



Fort Myers Beach Local Planning Agency

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

Agenda

Tuesday, March 22, 2022

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

- A. Draft February 8, 2022 minutes

V. PUBLIC HEARINGS

- A. DCI 20210115, 2301/2307 Estero Blvd, Amend existing CPD to allow brewing of beer for on-site consumption

Recommend approval with conditions of DCI20210115 to allow brewing of beer for consumption on premises in an existing Commercial Planned Development.

- B. LDC Text Amendment to Sec. 34-638, Table 34-3, and Table 34-1, re Single Family and Two Family Footprint Limit

Recommend approval or denial of proposed Ordinance amending Land Development Code Sec. 34-638, Table 34-1, and 34-3, related to single family and two family building footprint limits.

- C. Ordinance 22 - ____ regarding the licensing of PWVL's / PAL's

Recommend to the Town Council approval of Ordinance 22 - ____ entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 27 "PERSONAL WATERCRAFT AND PARASAILING", SECTION 27-52 "PERSONAL WATERCRAFT VENDOR LICENSE AND PARASAILING ACTIVITY LICENSE APPLICATIONS AND REGULATORY FEES"; SECTION 27-53 "PERSONAL WATERCRAFT VENDOR LICENSE AND PARASAILING ACTIVITY LICENSE RENEWALS" OF THE CODE OF ORDINANCES, TOWN OF FORT MYERS BEACH, FLORIDA, TO PROVIDE A LIMITED EXEMPTION TO THE CAP

ON THE NUMBER OF ANNUAL LICENSES; PROVIDING THAT PERSONAL WATERCRAFT VENDOR LICENSES AND PARASAILING ACTIVITY LICENSE THAT ARE NOT ANNUALLY RENEWED OR ARE INACTIVE FOR ONE-YEAR OR MORE SHALL REVERT BACK TO THE TOWN; PROVIDING FOR CODIFICATION; CONFLICTS; SCRIVENER'S ERRORS; SEVERABILITY AND AN EFFECTIVE DATE.

VI. ADMINISTRATIVE AGENDA

- A. Presentation: Comprehensive Plan Update
Comprehensive Plan Update presentation

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.

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.

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

Yellow Sheet Number: **2022-579**

1. **Requested Motion:**

Draft February 8, 2022 minutes

Meeting Date: March 22, 2022

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

APPROVAL OF MINUTES

3. **Requirement/Purpose:**

5. **Background:**

Attachments:

1. Draft minutes February 8, 2022

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**



Fort Myers Beach Local Planning Agency

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

Minutes

Tuesday, February 8, 2022

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

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

II. INVOCATION

Forrest Critser.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A. Draft minutes January 11, 2022

LPA Member Cereceda moved to approve the minutes; second by LPA Member Plummer.

Motion approved unanimously.

V. PUBLIC HEARINGS

A. Temporary Sales Trailer

Approve/Deny/Approve with Conditions: Request use of Sales Trailer on property during development. The LDC does not currently allow the use of Sales Trailers for temporary use. Notwithstanding the absence of this use from the LDC, the applicant/property owner is seeking approval from the Town Council for the placement of a temporary Sales Trailer for a period of twelve months. Staff has recommended amending the previously approved Residential Planned Development (RPD) to add the location and length of time the Sales Trailer will be located on the property. The property is located within a VE Flood Zone and conditions of approval can ensure proper removal and maintenance during the

limited life of the sales period. **WITHDRAWN BY APPLICANT**

B. SEZ20210129 Extension of COP

Approve/Approve with Conditions/Deny SEZ 20210129 a request to extend the use of the restaurant's COP to allow service to an outside area (830 sq ft) within 500 feet of a dwelling unit.

Town Attorney Herin, Jr. swore in those providing testimony. Ex parte communications: all LPA Members disclosed their familiarity with the restaurant. Paul Joeckel, owner of Charley's Boat House Grill & Wine Bar, stated that they had to modify their parking lot due to widening Estero Blvd., which allowed him to convert their entrance into a patio. He indicated the patio faced Estero and the building blocked the residence within 500 feet. He was not aware of any objections from his neighbors.

Community Development Director Jason Green reviewed the special exception request, existing conditions and staff findings and recommendations. Staff recommended approval with conditions. LPA Member Woodson questioned whether dinner would be served outside. Mr. Joeckel replied that it would be a waiting area and they might serve lunch. LPA Member Safford commented that he did not recall ever hearing noise from the area. Mr. Joeckel agreed to the conditions.

No public comment. LPA Member Cereceda moved to approve the application based on the findings and conclusions in the staff report and recommendations on page 4; second by LPA Member Vanasse.

Motion approved unanimously.

VI. ADMINISTRATIVE AGENDA

No items.

VII. LPA MEMBERS ITEMS/REPORTS

LPA Member Cereceda questioned whether the LPA would have any input into the work being done on the LDC (Land Development Code) and Comprehensive Plan (Comp Plan). Director Green replied that the Comp Plan was being worked on now. LPA Member Cereceda questioned whether they discussed the commercial expansion of rental properties. Director Green replied affirmatively. He indicated that the state preempted a lot of what the town could do but the town could enforce the regulations on the books. Town Attorney Herin, Jr. added that the state recently preempted local government's ability to regulate home businesses unless one belongs to a Homeowners Association or a Condominium Association. LPA Member Plummer questioned whether affordable housing was in the plan. Director Green replied affirmatively. LPA Member Vanasse stated that the Beach School TPO was having a corn hole tournament fundraiser on February 26, 2022, at 11:00 a.m. at Shuckers. The entry fee for teams was \$50.000 and included food and discounted drinks.

LPA Member Woodson noted the Friends of the Arts was hosting a Bruno Mars tribute band on Thursday at 7:00 p.m. at Salty Sam's and the doors opened at 5:00 p.m. Tickets were \$40.00 and \$30.00. On Friday, the Friends of Lovers Key will receive a civic award from the Fort Myers Beach Chamber of Commerce. On Saturday, March 26, 2022, the annual fundraising gala will be held at Lovers Key State Park. Details were on the website and tickets were \$350.00 apiece. LPA Member Critser questioned whether they had a quorum for the Historical Society. Director Green replied affirmatively. No items from other members.

VIII. LPA ATTORNEY ITEMS/REPORTS

No items.

IX. COMMUNITY DEVELOPMENT ITEMS/REPORTS

Director Green requested they move the March meeting to the 21st or 22nd of March. Consensus was reached to move it to the 22nd.

X. ITEMS FOR NEXT MONTHS AGENDA

Director Green indicated that applications were working their way through.

XI. PUBLIC COMMENT

Bob Sperry, resident, commented on the pool variance request for the apartment across the street. Town Attorney Herin, Jr. cautioned that Mr. Sperry's comments could not be the basis for the denial of the request if it came to that. The next hearing for the variance has not been scheduled.

Mr. Sperry indicated they heard about the variance application in November and thought the hearing was today. They were concerned regarding noise from the pool. He stated the view corridor from Dakota would be blocked by a privacy fence and he was concerned for the safety of children in the area. He stated that the location of the bus stop and a big sign had changed and now it stopped right outside their bedroom window. Mrs. Sperry was not given a good reason for the change in location. Chair Heil will find out who they can contact. LPA Member Cereceda stated that she would contact Mr. Sperry when the next hearing was scheduled.

Ms. LaRocca, resident, did not support a pool (microphone cut in and out).

? (pool variance applicant) commented that he also thought the hearing was today. He noted they figured out a parking situation that should be good for everyone. He stated they did not want to disturb the neighbors.

Town Attorney Herin, Jr. indicated that there was a glitch in scheduling and staff would get together with the applicant. He noted that Attorney Sanabria might sit in for him at the March meeting.

XII. ADJOURNMENT

LPA Member Cereceda moved to adjourn; second by LPA Member Critser.

Motion approved unanimously.

The meeting was adjourned at 9:54 a.m.

DRAFT

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

Yellow Sheet Number: **2022-580**

1. Requested Motion:

Meeting Date: March 22, 2022

Recommend approval with conditions of DCI20210115 to allow brewing of beer for consumption on premises in an existing Commercial Planned Development.

Why the action is necessary:

The restaurant has a CPD, the CPD does not include the use of brewing for on-site consumption. In order to allow the brewing activity, the CPD must be amended. The purpose of the review is to insure no additional impacts are created by the use.

What the action accomplishes:

Adoption of the amendment will allow the additional use of brewing for consumption on premises with additional conditions which are included in the staff report.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

The CPD amendment will
require an ordinance.

5. Background:

Tre Gillet, the applicant for 2301 Estero Blvd, Tuckaway Café, is requesting an amendment to the existing CPD (approved by Resolution 12-07), to allow the brewing of craft beer for consumption on premises. The existing approved CPD allows the current restaurant use with eight conditions and 11 deviations. The hours of operation for the restaurant are 6 am to 12 midnight. The hours of operation for the indoor restaurant are 7 am to 12 midnight with the outdoor seating area limited to between the hours of 7 am and 10 pm, seven days a week. The restaurant currently holds a 2COP to allow for the sale of alcohol for consumption on premises. The applicant is requesting an amendment to the existing CPD to allow a small brewing operation in the interior of the existing building. Brewing would be for sale and consumption of alcohol on premises only. The applicant is not requesting any other modification of the existing conditions or deviations found in the current CPD. Additional conditions have been recommended by staff to address the impacts of the brewing use.

The resolution will be converted to an Ordinance for Town Council.

Attachments:

1. Staff Report Tuckaway CPD Amend1
2. Exhibit A - Survey - amended 4-23-18 (002)
3. Exhibit B - Public hearing app
4. Exhibit C - Letter to adjacent property owners

Financial Impact:

None

6. Alternative Action

Recommend denial or modification of proposed conditions.

7. **Staff Recommendations:**

Recommend approval of CPD amendment.

8. **Recommended Approval:**

Daphnie Bercher, Community Services
Administrator

Date: March 11, 2022

Jason Green, Community Development Services

Date: March 15, 2022

John R Herin Jr, Town Attorney

Date: March 17, 2022

Amy Baker, Town Clerk

Date: March 17, 2022



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Commercial Planned Development Amendment

CASE NUMBER: DCI Rezoning, 20210115

CASE NAME: 2301/2307 Estero Blvd, amend the existing Commercial Planned Development to allow brewing of beer for consumption on-site.

LPA

HEARING DATE: March 22, 2022 at 9.00 AM

STAFF

RECOMMENDATION: Approve with conditions

**PREPARED/
SUBMITTED BY:** Sarah Propst, AICP, PMP/ Jason Green AICP, CFM

I. APPLICATION SUMMARY

Applicant/Owner: Tre Gillette

Request: The applicant is requesting an amendment to the existing CPD to allow on-site brewing of beer to serve to patrons.

Subject property: See attached site plan

Physical Address: 2301/2307 & 2311 Estero Blvd, 111 & 121 Mango St

STRAP #: 19-46-24-W3-0110D.0010, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020, 19-46-24-W3-0120E.0030

FLU: Boulevard

Zoning: Commercial Planned Development

Adjacent zoning and land uses:

North:	RESIDENTIAL MULTI-FAMILY (RS) Single-Family Residence
South:	COMMERCIAL RESORT (CR) AND COMMERCIAL BOULEVARD (CB) Commercial
East:	COMMERCIAL PLANNED DEVELOPMENT (CPD) Parking lot
West:	COMMERCIAL BOULEVARD (CB) Commercial

II. BACKGROUND AND ANALYSIS

Background:

Tre Gillet, the applicant for 2301 Estero Blvd, Tuckaway Café, is requesting an amendment to the existing CPD (approved by Resolution 12-07), to allow the brewing of craft beer for consumption on premises. The existing approved CPD allows the current restaurant use with eight conditions and 11 deviations. The hours of operation for the restaurant are 6 am to 12 midnight, with the indoor restaurant use allowed from 7 am to 12 midnight and the outdoor seating area limited to between the hours of 7 am and 10 pm, seven days a week.

The restaurant currently holds a 2COP to allow for the sale of alcohol for consumption on premises. The applicant is requesting an amendment to the existing CPD to allow a small brewing operation interior to the existing building. Brewing would be for sale and consumption of alcohol on premises only. The applicant is not requesting any modification from the existing conditions or deviations found in the current CPD. Additional conditions have been recommended by staff to address impacts of the brewing use.

Analysis:

Tuckaway Café has been on Fort Myers Beach for over 10 years. The property has had a 2COP license to serve beer and wine since 12/13/2017, with no complaint for noise or any other disturbances. The café has passed all state and local inspections. The property is located within a CPD zoning district, which allows the consumption on-premises currently held by the applicant.

The CMBP license is required by the Florida Division of Alcoholic Beverages and Tobacco for manufacturing of malt beverages on vendor premises. The class CMBP permit allows the production and consumption on premises of less than 10,000 kegs annually of malt beverage. This license is issued in connection with a primary consumption on premises vendor license.

The existing conditions and deviations can be found in this staff report under the headings “Conditions of Approval” and “Approved Deviations”. No additional deviations are proposed, the new conditions associated with the request for brewing are underlined.

Neighborhood Compatibility:

In review of the aerial photography of the neighborhood, staff found the property is similar to other properties located along that portion of Estero Blvd. The existing building has received deviations for the site which does not meet all locational requirements. The proposed brewing use for consumption on premises would likely have no negative impact on the surrounding area, as the property already has a consumption on premises permit and has had no complaints.

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 condition which make approval of the request appropriate*

The property with the current use and consumption on premises is existing. Any exterior impacts from brewing are addressed by the proposed conditions.

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

The request is consistent with goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.

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

The request meets performance and location standards if approved

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

The request will have no impact on protection, conservation, or preservation of environmentally critical areas and natural resources

- 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 is no anticipated negative impact or injury to surrounding properties as the business is already in operation and all brewing activities will be indoors.

- 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 Town's Land Development Code.*

The request will be in compliance with the applicable zoning provisions and supplemental regulations.

III. RECOMMENDATION

Staff finds that the amendment to the CPD meets the criteria set forth in Section 34-88 of the LDC.

Therefore, staff recommends that the LPA recommend **APPROVAL WITH CONDITIONS** for DCI20210115, to allow brewing of beer for consumption on premises.

IV. CONDITIONS OF APPROVAL

1. If the principal building on the subject property (2301 parcel) is removed or replaced for any reason, deviations 3, 4, 5, 6, and 7 will become null and void. Any new buildings replaced on the subject property must comply with required setbacks and any other regulations in effect at the time of permitting.
2. Any changes or fracturing of ownership of the four parcels within the subject property will require, at a minimum, an administrative amendment to the Master Concept Plan to reflect the change in ownership, which will include recorded unified control documentation.
3. The parking lot must be stabilized in accordance with the provisions in Section 34- 2017 (b){4}.
4. A local development order is required prior to any expansion of the existing restaurant or any use of the second restaurant bay in accordance with this planned development approval. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order, including payment of additional impact fees.
5. A Traffic Impact Study (TIS) is not warranted and Town Council hereby overrules the Director's decision to require a TIS. The applicant has provided mitigation for traffic impacts by providing the following: additional on-site parking for tenants and customers, landscape buffers, bicycle racks, extension of the sidewalk along Estero Boulevard in front of the property, elimination of the back out parking in front of the existing building, a reduction in the outdoor dining area to 1,000 square feet, and provision of storm water management improvements. The current restaurant use has demonstrated that it is mainly a pedestrian and bicycle-oriented destination and, as a result, the traffic impacts may actually be less than would be expected from a traffic impact study.
6. Bicycle racks shall be provided for a minimum of 8 bicycles.

7. The hours of operation for business use are 6 am to 12 midnight. The hours of operation for indoor restaurant uses are 7 am to 12 midnight with outdoor seating area limited to between the hours of 7 am and 10 pm, seven days a week.
8. No outdoor entertainment is permitted.
9. No amplified music or entertainment is permitted.
10. All brewing activities shall be contained within the building.
11. No outdoor storage shall be allowed including the use of portable storage units, cargo containers and tractor trailers except as follows: spent grain may be placed outdoors for a period not to exceed 24 hours. Spent grain must be stored in fully enclosed containers that are screened from adjacent properties and Estero Blvd.
12. Must comply with guidelines set forth by the Florida Department of Alcoholic Beverages and Tobacco for the CMBP permit.

V. APPROVED DEVIATIONS (deviations were approved by CPD Resolution 12-07)

Deviation #1

Deviation from the requirements of LDC Section 10-416(d)(2) and LDC Table 10-8, which requires a Type C/F buffer where proposed commercial uses abut single family residential uses, to allow for an eight (8) foot high solid stockade fence and 14-15 foot Type C buffers without a wall, as indicated on the MCP and landscape plan.

Deviation #2

Deviation from the requirements of LDC Section 10-416(d)(2) and LDC Table 10-8, which requires a 15 foot Type D buffer between parking areas and right-of-way, to allow for a 5 foot Type D buffer between parking areas and right-of-way.

Deviation #3

Deviation from the requirement of LDC Section 34-704(a), which requires buildings to be constructed between five (5) to ten (10) feet from Estero Boulevard, to allow a front setback of 46 feet to accommodate the existing building.

Deviation #4

Deviation from the requirements of LDC Section 34-707(b)(1)a, which requires a minimum 10-foot street setback to allow for a 2.39 foot street setback from Fairweather Lane to accommodate the existing building.

Deviation #5

Deviation from the requirement of LDC Section 34-704(b)(1)b, which requires a minimum 20-foot rear setback, to allow for a two-foot rear setback to accommodate the existing building.

Deviation #6

Deviation from the requirement of LDC Section 34-995(a)(3), which prohibits a principal façade facing a primary street from having blank walls greater than 10 feet in length, to allow for one (1) section of the principal façade to be 16 feet in length.

Deviation #7

Deviation from the requirements of LDC Section 34-995(d), which requires corner buildings to be located no more than 20 feet from the intersection of right-of-way lines, to allow the existing corner building to be located a distance of 48.5 feet from the intersection of Estero Boulevard and Fairweather Lane.

Deviation #8

Deviation from LDC Section 34-2020(d)(2)h, which requires 8 parking spaces per 1,000 square feet of total floor area, including any outdoor seating area (for a total of 47 required parking spaces) to allow for a 30% reduction from the LDC requirement for a total of 34 provided spaces.

Deviation #9

Deviation from LDC Section 34-2017, which requires high turnover parking lots to have a paved surface, to allow for a crushed shell or limerock surface.

Deviation #10

Deviation from LDC Section 34-285 and Table 10-1, which requires 125 feet of connection separation along local roads, to allow for 96± feet of connection separation along Mango Street.

Deviation #11

Deviation from LDC Section 10-289(d) which requires an 8-foot-wide sidewalk along the property's Estero Boulevard frontage, to allow for a 5 foot wide sidewalk.

Staff Report Exhibits:

A – Site Plan

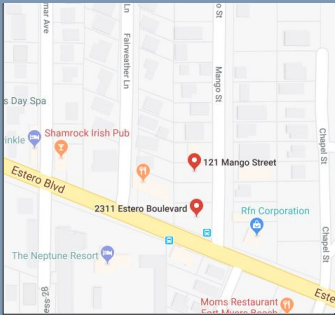
B – Complete Application

C – Letter to Adjacent Property Owners

PREPARED BY:



www.exactaland.com
Toll Free 866-735-1916 • F 866-744-2882



PROPERTY ADDRESS: 2301/2307 ESTERO BOULEVARD AND 2311 ESTERO BOULEVARD AND 111 AND 121 MANGO STREE, FORT MYERS BEACH, FLORIDA 33931

SURVEY NUMBER: 1804.0347

FIELD WORK DATE: 4/18/2018 REVISION DATE(S): (REV.2 4/20/2018) (REV.1 4/20/2018)

18040347
BOUNDARY SURVEY
LEE COUNTY

SURVEYOR'S NOTES:
LOT APPEARS TO BE SERVICED BY CITY WATER AND SEWER
FENCE OWNERSHIP NOT DETERMINED

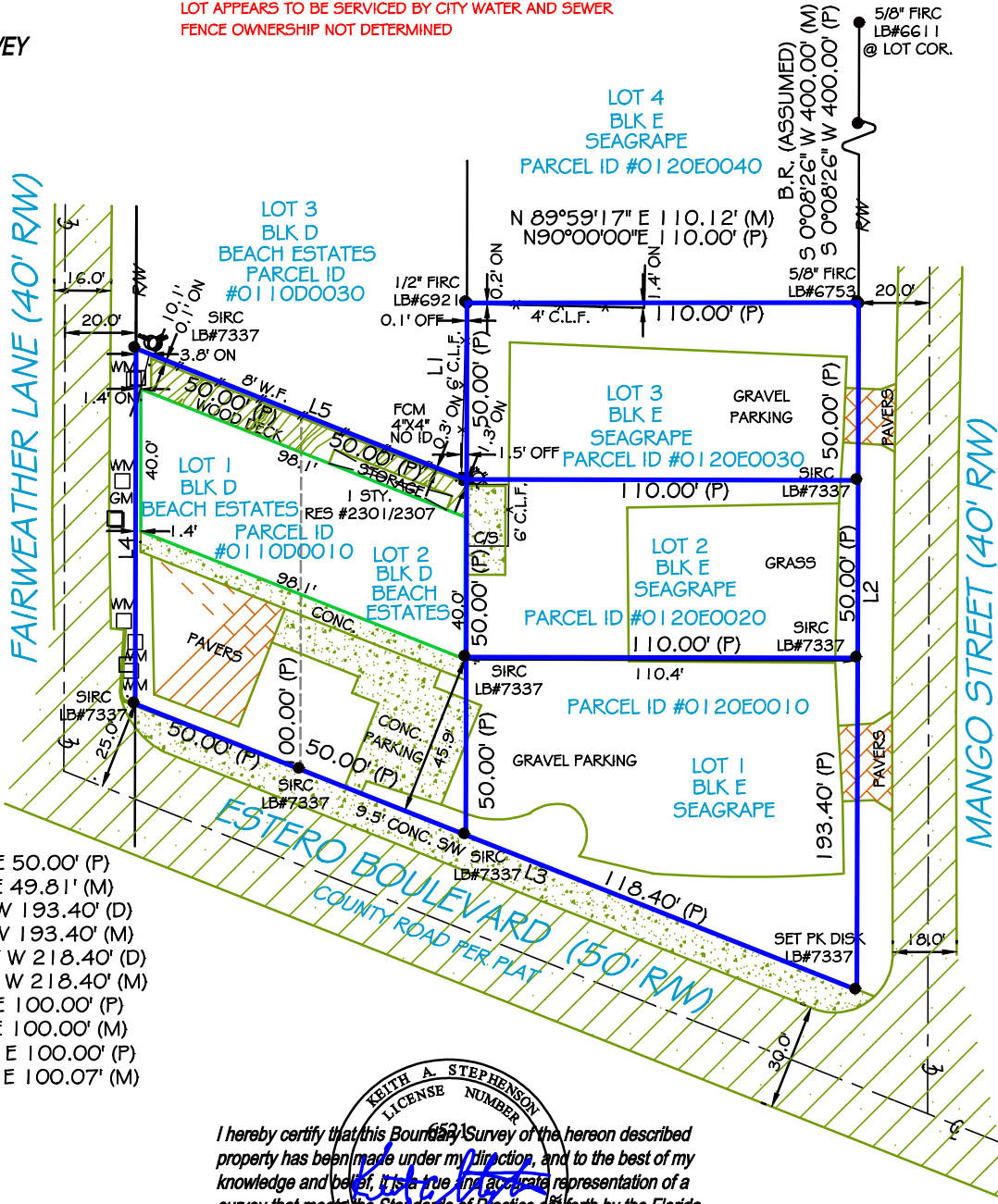


TABLE:

L1	N 0°08'26" E 50.00' (P)
	N 0°09'03" E 49.81' (M)
L2	S 00°00'00" W 193.40' (D)
	S 0°08'26" W 193.40' (M)
L3	N 68°30'00" W 218.40' (D)
	N 68°21'34" W 218.40' (M)
L4	N 00°00'00" E 100.00' (P)
	N 0°08'26" E 100.00' (M)
L5	S 68°30'00" E 100.00' (P)
	S 68°18'45" E 100.07' (M)

I hereby certify that this Boundary Survey of the hereon described property has been made under my direction, and to the best of my knowledge and belief, it is a true and accurate representation of a survey that meets the Standards of Practice set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17 of the Florida Administrative Code.

KEITH A. STEPHENSON

State of Florida Professional Surveyor and Mapper
License No. 6521



GRAPHIC SCALE (In Feet)
1 inch = 50' ft.

Use of This Survey for Purposes other than Intended, Without Written Verification, will be at the User's Sole Risk and Without Liability to the Surveyor.
Nothing hereon shall be Construed to Give ANY Rights or Benefits to Anyone Other than those Certified.

FLOOD INFORMATION:

BY PERFORMING A SEARCH WITH THE LOCAL GOVERNING MUNICIPALITY OR WWW.FEMA.GOV, THE PROPERTY APPEARS TO BE LOCATED IN ZONE AE (WITH A BASE FLOOD ELEVATION OF 13). THIS PROPERTY WAS FOUND IN THE TOWN OF FORT MYERS BEACH, COMMUNITY NUMBER 120673, DATED 08/28/08.

POINTS OF INTEREST
NONE VISIBLE

CLIENT NUMBER: 18-0004

DATE: 04/20/18

BUYER: CJT Properties, LLC, a Florida limited liability company

SELLER:

CERTIFIED TO: CJT PROPERTIES, LLC, A FLORIDA LIMITED LIABILITY COMPANY; JOHN M. WICKER, P.A.; D/B/A COSTELLO & WICKER, P.A.; DIVITO, HIGHAM & VASTI, P.A.; OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY; BUSEY BANK; SUNSHINE STATE ECONOMIC DEVELOPMENT CORPORATION; U.S. SMALL BUSINESS ADMINISTRATION; ITS SUCCESSORS AND/OR ASSIGNS; AS THEIR INTERESTS MAY APPEAR



AFFILIATE
MEMBERS

EXACTA LAND SURVEYORS, INC.

11940 Fairway Lakes Drive, Suite 1, Ft. Myers, FL 33913
LB# 7337 | P: 866.735.1916 | F: 866.744.2882

Please Remit Payment To: 2132 E9th St | Suite 310, Cleveland, OH 44115

This is page 1 of 2 and is not valid without all pages.

LEGAL DESCRIPTION:

LOTS 1 AND 2, BLOCK D, BEACH ESTATES, ACCORDING TO THE MAP OR PLAT THEREOF, ON FILE AND RECORDED IN PLAT BOOK 6, PAGE 68, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

AND

LOTS 1, 2, AND 3, BLOCK E, OF THAT CERTAIN SUBDIVISION KNOWN AS SEAGRAPE, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN OFFICE OF THE CLERK OF THE CIRCUIT COURT IN PLAT BOOK 4, PAGE 17, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

JOB SPECIFIC SURVEYOR NOTES:

THE ASSUMED BEARING REFERENCE OF NORTH 0 DEGREES 08 MINUTES 26 SECONDS EAST IS BASED ON THE EASTERLY RIGHT-OF-WAY LINE OF LOT 1, 2 & 3, BLOCK E, LOCATED WITHIN SEAGRAPE ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN OFFICE OF THE CLERK OF THE CIRCUIT COURT IN PLAT BOOK 4, PAGE 17, PUBLIC RECORDS OF LEE COUNTY, FLORIDA

GENERAL SURVEYOR NOTES:

1. The Legal Description used to perform this survey was supplied by others. This survey does not determine or imply ownership.
2. This survey only shows improvements found above ground. Underground footings, utilities and encroachments are not located on this survey map.
3. If there is a septic tank, or drain field shown on this survey, the location is approximate as the location was either shown to Exacta by a third party or it was estimated by metal detection, probing rods, and visual above ground inspection only. No excavation was performed in order to determine the exact and accurate location.
4. This survey is exclusively for the use of the parties to whom it is certified.
5. Additions or deletions to this survey map and report by other than the signing party or parties is prohibited without written consent of the signing party or parties.
6. Dimensions are in feet and decimals thereof.
7. Due to varying construction standards, house dimensions are approximate.
8. Any FEMA flood zone data contained on this survey is for informational purposes only. Research to obtain such data was performed at www.fema.gov.
9. All corners marked as set are at a minimum a 1/2" diameter, 18" iron rebar with a cap stamped LB#7337.
10. If you are reading this survey in an electronic format, the information contained on this document is only valid if this document is electronically signed as specified in Chapter 5J-17.062 (3) of the Florida Administrative Code and Florida Statute 472.025. The Electronic Signature File related to this document is prominently displayed on the invoice for this survey which is sent under separate cover. Manually signed and sealed logs of all survey signature files are kept in the office of the performing surveyor. If this document is in paper format, it is not valid without the signature and original raised seal of a Florida Licensed Surveyor.
11. Unless otherwise noted, an examination of the abstract of title was NOT performed by the signing surveyor to determine which instruments, if any, are affecting this property.
12. The symbols reflected in the legend and on this survey may have been enlarged or reduced for clarity. The symbols have been plotted at the center of the field location, and may not represent the actual shape or size of the feature.
13. Points of Interest (POI's) are selected above-ground improvements which may be in conflict with boundary, building setback or easement lines, as defined by the parameters of this survey. There may be additional POI's which are not shown, not called-out as POI's, or which are otherwise unknown to the surveyor. These POI's may not represent all items of interest to the viewer.
14. Utilities shown on the subject property may or may not indicate the existence of recorded or unrecorded utility easements.
15. The information contained on this survey has been performed exclusively, and is the sole responsibility, of Exacta Surveyors. Additional logo or references to third party firms are for informational purposes only.
16. Pursuant to F.S. 558.0035, an individual employee or agent may not be held individually liable for negligence.
17. House measurements should not be used for new construction or planning. Measurements should be verified prior to such activity.

LEGEND:

LINETYPES: (UNLESS OTHERWISE NOTED)

BOUNDARY LINE	IRON FENCE
STRUCTURE	OVERHEAD LINES
CENTERLINE	WALL OR PARTY WALL
CHAIN-LINK or WIRE FENCE	WOOD FENCE
EASEMENT	VINYL FENCE
EDGE OF WATER	

SURVEYOR'S LEGEND

SURFACE TYPES: (UNLESS OTHERWISE NOTED)

ASPHALT	BRICK or TILE
CONCRETE	COVERED AREA
WATER	WOOD

SYMBOLS: (UNLESS OTHERWISE NOTED)

BENCH MARK	FIRE HYDRANT
CENTERLINE	FIND OR SET MONUMENT
CENTRAL ANGLE or DELTA	GUYWIRE OR ANCHOR
COMMON OWNERSHIP	MANHOLE
CONTROL POINT	TREE
CONCRETE MONUMENT	UTILITY OR LIGHT POLE
CATCH BASIN	WELL
ELEVATION	

(C)	CALCULATED	E.O.W.	EDGE OF WATER
(D)	DEED	ELEV.	ELEVATION
(F)	FIELD	EM	ELECTRIC METER
(M)	MEASURED	ENCL.	ENCLOSURE
(P)	PLAT	ENT.	ENTRANCE
(R)	RECORD	EUB	ELECTRIC UTILITY BOX
(S)	SURVEY	F.F.	FINISHED FLOOR
A.S.B.L.	ACCESSORY SETBACK LINE	F.O.P.	EDGE OF PAVEMENT
A/C	AIR CONDITIONING	F/DH	FOUND DRILL HOLE
B.C.	BLOCK CORNER	FND.	FOUND CONCRETE MONUMENT
B.F.P.	BACKFLOW PREVENTOR	FIP	FOUND IRON PIPE
B.R.	BEARING REFERENCE	FIPC	FOUND IRON PIPE & CAP
B.R.L.	BUILDING RESTRICTION LINE	FIR	FOUND IRON ROD
B/W	BAY/BOX WINDOW	FIRC	FOUND IRON ROD & CAP
BLDG.	BUILDING	FN	FOUND NAIL
BLK.	BLOCK	FN&D	FOUND NAIL AND DISC
BM	BENCHMARK	FND.	FOUND
BSMT.	BASEMENT	FPNK	FOUND PARKER-KALON NAIL
C	CURVE	FPKN&D	FOUND PK NAIL & DISC
C.B.	CONCRETE BLOCK	FRRSKP	FOUND RAILROAD SPIKE
C.L.F.	CHAIN LINK FENCE	GAR.	GARAGE
C.O.	CLEAN OUT	GM	GAS METER
C.V.G.	CONCRETE VALLEY GUTTER	ID.	IDENTIFICATION
C/L	CENTER LINE	ILL.	ILLEGIBLE
C/P	COVERED PORCH	INST.	INSTRUMENT
C/S	CONCRETE SLAB	INT.	INTERSECTION
CATV	CABLE TV RISER	L	LENGTH
CH	CHORD BEARING	LB#	LICENSE # - BUSINESS
CHIM.	CHIMNEY	LS#	LICENSE # - SURVEYOR
CONC.	CONCRETE	M.B.	MAP BOOK
COR.	CORNER	M.E.S.	MITERED END SECTION
CS/W	CONCRETE SIDEWALK	M.F.	METAL FENCE
D.F.	DRAIN FIELD	MES	MITERED END SECTION
D.H.	DRILL HOLE	MH	MANHOLE
D/W	DRIVEWAY	N.R.	NON RADIAL

N.T.S.	NOT TO SCALE
NAV88	NORTH AMERICAN VERTICAL DATUM OF 1988
NGVD29	NATIONAL GEODETIC VERTICAL DATUM OF 1929
O.C.S.	ON CONCRETE SLAB
O.G.	ON GROUND
O.R.B	OFFICIAL RECORD BOOK
O.R.V.	OFFICIAL RECORD VOLUME
O/A	OVERALL
O/S	OFFSET
OFF	OUTSIDE OF SUBJECT PARCEL
OH.	OVERHANG
OHL	OVERHEAD LINES
ON	INSIDE OF SUBJECT PARCEL
P.B.	PLAT BOOK
P.C.	POINT OF CURVATURE
P.C.C.	POINT OF COMPOUND CURVATURE
P.C.P.	PERMANENT CONTROL POINT
P.I.	POINT OF INTERSECTION
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT
P.P.	PINCHED PIPE
P.R.C.	POINT OF REVERSE CURVATURE
P.R.M.	PERMANENT REFERENCE MONUMENT
P.T.	POINT OF TANGENCY
P/E	POOL EQUIPMENT
PG.	PAGE
PLS	PROFESSIONAL LAND SURVEYOR
PLT	PLANTER
PSM	PROFESSIONAL SURVEYOR AND MAPPER
R	RADIUS or RADIAL

R.P.	RADIUS POINT
R/W	RIGHT OF WAY
RES.	RESIDENCE
RGE.	RANGE
S.B.L.	SET BACK LINE
S.C.L.	SURVEY CLOSURE LINE
S.T.L.	SURVEY TIE LINE
S.W.	SEAWALL
S/GD	SET GLUE DISC
S/W	SIDEWALK
SCR.	SCREEN
SEC.	SECTION
SEP.	SEPTIC TANK
SEW.	SEWER
SIRC	SET IRON ROD & CAP
SN&D	SET NAIL & DISC
SQ.FT.	SQUARE FEET
STY.	STORY
SV	SEWER VALVE
T.O.B.	TOP OF BANK
TBM	TEMPORARY BENCHMARK
TEL.	TELEPHONE FACILITIES
TWP.	TOWNSHIP
TX	TRANSFORMER
TYP.	TYPICAL
U.R.	UTILITY RISER
UG	UNDERGROUND
UR	UTILITY RISER
V.F.	VINYL FENCE
W.F.	WOODEN FENCE
W/C	WITNESS CORNER
W/F	WATER FILTER
WM	WATER METER/VALVE BOX
WV	WATER VALVE

A.E.	ACCESS EASEMENT
A.N.E.	ANCHOR EASEMENT
C.M.E.	CANAL MAINTENANCE ESMT.
C.U.E.	COUNTY UTILITY ESMT.
D.E.	DRAINAGE EASEMENT
D.U.E.	DRAINAGE AND UTILITY ESMT.
ESMT.	EASEMENT
IE/E.E.	INGRESS/EGRESS ESMT.
IRR.	IRRIGATION EASEMENT
L.A.E.	LIMITED ACCESS ESMT.
L.B.E.	LANDSCAPE BUFFER ESMT.
L.E.	LANDSCAPE ESMT.
L.M.E.	LAKE OR LANDSCAPE MAINTENANCE EASEMENT
M.E.	MAINTENANCE EASEMENT
P.U.E.	PUBLIC UTILITY EASEMENT
R.O.E.	ROOF OVERHANG ESMT.
S.W.E.	SIDEWALK EASEMENT
S.W.M.E.	STORM WATER MANAGEMENT EASEMENT
T.U.E.	TECHNOLOGICAL UTILITY ESMT.
U.E.	UTILITY EASEMENT

ELECTRONIC SIGNATURE:

In complete accordance with Florida Statute 472.025 and Pursuant to the Electronic Signature Act of 1996 or Florida Statute TITLE XXXIX, Chapter 668, if this document was received electronically via PDF, then it has been lawfully Electronically Signed. Therefore, this survey PDF, if authentic, is completely official and insurable. In order to validate the "Electronic Signature" of PDF surveys sent via www.surveystars.com, you must use a hash calculator. A free hash calculator is available for download at: www.softpedia.com/get/System/File-Management/Hash-Calculator-Kirill.shtml

In order to validate the Electronic Signature of any survey PDF sent via www.surveystars.com:

1. Download the Hash Calculator available at: www.softpedia.com/get/System/File-Management/Hash-Calculator-Kirill.shtml
2. Save the Survey PDF onto your computer from www.surveystars.com or from the email sent from www.surveystars.com.
3. Click the square Browse button in the upper right hand corner of the Hash Calculator to find and select the saved Survey PDF document, and click the COMPUTE button in the lower right hand corner of the Hash Calculator.
4. Compare the 40 digit string of characters in the SHA-1 line to the 40 digit SHA-1 characters for the survey in the job file in www.surveystars.com which is also printed on the invoice for that survey.

5. If the 40 digit string of SHA-1 characters are exactly the same on the invoice (or in the survey file at www.surveystars.com) as they are in the Hash Calculator, then this PDF is authentic. If the 40 digit string of characters does not match exactly, then this PDF has been tampered with and it is not authentic.

PRINTING INSTRUCTIONS:

1. While viewing the survey in Adobe Reader, select the "Print" button under the "File" tab.
2. Select a printer with legal sized paper.
3. Under "Print Range", click select the "All" toggle.
4. Under the "Page Handling" section, select the number of copies that you would like to print.
5. Under the "Page Scaling" selection drop down menu, select "None."
6. Uncheck the "Auto Rotate and Center" checkbox.
7. Check the "Choose Paper size by PDF" checkbox.
8. Click OK to print.

TO PRINT IN BLACK + WHITE:

1. In the main print screen, choose "Properties".
2. Choose "Quality" from the options.
3. Change from "Auto Color" or "Full Color" to "Gray Scale".

OFFER VALID ONLY FOR:

CJT Properties, LLC, a Florida limited liability company

EXACTA

10% OFF

OF FUTURE SURVEYING SERVICES

ON THIS PROPERTY, UP TO \$500.

*Offer valid for fence stakeouts and additions to the existing structures only. Valid only for the buyer as listed on the first page of this survey for up to one year after survey issuance date. Total discount not to exceed \$500.



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: 2301 Estero Blvd, Fort Myers Beach 33931
 STRAP Number: 19-46-24-W3-0110D.0010
 Applicant: Tre and Amy Inc. DBA Truckway Cafe Phone: 239-463-5398
 Contact Name: Tre Gillette Phone: 918-406-6495
 Email: tre.gillette@gmail.com Fax: _____
 Current Zoning District: CB
 Future Land Use Map (FLUM) Category: Boulevard
 FLUM Density Range: _____ Platted Overlay: ☒ YES ☐ NO

ACTION REQUESTED

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

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*: Tre Gillette Phone: 918-406-6495
**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: 435 Donora Blvd
 Email: tre.gillette@gmail.com Fax: _____
 Contact Name: Tre Gillette Phone: 918-406-6495



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: Tre Gillette Phone: 918-406-6495
Address: 435 Donora Blvd. Fort Myers Beach, FL 33931
Email: tre.gillette@gmail.com Fax: _____

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

Name: Amy Gillette Phone: 918-289-3985
Address: 435 Donora Blvd. Fort Myers Beach FL 33931
Email: agillette24@gmail.com Fax: _____

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

PART II - Nature of Request

Requested Action (each request requires a separate application)

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☐ Other. Please Explain: _____

PART III – Waivers

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

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Signature _____

Printed Name _____

STATE OF _____ COUNTY OF _____

The foregoing instrument was certified and subscribed before me by means of _____ physical
presence OR _____ online notarization, this _____ day of _____, 20____, by

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

_____ as identification.

(SEAL)
Notary Public Signature _____

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

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

<u>Tra Gillette 435 Donora Blvd FMB</u>	<u>50%</u>
<u>Amy Gillette 435 Donora Blvd FMB</u>	<u>50%</u>
_____	_____
_____	_____

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, Tre Gillette (name), as manager (title) of CJT Properties 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.

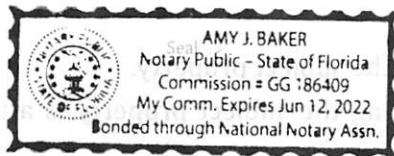


COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

CJT Properties LLC
Name of Entity (corporation, partnership, LLP, LLC, etc)
[Signature]
Signature
Tre Gillette
Typed or Printed Name
Manager
Title
11-17-2021
Date

STATE OF Florida COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 17 day of November, 2021, by [Signature] ☐ who is personally known to me OR ☒ who has produced Florida Driver License as identification.



[Signature]
Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 19-46-24-W3-0110D.0010
Property Address: 2301 Estero Blvd. FMB

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: Beach Estates

Book: 6 Page: 68 Unit: Block: D Lot(s): 1+2

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) 164 Ft. feet
Depth (please provide an average width if irregular in shape) 137 Ft feet
Frontage on street: 168 feet. Frontage on waterbody: NA feet
Total land area: 28700 ☐ acres ☒ square feet

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

Estero Blvd, 0.9 miles to Sky Bridge

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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

Exhibit C – Letter to Adjacent Property Owners



Town of Fort Myers Beach
Community Development Services - Planning Division
2525 Estero Blvd,
Fort Myers Beach, FL 33966

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Town Council of the Town of Fort Myers Beach will hold a public hearing which will take place at Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Florida, 33931.

TIME: 9:00AM

DATE: MARCH 22, 2022

CASE: DCI20210115

ADDRESS: 2301/2307 ESTERO BLVD

APPLICANT: TRE GILLETTE

REQUEST: THE APPLICANT IS REQUESTING AN AMENDMENT TO THE EXISTING CPD TO ALLOW ON-SITE BREWING OF BEER TO SERVE TO PATRONS.

TOWN CONTACT: DAPHNIE BERCHER daphnieb@fmbgov.com

You may appear in person, through counsel, or through an authorized agent and provide testimony, legal argument, or other evidence to become a participant in the hearing. At this hearing the **Local Planning Agency** will review the application materials and make a **recommendation**. If any person should desire to have verbatim record of the proceedings, which record indicates the testimony and evidence presented, that person will have to make arrangements on their own.

Copies of the application and staff report are available for viewing at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30 AM and 4:30 PM. Reasonable accommodations will be made in accordance with the Americans with Disabilities Act. If you need reasonable accommodation, contact Town Hall at 239-765-0202.

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

Yellow Sheet Number: **2022-582**

1. Requested Motion:

Meeting Date: March 22, 2022

Recommend approval or denial of proposed Ordinance amending Land Development Code Sec. 34-638, Table 34-1, and 34-3, related to single family and two family building footprint limits.

Why the action is necessary:

Town Council directed staff to amend the LDC and create language or an approach to address large home square footage.

What the action accomplishes:

The proposed amendment creates limits and new processes to evaluate large homes

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

This will be an ordinance.

5. Background:

Ordinance 22-01 was adopted in February to address large lot setbacks and front setbacks on homes longer than 65 feet. At the first Town Council hearing for the ordinance, on January 10, 2022, the Council requested that staff provide options on size limits for single family and two-family homes. The research revealed that communities handle this issue in a variety of ways, some use a percentage of the lot size, limit the size of the second story or have a set square footage limit. The Council directed staff to amend the LDC to create limits and processes for large homes and square footage. This process had to meet a different notification requirement than the setback amendment completed February 7, 2022.

Attachments:

1. LPA Memo
2. Exhibit A Strikethrough

Financial Impact:

unknown

6. Alternative Action

Recommend alternative language or deny the proposal.

7. Staff Recommendations:

Provide recommendations or support for the proposed ordinance.

8. Recommended Approval:

Date: March 11, 2022

Daphnie Bercher, Community Services
Administrator

Date: March 15, 2022

Jason Green, Community Development Services

Date: March 17, 2022

John R Herin Jr, Town Attorney

Amy Baker, Town Clerk

Date: March 17, 2022



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

To: Fort Myers Beach Local Planning Agency
From: Sarah Propst, Community Development
Date: March 22, 2022
Re: Single Family and Two-Family Footprint Limit

Background

The Town Council adopted a zoning in progress resolution 21-42, to consider amending the LDC relating to consolidation of multiple lots and the development of houses that are of a larger scale than those in the existing neighborhoods. Ordinance 22-01 was adopted in February to address large lot setbacks and front setbacks on homes longer than 65 feet.

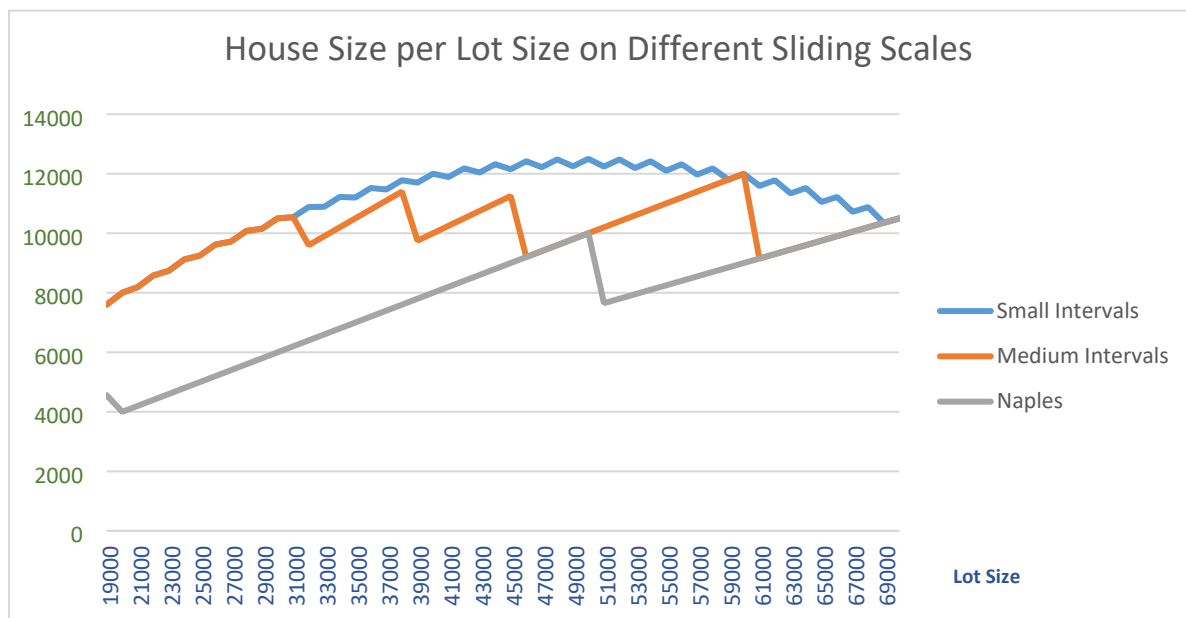
At the first Town Council hearing for the ordinance, on January 10, 2022, the Council requested that staff provide options on size limits for single family and two-family homes. This information was provided to Council at the second hearing. The discussion on limiting the footprint of a house is new information and indirectly related to the original zoning in progress. Staff is presenting this item for discussion to the LPA.

Proposed Solution

Through a review of land development codes throughout the country, staff found the following: Palo Alto, California has a limit of 6,000 square feet for single family residential homes. Santa Monica, California limits lot coverage of a two-story house to 35% for the first story and 20 percent for the second story. Atherton, California limits a dwelling to 18% of the lot for lots over one acre. Gunnison County, Colorado limits the size of residential structures that can be reviewed without a public hearing to 5,000 square feet, with outbuildings up to 2,000 square feet for a total of 7,000 square feet of floor area. Naples has a sliding scale for building area based on the size of the lot in certain districts, however staff had concerns with the scale because depending on the lot size, a smaller lots could be allowed more square footage than a larger lot. See the graph on the following page which shows how several scale options affect building size.



The table below, *House Size per Lot Size on Different Sliding Scales*, shows several sliding scale options and how they affect structure size. Staff is concerned that all of the options would allow homes that are well out of scale with the existing neighborhoods. Additionally, the scales do not treat all property sizes equally because there is a cutoff size. For example, a 50,000 square foot lot can have a 10,000 square foot home but a 51,000 square foot lot can only have a 7,650 square foot house.



To give perspective to the sizes of these structures and the property, the home that we have often looked at as an example of the larger homes being built on the island is 600 Randy Lane. 600 Randy Lane has a footprint of approximately 10,000 square feet on a .68 acre (approximately 30,000 square foot) parcel.

Staff is proposing an administrative building coverage (footprint) maximum of 7,500 square feet. A footprint of 7,500 square feet would allow a two story home with almost 15,000 square feet of living space. Property owners would have the opportunity to request a larger home through the special exception process but would still be limited to 40% coverage in the RS and RC zoning districts. With the 15% side setbacks and the limit of 65 feet of frontage, a home with approximately 7,500 square feet of building coverage could be built on a lot that is 200 feet by 110 feet.

A provision to limit single family and two-family residential footprints would require revisions to two sections of the LDC. Proposed language is attached as Exhibit A. Section 34-638(d)(7)

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2525 Estero Boulevard, Fort Myers Beach, FL 33931



addresses part of the code change to allow administrative approval for houses with 7,500 square feet of coverage and require approval of a special exception for homes with more than 7,500 square feet of coverage. Table 34-1, Land Uses Assigned to use Groups and Sub-Groups (found in Division 2, after Sec. 34-622) is also revised to address this change.

Attachments

Attachment A -Strikethrough Underline language

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 setbacks and 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.
 - 1. On lots where the side setbacks are not equal on both sides, mechanical equipment may not be placed on the side of the house with the smaller setback unless the smaller setback is 20 feet wide or more.
- (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 width.
 - 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 width in the RS, RC and RM zoning district.*
 - a. Single-family and two-family homes exceeding 65 feet in width, shall have additional street setback requirements.
 - 1. No more than 65 feet of the structure may be constructed between the street setback line (25 feet from right of way property line) and 37 feet from the street 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 portion of the structure between the street setback line (25 feet from right of way property line) and 37 feet from the street property line may be taller than one story above flood elevation. Any portion of the building behind the 37-foot front setback may be built to the maximum buildable height for that zoning district.
 - 3. The 65 feet of building between the 25-foot street setback and 37 feet from the street property line, must be constructed as at least two separate projections. The front façade may not be a continuous wall without setback changes. See Figure 34-2.

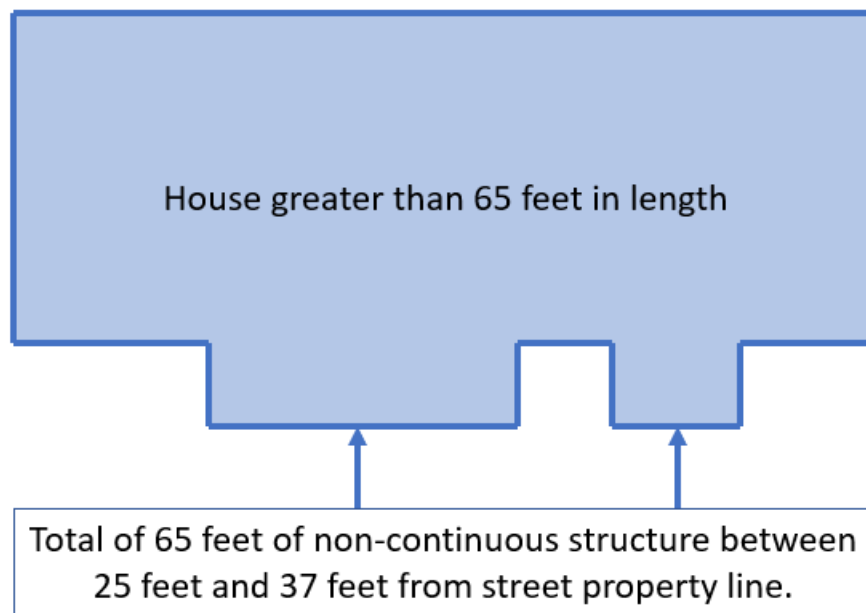


Figure 34-2

- b. *Exemption from additional setbacks for open ground level.* A residential structure greater than 65 feet in width will be exempt from the additional front and side setback requirements found in Sec. 34-638(d)(5), if the ground-level enclosed or screened area is limited to no more than 30 feet in width, as viewed from the ROW. The enclosed area may extend the full depth of the house but limited in width to 30 feet.
- (6) *Side setbacks requirements for single-family and two-family homes in the RS, RC and RM zoning districts.*
 - a. Single-family and two-family homes must provide side setbacks equal to 15% of the lot width, but not less than 7.5 feet, on each side. 4

Exhibit A

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 or a minimum of 7.5 feet, whichever is greater.
 - (i) Mechanical equipment may not be located on the side of the house with a smaller setback unless the smaller setback is 20 feet wide or more.
3. The setback measurement shall be rounded to the nearest half-foot.

(7) Building coverage limits. For single-family and two-family homes.

- a. A single-family or two-family home may not exceed 40% building coverage (the horizontal area of the principal and accessory buildings divided by the site's lot area) in the RS and RC zoning district.
- b. Single-family or two-family homes up to 7,500 square feet of building coverage (the horizontal area of the principal and accessory structures) may be approved administratively.
- c. A single-family or two-family home exceeding 7,500 square feet of building coverage may be approved through the special exception process.

([Ord. No. 20-08](#), § 2, 4-6-2020)

Secs. 34-653—34-660. - Reserved.

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/ Max Square Feet (11)		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 and 34-638(d)(7)	Density § 34- 632	Height (see § 34- 631)	
<i>RS Residential Single-family</i>	25 (9)	15% of lot width (8) (10)	15% of lot width (8) (10)	20	25	50	7,500	75	100	-	40% <u>/ 7,500</u>	(3), (4)	30	3
<i>RC Residential Conservation</i>	25 (9)	15% of lot width, (10)	15% of lot width (10)	20	25	50	4,000	45	80	-	40% <u>/ 7,500</u>	(3), (4), (5)	30	3
<i>RM Residential Multifamily</i>	25 (9)	20 (6) (10)	20 (6)	20	25	50	7,500	75	100	1.2	<u>- / 7,500</u>	(3), (4), (5)	35	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

Exhibit A

<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
<i>Note (1): An additional wetland buffer is required for new development; see § 34-638(c).</i> <i>Note (2): See § 34-638(d)(3)a.</i> <i>Note (3): Maximum densities are established by the Fort Myers Beach Comprehensive Plan; see § 34-632.</i> <i>Note (4): Accessory apartments are allowed in owner-occupied homes under certain conditions; see §34-1178.</i> <i>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.</i> <i>Note (6): Single-family and two-family homes in the RM zoning district must maintain a side setback of 15% of the lot width, but not less than a 7.5-foot side setback.</i> <i>Note (7): See § 34-652(e)(3).</i> <i>Note (8): For all RS lots fronting on Matanzas Street and Matanzas Court, all side setbacks shall be at least 10 feet.</i> <i>Note (9): Maximum 65 feet of house may be built to the 25-foot front setback. Any house frontage exceeding 65 feet in length shall be built 37 feet from the front property line. See §34-638(d)(5)a.</i> <i>Note (10): Each side setbacks shall be 15% of the lot width, but not less than 7.5 feet.</i>														

Note (11): Single family and two family houses exceeding 7,500 square feet of building coverage can seek approval through the special exception process.

Secs. 34-623—34-630. - Reserved.

Table 34-1, Land Uses Assigned to Use Groups and Sub-Groups (p. 1 of 2)

	<i>Residential</i>	<i>Lodging</i>	<i>Office</i>	
<i>Restricted (R)</i>	Community residential home P Dwelling unit, single-family <u>7,500 square feet building coverage or less (3)</u> P Home care facility P <u>Dwelling unit, single-family, greater than 7,500 square feet building coverage (3)</u> SE	Rental of any permitted P dwelling unit to a single family during any one-month period, with a minimum stay of one week (see §§ 34-2391—2410 for rules and exceptions)		<i>Restricted (R)</i>
	AS ACCESSORY USES:	AS ACCESSORY USES:	AS ACCESSORY USES:	
	Accessory apartment (1) SE (see § 34-1177)		Home occupation P (no outside help)	
	Accessory apartment EO (see § 34-1178)		Home occupation A (with outside help)	
	Residential accessory uses P			

Exhibit A

	Temporary mobile home TP (§ 34-3046)			
Limited (plus R uses) (L)	Dwelling unit: two-family <u>7500 square feet building coverage or less (3) (1)</u> P two-family <u>7500 square feet building coverage or less (3) (1)</u> live/work (see § 34-1773) SE Mobile home or RV park EO (VILLAGE district only, as restricted in § 34-694)	Rental of any permitted P dwelling unit to a single family for periods of one week or longer (see §§ 34-2391—2410 for rules) Bed-and-breakfast inn SE (see § 34-1801)		Limited (plus R uses) (L)
	AS ACCESSORY USES:	AS ACCESSORY USES:	AS ACCESSORY USES:	
	Accessory apartment (1) P (see § 34-1177)	On-premises consumption of AA/ alcoholic beverages (see SE division 5 of article IV)	Administrative office P	
Open (plus R & L uses) (O)	Assisted living facility P (see § 34-1411) Dwelling unit: multiple-family P live/work (see § 34-1773) P Rooming house P Timeshare units P (provided these units	Bed-and-breakfast inn P (see § 34-1801) Hotel/motel (see § 34-1801) P Rental of any permitted P dwelling unit for	Automobile rental SE Health care facility P Offices, general or medical P Personal services P Wholesale establishment SE	Open (plus R & L uses) (O)

Exhibit A

	qualify as dwelling units and meet residential density levels in § 34-632)	periods of one day or longer Resorts P Timeshare units P		
	AS ACCESSORY USES:	AS ACCESSORY USES:	AS ACCESSORY USES:	
	Golf course EO Recreation facility: private on-site P private off-site SE Rental of Beach Furniture P when accessory to a multi-family residential building located adjacent to the Gulf of Mexico containing more than fifty dwelling units Subordinate commercial uses P (see § 34-3021)	Resort accessory uses P Personal services P Subordinate commercial uses P (see § 34-3021)	Commercial accessory uses P Drive-through Type 1 (2) P Subordinate commercial uses P (see § 34-3021)	
(1) Provided density complies with the Fort Myers Beach Comprehensive Plan (see § 34-632). (2) Automobile fuel pumps and all drive-throughs (whether Type 1 or Type 2) cannot be constructed within the outer perimeter of the DOWNTOWN zoning district except as provided in § 34-676(f), whether the subject property is classified in the DOWNTOWN zone or in a Commercial Planned Development zone. See also § 34-620(g)(l) regarding the prohibition on restaurant drive-throughs. (3) <u>Single family or two-family homes exceeding 7,500 square feet of building coverage must be approved through a special exception. See Sec. 34-638(d)(7) for building coverage limitation.</u>				

ORDINANCE NO. 22-

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 27 “PERSONAL WATERCRAFT AND PARASAILING”, SECTION 27-52 “PERSONAL WATERCRAFT VENDOR LICENSE AND PARASAILING ACTIVITY LICENSE APPLICATIONS AND REGULATORY FEES”; SECTION 27-53 “PERSONAL WATERCRAFT VENDOR LICENSE AND PARASAILING ACTIVITY LICENSE RENEWALS” OF THE CODE OF ORDINANCES, TOWN OF FORT MYERS BEACH, FLORIDA, TO PROVIDE A LIMITED EXEMPTION TO THE CAP ON THE NUMBER OF ANNUAL LICENSES; PROVIDING THAT PERSONAL WATERCRAFT VENDOR LICENSES AND PARASAILING ACTIVITY LICENSE THAT ARE NOT ANNUALLY RENEWED OR ARE INACTIVE FOR ONE-YEAR OR MORE SHALL REVERT BACK TO THE TOWN; PROVIDING FOR CODIFICATION; CONFLICTS; SCRIVENER’S ERRORS; SEVERABILITY AND AN EFFECTIVE DATE.

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

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

WHEREAS, the Town finds that regulating personal watercraft and parasailing activities within the Town’s jurisdiction through the licensing of personal watercraft and parasailing vendors is in the best interests of the health, safety, and welfare of the Town’s residents and visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:¹

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

Section 2. Article IV, of Chapter 27 of the Code of Ordinance, Town of Fort Myers Beach is hereby amended to read as follows:

ARTICLE IV. - ADDITIONAL RULES AND PROCEDURES APPLYING TO BOTH PERSONAL WATERCRAFT AND PARASAILING

^{1/} Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as strikethrough.

Sec. 27-45. - Definitions.

For the purposes of this chapter, the following terms, phrases, words, and derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

Beach means that area of sand along the Gulf of Mexico that extends landward from the mean low-water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves.

Business shall mean any personal watercraft rental or parasailing activity business, including any commercial activity engaged in the rental, leasing, or bailment for consideration of personal watercraft or parasailing.

Eco-tour shall mean an educational tour led by a guide knowledgeable in environmental and ecological preservation, where the guide can communicate with the tour members and offer commentary about the ecological, environmental, and archaeological significance of Estero Bay.

Edge of wet sand means the point where the visible darkening or staining of the beach sand from wave action is no longer detectable.

FWCC means the Florida Fish and Wildlife Conservation Commission or its successor.

Littoral waters mean that part of the ocean or sea which abuts the shoreline and includes the shore to the ordinary high-water mark. For purposes of this chapter, the littoral right to use such waters shall be limited to the waters within the boundaries of the land-based site as those boundaries extend into the water at right angles from the shoreline.

Operate means to navigate or otherwise use any vessel in, on, or under the water.

PAL shall mean parasailing activity license.

Parasailing or parasailing activity shall mean the act of towing a person or object over the water, suspended beneath a parachute, kite, or other similar contrivance.

Person means any individual, partnership, firm, corporation, association, or other entity.

Personal watercraft means a vessel less than 16 feet in length which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

PWVL shall mean personal watercraft vendor's license.

Town manager shall include the designee(s) of the Town Manager of the Town of Fort Myers Beach.

Site means the plot or parcel of land or combination of contiguous lots or parcels of land.

Slow speed means no speed greater than that which is reasonable and prudent to avoid either intentionally or negligently disturbing, colliding with, or injuring manatees and which comports with the duty of all persons to use due care under the circumstances. A vessel in a slow speed zone that:

- (1) Is operating on a plane is not proceeding at slow speed;
- (2) That is in the process of coming off plane and settling into the water, which action creates more than no or minimum wake, is not proceeding at slow speed;
- (3) That produces no wake or minimum wake is proceeding at slow speed;
- (4) That is completely off plane and which has settled into the water and is proceeding without wake or with minimum wake is proceeding at slow speed. "Slow speed" means any through-the-water speed slow enough that the boat is neither planing nor moving with an elevated bow. A vessel that is operating at slow speed shall not be emitting a wake.

Steerage way means the minimum rate of motion required for the helm of the vessel to have effect.

Vessel means a motor propelled or artificially propelled vehicle and every other description of boat, watercraft, barge, and air boat other than a seaplane on the water, used or capable of being used as a means of transportation on water including personal watercraft. This term shall not include rafts, floats, or floatation devices, whether of canvas, vinyl, rubber, Styrofoam, or other substance, intended or capable of assisting in the floatation of a person on or in the water.

Wet sand means the area on the beach where the sand is saturated by sea water from wave action. This area is identified by a visible darkening or staining of the beach sand from the water driven onshore by wave action.

Sec. 27-52. - PWVL and PAL applications; regulatory fees.

- (a) Application for a PWVL or PAL license shall be made to the town manager on a form provided by the town.
- (b) Information to be provided by the applicant shall include, at a minimum:
 - (1) Business location:
 - a. The STRAP number and street address from which the personal watercraft or parasailing activity business will operate;
 - b. If the applicant is not the owner of the property from which the business will be operated, the applicant shall submit a notarized letter of authorization from the owner of the property to the applicant.
 - (2) Ownership information:
 - a. Business owner's name, home address, local address, telephone number;
 - b. Manager's name, home address, local address, telephone number;

- c. Mailing address at which notice of any town information pertinent to any personal watercraft rental or parasailing activity business shall be considered received and binding upon the applicant or PWVL or PAL holder, on the fifth day after first-class mail is posted to said address;
 - d. State sales tax number.
- (3) Business equipment information:
 - a. The number of, and a description of, the vessels to be used by the business, including model, year, manufacturer, color, and Florida vessel registration number(s).
 - b. For PWVL applications only, a description of the chase vessel(s) to be kept at the place of business as well as the Florida vessel registration number(s).
- (4) Proof of insurance: Proof of required insurance.
- (5) Fire report:
 - a. For PWVL applications: Prior to annual license renewal, the fire marshal will submit evidence of a fire safety inspection to the town.
 - b. For PAL applications: Proof of compliance with fire regulations.
- (6) CPR certification: For PWVL applications only, proof of CPR certification of sufficient persons so that there will be one in attendance at all times of operation.
- (7) Annual fee: Pays an annual fee of:
 - a. Sixty dollars for town administrative processing costs; and

- b. Thirty dollars for the right to offer for business, as herein provided, the rental of personal watercraft or the right to operate a parasailing activity business; and
 - c. Eighty dollars for town enforcement costs.
 - d. The fees listed above (Sec. 27-52 (7) (a-c) may be amended from time to time by a resolution of Town Council.
- (c) Misrepresentation. Applicants who misrepresent information provided under this section shall not be issued a PWVL or PAL, or if issued, may suffer suspension or revocation of the PWVL or PAL.
- (d) Cap on number of licenses. PWVLs and PALs shall be issued on an annual basis coinciding with the town's fiscal year, October 1 through September 30.
 - (1) The town manager may issue no more than 11 PWVL licenses outstanding at any point of time; except that a holder of an unexpired CPD development order listing personal watercraft activity as a permitted use is exempt from the cap on PWVLs.
 - (2) The town manager may issue no more than seven PAL licenses outstanding at any point of time; except that a holder of an unexpired CPD development order listing parasailing activity as a permitted use is exempt from the cap on PALs.
 - (3) See § 27-55 of this chapter for regulations on transfers of existing PWVLs and PALs.

Sec. 27-53. - PWVL and PAL renewals.

- (a) Except as provided in this chapter, upon application the town manager may renew the PWVL or PAL of any applicant who:

- (1) Held a valid PWVL or PAL and operated the personal watercraft rental or parasailing activity business during the previous year. The following evidence of such operation shall be accepted if provided separately for the specific business location or the specific license (PWVL or PAL) for which the renewal is requested:
 - a. Copy of a valid application to collect and/or report tax in Florida (DR-1) for the previous year; and
 - b. Evidence that tax payments have been made at least quarterly during the previous year in accordance with that specific application.
- (2) Has provided the town with new or updated information, documents and fees listed in this chapter and continues to meet the other regulations set forth in this code; and
- (3) Pays a late processing fee of \$25.00 for any renewal application filed after October 1.
- (4) The fee listed above (Sec. 27-53 (a) (3) may be amended from time to time by a resolution of Town Council.

(b) Upon application, the town manager may renew any PWVL or PAL suspended under this chapter, but any remaining term of suspension shall be applied to the renewed license, and during said term the PWVL or PAL confers no rights to offer the rental of any personal watercraft or to operate any parasailing activity.

(c) Any PWVL or PAL not renewed by October 15 shall be void and of no further use or effect whatsoever and shall revert to the Town. No business deemed to be a nonconforming use in accordance with the provisions of this chapter or other provisions of this code, which fails to renew its license in a timely manner, shall again be issued a license except in conformity with the regulations then in effect.

(d) The holder of a valid PWVL or PAL ~~license~~ may renew a license as inactive, where no specific land-based site has been identified, ~~each year for up to one (1) year even~~ provided that all other provisions of this chapter have been met and provided that the transferability provisions of § 27-55 are met before the license may be reactivated and any PWVL or PAL activities resume, however during the pendency of the inactivity, no insurance is required. If the holder of a valid PWVL or PAL fails to activate the license after the one (1) year inactive period, the PWVL or PAL shall revert to the Town

(e) All PWVL's or PAL's Licenses which have not been renewed as provided herein of October 15 shall revert back to the Town and shall be available on a first come first serve basis in a manner determined by Town Council.

Section 3. The Town Council intends that the provisions of this ordinance be made a part of the Fort Myers Beach Code of Ordinances, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification.

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

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

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

Section 7. This Ordinance shall become effective upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by _____ and seconded by _____ and upon being put to a roll call vote, the result was as follows:

Raymond P. Murphy, Mayor	_____
Rexann Hosafros, Vice Mayor	_____
Dan Allers, Council Member	_____
Jim Atterholt, Council Member	_____
Bill Veach, Council Member	_____

ADOPTED this _____ day of April 2022, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Raymond P. Murphy, Mayor

ATTEST:

Amy Baker, Town Clerk

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

John R. Herin, Jr., Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this ____ day of April 2022.