



Local Planning Agency

**Town Hall Council Chambers
6231 Estero Boulevard
Fort Myers Beach, FL 33931
Tuesday, August 11, 2026**

Agenda

9:00 AM

ORDER OF BUSINESS

- I. CALL TO ORDER**
- II. INVOCATION**
- III. PLEDGE OF ALLEGIANCE**
- IV. APPROVAL OF FINAL AGENDA**
- V. APPROVAL OF MINUTES**
- VI. PUBLIC COMMENT**
- VII. PUBLIC HEARINGS**

A. Local Planning Agency — June 16, 2026

A. VAR20260094 , 720 Estero Boulevard

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/APPROVING WITH CONDITIONS/DENYING VARIANCE 20260094 REQUESTING FOUR VARIANCES FROM LAND DEVELOPMENT CODE TABLE 34-3 FOR THE PROPERTY LOCATED AT 720 ESTERO BOULEVARD, GENERALLY IDENTIFIED BY STRAP NUMBER 24-46-23-W3-00400.007D, TO: 1) REDUCE THE REQUIRED 25-FOOT FRONT STREET SETBACK BY 6.6 FEET TO ALLOW AN 18.4-FOOT FRONT STREET SETBACK; 2) REDUCE THE REQUIRED 7.5-FOOT SIDE SETBACK ALONG THE WEST PROPERTY LINE BY 1 FOOT TO ALLOW A 6.5-FOOT SIDE SETBACK; 3) REDUCE THE REQUIRED 20-FOOT REAR SETBACK BY 12.5 FEET TO ALLOW A 7.5-FOOT REAR SETBACK, FOR THE CONSTRUCTION OF A PROPOSED SINGLE-FAMILY RESIDENCE WITHIN THE RESIDENTIAL MULTIFAMILY (RM) ZONING DISTRICT; DETERMINING THAT NO VARIANCE FROM THE MAXIMUM PERMITTED BUILDING COVERAGE IS REQUIRED BECAUSE THE SUBMITTED SITE PLAN DEMONSTRATES THAT THE PROPOSED DEVELOPMENT COMPLIES WITH THE 40-PERCENT MAXIMUM; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, AND SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

B. SEZ20260109, 6400 Estero Boulevard (Sunset Condominium)

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20260109 REQUESTING A SPECIAL EXCEPTION FOR THE PROPERTY LOCATED AT 6400 ESTERO BOULEVARD, GENERALLY IDENTIFIED BY STRAP NUMBER 33-46-24-W3-02100.00CE, TO: REDEVELOP TWO (2) CHICKEE HUTS, ASSOCIATED PAVER PATHWAYS AND A FOOT-WASH STATION SEAWARD OF THE 1978 COASTAL CONSTRUCTION CONTROL LINE WITHIN THE ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, AND SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

- C. Ordinance 26-13, RPD20260529, 584/582 Estero Blvd Residential Planned Development

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING, APPROVING WITH CONDITIONS, OR DENYING AN APPLICATION TO REZONE PROPERTY LOCATED AT 584/582 ESTERO BLVD, GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W4-0060D.017A AND 24-46-23-W4-0060D.017H, FORT MYERS BEACH, FROM RESIDENTIAL MULTIFAMILY (RM) TO RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO ALLOW RECONSTRUCTION OF TWO SINGLE-FAMILY HOMES ABOVE FLOOD ELEVATION AND SEVEN DEVIATIONS FROM THE LAND DEVELOPMENT CODE; PROVIDING FOR CLARIFICATION 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 MONTH'S AGENDA

XIII. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON YOUTUBE.

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

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE LOCAL PLANNING AGENCY WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR

SUCH PURPOSE, HE OR SHE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED IN ACCORDANCE WITH FLORIDA STATUTE 286.0105.



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



Fort Myers Beach Local Planning Agency

**Town Hall Council Chambers
6231 Estero Boulevard
Fort Myers Beach, FL 33931
Tuesday, June 16, 2026**

Minutes

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

Members Present: Chair Anita Cereceda, LPA Members James Boan, Jim Dunlap, Doug Eckmann, Don Sudduth (virtually), Ed Schoonover, and Jane Plummer.

LPA Member Dunlap moved to accept LPA Member Sudduth's virtual attendance, seconded by LPA Member Schoonover.

The motion carried unanimously.

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

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

The motion carried unanimously.

V. APPROVAL OF MINUTES

A. Local Planning Agency - May 8, 2026

LPA Member Boan moved to approve the minutes of May 8, 2026, along with the minutes of May 12, 2026, seconded by LPA Member Plummer.

The motion carried unanimously.

B. Local Planning Agency - May 12, 2026

LPA Member Boan moved to approve the minutes of May 12, 2026, along with the minutes of May 8, 2026, seconded by LPA Member Plummer.

The motion carried unanimously.

VI. PUBLIC COMMENT

None

VII. PUBLIC HEARINGS

Town Attorney Stuparich explained the process for quasi-judicial proceedings. She verified with Town Clerk Baker that all items had been properly noticed. She asked if there were any conflicts of interest. None were disclosed. Chair Cereceda swore in those wishing to testify.

A. VAR20260070, 5520 Estero Blvd.

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE 20260070, REQUESTING A VARIANCE FROM LDC TABLE 34-3 TO REDUCE THE REQUIRED SIDE SETBACK TO ALLOW A BALCONY TO EXTEND 2 FEET INTO THE REQUIRED 6.5 FOOT SIDE SETBACK FOR SINGLE FAMILY RESIDENCE IN THE RM ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 5520 ESTERO BLVD, GENERALLY REFERRED TO AS STRAP NUMBER: 33-46-24-W1-00205.0170 IN FORT MYERS BEACH; AND PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the resolution. She asked for any disclosures for ex parte communications. None were provided. Senior Planner Jason Smalley gave a summary of the request as outlined in the yellow sheet. He presented the staff's recommendation on approval with the submitted conditions. LPA Member Plummer inquired about the surrounding plats. Mr. Smalley noted the historical divisions and alterations to the lots. Jose Musa, the applicant's brother and representative, confirmed that he will not be providing expert testimony. He agreed with the staff's description. He clarified that the property shares the property line with what used to be the Sand Piper Hotel. To the right, there are two properties being shared. The neighbor and owner of the blue house had been notified and had no concerns regarding the variance. The other lot belonged to the applicant. It is currently empty.

LPA Member Eckmann verified that the drawing is illustrating, on the second floor, a 4-foot wide balcony that runs along the entire length of the structure on the north-west side.

No public comment.

Town Attorney Stuparich asked for a motion to accept the agenda materials into the record. LPA Member Dunlap asked for additional information on this request. Town Attorney Stuparich responded that, in the case of an appeal, there can be a dispute on whether the materials have been accepted into the record as part of the record, in the deliberation of this meeting. Chair Cereceda asked if the motion to approve the final agenda would suffice. The Town Attorney stated that that vote only confirms the order outlined in the agenda. The Chair requested Town Clerk Baker modify future agendas to include a motion to accept materials into the record for all scheduled items.

LPA Member Dunlap moved to accept the agenda materials into the record, seconded by LPA Member Boan.

The motion carried unanimously.

LPA Member Boan moved to approve Variance 20260070, 5520 Estero

Blvd., including the three conditions recommended by staff and finding that the requirements for the variance have been found, seconded by LPA Member Dunlap.

The motion carried unanimously by roll call vote.

LPA Member Dunlap asked for an explanation of the 10-day period. Chair Cereceda noted that, when there is a unanimous decision by the agency on a variance, this vote will be the final decision unless there is opposition within 10 days. In such a case, the item would be forwarded to the Town Council. She confirmed that the applicant would be notified if this happens.

B. VAR20250260, 100/102 Bay Mar Drive

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/APPROVING WITH CONDITIONS/DENYING VARIANCE 20250260, REQUESTING A VARIANCE FROM LDC SECTION 34 TABLE 34-3 - FOR THE PROPERTY LOCATED AT 100/102 BAY MAR DRIVE GENERALLY REFERRED TO AS STRAP NUMBER 29-46-24-W2-00155.1010 IN FORT MYERS BEACH, TO REDUCE THE REQUIRED 20-FOOT REAR SETBACK BY 7.9 FEET TO ALLOW A REAR SETBACK OF 12.1 FEET FOR AN ENCLOSED ACCESS STAIRCASE EXTENDING TO THE SECOND FLOOR OF A TWO-FAMILY RESIDENCE WITHIN THE RESIDENTIAL CONSERVATION (RC) ZONING DISTRICT; AND PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the resolution. She asked for any disclosures for ex parte communications. None were disclosed. Senior Planner Jason Smalley provided a summary of the request as outlined in the yellow sheet. He presented the staff's recommendation of denial. It is of their belief that the applicant could move the stairs to another location and utilize the additional 10-foot protrusion into the front setback. The owner has chosen to propose use of the rear area of the home. Staff acknowledged that the rest of the build appears to be in compliance with the code. LPA Member Schoonover asked if this property was starting from a blank slate. Mr. Smalley stated that it would begin as a fresh site. He noted that this particular property has larger setbacks. LPA Member Plummer inquired if the owner has side setbacks by-right, when there is a corner lot with two 25-foot setbacks. Mr. Smalley stated that there was a 25-foot setback in the front, a 25-foot setback on the street side, and a 10-foot setback on the other side. There is also a rear setback. He acknowledged that the property is forced to focus on the center. He recognized that staff's proposal of placing the stairs in the front may limit the depth. He explained that corner lots have flexibility on the sides. LPA Member Dunlap confirmed that this is a by-right carve-out that is allowed in the town's code. LPA Member Eckmann inquired about the applicant's feedback on the north-east area of the property. Mr. Smalley deferred to the applicant but is not aware of any concerns. There was a follow-up question

from LPA Member Dunlap on the setbacks for the by-right carve-out. The Senior Planner answered that there was a 10-foot additional protrusion. This specifically applied to stoops, porches, and balconies.

LPA Member Dunlap moved to accept the agenda materials into the record, seconded by LPA Member Plummer.

The motion carried unanimously.

Chair Cereceda confirmed that Jason Smalley has been accepted as an expert witness. William Orengo of Atlas Design & Engineering, Inc. noted that he was available for any questions about the drawings. LPA Member Dunlap confirmed with him that this was his full-time profession.

Chair Cereceda moved to accept William Orengo as an expert in his field, seconded by LPA Member Dunlap.

The motion carried unanimously.

LPA Member Schoonover asked if the curb appeal of the property would be affected if the stairs were placed in the front. Mr. Orengo noted that this was the primary reason why the applicant would like to have the stairs built in the rear. LPA Member Eckmann inquired about stairwell access. Mr. Orengo responded that it would be through the ground-floor level.

No public comment.

LPA Member Plummer asked if staff's denial was because the variance does not meet the setbacks. Mr. Smalley explained that they believe there is a way to stay within the allowances while also accomplishing the owner's goal.

Chair Cereceda confirmed that the applicant's choices were to either bring the property into conformity or request a variance from the Local Planning Agency. LPA Member Eckmann noted that there may also have been an option to build an internal stairwell.

LPA Member Boan moved to approve Variance 20250260, 100/102 Bay Mar Drive, subject to the four staff-recommended conditions, and finding that the conditions for variance have been met, seconded by LPA Member Schoonover.

The motion carried 6-1, with LPA Member Eckmann dissenting. He explained that he voted "no" because of the adjacent property owner.

Chair Cereceda explained that this variance will be forwarded to the Town Council. LPA Member Plummer recommended that the applicant ask for feedback from the adjacent property owner.

LPA Member Dunlap moved to accept, as part of the record, all the material contained within the agenda packet, seconded by LPA Member Boan.

The motion carried unanimously.

C. VAR20260056, 21531 Widgeon Terrace

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/APPROVING WITH CONDITIONS/DENYING VARIANCE 20260056, REQUESTING A VARIANCE FROM LDC SECTION 34-638(d)(3)c.3.(iii) TO REDUCE THE REQUIRED 25-FOOT WATERBODY SETBACK BY 8.97 FEET AND ALLOW A 16.03-FOOT WATERBODY SETBACK FOR A NON-ROOFED SWIMMING POOL FOR AN EXISTING

SINGLE-FAMILY RESIDENCE IN THE RESIDENTIAL CONSERVATION (RC) FOR THE PROPERTY LOCATED AT 21531 WIDGEON TERRACE GENERALLY REFERRED TO AS STRAP NUMBER 34-46-24-W1-00001.001B IN FORT MYERS BEACH; AND PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the resolution. She asked if any members of the LPA had any ex parte communication disclosures. None were provided. Senior Planner Jason Smalley gave a summary of the request as outlined in the yellow sheet. He presented staff's recommendation of approval with the provided conditions.

LPA Member Schoonover asked about the potential setback if the property had a seawall. Mr. Smalley stated that there would have been a reduction to a minimum of 5 feet. He noted the fluctuating line in this case. Mr. Dunlap inquired if this would be a town or a state issue. The Senior Planner stated that he cannot speak on the state statutes but said that the town's code requires measurement from the mean high water line. This is based on a stamp survey submitted by the applicant. Ron Walsh, on behalf of Kara Stewart, provided that he was available for questions. Town Attorney Stuparich confirmed that he is a contractor and has knowledge and expertise that is relevant to this project. She explained that expert testimony is considered competent and substantial evidence. This is in contrast to lay testimony, which has qualifications. The testifier must have personal knowledge or meet other criteria. That testimony must also be fact-based information. Ron Walsh stated that he was a pool contractor and has been in this role for half of his life. He believed that he would qualify as an expert pool contractor.

LPA Member Jane Plummer moved to accept Ron Walsh as an expert pool contractor, seconded by Chair Cereceda.

The motion carried unanimously.

LPA Member Sudduth asked if there would be any removal of mangroves or vegetation. Mr. Walsh responded that this would not be the case. LPA Member Sudduth expressed his preference that this be added as a condition for approval. LPA Member Plummer asked LPA Member Sudduth about his concerns about the pool for a property outside the homeowners association. He responded that his only issue is with erosion.

No public comment.

LPA Member Eckmann moved to approve Variance 20260056, 21531 Widgeon Terrace, with the three staff-provided conditions and an additional condition recommended by LPA Member Sudduth that there be no removal of mangroves or adjustments to the seawall riprap.

Senior Planner Smalley noted that the mangroves do fall within the boundaries and can apply for trimmings and maintenance. LPA Member Eckmann modified his motion to state: "to approve Variance 20260056,

21531 Widgeon Terrace, with the four staff-provided conditions and an additional fifth condition recommended by LPA Member Sudduth that there be no removal of mangroves or destruction or removal of riprap, subject to state permitting." The motion was seconded by LPA Member Schoonover. The motion carried unanimously by roll call vote.

Chair Cereceda explained to Mr. Walsh the rule related to the 10-day period.

- D. Ordinance 26-02; DA20250277, 6890 Estero Blvd. (Old Wyndham Garden)
AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING OR DENYING A HOME RULE DEVELOPMENT AGREEMENT FOR PROPERTY LOCATED AT 6890 ESTERO BOULEVARD, FORT MYERS BEACH, FL, STRAP NOS. 03-47-24-W1-00003.0010 OWNED BY FMBH LLC, AS AUTHORIZED BY SECTION 2-100 OF THE TOWN'S LAND DEVELOPMENT CODE AND IN COMPLIANCE WITH THE PROCEDURES FOR APPLICATION AND APPROVAL OF DEVELOPMENT AGREEMENTS WITH TWO PHASES AND SEVEN DEVIATIONS FOR THE PURPOSE OF REDEVELOPMENT OF THE PROPERTY TO ALLOW RESTAURANT, ENTERTAINMENT, COMMERCIAL PARKING AND RECREATIONAL AREA; PROVIDING FOR TERMS AND CONDITIONS INCLUDING BUT NOT LIMITED TO THE IDENTIFICATION OF THE PROPOSED USE OF THE PROPERTY, A FINDING OF CONSISTENCY WITH THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, COMMITMENTS AND DEVELOPMENT OBLIGATIONS, DEVIATIONS NEEDED FOR DEVELOPMENT; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the ordinance. She asked for disclosures of ex parte communications. LPA Member Sudduth stated that he met with The Neighborhood Company and Patrick Vanasse. LPA Member Schoonover, LPA Member Boan, and LPA Member Plummer noted that they met with The Neighborhood Company and received numerous e-mails. LPA Member Eckmann provided that he has met with Patrick Vanasse and their attorney. They gave him an overview of the project and requested variances. He also received e-mail communications, both for and against the item, through Town Clerk Baker. LPA Member Dunlap stated that he has had similar interactions to what has been provided by his fellow members. He also had several resident interactions. They were extemporaneous and revolved around the temporary nature they believe that the application of the structure is about.

Chair Cereceda disclosed that she had a conversation with Craig and Cathy Loose at Crescent. Their concerns were traffic, parking, and noise. She also met with the property manager at Santini Plaza and separately with Patrick Vanasse and John on June 10, 2026, and on April 3, 2026. She received an overview of the project. She also disclosed that she had many interactions with various individuals who came into her store and provided her with their opinions. Town Attorney Stuparich asked if the applicant wished to ask any questions on the disclosures. Copies of the e-mails had been

provided. The attorney, Megan Strayhorn, noted that she did not have any questions about the disclosures and confirmed that they had received the communications, up until this morning.

Patrick Vanasse asked if the Local Planning Agency received copies of the letter from the adjacent condominium association. He highlighted that there were 180 units and that the official letter was provided by the president, Mr. Greer. There was also a letter from the president of Estero Cove, which has 180 units. Chair Cereceda asked the applicant if there were experts testifying in this case. Ms. Strayhorn answered that there were none. The Chair noted that time has been allotted for the intervenor status request. Max Forgey of Forgey Planning Services requested, on behalf of Larry Gulleen, to reserve 15 minutes. Town Attorney Stuparich asked Mr. Forgey to state the basis for claiming intervenor status. He responded that Mr. Gulleen and his two neighbors were more affected than other parties. Ms. Strayhorn noted the applicant's objection, stating that this request cited state statute. She asserted that this provision is more pertinent for claiming standing in circuit court and that there is a limitation to items that materially alter the use, density, or intensity of which would be inconsistent with the comprehensive plan. She also requested a limitation of time to items related to the state statute, in the event that it is granted. Town Attorney Stuparich asked Ms. Strayhorn to restate the areas that the items would be limited to. Ms. Strayhorn restated the provision. Town Attorney Stuparich asked Mr. Forgey if he had any additional testimony. Ms. Strayhorn stated that they believe fifteen minutes is more reasonable than thirty minutes but will defer to the body. Chair Cereceda inquired about the estimated duration of the applicant's presentation. Pat stated that it would be at least 30 minutes and may be longer if there is a claim for intervenor status. Ms. Strayhorn asked to clarify that the individuals are those identified in the letter dated June 12, 2026. This was confirmed.

LPA Member Plummer moved to accept Mr. Forgey and his clients as given intervenor status with a time limit of 15 minutes for their presentation, seconded by LPA Member Boan.

The motion carried unanimously.

Jason Green from Community Development provided a summary of the request as outlined in the yellow sheet. Ms. Strayhorn introduced the team and presented on the basis of review and the main components of the proposed redevelopment request. She emphasized that this project did not need to be temporary and that there is no public beach parking lot. Mr.

Vanasse reported on the historical background of the Wyndham property. He displayed photographs of the area before and after Hurricane Ian and provided the general characteristics of the property, including size, current, past, and future land use map zone category, and existing zoning and uses. He showed aerial photographs of the property and development area. Mr. Vanasse detailed the location, site design, and compatibility in the Santini Village Mixed-Use District and along Estero Boulevard. He provided images of a structure owned by Backyard Social, noting that the owner intends to

build a tiki or pole barn that would be very similar to this building. The presentation featured diagrams of both Phase 1 and Phase 2 of the project. He asked the members of the Local Planning Agency if they would like him to review every deviation separately. There were no requests to do so. LPA Member Dunlap asked if there would be any aspects that would cause overlap between the two phases. Mr. Vanasse noted that there is room for flexibility but also mentioned that the tiki barn would be covered in both parts and would be contingent on approval by FEMA. LPA Member Dunlap requested that the applicant notify the agency of any changes made to Phase 1 that would affect Phase 2. LPA Member Plummer confirmed that the trailers will be removed in the second stage. There was a follow-up question on closing the restaurant to complete Phase 2. Mr. Vanasse responded that the barn is the main structure. The applicant will try to use the trailers as much as possible and keep the restaurant in operation for as long as possible. He acknowledged that there will be a closure at some point. LPA Member Plummer inquired about the scheduled opening date. Mr. Vanasse replied that they are expecting to open this fall. He said that the preparation was done and that work would begin immediately following approval. LPA Member Dunlap asked if the applicant would be willing to work with the town for community use of the parking lot. Mr. Vanasse responded affirmatively, noting the accommodations in the past and confirming the lot's capacity. He presented on the development standards and parking analysis. LPA Member Plummer asked if there would be room to build a hotel on the property. Mr. Vanasse stated that there is room but noted that there would likely be a complete redesign, despite the presence of permanent structures. He clarified that there is no current proposal for a hotel and that such a request would need to be presented separately before the town. LPA Member Plummer inquired if the entitlements are allowed without a resort. Mr. Vanasse clarified that the applicant is asking to maintain the CR uses. He then identified the public benefits and amenities. Referring to the staff report, he asserted that the applicant agrees with the recommendation for approval and the finding that the request adheres to the comprehensive plan. LPA Member Eckmann asked for additional information on the reductions for the buffer zones. Mr. Vanasse responded that the owner is going above and beyond by providing buffers. He noted that there were two options: a 30-foot buffer with more vegetation or a 15-foot buffer with less vegetation and a wall. The applicant is proposing a 20-foot buffer, with a fence and vegetation similar to the 30-foot buffer option. He compared this request to a mix of the two options. LPA Member Plummer inquired about the height of the fence. Mr. Vanasse answered that it would be around four to six feet tall. Chair Cereceda confirmed that this would be a chain-link fence with no sound buffer. Mr. Vanasse emphasized the presence of vegetation. LPA Member Plummer asked if the applicant believed that FEMA would approve six trailers for the property. Mr. Vanasse responded affirmatively. There was a follow-up question on the visibility of these trailers. The presenter noted the landscaping, vegetation, and distance of the trailers. There would be efforts

to beautify and camouflage the use. He recognized that there would need to be clear access. LPA Member Schoonover asked about the entrance into the parking lot from Estero Boulevard. Mr. Vanasse provided that two access points exist. In Phase 1, there will be a booth and an attendant. In Phase 2, it may be a combination of booth and automated gates. The second gate can be used in cases of high traffic. He explained that there would be a 10-foot buffer and a total of 50-100 feet of separation between the parking lot and the street. There was an additional inquiry about the location of the booth. Mr. Vanasse replied that there would be enough space for a vehicle to turn around before arriving at the booth. He believed that there would be sufficient space for around three to four cars. LPA Member Dunlap asked if the applicant plans to keep beach access in perpetuity for the community. Mr. Vanasse responded affirmatively. There was another inquiry on the record for approved wave disruption and mitigation walls. Mr. Vanasse believed that London Bay's wall has been approved. He asserted that the timing is well-defined, and the applicant expects an 8 to 10 month timeframe. LPA Member Dunlap asked about the schedule for Phase 2. Mr. Vanasse acknowledged that there are no guarantees and gave an estimate of three to three and a half years. He described recent zoning map changes. LPA Member Dunlap verified that the applicant had analyzed the cost and determined that this option was economically feasible. There was a question about concerns from neighbors about partial walls. The presenter noted that the height of the proposed structure would be relatively low and could be hidden. LPA Member Dunlap expressed his concerns about the lack of a record for approvals of mitigation walls. Chair Cereceda voiced her agreement, noting the destruction of seawalls. She also mentioned potential issues of noise and parking. The applicant offered possible solutions, including sound curtains. Jason Green from Community Development stated that the conditions may be refined by the agency. He referred the body to Exhibit E, Outstanding Issues. He recommended that the members consider and address these items. Mr. Green added that the code requires landscaping to be outside the fence. The staff does not necessarily accept that the access gates are consistent with the town's code. The applicant would need to comply with town regulations and any standards imposed by Lee County. Beach access offered by the owner should be conditioned to go to the mean high water line. He emphasized the importance of this clarification in preserving public access. He explained that timing will also be a significant factor. The applicant has offered noise and music times, but these are not conditioned. The Local Planning Agency could revise as desired. Larry Gulleen, President of Sand Caper Condominium Association, noted that his property is immediately adjacent to 6890 Estero Boulevard. The board supports the restaurant and bar facilities, as well as the establishment of a permanent pedestrian beach access for the south end and vehicular access for town and emergency vehicles. It is of the board's opinion that the proposed development does not adhere to the comprehensive plan and current zoning ordinances. He expressed concerns about size and multiple

requests for zoning variances, setbacks, buffer zones, and the CCCL. He also noted that they are worried about the construction of the wave barrier. Mr. Forgey noted that he was recognized by the town as an expert. He presented seven specific policies of the town's comprehensive plan that he believes would render the proposed development as non-compliant: 1) small town character, 2) pedestrian-oriented public amenities, 3) parking, 4) "medium residential" FLUM definition, 5) mixed use, boulevard, and pedestrian commercial, 6) land use types defined, and 7) commercial locations. He concluded by asserting that they believe that they have presented sufficient evidence to support denial of the proposal. Mr. Gulleen commented on concerns related to commercial resort zoning; setbacks, buffers, and other requested variances; the CCCL; Wave Barrier; beach wildlife area impact; hours of operation, noise, and amusements; and parking and other impacts. He voiced the board's preference for a hotel on the property. They are worried about the impacts of a wave barrier on wildlife and adjacent properties. He highlighted potential issues with noise from neighbors. He requested additional time to elaborate on the listed concerns. Chair Cereceda reminded him that he would have the opportunity to speak again during public comment.

Public comment:

Ed Korea confirmed that he was sworn in. He voiced his support for the development and argued that there were not enough bars and restaurants in this area of the island. He asserted that, in addition to the hundreds of individuals in support of the proposal, that his own condominium association has 192 residents that are in favor of this proposal.

Ena Bertaluchi was sworn in to provide testimony. She believed that this development is one of the most minimal proposals that could be presented. She stated that the old parking lot had never been full to capacity. She does not believe that there would be a significant difference in music and noise.

She emphasized that the community needs this development.

Larry Gulleen asserted that the visitor volume would be substantially different from the original property. He believed that hotel guests would stay and park for extended amounts of time. He pointed to higher vehicle turnover, which would cause increases in traffic and unique visitor counts. He also mentioned more pedestrian activity and demands for law enforcement, traffic control, parking enforcement, and emergency vehicles. He voiced his concern about unleashed dogs on the beach, which can negatively affect wildlife. He stated that this would be the largest parking lot on the island. He would like to see more distance from the CCCL. He reiterated the board's position of opposition and the belief that this development is illegal and would negatively impact the public. He asked that members of the LPA vote "no" on this item. Chair Cereceda verified that Mr. Gulleen's requests are for a better buffer zone, facility-only parking, and the removal of the mitigation wall. Mr.

Vanasse asserted that the barrier does not change the CCCL. He noted that there are other layers of protection. He stated that the goal is to provide a more resilient community. The applicant wishes to be as close to the beach

as possible, which is why the development is located relatively further from the street. Mr. Vanasse referred to and summarized the items provided in the packet by the applicant, which run parallel to the concerns raised by Mr.

Gulleen. He expressed his disagreement with Mr. Gulleen's comments. He also reiterated staff's findings of compliance with the plan. He emphasized the amount of support for this development. Ms. Strayhorn asked that the LPA weigh the public comment, touching upon the larger volume of support for the proposal.

LPA Member Boan commented about placing ropes and ballards and installing a sign that states that no alcohol will be served beyond this point. The Consumption on Premises (COP) provision is on page 97. Parking landscaping was addressed on page 98. LPA Member Boan would like to see larger containers or portable pots, as vehicles, precipitation, and pedestrians could damage the bushes. He noted the importance of shade and visual appearance. He mentioned the large vehicle turnover rates and suggested that a traffic study be conducted before implementing any improvements in Phase 2. He also referred to page 102, which contained a provision on governmental agencies that needed permitting. He stated that Lee County Highway Department should be added. Pages 102 and 103 contain the list of perceived public amenities. He recounted previous discussions and said that any code requirements could not be considered as public improvements.

Those items should be recategorized into their appropriate headings. He offered that, for the first deviation on page 104, there be some sort of hard surface transition area to prevent gravel from spreading onto the boulevard.

Ms. Strayhorn noted that this was standard practice. LPA Member Boan added that sound mitigation should be included. He would like further information on the letters provided to the agency and whether the presidents or boards have approved those positions. He voiced his concerns about overnight and valet parking. Chair Cereceda asked if he was concerned about shared parking agreements. He believed that overnight parking is premature. He referred to the "without a public hearing" provision on page

106. He commented that this was unacceptable and stated that the public should always be able to provide their input. Ms. Strayhorn responded that this would only apply to a building permit. She noted that the applicant is open to discussion on this provision, if needed. She clarified that there was no intention to remove or avoid public hearings. Mr. Vanasse highlighted the limitations set in the development agreement. Chair Cereceda asked if there were any objections from the applicant on removing that language. Ms. Strayhorn stated she would need more time to review but believed that there could be a modification in the wording. LPA Member Plummer confirmed the bathrooms will be locked by the time of closing. LPA Member Dunlap asked the staff to comment on the comprehensive plan conditions. Mr. Green provided that the areas of agreement are delineated in the packet and stated that he could go so far as to say that every detail should be consistent with the plan. Chair Cereceda would like to see signage that indicates no beach parking. She expressed her agreement with Mr. Gulleen, commenting that

there should not be a reduction to the buffer between either sides of the residential multifamily condominiums. She voiced her preference for increasing the buffer. She requested clarification on the applicant's proposal. Mr. Vanasse said that the planned buffer is meant to be an enhancement, asserting that the 20-foot buffer would provide more vegetation. There were some questions about the definition of Type F. Chair Cereceda added that there should be a condition on sound curtains. She confirmed that attendant parking is provided during all operating hours. LPA Member Schoonover noted that the parking hours should start at least 30 minutes before and end at least 30 minutes later than the opening and closing times of the facilities. John Callis noted that there was no need for an attendant for closing. LPA Member Dunlap offered that the attendant cannot leave until the last vehicle has exited the parking lot. There was further discussion between the agency and the applicant on beach access to the mean high water line. Planner Mr. Green clarified that the beach access would be an easement. The Town Attorney will review the legal document, which will ultimately be recorded. The applicant, while expressing his support for LPA Member Boan's suggestion on portable pots, expressed his uncertainty and stated that he would need to follow up with Southwest Water Management to ensure that this aspect would be feasible. He plans to do everything possible to make the property as visually attractive as possible. The applicant agreed to adding Lee DOT to the list of governmental agencies. Mr. Vanasse commented that there were "conditions and commitments," not "public benefits." He explained that the transition area (also known as an apron) is regulated and required by Lee County. LPA Member Boan would like the space to include more than what is mandated. Mr. Vanasse said that the requirement is 100 feet, or equivalent to the stacking amount. The applicant agreed to this area. Mr. Green provided the definition of Type F plantings, noting that these would be hedges that are taller than the proposed fencing. There would be a mixture of canopy and understory trees installed in between. Discussions were held on overnight parking. Mr. Vanasse said that overnight parking already existed on the property. He highlighted the issue with parking reduction and argued that the applicant is offering a solution to the town's problems. He stressed that parking is valet only. There were further discussions on whether overnight parking is needed for the property. Chair Cereceda asked for his definition of evening hours. Mr. Vanasse responded that he believed they should be between 5:00 p.m. and 11:00 p.m. Mr. Green added that, if the LPA wishes to restrict parking times, a condition must be created. Chair Cereceda noted that those who did not have issues with overnight parking outnumbered those who did. John Callis confirmed that the applicant plans on completing Phase 1 in three to three and a half years. He mentioned that there were external factors, such as FEMA approval. Chair Cereceda verified that the first stage must be completed within five years. Mr. Green added that the entire project must be completed in eight years. Ms. Strayhorn highlighted that there is a condition with a stricter timeline. There were questions about what would happen if

Phase 2 is not completed, with discussions on extensions and amendments to the development agreement. Chair Cereceda asked if staff was recommending language on timing. Mr. Green responded affirmatively, also noting that the staff needed guidance on what would happen to Phase 1 if Phase 2 cannot be completed. Town Attorney Stuparich referred the LPA to the termination provision and suggested an addition for termination if the second stage is not finished. She provided that the current language is written at the option of the developer, unless the town mutually agrees to an amendment. There were additional conversations on extensions and revisions. LPA Member Eckmann would like to see an amendment to the provision that states that this project is contingent upon the approval and construction of a wave dissipation wall followed by a flood map revision. Chair Cereceda recessed the meeting for 25 minutes.

After the LPA reconvened, Ms. Strayhorn presented the following proposal from the applicant: "If the construction of Phase 2 has not commenced within 5 years of the CO issuance of Phase 1, the developer must provide written notice to the town requesting extension or modification of the agreement." Town Attorney Stuparich recommended that termination be added as an option.

LPA Member Dunlap moved to approve Ordinance 26-02, further known as 6890 Estero Boulevard, Old Wyndham Garden, including the conditions that are inherent in the package recommended by staff and with the following added conditions: that it be posted for no beach parking or overnight parking in the normal parking lot; that sound curtains or sound mitigation will be installed; that restrooms will be locked at night; that the parking lot will be attended during all operating hours; that beach access is available to the public for the duration of the development agreement, up to the mean high water line; that the landscape in the parking lot will contain larger containers or portable plants, if they are permitted by whoever permits it; that a traffic study be completed before Phase 2 is built and any suggestions or amendments be made accordingly; that under Item 15, Lee DOT be added to the government agencies needed for approval; in regard to the deviation provided on page 104, that a hard surface of 100 feet be placed as a transition to Estero Boulevard; on page 106, section D, that the wording related to the elimination of the need for a public hearing be removed; for the tenth condition, that if the construction of Phase 2 is not commenced within 5 years of the CO, the developer must provide notice to the town for extension, modification, or termination; and that amplified music only be permitted between the hours of 12:00 p.m. to 9:00 p.m., seconded by LPA Member Eckmann.

Town Attorney Stuparich confirmed that the hand-outs received by the intervenor, the slideshow provided by the applicant, and all agenda materials are intended to be part of the record.

The motion carried 6-1, with LPA Member Boan dissenting. He explained that he voted "no" due to the issue of overnight parking.

- E. Ordinance 26-10, CPD20250286, 1207 Estero Blvd. (Silver Sands Resort)

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING A REZONING OF PROPERTY LOCATED AT 1207 ESTERO BLVD, FORT MYERS BEACH, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0150D.0050 FROM DOWNTOWN ZONING DISTRICT TO A COMMERCIAL PLANNED DEVELOPMENT WITH 11 DEVIATIONS TO ALLOW FOR A 60-UNIT HOTEL, AND 2,500 SQUARE FEET OF COMMERCIAL RETAIL SPACE AND 46 PARKING SPACES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the ordinance. She asked for disclosures of ex parte communications. LPA Member Sudduth stated that he met with The Neighborhood Company and the attorney. LPA Member Schoonover met with The Neighborhood Company and received a few e-mails. LPA Member Plummer and LPA Member Dunlap had the same disclosures as LPA Member Schoonover. LPA Member Eckmann met with Pat Vanasse and Megan Strayhorn on June 10, 2026, at the Town Hall to review the project and requested deviations. LPA Member Dunlap disclosed that he had two meetings with The Neighborhood Company and Tom Torgerson when this was originally proposed. He also met with The Neighborhood Company and the attorney last Wednesday to review the revised project. He received some e-mail communications on this item. LPA Member Plummer added that she had two conversations with Mr. Torgerson at social events. Chair Cereceda stated that she met with The Neighborhood Company last week. She also spoke with Tom Torgerson briefly on April 6, 2026, to discuss rescheduling the project. She texted him yesterday about parking. She watched the demonstration on Beach Talk Radio. She also acknowledged the letter that was received, in addition to the e-mail communications that were submitted. Town Attorney Stuparich clarified that this is a quasi-judicial proceeding. She asked if the applicant had any questions about the disclosures. Ms.

Strayhorn, on behalf of the applicant, said that she had no questions and confirmed that there was one e-mail communication. Jason Green from Community Development provided a summary of the request, as outlined in the yellow sheet.

Ms. Strayhorn introduced the team and requested that all members of the team be accepted as expert witnesses. She noted that they have all been admitted as such in the past. She clarified that the owner would not need to be accepted as an expert. She presented on the request and the basis of review. Mr. Vanasse reported on the historical background, describing the conditions of the property before and after Hurricane Ian. He gave an overview of the request, location, site design, and compatibility. A diagram of the proposed development was provided. He explained various aspects of the proposal, highlighting the fact that the applicant will be asking for bar use. He added that they are open to discussion, as needed. Albert Dambrose was sworn in to provide testimony. He provided an overview of his request,

showing renderings to help the members visualize the planned structures. He explained the floor layouts. Diagrams were also displayed. Mr. Vanasse presented the height request, the density and intensity of the proposed development, the applicant's transportation commitments, and the pedestrian barrier. He reported on the parking aspect of the proposal and illustrated the nearby public parking spaces. LPA Member Boan asked if there was consideration for a parking agreement between Margaritaville and Silver Sands that would survive any type of sale for both Buttonwood and Margaritaville. Mr. Vanasse believed there were no spots that would allow for overnight parking. Chris Flagg was sworn in. He responded that approximately 70% of the guests have vehicles and believed that 46 stalls is sufficient parking. He is not certain if a parking agreement is needed but noted that this could be discussed. Chair Cereceda requested additional information on the listing of the property for sale. Mr. Flagg stated he was unaware of this listing and would investigate further. He verified that the owner intends to undergo development if this project is approved. Mr. Vanasse explained the reasoning behind the decision against sidewalks. Chair Cereceda voiced her concerns about Primo. She noted the issue would be exacerbated by the hotel. She confirmed that the parallel parking is fully within the property. Mr. Vanasse presented the proposed development's consistency with the comprehensive plan and compliance with LDC and CPD criteria. He identified the public and special benefits, as well as the requested deviations. Mr. Vanasse showed some statistics on hotel rooms in Fort Myers Beach and within the county. He believed that the CPD is consistent with the comprehensive plan and meets or exceeds LDC requirements. LPA Member Boan asked if staff believed that the variations complied with the code. Mr. Green believed that some of these requests were sufficient. Staff would like the LPA to consider the parking multiplier issue. He acknowledged that there are no criteria that can be evaluated against it. Chair Cereceda restated her concerns about the parallel parking on Primo, especially given the existing narrow space and two-way street. She recognized that those spaces are fully within the property but explained that this impact would still occur. Mr. Vanasse answered that the applicant would like to minimize parking reduction and noted the limitations of the layout from a design perspective. Chair Cereceda mentioned the possibility of stacked parking. Mr. Vanasse noted he has to speak with his client and hopes that a solution can be found. LPA Member Plummer offered that there may be additional spaces available in the parking layout. Brandon Fry was sworn in. He stated that this new addition is possible. The applicant will come back with an alternative. Mr. Vanasse stated that they support the conditions presented by the staff. LPA Member Eckmann voiced his preference for parking reduction. LPA Member Dunlap expressed his agreement. Chair Cereceda mentioned her concerns about amplified music in the green space. She asked the applicant for their input about the prohibition of such music, noting that the area is small. The applicant agreed to the condition. Chair Cereceda explained that the owner could still apply for special events as needed. Mr. Vanasse proposed a

potential incentive for guests that choose not to park on the property. LPA Member Plummer asked about the room sizes. Mr. Vanasse responded that some rooms will be under 450 square feet and that the penthouses will be the largest available rooms. He noted that those units are around 600 square feet.

No public comment.

Town Attorney Stuparich mentioned that there was a case that limited a local government's restrictions on amplified music. She will follow up at a later time on whether modifications are needed. Chair Cereceda commended Albert Dambrose on his level of detail.

LPA Member Boan moved to approve Ordinance 26-10, CPD20250286, 1207 Estero Blvd., including the eleven deviations, nine conditions set by the staff, elimination of the parallel parking on Primo, a clarification on amplified music, and inclusion of all exhibits and e-mails that have been presented as part of the record, seconded by LPA Member Plummer. Chair Cereceda reminded the maker that she would like the prohibition of amplified music.

She also referred to the Town Attorney's previous remarks on potential limitations. LPA Member Boan confirmed that he intended to include prohibition of amplified music in his motion.

The motion carried unanimously by roll call vote.

VIII. ADMINISTRATIVE AGENDA

No items.

IX. LPA MEMBERS ITEMS/REPORTS

LPA Member Dunlap asked if applicants can be required to show their work in calculating the FAR value. Members expressed their agreement. Chair Cereceda noted that the teams today did an excellent job in showing the calculation process. Chair Cereceda announced that she will be absent for the August meeting. She would like to revisit development agreements, public benefits, and LDC updates.

She believed that the applicant should provide a calculation based on the town's methods. Mr. Dunlap suggested that the staff provide the value and allow the applicant to dispute the amount, if needed. Planner Green emphasized that the focus is on what is excluded in the FAR value. He can provide additional information. Mr. Dunlap requested written materials that he can provide to the applicants during their meetings.

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 was adjourned at 3:07 p.m.

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

Yellow Sheet Number: **2026-683**

1. Request:

Meeting Date: August 11, 2026

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/APPROVING WITH CONDITIONS/DENYING VARIANCE 20260094 REQUESTING FOUR VARIANCES FROM LAND DEVELOPMENT CODE TABLE 34-3 FOR THE PROPERTY LOCATED AT 720 ESTERO BOULEVARD, GENERALLY IDENTIFIED BY STRAP NUMBER 24-46-23-W3-00400.007D, TO: 1) REDUCE THE REQUIRED 25-FOOT FRONT STREET SETBACK BY 6.6 FEET TO ALLOW AN 18.4-FOOT FRONT STREET SETBACK; 2) REDUCE THE REQUIRED 7.5-FOOT SIDE SETBACK ALONG THE WEST PROPERTY LINE BY 1 FOOT TO ALLOW A 6.5-FOOT SIDE SETBACK; 3) REDUCE THE REQUIRED 20-FOOT REAR SETBACK BY 12.5 FEET TO ALLOW A 7.5-FOOT REAR SETBACK, FOR THE CONSTRUCTION OF A PROPOSED SINGLE-FAMILY RESIDENCE WITHIN THE RESIDENTIAL MULTIFAMILY (RM) ZONING DISTRICT; DETERMINING THAT NO VARIANCE FROM THE MAXIMUM PERMITTED BUILDING COVERAGE IS REQUIRED BECAUSE THE SUBMITTED SITE PLAN DEMONSTRATES THAT THE PROPOSED DEVELOPMENT COMPLIES WITH THE 40-PERCENT MAXIMUM; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, AND 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 requests 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:

The applicant is requesting four variances from the development standards in LDC Table 34-3 to allow the construction of a single-family residence within the Residential Multifamily (RM) zoning district. Specifically, the applicant requests: (1) a reduction of the required 25-foot street setback by 6.6 feet, resulting in an 18.4-foot street setback; (2) a reduction of the required 7.5-foot west side setback by 1 foot, resulting in a 6.5-foot side setback; (3) a reduction of the required 20-foot rear setback by 12.5 feet, resulting in a 7.5-foot rear setback; and (4) an increase in the maximum permitted building coverage from 40 percent to 43 percent.

Attachments:

1. NS LPA Reso XX, VAR 20260094 720 Estero Blvd-08112026
2. Exhibit A to Resolution - Site Plan
3. VAR 20260094 720 Estero Blvd Staff Report

Financial Impact:

Unknown

6. Alternative Action

Approve with conditions

7. Staff Recommendations:

Staff recommends denial of the three setback variances; no action on the building-coverage request.

8. Recommended Approval:

_____	Date: August 03, 2026
Kendra Rosa, Zoning Coordinator	
_____	Date: August 03, 2026
Georgina Cid, Community Development Manager	
_____	Date: August 04, 2026
Frankie Kropacek, Community Development Director	
_____	Date: August 04, 2026
nancy stuparich, Town Attorney	
_____	Date: August 05, 2026
Amy Baker, Town Clerk	

RESOLUTION NUMBER 2026-LPA-XX

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/APPROVING WITH CONDITIONS/DENYING VARIANCE 20260094 REQUESTING FOUR VARIANCES FROM LAND DEVELOPMENT CODE TABLE 34-3 FOR THE PROPERTY LOCATED AT 720 ESTERO BOULEVARD, GENERALLY IDENTIFIED BY STRAP NUMBER 24-46-23-W3-00400.007D, TO: 1) REDUCE THE REQUIRED 25-FOOT FRONT STREET SETBACK BY 6.6 FEET TO ALLOW AN 18.4-FOOT FRONT STREET SETBACK; 2) REDUCE THE REQUIRED 7.5-FOOT SIDE SETBACK ALONG THE WEST PROPERTY LINE BY 1 FOOT TO ALLOW A 6.5-FOOT SIDE SETBACK; 3) REDUCE THE REQUIRED 20-FOOT REAR SETBACK BY 12.5 FEET TO ALLOW A 7.5-FOOT REAR SETBACK, FOR THE CONSTRUCTION OF A PROPOSED SINGLE-FAMILY RESIDENCE WITHIN THE RESIDENTIAL MULTIFAMILY (RM) ZONING DISTRICT; DETERMINING THAT NO VARIANCE FROM THE MAXIMUM PERMITTED BUILDING COVERAGE IS REQUIRED BECAUSE THE SUBMITTED SITE PLAN DEMONSTRATES THAT THE PROPOSED DEVELOPMENT COMPLIES WITH THE 40-PERCENT MAXIMUM; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, AND 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, James Ink ("Applicant") is the applicant for the variance requests concerning the property located at 720 Estero Boulevard ("Subject Property"); and

WHEREAS, the STRAP number for the Subject Property is 24-46-23-W3-00400.007D; and

WHEREAS, the Subject Property is designated "Mixed Residential" on the Future Land Use Map of the Comprehensive Plan and is located within the "Residential Multifamily (RM)" zoning district on the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, the Applicant is requesting four variances from LDC Table 34-3; and

WHEREAS, the first variance request seeks to reduce the required 25-foot front street setback by 6.6 feet to allow an 18.4-foot front street setback; and

WHEREAS, the second variance request seeks to reduce the required 7.5-foot side setback along the west property line by 1 foot to allow a 6.5-foot side setback; and

WHEREAS, the third variance request seeks to reduce the required 20-foot rear setback by 12.5 feet to allow a 7.5-foot rear setback; and

WHEREAS, the application included a fourth variance request to increase the maximum permitted building coverage from 40 percent to 43 percent; however, the submitted site plan identifies a 1,279-square-foot building footprint on the 3,319-square-foot lot, resulting in approximately 38.5 percent building coverage and demonstrating compliance with the maximum permitted building coverage of 40 percent; and

WHEREAS, because the proposed development complies with the maximum permitted building coverage, no building-coverage variance is required, and no action will be taken on the fourth request; and

WHEREAS, LDC Table 34-3 requires a conforming lot in the RM zoning district to contain at least 7,500 square feet, have a minimum width of 75 feet, and have a minimum depth of 100 feet; and

WHEREAS, the Subject Property consists of an approximately 3,319-square-foot lot, with lot widths of approximately 50.66 feet and 50.08 feet, and lot depths of approximately 62.41 feet and 70.02 feet; and

WHEREAS, the Subject Property is a legally established nonconforming corner lot with respect to minimum lot area, width, and depth; and

WHEREAS, vehicle and pedestrian access to the Subject Property is provided through a recorded 7.5-foot-wide driveway and walkway easement identified in Miscellaneous Book 39, Page 542; and

WHEREAS, the Subject Property supported a single-family residence prior to Hurricane Ian, and the previously existing single-family structure did not meet the front-street, rear, and side setback requirements of the Town's current LDC; and

WHEREAS, the Applicant proposes an elevated, three-story single-family residence consisting of a ground level and two habitable stories above base flood elevation, containing three bedrooms, two-and-one-half bathrooms, approximately 2,314 square feet of living area, and an approximately 1,279-square-foot building footprint; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on August 11, 2026, and at said hearing the LPA gave full and complete consideration to the Applicant's request, 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 regarding each variance:

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

B. The conditions justifying the variance are/are not in part the result of actions of the applicant taken after the adoption of the regulation in question.

C. Each variance request 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 ___ to approve/approve with conditions/deny the first variance request, subject to the applicable conditions set forth herein; and

WHEREAS, eligible members of the LPA voted ___ to ___ to approve/approve with conditions/deny the second variance request, subject to the applicable conditions set forth herein; and

WHEREAS, eligible members of the LPA voted ___ to ___ to approve/approve with conditions/deny the third variance request, subject to the applicable conditions set forth herein; and

1. Approval of any variance does not confer upon the Applicant an unconditional or vested right to building-permit approval. Development or redevelopment of the Subject 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 by this Resolution.
2. Each approved setback variance shall apply only to the proposed single-family residence and only to the setback expressly approved by the LPA. Any setback variance not approved by the LPA must comply with the applicable LDC requirement.
3. Each approved variance shall apply only to the modified setbacks shown on the site plan attached as "Exhibit A." No other portion of the single-family residence or any accessory

building or structure may extend into a required setback unless separately authorized in accordance with the LDC.

4. The horizontal area of all principal and accessory buildings shall not exceed 40 percent of the lot area. Building-permit plans must include a consistent, dimensioned building-coverage calculation prepared in accordance with LDC Section 34-634.

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. The first variance request received/did not receive unanimous approval from the eligible voting members of the LPA on August 11, 2026.
3. The second variance request received/did not receive unanimous approval from the eligible voting members of the LPA on August 11, 2026.
4. The third variance request received/did not receive unanimous approval from the eligible voting members of the LPA on August 11, 2026.
5. 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.
6. Based on the building footprint and lot-area calculations shown on the submitted site plan, the proposed development complies with the maximum permitted building coverage of 40

percent. Accordingly, no building-coverage variance is required, and no action is taken on the fourth variance request.

The foregoing Resolution was adopted upon a motion by LPA member ____, and seconded by LPA member _____, 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 Ed Schoonover	_____
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.

Attachment:

Exhibit A - Site Plan

DRAFT

DOCUMENTS FOR A TOWN OF FORT MYERS BEACH VARIANCE
FOR CONSTRUCTION OF SINGLE FAMILY STRUCTURE
in Section 24, Township 46 South, Range 23 East
MCKELVIE RESIDENCE
720 ESTERO BLVD
FORT MYERS BEACH, FL 33931

CONSULTANTS

CIVIL ENGINEERS & PLANNERS:
INK ENGINEERING, INC.
2055 WEST FIRST STREET
FORT MYERS, FLORIDA 33901
TEL: (239) 334-2450
EMAIL: JINK@INKENGINEERINGINC.NET
CONTACT: JAMES INK, P.E.

LAND SURVEYORS:
HALEY WARD
13041 MCGREGOR BLVD
FORT MYERS, FL 33919
TEL: (239) 481-1331
EMAIL: RCARMELIA@HAELYWARD.COM
CONTACT: ROBERT CARMELIA PSM

UTILITIES & AGENCIES

WATER :
TOWN OF FT MYERS BEACH
2525 ESTERO BLVD
FT MYERS BEACH, FL 33931
(239) 765-0202

ELECTRIC:
LEE COUNTY COOPERATIVE
10550 BAYSHORE RD
FORT MYERS, FLORIDA 33917
(239) 543-3090

REFUSE COLLECTION:
FLORIDA RECYCLING SERVICES
2465 HIGHLAND AVE
FORT MYERS, FLORIDA 33916
(239) 332-8500

TELEPHONE:
CENTURYLINK
P.O. BOX 1370
FORT MYERS, FLORIDA 33901
(239) 335-3111

CATV:
XFINITY
6320 BEAU DRIVE
NORTH FORT MYERS, FLORIDA 33903
(239) 432-9277

FIRE:
FORT MYERS BEACH FIRE DISTRICT
100 VOORHIS STREET
FT MYERS BEACH, FL 33931
(239) 590-4200

UTILITY LOCATIONS:
SUNSHINE STATE ONE CALL
1-800-432-4770

GENERAL SITE DATA

PROJECT INTENT:

CONSTRUCT A ELEVATED RESIDENTIAL STRUCTURE TO REPLACE AN EXISTING STRUCTURE THAT WAS DESTROYED IN HURRICANE IAN.

PROJECT LOCATION:

720 ESTERO BLVD
FORT MYERS BEACH, FL 33931

PROPERTY OWNER:

SHAWN AND MILTON MCKELVIE
1467 FRIENDSHIP WALKWAY
FORT MYERS, FL 33901

FUTURE LAND USE CLASSIFICATION:

MIXED RESIDENTIAL

PRESENT ZONING CLASSIFICATION:

RESIDENTIAL MULTI FAMILY - MAXIMUM FAR 1.2

PROJECT AREA:

0.08 ACRES - 3,316 SQFT

STRAP NO.:

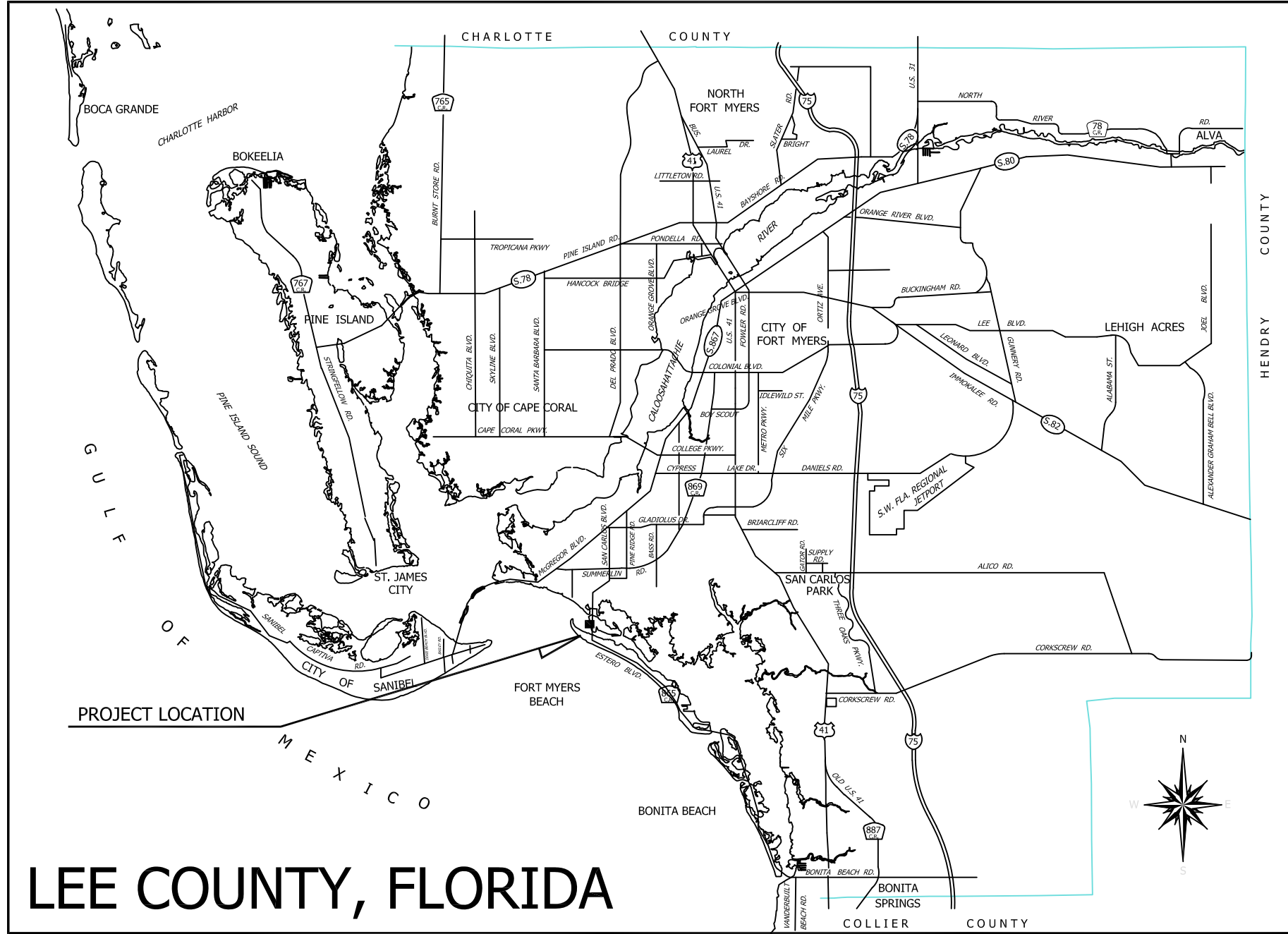
24-46-24-W3-00400.007D

FLOOD ZONE:

BASED ON THE NATIONAL FLOOD INSURANCE PROGRAM F.I.R.M. MAP COMMUNITY NO. 12071, PANEL NUMBER 554G, DATED 11/17/2022, THE ABOVE DESCRIBED PROPERTY IS WITHIN FLOOD ZONE VE, ELEVATIONS 14.0 WITHIN THE BUILDABLE AREA UPLAND OF 1978 CCCL LINE IN PLAT BOOK 31 PAGE 1, LEE COUNTY RECORDS

SCHEDULE OF DRAWINGS

1	COVER SHEET
2	2022 AND 2025 AERIAL PLANS
3	COMMUNITY VARIANCE EXHIBIT
4	PROPOSED VARIANCE SITE PLAN



LOCATION MAP



SURROUNDING AREA AERIAL MAP

ABBREVIATIONS	
BL _____ BASE LINE	MH _____ MANHOLE
BOC _____ BACK OF CURB OR BACK OF GUTTER	MHWL _____ MEAN HIGH WATER LINE
CATV _____ CABLE TELEVISION	NGVD _____ NATIONAL GEODETIC VERTICAL DATUM
CCCL _____ COASTAL CONSTRUCTION CONTROL LINE	NIC _____ NOT IN CONTRACT
C/L _____ CENTERLINE	NWL _____ NORMAL WATER LINE
OMP _____ CORRUGATED METAL PIPE	OHU _____ OVERHEAD UTILITY
C.O. _____ CLEAN OUT	PC _____ POINT OF CURVATURE
CONC. _____ CONCRETE	PI _____ POINT OF INTERSECTION
C.U.E. _____ COUNTY UTILITY EASEMENT	PL _____ PROPERTY LINE
DBI _____ DITCH BOTTOM INLET	PRC _____ POINT OF REVERSE CURVATURE
DDCVA _____ DOUBLE DETECTOR CHECK VALVE ASSEMBLY	PT _____ POINT OF TANGENCY
D.I.P. _____ DUCTILE IRON PIPE	PVBA _____ PRESSURE VACUUM BREAKER ASSEMBLY
DP _____ DRAINAGE PIPE	PVC _____ POLYVINYL CHLORIDE PIPE
EL or ELEV _____ ELEVATION	PVI _____ POINT OF VERTICAL INTERSECTION
E/L _____ EASEMENT LINE	R/W or ROW _____ RIGHT-OF-WAY
EOP _____ EDGE OF PAVEMENT	RCP _____ REINFORCED CONCRETE PIPE
ERCP _____ ELLIPTICAL REINFORCED CONCRETE PIPE	RBPB _____ REDUCED PRESSURE BACKFLOW PREVENTER
FDOT _____ FLORIDA DEPARTMENT OF TRANSPORTATION	S _____ STORM SEWER STRUCTURE
F.F.E. _____ FINISH FLOOR ELEVATION	SB _____ SOIL BORING
FH _____ FIRE HYDRANT	SF or SQ.FT. _____ SQUARE FOOT
FL _____ FLOW LINE	SS _____ SANITARY SEWER
FP/L or FPBL _____ FLORIDA POWER & LIGHT	SSL _____ SANITARY SEWER LATERAL
GV _____ GATE VALVE	STA _____ STATION
HDPE _____ HIGH DENSITY POLYETHYLENE	TEL _____ TELEPHONE
INV _____ INVERT	TYP. _____ UTILITY EASEMENT
IRR. _____ IRRIGATION	U.E. _____ UTILITY EASEMENT
LF _____ LINEAR FEET	UP _____ UTILITY POLE
L/L _____ LOT LINE	WL _____ WATER LINE
MEG _____ MATCH EXISTING GRADE	WS _____ WATER SERVICE
MEP _____ MATCH EXISTING PAVEMENT	XXX' LT/RT _____ FEET LEFT or FEET RIGHT

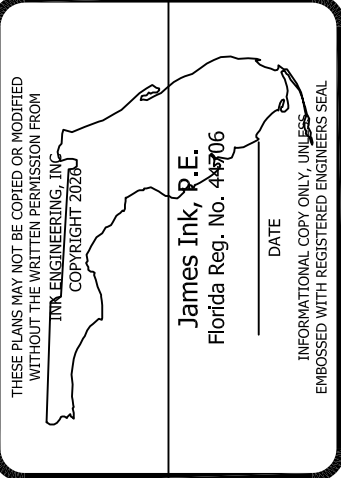
LEGEND	
	AIR RELEASE VALVE
	GATE VALVE
	FIRE HYDRANT ASSEMBLY
	BLOW-OFF
	BACTERIAL SAMPLE POINT
	PIPE PLUG
	WATER OR IRRIGATION METER
	BACKFLOW PREVENTER
	REDUCER / INCREASER
	DITCH BOTTOM INLET
	STORM JUNCTION BOX
	METERED END SECTION
	FLARED END SECTION
	HEADWALL
	PROPOSED GRADE ELEVATION
	PROPOSED PAVEMENT ELEVATION
	EXISTING GRADE ELEVATION
	EXISTING PAVEMENT ELEVATION
	DIRECTION OF DRAINAGE FLOW
	SWALE & DIRECTION OF FLOW

NOTE: OPEN SYMBOLS AND DASHED LINES DENOTE EXISTING IMPROVEMENTS (W/ LOWER CASE ANNOTATION).

NO.	DATE	DESCRIPTION
1	04/2026	REVISION 001 DATA AND UPDATE SURVEY
2	06/2025	REVISION 002 DATA AND UPDATE SURVEY
3	07/2025	REVISION 003 DATA AND UPDATE SURVEY
4	08/2025	REVISION 004 DATA AND UPDATE SURVEY
5	09/2025	REVISION 005 DATA AND UPDATE SURVEY
6	10/2025	REVISION 006 DATA AND UPDATE SURVEY
7	11/2025	REVISION 007 DATA AND UPDATE SURVEY
8	12/2025	REVISION 008 DATA AND UPDATE SURVEY
9	01/2026	REVISION 009 DATA AND UPDATE SURVEY
10	02/2026	REVISION 010 DATA AND UPDATE SURVEY
11	03/2026	REVISION 011 DATA AND UPDATE SURVEY
12	04/2026	REVISION 012 DATA AND UPDATE SURVEY
13	05/2026	REVISION 013 DATA AND UPDATE SURVEY
14	06/2026	REVISION 014 DATA AND UPDATE SURVEY
15	07/2026	REVISION 015 DATA AND UPDATE SURVEY
16	08/2026	REVISION 016 DATA AND UPDATE SURVEY
17	09/2026	REVISION 017 DATA AND UPDATE SURVEY
18	10/2026	REVISION 018 DATA AND UPDATE SURVEY
19	11/2026	REVISION 019 DATA AND UPDATE SURVEY
20	12/2026	REVISION 020 DATA AND UPDATE SURVEY

PROJECT INFORMATION

720 ESTERO VARIANCE REQUEST
MCKELVIE RESIDENCE
720 ESTERO BLVD, FORT MYERS BEACH, FL 33931



PROJECT NO.	23026-6
PROJECT MANAGER	James Ink P.E.
DRAWN BY	BWM
DATE	04.2026
SCALE	
SHEET NO.	1
OF	4

James M Ink
Digitally signed by James M Ink
Date: 2026.07.17 14:18:07 -04'00'

THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY JAMES M INK ON DATE ADJACENT TO THE SEAL.
PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SHA AUTHENTICATION CODE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

720 ESTERO - VAR SUBMITTAL



2022 PRE-IAN AERIAL



2025 POST-IAN AERIAL

720 ESTERO - VAR SUBMITTAL

PROJECT NO.	23026-6
PROJECT MANAGER	James Ink P.E.
DRAWN BY	BWM
DATE	04.2026
SCALE	1"= 60'
SHEET NO.	2
OF	4



INK ENGINEERING INC.
CONSULTING ENGINEERS • PLANNING
2055 WEST FIRST STREET
FORT MYERS, FL 33901
JINK@INKENGINEERINGINC.NET

THESE PLANS HAVE NOT BEEN CORRECTED OR MODIFIED SINCE THE DATE OF THE LAST REVISION. ANY CHANGES TO THESE PLANS MUST BE MADE BY THE ENGINEER OF RECORD.

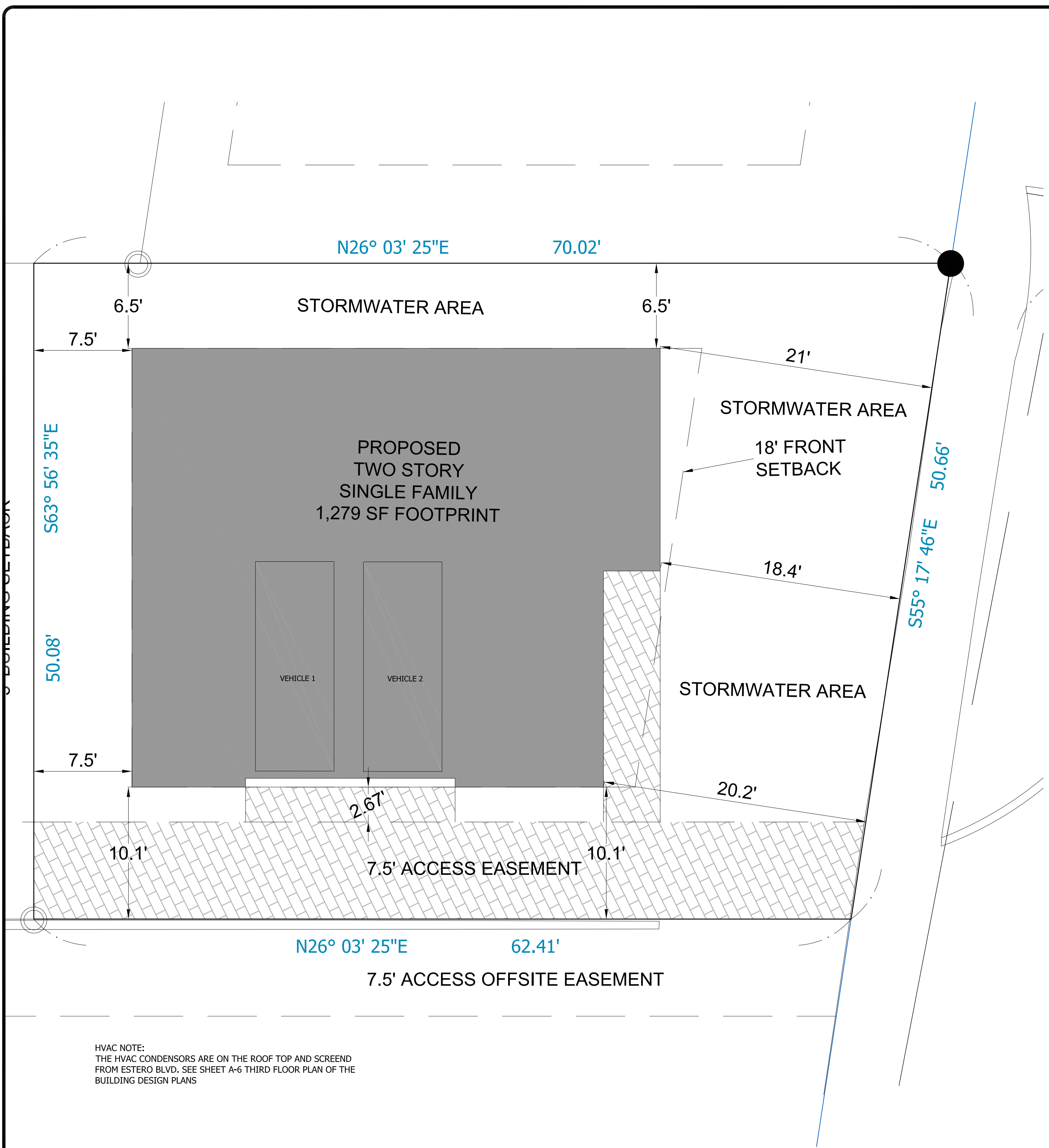
James Ink P.E.
Florida Reg. No. 14606
DATE: 04/2026

INFORMATIONAL COPY ONLY. THIS IS A PRELIMINARY COPY. ANY CHANGES MUST BE MADE BY THE ENGINEER OF RECORD.

PRE AND POST HURRICANE IAN AERIAL PLANS
720 ESTERO VARIANCE REQUEST
MCKELVIE RESIDENCE
720 ESTERO BLVD, FORT MYERS BEACH, FL 33931

NO. 1	DATE	DESCRIPTION
1	04/2026	REVISION: PRE DATA AND UPDATE SURVEY
2	04/2026	REVISION: PRE DATA AND UPDATE SURVEY
3	04/2026	REVISION: TOWN OF PRE DATA
4	04/2026	REVISION: TOWN OF PRE DATA
5	04/2026	REVISION: TOWN OF PRE DATA
6	04/2026	REVISION: TOWN OF PRE DATA
7	04/2026	REVISION: TOWN OF PRE DATA
8	04/2026	REVISION: TOWN OF PRE DATA
9	04/2026	REVISION: TOWN OF PRE DATA
10	04/2026	REVISION: TOWN OF PRE DATA

PROJECT NO.	
23026-6	
PROJECT MANAGER	
James Ink P.E.	
DRAWN BY	
BWM	
DATE	
04.2026	
SCALE	
1" = 5'	
SHEET NO.	
OF 4	3



HVAC NOTE:
THE HVAC CONDENSORS ARE ON THE ROOF TOP AND SCREEND
FROM ESTERO BLVD. SEE SHEET A-6 THIRD FLOOR PLAN OF THE
BUILDING DESIGN PLANS

PROPOSED SITE PLAN

PROPERTY REGULATIONS

ADDRESS: 720 ESTERO BLVD, FT MYERS BEACH, FL 33931
STRAP: 24-46-23-W3-00400.007D
ZONING: RESIDENTIAL MULTIFAMILY
LAND USE: MIXED RESIDENTIAL

OWNER: SHAWN AND MILTON MCKELVIE
1467 FRIENDSHIP WALKWAY
FORT MYERS, FL 33901

FEMA FLOOD: VE: 14.00' IN BUILDABLE AREA
FDEP CCCL: 19.38' LOWEST STRUCTURAL MEMBER

CURRENT PROPERTY REGULATIONS PER LDC AND EXISTING SURVEY

MINIMUM FRONT SETBACK:	25 FT - LDC
MINIMUM REAR SETBACK:	20 FT - LDC
MINIMUM SIDE SETACK:	7.5 FT - LDC
MAXIMUM BUILDING HEIGHT:	35 FT ABOVE BASE FLOOD
MAXIMUM NUMBER OF STORIES:	3 (1ST FLOOR OPEN)
PARKING:	RESIDENTIAL = 2 PER UNIT
LOT AREA COVERAGE	40%

DEVELOPMENT SITE DATA

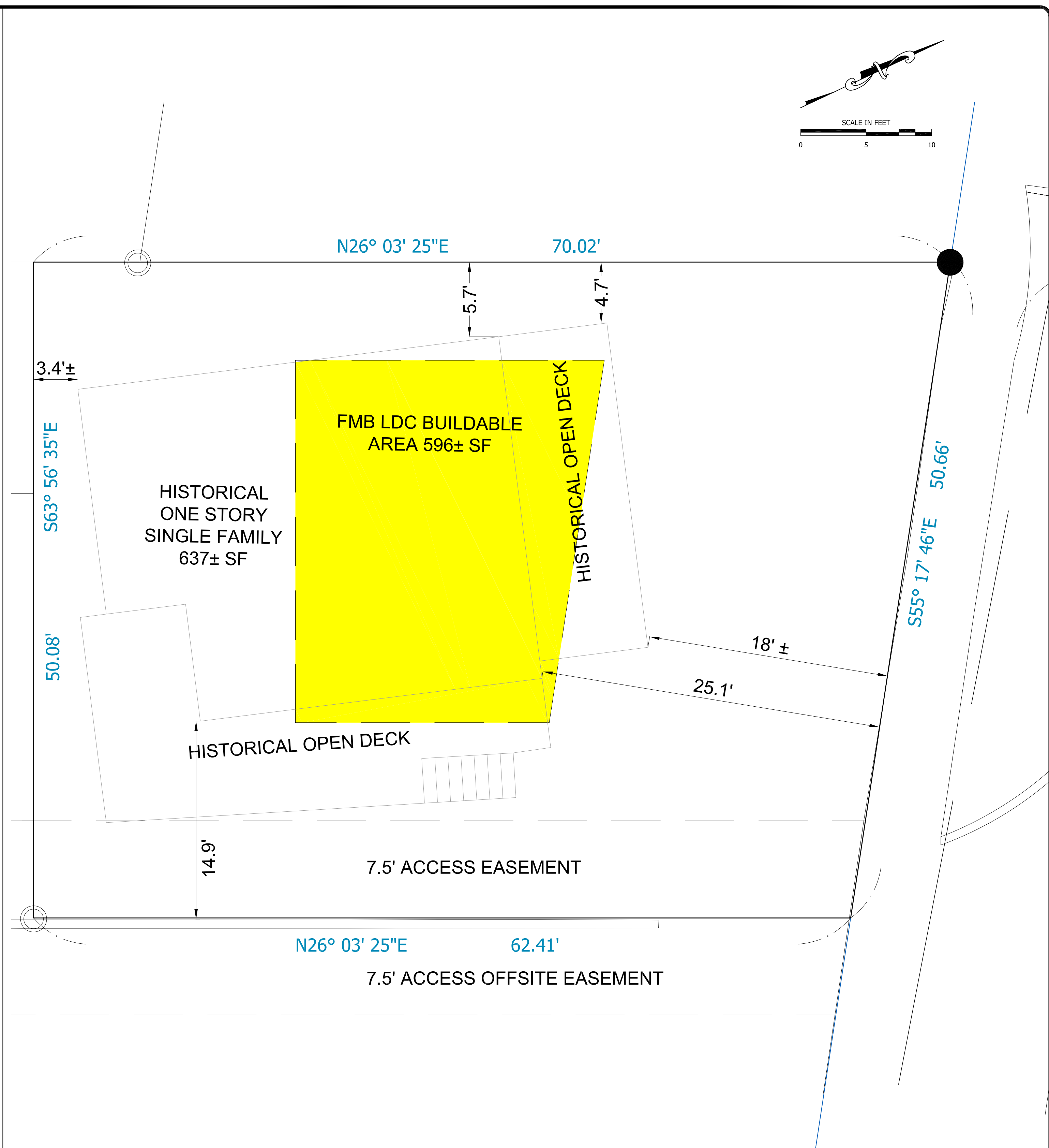
PRE-DEVELOPMENT SITE DATA	
PARCEL AREA	3,319 SF
STRUCTURE FOOTPRINT (HISTORIC)	939 SF
DECK AREA (HISTORIC)	553 SF
CONCRETE SURFACE (HISTORIC)	0 SF
TOTAL IMPERVIOUS AREA (HISTORIC)	1,492 SF
TOTAL PERVIOUS AREA (HISTORIC)	1,827 SF
LOT COVERAGE (%)	45%
POST-DEVELOPMENT SITE DATA	
PARCEL AREA	3,319 SF
STRUCTURE FOOT PRINT	1,279 SF
OPEN DECK	0 SF
CONCRETE SURFACE	125 SF
ALLOWABLE LOT COVERAGE	40% (1,328 SF)
HISTORIC LOT COVERAGE	45%
PROPOSED LOT COVERAGE	42% (1,404 SF)
PROPOSED IMPERVIOUS	1,915 SF
ALLOWABLE STORMWATER IMPERVIOUS	67%
PROPOSED STORMWATER IMPERVIOUS	42%

VARIANCE REQUEST

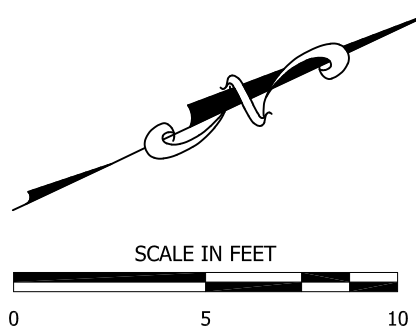
- REQUEST TO REDUCE THE MINIMUM FRONT SETBACK 7 FEET PER TABLE 34-3 FROM THE REQUIRED 25 FEET TO 18 FEET
- REQUEST TO REDUCE THE MINIMUM REAR SETBACK 12.5 FEET PER TABLE 34-3 FROM THE REQUIRED 20 FEET TO 7.5 FEET.
- REQUEST TO REDUCE THE MINIMUM SIDE SETBACK 1' PER TABLE 34-3 NOTE (6) FOR A LOT GREATER THAN 50 FEET AND LESS THAN 75' IN WIDTH FROM THE REQUIRED 7.5' TO 6.5'.
- REQUEST CHANGE TABLE 34-3 NOTE (6) FROM 40% LOT COVERAGE FOR SINGLE FAMILY TO 43% FOR PROPOSED HOME

BUILDING DATA

HISTORIC BUILDING DATA	
GROUND FLOOR APARTMENT	687 SF
GROUND FLOOR FINISHED UTILITY	247 SF
GROUND FLOOR CARPORT/PORCH	176 SF
BASE HOME LIVING AREA	676 SF
ELEVATED PORCH AND DECKS	591 SF
TOTAL LIVING AREA	1,363 SF
GROSS BUILDING AREA	2,377 SF
3 BEDROOMS, 2 BATHS	
HISTORIC DATA PER LEE COUNTY PROPERTY APPRAISER	
PROPOSED BUILDING DATA	
1ST FLOOR LIVING	1,214 SF
2ND FLOOR LIVING	1,100 SF
DECKS	615 SF
GARAGE	996 SF
GROUND FLOOR FOYER	284 SF
TOTAL LIVING AREA	2,314 SF
GROSS BUILDING AREA	4,448 SF
3 BEDROOM, 2.5 BATH	



ALLOWABLE BUILDING AREA LDC WITH EXISTING SURVEY SETBACKS



NO.	DATE	DESCRIPTION
1	6/8/2025	REVISION 100 DATA AND UPDATE SURVEY
2	6/17/2025	REVISION TOWN OF FMB DATA
3	7/17/2025	REVISION TOWN OF FMB DATA
4		
5		
6		
7		
8		
9		
10		

VARIANCE EXHIBIT

720 ESTERO VARIANCE REQUEST

MCKELVIE RESIDENCE

720 ESTERO BLVD, FORT MYERS BEACH, FL 33931

James Ink P.E.
Florida Reg. No. 14606
DATE

INFORMATIONAL COPY ONLY, THIS PLAN IS NOT TO BE USED FOR CONSTRUCTION WITHOUT THE ASSISTANCE OF AN INK ENGINEERING INC. PROFESSIONAL ENGINEER.

INK ENGINEERING INC.
CONSULTING ENGINEERS • PLANNING

2055 WEST FIRST STREET
FORT MYERS, FL 33901
JINK@INKENGINEERINGINC.NET

PROJECT NO. 23026-6

PROJECT MANAGER James Ink P.E.

DRAWN BY BWM

DATE 04.2026

SCALE 1" = 5'

SHEET NO. 4

OF 4

720 ESTERO - VAR SUBMITTAL



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20260094

CASE NAME: 720 Estero Boulevard; four variances from LDC Table 34-3: 1) to reduce the required 25-foot street setback by 6.6 feet to allow an 18.4-foot street setback; 2) to reduce the required 7.5-foot side setback along the west property line by 1 foot to allow a 6.5-foot side setback; 3) to reduce the required 20-foot rear setback by 12.5 feet to allow a 7.5-foot rear setback; and 4) to increase the maximum permitted building coverage by 3 percentage points, from 40 percent to 43 percent, for the construction of a proposed single-family residence within the Residential Multifamily (RM) zoning district.

LPA

HEARING DATE: August 11, 2026, 9:00 a.m.

STAFF

RECOMMENDATION: Denial of three setback variances; no action on the building-coverage request

**PREPARED/
SUBMITTED BY:** Stephanie Virga / Jason Green, AICP

I. APPLICATION SUMMARY

Applicant/Owner: James Ink

Request: The applicant is requesting four variances from LDC Table 34-3: 1) to reduce the required 25-foot street setback by 6.6 feet to allow an 18.4-foot street setback; 2) to reduce the required 7.5-foot side setback along the west property line by 1 foot to allow a 6.5-foot side setback; 3) to reduce the required 20-foot rear setback by 12.5 feet to allow a 7.5-foot rear setback; and 4) to increase the maximum permitted building coverage by 3 percentage points, from 40 percent to 43 percent. The variances are requested to permit the construction of a single-family residence within the Residential Multifamily (RM) zoning district.

Subject property: See attached site plan

Physical Address: 720 Estero Boulevard

STRAP #: 24-46-23-W3-00400.007D

FLU: Mixed Residential

Zoning: Residential Multifamily (RM)

Adjacent zoning and land uses:

North:	RESIDENTIAL MULTI-FAMILY (RM) Vacant
South:	RESIDENTIAL MULTI-FAMILY (RM) Single family residential
East:	RESIDENTIAL MULTI-FAMILY (RM) Multifamily/Recreation
West:	RESIDENTIAL MULTI-FAMILY (RM) Vacant

II. BACKGROUND AND ANALYSIS

Background:

James Ink, the applicant for 720 Estero Boulevard, is requesting four variances from LDC Table 34-3: 1) to reduce the required 25-foot street setback by 6.6 feet to allow an 18.4-foot street setback; 2) to reduce the required 7.5-foot side setback along the west property line by 1 foot to allow a 6.5-foot side setback; 3) to reduce the required 20-foot rear setback by 12.5 feet to allow a 7.5-foot rear setback; and 4) to increase the maximum permitted building coverage by 3 percentage points, from 40 percent to 43 percent. The variances are requested to permit the construction of a single-family residence within the Residential Multifamily (RM) zoning district.

The subject property is a nonconforming lot adjacent to Estero Boulevard. Vehicular and pedestrian access to the property is provided through a recorded 7.5-foot-wide driveway and walkway easement identified in Miscellaneous Book 39, Page 542.

The subject property is an irregularly shaped corner lot containing approximately 3,319 square feet. Based on the submitted survey, the lot has widths of 50.66 feet and 50.08 feet

and depths of 62.41 feet and 70.02 feet. The property is currently vacant. Prior to Hurricane Ian, the property contained a single-family residence constructed in the early 1950s.

Based on the submitted 2018 survey, the previously existing residence provided an approximately 18-foot front street setback, a 14.9-foot side street setback, a 4.7-foot side setback, and a 3.5-foot rear setback. The previously existing residence appears to have been nonconforming with respect to the current front street, side, and rear setback requirements of the RM zoning district.

The Lee County Property Appraiser records identify 687 square feet of apartment area and 676 square feet of base area within the previously existing residence. The prior residence contained three bedrooms and two bathrooms. Additional documentation establishing the structure's prior total under-roof square footage as defined by LDC Section 34-3238 will be necessary to determine the maximum interior square footage permitted above base flood elevation under the post-disaster buildback provisions.

The applicant proposes an elevated, three-story single-family residence consisting of a ground level and two habitable stories above base flood elevation. The residence would contain three bedrooms, two-and-one-half bathrooms, approximately 2,314 square feet of living area, and a building footprint of approximately 1,279 square feet. As proposed, the residence would provide an 18.4-foot front street setback where 25 feet is required, a 6.5-foot side setback along the west property line where 7.5 feet is required, and a 7.5-foot rear setback where 20 feet is required.

Administrative Setback Relief Analysis:

The purpose of the RM zoning district is to designate suitable locations for a wide variety of multifamily residences. Pursuant to LDC Table 34-3, a conforming lot in the RM zoning district must contain at least 7,500 square feet and have a minimum width of 75 feet and a minimum depth of 100 feet.

The subject property is an approximately 3,319-square-foot lot, with an average width of 50 feet, and depths ranging from 62 to 70 feet. It is therefore nonconforming with respect to the minimum lot area, width and depth required in the RM zoning district.

LDC Section 34-268(a)(8) provides that a nonconforming lot that has received an affirmative minimum use determination may qualify for an administrative setback variance. Pursuant to Section 34-268(b)(3), the modifications must be the minimum necessary to allow a home with a footprint of the same square footage as previously legally constructed on that property and one story in height, above flood elevation, with no enclosure below base flood elevation.

The applicant proposes an elevated, three-story single-family residence with an approximately 1,279 square foot footprint. The Property Appraiser records identify the former structure as containing an approximately 676-square-foot base with an approximately 687-square-foot apartment located above. Pursuant to Section 34-634,

building coverage is based on the horizontal area within the building's surrounding exterior walls. Based on the available records, the former building footprint appears to have been approximately 676 to 687 square feet, resulting in approximately 20.4 to 20.7 percent building coverage on the 3,319-square-foot lot. Unroofed decks and exterior access stairs are excluded from this calculation.

The proposed footprint represents an increase of approximately 592 to 603 square feet over the apparent former footprint and results in approximately 38.5 percent building coverage. Because the proposed footprint is substantially larger than the former footprint and the proposed residence contains two habitable stories above base flood elevation, the proposal does not qualify for an administrative setback variance under Section 34-268(b)(3).

A redesigned residence may qualify for administrative setback consideration if it satisfies all requirements of Section 34-268, including an affirmative minimum use determination, verification of the prior lawful footprint, the one-story limitation, and no enclosure below base flood elevation. The applicant has instead elected to seek relief through the public-hearing variance process for the larger proposed residence.

Building Coverage Analysis:

LDC Section 34-634 defines building coverage as the horizontal area of all principal and accessory buildings divided by the site's lot area. Horizontal area is measured within the surrounding exterior walls and excludes unroofed structures such as driveways, sidewalks, patios, exterior stairways, and open decks.

The lot contains approximately 3,319 square feet. At the maximum permitted building coverage of 40 percent, the lot may contain approximately 1,327.6 square feet of horizontal building area. The applicant requests a variance to increase the maximum permitted building coverage from 40 percent to 43 percent. However, the site plan identifies a proposed building footprint of 1,279 square feet. Based on these figures, the proposed building coverage is approximately 38.5 percent and complies with the maximum permitted coverage of 40 percent. Accordingly, a building-coverage variance is unnecessary.

Dimensional Analysis:

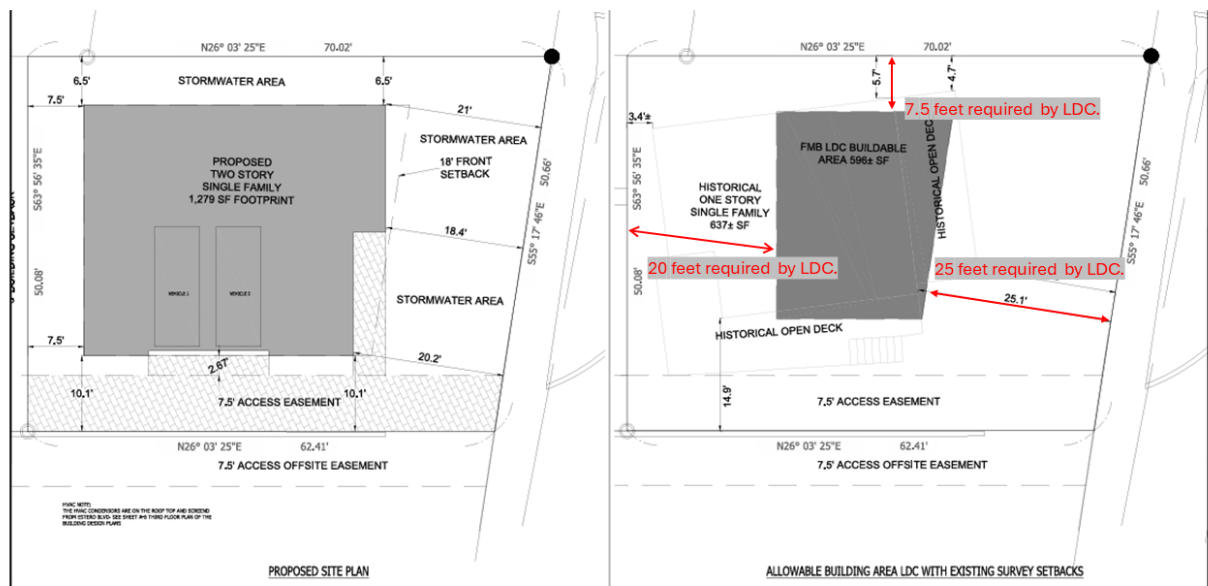
The proposed single-family residence would be constructed on a currently vacant corner lot measuring approximately 50 feet in width, with lot depths ranging from approximately 62.41 feet to 70.02 feet. The RM zoning district requires a 25-foot front street setback and a 20-foot rear setback. After applying these setbacks, the available building depth ranges from approximately 17.41 feet to 25.02 feet. The proposed residence has depths ranging from approximately 36 feet to 40.33 feet and therefore substantially exceeds the depth available within the required front street and rear setbacks.

The RM zoning district also requires a 7.5-foot interior side setback and, for a corner lot measuring 50 feet or less in width and abutting a street or street easement, a 10-foot side-

street setback. After applying these setbacks to the 50-foot lot width, approximately 32.5 feet of buildable width remains. The proposed residence is approximately 33.5 feet wide.

Based on these dimensions, the application of the required setbacks leaves an area approximately 32.5 feet wide and between 17.41 and 25.02 feet deep in which a residence may be constructed. This area contains approximately 690 square feet, subject to verification using surveyed property lines.

The available building footprint is generally comparable to the apparent footprint of the former residence. The Property Appraiser records identify an approximately 676-square-foot base with an approximately 687-square-foot apartment located above. The property therefore appears capable of accommodating a redesigned residence generally comparable in footprint to the former structure while complying with the required setbacks. In contrast, the proposed residence has an approximately 1,279-square-foot footprint, with a width of approximately 33.5 feet and depths ranging from approximately 36 feet to 40.33 feet. The proposed footprint is substantially larger than both the compliant building footprint and the apparent former footprint. Compliance would require relocation and a significant redesign and reduction of the proposed residence, rather than a minor adjustment to its placement. Accordingly, the requested setback relief results primarily from the size and configuration selected for the proposed residence rather than an inability to construct a residence on the property lot. As illustrated in the alternative site-plan provided by the applicant and included below, a smaller residence can be accommodated within the required setbacks.



Neighborhood Compatibility:

The subject property is located within an established residential area containing both vacant and developed properties and a mixture of single-family and multifamily residential uses. Estero Boulevard and a vacant lot are located to the north of the lot. A recorded 7.5-foot-wide driveway and walkway easement and a four-story multifamily condominium development with a swimming pool are located to the east. Two vacant lots that appear to be of similar size are located to the west. A single-family residence on a lot that appears similar in size and configuration is located to the south.

The surrounding area contains a mixture of single-family and multifamily residential development on similar lots of varying sizes. Although compliance with individual setbacks cannot be confirmed through aerial imagery, Lee County Property Appraiser GIS aerial imagery reflects a compact residential development pattern, with several existing and previously existing residences located near property lines and street boundaries.

Estero Boulevard is located to the north, together with a vacant property adjacent to the roadway. To the east, the subject property is bordered by the recorded 7.5-foot-wide driveway and walkway easement, beyond which is a four-story multifamily condominium development with a swimming pool. Two vacant and undeveloped lots of similar sizes are located to the west. A single-family residence is located to the south on a lot that also appears to be nonconforming.

Although the precise setbacks and legal conformity of surrounding properties cannot be determined from aerial imagery alone, Lee County Property Appraiser GIS aerial imagery reflects a compact residential development pattern. The single-family residence to the south appears to be located near its property boundaries, consistent with the limited dimensions of several lots in the immediate area.

The proposed single-family residential use is compatible with the mixture of single-family and multifamily residential uses in the surrounding area and would reestablish a residential use on a previously developed lot. Therefore, the proposed use itself is consistent with the established residential character of the neighborhood. However, compatibility of the proposed use does not independently establish that the requested setback variances satisfy all approval criteria in LDC Section 34-87.

Findings and Conclusions:

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

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

There **are** exceptional or extraordinary conditions inherent to the subject property because it is a nonconforming lot with less than the minimum required lot area and dimensions. Application of the required setbacks substantially limits the area

available for the construction and placement of a single-family residence. Although these conditions are inherent to the property, the request is **not** for de minimis relief because the requested reductions, particularly the 6.6-foot front street setback reduction and the 12.5-foot rear setback reduction represent substantial rather than minor variances from the required setbacks.

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

The conditions justifying the requested setback variances **are**, in part, the result of actions taken by the applicant after adoption of the applicable regulations. Although the lot's area and dimensions were not created by the applicant, the extent of the requested relief results from the proposed residence's size, placement, and configuration. The alternative site plan submitted by the applicant demonstrates that a smaller residence could be constructed in compliance with the required setbacks. Therefore, the extent of the requested setback variances results from the design selected by the applicant rather than solely from conditions inherent to the property.

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

The requested setback variances are **not** the minimum relief necessary to relieve the applicant of an unreasonable burden caused by application of the regulations to the property. Application of the required setbacks leaves approximately 690 square feet available for construction, which is comparable to the former residence's apparent footprint of approximately 676 to 687 square feet. The applicant submitted an alternative site plan demonstrating that a smaller residence can be accommodated on the property lot while complying with the required setbacks. Therefore, although the required setbacks limit the size and configuration of a residence, the requested setback variances are not the minimum relief necessary to allow reasonable residential use of the property.

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

Granting the requested variances is **not** expected to be injurious to the neighborhood or otherwise detrimental to the public welfare. The proposed single-family residential use is compatible with the established residential character of the surrounding area. However, neighborhood compatibility does not establish that the requested variances are the minimum relief necessary or that the need for the variances was not created by the proposed design.

- 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 do not warrant a code change.

III. RECOMMENDATION

Each requested variance must satisfy the applicable variance criteria established in LDC Section 34-87. Staff has evaluated each of the four requested variances separately, as follows:

Variance 1 – Front Street Setback

Staff has reviewed the first variance request from LDC Table 34-3 to reduce the required 25-foot front street setback by 6.6 feet to allow an 18.4-foot front street setback. Staff finds that the request satisfies criteria (a), (d), and (e) of LDC Section 34-87 but does not satisfy criteria (b) and (c). Although exceptional conditions are inherent to the property due to its nonconforming area and dimensions, the extent of the requested reduction results, in part, from the size, placement, and configuration of the proposed residence. The alternative site plan submitted by the applicant demonstrates that a smaller residence can be accommodated in compliance with the required front street setback.

Therefore, the requested variance is not the minimum relief necessary to allow reasonable residential use of the property. Because all five required findings cannot be made, staff recommends **DENIAL** of the first variance request.

Variance 2 – West Side Setback

Staff has reviewed the second variance request from LDC Table 34-3 to reduce the required 7.5-foot side setback along the west property line by 1 foot to allow a 6.5-foot side setback. Staff finds that the request satisfies criteria (a), (d), and (e) of LDC Section 34-87 but does not satisfy criteria (b) and (c). Although exceptional conditions are inherent to the property due to its nonconforming area, dimensions, and corner-lot configuration, the extent of the requested reduction results from the width, placement, and configuration of the proposed residence. The alternative site plan submitted by the applicant demonstrates that a smaller residence can be accommodated in compliance with the required side setback. Therefore, the conditions justifying the requested variance result, in part, from the design selected by the applicant, and the requested variance is not the minimum relief necessary to allow reasonable residential use of the property.

Because all five required findings cannot be made, staff recommends **DENIAL** of the second variance request in VAR20260094 to reduce the required 7.5-foot side setback along the west property line by 1 foot to allow a 6.5-foot side setback.

Variance 3 – Rear Setback

Staff has reviewed the third variance request from LDC Table 34-3 to reduce the required 20-foot rear setback by 12.5 feet to allow a 7.5-foot rear setback. Staff finds that the request satisfies criteria (a), (d), and (e) of LDC Section 34-87 but does not satisfy criteria (b) and (c). Although the lot's limited depth substantially constrains the area available for construction, the requested 12.5-foot reduction results, in part, from the size, placement, and configuration of the proposed residence. The alternative site plan submitted by the applicant demonstrates that a smaller residence can be constructed in compliance with the required rear setback. Accordingly, the requested reduction is not the minimum relief necessary, and the conditions justifying the variance are the result of actions of the applicant taken after the adoption of the regulation in question.

Therefore, staff recommends **DENIAL** of the third variance request in VAR20260094 to reduce the required 20-foot rear setback by 12.5 feet to allow a 7.5-foot rear setback.

Variance 4 – Building Coverage

The application included a request to increase the maximum permitted building coverage from 40 percent to 43 percent. However, the submitted site plan identifies a 1,279-square-foot building footprint on the 3,319-square-foot lot, resulting in approximately 38.5 percent building coverage. Therefore, the proposed development complies with the maximum permitted building coverage of 40 percent, and a building-coverage variance is not required.

Therefore, staff recommends that no action be taken on the requested building-coverage variance because the submitted site plan demonstrates that the variance is unnecessary. Any building permit plans must remain consistent with the maximum permitted building coverage of 40 percent.

Overall Recommendation:

Staff recommends **DENIAL** of the three requested setback variances in VAR20260094. No action is recommended on the building-coverage variance because the submitted site plan demonstrates compliance with the maximum permitted building coverage of 40 percent.

IV. CONDITIONS FOR APPROVAL

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

1. Approval of any variance does not confer upon the Applicant an unconditional or vested right to building-permit approval. Development or redevelopment of the Subject 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 by this Resolution.

2. Each approved setback variance shall apply only to the proposed single-family residence and only to the setback expressly approved by the LPA. Any setback variance not approved by the LPA must comply with the applicable LDC requirement.
3. Each approved variance shall apply only to the modified setback expressly approved by the LPA and shown on the site plan attached as "Exhibit A." No other portion of the residence or any accessory building or structure may extend into a required setback unless separately authorized in accordance with the LDC.
4. The variances shall apply only to the modified setbacks shown on the site plan attached as "Exhibit A." No other portion of the single-family residence or any accessory building or structure may extend into a required setback unless separately authorized in accordance with the LDC.
5. The horizontal area of all principal and accessory buildings shall not exceed 40 percent of the lot area. Building-permit plans must include a consistent, dimensioned building-coverage calculation prepared in accordance with LDC Section 34-634.

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

Yellow Sheet Number: **2026-684**

1. Request:

Meeting Date: August 11, 2026

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20260109 REQUESTING A SPECIAL EXCEPTION FOR THE PROPERTY LOCATED AT 6400 ESTERO BOULEVARD, GENERALLY IDENTIFIED BY STRAP NUMBER 33-46-24-W3-02100.00CE, TO: REDEVELOP TWO (2) CHICKEE HUTS, ASSOCIATED PAVER PATHWAYS AND A FOOT-WASH STATION SEAWARD OF THE 1978 COASTAL CONSTRUCTION CONTROL LINE WITHIN THE ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, AND SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

To rebuild any structures within the EC zoning district, the applicant must obtain approval from the Town Council after review and recommendation by the Local Planning Agency (LPA). The Town Council may approve, approve with conditions, or deny the application.

What the action accomplishes:

This will allow the condo to rebuild their chickee structures along with the associated paver pathways and a foot-wash station.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution

5. Background:

The applicant is proposing the replacement of two (2) thatch-roofed shade structures paver pathways and a foot-wash within the Environmentally Critical (EC) zoning district. The shade structures paver pathways and foot-wash are part of the common element for the Sunset Condominium and were in existence prior to Hurricane Ian.

These structures are considered minor accessory structure and can be replaced in the EC zoning district with approval of a special exception, per Section 34-652 (e) of the land development code. The EC zoning district starts at the 1978 Coastal Construction Control Line (CCCL) and extends seaward to the water. The attached site-plan shows the CCCL as the dashed line running through the rear portion of the condominium property and running generally parallel to the rear property line, with a maximum separation between the shade structures and CCCL of approximately 6-feet.

Attachments:

1. LPA Resolution XX SEZ 20260109 6400 Estero Boulevard_Sunset Condo_jas
2. Exhibit A_Site Plan
3. Exhibit A_Survey
4. Staff Report
5. Application
6. Application Supplemental

Financial Impact:

N/A

6. **Alternative Action**

Adopt with Conditions

7. **Staff Recommendations:**

8. **Recommended Approval:**

_____	Date: August 04, 2026
Kendra Rosa, Zoning Coordinator	
_____	Date: August 04, 2026
Georgina Cid, Community Development Manager	
_____	Date: August 04, 2026
Frankie Kropacek, Community Development Director	
_____	Date: August 04, 2026
nancy stuparich, Town Attorney	
_____	Date: August 05, 2026
Amy Baker, Town Clerk	

RESOLUTION NUMBER 2026-LPA-XX

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20260109 REQUESTING A SPECIAL EXCEPTION FOR THE PROPERTY LOCATED AT 6400 ESTERO BOULEVARD, GENERALLY IDENTIFIED BY STRAP NUMBER 33-46-24-W3-02100.00CE, TO: REDEVELOP TWO (2) CHICKEE HUTS, ASSOCIATED PAVER PATHWAYS AND A FOOT-WASH STATION SEAWARD OF THE 1978 COASTAL CONSTRUCTION CONTROL LINE WITHIN THE ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, AND 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, Ann Adare ("Applicant") is the applicant for the Special Exception request concerning the property located at 6400 Estero Boulevard ("Subject Property"); and

WHEREAS, the STRAP number for the Subject Property is 33-46-24-W3-02100.00CE; and

WHEREAS, the Subject Property is designated "Recreation" on the Future Land Use Map of the Comprehensive Plan and is located within the "Environmentally Critical (EC)" zoning district on the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, the Applicant is requesting a Special Exception required in LDC section 6-366(b)(2); and

WHEREAS, the Special Exception request seeks to allow for the rebuilding of two (2) chickee huts, associated paver pathways and a foot-wash which existed prior to Hurricane Ian; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on August 11, 2026, and at said hearing the LPA gave full and complete consideration to the Applicant's request, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-88 of the LDC; and

WHEREAS, in accordance with the requirements of LDC Sections 34-84 and 34-88 regarding consideration of eligibility for a Special Exception, the LPA makes the following findings and conclusions:

In approving the Special Exception, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-88 of the LDC:

- A. Changed or changing conditions which make approval of the request appropriate.
- B. The request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
- C. The request meets all performance and locational standards for the proposed use.
- D. The request will protect, conserve, or preserve environmentally critical areas and natural resources.
- E. The request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- F. The requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code; and

In accordance with the additional regulations and considerations found in Section 6-366 of the LDC:

- A. Any repairs must comply with all relevant local and state floodplain regulations.
- B. Repairs may not damage existing dunes or dune vegetation.
- C. Repairs, other than those limited to emergency repairs to enclose a damaged structure, may not be completed during sea turtle nesting season.
- D. A new special exception must be applied for each time the structure is repaired.

WHEREAS, eligible members of the LPA voted ___ to ___ to approve/approve with conditions/deny the first Special Exception request, subject to the applicable conditions set forth herein; and

1. Approval of any Special Exception does not confer upon the Applicant an unconditional or vested right to building-permit approval. Development or redevelopment of the Subject 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 by this Resolution.
2. The approved Special Exception shall apply only to the proposed structures within the EC zone. Any structures or development not approved by the LPA must comply with the applicable LDC requirement.
3. The applicant must apply for and receive all state and local permits required for the reconstruction of all proposed structures.

4. Any violation of the conditions of approval shall render the special exception null and void.

The foregoing Resolution was adopted upon a motion by LPA member ____, and seconded by LPA member _____, 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 Ed Schoonover	_____
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

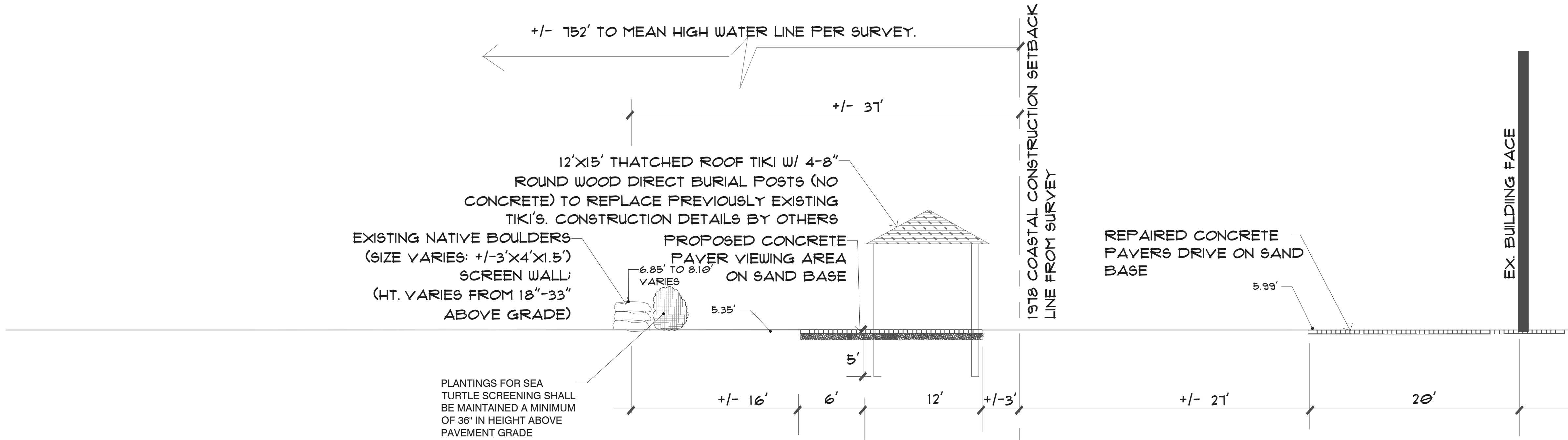
**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

Vose Law Firm, Town Attorney

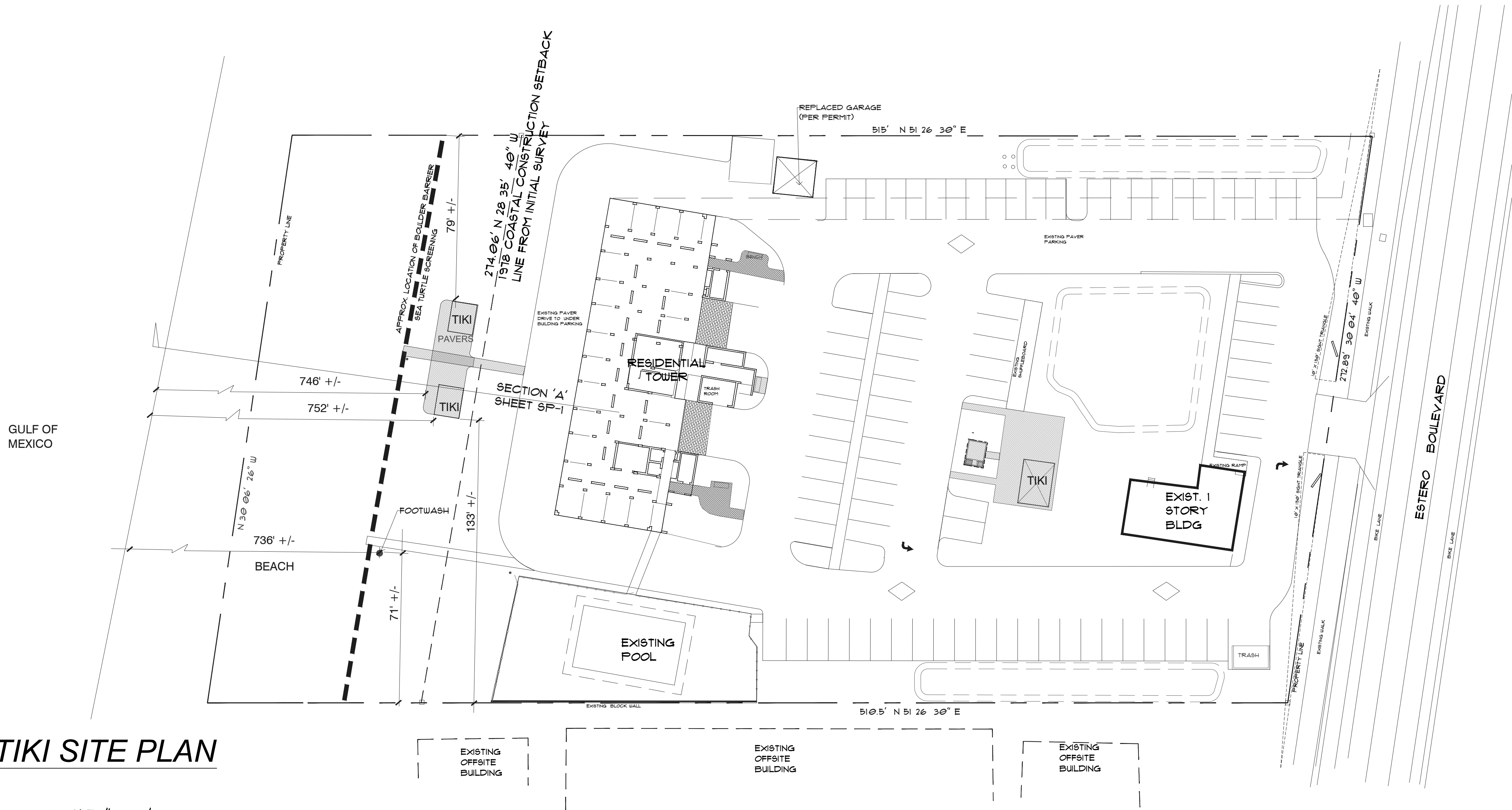
This Resolution was filed in the Office of the Town Clerk on this ____ day of ____, 2026.

Attachment:

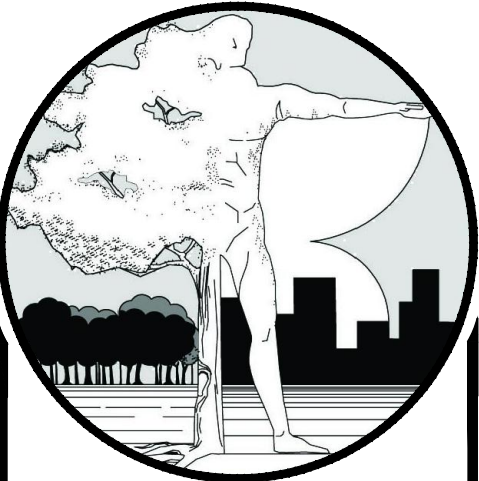
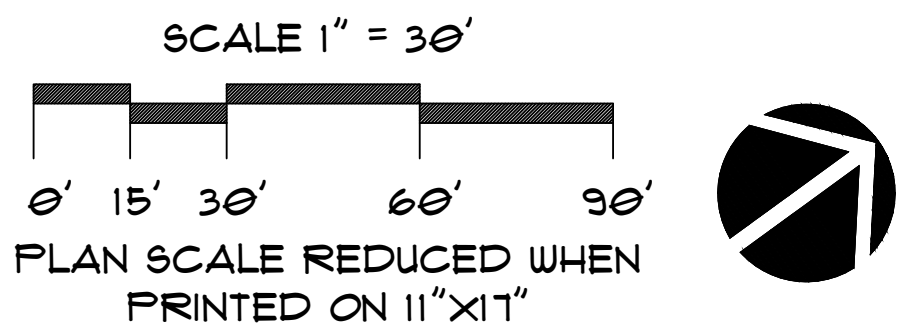
Exhibit A – Survey/ Site Plan



SECTION 'A'



TIKI SITE PLAN



DMJA

DAVID M. JONES, JR.
AND ASSOCIATES, INC.

LANDSCAPE ARCHITECTS
AND PLANNERS

2221 McGregor Blvd.
Fort Myers, Florida 33901
PHONE: (239) 337-5525
FAX (239) 337-4494
4161 Tamiami Trail
Building 5, Unit 501
Port Charlotte, Florida 33952
Phone: (941) 235 - 2217
Fax: (239) 337 - 4494
L.A. LICENSE: LC 000063

PROJECT INFORMATION:

SUNSET
CONDOMINIUMS

6400 ESTERO BLVD.
FORT MYERS BEACH,
FLORIDA

PREPARED FOR:
Sunset Condominiums
6400 Estero Blvd.
Fort Myers Beach, FL
33931
Tel: 802-37109630
Email: debjones@madriver.com

CONSULTANT:

DESIGN PROFESSIONAL:
Digitally signed by
Gregory J. Diserio
DN: c=US,
ou=Unaffiliated,
dnQualifier=A01410,
o=000000199CF830C9,
ou=000000286,
cn=Gregory J. Diserio
Date: 2026.05.07
15:23:07 -0400
GREGORY J. DISERIO, RLA
RLA NO. 840 DATE:
STATE OF FLORIDA

PROJECT NO.	223022
PROJECT MGR.	GREG DISERIO
FILE NAME:	SUNSET CONDO
DESIGNER:	GJD
CAD TECH:	GJD
CHECKED BY:	GJD
ISSUED FOR:	VARIANCE

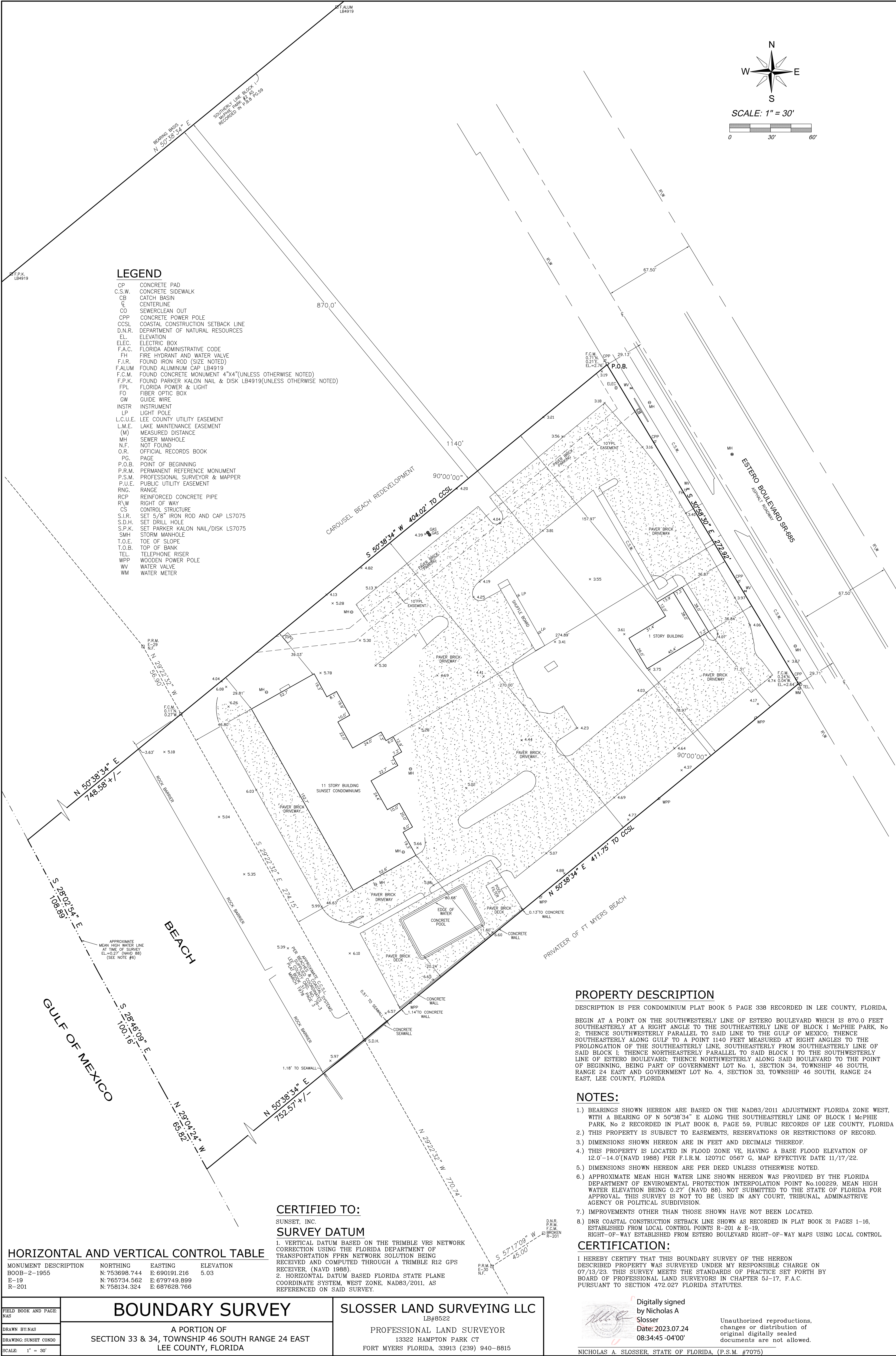
ISSUED DATE: MAY 4, 2026

REVISIONS:

SHEET TITLE:
TIK1
EXHIBIT

SHEET NUMBER:
SP-1





LEGEND

- CP CONCRETE PAD
- C.S.W. CONCRETE SIDEWALK
- CB CATCH BASIN
- C CENTERLINE
- CO SEWER/CLEAN OUT
- CPP CONCRETE POWER POLE
- CCSL COASTAL CONSTRUCTION SETBACK LINE
- D.N.R. DEPARTMENT OF NATURAL RESOURCES
- EL ELEVATION
- ELEC. ELECTRIC BOX
- F.A.C. FLORIDA ADMINISTRATIVE CODE
- FH FIRE HYDRANT AND WATER VALVE
- F.I.R. FOUND IRON ROD (SIZE NOTED)
- F.ALUM FOUND ALUMINUM CAP LB4919
- F.C.M. FOUND CONCRETE MONUMENT 4"x4"(UNLESS OTHERWISE NOTED)
- F.P.K. FOUND PARKER KALON NAIL & DISK LB4919(UNLESS OTHERWISE NOTED)
- FPL FLORIDA POWER & LIGHT
- FO FIBER OPTIC BOX
- GW GUIDE WIRE
- INSTR INSTRUMENT
- LP LIGHT POLE
- L.C.U.E. LEE COUNTY UTILITY EASEMENT
- L.M.E. LAKE MAINTENANCE EASEMENT
- (M) MEASURED DISTANCE
- MH SEWER MANHOLE
- N.F. NOT FOUND
- O.R. OFFICIAL RECORDS BOOK
- PG. PAGE
- P.O.B. POINT OF BEGINNING
- P.R.M. PERMANENT REFERENCE MONUMENT
- P.S.M. PROFESSIONAL SURVEYOR & MAPPER
- P.U.E. PUBLIC UTILITY EASEMENT
- RNG. RANGE
- RCP REINFORCED CONCRETE PIPE
- R/W RIGHT OF WAY
- CS CONTROL STRUCTURE
- S.I.R. SET 5/8" IRON ROD AND CAP LS7075
- S.D.H. SET DRILL HOLE
- S.P.K. SET PARKER KALON NAIL/DISK LS7075
- SMH STORM MANHOLE
- T.O.E. TOE OF SLOPE
- T.O.B. TOP OF BANK
- TEL. TELEPHONE RISER
- WPP WOODEN POWER POLE
- WV WATER VALVE
- WM WATER METER

PROPERTY DESCRIPTION

DESCRIPTION IS PER CONDOMINIUM PLAT BOOK 5 PAGE 338 RECORDED IN LEE COUNTY, FLORIDA, BEGIN AT A POINT ON THE SOUTHWESTERLY LINE OF ESTERO BOULEVARD WHICH IS 870.0 FEET SOUTHEASTERLY AT A RIGHT ANGLE TO THE SOUTHEASTERLY LINE OF BLOCK 1 McPHIE PARK, No 2, THENCE SOUTHWESTERLY PARALLEL TO SAID LINE TO THE GULF OF MEXICO; THENCE SOUTHEASTERLY ALONG GULF TO A POINT 1140 FEET MEASURED AT RIGHT ANGLES TO THE PROLONGATION OF THE SOUTHEASTERLY LINE, SOUTHEASTERLY FROM SOUTHEASTERLY LINE OF SAID BLOCK 1; THENCE NORTHEASTERLY PARALLEL TO SAID BLOCK 1 TO THE SOUTHWESTERLY LINE OF ESTERO BOULEVARD; THENCE NORTHWESTERLY ALONG SAID BOULEVARD TO THE POINT OF BEGINNING, BEING PART OF GOVERNMENT LOT No. 1, SECTION 34, TOWNSHIP 46 SOUTH, RANGE 24 EAST AND GOVERNMENT LOT No. 4, SECTION 33, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA

NOTES:

- 1.) BEARINGS SHOWN HEREON ARE BASED ON THE NAD83/2011 ADJUSTMENT FLORIDA ZONE WEST, WITH A BEARING OF N 50°38'34" E ALONG THE SOUTHEASTERLY LINE OF BLOCK 1 McPHIE PARK, No 2 RECORDED IN PLAT BOOK 8, PAGE 59, PUBLIC RECORDS OF LEE COUNTY, FLORIDA
- 2.) THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.
- 3.) DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.
- 4.) THIS PROPERTY IS LOCATED IN FLOOD ZONE VE, HAVING A BASE FLOOD ELEVATION OF 12.0'-14.0'(NAVD 1988) PER F.I.R.M. 12071C 0567 G, MAP EFFECTIVE DATE 11/17/22.
- 5.) DIMENSIONS SHOWN HEREON ARE PER DEED UNLESS OTHERWISE NOTED.
- 6.) APPROXIMATE MEAN HIGH WATER LINE SHOWN HEREON WAS PROVIDED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION INTERPOLATION POINT No.100229, MEAN HIGH WATER ELEVATION BEING 0.27' (NAVD 88). NOT SUBMITTED TO THE STATE OF FLORIDA FOR APPROVAL. THIS SURVEY IS NOT TO BE USED IN ANY COURT, TRIBUNAL, ADMINISTRATIVE AGENCY OR POLITICAL SUBDIVISION.
- 7.) IMPROVEMENTS OTHER THAN THOSE SHOWN HAVE NOT BEEN LOCATED.
- 8.) DNR COASTAL CONSTRUCTION SETBACK LINE SHOWN AS RECORDED IN PLAT BOOK 31 PAGES 1-16, ESTABLISHED FROM LOCAL CONTROL POINTS R-201 & B-19.

CERTIFICATION:

I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY OF THE HEREON DESCRIBED PROPERTY WAS SURVEYED UNDER MY RESPONSIBLE CHARGE ON 07/13/23. THIS SURVEY MEETS THE STANDARDS OF PRACTICE SET FORTH BY BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17, F.A.C. PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

CERTIFIED TO:

SUNSET, INC.

SURVEY DATUM

1. VERTICAL DATUM BASED ON THE TRIMBLE VRS NETWORK CORRECTION USING THE FLORIDA DEPARTMENT OF TRANSPORTATION FPRN NETWORK SOLUTION BEING RECEIVED AND COMPUTED THROUGH A TRIMBLE R12 GPS RECEIVER, (NAVD 1988).
2. HORIZONTAL DATUM BASED FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE, NAD83/2011, AS REFERENCED ON SAID SURVEY.

HORIZONTAL AND VERTICAL CONTROL TABLE

MONUMENT DESCRIPTION	NORTHING	EASTING	ELEVATION
BOOB-2-1955	N: 753698.744	E: 690191.216	5.03
E-19	N: 765734.562	E: 679749.899	
R-201	N: 758134.324	E: 687628.766	

BOUNDARY SURVEY

A PORTION OF
SECTION 33 & 34, TOWNSHIP 46 SOUTH RANGE 24 EAST
LEE COUNTY, FLORIDA

SLOSSER LAND SURVEYING LLC

LB#8522

PROFESSIONAL LAND SURVEYOR
13322 HAMPTON PARK CT
FORT MYERS FLORIDA, 33913 (239) 940-8815



Digitally signed
by Nicholas A
Slosser
Date: 2023.07.24
08:34:45 -04'00'

Unauthorized reproductions,
changes or distribution of
original digitally sealed
documents are not allowed.

NICHOLAS A. SLOSSER, STATE OF FLORIDA, (P.S.M. #7075)



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Special Exception

CASE NUMBER: SEZ20260109

CASE NAME: Special Exception for the replacement/repair of two (2) thatch-roofed shade structures paver walkway and foot-wash within the EC zoning district.

LPA

HEARING DATE: August 11, 2026 at 9:00 AM

STAFF

RECOMMENDATION: Approve With Conditions

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

I. APPLICATION SUMMARY

Applicant/Owner: Sunset Inc.

Requests: To rebuild the thatch-roofed shade structures and paver walkways to pre-Ian condition

Physical Address: 6400 Estero Blvd

STRAP #: 33-46-24-W3-02100.00CE

FLU: Recreation

Zoning: Environmentally Critical

Adjacent zoning and land uses:

North:	Environmentally Critical (EC) Common Element of Gulfside 12
South:	Environmentally Critical (EC) Common Element of Privateer
East:	Commercial Boulevard (CB) Beach Theater
West:	Environmentally Critical (EC) Beach

II. BACKGROUND AND ANALYSIS

Background:

The applicant is proposing the replacement of two (2) thatch-roofed shade structures paver pathways and a foot-wash within the Environmentally Critical (EC) zoning district. The shade structures paver pathways and foot-wash are part of the common element for the Sunset Condominium and were in existence prior to Hurricane Ian.

These structures are considered minor accessory structure and can be replaced in the EC zoning district with approval of a special exception, per Section 34-652 (e) of the land development code. The EC zoning district starts at the 1978 Coastal Construction Control Line (CCCL) and extends seaward to the water. The attached site-plan shows the CCCL as the dashed line running through the rear portion of the condominium property and running generally parallel to the rear property line, with a maximum separation between the shade structures and CCCL of approximately 6-feet.

Analysis:

Per the applicant's submittal, the building and common areas were developed in 1978, while the application doesn't address and exact year when the structures were constructed staff can confirm through Lee Property Appraiser's (LEEPA) aerials that the shade structures existed in 1998, the first year available from LEEPA with high-resolution photography.

The condominium has met the application criteria of providing notice to the condominium ownership of this special exception application and staff has received a letter from the condominium's attorney determining that the request for a Special Exception was proper.

The LDC was recently updated to allow minor primary and accessory structures to be repaired in the EC zoning district with the approval of a special exception. Prior to the code change, only single-family residences could be repaired in the EC zoning district.

Neighborhood Compatibility:

A review of the aerials up and down the beach indicate that there are a number of primary and accessory structure that extend over the 1978 CCCL. The aerials are not precise but staff has fielded questions from condos and homeowners about the process of obtaining Special Exceptions for existing structures, indicating that there is a non-insignificant number of lots which may be affected. These residents may request to repair the primary and accessory structure in the same location or may choose to move the structures landward of the CCCL.

Findings and Conclusions:

Section 6-366(b)(3) Regulations and Considerations

LDC Section 6-366 includes additional regulations and considerations for special exception approval of repairs in the EC zoning district:

- a. Any repairs must comply with all relevant local and state floodplain regulations.*

The applicant has been coordinating with staff, and their own contractors to ensure compliance with all floodplain regulations related to rebuild of the shade structures, paver walkways and foot-wash.

- b. Repairs may not damage existing dunes or dune vegetation.*

The repairs are proposed in conjunctions with Environmental review to ensure that no dunes or native vegetation will be impacted.

- c. Repairs, other than those limited to emergency repairs to enclose a damaged structure may not be completed during sea turtle nesting season.*

Sea turtle nesting season will begin May 1st, and will end on October 31st. Staff will ensure that the applicant is aware that even if provided approval to replace the structures that it must be done outside of turtle nesting season.

- d. A new special exception must be applied for each time the structure is repaired.*

This will be a condition of the special exception approval.

Special Exception Findings

LDC Sec. 34-88(b) sets forth the required findings and conclusions for the approval of a special exception:

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

The structures in the EC were severely damaged during Ian. While construction seaward of the CCCL should be limited, this request is to rebuild an existing structure that will only minimally contribute to future flooding, and which existed with few problems before the storm.

2) *Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.*

Policy 5-D-1 states: Development (other than minor structures) shall not be allowed seaward of the 1978 Coastal Construction Control Line. Development seaward of the 1991 Coastal Construction Control Line may be permitted provided it complies with this comprehensive plan and all state and local permitting requirements.

This proposed redevelopment does not create any new development or change the location from what previously existed on the site. Therefore staff believes that this proposed request does not fall within the definition of development in the Town's code of ordinance:

- The LDC defines *Development* as (1) A subdivision, as defined in this chapter; or (2) Any improvement to land, as defined in this chapter.
- The LDC defines *Improvement* to land as any change to land or to any structure on the land, and shall include any movement or grading of land, except grading which is incidental to the removal of exotic vegetation and which is not prohibited by ch. 22 of this LDC; clearing of indigenous plant communities; and the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; provided, however, that any change to a building which does not involve a change in the building floor area shall not be deemed an improvement to land.

3) *Whether the request meets or exceeds all performance and locational standards for the proposed use.*

The request will comply with local, state, and federal air, noise and water pollution standards. It will not adversely affect water quality and it will not create a nuisance to adjacent properties.

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

The request will maintain what was previously constructed on this property. It will not have an additional negative impact.

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

There is no anticipated negative impact or injury to surrounding properties.

- 6) *Whether a requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code.*

The EC zoning district allows only passive, movable structures, no new major structures of any kind are allowed, other than dune walkovers through a special exception. Prior to the recent code change, only repairs to primary structures were permitted through a special exception. The recent code amendment allows replacement of minor accessory structures as well.

III. RECOMMENDATION

Staff finds that the special exception for reconstruction of paver walkways, two (2) shade structures and a foot-wash in the EC zoning district is in compliance with item Sec. 34-88(b)(1). Therefore, staff recommends **APPROVAL WITH CONDITIONS** of SEZ20260109 for the reconstruction of two (2) that-roofed shade structures, paver walkways and a foot-wash.

IV. CONDITIONS OF APPROVAL

- 1) Should the thatch-roofed shade structures, paver walkways or foot-wash be demolished the approved Special Exception will become null and void and the new structure(s) will be expected to be built to meet the codes at the time of review, landward of the CCCL or apply for a new Special Exception.

Staff Report Exhibits:

A – Survey/ Site Plan



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Site Address: 6400 Estero Blvd., Fort Myers Beach FL 33931

STRAP Number: 33-46-24-W3-02100.00CE

Applicant: Sunset, Inc. Phone: 905-315-0557 (Ann)

Contact Name: Dave Vieceli or Ann Adare Phone: 630-742-0544 (Dave)

Email: Sunset405@sbcglobal.net OR ann.adare@fyitech.com Fax: _____

Current Zoning District: RM and EC

Future Land Use Map (FLUM) Category: Mixed Residential

FLUM Density Range: 6 dwelling units per acre Platted Overlay: ☐ YES ☒ NO

ACTION REQUESTED

☒ Special Exception

☐ Variance

☐ Conventional Rezoning

☐ Planned Development ☐ Commercial ☐ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PART I – General Information

A. Applicant*: Dave Vieceli Phone: 630-742-0544

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.*

Please see PART III to complete the appropriate Affidavit form for the type of applicant.

Applicant Mailing Address: Sunset, Inc. 6400 Estero Blvd. Fort Myers Beach, FL 33931

Email: Sunset405@sbcglobal.net Fax: _____

Contact Name: Dave Vieceli Phone: 630-742-0544



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- | | | |
|--|---|--|
| ☐ Owner* | ☐ Land Trust* | ☐ Partnership* |
| ☐ Corporation* | ☐ Association* | ☐ Condominium* |
| ☐ Subdivision* | ☐ Timeshare Condo* | ☐ Contract Purchaser* |
| ☒ Authorized Representative* | ☐ Other* (please indicate) <u>VP, Board of Directors</u> | |

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

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

Name: Dave Viecei, VP Board of Directors Phone: 630-742-0544
Address: c/o Sunset Condominium 6400 Estero Blvd, Fort Myers Beach, FL 33931
Email: Sunset405@sbcglobal.net Fax: _____

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

Name: Ann Adare, President Board of Directors Phone: 905-315-0557
Address: P.O. Box 1239 Bobcaygeon, Ontario Canada K0M 1A0
Email: ann.adare@fyitech.com Fax: _____

Name: Greg Diserio Phone: 239-337-5525
Address: David M. Jones, Jr. and Associates, Inc 2221 McGregor Boulevard Fort Myers, Florida 33901
Email: gdiserio@dmjafl.com Fax: _____

PART II - Nature of Request

Requested Action (each request requires a separate application)

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☐ Other. Please Explain: _____

PART III - Waivers

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

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV - Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

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

Dave Vieceli

Signature

Dave Vieceli

Printed Name

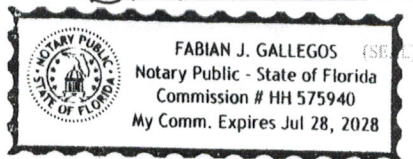
STATE OF Florida COUNTY OF Lee

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

presence OR ☐ online notarization, this 21st day of May, 2026, by

David A. Vieceli, ☐ who is personally known to me OR ☒ who has produced

Driver's License as identification.



Fabian Gallegos
Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

See Sunbiz List of Directors attached along with a list of all owners who were notified

on May 9, 2026 - Submitted as Exhibit 5.3

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

Name and Address

Percentage of Interest

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

Name and Address

Percentage of Ownership

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

Name, Address and Office

Percentage of Stock



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name

Address

_____	_____
_____	_____
_____	_____
_____	_____

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

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

Signature

Dave Vieceli

Printed Name

AFFIDAVIT

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

I, Dave Vieceli (name), as VP, Board of Directors (title)
of Sunset, Inc. (company), swear or affirm under oath, that I am the
owner or the authorized representative of the owner(s) of the property and that:

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



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

Sunset, Inc.

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

Dave Vieceli

Signature

Dave Vieceli

Typed or Printed Name

VP, Board of Directors

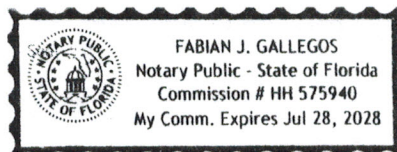
Title

5/21/2024

Date

STATE OF Florida COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 21st day of May, 2024, by David A. Vieceli ☐ who is personally known to me OR ☒ who has produced Driver's License as identification.



Fabian Gallegos
Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 33-46-24-W#-02100.00 CE

Property Address: 6400 Estero Blvd, Fort Myers Beach, FL 33931

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

☐ Yes. Property identified in subdivision: _____

Book: 5 Page: 338 Unit: _____ Block: _____ Lot(s): 1

B. Boundary Survey:

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 274 feet
Depth (please provide an average width if irregular in shape) 407 feet
Frontage on street: 273 feet. Frontage on waterbody: 275 feet
Total land area: 111,925 ☐ acres ☒ square feet

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

Sunset, Inc property is 2.2 miles north of Big Carlos Pass Bridge. Located between
Gulfside 12 condominiums and the Privateer property.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

line. Exhibit 6-2

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

Explanatory Notes – Part IV & V

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



Case# _____

Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-A

Additional Required Information for a Special Exception Application

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

Project Name: Sunset, Inc. LIKE FOR LIKE REPLACEMENT OF BEACHFRONT TIKIS
Authorized Applicant: Sunset, Inc.
LEOPA STRAP Number(s): 33-46-24-W3-02100.00 CE

Current Property Status: TCO received January 2026
Current Zoning: RM and CE
Future Land Use Map (FLUM) Category: Mixed Residential (6 dwellings per acre)
Platted Overlay? ☐ yes ☒ no FLUM Density Range:

Requested Action:

☒ Use of premises in the EC (Environmentally Critical) zoning district for:
Return of "as was" beach side tikis, paver walkway and foot wash station that were in place pre hurricane Ian (dated back to pre Charlie)
Sunset, Inc. is requesting a special exception to allow LIKE-FOR-LIKE REPLACEMENT of Beachfront Tikis, foot wash station and paver pathways that existed
prior to Hurricane Ian (even pre Charlie). These items extend into the EC zoning district seaward of the 1978 CCCL, recorded for the real property located at 6400 Estero Blvd. FMB.
☒ Use of premises in the <u>CCCL</u> zoning district for:
Return of "as was" beach side tikis, paver walkway and foot wash station that were in place pre hurricane Ian (dated back to pre Charlie)
Sunset, Inc. is requesting a special exception to allow LIKE-FOR-LIKE REPLACEMENT of Beachfront Tikis, foot wash station and paver pathways that existed
prior to Hurricane Ian (even pre Charlie). These items extend into the EC zoning district seaward of the 1978 CCCL, recorded for the real property located at 6400 Estero Blvd. FMB.

PART I Narrative Statements

A. Request for: (indicate the proposed use that requires a special exception)

Sunset, Inc., a 66 unit condominium complex built in 1978 on Fort Myers Beach,
had two Tiki hut seating areas, walkway and foot wash station just west of the 1978
CCCL. These items were approved in our post hurricane Ian LDO Permit #202301.
Sunset rebuilt the Tikis along with the paver and footwash as noted on the approved
LDO. After submitting our substantial completion letters from our LDO architect
and lighting engineer for sign off from the town on the LDO, Sunset was advised
that a special exception was required for the items. There was no record of this on
permit approval or the permit portal. In order to complete the LDO, the town has
requested that Sunset apply for this special exception for LPA and council approval
The Tikis, pavers and footwash shown on the attached plan were all rebuilt as per
the approved LDO and were all existing pre Ian. These items enhance the quality
of life at Sunset for our 66 owners, their families and guests.

B. Reasons for request: (state how the property qualifies for a special exception and what impact granting the request could have on surrounding properties. Direct these statements toward the guidelines in LDC Section 34-88)

The property qualifies for a Special Exception because:
This like for like replacement maintains scenic views, respects the present scale, aligns with
the neighborhood, small town character and old Florida charm. The structures add to the
quality of life for our 66 families in residence, and their guests and renters while preserving/replacing what was without adding new
development elements to the area. Care has been taken not to impact natural resources and is consistent with previous use of the area.
The items were all existing pre Ian (and even pre Charlie). Please also note that extra care
was taken in our overall LDO installation to reduce the amount of overall impervious materials
used. The LDO, as approved, allowed bocci and pickle ball courts as well as a horseshoe pit and beachside BBQ/patio
on the upland portion of the property. These items were not rebuilt thus reducing the amount of impervious
materials on the property and maintaining the property as a good neighbor. The Tikis previously had lighting which has not been installed.
Beach side lighting on the tower has also been removed. The beach access paver walkway was kept to a minimum size,
and was rebuilt as was pre Ian and away from neighboring properties thus no impact to those properties. This request is
compatible with existing uses and does not cause damage, hazard, nuisance or other detriment to persons or property.

Granting the requested Special Exception could impact surrounding properties as follows:
The items are located in the same location as they were pre lan and are well away from the south and north property lines and neighbors.
None of the items are located on beach sand.
The Tiki structures are 752 feet and 746 feet from the wet sand line; while the foot wash station is 736 feet from the wet sand line. The north Tiki is 79 feet from the north property line, the south Tiki is 133 feet from the south property line, while the foot wash is 71 feet from the south property line.
The tikis are without lighting, are not expected to be used in evenings and are of small size as to not promoted large gatherings.
Previous experience, pre lan shows that these Tikis were not a nuisance to neighbors and had no impact on surrounding properties.
As noted above, care was taken when rebuilding Sunset to ensure that we remain a good neighbor.
The bocci and pickle ball courts, horse shoe pit and beaches ide BBQ and seating areas that were all approved on our upland portion of the LDO were NOT installed.
Please note that this area of Fort Myers Beach is an area of accretion not erosion - as time passes the items become further away from the wet sand line.
No dunes are involved. The items noted in the special exception request are on the already existing landscaped area adjacent to the building, and not on the beach sand and are as was pre lan. .

PART 2 Submittal Requirements

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

Required Items

- Public Hearing Request Form
- Supplemental form PH-A
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; all proposed structures and uses for the site; and any proposed fencing and screening.
- Fee in the amount of \$3800.00/\$3300.00 for an amendment

For New Communication Towers:

- a. Lee County Application for Communication Tower
- b. Shared-Use Plan Agreement

For Consumption of Alcoholic Beverages (COP) license approval:

- a. Notarized authorization from the Property Owner to apply for permit
- b. A statement indicating the type of establishment, the type of state license to be acquired, and the planned hours of operation. Also indicate if the request includes outdoor seating areas and indicate the seating areas and capacity on the site plan.
- c. A map showing the locations of other properties within 500 feet of the request where consumption-on-premises uses are already in operation.
- d. The site plan must include the public entrances and exits to the building, the floor area and proposed seating capacity, and floor area and seating capacity of any areas within the building subdivided between restaurant and bar/lounge areas. The site plan should also indicate the parking area, including the spacing and the locations of entrances and exits.

For transit terminals:

The site plan must indicate the location of the bus stalls; commuter parking areas, if provided; taxi waiting stalls; circulation pattern for buses including the entrances and exits; and the location of any building(s) housing the terminal and waiting areas.

For use of the EC zoning district:

- a. If the location of the request is in the portion of the EC zoning district between Estero Boulevard and the Gulf of Mexico, provide a survey meeting the requirements of Chapter 62B-33.0081 of the Florida Administrative Code, also including the precise location of the (1978) Coastal Construction Setback Line for Estero Island recorded in Plat Book 33, Page 3, of the Official Records of Lee County, Florida.
- b. The site plan must indicate the precise location of the request on the subject property and any related details of the existing conditions or planned improvements to the subject property. For areas in the EC zoning district between Estero Boulevard and the Gulf of Mexico, the precise location of the request in relation to the (1978) Coastal Construction Setback Line must be shown on the site plan.

Guide to Filing Supplement PH-A for Special Exceptions

Case Number will be inserted by Community Development staff.

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

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

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

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

Requested Action: Indicate the nature of the request and include the current zoning of the property.

Part 1 Narrative Statements:

“Request for...”

Indicate the nature of the request that requires a special exception, and explain why it requires a special exception. Describe the relationship of the requested use to any existing use(s) of the property, if applicable.

“The property qualifies for a special exception because...”

Explain why the request and the subject property qualify for a special exception. Address the standards for decision-making for special exceptions that are provided in the Land Development Code, as follows:

- Whether there exist changed or changing conditions which make approval of the request appropriate.
- Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
- Whether the request meets or exceeds all performance and locational standards for the proposed use.
- Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.

- Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- Whether a requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code.

“Granting the requested special exception could impact surrounding properties as follows...”

Explain how this request, if granted for the subject property, could affect the surrounding properties and the existing or planned uses on those properties.

Submittal Requirements Check List and Filing Guide



A completed Public Hearing Application Form.



A completed Supplemental form PH-A.

Site Plan. The site plan should be to scale and should indicate the location of the request on the property. Existing buildings and other improvements (such as swimming pools, fences, decks, or parking lots) should also be shown on the site plan. The site plan should also indicate the existing uses on adjacent properties. Also include any additional relevant detail related to the specific request.

Guide to Filing Supplement PH-A for Special Exceptions

Case Number will be inserted by Community Development staff.

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

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

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

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

Requested Action: Indicate the nature of the request and include the current zoning of the property.

Part 1 Narrative Statements: "Request for..."

Indicate the nature of the request that requires a special exception, and explain why it requires a special exception. Describe the relationship of the requested use to any existing use(s) of the property, if applicable.

"The property qualifies for a special exception because..."

Explain why the request and the subject property qualify for a special exception. Address the standards for decision-making for special exceptions that are provided in the Land Development Code, as follows:

- Whether there exist changed or changing conditions which make approval of the request appropriate.
- Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
- Whether the request meets or exceeds all performance and locational standards for the proposed use.
- Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.
- Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- Whether a requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code.

"Granting the requested special exception could impact surrounding properties as follows..."

Explain how this request, if granted for the subject property, could affect the surrounding properties and the existing or planned uses on those properties.

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

- A. Include the street address of the subject property. List STRAP number. If more than one parcel is involved, list all STRAP numbers. If you don't know the STRAP number, you can look up the property in the records of the Lee County Property Appraiser at <http://www.leepa.org>. If the application includes only one or more undivided platted lots within a subdivision officially recorded in the Plat Books of Lee County, Florida, identify the property by lot number(s), block if applicable, subdivision unit if applicable, subdivision name, and plat book number and page number. If the property is not one or more undivided platted lots or is in an "unrecorded" subdivision, attach a metes and bounds legal description giving accurate bearings and distances for each course. If multiple parcels are involved, the metes and bounds legal description must describe the perimeter of the entire property subject to the request. The initial point in the description must be related to at least one established identifiable real property corner, such as a government

- corner or a recorded corner. The bearings used in the description must be clearly referenced to a well-established and monumented line. Exhibit 6-1
- B. Submit a Boundary Survey meeting the minimum technical standards for surveying set out in Chapter 61G17-6 of the Florida Administrative Code. Make sure that the surveyor is aware of any specific needs of the survey (location of Coastal Construction Lines, locations of existing structures, locations of easements, etc) that are relevant to your request. The perimeter boundary of the entire subject property should be indicated clearly with a heavy line. Exhibit 6-2
 - C. Provide the property dimensions or the approximate dimensions if the property is not a regular quadrilateral.
 - D. Describe how to get to the property starting from either the Sky Bridge or the Big Carlos Pass Bridge (specify which). Exhibit 6-3
 - E. If there are any deed restrictions or covenants that might affect the requested action, provide the information. Exhibit 6-4
 - F. A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5
 - G. Attach a list of the surrounding property owners within 500 feet of the perimeter of the area of the request. Also include two sets of mailing labels providing the names and addresses of the owners on this list, and a map showing the parcel boundaries within the 500-foot radius Exhibit 6-6. This information can be acquired for a small fee by requesting a "variance report" from the Map Sales Office at the Lee County Property Appraiser's Office. Contact information for the Property Appraiser can be found at <http://www.leepa.org>.
 - H. Indicate the Future Land Use Map category or categories of the property as shown on the Fort Myers Beach Comprehensive Plan's Future Land Use Map, and whether the property is located in the "platted overlay" on the map.
 - I. Indicate the current zoning of the property. In most cases the current zoning is shown on the official zoning map of the Town of Fort Myers Beach, as adopted by ordinance. If zoning actions affecting the subject property have been taken since March 2004, call Town Hall to verify the current zoning.

Explanatory Notes – Part IV & V

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

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

Yellow Sheet Number: **2026-679**

1. Request:

Meeting Date: August 11, 2026

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING, APPROVING WITH CONDITIONS, OR DENYING AN APPLICATION TO REZONE PROPERTY LOCATED AT 584/582 ESTERO BLVD, GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W4-0060D.017A AND 24-46-23-W4-0060D.017H, FORT MYERS BEACH, FROM RESIDENTIAL MULTIFAMILY (RM) TO RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO ALLOW RECONSTRUCTION OF TWO SINGLE-FAMILY HOMES ABOVE FLOOD ELEVATION AND SEVEN DEVIATIONS FROM THE LAND DEVELOPMENT CODE; PROVIDING FOR CLARIFICATION AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

LPA reviews the application to make recommendations for Town Council consideration.

What the action accomplishes:

LPA will make recommendations for Town Council consideration.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

James Ink, with Ink Engineering, Inc., the registered applicant on behalf of the property owner, Calusa, LLC, is requesting the rezoning of approximately 0.19 acres of the 0.44-acre total site, including approximately 0.25 acres within the EC zoning district, from Residential Multifamily (RM) to Residential Planned Development (RPD), along with approval of a Master Concept Plan, seven (7) deviations, and a lot line adjustment.

The two subject properties are part of a property originally platted as Lot 17, Unit 3, Island Shores, as recorded on April 16, 1951, in Plat Book 9, Page 27, of the Official Records of Lee County, Florida. The original parcel was 100 feet wide and extended from Estero Boulevard to the mean high-water line of the Gulf of Mexico. The property was subsequently subdivided in 1992, as recorded in Official Record Book 2327, Page 1442. This subdivision created the subject parcels prior to the incorporation of the Town of Fort Myers Beach on December 31, 1995. Because the subject properties were legally established before incorporation, the two dwelling units that existed prior to Hurricane Ian were legal and conforming under the zoning code in effect at the time they were created.

Based on pre-storm (Hurricane Ian) data from the Lee County Property Appraiser (LEEPA) and available aerial imagery, each lot contained one dwelling unit. The residence at 584 Estero Boulevard consisted of approximately 800 square feet and was constructed in 1951, while the residence at 582 Estero Boulevard was constructed in 1965. The existing lot areas are approximately 2,557 square feet for 582 Estero Boulevard and 5,538 square feet for 584 Estero Boulevard, including the portion of the property within the EC zoning district.

The applicant requests deviations from the underlying RM zoning district standards related to minimum lot area, setbacks, and maximum lot coverage to facilitate redevelopment and a proposed lot line adjustment. While dimensional relief for nonconforming lots is typically addressed through the variance process, the proposed lot line adjustment would reduce the

area of the larger parcel at 584 Estero Boulevard while increasing the area of the smaller parcel at 582 Estero Boulevard. Because a variance cannot be used to increase the degree of nonconformity of an existing lot, the requested lot line adjustment cannot be accomplished through the variance process. The proposed project will be constructed in two phases.

Attachments:

1. NS Ord 26_13, RPD20260529 for 584&582 Estero
2. Exhibit A Master Concept Plan
3. NS Exhibit B Schedule of Uses and Development Regulations (1)
4. NS EXHIBIT C Deviations
5. NS EXHIBIT D List of Conditions
6. LPA Staff Report 584&582 Estero RPD

Financial Impact:

N/A

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

_____	Date: July 30, 2026
Kendra Rosa, Zoning Coordinator	
_____	Date: July 30, 2026
Georgina Cid, Community Development Manager	
_____	Date: July 30, 2026
Frankie Kropacek, Community Development Director	
_____	Date: August 04, 2026
nancy stuparich, Town Attorney	
_____	Date: August 05, 2026
Amy Baker, Town Clerk	

ORDINANCE 26-13

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING, APPROVING WITH CONDITIONS, OR DENYING AN APPLICATION TO REZONE PROPERTY LOCATED AT 584/582 ESTERO BLVD, GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W4-0060D.017A AND 24-46-23-W4-0060D.017H, FORT MYERS BEACH, FROM RESIDENTIAL MULTIFAMILY (RM) TO RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO ALLOW RECONSTRUCTION OF TWO SINGLE-FAMILY HOMES ABOVE FLOOD ELEVATION AND SEVEN DEVIATIONS FROM THE LAND DEVELOPMENT CODE; PROVIDING FOR CLARIFICATION 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, James Ink with Ink Engineering Inc., the registered applicant on behalf of owner Calusa, LLC, for 584/582 Estero Blvd., Fort Myers Beach ("Properties"), identified as STRAP Numbers 24-46-23-W4-0060D.017A and 24-46-23-W4-0060D.017H, filed an application to rezone the Properties from Residential Multifamily (RM) to Residential Planned Development (RPD), inclusive of a corresponding Schedule of Uses and Master Concept Plan (MCP), and a setback deviation from the Land Development Code (LDC); and

WHEREAS, the property is in the Mixed-Residential Future Land Use Category of the Comprehensive Plan 2045 of the Town of Fort Myers Beach, and is under common control of the applicant, as listed in the public records of Lee County Property Appraiser; and

WHEREAS, the rezoning request was reviewed by the Fort Myers Beach Local Planning Agency at a public hearing on August 11, 2026 before the Town of Fort Myers Beach Local Planning Agency ("LPA"); and

WHEREAS, at the public hearing, the LPA gave full and complete consideration to the requested rezoning, the recommendations by staff, the documents in the record, and the testimony of the property owner and all interested persons, as required by Section 34-85 of the Town Land Development Code, and found the request to be consistent/not consistent with the

Town’s Comprehensive Plan and the requirements of the Land Development Code (“LDC”) and voted ___ to ___ to recommend approval/approval with conditions/denial; and

WHEREAS, on __ __, 2026, the Town Council held a first reading of the title to the proposed Ordinance 26-13 and gave full and complete consideration to the request of the property owner, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the LDC; and

WHEREAS, notice of the _____ second reading of the title to Ordinance 26-13 and the adoption hearing was properly noticed and published in the Fort Myers News-Press on the _____ day of _____, 2026, which is more than 10 days prior to the Town Council’s final public hearing on the ___ day of _____, 2026; and

WHEREAS, the property owner has paid all outstanding fees associated with notice, advertisement, and consulting services required by the Town related to this rezoning request; and

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

WHEREAS, Exhibit A is the approved Master Concept Plan (MCP); and

WHEREAS, Exhibit B provides the schedule of uses and development regulations; and

WHEREAS, Exhibit C provides the requested Deviations; and

WHEREAS, Exhibit D provides a list of conditions if this RPD rezoning is approved; and

WHEREAS, the Town Council considered all relevant factors and made the following formal findings before making its final decision on the requested rezoning as required by Sections 34-85 and 34-216 of the Land Development Code:

- a. The rezoning would carry out the policies and requirements of the Comprehensive Plan and Land Development Code.
- b. The Town Council carefully considered the testimony of the Applicant, the recommendations of staff and of the local planning agency, and testimony from the public.
- c. The rezoning would be consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses in the Comprehensive Plan.
- d. The rezoning would meet or exceed all performance and locational standards set forth for the proposed use.
- e. Urban services are available and adequate to serve the proposed use.
- f. The rezoning would protect, conserve, or preserve environmentally critical areas and natural resources.
- g. The rezoning would be compatible with existing and planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- h. The rezoning would not place an undue burden upon existing transportation or other

services and facilities and will be served by streets with the capacity to carry traffic generated by the development.

- i. The rezoning, with the mitigating factors volunteered by the Applicant and conditions imposed by the Town Council, is consistent with the Fort Myers Beach Comprehensive Plan, Land Development Code, and other applicable town ordinances or codes.
- j. The special recommended conditions to the MCP, together with other applicable regulations, provide sufficient safeguards for the public interest.
- k. All recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

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

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

WHEREAS, the Town Council finds that this application approves Ordinance 26-13 which is, consistent/inconsistent with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve/approve with conditions/deny** the Application.

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

Section 1. Ratification of Recitals. The Town Council of the Town of Fort Myers Beach, Florida, hereby adopts and ratifies those matters as set forth in the foregoing “WHEREAS” recitals.

Section 2. The Town Council determines the Applicant met its burden of proof that the request to approve Ordinance 26-13 **does/does not** meet the requirements of the Town’s Comprehensive Plan and LDC. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **APPROVES/APPROVES WITH CONDITIONS/DENIES** the requested application.

Section 3. Severability. The provisions of this Ordinance are intended to be severable. If any provision of this Ordinance is determined to be void or declared illegal, invalid, or unconstitutional by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 4. Repeal of Laws in Conflict. If any ordinances, or parts of ordinances, or if any sections, or parts of sections, of the Ordinances of the Town of Fort Myers Beach, Florida, are in conflict herewith, this Ordinance shall control to the extent of the conflicting provisions.

Section 5. Scrivener's Errors. Sections of this Ordinance may be renumbered or re-lettered and corrections of typographical errors, which do not affect the intent, may be authorized by the Town Manager, or the Town Manager's designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Town Clerk.

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

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

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

DULY PASSED AND ADOPTED on this ____ day of ____2026.

Dan Allers, Mayor	_____
Scott Stafford, Vice Mayor	_____
John McLean, Council Member	_____
John R. King, Council Member	_____
Rebbeca Link, Council Member	_____

ADOPTED this ____ day of _____ 2026 by the Town Council of the Town of Fort Myers Beach, Florida.

ATTEST:	Town of Fort Myers Beach
_____	_____
Amy Baker, Town Clerk	Dan Allers, Mayor

APPROVED AS TO FORM & SUFFICIENCY

Vose Law Firm, Town Attorney

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

Exhibits:

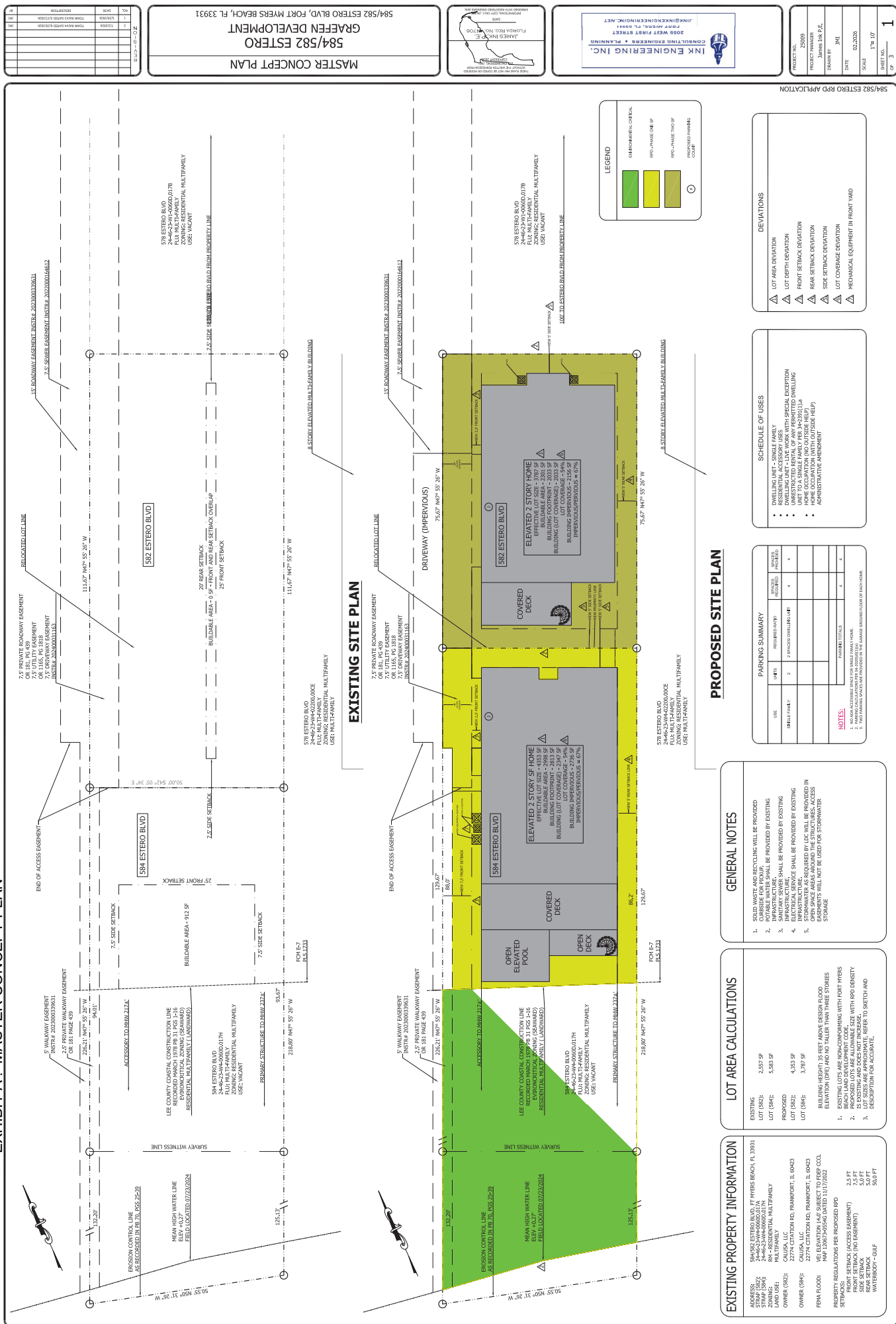
Exhibit A: Master Concept Plan (MCP)

Exhibit B: Schedule of Uses and Development Regulations

Exhibit C: Requested Deviations

Exhibit D: List of Conditions for Approval

EXHIBIT A: MASTER CONCEPT PLAN



PROJECT NO.	25009
PROJECT MANAGER	Jaymes Ink P.E.
DRAWN BY	JMI
DATE	02.2026
SCALE	1/8" = 1'-0"
SHEET NO.	2
OF	3



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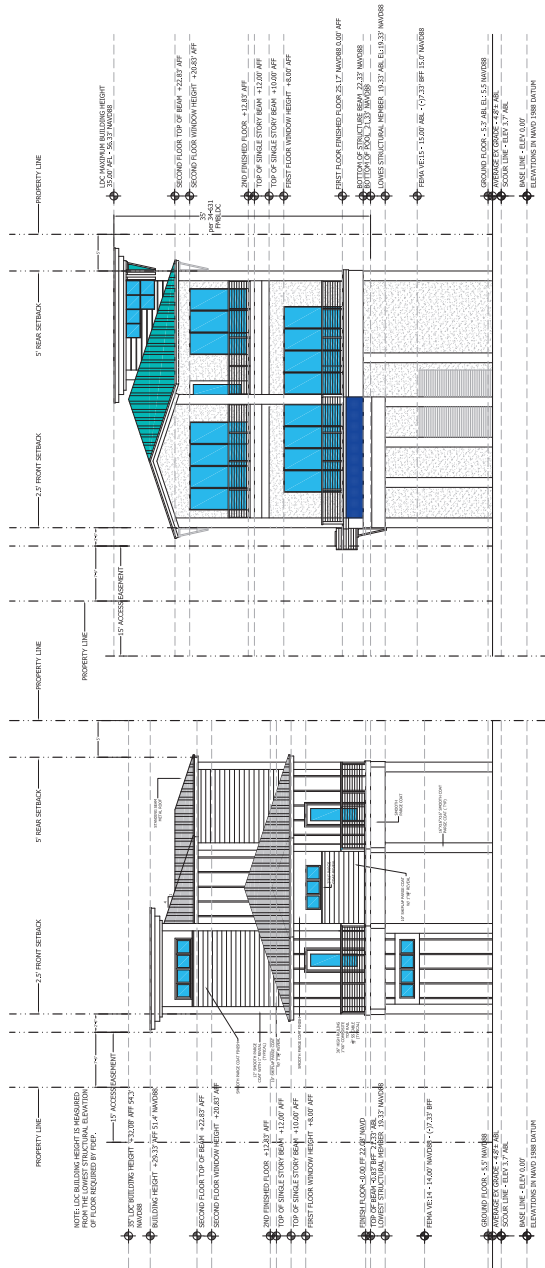


EXHIBIT B: Schedule of Uses and Development Regulations

Schedule of Uses

The schedule of uses for the 584/582 Estero RPD are as follows:

Dwelling Unit – Single Family

Residential accessory uses

Dwelling Unit – Live work with Special exception (See Section 34-1773)

Unrestricted rental of any permitted dwelling unit to a single family per Section 34-2391 (1).a

Home Occupation (no outside help)

Home Occupation (with outside help) Administrative amendment

Development Regulations

SETBACKS:

Front Setback (Easement)	2.5 feet Front Setback
(No Easement)	7.5 feet Side setback
	5.0 feet
Rear setback	5.0 feet
Waterbody - Gulf	50 feet

FAR (max) Not Applicable

BUILDING COVERAGE: 55%

HEIGHT:

35 feet above design flood elevation (DFE) and no taller than three stories

BUFFERS:

Single Family Use no buffers required.

EXHIBIT C: DEVIATIONS

- 1. Reduction of the minimum lot size by 3,720 square feet per Table 34-3 from the required 7,500 square feet to 3,780 square feet.**
- 2. Change the minimum lot depth from 100 feet per Table 34-3 to an average of 50.00 feet.**
- 3. Reduction of the minimum front street setback by 15.0' per Table 34-3 from the required 25 feet to 10' feet when adjacent to access easement. Setback shall be measured from property line.**
- 4. Reduction of the minimum rear setback by 15' per Table 34-3 from the required 20 feet to 5' feet.**
- 5. Reduction of the minimum side setback 2.5' per Table 34-3 from the required 10' to 5'.**
- 6. Change from Table 34-3 note 6 from 40% lot coverage for single family to 55% for proposed home.**
- 7. Deviate from Section 34-638 Minimum Setbacks subsection d.1.g to allow mechanical equipment to be placed in front of the home.**

EXHIBIT D: LIST OF CONDITIONS

1. Development shall be substantially consistent with the approved Master Concept Plan, schedule of uses, and deviation schedule.
2. Any substantial modification shall require Town approval.
3. The lot-line adjustment and recording of the lot easement must be attained through LDO process.
4. For Neighborhood compatibility, prior to issuance of a building permit for either residence, the applicant shall submit final site, architectural, landscape, drainage, utility, and grading plans demonstrating:
 - adequate separation between the proposed residences;
 - compatibility of building mass and scale with surrounding development;
 - screening of mechanical equipment;
 - compliance with stormwater management requirements;
 - sufficient landscaping and usable open space;
5. In lieu of a separate Development Order, compliance with the approved Master Concept Plan and this RPD shall be verified through the building permit review process.
6. All state and local permits, including but not limited to right-of-way and stormwater permits, must be applied for and received prior to site development.
7. Final engineering, drainage, utilities, and grading plans shall comply with all applicable Town, State, and Federal regulations.
8. Building height shall comply with LDC Section 34-631.
9. No development, structures, fill, mechanical equipment, or other improvements may be placed within the EC-zoned area unless specifically authorized by the Town and all applicable state agencies.
10. Failure to comply with any of the above-mentioned conditions of approval for the Rezoning request will render this approval null and void.



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TYPE OF CASE: Residential Planned Development

CASE NUMBER: RPD 20260529

CASE NAME: 584/582 Estero Blvd., rezoning to Residential Planned Development (RPD) to allow for the reconstruction of two single-family homes with a lot-line adjustment and seven (7) deviations.

LPA

HEARING DATE: August 11, 2026

STAFF

RECOMMENDATION: NA

**PREPARED/
SUBMITTED BY:** Uma Sarmistha, Ph.D.; Jason Green, AICP

I. APPLICATION SUMMARY

Applicant/Owner: James Ink Engineering Inc.

Request: Request to rezone approximately **0.19 acres of uplands**, within a **0.44-acre site that includes approximately 0.25 acres of Environmental Critical (EC) zoning**, from Residential Multifamily (RM) to Residential Planned Development (RPD) to permit reconstruction of two single-family residences with a lot-line adjustment.

Subject property: See Exhibit A

Physical Address: **584 & 582 Estero Blvd**

STRAP #: 24-46-23-W4-0060D.017A and 24-46-23-W4-0060D.017H

FLU: Mixed Residential

Zoning: Residential Multifamily (RM)

Adjacent zoning and land uses:

North:	RESIDENTIAL MULTIFAMILY (RM) Mixed Residential
South:	RESIDENTIAL MULTIFAMILY (RM) Mixed Residential
East:	RESIDENTIAL, MULTI-FAMILY Mixed Residential
West:	ENVIRONMENTAL CRITICAL (EC) Gulf

II. BACKGROUND AND ANALYSIS

James Ink, with Ink Engineering Inc., the registered applicant on behalf of property owner Calusa, LLC, is requesting rezoning of 0.19+/- acres of the 0.44-acre total lot area, including 0.25 acres in the EC zoning district, from Residential Multifamily (RM) to Residential Planned Development (RPD), with a Master Concept Plan, seven (7) deviations, and a lot-line adjustment.

The two subject properties are part of property originally platted as Lot 17, Unit 3, Island Shores, as recorded on April 16, 1951, in Plat Book 9, Page 27, of the official records of Lee County, Florida. This parcel was 100 feet wide and extended from Estero Blvd. to the mean high-water line of the Gulf of Mexico. The property was subsequently subdivided again in 1992 in Official Record Book 2327 Page 1442. This created the subject parcels and was done before incorporation of the Town of Fort Myers Beach on December 31, 1995. The subject properties were in existence before the incorporation of the town therefore the two dwelling units that existed before Hurricane Ian were legal and conforming with zoning code at time of creation.

Based on pre-storm (Hurricane Ian) data from Lee Property Appraiser (LEEPA) and ariel imagery available, each lot contained one dwelling unit of approximately 800 square feet built in 1951 (584 Estero Blvd.) and 1965 (582 Estero Blvd) respectively. The existing lot area for each site are 2557 square feet (582 Estero blvd) and 5538 square feet (including EC zone for 584 Estero Blvd).

The applicant requests deviations from the underlying RM zoning district standards related to minimum lot area, setbacks, and maximum lot coverage to facilitate redevelopment and a proposed lot line adjustment. While dimensional relief for nonconforming lots is typically addressed through the variance process, the proposed lot line adjustment would reduce the area of the larger parcel at 582 Estero Boulevard while increasing the area of the smaller parcel at 584 Estero Boulevard. Because a variance cannot be used to increase the degree of

nonconformity of an existing lot, the requested lot line adjustment cannot be accomplished through a variance. The proposed project will be constructed in two phases.

Analysis:

The subject properties are located in the RM zoning district; the purpose of the RM zoning district is to designate suitable locations for a wide variety of multifamily residences. The sites are located in the Mixed Residential land use designation on the Future Land Use (FLU) map. The Mixed Residential land use category permits a maximum of 6 dwelling units per acre or 1 dwelling unit by right for the 4,400 square foot subject property.

While the property at 582 Estero Blvd. is in the RM zoning district and Mixed Residential Future Land Use category, a portion of the property at 584 Estero Blvd. is designated EC zoning district and Recreational Future Land Use category. The applicant is proposing a lot-line change to accommodate reconstruction of two single-family homes without interfering with the EC-zoned area.

Total Acreage: 0.44+/- acres

Total Uplands: 0.19 acres (8,276 square feet)

Total Wetlands: 0.25 acres (not buildable)

The Applicant is applying to rezone the subject property from RM zoning district to the Residential Planned Development (RPD) zoning district with a Master Concept Plan and 7 deviations, to allow construction of two single family residences with additional square footage for the properties located at 582 and 584 Estero Blvd.

The resulting parcels will remain under unified control once the RPD is approved. The adjustment does not create an additional lot, increase density, or establish additional development rights. The new boundary will not create conflict with building separation, fire access, utilities, easement and costal permitting processes. The lot-line adjustment will be completed before the Development order is issued.

The new proposed regulations for the site are as follows:

Front Setback (Easement): 2.5 feet

Front Setback (No Easement): 7.5 feet

Side setback: 5.0 feet

Rear setback: 5.0 feet

Waterbody: Gulf 50 feet

Building coverage: 55%

The Town's Post Disaster Build Back policy (**FLU 1-D-1**), allows owners of buildings or groups of buildings that exceed the density, intensity, or height limits for new buildings and that are damaged or destroyed by a disaster, including fire, tropical storms, floods, and hurricanes, shall be permitted to replace those buildings at up to their pre-disaster lawful

density, intensity, and/or height in accordance with Policy FLU 1-D-1 of the Fort Myers Beach Comprehensive Plan.

Further, the proposed redevelopment is consistent with Comprehensive Plan Policy **FLU-1-D-1**, as the proposed residences remain landward of the 1978 Coastal Construction Control Line and do not increase the extent of development seaward of the established coastal setback. Compliance with applicable state coastal permitting requirements will be verified during subsequent development review and permitting.

As per LDC Section 34-3238(2) d. of the post-disaster build back code, A property owner wants to exceed the square footage limitations contained within the post-disaster build back regulations, may be eligible to request additional square footage through commercial planned development or residential development.

The requested deviations are as follows with staff analysis:

1. Request to reduce the minimum lot size by 3,720 square feet per Table 34-3 from the required 7,500 square feet to 3,780 square feet.

Applicant Justification: The applicant states that both parcels exist in legal nonconforming lots and that a significant portion of the property located at 854 Estero Blvd is seaward of the 1978 Coastal Construction Control Line (CCCL) is not considered buildable. The proposed lot line adjustment creates two similar sized lots while maintaining the existing two residential lots.

Staff response: *Staff recognized that both parcels were legally created prior to adoption of the current Land Development Code and constitute existing legal nonconforming lots. The requested deviation does not create an additional lot, increase residential density, or intensify the existing use of the property. Rather, the proposal redistributes property boundaries between two existing lots to create a more balanced and functional development pattern while recognizing the physical constraints imposed by the Coastal Construction Control Line. Because strict compliance with the minimum lot size requirement cannot reasonably be achieved due to the historical subdivision pattern and environmental constraints, staff finds that the requested deviation is appropriate within the context of an RPD and is consistent with the intent of allowing flexibility where unique site conditions exist.*

2. Request to change the minimum lot depth from 100 feet per Table 34-3 to an average of 50.00 feet.

Applicant Justification: The applicant states the property was originally subdivided in 1951 and subsequently reconfigured in 1983. The existing ownership pattern prevents the property from conforming.

Staff response *Staff concurs that the requested deviation addresses an existing historical lot configuration rather than a condition created by the applicant. The proposal does not*

increase the existing nonconformity or create additional development potential beyond that currently allowed. The deviation reflects the realities of historical subdivision patterns that exist throughout portions of Estero Island and is not expected to adversely impact adjacent properties.

- 3. Request to reduce the minimum front street setback by 15.0' per Table 34-3 from the required 25 feet to 10' feet when adjacent to access easement. Setback shall be measured from property line.**

Applicant Justification: The applicant states that access is provided by a private easement which functions as the front yard. Previous Town approvals and historical development patterns support a reduced setback.

Staff Response Staff acknowledges that the unusual orientation of the lots and the shared private access easement create a unique circumstance not typically addressed by the standard setback requirements of the RM zoning district. The proposed setback generally reflects the historical placement of structures on the property and maintains a reasonable separation from the access easement.

- 4. Request to reduce the minimum rear setback by 15' per Table 34-3 from the required 20 feet to 5' feet.**

Applicant Justification: The historical location of the destroyed home and other variance cases provide justification for the reduction of the rear setback line due to the minimal depth of the existing property.

Staff Response Staff finds that the reduced lot depth substantially limits the available building envelope. The proposed setback allows redevelopment of the existing residential lots while accommodating current FEMA elevation requirements. The request does not increase residential density and generally reflects the historical development pattern of the property.

- 5. Request to reduce the minimum side setback 2.5' per Table 34-3 from the required 10' to 5'.**

Applicant Justification: The applicant explains that the orientation of Gulf-front lots results in technical inconsistency between the code definition of frontage and the visual orientation of development.

Staff Response: Staff agrees that the unique orientation of these historic Gulf-side lots creates an atypical application of the setback requirements. The proposed reduction does not increase residential density or significantly alter the character of the neighborhood. Staff finds that the requested setback maintains adequate separation between structures while providing a reasonable building envelope on an existing nonconforming lot.

6. Request change table 34-3 note 6 from 40% lot coverage for single family to 55% for proposed home.

Applicant Justification: The applicant states that application of the 40 percent limitation to an undersized legal nonconforming lot would significantly restrict construction of a reasonably sized residence. The proposed building footprint remains less than the footprint that could be constructed on a conforming 7,500-square-foot lot.

Staff Response: The subject lots are substantially smaller than the standard lot size established by the Land Development Code. Although the requested increase in lot coverage exceeds the underlying zoning standard, the proposed building footprint remains proportionate when compared to development permitted on a conforming RM lot. The proposed increase in lot coverage does not increase residential density and allows construction of homes that are comparable in scale to surrounding redevelopment occurring throughout Estero Island following Hurricane Ian.

Staff further notes that the substantial increase in the lot coverage will reduce the amount of open space and landscaping possibilities in both lots and compliance with applicable drainage, stormwater management, and landscaping requirements will be required during Development Order review.

7. Request to deviate from Section 34-638 Minimum Setbacks subsection d.1.g does not allow mechanical equipment to be placed in front of the home.

Applicant Justification: The applicant explains that because access is provided by a private easement, the code-defined front yard differs from the visual front of the residence. The proposed equipment will be located outside the access easement in an area that functions similarly to a side yard.

Staff Response: The proposed location of the mechanical equipment will not interfere with vehicular access, pedestrian circulation, or visibility from the private access easement. The equipment will remain subject to all applicable screening requirements and Building Code regulations.

Neighborhood Compatibility:

The subject property is located within an established residential neighborhood zoned Residential Multifamily (RM) and has historically supported residential development. The two residences that existed before Hurricane Ian were destroyed by the storm. The surrounding neighborhood consists primarily of detached single-family residences located on historic lots of varying sizes. Although the proposed redevelopment maintains historical residential use and does not increase the number of dwelling units, the requested 55 percent lot coverage and multiple setback reductions may result in greater building mass and reduced open space compared with nearby properties.

To ensure compatibility with the surrounding neighborhood, Prior to issuance of a building permit, the applicant shall demonstrate: adequate separation, building massing, drainage, landscaping, emergency access. Subject of compliance with these requirements and the conditions of approval, staff finds that the proposed redevelopment can be compatible with the established residential character of the surrounding area.

IV. FINDINGS AND CONCLUSIONS

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

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

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

Staff response: No errors or ambiguities exist.

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

Staff response: The subject property has supported a single family residential on both the sites each lot (of the structure approximately around 800 sq. ft. built in 1951 (5584 Estero Blvd.) and 1965 (582 Estero Blvd), which were destroyed during the storm. The Applicants plan to build back single-family residential units in both lots with lot size configuration and additional square footage.

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

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

(4) The testimony of any applicant.

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

(6) The testimony of the public.

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

Staff response: *The request is consistent with the Town of Fort Myers Beach Comprehensive Plan Future Land Use designation of Mixed residential.*

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

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

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

Staff response: *The urban services exist in this location.*

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

Staff response: *As no development is proposed within the EC-zoned area, and any future work within that area would require separate Town and applicable state approvals. The present request will have no impact on designated environmentally critical areas and natural resources. The request does not include any revision to the environmentally critical areas and does not impact open space or preserves.*

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

Staff response: *The proposed density and intensity are compatible with surrounding uses.*

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

Staff response: *Historically, the subject properties allow single-family at this location and are compatible with surrounding properties. No additional trips to/ from the property are anticipated.*

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

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

(1) The Fort Myers Beach Comprehensive Plan.

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

(2) This chapter.

Staff response: *The proposed uses comply with this chapter.*

(3) Any other applicable town ordinances or codes.

Staff response: *The proposed request complies with the town ordinances and codes.*

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

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

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

Staff response: Prior to Hurricane Ian, the property supported single family home in each lots. The Applicant is now proposing to build back of the single family home with higher square footage. Therefore, the proposed use has been existing on site for several years and is appropriate for the subject location.

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

Staff response: Sufficient safeguards are provided for the public interest through the requirements of the LDC.

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

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

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

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

Staff response: Not applicable.

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

Staff response: Not applicable.

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

Staff response: No additional height is requested.

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

Staff response: Not applicable.

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

Staff response: Not applicable.

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

Staff response: There are no anticipated adverse traffic impacts.

V. RECOMMENDATION

Staff finds that the RPD amendment meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC.

Staff recommends approval with conditions of RPD20260529, a request to rezone approximately 0.19 acre of upland property from Residential Multifamily (RM) to

Residential Planned Development (RPD), together with a Master Concept Plan, schedule of uses, lot-line adjustment, and seven deviations. This recommendation is based on the findings that the proposal maintains the historically established residential use and number of dwelling units, does not authorize development within the EC-zoned portion of the property, and provides site-specific standards appropriate to the documented constraints of the existing legal nonconforming lots

VI. CONDITIONS OF APPROVAL

1. Development shall be substantially consistent with the approved Master Concept Plan, schedule of uses, and deviation schedule.
2. Any substantial modification shall require Town approval.
3. The lot-line adjustment and recording of the lot easement must be attained through LDO process.
4. For Neighborhood compatibility, prior to issuance of a building permit for either residence, the applicant shall submit final site, architectural, landscape, drainage, utility, and grading plans demonstrating:
 - adequate separation between the proposed residences;
 - compatibility of building mass and scale with surrounding development;
 - screening of mechanical equipment;
 - compliance with stormwater management requirements;
 - sufficient landscaping and usable open space;
5. In lieu of a separate Development Order, compliance with the approved Master Concept Plan and this RPD shall be verified through the building permit review process.
6. All state and local permits, including but not limited to right-of-way and stormwater permits, must be applied for and received prior to site development.
7. Final engineering, drainage, utilities, and grading plans shall comply with all applicable Town, State, and Federal regulations.
8. Building height shall comply with LDC Section 34-631.
9. No development, structures, fill, mechanical equipment, or other improvements may be placed within the EC-zoned area unless specifically authorized by the Town and all applicable state agencies.
10. Failure to comply with any of the above-mentioned conditions of approval for the Rezoning request will render this approval null and void.