMENT OF EQUIPMENT OR THE STORAGE OF EQUIPMENT, MATERIAL, DEBRIS, OR FILL TO BE PLACED WITHIN THE REQUIRED PROTECTIVE BARRIER.

26. THE PROTECTED TREES AND ASSOCIATED UNDERSTORY PLANT COMMUNITIES MUST REMAIN ALIVE AND HEALTHY AT THE END OF THE CONSTRUCTION IN ORDER FOR THIS CREDIT TO APPLY.

1. PLANT MATERIALS MUST BE INSTALLED IN SOIL CONDITIONS THAT ARE CONDUCTIVE TO THEIR PROPER GROWTH. LIMEROCK LOCATED WITHIN PLANTING AREAS MUST BE REMOVED AND REPLACED WITH NATIVE OR GROWING QUALITY SOIL BEFORE PLANTING.
2. PLANTS' GROWTH HABITS MUST BE CONSIDERED IN ADVANCE OF CONFLICTS THAT MIGHT BE CREATED (E.G., VIEWS, SIGNAGE, OVERHEAD POWER LINES, LIGHTING CIRCULATION, SIDEWALKS, BUILDINGS, ETC.).
3. TREES MAY NOT BE PLACED WHERE THEY INTERFERE WITH SITE DRAINAGE, SUBSURFACE UTILITIES, OR OVERHEAD UTILITY LINES, OR WHERE THEY WILL REQUIRE FREQUENT PRUNING IN ORDER TO AVOID INTERFERENCE WITH OVERHEAD POWER LINES.
4. ALL LANDSCAPE MATERIALS MUST BE INSTALLED IN A RECOGNIZED HORTICULTURALLY CORRECT MANNER.
5. ALL LANDSCAPED AREAS MUST BE MULCHED UNLESS VEGETATIVE COVER IS ALREADY ESTABLISHED.
6. TREES AND SHRUBS USED IN BUFFERS MUST BE PLANTED IN A MIN WIDTH AREA EQUAL TO 1/2 THE REQUIRED BUFFER (NO LESS THAN 5' WIDTH).
7. ALL LANDSCAPED AREAS MUST BE PROVIDED PROTECTION FROM ENCROACHMENT BY ANY TYPE OF VEHICLE.
8. ALL REQUIRED PLANTS USED IN BUFFERS AND LANDSCAPING MUST BE INSTALLED USING FLORIDA FRIENDLY PRINCIPLES.
9. UTILITY OR DRAINAGE EASEMENTS MAY OVERLAP REQUIRED BUFFERS, NO BUFFER TREES OR SHRUBS MAY BE LOCATED IN ANY UTILITY, DRAINAGE, OR STREET EASEMENT OR RIGHT-OF-WAY.
10. TO AVOID CONFLICTS WITH OVERHEAD UTILITY LINES, ONLY TREES REACHING LESS THAN 20' OA AT MATURITY MAY BE USED DIRECTLY ADJACENT TO AN OVERHEAD LINE.
11. VARIANCES AND DEVIATIONS FROM THE REQUIREMENTS OF THE PLANT INSTALLATION AND MAINTENANCE STANDARDS ARE PROHIBITED, EXCEPT WHEN INCLUDED IN AN APPROVED ALTERNATE LANDSCAPE BETTERMENT PLAN.
12. MIN SAFE SIGHT DISTANCES MUST BE MAINTAINED IN ACCORDANCE WITH THE LDC VISIBILITY REQUIREMENTS.
13. THE OWNER IS RESPONSIBLE FOR MAINTAINING THE REQUIRED LANDSCAPING IN A HEALTHY, VIGOROUS CONDITION AT ALL TIMES. TREE AND PALM STAKING MUST BE REMOVED WITHIN 1 YEAR AFTER INSTALLATION.
14. ALL LANDSCAPING MUST BE KEPT FREE OF INVASIVE EXOTIC SPECIES, REFUSE, DEBRIS, DISEASE, PESTS, AND WEEDS. ONGOING
15. VEGETATION REQUIRED BY THIS CODE MAY ONLY BE PRUNED TO PROMOTE HEALTHY, UNIFORM, NATURAL GROWTH OF THE VEGETATION (EXCEPT WHERE NECESSARY TO PROMOTE PUBLIC HEALTH, SAFETY OR WELFARE). PRUNING MUST BE IN ACCORDANCE ANSI A300 AND THE ISA BEST MANAGEMENT PRACTICES.
16. TREES MUST NOT BE SEVERELY PRUNED TO PERMANENTLY MAINTAIN GROWTH AT A REDUCED HEIGHT OR SPREAD.
17. PRUNING MUST NOT INTERFERE WITH THE DESIGN INTENT OF THE ORIGINAL INSTALLATION.

1. THE LANDSCAPE ARCHITECT MUST INSPECT AND CERTIFY THAT ALL LANDSCAPING AND THE IRRIGATION SYSTEM ARE IN SUBSTANTIAL COMPLIANCE WITH THE APPROVED LANDSCAPE AND IRRIGATION PERMIT PLANS.
2. AN "AS-BUILT" LANDSCAPE PLAN MUST BE SUBMITTED TO HIGHLIGHT ANY CHANGES TO THE APPROVED PERMIT AND INCLUDED WITH THE CERTIFICATION.
3. ANY CHANGES TO AN "ALTERNATIVE LANDSCAPE BETTERMENT PLAN" MUST BE APPROVED BY MINOR CHANGE TO THE DEVELOPMENT ORDER.
4. THE GENERAL CERTIFICATE OF COMPLIANCE PROCEDURE OUTLINED IN THE LDC.
5. RESTORATION STANDARDS FOR INDIGENOUS PLANT COMMUNITIES.
6. A RESTORATION PLAN BASED ON THE MIN LDC STANDARDS WILL BE REQUIRED IF INDIGENOUS PLANT COMMUNITIES HAVE BEEN REMOVED WITHOUT PERMIT OR APPROVAL.
7. RESTORATION PLANTINGS FOR VEGETATION OTHER THAN TREES MUST BE NURSERY GROWN, CONTAINERIZED, AND PLANTED AT NO LESS THAN 36" OC.
8. THE NUMBER OF REPLACEMENT PLANTINGS WILL BE COMPUTED BY THE SQ FT OF THE AREA DESTROYED.
9. ALL OTHER RESTORATION CRITERIA AS SET FORTH IN THE LDC PERTAINING TO TREE PROTECTION WILL APPLY.
10. RESTORATION PLANTINGS FOR NATIVE TREES MUST BE IN COMPLIANCE WITH THE LDC STANDARDS.

1. BEACH IS THE AREA OF SAND ALONG THE GULF OF MEXICO THAT EXTENDS LANDWARD FROM THE MEAN LOW-WATER LINE TO THE PLACE WHERE THERE IS A MARKED CHANGE IN MATERIAL OR PHYSIOGRAPHIC FORM, OR TO THE LINE OF PERMANENT VEGETATION, USUALLY THE EFFECTIVE LIMIT OF STORM WAVES.

2. BEACH WIDTH MEANS THE PERPENDICULAR DISTANCE MEASURED FROM THE EDGE OF WET SAND TO THE PLACE WHERE THERE IS A MARKED CHANGE IN MATERIAL OR PHYSIOGRAPHIC FORM, USUALLY THE LINE OF PERMANENT VEGETATION, SEAWALL, TURF GRASS, ETC.

3. DUNE MEANS A MOUND, BLUFF, RIDGE, OR EMERGENT MOUND OF LOOSE SEDIMENT, USUALLY SAND-SIZED SEDIMENT, LYING UPLAND OF THE BEACH AND DEPOSITED BY ANY NATURAL OR ARTIFICIAL MECHANISM, WHICH MAY BE BARE OR COVERED WITH VEGETATION, AND IS SUBJECT TO FLUCTUATIONS IN CONFIGURATION AND LOCATION. IT ENCOMPASSES THOSE ECOLOGICAL ZONES THAT, WHEN LEFT UNDISTURBED, WILL SUPPORT DUNE VEGETATION, AS TO AREAS RESTORED OR RENOURISHED PURSUANT TO A PERMIT ISSUED BY THE TOWN OR STATE, IT ENCOMPASSES THE AREA SPECIFIED IN THE PERMIT AS A DUNE OR ANY AREA SPECIFIED AS SUITABLE FOR ESTABLISHMENT.

1. DUNE VEGETATION MEANS PIONEER SPECIES OF NATIVE VEGETATION WHICH, IF LEFT UNDISTURBED BY MANMADE FORCES, WILL BEGIN TO GROW ON A DUNE INCLUDING SPECIES SUCH AS BITTER PANICUM, COASTAL PANIC GRASS, CROWFOOT GRASS, SALTMEADOW CORDEGRASS, SANDBUR, SEACOAST BLUESTEM, SEA OTS, SEASHORE DROPSIED, SEASHORE PASPALUM, SEASHORE SALTGRASS, STIFFLEAF EUSTACHYS, BEACH BENE, BLANKET FLOWER, DUNE SUNFLOWER, FIDDLE-LEAF MORNINGGLORY, PARTRIDGE PEA, RAILROAD VINE, SEA PURSLANE, BEACH CREEPER, NICKER BEAN, COIN VINE, INKBERRY, LANTANA, SAW PALMETTO, SEASHORE ELDER, BAYCEDAR, GREEN BUTTONWOOD, CABBAGE PALM, COCOPLUM, SEAGRAPE, AND SOUTHERN WAX MYRTLE.
2. WET SAND MEANS THE POINT WHERE THE VISIBLE DARKENING OR STAINING OF THE BEACH SAND FROM WAVE ACTION IS NO LONGER DETECTABLE.
3. HAND RAKING MEANS THE USE OF A STANDARD GARDEN RAKE, PITCHFORK, POTATO FORK, OR ANY OTHER HANDHELD TOOL USED FOR THE PURPOSE OF REMOVING OR ALTERING THE "WRACK LINE."
4. MECHANICAL BEACH RAKING MEANS A METHOD OF MAINTAINING THE BEACH BY PULLING A PRONGED RAKE OR A PIECE OF CHAIN LINK FENCE THAT MEETS THE REQUIREMENTS OF THE LDC § 14-6(C). THE RAKE OR CHAIN LINK FENCE MAY BE PULLED BEHIND A TRACTOR, GOLF CAR, ATV, OR OTHER VEHICLE, AS APPROVED BY THE TOWN, WHICH MEETS THE MAXIMUM DROW-TO-TIRE PRESSURE FOUND IN THE LDC.
5. SEAWARD LINE OF VEGETATION MEANS THE LOCATION CLOSEST TO THE MEAN HIGH-WATER LINE CONTAINING, OR SUITABLE FOR, DUNE VEGETATION. IF THERE IS NO SUCH VEGETATION UPON A PARCEL OR PORTION OF A PARCEL, IT WILL ENCOMPASS A LINE ALONGSHORE PROJECTED FROM THE CLOSEST AREAS ON EACH SIDE WHERE SUCH VEGETATION DOES EXIST.
6. WET SAND MEANS THE AREA ON THE BEACH WHERE THE SAND IS SATURATED BY SEA WATER FROM WAVE ACTION. THIS AREA IS IDENTIFIED BY A VISIBLE DARKENING OR STAINING OF THE BEACH SAND FROM THE WATER DRIVEN ONSHORE BY WAVE ACTION.
7. WRACK LINE MEANS A WELL-DEFINED ZONE OF THE NATURAL ORGANIC MARINE MATERIAL CAST ON THE SHORE BY THE LAST HIGH TIDE, INCLUDING SEAWEED AND OTHER VEGETATIVE AND ANIMAL DEBRIS, BUT EXCLUDING MANMADE MATERIAL. ANY AREAS OF ORGANIC MARINE MATERIAL LEFT ON THE UPPER BEACH DUE TO ABNORMALLY HIGH SPRING TIDES, STORM TIDES, OR OTHER EXTREME CONDITIONS OR EVENTS, AS DETERMINED BY THE TOWN, ARE NOT INCLUDED IN THE DEFINITION OF "WRACK LINE."
8. IT IS UNLAWFUL AND PROHIBITED FOR ANY PERSON TO DO, CONDUCT, OR PERMIT ANY OF THE FOLLOWING ON A BEACH, UPON A DUNE, OR IN THE WATER ADJACENT TO A BEACH: PLANT VEGETATION OTHER THAN DUNE VEGETATION; DESTROY OR HARM A DUNE OR REMOVE DUNE VEGETATION; DUMP OR DISCARD OR LEAVE LITTER OR GARBAGE, TRASH OR REFUSE, VEGETATIVE CLIPPINGS, OR DEBRIS; DESTROY OR GROSSLY INTERFERE WITH THE NATURAL WRACK LINE AS BY GROOMING OR NON-SELECTIVE RAKING; EXCAVATE, MINE, AND REMOVE, OR HAUL SAND OR SOIL FROM THE BEACH OR DUNE EXCEPT IN EMERGENCY SITUATIONS AS DECLARED BY THE TOWN COUNCIL; DEPOSIT / INSTALL ROCKS, CONCRETE, OR OTHER SHORELINE STABILIZATION MATERIALS WITHOUT A PERMIT FROM DEP AND THE TOWN; DEPOSIT/ADD SAND TO THE BEACH AND DUNE SYSTEM WITHOUT A PERMIT FROM DEP.
9. ALL FILL MATERIAL SHALL BE SAND THAT IS SIMILAR TO THE EXISTING BEACH SAND IN BOTH COLORATION AND GRAIN SIZE AND BE FREE OF DEBRIS, ROCKS, CLAY, OR OTHER FOREIGN MATTER.

1. THE USE OF BOXBLADES ON THE BEACH OR DUNE IS PROHIBITED.
2. IN AN EMERGENCY AND/OR STORM EVENT RESULTING IN A BUILD-UP OF SAND AGAINST SEAWALLS, THE USE OF A BOXBLADE MAY BE ALLOWED WITH THE APPROVAL OF DEP, WHERE REQUIRED, AND UPON FILING THAT APPROVAL WITH THE TOWN MANAGER AND MEETING ANY OTHER REQUIREMENTS SET BY THE TOWN.
3. UNDER NORMAL CIRCUMSTANCES, THE RAKING OF THE WRACK LINE IS PROHIBITED.
4. NO MECHANICAL OR HAND RAKING MAY TAKE PLACE SEAWARD OF THE WRACK LINE OR WITHIN 10' LANDWARD OF THE WRACK LINE; PROVIDED THAT HAND RAKING OF THE WRACK LINE MAY BE PERFORMED ANYTIME TO AMELIORATE HAZARDOUS CONDITIONS SUCH AS REMOVAL OF SAND CASTLES OR FILLING IN OF MANMADE HOLES ON THE BEACH.
5. THE TOWN MAY APPROVE THE RAKING OF THE WRACK LINE CONDITIONED UPON PRIOR APPROVAL BY THE DEP IF IT IS DETERMINED THAT EXCESSIVE ACCUMULATION OF NATURAL OR OTHER DEBRIS CAUSED BY EXTREME EVENTS, INCLUDING, BUT NOT LIMITED TO, RED TIDE, RED ALGAE BLOOM, OR STORM-CARRIED DEBRIS, ARE PRESENT. SHOULD SUCH EXCESSIVE ACCUMULATION BE DETERMINED, THE TOWN MAY APPROVE RAKING CONSISTENT WITH THE AUTHORIZATION GIVEN BY DEP. ANY SUCH RAKING WHICH WILL RESULT IN THE UN-REIMBURSED EXPENDITURE OF TOWN FUNDS IN EXCESS OF CURRENTLY BUDGETED FUNDS SHALL FIRST BE APPROVED BY THE TOWN COUNCIL.
6. IF RAKING OCCURS DURING SEA TURTLE SEASON (MAY 1 THROUGH OCTOBER 31), THE RAKING MUST BE IN COMPLIANCE WITH THE LDC.

8. A RESTORATION PLAN SHALL BE ORDERED USING THE STANDARDS IN THIS SECTION. SUCH A RESTORATION PLAN SHALL SET FORTH REPLACEMENT OF THE SAME SPECIES OR ANY SPECIES APPROVED BY CONSENT OF THE BEFORE-MENTIONED PARTIES, OR, IF APPROPRIATE, IN ACCORDANCE WITH THE DIRECTION OF THE COURT OR SPECIAL MAGISTRATE.

9. RESTORATION PLANTINGS FOR VEGETATION OTHER THAN TREES MUST BE NURSERY GROWN, CONTAINERIZED, AND PLANTED AT A MIN DENSITY OF NO LESS THAN 1/2" OC.

10. THE NUMBER OF REPLACEMENT PLANTINGS WILL BE COMPUTED BY THE SQ FT OF THE AREA DESTROYED.

11. THE REPLACEMENT STOCK SHALL BE A 2" LINER.

12. HIGHER DENSITY PLANTINGS MAY BE REQUIRED AT THE TOWNS DISCRETION. IF THE DENSITY OR SPECIES OF THE VEGETATION CANNOT BE DETERMINED WHERE THE VIOLATION OCCURRED, THEN AN ASSUMPTION SHALL BE MADE THAT THE DENSITY AND THE SPECIES WERE THE SAME AS ON SIMILAR PROPERTIES.

13. DUNE VEGETATION ALTERATION VIOLATIONS DUE TO RAKING, EXCAVATION, AND/OR CLEARING SHALL BE RESTORED TO NATURAL GROUND ELEVATION AND SOIL CONDITIONS PRIOR TO COMMENCEMENT OF REPLANTING.

14. REPLACEMENT PLANTINGS SHALL GUARANTEE A 80 PERCENT MIN SURVIVABILITY RATE FOR A PERIOD OF NO LESS THAN 5 YEARS

15. ONLY TEMPORARY ABOVE GROUND IRRIGATION MAY BE INSTALLED AND MUST BE REMOVED NO LATER THAN 1 YEAR FROM THE INSTALLATION DATE.

ACTIVITIES THAT DESTROY WETLANDS OR IMPAIR THE FUNCTIONING OF WETLANDS ARE PROHIBITED.

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PROTECTED TREE REMOVAL.

- INDIGENOUS VEGETATION.**

- PROTECTED TREES.**

1. ANY TREE DELINEATED IN THE LDC SHALL BE A PROTECTED TREE.
2. ALL OTHER SPECIES OF TREES NOT NAMED IN THE LDC MAY BE REMOVED WITHOUT A PERMIT IN SUCH A MANNER SO AS NOT TO DISTURB OR DESTROY SURROUNDING PROTECTED TREES OR INDIGENOUS VEGETATION.

PROTECTED TREE LIST.

1. ACER RUBRUM, RHUS COPALLINA, ANNONA GLABRA, ILEX CASPINE, COCCOTRINACH ARGENTATA, COCOS NUCIFERA, ROSTKOEYA ELUTA, SABAL PALMETTO, AVICENNIA GERMINANS, CARPINUS CAROLINIANA, CORDIA SEBESTENA, BURSERA SIMARUBA, CAPPARIS CYNOPHOLOPOHYLLA, BUCIDA BUCERAS, CONOCARPUS ERECTA, LAGUNCULARIA RACEMOSA, CORNUS FOEMINA, CUPRESSACEAE, JUNIPERUS SILICICOLA, EBENACEAE, DIOSPYROS VIRGINIANA, FABAECAE, ACACIA FARNESIANA, LYSILOMA BAHAMENSIS, PISCIDIUM PISCIPULA, PITHECELLOBIUM UNGUIS-CATI, QUERCUS CHAPMANI, QUERCUS INCANA, QUERCUS LABEQUE, QUERCUS LAURIFOLIA, QUERCUS MYRTIFOLIA, QUERCUS NIGRA, QUERCUS VIRGINIANA, QUERCUS VIRGINIANA GEMINATA, LIQUIDAMBAR STYRACIFLUA, CARYA AQUATICA, CARYA GLABRA, PERSEA BORBONIA, PERSEA PALUSTRIS, MAGNOLIA GRANDIFLORA, MAGNOLIA VIRGINIANA, SWETIENIA MAHOGNI, MORACEAE, FICUS AUREA, FICUS CITRIFOLIA, MORUS RUBRA, EUGENIA AXILLARIS, EUGENIA CONFUSA, EUGENIA RHOMBEA, EUGENIA MYRTIODES, MYRTIACEANS FRAGANS, NYSSA SYLVESTRICA, XI MENIA AMERICANA, OLEACEAE, FORESTIERA SEGREGATA, FRAXINUS CAROLINIANA, PINUS ELLIOTTI VAR. DENSA, PINUS PALUSTRIS, PLATANUS OCCIDENTALIS, COCCOLOBA VULGATA, DIVERSIFOLIA, COCCOLOBA UVIFERA, RHIZOPHORA MANGLE, PRUNUS CAROLINIANA, ZANTHOXYLUM CLAVAHERCULUS, SALIX CAROLINIANA, BUMEIA CELASTRINA, BUMEIA TENAX, CHRYSOPHYLLUM OLIVIFORME, MASTICHOEDENDRON FORTISSIMUM, SIMAROUBA GLAUCA, TAXODIUM ASCENDENS, TAXODIUM DISTICHUM, GORDONIA LASIANTHUS, JACQUILINA KEYENSIS, CELTIS LAEVIATA, AND ULMUS AMERICANA.

UNLAWFUL INJURY OF TREES.

1. IT SHALL BE A VIOLATION TO REMOVE, INJURE, DISFIGURE, OR DESTROY A PROTECTED TREE IN PREPARATION FOR, IN CONNECTION WITH, OR IN ANTICIPATION OF DEVELOPMENT OF LAND, EXCEPT IN ACCORDANCE WITH THE LDC ANY PROTECTED TREE MAY BE LAWFULLY REMOVED ONLY AFTER A PERMIT THEREFOR HAS BEEN OBTAINED FROM THE TOWN ENGINEER.
2. WHERE A PROTECTED TREE IS TO BE REMOVED, THE TOWN MAY RELOCATE THE TREE AT THE TOWN'S EXPENSE WITHIN 30 WORKING DAYS.
3. FOR CLEARING PRIOR TO BUILDING PERMIT ISSUANCE, A SEPARATE TREE REMOVAL PERMIT APPLICATION MUST BE SUBMITTED.
4. NO PERMIT IS REQUIRED FOR THE REMOVAL OF UP TO 3 PROTECTED TREES DURING ANY 1 YEAR PERIOD ON A SINGLE-FAMILY RESIDENCE OR MOBILE HOME LOT.
5. PRIOR TO CLEARING, ALL PROTECTED TREES TO BE REMOVED SHALL BE CLEARLY MARKED.
6. WHERE A TREE REMOVAL PERMIT HAS NOT BEEN ISSUED, PROTECTIVE BARRIERS SHALL BE INSTALLED ACCORDING TO THE FOLLOWING: A MIN 6' RADIUS OF ALL SPECIES OF MANGROVES AND PROTECTED SABAL PALMS; MIN OF THE FULL DRIPLINE OF ALL PROTECTED NATIVE PINES; AND 2/3 OF THE DRIPLINE OF ALL OTHER PROTECTED SPECIES.
7. NO PERSON SHALL ATTACH ANY SIGN, NOTICE OR OTHER OBJECT TO ANY PROTECTED TREE OR FASTEN ANY WIRES, CABLES, NAILS, OR SCREWS TO ANY PROTECTED TREE IN ANY MANNER THAT COULD PROVE HARMFUL TO THE PROTECTED TREE, EXCEPT AS NECESSARY IN CONJUNCTION WITH ACTIVITIES IN THE PUBLIC INTEREST.
8. DURING THE CONSTRUCTION STAGE OF DEVELOPMENT, NO CLEANING OF EQUIPMENT OR MATERIAL WITHIN THE OUTSIDE PERIMETER OF THE CROWN (DRIPLINE) OR ON THE NEARBY GROUND OF ANY PROTECTED TREE OR GROUP OF TREES WHICH IS TO BE PRESERVED.
9. NO STORAGE OF BUILDING MATERIAL AND/OR EQUIPMENT, OR DISPOSAL OF WASTE MATERIAL SUCH AS PAINTS, OIL, SOLVENTS, ASPHALT, CONCRETE, MORTAR, OR ANY OTHER MATERIAL HARMFUL TO THE LIFE OF THE TREE WITHIN ITS DRIPLINE.
10. NO PERSON SHALL PERMIT ANY UNNECESSARY FIRE OR BURNING WITHIN 30' OF THE DRIPLINE OF A PROTECTED TREE.
11. ANY LANDSCAPING ACTIVITIES WITHIN THE PROTECTIVE BARRIER AREA SHALL BE ACCOMPLISHED WITH HAND LABOR.
12. ALL PROTECTED TREES DESIGNATED TO BE PRESERVED THAT WERE DESTROYED DURING CONSTRUCTION SHALL BE REPLACED BY TREES OF THE SAME SPECIES AND EQUIVALENT CAL @ DBH.
13. THE TOWN MAY CONDUCT PERIODIC INSPECTIONS OF THE SITE DURING LAND CLEARANCE AND CONSTRUCTION.
14. IF DEVELOPMENT ACTIVITIES SEVERELY STRESS SLASH PINES OR ANY OTHER PROTECTED TREE SUCH THAT THEY ARE MADE SUSCEPTIBLE TO INSECT ATTACK, PREVENTATIVE SPRAYING OF THESE TREES MAY BE REQUIRED.

RESTORATION STANDARDS.

1. A RESTORATION PLAN SHALL INCLUDE A PLANTING PLAN FOR ALL PROTECTED TREES.
2. REPLACEMENT STOCK SHALL BE COMPUTED ON 3:1 BASIS ACCORDING TO THE TOTAL NUMBER OF UNLAWFULLY REMOVED TREES.
3. REPLACEMENT TREES SHALL BE NURSERY GROWN, CONTAINERIZED, AND NO LESS THAN 6' OA.
4. UNDERSTORY VEGETATION SHALL BE RESTORED TO THE AREA FROM WHICH PROTECTED TREES WERE UNLAWFULLY REMOVED OR MUTILATED.
5. GROUND COVER AND GRASSES PLANT SELECTION SHALL BE BASED ON FLUCOS CODES.
6. UP TO 7 SPECIES SHALL BE UTILIZED WITH RELATIVE PROPORTIONS OF FLUCOS CHARACTERISTIC. THE EXACT NUMBER AND TYPE OF SPECIES REQUIRED SHALL ALSO BE BASED UPON THE EXISTING INDIGENOUS VEGETATION ON ADJACENT PROPERTY. REPLACEMENT STOCK SHALL BE NO LESS THAN 1 GAL, NURSERY-GROWN CONTAINERIZED STOCK PLANTED AT NO LESS THAN 3' OC IN THE AREA FROM WHICH PROTECTED TREES WERE UNLAWFULLY REMOVED / DAMAGED.
7. THIS AREA SHALL BE DEFINED BY THE DRIPLINE OF THE TREES. THE NUMBER OF SHRUBS SHALL NOT EXCEED, BUT MAY BE LESS THAN, 25 SHRUBS PER TREE UNLAWFULLY REMOVED OR DAMAGED.
8. THE UNDERSTORY OF THE RESTORED SITE SHALL BE PROTECTED FOR A PERIOD OF NO LESS THAN 10 YEARS, UNLESS ITS REMOVAL IS A PROVISION OF AN APPROVED DO AFTER THE RESTORATION OF THE SITE.
9. IF THE UNLAWFUL REMOVAL OF TREES HAS CAUSED ANY CHANGE IN HYDROLOGY, THEN THE HYDROLOGY SHALL BE RESTORED TO PRE-VIOLATION CONDITION.
10. REPLACEMENT STOCK SHALL BE FLORIDA NO. 1 OR BETTER GRADE WITH 80% SURVIVABILITY FOR A PERIOD OF NO LESS THAN 5 YEARS.
11. A MAINTENANCE PROVISION OF NO LESS THAN 5 YEARS MUST BE PROVIDED IN THE RESTORATION PLAN TO CONTROL INVASION OF EXOTIC VEGETATION.
12. REPLACEMENT STOCK SHALL NOT BE LOCATED ON ANY PROPERTY LINE, OR IN ANY UTILITY EASEMENT THAT PROHIBITS SUCH PLANTINGS.
13. THE RESTORATION PLAN SHALL INDICATE THE LOCATION OF THE REPLACEMENT STOCK CONSISTENT.
14. IF IDENTIFICATION OF THE SPECIES OF PROTECTED TREES THAT WERE UNLAWFULLY REMOVED IS IMPOSSIBLE, THEN A PRESUMPTION IS OF A SIMILAR SPECIES AND MIX AS THOSE FOUND ON ADJACENT PROPERTIES.
15. NO ONE SHALL DELIBERATELY CUT DOWN, DAMAGE, DESTROY, REMOVE, RELOCATE, DEFOLIATE THROUGH THE USE OF CHEMICALS OR OTHER METHODS WITHOUT FIRST OBTAINING A PERMIT. ITEMS REQUIRED FOR A TREE REMOVAL PERMIT SHALL INCLUDE: A SITE PLAN WITH THE SHAPE AND DIMENSIONS OF THE LOT OR PARCEL WITH THE EXISTING AND PROPOSED STRUCTURES AND IMPROVEMENTS; A TREE LOCATION MAP FOR THE REMOVAL OF 3 PROTECTED TREES OR LESS; ANY PROPOSED GRADE CHANGES THAT MIGHT ADVERSELY AFFECT OR ENDANGER ANY PROTECTED TREES WITH SPECIFICATIONS REFLECTING HOW THE TREES CAN BE SAFELY MAINTAINED; AND A TREE REPLACEMENT PLAN.
17. APPROVAL MAY BE GRANTED FOR A PERMIT FOR THE REMOVAL OF ANY PROTECTED TREE IF: TREES WHICH POSE A SAFETY HAZARD TO PEDESTRIAN OR VEHICULAR TRAFFIC OR THREATEN TO CAUSE DISRUPTION TO PUBLIC UTILITY SERVICES; TREES WHICH POSE A SAFETY HAZARD TO EXISTING BUILDINGS OR STRUCTURES; TREES WHICH, IF NOT REMOVED, WOULD PRECLUDE VEHICULAR ACCESS TO A LOT OR PARCEL; DISEASED TREES WHICH ARE A HAZARD TO PEOPLE, BUILDINGS OR OTHER IMPROVEMENTS ON A LOT OR PARCEL OR TO OTHER TREES; TREES SO WEAKENED BY AGE, STORM, FIRE, OR OTHER INJURY AS TO JEOPARDIZE THE LIFE AND LIMB OF PERSONS OR CAUSE A HAZARD TO PROPERTY; AND TREES THAT WOULD NOT ALLOW A LANDOWNER NO BENEFICIAL USE OF A LOT OR PARCEL OR WOULD PLACE AN INORDINATE BURDEN ON THE LANDOWNER.

MANGROVE ENFORCEMENT.

1. THE RESTORATION PLAN SHALL INCLUDE THE FOLLOWING MIN PLANTING STANDARDS: 3:1 REPLACEMENT RATIO; IF THE NUMBER OF ALTERED MANGROVES CANNOT BE DETERMINED, THEN THE REQUIRED NUMBER OF REPLACEMENT STOCK SHALL BE COMPUTED ACCORDING TO THE TOTAL AREA WHEREIN ALL MANGROVES WERE

UNLAWFULLY ALTERED; THE REPLACEMENT STOCK SHALL BE CONTAINER GROWN MANGROVES NO LESS THAN 1 YEAR OLD AND 24" O.A; REPLACEMENT MANGROVES SHALL BE PLANTED AT A MIN DENSITY OF 36" OC.; AND IF THE DENSITY OF MANGROVES CANNOT BE DETERMINED WHERE THE VIOLATION OCCURRED, THEN AN ASSUMPTION SHALL BE MADE THAT THE DENSITY WAS THE SAME AS ON ADJACENT PROPERTIES.

MANGROVE ALTERATION VIOLATIONS DUE TO FILLING, EXCAVATION, DRAINAGE, AND/OR CLEARING SHALL BE RESTORED TO NATURAL GROUND ELEVATION AND SOIL CONDITIONS PRIOR TO COMMENCEMENT OF REPLANTING.

REPLACEMENT STOCK SHALL NOT BE LOCATED ON ANY PROPERTY LINE, OR IN ANY UTILITY EASEMENT THAT PROHIBITS SUCH PLANTINGS.

IN THE EVENT THAT THE SPECIES OF MANGROVE CANNOT BE IDENTIFIED ON PROPERTY WHEREIN MANGROVES WERE ALTERED IN VIOLATION OF THIS ARTICLE, THEN A PRESUMPTION SHALL BE MADE THAT THE MANGROVES ILLEGALLY ALTERED WERE OF A SIMILAR SPECIES AND DISTRIBUTION AS THOSE FOUND ON ADJACENT PROPERTIES.

REPLACEMENT PLANTINGS SHALL HAVE A MIN OF 80% SURVIVAL AT THE END OF 5 YEARS. HOWEVER, SUCCESS WILL BE EVALUATED ON AN ANNUAL BASIS.

THE RESTORATION PLAN SHALL INCLUDE A MAINTENANCE PROVISION OF NO LESS THAN 5 YEARS FOR THE CONTROL OF INVASIVE EXOTIC VEGETATION.

NO ONE SHALL ALTER ANY MANGROVE TREE LOCATED IN THE INCORPORATED AREA, WITHOUT FIRST OBTAINING A PERMIT, WHERE APPLICABLE, FROM THE STATE DEPARTMENT OF ENVIRONMENTAL WHENEVER THE REQUIREMENTS OR PROVISIONS OF THIS ARTICLE ARE IN CONFLICT WITH THE REQUIREMENTS OR PROVISIONS OF ANY OTHER LAWFULLY ADOPTED ORDINANCE. THE MOST RESTRICTIVE REQUIREMENTS SHALL APPLY.

SIGNS.

1. A LANDSCAPE PLAN FOR SIGN INSTALLATIONS IS REQUIRED

SURFACE WATER MANAGEMENT SYSTEMS.

1. SHORELINES MUST BE SINUOUS.
2. THE PLS SHORELINE LENGTH MUST EQUAL 25% OF THE TOTAL LIN FT OF THE LAKE'S CONTROL ELEVATION.
3. THE PLS SHOULD BE CONCENTRATED AT ONE LOCATION OF THE LAKE AND MUST BE LOCATED AWAY FROM RESIDENTIAL LOTS. THE PLS MAY BE LOCATED ADJACENT TO CONTROL STRUCTURES BUT MAY NOT IMPEDE FLOW.
4. THE REQUIRED PLS MAY BE DIVIDED AND PLACED IN MULTIPLE LOCATIONS AS LONG AS NO PLS AREA IS SMALLER THAN 1,000 SQ FT.
5. THE PLS MUST HAVE SLOPES FROM 6:1 TO 4:1 AND EXTEND A MIN OF A 20' WATERWARD OF CONTROL ELEVATION AT A MAX DEPTH OF 2' BELOW THE CONTROL ELEVATION. A DETAILED CROSS SECTION MUST BE PROVIDED IN THE PERMIT PLANS.
6. THE PLS AREAS MUST BE PLANTED WITH A MIN 4 NATIVE HERBACEOUS PLANT SPECIES SELECTED SURVIVAL BASED UPON THE EXPECTED WATER LEVEL FLUCTUATIONS AND MAX DEPTHS. THE LITTORALS MIN SIZE IS A 2' LINER
7. THE REQUIRED NUMBER OF LITTORALS EQUAL A 2' OC SPACING FOR THE ENTIRE AREA OF THE PLS. THE TOTAL NUMBER OF PLANTS FOR THE PLS IS CALCULATED BY MULTIPLYING THE TOTAL LIN FT OF CONTROL BY 25%, THEN MULTIPLIED BY THE 20' SHELF AND THEN DIVIDED BY 4 TO OBTAIN THE 2' OC REQUIREMENT.
8. NATIVE WETLAND TREES MAY BE SUBSTITUTED FOR UP TO 25% OF THE TOTAL NUMBER OF HERBACEOUS PLANTS REQUIRED AT 1 TREE (MIN 10' OA; 2" CAL, WITH A 4' SPREAD) PER 100 HERBACEOUS PLANTS.
9. TREES AND HERBACEOUS PLANTS MUST BE MAINTAINED IN PERPETUITY.
10. HARDENED SHORELINE STRUCTURES (BULKHEADS, GEO-TEXTILE TUBES, RIPRAP) MAY COMPRISE UP TO 20% OF AN INDIVIDUAL LAKE SHORELINE AND CANNOT USED ADJACENT TO SINGLE-FAMILY RESIDENTIAL USES. A 5' COMPENSATORY LITTORAL SHELF PLANTED WITH HERBACEOUS WETLAND PLANTS EQUAL TO THE LIN FT OF THE SHORELINE STRUCTURE MUST BE PROVIDED WITHIN THE SAME LAKE. THE REQUIRED LITTORALS FOR THIS SHELF EQUAL MULTIPLYING THE 5' LITTORAL SHELF WIDTH TIMES THE LENGTH DIVIDED BY 4 TO OBTAIN THE 2' OC REQUIREMENT.

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GENERAL.

3. THE CONTRACTOR SHALL BE RESPONSIBLE TO REVIEW AND IMPLEMENT ALL OF THE SPECIFICATIONS WITHIN THESE PLANS AND THE WRITTEN SPECIFICATIONS IN THE PROJECT MANUAL (IF PROVIDED).
4. THESE PLANS AND PROJECT MANUAL (IF PROVIDED) ARE INCLUDED AS PART OF THE CONTRACT DOCUMENTS AND ARE CONTRACTUALLY BINDING.
5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL APPLICABLE PERMITS.
6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE LOCATION OF ALL UTILITIES BOTH UNDERGROUND AND OVERHEAD PRIOR TO THE COMMENCEMENT OF ANY WORK.
7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND SERVICES THROUGHOUT THE COURSE OF WORK.
8. ALL LANDSCAPE AREAS (EXCEPT FOR PLANTING BEDS) SHALL BE SODDED WITH FLORATAM ST. AUGUSTINE UNLESS OTHERWISE INDICATED ON THE PLANS OR APPROVED IN WRITING BY RWA, INC.
9. CONTRACTOR SHALL NOTIFY RWA, INC. OF ANY CONFLICTS OF THE PLANS AND THE SITE CONDITIONS. FAILURE TO DO SO SHALL MAKE THE CONTRACTOR LIABLE FOR ANY NECESSARY MODIFICATIONS AT THE CONTRACTOR'S EXPENSE.
10. THE CONTRACTOR IS RESPONSIBLE TO VISIT THE SITE, POTHOLE AREAS OF CONCERN, AND PERFORM THE NECESSARY DUE DILIGENCE PRIOR TO BIDDING. FAILURE TO DO SO SHALL MAKE THE CONTRACTOR LIABLE FOR ANY NECESSARY MODIFICATIONS AT THE CONTRACTOR'S EXPENSE IF DEEMED POTENTIALLY FORESEEN.
11. ANY / ALL QUANTITIES SHOWN IN THESE DRAWINGS ARE PROVIDED FOR CONVENIENCE PURPOSES ONLY.
12. IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY ALL QUANTITIES PRIOR TO BIDDING.
13. FAILURE TO VERIFY QUANTITIES SHALL MAKE THE CONTRACTOR LIABLE FOR ANY OMISSIONS.
14. CONTRACTOR SHALL GET APPROVAL OF FINE GRADING FROM RWA, INC. PRIOR TO THE INSTALLATION OF SOD OR ANY PLANT MATERIALS.
15. GRADING FOR LANDSCAPE BERMING SHOWN ON THESE PLANS AND IN DETAILS IS APPROXIMATE ONLY TO ENSURE DESIGN INTENT.
16. CONTRACTOR SHALL CONFER WITH RWA, INC. PRIOR TO COMMENCING THIS WORK TO CONFIRM ACTUAL SHAPES AND ELEVATIONS OF THE LANDSCAPE BERMING.
17. THE CONTRACTOR SHALL BE THE RESPONSIBILITY TO FINE GRADE ALL THE LANDSCAPE AREAS REMOVING ALL MOUNDS, DEPRESSIONS, ROCKS, STICKS, OR OTHER DEBRIS PRIOR TO THE INSTALLATION OF SOD AND PLANT MATERIAL.
18. THE CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING POSITIVE SHEET FLOW DRAINAGE AWAY FROM ALL STRUCTURES AND ROOTZONES.
19. THE CONTRACTOR SHALL COORDINATE ALL WORK WITH ALL TRADES SO AS TO AVOID ANY CONFLICT WITH THE EXECUTION OF WORK BY OTHERS.
20. OWNER SHALL NOT BE RESPONSIBLE FOR THE DAMAGE TO PLANT MATERIALS CAUSED BY OTHER TRADES OR SUBCONTRACTORS.
21. THE CONDITION AND FINAL LOCATION OF PLANT MATERIAL SHALL BE EVALUATED AND CONFIRMED BY RWA, INC.

PLANT MATERIALS.

1. ALL PLANT MATERIALS SHALL BE TRUE TO SPECIES AND CONFORM TO THE MINIMUM SIZES AS INDICATED IN THESE PLANS.
2. NO SUBSTITUTIONS SHALL BE ALLOWED UNLESS OTHERWISE APPROVED IN WRITING BY RWA, INC
3. ALL PLANT MATERIALS SHALL BE FLORIDA GRADE #1 OR BETTER IN ACCORDANCE WITH THE GRADES AND STANDARDS
4. FOR NURSERY PLANTS AS DETERMINED BY THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF PLANT INDUSTRY UNLESS OTHERWISE APPROVED IN WRITING BY RWA, INC
5. ALL PLANT MATERIALS SHALL BE DISEASE FREE, INSECT FREE, HEALTHY, WELL-BRANCHED, AND GROWING VIGOROUSLY.
6. ALL PLANT MATERIALS SHALL BE SUBJECT TO RWA, INC'S FINAL APPROVAL.
7. ANY REJECTED PLANT MATERIAL SHALL BE REPLACED AT THE CONTRACTOR'S EXPENSE.
8. A "SPECIMEN" DESIGNATION FOR ANY PLANT MATERIAL REQUIRES IT TO BE GROWN AND PROPERLY PRUNED TO POSSESS SUPERIOR FORM, BRANCHING, COMPACTNESS, SYMMETRY, AND SHALL CONFORM TO FLORIDA FANCY IN ACCORDANCE WITH THE GRADES AND STANDARDS FOR NURSERY PLANTS AS DETERMINED BY THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF PLANT INDUSTRY.
9. TREES PLANTED IN ROWS SHALL BE UNIFORMLY MATCHED IN SIZE AND SHAPE UNLESS OTHERWISE SPECIFIED IN THE PLANS.
10. RWA, INC RESERVES THE RIGHT REQUIRE THE CONTRACTOR TO RELOCATE AND / OR REPOSITION ANY PLANT MATERIAL AS REQUIRED DUE TO THE SITE CONDITIONS DURING CONSTRUCTION.
11. SINGLE TRUNK TREES SHALL HAVE A STRAIGHT, CENTRAL LEADER WITH UNIFORM BRANCHING UNLESS OTHERWISE SPECIFIED IN THESE PLANS.
12. MULTI-TRUNK TREES ARE TO HAVE 3-5 EQUAL SIZED TRUNKS WITH UNIFORM BRANCHING UNLESS OTHERWISE SPECIFIED IN THESE PLANS.
13. PLANT MATERIALS WITH MARRED, SEVERELY SCARRED, OR BURNED TRUNKS SHALL BE REJECTED.
14. PLANTS SHALL BE PRUNED PRIOR TO DELIVERY ONLY IN ACCORDANCE WITH INTERNATIONAL SOCIETY OF ARBORIST (ISA) GUIDELINES TO INSURE PROPER HEALTH AND VIGOROUS GROWTH.
15. ANY OTHER SUBSEQUENT PRUNING REQUIRED AFTER PLANT MATERIAL ARRIVAL TO THE PROJECT SITE SHALL BE APPROVED PRIOR BY RWA, INC
16. PLANT MATERIALS ARE TO BE HANDLED IN A MANNER TO ENSURE FULL PROTECTION TO THE TRUNKS, LIMBS, LEAVES, AND ROOTS.
17. ANY SIGNS OF MISHANDLING OF PLANT MATERIALS SHALL CAUSE THE REJECTION OF THE SAID PLANT MATERIAL UNLESS OTHERWISE APPROVED IN WRITING BY RWA, INC
18. ALL PLANT MATERIAL SIZES SPECIFIED IN THESE DRAWINGS ARE MINIMUMS.
19. THE CONTRACTOR SHALL BE RESPONSIBLE TO MEET OR EXCEED THE SPECIFIED SIZES OF HEIGHT, SPREAD, AND CALIPER. CONTRACTOR IS RESPONSIBLE TO TAKE THIS IN CONSIDERATION IN THE BIDDING PROCESS AND NOTIFY RWA, INC OF MATERIAL AVAILABILITY ISSUES. FAILURE TO DO SO, SHALL CONTRACTUALLY BIND THE CONTRACTOR TO PROVIDE THE REQUIRED SPECIES AND SIZE.
20. ANY INCIDENTAL MATERIAL COST INCREASES TO PROVIDE THE REQUIRED SPECIES AND SIZE SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR IF NOT STATED IN WRITING PRIOR TO BIDDING.
21. WHEN A HEIGHT, SPREAD, AND / OR CALIPER IS IN CONFLICT WITH A SPECIFIED CONTAINER SIZE, THE CONTRACTOR SHALL BE REQUIRED TO MEET THE FORMER OF THE SPECIFICATIONS AND INSTALL AN APPROPRIATELY SIZED CONTAINER PLANT MATERIAL TO COMPLY WITH THE HEIGHT, SPREAD, OR CALIPER AS SPECIFIED IN THESE DRAWINGS.
22. ANY REFERENCE TO CONTAINER SIZES IN THESE DRAWINGS ARE MINIMUMS REQUIRED FOR PROPER ROOT DEVELOPMENT.
23. A SMALLER CONTAINER SIZE SHALL NOT BE INSTALLED WITHOUT WRITTEN APPROVAL FROM RWA, INC
24. ALL BALLED AND BURLAPPED PLANT MATERIALS SHALL BE FRESHLY DUG, SOUND / SECURE IN THE ROOTBALL, AND POSSESS AN ADEQUATE ROOT SYSTEM TO ENSURE VIGOR. PREVIOUS ROOT PRUNING IS HIGHLY SUGGESTED.
25. ALL BIO-DEGRADABLE BURLAP SHALL BE CAREFULLY REMOVED FROM THE TOP ONE-THIRD (1/3) OF THE ROOTBALL AND TUCKED IN THE PLANTING PIT AS NOT TO BE EXPOSED TO AIR.
26. REMOVAL OF THE BIO-DEGRADABLE BURLAP SHALL BE PERFORMED IN SUCH A MANNER AS NOT TO DAMAGE ANY FEEDER ROOTS.
27. ALL NON-BIODEGRADABLE BURLAP, ROPE, AND GROW BAGS SHALL BE COMPLETELY REMOVED FROM THE PLANTING PIT.
28. ALL BALLED & BURLAPPED STOCK THAT IS NOT IMMEDIATELY PLANTED (THE DAY OF DELIVERY), SHALL BE HEALED IN AND THOROUGHLY WATERED UNTIL PLANTING. FAILURE TO DO SO, MADE NECESSITATE THE REJECTION OF ANY UNPROTECTED PLANT MATERIALS.
29. LIFTING, MOVING, OR ADJUSTING THE PLANT MATERIAL BY THE TRUNK SHALL BE PROHIBITED UNLESS OTHERWISE APPROVED IN WRITING BY RWA, INC
30. ALL CONTAINER GROWN PLANT MATERIAL SHALL BE WELL-ROOTED, NOT ROOT BOUND, AND GROWN IN THE SAME CONTAINER WHICH IT IS DELIVERED TO THE PROJECT SITE. LIFTING AND MOVING OF THE PLANT MATERIALS SHALL BE BY THE CONTAINER ONLY.
31. ALL CONTAINER GROWN PLANT MATERIAL THAT IS NOT IMMEDIATELY PLANTED, SHALL BE WATERED THOROUGHLY AND STORED IN A MANNER AS TO SHADE THE CONTAINERS FROM DIRECT SUNLIGHT TO MINIMIZE ROOT DAMAGE.
32. ALL CONTAINER GROWN PLANT MATERIAL SHALL BE THOROUGHLY WATERED IN THEIR RESPECTIVE CONTAINERS IMMEDIATELY PRIOR TO INSTALLATION.
33. TREE HEIGHTS SHALL BE MEASURED FROM GROUND TO THE AVERAGE BRANCH HEIGHT OF THE CANOPY.
34. SPREAD SHALL BE MEASURED TO THE END OF BRANCHING EQUALLY AROUND THE CROWN FROM THE CENTER OF THE TRUNK AND SHALL NOT INCLUDE ANY TERMINAL GROWTH.
35. SHRUB HEIGHTS SHALL BE MEASURED FROM THE GROUND TO THE AVERAGE POINT WHERE MATURE PLANT GROWTH STOPS.
36. SPREAD SHALL BE MEASURED TO THE END OF BRANCHING EQUALLY AROUND THE SHRUB MASS.
37. MEASUREMENT SHALL NOT INCLUDE ANY TERMINAL GROWTH.
38. PALMS SHALL BE MEASURED BY THREE HEIGHT CLASSIFICATIONS AS SPECIFIED IN THESE PLANS BASED ON SPECIES:
39. OVERALL HEIGHT (OA) SHALL BE MEASURED FROM THE FROM THE GROUND TO THE AVERAGE FROND HEIGHT AT TIME OF INSTALLATION.
40. CLEAR TRUNK (CT) SHALL BE MEASURED FROM THE GROUND AT TIME OF INSTALLATION TO THE BOTTOM OF THE FROND SHEATH.
41. GRAY WOOD (GW) SHALL BE MEASURED FROM THE GROUND AT TIME OF INSTALLATION TO THE TOP OF HARDENED WOOD.

PLANTING BED SOIL AND PIT PLANTING BACKFILL MATERIALS.

1. PLANTING BED SOIL AND PIT PLANTING BACKFILL MATERIALS SHALL BE FREE FROM HEAVY CLAY, STONES, LIMESTONE, LUMPS, PLANTS, ROOTS OR OTHER FOREIGN MATERIALS AND NOXIOUS VEGETATION.
2. PLANTING BED SOIL AND PIT PLANTING BACKFILL MATERIALS SHALL NOT CONTAIN TOXIC SUBSTANCES WHICH MAY BE HARMFUL TO PLANT GROWTH.
3. PIT PLANTING BACKFILL MATERIALS SHALL BE A FERTILE, FRIABLE, NATIVE SOIL, ORGANIC AMENDMENTS (IF REQUIRED)
4. WITHOUT MIXTURE OF SUBSOIL MATERIALS.
5. PIT PLANTING BACKFILL MATERIALS FOR FIELD GROWN PLANT MATERIALS SHALL BE NATIVE SOIL FROM THE EXCAVATION OF THE PLANTING PIT PIT PLANTING

BACKFILL MATERIALS FOR CONTAINER GROWN PLANT MATERIALS SHALL BE AMENDED TO A RATIO OF ONE HALF (1/2) NATIVE SOIL & ONE HALF (1/2) APPROVED ORGANIC.

7. AMEND PLANTING BEDS WITH 3" MINIMUM OF APPROVED ORGANICS AND OCOTILLO TO A DEPTH OF 6".
8. GRADE PLANTING BEDS AS TO ASSURE PROPER DRAINAGE AWAY FROM PLANT MATERIALS AND STRUCTURES.
9. INCORPORATE A COMPLETE SLOW RELEASE FERTILIZER BY TILLING.
10. INSTALL OTHER REQUIRED SOIL AMENDMENTS PER MANUFACTURER'S OR INDEPENDENT LAB'S RECOMMENDATIONS TO ACHIEVE OPTIMAL PH LEVELS (5.5-6.5) WITHIN THREE (3) MONTHS OF PLANTING.
11. THE RESULTS OF PRE AND POST SOIL MODIFICATION TESTING SHALL BE SUBMITTED TO RWA, INC'S FOR APPROVAL PRIOR TO PLANTING.
12. SELECT AND MIX TESTING SAMPLES' LOCATIONS BASED ON LIKE PLANTING CONDITIONS AND AREA PROXIMITY.
13. ALL GRADING AND BED PREPARATION SHALL BE SUBJECT TO MORRIS-DEFEW ASSOCIATES, INC FINAL APPROVAL.
14. ANY REJECTED GRADING AND BED PREPARATION SHALL BE REMEDIATED AT THE CONTRACTORS EXPENSE.
15. PLANTING BED SOIL AND PIT PLANTING BACKFILL MATERIALS :
16. PLANTING BED SOIL AND PIT PLANTING BACKFILL MATERIALS SHALL BE FREE FROM HEAVY CLAY, STONES, LIMESTONE, LUMPS, PLANTS, ROOTS OR OTHER FOREIGN MATERIALS AND NOXIOUS VEGETATION.
17. PLANTING BED SOIL AND PIT PLANTING BACKFILL MATERIALS SHALL NOT CONTAIN TOXIC SUBSTANCES WHICH MAY BE HARMFUL TO PLANT GROWTH.
18. PIT PLANTING BACKFILL MATERIALS SHALL BE A FERTILE, FRIABLE, NATIVE SOIL, ORGANIC AMENDMENTS (IF REQUIRED) WITHOUT MIXTURE OF SUBSOIL MATERIALS.
19. PIT PLANTING BACKFILL MATERIALS FOR FIELD GROWN PLANT MATERIALS SHALL BE NATIVE SOIL FROM THE EXCAVATION OF THE PLANTING PIT
20. PIT PLANTING BACKFILL MATERIALS FOR CONTAINER GROWN PLANT MATERIALS SHALL BE AMENDED TO A RATIO OF ONE HALF (1/2) NATIVE SOIL & ONE HALF (1/2)APPROVED ORGANIC.
21. AMEND PLANTING BEDS WITH 3" MINIMUM OF APPROVED ORGANICS AND ROTO TILL TO A DEPTH OF 6".
22. GRADE PLANTING BEDS AS TO ASSURE PROPER DRAINAGE AWAY FROM PLANT MATERIALS AND STRUCTURES.
23. INCORPORATE A COMPLETE SLOW RELEASE FERTILIZER BY TILLING.
24. INSTALL OTHER REQUIRED SOIL AMENDMENTS PER MANUFACTURER'S OR INDEPENDENT LAB'S RECOMMENDATIONS TO
25. ACHIEVE OPTIMAL PH LEVELS (5.5-6.5) WITHIN THREE (3) MONTHS OF PLANTING.
26. THE RESULTS OF PRE AND POST SOIL MODIFICATION TESTING SHALL BE SUBMITTED TO RWA, INC'S
27. FOR APPROVAL PRIOR TO PLANTING.
28. SELECT AND MIX TESTING SAMPLES' LOCATIONS BASED ON LIKE PLANTING CONDITIONS AND AREA PROXIMITY.
29. ALL GRADING AND BED PREPARATION SHALL BE SUBJECT TO MORRIS-DEFEW ASSOCIATES, INC FINAL APPROVAL.
30. ANY REJECTED GRADING AND BED PREPARATION SHALL BE REMEDIATED AT THE CONTRACTORS EXPENSE.

COMMERCIAL FERTILIZER.

1. FERTILIZERS SHALL BE UNIFORM IN COMPOSITION, DRY, AND FREE FLOWING AND DELIVERED TO THE SITE IN ORIGINAL UNOPENED BAGS BEARING ALL THE MANUFACTURER'S LABELS.
2. ALL FERTILIZER IS TO BE SLOW RELEASE AND COMPLETE WITH NECESSARY MICRONESIAN.
3. AFTER INSTALLATION, FERTILIZER SHALL BE CLEANED FROM ALL HARDSCAPES SURFACES AND WATERED IN THOROUGHLY PER MANUFACTURER'S SPECIFICATIONS.
4. TREES AND SHRUBS MIXTURE SHALL CONSIST OF A SLOW RELEASE THE FORMULATION OF THREE (3) PARTS NITROGEN TO ONE (1) PART PHOSPHOROUS TO TWO (2) PARTS POTASSIUM (3-2 RATIO) AT A RATE OF FOUR TO SIX (4-6) POUNDS PER ONE HUNDRED (100) SQUARE FEET .
5. ALL TREES AND SHRUBS SHALL BE FERTILIZED BY MONTHLY DURING THE GROWING SEASON AT A RATE OF FOUR TO SIX (4-6) POUNDS PER ONE HUNDRED (100) SQUARE FEET OF BEDS / TREE CANOPY (THREE (3) FEET FORM BASE TO DRILLIN) OR PER MANUFACTURE'S RECOMMENDATION.
6. SOD FERTILIZER SHALL BE TURF SPECIFIC FOR ESTABLISHING NEW LAWNS AND APPLIED PER MANUFACTURE'S RECOMMENDATION.
8. UPON ESTABLISHMENT, THE TURF SHALL BE FERTILIZED AT A RATE OF ONE (1) POUND OF ACTUAL NITROGEN PER THOUSAND (1000) SQUARE FEET OR PER MANUFACTURE'S RECOMMENDATION.
9. BAHIA TURF SHALL RECEIVE FERTILIZATION AT A HALF (1/2) RATE OF POUND OF ACTUAL NITROGEN PER THOUSAND (1000) SQUARE FEET OR PER MANUFACTURE'S RECOMMENDATIONS.
10. APPLY ONE HALF (1/2) POUND OF A PALM SPECIFIC ONE (1) PART NITROGEN TO ONE (1) PART POTASSIUM WITH THREE TENTHS (0.3) PARTS MAGNESIUM FERTILIZER FOR ALL ESTABLISHED PALMS PER TWO (2) OF HEIGHT OR PER MANUFACTURE'S
11. RECOMMENDATION.

MULCH.

1. MULCH MATERIAL SHALL BE FORESTRY RESOURCES VITA MULCH, OR AS SPECIFIED ON THE DRAWINGS, OR APPROVED SUBSTITUTE PRIOR TO PROCUREMENT BY RWA, INC IN WRITING.
2. MULCH MATERIAL SHALL BE UNIFORM, FREE FROM WEED SEEDS, AND CLEAN OF DEBRIS.
3. MULCH MATERIAL SHALL BE APPLIED UNIFORMLY TO A MINIMUM 3" SETTLED DEPTH AFTER WATERING IN.
4. A 12" X 24" RUA SHALL BE MAINTAINED ALONG THE ENTIRE EDGE OF THE PLANTING BED.
5. MULCH SHALL NOT BE PLACED WITHIN 3" FROM SHRUB CROWNS AND 6" FROM TREE AND PALM TRUNKS.
6. SNAPSHOT OR APPROVED EQUAL IN WRITING BY MORRIS-DEWEY ASSOCIATES, INC PRIOR TO PROCUREMENT SHALL BE APPLIED PER MANUFACTURER'S RECOMMENDATIONS PRIOR TO INSTALLATION OF MULCH.
7. NO MULCH SHALL BE APPLIED TO ANY PLANTINGS LOCATED WITHIN A STORMWATER MANAGEMENT AREA.

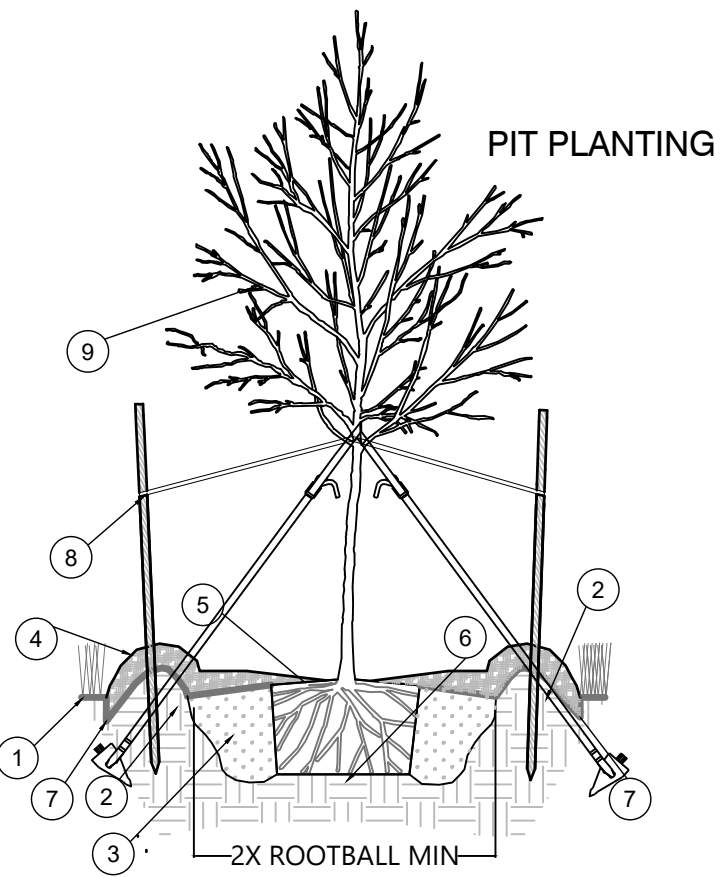
SOD.

1. ALL SOD SHALL BE FLORATAM ST. AUGUSTINE UNLESS OTHERWISE STATED IN THESE PLANS.
2. ALL SOD SHALL MEET FLORIDA STATE PLANT BOARD SPECIFICATIONS, ABSOLUTELY TRUE TO VARIETY TYPE.
3. ALL SOD SHALL BE HEALTHY, WEED-FREE, INSECT-FREE AND DISEASE FREE.
4. ALL SOD JOINTS SHALL BE STAGGERED IN A RUNNING BOND PATTERN, AND INSTALLED BUTT TIGHT TO MINIMIZE AIR GAPS.
5. THE GRADE SHALL BE SMOOTH, FREE OF DEBRIS, POSITIVELY DRAINED, AND MOIST PRIOR TO SOD INSTALLATION.
6. ALL SOD JOINTS SHALL BE STAGGERED IN A "RUNNING BOND" PATTERN.
7. GAPS BETWEEN THE JOINTS SHALL NOT BE ACCEPTED.
8. ALL CUT PIECES OF SOD LESS THAN ONE HALF (1/2) A PIECE SHALL BE INSTALLED BETWEEN TWO (2) FULL PIECES TO INCREASE SURVIVABILITY.
9. THE SOD SHALL BE ROLLED IN TWO (2) DIRECTIONS PERPENDICULAR FROM ONE ANOTHER AFTER INSTALLATION AND WATER APPLICATION TO ENSURE PROPER GROUND CONTACT.
10. IN AREAS WHERE A ROLLER CANNOT BE USED, HAND TAMPING SHALL BE REQUIRED.
11. SOD SHALL BE INSTALLED AND WATERED WITHIN 24 HOURS AFTER HARVESTING.
12. ANY SOD LEFT ON A PALLET LONGER THAN TWENTY FOUR HOURS SHALL BE REJECTED AT THE CONTRACTOR'S EXPENSE.
13. ALL SOD SHALL BE SUBJECT TO RWA, INC FINAL APPROVAL.
14. ANY REJECTED SOD SHALL BE REPLACED AT THE CONTRACTORS EXPENSE.

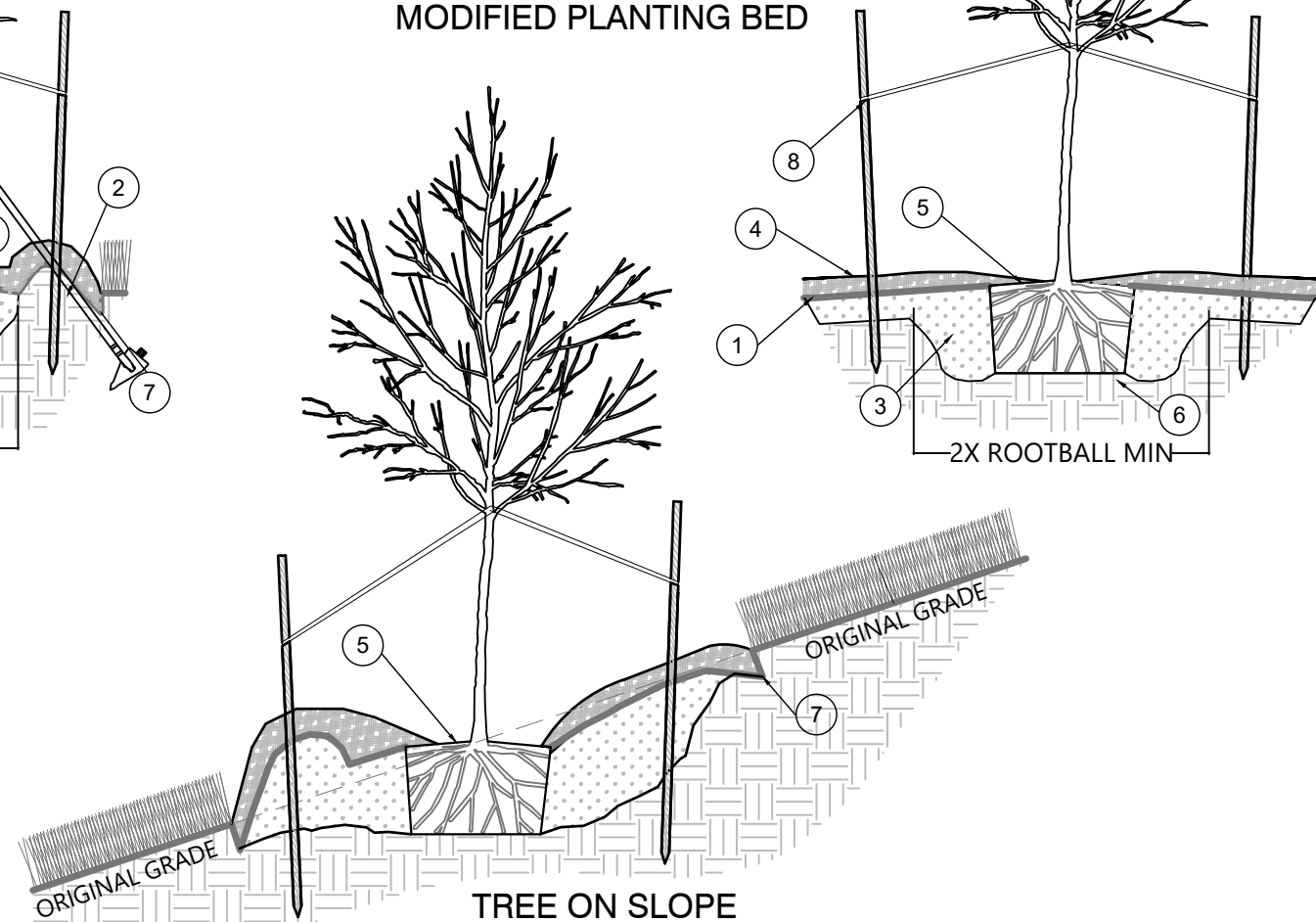
[illegible]

1. FINISH GRADE
2. 4" X 6" COMPACTED SOIL BASIN RING
3. MODIFIED SOIL BACKFILL (ONLY FOR CONTAINER GROWN TREES)
4. 3" MIN MULCH LAYER
5. ROOT BALL (MODIFY ACCORDINGLY)
6. UNDISTURBED / RE-COMPACTED SOIL BASE
7. BED EDGE TRENCH
8. TREE STAKES (SEE STAKING DETAIL)
9. TREE CROWN (SEE CROWN DETAILS)

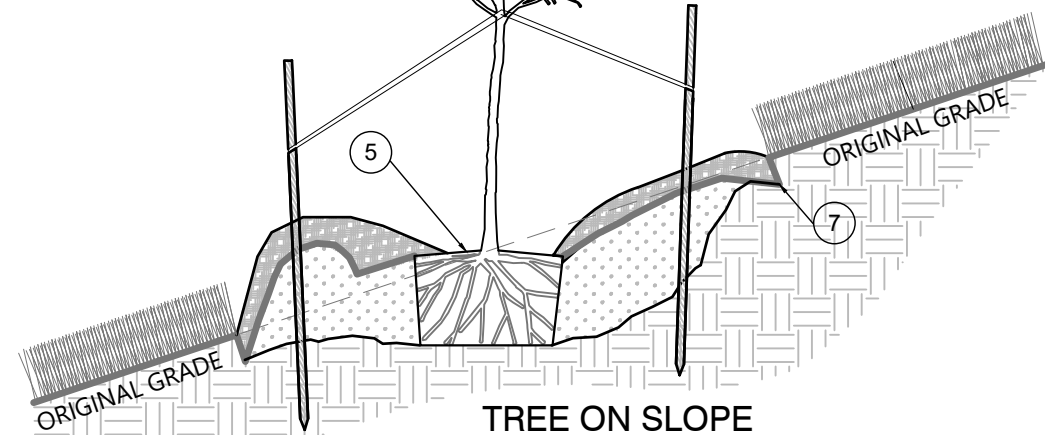
NOTES:
SEE DRAWINGS FOR SPECIFIED SIZES, SPECIES AND GRADES.
ALL PLANT MATERIALS SHALL BE IN ACCORDANCE WITH THE AMERICAN STANDARDS FOR NURSERY STOCK (ANSI Z60.1-2004) AND FLORIDA GRADES AND STANDARDS FOR NURSERY STOCK.
TRUNK CALIPER MEASUREMENTS SHALL MEET FLORIDA GRADES AND STANDARDS FOR NURSERY STOCK.
PLANTING HOLE TO BE A MIN. OF 2X THE WIDTH OF ROOT BALL FOR AT LEAST THE FIRST 12" OF DEPTH AND DO NOT DIG THE HOLE DEEPER THAN ROOT BALL DEPTH OR FILL AND COMPACT TO 90% RELATIVE COMPACTION. THE PLANTING HOLE SUB-GRADE AND SIDES SHOULD BE SCARIFIED WHEN 15%+ CLAY SOILS EXIST. THE TOP-MOST ROOTS SHOULD BE VISIBLE AT THE SURFACE OF THE ROOT BALL.
THE TREE TRUNK SHALL NOT BE USED FOR LIFTING / LEVERAGE. LIFT AND SET THE TREE BY ROOT BALL ONLY. REMOVE BURLAP, WIRE AND STRAPS FROM THE UPPER 1/3 OF THE ROOT BALL AFTER THE TREE IS SET IN PLACE. REMOVE ANY TRUNK WRAP REMAINING, CLOSE STAKING, GROW BAG, TAGS, AND TAGGING TAPE AT TIME OF PLANTING.
NO MULCH TO BE PLACED WITHIN 3" OF TRUNK WITH NO MORE THAN 1" OF MULCH PLACED UPON ROOT BALL BACKFILL WITH CLEAN, MODIFIED, WELL-TILLED / BROKEN UP NATIVE SOIL AND ADD APPROPRIATE SOIL AMENDMENT BASED ON SOIL TESTING. DO NOT ADD BACKFILL AMENDMENTS FOR PIT PLANTED B&B TREES. COMPACT BACKFILL TO MINIMIZE AIR POCKETS WITH EVERY 6" LIFTS OF FILL. DO NOT OVER COMPACT SOIL & SETTLE BACK FILL WITH WATERING IN. WATER TREE AFTER FULLY BACKFILLED.
ROOT BALL IS TO REST ON SOIL BASE AND TO BE INSTALLED 1"-2" ABOVE GRADE TO ALLOW FOR SETTLING. FOR WET SOILS, INSTALL ROOT BALL HIGHER AND GRADE TO IT AS REQUIRED FOR PROPER OXYGEN INTAKE OF THE TREE. INSTALL GRAVEL WELLS THROUGH CONFINING LAYERS IF HOLE FAILS PERCUSSION TESTS.
CREATE A 6" BASIN RING AROUND ENTIRE OUTER EDGE OF TREE PIT, LOCATING THE INSIDE EDGE ALONG THE EXCAVATION AND COMPACT BASIN PRIOR TO MULCHING ON ALL SIDES TO RETAIN WATER.
FOR SLOPED PLANTINGS, ORIGINAL SLOPE SHOULD PASS THROUGH THE POINT WHERE THE TRUNK BASE MEETS SUBSTRATE/SOIL.
PRUNING SHALL BE LIMITED TO DEAD, DISEASED, OR BROKEN LIMBS ONLY AND SHALL BE IN ACCORDANCE WITH ANSI A300 SPECIFICATIONS.
CORRECT TREE CROWN AND ROOT BALL AS REQUIRED FOR PROPER CANOPY GROWTH AND ROOT DEVELOPMENT.
STAKE / GUY TREE ACCORDING TO APPROPRIATE DETAIL.



PIT PLANTING



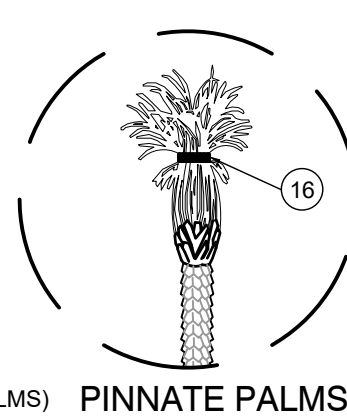
MODIFIED PLANTING BED



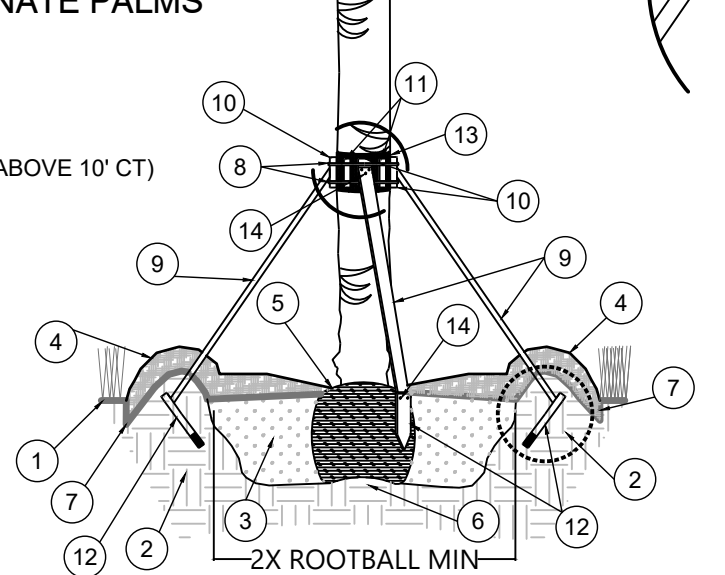
TREE ON SLOPE

1. FINISH GRADE
2. UNDISTURBED OR 90% TO 95% COMPACTED SOIL
3. MODIFIED SOIL BACKFILL (ONLY FOR CONTAINER GROWN PALMS)
4. 3" MIN MULCH LAYER
5. ROOT BALL (MODIFY ACCORDINGLY)
6. RE-COMPACTED SOIL BASE
7. BED EDGE TRENCH
8. STAINLESS STEEL MOUNTING STRAPS WITH ADJUSTABLE BRACKETS
9. 2" X 4" BRACE (3 MIN @ 120 DEG FOR UP TO 10' CT & 4 MIN @ 90 DEG FOR ABOVE 10' CT)
10. 2" X 4" BATTEN (1 PER BRACE ATTACHED WITH SCREWS)
11. 1" X 2" BATTEN (# AS NECESSARY)
12. 2" X 4" STAKE (1 PER BRACE ATTACHED WITH SCREWS)
13. NATURAL BURLAP (3 LAYERS MIN BETWEEN BATTENS AND TRUNK)
14. EXTERIOR DECK SCREWS (OR STAINLESS STEEL SHANK NAIL)
15. HURRICANE CUT
16. NATURAL JUTE ROPE TO TIE FRONDS

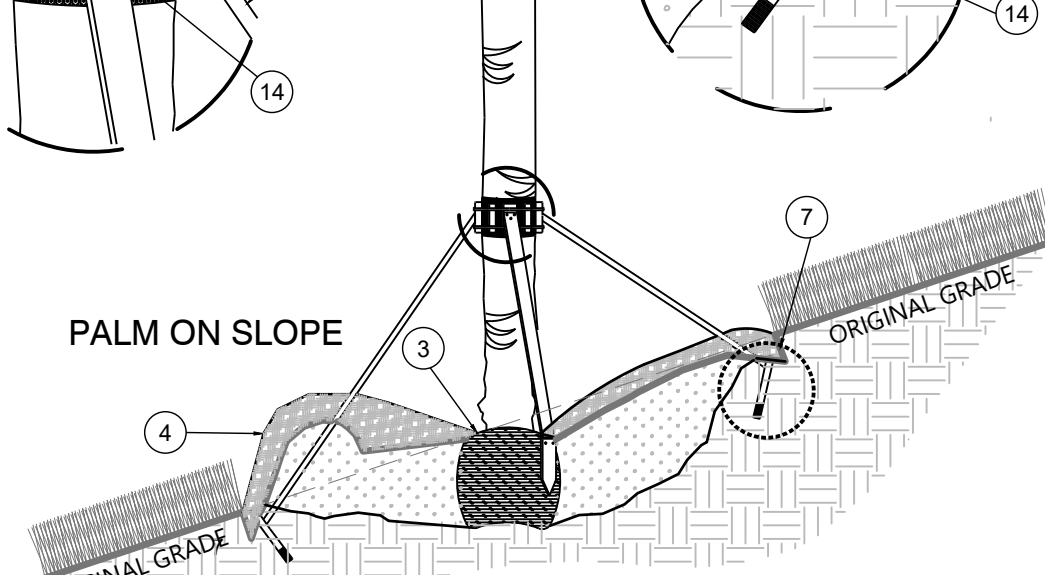
NOTES:
SEE DRAWINGS FOR SPECIFIED SIZES, SPECIES AND GRADES.
BRACE PALM ACCORDING TO APPROPRIATE STAKING / GUYING DETAIL.
BRACE LOCATIONS SHALL NOT INTERFERE WITH PEDESTRIAN WAYS.
BRACES TO BE REMOVED WITHIN 1 YEAR OF INSTALLATION.
NO BURNT PALMS WILL BE ACCEPTED.
DO NOT SCREW (OR TOE NAIL) BATTENS INTO THE TRUNK OF THE PALM.
ANY TRUNK DAMAGE CAUSED BY NAILS OR SCREWS WILL GIVE CAUSE TO REJECTION OF THE PALM.
PRUNING SHALL BE LIMITED TO DEAD, DISEASED, OR BROKEN LIMBS ONLY AND SHALL BE IN ACCORDANCE WITH ANSI A300 SPECIFICATIONS.
NO FEATHER DUSTER PRUNING. FRONDS SHOULD MAKE A HALF CIRCLE AT A MIN.
HURRICANE CUT ALL SABAL PALMS.
PALM STAKES TO BE PLACED BELOW GRADE TO NECESSARY DEPTH DETERMINED BY SOIL STRUCTURE TO PROVIDE PROPER STABILIZATION.
PLACE BATTENS AND INSTALL ENOUGH BATTENS AS REQUIRED FOR BAND NOT TO COME INTO DIRECT CONTACT WITH TRUNK.
THE TOP-MOST ROOTS SHOULD BE VISIBLE AT THE SURFACE OF THE ROOT BALL.



PINNATE PALMS



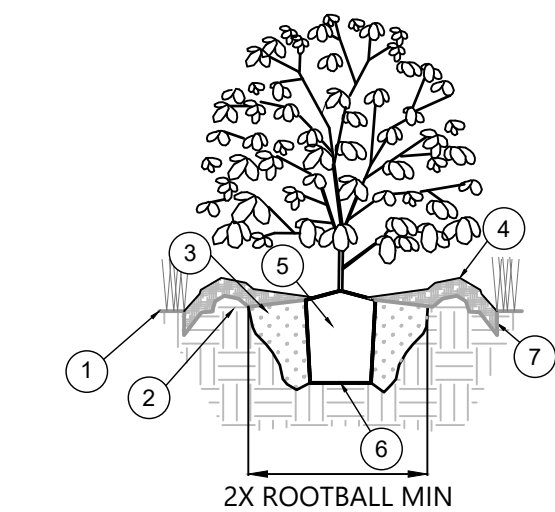
PALM ON SLOPE



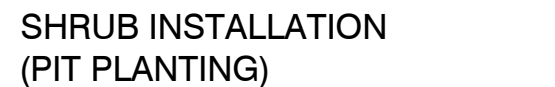
SABAL PALM

1 TREE INSTALLATION

URBAN TREE FOUNDATION © 2014

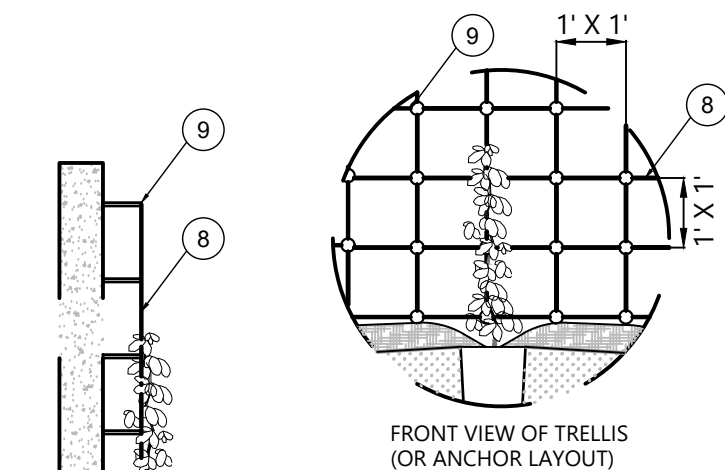
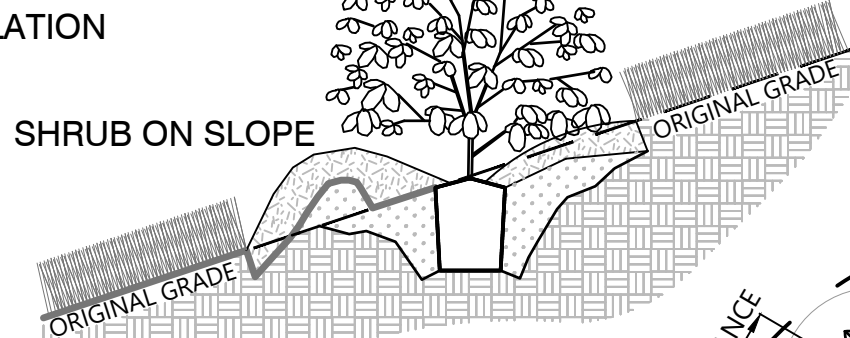


SHRUB INSTALLATION
(MODIFIED PLANTING BED)

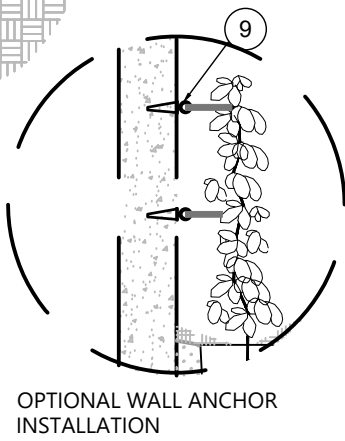


SHRUB INSTALLATION
(PIT PLANTING)

SHRUB ON SLOPE



VINE ON WALL



OPTIONAL WALL ANCHOR
INSTALLATION

1. FINISH GRADE
2. 3" X 6" COMPACTED SOIL BASIN RING
3. MODIFIED SOIL BACKFILL (ONLY FOR CONTAINER GROWN)
4. 3" MIN MULCH LAYER
5. ROOT BALL (MODIFY ACCORDINGLY)
6. RE-COMPACTED SOIL BASE
7. BED EDGE TRENCH
8. STAINLESS STEEL WIRE TRELLIS (OR APPROVED OTHER)
9. STAINLESS STEEL ANCHOR AND EYE HOOK MOUNTING METHOD (OR APPROVED OTHER)

NOTES:
SEE DRAWINGS FOR SPECIFIED SIZES, SPECIES AND GRADES.
ALL PLANT MATERIALS SHALL BE IN ACCORDANCE WITH THE AMERICAN STANDARDS FOR NURSERY STOCK (ANSI Z60.1-2004).
PLANTING HOLE TO BE A MIN. OF 2X THE WIDTH OF ROOT BALL FOR AT LEAST THE FIRST 12" OF DEPTH AND DO NOT DIG THE HOLE DEEPER THAN ROOT BALL DEPTH. ROOT BALL IS TO REST ON SOIL BASE THAT IS TO BE COMPACTED TO 90% RELATIVE COMPACTION.
THE PLANTING HOLE THE SUB-GRADE AND SIDES SHOULD BE SCARIFIED WHEN PLANTING IN 15% OR MORE CLAY SOILS.
LIFT AND SET THE SHRUB BY ROOT BALL / CONTAINER ONLY. DO NOT LIFT VIA TRUNK.
IF B&B, PLACE SHRUB IN PLANTING HOLE. REMOVE BURLAP, WIRE AND STRAPS FROM AT LEAST THE UPPER 1/3 OF THE ROOT BALL.
FOR CONTAINER STOCK, AMEND ROOT BALL AS REQUIRED FOR PROPER GROWTH AND ROOT DEVELOPMENT AND MIX WITH EXISTING SOIL THAT HAS BEEN WELL-TILLED OR BROKEN UP. DO NOT ADD AMENDMENTS TO THE BACKFILL SOIL FOR B&B SHRUBS. USE CLEAN BACKFILL AND APPROPRIATE SOIL AMENDMENT BASED ON SOIL TESTING.
PRUNING SHALL BE LIMITED TO DEAD, DISEASED, OR BROKEN LIMBS ONLY AND SHALL BE IN ACCORDANCE WITH ANSI A300 SPECIFICATIONS.
REMOVE ANY NURSERY TAGS, AND TAGGING TAPE AT TIME OF PLANTING. NO WRAPS SHALL BE PLACED ON TRUNK.
LIGHTLY COMPACT TO MINIMIZE AIR POCKETS EVERY 6" LIFTS OF FILL, DO NOT OVER COMPACT SOIL & SETTLE BACK FILL WITH WATERING IN.
ROOT BALL TO BE INSTALLED 1"-2" ABOVE GRADE TO ALLOW FOR SETTLING. FOR WET SOILS, INSTALL ROOT BALL HIGHER AND GRADE TO IT AS REQUIRED FOR PROPER OXYGEN INTAKE OF THE SHRUB.
FOR SLOPED PLANTINGS, ORIGINAL SLOPE SHOULD PASS THROUGH THE POINT WHERE THE TRUNK BASE MEETS SUBSTRATE/SOIL.
LOCATE INSIDE OF BASIN RING TO OUTER EDGE OF TREE PIT AND COMPACT IT ON ALL SIDES TO RETAIN WATER.
NO MULCH TO BE INSTALLED WITHIN 3" OF TRUNK.
NO MORE THAN 1" OF MULCH TO BE INSTALLED UPON ROOT BALL OF SHRUB.

2 SHRUB & VINE INSTALLATION

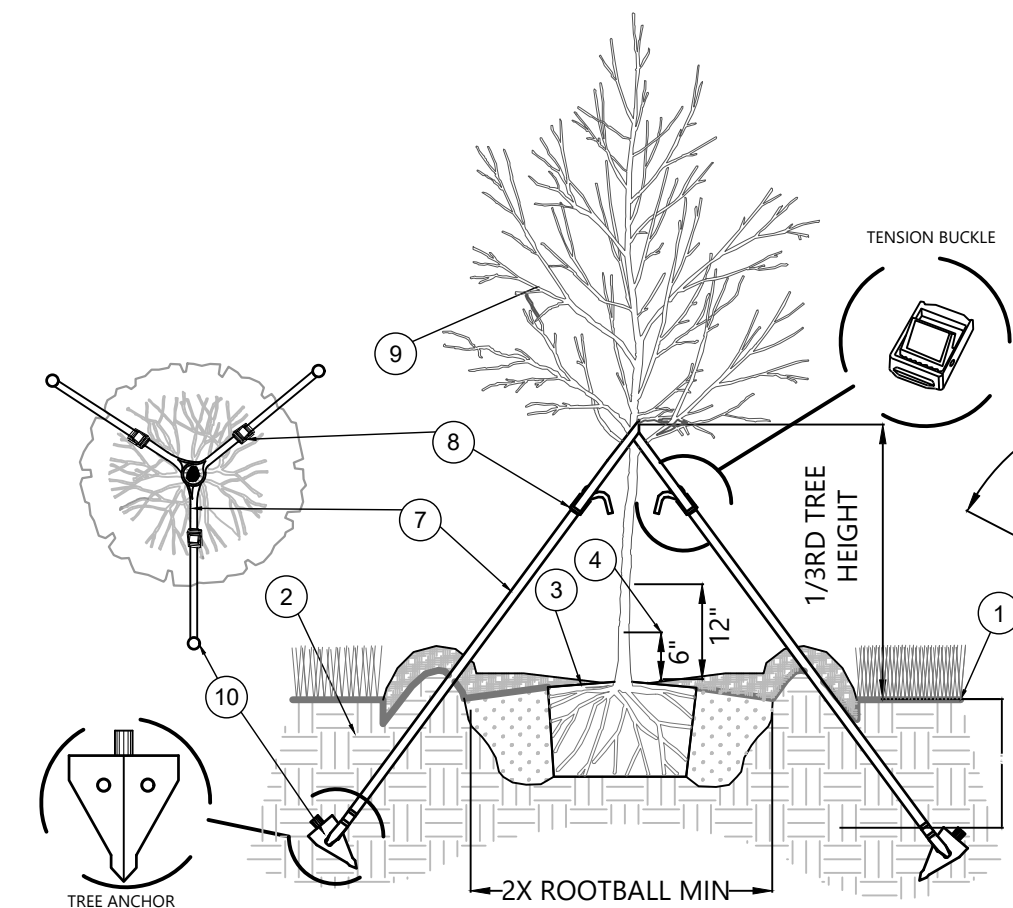
URBAN TREE FOUNDATION © 2014

NTS

4 TREE STAKING / GUYING

URBAN TREE FOUNDATION © 2014

NTS



TREE SUPPORT FOR >4" CALIPER

1. FINISH GRADE
2. UNDISTURBED OR 90% TO 95% COMPACTED SOIL
3. ROOT BALL
4. TRUNK CALIPER (MEASURED AT 6" UP TO 4" CAL & AT 12" FOR >4" CAL TREES) (DBH ONLY APPLIES TO EXISTING TREES PER STATE OF FLORIDA)
5. STAINLESS STEEL FASTENER (LAG SCREW WITH WASHER)
6. 3" WOODEN LODGE POST OR HEAVY DUTY METAL T-POST
7. 3/4" MILITARY GRADE EXTERIOR WEBBING STRAP
8. TENSION BUCKLE
9. TREE CROWN (SEE CROWN DETAILS)
10. TREE ANCHOR
11. 1" METAL POLE FOR CENTRAL LEADER CONNECTION
12. NON-ABRASIVE RUBBER NURSERY STRAP

NOTES:
SEE DRAWINGS FOR SPECIFIED SIZES, SPECIES AND GRADES.
STAKE TREE ACCORDING TO APPROPRIATE STAKING / GUYING DETAIL. STAKE LOCATIONS SHALL NOT INTERFERE WITH PERMANENT BRANCHES. STAKES TO BE REMOVED WITHIN 1 YEAR OF INSTALLATION.
REMOVE ANY CLOSE STAKING FROM NURSERY. IF CENTRAL LEADER NEEDS CORRECTION, IT IS ACCEPTABLE TO MOVE STAKE OR RE-STAKE WITH A METAL POLE TO THE CENTRAL LEADER AND TRUNK WITH A MIN GAP OF 3" FROM CAMBIUM TO ALLOW FOR PROPER CELL FORMATION.
1" DIAM SINGLE METAL STAKE WITH METAL ARM BAR SECURED TO STAKE AND RUBBER STRAP AROUND TRUNK. HEIGHT OF ARM BAR SHALL VARY PER TREE. CONTRACTOR TO ADJUST AS NEEDED TO HOLD TREE ERECT. USE NON - ABRASIVE RUBBER TIES.
PRUNING SHALL BE LIMITED TO DEAD, DISEASED, OR BROKEN LIMBS ONLY AND SHALL BE IN ACCORDANCE WITH ANSI A300 SPECIFICATIONS.
AMEND TREE CROWN AND ROOT BALL AS REQUIRED FOR PROPER CANOPY GROWTH AND ROOT DEVELOPMENT.
TREE ANCHOR DRIVEN BELOW GRADE TO NECESSARY DEPTH DETERMINED BY SOIL STRUCTURE. (1.5' - 2.5' FEET AS NECESSARY)
INSTALL A TENSION BUCKLE ON EACH STRAP. LOOP LOOSE END OF WEBBING AROUND LEADING BRANCH OF TREE. TIE 1/2 KNOT ONTO BACKSIDE OF BUCKLE. PULL BUCKLE TOWARDS TREE ANCHOR TO TENSION LINE.
START STAKING OR GUYING BY PLACING FIST STAKE / ANCHOR ON THE SIDE OF THE PREVAILING WIND PREVAILING WIND.
INSTALL CORRECTIVE STAKE A MIN OF 3" AWAY FROM THE CAMBIUM. STAKES AND ANCHORS TO BE INSTALLED IN UNDISTURBED SOIL.
WOOD STAKES, METAL T-POSTS, AND TREE ANCHORS ARE TO BE DRIVEN INTO UNDISTURBED SOIL A MINIMUM OF 1.5' TO 2.5'. PLACE STAKES IN TREE BASIN. METAL T-POSTS TO BE PAINTED FLAT BLACK. SPACE STAKES / ANCHORS (3 MIN) EQUALLY AROUND THE TREE AT 120 DEGREES OC.
ATTACH 3/4" WEBBING TO CONNECT THE TREE TO STAKES AND ANCHORS. ATTACH WEBBING AT 1/3 THE TREE HEIGHT. USE A STAINLESS STEEL FASTENER TO SECURE WEBBING TO WOOD STAKES. MULTI-TRUNK TREES WILL HAVE ONE WEBBING BAND PER TRUNK IF 3 OR MORE APPROPRIATELY SIZED TRUNKS EXIST.
FOR UP TO 4" CALIPER TREES (3) POLYPROPYLENE GUYLINES 3/4" X 12'=800 LB TEST, OLIVE DRAB, UV RESISTANT (3) NICKEL PLATED SPRING CAM-LOCK TENSION CLIPS FOR UP TO 7" CALIPER TREES (4) POLYPROPYLENE/POLYESTER GUYLINES 1" X 12'=1,000 LB TEST, OLIVE DRAB, UV RESISTANT (4) 1-1/4" NICKEL PLATED, NON-RUSTING SPRING CAM-LOCK TENSION CLIPS (1,500 LB BREAK STRENGTH) (4) ALUMINUM TREE ANCHORS FOR ANY SOIL TYPE

TREE SUPPORT FOR ≤4" CALIPER

TREE SUPPORT FOR MULTI -TRUNK TREES

CENTRAL LEADER CORRECTION STAKING

REV #	REVISION	DRAWN	CHECKED	DATE

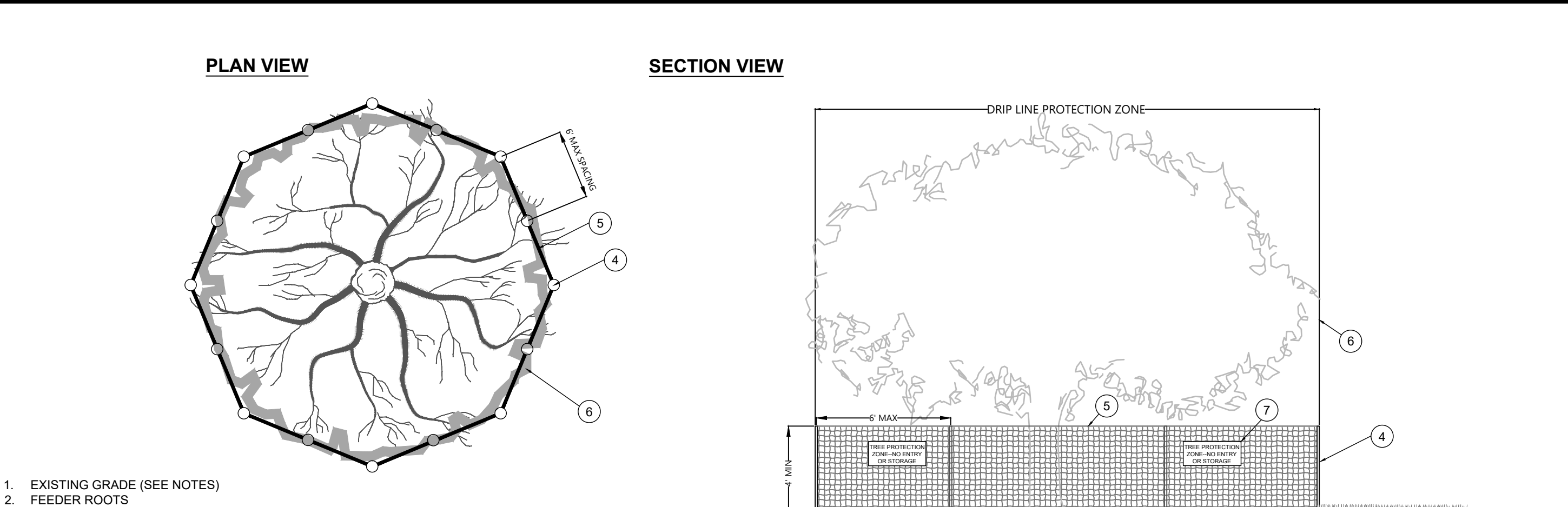


12800 University Drive, Suite 175
Fort Myers, Florida 33907
(239) 597-0575 FAX: (239) 597-0578
www.consult-rwa.com
Florida Certificates of Authorization
EB 7663 LB6952

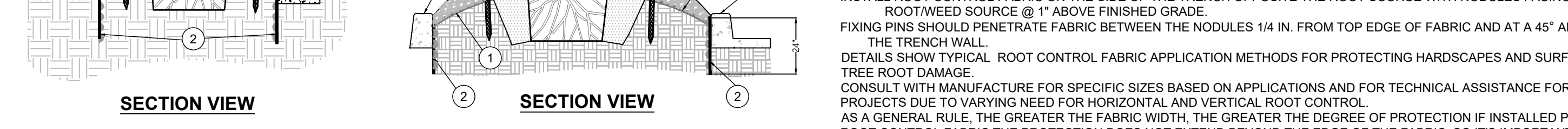
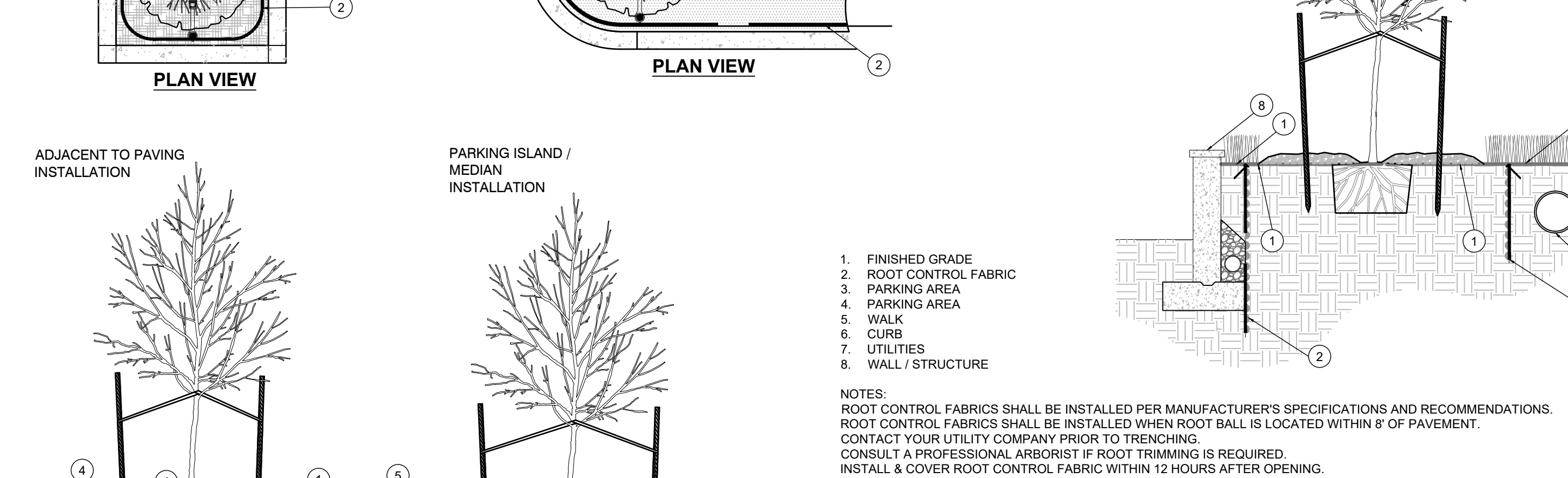
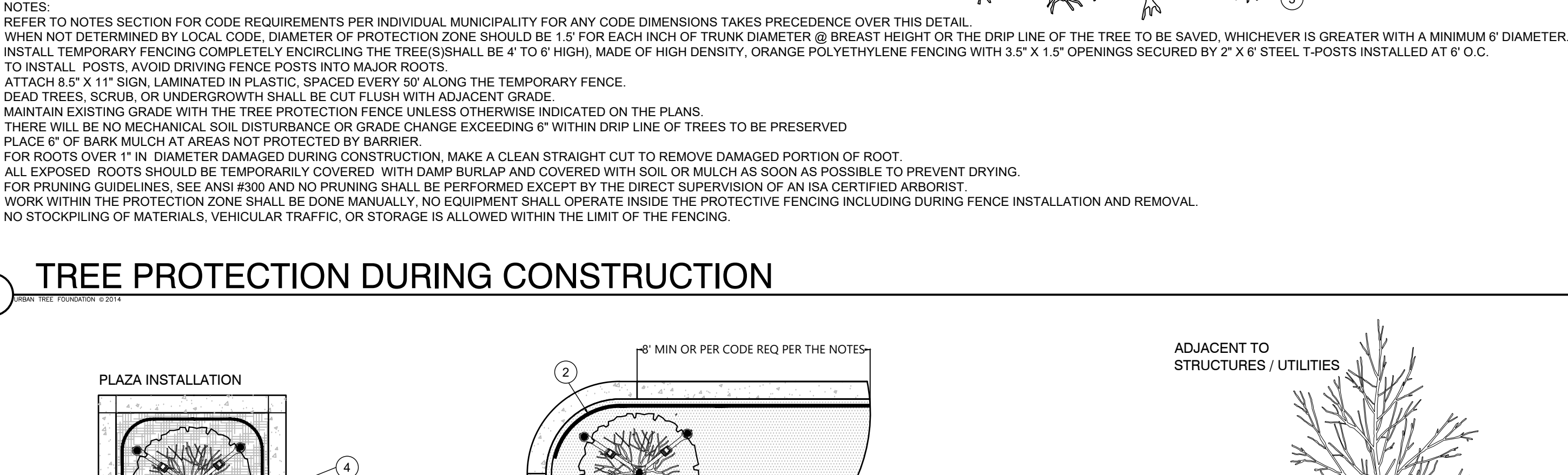
DATE:	MARCH 2004	HORIZ. SCALE (FULL):	###/###/###	CLIENT:	MYERSIDE, LLC
SCH.:	TWP. RGE. 19 46 S 24 E	HORIZ. SCALE (HALF):	1" = ###/###/###	TITLE:	LANDSCAPE CONSTRUCTION DETAILS
DESIGNED:	JMM	VERT. SCALE (FULL):	N/A	PROJECT NO.:	200022 00 01
DRAWN:	JMM	VERT. SCALE (HALF):	N/A	FILE NAME:	200022 00 01 LA PERMIT

PROJECT:	MYERSIDE	SHEET NUMBER:	07 OF 08
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THIS IS HAS BEEN ELECTRONICALLY SIGNED & SEAL BY JAMES M. MCCORD USING A DIGITAL SIGNATURE AND DATE. PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED & SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.
JAMES M. MCCORD
FLORIDA LICENSE NO. 6666882



4. 6' METAL T-POST
5. 4' ORANGE SAFETY FENCING
6. PROTECTION ZONE (SEE NOTES)



ROOT CONTROL FABRIC

April 17, 2024 7:50 AM K:\2020\200022.00.02 Myerside Landscape Zoning Services\02 Conceptual Landscape & Hardscape Design\200022.00.01 LA PERMIT.dwg Page 98 of 100

EXHIBIT B- AMENDED SCHEDULE OF USES AND CONDITIONS OF APPROVAL (removed as ~~strike through~~, added as underlined)

AMENDED SCHEDULE OF USES

Lodging

Principal:

- Hotel/Motel (Inclusive of Hotel Condominiums)
- The sale of alcoholic beverages for on-premises consumption in 3000 sq. ft. of outdoor rooftop patio in hotel

- Guest Units

Accessory:

- Hotel/Motel Accessory Uses
- Personal Services
- Recreational Facilities

Residential

- Work/Live Units

Commercial

- Offices, General or Medical
- Personal Services
- Restaurant with Bar Area
- Retail Store, Small & Large
- Subordinate Commercial Uses
- The sale of alcoholic beverages for on-premises consumption in 690 sq. ft. of outdoor space in restaurant

AMENDED CONDITIONS OF APPROVAL

1. Any tenant with consumption on premises would be required to acquire a separate COP license.

2. The live-work units shall only be occupied by the owner or employees of the commercial establishments at Myerside. At no time shall the live work units be used as an extension to the lodging units or as a part of the boutique hotel. Any other tenants will have to demonstrate employment on the island.
3. The restaurant area shall be limited to 2,250 sq ft of the total 9,000 sq ft of commercial square footage.
4. A local development order is required prior to any development of the site, in accordance with this planned development approval.
5. All state and local permits, including but not limited to right of way and stormwater permits, must be applied for and received prior to site development.
6. All signage and landscaping must meet the Vehicle Visibility at Intersection requirements found in Sec. 34-3131.
7. The property owner commits to encouraging visitors and staff to arrive without an automobile. If the proposed development's parking needs exceed the on-site parking provided, the applicant shall provide valet parking and/or coordinate with adjacent property owners, and/or consider other parking options to provide adequate parking.

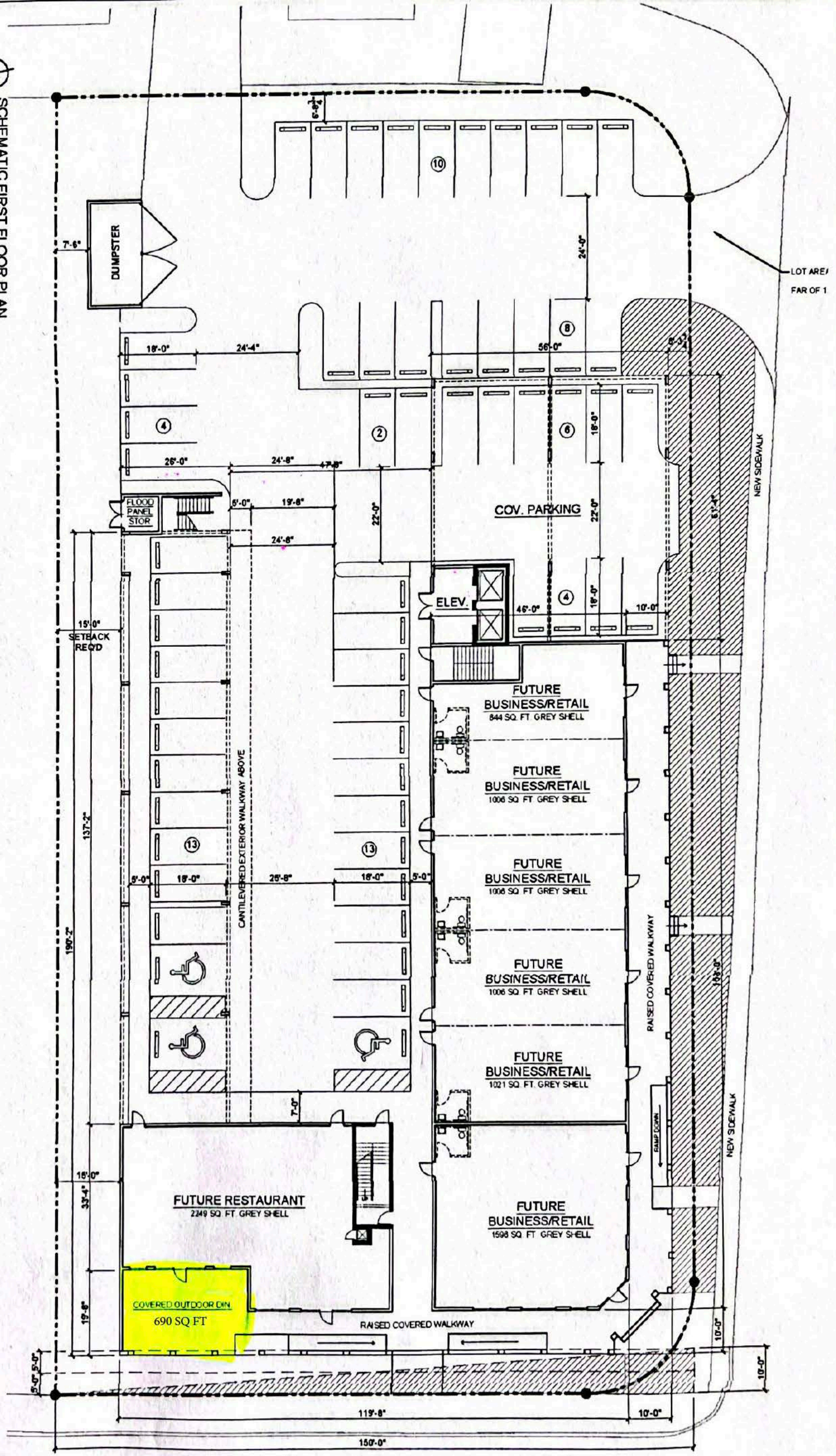
If a shared parking agreement is specifically sought with the Town to help offset the need for supplemental parking, the Town will provide up to 15 parking spaces within the Bay Oaks Recreation Center to the property owner. If the tenants of the development include health and wellness providers, such as, but not limited to the following listed below, the Town will allocate 5 of those parking spaces at no charge for each Town approved (Administrative approval by Town Manager or designee) provider, up to a maximum of 15 parking spaces. The property owner may petition the Town Council to accept alternative personal service providers other than those preferred health and wellness providers listed below.

- Medical Clinic, with an MD, physician's assistant or Nurse Practitioner who can write a prescription
- Urgent Care, with an MD, physician's assistant or Nurse Practitioner who can write a prescription
- Dentist
- Pharmacy
- Rehabilitation/Physical Therapy clinic
- Chiropractor

8. To help mitigate traffic congestion along Estero Boulevard, the hotel proprietor will promote various marketing initiatives that support and encourage all guests to use alternative modes of transportation rather than drive a vehicle to or while on the island. Such efforts will include:
 - Dedicated page(s) on the Myerside Hotel website outlining and promoting alternative modes of transportation in the area and various marketing incentives such as:
 - Information on the walkability of the area and those businesses of interest to guests within walking distance of Myerside.
 - Bicycle rental.
 - Fort Myers Beach's LeeTran "TROLLEE" and seasonal TRAM Service Schedules and Route Maps
 - Publix and other food delivery service options
 - Free resort fee
 - Restaurant discounts
 - Discounts on future stays
 - Establish partnerships with businesses on the island, especially in the "Heart of the Island," to provide incentives and discounts for guests. Hotel guests who do not drive onto the island will receive monetary discounts or vouchers for future stays and/or with participating local businesses, such as restaurants, bike rentals, and tour/tourism operators.
 - Participate in townwide traffic mitigation efforts, such as:
 - Off-island parking and transport initiatives, e.g. Water ferry/taxi discounts for those staying at the hotel.
 - Off-site parking availability identification systems.
 - Evaluating and improving LeeTran's "TROLLEE" and seasonal TRAM's service and rider/user experience.
9. The final development must be generally consistent with the Master Concept Plan, renderings, and landscape betterment plan attached to this ordinance.
10. The approved schedule of uses are limited to those detailed on the attached Exhibit B.
11. The sale of alcoholic beverages for on-premises consumption in 690 sq. ft. of outdoor space in restaurant, must comply with LDC Section 34-1264(k).

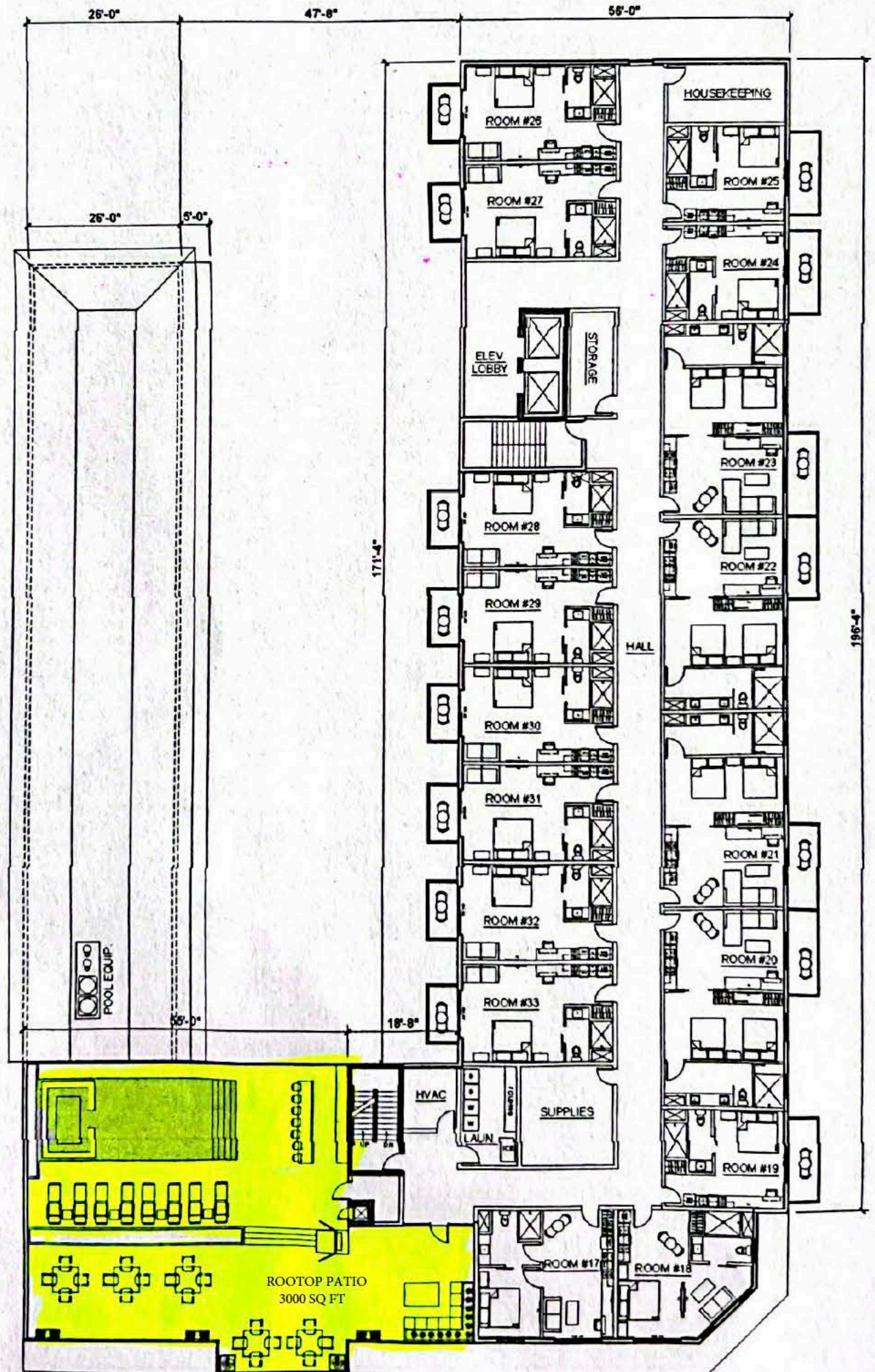
SCHEMATIC FIRST FLOOR PLAN

SCALE 1/8" = 1'-0"





SCHEMATIC THIRD FLOOR PLAN





COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

This is a first part of a two-part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit a complete Public Hearing application with required, supplemental information, exhibits and documents to zoningpermits@fmbgov.com. Please do not submit the instructions at the end of the application.

Site Address: 125, 131-151 SCHOOL STREET AND 2661-2681 ESTERO BLVD.

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

Applicant: MYERSIDE LLC Phone: (239) 400-2060

Contact Name: KEITH LONG Phone: (239) 400-2060

Email: KEITH@LONGLAWFL.COM Fax: _____

Current Zoning District: CPD

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: CPD Amendment

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PART I – General Information

A. Applicant*: MYERSIDE LLC c/o Keith Long Phone: (239) 400-2060

**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: 1306 SE 46TH LN STE 1, CAPE CORAL, FL 33904

Email: KEITH@LONGLAWFL.COM Fax: _____

Contact Name: KEITH LONG Phone: (239) 400-2060



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: KEITH LONG Phone: (239) 400-2060
Address: 1306 SE 4TH LN STE 1, CAPE CORAL, FL 33904
Email: KEITH@LONGLAWFL.COM Fax: _____

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

Name: _____ Phone: _____
Address: _____
Email: _____ Fax: _____

Name: _____ Phone: _____
Address: _____
Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☒ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☒ Amendment. List the project number: DCI20230246
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

PART III – Waivers

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

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

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

Signature

Printed Name

STATE OF _____ COUNTY OF _____

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

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

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

_____ as identification.

(SEAL)

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

COTTAGES AT MYERSIDE LLC- BEVERLEY A MILLIGAN, ROLAND WEINMANN

50/50

MYERSIDE LLC - BEVERLEY A MILLIGAN, ROLAND WEINMANN

49/51

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

Name and Address

Percentage of Interest

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

Name and Address

Percentage of Ownership

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

Name, Address and Office

Percentage of Stock



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

_____	_____
Signature	Printed Name

AFFIDAVIT

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

I, BEVERLEY MILLIGAN (name), as OWNER (title)
of MYERSIDE LLC / COTTAGES AT 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 Town of Fort Myers Beach in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

MYERSIDE LLC / COTTAGES AT MYERSIDE LLC

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

[Signature]

Signature

OWNERS

Title

BEVERLEY MILLIGAN and ROLAND WEINMANN

Typed or Printed Name

Date

5/2/25

STATE OF FL COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 2 day of MAY, 2025, by _____, ☐ who is personally known to me OR ☒ who has produced _____ as identification.

Seal



CLETUS POSER
Notary Public
State of Florida
Comm# HH605959
Expires 10/23/2028

[Signature]

Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: _____

Property Address: _____

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? ☐ No. Attach a legible copy of the legal description as Exhibit 6-1.

☐ Yes. Property identified in subdivision: _____

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

B. Boundary Survey:

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

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

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

Frontage on street: _____ feet. Frontage on waterbody: _____ feet

Total land area: _____ ☐ acres ☐ square feet

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

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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

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

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

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

☐ Low Density

☐ Marina

☐ Mixed Residential

☐ Recreation

☐ Boulevard

☐ Wetlands

☐ Pedestrian Commercial

☐ Platted Overlay



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

line. Exhibit 6-2

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

Explanatory Notes – Part IV & V

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

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-D

Additional Required Information for a Planned Development Application

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

Fee in the amount of \$8000.00 up to 1 acre +1000.00 per additional acre
\$2000.00 PD Amendment minor (< acre total property area)
\$4000.00 PD Reinstatement or \$6500.00 PD Amendment

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

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

Requested Action:

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

PART I Narrative Statements

A. Comprehensive Plan Amendments (check one)

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

B. Phasing of Construction

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

C. Comprehensive Plan Compliance.

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

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.

E. Decision-making Compliance

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

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.



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

[illegible]

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

Public Hearing Request Form
Supplement Form PH-D
Master Concept Plan
Traffic Impact Statement
Architectural Elevations
Schedule of Uses
Fee in the amount of \$8000.00 up to 1 acre +1000.00 per additional acre
\$2000.00 PD Amendment minor (< acre total property area)
\$4000.00 PD Reinstatement or \$6500.00 PD Amendment

3/30/2021

Guide to Filing Supplement PH-D for Planned Developments

Amendments Applications for amendments to an approved Master Concept Plan or its attendant documentation will require as much information as is needed to describe the changes requested, to specify the incremental change in impacts expected from the amendment, and to detail the changes in surrounding land uses that have occurred since the original application. Some amendments can be approved administratively as provided in LDC Section 34-219, but all other amendments must proceed through the public hearing process.

Through a pre-application meeting with Community Development staff, prospective applicants can determine whether proposed amendments will require a public hearing, and can request waivers from any submittal requirements that are not necessary to specify the changes requested.

All other planned developments All other applications must complete and submit the Request for Public Hearing and Supplement PH-D, along with all required documents. Refer also to the instructions for the Request for Public Hearing form.

Case Number will be inserted by Community Development staff.

Project Name must be the same as the name used on the Request for Public Hearing form.

Authorized Applicant must be the same as on the Request for Public Hearing form.

STRAP numbers must be the same as on the Request for Public Hearing form.

Current status of property must be the same as on the Request for Public Hearing form.

Requested Action: Indicate whether the request is a DRI (Development of Regional Impact) that requires rezoning, a Planned Development, or an amendment to a Planned Development.

Part 1 Narrative Statements:

Comprehensive Plan Amendments

If Comprehensive Plan Amendments are pending that might affect the future use of the property, explain the amendments' possible effects.

Construction Phasing

If the project is to be constructed in multiple phases, describe the ordering and timing of the proposed phasing. In the absence of a phasing plan, phasing of development would be governed by the limitations of LDC Section 34-220.

Comprehensive Plan Compliance

Explain how the proposed development complies with the Fort Myers Beach Comprehensive Plan. Address the Future Land Use Map category or categories applicable to the subject property and any other relevant policies.

Design Standards Compliance

For properties and/or projects as described in LDC Section 34-992, explain how the proposed development will comply with the standards in LDC Sections 34-991 through 34-997.

Decision-making compliance

Explain how the proposed development will comply with the standards for decision-making in LDC Section 34-85.

Schedule of deviations and written justification

Identify the deviations from the requirements of the Land Development Code that are requested for the proposed development and justify them in relation to the guidance in LDC Section 34-932(b).

Administrative amendments

If the request is for an amendment to a planned development, indicate which of the requested changes could not be approved administratively as allowed by LDC Section 34-219.

Part 2 Submittal Requirements

Public Hearing Application Form. Applications for rezoning, including Planned Developments and Planned Development amendments for which public hearing is required, consist of the Public Hearing form and the supplemental form PH-D. Both parts of the application form must be completed and submitted.

Master Concept Plan. The master concept plan consists of maps, graphic illustrations, and written statements concerning the development. Space has

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

- a. The general size, configuration, and location of each development phase, and a description of the phasing of construction, unless the development is to be constructed in a single phase.
- b. The maximum height of any proposed buildings or structures, using the Land Development Code's method of measuring building height (see LDC Section 34-631).
- c. Proposed principal and accessory uses, identified using the terminology employed in the Land Development Code. Employ the groupings of uses in Tables 34-1 and 34-2 of the Land Development Code, or specify individual uses if necessary.
- d. The density and intensity of the proposed uses, in terms of dwelling units by type, or through conversion factors for hotel/motel units. Provide gross square footages for types of commercial uses, and maximum Floor-Area Ratio.
- e. The minimum width and composition of proposed buffers along the perimeter of the property. References to the types of buffers required by LDC chapter 10 are acceptable.
- f. The location of any environmentally sensitive land and water, based on standard environmental data capable of verification by Town staff. Developments larger than one acre in size may require a protected species survey under LDC Section 10-473.
- g. The exact location of all points of vehicular ingress and egress from existing easements or rights-of-way into the development, with distances from other existing or planned rights-of-way or access points.
- h. Access and facilities for public transit, if applicable.
- i. The general location of stormwater management areas.
- j. The specific locations of requested deviations, including sample detail drawings illustrating their effects if applicable.
- k. The exact location of existing rights-of-way and easements, whether or not those easements are recorded.
- l. Proposed dedications, if any, including beach access, boat ramps, park or recreation areas, open space, or other easements.

Traffic Impact Statement. A traffic impact statement in the same format and to the same degree of detail required for development orders (LDC Section 10-286).

Architectural Elevations. Architectural elevations or three-dimensional renderings that show at minimum all building façades adjoining public streets. These drawings will serve for the sketch requirement of LDC Section 34-202(b)(5) as well. If aspects of the proposed design will not comply with the commercial design standards of LDC Sections 34-991 through 34-997 (if required), the applicant may request deviations from those standards.

Schedule of uses. A list of all proposed principal and accessory uses. Identify these uses by reference to the groups of uses in Tables 34-1 and 34-2 of the Land Development Code unless greater specificity is necessary. For amendments to planned developments that were approved under different regulations, the enumeration of uses in the schedule of uses supplied for the amendment must be specific enough to explain what uses were previously approved without future reference to prior regulations or approvals.



Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the Town's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference: (25-22)

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING/APPROVING WITH CONDITIONS/ DENYING AN AMENDMENT TO THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, PREVIOUSLY APPROVED BY ORDINANCE 24-15 FOR THE PARCEL LOCATED FOR THE PROPERTY LOCATED AT 125, 131- 151 SCHOOL STREET AND 2661-2681 ESTERO BLVD., FORT MYERS BEACH, GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0020C.0230; 19-46-24-W3- 0020C.0270; 19-46-24-W3-0020C.0290 IN FORT MYERS BEACH; PROVIDING FOR REVISIONS TO SCHEDULE OF USES TO INCLUDE OUTDOOR CONSUMPTION ON PREMISES AS AN ACCESSORY USE TO THE HOTEL AND RESTAURANT USE, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

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

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

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

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance is to allow an amendment to the Commercial Planned Development (CPD) zoning, previously approved by Resolution 24-15 for the parcel located at 125, 131- 151 School Street and 2661-2681 Estero Blvd, amend the schedule of uses for the Property's Commercial Planned Development ("CPD) to allow outdoor on-premises consumption of alcoholic beverages as an accessory use to the restaurant and hotel.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Town, including the following, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur;
- (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
- (c) An estimate of the Town's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

There are unlikely to be direct compliance costs associated with the ordinance.

The ordinance does not impose any new charge or fee on businesses.

There are no new charges or fees that will be imposed on businesses by the ordinance.

The Town will not likely incur additional costs.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

One property owner will be impacted by this proposed ordinance.

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

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

Yellow Sheet Number: **2025-716**

1. Request:

Meeting Date: October 14, 2025

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING OR DENYING A HOME RULE DEVELOPMENT AGREEMENT FOR PROPERTY LOCATED AT 50 OLD SAN CARLOS BOULEVARD, FORT MYERS BEACH, FL, STRAP NOS. 24-46-23-W3-00208.002A OWNED BY CARLOS L. CHAVEZ AS TRUSTEE FOR THE CARLOS L. CHAVEZ TRUST, AS AUTHORIZED BY SECTION 2-100 OF THE TOWN'S LAND DEVELOPMENT CODE AND IN COMPLIANCE WITH THE PROCEDURES FOR APPLICATION AND APPROVAL OF DEVELOPMENT AGREEMENTS WITH DEVIATIONS SET FORTH IN RESOLUTION NUMBER 24-247 FOR THE PURPOSE OF REDEVELOPMENT OF THE PROPERTY TO ALLOW A MIXED USE DEVELOPMENT WITH COMMERCIAL AT THE OPEN GROUND LEVEL AND SINGLE FAMILY RESIDENTIAL ABOVE.; PROVIDING FOR TERMS AND CONDITIONS INCLUDING BUT NOT LIMITED TO THE IDENTIFICATION OF THE PROPOSED USE OF THE PROPERTY, A FINDING OF CONSISTENCY WITH THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, COMMITMENTS AND DEVELOPMENT OBLIGATIONS, DEVIATIONS NEEDED FOR DEVELOPMENT; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The LPA hears the DA case and makes recommendations to the Town Council.

What the action accomplishes:

The LPA's Recommendations will be forwarded to the Town Council.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

The Neighborhood Company, on behalf of the Carlos L Chavez Trust, is requesting a Development Agreement with deviations to allow for the redevelopment of the subject property, which was home to Kilwin's Chocolates within Times Square Pedestrian Plaza, to build a 3-story mixed-use building with an open ground floor mobile ice cream vending and second and third floor would be for one bedroom residence. The subject property encompasses 0.03 +/- acres (1,119 sq. ft.). The property is located along the Times Square Pedestrian Plaza, has a Future Land Use Designation of Pedestrian Commercial and is within the Downtown Zoning District. It lies directly across from Lynn Hall Memorial Park and is approximately 100 feet from the base of the historic Fort Myers Beach Pier. This area of the island was heavily damaged by Hurricanes Ian, Helene and Milton. The redevelopment of the Downtown area is slowly progressing, with the guidance of the Comprehensive Plan continuing to steer this area toward being a lively, inviting, comfortable, and safe public environment. The Commercial Design Standards for Times Square encourage the incorporation of façade elements such as balconies, awnings and windows to add visual interest and architectural character.

As shown in the enclosed architectural rendering exhibits (Exhibit C), the proposed coastal design will be aesthetically pleasing and complement future development along the plaza. The building has been designed with second and third-floor balconies that extend forward of the build-to line, in accordance with LDC Section 34-995(e)(2) a and b. The balconies will enhance visual interest and offer functional benefits by providing shade and shelter from the elements for pedestrians.

Attachments:

1. NS Ordinance 25-XX- DA Edited
2. LPA Staff Report -edited
3. Exhibit A to DA : Survey and Legal Description -50 Old San Carlos Dev Agree
4. Exhibit B to DA:Deviations Proposed by Developer
5. Exhibit C to DA: Site Plan for Floor Plan and Data
6. Exhibit D to DA: Title Opinion -50 Old San Carlos Dev Agree
7. 25-19: Business-Impact-estimate DA 50 OldSanCarlos
8. Draft 2 Exhibit A to Ordinance 25-19 DA 50 OLD SAN CARLOS Edited

Financial Impact:

Unknown

6. Alternative Action

Deny

7. Staff Recommendations:

Approval with Conditions

8. Recommended Approval:

Georgina Cid, Community Development Manager

Date: October 07, 2025

Frankie Kropacek, Community Development Director

Date: October 07, 2025

nancy stuparich, Town Attorney

Date: October 08, 2025

Amy Baker, Town Clerk

Date: October 08, 2025

**ORDINANCE NO. 25-19
(KILWINS AT TIMES SQUARE DEVELOPMENT)**

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING OR DENYING A HOME RULE DEVELOPMENT AGREEMENT FOR PROPERTY LOCATED AT 50 OLD SAN CARLOS BOULEVARD, FORT MYERS BEACH, FL, STRAP NOS. 24-46-23-W3-00208.002A OWNED BY CARLOS L. CHAVEZ AS TRUSTEE FOR THE CARLOS L. CHAVEZ TRUST, AS AUTHORIZED BY SECTION 2-100 OF THE TOWN'S LAND DEVELOPMENT CODE AND IN COMPLIANCE WITH THE PROCEDURES FOR APPLICATION AND APPROVAL OF DEVELOPMENT AGREEMENTS WITH DEVIATIONS SET FORTH IN RESOLUTION NUMBER 24-247 FOR THE PURPOSE OF REDEVELOPMENT OF THE PROPERTY TO ALLOW A MIXED USE DEVELOPMENT WITH COMMERCIAL AT THE OPEN GROUND LEVEL AND SINGLE FAMILY RESIDENTIAL ABOVE.; PROVIDING FOR TERMS AND CONDITIONS INCLUDING BUT NOT LIMITED TO THE IDENTIFICATION OF THE PROPOSED USE OF THE PROPERTY, A FINDING OF CONSISTENCY WITH THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, COMMITMENTS AND DEVELOPMENT OBLIGATIONS, DEVIATIONS NEEDED FOR DEVELOPMENT; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, the property owner, Carlos L. Chavez as trustee for the Carlos L. Chavez Trust, through its agent The Neighborhood Company (the "Applicant"), wishes to develop certain parcels of land in the Town of Fort Myers Beach, as more explicitly described in the Home Rule Development Agreement, attached hereto as Exhibit "A" (the "Development Agreement"); and

WHEREAS, following several meetings with Town Staff as provided in Resolution 24-247, the Applicant presented a Development Agreement to the Town's Local Planning Agency ("LPA") at its October 14, 2025 meeting and the LPA voted to recommend ____ of the Development Agreement by a vote of __ to __, inclusive of a finding of consistency between the Development Agreement and the Town of Fort Myers Beach Comprehensive Plan; and

WHEREAS, the Town Council held its first reading and public hearing of Ordinance 25-19 containing the Development Agreement at its November 17, 2025 Town Council meeting,

during which the Town Council determined that the Development Agreement and the accompanying application **satisfied/did not satisfy** the guidelines and criteria set forth in Sections 2-100 and 2-96 of the Town's Code of Ordinances and the procedures for approval of development agreements in Exhibit A to Resolution Number 24-247; and

WHEREAS, the Town Council voted to schedule the second reading and adoption public hearing on Ordinance 25-19 on December 15, 2025; and

WHEREAS, thereafter the Town Council held the second and final reading and public hearing to adopt of Ordinance 25-19, containing the Development Agreement on December 1, 2025 by a vote of ___ to ___; and

WHEREAS, a Business Impact Estimate was prepared and posted on the Town's website on the ___ day of _____, 2025, as required by Section 166.041(4), Florida Statutes; and

WHEREAS, the LPA public hearing and the Town Council public hearings were advertised on the 7th day of October, 2025; and

WHEREAS, the Town Council determined that adoption of the ordinance, as provided herein is in the best interests of the health, safety, welfare, and morals of the Town's residents.

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

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

Section 2. The Town Council hereby formally approves the Development Agreement attached hereto as Exhibit "A" to Ordinance 25-19 and authorizes the Applicant to proceed with the development as further outlined therein.

Section 3. The Town Clerk is directed to record a copy of the Home Rule Development Agreement in the Official Records of Lee County, Florida.

Section 4. This Ordinance shall become effective upon adoption by the Town Council.

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

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

ADOPTED this ____ day of _____, 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Town Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, Town Attorney

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

Attachments:

Exhibit A – Home Rule Development Agreement with Exhibits



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TYPE OF CASE: Development Agreement

CASE NUMBER: DA20250186

CASE NAME: 50 SAN CARLOS BLVD-KILWINS REDEVELOPMENT

LPA

HEARING DATE: October 14th, 2025, 9am

STAFF

RECOMMENDATION: Approval with conditions

**PREPARED/
SUBMITTED BY:** Uma Sarmistha, Ph.D.

I. APPLICATION SUMMARY

Applicant/Owner: The Neighborhood Company (Applicant)

Request: The applicant is requesting a Development Agreement to redevelop the subject property as a mixed-use with retail at ground level and residential above.

Subject property: 50 San Carlos Blvd.

Physical Address: 50 San Carlos Blvd
STRAP #: 24-46-23-W3-00208.002A

FLU: Pedestrian Commercial

Zoning: DOWNTOWN

Adjacent zoning and land uses:

North:	Downtown / PEDESTRIAN COMMERCIAL
South:	Downtown /PEDESTRIAN COMMERCIAL
East:	Downtown / PEDESTRIAN COMMERCIAL
West:	Community Facilities /RECREATION

II. BACKGROUND AND ANALYSIS

Background:

The Neighborhood Company, representing the Carlos L. Chavez Trust, seeks approval for a Development Agreement with deviations to redevelop the former Kilwin's Chocolates site within the Times Square Pedestrian Plaza. The proposed project includes a three-story mixed-use building with a mobile ice cream vending operation on the ground floor and residential units on the second and third floors.

The property is approximately 0.03 acres (1,119 sq. ft.), located across from Lynn Hall Memorial Park and about 100 feet from the Fort Myers Beach Pier. The area sustained significant damage from Hurricanes Ian, Helene, and Milton. Redevelopment efforts are guided by the Comprehensive Plan, which envisions a vibrant, pedestrian-friendly public realm.

Design and Compliance:

The proposed coastal design includes balconies extending beyond the build-to line, consistent with LDC Section 34-995(e)(2)a and b. These elements enhance visual interest and provide shade and shelter for pedestrians. While the design adheres to most Downtown district standards, the applicant requested for three deviations due to site constraints:

1. Rear Setback: Deviation from Section 34-674(b)(1)a.1 to allow a zero-foot rear setback.
2. Floor Area Ratio (FAR): Deviation from Section 34-675(c)(1)a to increase FAR from 1.8 to 2.5.
3. Edge Plantings: Deviation from LDC Section 10-416(b) to waive the requirement for building edge plantings.

Analysis:

The proposed development supports infill in the Downtown district and aligns with the Comprehensive Plan's vision for Times Square. The previous structure was non-conforming, built before current codes. The new proposal aims to comply with the Land Development Code and Comprehensive Plan, requesting deviations only where necessary.

The property is approximately 0.03 acres (1,119 sq. ft.), located across from Lynn Hall Memorial Park and about 100 feet from the Fort Myers Beach Pier. The area sustained significant damage from Hurricanes Ian, Helene, and Milton. Redevelopment efforts are guided by the

Comprehensive Plan, which envisions a vibrant, pedestrian-friendly public realm. However, to redevelop the property with suitable size, the applicant submitted a Development Agreement with deviations in accordance with the procedures outlined in Resolution #24-247.

The Comprehensive Plan and the Land Development Code (LDC) have outlined the anticipated redevelopment of the Downtown Zoning District. A Community Redevelopment Agency (CRA) plan was adopted in 1993, and the comprehensive plan's land use policies incorporate this CRA plan by focusing on improvements to the district. The comprehensive plan specifically addresses the desired types of development in Times Square, the important improvements needed in the area, and height regulations. The proposed development aligns with the goals, objectives, and policies set forth in the Comprehensive Plan.

GOAL 4: To keep Fort Myers Beach a healthy and vibrant “small town,” while capitalizing on the vitality and amenities available in a beach–resort environment and minimizing the damage that a hurricane could inflict.

OBJECTIVE 4-A SMALL-TOWN CHARACTER — Maintain the small-town character of Fort Myers Beach and the pedestrian-oriented “public realm” that allows people to move around without their cars even in the midst of peak-season congestion.

Applicant Response and Staff comment: The proposed project at the Times Square Pedestrian Plaza aims to support and enhance the pedestrian-friendly environment that is desired by the town for the redevelopment of the plaza. The ground-floor ice cream shop will promote pedestrian and bicycle traffic. The project is designed at a scale that preserves the small-town character of the area and will seamlessly integrate with future redevelopment efforts for Times Square. The proposed uses, architecture, scale, and location ensure that this project will further enhance the community.

Policy 4-B-6: “PEDESTRIAN COMMERCIAL”: a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around the Villa Santini Plaza. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for affordable units consistent with the adopted redevelopment plan). Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet the design concepts of this plan and the Land Development Code. Where commercial uses are permitted, residential uses are encouraged in upper floors.

Applicant Response and Staff comment: The proposed development is well-aligned with the allowed density and intensity for Times Square, promoting a vibrant “pedestrian-oriented public realm.” By incorporating a residential unit above the commercial space, it strengthens the

community aspect highlighted in the policy. At present, the Times Square Plaza offers limited options for visitors, primarily temporary ones. The introduction of a permanent mobile ice cream shop will not only draw more people to the plaza but also enhance the experience with covered seating for patrons, creating a welcoming and enjoyable atmosphere.

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.

Applicant Response and Staff comment: The proposed redevelopment involves constructing a three-story mixed-use building with a floor area ratio (FAR) of 2.5. Currently, the property's zoning allows a maximum FAR of 1.8. This proposed FAR aligns with the Comprehensive Plan's Pedestrian Commercial category. The subject property measures 0.03 acres (approximately 1,119 square feet). To create a reasonably sized and financially viable building, that will create an appropriate infill development for a Pedestrian Plaza.

Policy 4-C-4 Building Heights: The Land Development Code shall limit the height of new buildings under most conditions to two stories above flood elevation (exceptions may include the build back situations (see Policies 4-D-1 and 4-E-1), and different heights may be applied to officially designated redevelopment areas such as Times Square, Red Coconut/Gulf View Colony, and Villa Santini Plaza).

Applicant Response and Staff comment: The building will be three stories and will comply with all FEMA, DEP, Florida Building Code, and local regulations. As shown in the enclosed architectural exhibit (Exhibit C), the structure is two stories above flood elevation and meets zoned height restrictions.

List of Uses

The proposed DA, with a FAR of 2.5, provides the following uses of the subject property:

1. Commercial Space. Approximately 1000 square feet of commercial space is provided in this development. Uses include Ice cream shop/ mobile vender.
2. Residential Unit. A two-story single-family unit above the retail with a total square feet of 1775 (887.5 each story).

Deviations from the Code

The attached document entitled *Project Narrative* includes the applicant's complete justification for the deviations on 8-9.

1. Deviation from Section 34-674(b)(1)a.1. which requires a minimum rear setback of 10 feet to allow a zero-foot (0') rear setback.
2. Deviation from Section 34-675(c)(1) a. which requires a maximum FAR of 1.8 for the Times Square Pedestrian Plaza to allow a maximum FAR of 2.5 as permitted in the Pedestrian Commercial Future Land Use category.
3. Deviation from LDC Section 10-416(b) which requires building edge plantings for commercial and mixed-use buildings in the Downtown zoning district, to allow no edge plantings for the subject property.

General Description of Development

The proposed DA consists of three stories: a ground floor with commercial space and single-family residential units above. The ground floor will be open and designed to allow for mobile ice cream vending, with no permanent structures. The second and third floors will contain single-family residences.

The applicant has noted that the Town of Fort Myers Beach is currently studying wave mitigation walls to strengthen the shoreline. This initiative could potentially enable properties in the Times Square area to be removed from the V-Zone. If the mitigation plan is successful, there may be an opportunity to develop on the ground floor. However, the town has not yet established any regulations regarding this matter.

The proposed retail and residential uses are permitted right within the Downtown district, as outlined in the Land Development Code. However, in the current plan, there is no on-site parking or stormwater, and three deviations are requested.

Deviation #1 Deviation from LDC Section 34-674(b)(1)a.1. Allowing minimum rear setback line of 10 feet for parcels within the Downtown Zoning District and facing the Times Square Pedestrian Plaza to zero (0) rear setback.

Applicant Justification: Due to the property's limited dimensions—approximately 26 feet in width and 44 feet in depth—strict adherence to the ten-foot setback would restrict the building's depth to 34 feet and its footprint to 884 square feet. This limitation greatly hinders the ability to construct a commercially viable retail space that complies with the current Land Development

Code. The requested deviation would allow the building to be positioned with a zero-foot setback at the rear property line, enabling a more functional and appropriately sized structure for a retail establishment. Access to the rear of the building will be available to property owners and employees. Eliminating the rear setback will not harm or detract from the adjoining property owners, as this property abuts a common access easement that cannot be developed by neighboring properties. Additionally, a portion of the property partially borders land that is under the same ownership. This area is shown in the survey and the architectural exhibits (Exhibit C). The building will be constructed to meet all fire and life safety regulations.

Deviation #2 Deviation from Section 34-675(c)(1)a. Allowing maximum FAR of 1.8 to a maximum FAR of 2.5 as permitted in the Pedestrian Commercial Future Land Use category.

Applicant Justification: Due to the property's limited size of approximately 0.03 acres (1,119 sq. ft.), current zoning regulations restrict the building to a maximum FAR of 1.8, which allows for a total of 2,014 square feet. This limitation presents a significant challenge in developing a commercially viable ground floor space and a modest-sized residential unit above. The requested deviation would allow for an FAR of 2.5, resulting in an additional 783 square feet. This extra space at the ground level would accommodate a mobile vending ice cream shop that can be easily maneuvered under the building. Additionally, the extra square footage for the residential unit would ensure an adequate living space on the second floor and provide a one-bedroom unit on the third floor.

DEVIATION #3 Deviation from LDC Section 10-416(b), Allowing no edge planning requirement for the subject property.

Applicant Justification: The subject property is quite small, measuring approximately 0.03 acres, and is situated directly along the Times Square pedestrian plaza. The design for the proposed building places the structure very close to the right-of-way, allowing minimal space for edge plantings. Additionally, the planters and hardscaping in Times Square should follow a cohesive design theme that is consistent throughout the entire public plaza. This should be done in a way that does not obstruct pedestrian traffic or create safety hazards. Furthermore, the mobile vending operation will require the ability to easily maneuver a trailer and light-duty truck under the proposed structure. Having permanent edge plantings would restrict access and pose an unnecessary hardship.

Neighborhood Compatibility and Public Benefit:

The neighborhoods surrounding the subject site are planned for mixed-use development, specifically in the Downtown Times Square Pedestrian Commercial Plaza. The proposed mixed-

use structure is thoughtfully designed to align with the town's vision for Times Square. It features ground-level retail space along the pedestrian plaza, along with a residential unit situated above the commercial area.

Approval of this project will accelerate the redevelopment of Times Square and support the goal of transforming Times Square, Old San Carlos, and the proposed bayfront plaza into a cohesive, pedestrian-friendly "*Main Street*" that connects the island from the Gulf to the Bay. The proposed development adheres to the permitted density and intensity for Times Square. It will enhance the "pedestrian-oriented public realm" and provide a residential unit above the commercial space, as outlined in this policy.

The building's vertical mixed-use design and coastal architectural style align well with the Town's vision and development goals for this area. Furthermore, the proposed redevelopment will restore the economic viability of this parcel and contribute to the Town's tax revenues.

Findings and Conclusions:

The applicant has provided a DA meeting the minimum statutory requirements of the Code of Ordinances. The DA has been processed in accordance with the procedures in the Administrative Code.

RECOMMENDATION

The development agreement included in your agenda packet results from preliminary negotiations between the applicant and Town staff, in accordance with the processes and procedures outlined in the administrative code section (Ordinance 24-247, attached as Exhibit B). The proposed uses and some of the suggested public benefits align with the policies of the comprehensive plan.

Staff recommend the following items for discussion: -

1. Currently, there is no stormwater management plan in place. However, the development will need to establish either a dedicated stormwater facility or provide evidence of access to a shared stormwater pond in the plaza area.
2. Given the zero-rear setback (deviation #1), staff recommend incorporating landscaping or a stormwater facility, as this would be beneficial to the Town.
3. Building design considerations should ensure both cohesion and aesthetic appeal.
4. A separate signage plan must be submitted before the building permit can be issued. Staff recommend that the Local Planning Agency (LPA) ask questions of the applicant, suggest any modifications, and make recommendations for adoption or changes to the Town Council.

CONDITIONS OF APPROVAL

Conditions of approval are contained within the DA.

V. EXHIBITS

- A. DA FMB 50 Old San Carlos
- B. Application packet and Site Plan
- C. Applicant Narrative

Air Photos: 2025 Hi-Res (3 inch)

1:572

0 25 50 100 ft

US 41
Other Highways
Other Roads

Parcels Near

US 41

US 41
Other Highways

US 41
Other Highway
Other Roads

This map is NOT a legal land survey and should not be used or relied upon as such. No warranties, express or implied, are provided with the data, use, accuracy or interpretation.

Exhibit B

Deviations from the Code

1. Deviation from Section 34-674(b)(1) a.1. which requires a minimum rear setback of 10 feet to allow a zero-foot (0') rear setback.
2. Deviation from Section 34-675(c)(1) a. which requires a maximum FAR of 1.8 for the Times Square Pedestrian Plaza to allow a maximum FAR of 2.5 as permitted in the Pedestrian Commercial Future Land Use category.
3. Deviation from LDC Section 10-416(b) which requires building edge plantings for commercial and mixed-use buildings in the Downtown zoning district, to allow no edge plantings for the subject property.

GENERAL NOTES:

1. THIS SITE PLAN IS CONCEPTUAL IN NATURE. THE OVERALL CONFIGURATION, SIZE AND LOCATION OF THE STRUCTURE AND OTHER IMPROVEMENTS MAY VARY. FINAL DESIGN AND IMPROVEMENT DETAIL SWILL BE PROVIDED AS PART OF THE DEVELOPMENT ORDER (D.O.) PROCESS.
2. TOTAL SITE AREA: 0.03± ACRES (1,119 SQUARE FEET, MORE OR LESS)
3. FUTURE LAND USE DESIGNATION: PEDESTRIAN COMMERCIAL
4. EXISTING ZONING: DOWNTOWN
5. ALL OTHER DEVELOPMENT STANDARDS SHALL BE SET FOR IN LDC CHAPTER 24 OR OTHER APPLICABLE PROVISIONS OF THE LDC.

DEVELOPMENT STANDARDS:

MINIMUM SETBACKS

STREET : 0 FEET BUILD-TO LINE
SIDE: 0 FEET
REAR: 0 FEET

MAXIMUM HEIGHT:
30 FEET ABOVE DESIGN FLOOD ELEVATION, NO TALLER THAN 3 (THREE) STORIES

MAXIMUM INTENSITY AND DENSITY

INTENSITY: 2.5 FLOOR AREA RATIO (FAR)

DENSITY: 1 DWELLING UNIT

DEVIATIONS:

1. DEVIATION FROM SECTION 34-674(B)(1)A.1. WHICH REQUIRES A MINIMUM REAR SETBACK OF 10 FEET TO ELIMINATE THE REAR SETBACK
2. DEVIATION FROM SECTION 34-675(C)(1)A. WHICH REQUIRES A MAXIMUM FAR OF 1.8 FOR THE TIMES SQUARE PEDESTRIAN PLAZA TO ALLOW A MAXIMUM FAR OF 2.5 AS PERMITTED IN THE PEDESTRIAN COMMERCIAL FUTURE LAND USE CATEGORY.
3. DEVIATION FROM LDC SECTION 10-416(B) WHICH REQUIRES BUILDING EDGE PLANTINGS FOR COMMERCIAL AND MIXED-USE BUILDINGS IN THE DOWNTOWN ZONING DISTRICT, TO ALLOW NO EDGE PLANTINGS FOR THE SUBJECT PROPERTY.

FLU: RECREATION
ZONING: COMMUNITY FACILITIES
EXISTING USE: TIMES SQUARE
PEDESTRIAN AREA/ LYNN HALL PARK

FLU: PEDESTRIAN COMMERCIAL
ZONING: DOWNTOWN
EXISTING USE: VACANT COMMERCIAL

FLU: PEDESTRIAN COMMERCIAL
ZONING: DOWNTOWN
EXISTING USE: COMMERCIAL

FLU: PEDESTRIAN COMMERCIAL
ZONING: DOWNTOWN
EXISTING USE: VACANT COMMERCIAL

PROPERTY BOUNDARY

MOBILE VENDING TRAILER

MAXIMUM OF 6'-0" —
ENCROACHMENT INTO RIGHT OF
WAY ALLOWED PER SECTION
34-995(e)(2) a AND b

SERVICE
WINDOW

LEGEND

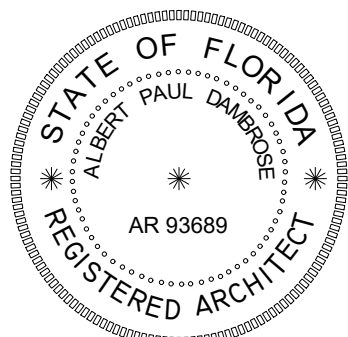
 - **BUILDING FOOTPRINT**
 - **DEVIATIONS**
 - **SEATING AREA**

PROJECT NO: 220050.01.01		CLIENT: CARLOS L. CHAVEZ, TRUSTEE FOR CARLOS L. CHAVEZ TRUST		 THE NEIGHBORHOOD COMPANY 5618 WHISPERING WILLOW WAY FORT MYERS, FL 33908 WWW.THENEIGHBORHOOD.COM/COMPANY										#	REVISION	DRAWN	DATE	5																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																							
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A NEW BUILDING FOR:
MELI'S ICE CREAM SHOP

50 OLD SAN CARLOS BLVD, AT TIMES SQUARE
FORT MYERS BEACH, FL

CONSULTANT:



ALBERT DAMBROSE
AR93689

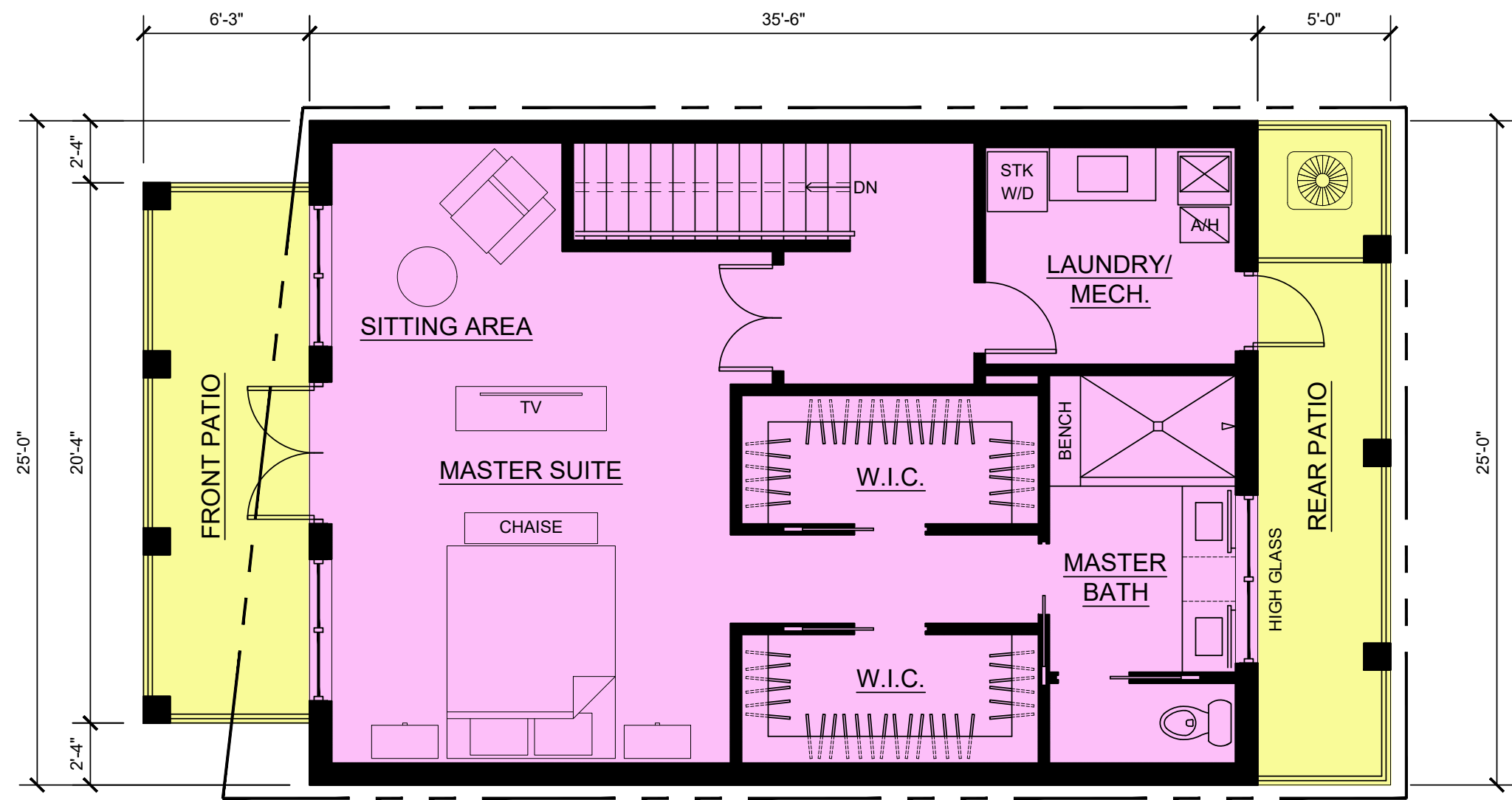
DATE ISSUED: 16 SEPT 2025

REVISIONS:

SHEET

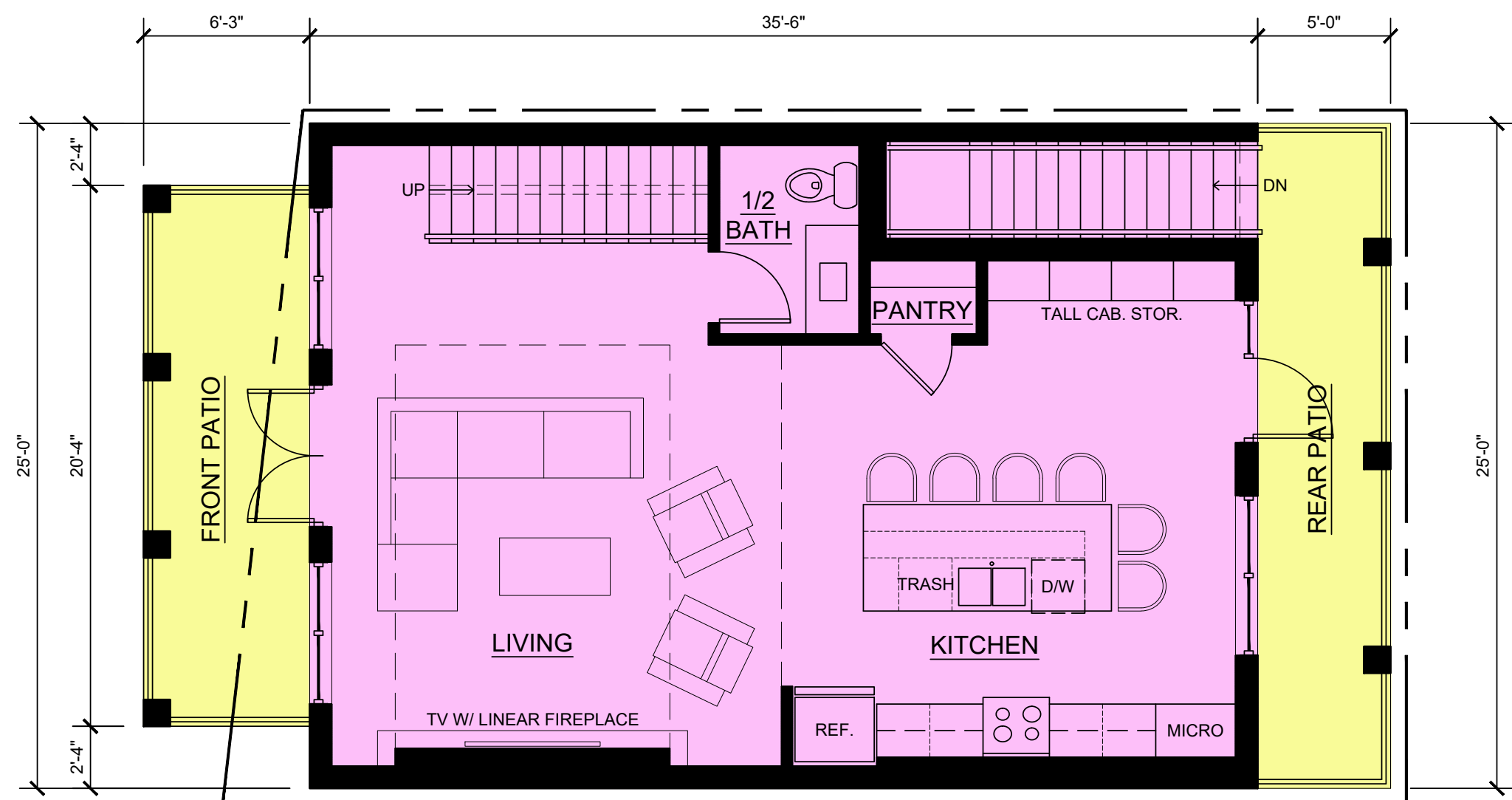
D2

OF 3



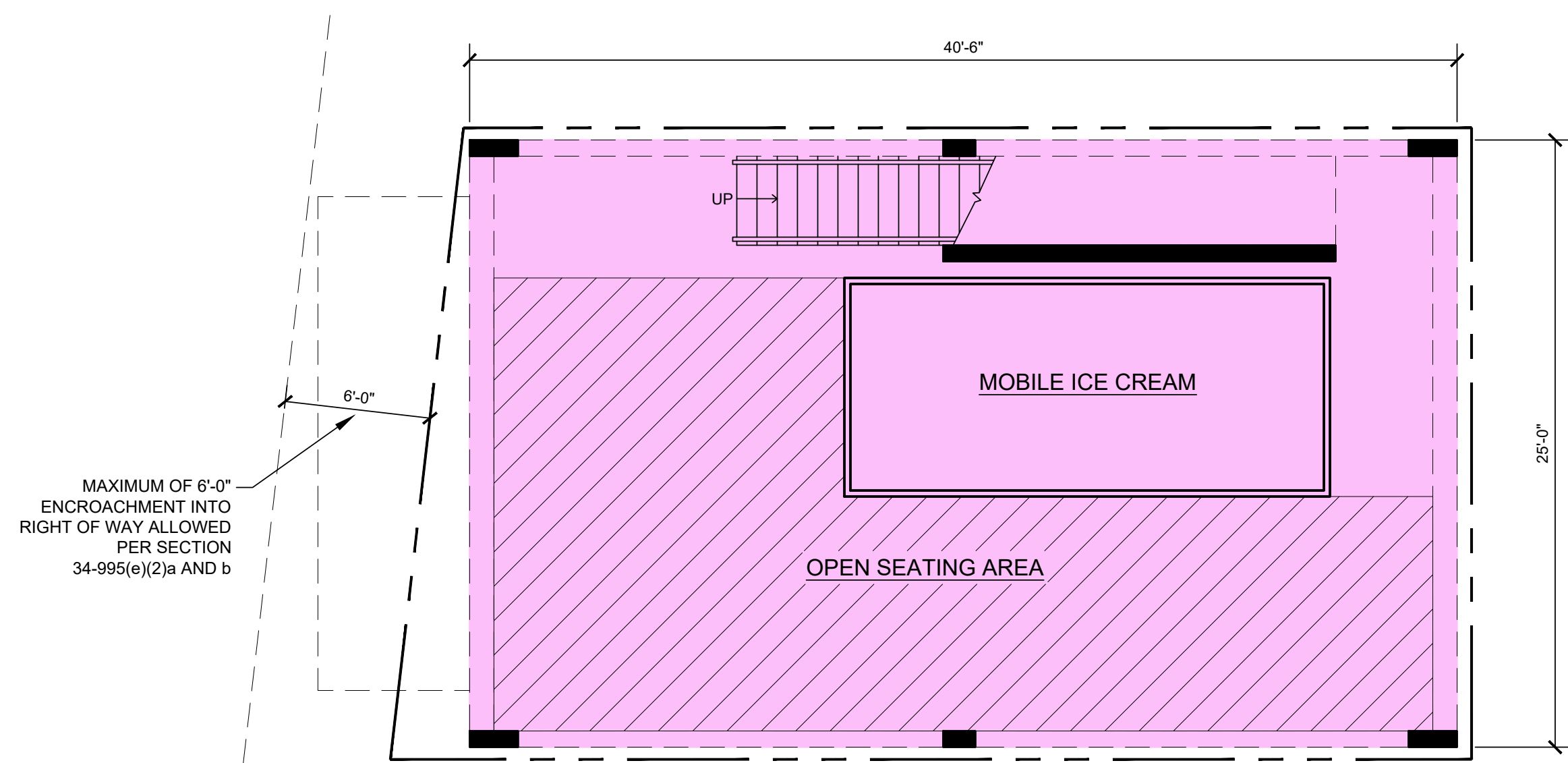
SCHEMATIC THIRD FLOOR PLAN

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



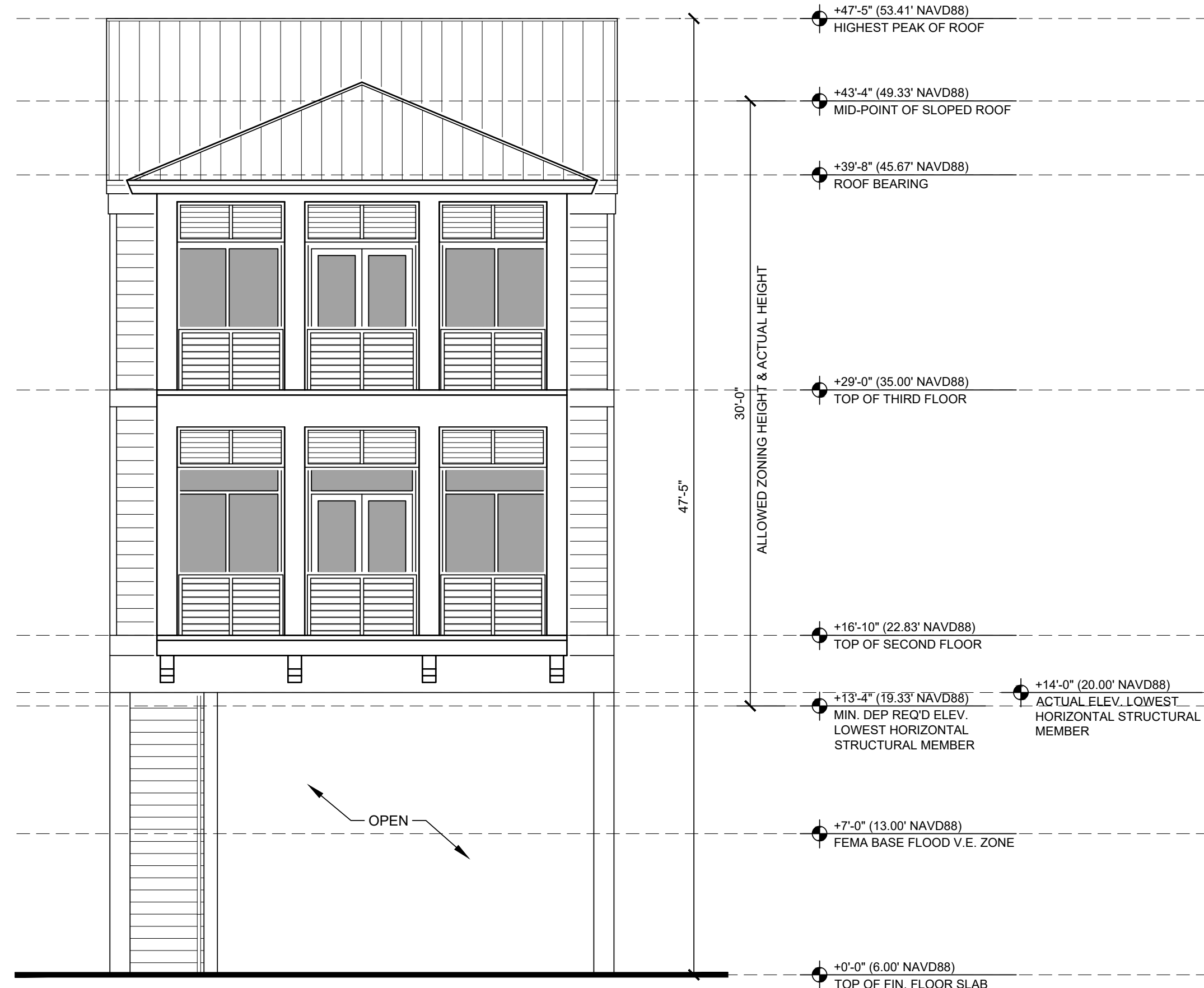
SCHEMATIC SECOND FLOOR PLAN

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



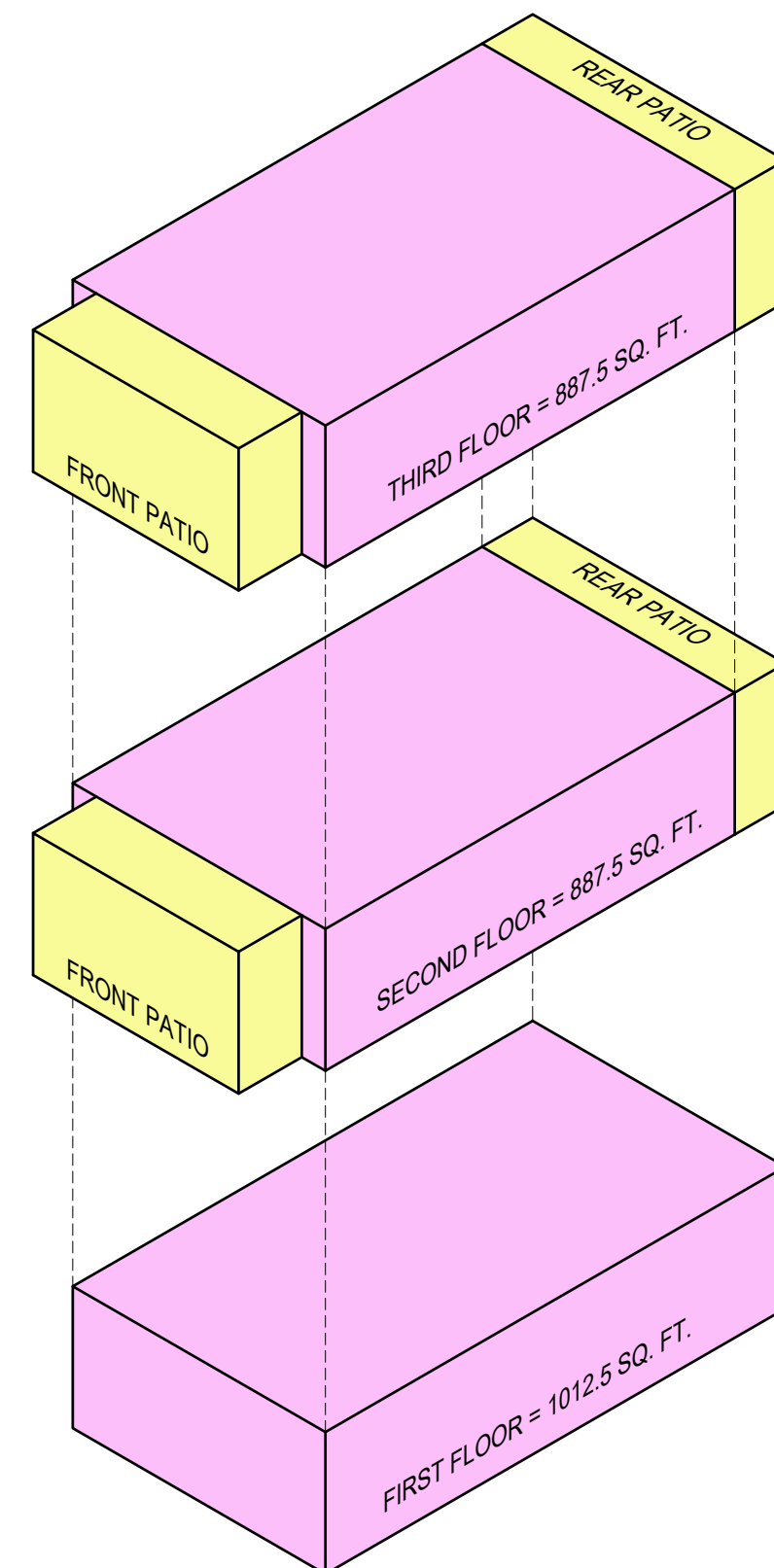
SCHEMATIC FIRST FLOOR PLAN - WITH MOBILE TRAILER

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



SCHEMATIC FRONT (WESTERN) ELEVATION

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



F.A.R. ISOMETRIC

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

BUILDING AREA ANALYSIS

FIRST FLOOR	1,012.5 SQ. FT.	
SECOND FLOOR	887.5 SQ. FT.	
THIRD FLOOR	887.5 SQ. FT.	

TOTAL F.A.R. PROPOSED = 2,787.5 SQ. FT.

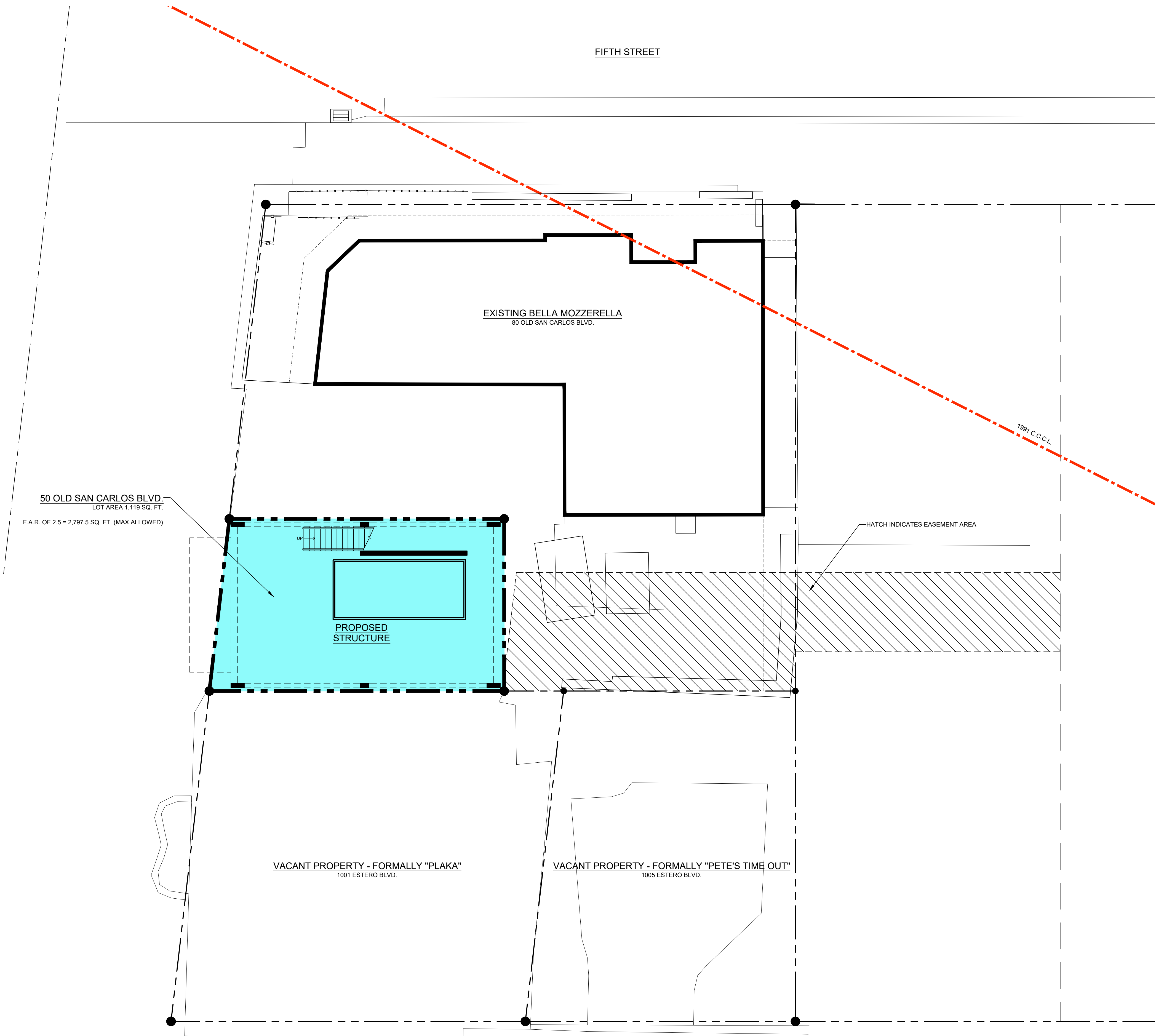
MAXIMUM F.A.R. ALLOWED W/ 2.5 RATIO = 2,797.5 SQ. FT.

*EXCLUDED FROM F.A.R.

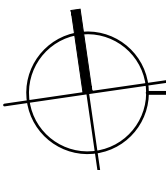
-FRONT AND REAR EXTERIOR PATIOS

-252 SQ. FT. AT SECOND FLOOR

-252 SQ. FT. AT THIRD FLOOR



NORTH

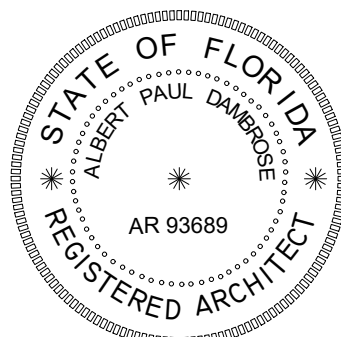


SCHEMATIC SITE PLAN

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

A NEW BUILDING FOR:
MELI'S ICE CREAM SHOP
50 OLD SAN CARLOS BLVD, AT TIMES SQUARE
FORT MYERS BEACH, FL

CONSULTANT:



ALBERT DAMBROSE
AR93689

DATE ISSUED: 16 SEPT 2025

REVISIONS:

SHEET

D1

OF 3



SCHEMATIC FRONT (WESTERN) ELEVATION

N.T.S.



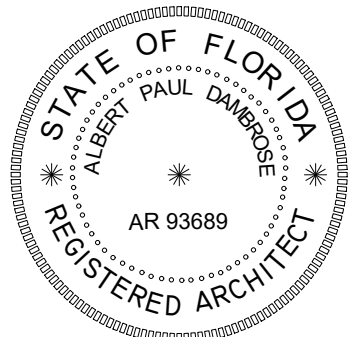
SCHEMATIC FRONT (WESTERN) ELEVATION

N.T.S.

**A NEW BUILDING FOR:
MELI'S ICE CREAM SHOP**

50 OLD SAN CARLOS BLVD, AT TIMES SQUARE
FORT MYERS BEACH, FL

CONSULTANT:



ALBERT DAMBROSE
AR93689

DATE ISSUED: 16 SEPT 2025

REVISIONS:

SHEET

D3

OF 3

TITLE OPINION

This opinion is provided to:

May 30, 2025

Town of Fort Myers Beach
2525 Estero Blvd.
Fort Myers Beach, FL 33991

I am an attorney licensed to practice law in the State of Florida and I have examined the ALTA Owner's Policy of Title Insurance issued by Old Republic National Title Insurance Company under Policy OF6-4173577 dated August 13, 2015, together with Title Update prepared by Old Republic National Title Insurance Company dated May 9, 2025 (with an effective search through May 9, 2025) under File No. 250071, copies of which are attached hereto (collectively, the "Title Reports") covering the real property described therein (the "Property"). Based upon my examination of the Title Reports, it is my opinion that as of May 9, 2025, the record title to the Property was vested in Carlos L. Chavez, as Trustee of the Carlos L. Chavez Revocable Trust ("Owner"), subject to mortgage(s), easement(s) and other matters expressly referenced in the Title Reports. Owner's contact information is c/o Carlos L. Chavez, as Trustee of the Carlos L. Chavez Revocable Trust, 991 Aqua Lane, Fort Myers, Florida 33919.

This Title Opinion is provided pursuant to the requirements of the Town of Fort Myers Beach Resolution 24-73 for the uses and purposes specifically stated therein, and is not to be used as the basis for issuance of an insurance commitment and/or policy or relied upon for any other purposes.

Respectfully submitted,

Richard B. Akin

Richard B. Akin, Esquire
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
Fort Myers, Florida 33901

RBA

Enclosures: Old Republic National Title Insurance Co.
Commitment for Title

**AMERICAN LAND TITLE ASSOCIATION
COMMITMENT
(With Florida Modifications)**

ISSUED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

Transaction Identification Data, for which the Company assumes no liability as set forth in Commitment Condition 5.e.:

Commitment Number: 1643826	Revision Number:	Issuing Office File Number: 250071	Issuing Agent: Victory Title Services, LLC
Property Address: 50 Old San Carlos Blvd., Fort Myers Beach, FL 33931	Loan ID Number:	Issuing Office's ALTA® Registry ID:	Issuing Office: 923 Del Prado Boulevard S., Suite 107, Cape Coral FL 33990

SCHEDULE A

1. Commitment Date: **May 9, 2025 at 11:00 PM**
2. Policy to be issued:
a. OWNER'S: 2021 ALTA® Owner's Policy with Florida Modifications
Proposed Insured:
The estate or interest to be insured: **Fee Simple as shown by instrument to be recorded in the Public Records of Lee County, Florida.**
b. MORTGAGEE: 2021 ALTA® Loan Policy with Florida Modifications
Proposed Insured:
The estate or interest to be insured: **Fee Simple**
3. The estate or interest in the Land at the Commitment Date is: *(Identify each estate or interest covered, i.e., fee, leasehold, etc.)*
Fee Simple
4. The Title is, at the Commitment Date, vested in: *(Identify vesting for each estate or interest identified in Item 3 above)* **Carlos L. Chavez, as Trustee of the Carlos L. Chavez Revocable Trust**
5. The Land is described as follows:
The Southwest 26 feet of Lot 2, Block 8, Business Center, excepting therefrom the Southeast 44 feet thereof, according to the map or plat on file and recorded in Plat Book 9, Pages 9 and 10, Public Records of Lee County, Florida.

Old Republic National Title Insurance Company
1408 N. Westshore Blvd., Ste. 900, Tampa, FL 32607, (612) 371-1111



AUTHORIZED SIGNATORY

This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by Old Republic National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

Form C21 - Schedule A – ALTA Commitment for Title Insurance 2021 v. 01.00 (with Florida Modifications)
07/01/2021

**AMERICAN LAND TITLE ASSOCIATION
COMMITMENT
(With Florida Modifications)**

ISSUED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

Commitment Number: 1643826

Schedule B-I

Issuing Office File Number: 250071

REQUIREMENTS

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.
 - A. Warranty Deed from Carlos L. Chavez, individually and as Trustee of the Carlos L. Chavez Revocable Trust, joined by spouse, if married, or nonhomestead language, to the proposed purchaser(s).
5. Recording of Certification of Trust confirming the information as required by Sec. 736.1017(1), F.S., containing the confirmatory statement under Sec. 736.1017(3).
6. No open mortgage(s) were found of record. Agent should confirm with the owner that the property is free and clear.
7. An update of the title search must be completed just prior to the closing and the commitment must be endorsed to require clearance of, or take exception for, any additional title defects or adverse matters found.

This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by Old Republic National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

**AMERICAN LAND TITLE ASSOCIATION
COMMITMENT
(With Florida Modifications)**

ISSUED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

Schedule B-II

Issuing Office File Number: 250071

EXCEPTIONS FROM COVERAGE

SOME HISTORICAL LAND RECORDS CONTAIN DISCRIMINATORY COVENANTS THAT ARE ILLEGAL AND UNENFORCEABLE BY LAW. THIS COMMITMENT AND THE POLICY TREAT ANY DISCRIMINATORY COVENANT IN A DOCUMENT REFERENCED IN SCHEDULE B AS IF EACH DISCRIMINATORY COVENANT IS REDACTED, REPUDIATED, REMOVED, AND NOT REPUBLISHED OR RECIRCULATED. ONLY THE REMAINING PROVISIONS OF THE DOCUMENT WILL BE EXCEPTED FROM COVERAGE.

The Policy will not insure against loss or damage resulting from the terms and conditions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I - Requirements are met.
2.
 - a. General or special taxes and assessments required to be paid in the year 2025 and subsequent years.
 - b. Rights or claims of parties in possession not recorded in the Public Records.
 - c. Any encroachment, encumbrance, violation, variation or adverse circumstance that would be disclosed by an inspection or an accurate and complete land survey of the Land and inspection of the Land.
 - d. Easements or claims of easements not recorded in the Public Records.
 - e. Any lien, or right to a lien, for services, labor or material furnished, imposed by law and not recorded in the Public Records.
3. Any Owner's Policy issued pursuant hereto will contain under Schedule B the following exception: Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the Land insured hereunder, including submerged, filled and artificially exposed lands, and lands accreted to such lands.
4. Any lien provided by County Ordinance or by Chapter 159, F.S., in favor of any city, town, village or port authority, for unpaid service charges for services by any water systems, sewer systems or gas systems serving the land described herein; and any lien for waste fees in favor of any county or municipality.
5. All matters contained on the Plat of Business Center, as recorded in Plat Book 9, Pages 9 and 10, Public Records of Lee County, Florida.
6. Lee County Ordinance No. 86-14 recorded November 30, 1990, in O.R. Book 2189, Page 3281; and amended by Ordinance No. 86-38 in O.R. Book 2189, Page 3334, Public Records of Lee County, Florida.
7. Rights of the lessees under unrecorded leases.

This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by Old Republic National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

Form C21 - Schedule B II – ALTA Commitment 2021 v. 01.00 (with Florida Modifications)

07/01/2021

OWNER'S POLICY OF TITLE INSURANCE

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

Any notice of claim and any other notice or statement in writing required to be given to the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.

COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, a Minnesota corporation (the "Company") insures, as of Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
 - (a) A defect in the Title caused by
 - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
 - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
 - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
 - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
 - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
 - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
 - (vii) a defective judicial or administrative proceeding.
 - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
 - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (a) the occupancy, use, or enjoyment of the Land;
 - (b) the character, dimensions, or location of any improvement erected on the Land;
 - (c) the subdivision of land; or
 - (d) environmental protection

if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce but only to the extent of the violation or enforcement referred to in that notice.

(Covered Risks continued)

In Witness Whereof, OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, has caused this policy to be signed and sealed as of Date of Policy shown in Schedule A, the policy to become valid when countersigned by an authorized signatory of the Company.

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
A Stock Company
400 Second Avenue South, Minneapolis, Minnesota 55401
(612) 371-1111



By

Mark A. Bilsby

President

Attest

David Wald

Secretary

SERIAL

OF6- 4173577

(Covered Risks continued)

6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
9. Title being vested other than as stated in Schedule A or being defective
 - (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
 - (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records
 - (i) to be timely, or
 - (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1 (a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1 (b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
 - (a) a fraudulent conveyance or fraudulent transfer; or
 - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

CONDITIONS

1. DEFINITION OF TERMS

The following terms when used in this policy mean:

- (a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions.
- (b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.
- (c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.
- (d) "Insured": The Insured named in Schedule A.
 - (i) the term "Insured" also includes
 - (A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;
 - (B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;
 - (C) successors to an Insured by its conversion to another kind of Entity;
 - (D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title
 - (1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,
 - (2) if the grantee wholly owns the named Insured,
 - (3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or
 - (4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes.
 - (ii) with regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.
- (e) "Insured Claimant": An Insured claiming loss or damage.
- (f) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.
- (g) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.
- (h) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.
- (i) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.
- (j) "Title": The estate or interest described in Schedule A.
- (k) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

5. DEFENSE AND PROSECUTION OF ACTIONS

- (a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.
- (b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.
- (c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal any adverse judgment or order.

6. DUTY OF INSURED CLAIMANT TO COOPERATE

- (a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.
- (b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

- (a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

- (b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.

- (i) to pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or

- (ii) to pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b) (i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

8. DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

- (a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of

- (i) the Amount of Insurance; or

- (ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.

- (b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,

- (i) the Amount of Insurance shall be increased by 10% and
 - (ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.
- (c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

9. LIMITATION OF LIABILITY

- (a) If the Company establishes the Title, or removes the alleged defect, lien, or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.
- (b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.
- (c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

11. LIABILITY NONCUMULATIVE

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

12. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

- (a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

- (b) The Company's right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

14. ARBITRATION

Unless prohibited by applicable law, arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association may be demanded if agreed to by both the Company and the Insured at the time of the controversy or claim. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, and service of the Company in connection with its issuance or the breach of a policy provision or other obligation. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the Insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the Land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

- (a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.
- (b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim whether or not based on negligence shall be restricted to this policy.
- (c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.
- (d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

16. SEVERABILITY

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

17. CHOICE OF LAW; FORUM

(a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

(b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States or other territories having appropriate jurisdiction.

18. NOTICES, WHERE SENT

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at 400 Second Avenue South, Minneapolis, Minnesota 55401-2499. Phone: (612) 371-1111.

FORM OF6 (rev. 12/10)(With Florida Modifications)

6 of 6

**Old Republic National
Title Insurance Company**

OWNER'S
TITLE INSURANCE
POLICY

1# 8/02/0202/02



For information about coverage or
assistance in resolving complaints,
call (612) 371-1111.

Offices at
400 Second Avenue South
Minneapolis, Minnesota 55401

**OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
OWNER'S POLICY**

Schedule A

Policy No.: OF6-4173577

Date of Policy: August 13, 2015 at 9:07 AM

Fund File Number 211314

Agent's File Reference: JWR-Chavez

Amount of Insurance: \$1,075,000.00

Premium: \$5,262.50

Address Reference: 50 Old San Carlos Boulevard, Fort Myers Beach, FL 33931

1. Name of Insured:

Carlos L. Chavez

2. The estate or interest in the Land that is insured by this policy is FEE SIMPLE as shown by instrument recorded in Instrument Number 2015000177016, of the Public Records of Lee County, Florida.

3. Title is vested in:

Carlos L. Chavez

4. The land referred to in this Policy is described as follows:

The Southwest 26 feet of Lot 2, Block 8, Business Center, excepting therefrom the Southeast 44 feet thereof, according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Court in Plat Book 9, Pges 9 and 10, Public Records of Lee County, Florida.

Old Republic National Title Insurance Company

400 Second Avenue South, Minneapolis, Minnesota 55401, (612) 371-1111

AGENT NO.: 742901

ISSUED BY: Kevin F Jursinski P.A.

MAILING ADDRESS:

15701 S Tamiami Trail
Ft Myers, FL 33908

AGENT'S SIGNATURE _____

Kevin F Jursinski, Esq.

OF6-SCH.-A (rev. 12/10) (With Florida Modifications)

**OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
OWNER'S POLICY**

Schedule B

Policy No.: OF6-4173577

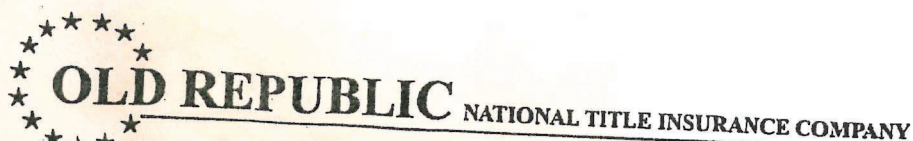
Fund File Number 211314
Agent's File Reference: JWR-Chavez

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. General or special taxes and assessments required to be paid in the year 2015 and subsequent years.
2. Rights or claims of parties in possession not recorded in the Public Records.
3. Any encroachment, encumbrance, violation, variation, or adverse circumstance that would be disclosed by an inspection or an accurate and complete land survey of the Land and inspection of the Land.
4. Easements or claims of easements not recorded in the Public Records.
5. Any lien, or right to a lien, for services, labor, or material furnished, imposed by law and not recorded in the Public Records.
6. Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the Land insured hereunder, including submerged, filled and artificially exposed lands, and lands accreted to such lands.

Items 2 and 5 are hereby deleted.

7. Any lien provided by County Ordinance or by Chapter 159, F.S., in favor of any city, town, village or port authority, for unpaid service charges for services by any water systems, sewer systems or gas systems serving the land described herein; and any lien for waste fees in favor of any county or municipality.
8. All matters contained on the Plat of Business Center, as recorded in Plat Book 9, Pages 9 and 10, Public Records of Lee County, Florida.
9. Lee County Ordinance No. 86-14 recorded November 30, 1990, in O.R. Book 2189, Page 3281; and amended by Ordinance No. 86-38 in O.R. Book 2189, Page 3334, Public Records of Lee County, Florida.
10. Mortgage executed by Carlos L. Chavez, in favor of John W. Richard, as Trustee of the John W. Richard Revocable Trust U/T/A dated May 3, 1995, dated August 12, 2015, in the amount of \$525,000.00, recorded August 13, 2015, in Instrument Number 2015000177017, of the Public Records of Lee County, Florida.



400 Second Avenue South
Minneapolis, Minnesota 55401
(612) 371-1111

PRIVACY POLICY NOTICE

Title V of the Gramm-Leach-Bliley Act (GLBA) generally prohibits any financial institution, directly or through its affiliates, from sharing nonpublic personal information about you with a nonaffiliated third party unless the institution provides YOU with a notice of its privacy policies and practices, such as the type of information that it collects about you and the categories of persons or entities to whom it may be disclosed. In compliance with the GLBA, we are providing you with this document, which notifies you of the privacy policies and practices of Old Republic National Title Insurance Company.

We may collect nonpublic personal information about you from the following sources:

- Information we receive from you such as on applications or other forms.
- Information about your transactions we secure from our files, or from our affiliates or others.
- Information we receive from a consumer reporting agency.
- Information that we receive from others involved in your transaction, such as the real estate agent or lender.

Unless it is specifically stated otherwise in an amended Privacy Policy Notice, no additional nonpublic personal information will be collected about you.

We may disclose any of the above information that we collect about our customers or former customers to our affiliates or to nonaffiliated third parties as permitted by law.

We also may disclose this information about our customers or former customers to the following types of nonaffiliated companies that perform marketing services on our behalf or with whom we have Joint Marketing Agreements:

- Financial service providers such as companies engaged in banking, consumer finance, securities and insurance.
- Non-financial companies such as envelope stuffers and other fulfillment service providers.

WE DO NOT DISCLOSE ANY NONPUBLIC PERSONAL INFORMATION ABOUT YOU WITH ANYONE FOR ANY PURPOSE THAT IS NOT SPECIFICALLY PERMITTED BY LAW.

We restrict access to non-public personal information about you to those employees who need to know that information in order to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.



Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the Town's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference: (25-19)

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING OR DENYING A HOME RULE DEVELOPMENT AGREEMENT FOR PROPERTY LOCATED AT 50 OLD SAN CARLOS BOULEVARD, FORT MYERS BEACH, FL, STRAP NOS. 24-46-23-W3-00208.002A OWNED BY CARLOS L. CHAVEZ TRUSTEE FOR CARLOS L. CHAVEZ TRUST, AS AUTHORIZED BY SECTION 2-100 OF THE TOWN'S LAND DEVELOPMENT CODE AND IN COMPLIANCE WITH THE PROCEDURES FOR APPLICATION AND APPROVAL OF DEVELOPMENT AGREEMENTS WITH DEVIATIONS SET FORTH IN RESOLUTION NUMBER 24-247 FOR THE PURPOSE OF REDEVELOPMENT OF THE PROPERTY TO ALLOW A MIXED USE DEVELOPMENT WITH COMMERCIAL AT THE OPEN GROUND LEVEL AND SINGLE FAMILY RESIDENTIAL ABOVE.; PROVIDING FOR TERMS AND CONDITIONS INCLUDING BUT NOT LIMITED TO THE IDENTIFICATION OF THE PROPOSED USE OF THE PROPERTY, A FINDING OF CONSISTENCY WITH THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, COMMITMENTS AND DEVELOPMENT OBLIGATIONS, DEVIATIONS NEEDED FOR DEVELOPMENT; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;

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

- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☒ The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
 - b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

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

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance is to create a Development agreement (DA) to allow redevelopment of property to a mixed use with commercial at the ground level and single family above in the Downtown zoning district. The parcel located at 50 San Carlos Blvd, generally identified as Strap Number 24-46-23-W3-00208.002A Fort Myers Beach.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Town, including the following, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur;
- (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
- (c) An estimate of the Town's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

There are unlikely to be direct compliance costs associated with the ordinance.

The ordinance does not impose any new charge or fee on businesses.

There are no new charges or fees that will be imposed on businesses by the ordinance.

The Town will not likely incur additional costs.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

One property owner will be impacted by this proposed ordinance.

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

HOME RULE DEVELOPMENT AGREEMENT

(As Approved _____ (date))

THIS HOME RULE DEVELOPMENT AGREEMENT (hereinafter "Agreement" or "Development Agreement") is entered into this _____ day of _____, 2025, by and between **THE TOWN OF FORT MYERS BEACH, FLORIDA**, a municipality of the State of Florida (hereinafter "Town"), having its principal office at 6231 Estero Blvd, Fort Myers Beach, FL, and **CARLOS L. CHAVEZ AS TRUSTEE FOR THE CARLOS L. CHAVEZ TRUST, (hereinafter "Owner/Developer")**, whose address is **991 Aqua Lane, Fort Myers, FL 33919**. Developer and the Town may hereinafter be individually referred to as "Party" and collectively referred to as the "Parties."

WHEREAS, Section 2-100 of the Town's Land Development Code ("LDC") authorizes the Town to enter into a Home Rule Development Agreement pursuant to Article VIII, § 1(f), of the Constitution of the State of Florida and F.S. chs. 163, 166, and 380, and specifically recognized by the State Legislature in F.S. §163.3220(5); and

WHEREAS, the Developer has requested approval of this Development Agreement pursuant to Sections 2-100 and 2-96 of the Town's Land Development Code and Resolution 24-247, as amended; and

WHEREAS, Developer owns approximately 0.03 +/- acres (1,119 square feet) of land located within the Town, said property, is located seaward of the 1978 Coastal Construction Control Line (hereinafter "CCCL"), being legally described in Exhibit "A" attached hereto (hereinafter, "the Property"); and

WHEREAS, the Town and the Developer desire to enter into this Agreement to provide for the approval and a comprehensive understanding of the development parameters consistent with the Town's Land Development Code and Comprehensive Plan as set forth herein; and

WHEREAS, a public hearing was held before the Town of Fort Myers Beach Local Planning Agency ("LPA") on the 14th day of October 2025, and the LPA reviewed the proposed Agreement and by a vote of ___ to ___ recommended _____ to the Town Council; and

WHEREAS, the Town conducted two public hearings on the _____ day of _____, 2025, and the _____ day of _____, 2025, prior to entering into this Agreement, both of which were properly noticed on the Town's website and by mailing to affected property owners within a 500 foot radius of the boundaries of the real property at the addresses of such property owners found on the Lee County Property Appraiser's website prior to the first public hearings; and

WHEREAS, the Town Council has determined after consideration of the recommendation of the LPA, Town staff, and the information and testimony provided at the two public hearings, which provided an opportunity for comment, testimony, and evidence from the Developer, Town staff, and the public, the Town Council has determined that the Development Agreement is consistent with the Comprehensive Plan, reasonable and not arbitrary, and in the best interest of the Town and the residents of the Town Fort Myers Beach.

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, for the purposes set forth in Section 2-100 and 2-96 of the Town's Land Development Code, the benefits to accrue to each party on its own behalf, and in the case of the Developer, and for other good and valuable consideration, the receipt of which the parties hereby acknowledge, the Town and the Developer agree as follows:

1. Recitals. The foregoing recitations are true and correct and are incorporated herein by reference. All exhibits to this Agreement are deemed a part hereof.

2. Property Subject to this Agreement. The real property described in Exhibit "A" is subject to the terms and conditions of this Agreement.

3. Ownership. Developer represents that it is the legal and equitable owner, having an interest in the Property pursuant to Instrument No.: 2020000015932 recorded January 17, 2020, in the Official Records of Lee County, Florida (Exhibit D), and as such may lawfully enter into this Agreement. The Town is in receipt of a title opinion from a Florida attorney upon which it can rely for the purpose of confirmation of the Developer's ownership representation.

4. Proposed Development and Use of Property. The proposed uses and development of the property will be consistent with the following:

A. The Property contains 0.03 acres (1,119 square feet), more or less. The proposed development will include a three-story mixed-use structure with a total of 2,787.5 square feet. The mixed-use structure will include an open area on the ground floor for a mobile vendor, food service use (including but not limited to an ice cream shop) and the second floor and third floors will be a one-bedroom, one-and-a-half-bathroom residence as depicted on the enclosed Exhibit C. Should a wave mitigation wall be erected in the Times Square District at a future time, the Developer may elect to convert the ground floor of the structure into an enclosed retail establishment, (including but not limited to an ice cream shop) with storage and a restroom. In the event the Developer elects this option in the future, the development will obtain all required permits through the Town of Fort Myers Beach and other required permitting authorities.

(1) Building Setbacks.

(a) The build-to line is zero (0) feet for all properties facing the Times Square pedestrian plaza. Minimum side setbacks are zero (0) feet for properties fronting Times Square. The applicable Town Code provisions require a minimum rear setback in Times Square of ten (10) feet, this development will eliminate the rear setback.

(b) Per LDC Sec. 34-995(e), the proposed structure may include cantilevered porches, balconies or arcades that extend forward of the build-to-line and into the Times Square Right-of-Way to provide shade to pedestrians as encouraged in the Downtown district.

(2) Drainage. No stormwater management system has been offered.

(3) Vehicular Access/Transportation. The development is located on Old San Carlos Boulevard. Vehicular Access is limited to service vehicles only.

(4) Parking. No onsite parking is required under applicable Town Code provisions.

(5) Commercial Area. The lot area of the property is 0.03 acres (1,119 square feet), more or less. The property is located within the Pedestrian Commercial Future Land Use category.

(6) Height. The zoned height of the structure will be 3 stories and a maximum of 30 feet from the minimum DEP required elevation (lowest horizontal structural member) mid-point of sloped roof, as permitted along the pedestrian plaza in Times Square, and an actual building height of +/- 47'-5" measured from grade to the highest peak of roof.

(7) Landscape. No trees and landscape have been provided – The request is for maximum built out.

B. Environmentally Sensitive Land. There are no environmentally sensitive lands on-site.

C. Threatened and Endangered Species. There are no threatened or endangered species on-site.

D. Conflicts. Any conflict between the matters set forth in this paragraph and other paragraphs in this Agreement will be resolved in favor of the terms and conditions in this Paragraph. Moreover, this Agreement identifies known instances in which the proposed redevelopment conflicts with the Town's existing Land Development Code. Any ambiguity with respect to whether this Development Agreement or an ordinance is to control will be interpreted to favor the ordinance. Failure of this Development Agreement to address a particular permit condition, term or restriction will not relieve the owner or developer of the necessity of complying with the laws governing said permitting requirements, conditions, terms or restrictions. Any matter or action required under existing ordinances of the town will not be otherwise amended, modified or waived, unless such modification, amendment or waiver is expressly provided for in the Development Agreement with specific reference to the Code provision so waived, modified or amended.

5. Public Facilities. The following public facilities will serve the Proposed Development on the Property:

A. Potable Water: Potable water will be supplied by the Town of Fort Myers Beach. The Town presently has adequate capacity to serve the Proposed

Development. Notwithstanding the foregoing, nothing in this Agreement will be interpreted nor is it the intent of the parties to create a reservation of capacity. Capacity for the project will be based on its availability at the time of submission of a development order application. The Developer is responsible for improvements to the utility system required to service the proposed development.

B. Sanitary Sewer:

Wastewater services will be provided by Lee County Utilities (LCU). LCU presently has adequate capacity to serve the Proposed Development. Notwithstanding the foregoing, nothing in this Agreement will be interpreted nor is it the intent of the parties to create a reservation of capacity. Capacity for the project will be based on availability at the time of submission of a development order. The Developer is responsible for improvements to the utility system required to service the Proposed Development.

C. Solid Waste:

Developer will coordinate solid waste services with Lee County, the Town, or a third-party service provider, adequate to serve the Proposed Development, prior to issuance of the development order. Notwithstanding the foregoing, this does not create a reservation of capacity. Capacity for the project will be based on availability at the time of submission of a building permit.

D. Drainage:

Drainage will be in accordance with the applicable environmental resource permit ("ERP") to be issued by the South Florida Water Management District ("SFWMD") for the Property. Prior to issuance of the development order, if applicable, Developer will provide plans related to storm water run-off into the Town's system to the Town. The Developer is responsible for improvements to the drainage system required to service the proposed development.

E. Fire and Rescue:

Fire control and rescue services will be provided by the Fort Myers Beach Fire Control District, and Emergency Medical Services will be provided by Lee County Emergency Medical

Services. The applicant for a building permit will be required to pay Fire and EMS impact fees.

In the event new or additional facilities are needed to serve the project, the Developer will bear the burden of the cost of such facilities to be constructed consistent with the dual rational nexus test, and provide a schedule to the Town to assure that the public facilities and services will be available concurrent with the impact of the development project for those facilities subject to concurrency consistent with Section 163.3180, F.S.

6. Impact Fees. Impact fees, when adopted by Town Ordinance for all new developments and change in use, will be calculated at time of issuance of a building permit and payment will be required consistent with Section 163.31801, F.S. Site-related improvements will be evaluated by the Town during the review of the development order application.

7. Development Permits Needed for Proposed Development. A list of all known governmental permits needed for the Proposed Development is set forth below:

Town of Fort Myers Beach Development Order
Town of Fort Myers Beach Building Permit
South Florida Water Management District Environmental Resource Permit
~~South Florida Water Management District Water Use Permit (dewatering)~~
~~South Florida Water Management District Water Use Permit (irrigation)~~
FDEP Wastewater Permit
FDEP Coastal Construction Permit
LCDOH Potable Water Permit
Lee County Right-of-Way Permit

The failure of this Agreement to address a particular permit, condition, term or restriction will not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, or restrictions. The Developer will be responsible at its sole cost for obtaining any required approval and will not in any manner obligate the Town or any other governmental agency to grant other required permit approvals. Any reliance on this Agreement or expenditures in pursuance of its terms or any rights accruing to the Developer will not vest any development right in the Developer or the project to a continuation of this Agreement.

8. Developer Commitments and Obligations. For and in consideration of the benefits received pursuant to this Agreement, the Developer agrees to the following commitments, obligations, and associated public benefits which are deemed to be in the public interest:

NO OBLIGATIONS ARE SUBMITTED BY DEVELOPER

9. Deviations. The Deviations set forth in Exhibit B to this Agreement are incorporated by reference as if fully set forth herein and are granted pursuant to this Agreement.

10. Consistency with the Comprehensive Plan. The Proposed Development outlined in this Agreement is consistent with the Town of Fort Myers Beach Comprehensive Plan and Land Development Code.

11. Development Requirements. Prior to the issuance of any building permits being issued for the development the following must occur:

- a. Utilities, which include water, sewer, gas, electricity, cable television, and other utilities will be reviewed during the development order review process; and
- b. Drainage plans will be reviewed in accordance with Section 10-321, LDC; and
- c. Grading plans and elevation requirements of the Town, including, but not limited to those related to the National Flood Insurance Program, will be reviewed during the Development Order review; and
- d. The developer will provide a traffic impact statement as required by Section 10-286, LDC; and
- e. Parking will be provided as required by Section 34-2020; and
- f. All other Town requirements necessary for the initial building permits to build the proposed project on the Property shall have been satisfied.

12. Amendment.

- A. This Agreement may be amended with the Parties' mutual consent, in writing signed by both Parties.
- B. This Agreement may be amended administratively by Town staff and the Developer without the need for approval by Town Council to provide for changes to the site plan and/or the Conceptual Plans provided such changes do not include increased building intensity, density, increased height, reduction in open space, reduction in public benefits. Substantial Deviations from the approved Conceptual Plans will require approval by Town Council.

13. Notices. All notices required or permitted under this Agreement will be in writing and will be personally delivered or mailed by certified mail, return receipt requested to the following addresses, or to such other person or address as any Party may designate from time to time in writing:

If to the Developer: Carlos Chavez
with a copy to: TBD

If to the Town: Town Manager

with a copy to: Town Attorney

14. Remedies. Any material breach of this Agreement may be enforced by either party as against the other by appropriate action in law or equity filed in a court of competent jurisdiction; provided, however, no such action may be brought until the defaulting party has been given notice and ninety (90) days in which to cure the default. If the default cannot reasonably be cured within the ninety (90) day period, such period will be extended if the cure is commenced within such ninety (90) days and the defaulting party is proceeding with due diligence for such period reasonably required to complete such cure.

15. Governing Law. This Agreement will be construed and interpreted according to the laws of the State of Florida, and venue with respect to any litigation between the Parties related to this Agreement will be exclusively in Lee County, Florida.

16. Enforcement. In the event the Developer, upon approval of the Development Agreement, fails to comply with the terms of this Agreement, the Town may bring an action in a court of law with competent jurisdiction to protect its rights and interests as provided herein. All associated reasonable costs and attorney's fees will be reimbursed to the Town if an action at law is necessary regardless of whether the Town is the prevailing party thereunder. In no event will the Town be liable for payment of the Developer's attorney fees.

17. Post Development Agreement Liability. The parties acknowledge that the Town will not have any liability for any expenses or other damages that may be incurred as a result of denial of building permits due to the failure of the proposed development to meet the Town's requirements as to any Post-Development Agreement requirements.

18. Severability. If any part, term, or provision of this Agreement is held to be illegal, void, or unenforceable, the remaining portions or provisions of this Agreement will not be affected or impaired, each remaining provision will remain in full force and effect, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

19. Entire Agreement; Termination of Prior Agreements. This Agreement embodies the whole agreement of the Parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement will supersede all previous communications, representations, or agreements, either verbal or written, regarding the Proposed Development of the Property between the Parties.

20. Covenants Running with the Land and Successors and Assigns. The obligations imposed and entitlements created pursuant to this Agreement will run with the Property and bind Developer's successors and assigns to the covenants as set forth in this Agreement and will be enforceable by and against the Parties hereto, their personal representatives, heirs, successors, grantees, and assigns. The obligations of the Developer may be assigned to one or more successor developers or property owners associations, and the Developer will thereafter be relieved of all obligations hereunder.

21. Effective Date and Duration This Agreement will become effective upon full execution by both Parties and recording of the Agreement in the Public Records of Lee County pursuant to paragraph 25 below. The Developer must apply for a development order for at least a portion of the development contemplated herein within five years of the effective date. In the event no building permits are applied for by the Developer within five years of the effective date, the Agreement will terminate. If requested by the Developer, the term of the Agreement may be extended at the sole discretion of the Town Council and a finding that the Developer is unable to fulfill its obligations due to circumstances beyond its control. The development of the project may proceed in phases in any sequence. Notwithstanding the provisions of this paragraph, unless terminated as provided herein, or pursuant to paragraph 13 above, the obligations imposed and entitlements created pursuant to this Agreement will run with the property will be enforceable by and against the Parties hereto, their personal representatives, heirs, successors, grantees, and assigns.

23. Recording of Agreement. This Agreement will be recorded by the Town in the Public Records of Lee County within fourteen (14) days of approval by the Town. The costs of recording this Agreement will be paid by the Developer.

24. Representation and Warranties. The parties make the following representations to each other as stated herein:

- A. The execution, delivery and performance of this Agreement by the Developer will not violate any law, or the terms of any agreement by which they are bound.
- B. The Town and Developer have the power and authority to enter into this Agreement, and to perform the development as set forth herein, and all the documents have been duly authorized, executed, and delivered and the transactions contemplated herein have been duly authorized.

This Agreement constitutes a valid and legally binding obligation of the Developer and the Town after independent investigation by both of the information contained herein and is enforceable in accordance with its terms.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year written below.

WITNESSES:

**CARLOS L. CHAVEZ TRUSTEE FOR
CARLOS L. CHAVEZ TRUST**

Print Name:

By: _____

Print Name

Name:
Title:

STATE OF _____ COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2025, by Carlos L. Chavez Trustee for Carlos L. Chavez Trust a Florida limited liability company, who _____ is personally known to me or who produced _____ as identification.

Notary Public Signature

My Commission Expires:

Type/Print Notary Public Name

Commission No.: _____

**TOWN OF FORTMYERS
BEACH**

Dan Allers, Town Mayor

ATTEST

Amy Baker, Town Clerk

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

Vose Law Firm, Town Attorney

Exhibits:

- A. Survey and Legal Description of Subject Property
- B. List of Deviation proposed by Developer
- C. Site Plan for Floor Plans and Data
- D. Title Opinion

Exhibit A

LEGAL DESCRIPTION

(AS A SEPARATE EXHIBIT)

DRAFT

Exhibit B

Deviations from the Code

1. Deviation from Section 34-674(b)(1) a.1. which requires a minimum rear setback of 10 feet to allow a zero-foot (0') rear setback.
2. Deviation from Section 34-675(c)(1) a. which requires a maximum FAR of 1.8 for the Times Square Pedestrian Plaza to allow a maximum FAR of 2.5 as permitted in the Pedestrian Commercial Future Land Use category.
3. Deviation from LDC Section 10-416(b) which requires building edge plantings for commercial and mixed-use buildings in the Downtown zoning district, to allow no edge plantings for the subject property.

Exhibit C : SITE PLAN

(AS A SEPARATE EXHIBIT)

DRAFT

**EXHIBIT D: TITLE OPINION
(AS A SEPARATE EXHIBIT)**

DRAFT

DRAFT

DRAFT

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

Yellow Sheet Number: **2025-726**

1. Request:

Meeting Date: October 14, 2025

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20250227, A VARIANCE TO AMEND PREVIOUSLY APPROVED VARIANCE (VAR 20240270) ADDING A VARIANCE FROM LDC 34-2020 TO REDUCE PARKING REQUIREMENT, IN THE DOWNTOWN ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 1741 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0080B.0010 ; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

LPA reviews the application to make recommendations for Town Council consideration.

What the action accomplishes:

Town Council will consider the recommendations by LPA.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution

5. Background:

Before Hurricane Ian, the property at 1741 Estero Blvd was a single-story retail commercial. The property is in the Downtown zoning district and Pedestrian Commercial Future Land Use. The applicant received approval for redevelopment of the property as a three-story mixed-use building including retail and lodging (DO20250023 approved on June 30, 2025). In December of 2024, the site was approved with a variance (VAR20250270) from LDC 1) Sec. 34-674(b)(1)(a) of 1 foot encroachment into the rear setback for a rear setback of 21 feet from the rear property line for the mechanical equipment, and a variance of 5 feet 7 inches for a rear setback of 19 feet 5 inches for a dumpster enclosure, 2) Sec. 34-677(b)(3) a variance for the non-implementation of a 15 foot landscape buffer between a parking lot and public street, 3) Sec. 34-677(b)(3) a variance for the non-implementation of a required 15 foot landscape buffer between a commercial property and a residential lot, 4) Sec. 34-676(b)(1) a variance for off-street parking to not be situated in the rear yard but in the front, 5) Sec. 34-674(a)(1) a variance of 20 additional feet from the required 5 to 10 feet build to line off of Miramar Street for a street setback of 30 feet, 6) and Sec. 34-2013(a)(3) a variance to exceed the maximum width of a parking lot entrance at the property line of 25 feet to 88 feet along Miramar Street to build a new mixed-use structure in the Downtown zoning district.

The new application is proposing an amendment to Variance (20240270) for reduction in parking (VAR 20250227) for the property and a Special Exception (SEZ 20250228) for COP for the outdoor sitting area to the restaurant. The proposed application is requested due to the change in use for the 3rd floor from lodging to a family entertainment venue, "*Beachside Arcade and Pizza*," featuring young children's game stations, a pizzeria, and indoor and outdoor patio seating for beer and wine.

Attachments:

1. NEW Variance Resolution-25-XX Goodz
2. Staff Report Goodz
3. EXHIBIT A: MASTER PLAN 1741 Estero
4. EXHIBIT B- Parking Calculation
5. EXHIBIT C: VAR20240270-1741EsteroBlvd

Financial Impact:

Unknown

6. Alternative Action

Deny

7. Staff Recommendations:

Approval with Conditions

8. Recommended Approval:

Georgina Cid, Community Development Manager

Date: October 07, 2025

Frankie Kropacek, Community Development Director

Date: October 07, 2025

nancy stuparich, Town Attorney

Date: October 08, 2025

Amy Baker, Town Clerk

Date: October 08, 2025

RESOLUTION NUMBER 25-XX
(Variance – The Goodz)

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20250227, A VARIANCE REPLACING IN ITS ENTIRETY A PREVIOUSLY APPROVED VARIANCE (VAR 20240270), TO REDUCE THE NUMBER OF PARKING SPACES REQUIRED IN THE DOWNTOWN ZONING DISTRICT, FROM 35 TO 18 SPACES, FOR THE PROPERTY LOCATED AT 1741 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0080B.0010; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, The Belger Properties Partnership is the owner and Applicant for a variance request to reduce the number of parking spaces required in the Downtown zoning district from 35 to 18 for property located at 1741 Estero Blvd. Fort Myers Beach (“the Property”),t The requested variance is to repeal the variance approved in Resolution 2025-007; and

WHEREAS, the STRAP number for the Property is **19-46-24-W4-0080B.0010**; and

WHEREAS, the Property is located in the “Pedestrian Commercial” category of the Future Land Use Map of the Comprehensive Plan and the “Downtown” zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (“LPA”) on October 14, 2025, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-87 of the LDC. The LPA found that the request is consistent with the comprehensive plan and the requirements of the LDC and voted ____ to _____ to recommend approval with conditions of the variance; and

WHEREAS, on November 17, 2025, the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by 34-87 of the LDC; and

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

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF

FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

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

Section 2. The Town Council determines the Applicant did meet its burden of proof that the requested Variance does meet the requirements of the Town Comprehensive Plan and LDC and approving with conditions the Variance is in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, interested parties and public, the Town Council APPROVES WITH CONDITIONS this variance from Town's Land Development Code (LDC) 34-2020 which requires a total parking space of 35 for the proposed use of the property. The applicant is requesting a variance to allow 18 parking space (a reduction of 17 parking spaces).

Section 3. In approving with conditions the Variance, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-87 of the LDC:

- A. There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request is/ is not for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying approval of the variance are not the result of actions of the Applicant taken after the adoption of the regulation in question.
- C. The variance is not the minimum variance that will relieve the Applicant of an unreasonable burden caused by the application of the regulation to the Property.
- D. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- E. The conditions or circumstances on the Property are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

Section 4. The Town Council approves the requested variance with the following condition of approval:

1. Revise all the necessary Development Order (DO 20250023) pages to show the change of use from **lodging** on the 3rd floor to Gaming Arcade and Pizzeria and Outdoor sitting with COP.

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

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

ADOPTED this ____ day of _____ 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, Town Attorney

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

EXHIBIT A: MASTER CONCEPT PLAN
EXHIBIT B: PARKING CALCUTION



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

TYPE OF CASE: Special Exceptions & Variance

CASE NUMBER: SEZ20250228 & VAR20250227

CASE NAME: 1741 Estero Blvd
SEZ: LDC 34-1264 (a)(2)(2) Consumption on Premises (COP) outdoors within 500 feet of dwelling units, and.
VAR: Sec. 34-2020(d)(2)(h) from the minimum required parking spaces

LPA

HEARING DATE: October 14, 2025 at 9:00 AM

STAFF

RECOMMENDATION: **Approve** with condition: Special Exception for COP
Approve with condition: Variance for Parking Reduction

**PREPARED/
SUBMITTED BY:** Uma Sarmistha, Ph.D.

I. APPLICATION SUMMARY

Applicant/Owner: Belger Properties Partnership

Request: A special exception to allow a COP within 500 feet of residences, requesting to serve beer and wine in outdoor patio (768 sf) on third floor of the building, AND an amendment to Variance (VAR20240270) to add a Variance for the parking requirements to provide 18 parking spaces for the mixed-use development.

Subject property: See attached site plan

Physical Address: 1741 Estero Blvd

STRAP #: 19-46-24-W4-0080B.0010

FLU: Pedestrian Commercial

<u>Zoning:</u>	Downtown
<u>Adjacent zoning and land uses:</u>	
North:	Downtown/Single-Family
South :	Downtown/Commercial and Single-Family
East:	DOWNTOWN and RESIDENTIAL CONSERVATION (RC)/ Commercial and Single-Family Residence
West:	Downtown/Commercial

II BACKGROUND AND ANALYSIS

Background:

Before Hurricane Ian, the property at 1741 Estero Blvd was a single-story retail commercial. The property is in the Downtown zoning district and Pedestrian Commercial Future Land Use. The applicant received approval for redevelopment of the property as a three-story mixed-use building including retail and lodging (D020250023 approved on June 30,2025). In December of 2024, the site was approved with a variance (VAR20250270) from LDC 1) Sec. 34 674(b)(1)(a) of 1 foot encroachment into the rear setback for a rear setback of 21 feet from the rear property line for the mechanical equipment, and a variance of 5 feet 7 inches for a rear setback of 19 feet 5 inches for a dumpster enclosure, 2) Sec. 34-677(b)(3) a variance for the non-implementation of a 15 foot landscape buffer between a parking lot and public street, 3) Sec. 34 677(b)(3) a variance for the non-implementation of a required 15 foot landscape buffer between a commercial property and a residential lot, 4) Sec. 34-676(b)(1) a variance for off-street parking to not be situated in the rear yard but in the front, 5) Sec. 34-674(a)(1) a variance of 20 additional feet from the required 5 to 10 feet build to line off of Miramar Street for a street setback of 30 feet, 6) and Sec. 34-2013(a)(3) a variance to exceed the maximum width of a parking lot entrance at the property line of 25 feet to 88 feet along Miramar Street to build a new mixed-use structure in the Downtown zoning district.

The new application is proposing an amendment to Variance (20240270) for reduction in parking (VAR 20250227) for the property and a Special Exception (SEZ 20250228) for COP for the outdoor sitting area to the restaurant. The proposed application is requested due to the change in use for the 3rd floor from lodging to a family entertainment venue, "*Beachside Arcade and Pizza*," featuring young children's game stations, a pizzeria, and indoor and outdoor patio seating for beer and wine.

Analysis:

The applicant is proposing a special exception for COP for wine and beer consumption on outdoor patio area of 768 sf as marked in the master concept plan. The applicant is also requesting a variance over reduction for the parking reduction for the facility.

Special Exception for COP: The LDC sec 34-1264 (2) requires that any establishment which provides outdoor seating areas for its patrons consuming alcoholic beverages, except that ownership, receive outdoor seating approved administratively provided the

outdoor seating area is not within 500 feet of a place of worship, religious facility, school (noncommercial), day care center (child), park, or dwelling unit under separate ownership, receive a special exception.

Section 34-88 Special Exception Criteria:

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

Several of the surrounding residences were damaged or destroyed by hurricane Ian. The proposed use of the property is a mixed-use development will create a fun family recreational place with outdoor sitting. Requesting an outdoor space to serve beer and wine in association with the indoor restaurant and game arcade will promote and entice families to visit their business establishment.

Whether the request is consistent with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.

Policy 4-A-1 Encourages the town's "human scale" in redevelopment. This proposed outdoor sitting space would create a human use—as opposed to an automobile use—at a human scale in a location that was previously designed for cars.

Policy 4-A-2: The Town of Fort Myers Beach values its vibrant economy and walkable commercial areas. Through this plan, the town will ensure that new commercial activities, when allowed, will contribute to the pedestrian-oriented public realm.

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

The applicant is proposing a game arcade with restaurant as an accessory use and as such is in compliance with location standards A separate variance application has been submitted to request a reduction in parking requirements. This application seeks approval for COP for the outdoor seating area which is within 500 feet of residential units along Miramar.

The property is situated within the downtown zoning district and is surrounded by other areas of downtown zoning, except for the RC-zoned land to the north and northeast along Miramar. The outdoor seating area will be located at the front of the building, providing an additional buffer to the residential units located at the rear of the property, while facing Estero Boulevard, which is also part of the downtown zoning area. The COP in the restaurant (interior) is permitted under administrative approval.

The COP use will not create noise, vibration, smoke, dust, or lighting glare. The special exception request is required due to the locational standards of not being located within 500 feet of a residence.

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

The proposed COP is not within an environmentally critical area. The request will

require compliance with all lighting requirements and as such we will be in compliance.

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

The request for outdoor seating is minor in nature and should not have any detrimental effect on the neighboring persons or property. The property is located in the downtown zoning district and as such it is encouraged to provide for a pedestrian friendly experience. The location of the outdoor seating places it in front of the building along Estero Blvd. The proposed use shall encourage the pedestrian welcoming environment with outdoor seating providing visibility and accessibility to the business.

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 property is located within the Downtown zoning district and allows the restaurant to be used along with consumption on premises. The interior portion of the restaurant would require administrative approval. The service of wine and beer in the outdoor seating area will require a COP special exception. The Downtown district encourages interconnectivity between pedestrians and the establishment.

The Special Exception for a COP outdoors and within 500 feet of residences **does meet** the criteria found in Section 34-88 and are recommended for approval with condition stated below.

Variances for Parking:

Section 34-2020(a). New residential and nonresidential uses must provide off-street parking spaces in single-purpose parking lots in accordance with the standards specified in this section, as modified by certain reductions as provided in the Downtown and Santini zoning districts.

The provided use of the subject property will be retail, storage, restaurant, bar and cocktail lounge. According to Section 34-2020(2)(h) requires restaurants to provide eight spaces per 1,000 square feet of total floor area plus outdoor seating area, Section 34-2020(2)(h) (2) requires if the restaurant contains a cocktail lounge or bar, the minimum requirement is eight spaces per 1,000 square feet of total floor area plus five additional spaces per 1,000 square feet of floor area. Finally, Section 34-2020(2)(i) requires a minimum of 3 parking spaces per 1,000 squares.

The applicant is requesting a variance based on the table below:

EXHIBIT B: PARKING
REVISED PARKING CALCULATIONS (10/2/25)
REQUESTING A REDUCTION OF 17 SPACES

VAR20250227 The Goodz 1741 Estero Blvd

STORAGE

PIZZERIA LRG STORAGE	133 SF
1ST FLR LRG STORAGE.	212 SF
STORE STORAGE	233 SF
STORAGE	163 SF
STORAGE	388 SF
RESTAURANT STORAGE	130 SF
MECHANICAL ROOM	97 SF
SUBTOTAL STORAGE	1239 SF
RATE FOR PARKING IS 2 SPACES PER 1K	2.47

RETAIL

STORE AREA	4062 SF
RATE FOR PARKING IS 3 SPACES PER 1K	12

RESTAURANT

DINING AREA	1020 SF
OUTDOOR SEATING	764 SF
PIZZA STATION	253 SF
GAMING AREA	2180 SF
SUBTOTAL RESTAURANT	4217
RATE FOR PARKING IS 8 SPACES PER 1K	33.736

BEER & WINE BAR AREA	416 SF
RATE FOR PARKING IS 13 SPACES PER 1K	5

SUBTOTAL OF PARKING REQUIRED	53.206
DOWNTOWN MULTIPLIER (0.67)	35.64802

Total PARKING REQUIRED	36
------------------------	----

Pursuant to 34-2020 (c) we will be utilizing 1 of the 4 (4 rack) bike racks already

REQUIRED PARKING after bike rack	35
PARKING Approved Under DOS 20250223	18
REQUESTED REDUCTION	17

The requested variance is based on the approved Development Order (DO) 202050223, which authorized 18 parking spaces for retail and lodging uses. The new parking calculation takes into account the intended use of the third floor, which will feature a game arcade and a pizzeria with a wine and beer bar.

The applicant argues that, due to its location and the availability of nearby parking, as well as access to the trolley, the proposed variance will help enhance the vibrant downtown atmosphere of the area.

Section 34-87 required variance findings:

*(1) 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 vision of downtown zoning is to create a vibrant pedestrian friendly environment. The property is located within the downtown district and proximity to the parking areas, trolley will help the development

*(2) That the conditions justifying the variance **are/** are not the result of actions of the applicant taken after the adoption of the regulation in question;*

The building previously had parking spaces next to the building. The variance requested adheres to the earlier approved parking allocation on the property under DO 20250223. This vertical growth will enhance the FMB downtown area.

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

The request is the minimum variance necessary to allow the proposed layout of the property.

*(4) That the granting of the variance **will (may)** /will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and*

The lack of parking on site may result in people parking where they are not allowed. However, giving the proximity to other available parking and the FMB trolley will enhance the opportunity to the development.

*(5) 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 nature as to make it more reasonable and practical to amend the regulation in question.*

Staff recognize that the parking code is in need of updating. The vision of downtown with walkability and higher density, the parking reduction might help the business with the square footage. Additionally, the proximity of the property to proximity to other available parking and the FMB trolley will enhance the opportunity to the development

II.RECOMMENDATION

Based on the code requirements for Special Exceptions found in Section 34-88, staff recommend:

- **Approval with Condition: Special Exception for COP**

Based on the code requirements for Variances found in Section 34-87, staff recommends:

- **Approval with Condition: Variance for Parking Reduction**

III. CONDITIONS FOR APPROVAL

Special Exception for COP

1. The sale and consumption of alcoholic beverages on the 3rd floor patio (768 sq ft.) must be consistent with the LDC code on On-premises consumption in the Restaurant (sec 34-1264 (k)).
2. All music and entertainment on the property will be in compliance with the Town's noise regulations.
3. Hours of amplified music will be limited from 11 AM to 9 PM on weekdays and from 11 AM to 10 PM on Weekends.
4. Games in the entertainment area cannot include loud electronic beeping, ringing, or buzzing.
5. Any game and arcade activity that allows only 18 and above is prohibited in the location.
6. The dumpster enclosure shall be refurbished, in coordination with the solid waste carrier, to allow closure of the doors. Solid waste pickup shall be provided six days a week (excluding Sundays).

Variance for Parking Reduction

1. Revise all the necessary Development Order (DO 20250023) pages to show the change of use from **lodging** on the 3rd floor to Gaming Arcade and Pizzeria and Outdoor sitting with COP.

1741 ESTERO BOULEVARD

PREPARED FOR:
THE GOODZ, INC.

1741 ESTERO BLVD
FORT MYERS BEACH, FL 33931
PHONE: (239) 765-8900

UTILITY SERVICE PROVIDERS

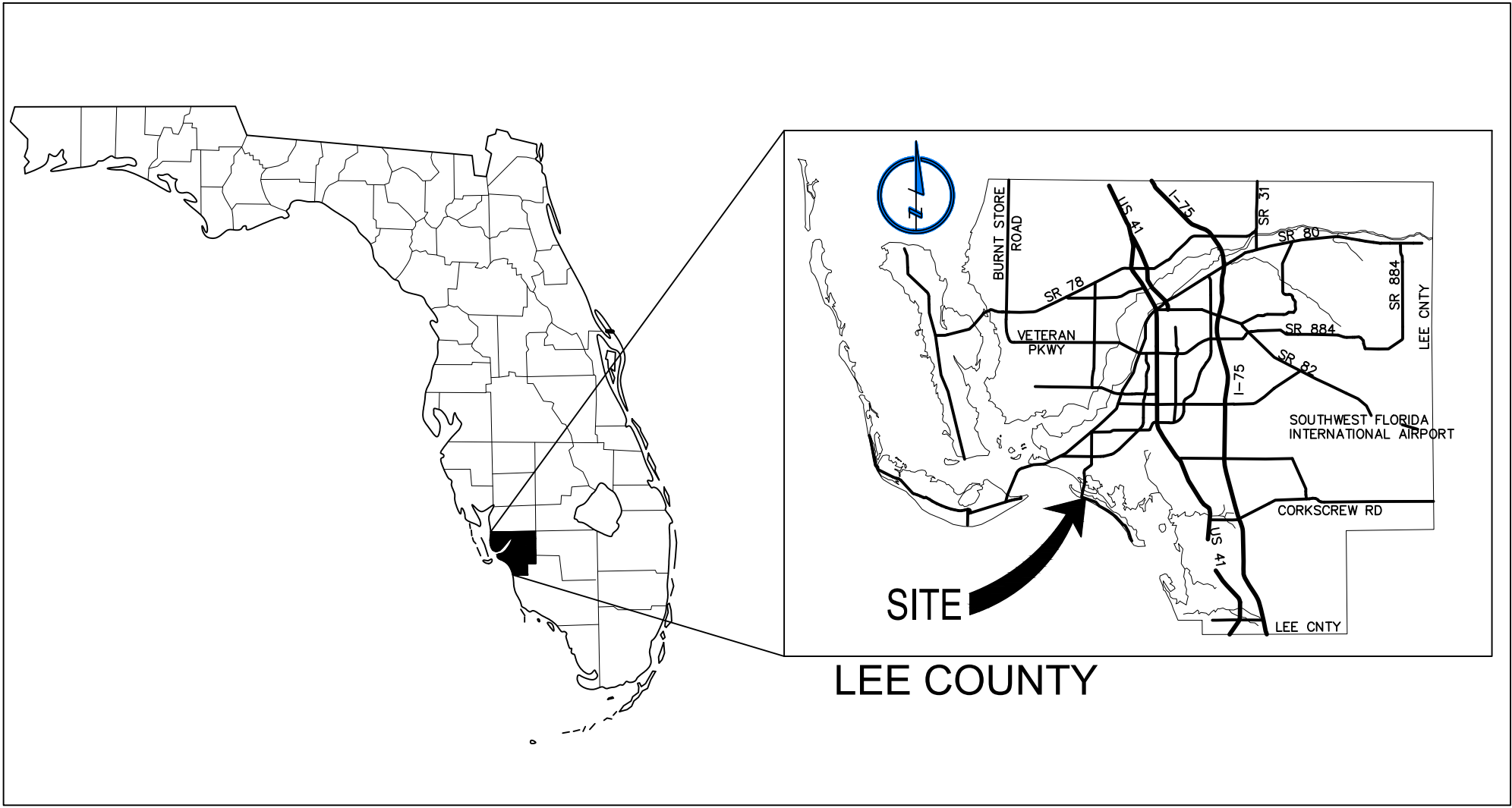
WATER: FORT MYERS BEACH UTILITIES	2525 ESTERO BLVD FORT MYERS BEACH, FL 33931 PHONE: (239) 463-9914
SEWER: LEE COUNTY UTILITIES	1500 MONROE STREET FORT MYERS, FL 33901 PHONE: (239) 533-8181
ELECTRIC: FLORIDA POWER AND LIGHT	17550 SAN CARLOS BLVD FORT MYERS BEACH, FL 33931 PHONE: (239) 334-7754
PHONE: CENTURY LINK	WIDGEON TERRACE FORT MYERS BEACH, FL 33931 PHONE: (239) 366-2114
FIRE PROTECTION: FORT MYERS BEACH FIRE	100 VOORHIS STREET FORT MYERS BEACH, FL 33931 PHONE: (239) 590-4200
SOLID WASTE DISPOSAL: ADVANCED DISPOSAL	17101 PINE RIDGE ROAD FORT MYERS BEACH, FL 33931 PHONE: (239) 334-1224

PROJECT CONTACTS

CIVIL ENGINEER: ATWELL BRENNAN MCALARY, P.E., PROJECT MANAGER	10511 SIX MILE SYPPRESS PKWY, STE. 101 FORT MYERS, FLORIDA 33966 PHONE: (239) 939-5490
SURVEYOR: GALLDO GROUP, INC.	5237 SUMMERLIN COMMONS BLVD #411 FORT MYERS, FL 33907 PHONE: (833) 425-5364
LANDSCAPE ARCHITECT: DAVID M. JONES JR. AND ASSOCIATES, INC GREG DISERIO, R.L.A.	2221 MCGREGOR BOULEVARD FORT MYERS, FLORIDA 33901 PHONE: (239) 337-5525
TRAFFIC ENGINEER: TR TRANSPORTATION CONSULTANTS, INC. TED TREESH	2726 OAK RIDGE COURT, STE. 503 FORT MYERS, FL 33901 PHONE: (239) 278-3090

SHEET LIST TABLE

Sheet Number	Sheet Title
01	COVER SHEET
02	AERIAL, EXISTING CONDITIONS AND DEMOLITION PLAN
03	GENERAL NOTES
04	SITE PLAN
05	PAVING, GRADING & DRAINAGE PLAN
06	PAVING, GRADING & DRAINAGE DETAILS
07	CROSS SECTIONS
08	UTILITY PLAN
09	UTILITY DETAILS
10	BEST MANAGEMENT PRACTICES



GENERAL LOCATION MAP



LOCATION MAP

SECTION 19
TOWNSHIP 46 SOUTH
RANGE 24 EAST
FORT MYERS BEACH

SITE INFORMATION

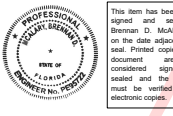
PROJECT AREA:	0.30 ACRES
PARCEL STRAP NO:	19-46-24-W4-0080B.0010
PARCEL ADDRESS:	1741 ESTERO BLVD FORT MYERS BEACH FL, 33931
CURRENT ZONING:	C1-A
PROPOSED USE:	PUD



ATWELL

866.850.4200 www.atwell-group.com

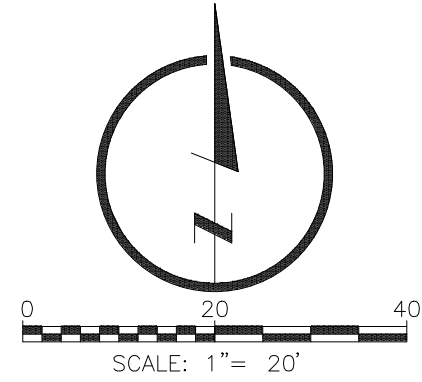
10511 SIX MILE CYPRESS PKWY, SUITE 101
FORT MYERS, FL 33966
239.939.5490



Digitally
signed by
Brennan D
McAlary
Date:
2025.05.28
11:17:52 -04'00'

BRENNAN MCALARY
P.E. LIC # 95722

ALL ELEVATIONS ON CIVIL ENGINEERING PLANS REFERENCE: NAVD88				
NO.	DATE	REVISION	DESCRIPTION	BY
1	2/13/2025	REVISED	PER FMB COMMENTS	BDM
2	4/25/2025	REVISED	PER FMB COMMENTS	BDM
3	5/16/2025	REVISED	PER FMB COMMENTS	BDM



LEGEND:

-  = DEMOLITION AREA
- * ENTIRE SITE TO BE CLEARED UNLESS OTHERWISE NOTED.



AERIAL, EXISTING CONDITIONS
& DEMOLITION PLAN

1741 ESTERO BOULEVARD

FORT MYERS BEACH

THE GOODZ, INC.

PREPARED FOR:

NO.	DATE	REVISION	DESCRIPTION	BY
2	4/25/2025	REVISED	PER FMB COMMENTS	BDM



ALL UTILITIES ARE SHOWN BASED ON THE INFORMATION AVAILABLE TO THE ENGINEER. THERE IS NO GUARANTEE ALL UTILITIES ARE SHOWN AT THE LOCATION, DEPTH, AND SIZE OF EACH FACILITY IS CORRECT. THE CONTRACTOR IS RESPONSIBLE FOR LOCATING ALL UTILITIES AND SERVICE LINES PRIOR TO CONSTRUCTION.

Know what's below.
Call before you dig.

P.E. LIC # 95722		
DRAFTED BY: BDM	DESIGNED BY: BDM	REVIEWED BY: DBA
PROJECT NUMBER: 24007052	COMPLETION DATE: 10/29/2024	SURVEY DATUM: NAVD88
BOOK AND PAGE:		
SHEET		

LAND DEVELOPMENT (POST DEVELOPMENT)			
	SF	ACRES	%
TOTAL PROJECT AREA:	13,122 SF	0.30 AC	100 %
IMPERVIOUS			
BUILDING	5,910 SF	0.13 AC	45.04 %
PAVEMENT	717 SF	0.02 AC	5.46 %
GRAVEL	1,453 SF	0.03 AC	11.07 %
EX. CONCRETE	388 SF	0.01 AC	2.95 %
PERVIOUS			
OPEN SPACE	4,654 SF	0.11 AC	35.48 %
TOTAL IMPERVIOUS	8,468 SF	0.19 AC	64.52 %
TOTAL PERVIOUS	4,654 SF	0.11 AC	35.48 %

OPEN SPACE CALCULATION:

	10% OPEN SPACE REQUIRED	
REQUIRED:	10% x 0.30 AC	0.03 AC
PROVIDED:		0.11 AC

SITE DEVELOPMENT REGULATIONS

LDC 34-674

SETBACKS	MIN	PROVIDED
STREET (ESTERO) (FT)	0-5	11.5
STREET (MIRAMAR) (FT)	25	30.3
SIDE (FT)	0-5	3.8
REAR (FT)	25	25.1
MAX HEIGHT (FT)	45	39'-0"

PARKING CALCULATIONS:

CALCULATION:	1.5 SPACES PER 1 UNIT (HOTEL)
	3 SPACES PER UNIT 1,000 SF (COMMERCIAL)
	2 SPACES PER 1,000 SF (STORAGE)
	5 UNITS (8 SPACES) + 5,000 SF COMMERCIAL (15 SPACES) + 333 SF STORAGE (1 SPACE) = 24 SPACES
	67% DOWNTOWN CREDIT: .67 * 24 SPACES = 16 SPACES
SPACES REQUIRED:	16 SPACES
SPACES PROVIDED:	18 SPACES

DUMPSTER CALCULATIONS

LDC 10-257

ALL STORAGE AREAS FOR REFUSE MUST BE ADEQUATELY SHIELDED BY A LANDSCAPED SCREEN OR FENCING ALONG AT LEAST THREE SIDES.

FLOOR AREA RATIO

TOTAL FLOOR AREA = 18,341 SF
TOTAL SITE AREA =13,122 SF

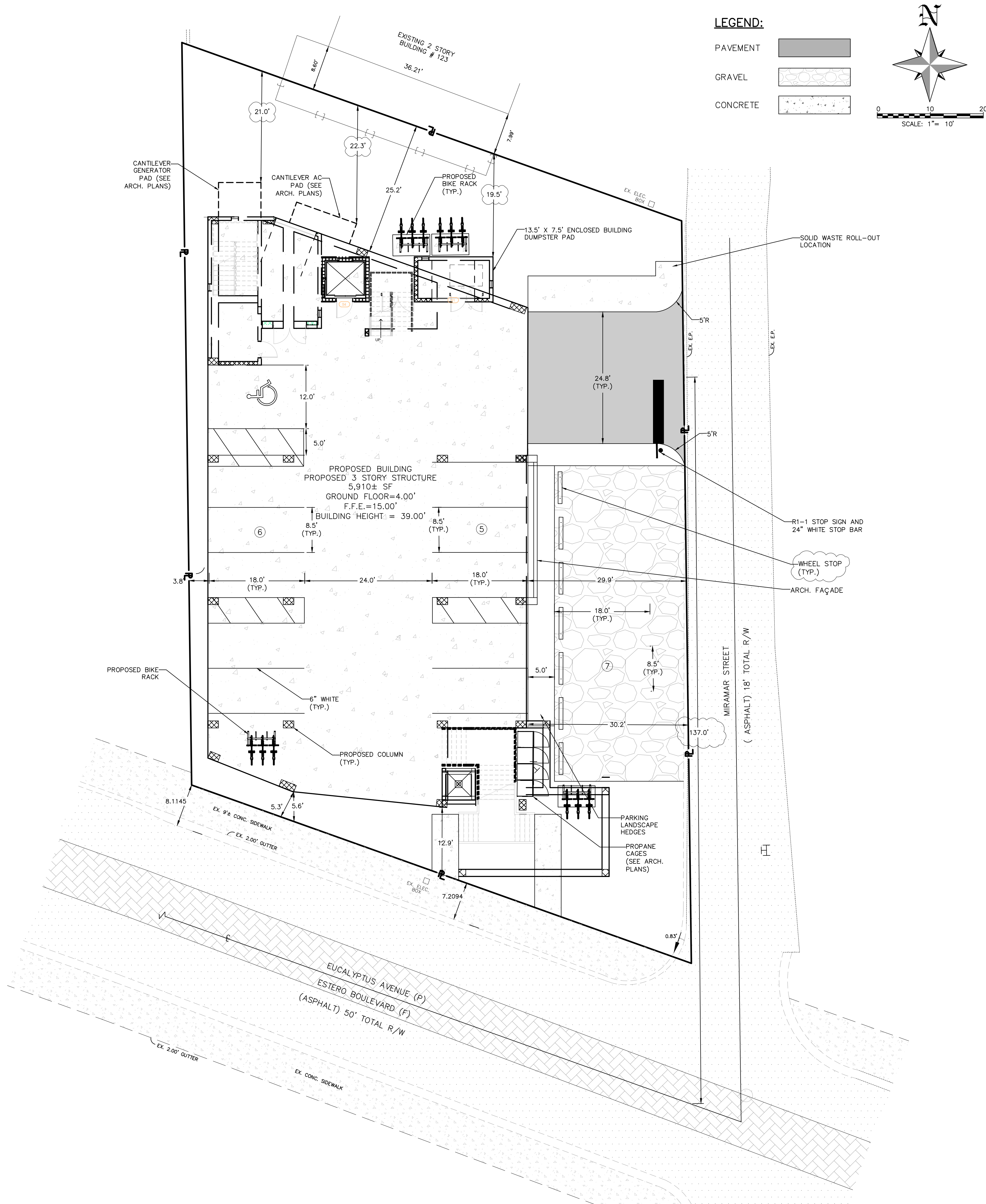
FAR PROVIDED = 18,341 SF / 13,122 SF = 1.398
FAR ALLOWABLE = 1.4

GENERAL NOTES:

- THE EXISTING SITE CONDITIONS, IMPROVEMENTS AND ELEVATIONS ARE TAKEN FROM THE BOUNDARY SURVEY PROVIDED BY GALLOO GROUP INC. DATED 9-5-2024.
- THE PROPERTY IS LOCATED IN FLOOD ZONE AE AS SHOWN ON FEMA FIRM PANEL 125673C0554G, DATED NOVEMBER 17, 2022, WITH A BASE FLOOD ELEVATION OF 12.00' N.A.V.D.
- THIS MASTER DRAINAGE PLAN IS BASED ON CLIENT TOPOGRAPHY SURVEY.
- ELEVATIONS GIVEN HERE ARE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88).
- THE DESIGNATED SWALE AREAS SHOWN ON THIS PLAN MAY BE ADJUSTED TO ADAPT TO THE LANDSCAPING DESIGN OF THE SITE, AS LONG AS THE VOLUMETRIC REQUIREMENTS ARE TO BE MAINTAINED.

SUBMITTAL REQUIREMENTS FOR COMPLIANCE WITH TOWN OF FT. MYERS BEACH STORMWATER ORDINANCE 17-11:

- WHEN NO DEVELOPMENT PERMIT IS BEING OBTAINED AT THE TIME FILL IS BROUGHT TO THE SITE, A SITE FILL PERMIT MUST BE OBTAINED. THE FILL PERMIT APPLICATION MUST INDICATE HOW NORMAL RAINFALL - 1.0" (INTERNAL) WILL HAVE AN OPPORTUNITY TO INFILTRATE INTO THE GROUND WITHIN THE LOT
- TO MINIMIZE NEIGHBORHOOD FLOODING FROM NORMAL DAILY RAINFALL, NO MORE THAN 67% OF THE TOTAL LOT AREA WITHIN A RESIDENTIAL ZONING DISTRICT SHALL BE COVERED WITH IMPERVIOUS SURFACES. THE PLANS MUST INDICATE THE METHOD USED TO MAINTAIN A 1.0" RAINFALL ON SITE.
- ROOF AREAS NOT SERVED BY GUTTERS AND DOWNSPOUTS MUST NOT DRAIN TO IMPERVIOUS SURFACES, AND MUST NOT DRAIN TO PERVIOUS SURFACES THAT ARE SLOPED IN EXCESS OF 5%.
- ALL STORM WATER SYSTEM COMPONENTS SHALL BE INSPECTED BY THE TOWN OF FT. MYERS BEACH PRIOR TO LANDSCAPING AND IRRIGATION INSTALLATION.
- SIZE OF RETENTION AREA AND ELEVATIONS SHALL BE CONFIRMED BY AN ON SITE INSPECTION/CERTIFICATION AND SUBMITTAL OF RECORD DRAWINGS AT THE COMPLETION OF THE PROJECT. THE FINAL APPROVALS AND/OR ISSUANCE OF CERTIFICATES OF OCCUPANCY BY THE TOWN OF FT. MYERS BEACH SHALL NOT BE PROCESSED UNTIL THIS VERIFICATION IS PROVIDED AND CONFIRMED.



SITE PLAN
1741 ESTERO BOULEVARD

FORT MYERS BEACH

THE GOODZ, INC.

NO.	DATE	REVISION DESCRIPTION	BY
1	2-13-25	REVISED PER FMB COMMENTS	BDM



Know what's below.
Call before you dig.

ALL UTILITIES ARE SHOWN BASED ON THE INFORMATION AVAILABLE TO THE ENGINEER. THERE IS NO GUARANTEE ALL UTILITIES ARE SHOWN. THE LOCATION, DEPTH, AND SIZE OF EACH FACILITY IS CORRECT. THE CONTRACTOR IS RESPONSIBLE FOR LOCATING ALL UTILITIES AND SERVICE LINES PRIOR TO CONSTRUCTION.

BRENNAN MCALARY

P.E. LIC # 95722

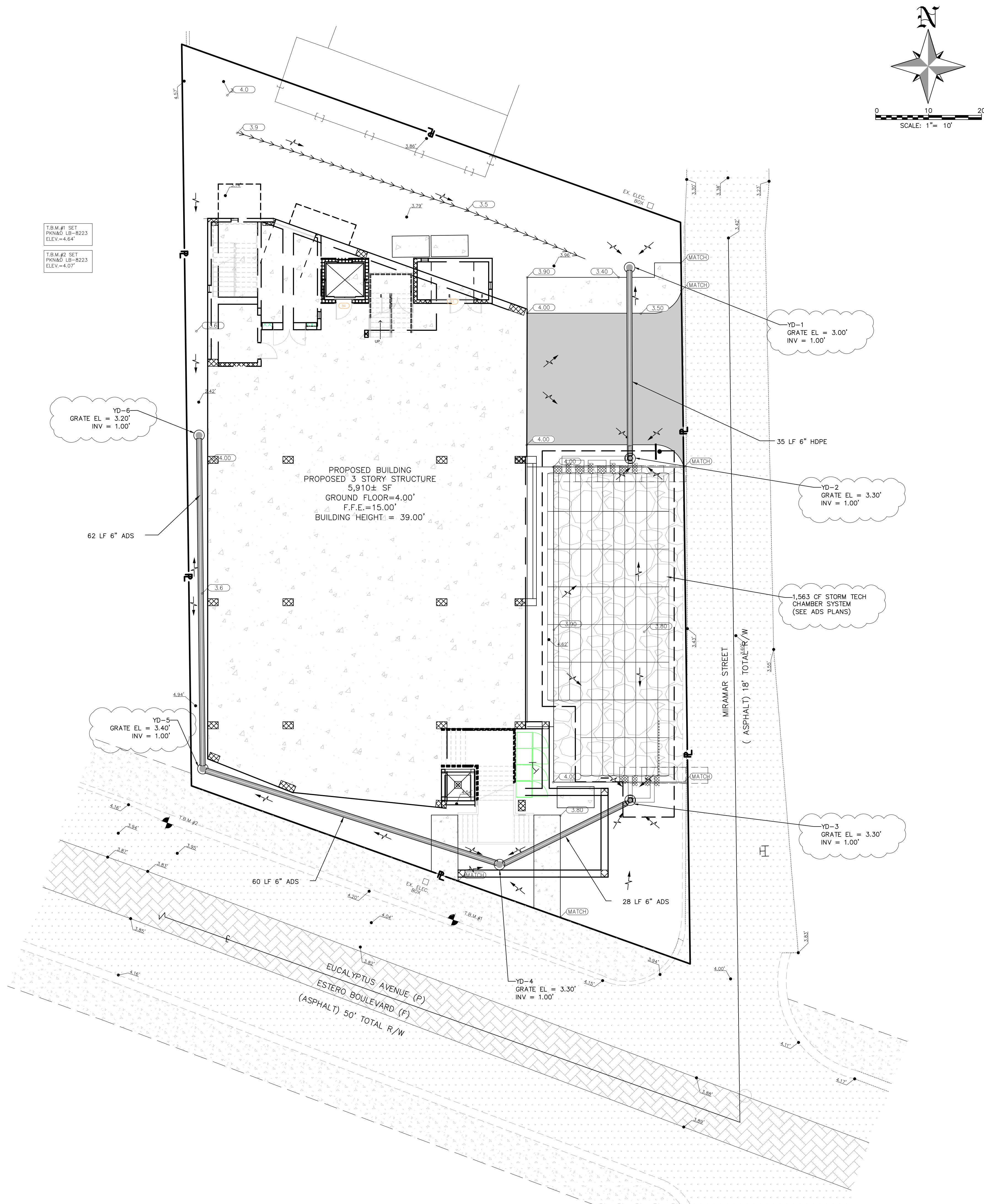
DRAFTED BY: BDM	DESIGNED BY: BDM	REVIEWED BY: DBA
PROJECT NUMBER: 24007052	COMPLETION DATE: 10/29/2024	SURVEY DATUM: NAVD88
BOOK AND PAGE:		

SHEET

04

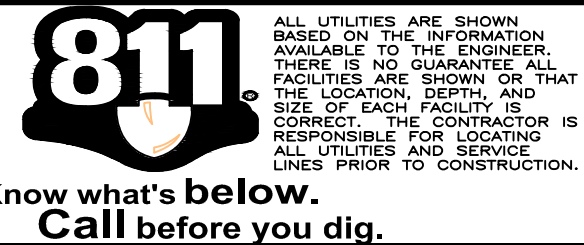
WATER QUALITY TREATMENT:

1" X PARCEL AREA X 1'/12" = 1,094 CF
OR
2.5" X (IMPERVIOUS AREA/SITE AREA)* SITE AREA X 1'/12" = 984 CF
WQ REQ = 1,094 CF
WQ PROVIDED = 1,563 CF (SEE ADS UNDERGROUND STORAGE)
IMPERVIOUS AREA = (SITE-BUILDING) = 36%



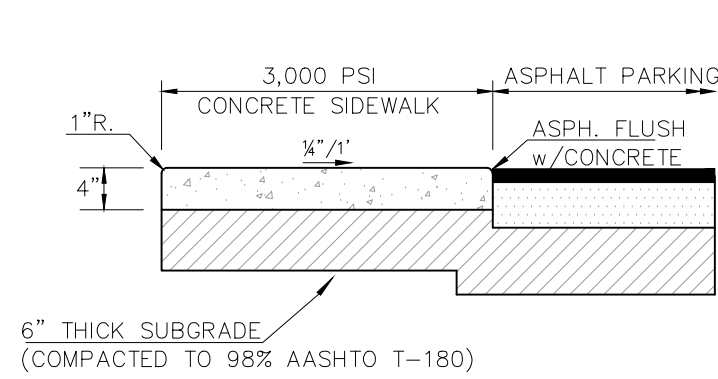
PAVING, GRADING & DRAINAGE PLAN
1741 ESTERO BOULEVARD
FORT MYERS BEACH
THE GOODZ, INC.

NO.	DATE	REVISION DESCRIPTION	BY
3	5/16/2025	REVISED PER FMB COMMENTS	BDM

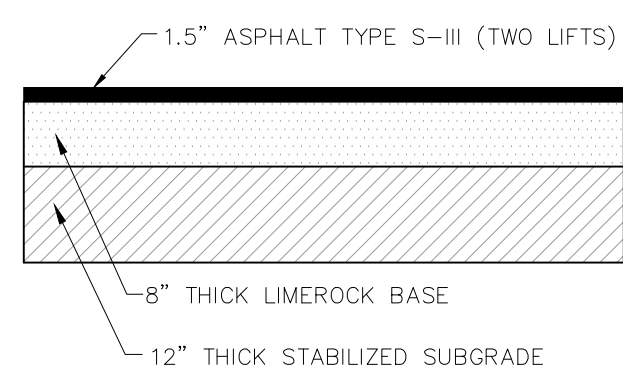


BRENAN MCALARY P.E. LIC # 95722		
DRAFTED BY: BDM	DESIGNED BY: BDM	REVIEWED BY: DBA
PROJECT NUMBER: 24007052	COMPLETION DATE: 10/29/2024	SURVEY DATUM: NAVD88
BOOK AND PAGE:		
SHEET		

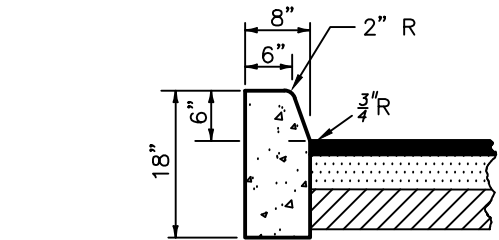
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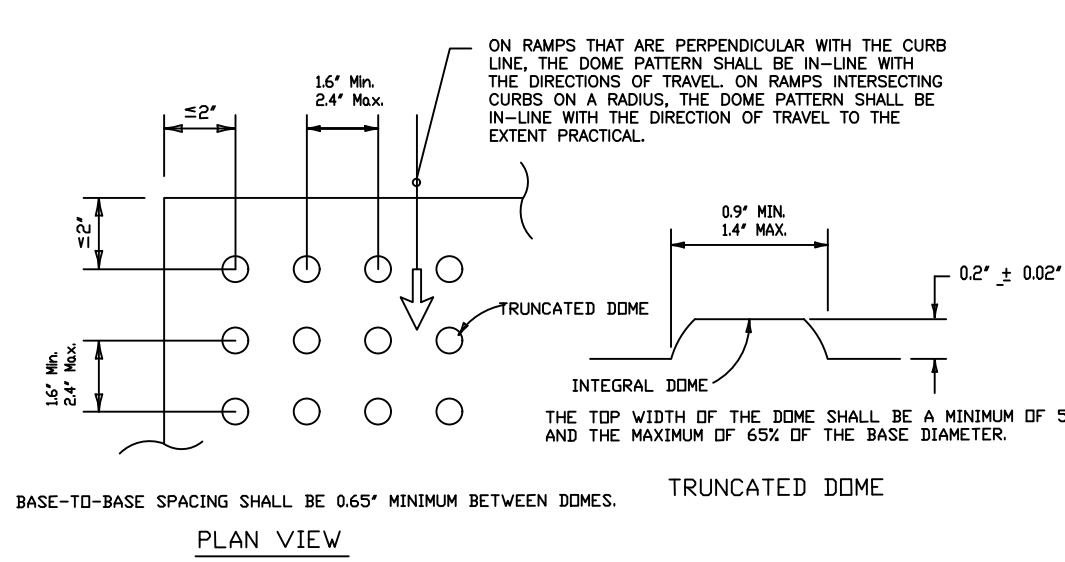
CONCRETE SIDEWALK TO ASPHALT SECTION
N.T.S.



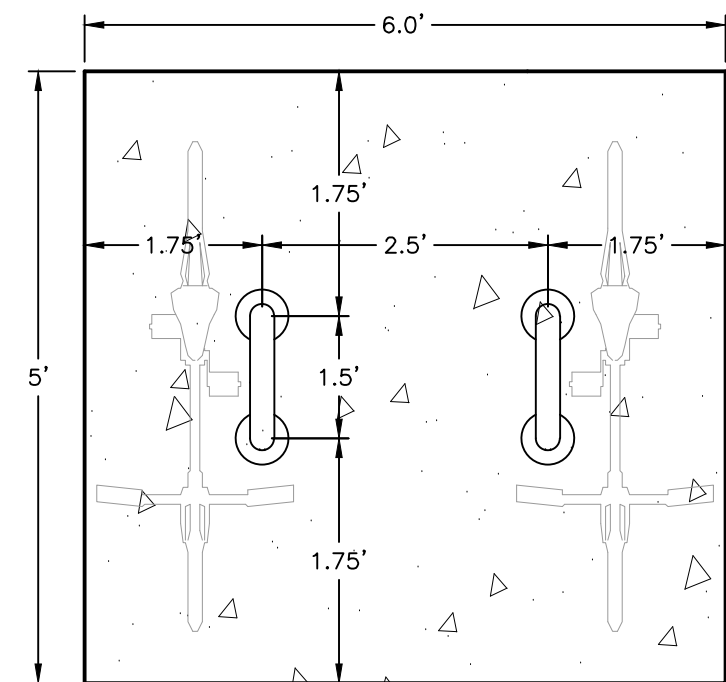
TYPICAL PAVEMENT SECTION (ON-SITE)
N.T.S.



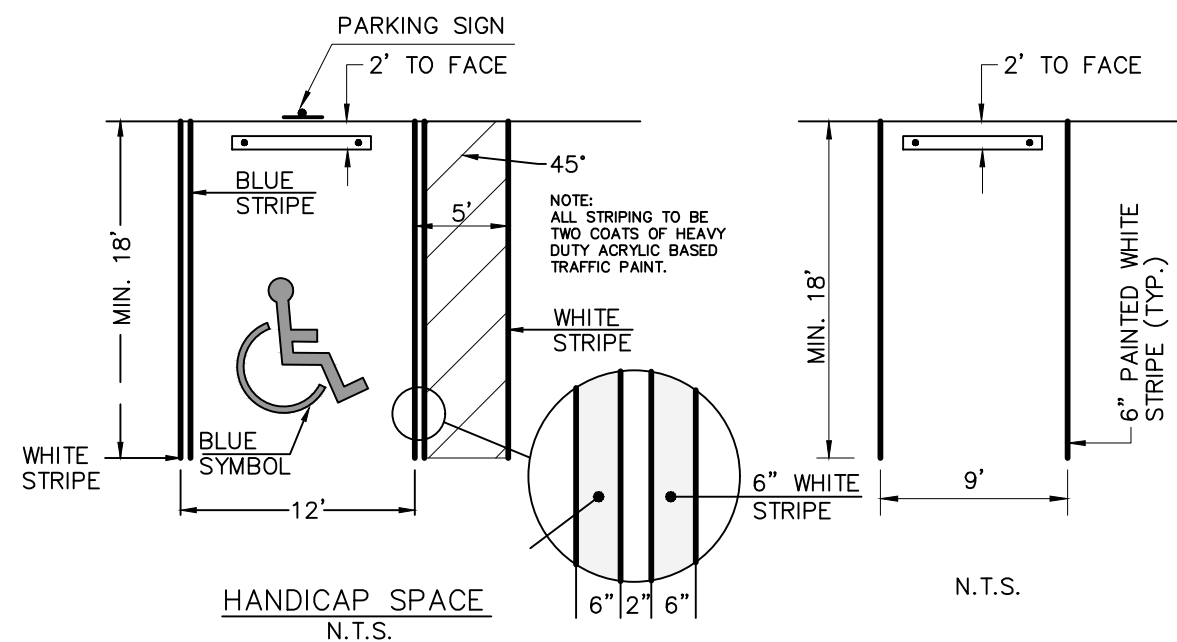
NOTES:
1. CONCRETE TO BE F.D.O.T. CLASS I OR EQUAL (2,500 P.S.I. MINIMUM STRENGTH)
2. CONSTRUCTION TO BE IN ACCORDANCE WITH F.D.O.T. SPECIFICATION SECTION 520.
TYPE "D" CURB DETAIL
N.T.S.



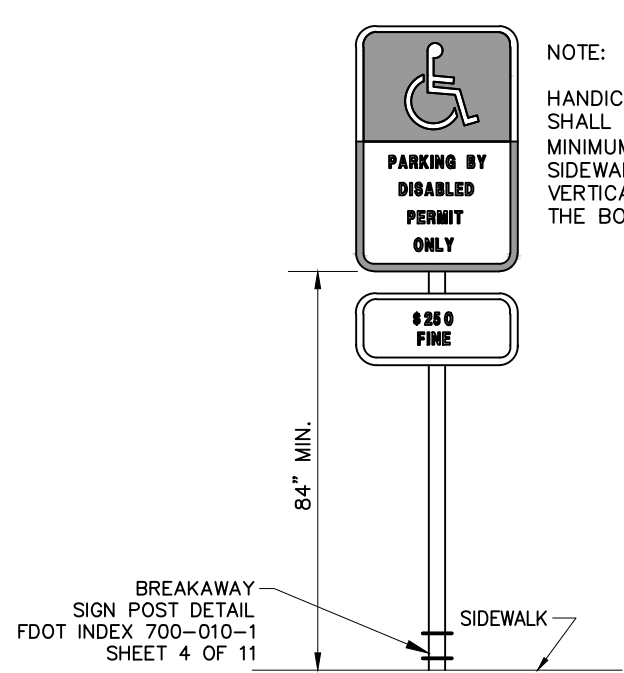
CURB RAMP DETECTABLE WARNING DETAIL
N.T.S.



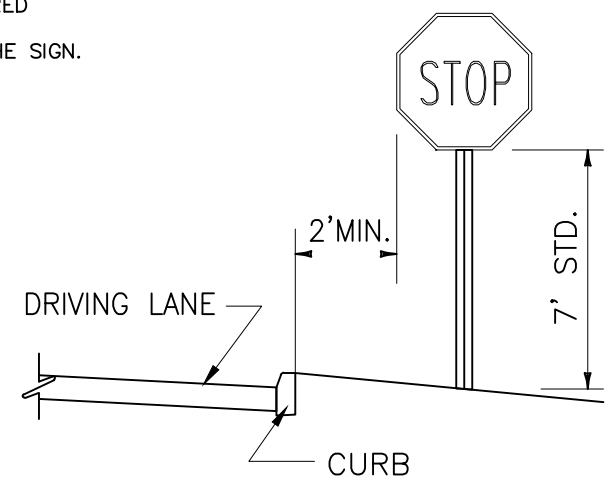
BICYCLE RACK DETAIL
N.T.S.



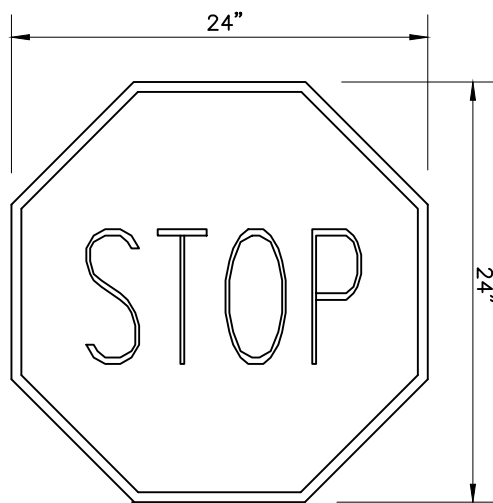
PARKING SPACE DETAIL
N.T.S.



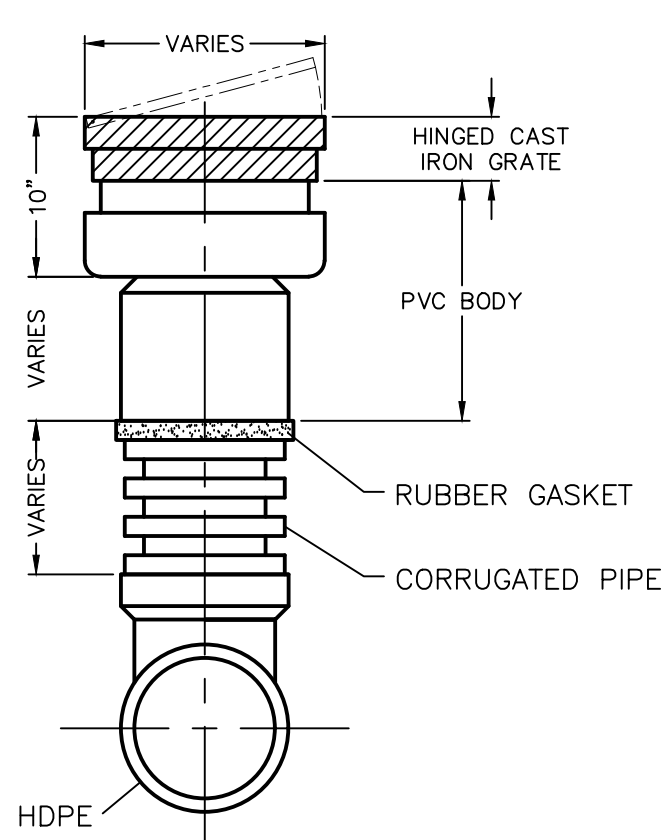
HANDICAP PARKING SIGN
N.T.S.



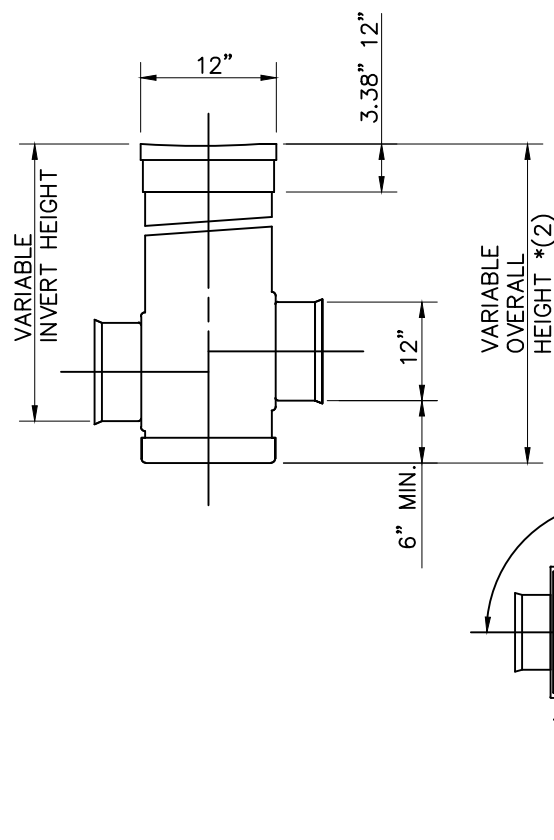
TYPICAL SIGN PLACEMENT
N.T.S.



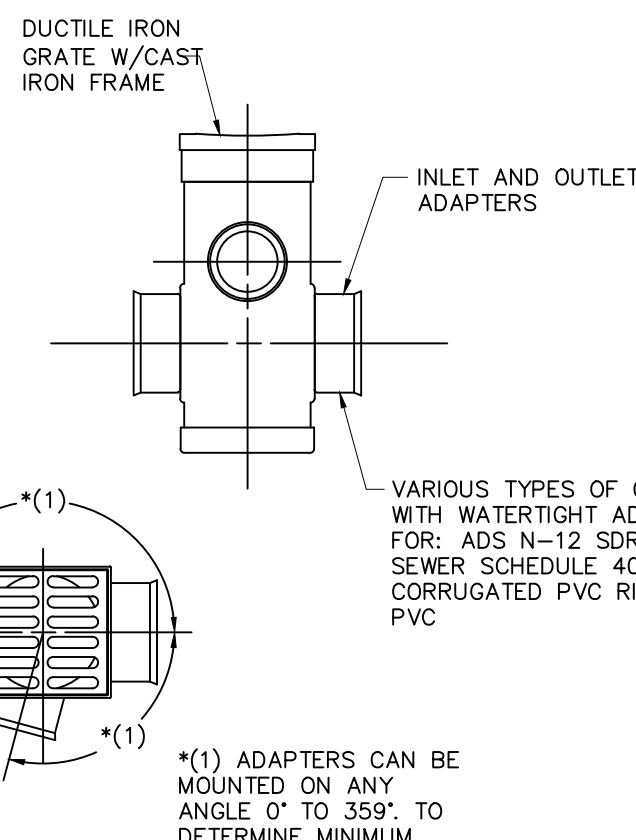
24" R1-1 STOP SIGN
N.T.S.



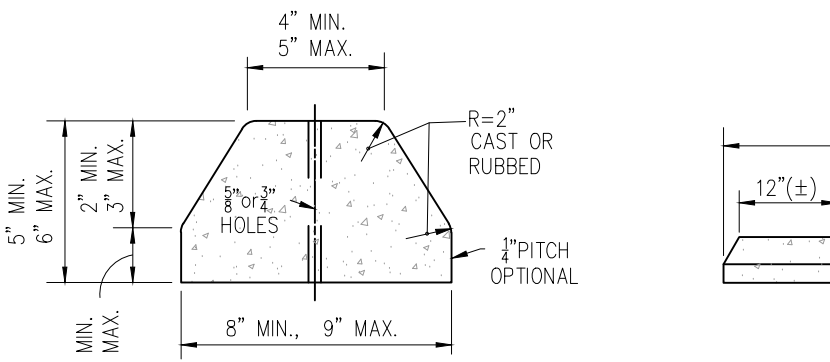
YARD DRAIN



NYLOPLAST 12" DRAIN BASIN
NOT TO SCALE

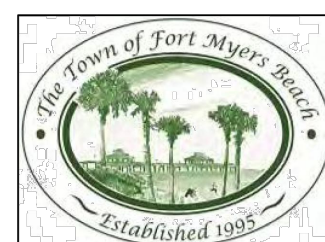


*(1) ADAPTERS CAN BE MOUNTED ON ANY ANGLE OF TO 35° TO DETERMINE MINIMUM ANGLE BETWEEN ADAPTERS SEE ADS SPECS. DRAWING NO. 7001-110-012.

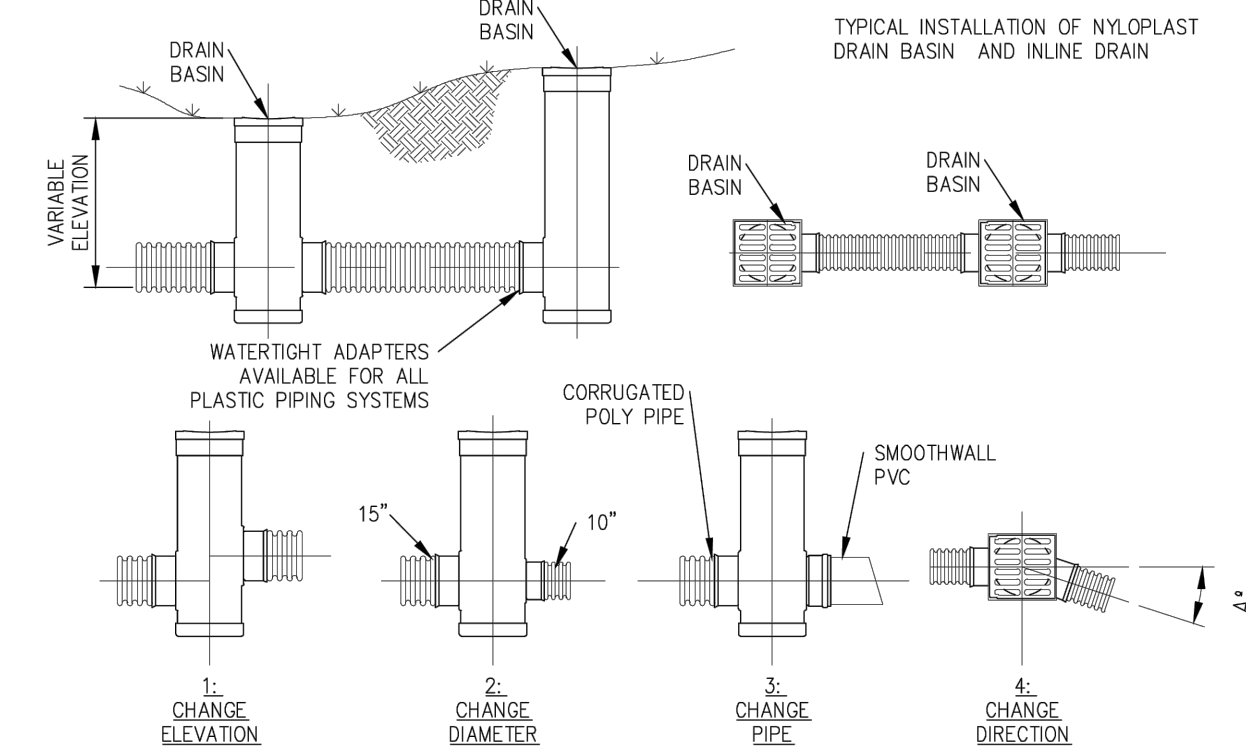


NOTES:
1) CONCRETE TO BE 2,500 PSI STRENGTH MINIMUM.
2) WHEEL STOP TO BE PLACED 2' FROM THE SIDEWALK OR EDGE OF PAVEMENT SECTION, SEE TYPICAL ASPHALT PAVEMENT CROSS SECTION

WHEEL STOP DETAIL
N.T.S.

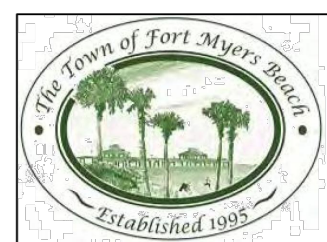


TOWN OF FT. MYERS BEACH
STANDARD DETAIL NO. 10.34
YARD DRAIN DETAIL

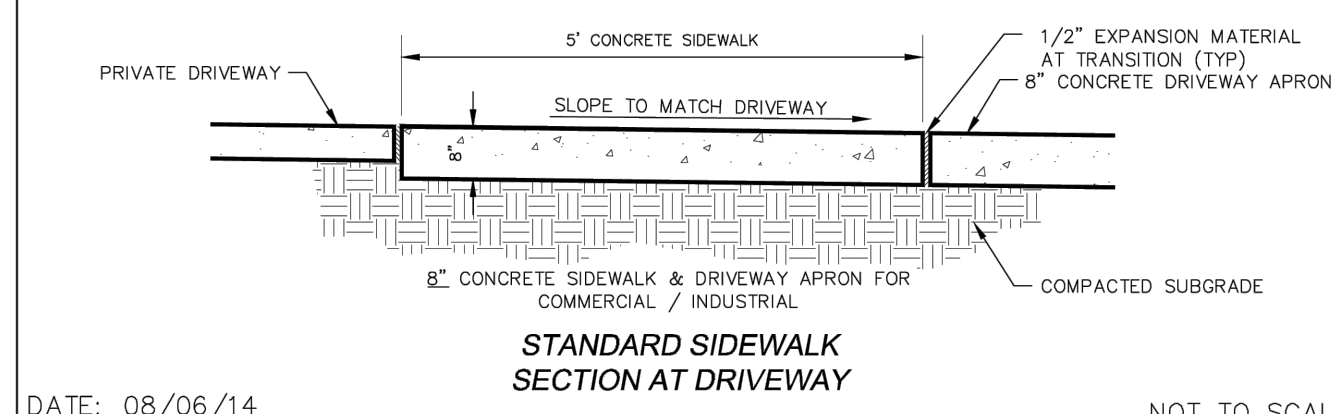
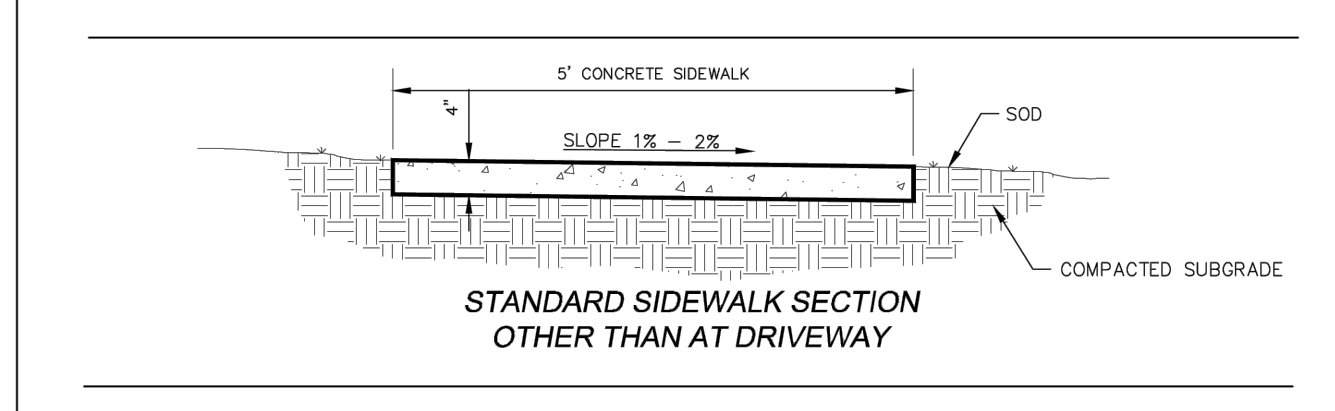
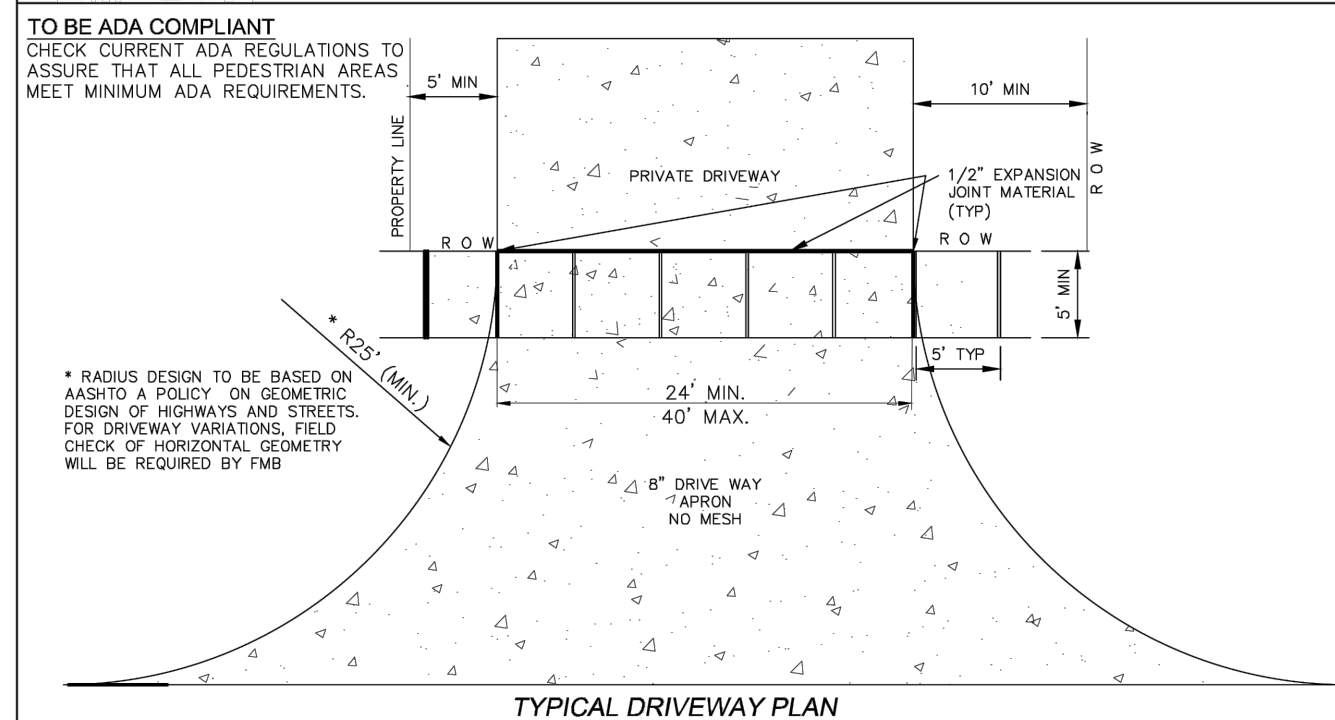


DATE: 08/06/14

NOT TO SCALE



TOWN OF FT. MYERS BEACH
STANDARD DETAIL NO. 10.42
DRIVEWAY & SIDEWALK
COMMERCIAL/INDUSTRIAL



DATE: 08/06/14

NOT TO SCALE

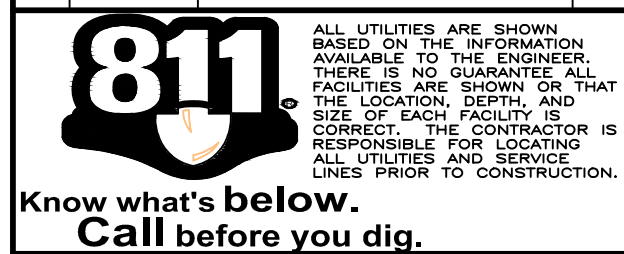
PAVING, GRADING AND DRAINAGE DETAILS

1741 ESTERO BOULEVARD

FORT MYERS BEACH

THE GOODZ, INC.

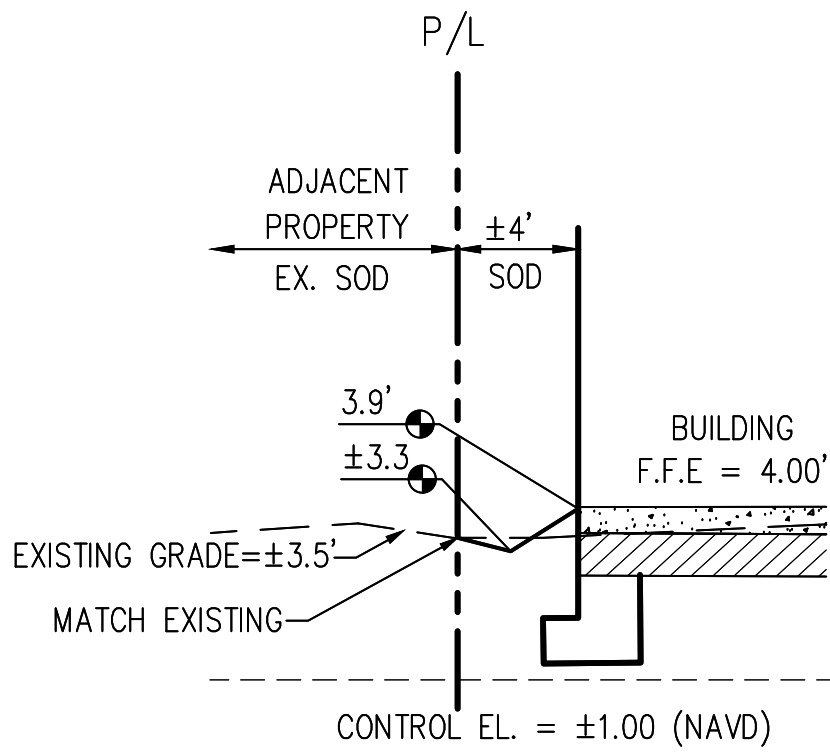
PREPARED FOR:



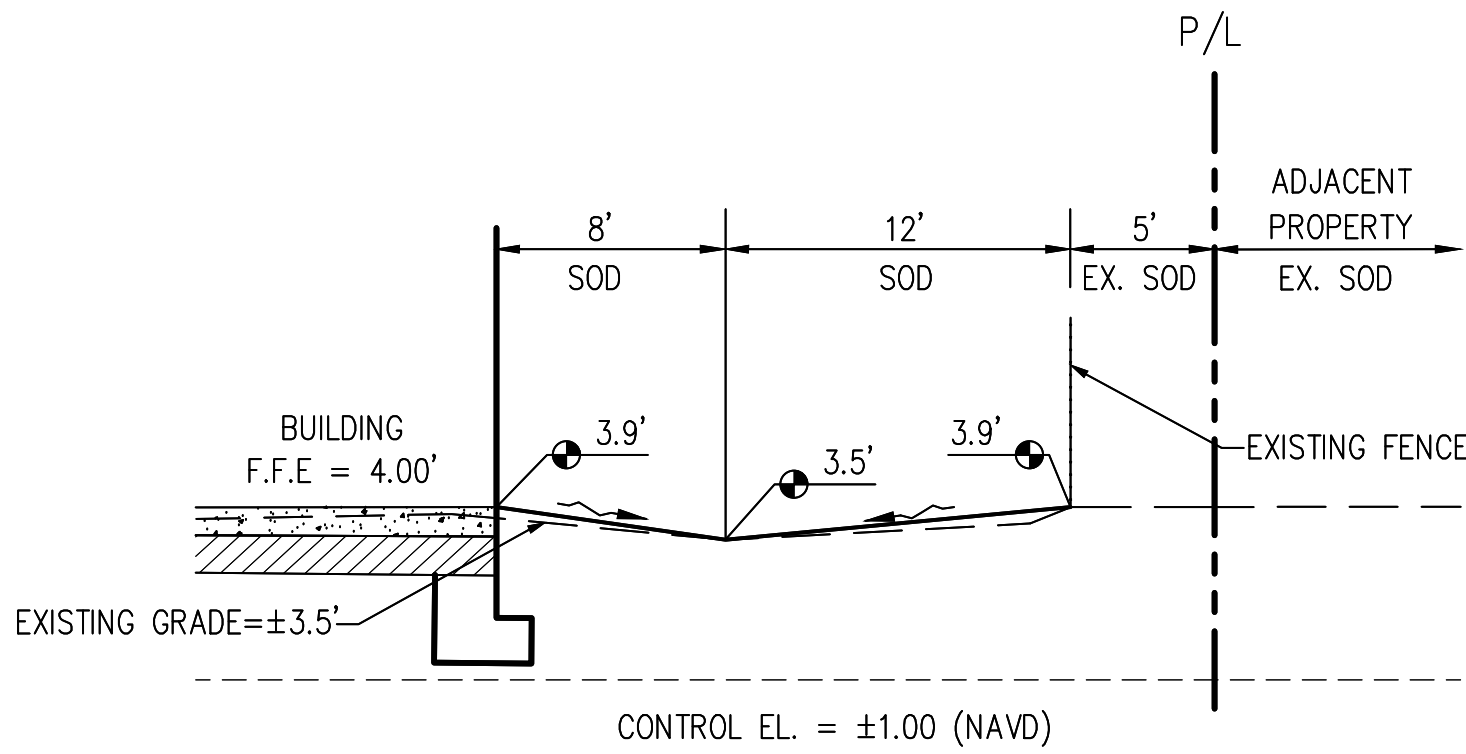
BRENNAN MCALARY			
P.E. LIC # 95722			
DRAFTED BY:	DESIGNED BY:	REVIEWED BY:	
BDM	BDM	DBA	
PROJECT NUMBER:	COMPLETION DATE:	SURVEY DATUM:	
24007052	10/29/2024	NAVD88	
BOOK AND PAGE:			
SHEET			

NOTE: ALL ELEVATIONS NAVD88
TYPICAL PAVEMENT DESIGN

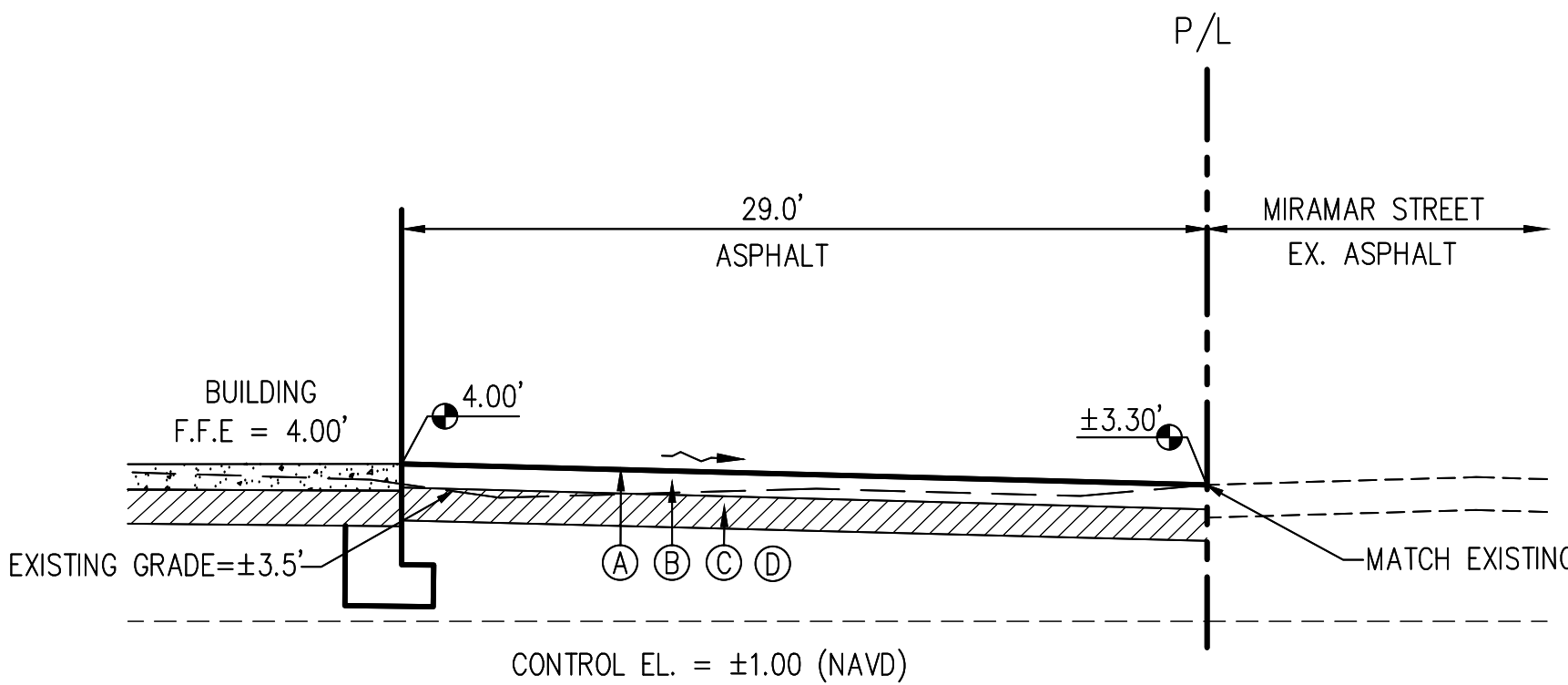
- Ⓐ 1.5" TYPE S-III ASPHALT (2 - 3/4" LIFTS)
Ⓑ 8" THICK (MIN.) COMPACTED LIMEROCK LBR 100
Ⓒ 12" THICK (MIN.) STABILIZED SUBGRADE, LBR 40
Ⓓ EMBANKMENT PLACED IN 12" LIFTS TO 98%
Ⓔ AASHTO T-180. (MATERIAL PER F.D.O.T. INDEX NO. 505)



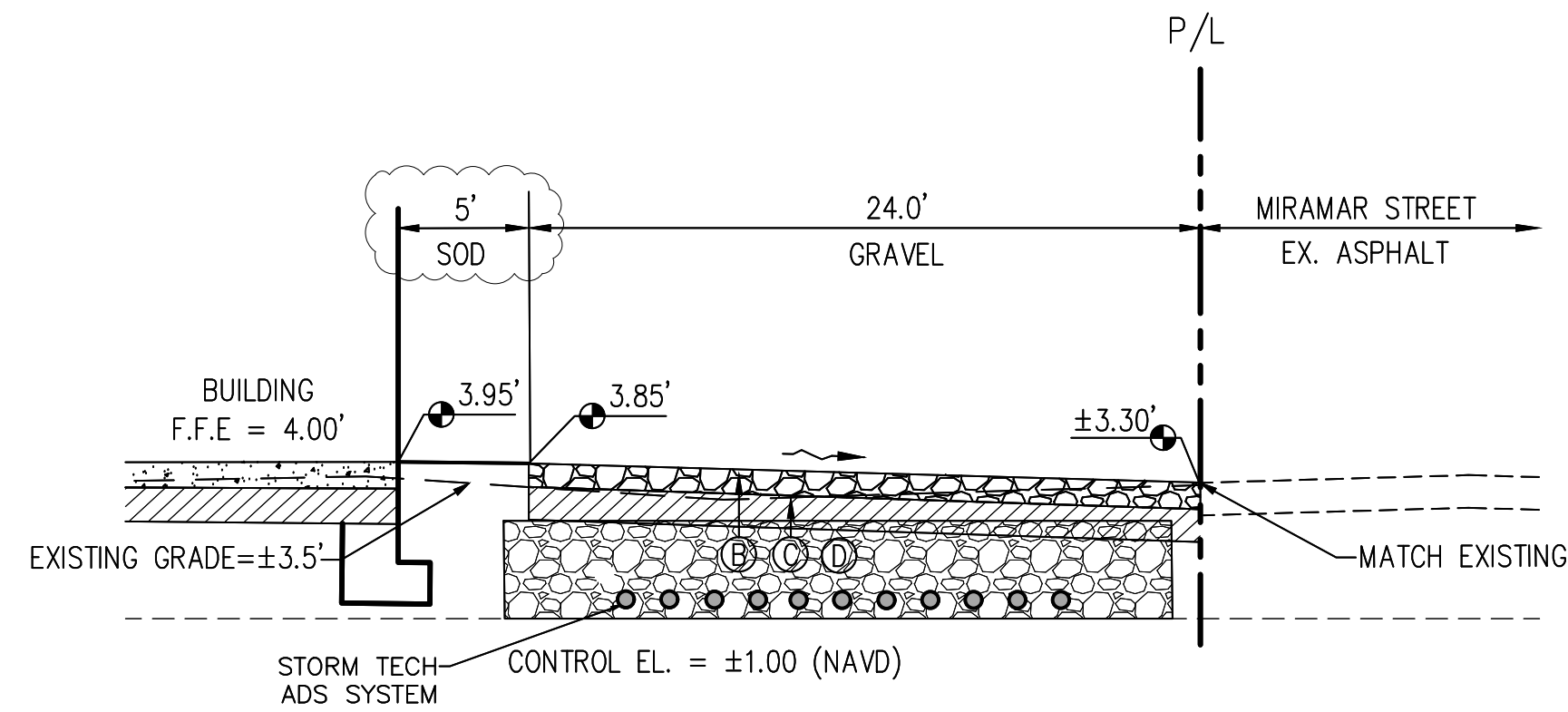
SECTION A-A
NTS



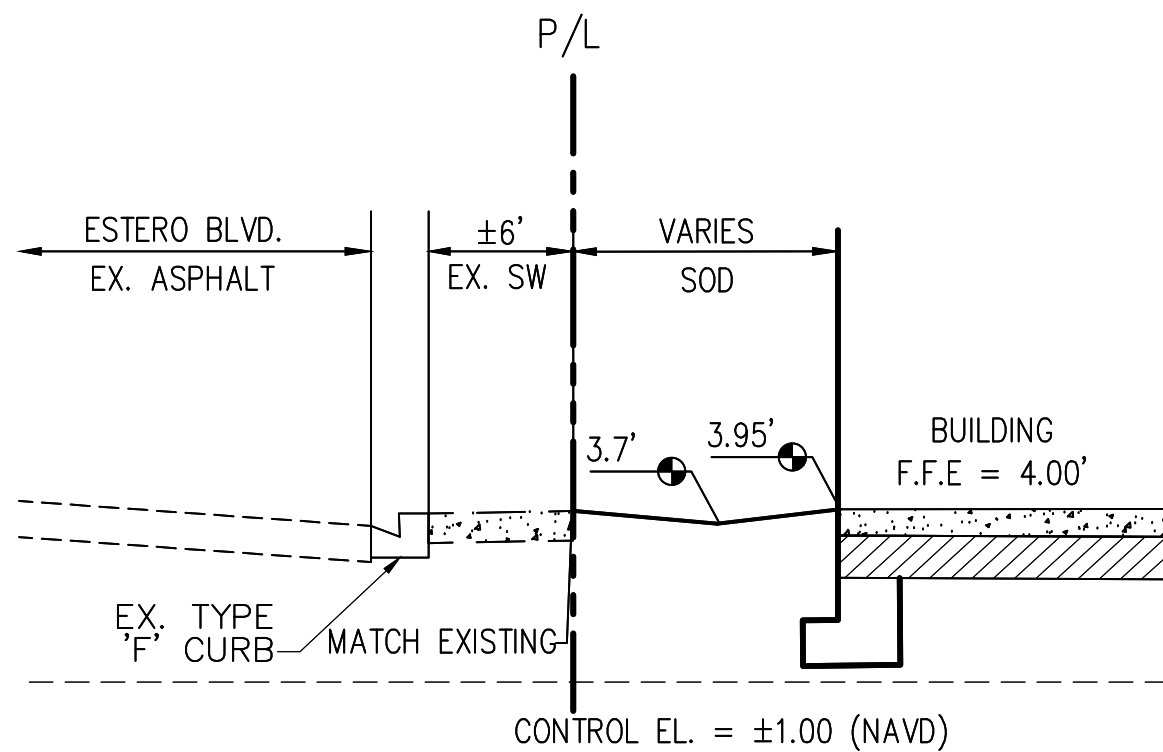
SECTION B-B
NTS



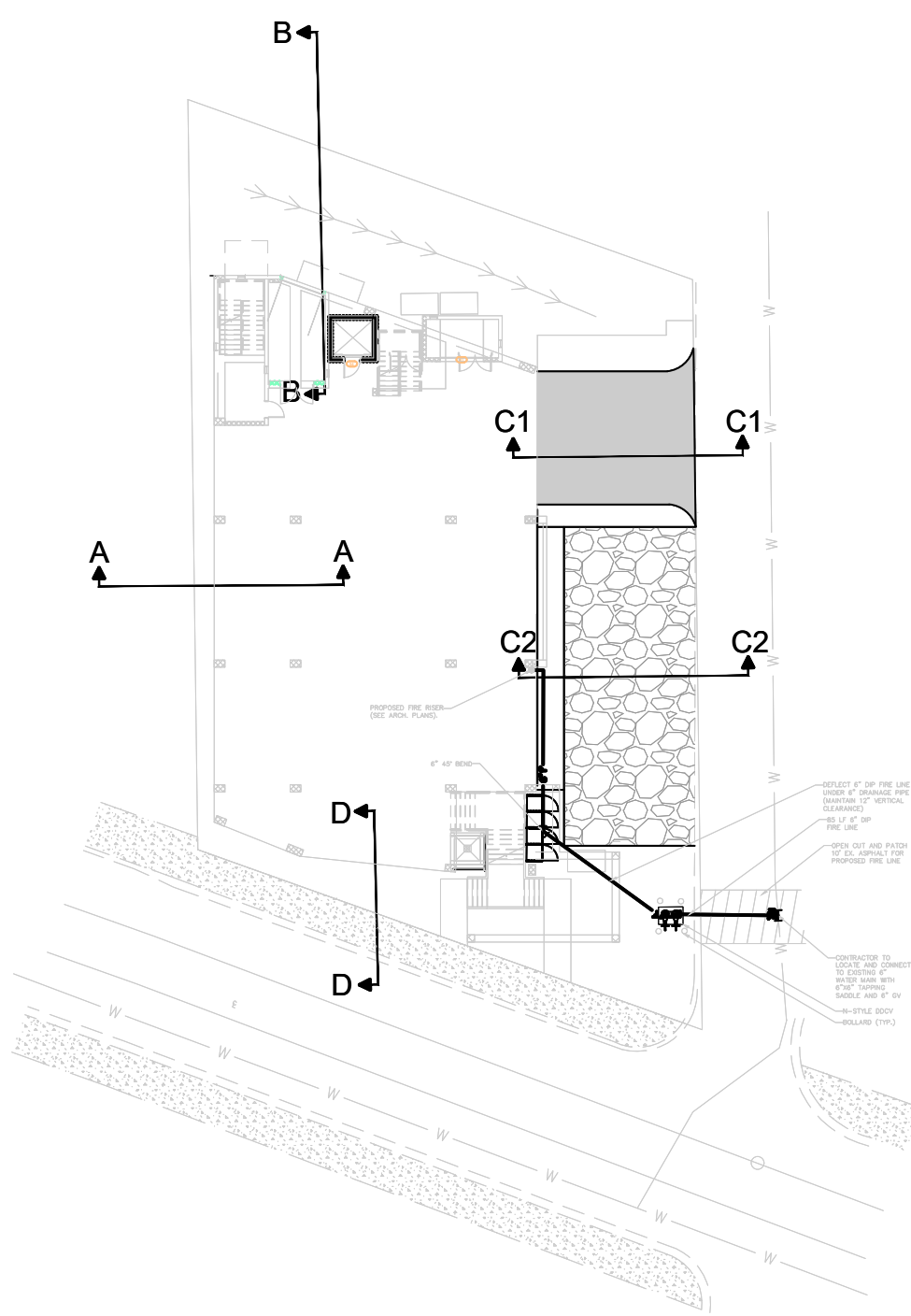
SECTION C1-C1
NTS



SECTION C2-C2
NTS



SECTION D-D
NTS



KEY MAP
N.T.S.



CROSS SECTIONS
1741 ESTERO BOULEVARD
FORT MYERS BEACH
THE GOODZ, INC.

NO.	DATE	REVISION	DESCRIPTION	BY
1	2-13-25	REVISED	PER FMB COMMENTS	BDM

811
Know what's below.
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BRENAN MCALARY		
P.E. LIC # 95722		
DRAFTED BY: BDM	DESIGNED BY: BDM	REVIEWED BY: DBA
PROJECT NUMBER: 24007052	COMPLETION DATE: 10/29/2024	SURVEY DATUM: NAVD88
BOOK AND PAGE:		
SHEET		



FORT MYERS BEACH FIRE DISTRICT
100 VOORHIS STREET, FORT MYERS BEACH, FLORIDA 33931
OFFICE: 239-590-4210 • EMAIL: PREVENTION@FMBFIREFL.GOV

HYDRANT FLOW TEST DATA SHEET

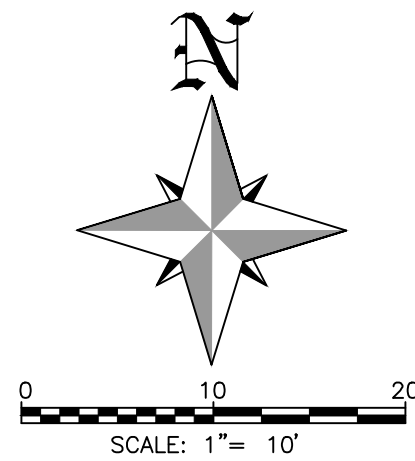
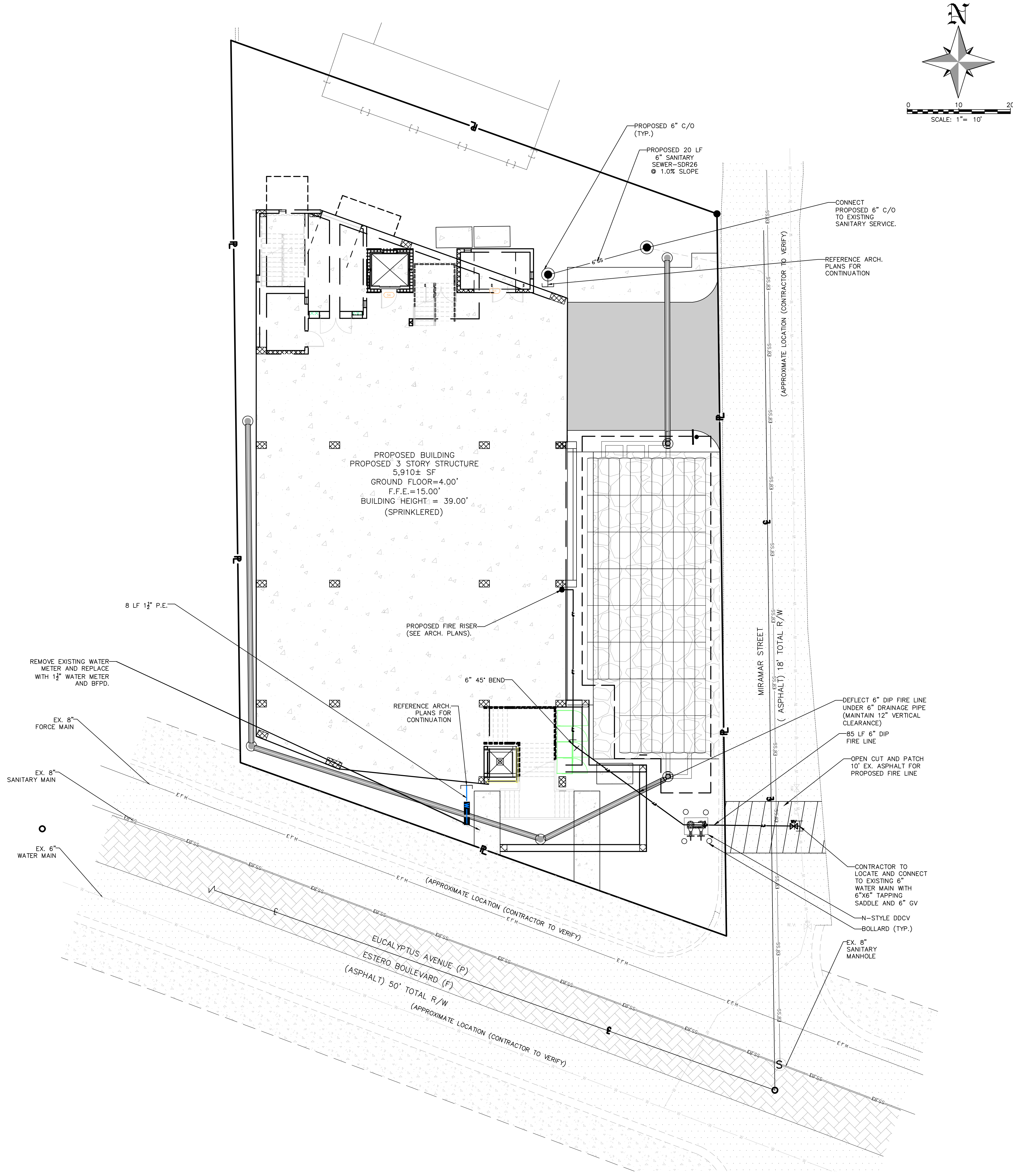
CONTACT NAME and PHONE NUMBER		Michelle Martins 239-939-5490
PROJECT NAME and ADDRESS		The Goodz Inc. - 1741 Estero Blvd
REASON FOR FLOW TEST		New Structure
FLOW HYDRANT #		31-170
S&R HYDRANT #		31-174
DURATION OF FLOW		5 MIN
MAIN SIZE		
DATE AND TIME OF TEST		1/3/2025
COEFFICIENT		0.90
BUTT DIAMETER		2.50
BUTTS FLOWED		2
STATIC #		65
S&R : RESIDUAL 1		53
S&R : RESIDUAL 2		45
FLOW : PITOT 1 CAP		35
FLOW : PITOT 2 CAPS		15
FLOW : PITOT 2 for calcs only		15
FLOW : PITOT 3 third hydrant if needed		0
FLOW : PITOT 3 third hydrant if needed		0
FLOW : PITOT 3 for calcs only		0
FLOW AT PITOT READING		1300
FLOW AT 20 PSI		2014
REQUEST RECEIVED BY		WEB
DATE RECEIVED		12/10/2025
TEST PERFORMED BY		CC/MK
PAYMENT RECEIVED		

****HYDRANT FLOW TESTS ARE ONLY VALID FOR 6 MONTHS FROM THE DATE OF TEST****

Page 1

FIRE FLOW REQUIRED (FOR THE PROPOSED BUILDING):

PROPOSED BUILDING AREA	16,354 SF
CONSTRUCTION TYPE	TYPE II (000) (NFPA)
	TYPE II-B (FBC)
FIRE FLOW REQUIRED	2,250 GPM
AVAILABLE FIRE FLOW @ 20 PSI	2,014 GPM
THE PROPOSED BUILDING WILL BE <u>SPRINKLED</u> .	



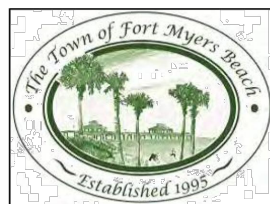
UTILITY PLAN
1741 ESTERO BOULEVARD
FORT MYERS BEACH
THE GOODZ, INC.

NO.	DATE	REVISION DESCRIPTION	BY

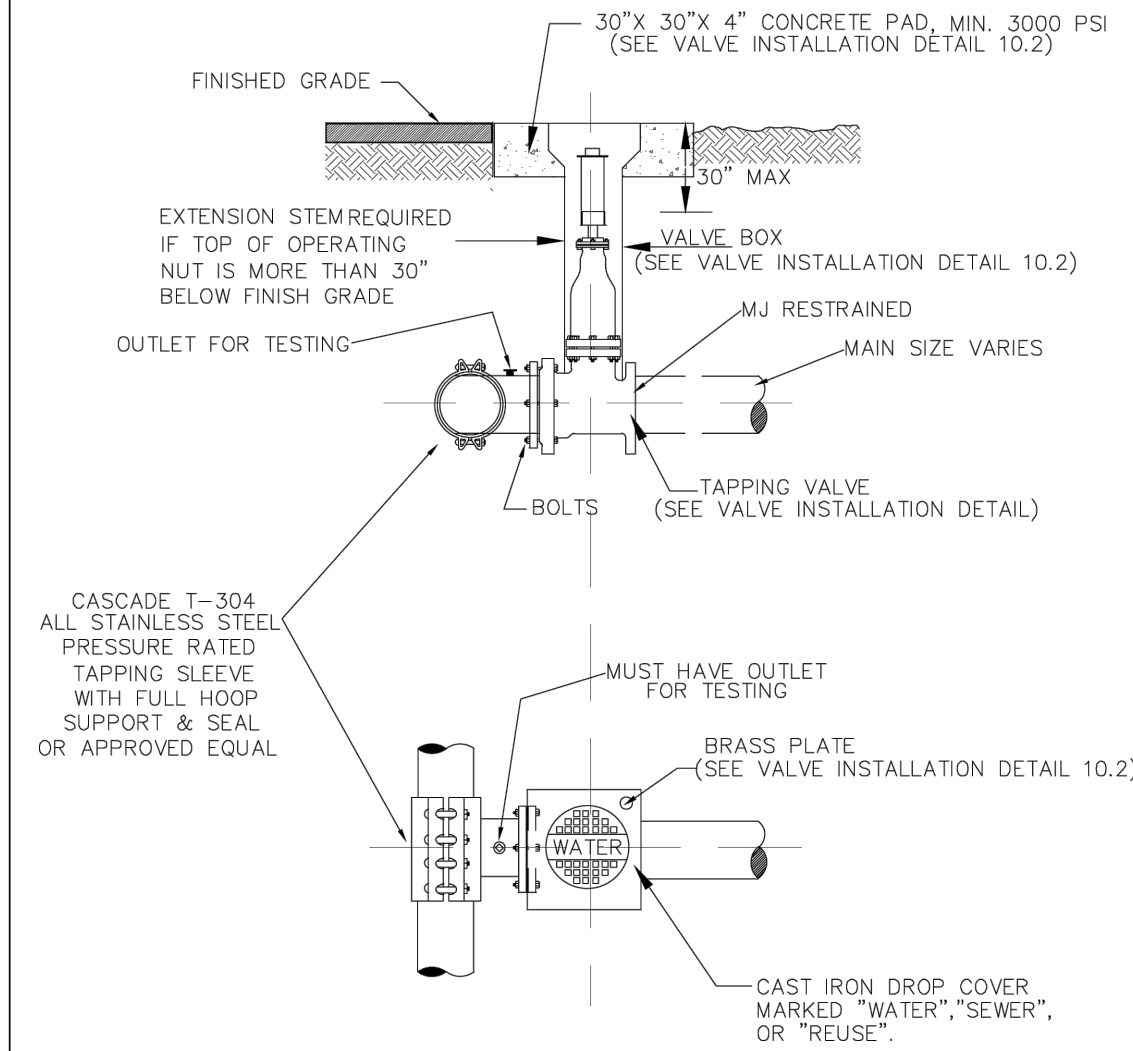
811
Know what's below.
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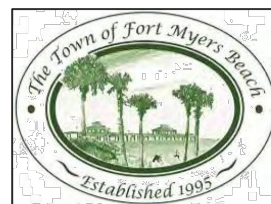
BRENNAN MCALARY		
P.E. LIC # 95722		
DRAFTED BY: BDM	DESIGNED BY: BDM	REVIEWED BY: DBA
PROJECT NUMBER: 24007052	COMPLETION DATE: 10/29/2024	SURVEY DATUM: NAVD88
BOOK AND PAGE:		
SHEET		



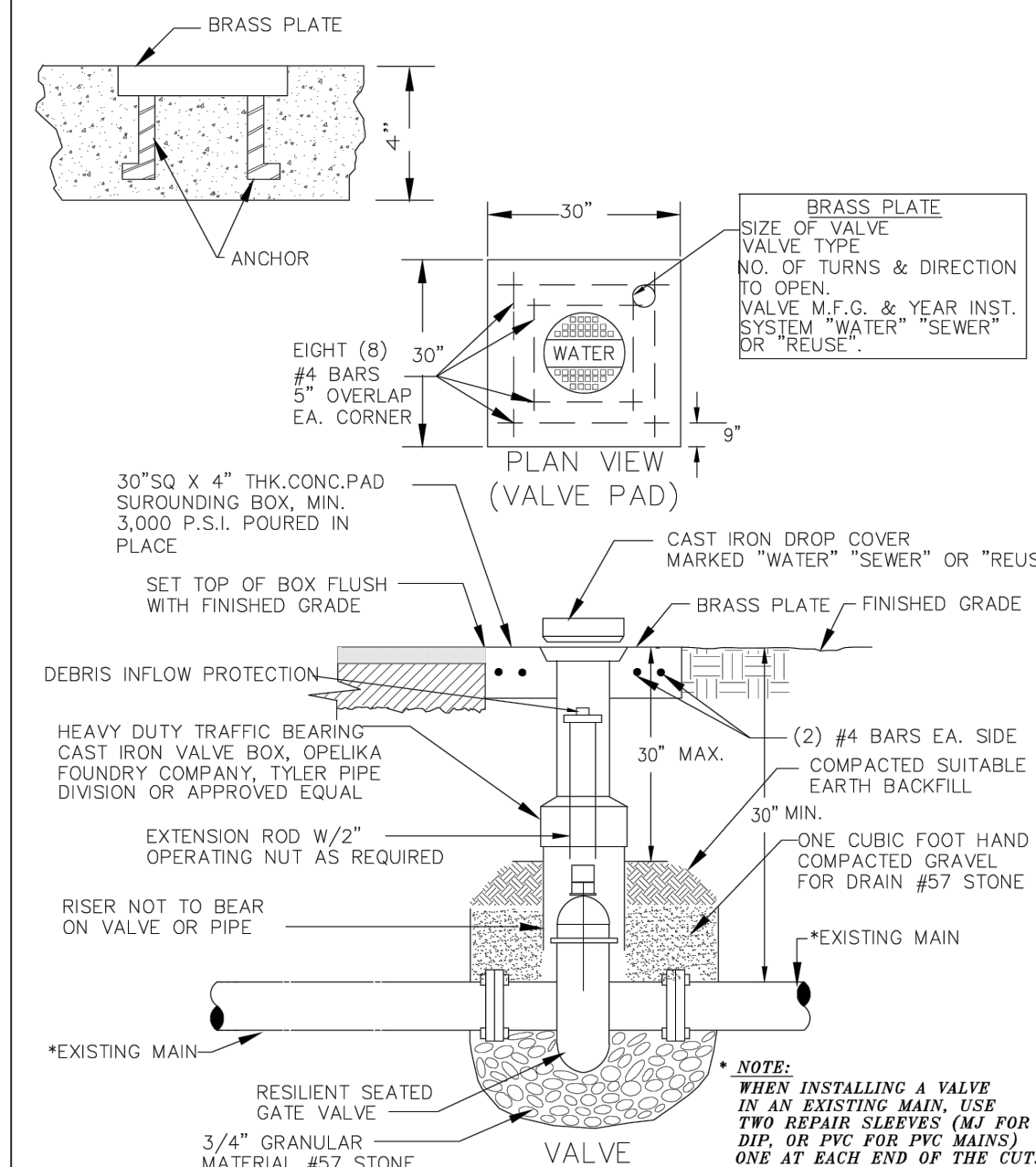
TOWN OF FT. MYERS BEACH
STANDARD DETAIL NO. 10.1
TAPPING SLEEVE AND VALVE



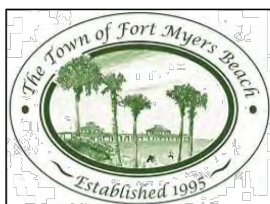
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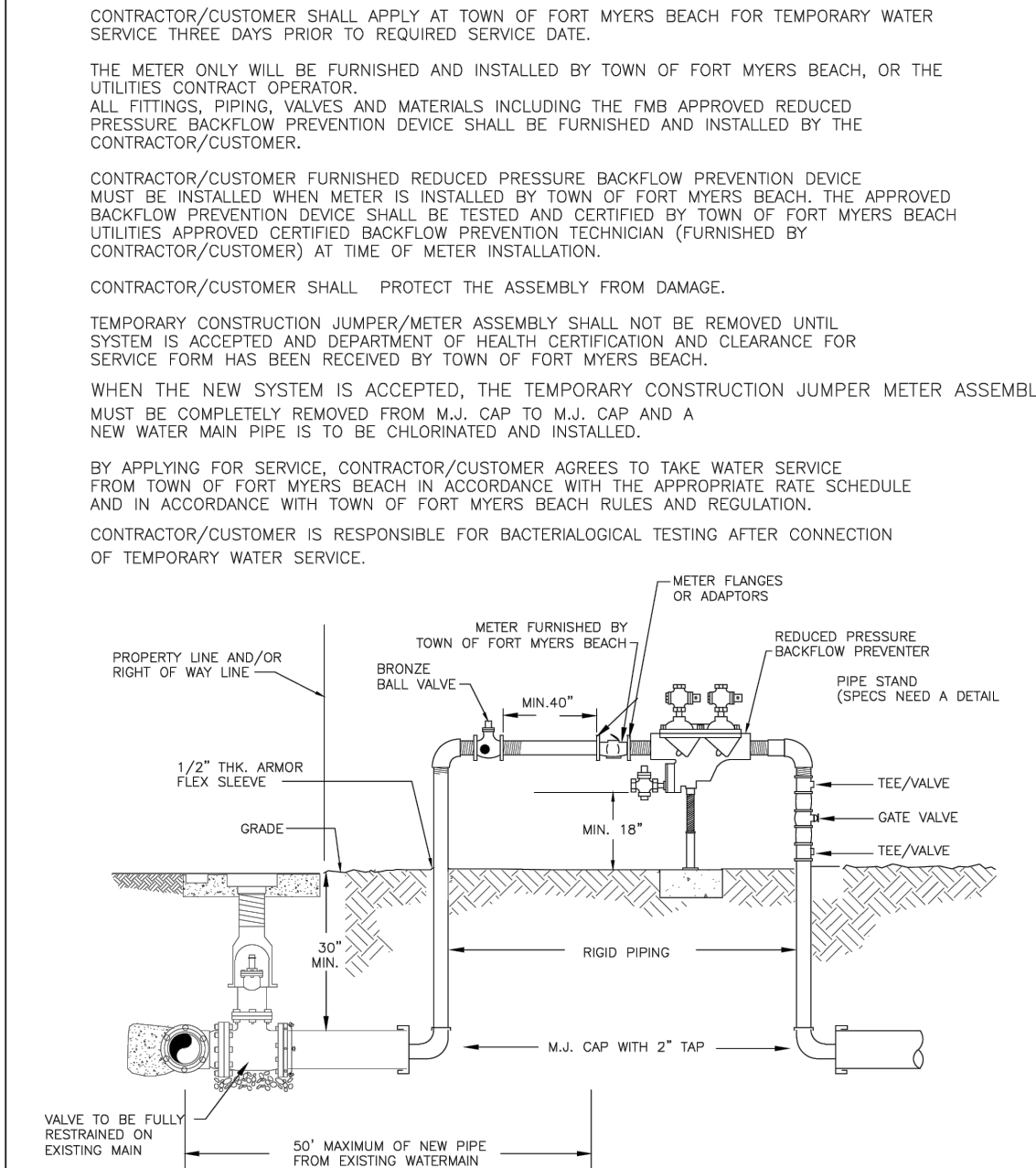
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STANDARD DETAIL NO. 10.2
GATE VALVE INSTALLATION



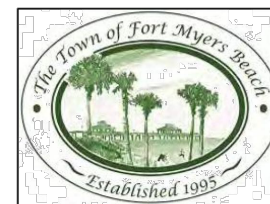
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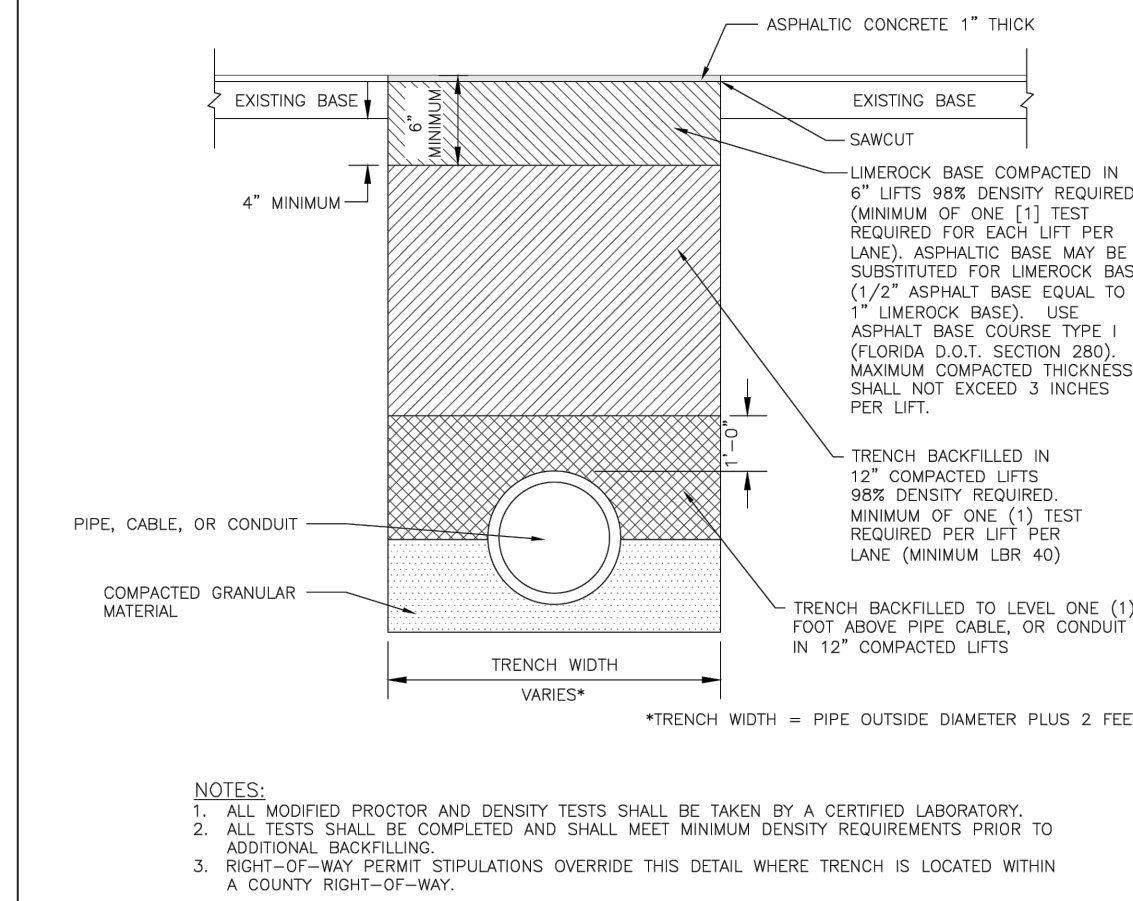
TOWN OF FT. MYERS BEACH
STANDARD DETAIL NO. 10.3
TEMPORARY CONSTRUCTION WATER SERVICE



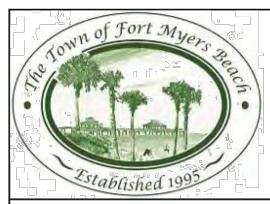
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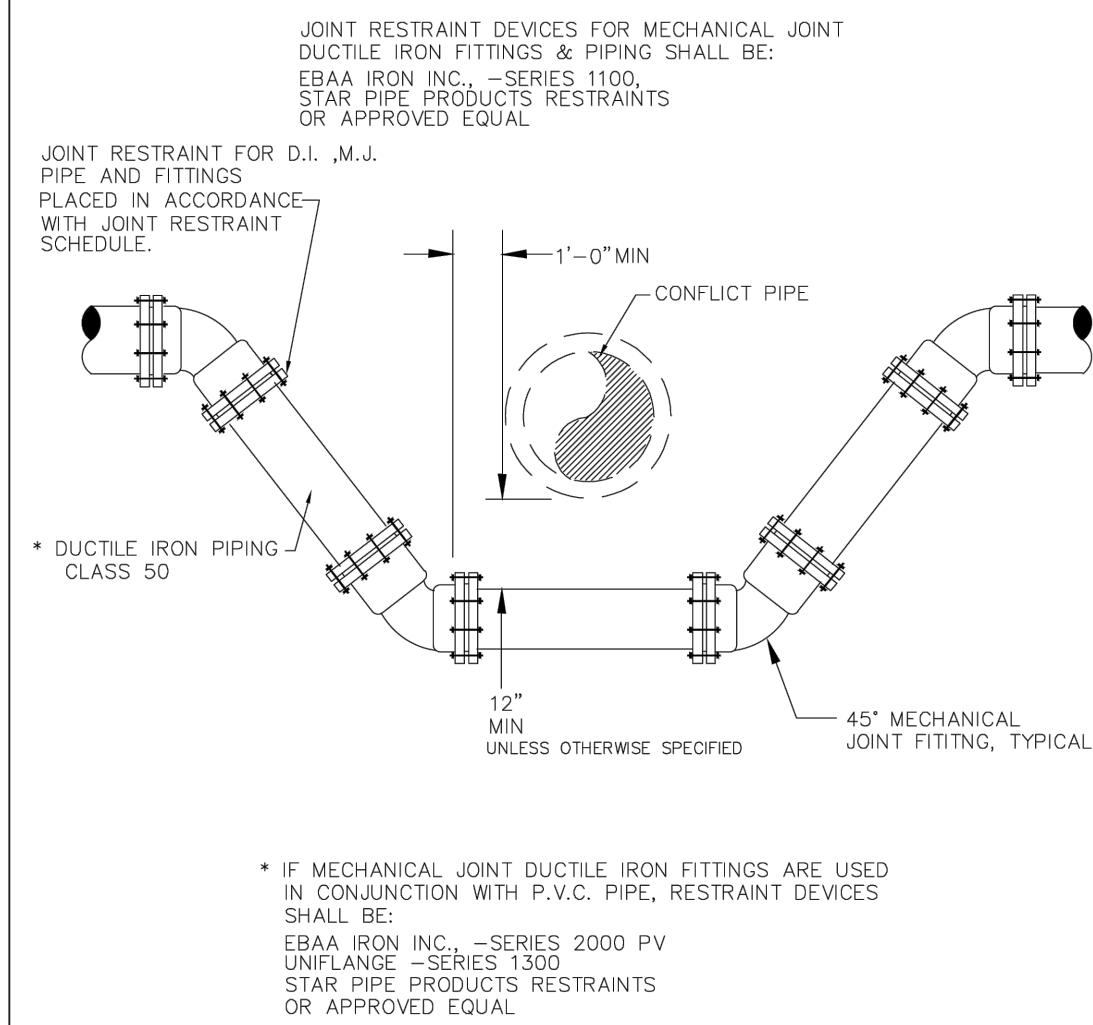
TOWN OF FT. MYERS BEACH
STANDARD DETAIL NO. 10.4a
ROAD AND TRENCH RESTORATION
FOR LOCAL ROADS



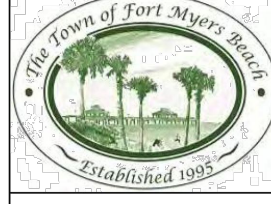
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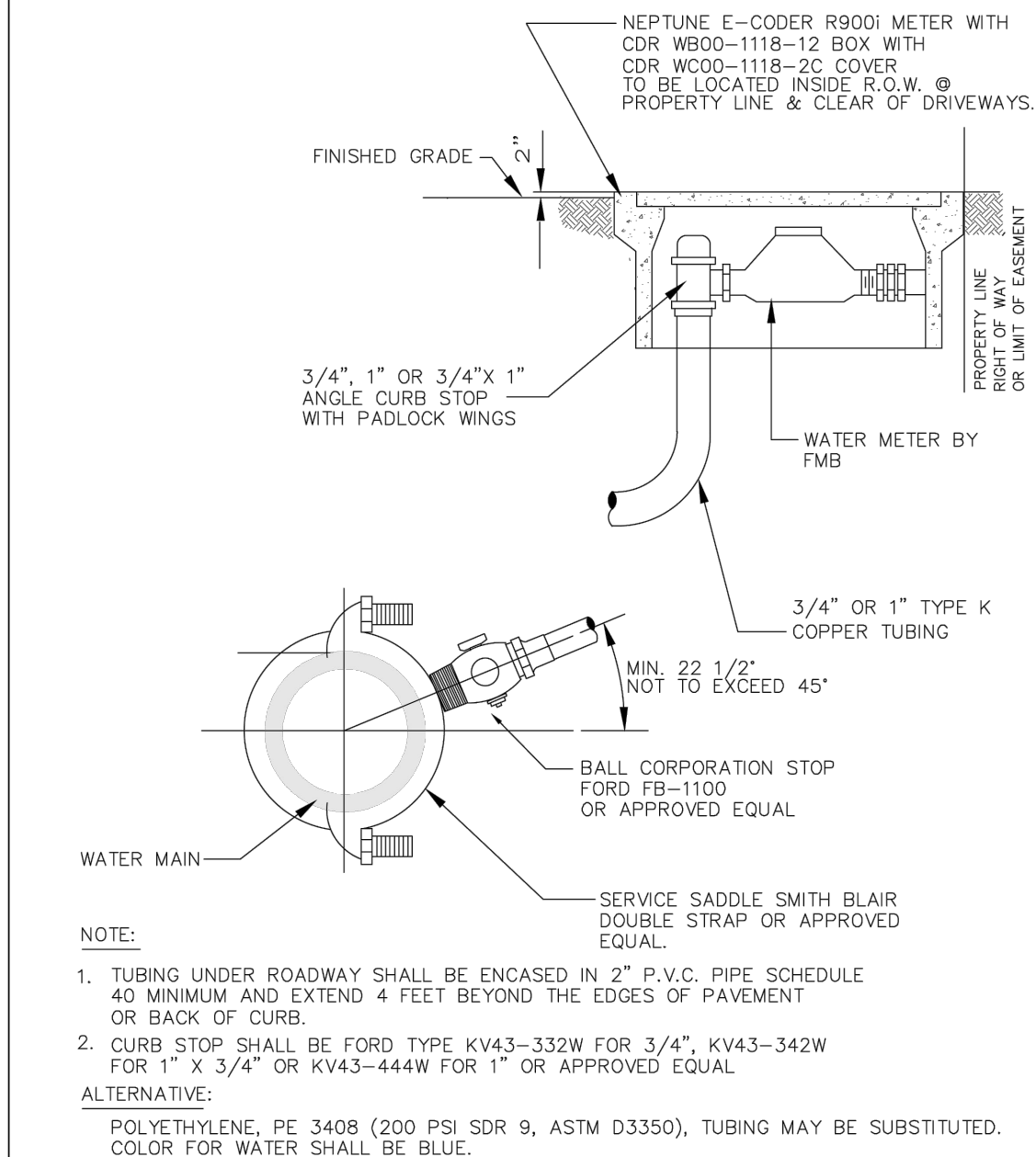
TOWN OF FT. MYERS BEACH
STANDARD DETAIL NO. 10.6
WATER PRESSURE LINE VERTICAL OFFSET
WITH DUCTILE IRON MJ FITTINGS & PIPE



DATE: 08/06/14 NOT TO SCALE



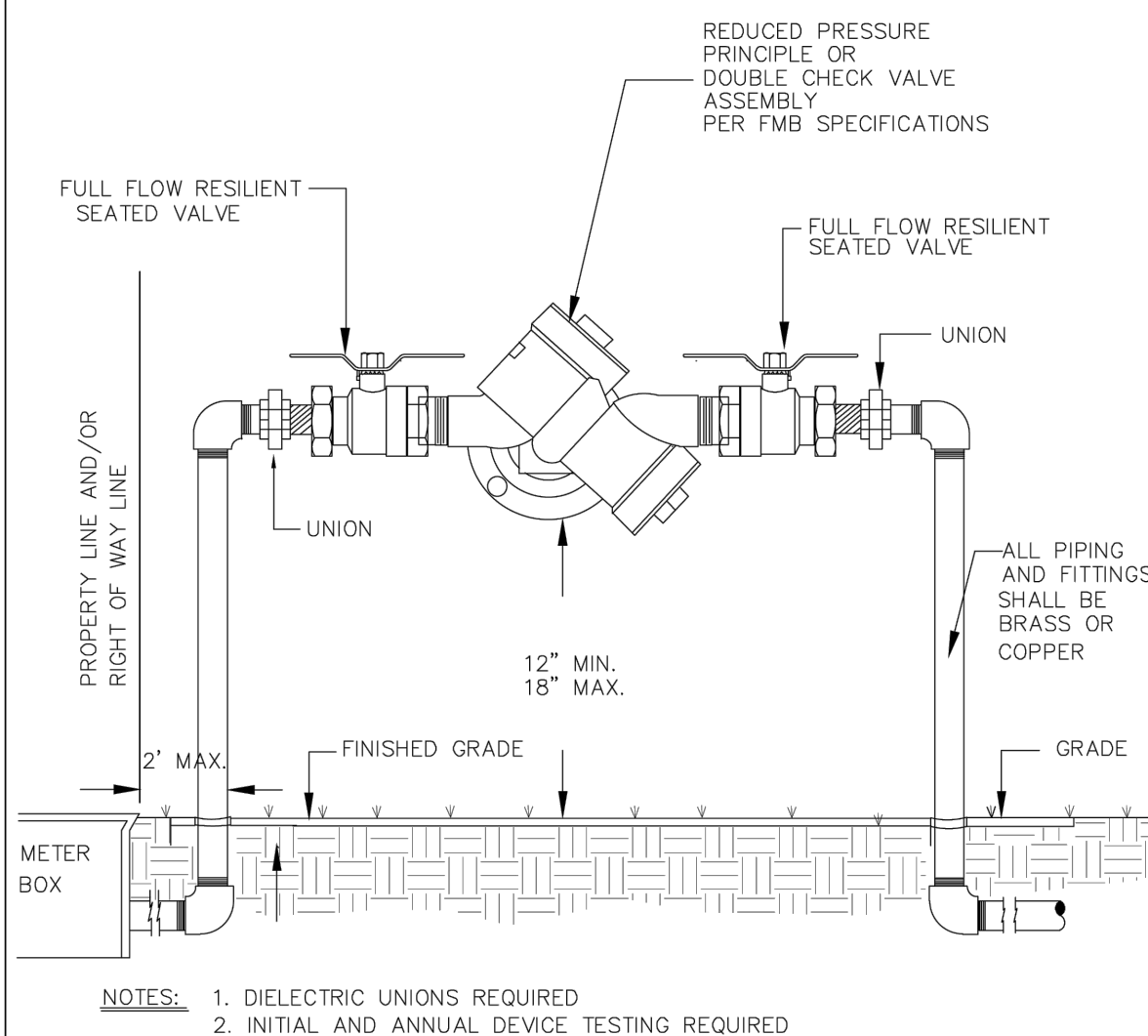
TOWN OF FT. MYERS BEACH
STANDARD DETAIL NO. 10.9
WATER SERVICE INSTALLATION
5/8" THROUGH 1"



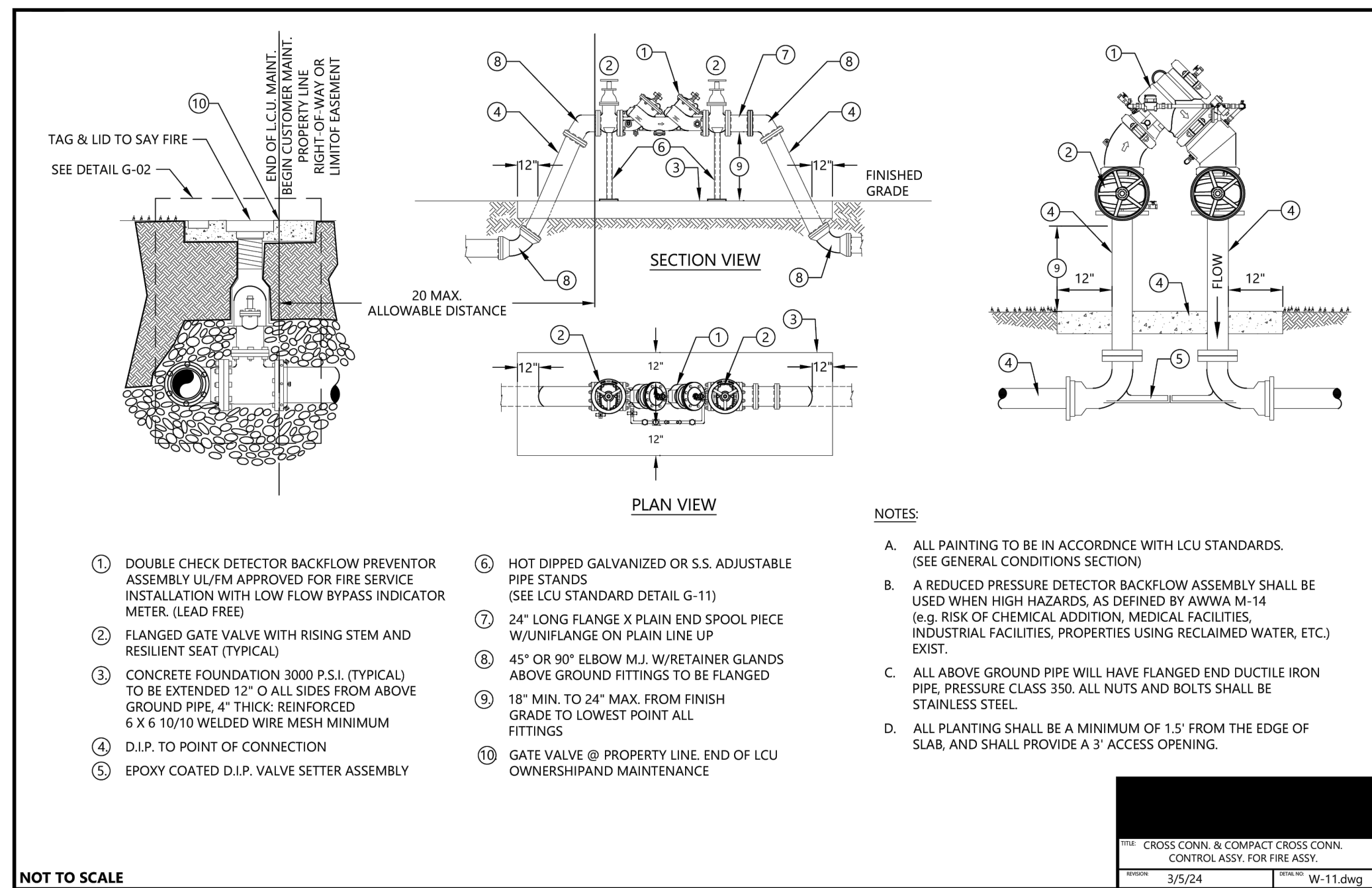
DATE: 08/06/14 NOT TO SCALE



TOWN OF FT. MYERS BEACH
STANDARD DETAIL NO. 10.11
3/4" TO 2" CROSS CONNECTION CONTROL ASSEMBLY



DATE: 08/06/14 NOT TO SCALE

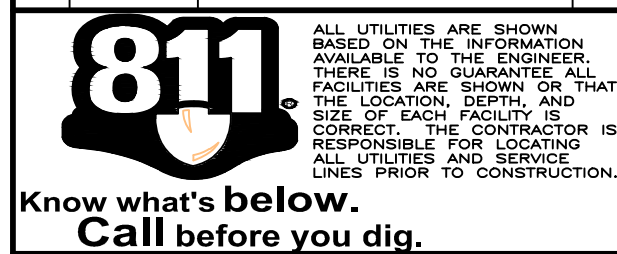


NOT TO SCALE
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UTILITY DETAILS
1741 ESTERO BOULEVARD
FORT MYERS BEACH
THE GOODZ, INC.

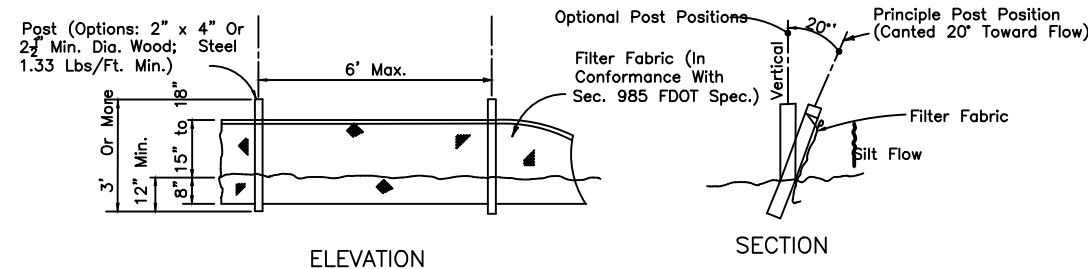
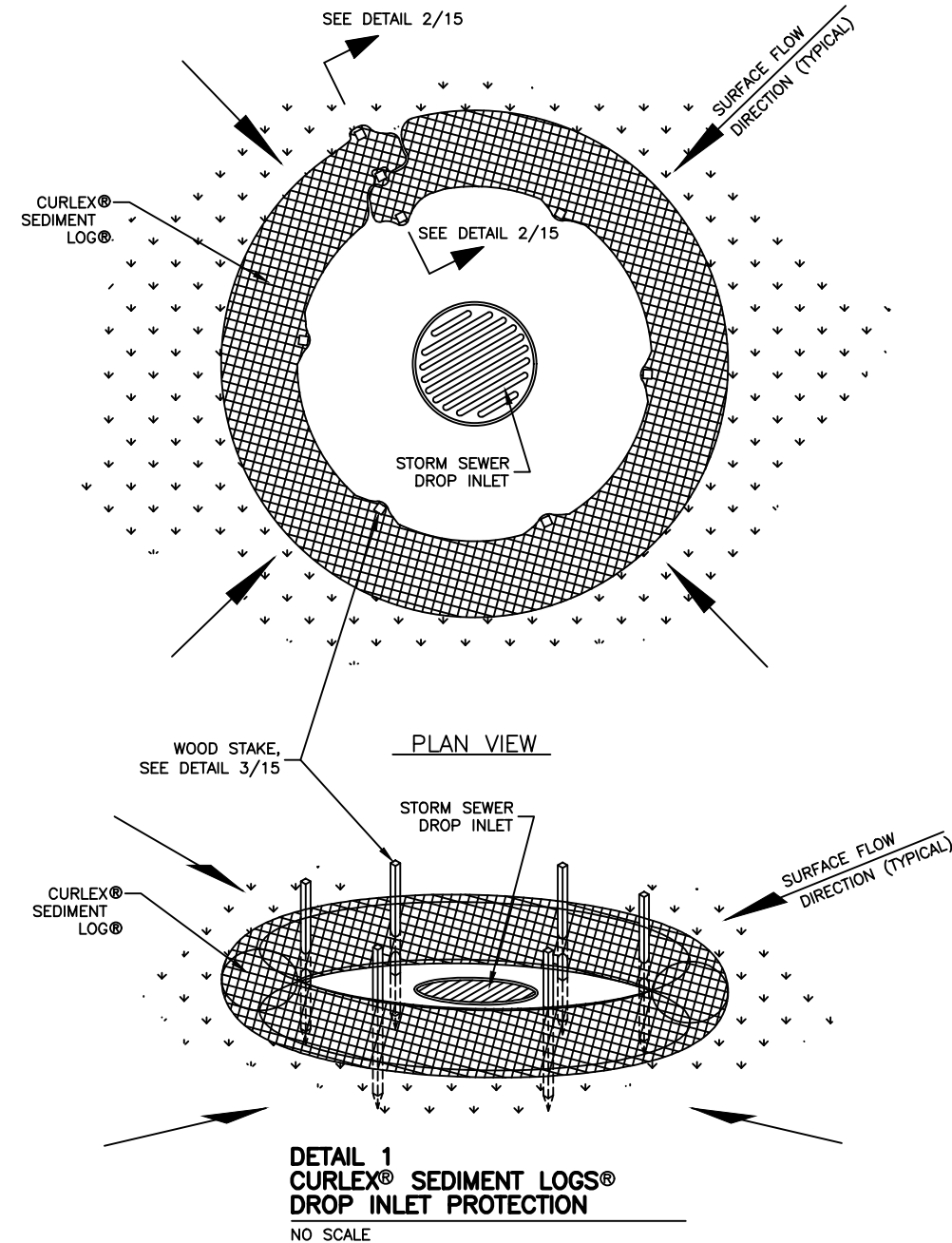
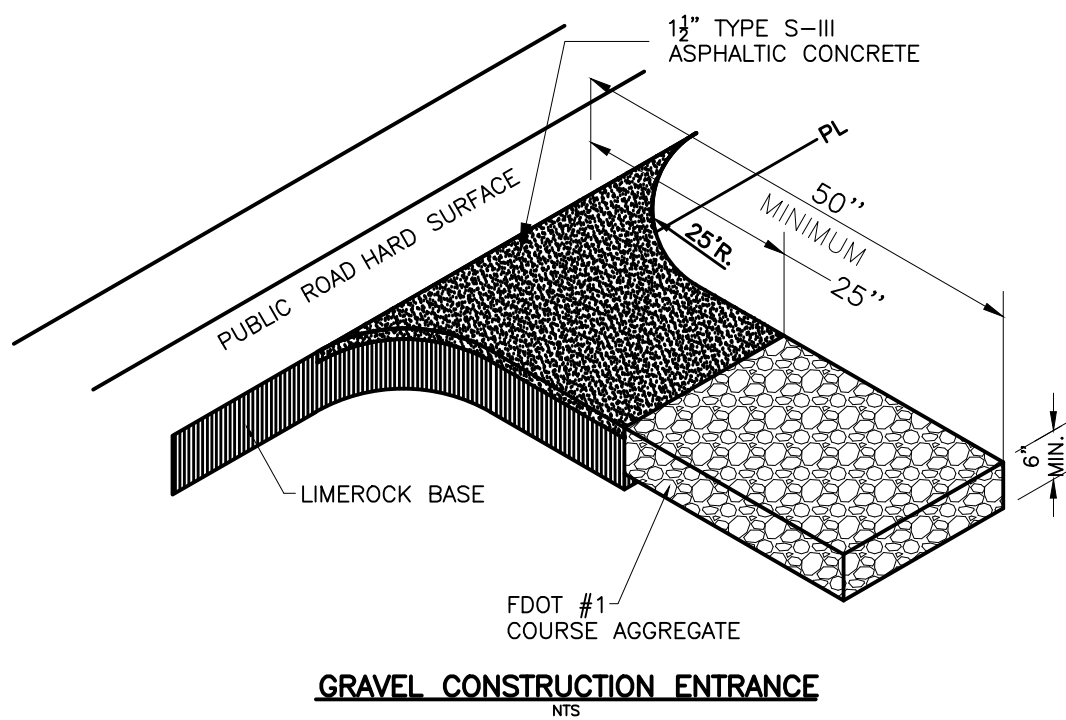
NO.	DATE	REVISION	DESCRIPTION	BY



BRENNA MCALARY		
P.E. LIC # 95722		
DRAFTED BY: BDM	DESIGNED BY: BDM	REVIEWED BY: DBA
PROJECT NUMBER: 24007052	COMPLETION DATE: 10/28/2024	SURVEY DATUM: NAVD88
BOOK AND PAGE:		
SHEET		

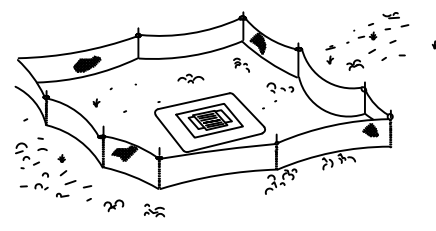
GENERAL NOTES:

1. PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITY, APPROPRIATE EROSION CONTROL DEVICES SHALL BE INSTALLED TO CONTROL AND REDUCE SOIL EROSION AND SEDIMENT TRANSPORT TO OFF SITE AREAS. THE CONTRACTOR SHALL MAINTAIN THESE DEVICES THROUGHOUT THE DURATION OF CONSTRUCTION. ALL DEVICES SHALL REMAIN IN PLACE UNTIL THE SURROUNDING AREAS ARE ESTABLISHED.
2. THE FOLLOWING MINIMUM REQUIREMENTS ARE RECOMMENDED: (REFERENCE FLORIDA DEVELOPMENT MANUAL, FDER, PPS 6-301 TO 6-500).
- A) BMP 1.01 - TEMPORARY GRAVEL CONSTRUCTION ENTRANCE
B) BMP 1.06 - SILT FENCE
C) BMP 1.08 - STORM INLET DRAIN PROTECTION
3. APPROPRIATE INLET PROTECTION TO PREVENT EROSION IS REQUIRED FOR ALL INLETS THROUGH OUT SITE CONSTRUCTION.
4. SILT FENCE SHALL BE INSTALLED ALONG THE PROPERTY LINE PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES.



- NOTE:
1. Silt Fence to be paid for under the contract unit price for Staked Silt Fence (LF).
2. Enviro Fence shall conform to the detail for Type III fence except that bottom edge need not be buried.

TYPE S-III SILT FENCE

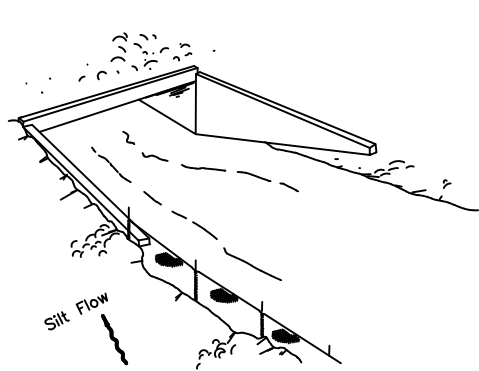


Type S-III Silt Fence Protection Around Ditch Bottom Inlets.

Do not deploy in a manner that silt fences will act as a dam across permanent flowing watercourses. Silt fences are to be used at upland locations and turbidity barriers used at permanent bodies of water.

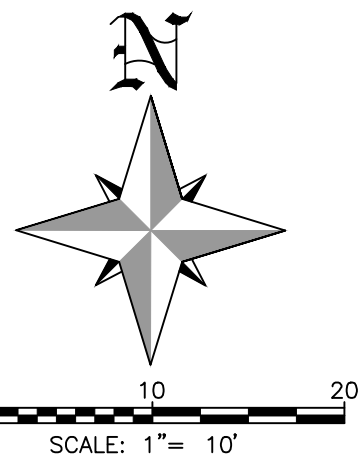
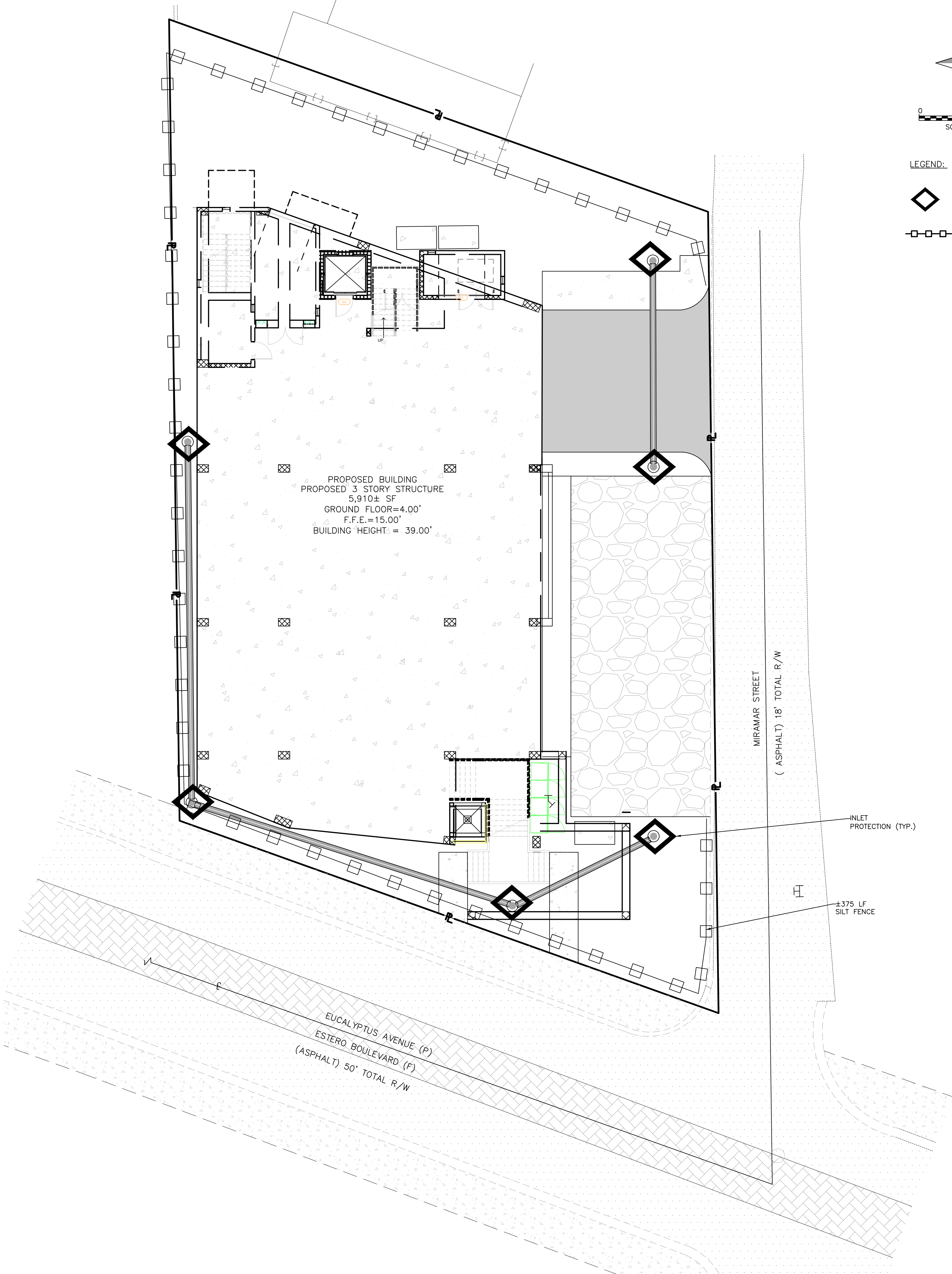
Note: Spacing for Type S-III Fence to be in accordance with Chart 1, Sheet 1 of 3 and ditch installations at drainage structures Sheet 2 of 3.

Type S-III Silt Fence



Type S-III Silt Fence

SILT FENCE APPLICATIONS



LEGEND:

- ◊ = REQUIRED INLET PROTECTION
- = SILT FENCE

BEST MANAGEMENT PRACTICES

1741 ESTERO BOULEVARD

FORT MYERS BEACH

THE GOODZ, INC.

PREPARED FOR:

NO.	DATE	REVISION DESCRIPTION	BY



Know what's below.
Call before you dig.

ALL UTILITIES ARE SHOWN BASED ON THE INFORMATION AVAILABLE TO THE ENGINEER. THERE IS NO GUARANTEE ALL UTILITIES ARE SHOWN. THE LOCATION, DEPTH, AND SIZE OF EACH FACILITY IS CORRECT. THE CONTRACTOR IS RESPONSIBLE FOR LOCATING LINES PRIOR TO CONSTRUCTION.

BRENNAN MCALARY		
P.E. LIC # 95722		
DRAFTED BY: BDM	DESIGNED BY: BDM	REVIEWED BY: DBA
PROJECT NUMBER: 24007052	COMPLETION DATE: 10/29/2024	SURVEY DATUM: NAVD88
BOOK AND PAGE:		
SHEET		

EXHIBIT B: PARKING
REVISED PARKING CALCULATIONS (10/2/25)
REQUESTING A REDUCTION OF 17 SPACES

VAR20250227 The Goodz 1741 Estero Blvd

STORAGE

PIZZERIA LRG STORAGE	133 SF
1ST FLR LRG STORAGE.	212 SF
STORE STORAGE	233 SF
STORAGE	163 SF
STORAGE	388 SF
RESTAURANT STORAGE	130 SF
MECHANICAL ROOM	97 SF
SUBTOTAL STORAGE	1239 SF
RATE FOR PARKING IS 2 SPACES PER 1K	2.47

RETAIL

STORE AREA	4062 SF
RATE FOR PARKING IS 3 SPACES PER 1K	12

RESTAURANT

DINING AREA	1020 SF
OUTDOOR SEATING	764 SF
PIZZA STATION	253 SF
GAMING AREA	2180 SF
SUBTOTAL RESTAURANT	4217
RATE FOR PARKING IS 8 SPACES PER 1K	33.736

416

BEER & WINE BAR AREA

SF

RATE FOR PARKING IS 13 SPACES PER 1K

5

SUBTOTAL OF PARKING REQUIRED	53.206
	35.6480
DOWNTOWN MULTIPLIER (0.67)	2

Total PARKING REQUIRED 36

Pursuant to 34-2020 (c) we will be utilizing 1 of the 4 (4 rack) bike racks already

REQUIRED PARKING after bike rack	35
PARKING Approved Under DOS 20250223	18
REQUESTED REDUCTION	17

LPA RESOLUTION 2024-007

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20240270, REQUESTING SIX VARIANCES FROM THE LDC FOR THE PROPERTY LOCATED AT 1741 ESTERO BLVD., GENERALLY REFERED TO AS STRAP NUMBER 19-46-24-W4-0080B.0010 IN FORT MYERS BEACH, TO VARY FROM REQUIRED 1)REAR SETBACK, 2)ACCESSORY STRUCTURE SETBACK, 3)LANDSCAPE BUFFER, 4) OFF-STREET PARKING, 5)SIDE STREET BUILD-TO LINE AND 6)PARKING LOT ENTRANCE WIDTH, TO ALLOW A MIXED-USE COMMERCIAL DEVELOPMENT INCLUDING RETAIL AND LODGING USES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, Belger Properties Partnership LLC ("Owner") is the owner(s) of the property located at 1741 Estero Boulevard (Property), and is requesting variances from LDC 1) Sec. 34-674(b)(1)(a) of 1 foot encroachment into the rear setback for a rear setback of 21 feet from the rear property line for the mechanical equipment, and a variance of 5 feet 7 inches for a rear setback of 19 feet 5 inches for a dumpster enclosure, 2) Sec. 34-677(b)(3) a variance for the non-implementation of a 15 foot landscape buffer between a parking lot and public street, 3) Sec. 34-677(b)(3) a variance for the non-implementation of a required 15 foot landscape buffer between a commercial property and a residential lot, 4) Sec. 34-676(b)(1) a variance for off-street parking to not be situated in the rear yard but in the front, 5) Sec. 34-674(a)(1) a variance of 20 additional feet from the required 5 to 10 feet build to line off of Miramar Street for a street setback of 30 feet, 6) and Sec. 34-2013(a)(3) a variance to exceed the maximum width of a parking lot entrance at the property line of 25 feet to 88 feet along Miramar Street to build a new mixed-use structure in the Downtown zoning district; and

WHEREAS, the STRAP number for the subject property is 19-46-24-W4-0080B.0010; and

WHEREAS, the Property is located in the "Pedestrian Commercial" Future Land Use of the Comprehensive Plan and the "Downtown" zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on December 10, 2024, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-87 of the LDC; and

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

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

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

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

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

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

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

- 1) Approval of these variances does not give the Applicant an undeniable right to permit approval. Development of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
- 2) Property owner must ensure that they adhere to the maximum FAR of 1.4 and the building does not exceed 18,370 square feet under roof.
- 3) Property owner must screen ground level parking in a manner similar to that presented in the variance application documents and compliant with flood regulations. Live vines on the screening is acceptable.
- 4) The variances shall only apply to the mixed-use structure as shown on the provided site plan. Demolition or substantial damage to the mixed-use structure shall render the variances to be null and void.
- 5) Property owner must have complete visual screening that enclose all mechanical equipment to obscure from the public right-of-way and from the immediate neighbor's property to help mitigate noise; and

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

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

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

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

- 1. The foregoing “WHEREAS” clauses are adopted herein by reference and constitute the findings and conclusions of the LPA.
- 2. VAR20240270, with the conditions contained herein, received unanimous approval from eligible voting members of the LPA on December 10, 2024.
- 3. This Resolution shall constitute the equivalent of a development order and final agency action, subject to any request for an additional review by the Town Council filed with the Town Clerk within 10 business days of the LPA decision as authorized in Section 34-232(d) of the LDC.

The foregoing LPA Resolution was adopted upon a motion by LPA Member McLean and seconded by LPA Member Eckmann, and upon being put to a roll call vote, the result was as follows:

Anita Cereceda, Chair	Aye
Jane Plummer, Vice-Chair	Aye
Jim Boan, LPA Member	Aye
Doug Eckmann, LPA Member	Aye
Don Sudduth, LPA Member	Aye
John McLean, LPA Member	Aye
Jim Dunlap, LPA Member	Aye

DULY PASSED AND ADOPTED THIS 10th day of December 2024.

Local Planning Agency of the Town of
Fort Myers Beach

By: Anita Cereceda
Anita Cereceda (Jan 7, 2025 16:46 EST)
Anita Cereceda, LPA Chair

Approved as to legal sufficiency:

ATTEST:

By: Nancy Stuparich
Nancy Stuparich (Jan 8, 2025 13:25 EST)
Vose Law Firm, Town Attorney

By: Amy Baker
Amy Baker, Town Clerk

This Resolution was filed in the Office of the Town Clerk on this 6th day of January 2025.

EXHIBIT A: Site Plan

1741 ESTERO BLVD, FORT MYERS BEACH, FL

PREVIOUSLY EXISTING STORE:



GENERAL NOTES

1.

DO NOT SCALE THESE DRAWINGS, IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO CHECK ALL DIMENSIONS AND VERIFY THE BUILDING POSITION WITH IN THE SETBACK LINES PRIOR TO COMMENCING CONSTRUCTION.

2.

FOR ARCHITECTURAL REFERENCE ELEVATIONS SHOWN HEREFTER ARE BASED ON "EL. 0'-0" EQUAL TO XXX" N.A.V.D ALL INFORMATION SHOWN HEREIN IS TAKEN FROM A SURVEY PROVIDED BY CUSTOMER OR G.C. APPOINTED SURVEYING COMPANY. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO FAMILIARIZE HIMSELF WITH ALL EXISTING CONDITIONS. ALL EXISTING CONDITIONS ARE NOT NECESSARILY SHOWN HEREIN.

3.

ALL TRADES SHALL BE RESPONSIBLE TO READ ALL DETAILS AND SPECIFICATIONS, AND PLANS - ARCHITECTURAL, STRUCTURAL, MECHANICAL, ETC. FOR PROPER COORDINATION. IF ANY CONFLICTS EXIST, THAT TRADE SHALL NOTIFY THE CONTRACTOR OF THE SAME, PRIOR TO CONSTRUCTION.

4.

THE CONTRACTOR SHALL DIRECT ANY DISCREPANCIES TO THE ENGINEER OR RESIDENTIAL DESIGNER PRIOR TO CONSTRUCTION, AND THE CONTRACTOR SHALL BE RESPONSIBLE FOR WORK WHICH PROCEEDS WITHOUT DUE COURSE AND COORDINATION.

SITE LOCATION



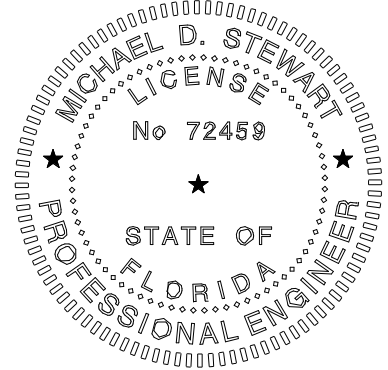
MICHAEL D. STEWART, P.E., LLC
PROFESSIONAL ENGINEERING SERVICES

(239)-292-7670
MStewart@MStewartPE.com

CA# 33003

PAMELA PERALTA, P.E.
FLA REG. #96645

MICHAEL D. STEWART, P.E.
FLA REG. #72459



2024.10.28

REVISION: 2024.11.18

PROJECT
INFORMATION

THE GOODZ
- PRELIMINARY
DISCUSSION
SET

[PROJECT ADDRESS]
1741 ESTERO BLVD,
FORT MYERS BEACH, FL

LOWER LEVEL
PARKING

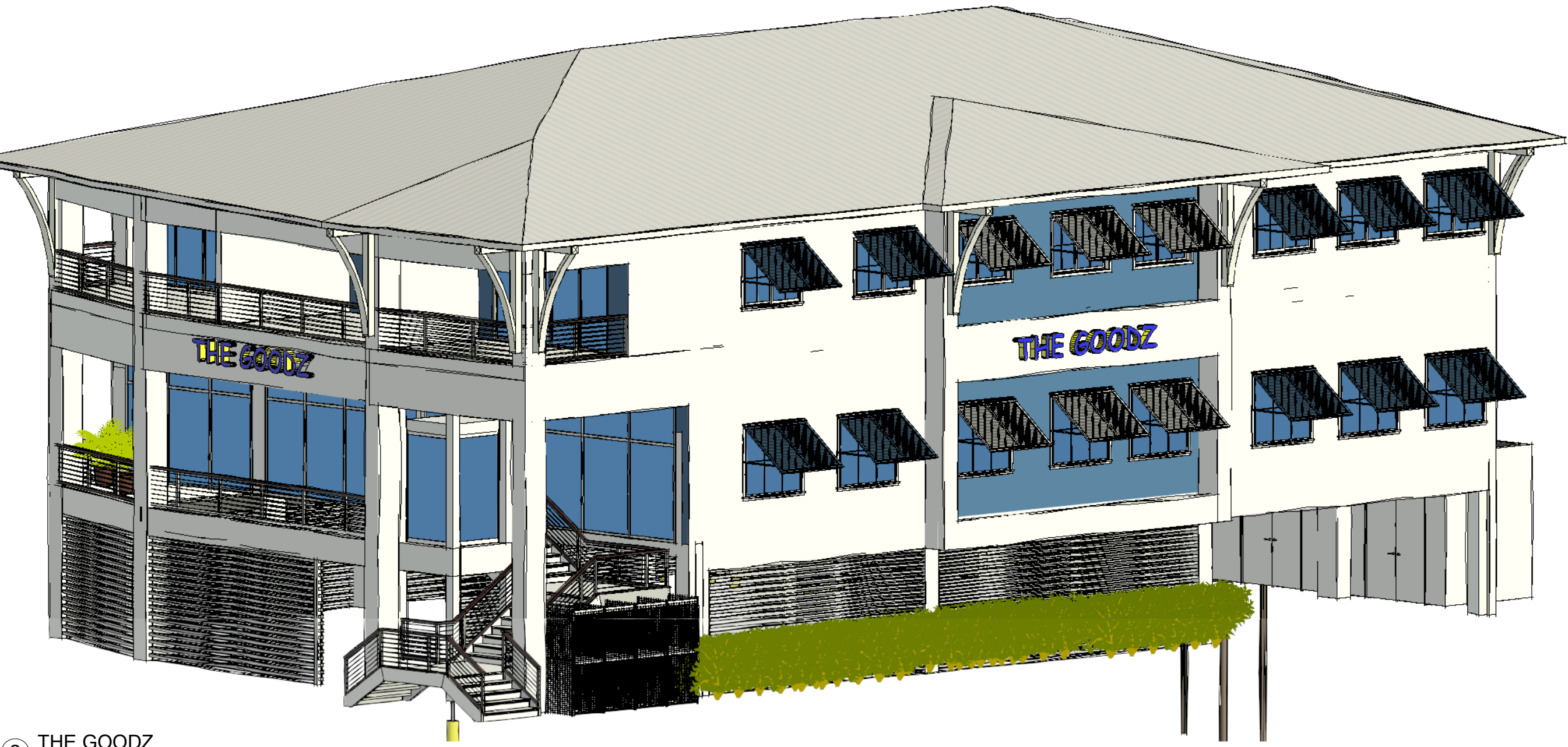
[DRAWN BY] PSP

[COPYRIGHT 2024]

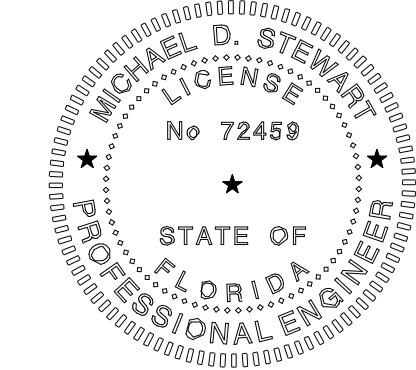
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NOTE:
PLANTINGS SHOWN HEREIN ARE
CONCEPTUAL AND FOR DISCUSSION
PURPOSES ONLY. SPECIFIC PLANTINGS
TO BE PROVIDED BY OTHERS.



3 RIGHT ELEVATION
1/4" = 1'-0"



2024.10.28
REVISION: 2024.11.18

PROJECT
INFORMATION
**THE GOODZ
- PRELIMINARY
DISCUSSION
SET**

[PROJECT ADDRESS]
1741 ESTERO BLVD,
FORT MYERS BEACH, FL

**LOWER LEVEL
PARKING**

[DRAWN BY] PSP

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[SHEET NUMBER]

**A
0.2**

MEAN ROOF HEIGHT
OF SLOPED ROOF

MAX ROOF
HEIGHT
39' - 0"

ROOF BRG
34' - 0"

SECOND FINISH
FLOOR
25' - 0"

FIRST FINISH
FLOOR
11' - 0"

LOWEST
HORIZONTAL
STRUCT
9' - 0"

BFE
8' - 0"

GRADE
0' - 0"

THE GOODZ

② FRONT ELEVATION
1/4" = 1'-0"

PARKING TABLE

	REQUIRED	TOTAL
RETAIL SPACE (HARDWARE STORE)	3 SPACES PER 1000 SF	4,987 SF HARDWARE STORE [15 SPACES REQUIRED]
HOTELS	1.5 SPACES PER UNIT	5 UNITS [8 SPACES REQUIRED]
OFFICE / STORAGE SPACE	2 SPACES PER 1000SF STORAGE OR OFFICE	314 SF + 426 SF + 140 SF = 880 SF TOTAL [2 SPACES REQUIRED]
TOTAL SPACES REQUIRED - 25 SPACES --> MULTIPLY BY .67 18 SPACES REQUIRED - 18 PROVIDED		

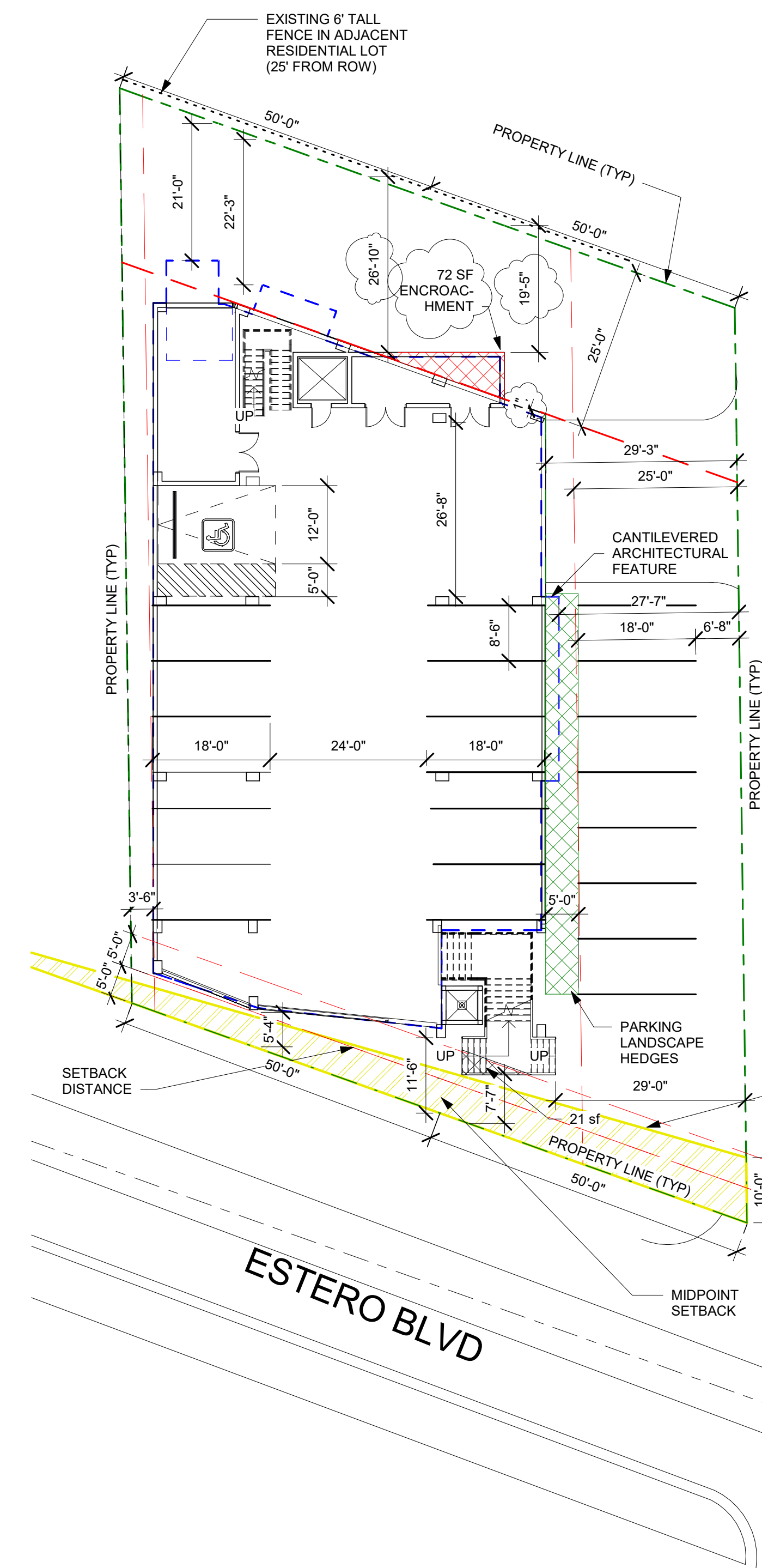
ZONING REQ's

	REQUIRED	PROVIDED
MAX BUILDING HEIGHT	30FT FROM BFE, 3 STORIES, LIMITED STORAGE ON LOWER LEVEL	13,122 SF TOTAL LOT AREA, 6,096 + 6,096 + 6,175= 18,367 SF, 18,367 SF / 13,122 SF = 1.3997
FLOOR AREA RATIO	1.4	
PARKING REDUCTION (34-676 (a))	67%	
BUILD TO LINES	5 TO 10 FEET FROM PROPERTY LINE	

*C/F (15FT WIDE) BUFFERS REQUIRED BETWEEN ADJACENT SF ZONING AREAS.

③ PARKING TABLE
1" = 20'-0"

NOTE:
INFORMATION SHOWN HEREIN IS PRELIMINARY AND FOR DISCUSSION PURPOSES ONLY.



① SITE PLAN
1/16" = 1'-0"

FLOOR PLAN GENERAL NOTES:

GENERAL:
VERIFY FLOOR ELEVATIONS W/ FLOOD REQUIREMENTS.
ALL EXTERIOR WINDOWS & DOORS ARE DIMENSIONED TO CENTER LINE U.N.O.

CONTRACTOR TO VERIFY OF ALL DIMENSIONS.

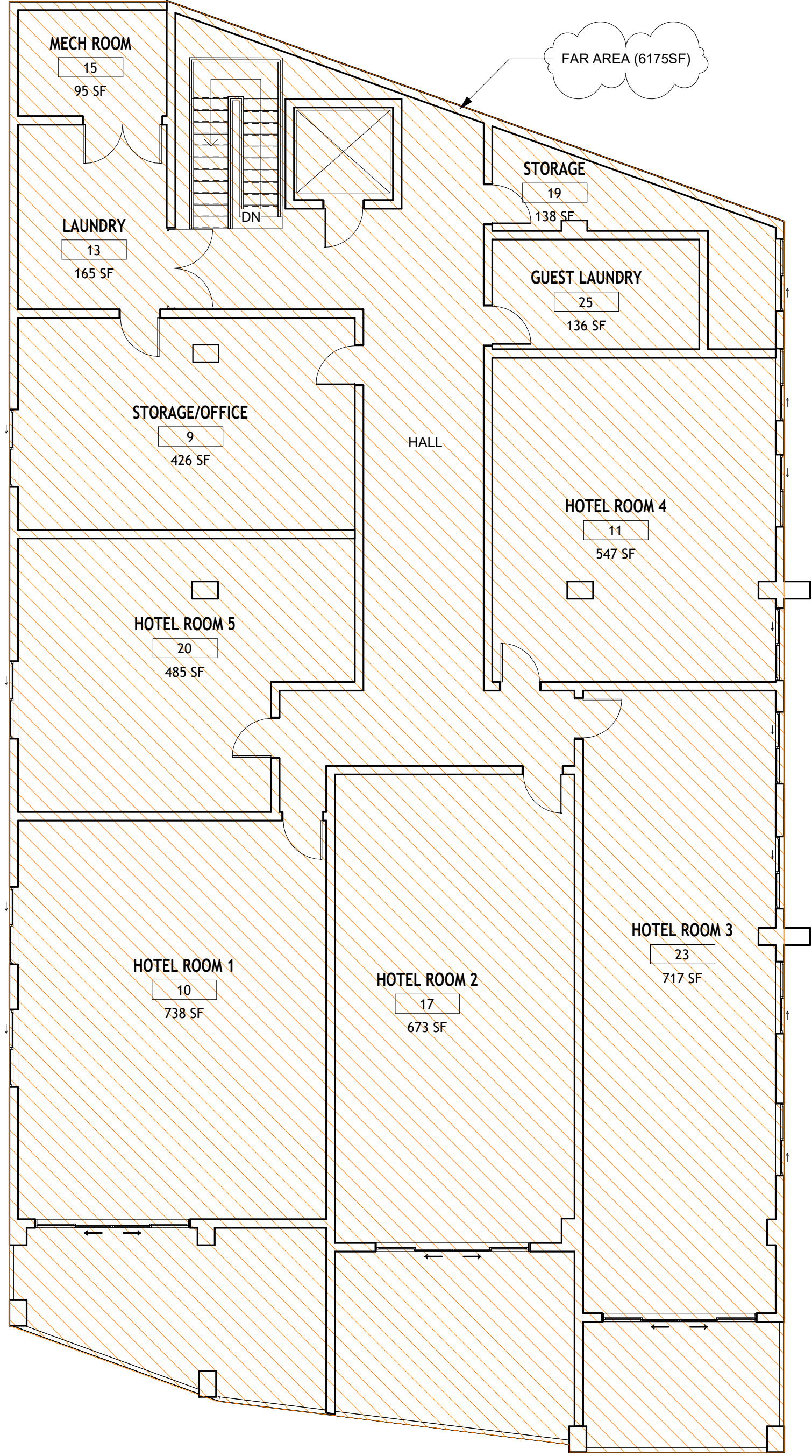
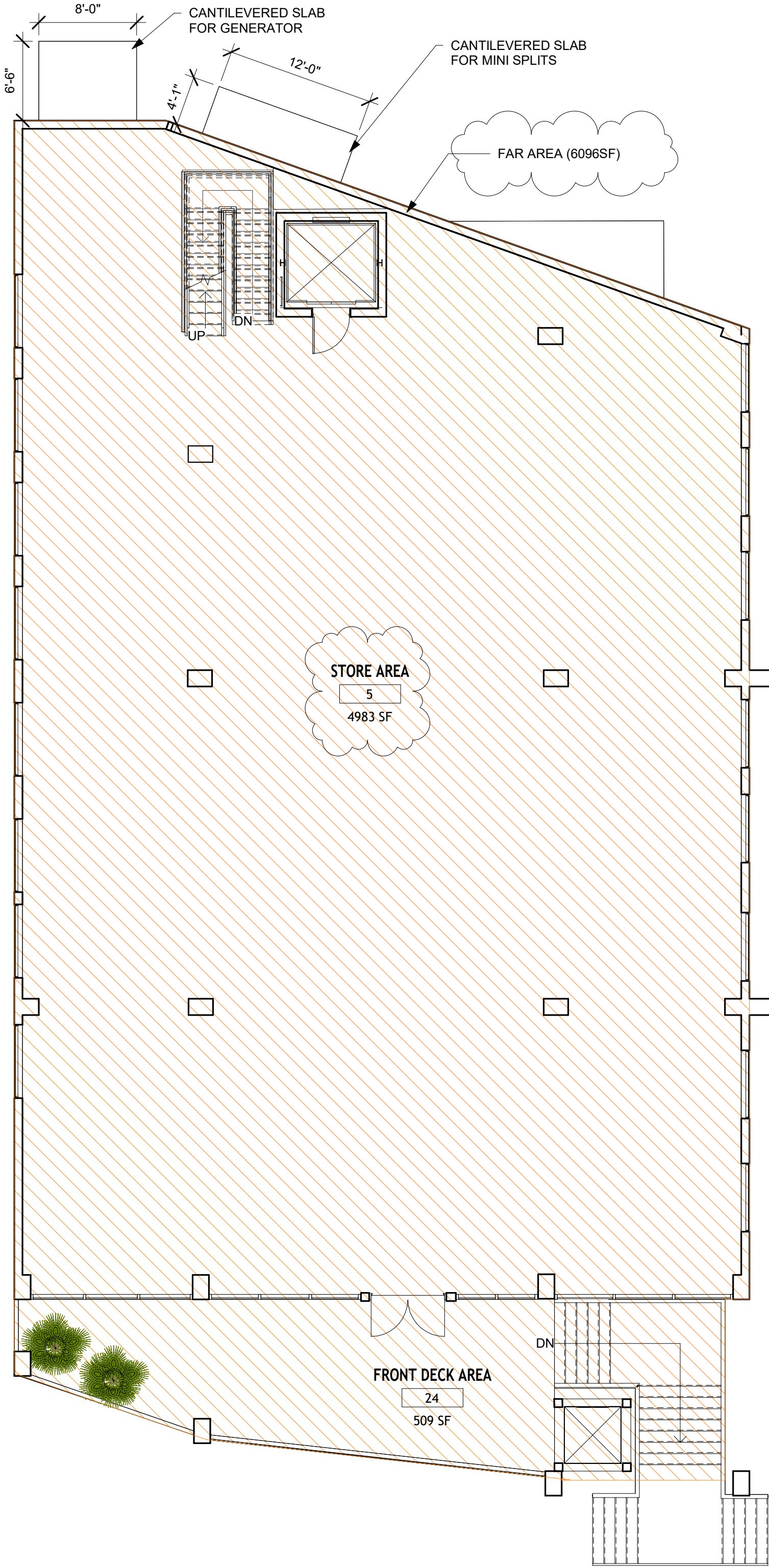
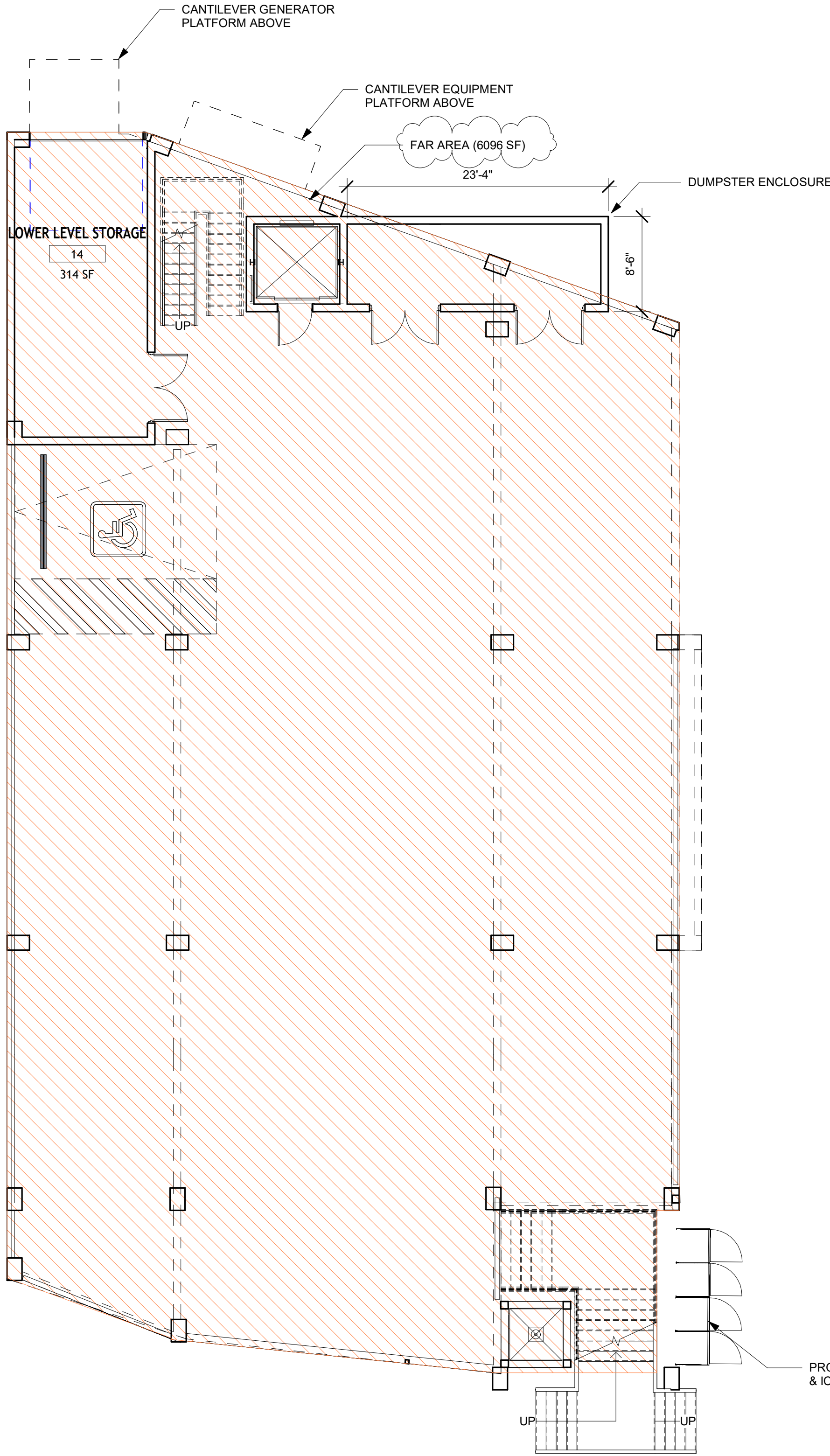
ALL HANDRAILS AND GUARD RAILS TO BE 36" AFF U.N.O. DESIGNED AND INSTALLED TO NOT ALLOW THE PASSAGE OF A 4" SPHERE. PROVIDE TOE RAILING AS REQ'D, MAX 2" A.F.F. COORD. FINAL MATERIAL, DESIGN, AND FINISH WITH OWNER. HANDRAILS AND GUARDS MUST COMPLY WITH ALL THE REQUIREMENTS OF THE FBC.

PROVIDE METAL THRESHOLD (MT) AT DOORS LEADING TO THE GARAGE, ELEVATOR DOOR AND ALL EXTERIOR DOORS, TYP. U.N.O.

COORDINATE ATTIC ACCESS LOCATIONS W/ FINAL TRUSS LAYOUT.

SEE STRUCTURAL DRAWINGS FOR ALL LOAD BEARING WALL, COLUMN AND FILLED CELL LOCATIONS.

NOTE:
INFORMATION SHOWN HEREIN IS PRELIMINARY AND FOR DISCUSSION PURPOSES ONLY.



2 GROUND FLOOR PLAN
1/8" = 1'-0"

3 FIRST FINISH FLOOR
1/8" = 1'-0"

4 SECOND FINISH FLOOR
1/8" = 1'-0"

MICHAEL D. STEWART, P.E. LLC
PROFESSIONAL ENGINEERING SERVICES

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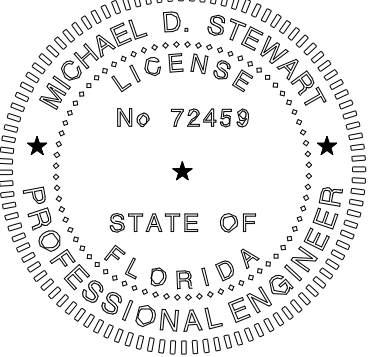
CA# 33003

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2024.10.28

REVISION: 2024.11.18

PROJECT
INFORMATION

THE GOODZ
- PRELIMINARY
DISCUSSION
SET

[PROJECT ADDRESS]
1741 ESTERO BLVD,
FORT MYERS BEACH, FL

LOWER LEVEL
PARKING

[DRAWN BY] PSP

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[SHEET NUMBER]

A

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

Yellow Sheet Number: **2025-727**

1. Request:

Meeting Date: October 14, 2025

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING SPECIAL EXCEPTION SEZ20250228 TO ALLOW CONSUMPTION ON PREMISES (COP) IN THE OUTDOOR PATIO AT THIRD FLOOR WITHIN 500 FEET OF DWELLING UNITS FOR THE PROPERTY LOCATED AT 1741 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0080B.0010; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

LPA reviews the application to make recommendations for Town Council consideration.

What the action accomplishes:

Town Council will consider the recommendations by LPA.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution

5. Background:

Before Hurricane Ian, the property at 1741 Estero Blvd was a single-story retail commercial.

The property is in the Downtown zoning district and Pedestrian Commercial Future Land Use.

The applicant received approval for redevelopment of the property as a three-story mixed-use building including retail and lodging (DO20250023 approved on June 30, 2025). In December of 2024, the site was approved with a variance (VAR20250270) from LDC 1) Sec. 34-674(b)(1)(a) of 1 foot encroachment into the rear setback for a rear setback of 21 feet from the rear property line for the mechanical equipment, and a variance of 5 feet 7 inches for a rear setback of 19 feet 5 inches for a dumpster enclosure, 2) Sec. 34-677(b)(3) a variance for the non-implementation of a 15 foot landscape buffer between a parking lot and public street, 3) Sec. 34-677(b)(3) a variance for the non-implementation of a required 15 foot landscape buffer between a commercial property and a residential lot, 4) Sec. 34-676(b)(1) a variance for off-street parking to not be situated in the rear yard but in the front, 5) Sec. 34-674(a)(1) a variance of 20 additional feet from the required 5 to 10 feet build to line off of Miramar Street for a street setback of 30 feet, 6) and Sec. 34-2013(a)(3) a variance to exceed the maximum width of a parking lot entrance at the property line of 25 feet to 88 feet along Miramar Street to build a new mixed-use structure in the Downtown zoning district. The new application is proposing an amendment to Variance (20240270) for reduction in parking (VAR 20250227) for the property and a Special Exception (SEZ 20250228) for COP for the outdoor sitting area to the restaurant.

The proposed application is requested due to the change in use for the 3rd floor from lodging to a family entertainment venue, "Beachside Arcade and Pizza," featuring young children's game stations, a pizzeria, and indoor and outdoor patio seating for beer and wine.

Attachments:

1. NEW SEZ Resolution 25-XX- Goodz
2. Draft Staff Report Goodz
3. EXHIBIT A: Outdoor COP Markup -Final Plans

Financial Impact:

Unknown

6. **Alternative Action**

Deny

7. **Staff Recommendations:**

Approval with Conditions

8. **Recommended Approval:**

Georgina Cid, Community Development Manager

Date: October 07, 2025

Frankie Kropacek, Community Development Director

Date: October 07, 2025

nancy stuparich, Town Attorney

Date: October 08, 2025

Amy Baker, Town Clerk

Date: October 08, 2025

RESOLUTION NUMBER 25-XX
(Special Exception – The Goodz)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING SPECIAL EXCEPTION SEZ20250228 TO ALLOW CONSUMPTION ON PREMISES (COP) ON THE OUTDOOR PATIO ON THE THIRD FLOOR FOR THE PROPERTY LOCATED AT 1741 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0080B.0010; WITHIN 500 FEET OF RESIDENTIAL DWELLINGS; AND PROVIDING FOR AN EFFECTIVE DATE

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

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

WHEREAS, The Belger Properties Partnership is the owner and Applicant for a special exception to allow the consumption of wine and beer in the outdoor sitting area on the third floor of property located at 1741 Estero Blvd, Fort Myers Beach (the “Property”), which is located within 500 feet of dwelling units; and

WHEREAS, the STRAP number for the Property is 19-46-24-W4-0080B.0010; and

WHEREAS, the Property is located in the “Pedestrian Commercial” category of the Future Land Use Map of the Comprehensive Plan and the “Downtown” zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, Section 34-88 of the Land Development Code (“LDC”) sets forth the following criteria for the Town Council to evaluate and approve/ approve with conditions/ deny a special exception

- A. Whether there exist changed or changing conditions which make approval of the request appropriate.
- B. The testimony of any applicant.
- C. The recommendation of staff and of the local planning agency.
- D. The testimony of the public.
- E. Whether the request is consistent with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.

- F. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
- G. Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.
- 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.
- 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.

WHEREAS, Section 34-1264(a)(2) of the LDC further provides additional criteria for approval of a special exception for consumption of alcohol on premises as follows:

- a. A special exception for consumption on the premises shall be required for:
 - 1. Any establishment not covered by subsection (a)(1) of this section; or
 - 2. Any establishment which provides outdoor seating areas for its patrons consuming alcoholic beverages, except that a restaurant may have outdoor seating approved administratively provided the outdoor seating area is not within 500 feet of a place of worship, religious facility, school (noncommercial), day care center (child), park, or dwelling unit under separate ownership.
- b. The burden of proof that the grant of the special exception will not have an adverse effect on surrounding properties lies with the applicant.
- c. A single special exception for consumption on the premises for a multiple-occupancy complex in a conventional zoning district shall be sufficient to permit consumption on the premises in every restaurant which exists or may be established within the multiple-occupancy complex.

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on October 14, 2025, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-88 of the LDC; and

WHEREAS, the LPA found the request for the special exception (SEZ) for COP as shown on a corresponding Master Concept Plan, (Exhibit A) is consistent with the Comprehensive Plan and Land Development Code and thereafter the LPA voted ___-___ to recommend approval of the special exception request. and

WHEREAS, on November 17, 2025, the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by Section 34-88 of the LDC; and

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

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

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

Section 2. **Findings and Determination.**

a. Based on competent substantial evidence presented during the public hearing before the Town Council, the Town Council finds and determines that the Applicant **did/did not** meet its burden of proof that the requested special exception **does/does not** meet the requirements of the Town Comprehensive Plan and LDC. The Town Council specifically finds that the proposed special exception to include outdoor consumption of alcoholic beverages on the outdoor patio located on the third floor of the restaurant located on Property is consistent with the Comprehensive Plan. The request is made due to a change in use. The hotel use of the Property has been substituted with use as a restaurant. Although the request is within 500 feet of dwelling units, the request is compatible with existing or planned adjacent uses and not cause damage, hazard, nuisance, or other detriment to persons or property. The requested use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the outdoor consumption of alcoholic beverages as forth in Section 34-1264(a)(2).

b. Accordingly, the Town Council **approves / approves with conditions / denies** the requested special exception as provided herein for the outdoor consumption on premise with Exhibit A - Concept Site Plan with COP Markup;

Section 3. Whenever the requirements or provisions of this Resolution conflict with the requirements or provisions of any other lawfully adopted LDC or Town Code provision, ordinance, or statute, the most restrictive shall apply.

Section 4. If the Town Council approves the requested special exception the following conditions of approval are imposed on the Applicant and the Property:

1. The sale and consumption of alcoholic beverages on the 3rd floor patio (768 sq ft.) must be consistent with the LDC code related to on-premises consumption in the restaurant (sec 34-1264 (k)).
2. All music and entertainment on the property will be in compliance with the Town's noise regulations.
3. Music will be limited from the hours of 11 AM to 9 PM on weekdays and from 11 AM to 10 PM on weekends.
4. Games in the entertainment area cannot include loud electronic beeping, ringing, or buzzing.
5. Any game and arcade activity that allows only 18 and above is prohibited in the

location.

6. The dumpster enclosure shall be refurbished, in coordination with the solid waste carrier, to allow closure of the doors. Solid waste pickup shall be provided six days a week (excluding Sundays).

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

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

ADOPTED this ____th day of November 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Nancy Stuparich, Town Attorney

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

ATTACHMENTS

Exhibit A – Conceptual Site Plan with COP mark-up



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

TYPE OF CASE: Special Exceptions & Variance

CASE NUMBER: SEZ20250228 & VAR20250227

CASE NAME: 1741 Estero Blvd
SEZ: LDC 34-1264 (a)(2)(2) Consumption on Premises (COP) outdoors within 500 feet of dwelling units, and.
VAR: Sec. 34-2020(d)(2)(h) from the minimum required parking spaces

LPA

HEARING DATE: October 14, 2025 at 9:00 AM

STAFF

RECOMMENDATION: **Approve** with condition: Special Exception for COP
Approve with condition: Variance for Parking Reduction

**PREPARED/
SUBMITTED BY:** Uma Sarmistha, Ph.D.

I. APPLICATION SUMMARY

Applicant/Owner: Belger Properties Partnership

Request: A special exception to allow a COP within 500 feet of residences, requesting to serve beer and wine in outdoor patio (768 sf) on third floor of the building, AND an amendment to Variance (VAR20240270) to add a Variance for the parking requirements to provide 18 parking spaces for the mixed-use development.

Subject property: See attached site plan

Physical Address: 1741 Estero Blvd

STRAP #: 19-46-24-W4-0080B.0010

FLU: Pedestrian Commercial

<u>Zoning:</u>	Downtown
<u>Adjacent zoning and land uses:</u>	
North:	Downtown/Single-Family
South :	Downtown/Commercial and Single-Family
East:	DOWNTOWN and RESIDENTIAL CONSERVATION (RC)/ Commercial and Single-Family Residence
West:	Downtown/Commercial

II BACKGROUND AND ANALYSIS

Background:

Before Hurricane Ian, the property at 1741 Estero Blvd was a single-story retail commercial. The property is in the Downtown zoning district and Pedestrian Commercial Future Land Use. The applicant received approval for redevelopment of the property as a three-story mixed-use building including retail and lodging (D020250023 approved on June 30,2025). In December of 2024, the site was approved with a variance (VAR20250270) from LDC 1) Sec. 34 674(b)(1)(a) of 1 foot encroachment into the rear setback for a rear setback of 21 feet from the rear property line for the mechanical equipment, and a variance of 5 feet 7 inches for a rear setback of 19 feet 5 inches for a dumpster enclosure, 2) Sec. 34-677(b)(3) a variance for the non-implementation of a 15 foot landscape buffer between a parking lot and public street, 3) Sec. 34 677(b)(3) a variance for the non-implementation of a required 15 foot landscape buffer between a commercial property and a residential lot, 4) Sec. 34-676(b)(1) a variance for off-street parking to not be situated in the rear yard but in the front, 5) Sec. 34-674(a)(1) a variance of 20 additional feet from the required 5 to 10 feet build to line off of Miramar Street for a street setback of 30 feet, 6) and Sec. 34-2013(a)(3) a variance to exceed the maximum width of a parking lot entrance at the property line of 25 feet to 88 feet along Miramar Street to build a new mixed-use structure in the Downtown zoning district.

The new application is proposing an amendment to Variance (20240270) for reduction in parking (VAR 20250227) for the property and a Special Exception (SEZ 20250228) for COP for the outdoor sitting area. The proposed application is requested due to the change in use for the 3rd floor from lodging to a family entertainment venue, "*Beachside Arcade and Pizza*," featuring young children's game stations, a pizzeria, and indoor and outdoor patio seating for beer and wine.

Analysis:

The applicant is proposing a special exception for COP for wine and beer consumption on outdoor patio area of 768 sf as marked in the master concept plan. The applicant is also requesting a variance over reduction for the parking reduction for the facility.

Special Exception for COP: The LDC sec 34-1264 (2) requires that any establishment which provides outdoor seating areas for its patrons consuming alcoholic beverages, except that ownership, receive outdoor seating approved administratively provided the

outdoor seating area is not within 500 feet of a place of worship, religious facility, school (noncommercial), day care center (child), park, or dwelling unit under separate ownership, receive a special exception.

Section 34-88 Special Exception Criteria:

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

Several of the surrounding residences were damaged or destroyed by hurricane Ian. The proposed use of the property is a mixed-use development will create a fun family recreational place with outdoor sitting. Requesting an outdoor space to serve beer and wine in association with the indoor restaurant and game arcade will promote and entice families to visit their business establishment.

Whether the request is consistent with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.

Policy 4-A-1 Encourages the town's "human scale" in redevelopment. This proposed outdoor sitting space would create a human use—as opposed to an automobile use—at a human scale in a location that was previously designed for cars.

Policy 4-A-2: The Town of Fort Myers Beach values its vibrant economy and walkable commercial areas. Through this plan, the town will ensure that new commercial activities, when allowed, will contribute to the pedestrian-oriented public realm.

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

The applicant is proposing a game arcade with restaurant as an accessory use and as such is in compliance with location standards A separate variance application has been submitted to request a reduction in parking requirements. This application seeks approval for COP for the outdoor seating area which is within 500 feet of residential units along Miramar.

The property is situated within the downtown zoning district and is surrounded by other areas of downtown zoning, except for the RC-zoned land to the north and northeast along Miramar. The outdoor seating area will be located at the front of the building, providing an additional buffer to the residential units located at the rear of the property, while facing Estero Boulevard, which is also part of the downtown zoning area. The COP in the restaurant (interior) is permitted under administrative approval.

The COP use will not create noise, vibration, smoke, dust, or lighting glare. The special exception request is required due to the locational standards of not being located within 500 feet of a residence.

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

The proposed COP is not within an environmentally critical area. The request will

require compliance with all lighting requirements and as such we will be in compliance.

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

The request for outdoor seating is minor in nature and should not have any detrimental effect on the neighboring persons or property. The property is located in the downtown zoning district and as such it is encouraged to provide for a pedestrian friendly experience. The location of the outdoor seating places it in front of the building along Estero Blvd. The proposed use shall encourage the pedestrian welcoming environment with outdoor seating providing visibility and accessibility to the business.

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 property is located within the Downtown zoning district and allows the restaurant to be used along with consumption on premises. The interior portion of the restaurant would require administrative approval. The service of wine and beer in the outdoor seating area will require a COP special exception. The Downtown district encourages interconnectivity between pedestrians and the establishment.

The Special Exception for a COP outdoors and within 500 feet of residences **does meet** the criteria found in Section 34-88 and are recommended for approval with condition stated below.

Variances for Parking:

Section 34-2020(a). New residential and nonresidential uses must provide off-street parking spaces in single-purpose parking lots in accordance with the standards specified in this section, as modified by certain reductions as provided in the Downtown and Santini zoning districts.

The provided use of the subject property will be retail, storage, restaurant, bar and cocktail lounge. According to Section 34-2020(2)(h) requires restaurants to provide eight spaces per 1,000 square feet of total floor area plus outdoor seating area, Section 34-2020(2)(h) (2) requires if the restaurant contains a cocktail lounge or bar, the minimum requirement is eight spaces per 1,000 square feet of total floor area plus five additional spaces per 1,000 square feet of floor area. Finally, Section 34-2020(2)(i) requires a minimum of 3 parking spaces per 1,000 squares.

The applicant is requesting a variance based on the table below:

EXHIBIT B: PARKING
REVISED PARKING CALCULATIONS (10/2/25)
REQUESTING A REDUCTION OF 17 SPACES

VAR20250227 The Goodz 1741 Estero Blvd

STORAGE	
PIZZERIA LRG STORAGE	133 SF
1ST FLR LRG STORAGE.	212 SF
STORE STORAGE	233 SF
STORAGE	163 SF
STORAGE	388 SF
RESTAURANT STORAGE	130 SF
MECHANICAL ROOM	97 SF
SUBTOTAL STORAGE	1239 SF
RATE FOR PARKING IS 2 SPACES PER 1K	2.47
RETAIL	
STORE AREA	4062 SF
RATE FOR PARKING IS 3 SPACES PER 1K	12
RESTAURANT	
DINING AREA	1020 SF
OUTDOOR SEATING	764 SF
PIZZA STATION	253 SF
GAMING AREA	2180 SF
SUBTOTAL RESTAURANT	4217
RATE FOR PARKING IS 8 SPACES PER 1K	33.736
BEER & WINE BAR AREA	416 SF
RATE FOR PARKING IS 13 SPACES PER 1K	5
SUBTOTAL OF PARKING REQUIRED	53.206
DOWNTOWN MULTIPLIER (0.67)	35.64802
Total PARKING REQUIRED	36
Pursuant to 34-2020 (c) we will be utilizing 1 of the 4 (4 rack) bike racks already	
REQUIRED PARKING after bike rack	35
PARKING Approved Under DOS 20250223	18
REQUESTED REDUCTION	17

The requested variance is based on the approved Development Order (DO) 202050223, which authorized 18 parking spaces for retail and lodging uses. The new parking calculation takes into account the intended use of the third floor, which will feature a game arcade and a pizzeria with a wine and beer bar.

The applicant argues that, due to its location and the availability of nearby parking, as well as access to the trolley, the proposed variance will help enhance the vibrant downtown atmosphere of the area.

Section 34-87 required variance findings:

*(1) 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 vision of downtown zoning is to create a vibrant pedestrian friendly environment. The property is located within the downtown district and proximity to the parking areas, trolley will help the development

*(2) That the conditions justifying the variance **are/** are not the result of actions of the applicant taken after the adoption of the regulation in question;*

The building previously had parking spaces next to the building. The variance requested adheres to the earlier approved parking allocation on the property under DO 20250223. This vertical growth will enhance the FMB downtown area.

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

The request is the minimum variance necessary to allow the proposed layout of the property.

*(4) That the granting of the variance **will (may)** /will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and*

The lack of parking on site may result in people parking where they are not allowed. However, giving the proximity to other available parking and the FMB trolley will enhance the opportunity to the development.

*(5) 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 nature as to make it more reasonable and practical to amend the regulation in question.*

Staff recognize that the parking code is in need of updating. The vision of downtown with walkability and higher density, the parking reduction might help the business with the square footage. Additionally, the proximity of the property to proximity to other available parking and the FMB trolley will enhance the opportunity to the development

II.RECOMMENDATION

Based on the code requirements for Special Exceptions found in Section 34-88, staff recommend:

- **Approval with Condition: Special Exception for COP**

Based on the code requirements for Variances found in Section 34-87, staff recommends:

- **Approval with Condition: Variance for Parking Reduction**

III. CONDITIONS FOR APPROVAL

Special Exception for COP

1. The sale and consumption of alcoholic beverages on the 3rd floor patio (768 sq ft.) must be consistent with the LDC code on On-premises consumption in the Restaurant (sec 34-1264 (k)).
2. All music and entertainment on the property will be in compliance with the Town's noise regulations.
3. Hours of amplified music will be limited from 11 AM to 9 PM on weekdays and from 11 AM to 10 PM on Weekends.
4. Games in the entertainment area cannot include loud electronic beeping, ringing, or buzzing.
5. Any game and arcade activity that allows only 18 and above is prohibited in the location.
6. The dumpster enclosure shall be refurbished, in coordination with the solid waste carrier, to allow closure of the doors. Solid waste pickup shall be provided six days a week (excluding Sundays).

Variance for Parking Reduction

1. Revise all the necessary Development Order (DO 20250023) pages to show the change of use from **lodging** on the 3rd floor to Gaming Arcade and Pizzeria and Outdoor sitting with COP.

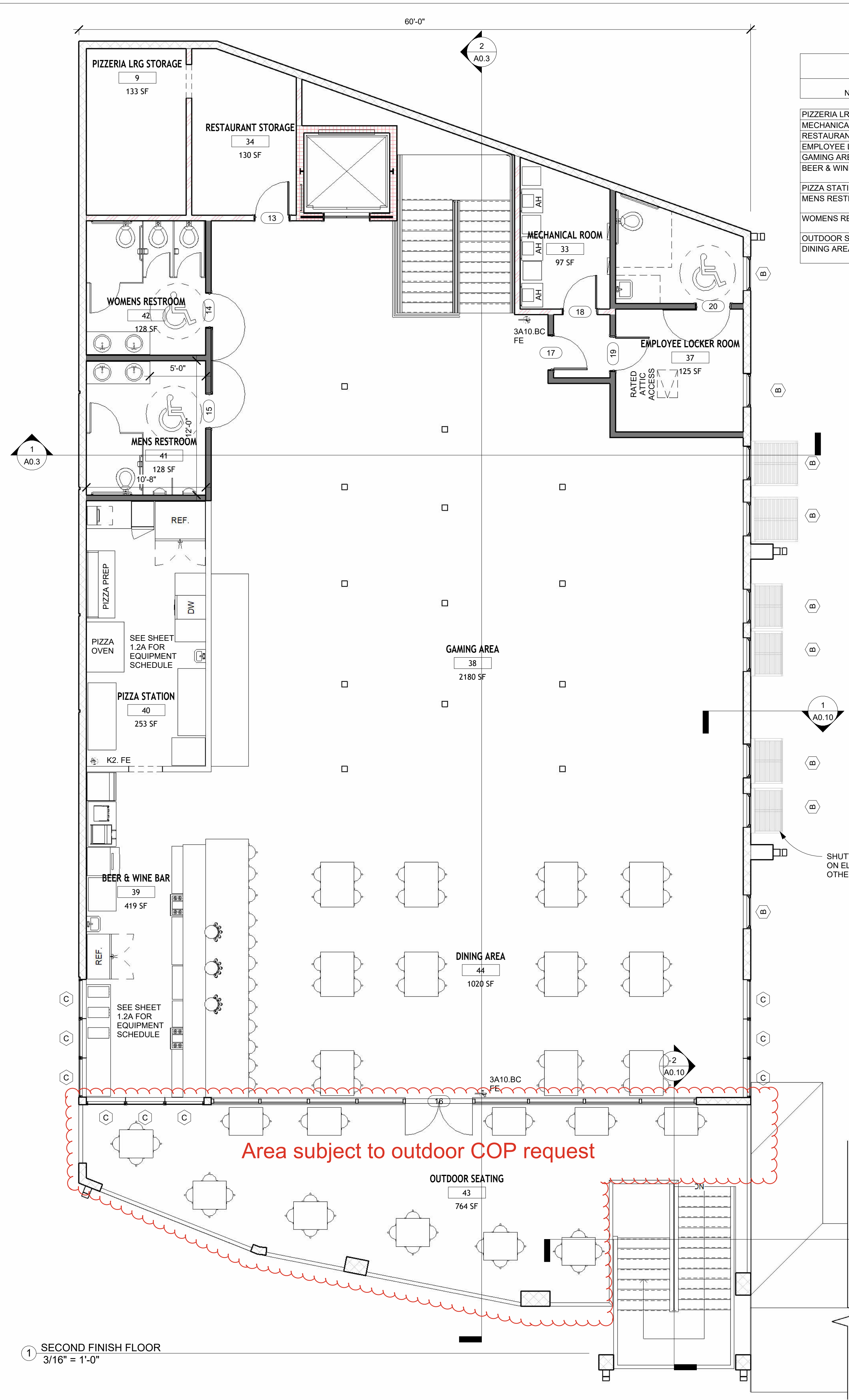


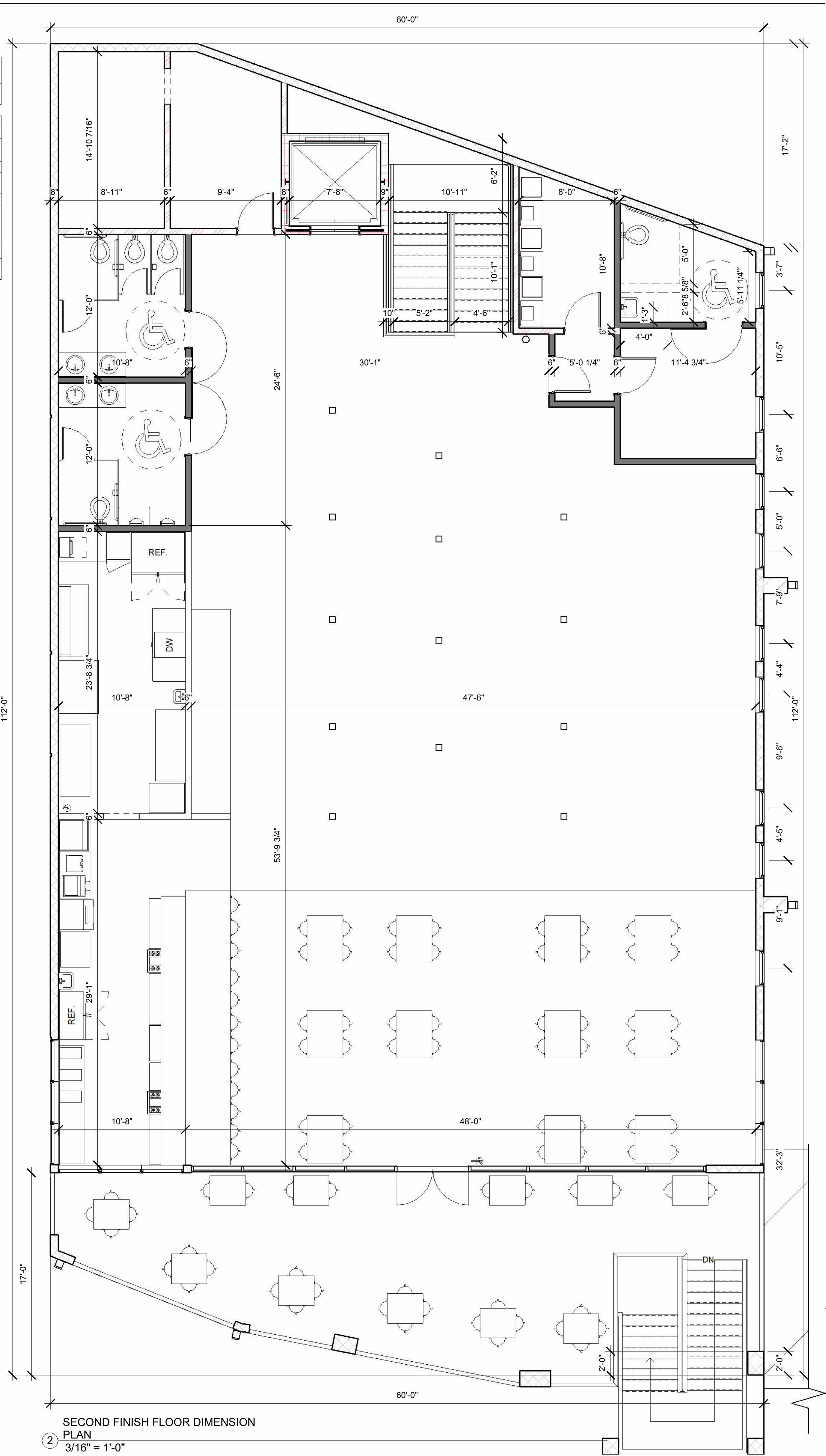
Exhibit C

ROOM FINISH SCHEDULE			
NAME	WALL FINISH	FLOOR FINISH	CEILING FINISH
PIZZERIA LRG STORAGE	PAINT OVER GYPSUM	LVP	DRYWALL
MECHANICAL ROOM	PAINT OVER GYPSUM	TILE	DRYWALL
RESTAURANT STORAGE	PAINT OVER GYPSUM	TILE	DRYWALL
EMPLOYEE LOCKER ROOM	PAINT OVER GYPSUM	LVP	DRYWALL
GAMING AREA	PAINT OVER GYPSUM	TILE	DRYWALL
BEER & WINE BAR	TILE LOWER 48" EPOXY PAINT ABOVE 48"	TILE	DRYWALL
PIZZA STATION	FRP PANELS	TILE	FRP PANELS
MENS RESTROOM	TILE LOWER 48" EPOXY PAINT ABOVE 48"	TILE	DRYWALL
WOMENS RESTROOM	TILE LOWER 48" EPOXY PAINT ABOVE 48"	TILE	DRYWALL
OUTDOOR SEATING	PAINT OVER STUCCO	TILE	STUCCO
DINING AREA	PAINT OVER GYPSUM ABOVE. TILE LOWER 48"	TILE	DRYWALL

SEATING LEGEND	
	11 TABLES x 4 SEATS PER TABLE 44 SEATS
	8 TABLES x 2 SEATS PER TABLE 16 SEATS
	6 TABLES x 4 SEATS PER TABLE 24 SEATS
	BAR x 12 STOOLS 12 SEATS

- NOTES:
- IN RESTROOMS, USE 5/8" DUROCK.
 - COORDINATE WITH EQUIPMENT FOR LAY OUT AND ROUGH IN.
 - COORDINATE WITH OWNER / G.C. FOR ALL PRODUCT SELECTION CHOICES. FOR EXAMPLE DECORATIVE CHOICES, TILE SELECTIONS, HARDWARE, ACOUSTIC TILE CHOICE, ETC.
 - IN KITCHEN USE 5/8" DUROCK
 - AROUND COOKING LINE USE FULL HEIGHT GALVANIZED BACKING OVER FULL HEIGHT 5/8" DUROCK ON 5 5/8" 20 GA. MTL WALL FRAMING AT 16" O.C. FLOOR TO CEILING, ALLOW FOR MINIMUM 4" AIR SPACE GAP BETWEEN ALL COOKING UNITS AND GALVANIZED BACKING. (TYP.)
 - REFER TO EQUIPMENT DRAWINGS FOR UNDER SLAB BEER, SODA AND REFRIGERANT LINES.
 - ALL FOOD PREPARATION SURFACES ARE STAINLESS STEEL. CUTTING BOARDS ARE REMOVABLE POLYETHYLENE FOR CLEANING AND DISINFECTING.
 - WALLS AROUND NON COOKING FOOD PREPARING AREAS, FRP PANELS
 - IN DISHWASHER AREA USE FULL HEIGHT 5/8" DUROCK AND GALVANIZED BACKING OR FRP PANELS.

WALL TYPE LEGEND	
	PARTITION FRAME WALL
	MASONRY WALL
	MASONRY 3-HR FIREWALL (U914)
	FRAME FIREWALL (U305)



MICHAEL D. STEWART, P.E. LLC
PROFESSIONAL ENGINEERING SERVICES

(239)-292-7670
MStewart@MStewartPE.com
CA# 33003

MICHAEL D. STEWART, P.E.
FLA REG. #72459

MICHAEL D. STEWART
LICENSE
No 72459
STATE OF
FLORIDA
PROFESSIONAL ENGINEER

PERMIT: 2025.09.16

PROJECT
INFORMATION

THE GOODZ

[PROJECT ADDRESS]
1741 ESTERO BLVD,
FORT MYERS BEACH, FL

[DRAWN BY] TARIK Y. NICOLAS

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[SHEET NUMBER]

1.2

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

Yellow Sheet Number: **2025-725**

1. Request:

Meeting Date: October 14, 2025

AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA ADOPTING AN IMPACT FEE STUDY DATED AUGUST 25, 2025 AND PREPARED BY DP GUTHRIE LLC; AMENDING ARTICLE IV ENTITLED "IMPACT FEES" IN CHAPTER 2 ENTITLED ADMINISTRATION OF THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES TO 1) INCORPORATE UPDATED INFORMATION CONTAINED IN THE REFERENCED IMPACT FEE STUDY, 2) REDUCE THE NUMBER OF IMPACT FEE CATEGORIES AND SPECIFIC USES, 3) CHANGE THE METHOD OF CALCULATION OF FEES FOR SINGLE FAMILY HOMES FROM PER DWELLING TO SQUARE FOOTAGE RANGE TO REFLECT THE TYPICAL IMPACT OF LARGER HOMES, 4) REDUCE THE AMOUNT OF FEES BASED ON UPDATED POPULATION AND PROJECT EXPECTATIONS, AND 5) PROVIDING FOR AN UPDATE EVERY FOUR (4) YEARS PAYABLE FROM COLLECTED IMPACT FEES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The Town is required by State Law to update their Impact Fees

What the action accomplishes:

Provides an update to the Impact Fees and and maintains compliance with State Law

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance to amend the Code
of Ordinances

5. Background:

The Town of Fort Myers Beach has engaged Axis Infrastructure, along with its subconsultant DP Guthrie LLC, to conduct an updated impact fee analysis. This study will revise the current impact fee methodology and reduce certain fees associated with their collection.

Recent studies completed by or on behalf of the Town—including the R2P2 report—have provided valuable data and project insights related to future capacity improvements needed to support anticipated growth.

Going forward, the Town will review and update impact fees on a four-year cycle. This Ordinance adopts the Impact Fee Study and provides an amendment to Article IV of the Town's Land Development Code related to Impact Fees.

Attachments:

1. Final LPA Ord 25-24, Impact Fee Study and LDC Text Amendment Article IV JGNS
2. Exhibit A Impact Fees Ordinance Text Amendment Article IV
3. Exhibit B Impact Fee Study Report 2025
4. Ord 25-24, Impact Fee Study and LDC Text Amendment Article IV JG

Financial Impact:

Modifies the impact fee rates by reducing categories of collection, reduces overall fees by category, and provides an update consistent with State Law.

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

Georgina Cid, Community Development Manager

Date: October 08, 2025

Frankie Kropacek, Community Development Director

Date: October 08, 2025

nancy stuparich, Town Attorney

Date: October 08, 2025

Amy Baker, Town Clerk

Date: October 08, 2025

ORDINANCE 25-24

AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA ADOPTING AN IMPACT FEE STUDY DATED AUGUST 25, 2025 AND PREPARED BY DP GUTHRIE LLC; AMENDING ARTICLE IV ENTITLED “IMPACT FEES” IN CHAPTER 2 ENTITLED ADMINISTRATION OF THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES TO 1) INCORPORATE UPDATED INFORMATION CONTAINED IN THE REFERENCED IMPACT FEE STUDY, 2) REDUCE THE NUMBER OF IMPACT FEE CATEGORIES AND SPECIFIC USES, 3) CHANGE THE METHOD OF CALCULATION OF FEES FOR SINGLE FAMILY HOMES FROM PER DWELLING TO SQUARE FOOTAGE RANGE TO REFLECT THE TYPICAL IMPACT OF LARGER HOMES, 4) REDUCE THE AMOUNT OF FEES BASED ON UPDATED POPULATION AND PROJECT EXPECTATIONS, AND 5) PROVIDING FOR AN UPDATE EVERY FOUR (4) YEARS PAYABLE FROM COLLECTED IMPACT FEES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER’S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, pursuant to its home rule powers and pursuant to Section 163.31801, Florida Statutes, and judicially created law, the Town of Fort Myers Beach may impose impact fees to ensure that new development pays for its proportional share of capital facilities required by such new development; and

WHEREAS, the Town Council of the Town of Fort Myers Beach has studied the necessity for updating and amending its existing impact fee ordinance and has retained DP Guthrie LLC, a professional consulting firm and subcontractor to Axis Infrastructure, to provide updates on development projections and land use assumptions based on most recent and localized demographics, as required by the Florida Impact Fee Act as well as to document projected need for additional facilities and a fee for administrative costs, consistent with the Florida Impact Fee Act (“the Study”).

WHEREAS, The Study was limited in scope to only address a comprehensive update of non-utility development impact fees, i.e. regional parks, community parks, and transportation infrastructure; and

WHEREAS, the Study is dated August 25, 2025 and has been presented to, and reviewed by, the Town staff, the Local Planning Agency, and the Town Council, who have determined 1) that the parks and recreation, and roads and mobility impact fees bear a reasonable relationship to the burden imposed upon the Town to provide parks and recreation, and roads and mobility facilities to new Town residents; (2) that parks and recreation, and roads and mobility impact fee revenues will provide a direct benefit to such new Town residents reasonably related to the fees assessed; (3) that an essential nexus exists between projected new development and the need for additional parks and recreation, and roads and mobility facilities to be funded with parks and recreation, and roads and mobility impact fees and the benefits that accrue to new development paying the fees; and (4) that the amount of the fee collected is proportional to the impact; and

WHEREAS, the existing costs of real property for use in parks and recreation, and roads and mobility facilities development and the costs of various facilities and equipment have been used by the Town's consultant in developing a development impact cost per building square feet and land use type as set forth in the Study; and

WHEREAS, the action by the Town Council to amend its existing impact fee ordinance as set forth herein is reasonable and prudent to ensure sound growth management, which have been taken for the benefit of the citizens of the Town, both present and future; and

WHEREAS, the Town is projected to significantly grow in functional population and further economically develop in the future; and

WHEREAS, this Ordinance updates the existing administrative framework to ensure that the benefit of capital improvements funded by impact fees will accrue proportionately to new development paying the fees; and

WHEREAS, Section 163.3202(3), *Florida Statutes*, encourages the use of innovative land use regulations and impact fees by local governments to manage growth and to provide the necessary public facilities and for the imposition by local governments of impact fees on development to fund the capital cost of facilities necessitated by such development; and

WHEREAS, requiring future growth to contribute its fair share of the costs necessary to fund required capital improvements and additions is an integral and vital part of the regulatory plan of growth management in the Town and is a practice consistent with sound and generally accepted growth management, fiscal and public administration practices and principles; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on October 14, 2025; and

WHEREAS, at the October 14th, 2025 public hearing the LPA gave full and complete consideration of the recommendations by staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the Town Land Development Code; and

WHEREAS, at the October 14th, 2025 public hearing the LPA found that the request is consistent with the comprehensive plan and the requirements of the Fort Myers Beach Land

Development Code (“LDC”) and voted ___ to ___ to recommend approval to the Town Council; and

WHEREAS, on October 20th, 2025 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, ; and

WHEREAS, the Town Council voted to have a second reading of the proposed Ordinance and a public hearing on this matter was noticed in the Fort Myers News-Press more than 10 days prior to the Town Council public hearing on the 3rd day of November 2025; and

WHEREAS, at the November 3rd, 2025 public hearing, the Town Council gave full and complete consideration to the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by and

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

WHEREAS, adoption of this Ordinance is in the best interest of the residents of the Town of Fort Myers Beach.

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

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

Section 2. Article IV entitled “Impact Fees” in Chapter 2 entitled “Administration” of the Town of Fort Myers Beach Land Development Code is hereby amended as provided in Exhibit A.

Section 3. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted LDC or Town Code provision, ordinance, or statute, the most restrictive shall apply.

Section 4. Any typographical errors that do not affect the intent of this Ordinance may be corrected with notice to and authorization of the Town Manager without further process.

Section 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 6. This Ordinance will take effect immediately upon adoption by the Town Council. On the effective date of this Ordinance, the Town will suspend collection of impact fees

for regional parks, community parks, and transportation. Any fund balance in the respective impact fee accounts will be spent as soon as possible, consistent with the previous impact fee study and the Florida Impact Fee Act.

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

.

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

DULY PASSED AND ADOPTED on this ____ day of _____ 2025
FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Vose Law Firm, LLP, Town Attorney

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

Attachments: Exhibit A Impact Fees Ordinance LDC Text Amendment Article IV
Exhibit B Impact Fee Study

Sec. 2-301. Statutory authority.

The Town of Fort Myers Beach has the authority to adopt this article pursuant to article VIII of the Constitution of the state, ~~F.S. ch. 166 and F.S. §§ 163.3201, 163.3202 and 380.06(16)~~ F.S. ch. 163.31801, also cited as the Florida Impact Fee Act.

Sec. 2-302. Applicability of article.

This article shall apply to the entire incorporated area of the town.

Sec. 2-303. Intent and purpose of article.

- (a) This article is intended to implement and be consistent with the Fort Myers Beach Comprehensive Plan.
- (b) The purpose of this article is to regulate the use and development of land so as to ensure that new development bears a proportionate share of the cost of capital expenditures for transportation, regional parks, community parks, and fire protection, as contemplated by the Fort Myers Beach Comprehensive Plan.
- (c) This article also reflects the required payment of school impact fees in accordance with Lee County Ordinances ~~No. 01-21, which became effective on December 1, 2001~~ and Fort Myers Beach Fire District impact fee Ordinances, as may be amended.

Sec. 2-304. Definitions and rules of construction.

- (a) For the purposes of administration and enforcement of this article, unless otherwise stated in this article, all transportation terms shall have the same meaning as in the Fort Myers Beach Comprehensive Plan, and in ch. 34 and ch. 10 of this LDC, unless otherwise indicated.
- (b) The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section and in the latest edition of the Institute of Transportation Engineers (ITE) Manuals, except where the context clearly indicates a different meaning:

Assisted living facility has the same meaning given it in ch. 34 of this LDC.

Building official means the same officer as appointed by the town manager through § 6-44 of this LDC.

Building permit means an official document or certification issued by the building official authorizing the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving, or repair of a building or structure. In the case of a change in use or occupancy of an existing building or structure, the term shall specifically include certificates of occupancy and occupancy permits, as those permits are defined or required by this code.

Building with mixed uses means a building which contains more than one principal use, as that term is defined in ch. 34 of this LDC.

Capital improvement for community or regional parks means land acquisition, site improvements, including landscape plantings and the removal of exotic vegetation, off-site improvements associated with a new or expanded community or regional park, buildings and equipment. Off-site improvements may also include sidewalks and bikeways which connect to the park facility. Capital improvements do not include maintenance and operations.

Capital improvement for fire protection includes land acquisition and related expenses, site improvements, off-site improvements associated with new or expanded facilities, buildings, and equipment, including

communications equipment, with an average useful life of at least three years, but excludes maintenance and operations.

Capital improvement for transportation means preliminary engineering, engineering design studies, land surveys, right-of-way acquisition, engineering, permitting, and construction of all the necessary features for transportation construction projects, including but not limited to:

- (1) Construction of new or improved through or turn lanes;
- (2) Construction of curbs, medians, sidewalks, bicycle paths, and shoulders in conjunction with roadway construction;
- (3) Construction of new pedestrian or bicycle facilities;
- (4) Construction of new bridges;
- (5) Construction of new drainage facilities in conjunction with other transportation construction;
- (6) Purchase and installation of traffic signalization (including both new installations and upgrading signalization);
- (7) Relocating utilities to accommodate new transportation construction; and
- (8) On-street and off-street parking when such parking is intended for and designed to protect or enhance the vehicular and pedestrian capacity of the existing street network. Site-related road improvements as defined herein are not a capital improvement for transportation under this definition.

(9) Lighting associated with multimodal and mobility.

Community park means a tract of land designated and used by the public primarily for active recreation but also used for educational and social purposes and passive recreation. Community parks also include bikeways that are designed and used primarily for active recreation. A community park generally serves a specific community composed of at least several neighborhoods. Community park standards are based upon several subclassifications of community parks: standard community parks, community recreation centers, community pools, and school parks. The term "community park" specifically includes school sites and publicly owned parks that are available for use by the surrounding neighborhoods.

Dwelling unit has the same meaning given it in ch. 34 of this LDC.

Fast-food restaurant has the same meaning given it in ch. 34 of this LDC.

Feepayer means a person applying to the town for the issuance of a building permit for a type of land development activity listed in the impact fee schedule in § 2-306 of this LDC, regardless of whether the person owns the land to be developed.

Fire district means the Fort Myers Beach Fire Control District, a special district which is authorized to provide fire protection and rescue service.

Fire protection means the prevention and extinguishment of fires, the protection of life and property from fire, and the enforcement of municipal, county, and state fire prevention codes, as well as any law pertaining to the prevention and control of fires, when enforcement duties are performed by firefighters, as defined in F.S. § 633.30, or by fire safety inspectors, as defined in F.S. § 633.021(8), and such other persons who may be employed by a fire district. The term "fire protection" also includes rescue and emergency medical services.

Fort Myers Beach Comprehensive Plan means the town's comprehensive plan adopted pursuant to F.S. ch. 163, as amended from time to time.

General office means, for the purpose of this article only, any type of office except a medical office. A general office building may contain accessory uses such as a beauty or barber shop, shack bar, cafeteria, day care center, or other uses where permitted by ch. 34 of this LDC.

Hotel/motel has the same meaning given it in ch. 34 of this LDC.

Land development activity means any change in land use, or any construction of buildings or structures, or any change in the use of any building or structure that adds dwelling units, attracts or produces vehicular trips, or requires fire protection.

Medical office has the same meaning given it in ch. 34 of this LDC.

Multiple-family building means and includes those definitions set forth in ch. 34 of this LDC for multiple-family building and two-family dwelling units.

Non-residential development means structures that are intended for commercial businesses, institutional uses, and not primarily for residential purposes.

Recreation facility has the same meanings given it in ch. 34 of this LDC.

Regional park means a tract of land designated and used by the public for active and passive recreation. A regional park draws users from a larger area than a community park, frequently from the entire county and beyond, by providing access to especially attractive natural resources, amenities, and specialized activities. It specifically includes municipally owned parks when they are used as regional parks.

Retail store means the use of a building to sell goods and to provide personal services (as described in ch. 34 of this LDC) to the general public.

Road has the same meaning given it in F.S. § 334.03.

Shopping center means an integrated group of commercial establishments planned and managed as a unit, consisting primarily of retail stores but sometimes containing other uses such as restaurants, offices, and personal services.

Single-family residence has the same meaning given it in ch. 34 of this LDC.

Site-related road improvements means physical improvements and right-of-way dedications for direct access improvements to the development in question. Direct access improvements include, but are not limited to the following:

- (1) Site driveways and roads;
- (2) Median cuts made necessary by those driveways or roads;
- (3) Right turn, left turn, and deceleration or acceleration lanes leading to or from those driveways or roads;
- (4) Traffic control measures for those driveways or roads; and
- (5) Roads or intersection improvements whose primary purpose at the time of construction is to provide access to the development.

Timeshare unit has the same meaning given it in ch. 34 of this LDC.

Town manager means the manager of the Town of Fort Myers Beach, or the officials that he or she may designate to administer the various provisions of this article.

Warehouse means the use of a building or structure primarily for the storage of goods, boats or vehicles.

Cross reference(s)—Definitions and rules of construction generally, § 1-2 of this LDC.

Sec. 2-305. Imposition.

- (a) Except as provided in §§ 2-312 through 2-314 of this chapter, any person who seeks to develop land by applying for the issuance of a building permit to make an improvement to land for one of the uses which is

specified in § 2-306 below, shall be required to pay impact fees in the manner and amount set forth in this article.

- (b) No building permit for any activity requiring payment of impact fees pursuant to § 2-306 below, shall be issued by the town unless and until the impact fees required by this article have been paid.
- (c) In the case of structures moved from one location to another, impact fees shall be collected for the new location if the structure is a type of land development listed in § 2-306 below, regardless of whether impact fees had been paid at the old location, unless the use at the new location is a replacement of an equivalent use. If the structure so moved is replaced by an equivalent use, no impact fees shall be owed for the replacement use. In every case, the burden of proving past payment of impact fees or equivalency of use rests with the feepayer.

Sec. 2-306. Computation of amount.

- (a) At the option of the feepayer, the amount of the impact fees may be determined by the schedule set forth in this section.
- (b) References in this schedule to square feet refers to the gross square footage of each floor of a building measured to the exterior walls, and not to usable, interior, rentable, noncommon, or other forms of net square footage.

FORT MYERS BEACH IMPACT FEE SCHEDULE

	Impact Fees (rounded to nearest dollar) ¹				
LAND-USE TYPE		Parks			
	Transportation	Regional	Community	Fire >Protection	Schools ²
Residential:					
—Single-family residence	\$2,971.00	\$631	\$788.00	\$610.00	\$4,309.00
—Multiple-family building (per dwelling unit)	\$2,059.00	\$518.00	\$591.00	\$478.00	\$1,704.00
—Timeshare unit	\$2,237.00	\$518.00	\$591.00	\$478.00	\$0.00
—Hotel/motel room	\$2,237.00	\$318.00	\$363.00	\$501.00	\$0.00
—Assisted living facility (per dwelling unit) (see § 34-1415 for density equivalents)	\$1,017.00	\$0.00	\$0.00	\$478.00	\$0.00
Commercial (fee per 1,000 sq. ft. except as noted):					
—Retail store or shopping center	\$5,063.00	\$0.00	\$0.00	\$476.00	\$0.00
—Bank	\$8,038.00	\$0.00	\$0.00	\$476.00	\$0.00
—Car wash, self-service (fee per stall)	\$1,683.00	\$0.00	\$0.00	\$476.00	\$0.00
—Convenience store with gas pumps	\$11,250.00	\$0.00	\$0.00	\$476.00	\$0.00
—Movie theater	\$7,427.00	\$0.00	\$0.00	\$476.00	\$0.00
—Restaurant, fast-food	\$12,763.00	\$0.00	\$0.00	\$476.00	\$0.00
—Restaurant, standard	\$6,504.00	\$0.00	\$0.00	\$476.00	\$0.00
Office (fee per 1,000 square feet):					
—General office	\$2,336.00	\$0.00	\$0.00	\$222.00	\$0.00
—Medical office	\$7,716.00	\$0.00	\$0.00	\$222.00	\$0.00

Institutional (fee per 1,000 square feet):					
–Church	\$1,467.00	\$0.00	\$0.00	\$476.00	\$0.00
–Day-care center	\$4,107.00	\$0.00	\$0.00	\$476.00	\$0.00
–Elementary/secondary school (private)	\$643.00	\$0.00	\$0.00	\$476.00	\$0.00
Warehouse (fee per 1,000 square feet):	\$1,461.00	\$0.00	\$0.00	\$216.00	\$0.00

<u>Development Unit</u>	<u>Parks and Recreation</u>	<u>Multimodal Transportation</u>	<u>Fee Administration</u>	<u>Proposed Total</u>
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Residential Development

<u>999 or less Sq Ft of Living Space</u>	<u>Dwelling Unit</u>	<u>\$413</u>	<u>\$499</u>	<u>\$33</u>	<u>\$945</u>
<u>1,000 to 1,999 Sq Ft of Living Space</u>	<u>Dwelling Unit</u>	<u>\$624</u>	<u>\$755</u>	<u>\$51</u>	<u>\$1,430</u>
<u>2,000 to 2,999 Sq Ft of Living Space</u>	<u>Dwelling Unit</u>	<u>\$751</u>	<u>\$909</u>	<u>\$61</u>	<u>\$1,721</u>
<u>3,000 to 3,999 Sq Ft of Living Space</u>	<u>Dwelling Unit</u>	<u>\$840</u>	<u>\$1,016</u>	<u>\$69</u>	<u>\$1,925</u>
<u>4,000 or More Sq Ft of Living Space</u>	<u>Dwelling Unit</u>	<u>\$907</u>	<u>\$1,097</u>	<u>\$74</u>	<u>\$2,078</u>
<u>Lodging</u>	<u>Room</u>	<u>\$677</u>	<u>\$819</u>	<u>\$55</u>	<u>\$1,551</u>

Nonresidential Development

<u>Retail & Eating/Drinking Places</u>	<u>Floor Area (square feet in thousands)</u>	<u>\$0</u>	<u>\$4,115</u>	<u>\$257</u>	<u>\$4,372</u>
<u>All Other Nonresidential</u>	<u>Floor Area (square feet in thousands)</u>	<u>\$0</u>	<u>\$1,826</u>	<u>\$257</u>	<u>\$2,083</u>

¹ In addition to the impact fees listed, an additional three percent administrative charge will be levied in accordance with § 2-310(e).

² School impact fees are collected in accordance with Lee County Ordinance No. 05-25, effective January 1, 2006.

- (c) If a building permit is requested for a building with mixed uses, as defined in § 2-304 of this LDC, then the fees shall be determined according to the schedule by apportioning the total space within the building according to the space devoted to each principal use. A shopping center will be considered a principal use; however, when located within a shopping center, a fast-food restaurant or convenience store with gasoline sales will be considered a principal use.
- (d) If the type of development activity for which a building permit is applied is not specified on the schedule, the town manager shall use the fee applicable to the most nearly comparable type of land use on the schedule. For ~~transportation~~multimodal impact fees, the town manager shall be guided in the selection of a comparable type by the Institute of Transportation Engineers' Trip Generation (latest edition), studies or

reports by the federal, state, and county departments of transportation, and articles or reports appearing in the ITE Journal and other reliable sources. If the town manager determines that there is no comparable type of land use on the fee schedule set out in this subsection, then the town manager shall determine the fee by:

- (1) Using traffic generation statistics or other relevant data from the sources named in this subsection; and
 - (2) Applying the formula set forth in subsection (g)(3) of this section.
- (e) When change of use, redevelopment, or modification of an existing use requires the issuance of a building permit, impact fees shall be based upon the net increase in the impact fee for the new use as compared to the previous use. However, should the change of use, redevelopment, or modification result in a net decrease, no refunds or credits for past impact fees paid shall be made or created.
- (f) If an impact fee has been calculated and paid based on error or misrepresentation, it shall be recalculated and the difference refunded to the original feepayer or collected by the town, whichever is applicable. If impact fees are owed, no permits of any type may be issued for the building or structure in question, or for any other portion of a development of which the building or structure in question is a part, until all impact fees are paid. The building official may bring any action permitted by law or equity to collect unpaid fees.
- (g) The person applying for the issuance of a building permit may, at his option, submit evidence to the town manager indicating that the fees set out in the impact fee schedule in this section are not applicable to the particular development. Based upon convincing and competent evidence, which shall be prepared and submitted in accordance with any applicable administrative code, the town manager may adjust the fee to that appropriate for the particular development.
- (1) The adjustment may include a credit for recreation facilities provided to the development by the feepayer if the recreation facilities serve the same purposes and functions as set forth for regional and/or community parks.
 - (2) If a feepayer opts not to have the transportationmultimodal impact fee determined according to the impact fee schedule in this section, then the feepayer shall prepare and submit to the town manager an independent fee calculation study for the land development activity for which a building permit is sought. The independent fee calculation study shall measure the impact of the development in question on the transportation system by following the prescribed methodologies and formats for such studies established by Lee County's Administrative Code. The feepayer must attend a preapplication meeting with town manager or designee to discuss the traffic engineering and economic documentation required to substantiate the request. The traffic engineering or economic documentation submitted must address all aspects of the impact fee formula that the county manager determines to be relevant in defining the project's impacts at the preapplication meeting and must show the basis upon which the independent fee calculation was made, including but not limited to the following:
 - a. *Traffic engineering studies.* All independent fee calculation studies must address all three of the following:
 1. Documentation of trip generation rates appropriate for the proposed land development activity;
 2. Documentation of trip length appropriate for the proposed land development activity; and
 3. Documentation of trip data appropriate for the proposed land development activity.
 - b. *Revenue credit studies.* The feepayer may also provide documentation substantiating that the revenue credits due to the development differ from the average figures used in developing the fee schedule. This documentation shall be prepared and presented by qualified professionals in their respective fields and shall follow best professional practices and methodologies.

(3)—The following formula shall be used by the town manager to determine the transportation impact fee per unit of development:

—Impact Fee = VMT x NET COST/VMT		
Where:	VMT =	ADT x %NEW
		x LENGTH ÷ 2
	ADT =	Trip ends during average weekday
	%NEW =	Percent of trips that are primary, as opposed to passby or diverted-link trips
	LENGTH =	Average length of a trip on the approved road system
	÷ 2 =	Avoids double-counting trips for origin and destination
	ADJUSTMENT =	Local adjustment factor, representing the ratio between the VMT predicted by national travel characteristics and observed VMT on the approved road system
—NET COST/VMT = COST/VMT - CREDIT/VMT		
	COST/VMT =	COST/LANE-MILE ÷ AVG LANE CAPACITY
	COST/LANE-MILE =	Average cost to add a new lane to the approved roadway system
	AVG LANE CAPACITY =	Average daily capacity of a lane at level of service "D"
	CREDIT/VMT =	\$/GAL ÷ MPG x 365 x NPV
	\$/GAL =	Capacity-expanding funding for roads per gallon of gasoline consumed
	MPG =	Miles per gallon, average for U.S. motor vehicle fleet
	365 =	Days per year (used to convert daily VMT to annual VMT)
	NPV =	Net present value factor (i.e., 12.46 for 20 years at 5% discount)

Sec. 2-307. Payment.

- (a) The feepayer shall pay the impact fees required by this article to the building official prior to the issuance of the building permit for which the fees are imposed. No building permit may be issued for any development listed in the impact fee schedule in § 2-306 of this LDC until the impact fees have been paid.
- (b) In lieu of cash, up to 100 percent of the impact fees may be paid by the use of credits created in accordance with the provisions of § 2-313 of this LDC.
- (c) All funds collected pursuant to this article shall be promptly transferred for deposit into the appropriate impact fee trust accounts and used solely for the purposes specified in this article.

Sec. 2-308. Reserved.

Sec. 2-309. Trust accounts.

- (a) There is hereby established ~~five-four~~ impact fee trust accounts, one each for ~~multimodal~~ transportation, ~~regional parks, community parks~~~~parks and recreation~~, fire protection, and schools.
- (b) Funds withdrawn from these accounts must be used in accordance with the provisions of § 2-310 of this LDC.

Sec. 2-310. Use of funds.

- (a) Funds collected from impact fees shall be used only for the purpose of capital improvements for ~~transportation~~~~multimodal~~, regional parks, community parks, fire protection, and schools, as defined in § 2-304 of this LDC. Impact fee collections, including any interest earned thereon, but excluding administrative charges pursuant to subsection (e) of this section, shall be used exclusively for capital improvements or expansion. These impact fee funds shall be segregated from other funds and shall be expended in the order in which they are collected. Funds may be used or pledged in the course of bonding or other lawful financing techniques, so long as the proceeds raised thereby are used for the purpose of capital improvements.
- (b) Each fiscal year the town manager shall present to the town council a proposed capital improvement program for ~~transportation~~~~multimodal~~, regional parks, and community parks, assigning funds, including any accrued interest, from the appropriate impact fee trust account to specific capital projects. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in each impact fee trust account until the next fiscal period, except as provided by the refund provisions of this article.
- (c) The town shall remit fire protection impact fees to the fire district at least once each quarter, less any amounts retained or collected pursuant to subsection (e) of this section, unless another method is specified in an appropriate interlocal agreement.
- (d) The town shall remit school impact fees to Lee County ~~or Lee County School Board~~ at least monthly, less any amounts retained or collected pursuant to subsection (e) of this section, unless another method is specified in an appropriate interlocal agreement. ~~Lee County will remit these school impacts to the school board in accordance with Lee County Ordinance No. 01-21.~~
- (e) The town is entitled to charge and collect three percent of the impact fees it collects in cash, or by a combination of cash and credits, as an administrative fee to offset the costs of administering this article. This administrative charge is in addition to the impact fee amounts required by this article. The applicant is responsible for payment of the additional administrative charge in conjunction with the payment of impact fees at the time a building permit or development order is issued.

Sec. 2-311. Refund of fees paid.

- (a) If a building permit expires, is revoked, voluntarily surrendered, or otherwise becomes void, and no construction or improvement of land has been commenced, then the feepayer shall be entitled to a refund of the impact fees paid as a condition for its issuance, except that three percent of the impact fee paid shall be retained as an administrative fee to offset the cost of processing the refund. This administrative fee is in addition to the charge collected at the time of fee payment. No interest shall be paid to the feepayer on refunds due to noncommencement.
- (b) Any funds not expended or encumbered by the end of the calendar quarter immediately following ten years from the date the impact fee was paid shall, upon application of the feepayer within 180 days of that date,

be returned to the feepayer with interest at the rate of six percent per annum. For school impact fees, this period is set at six years by Lee County Ordinance No. 01-21.

Sec. 2-312. Exemptions.

- (a) The following shall be exempted from payment of the impact fees:
 - (1) Alteration or expansion of an existing building or use of land, where no additional dwelling units will be produced and where the use is not changed and where no additional vehicular trips or demand for fire protection will be produced over and above that produced by the existing use.
 - (2) The construction of accessory buildings or structures which will not produce additional dwelling units and where no additional vehicular trips or demand for fire protection will be produced over and above that produced by the existing use.
 - (3) The replacement of an existing building with a new building or structure of the same use and at the same location, provided that no additional dwelling units, vehicular trips, or fire protection demands will be produced over and above those produced by the original use of the land. However, no exemption will be granted if the existing building was removed five years or more before a building permit is issued for its replacement.
 - (4) A building permit obtained by or for the United States of America, the state, or the county school board.
 - (5) A building permit for which the impact fees thereof have been or will be paid or provided for pursuant to a written agreement, zoning approval, or development order which, by the written terms thereof, clearly and unequivocally was intended to provide for the full mitigation of the projected impact by enforcement of the agreement, zoning approval or development order, and not by the application of this article.
 - (6) A building permit which does not result in an additional dwelling unit, additional vehicular trips, or increased need for fire protection or emergency medical services.
- (b) Exemptions must be claimed by the feepayer at the time of the application for a building permit. Any exemptions not so claimed will be deemed waived by the feepayer.

Sec. 2-313. Credits.

- (a) Impact fee credits are subject to the following:
 - (1) *Prohibitions.* No credit shall be given for design or construction of site-related road improvements or local roads. No credit shall be given for recreation facilities except pursuant to an independent fee calculation prepared and accepted in accordance with § 2-306(f) of this LDC.
 - (2) *Eligibility.* Other approved capital improvements for transportation, regional or community parks, or fire protection may generate corresponding impact fee credits in amounts to be established pursuant to this section. The right to determine whether a capital improvement will be approved for credit purposes lies exclusively with the town.
 - (3) *Conditions of credit approval.* Credit for capital improvement construction or land dedication is subject to the following:
 - a. *Construction.* A formal request for impact fee construction credits must include a detailed project description and complete cost estimates prepared by qualified professionals and sufficient to enable the town manager to verify these cost estimates and thereby determine the amount of the credit which the town manager will recommend be authorized by the town council.

Construction credits for transportation projects may be given as the town council shall determine on a case-by-case basis if it finds that the granting of such credits will not significantly affect future transportation impact fee collections within the town. The amount of credit shall be limited to the actual verified costs of construction and may be reduced by the percentage to which the capacity of the improvement in question is reasonably expected to be utilized by future development on adjacent lands owned or controlled by the grantor. This amount then may be further reduced, as the council shall determine, to reflect the council's estimate of the value of the accelerated construction in relation to the town's schedule for construction.

- b. *Land dedication.* A formal request for impact fee credits for land dedication must include:
 - 1. A survey of the land to be dedicated, certified by a professional land surveyor duly registered and licensed by the state;
 - 2. A specimen of the deed which he proposes to use to convey title to the appropriate governmental body;
 - 3. An ALTA Form B title insurance policy in an amount equal to the approved value of the credits, to be issued by a company satisfactory to the town attorney and verifying that the proffered deed will convey unencumbered fee simple title to the appropriate governmental body;
 - 4. Property appraisals prepared by qualified professionals that appraise the land as part of the whole development or parent parcel; and
 - 5. A document from the tax collector stating the current status of property taxes on the land.
 - c. *Valuations.* In preparing their reports, appraisers shall value, except where a dedication is made pursuant to a condition of zoning approval, the land at its then-current zoning and without any enhanced value which could otherwise be attributed to improvements on adjacent lands. If the land in question is subject to a valid agreement, zoning approval or development order which prescribes a different valuation, the agreement, zoning approval, or development order shall control. If the dedication is made pursuant to a condition of zoning approval and is not a site-related improvement, and the zoning condition does not specifically prescribe otherwise, the land shall be valued based upon the zoning of the land as it existed prior to the zoning approval which contains the condition of dedication.
 - d. *Limitations on credit for land dedications.* The amount of credit which the council may approve shall be limited to the value of the land in question, as determined by the methodology and procedures set out in this section, and may be reduced by the percentage to which the capacity of the improvement in question is reasonably expected to be utilized by future development on adjacent lands owned or controlled by the grantor. This amount then may be further reduced, as the council shall determine, to reflect the council's estimate of the value of the accelerated acquisition in relation to the town's construction schedule.
 - e. *Independent determinations.* The town manager retains the right to independently determine the amount of credit to be recommended by securing other engineering and construction cost estimates and/or property appraisals for those improvements or land dedications. In applicable cases, impact fee credits shall be calculated so as to be consistent with F.S. § 380.06(16), (1997).
- (4) *Timing of credit issuance.* Credits for construction shall be created when the construction is completed and accepted by the appropriate governmental body for maintenance, or when the feepayer posts security, as provided in this subsection, for the costs of such construction. Credits for land dedication shall be created when the title to the land has been accepted and recorded in the official records of the clerk of circuit court. Security in the form of cash, a performance bond, an irrevocable letter of credit or an escrow agreement shall be posted with the town council, made payable to the town in an amount
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approved by the town manager equal to 110 percent of the full cost of such construction. If the project will not be constructed within one year of the acceptance of the offer by the town, the amount of the security shall be increased by ten percent, compounded for each year of the life of the security. The security shall be reviewed and approved by the town attorney prior to acceptance of the security by the town.

- (5) *Transferability.* Impact fee credits shall be in transferable form and may be sold, assigned, or otherwise conveyed. They may be used to pay or otherwise offset the same type of impact fees required by this article.
- a. Such transferable credits must be used within ten years of the date they are created, which date is the date the instruments conveying legal title to the land or improvements, which were given in exchange for credits, were recorded in the county's official record book. Credits not used during this period shall expire.
 - b. If impact fee rates are increased before the credits are used, the unused transferable credits, when used to pay for the impacts of a particular use listed in impact fee schedule, will be increased at the time they are used in the same percentage that the Consumer Price Index-All Urban Consumers (CUP-U), All Items, U.S. City Average (maintained by the Bureau of Labor Statistics) increased between the time the credits are used and the time the credits were created. If impact fee rates are decreased, unused transferable credits will not decrease in value.
 - c. Any person who accepts credits in exchange for the dedication of land or improvements does so subject to the limitations on the use, duration, nonrefund provisions and other restrictions prescribed in this article.
 - d. Impact fee credits previously issued by Lee County related to development or capital improvements in the town will be accepted as if they were issued by the town, provided the credits have not expired.
- (6) *Withdrawal of offer.* Any person who offers land or improvements in exchange for credits may withdraw the offer of dedication at any time prior to the transfer of legal title to the land or improvements in question and pay the full impact fees required by this article.
- (b) Feepayers claiming credits shall submit documentation sufficient to permit the building official to determine whether such credits claimed are due and, if so, the amount of such credits.
 - (c) Credits must be claimed by the feepayer at the time of the application for a building permit. Any credits not so claimed shall be deemed waived by the feepayer.
 - (d) Once used, credits shall be canceled and shall not be reestablished even if the permit for which they were used expires without construction.
 - (e) Any person seeking credits for dedication of land must meet with the town manager or designee to seek agreement on appraisal methodology and assumptions before preparing any appraisals for valuation of land to be dedicated.
 - (f) The town may delegate to Lee County certain administrative matters regarding impact fees, pursuant to interlocal agreement.

Sec. 2-314. Appeals.

Any decision made by the town manager or his designee, or by the building official, in the course of administering this article may be appealed in accordance with those procedures set forth in ch. 34 of this LDC for appeals of administrative decisions.



Development Impact Fee Study

Prepared for:

*Town of
Fort Myers Beach FL*

August 25, 2025

Prepared by:

DP Guthrie, LLC

Subcontractor to:



August 25, 2025

Will McKannay
Town Manager
Town of Fort Myers Beach
2731 Oak St.
Fort Myers Beach, FL 33931

Subject: 2025 Development Impact Fee Study

Dear Mr. McKannay:

Axis Companies is pleased to provide the 2025 Development Impact Fee Study to the Town of Fort Myers Beach (Town). In collaboration with Town staff, our report:

- Updates development projections and land use assumptions based on most recent and localized demographics, as required by the Florida Impact Fee Act
- Documents projected need for additional facilities
- Includes a fee for administrative costs, consistent with the Florida Impact Fee Act.

It has been a pleasure working with you and Town staff. Everyone's input and support has enabled Axis Infrastructure and our partners to provide an impact fee study that is tailored to the unique characteristics of Fort Myers Beach. If you have any comments or questions, please feel free to contact me directly.

Sincerely,

Jason Green, AICP, CFM

Axis Infrastructure

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Executive Summary

The Town of Fort Myers Beach (hereafter “Town”) retained Axis Infrastructure and their subcontractor DP Guthrie LLC (hereafter “consultant team”) to conduct a comprehensive update of non-utility development impact fees. As shown in Figure 1, Fort Myers Beach currently collects impact fees for Regional Parks, Community Parks, and Transportation infrastructure.

Figure 1 - Current Impact Fees

Summary of Major Changes

As documented in this report, Fort Myers Beach has followed the Florida Impact Fee Act and applicable legal precedents. Impact fees are proportionate and reasonably related to capital improvement demands of new development. Specific costs have been identified using local data and current dollars. With input from Town staff, the consultant team has determined demand indicators for each type of infrastructure and calculated growth share factors to allocate costs to new development. This report documents the formulas and input variables used to calculate the impact fees for each type of public facility. Impact fee methodologies also identify the extent to which new development is entitled to various types of credits to avoid potential double payment of growth-related capital costs.

Key differences between current and proposed impact fees are highlighted below.

1. On the effective date of the newly adopted impact fees, Fort Myers Beach will suspend collection of the fees for Regional Parks, Community Parks, and Transportation. Any fund balance in the respective impact fee accounts will be spent as soon as possible, consistent with the previous impact fee study and the Florida Impact Fee Act.
2. Current impact fees for residential development assess impact fees for five categories (i.e., types of units). Proposed impact fees are based on five size thresholds for dwelling units and for lodging (e.g., hotels and motels) fees are assessed per room. Dwelling units are capable of year-round occupancy and impact fees are based on climate-controlled floor area (i.e., excluding garages, porches, etc.). Lodging rooms are intended primarily for short-term occupancy and lack a complete set of kitchen appliances (e.g., range and oven).
3. Current impact fees for nonresidential development are based on 13 land use categories. The proposed fees are based on two general categories, assessed per thousand square feet of floor area. A simplified fee schedule is easier to administer and minimizes the need for assessing fees for land use changes (e.g., converting a general office building to a medical office). Definitions of the proposed nonresidential categories are provided below.
 - a. Retail & Eating/Drinking Places – Nonresidential development that sells goods, including food and drinks.
 - b. All Other Nonresidential – All nonresidential development that is not Retail or Eating/Drinking Places. Examples include, but are not limited to, business services, personal services, educational and religious buildings, entertainment uses (e.g., movie theater), and self-storage businesses.

Proposed Impact Fees

Figure 2 summarizes the methods and cost components used for each type of public facility in the Fort Myers Beach 2025 impact fee study.

Figure 2 - Proposed Fee Methods and Cost Components

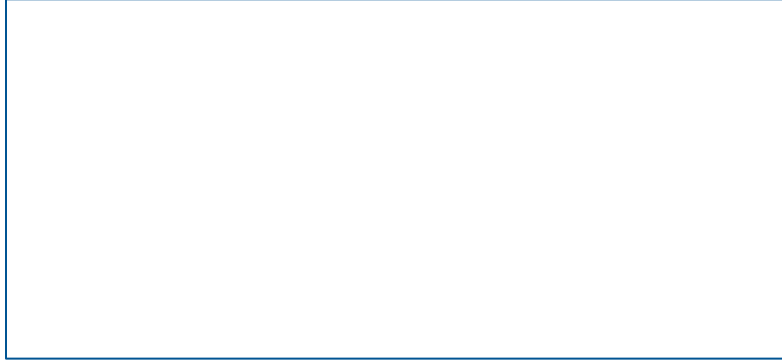
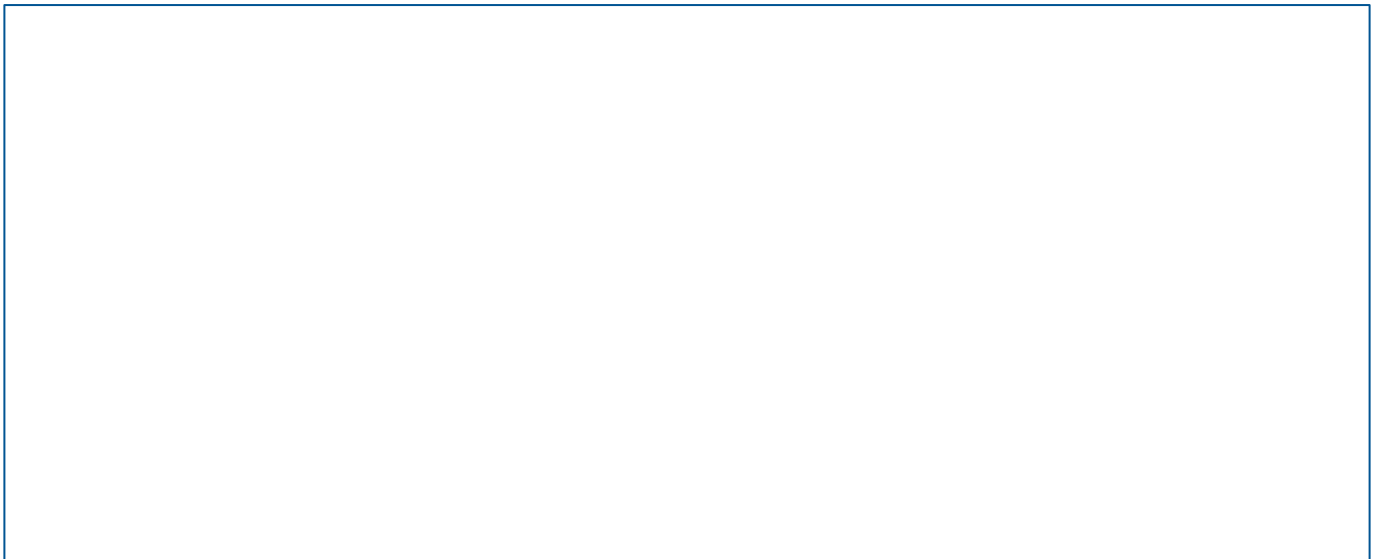


Figure 3 indicates proposed impact fees for new development in the Town of Fort Myers Beach over the next four years. Consistent with the Florida Impact Fee Act [see F.S. 163.31801(4)(a)], the calculation of impact fees must be based on a study using the most recent and localized data available within the past four years. Also, the new study must be adopted with 12 months of the initiation of the new impact fee study, if fees are increased.

The Town may adopt fees that are less than the amounts shown. However, a reduction in impact fee revenue will necessitate an increase in other revenues, or a decrease in planned capital expenditures, which will decrease levels of service over time.

Figure 3 - Proposed Impact Fees



Introduction

Impact fees are one-time payments used to construct system improvements needed to accommodate new development. An impact fee represents new development's proportionate share of capital facility needs. Impact fees do have limitations and should not be regarded as the total solution for infrastructure funding. Rather, they are one component of a comprehensive portfolio to ensure provision of adequate public facilities needed to serve new development. In contrast to general taxes, impact fees may not be used for operations, maintenance, replacement of infrastructure, or correcting existing deficiencies. Impact fee revenues and expenditures must be accounted for in a separate accounting fund for each impact fee, and revenues must be used for capital projects providing infrastructure capacity that benefits new development.

Legal Framework

In 2006, the Florida legislature passed the "Florida Impact Fee Act" that has been amended over the years. The Town's existing impact fee ordinance will be updated in consideration of the methodology used in the 2025 impact fee study, plus any statutory changes and court rulings.

Impact Fee Methods

In contrast to project-level improvements, impact fees fund growth-related infrastructure that will benefit multiple development projects, or the entire jurisdiction (referred to as system improvements). There are three general methods for calculating impact fees. The choice of method depends primarily on the timing of infrastructure construction (past, concurrent, or future) and service characteristics of the facility type being addressed. Each method can be used simultaneously for different cost components.

Reduced to its simplest terms, the process of calculating impact fees involves two main steps: (1) determining the cost of development-related capital improvements and (2) allocating those costs equitably to various types of development. In practice, though, the calculation of impact fees can become complicated by many variables affecting the relationship between development and the need for facilities within the designated service area. The following paragraphs discuss three basic methods for calculating impact fees and how those methods can be applied.

Cost Recovery (past improvements)

The rationale for recoupment, often called cost recovery, is that new development is paying for its share of the useful life and remaining capacity of facilities already built, or land already purchased, from which new growth will benefit. This methodology is often used for utility systems that must provide adequate capacity before new development can take place.

Incremental Expansion (concurrent improvements)

The incremental expansion method documents current infrastructure standards for each type of public facility, using both quantitative and qualitative measures. New development pays its proportionate share to maintain current standards. This approach assumes there is no existing infrastructure deficiency or surplus capacity. Impact fee revenue will be used to expand or provide additional facilities, as needed to accommodate new development. An incremental expansion cost method is best suited for public facilities that will be expanded in regular increments to keep pace with development.

Plan-Based Fee (future improvements)

The plan-based method allocates costs for a specified set of improvements to a specified amount of development. Improvements are typically identified in a long-range facility plan and development potential is identified by a land use plan. There are two options for determining the cost per service unit: 1) total cost of a public facility can be divided by total demand units (average cost), or 2) the growth-share

of the public facility cost can be divided by the net increase in service units over the planning timeframe (marginal cost).

Credits

Regardless of the methodology, a consideration of “credits” is integral to the development of legally defensible impact fees. There are two types of “credits” with specific characteristics, both of which should be considered by fee studies and ordinances. First, a revenue credit might be necessary if there is a double payment situation and other revenues are contributing to the capital costs of infrastructure to be funded by impact fees. This type of credit is integrated into the impact fee calculation, thus reducing the fee amount. Second, a site-specific credit or developer reimbursement might be necessary for dedication of land or construction of system improvements funded by impact fees. This type of credit is addressed in the administration and implementation of the impact fee program.

Parks and Recreation

The Town owns and maintains parks and recreation facilities for the use and benefit of its residents and visitors. As the Town grows both vertically and horizontally, additional facilities and improvements are necessary. This section provides an analysis for the Town's updated parks and recreation impact fee based on the costs to meet infrastructure demands from growth.

Capital Improvements for Parks and Recreation

Fort Myers Beach and the consultant team compiled a Capital Improvements Program (CIP) for the next ten years. Figure 4 lists specific projects from the CIP used to derive the 2025 impact fee for parks and recreation. Projects include improvements to existing sites, additional facilities, and expansion of sites. Based on discussions with Town staff, growth shares were identified for each project. The table below provides the Town's total cost and the amount allocated to projected growth, consistent with the increase in peak population over the next ten years.

Figure 4 - Parks and Recreation Capital Improvements Plan

Revenue Credit Evaluation

A credit for future revenue is only necessary if there is potential double payment for system improvements needed to accommodate new development. Fort Myers Beach plans to fund the growth share of future improvements from impact fees, which is approximately 20% of the total estimated capital costs identified. A revenue credit is not applicable because impact fees will be used exclusively for the growth share of capital improvements. As shown in the cash flow analysis table below, projected impact fee revenue roughly matches the growth cost of new parks and recreation facilities.

Parks and Recreation Impact Fee

As shown in Figure 5, the average number of persons per development unit, multiplied by the growth cost per person, yields the 2025 impact fees. For example, the proposed fee for a residential development that has between 2,000 to 2,999 square feet living space is \$751 (truncated) per dwelling unit. This amount is derived by multiplying 2.13 persons per household by the cost factor of \$353 per person. Documentation on the average number of persons by dwelling size is provided in Appendix A. The proposed impact fees for residential development are less than current fees for regional and community parks, ranging from an decrease of \$4 for a lodging room to a decrease of \$696 for the smallest size dwelling unit.

Figure 5 - Proposed Residential Parks and Trails Impact Fees

Projected Revenue for Parks and Recreation

Over the next ten years, parks and recreation impact fee revenue is projected to approximately match the growth cost of parks and recreation infrastructure (i.e., a ten-year total cost of approximately \$1.68 million). Figure 6 indicates Fort Myers Beach should receive approximately \$1.68 million in parks and recreation impact fee revenue over the next ten years, if actual development matches the land use assumptions provided in Appendix A. To the extent the rate of development either accelerates or slows down, there will be a corresponding change in the need for infrastructure and impact fee revenue.

Figure 6 - Projected Impact Fee Revenue for Parks and Recreation

Multimodal Transportation

In 2024, the Florida Legislature added definitions of “mobility fee” and “mobility plan” to the Community Planning Act. The 2025 impact fee update is consistent with these definitions, including capital projects and a plan-based methodology promoting compact, mixed use, and interconnected development served by a multimodal transportation system in an area that is urban in character. The Town could impose a “mobility fee” but this would require adding a “mobility plan” into the Comprehensive Plan. To simplify the adoption process, the consultant team recommends a plan-based methodology to provide multimodal transportation improvements. In contrast to old-school transportation impact fees that focus on the movement of vehicles¹, the proposed multimodal transportation fee focuses on moving people, include all modes of travel (i.e., pedestrian, bike, transit and vehicular facilities).

Proportionate Share

As shown in Figure 7, functional population was used to allocate infrastructure costs to residential and nonresidential development. Functional population is like the U.S. Census Bureau’s measurement of “daytime population” that accounts for people living and working in a jurisdiction. However, functional population also considers commuting patterns and time spent at residential versus nonresidential locations. Residents that do not work are assigned 20 hours per average weekday to residential development and 4 hours per average weekday to nonresidential development. Residents that work in Fort Myers Beach are assigned 14 hours to residential development and 10 hours to nonresidential development. Residents that work outside of Fort Myers Beach are assigned 14 hours to residential development only. Finally, inflow commuters, or non-resident workers, are assigned 10 hours to nonresidential development. Based on 2022 functional population data for Fort Myers Beach, the cost allocation for residential development is 68%, while nonresidential development accounts for 32% of the demand for infrastructure. The latest available job data from the Census Bureau is 2022, but the ratio of population to jobs only changes slightly over time.

¹ See American Planning Association PAS Memo “Next-Generation Transportation Impact Fees”, Guthrie and Bise, 2015.

Figure 7 - Functional Population

Capital Improvements Plan for Transportation

Projects used to derive 2025 multimodal transportation fees were extracted from the Town's CIP, with cost estimates provided by the consultant team. Fort Myers Beach will need approximately \$14.96 million in transportation projects to accommodate new development over the next ten years, with approximately \$2.99 million to be funded by impact fees. The improvements listed below provide additional capacity to existing facilities, with additional bike lanes, sidewalks, multimodal trails and ferry access facilities. The growth shares identified for each of the projects are based on the 10-year growth in peak population and jobs in the Town (see Appendix A). As shown in Figure 8, impact fees will fund 20% of the cost of multimodal transportation projects over the next ten years. The remaining share attributable to existing development (i.e., approximately \$12 million) will be funded by other revenues (e.g., sales tax, grants, and other revenue sources).

Figure 8 – Transportation Improvements



Revenue Credit Evaluation

A credit for future revenue is only necessary if there is a potential double payment for the growth share of system improvements needed to accommodate new development. Fort Myers Beach plans to fund the growth share of future improvements from impact fees, which is approximately 20% of the total estimated capital cost. A revenue credit is not applicable because impact fees will be used exclusively for the growth share of capital improvements. As shown in Figure 10 below, projected impact fee revenue roughly matches the growth cost of mobility improvements.

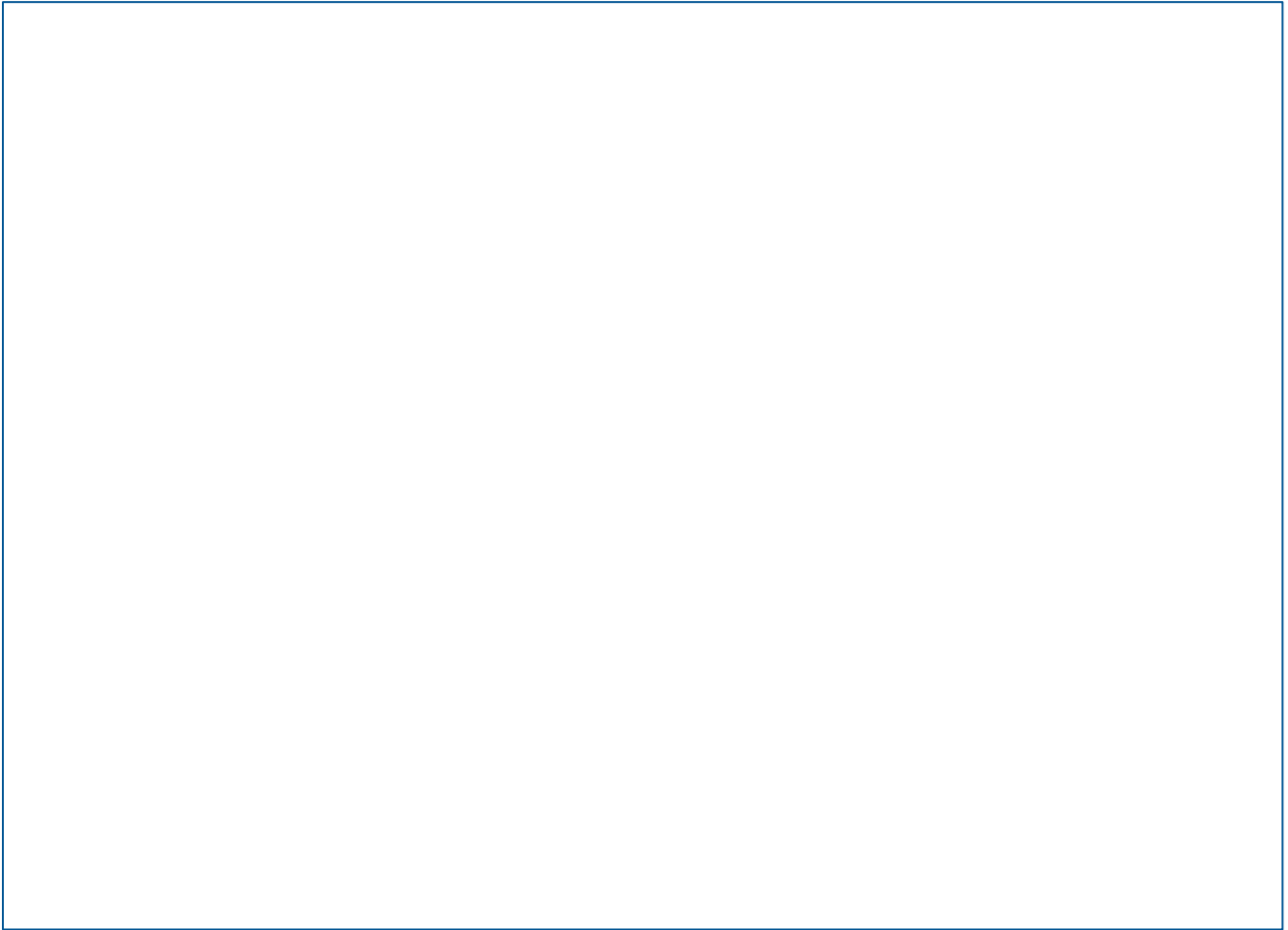
Multimodal Transportation Fees

As shown in Figure 9, the ten-year growth cost of transportation improvements to be funded by fees is \$2,991,600. Based on the above functional population analysis, the cost allocation for residential development is 68%, while nonresidential development accounts for 32% of the demand for multimodal transportation improvements. For residential development, the growth cost of improvements is \$427 per person. The multimodal transportation fee per unit or room is equal to the cost per person multiplied by the average number of persons per development unit. Persons per unit, by size threshold, are documented in Appendix A.

For nonresidential development, the growth cost is \$337 per inbound, primary vehicle trip. Transportation fees for nonresidential development equal the capital cost per additional vehicle trip end multiplied by the average number of inbound, primary vehicle trips per development unit, for each type of development. Trip generation rates per thousand square feet of floor area are documented in Appendix A. A vehicle trip end represents a vehicle either entering or exiting a development (as if a traffic counter were placed across a driveway). To calculate transportation fees, trip generation rates require an adjustment factor to avoid double counting each trip at both the origin and destination points. Therefore, the basic trip adjustment factor is 50%. As discussed further below, the transportation impact fee methodology includes an additional adjustment to make the fees proportionate to infrastructure demand for commercial development.

For Retail & Eating/Drinking Places, the trip adjustment factor is less than 50% because these developments attract vehicles as they pass by on arterial roads. For example, when someone stops at a convenience store on the way home from work, the convenience store is not their primary destination. For the average shopping center, the Institute of Transportation Engineers indicates that 34% of the vehicles that enter are passing by on their way to some other primary destination. The remaining 66% of attraction trips have the commercial site as their primary destination. Because attraction trips are half of all trips, the trip adjustment factor is 66% multiplied by 50%, or approximately 33% of the trip ends for an average-size shopping center, which is the proxy for Retail & Eating Drinking Places.

Figure 9 - Proposed Multimodal Transportation Fees



Projected Impact Fee Revenue for Transportation

Over the next ten years, transportation impact fee revenue is projected to be slightly less than the growth cost of capital improvements, which has a ten-year total cost of approximately \$2.99 million. Figure 10 indicates that Fort Myers Beach should receive approximately \$2.99 million (rounded) in transportation impact fee revenue, if actual development matches the land use assumptions documented in Appendix A.

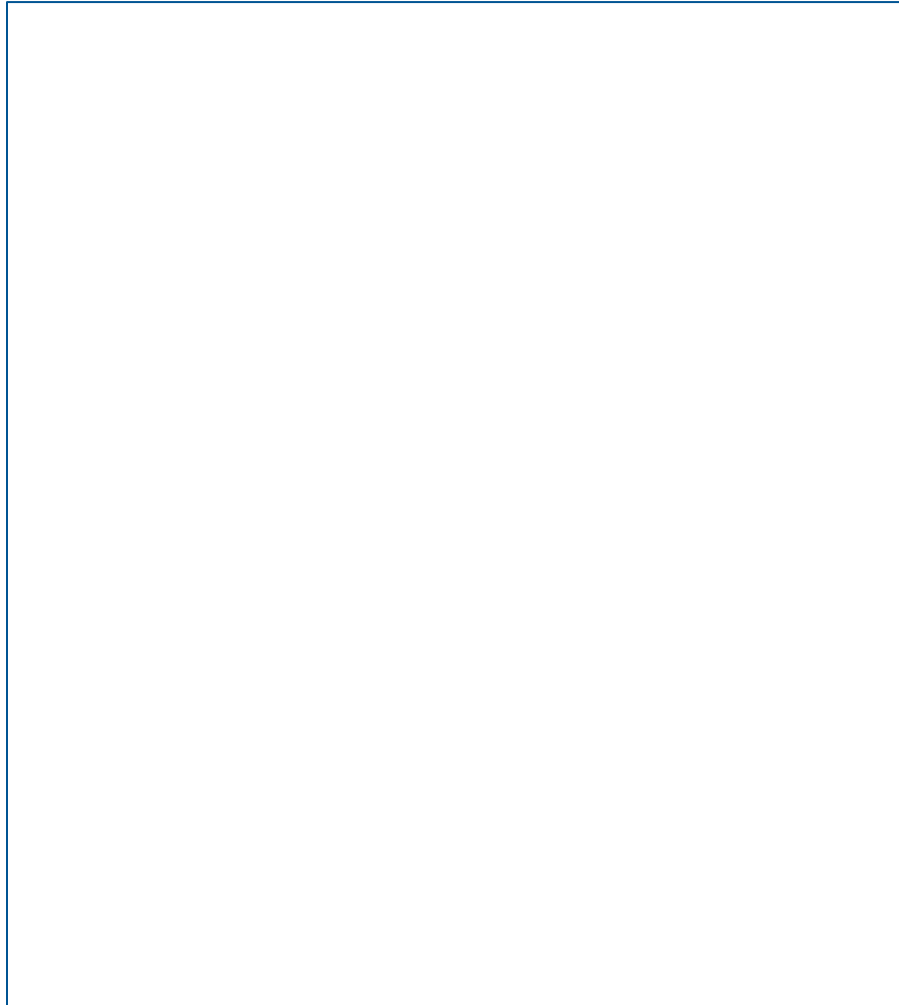
Figure 10 - Projected Transportation Impact Fee Revenue



Administrative Charges

According to Florida's impact fee enabling legislation, a jurisdiction must limit administrative charges for the collection of impact fees to actual costs. Because impact fees will be updated every four years, administrative charges were allocated to the projected increase in service units over four years. Costs shown below are limited to the cost of impact fee studies.

Figure 11 - Actual Cost of Fee-Related Studies and Administration



Appendix A: Demographics and Development Projections

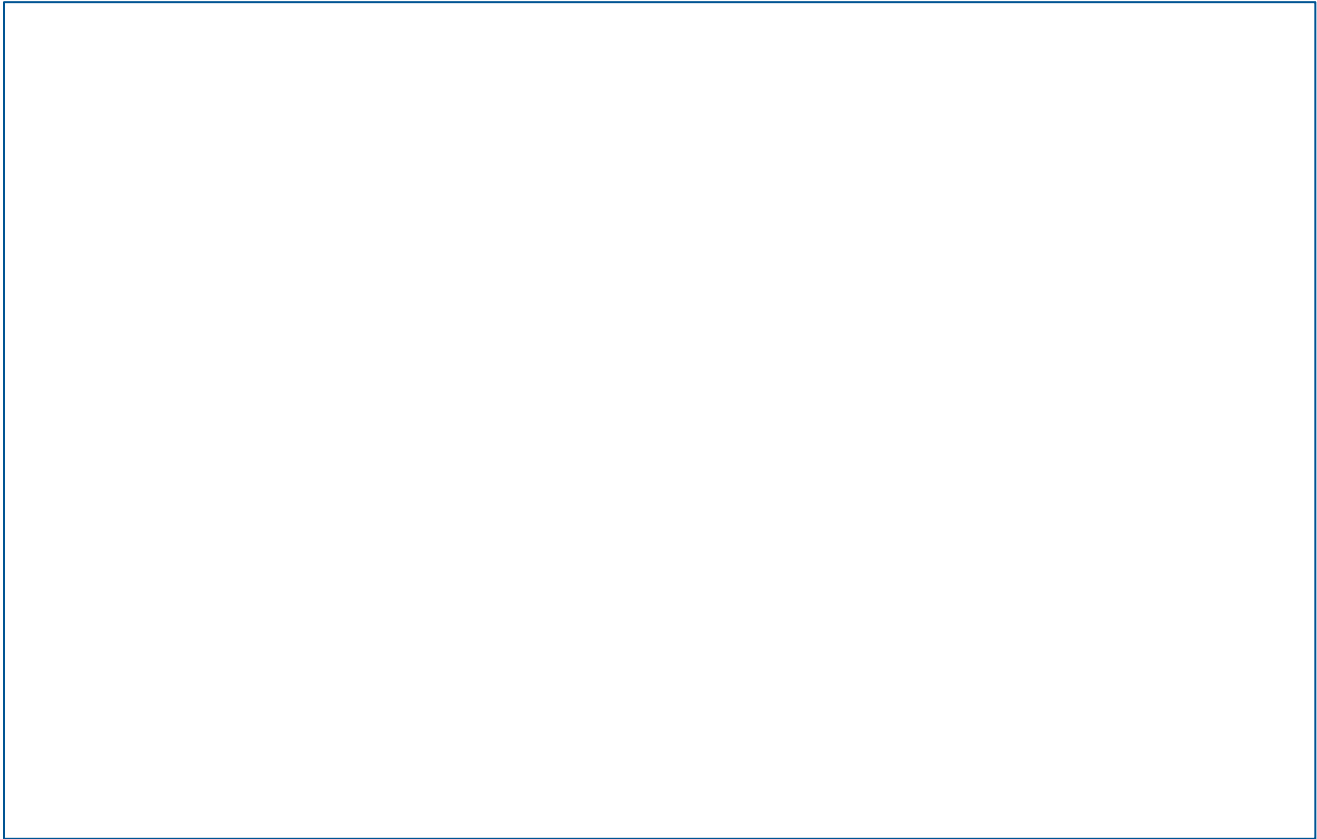
Appendix A contains the projected population, housing units, jobs, and nonresidential floor area data that provide the foundation for the Town of Fort Myers Beach impact fee update. To evaluate the demand for growth-related infrastructure by development type and size, the consultant team also prepared documentation on average number of persons by size of dwelling and jobs per thousand square feet of floor area (abbreviated as “KSF”).

Development impact fees are based on the need for growth-related improvements and must be proportionate by type of land use. Demographic data and development projections will be used to demonstrate proportionality and anticipate the need for future infrastructure. In contrast to the Town’s Comprehensive Plan, which has a long-range horizon (typically at least 20 years), impact fees require a quantitative analysis with a shorter focus. Impact fee studies typically look forward no more than ten years, with the expectation that fees will be periodically updated (e.g. every 4 years to comply with the Florida Impact Fee Act). Infrastructure standards were calibrated using fiscal year FY24-25 data, with FY25-26 being the first projection year. The Town’s fiscal year begins on October 1st.

Summary of Growth Indicators

Key development projections for the 2025 Fort Myers Beach impact fee study are housing units and nonresidential floor area (see Figure A1). Over the next five years, the impact fee update expects an average increase of 167 housing units per year. The compound growth rate of 1.6% per year is based on 2023 and 2035 population data for Lee County (University of Florida, BEBR Population Projections, November 2024).

For nonresidential development, Fort Myers Beach expects an average increase of 23,000 square feet of nonresidential floor area per year. These projections will be used to estimate impact fee revenue and to indicate the anticipated need for growth-related infrastructure. The goal is to have reasonable projections. Because impact fee methods are designed to reduce sensitivity to development projections in the determination of the proportionate-share fee amounts, if actual development is slower than projected, impact fee revenue will decline, but so will the need for growth-related infrastructure. In contrast, if development is faster than anticipated, the Town will receive an increase in impact fee revenue and will need to accelerate infrastructure improvements to keep pace with the actual rate of development.

Figure A1 - Projected Development Units and Growth Rates

Residential Development and Persons per Household

For detailed demographic data, the U.S. Census Bureau uses a continuous monthly mailing of surveys known as the American Community Survey (ACS), which is limited by sample-size constraints. For example, data on detached housing units are now combined with attached single units (commonly known as townhouses). Part of the rationale for imposing fees by size threshold, as discussed further below, is to address this ACS data limitation. Because townhouses and apartments generally have fewer bedrooms and less floor area than detached units, size thresholds make fees more proportionate and facilitates construction of affordable units.

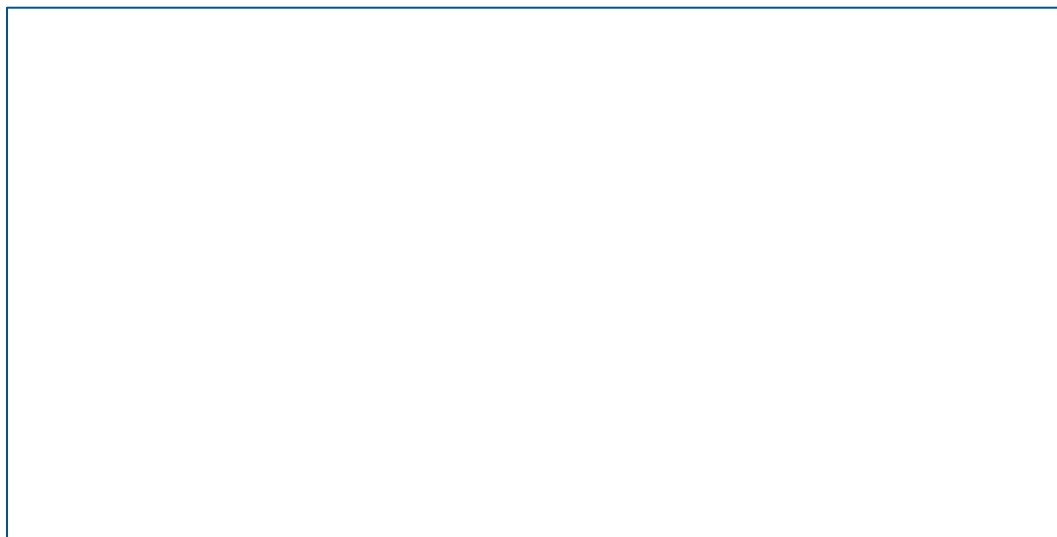
According to the U.S. Census Bureau, a household is a housing unit that is occupied by year-round residents. Development fees often use per capita standards and persons per housing unit, or persons per household, to derive proportionate-share fee amounts. The consultant team recommends that impact fees for residential development in Fort Myers Beach be imposed according to the number of year-round residents per household. Figure A2 indicates that Fort Myers Beach averages 1.92 year-round residents per household.

Figure A2 - Persons per Household

Demand Indicators by Dwelling Size

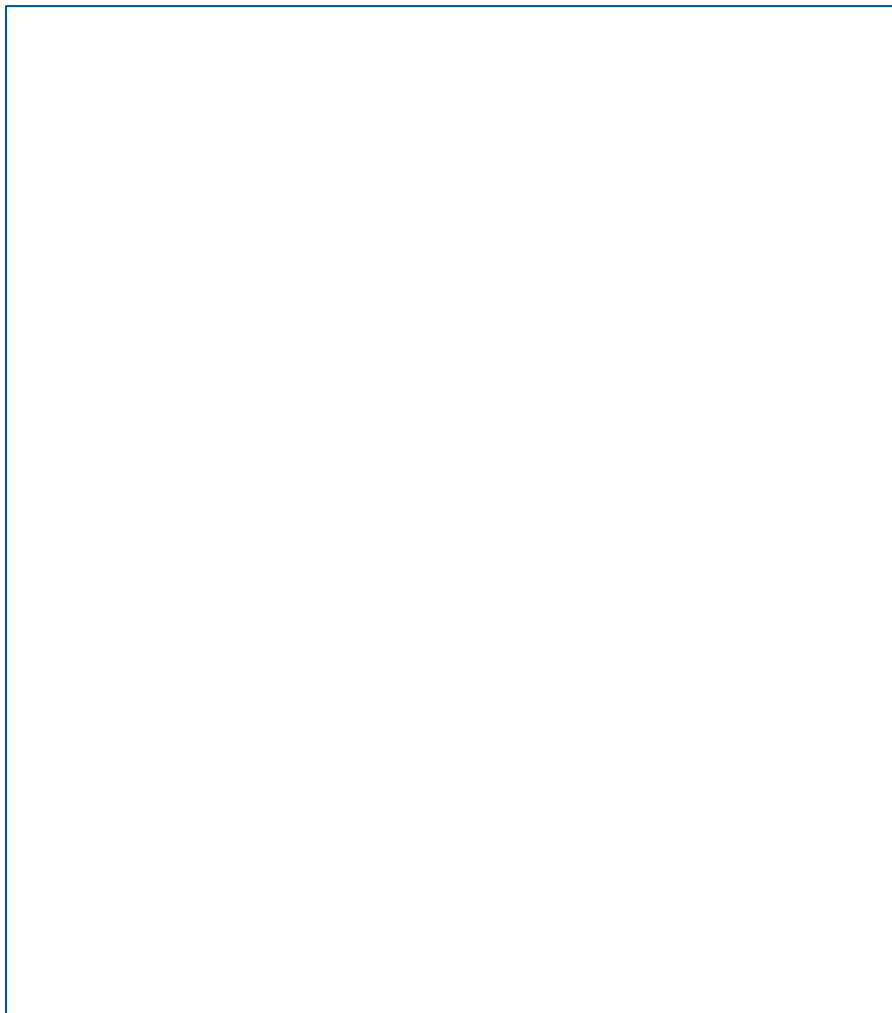
Impact fees must be proportionate to the demand for infrastructure. Because the average number of persons per household has a strong, positive correlation to the number of bedrooms, the consultant team recommends residential impact fee schedules that increase by dwelling size. Custom tabulations of demographic data by bedroom range can be created from individual survey responses provided by the U.S. Census Bureau, in files known as Public Use Micro-Data Samples (PUMS). PUMS files are only available for areas of at least 100,000 persons. For the 2025 impact fee study, the consultant team used data from four coastal Public Use Micro-Data Areas (PUMA) extending from Fort Myers Beach to Naples. As shown in Figure A3, the consultant team derived average persons per household by bedroom range, from un-weighted PUMS data. The recommended multipliers by bedroom range (shown below) are for all types of housing units, adjusted to the control totals for the Town. As shown above, the U.S. Census Bureau indicates that the Town averages 1.92 persons per household.

Figure A3 - Average Number of Persons by Bedroom Range



Impact fees based on size of dwelling are generally easier to administer when expressed in square feet of finished living space for all types of housing. Fees based on floor area rather than the number of bedrooms eliminates the need for criteria to make administrative decisions on whether a room qualifies as a bedroom. The consultant team recommends that impact fees for residential development be imposed based on finished square feet of living space, excluding garages, patios and porches that are not climate-controlled. Average floor area and number of persons by bedroom range are plotted in Figure A4, with a logarithmic trend line derived from averages for Fort Myers Beach. Using the trend line formula shown in the chart, the consultant team derived estimated average number of persons, by dwelling size, using five sizes thresholds. The consultant team recommends a minimum fee based on a unit size of 999 square feet or less, and a maximum impact fee for units 4,00 square feet or greater. According to the U.S. Census Bureau's 2023 Survey of Construction Microdata, the national median size multifamily housing unit with 0-1 bedrooms was 1,006 square feet. Based on building permits provided by the Town, residential units in Fort Myers Beach constructed from 2020 through 2024 had the median square feet by size range, as shown in Figure A4.

Figure A4 - Persons by Square Feet of Living Space



Nonresidential Development

In addition to data on residential development, the calculation of impact fees requires data on nonresidential development. The consultant team uses the term “jobs” to refer to employment by place of work. In Figure A5, gray shading indicates two nonresidential development prototypes used to derive vehicle miles of travel. Average weekday vehicle trip generation rates are from the Institute of Transportation Engineers (ITE 2022). The prototype for Retail & Eating/Drinking Places is an average-size shopping center. This category includes all businesses that sell merchandise, including eating/drinking places. For All Other Nonresidential, the development prototype is an average-size general office building. This category includes, but is not limited to, all business and personal services, like banks, medical offices, real estate offices, beauty salons, and spas.

Figure A5: Employee and Building Area Ratios

The calculation of impact fees requires data on nonresidential development, as discussed below. Consultant team uses the term “jobs” to refer to employment by place of work. Figure A6 indicates 2022 estimates of jobs and nonresidential floor area in Fort Myers Beach. Job estimates, by type of nonresidential development, are from the Work Area Profile, available through the U.S. Census Bureau’s online web application known as OnTheMap. The square feet of floor area by nonresidential type were estimated using square feet per employee multipliers derived from ITE data.

Figure A6 - Jobs and Floor Area Estimates

Detailed Land Use Assumptions

Development projections shown in Figure A7 and A8 are key inputs for the 2025 impact fee update. Peak population estimates are derived from Fort Myers Beach's 2023 population estimate published by the U.S. Census Bureau and a 1.6% annual compound growth rate. The latter is consistent with the Bureau of Economic and Business Research projected population increase for Lee County from 2023 to 2035. The consultant team converted population into housing units, using the latest Census Bureau estimate of 0.57 persons per housing unit. Housing units include occupied, vacant, and seasonal dwellings.

Figure A7 - Projected Population and Housing Units

Figure A8 indicates projected jobs and nonresidential floor area by type of development. Projected jobs were converted to nonresidential floor area using the current multipliers shown in Figure A6. Fort Myers Beach currently averages 430 square feet of nonresidential floor area per job. The constant ratio 0.35 jobs per housing unit, indicates that nonresidential development is expected to increase at the same pace as residential development over the next ten years.

Figure A8 - Projected Jobs and Non-residential Floor Area



Appendix B: Implementation and Administration

The service area for Town impact fees is the entire incorporated area of Fort Myers Beach. According to the Florida Impact Fee Act, a municipality may provide an exception or waiver of impact fees for construction of housing that is affordable. If a municipality provides such an exception or waiver, it is not required to use any other revenue source to offset the impact.

Impact fees for dwelling units will be imposed according to size thresholds. For a building with more than one residential unit, Town staff will determine the average size threshold for the entire building by dividing total climate-controlled floor area by the total number of dwellings in the building.

Nonresidential development categories represent general groups of land uses that share similar vehicle trip generation rates. An applicant may submit an independent study to document unique demand indicators for a particular development. The independent study must be prepared by a professional engineer or certified planner and use the same type of input variables as those in the impact fee study. The independent fee study will be reviewed by Town staff and can be accepted as the basis for a unique fee calculation. If staff determines the independent fee study is not reasonable, the applicant may appeal the administrative decision to elected officials for their consideration.

Credits and Reimbursements

New development should not be required to pay twice for the cost of new facilities (i.e., once through development fees and again through other taxes or fees that are used to fund the growth cost of facilities). To avoid potential double-payment, development fees may be reduced, and such a reduction is referred to as an offset or revenue credit that is incorporated into the development fee calculation. In general, offsets are only required for funding that is dedicated for capacity-expanding improvements of the type addressed by the development fee. A municipality is not required to use general fund revenue to pay for growth-related improvements.

Specific policies and procedures related to site-specific credits or developer reimbursements should be addressed in the ordinance that establishes the impact fee schedule. Project-level improvements, normally required as part of the development approval process, are not eligible for credits against impact fees. If a developer constructs a system improvement, it will be necessary to either reimburse the developer or provide a site-specific credit. The latter option is more difficult to administer because it creates unique fees for specific geographic areas. The consultant team recommends establishing a reimbursement agreement with a developer that constructs a system improvement. The reimbursement agreement should be limited to a payback period of no more than ten years. The Town should not pay interest on the outstanding balance. The developer must provide sufficient documentation of the actual cost incurred for the system improvement. The Town should only agree to pay the lesser of the actual construction cost or the estimated cost used in the impact fee analysis. If the Town pays more than the cost used in the fee analysis, there will be insufficient impact fee revenue. Reimbursement agreements should only obligate the Town to reimburse developers annually according to actual fee collections from the service area. If the Town collects impact fees for other types of infrastructure, site specific credits or developer reimbursements for one type of system improvement does not negate payment of impact fees for other types of infrastructure.

ORDINANCE 25-24

AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA ADOPTING AN IMPACT FEE STUDY DATED AUGUST 25, 2025 AND PREPARED BY DP GUTHRIE LLC; AMENDING ARTICLE IV ENTITLED “IMPACT FEES” IN CHAPTER 2 ENTITLED ADMINISTRATION OF THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES TO 1) INCORPORATE UPDATED INFORMATION CONTAINED IN THE REFERENCED IMPACT FEE STUDY, 2) REDUCE THE NUMBER OF IMPACT FEE CATEGORIES AND SPECIFIC USES, 3) CHANGE THE METHOD OF CALCULATION OF FEES FOR SINGLE FAMILY HOMES FROM PER DWELLING TO SQUARE FOOTAGE RANGE TO REFLECT THE TYPICAL IMPACT OF LARGER HOMES, 4) REDUCE THE AMOUNT OF FEES BASED ON UPDATED POPULATION AND PROJECT EXPECTATIONS, AND 5) PROVIDING FOR AN UPDATE EVERY FOUR (4) YEARS PAYABLE FROM COLLECTED IMPACT FEES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER’S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, pursuant to its home rule powers and pursuant to Section 163.31801, Florida Statutes, and judicially created law, the Town of Fort Myers Beach may impose impact fees to ensure that new development pays for its proportional share of capital facilities required by such new development; and

WHEREAS, the Town Council of the Town of Fort Myers Beach has studied the necessity for updating and amending its existing impact fee ordinance and has retained DP Guthrie LLC, a professional consulting firm and subcontractor to Axis Infrastructure, to provide updates on development projections and land use assumptions based on most recent and localized demographics, as required by the Florida Impact Fee Act as well as to document projected need for additional facilities and a fee for administrative costs, consistent with the Florida Impact Fee Act (“the Study”).

WHEREAS, The Study was limited in scope to only address a comprehensive update of non-utility development impact fees, i.e. regional parks, community parks, and transportation infrastructure; and

WHEREAS, the Study is dated August 25, 2025 and has been presented to, and reviewed by, the Town staff, the Local Planning Agency, and the Town Council, who have determined 1) that the parks and recreation, and roads and mobility impact fees bear a reasonable relationship to the burden imposed upon the Town to provide parks and recreation, and roads and mobility facilities to new Town residents; (2) that parks and recreation, and roads and mobility impact fee revenues will provide a direct benefit to such new Town residents reasonably related to the fees assessed; (3) that an essential nexus exists between projected new development and the need for additional parks and recreation, and roads and mobility facilities to be funded with parks and recreation, and roads and mobility impact fees and the benefits that accrue to new development paying the fees; and (4) that the amount of the fee collected is proportional to the impact; and

WHEREAS, the existing costs of real property for use in parks and recreation, and roads and mobility facilities development and the costs of various facilities and equipment have been used by the Town's consultant in developing a development impact cost per building square feet and land use type as set forth in the Study; and

WHEREAS, the action by the Town Council to amend its existing impact fee ordinance as set forth herein is reasonable and prudent to ensure sound growth management, which have been taken for the benefit of the citizens of the Town, both present and future; and

WHEREAS, the Town is projected to significantly grow in functional population and further economically develop in the future; and

WHEREAS, this Ordinance updates the existing administrative framework to ensure that the benefit of capital improvements funded by impact fees will accrue proportionately to new development paying the fees; and

WHEREAS, Section 163.3202(3), *Florida Statutes*, encourages the use of innovative land use regulations and impact fees by local governments to manage growth and to provide the necessary public facilities and for the imposition by local governments of impact fees on development to fund the capital cost of facilities necessitated by such development; and

WHEREAS, requiring future growth to contribute its fair share of the costs necessary to fund required capital improvements and additions is an integral and vital part of the regulatory plan of growth management in the Town and is a practice consistent with sound and generally accepted growth management, fiscal and public administration practices and principles; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on October 14, 2025; and

WHEREAS, at the October 14th, 2025 public hearing the LPA gave full and complete consideration of the recommendations by staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the Town Land Development Code; and

WHEREAS, at the October 14th, 2025 public hearing the LPA found that the request is consistent with the comprehensive plan and the requirements of the Fort Myers Beach Land

Development Code (“LDC”) and voted ___ to ___ to recommend approval to the Town Council; and

WHEREAS, on October 20th, 2025 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons; and

WHEREAS, the Town Council voted to have a second reading of the proposed Ordinance and a public hearing on this matter was noticed in the Fort Myers News-Press more than 10 days prior to the Town Council public hearing on the 3rd day of November 2025; and

WHEREAS, at the November 3rd, 2025 public hearing, the Town Council gave full and complete consideration to the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by and

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

WHEREAS, adoption of this Ordinance is in the best interest of the residents of the Town of Fort Myers Beach.

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

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

Section 2. Article IV entitled “Impact Fees” in Chapter 2 entitled “Administration” of the Town of Fort Myers Beach Land Development Code is hereby amended as provided in Exhibit A.

Section 3. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted LDC or Town Code provision, ordinance, or statute, the most restrictive shall apply.

Section 4. Any typographical errors that do not affect the intent of this Ordinance may be corrected with notice to and authorization of the Town Manager without further process.

Section 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 6. This Ordinance will take effect immediately upon adoption by the Town Council. On the effective date of this Ordinance, the Town will suspend collection of impact fees

for regional parks, community parks, and transportation. Any fund balance in the respective impact fee accounts will be spent as soon as possible, consistent with the previous impact fee study and the Florida Impact Fee Act.

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

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

DULY PASSED AND ADOPTED on this ____ day of _____ 2025

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Vose Law Firm, LLP, Town Attorney

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

Attachments: Exhibit A Impact Fees Ordinance LDC Text Amendment Article IV
Exhibit B Impact Fee Study

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

Yellow Sheet Number: **2025-702**

1. Request:

Meeting Date: October 14, 2025

Discuss and approve the monthly schedule for LPA meetings in 2026.

Why the action is necessary:

Assists to prepare the calendar for the upcoming months

What the action accomplishes:

An approved calendar provides prospective applicants with the ability to plan their submissions to Town Staff.

2. Agenda:

ADMINISTRATIVE AGENDA

3. Requirement/Purpose:

Other

5. Background:

LPA will establish the meeting scheduled for 2026.

Attachments:

1. Proposed LPA Schedule

Financial Impact:

None

6. Alternative Action

Select alternative dates.

7. Staff Recommendations:

8. Recommended Approval:

Georgina Cid, Community Development Manager

Date: October 02, 2025

Frankie Kropacek, Community Development Director

Date: October 02, 2025

nancy stuparich, Town Attorney

Date: October 03, 2025

Amy Baker, Town Clerk

Date: October 06, 2025



2025 PROPOSED Local Planning Agency (LPA) Meeting

Schedule

LPA Meeting Date	Complete Application Deadline*
January 14 th	December 6 th
February 11 th	January 10 th
March 11 th	February 10 th
April 8 th	March 7 th
May 13 th	April 11 th
June 10 th	May 9 th
No meeting in July	
August 12 th	July 11 th
September 9 th **	August 8 th
October 14 th	September 12 th
November 12 th	October 10 th
December 9 th	November 7 th

*Planning staff must determine the application submittal is complete and materials meet the Land Development Code regulations by this date for the item to be placed on the agenda for the corresponding meeting. Please contact the Planning and Zoning division at zoningpermits@fmbgov.com with any questions about this deadline.

** September's meeting date is tentative. Please contact Town staff in August to confirm the date.

Dates may change due to the ability to reach quorum. Please confirm meeting dates with the Town Clerk at 239-765-0202 for the latest information.