

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 06-25

WHEREAS, Leonardo Arms Condominiums, the property owner, petitioned for a variance in the RM (Residential Multifamily) and EC (Environmentally Critical) zoning district from Table 34-3 and Section 34-1174(d)(1)c of the Town of Fort Myers Beach Land Development Code (LDC) which require a minimum side setback of 20 feet for accessory structures to allow a 7 foot side setback for the replacement of covered parking structures; and

WHEREAS, the subject property is located at 2400 Estero Boulevard, in S03-T47S-R24E, in Fort Myers Beach, Lee County, Florida and the applicant has indicated the property's current STRAP number is : 03-47-24-W4-02000.00CE and the legal description thereof 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 October 10, 2006, at which time the LPA recommended that the Town Council approve the variance with the four (4) conditions set forth in the LPA resolution which has been provided to Town Council for consideration at its hearing; and

WHEREAS, a public hearing was legally advertised and held before the Town Council on November 13, 2006, at which time the Town Council gave full and complete consideration to the recommendations of staff, the documents in the file, the LPA recommendations, the request of applicant and the testimony of all interested persons.

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

The Town Council APPROVES the variance to allow for a 7 foot side setback, subject to the following four (4) conditions that are necessary for the protection of the health, safety, comfort, convenience, and welfare of the general public and that are reasonably related to the variance requested:

1. The seven (7) foot side setback is limited to the southern property line to permit replacement of a covered parking structure (carport);
2. The covered parking structure must be in full compliance with all applicable building and development standards and codes;
3. The covered parking structure must be constructed to withstand winds of 140 miles per hour (mph) as established by the Town of Fort Myers Beach Land Development Code (LDC) and as approved with the replacement of Carports A and B under Case Number LDO2005-00067.
4. The covered parking structure lighting must be in compliance with LDC Section 14-76 and match the lighting permitted in Carports A and B under Case Number LDO2005-00067. A Sea Turtle Lighting review is required prior to approval of a Local Development Order (LDO) or amendment of an existing LDO

and issuance of subsequent permits. Prior to issuance of a Certificate of Compliance (CC), the exterior lighting must be inspected by Town Environmental Staff after dark.

FINDINGS AND CONCLUSIONS

Based upon the presentations by the Applicant, staff, and other interested parties at the hearing, and review of the application, the LPA recommendations, and the standards for granting variances, the Town Council makes the following findings and reaches the following conclusions:

1. There ARE exceptional or extraordinary conditions or circumstances that are inherent to the property in question and the request IS for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy. *The former parking structure was destroyed by Hurricane Charley. The subject property, consisting of 2.85 (±) acres, was developed prior to adoption of the LDC, thus considered non-conforming. Based on current zoning standards including minimum parking calculations, the parking structure (carport) cannot be replaced within the required side setbacks for waterfront properties as established in LDC Table 34-3.*
2. Any exceptional or extraordinary conditions which would otherwise justify the variance or circumstances ARE NOT the result of actions of the applicant taken after the adoption of the regulation in question. *The conditions justifying the variance were not the result of actions of the applicant. The covered parking structure was destroyed by Hurricane Charley.*
3. The variance recommended 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 required setbacks create a small buildable area and therefore the recommendation is the minimum variance that will afford the applicant relief without modification to the regulations. *The request for a seven (7) foot side setback is the minimum variance that will permit the applicant to replace and construct a covered parking structure for Leonardo Arms Beach Club, Unit 1.*
4. The granting of the variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public welfare.
5. The conditions or circumstances on the situation of the specific piece of property, or the intended use of the property for which the variance is sought, ARE NOT of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question. *The variance is unique to the Leonardo Arms Condominium, Unit 1 and will permit construction/replacement of a safe covered parking structure for the residents.*

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

Dennis C. Boback, Mayor	Abstain
Don Massucco, Vice Mayor	Aye
Charles Meador, Jr.	Aye
Garr Reynolds	Aye
William Shenko, Jr.	Aye

VARIANCE GRANTED AND RESOLUTION PASSED AND ADOPTED THIS 13th day of November, 2006.

TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

By: 
Don Massucco, Vice Mayor

Approved as to legal sufficiency:

By: 
Anne Dalton, Esquire
Town Attorney

ATTEST:

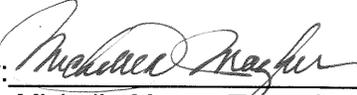
By: 
Michelle Mayer, Town Clerk
Mayer

EXHIBIT A

LEGAL DESCRIPTION
(O.R. 520, PG. 725)

**LEONARDO ARMS BEACH CLUB
CONDOMINIUM UNIT 1**

A tract or parcel of land lying in Government Lot 3, Section. 3, Township 47 South, Range 24 East, Estero Island, Lee County, Florida, which tract or parcel is described as follows:

From the most Southerly corner of Block 3A of Unit No. 1 Laguna Shores, according to the map or plat recorded in Plat Book 9 at pages 29 and 30 of the Public Records of Lee County, Florida, run South 48°23'00" West along a prolongation of the Northwesterly line of Park Place (now part of Buccaneer Drive) as shown on said plat for 70.02 feet to a point on the former Southwesterly line of Estero Boulevard as described in County Commissioners Minute Book 11 at page 97 of said Public Records; thence run Northwesterly along the Southwesterly line, along the arc of a curve to the right of radius 2899.79 feet for 147.39 feet to a point of tangency; thence run North 37°43'00" West along said Southwesterly line for 944.00 feet to a point of curvature; thence run Northwesterly along said Southwesterly line, along the arc of a curve to the right of radius 2326.83 feet for 283.68 feet; thence run South 52°17'00" West for 7.46 feet to a point on the Southwesterly line of State Road S-865 and the point of beginning. From said point of beginning run Northwesterly along said Southwesterly line of said State Road, along the arc of a curve to the right having a radius of 2331.83 feet (chord bearing North 28°39'47" West) for 180.72 feet to a change in right-of-way; thence South 63°35'26" West along said right-of-way for 5.0 feet; thence South 72°11'08" West for 295.26 feet; thence South 52°17'00" West for 215 feet more or less, to the waters of the Gulf of Mexico; thence Southeasterly along said waters to an intersection with a line bearing South 52°17'00" West from the point of beginning; thence North 52°17'00" East along said line for 417 feet more or less to the point of beginning.

Applicant's Legal Checked
by JRO 8-8-06

VAR 2006-00041

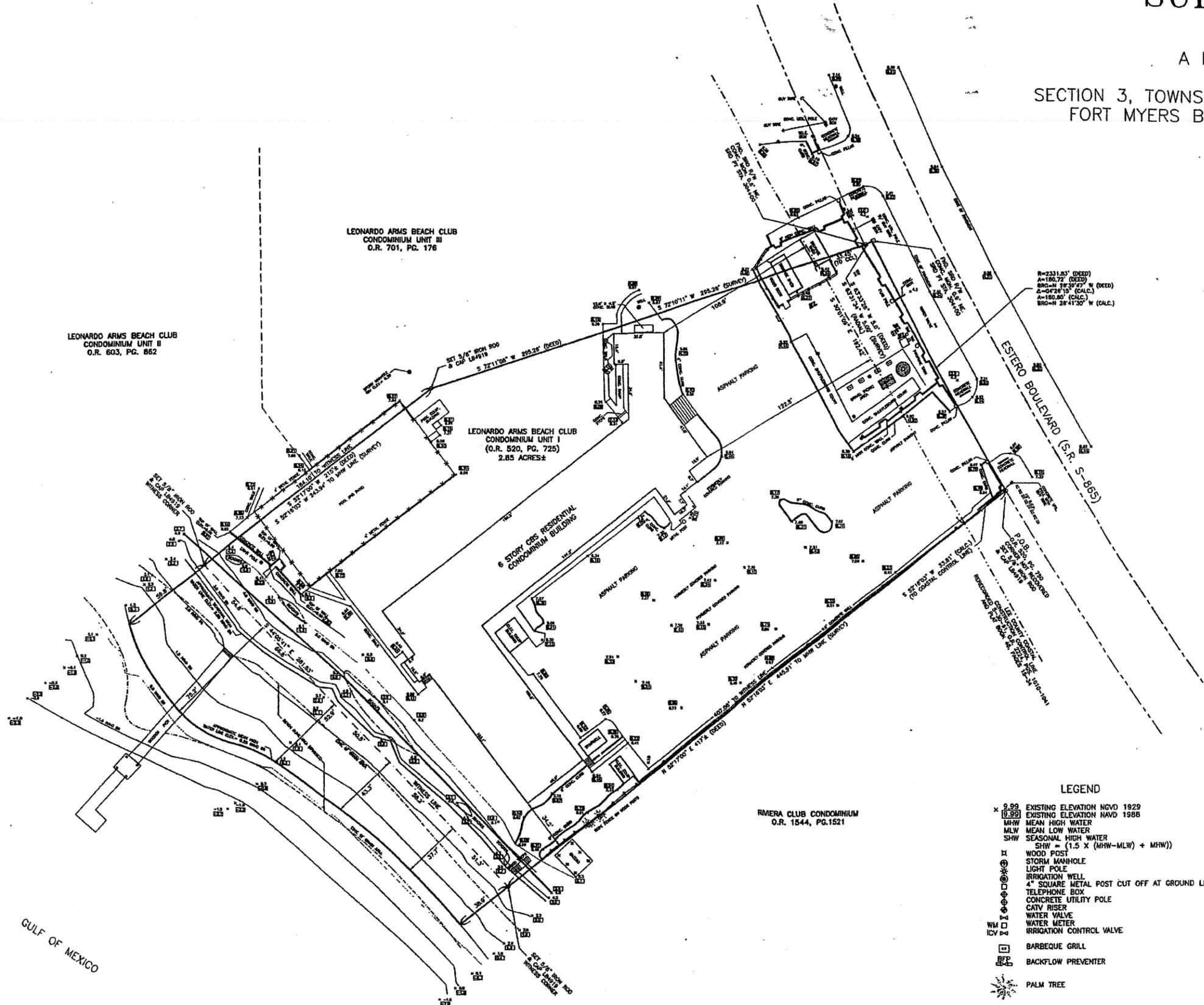
RECEIVED
AUG 02 2006

COMMUNITY DEVELOPMENT

SURVEY PLAT

OF
A PARCEL OF LAND
LYING IN
SECTION 3, TOWNSHIP 47 SOUTH, RANGE 24 EAST,
FORT MYERS BEACH, LEE COUNTY, FLORIDA

OWNER OF RECORD:
LEONARDO ARMS BEACH CLUB
CONDOMINIUM ASSOCIATION
7400 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA 33931



LEONARDO ARMS BEACH CLUB
CONDOMINIUM UNIT II
O.R. 603, PG. 862

LEONARDO ARMS BEACH CLUB
CONDOMINIUM UNIT III
O.R. 701, PG. 176

LEONARDO ARMS BEACH CLUB
CONDOMINIUM UNIT I
(O.R. 520, PG. 725)
2.85 ACRES±

RMERA CLUB CONDOMINIUM
O.R. 1544, PG.1521

LEGEND

- x 9.99 EXISTING ELEVATION NGVD 1929
- x 8.99 EXISTING ELEVATION NAVD 1988
- MHW MEAN HIGH WATER
- MLW MEAN LOW WATER
- SHW SEASONAL HIGH WATER
- SHW = (1.5 X (MHW-MLW) + MHW)
- W WOOD POST
- SM STORM MANHOLE
- LP LIGHT POLE
- IW IRRIGATION WELL
- 4" SM 4" SQUARE METAL POST CUT OFF AT GROUND LEVEL
- TB TELEPHONE BOX
- CU CONCRETE UTILITY POLE
- CR CATV RISER
- WV WATER VALVE
- WM WATER METER
- ICV IRRIGATION CONTROL VALVE
- BG BARBEQUE GRILL
- BP BACKFLOW PREVENTER
- PT PALM TREE

RECEIVED
AUG 0 2 2006

PERMIT COUNTER

VAR 2006-00041

BOUNDARY SURVEY LEONARDO ARMS I

Bean, Whitaker, Lutz & Karih, Inc. (28 4018)
CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS
13041 MOOREGON BOULEVARD, FORT MYERS, FLORIDA 33919-0910 (239) 461-1231

DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-E-W)
10-21-05	37461	J.R.C.	1" = 30'	2 OF 2	3-47-24

GULF OF MEXICO