



Fort Myers Beach Local Planning Agency

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

Agenda

Wednesday, November 17, 2021

1:00 PM

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A. October 20, 2021

V. PUBLIC HEARINGS

A. 1250 Estero Blvd Bar/Cocktail Lounge

Approve/Approve with Conditions/Deny SEZ20200103 requesting to change use from a restaurant to a bar/cocktail lounge.

B. 1250 Estero Blvd, to allow a reduction in the amount of required parking spaces for the change from restaurant to bar/cocktail lounge

Approve/Approve with Conditions/Deny VAR20210100 1250 Estero Boulevard Parking Variance

C. VAR20210073 6036-38 Estero Boulevard Pool Setback

Approve/Approve with Conditions/Deny VAR20210073 6036-38 Estero Boulevard Pool Setback

D. LDC Section 34-638, Minimum Setbacks for Large Homes and Lots

Recommend Approve / Deny Recommended Amendments to Land Development Code Section 34-638, Minimum Setbacks and Table 34-3.

VI. ADMINISTRATIVE AGENDA

VII. LPA MEMBERS ITEMS/REPORTS

VIII. LPA ATTORNEY ITEMS/REPORTS

- IX. COMMUNITY DEVELOPMENT ITEMS/REPORTS**
- X. ITEMS FOR NEXT MONTHS AGENDA**
- XI. PUBLIC COMMENT**
- XII. ADJOURNMENT**

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

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.

	For special accommodations, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202		Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the Town Clerk's Office.
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In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.



Fort Myers Beach Local Planning Agency

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

Minutes

Wednesday, October 20, 2021

1:30 PM

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members present: Chair Megan Heil, Anita Cereceda, Forrest Critser, Scott Safford, Patrick Vanasse and Karen Woodson.
Excused: Jane Plummer.

II. INVOCATION

Chair Heil.

III. PLEDGE OF ALLEGIANCE

IV. SUNSHINE LAW, PUBLIC RECORDS, AND ETHICS

A. Town Attorney Presentation

Town Attorney Herin, Jr. reviewed the Sunshine Law, Public Records Law, Ethics Law and Ex Parte communications.
Community Development Director Jason Green provided handouts concerning rezoning, variances and special exceptions. He noted it was important to reference findings and considerations in motions. He reviewed the role of the LPA.

V. REORGANIZATION

A. Selection of Chair and Vice Chair

LPA Member Safford nominated Megan Heil for Chair; second by LPA Member Critser.
Motion approved 6-0 with LPA Member Plummer excused.

LPA Member Safford nominated Jane Plummer as Vice Chair; second by LPA Cereceda
Motion approved 6-0 with LPA Member Plummer excused.

VI. APPROVAL OF MINUTES

A. September 14, 2021

LPA Member Safford moved to approve the minutes; second by LPA Member Critser.
Motion approved 6-0 with LPA Member Plummer excused.

VII. PUBLIC HEARINGS

A. VAR20210073 6036-38 Estero Boulevard Pool Setback

Approve/Approve with Conditions/Deny VAR20210073 6036-38 Estero Boulevard Pool Setback

Town Attorney Herin, Jr. swore in those providing testimony for public hearings A and B. Ex parte communications: LPA Members Cereceda and Woodson utilized Google maps. No disclosures from other members. Chair Heil revealed the applicant had a scheduling issue and was unable to attend the meeting. Town Attorney Herin, Jr. recommended that the hearing be continued until the applicant could attend.

Chair Heil moved for a continuance to Tuesday, November 9, 2021, at 9:00a.m.; second by LPA Member Safford.
Motion approved 6-0 with LPA Member Plummer excused.

B. VAR20210039 71 Chapel Street Setback Variance

Approve/Approve with conditions/Deny VAR20210039 71 Chapel Street Setback Variance

Owner Ron Yanke described his property and noted he intended to demolish the current structure and build a two-story home.

Assistant Community Development Director Carl Bengé reviewed the property information, variance request, proposed building and staff findings and recommendations. He noted that staff recommended approval with conditions.

Sara Propst from Community Development clarified that the lot was existing and buildable. Assistant Director Bengé indicated that drainage would be reviewed but did not affect the variance request. LPA Member Safford questioned whether the applicant was aware that the roof overhang was the 10-foot marker, not the structure of the building. The applicant was not aware and was not in favor of the condition. Mr. Yanke stated that he would like to put the building at 10 feet. LPA Member Vanasse indicated that the LDC allowed for roof overhangs in setbacks. Assistant Director Bengé commented that the applicant planned to eventually install a pool in the back.

Public comment:

Susan Bonfigli, neighbor, questioned whether the overhang would block emergency vehicles on the narrow street. Assistant Director Bengel replied that the property line did not go all the way to the street. Mr. Yanke confirmed that the new structure would not go further than the current structure.

Public comment closed.

LPA Member Cereceda moved to approve the variance; the conditions justifying the variance are not the result of the applicant, that the variance granted is the minimum variance that will relieve the applicant of his burden and that the granting of the variance will not be injurious to the neighborhood or public welfare, the conditions of approval and the conditions or circumstances of that property are not general or recurrent and the staff conditions of approval 1-4; second by Chair Heil.

LPA Member Safford disagreed that the roof overhang should be included. LPA Member Cereceda indicated that the applicant could redesign the house to fit.

Motion approved 6-0 with LPA Member Plummer excused.

C. LDC Amendment, Subdivision V, Commercial Boulevard Zoning District
Recommend Approve / Deny Recommended Amendments to Land Development Code Subdivision V, Commercial Boulevard Zoning District.

Community Developer Propst presented recommended language to amend the CB zoning district provided in the packet of information. She clarified that she was referring to the entire Sea Grape parcel, not a particular business on the parcel. LPA Member Cereceda suggested that it would be helpful to identify all properties in CB zoning.

Public comment:

Attorney Beverly Grady from Roetzel and Andress represented the owner of 2815 Estero Blvd., adjacent to the Sea Grape Plaza across the street from the library. She noted that the CB zoning was the most restrictive she had ever seen. She distributed documents including a zoning map, aerials, a 1997 ordinance and a memo from Bill Spikowski. She reviewed the parcel's history and questioned whether a financial institution with five drive-thru windows qualified as retail. She noted the owner intended to open a furniture and design facility in the building. Attorney Grady questioned whether furniture, sales and design fell under retail. She stated that the sale of furniture was not listed in the permitted use section. She revealed that Wells Fargo sold the building with a deed restriction that it could not be used as a bank. She discussed the fact that five drive-thru windows had a more significant impact than an office. She shared specific language she drafted to address the situation. LPA Member Vanasse felt that a physical bank was

a retail use. Town Attorney Herin, Jr. commented that the proposed language in subsection A. of the agenda packet seemed to address the situation. Planner Propst felt that the proposed language submitted by Attorney Grady addressed the issue on the parcel.

LPA Member Vanasse questioned whether the code allowed for an expedient interpretation of use. Planner Propst replied affirmatively and described how Council could review the use. LPA Member Cereceda noted that the definition of financial institutions included products and services. Public comment closed.

LPA Member Vanasse moved to recommend approval of staff's recommended language and add language substantially similar to what Attorney Grady proposed with a recommendation to clarify the current parcel versus any historical parcel; second by LPA Member Cereceda. Motion passed 6-0 with LPA Member Plummer excused.

D. LDC Section 34-638, Minimum Setbacks and Size for Large Homes and Lots
Recommend Approve / Deny Recommended Amendments to Land Development Code Section 34-638, Minimum Setbacks.

Planner Propst provided options to address multiple lots being consolidated to build large homes in single-family neighborhoods. The first option included removing setbacks between individual lots and pushing them to the outside. She displayed a slide titled Option 1: Adding up the Setbacks for clarification. The second option and slide were examples of lot percentages, which Planner Propst felt was more proportionate. Community Development Director Green discussed losing the view corridors and Planner Propst displayed slides of building massing examples and a building massing diagram. Chair Heil questioned whether they could give property owners a carrot to keep the first floor open. Planner Propst replied affirmatively and read a setback exemption.

Director Green commented that they were discussing parcels, not lots, to prevent people from getting around regulations. LPA Member Vanasse discussed using specific terms and buyers had certain expectations when they purchased their property. Town Attorney Herin, Jr. indicated that Florida law stated that a property owner was not entitled to a particular type of zoning in perpetuity.

LPA Member Cereceda suggested including visual examples when they meet with Town Council. Discussion was held regarding dates for the joint meeting and the next LPA meeting.

No public comment.

E. LDC Text Amendment Article II Noise Control

Recommend Approve / Deny Recommended Amendments to Land Development Code Article II Noise Control

Planner Propst stated that the building official was uncomfortable with the language, so it had to be reworked. Director Green commented that the building official indicated that nothing in the language worked. He noted that they could modify setbacks and provided examples.

LPA Member Vanasse suggested that new property owners be presented with ways to be good neighbors when designing their houses. LPA Member Cereceda agreed. Discussion was held concerning ways to try and buffer the noise.

VIII. ADMINISTRATIVE AGENDA

No items.

IX. LPA MEMBERS ITEMS/REPORTS

Chair Heil brought up the old LPA action item list and questioned whether they could receive it in the future.

No items from other members.

X. LPA ATTORNEY ITEMS/REPORTS

No items.

XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS

Consensus was reached to meet with Town Council on November 1, 2021, and the next LPA meeting will be on Wednesday, November 17, 2021, at 2:00 p.m.

XII. ITEMS FOR NEXT MONTHS AGENDA

No items.

XIII. PUBLIC COMMENT

No public comment.

XIV. ADJOURNMENT

LPA Member Safford moved to adjourn the meeting; second by Chair Heil. Motion approved 6-0 with LPA Member Plummer excused.

The meeting was adjourned at 4:53 p.m.

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

Yellow Sheet Number: **2021-499**

1. Requested Motion:

Meeting Date: November 17, 2021

Approve/Approve with Conditions/Deny SE220200103 requesting to change use from a restaurant to a bar/cocktail lounge.

Why the action is necessary:

Bar and Cocktail Lounge uses are required to be approved by a Special Exception unless they are separated by 500 feet or more from residential units, churches, schools, and parks. The existing business is a restaurant and is usually not subject to the 500 feet separation requirement.

What the action accomplishes:

Approval permits the bar/cocktail lounge use to be used onsite

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution

5. Background:

1250 Estero Boulevard is currently utilized as a restaurant. The operator of the restaurant, currently known as Shuckers, is required to maintain more than 50% sales of food and non-alcoholic beverages. They have submitted an application to modify their use of restaurant to a bar/cocktail lounge with a 4COP in order to alleviate the mandatory food and non-alcoholic beverage sales requirement. In addition, a bar/cocktail lounge within 500 feet of residents, churches, schools, and parks is required to be reviewed through the Special Exception process outlined in the Town's Land Development Code.

The Special Exception process allows the LPA and Town Council to consider impacts on nearby property owners and the public in general. Town staff have recommended several conditions to address concerns about noise, music, and other impacts. The change in use from a restaurant to a bar/cocktail lounge triggered an increase in minimum parking requirements, which are not available on-site. The applicant has submitted a variance application to request a reduced number of parking spaces. The variance request will be considered separately.

Attachments:

1. SE220200103 - 1250 Estero Blvd - Staff Report LPA
2. SE220200103 PH APP 1250 Estero
3. SE220200103 PH-A APP 1250 Estero

Financial Impact:

6. Alternative Action

7. Staff Recommendations:

8. Recommended Approval:

Date: November 12, 2021

Jason Green, Community Development

Services

Date: November 12, 2021

John R Herin Jr, Town Attorney

Date: November 12, 2021

Amy Baker, Town Clerk



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Special Exception

CASE NUMBER: SEZ20200103

CASE NAME: Shuckers is requesting approval to change use from a restaurant with 4COPSX to bar/cocktail lounge with 4COP; and within 500 feet of a residential dwelling, within the Environmental Conservation zoning.

LPA

HEARING DATE: November 17, 2021 at 1 P.M.

STAFF

RECOMMENDATION: Approve with conditions

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

I. APPLICATION SUMMARY

Applicant/Owner: Keith Long

Request: The applicant is seeking a special exception from Sec. 34-1263.(b)(1)(b) to allow placement of the bar within 500 feet of a residential dwelling and within the Environmental Conservation zoning district. The current use of the site is for a restaurant.

Subject property: See attached survey

Physical Address: 1250 Estero Blvd

STRAP #: 19-46-24-W4-0070F.0010

FLU: Pedestrian Commercial

Zoning: Downtown, Environmentally Critical

Current use(s): Restaurant

Adjacent zoning and land uses:

North:	DOWNTOWN Commercial Property
South:	EC-ENVIRONMENTALLY CRITICAL Gulf
East:	DOWNTOWN Hotel/Motel Commercial Property
West:	DOWNTOWN Mixed-Use Commercial Property and Lani Kai

II. BACKGROUND AND ANALYSIS

Background:

Keith Long, the applicant for 1250 Estero Blvd, is requesting a special exception from Sec. 34-1263.(d)(1), to allow Shuckers to have change use from a restaurant to a bar/cocktail lounge with 4COP. The applicant is suggesting that the 4COP will not affect current operations. Approval of the bar/cocktail eliminates the requirement that the business must have more than 50% of revenue from food sales.

Administrative approval was done for 1250 Estero for a consumption on premises (COP2002-00013) through Lee County. Another administrative approval was done for 1250 Estero for Gulfshore Grill consumption on premises (COP2012-0003) through the Town of Fort Myers Beach. On, August 16, 2011 a request for approval of a 4COP was denied by the Town, applicant was advised to apply for a special exception.

Analysis:

This property is typical of older commercial gulf properties. The primary structure is located at the rear of the property, away from the street and within the EC zoning. Allowance of the special exception will eliminate the 51% food sales requirement. This will allow the current restaurant to no longer be obligated by the 51% food sales, and instead be able to operate as a bar.

Neighborhood Compatibility:

In a review of aerial photography of the neighborhood, staff found some examples of properties with similar conditions as 1250 Estero. However, 1250 Estero does encroach the EC zoning more than neighboring properties.

Findings and Conclusions:

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

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

The property with the current use is existing, with the principal building pushed back towards the gulf, within the EC zoning. Staff is unaware of any changing conditions.

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

Commercial uses are permitted and typical within the Pedestrian Commercial Future Land Use category.

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

The operations of a restaurant are similar to a bar/cocktail lounge. The current restaurant has alcohol service available. The change in use to the bar/cocktail lounge eliminates the minimum of 51% food sales requirements. The hours of operation are not currently regulated.

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

The request appears to be similar in operations to the existing restaurant, which has food and drink service within the EC designated area. The proposal doesn't expand that footprint.

- e. 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 are similarities in the operations of a restaurant and bar/cocktail lounge. A bar requires significantly more parking than a restaurant use pursuant to the Town's Land Development Code. Providing off-site parking specifically designated for the business will reduce potential impacts to adjacent properties.

- f. 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.*

With appropriate conditions to maintain control over noise the request will be in compliance with the applicable zoning provisions and supplemental regulations.

III. RECOMMENDATION

Staff finds that the special exception for the bar/cocktail lounge will eliminate the 51% food sales and allow the restaurant to operate as a bar. The restaurant is operating with a 4COP, as will the bar use.

Therefore, staff recommends **APPROVAL WITH CONDITIONS** of SEZ20200103, for the bar/cocktail lounge with a 4COP.

IV. CONDITIONS OF APPROVAL

1. *No amplified music or entertainment.*
2. *No outdoor food or drink service or consumption after 10pm.*
3. *The property owner shall provide a survey clearly marking the existing permitted boundaries of the area designated for the sale and consumption of alcohol. It shall reflect the exact boundaries previously permitted. No modifications or increases to the area or footprint for the sale and consumption of alcohol shall be permitted.*
4. *All site lighting shall come into compliance with sea turtle regulations.*
5. *Off-site parking shall be provided and designated for use by the business within 750 feet of the property lines. The minimum number of spaces provides shall be consistent with the additional demand created by changing use from a restaurant to a bar/cocktail lounge, or pursuant to any applicable variance granted in connection with the site.*
6. *The operator shall provide monthly reports indicating compliance with the minimum food sales requirement applicable to restaurants until such time that the off-site parking or other improvements are completed and a Change of Use permit is issued.*
7. *Any violation of the conditions of approval shall render the special exception null and void.*

Staff Report Exhibits:

1. Application for Public Hearing
2. Supplement PH-A (Special Exception Application)
3. Survey

20200103

PROJECT NUMBER:

DATE:



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

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

Site Address: 1250 ESTERO BLVD

STRAP Number: 19-46-24-W4-0070F.0010

Applicant: COTTAGE PARTNERS, LLC

Phone: 2394002060

Contact Name: KEITH LONG

Phone: 2394002060

Email: KEITH@LONGLAWFL.COM

Fax: _____

Current Zoning District: DOWNTOWN

Future Land Use Map (FLUM) Category: PEDESTRIAN COMMERCIAL

FLUM Density Range: _____

Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED

- ☒ Special Exception
- ☐ Variance
- ☐ Conventional Rezoning
- ☐ Planned Development ☐ Commercial ☐ Residential
- ☐ Master Concept Plan Extension
- ☐ Appeal of Administrative Action
- ☐ Vacation of Platted Right-of-way and Easement
- ☐ Other - cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

- PH-A
- PH-B
- PH-C
- PH-D
- PH-E
- PH-F
- PH-G

attach on separate sheet

Revised 1/6/2017

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PROJECT NUMBER:

DATE:

PART I - General Information

A. **Applicant***: COTTAGE PARTNERS, LLC

Phone: 2394002060

**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: 1342 SE 46TH LN STE 5, CAPE CORAL, FL 33904

Email: KEITH@LONGLAWFL.COM

Fax: _____

Contact Name: KEITH LONG

Phone: 2394002060

B. **Relationship of Applicant to subject property:**

☐ Owner*

☐ Land Trust*

☐ Partnership*

☐ Corporation*

☐ Association*

☐ Condominium*

☐ Subdivision*

☐ Timeshare Condo*

☐ Contract Purchaser*

☒ **Authorized Representative*** ☐ Other* (please indicate) _____

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

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

Name: KEITH LONG / LONG LAW

Phone: 2394002060

Address: _____

Email: _____

Fax: _____

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

Name: _____ Phone: _____

Address: _____

Email: _____

Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____

Fax: _____

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PROJECT NUMBER:

DATE:

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

PART II - Nature of Request

Requested Action (each request requires a separate application)

- ☒ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____
- ☐ Appeal of Administrative Action
- ☐ Vacation ☐ Right-of-Way ☐ Easement
- ☐ Other. Please Explain: _____

PART III - Waivers

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

Code Section: _____
Description: _____

Code Section: _____
Description: _____

Code Section: _____
Description: _____

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PROJECT NUMBER:

DATE:

Description: _____

PART IV - Property Ownership

☐ Single Owner (individual or husband and wife)

Name: _____

Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

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

☐ Complete Disclosure of Interest Form (see below)

☐ Attach list of property owners as Exhibit 4-1

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

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

DISCLOSURE OF OWNERSHIP INTEREST

STRAP: 19-46-24-W4-0070F.0010

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

Name and Address

Percentage Ownership

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

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

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PROJECT NUMBER:

DATE:

Name, Address and Office

GARY FERRIS 1250 ESTERO BLVD. FORT MYERS BEACH, FL

Percentage of Stock
100

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

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PROJECT NUMBER:

DATE:

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

Name, Address and Office

Percentage of Stock

Date of Contract:

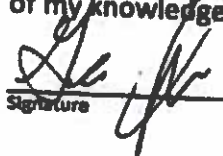
If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

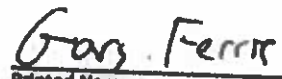
Name

Address

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

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


Signature


Printed Name

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PROJECT NUMBER:

DATE:

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this 07 day of Oct 2020 by Gay Ferr

Notary Public Signature

(SEAL)

Notary



Keith E Long
COMMISSION # GG239280
EXPIRES: July 18, 2022
Bonded Thru Aaron Notary

Personally Known ☒ or Produced Identification ☐

Type of Identification Produced: _____ My Commission Expires: _____

PART V - Property Information

A. Legal Description:

STRAP: 19-46-24-W4-0070F.0010

Property Address: 1250 ESTERO BLVD, FORT MYERS BEACH

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

☐ Yes. Property identified in subdivision: _____

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

B. Boundary Survey:

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

C. Property Dimensions:

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

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

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

Total land area: .082 _____
☒ acres ☐ square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):
EXITING SKY BRIDGE CONTINUE ONTO ESTERO BLVD. APPROXIMATELY 1/4
DOWN ON THE RIGHT. NEAR LANI KAI

☒ Attach Area Location Map as Exhibit 5-3

E. Property Restrictions (check applicable):

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

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

- ☒ Attach a list of surrounding property owners within 500 feet as Exhibit 5-6.
☒ Attach a map showing the surrounding property owners as Exhibit 5-7.
☒ Provide Staff with two (2) sets of surrounding property owner mailing labels.

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

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

H. Zoning (see official Zoning Map):

- | | |
|---|--|
| ☐ RS (Residential Single-family) | ☐ CF (Community Facilities) |
| ☐ RC (Residential Conservation) | ☐ IN (Institutional) |

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Town of Fort Myers Beach
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PROJECT NUMBER:

DATE:

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

PART VI

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, **GARY FERRIS**, _____ 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;

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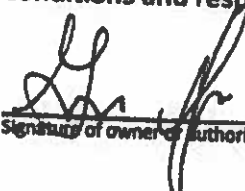
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PROJECT NUMBER:

DATE:

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

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



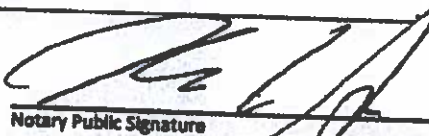
Signature of owner or authorized agent

10/7/2020

Date

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this 07 day of Oct.
2020, by Gen Fero



Notary Public Signature

(SEAL)

Notary Printed



Keith E. Long
COMMISSION # 1280
EXPIRES: July 18, 2022
Resides: Fort Myers, FL

Personally Known ☒ or Produced Identification _____

Type of Identification Produced: _____ My Commission Expires: _____

PROJECT NUMBER:

DATE:

PART VII

AFFIDAVIT

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

I, GARY FERRIS (name), as MANAGING MEMBER (title) of COLORADO EAST, LLC (company), swear or affirm under oath, that I am

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

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

Signature

Title

GARY FERRIS

Typed or Printed Name

Date

**STATE OF FLORIDA)
COUNTY OF LEE)**

Subscribed and sworn to (or affirmed) before me this 07 day of Oct, 2020, by Gary Ferris as (title) Managing Member on behalf of (company name) Colorado East LLC

Notary Public Signature

(SEAL)



Keith E. Long
COMMISSION # 00238280
EXPIRES: July 18, 2022
Bonded Thru Aeron Notary

Revised 1/6/2017

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DATE:

DATE:

"What's In It For Me?"

Notary Printed Name

Personally Known or Produced Identification

Type of Identification Produced: _____ My Commission Expires: _____

COMMISSIONER OF REVENUE

EXPIRES: July 18, 2022

Bonded thru Aaron Notary

Revised 1/6/2017

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2525 Estero Blvd., Fort Myers Beach, Florida 33931
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Case # _____
Planner _____

Date Received 20200103
Date of Sufficiency/Completeness _____



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: SHUCKERS 4COP
Authorized Applicant: KEITH LONG / LONG LAW, P.A.
LeePA STRAP Number(s):
19-46-24-W4-0070F.0010

Current Property Status: RESTAURANT/BAR
Current Zoning: DOWNTOWN
Future Land Use Map (FLUM) Category: PEDESTRIAN COMM
Platted Overlay? ☐ yes ☐ no FLUM Density Range:

Requested Action:

☐	Use of premises in the EC (Environmentally Critical) zoning district for:
☒	Use of premises in the <u>DOWNTOWN</u> zoning district for:
LDC 34-1263(B)(1) CONSUMPTION ON PREMISE FOR RESTAURANT/BAR	
WITH OUTDOOR SEATING WITHIN 500 FEET OF A DWELLING UNIT	

PART I

Narrative Statements

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

SHUCKERS	IS SEEKING TO ACQUIRE AND PLACE A 4COP
QUOTA LICENSE ON THE PREMISES IN CONJUNCTION WITH CURRENT	
OPERATIONS AS A RESTAURANT/BAR. THE CURRENT PROVISIONS	
IN LDC 34-1263(B)(1) REQUIRE A SPECIAL EXCEPTION APPROVAL FOR	
SUCH PLACEMENT OF THE BAR LICENSE IF IT IS WITHIN 500 FEET OF	
A RESIDENTIAL DWELLING UNDER SPECIAL OWNERSHIP. THE CHANGE IN	
LICENSURE WILL NOT CHANGE THE CURRENT OPERATIONS IN ANY	
MANNER AND IS SIMPLY AN ADMINISTRATIVE ACQUISITION.	

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:
THE USE, AS PROPOSED, WILL NOT CHANGE THE OPERATIONS
OF THE BUSINESS THAT HAVE EXISTED FOR SEVERAL YEARS. THE
CODE, AS WRITTEN, DOES NOT CONTEMPLATE FOR SUCH A BENIGN
REQUEST, WHEREIN THE PROPOSED USE IS CURRENTLY EXISTING
WITHOUT DETRIMENTAL EFFECT TO THE PUBLIC INTEREST, HEALTH,
SAFETY, COMFORT CONVENIENCE AND WELFARE OF THE CITIZENS.
THE CHANGE IN LIQUOR LICENSE IS AN ADMINISTRATIVE CHANGE.
THE 500' BUFFER REQUIRING THIS SPECIAL EXCEPTION WILL NOT
BE AFFECTED, AS THE USE WILL REMAIN THE SAME AS IS CURRENTLY.
THE PROPOSED USE IS OTHERWISE CONSISTEN WITH THE GOALS
AND OBJECTIVES OF THE FMB COMPREHENSIVE PLAN AND CODES

Granting the requested Special Exception could impact surrounding properties as follows:

THERE IS NO ANTICIPATED NEGATIVE IMPACT OR INJURY TO SURROUNDING PROPERTIES AS THE BUSINESS IS ALREADY IN OPERATION.

PART 2

Submittal Requirements

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

Required Items

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

For New Communication Towers:

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

For Consumption of Alcoholic Beverages (COP) license approval:

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

For transit terminals:

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

For use of the EC zoning district:

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

Guide to Filing Supplement PH-A for Special Exceptions

Case Number will be inserted by Community Development staff.

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

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

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

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

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

Part 1 Narrative Statements:

"Request for..."

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

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

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

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

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

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

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

Part 2 Submittal Requirements

Public Hearing Application Form. Applications for special exception consist of the Public Hearing form and the supplemental form PH-A. Both parts of the application form must be completed and submitted.

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



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

Yellow Sheet Number: **2021-498**

1. Requested Motion:

Meeting Date: November 17, 2021

Approve/Approve with Conditions/Deny VAR20210100 1250 Estero Boulevard Parking Variance

Why the action is necessary:

The current restaurant has 29 of the 64 required parking spaces available. A change of use requires providing a compliant number of spaces per the Town's LDC. The required amount for a bar/cocktail lounge of this size is 106. The applicant is seeking a reduction in the required amount.

What the action accomplishes:

Provides relief to the applicant from the parking requirements.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Town's LDC Required Parking
Standards

5. Background:

Keith Long, the applicant for 1250 Estero Blvd, is requesting a variance from the Town's Land Development Code (LDC) Sec. 34-2020(d)(2)(a), bars and cocktail lounges. The applicant is seeking a reduction in required parking spaces from the amount required by the LDC. The applicant's analysis states a reduction from the required 46 to the provided 29 is requested. Staff has provided an alternative analysis based on the Town's LDC parking requirements. The amount of parking spaces required for a restaurant of this size (existing use) is 43. The required amount for a cocktail lounge, the size of the subject building and site, is 74. When changing use, the property owner is responsible for providing the difference (74-43=31). This variance is connected with SEZ20200103, changing use from a restaurant to a bar/cocktail lounge with 4COP. to summarize, the requested variance is to allow a bar/cocktail lounge to reduce the required new parking spaces by 31 spaces for a business already underserved by 14 spaces (43 required for the current restaurant vs. 29 existing on-site). The existing spaces also appear to be shared by other nearby or adjacent uses, making the parking lot a joint lot, not a single-use parking lot.

Staff has provided a report recommending denial of the request due to its inconsistencies with the Town's Land Development Code and Comprehensive Plan.

Attachments:

1. 20210100-Variance_Sub_Pkt
2. VAR20210100 Parking Variance 1250 Estero Blvd Staff Report LPA rev

Financial Impact:

None

6. Alternative Action

Approve/Deny

7. **Staff Recommendations:**

Deny

8. **Recommended Approval:**

Jason Green, Community Development
Services

Date: November 10, 2021

John R Herin Jr, Town Attorney

Date: November 12, 2021

Amy Baker, Town Clerk

Date: November 12, 2021

PROJECT NUMBER:

DATE:



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

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

Site Address: 1250 ESTERO BLVD

STRAP Number: 19-46-24-W4-0070F.0010

Applicant: COTTAGE PARTNERS, LLC

Phone: 2394002060

Contact Name: KEITH LONG

Phone: 2394002060

Email: KEITH@LONGLAWFL.COM

Fax: _____

Current Zoning District: DOWNTOWN

Future Land Use Map (FLUM) Category: PEDESTRIAN COMMERCIAL

FLUM Density Range: _____

Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED

☐ Special Exception

☒ Variance

☐ Conventional Rezoning

☐ Planned Development ☐ Commercial ☐ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

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PROJECT NUMBER:

DATE:

PART I - General Information

A. **Applicant*:** COTTAGE PARTNERS, LLC

Phone: 2394002060

**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: 1342 SE 46TH LN STE 5, CAPE CORAL, FL 33904

Email: KEITH@LONGLAWFL.COM

Fax: _____

Contact Name: KEITH LONG

Phone: 2394002060

B. **Relationship of Applicant to subject property:**

☐ Owner*

☐ Land Trust*

☐ Partnership*

☐ Corporation*

☐ Association*

☐ Condominium*

☐ Subdivision*

☐ Timeshare Condo*

☐ Contract Purchaser*

☒ Authorized Representative* ☐ Other* (please indicate) _____

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

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

Name: KEITH LONG / LONG LAW

Phone: 2394002060

Address: _____

Email: _____

Fax: _____

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

Name: _____

Phone: _____

Address: _____

Email: _____

Fax: _____

Name: _____

Phone: _____

Address: _____

Email: _____

Fax: _____

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PROJECT NUMBER: _____

DATE: _____

Name: _____

Phone: _____

Address: _____

Email: _____

Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

☐ Special Exception

☒ Variance from LDC Section 34 - 2020(d)(2)(a)

☐ Conventional Rezoning from _____ to _____

☐ Planned Development

☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD

☐ Amendment. List the project number: _____

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

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

PART III – Waivers

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

Code Section: _____

Description: _____

Code Section: _____

Description: _____

Code Section: _____

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PROJECT NUMBER:

DATE:

Description: _____

PART IV - Property Ownership

☐ Single Owner (Individual or husband and wife)

Name: _____

Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

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

☒ Complete Disclosure of Interest Form (see below)

☒ Attach list of property owners as Exhibit 4-1

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

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

DISCLOSURE OF OWNERSHIP INTEREST

STRAP: 19-46-24-W4-0070F.0010

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

Name and Address

Percentage Ownership

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

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

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PROJECT NUMBER:

DATE:

Name, Address and Office

GARY FERRIS 1250 ESTERO BLVD. FORT MYERS BEACH, FL

Percentage of Stock

100

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

Name and Address

Percentage of Interest

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

Name and Address

Percentage of Ownership

PROJECT NUMBER:

DATE:

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

Name, Address and Office

Percentage of Stock

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

Date of Contract:

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

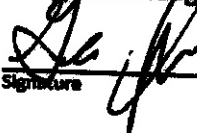
Name

Address

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

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

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


Signature


Printed Name

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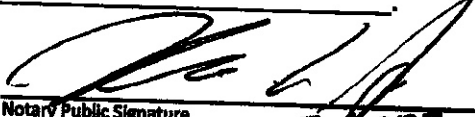
Page 6 of 15

PROJECT NUMBER:

DATE:

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this 07 day of Oct
20 2020 by Gary Ferr


Notary Public Signature

(SEAL)



Personally Known ☒ or Produced Identification ☐

Type of Identification Produced: _____ My Commission Expires: _____

PART V - Property Information

A. Legal Description:

STRAP: 19-46-24-W4-0070F.0010

Property Address: 1250 ESTERO BLVD, FORT MYERS BEACH

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

☐ Yes. Property identified in subdivision: _____

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

B. Boundary Survey:

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

C. Property Dimensions:

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

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DATE:

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

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

Total land area: .082 _____ acres ☒ square feet

- D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):
EXITING SKY BRIDGE CONTINUE ONTO ESTERO BLVD. APPROXIMATELY 1/4
DOWN ON THE RIGHT. NEAR LANI KAI

- ☒ Attach Area Location Map as Exhibit 5-3

E. Property Restrictions (check applicable):

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

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

- ☒ Attach a list of surrounding property owners within 500 feet as Exhibit 5-6.
☒ Attach a map showing the surrounding property owners as Exhibit 5-7.
☒ Provide Staff with two (2) sets of surrounding property owner mailing labels.

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

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

H. Zoning (see official Zoning Map):

- | | |
|---|--|
| ☐ RS (Residential Single-family) | ☐ CF (Community Facilities) |
| ☐ RC (Residential Conservation) | ☐ IN (Institutional) |

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| ☐ RM (Residential Multifamily) | ☐ BB (Bay Beach) |
| ☐ RPD (Residential Planned Development) | ☐ EC (Environmentally Critical) |
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| ☐ CB (Commercial Boulevard) | ☐ VILLAGE |
| ☐ CR (Commercial Resort) | ☐ SANTINI |
| ☐ CPD (Commercial Planned Development) | |

PART VI

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, **GARY FERRIS**, _____ 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;

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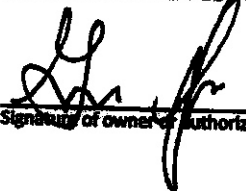
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PROJECT NUMBER:

DATE:

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

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



Signature of owner or authorized agent

10/7/2020

Date

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this 07 day of Oct.
2020, by Gay Fero



Notary Public Signature

(SEAL)

Notary Printed



W. E. Long
Notary Public, State of Florida
COMMISSION EXPIRES: July 11, 2022
Florida Notary Public

Personally Known ☒ or Produced Identification _____

Type of Identification Produced: _____ My Commission Expires: _____

PROJECT NUMBER:

DATE:

PART VII

AFFIDAVIT

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

I, GARY FERRIS (name), as MANAGING MEMBER (title) of COLORADO EAST, LLC (company), swear or affirm under oath, that I am

the owner or the authorized representative of the owner(s) of the property and that:

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

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

Signature

Title

GARY FERRIS

Typed or Printed Name

Date

**STATE OF FLORIDA)
COUNTY OF LEE)**

Subscribed and sworn to (or affirmed) before me this 07 day of Oct
20 20 by Gary Ferris as (title) 1 on behalf of
(company name) Colorado East LLC

Notary Public Signature

(SEAL)



Keith E. Long
COMMISSION # 00230280
EXPIRES: July 18, 2022
Bonded thru Aaron Wilkory

Revised 1/6/2017

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

Page 11 of 15

PROJECT NUMBER:

DATE:

with a long

Notary Printed Name _____

Personally Known or Produced Identification

Type of Identification Produced:



COMMISSION # 100-1280

EXPIRES: July 18, 2022
Redeem This Award Now

My Commission Expires:

Revised 1/6/2017

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

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Case # _____

Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

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

Case Number:
Project Name: SHUCKER'S 4COP
Authorized Applicant: COTTAGE PARTNERS LLC
LeePA STRAP Number: 19-46-24-W4-0070F.0010

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

Variance is requested from:

LDC Section Number

Title of Section or Subsection

34-2020(d)(2)(A)
SISTER APPLICATION TO SEZ2020-00103

Complete the narrative statements below for EACH variance requested.



Case # _____

Date Received: _____

PART I
Narrative Statements

Request for variance from 34-2020(d)(2)(a) **(LDC Section number)**

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

SEE ENCLOSED REQUEST NARRATIVE

Reasons for request

Explain why the variance is needed:

SEE ENCLOSED REQUEST NARRATIVE



Case # _____

Date Received: _____

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

SEE ENCLOSED REQUEST NARRATIVE

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

SEE ENCLOSED REQUEST NARRATIVE



Case # _____ Date Received: _____

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

SEE ENCLOSED REQUEST NARRATIVE



Case # _____

Date Received: _____

PART 2 Submittal Requirements

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

Required Items

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

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

Cover page

Case Number will be inserted by Community Development staff.

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

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

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

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

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

Narrative statements

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



Case # _____

Date Received: _____

Site plan

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

LDC Section 34-87

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

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

SHUCKER'S 4COP VARIANCE REQUEST
SUPPLEMENTAL APPLICATION NARRATIVE

Variance is Requested From: **34-2020(d)(2)(a)** (Sister application to SEZ(2020-00103))

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

Minimum parking standards requiring eight parking spaces per every 1,000 sq ft of restaurant space, and 15 parking spaces per every 1,000 sq. ft. of Bar / Cocktail Lounge space. Current parking requirement calculations require 46 parking spaces. Applicant has 29 available parking spaces. This request is for a variance allowing for a reduction of 17 required parking spaces—bringing Applicant's 29 available spaces into compliance.

Reason for Request

Explain why the variance is needed:

The Applicant is seeking to obtain a 4COP Quota Liquor License to place in operation at its existing Restaurant located at 1250 Estero Blvd. This request is being facilitated through the Town of Fort Myers Beach Special Exception application process (SEZ 2020-00103), as the property is within 500 feet of a residential dwelling. The requested change in liquor license is an administrative change that will exhibit no noticeable changes in the business operations, including the menus and restaurant service portions. However, the license does not require the holder to serve 51% or more food and non-alcoholic beverages by law. Based upon this language, the community development department has determined the use must be classified as a bar/cocktail lounge, notwithstanding the intent to continue existing restaurant operations. This change of use thereby prompts the cited minimum parking requirements of LDC 34-2020(d)(2)(a).

The issue presented is the nature of the building itself, which is historic in nature—being originally developed as a restaurant around 1925. As such, at creation it was not subjected to the current parking standards, and has been "grandfathered" in with its existing 29 parking spaces for its 8,000 square feet of floor area. Applying existing parking codes, even under the lesser restaurant parking requirements, Applicant would require 43 spaces. The restaurant use has operated with the existing 29 spaces without issue for many years, and contends that the change in licensure will have no impact on the existing operation of the restaurant, thus not requiring the additional parking that current codes require. Applicant has conversed with staff and determined that the parking requirements are best calculated by attributing the restaurant requirements to the floor area dedicated to restaurant use (7,403 sq ft) and the bar/cocktail calculations to specific bar areas (597 sq ft.) These calculations, while less than if the entire area were treated as bar/cocktail lounge, are still significant at 46 spaces. The variance request therefore is for a reduction of 17 required parking spaces—or an amount equal to the current spaces available that have suited the restaurant operation for many years.

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

The effect on surrounding properties would be moot, as the Applicant is currently operating its business in the same manner it will be operating after the license change and has done so for several decades without any significant issues with regards to available parking spaces. The change of use is administrative in nature, as described above, and will therefore not generate any increased parking requirements.

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

The historic nature of the property being created in an era of minimal development regulation, leading to its large footprint in contrast to allotted parking area, presents a unique hardship that may not be overcome by any means other than the present variance. Current code presents an unachievable parking standard that in reality does not contemplate for this specific use, as the proposed operations are in line with the existing operations, which have taken place for many decades without significant issue.

Further, the code does not contemplate for the unique operation of the Applicant, which generates a significant portion of its business from “foot-traffic” of passerby either walking along estero Blvd. or through the beachside entrance, which is a popular destination for beachgoers looking for food or beverage without the need to get in their vehicle parked elsewhere, and commute to a food destination. In fact, the code does not also account for this fact, as many beachgoers or visitors of the town in general elect to “park-once” and move about the downtown district by foot rather than drive and park at each destination. This, in addition to the increasing popularity of ride-sharing applications and the impending Margaritaville project, which will include a significant parking garage, should remedy the bloated parking requirements for Applicant’s business—which I will reiterate again have not been an issue historically and will not in the future as the use will remain the same.

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

LDC 34-87(c)(1) – There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is for a de minimis variance under the circumstances or conditions where rigid compliance is not essential to protect public policy;

The exceptional or extraordinary circumstances and conditions applicable to the property in question are 1) the historic in which the site was developed, where parking regulations were not at the forefront of land use concepts, and 2) the unique operation of the restaurant, whereby a significant portion of its patrons access the establishment by foot, either from the beach access to the west or via the pedestrian walkways near the front of the establishment. The area in which the applicant is located is commonly referred to as a park-once district, whereby patrons will park once and freely walk within what is known as the “pedestrian shed”, the distance a person is willing to walk in order to reach a certain destination. The standard pedestrian shed is ¼ mile or a 5-8 minute walk. When applying the pedestrian shed of ¼ mile, there are nearly a dozen public and private parking lots available to potential patrons of the applicant’s establishment.

LDC 34-87(c)(2) – The conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question;

The applicant hereunder has taken no actions after the adoption of this regulation that would result in the conditions justifying the variance herein. The building was developed over one hundred years ago and has been used as a restaurant for the majority of that time. Simply requesting a change in licensure, while maintaining the restaurant operation shall not require an additional 17 parking spaces.

LDC 34-87(c)(3) – The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property;

The applicant contends that there is no lesser variance available to relieve it of the unreasonable burden caused by the regulation requiring the additional 17 parking spaces than the one requested hereunder.

LDC 34-87(c)(4) – that the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare;

The request hereunder shall cause no adverse effects to the surrounding properties, the neighborhood at large or the public welfare. The operations will continue as they have historically, with no visible changes to the operation of the restaurant including its menu offerings.

LDC 34-87(c)(5) – the conditions or circumstances on the specific piece of property for which the variance is sought are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

The applicant is adamant that this variance request is the proper channel for which to seek the relief requested hereunder.



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20210010

CASE NAME: 1250 Estero Blvd, to allow a reduction in the amount of required parking spaces for the proposed Bar use.

LPA

HEARING DATE: November 17, 2021 at 1:00PM

STAFF

RECOMMENDATION: Denial

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

I. APPLICATION SUMMARY

Applicant/Owner: Keith Long/Cottage Partners, LLC

Request: The applicant is seeking a variance from LDC Sec. 34-2020(d)(2)(a). Per their request, to allow a reduction of 17 parking spaces from the required 46 parking spaces.

Subject property: See attached site plan

Physical Address: 1250 Estero Blvd

STRAP #: 19-46-24-W4-0070F.0010

FLU: Pedestrian Commercial

Zoning: Downtown

Adjacent zoning and land uses:

North:	DOWNTOWN Restaurant
South:	WATERBODY Gulf of Mexico
East:	DOWNTOWN Retail
West:	DOWNTOWN Motel/Resort

II. BACKGROUND AND ANALYSIS

Background:

Keith Long, the applicant for 1250 Estero Blvd, is requesting a variance from the Town's Land Development Code (LDC). Per LDC Sec. 34-2020(d)(2)(a), bars and cocktail lounges. The applicant is seeking a reduction of 17 parking spaces from the required 46 parking spaces and retaining the existing 29 spaces for use by the bar/cocktail lounge. Based on staff's analysis, this request is inaccurate as to the number of spaces required and difference between provided and required by the LDC.

The minimum requirement for a bar/cocktail lounge is 15 spaces per 1,000 square feet of total floor area. If outdoor seating is provided, an additional one space per four outdoor seats or 75 square feet of outdoor seating area (whichever is greater) must be provided. A restaurant is required to provide eight spaces per 1,000 square foot of total floor area, with five additional spaces per 1,000 square feet of internal bar/cocktail lounge area.

Analysis:

The property is located on the beach side of Estero Boulevard. The lot is an irregular shaped with most of the existing structures encroaching the Environmentally Critical (EC) zoning district. The applicant is wanting to change the use of the property from a restaurant (greater than 50% food receipts) to a bar (less than 50% food receipts. In addition, the applicant intends to switch from a 2COP to a 4COP. The request to do both is provided for in the Special Exception 20210103 The change in use from restaurant to bar changes the parking requirements per the LDC. A bar/cocktail lounge requires 15 spaces per 1,000 feet, including ADA required spaces. The property is located within the Downtown district. Per LDC Sec. 34-676.(a)(4), properties located in the Downtown district use are permitted to adjust the required parking for each use by multiplying the required spaces by 0.67 to reduce the total required parking.

Currently, the property has 29 available spaces within the property lines. However, the applicant shares this parking with the occupants of 1270 Estero Blvd, which is retail. The applicant's current use is a restaurant, which per LDC Sec. 34-2020.(d)(2)h requires 8 parking spaces per every 1,000 square feet. According to LeePA, the restaurant is approximately 4,322 square feet with around 3,336 square feet of outdoor seating including the beach area. The cumulative area equals 7,658 square feet, meaning the required parking for a restaurant use (8 spaces per 1,000 square feet) would be at least 64 required parking spaces, plus an additional 5 spaces per 1,000 square feet of bar/lounge area. Using the Downtown multiplier (64 x .67) the required parking spaces are reduced to 42.88, or 43 parking spaces. The restaurant is currently out of compliance by at least 14 parking spaces, not discounting for joint parking spaces that are unavailable as a single purpose parking lot.

As previously discussed, per LDC Sec. 34-2020.(d)(2)a, a bar is required to provide 15 parking spaces per 1,000 square feet, plus 1 parking space per 75 square feet outdoors. As measured through LeePA, the applicant has approximately 4,322 enclosed service area and 3,336 square feet of outdoor space including decks and beachfront tables. This would require the applicant to provide 65 parking spaces for the enclosed area and an additional 45 spaces for the outdoor seating. Using the Downtown adjusted multiplier (110 x .67) a bar of this size is required to provide 74 parking spaces. Therefore, the change of use from restaurant to bar requires an additional 31 parking spaces (74 new bar demand - 43 old restaurant demand). The Town has previously recognized the existing 29 spaces on-site to serve the existing restaurant, thus the request is to eliminate the requirement for 31 new parking spaces is in addition to the 14 parking spaces that were not provided for the restaurant. As mentioned, the applicant wishes to maintain those existing 29 spaces as the parking to serve the requested bar/cocktail lounge.

Neighborhood Compatibility:

In review of the aerial photography of the surrounding area and along Estero Blvd, staff found there are parking issues throughout the area similar to what is found at 1250 Estero Boulevard. The increase in expected demand in parking could have negative effects to neighboring properties. In addition, there are at least three permanent shared parking lots within 750 feet of the site that can provide leased spaces to satisfy the minimum parking standards required by the LDC.

This variance is unnecessary if SEZ20200103 Request for a Bar/Cocktail Lounge is not approved.

Findings and Conclusions:

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

- a. That there are/are **not** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request*

is/is not for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.

The applicant desires to continue servicing the building with the parking available at the site. The 29 spaces are currently substandard per the LDC. The additional demand recognized by the LDC if the use changes from restaurant to bar/cocktail lounge has not been addressed. The request is substantial since a bar/cocktail lounge requires 77 more spaces than what is provided.

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

These conditions are the result of the applicant by not planning and providing additional parking within the allowed 750 feet pursuant to the Town's LDC.

- 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.*

Currently, LDC Sec. 34-2020(d)(2)(a), requires a minimum parking of 15 parking spaces per every 1,000 sq. ft. of bar/cocktail lounge space. The space to expand the parking for the parcel is limited; however, the LDC allows for use of permanent shared parking within 750 feet of the site.

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

The traffic flow and parking patterns create a challenge to safe traffic flow and have the potential to cause conflicts and limit emergency access to the parking lot and adjacent buildings.

- 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 challenge of providing parking to developed areas are no uncommon; however, changing to uses which create greater demand for parking while failing to provide plans for additional options to the patrons is not of a general nature. The Town's LDC allows for a reduction in parking due to the location in the Downtown district and use of bike racks, while also allowing for the use of permanent shared parking lots to satisfy parking requirements of commercial businesses within 750 feet.

III. RECOMMENDATION

Staff finds that the variance to reduce the required parking spaces from 106 to 29 with no off-site parking spaces provided is not consistent with the Town's Land Development Code or Comprehensive Plan.

Therefore, staff recommends **DENIAL** of VAR20210010

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

Yellow Sheet Number: **2021-495**

1. Requested Motion:

Meeting Date: November 17, 2021

Approve/Approve with Conditions/Deny VAR20210073 6036-38 Estero Boulevard Pool Setback

Why the action is necessary:

An application has been submitted to reduce the street setback for a pool along Shelby Lane. The LPA is responsible for reviewing the application and providing the Town Council with a recommendation.

What the action accomplishes:

Approval of the application will permit the property owner to construct a pool closer to Shelby Lane than allowed by Table 34-3.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution to be reviewed by
the Town Council

5. Background:

Eran Epstein, the applicant for 6036/38 Estero Blvd, is requesting a variance from the Town's Land Development Code (LDC). LDC Table 34-3, establishes a minimum street setback in the RC zoning district of 25 feet. The applicant is requesting to reduce 25 feet street setback by 18 feet 11 inches along the Shelby Lane, resulting in a 6 feet 1 inch street setback to pool edge. The house was built in 1996. The current owners bought the house in 2021.

The lot is through-lot with a street on each end of the parcel. LDC Sec. 34-1174.(b)(8), on through lots, accessory uses, buildings, and structures may be placed closer to the street opposite the street that provides principal vehicular access than the principal building as long as the minimum setbacks for street setbacks are maintained. The property owner has been provided a driveway onto Estero during the Estero Boulevard redevelopment. This action has switched their front and primary access away from Shelby Lane. The proposed pool improvements will further that effort by closing any access to Shelby Lane and converting the area adjacent to Shelby Lane into their functioning rear yard.

Town staff have coordinated with Lee County and were informed that the driveway on Estero is conditional. The property owner needs to provide evidence that at least two cars can turn around on the site and pull out forward facing, not reverse, onto Estero Boulevard. Staff has incorporated similar conditions related to providing evidence and attempting to ensure that the maximum impervious surface ratio (67%) is maintained. This may require the property owner to remove existing concrete, pavement, or pavers in order to achieve a sufficient area to accomplish the Lee County driveway condition.

This application was continued from the October meeting due to the applicant not being present.

Attachments:

1. VAR20210073 - 6036-38 Estero Blvd - Staff Report - LPA_finalrev
2. 9221117-Proposed Pool Plan - Final
3. 9221121-6036-38 estero application of public hearing

4. 9535083-Variance Supplement PH-B
5. 9221120-6036 survey

Financial Impact:

6. Alternative Action

Deny, Approve, Approve with conditions

7. Staff Recommendations:

Approve with conditions

8. Recommended Approval:

Jason Green, Community Development
Services

Date: November 09, 2021

John R Herin Jr, Town Attorney

Date: November 12, 2021

Amy Baker, Town Clerk

Date: November 12, 2021



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20210073

CASE NAME: 6036/38 Estero Blvd, to allow accessory structure in front of principle structure and within the street setback.

LPA

HEARING DATE: November 17, 2021 at 1:30PM

STAFF

RECOMMENDATION: Approve with conditions

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

I. APPLICATION SUMMARY

Applicant/Owner: Eran Epstein

Request: The applicant is seeking a variance of 19 feet from Table 34-3 Street Setback, to allow a pool within six feet of Shelby Lane.

Subject property: See attached site plan

Physical Address: 6036/38 Estero Blvd

STRAP #: 33-46-24-W3-00600.0060

FLU: Boulevard

Zoning: Residential Conservation (RC)

Adjacent zoning and land uses:

North:	INSTITUTIONAL (IN) Diocese of Venice
South:	RESIDENTIAL CONSERVATION (RC) Single-Family Houses
East:	RESIDENTIAL CONSERVATION (RC) Single-Family Houses
West:	RESIDENTIAL CONSERVATION (RC) Single-Family Houses

II. BACKGROUND AND ANALYSIS

Background:

Eran Epstein, the applicant for 6036/38 Estero Blvd, is requesting a variance from the Town's Land Development Code (LDC). LDC Table 34-3, establishes a minimum street setback in the RC zoning district of 25 feet. The applicant is requesting to reduce 25 feet street setback by 18 feet 11 inches along the Shelby Lane, resulting in a 6 feet 1 inch street setback to pool edge. The house was built in 1996. The current owners bought the house in 2021.

Analysis:

The lot is through-lot with a street on each end of the parcel. LDC Sec. 34-1174.(b)(8), on through lots, accessory uses, buildings, and structures may be placed closer to the street opposite the street that provides principal vehicular access than the principal building as long as the minimum setbacks for streets setbacks are maintained. The property owner has been provided a driveway onto Estero during the Estero Boulevard redevelopment. This action has switched their front and primary access away from Shelby Lane. The proposed pool improvements will further that effort by closing any access to Shelby Lane and converting the area adjacent to Shelby Lane into their functioning rear yard.

Since the October meeting, Town staff has learned that Lee County staff conditionally approved the driveway on Estero Boulevard by requiring the property owner to provide evidence that they can turn around at least two vehicles in order to exit the property forward facing onto Estero Boulevard. This is to prevent backing out onto Estero Boulevard, which the County staff determined to be a safety hazard.

Neighborhood Compatibility:

In review of the aerial photography of the neighborhood, staff found some examples of properties with similar layouts as that found at 6036/38 Estero Blvd. Shelby Lane, the street from which the setback is measured from, is a low traffic area that will see little to no negative effects to neighboring properties.

Findings and Conclusions:

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

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

The property is a through lot, which means the lot has a 25 feet street setback on each side (front and back) of the property. The applicant's request includes locating the pool 6 feet 1 inch from the Shelby Lane setback. Adjusting the pool's orientation could add extra feet to the Shelby Lane setback. The proposed setback from Shelby Lane is consistent with typical rear yard setbacks. In addition, Shelby Lane has been occasionally referred to as an "alley" and under LDC Section 34-1174 (d)(1), properties not served by an alley require a five-foot setback for residential accessory structures. While this does not apply to pools, it is indicative of the flexibility provided by the LDC.

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

These conditions are not the result of owner actions. The principal structure (house) was built in 1996, just after the Town adopted regulation prohibiting accessory structures forward of the primary structure. The current property owners acquired the property in 2021. The lot is a through lot and has been since it was created. The property owner is attempting to create a rear yard consistent with adjacent neighbors.

- 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.*

Yes, the requested variance is the minimum to relieve the applicant of the code requirement. The variance is from the requirement that the pool be 25 feet from the street setback. The location of the house does not allow for a pool of any size to be located 25 feet or greater from Shelby Lane. The proposed plan includes the pool area, including minor landscaping modifications, are similarly setback as other pools in the neighborhood and meeting the setback required of typical rear yards.

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

The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Staff has included a condition to provide a Type B buffer along Shelby Lane.

- 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.*

This variance request is not uncommon for Gulf side properties located on Estero Blvd. However, it is generally unusual for lots within the Town to be built with houses pushed to the rear. Modern regulations require greater setbacks. The gulf front through lots are typically unique in their layout.

III. RECOMMENDATION

Staff finds that the variance of 18 feet inches inch from the 25 feet street setback to allow a setback of six feet and one inch adjacent to Shelby Lane is consistent with the standards required by Sect. 34-87.

Therefore, staff recommends **APPROVAL WITH CONDITIONS** of VAR20210073, to allow a variance of 18 feet and 11 inches for the pool to be within the street setback of Shelby Lane and maintain a setback of six feet and one inch.

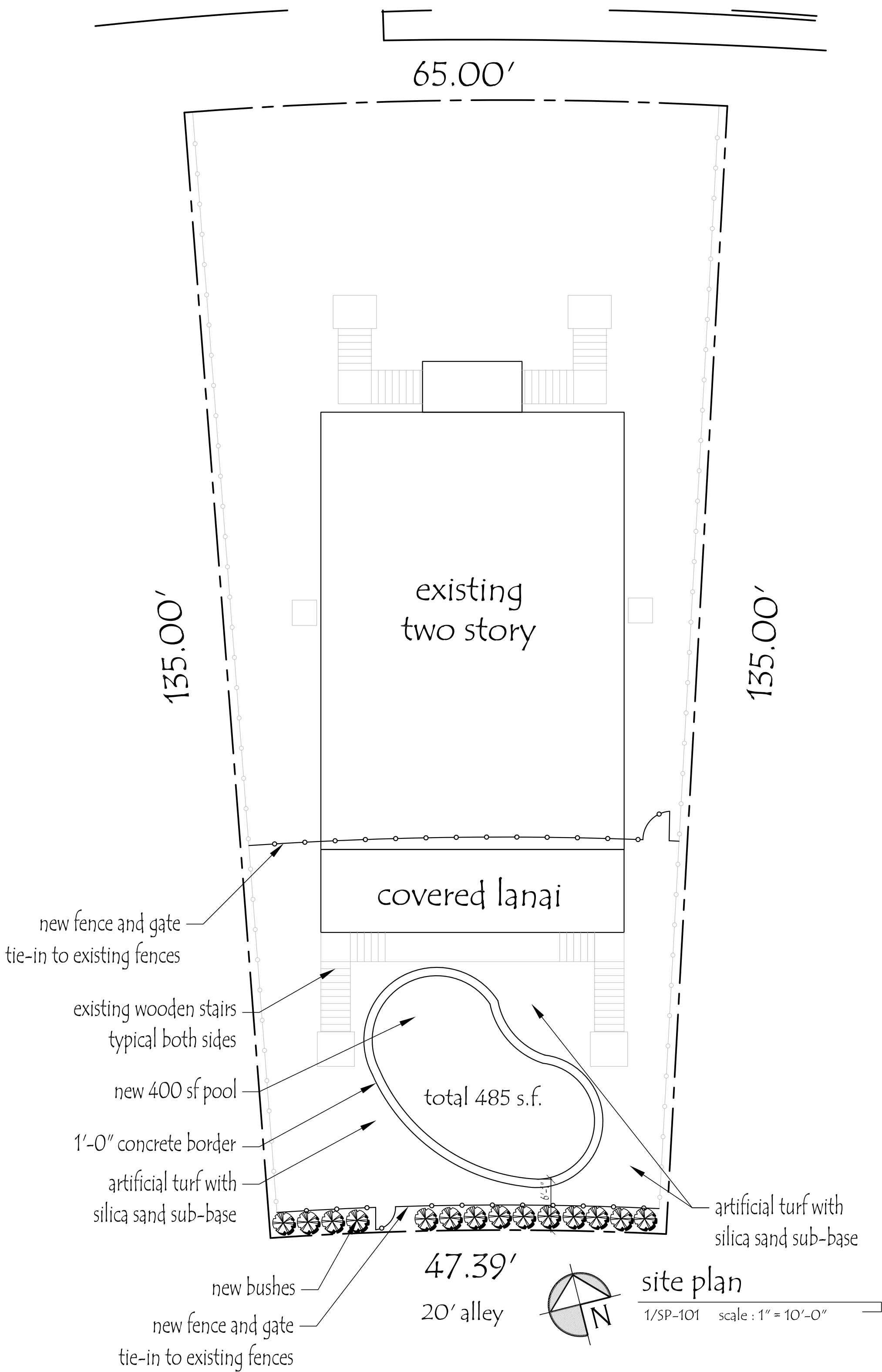
IV. CONDITIONS OF APPROVAL

1. *Approval of this variance does not give the developer an undeniable right to permit approval. Development or redevelopment of the subject property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and Land Development Code in effect at the time of permit approval, except as specifically modified herein.*
2. *A 10' Type B Buffer shall be installed along Shelby Lane with a reduction to six feet along the pool area. All buffers shall also be consistent with the site visibility triangle requirements of the LDC.*
3. *The pool shall be constructed as an in-ground pool at existing grades. The approved location and variance to setbacks does not apply to any elevated pool or structures.*
4. *The site improvements are subject to the Town's maximum impervious surface requirement of 67% and no net increase greater than 500 square feet unless a on-site stormwater management system is provided. The property owner is responsible for demonstrating that the site complies with this requirement, along with removing existing compacted soils that qualify as impervious surfaces in the rear yard if additional impervious surfaces are added to complete the Estero Boulevard driveway requirements and conditions of approval required by Lee County.. Shelby Lane ROW shall be restored.*

5. *The variances shall only apply to the pool as shown on the provided site plan. Alterations or substantial damage to either structure shall render their respective variance to be null and void.*

Staff Report Exhibits:

A – 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: 6036 Estero Blvd
STRAP Number: 33-46-24-W3-00600.0060
Applicant: Pura Vida Vacation, LLC Phone: 239-230-2424
Contact Name: Eran Epstein Phone: 239-230-2424
Email: eran@escllc.com Fax: 212-656-1210
Current Zoning District: RC
Future Land Use Map (FLUM) Category: Mixed Residential
FLUM Density Range: _____ Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED

- ☐ Special Exception
- ☒ Variance
- ☐ Conventional Rezoning
- ☐ Planned Development ☐ Commercial ☐ Residential
- ☐ Master Concept Plan Extension
- ☐ Appeal of Administrative Action
- ☐ Vacation of Platted Right-of-way and Easement
- ☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A
PH-B
PH-C
PH-D
PH-E
PH-F
PH-G
attach on separate sheet

PART I - General Information

A. **Applicant***: Pura Vida Vacation, LLC Phone: 239-230-2424
**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: 8853 Stonebriar Drive, Clarence NY 14032
Email: eran@e2mcorp.com Fax: 212-656-1210
Contact Name: Eran Epstein Phone: 239-230-2424



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: Eran Epstein Phone: 239-230-2424
Address: 8853 Stonebriar Drive, Clarence NY 14032
Email: eran@e2mcorp.com Fax: 212-656-1210

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

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

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

PART II - Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☒ Variance from LDC Section 34 - 638
- ☐ 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: Setback Variance from section 34-638. 25 Foot setback
requirement from Shelby Lane. Prior Approval at 6041 Gulf Road which also abuts
Shelby Lane in the rear.

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: 34-638 Description: Setback
Reduce 25' Setback as previously approved at 6041 Gulf Road to permit a pool installation.

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

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

Signature

Printed Name

STATE OF _____ COUNTY OF _____

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

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

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

_____ as identification.

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
Eran Epstein 8853 Stonebriar Drive, Clarence NY 14032 - Member	50%
Irina Epstein 8853 Stonebriar Drive, Clarence NY 14032 - Member	50%

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

Name and Address	Percentage of Interest

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

Name and Address	Percentage of Ownership

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

Name, Address and Office	Percentage of Stock



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

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

AFFIDAVIT

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

I, Eran Epstein (name), as Member (title)
of Pura Vida Vacation, LLC (company), swear or affirm under oath, that I am the
owner or the authorized representative of the owner(s) of the property and that:

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



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

Pura Vida Vacation, LLC

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

Signature Eran Epstein

Eran Epstein

Typed or Printed Name

Member

Title

6/29/2021

Date

STATE OF New York COUNTY OF Erie

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 12 day of July, 2021, by Eran Epstein ☐ who is personally known to me OR ☒ who has produced NYDL as identification.

Christa A Kenney
Notary Public Signature

CHRISTA A KENNEY
Notary Public, State of New York
Reg. No. 01KE8023824
Qualified in Niagara County
Commission Expires 4/26/2023

PART VI- Property Information

A. Legal Description:

STRAP: 33-46-24-W3-00600.0060

Property Address: 6036 Estero Blvd

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

☒ Yes. Property identified in subdivision: Estero Park

Book: 9 Page: 8 Unit: Block: Lot(s): 6

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) 56 feet

Depth (please provide an average width if irregular in shape) 135 feet

Frontage on street: 65 feet. Frontage on waterbody: 0 feet

Total land area: 7,560 ☐ acres ☒ square feet

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

Across the street from the Church of Ascension.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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

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

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

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

☐ Low Density

☒ Mixed Residential

☐ Boulevard

☐ Pedestrian Commercial

☐ Marina

☐ Recreation

☐ Wetlands

☐ Platted Overlay



Case # _____

Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

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

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

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

Variance is requested from:

LDC Section Number

Title of Section or Subsection

Complete the narrative statements below for EACH variance requested.



Case # _____ Date Received: _____

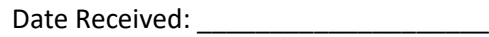
PART I
Narrative Statements

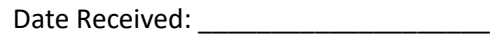
Request for variance from _____ (LDC Section number)

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

Reasons for request

Explain why the variance is needed:

[illegible][illegible]

[illegible]

PART 2

Submittal Requirements

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

Required Items

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

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

Cover page

Case Number will be inserted by Community Development staff.

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

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

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

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

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

Narrative statements

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

Site plan

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

LDC Section 34-87

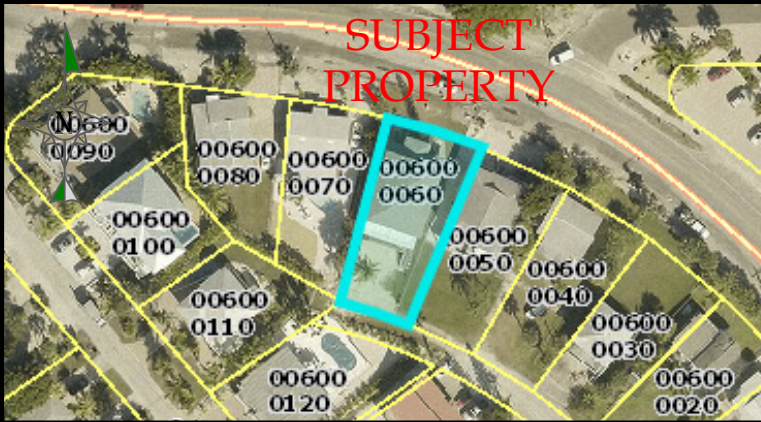
The guidelines for decision-making regarding a request for a variance are as follows:

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



GEOMETRIC SURVEYING INC.

2804 DEL PRADO BLVD S, SUITE 205
CAPE CORAL, FL 33904
ASSISTANCE@GEOMETRICSURVEYING.COM
(239)-540-6257
(239)-471-2237



LOCATION SKETCH
SCALE = N.T.S.

VIEW OF SUBJECT PROPERTY
6036/38 ESTERO BLVD, FORT MYERS, FLORIDA 33931

ABBREVIATIONS

A	= ARC.	ELEV.	= ELEVATION	PVMT.	= PAVEMENT	T	= TANGENT
A/C	= AIR CONDITIONER PAD	ENCR.	= ENCROACHMENT	PL	= PLANTER	TB	= TELEPHONE BOOTH
A.E.	= ANCHOR EASEMENT	F.H.	= FIRE HYDRANT	P.B.	= PLAT BOOK	T.B.M.	= TEMPORARY BENCHMARK
A.R.	= ALUMINUM ROOF	F.I.P.	= FOUND IRON PIPE	P.G.	= PAGE	T.U.E.	= TECHNOLOGY UTILITY EASEMENT
A.S.	= ALUMINUM SHED	F.I.R.	= FOUND IRON ROD	P.L.	= PROPERTY LINE	TSB	= TRAFFIC SIGNAL BOX
ASPH.	= ASPHALT	F.F.E.	= FINISHED FLOOR ELEVATION	P.C.C.	= POINT OF COMPOUND CURVATURE	T.S.P.	= TRAFFIC SIGNAL POLE
B.C.	= BLOCK CORNER	F.N.D.	= FOUND NAIL & DISK	P.C.P.	= PERMANENT CONTROL POINT	TWP	= TOWNSHIP
BLDG.	= BUILDING	FT.	= FEET	P.C.	= POINT OF CURVATURE	UTIL.	= UTILITY
B.M.	= BENCH MARK	NFIP.	= NATIONAL FLOOD INSURANCE PROGRAM	P.O.T.	= POINT OF TANGENCY	U.E.	= UTILITY EASEMENT
B.O.B.	= BASIS OF BEARING	F.N.	= FOUND NAIL	P.O.C.	= POINT OF COMMENCEMENT	U.P.	= UTILITY POLE
B.S.L.	= BUILDING SETBACK LINE	H.	= HIGH OR (HEIGHT)	P.O.B.	= POINT OF BEGINNING	W.M.	= WATER METER
(C)	= CALCULATED	IN.&EG.	= INGRESS AND EGRESS EASEMENT	P.R.C.	= POINT OF REVERSE CURVATURE	W.F.	= WOOD FENCE
C.B.	= CATCH BASIN	I.C.V.	= IRRIGATION CONTROL VALVE	P.W.Y.	= PARKWAY	W.P.	= WOOD PORCH
C.B.S.	= CONCRETE BLOCK STUCCO	ID?	= IDENTIFICATION ILLEGIBLE	P.R.M.	= PERMANENT REFERENCE MONUMENT	W.R.	= WOOD ROOF
C.B.W.	= CONCRETE BLOCK WALL	I.F.	= IRON FENCE	P.S.M.	= PROFESSIONAL SURVEYOR & MAPPER	W.V.	= WATER VALVE
CH.	= CHORD	L.B.	= LICENSED BUSINESS	P.L.S.	= PROFESSIONAL LAND SURVEYOR	M/L	= MONUMENT LINE
CH.B.	= CHORD BEARING	L.P.	= LIGHT POLE	P.P.	= POWER POLE	CL	= CENTER LINE
CL.	= CLEAR	L.F.E.	= LOWEST FLOOR ELEVATION	P.P.S.	= POOL PUMP SLAB	Δ	= DELTA
C.O.	= CLEAN OUT	L.M.E.	= LAKE MAINTENANCE EASEMENT	P.U.E.	= PUBLIC UTILITY EASEMENT		
C.L.F.	= CHAIN LINK FENCE	I	= MINUTES	(R)	= RECORD		
C.M.E.	= CANAL MAINTENANCE EASEMENT	(M)	= MEASURED	R.R.	= RAIL ROAD		
CONC.	= CONCRETE	M.B.	= MAIL BOX	RES.	= RESIDENCE		
C.U.P.	= CONCRETE UTILITY POLE	M.E.	= MAINTENANCE EASEMENT	R/W	= RIGHT-OF-WAY		
C.P.	= CONCRETE PORCH	M.H.	= MAINHOLE	RAD.	= RADIUS OR RADIAL		
C.S.	= CONCRETE SLAB	N.A.P.	= NOT A PART OF	RGE.	= RANGE		
C.W.	= CONCRETE WALK	NAVD	= NORTH AMERICAN VERTICAL DATUM 1988	R.O.E.	= ROOF OVERHANG EASEMENT		
D.E.	= DRAINAGE EASEMENT	NGVD	= NATIONAL GEODETIC VERTICAL DATUM 1929	SEC.	= SECTION		
D.H.	= DRILL HOLE	NO ID	= NO IDENTIFICATION	STY.	= STORY		
D.M.E.	= DRAINAGE MAINTENANCE EASEMENT	N.T.S.	= NOT TO SCALE	SWK.	= SIDEWALK		
DRIVE	= DRIVEWAY	# OR NO.	= NUMBER	S.I.R.	= SET IRON ROD		
o	= DEGREES	O/S	= OFFSET	S.I.P.	= SET IRON PIPE		
EB	= ELECTRIC BOX	O.H.	= OVERHEAD	S.N.D.	= SET NAIL & DISK		
E.T.P.	= ELECTRIC TRANSFORMER PAD	O.H.L.	= OVERHEAD UTILITY LINES	S	= SOUTH		
		O.R.B.	= OFFICIAL RECORDS BOOK	S.P.	= SCREENED PORCH		
		O.V.H.	= OVERHANG	S.V.	= SEWER VALVE		
				"	= SECONDS		

LEGEND

	= OVERHEAD UTILITY LINES
	= CENTERLINE
	= CONCRETE BLOCK STUCCO WALL
	= CHAIN LINK FENCE
	= IRON FENCE
	= WOOD FENCE
	= WIRE FENCE
	= BUILDING SETBACK LINE
	= UTILITY EASEMENT
	= LIMITED ACCESS R/W
	= RGE, TWP, SEC. 1/2 SEC LINE
	= NON-VEHICULAR
	= 0.00' ACCESS R/W
	= EXISTING ELEVATIONS

SURVEYOR NOTES :

- THIS SURVEY IS TO BE USED EXCLUSIVELY AS AN AID TO OBTAIN TITLE INSURANCE, NO OTHER WARRANTIES ARE HEREBY EXTENDED.
- THERE MAY BE EASEMENTS RECORDED IN THE PUBLIC RECORDS NOT SHOWN ON THIS SURVEY.
- EXAMINATIONS OF THE ABSTRACT OF TITLE WILL HAVE TO BE MADE TO DETERMINE RECORDED INSTRUMENTS, IF ANY, AFFECTING THE PROPERTY.
- THIS SURVEY MAY BE SUBJECT TO DEDICATIONS, LIMITATIONS, RESTRICTIONS, RESERVATIONS, ENCUMBRANCES OR EASEMENTS OF RECORD THE SAME THAT MAY NOT BE NOTED OR DEPICTED HEREON.
- LEGAL DESCRIPTIONS PROVIDED BY CLIENT OR ATTESTING TITLE COMPANY.
- BOUNDARY SURVEY MEANS A DRAWING AND/ OR A GRAPHIC REPRESENTATION OF THE SURVEY WORK PERFORMED IN THE FIELD, COULD BE DRAWN AT A SHOWN SCALE AND/OR NOT TO SCALE; THE WALLS OR FENCES MAY BE EXAGGERATED FOR CLARITY PURPOSES.
- EASEMENTS AS SHOWN ARE PER PLAT, UNLESS NOTED OR DEPICTED OTHERWISE.
- THE TERM "ENCROACHMENT" REFERS TO ABOVE GROUND INTRUSIONS OF IMPROVEMENTS ONTO SUBJECT PROPERTY FROM ADJOINERS PROPERTY OR ONTO ADJOINERS PROPERTY FROM SUBJECT PROPERTY.
- ARCHITECTS AND ENGINEERS SHALL VERIFY ZONING REGULATIONS, RESTRICTIONS, SETBACKS AND WILL BE RESPONSIBLE FOR SUBMITTING PLANS WITH CORRECT INFORMATION TO BUILDING AND ZONING OFFICIALS OR ANY OTHER AUTHORITIES FOR APPROVAL OF PLANS FOR NEW CONSTRUCTION. THEY WILL ALSO BE RESPONSIBLE FOR SUBMITTING PLANS WITH CORRECTPROPOSED BUILDING HEIGHTS AND PROPOSED FINISHED FLOOR ELEVATION WITH DATUM FOR NEW BUILDINGS TO THE PROPER AUTHORITIES IN NEW CONSTRUCTION.
- UNLESS OTHERWISE SHOWN RECORD AND MEASURED CALLS ARE IN SUBSTANTIAL AGREEMENT.
- UNDERGROUND UTILITIES ARE NOT DEPICTED HEREON
- UNLESS OTHERWISE NOTED, THIS FIRM HAS NOT ATTEMPTED TO LOCATE UNDERGROUND FOOTINGS AND/OR FOUNDATIONS.
- FENCE OWNERSHIP NOT DETERMINED.
- THIS PLAN OF SURVEY, HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE ENTITIES NAMED HEREON, THE CERTIFICATE DOES NOT EXTEND TO ANY UNNAMED PARTY.
- FENCE TIES ARE TO CENTERLINE OF THE SAME.
- WALL TIES ARE TO THE FACE OF THE SAME.

FLOOD ZONE INFORMATION:

THE NFIP FLOOD MAPS HAVE DESIGNATED THE HEREIN DESCRIBED LOT TO BE SITUATED IN:
FLOOD ZONE: "AE"
BASE FLOOD ELEVATION: 13.00 FT.
COMMUNITY: 120673
PANEL: 0566
SUFFIX: F
DATE OF FIRM: 08/28/2008
THE SUBJECT PROPERTY LIES IN A SPECIAL FLOOD HAZARD AREA.

SURVEYOR'S CERTIFICATION:

THEREBY CERTIFY: THAT THE SKETCH OF THIS BOUNDARY SURVEY WAS PREPARED UNDER MY SUPERVISION AND THAT IT MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS & MAPPERS IN CHAPTER 5J-17.050.052 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472 OF THE FLORIDA STATUTES AND THAT THE SKETCH HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

MIGUEL J. GARAY

03/25/2021

(DATE OF FIELDWORK)

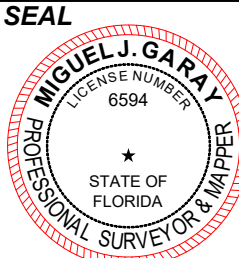
PROFESSIONAL SURVEYOR AND MAPPER LS# 6594 STATE OF FLORIDA
(NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER).

REVISED ON: _____

REVISED ON: _____

DRAWN BY:	EMV
FIELD DATE:	03/25/2021
SURVEY NO:	21-00299
SHEET:	1 OF 2

THIS PAGE IS NOT VALID WITHOUT ALL OTHERS



L.S.#6594 L.B.#8203



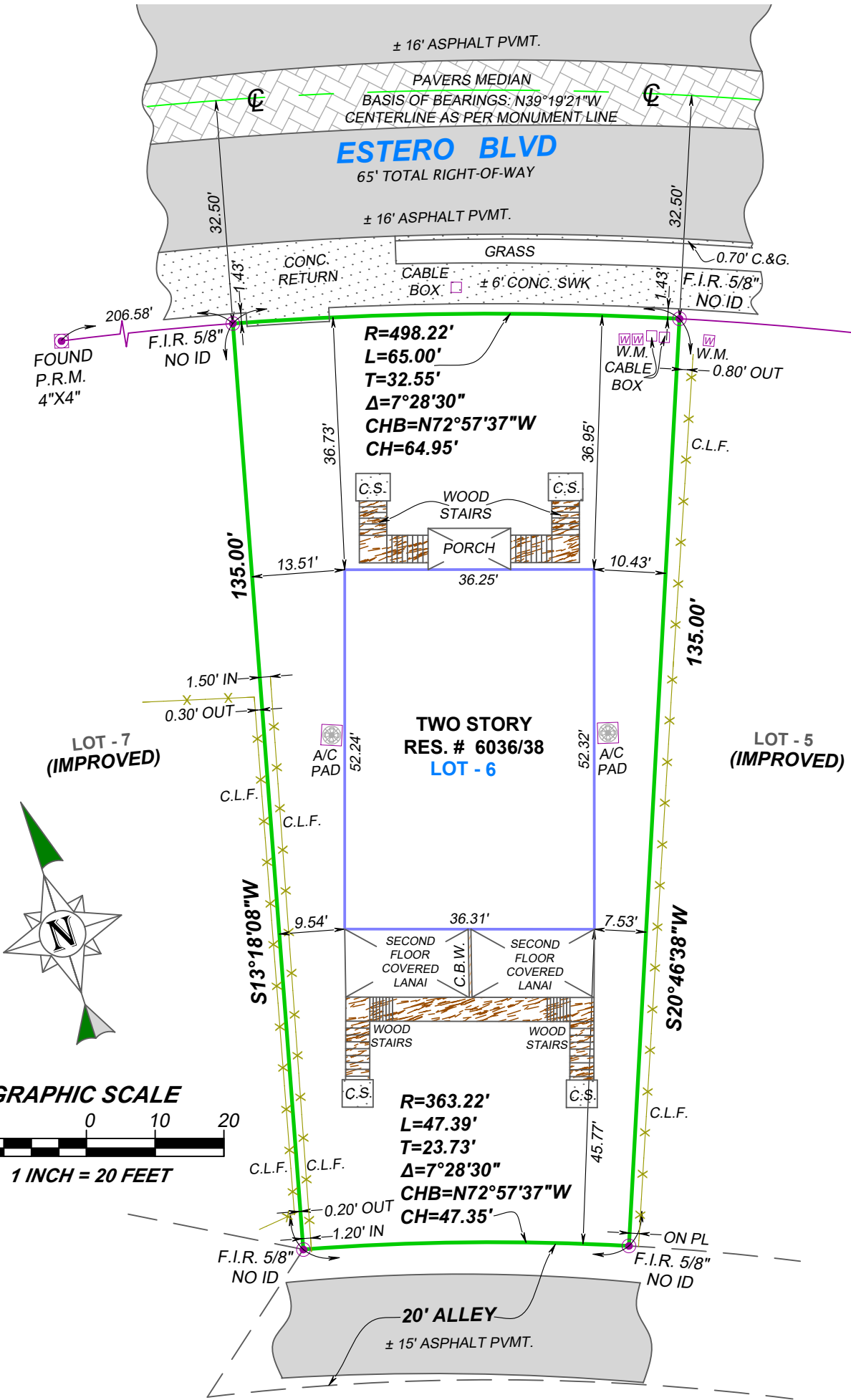
GEOMETRIC SURVEYING INC.

2804 DEL PRADO BLVD S, SUITE 205
CAPE CORAL, FL 33904
ASSISTANCE@GEOMETRICSURVEYING.COM
(239)-540-6257
(239)-471-2237

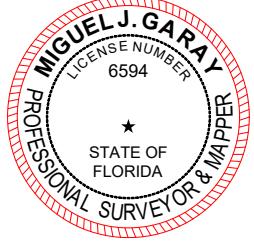


MAP OF BOUNDARY SURVEY

6036/38 ESTERO BLVD, FORT MYERS, FLORIDA 33931



SEAL



L.S.#6594 L.B.#8203

LEGAL DESCRIPTION:
LOT 6 OF THAT CERTAIN SUBDIVISION KNOWN AS ESTERO PARK, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN PLAT BOOK 9, PAGE 8, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

CERTIFICATION:
ERAN EPSTEIN AND IRINA EPSTEIN
SANIBEL CAPTIVA COMMUNITY BANK
OLD REPUBLIC NATIONAL TITLE INSURANCE
SUN NATIONAL TITLE COMPANY

THIS PAGE IS NOT VALID WITHOUT ALL OTHERS

DRAWN BY:	EMV
FIELD DATE:	03/25/2021
SURVEY NO:	21-00299
SHEET:	2 OF 2

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

Yellow Sheet Number: **2021-492**

1. Requested Motion:

Meeting Date: November 17, 2021

Recommend Approve / Deny Recommended Amendments to Land Development Code Section 34-638, Minimum Setbacks and Table 34-3.

Why the action is necessary:

The Town Council has instructed staff to create options for additional setbacks or other design criteria for large lot single-family residential development.

What the action accomplishes:

Creates options for developers of large lot or combined lots.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance, required due to Resolution 21-42, a zoning in progress to address large lot development.

5. Background:

The Town Council adopted Resolution 21-42, Invoking a Zoning in Progress to consider amendments to the Town's Land Development Code related to single-family homes built on consolidated lots. The Town staff has reviewed the comments from Town Council members and researched a variety of ways to achieve what is intended. During staff discussions and research, it was recognized that addressing this issue by tying it to the number of lots that are assembled created challenges to ensuring compliance, since platted lots can range from 25 feet in width to occasionally 100 feet, or larger. In addition, the ability to assemble portions of platted lots created difficulties in applying these regulations across the board and, by default, created potential exemptions.

As a result, staff determined that the best way to address what the Town Council seemed to be interested in, which is limiting the size of a single-family home along the frontage of a roadway, was to simply limit the length of the facade along the street frontage before additional regulations and design criteria are triggered. This approach is often referred to as addressing the massing of the structure along the street frontage. The proposed text creates an additional street setback once a structure's facade along the street frontage exceeds 65 feet. Any house width over 65 feet has to be setback an additional 12 feet from the right of way, or 37 feet from the front property line. Additionally, to address massing concerns, language has been added to allow no more than 80% of the structure built to the front setback line to be taller than one living story. This regulation will ensure height variation.

In addition to providing amendments to introduce limits on the length of the facade, staff has drafted a new side setback requirement for lots 80 feet or greater in width. Lots that meet this size are proposed to use a percentage of lot width as the means by which to measure the setback. This approach does not adversely impact the buildable envelope or building footprint percentage currently allowed by the LDC.

An option has also been provided that would exempt the residence from the additional front and side setbacks if the ground floor mostly open. Any home that is built with no more than 650 square feet and 30 feet in width of enclosed space below the lowest habitable floor and used

only for parking, storage, or access, will be exempt from these proposed new setback requirements. The ten-foot side yard setback adopted in January 2021 would apply.

In addition, staff has prepared an edit to the porches that are permitted to encroach into the street setback. The edit limits the width of the porches and entries. Previous edits didn't account for a limit on the size and width of the porch that can encroach up to ten feet of the street setback. This was provided to fix a current issue since the section was being edited for other purposes.

Note: There are two memos addressing the topics of facade length along street frontage and side setbacks. These are provided separately to offer the LPA and Town Council the ability to consider these approaches independent of each other.

Attachments:

1. Consolidated Lot Exhibit A Text Mod
2. Consolidated Lots Side Setbacks Memo
3. Residential Structure Front Setback Memo

Financial Impact:

6. Alternative Action

Deny, modify

7. Staff Recommendations:

Approve

8. Recommended Approval:

Jason Green, Community Development
Services

Date: November 10, 2021

John R Herin Jr, Town Attorney

Date: November 12, 2021

Amy Baker, Town Clerk

Date: November 12, 2021

Exhibit B

Sec. 34-638. - Minimum setbacks.

- (a) *Generally.* Most zoning districts require minimum setbacks between all buildings and structures and the street, the side lot line, the rear lot line, and any waterbody.
 - (1) Setbacks are minimum horizontal distances between a property line and the nearest point of all structures that ensure a minimum area without buildings. Detailed definitions are provided under "setback" in § 34-2 of this LDC.
 - a. Where an unusual lot configuration or orientation makes it unclear which property lines are street, side, or rear lot lines, the director will establish street, side, and rear lot lines for setback purposes after taking into account existing buildings on the same block as well as the intent of this code. Where access is provided by a shared driveway rather than a street, the director may determine that no street setback applies to that lot.
 - b. Once established through this process, the same setbacks will be applied by the director to other lots on that block.
 - (2) There are two types of side setbacks:
 - a. *Side setbacks - waterfront lots.* Larger side setbacks are required for waterfront lots, defined as lots that immediately adjoin a tidally influenced body of water, whether artificial or natural (see definitions in § 34-2 of this LDC).
 - b. *Side setbacks - non-waterfront lots.* Smaller side setbacks are required for all other lots.
 - (3) The distinction between street setback lines and build-to lines is explained in § 34-662 of this chapter.
 - (4) Certain exceptions to minimum setbacks are provided in subsection (d) below.
- (b) *Where to find minimum setback dimensions.* Minimum setback dimensions are specified as follows:
 - (1) *For principal buildings:*
 - a. For all conventional zoning districts, see Table 34-3.
 - b. For redevelopment zoning districts, as described for the individual districts in division 5 of this article.
 - c. For RPD districts, see § 34-943 of this chapter.
 - d. For CPD districts, see § 34-953 of this chapter.
 - (2) *For accessory buildings,* see §§ 34-1174—34-1176 of this chapter.
- (c) *Additional wetlands buffers.* New development must maintain a 75-foot separation between wetlands and buildings or other impervious surfaces, in accordance with Policy 4-C-12 of the Fort Myers Beach Comprehensive Plan.
 - (1) This requirement does not apply to lawfully existing subdivided lots.
 - (2) This requirement also does not apply to a previously approved development order to the extent it cannot reasonably be modified to comply with this requirement (see ch. 15 of the Fort Myers Beach Comprehensive Plan for details).
- (d) *Exceptions to setback dimensions.* In addition to the following general exceptions to minimum setbacks, commercial buildings that are subject to the commercial design standards may encroach into certain setbacks as provided in §§ 34-991—34-1010 of this chapter.
 - (1) *Exceptions to all setbacks.*

- a. *Administrative setback variances.* Under certain limited circumstances, administrative variances can be granted to minimum setbacks as provided in § 34-268 of this chapter.
 - b. *Overhangs.* An overhang which is part of a building may be permitted to encroach into any setback as long as the overhang does not extend more than three feet into the setback and does not permit any balcony, porch, or living space located above the overhang to extend into the setback.
 - c. *Shutters.* A shutter which is attached to a building may be permitted to encroach one foot into the setbacks.
 - d. *Awnings and canopies.*
 - 1. Awnings and canopies which are attached to a building may be permitted to encroach three feet into the setbacks, as long as their location does not interfere with traffic, ingress and egress, or life safety equipment.
 - 2. For purposes of this section, awnings and canopies may be attached to a nonconforming building and shall not be considered an extension or enlargement of a nonconformity, as long as the building is properly zoned for its use and the conditions as set forth in this section are met.
 - e. *Essential services.* Essential services and essential service equipment shall not be required to meet the minimum setbacks for the district wherein located (see § 34-1617 of this chapter).
 - f. *Two-family dwelling units.* If a two-family dwelling unit is on a lot of sufficient size to allow it to be subdivided into a separate lot under each dwelling unit (see Table 34-3), the side setback regulations in this section shall not be interpreted to forbid such subdivision. Existing two-family buildings that are being subdivided must be separated by not less than one-hour fire resistance.
 - g. *Mechanical equipment.* Mechanical equipment such as air conditioners may encroach up to three feet into rear and waterbody setbacks but must meet the same street and side setbacks as the building it serves. These requirements apply to new buildings and to new mechanical equipment but will not apply to replacement of mechanical equipment on existing buildings if the equipment was installed in conformance with prior regulations.
- (2) *Exceptions to street setbacks.* Certain structures are exempt from the street setback requirements as follows. See also § 34-1174 of this chapter.
- a. *Build-to lines.* Some zoning districts do not have any street setback requirements but instead have build-to lines, as described in § 34-662 of this chapter. Awnings, canopies, balconies, bay windows, porches, stoops, arcades, and colonnades may extend forward of the build-to line provided that they comply with the commercial design standards (see § 34-995(e) of this chapter).
 - b. *Porches, balconies and stoops.* Porches, balconies and stoops may extend up to ten feet into the street setback zone of residential buildings, provided that:
 - 1. Any walls, screened areas, or railings in the setback zone extend no higher than 42 inches above the floor of the porch, balcony or stoop; and
 - 2. No portion of a porch or balcony and no walls or screened areas may be closer than ten feet to the edge of any street right-of-way or street easement.

3. Porches, balconies and stoops, which extend into the front setback, may not exceed 35 feet in length.
 - c. *Mail and newspaper delivery boxes.* Mail and newspaper delivery boxes may be placed in accordance with U.S. Postal Service regulations; however, the support for a mail or newspaper delivery box must be of a suitable breakaway or yielding design, and any mail or newspaper delivery box placed in an unsafe or hazardous location can be removed by the government agency with jurisdiction over the right-of-way at the property owner's expense.

- d. *Bus shelters, bus stop benches and bicycle racks.* Bus shelters, bus stop benches, and bicycle racks may be located in any district without regard for minimum setbacks, provided the location of the structure is approved by the town manager. No advertising is permitted on bus stop benches.
- e. *Telephone booths.* Telephone booths and pay telephone stations may be located in any zoning district that permits multifamily or commercial uses without regard for minimum setbacks; provided that the location shall be approved by the director.

(3) *Waterbody setbacks.*

- a. *Gulf of Mexico.* Except as provided in this section or elsewhere in this code, no building or structure shall be placed closer to the Gulf of Mexico than set forth in ch. 6, articles III and IV of this LDC, or 50 feet from mean high-water, whichever is the most restrictive. See also special regulations for the EC zoning district in § 34-652 of this chapter and the coastal zone restrictions in § 34-1575 of this chapter.
- b. *Other bodies of water.* Except as provided in this section or elsewhere in this chapter, no building or structure shall be placed closer than 25 feet to a property line adjacent to a canal, bay, or other waterbody. For purposes of measuring setbacks from a canal, bay, or other body of water, the following will also be used:
 - 1. If the body of water is subject to tidal changes, the setback will be measured from the mean high-water line.
 - 2. If the body of water is not subject to tidal changes, the setback will be measured from the control elevation of the body of water if known, or from the ordinary high-water line if unknown.
 - 3. In addition to the property line setback, if the property has a seawall, a minimum setback of five feet will be measured from the seaward side of the seawall, not including the seawall cap.
 - 4. If property lines encroach into the waterbody, then no more than five feet shall be applied to the setback measurement.
 - 5. If plats or legal descriptions of property reference water bodies as boundaries, the mean high-water line shall be utilized, unless otherwise stated in those legal descriptions or survey.
- c. *Exceptions for certain accessory structures.* Certain accessory buildings and structures may be permitted closer to a body of water as follows:
 - 1. *Fences and walls.* See division 17 of this article.
 - 2. *Shoreline structures.* See § 34-1863 and ch. 26 of this LDC.
 - 3. *Nonroofed structures.* Swimming pools, tennis courts, patios, decks, and other nonroofed accessory structures or facilities which are not enclosed, except by fence, or which are enclosed on at least three sides with open-mesh screening from a height of 3½ feet above grade to the top of the enclosure, shall be permitted up to but not closer than:
 - (i) Five feet from a seawalled canal or seawalled natural body of water;
 - (ii) Ten feet from a nonseawalled artificial body of water; or
 - (iii) Twenty-five feet from a nonseawalled natural body of water;
 whichever is greater. Enclosures with any two or more sides enclosed by opaque material shall be required to comply with the setbacks set forth in subsections (d)(3)a. and (d)(3)b. of this section.
 - 4. *Roofed structures.*

- (i) Accessory structures with roofs intended to be impervious to weather and which are structurally built as part of the principal structure shall be required to comply with the setbacks set forth in subsections (a) and (b) of this section.
- (ii) Accessory structures with roofs intended to be impervious to weather and which are not structurally built as part of the principal structure may be permitted up to but not closer than 25 feet to a natural body of water, and ten feet to an artificial body of water.

(4) *Exceptions for certain nonconforming lots.*

- a. Certain nonconforming residential lots are subject to the modified side and rear setback requirements that are found in § 34-3273 of this chapter.
- b. Certain nonconforming mobile home lots in the village zoning district are subject to the modified side and rear setback requirements that are found in § 34-694 of this chapter.
- c. Certain nonconforming commercial lots are subject to the modified side and rear setback requirements that are found in § 34-3277 of this chapter.

(5) *Additional street setbacks for single-family and two-family homes exceeding 65 feet in length.*

- a. Single-family and two-family homes exceeding 65 feet, in right-of-way frontage length, in RS, RC and RM zoning districts shall have additional street setback requirements.

- 1. No more than 65 feet of frontage may be constructed to the street setback line (25 feet from right of way property line). Any portion of the structure exceeding 65 feet in width shall be set back an additional 12 feet (37 feet from the right of way property line).
- 2. No more than 80 percent of the structure built to the front setback line may be taller than one living story.

(6) *Additional side setbacks for single-family and two-family homes on lot greater than 80 feet in width.*

- a. Single-family and two-family homes on lots 80 feet, or more, wide in the RS, RC and RM zoning districts must provide side setbacks equal to 15% of the lot width, on each side.

- 1. Lot width is measured from the property line adjacent to the right of way. Where the property is a corner lot, the front will be the side of the property that is deemed the front based on the setbacks (in relation to where the front setback, rear setback, and side setbacks are applied).
- 2. The cumulative total of the side setbacks shall be 30% of the parcel width, however, the setbacks do not have to be equal on both sides. No side setback shall be less than 10% of the parcel width.
- 3. The setback measurement shall be rounded to the nearest half-foot.

- c. *Exemption from additional setbacks for open ground level.* A residential structure with a maximum of 650 square feet and no more than 30 feet width, as viewed from the right of way, enclosed or screened at the ground level of the house (under house structure), shall be exempt from additional side and front setbacks.

([Ord. No. 20-08](#) , § 2, 4-6-2020)

Table 34-3— Dimensional Regulations in Conventional Zoning Districts

	street	side - waterfront lot	side - non- waterfront	rear	water body (1)	Gulf of Mexico (2)	area	width	depth	ratio	percentage		feet	stories
ZONING DISTRICT	Setbacks (see § 34-638 for explanation and exceptions)						Lot size (see § 34-637 for explanations and exceptions)			F.A.R. §34- 633	Building Coverage § 34-634	Density § 34- 632	Height (see § 34- 631)	
<i>RS Residential Single-family</i>	25 (9)	7.5 (8) (10)	7.5 (8)	20	25	50	7,500	75	100	-	40%	(3), (4)	25	3
<i>RC Residential Conservation</i>	25 (9)	7.5 (10)	7.5	20	25	50	4,000	45	80	-	40%	(3), (4), (5)	25	3
<i>RM Residential Multifamily</i>	25 (9)	20 (6) (10)	20 (6)	20	25	50	7,500	75	100	1.2	-	(3), (4), (5)	30	3
<i>CR Commercial Resort</i>	10	20	15	20	25	50	20,000	100	100	1.2	-	(3)	30	3
<i>CM Commercial Marina</i>	20	20	20	20	0	50	20,000	100	100	1.0	-	-	35	3
<i>CO Commercial Office</i>	10	10	7	20	25	50	7,500	75	100	1.2	-	(3), (4), (5)	30	3
<i>Santos</i>	10	7	5	20	25	50	5,000	50	100	0.6	-	(3), (4), (5)	25	3
<i>IN Institutional</i>	20	10	7	20	25	50	7,500	75	100	0.8	-	(3)	35	3
<i>CF Community Facilities</i>	20	15	10	20	25	50	N/A	N/A	N/A	0.1	-	(3)	35	3
<i>BB Bay Beach</i>	— see § 34-651(b) —													
<i>EC Environmentally Critical</i>	20	25	-	25	20	50	(7)	N/A	N/A	.01	-	(3), (7)	25	2

Note (1): An additional wetland buffer is required for new development; see § 34-638(c).

Note (2): See § 34-638(d)(3)a.

Note (3): Maximum densities are established by the Fort Myers Beach Comprehensive Plan; see § 34-632.

Note (4): Accessory apartments are allowed in owner-occupied homes under certain conditions; see §34-1178.

Note (5): A second dwelling unit or accessory apartment may be allowed on larger lots; for details, see §§ 34-632, 34-1177, and 34-1178.

Note (6): Single-family and two-family homes on waterfront lots in the RM zoning district must maintain only a 7.5-foot side setback.

Note (7): See § 34-652(e)(3).

Note (8): For all RS lots fronting on Matanzas Street and Matanzas Court, all side setbacks shall be at least 10 feet.

Note (9): Maximum 65 feet of house may be built to the 25-foot front setback. Any house frontage exceeding 65 feet shall be built 37 feet from the front property line. See §34-638(d)(5)a.

Note (10): For parcels exceeding 80 feet in width, each side setbacks will be equal to 15% of the property width. See § 34-638(d)(5)b.



**Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT**

To: Local Planning Agency
From: Sarah Propst, Community Development
Date: November 17, 2021
Re: Additional Setbacks on Consolidated Lots

BACKGROUND

Multiple lots are being combined to develop single-family and two-family residential homes. The massing of the larger homes with only a typical side setback of 7.5 feet, impacts the viewshed of the neighborhood. Staff has been asked to provide options to address this issue. The options contained in this memo are intended to apply to lots over 80 feet wide.

PROPOSED SOLUTIONS

A discussion regarding how to address setbacks for large lots was held at the October 20th LPA meeting and at the November 1st joint session between the LPA and Council. Based on feedback at both of those meetings, staff is recommending the adoption of language to implement a 15% percent setback to lots 80 feet or more wide.

The current side setbacks for a residential lot are 7.5 feet. On an average, 50-foot wide, lot the 7.5-foot setback on each side of the parcel is 15%. If a property owner were to consolidate multiple parcels to build a home, applying a 15% setback would be proportionate to the current average lot setback. For example, for three consolidated, 50-foot wide, lots the setback would be 15% of the entire lot width 22.5 feet. This would be the combined total of all of the setbacks from the three lots that are being combined. For larger lots the setback would increase proportionate to the size lot.

While the original request was to determine the best way to address consolidated lots, staff recommends that this side setback percentage apply to all lots 80 feet or more. This would ensure that the larger setbacks applied when properties are combined will remain in effect even when redevelopment of a property occurs. For example: Three properties are combined in 2022 and a new home is built. Staff recognizes that a greater setback needs to be applied to the new home being built because the properties were consolidated shortly before development permits were applied for. However, if new development occurs in 10 or 15 years such as an addition or complete rebuild, will staff know that the additional setbacks need to be applied? Combined properties can be identified through

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GIS or in a spreadsheet but maintenance of these documents can become a problem and staff turnover can lead to a loss of this knowledge.

Staff recommends the option to allow the property owner to decide how to divide up the setback width between the sides. For example, the three-lot consolidation (50-foot lots) would result in a total of 45 feet of side setback. Rather than requiring the setbacks to be even on both sides, the property owner could choose to divide the total required setback to allow a smaller setback on one side and a larger setback on the other. It would be important that no setback be too small. Staff recommends no one side may ever be less than 10% of the lot width. On an 80-foot lot that would be 8 feet, on a 100-foot lot the smallest side setback would be 10 feet. This would potentially allow for larger trees to be planted in the larger side yard and may create more usable space and a nice viewshed.

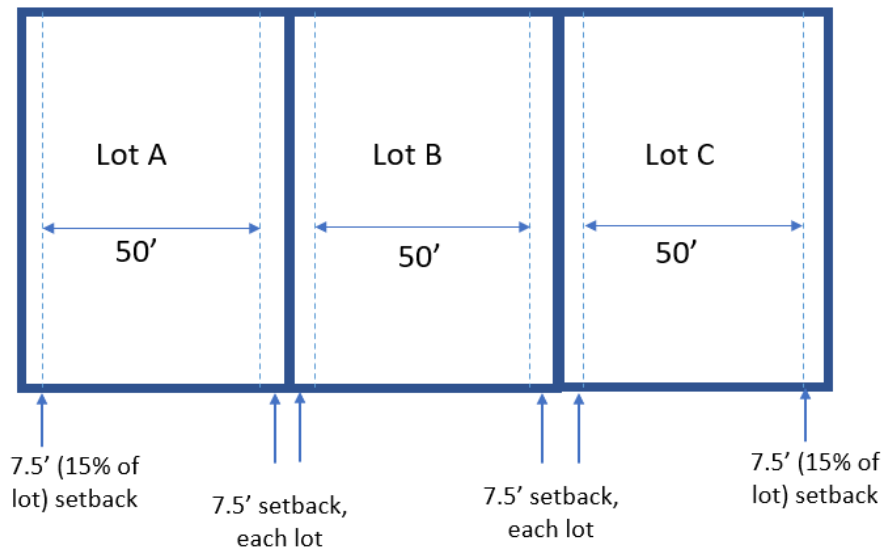
CODE MODIFICATION

The proposed strikethrough underline language is provided in Exhibit A. The changes proposed in this memo and the memo “Front Setbacks for Large Residential Structures,” would require changes to two code sections, Sec. 34-638 Minimum Setbacks and Table 34-3 Dimensional Regulations. An exemption from both the side and front setback increases has been included for any residential development which chooses to enclose or screen 650 square feet or less of the ground floor of the home. Limited ground floor development decreases the visual magnitude of the structure and also reduces potential flood impacts. 650 square feet allows for a 25-foot by 25-foot, oversized, garage plus 25 square feet for an elevator. This is more storage space than an average house has in the garage.

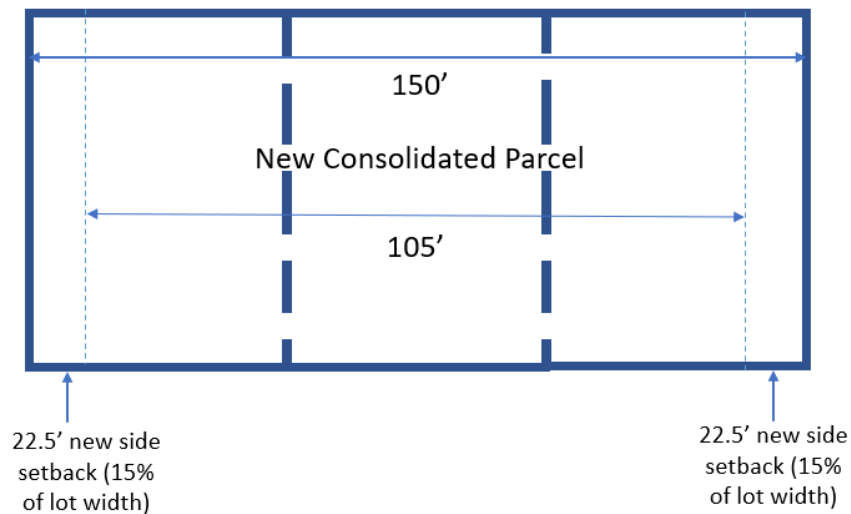


EXAMPLE 1: Three, 50-foot wide, lots the setback would be 15% of the entire lot width 22.5 feet.

Three separate lots with required setbacks



Three lots combined into a single parcel



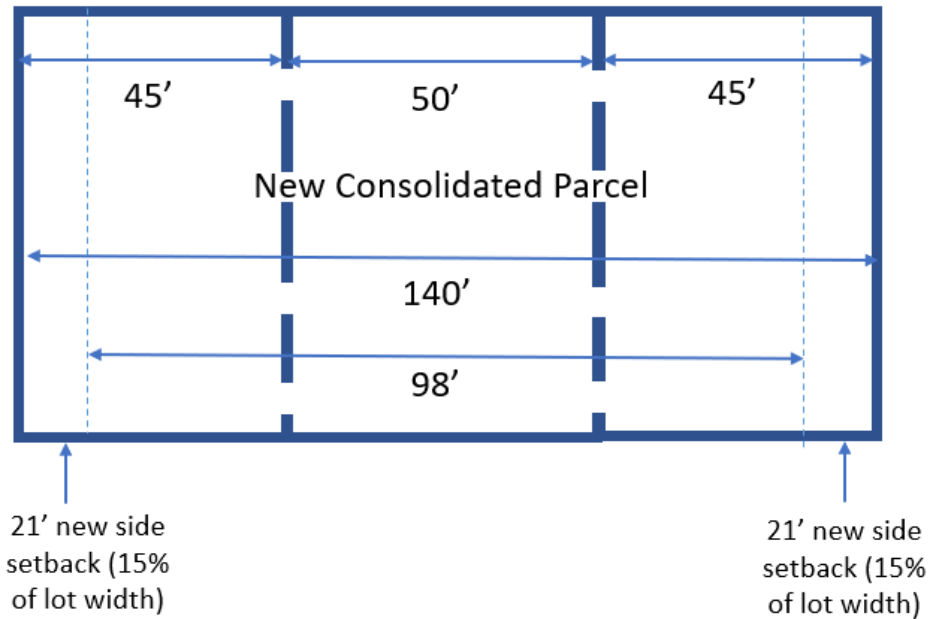
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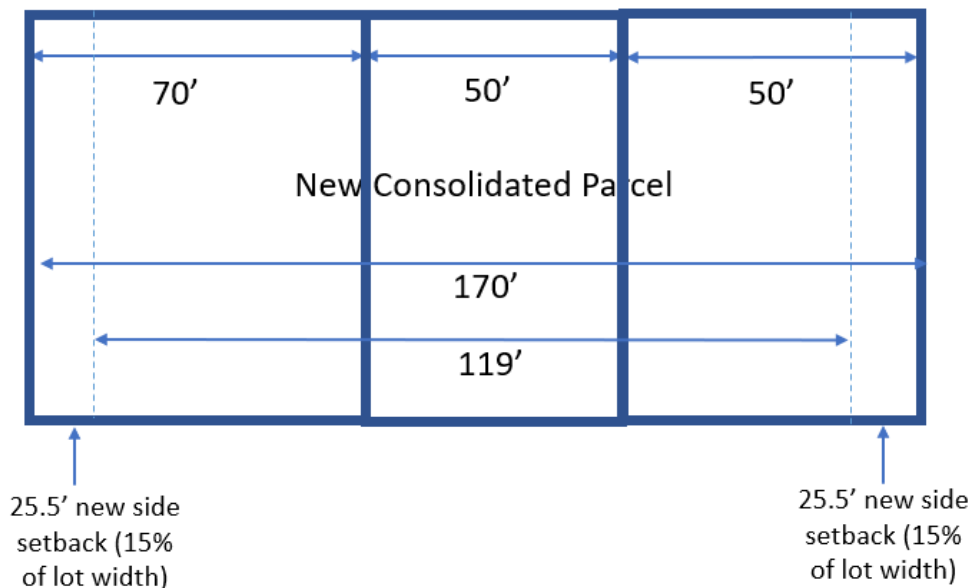


Example 2: Shows how two consolidated lots of different sizes would have setbacks based on the consolidated property width using the percentage option.

Three lots combined
into a single parcel



Three lots combined into
a single parcel



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**Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT**

To: Local Planning Agency
From: Sarah Propst, Community Development
Date: November 17, 2021
Re: Front Setbacks for Residential Structures over 65 Feet in Width

BACKGROUND

When multiple lots are combined, large residential structures that may not be compatible with the neighborhood. Inappropriate massing for a residential street can result in a negative visual impact, even if the home is quite nice. The comprehensive plan places high value on infill compatibility and renovation mixing gracefully with the existing neighborhood. Policy 3-B-1¹ recommends the review of setbacks and lot sizes as well as design guidelines. Staff has been asked to provide options to address the issue of houses that could be visually overwhelming to a neighborhood.

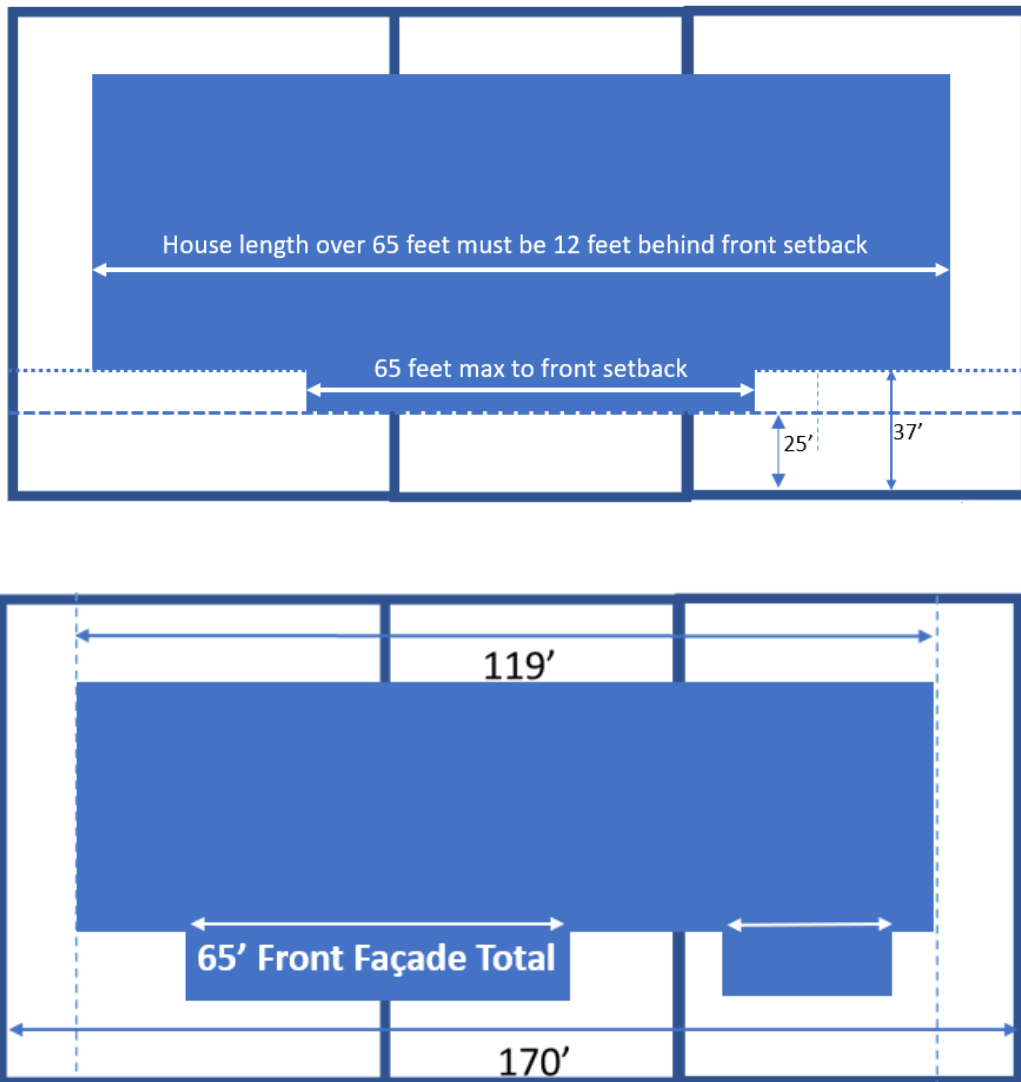
PROPOSED SOLUTION

A discussion regarding massing and front setbacks for large lots was held at the October 20th LPA meeting and at the November 1st joint session between the LPA and Council. Based on feedback at both of those meetings, staff is recommending the adoption of language to implement a limitation on frontage length of a residence at the front setback line and an additional setback for frontage width over that amount as well as massing requirements at the front setback line.

The proposed language allows up to 65 feet of the structure's frontage to be built to the 25-foot street setback. Of those 65 feet of structure at the front setback, no more than 80 percent may be taller than one living story. Any house length over 65 feet would be set back an additional 12 feet. All other criteria such as the allowable coverage, front and rear setbacks and building height would still apply. The resulting house would still be substantially larger than current homes in the majority of neighborhoods but would appear less impactful from the right of way.

¹ Policy 3-B-1 The town shall prepare and adopt land development regulations to apply to the older "near-town neighborhoods" that will encourage renovations and compatible infill development, using the following types of techniques: i. modifying lot size, setback, and parking requirements where the current regulations hinder redevelopment; ii. adding design guidelines to encourage front porches, decks, and other elements from the cottage design tradition to help frame public spaces and define private areas;

Examples: A 170' parcel has a total buildable width of 119' (with 25.5' setbacks on each side, based on 15% side setbacks). The house is designed in such a way that 65 feet of the front of the house can be built to the 25-foot front setback. The remainder of the allowed house width would be allowed 12 feet behind the front setback (37 feet behind the front property line). The front façade would not have to be continuous; it could be divided. The second example shows a non-continuous façade.



CODE MODIFICATION

The proposed strikethrough underline language is provided in Exhibit A. The changes proposed in this memo and the memo "Additional Setbacks on Consolidated Lots," would require changes to two code sections, Sec. 34-638 Minimum Setbacks and Table 34-3 Dimensional Regulations. An exemption from both the side and front setback increases has been included for any residential development which encloses or screens 650 square feet or less and no more than 30 feet in width, as viewed from the right of way, of the ground floor of the home. Limited ground floor development decreases the visual magnitude of the structure and also reduces potential flood impacts.

In addition to these specific changes, staff is also recommending an addition to the section of the code pertaining to porches, balconies and stoops. Currently the code allows porches, balconies and stoops to extend 10 feet into the street setback. The proposed language would limit the length of these structures to 35 feet. This would ensure that a front porch, balcony or stoop, encroaching 10 feet into the street setback, would not extend the entire 65 feet of a house.