

1. Requested Motion:

Meeting Date: May 3, 2010

Adopt Resolution 10-12 to codify Town Council's determination of the special exception requested by Mauhi Enterprises and Waterfront Concepts (Hooters Restaurant).

Why the action is necessary:

The Town Council must decide the property owner's requested zoning action through a public hearing.

What the action accomplishes:

Fulfills Town Council responsibility under Land Development Code Section 34-88(1).

2. Agenda:

- Consent
 Administrative
 Public Hearing: Quasi Judicial

3. Requirement/Purpose:

- Resolution
 Ordinance
 Other

4. Submitter of Information:

- Council
 Town Staff
 Town Attorney

5. Background:

The applicant, Paul Lynch as corporate officer of Mauhi Enterprises and Waterfront Concepts, has requested a special exception, which is a zoning action that must be heard and decided by the Town Council in a quasi-judicial hearing. This requires one hearing, ex parte disclosure, and the swearing-in of all witnesses.

See the attached draft Town Council Resolution, staff report, Local Planning Agency resolution and minutes, and applicant's application for relevant details.

6. Alternative Action:

Continue the hearing or return the matter to the Local Planning Agency for further review.

7. Management Recommendations:

Approve the requested special exception subject to the conditions recommended in the staff report.

8. Recommended Approval:

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Cultural Resources Director	Town Clerk
	AD/SM					

9. Council Action:

- Approved Denied Deferred Other

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 10-12
FMBSEZ 2010-0001 (Fort Myers Beach Hooters Resolution)

WHEREAS applicant Mauhi Enterprises, Inc. and Waterfront Concepts, Inc., by and through Paul Lynch, authorized corporate officer (collectively "applicant") have requested a special exception in the DOWNTOWN zoning district to allow consumption-on-premises of alcoholic beverages, to include beer, wine and liquor, in a restaurant providing an outdoor seating area that is within 500 feet of a dwelling unit under separate ownership; and

WHEREAS the subject property is located at 1600 Estero Boulevard, Fort Myers Beach, FL 33931; and

WHEREAS the applicant has indicated that the STRAP for the subject property is 19-46-24-W4-02300.00CE and the legal description of the subject property is TROPICAL CENTER, a Condominium recorded in Official Record Book 1123, Page 323, Public Records of Lee County, Florida, Lots 2, 3, and 6, Block B, CRESCENT BEACH SUBDIVISION, as recorded in Plat Book 4, Page 45, Public Records of Lee County, Florida; and

WHEREAS a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on March 23, 2010 and recommended approval of applicant's request, for the reasons set forth more fully in LPA Resolution 2010-0001; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on _____, 2010, with the Affidavit of Publication for such advertisement attached hereto as Exhibit A and hereby incorporated by reference; and

WHEREAS at the hearing the Town Council gave full and complete consideration to the request of Applicant, the LPA resolution and other LPA materials, the recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-88.

IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application and the standards for granting special exceptions, the Town Council makes the following findings of fact, conditions for approval, and conclusions:

The Town Council **APPROVES/DENIES** the applicant's request for a special exception to permit consumption on premises of beer, wine and liquor in the DOWNTOWN zoning district, ***with such approval subject to the following conditions (italicized language to be modified based on Council determinations):***

CONDITIONS OF APPROVAL:

1. *The area of the subject establishment used for consumption on premises must be confined entirely to the building areas shown on the floor plan attached hereto and incorporated herein by reference as **Exhibit B**, including the interior of the building, and the two porch areas.*

2. *Music and other audible entertainment are prohibited in outdoor seating areas and must comply at all times with applicable ordinances.*

3. *Sales, service, and consumption of alcoholic beverages must not begin earlier than 7:00 AM and must end no later than 2:00 AM during each day.*

4. *The use must comply at all times with the provisions of LDC Section 34-1264(k), as may be amended from time to time, and must at all times be licensed as a permanent public food service establishment with seating, in accordance with Chapter 509, Florida Statutes, and applicable state agency rules.*

5. *The use must comply at all times with lighting standards, including the regulations for the protection of Sea Turtles provided in LDC chapter 14, article II.*

6. *The special exception approved by Town Council in Resolution 02-04, and the special permit granted by the Lee County Hearing Examiner in case 94-09-29-SP-04, including any and all specific conditions attached thereto, are hereby declared null and void.*

FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-88 regarding consideration of eligibility for a special exception, the Town Council make the following findings and reach the following conclusions:

1. Changed or changing conditions **exist/do not exist** that make the requested approval, as conditioned, appropriate **OR** This consideration is **not applicable** to this request:

The location of the request was approved in 2002 for consumption of alcoholic beverages on the premises, including the same indoor and outdoor seating areas, in conjunction with a restaurant. The Comprehensive Plan and Land Development Code do not distinguish classes of restaurants that (in addition to non-alcoholic beverages and food) serve beer only, beer and wine only, or beer, wine, and liquor. The applicant's request does not implicate a change in use except insofar as the approved use was limited by special conditions attached to a prior special exception approval.

2. The requested special exception, as conditioned, **is/is not** consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan:

*The subject property is in the Pedestrian Commercial FLUM category, near Estero Boulevard and the Lani Kai resort. Comp Plan **Policy 4-B-6**, regarding the Pedestrian Commercial FLUM, states that commercial activities must contribute to the pedestrian-oriented public realm. The beach and streets northward from the Diamondhead and Lani Kai to Lynn Hall Park are heavily traveled by pedestrian beachgoers. The existing restaurant is oriented toward this foot traffic, and also has its own parking areas for patrons arriving by automobile. The outdoor seating areas are located on raised porches separated by railings and elevation from the sidewalks and parking areas.*

3. The requested special exception, as conditioned, **meets or exceeds/fails to meet or exceed** all performance and locational standards set forth for the proposed use.

A restaurant is a use permitted by right in the Downtown zoning district. Because dwelling units under separate ownership are located within 500 feet of the subject property, a special exception is necessary in order to allow an outdoor seating area. Performance and locational standards for the restaurant use, site development, and remodeling to the building, were already addressed through the development order process for prior alterations to the building, and the requested use meets the applicable parking requirements under LDC Chapter 34, Article IV, Division 19. There are no specific performance or locational standards in Town regulations for a restaurant with outdoor seating areas that serves beer, wine, and liquor, that differ from the standards that apply to a restaurant with outdoor seating that serves beer and wine only.

4. The requested special exception, as conditioned, **will/will not** protect, conserve, or preserve environmentally critical areas and natural resources:

Construction of additional structures in environmentally critical areas has not been requested or permitted. As conditioned, the use will be required to comply with current sea turtle protection standards.

5. The requested special exception, as conditioned, **will/will not** be compatible with existing or planned uses and **will/will not** cause damage, hazard, nuisance or other detriment to persons or property:

The existing surrounding uses include dwelling units, a resort hotel, a large multi-family building, a seasonal parking lot, a convenience food and beverage store with fuel pumps, a shopping center, and some small retail stores. Within the Pedestrian Commercial Future Land Use Map category, adjacent dwelling units and vacant lots could potentially be redeveloped with commercial or mixed use buildings in accord with the regulations of the DOWNTOWN zoning district or through planned development rezoning. The recommended conditions clearly restrict the use to specific areas of the floor plan and prohibit its expansion to the grounds of the site or the parking areas.

6. The requested special exception, as conditioned, **will/will not** be in compliance with the applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34:

The existing restaurant use has already been required to comply with parking, lighting, and other similar requirements set forth in LDC Chapter 34. The consumption on premises of alcoholic beverages use, as conditioned, will be required to comply with the applicable standards in LDC Chapter 34, Article IV, Division 5, for consumption on premises in a restaurant regardless of the type or series of state license. The appropriate limitations on an outdoor seating area for consumption on premises that is allowed by special exception are for Town Council to determine through the hearing process, during which process they should find that the conditions are reasonably related to the special exception requested

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

Larry Kiker, Mayor
Tom Babcock

Bob Raymond, Vice Mayor
Jo List

Alan Mandel

DULY PASSED AND ADOPTED THIS ____ DAY OF _____ 2010, BY THE
TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

ATTEST:

By: _____
Larry Kiker, Mayor

By: _____
Michelle D. Mayher, Town Clerk

Approved as to legal sufficiency:

By: _____
Anne Dalton, Esquire, Town Attorney

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2010-02
FMBSEZ2010-0001 (Fort Myers Beach Hooters)

WHEREAS applicant Mauhi Enterprises, Inc. and Waterfront Concepts, Inc., by and through Paul Lynch, authorized corporate officer (collectively "applicant") have requested a special exception in the DOWNTOWN zoning district to allow consumption-on-premises of alcoholic beverages, to include beer, wine and liquor, in a restaurant providing an outdoor seating area that is within 500 feet of a dwelling unit under separate ownership; and

WHEREAS the subject property is located at 1600 Estero Boulevard, Fort Myers Beach, FL 33931; and

WHEREAS the applicant has indicated that the STRAP for the subject property is 19-46-24-W4-02300.00CE and the legal description of the subject property is TROPICAL CENTER, a Condominium recorded in Official Record Book 1123, Page 323, Public Records of Lee County, Florida, Lots 2, 3, and 6, Block B, CRESCENT BEACH SUBDIVISION, as recorded in Plat Book 4, Page 45, Public Records of Lee County, Florida; and

WHEREAS a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on March 23, 2010; and

WHEREAS at the hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-88.

IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application and the standards for granting special exceptions, the LPA recommends the following findings of fact, conditions for approval, and conclusions for consideration by the Town Council:

The LPA recommends that the Town Council **APPROVE** the applicant's request for a special exception to permit consumption on premises of beer, wine and liquor in the DOWNTOWN zoning district, with such approval subject to the following conditions

RECOMMENDED CONDITIONS OF APPROVAL:

1. The area of the subject establishment used for consumption on premises must be confined entirely to the building areas shown on the floor plan attached hereto and incorporated herein by reference as **Exhibit B**, including the interior of the building, and the two porch areas.
2. Music and other audible entertainment are prohibited in outdoor seating areas and must comply at all times with applicable ordinances.
3. Sales, service, and consumption of alcoholic beverages must not begin earlier than 11:00 am and must end no later than 12:00 midnight, Monday through Thursday; must not begin

earlier than 11:00 am and must end no later than 1:00 am on Friday and Saturday; and must begin no earlier than 12:00 noon and end no later than 10:00 pm on Sunday, in accordance with the applicant's request.

4. The use must comply at all times with the provisions of LDC Section 34-1264(k), as may be amended from time to time, and must at all times be licensed as a permanent public food service establishment with seating, in accordance with Chapter 509, Florida Statutes, and applicable state agency rules.

5. The use must comply at all times with lighting standards, including the regulations for the protection of Sea Turtles provided in LDC chapter 14, article II.

6. The special exception approved by Town Council in Resolution 02-04, and the special permit granted by the Lee County Hearing Examiner in case 94-09-29-SP-04, including any and all specific conditions attached thereto, are hereby declared null and void.

RECOMMENDED FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-88 regarding consideration of eligibility for a special exception, the LPA recommends that the Town Council make the following findings and reach the following conclusions:

1. The consideration of changed or changing conditions **is not applicable** to this request:

The location of the request was approved in 2002 for consumption of alcoholic beverages on the premises, including the same indoor and outdoor seating areas, in conjunction with a restaurant. The Comprehensive Plan and Land Development Code do not distinguish classes of restaurants that (in addition to non-alcoholic beverages and food) serve beer only, beer and wine only, or beer, wine, and liquor. The applicant's request does not implicate a change in use except insofar as the approved use was limited by special conditions attached to a prior special exception approval.

2. The requested special exception, as conditioned, **is** consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan:

The subject property is in the Pedestrian Commercial FLUM category, near Estero Boulevard and the Lani Kai resort. Comp Plan Policy 4-B-6, regarding the Pedestrian Commercial FLUM, states that commercial activities must contribute to the pedestrian-oriented public realm. The beach and streets northward from the Diamondhead and Lani Kai to Lynn Hall Park are heavily traveled by pedestrian beachgoers. The existing restaurant is oriented toward this foot traffic, and also has its own parking areas for patrons arriving by automobile. The outdoor seating areas are located on raised porches separated by railings and elevation from the sidewalks and parking areas.

3. The requested special exception, as conditioned, **meets or exceeds** all performance and locational standards set forth for the proposed use.

A restaurant is a use permitted by right in the Downtown zoning district. Because dwelling units under separate ownership are located within 500 feet of the subject property, a special exception is necessary in order to allow an outdoor seating area.

Performance and locational standards for the restaurant use, site development, and remodeling to the building, were already addressed through the development order process for prior alterations to the building, and the requested use meets the applicable parking requirements under LDC Chapter 34, Article IV, Division 19. There are no specific performance or locational standards in Town regulations for a restaurant with outdoor seating areas that serves beer, wine, and liquor, that differ from the standards that apply to a restaurant with outdoor seating that serves beer and wine only.

4. The requested special exception, as conditioned, **will** protect, conserve, or preserve environmentally critical areas and natural resources:

Construction of additional structures in environmentally critical areas has not been requested or permitted. As conditioned, the use will be required to comply with current sea turtle protection standards.

5. The requested special exception, as conditioned, **will** be compatible with existing or planned uses and **will not** cause damage, hazard, nuisance or other detriment to persons or property:

The existing surrounding uses include dwelling units, a resort hotel, a large multi-family building, a seasonal parking lot, a convenience food and beverage store with fuel pumps, a shopping center, and some small retail stores. Within the Pedestrian Commercial Future Land Use Map category, adjacent dwelling units and vacant lots could potentially be redeveloped with commercial or mixed use buildings in accord with the regulations of the DOWNTOWN zoning district or through planned development rezoning. The recommended conditions clearly restrict the use to specific areas of the floor plan and prohibit its expansion to the grounds of the site or the parking areas.

6. The requested special exception, as conditioned, **will** be in compliance with the applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34:

The existing restaurant use has already been required to comply with parking, lighting, and other similar requirements set forth in LDC Chapter 34. The consumption on premises of alcoholic beverages use, as conditioned, will be required to comply with the applicable standards in LDC Chapter 34, Article IV, Division 5, for consumption on premises in a restaurant regardless of the type or series of state license. The appropriate limitations on an outdoor seating area for consumption on premises that is allowed by special exception are for Town Council to determine through the hearing process, during which process they should find that the conditions are reasonably related to the special exception requested

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Ryffel and second by LPA Member Kaye, and upon being put to a vote, the result was as follows:

Joanne Shamp, Chair aye
Carleton Ryffel, Member aye
Chuck Moorefield, Member aye

Bill Van Duzer, Vice Chair absent
Rochelle Kay, Member aye
John Kakatsch, Member nay

DULY PASSED AND ADOPTED THIS 23rd day of March, 2010.

LPA of the Town of Fort Myers Beach

By: Joanne K. Shamp
Joanne Shamp, LPA Chair

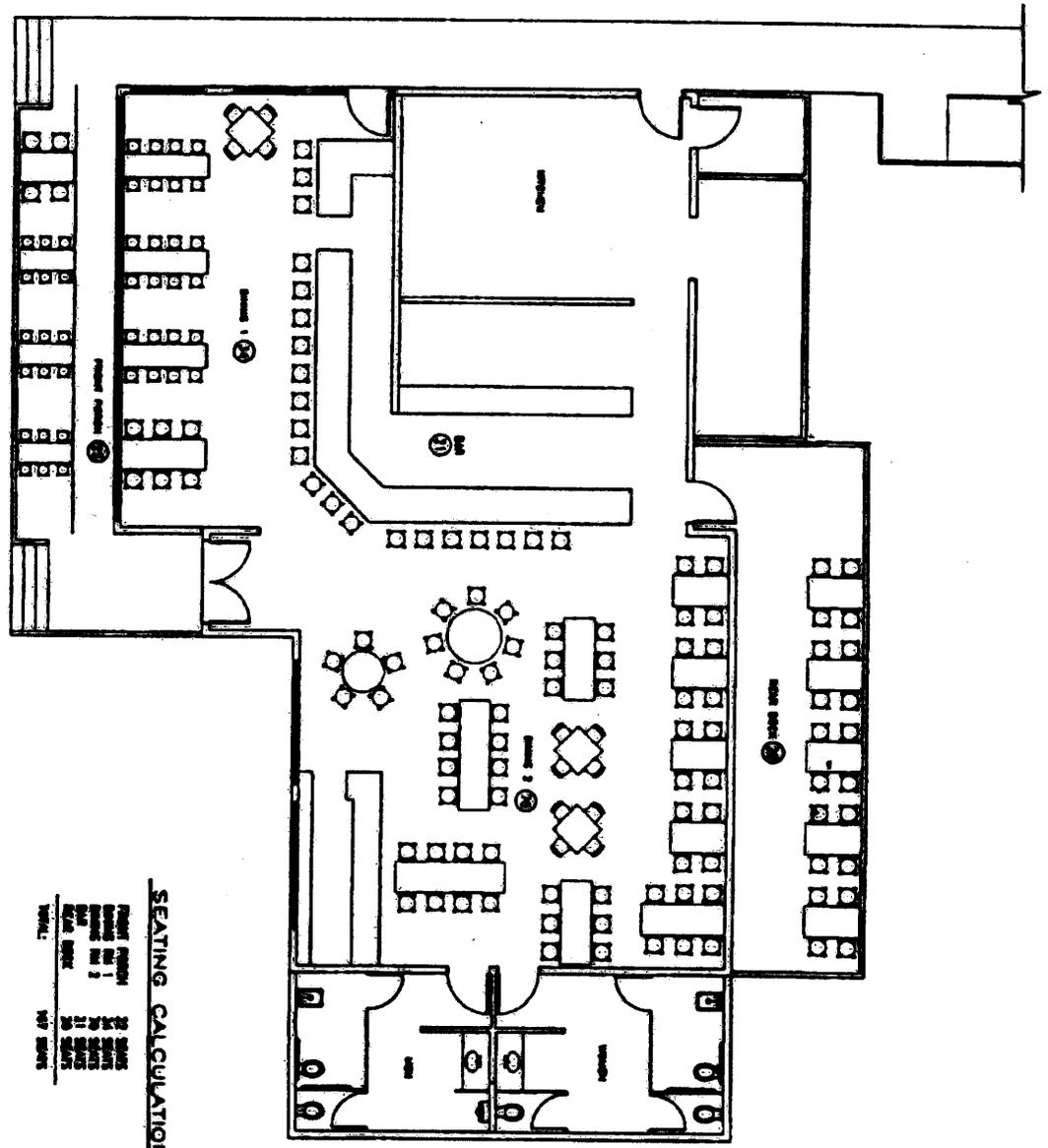
Approved as to legal sufficiency:

By: Anne Dalton
Anne Dalton, Esquire
LPA Attorney

ATTEST:

By: Michelle Mayher
Michelle Mayher, Town Clerk

SEATING PLAN
DATE: 07-27-77



SEATING CALCULATION

FOUR SEAT	20
SIX SEAT	20
EIGHT SEAT	20
TOTAL	60

BUILDING CALCULATION
3000 SQ. FT.



MINUTES
FORT MYERS BEACH
Local Planning Agency

Town Hall – Council Chambers
2523 Estero Boulevard
Fort Myers Beach, FL 33931

Tuesday, March 23, 2010

I. CALL TO ORDER

Meeting was called to order at 9:03AM by Chairperson Joanne Shamp. Other members present:

Carleton Ryffel
Chuck Moorefield
Rochelle Kay
John Kakatsch
Bill Van Duzer-excused

Staff present: Dr. Frank Shockey
LPA Attorney, Anne Dalton

II. PLEDGE OF ALLEGIANCE and INVOCATION

Rochelle Kay

III. MINUTES

A. Minutes of February 9, 2010

Motion: Mr. Ryffel moved to accept the minutes, as presented.

Seconded by Ms. Kay;

Vote: Motion passed 5-0

IV. PUBLIC HEARINGS

A. SEZ2010-0001 FMB “Hooters” COP upgrade/Resolution 2010-01

Ms. Shamp opened the hearing and Ms. Dalton swore in witnesses. Chair asked for the Affidavit of Publication. Dr. Shockey presented same from the News-Press to verify that the notice was published in that periodical on March 13, 2010 and the affidavit is also on the Town website with this meeting’s materials.

Ms. Shamp polled members for ex-parte communications. Ms. Shamp had a site visit; Mr. Ryffel stated that he did the original zoning many years ago, but has no ongoing financial relationship with the applicant.

Paul Lynch, Hooters and Mauhi Enterprises, addressed the LPA for the applicant. He advised that the request is to increase the restaurant's beer and wine license from a 2 COP to a 4 COP, to allow full liquor service on the premises. In addition, this would include full liquor service outdoors, as it is currently with beer and wine service.

Mr. Kakatsch asked if the applicant would consider blocking the front walkways of the property so that patrons would not be able to leave the porch and directly enter onto Estero Blvd. The applicant answered that he thought this would create a fire code violation and added that his staff monitors patrons so that they do not take alcohol from the premises onto the street.

Dr. Shockey then presented for the staff and gave a brief overview of the request for the special exception. He advised that the conditions under the present COP also prohibited music and other outdoor entertainment. He pointed out that the applicant has indicated the hours of operation they would like for service and consumption of alcoholic beverages, but that restricting the hours to hours less than those provided by Town ordinance would need to be for the health, safety, and welfare of the community. He asked that the LPA accept the report as staff's testimony.

Mr. Ryffel asked Dr. Shockey for clarification of the staff's recommendation referenced in pg. 4 of the report. Dr. Shockey stated that the LPA needs to make a finding here whether it is necessary to protect the public health, safety and welfare to have more restrictive hours than 7:00 AM to 2:00 AM.

Mr. Kakatsch said he would like to see the hours be from 11:00 AM in the morning and the evening hours as indicated by the applicant. Dr. Shockey said that there are several residences close by the restaurant, on the beach, which may be impacted by later hours and this may be a reason why more restrictive hours would be better for their welfare. Mr. Kakatsch asked if staff had considered the option he brought up earlier about the stairs. Staff had not considered requiring the applicant to change the configuration in that way, but if the LPA felt it necessary, they could make that recommendation to the Council for consideration.

Mr. Lynch again addressed the LPA to say that one of the sets of stairs referred to by Mr. Kakatsch serves other tenants in the building and feels that changing that configuration would impact them as well.

PUBLIC COMMENT:

Ms. Shamp called for public comment. No members of the public addressed the meeting. Public comment was closed.

LPA DISCUSSION:

Mr. Kakatsch expressed his concern for the hours of operation and the possibility of the patrons walking down the stairs to the street, not being properly monitored by personnel, after consuming "liquor, which is more potent than beer and wine," at 2:00 AM and "what could happen" in such circumstances.

Ms. Kay said that she is pleased with the applicant's offer to operate between 11:00 AM and midnight.

Mr. Moorefield opined that changing the stairs doesn't really seem like it will make much of a difference.

Ms. Shamp agrees that changing the stairway will not make much difference, but feels that the more restrictive hours, as the applicant suggested, would be beneficial to the welfare of the neighborhood. There was a consensus that the hours be restricted to the hours indicated by the applicant.

Motion: Mr. Ryffel moved to approve Resolution 2010-01, as follows:

Pg. 1, approved; pg. 2, #1: "changing conditions exist..."; #2: "special exception is consistent..."

#3: "requested special exception as conditioned meets or exceeds..."

Pg. 3, #4: "requested special exception as conditioned will protect..."

#5: "requested special exception as conditioned will be compatible...and will not cause..." #6: "requested special exception as conditioned will be in compliance.." Sales, service and consumption of alcoholic beverages must not begin earlier than 11:00 AM and must end no later than midnight M-TH; must begin no earlier than 11:00 AM and end no later than 1:00 AM on Friday and Saturday and must begin no earlier than 12:00 noon and end no later than 10:00 PM on Sunday.

Seconded by Ms. Kay;

Vote: Motion passed 4-1, with Mr. Kakatsch opposed.

Mr. Kakatsch commented that he opposed the motion because he felt the stairway configuration deserved some further consideration.

Hearing closed at 9:32 AM.

At this point the Chair recognized the newest member of the LPA, Mr. John Kakatsch, who gave a brief biography to the members.

B. CPA2010-0001 Paine/Purtell Comp Plan Amendment Resolution 2010-02

Chair asked for the Affidavit of Publication. Dr. Shockey presented same from the News-Press to verify that the notice was published in that periodical on March 13, 2010 and the affidavit is also on the Town website.

Ms. Dalton read the ordinance caption into the record: "*Ordinance #10-xx-an ordinance of the Town of Fort Myers Beach providing for a small scale amendment to the Comp Plan of the Town of Fort Myers Beach to reclassify certain property from Mixed Residential category to the Pedestrian Commercial category on the future land use map, providing authority, providing for conflicts, severability and establishing an*

effective date.”

Ms. Shamp called for ex-parte communication disclosure. Mr. Ryffel had a brief discussion with Mike Roeder. Mr. Moorefield-no contact. Ms. Shamp had a site visit. Ms. Kay-no contact. Mr. Kakatsch had a site visit. Ms. Shamp reminded the members that there are 2 steps in this process to keep in mind for discussion: first, whether the request meets the statutory requirements to be considered a “small scale” amendment. Secondly, if it is indeed a “small scale” amendment does it then meet the requirements for approval by this town?

Dr. Shockey presented a brief overview of the ordinance for the members. He said the 2 pieces of property involved are described at the end of the staff report as Exhibits A and B (see report). These are 2 lots in a subdivision and he referred to a section of the Future Land Use Map given to the members. He said that, should the ordinance be adopted, it would change the future land use map categories applied to these two properties, as mentioned in the ordinance caption.

Ms. Shamp invited the applicant to present. Mr. Mike Roeder addressed the LPA and said he represents James Purtell and Fred Paine (both present), owners of the property. The property is 831 and 821 Estero Blvd., next to 7-11 on one side and a lot zoned for a public parking lot. He said that the currently requested change would not change the zoning in any way.

Mr. Roeder referred to Ms. Shamp’s comment about this meeting statutory requirement for small scale amendments. He quoted section 163.3187C, which requires the property to be less than 10 acres, and this lot is .33 acres. He cited other points of the section and said that they don’t apply. He said that the most important point here is the “spirit of the Comp Plan” and pointed out that this cannot be consistent with the Comp Plan since this would *amend* the Comp Plan.

Mr. Roeder gave a brief background of this item and said that this property had been zoned commercial originally. He said that the staff report indicated that the first Comp Plan was in 1986 but, he said, it was actually in 1979. He continued that the first Land Use map was adopted by the county in 1984 and it showed this property as “urban community,” which would allow many uses. In 1991, the county amended the Comp Plan to insert 18.2.1, which basically mandated that there would need to be rezoning of the CPD to be able to do any new commercial development. Mr. Roeder went on to point out that the staff report does not reflect that in 1992, this policy was revised, and he read the revision into the record,

“within the urban community land use category, the following restrictions to commercial development shall apply: commercial development shall not expand or intrude into residential neighborhoods. All commercial rezoning shall be required to rezone to the commercial planned zoning category; residential density shall be limited to existing base densities provided by the Future Land Use element.” He emphasized that final paragraph indicated that a specific redevelopment plan was to have been formulated and that, *“until that zoning plan*

is adopted property which has existing commercial zoning can be developed or redeveloped consistent with that zoning and the Lee Plan. This policy will be revisited in the 1993-94 plan amendment cycle.”

Mr. Roeder added that there were no other significant changes/additions since then except to renumber the policy. He said that when the applicant purchased the property, it was zoned C1 and it allowed him to use the commercial zoning. In December of that same year, the Town did amend Chapter 34, ordinance 97-21, which provided that any new commercial development required rezoning to CDP. Still, he insisted, the applicant was allowed to use the property as it was zoned as C1 when they acquired the property earlier that year. Another point was in Jan. of 1999, when the Town developed its first land use Comp Plan, the designation was changed from “urban community” to “mixed residential,” which he said narrowed the usage opportunities. Mr. Roeder continued, saying that in 2003 the Town adopted the revised zoning map, which changed the zoning of the property to RC, Residential Conservation. The property owners affected by the change asked for relief and Council asked staff to check into possible remedies to the situation. At the time, staff suggested that a way to solve the problem is by way of this “small scale amendment” process.

Mr. Roeder stated that the new zoning code was adopted in March 2003, the revised Comp Plan amendment was submitted in August 2003, but the case was not heard until June 2004; by then, he noted, there was a new council and the request was denied by 2-2 vote with one abstention. The request was different then the present request in that it was for all of the property fronting on Estero and Lagoon St. to be changed to commercial. Today, the applicant is only asking for the change for the 2 lots that front on Estero Blvd.

Mr. Ryffel had no questions. Mr. Moorefield had no questions.

Mr. Kakatsch said he looked at the property and asked if the buildings on the lots are occupied. Mr. Roeder explained that they are used primarily for rental purposes.

Ms. Kay asked if Mr. Roeder had knowledge of the plans for the property. He admitted that the applicant has no specific plan in mind at this time but that it would likely be for some type of mixed use, possibly small scale commercial with apartments or similar use. This could be dealt with in detail, he said, during future consideration of possible rezoning.

Ms. Shamp asked for clarification as to the actual lots and the proper addresses and asked if the applicant had considered splitting the Paine property so that a commercial impact would not occur in the rear near residential uses on Lagoon Street.

Mr. Kakatsch asked if the applicant is looking to develop the 2 properties as one and Mr. Roeder said they were not sure—that might be the best way, or it might not.

Dr. Shockey presented for the staff and again briefly summarized the reason for the request. He said that pages 1 and 2 of the staff report contain a few of the pertinent policies of the Comp Plan related to the request. These topics are appropriate locations of commercial area and uses and restrictions on intensifying commercial uses in residential neighborhoods. Dr. Shockey explained that the terminology "small scale amendment" is in state law and is not related to any Town policy to distinguish these from other amendments. Most importantly, to qualify as a small-scale amendment, the amendment must only be for parcels of 10 acres or less and it can be only an amendment to the Future Land Use map category that applies to a property. He said that, basically, it appears that the applicant's request does meet all of these criteria to be a small scale amendment and that is the recommendation of the staff.

Dr. Shockey briefly discussed the history of the property and said that it is not the most relevant aspect of what is going on here today, regardless of whether the county's temporizing with its comp plan policies was effective planning or not. He feels that the most interesting part of the staff report is the section that discusses the appropriateness of the amendment based on its merits. The mixed residential category addresses older subdivision with mixed housing types on smaller lots, newer high rise buildings and RV parks, and is designed to ensure that FMB retains a variety of neighborhood and housing types and limits commercial activities to lower impact uses such as offices, motels, churches, etc. that must be sensitive to nearby residential uses and complement any adjoining commercial uses, etc. The Pedestrian Commercial category is a primarily commercial district that applies to the intense activity centers of Times Square and the area around Villa Santini Plaza, etc. Dr. Shockey said that the main point in the Comp Plan that may have been a problem in the past is the policy that restricts the intrusion of commercial activities into residential neighborhoods. He said what needs to be determined is whether this is strictly a residential area: although there are residential uses here, there are also commercial uses and mixed uses.

Dr. Shockey went on to discuss other parts of the Comp Plan policies that apply here, such as the one that talks about in order to intensify commercial or residential density, the change must be shown to be clearly in a public interest and not just a private interest of the petitioning land owner. Another point important to bring out, in Dr. Shockey's opinion, is that the types of buildings that may be built here are constrained by coastal issues. He gave a few examples and added that this is also a flood zone, which would prevent any type of enclosure on the ground floor of new buildings being used for anything but parking or storage. He then asked that the staff report be submitted as staff testimony, and he acknowledged Mr. Roeder's copy of the additional changes to the County's comprehensive plan should be included in the material, for the record.

Mr. Kakatsch had no questions.

Ms. Kay asked if the existing buildings could be modified rather than rebuilt. Dr. Shockey agreed that this is a possibility if there is minor remodeling for a cost of under 50% of the value of the building. These buildings could remain as long as they

are not “substantially improved,” in which case they would have to be elevated or replaced with buildings that would be elevated. Dr. Shockey said that if the amendment is approved, the zoning would remain RC, which allows for single family homes, 2 family homes within certain restrictions, and little else, unless or until the property were rezoned.

Mr. Ryffel and Mr. Moorefield had no questions.

Ms. Shamp asked if there was sufficient notice to the surrounding affected properties. Dr. Shockey replied that the notice appeared in the newspapers 10 days in advance, he put a sign in front of the property a week ago, and paper notices were mailed to neighbors (only 1 was returned so far as “undeliverable”). Ms. Shamp asked if there are any other 7-11 stores that operate in mixed residential zones. Dr. Shockey said that there are some businesses in areas that are in the mixed residential category but most were established and in place before the Town developed its Comp Plan.

Ms. Shamp opened public comment. There was no public comment.

Ms. Shamp invited the applicant to comment. Mr. Roeder again addressed the meeting. He echoed Dr. Shockey’s comments that the Comp Plan is the main focus here, especially dealing with commercial intrusion. He reiterated that this property is not suited in its location for traditional residential use and feels the amendment is in the best interests of the public. Ms. Kay asked what is behind 831 Estero. Mr. Raider said there is a single family home behind the 7-11 and another residential building behind Mr. Purtell’s lot.

With no further questions, LPA discussion ensued. Mr. Kakatsch said he has looked at the property and has no concerns with this change as he doesn’t believe it is a residential area at all. Ms. Kay agreed.

Ms. Shamp disagreed, and commented that at some point commercial intrusion needs to end. She said that the area is mostly residential and that peace and quiet should be protected, as was the basis for the Town creating its Comp Plan when the county was not protecting the residents against this intrusion. She does agree that this probably applies as a small scale amendment but also feels that changing the category is more in the private interest than in the public interest.

Mr. Ryffel said that, looking at the plans it does appear to him that this property is the “end” of the pedestrian area. He does not agree that this is a commercial intrusion in any way and sees the whole loop of Lagoon St. as connected to the nearby pedestrian commercial area; he hopes the other neighbors will come forward with that in the future. He believes this to be in the public interest to change this because he sees it as a logical land use. He pointed out that this step will allow the applicants to begin the zoning process through which residents and members will be able to do something “that makes sense” here.

Ms. Shamp divided the discussion into 2 steps for clarity. The first step will be deciding if the request meets the regulatory requirements to be considered a “small scale amendment.” Resolution 2010-02, Proposed Findings of Fact and Conclusion of Law, #1 A through H will be discussed here.

After looking these over, there was a consensus that this does fit the criteria for small scale amendment.

The second discussion involves whether this change is in the best interest of the health, safety and welfare of the Town's residents and property owners. There was discussion about the legal terms "in best interest of the health, safety and welfare of the Town's residents and property owners."

Motion: Mr. Ryffel moved to approve Resolution 2010-02, as follows:

Pg. 1 "be it resolved that the LPA recommends approval..."

Proposed Finding of Fact and Conclusions of Law: #1: "the proposed amendment does qualify as a small scale amendment.."

A: "does involve 10 acres or less...will not exceed 120 acres..."

C: "the proposed FLUM amendment does not involve the same property granted a change in the prior 12..."

D: "the proposed amendment does not involve the same owner's property within 200 ft...."

E: "the proposed amendment does not involve a text change to the goals, policies and objectives...and does only propose a land use change for the Future Land Use map..."

F: "the property is not located within an area of critical state concern..."

G: "if the proposed amendment involves a residential use, the residential use does have a density of 10 units or less per acre or the proposed Future Land Use category does allow a maximum residential use of the same or less..."

H: "the proposed amendment does not involve a site that is designated by the governor..."

#2: "it is in the best interest of the health, safety and welfare...and such change is necessary to provide for orderly growth..."

2A: "the proposed amendment will likely have no impact on affected traffic utilities..."

B: "will likely have a positive impact due to possible additional uses likely to contribute to walkability and the pedestrian oriented public realm..."

C: "will have a positive impact allowing future rezoning to consider a mix of uses that would complement the current mix of residential, commercial and civic uses in the immediate vicinity."

Seconded by Ms. Kay.

Discussion: Ms. Shamp agrees it is a small scale amendment but does not feel it is in the best interest of the Town.

Vote: Motion passed 4-1 with Ms. Shamp opposed (Mr. Van Duzer was absent with excuse).

Hearing closed at 10:48 AM.

Short recess.

Reconvene at 11:04 AM

V. ADJOURN AS LPA/RECONVENE AS HPB

Motion: Mr. Kakatsch moved to adjourn as LPA and reconvene as the HPB.

Seconded by Ms. Kay;

Vote: Motion passed 5-0.

Ms. Kay called the meeting to order at 11:05 AM and handed out a packet of information regarding the HAC meeting she attended. The Historic Plaques and the Vistas projects were discussed and Doug Speirn-Smith had additional photos of the Colorado project Ms. Kay had presented some time ago. She referred to the information in the packets which showed samples of the signs. Doug Speirn-Smith explained that he is from Colorado thus he knew the samples that Ms. Kay had talked about so he helped her get the information. Ms. Shamp said she is very excited about this program and thanked him for helping. She asked if any of the new LPA members would have an interest in being part of the HAC. Mr. Kakatsch is interested and Ms. Kay will get him information and keep him informed. She gave a few details about what the HAC is and does. Discussion ensued about the signs and the price, as well as the source of the funding.

Motion: Ms. Shamp moved to adjourn as the HPB and reconvene as the LPA.

Seconded by Mr. Ryffel.

Vote: Motion passed 5-0.

VI. ADJOURN AS HPB/RECONVENE AS LPA

Ms. Shamp called the meeting to order at 11:22 AM with all members still present except Mr. Van Duzer, who is excused.

VII. LPA MEMBER ITEMS AND REPORTS

Mr. Ryffel had nothing to report.

Mr. Moorefield had nothing to report.

Ms. Kay had nothing to report.

Mr. Kakatsch had nothing to report.

Ms. Shamp had nothing to report.

VIII. LPA ATTORNEY ITEMS

Ms. Dalton had nothing to report.

IX. COMMUNITY DEVELOPMENT DIRECTOR ITEMS

Dr. Shockey had nothing to report.

X. LPA ACTION ITEM LIST REVIEW

- LPA Resolution 2009-22 Animal Control-Ms. Kay reported this has moved through and the ordinance has been adopted.
- Gulf View-Dr. Shockey reported that the Council did adopt a vacation ordinance; this is being prepared for Council TBD after vacation hearing

- LPA Membership-Ms. Shamp; 2nd hearing on April 5th
- COP expansion on the beach-moved to another agenda-TBD (Council may have a joint meeting with the LPA on May 5th to discuss)
- Refuse containers-Dr. Shockey reported that this is on the agenda for April 5th; Ms. Kay
- Resolution 2010-0001 (Hooters)-TBD
- Resolution 2010-0002-Introduction April 5; Ms. Kay

Continued Hearings

- Shipwreck – October 12

Future Work Activites

- ROW-Residential Connections; TBD
- Storm water; TBD
- Seasonal Parking-April 13; Dr. Shockey
- HPB budget request to Council; May 11-Ms. Kay
- Resolution for HPB Budget-June
- CIP Review-June 8 meeting
- Ms. Shamp has excused absence for June 8th; Mr. Kakatsch requested an excused absence for June as well

The members extended well wishes to Mr. Bill Van Duzer and welcomed the new members, thanking them for their service.

XI. ADJOURNMENT

Motion: Mr. Ryffel moved to adjourn.

Seconded by Mr. Kakatsch;

Vote: Motion passed 5-0.

Meeting adjourned at 11:48 AM.

Next meeting April 13, 2010 at 9:00 AM.

Adopted 4/13/2010 (DATE) with without changes. Motion by Kay - second Ryffel

Vote: 4-0
Joanne K Shamp Chair

- End of document
Van Duzer and Kakatsch absent (excused)

**FORT MYERS BEACH, FLORIDA
DEPARTMENT OF COMMUNITY DEVELOPMENT
ZONING STAFF REPORT**

TYPE OF CASE: Special Exception

CASE NUMBER: FMBSEZ2010-0001 (Fort Myers Beach Hooters)

LPA HEARING DATE: March 23, 2010

LPA Hearing Time: 9:00 AM

I. APPLICATION SUMMARY:

Applicant: Mauhi Enterprises, Inc. and Waterfront Concepts, Inc.

Request: Special Exception in the DOWNTOWN zoning district to allow consumption-on-premises of alcoholic beverages in a restaurant providing an outdoor seating area that is within 500 feet of a dwelling unit under separate ownership; to include beer, wine, and liquor.

Subject property:

TROPICAL CENTER, a Condominium recorded in Official Record Book 1123, Page 323, Public Records of Lee County, Florida. (Lots 2, 3, and 6, Block B, CRESCENT BEACH SUBDIVISION, as recorded in Plat Book 4, Page 45, Public Records of Lee County, Florida)

Physical Address: 1600 Estero Boulevard, Fort Myers Beach, FL 33931

STRAP #: 19-46-24-W4-02300.00CE

Future Land Use designation: Pedestrian Commercial

Zoning: DOWNTOWN

Current use(s): Restaurant with 2COP beverage license and outdoor seating. Other units are used for storage and for a barber/beauty shop.

Adjacent zoning and land uses:

Adjacent properties are designated as Pedestrian Commercial Future Land Use Map (FLUM) category

- North: Multi-family building (Batiki West Condominium), zoned DOWNTOWN; Shopping center (Key Estero Shops), zoned DOWNTOWN
- South: A mix of dwelling units including single-family homes and duplexes, zoned DOWNTOWN
- East: Retail store, then motel with accessory retail store, zoned DOWNTOWN
- West: Parking lot, then convenience food and beverage store with fuel pumps, zoned DOWNTOWN.

II. BACKGROUND AND ANALYSIS

Introduction and Background:

Paul Lynch, authorized corporate officer of Mauhi Enterprises Inc. and Waterfront Concepts Inc., has requested a special exception to allow consumption-on-premises of alcoholic beverages in a restaurant providing an outdoor seating area that is within 500 feet of a dwelling unit under separate ownership. The subject property is a condominium that consists of five units (designated A, B, C, D, and E) within a building, and a common element that includes the building and land. The condominium association has not joined in the application, but the applicants own all five units so it is very unlikely that rights of nonparticipating unit owners could be affected by the application. The subject property was granted a special permit for consumption-on-premises of alcoholic beverages ("COP") in a restaurant with outdoor seating by Town Council Resolution 02-44 on December 9, 2002. However, the special permit granted in Resolution 02-44 contained conditions that the applicant now asks be removed by the issuance of a new zoning approval for the COP use. To allow COP, a special exception is required under Land Development Code (LDC) Section 34-1264(a)(2)a.2. because the outdoor seating area is less than 500 feet from a dwelling unit under separate ownership. Council approval of a new special exception could allow the COP use but subject it to different conditions, if approved as requested by the applicant. Council denial of the current request would not have the effect of withdrawing the approval of the COP use that was already conferred by Resolution 02-44, but the use would continue to be subject to the conditions contained in that resolution.

Analysis:

The subject property is zoned DOWNTOWN and is in the Pedestrian Commercial Future Land Use Map (FLUM) category. The applicant uses Units A and B of the

condominium property for a restaurant with two outdoor seating areas, one on a porch in the front along the sidewalk and Estero Boulevard, and one on a porch in the rear near the parking area. Changes to the size and orientation of the seating areas are not proposed.

The subject property is generally located between Avenue E and Avenue C, roughly across Estero Boulevard from the Key Estero shopping center and the Batiki West residential condominium building. It is separated from the beach by one row of residential buildings.

The Comprehensive Plan encourages pedestrian-oriented development in the downtown area, generally conceived as the area within the Pedestrian Commercial FLUM category. The Comprehensive Plan was in effect at the time of the prior special permit approval in December 2002. Since that time the Town's zoning has been amended and the property has been rezoned from C-1 to DOWNTOWN in the general rezoning of all land within the Town to reassign property from County zoning districts to Town zoning districts, which took place on March 3, 2003. The DOWNTOWN zoning district was designed to implement the Comprehensive Plan's community design concepts for the Town's commercial core area, and to accord with the Pedestrian Commercial FLUM category.

The restaurant's outdoor seating areas are located on porches, as required in the DOWNTOWN district in accordance with LDC Section 34-678(e)(4).

Outdoor seating for on-premises consumption of alcoholic beverages

The regulations of the DOWNTOWN zoning district encourage restaurants to provide outdoor seating areas located on porches or patios, largely between enclosed buildings and the street. The subject property received a special exception approval in 2002 for the use of the same floor plan, including the same two outdoor seating areas, as is proposed in the current request.

Other commercial uses in the vicinity include the Lani Kai hotel and its accessory restaurant and retail activities, a convenience/food and beverage store with gasoline fuel pumps, and other restaurant and retail uses, including those concentrated at the Key Estero shopping center, some of which have approved outdoor seating areas with (or without) consumption of alcoholic beverages. Interspersed among these uses are a variety of older residential buildings, some containing more than one dwelling unit.

The sidewalks on both sides of Estero Boulevard and the availability of seasonal commercial parking lots help to attract beach-going pedestrians to the area. The applicants' restaurant contributes to the relatively commercial atmosphere of this part of the beach. Although residential buildings are located in the immediate vicinity, the area of the subject property has been zoned to allow commercial

uses for many years, and contains a mix of retail, lodging, and residential uses. The presence of visiting pedestrians transiting between parking areas, retail stores, restaurants, the beach, and nearby motels, is a long-established custom that will not be altered by approval or denial of the current request. The Comprehensive Plan's vision of this area between Avenue E and Avenue C does not require that it be transformed from a mix of commercial and residential uses into a primarily residential district. The immediate vicinity is within the Pedestrian Commercial FLUM category.

The applicant indicates its intent to operate between the hours of 11:00 AM and Midnight, Monday through Thursday, 11:00 AM and 1:00 AM, Saturday, and Noon and 10:00 PM on Sunday. These hours are the same hours as were approved by Resolution 02-44, and are within the external limit that prohibits service between 2:00 AM and 7:00 AM daily throughout the Town. Although the applicant has essentially stipulated a willingness to abide by these hours, in order to limit the use to these hours (or any other hours other than 7AM to 2AM daily) the Town Council must find that such a condition is necessary to protect the public health, safety, and welfare. If testimony or evidence pertaining to limiting the hours of the use is introduced in the hearing process, the LPA and Town Council should afford it all due consideration.

The building floor area proposed to be used for seating is indicated on the floor plan attached as **Exhibit B**. The floor area includes the same indoor area, and the same two outdoor areas, that were approved by Resolution 02-44.

Resolution 02-44 prohibited outdoor music or entertainment at this location. The 1994 special permit more specifically prohibited *live* outdoor music or entertainment. Staff has recommended that the more recent condition from the 2002 resolution be carried forward since the applicant has not requested that it be removed. Concern was expressed at the 1994 hearings about the potential for noise that could affect residents at the nearby Batiki West Condominium building. The applicant has not indicated a desire for live or recorded music in this application. The 2002 resolution contained a condition prohibiting advertisement visible from Estero Boulevard or Alva Avenue indicating the service of alcoholic beverages. Staff does not recommend this condition be included if the current request is approved, because the Town already has a sign ordinance that regulates the time, place, and manner of advertisements. Staff does not recommend including an additional content-based restriction on advertisements for a specific product at a specific location.

In the past, the LPA has recommended and Town Council has approved limitations on the number of seats and the type and/or series of license, apparently in an effort to limit potentially adverse effects on the neighboring properties and possibly to aid with enforcement issues involving unauthorized expansions of seating areas. Staff does not recommend conditions be included limiting the number of seats or the type and/or series of state beverage license.

The seating area can be limited by reference to the applicant's site plan, which clearly delineates the seating area from other parts of the site. Changes to the types of seats used in the seating area or amendments to the building code could allow a somewhat different seating capacity within the same floor area in the future. A future restaurant operator may find it economically advantageous to acquire a different type or series of state beverage license and use it in conjunction with a restaurant use, either to serve beer only, to serve beer and wine, or to serve beer, wine, and liquor. The LDC does not distinguish between restaurants that serve beer, restaurants that serve beer and wine, and restaurants that serve beer, wine, and liquor, except in LDC Section 34-1264(h)(1), which limits expansion in circumstances in which "a legally existing establishment engaged in the sale or service of alcoholic beverages...is made nonconforming by reason of new regulations contained in this chapter." Staff has no basis in policy to develop theories or evidence to support the notion that locations serving beer only, beer and wine only, or beer, wine, and liquor, should be regulated differently by the Town.

A restaurant with outdoor seating for its patrons consuming alcoholic beverages has previously been approved at this location and the applicant requests a new approval with different conditions. Specifically, the condition of Resolution 02-44 limiting "consumption on premises [...] to a 2-COP beverage license to be used in conjunction with a restaurant, group 3, including outdoor seating" does not comport with the applicant's current request to acquire a state license that would allow on-premises consumption of liquor in addition to beer and wine. The 2002 special permit case was itself a second special permit to expand seating areas from the areas approved by a previous special permit dating to 1994. The condition limiting the use to a 2-COP license originates in 2002 special permit; the 1994 special permit contained no such limitation on the type of state beverage license, though it limited the seating area.

If Town Council chooses to approve the request, staff recommends that the 2002 and 1994 special permits be specifically declared null and void to prevent ambiguity over which resolution authorizes the use, and which conditions still apply.

III. RECOMMENDATION:

Staff recommends **APPROVAL** of the requested Special Exception to allow consumption on premises of alcoholic beverages in a restaurant providing outdoor seating areas that are within 500 feet of a dwelling unit under separate ownership.

If the Town Council chooses to approve the requested special exception, staff recommends that approval be subject to the following conditions:

1. The area of the subject establishment used for consumption on premises must be confined entirely to the building areas shown on the floor plan attached hereto and incorporated herein by reference as **Exhibit B**, including the interior of the building, and the two porch areas.
2. Music and other audible entertainment are prohibited in outdoor seating areas and must comply at all times with applicable ordinances.
3. Sales, service, and consumption of alcoholic beverages must not begin earlier than 7:00 AM and must end no later than 2:00 AM during each day.
4. The use must comply at all times with the provisions of LDC Section 34-1264(k), as may be amended from time to time, and must at all times be licensed as a permanent public food service establishment with seating, in accordance with Chapter 509, *Florida Statutes*, and applicable state agency rules.
5. The use must comply at all times with lighting standards, including the regulations for the protection of Sea Turtles provided in LDC chapter 14, article II.
6. The special exception approved by Town Council in Resolution 02-04, and the special permit granted by the Lee County Hearing Examiner in case 94-09-29-SP-04, including any and all specific conditions attached thereto, are hereby declared null and void.

Recommended Findings and Conclusions

1. *Whether there exist changed or changing conditions [that] make approval of the request appropriate.*

The location of the request was approved in 2002 for consumption of alcoholic beverages on the premises, including the same indoor and outdoor seating areas, in conjunction with a restaurant. The Comprehensive Plan and Land Development Code do not distinguish classes of restaurants that (in addition to non-alcoholic beverages and food) serve beer only, beer and wine only, or beer, wine, and liquor. The applicant's request does not implicate a change in use except insofar as the approved use was limited by special conditions attached to a prior special exception approval. Staff recommends the finding that this consideration is **not applicable** to the request.

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

The subject property is in the Pedestrian Commercial FLUM category, near Estero Boulevard and the Lani Kai resort. Comp Plan **Policy 4-B-6**, regarding the Pedestrian Commercial FLUM, states that commercial activities must contribute to the pedestrian-oriented public realm. The beach and streets

northward from the Diamondhead and Lani Kai to Lynn Hall Park are heavily traveled by pedestrian beachgoers. The existing restaurant is oriented toward this foot traffic, and also has its own parking areas for patrons arriving by automobile. The outdoor seating areas are located on raised porches separated by railings and elevation from the sidewalks and parking areas. Staff recommends the finding that the request, as conditioned, **is consistent** with the goals, objectives, policies, and intent of the Comprehensive Plan with regard to this commercial area.

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

A restaurant is a use permitted by right in the Downtown zoning district. Because dwelling units under separate ownership are located within 500 feet of the subject property, a special exception is necessary in order to allow an outdoor seating area. Performance and locational standards for the restaurant use, site development, and remodeling to the building, were already addressed through the development order process for prior alterations to the building, and the requested use meets the applicable parking requirements under LDC Chapter 34, Article IV, Division 19. There are no specific performance or locational standards in Town regulations for a restaurant with outdoor seating areas that serves beer, wine, and liquor, that differ from the standards that apply to a restaurant with outdoor seating that serves beer and wine only. Staff recommends the finding that the request, as conditioned, **meets or exceeds** all performance and locational standards set forth for the proposed use.

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

Construction of additional structures in environmentally critical areas has not been requested or permitted. As conditioned, the use will be required to comply with current sea turtle protection standards. Staff recommends the finding that approval of the request, as conditioned, **will** protect, conserve, or preserve environmentally critical areas and natural resources.

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

The existing surrounding uses include dwelling units, a resort hotel, a large multi-family building, a seasonal parking lot, a convenience food and beverage store with fuel pumps, a shopping center, and some small retail stores. Within the Pedestrian Commercial Future Land Use Map category, adjacent dwelling units and vacant lots could potentially be redeveloped with commercial or mixed use buildings in accord with the regulations of the DOWNTOWN zoning district or through planned development rezoning. The recommended conditions clearly

restrict the use to specific areas of the floor plan and prohibit its expansion to the grounds of the site or the parking areas. Staff recommends the finding that the requested use, as conditioned, **will be** compatible with existing or planned uses and **will not** cause damage, hazard, nuisance, or other detriment to persons or property.

6. *Whether the requested use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34.*

The existing restaurant use has already been required to comply with parking, lighting, and other similar requirements set forth in LDC Chapter 34. The consumption on premises of alcoholic beverages use, as conditioned, will be required to comply with the applicable standards in LDC Chapter 34, Article IV, Division 5, for consumption on premises in a restaurant regardless of the type or series of state license. The appropriate limitations on an outdoor seating area for consumption on premises that is allowed by special exception are for Town Council to determine through the hearing process, during which process they should find that the conditions are reasonably related to the special exception requested. Staff recommends the finding that the requested use, as conditioned **will be** in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34.

IV. CONCLUSION:

Regulations for the DOWNTOWN zoning district encourage outdoor dining, and many restaurants have followed the vision of the Comprehensive Plan in accordance with these regulations and are providing outdoor seating areas where alcoholic beverages are served as a part of a menu of full-course meals as required by LDC Section 34-1264(b)(2). The current request is essentially a request to change one of the conditions placed on the subject property by a prior resolution approving the use.

If Town Council finds that the requested use is contrary to the public interest or the health, safety, comfort, convenience, and/or welfare of the citizens of the Town, or that the request is in conflict with the criteria of LDC Section 34-88, Town Council should deny the request as provided in LDC Section 34-88(4). So doing would not divest the subject property of the approval provided by prior Town Council action in Resolution 02-44 but would merely prevent the applicant from upgrading its beverage license to a different type. If Town Council chooses to approve the request, special conditions necessary to protect the health, safety, comfort, convenience, or welfare of the public may be attached if Council finds that such conditions are reasonably related to the requested special exception. Staff has recommended conditions for the Town Council's convenience. Staff's recommended condition limiting the hours for sales, service, and consumption of alcoholic beverages on the premises is based upon the general policy

established by the Town Council in Ordinance 96-06. A condition limiting sales, service, and consumption of alcohol on the premises to more restrictive hours, such as the hours of operation requested by the applicant, could be established if Town Council finds that such a condition is necessary to protect the health, safety, comfort, convenience, or welfare of the public at this particular location.

Staff recommends **APPROVAL** of the requested special exception, as conditioned.

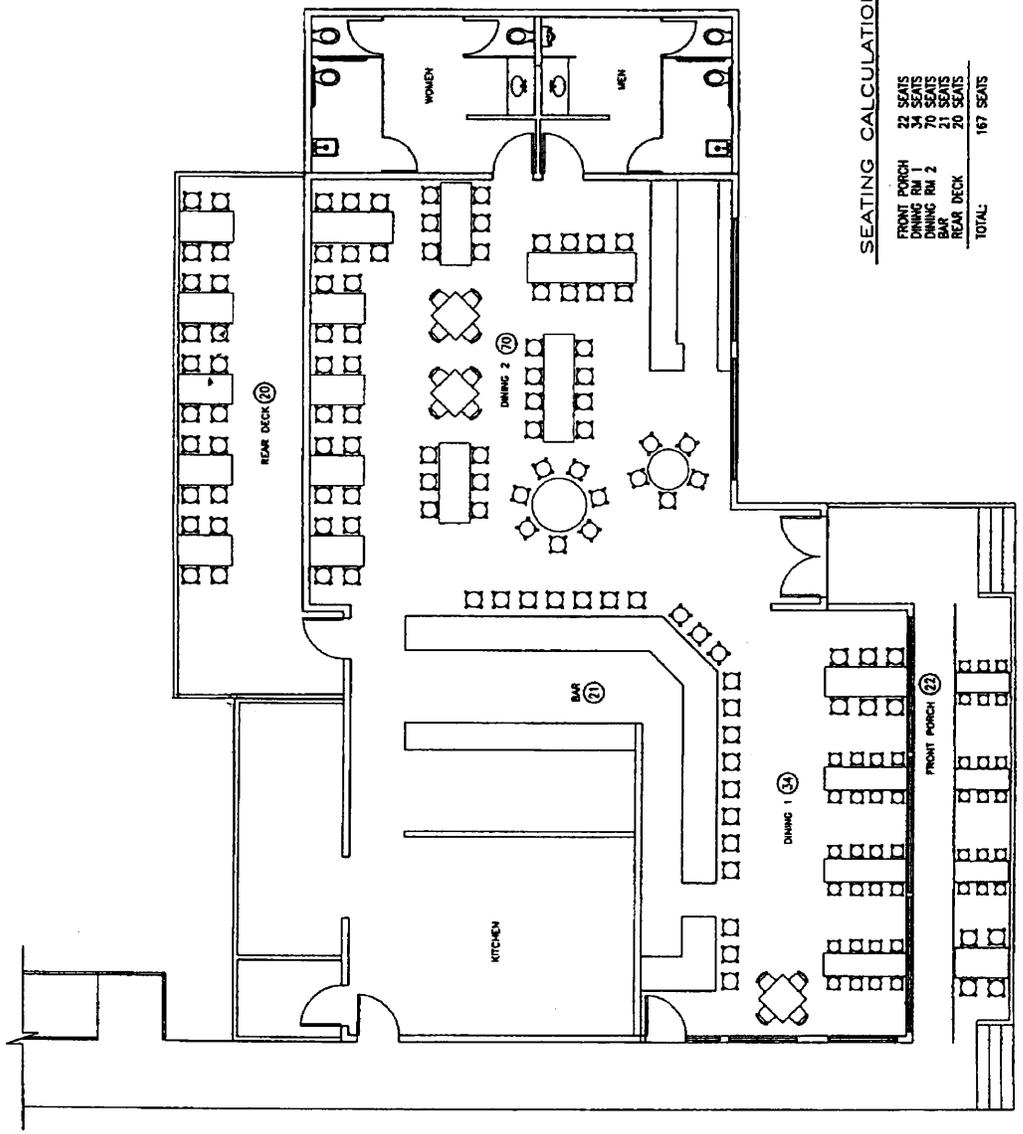
Exhibits:

Exhibit A – Legal Description of Subject Property

Exhibit B – Floor plan

Exhibit A
SEZ2010-0001

Lots 2, 3, and 6, Block B, CRESCENT BEACH SUBDIVISION, as recorded in
Plat Book 4, Page 45, Public Records of Lee County, Florida



SEATING CALCULATION

FRONT PORCH	22 SEATS
DINING RM 1	34 SEATS
DINING RM 2	70 SEATS
REAR DECK	20 SEATS
TOTAL:	167 SEATS

BUILDING CALCULATION

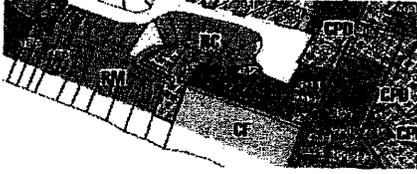
3,028 SQ. FT.

SEATING PLAN
 SCALE 1/8" = 1'-0"

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Town of Fort Myers Beach
Department of Community Development



Zoning Division

Application for Public Hearing

This is the first part of a two-part application. This part requests general information required by the Town of Fort Myers Beach for any request for a public hearing. The second part will address additional information for the specific type of action requested.

Project Name:	Hooters Restaurant
Authorized Applicant:	MAUI ENTERPRISES INC. (PROPERTY OWNER)
LeePA STRAP Number(s):	19-46-24-W4-0230A.0000

Current Property Status:	Hooters Restaurant
Current Zoning:	Downtown
Future Land Use Map (FLUM) Category:	PEDESTRIAN COMMERCIAL
Platted Overlay? <input type="checkbox"/> yes <input checked="" type="checkbox"/> no	FLUM Density Range:

Action Requested	Additional Form Required
<input checked="" type="checkbox"/> Special Exception	Form PH-A
<input type="checkbox"/> Variance	Form PH-B
<input type="checkbox"/> Conventional Rezoning	Form PH-C
<input type="checkbox"/> Planned Development	Form PH-D
<input type="checkbox"/> Master Concept Plan Extension	Form PH-E
<input type="checkbox"/> Appeal of Administrative Action	Form PH-F
<input type="checkbox"/> Development of Regional Impact	Schedule Appointment
<input type="checkbox"/> Other (cite LDC section number: _____)	Attach Explanation

Town of Fort Myers Beach
Department of Community Development
2523 Estero Boulevard
Fort Myers Beach, FL 33931
(239) 765-0202

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

PART I - General Information

A. Applicant:

Name(s):	MAUHI ENTERPRISES, INC.		
Address: Street:	4411 CLEVELAND AVE		
City:	FT MYERS	State:	FL Zip Code: 33901
Phone:	239-275-6339		
Fax:	239-275-3493		
E-mail address:	PLYNCH@HOOTERSFLA.COM		

B. Relationship of applicant to property (check appropriate response)

<input checked="" type="checkbox"/> Owner (indicate form of ownership below)
<input type="checkbox"/> Individual (or husband/wife) <input type="checkbox"/> Partnership
<input type="checkbox"/> Land Trust <input type="checkbox"/> Association
<input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Condominium
<input type="checkbox"/> Subdivision <input type="checkbox"/> Timeshare Condo
<input type="checkbox"/> Authorized representative (attach authorization(s) as Exhibit AA-1)
<input type="checkbox"/> Contract Purchaser/vendee (attach authorization(s) as Exhibit AA-2)
<input type="checkbox"/> Town of Fort Myers Beach (Date of Authorization: _____)

C. Agent authorized to receive all correspondence:

Name:	MAUHI ENTERPRISES, INC.		
Mailing address: Street:	4411 CLEVELAND AVE		
City:	FT MYERS	State:	FL Zip Code: 33901
Contact Person:	PAUL LYNCH		
Phone:	239-980-9762	Fax:	239-275-3493
E-mail address:	PLYNCH@HOOTERSFLA.COM		

D. Other agents:

Name(s):		
Mailing address: Street:		
City:	State:	Zip Code:
Phone:	Fax:	
E-mail address:		

Use additional sheets if necessary, and attach to this page.

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

PART II – Nature of Request

Requested Action (check applicable actions):

<input checked="" type="checkbox"/> Special Exception for: CONSUMPTION OF ALCOHOLIC BEVERAGES - 4 COP (FULL LIQUOR)
<input type="checkbox"/> Variance for: INCLUDING OUTDOOR SEATING
<input type="checkbox"/> Conventional Rezoning from _____ to: _____
<input type="checkbox"/> Planned Development
<input type="checkbox"/> Rezoning (or amendment) from _____ to: _____
<input type="checkbox"/> Extension/reinstatement of Master Concept Plan
<input type="checkbox"/> Public Hearing of DRI
<input type="checkbox"/> No rezoning required
<input type="checkbox"/> Rezoning from _____ to: _____
<input type="checkbox"/> Appeal of Administrative Action
<input type="checkbox"/> Other (explain):

PART III – Waivers

Waivers from application submittal requirements: Indicate any specific submittal items that have been waived by the Director for the request. Attach copies of the Director's approval(s) as Exhibit 3-1.

Code Section Number	Describe Item
N/A	

PART IV – Property Ownership

<input type="checkbox"/> Single owner (individual or husband and wife)			
Name:			
Address:		Street:	
City:		State:	Zip Code:
Phone:		Fax:	
E-mail Address:			

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

<input checked="" type="checkbox"/> Multiple owners (including <u>corporation</u> , partnership, trust, association, condominium, timeshare condominium, or subdivision)
Attach Disclosure Form as Exhibit 4-1
Attach list of property owners as Exhibit 4-2
Attach map showing property owners' interests as Exhibit 4-3 if multiple parcels are involved
For condominiums, timeshare condominiums, and subdivisions, see instructions.

PART V – Property Information

A. Legal Description of Subject Property

Is the property entirely made up of one or more undivided platted lots officially recorded in the Plat Books of the Public Records of Lee County?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes:
Subdivision name: <u>CRESCENT BEACH</u>
Plat Book Number: <u>4</u> Page: <u>45</u> Unit: Block: Lot: <u>2, 3 + 6</u>
If no:
Attach a legible copy of the metes and bounds legal description, with accurate bearings and distances for every line, as Exhibit 5-1. The initial point in the description must be related to at least one established identifiable real property corner. Bearings must be referenced to a well-established and monumented line.

B. Boundary Survey

Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code, as Exhibit 5-2. 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.
--

C. STRAP Number(s):

<u>19-46-24-W4-0230A.0000</u>

D Property Dimensions:

Area:	<u>17,949</u>	square feet	acres
Width along roadway:	<u>119</u>	feet	Depth: <u>150</u> feet

E. Property Street Address:

<u>1600 ESTERO BLVD</u>

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

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

APPROXIMATELY 1/2 MILE FROM SKY BRIDGE ON ESTERO
BLVD AT THE CORNER OF ALVA DRIVE AND ESTERO BLVD

Attach Area Location Map as Exhibit 5-3

G. Property Restrictions (check applicable):

There are no deed restrictions or covenants on this property that affect this request.

Restrictions and/or covenants are attached as Exhibit 5-4

A narrative statement explaining how the deed restrictions and/or covenants may affect the request is attached as Exhibit 5-5.

H. Surrounding property owners:

Attach list of surrounding property owners (within 500 feet) as Exhibit 5-6

Attach two sets of mailing labels as Exhibit 5-7

Attach a map showing the surrounding property owners as Exhibit 5-8

I. Future Land Use Category: (see Comprehensive Plan Future Land Use Map)

Low Density

Marina

Mixed Residential

Recreation

Boulevard

Wetlands

Pedestrian Commercial

Tidal Water

Is the property located within the "Platted Overlay" area on the Future Land Use Map? Yes No

J. Zoning: (see official zoning map, as updated by subsequent actions)

RS (Residential Single-family)

CM (Commercial Marina)

RC (Residential Conservation)

CO (Commercial Office)

RM (Residential Multifamily)

CB (Commercial Boulevard)

VILLAGE

SANTINI

SANTOS

DOWNTOWN

IN (Institutional)

RPD (Residential Planned Dev.)

CF (Community Facilities)

CPD (Commercial Planned Dev.)

CR (Commercial Resort)

EC (Environmentally Critical)

BB (Bay Beach)

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

PART VI – Affidavit

**Application Signed by a Corporation, Limited Liability Company (LLC),
Limited Company (LC), Partnership, Limited Partnership, or Trustee**
See attached explanatory notes for instructions

I, PAUL LYNCH, as VICE PRESIDENT
of MAVHE ENTERPRISES, INC., swear or affirm under oath, that I am
the owner or the authorized representative of the owner(s) of the property and
that:

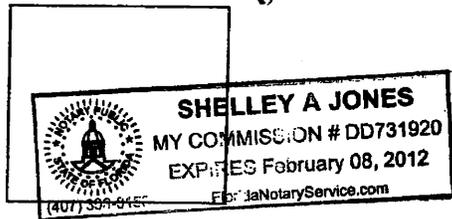
1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data, or other supplemental matter attached hereto and made a part of this application are honest and true;
3. I hereby authorize Town staff or their designee(s) to enter upon the property during normal working hours (including Saturdays and Sundays) for purposes reasonably related to the subject matter of this application; and
4. The property will not be transferred, conveyed, sold, or subdivided unencumbered by the conditions and restrictions imposed by the approved action

<u>MAVHE ENTERPRISES, INC.</u>	<u>Paul Lynch, Vice</u>
Name of Entity (corporation, LLC, partnership, etc)	Signature
<u>VICE PRESIDENT</u>	<u>PAUL LYNCH</u>
Title of Signatory	Typed or Printed Name

State of Florida
County of Lee

The foregoing instrument was sworn to (or affirmed) and subscribed
before me this 9/17/09 by Paul Lynch
Date Name of person under oath or affirmation
who is personally known to me or who has produced _____
Type of identification
as identification. Shelley A. Jones Shelley A. Jones
Signature of person administering oath Typed or Printed Name

SEAL:



Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

EXHIBIT 4-1
DISCLOSURE OF INTEREST FORM

STRAP# 19-46-24-W4-0230A.0000

Attach additional sheets in the same format for each separate STRAP number in the application if multiple parcels with differing ownership are included.

1. 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
N/A	

2. 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
DAVID LAGESCHULTZ, C.E.O., 2644 SHRIVER DR, FT MYERS	46%
TERRY BRAUNER, PRES., 436 S ANDREWS AVE, FT LAUDERDALE	11.25%
PAUL LYNCH, V. PRES/SEC/TREAS, 1215 KASAMADA DR, FT MYERS	11.25%
DALE REGNIER, 981 WITTMAN DR, FT MYERS	11.25%
KIT KLINGENSMITH, 1838 WHITECAP CIRCLE, N. FT MYERS	11.25%
WILLIAM BECKER, 910 S.E., 2ND ST, UNIT G, FT LAUDERDALE, FL	3%
JIM UPCHURCH, 311 LIDO DR, FT LAUDERDALE, FL	3%
MICHAEL CARCAJIE, 3820 NE 23RD AVE, LIGHTHOUSE POINT, FL	3%

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

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

Name and Address	Percentage
N/A	

4. If the property is in the name of a GENERAL PARTNERSHIP or LIMITED PARTNERSHIP, list the names of the general and limited partners with the percentage of ownership.

Name and Address	Percentage
N/A	

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

Name, Address, and Office (if applicable)	Percentage
N/A	

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

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

Name and Address

N/A

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 public hearing, 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 Paul Lynch V-Pres
Applicant
PAUL LYNCH V PRES.
Printed or typed name of applicant

STATE OF FL
COUNTY OF Lee

The foregoing instrument was acknowledged before me this 17th day of September 2009 by Paul Lynch, who is personally known to me or who has produced _____ as identification and who did (or did not) take an oath.

Shelley A. Jones
Signature of Notary

Shelley A. Jones
Typed or Printed Name of Notary

SEAL:

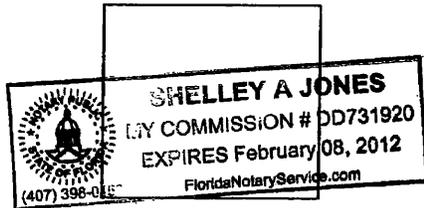
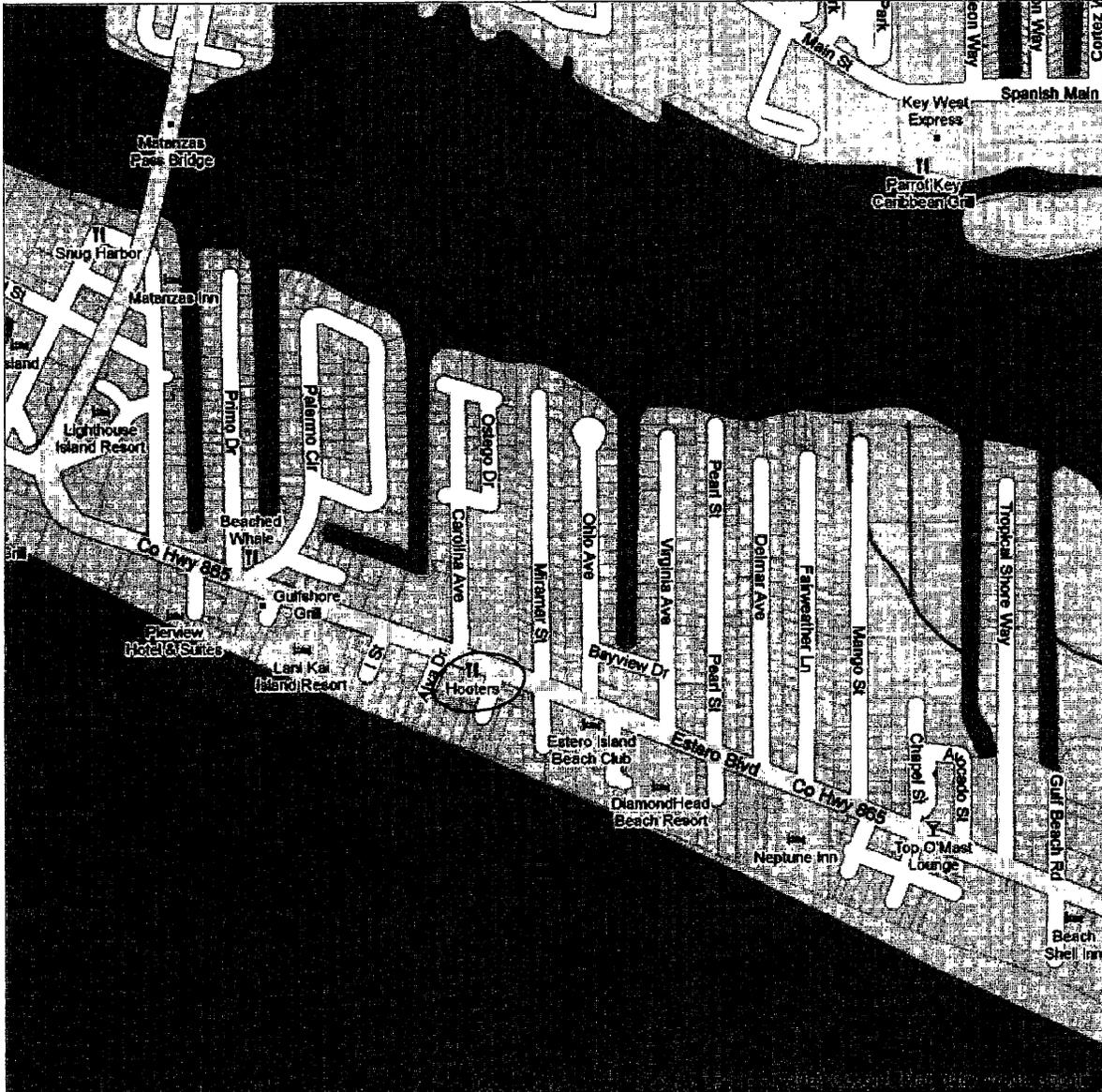


EXHIBIT 5-3
AREA LOCATION MAP

Google maps

Get Google Maps on your phone
Text the word "GMAPS" to 466453



Lee County Property Appraiser

Kenneth M. Wilkinson, C.F.A.

GIS Department / Map Room

Phone: (239) 533-6159 • Fax: (239) 533-6139 • eMail: MapRoom@LeePA.org

VARIANCE REPORT

Date of Report: September 21, 2009
Buffer Distance: 500 ft
Parcels Affected: 130
Subject Parcel: 19-46-24-W4-0230A.0000, 19-46-24-W4-0070C.0010

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	Map Index
BEATE ROTERMUND INC HENSON LUKE REALTY GROUP PO BOX 2311 BONITA SPRINGS FL 34133	19-46-24-W4-00402.0010 1661 ESTERO BLVD FORT MYERS BEACH FL 33931	HILLS T P SUBD PB 3 PG 84 PT LT 11 DESC OR 1468 PG 1697 LESS N 275 FT	1
BEATE ROTERMUND INC HENSON LUKE REALTY GROUP PO BOX 2311 BONITA SPRINGS FL 34133	19-46-24-W4-00402.001A 200 CAROLINA AVE FORT MYERS BEACH FL 33931	HILLS T P SUBD PB 3 PG 84 PT LT 11 N 275 FT OF OR 1468 PG 1697	2
LETSOS EVANGELOS P TR 201 OHIO AVE FORT MYERS BEACH FL 33931	19-46-24-W4-00405.0000 1821 ESTERO BLVD FORT MYERS BEACH FL 33931	GULF BAY VIEW BLK F LT 1 + PT TP HILLS LT 15	3
RUTTER KENNETH + CARMEL 235 CAROLINA AVE FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0180 235 CAROLINA AVE FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 18 + N 25 FT LOT 19	4
ESH LUCINDA JULIA K TR L/E 223 CAROLINA FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0200 223 CAROLINA AVE FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 20 + S 1/2 OF LOT 19	5
SZYPERSKI KEITH P 219 CAROLINA AV FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0210 219 CAROLINA AVE FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 21	6
BAKER HENRY B + 3720 ELLIS RD FORT MYERS FL 33905	19-46-24-W4-0060A.0300 1403 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOTS 30 31 LESS W 12 FT	7
ESH LUCINDA JULIA K TR 223 CAROLINA AV FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0320 1401 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOTS 32 + W 12 FT LOT 31	8
AULLS FRANK W JR + TRICIA M 1212 SW 53 TERR CAPE CORAL FL 33914	19-46-24-W4-0060A.0330 1351 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 33	9
WILCOX LANCE 1339 SANTOS RD FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0340 1339 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 34	10
LKLB OF FLORIDA INC 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0060B.0070 1479 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOTS 7 + 8 + E 1/2 OF LOT 9 + 28 + 29 + VAC RD R/W OR 553 PG 797	11
PRIMEAU NORMAN L TR 950 SAN CARLOS CT FORT MYERS BEACH FL 33931	19-46-24-W4-0060B.0100 1397 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 W 1/2 LOT 9 LOTS 10 + 11	12
PRIMEAU NORMAN L TR 950 SAN CARLOS DR FORT MYERS BEACH FL 33931	19-46-24-W4-0060B.0120 1365/1375 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOT 12	13
CONIDARIS ROBERT G TR + 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0060B.0130 1345 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOT 13	14

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	Map Index
CONIDARIS ROBERT G TR + 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0060B.0140 1331 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.B PB 6 PG 70 LOT 14	15
LUDVIGSEN MARK + LAUREL TR 501 PALERMO CIR FORT MYERS BEACH FL 33931	19-46-24-W4-0060E.0010 501 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK E PB 6 PG 70 LOTS 1 + 2 + PT LOT 15 + 20 FT STRIP N OF AND ADJ TO LTS 1 + 2 DESC IN OR BK 3404 PG 4545	16
TEZAK WAYNE + HELEN 50 CHAPEL ST FORT MYERS BEACH FL 33931	19-46-24-W4-0060E.0030 505 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK E PB 6 PG 70 LOTS 3 + 4	17
SHAKTI GEORGIA KAY PO BOX 2715 FORT MYERS BEACH FL 33932	19-46-24-W4-0070A.0010 1740 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK A PB 4 PG 45 LOT 1	18
FOUR-DIAMOND INVESTMENT CORP 6249 PRESIDENTIAL CT STE B FORT MYERS FL 33919	19-46-24-W4-0070A.0020 80 AVENUE E FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK A PB 4 PG 45 LOT 2	19
JUVE ROBERT A + 4985 TIMBER TRAIL MINNETRISTA MN 55364	19-46-24-W4-0070A.0040 70 AVENUE E FORT MYERS BEACH FL 33931	CRESCENT BEACH PB 4 PG 45 BLK A LOT 4 + W 50FT OF LOT 3 + PT VACATED DRIVE AKA LOT 4A	20
PANKHURST JEFFREY W + ANDREA L 54/64 AVENUE E FORT MYERS BEACH FL 33931	19-46-24-W4-0070A.0050 54/64 AVENUE E FORT MYERS BEACH FL 33931	CRESCENT BEACH PB 4 PG 45 BLK A LOT 5 + E 50FT OF W 100FT OF LOT 3 + PT VACATED DRIVE AKA LOT 5A	21
SHIRLEY DENNIS J + CONNIE + 1065 BAYSIDE LN MINNETRISTA MN 55364	19-46-24-W4-0070A.0060 50-60 AVENUE E FORT MYERS BEACH FL 33931	CRESCENT BEACH PB 4 PG 45 BLK A LOTS 6 + 7 + 3 LESS W 100FT OF LOT 3 + PT VACATED DRIVE AKA LOT 6A	22
W A GREENE LLC 818 CAL COVE DR FORT MYERS FL 33919	19-46-24-W4-0070B.001A 1698 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK B PB 4 PG 45 E 1/2 OF LT 1 + N 1/2 OF E 1/2 OF LT 4	23
BRIDGENORTH PROPERTIES LLC THEODORE L TRIPP 2532 E FIRST ST FORT MYERS FL 33901	19-46-24-W4-0070B.001B 1660 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK B PB 4 PG 45 W 1/2 LOTS 1 + 4	24
WEIT MARTIN + DAWN + 275 TROPICAL SHORES WAY FORT MYERS BEACH FL 33931	19-46-24-W4-0070B.004A 71 AVENUE E FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK B PB 4 PG 45 S 1/2 OF E 1/2 OF LOT 4 + E 1/2 OF LOT 5	25
LAKESIDE PROPERTIES LLC PO BOX 1 STATION 1 FORT MYERS BEACH FL 33931	19-46-24-W4-0070B.005A 1667 I ST FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK B PB 4 PG 45 W 1/2 OF LOT 5	26
CROWLEY GERALD D + THERESA M 60 ALVA DR FORT MYERS BEACH FL 33931	19-46-24-W4-0070B.0070 60 ALVA DR FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK.B PB 4 PG 45 LOT 7	27
FIRST HORIZON HOME LOANS 15 SE 9TH AVE FORT LAUDERDALE FL 33301	19-46-24-W4-0070B.0080 1662 I ST FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK B PB 4 PG 45 LOT 8	28
BRIDGENORTH PROPERTIES LLC PO BOX 1 STATION 1 FORT MYERS BEACH FL 33931	19-46-24-W4-0070B.0090 1664 I ST FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK.B PB 4 PG 45 LOT 9 + LOT PT 10	29
LAKESIDE PROPERTIES LLC HAHN LOESER AND PARKS LLP 2532 EAST FIRST ST FORT MYERS FL 33901	19-46-24-W4-0070B.010B 1666 I ST FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK B PB 4 PG 45 LOT PT 10	30
LAKESIDE PROPERTIES LLC PO BOX 1 STATION 1 FORT MYERS BEACH FL 33931	19-46-24-W4-0070B.0110 1668 I ST FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK.B PB 4 PG 45 LOT 11	31
EDISON PETROLEUM INC 3941 SW 144TH TER MIRAMAR FL 33027	19-46-24-W4-0070C.0020 1510 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK C PB 4 PG 45 LOTS 2 3 6	32
WATERFRONT PROPERTIES LLC 4411 CLEVELAND AVE FORT MYERS FL 33901	19-46-24-W4-0070C.0050 71/73 ALVA DR FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK C PB 4 PG 45 LOT 5	33

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	Map Index
BRIDGENORTH PROPERTIES LLC PO BOX 1 STATION 1 FORT MYERS BEACH FL 33931	19-46-24-W4-0070C.0070 60/64 AVENUE C FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK.C PB 4 PG 45 LOTS 7 + PT LOT 8 W 1/2 OF	34
MANNER RICHARD G 1734 CAPE CORAL PKWY E CAPE CORAL FL 33904	19-46-24-W4-0070C.0090 1560 I ST #62 FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK C PB 4 PG 45 LT9 + E1/2 LT 8+ VAC ALLEY	35
ALBRIGHT HOLDINGS LTD 3730 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0070C.0100 1550 I ST FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK C PB 4 PG 45 LOT 10	36
DEL PRADO INN INC 1734 CAPE CORAL PKWY CAPE CORAL FL 33904	19-46-24-W4-0070C.0110 61 ALVA DR FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK.C PB 4 PG 45 LOT 11	37
GANIM GEORGE W + JOSEPHINE 4666 MAIN ST BRIDGEPORT CT 06606	19-46-24-W4-0070D.001A 1478 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK.D PB 4 PG 45 LOTS 1 4 LESS WLY 43 FT	38
GANIM GEORGE W + JOSEPHINE 4666 MAIN ST BRIDGEPORT CT 06606	19-46-24-W4-0070D.001B 1450 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK.D PB 4 PG 45 WLY 43 FT LOTS 1 + 4	39
CONIDARIS ROBERT G TR + 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0070D.0020 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH PB 4 PG 45 BLKS D + E + VAC RW DESC OR 1293 PG 1208	40
STEPNEY LLC 4666 MAIN ST BRIDGEPORT CT 06606	19-46-24-W4-0070D.0050 71 AVENUE C FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK.D PB 4 PG 45 LOT 5	41
GANIM GEORGE W SR + JOSEPHINE 4666 MAIN ST BRIDGEPORT CT 06606	19-46-24-W4-0070D.0100 1480 I ST FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK.D PB 4 PG 45 LOT 10	42
ATWATTER LLC 9659 PINEAPPLE PRESERVE CT FORT MYERS FL 33908	19-46-24-W4-0070D.0110 61/65 AVENUE C FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK D PB 4 PG 45 LOT 11	43
SCHLICHTE FAMILY FL LP 61 MANGO ST FORT MYERS BEACH FL 33931	19-46-24-W4-0080A.0010 1801 ESTERO BLVD FORT MYERS BEACH FL 33931	MIRAMAR BLK A PB 6 PG 31 LOT§ 1 + 2	44
CODY JAMES B 116 MIRAMAR ST FORT MYERS BEACH FL 33931	19-46-24-W4-0080A.0030 116 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK.A PB 6 PG 31 LOT 3	45
KRATT REBECCA ANN 120 MIRAMAR ST FORT MYERS BEACH FL 33931	19-46-24-W4-0080A.0040 120 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK.A PB 6 PG 31 LOT 4	46
LARKIN JOHN J 358 CUMBERLAND COVE RD MONTEREY TN 38574	19-46-24-W4-0080A.0050 122 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK A PB 6 PG 31 LOT 5	47
MIRAMAR LLC 15911 KNIGHTSBRIDGE CT FORT MYERS FL 33908	19-46-24-W4-0080A.0060 124 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK A PB 6 PG 31 LOT 6 + PT OF 7 + 8	48
WILLAUER ROBERT + GLORIA 146 MIRAMAR ST FORT MYERS BEACH FL 33931	19-46-24-W4-0080A.0070 146 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK A PB 6 PG 31 PART OF LOTS 7 + 8 BEG AT	49
BIDRO JAMES J 1364 CHALON LN FORT MYERS FL 33919	19-46-24-W4-0080B.0010 1741 ESTERO BLVD FORT MYERS BEACH FL 33931	MIRAMAR BLK.B PB 6 PG 31 LOTS 1 THRU 3	50
LACY BILLIE M 123 MIRAMAR ST FORT MYERS BEACH FL 33931	19-46-24-W4-0080B.0040 123 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR PB 6 PG 31 BLK B LOT 4	51
TAYLOR HAROLD W + JOYE 1711 WASHINGTON AVE VINCENNES IN 47591	19-46-24-W4-0080B.0050 127 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK.B PB 6 PG 31 LOT 5	52

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	Map Index
SMITH HAROLD G 147 MIRAMAR ST FORT MYERS BEACH FL 33931	19-46-24-W4-0080B.0060 147 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK B PB 6 PG 31 LOT 6	53
CRUMBIE HELEN B TR 5856 TALLOWOOD CIR FORT MYERS FL 33919	19-46-24-W4-0080B.0070 151 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK B PB 6 PG 31 LOT 7	54
CANEY CAROLYN A 315 MANGO ST FORT MYERS BEACH FL 33931	19-46-24-W4-0080B.0080 157 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK B PB 6 PG 31 LOT 8	55
BARKER JOSEPH B PO BOX 1736 MARTINSVILLE IN 46151	19-46-24-W4-0080B.0090 159 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK.B PB 6 PG 31 LOT 9	56
DICKSON VIRGINIA MERLE 61 MIRAMAR ST FORT MYERS BEACH FL 33931	19-46-24-W4-0080C.0010 61 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK C PB 6 PG 31 LOT 1	57
BOWYER CLAUDE B 42 AVENUE E FORT MYERS BEACH FL 33931	19-46-24-W4-0080C.0020 42 AVENUE E FORT MYERS BEACH FL 33931	MIRAMAR BLK.C PB 6 PG 31 LOT 2	58
NELSON PAUL G + KAREN E 142 REGATTA CT VALPARAISO IN 46385	19-46-24-W4-0080C.0030 67 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK C PB 6 PG 31 LOT 3	59
TOADVINE EDWARD M + DIANE H 71 MIRAMAR ST FORT MYERS BEACH FL 33931	19-46-24-W4-0080C.0040 71 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK C PB 6 PG 31 LOT 4	60
JORDAN JACK E + HOPE C 123 N BALTIMORE ST BREMEN IN 46506	19-46-24-W4-0080C.0050 81 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK.C PB 6 PG 31 LOT 5	61
DUVALIMITED INC 2709 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0080C.0060 1750 ESTERO BLVD FORT MYERS BEACH FL 33931	MIRAMAR BLK.C PB 6 PG 31 LOT 6	62
LETSOS EVANGELOS P TR 201 OHIO AVE FORT MYERS BEACH FL 33931	19-46-24-W4-0090F.0020 201 OHIO AVE FORT MYERS BEACH FL 33931	GULF BAY VIEW BLK.F PB 8 PG 69 LOT 2	63
BATIKI WEST CONDO ASSOC 1511 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-02200.00CE COMMON ELEMENTS FORT MYERS BEACH FL 33931	BATIKI WEST CONDO DESC OR BK 1955 PG 1455 COMMON ELEMENTS POOL/DOCK	64
BAKER WARNER P EST MALCOLM J TUESLEY JR PO BOX 4136 SOUTH BEND IN 46634	19-46-24-W4-02200.2000 1511 ESTERO BLVD #200 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 200+ GAR	*65
PT-201 (OHIO GEN PARTNERSHIP) 860 HENN HYDE RD NE WARREN OH 44484	19-46-24-W4-02200.2010 1511 ESTERO BLVD #201 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 201	*65
POWER DIANA LEE PER REP + MALCOLM J TUESLEY JR PO BOX 4136 SOUTH BEND IN 46634	19-46-24-W4-02200.2020 1511 ESTERO BLVD #202 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 202	*65
WILLIAMS JEFFREY + JEANNE 1511 ESTERO BLVD #203 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.2030 1511 ESTERO BLVD #203 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 203	*65
SKUJA LAURA + 3956 BLUEJAY LN NAPERVILLE IL 60564	19-46-24-W4-02200.2040 1511 ESTERO BLVD #204 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 204	*65
BUTLER JAMES H + TERESA A 88 LEITAO DR OAKDALE CT 06370	19-46-24-W4-02200.2050 1511 ESTERO BLVD #205 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 205+ GAR	*65
WOOD SAMUEL + 6401 ST RTE 29 MASON CITY IL 62664	19-46-24-W4-02200.2060 1511 ESTERO BLVD #206 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 206	*65

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	Map Index
BECKETT CHARLES + BERNADINE + 1511 ESTERO BLVD #207 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.2070 1511 ESTERO BLVD #207 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 207	*65
FILM CAROLYN A 64 CARROLLS GROVE RD TROY NY 12180	19-46-24-W4-02200.2080 1511 ESTERO BLVD #208 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 208	*65
BROWN JOANNE M PER REP PO BOX 5087 FORT MYERS BEACH FL 33932	19-46-24-W4-02200.2090 1511 ESTERO BLVD #209 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 209	*65
FREDERICK PHYLLIS J 1511 ESTERO BLVD #300 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.3000 1511 ESTERO BLVD #300 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 300	*65
YOUKHANA MICHELLE C 7127 N MERRIMAC AVE CHICAGO IL 60646	19-46-24-W4-02200.3010 1511 ESTERO BLVD #301 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 301+ GAR	*65
FRANA THERESA L 238 E IRVING PARK RD APT 602 WOOD DALE IL 60191	19-46-24-W4-02200.3020 1511 ESTERO BLVD #302 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 302	*65
YOUKHANA SHANE W + MICHELLE C 7127 N MERRIMAC ST CHICAGO IL 60646	19-46-24-W4-02200.3030 1511 ESTERO BLVD #303 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 303 + GAR	*65
KINDRED R T + SHARON E 12799 CHEIFTAIN CT LEMONT IL 60439	19-46-24-W4-02200.3040 1511 ESTERO BLVD #304 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 304+ GAR	*65
COOK MEGAN D L + 17650 METCALF AVE STILWELL KS 66085	19-46-24-W4-02200.3050 1511 ESTERO BLVD #305 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 305+ GAR	*65
KARBLER LARRY L + BARBARA A 6558 OHENRY CIR NORTH RIDGEVILLE OH 44039	19-46-24-W4-02200.3060 1511 ESTERO BLVD #306 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 306	*65
RUDOLPH LORRAINE H TR GAYLE RUDOLPH HOLT POA 1130 BLUEBILL BAY RD BURNSVILLE MN 55306	19-46-24-W4-02200.3070 1511 ESTERO BLVD #307 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 307+ GAR	*65
HANKINS WILLIAM S + SANDRA K 871 HARBOR CT ROME CITY IN 46784	19-46-24-W4-02200.3080 1511 ESTERO BLVD #308 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1055 UNIT 308	*65
ABRAMS ALVA T + LINDA P 1511 ESTERO BLVD #309 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.3090 1511 ESTERO BLVD #309 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 309	*65
HATTER THOMAS G + MARGARET E 1511 ESTERO BLVD #400 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.4000 1511 ESTERO BLVD #400 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 400	*65
BARTZ RICHARD O + MARY A 6566 FRANCE AVE S APT# 210 EDINA MN 55435	19-46-24-W4-02200.4010 1511 ESTERO BLVD #401 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 401	*65
QUARTELLO BETTY A TR 8644 W PALMER ST RIVER GROVE IL 60171	19-46-24-W4-02200.4020 1511 ESTERO BLVD #402 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 402	*65
QUARTELLO BETTY A TR 8644 WEST PALMER RIVER GROVE IL 60171	19-46-24-W4-02200.4030 1511 ESTERO BLVD #403 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 403 + GAR	*65
COOPER CHARLES E + BARBARA A 22 SPRING LANE TIFFIN OH 44883	19-46-24-W4-02200.4040 1511 ESTERO BLVD #404 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 404+ GAR	*65
MOORE ROBERT J + CYNTHIA S 22 W 658 ELMWOOD DR GLEN ELLYN IL 60137	19-46-24-W4-02200.4050 1511 ESTERO BLVD #405 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 405+ GAR	*65

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	Map Index
HANKINS SANDRA K 871 HARBOR CT ROME CITY IN 46784	19-46-24-W4-02200.4060 1511 ESTERO BLVD #406 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 406 + GAR	*65
THRASHER ROBERT E + BARBARA D 1511 ESTERO BLVD #407 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.4070 1511 ESTERO BLVD #407 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 407	*65
SMITH BRIAN T + PO BOX 235 HEYWORTH IL 61745	19-46-24-W4-02200.4080 1511 ESTERO BLVD #408 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 408	*65
CONKLIN KERRY P + SUZAN J 7225 ELM RIDGE DR INDIANAPOLIS IN 46236	19-46-24-W4-02200.4090 1511 ESTERO BLVD #409 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 409	*65
CAPUA RONALD TR 407 WOODSIDE DR WOOD DALE IL 60191	19-46-24-W4-02200.5000 1511 ESTERO BLVD #500 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 500 + GAR	*65
SNYDER NOAH I + RUTH E 1511 ESTERO BLVD APT 501 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.5010 1511 ESTERO BLVD #501 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 501	*65
ZEIGLER RICHARD + LORETTA E TR 1511 ESTERO BLVD #502 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.5020 1511 ESTERO BLVD #502 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 502	*65
DOUGLAS RAYMOND + JENNIFER 3 PELHAM RD BARGATE GRIMSBY LINCOLNSHIRE DN344SU UNITED KINGDOM	19-46-24-W4-02200.5030 1511 ESTERO BLVD #503 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 503	*65
WOOD SAMUEL PO BOX 342 PETERSBURG IL 62675	19-46-24-W4-02200.5040 1511 ESTERO BLVD #504 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 504	*65
GOSBETH FRED E III TR 1511 ESTERO BLVD #505 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.5050 1511 ESTERO BLVD #505 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 505 + GAR	*65
SPIDEL LYNN R + DEANNA J 700 LAKESIDE DR ROME CITY IN 46784	19-46-24-W4-02200.5060 1511 ESTERO BLVD #506 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 506 + GAR	*65
SPIDEL LYNN R + DEANNA J 700 LAKESIDE DR ROME CITY IN 46784	19-46-24-W4-02200.5070 1511 ESTERO BLVD #507 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 507	*65
GUILES JON R TR PO BOX 2706 FORT MYERS BEACH FL 33932	19-46-24-W4-02200.5080 1511 ESTERO BLVD #508 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 508	*65
STERNER BERNARD D + RACHEL 839 S EUCLID AVE VILLA PARK IL 60181	19-46-24-W4-02200.5090 1511 ESTERO BLVD #509 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 509 + GAR	*65
WOOD SAMUEL L PO BOX 342 PETERSBURG IL 62675	19-46-24-W4-02200.6000 1511 ESTERO BLVD #600 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 600 + GAR	*65
SMITH BRIAN T + PO BOX 235 HEYWORTH IL 61745	19-46-24-W4-02200.6010 1511 ESTERO BLVD #601 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 601	*65
SCHWELLENBACH JOHN + MARY E 1511 ESTERO BLVD #602 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.6020 1511 ESTERO BLVD #602 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 602	*65
HANSEN GERALD M + LOUISE CO-TR 1511 ESTERO BLVD #603 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.6030 1511 ESTERO BLVD #603 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 603	*65
RICCIO JOSEPH MICHAEL 26 SECLUDED HOLLOW RD CAPE MAY COURT HOUSE NJ 08210	19-46-24-W4-02200.6040 1511 ESTERO BLVD #604 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 604 + GAR	*65

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	Map Index
GENES FOOD STORE INC PO BOX 9019 SPRINGFIELD IL 62791	19-46-24-W4-02200.6050 1511 ESTERO BLVD #605 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 605 + GAR	*65
FOUR P INVESTMENTS LTD DIANE PALERMO 1511 ESTERO BLVD APT 606 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.6060 1511 ESTERO BLVD #606 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 606	*65
PEX INVESTMENTS LIMITED PECK GRAHAM 92 REGENT RD GREAT YARMOUTH NR30 2AH NORFOLK UNITED KINGDOM	19-46-24-W4-02200.6070 1511 ESTERO BLVD #607 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 607 + GAR	*65
MAY JOYCE A PT-608 860 HENN HYDE RD WARREN OH 44484	19-46-24-W4-02200.6080 1511 ESTERO BLVD #608 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 608	*65
BROWN JOANNE M L/E PO BOX 5087 FORT MYERS BEACH FL 33932	19-46-24-W4-02200.6090 1511 ESTERO BLVD #609 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 609	*65
SMITH JULIA V TR PO BOX 324 FORTVILLE IN 46040	19-46-24-W4-022PH.00A0 1511 ESTERO BLVD #PHA FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE A + GAR	*65
CALHAN JOAN CLAIRE TR 189 SADDLEBROOK DR OAK BROOK IL 60523	19-46-24-W4-022PH.00B0 1511 ESTERO BLVD #PHB FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE B + GAR	*65
CALHAN JOAN CLAIRE TR 189 SADDLEBROOK DR OAK BROOK IL 60523	19-46-24-W4-022PH.00C0 1511 ESTERO BLVD #PHC FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE C + GAR	*65
ELLIOTT ROBERT B + CHRISTINA L 975 WORWICK CT #605 BURLINGTON ON L7T 3Z7 CANADA	19-46-24-W4-022PH.00D0 1511 ESTERO BLVD #PHD FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE D + GAR	*65
MIRAGLIOTTA JOSEPHINE 1/2 + MICHAEL MIRAGLIOTTA 280 HANCOCK AVE BRIDGEWATER NJ 08807	19-46-24-W4-022PH.00E0 1511 ESTERO BLVD #PHE FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE E	*65
LONI RODGER J PER REP 2054 N NORDICA AV CHICAGO IL 60707	19-46-24-W4-022PH.00F0 1511 ESTERO BLVD #PHF FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE F	*65
RICCIO NICHOLAS J + PATRICIA A 1511 ESTERO BLVD APT PHG FORT MYERS BEACH FL 33931	19-46-24-W4-022PH.00G0 1511 ESTERO BLVD #PHG FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE G + GAR	*65
PESHA VINCENT P ETAL 4812 S PULASKI RD CHICAGO IL 60632	19-46-24-W4-022PH.00H0 1511 ESTERO BLVD #PHH FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE H + GAR	*65
LOIZZO GARY A + DIANE L 8453 ROB ROY DR ORLAND PARK IL 60462	19-46-24-W4-022PH.00I0 1511 ESTERO BLVD #PHI FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE I + GAR	*65
BUTLER WILLIAM PATRICK PSC 80 BOX 10265 APO AP 96367	19-46-24-W4-022PH.0J00 1511 ESTERO BLVD #PHJ FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE J + GAR	*65
TROPICAL CENTER CONDO ASSOC 1300 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-02300.00CE HDR: TROPICAL CNTR FORT MYERS BEACH FL 33931	CONDO IN SW 1/4 SEC 19 TWP 46 R 24 RECORDED IN OR 1123 P 323 THRU 364 COMMON ELEMENTS	66
MAUHI ENTERPRISES INC 4411 CLEVELAND AV FORT MYERS FL 33901	19-46-24-W4-0230B.0000 1600 ESTERO BLVD #B FORT MYERS BEACH FL 33931	TROPICAL CENTER COND OR 1123 PG 323 UNIT B	67
MAUHI ENTERPRISES INC 4411 CLEVELAND AV FORT MYERS FL 33901	19-46-24-W4-0230C.0000 1600 ESTERO BLVD #C FORT MYERS BEACH FL 33931	TROPICAL CENTER CONDO OR 1123 PG 323 UNIT C	*68

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	Map Index
MAUHI ENTERPRISES INC 4411 CLEVELAND AV FORT MYERS FL 33901	19-46-24-W4-0230D.0000 1600 ESTERO BLVD #D FORT MYERS BEACH FL 33931	TROPICAL CENTER CONDO OR 1123 PG 323 UNIT D	*68
MAUHI ENTERPRISES INC 4411 CLEVELAND AV FORT MYERS FL 33901	19-46-24-W4-0230E.0000 1600 ESTERO BLVD #E FORT MYERS BEACH FL 33931	TROPICAL CENTER CONDO OR 1123 PG 323 UNIT E	*68
ESTERO ISLAND BEACH CLUB 1840 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-03200.00CE 1836 ESTERO BLVD FORT MYERS BEACH FL 33931	ESTERO ISLAND BEACH CONDO A TIME-SHARE AS DESC IN OR1511-1733 + OR2047-4325 COMMON ELEMENTS	69

130 RECORDS PRINTED

VARIANCE REPORT

9/21/2009

Subject Parcels : 2 Affected Parcels : 130 Buffer Distance : 500 ft

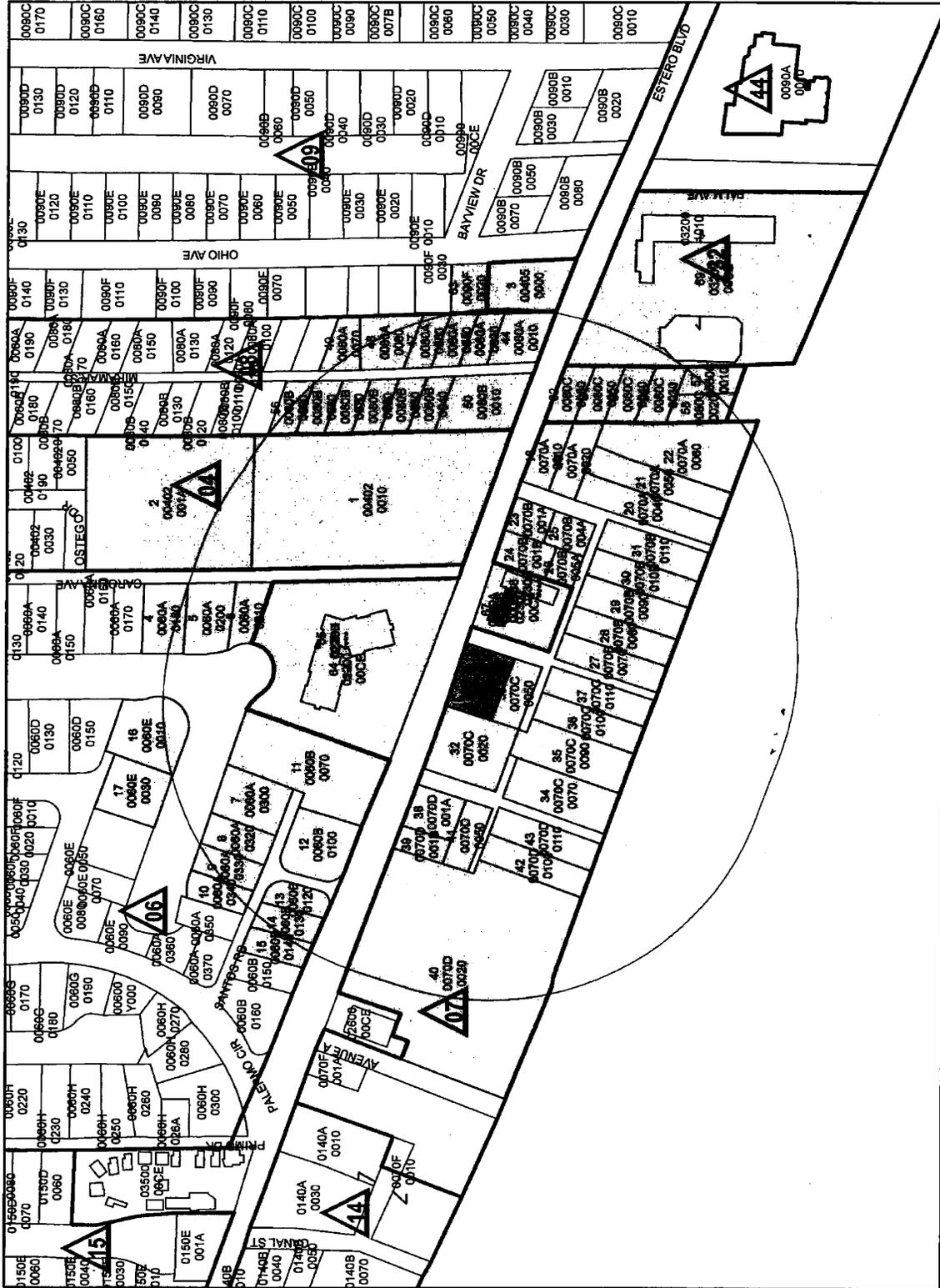


EXHIBIT 5-8

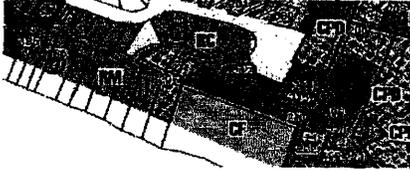


19-46-24-W4-0230A.0000 et al.

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Town of Fort Myers Beach
Department of Community Development



Zoning Division

Supplement PH-A

**Additional Required Information for a
Special Exception Application**

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

Project Name:	HOOTERS RESTAURANT
Authorized Applicant:	MAUIE ENTERPRISES, INC. (PROPERTY OWNER)
LeePA STRAP Number(s):	19-46-24-W4-0230A.0000

Current Property Status:	HOOTERS RESTAURANT
Current Zoning:	DOWNTOWN
Future Land Use Map (FLUM) Category:	PEDESTRIAN COMMERCIAL
Platted Overlay? <input type="checkbox"/> yes <input checked="" type="checkbox"/> no	FLUM Density Range:

Requested Action:

<input type="checkbox"/> Use of premises in the EC (Environmentally Critical) zoning district for:
<input checked="" type="checkbox"/> Use of premises in the <u>DOWNTOWN</u> zoning district for:
CONSUMPTION OF ALCOHOLIC BEVERAGES - 4 COP (FULL LIQUOR)
INCLUDING OUTDOOR SEATING. PROPERTY CURRENTLY APPROVED
FOR 2-COP (BEER + WINE) INCLUDING OUTDOOR SEATING.

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

PART I
Narrative Statements

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

CONSUMPTION OF ALCOHOLIC BEVERAGES - 4 COP -
(FULL LIQUOR) INCLUDING OUTDOOR SEATING ON
FRONT AND REAR DECKS.

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

The property qualifies for a Special Exception because:
THE PROPERTY HAS BEEN APPROVED FOR CONSUMPTION
OF ALCOHOLIC BEVERAGE - 2 COP - (BEER AND WINE)
ON PREMISES INCLUDING OUTDOOR SEATING ON
FRONT AND REAR DECKS SINCE 2002. HOOTERS
RESTAURANT WOULD LIKE TO INCREASE THE
ALCOHOLIC BEVERAGE LICENSE TO A 4-COP SERIES
LICENSE TO ALLOW FOR THE SERVICE OF FULL
LIQUOR.

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Granting the requested Special Exception could impact surrounding properties as follows:
GRANTING THIS REQUEST WILL NOT CAUSE
DAMAGE, HAZARD, NUISANCE OR OTHER
DETIMENT TO PERSONS OR PROPERTY IN THE
SURROUNDING AREA. THE HOURS OF OPERATION
OF THE RESTAURANT WILL REMAIN THE SAME.
THE 4-COP LICENSE WOULD CONTINUE TO ONLY
BE USED IN CONJUNCTION WITH THE RESTAURANT.

PART 2
Submittal Requirements

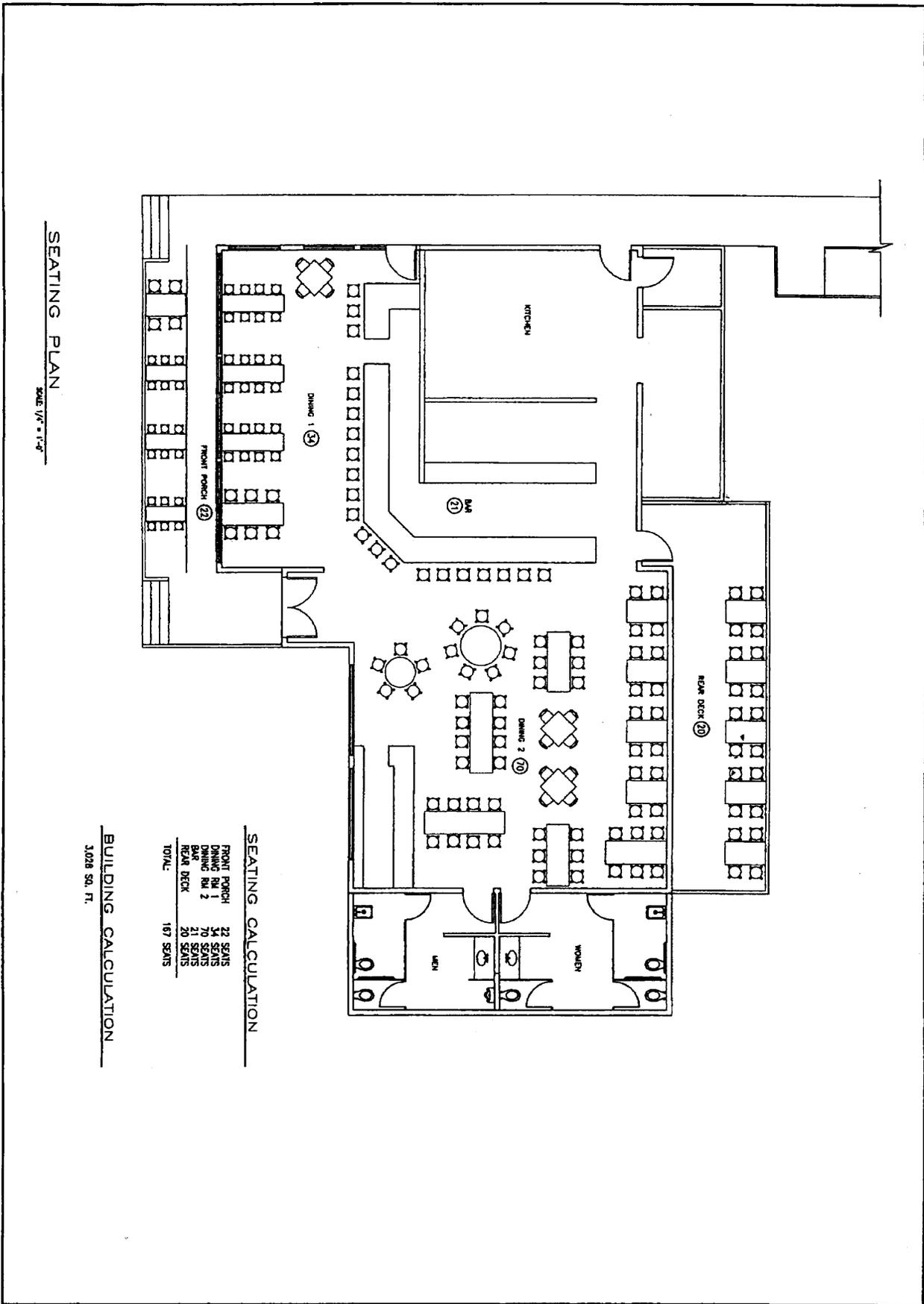
All applications for a special exception must submit fourteen (14) copies of this application form and all applicable exhibits.

Required Items

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

For New Communication Towers:

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



SEATING PLAN

SCALE 1/8" = 1'-0"

SEATING CALCULATION

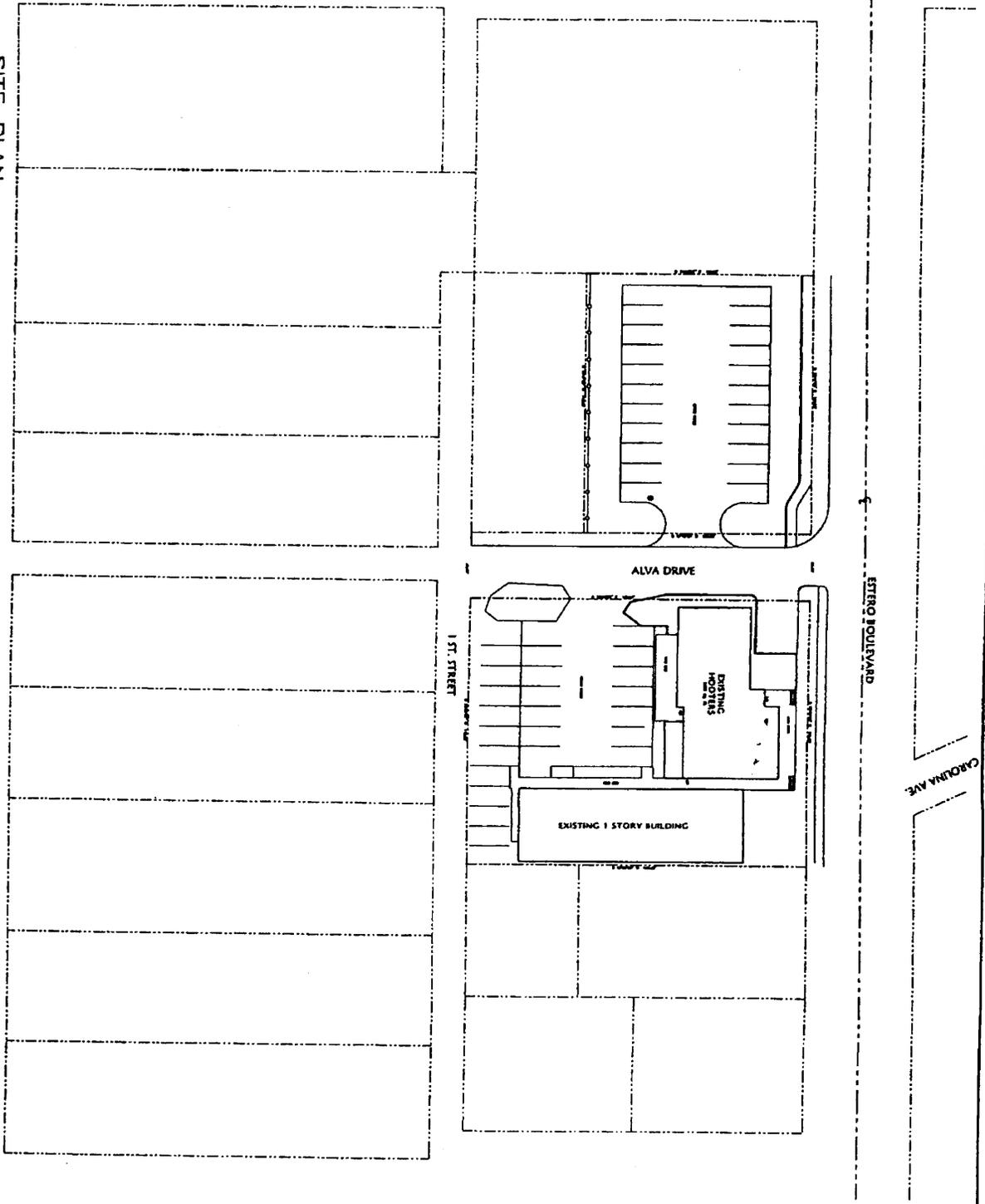
FRONT PORCH	22 SEATS
DINING RM 1	34 SEATS
DINING RM 2	70 SEATS
BAR	21 SEATS
REAR DECK	20 SEATS
TOTAL:	167 SEATS

BUILDING CALCULATION

3,026 SQ. FT.

A.1	<p>HOOTERS 1600 ESTERO BLVD. FT. MYERS, FLORIDA</p>	<p>SEATING PLAN</p>	<p>MORAND ARCHITECTS, INC. 24551 DETROIT ROAD WESTLAKE, OHIO 44145 OFFICE: 440-835-3200 FAX 440-835-3338 E-MAIL: KEVIN@MORAND.COM</p>	<p>REVISIONS</p>
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SITE PLAN
Scale: 1/8" = 1'-0"



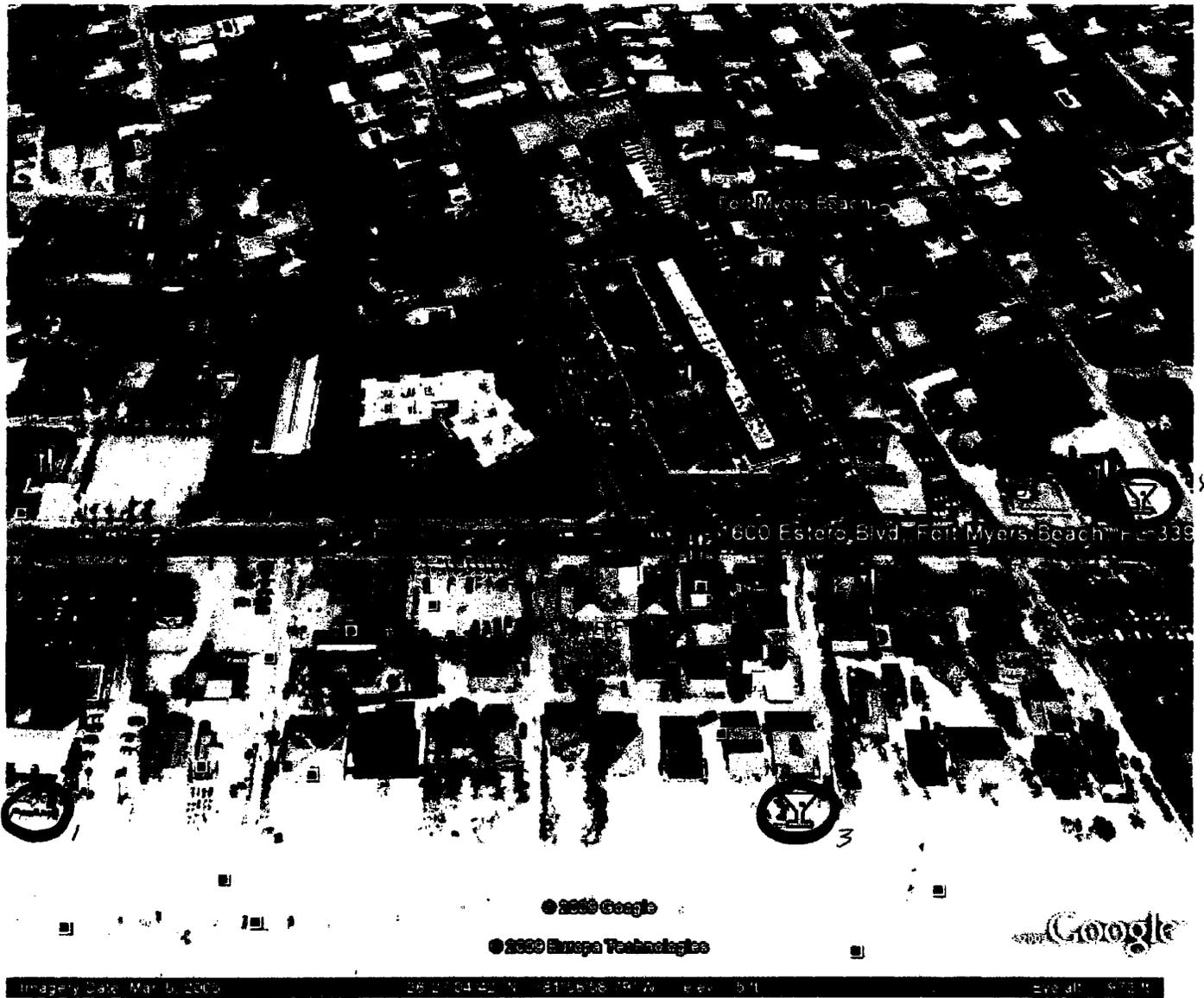
SP.1

HOOTERS
1600 ESTERO BLVD.
FT. MYERS, FLORIDA

SITE PLAN

MORAND ARCHITECTS, INC.
24551 DETROIT ROAD
WESTLAKE, OHIO 44145
OFFICE: 440-436-6289 FAX: 440-436-6286
E-MAIL: MORAND@MORAND.COM

REVISIONS	



- 1) LANI KAI
- 2) REESE'S
- 3) BEACH PUB
- 4) TERRA NOSTRA RESTAURANT

Town of Fort Myers Beach
Department of Community Development
Zoning Division

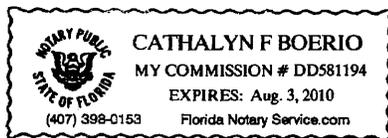
Mauhi Enterprises, Inc. is the property owner for Waterfront Concepts, Inc. d/b/a Hooters of Ft Myers Beach at 1600 Estero Blvd, Ft Myers Beach, FL. Hooters Restaurant currently has a 2-COP SRX series Beverage License at this location for on premises beer and wine consumption including outside dining. Hooters Restaurant is requesting to increase this license to a 4-COP SRX series Beverage License for on premises full liquor consumption including outside dining. The seating plan will remain unchanged from the attached seating plan currently in place. The hours of operation will also remain unchanged:

Monday – Thursday: 11:00 am to 12:00 Midnight

Friday and Saturday: 11:00 am to 1:00 am

Sunday: 12:00 noon to 10:00pm

As Vice President and Stockholder of both Mauhi Enterprises, Inc. and Waterfront Concepts, Inc. d/b/a Hooters of Ft Myers Beach, I authorize Mauhi Enterprises, Inc. and Hooters Restaurant to make this Special Exception Application.



Cathalyn F. Boerio
11/20/09


Paul Lynch, Vice-President
Mauhi Enterprises, Inc. and
Waterfront Concepts, Inc. d/b/a
Hooters of Ft Myers Beach