

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 08-06

WHEREAS, Hans Wilson and Associates, Inc. on behalf of Shamron Beach Condominium Association and at least 75% of the unit owners of the Association (collectively "Applicant") have requested a Special Exception to permit the placement of paver blocks and an eight (8) foot diameter chickee hut in the Environmentally Critical (EC) zoning district.

WHEREAS, the subject property is located at 7650 Estero Boulevard, Ft. Myers Beach, FL, with a STRAP number of 03-47-24-W4-04900.00CE and with a legal description attached as Exhibit "A" and incorporated herein; and

WHEREAS, a public hearing was advertised and held before the Local Planning Agency (LPA) on December 11, 2007, at which time the LPA recommended that the Town Council grant approval of Applicant's request for a special exception with the seven (7) conditions set forth with specificity in LPA Resolution 2007-26; and

WHEREAS, a public hearing was advertised and held before the Town Council on February 11, 2008, at which time the Town Council gave full and complete consideration to the recommendations of staff, the LPA resolution and LPA minutes, the documents in the file, the request of Applicant and the testimony of all interested persons.

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

Based upon the presentations by the Applicant, staff, and other interested parties at the hearing, and review of the LPA Resolution 2007-26, the staff report and LPA minutes, the application and the standards for granting special exceptions, the Town Council makes the following findings and reaches the following conclusions:

The Town Council **APPROVES** Applicant's request for a special exception to permit the placement of paver blocks and an eight (8) foot diameter chickee hut in the Environmentally Critical (EC) zoning district, subject to the following conditions:

**CONDITIONS:**

1. The special exception is limited to the placement of minor structures in compliance with all permitting conditions required by the Florida Department of Environmental Protection and all applicable regulations and codes.
2. Approval is limited to the chickee hut and paver block areas as shown on the site plan attached as Exhibit "B" and incorporated herein. No other minor or major structures are approved within the EC zoning district.
3. No artificial lighting is approved for installation in the EC zoning district.
4. If the existing condominium building is removed, destroyed, or replaced for any reason, this approval shall not operate to allow any new or reconstructed major or minor structures, including but not limited to swimming pools, fences, patios, decks, or chickee huts, within the EC zoning district on the subject property. If the condominium building is removed, destroyed, or relocated, the construction approved herein must be removed or relocated out of the EC zoning district as well.

5. Use of the chickee hut is limited to recreational purposes only. Electrical, plumbing, or other utilities in the chickee hut are prohibited.
6. Approval of this special exception does not authorize placement of any structure within 50 feet of the line of mean high water.

### **FINDINGS AND CONCLUSIONS:**

The Town Council makes the following findings and reaches the following conclusions:

1. The requested special exception **complies** with the standards in Land Development Code (LDC) Section 34-88 and:
  - a. The Fort Myers Beach Comprehensive Plan;
  - b. LDC Chapter 34; and
  - c. All other applicable town ordinances and codes.
2. Granting the requested special exception **is not contrary** to the public interest and the health, safety, comfort, convenience, and welfare of the citizens of the Town.
3. The attached conditions **are necessary** for the protection of the health, safety, comfort, convenience, or welfare of the general public and **are reasonably related** to the special exception requested.

In accordance with the requirements of Sections 34-88 of the LDC regarding consideration of eligibility for a Special Exception, the Town Council makes the following additional findings and reaches the following additional conclusions:

1. There **exist** changed or changing conditions that make approval of this request, with the above conditions, appropriate.

The recommended findings of fact as set forth on pages 4 and 5 of the Town staff report are hereby incorporated by reference.

2. The requested special exception as conditioned:

- a] **is** consistent with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.

The requested pavers and chickee hut that are allowed upon approval of the requested special exception would have a limited negative impact on the beach and dune system in that only the chickee hut would be located further seaward than the already developed area. The chickee hut would be located in approximately the same position as the former chickee hut in an area denuded of vegetation. As conditioned, approval of the request **would** be consistent with the goals, objectives, policies, and intent of the Comp Plan, especially Goal 5, Objective 5-D and Policy 5-D-1.

- b] **does** meet or exceed all performance and locational standards set forth for the proposed use.

LDC Section 34-638 provides locational regulations for portions of the subject property. As conditioned, approval of the requested special

exception will not allow structures to be placed within 50 feet of mean high water of the Gulf of Mexico, in accordance with LDC Section 34-638(d)(3).

c] **does** protect, conserve or preserve environmentally critical areas and natural resources

While the requested use does not overtly protect, conserve, or preserve environmentally critical areas and natural resources, approval of the paver area will not permit new disturbance of environmentally critical areas or natural resources in any previously undeveloped areas. The proposed chickee hut would be located seaward of the paved area in approximately the same location as the former shade structure.

d] **will** be compatible with existing or planned uses and **will not** cause damage, hazard, nuisance or other detriment to persons or property; and

The recommended findings as set forth on pages 6 and 7 of the Town staff report are incorporated by reference.

e] **will** be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in the LDC.

General provisions in LDC Chapter 34 for water-body setbacks require that structures be located a minimum of 50 feet from the Gulf of Mexico in the absence of any other more restrictive requirement, such as the use regulations of the EC zoning district or the Coastal Construction regulations of LDC Chapter 6. Minor structures in the EC zoning district must be expendable under design wind, wave, and storm forces. The recommended conditions will require that the paver area and chickee hut meet these standards.

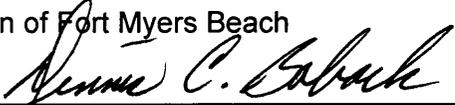
The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Meador and seconded by Vice Mayor Kiker, and upon being put to a vote, the result was as follows:

Dennis Boback, Mayor AYE  
Herb Acken, Councilmember AYE  
William Shenko, Jr., Councilmember AYE

Larry Kiker, Vice Mayor AYE  
Charles Meador, Jr., Councilmember AYE

DULY PASSED AND ADOPTED THIS 11<sup>th</sup> day of February, 2008.

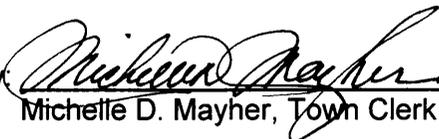
Town of Fort Myers Beach

By:   
Dennis C. Boback, Mayor

Approved as to legal sufficiency:

ATTEST:

By:   
Anne Dalton, Esquire  
Town Attorney

By:   
Michelle D. Mayher, Town Clerk

## EXHIBIT ( A )

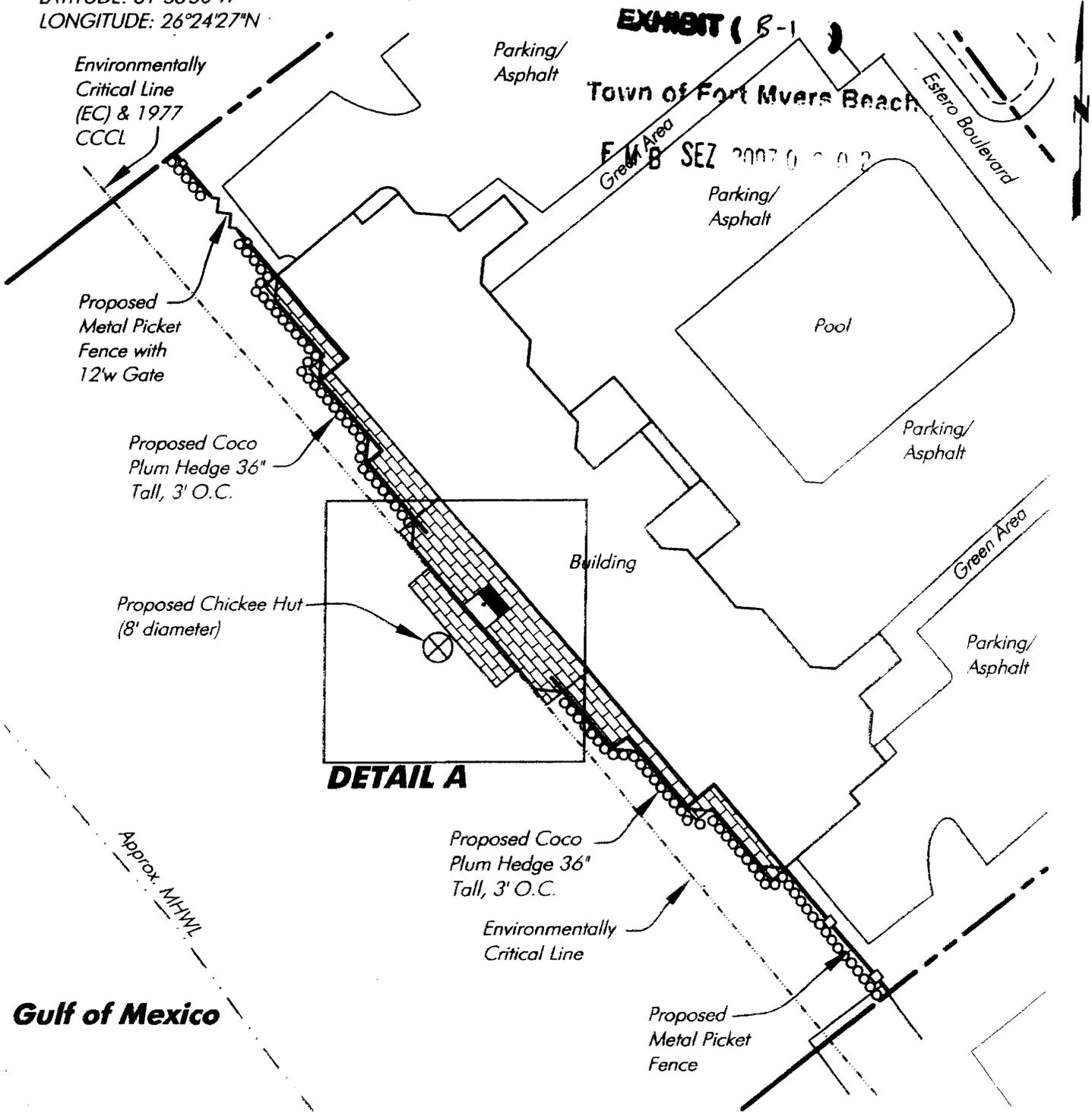
### Legal description of the subject property:

A tract or parcel of land 300 feet wide and extending from Estero Boulevard to the Gulf of Mexico in Section 3, Township 47 South, Range 24 East, on Estero Island, described as follows: From the South corner of Block 3-A of Unit No. 1, Laguna Shores, according to a map or plat thereof recorded in Plat Book 9, at Pages 29 and 30 of the Public Records of Lee County, Florida, run South  $48^{\circ} 23' 0''$  West along prolongation of the northwesterly line of Park Place, as shown on said plat for 70.02 feet to appoint on the southwesterly side of Estero Boulevard (County Road as in County Commission Minute Book 11, at Page 97) as shown on said plat; thence run northwesterly along said Boulevard on an arc of a curve to the right of radius 2899.79 feet for 147.39 feet to a point of tangency; thence run North  $37^{\circ} 47'$  West along said Boulevard for 52.68 feet to the point of beginning of the lands hereby conveyed. From said point of beginning continue North  $37^{\circ} 43'$  West along said Boulevard for 300 feet; thence run South  $52^{\circ} 17'$  West, perpendicular to said Boulevard, to the waters of the Gulf of Mexico; thence run southeasterly along said water to an intersection with a line bearing South  $52^{\circ} 17'$  West through the point of beginning; thence run North  $52^{\circ} 17'$  East along said line to the point of beginning; together with all riparian rights appurtenant thereto. All bearings hereinabove mentioned are plane coordinate bearings for the Florida West Zone.

SECTION: 3  
 TOWNSHIP: 47 S.  
 RANGE: 24 E.  
 LATITUDE: 81°53'50"W  
 LONGITUDE: 26°24'27"N

Note: Property Line per Boundary and  
 Survey, S&H Land Survey Company, Inc.,  
 Drawing No. 16867, dated 10/07/05.

0 20 40  
 SCALE FEET

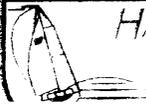


**Proposed Site Plan**

SCALE: 1" = 40'

HANS J.M. WILSON  
 REGISTERED PROFESSIONAL ENGINEER  
 FLORIDA REGISTRATION NO. 39680  
 DATE: October 25, 2007 9:21:16 a.m.  
 Drawing: SHAMRON1-MASTER.DWG

PERMIT USE ONLY, NOT FOR CONSTRUCTION



HANS WILSON & ASSOC., INC.  
 1938 Hill Ave Ft Myers, Florida 33901  
 Tel: 239-334-6870 Fax: 239-334-7810

10.25.07  
 CC

**Shamron Beach  
 Condominium Association**

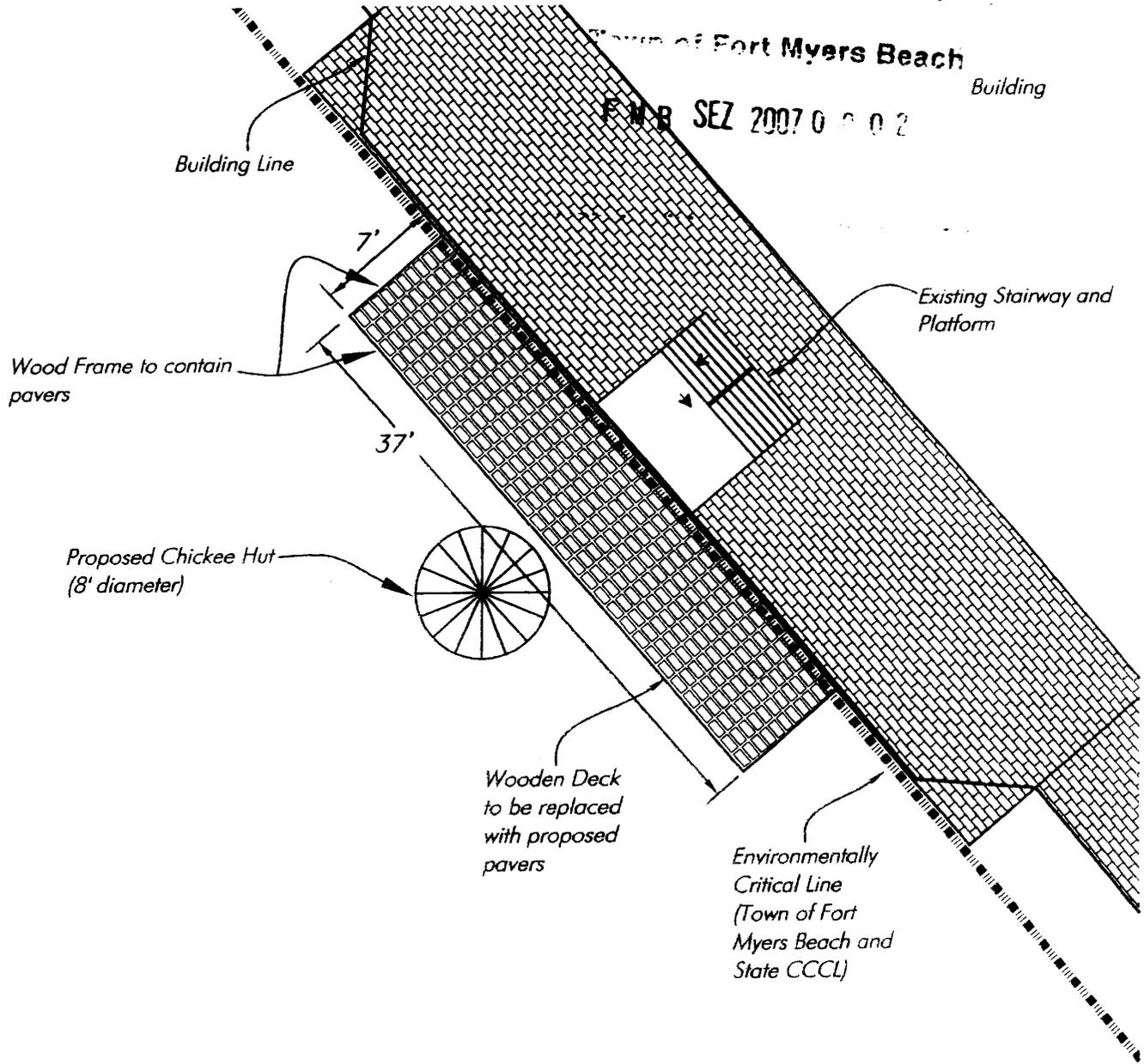
SHEET

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0 5 10  
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EXHIBIT ( B-2 )



**Detail A-Proposed**

SCALE: 1" = 10'

HANS J.M. WILSON  
 REGISTERED PROFESSIONAL ENGINEER  
 FLORIDA REGISTRATION NO. 39680  
 DATE: October 25, 2007 9:21:16 a.m.  
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 Condominium Association

SHEET