



Fort Myers Beach Local Planning Agency

Town Hall Council Chambers
6231 Estero Boulevard
Fort Myers Beach, FL 33931
Tuesday, February 10, 2026

Agenda

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 — January 13, 2026
- VI. PUBLIC COMMENT
- VII. PUBLIC HEARINGS
 - A. VAR0260002, 102 Lovers Lane
A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING / APPROVING WITH CONDITIONS/ DENYING VARIANCE 20260002, REQUESTING A VARIANCE FROM LDC SECTION 34-638(D)(2)(B), WHICH ALLOWS BALCONIES AND STOOPS TO ENCROACH INTO THE REQUIRED STREET SETBACK ON THE FIRST LIVING LEVEL OF RESIDENTIAL BUILDINGS WITHIN THE RC ZONING DISTRICT, TO ALLOW A SIMILAR BALCONY ENCROACHMENT ON THE SECOND LIVING LEVEL, FOR THE PROPERTY LOCATED AT 102 LOVERS LANE, GENERALLY REFERRED TO AS STRAP NUMBER: 30-46-24-W2-003N0.0080 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.
 - B. VAR20260001, 166/168 Coconut Drive
A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING / APPROVING WITH CONDITIONS/ DENYING VARIANCE 20260001, REQUESTING A 4-FOOT VARIANCE FROM LDC SETBACK TABLE 34-3, WHICH REQUIRES A 7.5-FOOT SIDE SETBACK FOR PROPERTIES WITH A WIDTH OF 50 FEET TO 75 FEET IN THE RS ZONING DISTRICT, TO ALLOW REPLACEMENT OF A STAIRCASE WITH

A 3.5-FOOT SIDE SETBACK, FOR THE PROPERTY LOCATED AT 166/168 COCONUT DRIVE, GENERALLY REFERRED TO AS STRAP NUMBER: 29-46-24-W2-0070A.0160 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.

VIII. ADMINISTRATIVE AGENDA

- A. Ex Parte Communication Policy
Ex Parte Communication Policy

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
6231 Estero Boulevard
Fort Myers Beach, FL 33931
Tuesday, January 13, 2026

Minutes

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

Members present: Chair Anita Cereceda, James Boan, James Dunlap, Doug Eckmann, John McLean, Jane Plummer and Don Sudduth.

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

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

The motion carried unanimously.

V. APPROVAL OF MINUTES

A. Local Planning Agency - December 16, 2026

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

The motion carried unanimously.

VI. PUBLIC COMMENT

No comments.

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. Resolution 26-015, SEZ20250271, 166/168 Coconut Drive

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20250271, A REQUEST TO INCREASE THE NUMBER OF BEDROOMS IN A TWO-

FAMILY RESIDENCE WHILE UTILIZING THE POST-DISASTER BUILDBACK CODE OF THE LDC SECTION 34-3238(2)(E)(4)(A), FOR THE PROPERTY LOCATED AT 166/168 COCONUT DRIVE, GENERALLY REFERRED TO AS STRAP NUMBER: 29-46-24-W2-0070A.0160 IN FORT MYERS BEACH; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

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

Community Development Senior Planner Jason Smalley reviewed the background of the request as stated on the yellow sheet. Staff recommended approval of the request with conditions.

Owner Mike Martell explained that the existing structure was a 5/3 and provided documentation. His family would use the third floor and the second floor would be rented out to a quiet tenant. He noted there was plenty of space to add parking.

No public comment.

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

The motion carried unanimously by roll call vote.

B. VAR20250220, 173 Gulf Island Drive

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING / APPROVING WITH CONDITIONS / DENYING VARIANCE 20250220, REQUESTING A VARIANCE FROM LDC SECTION 34-638(d)(6)b.3., TO REDUCE THE REQUIRED 20-FOOT SIDE STREET SETBACK BY 11.9 FEET TO ALLOW A 232-SQUARE-FOOT DECK FOR THE EXISTING SINGLE-FAMILY RESIDENCE IN THE SINGLE FAMILY RESIDENTIAL (RS) ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 173 GULF ISLAND DRIVE, GENERALLY REFERRED TO AS STRAP NUMBER: 29-46-24-W2-0050C.0120 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. Ex parte communications: LPA Members Dunlap and Plummer spoke to the neighbors. No disclosures from other members.

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

However, they recognized that 252 square feet was a small ask. Owner John Prinz stated that he wanted to add a deck. The home is registered as a monthly rental. LPA Member Dunlap indicated that the neighbors were concerned about weekly renters and the deck would allow more people to create outdoor noise with no buffer. LPA Member Plummer asked whether he had considered moving the deck from the front to the pool area. Mr. Prinz intended to move into the house in a couple of years and the

deck's position provides a view of the sunrise and the water. He will contact the property owner regarding the registration.

Senior Planner Smalley clarified that any reference to Bayshore Road should be Bayside Road. He noted that members could add a condition specifying that the house was registered as a monthly rental. Town Attorney Stuparich stated that whether it was registered correctly was not a criterion the LPA should consider.

Public comment:

Lisa Sumbly, resident, wanted to make sure that the property could not be turned into a duplex in the future.

Susan Crawford, resident, indicated that many people rented the house over the summer and they were noisy. She felt the larger deck would be an eyesore, stretching out nine feet from the road.

Public comment closed.

Senior Planner Smalley indicated that the property was zoned residential single-family and could not be turned into a multifamily structure.

LPA Member Eckmann moved to deny the request based on the staff's recommendation, noting there was no justification or hardship, seconded by LPA Member Sudduth.

The motion carried unanimously by roll call vote.

C. VAR20250279, 225 Egret Street

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING / APPROVING WITH CONDITIONS/ DENYING VARIANCE 20250279, REQUESTING A VARIANCE FROM LDC SECTION 26-74(3)A. TO ALLOW A 597-SQUARE-FOOT BOATHOUSE WHERE A MAXIMUM 500-SQUARE-FOOT BOATHOUSE IS PERMITTED FOR THE EXISTING SINGLE-FAMILY RESIDENCE IN THE RS ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 225 EGRET STREET, GENERALLY REFERRED TO AS STRAP NUMBER: 34-46-24-W4-00055.0010 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. Ex parte communications: LPA Member McLean noted he was very familiar with the property and LPA Member Plummer visited the property. No disclosures from other members. Senior Planner Smalley reviewed the background of the request as stated on the yellow sheet. The proposed protrusion was allowed and would be less intense than a normal boathouse. LPA Member Plummer asked whether the boathouse would impede the boater next door. Senior Planner Smalley replied that it would not interfere with the five-foot setback. He was not aware of any negative comments from the neighbors. LPA Member McLean commented that he received notification on Sunday.

Kara Stewart represented the owner and stated that she had sent the notifications to the neighbors. She commented that they would meet all the boathouse design criteria and that it was a de minimis request.

LPA Member McLean asked whether they would consider a condition that restricts the boathouse canopy as described. Ms. Stewart did not object. Ms. Stewart confirmed that the existing pilings would be used. Owner Steve Desancic indicated that the neighbor would not have any problem navigating, as they had tested it. No public comment.

LPA Member McLean moved to approve the resolution with conditions, adding a condition that the structure be the same as the proposed drawing, seconded by LPA Member Sudduth. The motion carried unanimously by roll call vote.

VIII. ADMINISTRATIVE AGENDA

No items.

IX. LPA MEMBERS ITEMS/REPORTS

LPA Member Plummer requested an absence for the March meeting. LPA Member McLean noted he will apply for the vacant town council position. Chair Cereceda asked to review the development agreement process and the development agreement ordinance in March. She felt they should review the ex parte ordinance. LPA members agreed. No items from other members.

X. LPA ATTORNEY ITEMS/REPORTS

No items.

XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS

See Item XII.

XII. ITEMS FOR NEXT MONTHS AGENDA

Senior Planner Smalley indicated that the next meeting would be dedicated to one large project and one variance. He will check with Planner Green regarding the existing projects report.

XIII. ADJOURNMENT

LPA Member Dunlap moved to adjourn, seconded by LPA Member Plummer. The motion carried unanimously. The meeting was adjourned at 10:17 a.m.

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

Yellow Sheet Number: **2026-286**

1. Request:

Meeting Date: February 10, 2026

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING / APPROVING WITH CONDITIONS/ DENYING VARIANCE 20260002, REQUESTING A VARIANCE FROM LDC SECTION 34-638(D)(2)(B), WHICH ALLOWS BALCONIES AND STOOPS TO ENCROACH INTO THE REQUIRED STREET SETBACK ON THE FIRST LIVING LEVEL OF RESIDENTIAL BUILDINGS WITHIN THE RC ZONING DISTRICT, TO ALLOW A SIMILAR BALCONY ENCROACHMENT ON THE SECOND LIVING LEVEL, FOR THE PROPERTY LOCATED AT 102 LOVERS LANE, GENERALLY REFERRED TO AS STRAP NUMBER: 30-46-24-W2-003N0.0080 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.

Why the action is necessary:

The applicant has built a balcony which extends into the front 25-foot setback.

What the action accomplishes:

It will allow for the applicant to apply for a Certificate of Occupancy (CO) to complete their house build.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution

5. Background:

During initial review for the primary structure staff missed the second living-level (third floor) balcony being proposed in the same setback as the first living-level (second floor). While second-floor porches/ stoops/ balconies may protrude an additional 10-feet into the front 25' setback, but porches/ stoops/ balconies on upper floors must meet the primary structure (25-foot) setbacks.

The inconsistency was discovered during the as-built survey review and the applicant is awaiting an outcome before they can obtain a full Certificate of Occupancy (CO), the applicant has been offered a Temporary CO to allow for them to move materials and furnishings into the home as they pursue this variance.

Attachments:

1. LPA Resolution 2026-XX, 102 Lovers Lane-1
2. Exhibit A to RES2026-XX - As-Built Survey & Elevations
3. Staff Report-1
4. Exhibit A to Staff Report - As-Built Survey & Elevations

Financial Impact:

N/A

6. Alternative Action

Approve With Conditions

7. Staff Recommendations:

N/A

8. **Recommended Approval:**

Georgina Cid, Community Development Manager

Date: February 03, 2026

Frankie Kropacek, Community Development Director

Date: February 03, 2026

nancy stuparich, Town Attorney

Date: February 03, 2026

Amy Baker, Town Clerk

Date: February 03, 2026

LPA RESOLUTION 2026-XX

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING / APPROVING WITH CONDITIONS/ DENYING VARIANCE 20260002, REQUESTING A VARIANCE FROM LDC SECTION 34-638(D)(2)(B), WHICH ALLOWS BALCONIES AND STOOPS TO ENCROACH INTO THE REQUIRED STREET SETBACK ON THE FIRST LIVING LEVEL OF RESIDENTIAL BUILDINGS WITHIN THE RC ZONING DISTRICT, TO ALLOW A SIMILAR BALCONY ENCROACHMENT ON THE SECOND LIVING LEVEL, FOR THE PROPERTY LOCATED AT 102 LOVERS LANE, GENERALLY REFERRED TO AS STRAP NUMBER: 30-46-24-W2-003N0.0080 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.

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

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

WHEREAS, Ronald Yankee, (hereinafter "Applicant"), is the owner of real property located at 102 Lovers Lane, Fort Myers Beach, Florida (hereinafter "subject property"); and

WHEREAS, the STRAP for the subject property is 30-46-24-W2-003N0.0080; and

WHEREAS, the subject property is within the Boulevard Future Land Use Map category according to the Town of Fort Myers Beach Comprehensive Plan; and

WHEREAS, the subject property is located in the Residential Conservation (RC) zoning district; and

WHEREAS, the RC zoning district requires a minimum lot width of 45 feet and a minimum lot depth of 80 feet, with a total lot area of 4,000 square feet; and

WHEREAS, the subject property is a 50-foot-wide and 100-foot-deep, conforming lot in the RC zoning district; and

WHEREAS, LDC section 34-638(d)(2)(b) permits balconies and stoops to encroach into the required street setback on the first living level only; and

WHEREAS, the Applicant is requesting a variance from LDC section 34-638(d)(2)(b), to allow a balcony on the second living level to encroach 7 feet into the required street setback; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on February 10, 2026, 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/are not** 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/are not** the result of actions of the applicant taken after the adoption of the regulation in question.

C. 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 to the property in question.

D. The granting of the variance **will/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/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 ___ to ___ by roll call vote to approve/ approve with conditions/ deny the requested variance with the following conditions:

1. Approval of this variance does not give the Applicant a vested right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
2. The variance shall only apply to the balcony on the second living level of the single-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variance null and void.
3. This variance applies to the balcony on the second living level for an existing single-family structure on the subject property only. Any additional modification of the single-

family dwelling or additional construction on the subject property must comply with all applicable regulations or seek a new variance.

4. The variance applies to the modified street setback for the balcony on the second living level as shown in "Exhibit A" only. No other portion of the single-family dwelling or accessory structure(s) may be extended into a required setback.

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. VAR20260002, with the conditions contained herein, received/ did not receive unanimous approval from eligible voting members of the LPA on February 10, 2026.
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 Resolution was adopted upon a motion by _____ and seconded by _____ and upon being put to a vote, the result was as follows:

Chair Anita Cereceda	_____
Vice-Chair Jane Plummer	_____
Member James Boan	_____
Member Douglas Eckmann	_____
Member Don Sudduth	_____
Member John McLean	_____
Member James Dunlap	_____

DULY PASSED AND ADOPTED THIS ____ day of _____, 2026.

Local Planning Agency of the Town of
Fort Myers Beach

By: _____
Anita Cereceda, LPA Chair

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:**

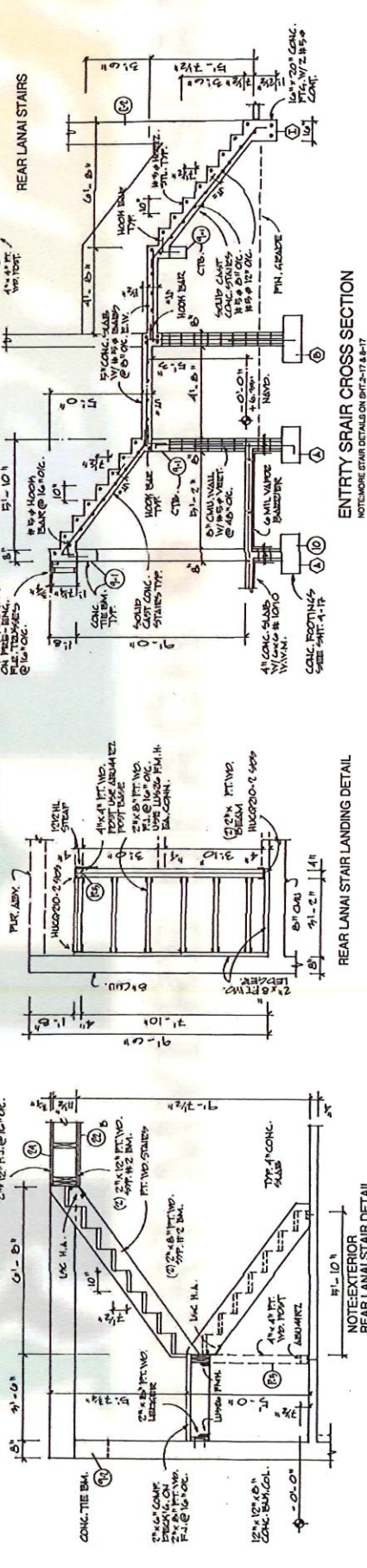
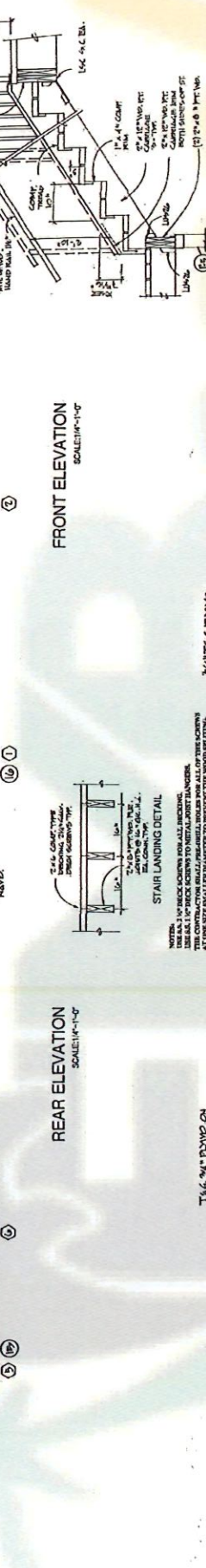
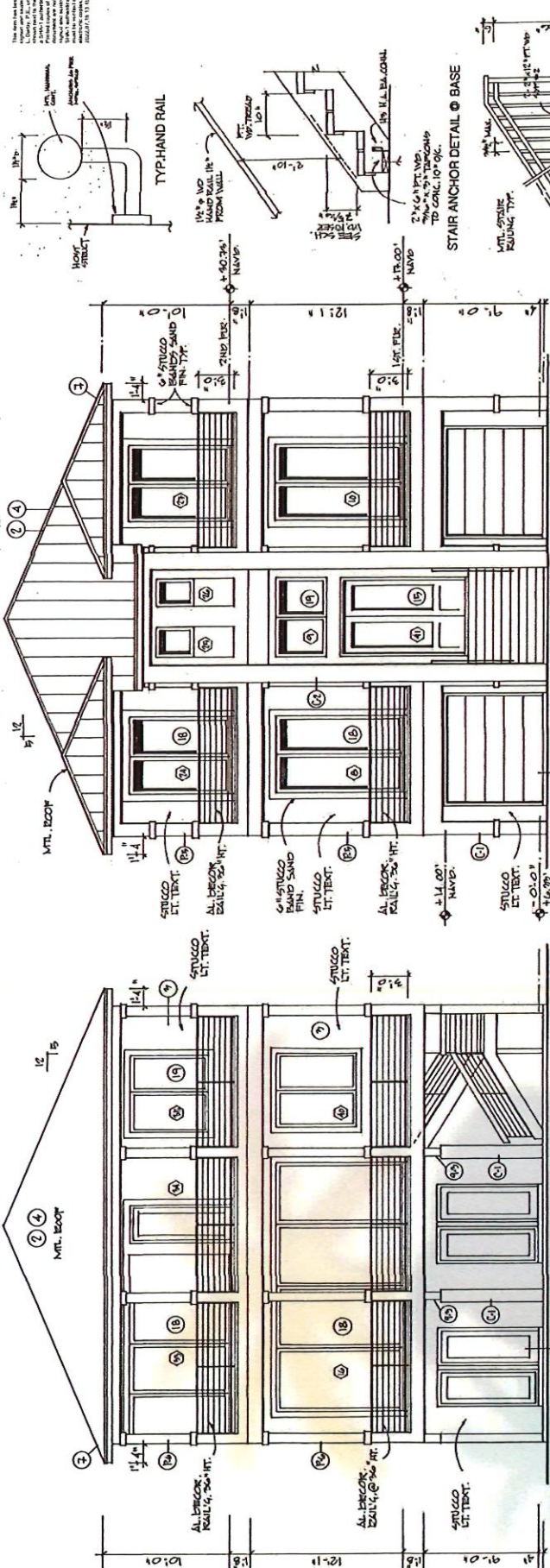
Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of _____, 2026.

EXHIBITS

Exhibit A: As-built survey and elevations

PROJECT: PROPOSED NEW RESIDENCE 100 LORAIN LN PORT WILBUR BEACH FL 32081		DATE: 1-25-22 OWNER: YANKE HOLDING LLC LAUREN & JESSIE		9-17	
REVISIONS: 01 22 22 02 22 22 03 22 22		REVISIONS: 01 22 22 02 22 22 03 22 22		DESIGNER: JAMES BY JAMES 1000 N. Pine Street, Suite 100 Fort Lauderdale, FL 33304 Phone: 754.271.4473 Email: james@jamesbyjames.com	
CONTRACTOR: JAMES BY JAMES 1000 N. Pine Street, Suite 100 Fort Lauderdale, FL 33304 Phone: 754.271.4473 Email: james@jamesbyjames.com		DESIGNER: JAMES BY JAMES 1000 N. Pine Street, Suite 100 Fort Lauderdale, FL 33304 Phone: 754.271.4473 Email: james@jamesbyjames.com		DATE: 1-25-22 OWNER: YANKE HOLDING LLC LAUREN & JESSIE	





Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20260002

CASE NAME: 102 Lovers Lane; request for a variance from LDC Section 34-638(d)(2)(b), which allows balconies and stoops to encroach into the required street setback on the first living level of residential buildings within the RC zoning district, to allow a similar balcony encroachment on the second living level.

LPA

HEARING DATE: February 10, 2026, 9:00 am

STAFF RECOMMENDATION: Approval with conditions

**PREPARED/
SUBMITTED BY:** Jason Smalley

I. APPLICATION SUMMARY

Applicant/Owner: Ronald Yankee

Request: The Applicant is requesting a variance from LDC Section 34-638(d)(2)(b), which allows balconies and stoops to encroach into the required street setback on the first living level of residential buildings within the RC zoning district, to allow a similar balcony encroachment on the second living level.

Subject property: See attached site plan

Physical Address: 102 Lovers Lane

STRAP #: 30-46-24-W2-003N0.0080

FLU: Boulevard

Zoning: Residential Conservation (RC)

Adjacent zoning and land uses:

North:	RESIDENTIAL CONSERVATION Vacant residential
South:	COMMERCIAL OFFICE Commercial
East:	SANTINI VILLAGE Gulf view colony
West:	COMMERCIAL BOULEVARD Bank

II. BACKGROUND AND ANALYSIS

Background:

Ronald Yankee, the owner of 102 Lovers Lane, is requesting a variance from LDC Section 34-638(d)(2)(b), which allows balconies and stoops to encroach into the required street setback on the first living level of residential buildings within the RC zoning district, to allow a similar balcony encroachment on the second living level.

The property is a 50-foot-wide and 100-foot-deep, conforming lot in the RC zoning district. The Applicant applied for Building Permit No. 221469 in 2022. The plans submitted with the building permit indicated a balcony and a stoop encroaching ten feet into the required street setback on the first living level and a balcony encroaching 7 feet into the required street setback on the second living level. LDC Section 34-638(d)(2)(b) allows porches, balconies, and stoops to encroach into the required street setback by up to ten feet or one half of the required street setback width, whichever is less, on the first living level of residential buildings within the RC zoning district. At the time of permit approval, the Applicant's project team and zoning staff did not identify that this allowance applies only to the first living level, and the plans were approved accordingly. The nonconforming balcony on the second living level was identified during the final zoning inspection in 2025. The Applicant is therefore requesting an after the fact variance to allow a balcony on the second living level to encroach 7 feet into the 25-foot street setback.

Analysis:

The purpose of the RC zoning district is to recognize certain older neighborhoods that had been zoned for duplex, multifamily, or mobile homes purposes prior to incorporation of the town. Some lots in this district are large enough to accommodate a second dwelling unit. A conforming lot in the RC zoning is at least 45 feet wide and 80 feet deep, or 4,000

square feet of area. The subject property is a 50-foot-wide and 100-foot-deep, conforming lot.

The Applicant applied for the single-family building permit(# 221469) in 2022. The Applicant requests an after the fact variance to allow a balcony on the second living level of a residential building within the RC zoning district to encroach 7 feet into the required 25-foot street setback. LDC Section 34-638(d)(2)(b) permits balconies and stoops to encroach into the required street setback on the first living level only. The proposed encroachment on the second living level does not comply with the applicable development standards and therefore requires a variance.

The subject property is developed with a residential structure that is consistent with the intent and development pattern of the RC zoning district. The second living level balcony encroachment is modest in scale and reflects the form and placement of the balcony permitted on the first living level. The encroachment does not reduce the functional area of the public right of way, impedes pedestrian circulation, or interfere with public infrastructure, utilities, or street visibility.

The hardship associated with the request is related to the interpretation and application of the development standards at the time of building permit approval. The balcony was constructed in reliance on an approved permit, and the nonconformity was identified during the final zoning inspection. Strict application of the code would require removal or substantial modification of an existing architectural element without a corresponding public benefit.

Staff finds that the requested variance represents the minimum relief necessary to address the specific condition and would not establish a precedent for broader deviations from street setback requirements.

Neighborhood Compatibility:

The surrounding properties along Lovers Lane are developed with single living-level residential structures that appear to comply with applicable Land Development Code standards. While the subject property includes a second living level, the requested balcony encroachment is limited in scale and does not alter the established residential character, massing, or streetscape pattern of the surrounding neighborhood. Granting a Variance to allow a balcony on the second living level in the required street setback will not adversely affect the character of the neighborhood.

Findings and Conclusions:

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

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

The subject property is a conforming lot within the RC zoning district and does not have exceptional or extraordinary physical conditions that distinguish it from other properties in the area. The Applicant applied for Building Permit No. 221469 in 2022. At the time of permit approval, the Applicant's project team and the City's zoning staff did not identify that this allowance applies only to the first living level, and the plans were approved accordingly. The nonconforming condition was identified during the final zoning inspection in 2025, after construction was completed. The Applicant is therefore requesting an after the fact de minimis variance to allow the existing second living level balcony to be maintained with a 7-foot encroachment into the required 25-foot street setback.

- b. *That the conditions justifying the variance are/are not the result of actions of the applicant taken after the adoption of the regulation in question.*

The condition necessitating the variance did not result from actions taken by the Applicant after adoption of the applicable development regulations. The second living level balcony was constructed pursuant to an approved building permit issued in 2022. The nonconforming balcony on the second living level was identified during the final zoning inspection in 2025, after construction was completed, and the variance request is therefore submitted after the fact to address the existing condition.

- c. *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 for a de minimis variance and granting this variance will allow the Applicant to maintain the already built balcony on the second living level.

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

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

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

The conditions or circumstances on this specific property for which a variance is sought are not general in nature and do not warrant a code change.

III. RECOMMENDATION

Staff has reviewed the request for a variance from LDC Section 34-638(d)(2)(b), which allows balconies and stoops to encroach into the required street setback on the first living level of residential buildings within the RC zoning district, to allow a similar balcony

encroachment on the second living level and find that the variance request **meets** the requirements set-forth in sec. 34-87.

Therefore, staff recommends **APPROVAL WITH CONDITIONS** of VAR20260002, to allow a balcony on the second living level to encroach by 7-foot into the required street setback.

IV. CONDITIONS

If approval of the request is granted, the following conditions should be considered for incorporation into the resolution of approval.

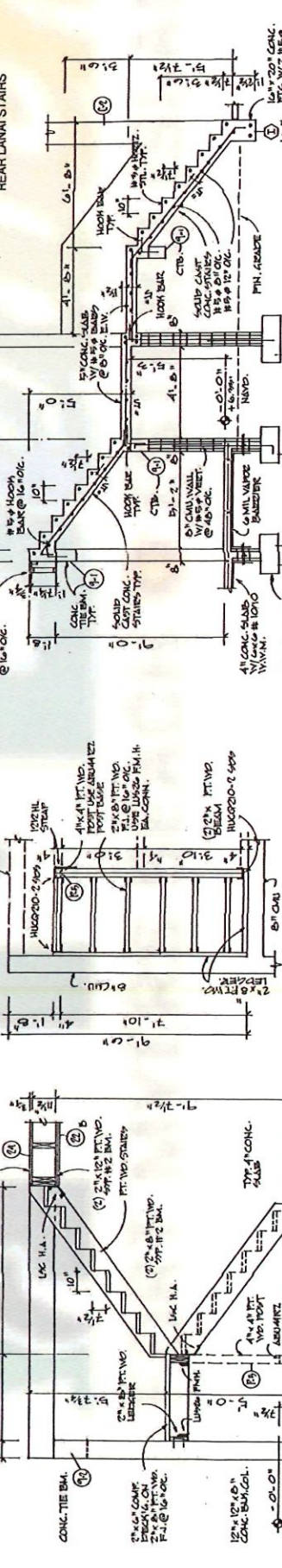
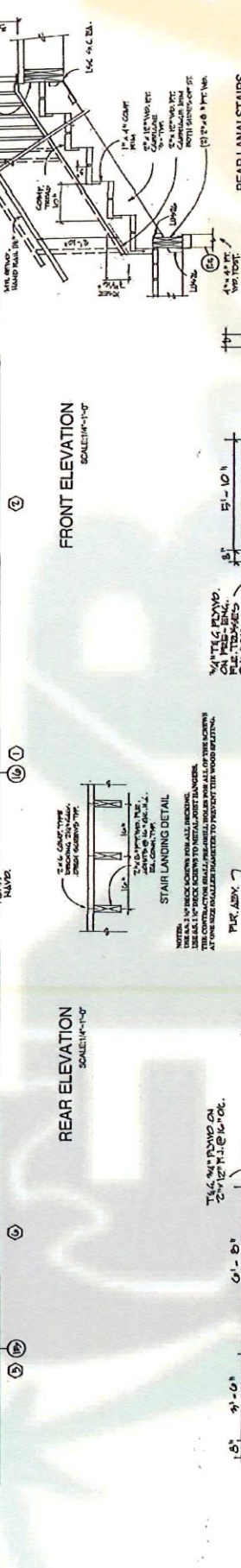
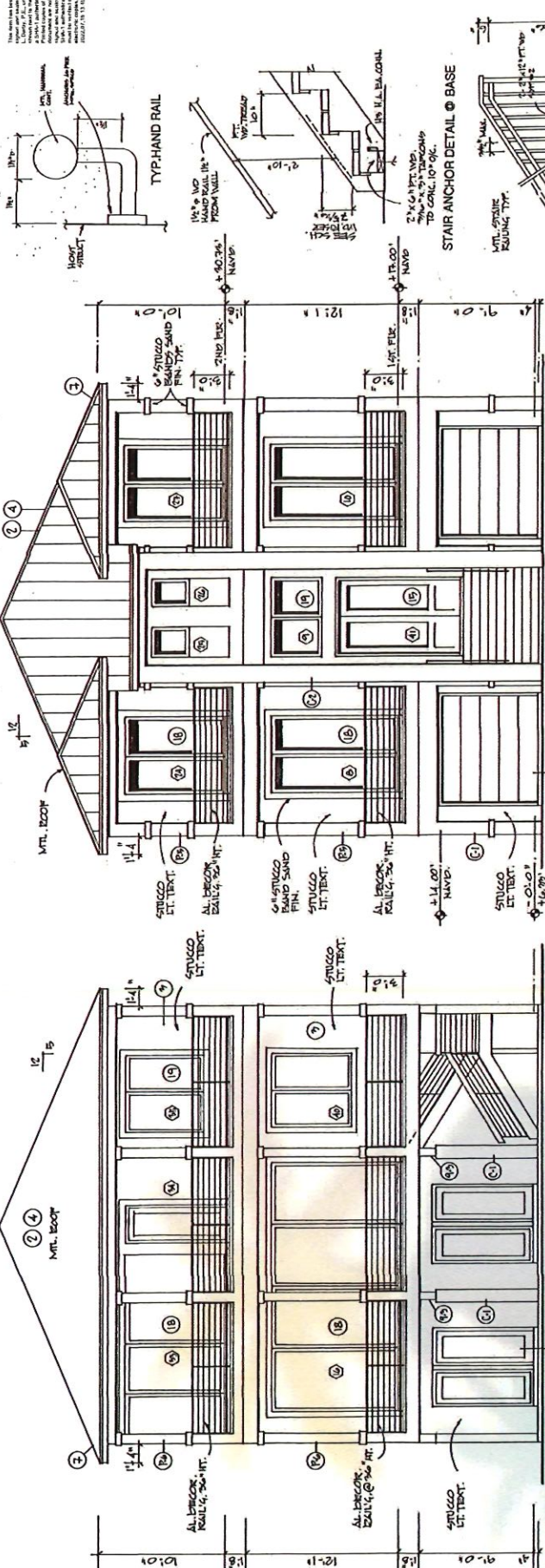
1. Approval of this variance does not give the Applicant a vested right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
2. The variance shall only apply to the balcony on the second living level of the single-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variance null and void.
3. This variance applies to the balcony on the second living level for an existing single-family structure on the subject property only. Any additional modification of the single-family dwelling or additional construction on the subject property must comply with all applicable regulations or seek a new variance.
4. The variance applies to the modified street setback for the balcony on the second living level as shown in "Exhibit A" only. No other portion of the single-family dwelling or accessory structure(s) may be extended into a required setback.

V. EXHIBITS

Exhibit A: Resolution 2026-XX, 102 Lovers Lane

Exhibit B: Application

PROJECT: PROPOSED NEW RESIDENCE OWNER: YANKE HOLDING LLC DATE: 1-25-22 SHEET: 9-17		REVISIONS: 22 1/2" W/2" CONC. ON 21 1/2" W/2" CONC. ON	
DESIGNER: DEI CONSULTING BY JAMUS 1000 S. 10th Street, Suite 100 Fort Lauderdale, FL 33315 Phone: 754.271.4273 Fax: 754.271.4273		CONTRACTOR: DEI CONSULTING BY JAMUS	
SIGNATURE-GATE: PROJECT NO. 22-0000-0000 DATE: 1/25/22		REVISIONS: 22 1/2" W/2" CONC. ON 21 1/2" W/2" CONC. ON	



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

Yellow Sheet Number: **2026-273**

1. Request:

Meeting Date: February 10, 2026

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING / APPROVING WITH CONDITIONS/ DENYING VARIANCE 20260001, REQUESTING A 4-FOOT VARIANCE FROM LDC SETBACK TABLE 34-3, WHICH REQUIRES A 7.5-FOOT SIDE SETBACK FOR PROPERTIES WITH A WIDTH OF 50 FEET TO 75 FEET IN THE RS ZONING DISTRICT, TO ALLOW REPLACEMENT OF A STAIRCASE WITH A 3.5-FOOT SIDE SETBACK, FOR THE PROPERTY LOCATED AT 166/168 COCONUT DRIVE, GENERALLY REFERRED TO AS STRAP NUMBER: 29-46-24-W2-0070A.0160 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.

Why the action is necessary:

The Local Planning Agency (LPA) may make a recommendation to the Town Council regarding the variance request or may approve the variance request by unanimous vote.

What the action accomplishes:

The Local Planning Agency's recommendation shall be forwarded to the Town Council, or, if the request is approved by unanimous vote, shall constitute final agency action.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution

5. Background:

Michael Martell, on behalf of US Bank Trust Company NA TR, the owner of 166/168 Coconut Drive, is requesting a 4-foot variance from LDC setback Table 34-3, which requires a minimum 7.5-foot side setback for properties with a width of 50 feet to 75 feet in the RS zoning district, to allow replacement of an access staircase with a side setback of 3.5 feet.

The property is a 50-foot-wide and 100-foot-deep, non-conforming parallelogram lot in the RS zoning district. Prior to Hurricane Ian, the primary structure was non-conforming due to the access staircase encroaching into the required 7.5-foot side setback along the west side of the property. The Applicant plans to replace the staircase in the same location and is therefore requesting a 4-foot variance to allow an access staircase with a side setback of 3.5 feet.

The Applicant has simultaneously applied for a Special Exception (SEZ20250271) to increase the number of bedrooms in a two-family residence while utilizing the Post-Disaster Buildback code of the LDC, Sec. 34-3238(2)(e)(4)(a). During the January 13, 2026, LPA hearing, LPA members unanimously recommended approval with conditions for the Special Exception for the Town Council's reconsideration. The Special Exception case will be heard by the Town Council during the February 17, 2026, public hearing.

Attachments:

1. LPA Resolution 2026-XX, 166-168 Coconut Drive
2. Exhibit A to Resolution/Staff Report - Site Plan
3. Staff report
4. Exhibit B to Staff report: Application

Financial Impact:

Unknown

6. Alternative Action

Deny

7. Staff Recommendations:

Staff recommends **APPROVAL WITH CONDITIONS** of VAR20260001, to allow replacement of an access staircase encroaching 4 feet into the required 7.5-foot side setback along the west property boundary.

8. Recommended Approval:

_____	Date: January 23, 2026
Georgina Cid, Community Development Manager	
_____	Date: January 28, 2026
Frankie Kropacek, Community Development Director	
_____	Date: February 03, 2026
nancy stuparich, Town Attorney	
_____	Date: February 03, 2026
Amy Baker, Town Clerk	

LPA RESOLUTION 2026-XX

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING / APPROVING WITH CONDITIONS/ DENYING VARIANCE 20260001, REQUESTING A 4-FOOT VARIANCE FROM LDC SETBACK TABLE 34-3, WHICH REQUIRES A 7.5-FOOT SIDE SETBACK FOR PROPERTIES WITH A WIDTH OF 50 FEET TO 75 FEET IN THE RS ZONING DISTRICT, TO ALLOW REPLACEMENT OF A STAIRCASE WITH A 3.5-FOOT SIDE SETBACK, FOR THE PROPERTY LOCATED AT 166/168 COCONUT DRIVE, GENERALLY REFERRED TO AS STRAP NUMBER: 29-46-24-W2-0070A.0160 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.

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

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

WHEREAS, Michael Martell, on behalf of US Bank Trust Company NA TR (hereinafter "Applicant"), is the owner of real property located at 166/168 Coconut Drive, Fort Myers Beach, Florida (hereinafter "subject property"); and

WHEREAS, the STRAP for the subject property is 29-46-24-W2-0070A.0160; and

WHEREAS, the subject property is within the Low-Density Residential Future Land Use Map category according to the Town of Fort Myers Beach Comprehensive Plan; and

WHEREAS, the subject property is located in the Residential Single-family (RS) zoning district; and

WHEREAS, the RS zoning district requires a minimum lot width of 75 feet and a minimum lot depth of 100 feet, with a total lot area of 7,500 square feet; and

WHEREAS, the subject property is a 50-foot-wide and 100-foot-deep, nonconforming parallelogram lot in the RS zoning district; and

WHEREAS, LDC setback Table 34-3 requires a minimum 7.5-foot side setback for properties with a width of 50 feet to 75 feet in the RS zoning district; and

WHEREAS, the subject property has historically supported a two-family residence and a non-conforming access staircase with a 3.5-foot side setback from the west property boundary since 1958; and

WHEREAS, the existing structure was damaged during Hurricane Ian, and the Applicant plans to replace it in the same location; and

WHEREAS, the Applicant requests a 4-foot variance from the LDC setback Table 34-3 to allow replacement of an access staircase with a side setback of 3.5 feet from the west property boundary; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on February 10, 2026, 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/are not** 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/are not** the result of actions of the applicant taken after the adoption of the regulation in question.
- C. 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 to the property in question.
- D. The granting of the variance **will/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/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 ___ to ___ by roll call vote to approve/ approve with conditions/ deny the requested variance with the following conditions:

1. Approval of this variance does not give the Applicant a vested right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.

2. The variance shall only apply to the access staircase for the two-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variance null and void.
3. This variance applies to the access staircase within the side setback for an existing two-family structure on the subject property only. Any additional modification of the two-family dwelling or additional construction on the subject property must comply with all applicable regulations or seek a new variance.
4. The variance applies to the modified side setbacks along the west property boundary as shown in "Exhibit A" only. No other portion of the two-family dwelling or accessory structure(s) may be extended into a required setback.

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. VAR20260001, with the conditions contained herein, received/ did not receive unanimous approval from eligible voting members of the LPA on February 10, 2026.
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 Resolution was adopted upon a motion by _____ and seconded by _____ and upon being put to a vote, the result was as follows:

Chair Anita Cereceda _____

Vice-Chair Jane Plummer _____
Member James Boan _____
Member Douglas Eckmann _____
Member Don Sudduth _____
Member John McLean _____
Member James Dunlap _____

DULY PASSED AND ADOPTED THIS ____ day of _____, 2026.

Local Planning Agency of the Town of
Fort Myers Beach

By: _____
Anita Cereceda, LPA Chair

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 _____, 2026.

EXHIBITS
Exhibit A: Site Plan

A CONCEPTUAL DESIGN FOR MIKE MARTELL

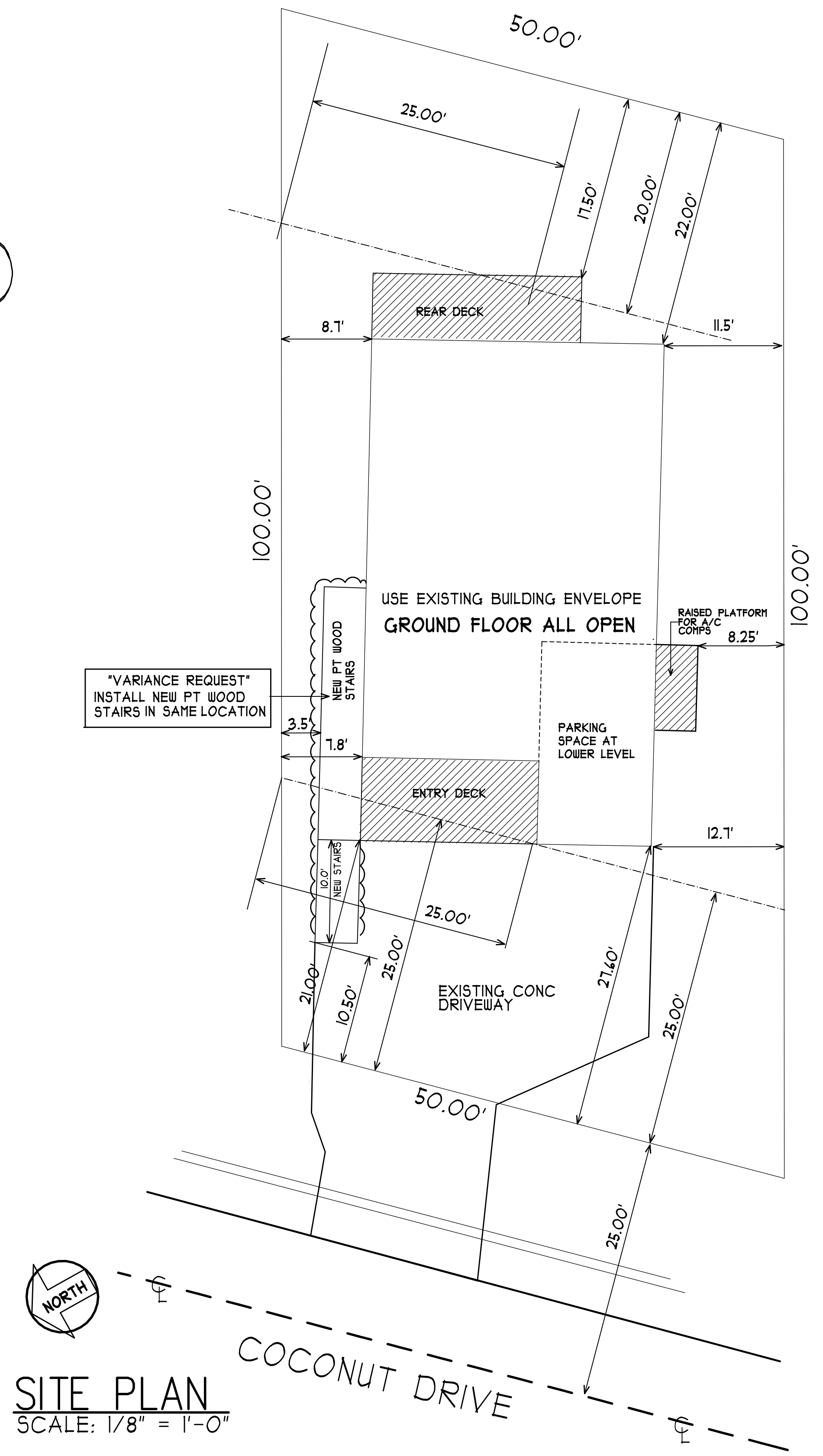
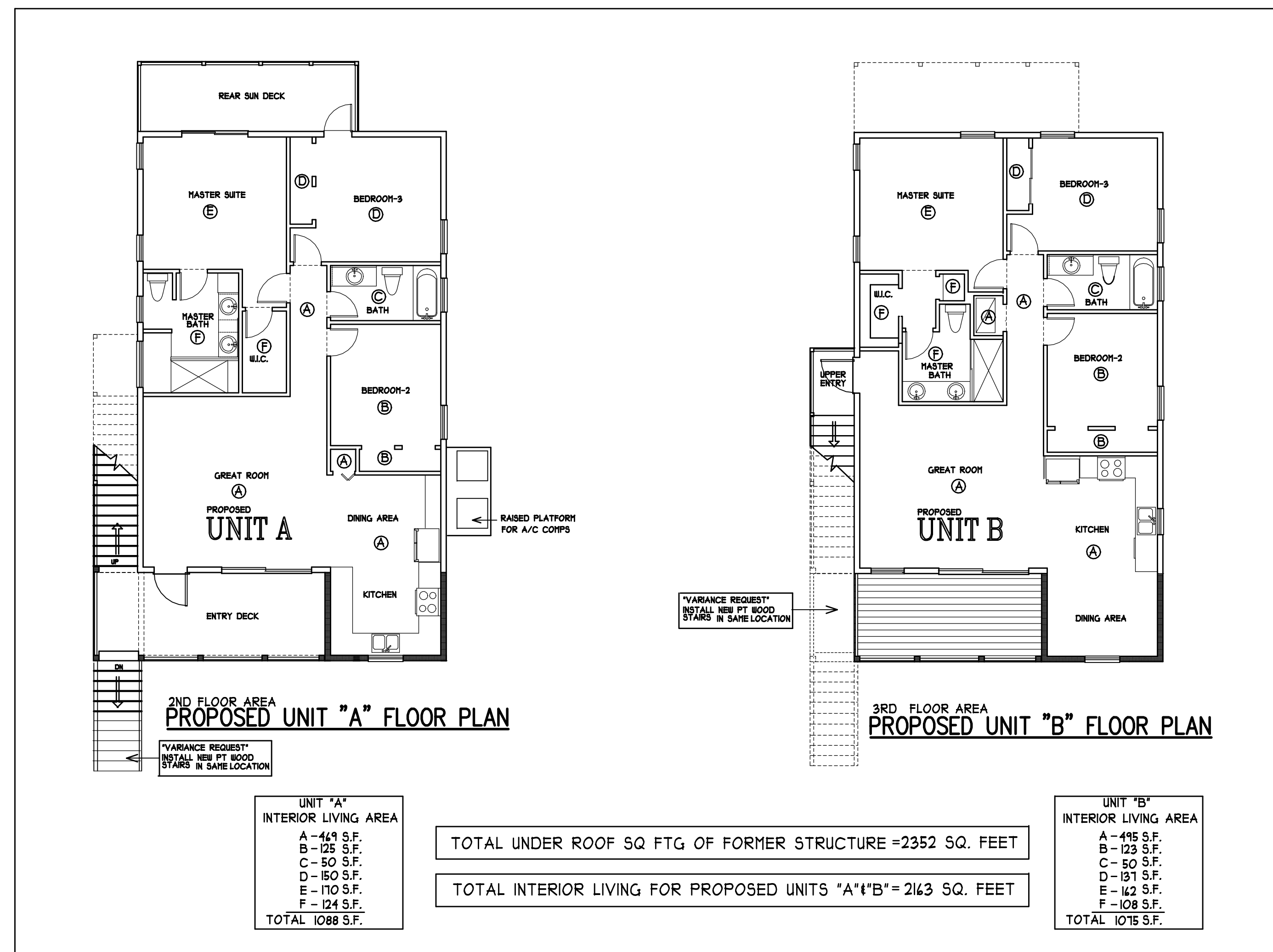
DUPLEX

AT 166/168 COCONUT DR
FORT MYERS BEACH

FLOOD ZONE AE
BASE FLOOD ELEV. 11 NAVD

TO USE EXISTING FOOTPRINT
OF THE BUILDING AS IT SITS NOW

TOP OF BOTTOM FLOOR ELEV= 4.4
TOP OF 2ND FLOOR AS IS ELEV= 13.1



GulfCoast Engineering, LLC
3002 Del Prado Blvd. Ste. B / Cape Coral, FL 33904
FLCBC059991 / www.gcefl.com
Ph: (239) 458-6633 / Fax: (239) 458-6733
Toll Free: (877) 740-3366 / FL COA #9910

ENGINEER'S SEAL

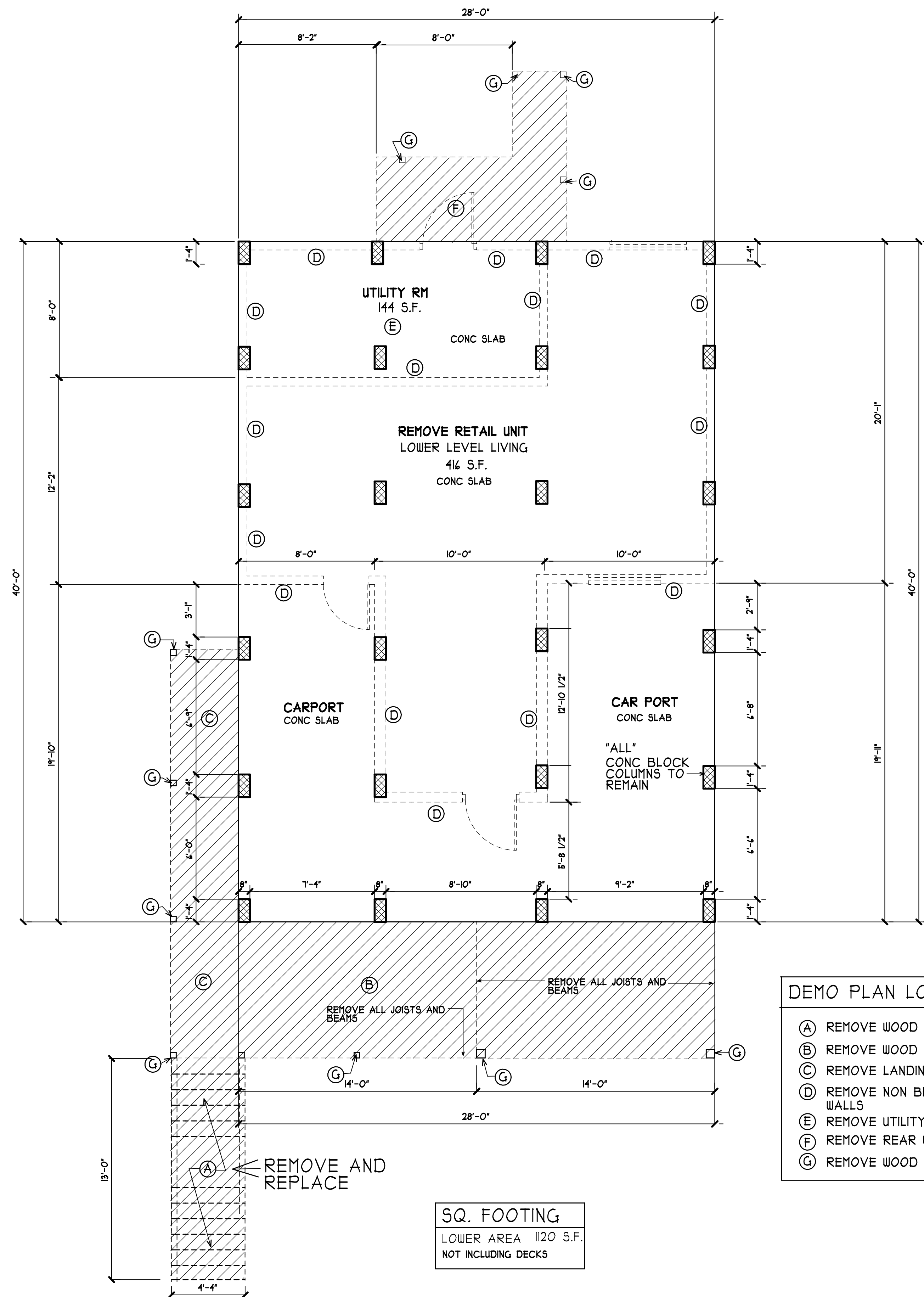
DAN ACHAVAL
DRAFTING & DESIGN
RESIDENTIAL • NEW CONSTRUCTION • REMODELS

NAME: MIKE MARTELL
UNIT / BLK: CONCEPT DUPLEX DESIGN
LOTS: 166/168 COCONUT DRIVE
ADDRESS: FORT MYERS BEACH
CITY: LEE
COUNTY: LEE
STATE / ZIP: 33913

REVISIONS:

DATE: 9-11-25
DRWN. BY: D. ACHAVAL

SHEET NO: 1 OF 4



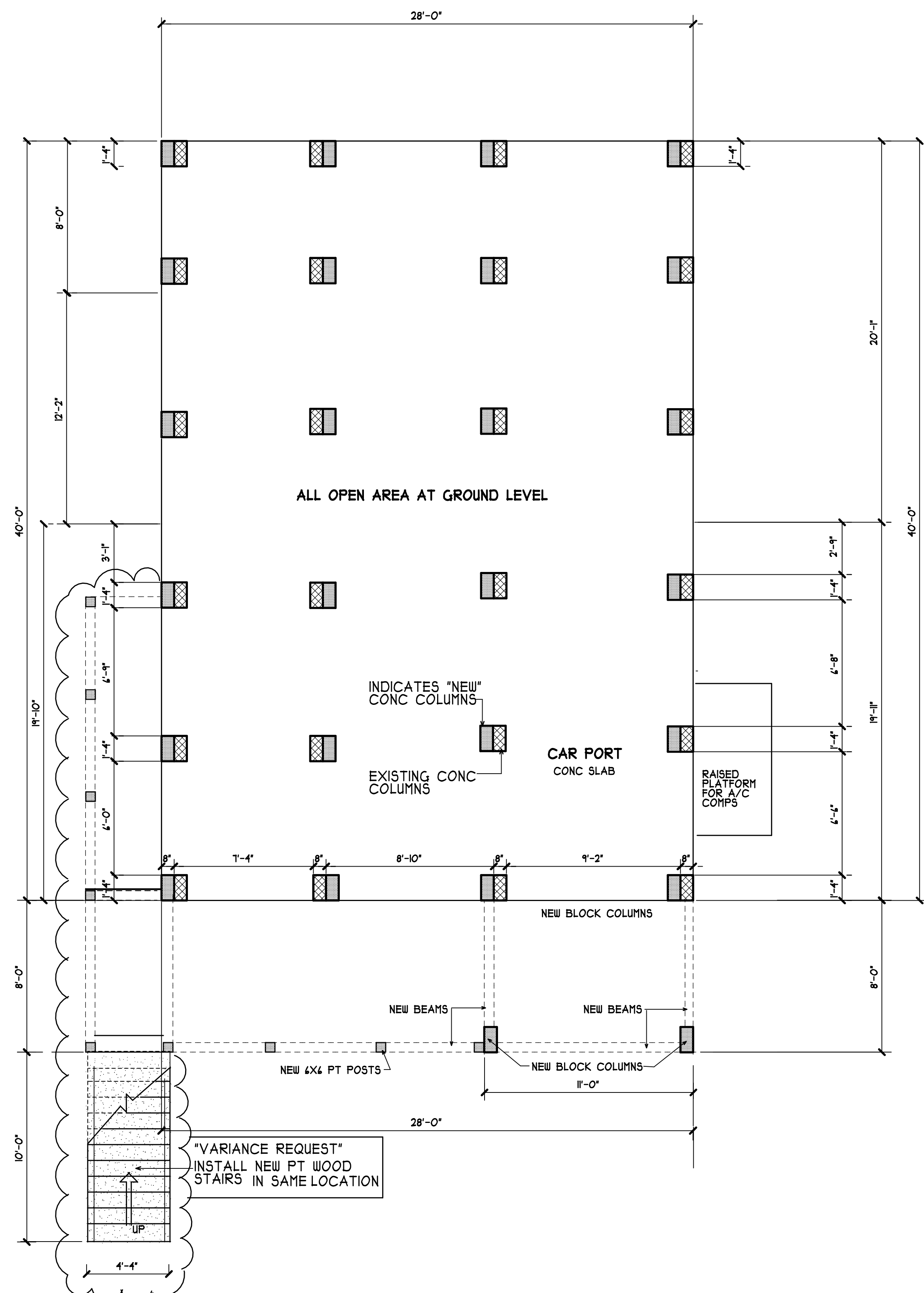
EXISTING GROUND LEVEL FLOOR PLAN

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

DEMO PLAN LOWER LEVEL

- (A) REMOVE WOOD STAIRS
- (B) REMOVE WOOD SUN DECK
- (C) REMOVE LANDING
- (D) REMOVE NON BEARING FRAME WALLS
- (E) REMOVE UTILITY ROOM
- (F) REMOVE REAR WOOD DECK
- (G) REMOVE WOOD POSTS

SQ. FOOTING
LOWER AREA 1120 S.F.
NOT INCLUDING DECKS



PROPOSED GROUND LEVEL FLOOR PLAN

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

GROUND FLR SQ FTG
LOWER AREA 1120 S.F.

ENGINEER'S SEAL



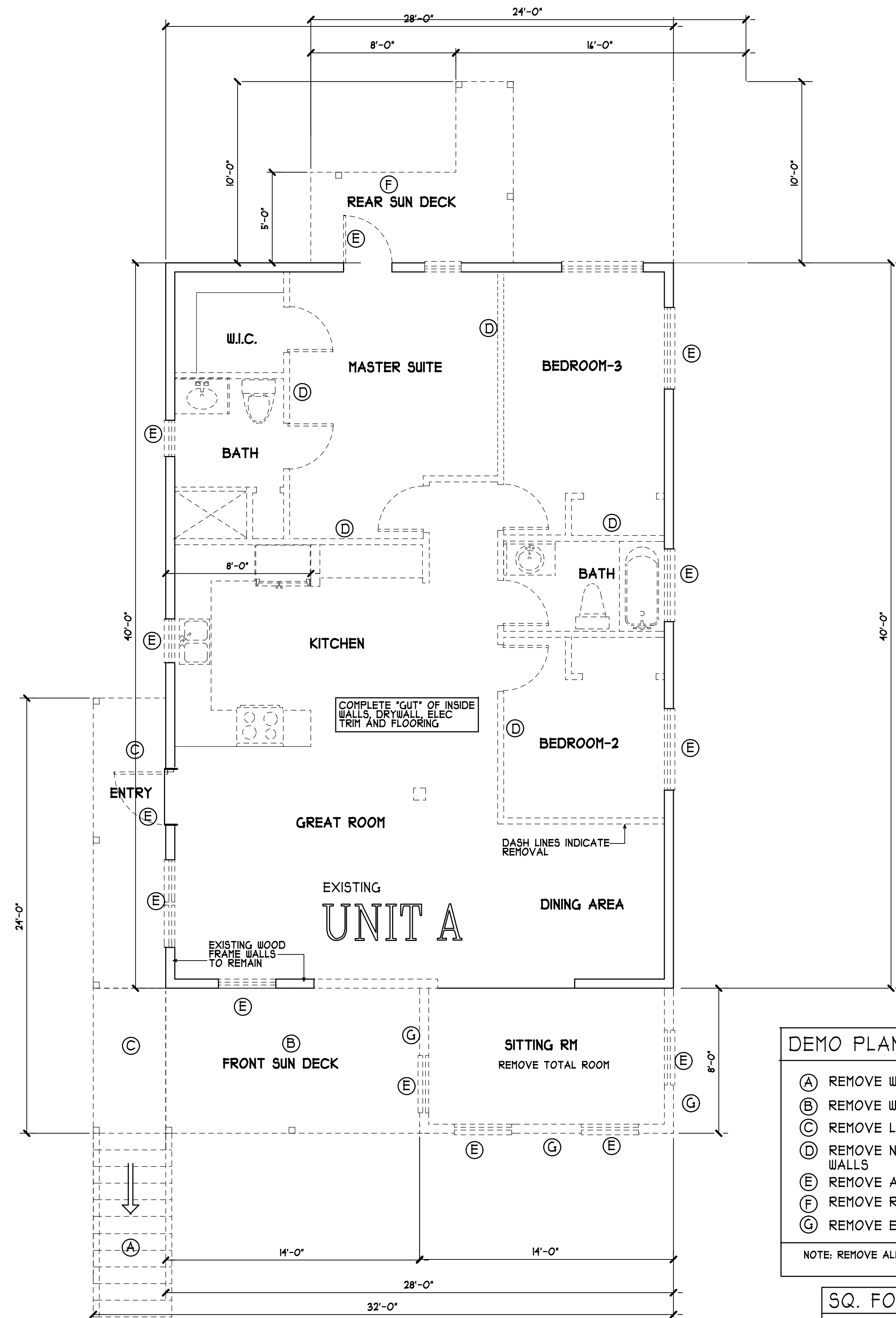
NAME: MIKE MARTELL
CONCEPT DUPLEX DESIGN

UNIT / BLK:
LOTS:
ADDRESS: 144/148 COCONUT DRIVE
CITY: FORT MYERS BEACH
COUNTY: LEE
STATE / ZIP: 33931

REVISIONS:

DATE: 8-25-25
DRWN. BY: D. ACHAVAL

SHEET NO: 2 OF 4

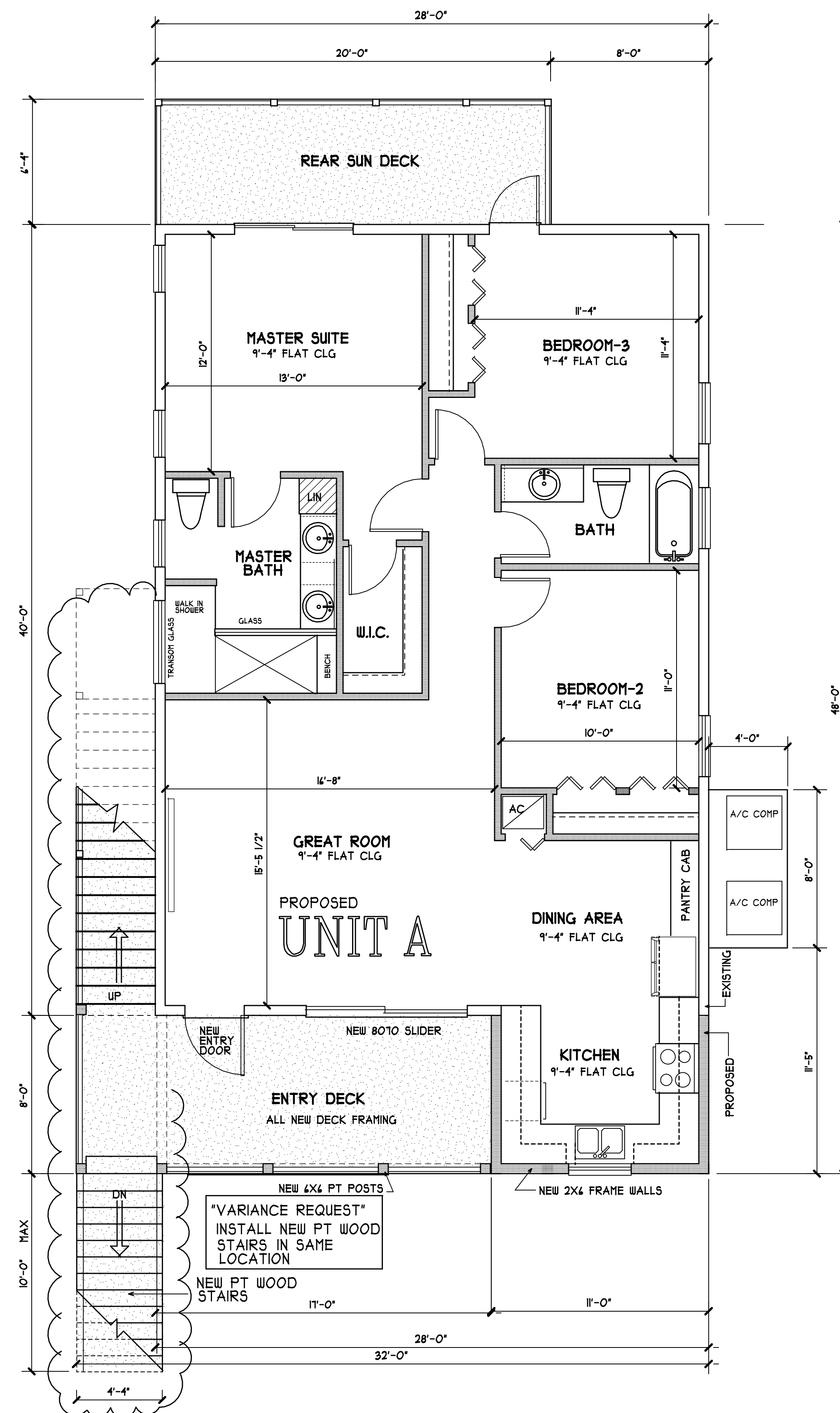


EXISTING UNIT "A" FLOOR PLAN

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

DEMO PLAN UPPER LEVEL	
(A)	REMOVE WOOD STAIRS
(B)	REMOVE WOOD SUN DECK
(C)	REMOVE LANDING
(D)	REMOVE NON BEARING FRAME WALLS
(E)	REMOVE ALL WINDOWS/DOORS
(F)	REMOVE REAR WOOD DECK
(G)	REMOVE EXTERIOR WALLS
NOTE: REMOVE ALL ROOF FRAMING	

SQ. FOOTING	
MAIN LIVING	1232 S.F.
NOT INCLUDING DECKS	



USE EXISTING BUILDING ENVELOPE
PROPOSED UNIT "A" FLOOR PLAN

2ND FLOOR AREA

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

UNIT "A" SQ. FTG.	
INTERIOR LIVING	1088 S.F.
ENTRY DECK	168 S.F.
REAR SUN DECK	126 S.F.
WOOD STAIRS	170 S.F.

ENGINEER'S SEAL

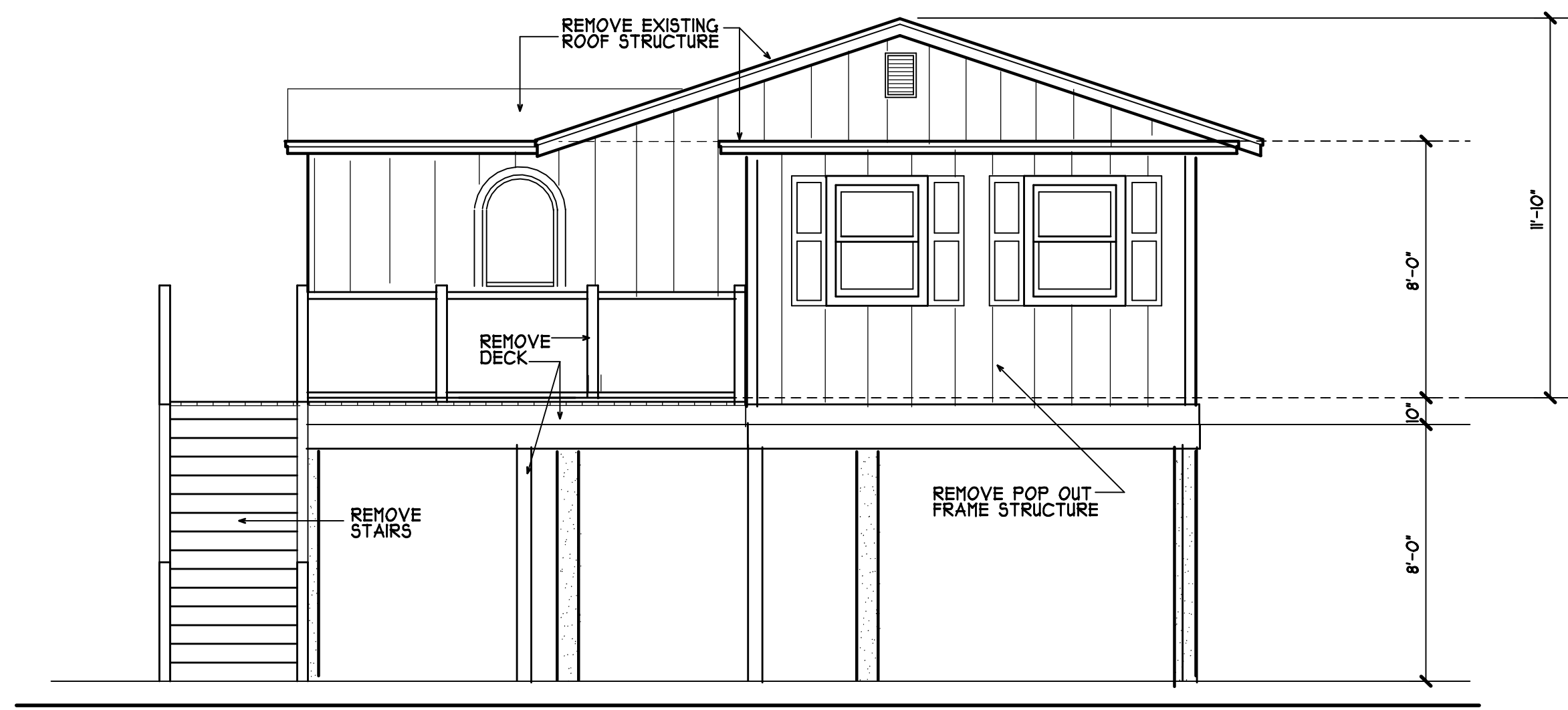


NAME: MIKE MARTELL
CONCEPT DUPLEX DESIGN

UNIT / BLK:
ADDRESS: 166768 COCONUT DRIVE
CITY: FORT MYERS BEACH
COUNTY: LEE
STATE / ZIP: 33931

REVISIONS:	
DATE:	8-25-25
DRWN. BY:	D. ACHAVAL
SHEET NO:	3 OF 4

GulfCoast Engineering, LLC
3002 Del Prado Blvd. Ste. B / Cape Coral, FL 33904
FLCBC059991 / www.gcefl.com
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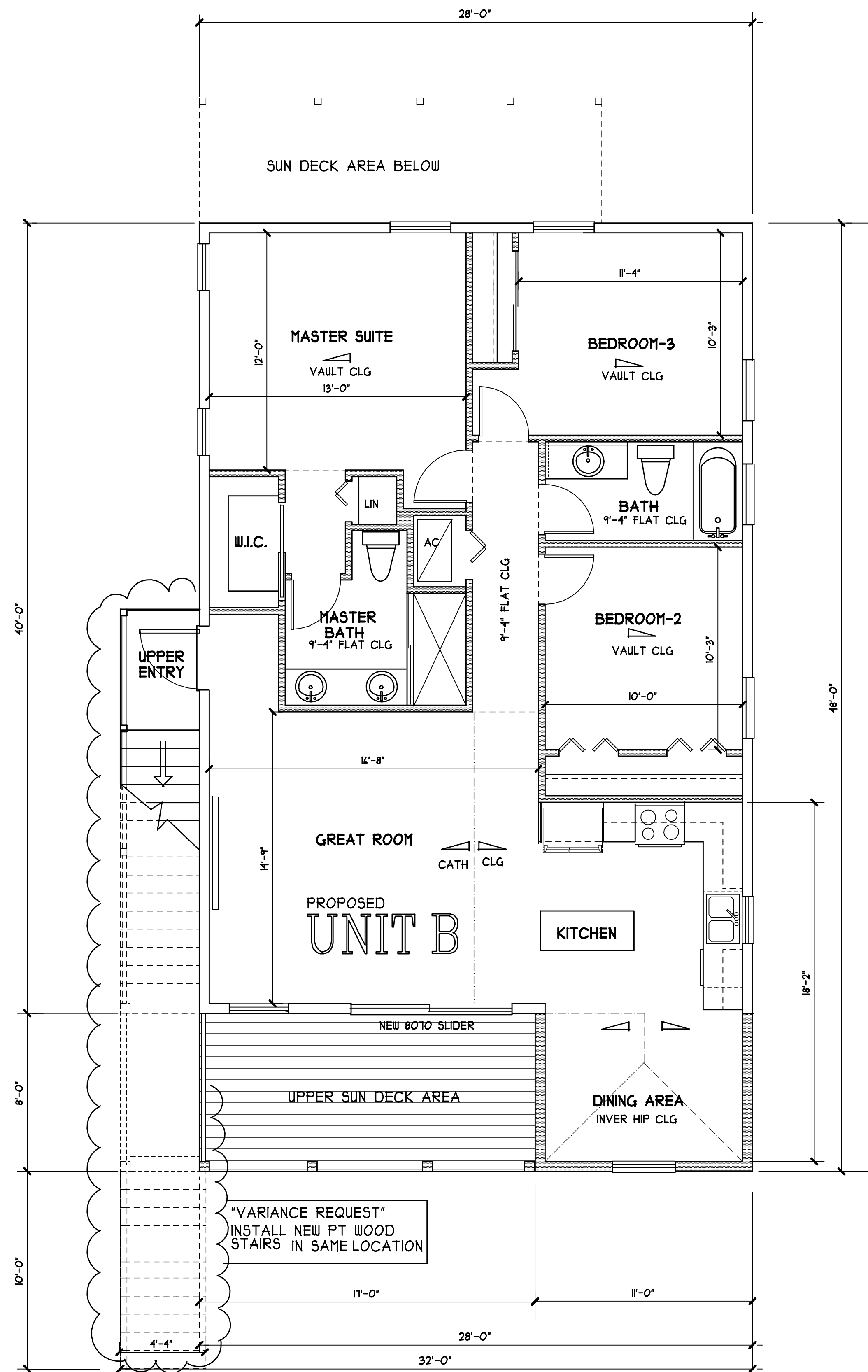
EXISTING FRONT ELEVATION

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



PROPOSED FRONT ELEVATION

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



**3rd floor
PROPOSED UNIT "B" FLOOR PLAN**

3RD FLOOR AREA

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

UNIT "B" SQ. FTG
INTERIOR LIVING 1075 S.F.
UPPER SUN DECK 136 S.F.

ENGINEER'S SEAL



NAME: MIKE MARTELL
CONCEPT DUPLEX DESIGN

UNIT / BLK:

LOTS:

ADDRESS:

CITY:

COUNTY:

STATE / ZIP:

166/168 COCONUT DRIVE

FORT MYERS BEACH

LEE

STATE / ZIP: 33931

REVISIONS:

DATE: 8-25-25
DRWN. BY: D. ACHAVAL

SHEET NO: 4 OF 4

GulfCoast Engineering, LLC

3002 Del Prado Blvd. Ste. B / Cape Coral, FL 33904

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Toll Free: (877) 740-3366 / FL COA #9910



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20260001

CASE NAME: 166/168 Coconut Drive; a 4-foot variance from LDC setback Table 34-3, which requires a 7.5-foot side setback for properties with a width of 50 feet to 75 feet in RS zoning district, to allow replacement of a staircase with a side setback of 3.5 feet.

LPA

HEARING DATE: February 10, 2026, 9:00 am

STAFF

RECOMMENDATION: Approval with conditions

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

I. APPLICATION SUMMARY

Applicant/Owner: Michael Martell, One Sunshine State, LLC/ US Bank Trust Company NA TR

Request: The Applicant is requesting a 4-foot variance from LDC setback Table 34-3, which requires 7.5-foot side setback for all properties with a width of 50 feet to 75 feet in RS zoning district to allow replacement of the existing staircase with 3.5-foot side setback.

Subject property: See attached site plan

Physical Address: 166/168 Coconut Drive

STRAP #: 29-46-24-W2-0070A.0160

FLU: Low Density Residential

Zoning: Single-Family Residential (RS)

Adjacent zoning and land uses:

North:	LOW DENSITY RESIDENTIAL Single family residential
South:	LOW DENSITY RESIDENTIAL Single family residential
East:	LOW DENSITY RESIDENTIAL Single family residential
West:	LOW DENSITY RESIDENTIAL Single family residential

II. BACKGROUND AND ANALYSIS

Background:

Michael Martell on behalf of US Bank Trust Company NA TR, the owner of 166/168 Coconut Drive, is requesting a 4-foot variance from LDC setback Table 34-3, which requires a minimum 7.5-foot side setback for properties with a width of 50 feet to 75 feet in the RS zoning district to allow replacement of an access staircase with a side setback of 3.5 feet.

The property is a 50-foot-wide and 100-foot-deep, non-conforming parallelogram lot in the RS zoning district. Prior to Hurricane Ian, the primary structure was non-conforming due to the access staircase encroaching into the required 7.5-foot side setback along the west side of the property. The Applicant plans to replace the staircase in the same location and is therefore requesting a 4 feet variance to allow an access staircase with a side setback of 3.5 feet.

The Applicant has simultaneously applied for a Special Exception (SEZ20250271) to increase the number of bedrooms in a two-family residence while utilizing the Post-Disaster Buildback code of the LDC sec. 34-3238(2)(e)(4)(a). During the January 13, 2026, LPA hearing, LPA members unanimously recommended approval with conditions for the Special Exception for the Town Council’s reconsideration. The Special Exception case will be heard by the Town Council during February 17, 2026, public hearing.

Analysis:

The purpose of the RS zoning district is to provide stable neighborhoods where single-family detached homes are the predominant land use. A conforming lot in the RS zoning is at least 75 feet wide and 100 feet deep, or 7,500 square feet of area. The subject property is a 50-foot-wide and 100-foot-deep, nonconforming parallelogram lot.

As per LDC setback table 34-3, no building or structure shall be placed closer than 7.5 feet to a side property line for lots with a width of 50 feet to 75 feet in the RS zoning district. The property has supported a duplex in this single-family neighborhood since 1958. Prior to Hurricane Ian, the primary structure was non-conforming due to the access staircase encroaching 4 feet into the required 7.5-foot side setback on the west side of the property. The access staircase encroaches 10 feet into the required street setback, which is permitted by right as per LDC section 34-638(d)(2)b. The structure and access staircase were damaged during the storm. The Applicant now plans to replace the duplex and the access staircase in the same location.

LDC Section 34-268(3) allows the director to grant an administrative setback variance from the required street, rear, side, or waterbody setbacks to allow the replacement of stairs or decking that provides access into an existing dwelling unit, provided the modified setbacks are not less than five feet. Since the requested variance is to allow an access staircase with 3.5-foot side setback from west property boundary, the Applicant needs a full variance. The Applicant is, therefore, requesting a 4-foot variance from LDC setback Table 34-3, to allow an access staircase with a side setback of 3.5 feet for the existing duplex.

Neighborhood Compatibility:

The proposed duplex with an access staircase with 3.5-foot side setback from the west property line has been at this location since 1958. The proposed replacement of the access staircase is similar to pre-Ian conditions. Granting a Variance to allow replacement of the staircase in the same location, will not adversely affect the character of the neighborhood.

Findings and Conclusions:

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

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

There are exceptional or extraordinary conditions that are inherent to the property and circumstances of this request. The subject property is a non-conforming parallelogram lot that has supported a duplex in a single-family neighborhood since 1958. The existing duplex is non-conforming due to the access staircase encroaching into the required 7.5-foot side setback. The existing staircase was damaged during Hurricane Ian. The Applicant is now requesting a 4-foot variance from LDC setback Table 34-3, to replace the access staircase and previously existing duplex in the same location.

- b. *That the conditions justifying the variance **are**/are not the result of actions of the applicant taken after the adoption of the regulation in question.*

As mentioned above, the proposed duplex with an access staircase with 3.5-foot side setback from west property line has been at this location since 1958. The structure was destroyed during Hurricane Ian and the Applicant wants to replace the structure and staircase in the same location.

- c. *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 for a de minimis variance and granting this variance will allow the Applicant to replace the access staircase and duplex in the same location.

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

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

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

The conditions or circumstances on this specific property for which a variance is sought are not general in nature and do not warrant a code change.

III. RECOMMENDATION

Staff has reviewed the request for a 4-foot variance from LDC setback Table 34-3, which requires a minimum 7.5-foot side setback for properties with a width of 50 feet to 75 feet in RS zoning district and find that the variance request **meets** the requirements set-forth in sec. 34-87.

Therefore, staff recommends **APPROVAL WITH CONDITIONS** of VAR20260001, to allow replacement of an access staircase encroaching 4 feet into the required 7.5-foot side setback for a 50 foot wide lot.

IV. CONDITIONS

If approval of the request is granted, the following conditions should be considered for incorporation into the resolution of approval.

1. Approval of this variance does not give the Applicant a vested right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.

2. The variance shall only apply to the access staircase for the two-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variance null and void.
3. This variance applies to the access staircase within the side setback for an existing two-family structure on the subject property only. Any additional modification of the two-family dwelling or additional construction on the subject property must comply with all applicable regulations or seek a new variance.
4. The variance applies to the modified side setbacks along the west property boundary as shown in "Exhibit A" only. No other portion of the two-family dwelling or accessory structure(s) may be extended into a required setback.

V. EXHIBITS

Exhibit A: Resolution 2026-XX, 166/168 Coconut Drive

Exhibit B: Application



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: 166-168 Coconut Drive Fort Myers Beach FL 33931

STRAP Number: 29-46-24-W2-0070.A0160

Applicant: One Sunshine State LLC Phone: 954-449-3535

Contact Name: Mike Martell Phone: 954-449-3535

Email: mike@martellconstruction.co Fax: _____

Current Zoning District: Duplex

Future Land Use Map (FLUM) Category: Duplex/ Single Family Residential

FLUM Density Range: Duplex Platted Overlay: YES NO

ACTION REQUESTED

SUPPLEMENTAL FORM REQUIRED

- | | |
|---|--------------------------|
| <input type="checkbox"/> Special Exception | PH-A |
| <input checked="" type="checkbox"/> Variance | PH-B |
| <input type="checkbox"/> Conventional Rezoning | PH-C |
| <input type="checkbox"/> Planned Development <input type="checkbox"/> Commercial <input type="checkbox"/> Residential | PH-D |
| <input type="checkbox"/> Master Concept Plan Extension | PH-E |
| <input type="checkbox"/> Appeal of Administrative Action | PH-F |
| <input type="checkbox"/> Vacation of Platted Right-of-way and Easement | PH-G |
| <input type="checkbox"/> Other - cite LDC Section: _____ | attach on separate sheet |

PART I - General Information

A. Applicant*: One Sunshine State LLC Phone: 954-449-3535

**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: 122 NE 20th Court Cape Coral FL 33909

Email: mike@martellconstruction.co Fax: _____

Contact Name: Mike Martell Phone: 954-449-3535



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Owner* | <input type="checkbox"/> Land Trust* | <input type="checkbox"/> Partnership* |
| <input type="checkbox"/> Corporation* | <input type="checkbox"/> Association* | <input type="checkbox"/> Condominium* |
| <input type="checkbox"/> Subdivision* | <input type="checkbox"/> Timeshare Condo* | <input type="checkbox"/> Contract Purchaser* |
| <input type="checkbox"/> Authorized Representative* | <input type="checkbox"/> 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: Mike Martell Phone: 954-449-3535
 Address: 122 NE 20th Court Cape Coral FL 33909
 Email: mike@martellconstruction.co 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 34 - 638(d)(2)b
- Conventional Rezoning from _____ to _____
- Planned Development
- Rezoning from _____ to Commercial PD Residential PD
- Amendment. List the project number: _____
- Extension/reinstatement of Master Concept Plan. List project number: _____



**COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING**

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

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, Mike Martell 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]
Signature

Mike M. Chace Mackell
Printed Name

STATE OF Florida COUNTY OF Lee

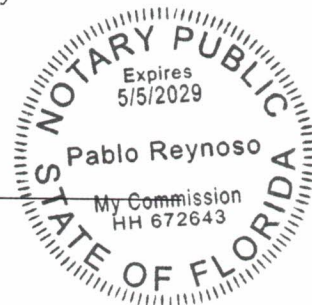
The foregoing instrument was certified and subscribed before me by means of physical presence OR online notarization, this 14th day of January, 2026, by

Michael R. Martel who is personally known to me OR who has produced

Drivers License as identification.

(SEAL)

[Signature]
Notary Public Signature



PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address	Percentage Ownership
_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office	Percentage of Stock
_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address	Percentage of Interest
_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address	Percentage of Ownership
Mike Martell	100
122 NE 20th Court	_____
Cape Coral FL 33909	_____
_____	_____

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, Mike Martell (name), as Member (title) of One Sunshine State 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

One Sunshine State LLC

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

[Handwritten signature]

Signature

Mike Martell

Typed or Printed Name

Member

Title

01-14-26

Date

STATE OF Florida COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of [X] physical presence OR [] online notarization, this 14th day of January, 2026, by Michael R. Martell [] who is personally known to me OR [X] who has produced Drivers License as identification.

Seal

[Handwritten signature of Pablo Reynoso]
Notary Public Signature



PART VI- Property Information

A. Legal Description:

STRAP: 29-46-24-W2-0070A.0160

Property Address: 166-168 Coconut Drive 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.

[X] Yes. Property identified in subdivision: Gulfview Plaza Block A

Book: 6 Page: 64 Unit: Block: A Lot(s): 16

B. Boundary Survey:

[X] 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) 50 feet
Depth (please provide an average width if irregular in shape) 100 feet
Frontage on street: 50 feet. Frontage on waterbody: 0 feet
Total land area: 5000 acres square feet

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

166-168 Coconut Drive make a left off of Estero Blvd. onto Coconut Drive,
Property is on the right hand side.

Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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



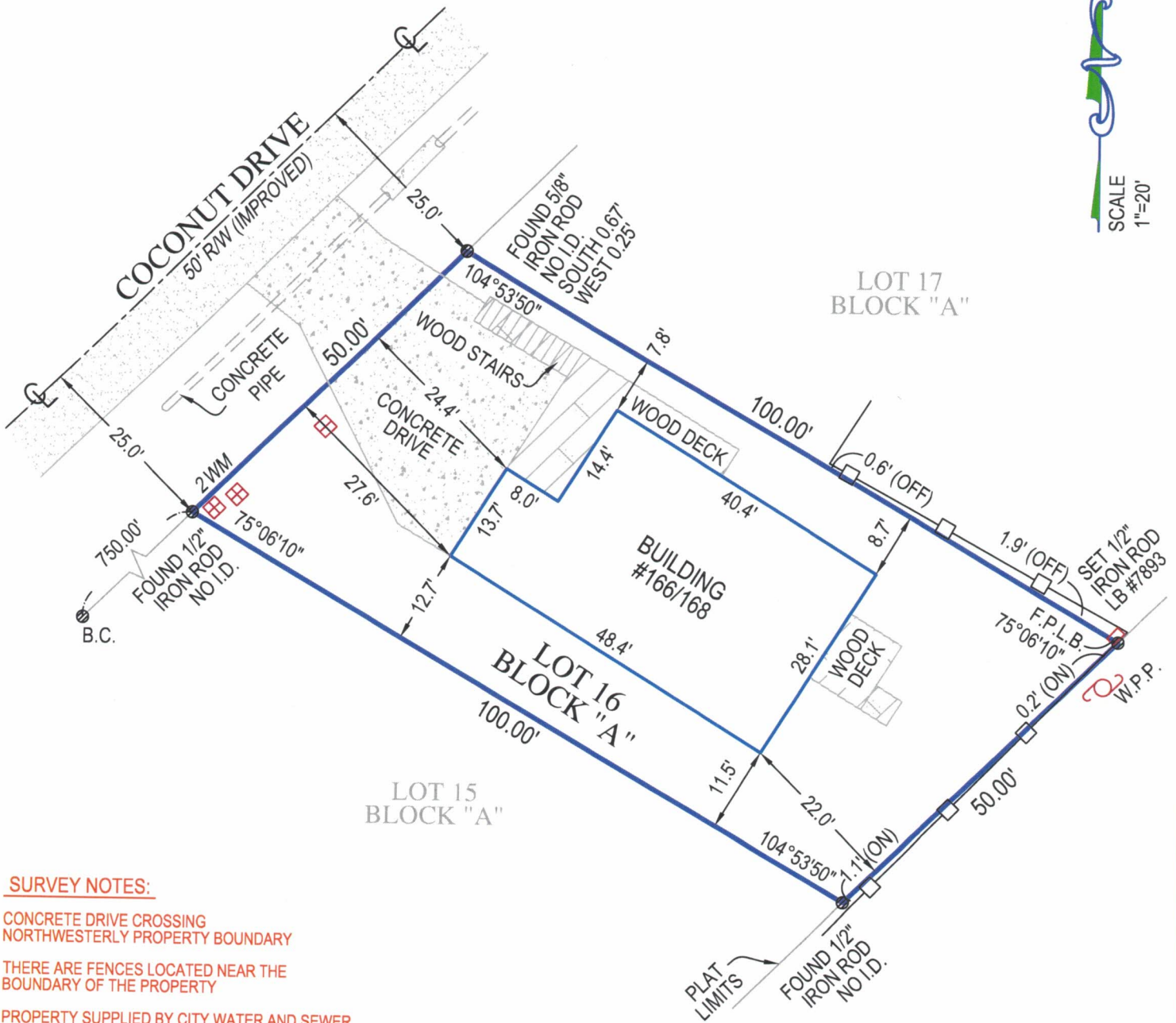
COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

- line. Exhibit 6-2
- C. Provide the property dimensions or the approximate dimensions if the property is not a regular quadrilateral.
 - D. Describe how to get to the property starting from either the Sky Bridge or the Big Carlos Pass Bridge (specify which). Exhibit 6-3
 - E. If there are any deed restrictions or covenants that might affect the requested action, provide the information. Exhibit 6-4
 - F. A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5
 - G. Attach a list of the surrounding property owners within 500 feet of the perimeter of the area of the request. Also include two sets of mailing labels providing the names and addresses of the owners on this list, and a map showing the parcel boundaries within the 500-foot radius Exhibit 6-6. This information can be acquired for a small fee by requesting a "variance report" from the Map Sales Office at the Lee County Property Appraiser's Office. Contact information for the Property Appraiser can be found at <http://www.leepa.org>.
 - H. Indicate the Future Land Use Map category or categories of the property as shown on the Fort Myers Beach Comprehensive Plan's Future Land Use Map, and whether the property is located in the "platted overlay" on the map.
 - I. Indicate the current zoning of the property. In most cases the current zoning is shown on the official zoning map of the Town of Fort Myers Beach, as adopted by ordinance. If zoning actions affecting the subject property have been taken since March 2004, call Town Hall to verify the current zoning.

Explanatory Notes – Part IV & V

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

BOUNDARY SURVEY



SURVEY NOTES:

CONCRETE DRIVE CROSSING
NORTHWESTERLY PROPERTY BOUNDARY

THERE ARE FENCES LOCATED NEAR THE
BOUNDARY OF THE PROPERTY

PROPERTY SUPPLIED BY CITY WATER AND SEWER

F.P.L.B. = FLORIDA POWER & LIGHT POLE BOX

W.P.P. = WOOD POWER POLE

GENERAL NOTES:

- 1) LEGAL DESCRIPTION PROVIDED BY OTHERS
- 2) THE LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR EASEMENTS OR OTHER RECORDED ENCUMBRANCES NOT SHOWN ON THE PLAT.
- 3) UNDERGROUND PORTIONS OF FOOTINGS, FOUNDATIONS OR OTHER IMPROVEMENTS WERE NOT LOCATED.
- 4) WALL TIES ARE TO THE FACE OF THE WALL AND ARE NOT TO BE USED TO RECONSTRUCT BOUNDARY LINES.
- 5) ONLY VISIBLE ENCROACHMENTS LOCATED.
- 6) DIMENSIONS SHOWN ARE PLAT AND MEASURED UNLESS OTHERWISE SHOWN.
- 7) FENCE OWNERSHIP NOT DETERMINED.
- 8) ELEVATIONS INDICATED HEREON ARE IN FEET AND DECIMALS REFERENCED TO N.A.V.D. 1988
- 9) THIS SURVEY HAS BEEN COMPLETED FOR A MORTGAGE TRANSACTION. ITS SCOPE IS LIMITED TO THE DETERMINATION OF TITLE DEFICIENCIES. NO DESIGN OR CONSTRUCTION SHALL BE BASED UPON THIS SURVEY WITHOUT APPROVAL FROM TARGET SURVEYING PRIOR TO SUCH USE. TARGET SURVEYING ASSUMES NO RESPONSIBILITIES FOR ERRORS RESULTING FROM FAILURE TO ADHERE TO THIS CLAUSE.
- 10) IN SOME INSTANCES, GRAPHIC REPRESENTATIONS HAVE BEEN EXAGGERATED TO MORE CLEARLY ILLUSTRATE RELATIONSHIPS BETWEEN PHYSICAL IMPROVEMENTS AND/OR LOT LINES. IN ALL CASES, DIMENSIONS SHALL CONTROL THE LOCATION OF THE IMPROVEMENTS OVER SCALED POSITIONS.

PAGE 2 OF 2 PAGES
(NOT COMPLETE WITHOUT PAGE 1)

SURVEY NUMBER:
710127



TARGET SURVEYING, LLC

LB #7893

SERVING FLORIDA

6250 N. MILITARY TRAIL, SUITE 102
WEST PALM BEACH, FL 33407
PHONE (561) 640-4800
STATEWIDE PHONE (800) 226-4807
STATEWIDE FACSIMILE (800) 741-0576
WEBSITE: <http://targetsurveying.net>

LEGAL DESCRIPTION AND CERTIFICATION

LOT 16, BLOCK A, OF THE CERTAIN SUBDIVISION KNOWN AS GULF VIEW PLAZA, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 6, PAGE 64, IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

Community Number: 125124 Panel: 0552 Suffix: G F.I.R.M. Date: Flood Zone: X Field Work: 9/9/2025

Certified To:
MIKE MARTELL; NONE; ;

Property Address:
166/168 COCONUT DRIVE
FORT MYERS BEACH, FL 33931

Survey Number: 710127

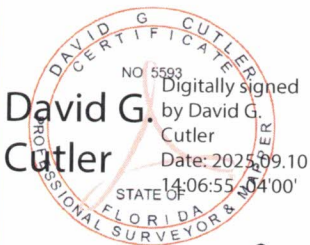
Client File Number:

ABBREVIATION DESCRIPTION:

A.E.	ANCHOR EASEMENT	F.F. EL.	FINISH FLOOR ELEVATION	O.R.B.	OFFICIAL RECORDS BOOK
A/C	AIR CONDITIONER	F.I.P.	FOUND IRON PIPE	(P)	PLAT
B.M.	BENCH MARK	F.I.R.	FOUND IRON ROD	P.B.	PLAT BOOK
B.R.	BEARING REFERENCE	F.P.K.	FOUND PARKER-KALON NAIL	P.C.	POINT OF CURVATURE
(C)	CALCULATED	(L)	LENGTH	P.C.C.	POINT OF COMPOUND CURVE
?	CENTRAL / DELTA ANGLE	L.A.E.	LIMITED ACCESS EASEMENT	P.O.B.	POINT OF BEGINNING
CH	CHORD	L.M.E.	LAKE MAINTENANCE EASEMENT	P.O.C.	POINT OF COMMENCEMENT
(D)	DEED / DESCRIPTION	(M)	MEASURED / FIELD VERIFIED	P.R.C.	POINT OF REVERSE CURVE
D.E.	DRAINAGE EASEMENT	M.H.	MANHOLE	P.T.	POINT OF TANGENCY
D.H.	DRILL HOLE	N&D	NAIL & DISK	R.W.	RIGHT-OF-WAY
D/W	DRIVEWAY	N.R.	NOT RADIAL	(R)	RADIAL / RADIUS
E.O.W.	EDGE OF WATER	N.T.S.	NOT TO SCALE	S.I.R.	SET IRON ROD
F.C.M.	FOUND CONCRETE MONUMENT	O.H.L.	OVERHEAD UTILITY LINES	T.O.B.	TOP OF BANK
				U.E.	UTILITY EASEMENT

SYMBOL DESCRIPTIONS:

	= CATCH BASIN		= MISC. FENCE
	= CENTERLINE ROAD		= PROPERTY CORNER
	= COVERED AREA		= UTILITY BOX
	= EXISTING ELEVATION		= UTILITY POLE
	= HYDRANT		= WATER METER
	= MANHOLE		= WELL
	= METAL FENCE		= WOOD FENCE



David G. Cutler
Digitally signed by David G. Cutler
Date: 2025.09.10 14:06:55 -04'00'

David G. Cutler
(SIGNED)

DAVID G CUTLER
PROFESSIONAL SURVEYOR AND MAPPER #5593

SURVEYORS CERTIFICATE

I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY PREPARED UNDER MY DIRECTION. NOT VALID WITHOUT AN AUTHENTICATED ELECTRONIC SIGNATURE AND AUTHENTICATED ELECTRONIC SEAL, OR A RAISED EMBOSSED SEAL AND SIGNATURE.

PRINTING INSTRUCTIONS:

WHEN PRINTING BE SURE TO SELECT "ACTUAL SIZE" TO ENSURE PROPER SCALING. DO NOT USE "FIT"

PAGE 1 OF 2 PAGES
(NOT COMPLETE WITHOUT PAGE 2)



SERVING FLORIDA
6250 N. MILITARY TRAIL, SUITE 102
WEST PALM BEACH, FL 33407
PHONE (561) 640-4800
STATEWIDE PHONE (800) 226-4807
STATEWIDE FACSIMILE (800) 741-0576
WEBSITE: <http://targetsurveying.net>

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

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

Case Number: VAR20260001
Project Name: 166-168 Coconut Drive Fort Myers Beach FL 33931
Authorized Applicant: One Sunshine State LLC
LeePA STRAP Number: 29-46-24-W2-0070.A.0160

Current Property Status: Duplex
Current Zoning: Duplex / Single Family Residential
Future Land Use Map (FLUM) Category: Duplex/ Single Family Residential
Comp Plan Density: Platted Overlay? Yes No

Variance is requested from:

LDC Section Number Title of Section or Subsection

LDC Section 34- 638(d)(2)b

Complete the narrative statements below for EACH variance requested

Town of Fort Myers Beach 2525 Estero Blvd. Fort Myers Beach, FL 33931 Page 1 of 6

PART I

Narrative Statements

Request for variance from (LDC Section number)

Explain the specific regulation contained in this section from which relief is sought:
We request a setback variance to remove and replace the existing stairs
In the same location as presently located. The side staircase encroaches
Into the required 7.5 setback. The existing front staircase encroaches into the
street setback. We hereby request to remove and replace the existing staircases
And request a setback variance.

Reasons for request

Explain why the variance is needed:
The Variance is requested for egress and ingress into the existing dwelling.
The existing footprint of the staircase will be used. The stairs are existing.



PART 2 Submittal Requirements

All applications for a variance must be submitted electronically through our Iworq portal - [iworq \(talktomycity.com\)](http://iworq.talktomycity.com)

Required Items

- Public Hearing Request Form
- Supplemental form PH-B
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; and a clear illustration of the proposed variance
- Fee in the amount of \$1800.00 (residential)/Additional Variance \$500.00
- Variance (non-residential) \$2800.00/ Additional Variance \$700.00

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

Case Number will be inserted by Community Development staff. **Project Name** must be the same as the name used on the Request for Public Hearing form.

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

“Variance is requested from...” Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

If the application is for multiple variances, complete all of the narrative statements for each variance that is requested.



Site plan

The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

LDC Section 34-87

The guidelines for decision-making regarding a request for a variance are as follows:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;
2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;
3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;
4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;
5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

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

Yellow Sheet Number: **2026-260**

1. Request:

Ex Parte Communication Policy

Meeting Date: February 10, 2026

Why the action is necessary:

What the action accomplishes:

2. Agenda:

ADMINISTRATIVE AGENDA

3. Requirement/Purpose:

5. Background:

Town Council requested the addition of a discussion of the current ex parte communication policy in effect regarding quasi-judicial hearings.

Attachments:

1. Sec. 34_52. Communications with public officials.
2. LPA Policies and Procedures Manual - As updated on December 10 2024

Financial Impact:

6. Alternative Action

7. Staff Recommendations:

8. Recommended Approval:

Georgina Cid, Community Development Manager

Date: January 29, 2026

Frankie Kropacek, Community Development Director

Date: January 29, 2026

nancy stuparich, Town Attorney

Date: January 30, 2026

Amy Baker, Town Clerk

Date: February 02, 2026

Sec. 34-51. Notice of public hearings required.

No public hearing required by this chapter shall be held by local planning agency or town council until notice of the public hearing has been provided in accordance with the requirements set forth in this article.

**Town of Fort Myers Beach
Local Planning Agency
Policies and Procedures Manual
January 2025**



Anita Cereceda, Chair

Jane Plummer, Vice-Chair

Jim Boan, Member

Jim Dunlap, Member

Doug Eckmann, Member

John McLean, Member

Don Sudduth, Member

1. Introduction

This Local Planning Agency (LPA) Policies and Procedures Manual is a guide to help LPA Members in the discharge of their duties. Experience may show that some of these policies and procedures need to be modified or eliminated and new ones adopted.

By adopting this manual, members of the LPA will find in one handy reference answers to questions that come up from time to time. By having an agreed-upon guide, members of the LPA also may develop common expectations on proper conduct of LPA meetings, dealings with the public, and the way it interacts with Town staff.

This manual should be used in conjunction with the Town Charter, Comprehensive Plan, Land Development Code (LDC), strategic plan and other applicable laws, as necessary. Any conflict between the information in this Manual and other codes shall be resolved in favor of the other codes.

Topics included in the Land Development Code shall not be included in this Manual:

1. Composition, appointment and compensation (Section 34-112, LDC)
2. Terms and vacancies (Section 34-114)
3. Forfeiture of office (Section 34-115)
4. Election and duties of officers (Section 34-116)
5. Support staff (Clerk-Section 34-117, Attorney-Section 34-124, Experts/Staff-Section 34-119)
6. Rules and Procedures (Section 34-118)
7. Functions, powers and duties regarding the Comprehensive Plan and LDC (Section 34-120)
8. Functions, powers and duties regarding zoning matters (Section 34-121)
9. Service as the Historic Preservation Board (Section 34-122)

Upon a majority vote, the LPA can waive application of these guidelines. Any waiver or disregard of a guideline shall not be a basis for challenge to any action by the LPA. The manual may be amended as needed and subject to review each year following the vote for LPA officers.

Training & Materials

Each new member of the Local Planning Agency will be provided an orientation and training by staff regarding the following resources, which are available on line or in print upon request:

- Town Charter
- Comprehensive Plan
- Land Development Code
- Florida Code of Ethics
- Florida Sunshine Laws

Election of Officers

Annually, at the first meeting of the Local Planning Agency, after expired member positions have been filled by the Town Council, a chair and vice chair will be chosen. An LPA member may nominate a person for each of these positions or state their own interest in service as Chair or Vice-Chair. Once all nominations are received, the LPA will vote in the same manner as the Town Council votes for appointments to committees, boards, and commissions. If nominated, the LPA member shall accept the nomination on the record. If a nominated LPA member is not present, acceptance of the nomination and a vote on all nominations shall be taken at the next LPA meeting.

Sunshine Issues

Members of Town advisory committees, boards, and agencies are subject to the Sunshine Law (F.S. 286.011). The same Sunshine rules that apply to Town Council apply to the members of the LPA and other Town advisory committees, boards and agencies.

Any gathering of two or more members of the same advisory committee, board or agency must comply with all the Sunshine Law requirements if they participate in any discussion, directly or indirectly, regarding any matter where there is known or could be foreseeable action to be taken by the committee. Examples of indirect discussions are the use of email to a committee member or communication through a spouse or other go-between.

Advisory committee members cannot engage in discussions with each other (directly or indirectly) at outside meetings such as the Chamber of Commerce or Civic Association regarding any matter on which it is known or foreseeable that action may be taken, unless the Sunshine requirements are met.

These rules apply equally to any gathering, formal or casual, such as a Rotary Club (or other business or fraternal club gathering), fund-raiser, etc. They also apply to social events and functions unconnected to the advisory committee, such as a neighbor's backyard barbeque. They also apply to casual discussions between or among members coming in the door for the

committee meeting, at breaks during the meeting, and going out the door after the meeting. Every component of the decision-making process must occur in the Sunshine.

The penalties for violating the Sunshine law are severe and can include criminal and civil sanctions. The process of investigation of Sunshine violations is always unpleasant, embarrassing, and expensive, even if the person is ultimately cleared.

2. Historic Preservation Board

The LPA also functions as the Historic Preservation Board (HPB) for the Town of Fort Myers Beach. The Historic Preservation Board has the power, authority, and jurisdiction to designate, regulate, and administer historical, cultural, archaeological, and architectural resources in the Town as set forth in LDC section 22-74. For any quasi-judicial or legislative hearings that come before the HPB, the hearing process shall conform to those outlined in Section 7 of this manual.

Annually, at the first meeting of the Local Planning Agency, after expired member positions have been filled by the Town Council, a meeting of the HPB will be convened and a chair and vice chair will be chosen using the same methodology as LPA chair and vice chair election.

Also at that meeting, a sub-committee, the Historic Advisory Committee (HAC), comprised of an approximately equal number of LPA members and Estero Island Historic Society members is established. Members of the Estero Island Historic Society interested in being on the Historic Advisory Committee must submit a statement of interest to the Town Clerk prior to the first annual meeting of the LPA. This sub-committee comprised of a total of six or seven members shall be selected by the HPB.

The HAC sub-committee will meet as needed to discuss and make recommendations to be brought before the Historic Preservation Board for consideration. Recommendations will be consistent with the requirements of the Comprehensive Plan and Land Development Code. At its first meeting after re-formation, the HAC shall select a chair, vice chair and secretary.

3. Ad Hoc Sub-Committees and Interaction with Other Advisory Committees

The LPA has the authority to form other ad hoc sub-committees requesting participation by volunteers. The objectives of a sub-committee, expected products, membership and timelines should be clearly stated and agreed to by the LPA. One LPA member will be asked to chair the ad hoc sub-committee. The intent would be to minimize participation and action items directed at Staff. All Ad Hoc Sub-Committees will be subject to Sunshine and public records laws.

A standing ad hoc sub-committee named the Historic Advisory Committee was established by Resolution 2006-03 (Appendix B).

During discussions arising from land use cases, long-range planning and capital improvement discussions, the LPA will proactively communicate to other appropriate advisory committees while keeping Town Council informed. These interactions could result in the development of joint resolutions.

4. Meeting Preparation and Planning

Meeting Schedule

Section 34-118 of the Land Development Code (LDC) states: "The local planning agency shall meet at least 8 times per year and shall meet no less often than bimonthly..." Regularly planned meetings of the Local Planning Agency (LPA) are scheduled by mutual agreement between the LPA, LPA Attorney and Community Development Director. Special, continued or rescheduled meetings will be determined by consensus of the LPA members, the Director of the Department of Community Development and the LPA attorney.

Length of Agenda Items

In order to set reasonable LPA agendas, the Community Development Director will use best efforts to establish the time needed for presentations, public comment and subsequent discussions of agenda items by the LPA. Any person submitting administrative topics to the Community Development Director will provide an estimate of the time needed. If the time needed for a hearing, legislative matter or administrative topic exceeds the allotted time by more than 15 minutes, the Chair may table the item until later in the meeting or continue the item until a subsequent meeting.

Public Notice of LPA Quasi-Judicial Hearings

Except as specifically addressed in the Town Land Development Code, the Town Clerk shall notice all LPA quasi-judicial hearings as provided in the Land Development Code and Florida law.

Continued Hearings and Legislative Issues

It is the goal of the LPA to complete a hearing during the scheduled meeting. If additional time is required and the hearing must be continued to a later date, any LPA member who missed the initial hearing should review the audio and/or videotapes prior to participating in the continued hearing or legislative discussion and resolution.

If the applicant submits new information or modification(s) to previously submitted information at the hearing, or immediately prior to the hearing, the LPA shall consult with the Director of the Department of Community Development and the LPA Attorney and vote to continue the hearing. Nothing contained in this section shall be construed to limit the Director's discretion to defer or continue the public hearing as set forth in LDC Section 34-213(3).

Meeting Preparation

Any LPA member, the Community Development Director, the LPA attorney, Town Council and Town Manager can submit meeting agenda topics for the LPA to the Community Development Director. Topics should be submitted at least fourteen (14) days prior to a planned meeting. The Director of the Department of Community Development and LPA attorney are responsible for scheduling hearings. Potential dates for hearings should be communicated to all participating parties as far in advance of the planned meeting as possible. All staff reports should be complete before a hearing is scheduled. Except in the case of an emergency, cancellation of a planned meeting should be at least 14 days in advance. Only under serious, extenuating circumstances should a hearing be cancelled after it has been publicly noticed.

The goal is to have finalized agenda and supporting material seven (7) days prior to a planned and noticed meeting. The Town Clerk shall email a copy of the agenda packet to all LPA members.

The LPA members' packets should include complete documentation for agenda items (actions required, implications, backup information, memos, ordinances, resolutions, etc.) A sincere effort is made to see that LPA packets are complete. As a general rule, items requiring documentation (recommendations, memos, ordinances, resolutions, etc.) will not be included on an agenda until the documentation is complete. A copy of the agenda is available on the Town's website.

Occasionally an item may come up late and may be placed on an amended agenda, or as an "add on" (added too late to be included on the published agenda). Such additions are kept to an absolute minimum so as not to burden the LPA or the public with items not receiving sufficient advance notice. Important, potentially controversial items are not made as "add on items" except in extreme emergencies.

Attendance Policy

Section 34-115(3) of the Land Development Code (LDC) states: "A Local Planning Agency member shall forfeit office if the member is absent from three (3) regular local planning agency meetings per year without being excused by the local planning agency."

An LPA member should notify the Town Clerk of an anticipated absence. The Town Clerk will request a vote from the LPA regarding whether the absence is excused or unexcused. The LPA should be notified of a planned absence as soon as known. It is important that the LPA knows that it will have a quorum of its members as soon as possible prior to an LPA meeting. The LDC implies that the LPA has the discretion to define what will be an "excused" absence. The policy of the LPA is that if an absence is reported at least fourteen (14) days prior to a planned meeting the absence will automatically be considered an excused absence. This will allow sufficient time for a planned meeting to be rescheduled if it appears that a quorum will be questionable.

Absence notification less than 7 days prior to a planned meeting is considered an “emergency”. If an excused absence is desired in less than 7 days, a request must be forwarded to the Town Clerk with an explanation of the nature of the emergency. The Local Planning Agency will decide whether the request will be considered an excused absence. If the Town Clerk receives no request for an excused absence, the absence is counted as an unexcused absence. Three unexcused absences from regularly scheduled LPA meetings will result in automatic forfeiture of office.

“Chronic” absence is defined as missing three consecutive regularly scheduled meetings or four of the last six meetings of the LPA, regardless of whether the absence is excused or unexcused. If a chronic absence occurs, the Town Clerk will be asked to send a letter to the LPA member requesting an explanation of the reasons for the chronic absence. A copy of the letter will be sent to the Town Manager and Town Council. The LPA member will be asked to forward to the Town Clerk a statement of whether the LPA member wishes to remain on the LPA. Failure to reply will automatically make all absences unexcused and grounds for forfeiture of office. In order to provide a diverse representation, it is important that the LPA strive to have as full representation as possible when conducting the Town’s business.

Meetings and Communication between LPA and Town Council

As needed, the Chair, at the request of the LPA members may appear before the Town Council and present information discussed at an LPA meeting or as otherwise requested by a vote of the LPA.

5. Meeting Procedures

LPA Code of Conduct

LPA members shall follow the Florida Code of Ethics for Public Officers and Employees found in Chapter 112 of Part III of the Florida Statutes.

Order of Agenda Items

The general order of the agenda will proceed as follows. However, the procedures may differ depending on what type of hearing is being held.

1. Call To Order – Identify for the record the committee that is meeting, the date of the meeting and who is present.
2. Pledge of Allegiance
3. Invocation
4. Changes to the Agenda
5. Public Comment on any topic – Chair will advise of opportunity to speak during the public hearing of a particular agenda item.
6. Approval of Minutes – Requires a motion and vote.

7. Public Hearings – Public Comment on the topic of the public hearing will be included as part of the record of the hearing
8. Administrative Agenda – Topics submitted by LPA members, staff, LPA Attorney or items from previous agendas
9. Adjourn as LPA; Reconvene as Historic Preservation Board (HPB) if needed
10. Adjourn as HPB; Reconvene as LPA
11. LPA Members Items and Reports
12. LPA Attorney Items
13. Community Development Director Items
14. Public Comment
15. Adjournment – Requires a motion and vote. A privileged motion allowing no discussion before voting.

Conduct of LPA Meetings

The Chair will conduct the LPA meetings, and in the Chair's absence by the Vice Chair. Robert's Rules of Order may be consulted for parliamentary procedure governing the conduct of the LPA meetings when not in conflict with the Town Charter or Florida Statutes and questions arise. Otherwise, the conduct of the meeting may follow as directed by the LPA. When the Chair recognizes a speaker during public comment, they will advance to the podium and state their name for the public record. Public comments will generally be limited to three minutes per speaker. The Chair may modify the three-minute limit with approval by majority vote of the LPA. If a special interest group would prefer to have one person speak for a group of individuals in attendance their allotted times can be combined up to a maximum of 15 minutes. This process could save meeting time if the content of what each person of a special interest group intends to say is similar. It could also allow more time for a presentation containing detailed facts and data. If a special interest group chooses to have a spokesperson represent them, request cards having the names and addresses of all individuals present must be provided prior to the meeting. The public comment times are intended as opportunities for interested parties to present their viewpoints to the LPA members; they are not intended as question-and-answer sessions or as dialog with the LPA unless the LPA otherwise approves.

The time period for LPA members' comments is intended as an opportunity for LPA members to share their viewpoints with each other. Since this opportunity does not exist outside of LPA meetings under the Florida Sunshine Law, this is the primary purpose of this time and it generally should not be used to obtain information from the Community Development Director or Town Attorney which could be obtained outside of the LPA meeting.

Legislative Hearing Procedures

1. The Chair opens the hearing on (announce the agenda number)
2. The Chair or the LPA Attorney reads the ordinance title.
3. Staff and/or the LPA attorney present(s) a brief overview of the draft ordinance.
4. Public input is taken.

5. Public input is closed.
6. LPA members ask questions, if any, of staff/LPA attorney.
7. LPA members discuss ordinance, including changes, deletions, etc. and make a finding that the proposed Ordinance is consistent or not consistent with the Comprehensive Plan or otherwise is in conflict with the Land Development Code without other changes.
8. A Motion is made and seconded to either recommend approval of the Ordinance to Town Council, as-is or with modifications, or to take some other action. If the motion to approve fails, a member should make a motion to recommend denial and state the reason for denial and if it should be with prejudice or without prejudice.
9. The Motion is discussed and voted upon. If successful, the Chair declares the hearing on the ordinance to be concluded.

There is no ex parte disclosure requirement for legislative hearings. Members of the public are not sworn in.

Procedure for Quasi-Judicial Land Use Hearing

1. At the onset of the quasi-judicial matters, the LPA addresses matters relating to all items on the agenda that are quasi-judicial in nature.
2. The LPA Attorney explains the quasi-judicial process and asks whether there are any conflict-of-interest situations or predetermined results that would prevent a member from voting to make sure a quorum is present for that agenda item. If a conflict is disclosed, the LPA member shall announce and complete Form 8B as required by the Florida Code of Ethics.
3. The Town Clerk wears in all witnesses. Any individuals who would like to be considered as experts in a particular area should so state and ask to be accepted as an expert unless already qualified and considered as an expert which shall be disclosed on the record. The Town Clerk reports if all agenda items have been properly noticed and if needed advertised.
4. The Chair announces the agenda item.
5. The Chair asks if any LPA member has had an ex-parte communication regarding this matter. This includes any site visit, receipt of expert opinion, conducting of investigations, discussions with any person, or any direct or indirect communication in any form with any person outside a public hearing and not on the record. The Chair asks the Town Clerk if copies of any emails forwarded to the LPA have been provided to the applicant. The Chair asks if the applicant is present and has received a copy of the agenda materials.
6. Staff present a brief introduction of the agenda item.
7. The applicant presents its case and LPA asks questions.
8. Staff presents their case in response to the applicant's presentation and the LPA asks questions.
9. Public comment/testimony is opened. The applicant may question any public speaker. After public testimony/comment is concluded, the Chair closes public comment/testimony.

10. Staff makes any closing comments.
11. The Applicant presents rebuttal, if any to staff's presentation or any public comment and closing comments.
12. The testimony portion of the hearing is closed.
13. LPA discusses the matter and may direct questions to the applicant or staff
14. The Chair requests a motion on the agenda item.
15. LPA votes on the agenda item.

Voting Conflicts

Florida Statutes have very specific rules regarding voting conflicts and municipal advisory committees, boards and agencies. These rules are different from the rules that apply to the Council.

If an LPA member has a voting conflict, he/she must disclose that conflict in writing to Town staff prior to the meeting in question and this disclosure must be publicly read. A form is available from the Town Clerk. The rules also contain an exception for disclosure at the meeting itself. The committee member is permitted to participate in the discussion and vote on the subject. The specific rules are set out in F.S. 112.3145(4), quoted below:

(4) No appointed public officer shall participate in any matter which would inure to the officer's special private gain or loss; which the officer knows would inure to the special private gain or loss of any principal by who he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer, without first disclosing the nature of his or her interest in the matter.

(a) Such disclosure, indicating the nature of the conflict, shall be made in a written memorandum filed with the person responsible for recording the minutes of the meeting prior to the meeting in which consideration of the matter will take place, and shall be incorporated into the minutes. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(b) In the event that disclosure has not been made prior to the meeting or that any conflict is unknown prior to the meeting, the disclosure shall be made orally at the meeting when it becomes known that a conflict exists. A written memorandum disclosing the nature of the conflict shall then be filed within 15 days after the oral disclosure with the person responsible for recording the minutes of the meeting and shall be incorporated into the minutes of the meeting at which the oral disclosure was made. Any such memorandum shall become

public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(c) For purposes of this subsection, the term “participate” means any attempt to influence the decision by oral or written communication, whether made by the officer or at the officer’s direction.

6. LPA Meeting Output

Unless otherwise directed by the LPA, staff shall be responsible for reporting actions by the LPA to the Town Council. The Chair shall sign a resolution evidencing the LPA’s findings and decision regarding any matter in which the LPA has final agency action.

It is noted that audio and /or video recordings of LPA meetings may be available for public, LPA, or Town Council review should clarification, additional understanding of discussions, or for finding errors or omissions.