

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 10-05
GULFSIDE PARCELS

WHEREAS, JABO, LLC, a foreign corporation registered in the State of Florida, with authorization of at least 75 percent of the unit owners of White Sand Villas, a condominium, and at least 75 percent of the unit owners of Captiva Villas, a condominium, as required by Land Development Code (LDC) Section 34-201, (together, "Applicant") has requested the Town Council amend the Commercial Planned Development (CPD) zoning districts for White Sand CPD and Captiva Villas CPD to approve a revised master concept plan (MCP) and to make certain changes to existing uses and modifications to existing development; and

WHEREAS, the subject property is located at 190 Estero Boulevard and 200 Estero Boulevard, Fort Myers Beach, FL 33931; and

WHEREAS, Applicant has indicated the property's current STRAP numbers are 24-46-23-W1-00700.0330, 24-46-23-W1-00700.0340, 24-46-23-W1-04000.00CE, and 24-46-23-W1-04100.00CE, with the legal description set forth in Exhibit "A" which is attached hereto and hereby incorporated by reference; and

WHEREAS, the changes requested through this application include the following forms of additional development and modifications to previously approved development on the subject property:

1. Allow for possible relocation of pedestrian beach access on Lot 36, Block D, Island Shores Unit 4 Subdivision, and Lot 37, Block F, Island Shores Club Section Subdivision (required by prior zoning conditions), to the northwesterly side of Lot 38, Block F, Island Shores Club Section Subdivision, as shown on the proposed MCP.
2. ~~Allow for dedication of 5 feet of right-of-way on either side of Estero Boulevard without detriment to existing development rights or impact upon existing buffering, open space, and other similar development requirements upon the subject property.~~
3. ~~Make alterations to the landscaping of the right-of-way buffer and parking lot and open space areas on gulf side parcels to allow for possible right-of-way dedication and placement of stormwater management areas.~~
4. ~~Remove prior condition restricting use of restaurants, personal services, and other commercial amenities within the resort to "guests of the Pink Shell Resort only."~~
5. ~~Remove prior condition limiting external advertisement of restaurants, personal services, and other commercial amenities.~~
6. ~~Approve deviation to allow resort sign package providing identification and directional signage for the unified Pink Shell Resort. The package provided by the applicant includes signage for establishments not located on the subject property.~~
7. Add entrance gates at the parking lot entrances as shown on the MCP. Some entrance gates shown on the MCP are on parcels not included within the subject property.

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on March 24, 2009, at which time it was continued to April 28, 2009, May 12, 2009, and June 9, 2009, at which point 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 made the recommendations contained in LPA Resolution 2009-13; and

WHEREAS, on September 25, 2009, the applicant filed an amended application withdrawing various requests which were previously considered by the LPA and which resulted in Town staff preparing an amended staff report for consideration by Town Council; and

WHEREAS, a public hearing was legally advertised and held before the Town Council on October 16, 2009, at which time it was continued to December 7, 2009, and then further continued to December 21, 2009, and further continued to January 19, 2010, at which time the Town Council gave full and complete consideration to the recommendations of staff, the LPA resolution and testimony of the LPA representative, the request and amended request of Applicant, the 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** Applicant's amended request to amend the CPD zoning district, subject to **APPROVAL of seven (7) conditions**. The Town Council acknowledges that the previously requested deviations have been **WITHDRAWN**.

A. CONDITIONS

1. Development must be consistent with the MCP titled "Pink Shell CPD Gulf Side Master Concept Plan" stamped received April 1, 2010, except as specifically modified by conditions or deviations herein. If changes to the MCP are subsequently pursued, appropriate approvals will be required.
2. The terms and conditions of all previous resolutions now affecting the subject property shall continue in force except as expressly altered by this amendment.
3. Vacation, exchange, or relocation of any easement, and/or any dedication of any part of the subject property to the public, and/or vacation of any of the subject property heretofore dedicated to the public, are not affected by approval of this zoning action.
4. No additional dwelling units, guest units, or timeshare units are authorized by approval of this amendment.
5. No expansion of floor area for any use, whether residential or commercial, is authorized by approval of this amendment.
6. Any lawfully existing dwelling unit, guest unit, or timeshare unit within the subject property may be used as group quarters for employee housing without regard for the occupancy time limitations applicable to guests as set forth in LDC Section 34-1801(b)(4). Occupancy of group quarters is limited solely to bona fide employees of the Pink Shell Resort, including the

businesses lawfully operating on the subject property in compliance with this zoning resolution and all other applicable regulations. Under no circumstances may occupancy of any dwelling unit, guest unit, or timeshare unit exceed the lawful occupancy established by applicable building, fire, and life-safety codes. If no building, fire, or life-safety code provisions are more restrictive, the number of occupants of any individual living unit used for group quarters must not exceed four adults, or one family, whichever is larger. The term "family" is defined in LDC Section 34-2, as may be amended from time to time.

7. Approval of this amendment does not give the developer an undeniable right to local development order approval. Development or redevelopment of the subject property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and Land Development Code in effect at the time of development order approval and permitting.

B. DEVIATIONS

Deviation #1. The request for Deviation #1 from LDC Chapter 30 to allow a resort sign package was withdrawn by the applicant on September 25, 2009 and is no longer before the Town Council for consideration.

Deviation #2. Deviation from LDC Sections 10-415 and 10-416 is to allow open space reduction and buffer reductions as indicated on the Landscape Plan prepared by Bellomo Herbert & Co. for case numbers DCI2006-0001 and DCI2006-0002, stamped received August 1, 2007. This request for a deviation was partially withdrawn by the applicant on September 25, 2009. The remaining reductions in required buffers and open space are depicted on the attached "Exhibit C". Town Council **APPROVES deviation #2.**

FINDINGS AND CONCLUSIONS

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

1. The requested amendment to the Commercial Planned Development (CPD) zoning district, as conditioned **DOES** comply with:
 - a. The Town Comprehensive Plan;
 - b. LDC Chapter 34;
 - c. all other applicable Town ordinances and codes; and
2. The proposed use or mix of uses, as conditioned above, **IS** appropriate at the subject location.
3. Sufficient safeguards to the public interest **ARE** provided by the special conditions to the concept plan or by other applicable regulations.
4. All special conditions **ARE** reasonably related to the impacts on the public's interest created by or expected from the proposed development.

5. The proposed use or mix of uses **MEETS** all specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following Policies:

Comprehensive Plan Policy 4-B-4 regarding the Mixed Residential Future Land Use Map category and
Comprehensive Plan Policy 4-C-3 regarding commercial locations.

6. As to the schedule of deviations, as conditioned:
- A. Regarding requested Deviation #1, the Town Council acknowledges the withdrawal of this request by the applicant on September 25, 2009.
- B. Regarding Deviation #2, the Town Council acknowledges that Deviation #2 does not affect the subject property.

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

Larry Kiker, Mayor AYE
Tom Babcock AYE
Bob Raymond AYE

Herb Acken, Vice Mayor AYE
Jo List AYE

DULY PASSED AND ADOPTED THIS 19th DAY OF JANUARY, 2010, BY THE
TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

By: Larry Kiker
Larry Kiker, Mayor

ATTEST:
By: Michelle D. Mayher
Michelle D. Mayher, Town Clerk

Approved as to legal sufficiency:

By: Anne Dalton
Anne Dalton, Esquire, Town Attorney



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Town of Fort Myers Beach

F M B DCI 2006⁶0 0 0 0 2

JOB # 32547
FILE # 32547SK02
SHEET 1 OF 2

JULY 16, 2007

DESCRIPTION:

PART OF GULFSHORE SUBDIVISION AS RECORDED IN PLAT BOOK 9, PAGE 88 AND PART OF UNIT 4 ISLAND SHORES AS RECORDED IN PLAT BOOK 9, PAGE 37 AND PART OF ISLAND SHORES CLUB SECTION AS RECORDED IN PLAT BOOK 9, PAGE 41, ALL RECORDED IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF LOT 10 OF SAID GULFSHORE SUBDIVISION; THENCE S.47°52'35"W. ALONG THE SOUTHEASTERLY LINE OF LOTS 9 AND 10 OF SAID GULFSHORE SUBDIVISION FOR 98.24 FEET; THENCE N.42°07'25"W. FOR 24.00 FEET; THENCE S.47°52'35"W. FOR 2.50 FEET; THENCE N.42°07'25"W. FOR 43.54 FEET; THENCE N.47°52'35"E. FOR 2.50 FEET; THENCE N.42°07'25"W. FOR 50.00 FEET; THENCE N.40°31'28"E. FOR 14.49 FEET; THENCE N.50°19'25"W. FOR 27.57 FEET; THENCE N.59°22'01"W. FOR 20.23 FEET; THENCE S.39°40'35"W. FOR 31.50 FEET; THENCE S.59°17'28"E. FOR 2.30 FEET; THENCE S.30°21'33"W. FOR 15.24 FEET; THENCE N.58°42'37"W. FOR 3.31 FEET; THENCE S.29°58'13"W. FOR 29.45 FEET; THENCE S.48°42'33"W. FOR 77.19 FEET; THENCE S.40°09'10"E. FOR 31.53 FEET; THENCE S.07°36'21"E. FOR 37.67 FEET; THENCE N.40°27'57"W. FOR 313.13 FEET; THENCE N.19°21'03"W. FOR 162.23 FEET TO THE NORTHWESTERLY LINE OF LOT 38 OF SAID ISLAND SHORES CLUB SECTION; THENCE N.47°52'35"E. ALONG SAID NORTHWESTERLY LINE FOR 116.87 FEET; THENCE S.42°07'25"E. FOR 19.50 FEET; THENCE N.47°52'35"E. FOR 83.68 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF ESTERO BOULEVARD; THENCE ALONG SAID RIGHT OF WAY LINE FOR THE FOLLOWING 3 COURSES: (1) S.42°07'25"E. FOR 130.50 FEET; (2) S.47°52'35"W. FOR 5.00 FEET; (3) S.42°07'25"E. FOR 400.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 113.474 SQUARE FEET OR 2.61 ACRES MORE OR LESS

TOGETHER WITH:

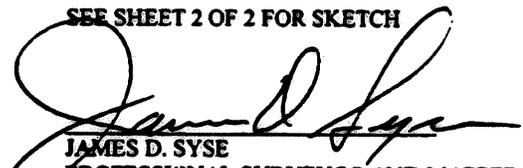
LOTS 5 AND 6 OF GULFSHORE SUBDIVISION AS RECORDED IN BOOK 9, PAGE 88 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF SAID LOT 6; THENCE S.42°07'25"E ALONG THE NORTHEASTERLY LINE OF SAID LOT 6 FOR 75.00 FEET; THENCE S.47°52'35"W. ALONG THE SOUTHEASTERLY LINE OF SAID LOTS 6 AND 5 FOR 100.00 FEET; THENCE N.42°07'25"W. ALONG THE SOUTHWESTERLY LINE OF SAID LOT 5 FOR 75.00 FEET; THENCE N.47°52'35"E. FOR 100.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 7,500 SQUARE FEET OR 0.17 ACRES MORE OR LESS

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS OF WAY OF RECORD.

SEE SHEET 2 OF 2 FOR SKETCH

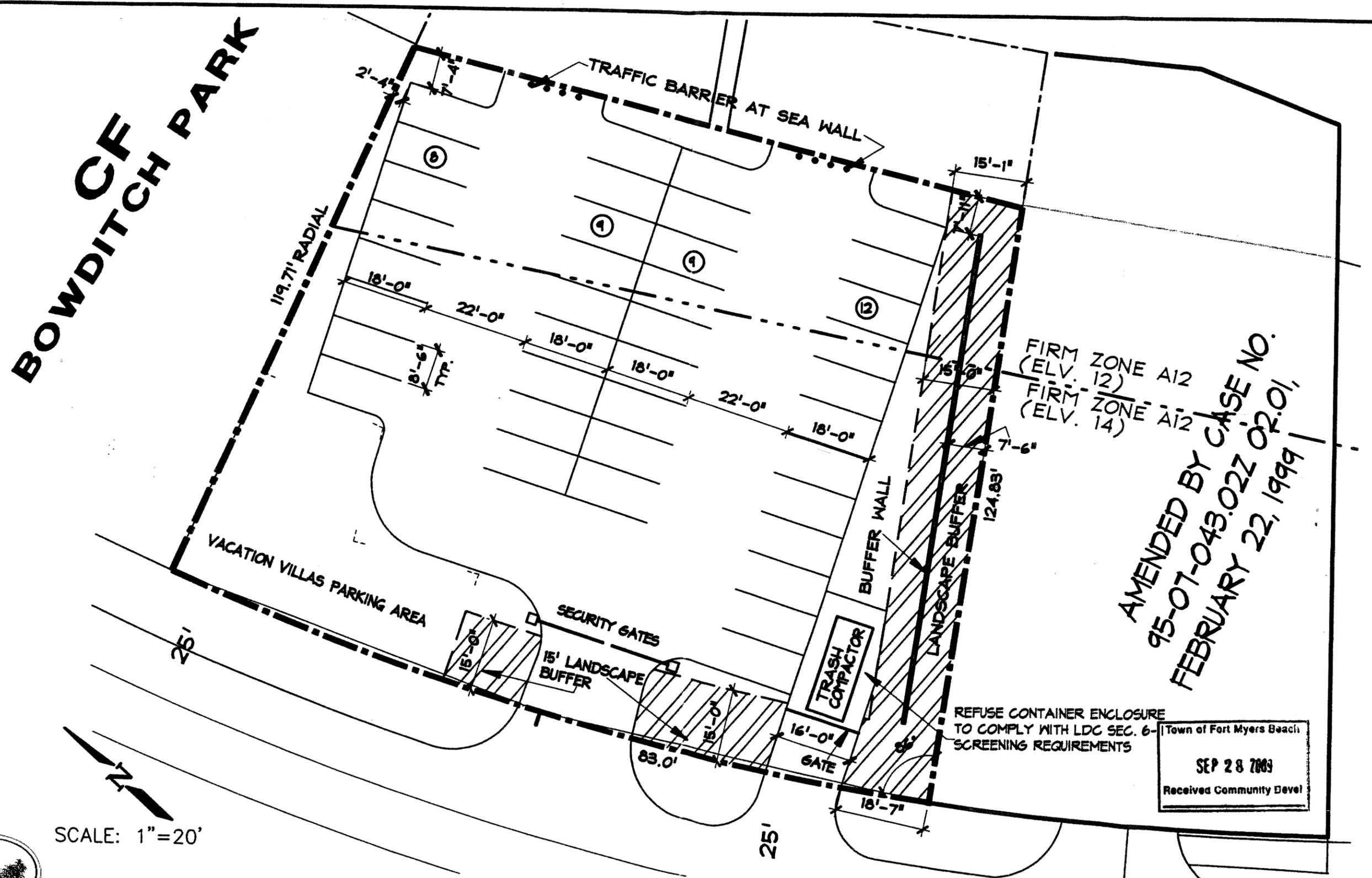

JAMES D. SYSE
PROFESSIONAL SURVEYOR AND MAPPER
FL. CERT. NO. 4211

RECEIVED
AUG 0 1 2007

BY:.....

EXHIBIT
7-2 + 7-4
Gulf Side
Legal + Sketch
July 2007

BOWDITCH PARK



FIRM ZONE A12
(ELV. 12)
FIRM ZONE A12
(ELV. 14)

AMENDED BY CASE NO.
95-07-043.02Z 02.01,
FEBRUARY 22, 1999

REFUSE CONTAINER ENCLOSURE
TO COMPLY WITH LDC SEC. 6-
SCREENING REQUIREMENTS

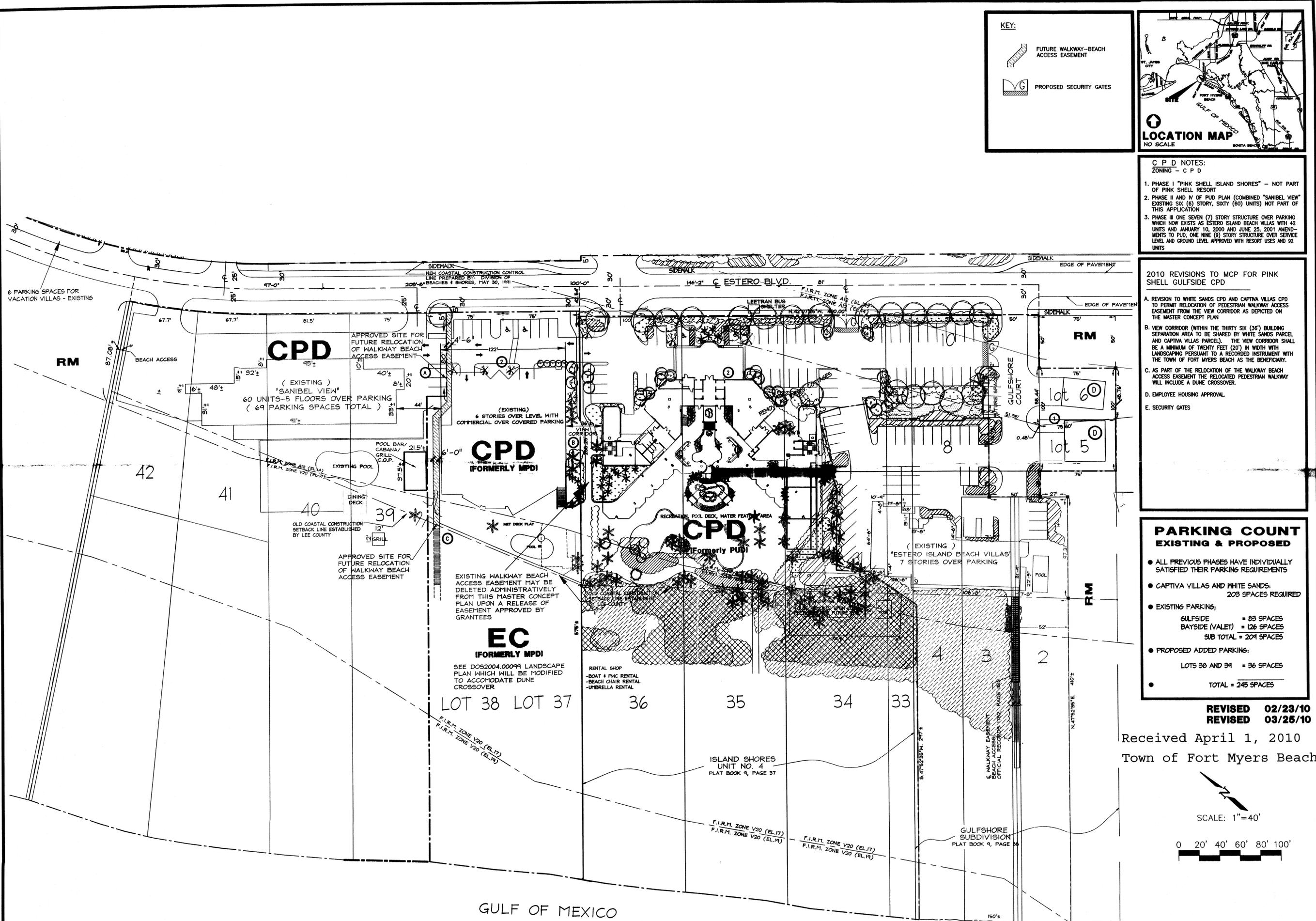
Town of Fort Myers Beach
SEP 28 2003
Received Community Dev

SCALE: 1"=20'



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Gora McGahey ASSOCIATES IN ARCHITECTURE 48 Building Circle Suite 202 Fort Myers, Florida 33907 239-575-6225 Fax: 239-575-7128		JOB # 92011-3		DATE 04/24/01		TITLE PARKING PLAN (GRAVEL/SHELL PARKING AREA TO INCLUDE VALET)	

PLOT SCALE



KEY:

- FUTURE WALKWAY-BEACH ACCESS EASEMENT
- PROPOSED SECURITY GATES

LOCATION MAP
NO SCALE

C P D NOTES:
ZONING - C P D

- PHASE I "PINK SHELL ISLAND SHORES" - NOT PART OF PINK SHELL RESORT
- PHASE II AND IV OF PUD PLAN (COMBINED "SANIBEL VIEW" EXISTING SIX (6) STORY, SIXTY (60) UNITS) NOT PART OF THIS APPLICATION
- PHASE III ONE SEVEN (7) STORY STRUCTURE OVER PARKING WHICH NOW EXISTS AS ESTERO ISLAND BEACH VILLAS WITH 42 UNITS AND JANUARY 10, 2000 AND JUNE 25, 2001 AMENDMENTS TO PUD, ONE NINE (9) STORY STRUCTURE OVER SERVICE LEVEL AND GROUND LEVEL APPROVED WITH RESORT USES AND 92 UNITS

2010 REVISIONS TO MCP FOR PINK SHELL GULFSIDE CPD

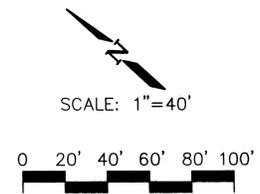
- REVISION TO WHITE SANDS CPD AND CAPTIVA VILLAS CPD TO PERMIT RELOCATION OF PEDESTRIAN WALKWAY ACCESS EASEMENT FROM THE VIEW CORRIDOR AS DEPICTED ON THE MASTER CONCEPT PLAN
- VIEW CORRIDOR (WITHIN THE THIRTY SIX (36) BUILDING SEPARATION AREA TO BE SHARED BY WHITE SANDS PARCEL AND CAPTIVA VILLAS PARCEL). THE VIEW CORRIDOR SHALL BE A MINIMUM OF TWENTY FEET (20') IN WIDTH WITH LANDSCAPING PURSUANT TO A RECORDED INSTRUMENT WITH THE TOWN OF FORT MYERS BEACH AS THE BENEFICIARY.
- AS PART OF THE RELOCATION OF THE WALKWAY BEACH ACCESS EASEMENT THE RELOCATED PEDESTRIAN WALKWAY WILL INCLUDE A DUNE CROSSOVER.
- EMPLOYEE HOUSING APPROVAL
- SECURITY GATES

PARKING COUNT EXISTING & PROPOSED

- ALL PREVIOUS PHASES HAVE INDIVIDUALLY SATISFIED THEIR PARKING REQUIREMENTS
- CAPTIVA VILLAS AND WHITE SANDS: 203 SPACES REQUIRED
- EXISTING PARKING:
 - GULFSIDE = 88 SPACES
 - BAYSIDE (VALET) = 126 SPACES
 - SUB TOTAL = 204 SPACES
- PROPOSED ADDED PARKING:
 - LOTS 38 AND 39 = 36 SPACES
 - TOTAL = 245 SPACES

REVISED 02/23/10
REVISED 03/25/10

Received April 1, 2010
Town of Fort Myers Beach



Gora McGahey Architects Inc.
43 Barkley Circle Suite 202 Fort Myers, Florida 33907
941-275-0225 Fax 941-275-7123

PINK SHELL C P D GULF SIDE MASTER CONCEPT PLAN

JOB NO. 98011
SP-gs