



Fort Myers Beach Local Planning Agency

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

Agenda

Tuesday, April 21, 2026

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 - March 10, 2026

VI. PUBLIC COMMENT

VII. PUBLIC HEARINGS

A. VAR20260014, 831 Estero Blvd

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING / APPROVING WITH CONDITIONS/ DENYING VARIANCE 20260014, REQUESTING (1) A VARIANCE FROM LDC SECTION 34-638(D)(2)(B), TO ALLOW A SECOND LEVEL BALCONY ENCROACHMENT INTO THE REQUIRED STREET SETBACK IN THE RC ZONING DISTRICT; AND (2) A VARIANCE FROM LDC SECTION 34-631(B)(3)(A), TO ALLOW AN ENCLOSED 38-SQUARE-FOOT ROOFTOP STRUCTURE FOR MECHANICAL EQUIPMENT TO EXTEND ABOVE THE MAXIMUM PERMITTED BUILDING HEIGHT, FOR THE PROPERTY LOCATED AT 831 ESTERO BLVD, GENERALLY REFERRED TO AS STRAP NUMBER: 24-46-23-W3-0050B.0050 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. VAR20260011, 1161/1165 Estero Blvd

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING / APPROVING WITH CONDITIONS/ DENYING VARIANCE 20260011, REQUEST FOR A VARIANCE FROM LDC SECTION 34-676(A), TO MULTIPLY THE PARKING REQUIREMENTS BY 0% AND ALLOW A 100% REDUCTION IN PARKING REQUIREMENTS

WHERE A MAXIMUM PERCENTAGE OF 67% IS MULTIPLIED WITH PARKING REQUIREMENTS TO ALLOW A 33% PARKING REDUCTION BY RIGHT FOR PROPERTIES IN THE DOWNTOWN ZONING, FOR THE PROPERTY LOCATED AT 1161/1165 ESTERO BLVD, GENERALLY REFERRED TO AS STRAP NUMBER: 19-46-24-W4-0150E.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.

C. VAR20260026, 340 Washington Court

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VAR20260026, A VARIANCE FROM LDC TABLE 34-3 REQUESTING A 3.25 FEET REDUCTION OF THE REQUIRED 10 FOOT SIDE SETBACKS AND 8.75 FOOT OF THE REQUIRED 25 FOOT REAR SETBACKS, IN THE RS ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 340 WASHINGTON COURT; 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

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

Minutes

Tuesday, March 10, 2026

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

Members Present: Chair Anita Cereceda, James Boan, James Dunlap, Doug Eckmann, and Don Sudduth.

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Mr. Dunlap moved to approve the final agenda, seconded by Mr. Boan. The motion carried unanimously.

V. APPROVAL OF MINUTES

A. Local Planning Agency - February 10, 2026

Mr. Eckmann moved to approve the minutes of February 10, 2026, seconded by Mr. Sudduth.

The motion carried unanimously.

Mr. Dunlap moved to accept the excused absence of Vice Chair Plummer, seconded by Mr. Sudduth. The motion carried unanimously.

VI. PUBLIC COMMENT

No public comment.

VII. PUBLIC HEARINGS

A. SEZ20260021, 7954 Estero Blvd

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20260021 TO ALLOW LIKE-FOR-LIKE REPLACEMENT OF AN EXISTING 494-SQUARE-FOOT DECK, OF WHICH 89 SQUARE FEET EXTENDS INTO THE ENVIRONMENTALLY CRITICAL

(EC) ZONING DISTRICT SEAWARD OF THE 1978 COASTAL CONSTRUCTION CONTROL LINE (CCCL), RECORDED FOR THE REAL PROPERTY LOCATED AT 7954 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Chair Cereceda read the title of the resolution. No ex parte communications were disclosure. Town Attorney Stuparich read the announcement on quasi-judicial hearings. Town Clerk Baker noted that this item was noticed properly. Town Attorney Stuparich asked if any members had any conflicts of interest that would prevent them from voting. There were none. Town Clerk Baker swore in those providing testimony.

Jason Smalley of the Planning and Zoning Department presented the request for a special exception for a deck replacement on the existing property located on 7954 Estero Boulevard. The structure was built in 1977. The permit for the deck was concurrent with the house. He noted that staff did offer the applicant an administrative variance to deal with the side yard setback, which had been non-compliant at 6 feet. The code does not allow staff to handle any structures that end up in the EC area. He presented the staff's recommendation for approval with the three conditions listed.

Public comment:

Cara Stewart, a previously established expert, representing the owner at 7954 Boulevard. The deck is 89 square feet, and the remainder of the deck is permitted by right.

Tom Matthews, the owner of the property, noted that this property is his childhood home. He wanted to extend his appreciation to the town in his efforts to move his family and the next generation on the beach.

Public comment closed.

Mr. Boan moved to approve SEZ20260021 7954 Estero Boulevard along with the three conditions recommended by staff, seconded by Mr. Sudduth. The motion carried unanimously by roll call vote.

VIII. ADMINISTRATIVE AGENDA

No items.

IX. LPA MEMBERS ITEMS/REPORTS

Chair Cereceda called on Town Attorney Stuparich. The Town Attorney stated that the planning staff is still working on the details for the special meeting next month. Georgina Cid, the Associate Community Development Director, believed that the staff is currently not ready yet for the special meeting. Chair Cereceda noted that the regular meeting of the agency would be on April 14, 2026, and the special meeting should be on April 21, 2026. Town Attorney Stuparich noted that it was her belief that the regular meeting would contain regularly scheduled LPA items. Due to the size and public interest in the project in London Bay, this item would be the basis for the special meeting. Chair Cereceda also noted that this project was a multi-level case. Mr. Sudduth noted he would have a conflict for the special meeting. Town Clerk Baker confirmed that the deadline to apply for the vacant

seat on the Local Planning Agency is March 19, 2026. Chair Cereceda stated that there would be an additional agency member at the special meeting. Further follow-up would be conducted for both staff and members to establish a firm date for the special meeting.

Chair Cereceda brought up concerns related to the Wyndham property, which would add about 269 parking spaces. There were other concerns as well, such as those regarding lighting, trash, and sanitary conditions. She requested that action be taken to inform the public about the process. Mr. Dunlap also noted the public's suspicion, especially given the timing. Chair Cereceda acknowledged these feelings of the public.

Mr. Smalley noted that the proposed process would be the application of a development agreement that would lay out the rights and responsibilities. This application would go through the staff, the Town Manager, the LPA, and Council. The agency would have the opportunity to speak and investigate. He also noted that, once the development agreement has been accepted, a development order would need to be set in place. This order would establish an actual layout of structures, parking, and utilities. The applicant has currently requested temporary use for trucks and trailers as they are going through the development agreement and development order process. The temporary use application would go through staff and then to the Town Manager for approval. Chair Cereceda inquired about the time length for temporary use. Mr. Smalley responded that it would be between a year to 18 months. Mr. Dunlap asked how the agency would be able to submit their input on this temporary use matter. Mr. Smalley responded that the ultimate decision would be from the Town Manager. Chair Cereceda noted that the public is concerned especially about the parking spaces and if they are for temporary or long-term usage. She noted that lack of information would be a disservice to the community as a whole, as well as the South End corridor. Mr. Dunlap asked the staff for their reasoning for moving the temporary use application forward. Mr. Smalley responded that staff could not answer the question and did not have the final determination on standards for approving temporary use. He also noted the existing hotel and restaurant use. Chair Cereceda provided that those amenities were all ancillary uses to the hotel. Town Attorney Stuparich noted that there were two types of temporary uses – temporary sales and emergency temporary placement permits. She stated that she had not been asked to review or participate in this project and asked what ordinance that staff is relying on as the source for the Town Manager's discretionary authority. Chair Cereceda noted that this would be an immense amount of pressure on the Town Manager, due to the public's strong interest. She also stated her concerns that allowance of temporary use could potentially cause a delay in the ultimate goal for project completion and the rebuilding and renaissance of the town. Town Attorney Stuparich noted that, in the past, the Town Manager may have been given discretionary authority for emergency temporary placement permits. She will follow up with confirmation. Chair Cereceda recalled the similar questions she received on trailers on Time Square and voiced her concerns about the prevalence of temporary use on beachside lots. Mr. Boan noted that in that case, temporary use had been

extended and that the submitted plans eventually were withdrawn.

Mr. Dunlap commented to staff that there needs to be a clear delineation for what the town has agreed to and what the town has not. He noted that there is a presumption or belief from the public that any development agreement is fully negotiated between the town and the applicant.

Mr. Boan asked about the criteria for approving temporary use for parking lots. Mr. Smalley responded that there would be a development order. The staff would look into what landscaping needs to be brought back into conformity, to the extent possible. Discussions would also be held on lighting and stormwater. The applicant would need to provide actual documentation to staff. The Town Hall site would be handled similarly. The intent is for consistency when applying and reviewing criteria. Chair Cereceda noted the limited visibility of transactions from the eyes of the public. Mr. Smalley noted that the paid parking would require a special exception, which would go through the agency. This would mean that for at least a portion of the parking spots, the agency would need to approve a special exception.

Mr. Boan asked if any orders had been issued, as he noticed underground work at the location. Mr. Smalley stated that he believed there had been approval for site grading but no construction. Chair Cereceda voiced her opinions against temporary uses.

X. LPA ATTORNEY ITEMS/REPORTS

No items.

XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS

No items.

XII. ITEMS FOR NEXT MONTHS AGENDA

No items.

XIII. ADJOURNMENT

Mr. Dunlap moved to adjourn. The meeting adjourned at 9:41 a.m.

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

Yellow Sheet Number: **2026-406**

1. Request:

Meeting Date: April 21, 2026

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING / APPROVING WITH CONDITIONS/ DENYING VARIANCE 20260014, REQUESTING (1) A VARIANCE FROM LDC SECTION 34-638(D)(2)(B), TO ALLOW A SECOND LEVEL BALCONY ENCROACHMENT INTO THE REQUIRED STREET SETBACK IN THE RC ZONING DISTRICT; AND (2) A VARIANCE FROM LDC SECTION 34-631(B)(3)(A), TO ALLOW AN ENCLOSED 38-SQUARE-FOOT ROOFTOP STRUCTURE FOR MECHANICAL EQUIPMENT TO EXTEND ABOVE THE MAXIMUM PERMITTED BUILDING HEIGHT, FOR THE PROPERTY LOCATED AT 831 ESTERO BLVD, GENERALLY REFERRED TO AS STRAP NUMBER: 24-46-23-W3-0050B.0050 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:

S. Mark Courtney, on behalf of Courtney S. Mark & Deborah S. TR, the owner of 831 Estero Blvd, is requesting two variances: (1) a variance from LDC Section 34-638(d)(2)(b) to allow a balcony encroachment into the required street setback at the second living level, where such encroachments are permitted only at the first living level in the RC zoning district; and (2) a variance from LDC Section 34-631(b)(3)(a) to allow a 38-square-foot enclosed rooftop structure for air conditioning equipment, where the LDC permits mechanical appurtenances to extend above the maximum height but does not expressly allow such equipment to be enclosed.

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. 235078 in 2023, which was approved in 2025. The plans submitted with the building permit indicated a balcony and a stoop encroaching 6 feet 10 inches into the required street setback on the first living level, and a code-compliant balcony with no encroachment 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. The Applicant proposes to utilize the roof of the first-level balcony encroachment for the second living level by adding a guardrail. The Applicant now 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 6 feet 10 inches into the required 25-foot street setback.

The roof plan submitted with the building permit indicated a 250-square-foot staircase and elevator enclosure, along with an additional 38-square-foot enclosed storage area for air conditioning equipment. At the time of permit approval, the Applicant's project team and zoning

staff did not identify that LDC Section 34-631(b)(3)(a) allows only stairwell and elevator enclosures to extend beyond the permitted building height. The LDC permits mechanical appurtenances, such as air conditioning equipment, to extend above the maximum height but does not expressly allow such equipment to be enclosed. The nonconforming storage area for air conditioning equipment was identified during the final zoning inspection in 2026. The Applicant is therefore requesting an after-the-fact variance to allow an additional 38-square-foot enclosed rooftop structure for air conditioning equipment.

Attachments:

1. LPA Resolution 2026-XX, 831 Estero Blvd
2. Exhibit A-Site Plan
3. Exhibit B- Roof Plan and Elevation
4. Staff report

Financial Impact:

Unknown

6. Alternative Action

For variance 1: Deny

For variance 2: Approval with Conditions

7. Staff Recommendations:

Variance 1: Staff recommends **DENIAL** for the first variance request in VAR20260014, to allow a balcony on the second living level to encroach by 6 feet 10 inches into the required street setback.

Variance 2: Staff recommends **APPROVAL WITH CONDITIONS** for the second variance request in VAR20260014, to allow an additional 38-square-foot enclosed storage area for mechanical equipment on the roof.

8. Recommended Approval:

_____	Date: April 09, 2026
Kendra Rosa, Zoning Coordinator	
_____	Date: April 09, 2026
Georgina Cid, Community Development Manager	
_____	Date: April 13, 2026
Frankie Kropacek, Community Development Director	
_____	Date: April 13, 2026
nancy stuparich, Town Attorney	
_____	Date:
Amy Baker, Town Clerk	

LPA RESOLUTION 2026-XX

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING / APPROVING WITH CONDITIONS/ DENYING VARIANCE 20260014, REQUESTING (1) A VARIANCE FROM LDC SECTION 34-638(D)(2)(B), TO ALLOW A SECOND LEVEL BALCONY ENCROACHMENT INTO THE REQUIRED STREET SETBACK IN THE RC ZONING DISTRICT; AND (2) A VARIANCE FROM LDC SECTION 34-631(B)(3)(A), TO ALLOW AN ENCLOSED 38-SQUARE-FOOT ROOFTOP STRUCTURE FOR MECHANICAL EQUIPMENT TO EXTEND ABOVE THE MAXIMUM PERMITTED BUILDING HEIGHT, FOR THE PROPERTY LOCATED AT 831 ESTERO BLVD, GENERALLY REFERRED TO AS STRAP NUMBER: 24-46-23-W3-0050B.0050 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, Applicant S. Mark Courtney, on behalf of the property owner, Courtney S. Mark & Deborah S. Trust, is requesting two variances: (1) a variance from LDC Section 34-638(d)(2)(b), to allow a second level balcony encroachment into the required street setback in the RC zoning district; and (2) a variance from LDC Section 34-631(b)(3)(a), to allow an enclosed 38-square-foot rooftop structure for mechanical equipment to extend above the maximum permitted building height, for the real property located at 831 Estero Blvd, Fort Myers Beach, Florida (hereinafter "Subject Property"); and

WHEREAS, the STRAP for the Subject Property is 24-46-23-W3-0050B.0050; and

WHEREAS, the Subject Property is within the Pedestrian Commercial 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 (1) a variance from LDC Section 34-638(d)(2)(b), to allow a balcony on the second living level to encroach 6 feet 10 inches into the required street setback; and

WHEREAS, LDC Section 34-631(b)(3)(a) permits mechanical appurtenances to extend above the maximum permitted building height, but does not expressly allow such equipment to be enclosed; and

WHEREAS, the Applicant is requesting (2) a variance from LDC Section 34-631(b)(3)(a), to allow a 38-square-foot enclosed rooftop structure for air conditioning equipment to extend beyond the maximum permitted building height; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on April 21, 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 variances shall only apply to the balcony on the second living level and the additional 38-square-foot storage for mechanical equipment on the roof of the two-family structure 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 and the additional 38-square-foot storage for mechanical equipment on the roof 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 first variance applies to the modified street setback for the balcony on the second living level and 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.
5. The second variance applies to the additional 38-square-foot enclosed storage for air conditioning equipment on the roof as shown in "Exhibit B" only. No additional enclosed structures for mechanical appurtenances exceeding the permitted building height shall be allowed.

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. VAR20260014, with the conditions contained herein, received/ did not receive unanimous approval from eligible voting members of the LPA on April 21, 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 James Dunlap	_____
Member Douglas Eckmann	_____
Member Ed Schoonover	_____
Member Don Sudduth	_____

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.

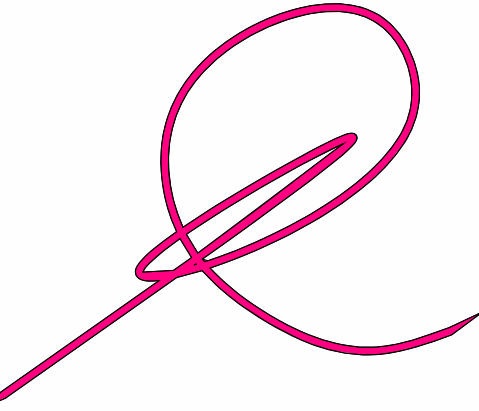
EXHIBITS

Exhibit A: Site Plan

Exhibit B: Roof Plan and elevations

831 ESTERO BLVD

FORT MYERS BEACH, FL

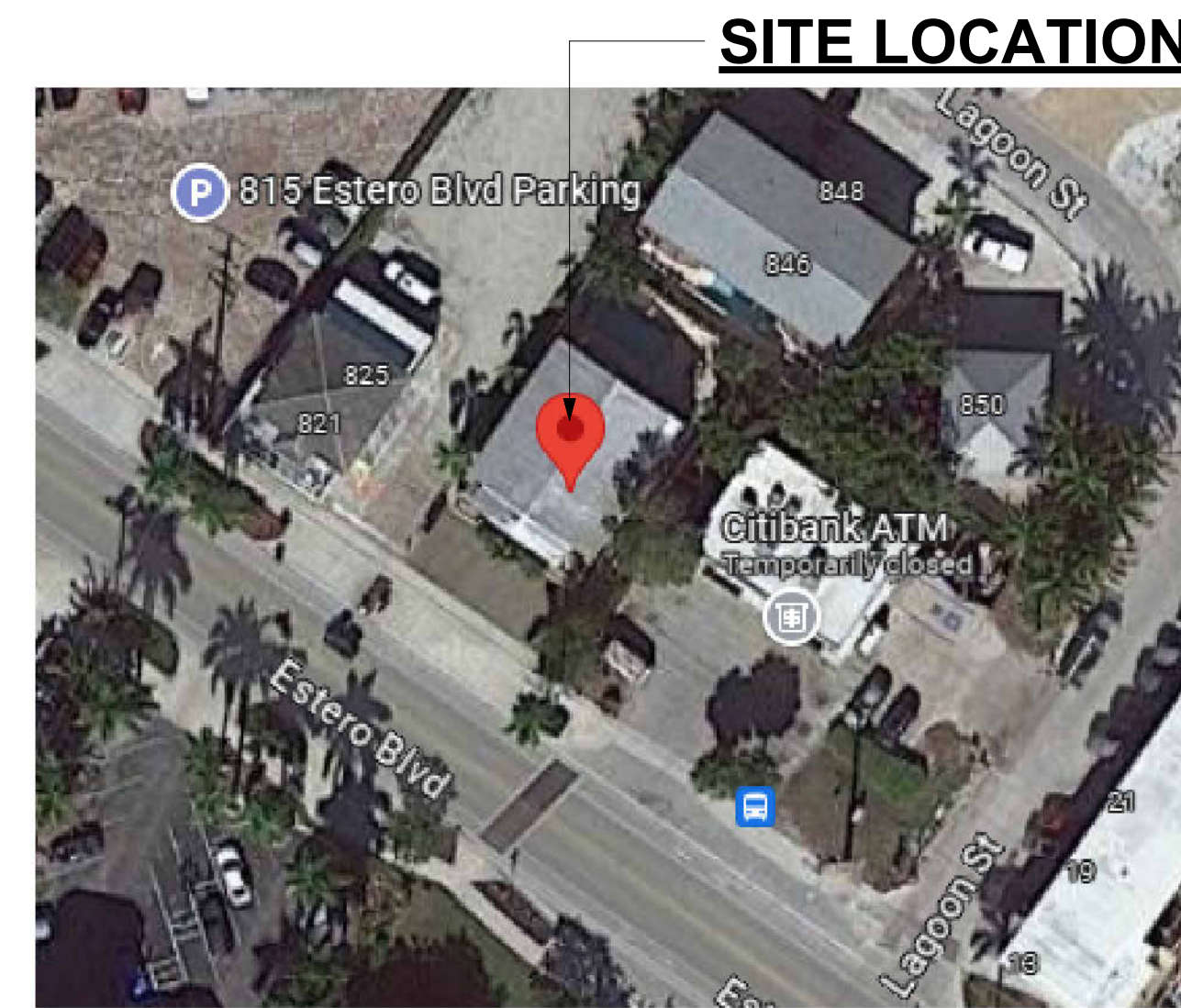
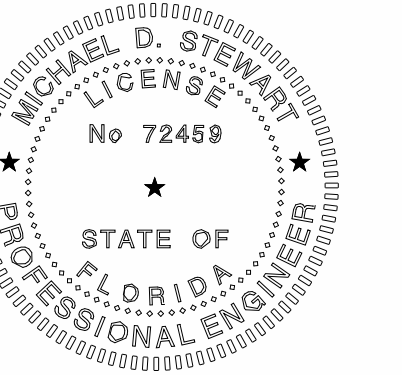


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CA# 33003

PAMELA PERALTA, P.E.
FLA REG. #96645

MICHAEL D. STEWART,
P.E.
FLA REG. #72459



SITE LOCATION

PRE-DEVELOPMENT SITE DATA TABLE:

	AREA	PERCENTAGE
PARCEL AREA	5,000 S.F.	100.00 %
EXISTING POOL & POOL DECK	1,010 S.F.	20.20 %
EXISTING NEIGHBORING BRICK PAVERS DRIVE*	11 S.F.	0.22 %
TOTAL EXISTING IMPERVIOUS AREA	1,021 S.F.	20.42 %
TOTAL EXISTING PERVIOUS AREA	3,979 S.F.	79.58 %

* WITHIN PROPERTY BOUNDARY

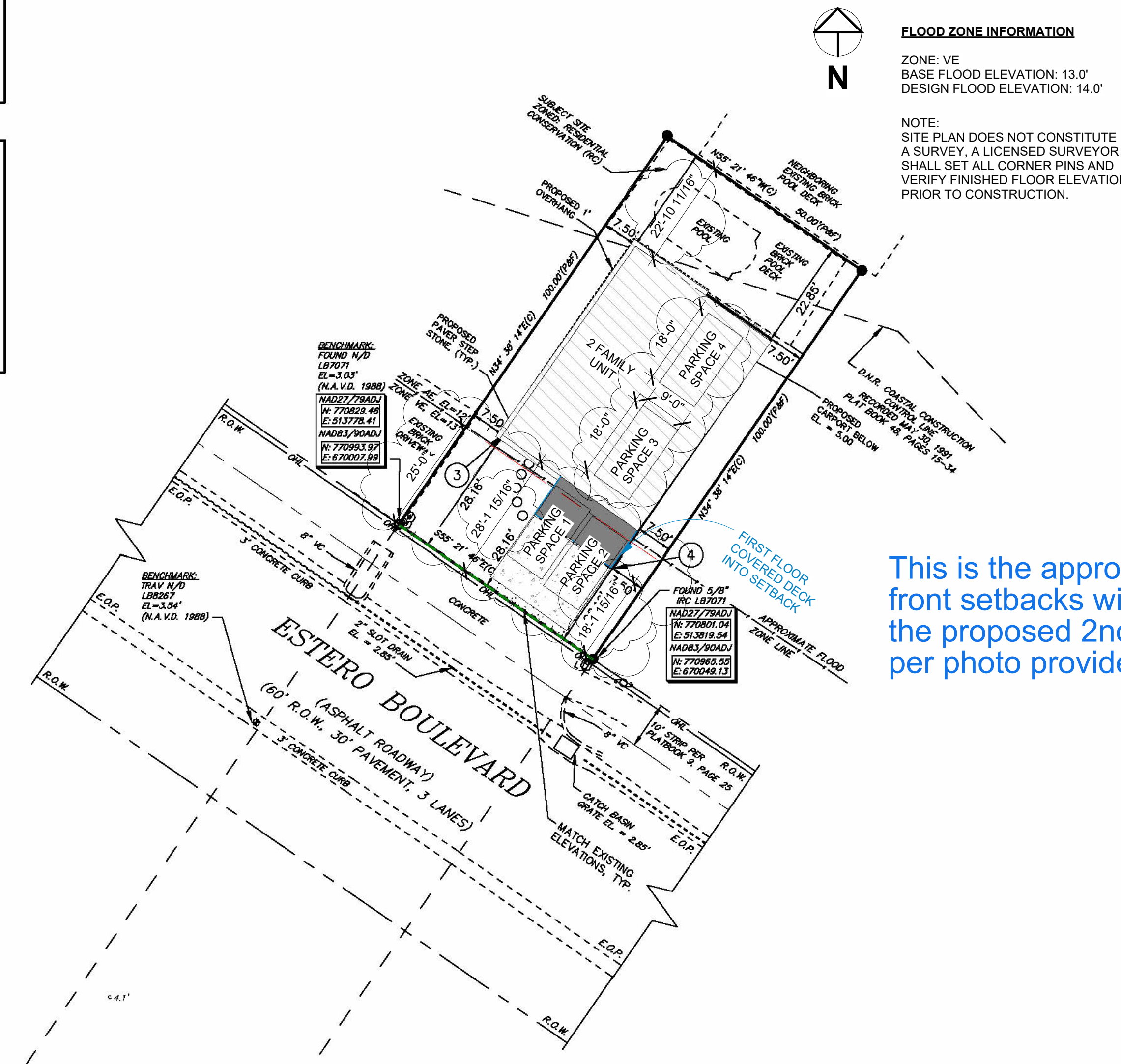
POST-DEVELOPMENT SITE DATA TABLE:

	AREA	PERCENTAGE
PARCEL AREA	5,000 S.F.	100.00 %
EXISTING POOL & POOL DECK	1,010 S.F.	20.20 %
EXISTING NEIGHBORING BRICK PAVERS DRIVE*	11 S.F.	0.22 %
PROPOSED RESIDENCE	1,913 S.F.	38.26 %
PROPOSED GRAVEL DRIVE*	360 S.F.	7.20 %
PROPOSED PAVER STEP STONES	18 S.F.	0.32 %
TOTAL PROPOSED IMPERVIOUS AREA	3,310 S.F.	66.20 %
TOTAL PROPOSED PERVIOUS AREA	1,690 S.F.	33.80 %
ALLOWABLE BUILDING AREA	2,000 S.F.	40.00 %
ALLOWABLE IMPERVIOUS AREA	3,350 S.F.	67.00 %

* WITHIN PROPERTY BOUNDARY

BUILDING COVERAGE CALCULATIONS

	LOT SIZE	TOTAL LOT AREA	-%	REMARKS
TOTAL PERVIOUS	100 x 50	5000	100%	
MAIN HOUSE		2000	40%	
MAX ALLOWED		2000	40%	



This is the approved site plan for the permit indicating front setbacks with the 1st living level deck at 18'1 15/16 the proposed 2nd story deck will be at the same location per photo provided

1 SITE PLAN
1" = 20'-0"

- PERMIT: 2023.07.24
 REVISION 1: 2023.08.15
 REVISION 2: 2023.11.29
 REVISION 3: 2024.01.08
 REVISION 4: 2024.03.25
 REVISION 5: 2024.03.31
 REVISION 6: 2024.05.13
 REVISION 7: 2024.07.16
 REVISION 8: 2025.07.16
 REVISION 9: 2025.07.22
 REVISION 10: 2025.07.25
 REVISION 11: 2025.10.15
 REVISION 12: 2025.10.20
 REVISION 13: 2025.12.19
 REVISION 14: 2026.01.05

PROJECT INFORMATION
DUPLEX

(PROJECT ADDRESS)
831 ESTERO BLVD
FORT MYERS BEACH, FL

(DRAWN BY) TARIK Y. NICOLAS

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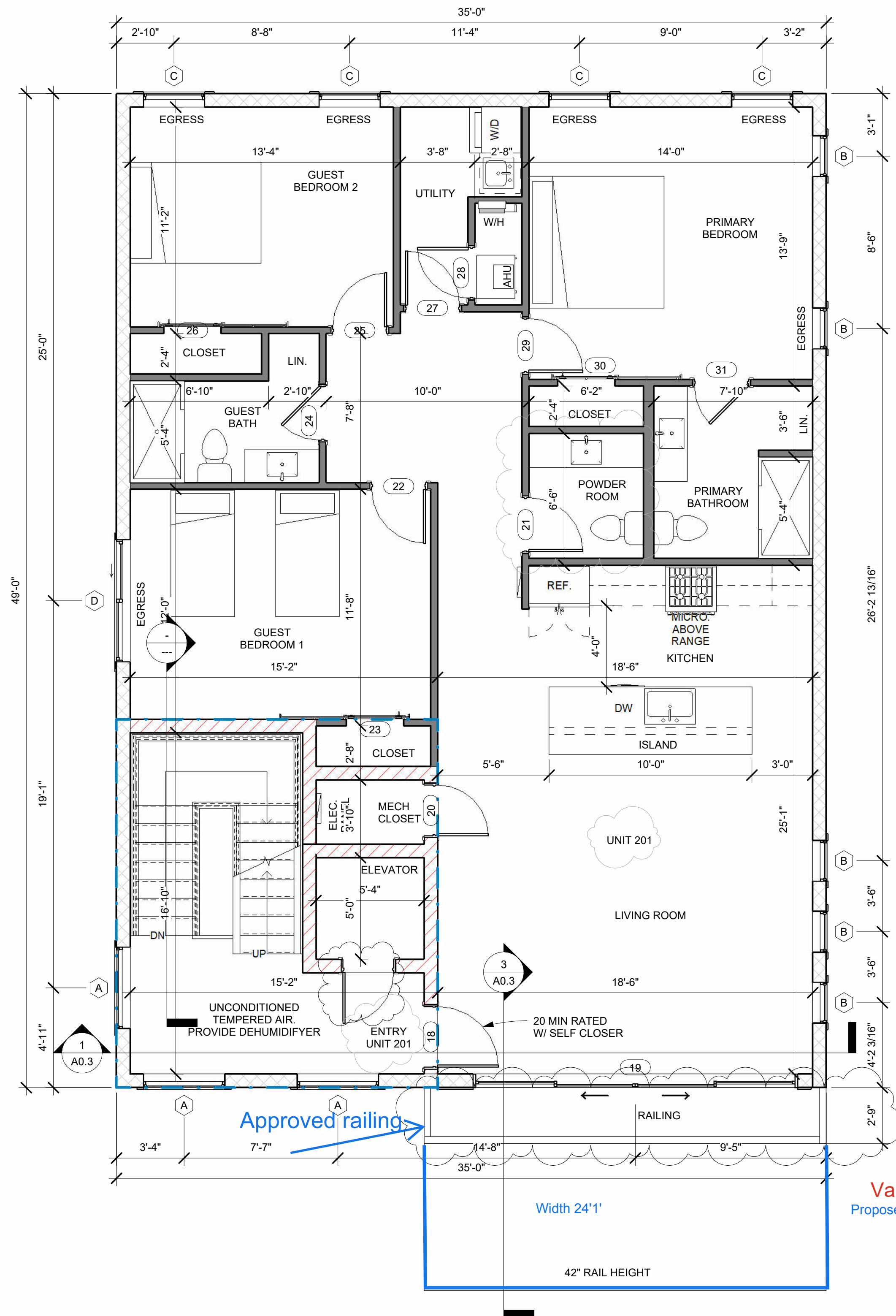
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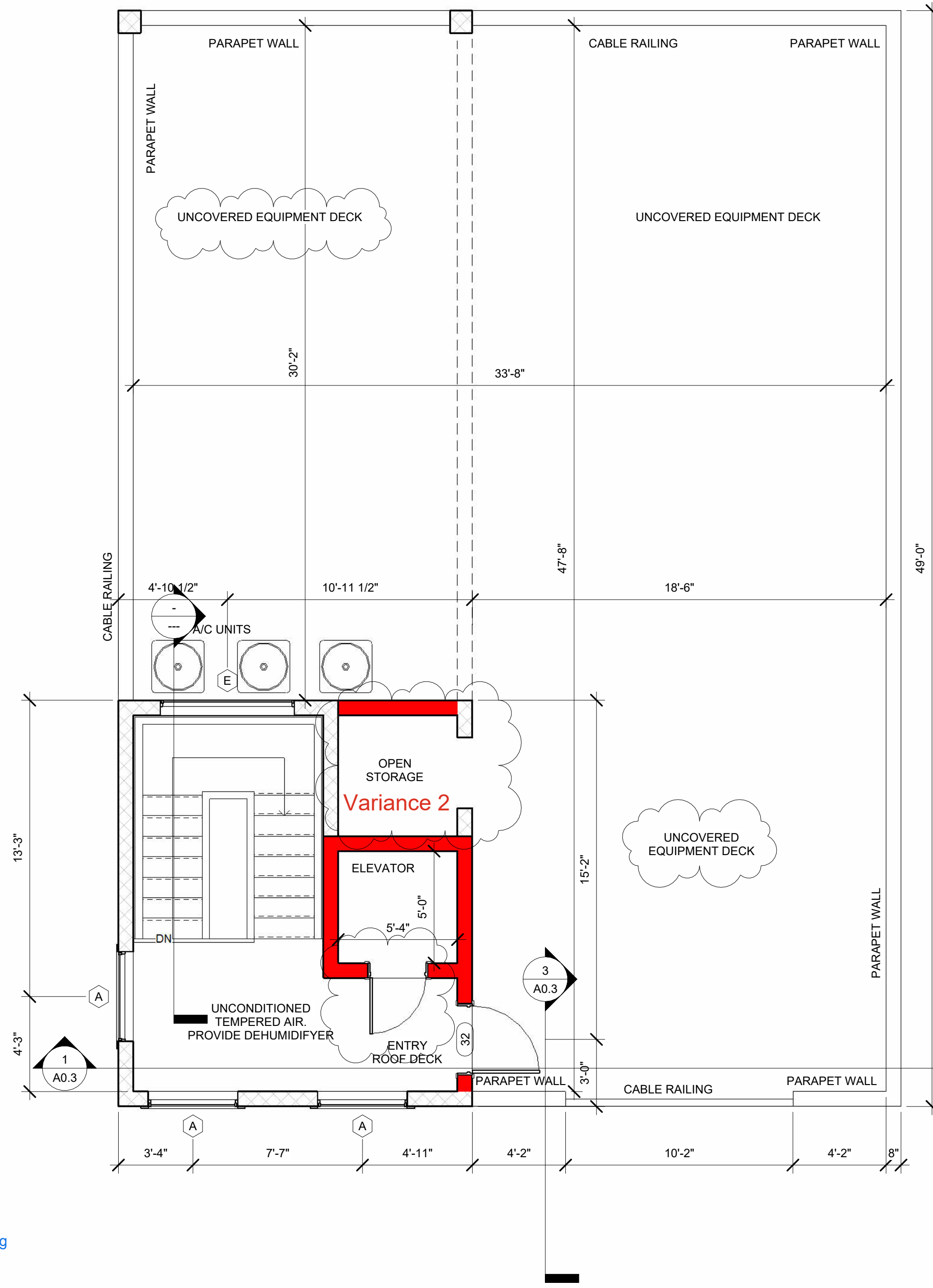
FLOOR PLAN GENERAL NOTES:

GENERAL:
 VERIFY FLOOR ELEVATIONS W/ FLOOD REQUIREMENTS.
 ALL EXTERIOR WINDOWS & DOORS ARE DIMENSIONED TO CENTER LINE U.N.O.
CONTRACTOR TO VERIFY OF ALL DIMENSIONS.
 ALL HANDRAILS AND GUARD RAILS TO BE 36" AFF U.N.O. DESIGNED AND INSTALLED TO NOT ALLOW THE PASSAGE OF A 4" SPHERE. PROVIDE TOE RAILING AS REQ'D. MAX 2" A.F.F. COORD. FINAL MATERIAL, DESIGN, AND FINISH WITH OWNER. HANDRAILS AND GUARDS MUST COMPLY WITH ALL THE REQUIREMENTS OF THE FBC.
 PROVIDE METAL THRESHOLD (MT) AT DOORS LEADING TO THE GARAGE, ELEVATOR DOOR AND ALL EXTERIOR DOORS, TYP. U.N.O.
 COORDINATE ATTIC ACCESS LOCATIONS W/ FINAL TRUSS LAYOUT.
 SEE STRUCTURAL DRAWINGS FOR ALL LOAD BEARING WALL, COLUMN AND FILLED CELL LOCATIONS.
 EXTEND POURED SLAB EDGE @ DOORS 1 1/2" TYP. BEYOND STEM WALL.
 ALL INTERIOR FACE OF DOOR JAMBS TO BE A MINIMUM OF 4" OFF ADJOINING WALL FOR TRIM, CORD W/ OWNER TYPICAL. U.N.O.
 VERIFY ELECTRIC AND A/C CHASE LOCATIONS W/ ELECTRICAL AND MECHANICAL CONTRACTOR. COORD. W/ CABINETRY DESIGN.
 FOR WALLS THAT ABUT NON-CONDITIONED SPACE USE "DENSARMOR"
 FOR WALLS THAT ARE IN DIRECT CONTACT WITH WET AREAS. USE "DENSARMOR PLUS"
 FOR WALLS AND CEILING AT A TUB/SHOWER USE CEMENT BOARD SHEATHING W/ TILE FINISH SELECTED BY THE OWNER.

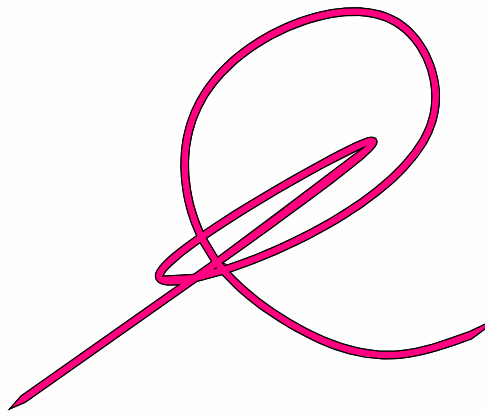
WALL LEGEND	
	8" NEW CMU WALLS
	NEW 2x FRAME WALLS
	UL U905 3HR RATED (1HR REQUIRED)
	UL U914 3HR RATED (1HR REQUIRED)



2 FLOOR PLAN - 2ND LIVING LEVEL
 1/4" = 1'-0"



3 FLOOR PLAN - ROOF DECK
 1/4" = 1'-0"

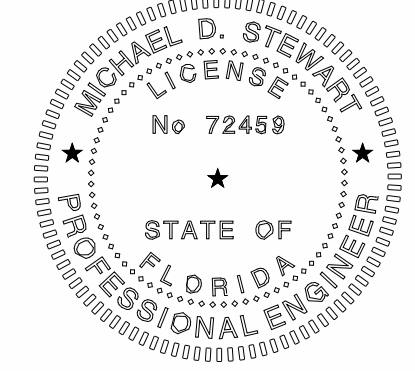


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CA# 33003

PAMELA PERALTA, P.E.
 FLA REG. #96645

MICHAEL D. STEWART,
 P.E.
 FLA REG. #72459



- PERMIT: 2023.07.24
- REVISION 1: 2023.08.15
- REVISION 2: 2023.11.29
- REVISION 3: 2024.01.08
- REVISION 4: 2024.03.25
- REVISION 5: 2024.03.31
- REVISION 6: 2024.05.13
- REVISION 7: 2024.07.16
- REVISION 8: 2025.07.16
- REVISION 9: 2025.07.22
- REVISION 10: 2025.07.25
- REVISION 11: 2025.10.15
- REVISION 12: 2025.10.20
- REVISION 13: 2025.12.19
- REVISION 14: 2026.01.05

PROJECT INFORMATION
DUPLEX

(PROJECT ADDRESS)
 831 ESTERO BLVD
 FORT MYERS BEACH, FL

(DRAWN BY) TARIK Y. NICOLAS

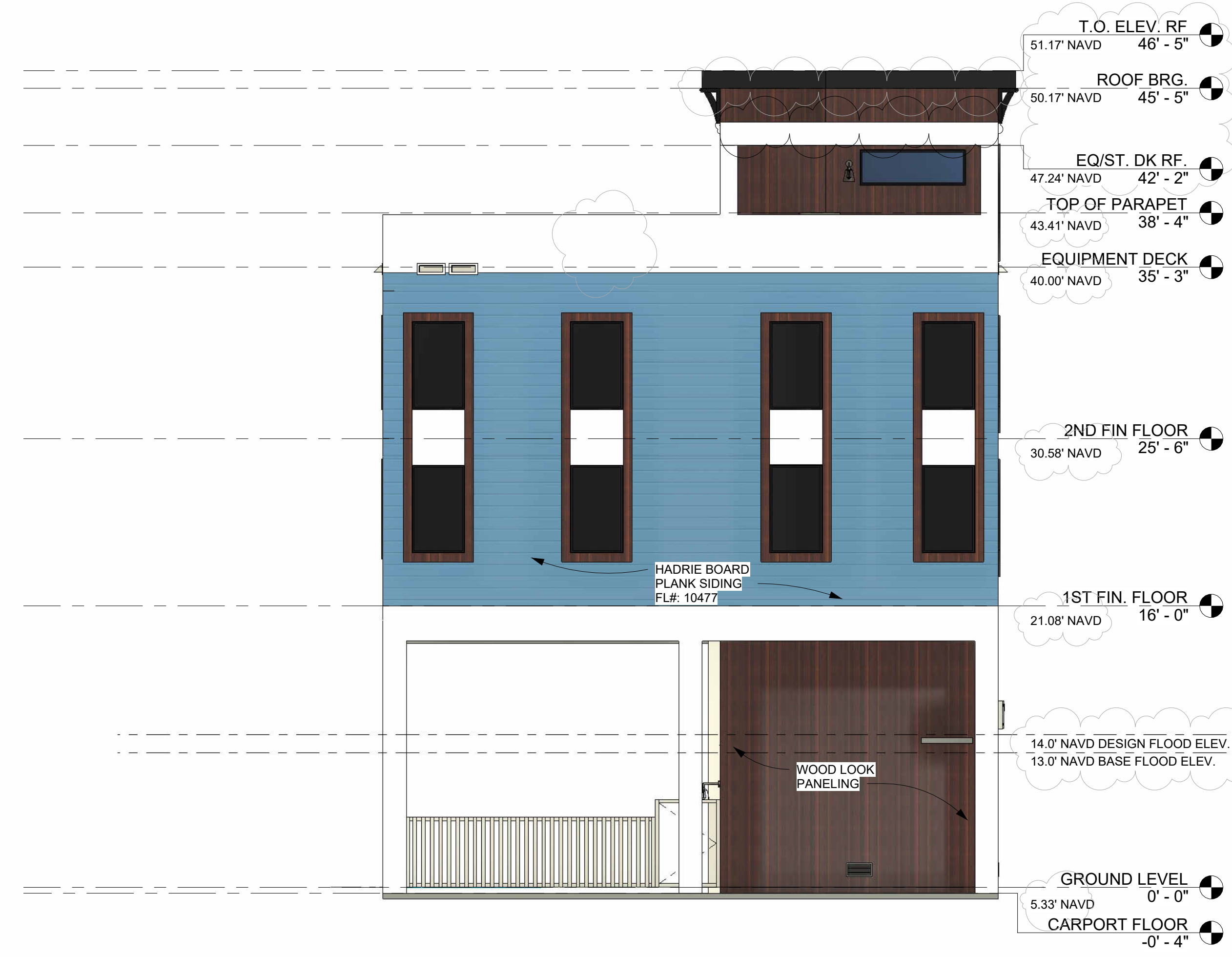
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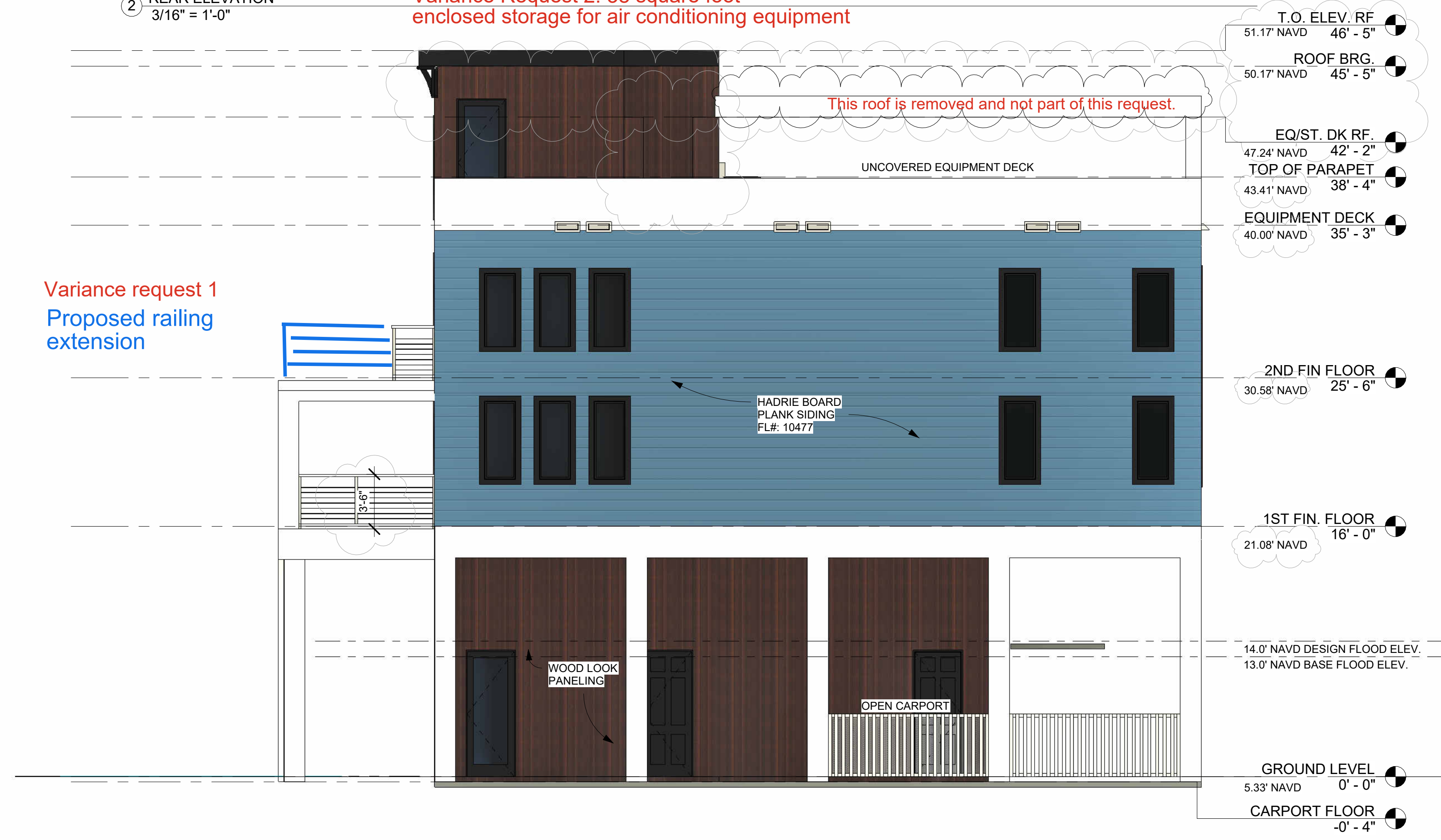
ELEVATION TYPICAL NOTES:

- ROOF NOTE:
-SEE ROOF PLAN FOR GENERAL ROOF NOTES AND ROOF MATERIAL SELECTION NOTES.
- TYPICAL ARCHITECTURAL NOTES:
-VERIFY ALL STRUCTURAL ELEMENTS WITH STRUCTURAL ENGINEER.
-COORDINATE ALL INTERIOR WALL, SOFFITS AND CEILING TREATMENTS WITH OWNER.
-ROOF AND BEARING HEIGHTS ARE SHOWN RELATIVE TO A REFERENCE ELEVATION BASED ON TOP OF SLAB, U.N.O.
-ALL HANDRAILS AND GUARD RAILS TO BE 36" AFF U.N.O. W/ ALL ELEMENTS SPACED SO AS TO NOT ALLOW THE PASSAGE OF A 4" SPHERE. PROVIDE TOE RAILING AS REQ'D, MAX 2" A.F.F. COORD. FINAL MATERIAL, DESIGN, AND FINISH WITH OWNER. HANDRAILS AND GUARDS MUST COMPLY WITH THE REQUIREMENTS OF THE FBC 2020 7th EDITION.

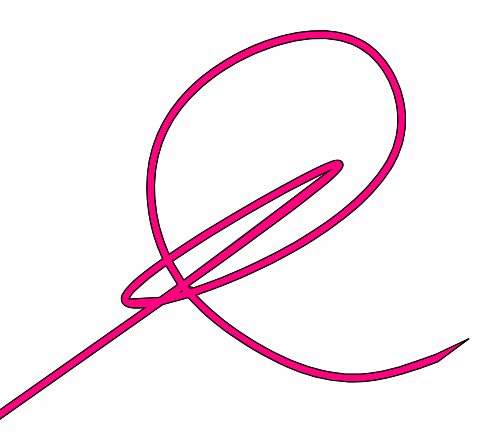


② REAR ELEVATION
3/16" = 1'-0"

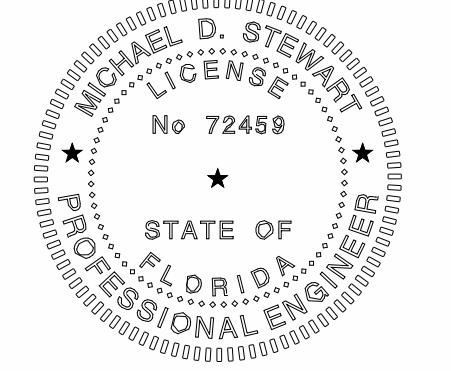
Variance Request 2: 38 square foot enclosed storage for air conditioning equipment



③ RIGHT ELEVATION
3/16" = 1'-0"



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CA# 33003
PAMELA PERALTA, P.E.
FLA REG. #96645
MICHAEL D. STEWART, P.E.
FLA REG. #72459



- PERMIT: 2023.07.24
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REVISION 11: 2025.10.15
REVISION 12: 2025.10.20
REVISION 13: 2025.12.19
REVISION 14: 2026.01.05

PROJECT INFORMATION
DUPLEX

(PROJECT ADDRESS)
831 ESTERO BLVD
FORT MYERS BEACH, FL

[DRAWN BY] TARIK Y. NICOLAS

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[SHEET NUMBER]

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Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance
CASE NUMBER: VAR20260014
CASE NAME: 831 Estero Blvd; request for two variances
(1) a variance from LDC Section 34-638(d)(2)(b), to allow a second level balcony encroachment into the required street setback in the RC zoning district, and
(2) a variance from LDC Section 34-631(b)(3)(a), to allow a 38-square-foot enclosed rooftop structure for mechanical equipment to extend above the maximum permitted building height.

LPA HEARING DATE: April 21, 2026, 9:00 am

STAFF RECOMMENDATION: Denial for variance 1 and Approval with conditions for variance request 2

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

I. APPLICATION SUMMARY

Applicant/Owner: S. Mark Courtney / Courtney S. Mark & Deborah S. TR

Request: The Applicant is requesting two variances (1) 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

(2) a variance from LDC Section 34-631(b)(3)(a), which allows mechanical or structural appurtenances, including elevator and stairwell enclosures, air conditioning equipment, and antennas to extend above the maximum

permitted height limit, provided these appurtenances do not exceed 250 square feet per type; to allow an additional enclosed 38-square-foot storage area for air conditioning equipment on the roof.

Subject property: See attached site plan
Physical Address: 831 Estero Blvd
STRAP #: 24-46-23-W3-0050B.0050
FLU: Pedestrian Commercial
Zoning: Residential Conservation (RC)

Adjacent zoning and land uses:

North: RESIDENTIAL CONSERVATION
Multi-family residential
South: COMMERCIAL PLANNED DEVELOPMENT
Hotel
East: DOWNTOWN
Vacant Commercial
West: RESIDENTIAL CONSERVATION
Vacant residential

II. BACKGROUND AND ANALYSIS

Background:

S. Mark Courtney, on behalf of Courtney S. Mark & Deborah S. TR, the owner of 831 Estero Blvd, is requesting two variances: (1) a variance from LDC Section 34-638(d)(2)(b), to allow a balcony encroachment into the required street setback at the second living level, where such encroachments are permitted only to the first living level in the RC zoning district, and (2) a variance from LDC Section 34-631(b)(3)(a), to allow a 38-square-foot enclosed rooftop structure for air conditioning equipment, where the LDC permits mechanical appurtenances to extend above the maximum height but does not expressly allow such equipment to be enclosed.

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. 235078 in 2023, which was approved in

2025. The plans submitted with the building permit indicated a balcony and a stoop encroaching 6 feet 10 inches into the required street setback on the first living level and a code-compliant balcony with no encroachment 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. The Applicant proposes to utilize the roof of the first-level balcony encroachment for the second living level by adding a guardrail. The Applicant now 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 6 feet 10 inches into the required 25-foot street setback.

The roof plan submitted with the building permit indicated a 250-square-foot staircase and elevator enclosure along with additional enclosed 38-square-foot storage area for air conditioning equipment. At the time of permit approval, the Applicant's project team and zoning staff did not identify that LDC Section 34-631(b)(3)(a), allows only stairwell and elevator enclosures to extend beyond the permitted building height. The LDC permits mechanical appurtenance like air conditioning equipment to extend above the maximum height but does not expressly allow such equipment to be enclosed. The nonconforming storage area for air conditioning equipment was identified during the final zoning inspection in 2026. The Applicant is therefore requesting an after-the-fact variance to allow an additional 38-square-foot enclosed rooftop structure for air conditioning equipment.

Analysis:

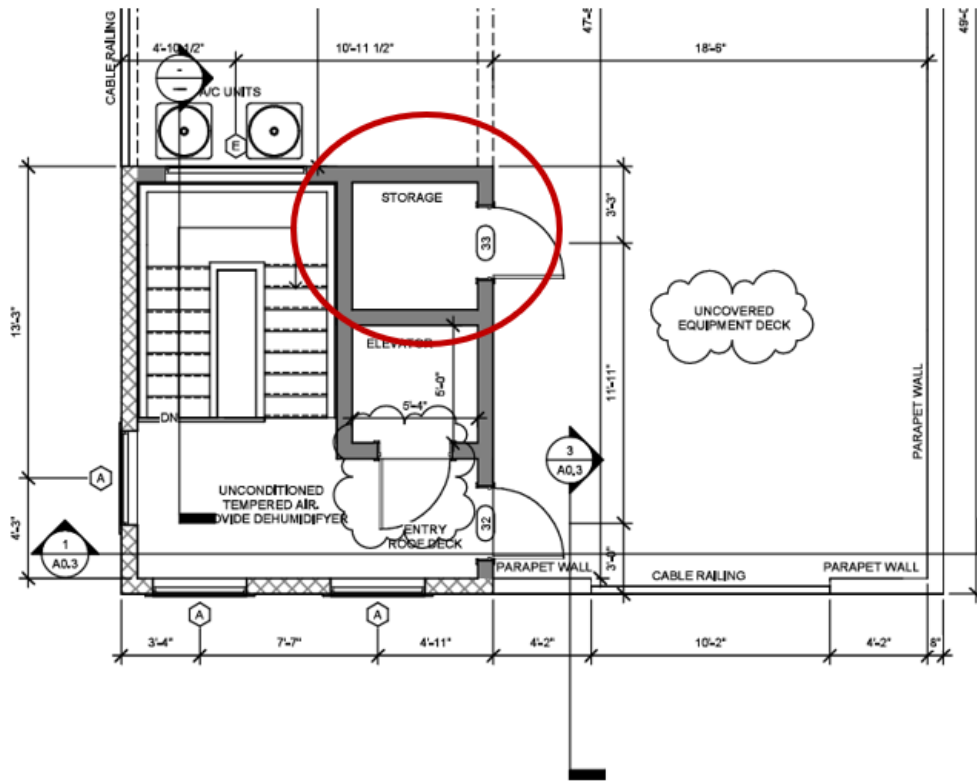
The purpose of the RC zoning district is to recognize certain older neighborhoods that had been zoned for duplex, multifamily, or mobile homes purposes prior to incorporation of the town. Some lots in this district are large enough to accommodate a second dwelling unit. A conforming lot in the RC zoning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

Variance 1: The Applicant applied for the two-family building permit (# 235078) in 2023. The original permit included balcony encroaching 6 feet 10 inches on first living level and a balcony with no encroachment on second living level, which is compliant with the Town's LDC. The Applicant now plans to extend the railing on top of the roof of the balcony encroachment on the first floor living level to use it as a balcony for second living level. The balcony for second living level will not be roofed. The Applicant now 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 6 feet 10 inches 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 a design choice.

Variance 2: LDC Section 34-631(b)(3)(a), allows mechanical or structural appurtenances such as elevator and stairwell enclosures, air conditioning equipment, and antennas to extend above the height limit provided these appurtenances do not exceed 250 square feet per type. Staff interprets the LDC to allow mechanical appurtenances, such as air conditioning equipment, to extend above the maximum building height; however, the code does not expressly permit such equipment to be enclosed. During the building permit stage, the Applicant was approved to provide 250 square feet staircase and stairwell enclosure along with additional 38-square-foot storage space for air conditioning equipment. All other appurtenances will be placed on the roof, uncovered and will not extend beyond the permitted height of the building. The two-family residence is currently under construction. The Applicant is now requesting a variance to allow the additional enclosed 38-square-foot storage space for air conditioning equipment on the roof.

The proposed enclosure for the air conditioning equipment is limited in size, is functional in nature, and will be screened from public view by the code-compliant staircase and elevator enclosure.



Neighborhood Compatibility:

Most of the residential properties in this neighborhood support balconies on second living level but none of them encroach into the required street setback. While the subject property includes a second living level, the requested balcony encroachment is limited in scale and does not alter the established development pattern or urban fabric of the surrounding neighborhood. The proposed enclosure for the air conditioning equipment will be hidden behind the code-compliant staircase and elevator enclosure and will not be visible from the

street. Granting the requested variances 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 no exceptional or extraordinary conditions inherent to the subject property that would justify the need for first variance. The subject property is a conforming lot in the RC zoning district, capable of accommodating development in compliance with the LDC. As mentioned earlier, during the building permit, Applicant was proposing code-compliant balconies: a balcony encroaching 6 feet 10 inches in the required street setback for on the first living level only and a balcony with no encroachment into the required street setback for the second living level. The request for extended balcony on second living level is after-the-fact and is a result of a design choice.

For the second request, there are exceptional or extraordinary circumstances. The Land Development Code permits mechanical appurtenances to extend above the maximum permitted building height but does not explicitly address whether such equipment may be enclosed. In this case, the proposed enclosed rooftop structure for mechanical equipment was previously reviewed and approved by staff during the building permit stage and is currently under construction. This creates a unique circumstance where strict interpretation of the Code would conflict with an approved design that is already being implemented. Accordingly, the request represents a reasonable and limited deviation from the Code, and strict application is not necessary to protect public policy.

- 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 for a second level balcony encroaching into the required street setback is a design choice. The original building permit was approved with a compliant design, and the request arises from a subsequent design modification to utilize the roof of the first-level balcony as a second level balcony.

The need for variance to allow an additional 38-square-foot enclosed storage for air conditioning equipment is partially the result of actions taken during the design and permitting process, including an oversight by staff and Applicant's design team in identifying the LDC limitation on enclosing mechanical equipment on the roof.

While self-created, the request is limited in scope and does not appear intended to circumvent the intent of the regulation.

- 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 requested variance for the second level balcony does not represent the minimum variance necessary to relieve an unreasonable burden, as a compliant design without a second level balcony encroachment is feasible and was previously approved.

The request for additional enclosed storage for air conditioning equipment on the roof is for a de minimis variance and granting this variance will allow the Applicant to maintain the already built storage area on the roof.

- 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 these variances 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 the two variances are sought are not general in nature and do not warrant a code change.

III. RECOMMENDATION

Staff has reviewed the request for first variance from LDC Section 34-638(d)(2)(b), to allow a second level balcony encroachment into the required street setback in the RC zoning district, and find that the variance request **does not meet** the requirements set forth in sec. 34-87.

Therefore, staff recommends **DENIAL** for the first variance request in VAR20260014, to allow a balcony on the second living level to encroach by 6 feet 10 inches into the required street setback.

Staff has reviewed the request for second variance from LDC Section 34-631(b)(3)(a), to allow a 38-square-foot enclosed rooftop structure for mechanical equipment to extend above the maximum permitted building height and find that the variance request **does meet** the requirements set forth in sec. 34-87.

Therefore, staff recommends **APPROVAL WITH CONDITIONS** for the second variance request in VAR20260014, to allow an additional 38-square-foot enclosed storage area for air conditioning equipment on the roof.

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 variances shall only apply to the balcony on the second living level and the additional 38-square-foot storage for mechanical equipment on the roof of the two-family structure 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 and the additional 38-square-foot storage for mechanical equipment on the roof 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 first variance applies to the modified street setback for the balcony on the second living level and 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.
5. The second variance applies to the additional 38-square-foot enclosed storage for air conditioning equipment on the roof as shown in "Exhibit B" only. No additional enclosed structures for mechanical appurtenances exceeding the permitted building height shall be allowed.

1. Request:

Meeting Date: April 21, 2026

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING / APPROVING WITH CONDITIONS/ DENYING VARIANCE 20260011, REQUEST FOR A VARIANCE FROM LDC SECTION 34-676(A), TO MULTIPLY THE PARKING REQUIREMENTS BY 0% AND ALLOW A 100% REDUCTION IN PARKING REQUIREMENTS WHERE A MAXIMUM PERCENTAGE OF 67% IS MULTIPLIED WITH PARKING REQUIREMENTS TO ALLOW A 33% PARKING REDUCTION BY RIGHT FOR PROPERTIES IN THE DOWNTOWN ZONING, FOR THE PROPERTY LOCATED AT 1161/1165 ESTERO BLVD, GENERALLY REFERRED TO AS STRAP NUMBER: 19-46-24-W4-0150E.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.

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

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution

5. Background:

John W. Richard, on behalf of Richard John W. TR, the owner of 1161/1165 Estero Blvd, is requesting a variance from LDC Section 34-676(a) to multiply the parking requirements by 0% and allow a 100% reduction in parking requirements, where a maximum percentage of 67% is multiplied by parking requirements to allow a 33% parking reduction by right for properties in the Downtown zoning district.

The subject property is an irregularly shaped parcel located at the northeast corner of Estero Boulevard and Crescent Street, both of which are identified as primary streets within the Town's Land Development Code. The property currently supports a mixed-use development with approximately 2,700 square feet of ground-floor retail and three residential rental units on the second level. The site currently provides four on-site parking spaces, including one ADA parking space, and maintains a joint parking agreement for three additional spaces with a nearby property located at 150 Crescent Street.

The Applicant is seeking relief due to existing site constraints and operational safety concerns. The current parking configuration requires vehicles to back out of the site directly into the intersection of Estero Boulevard and Crescent Street. Due to limited site depth, approximately 6.5 feet of the backing maneuver occurs within the Town's right-of-way, creating a conflict between vehicular movements and intersection traffic. Therefore, the Applicant is requesting a variance from LDC Section 34-676(a) to multiply the parking requirements by 0% to allow a 100% reduction in parking requirements. Approval of this request will allow the Applicant to remove the existing parking and replace it with pedestrian-oriented improvements, including outdoor patio and seating areas.

Attachments:

1. LPA Resolution 2026-XX, 11611165 Estero Blvd
2. Exhibit A- Survey
3. Exhibit B- Existing Parking Agreement
4. Staff report

Financial Impact:

Unknown

6. Alternative Action

Approve/ Approve with conditions

7. Staff Recommendations:

Staff recommends **DENIAL** for the variance request VAR20260011, to multiply the parking requirements by 0% and allow a 100% reduction in parking requirements for the property located at 1161/1165 Estero Blvd.

8. Recommended Approval:

_____	Date: April 09, 2026
Kendra Rosa, Zoning Coordinator	
_____	Date: April 09, 2026
Georgina Cid, Community Development Manager	
_____	Date: April 13, 2026
Frankie Kropacek, Community Development Director	
_____	Date: April 13, 2026
nancy stuparich, Town Attorney	
_____	Date:
Amy Baker, Town Clerk	

LPA RESOLUTION 2026-XX

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING / APPROVING WITH CONDITIONS/ DENYING VARIANCE 20260011, REQUESTING FOR A VARIANCE FROM LDC SECTION 34-676(A), TO MULTIPLY THE PARKING REQUIREMENTS BY 0% AND ALLOW A 100% REDUCTION IN PARKING REQUIREMENTS WHERE A MAXIMUM PERCENTAGE OF 67% IS MULTIPLIED WITH PARKING REQUIREMENTS TO ALLOW A 33% PARKING REDUCTION BY RIGHT FOR PROPERTIES IN THE DOWNTOWN ZONING, FOR THE PROPERTY LOCATED AT 1161/1165 ESTERO BLVD, GENERALLY REFERRED TO AS STRAP NUMBER: 19-46-24-W4-0150E.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.

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, John W. Richard, on behalf of Richard John W. Trustee, is the owner of the real property located at 1161/1165 Estero Blvd, Fort Myers Beach, Florida (hereinafter "Subject Property"); and

WHEREAS, the STRAP for the Subject Property is 19-46-24-W4-0150E.0010; and

WHEREAS, the Subject Property is within the Pedestrian Commercial Future Land Use Map category according to the Town of Fort Myers Beach Comprehensive Plan; and

WHEREAS, the Subject Property is located in the Downtown zoning district; and

WHEREAS, the Subject Property is an irregularly shaped parcel located at the northeast corner of Estero Boulevard and Crescent Street, both of which are identified as primary streets within the Town's Land Development Code; and

WHEREAS, the Subject Property currently supports a mixed-use development with approximately 2,700 square feet of ground-floor retail and three residential rental units on the second level; and

WHEREAS, the Subject Property currently provides four on-site parking spaces, including one accessible parking space, and maintains a joint parking agreement for three additional spaces with a nearby property located at 150 Crescent Street; and

WHEREAS, LDC Section 34-676(a), allows parking requirements to be multiplied by 67% to allow a 33% parking reduction for developments in the Downtown zoning district; and

WHEREAS, the current parking configuration requires vehicles to back out of the site directly into the intersection of Estero Boulevard and Crescent Street. Due to limited site depth, approximately 6.5 feet of the backing maneuver occurs within the public right-of-way; and

WHEREAS, the Applicant is requesting a variance from LDC Section 34-676(a), to multiply the parking requirements by 0% and allow a 100% parking reduction; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on April 21, 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. All existing on-site parking with backing movements into Estero Boulevard and Crescent Street shall be permanently eliminated. The former parking area shall be converted into a pedestrian-oriented space consistent with Downtown design standards.
3. Enhanced landscaping, including building edge planting and perimeter landscaping, shall be provided along Estero Boulevard.
4. No vehicular access shall be permitted from Estero Boulevard, and any future access shall comply with LDC Section 34-676(d).
5. Any future change in use or increase in intensity shall require reevaluation for parking compliance.

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 and 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. VAR20260011, with the conditions contained herein, received/ did not receive unanimous approval from eligible voting members of the LPA on April 21, 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 _____ _____
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: Survey

Exhibit B: Existing Parking Agreement

INSTR # 2018000045663, Doc Type AGR, Pages 7, Recorded 02/26/2018 at 12:31 PM,
Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee \$61.00 Deputy
Clerk ERECORD

JOINT USE PARKING AGREEMENT

WHEREAS, the John W. Richard Revocable Trust U/T/A May 3, 1995, by and through John Richard, Trustee (Owner or Applicant), owns property located at 1161-1165 Estero Boulevard, Fort Myers Beach, Florida (the "1161-1165 Estero Property"), more specifically described in Exhibit A attached hereto and incorporated herein in fee simple; and

WHEREAS, the John W. Richard Trust, by and through John Richard, Trustee (the "Trustee") owns the property located at 150 Crescent Street, Fort Myers Beach, Florida, more specifically described in Exhibit B attached hereto and incorporated herein (the "Off-street Parking Property") which is approved as shared permanent parking lot and which is maintained by Trustee; and

WHEREAS, both the 1161-1165 Estero Property and the Off-street Parking Property" are within the Downtown District Area as defined by the Land Development Code ("LDC");and

WHEREAS, the Old San Carlos/Crescent Street Master Plan adopted by Town Council which include the "Park Once" concept has been implemented in the Downtown District Area; and

WHEREAS, the current uses on 1161-1165 Estero Property consist of 2,700 square feet retail and three (3) dwelling units which the Town concurs has required parking of seven (7) spaces; and

WHEREAS, Owner has applied to the Town of Fort Myers Beach and received a limited development order to improve the 1161-1165 Estero Property with no increase in intensity or density and agreed that three (3) parking spaces ("Off-site Parking Spaces") be designated by a joint use parking agreement on the Off-Street Parking Property; and

WHEREAS, the Town concurs there are four (4) legally compliant parking spaces on-site based on Limited Development Order 2017-00067 at the 1161-1165 Estero Property leaving three (3) parking spaces to be allocated to the Off-street Parking Property; and

WHEREAS, the Off-street Parking Property has a total of twenty-seven (27) spaces and a bike rack in the Downtown District Area, as defined by the Land Development Code (LDC); and

WHEREAS, this Joint Use Parking Agreement specifically designates and locates Off-site Parking Spaces on the Off-street Parking Property depicted on the attached Exhibit C, which Exhibit is hereby incorporated, for 1161-1165 Estero Property and cannot be counted to support any other use and physical posting of the Off-site Parking Spaces is not required; and

WHEREAS, the Town approval of LDO 2017-00067 includes a revised Condition eliminating the posting of a parking space to a particular business but requires the execution of a joint use parking agreement between the owners of the two (2) parcels (Off-street Parking Property and 1161-1165 Estero Property) and requires approval by the Town; and

WHEREAS, since one entity owns both 1161-1165 Estero Property and Off-site Parking Property, both properties are bound by this Agreement to run with the land; and

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WHEREAS, no other agreement designating spaces has been entered regarding the Off-street Parking Property.

NOW, THEREFORE, Owner and Trustee hereby agree and state as follows:

1. The above "Whereas" clauses are incorporated into this Agreement as though set forth fully herein.
2. The notarized statement required by LDC Section 34-2018 (c)(2)(a) is attached hereto as Exhibit D and is hereby incorporated by reference.
3. The Off-site Parking Spaces, on the Off-street Parking Property depicted in Exhibit C cannot be counted to support any other use other than those identified in this Agreement.
4. In accordance with the requirements of the LDC, the parties understand and agree, if the Off-site Parking Spaces are no longer available for use, by way of example of "no longer available" means removal of the use of parking from 150 Crescent Street or the same spaces at 150 Crescent Street are allocated by another joint use parking agreement in violation of Section 3, then that will be in violation of the Town of Fort Myers Beach Land Development Code requirements. Applicant will be required to reduce or cease operation and use of the property at Applicant's address to an intensity approved by the Town in order to bring the property into conformance with the Land Development Code requirements for required parking or provide to the Town a joint use parking agreement for Off-site Parking spaces within 750 feet of the 1161-1165 Estero Property.

Although the Applicant may have recourse against the Party supplying Off-site Parking Spaces for breach of this Agreement, in no circumstance shall the Town be obligated by this agreement to remedy such breach. The Parties acknowledge that the sole recourse for the Town if this Agreement is breached is against the Applicant, and the Town may invoke any remedy provided for in the Land Development Code to enforce such violation against the Applicant.

5. The provisions and conditions of this Agreement shall run with the land for those properties referenced in this document and be enforceable against successors in interest and assigns of the signing parties.

6. This Agreement shall be recorded in the public records of Lee County, Florida, at Owner's expense within five (5) days of execution and approval by the Town and a certified copy hereof shall be provided to the Town of Fort Myers Beach, Florida within such timeframe.

7. This Agreement is in perpetuity and can only be terminated if replacement parking has been approved by the Town Manager or Town's Director of the Community Development and written notice of termination of this Agreement has been provided to the other party at least sixty (60) days prior to the termination date.

8. Prior to entering a lease which changes any of the uses at 1161-1165 Estero Boulevard, notice of said proposed change in tenancy which is a change of use shall be provided to the Town of Fort Myers Beach to entering said lease.

Witnessed by:

Deborah Brunner
Print Name: Deborah Brunner

Deborah Drake
Print Name: DEBORAH DRAKE

OWNER: JOHN W. RICHARD REVOCABLE TRUST U/T/A MAY 3, 1995

TRUSTEE: JOHN W. RICHARD REVOCABLE TRUST U/T/A MAY 3, 1995

By: John W. Richard, Trustee
John W. Richard, Trustee

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to before me by John W. Richard, Trustee of the John W. Richard Revocable Trust U/T/A May 3, 1995, who is [] personally known to me OR [] produced a Florida driver's license as identification, this 20 day of FEBRUARY 2018.

[NOTARY STAMP/SEAL]

Deborah Drake
Notary Public
My commission expires: 7-31-2021

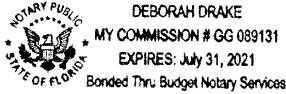


EXHIBIT A
(1161-1165 Estero Boulevard)

A lot or parcel of land comprised of part of Lots 1 and 2, Block E, part of the "Reserved" strip lying east of said Block E, and part of the vacated drive or street lying between said lots and said "Reserved" strip in Crescent Park Addition, according to a plat thereof recorded in Plat Book 4, Page 46 of the Public Records of Lee County, Florida, which parcel or strip is described as follows: Beginning at the southwest corner of said Lot 1, Block E, run southeasterly along the southerly line of said Lot 1 and the north line of Estero Boulevard for 80 feet; thence run north parallel with the west line of said Block E for 76.34 feet to a point on a prolongation of the north line of the south half of said Lot 2, Block E; thence run east along said prolongation for 27.53 feet to the east line of said "Reserved" strip and the west line to a boat canal or basin shown on said plat; thence run north along the west line of said canal or basin for 25 feet to a point on a prolongation of the north line of said Lot 2, Block E, thence run west along said prolongation and said north line to the northwest corner of said Lot 2; thence run south along the west line of said Lot 2 and Lot 1 for 73.8 feet to the point of beginning.

Parcel Identification Number: 19-46-24-W4-0150E.0010

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EXHIBIT B
(150 Crescent Street)

PARCEL 1:

Lots 6 and 7, in Block E of that certain subdivision known as Crescent Park Addition, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 4, page 46, and TOGETHER WITH all lands lying East thereof between said lots and the canal in Block E of said subdivision being more particularly described as follows:

Beginning at the Northeast corner of said Lot 7; thence run East 32.67 feet, more or less, along the North line of Lot 7 extended to the canal; thence run Southerly along the waters of the canal to a point where the South line of Lot 6 extended strikes the waters of the canal; thence run West to the Southeast corner of said Lot 6; thence run North along the East ends of Lots 6 and 7 to the Point of Beginning.

LESS AND EXCEPT the following described parcels which were the subject of that certain Order of Taking in the matter of Lee County, Florida, vs. Robert D. Swavely, et al, Case No. 93-203 CA, Circuit Court, Lee County, Florida, recorded in Official Records Book 2370, page 215, Public Records of Lee County, Florida, to wit:

Description: Tract 12

Part of Lots 6 and 7, Block E, Crescent Park Addition, in Section 19, Township 46 South, Range 24 East, as shown on the plat recorded in Plat Book 4, on page 46 of the public records of Lee County, Florida, more particularly described as follows:

Beginning at the Southwest corner of said Lot 6, thence run N. 0°37'53" W. along the West line of Lots 6 and 7 for 100 feet to the Northwest corner of Lot 7; thence run N. 89°22'07" E. for 10.59 feet; thence run S. 0°11'13" W. for 100.01 feet to the South line of Lot 6; thence run S. 89°22'07" W. for 9.16 feet to the point of beginning.

Description: Tract 12-T (Temporary Construction Easement)

Part of Lots 6 and 7, Block E, Crescent Park Addition, in Section 19, Township 46 South, Range 24 East, as shown on the plat recorded in Plat Book 4, on page 46 of the public records of Lee County, Florida, more particularly described as follows:

Commencing at the Southwest corner of said Lot 6; thence run N. 89°22'07" E. along the South line of Lot 6 for 9.16 feet to the point of beginning; thence N. 0°11'13" E. for 100.01 feet to the North line of Lot 7; thence N. 89°22'07" E. along said North line for 5.00 feet; thence run S. 0°11'13" W. for 100.01 feet to the South line of Lot 6; thence run S. 89°22'07" W. for 5.00 feet to the point of beginning.

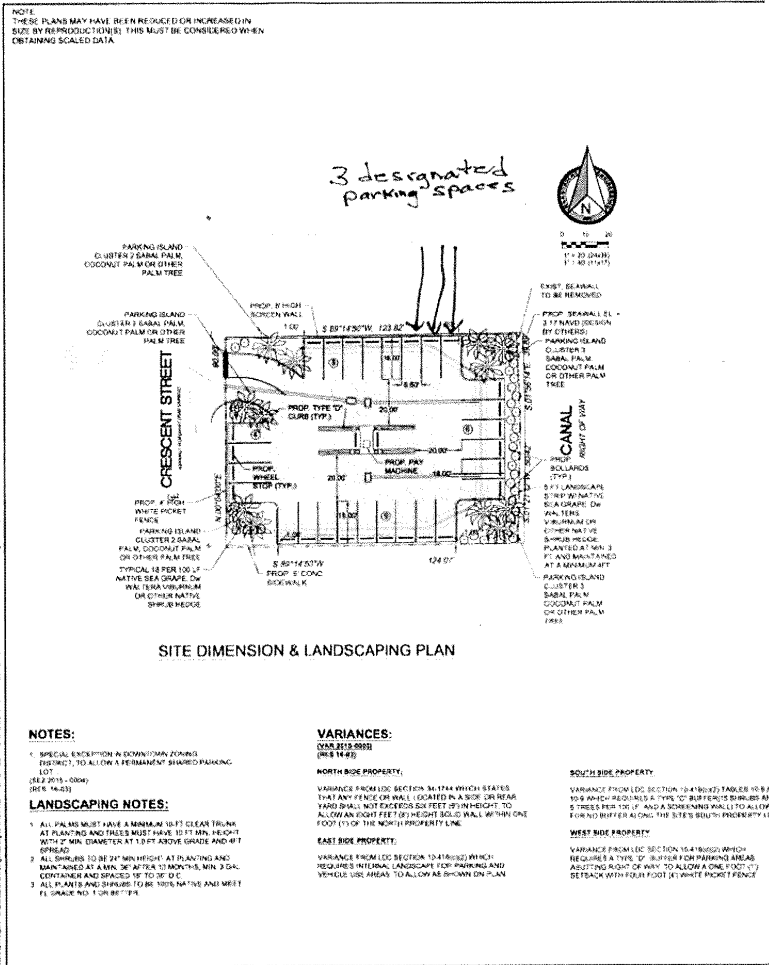
PARCEL 2:

The Northerly 40 feet of Lot 5, Block E, of that certain subdivision known as Crescent Park Addition, according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 4, page 46, TOGETHER WITH that certain strip of land extending East from the North 40 feet of Lot 5, Block E, of said Crescent Park Addition, to the canal, said strip of land lying between the North and South lines extended of said 40 foot lot.

Strap Nos. 19-46-24-W4-0150E.0060 and 19-46-24-W4-0150E.005B

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EXHIBIT C



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EXHIBIT D
Notarized Statement for Joint Use Parking

The John W. Richard Revocable Trust U/T/A May 3, 1995, by and through John W. Richard, Trustee (Owner), owns property located at 1161-1165 Estero Boulevard and owns property at 150 Crescent Street in the Town of Fort Myers, Florida.

The Property at 1161-1165 Estero Boulevard is being used for three (3) dwelling units and 2,700 square feet of retail uses.

The Property at 150 Crescent Street is being used as a shared permanent commercial parking lot and three (3) parking spaces have been identified and designated in the Joint Use Parking Agreement for 1161-1165 Estero Boulevard.

This affidavit complies with the requirements of the Town of Fort Myers Beach Land Development Code (LDC) Section 34-2018. If at any time any circumstances changes so that the statements set forth herein are no longer true and correct, I will promptly advise the Town Manager of Town of Fort Myers Beach in writing.

OWNER: JOHN W. RICHARD REVOCABLE
TRUST U/T/A MAY 3, 1995

By: John W. Richard Trustee
John W. Richard, Trustee

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to before me by John W. Richard, Trustee of the John W. Richard Revocable Trust U/T/A May 3, 1995, who is [] personally known to me OR [] produced a Florida driver's license as identification, this 20 day of FEBRUARY, 2018.

[NOTARY STAMP/SEAL]

Reborah Burke
Notary Public
My commission expires: 7-31-2021



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20260011

CASE NAME: 1161/1165 Estero Blvd; request for a variance from LDC Section 34-676(a), to multiply the parking requirements by 0% and allow a 100% reduction in parking requirements where a maximum percentage of 67% is multiplied with parking requirements to allow a 33% parking reduction by right for properties in the Downtown zoning district.

LPA

HEARING DATE: April 21, 2026, 9:00 am

STAFF

RECOMMENDATION: Denial

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

I. APPLICATION SUMMARY

Agent: Kara Stewart

Applicant/Owner: John W. Richard/ Richard John W. TR

Request: The Applicant is requesting a variance from LDC Section 34-676(a), to multiply the parking requirements by 0% and allow a 100% reduction in parking requirements where a maximum percentage of 67% is multiplied with parking requirements to allow a 33% parking reduction by right for properties in the Downtown zoning district.

Subject property: See attached site plan

Physical Address: 1161/1165 Estero Blvd

STRAP #: 19-46-24-W4-0150E.0010

FLU: Pedestrian Commercial

Zoning: Downtown

Adjacent zoning and land uses:

North: DOWNTOWN
Vacant Commercial

South: COMMERCIAL PLANNED DEVELOPMENT
Hotel

East: DOWNTOWN
Commercial Restaurant

West: COMMERCIAL PLANNED DEVELOPMENT
Hotel

II. BACKGROUND AND ANALYSIS

Background:

John W. Richard, on behalf of Richard John W. TR, the owner of 1161/1165 Estero Blvd, is requesting a variance from LDC Section 34-676(a), to multiply the parking requirements by 0% and allow a 100% reduction in parking requirements where a maximum percentage of 67% is multiplied with parking requirements to allow a 33% parking reduction by right for properties in the Downtown zoning district.

The subject property is an irregularly shaped parcel located at the northeast corner of Estero Boulevard and Crescent Street, both of which are identified as primary streets within the Town's Land Development Code. The property currently supports a mixed-use development with approximately 2,700 square feet of ground-floor retail and three residential rental units on the second level. The site currently provides four on-site parking spaces, including one ADA parking space, and maintains a joint parking agreement for three additional spaces with a nearby property located at 150 Crescent Street.

The applicant is seeking relief due to existing site constraints and operational safety concerns. The current parking configuration requires vehicles to back out of the site directly into the intersection of Estero Boulevard and Crescent Street. Due to limited site depth, approximately 6.5 feet of the backing maneuver occurs within the Town's right-of-way, creating a conflict between vehicular movements and intersection traffic. Therefore, the applicant is requesting a variance from LDC Section 34-676(a), to multiply the parking requirements by 0% to allow a 100% reduction in parking requirements. Approval of this request will allow the Applicant to remove the existing parking and replace it with pedestrian-oriented improvements including outdoor patio or seating areas.

Analysis:

The purpose of the Downtown zoning district is to create the desired quality and character for the center of pedestrian-oriented commercial activities within the town. New

commercial buildings are expected to accommodate pedestrians by providing storefronts near sidewalks and by offering shade and shelter along major streets. The property is currently situated in the northeast corner of the street intersection formed by two primary streets- Estero Blvd and Crescent Street. The property has existed in this layout since 1967. It supports 2700 square feet of ground floor retail and 3 rental units (two one-bedroom units and one two-bedroom unit) on second level. The Applicant is proposing no changes to the building use, footprint, density or intensity at this time.

LDC Section 34-2020(d), requires 3 parking spaces for every 1000 square feet of retail space and 1.25 parking spaces per every one-bedroom and two-bedroom rental units. Therefore, as per LDC Section 34-2020(d), the Applicant is required to provide approximately 12 parking spaces on site. As per LDC Section 34-674, developments in Downtown zoning are permitted to multiply the required parking by 67% to allow a 33% parking reduction. The intent of this code is to encourage pedestrian traffic and safety in downtown area. Applying this code-authorized parking reduction in Downtown zoning district, the Applicant is therefore required to have 8 parking spaces on site as per the current regulations of the LDC. The property currently has 4 parking spaces including 1 ADA parking on site and a joint parking agreement in compliance with LDC Section 34-2018, for 3 parking spaces with 150 Crescent Street.

As per LDC Section 34-676(d)(1), Existing driveways and parking spaces shall be relocated from Estero Boulevard to secondary streets, and new driveways shall connect only to secondary streets, except where these requirements would prohibit all reasonable access to a property. Additionally, as per LDC Section 34-676(d)(2), For Properties fronting primary streets other than Estero Boulevard, driveways should be connected to secondary streets whenever possible... [and] shall be spaced as far as practical from other driveways or intersections.” The subject property fronts only on two primary streets and does not meet these access management standards in the current LDC.

The existing building has a street setback of 31.5 feet from Estero Blvd and 6.3 feet from Crescent Street. The Town’s LDC requires a minimum 18 feet long parking spaces with 20-foot-wide one-way aisle for safe backing maneuvering. Due to its limited width along Estero Boulevard and full build-out along Crescent Street, the property cannot achieve compliant driveway spacing or relocation of access. As a result, the current configuration relies on 6.5 feet of the public right-of way for backing up cars directly into the active intersection, which presents a public safety concern and is inconsistent with the intent of the Code.

As per Objective 1-A in the Town’s Comprehensive Plan, it is the Town’s priority to improve the functioning and appearance of Estero Boulevard as the premier public space and primary circulation route of Fort Myers Beach.

Policy 1-A-1 provides that changes along Estero Boulevard should create an environment that is “safe and interesting to walk along... scaled to people rather than high-speed traffic.”

Policy 1-A-3 further states that development should: “locate most parking spaces to the rear of buildings, limit curb cuts, and promote shared parking areas... [and] facilitate pedestrian and bicycle access and contribute to the interconnectedness of the circulation system.”

Staff believes that elimination of the existing parking area would remove unsafe vehicular movements at the intersection and would support these Comprehensive Plan policies by improving pedestrian safety and reducing vehicular conflicts. The removal of parking also presents an opportunity to enhance the streetscape and reinforce the pedestrian-oriented character of the Downtown district. However, the Land Development Code provides mechanisms to address parking constraints without eliminating parking requirements entirely. The subject property currently utilizes a joint parking agreement, and additional or expanded shared parking arrangements remain a viable and code-compliant alternative for the 8 required parking spaces.

The requested variance seeks to eliminate all required parking, despite the continued operation of retail and residential uses that generate parking demand. The proposal does not include a replacement parking strategy, which may result in increased reliance on surrounding properties and public parking resources. While the property exhibits exceptional physical constraints, these constraints do not eliminate all reasonable options for compliance. The ability to pursue shared parking agreements demonstrates that a lesser degree of relief may be available.

Neighborhood Compatibility:

The subject property is located within the Downtown zoning district, which includes a mix of older structures and newer pedestrian-oriented redevelopment. Several properties within the Downtown area were developed prior to current regulations and include parking configurations where vehicles back toward or into Estero Boulevard. While these conditions exist, they represent legacy development patterns rather than desired design outcomes. The Land Development Code has since evolved to discourage such configurations and to promote safer access management.

The subject property presents a more critical condition than typical Downtown properties. Unlike other sites where backing movements occur along a roadway segment, this property requires vehicles to back directly into an intersection formed by two primary streets. This significantly increases the risk of vehicular conflict, limits visibility, and creates heightened safety concerns for pedestrians and cyclists.

Although similar conditions exist elsewhere in the Downtown district, the intensity and location of this condition distinguish the subject property and support corrective action. However, the presence of these conditions in the surrounding area does not justify eliminating all parking requirements without pursuing alternative solutions.

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 conditions inherent to the subject property, including its irregular configuration, limited frontage, and location at the intersection of two primary streets-Crescent Street and Estero Blvd. The property currently supports a mixed-use building with approximately 2,700 square feet of retail on the ground floor and three rental units on second living level with 4 parking spaces including 1 ADA parking and a joint parking agreement for 3 parking spaces with 150 Crescent Street. The existing parking configuration creates a safety concern due to vehicles backing directly into the intersection. The request to eliminate on-site parking would address the identified safety concerns. The Applicant, however, may consider extending the existing joint parking agreement to accommodate the required parking spaces for the existing development.

- 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 Property has supported the current use with existing parking area since 1967. The physical constraints of the property are not self-created and are largely a result of historical development patterns. However, the request to eliminate all parking is not solely necessitated by these conditions. The Applicant has the option to meet the Town's required parking by extending the existing or entering into a new Joint Parking Agreement as per LDC Section 34-2018.

- 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 requested variance does not represent the minimum relief necessary. While removal of on-site parking may address safety concerns, alternative options such as extending the existing or acquiring a new shared parking agreements are available to achieve compliance with the Town's LDC and Comprehensive Plan.

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

Removal of the unsafe parking configuration, which requires vehicles to use the public right-of-way for backing maneuvers would improve public safety; however, eliminating all required parking without replacement may negatively impact surrounding properties and public parking resources.

- 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 the variance is sought are not general in nature and does not warrant a code change. Approval of this request may establish a precedent for similar requests within the Downtown district.

III. RECOMMENDATION

Staff has reviewed the request for variance *from LDC Section 34-676(a), to multiply the parking requirements by 0% and allow a 100% reduction in parking requirements where a maximum percentage of 67% is multiplied with parking requirements to allow a 33% parking reduction by right for properties in the Downtown zoning district,* and find that the variance request **does not meet** the requirements set forth in Sec. 34-87.

Therefore, staff recommends **DENIAL** for the variance request VAR20260011, to multiply the parking requirements by 0% and allow a 100% reduction in parking requirements for the property located at 1161/1165 Estero Blvd.

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. All existing on-site parking with backing movements into Estero Boulevard and Crescent Street shall be permanently eliminated. The former parking area shall be converted into a pedestrian-oriented space consistent with Downtown design standards.
3. Enhanced landscaping, including building edge planting and perimeter landscaping, shall be provided along Estero Boulevard.
4. No vehicular access shall be permitted from Estero Boulevard, and any future access shall comply with LDC Section 34-676(d).
5. Any future change in use or increase in intensity shall require reevaluation for parking compliance.

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

Yellow Sheet Number: **2026-443**

1. Request:

Meeting Date: April 21, 2026

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VAR20260026, A VARIANCE FROM LDC TABLE 34-3 REQUESTING A 3.25 FEET REDUCTION OF THE REQUIRED 10 FOOT SIDE SETBACKS AND 8.75 FOOT OF THE REQUIRED 25 FOOT REAR SETBACKS, IN THE RS ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 340 WASHINGTON COURT; 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 WISHES TO DEVELOP NEW ACCESSORY STRUCTURES ON AN EXISTING, DEVELOPED LOT WITH EXISTING NON-COMPLIANT SETBACKS, DESIGNING TO TODAY'S STANDARDS WOULD MAKE DEVELOPMENT OF THE DECK AND SHADE STRUCTURE DIFFICULT

What the action accomplishes:

APPROVAL OF THE VARIANCES

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

RESOLUTION 26-LPA-05

5. Background:

The applicant for 340 Washington Court, is requesting a variance from Table 34-3 which requires that residences which are on water and greater than 75-feet in width provide a minimum of 10-foot setbacks to the side property line and 25-feet to the rear property line for accessory structures which are roofed and structurally connected to the primary structure. The applicant has proposed a reduction of 3.1-feet on the side and 8.75-feet in the rear and will be providing 6.9-feet and 16.25-feet respectively.

Attachments:

1. 2026-LPA05 RESOLUTION (1)
2. LPA STAFF REPORT (6)
3. Exhibit A -- Site Plans

Financial Impact:

N/A

6. Alternative Action

ADOPT WITH CONDITIONS

7. Staff Recommendations:

N/A

8. Recommended Approval:

nancy stuparich, Town Attorney

Date: April 16, 2026

Date: April 16, 2026

LPA RESOLUTION 2026-LPA 05

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VAR20260026, A VARIANCE FROM LDC TABLE 34-3 REQUESTING A 3.25 FEET REDUCTION OF THE REQUIRED 10 FOOT SIDE SETBACKS AND 8.75 FOOT OF THE REQUIRED 25 FOOT REAR SETBACKS, IN THE RS ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 340 WASHINGTON COURT; 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, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

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

WHEREAS, Edward Morelli, applicant is requesting a variance from LDC Table 34-3 which requires all single-family lots greater than 75-feet in width to provide 10-foot side setbacks and 25-foot waterbody setbacks; and

WHEREAS, the STRAP number for the subject property is 29-46-24-W1-0110C.0260; and

WHEREAS, the Property is located in the "Low Density" category of the Future Land Use Map of the Comprehensive Plan and the "Residential Single-Family" (RS) zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on April 21, 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. All existing on-site parking with backing movements into Estero Boulevard and Crescent Street shall be permanently eliminated. The former parking area shall be converted into a pedestrian-oriented space consistent with Downtown design standards.
- 3. Enhanced landscaping, including building edge planting and perimeter landscaping, shall be provided along Estero Boulevard.
- 4. No vehicular access shall be permitted from Estero Boulevard, and any future access shall comply with LDC Section 34-676(d).
- 5. Any future change in use or increase in intensity shall require reevaluation for parking compliance.

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. VAR20260026, with the conditions contained herein, received/ did not receive unanimous approval from eligible voting members of the LPA on April 21, 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 _____ _____
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: Survey and Site Plan



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20260026

CASE NAME: 340 Washington Court; an RS zoned property requesting a 3.25-foot (side setback) and 8.75-foot (rear setback) reductions from LDC Table 34-3 that requires a 10-foot setback to the side property line and 25-foot setback to the rear property line.

COUNCIL HEARING DATE: April 21, 2026, at 9 AM

STAFF RECOMMENDATION: APPROVE WITH CONDITIONS

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

I. APPLICATION SUMMARY

Applicant/Owner: Edward Morelli

Request: The applicant is requesting a 3.1-foot reduction of the required 10-foot side yard setback, and a reduction of the 25-foot rear setback to provide 16.25-feet, a reduction of 8.75-feet in the rear

Subject property: See attached site plan

Physical Address: 340 Washington Court

STRAP #: 29-46-24-W1-0110C.0260

FLU: Low Density

Zoning: Residential Single-Family (RS)

Adjacent zoning and land uses:

North:	RESIDENTIAL CONSERVATION (RS) Single-Family Residential
South:	RESIDENTIAL CONSERVATION (RC) Single-Family Residential
East:	RESIDENTIAL CONSERVATION (RS) Single-Family Residential
West:	RESIDENTIAL CONSERVATION (RS) Single-Family Residential

II. BACKGROUND AND ANALYSIS

Background:

The applicant for 340 Washington Court, is requesting a variance from Table 34-3 which requires that residences which are on water and greater than 75-feet in width provide a minimum of 10-foot setbacks to the side property line and 25-feet to the rear property line for accessory structures which are roofed and structurally connected to the primary structure. The applicant has proposed a reduction of 3.25 feet on the side and 8.75 feet in the rear and will be providing 6.9-feet and 16.25-feet respectively.

The applicant asserts that requiring them to re-design the proposed deck and shade structure to meet a 10-foot setback would constitute a hardship based on additional engineering and the fact that a 10-foot setback would leave a portion of the existing lanai without direct access to the deck and would obscure the view of the pool which constitutes a risk since his grandchildren will be over frequently and would be swimming.

Analysis:

The purpose of the RS zoning district “..is to provide stable neighborhoods where single-family detached homes are the predominant land use.” The applicant’s lot is a corner lot with a ‘shoulder’ which wraps around the end of the canal on the eastern side of Washington Ct. The lot has a depth of approximately 140-feet along the shoulder adjacent to Shell Mound Blvd. –approximately 100-feet on the side adjacent to the neighbor on Washington Ct-- and a width of approximately 100-feet parallel to Washington Ct, requiring a street setback of 25-feet, side setbacks of 10-feet, and rear setbacks of 25-feet. Prior to Hurricane Ian, the property had a single-family home on it originally developed in 1965.

The applicant is requesting to reduce the Northeastern side setback of 10-feet on the side setback required in Table 34-3 and provide 8-feet, a difference of 4-feet. The applicant is also requesting to reduce the rear 25-foot setback of the elevated deck and the proposed shade structure. The applicant’s narrative states that changes to the

deck and shade structure to meet today's Land Development Codes (LDC) would require a design that would either require him to forgo the shade structure or design it in such a way that the pilings would obstruct the view of the pool where is grandchildren are often playing. Aside from the requested variances to setbacks. The applicant's site plan meets side and rear setbacks as called-for in the Land Development Code.

Neighborhood Compatibility:

The lot sits within an RS zoned neighborhood, close to the bay-side, the wider neighborhood development pattern is entirely single-family homes, with a majority of the lots having pools, the general proposed design of the applicant's structure isn't out of line with the wider neighborhood and the proposed pool and shade structures will be proportional to accessory structures which still exist, or could conceivably be redeveloped on Washington Ct.

The proposed development will increase the sites overall building coverage, the applicant will still need to meet LDC limits of 40% of the lot being covered with roofed area. The applicant has not provided staff a proposed impervious calculation in their design, but they would be required to provide the minimum amount of open space, 33% of the lot as required by the LDC.

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 proposed footprint is a choice by the applicant to develop a home which will maximize the buildable footprint of the lot, this is not an extraordinary circumstance, simply a design choice. While the design is a choice the existing setbacks of the home were from decades ago, long before the Town's LDC regulations were in effect. The request is the minimum needed to allow for structures of a dimension that would be generally in-line with the development pattern in the wider neighborhood.

- 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 lot was originally developed in 1965, there are no contemporaneous documents which show the originally approved setbacks, but it's obvious that the regulations which existed when the home was originally developed were less stringent than today's rules. Adhering to the regulations of today would

create odd disconnects between the existing structure and the proposed structures.

- c. *That the variance granted **is/is not** the minimum variance that will relieve that applicant of an unreasonable burden caused by the application of the regulation in question to this property.*

The design meets the minimum needs of the applicant as expressed during our pre-application meetings. While it is true that the applicant could design a smaller deck, or even forgo the proposed shade structure, both uses are widely considered to be standard ancillary uses of a pool area.

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

The proposed structures will generally be in-line with the development patterns of the wider neighborhood, while we haven't received any direct communication from neighbors who might not want the approval of the variance, staff cannot assess fully whether there might be unintended outcomes which might affect the neighborhood's quality of life.

- 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.*

Staff does not believe that minimum setbacks for accessory structures should be amended based on this request, staff believes that the variance process is the correct venue for this discussion.

III. RECOMMENDATION

Staff has reviewed the request for a variance *from LDC Table 34-3 to reduce required setbacks for single-family accessory uses* and found that the variances requested do meet the requirements set forth in sec. 34-87.

Therefore, staff recommends **APPROVAL WITH CONDITIONS** of **VAR20260026**, a request for a variance of 3.1-feet to side setbacks, and 8.75-feet to the rear waterbody setback.

IV. CONDITIONS FOR APPROVAL

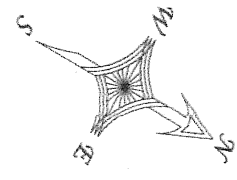
If the Town's LPA recommends approval for the variance, town's staff recommends the following conditions of approval.

- 1) Should the home be demolished and the site redeveloped, the approved variances will become null and void and the new structure will be expected to be build to meet the codes at the time of review.

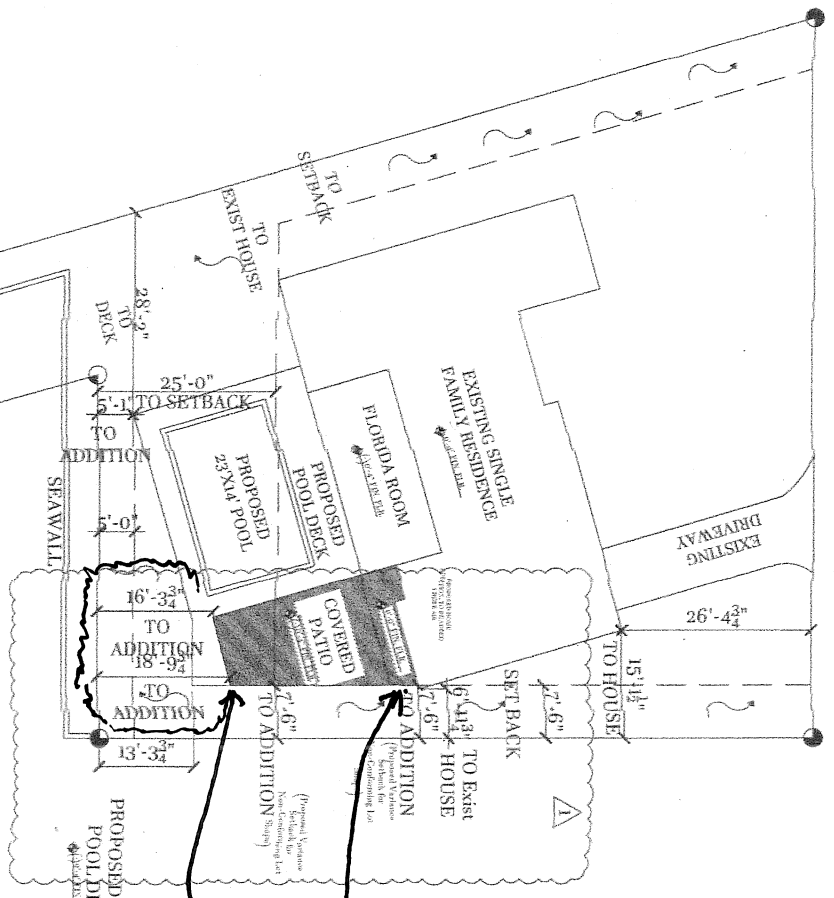
- 2) Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically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

V. EXHIBITS

- A. Site Plans



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



New covered patio to be 7' 6" off property line at existing house corner.

New covered patio to be 6' 9" off property line at existing house corner.

SITE PLAN LEGEND	
	SLOPE DIRECTION
	ELEVATION TAG
	DIRECTION OF FLOW
	AREA OF WORK

SITE PLAN
VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION

SITE PLAN
FOR PLACEMENT PURPOSE ONLY. CERTIFIED SURVEYOR TO VERIFY SETBACKS AND PLACEMENT.

<p>SP SHEET #</p>	<p>Drawn By: JP CKD By: JHP</p>	<p>Job#: E22-043 Date: 01/25/2023</p>	<p>ASMUSSEN ENGINEERING, LLC ENGINEERING & ENVIRONMENTAL SERVICES PO BOX 1386 - OKEECHOBEE FLORIDA 34973 OFFICE (883) 763-8546 CELL (883) 610-0043 EMAIL LASMUSSE@EMBARQMAIL.COM B.P.F. NO. 26134 - LORIS C. ASMUSSEN, FL P.E. #50693</p>	<p>MORELLI RESIDENCE 340 Washington Court Fort Myers Beach, FL. 33931</p>	<p>Elemental Consulting Draw - Design - Deliver To: [unclear] [unclear] [unclear] and [unclear] [unclear] [unclear] 339-262-2127</p>	<p>REVISIONS</p>
						<p>REV 1 3-1-24</p>

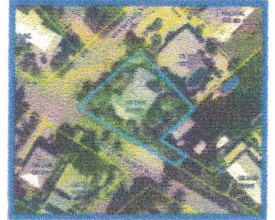
BOUNDARY SURVEY

Date Of Field Work - 01/18/2018 Drawn By - C.G. Order # - 1000010446

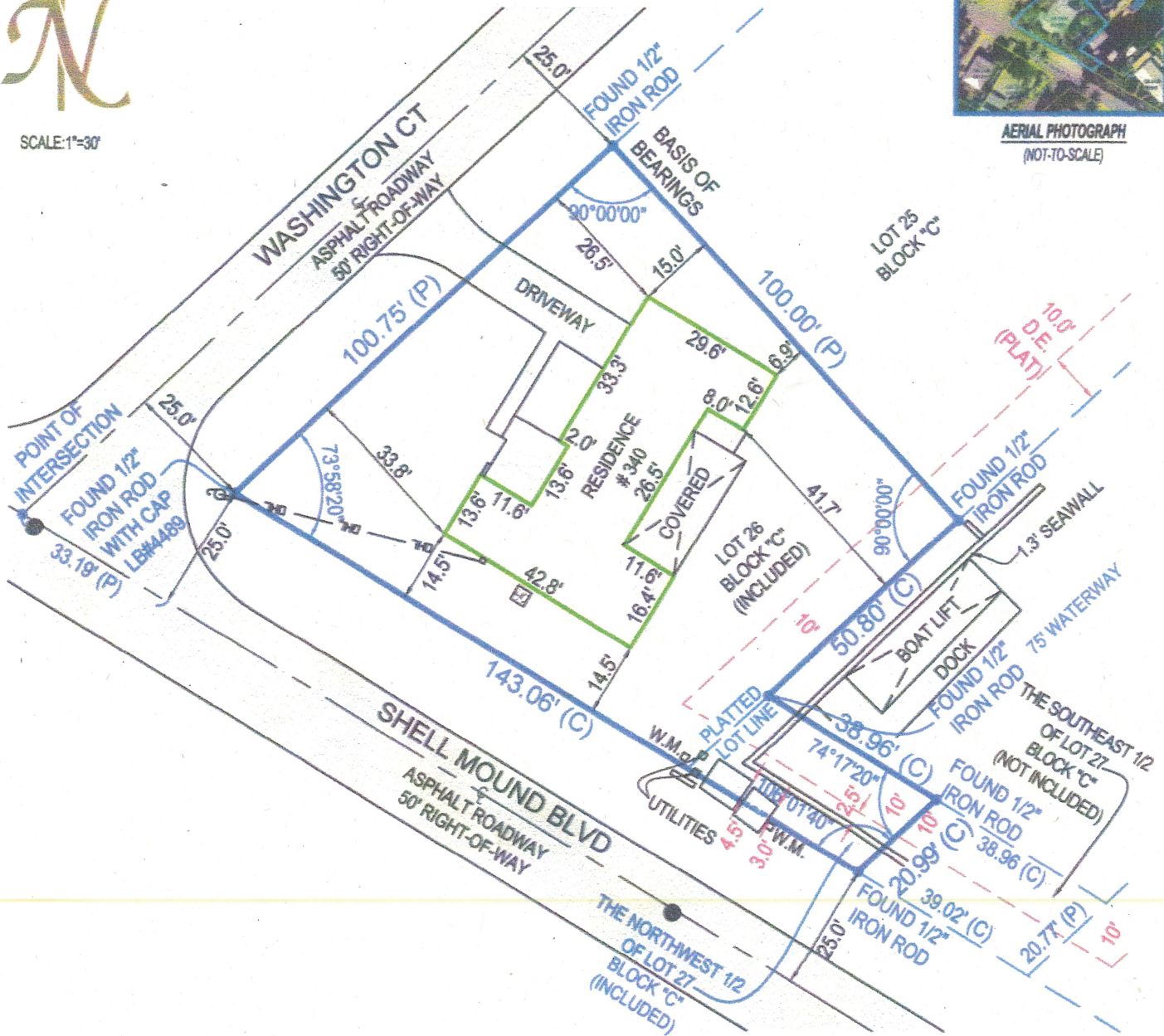
340 WASHINGTON COURT, FORT MYERS BEACH, FL 33931



SCALE: 1"=30'



AERIAL PHOTOGRAPH
(NOT-TO-SCALE)



- ALL ANGLES AND DISTANCES SHOWN HEREON ARE BOTH RECORD AND MEASURED UNLESS OTHERWISE NOTED

SHEET 1 OF 2 (SKETCH OF SURVEY) - SEE SHEET 2 OF 2 FOR LEGAL DESCRIPTION AND OTHER SURVEY RELATED DATA. SURVEY IS NOT COMPLETE WITHOUT ALL SHEETS



PHONE: 561.508.6272
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LB 8111

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NexgenSurveying.com

