

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 08-48

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA:

WHEREAS, First Central Investment Corporation, through its registered agent Lawrence A. Yax ("Applicant"), has requested to rezone 0.51 acres from Commercial Planned Development (CPD) to a new Commercial Planned Development (CPD) to alter the boundaries of the current Edison Beach House CPD zoning district, to allow further development of the subject property, and to allow deviations for additional height and intensity as depicted on its new Master Concept Plan; and

WHEREAS, the subject property is located at 830 Estero Boulevard, Fort Myers Beach, Lee County, Florida; and

WHEREAS, the applicant's original zoning to CPD was approved by Town Resolution 97-14, and subsequently amended by Town Resolution 01-14; and

WHEREAS, the Applicant has indicated the property's current STRAP number is: 24-46-23-W3-00400.0010, with the legal description 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 June 3, 2008, at which time the LPA gave full and complete consideration to the recommendations of staff, the documents in the file and the testimony of all interested persons, and recommended Town Council approval of Applicant's request to rezone its CPD to a new CPD subject to five conditions and no deviations as set forth more fully in LPA Resolution Number 2008-22; and

WHEREAS, a public hearing was legally advertised and held before the Town Council of the Town of Fort Myers Beach, Florida on November 3, 2008, at which time the Town Council gave full and complete consideration to the recommendations of staff, the LPA minutes and LPA Resolution Number 2008-22, the other documents in the file, and the testimony of all interested persons.

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

The Town Council **APPROVES** the Applicant's request to rezone its CPD to a new CPD subject to the **five (5) conditions** and **two deviations** set forth with specificity below.

A. CONDITIONS

1. Development must be consistent with the one-page Master Concept Plan stamped "Received February 22, 2008" for case FMBDCI2007-0002, attached as Exhibit "B", except as modified by conditions below. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

2. The following limits apply to the project and uses:

a. Schedule of Uses

Residential:

Dwelling Unit, Caretaker (one unit, existing only)
Residential Accessory Uses
Recreation facilities, private on-site

Lodging:

Hotel/Motel (24 units, existing only)
Consumption on Premises (limited to in-guestroom bar only)
Consumption on Premises as set forth in Town Council Resolution 00-12
(which is attached as Exhibit "C")
Food and Beverage Service, Limited

Office:

Administrative Office (accessory)
Home Occupation (no outside help)

Civic:

Beach access
Essential services
Essential service equipment

b. Site Development Regulations

Minimum Lot Width:	100± feet
Minimum Lot Depth:	324± feet
Minimum Lot Area:	0.51± acres (not including beach)
Maximum Floor Area:	16,867 square feet
Maximum Building Height:	45.7 feet above base flood elevation as defined by LDC Section 34-631 6 stories (5 stories over parking and entry)

Setbacks:

Street:	100± feet
Side:	9.7 feet (existing)
Gulf of Mexico:	50 feet

3. That portion of the subject property located seaward of the Coastal Construction Setback Line recorded in Plat Book 31 of the Public Records of Lee County, Florida, is zoned EC (Environmentally Critical) and is not hereby rezoned. No development within the EC zoning district is authorized by this rezoning.

4. Any point sources of effluent discharge from the subject property onto the beach must be eliminated immediately in accordance with LDC Section 6-13.

5. Approval of this zoning request does not give the developer an undeniable right to receive Local Development Order Approval in the form of a floodplain development permit or other permit. Development Order approvals must satisfy the requirements of the Fort Myers Beach Comprehensive Plan. Development of the subject property must

comply with all requirements of the LDC at the time of Local Development Order Approval except such deviations as may be granted by approval of this planned development. Additional mitigation of traffic impacts may be required for Local Development Order Approval.

Deviations

1. The applicant has requested a deviation from LDC Section 34-3234(b)(3), which limits the enlargement and/or replacement of nonconforming buildings. The deviation would allow expansion of a building that is currently nonconforming with regard to the number of guest units permitted by the Fort Myers Beach Comprehensive Plan, to allow an increase in the total interior square footage of the guest units and an increase in square footage of the caretaker's dwelling unit. The total increase in interior area would be 2,900 square feet. The Town Council **approves** the request for deviation #1.
2. The applicant has requested a deviation from LDC Section 34-3234(a)(3), which limits the enlargement of nonconforming buildings, to allow enlargement of a building that is currently nonconforming with regard to the height allowed by Comp Plan Policy 4-C-4, and LDC Section 34-953 and Table 34-3. The proposed enlargement would increase the height of the building by eleven (11) feet and would create an additional story of height for a total height of 45.7 feet and six (6) stories. The Town Council **approves** the request for deviation #2.

FINDINGS AND CONCLUSIONS

Based upon the presentations by the Applicant, staff, and other interested parties at the hearing, and review of the application and the standards for planned development zoning approval, the Town Council makes the following findings and reaches the following conclusions:

1. The requested CPD zoning district, as conditioned, **is consistent with and complies** with all specific requirements, goals objectives, policies and intent and with the densities, intensities and general uses set forth in the Fort Myers Beach Comprehensive Plan, Land Development Code Chapter 34 and all other applicable town ordinances or codes that are relevant to the requested planned development;
2. There **is** an error or ambiguity which must be corrected;
3. There **exist** changed or changing conditions which make approval of the request, as conditioned, appropriate.
4. The proposed use or mix of uses, as conditioned, **is appropriate** at the subject location;
5. Sufficient safeguards to the public interest **are provided** by the conditions to the master concept plan or by other applicable regulations;

6. All conditions **are reasonably related** to the impacts on the public's interest created by or expected from the proposed development;
7. The proposed use or mix of uses, as conditioned, **meets** all performance and locational standards set forth for the proposed use.
8. Regarding the requested deviations (#1 and #2):
 - a. Each Deviation **does enhance** the achievement of the objectives of the planned development;
 - b. Through each Deviation the general intent of Land Development Code Chapter 34 to protect the public health, safety, and welfare **will be** preserved and promoted;
 - c. Each Deviation **does operate** to the benefit, and **may not operate** to the detriment, of the public interest; and
 - d. Each Deviation **is consistent** with the Fort Myers Beach Comprehensive Plan.

UPON MOTION BY VICE MAYOR HERB ACKEN AND SECOND BY JO LIST, THE ABOVE RESOLUTION WAS DULY PASSED AND ADOPTED ON THIS 3RD DAY OF NOVEMBER, 2008.

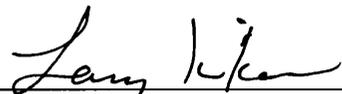
Larry Kiker, Mayor aye
 Tom Babcock, Councilmember nay
 Bob Raymond, Councilmember nay

Herb Acken, Vice Mayor aye
 Jo List, Councilmember aye

ATTEST:

TOWN OF FORT MYERS BEACH

By: 
 Michelle Mayher, Town Clerk

By: 
 Larry Kiker, Mayor

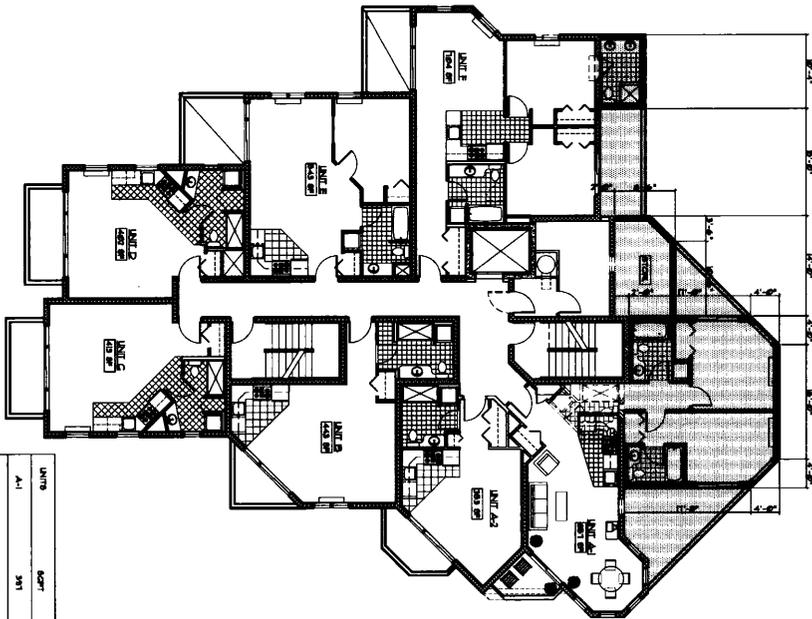
Approved as to legal sufficiency by:

By: 
 Annie Dalton, Town Attorney

Exhibit A
FMBDCI2007-0002

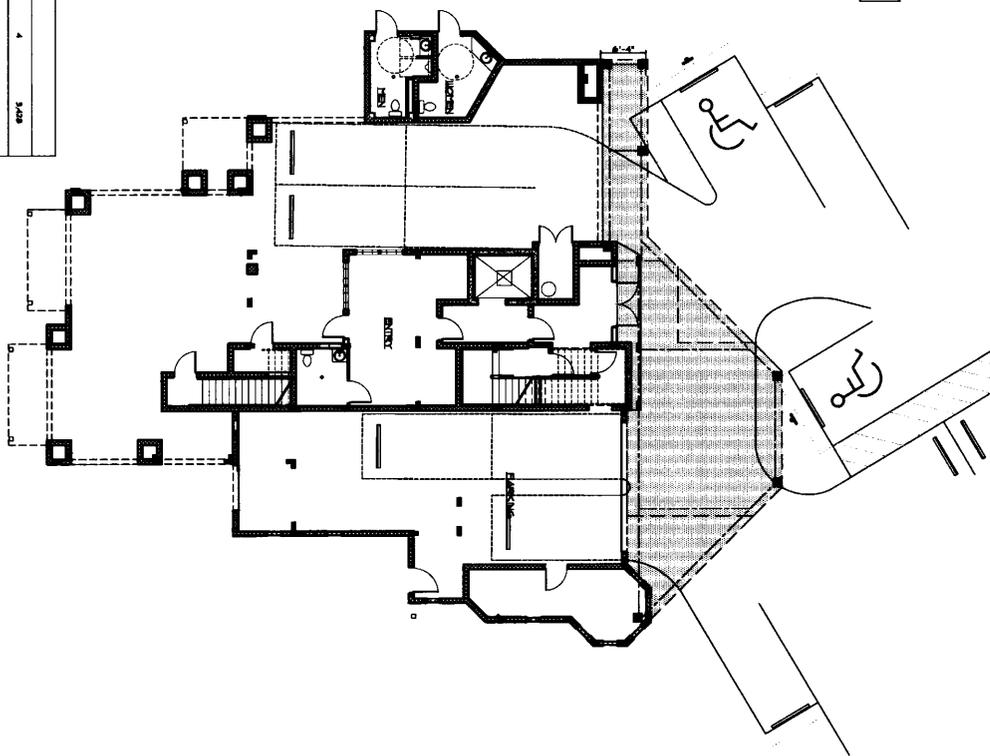
Legal Description

LOT 1, ISLAND SHORES UNIT 1 SUBDIVISION, AS RECORDED IN PLAT
BOOK 9, PAGE 24, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.



UNIT AREA INDICATED NEW ADDITION

UNITS	60'RT	80'RT	4	5,428
A-1	381	807	4	1,428
A-2	389	...	4	1,482
B	448	...	3	1,278
C	418	...	3	1,278
D	498	...	3	1,298
E	548	...	3	1,428
F	564	564	4	2,036
GRAND TOTAL	1,941	1,941	24	13,276



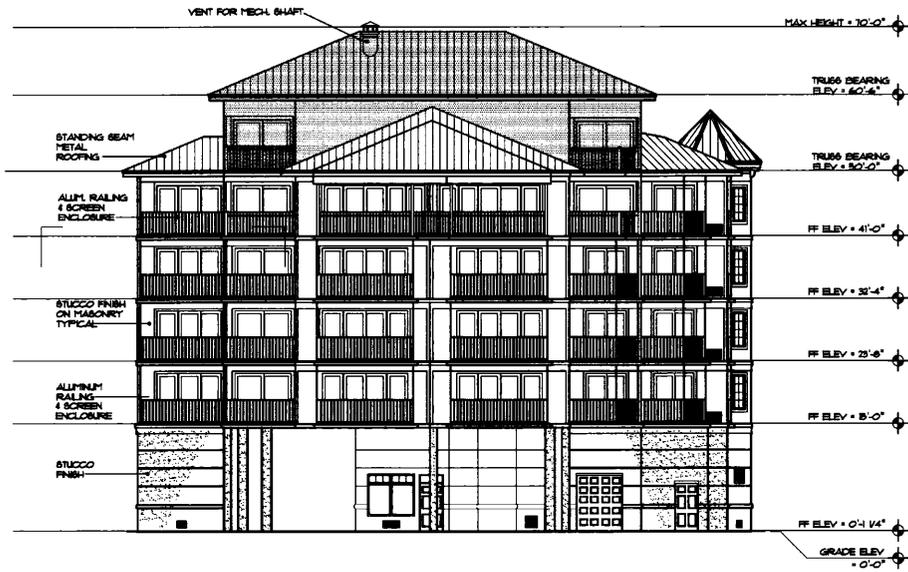
EDISON BEACH HOUSE
GROUND FLOOR PLAN
REFLECTED STRUCTURAL LAYOUT

4.4.1) REVISION: THE NUMBER OF UNITS PROPOSED FOR EACH USE, IN TERMS OF CHANGING UNITS BY TYPE, FROM THE ORIGINAL PLAN SHALL BE INDICATED BY THE TYPE OF CHANGING UNITS AND THICKNESS. ANY CHANGES TO THE ATTACHED CHART AND FLOOR PLAN SHOULD BE THE UNITS AND SQUARE FOOTAGE BREAK DOWN.

PROJECT NO. 05-69 DRAWING A-1 SHEET 1 OF 1	<p>DAVID H. WULFF ARCHITECT 115 WILLCREST STREET LAKELAND, FL 33815 TEL: 888-488-2828 FAX: 888-488-2828</p>	<p>NEW ADDITION FOR: EDISON BEACH HOTEL FORT MYERS BEACH, FL.</p>			
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ADDITION STREET ELEVATION



LOFT ADDITION BEACH ELEVATION

ALL BUILDING HEIGHTS, THE HIGHEST HEIGHT OF ANY PROPOSED BUILDING OR STRUCTURE SHALL BE TAKEN FROM THE TOP FINISH OF FINISHING HEIGHT (34'-2 1/2" TO 34'-3 1/2") UNLESS OTHERWISE SHOWN IN THE ELEVATION SHOWING THE PROPOSED HEIGHTS OF THE NEW ADDITION.

NOTE: HATCHED AREA INDICATES NEW ADDITION

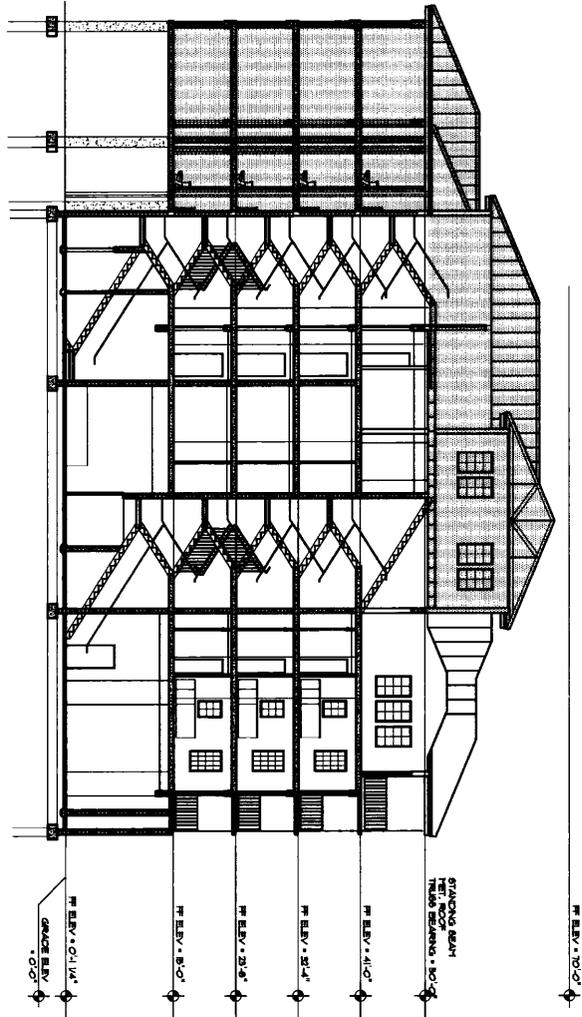
PROJECT NO.
025-63
DRAWING
A-4
SHEET A OF 1



NEW ADDITION FOR:
EDISON BEACH HOTEL
FORT MYERS BEACH, FL.

DATE
BY
CHECKED
DATE

LOFT ADDITION BUILDING SECTION

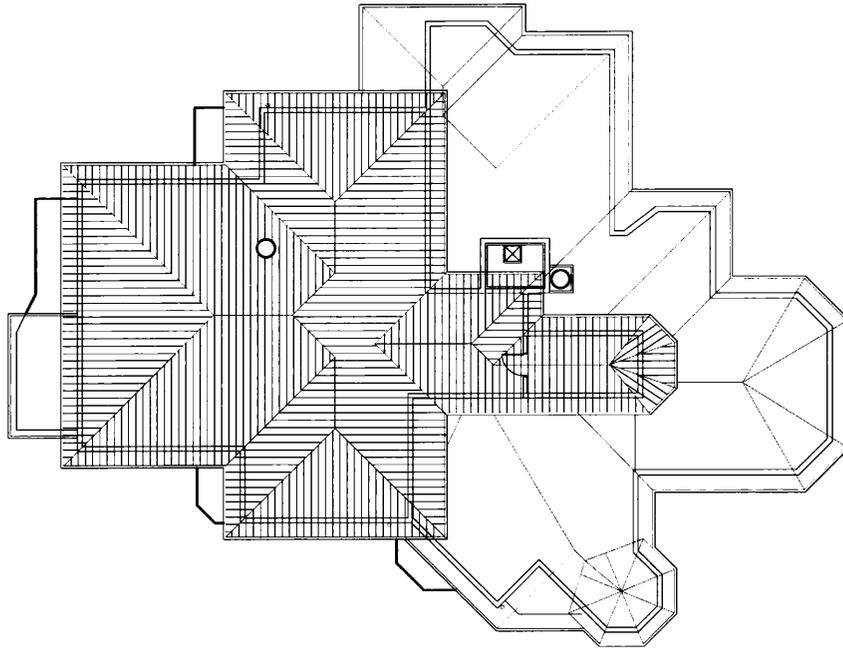


EXISTING BEAM FLOOR FINISH ELEVATION

ALL BUILDING ELEMENTS, THE PLUMBING, HEATING, OR AIR CONDITIONING SYSTEMS OR STRUCTURES SHALL BE UNDER THE CONTROL OF THE ARCHITECT. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF ALL ELEMENTS TO BE PROVIDED BY THE CONTRACTOR. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF ALL ELEMENTS TO BE PROVIDED BY THE CONTRACTOR.

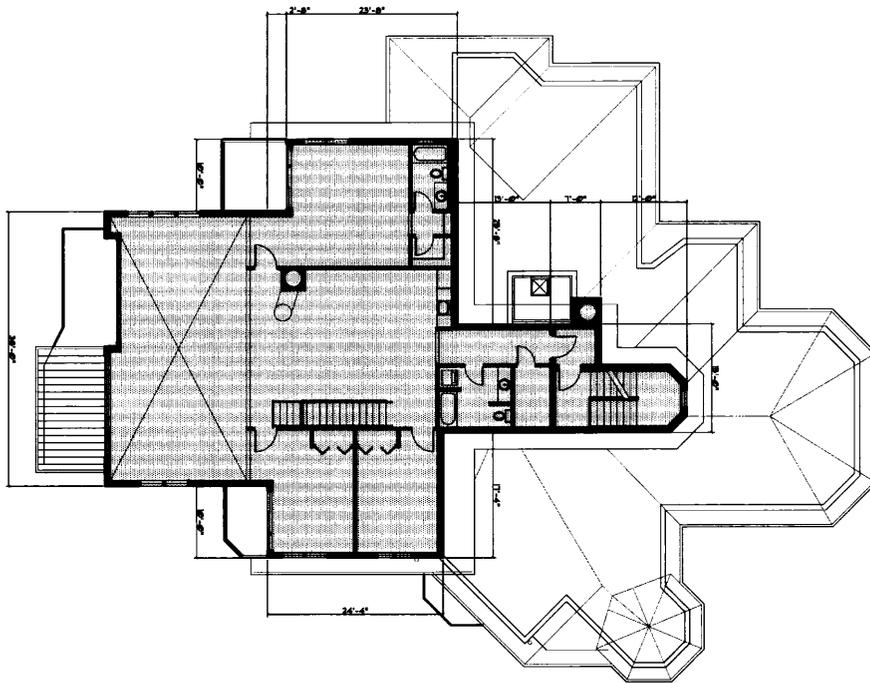
 <p>DAVID H. WULFF ARCHITECT 115 HILLCREST STREET LAKELAND, FL 33815 TEL: 888-446-9738</p>	<p>NEW ADDITION FOR: EDISON BEACH HOTEL FORT MYERS BEACH, FL.</p>		<p>DATE: 12-13-2006</p>	<p>SCALE: AS SHOWN</p>	<p>PROJECT NO. 09-6-9</p>
	<p>DRAWING A-5</p>	<p>SHEET 1 OF 1</p>	<p>DATE: 12-13-2006</p>	<p>SCALE: AS SHOWN</p>	<p>PROJECT NO. 09-6-9</p>

TWO STORY LOFT ROOF PLAN

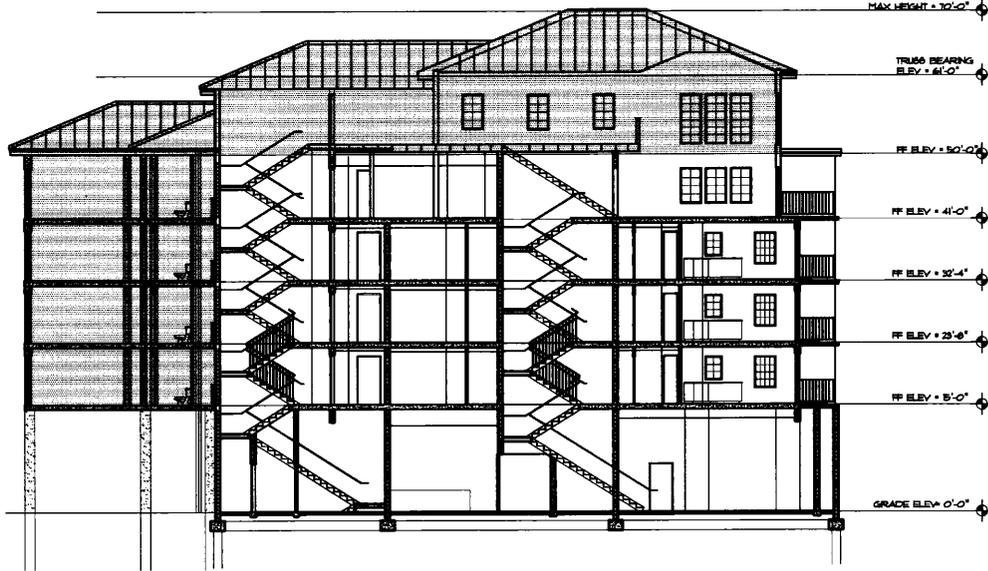


HOLIDAY INN RESERVATION VIEW ORIENTED PLAN

TWO STORY LOFT FLOOR PLAN

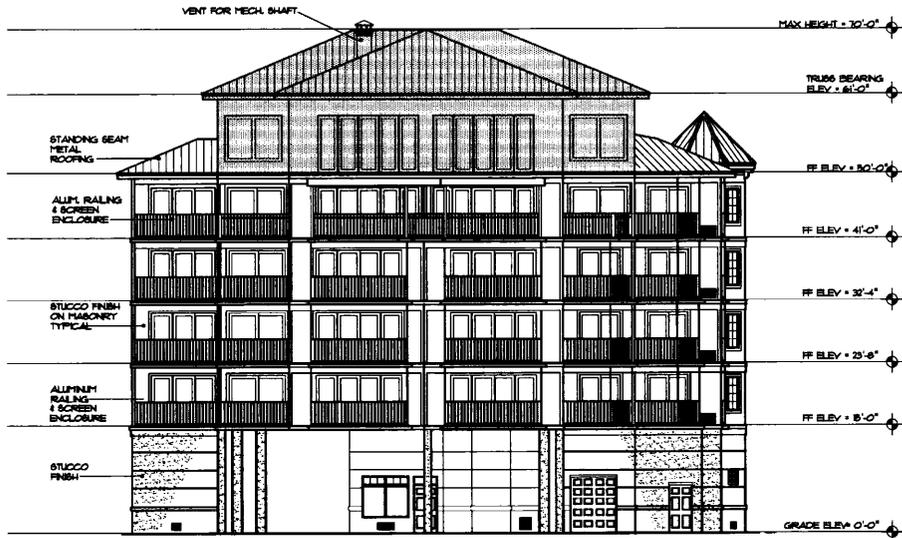


<p>SHEET A-6 DRAWING NO. 05-69 PROJECT NO.</p>	 <p>DAVID H. WULF ARCHITECT 115 HILLCREST STREET LAKELAND, FL 33815 TEL: 888-887-7777 FAX: 888-888-9138 12 Lakeland Blvd, Lakeland, FL 33809</p>	<p>NEW ADDITION FOR: EDISON BEACH HOTEL FORT MYERS BEACH, FL.</p>	<p>DATE: 12-13-08 DRAWN BY: JAC CHECKED BY: DHW</p>	<p>SCALE: AS SHOWN PROJECT NO. 05-69 SHEET NO. A-6</p>
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LOFT ADDITION TWO STORY LIVING ROOM

THIS SECTION IS A GENERAL REPRESENTATION OF THE PROPOSED CONSTRUCTION AND IS NOT TO BE USED FOR PERMITS OR CONTRACTS. THE ARCHITECT ASSUMES NO LIABILITY FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE ARCHITECT'S RESPONSIBILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE BUILDING AS SHOWN ON THESE PLANS. THE ARCHITECT DOES NOT WARRANT THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE ARCHITECT ASSUMES NO LIABILITY FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.



LOFT ADDITION TWO STORY BEACH ELEVATION

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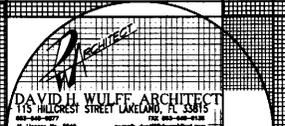
SHEET NO. 05-63 DRAWING A-1 SHEET 1 OF 1	 <p> DAVID H. WULF ARCHITECT 115 HILLCREST STREET LAKELAND, FL 33815 TEL: 888-447-7777 FAX: 888-447-7778 P.O. BOX 100, 8346 </p>	<p> NEW ADDITION FOR: EDISON BEACH HOTEL FORT MYERS BEACH, FL. </p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="font-size: 8px;">NO.</td><td style="font-size: 8px;">DATE</td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </table>	NO.	DATE						
NO.	DATE										

EXHIBIT (*e*)

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 00- 12

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA
APPROVING / ~~DENYING~~ THE REQUEST FOR SPECIAL PERMIT FOR
CONSUMPTION ON PREMISES WITH OUTDOOR SEATING

WHEREAS, First Central Inv., Corp., as owner of the Edison Beach House has filed an application for a Special Permit in the CPD (Commercial Planned District) district for consumption on premises with outdoor seating; and,

WHEREAS, the subject property is located at 830 Estero Blvd., Fort Myers Beach, Florida, and is described more particularly as: Section 24, Township 46 South, Range 23 East: and,

WHEREAS, the applicant has indicated the property's current STRAP number are: 24-46-23-W3-00400.0010; and,

WHEREAS, a public hearing was advertised and held before the Fort Myers Beach Town Council who gave full and complete consideration to the recommendations of the staff and the Local Planning Agency, the documents on file with Lee County, and the testimony of all interested persons; and,

NOW, THEREFORE, BE IT RESOLVED BY THE FORT MYERS BEACH TOWN COUNCIL, that the Council APPROVES / ~~DENIES~~ the requested modification.

FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval / ~~denial~~ of the requested modification:

1. The applicant did / ~~did not~~ comply with Section 34-1264 (2) b. which places the burden of proof upon the applicant to demonstrate that approval will not have any adverse affect on surrounding properties.
2. That there is ~~no~~ error or ambiguity in the Land Development Code of Town Plan which must be corrected by the Special Permit.
3. That the character and nature of the surrounding area make approval of the Special Permit, as conditioned, appropriate/ ~~inappropriate~~.

4. That the Special Permit, as conditioned, is consistent/ ~~inconsistent~~ with the goals, objectives, policies and intent of the Lee Plan, and the densities, intensities and general uses set forth in the Town Plan and Land Development Code.

5. That the Special Permit, as conditioned, meets /~~does not meet~~ all performance and locational standards set forth for the proposed use.

6. That urban services will / ~~will not~~ be available and adequate to serve the proposed use when it is constructed.

7. That there are no environmentally critical areas or natural resources to be adversely affected by the Special Permit, as conditioned.

Alcoholic beverages to be available at office desk from 12 noon to 8 p.m. only, sale limited to guests only and charged to occupied rooms. No bar or pool-side service.

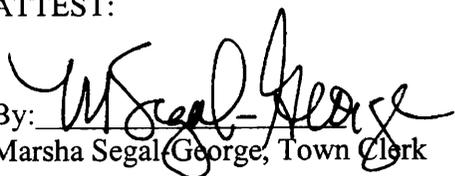
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

Anita T. Cereceda	aye
Daniel Hughes	aye
John Mulholland	nay
Garr Reynolds	nay
Ray Murphy	aye

APPLICATION DULY DENIED/GRANTED this 13th day of March, 2000.

ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Marsha Segal-George, Town Clerk

By: 
John J. Mulholland, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney