

1. Requested Motion:

Meeting Date: August 6, 2012

A rezoning of 821 and 831 Estero Boulevard from RESIDENTIAL CONSERVATION (RC) to DOWNTOWN

Why the action is necessary:

This action will allow the applicant to provide for required parking on-site for the existing restaurant uses, eliminate back out parking onto Estero Boulevard, provide for improvements to the subject property's stormwater management, and provide landscape buffers and screening.

What the action accomplishes:

2. Agenda:

Consent
 Administrative
 Public Hearing

3. Requirement/Purpose:

Resolution
 Ordinance
 Other

4. Submitter of Information:

Council
 Town Staff – Comm. Dev.
 Town Attorney

5. Background:

Prior to incorporation, Fort Myers Beach utilized Lee County zoning districts. Initially following incorporation, the Town continued to use Lee County's Comprehensive Plan, Future Land Use Map (FLUM), Land Development Code (LDC) and zoning maps. These documents acted as carry-over land development mechanisms until the Town drafted and adopted a new Comprehensive Plan, FLUM, LDC and official zoning map.

In January of 1999, the Town adopted its Comprehensive Plan and Future Land Use Map.

In 2003, Ordinance 03-03 adopted the Town's Land Development Code (LDC) and interim zoning map, and the official zoning map was adopted by Resolution 04-16 in April of 2004.

Under Lee County land use and zoning regulations the two parcels, 821 and 831 Estero Boulevard, that comprise the subject property, were designated in the Urban Community future land use category and zoned C-1. Both parcels were improved with residential structures that first appeared on the Lee County tax roll in 1954 (821 Estero) and 1964 (831 Estero).

When the Town adopted its own FLUM in 1999 the subject properties were in the newly created Mixed Residential land use category. In 2004 Resolution 04-16, rezoned the subject property into the Residential Conservation (RC) zoning district.

The property owners opposed these land use and zoning changes and in 2010 they applied for and were granted a small scale Comprehensive Plan future land use map amendment. The map amendment modified their land use category from Mixed Residential to Pedestrian Commercial; a land use category that now stretches from the subject property through the downtown core area and south along Estero Boulevard to approximately the DiamondHead Resort.

The request in this application is to return the subject property to a conventional commercial zoning district, consistent with its previous zoning and current future land use designation.

The LPA held a public hearing for the request at their June 12, 2012 meeting. The applicant presented their case then Staff presented its case along with a recommendation for approval. LPA conducted a question and answer period and discussion before voting 5-1 to approve the request. Hank Zuba was the dissenting vote. Jane Plummer was absent from the meeting.

Please note that the meeting minutes from the June 12, 2012 LPA meeting are still in draft form and have not been officially approved by the LPA.

Attachments:

- Draft Town Council resolution,
- LPA resolution 2012-004
- Draft LPA minutes from the June 12, 2012 meeting
- Staff Report and attachments
- Rezoning Application, received April 3, 2012

6. Alternative Action:

1. Deny the requested rezoning

7. Management Recommendations:

Approve the requested rezoning.

8. Recommended Approval:

| Town Manager | Town Attorney | Finance Director | Public Works Director | Community Development Director | Cultural Resources Director | Town Clerk |
|---|---------------|------------------|-----------------------|--|-----------------------------|------------|
|  | | | |  | | |

9. Council Action:

Approved Denied Deferred Other

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 12-12
PAINE/PURTELL REZONING

WHEREAS, Alexis Crespo, authorized applicant for the owners of property located at 821 and 831 Estero Boulevard Fort Myers Beach, Florida has requested to rezone .33 acres from Residential Conservation (RC) to DOWNTOWN; and

WHEREAS, the subject property is located in the Pedestrian Commercial Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, the STRAP for the property is 24-46-23-W3-0050B.0050 and 24-46-23-W3-0050B.0070 and the legal description for the property is Lots 5, 6, 7, 8 and part of lots 9, 13, & 14, Island Shores Unit 2 Block B, according to the plat thereof recorded in Plat Book 9 Page 25, of the Public Records of Lee County, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on June 12, 2012 at which time the LPA gave full and complete consideration to the CPD amendment requested by the Applicant, the recommendations of Staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on August 6, 2012, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2012-004, the recommendations of Staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85.

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

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2012-004 and the standards for granting planned development rezoning, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVE/DENY** the request to rezone the subject property to the DOWNTOWN zoning district.

FINDINGS AND CONCLUSIONS

Based upon the presentations by the Applicant, Staff, and other interested parties at the hearing, and a review of the application and standards for the conventional rezoning approval, the Town Council makes the following findings and reached the following conclusions:

1. *Whether there exists an error or ambiguity which must be corrected.*
Staff does not find that any errors or ambiguity exist surrounding the subject property and its zoning category that require correction. **APPROVE/DENY**
2. *Whether there exist changed or changing conditions which make approval of the request appropriate.*
Staff acknowledges that changed conditions do exist, namely the change in future land use designation that makes the consideration of the proposed request for rezoning appropriate. **APPROVE/DENY**
3. *The impact of a proposed change on the intent of Chapter 34 of the Fort Myers Beach Land Development Code.*
Staff does not anticipate that the proposed rezoning from RC to DOWNTOWN will have any negative impact on the intent of Chapter 34. **APPROVE/DENY**
4. *Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.*
As discussed in the analysis section of the Staff Report the request is generally consistent with the goals, objectives, policies, and intent as well the densities, intensities and general uses of Comprehensive Plan. **APPROVE/DENY**
5. *Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.*
The applicant has not submitted a plan for redevelopment with this request for rezoning. They have indicated to Staff no intention to change current uses on the subject property, merely a desire to return to a commercial zoning similar to the zoning category the subject property had prior to the Town's incorporation. With no plan to review, it is difficult to determine if the request meets or exceeds performance and locational standards. **APPROVE/DENY**
6. *Whether urban services are, or will be, available and adequate to serve a proposed land use change.*
Urban services including water, sewer, and electric are available at the subject property. Lee County Utilities has indicated available sanitary sewer capacity however, Town Staff has notified the applicant that the existing stormwater

system on Estero Boulevard is not designed to handle runoff from existing properties or increased density on existing properties. Any increased density or intensity at the subject property will necessitate a thorough stormwater management plan and review prior to any permit or use approvals.

APPROVE/DENY

7. *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*

As existing residentially developed lots located on interior parcels of land away from both the Matanzas Pass waterfront and the Gulf of Mexico beach, the subject property does not include any sensitive and/or environmentally critical lands. However, should these parcels be redeveloped into more intense uses as permitted within the DOWNTOWN zoning district any development would be required to meet all applicable environmental codes including but limited to Sea Turtle lighting requirement as found in LDC Section 14-79. **APPROVE/DENY**

8. *Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.*

Due to the location of the subject property on the fringe of the established DOWNTOWN zoning district, there is a conceivable argument that the proposed rezoning is compatible with surrounding uses. However, across Lagoon Street and even directly adjacent to the subject property RC zoned parcels remain and given the lack of buffering requirements in the DOWNTOWN district and the lack of any redevelopment plans accompanying this request, true compatibility is difficult to determine. Further, the DOWNTOWN zoning district is the Town's most permissive zoning district with a wide variety of allowable uses by right. Nevertheless, the Town does retain land and property development controls throughout the Pedestrian Commercial future land use, Section 34-671: DOWNTOWN zoning district regulations, Section 34-677: Commercial Design Standards, FEMA flood elevation and substantial improvement compliance, and other sections of the Land Development Code. **APPROVE/DENY**

9. *Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.*

The applicant requested a waiver from the TIS requirement, stating that the subject property is in a 'park-once' location and that any commercial uses developed on the property would be supportive to the existing surrounding hotels/motels, etc. and therefore would not be high traffic generators. By approving this waiver Staff has agreed that the more appropriate venue for traffic discussions is at the time of DO.

Staff does not anticipate the requested rezoning from RC to DOWNTOWN will generate any additional capacity need for the Lee County School District or the Town's Parks and Recreation Department. **APPROVE/DENY**

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

| | | | |
|----------------------------|---------|-------------------------|---------|
| Larry Kiker, Mayor | AYE/NAY | Bob Raymond, Vice Mayor | AYE/NAY |
| Alan Mandel, Councilmember | AYE/NAY | Jo List, Councilmember | AYE/NAY |
| Joe Kosinski Councilmember | AYE/NAY | | |

DULY PASSED AND ADOPTED THIS 6th day of AUGUST, 2012.

Town Council of the Town of Fort Myers Beach

By: _____
Larry Kiker, Mayor

Approved as to legal sufficiency:

ATTEST:

By: _____
Fowler White Boggs, P.A.
Town Attorney

By: _____
Michelle Mayher
Town Clerk

RESOLUTION OF THE LOCAL PLANNING AGENCY
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2012- 004
PAINE/PURTELL REZONING

WHEREAS, Alexis Crespo, authorized applicant for the owners of property located at 821 and 831 Estero Boulevard Fort Myers Beach, Florida has requested to rezone .33 acres from Residential Conservation (RC) to DOWNTOWN; and

WHEREAS, the subject property is located in the Pedestrian Commercial Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, the STRAP for the property is 24-46-23-W3-0050B.0050 and 24-46-23-W3-0050B.0070 and the legal description for the property is Lots 5, 6, 7, 8 and part of lots 9, 13, & 14, Island Shores Unit 2 Block B, according to the plat thereof recorded in Plat Book 9 Page 25, of the Public Records of Lee County, Florida; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on June 12, 2012; and

WHEREAS, at the hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the file, and the testimony of all interested persons, as required by the Fort Myers Beach Land Development Code Section 34-85.

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

The LPA recommends the Town Council **APPROVE** the request to rezone the subject property to the DOWNTOWN zoning district.

RECOMMENDED FINDINGS AND CONCLUSIONS

Based upon the presentations by the Applicant, Staff, and other interested parties at the hearing, and a review of the application and standards for the conventional rezoning approval, the LPA recommends that Town Council make the following findings and reach the following conclusions:

1. *Whether there exists an error or ambiguity which must be corrected.*
Staff does not find that any errors or ambiguity exist surrounding the subject property and its zoning category that require correction. **APPROVE**

2. *Whether there exist changed or changing conditions which make approval of the request appropriate.*
Staff acknowledges that changed conditions do exist, namely the change in future land use designation that makes the consideration of the proposed request for rezoning appropriate. **APPROVE**

3. *The impact of a proposed change on the intent of Chapter 34 of the Fort Myers Beach Land Development Code.*

Staff does not anticipate that the proposed rezoning from RC to DOWNTOWN will have any negative impact on the intent of Chapter 34. **APPROVE**

4. *Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.*

As discussed in the analysis section of the Staff Report the request is generally consistent with the goals, objectives, policies, and intent as well the densities, intensities and general uses of Comprehensive Plan. **APPROVE**

5. *Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.*

The applicant has not submitted a plan for redevelopment with this request for rezoning. They have indicated to Staff no intention to change current uses on the subject property, merely a desire to return to a commercial zoning similar to the zoning category the subject property had prior to the Town's incorporation. With no plan to review, it is difficult to determine if the request meets or exceeds performance and locational standards. **APPROVE**

6. *Whether urban services are, or will be, available and adequate to serve a proposed land use change.*

Urban services including water, sewer, and electric are available at the subject property. Lee County Utilities has indicated available sanitary sewer capacity however, Town Staff has notified the applicant that the existing stormwater system on Estero Boulevard is not designed to handle runoff from existing properties or increased density on existing properties. Any increased density or intensity at the subject property will necessitate a thorough stormwater management plan and review prior to any permit or use approvals. **APPROVE**

7. *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*

As existing residentially developed lots located on interior parcels of land away from both the Matanzas Pass waterfront and the Gulf of Mexico beach, the subject property does not include any sensitive and/or environmentally critical lands. However, should these parcels be redeveloped into more intense uses as permitted within the DOWNTOWN zoning district any development would be required to meet all applicable environmental codes including but limited to Sea Turtle lighting requirement as found in LDC Section 14-79. **APPROVE**

8. *Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.*

Due to the location of the subject property on the fringe of the established DOWNTOWN zoning district, there is a conceivable argument that the proposed rezoning is compatible with surrounding uses. However, across Lagoon Street and even directly

adjacent to the subject property RC zoned parcels remain and given the lack of buffering requirements in the DOWNTOWN district and the lack of any redevelopment plans accompanying this request, true compatibility is difficult to determine. Further, the DOWNTOWN zoning district is the Town's most permissive zoning district with a wide variety of allowable uses by right. Nevertheless, the Town does retain land and property development controls throughout the Pedestrian Commercial future land use, Section 34-671: DOWNTOWN zoning district regulations, Section 34-677: Commercial Design Standards, FEMA flood elevation and substantial improvement compliance, and other sections of the Land Development Code. **APPROVE**

9. *Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.*

The applicant requested a waiver from the TIS requirement, stating that the subject property is in a 'park-once' location and that any commercial uses developed on the property would be supportive to the existing surrounding hotels/motels, etc. and therefore would not be high traffic generators. By approving this waiver Staff has agreed that the more appropriate venue for traffic discussions is at the time of DO.

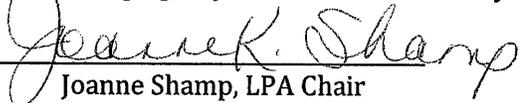
Staff does not anticipate the requested rezoning from RC to DOWNTOWN will generate any additional capacity need for the Lee County School District or the Town's Parks and Recreation Department. **APPROVE**

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Durrett and seconded by LPA Member Smith, and upon being put to a vote, the result was as follows:

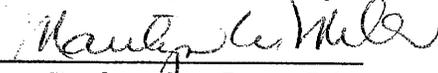
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|---------------------|-----|-----------------------|--------|
| Joanne Shamp, Chair | AYE | Al Durrett, Member | AYE |
| Hank Zuba, Member | NAY | John Kakatsch, Member | AYE |
| Alan Smith, Member | AYE | Jane Plummer, Member | Absent |
| Dan Andre, Member | AYE | | |

DULY PASSED AND ADOPTED THIS 12th day of JUNE, 2012.

Local Planning Agency of the Town of Fort Myers Beach

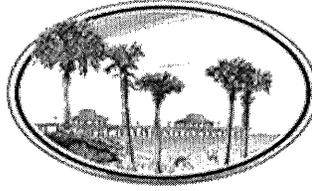
By: 
Joanne Shamp, LPA Chair

Approved as to legal sufficiency:

By: 
Fowler White Boggs, P.A.
LPA Attorney

ATTEST:

By: 
Michelle Mayher
Town Clerk



**FORT MYERS BEACH
LOCAL PLANNING AGENCY (LPA)**

Town Hall – Council Chambers

2523 Estero Boulevard

Fort Myers Beach, Florida

June 12, 2012

I. CALL TO ORDER

Meeting was called to order at 9:01 a.m. by Joanne Shamp; other members present:

Dan Andre
Al Durrett
John Kakatsch
Jane Plummer (Excused)
Alan Smith
Hank Zuba

LPA Attorney, Marilyn Miller
Staff Present: Walter Fluegel, Community Development Director
Leslee Chapman, Zoning Coordinator
Josh Overmyer, Planning Coordinator

II. PLEDGE OF ALLEGIANCE

III. INVOCATION – Hank Zuba

IV. MINUTES

A. Minutes of April 10, 2012

MOTION: Mr. Zuba moved to approve the April 10, 2012 minutes; second by Mr. Smith.

Mr. Zuba noted a typographical error on Page 8, Paragraph 6.

VOTE: Motion passed 76-0. Ms. Plummer excused.

V. PUBLIC HEARING

A. REZ2011-0001 – Paine/Purtell Rezoning

Ms. Shamp opened the hearing at 9:04 a.m.

Zoning Coordinator Chapman entered the Affidavit of Publication into the record.

Ms. Shamp asked the LPA Attorney to swear in the witnesses; and LPA Attorney Miller swore in the witnesses.

Ms. Shamp asked if any LPA Member had ex-parte communication regarding this item. Mr. Kakatsch – none; Mr. Durrett – none; Ms. Shamp – site visit; Mr. Zuba – none; Mr. Smith: -site visit; Mr. Andre – site visit.

Ms. Alexis Crespo of Waldrop Engineering representing the applicant, Messrs. Paine and Purtell, noted they were unable to attend the meeting; however, Brady Paine was in attendance (Mr. Paine's son) and he could provide history regarding the property if necessary. She presented comments for REZ2011-0001 – Paine/Purtell Rezoning for a rezoning request of Residential Conservation to Downtown. She noted the subject property was currently located in the Pedestrian Commercial Future Land Use Category of the Comprehensive Plan. She displayed an aerial location map of the subject property and discussed the frontage along the arterial roadway, and proximity to the Old Sand Carlos Boulevard, Estero Boulevard, and Times Square, pedestrian-commercial designation. She used a PowerPoint presentation to review the existing condition of the property; the existing uses of the surrounding properties; the subject property as it appeared on the Town of Fort Myers Beach Future Land Use Map (FLUM) and the land use designation for surrounding properties; and the existing zoning designation for the subject property and surrounding properties. She stated the applicant was requesting a logical extension of the Downtown Zoning District to include the subject property and she noted the subject property was the only property fronting on Estero Boulevard within the Lagoon Street block that did not have commercial use at the present time. She reviewed the slides that depicted the types of existing businesses and uses, residential properties, and vacant lots that surrounded or were nearby the subject property. She gave a historical synopsis of the zoning and land use designations and changes for the subject property since 1950. She noted the applicants were able to obtain a Future Land Use Map Amendment in 2010 for the subject property to Pedestrian-Commercial. Ms. Crespo reviewed other specifics of the applicant's zoning request; and noted the area of the town where the subject property was located had sufficient infrastructure to handle the rezoning and the applicant had acquired the appropriate letters to support the request (i.e. letter from Utility Department). She stated the applicant requested a TIS waiver that was approved by the Community Development Director; and discussed how the subject property was in a 'park-once' location. Ms. Crespo reviewed the rezoning request as it pertained to compatibility with the surrounding properties, and compliance with the Comprehensive Plan. She stated the Staff Report indicated the request was consistent with the Town's Growth Management Plan, that it implemented the 2010 Future Land Use Map Change to Pedestrian-Commercial, approved the TIS Waiver, and recommended approval of the rezoning. She indicated that the approval of the request would allow the property's zoning to comply with

the underlying Residential Commercial Future Land Use Category and requested the LPA approve the rezoning request.

Mr. Smith asked if there was any feedback from the multi-family seasonal rental properties located on Lagoon Street.

Ms. Crespo stated from her conversations with the applicants it was her understanding from that they were supportive of the rezoning.

Mr. Zuba asked why there was no 'redevelopment plan' included in the rezoning request.

Ms. Crespo reported the applicants did not have an immediate redevelopment plan and were trying to regain the previous commercial uses that were allowed for the site at a C-1 designation which would allow for future redevelopment of the property. She noted there was not an 'end-user' at this time.

Mr. Zuba asked if the applicants were positioning the property for sale.

Ms. Crespo responded in the affirmative.

Mr. Zuba asked if there were any code violations on the existing properties.

Ms. Crespo stated that to the best of her knowledge there were none.

Zoning Coordinator Chapman stated she could research the matter.

Discussion was held concerning what was permissible under the current zoning.

Zoning Coordinator Chapman presented comments for REZ2011-0001 – Paine/Purtell Rezoning on behalf of the Town of Fort Myers Beach. She displayed an aerial view of the subject property and reviewed the application for a rezoning of the subject property located at 821 and 831 Estero Boulevard. She noted that the application was a conventional rezoning and described the difference between conventional zoning and a commercial planned development. She explained that the LPA must make a recommendation of approval or denial; and that the approvals could not be conditioned. She indicated the property location on the Future Land Use Map (FLUM) and gave a brief historical background of the property:

- Future Lane-Land Use
 - Lee County FLU: Urban Community
 - Town of Fort Myers Beach Adopted the Future Land Use Map in 1999; Mixed-Residential
 - Applicants applied for a Small Scale Map Amendment which was approved in 2010 by Ordinance 10-02 from Mixed Residential to Pedestrian Commercial

She discussed the property location on the Zoning Map and the property's zoning history:

- Zoning
 - Lee County Zoning C-1
 - Town of Fort Myers Beach adopted the Land Development Code by Ordinance 03-03
 - Town of Fort Myers Beach adopted the Official Zoning Map Resolution 04-16 which zoned the subject property Residential Conservation
 - Applicant has applied to rezone the subject property to Downtown which would allow for a variety of uses that would not require a Development Order

She pointed out considerations with respect to compatibility with surrounding properties; TIS waivers; and land use/zoning consistency. She noted the subject property was located within a six parcel loop that was enclosed by Estero Boulevard and Lagoon Street; and that rezoning the property to Downtown would shift the balance of land uses within the loop from a majority of residential parcels to a majority of commercial parcels. She reported that staff recommended approval of the requested rezoning from Residential Conservation to Downtown.

Mr. Kakatsch asked if the parking area adjacent to the property would remain a parking area and be tied into whatever might develop on the new property.

Ms. Chapman reported that property was a commercial parking lot and there was an opportunity for the two parcels in question, if they were redeveloped, to enter into a joint use agreement.

Discussion ensued regarding the possible development of the commercial parking lot; and challenges to the conventional zoning districts and buffering along the street.

Ms. Shamp questioned the types of uses that could be permitted.

Ms. Chapman stated that any change in use would still have to apply for a Certificate of Use; and noted if there were any proposed changes to the interior/exterior of the building that come up against the 50% Rule could be a limiting factor to redevelopment.

Ms. Shamp asked if the buildings were to be torn down and the rezoning was approved, what number of units would be allowed to be used without going through the CPD process (i.e. height and unit restrictions).

Ms. Chapman responded that it would be less than seven units; and they would have to go up in height due to FEMA (approximately 30 feet above base flood elevation).

Community Development Director Fluegel noted that the Commercial Design Standards would apply if the property was rebuilt; and discussed the applicability of the 50% Rule.

Mr. Zuba noted his concerns regarding buffering for the adjacent properties and increasing density.

Discussion ensued concerning buffering, increased density and intensity, FEMA standards, compatibility concerns, and the existing inconsistency between the future land use and the zoning.

Public Comment opened.

No speakers.

Public Comment closed.

Mr. Andre expressed his belief that it seemed like a logical transition to change the zoning back to what it was when the applicants purchased the subject property.

Mr. Smith agreed with Mr. Andre and pointed out this was an opportunity to correct an inconsistency between the land use and zoning.

Mr. Zuba discussed his opinion that he did not see the site as commercial given the elevation requirements.

Ms. Shamp explained how she believed the request was logical; however, she noted she still had concerns.

Mr. Durrett reported he was looking forward for future property improvements.

Mr. Kakatsch urged the property owners to improve the landscaping.

Ms. Shamp pointed out that Lagoon Street provided a geographic separation for the Downtown Zoning District.

MOTION: Mr. Durrett moved that the LPA recommends the Town Council approve the request to rezone the subject property to the Downtown Zoning District: 1) Approve; 2) Approve; 3) Approve; 4) Approve; 5) Approve; 6) Approve; 7) Approve; 8) Approve; and 9) Approve; Second by Mr. Smith.

VOTE: Motion passed, 5-1; Mr. Zuba dissenting; Ms. Plummer excused.

Ms. Shamp closed the hearing at 10:02 a.m.

Recess at 10:02 a.m. – Reconvened at 10:09 a.m.

Ms. Shamp reported the applicant was not present for the Sign Variance, Pierview Hotel, and asked if the LPA would consider changing the order of presentation.

MOTION: Mr. Zuba moved to move up the CVS CPD; second by Mr. Kakatsch.

VOTE: Motion approved, 6-0; Ms. Plummer was excused.

B. FMBDCI2012 -0002 CVS Pharmacy CPD Amendment

Ms. Shamp opened the hearing at 10:10 a.m.

Ms. Shamp asked the LPA Attorney to swear in the witnesses; and LPA Attorney Miller swore in the witnesses.

The Affidavit of Publication was entered into the record.

Ms. Shamp asked if any LPA Member had ex-parte communication regarding this item. Mr. Kakatsch – none; Mr. Durrett – none; Ms. Shamp – site visit; Mr. Zuba – none; Mr. Smith: - none; Mr. Andre – none.

Mr. Burt Saunders of the Gray-Robinson Law Firm, representing the applicant, noted the local Store Manager, Ed Cooney, was present to answer questions if needed. He stated the Town staff had recommended approval of the CPD in their Staff Report for the request to amend Condition #2 of Resolution FMB 97-35, which restricted the hours of operation from 8:00 a.m. to 9:00 p.m., to allow CVS to operate from 7:00 a.m. to midnight. He mentioned that the CVS store had been under the impression it could operate from 7:00 a.m. to midnight and had done so for the past eight years; however, a disgruntled employee had reported the error in hours of operation to the Town. He addressed highlights of the Staff Report that pointed out the CVS Pharmacy began operation of the store in 2004 which was formerly operated by Eckerd Drugs who had operated under the 7:00 a.m. to midnight schedule; the notification to the Town was by a disgruntled employee and not a nearby resident; and staff recommended approval.

Ms. Shamp questioned the hours for store deliveries.

Mr. Cooney was sworn in by the LPA Attorney. He reported most deliveries were from local vendors that occurred up until about 5:00 p.m.; however, rarely there were deliveries after that time, possibly a delivery around 6-7:00 p.m. from the CVS warehouse.

Discussion was held concerning conditions of the CPD with respect to hours of operation.

Mr. Smith stated he resided directly across the street from CVS and had no idea of the hours of operation because the store was well-run and quiet.

Josh Overmyer, Planning Coordinator for the Town of Fort Myers Beach, noted he had not been designated as an expert in land planning before the Town of Fort Myers Beach LPA. He requested the designation and the approval to present the amendment request to the Commercial Planned Development, CVS/Pharmacy CPD, DCI2012-0002.

MOTION: Mr. Smith moved to tender Mr. Overmyer as an expert in the area of land planning; second by Mr. Zuba.

VOTE: Motion approved, 6-0; Ms. Plummer was excused.

Mr. Overmyer displayed an aerial picture of the subject property located ~~in~~near Santini Plaza; and indicated the location of the subject property and surrounding properties. He described the subject property location on the zoning map and on the Future Land Use Map. He stated the applicant was requesting to amend Condition #2 of Resolution FMB 97-35, restriction on hours of operation from 8:00 a.m. to 9:00 p.m., to allow CVS to operate from 7:00 a.m. to midnight. He reviewed the property details which was formerly operated by Eckerd Drugs, CVS began operation at the site in 2004, the property was currently zoned Commercial Planned Development, and the Future Land Use was Pedestrian-Commercial. He stated that staff recommended approval of the requested expansion of hours of operation since the hours had been in place since August 2004 with no complaints from neighboring property owners; and the expanded hours would allow additional hours of service to residents and visitors which would keep vehicular trips on the island.

Ms. Shamp questioned if the extended hours of operation were approved would the approval stay with the site if the use changed (i.e. CVS to a restaurant).

Community Development Director Fluegel explained the approval would go with the approved use as indicated on the Schedule of Uses. He added the hours could be conditioned to the specific use as a pharmacy.

Ms. Shamp noted the site was located in a heavily traveled pedestrian area and was traffic impact or pedestrian safety considered as it pertained to the extended hours.

Community Development Director Fluegel explained that the traffic/pedestrian safety were off-site concerns.

Mr. Durrett noted the subject property was located at one of the worst intersections on the island. He stated that on behalf of the Safety Task Force that if CVS had any creative ideas how to make it safer for pedestrians to cross that street he would like to discuss the matter further at a later date.

Mr. Kakatsch urged CVS to consider opening another store location in the downtown or on the north end of the island.

Mr. Overmyer noted the hours of operation for other businesses in the area of the subject property which included, ~~by~~but was not limited to, ~~7-11~~Eleven open 24 hours a day, Truly Scrumptious opened until 9:30 p.m., ~~Costa~~Away Bar until 2:00 a.m., Sand Bar until 1:00 p.m., Sky ~~Bare~~'s until 11:00 p.m., South Beach Grille until 10:00 p.m., Fish House until 10:00 p.m. on Friday and Saturday night.

Public Comment opened.

No speakers.

Public Comment closed.

Ms. Shamp noted the approval could be conditioned as long as the use was a pharmacy.

Discussion was held concerning conditioning approval as long as the use was a pharmacy.

Ms. Shamp recognized Mr. Saunders.

Mr. Saunders pointed out on Page 3 of the CPD, Item #3, *“all conditions herein apply to all uses allowed within this development; any change in use from a drug store/pharmacy with a drive-thru pharmacy to one of the other listed uses may only be permitted following an amendment to the Development Order”*.

LPA Attorney Miller noted that the Development Order does not necessarily come back before the LPA.

Discussion continued regarding “conditioning” the approval.

MOTION: Mr. Andre moved that the LPA recommend the Town Council approve the applicant’s request for an amendment to Condition #2 of Resolution FMB 97-35 to change the permitted hours of operation from the previously approved 8:00 a.m. to 9:00 p.m. to from 7:00 a.m. to 12:00 midnight: 1) Approve; 2) Approve; 3) Approve; 4) Approve; 5) Approve; 6) Approve; 7) Approve; 8) Approve; and 9) Approve; and 10) Approve; second by Mr. Zuba.

VOTE: Motion approved, 6-0; Ms. Plummer was excused.

Ms. Shamp questioned the status of the applicants for the Pierview Hotel & Suites Sign Variance.

Mr. Overmyer reported the applicant was not present; however, he would call the applicant.

Ms. Shamp noted at this point in the Agenda the LPA would normally adjourn and reconvene as the Historic Preservation Board; however, since Ms. Plummer was not present she did not feel there was any news to disseminate.

Mr. Kakatsch concurred with Ms. Shamp.

Consensus was to withdraw convening as the Historic Preservation Board.

VI. LPA MEMBER ITEMS AND REPORTS

Mr. Andre – no items or reports.

Mr. Smith – no items or reports.

Mr. Zuba – suggested bi-monthly instead of monthly meetings for the Historic Preservation Board; that the HPB item on the LPA Agenda be moved to the end of the meeting to avoid convening and reconvening; and suggested the LPA recommend to Town Council that the LPA be permitted to establish a sub-committee or task force regarding Seafarer’s that would be able to continue to meet with the consultant and staff.

Ms. Shamp stated she already spoke with Community Development staff about the LPA having a presentation regarding an economic district, zoning, and TIFs so that the LPA could be familiarized with what might happen in the Seafarer area.

Community Development Director Fluegel explained that the Town Council had instructed staff to prepare qualifications for to retain a land planning consultant to assist the Town Council with issues surrounding Seafarer’s and the Downtown as it pertained to the subject property.

LPA Attorney Miller noted that she was in the process of determining if there was an existing ~~community-Community redevelopment~~ Redevelopment area ~~Area~~ designation in the Town.

Community Development Director explained the difference between a ~~downtown-Downtown~~ redemption ~~Redevelopment agency~~ Agency (DRA) and a ~~community-Community redevelopment~~ Redevelopment agency Agency (CRA).

Ms. Shamp noted her agreement with Mr. Zuba’s suggestion that the LPA be an integral part of any work regarding the Seafarer’s. She suggested the LPA consider a motion that they designate an LPA member who would be their representative for any Seafarer’s issues and if there was a committee formed or a workshop held.

Discussion ensued regarding designating an LPA member as a representative for any Seafarer issues; consensus was to nominate an LPA member to represent the LPA on Seafarer issues.

NOMINATION: Mr. Andre nominated Mr. Zuba as the LPA representative; second by Mr. Kakatsch.

Mr. Zuba accepted the nomination.

VOTE: Motion approved, 6-0; Ms. Plummer was excused.

Ms. Shamp asked to craft a letter to Town Council to inform them of Mr. Zuba’s appointment to represent the LPA with matters concerning Seafarer’s as it pertained to Section 34-120.

MOTION: Mr. Zuba moved to approve that Ms. Shamp write a letter to Town Council regarding his appointment as LPA representative; second by Mr. Andre

VOTE: Motion approved, 6-0; Ms. Plummer was excused.

Ms. Shamp – no items or report.

Mr. Durrett – gave a status report on the dredging of Big Carlos Pass and noted it was being done between Bonita Beach and Fort Myers Beach. He mentioned there would be a meeting in July on the topic where the DEP would be in attendance.

Mr. Kakatsch – questioned the status of the three units on Estero Boulevard in the 4400 Block across from Newton Park.

LPA Attorney Miller reported the subject property was in the middle of the demolition process; and the Town had served notice on the owner and the bank.

Mr. Overmyer reported that ~~the property owner had come into Town Hall to inquire about a~~ he had provided a copy of the previous zoning application to the property owner, and which could possibly be used to submit a new rezoning application.

Discussion was held regarding the subject property; the intent to tear down the property; and a demolition permit.

Ms. Shamp pointed out that she believed the LPA was taking a hiatus in August, but stated she heard the Town Council was taking a hiatus in July.

Ms. Chapman stated the Town Council was taking a hiatus in July; and noted staff still had 4-5 sign ordinances to forward to the LPA.

Discussion ensued regarding whether to take hiatus in July or August.

MOTION: Mr. Smith moved to suspend the LPA meeting for July and resume the LPA meetings in August; second by Mr. Andre

VOTE: Motion approved, 6-0; Ms. Plummer was excused.

Ms. Shamp noted the LPA’s regrets at missing the Mound House tour.

Mr. Overmyer stated staff could schedule another tour.

VII. LPA ATTORNEY ITEMS

LPA Attorney Miller – discussed “minimum use determination on property in the Seagrape subdivision” and stated she was working on what would be the equivalent of a staff report for the approximately 40 ~~issues involved with the~~ platted lots which had a majority of lots as wetlands.

VIII. COMMUNITY DEVELOPMENT DIRECTOR ITEMS

Ms. Chapman reported the Community Development Director had asked her to inquire about the LPA's hiatus, which was already addressed.

C. FMBVAR2001-0006 – Pierview Hotel & Suites Sign Variance

Ms. Shamp opened the hearing at 11:10 a.m.

Ms. Shamp asked the LPA Attorney to swear in the witnesses; and LPA Attorney Miller swore in the witnesses.

The Affidavit of Publication was entered into the record.

Ms. Shamp asked if any LPA Member had ex-parte communication regarding this item. Mr. Kakatsch – none; Mr. Durrett – none; Ms. Shamp – site visit; Mr. Zuba – none; Mr. Smith: - site visit; Mr. Andre – site visit.

Josh Overmyer, Planning Coordinator for the Town of Fort Myers Beach, presented the request for the Pierview Hotel Sign Variance, FMBVAR2011-0006. He displayed and described slides depicting the location of the subject property and the surrounding properties. He reviewed the three variances requested:

- Variance from LDC Sec. 30-154(b) requirement of a 3' setback from any public right-of-way or roadway easement for a monument sign to permit the existing sign to be setback 12 inches from the right-of-way
- Variance from LDC Sec. 30-154(c) requirement that the bottom of elevated monument signs can be no more than 18 inches above the highest adjacent grade to permit the existing monument sign to be elevated 48 inches above the highest adjacent grade
- Variance from LDC Sec. 30-154(c) sign height maximum of 5' to permit the existing monument sign to be raised to 8' in height

He displayed photographs of the existing sign and the previous sign by the Ramada Inn in 2000. He discussed the supporting regulations Section 30-154(b) (location); Section 30-154(c) (height); Section 34-87; Section 34-87(3)(a); Section 34-87(3)(b); Section 34-87(3)(c); Section 34-87(3)(d); and Section 34-87(3)(e). He reported the applicant's requested variances were reasonable, given the location of the adjacent building to the north and the above-ground public and private utilities at the sign location. He recommended approval of the applicant's requested variances for overall sign height of 8', for the sign pedestal height of 48", and to decrease the setback from Estero Boulevard right-of-way to 1'.

Mr. Zuba questioned the concept of precedent and how would staff avoid it.

Ms. Chapman noted the Diamond Head sign variance that came before the LPA where they did consider precedent and other issues.

Discussion was held regarding the upcoming sign variances yet to come before the LPA that questioned signage issues such as physical obstructions and real on-site conditions; staff recommendations for

minimal variances to address obstructions; consistency of the sign ordinance; measurements for a *de minimus* variance under circumstances or conditions on the subject property; and location of the utilities and the physical obstruction to the current sign.

Judy Coleman, Manager of the Pierview Inn, described the intention of the variance request as it related to raising only the bottom pedestal part of the current sign.

Mr. Andre questioned the allowable square footage of the sign.

Ms. Chapman stated the business was permitted to have a maximum of 32 square feet.

Discussion was held regarding problems with the square footage of the signage due to the location of the utilities.

Public Comment opened.

No speakers.

Public Comment closed.

Discussion ensued regarding the *de minimus* impact; location of the utility pipes/valves and public safety access; and the uniqueness of the location/situation.

Mr. Andre requested, in the future, staff obtain a drawing of the proposed signage be included with a sign variance application.

MOTION: Mr. Andre moved to recommend to Town Council that they approve the applicant's request for Variances from Section 30-153(b) and Section 30-154(c) of the LDC:

- A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, **and** the request **is** for a de minimis variance.
- B. The conditions justifying the variance **are not** the result of actions of the applicant.
- C. The variance granted **is** the minimum variance.
- D. The granting of the variance **will not** be injurious to the neighborhood.
- E. The conditions or circumstances on the specific piece of property for which the variance is sought **are not** of so general or recurrent a nature.

Second by Mr. Zuba.

Discussion ensued regarding the wording of "A" in the motion.

Ms. Shamp requested an amendment to include at the end of "A", *'to protect public safety by not obstructing access to the public utilities and fire protection facilities'*.

AMENDMENT: Motion Maker agreed to the suggested wording and noted that staff could specifically name the utilities and fire protection items; Second agreed.

VOTE: Motion approved, 5-1; Mr. Durrett dissenting; Ms. Plummer was excused.

Ms. Shamp closed the Public Hearing at 11:52 a.m.

IX. LPA ACTION ITEM LIST REVIEW

Ms. Shamp noted Chuck’s Last Stop was presented to Council; the COP was still in progress; and that Mr. Kakatsch, Mr. Smith, Mr. Durrett, and Ms. Shamp would be the LPA contacts when the three cases heard today would be presented to Council in August. She noted the LPA Attorney requested “Seagrape Subdivision” be added to the LPA’s work activity. She mentioned the Town Council had asked the LPA to review the post-disaster recovery ordinance

X. ITEMS FOR NEXT MONTH’S AGENDA

None.

XI. PUBLIC COMMENT

Public Comment opened.

No speakers.

Public Comment closed.

XII. ADJOURNMENT

MOTION: Motion by Mr. Zuba, seconded by Ms. Smith to adjourn.

VOTE: Motion approved, 6-0.

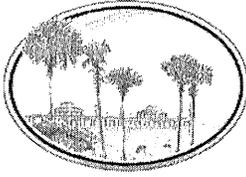
Meeting adjourned at 11:57 p.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

Signature

End of document.



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

TYPE OF CASE: Conventional Rezoning
CASE NUMBER: FMBREZ2011-0001
LPA HEARING DATE: June 12, 2012
LPA HEARING TIME: 9:00 AM

I. APPLICATION SUMMARY

Applicant: Alexis Crespo, authorized applicant
Waldrop Engineering

Request: A rezoning of 821 and 831 Estero Boulevard
from **RESIDENTIAL CONSERVATION (RC)** to
DOWNTOWN

Subject property: Island Shores Unit 2
Block B
Plat Book 9 Page 25
Lots 5, 6, 7, 8 and part of lots 9, 13, & 14

Physical Address: 821 Estero Boulevard
831 Estero Boulevard

STRAP #: 24-46-23-W3-0050B.0050
24-46-23-W3-0050B.0070

Parcel Size: .33 AC +/- (combined)

FLU: Pedestrian Commercial

Zoning: RESIDENTIAL CONSERVATION (RC)

Current use(s): Residential - Seasonal Rentals

Adjacent zoning and land uses:

| | | |
|--------|---|---|
| North: | Lagoon Street Town of Fort Myers Beach Right-of-Way | |
| South: | Estero Boulevard Town of Fort Myers Beach Right-of-Way | |
| East: | 7-11 convenience store DOWNTOWN Pedestrian Commercial | Residential RESIDENTIAL CONSERVATION (RC) Mixed Residential |
| West: | Parking Lot COMMERCIAL PLANNED DEVELOPMENT (CPD) Recreation | |

II. BACKGROUND AND ANALYSIS

Background:

Prior to incorporation as a Town in 1995, Fort Myers Beach was zoned into districts that were determined and designated by Lee County. Initially following incorporation the Town adopted Lee County’s Comprehensive Plan, Future Land Use Map (FLUM), Land Development Code (LDC) and zoning maps. These documents acted as carry-over land development mechanisms until such a time that Town Staff, after citizen input, could draft a new Comprehensive Plan, FLUM, LDC and official zoning map for adoption by the Town Council.

In January of 1999, the Town adopted its Comprehensive Plan and Future Land Use Map.

In 2003, Ordinance 03-03 adopted the Town’s Land Development Code (LDC) and interim zoning map, and the official zoning map was adopted by Resolution 04-16 in April of 2004.

Under Lee County land use and zoning regulations the two parcels, 821 and 831 Estero Boulevard, that comprise the subject property, were designated in the Urban Community future land use category and zoned C-1. Both parcels were improved with residential structures that first appeared on the Lee County tax roll in 1954 (821 Estero) and 1964 (831 Estero).

When the Town adopted its own FLUM in 1999 the subject properties were in the newly created Mixed Residential land use category. In 2004 Resolution 04-16, rezoned the subject property into the Residential Conservation (RC) zoning district.

The property owners opposed these land use and zoning changes and in 2010 they applied for and were granted a small scale Comprehensive Plan future land use map amendment. *(See Exhibit A)* The map amendment modified their land use category from Mixed Residential to Pedestrian Commercial; a land use category that now stretches from the subject property through the downtown core area and south along Estero Boulevard to approximately the DiamondHead Resort.

The request in this application is to return the subject property to a conventional commercial zoning district, consistent with its previous zoning and current future land use designation.

Analysis:

The request of this application is to rezone the subject property from Residential Conservation to DOWNTOWN. As outlined in the Background section of this Staff report, the future land use designation for the subject property was changed in 2010 from Mixed Residential to Pedestrian Commercial. A request for a change in zoning to reflect a change in future land use is a reasonable basis for a rezoning application. While not a requirement for a conventional rezoning application, the applicant has not provided a re-development plan that would allow Staff to fully analyze the effect the rezoning might have on the neighboring properties and surrounding area.

Staff recognizes that with the approved change in the future land use from Mixed Residential to Pedestrian Commercial the subject property retains a zoning category, RC, that is inconsistent with its future land use. The Comprehensive Plan defines the Pedestrian Commercial land use category as *"primarily a commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard). Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet the design concepts of this plan and the Land Development Code. Where commercial uses are permitted, residential uses are encouraged in upper floors."*

The majority of parcels that fall within the Pedestrian Commercial future land use category are either zoned CPD or DOWNTOWN both predominantly commercial zoning districts. In contrast, Residential Conservation, RC, is defined in the LDC as a zoning district intended to *"recognize certain older neighborhoods that had been zoned for duplex, multifamily or mobile homes prior to incorporation of the Town."* RC is a predominantly residential zoning category and as seen in Table 34-2 of the LDC does not permit commercial uses with the exception of an ATM. The DOWNTOWN zoning district's purpose is defined in Section 34-671 of the LDC and is intended to *"create the desired quality and character for the center of pedestrian-oriented commercial activities within the town. New commercial buildings are expected to accommodate pedestrians by providing storefronts near sidewalks and by offering shade and shelter along major streets."* It is important to note that the DOWNTOWN district is the Town's most permissive district allowing the widest variety of uses

with the least amount of buffering, setbacks, and other similar property development regulations. This clearly is a district more suited to a future land use that encourages a pedestrian-oriented commercial environment. Future land use and zoning whenever possible should be compatible and work to further the intent of each other; as future land use is a goal that is achieved through the structure of zoning regulations.

The subject property is located within a six parcel loop that is enclosed by Estero Boulevard and Lagoon Street. (*See Exhibit B*) In addition to the subject property within this loop there is a commercial parking lot, a 7-11 convenience store and two existing residential lots. The commercial parking lot (CPD) and the 7-11 (DOWNTOWN) are on the far ends of the loop with the remaining 4 interior lots, including the subject property, currently zoned RC.

Rezoning the subject property to DOWNTOWN will shift the balance of land uses within this loop from a majority of residential parcels to a majority of commercial parcels. According to the applicant, the property owners have no immediate intention of redeveloping the property, so while the underlying land use and zoning may change there are no pending plans for the existing uses to change. However, this is an important point to note: the DOWNTOWN district allows a wider variety of uses by right and redevelopment within this loop will change the dynamics of the area. Should they decide to change the uses on the parcels, the property owners would not be required to come before the LPA or Town Council to transition from their current use of seasonal rentals to a more intensive commercial use. However, development orders and/or building permits and payment of impact fees may be required for any change of use and/or major interior or exterior renovations to the existing structures.

Should the rezoning be approved, a concern is that the remaining two parcels that are zoned RC within the Lagoon loop would not be adequately buffered and protected by this commercial intrusion. Section 34-677(b) discusses buffers in the DOWNTOWN district and states: "*There are no minimum open space and buffer requirements in the DOWNTOWN district comparable to the standards found in Ch. 10.*" The description then goes on to include three exceptions to this rule. Each of the exceptions, however, are for specific land areas none of which apply to the subject property. The current LDC does not contain any regulations governing redevelopment where residential is required to be buffered from commercial or mixed uses.

The applicant addresses the buffer issue by stating that the adjacent properties are seasonal rentals, however, the underlying zoning is RC and buffer concerns remain and are valid. Likewise, even though the previous Lee County zoning was commercial in nature the existing structures, which date back before Lee County adopted its first zoning regulations in 1962, have been residential in nature and continue to be residential in nature.

Urban services including water, sewer, and electric are available at the subject property. The applicant has indicated that Beach Water has capacity to serve the subject property and has also included a letter from Lee County Utilities stating similar availability of service. The existing stormwater system on Estero Boulevard, however, is not designed to handle runoff from existing properties or increased density on existing properties. There is no stormwater infrastructure system installed on Lagoon Street. Fort Myers Beach Public Works Department has commented that any increased density and/or intensity at the subject property will necessitate a thorough stormwater management plan and review prior to any permit or use approvals.

The lack of a redevelopment plan for the subject property increases the difficulty for Staff to adequately address impacts on infrastructure. The subject property has driveway access onto Estero Boulevard. Estero Boulevard, especially south of Times Square, is a constrained road with severe volume and capacity concerns that are further amplified during the winter months of peak tourist season.

The applicant has requested a waiver from providing a Traffic Impact Statement (TIS) which Staff has approved. *(see Attachment A)*.

The language in the applicant's TIS waiver emphasizes that the DOWNTOWN district is a 'park once' district where the pedestrian is given preference. The applicant suggests that future non-residential uses on the subject property will support the surrounding hotel/motel uses and as such will not be trip generating uses. The applicant further suggests that any traffic studies would be more appropriate at the time of a development order (DO) because more specific uses and their accompanying trip generation rates could be studied at that point.

Staff has waived the TIS requirement until the time of DO, however, the concern remains that the changes in use could occur on the subject property that would not require a DO, and therefore would not trigger the need for a TIS.

Staff does not anticipate the requested rezoning from RC to DOWNTOWN to generate any additional capacity need for the Lee County School District or the Town's Parks and Recreation Department.

Staff also reviewed the request for consistency with the Comprehensive Plan and identified the following goals, objectives and policies that applied to the requested zoning action:

Goal 4: To keep Fort Myers Beach a healthy and vibrant "small town," while capitalizing on the vitality and amenities available in a beach-resort environment and minimizing the damage that a hurricane could inflict.

Objective 4-A: Small-Town Character – Maintain the small-town character of Fort Myers Beach and the pedestrian-oriented “public realm” that allows people to move around without their cars even in the midst of peak-season congestion.

The three following policies have been identified as important aspects of both the small-town character, and as support for the rezoning request. Providing for a walkable, compact downtown area full of shops, restaurants, and other commercial uses could be furthered by this zoning request by providing additional commercial lands within walking proximity to the Times Square and Downtown core.

Policy 4-A-1: Maintaining the town’s current “human scale” is a fundamental redevelopment principle. Fort Myers Beach is best enjoyed from outside a car; new buildings should be designed to encourage use or admiration by people on foot or bicycle, rather than separating them with gates, walls, deep setbacks, or unnecessary building heights.

Policy 4-A-2: The Town of Fort Myers Beach values its vibrant economy and walkable commercial areas. Through this plan, the town will ensure that new commercial activities, when allowed, will contribute to the pedestrian-oriented public realm.

Policy 4-A-4: Easy walking access to the beach is a key element of the town’s human scale. Development trends that inhibit this access are undesirable (including traffic improvements to Estero Boulevard that would make it a barrier to the beach for pedestrians).

The requested rezoning from the Residential Conservation (RC) zoning district to the Downtown zoning district could further these policies by providing additional commercial space adjacent to the Times Square area and diagonally across Estero Boulevard from Lynn Hall Park. However, without a redevelopment plan it is difficult for Staff to review how the subject property would be providing a human scale development. The existing structures on the subject property, residential buildings built in the 50’s and 60’s, do not necessarily help to create that vibrant pedestrian realm as envisioned in these policies.

Objective 4-B: Future Land Use Categories – Reduce the potential for further overbuilding through a new Future Land Use Map that protects remaining natural and historic resources, preserves the small-town character of Fort Myers Beach, and protects residential neighborhoods against commercial intrusions.

Policy 4-B-6: “Pedestrian Commercial”: a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around the Villa Santini Plaza. Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet the design concepts of this plan and the Land Development Code. Where commercial uses are permitted, residential uses are encouraged in upper floors.... Non-residential uses (including motels and churches)

now comprise 58.9% of the land in this category, and this percentage shall not exceed 90%.

With the approved change in future land use from Mixed Residential to Pedestrian Commercial in 2010, Staff recognizes that most of the land use compatibility questions, i.e. commercial intrusion, were addressed and ultimately decided by Town Council at that time. *(See Exhibit C for LPA meeting minutes and resolution, Exhibit D Town Council meeting minutes and Exhibit E for Ordinance 10-02).*

The Pedestrian Commercial FLU is intended to be the primary commercial area in the Town. Rezoning of the subject property would further the policy intent of the Pedestrian Commercial FLU by allowing additional commercial development that could contribute to the pedestrian-oriented public realm of the Downtown Core and Times Square area. The applicant has provided an analysis of the mix of residential/non-residential land uses in the Pedestrian Commercial land use category, and found that the approval of the requested rezoning would result in a maximum of 60.1% non-residential acreage in the Pedestrian Commercial category, well below the maximum of 90%.

Objective 4-C: Applying the Future Land Use Map – The Future Land Use Map shall be interpreted in accordance with the following policies.

Policy 4-C-2: Commercial Intensity – The maximum intensity of allowable commercial development in any category may be controlled by height regulations (see Policy 4-C-4) or by other provisions of this plan and the Land Development Code. Standards in the Land Development Code will encourage more intense commercial uses only in the “Pedestrian Commercial” category. The Land Development Code shall specify maximum commercial intensities using the floor-area-ratios (the total floor area of the building divided by the area of the site in the category allowing commercial uses). The Land Development Code may allow floor-area-ratios in the “Pedestrian Commercial” category as high as 2.5, and in other categories as high as 1.5.

The Pedestrian Commercial category is intended to be the area for the most intense commercial development areas of the Town. Not only does this policy contribute to the pedestrian realm of a walkable downtown, it protects residential areas from commercial intrusion by providing a designated area for commercial activities to take place. Approval of the request would give the subject property both the most intense land use and the most intense zoning. Because this property is at the western edge of the Pedestrian Commercial, there is concern about the intensity of the future commercial development of the property. Since the applicant has proceeded with a conventional rezoning to DOWNTOWN, rather than a CPD with a strict schedule of uses and a MCP, where Town Council has an opportunity to approve the site layout and development pattern, the LDC will regulate any future commercial development. It should be noted that the relatively small size of the property (.33AC), along with road rights-of-way on the front and back of the property, will have the effect of limiting the intensity of any commercial

development that may take place on the property. However, as previously discussed the LDC does not provide a mechanism for adequate buffering between the subject property and the adjacent RC zoned parcels.

Policy 4-C-3 ii. Where new or expanded commercial uses are encouraged, as in the "Pedestrian Commercial" category, the Land Development Code shall specify its permitted form and extent and provide a streamlined approval process. Landowners may also use the planned development rezoning process to seek approval of other forms of commercial development in that category.

The applicant points out that the proposed rezoning to DOWNTOWN will allow for mixed-use development which this policy specifically encourages within the Pedestrian Commercial Future Land Use.

OBJECTIVE 7-I LEVEL-OF-SERVICE STANDARD —Maintain minimum acceptable levels of service for the transportation system.

POLICY 7-I-1 Traffic congestion is a serious problem at Fort Myers Beach, caused by a combination of high tourism demand for its beaches and past over-building relative to road capacity. Neither factor is within the control of the Town of Fort Myers Beach, although its residents must tolerate congestion every winter. This comprehensive plan seeks to manage congestion levels and encourage alternate means of mobility including walking, bicycling, and trolleys.

POLICY 7-I-2 The peak capacity of Estero Boulevard's congested segments is 1,300 vehicles per hour. The minimum acceptable level-of-service standard for Estero Boulevard shall be that average monthly traffic flows from 10:00 A.M. to 5:00 P.M. during each month do not exceed that level for more than four calendar months in any continuous twelve-month period. Measurements from the permanent count station at Donora Boulevard shall be used for this standard.

POLICY 7-I-3 Figure 18 of this element is hereby adopted as the future transportation map of the Town of Fort Myers Beach.

***POLICY 7-J-2 TRAFFIC IMPACT ANALYSES:** A thorough traffic impact analysis is currently required only for major rezonings and very large development orders. The town shall amend its Land Development Code during 2010 to:*

- i. decrease the thresholds for requiring traffic impact analyses;*
- ii. require them to study the cumulative impacts of potential development;*
- iii. use the results in assessing whether impacts are acceptable, and whether an improved design could offset some of the impacts.*

The applicant requested a waiver from the TIS requirement asserting that the subject property is in a 'park-once' location and that any commercial uses developed on the property would be supportive to the existing surrounding hotels/motels, etc and therefore would not be high traffic generators. Staff has approved this wavier.

While Staff agrees that a rezoning to DOWNTOWN is more consistent with Pedestrian Commercial FLU than a RC zoning, as previously discussed concerns remain about the ability to effectively review redevelopment plans, analyze traffic impacts and provide adequate buffering and protection to the neighboring RC parcels.

Findings and Conclusions:

Based upon an analysis of the application and the standards for approval of a conventional rezoning found in Section 34-85 of the LDC, Staff makes the following findings and conclusions:

1. *Whether there exists an error or ambiguity which must be corrected.*

Staff does not find that any errors or ambiguity exist surrounding the subject property and its zoning category that require correction.

2. *Whether there exist changed or changing conditions which make approval of the request appropriate.*

Staff feels changed conditions do exist, namely the change in future land use designation, that makes the consideration of the proposed request for rezoning appropriate.

3. *The impact of a proposed change on the intent of Chapter 34 of the Fort Myers Beach Land Development Code.*

Staff does not anticipate that the proposed rezoning from RC to DOWNTOWN will have any negative impact on the intent of Chapter 34.

4. *Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.*

As discussed in the analysis section of this report the request is generally consistent with the goals, objectives, policies, and intent as well the densities, intensities and general uses of Comprehensive Plan.

5. *Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.*

The applicant has not submitted a plan for redevelopment with this request for rezoning. They have indicated to Staff no intention to change current uses on the subject property, merely a desire to return to a commercial zoning similar to the zoning category the subject property

had prior to the Town's incorporation. With no plan to review, it is difficult to determine if the request meets or exceeds performance and locational standards.

6. *Whether urban services are, or will be, available and adequate to serve a proposed land use change.*

Urban services including water, sewer, and electric are available at the subject property. Lee County Utilities has indicated available sanitary sewer capacity however; Town Staff has notified the applicant that the existing stormwater system on Estero Boulevard is not designed to handle runoff from existing properties or increased density on existing properties. Any increased density or intensity at the subject property will necessitate a thorough stormwater management plan and review prior to any permit or use approvals.

7. *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*

As existing residentially developed lots located on interior parcels of land away from both the Matanzas Pass waterfront and the Gulf of Mexico beach, the subject property does not include any sensitive and/or environmentally critical lands. However, should these parcels be redeveloped into more intense uses as permitted within the DOWNTOWN zoning district any development would be required to meet all applicable environmental codes including but limited to Sea Turtle lighting requirement as found in LDC Section 14-79.

8. *Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.*

Due to the location of the subject property on the fringe of the established DOWNTOWN zoning district, it can be argued that the proposed rezoning is compatible with surrounding uses. However, across Lagoon Street and even directly adjacent to the subject property RC zoned parcels remain and, given the lack of buffering requirements in the DOWNTOWN district and the lack of any redevelopment plans accompanying this request, true compatibility is difficult to determine. Further, the DOWNTOWN zoning district is the Town's most permissive zoning district with a wide variety of allowable uses by right. Nevertheless, the Town does retain land and property development controls throughout the Pedestrian Commercial future land use, Section 34-671: DOWNTOWN zoning district regulations, Section 34-677: Commercial Design Standards, FEMA flood elevation and substantial improvement compliance, and other sections of the Land Development Code.

9. *Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.*

The applicant requested a waiver from the TIS requirement, stating that the subject property is in a 'park-once' location and that any commercial uses developed on the property would be supportive to the existing surrounding hotels/motels, etc. and therefore would not be high traffic generators. By approving this waiver Staff has agreed that the more appropriate time to address traffic issues is at the time of DO.

Staff does not anticipate the requested rezoning from RC to DOWNTOWN will generate any additional capacity need for the Lee County School District or the Town's Parks and Recreation Department.

III. RECOMMENDATION

Conventional rezoning requests do not allow for conditions of approval, therefore Staff can not recommend requirements above and beyond those set forth in the DOWNTOWN zoning district regulations. Staff remains concerned that without buffering between the subject property and the neighboring RC parcels, the rezoning could be considered commercial intrusion into a residential neighborhood. Further, with an approved TIS waiver, the applicant has, at a minimum, delayed the discussion surrounding the impact of the request on public services and facilities.

However, with the change in future land use from Mixed Residential to Pedestrian Commercial there currently exists an inconsistency between future land use and zoning that the request adequately addresses.

After consideration of the aforementioned analysis, including potential compatibility concerns with surrounding uses and potential inconsistency with the Comprehensive Plan, Staff recommends **APPROVAL** of the requested rezoning from Residential Conservation (RC) to DOWNTOWN.

IV. CONCLUSION

While rezoning the property from Residential Conservation (RC) to DOWNTOWN is consistent with the Pedestrian Commercial future land use category as contemplated in the Fort Myers Beach Comprehensive Plan, Staff remains concerned that without buffering between the subject property and the neighboring RC parcels, the rezoning could be considered commercial intrusion into a residential neighborhood.

If Town Council finds that the requested use is contrary to the public interest or the health, safety, comfort, convenience, and/or welfare of the citizens of the Town, or that the request is in conflict with the criteria of LDC Section 34-85 regarding Rezoning, Town Council should deny the request as provided in LDC Section 34-85(4).

Staff recommends **APPROVAL** of the requested rezoning.

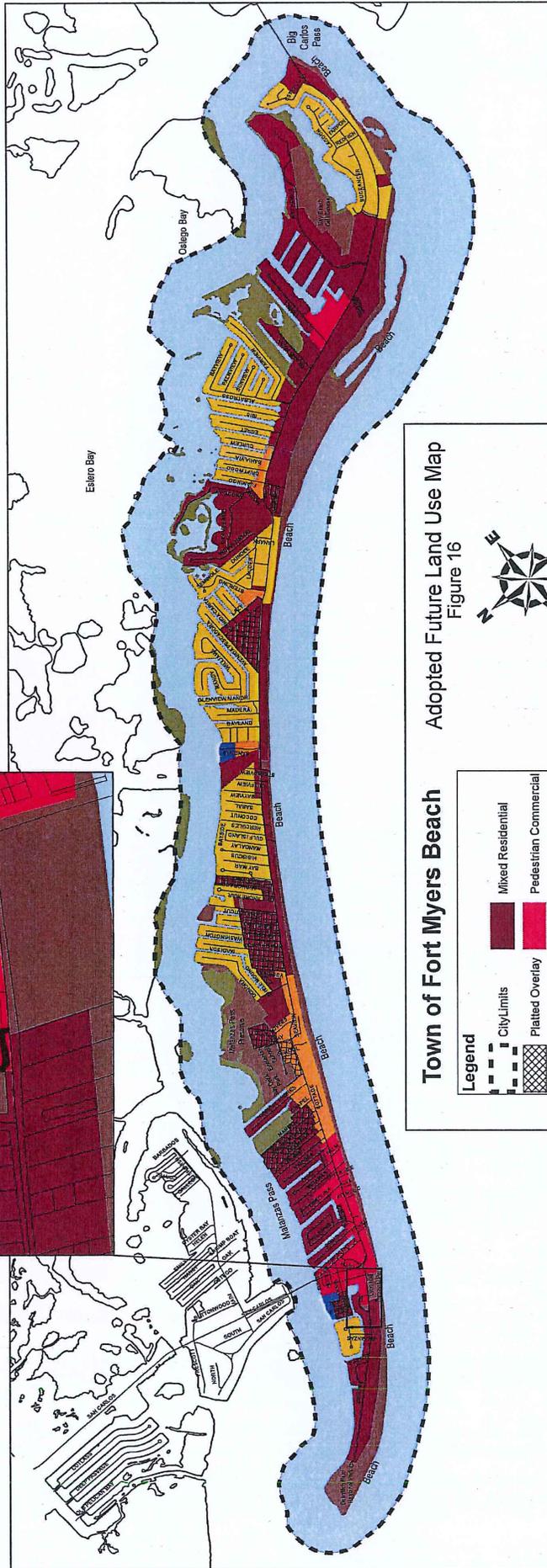
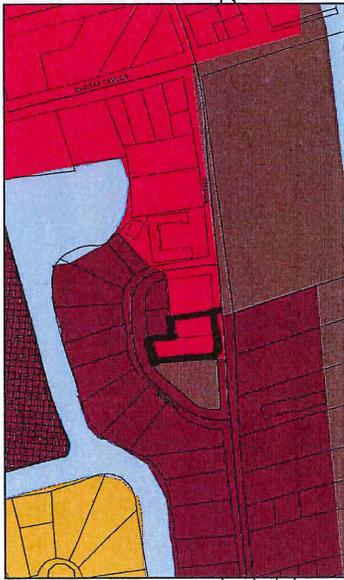
Exhibits:

- A - May 2010 revised Future Land Use Map of the Town of Fort Myers Beach
- B- Official Zoning Map of the Town of Fort Myers Beach
- C- Local Planning Agency meeting minutes and resolution from 3/23/10 meeting
- D - Town Council meeting minutes from 4/19/10 meeting
- E - Ordinance 10-02

Attachments:

- A - Application for Waiver of Traffic Impact Statement

(EXHIBIT A)



Adopted Future Land Use Map
Figure 16

Town of Fort Myers Beach

| Legend | |
|--------|-----------------------|
| | City Limits |
| | Platted Overlay |
| | Soulevard |
| | Low Density |
| | Marina |
| | Mixed Residential |
| | Pedestrian Commercial |
| | Recreation |
| | Tidal Water |
| | Wetlands |



January 1, 1999

As Amended Through May 20, 2010

Originally Prepared by Spilowick Planning Associates
and Lee County Property Appraiser's Office
Updated by the Town of Fort Myers Beach
Community Development Department

(EXHIBIT C)

**MINUTES
FORT MYERS BEACH
Local Planning Agency**

Town Hall – Council Chambers
2523 Estero Boulevard
Fort Myers Beach, FL 33931

Tuesday, March 23, 2010

I. CALL TO ORDER

Meeting was called to order at 9:03AM by Chairperson Joanne Shamp. Other members present:

Carleton Ryffel
Chuck Moorefield
Rochelle Kay
John Kakatsch
Bill Van Duzer-excused

Staff present: Dr. Frank Shockey
LPA Attorney, Anne Dalton

II. PLEDGE OF ALLEGIANCE and INVOCATION
Rochelle Kay

III. MINUTES
A. Minutes of February 9, 2010

Motion: Mr. Ryffel moved to accept the minutes, as presented.
Seconded by Ms. Kay;
Vote: Motion passed 5-0

IV. PUBLIC HEARINGS

- A. SEZ2010-0001 FMB “Hooters” COP upgrade/Resolution 2010-01
Ms. Shamp opened the hearing and Ms. Dalton swore in witnesses. Chair asked for the Affidavit of Publication. Dr. Shockey presented same from the News-Press to verify that the notice was published in that periodical on March 13, 2010 and the affidavit is also on the Town website with this meeting’s materials.

Ms. Shamp polled members for ex-parte communications. Ms. Shamp had a site visit; Mr. Ryffel stated that he did the original zoning many years ago, but has no ongoing financial relationship with the applicant.

Paul Lynch, Hooters and Mauhi Enterprises, addressed the LPA for the applicant. He advised that the request is to increase the restaurant's beer and wine license from a 2 COP to a 4 COP, to allow full liquor service on the premises. In addition, this would include full liquor service outdoors, as it is currently with beer and wine service.

Mr. Kakatsch asked if the applicant would consider blocking the front walkways of the property so that patrons would not be able to leave the porch and directly enter onto Estero Blvd. The applicant answered that he thought this would create a fire code violation and added that his staff monitors patrons so that they do not take alcohol from the premises onto the street.

Dr. Shockey then presented for the staff and gave a brief overview of the request for the special exception. He advised that the conditions under the present COP also prohibited music and other outdoor entertainment. He pointed out that the applicant has indicated the hours of operation they would like for service and consumption of alcoholic beverages, but that restricting the hours to hours less than those provided by Town ordinance would need to be for the health, safety, and welfare of the community. He asked that the LPA accept the report as staff's testimony.

Mr. Ryffel asked Dr. Shockey for clarification of the staff's recommendation referenced in pg. 4 of the report. Dr. Shockey stated that the LPA needs to make a finding here whether it is necessary to protect the public health, safety and welfare to have more restrictive hours than 7:00 AM to 2:00 AM.

Mr. Kakatsch said he would like to see the hours be from 11:00 AM in the morning and the evening hours as indicated by the applicant. Dr. Shockey said that there are several residences close by the restaurant, on the beach, which may be impacted by later hours and this may be a reason why more restrictive hours would be better for their welfare. Mr. Kakatsch asked if staff had considered the option he brought up earlier about the stairs. Staff had not considered requiring the applicant to change the configuration in that way, but if the LPA felt it necessary, they could make that recommendation to the Council for consideration.

Mr. Lynch again addressed the LPA to say that one of the sets of stairs referred to by Mr. Kakatsch serves other tenants in the building and feels that changing that configuration would impact them as well.

PUBLIC COMMENT:

Ms. Shamp called for public comment. No members of the public addressed the meeting. Public comment was closed.

LPA DISCUSSION:

Mr. Kakatsch expressed his concern for the hours of operation and the possibility of the patrons walking down the stairs to the street, not being properly monitored by personnel, after consuming "liquor, which is more potent than beer and wine," at 2:00 AM and "what could happen" in such circumstances.

Ms. Kay said that she is pleased with the applicant's offer to operate between 11:00 AM and midnight.

Mr. Moorefield opined that changing the stairs doesn't really seem like it will make much of a difference.

Ms. Shamp agrees that changing the stairway will not make much difference, but feels that the more restrictive hours, as the applicant suggested, would be beneficial to the welfare of the neighborhood. There was a consensus that the hours be restricted to the hours indicated by the applicant.

Motion: Mr. Ryffel moved to approve Resolution 2010-01, as follows:

Pg. 1, approved; pg. 2, #1: "changing conditions exist..."; #2: "special exception is consistent..."

#3: "requested special exception as conditioned meets or exceeds..."

Pg. 3, #4: "requested special exception as conditioned will protect..."

#5: "requested special exception as conditioned will be compatible...and will not cause..." #6: "requested special exception as conditioned will be in compliance.." Sales, service and consumption of alcoholic beverages must not begin earlier than 11:00 AM and must end no later than midnight M-TH; must begin no earlier than 11:00 AM and end no later than 1:00 AM on Friday and Saturday and must begin no earlier than 12:00 noon and end no later than 10:00 PM on Sunday.

Seconded by Ms. Kay;

Vote: Motion passed 4-1, with Mr. Kakatsch opposed.

Mr. Kakatsch commented that he opposed the motion because he felt the stairway configuration deserved some further consideration.

Hearing closed at 9:32 AM.

At this point the Chair recognized the newest member of the LPA, Mr. John Kakatsch, who gave a brief biography to the members.

B. CPA2010-0001 Paine/Purtell Comp Plan Amendment Resolution 2010-02

Chair asked for the Affidavit of Publication. Dr. Shockey presented same from the News-Press to verify that the notice was published in that periodical on March 13, 2010 and the affidavit is also on the Town website.

Ms. Dalton read the ordinance caption into the record: "*Ordinance #10-xx-an ordinance of the Town of Fort Myers Beach providing for a small scale amendment to the Comp Plan of the Town of Fort Myers Beach to reclassify certain property from Mixed Residential category to the Pedestrian Commercial category on the future land use map, providing authority, providing for conflicts, severability and establishing an*

effective date.”

Ms. Shamp called for ex-parte communication disclosure. Mr. Ryffel had a brief discussion with Mike Roeder. Mr. Moorefield-no contact. Ms. Shamp had a site visit. Ms. Kay-no contact. Mr. Kakatsch had a site visit. Ms. Shamp reminded the members that there are 2 steps in this process to keep in mind for discussion: first, whether the request meets the statutory requirements to be considered a “small scale” amendment. Secondly, if it is indeed a “small scale” amendment does it then meet the requirements for approval by this town?

Dr. Shockey presented a brief overview of the ordinance for the members. He said the 2 pieces of property involved are described at the end of the staff report as Exhibits A and B (see report). These are 2 lots in a subdivision and he referred to a section of the Future Land Use Map given to the members. He said that, should the ordinance be adopted, it would change the future land use map categories applied to these two properties, as mentioned in the ordinance caption.

Ms. Shamp invited the applicant to present. Mr. Mike Roeder addressed the LPA and said he represents James Purtell and Fred Paine (both present), owners of the property. The property is 831 and 821 Estero Blvd., next to 7-11 on one side and a lot zoned for a public parking lot. He said that the currently requested change would not change the zoning in any way.

Mr. Roeder referred to Ms. Shamp’s comment about this meeting statutory requirement for small scale amendments. He quoted section 163.3187C, which requires the property to be less than 10 acres, and this lot is .33 acres. He cited other points of the section and said that they don’t apply. He said that the most important point here is the “spirit of the Comp Plan” and pointed out that this cannot be consistent with the Comp Plan since this would *amend* the Comp Plan.

Mr. Roeder gave a brief background of this item and said that this property had been zoned commercial originally. He said that the staff report indicated that the first Comp Plan was in 1986 but, he said, it was actually in 1979. He continued that the first Land Use map was adopted by the county in 1984 and it showed this property as “urban community,” which would allow many uses. In 1991, the county amended the Comp Plan to insert 18.2.1, which basically mandated that there would need to be rezoning of the CPD to be able to do any new commercial development. Mr. Roeder went on to point out that the staff report does not reflect that in 1992, this policy was revised, and he read the revision into the record,

“within the urban community land use category, the following restrictions to commercial development shall apply: commercial development shall not expand or intrude into residential neighborhoods. All commercial rezoning shall be required to rezone to the commercial planned zoning category; residential density shall be limited to existing base densities provided by the Future Land Use element.” He emphasized that final paragraph indicated that a specific redevelopment plan was to have been formulated and that, *“until that zoning plan*

is adopted property which has existing commercial zoning can be developed or redeveloped consistent with that zoning and the Lee Plan. This policy will be revisited in the 1993-94 plan amendment cycle.”

Mr. Roeder added that there were no other significant changes/additions since then except to renumber the policy. He said that when the applicant purchased the property, it was zoned C1 and it allowed him to use the commercial zoning. In December of that same year, the Town did amend Chapter 34, ordinance 97-21, which provided that any new commercial development required rezoning to CDP. Still, he insisted, the applicant was allowed to use the property as it was zoned as C1 when they acquired the property earlier that year. Another point was in Jan. of 1999, when the Town developed its first land use Comp Plan, the designation was changed from “urban community” to “mixed residential,” which he said narrowed the usage opportunities. Mr. Roeder continued, saying that in 2003 the Town adopted the revised zoning map, which changed the zoning of the property to RC, Residential Conservation. The property owners affected by the change asked for relief and Council asked staff to check into possible remedies to the situation. At the time, staff suggested that a way to solve the problem is by way of this “small scale amendment” process.

Mr. Roeder stated that the new zoning code was adopted in March 2003, the revised Comp Plan amendment was submitted in August 2003, but the case was not heard until June 2004; by then, he noted, there was a new council and the request was denied by 2-2 vote with one abstention. The request was different then the present request in that it was for all of the property fronting on Estero and Lagoon St. to be changed to commercial. Today, the applicant is only asking for the change for the 2 lots that front on Estero Blvd.

Mr. Ryffel had no questions. Mr. Moorefield had no questions.

Mr. Kakatsch said he looked at the property and asked if the buildings on the lots are occupied. Mr. Roeder explained that they are used primarily for rental purposes.

Ms. Kay asked if Mr. Roeder had knowledge of the plans for the property. He admitted that the applicant has no specific plan in mind at this time but that it would likely be for some type of mixed use, possibly small scale commercial with apartments or similar use. This could be dealt with in detail, he said, during future consideration of possible rezoning.

Ms. Shamp asked for clarification as to the actual lots and the proper addresses and asked if the applicant had considered splitting the Paine property so that a commercial impact would not occur in the rear near residential uses on Lagoon Street.

Mr. Kakatsch asked if the applicant is looking to develop the 2 properties as one and Mr. Roeder said they were not sure—that might be the best way, or it might not.

Dr. Shockey presented for the staff and again briefly summarized the reason for the request. He said that pages 1 and 2 of the staff report contain a few of the pertinent policies of the Comp Plan related to the request. These topics are appropriate locations of commercial area and uses and restrictions on intensifying commercial uses in residential neighborhoods. Dr. Shockey explained that the terminology "small scale amendment" is in state law and is not related to any Town policy to distinguish these from other amendments. Most importantly, to qualify as a small-scale amendment, the amendment must only be for parcels of 10 acres or less and it can be only an amendment to the Future Land Use map category that applies to a property. He said that, basically, it appears that the applicant's request does meet all of these criteria to be a small scale amendment and that is the recommendation of the staff.

Dr. Shockey briefly discussed the history of the property and said that it is not the most relevant aspect of what is going on here today, regardless of whether the county's temporizing with its comp plan policies was effective planning or not. He feels that the most interesting part of the staff report is the section that discusses the appropriateness of the amendment based on its merits. The mixed residential category addresses older subdivision with mixed housing types on smaller lots, newer high rise buildings and RV parks, and is designed to ensure that FMB retains a variety of neighborhood and housing types and limits commercial activities to lower impact uses such as offices, motels, churches, etc. that must be sensitive to nearby residential uses and complement any adjoining commercial uses, etc. The Pedestrian Commercial category is a primarily commercial district that applies to the intense activity centers of Times Square and the area around Villa Santini Plaza, etc. Dr. Shockey said that the main point in the Comp Plan that may have been a problem in the past is the policy that restricts the intrusion of commercial activities into residential neighborhoods. He said what needs to be determined is whether this is strictly a residential area: although there are residential uses here, there are also commercial uses and mixed uses.

Dr. Shockey went on to discuss other parts of the Comp Plan policies that apply here, such as the one that talks about in order to intensify commercial or residential density, the change must be shown to be clearly in a public interest and not just a private interest of the petitioning land owner. Another point important to bring out, in Dr. Shockey's opinion, is that the types of buildings that may be built here are constrained by coastal issues. He gave a few examples and added that this is also a flood zone, which would prevent any type of enclosure on the ground floor of new buildings being used for anything but parking or storage. He then asked that the staff report be submitted as staff testimony, and he acknowledged Mr. Roeder's copy of the additional changes to the County's comprehensive plan should be included in the material, for the record.

Mr. Kakatsch had no questions.

Ms. Kay asked if the existing buildings could be modified rather than rebuilt. Dr. Shockey agreed that this is a possibility if there is minor remodeling for a cost of under 50% of the value of the building. These buildings could remain as long as they

are not “substantially improved,” in which case they would have to be elevated or replaced with buildings that would be elevated. Dr. Shockey said that if the amendment is approved, the zoning would remain RC, which allows for single family homes, 2 family homes within certain restrictions, and little else, unless or until the property were rezoned.

Mr. Ryffel and Mr. Moorefield had no questions.

Ms. Shamp asked if there was sufficient notice to the surrounding affected properties. Dr. Shockey replied that the notice appeared in the newspapers 10 days in advance, he put a sign in front of the property a week ago, and paper notices were mailed to neighbors (only 1 was returned so far as “undeliverable”). Ms. Shamp asked if there are any other 7-11 stores that operate in mixed residential zones. Dr. Shockey said that there are some businesses in areas that are in the mixed residential category but most were established and in place before the Town developed its Comp Plan.

Ms. Shamp opened public comment. There was no public comment.

Ms. Shamp invited the applicant to comment. Mr. Roeder again addressed the meeting. He echoed Dr. Shockey’s comments that the Comp Plan is the main focus here, especially dealing with commercial intrusion. He reiterated that this property is not suited in its location for traditional residential use and feels the amendment is in the best interests of the public. Ms. Kay asked what is behind 831 Estero. Mr. Raider said there is a single family home behind the 7-11 and another residential building behind Mr. Purtell’s lot.

With no further questions, LPA discussion ensued. Mr. Kakatsch said he has looked at the property and has no concerns with this change as he doesn’t believe it is a residential area at all. Ms. Kay agreed.

Ms. Shamp disagreed, and commented that at some point commercial intrusion needs to end. She said that the area is mostly residential and that peace and quiet should be protected, as was the basis for the Town creating its Comp Plan when the county was not protecting the residents against this intrusion. She does agree that this probably applies as a small scale amendment but also feels that changing the category is more in the private interest than in the public interest.

Mr. Ryffel said that, looking at the plans it does appear to him that this property is the “end” of the pedestrian area. He does not agree that this is a commercial intrusion in any way and sees the whole loop of Lagoon St. as connected to the nearby pedestrian commercial area; he hopes the other neighbors will come forward with that in the future. He believes this to be in the public interest to change this because he sees it as a logical land use. He pointed out that this step will allow the applicants to begin the zoning process through which residents and members will be able to do something “that makes sense” here.

Ms. Shamp divided the discussion into 2 steps for clarity. The first step will be deciding if the request meets the regulatory requirements to be considered a “small scale amendment.” Resolution 2010-02, Proposed Findings of Fact and Conclusion of Law, #1 A through H will be discussed here.

After looking these over, there was a consensus that this does fit the criteria for small scale amendment.

The second discussion involves whether this change is in the best interest of the health, safety and welfare of the Town's residents and property owners. There was discussion about the legal terms "in best interest of the health, safety and welfare of the Town's residents and property owners."

Motion: Mr. Ryffel moved to approve Resolution 2010-02, as follows:

Pg. 1 "be it resolved that the LPA recommends approval..."

Proposed Finding of Fact and Conclusions of Law: #1: "the proposed amendment does qualify as a small scale amendment..."

A: "does involve 10 acres or less...will not exceed 120 acres..."

C: "the proposed FLUM amendment does not involve the same property granted a change in the prior 12..."

D: "the proposed amendment does not involve the same owner's property within 200 ft..."

E: "the proposed amendment does not involve a text change to the goals, policies and objectives...and does only propose a land use change for the Future Land Use map..."

F: "the property is not located within an area of critical state concern..."

G: "if the proposed amendment involves a residential use, the residential use does have a density of 10 units or less per acre or the proposed Future Land Use category does allow a maximum residential use of the same or less..."

H: "the proposed amendment does not involve a site that is designated by the governor..."

#2: "it is in the best interest of the health, safety and welfare...and such change is necessary to provide for orderly growth..."

2A: "the proposed amendment will likely have no impact on affected traffic utilities..."

B: "will likely have a positive impact due to possible additional uses likely to contribute to walkability and the pedestrian oriented public realm..."

C: "will have a positive impact allowing future rezoning to consider a mix of uses that would complement the current mix of residential, commercial and civic uses in the immediate vicinity..."

Seconded by Ms. Kay.

Discussion: Ms. Shamp agrees it is a small scale amendment but does not feel it is in the best interest of the Town.

Vote: Motion passed 4-1 with Ms. Shamp opposed (Mr. Van Duzer was absent with excuse).

Hearing closed at 10:48 AM.

Short recess.

Reconvene at 11:04 AM

V. ADJOURN AS LPA/RECONVENE AS HPB

Motion: Mr. Kakatsch moved to adjourn as LPA and reconvene as the HPB.

Seconded by Ms. Kay;

Vote: Motion passed 5-0.

Ms. Kay called the meeting to order at 11:05 AM and handed out a packet of information regarding the HAC meeting she attended. The Historic Plaques and the Vistas projects were discussed and Doug Speirn-Smith had additional photos of the Colorado project Ms. Kay had presented some time ago. She referred to the information in the packets which showed samples of the signs. Doug Speirn-Smith explained that he is from Colorado thus he knew the samples that Ms. Kay had talked about so he helped her get the information. Ms. Shamp said she is very excited about this program and thanked him for helping. She asked if any of the new LPA members would have an interest in being part of the HAC. Mr. Kakatsch is interested and Ms. Kay will get him information and keep him informed. She gave a few details about what the HAC is and does. Discussion ensued about the signs and the price, as well as the source of the funding.

Motion: Ms. Shamp moved to adjourn as the HPB and reconvene as the LPA.

Seconded by Mr. Ryffel.

Vote: Motion passed 5-0.

VI. ADJOURN AS HPB/RECONVENE AS LPA

Ms. Shamp called the meeting to order at 11:22 AM with all members still present except Mr. Van Duzer, who is excused.

VII. LPA MEMBER ITEMS AND REPORTS

Mr. Ryffel had nothing to report.
Mr. Moorefield had nothing to report.
Ms. Kay had nothing to report.
Mr. Kakatsch had nothing to report.
Ms. Shamp had nothing to report.

VIII. LPA ATTORNEY ITEMS

Ms. Dalton had nothing to report.

IX. COMMUNITY DEVELOPMENT DIRECTOR ITEMS

Dr. Shockey had nothing to report.

X. LPA ACTION ITEM LIST REVIEW

- LPA Resolution 2009-22 Animal Control-Ms. Kay reported this has moved through and the ordinance has been adopted.
- Gulf View-Dr. Shockey reported that the Council did adopt a vacation ordinance; this is being prepared for Council TBD after vacation hearing

- LPA Membership-Ms. Shamp; 2nd hearing on April 5th
- COP expansion on the beach-moved to another agenda-TBD (Council may have a joint meeting with the LPA on May 5th to discuss)
- Refuse containers-Dr. Shockey reported that this is on the agenda for April 5th; Ms. Kay
- Resolution 2010-0001 (Hooters)-TBD
- Resolution 2010-0002-Introduction April 5; Ms. Kay

Continued Hearings

- Shipwreck – October 12

Future Work Activites

- ROW-Residential Connections; TBD
- Storm water; TBD
- Seasonal Parking-April 13; Dr. Shockey
- HPB budget request to Council; May 11-Ms. Kay
- Resolution for HPB Budget-June
- CIP Review-June 8 meeting
- Ms. Shamp has excused absence for June 8th; Mr. Kakatsch requested an excused absence for June as well

The members extended well wishes to Mr. Bill Van Duzer and welcomed the new members, thanking them for their service.

XI. ADJOURNMENT

Motion: Mr. Ryffel moved to adjourn.

Seconded by Mr. Kakatsch;

Vote: Motion passed 5-0.

Meeting adjourned at 11:48 AM.

Next meeting April 13, 2010 at 9:00 AM.

Adopted _____ with/without changes. Motion by _____
(DATE)

Vote: _____

- End of document

RESOLUTION OF THE LOCAL PLANNING AGENCY OF THE
TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2010-03
SMALL-SCALE AMENDMENT TO
TOWN COMPREHENSIVE PLAN FUTURE LAND USE MAP

WHEREAS, the existence of the Local Planning Agency (LPA) is mandated by Florida Statutes Section 163.3174; and

WHEREAS, the Local Planning Agency (LPA) is statutorily responsible under Chapter 163, Florida Statutes, and the Town of Fort Myers Land Development Code (LDC) Section 34-120 for the review of proposed land development regulations, land development codes, or amendments thereto, and for making recommendations to the Town Council with regard thereto and performing such other reviews as are requested by the Town Council; and

WHEREAS, following proper notice and as required under Florida Statute and the LDC, the LPA conducted a public hearing on March 23, 2010 to consider a proposed Town Ordinance, which is attached hereto as Exhibit A and is hereby incorporated by reference; and

WHEREAS, the aforesaid Ordinance, if passed, would amend the Town Comprehensive Plan Future Land Use Map (FLUM) to reclassify the subject area, approximately 0.33 acres, from the "Mixed Residential" FLUM category to the "Pedestrian Commercial" FLUM, as is more fully set forth in the draft Ordinance; and

NOW THEREFORE BE IT RESOLVED, that the LPA **recommends** that Town Council approve and adopt the proposed Town Ordinance to amend the Comprehensive Plan Future Land Use Map (FLUM) so as to reclassify the subject area, approximately 0.33 acres, from the "Mixed Residential" FLUM category to the "Pedestrian Commercial" FLUM, and **recommends** the following findings of fact and conclusions with regard thereto:

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW:

1. The proposed amendment to the Town Comprehensive Plan **DOES** qualify as a small scale amendment pursuant to the requirements of Section 163.3187, Florida Statutes, for the following reasons:

a. the proposed amendment **DOES** involve a use of 10 acres or fewer;
and

b. the cumulative annual effect of the acreage for all small scale developments adopted by the Town of Fort Myers Beach **WILL NOT** exceed a maximum of 120 acres as provided in F.S. 163.3187(1)(c)(1)(a)(I); and

c. the proposed FLUM amendment **DOES NOT** involve the same property granted a change within the prior 12 months; and

d. the proposed amendment **DOES NOT** involve the same owner's property within 200 feet of property granted a change within the prior 12 months; and

e. The proposed amendment **DOES NOT** involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, and **DOES** only propose a land use change to the future land use map for a site-specific small scale development activity; and

f. The property that is the subject of the proposed amendment **IS NOT** located within an area of critical state concern; and

g. If the proposed amendment involves a residential land use, the residential land use **DOES HAVE** a density of 10 units or less per acre or the proposed future land use category **DOES** allow a maximum residential density of the same or less than the maximum residential density allowable under the existing future land use category.

h. The proposed small scale amendment **DOES NOT** involve a site which is designated by the Governor as a rural area of critical economic concern.

2. It **IS** in the best interest of the health, safety and welfare of the Town's residents and property owners for the Town Council to make this change to the FLUM and such change **IS** necessary to provide for orderly future growth of the community, for the following reasons:

a. The proposed amendment will likely have **NO IMPACT** on affected traffic, utilities, other services, and future capital expenditures; and

b. the proposed amendment will likely have a **POSITIVE IMPACT** of possible additional uses which would likely contribute to the walkability of that area and the pedestrian-oriented public realm; and

c. the proposed amendment will likely have a **POSITIVE IMPACT** of allowing future rezoning(s) to consider a mix of uses that would complement the current mix of residential, commercial and civic uses in the immediate vicinity.

3. It is further recommended that, in accordance with the requirements of Section 163.3187, Florida Statutes, if this proposed change to the FLUM is made by the Town Council, that the Town Council direct the Town staff to send copies of the notice of hearings and ordinance containing the amendment to the Town Future Land Use Map to the state land planning agency, the regional planning council, and any other person or entity requesting a copy. This information shall also include a statement identifying any

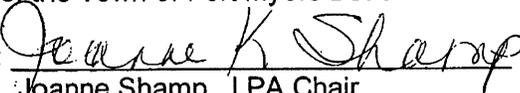
property subject to the amendment that is located within a coastal high-hazard area as identified in the local comprehensive plan.

The foregoing Resolution was adopted by the LPA upon a motion by **LPA Member Ryffel** and seconded by **LPA Member Kay** and upon being put to a vote, the result was as follows:

| | | |
|-------------------------------|--|--------------------------|
| Joanne Shamp, Chair <u>ay</u> | Bill Van Duzer, Vice Chair <u>absent</u> | Rochelle Kay <u>aye</u> |
| Chuck Moorefield <u>aye</u> | Carleton Ryffel <u>aye</u> | John Kakatsch <u>aye</u> |

DULY PASSED AND ADOPTED THIS 23rd day of March, 2010.

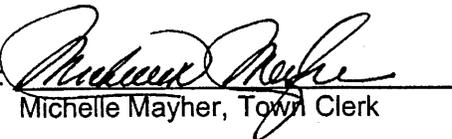
LPA of the Town of Fort Myers Beach

By: 
Joanne Shamp, LPA Chair

Approved as to legal sufficiency:

ATTEST:

By: 
Anne Dalton, Esquire
LPA Attorney

By: 
Michelle Mayher, Town Clerk

(EXHIBIT D)



MINUTES

**FORT MYERS BEACH TOWN COUNCIL
TOWN HALL – COUNCIL CHAMBERS
2523 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA 33931**

April 19, 2010

6:30 PM

I. CALL TO ORDER

Mayor Kiker called the meeting to order at 6:32 p.m. Present with Mayor Kiker was Vice Mayor Raymond, Council members Babcock, List and Mandel along with Town Manager Stewart, Town Attorney Dalton and Town Clerk Michelle Mayher.

II. INVOCATION

Invocation was led by Councilmember List.

III. PLEDGE OF ALLEGIANCE

All stood for the Pledge of Allegiance.

IV. YOUTH COUNCIL

Youth Council was represented by Jackson Owen and Caleb Kane. The two students reviewed happenings at the school including time with Joann Semmer learning about Ostego Bay, cooking with the sun, Mound House visits, beach clean up for Earth Day, landscaping and tree planting on school grounds as well as working with the Pilot Club in the butterfly garden.

V. PROCLAMATIONS:

A. Water Conservation Month

Town Clerk Michelle Mayher read the proclamation with Mayor Kiker presenting the proclamation to Public Works Director Cathie Lewis.

VI. PUBLIC COMMENT
Public Comment Opened
No Public Comment
Public Comment Closed

VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Councilmember List recognized the Civic Association for the 50's Dance held to benefit Bay Oaks.

Councilmember Babcock echoed Councilmember List's thanks to the Civic Association and noted the Island's recognition of their rain barrels at the Southwest Florida Regional Planning Meeting.

VIII. ADVISORY COMMITTEES ITEMS AND REPORTS

A. Bay Oaks Advisory Committee Sign and Banner Request

Representatives from the Bay Oaks Advisory Committee, Tom Mizwa and Nicole Olsen, provided a power point presentation with a sign and banner request for consideration by Council.

There was consensus within the Council for the Committee to move forward by obtaining estimates for the signs and banners, checking with Community Development for any restrictions and returning before Council with the acquired information.

IX. MINUTES ADOPTION:

A. Approval of Minutes: March 15, 2010

B. Approval of Minutes: March 24, 2010 Work Session

MOTION: Councilmember Babcock moved for approval of minutes with a second by Councilmember List.

VOTE: Motion passed 5 to 0

X. CONSENT AGENDA:

A. Pension Plan Amendment

Councilmember Mandel questioned the need for information as noted on the first page of the VALIC paperwork, wanting to make sure everything was ok with the plan.

Town Manager Stewart indicated he had looked it over, stating the changes were necessary to meet Federal law, particularly addressing the Final 415 Regulations Amendment, stating he would have all necessary information sent by the 30th of April with Council's approval.

MOTION: Vice Mayor Raymond made a motion to update and authorize

necessary changes to the Town's pension plan with a second by Councilmember List.

VOTE: Motion passed 5 to 0

XI. PUBLIC HEARINGS:

A. Ordinance 10-02, Small Scale Comp Plan Amendments

Mayor Kiker opened the Hearing for Ordinance 10-02 at 6:55 p.m.

Attorney Dalton read the Ordinance: **“ORDINANCE #10-02 AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH PROVIDING FOR A SMALL SCALE AMENDMENT TO THE COMP PLAN OF THE TOWN OF FORT MYERS BEACH TO RECLASSIFY CERTAIN PROPERTY FROM MIXED RESIDENTIAL CATEGORY TO THE PEDESTRIAN COMMERCIAL CATEGORY ON THE FUTURE LAND USE MAP, PROVIDING FOR CONFLICTS, SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.”**

Dr. Shockey on behalf of staff indicated what was before Council was a privately initiated request for a small scale Comprehensive Plan Amendment to the future land use map and the Town's Comprehensive Plan. The properties in question being 821 and 831 Estero Boulevard were requested to be changed from the Mixed Residential to the Pedestrian Commercial Category by the owners. Mr. Shockey indicated the term 'small scale' came from State law not a Town policy to divide different types of amendments up as to whether they are small scale or not. The point for this purpose was to be able to adopt a small scale amendment and submit it to the State when wished during the course of a year rather than together with other amendments that might be considered during the year.

Dr. Shockey noted for an amendment to be a small scale amendment there had to be a number of criteria met with the most important being that the amendment itself must involve a land area of less than 10 acres, this partial was approximately one third acre. Other criteria did not apply to this property per Dr. Shockey.

Dr. Shockey discussed the Mixed Residential category which the property was now and gave an overview and examples of Pedestrian Commercial which was the requested change. Dr. Shockey indicated there were two buildings on the property now that were built before flood regulations went into affect, noting the lowest levels were not elevated to the height which would be required now stating the reuse of the buildings would be limited as to the extent of remodeling that could be done without elevation and any new construction would be required by flood regulations today. Both properties were in Flood Zone VE, indicating anything below approximately 8 or 10 feet would need to be open to allow water to pass through during a flood, or enclosed with break away walls making

it usable for only parking, building access or storage.

Dr. Shockey stated an important policy to consider in the Comp Plan that directly addressed the issue was policy 4C10 which addressed changes to the Comprehensive Plan that would allow changes to the intensity or density. The matter of intensity could be greater in the Pedestrian Commercial category with policy 4C10 stating the proposed changes must be shown to be clearly in the public interest not just the private interest of the petitioning land owner. Mr. Shockey indicated that in accordance with the surrounding properties and their varied uses staff felt approving the amendment would be in the public interest.

Mike Roeder representing the two properties addressed Council regarding the change requested from Mixed Residential to Pedestrian Commercial, noting it was felt it was more in keeping with the use of the area in question. Mr. Roeder indicated the LPA had reviewed the amendment stating they too felt it was in the Town's best interest to adopt the change. Mr. Roeder also discussed the request for refund of application fees due to prior changes in the area, with prior Councils indicating no fee would be charged for a change in the properties' designation.

Rochelle Kay from the LPA reviewed the two part request, one being does the property meet the criteria for small scale amendment and second was the change in the best interest of the health and safety of the Town. Miss Kay indicated there was a consensus for small scale amendment with the majority feeling there would be a positive impact due to additional uses, likely to contribute to walk ability and positive pedestrian impact.

Public Comment Opened
No Public Comment
Public Comment Closed

Attorney Dalton reviewed the procedure for Council.

Councilmember Babcock asked the applicant when the property located at 821 Estero was purchased with the reply from Mr. Roeder being April 2, 2001 and 831 Estero purchased November 3, 1997. Councilmember Babcock then noted the Comp Plan was approved January 1, 1999 but the Future Land Use Map wasn't approved until February 2003 asking for confirmation from staff if those were the correct dates.

Dr. Shockey indicated the Comp Plan and Future Land Use Map both took effect the same time, January 1, 1999 but there was a time when the Town developed its own zoning code to address the future land use categories it had created so in 2003 all land in the Town was rezoned to new categories that matched up with the Future Land Use Map.

Councilmember Babcock asked if that was the same Land Use that existed today with Dr. Shockey stating there had been some changes due to all the rezoning that had taken place. Councilmember Babcock then reviewed Mr. Roeder's previous statement that the applicant had applied in 2003, with a hearing in 2004 and was rejected at the time. Councilmember Babcock inquired as to why the applicant waited so long in coming forward with the request again. Mr. Roeder indicated that previously additional properties to the rear of the Estero Boulevard properties had been included in the request and after the denial the owners were shocked with the decision as well as financially affected, so in the present request made the decision to concentrate on only the two properties fronting on Estero Boulevard. Councilmember Babcock noted that staff did not reference Ordinance 97-21 asking Dr. Shockey to explain what that covered. Dr. Shockey felt Councilmember Babcock was referencing the ordinance that amended the transitional Town Land Development Code which was the Lee County Code with certain amendments adopted by the Town Council over the years between incorporation and the Town's own complete replacement chapters. Mr. Shockey said it specified in the C1 zoning district new or expanded Commercial uses would have to pass through the land development process before acquiring a development order for development which was adding specificity to the zoning for the C1 district on Estero Island to clarify that the earlier policy from 1991 which was amended in 1992 was suppose to apply and prevent new commercial uses to be developed without passing through the planned development zoning process. Councilmember Babcock indicated that would apply to one property but not the other since one was purchased after the ordinance was put in place.

Councilmember Babcock continued by asking staff how this change would be in the public interest. Dr. Shockey indicated he did not feel the history of the properties played a major part in the public interest question in the view expressed by the applicant about the County's Comp Plan amendment in 1992. Mr. Shockey stated regardless of that issue the policies cited in the staff report regarding maintaining the small Town character of Fort Myers Beach in the pedestrian oriented public realm that allowed people to move around without their cars, providing shopping and services for residents and overnight guests that are to be preferred over shopping and services to additional day visitors, the neighborhood context of proposed commercial uses should be considered. Dr. Shockey stated this area consisted of residential, commercial and civic uses.

Councilmember Babcock asked what had changed from 2004 when staff's recommendation was to deny the request and now when staff's recommendation was to approve the request. Dr. Shockey indicated it was fair to say that a major issue was the additional properties had been removed from the request as well as the parcel now designated as parking. Councilmember Babcock asked Dr. Shockey if there had been any comments from the public with Dr. Shockey indicating he had not received any written or verbal comment. Mayor Kiker then asked if there had been a change of operating hours from 2 a.m.

until 12 p.m. Mr. Roeder stated there was no development proposal for the property and didn't think there were any discussion of that issue and that it would come up in the zoning.

Town Manager Stewart noted that there was no public comment at the LPA meeting, indicating that in all future hearings of this nature staff would include information on any public comment received, pro or con, indicating also it would be good for the LPA to include that information as well.

MOTION: Councilmember List moved to approve the Small Scale Amendment on April 19, 2010

- (1) the proposed amendment **DOES** involve a use of 10 acres or fewer;
- (2) the cumulative annual effect of the acreage of all small scale amendments **DOES NOT** exceed certain the statutory threshold of 80 acres;
- (3) the proposed amendment **DOES NOT** involve the same property granted a change within the previous 12 months;
- (4) the proposed amendment **DOES NOT** involve the same owner's property within 200 feet of a property granted a change within the previous 12 months;
- (5) the proposed amendment **DOES NOT** involve a text change to the goals; policies and objective of the Town's Comprehensive Plan and **DOES** only involve a change to the FLUM;
- (6) the property **IS NOT** located in an "are of critical state concern";
- (7) any proposed residential use involved **DOES** have a density of 10 units or less per acre
- (8) Applicants' application **DOES** meet the statutory requirements to be considered for a small scale amendment.

Section 3.

- (1) The proposed amendment will likely have **POSITIVE** impact on affected traffic, utilities, other services, and future capital expenditures.

Section 4.

The Council hereby **GRANTS** applicants' request to amend the Town Comprehensive Plan Future Land Use Map as set forth on Exhibit A.

Vice Mayor Raymond seconded the motion.

VOTE: Town Clerk Michelle Mayher conducted a roll call on the motion to adopt Ordinance 10-02.

| | |
|-----------------------|-----|
| Councilmember List | Aye |
| Vice Mayor Raymond | Aye |
| Councilmember Babcock | Aye |
| Councilmember Mandel | Aye |
| Mayor Kiker | Aye |

Motion passed 5 to 0

Mayor Kiker closed the hearing at 7:47 p.m.

B. Ordinance 10-06, Amending Chapters 6-11, 34-1744, and 34-1745
(Refuse Container and Fence Height/Location)

Mayor Kiker opened the hearing at 7:48 p.m.

Attorney Dalton read the Ordinance: **Town of Fort Myers Beach
ORDINANCE NO. 10-06 AN ORDINANCE AMENDING REGULATIONS
IN CHAPTER SIX AND THIRTY-FOUR OF THE TOWN OF FORT
MYERS BEACH LAND DEVELOPMENT CODE; PROVIDING
AUTHORITY; ADOPTING AMENDMENTS TO ARTICLE I (PROPERTY
MAINTENANCE CODE) OF CHAPTER SIX WHICH IS ENTITLED
MAINTENANCE CODES, BUILDING CODES, AND COASTAL
REGULATIONS; ADOPTING AMENDMENTS TO DIVISION 17
(ENTITLED FENCES, WALLS AND ENTRANCE GATES) OF ARTICLE
IV (ENTITLED SUPPLEMENTAL REGULATIONS) OF CHAPTER 34
(ZONING DISTRICTS, DESIGN STANDARDS, AND
NONCONFORMITIES); PROVIDING FOR SEVERABILITY; AND
PROVIDING FOR AN EFFECTIVE DATE.**

Town Manager Stewart asked if Council wished to move the issue forward.

Rochelle Kay of the LPA indicated the subject came up following recommendations of an ad hoc committee who did considerable work for the safety, appearance and hygiene of the Town. Miss Kay reviewed the decisions of the LPA.

A decision was made to address at a later time the responsibility of property owners in making sure trash receptacles are placed on the curb and returned to the structure at the appropriate times if the property was rented.

Public Comment Opened

Lee Melsek chairman of the ad hoc committee indicated he joined the LPA in recommending approval. Mr. Melsek stated the ad hoc committee did not address rental agents indicating it was his understanding that Code Enforcement notified owners of the home. Mr. Melsek indicated the desire of the committee was to work to maintain a clean appealing place for residents and tourists.

Public Comment Closed

MOTION: Councilmember Babcock made a motion to move Ordinance 10-06, amending Chapters 6 and 34 of the Land Development Code, to a second hearing at the Town Council meeting of May 3, 2010 at 9 a.m. with a second by Councilmember List.

VOTE: Motion passed 5 to 0

Mayor Kiker closed the hearing at 8:01 p.m.

Mayor Kiker voiced his thanks from Council to Joanne Shamp and Rochelle Kay for their work on the LPA.

C. Ordinance 10-07, CIP Amendments

Mayor Kiker opened the Hearing at 8:02 p.m.

Attorney Dalton read the Ordinance: **ORDINANCE NO. 10-07 AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING THE COMPREHENSIVE PLAN OF THE TOWN OF FORT MYERS BEACH TO UPDATE THE CAPITAL IMPROVEMENT PLAN; PROVIDING AUTHORITY; PROVIDING FOR CONFLICTS; SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

Town Manager Stewart stated staff was asking Council to incorporate the current CIP into the Table 11-7 of the Comprehensive Plan's Capital Improvement Element as is required.

Public Comment Opened
No Public Comment
Public Comment Closed

MOTION: Councilmember List moved to adopt Ordinance 10-07 to incorporate the current CIP into Table 11-7 of the Comprehensive Plan's Capital Improvements Element with a second by Councilmember Mandel.

VOTE: A roll call vote was conducted by Town Clerk Michelle Mayher to the motion to adopt Ordinance 10-7.

| | |
|-----------------------|-----|
| Councilmember List | Aye |
| Councilmember Mandel | Aye |
| Mayor Kiker | Aye |
| Vice Mayor Raymond | Aye |
| Councilmember Babcock | Aye |

Motion passed 5 to 0

Mayor Kiker closed the Hearing at 8:05 p.m.

XII. ADMINISTRATIVE AGENDA

A. Appointment to Advisory Committee(s)

Town Manager Stewart asked Council to consider the appointment to the LPA of Joseph Kosinski

Public Comment Opened

No Public Comment
Public Comment Closed

MOTION: Councilmember Babcock made a motion to approve Mr. Kosinski's appointment to the LPA with a second by Vice Mayor Raymond.

VOTE: Motion passed 5 to 0

B. Approval of Town Council Policies and Procedures

Mayor Kiker stated Council did not complete their discussions on Policies and Procedures at their earlier worksession so item B would not be addressed.

XIII. PUBLIC COMMENT

Public Comment Opened

▪ **Joseph Salvagio** questioned Council regarding the faulty dredging job in Laguna Shores.

Town Manager Stewart indicated the dredging job itself was not faulty as the company did the work as designed, and that it was the location that was faulty. Mr. Stewart stated Council would be bringing the issue to a workshop for discussion which would include the DEP. Mr. Stewart noted he hoped to schedule the meeting within the next 30 days depending on the success in contacting the DEP.

▪ **Mike Roeder** addressed Council by again asking Council to consider the application fee waiver.

Town Manager Stewart indicated he would recommend that Council not wave the fees as there was work done by staff previously as was contemplated for the charges in the first place, there was work done this time around by staff which was successful so a waiver of fees would not be recommended.

Councilmember List indicated she had read volumes of material regarding the case, feeling one of the citizens had expended a lot of money to get it accomplished and asked Council to look at the figures and give it some consideration.

Mayor Kiker asked Attorney Dalton if there were things Council needed to consider regarding the issue. Attorney Dalton indicated it had not be noted for discussion so should be addressed at another time.

Councilmember Babcock indicated he supported the decision of the Town Manager and felt it would be wrong of Council to set this precedent. Councilmember Babcock noted there was certainly cost to the applicant but there was also cost to the staff as well stating as far as he was concerned the issue should be closed.

Public Comment Closed

XIV. TOWN MANAGER'S ITEMS

Town Manager Stewart thanked Council for the opportunity to attend the Tax and Finance Seminar hosted by Nabors, Giblin.

Mr. Stewart indicated he had a follow up conversation with the landlord representing the Town Hall building, stating the Town needed to have a statement to them by the end of the month regarding what the Town intended to do as far as remaining in the building.

XV. TOWN ATTORNEY'S ITEMS

Attorney Dalton echoed Mr. Stewart's comments on the Seminar indicating it was an excellent workshop.

Attorney Dalton indicated April 4th marked her 5th anniversary with the Town and noted her submitted resignation letter was for April 12th, stating representing the Town had been a very joyful and challenging experience while at the same time making her a better attorney. Attorney Dalton stated she was leaving to pursue community service in other areas with her intention to do affordable end of life legal issues for folks who don't have a lot of money. Attorney Dalton stated she would give the Town the necessary time to do what they needed to do to acquire a new Town Attorney.

Mayor Kiker expressed Council's thanks for the work Attorney Dalton had done.

Councilmember Mandel volunteered to be the liaison in searching for a new Town Attorney.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Councilmember Mandel also felt the Tax and Finance Seminar was very good. Councilmember noted his report on a meeting with Dr. Beazer of Charlotte Harbor. Councilmember Mandel then asked for Attorney Dalton to bring an opinion back to the April 21st meeting regarding his question, if the Water Utility borrowed funds but did not have the full faith and credit of the Town or any Town involvement in the negotiation would the Corporation be able to borrow for any length of time. Councilmember Mandel then addressed Town Manger Stewart's comments regarding negotiations on the building by asking if they needed plans if there was no resolution on the current site on an interim basis as well as the need to ask an architect if it would be feasible to put two or three floors on top of Bay Oaks for Town Council since that would not take any property off the tax rolls and it might improve safety and activity at Bay Oaks.

Vice Mayor Raymond agreed with Councilmember Mandel concerning the

possibility of utilizing the Bay Oaks property.

Councilmember List felt it would be prudent to gather information on the different options Council would need to consider.

Town Manager Stewart indicated it was a process that was already in the works.

Councilmember List thanked Attorney Dalton for all her assistance, and informed everyone of the Horizon Council Meeting.

Vice Mayor Raymond commented on the Tax Seminar as well as voicing his thanks to Attorney Dalton.

Councilmember Babcock voiced his pleasure in working with Attorney Dalton, thanking her for her hard work and ethics.

Mayor Kiker thanked Attorney Dalton then asked Council for their consensus on setting up worksessions with the County Commissioners.

XVII. AGENDA MANAGEMENT

Mr. Stewart indicated there was a meeting scheduled for the 5th of May to discuss the Mound House.

April 21st will be a session on the Water Utility.

Town Manager Stewart noted staff had provided Council with specific dates when final decisions needed to be made for the budget asking Council when they wanted to start having budget meetings.

Councilmember Babcock indicated his desire to finish Policies and Procedures.

XVIII. RECAP OF ACTION ITEMS

- Staff will work with BORC for assistance in signs and banners
- Address Councilmember Mandel's concerns on the Pension Issue in paragraph 4
- Move forward 10-06 for the 3rd of May
- Town Manager to work together on Ordinance 10-02 and 10-07
- Notify Mr. Kosinski on Council's approval to his membership on LPA
- Councilmember Mandel designated to work with staff on gathering information on locating a new Town Attorney as well as assistance from Attorney Dalton
- Town Hall Issue, provide additional information to Council
- Work with Mayor Kiker to set up co-meetings with County Commissioners
- Prepare a memorandum regarding the participation of Mr. Spikowski

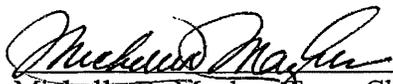
XIX. ADJOURNMENT

MOTION: Councilmember List made a motion to adjourn with a second by Councilmember Mandel.

Meeting adjourned at 9:18 p.m.

Adopted 5-17-10 With ~~Without~~ changes. Motion by Mandel/List

Vote: 5-0


Michelle D. Mayher, Town Clerk

- End of document.

(EXHIBIT E)

ORDINANCE NO. 10-02

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH PROVIDING FOR A SMALL-SCALE AMENDMENT TO THE COMPREHENSIVE PLAN OF THE TOWN OF FORT MYERS BEACH TO RECLASSIFY CERTAIN PROPERTY FROM THE MIXED RESIDENTIAL CATEGORY TO THE PEDESTRIAN COMMERCIAL CATEGORY ON THE FUTURE LAND USE MAP; PROVIDING AUTHORITY; PROVIDING FOR CONFLICTS; SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Article VIII, Section 2 of the Constitution of the State of Florida and Chapters 166 and 163 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, Section 163.3187, Florida Statutes, provide that amendments to the Town of Fort Myers Beach Comprehensive Plan (Comp Plan) which are directly related to proposed small scale development activities may approved without regard to statutory limits on the frequency of consideration of amendments to such Comp Plan; and

WHEREAS, a small-scale development amendment may be adopted only under the conditions set forth in Section 163.3187, Florida Statutes and other provisions of State and local law; and

WHEREAS, James F. Purtell, Patrick Purtell, and Fred Paine have applied to the Town for an amendment to the Comp Plan Future Land Use Map (FLUM) to reclassify property located at 821 Estero Boulevard and 831 Estero Boulevard (the subject property) from the "Mixed Residential" FLUM category to the "Pedestrian Commercial" FLUM category, with the legal description, STRAP number and other relevant information regarding the subject property and proposed amendment to the FLUM being attached to this Ordinance as Exhibit A and hereby incorporated by reference; and

WHEREAS, in accordance with the requirement that the Town Local Planning Agency (LPA) is required to review all proposed amendments to the Comp Plan, the LPA on March 23, 2010, at a duly noticed meeting, conducted a hearing on this ordinance and provided the Town Council with its comments via LPA Resolution 2010-03 which was reviewed by the Town Council at hearing; and

WHEREAS, in accordance with the requirements of the Town Charter, the Land Development Code, the Comp Plan, and Florida statute, this ordinance was introduced before Town Council on April 5, 2010 and the Town Council conducted a duly noticed hearing on this ordinance on April 19, 2010, at which time the Town Council considered the documents in the file, the testimony of all interested persons, the application, the LPA resolution and all other relevant matters; and

WHEREAS, the measures set forth in this Ordinance are necessary to provide for the protection of public health, safety and welfare of the citizens of the Town.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

SECTION 1. INCORPORATION OF RECITALS. The above "whereas" clauses are incorporated herein as though fully set forth.

SECTION 2. FINDINGS OF FACT AND CONCLUSIONS OF LAW AS TO WHETHER APPLICATION MEETS CRITERIA TO BE CONSIDERED FOR A SMALL-SCALE AMENDMENT. In accordance with the requirements of Section 163.187(c), Florida Statutes, the Town Council makes the following findings of fact:

- (1) the proposed amendment **DOES** involve a use of 10 acres or fewer;
- (2) the cumulative annual effect of the acreage of all small scale amendments **DOES NOT** exceed certain the statutory threshold of 80 acres;
- (3) the proposed amendment **DOES NOT** involve the same property granted a change within the previous 12 months;
- (4) the proposed amendment **DOES NOT** involve the same owner's property within 200 feet of a property granted a change within the previous 12 months;
- (5) the proposed amendment **DOES NOT** involve a text change to the goals, policies and objectives of the Town's Comprehensive Plan and **DOES** only involve a change to the FLUM;
- (6) the property **IS NOT** located in an "area of critical state concern";
- (7) any proposed residential use involved **DOES** have a density of 10 units or less per acre; and
- (8) Applicants' application **DOES** meet the statutory requirements to be considered for a small-scale amendment.

SECTION 3. FINDING OF FACT AND CONCLUSIONS OF LAW AS TO WHETHER THIS. The Town Council finds that the proposed FLUM amendment **IS** clearly in the best interest of the health, safety and welfare of the Town's residents, businesspersons and property owners and such change **IS** necessary to provide for orderly future growth of the community, for the following reasons:

The proposed amendment will likely have **POSITIVE** impact on affected traffic, utilities, other services, and future capital expenditures

SECTION 4. AMENDMENT OF COMPREHENSIVE PLAN FUTURE LAND USE MAP. The Council hereby **GRANTS** applicants' request to amend the Town Comprehensive Plan Future Land Use Map as set forth on Exhibit A.

SECTION 5. DIRECTION TO TOWN MANAGER. The Town Manager is hereby directed to send copies of the public notice for the Council hearing as well as a copy of the amendment as soon as possible following said hearing to the state land planning agency, the regional planning council and any other person or entity requesting a copy. This information shall also include a statement identifying any property subject to the amendment that is located within a coastal high-hazard area as identified in the local comprehensive plan and shall otherwise comply in all respects to the requirements of

Section 163.3187, Florida Statutes. Upon the Ordinance becoming effective as provided in Section 6 below, the Town Manager is directed to take all actions necessary to codify this amendment into the Comprehensive Plan Future Land Use Map.

SECTION 6. EFFECTIVE DATE. In accordance with the requirements of Section 163.3187, Florida Statutes, this ordinance shall become effective upon the expiration of 31 days after its adoption. However, if challenged within 30 days after adoption, this ordinance shall not become effective until the state land planning agency or the Administration Commission, respectively, issues a final order determining this Ordinance is in compliance.

SECTION 7. CONFLICTS. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted Ordinance or Statute, the most restrictive shall apply.

SECTION 8. SEVERABILITY. If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held as invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and shall in no way affect the validity of all other provisions of this ordinance.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Jo List and seconded by Councilmember Bob Raymond and, upon being put to a vote, the result was as follows:

| | | | |
|--------------------|------------|-------------------------|------------|
| Larry Kiker, Mayor | <u>aye</u> | Bob Raymond, Vice Mayor | <u>aye</u> |
| Tom Babcock | <u>aye</u> | Jo List | <u>aye</u> |
| Alan Mandel | <u>aye</u> | | |

DULY PASSED AND ENACTED this 19th day of April, 2010.

ATTEST:

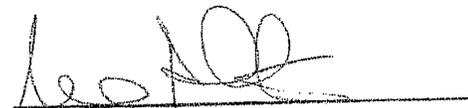

Michelle D. Mayher Town Clerk

TOWN OF FORT MYERS BEACH

BY:


Larry Kiker, Mayor

Approved as to legal form by:

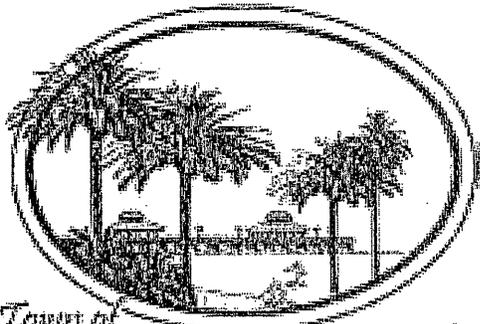

Anne Dalton, Esquire
Town Attorney

Ordinance 10-02

821 Estero Boulevard

Lots 7 and 8, and the East 10 feet of Lot 9, together with the land lying between the Northern boundary of the aforementioned lots and Lagoon Street, being that portion of Lots 13 and 14 lying between an extension of the Southeasterly line of Lot 7 to Lagoon Street and an extension of a line parallel to and 10 feet Northwesterly from the Southeasterly line of Lot 9, running from Estero Boulevard to Northerly line of said Lot 9, thence extended to Lagoon Street; all being in Block B, ISLAND SHORES UNIT 2 SUBDIVISION, as recorded in Plat Book 9, Page 25, Public Records of Lee County, Florida.

24-46-23-W3-0050B.0070



*Town of
Fort Myers Beach*

Exhibit A

Ordinance 10-02

831 Estero Boulevard

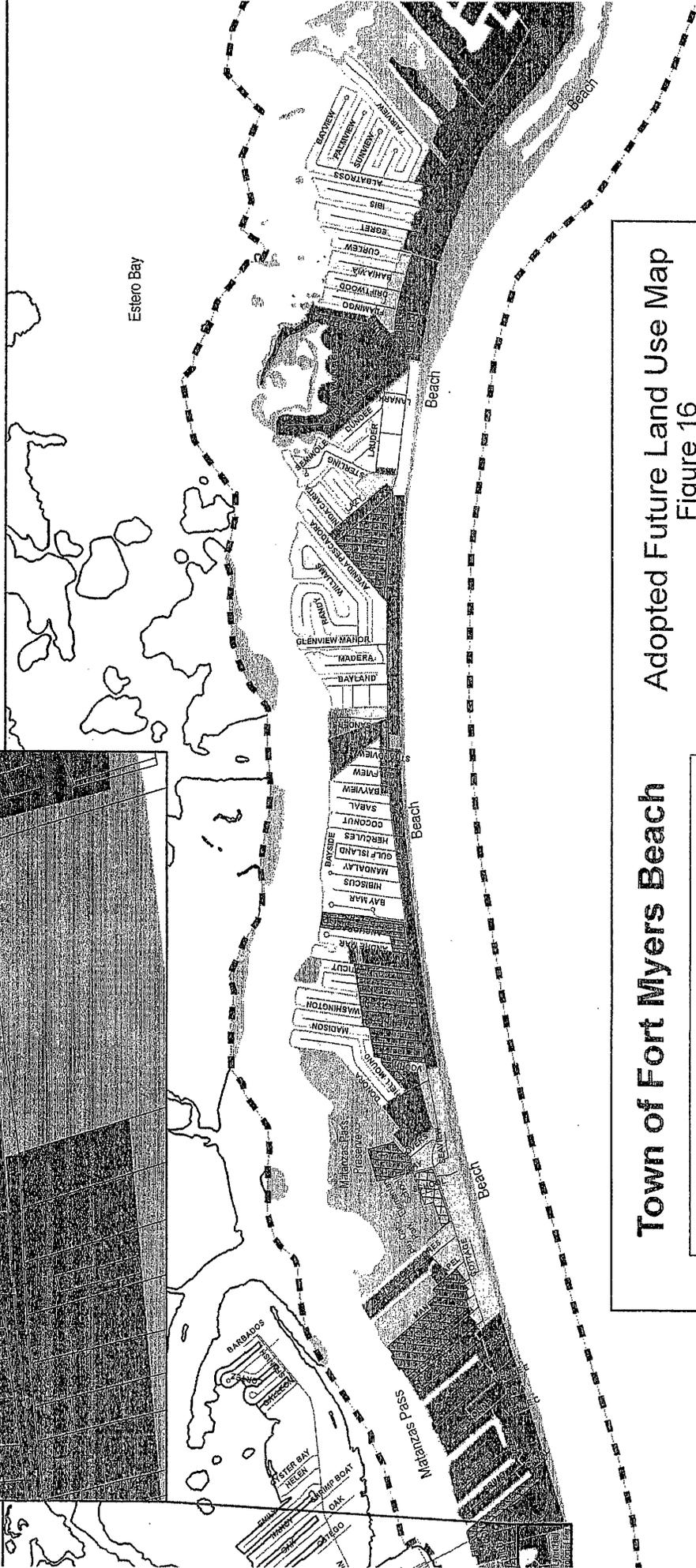
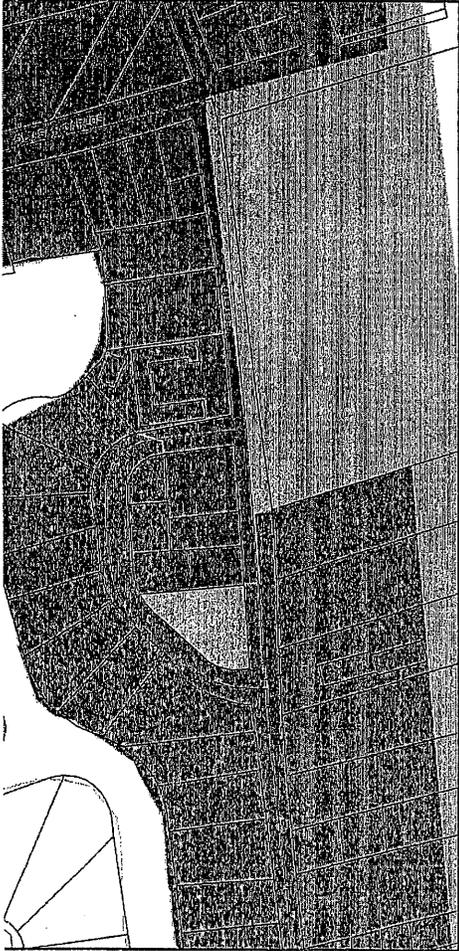
Lots 5 and 6, Block B, ISLAND SHORES UNIT 2 SUBDIVISION, as recorded in Plat Book 9, Page 25, Public Records of Lee County, Florida.

24-46-23-W3-0050B.0050



*Town of
Fort Myers Beach*

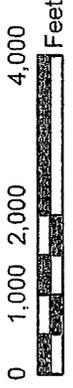
Exhibit A



Town of Fort Myers Beach
 Adopted Future Land Use Map
 Figure 16

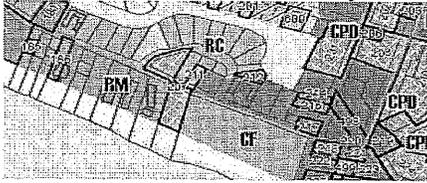
Legend

| | | | |
|--|-----------------|--|-----------------------|
| | City Limits | | Mixed Residential |
| | Platted Overlay | | Pedestrian Commercial |
| | Boulevard | | Recreation |
| | Low Density | | Tidal Water |
| | Marina | | Wetlands |



January 1, 1999

Town of Fort Myers Beach
 Department of Community Development



Zoning Division

ORIGINAL

Application for Waiver of Submittal Requirements

Submit a request for waiver of submittal requirements prior to submitting an application for public hearing or administrative action. Requesting a waiver of submittal requirements simultaneously with an application may delay your application. The request and the director's response will become part of the application file.

Waiver is requested for items required for:

Public Hearing

- General Requirements
 DRI
 Planned Development
 Conventional Rezoning
 Special Exception
 Variance
 Appeal
 Other

Administrative Action

- General Requirements
 Planned Dev. Amendment
 Commercial Antenna
 Consumption on Premises
 Forced Relocation of a Business
 Interpretation of LDC
 Minimum Use Determination
 Setback Variance
 Other

Name of Project: Paine/Purtell Rezoning

Applicant: James Purtell & Fred Paine

LeePA STRAP Number(s): 24-46-23-W3-0050B.0050 & 24-46-23-W3-0050B.0070

Street address: 821 and 831 Estero Blvd., Fort Myers Beach, FL 33931

Phone Number: (239) 405-7777

E-mail: alexisc@waldropengineering.com

(See Agent Contact Information)

Specific requirements from which waiver is sought

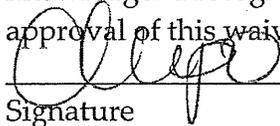
| Section Number | Requirement |
|----------------|--------------------------|
| None | Traffic Impact Statement |
| | |
| | |
| | |
| | |

Scope of project and reasons for request

Explain the nature of the project and give reasons why you think specific requirements are inapplicable or otherwise should be waived.

| |
|--------------------------------|
| Please see attached Narrative. |
| |
| |
| |
| |
| |
| |
| |
| |
| |

I hereby state that the information provided above is accurate to the best of my knowledge. I recognize that if my project changes from what is described above approval of this waiver request may no longer be valid.



Signature

3/19/2012
Date

Director's Decision Approved Denied

Comments:

Based upon existing density and permissible density in the proposed "Downtown" zoning, it is unlikely that trips generated would exceed existing.



Signature

5-17-12
Date

Paine/Purtell Rezoning

Waiver Form Narrative

The Applicants are requesting waiver of the requirement for a Traffic Impact Statement (TIS) to support the proposed Downtown district rezoning. While a TIS is not an explicit requirement of the conventional rezoning process, it is understood that Staff has concerns regarding the potential increase in intensity/density permitted via the rezoning.

Density and intensity are dictated by the underlying Future Land Use Category as prescribed in the Town of Fort Myers Beach Comprehensive Plan. Therefore, the increase to allowable density/intensity initially occurred in 2010 when the Future Land Use was changed from Mixed Residential to Pedestrian Commercial.

From a density perspective, the subject property contains a total of seven (7) lock-off units, and is therefore grandfathered for a higher density than permitted via the underlying Future Land Use Category, or the Downtown zoning. In fact, the maximum allowable density per Pedestrian Commercial is 6 du/acre or two (2) dwelling units. Therefore, the current number of trips generated by the existing seasonal rentals is more than a 300% increase over the the maximum that could be generated upon approval of this rezoning. Therefore, from a density perspective, a TIS is unnecessary.

From an intensity stand-point, the Downtown district is a “park once” destination, where preference is given to pedestrian movement, as is the case with any central business district/tourist destination. Future non-residential activities will most certainly support the hotel/motel and seasonal rental uses surrounding the Property, and within the immediate area. Therefore, development of the Property will enhance the overall downtown node, provide a pedestrian-oriented development to service tourists and local residents, and will not serve as a trip generator and/or substantially increases vehicular trips to the Property.

Lastly, the Property is serviced by sidewalks and LeeTran facilities to encourage pedestrian access, as is intended by the underlying Future Land Use and proposed rezoning district.

Since traffic impact statements are an explicit requirement of the Development Order (DO) review process, the Applicants are requesting that the provision of a TIS be deferred until the DO stage to provide Staff with more specific information on trip generation based upon the precise uses and square footage proposed for development.

Therefore, the proposed rezoning will not result in a significant increase in trips, as assured by the existing usage of the Property and the total site area; patrons will likely park in the downtown parking facilities and travel to the site by foot, or from their lodging; and there are LeeTran facilities in close proximity to the Property to allow for alternative modes of transportation. Moreover, the Applicants respectfully submit this waiver is appropriate in light of the Property’s downtown location and the nature of trip generation/traffic impacts within established downtown areas.

Paine/Purtell Rezoning

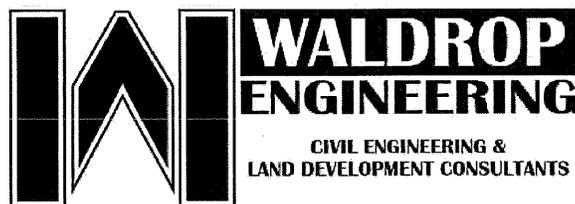
Application for Conventional Rezoning

April 3, 2012

COPY

Submitted To:

Ms. Leslee Chapman
Community Development Department
Town of Fort Myers Beach
2523 Estero Blvd.
Fort Myers Beach, FL 33931





WALDROP ENGINEERING
CIVIL ENGINEERING & LAND DEVELOPMENT CONSULTANTS

28100 BONITA GRANDE DR. #305
BONITA SPRINGS, FL 34135
P: 239-405-7777
F: 239-405-7899

April 3, 2012

Ms. Leslee Chapman
Town of Fort Myers Beach
2523 Estero Blvd.
Fort Myers Beach, FL 33931

RE: Paine/Purtell Conventional Rezone Application

Dear Ms. Chapman,

Enclosed please find one (1) original and thirteen (13) copies of the above referenced application, submitted on behalf of Fred Paine and James Purtell (Applicants). A CD containing all files has also been enclosed to assist in Staff's review. Please note at the time of submittal an availability letter from Beach Water had not yet been received. Fourteen (14) copies of this letter will be forward to your attention upon receipt.

The Applicants are requesting approval to rezone their 0.33+/-acre property ("Property") from Residential Conservation (RC) to the Downtown zoning district. Approval of this request will allow the Property's zoning to comply with the underlying Pedestrian Commercial Future Land Use Category, and reinstate the commercial use of the Property previously allowed per the Lee County Commercial (C-1) zoning district. This rezoning request also recognizes the Property's location adjacent to other Downtown zoned property within the urban core of Fort Myers Beach.

It is understood that the \$5,000 filing fee submitted for the previous application will apply to this application as well, and no further application fees are required.

Thank you in advance for your consideration of this application. Should you require additional information or have any questions, please feel free to contact me directly at (239) 405-7777, ext. 207, or alexisc@waldropengineering.com.

Sincerely,

WALDROP ENGINEERING, P.A.

Alexis V. Crespo, AICP
Principal Planner

Enclosures

cc: Mr. James Purtell
Mr. Fred Paine

Table of Contents

Public Hearing Application & Affidavits

Supplement C Application

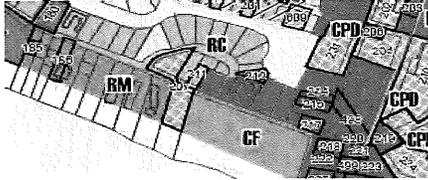
Exhibits

| | |
|---------------|---|
| Exhibit 3-1 | Waiver |
| Exhibit 4-1 | Disclosure of Interest Form |
| Exhibit 4-2 | List of Property Owners |
| Exhibit 4-3 | Property Owners Map |
| Exhibit 5-1 | Island Shores Unit 2 Plat |
| Exhibit 5-2 | Boundary Survey |
| Exhibit 5-3 | Aerial Location Map |
| Exhibit 5-6-8 | Variance Report |
| Exhibit C-1 | Decision-Making Compliance Narrative |
| Exhibit C-2 | Comprehensive Plan Compliance Narrative |
| Exhibit C-3 | Lee County Utilities Availability Letter – Sanitary Sewer |

Case # _____
 Planner _____

Date Received _____
 Date of Sufficiency/Completeness _____

Town of Fort Myers Beach
 Department of Community Development



Zoning Division

Application for Public Hearing

This is the first part of a two-part application. This part requests general information required by the Town of Fort Myers Beach for any request for a public hearing. The second part will address additional information for the specific type of action requested.

| |
|--|
| Project Name: Paine/Purtell Rezoning |
| Authorized Applicant: Waldrop Engineering, P.A. c/o Alexis Crespo, AICP |
| LeePA STRAP Number(s): 24-46-23-W3-0050B.0050 & 24-46-23-W3-0050B.0070 |
| |

| |
|---|
| Current Property Status: Multi-Family Residential/Seasonal Rentals |
| Current Zoning: Residential Conservation (RC) |
| Future Land Use Map (FLUM) Category: Pedestrian Commercial |
| Platted Overlay? __yes <u>X</u> no FLUM Density Range: Max. 6 du/acre |

| Action Requested | Additional Form Required |
|---|--------------------------|
| <input type="checkbox"/> Special Exception | Form PH-A |
| <input type="checkbox"/> Variance | Form PH-B |
| <input checked="" type="checkbox"/> Conventional Rezoning | Form PH-C |
| <input type="checkbox"/> Planned Development | Form PH-D |
| <input type="checkbox"/> Master Concept Plan Extension | Form PH-E |
| <input type="checkbox"/> Appeal of Administrative Action | Form PH-F |
| <input type="checkbox"/> Development of Regional Impact | Schedule Appointment |
| <input type="checkbox"/> Other (cite LDC section number: _____) | Attach Explanation |

Town of Fort Myers Beach
 Department of Community Development
 2523 Estero Boulevard
 Fort Myers Beach, FL 33931
 (239) 765-0202

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

PART I – General Information

A. Applicant:

| |
|---|
| Name(s): Fred Paine & James Purtell |
| Address: Street: 823 Lagoon St. & 855 Lagoon St., Unit B |
| City: Fort Myers Beach State: FL Zip Code: 33931 |
| Phone: (218) 428-1860 & (920) 203-0018 |
| Fax: |
| E-mail address: painefred@gmail.com & joeypurtell@hotmail.com |

B. Relationship of applicant to property (check appropriate response)

| |
|---|
| <input checked="" type="checkbox"/> Owner (indicate form of ownership below) |
| <input checked="" type="checkbox"/> Individual (or husband/wife) <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Land Trust <input type="checkbox"/> Association |
| <input type="checkbox"/> Corporation <input type="checkbox"/> Condominium |
| <input type="checkbox"/> Subdivision <input type="checkbox"/> Timeshare Condo |
| <input type="checkbox"/> Authorized representative (attach authorization(s) as Exhibit AA-1) |
| <input type="checkbox"/> Contract Purchaser/vendee (attach authorization(s) as Exhibit AA-2) |
| <input type="checkbox"/> Town of Fort Myers Beach (Date of Authorization: _____) |

C. Agent authorized to receive all correspondence:

| |
|---|
| Name: Waldrop Engineering, P.A. |
| Mailing address: Street: 28100 Bonita Grande Dr., Suite 305 |
| City: Bonita Springs State: FL Zip Code: 34135 |
| Contact Person: Alexis Crespo, AICP |
| Phone: (239) 405-7777 ext. 207 Fax: (239) 405-7899 |
| E-mail address: alexisc@waldropengineering.com |

D. Other agents:

| |
|--------------------------|
| Name(s): N/A |
| Mailing address: Street: |
| City: State: Zip Code: |
| Phone: Fax: |
| E-mail address: |

Use additional sheets if necessary, and attach to this page.

Case # _____
 Planner _____

Date Received _____
 Date of Sufficiency/Completeness _____

PART II – Nature of Request

Requested Action (check applicable actions):

| |
|--|
| <input type="checkbox"/> Special Exception for: |
| <input type="checkbox"/> Variance for: |
| <input checked="" type="checkbox"/> Conventional Rezoning from RC to: Downtown |
| <input type="checkbox"/> Planned Development |
| <input type="checkbox"/> Rezoning (or amendment) from to: |
| <input type="checkbox"/> Extension/reinstatement of Master Concept Plan |
| <input type="checkbox"/> Public Hearing of DRI |
| <input type="checkbox"/> No rezoning required |
| <input type="checkbox"/> Rezoning from to: |
| <input type="checkbox"/> Appeal of Administrative Action |
| <input type="checkbox"/> Other (explain): |

PART III – Waivers

Waivers from application submittal requirements: Indicate any specific submittal items that have been waived by the Director for the request. Attach copies of the Director’s approval(s) as Exhibit 3-1.

| Code Section Number | Describe Item |
|---------------------|--------------------------|
| None | Traffic Impact Statement |
| | |
| | |
| | |

PART IV – Property Ownership

| |
|---|
| <input type="checkbox"/> Single owner (individual or husband and wife) |
| Name: |
| Address: Street: |
| City: State: Zip Code: |
| Phone: Fax: |
| E-mail Address: |

| |
|---|
| [X] Multiple owners (including corporation, partnership, trust, association, condominium, timeshare condominium, or subdivision) |
| Attach Disclosure Form as Exhibit 4-1 |
| Attach list of property owners as Exhibit 4-2 |
| Attach map showing property owners' interests as Exhibit 4-3 if multiple parcels are involved |
| For condominiums, timeshare condominiums, and subdivisions, see instructions. |

PART V – Property Information

A. Legal Description of Subject Property

| |
|--|
| Is the property entirely made up of one or more undivided platted lots officially recorded in the Plat Books of the Public Records of Lee County? |
| <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| If yes: |
| Subdivision name: Island Shores |
| Plat Book Number: 9 Page: 25 Unit: 2 Block: B Lot: 5-8 and |
| If no: part of Lots 9, 13-14 |
| Attach a legible copy of the metes and bounds legal description, with accurate bearings and distances for every line, as Exhibit 5-1. The initial point in the description must be related to at least one established identifiable real property corner. Bearings must be referenced to a well-established and monumented line. |

B. Boundary Survey

| |
|--|
| Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code, as Exhibit 5-2. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida. |
|--|

C. STRAP Number(s):

| |
|---|
| 24-46-23-W3-0050B.0050 & 24-46-23-W3-0050B.0070 |
|---|

D Property Dimensions:

| | | | |
|----------------------|-----------------------|------------|-------|
| Area: | 14,375+/- square feet | 0.33 | acres |
| Width along roadway: | 112 feet | Depth: 149 | feet |

E. Property Street Address:

| |
|--|
| 821 & 831 Estero Blvd., Fort Myers Beach, FL 33931 |
|--|

F. General Location of Property (from Sky Bridge or Big Carlos Pass Bridge):

| |
|--|
| From Sky Bridge, turn right onto 5th Street. Proceed 1/10th of a mile. Turn right into Property. |
| Attach Area Location Map as Exhibit 5-3 |

G. Property Restrictions (check applicable):

| |
|---|
| <input checked="" type="checkbox"/> There are no deed restrictions or covenants on this property that affect this request. |
| <input type="checkbox"/> Restrictions and/or covenants are attached as Exhibit 5-4 |
| <input type="checkbox"/> A narrative statement explaining how the deed restrictions and/or covenants may affect the request is attached as Exhibit 5-5. |

H. Surrounding property owners:

| |
|---|
| <input checked="" type="checkbox"/> Attach list of surrounding property owners (within 500 feet) as Exhibit 5-6 |
| <input checked="" type="checkbox"/> Attach two sets of mailing labels as Exhibit 5-7 |
| <input checked="" type="checkbox"/> Attach a map showing the surrounding property owners as Exhibit 5-8 |

I. Future Land Use Category: (see Comprehensive Plan Future Land Use Map)

| | |
|--|--------------------------------------|
| <input type="checkbox"/> Low Density | <input type="checkbox"/> Marina |
| <input type="checkbox"/> Mixed Residential | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Boulevard | <input type="checkbox"/> Wetlands |
| <input checked="" type="checkbox"/> Pedestrian Commercial | <input type="checkbox"/> Tidal Water |
| Is the property located within the "Platted Overlay" area on the Future Land Use Map? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |

J. Zoning: (see official zoning map, as updated by subsequent actions)

| | |
|---|---|
| <input type="checkbox"/> RS (Residential Single-family) | <input type="checkbox"/> CM (Commercial Marina) |
| <input checked="" type="checkbox"/> RC (Residential Conservation) | <input type="checkbox"/> CO (Commercial Office) |
| <input type="checkbox"/> RM (Residential Multifamily) | <input type="checkbox"/> CB (Commercial Boulevard) |
| <input type="checkbox"/> VILLAGE | <input type="checkbox"/> SANTINI |
| <input type="checkbox"/> SANTOS | <input type="checkbox"/> DOWNTOWN |
| <input type="checkbox"/> IN (Institutional) | <input type="checkbox"/> RPD (Residential Planned Dev.) |
| <input type="checkbox"/> CF (Community Facilities) | <input type="checkbox"/> CPD (Commercial Planned Dev.) |
| <input type="checkbox"/> CR (Commercial Resort) | <input type="checkbox"/> EC (Environmentally Critical) |
| <input type="checkbox"/> BB (Bay Beach) | |

PART VI – Affidavit

Application Signed by Individual Owner or Authorized Applicant

I, Fred Paine, swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data, or other supplemental matter attached hereto and made a part of this application are honest and true;
3. I hereby authorize Town staff or their designee(s) to enter upon the property during normal working hours (including Saturdays and Sundays) for purposes reasonably related to the subject matter of this application; and
4. The property will not be transferred, conveyed, sold, or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Fred Paine
Signature

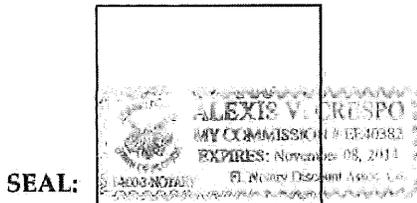
Fred Paine
Typed or Printed Name

State of Florida
County of LEE

The foregoing instrument was sworn to (or affirmed) and subscribed before me this 14th March 2012 by Fred Paine who is personally known to me or produced as identification.

Alexis Crespo
Signature of person administering oath

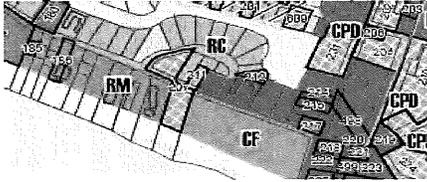
Alexis Crespo
Typed or Printed Name



Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Town of Fort Myers Beach
Department of Community Development



Zoning Division

Supplement PH-C

**Additional Required Information for a
Conventional Rezoning Application**

This is the second part of a two-part application. This part requests specific information for a conventional rezoning. Include this form with the Request for Public Hearing form.

| |
|--|
| Case Number: |
| Project Name: Paine/Purtell Rezoning |
| Authorized Applicant: Waldrop Engineering, P.A. c/o Alexis Crespo, AICP |
| LeePA STRAP Number: 24-46-23-W3-0050B-0050 and 24-46-23-0050B.0070 |

| |
|---|
| Current Property Status: Multi-family Residential/Season Rentals |
| Current Zoning: Residential Conservation (RC) |
| Future Land Use Map (FLUM) Category: Pedestrian Commercial |
| Comp Plan Density: Max. 6 du/acre Platted Overlay? ___Yes <u>X</u> No |

Conventional rezoning:

| |
|---------------------------------------|
| From <u>RC</u> (current zoning) |
| to <u>Downtown</u> (requested zoning) |

Any additional simultaneous zoning actions can be requested using the same Application for Public Hearing form, but must include all parts of the required supplemental forms and documentation, and include the fees for each request.

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

Case Number will be inserted by Community Development staff.

Project Name must be the same as the name used on the Request for Public Hearing form.

Applicant must be the same as on the Request for Public Hearing form.

STRAP numbers must be the same as on the Request for Public Hearing form.

Current status of property must be the same as on the Request for Public Hearing form.

LDC Section 34-85

The guidelines for decision-making regarding a request for rezoning are as follows:

1. Whether there exists an error or ambiguity that must be corrected;
2. Whether there exist changed or changing conditions that make approval of the request appropriate;
3. The impact of the proposed change on the intent of LDC Chapter 34;
4. Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses set forth in the Fort Myers Beach Comprehensive Plan;
5. Whether the request meets all performance and locational standards for the proposed use;
6. Whether urban services are, or will be, available and adequate to serve a proposed land use change;
7. Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources;
8. Whether the request will be compatible with existing or planned uses and will cause damage, hazard, nuisance, or other detriment to persons or property;
9. Whether the location of the request places an undue burden on existing transportation or other services and facilities, and will be served by streets with the capacity to carry traffic generated by the development.

**EXHIBIT 4-1
 DISCLOSURE OF INTEREST FORM**

STRAP# 24-46-23-W3-0050B.0070

Attach additional sheets in the same format for each separate STRAP number in the application if multiple parcels with differing ownership are included.

1. If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

| Name and Address | Percentage |
|----------------------------|------------|
| FRED PAINE | 100% |
| 823 Lagoon Street | |
| Fort Myers Beach, FL 33931 | |
| | |
| | |
| | |
| | |
| | |
| | |

2. If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

| Name, Address, and office | Percentage |
|---------------------------|------------|
| | |
| | |
| | |
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| | |
| | |

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

3. If the property is in the name of a TRUSTEE, list the beneficiaries of the trust and the percentage of interest.

| Name and Address | Percentage |
|------------------|------------|
| | |
| | |
| | |
| | |
| | |

4. If the property is in the name of a GENERAL PARTNERSHIP or LIMITED PARTNERSHIP, list the names of the general and limited partners with the percentage of ownership.

| Name and Address | Percentage |
|------------------|------------|
| | |
| | |
| | |
| | |
| | |

5. If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, regardless of whether a Corporation, Trustee, or Partnership is involved, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners, and their percentage of stock.

| Name, Address, and Office (if applicable) | Percentage |
|---|------------|
| | |
| | |
| | |
| | |
| | |

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

6. If any contingency clause or contract terms involve additional parties, list all individuals, or officers if a corporation, partnership, or trust.

Name and Address

| |
|--|
| |
| |
| |
| |
| |

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application but prior to the date of final public hearing, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature *Fred Paine*
Applicant
Fred Paine
Printed or typed name of applicant

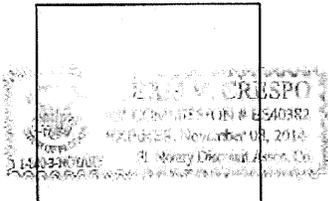
STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this 14th day of March, 2012, by Fred Paine, who is personally known to me or who has produced _____ as identification and who did (or did not) take an oath.

Signature of Notary

Alexis Crespo
Typed or Printed Name of Notary

SEAL:



**EXHIBIT 4-1
 DISCLOSURE OF INTEREST FORM**

STRAP# 24-46-23-W3-0050B.0050

Attach additional sheets in the same format for each separate STRAP number in the application if multiple parcels with differing ownership are included.

1. If the property is owned in fee simple by an **INDIVIDUAL**, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

| Name and Address | Percentage |
|----------------------------|------------|
| JAMES PURTELL | 67% |
| 831 Estero Blvd. | |
| Fort Myers Beach, FL 33931 | |
| PATRICK PURTELL | 33% |
| 831 Estero Blvd. | |
| Fort Myers Beach, FL 33931 | |
| | |
| | |

2. If the property is owned by a **CORPORATION**, list the officers and stockholders and the percentage of stock owned by each.

| Name, Address, and office | Percentage |
|---------------------------|------------|
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

3. If the property is in the name of a TRUSTEE, list the beneficiaries of the trust and the percentage of interest.

| Name and Address | Percentage |
|------------------|------------|
| | |
| | |
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4. If the property is in the name of a GENERAL PARTNERSHIP or LIMITED PARTNERSHIP, list the names of the general and limited partners with the percentage of ownership.

| Name and Address | Percentage |
|------------------|------------|
| | |
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| | |

5. If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, regardless of whether a Corporation, Trustee, or Partnership is involved, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners, and their percentage of stock.

| Name, Address, and Office (if applicable) | Percentage |
|---|------------|
| | |
| | |
| | |
| | |
| | |
| | |

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

6. If any contingency clause or contract terms involve additional parties, list all individuals, or officers if a corporation, partnership, or trust.

Name and Address

| |
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For any changes of ownership or changes in contracts for purchase subsequent to the date of the application but prior to the date of final public hearing, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature James F. Purtell
Applicant
James Purtell
Printed or typed name of applicant

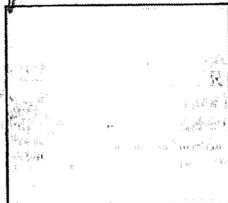
STATE OF Florida
COUNTY OF Lee

The foregoing instrument was acknowledged before me this 14th day of March, 2012, by James Purtell, who is personally known to me or who has produced _____ as identification and who did (or did not) take an oath.

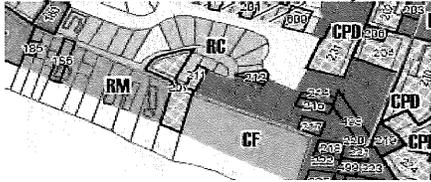
[Signature]
Signature of Notary

Alexis Crespo
Typed or Printed Name of Notary

SEAL:



Town of Fort Myers Beach
Department of Community Development



Zoning Division

Application for Waiver of Submittal Requirements

Submit a request for waiver of submittal requirements prior to submitting an application for public hearing or administrative action. Requesting a waiver of submittal requirements simultaneously with an application may delay your application. The request and the director's response will become part of the application file.

Waiver is requested for items required for:

Public Hearing

- General Requirements
- DRI
- Planned Development
- Conventional Rezoning
- Special Exception
- Variance
- Appeal
- Other

Administrative Action

- General Requirements
- Planned Dev. Amendment
- Commercial Antenna
- Consumption on Premises
- Forced Relocation of a Business
- Interpretation of LDC
- Minimum Use Determination
- Setback Variance
- Other

Name of Project: Paine/Purtell Rezoning

Applicant: James Purtell & Fred Paine

LeePA STRAP Number(s): 24-46-23-W3-0050B.0050 & 24-46-23-W3-0050B.0070

Street address: 821 and 831 Estero Blvd., Fort Myers Beach, FL 33931

Phone Number: (239) 405-7777

E-mail: alexisc@waldropengineering.com

(See Agent Contact Information)

Specific requirements from which waiver is sought

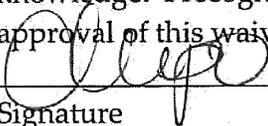
| Section Number | Requirement |
|----------------|--------------------------|
| None | Traffic Impact Statement |
| | |
| | |
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| | |

Scope of project and reasons for request

Explain the nature of the project and give reasons why you think specific requirements are inapplicable or otherwise should be waived.

| |
|--------------------------------|
| Please see attached Narrative. |
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I hereby state that the information provided above is accurate to the best of my knowledge. I recognize that if my project changes from what is described above approval of this waiver request may no longer be valid.

 _____ Date 3/19/2012
 Signature

Director's Decision Approved Denied

Comments:

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| |

Signature

Date

Paine/Purtell Rezoning

Waiver Form Narrative

The Applicants are requesting waiver of the requirement for a Traffic Impact Statement (TIS) to support the proposed Downtown district rezoning. While a TIS is not an explicit requirement of the conventional rezoning process, it is understood that Staff has concerns regarding the potential increase in intensity/density permitted via the rezoning.

Density and intensity are dictated by the underlying Future Land Use Category as prescribed in the Town of Fort Myers Beach Comprehensive Plan. Therefore, the increase to allowable density/intensity initially occurred in 2010 when the Future Land Use was changed from Mixed Residential to Pedestrian Commercial.

From a density perspective, the subject property contains a total of seven (7) lock-off units, and is therefore grandfathered for a higher density than permitted via the underlying Future Land Use Category, or the Downtown zoning. In fact, the maximum allowable density per Pedestrian Commercial is 6 du/acre or two (2) dwelling units. Therefore, the current number of trips generated by the existing seasonal rentals is more than a 300% increase over the the maximum that could be generated upon approval of this rezoning. Therefore, from a density perspective, a TIS is unnecessary.

From an intensity stand-point, the Downtown district is a “park once” destination, where preference is given to pedestrian movement, as is the case with any central business district/tourist destination. Future non-residential activities will most certainly support the hotel/motel and seasonal rental uses surrounding the Property, and within the immediate area. Therefore, development of the Property will enhance the overall downtown node, provide a pedestrian-oriented development to service tourists and local residents, and will not serve as a trip generator and/or substantially increases vehicular trips to the Property. Furthermore, due the downtown location Property is serviced by sidewalks and LeeTran facilities to encourage pedestrian access, as is intended by the underlying Future Land Use and proposed rezoning district.

Since traffic impact statements are an explicit requirement of the Development Order (DO) review process, the Applicants are requesting that the provision of a TIS be deferred until the DO stage to provide Staff with more specific information on trip generation based upon the precise uses and square footage proposed for development. This affords Town Staff with the ability to thoroughly and accurately assess the future development’s traffic impacts, as would be the case if the historical commercial zoning was still in place.

Therefore, the proposed rezoning will not result in a significant increase in trips, as assured by the existing usage of the Property and the total site area; patrons will likely park in the downtown parking facilities and travel to the site by foot, or from their lodging; there are LeeTran facilities in close proximity to the Property to allow for alternative modes of transportation; and a TIS will be required at the time of Development Order review. Moreover, the Applicants respectfully submit this waiver is appropriate in light of the Property’s downtown location and the nature of trip generation/traffic impacts within established downtown areas.

Paine/Purtell Rezoning

Exhibit 4-2: List of Property Owners

| PROPERTY OWNER | ADDRESS | STRAP NO. |
|--------------------------------|--|------------------------|
| James Purtell, Patrick Purtell | 831 Estero Blvd., Fort Myers Beach, FL 33931 | 24-46-23-W3-0050B.0050 |
| Fred Paine | 831 Estero Blvd., Fort Myers Beach, FL 33931 | 24-46-23-W3-0050B.0070 |

J:\293-01 Paine Purtell Rezzone\AutoCAD\293-01-E01 Aerial Location Map\Rev00\29301E0102.dwg
3/21/2012 10:16:45 AM



Fred Paine
821 Estero Boulevard
STRAP # 24-46-23-W3-0050B.0070

James & Patrick Purtell
831 Estero Boulevard
STRAP # 24-46-23-W3-0050B.0050

ESTERO BOULEVARD



**WALDROP
ENGINEERING**

CIVIL ENGINEERING & LAND
DEVELOPMENT CONSULTANTS

28100 BONITA GRANDE DRIVE - SUITE 305
BONITA SPRINGS, FL 34135
P: 239-405-7777 F: 239-405-7899
EMAIL: info@waldropengineering.com

FLORIDA CERTIFICATE OF AUTHORIZATION #8636

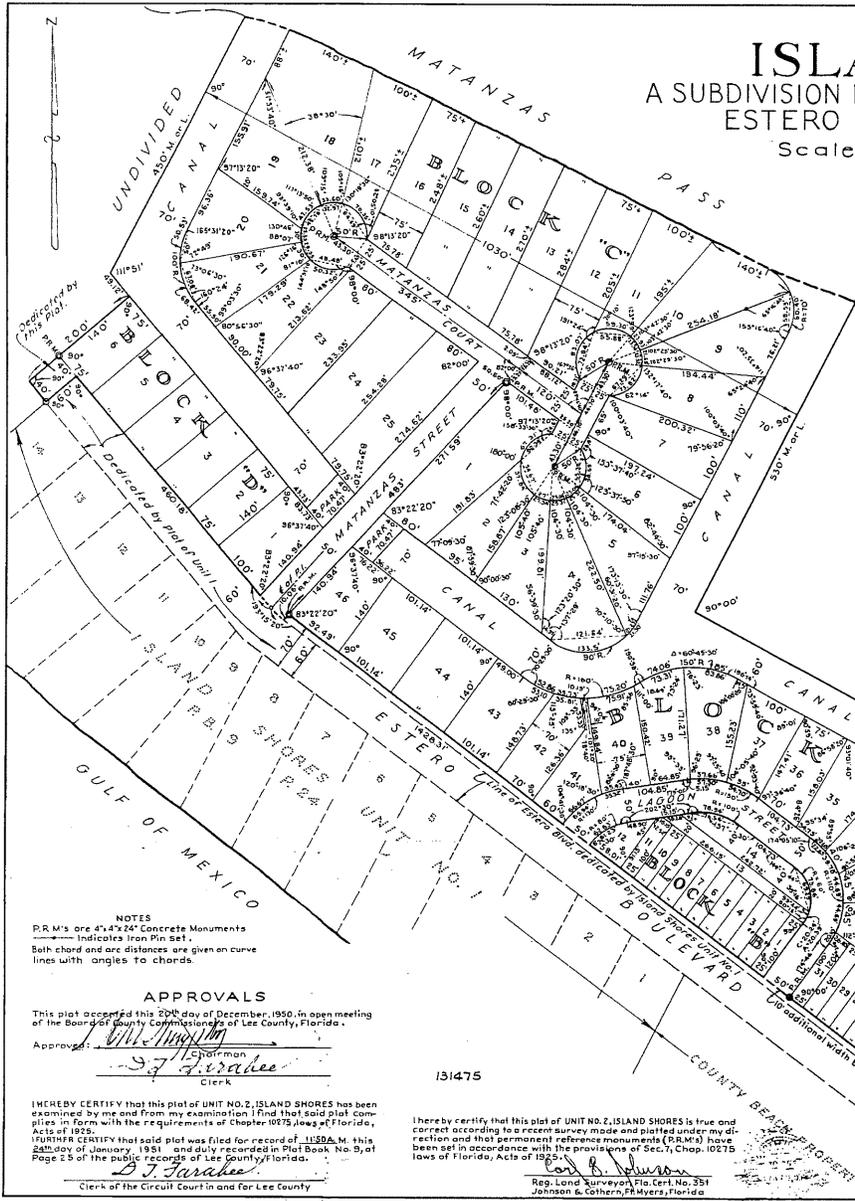
**PAINÉ/PURTELL
PARCELS**

AERIAL LOCATION MAP

FILE NAME: 29301E0102.dwg
UPDATED: 2012-03-21

UNIT NO. 2 ISLAND SHORES

A SUBDIVISION IN U.S. LOT 1, SECTION 24, T46S, R23E
ESTERO ISLAND, LEE COUNTY, FLORIDA
Scale: 1"=100' December, 1950



DESCRIPTION
A tract or parcel of land in U.S. Lot 1, Section 24, T46S, R23E on Estero Island described as follows: From the northwesterly corner of Block 6 of Business Center, a subdivision according to a map or plat recorded in Plat Book 9 of Pages 9 & 10 public records of Lee County, run northwesterly along a prolongation of the northerly line of said Block for 33.25' to the center line of the County Road; thence southwesterly along said center line for 215'; thence northwesterly, at an angle of 81°12'00" north to west with said line for 23.27' to the westerly line of said road; thence run northwesterly along said line for 66.70' to the northerly line of Estero Blvd. as shown on the plat of Unit No. 1, Island Shores recorded in Plat Book 9 of Page 24 of the public records of Lee County; and the Point of Beginning; From said P.O.B. continue northwesterly along the westerly side of said County Road for 310'; thence northwesterly parallel to said road for 530' more or less to the waters of Matanzas Pass; thence northwesterly along said waters to an intersection with line parallel to said County Road and 1030' (measured on a perpendicular) from the last mentioned course; thence run southwesterly along said line for 430' more or less to a point 140' (measured on a perpendicular) northwesterly from a northwesterly prolongation of the northerly line of Estero Blvd. as shown on said plat of Unit No. 1, Island Shores; thence run southwesterly parallel to said prolongation for 48.35'; thence run southwesterly perpendicular to said prolongation for 120'; thence run southwesterly along a prolongation of the southerly side of said Blvd. for 40'; thence run northwesterly along the westerly end of said Blvd. for 80'; thence run southwesterly along the northerly side of said Blvd. for 480.81'; thence deflected left 131°18'20" and continue along the northerly side of said Blvd. for 142.31' to the Point of Beginning together with all riparian rights appurtenant thereto; EXCEPTING that certain parcel conveyed by deed recorded in Deed Book 202 of Page 91 and marked herein "X" included in this Plat.

DEDICATION
KNOW ALL MEN BY THESE PRESENTS that Island Shores, Inc., a corporation under the laws of Florida, the owner of the herein described lands has caused this plat of UNIT NO. 2, ISLAND SHORES to be made and does hereby dedicate to the perpetual use of the public all streets, courts, roads, boulevards, parks, canals and lagoons shown hereon.
IN WITNESS WHEREOF Island Shores, Inc. has caused this dedication to be signed in its name by its president and its corporate seal to be affixed, attested by its secretary this 19th day of Dec. A. D. 1950.

Island Shores, Inc.
Attest: *James G. Kelly* Secretary By: *John W. Woffman* President

ACKNOWLEDGMENT
STATE OF FLORIDA
COUNTY OF LEE
HEREBY CERTIFY that on this day before me personally appeared John Woffman and James B. Kelley, respectively president and secretary of Island Shores, Inc., a corporation under the laws of Florida, to me known to be the persons described in and who executed the foregoing dedication and they acknowledged the execution thereof to be their free act and deed as such officers for the use and purposes therein mentioned and that they official seals of said corporation, and that said dedication is the act and deed of said corporation.
WITNESS my hand and official seal of said County at Fort Myers, Florida, this 19th day of Dec. A. D. 1950.

NOTE
An easement for the use of public utilities 3 feet in width is hereby reserved for a distance of 30' from street lines along the rear lines of lots 30A, 31, Block A and along each side of lots 31 and 40 along the northwesterly side of lot 41, Block A and each side of lots 1 to 25, inc. except sides of Matanzas St., in Block C.

NOTES
P.R.M.'s are 4" x 4" x 24" Concrete Monuments
— Indicates Iron Pin Set
Both chord and arc distances are given on curve lines with angles to chords.

APPROVALS
This plat accepted this 20th day of December, 1950, in open meeting of the Board of County Commissioners of Lee County, Florida.

Approved: *W. J. ...* Chairman
B. J. ... Clerk

131475

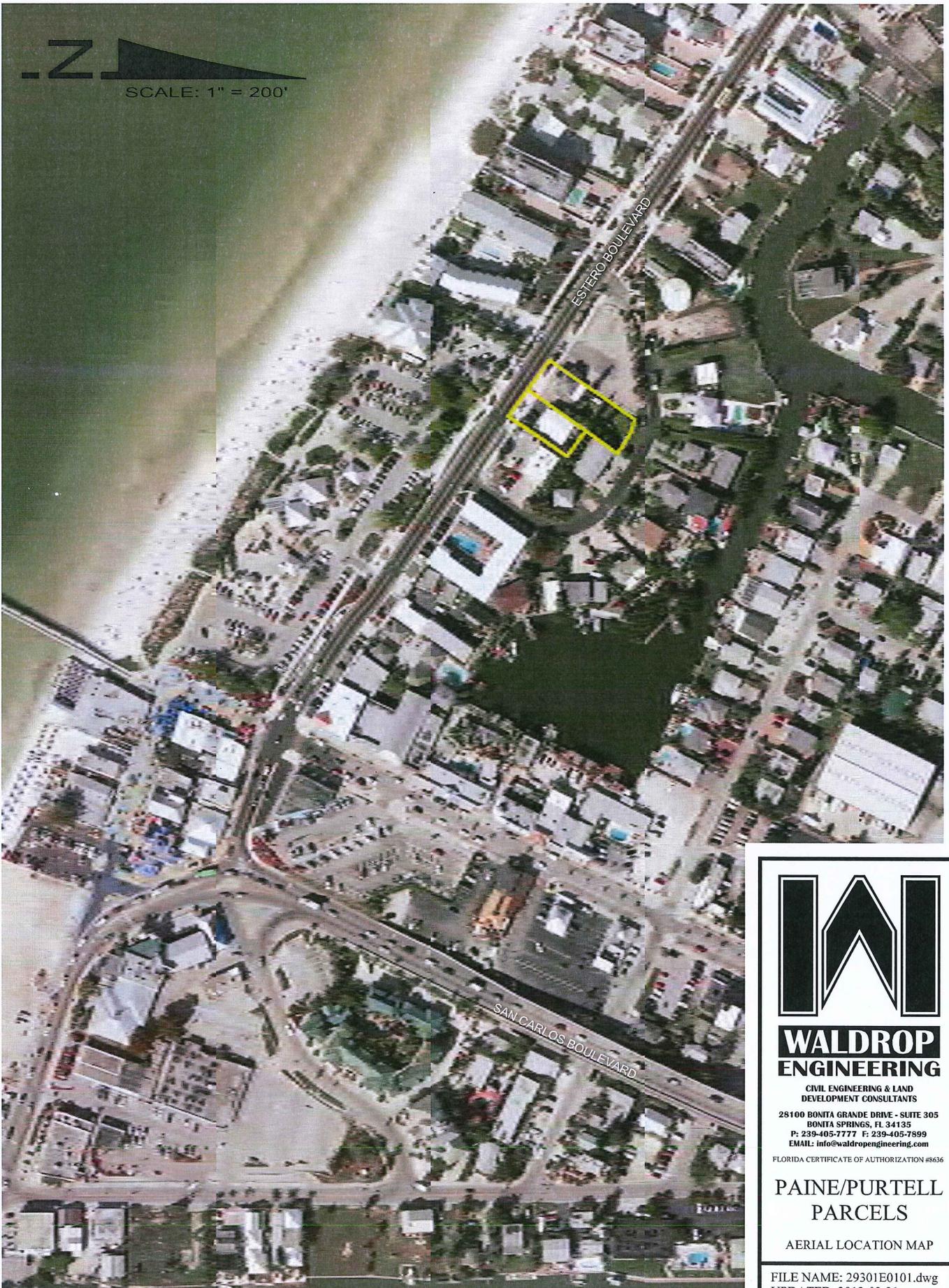
I HEREBY CERTIFY that this plat of UNIT NO. 2, ISLAND SHORES has been examined by me and from my examination I find that said plat complies in form with the requirements of Chapter 10275, Laws of Florida, Acts of 1925.

I FURTHER CERTIFY that said plat was filed for record of 11:50A. M. this 20th day of January, 1951 and duly recorded in Plat Book No. 9, at Page 25 of the public records of Lee County, Florida.

B. J. ...
Clerk of the Circuit Court in and for Lee County

I hereby certify that this plat of UNIT NO. 2, ISLAND SHORES is true and correct according to recent survey made and plotted under my direction and that permanent reference monuments (P.R.M.'s) have been set in accordance with the provisions of Sec. 7, Chap. 10275 laws of Florida, Acts of 1925.

Ed. R. ...
Reg. Land Surveyor, Fla. Cert. No. 351
Johnson & Cothern, P.O. Myers, Florida



**WALDROP
ENGINEERING**

CIVIL ENGINEERING & LAND
DEVELOPMENT CONSULTANTS

29100 BONITA GRANDE DRIVE - SUITE 305
BONITA SPRINGS, FL 34135
P: 239-405-7777 F: 239-405-7899
EMAIL: info@waldropengineering.com

FLORIDA CERTIFICATE OF AUTHORIZATION #8636

**PAINÉ/PURTELL
PARCELS**

AERIAL LOCATION MAP

FILE NAME: 29301E0101.dwg
UPDATED: 2012-03-21



Lee County Property Appraiser

Kenneth M. Wilkinson, C.F.A.

GIS Department / Map Room

Phone: (239) 533-6159 • Fax: (239) 533-6139 • eMail: MapRoom@LeePA.org

VARIANCE REPORT

Date of Report: March 19, 2012
Buffer Distance: 500 ft
Parcels Affected: 99
Subject Parcel: 24-46-23-W3-00508.0050, 24-46-23-W3-00508.0070

| <u>OWNER NAME AND ADDRESS</u> | <u>STRAP AND LOCATION</u> | <u>LEGAL DESCRIPTION</u> | <u>Map Index</u> |
|--|---|--|------------------|
| LEE COUNTY PO BOX 398 FORT MYERS FL 33902 | 24-46-23-W3-00023.0000 950/81 ESTERO BLVD/OLD SAN CARLO BLVD FORT MYERS BEACH FL 33931 | BEG NW COR BLK 8 BUSINESS CTR SUB RUN NWLY ALG EXTEN NLI PIER ON 22.0000 | 1 |
| RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | 24-46-23-W3-00024.0000 201 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | FROM NWLY COR BLK 8 BUSINESS CENTER SUBD RUN NWLY ALG PROLONGATION OF | 2 |
| HORN GWEN 923 THIRD ST APT A FORT MYERS BEACH FL 33931 | 24-46-23-W3-0030A.0050 923 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK A PB 9 PG 40 LOT 5 | 3 |
| HOULIHAN MAURICE + MARY 917 THIRD ST FORT MYERS BEACH FL 33931 | 24-46-23-W3-0030A.0060 917 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.A PB 9 PG 40 LOT 6 | 4 |
| GOMPEL MARIAN D EST 911 THIRD ST FORT MYERS BEACH FL 33931 | 24-46-23-W3-0030A.0070 911 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.A PB 9 PG 40 LOT 7 | 5 |
| CASEY KATHLEEN M + 110 LOVE LN NORWOOD PA 19074 | 24-46-23-W3-0030A.0080 901 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.A PB 9 PG 40 LOT 8 | 6 |
| TOMAILO FRANKLIN L + GLORIA J 934 THIRD ST FORT MYERS BEACH FL 33931 | 24-46-23-W3-0030B.0020 934 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.B PB 9 PG 40 LOT 2 | 7 |
| SCHULZ AXEL + CORNELIA 926 THIRD ST FORT MYERS BEACH FL 33931 | 24-46-23-W3-0030B.0030 932 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK B PB 9 PG 40 LOTS 3 + 4 | 8 |
| CLAYTON KATHRYN BEBEANNE TR 920 THIRD ST FORT MYERS BEACH FL 33931 | 24-46-23-W3-0030B.0050 920 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.B PB 9 PG 40 LOT 5 | 9 |
| FOSTER RUTH TR 914 THIRD ST FORT MYERS BEACH FL 33931 | 24-46-23-W3-0030B.0060 914 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.B PB 9 PG 40 LOT 6 | 10 |
| TYRELL PETER 1/2 + 17 RANELAGH RD HEMEL HEMPSTEAD HERTFORDSHIRE HP2 4RU UNITED KINGDOM | 24-46-23-W3-0030B.0070 910 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK B PB 9 PG 40 LOT 7 | 11 |
| LEWIS GARY A + JEANNE M 880 THIRD ST FORT MYERS BEACH FL 33931 | 24-46-23-W3-0030B.0080 880 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.B PB 9 PG 40 LOT 8 | 12 |
| LEBO KENNETH + LORRAINE 870 THIRD ST FORT MYERS BEACH FL 33931 | 24-46-23-W3-0030B.0090 870 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK B PB 9 PG 40 LOT 9 | 13 |
| ALEXANDER RICHARD E JR 8 SCHARBACH DR MARCY NY 13403 | 24-46-23-W3-0030B.0100 850 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK B PB 9 PG 40 LOT 10 | 14 |

| OWNER NAME AND ADDRESS | STRAP AND LOCATION | LEGAL DESCRIPTION | Map Index |
|---|---|---|------------------|
| HANZL MILDRED L/E SHARON SWANSON 8795 E BAY CIR FORT MYERS FL 33908 | 24-46-23-W3-0030B.0110 820 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK B PB 9 PG 40 LOT 11 | 15 |
| FREEMAN PROPERTIES OF SWFL LLC 13692 PINE VILLA LN FORT MYERS FL 33912 | 24-46-23-W3-0030B.0120 810 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK B PB 9 PG 40 LOT 12 | 16 |
| SCHMELING ROBERT W + 1621 SE 84TH CT VANCOUVER WA 98664 | 24-46-23-W3-0030B.0130 800 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK B PB 9 PG 40 LOT 13 | 17 |
| SWING THOMAS J TR 1668 COPPERLEAF COVE OVIEDO FL 32766 | 24-46-23-W3-0030B.0140 401 HARBOR CT FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.B PB 9 PG 40 LOT 14 | 18 |
| MARTIN WALTER + CHERYL 2610 ESTERO BLVD FORT MYERS BEACH FL 33931 | 24-46-23-W3-0030B.0150 405 HARBOR CT FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.B PB 9 PG 40 LOT 15 | 19 |
| SERVADIO NORMA L TR + 10 SAGAMORE DR SIMSBURY CT 06070 | 24-46-23-W3-0030B.0160 409 HARBOR CT FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK B PB 9 PG 40 LOT 16 | 20 |
| SERVADIO NORMA L TR 10 SAGAMORE DR SIMSBURY CT 06070 | 24-46-23-W3-0030B.0170 425 HARBOR CT FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK B PB 9 PG 40 LOT 17 | 21 |
| NASH ERNEST + EVELYN 1/2 + 270 KINGS RD MADISON NJ 07940 | 24-46-23-W3-0030C.0010 851-861 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.C PB 9 PG 40 LOT 1 | 22 |
| KIESEL CHARLES J + LENORA 431 BONITA ST FORT MYERS BEACH FL 33931 | 24-46-23-W3-0030C.0020 431 BONITA ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK C PB 9 PG 40 BLK C LT 2 + 3 | 23 |
| JAMES RONALD L JR 422 HARBOR CT FORT MYERS BEACH FL 33931 | 24-46-23-W3-0030C.0090 422 HARBOR CT FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.C PB 9 PG 40 LOT 9 | 24 |
| SCOTT EDWARD W + B GAYLE 412 HARBOR CT FORT MYERS BEACH FL 33931 | 24-46-23-W3-0030C.0100 412 HARBOR CT FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.C PB 9 PG 40 LOT 10 | 25 |
| FIRST CENTRAL INVESTMENT CORP BLUEMARK CAPITAL LLC 205 W 4TH ST STE 1100 CINCINNATI OH 45202 | 24-46-23-W3-00400.0010 830 ESTERO BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 1 PB 9 PG 24. LOT 1 | 26 |
| HOELZEL INCORPORATED CI IRIS HOELZEL PO BOX 70913 BETHESDA MD 20813 | 24-46-23-W3-00400.0050 764 ESTERO BLVD #68 FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 1 PB 9 PG 24 ELY 67.42 FT LOT 5 | 27 |
| ETCHISON P B + CAROLYN + 200 GREEN RD ALPHARETTA GA 30004 | 24-46-23-W3-00400.006A 754 ESTERO BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 1 PB 9 PG 24 PT LOT 5 + PT LOT 6 | 28 |
| MOLLER MARY REGINA PAOLETTI + 1400 SIENA AVE CORAL GABLES FL 33146 | 24-46-23-W3-00400.006B 756 ESTERO BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 1 PB 9 PG 24 PT LOTS 5 + 6 FR NW COR OF | 29 |
| SCHMITT MARJORIE A TR EST FRANK SCHMITT 110 W LLANO DR HOBBS NM 88240 | 24-46-23-W3-00400.006C 758 ESTERO BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 1 PB 9 PG 24 THE E 33.72 FT OF THE S | 30 |
| RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | 24-46-23-W3-0050A.0080 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOTS 3 THRU 12 + VAC LAGOON R/W OR2858/1391+ OR2660/2863 +2736/3702 | 31 |
| GROSS WAYNE + 2504 SANDERSON LN VIRGINIA BEACH VA 23456 | 24-46-23-W3-0050A.0130 185 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK A PB 9 PG 25 LOT 13 + PT LOT 14 | 32 |
| MAY S E PO BOX 61176 FORT MYERS FL 33906 | 24-46-23-W3-0050A.0140 163 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK A PB 9 PG 25 PT LOT 14 + LOT 15 | 33 |

| OWNER NAME AND ADDRESS | STRAP AND LOCATION | LEGAL DESCRIPTION | Map Index |
|---|---|--|------------------|
| JENKINS GEORGE D L PO BOX 280 TILLSONBURG ON M4G 4H5 CANADA | 24-46-23-W3-0050A.016A 159/161 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOTS 16 + PT OF LT 17 | 34 |
| KEELER VIOLET RUTH TR 16243 CHARLESTON AVE FORT MYERS FL 33908 | 24-46-23-W3-0050A.018B 959/963 ESTERO BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK A PT LOTS 17 18 + 19 | 35 |
| 925 ESTERO BLVD LLC 4666 MAIN ST BRIDGEPORT CT 06606 | 24-46-23-W3-0050A.0200 925 ESTERO BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK A PB 9 PG 25 LOTS 20 THRU 26 | 36 |
| HOLBROOK LESLIE E + 5353 ST ROUTE 288 GALION OH 44833 | 24-46-23-W3-0050A.032A 859 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 NWLY 40 FT LOT 32 | 37 |
| PURTELL JAMES F + JON R GUILLES PO BOX 2706 FORT MYERS BEACH FL 33932 | 24-46-23-W3-0050A.0330 855 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOT 33 | 38 |
| ARTTRIP CHARLES J+ BARBARA K 851 LAGOON ST FORT MYERS BEACH FL 33931 | 24-46-23-W3-0050A.0340 849/851 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOT 34 | 39 |
| SMITH RICHARD P 843 LAGOON ST FORT MYERS BEACH FL 33931 | 24-46-23-W3-0050A.0350 843 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UT 2 BLK A PB 9 PG 25 LOT 35 | 40 |
| BRAUCH TORRIN MAC TR 841 LAGOON ST FORT MYERS BEACH FL 33931 | 24-46-23-W3-0050A.0360 839/841 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOT 36 | 41 |
| JANNELLI FRANK L + 954 CLARELLEN DR FORT MYERS FL 33919 | 24-46-23-W3-0050A.0370 831 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOT 37 | 42 |
| PAINE FREDERICK L + NANCY KAY 12 BELKNAP SHORES SUPERIOR WI 54880 | 24-46-23-W3-0050A.0380 823 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOT 38 | 43 |
| PAINE FREDERICK L + NANCY K 819 LAGOON ST FORT MYERS BEACH FL 33931 | 24-46-23-W3-0050A.0390 819 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK A PB 9 PG 25 LOT 39 | 44 |
| TOWN OF FORT MYERS BEACH PO BOX 3077 FORT MYERS BEACH FL 33932 | 24-46-23-W3-0050A.0400 815 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 PT LOTS 40 + 41 | 45 |
| EDGEWATER INN LLC 264 AVALON GARDENS DR NANUET NY 10954 | 24-46-23-W3-0050A.0420 781 ESTERO BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 PT LOTS 40 + 41+ LOT 42 | 46 |
| VANFOSSEN JAMES D + TERRI D 724 MATANZAS CT FORT MYERS BEACH FL 33931 | 24-46-23-W3-0050A.043A 775 ESTERO BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 ELY 67.42 FT LOT 43 | 47 |
| VANFOSSEN DANNY + GRACE L/E+ 749 ESTERO BLVD FORT MYERS BEACH FL 33931 | 24-46-23-W3-0050A.043B 749 ESTERO BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 WLY 33.72 FT LOT 43 + ELY 33.72 FT LOT 44 | 48 |
| CASA PLAYA RESORT CONDOMINIUM BURANDT ADAMSKI GROSSMAN + PO BOX 100 SANIBEL FL 33957 | 24-46-23-W3-0050A.0440 739 ESTERO BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK A PB 9 PG 25 WLY 67.42 FT LOT 44 | 49 |
| SOUTHLAND CORPORATION CORPORATE TAX DEPT 2711 N HASKELL AVE DALLAS TX 75204 | 24-46-23-W3-0050B.0010 841 ESTERO BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.B PB 9 PG 25 LOTS 1 THRU 4 | 50 |
| PAINE FREDERICK L + NANCY KAY 12 BELKNAP SHORES SUPERIOR WI 54880 | 24-46-23-W3-0050B.0100 815 ESTERO BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK B PB 9 PG 25 LTS 10 THRU 12 + PT LTS 9 13 + 14 | 51 |
| ARTTRIP CHARLES J+ BARBARA K 850 LAGOON ST FORT MYERS BEACH FL 33931 | 24-46-23-W3-0050B.013A 850 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK B PB 9 PG 25 PT LOTS 13 + 14 | 52 |

| OWNER NAME AND ADDRESS | STRAP AND LOCATION | LEGAL DESCRIPTION | Map Index |
|--|--|---|------------------|
| BOWAN JAMES J 11715 W HOWARD AVE MILWAUKEE WI 53228 | 24-46-23-W3-0050B.013B 846/848 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK B PB 9 PG 25 LOTS PT 13 + 14 FROM SE | 53 |
| PARSONS DANIEL + 1831 MAPLE GLEN RD SACRAMENTO CA 95864 | 24-46-23-W3-0050C.0030 720 MATANZAS CT FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK C PB 9 PG 25 LOT 3 | 54 |
| VANFOSSEN JAMES D + TERRI D 724 MATANZAS CT FORT MYERS BEACH FL 33931 | 24-46-23-W3-0050C.0040 724 MATANZAS CT FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK C PB 9 PG 25 LOT 4 | 55 |
| CROW RANDY A + ABBY A 18779 N FRUITPORT RD SPRING LAKE MI 49456 | 24-46-23-W3-0050C.0050 730 MATANZAS CT FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK C PB 9 PG 25 LOT 5 | 56 |
| EHRlich REBECCA E 35 WOODLAND DR LITTLE FALLS NJ 07424 | 24-46-23-W3-0050C.0060 740 MATANZAS CT FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK C PB 9 PG 25 LOT PT 6 | 57 |
| DUNIPACE JANETTE M 130 BUTTWOOD AVE BOWLING GREEN OH 43402 | 24-46-23-W3-0050C.006A 738/736 MATANZAS CT FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK C PB 9 PG 25 LOT PT 6 | 58 |
| YOUNG DOUGLAS E + STACEY J 308 LAKESHORE DR WASHINGTON IL 61571 | 24-46-23-W3-0050C.0070 750 MATANZAS CT FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK C PB 9 PG 25 LOT 7 | 59 |
| SAND CASTLE BEACH CLUB CONDO 905 ESTERO BLVD FORT MYERS BEACH FL 33931 | 24-46-23-W3-02500.00CE HDR: SAND CASTLE FORT MYERS BEACH FL 33931 | SAND CASTLE BEACH CLUB A TIME-SHARE COMMON AREA DESC OR 1463 PG 2328 + CPB 6 PG 230 | 60 |
| SAND CASTLE BEACH CLUB 905 ESTERO BLVD FORT MYERS BEACH FL 33931 | 24-46-23-W3-02500.1010 905 ESTERO BLVD FORT MYERS BEACH FL 33931 | SAND CASTLE BEACH CLUB A TIME-SHARE OR 1463-2328 UNITS 101-215 / 29 UNITS | 61 |
| ROYAL BEACH CLUB CONDO ASSN 800 ESTERO BLVD FORT MYERS BEACH FL 33931 | 24-46-23-W3-02900.0010 800 ESTERO BLVD #1 FORT MYERS BEACH FL 33931 | ROYAL BEACH CLUB CONDO A TIME-SHARE OR 1530-1352 UNITS 1-17 / 16 UNITS | 62 |
| ROYAL BEACH CLUB CONDO 800 ESTERO BLVD FORT MYERS BEACH FL 33931 | 24-46-23-W3-02900.00CE 802 ESTERO BLVD FORT MYERS BEACH FL 33931 | ROYAL BEACH CLUB CONDO A TIME-SHARE COMMON AREA DESC OR 1530 PG 1352 + CPB 7 PG 133 | 63 |
| ROYAL BEACH CLUB CONDO PH II 800 ESTERO BLVD FORT MYERS BEACH FL 33931 | 24-46-23-W3-03200.00CE HDR: ROYAL BCH CLB FORT MYERS BEACH FL 33931 | ROYAL BEACH CLUB CONDO PH II COMMON AREA DESC OR 1530/1352 + OR 1716/4172 + CPB 7 PG 133 + CPB 8 PG 56 | 64 |
| LAWRANCE DAVID J 1/2 INT + 823 HIDDEN LN EXCELSIOR MN 55331 | 24-46-23-W3-03200.1010 800 ESTERO BLVD #101 FORT MYERS BEACH FL 33931 | ROYAL BEACH CLUB CONDO PH-II OR 1530 PG 1352 UNIT 101 | *65 |
| VEHAR KEVIN K + 6143 RIVERA LN NEW PORT RICHEY FL 34655 | 24-46-23-W3-03200.1020 800 ESTERO BLVD #102 FORT MYERS BEACH FL 33931 | ROYAL BEACH CLUB CONDO PH-II OR 1530 PG 1352 UNIT 102 | *65 |
| COOPER KENT + CONSTANCE 320 BLOOMINGTON ST GREENCASTLE IN 46135 | 24-46-23-W3-03200.1030 800 ESTERO BLVD #103 FORT MYERS BEACH FL 33931 | ROYAL BEACH CLUB CONDO PH-II OR 1530 PH 1352 UNIT 103 | *65 |
| FISK DAN + DEBORAH T 8973 KNOBLE CT EDEN PRAIRIE MN 55347 | 24-46-23-W3-03200.1040 800 ESTERO BLVD #104 FORT MYERS BEACH FL 33931 | ROYAL BEACH CLUB CONDO PH-II OR 1530 PG 1352 UNIT 104 | *65 |
| FREIER SHIRLEY 50% + 1429 W MARKET ST LIMA OH 45805 | 24-46-23-W3-03200.1050 800 ESTERO BLVD #105 FORT MYERS BEACH FL 33931 | ROYAL BEACH CLUB CONDO PH-II OR 1530 PG 1352 UNIT 105 | *65 |
| LEBO E CHARLES JR + SUSAN M 6202 N DELAWARE ST INDIANAPOLIS IN 46220 | 24-46-23-W3-03200.1060 800 ESTERO BLVD #106 FORT MYERS BEACH FL 33931 | ROYAL BEACH CLUB CONDO PH-II OR 1530 PG 1352 UNIT 106 | *65 |

| OWNER NAME AND ADDRESS | STRAP AND LOCATION | LEGAL DESCRIPTION | Map Index |
|--|--|---|------------------|
| CHRISTLIEB A RICHARD + SHIRLEY 11039 SEA TROPIC LN FORT MYERS FL 33908 | 24-46-23-W3-03200.1070 800 ESTERO BLVD #107 FORT MYERS BEACH FL 33931 | ROYAL BEACH CLUB CONDO PH-II OR 1530 PG 1352 UNIT 107 | *65 |
| CHRISTLIEB A RICHARD + SHIRLEY 11039 SEA TROPIC LN FORT MYERS FL 33908 | 24-46-23-W3-03200.1080 800 ESTERO BLVD #108 FORT MYERS BEACH FL 33931 | ROYAL BEACH CLUB CONDO PH-II OR 1530 PG 1352 UNIT 108 | *65 |
| WALSH JAMES F + JANET M 2536 KENNELLY DR WILLOUGHBY OH 44094 | 24-46-23-W3-03200.1090 800 ESTERO BLVD #109 FORT MYERS BEACH FL 33931 | ROYAL BEACH CLUB CONDO PH-II OR 1530 PG 1352 UNIT 109 | *66 |
| ANDREW NICK J 3012 DEERPATH DR JOLIET IL 60435 | 24-46-23-W3-03200.1100 800 ESTERO BLVD #110 FORT MYERS BEACH FL 33931 | ROYAL BEACH CLUB CONDO PH-II OR 1530 PG 1352 UNIT 110 | *66 |
| ROEGNER DONALD L + MARLYS A 3504 WALTON WAY KOKOMO IN 46902 | 24-46-23-W3-03200.1110 800 ESTERO BLVD #111 FORT MYERS BEACH FL 33931 | ROYAL BEACH CLUB CONDO PH-II OR 1530 PG 1352 UNIT 111 | *66 |
| BEL-AIR BEACH CLUB CONDO 780 ESTERO BLVD FORT MYERS BEACH FL 33931 | 24-46-23-W3-03400.00CE 782 ESTERO BLVD FORT MYERS BEACH FL 33931 | BEL AIR BEACH CLUB CONDO COMMON AREA DESC IN OR 1765 PG 1585 | 67 |
| BEL-AIR BEACH CLUB ASSOC 780 ESTERO BLVD FORT MYERS BEACH FL 33931 | 24-46-23-W3-03400.1010 780 ESTERO BLVD #101 FORT MYERS BEACH FL 33931 | BEL AIR BEACH CLUB CONDO OR 1765/1585 UT 101 THRU 104 / 202 / 204 THRU 403 (13 TIME SHARE UNITS) | *68 |
| SAWYER WILLIAM R + SONYA L PO BOX 69 RAIL ROAD ST EXT MILTON VT 05468 | 24-46-23-W3-03400.2010 780 ESTERO BLVD #201 FORT MYERS BEACH FL 33931 | BEL AIR BEACH CLUB CONDO OR 1765 PG 1585 UNIT 201 | *68 |
| WILLE BRIAN + 19752 REGAN RD NEW LENOX IL 60451 | 24-46-23-W3-03400.2030 780 ESTERO BLVD #203 FORT MYERS BEACH FL 33931 | BEL AIR BEACH CLUB CONDO OR 1765 PG 1585 UNIT 203 | *68 |
| TALLMAN CHARLES L + 317 RICHARD PL ITHACA NY 14850 | 24-46-23-W3-03400.4040 780 ESTERO BLVD #404 FORT MYERS BEACH FL 33931 | BEL AIR BEACH CLUB CONDO OR 1765 PG 1585 UNIT 404 | *68 |
| DEALEY LARRY + JUDY PO BOX 259 CONVOY OH 45832 | 24-46-23-W3-034PH.0010 780 ESTERO BLVD #PH1 FORT MYERS BEACH FL 33931 | BEL AIR BEACH CLUB CONDO OR 1765 PG 1585 UNIT PH-1 | *68 |
| WATTS SHEILA A TR 8450 SLEEPY HOLLOW DR NE WARREN OH 44484 | 24-46-23-W3-034PH.0020 780 ESTERO BLVD #PH2 FORT MYERS BEACH FL 33931 | BEL AIR BEACH CLUB CONDO OR 1765 PG 1585 UNIT PH-2 | *68 |
| WATTS SHEILA A TR 8450 SLEEPY HOLLOW DR NE WARREN OH 44484 | 24-46-23-W3-034PH.0030 780 ESTERO BLVD #PH3 FORT MYERS BEACH FL 33931 | BEL AIR BEACH CLUB CONDO OR 1765 PG 1585 UNIT PH-3 | *68 |
| FIELD JOHN + MARIA 1ST AMERICAN R/E TAX SERVICE CLIENT SERV DEPT W/C DAL 008 8435 N STEMMONS FWY DALLAS TX 75247 | 24-46-23-W3-034PH.0040 780 ESTERO BLVD #PH4 FORT MYERS BEACH FL 33931 | BEL AIR BEACH CLUB CONDO OR 1765 PG 1585 UNIT PH-4 | *68 |
| BAY TO BEACH ASSN 740 ESTERO BLVD FORT MYERS BEACH FL 33931 | 24-46-23-W3-03900.00CE 742 ESTERO BLVD FORT MYERS BEACH FL 33931 | BAY TO BEACH AS DESC IN OR 4125 PGS 1497 COMMON ELEMENTS | 69 |
| ENDRES RONALD G + BRENDA J 5798 EMERALD GROVE LANE WAUNAKEE WI 53597 | 24-46-23-W3-0390A.0001 740 ESTERO BLVD #A1 FORT MYERS BEACH FL 33931 | BAY TO BEACH DESC OR 4125 PG 1497 UNIT A1 | *70 |
| BAY TO BEACH INC PO BOX 95 CASEY IL 62420 | 24-46-23-W3-0390A.0002 740 ESTERO BLVD #A2 FORT MYERS BEACH FL 33931 | BAY TO BEACH DESC OR 4125 PG 1497 UNIT A 2 | *70 |
| CHRISTY DERRICK + 3933 EAGLE TRACE GREENWOOD IN 46143 | 24-46-23-W3-0390A.0003 740 ESTERO BLVD #A3 FORT MYERS BEACH FL 33931 | BAY TO BEACH DESC OR 4125 PG 1497 UNIT A3 | *70 |
| JAGGR LP 235 EUGENIE ST W WINDSOR ON N8X 2X7 CANADA | 24-46-23-W3-0390A.0004 740 ESTERO BLVD #A4 FORT MYERS BEACH FL 33931 | BAY TO BEACH DESC OR 4125 PG 1497 UNIT A4 | *70 |

| OWNER NAME AND ADDRESS | STRAP AND LOCATION | LEGAL DESCRIPTION | Map Index |
|--|---|---|------------------|
| HAGEL THOMAS 680 FAIRFIELD BEACH RD FAIRFIELD CT 06824 | 24-46-23-W3-0390A.0005 740 ESTERO BLVD #A5 FORT MYERS BEACH FL 33931 | BAY TO BEACH DESC OR 4125 PG 1497 UNIT A5 | *70 |
| JAGGR FLORIDA L P 235 EUGENIE STREET W STE 105D WINDSOR ON N8X 2X7 CANADA | 24-46-23-W3-0390A.0006 740 ESTERO BLVD #A6 FORT MYERS BEACH FL 33931 | BAY TO BEACH DESC OR 4125 PG 1497 UNIT A6 | *70 |
| JAGGR FLORIDA L P 235 EUGENIE ST W STE 105D WINDSOR ON N8X 2X7 CANADA | 24-46-23-W3-0390A.0007 740 ESTERO BLVD #A7 FORT MYERS BEACH FL 33931 | BAY TO BEACH DESC OR 4125 PG 1497 UNIT A7 | *70 |
| JAGGR FLORIDA LP 235 EUGENIE ST W STE 105D WINDSOR ON N8X 2X7 CANADA | 24-46-23-W3-0390A.0008 740 ESTERO BLVD #A8 FORT MYERS BEACH FL 33931 | BAY TO BEACH DESC OR 4125 PG 1497 UNIT A8 | *70 |
| SOLANS ENRIC P + ANTOINETTE C 1821 BOULDER DR MT PROSPECT IL 60056 | 24-46-23-W3-0390B.0001 740 ESTERO BLVD #B1 FORT MYERS BEACH FL 33931 | BAY TO BEACH DESC OR 4125 PG 1497 UNIT B1 | *70 |
| MILLER DONALD W + WANDA J 3065 BAYVIEW AVE TORONTO ON M2K 1G1 CANADA | 24-46-23-W3-0390B.0002 740 ESTERO BLVD #B2 FORT MYERS BEACH FL 33931 | BAY TO BEACH DESC OR 4125 PG 1497 UNIT B2 | *70 |
| JAGGR FLORIDA LP 235 EUGENIE ST W STE 105D WINDSOR ON N8X 2X7 CANADA | 24-46-23-W3-0390C.0001 740 ESTERO BLVD #C1 FORT MYERS BEACH FL 33931 | BAY TO BEACH DESC OR 4125 PG 1497 UNIT C1 | *70 |
| WISSINGER WILLIAM T + 13110 UPPER LEWISBURG RD BROOKVILLE OH 45309 | 24-46-23-W3-0390C.0002 740 ESTERO BLVD #C2 FORT MYERS BEACH FL 33931 | BAY TO BEACH DESC OR 4125 PG 1497 UNIT C2 | *70 |
| DUFFY FAMILY LIMITED 106 EULA ST WILMINGTON IL 60481 | 24-46-23-W3-0390D.0001 740 ESTERO BLVD #B3 FORT MYERS BEACH FL 33931 | BAY TO BEACH DESC OR 4125 PG 1497 UNIT D1 | *70 |
| ERIKSEN HEIDI N TAGESVEJ 6C 7120 VEJLE EAST DENMARK | 24-46-23-W3-0390D.0002 740 ESTERO BLVD #B4 FORT MYERS BEACH FL 33931 | BAY TO BEACH DESC OR 4125 PG 1497 UNIT D2 | *70 |

99 RECORDS PRINTED

24-46-23-W3-00023.0000
LEE COUNTY
PO BOX 398
FORT MYERS, FL 33902

24-46-23-W3-00024.0000
RICHARD JOHN W TR
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030A.0050
HORN GWEN
923 THIRD ST APT A
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030A.0060
HOULIHAN MAURICE + MARY
917 THIRD ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030A.0070
GOMPEL MARIAN D EST
911 THIRD ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030A.0080
CASEY KATHLEEN M +
110 LOVE LN
NORWOOD, PA 19074

24-46-23-W3-0030B.0020
TOMAILOLO FRANKLIN L + GLORIA J
934 THIRD ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030B.0030
SCHULZ AXEL + CORNELIA
926 THIRD ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030B.0050
CLAYTON KATHRYN BEBEANNE TR
920 THIRD ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030B.0060
FOSTER RUTH TR
914 THIRD ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030B.0070
TYRELL PETER 1/2 +
17 RANELAGH RD
HEMEL HEMPSTEAD
HERTFORDSHIRE HP2 4RU,
UNITED KINGDOM

24-46-23-W3-0030B.0080
LEWIS GARY A + JEANNE M
880 THIRD ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030B.0090
LEBO KENNETH + LORRAINE
870 THIRD ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030B.0100
ALEXANDER RICHARD E JR
8 SCHARBACH DR
MARCY, NY 13403

24-46-23-W3-0030B.0110
HANZL MILDRED L/E
SHARON SWANSON
8795 E BAY CIR
FORT MYERS, FL 33908

24-46-23-W3-0030B.0120
FREEMAN PROPERTIES OF SWFL LLC
13692 PINE VILLA LN
FORT MYERS, FL 33912

24-46-23-W3-0030B.0130
SCHMELING ROBERT W +
1621 SE 84TH CT
VANCOUVER, WA 98664

24-46-23-W3-0030B.0140
SWING THOMAS J TR
1668 COPPERLEAF COVE
OVIEDO, FL 32766

24-46-23-W3-0030B.0150
MARTIN WALTER + CHERYL
2610 ESTERO BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030B.0160
SERVADIO NORMA L TR +
10 SAGAMORE DR
SIMSBURY, CT 06070

24-46-23-W3-0030B.0170
SERVADIO NORMA L TR
10 SAGAMORE DR
SIMSBURY, CT 06070

24-46-23-W3-0030C.0010
NASH ERNEST + EVELYN 1/2 +
270 KINGS RD
MADISON, NJ 07940

24-46-23-W3-0030C.0020
KIESEL CHARLES J + LENORA
431 BONITA ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030C.0090
JAMES RONALD L JR
422 HARBOR CT
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030C.0100
SCOTT EDWARD W + B GAYLE
412 HARBOR CT
FORT MYERS BEACH, FL 33931

24-46-23-W3-00400.0010
FIRST CENTRAL INVESTMENT CORP
BLUEMARK CAPITAL LLC
205 W 4TH ST STE 1100
CINCINNATI, OH 45202

24-46-23-W3-00400.0050
HOELZEL INCORPORATED
CHRIS HOELZEL
PO BOX 70913
BETHESDA, MD 20813

24-46-23-W3-00400.006A
ETCHISON P B + CAROLYN +
200 GREEN RD
ALPHARETTA, GA 30004

24-46-23-W3-00400.006B
MOLLER MARY REGINA PAOLETTI +
1400 SIENA AVE
CORAL GABLES, FL 33146

24-46-23-W3-00400.006C
SCHMITT MARJORIE A TR EST
FRANK SCHMITT
110 W LLANO DR
HOBBS, NM 88240

24-46-23-W3-0050A.0080
RICHARD JOHN W TR
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-0050A.0130
GROSS WAYNE +
2504 SANDERSON LN
VIRGINIA BEACH, VA 23456

24-46-23-W3-0050A.0140
MAY S E
PO BOX 61176
FORT MYERS, FL 33906

24-46-23-W3-0050A.016A
JENKINS GEORGE D L
PO BOX 280
TILLSONBURG, ON N4G 4H5
CANADA

24-46-23-W3-0050A.018B
KEELER VIOLET RUTH TR
16243 CHARLESTON AVE
FORT MYERS, FL 33908

24-46-23-W3-0050A.0200
925 ESTERO BLVD LLC
4666 MAIN ST
BRIDGEPORT, CT 06606

24-46-23-W3-0050A.032A
HOLBROOK LESLIE E +
5353 ST ROUTE 288
GALION, OH 44833

24-46-23-W3-0050A.0330
PURTELL JAMES F +
JON R GUILLES
PO BOX 2706
FORT MYERS BEACH, FL 33932

24-46-23-W3-0050A.0340
ARTRIP CHARLES J + BARBARA K
851 LAGOON ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0050A.0350
SMITH RICHARD P
843 LAGOON ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0050A.0360
BRAUCH TORRIN MAC TR
841 LAGOON ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0050A.0370
JANNELLI FRANK L +
954 CLARELLEN DR
FORT MYERS, FL 33919

24-46-23-W3-0050A.0380
PAINE FREDERICK L + NANCY KAY
12 BELKNAP SHORES
SUPERIOR, WI 54880

24-46-23-W3-0050A.0390
PAINE FREDERICK L + NANCY K
819 LAGOON ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0050A.0400
TOWN OF FORT MYERS BEACH
PO BOX 3077
FORT MYERS BEACH, FL 33932

24-46-23-W3-0050A.0420
EDGEWATER INN LLC
264 AVALON GARDENS DR
NANUET, NY 10954

24-46-23-W3-0050A.043A
VANFOSSEN JAMES D + TERRI D
724 MATANZAS CT
FORT MYERS BEACH, FL 33931

24-46-23-W3-0050A.043B
VANFOSSEN DANNY + GRACE L/E+
749 ESTERO BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-0050A.0440
CASA PLAYA RESORT CONDOMINIUM
BURANDT ADAMSKI GROSSMAN +
PO BOX 100
SANIBEL, FL 33957

24-46-23-W3-0050B.0010
SOUTHLAND CORPORATION
CORPORATE TAX DEPT
2711 N HASKELL AVE
DALLAS, TX 75204

24-46-23-W3-0050B.0100
PAINE FREDERICK L + NANCY KAY
12 BELKNAP SHORES
SUPERIOR, WI 54880

24-46-23-W3-0050B.013A
ARTRIP CHARLES J + BARBARA K
850 LAGOON ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0050B.013B
BOWAN JAMES J
11715 W HOWARD AVE
MILWAUKEE, WI 53228

24-46-23-W3-0050C.0030
PARSONS DANIEL +
1831 MAPLE GLEN RD
SACRAMENTO, CA 95864

24-46-23-W3-0050C.0040
VANFOSSEN JAMES D + TERRI D
724 MATANZAS CT
FORT MYERS BEACH, FL 33931

24-46-23-W3-0050C.0050
CROW RANDY A + ABBY A
18779 N FRUITPORT RD
SPRING LAKE, MI 49456

24-46-23-W3-0050C.0060
EHRlich REBECCA E
35 WOODLAND DR
LITTLE FALLS, NJ 07424

24-46-23-W3-0050C.006A
DUNIPACE JANETTE M
130 BUTTONWOOD AVE
BOWLING GREEN, OH 43402

24-46-23-W3-0050C.0070
YOUNG DOUGLAS E + STACEY J
308 LAKESHORE DR
WASHINGTON, IL 61571

24-46-23-W3-02500.00CE
SAND CASTLE BEACH CLUB CONDO
905 ESTERO BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-02500.1010
SAND CASTLE BEACH CLUB
905 ESTERO BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-02900.00CE
ROYAL BEACH CLUB CONDO
800 ESTERO BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-03200.1010
LAWRANCE DAVID J 1/2 INT +
823 HIDDEN LN
EXCELSIOR, MN 55331

24-46-23-W3-03200.1030
COOPER KENT + CONSTANCE
320 BLOOMINGTON ST
GREENCASTLE, IN 46135

24-46-23-W3-03200.1050
FREIER SHIRLEY 50% +
1429 W MARKET ST
LIMA, OH 45805

24-46-23-W3-03200.1070
CHRISTLIEB A RICHARD + SHIRLEY
11039 SEA TROPIC LN
FORT MYERS, FL 33908

24-46-23-W3-03200.1090
WALSH JAMES F + JANET M
2536 KENNELLY DR
WILLOUGHBY, OH 44094

24-46-23-W3-03200.1110
ROEGNER DONALD L + MARLYS A
3504 WALTON WAY
KOKOMO, IN 46902

24-46-23-W3-03400.1010
BEL-AIR BEACH CLUB ASSOC
780 ESTERO BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-03400.2030
WILLE BRIAN +
19752 REGAN RD
NEW LENOX, IL 60451

24-46-23-W3-02900.0010
ROYAL BEACH CLUB CONDO ASSN
800 ESTERO BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-03200.00CE
ROYAL BEACH CLUB CONDO PH II
800 ESTERO BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-03200.1020
VEHAR KEVIN K +
6143 RIVERA LN
NEW PORT RICHEY, FL 34655

24-46-23-W3-03200.1040
FISK DAN + DEBORAH T
8973 KNOBLE CT
EDEN PRAIRIE, MN 55347

24-46-23-W3-03200.1060
LEBO E CHARLES JR + SUSAN M
6202 N DELAWARE ST
INDIANAPOLIS, IN 46220

24-46-23-W3-03200.1080
CHRISTLIEB A RICHARD + SHIRLEY
11039 SEA TROPIC LN
FORT MYERS, FL 33908

24-46-23-W3-03200.1100
ANDREW NICK J
3012 DEERPATH DR
JOLIET, IL 60435

24-46-23-W3-03400.00CE
BEL-AIR BEACH CLUB CONDO
780 ESTERO BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-03400.2010
SAWYER WILLIAM R + SONYA L
PO BOX 69 RAIL ROAD ST EXT
MILTON, VT 05468

24-46-23-W3-03400.4040
TALLMAN CHARLES L +
317 RICHARD PL
ITHACA, NY 14850

24-46-23-W3-034PH.0010
DEALEY LARRY + JUDY
PO BOX 259
CONVOY, OH 45832

24-46-23-W3-034PH.0030
WATTS SHEILA A TR
8450 SLEEPY HOLLOW DR NE
WARREN, OH 44484

24-46-23-W3-03900.00CE
BAY TO BEACH ASSN
740 ESTERO BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-0390A.0002
BAY TO BEACH INC
PO BOX 95
CASEY, IL 62420

24-46-23-W3-0390A.0004
JAGGR LP
235 EUGENIE ST W
WINDSOR, ON N8X 2X7
CANADA

24-46-23-W3-0390A.0006
JAGGR FLORIDA L P
235 EUGENIE STREET W STE 105D
WINDSOR, ON N8X 2X7
CANADA

24-46-23-W3-0390A.0008
JAGGR FLORIDA L P
235 EUGENIE ST W STE 105D
WINDSOR, ON N8X 2X7
CANADA

24-46-23-W3-0390B.0002
MILLER DONALD W + WANDA J
3065 BAYVIEW AVE
TORONTO, ON M2K 1G1
CANADA

24-46-23-W3-0390C.0002
WISSINGER WILLIAM T +
13110 UPPER LEWISBURG RD
BROOKVILLE, OH 45309

24-46-23-W3-0390D.0002
ERIKSEN HEIDI N
TAGESVEJ 6C
7120 VEJLE EAST,
DENMARK

24-46-23-W3-034PH.0020
WATTS SHEILA A TR
8450 SLEEPY HOLLOW DR NE
WARREN, OH 44484

24-46-23-W3-034PH.0040
FIELD JOHN + MARIA
1ST AMERICAN R/E TAX SERVICE
CLIENT SERV DEPT M/C DAL 008
8435 N STEMMONS FWY
DALLAS, TX 75247

24-46-23-W3-0390A.0001
ENDRES RONALD G + BRENDA J
5798 EMERALD GROVE LANE
WAUNAKEE, WI 53597

24-46-23-W3-0390A.0003
CHRISTY DERRICK +
3933 EAGLE TRACE
GREENWOOD, IN 46143

24-46-23-W3-0390A.0005
HAGEL THOMAS
680 FAIRFIELD BEACH RD
FAIRFIELD, CT 06824

24-46-23-W3-0390A.0007
JAGGR FLORIDA L P
235 EUGENIE ST W STE 105D
WINDSOR, ON N8X 2X7
CANADA

24-46-23-W3-0390B.0001
SOLANS ENRIC P + ANTOINETTE C
1821 BOULDER DR
MT PROSPECT, IL 60056

24-46-23-W3-0390C.0001
JAGGR FLORIDA LP
235 EUGENIE ST W STE 105D
WINDSOR, ON N8X 2X7
CANADA

24-46-23-W3-0390D.0001
DUFFY FAMILY LIMITED
106 EULA ST
WILMINGTON, IL 60481

24-46-23-W3-00023.0000
LEE COUNTY
PO BOX 398
FORT MYERS, FL 33902

24-46-23-W3-00024.0000
RICHARD JOHN W TR
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030A.0050
HORN GWEN
923 THIRD ST APT A
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030A.0060
HOULIHAN MAURICE + MARY
917 THIRD ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030A.0070
GOMPEL MARIAN D EST
911 THIRD ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030A.0080
CASEY KATHLEEN M +
110 LOVE LN
NORWOOD, PA 19074

24-46-23-W3-0030B.0020
TOMAILOLO FRANKLIN L + GLORIA J
934 THIRD ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030B.0030
SCHULZ AXEL + CORNELIA
926 THIRD ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030B.0050
CLAYTON KATHRYN BEBEANNE TR
920 THIRD ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030B.0060
FOSTER RUTH TR
914 THIRD ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030B.0070
TYRELL PETER 1/2 +
17 RANELAGH RD
HEMEL HEMPSTEAD
HERTFORDSHIRE HP2 4RU,
UNITED KINGDOM

24-46-23-W3-0030B.0080
LEWIS GARY A + JEANNE M
880 THIRD ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030B.0090
LEBO KENNETH + LORRAINE
870 THIRD ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030B.0100
ALEXANDER RICHARD E JR
8 SCHARBACH DR
MARCY, NY 13403

24-46-23-W3-0030B.0110
HANZL MILDRED L/E
SHARON SWANSON
8795 E BAY CIR
FORT MYERS, FL 33908

24-46-23-W3-0030B.0120
FREEMAN PROPERTIES OF SWFL LLC
13692 PINE VILLA LN
FORT MYERS, FL 33912

24-46-23-W3-0030B.0130
SCHMELING ROBERT W +
1621 SE 84TH CT
VANCOUVER, WA 98664

24-46-23-W3-0030B.0140
SWING THOMAS J TR
1668 COPPERLEAF COVE
OVIEDO, FL 32766

24-46-23-W3-0030B.0150
MARTIN WALTER + CHERYL
2610 ESTERO BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030B.0160
SERVADIO NORMA L TR +
10 SAGAMORE DR
SIMSBURY, CT 06070

24-46-23-W3-0030B.0170
SERVADIO NORMA L TR
10 SAGAMORE DR
SIMSBURY, CT 06070

24-46-23-W3-0030C.0020
KIESEL CHARLES J + LENORA
431 BONITA ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030C.0100
SCOTT EDWARD W + B GAYLE
412 HARBOR CT
FORT MYERS BEACH, FL 33931

24-46-23-W3-00400.0050
HOELZEL INCORPORATED
CHRIS HOELZEL
PO BOX 70913
BETHESDA, MD 20813

24-46-23-W3-00400.006B
MOLLER MARY REGINA PAOLETTI +
1400 SIENA AVE
CORAL GABLES, FL 33146

24-46-23-W3-0050A.0080
RICHARD JOHN W TR
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-0050A.0140
MAY S E
PO BOX 61176
FORT MYERS, FL 33906

24-46-23-W3-0050A.018B
KEELER VIOLET RUTH TR
16243 CHARLESTON AVE
FORT MYERS, FL 33908

24-46-23-W3-0050A.032A
HOLBROOK LESLIE E +
5353 ST ROUTE 288
GALION, OH 44833

24-46-23-W3-0050A.0340
ARTRIP CHARLES J + BARBARA K
851 LAGOON ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0030C.0010
NASH ERNEST + EVELYN 1/2 +
270 KINGS RD
MADISON, NJ 07940

24-46-23-W3-0030C.0090
JAMES RONALD L JR
422 HARBOR CT
FORT MYERS BEACH, FL 33931

24-46-23-W3-00400.0010
FIRST CENTRAL INVESTMENT CORP
BLUEMARK CAPITAL LLC
205 W 4TH ST STE 1100
CINCINNATI, OH 45202

24-46-23-W3-00400.006A
ETCHISON P B + CAROLYN +
200 GREEN RD
ALPHARETTA, GA 30004

24-46-23-W3-00400.006C
SCHMITT MARJORIE A TR EST
FRANK SCHMITT
110 W LLANO DR
HOBBS, NM 88240

24-46-23-W3-0050A.0130
GROSS WAYNE +
2504 SANDERSON LN
VIRGINIA BEACH, VA 23456

24-46-23-W3-0050A.016A
JENKINS GEORGE D L
PO BOX 280
TILLSONBURG, ON N4G 4H5
CANADA

24-46-23-W3-0050A.0200
925 ESTERO BLVD LLC
4666 MAIN ST
BRIDGEPORT, CT 06606

24-46-23-W3-0050A.0330
PURTELL JAMES F +
JON R GUILLES
PO BOX 2706
FORT MYERS BEACH, FL 33932

24-46-23-W3-0050A.0350
SMITH RICHARD P
843 LAGOON ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0050A.0360
BRAUCH TORRIN MAC TR
841 LAGOON ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0050A.0380
PAINE FREDERICK L + NANCY KAY
12 BELKNAP SHORES
SUPERIOR, WI 54880

24-46-23-W3-0050A.0400
TOWN OF FORT MYERS BEACH
PO BOX 3077
FORT MYERS BEACH, FL 33932

24-46-23-W3-0050A.043A
VANFOSSEN JAMES D + TERRI D
724 MATANZAS CT
FORT MYERS BEACH, FL 33931

24-46-23-W3-0050A.0440
CASA PLAYA RESORT CONDOMINIUM
BURANDT ADAMSKI GROSSMAN +
PO BOX 100
SANIBEL, FL 33957

24-46-23-W3-0050B.0100
PAINE FREDERICK L + NANCY KAY
12 BELKNAP SHORES
SUPERIOR, WI 54880

24-46-23-W3-0050B.013B
BOWAN JAMES J
11715 W HOWARD AVE
MILWAUKEE, WI 53228

24-46-23-W3-0050C.0040
VANFOSSEN JAMES D + TERRI D
724 MATANZAS CT
FORT MYERS BEACH, FL 33931

24-46-23-W3-0050C.0060
EHRlich REBECCA E
35 WOODLAND DR
LITTLE FALLS, NJ 07424

24-46-23-W3-0050C.0070
YOUNG DOUGLAS E + STACEY J
308 LAKESHORE DR
WASHINGTON, IL 61571

24-46-23-W3-0050A.0370
JANNELLI FRANK L +
954 CLARELLEN DR
FORT MYERS, FL 33919

24-46-23-W3-0050A.0390
PAINE FREDERICK L + NANCY K
819 LAGOON ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0050A.0420
EDGEWATER INN LLC
264 AVALON GARDENS DR
NANUET, NY 10954

24-46-23-W3-0050A.043B
VANFOSSEN DANNY + GRACE L/E+
749 ESTERO BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-0050B.0010
SOUTHLAND CORPORATION
CORPORATE TAX DEPT
2711 N HASKELL AVE
DALLAS, TX 75204

24-46-23-W3-0050B.013A
ARTRIP CHARLES J + BARBARA K
850 LAGOON ST
FORT MYERS BEACH, FL 33931

24-46-23-W3-0050C.0030
PARSONS DANIEL +
1831 MAPLE GLEN RD
SACRAMENTO, CA 95864

24-46-23-W3-0050C.0050
CROW RANDY A + ABBY A
18779 N FRUITPORT RD
SPRING LAKE, MI 49456

24-46-23-W3-0050C.006A
DUNIPACE JANETTE M
130 BUTTONWOOD AVE
BOWLING GREEN, OH 43402

24-46-23-W3-02500.00CE
SAND CASTLE BEACH CLUB CONDO
905 ESTERO BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-02500.1010
SAND CASTLE BEACH CLUB
905 ESTERO BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-02900.00CE
ROYAL BEACH CLUB CONDO
800 ESTERO BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-03200.1010
LAWRANCE DAVID J 1/2 INT +
823 HIDDEN LN
EXCELSIOR, MN 55331

24-46-23-W3-03200.1030
COOPER KENT + CONSTANCE
320 BLOOMINGTON ST
GREENCASTLE, IN 46135

24-46-23-W3-03200.1050
FREIER SHIRLEY 50% +
1429 W MARKET ST
LIMA, OH 45805

24-46-23-W3-03200.1070
CHRISTLIEB A RICHARD + SHIRLEY
11039 SEA TROPIC LN
FORT MYERS, FL 33908

24-46-23-W3-03200.1090
WALSH JAMES F + JANET M
2536 KENNELLY DR
WILLOUGHBY, OH 44094

24-46-23-W3-03200.1110
ROEGNER DONALD L + MARLYS A
3504 WALTON WAY
KOKOMO, IN 46902

24-46-23-W3-03400.1010
BEL-AIR BEACH CLUB ASSOC
780 ESTERO BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-03400.2030
WILLE BRIAN -
19752 REGAN RD
NEW LENOX, IL 60451

24-46-23-W3-02900.0010
ROYAL BEACH CLUB CONDO ASSN
800 ESTERO BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-03200.00CE
ROYAL BEACH CLUB CONDO PH II
800 ESTERO BLVD
FORT MYERS BEACH, FL 33931

24-46-23-W3-03200.1020
VEHAR KEVIN K +
6143 RIVERA LN
NEW PORT RICHEY, FL 34655

24-46-23-W3-03200.1040
FISK DAN + DEBORAH T
8973 KNOBLE CT
EDEN PRAIRIE, MN 55347

24-46-23-W3-03200.1060
LEBO E CHARLES JR + SUSAN M
6202 N DELAWARE ST
INDIANAPOLIS, IN 46220

24-46-23-W3-03200.1080
CHRISTLIEB A RICHARD + SHIRLEY
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FORT MYERS, FL 33908

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ANDREW NICK J
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JOLIET, IL 60435

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MILTON, VT 05468

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TALLMAN CHARLES L +
317 RICHARD PL
ITHACA, NY 14850

24-46-23-W3-034PH.0010
DEALEY LARRY + JUDY
PO BOX 259
CONVOY, OH 45832

24-46-23-W3-034PH.0030
WATTS SHEILA A TR
8450 SLEEPY HOLLOW DR NE
WARREN, OH 44484

24-46-23-W3-03900.00CE
BAY TO BEACH ASSN
740 ESTERO BLVD
FORT MYERS BEACH, FL 33931

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BAY TO BEACH INC
PO BOX 95
CASEY, IL 62420

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WINDSOR, ON N8X 2X7
CANADA

24-46-23-W3-0390A.0006
JAGGR FLORIDA L P
235 EUGENIE STREET W STE 105D
WINDSOR, ON N8X 2X7
CANADA

24-46-23-W3-0390A.0008
JAGGR FLORIDA LP
235 EUGENIE ST W STE 105D
WINDSOR, ON N8X 2X7
CANADA

24-46-23-W3-0390B.0002
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3065 BAYVIEW AVE
TORONTO, ON M2K 1G1
CANADA

24-46-23-W3-0390C.0002
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13110 UPPER LEWISBURG RD
BROOKVILLE, OH 45309

24-46-23-W3-0390D.0002
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TAGESVEJ 6C
7120 VEJLE EAST,
DENMARK

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24-46-23-W3-034PH.0040
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CLIENT SERV DEPT M/C DAL 008
8435 N STEMMONS FWY
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WAUNAKEE, WI 53597

24-46-23-W3-0390A.0003
CHRISTY DERRICK +
3933 EAGLE TRACE
GREENWOOD, IN 46143

24-46-23-W3-0390A.0005
HAGEL THOMAS
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FAIRFIELD, CT 06824

24-46-23-W3-0390A.0007
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235 EUGENIE ST W STE 105D
WINDSOR, ON N8X 2X7
CANADA

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1821 BOULDER DR
MT PROSPECT, IL 60056

24-46-23-W3-0390C.0001
JAGGR FLORIDA LP
235 EUGENIE ST W STE 105D
WINDSOR, ON N8X 2X7
CANADA

24-46-23-W3-0390D.0001
DUFFY FAMILY LIMITED
106 EULA ST
WILMINGTON, IL 60481

Paine/Purtell Rezoning

Exhibit C-1: Decision-Making Compliance Narrative

James Purtell and Fred Paine (Applicants) are requesting approval to rezone their 0.33+/-acre property ("Property") from Residential Conservation (RC) to the Downtown zoning district. Approval of this request will allow the Property's zoning to comply with the underlying Pedestrian Commercial Future Land Use Category, and reinstate the commercial use of the Property previously allowed per the Lee County Commercial (C-1) zoning district. This rezoning request also recognizes the Property's location adjacent to other Downtown zoned property within the urban core of Fort Myers Beach.

I. Development Location

The Property is located in an urban area of the Town less than one-quarter mile from the Sky Bridge/5th Avenue intersection. The surrounding area is characterized by intensive commercial development and public uses, multi-story hotels/motels, and mixed residential uses, the majority of which are multi-family structures utilized as seasonal rentals. It is important to note that the Property is not located in an established, low-density residential portion of the Town, but rather a commercialized area within the Town's core that has been surrounded by tourist-related development for decades. Table 1 below summarizes the surrounding uses.

Table 1: Inventory of Surrounding Uses

| DIRECTION | FUTURE LAND USE | ZONING | EXISTING LAND USE |
|-----------|-----------------------|---|---|
| North | Mixed Residential | Residential Conservation (RC) | Public Right-of-Way (Lagoon St.); Single- and Multi-Family Residential/Season Rentals |
| South | Recreation | Commercial Planned Development (CPD) | 4-story Hotel (Edison Beach House); |
| East | Pedestrian Commercial | Downtown | Commercial (7-Eleven Convenience Store) |
| West | Recreation | Commercial Planned Development (CPD) | Commercial Parking Lot |

****The only single-family residences adjacent to the subject property are owned by the Applicant, per Lee County Property Appraiser data. All other surrounding residential uses along Lagoon Street are multi-family units, the majority of which are utilized as seasonal rentals.***

III. History/Background

Prior to 1995 Fort Myers Beach was a part of unincorporated Lee County, and its zoning districts were set forth by the Lee County Zoning Map. The subject property had long been classified as Commercial (C-1), and was similarly designated within the Urban Community Future Land Use Designation. Following incorporation and the adoption of

Town of Fort Myers Beach Future Land Use and Zoning Maps, the Property was re-designated to the Mixed Residential Future Land Use Category and the Residential Conservation (RC) zoning district, irrespective of the Property's multi-family uses, which are not permitted in the RC District. Immediately following these actions, the Applicants have been working diligently to restore the commercial entitlements in consideration of the Property's location in the Town's downtown core. At the time of this submittal, the Applicants will have documented over seven (7) years of coordination with the Town of Fort Myers Beach to restore these commercial entitlements.

The Applicants successfully secured a Future Land Use Map amendment in 2010 to re-designate the Property to the Pedestrian Commercial Future Land Use Category, which is more similar to the previously held Urban Community designation. This rezoning application represents the final step in the process of restoring commercial uses to the Property, and recognizing the surrounding context within an intensive mixed-use area.

II. Proposed Downtown Zoning District

The Applicants are requesting to rezone the Property to the Downtown district to allow for a range of commercial, residential, and mixed-uses, which will implement the Pedestrian Commercial Future Land Use Designation. The Property's current multi-family uses are not permissible under the RC zoning district; therefore, approval of this application will allow for consistent use of the Property from both a zoning and Future Land Use perspective.

The Property is adjacent to the existing Downtown zoning district boundary and is abutted to the east and west by intensive commercial uses. The Property has 110+/- feet of frontage along Estero Blvd., an arterial roadway and the Town's main thoroughfare. The Property also represents the only lots with frontage along Estero Blvd. and within the Lagoon Street block that are not zoned for commercial uses.

Furthermore, a four-story hotel and the Lynn Hall Memorial Park public beach are located directly across Estero Blvd. from the Property. Based on the surrounding uses and intensive mixed-use nature of the area, the Downtown district is the most appropriate district for the Property.

As outlined in Subdivision II of the Land Development Code (LDC), future redevelopment of the Property will comply with the Downtown district's detailed regulations to ensure a pedestrian-oriented environment and appropriate urban design controls. Moreover, per Section 34-635 all future redevelopment will comply with the Town's commercial design standards. These regulations are in place to provide the necessary safeguards to protect the public realm and ensure quality, visually-appealing development and redevelopment within the Downtown District.

While the Downtown zoning district does not require buffer yards in compliance with Chapter 10 of the LDC, Section 10-416 does not require any buffer between commercial uses, or between commercial uses and public rights-of-way. Therefore, The Applicant respectfully submits that no buffers would be required along the Lagoon Street and Estero Boulevard frontages, or adjacent to the commercial parking lot and 7-Eleven. The residence that abuts the subject property to the north is a multi-family building that is used for seasonal rentals, and has been adjacent to the 7-Eleven since its opening in 1983. This residential property is utilized by tourists seeking out lodging within the Downtown core in close proximity to beaches, goods and services. Therefore, approval of this rezoning will not negatively impact compatibility with surrounding uses.

While the Downtown zoning district's permitted uses do not align entirely with the former C-1 zoning district, this district is arguably the most similar in that it provides both general office and retail uses, which are not permitted in the Town's other conventional zoning districts.

Therefore, based upon the underlying Pedestrian Commercial FLU Category, surrounding urban context, previously held C-1 zoning, and safeguards in place per the Downtown zoning regulations and commercial design standards, the Applicants respectfully submit that the proposed rezoning is appropriate, will ensure compatibility with surrounding uses, and upholds the intent of the Town's LDC and Comprehensive Plan.

III. Decision-Making Compliance

Per Section 34-85 of the LDC, the requested Downtown rezoning complies with the following considerations for rezoning approval:

1. Whether there exists an error or ambiguity which must be corrected.

The two (2) parcels that comprise the subject property are classified by the Lee County Property Appraiser as "multi-family less than 10". The property located at 831 Estero Blvd. contains four (4) lock-off units used as seasonal rentals, while the property located at 821 Estero Blvd. contains three (3) lock-off units, which are also used as seasonal rentals. Conversely, the RC zoning district is limited to single-family, two-family and live-work dwelling types; multi-family uses are not permitted. Therefore, the proposed rezoning will correct the erroneous 2004 rezone from Lee County C-1 zoning to the RC district, which created the non-conforming usage of the Property.

2. Whether there exist changed or changing conditions which make approval of the request appropriate.

The Town of Fort Myers Beach approved a Comprehensive Plan amendment in 2010 to re-designate the Property from Mixed Residential to Pedestrian Commercial, in recognition of the surrounding urban, mixed-use neighborhood context. This recent change to the Future Land Use requires a corresponding rezoning to an appropriate implementing zoning district. The Downtown zoning district is an appropriate implementing district for the Pedestrian Commercial Category.

In addition to the Future Land Use change, the property to the west of the subject property was rezoned to Commercial Planned Development (CPD) and is used as a commercial parking lot, largely to support the downtown walking district and adjacent beaches. In effect, the property is now "sandwiched" between two (2) intensive, non-residential developments, which further support the rezoning request.

Lastly, the Seafarers Village was demolished in 2011 to allow for the future development of a parking garage to service downtown Fort Myers Beach. Following demolition, the Town (and more specifically the Downtown district) lost over 38,000 square feet of restaurant, retail and office uses, and there is no intent to replace the commercial uses elsewhere. This significant loss in commercial square footage within the

Downtown district further supports the request to allow for pedestrian-oriented, mixed-uses at the subject property to service the area.

3. The impact of a proposed change on the intent of this chapter.

The proposed rezoning will implement the Town's LDC provisions for the Downtown district, and ensure quality, walkable, infill redevelopment. Future redevelopment activities will require Development Order approval and will be reviewed for consistency with the Downtown regulations and commercial design standards. Therefore, the proposed change will maintain and uphold the intent of Chapter 34.

4. Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

The request is consistent with the goals, objectives, policies and intent of the Comprehensive Plan, as outlined on Exhibit C-2 attached. Specifically, the proposed rezoning will bring the Property into compliance with the underlying Pedestrian Commercial FLU Category, as the current RC zoning is not an appropriate implementing district for this FLU.

Due to the fact that the proposed rezoning is seeking a conventional zoning district, and not a Planned Development (PD) with specific development parameters, it is customary for the application to be reviewed based upon the maximum attainable density/intensity permitted per the Underlying Future Land Use and/or zoning district. In 2010, as part of the Pedestrian Commercial Comprehensive Plan Amendment approval, the Town deemed the Property to be an appropriate location for the maximum attainable density/intensity of 6 du/acre and 1.5 Floor Area Ratio (FAR). The proposed Downtown zoning district permits a maximum of 1.4 FAR along Estero Blvd. Therefore, if developed at the maximum attainable intensity, which is unlikely due to the various design requirements, the resulting intensity will be below the permitted FAR in the Pedestrian Commercial Category.

From a density perspective, the subject property contains a total of seven (7) lock-off units, and is therefore grandfathered for a higher density than permitted via the underlying Future Land Use Category.

Lastly, the Town has safeguards in place via the Development Order review process to ensure future redevelopment is compliant with the Town's Comprehensive Plan.

5. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.

The proposed Downtown rezoning will allow for mixed-use development within the Pedestrian Commercial Future Land Use Category. Per Policy 4-C-3, the Comprehensive Plan specifically encourages new and expanded commercial uses within this Category, as it is designated in appropriate locations throughout the Town where public infrastructure is available to service higher density/intensity development, and where commercial intrusion into established, low density neighborhoods is minimal. Therefore, the proposed

Downtown rezoning will meet the Town's performance and locational standards based upon the underlying Future Land Use.

As noted above, the Property is an appropriate location for the maximum attainable density/intensity permitted in the Downtown district, as evidenced by the existing high density usage of the site and the 2010 approval to the Pedestrian Commercial FLU Category.

Additionally, the property immediately east of the subject property is zoned Downtown, while the property to the west is zoned CPD. The surrounding commercial zoning districts are another indicator that the Property is ideally located for expansion of the Downtown district.

6. Whether urban services are, or will be available and adequate to serve a proposed land use change.

Water and sewer are available to service the subject property at an appropriate capacity to handle the maximum FAR permitted under the Pedestrian Commercial Future Land Use Category. Please refer to the attached letters of availability.

As indicated on the enclosed Traffic Impact Statement (TIS) Waiver application, the Downtown district is a "park once" destination, where preference is given to pedestrian movement, as is the case with any central business district/tourist destination. Future redevelopment activities will most certainly support the hotel/motel and seasonal rental uses surrounding the Property, and within the immediate area. Therefore, development of the Property will enhance the overall downtown node, provide a pedestrian-oriented development to service tourists and local residents within walking distance of the site, and will not serve as a trip generator and/or substantially increases vehicular trips to the Property. The site, at a mere 0.33 acres, is not large enough develop a substantial trip generator. Moreover, the Property is serviced by sidewalks and LeeTran facilities to facilitate pedestrian access. For these reasons the Property is an appropriate location for the Downtown district and the urban services are available and adequate to support the proposed rezoning.

In terms of stormwater management facilities, it is understood that redevelopment of the site will require approval of a stormwater management plan prior to Development Order approval.

7. Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.

The subject property does not contain environmentally sensitive lands and has been developed with multi-family/season rental uses since the mid-1950's. Therefore, the proposed rezoning will have no impact on the Town's environmentally critical areas and natural resources. Moreover, approval of this rezoning will encourage redevelopment activities away from the environmentally critical areas, the majority of which are located seaward of Estero Blvd. Lastly, at the time of Development Order submittal, redevelopment plans will be reviewed to ensure compliance with the Town's sea turtle lighting requirements.

8. Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.

The Property is located approximately 900 feet, or 0.2 miles, from the intersection of the Sky Bridge and 5th Avenue in the heart of Fort Myers Beach. Properties to the east and west of the subject property are developed with intensive commercial uses, more specifically a commercial parking lot zoned CPD to the east, and a 24-hour supermarket/convenience store zoned Downtown to the west. Seaward of Estero Blvd. is the Edison Beach House, a 4-story hotel. The site is also in full view of the Lynn Hall Memorial Park's parking lot, which is one of the Town's busiest public beach facilities. To the north of the Property along Lagoon Street there is a mix of multi-family and single-family residences, many of which are used as seasonal rentals. The mixed-use nature of this neighborhood is reflective of a true downtown setting where residential uses are located in close proximity to non-residential uses, oftentimes within the same structure. Therefore, redevelopment of the Property with uses permitted under the Downtown district will enhance the general area and provide for a mix of uses to support this tourist node.

It is important to note that the development immediately east of the Property consists of a 7-Eleven store, which was established in the early 1980's and is open 24 hours per day/7 days per week. The subject property's proximity to this type of development is a strong indicator of the appropriateness of this application and the intensive nature of the general area. Moreover, the residential uses along Lagoon Street have abutted the 7-Eleven store for three decades and the current surrounding owners have sought out this location to be close to goods, services and entertainment. To summarize, this location is not an area of the Town characterized by low-density residential development.

As noted above, the Downtown zoning district does not require buffer yards in compliance with Chapter 10 of the LDC; however Section 10-416 does not require any buffer between commercial uses or between commercial uses and public rights-of-way. Therefore, The Applicant respectfully submits that no buffers would be required along the Lagoon Street and Estero Boulevard frontages, or adjacent to the commercial parking lot and 7-Eleven. Lastly, the residence that abuts the subject property to the north is a multi-family building that is used for seasonal rentals, and has been adjacent to the 7-Eleven since its opening in 1983.

While buffers are not requirement, the Downtown district has substantial development regulations in place to ensure appropriate development that enhances the public realm and encourages quality urban design principles.

Therefore, the Applicant respectfully submits that the character of the immediate area is an intense and dense mix of tourist-based uses in the Town's central business district. Future redevelopment of the Property under the Downtown regulations will ensure future redevelopment activities serve as enhancement to existing and planned uses in the immediate area.

9. Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.

As indicated noted above and on the enclosed Traffic Impact Statement (TIS) Waiver application, the proposed rezoning will not result in an undue burden upon existing transportation facilities due to its location in the central urban core, less than one-quarter mile from the Sky Bridge/5th Avenue intersection. Redevelopment of

the Property will service patrons of the seasonal rental units, surrounding hotels, and pedestrians within the downtown walking district. As noted in Section 34-676, the Downtown district is planned as a “park once” district and pedestrian movement is encouraged. Therefore, redevelopment of the Property under the proposed rezoning will not result in substantial increased trip generation, and will largely be patronized by pedestrians within the Downtown district. The Property is also located along the LeeTran Fort Myers Beach Trolley route, in walking distance from several trolley stops.

Lastly, the property is currently serviced by Town of Fort Myers Beach potable water and sanitary sewer services, and capacity is available to serve the approved restaurant use.

In summary, approval of this request will allow the Property’s zoning to comply with the underlying Pedestrian Commercial Future Land Use Category, and reinstate the commercial use of the Property previously allowed per the Lee County Commercial (C-1) zoning district. Approval of this request will also recognize the Property’s location adjacent to other Downtown zoned property within the urban core of Fort Myers Beach. The Downtown district regulations, coupled with the LDC’s commercial design standards, will ensure the appropriate redevelopment of the Property. Public infrastructure is available to service future redevelopment at the maximum attainable density and intensity. For these reasons, the Applicants respectfully request approval of this rezoning request.

Paine/Purtell Rezoning

Exhibit C-2: Comprehensive Plan Compliance Narrative

The subject property ("Property") is currently zoned Residential Conservation (RC), and is designated within the Pedestrian Commercial Future Land Use Category per a recent Small-Scale Comprehensive Plan Amendment (CPA) approved in 2010. Per this approval, there is a marked inconsistency between the underlying Future Land Use Category and the RC zoning district, which is proposed for correction via this conventional rezoning application. The Applicant's intent is to rezone their property to an appropriate zoning district that recognizes the Property's location in the Town's central business district, while ensuring compliance with the underlying Pedestrian Commercial FLU Category. Therefore, the application, in and of itself, will increase the property's compliance with the Town of Fort Myers Beach Comprehensive Plan.

The Property is located in an urban area of the Town characterized by intensive commercial uses, multi-story hotels/motels, and mixed residential uses, the majority of which are multi-family structures utilized as seasonal rentals. Table 1 below summarizes the surrounding uses.

Table 1: Inventory of Surrounding Uses

| DIRECTION | FUTURE LAND USE | ZONING | EXISTING LAND USE |
|-----------|-----------------------|--------------------------------------|---|
| North | Mixed Residential | Residential Conservation (RC) | Public Right-of-Way (Lagoon St.); Single and Multi-Family Residential/Season Rentals |
| South | Recreation | Commercial Planned Development (CPD) | 4-story Hotel (4-story Edison Beach House); |
| East | Pedestrian Commercial | Downtown | Commercial (7-Eleven Convenience Store) |
| West | Recreation | Commercial Planned Development (CPD) | Commercial Parking Lot |

****It is important to note, per information retrieved from the Lee County Property Appraiser that the only single-family residences adjacent to the subject property are owned by the Applicant. All other surrounding residential structures are multi-family uses, the majority of which are utilized as seasonal rentals.***

The following is an analysis of how the proposed Downtown rezoning is consistent with relevant goals, objectives and policies of the Town of Fort Myers Beach Comprehensive Plan (Plan).

Policy 4-B-6: Pedestrian Commercial Future Land Use

The Pedestrian Commercial Future Land Use Category is intended for intense commercial and mixed-use development, including Times Square and the immediate area along Estero Boulevard. Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet the design concepts of this plan and the Land Development Code.

The proposed Downtown rezoning is in direct compliance with the intent of the Pedestrian Commercial Category, as it provides for a streamlined review process, and is also one of the few zoning districts appropriate for this intensive Future Land Use Category. The subject property is located less than 900 feet from the Sky Bridge/5th Avenue intersection, which signifies its location within the core of Downtown Fort Myers Beach (ie. “the immediate area along Estero Boulevard”). The Downtown zoning district sets forth thorough and detailed design standards to ensure future redevelopment activities contribute to the pedestrian-oriented public realm in this area.

The maximum permissible FAR in the Pedestrian Commercial Category is 1.5, while the maximum FAR permitted in this location within the Downtown district is limited to 1.4 FAR. Therefore, the proposed rezoning will ensure the maximum attainable intensity is within the limits of the underlying FLU. From a density perspective, the subject property contains a combined seven (7) lock-off units, and is therefore grandfathered for a higher density than permitted via the underlying Future Land Use Category.

It is also important to note that the recent demolition of Seafarer’s Plaza resulted in a significant decrease in retail uses within the Downtown district. Therefore, expansion of this district to include the subject property will further support the Comprehensive Plan’s intent to support commercial and mixed-uses within the Town’s urban core.

Lastly, as outlined in the analysis on file with the Town of Fort Myers Beach per previous applications, approval of this rezoning would result in a maximum of 60.1% non-residential acreage in the Pedestrian Commercial FLU Category, well below the maximum of 90%.

Policy 4-A-3: Commercial Intrusion

The above referenced policy regarding the protection of established residential neighborhoods is largely inapplicable to the proposed Downtown rezoning based upon the Property’s location in the downtown core, and the nature of surrounding uses. As outlined above and detailed on attached photographs, the Property is located a mere 1/10th of a mile from the Sky Bridge/5th Avenue intersection, which signifies the “heart” of the Downtown zoning district.

Properties to the east and west of the subject property are developed with intensive commercial uses, more specifically a commercial parking lot zoned CPD to the east, and a 24-hour supermarket/convenience store to the west. Seaward of Estero Blvd. is the Edison Beach House, a 4-story hotel. The site is also in full view of the Lynn Hall Memorial Park’s parking lot, which is one of the Town’s busiest public beach facilities. To the north of the Property along Lagoon Street there is a mix of multi-family and single-family residences, many of which are used as seasonal rentals. The mixed-use nature of this neighborhood is reflective of a true downtown setting where residential uses are located in close proximity to non-residential uses, oftentimes within the same structure.

It is important to note that the development immediately east of the Property consists of a 7-Eleven store, which was established in the early 1980’s and is open 24 hours per day/7 days per week. The subject property’s proximity to this type of development is a strong indicator of the appropriateness of this application and the intensive nature of the general area.

While the Downtown zoning district does not require buffer yards in compliance with Chapter 10 of the LDC, Section 10-416 does not require any buffer between commercial uses or between commercial uses and public rights-of-way. Therefore, The Applicant respectfully submits that no buffers would be required along the Lagoon Street and Estero Boulevard frontages, or adjacent to the commercial parking lot and 7-Eleven.

The residence that abuts the subject property to the north is a multi-family building that is used for seasonal rentals, and has been adjacent to the 7-Eleven since its opening in 1983. This residential property is utilized by tourists seeking out lodging within the Downtown core in close proximity to beaches, goods and services. Therefore, approval of this rezoning will not negatively impact compatibility with surrounding uses.

Therefore, the Applicant respectfully submits that the character of the immediate area is not an established, single family neighborhood, but an intense and dense mix of tourist-based uses in the Town's central business district. As noted above, the only single family residences abutting or near the property are owned by the Applicant. Therefore, the proposed Downtown rezoning will not intrude into an established, single family neighborhood, and design standards are in place to ensure attractive, pedestrian-oriented redevelopment.

Policy 4-A-1: Human Scale & Walkability

The propose rezoning will ensure that future development activities are pedestrian-oriented and incorporate sound urban design principles, such as minimum building frontages, maximum building heights to recognize human scale, and maximum Floor Area Ratio (FAR) . Moreover, future redevelopment must comply with the LDC's commercial design standards, which ensure quality, visually-appealing commercial and mixed-use developments.

Policy 4-C-2: Commercial Intensity

The maximum attainable FAR for properties located along Estero Blvd. within the Downtown zoning district is 1.4, which is below the maximum FAR permitted per the Pedestrian Commercial FLU. Based upon the property's acreage of 0.33+/- acres (or 14,375+/- s.f.), the maximum attainable intensity is 20,125 s.f. As requested by Staff, utilities availability letters from Beach Water and Lee County Utilities are enclosed in this application and demonstrate sufficient capacity exists to develop the Property at its most intensive possible usage under the Downtown zoning district.

As indicated on the enclosed Traffic Impact Statement (TIS) Waiver application, the Downtown district is a "park once" destination, where preference is given to pedestrian movement, as is the case with any central business district/tourist destination. Future redevelopment activities will most certainly support the hotel/resort and seasonal rental uses surrounding the Property and in the immediate area. Therefore, development of the Property will enhance the overall downtown node, provide a pedestrian-oriented development to service tourists and local residents within walking distance of the site, and will not serve as a trip generator and/or substantially increases vehicular trips to the Property. For these reasons the Property is an appropriate location for the Downtown district, and the maximum attainable intensity permitted under the Pedestrian Commercial FLU.

Policy 4-C-3: Commercial Location Standards

The proposed Downtown rezoning will allow for mixed-us development within the Pedestrian Commercial Future Land Use Category. Per Policy 4-C-3, the Comprehensive Plan specifically encourages new and expanded commercial uses within this Future Land Use Category, as it is designated in appropriate locations throughout the Town where public infrastructure is available to service higher density/intensity development, and where intrusion into established, low density neighborhoods is minimal. Therefore, the proposed Downtown rezoning will meet the Town's performance and locational standards based upon the underlying Future Land Use. Additionally, the property immediately east of the subject property is zoned Downtown, while the property to the west is zoned CPD. The surrounding zoning districts are another indicator that the Property is ideally located for expansion of the Downtown district.

In summary, the proposed rezoning will allow the Property's zoning to comply with the underlying Pedestrian Commercial Future Land Use Category, and reinstate the commercial uses of the Property previously allowed per the Lee County Commercial (C-1) zoning district. The Property is designated Pedestrian Commercial on the Town's Future Land Use Map, which is expressly intended for the mix of use permitted in the Downtown zoning district. Public infrastructure is available to support the proposed rezoning. Therefore, this application is consistent with the intent of the Fort Myers Beach Comprehensive Plan.



LEE COUNTY
SOUTHWEST FLORIDA
BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (239) 533-8532

John E. Manning
District One

March 30, 2012

Brian Bigelow
District Two

Ray Judah
District Three

Tammy Hall
District Four

Frank Mann
District Five

Karen B. Hawes
County Manager

Diana M. Parker
County Hearing
Examiner

Alexis Crespo
Waldrop Engineering
28100 Bonita Grande Dr., #305
Bonita Springs, FL 34135

RE: Wastewater Availability
PAINE/PURTELL REZONING, 821 AND 831 ESTERO BLVD.
STRAP #S :24-46-23-W3-0050B.0050 & 24-46-23-W3-0050B.0070

Dear Ms. Crespo:

Wastewater lines are in operation in the vicinity of the proposed project mentioned above. However, in order to provide service to the subject parcels, developer funded system enhancements such as line extensions may be required.

Your firm has indicated that this project will consist of 1 commercial unit with an estimated flow demand of approximately 2,013 gallons per day. Lee County Utilities presently has sufficient capacity to provide sanitary sewer service as estimated above.

Prior to beginning design work on this project, please schedule a meeting with Thom Osterhout to determine the best point of connection and discuss requirements for construction.

Sanitary sewer service will be provided by our Fort Myers Beach Wastewater Treatment Plant. The Lee County Utilities' Design Manual requires the project engineer to perform hydraulic computations to determine what impact this project will have on our existing system.

This is only a letter of availability of service and not a commitment to serve. Lee County Utilities will commit to serve only upon receipt of all appropriate connection fees, a signed request for service and/or an executed service agreement, and the approval of all State and local regulatory agencies.

Further, this letter of availability of Wastewater service is for re-zoning for this project only. Individual letters of availability will be required for obtaining building permits.

Sincerely,

LEE COUNTY UTILITIES

Mary McCormic
Technician Senior
UTILITIES ENGINEERING

VIA EMAIL
Original Mailed

