

November 20, 2017

Mr. Matthew Noble
Principal Planner
Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers Beach, FL 33931

RE: Grand Resorts DCI17-0001 – 2nd Insufficiency Responses (MDA 15069)

Dear Mr. Noble:

The purpose of this letter is to provide a response to the Town of Fort Myers Beach Community Development review comments dated April 20, 2017 for the above referenced Commercial Planned Development application. We always appreciate interaction with Staff on matters related to this application and welcome additional calls and emails that will assist us to address all the concerns in the most efficient manner to the extent this request can be approved.

Comment/Condition:

1. Legal Description and Boundary Survey: The provided description and sketch of the description include portions of the property that are part of the beach. The most seaward portion is designated "Tidal Water," then "Recreation" by the Town of Fort Myers Beach Comprehensive Plan. Tidal Water is applied to all waters surrounding Estero Island. Allowable uses are water sports, boating, swimming, fishing, and similar uses. The Recreation designation is applied to those parts of Gulf beaches that lie seaward of the 1978 Coastal Construction Control Line and are zoned EC. Permitted EC uses are described by LDC Section 34-652(d) and allow passive, resort accessory uses, and active recreational activities that require no permanent structures or alteration of the natural landscape (except as may be permitted by special exception). Please remove the area seaward of the 1978 Coastal Construction Control Line from the area proposed to be rezoned. The application should be modified to reflect this lesser area including computations of density, and Floor Area Ratio (FAR).

Please see Bill Spikowski's comments pertaining to the Boundary Survey.

Response: Please see Sheet X-103-BNDY of the Master Concept Plan and Exhibits which provides the revised Boundary Survey and includes a Legal Description. The CPD Boundary has been revised to eliminate the portion of the property that is beachfront. The area of the property that has been improved seaward of the 1978 CCL remains as part of the CPD due to the improvements.

Comment/Condition:

2. Master Concept Plan (MCP):

Staff thanks the applicant for providing a consumption on premises (COP) exhibit. Staff notes that this exhibit reveals that the application proposes to convert areas that are seaward of the 1978 Coastal Construction Control Line from various uses such as parking, a swimming pool, and hotel units to "general COP area" to support a restaurant and pool bar. The MCP incorrectly lists this area as "existing patio and seawall." Staff would encourage the applicant to consider dune restoration in these areas versus this proposed change of use. The submitted exhibit does not depict any COP area on the third elevated floor but the 3D aerial of the entire development does depict COP on the third elevated floor. Staff notes that several areas lack square footages such as the pool bar (within parcel #2) and the meeting area (within parcel #3). Please clarify and correct the exhibits as necessary.

Response: The applicant notes this is a multi-tiered question and has identified each topic and responded individually.

Property Seaward of 1978 Coastal Construction Control Line – The existing Pierview Hotel and adjacent 3 story building along the beachfront have improvements seaward of the 1978 Coastal Construction Control Line.



Figure 1. Gulf Side Parcel 1978 CCCL Location

As demonstrated by the image above, these improvements include a portion of the existing pool and surrounding patio at the Pierview Hotel as well as a parking lot supporting the existing 3 story building to the East.

The requested CPD includes this improved area seaward of the 1978 CCCL and a legal description is attached demonstrating the area of these improvements. The Master Concept Plan demonstrates that the proposed CPD will re-use these existing improvements as outdoor seating to support the requested restaurant and outdoor commercial recreation. The Town's Land Development Code Section 26-77 permits existing retaining walls along the Gulf of Mexico to be maintained and established moving buildings away from the shoreline as a priority for such maintenance. The proposed Commercial Planned Development, will eliminate the existing encroachment of the Pierview Hotel seaward of the 1978 CCCL and the proposed new buildings are located landwards of the 1978 CCCL.

Consumption on Premises Exhibit – Please see Sheets X-506-COP.00 through X-511-COP.05 of the Master Concept Plan and Exhibits which identifies the area of the existing improvements as a location for outdoor seating consistent with the conditions of the subject property seaward of the 1978 CCCL today. No buildings are proposed seaward of the 1978 CCCL. Sheets X-506-COP.00 through X-511-COP.05 demonstrates this area as a location where consumption will occur in conjunction with the outdoor seating as well as the point of sale at the adjacent Restaurant along the western property boundary or the ancillary restaurant to the Outdoor Commercial Recreation use.

Sheets X-506-COP.00 through X-511-COP.05 have been revised to demonstrate more accurately the roof above the fourth floor of the Bayside development. This area will be utilized for consumption associated with special events scheduled through the proposed hotel. To appropriately address this situation, the applicant has proposed a condition for the Town to consider. Additionally, the requested square footages for the various uses have been included in the Master Concept Plan and Exhibits.

Dune Restoration – In response to Question 1 and additional comments provided from Town Staff during meetings held on August 29th and September 26th the applicant has eliminated the portion of the property seaward of the existing improvements beyond the 1978 CCCL. As a result, the entire CPD is previously developed property that does not include any natural areas to provide Dune Restoration.

It should be noted that the existing improvements on the subject property seaward of the 1978 CCCL will be maintained and are at a higher elevation than the adjacent beachfront. To address this condition, the applicant intends to construct ADA accessible ramps to connect the public pedestrian access points to the beachfront and has committed to providing beach vegetation

adjacent to these improvements. The attached Proposed Conditions include language confirming these commitments for the Town's Staff and Consultants to consider.

Comment/Condition:

3. Will any development phases be utilized for the project?

Response: As explained in the previously submitted response, development phases will not be utilized.

Comment/Condition:

4. Is the Ocean Jewel Building included with the land uses on sheet C-104 as "Ancillary Retail 2,301 SF" or something else? Please clarify. The existing right of way behind this building is also not depicted on this sheet like the other rights of way that are proposed to be incorporated in the development such as Canal Street. The Chamber of Commerce has occupied this building; how is this use reflected on sheet C-104?

Response: The applicant notes this is a multi-tiered question and has identified each topic and responded individually.

Ocean Jewel Building: The requested CPD maintains the existing Ocean Jewel Building in its current configuration. It is expected that some maintenance and improvements may occur. The applicant acknowledges and will abide by the "50% Rule." This Building is identified as "Ancillary Retail" on the revised Master Concept Plan and Exhibits attached. This building is also currently occupied by the Chamber of Commerce. Due to conditions of the Chamber's lease agreement, this use is not expected to be maintained through the redevelopment of the subject property. The applicant notes that "office" is not requested as a primary use in the Schedule of Uses for the proposed CPD.

Existing Right of Way – The Master Concept Plan and Exhibits has been revised to identify the existing right of way behind the Ancillary Retail (Ocean Jewel) Building. For clarification, this right of way is not proposed to be vacated as part of the requested CPD.

Comment/Condition:

5. Thank you for including proposed building heights on the MCP. However, existing building heights were not included for the existing buildings that are proposed to be incorporated in the development. Please revise the MCP to provide a maximum building height for those buildings (Ocean Jewel and Pool Restrooms buildings) using the Town's Land Development Code's (LDC) means of measuring height (see 34-631) (34-212(4)(b)). There is also conflicting information on building heights between sheets C-104 and the Property Development Regulations (PDR). For example, the hotel building is limited to 3 stories 40 feet on the Property Development Regulations (PDRs) but sheet C-104 provides a proposed building height 41 '6".

Response: The applicant notes this is a multi-tiered question and has identified each topic and responded individually.

Existing Building Height – Sheet X-110-MCP.04 and XA-301 if the Master Concept Plan and Exhibits have been revised to provide the existing height of the Ancillary Retail (Ocean Jewel) and Pool Restrooms (Cigar Hut Building). The attached Property Development Regulations also depict the existing conditions. Notations have been added to the Property Development Regulations and Proposed Conditions to address the building heights if redevelopment occurs.

Proposed Building Height – Due to the meetings held with Town Staff on August 29th and September 26th out of an abundance of caution an additional deviation has been added to address the proposed building height on the Bay Side Hotel Building and Gulf Side Restaurant. In addition, the Sheets X-110-MCP.04 and XA-301 of the Master Concept Plan and Exhibits as well as the Property Development Regulations have been revised to clarify the requested building heights.

It is important to note that LDC Section 34-631(a)(2) permits building height to be measured from Base Flood Elevation to the top of the structural measures that serve as the ceiling for the highest habitable story AND permits landowners to elevate up to three feet above the height from base flood and increase the maximum building height up to three feet. This is typically known as the concept of freeboard which provides additional distance between the lowest structure floor member and Base Flood Elevation and is supported by the Flood Insurance Rating Program. The proposed building heights maintain the Maximum Building Height of 40 feet above freeboard consistent with the Land Development Code.

Building Elevations demonstrating the base flood elevation, freeboard and maximum building height are provided in the attached Master Concept Plan and Exhibits on Sheet XA-301.

Comment/Condition:

6. Please review LDC Section 34-631 as to how heights are measured in the Town. The Hotel building that is proposed is actually a four-story structure (not three as provided for in the MCP). The code regulates both number of stories and height. Further the Downtown zoning regulations (see LDC Sec. 34-675) limit the hotel structure to three stories and 30 feet above base flood elevation. Please revise the application to be consistent with how the Town regulates height of structures and seek Deviations if the applicant desires four story structures.

Response: Consistent with the direction provided by Town Staff and Town Consultants during the August 29th Meeting a deviation regarding the maximum building height and number of stories has been added out of an abundance of caution.

The Maximum Building Height is provided in the attached Master Concept Plan and Exhibits on Sheets X-110-MCP.04 and XA-301. Additionally Sheet X-109-MCP.04 has been revised to depict

the location of the requested deviation and the Schedule of Deviations has been revised. Both required application elements are attached for review.

Comment/Condition:

7. Thank you for revising the Schedule of Deviations to address the buffering of the proposed building along Crescent Street. What does the applicant mean by the use of the term "Green Screen?" Please revise the deviation request to specify what is required (Type D Buffer that at a minimum contains a width of 15 feet, a minimum number of 5 trees per 100 linear feet, and a continuous double staggered shrub hedge and be maintained at a 3 feet). Also, please specify the types, and numbers of plant material proposed; as well as a more detailed placement plan for where the landscaping will be located.

Sec. 10-416(b)(1)(b) states that perimeter building edge buffering is required for all newly built commercial developments in the downtown area of Fort Myers Beach. Building edge planting must be installed and maintained along at least 50 percent of the length of all walls that face onsite parking areas with more than 25 parking spaces. The planting areas must be at least 5 feet wide and may consist of landscape areas or adequately drained raised planters or planter boxes. Please provide more information concerning what is going to be located in the 5-foot buffer and green screen area.

Response: The applicant notes this is a multi-tiered question and has identified each topic and responded individually.

Green Screens – A series of meetings were held with Town Staff and Consultants on August 29th, September 26th and October 4th, the conceptual design proposed in the attached Master Concept Plan and Exhibits on Sheets X-502-RW.00 through X-504-RW.02. The attached schedule of deviations has been revised to reflect the agreed upon design. Additionally, the applicant has drafted proposed conditions which identify the minimum specifications for the plantings to be installed at the time of local development order approval.

Perimeter Building Edge Buffering – The applicant notes that LDC Section 10-416(b)1(b) states: "Building edge plantings are required for all commercial and mixed use buildings or portions thereof that are being newly built, and to "substantial improvements" to such buildings as defined in 6-405 of this LDC, on properties that are zoned in any of the following districts:

- a. Santos
- b. Downtown
- c. Santini
- d. Village
- e. CB
- f. CPD"

The applicant agrees that this section indicates that building plantings are required; however also notes that 10-416(b)(2) clarifies that "where required, building edge plantings must be

installed and maintained along at least 50 percent of the length of all walls that face on-site parking with more than 25 parking spaces.”

The proposed design does not include building walls that face on-site parking with more than 25 parking spaces; therefore building edge plants are not required. Additionally, the planting plan proposed on Sheets X-502-RW.00 through X-504-RW.02 demonstrates the agreed upon solution for plantings adjacent to the proposed building.

Comment/Condition:

8. Drainage and Stormwater Management Plan:

The proposed plans currently do not show any drainage and/or stormwater plans to be built along with the described structures. Per LDC Sec. 34-212(4)(i), the general location of stormwater management areas must be shown on the proposed MCP. Please revise the MCP to generally show the location of the stormwater management system, structures and facilities.

Response: The applicant notes the requirement of LDC Sec. 34-212(4)(i) is to denote the general location of stormwater management areas. As noted on the MCP and supporting narratives, the stormwater management system is proposed to be vaulted and therefore located under the improvements depicted on the MCP.

Consistent with meeting held with Town Staff on August 29th and September 26th Sheet X-105-MCP.00 of the Master Concept Plan and Exhibits includes Note 2. which states “Stormwater Management Below Grade Subject to Building Design.” The applicant has also provided Proposed Conditions which indicate that a stormwater management plan is required at the time of local development order and permitted with the South Florida Water Management District must be undertaken.

Comment/Condition:

9. Property Development Regulations: Thank you for providing the Property Development Regulations (PDRs). Please include Street setback (or build to line) information on the Property Development Regulations specific to the proposal. The PDRs exhibit should contain the total property development regulations that the applicant will use for the proposed property development.

Response: Please see the attached Property Development Regulations, which includes Build to Lines for the buildings fronting Estero Boulevard as well as the additional property development regulations that will be utilized to develop the property.

Comment/Condition:

10. In the Max Building Height column, the applicant has labeled it as "# Habitable Stories" which is not how the LDC measures height. Please relabel it to "# of Stories" and re-evaluate and clarify the number of stories desired.

Response: Please see the attached revised Property Development Regulations which has deleted the reference to “Habitable Stories.”

Comment/Condition:

11. Development Parameters: The parking calculations indicate that 281 of the units are less than 450 square feet and that 9 of the units are greater than 1,000 square feet. Please confirm these numbers.

Response: The applicant confirms these numbers. Additionally, the applicant has provided Proposed Conditions which outline the location and square footage for the proposed guest units.

Comment/Condition:

12. Parking Plan and Parking Requirements: The applicant has raised the issue of "Parking Location" and the code section (34-676(b)) requirement that parking be placed in rear yards and that the development is proposing parking underneath the hotel building. Section 34-676(b)(2) provides that off-street parking may be provided under commercial or mixed-use buildings provided that the parking area is acceptably screened. Thus, staff needs to have more information concerning the "green screens." Please provide further justification for the applicant's parking calculations for the proposed commercial recreation use.

Response: The applicant notes this is a multi-tiered question and has identified each topic and responded individually.

Green Screens – The proposed Hotel and Meeting Building includes an architectural feature of trellis that will physical shield the proposed parking under the building. As demonstrated in the attached Master Concept Plan and Exhibits, specifically Sheets X-502-RW.02 through X-502-RW.04, shrub row and vegetative vine are proposed to be located immediately adjacent to the proposed buildings to provide additional shielding of the proposed parking under the building. The applicant has also provided proposed conditions which clarify that the plant materials will be installed at sizes consistent with LDC Section 10-420 and the Vegetative Cine proposed must be placed in front of each building trellis proposed and planted at 25 gallon size 8 feet in height to ensure appropriate growth and screening.

Please see the attached Master Concept Plan and Exhibits, Schedule of Deviations and Proposed Conditions for additional details and clarification.

Parking Calculations – David Plummer and Associates has prepared a memo, which is attached, explaining the methodology utilized to determine the number of parking spaces proposed for the outdoor commercial recreation. The memo is consistent with the methodology discussed with Town Staff and Consultants during a meeting on September 6th. Additionally, the Master Concept Plan and Exhibits, attached, includes a parking plan on Sheet X-501-PARK

Comment/Condition:

13. Vehicle Visibility at Intersections: Where driveways and streets intersect, the LDC doesn't allow obstructions to visibility. Driveways on Estero Boulevard are treated the same as intersections; the visibility triangle is illustrated in Figure 34-32 of the LDC (incorrectly numbered as Figure 34-31 in 34-3131 (a)). The screened storage area shown on the Master Concept Plan appears to be partially within this visibility triangle; its location should be adjusted accordingly. Any fences along Estero Boulevard will also have to be consistent with visibility requirements.

Response: The applicant has included Sheet X-512-BV in the attached Master Concept Plan and Exhibits demonstrating the Visibility Triangles at each intersection. The applicant acknowledges consistency with the visibility requirements will also be evaluated at the time of local development order.

Comment/Condition:

14. Signage: In comparing the previously submitted sign design plans to the resubmitted maps, which show the 1978 Coastal Construction Control lines, it appears as if the southernmost wall sign is being constructed on a sea wall, not on a building. This is not allowed per Section 30-154(3). It also appears that the southernmost incidental sign is located in the EC district. Per LDC Sec 30-93(c)(l), signs are permitted in the EC zoning district only if approved through the special exception process or as a deviation in the planned development zoning process (see § 6- 366(b)). In addition, please review LDC Section 34-678 for possible modifications to the sign package.

Response: The applicant notes these comments. Sheet X-505-SIGN provides the sign details however, it is noted these plans are for reference only and will follow the required submittals for Chapter 30. The applicant has also included language in the Proposed Conditions to address this comment.

Comment/Condition:

15. Lighting: In order to make a determination of the proposal's code consistency with lighting on and adjacent to the beach, a general lighting plan must be submitted to demonstrate consistency with the Town's regulations for sea turtles. Please create a lighting plan that includes location and types of proposed exterior artificial light sources; staff understands that a detailed lighting plan will be required at the Development Order stage.

Response: The applicant notes staff's comment. Due to the variables associated with redevelopment of the subject property, a lighting plan demonstrating location and types of lighting cannot be provided at this time. Consistent with the verbal comments provided during a meeting with Town Staff on August 29th and September 26th, the applicant acknowledges this is a requirement of the development order process. The applicant has included proposed conditions which require a lighting plan to be provided with the local development order application to address this comment.

Comment/Condition:

16. Dune Walkovers: The current version of the MCP does not show any dune walk over placement for the new proposed public walkthrough areas which cut into the dune landscape. Please show dune walkover placement on the MCP per LDC Sec. 6-366(d). The July 12 resubmittal provides that dune walkovers were incorporated on the MCP, but staff notes the MCP does not include a note demarcating the location of these dune walkovers. Please revise the MCP to denote the locations of the walkovers.

Response: The applicant notes that the beachfront of the subject property is currently a retaining wall and no dunes exist. Additionally the CPD Boundary has been revised to only include the previous improved areas of the subject property. The applicant has included Proposed Conditions, which include language to require ADA access to the beachfront to address the height discrepancy between the elevation of the existing improvements and the beachfront. Some beach plantings may be provided adjacent to these improvements. Sheet X-507-COP.02 of the attached Master Concept Plan and Exhibits depicts the location of the pedestrian access to the beachfront.

Comment/Condition:

17. Pedestrian Oriented Development: Has the applicant considered attempting to modify the VE zones of the Bayfront properties to the AE zone that was approved at 150 Old San Carlos and 1028 Fifth Street?

Response: Yes. The applicant considered this option extensively prior to submittal of the proposed Commercial Planned Development. Please see the attached memo provided by Tomasello Consulting Engineers detailing the reasons a LOMAR would not be successful for the subject property.

Comment/Condition:

18. Schedule of Deviations: It is apparent that the applicant is attempting to redefine what FAR means. It appears that the applicant is not including 69,328 square feet for storage, kitchen facilities, maintenance and an employee lounge, and 11,869 square feet of "publicly accessible areas" were not included in Deviation #1. Deviation #1 does not specify how large the individual units may be, but just specifies a total square footage that will be utilized by guest units.

Response: It is not the applicant's intention to redefine Floor Area Ratio. This term is currently defined by the Land Development Code in Section 34-671(c) and the applicant has not proposed an amendment.

In consideration of these comments, the applicant has revised the justification of the requested deviations to provide clarity as to the square footage included in the FAR calculations and confirm the number and square footage of proposed guest units in the deviation justification. Additionally, the applicant has included Proposed Conditions which also demonstrate the limits of the requested square footage to be utilized for guest units, the total number of units,

the square footage of each unit, as well as the number of units on the Bay Side parcel vs the Gulf Side Parcel. The Master Concept Plan and Exhibits also include revised Floor Area calculations.

The elements identified above, storage, kitchen, maintenance are supporting elements to any commercial use are appropriately measured as commercial square footage. However, the revised Schedule of Deviations clarifies total square footage requested as part of the CPD on pages 2 and 3

Comment/Condition:

19. Deviation #1 does not provide number of hotel units but only "SF of guest units." The Town controls hotel development by regulating the size of these facilities by density, using equivalency factors that are contained in the LDC. These factors are adjustable by deviation. Please see the Spikowski memo for further comment on this topic as well as Deviation #2.

Staff still questions if the subject property meets the location that is eligible for exceptional circumstances as described in the comprehensive plan (Policy 4-C-6). Please revise the deviation to refer to 34-1803(a)(l).

Response: The applicant notes this is a multi-tiered question and has identified each topic and responded individually.

Deviation #1 Justification - Please see the attached revised Schedule of Deviations in which the applicant confirms the total commercial square footage requested as well as the square footage of the proposed uses and total number of guest units.

Exceptional Circumstances – As the applicant has explained verbally during numerous meetings with Town Staff as well as the written comments provided in the last Insufficiency Submittal on July 10th Policy 4-C-6 does not include language for “exceptional circumstances” as suggested by Staff’s Comments.

Policy 4-C-6 identifies that the Land Development Code shall specify equivalency factors between guest units and full dwelling units. The applicant notes that LDC Section 34-1803 includes a table of equivalency factors and 34-1803(2) identifies that the equivalency factors can be exceed by requesting a deviation through a planned development application. That is exactly process the applicant has followed.

Comment/Condition:

20. Concerning Deviation #3, what does the applicant mean or envision by the use of the term "green screen"? Please provide additional information concerning what type (types of plants, number, and sizes) of landscaping is proposed in these areas.

Response: - The applicant notes this was asked in Question 12 and has repeated the answer here.

Green Screens – The proposed Hotel and Meeting Building includes an architectural feature of trellis that will physical shield the proposed parking under the building. As demonstrated in the attached Master Concept Plan and Exhibits, specifically Sheets X-502.RW.00 through X-504.RW02, shrub row and vegetative vine are proposed to be located immediately adjacent to the proposed buildings to provide additional shielding of the proposed parking under the building. The applicant has also provided proposed conditions which clarify that the plant materials will be installed at sizes consistent with LDC Section 10-420 and the Vegetative Cine proposed must be placed in front of each building trellis proposed and planted at 25 gallon size 8 feet in height to ensure appropriate growth and screening.

Please see the attached Master Concept Plan and Exhibits, Schedule of Deviations and Proposed Conditions for additional details and clarification.

Comment/Condition:

21. TETRA TECH MCP COMMENTS:

Master Concept Plan:

1. No proposed utilities or connections to existing utilities are shown.
2. Please advise, if grading, landscaping, paving, or other applications are performed which would interfere with the existing drainage pattern, a proposed grading plan, including spot elevations, and a stormwater management plan, are required.
3. Tidal water elevations and FFE do not appear to be provided.

Response: As discussed during the August 29th and September 26th meeting with Town Staff and Town Consultants, these elements are not required as part of a Master Concept Plan. The applicant acknowledges they are required elements of a local development order application and agrees to provide this information at that time.

Comment/Condition:

21. TETRA TECH MCP COMMENTS:

Parking Requirements:

4. There does not appear to be any mention of the proposed number of accessible parking spaces. The Americans with Disabilities Act (ADA) may require additional accessible parking spaces be provided. It appears as though there are 362 parking spaces proposed as part of this project, split between multiple facilities. If this were one parking facility, a total of at least 8 accessible parking spaces would need to be provided. But it is imperative that the number of parking spaces required to be accessible is to be calculated separately for each parking facility.

Response: - The applicant acknowledges that ADA accessible parking is required and notes that detailed parking plans are required as part of the local development order application. The

applicant commits to compliance with the Americans with Disabilities Act and will demonstrate the proposed location of handicapped parking as part of the local development order application.

Comment/Condition:

22. Traffic Impact Statement:

1. In the Trip Generation forecasts in Appendix C, for the Pre-Demolition scenario, it is unclear why there are two separate lines for the same Land Use 826 - these sizes should be combined into a single line item. For the Build Per Code scenario, it is unclear why there are two separate retail uses, especially since this is a conceptual scenario. In general, Land Use 820 is used for large retail areas, such as malls or big-box general retailers. For this site, Land Use 826 Specialty Retail, would be more appropriate for all general retail uses on the site for all three scenarios.
2. The report applies reductions to trip generation forecasts based on foot and bicycle traffic, but does not explain how these percentages were arrived at. Additionally, the reductions applied to the Proposed Development (55% during AM and PM) are higher than the reductions applied to the Pre-Demolition and Build Per Code (47% AM; 46% PM) conditions.
3. The internal capture calculations were not included - just the rate information available in Trip Generation Handbook, 3rd Edition. Given the higher internal capture rates for the Proposed Development, it is preferable for the calculation spreadsheets to be included in the report.
4. The Build Per Code scenario should be reviewed for feasibility - it has a very large retail size that may technically fit on the site, but would not allow room for other necessities, such as parking, open space requirements or setbacks. Trip generation comparisons with this scenario should be considered cautiously because of this, and the comparison between the Pre-Demolition and Proposed Development scenarios should be looked at closer because they are reasonable expectations for the site.
5. The report did not state the basis for the proposed trip generation (i.e. based on existing traffic patterns), but just provided a statement as to how the trips were distributed.
6. The report focuses more on the trip generation comparison between the Build Per Code and Proposed Development scenarios, citing the reduction of trips the Proposed Development would have. The difference in trips is not as significant when comparing to the Pre-Demolition scenario, and the Proposed Development is forecast to generate significantly more trips during the AM peak hour.
7. It appears that only PM peak hour operational analyses were performed. Typically, both AM and PM operational analyses are performed, especially when there is a significant increase in forecast traffic during the AM peak hour.

Response: For detailed responses for Questions 1 through 7 related to the Traffic Impact Statement, please see the attached materials prepared by David Plummer and Associates.

Comment/Condition:

23. PROCEDURAL AND MINOR ISSUES:

APPLICATION BOUNDARIES: This application requests commercial planned development (CPD) zoning for portions of the beachfront. The most seaward strip is currently unzoned (because of its "Tidal Waters" designation in the Comprehensive Plan). The next strip is currently zoned 'Environmentally Critical' (and designated as "Recreation" by the Comprehensive Plan).

The legal description for this rezoning should be modified to remove both strips of land. The Master Concept Plan should be modified in the same way, and any computations of density, floor area ratios (FAR), or other coverage requirements should reflect the smaller area; see LDC 34-632-634.

Response: The applicant notes this is a multi-tiered question and has identified each topic and responded individually.

Application Boundary – The Boundary Survey and Legal Description for the proposed Commercial Planned Development have been revised to eliminate the unaltered beach front within the Recreation FLU and Environmentally Critical zoning district from the zoning Boundary.

Existing Improvements Seaward of the 1978 CCCL – the subject property includes existing hardscaped improves seaward of the 1978 CCCL in the form of a pool and patio supporting the existing Pierview Hotel and parking supporting the exiting 3 story building facing the beach front. This area is proposed to be maintained and utilized as a patio for outdoor seating in the proposed Commercial Planned Development and therefore is included in the zoning district boundary.

The applicant acknowledges that this improved area seaward of the 1978 CCCL cannot be utilized for any development calculations. As a result, none of the previously submitted calculations or the calculations attached to this insufficiency response include this area. To demonstrate this commitment, the applicant has included a legal description and sketch confirmed the area of the developable portion of the property and a legal description and sketch confirming the area of the improvements seaward of the 1978 CCCL.

Comment/Condition:

24. Note that the 'Environmentally Critical' zoning district already allows passive recreation activities, resort accessory uses that are performed outdoors, and active recreation activities that require no permanent structures or alteration of the natural landscape (except as may be permitted by special exception); see LDC 34-652(d)-(e).

Response: The applicant notes this comment. Consistent with the elimination of the beachfront from the CPD Application, the uses previously requested for this area have also been eliminated.

Comment/Condition:

25. BOUNDARY SURVEY: The boundary survey submitted with the application contains some erroneous information as to floodplain boundaries. Several AE zones areas are labeled as VE zones; and the revisions made to floodplain boundaries by LOMR case number 15-04-6044P (for 1028 Fifth Street) are not shown. The correct information should be shown on the boundary survey. Also, it would be helpful to label the width of the sidewalks easement on the north side of Estero Boulevard.

Response: Please see Sheet X-103-BNDY of the Master Concept Plan and Exhibits which provides the revised Boundary Survey

Comment/Condition:

26. CONCURRENCY: Concurrency is not evaluated at the rezoning stage unless the rezoning would authorize a specific plan for development (see LDC 2-46(b)). Give the very specific plan of development proposed in this CPD, I recommend that concurrency be evaluated at this time.

The town's Land Development Code does not have a concurrency requirement for fire or emergency medical services. The Fort Myers Beach Fire District has advised the town that this development would increase the district's population by at least 1% and the district is reserving the right to identify impacts on its services and facilities at a later date, exercising its authority under the state fire code. The district also advised the town that it is reserving the right to order a fire and emergency concurrency evaluation at a later date; if the district has such authority, it is unrelated to the town because there is no such concurrency requirement in the LDC. If there are issues related to fire and emergency services, the first district should articulate them now and request consideration during the CPD process.

Response: The applicant notes this comment.

Comment/Condition:

27. DENSITY TRANSFERS: This application would transfer most or all of the allowable density from the gulf-side properties across Estero Boulevard to the bay-side properties. This type of transfer could be approved and has been encouraged by the town under similar circumstances (for instance in the town's Evaluation/Appraisal Report, which was adopted in 2007).

Density transfers must comply with Policy 4-C-8 of the Comprehensive Plan; these requirements are mirrored in LDC 34-632(6):

POLICY 4-C-8 DENSITY TRANSFERS: The Town Council may, at its discretion, permit the transfer of residential and hotel/motel development rights from one parcel to another if the following conditions are met:

- i. the transfer is clearly in the public interest, as determined by the Town Council;
- i. the parcels affected by the transfer are in close proximity to each other;
- ii. the density of residential or hotel/motel units being transferred is based upon allowable density levels in the category from which the density is being transferred;
- iii. the transfer is approved through the planned development rezoning process; and
- iv. binding permanent restrictions are placed on the property from which development rights have been transferred to guarantee the permanence of the transfer.

The fifth item requires that "binding permanent restrictions are placed on the property from which development rights have been transferred to guarantee the permanence of the transfer." (That requirement was imposed after subsequent owners of the Bay Beach golf course claimed rights to use density that had previously been transferred by the original developer to tracts surrounding the golf course.)

The form of the "binding permanent restrictions" isn't specified by the Comprehensive Plan. A perpetual conservation easement could be granted to the town on the bay-side properties being rezoned, acknowledging that density has been transferred (assuming the transfer is approved) and retaining rights to the allowable uses and the buildings shown on the Master Concept Plan.

Response: The applicant acknowledges it has unified control of the parcels included in the Commercial Planned Development and is seeking to cluster the density and intensity of the existing parcels into the locations demonstrated by the Master Concept Plan and Exhibits. The applicant agrees to execute a "binding permanent restriction" if deemed necessary after the public hearing determining the approval or denial of the proposed CPD. The applicant acknowledges, the public hearing for the CPD and the binding agreement could be on the same agenda and therefore occur at the same meeting.

Comment/Condition:

28. PROPERTY DEVELOPMENT REGULATIONS: The LDC requires that property development regulations for hotels in a 'CPD' zoning district be the same as for the 'CR' zoning district, unless the zoning resolution specifies otherwise (LDC 34-953). The applicant has requested to use the property development regulations for the 'Downtown' zoning district instead of 'CR'; this is the right choice because the 'Downtown' zoning district was designed expressly for use in the "Pedestrian Commercial" area where this property is located.

In response to a sufficiency request, the applicant provided an exhibit proposing "Hotel Property Development Regulations." This exhibit conflicts with the applicant's request to use the 'Downtown' zoning district for detailed regulations (as described in LDC 34-661-680).

Instead of including an exhibit of this nature in the zoning resolution, I suggest that the resolution simply refer to the 'Downtown' property development regulations as they are found in the LDC

on either the date of zoning or of permitting, as adjusted by any deviations that are specifically approved.

This approach will avoid several potential problems:

- If the regulations in this exhibit were identical to the LDC, conflicts may still arise if the 'Downtown' regulations are changed by the Town Council but the prior regulations are still part of a zoning resolution on this property.
- If, as in this case, the regulations are far from identical, it will be unclear in the future which regulations were intended to apply. This is particularly a problem here because the exhibit addresses only a subset of the 'Downtown' property development regulations listed in the LDC.
- As another example of the risks created by applicants proposing their own slate of regulations, note that in the applicant's exhibit, the building height column redefines the town's height regulations to exclude the ground story, thus adding an extra story of allowable height - without that matter being highlighted through a deviation request and a subsequent decision by the Town Council.

Response: Due to the identified discrepancy with the Land Development Code as related to the Bay Side property, the applicant has continued to provide a listing of Property Development Regulations (PDR). This was discussed and agreed upon with Town Staff and Town Consultants during the August 29th and September 26th Meetings.

The applicant disagrees that the proposed Property Development Regulations “are far from identical” and has provided a comparative exhibit from the CR, Downtown and proposed CPD Property Development Regulations to demonstrate consistency with the Downtown district attached to the Property Development Regulations.

There are 2 items which the proposed CPD differs from the Downtown Zoning District Property Development Regulations. These variations are proposed for the following reasons:

- 1. Front Setback (aka Build to Line) – The Downtown PDRs require the proposed buildings to be built within 0 to 5 feet of Estero Boulevard as well as the other primary frontages for corner lots per Section 34-662. On the north side of Estero Boulevard, there is an existing 5FT sidewalk easement adjacent to the property boundary and adjacent to Crescent a 7FT sidewalk easement exists. The proposed Commercial Planned Development sets the Hotel Building 9 feet back from these frontages to accommodate the existing sidewalk easements and provided provide buffering and screening of the proposed building.**

Detailed discussions regarding this proposed solution were discussed and agreed upon in meetings with Town Staff and Town Consultants on August 29th, September 29th and October 4th. The attached Master Concept Plan and Exhibits, Sheets X-502.RW.02 through X-504.RW-02 as well as the Schedule of Deviations provided additional details as to the build-to line locations for the proposed hotel building.

2. Maximum Building Height – The Downtown PDRs do not include a maximum building height for the proposed Hotel Building. To address this situation, the applicant has included a maximum height of 40 feet consistent with the existing approved CPD as well as the south side of Estero Boulevard. As requested by Town Staff a deviation to address this condition has been requested out of an abundance of caution.

Comment/Condition:

29. SCHEDULE OF USES: For CPD rezonings, the LDC requires that allowable uses be listed on the Master Concept Plan by reference to another zoning district or by listing specific use groups or subgroups from the LDC (see LDC 34-933).

Table 34-1 in the LDC describes six use groups: residential, lodging, office, retail, marine, and civic. Each use group is broken into three sub-groups; these sub-groups are assigned to individual zoning districts in Table 34-2.

The applicant has chosen to identify uses separately for the bay-side and gulf-side properties; uses on the property zoned 'Environmentally Critical' will be governed by that zoning district. Instead of listing sub-groups, the applicant lists individual uses as defined in the LDC, which is an acceptable alternative for a development of this nature.

For the bay-side properties, a hotel/motel is listed as being the only principal use, with many accessory uses also listed. This is an acceptable approach, but I suggest the following modifications:

- The 'group' heading should be limited to Lodging to match the LDC's format. If any other use would be a principal use, it should be listed in a separate group.
- The listings for 'bar,' 'consumption on premises,' and 'outdoor seating' should all be qualified as applying only to locations shown on the approved Master Concept Plan and any other locations that may be approved by the town in the future through administrative approval or a special exception.
- 'Temporary uses' should be removed from the list, or qualified as applying only to temporary uses that may be approved by the town in the future under its regulations for temporary uses.

Response: The applicant has revised the Master Concept Plan as noted. Additionally, the applicant has prepared Proposed Conditions which address the use comments and limitations for consideration.

30. For the gulf-side properties, two groups are listed. The first group is similar to the 'Lodging' list for the bay-side properties and should be modified as suggested above. The second group is for 'Marine' uses, for instance beach access and rental of beach furniture (see LDC 14-5). That group also lists offices for parasailing operations and rental of personal watercraft, both of which are regulated by Chapter 27 of the LDC. The applicant should elaborate on their plans so that any issues can be identified early during the review process:

- The application states that parasailing operations and rental of personal watercraft already exist on the site. The LDC allows existing licenses to be transferred under certain conditions (see Article IV of Chapter 27). The status of those licenses could affect the future operation of these businesses including signage, hours of operation, structures on the beach, etc.
- The beach is already extremely narrow at this location and is narrowed further by an existing seawall extends from 10 to 55 feet onto the sandy beach. The applicant may intend to place beach furniture only landward of the seawall, but that has not been stated. See regulations in LDC 14-5.
- Offices for parasailing and personal watercraft might be placed landward of the seawall or landward of the 'Environmentally Critical' zoning line instead of on the beach, but neither is shown on the Master Concept Plan or elsewhere. In particular, it is not clear where personal watercraft would be parked between rentals and at night.

Response: The applicant notes this is a multi-tiered question and has identified each topic and responded individually.

Lodging Uses – The applicant has revised the Master Concept Plan as noted. Additionally, the applicant has prepared Proposed Conditions which address the use comments and limitations for consideration.

Marine Uses – Consistent with the comments provided in Questions 1, 23, and 25, the applicant has excluded the beach seaward of the existing improvements adjacent to the 1978 CCCL from the Commercial Planned Development as requested. Consistent with this revision, the uses previously requested for this area have been eliminated from the request.

Comment/Condition:

31. VEHICLE VISIBILITY AT INTERSECTIONS: Where driveways and streets intersect, the LDC doesn't allow obstructions to visibility. Driveways on Estero Boulevard are treated the same as intersections; the visibility triangle is illustrated in Figure 34-32 of the LDC (incorrectly numbered as Figure 34-31 in 34-3131(a)). The screened storage area shown on the Master Concept Plan appears to be partially within this visibility triangle; its location should be adjusted accordingly. Any fences along Estero Boulevard would also have to meet the visibility requirement. The same visibility requirement applies at other intersections, for instance the corner of Estero Boulevard and Crescent Street. The 7-foot sidewalk easement on Crescent Street and the 5-foot sidewalk easement on Estero Boulevard will provide much but not all of the required 10-foot visibility triangles. The applicant needs to ensure that the design of the building and the stairway and elevator at that corner will meet this requirement.

Response: Please see Sheet X-513-VT of the attached Master Concept Plan and Exhibits.

Comment/Condition:

32. MASTER CONCEPT PLAN: The Master Concept Plan contains separate sheets for different stories of the buildings; this is unusual but acceptable given the intensity of the proposed uses. The last page contains several critical features including parking calculations and floor area calculations broken down by type of use. The following changes should be made:
- The location of Deviation #3 is incorrect; this diagram should indicate that this deviation would apply to the ground story of the bay-side building along the total frontages of Estero Boulevard and Crescent Street (as discussed below).
 - The proposed building heights should be shown as maximum height in stories and in feet for each building, using the LDC's terminology. Any heights that exceed the LDC's limits should be spelled out as deviation requests. This matter is also discussed below.

Response: The applicant notes this is a multi-tiered question and has identified each topic and responded individually.

Deviation Locations: The applicant has revised the Master Concept Plan and believes the deviation locations accurately depict the comments made. The applicant requests notification if Town Staff and Consultants disagree so that additional revisions can be made.

Building Heights: The applicant has revised the Building Heights to reflect the maximum height of the buildings above Base Flood Elevation on the Master Concept Plan. Additionally, Sheet X-A-301 depicting the Building Heights of each proposed or existing building is provided in the attached Master Concept Plan and Exhibits. Based on the verbal comments received during the August 29th and September 26th Meetings with Town Staff and Consultants an additional deviation has been requested for the proposed hotel building in an abundance of caution.

Comment/Condition:

SUBSTANTIVE ISSUES

33. HOTEL/MOTEL DENSITY (Deviation #1): A major issue of contention will undoubtedly be the number of hotel rooms being requested. The LDC provides equivalency factors that range from 1 to 3 hotel/motel rooms for each allowable dwelling unit, depending on the size of the room; rooms smaller than 450 square feet qualify for the maximum factor of 3. These equivalency factors are found in LDC 34-1803(a)(1). The applicant has not indicated that any guest rooms in the resort will exceed 450 square feet.

About 4.75 acres of this land is designated "Pedestrian Commercial," which would allow up to 6 dwelling units per acre (28 dwelling units); see LDC 34-632(1). The highest "by right" equivalency factor of 3 would thus allow up to 84 hotel rooms. The applicant is requesting 290 hotel rooms, which would require an equivalency factor of 10.4.

An equivalency factor higher than 3 could be approved as a deviation through the CPD process, as described in LDC 34-1803(a)(2):

(2) Guests units exceeding these equivalency factors or exceeding 1,000 square feet each may be allowed under exceptional circumstances as described in the Comprehensive Plan if approved as a deviation through a planned development rezoning. Before approving such a deviation, the town council must find that:

- a. All other aspects of the development (height, traffic, intensity of use, etc.) are compatible with the surrounding area;
- b. The proposal clearly exceeds all standards of the Fort Myers Beach Comprehensive Plan; and
- c. In no case can equivalency factor increases exceed the maximum intensities allowed by the Fort Myers Beach Comprehensive Plan.

The most difficult hurdle for a deviation to raise the equivalency factor may be subsection (a) which contains a subjective compatibility standard. The Comprehensive Plan does not specifically define the "exceptional circumstances" mentioned in the opening sentence but relevant policies are found throughout the Community Design and Future Land Use Elements. Policy 4-C-6 establishes that equivalency factors to convert dwelling units to motel rooms are to be placed in the LDC:

POLICY 4-C-6 MOTEL DENSITIES: The Land Development Code shall specify equivalency factors between guest units (which include motel rooms) and full dwelling units. These factors may vary based on size of guest unit and on land-use categories on the Future Land Use Map. They may vary between a low of one guest unit and a high of three guest units for each dwelling unit. (These factors would apply only where guest units are already permitted.)

Policy 4-C-6 was amended in 2009 to add the following language for mixed-use buildings on Old San Carlos only:

In order to implement the 1999 Old San Carlos Boulevard/Crescent Street Master Plan that encourages mixed-use buildings with second and third floors over shops on Old San Carlos, hotel rooms may be substituted for otherwise allowable office space in that situation and location only without using the equivalency factors that apply everywhere else in the town. This alternate method for capping the number of hotel rooms applies only to properties between Fifth to First Streets that lie within 200 feet east and west of the centerline of Old San Carlos Boulevard. Hotel rooms built under this alternate method must have at least 250 square feet per rentable unit, and under no circumstances shall buildings they are located in exceed four stories (with the ground level counted as the first story).

For this CPD request, instead of requesting a deviation to raise the equivalency factor to 10.4, the applicant's Deviation #1 would substitute a non-density method of limiting the bulk of the proposed buildings. That method is called "floor area ratio" (FAR), calculated by adding up the floor area of all buildings on a site and dividing the sum by the size of the parcel being developed.

The LDC uses FAR sparingly because it is a highly abstract measure of a building's physical bulk; it cannot be used to visualize a comparison to other known buildings in the same way as building height, or even the number of dwellings or hotel rooms. FAR is also very complex to calculate and is prone to manipulation by redefining what "floor area" means, or what constitutes the parcel's size. The main reason it is used in the town's LDC is that the state planning agency insisted on some objective measure for the intensity of commercial uses that cannot be regulated by density. Hotels/motels and all dwelling units (including condos and apartments) are measured by density in the town's Comprehensive Plan and LDC.

The applicant argues that their Deviation #1, which would allow them to replace density with FAR, is consistent with the town's Comprehensive Plan. It is true that the Comprehensive Plan could have been written to regulate the size of hotels by FAR, but in fact the plan regulates the size of hotels by density, using equivalency factors that are established in the LDC and adjustable by deviation under certain circumstances.

It seems clear that substituting FAR is an unnecessarily convoluted way to authorize a development that offers a multitude of positive aspects that the Town Council may decide would justify some or all of extra hotel rooms being proposed. The alternative, requesting a deviation to raise the LDC's hotel/motel equivalency factor, has these additional advantages:

- The request would be much more transparent to the public.
- The request would allow elected officials to more easily understand the extent of the deviation being requested and to evaluate a lesser deviation to the equivalency factor.
- The request could be consistent with the Comprehensive Plan if the Town Council concludes that the deviation being approved meets the criteria in LDC 34-1803(a)(2).

For historical background, the narrative portion of the Comprehensive Plan discusses the evolution of equivalency factors in unincorporated Lee County and in Fort Myers Beach, as summarized in these paragraphs:

In summary, density multipliers for motels are not universally used. Where high densities are allowed for multifamily units, multipliers aren't necessary. Where density caps are relatively low (such as Sanibel and Fort Myers Beach), some positive density multiplier will be needed if new and refurbished motels are to play an important role in the community. However, it is clear from recent history that density multipliers that are too high will result in buildings that will overwhelm the small-town character of most of Fort Myers Beach. The current single density cap across the entire island could lead to a situation where attempts to protect quiet residential neighborhoods could stifle the tourism economy in the main business district. Since most communities do not put density multipliers for motel rooms in their comprehensive plans, they could be contained in the Land Development Code, for instance by having lower density multipliers for motels in multifamily zones than for those in commercial zones.

(Note that new motels are not allowed in multifamily zoning districts, but existing motels there may be completely rebuilt at up to whatever density is currently allowed.)

The selected solution for the Town of Fort Myers Beach is to adopt different density multipliers based on land-use categories on the new Future Land Use Map. These multipliers will only apply where guest units (which include motels) are permitted in a specific zoning category. The exact multipliers will be contained in the Land Development Code; an example might be:

- In the "Mixed Residential" category, the multiplier might be 1.5
- In the "Boulevard" category, the multiplier might be 2.0
- In the "Pedestrian Commercial" category, the multiplier might be 2.5, provided that some or all parking is provided in off-site shared lots.

Policy 4-C-6 describes this concept, which will be implemented through forthcoming revisions to the Land Development Code. [from pages 4-22 and 4-23]

Response: After meeting with Town Staff and Consultants on August 29th and September 26th, the applicant has combined the justification for Deviations 1 and 2 to provide a clearer picture of the commercial intensity as well as the use of FAR instead of Guest Units. The applicant formally notes the comments provided by the Town's Consultant above and confirms the request to utilize FAR to measure the requested guest units. The justification accompanying the Deviation requests as well as the applicant's Proposed Conditions clearly demonstrates the number of hotel units, maximum square footage of each unit as well as the location of the guest units meeting the intent of Land Development Code Section 34-1803.

Comment/Condition:

34. FLOOR AREA RATIO (FAR) (Deviation #2): The applicant is also requesting Deviation #2 that is again related to FAR. Despite the limited usefulness of FAR in regulating urban form, the LDC does contain a mandatory requirement that would limit FAR at this location to 1.40 (unless a higher ratio is approved by the Town Council as a deviation). This requirement applies even if Deviation #1 is withdrawn or denied.

The Master Concept Plan yields the following data which can be used to estimate FAR:

Hotel rooms (290)	= 108,203 square feet
Commercial/ancillary	= 117,081 square feet
Covered parking	= <u>56,500 square feet</u> (estimated)
TOTAL floor area	= 281,784 square feet (estimated)

TOTAL lot area = 196,456 square feet (4.51 acres)

Floor area ratio (FAR) = - 1.43 (281,784/196,456)

Another document provided by the applicant estimates FAR as 1.63.

A third document provided by the applicant provides much more detailed data, which would yield a higher FAR estimate:

Ground story	= 123,939 square feet
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First upper story = 75,340 square feet
Second upper story = 68,555 square feet
Third upper story = 60,220 square feet
TOTAL floor area = 328,824 square feet

TOTAL lot area = 196,456 square feet (4.51 acres)

Floor area ratio (FAR) = - 1.67 (328,824/196,456)

The applicant needs to resolve the size of the proposed buildings using the LDC's methodology and then modify Deviation #2 to request that amount and no higher.

The applicant has provided an extensive justification for this deviation, primarily based on the floodplain rules requiring elevated buildings at this location. However, those same conditions apply throughout the VE zones, and to a slightly lesser extent the rest of the town. The FAR caps in the LDC were established with full knowledge of the town being located entirely within a floodplain.

However, if the Town Council approves all or most of the additional hotel rooms requested in Deviation #1, it should not be surprising that the building will be larger than anticipated by the LDC - and that other regulations might need to be adjusted to accommodate the larger building. The only such regulation identified by the applicant is that the FAR is expected to exceed the 1.40 cap in the LDC. Thus Deviation #2 could be partially approved, up to 1.43 or 1.67 or whatever figure accurately reflects the plans being approved, but no higher than the absolute cap of 2.50 that is established in the Comprehensive Plan for "Pedestrian Commercial" land (see Policy 4-c-2). The Town Council's approval of Deviation #2 would be based on the same justification that supported Deviation #1, without reference to the elevated buildings or the floodplain.

Response: After meeting with Town Staff and Consultants on August 29th and September 26th, the applicant has combined the justification for Deviations 1 and 2 to provide a clearer picture of the commercial intensity as well as the use of FAR instead of Guest Units. Sheets X-111-FAR.00 through X-114-FAR.03 provide an accounting of the proposed commercial intensity and correlate to the square footages referenced in the Deviation Justifications.

The applicant believes it has addressed all discrepancies noted by the Town's Consultant and requests notification if Town Staff and Consultants disagree so that additional revisions can be made.

Comment/Condition:

35. BUILDING HEIGHT: Maximum building heights in the 'Downtown' zoning district are set separately for three small areas:

- (1) The shortest buildings face the Times Square and Bayfront pedestrian plazas:
 - Up to two stories and up to 30 feet tall (see LDC 34-675(b)(1))

(2) If elevated, taller buildings are allowed north of Estero Boulevard east of the Sky Bridge:

- Up to three stories and up to 30 feet tall (see LDC 34-675(b)(2))

(3) Taller buildings are allowed on the beach side of Estero Boulevard east of the crosswalk:

- Up to three stories and up to 40 feet tall (see LDC 34-675(b)(3))

The LDC's measurement in stories always includes the ground floor. The LDC's measurement in feet begins at the 'base flood elevation' as established in Chapter 6 of the LDC (plus up to 3 additional feet if a building is voluntarily elevated 3 feet further, as is proposed in this application). Details and diagrams are found in LDC 34-631.

The LDC's maximum height for the bay-side properties in this application is unclear; through a glitch in the LDC, heights aren't specifically listed for property facing the north side of Estero Boulevard between Old San Carlos and Crescent Street. Geographically, this property fits squarely with (2) above; the same regulations clearly apply to property facing Crescent Street and Fifth Street. Logically, however, it might fit with (3) above because the floodplain boundaries have been revised by FEMA since the LDC was adopted. (Similar properties that were in the V-zone when the LDC were adopted were assigned to group (3) to account for the extra elevation requirements in the V-zone.)

In the case of ambiguities such as this, the LDC allows the Town Council make an interpretation (see LDC 34-90). I suggest that this interpretation be made by the Town Council as part of the CPD application because the Town Council will also need to consider deviations from even the more lenient interpretation. These deviations can only be considered because of this site's location in the Times Square redevelopment area; in most other parts of the town, building heights are capped at three stories by Comprehensive Plan Policy 4-C-4 (which uses the older terminology "two stories above flood elevation" to describe what the LDC defines as three stories):

POLICY 4-C-4 BUILDING HEIGHTS: The Land Development Code shall limit the height of new buildings under most conditions to two stories above flood elevation (exceptions may include the build back situations (see Policies 4-D-1 and 4-E-1), and different heights may be applied to officially designated redevelopment areas such as Times Square, Red Coconut/Gulf View Colony, and Villa Santini Plaza). In those few cases where individual parcels of land are so surrounded by tall buildings on lots that are contiguous (or directly across a street) that this two-story height limit would be unreasonable, landowners may seek relief through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The town will approve, modify, or deny such requests after evaluating the level of unfairness that would result from the specific circumstances and the degree the specific proposal conforms with all aspects of this comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria. Particular attention would be paid to any permanent view corridors to Gulf or Bay waters that could be provided in exchange for allowing a building to be taller than two stories. In each case, the town shall balance the

public benefits of the height limit against other public benefits that would result from the specific proposal.

This application should be amended to add one or more new deviation requests that would specify the maximum height in stories and in feet of each building that would exceed the LDC's height limit for this property, and to use the LDC's terminology for counting stories in all diagrams, in narrative justifications for deviations, and on the Master Concept Plan. For instance, the main resort building will contain three full stories that sit on top of an extremely tall ground story of stacked parking; the LDC deems this to be a four-story building (see LDC 34-631(a)(1)). Architectural features above the top story may exceed the height limit measured in feet only if they meet the size limits in 34-631(b)(2). Rooftop decks do not qualify for this special allowance; the "rooftop private event area" shown on sheet C-103 of the Master Concept Plan is presumably a rooftop deck.

Response: As a result of extensive coordination with Town Staff and Consultants during the August 29th and September 26th meetings, an additional deviation has been requested to address the building height and stories of the proposed Hotel Building. Additionally, the applicant has revised the Building Heights to reflect the maximum height of the buildings above Base Flood Elevation on the Master Concept Plan. Specifically, Sheet XA-301 depicting the Building Heights of each proposed or existing building is provided in the attached Master Concept Plan and Exhibits.

Comment/Condition:

36. TRAFFIC IMPACT STATEMENT (TIS): The technical aspects of the traffic impact statement are being reviewed for the town by the consulting firm Tetra Tech; here I would like to add some broader observations.

The LDC requires that a traffic impact statement "survey current and anticipated traffic conditions and public transportation in order to identify potential traffic problems posed by the proposed development." (LDC 10-286(a)).

The applicant's TIS addresses many important points, such as expected traffic at each intersection and the development's expected compliance with the town's minimum level-of-service standard. The TIS then concludes that this development "will not significantly or adversely impact the Times Square roadway circulation system" (without defining 'significantly' or 'adversely'). In support of its conclusion, the TIS contains analyses showing that the proposed development will generate fewer vehicle trips than two specific scenarios: 17% fewer trips than "Pre-Demolition Development" and 71% fewer trips than "Build Per Code Development."

There are several problems with this approach. Foremost, the TIS does not contain the required analysis of "current and anticipated traffic conditions," which would portray the traffic impacts of the proposed development when it is added to existing traffic on the street network. Instead, the proposed development is compared to two specific scenarios (neither of which are "current conditions").

The first scenario, "Pre-Demolition Development," includes traffic from existing development on the site (as it should), but also includes traffic from previously existing beach-front hotels and Seafarer's Mall as they existed before Hurricane Charley. This scenario should not be substituted for current traffic conditions; in the intervening years, Lee County purchased the properties that formerly contained those beach-front hotels and Seafarer's Mall. The beach properties are now Crescent Beach Family Park; future plans for the Seafarer's Mall site are still unknown. Traffic that might have been generated from those properties is not relevant to this application.

The second scenario, "Build Per Code Development," is described as development to the "maximum potential level of development on the subject property allowed under current zoning." This idea of this scenario is intriguing and might be relevant as a supplement to the TIS, but as presented it is extremely misleading - current zoning allows nowhere near the amount of development assumed for this scenario, as pointed out in Tetra Tech's review comments. These development levels would not be practical even if the existing CPD zoning on the bay side were replaced by Downtown zoning. The extensive constraints on developing this site without CPD zoning are demonstrated by several pages of analysis submitted by the applicant in support of Deviation #1. Regrettably, this portion of the TIS succeeds only in generating smoke; it fails to shed any light on traffic impacts of the proposed development.

The third scenario analyzed in the TIS is the proposed development, including the 290 rooms in the hotel. This scenario also includes ancillary uses: 23,505 square feet of retail, bars, and restaurants - a fraction of the 117,081 square feet of ancillary resort and commercial space that is proposed in this application. The third scenario also does not include traffic from up to 225 people who will be able to use the beach facility while not guests of the resort. If any of these discrepancies are justifiable, the TIS should explain why.

The proposed CPD includes an impressive variety of features that will minimize traffic impacts from the proposed development, including all-valet parking; employee parking off-site; closing existing access points on Estero Boulevard and Crescent Street; a commitment to build sidewalks; extensive on-site resort amenities for guests; and thoughtful accommodations for pedestrians and public transit. Still, the TIS needs to fulfill its basic purpose of comparing current traffic conditions with anticipated conditions when the development, as proposed, is fully occupied.

Response: Please see the attached materials prepared by David Plummer and Associates.

Comment/Condition:

37. ROUNDABOUT: A roundabout at the foot of the Sky Bridge is not contemplated by this application. If a roundabout were constructed, incoming traffic would be able to turn immediately left on Fifth Street and enter this resort without traveling on Estero Boulevard and then needing to turn left on Crescent Street. The traffic impacts of the resort on Estero Boulevard would be greatly reduced with a roundabout.

Florida DOT may be able to willing to construct this roundabout and may be able to do so within the existing right-of-way, thus reducing travel on Estero Boulevard without any direct involvement from this developer. However, it is also possible that additional right-of-way would be required,

for instance a corner of the former Ocean Jewels building, which this application proposes to retain and upgrade. In this event, an opportunity would have been lost to determine any such right-of-way needs before upgrades are made to that building.

Response: The applicant notes this comment.

Comment/Condition:

38. FLOODPLAIN ISSUES: FEMA's changes to the floodplain maps for Fort Myers Beach in 2008 eroded the town's ability to continue improving its original pedestrian-oriented spine along Estero Boulevard. The most significant change was moving landward the line that separates the VE zones (where new buildings have to be elevated much higher to resist wave velocity) from the AE zones which apply to the rest of the town. In AE zones, it is still possible to build ground-floor retail shops and restaurants, even though they have to be "dry floodproofed." In VE zones, the ground floor of new buildings can be used for parking and storage but little else.

The 2008 changes moved the dividing line from just seaward of Estero Boulevard to just landward. The original FEMA proposal would have moved the line much further landward; the town's formal intervention and engineering input was enough to reduce the amount of land being changed considerably but not enough to keep the north side of Estero Boulevard out of a VE zone.

However, FEMA offers landowners a continuing opportunity to challenge the floodplain boundaries on their land. Given proper engineering justification, FEMA will immediately revise the floodplain maps. Two landowners near the subject property have recently obtained such revisions for their land: 150 Old San Carlos (Winds building) and 1028 Fifth Street (Teeki Hut building). Both properties were removed from the VE zone and placed back into an AE zone. The same logic and data that supported those revisions would seem to support a similar revision that would move the VE zone boundary back to Estero Boulevard in front of this development, which could allow this CPD application to place pedestrian-oriented uses along the sidewalk on the north side of Estero Boulevard, as discussed in the next section.

Response: The applicant considered the option to request a a revision to the floodplain boundaries extensively prior to submittal of the proposed Commercial Planned Development. Please see the attached memo provided by Tomasello Consulting Engineers detailing the reasons a LOMAR would not be successful for the subject property.

Comment/Condition:

39. ESTERO BOULEVARD ISSUES (NORTH SIDE) (including Deviation #3): The front of the main resort complex abuts the sidewalk on the north side of Estero Boulevard. If constructed, the current design would be a significant inhibiting factor for the town's numerous to revitalize the immediate area. Even before Seafarer's Mall was demolished and McDonalds moved out, the north side of this block suffered from the dilapidated Helmerich Plaza, whose driveway and dismal appearance seemed to repel pedestrians. The situation has only gotten worse.

All previous proposals for redeveloping this property included continuous shops on the ground floor along Estero Boulevard. In recent years, the promise of this concept has nearly been extinguished, first due to the change to the FEMA boundaries, and later to the chilly reception to a coastal protection structure that might have loosened FEMA restrictions for the entire Times Square area. The suggestion above about petitioning FEMA to adjust the VE boundary for this site offers reasonable prospects for resurrecting this concept. My suggestion is that any approval of this CPD conditionally authorize ground-level shops and entertainment along the north side of Estero Boulevard and offer the town's support for FEMA map revisions that could make this possible. The building could still be elevated to VE heights and built to the same stringent construction standards, but uses on the ground story would be far less restrictive than if the building remained in a VE zone.

In the event this option cannot or does not work, it is essential that a better design be presented for the facade of the building's tall ground story facing Estero Boulevard. LDC requirements for the 'Downtown' zoning district at this location require that the facade be placed right at the property line or up to 5 feet back from the property line. Off-street parking lots must be placed to the rear (not in front or on the side); the LDC does not allow parking lots in front of buildings at this location because parking lots have a deadening effect on pedestrians and are unattractive to motorists as well.

The applicant previously supported the LDC approach and had proposed shops at sidewalk level; however, without the coastal protection system, the 2008 revisions by FEMA require that enclosed space at ground level be limited to parking and storage, making typical doors and windows either useless or purely decorative. Additional revisions to the FEMA maps may make this possible again, but a secondary issue is how a ground-story facade could be designed that meets current FEMA rules without totally deadening this block of Estero Boulevard.

The current CPD proposal would place vertically-stacked valet parking throughout the ground story of this building as close as 5 feet from the Estero Boulevard and Crescent Street rights-of-way. The ground story facade of the building would consist of vertical latticework with vegetation that, if sufficiently dense, could screen the vehicles from view. The vertical latticework would be very tall, presumably the full height of the ground-story parking area, which approaches the height of two regular stories. The floor of the next story up would be 16 feet above the sidewalk.

In areas of the town where parking is allowed to abut a street, the LDC requires it to be separated with a 15-foot buffer strip planted with a hedge and trees. The applicant is requesting Deviation #3 to reduce that buffer strip to 5 feet with palms and trees. If this screening arrangement were used around a parking lot or parking garage in a suburban location and viewed from a distance, it may adequately conceal parked vehicles. However, it is an unsatisfactory facade when placed right up to an important sidewalk in the heart of Fort Myers Beach.

If the FEMA boundary cannot be revised, or cannot be revised in time to match the construction schedule, the applicant needs to propose a better design for the ground-story facade. One approach would be to move the latticework back 10 feet and construct a pergola overhead that would visually break up the very tall wall. The 10-foot space in front of the latticework could

provide partially shaded outdoor seating and space for mobile vending. The pergola could extend over the 5-foot sidewalk easement that adjoins Estero Boulevard right-of-way. With the sidewalk easement, the public sidewalk could be 14.5 feet wide (including the same 9.5 feet within the right-of-way as recently built by the county east of Crescent Street), making the sidewalk as wide as the sidewalks along Old San Carlos. This extra width would allow the trees that would have planted in the proposed 5-foot buffer strip to instead be planted in a single row in tree wells near the curb, again similar to Old San Carlos. (The latticework, the usable space under the pergola, and the sidewalk with street trees would substitute for the 15-foot buffer the LDC normally requires around parking lots.)

Response: The applicant has worked extensively with Town Staff and Town Consultants to address these comments. The building façade along Crescent Street has been revised and a site specific landscaping plan has been developed to address screening and buffering adjacent to the street frontage. The applicant believes these revisions address the comments provided and requests notification if Town Staff and Consultants disagree so additional revisions can be considered.

Comment/Condition:

40. ESTERO BOULEVARD ISSUES (SOUTH SIDE): The private outdoor recreation facility along the gulf would be a major amenity to its users and pleasing waterfront open space to the public. The proposed re-use of the Cigar Hut building at 1172 Estero Boulevard is another plus; the potential historic significance of this distinctive stucco building was identified in Lee County's 1986 Historic Sites Survey. Another building identified by the town's Historic Preservation Board would be demolished, the Salty Crab at 1154 Estero Boulevard.

The applicant will be asking the town to vacate the first 185 feet of Canal Street south of Estero Boulevard. To offset that loss, the applicant is offering to improve the parking lot about 120 feet to the east (next to the Beacon) and donate it to the town for use as a replacement public beach access, with 23 to 26 metered parking spaces available for the public. This lot would connect to the gulf using the existing gulf end of Canal Street. The partial vacation of Canal Street and the new beach access and parking lot are both shown on the Master Concept Plan; the formal vacation and donation would come at a later date. The Town Attorney could arrange for those actions to take place simultaneously.

The Comprehensive Plan offers the following guidance when considering requests to vacate rights-of-way:

OBJECTIVE 7-J PROTECTING PUBLIC ACCESS Although no future right-of-way needs have been identified, some existing town and county rights-of-way are substandard and few are wider than needed. The town shall not vacate or acquiesce in the vacation of existing rights-of-way except where no public purpose would be served by retaining the right-of-way.

POLICY7-J-1 RIGHTS-OF-WAY: Town and county rights-of-way are needed for the undergrounding of utilities; for the expansion of sidewalks and bike paths; for water accesses; for on-street parking; for public transit and road improvements;

and for other public purposes. The town shall strictly limit vacations of rights-of-way and easements to preserve future access for these purposes.

The Comprehensive Plan is clearly wary about requests to vacate rights-of-way. This request should only be approved if the Town Council deems it to serve the public's interest and when it would retain or improve public access to the beach. In this case, the new public beach access and parking lot is very close by and is significantly larger than the existing Canal Street. The view corridor along Canal Street would be lost, but the view corridor that now exists across the parking lot that would become public would be retained and made permanent. To make the new arrangement better than the current situation, the town would definitely need to accept the applicant's offer to improve and donate the new access to the town, not merely make it available to the public as a private venture.

The concept of this swap is reflected on the Master Concept Plan and thus would be approved with this CPD. I suggest that any such approval include a condition that clearly spells out what mitigation the town expects and then requires that the formal vacation and dedication of the new access be completed together. Until both are completed, no development orders or other permits would be issued for site work for new buildings or for demolition of existing buildings.

The applicant also proposes to vacate a 12-foot-wide right-of-way at the end of Crescent Street, which runs alongside the existing Pierview Hotel but does not extend to the beach. However, it does provide a narrow view corridor to the water. A new public pedestrian beach access would be provided through or near the gulf-side recreation area. Both are shown on the Master Concept Plan and again would require separate legal actions to vacate the right-of-way and accept a perpetual easement for the new public access; the process and criteria for approval would be the same as for Canal Street. The terms of the new access are critical; beach accesses are often subject to pressure to limit public access in various ways or to conceal the existence of the access. The public access guarantee needs to be legally guaranteed and perpetual in nature, not merely a condition of zoning approval.

Some questions remain about access to and through this recreation facility:

- The project narrative stated that "the proposed facility will be a private, commercial operation with controlled access points adjacent to the public pedestrian beach access. Patrons of the outdoor recreational facility must pass through a single supervised entry point" (for paying patrons only). The Master Concept Plan shows two points for "controlled pedestrian access" at each end of the new public pedestrian beach access next to the beachside restaurant. Presumably the "controlled access" points to the recreation area will connect to the "public access" easement, avoiding any conflict between the two, but this is not indicated explicitly. Another issue is to what extent the general public will be made aware that they may reach the beach this way.
- The recreation facility is located between Estero Boulevard and the beach. How will pedestrian access be limited to the designated points? The LDC allows a perimeter fence or wall up to 42 inches tall as close as 3 feet to the right-of-way (but no chain-link or wire fences along the street); see LDC 34-1741-44. The LDC does not have a

requirement for partial transparency, such as a fence with wood or metal pickets; in this case where the recreation facility is being promoted as a view corridor for the general public, a solid wall or fence would not be appropriate.

Response: The applicant notes the questions about access and offers the following.

- 1. The controlled pedestrian access will connect to the public access easement, avoiding any conflict between the two. The applicant has provided Proposed Conditions with language which intends to address the conditions. It is noted these conditions are for consideration and the applicant is open to discussions with Town Staff and Consultants.**
- 2. The general public will be made aware that they can reach the beach through the public access through signage that will be provided along the Estero Boulevard frontage. Language has been included in the Proposed Conditions to address this concern.**
- 3. Limiting pedestrian access to the Outdoor Commercial Recreation, will be conducted through some type of perimeter fencing. The applicant agrees that a solid wall is not appropriate due to the view corridor and has proposed a condition prohibiting solid walls and fencing along this portion of Estero Boulevard to alleviate the concern.**

Comment/Condition:

41. CRESCENT STREET ISSUES: The hotel building facing Crescent Street would be the same height as the rest of the building (three stories over one very tall story of parking). The difference is that this is the longest face of the building - about 475 feet long - and it is directly across the street from a collection of smaller canal-front buildings and is a short block from homes across the canal on Primo Drive. The height and bulk of the new building would be most alarming from this direction. Adding to the towering effect along Crescent Street is the same extremely tall ground story containing stacked valet parking, separated from the street only by latticework as described above for Estero Boulevard.

The Crescent Street right-of-way is 50 feet wide, the same as Estero Boulevard. A previous developer donated a 7-foot sidewalk easement along the west side of Crescent Street, which will allow a wider sidewalk there. The usefulness of the outdoor space proposed above for Estero Boulevard would be somewhat limited here, but if the wider sidewalk were constructed and some form of canopy or pergola extended out from the latticework, the overpowering effect of the very tall wall might be softened and some visual interest and shade would be provided along Crescent Street.

Response: The applicant has worked extensively with Town Staff and Town Consultants to address these comments. The building façade along Crescent Street has been revised and a site specific landscaping plan has been developed to address screening and buffering adjacent to the street frontage. The applicant believes these revisions address the comments provided and requests notification if Town Staff and Consultants disagree so additional revisions can be considered.

Sheets XA-201 through XA-204 demonstrate the revised exterior elevations of the building and Sheets X-502-RW.00 through X-504-RW.02 demonstrate the existing 7' sidewalk will be maintained and additional planting area will be provided on either side of the sidewalk to shield and buffer the proposed building. All Sheets referenced are provided in the attached Master Concept Plan and Exhibits.

Comment/Condition:

42. PEDESTRIAN BRIDGES: This CPD application propose two pedestrian bridges that would allow guests of the resort to move from block to block without waiting for or interfering with traffic. A fairly elaborate bridge would cross Estero Boulevard, connecting the main story of buildings on both sides of the street. The other bridge is more utilitarian; it would cross Fifth Street to connect the main hotel building with the freestanding building across Fifth that will contain unspecified hotel amenities. The public could use both bridges, reaching them via stairs or an elevator at each end.

The most common problems with pedestrian bridges are their high initial cost and the unwillingness of people to use them on a regular basis. However, in this case, both bridges would be privately funded and even if the public rarely used them, they would certainly be used by resort guests.

There are other issues with pedestrian bridges that need to be considered, such as:

- The most important is the visual impact of the bridge over Estero Boulevard. On the positive side, the renderings show an attractive structure with a very open design, which would encourage the public to use it at least once for the vista it would provide. This bridge would connect two buildings that are extremely large for Fort Myers Beach and would be built very close to Estero Boulevard at its narrowest point; together they would create an imposing gateway effect for people approaching from both directions. It is difficult to anticipate whether this would be perceived positively by people with no connection to the resort. There are existing pedestrian bridges around the state that also connect two parts of a resort, mostly on the east coast but one in St. Petersburg Beach at the Don Cesar resort. The historic Don Cesar building is large and close to the beach side of Gulf Boulevard; the other side of this wide street is a surface parking lot. Another pedestrian bridge is at Ocean Walk in Daytona Beach; a tall hotel is close to the beach side of Atlantic Avenue; the other side of this wide street has smaller buildings and a large parking garage. Photos of both bridges are provided on the final pages. Photos of other pedestrian bridges in situations more similar to the Fort Myers Beach proposal would be useful in visualizing the street-level effects of large buildings connected by a bridge.
- Because the Estero Boulevard bridge would cross a county right-of-way, the county would have to give permission for the bridge. The applicant has confirmed at least one discussion with the county about this but has not divulged anything further about that meeting or what process the county would require to grant permission. Issues would undoubtedly include structural integrity, clearance above the street, safety,

insurance, liability, etc. The same issues would be addressed by the town for the bridge over Fifth Street.

- The town would likely want control over the initial design of both bridges and over future changes such as enclosing the bridges or changing their appearance. Continuing public access to the bridges would be another issue, also technical issues such as how the stairs and elevator on each end would relate to existing and future sidewalks.

The Comprehensive Plan's Transportation Element contains this discussion of pedestrian bridges: Sidewalks encourage people to walk parallel to roads, but crossing major roads such as Estero Boulevard remains a problem. Pedestrian overpasses are sometimes built at major crossing points, especially over freeways or wide arterial roads. However, pedestrians are not likely to use these overpasses unless it is obvious that they are easier or safer than trying to cross at ground level. As long as Estero Boulevard is no wider than three lanes, conventional pedestrian overpasses are unlikely to attract many users. More users would be attracted if the ramps were replaced by glass-faced elevators and the overpass itself provided exceptional views. [appendix A, page 7-A-16]

Response: The applicant notes the comments provided and has attempted to address these items through the provided Proposed Conditions. The applicant is committed to working with Town Staff and Town Consultants to ensure the Pedestrian Crossings maintain the design demonstrated in the provided renderings as well as remain open to the public.

Comment/Condition:

43. DESIGN STANDARDS: The commercial design standards in the LDC apply to this development (see LDC 34-954 and 34-991-997). The application package includes a detailed statement about how the buildings will comply. I would note that the LDC's commercial design standards and its 'Downtown' zoning district standards contemplated redevelopment on a more incremental basis using the existing pattern of small lots, with many of the standards based on what type of street the new building fronted on. They were also based on the FEMA regulations in effect at the time, where only buildings seaward of Estero Boulevard had to be elevated to stringent VE zone standards. Given the relocation of the VE/AE boundary and the lot consolidation that led to the current application for a single very large redevelopment project, it would be surprising if the applicant could meet every design standard in the LDC. The applicant should review these requirements one more time; if any LDC standard cannot be met, now is time to identify it and propose an alternate standard through a deviation request.

Response: The applicant notes this comment and has reviewed the design standards again as advised. Additionally, the Main Hotel Building has been redesigned to address the comments made by the Town Consultant about the Crescent Street façade.

We believe that we have provided the additional information requested to permit staff to finalize their review of the proposed Commercial Planned Development and find the application sufficient. The

applicant looks forward to scheduling this case before the Local Planning Agency and Town Council for consideration.

Sincerely,
MORRIS-DEPEW ASSOCIATES, INC.

A handwritten signature in blue ink that reads "Tina M. Ekblad". The signature is written in a cursive style and is centered on the page.

Tina M. Ekblad, MPA, AICP, LEED® AP
Partner-Planning Director

Enclosure: Master Concept Plan and Exhibits
 Boundary Survey
 Legal Description and Sketch of improved area seaward of 1978 CCCL
 Legal Description and Sketch of public parking to be provided to the Town
 Revised Renderings
 Revised Schedule of Deviations
 Revised Property Development Regulations & Comparison
 Proposed Conditions
 Memo from Tomasello Consulting Engineers
 Revised Traffic Impact Statement
 Parking Calculations Memo from David Plummer and Associates

Cc: Mr. Tom Torgerson
 Mr. John Dammerman
 Mr. John Hafner
 Ms. Amanda Brock
 Mr. Russell Schropp
 Mr. John Gucciardo
 Mr. Stephen Leung