



TOWN OF FORT MYERS BEACH

LPA
Resolutions
2004

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2004-01

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT
MYERS BEACH

WHEREAS, Terence Kent and Kathleen Cook have requested 2 variances in the RS (Residential) zoning district from LDC Table 34-1; a] from the minimum side setback of 10 feet to allow a side setback of 6 feet; and 2] from the required 25 foot waterbody setback to allow a waterbody setback of 21 feet in order to allow an existing above ground pool and deck to remain in its current location; and

WHEREAS, the subject property is located at 710 Matanzas Court, Ft. Myers Beach, in S24-T46S-R23, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP number is: 24-46-23-W3-0050C.0020 and the legal description attached as Exhibit A is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on January 13, 2004, and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

That the LPA recommends that the Town Council approve the requested variances with the following conditions;

1. That the variance is limited to the existing structure as shown in Exhibit B
2. The applicant will cut off the side of the deck to end at the pool in order to maintain a side setback of 6 feet.

Pursuant to the recommendation of approval of the Applicant's variance requests , the LPA finds the following;

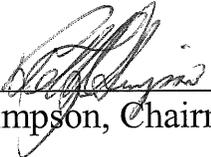
Findings & Conclusions;

1. There are exceptional or extraordinary conditions or circumstances inherent to the property in question.
2. The exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken after the adoption of the regulation in question because the applicant purchased the subject property in 1999 under the assumption that the pool and deck were in compliance with the LDC.
3. The variances are the minimum variances that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property.
4. The granting of the variances will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
5. The condition or situation of the specific piece of property, or the intended use of the property, for which the variance is sought is not of a general or recurrent nature so as to make it more reasonable and practical to amend the regulation in question.

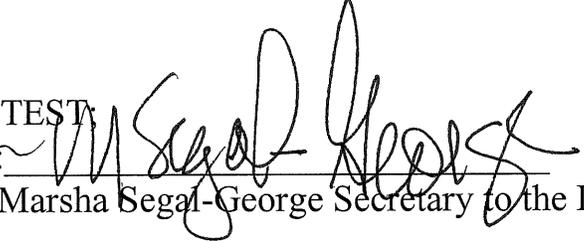
The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Plummer and seconded by LPA Member Smith, and upon being put to a vote, the result was as follows:

Anita Cereceda	no
Jessica Titus	yes
Betty Simpson	yes
Roxie Smith	yes
Jodi Hester	no
Hank Zuba	no
Nancy Mulholland	no
Harold Huber	yes
Jane Plummer	yes

DULY PASSED AND ADOPTED THIS 13th day of January, 2004.
LPA of the Town of Fort Myers Beach

By: 
Betty Simpson, Chairman

ATTEST

By: 
Marsha Segal-George Secretary to the LPA

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2004-02

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT
MYERS BEACH

WHEREAS, Sheila F. Watts has requested to rezone 5335 +/- square feet from Santos to Residential Planned Development (RPD), with deviations, to allow the conversion of 3 dwelling units in an existing multiple-family building to 8 Bed & Breakfast guest units; and

WHEREAS, the subject property is located at 1321 Santos Road, Ft. Myers Beach, in S19-T46S-R24E, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP number is: 19-46-24-W4-0060A.0370 and the legal description is as follows;
LOT 37, BLOCK 'A', VENETIAN GARDENS SUBDIVISION, PLAT BOOK 6, PAGE 70, PUBLIC RECORDS, LEE COUNTY, FLORIDA ; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on January 13, 2004, and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

That the LPA recommends that the Town Council deny the Applicant's request for rezoning from Santos to Residential Planned Development (RPD), but in the alternative recommend approval of rezoning from Santos to Commercial Planned Development with the conditions and deviations and findings and conclusions found on pages 2-4 of the Staff Report which is dated January 5, 2003 and which is attached hereto and incorporated herein by reference with the following corrections or additions;

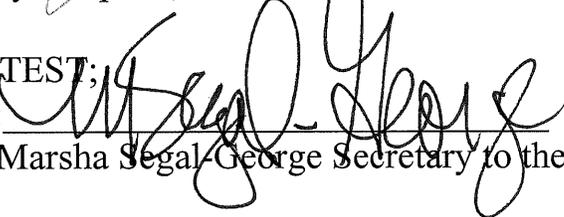
1. Condition 2.b. Site Development Regulations is corrected to state the Commercial Resort zoning district instead of the Residential Multifamily zoning district.
2. The applicant had proposed a new condition #4 but the LPA finds that the Staff's recommended #4 is more appropriate.
3. The LPA specifically requests that all right of way use for parking be removed from the Applicant's master concept plan.
4. The LPA has recommended that Deviation #4 be approved conceptually to allow the Staff and the Applicant to work out the correct rear setback necessary to accommodate existing stairs prior to this case being heard by the Town Council.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Hester and seconded by LPA Member Cereceda, and upon being put to a vote, the result was as follows:

Anita Cereceda	yes
Jessica Titus	yes
Betty Simpson	yes
Roxie Smith	yes
Jodi Hester	yes
Hank Zuba	yes
Nancy Mulholland	yes
Harold Huber	yes
Jane Plummer	yes

DULY PASSED AND ADOPTED THIS 13th day of January, 2004.
LPA of the Town of Fort Myers Beach

By: 
Betty Simpson, Chairman

ATTEST;
By: 
Marsha Segal-George Secretary to the LPA

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2004-03

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT MYERS BEACH

WHEREAS, Peter & Susan Lisich have requested to rezone a 11,761 square foot+/- parcel from Commercial Planned Development (CPD) to Residential Planned Development (RPD) to develop five (4,250 square foot multi-family units) total square footage of new building will be 21,250 square feet) with deviations from LDC pre-disaster buildback provisions, setbacks, floor area ratio requirements, connection separation, buffer from mean high water line and the building height to allow building height not to exceed 68.1 feet above base flood elevation and 6 stories; and

WHEREAS, the subject property is located at 131 Estero Blvd., Ft. Myers Beach, in S24-T46S-R23E, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP number is: 24-46-23-WI-0080D.0370 and the legal description is as follows;
LOT 37, BLOCK 'D', ISLAND SHORES CLUB SECTION, A SUBDIVISION LYING IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, AS RECORDED IN PLAT BOOK 9, PAGE 41 OF THE PUBLIC RECORDS, LEE COUNTY, FLORIDA; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on February 10, 2004, and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

That the LPA recommends that the Town Council deny the Applicant's request for rezoning from Commercial Planned Development (CPD) to Residential Planned Development (RPD) and deny all deviations requested as deviation #1 through deviation #9.

Findings and Conclusions:

Based upon an analysis of the application and the standards for approval of planned development zoning approval, staff makes the following findings and conclusions:

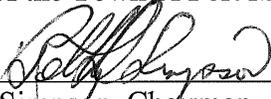
1. The requested residential planned development zoning district does not comply with the Comprehensive Plan, Chapter 34 of the Land Development Code, and other applicable codes and regulations.
2. The proposed use or mix of uses is not appropriate at the subject location.

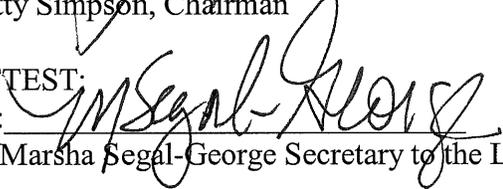
3. Sufficient safeguards to the public interest are not provided by the master concept plan or by other applicable regulations
4. The proposed use or mix of uses do not meet all specified requirements of the Comprehensive Plan that are relevant to the requested planned development, such as the following;
 - a. Policy 4-B-1 on overbuilding
 - b. Policy 4-B-4 on development in Mixed Residential future land use map category
 - c. Policy 4-C-4 on building heights taller than the standard height limit
 - d. Policy 4-C-5 on density
 - e. Policy 4-E-1 on pre-disaster buildback
5. As to the requested deviations;
 - a. do not enhance the achievement of the objectives of the planned development
 - b. do not preserve and promote the general intent of the LDC Chapter to protect the public health, safety, and welfare
 - c. do not operate to the benefit, or at least not to the detriment, of the public interest
 - d. are no consistent with the Comprehensive Plan

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Cereceda and seconded by LPA Member Zuba, and upon being put to a vote, the result was as follows:

Anita Cereceda	yes
Jessica Titus	yes
Betty Simpson	yes
Roxie Smith	yes
Jodi Hester	absent
Hank Zuba	yes
Nancy Mulholland	yes
Harold Huber	yes
Jane Plummer	absent

DULY PASSED AND ADOPTED THIS 10th day of February, 2004.
LPA of the Town of Fort Myers Beach

By: 
Betty Simpson, Chairman

ATTEST:
By: 
Marsha Segal-George Secretary to the LPA

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2004-04

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT MYERS BEACH

WHEREAS, Seafarers Village Mall has requested to amend the Master Concept Plan (MCP) for the Commercial Planned Development (CPD) for Seafarer's Village Mall to increase the outdoor seating area and existing on-premise consumption of alcoholic beverages associated with an existing Restaurant (Chiggies) by 260 square feet; and

WHEREAS, the subject property is located at 1113 Estero Blvd., Ft. Myers Beach, in S24-T46S-R23E, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 24-46-23-W3-00006.0000, 24-46-23-W3-00206.0010, 24-46-23-W3-00206.0060, and 24-46-23-W3-00205.0070 and the legal description is attached hereto and incorporated herein by reference as Exhibit A.

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on February 10, 2004, and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

That the LPA recommends that the Town Council approve an amendment to the Master Concept Plan for the Commercial Planned Development for Seafarer's Village Mall to increase the outdoor seating area and existing on-premise consumption of alcoholic beverages associated with an existing restaurant (Chiggies), subject to the following conditions;

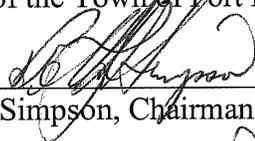
- 1 260 square feet with 16 outdoor seats on the second floor to be associated with Chiggies.
- 2 On-premises consumption of alcoholic beverages in the above-designated outdoor seating areas is prohibited in the absence of the availability of food service and at a minimum these areas must be closed between the hours of 12 a.m. and 10 a.m.
- 3 Live entertainment is limited to accordion and acoustic string instruments and is limited to the hours of 10 a.m. through 11 p.m.. No other entertainment is permitted in the outdoor seating areas.
- 4 Recorded music may be piped into the outdoor seating areas between the hours of 10 a.m. and 11 p.m..

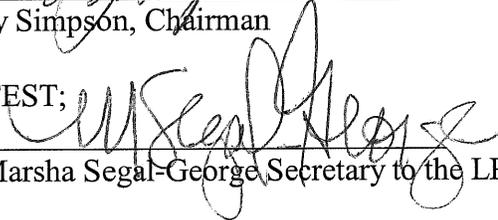
- 5 Any additional outdoor seating areas will require a public hearing amendment of the planned development.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Huber and seconded by LPA Member Titus , and upon being put to a vote, the result was as follows:

Anita Cereceda	yes
Jessica Titus	yes
Betty Simpson	yes
Roxie Smith	yes
Jodi Hester	absent
Hank Zuba	yes
Nancy Mulholland	yes
Harold Huber	yes
Jane Plummer	absent

DULY PASSED AND ADOPTED THIS 10th day of February, 2004.
LPA of the Town of Fort Myers Beach

By: 
Betty Simpson, Chairman

ATTEST;
By: 
Marsha Segal-George, Secretary to the LPA

DCI2003-00065

EXHIBIT "A"
PROPERTY DESCRIPTION

IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA:

PART OF BLOCK 6, BUSINESS CENTER SUBDIVISION AS RECORDED IN PLAT BOOK 9, PAGE 9, PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND PART OF SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTHEASTERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD AND THE SOUTHWEST CORNER OF BLOCK "E", CRESCENT PARK ADDITION AS RECORDED IN PLAT BOOK 4, PAGE 46, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N.70°37'09"W. ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE FOR 195.75 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUE N.70°37'09"W. ALONG SAID RIGHT-OF-WAY LINE FOR 93.70 FEET; THENCE CONTINUE N.70°37'09"W. ALONG SAID RIGHT -OF-WAY LINE FOR 68.00 FEET; THENCE N.60°22'23"W. ALONG SAID RIGHT-OF-WAY LINE FOR 83.36 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF CENTER STREET (30 FEET FROM CENTERLINE); THENCE RUN N.42°34'29"W. ALONG SAID RIGHT-OF-WAY LINE FOR 28.56 FEET; THENCE N.22°22'44"W. ALONG SAID RIGHT-OF-WAY LINE FOR 120.00 FEET; THENCE N.67°37'16"E. FOR 105.13 FEET; THENCE N.22°23'59"W. FOR 40.02 FEET TO THE NORTHWESTERLY CORNER OF LOT 6, BLOCK 6, OF SAID BUSINESS CENTER SUBDIVISION, BEING THE SOUTHERLY RIGHT-OF-WAY LINE OF FIFTH AVENUE; THENCE N.67°36'01"E. ALONG SAID RIGHT-OF-WAY LINE FOR 120.30 TO REFERENCE POINT "A"; THENCE CONTINUE N.67°36'01"E. ALONG SAID RIGHT-OF-WAY LINE FOR 84.86 FEET; THENCE N.25°59'51"E. ALONG THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID FIFTH AVENUE FOR 16.45 FEET TO A POINT ON A CURVE; THENCE RUN NORTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE FOR 75.05 FEET ALONG THE ARC OF A CURVE CONCAVE

NORTHWESTERLY, WITH A RADIUS OF 209.00 FEET, A DELTA OF 20°34'26", A CHORD BEARING OF N.35°32'37"E. AND A CHORD DISTANCE OF 74.65 FEET TO A POINT OF REVERSE CURVATURE; THENCE CONTINUE NORTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE FOR 108.07 FEET ALONG THE ARC OF A CURVE CONCAVE SOUTHEASTERLY, WITH A RADIUS OF 151.00 FEET, A DELTA OF 41°00'25", A CHORD BEARING OF N.45°45'34"E. AND A CHORD DISTANCE OF 105.78 FEET; THENCE S.64°00'09"E. ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID FIFTH AVENUE FOR 45.46 FEET (SAID LINE NOT RADIAL TO THE PREVIOUSLY DESCRIBED LINE) TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF CRESCENT STREET ; THENCE S.00°43'09"E. ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID CRESCENT STREET FOR 48.75 FEET; THENCE S.00°05'57"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 350.09 FEET; THENCE RUN S.00°43'09"E. ALONG SAID RIGHT-OF-WAY LINE FOR 123.84 FEET; THENCE S.54°21'33"W. FOR 48.18 FEET TO A POINT ON SAID NORTHEASTERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD; THENCE N.70°37'09"W. FOR 117.93 FEET TO THE **POINT OF BEGINNING.**

TOGETHER WITH:

PART OF LOTS 7, 8 AND 9, BLOCK 5, BUSINESS CENTER SUBDIVISION AS RECORDED IN PLAT BOOK 9, PAGE 9, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE ABOVE MENTIONED REFERENCE POINT "A"; THENCE RUN N.22°23'59"W. FOR 50.00 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF FIFTH AVENUE (50 FEET WIDE) AND THE **POINT OF BEGINNING**; THENCE S.67°36'01"W. ALONG SAID RIGHT-OF-WAY LINE FOR 101.00 FEET; THENCE N.61°57'33"W. FOR 29.83 FEET; THENCE N.22°23'43"W. FOR 32.43 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SAN CARLOS BOULEVARD (85 FEET WIDE); THENCE N.26°00'19"E. ALONG SAID RIGHT-OF-WAY LINE FOR 37.02 FEET; THENCE N.67°36'01"E. FOR 92.31 FEET;

THENCE S.22°23'59"E. FOR 80.00 FEET TO THE **POINT
OF BEGINNING.**

SAID TRACT CONTAINS 3.634 ACRES (158306 SQUARE FEET).
SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

BEARINGS ARE BASED ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF
ESTERO BOULEVARD AS BEING N.70°37'09"W.

Applicant's Legal Checked
by AMJ 02 FEB 04

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2004-05

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT
MYERS BEACH

WHEREAS, Prismatic Corp., in ref. to Times Square Coffee Shop has requested a Special Exception for consumption on premises (2-COP) of alcoholic beverages with outdoor seating in conjunction with a cafe; and

WHEREAS, the subject property is located at 1035 Estero Blvd., Ft. Myers Beach, in S24-T46S-R23, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP number is: 244623W300208.0060 and the legal description is attached as Exhibit "A" ; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on March 23, 2004, and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

That the LPA recommends that the Town Council approve the Applicant's request subject to the 8 conditions listed on Page 2 of the Staff Report dated March 11, 2004 and which is attached hereto and incorporated herein by reference with the following change;

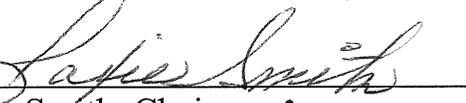
Condition #4. *Esthetically pleasing* legible signs will be clearly posted for the areas not approved for on premise consumption stating "Alcoholic beverages are prohibited beyond this point."

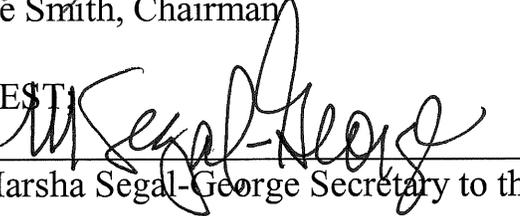
The LPA bases this recommendation on the Findings and Conclusions found on pages 2 through 3 of the above-referenced Staff Report.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Cereceda and seconded by LPA Member Simpson, and upon being put to a vote, the result was as follows:

Anita Cereceda	yes
Jessica Titus	yes
Betty Simpson	yes
Roxie Smith	yes
Jodi Hester	absent
Hank Zuba	absent
Nancy Mulholland	yes
Harold Huber	yes
Jane Plummer	yes

DULY PASSED AND ADOPTED THIS 23rd day of March, 2004.
LPA of the Town of Fort Myers Beach

By: 
Roxie Smith, Chairman

ATTEST
By: 
Marsha Segal-George Secretary to the LPA

COP2003-00091

**PROPERTY DESCRIPTION
EXHIBIT "A"**

**IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE
COUNTY, FLORIDA:**

**A TRACT OR PARCEL OF LAND IN THE BUSINESS
CENTER SUBDIVISION, PLAT BOOK 9, PAGE 9, BLOCK
8, LOTS 6 & 7, ESTERO ISLAND, FT. MYERS BEACH,
PUBLIC RECORDS, LEE COUNTY, FLORIDA.**

**Applicant's Legal Checked
by AMM 07JULY03**

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2004-06

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT MYERS BEACH

WHEREAS, Seafarers Village Mall has requested to amend the Master Concept Plan (MCP) for the Commercial Planned Development (CPD) for Seafarer's Village Mall to add signs, to approve additional deviations for signs and to change the use of an existing restaurant –Tradewinds to a Bar/Cocktail Lounge; and

WHEREAS, the subject property is located at 1113 Estero Blvd., Ft. Myers Beach, in S24-T46S-R23E, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 24-46-23-W3-00006.0000, 24-46-23-W3-00206.0010, 24-46-23-W3-00206.0060, and 24-46-23-W3-00205.0070 and the legal description is attached hereto and incorporated herein by reference as Exhibit A.

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on March 23, 2004, and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

That the LPA recommends that the Town Council approve the Applicant's request as modified by staff to amend the CPD with the Conditions #1 through #15 found on pages 2 through 15 of the Staff Report dated March 15, 2004 and which is attached hereto and incorporated herein by reference. Further the LPA recommends that the Town Council approve deviations #1 through #8 found on pages 7 through 8 of the Staff Report dated March 15, 2004 and which is attached hereto and incorporated herein by reference with the following changes;

Condition #9 a. No later than 30 days from the date of approval of this amended planned development, the developer must remove the existing pole signs for Seafarer's ~~and Helmerich Plaza~~. No later than September 13, 2007, all signs and all businesses within the Seafarer's CPD must comply with the requirements of the Land Development Code except as modified by the deviations granted as recommended in this Report. All window signs or lettering must be removed or included within the 32 square feet of total sign area permitted for each business.

Deviation #7 a. one (1) 40-square-foot ground-mounted identification sign in accordance with sign #3 of the Sign Package at location number 3. The LPA has directed that staff

modify the size of this sign to be appropriate under the sign regulations and that size should be supplied to the Town Council for their hearing.

Deviation #8 a. Three feet and four inches (3' 4") for sign #3, where the allowed height would otherwise be three feet (3');

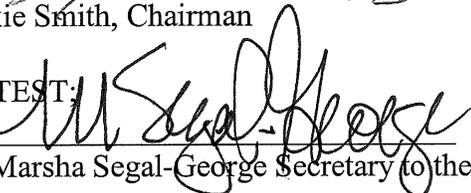
These recommendations are based on the Findings and Conclusions found on page 9 of the Staff Report dated March 15, 2005 and which is attached hereto and incorporated herein by reference.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Cereceda and seconded by LPA Member Plummer, and upon being put to a vote, the result was as follows:

Anita Cereceda	yes
Jessica Titus	yes
Roxie Smith	yes
Betty Simpson	yes
Jodi Hester	absent
Hank Zuba	absent
Nancy Mulholland	yes
Harold Huber	yes
Jane Plummer	yes

DULY PASSED AND ADOPTED THIS 23rd day of March, 2004.
LPA of the Town of Fort Myers Beach

By: 
Roxie Smith, Chairman

ATTEST:
By: 
Marsha Segal-George Secretary to the LPA

DCI2003-00065

EXHIBIT "A"
PROPERTY DESCRIPTION

IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA:

PART OF BLOCK 6, BUSINESS CENTER SUBDIVISION AS RECORDED IN PLAT BOOK 9, PAGE 9, PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND PART OF SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTHEASTERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD AND THE SOUTHWEST CORNER OF BLOCK "E", CRESCENT PARK ADDITION AS RECORDED IN PLAT BOOK 4, PAGE 46, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N.70°37'09"W. ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE FOR 195.75 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUE N.70°37'09"W. ALONG SAID RIGHT-OF-WAY FOR 93.70 FEET; THENCE CONTINUE N.70°37'09"W. ALONG SAID RIGHT -OF-WAY LINE FOR 68.00 FEET; THENCE N.60°22'23"W. ALONG SAID RIGHT-OF-WAY LINE FOR 83.36 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF CENTER STREET (30 FEET FROM CENTERLINE); THENCE RUN N.42°34'29"W. ALONG SAID RIGHT-OF-WAY LINE FOR 28.56 FEET; THENCE N.22°22'44"W. ALONG SAID RIGHT-OF-WAY LINE FOR 120.00 FEET; THENCE N.67°37'16"E. FOR 105.13 FEET; THENCE N.22°23'59"W. FOR 40.02 FEET TO THE NORTHWESTERLY CORNER OF LOT 6, BLOCK 6, OF SAID BUSINESS CENTER SUBDIVISION, BEING THE SOUTHERLY RIGHT-OF-WAY LINE OF FIFTH AVENUE; THENCE N.67°36'01"E. ALONG SAID RIGHT-OF-WAY LINE FOR 120.30 TO REFERENCE POINT "A"; THENCE CONTINUE N.67°36'01"E. ALONG SAID RIGHT-OF-WAY LINE FOR 84.86 FEET; THENCE N.25°59'51"E. ALONG THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID FIFTH AVENUE FOR 16.45 FEET TO A POINT ON A CURVE; THENCE RUN NORTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE FOR 75.05 FEET ALONG THE ARC OF A CURVE CONCAVE

NORTHWESTERLY, WITH A RADIUS OF 209.00 FEET, A DELTA OF 20°34'26", A CHORD BEARING OF N.35°32'37"E. AND A CHORD DISTANCE OF 74.65 FEET TO A POINT OF REVERSE CURVATURE; THENCE CONTINUE NORTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE FOR 108.07 FEET ALONG THE ARC OF A CURVE CONCAVE SOUTHEASTERLY, WITH A RADIUS OF 151.00 FEET, A DELTA OF 41°00'25", A CHORD BEARING OF N.45°45'34"E. AND A CHORD DISTANCE OF 105.78 FEET; THENCE S.64°00'09"E. ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID FIFTH AVENUE FOR 45.46 FEET (SAID LINE NOT RADIAL TO THE PREVIOUSLY DESCRIBED LINE) TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF CRESCENT STREET ; THENCE S.00°43'09"E. ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID CRESCENT STREET FOR 48.75 FEET; THENCE S.00°05'57"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 350.09 FEET; THENCE RUN S.00°43'09"E. ALONG SAID RIGHT-OF-WAY LINE FOR 123.84 FEET; THENCE S.54°21'33"W. FOR 48.18 FEET TO A POINT ON SAID NORTHEASTERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD; THENCE N.70°37'09"W. FOR 117.93 FEET TO THE **POINT OF BEGINNING.**

TOGETHER WITH:

PART OF LOTS 7, 8 AND 9, BLOCK 5, BUSINESS CENTER SUBDIVISION AS RECORDED IN PLAT BOOK 9, PAGE 9, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE ABOVE MENTIONED REFERENCE POINT "A"; THENCE RUN N.22°23'59"W. FOR 50.00 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF FIFTH AVENUE (50 FEET WIDE) AND THE **POINT OF BEGINNING**; THENCE S.67°36'01"W. ALONG SAID RIGHT-OF-WAY LINE FOR 101.00 FEET; THENCE N.61°57'33"W. FOR 29.83 FEET; THENCE N.22°23'43"W. FOR 32.43 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SAN CARLOS BOULEVARD (85 FEET WIDE); THENCE N.26°00'19"E. ALONG SAID RIGHT-OF-WAY LINE FOR 37.02 FEET; THENCE N.67°36'01"E. FOR 92.31 FEET;

THENCE S.22°23'59"E. FOR 80.00 FEET TO THE POINT
OF BEGINNING.

SAID TRACT CONTAINS 3.634 ACRES (158306 SQUARE FEET).
SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

BEARINGS ARE BASED ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF
ESTERO BOULEVARD AS BEING N.70°37'09"W.

Applicant's Legal Checked
by AMJ 02 FEB 04

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2004-07

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT MYERS BEACH

WHEREAS, JKJ Developers, Inc. in ref. to Casa Bahia has requested to rezone 0.2 acres from Residential Conservation (RC) to Residential Planned Development (RPD) to buildback 4 multiple-family dwelling units with deviations from setback and driveway width requirements and to allow an increase in interior space; and

WHEREAS, the subject property is located at 855 Lagoon Street, Ft. Myers Beach, in S24-T46S-R23E, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's legal description is as follows; LOT 33, BLOCK 'A', UNIT NO. 2 ISLAND SHORES SUBDIVISION, PLAT BOOK 9, PAGE 25, PUBLIC RECORDS, LEE COUNTY, FLORIDA ; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on June 8, 2004, and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

That the LPA recommends that the Town Council approve the Applicant's request to rezone from RC to RPD with certain deviations, subject to the conditions found on pages 2 & 3 of the Staff Report dated May 26, 2004, which is attached hereto and incorporated herein by reference, with the exception that condition #4 be stricken. The LPA also recommends that the deviations be approved with the modifications found at page 3 of the above-referenced Staff Report.

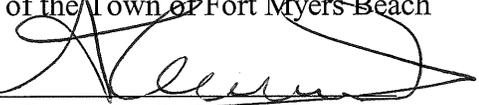
Pursuant to the recommendation of approval of the Applicant's request, the Findings and Conclusions of the Staff Report dated May 26, 2004, pages 3 & 4 are incorporated herein and attached hereto by reference.

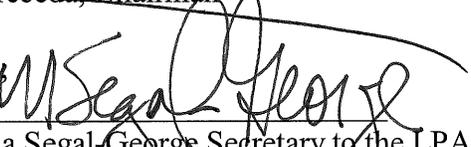
The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Huber and seconded by LPA Member Titus, and upon being put to a vote, the result was as follows:

Anita Cereceda	yes
Jessica Titus	yes
Betty Simpson	yes
Robert Simon	yes
Jodi Hester	absent

Hank Zuba	absent
Bill McCarthy	no
Harold Huber	yes
Jane Plummer	yes

DULY PASSED AND ADOPTED THIS 8th day of June, 2004.
LPA of the Town of Fort Myers Beach

By: 
Anita Cereceda, Chairman

ATTEST:
By: 
Marsha Segal-George Secretary to the LPA

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2004-08

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT
MYERS BEACH

WHEREAS, Denise Loomis has request a variance from Table 34-3 of the FMB LDC that requires a 7.5-foot setback for a side property line that is non-waterfront. The variance request is for a ten-inch reduction in the side yard setback; and

WHEREAS, the subject property is located at 185 Jefferson St., Ft. Myers Beach, in S29-T46S-R24E, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP number is: 29-46-24-W1-0030C.003B and the legal description attached as Exhibit A is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on May 11, 2004, and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

That the LPA recommends that the Town Council approve the requested variance with the condition that the variance is limited to the existing structure denoted as the "proposed Garage Addition" in the Staff Report dated April 30, 2004 and which is attached hereto and incorporated herein by reference..

Pursuant to the recommendation of denial of the Applicant's variance request , the LPA finds the following;

Findings & Conclusions;

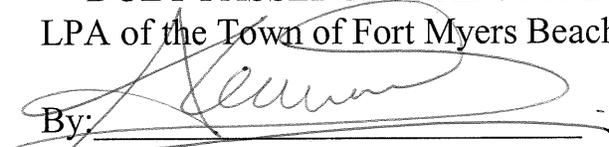
1. There are exceptional or extraordinary conditions or circumstances inherent to the property in question because the concrete slab was a pre-existing condition..

2. The exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken after the adoption of the regulation in question. The house was built in 1927, the existing slab and footers were already in place. The property owner is improving a pre-existing unsightly situation.
3. The variances are the minimum variances that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property.
4. The granting of the variances will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
5. The condition or situation of the specific piece of property, or the intended use of the property, for which the variance is sought is not of a general or recurrent nature so as to make it more reasonable and practical to amend the regulation in question.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Titus and seconded by LPA Member Huber, and upon being put to a vote, the result was as follows:

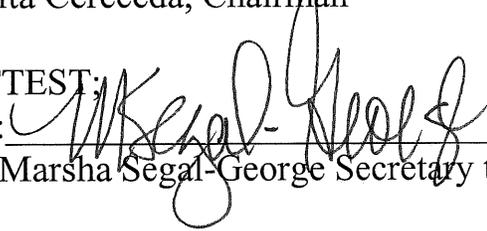
Anita Cereceda	yes
Jessica Titus	yes
Betty Simpson	yes
Robert Simon	yes
Jodi Hester	no
Hank Zuba	absent
Bill McCarthy	no
Harold Huber	yes
Jane Plummer	yes

DULY PASSED AND ADOPTED THIS 15th day of June, 2004.
LPA of the Town of Fort Myers Beach

By: 

Anita Cereceda, Chairman

ATTEST:

By: 

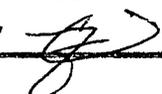
Marsha Segal-George Secretary to the LPA

EXHIBIT A

LEGAL DESCRIPTION:

(IN SECTION 29, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA)

LOT 22, BLOCK C OF LYNN'S HIGHLAND PARK SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LEE COUNTY, FLORIDA, IN PLAT BOOK 8, PAGE 50.

Applicant's Legal Checked
by  12/24/03.

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2004-09

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT
MYERS BEACH

WHEREAS, The Fort Myers Beach Library has requested to rezone from Residential Multifamily (RM) and Commercial Boulevard (CB) to Institutional (IN) with a Special Exception for a cultural facility (library) per Table 34-1 of the FMB LDC, to permit the expansion of the Fort Myers Beach Library parking lot; and

WHEREAS, the subject property is located at 2709 Estero Blvd., Ft. Myers Beach, in S19-T46S-R24E, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 19-46-24-W3-002K0.0070 and 19-46-24-W3-002K0.0040 and the legal description is attached hereto and incorporated herein by reference as Exhibit A; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on May 11, 2004, and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

That the LPA recommends that the Town Council approve the Applicant's request for rezoning and also approve the Applicant's request for Special Exception with the following condition:

1. The parking lot addition shall be in compliance with the site plan prepared by Pyper Engineering Inc., dated stamped received December 23, 2003 by the Permit Counter attached hereto and incorporated herein as Attachment "D" of the Staff Report which

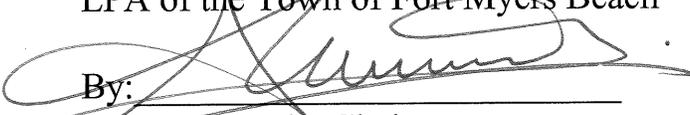
is dated April 28,2004 and which is also attached hereto and incorporated herein by reference.

This recommendation of approval is based on the findings and conclusions found on page 2 of the Staff Report which has already been attached and incorporated into this resolution.

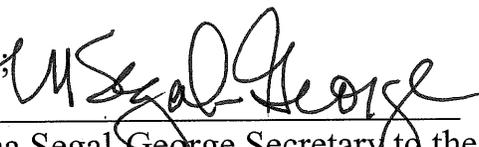
The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Hester and seconded by LPA Member McCarthy, and upon being put to a vote, the result was as follows:

Anita Cereceda	yes
Jessica Titus	absent
Betty Simpson	yes
Bill McCarthy	yes
Jodi Hester	yes
Hank Zuba	absent
Bob Simon	yes
Harold Huber	yes
Jane Plummer	yes

DULY PASSED AND ADOPTED THIS 18th day of May, 2004.
LPA of the Town of Fort Myers Beach

By: 

Anita Cereceda, Chairman

ATTEST: 

By: _____

Marsha Segal-George Secretary to the LPA

REZ2003-00023

EXHIBIT "A"

PROPERTY DESCRIPTION

FORT MYERS BEACH PUBLIC LIBRARY AND ADJACENT PROPERTY LOCATED IN A PORTION OF SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING PART OF LOTS 7 THROUGH 20, AND SOUTH 2 FEET OF LOT 6, BLOCK "K", WINKLER SUBDIVISION, AS PER PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN PLAT BOOK 8, PAGE 45, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A SIX INCH SQUARE CONCRETE MONUMENT MARKING THE SOUTHEASTERLY CORNER OF BLOCK "K" OF WINKLER SUBDIVISION AS RECORDED IN PLAT BOOK 8, PAGE 45 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE, N69° 00' 00"W, 13.92 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF SAID BLOCK "K" AND THE **POINT OF BEGINNING**; THENCE, N69° 00' 00"W, 236.08 FEET ON SAID SOUTHERLY LINE TO AN IRON ROD AND THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST, SAID CURVE HAVING A RADIUS OF 50.00 FEET AND A CENTRAL ANGLE OF 90° 00' 00" (A CHORD BEARING OF N24° 00' 00"W AND A CHORD DISTANCE OF 70.71 FEET), THENCE ON SAID CURVE TO THE RIGHT A DISTANCE OF 78.54 FEET TO THE WESTERLY LINE OF SAID BLOCK "K", THENCE, ON THE WESTERLY LINE OF SAID BLOCK "K", N21° 00' 00"E, 102.00 FEET TO THE NOTHERLY LINE OF THE SOUTH 2 FEET OF SAID LOT 6; THENCE, ON SAID NOTHERLY LINE S69° 00' 00"E, 150.00 FEET TO THE SOUTHWEST CORNER OF LOT 19 OF SAID BLOCK "K"; THENCE, N21° 00' 00"E, 48.00 FEET ON THE WESTERLY LINE OF SAID LOT 19 TO THE NORTHWEST CORNER OF SAID LOT 20; THENCE, S69° 00' 00"E, 164.99 FEET ON THE NOTHERLY LINE OF SAID LOT 20 TO THE NORTHEAST CORNER OF SAID LOT 20; THENCE, S25° 17' 00"W, 186.64 FEET ON THE EASTERLY LINE OF SAID BLOCK "K" TO THE POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 85° 43' 00" (A CHORD BEARING OF S68° 08' 30"W AND A CHORD DISTANCE OF 20.41 FEET); THENCE ON SAID CURVE TO THE RIGHT A DISTANCE OF 22.44 FEET TO THE POINT OF TANGENCY OF SAID CURVE AND THE **POINT OF BEGINNING**.

Applicant's Legal Checked

by  5/03/2004.

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2004-10

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT
MYERS BEACH

WHEREAS, Ecoventure Carousel, LTD in ref. to Carousel Inn RPD has requested to rezone 0.73 acres from Residential Multifamily (RM) and 0.96 acres from Commercial Resort (CR) to Residential Planned Development (RPD) to develop 16 multiple-family dwelling units in one multiple-story building with a deviation from the LDC pre-disaster buildback provision to allow 164 dwelling units and 83,103 +/- square feet; a deviation from the LDC building height limitations to allow building height not to exceed 4 stories over 1 story of parking not to exceed 55 feet above base flood elevation ; and

WHEREAS, the subject property is located at 6230 Estero Boulevard, Ft. Myers Beach, in S33-T46S-R24E, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP numbers are : 33-46-24-W3-00013.0020 and 33-46-24-00013.0030, and the legal description is marked as Attachment B and is attached here to and incorporated herein by reference:

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on June 8, 2004, and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

That the LPA recommends that the Town Council Deny the Applicant's request for rezoning from RM to RPD with deviations and also deny the Applicant's request for Special Exception. Further the LPA requests that if the Town Council wishes to re-interpret pre-disaster buildback to allow this

application to be approved, then the LPA would respectfully request that the Council remand this case back to the LPA for further deliberation.

Recommended Findings and Conclusions –Planned Development Rezoning:

1. The requested residential planned development zoning district does not comply with the comprehensive plan, chapter 34 of the land development code, and other applicable codes and regulations.
2. The proposed use or mix of uses is not appropriate at the subject location.
3. Sufficient safeguards to the public interest are not provided by the master concept plan or by other applicable regulations.
4. The proposed use or mix of uses do not meet all specific requirements of the comprehensive plan that are relevant to the requested planned development, including
 - A] Policy 4-B-1 on overbuilding
 - B] Policy 4-B-4 on development in Mixed Residential future land use map category
 - C] Policy 4-C-4 on building heights taller than the standard height limit
 - D] Policy 4-C-5 on density
 - E] Policy 4-E-1 on pre-disaster buildback
5. The requested deviations:
 - A] do not enhance the objectives of the planned development
 - B] do not preserve and promote the general intent of the LDC to protect the public health, safety and welfare
 - C] do not operate to the benefit, or at least not the detriment, of the public interest
 - D] are not consistent with the Comprehensive Plan

Recommended Findings and Conclusions –Special Exception

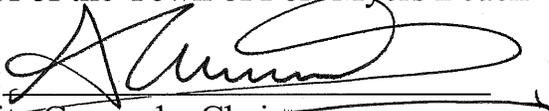
The applicant has not proved entitlement to the special exception by demonstrating compliance with;

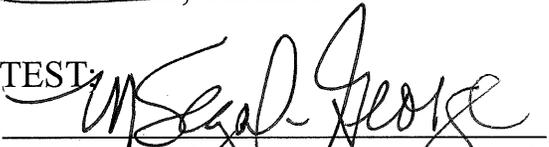
- A] The Comprehensive Plan, specifically Policy 5-D-1 on beaches and dunes
- B] LDC Chapter 34
- C] Any other applicable town ordinances and codes

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Cereceda and seconded by LPA Member Simon , and upon being put to a vote, the result was as follows:

Anita Cereceda	yes
Jessica Titus	yes
Betty Simpson	yes
Bill McCarthy	yes
Jodi Hester	absent
Hank Zuba	absent
Bob Simon	yes
Harold Huber	yes
Jane Plummer	no

DULY PASSED AND ADOPTED THIS 8th day of June, 2004.
LPA of the Town of Fort Myers Beach

By: 
Anita Cereceda, Chairman

ATTEST:
By: 
Marsha Segal-George Secretary to the LPA

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2004-11

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT MYERS BEACH

WHEREAS, Buccaneer FM Beach, LLC in re: Suncoast Tide has requested to rezone 1.1 +/- acres currently zoned Commercial Resort (CR) to Residential Planned Development (RPD) under the pre-disaster buildback policy and transfer density and intensity from several parcels to another; with deviations from the following LDC requirements:

1. From LDC Section 10-285, which requires a minimum connection separation of 250 feet to allow connection separations of 96 feet and 80 feet; and
2. From Section 34-943 and Table 34-3, which limit building height to the 30 feet and 3 stories, to allow 48 feet and 4 habitable stories over one story of parking; and
3. From LDC Section 34-1807 and 34-3237, which allow interior square footage to be exchanged under the buildback policy on a square foot for square foot basis provided the total interior square footage of the rebuilt dwelling units does not exceed the interior square footage of the previous dwelling units, to allow 5,765 additional square feet for a total of 26,000 square feet of interior space; and

WHEREAS, the subject properties are located at 4864, 5335, 5350, and 5354 Estero Blvd, Ft. Myers Beach, in S28 & 33-T46S-R24E, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP numbers are; Buccaneer- ; Azure Tides- 33-46-24-W1-00206.0080; 33-46-24-W1-00206.0090; 33-46-24-W1-00203.0210 and the legal description for the 4 parcels is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on June 15, 2004, and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

That the LPA recommends that the Town Council deny the Applicant's request for a zoning change to RPD.

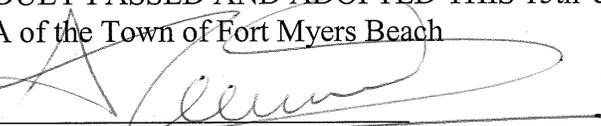
Findings and Conclusions:

The Findings and Conclusions found on pages 3 & 4 of the Staff Report dated June 3, 2004 are attached hereto and incorporated herein by reference.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Simon and seconded by LPA Member McCarthy, and upon being put to a vote, the result was as follows:

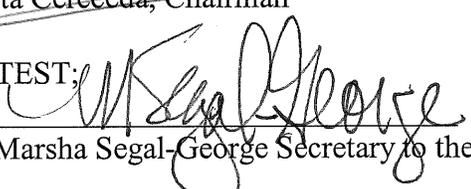
Anita Cereceda	yes
Jessica Titus	no
Betty Simpson	yes
Bill McCarthy	yes
Jodi Hester	yes
Hank Zuba	absent
Bob Simon	yes
Harold Huber	yes
Jane Plummer	no

DULY PASSED AND ADOPTED THIS 15th day of June, 2004.
LPA of the Town of Fort Myers Beach

By: 

Anita Cereceda, Chairman

ATTEST:

By: 

Marsha Segal-George Secretary to the LPA

EXHIBIT A

Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard
Fort Myers, Florida 33919-5910
email - fmooffice@bwk.net
(Ph) 239-481-1331 (Fax) 239-481-1073



Description

Parcel in
Section 28, Township 46 South, Range 24 East
Town of Fort Myers Beach, Lee County, Florida

"RPD Estero Blvd. Side"

A tract or parcel of land lying in Section 28, Township 46 South, Range 24 East, Town of Fort Myers Beach, Lee County, Florida, being further described as follows:

From the southeast corner of the Southwest One Quarter (SW 1/4) of Section 28, Township 46 South, Range 24 East, run westerly along the south line of said section for 1643.7 feet to the northwesterly corner of Lot 20, Block 6, Gulf Heights Subdivision as recorded in Plat Book 6 at Page 39 of the Lee County Public Records; thence northwesterly at an included angle of 139°39' with the south boundary of said Section 28 a distance of 1,012.55 feet to an intersection with the southeasterly line of lands described in Official Record Book 3918 beginning at Page 2600 of the Lee County Public Records; thence run N37°45'43"E along said southeasterly line for 52.48 feet to an intersection with the Lee County Coastal Control Setback Line and the Point of Beginning.

From said Point of Beginning run N49°54'15"W along said Lee County Coastal Control Setback Line for 139.40 feet to an intersection with the northwesterly line of lands described in Official Record Book 3918 beginning at Page 2600 of said Lee County Public Records; thence run N37°33'11"E along said northwesterly line for 175.15 feet to an intersection with the southwesterly line of Estero Boulevard; thence run S50°40'55"E along said southwesterly line for 139.97 feet; thence run S37°45'43"W along said southeasterly line of lands described in Official Record Book 3918 at Page 2600 for 177.02 feet to the Point of Beginning.

Containing 24,580 square feet or 0.56 acres, more or less.

Bearings hereinabove mentioned are based on State Plane Coordinates for the Florida West Zone N.A.D. 1983 (1990 Adjustment) with the southwesterly line of Estero Boulevard to bear S50°40'55"E.

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)


William E. Bean, R.L.S. 3261

34327DESC1

3/4/04

PAGE 1 OF 2

PRINCIPALS:

- WILLIAM E. BEAN, PSM, CHAIRMAN
- SCOTT C. WHITAKER, PSM, PRESIDENT
- JOSEPH L. LUTZ, PSM
- AHMAD R. KAREH, PE, MSCE, VICE PRESIDENT

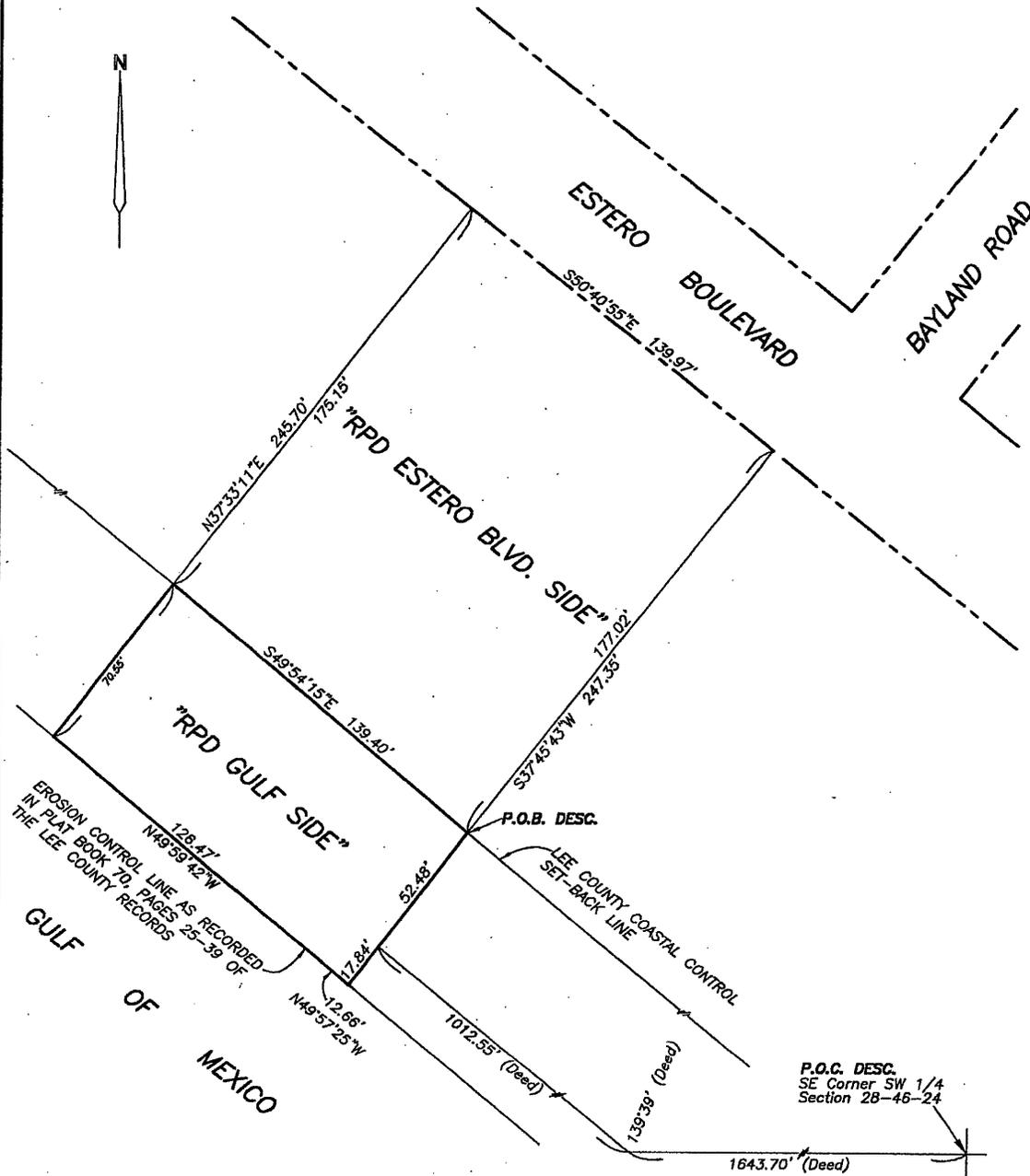
CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS



ASSOCIATES:

- TRACY N. BEAN, AICP
- CHARLES D. KNIGHT, PSM
- W. BRITT POMEROY, JR., PSM
- STEPHEN H. SKORUPSKI, PSM
- ELWOOD FINEFIELD, PSM
- JAMES A. HESSLER, PSM
- JAMES R. COLEMAN, PSM
- RUDOLF A. NORMAN, PE

SKETCH TO ACCOMPANY DESCRIPTION
 A PARCEL IN
 SECTION 28, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
 TOWN OF FORT MYERS BEACH
 LEE COUNTY, FLORIDA



THIS IS NOT A SURVEY

RECEIVED
 MAR 08 2004

William E. Bean
 WILLIAM E. BEAN
 Registered Land Surveyor
 Florida Certificate No. 3261

ZONING COUNTER

Bean, Whitaker, Lutz & Kareh, Inc. (L2 4919)				
CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS				
13041-1 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919-5910 (239) 461-1331				
SK34327-1.DWG				
DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET
3-04-04	34327	WBP	1" = 50'	2 OF 2
				FILE NO. (S-T-10) 28-46-24



Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard
Fort Myers, Florida 33919-5910
email – fmooffice@bwlk.net
(Ph) 239-481-1331 (Fax) 239-481-1073

Description

A Parcel of Land
Lying in
Section 28, Township 46 South, Range 24 East
Town of Fort Myers Beach, Lee County, Florida

"RPD Gulf Side"

A tract or parcel of land lying in Section 28, Township 46 South, Range 24 East, Town of Fort Myers Beach, Lee County, Florida, being further described as follows:

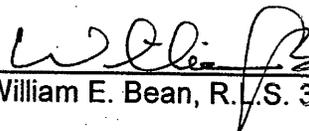
From the southeast corner of the Southwest One Quarter (SW 1/4) of Section 28, Township 46 South, Range 24 East, run westerly along the south line of said section for 1,643.7 feet to the northwesterly corner of Lot 20, Block 6, Gulf heights Subdivision, as recorded in Plat Book 6 at Page 39 of the Lee County Public Records; thence run northwesterly at an included angle of 139°39' with the south boundary of said Section 28 a distance of 1,012.55 feet to an intersection with the southeasterly line of lands described in Official Record Book 3918 beginning at Page 2600 of the Lee County Public Records; thence run N37°45'43"E along said southeasterly line for 52.48 feet to an intersection with the Lee County Coastal Control Setback Line and the Point of Beginning.

From said Point of Beginning run S37°45'43"W along the southeasterly line of said lands for 70.32 feet to an intersection with the Erosion Control Line as recorded in Plat Book 70 at Pages 25 through 39 of the Lee County Public Records; thence run N49°57'25"W along said line for 12.66 feet; thence run N49°59'52"W along said line for 126.47 feet to an intersection with the northwesterly line of said lands; thence run N37°33'11"E along said northwesterly line for 70.55 feet to an intersection with said Lee County Coastal Control Setback Line; thence run S49°54'15"E along said line for 139.40 feet to the Point of Beginning.

Containing 9,800 square feet or 0.22 acres, more or less.

Bearings hereinabove mentioned based on State Plane Coordinates for the Florida West Zone N.A.D. 1983 (1990 Adjustment) with the southwesterly line of Estero Boulevard to bear S50°40'55"E.

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)


William E. Bean, R./S. 3261

34327DESC2

3/4/04

PAGE 1 OF 2



CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS

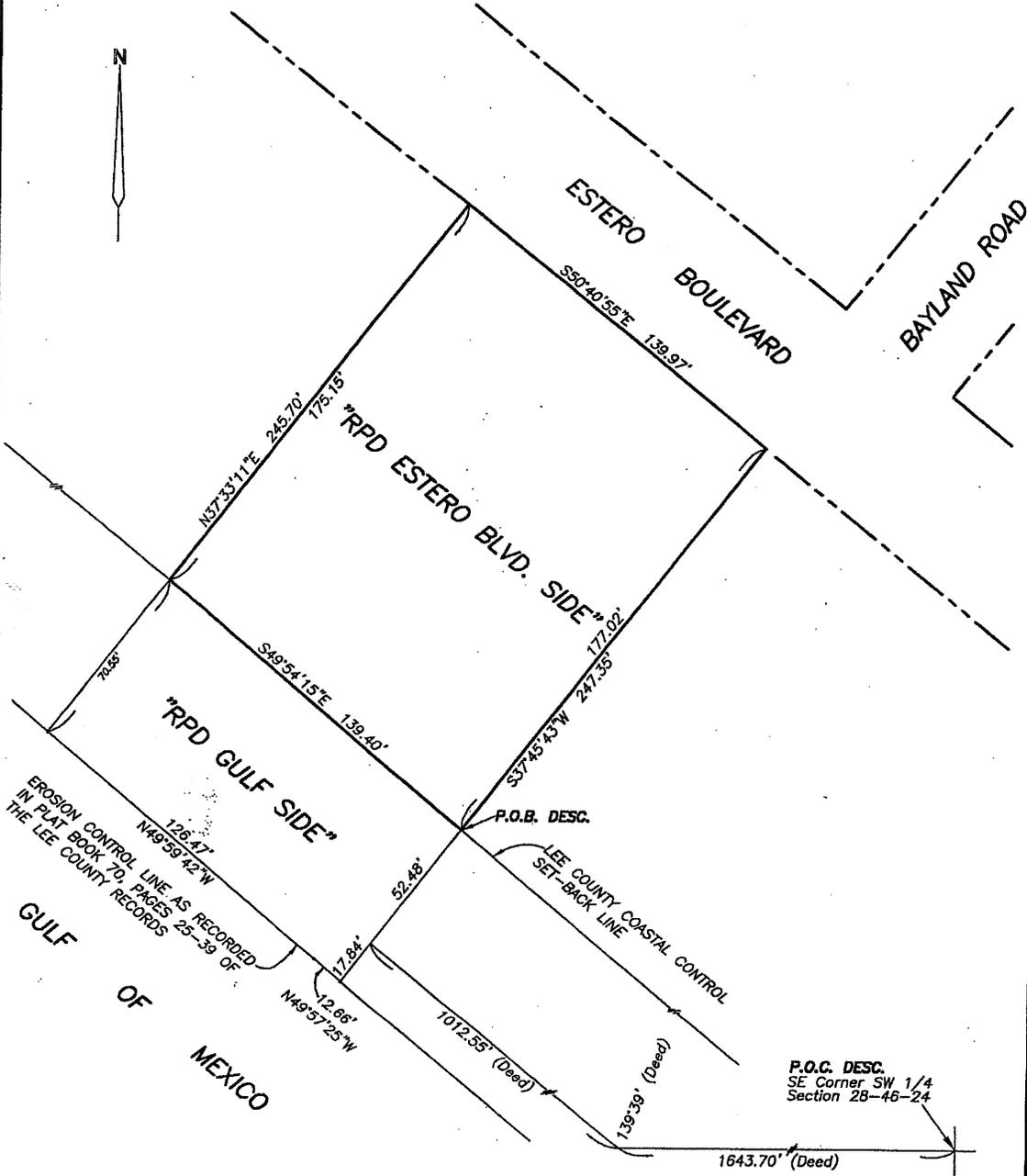
PRINCIPALS:

WILLIAM E. BEAN, PSM, CHAIRMAN
SCOTT C. WHITAKER, PSM, PRESIDENT
JOSEPH L. LUTZ, PSM
AHMAD R. KAREH, PE, MSCE, VICE PRESIDENT

ASSOCIATES:

TRACY N. BEAN, AICP
CHARLES D. KNIGHT, PSM
W. BRITT POMEROY, JR., PSM
STEPHEN H. SKORUPSKI, PSM
ELWOOD FINEFIELD, PSM
JAMES A. HESSLER, PSM
JAMES R. COLEMAN, PSM
RUDOLF A. NORMAN, PE

SKETCH TO ACCOMPANY DESCRIPTION
 A PARCEL IN
 SECTION 28, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
 TOWN OF FORT MYERS BEACH
 LEE COUNTY, FLORIDA



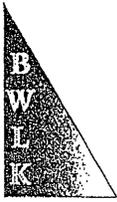
THIS IS NOT A SURVEY

RECEIVED
 MAR 08 2004

William E. Bean
 WILLIAM E. BEAN
 Registered Land Surveyor
 Florida Certificate No. 3261

DRAWING COUNTER

Bean, Whitaker, Lutz & Karch, Inc. (L2 4910) CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS 13041-1 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33918-6910 (238) 481-1331					
SK34327-1.DWG					
DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-T-R)
3-04-04	34327	WBP	1" = 50'	2 OF 2	28-46-24



Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard
Fort Myers, Florida 33919-5910
email – fmooffice@bwlk.net
(Ph) 239-481-1331 (Fax) 239-481-1073

Description

Parcel in
Section 28, Township 46 South, Range 24 East
Town of Fort Myers Beach, Lee County, Florida

A tract or parcel of land lying in Section 28, Township 46 South, Range 24 East, Town of Fort Myers Beach, Lee County, Florida, being further described as follows:

From the southeast corner of the Southwest One Quarter (SW 1/4) of said Section 28 run N89°59'44"W along the south line of said Section 28 for 1643.70 feet to the northwesterly corner of Lot 20, Block 6, Gulf Heights Subdivision, according to the map or plat as recorded in Plat Book 6 at Page 39 of the Public Records of Lee County; thence run N50°17'29"W for 1012.55 feet to the Point of Beginning.

From said Point of Beginning run S37°45'43"W for 17.84 feet to an intersection with the Erosion Control Line as recorded in Plat Book 70 at Pages 25 through 39 of said Public Records; thence run N49°57'25"W along said Erosion Control Line for 12.66 feet; thence run N49°59'42"W along said Erosion Control Line for 126.47 feet; thence run N37°33'11"E for 245.70 feet to an intersection with the southwesterly line of Estero Boulevard; thence run S50°40'55"E along said southwesterly line for 139.97 feet; thence run S37°45'43"W for 229.48 feet to the Point of Beginning.

Containing 0.79 acres, more or less.

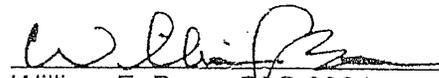
Bearings hereinabove mentioned based on State Plane Coordinate for the Florida West Zone NAD 1983 (1990 Adjustment).

The above description describes the same property as transferred by Warranty Deed recorded in Official Record Book 3918, starting at Page 2600 of the Public Records of Lee County, except the seaward boundary line is now defined as the "Erosion Control Line".

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

34327DESC2

11/11/03


William E. Bean, RLS 3261

RECEIVED
DEC 19 2003

DCI 2003-00079

Page 1 of 2

PRINCIPALS:

WILLIAM E. BEAN, PSM, CHAIRMAN
SCOTT C. WHITAKER, PSM, PRESIDENT
JOSEPH L. LUTZ, PSM
AHMAD R. KAREH, PE, MSCE, VICE PRESIDENT

ZONING COUNTER

CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS



ASSOCIATES:

TRACY N. BEAN, AICP
CHARLES D. KNIGHT, PSM
W. BRITT POMEROY, JR., PSM
STEPHEN H. SKORUPSKI, PSM
ELWOOD FINEFIELD, PSM
JAMES A. HESSLER, PSM
JAMES R. COLEMAN, PSM
RUDOLF A. NORMAN, PE

DESCRIPTION OF PARCELS 1 AND 2

ALL OF LOTS 9 AND 8 AND THE WESTERLY ONE-HALF OF LOT 7, BLOCK 6, OF THAT CERTAIN SUBDIVISION KNOWN AS GULF HEIGHTS, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LEE COUNTY, FLORIDA, IN PLAT BOOK 6 AT PAGE 39. SUBJECT TO AN INGRESS AND EGRESS EASEMENT 12 FEET IN WIDTH OVER AND ACROSS THE EAST 12 FEET OF THE WEST ONE-HALF OF LOT 7, BLOCK 6, OF SAID GULF HEIGHTS SUBDIVISION. TOGETHER WITH ANY INTEREST WHICH PARTY OF THE FIRST PART MAY HAVE IN THE EASEMENT AGREEMENT RECORDED IN OFFICIAL RECORD BOOK 2067, PAGE 656, PUBLIC RECORDS OF LEE COUNTY, FLORIDA. FURTHER DESCRIBED AS FOLLOWS;

BEGINNING AT THE NORTHEASTERLY CORNER OF SAID LOT 9 RUN SOUTHEASTERLY ALONG THE WEST RIGHT OF WAY OF ESTERO BOULEVARD AND THE NORTHEASTERLY LINE OF SAID LOT 9 S46°39'30"E, AS A BASIS OF BEARING FOR 45.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 9 AND THE NORTHEASTERLY CORNER OF SAID LOT 8, THENCE CONTINUE SOUTHEASTERLY ALONG SAID WESTERLY RIGHT OF WAY LINE OF ESTERO BLVD. S46°39'30"E, FOR A DISRANCE OF 45.00 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 7, THENCE CONTINUE ALONG SAID WESTERLY RIGHT OF WAY S46°39'30"E, FOR 22.50 FEET TO THE EASTERLY LINE OF THE WEST HALF OF SAID LOT 7, THENCE RUN SOUTHWESTERLY ALONG SAID EASTERLY LINE OF THE WEST HALF OF SAID LOT 7 S43°20'30"W FOR 125.00 FEET TO THE SOUTHERLY CORNER OF THE WEST HALF OF SAID LOT 7, THENCE NORTHWESTERLY ALONG THE SOUTHWESTERLY LINE OF LOT 7 N46°39'30"W FOR 22.50 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 8, THENCE CONTINUE NORTHWESTERLY ALONG THE SOUTHWESTERLY LINE OF SAID LOT 8 N46°39'30"W FOR 45.00 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 8, AND THE SOUTHWESTERLY CORNER OF SAID LOT 9 THENCE CONTINUE NORTHWESTERLY ALONG THE SOUTHWESTERLY LINE OF SAID LOT 9 N46°39'30"W FOR 45.00 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 9, THENCE RUN NORTHEASTERLY ALONG THE NORTHWESTERLY LINE OF SAID LOT 9 N43°20'30"E FOR 125.00 FEET TO THE POINT OF BEGINNING. COMBINED PARCELS CONTAINING 0.32 ACRES MORE OR LESS.

RECORDED
DEC 19 2003

ZONING COUNTER

DESCRIPTIONS PREPARED BY THE SURVEYOR AT THE REQUEST OF THE CLIENT.
12/11/03 SFS JOB # 030010

DCI 2003-00079

DESCRIPTION OF PARCEL 3

LOTS 21 AND 22, BLOCK 3, GULF HEIGHTS, A SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT, RECORDED IN PLAT BOOK 6, PAGE 39, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; TOGETHER WITH A PEDESTRIAN RIGHT OF INGRESS AND EGRESS TO THE GULF OF MEXICO OVER A TWO-FOOT (2') STRIP OFF THE NORTHWESTERLY SIDE OF LOTS 8 AND 35, BLOCK 6, OF SAID GULF HEIGHTS SUBDIVISION; AND TOGETHER WITH WELL WATER RIGHTS FOR ONLY ONE RESIDENCE LOCATED UPON LOT 21, BLOCK 3, OF SAID GULF HEIGHTS SUBDIVISION, FROM THE WELL LOCATED UPON LOT 36 BLOCK 6, OF SAID GULF HEIGHTS SUBDIVISION, FURTHER DESCRIBED AS FOLLOWS;
BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 21 RUN SOUTHEASTERLY ALONG THE EASTERLY RIGHT OF WAY OF ESTERO BLVD. S46°39'30"E, AS THE BASIS OF BEARING FOR 45.00 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 22, THENCE CONTINUE ALONG THE EASTERLY RIGHT OF WAY OF ESTERO BLVD. S46°39'30"E FOR 45.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 22, THENCE RUN NORTHEASTERLY ALONG THE SOUTHEASTERLY LINE OF SAID LOT 22 N43°20'30"E FOR 125.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 22, THENCE RUN NORTHWESTERLY ALONG THE EASTERLY LINE OF SAID LOT 22 N46°39'30"W FOR 45.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 21, THENCE CONTINUE NORTHWESTERLY ALONG THE EASTERLY LINE OF SAID LOT 21 N43°20'30"W FOR 45.00 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 21 THENCE RUN SOUTHWESTERLY ALONG THE NORTHWESTERLY LINE OF SAID LOT 21 S43°20'30"W FOR 125.00 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINING 0.26 ACRES MORE OR LESS.

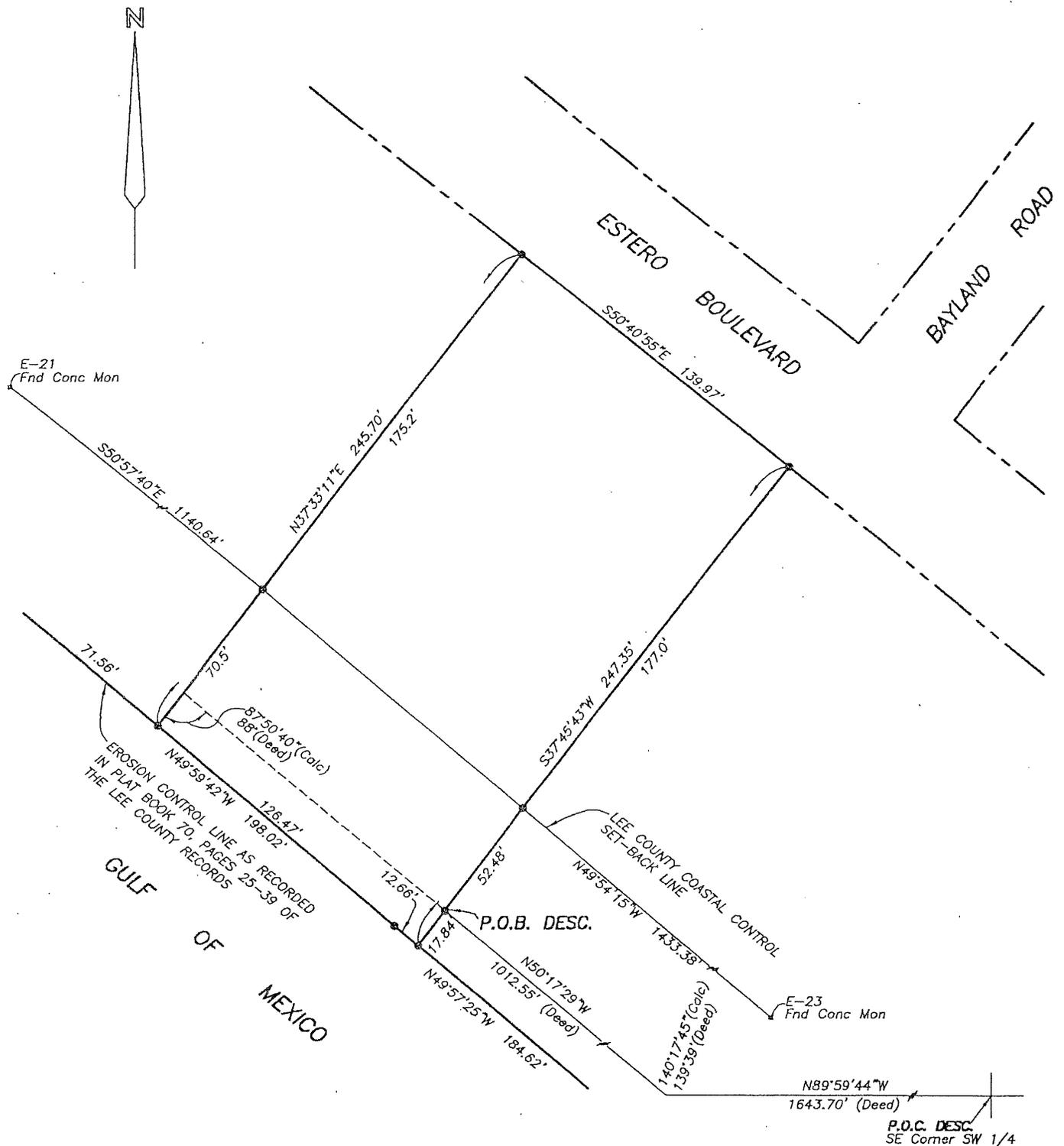
RECEIVED
DEC 19 2003

ZONING COUNTER

DESCRIPTIONS PREPARED BY THE SURVEYOR AT THE REQUEST OF THE CLIENT.
12/05/03 SFS JOB # 030010

DCI 2003-00079

SKETCH TO ACCOMPANY DESCRIPTION
OF
A PARCEL OF LAND
LYING IN
SECTION 28, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
TOWN OF FORT MYERS BEACH
LEE COUNTY, FLORIDA



RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2004-12

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT
MYERS BEACH

WHEREAS, Joseph J Farrell has requested 2 variances from Table 34-3 of the FMB LDC. The first variance request asks for a 0 foot setback from the northwest property line where the Table requires a setback of 25 feet. The second variance request asks for a 0 foot setback from the northwest property line where the Table requires a 7.5 setback for a water-front lot. These variance request are to legitimize the repairs made to the existing decks, stairs and entry landing to the existing residence; and

WHEREAS, the subject property is located at 628 Estero Boulevard, Ft. Myers Beach, in S24-T46S-R23E, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP number is: 24-46-23-W4-00400.0140 and the legal description attached as Exhibit A is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on November 9, 2004, and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

That the LPA recommends that the Town Council approve the requested variances with the Conditions listed and numbered as Conditions one (1); three (3), four (4), five (5) , six (6), and seven (7) on Pages 2 and 3 of the Staff Report dated September 2, 2004 and which is attached hereto and incorporated herein by reference.

Pursuant to the recommendation of approval of the Applicant's variance requests , the LPA finds the following;

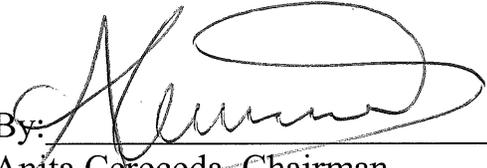
Findings & Conclusions;

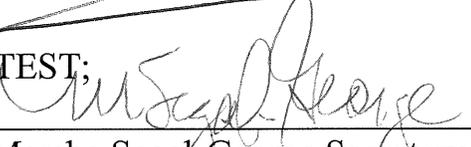
1. There are exceptional or extraordinary conditions or circumstances inherent to the property in question. The subject property was developed with a single family residence in 1958 on a larger lot then subdivided in 1976 prior to the applicant acquiring the property.
2. The exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken after the adoption of the regulation in question. The property is bound by development on the east and west leaving no opportunity for the applicant to acquire additional property to bring the setbacks into compliance.
3. The variances are the minimum variances that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property. The applicant repaired portions of the existing residence that has existed since 1958.
4. The granting of the variances will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The deck, stairs, and entry landing have been existing in the same location since 1958 and the abutting property owners have submitted letters of no objection to the requested variances.
5. The condition or situation of the specific piece of property, or the intended use of the property, for which the variance is sought is not of a general or recurrent nature so as to make it more reasonable and practical to amend the regulation in question.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Huber and seconded by LPA Member Simon, and upon being put to a vote, the result was as follows:

Anita Cereceda	yes
Jessica Titus	yes
Betty Simpson	yes
Robert Simon	yes
Jodi Hester	yes
Hank Zuba	no
Bill McCarthy	yes
Harold Huber	yes
Jane Plummer	yes

DULY PASSED AND ADOPTED THIS 9th day of November, 2004.
LPA of the Town of Fort Myers Beach

By: 
Anita Cereceda, Chairman

ATTEST;
By: 
Marsha Segal-George Secretary to the LPA

East:	4 single family homes zoned RM then Island Shores Condominium	Mixed Residential
South:	Gulf of Mexico	Recreation
West:	4 single family homes zoned RM then Cane Palm Beach Condominium	Mixed Residential

II. BACKGROUND INFORMATION AND RECOMMENDATION:

A. Recommendation: Staff recommends APPROVAL with conditions of the applicants variance requests to allow a 0 foot street (private easement) setback and 0 foot side setback in the RM zoning district to legitimize the repairs made to the existing decks, stairs, and entry landing to the existing residence with conditions:

1. Approval of the variances are limited to the existing decks, stairs, and entry landing as shown on the survey/site plan labeled "Variance Request Site Plan" stamped received by the Lee County Permit Counter on March 23, 2004, except as modified by the following conditions.
- ~~2. The stairs leading to the driveway must be relocated against the northwest side of house and the 2 foot portion of the deck located within the walkway easement must be removed.~~
3. Prior to the issuance of a building permit for the deck, the applicant shall enter into a License Agreement with the holders of the easement that would allow the 4± foot encroachment into the roadway easement. If the License Agreement is approved, the applicant must record a copy of the Agreement in the Officials Records Books of Lee County, Florida, to place subsequent purchasers on notice of the encroachment and the variance decision. The applicant must pay the cost of the recording.
4. Prior to the issuance of a building permit, the applicant must record a copy of the Town of Fort Myers Beach's decision in the Officials Records Books of Lee County, Florida, to place subsequent purchasers on notice of the variance decision. The applicant must pay the cost of the recording.
5. The applicant shall obtain an after the fact building permit and shall submit a recorded copy of the License Agreement and the Town of Fort Myers Beach's decision to the Building Department.

6. **Any future additions or increases to the size of the building may not be located within the required setback areas.**
7. **Prior to the issuance of a building permit, the applicant must comply with the provisions of the Land Development Code, Sections 14-71 through 14-79 relating to the protection of Sea Turtles.**

Findings & Conclusions

Based upon an analysis of the application and the standards for approval of a variance, staff makes the following findings and conclusions:

1. There are exceptional or extraordinary conditions or circumstances inherent to the property in question.

The subject property was developed with a single family residence in 1958 on a larger lot then subdivided in 1976 prior to the applicant acquiring the property.

2. The exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken after the adoption of the regulation in question.

The property is bound by development on the east and west leaving no opportunity for the applicant to acquire additional property to bring the setbacks into compliance.

3. The variances are the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property.

The applicant repaired portions of the existing residence that have existed since 1958.

4. The granting of the variances will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The deck, stairs, and entry landing have been existing in the same location since 1958 and the abutting property owners have submitted letters of no objection to the requested variances.

5. The condition or situation of the specific piece of property, or the intended use of the property, for which the variance is sought is not of a general or recurrent nature so as to make it more reasonable and practical to amend the regulation in question.

This situation is not of a recurrent nature so as to make it more reasonable or practical to amend the regulation in question.

Tract No. 1, of Lot No. 14, Unit No. 1, ISLAND SHORES SUBDIVISION, situated in the State of Florida, County of Lee, being a part of Section 24, Township 46 South, Range 23 East and further bounded and described as follows:

Starting at the Northerly most corner of Lot No. 14, Unit No.

1, ISLAND SHORES SUBDIVISION, as recorded in Plat Book 9, at Page 24 of the Public Records of Lee County, Florida; thence South 45 degrees East a distance of 100.00 feet to the Easterly most corner of the aforesaid Lot No. 14; thence South 45 degrees West along the Southeasterly line of the aforesaid Lot No. 14 a distance of 117.50 feet to a point and the principal place of beginning; thence North 45 degrees West a distance of 50.00 feet; thence South 45 degrees West a distance of 200 feet more or less, to the waters of the Gulf of Mexico; thence in a Southeasterly direction along the aforesaid waters of the Gulf of Mexico a distance of 50 feet more or less to an intersection with the Southeasterly line of the aforesaid Lot No. 14; thence North 45 degrees East along the aforesaid Southeasterly line a distance of 188 feet, more or less, to the principal place of beginning. Said parcel is subject to and has use of the following roadway and walkway easement.

Bearings are from an assumed meridian.

A Roadway Easement (15.00 feet wide) in Lot No. 14, Unit No. 1, ISLAND SHORES SUBDIVISION, situated in the State of Florida, County of Lee, being a part of Section 24, Township 46 South, Range 23 East and further bounded and described as follows:

Starting at the Northerly most corner of Lot No. 14, Unit No. 1, ISLAND SHORES SUBDIVISION, as recorded in Plat Book 9, at Page 24, of the Public Records of Lee County, Florida; thence South 45 degrees East along the Southwesterly Right-of-Way line of Estero Boulevard (60.00 feet wide) a distance of 50.00 feet to a point and the principal place of beginning, said point being on the centerline of a roadway easement 15.00 feet wide; thence South 45 degrees West along said centerline a distance of 187.50 feet to the end of the aforesaid roadway easement.

Bearings are based on an assumed meridian.

A Walkway Easement (5.00 feet wide) in Lot No. 14, Unit No. 1, ISLAND SHORES SUBDIVISION, situated in the State of Florida, County of Lee, being a part of Section 24, Township 46 South, Range 23 East and further bounded and described as follows:

Starting at the Northerly most corner of Lot No. 14, Unit No. 1, ISLAND SHORES SUBDIVISION, as recorded in Plat Book 9, at Page 24, of the Public Records of Lee County, Florida; thence South 45 degrees East along the Southwesterly Right-of-Way line of Estero Boulevard (60.00 feet wide) a distance of 50.00 feet; thence South 45 degrees West a distance of 187.50 feet to a point and the principal place of beginning, said point also being on the centerline of walkway easement 5.00 feet wide; thence South 45 degrees West along said centerline a distance of 130 feet more or less to the waters of the Gulf of Mexico and the end of the aforesaid walkway easement.

Bearings are based on an assumed meridian.

Applicant's Legal Checked

by [Signature] August 19, 2004.

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2004-14

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT
MYERS BEACH

WHEREAS, David Winmill has requested a variance in the Residential Single-Family (RS) zoning district to allow a 2.5-foot side yard setback and a 3-foot rear yard setback for a pool screen enclosure, where Table 34-3 and Section 34-1174 of the Towns' LDC requires a 10-foot side setback and a 5-foot rear setback; and

WHEREAS, the subject property is located at 3071 Shell Mound Blvd., Ft. Myers Beach, in S29-T46S-R24E, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP number is: 29-46-24-W1-0120B.0190 and the legal description attached as Exhibit A is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on December 14, 2004, and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

That the LPA recommends that the Town Council approve the requested variances with the 3 Conditions listed on Page 2 of 4 of the Staff Report dated August 26, 2004 and which is attached hereto and incorporated herein by reference.

Pursuant to the recommendation of approval of the Applicant's variance requests, the LPA finds the following;

Findings & Conclusions;

1. There are exceptional or extraordinary conditions or circumstances inherent to the property in question due to the construction of the residence and pool in 1960 prior to zoning regulations in Lee County.
2. The exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken after the adoption of the regulation in question. The applicant purchased the property in February 2004, after the construction of the residence and pool.
3. The variances are the minimum variances that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property. The proposed variances are the minimum variance that will allow the applicant access around the perimeter of the pool and enclosure.
4. The granting of the variances will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The proposed variance will not be detrimental to the public welfare due to the applicant providing for space to access the rear of the property while still allowing for access around the pool interior to the enclosure.
5. The condition or situation of the specific piece of property, or the intended use of the property, for which the variance is sought is not of a general or recurrent nature so as to make it more reasonable and practical to amend the regulation in question.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Titus and seconded by LPA Member Plummer, and upon being put to a vote, the result was as follows:

Anita Cereceda	absent
Jessica Titus	yes
Betty Simpson	yes
Robert Simon	yes
Jodi Hester	yes
Hank Zuba	yes
Harold Huber	absent
Jane Plummer	yes

DULY PASSED AND ADOPTED THIS 14th day of December, 2004.
LPA of the Town of Fort Myers Beach

By: Jodi Hester
Jodi Hester, Vice Chairman

ATTEST;
By: Marsha Segal-George
Marsha Segal-George Secretary to the LPA

Staff recommends approval of the requested variance in the Residential Single-Family (RS) zoning district to allow a 2.5-foot side yard setback and a 3-foot rear yard setback for a pool screen enclosure, where Table 34-3 and Section 34-1174 of the Town of Fort Myers Beach Land Development Code requires a 10-foot side setback and a 5-foot rear setback.

Conditions:

1. The variance to allow a 3-foot rear setback and 2.5-foot side setback for a pool screen enclosure is limited to the site plan stamped received by the Permit Counter on September 20, 2004. A copy is attached as Attachment "B".
2. The proposed height of the screen enclosure may not exceed the peak roof height of the existing single-family residence.
3. The applicant must maintain the mangroves at a minimum height of 4-feet above existing grade of the subject property.

Findings & Conclusions

Based upon an analysis of the application and the standards for approval of a variance, staff makes the following findings and conclusions:

1. There are exceptional or extraordinary conditions or circumstances inherent to the property in question due to the construction of the residence and pool in 1960 prior to zoning regulations in Lee County.
2. The exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken after the adoption of the regulation in question. The applicant purchased the property in February 2004, after the construction of the residence and pool.
3. The variance is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property. The proposed variances are the minimum variance that will allow the applicant access around perimeter of the pool and enclosure.
4. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The proposed variance will not be detrimental to the public welfare due to the applicant providing for space to access the rear of the property while still allowing for access around the pool interior to the enclosure.
5. The condition or situation of the specific piece of property, or the intended use of the property, for which the variance is sought is not of a general or recurrent nature so as to make it more reasonable and practical to amend the regulation in question.

EXHIBIT ATTACHMENT B

SURVEY SKETCH OF BOUNDARY SURVEY
NOT FOR FENCE CONSTRUCTION
NOT FOR CONSTRUCTION
NOT FOR DESIGN

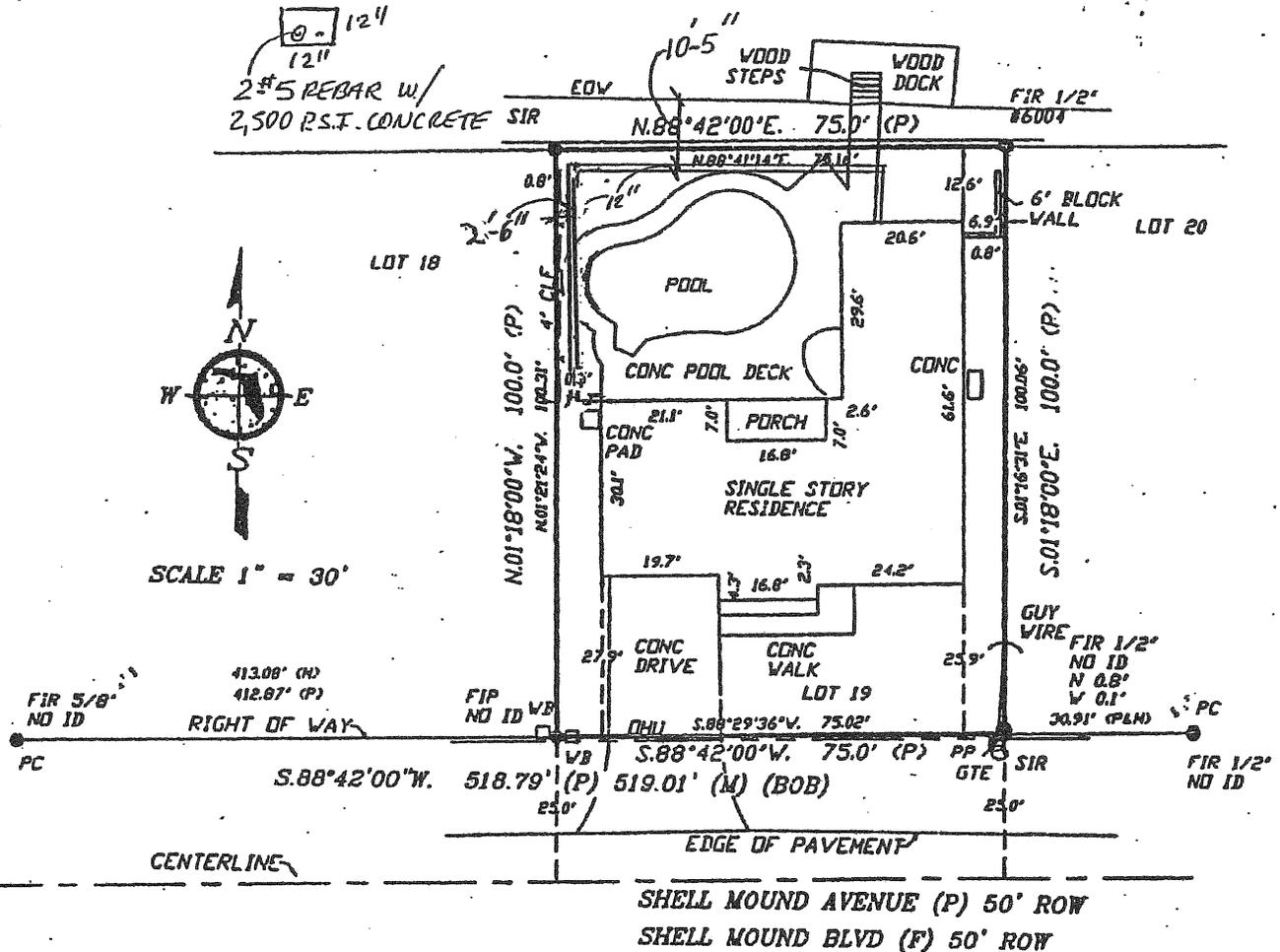
NOTE: THE INTENT OF THIS SURVEY IS FOR TITLE TRANSFER ONLY
 COPYRIGHT 2004, F.L.A. SURVEYS CORP.

STREET ADDRESS
 3071 SHELL MOUND BLVD
 FORT MYERS BEACH, FLORIDA

ONLY FOOTER

12" 12"
 2#5 REBAR W/
 2,500 P.S.F. CONCRETE

WATERWAY 75' ROW



SCALE 1" = 30'

FIR 5/8"
 NO ID

RIGHT OF WAY

FIR NO ID VB

S.88°42'00"W. 518.79'

S.88°42'00"W. 75.0' (P)
 519.01' (M) (BOB)

FIR 1/2"
 NO ID
 N 0.8"
 W 0.1"
 30.91' (P&M)

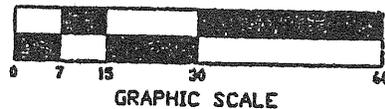
FIR 1/2"
 NO ID

LEGAL DESCRIPTION :

LOT 19, BLOCK 9, ZIMMER'S ADDITION TO SHELL MOUND PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 11, PAGE 54, PUBLIC RECORDS OF LEE COUNTY, FLORIDA

CERTIFIED TO :

DAVID LORING WINNILL
 FIRST MAGNUS FINANCIAL CORPORATION
 ITS SUCCESSORS AND/OR ASSIGNS
 FIRST FIDELITY TITLE, INC.
 CHICAGO TITLE INSURANCE COMPANY



RECEIVED
 SEP 20 2004

PERMIT COUNTER

FLOOD ZONE : A12 EL. 12
 COMMUNITY PANEL 125124-0433B
 INDEX DATED : 7-20-98
 (FLOOD ZONE : "B", "C", "D", & "X" ARE NOT IN DESIGNATED FLOOD HAZARD ZONE AREA.)

CERTIFICATION :

VAR 2004-00045

0000
0000 RS-1

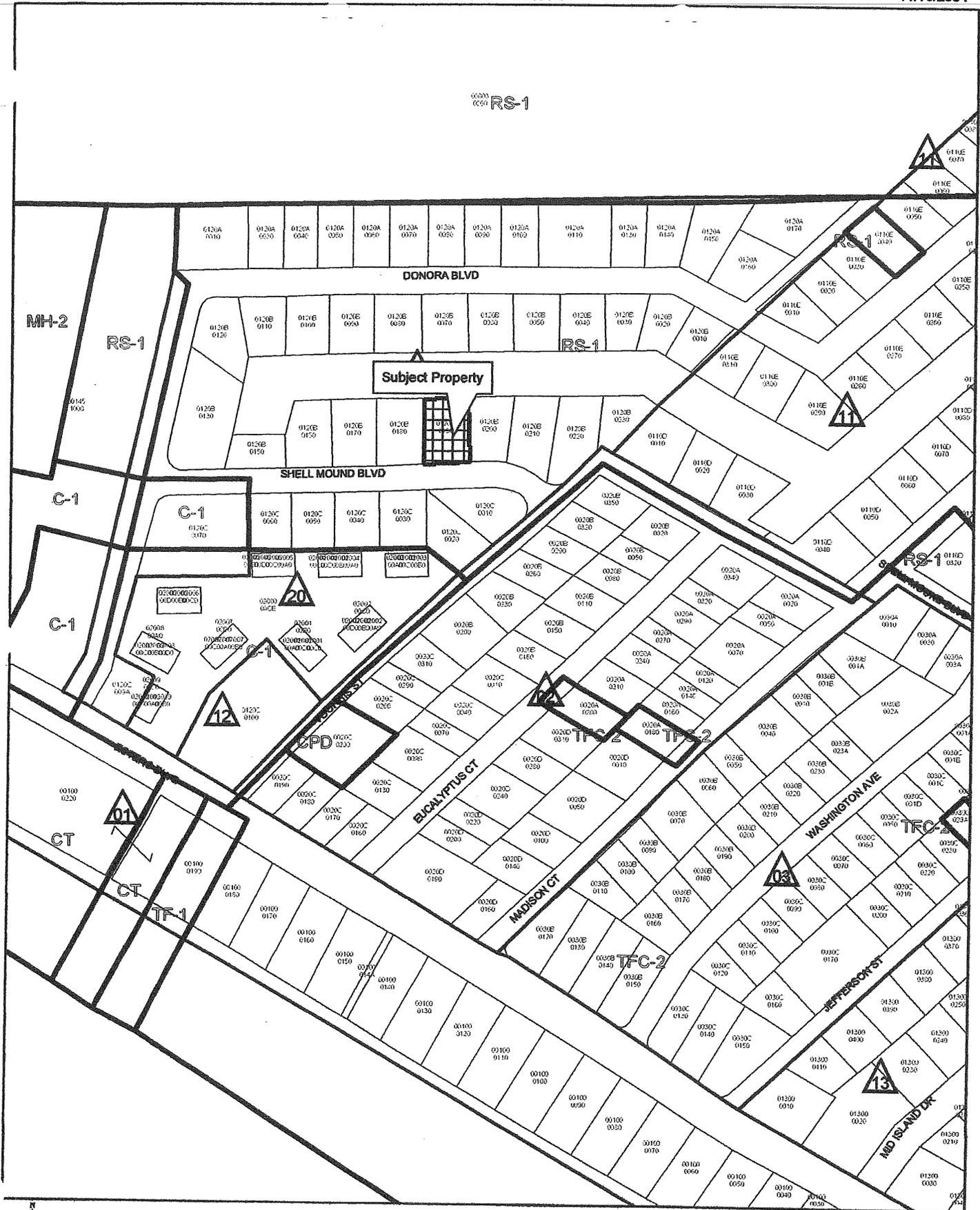


EXHIBIT "A"

VAR2004-00045

PROPERTY DESCRIPTION:

LOT 19, BLOCK B, ZIMMER'S ADDITION TO SHELL MOUND PARK,
ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK
11, PAGE 54, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

Applicant's Legal Checked

by  NOV 18, 2004.

RECEIVED

AUG 24 2004

ZONING