

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2012-011
VAR2012-0003 - Matanzas Inn Sign Variance

WHEREAS, applicant Estero Bay Hotel Company is requesting a variance from Section 30-153(b)(1) of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP number for the subject property is 19-46-24-W4.0150E.0210 and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property is located at 414/416 Crescent Street Fort Myers Beach, FL 33931, zoned Commercial Planned Development on the Official Zoning Map and the Pedestrian Commercial platted overlay category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on August 14, 2012; and

WHEREAS, at the hearing the LPA gave full and complete consideration to the request of Applicant, 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 34-87.

IT IS HEREBY RESOLVED BY THE LPA 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 and the standards for granting special exceptions, the LPA recommends the following findings of fact, conditions for approval, and conclusions for consideration by the Town Council:

The LPA recommends that the Town Council **APPROVE/DENY** the applicant's request for a variance from Section 30-153(b)(1) of the LDC; or

RECOMMENDED FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the LPA recommends that the Town Council make the following findings and reach the following conclusions:

- A. There **are/are not** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, **and** the request **is/is not** for a de minimis variance to protect public safety by not obstructing access to public utilities and fire protection facilities.

B. The conditions justifying the variance **are/are not** the result of actions of the applicant taken after the adoption of the regulation in question.

C. The variance granted **is/is not** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.

D. The granting of the variance **will/will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.

E. The conditions or circumstances on the specific piece of property for which the variance is sought **are/are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

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

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

DULY PASSED AND ADOPTED THIS 14th day of AUGUST, 2012.

By: _____
Joanne Shamp, LPA Chair

Approved as to legal sufficiency:

By: _____
Fowler, White, Boggs
LPA Attorney

ATTEST:

By: _____
Michelle Mayher
Town Clerk



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Sign Variance
CASE NUMBER: VAR2012-0003
LPA HEARING DATE: August 14, 2012
LPA HEARING TIME: 9:00 AM

I. APPLICATION SUMMARY

Applicant: Estero Bay Hotel Company, DBA Matanzas Inn
Douglass Speirn-Smith, authorized applicant.

Request: A variance from 30-153(b)(1)

Subject property: See *Exhibit A*

Physical Address: 414/16 Crescent Street

STRAP #: 19-46-24-W4.0150E.0210

FLU: Pedestrian Commercial, platted overlay

Zoning: Commercial Planned Development (CPD)

Current use(s): Marina Resort

Adjacent zoning and land uses:

North: Matanzas Pass

South: Residential
Residential Multifamily (RM)
Pedestrian Commercial, Platted Overlay

East: Artificial canal

Residential
Residential Conservation (RC)
Mixed Residential

West: Crescent Street

Residential
Downtown
Pedestrian Commercial

II. BACKGROUND AND ANALYSIS

Background:

Estero Bay Hotel Company has applied for a variance and relief from Section 30-153(b)(1) Chapter 30 – Signs of the Town of Fort Myers Beach Land Development Code, for the property located at 414/416 Crescent Street and known as the Matanzas Inn.

The subject property measures approximately 1.41 acres in size, is zoned Commercial Planned Development (CPD), and includes the rights and uses contained in the Resolution that approved the CPD (See *Exhibit B*).

The subject property has four signs; three monument signs and one roof sign. The three monument signs are each 5' tall. The sign face dimensions are 6'x1.5', 8'x2', and 6'x1.5' for a total of 34 square feet of sign area. There is also a roof sign that was approved by a Lee County variance (See *Exhibit C*), which allows a roof sign to advertise the restaurant only (condition #2) and is not to exceed 64 square feet in area (condition #1).

On April 18, 2011 Town Council adopted amendments to the sign ordinance (11-01) which became effective immediately upon adoption. The amendments include an amortization provision requiring that all non-conforming signs come into compliance by December 31, 2011.

Estero Bay Hotel Company applied for variance from provisions within Ordinance 11-01 on March 20, 2012, 3 months after the compliance deadline of December 31, 2011.

Analysis:

The applicant was granted a variance by Lee County in 1989 to allow a roof sign which was a prohibited sign type per the code in effect at the time (Lee County Ordinance 85-26). To be very clear, the language of this variance approval is for the sign type only. This means that the variance was granted for a roof sign, but did not provide relief from the total sign area or any other applicable provisions. Furthermore, the conditions of approval in that variance limit the roof sign to no

more than 64 square feet in area and a specific location on the roof (condition #1); and that the roof sign may only be used in conjunction with the existing restaurant use (condition #2).

The current sign ordinance, 11-01, limits signage for a property with one or two businesses in the following section:

Section 30-153(b) Commercial uses in commercial zoning districts. All signs located in commercial zoning districts, except for those signs identified as exempt signs in 30-6 and temporary signs in 30-141, shall comply with the following sign area limitations.

(1) For a parcel of land containing one (1) or two (2) business establishments each separate business establishment shall be allowed a maximum of thirty-two (32) square feet of sign area.

With two business establishments on the subject property, it is therefore entitled to thirty-two (32) square feet of sign area for each of the two businesses.

The existing roof sign is 64 square feet in area and the combined monument sign area equals 34 square feet for a grand total of 98 square feet of sign area. This results in the subject property exceeding the maximum allowable sign area per Section 30-153(b)(1).

The applicant is requesting a variance from Section 30-153(b)(1) to retain the existing on-site signage which is a total of 98 square feet in area.

The justification offered by the applicant states that the Town's ordinance does not address properties with multiple frontages that include the waterfront. The application states: "The original intent of the (roof) sign was to allow our island business to be competitive with all Harbor businesses both in the County and the Town. It is very helpful with all boating traffic and also Harbor guests that use our various services." The application goes on to state that "A small waterfront sign would essentially be meaningless for the property on the water due to sight limitations and distances involved."

It should be noted that, were there no roof sign, the subject property's monument signs would be in compliance and no variance would be necessary. However, the applicant hasn't provided a discussion as to why three monument signs on approximately 375' of road frontage is necessary. Nor have they provided a justification as to why the large 64 square foot sign, which can be seen from First, Second and Crescent Streets, is not sufficient to advertise Matanzas Inn from both the street and the water.

On July 30, 2012 Staff conducted a signage inspection along the bayside waterfront. Staff observed both the subject property and numerous others on both Estero Island and San Carlos Island from the navigable channels of Matanzas Pass and Estero Bay.

Exhibit F includes a sample of images of property in that area. While not a conclusive survey by any means, Staff did gain a better understanding of the existing signage on the water.

The applicant makes a valid point, that the sign ordinance, in some instances, does not adequately address signage needs for properties that front on both waterways and roadways. However a variance request for 98 square feet of sign area when only 64 is permitted is a sizable request that should be considered carefully. Because there is no clear guidance in the code, the decision made in this case will have the potential for setting a precedent for all similar waterfront businesses.

Findings and Conclusions:

Using the five decision making factors described in LDC Section 34-87(3), Staff recommends the following findings and conclusions:

- a. *That there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy;*

The applicant does not identify in their narrative 'exceptional or extraordinary circumstances' inherent on the subject property. They state that the existing variance constitutes an exceptional condition but that is not a valid rationale. The application does not discuss why the existing roof sign, whose area is in compliance with the current code, is not sufficient signage for the entire property. It also does not discuss whether the amount of roof signage could be reduced, or why keeping the current roof and monument signs is the minimum variance necessary.

Therefore Staff recommends the finding that there **are not** exceptional or extraordinary conditions or circumstances that are inherent and unique to the subject property and that it **does not** justify the variance.

- b. *That the conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question.*

The variance granting the roof sign (See Exhibit C) was passed in 1989 and therefore was clearly in place before the Town incorporation and the first sign ordinance was adopted.

Staff was not able to find any permit records as to when the monument signs were installed, and the applicant remarked in an email to Staff that the signs had been in place since his arrival on the property in 1984.

Thus the conditions stated by the applicant as justification for the variance are not the result of actions taken by the applicant (or prior property owners) after the adoption of the original sign ordinance in 1999.

Staff finds that the conditions justifying the variance **are not** the results of actions of the applicant taken after the adoption of the regulation in question.

- c. That the variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property.*

The application does not discuss why the existing roof sign is not sufficient signage for the entire property, as it meets the allowable square footage, nor does it discuss why keeping the roof and monument signs as is, constitutes the minimum variance necessary.

Therefore, based on limited evidence as to the necessity of the request, Staff finds that the variance requested **is not** the minimum variance necessary to relieve an undue burden.

- d. That the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

The applicant is requesting relief from the sign area requirements of Chapter 30 of the LDC, effectively requesting slightly more than double the permitted sign area, per Section 30-153(b)(1).

It is Staff's opinion that there is not a justifiable reason or hardship in existence on the subject property that would permit the granting of a sign area variance by Town Council. Staff therefore finds that granting the variance **would** be injurious to the neighborhood or otherwise detrimental to the public welfare by allowing the subject property relief from rules and regulations that all others must adhere to.

- e. That 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 as to make it more reasonable and practical to amend the regulation in question.*

With the adoption of the amended sign ordinance, and the consequent amortization period for conformity, numerous locations on the Beach have pursued variance requests from the amended requirements. However, by the very nature of the recent adoption of the sign ordinance Town Council has addressed the issue of signs (including height) and has made a decision to enact and enforce a uniform sign code.

Staff finds that the circumstances of the specific piece of property on which a variance is sought **are** general in nature and therefore do not demonstrate a verifiable hardship.

III. RECOMMENDATION

Staff recommends **DENIAL** of the requested variance based upon the requisite findings and conclusions for granting a variance under LDC Section 34-87.

IV. CONCLUSION

Staff is of the opinion that the applicant has not demonstrated a justifiable or valid reason for Town Council to approve a variance from Chapter 30 of the LDC.

Therefore, Staff recommends **DENIAL** of the requested variance.

Exhibits:

- A – Legal Description
- B – Resolution 03-35, Matanzas CPD
- C – Lee County Sign Variance 89-10-12-V-4
- D – Photo of Roof Sign
- E – Photos of existing monument signs
- F – Staff waterfront sign observations, 7/30/12



EXHIBIT A
Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard, Suite 1
Fort Myers, Florida 33919-5910
email - fmoffice@bwlk.net
(Ph) 941-481-1331 (Fax) 941-481-1073

Description of a Parcel of Land

Lying in
Section 24, Township 46 South, Range 23 East
and
Section 19, Township 46 South, Range 24 East
Lee County, Florida
(Motel and Restaurant Site)

A tract or parcel of land situated in the State of Florida, County of Lee, lying on Estero Island, being a part of Section 24, Township 46 South, Range 23 East and Section 19, Township 46 South, Range 24 East and further described as follows:

Commencing at the southwest corner of Lot 20, Block E, Crescent Park Addition as recorded in Plat Book 4 at Page 46, Public Records of Lee County, Florida; thence N00°43'09"W along the westerly line of said Lot 20 for 30.00 feet; thence N89°16'51"E for 11.60 feet to the easterly line of a right-of-way taking parcel per Settlement Case 93-203-CA-RWP (Parcel No. 19) and the Point of Beginning; thence N02°09'14"W along said taking parcel for 124.21 feet; thence N05°46'55"W along said easterly line for 96.21 feet to the northwest corner of Lot 24, Block E of said Crescent Park Addition; thence N00°43'09"W along the easterly line of Crescent Street (25 feet wide) and along the range line between said Sections 24 and 19 for 158.83 feet to an intersection of said easterly line with the northeasterly line of First Street (50.00 feet wide); thence N64°00'09"W along said northeasterly line for 18.87 feet to a point on a curve concave to the northwest having a radius of 2904.79 feet and to which point a radial line bears S71°26'08.3"E; thence northeasterly along said curve and the southeasterly line of State Road #865 through a central angle of 02°17'53.8" for 116.52 feet to a PK nail with brass disk stamped LB4919 in a concrete seawall along the waters of Matanzas Pass; thence S70°18'52"E along said waters and seawall for 82.79 feet to the beginning of a curve in said seawall, said curve being described with the following chord bearings and distances; thence S59°52'04"E for 13.95 feet; thence S47°54'41"E for 10.35 feet; thence S36°30'10"E for 10.02 feet; thence S25°39'44"E for 10.08 feet; thence S14°17'28"E for 10.56 feet; thence S07°08'02"E for 10.56 feet to the end of said curve; thence S00°20'42"E along said waters and said seawall for 55.38 feet to a steel pin in said seawall; thence S83°09'31"E for 2.71 feet to the west line of a canal (60 foot right-of-way) as shown on the record plat of said Crescent Park Addition; thence S00°43'09"E along the westerly line of said platted canal for 361.22 feet to an intersection with a line perpendicular to said east line of said Crescent Street passing through the Point of Beginning; thence deflect 90° to the left and run S89°16'51"W perpendicular to said east line of said Crescent Street for 121.07 feet to the Point of Beginning.

Containing 1.41 acres (61,400 square feet), more or less.

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WILLIAM E. BEAN, PSM, CHAIRMAN
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JOSEPH L. LUTZ, PSM
AHMAD R. KAREH, PE, MSCE, VICE PRESIDENT

PERMIT COUNCIL SURVEYORS AND MAPPERS - PLANNERS
CONSULTING ENGINEERS

ASSOCIATES:
CHARLES D. KNIGHT, PSM
ELWOOD FINEFIELD, PSM
TRACY N. BEAN, AICP
PAUL T. POKORNY, PE



DCI 2001-00067

Description of a Parcel of Land
Lying in
Section 24, Township 46 South, Range 23 East
and
Section 19, Township 46 South, Range 24 East
Lee County, Florida
(Motel and Restaurant Site)
- Continued -

Bearings are based on the easterly right-of-way line of Crescent Street as bearing N00°43'09"W relative to the Florida Department of Transportation Right-of-Way Maps (Section 12530-2614).

Subject to easements, restrictions, reservations and rights of way (recorded and unrecorded, written and unwritten).

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

28958DESC4

4/11/02



Scott C. Whitaker, P.S.M. 4324

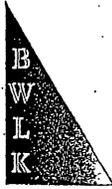
Applicant's Legal Checked
by Jan 5/30/03

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DCI 2001-00069



Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard, Suite 1
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email - fmooffice@bwlk.net
(Ph) 941-481-1331 (Fax) 941-481-1073

Description of a Parcel of Land Lying in Section 24, Township 46 South, Range 23 East Town of Fort Myers Beach, Lee County, Florida (Parcel B)

A parcel of land situated in the State of Florida, County of Lee, Town of Fort Myers Beach, being all of Lots 1, 2, 3, 4, 5 and 19, Block 2, Business Center, a subdivision recorded in Plat Book 9 at Pages 9 and 10 and further described as follows:

Beginning at the northwest corner of Lot 1, Block 2 of said subdivision, the same being the intersection of the southerly right-of-way line of Second Street (50 feet wide) and the easterly right-of-way line of San Carlos Boulevard (33 feet from the centerline); thence S64°00'09"E along the southerly right-of-way line of said Second Street for 120.00 feet to the northeast corner of Lot 19, Block 2 of said subdivision; thence S25°59'51"W for 153.80 feet to the southeast corner of Lot 5, Block 2 of said subdivision and the northerly right-of-way line of Third Street (50 feet wide); thence N64°00'09"W along said northerly right-of-way line for 120.00 feet to the southwest corner of Lot 4, Block 2 of said subdivision, the same being the intersection of the northerly right-of-way line of said Third Street and the easterly right-of-way line of said San Carlos Boulevard; thence N25°59'51"E along the easterly right-of-way line of said San Carlos Boulevard for 153.80 feet to the Point of Beginning.

Containing 18,456 square feet, more or less.

Subject to easements, restrictions, reservations and rights-of-way (recorded and unrecorded, written and unwritten).

Bearings are based on the easterly right-of-way line of San Carlos Boulevard as bearing N25°59'51"E.

Applicant's Legal Checked

by Jm 5/30/03

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

Scott C. Whitaker, P.S.M. 4324

28958DESC1

10/8/01

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PRINCIPALS:

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CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS



ASSOCIATES:

CHARLES D. KNIGHT, PSM
ELWOOD FINEFIELD, PSM
TRACY N. BEAN, AICP
PAUL T. POKORNY, PE



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Description of a Parcel of Land Lying in Section 24, Township 46 South, Range 23 East Town of Fort Myers Beach, Lee County, Florida (Parcel C)

A parcel of land situated in the State of Florida, County of Lee, Town of Fort Myers Beach, Section 24, Township 46 South, Range 23 East and further described as follows:

Lots 13 and 14, Block 2, Business Center according to the map or plat thereof as recorded in Plat Book 9, Pages 9 and 10, Public Records of Lee County, Florida.

Less and Except:

Part of Lot 13, Block 2, Business Center, a Subdivision in Section 24, Township 46 South, Range 23 East, as shown on the plat recorded in Plat Book 9, Pages 9 and 10 of the Public Records of Lee County, Florida, more particularly described as follows:

Beginning at the northeast corner of said Lot 13; thence run S00°43'09"E along the east line of said Lot 13 for 82.62 feet (82.59 record) to the southeast corner of said Lot 13; thence run N64°00'09"W along the south line of said Lot 13 for 6.15 feet; thence run N02°09'05"W for 78.56 (78.52 record) feet; thence run N34°44'19"W for 9.27 feet to the northerly line of said Lot 13; thence run S64°00'09"E along said northerly line for 14.16 feet to the Point of Beginning.

Said excepted parcel having been conveyed to Lee County by instrument recorded in Official Record Book 2311, Page 2801, Public Records of Lee County, Florida.

Remaining parcel containing 0.13 acres, more or less.

Bearings are based on the easterly right-of-way line of Crescent Street as bearing N00°43'09"W relative to the Florida Department of Transportation Right-of-Way Maps (Section 12530-2614).

Subject to easements, restrictions, reservations and rights of way (recorded and unrecorded, written and unwritten).



Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

Scott C. Whitaker, P.S.M. 4324

28958DESC1

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4/11/02

Applicant's Legal Checked
by gm 5/30/03

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DMT 2001-000069

PRINCIPALS:
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JOSEPH L. LUTZ, PSM
AHMAD R. KAREH, PE, MSCE, VICE PRESIDENT

ASSOCIATES:
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13041 McGregor Boulevard, Suite 1

Fort Myers, Florida 33919-5910

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(Ph) 941-481-1331 (Fax) 941-481-1073

Description of a Parcel of Land Lying in

Section 24, Township 46 South, Range 23 East
Town of Fort Myers Beach, Lee County, Florida
(Parcel D)

A parcel of land situated in the State of Florida, County of Lee, Town of Fort Myers Beach, Section 24, Township 46 South, Range 23 East and further described as follows:

Commencing at the northwesterly corner of Lot 25, Block E, Crescent Park Addition, according to a plat or map thereof recorded in Plat Book 4 at Page 46 of the Public Records of Lee County, Florida, said point being on the east line of said Section 24, run northwesterly at an angle of 63°16'50" north to northwest with said section line for 27.99 feet to the northeasterly corner of lands described in Deed Book 262 at Page 191 of the Public Records of Lee County and to the Point of Beginning; thence run N64°00'09"W along the northwesterly line of said lands described in said Deed Book 262 at Page 191 along with the southwesterly line of First Street described in Deed Book 191 at Page 274 of said Public Records for 9.97 feet to an intersection with the easterly right-of-way line for Matanzas Pass Bridge recorded in Official Record Book 1167, Page 1576, Lee County Public Records; thence run along said easterly right-of-way line along the arc of a curve to the right having a radius of 2904.79 feet, said curve having a central angle of 01°58'53", a chord and chord bearing of S20°32'55"W, 100.45 feet; thence run along the arc of said curve for 100.46 feet to the north line of Lot 6, Block 1, Business Center as recorded in Plat Book 9 at Pages 9 and 10, Public Records; thence run S64°00'09"E for 50.76 feet to an intersection with the westerly right-of-way line of Crescent Street; thence run N00°43'09"W along said westerly right-of-way line for 111.95 feet to the Point of Beginning.

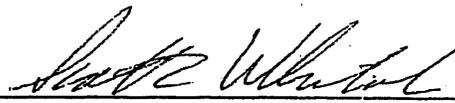
Parcel contains 0.07 acres, more or less.

Bearings are based on the easterly right-of-way line of Crescent Street as bearing N00°43'09"W relative to the Florida Department of Transportation Right-of-Way Maps (Section 12530-2614).

Subject to easements, restrictions, reservations and rights of way (recorded and unrecorded, written and unwritten).

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Scott C. Whitaker, P.S.M. 4324

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by Jm 5/30/03

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PRINCIPALS:

- WILLIAM E. BEAN, PSM, CHAIRMAN
- SCOTT C. WHITAKER, PSM, PRESIDENT
- JOSEPH L. LUTZ, PSM
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CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS



DCI 2001-00069

ASSOCIATES:

- CHARLES D. KNIGHT, PSM
- ELWOOD FINEFIELD, PSM
- TRACY N. BEAN, AICP
- PAUL T. POKORNY, PE

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 03- 35

WHEREAS, Douglas Speirn-Smith in reference to Matanzas Inn has requested to rezone from CPD (Commercial Planned Development) to CPD-Commercial Planned Development to permit a maximum of 106,112 square feet of mixed commercial uses on 2.03 total acres of land; and,

WHEREAS, the subject property is located at 416 Crescent, 420/430/440 Old San Carlos Blvd., 1010 Second Street, and 1042 Second Street, Ft. Myers Beach, and the applicant has indicated the property's current STRAP numbers are: 19-46-24-W4-0150E.0210, 24-46-23-W3-00202.0030.0020, 24-46-23-W3-00202.0010, 24-46-23-W3-00202.0190, 24-46-W3-00202.0130, and the legal description is Exhibit A attached; and,

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on October 14, 2003, and after giving full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons, recommended that the Town Council APPROVE the Applicant's request for rezoning subject to the conditions and deviations found on pages 3 through 7 of the Staff Report dated October 6, 2003, which is attached hereto and incorporated herein by reference, with the following changes;

1. Condition #2 -Schedule of Uses, a. is eliminated and in the alternative a., is changed as follows; guest units size not to exceed a maximum area of ~~1,500~~, 1200 square feet, not to exceed an average of ~~1,350~~, 800 square feet, and not to exceed a total floor area for guest units of ~~43,200~~, 25,600 square feet.
2. Condition #18 shall read as follows with the added words in italics; A local development order for Parcel "B" must be received within 48 months of the zoning approval of this CPD, *or the Master Concept Plan (MCP) will expire.*
3. A new condition #19 is added to read as follows; The document that the applicant passed out at the LPA Hearing entitled, "Proposed Language. CPD Matanzas Inn", was not considered at the LPA hearing and is specifically not part of this recommendation of approval.
4. Deviation #12 is recommended by the LPA for approval.
5. A new deviation #21 is added to read as follows; Deviation from LDC Section 34-675 (b) (2) from the limitation on Crescent Street of building heights no taller than two stories and 30 feet above base flood elevation, to allow 25% of the ground floors of phases II through V of the motel to be enclosed non-living space, office and other accessory uses for the motel with a maximum height of 30 feet above base flood elevation with a maximum of 2 floors total living area over parking or enclosed non-living space.

WHEREAS a hearing was held and the council considered the following criteria, whenever applicable:

- a. Whether there exists an error or ambiguity which must be corrected.

- b. Whether there exist changed or changing conditions which make approval of the request appropriate.
- c. The impact of a proposed change on the intent of this chapter.
- d. The testimony of any applicant.
- e. The recommendation of staff and of the local planning agency.
- f. The testimony of the public.
- g. 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.
- h. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
- i. Whether urban services are, or will be, available and adequate to serve a proposed land use change.
- j. Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.
- k. Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- l. 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.

Findings. The town council finds that the requested zoning district complies with:

- a. The Fort Myers Beach Comprehensive Plan.
- b. Chapter 34, Zoning Districts, Design Standards, and Nonconformities
- c. Any other applicable town ordinances or codes.
- d. The proposed use or mix of uses is appropriate at the subject location;
- e. Sufficient safeguards to the public interest are provided by the recommended conditions to the concept plan or by other applicable regulations;
- f. All recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

g. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:

1. Policies 4-B-4 and 4-C-3 on commercial uses in the "Mixed Residential" category.
2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "Boulevard" category.
3. Policy 4-C-4 on building heights taller than the standard height limit.
4. Policy 4-C-8 on density transfers.
5. Policy 4-E-1 on pre-disaster buildback.
6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.

NOW THEREFORE BE IT RESOLVED THAT THE APPLICATION IS APPROVED SUBJECT TO THE FOLLOWING conditions and requirements that are necessary for the protection of the health, safety, comfort, convenience and welfare of the general public and that are reasonably related to the request:

the conditions and deviations found on pages 3 through 7 (conditions 5, 6, 15 were met prior to hearing) of the Staff Report dated October 6, 2003, which is attached hereto and incorporated herein by reference, with the following changes;

1. Condition #2 –Schedule of Uses, a. is eliminated and in the alternative a., is changed as follows; A total of 32 guest units are approved, guest unit size not to exceed a maximum area of 1200 square feet, not to exceed an average of 800 square feet, and not to exceed a total floor area for guest units of 25,600 square feet.

2. Condition #18 shall read as follows with the added words in italics; A local development order for Parcel "B" must be received within 48 months of the zoning approval of this CPD, *or the Master Concept Plan (MCP) will expire.*

3. A new condition #19 is added to read as follows; The document that the applicant passed out at the LPA Hearing entitled, "Proposed Language. CPD Matanzas Inn", was not considered at the LPA hearing and is specifically not part of this recommendation of approval.

4. Condition #11 is changed to read: All outdoor music or entertainment must cease no later than 10 PM. Applicant shall, within six months of the date of this resolution, employ an independent sound consultant to design best management practices to reasonably minimize the sound impact on residential property and comply with the Town noise ordinance.

5. Deviation #12 is approved

6. A new deviation #21 is added to read as follows; Deviation from LDC Section 34-675 (b) (2) from the limitation on Crescent Street of building heights no taller than two stories and 30 feet above base flood elevation, to allow 25% of the ground floors of phases II through V of the motel to be enclosed non-living space, office and other accessory uses

for the motel with a maximum height of 30 feet above base flood elevation with a maximum of 2 floors total living area over parking or enclosed non-living space.

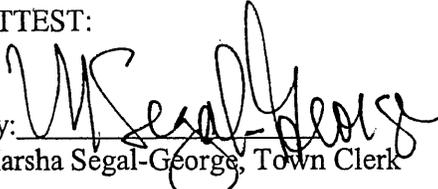
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

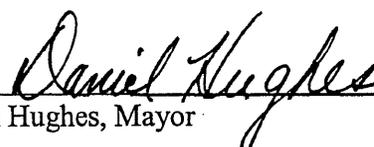
| | |
|------------------------|-----|
| Howard Rynearson | aye |
| Daniel Hughes | aye |
| Bill Thomas | aye |
| W. H. "Bill" Van Duzer | aye |
| Terry Cain | aye |

APPLICATION DULY GRANTED/DENIED this 10th day of November, 2003.

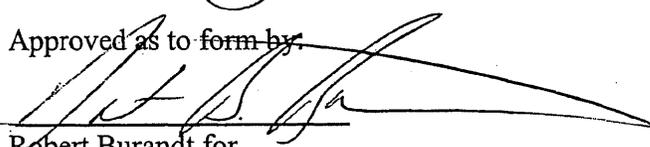
ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Marsha Segal-George, Town Clerk

By: 
Dan Hughes, Mayor

Approved as to form by:


Robert Burandt for
Richard V.S. Roosa, Town Attorney

| | | |
|------------------------------------|--------------------------------------|-----------------------|
| F. <u>Size of Property:</u> | Motel and Restaurant Site | 1.41 acres +/- |
| | Parcel "B" ("Old San Carlos" Parcel) | 0.42 acres +/- |
| | Parcel "C" ("Shell Shop" Parcel) | 0.13 acres +/- |
| | Parcel "D" ("Triangle" Parcel) | <u>0.07 acres +/-</u> |
| | Total | 2.03 acres +/- |

II. RECOMMENDATION:

Staff recommends **APPROVAL** of the Applicant's request for rezoning from CPD and CPD with the following deviations and conditions:

A. Conditions

1. The development of this project must be consistent with the one page Master Concept Plan (MCP) entitled "Matanzas Inn Redevelopment," stamped received September 16, 2003, last revision dated September 4, 2003, except as modified by the conditions below. This development must comply with all requirements of the Town of Fort Myers Beach LDC at time of local Development Order Approval, except:

- a. any additional restrictions as provided in conditions of this approval; and
- b. any restrictions modified or eliminated by approved deviations.

If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

2. The following additional restrictions and limitations apply to the project and uses:

Schedule of Uses

"MOTEL AND RESTAURANT SITE" PARCEL (between Crescent Street and the Canal)

All principal and accessory uses permitted in DOWNTOWN zoning district,
Plus the following additional uses:

Bar/Cocktail lounge - limited to two, one each on ground and second floor of restaurant

On premise consumption of alcoholic beverages (COP) (anywhere inside restaurant)

Outdoor seating, in conjunction with COP (where indicated on MCP)

Boat slips available for public rental/leasing, limited to 18 maximum (existing)

Commercial party fishing boats (existing)

Parking lot, shared permanent

Note: The above uses are limited to 73, 635 total square feet of floor area within the subject parcel, including Parcels "C" and "D". Of this total floor area:

- a. Guest units are limited to at total of 32 units, each under 450 square feet, not to exceed a total floor area for guest units of 14,400.

ALTERNATIVELY, Applicant has requested the following language:

- a. Guest units are limited to a total of 32 units, guest unit size not to exceed a maximum area of 1,500 square feet, not to exceed an average of 1,350 square feet, and not to exceed a total floor area for guest units of 43,200 square feet.
- b. Restaurant, Bar/Cocktail lounge, and associated Outdoor seating combined must not exceed a total floor area of ~~20,000~~16,700 square feet.

PARCEL "B" ("Old San Carlos" Parcel)

All principal and accessory uses permitted in the DOWNTOWN zoning district.

Note: The above uses are limited to a maximum of 36,900 square feet, but only if the FAR for the entire project does not exceed 1.2.

PARCELS "C" AND "D" ("Shell Shop" and "Triangle" Parcels)

Essential services

Parking lot, shared permanent

3. This zoning approval does not address the mitigation of the project's vehicular or pedestrian traffic impacts. A Traffic Impact Statement (TIS) will be required at time of local development order and additional conditions may be required at that time.
4. A driveway access from Third Street into the parking lot of the Old San Carlos/Second Street parcel must be provided at time of local development order.
5. Not less than fifteen (15) working days prior to public hearing of this planned development before Town Council, the applicant must revise the MCP for this planned development to indicate and dimension (as necessary) the requested deviations on the MCP in accordance with the numbering scheme and provisions of this Report, to clarify which deviations are requested at which locations.
6. Not less than fifteen (15) working days prior to public hearing of this planned development before Town Council, the applicant will provide staff with architectural elevation drawings as required by LDC Sections 34-212 and 34-202(b)(5) and request any deviations necessary from the commercial design standards in LDC Sections 34-991 through 34-1010 in accordance with LDC Section 34-932(b).
7. Prior to seeking building permits for development on the "Motel and Restaurant Site" Parcel, the developer must combine the existing platted lots in the "Motel and Restaurant Site" Parcel, into one lot of record, the existing platted lots in Parcel "B" ("Old San Carlos" Parcel) into one lot of record, and the existing platted lots in Parcel "C" ("Shell Shop" Parcel) into one lot of record as part of the local development order for any development on the "Motel and Restaurant Site" Parcel portion of this CPD project.
8. Prior to seeking building permits for development on Parcel "B", the developer must combine the existing platted lots into one lot of record as part of the local development order for that portion of this CPD project.

9. All development, redevelopment, and substantial improvements in this CPD district must meet or exceed the commercial design standards. See LDC 34-991-1010.
10. All use of the pool area must cease by 10 PM.
11. All outdoor music or entertainment must cease no later than 10 PM and live music is limited to non-amplified acoustical music.
12. The maximum floor area ration for the entire CPD must not exceed 1.2 (2.03 acres x 43560 square feet per acre = 106.112 square feet total floor area).
13. Parcels "C" and "D" have no lot area for the purposes of residential/motel density. All lot area associated with these parcels for density purposes is attributed to the "Motel and Restaurant Site" Parcel as part of the MCP for this CPD.
14. Parcels "C" and "D" are limited exclusively to use as shared permanent parking lot for the benefit of the "Motel and Restaurant Site" Parcel and Parcel "B".
15. Not less than fifteen (15) working days prior to public hearing of this planned development before Town Council, the applicant will provide staff with sample detail drawings and a revised MCP that illustrate the effect of the proposed deviations in accordance with LDC Section 34-212(4j).
16. Off-street parking reductions allowed by LDC Section 34-676 pursuant to Deviation 17 are limited to Parcel "B" in conjunction with the Permanent shared parking lots on Parcels "C" and "D".
17. Phases II through V on the "Motel and Restaurant Site" Parcel may be developed in any order, but a local development order for one of these phases must be received within 36 months of the zoning approval of this CPD, and local development order for subsequent phases must be received in subsequent 36 month increments. Local development orders for all Phases must be received within 144 months of the zoning approval of this CPD.
18. A local development order for Parcel "B" must be received within 48 months of the zoning approval of this CPD.

B. Deviations: Note: The MCP must be revised to accord with the deviations listed below, identified where agreed necessary by staff and Applicant

1. Deviation from LDC Table 34-3 from the required 10 feet setback from a street right-of-way to allow reduced street setbacks on the "Motel and Restaurant Site" Parcel and to allow the developer to build to the right-of-way line for Old San Carlos on Parcel "B", as indicated by deviation 1 symbols and dimensions on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.
2. Deviation from LDC Table 34-3 from the required 20 feet side setbacks on a waterfront lot to allow reduced side setbacks on the "Motel and Restaurant Site" Parcel as indicated by deviation 2 symbols on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.

3. Deviation from LDC Table 34-3 from the required 15 feet side setbacks on non-waterfront lots to allow the developer to build to the right-of-way lines for Second and Third Streets on Parcel "B", as indicated by deviation 3 symbols on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.
4. Deviation from LDC Table 34-3 from the required 20 feet rear setbacks to allow reduced rear setbacks on the "Motel and Restaurant Site" Parcel as indicated by deviation 4 symbols and dimensions on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.
5. Deviation from LDC Table 34-3 from the required 25 feet setback from a waterbody to allow reduced waterbody setbacks on the "Motel and Restaurant Site" Parcel as indicated by deviation 5 symbols and dimensions on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.
6. Deviation from LDC Table 34-3 from the required 20,000 square feet of lot area to allow minimum lot sizes of 18,456 square feet for Parcel "B", 5,550 square feet for Parcel "C", and 3,049 square feet for Parcel "D". Staff recommends **APPROVAL** of this deviation, as conditioned.
7. Deviation from LDC Table 34-3 from the required 100 feet of lot width to allow a minimum lot width of 72.5 feet for Parcel "C". Staff recommends **APPROVAL** of this deviation, as conditioned.
8. Deviation from LDC Table 34-3 from the required 100 feet of lot depth to allow a minimum lot depth of 74 feet for Parcel "C" and 30 feet for Parcel "D". Staff recommends **APPROVAL** of this deviation, as conditioned.
9. Deviation from LDC Table 34-3 from the maximum floor area ratio (FAR) of 1.2 to allow a maximum FAR on Parcel "B" of 2.0. Staff recommends **APPROVAL** of this deviation, as conditioned to provide that the maximum FAR for the entire CPD must not exceed 1.2. See Condition 12.
10. Deviation from LDC Section 34-632(3)c. from the limitation on combining three (3) or more lots into a development project to allow the "Motel and Restaurant Site" Parcel, Parcel "C" ("Shell Shop"), and Parcel "D" ("Triangle" Parcel) to include one-half the width of adjoining streets and canals in lot area for the purposes of computing residential densities, to allow a total of 32 guest units on the "Motel and Restaurant Site" Parcel. Staff recommends **APPROVAL** of this deviation, as conditioned. See Condition 13.
11. Deviation from LDC Section 34-632(4) from the limitation on including acreage used primarily for commercial purposes in computation of residential density to include the portion of the "Motel and Restaurant Site" Parcel used primarily for the Matanzas Restaurant to be included in the acreage of the portion of the CPD project abutting Crescent Street, to allow a total of 32 guest units on the "Motel and Restaurant Site" Parcel. Staff recommends **APPROVAL** of this deviation, as conditioned. See Condition 13.
12. Deviation from the equivalency factor table in LDC Section 34-1803(a)(1) to allow guest units with over 450 square feet of floor area to utilize an equivalency factor of 3.0 in the

PEDESTRIAN COMMERCIAL land use category. Staff recommend **DENIAL** of this deviation.

13. Deviation from LDC Section 34-2015(1) from the requirement that parking spaces that are required to support specific land uses must be provided on the same premises, to allow parking spaces located on Parcels "C" and "D" of this commercial planned development and to be used by all approved uses on the "Motel and Restaurant Site" Parcel and Parcel "B". Staff recommends **APPROVAL** of this deviation, as conditioned. See Condition 14.
14. Deviation from LDC Section 34-2016(1) from the requirement that parking lots with ninety degree (90°) angle of parking spaces have length of 18 feet to allow a parking space length of 16 feet as indicated by deviation 14 symbols and dimensions on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.
15. Deviation from LDC Section 34-2016(1) from the requirement that parking lots with ninety degree (90°) angle of parking spaces and two-way aisles have an aisle width of 22 feet to allow an aisle width of 19 feet as indicated by deviation 15 symbols and dimensions on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.
16. Deviation from LDC Section 34-2020 from the minimum requirements for off-street parking spaces for uses permitted on Parcel "B" to allow Parcel "B" to utilize the off-street parking reductions of the Downtown zoning district provided in LDC Section 34-676(a)(1). Staff recommends **APPROVAL** of this deviation, as conditioned. See Condition 16.
17. Deviation from LDC Section 10-285(a) from the required connection separation for local roads of 125 feet to allow connection separations as indicated by deviation 18 symbols and dimensions on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.
18. Deviation from LDC Section 10-413(d)(1) from the minimum dimensional requirement of ten (10) feet of width of open space areas to allow open space shown on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.
19. Deviation from LDC Section 10-413(d)(2) from the minimum dimensional requirement of 180 square feet of area of open space to allow open space areas shown on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.
20. Deviation from LDC Section 10-414(a) from the minimum dimensional and compositional requirements for buffers to allow buffers shown on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.

Findings and Conclusions:

Based upon an analysis of the application and the standards for approval of planned development rezonings, staff makes the following findings and conclusions:

1. The requested commercial planned development zoning district, as conditioned, complies with the comprehensive plan, chapter 34 of the land development code, and other applicable codes and regulations.
2. The proposed use or mix of uses, as conditioned, is appropriate at the subject location.

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER DECISION

VARIANCE: CASE 89-10-12-V-4
APPLICANT: EDWARD F. STREIT, TRUSTEE, in ref. to MATANZAS SEAFARE COMPANY
HEARING DATE: October 12, 1989

I. APPLICATION:

Filed by Anchor Inn, Ltd., Ed Streit, Trustee, with Power of Attorney to William Kreuser, 414 Crescent Street, Ft. Myers Beach, FL 33931 (Applicant); Carleton Ryffel, 6290 Corporate Ct. SW, Suite C-202, Ft. Myers, FL 33919 (Agent).

Request is for a variance from the Lee County Sign Ordinance (Ord. 85-26, as amended)(Section III.B.17) which prohibits roof signs, to allow a roof sign. The applicant has requested this variance to permit a roof sign to provide identification for the existing restaurant.

The subject property is located at 416 Crescent Street (corner of First and Crescent Streets), Fort Myers Beach, in Section 24, Township 46 South, Range 24 East, Lee County, Florida. (District #3)

II. STAFF RECOMMENDATION: APPROVE with conditions

The Department of Community Development Staff Report was presented at the hearing by Pamela Houck. The staff report is incorporated herein by this reference.

III. HEARING EXAMINER DECISION: APPROVE WITH CONDITIONS

The undersigned Lee County Hearing Examiner approves the Applicant's request and hereby grants a variance from the Lee County Sign Ordinance to allow a roof sign for the real estate described in Section VII. Legal Description upon the condition that:

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1. The roof sign shall be limited to no more than 64 square feet and shall be located in the same position and manner as the existing sign unless it is determined, by the appropriate Lee County building official, that for safety considerations the sign should be repositioned at a different location on the roof.

2. The roof sign shall be limited to be used in conjunction ONLY with the existing restaurant use and building. Should the building be removed, destroyed, or replaced, or the restaurant use terminated, this variance shall terminate automatically.

3. The roof sign shall be signed and certified by a Florida registered engineer, who shall submit sufficient data to enable the appropriate Lee County building official to determine whether the sign complies with the Sign Ordinance (Ord. 85-26, as amended).

IV. PUBLIC PARTICIPATION: The following persons appeared at the hearing or became "parties of record" in this case by submitting written materials:

APPLICANT'S REPRESENTATIVES: NONE

FOR:

1. Mr. James SHENKO, 243 Primo Drive, Ft. Myers Beach, FL 33931
Testimony 10/12/89: Lives in a house off the side of the canal where the restaurant is. He was not aware of the specifics of the sign until the hearing but has no objection to the sign. It has been represented to him in photographs that this is just basically to change the name on the existing sign on the roof.

AGAINST: NONE

GENERAL: NONE

V. STAFF PRESENTATION:

Pam Houck presented the staff report and stated that this is a request for a variance from the Lee County Sign Ordinance to allow a roof sign. The subject property is located at 416 Crescent Street, Fort Myers Beach, at the intersection of Crescent and First Streets.

There is an existing restaurant on the property. Staff is recommending approval of the request with conditions. The variance is a result of the applicant changing the name on the existing roof sign. Under the Lee County Sign Ordinance a change in name would not be allowed as roof signs are not permitted. The existing sign is a non-conforming use.

The restaurant was built in 1940 and in the late 1970's the State built the new high rise bridge directly to the west of this property. The property is in a peculiar location. The actual property only has about 19' of road frontage and is surrounded on two sides by water. The westerly side has a parking lot under the bridge. To the south is an existing hotel.

Staff feels the location of the building next to the bridge has created a peculiar circumstance. Staff would not recommend approval if the roadway was at the same approximately level of the building. You cannot see the restaurant unless there is a roof sign. Mrs. Houck has visited the site and stated that unless you know the exact location it is very difficult to identify this parcel.

Mrs. Houck reviewed the three conditions for approval of this variance. The sign is to be used only in conjunction with the restaurant located in this building. If the building is removed or destroyed, the variance is void. The third condition regarding certification by a registered engineer is to insure that the sign is safe and sound and engineered properly so it won't blow off. She has been in touch with the applicant regarding these conditions and believes that they are acceptable to the applicant.

VI. APPLICANT PRESENTATION:

Carleton Ryffel, an agent representing the applicant, had reviewed the staff report and recommendations, and stated that the conditions were acceptable.

VII. LEGAL DESCRIPTION:

In Section 24, Township 46 South, Range 26 East, Lee County, Florida:

Lot 26, Block E, CRESCENT PARK ADDITION SUBDIVISION, as recorded in Plat Book 04, Page 46, of the Official Records of Lee County, Florida.

VIII. FINDINGS AND CONCLUSIONS:

Based upon the staff report, the testimony and exhibits presented in connection with this matter and personal inspection of the site, the undersigned Hearing Examiner makes the following findings and conclusions:

A. The real estate, which is the subject of this variance request, is correctly described in Section VII. Legal Description.

B. That due to the height of the adjacent bridge, exceptional and extraordinary conditions or circumstances exist which are inherent in the real estate, structure and building involved and which create an undue hardship on the applicant and which are not generally applicable to other lands, buildings or structures and that these conditions create an undue hardship on the property owner which is not generally applicable to other real estate.

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C. That the exceptional and extraordinary conditions or circumstances which exist do not result from the actions of the applicant.

D. That without the recommended variance, the provisions of this ordinance would deprive the applicant of all reasonable economic use of a significant portion of their property and would deny them a long standing use at this location which is commonly found in connection with similar properties in similar situations.

E. That the recommended variance, as conditioned, is the minimum variance that will make possible the reasonable economic use of that portion of the real estate which is the subject of the variance granted.

F. That considering the circumstances and long standing restaurant use at this location and the general character of the neighborhood, granting the variance, as conditioned, will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

G. That the condition or situation of the specific real estate which is the subject of this request and the intended use of the property for which the variance is requested is not of so general or recurrent nature as to make it more reasonable and practical to amend the ordinance.

IX. APPEALS:

This decision will become final on November 4, 1989, unless the Lee County Board of County Commissioners assumes jurisdiction of this matter pursuant to Chapter IX of the Lee County Zoning Ordinance, as last amended. After the decision becomes final, all appeals must be taken to Circuit Court.

X. COPIES OF TESTIMONY AND TRANSCRIPTS:

A. Expanded summaries of the testimony presented at the hearing are available upon request at the Office of the Lee County Hearing Examiner, 2115 Main Street, Fort Myers, Florida. A complete verbatim transcript of the testimony presented at the hearing can be purchased from the Official Court Reporter, 20th Judicial Circuit, Lee County Justice Center, Fort Myers, Florida. The original documents and original file in connection with this matter are located at the Lee County Department of Community Development Office, 1831 Hendry Street, Fort Myers, Florida.

B. THE ORIGINAL FILE AND THE ORIGINAL DOCUMENTS USED AT THE HEARING WILL REMAIN IN THE CARE AND CUSTODY OF THE DEPARTMENT OF COMMUNITY DEVELOPMENT. THE DOCUMENTS ARE AVAILABLE FOR EXAMINATION AND COPYING BY ALL INTERESTED PARTIES DURING NORMAL BUSINESS HOURS.

This decision is rendered this 20th day of October, 1989. Copies of this decision will be delivered immediately to the offices of:

Commissioner John E. Manning
Commissioner Charles L. Bigelow, Jr.
Commissioner Ray Judah
Commissioner Bill Fussell
Commissioner Donald Slisher



RICHARD SCOTT BARKER
LEE COUNTY HEARING EXAMINER
2115 Main Street
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: 813/335-2241

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Exhibit D - Roof Sign approved by Lee County Sign Variance 89-10-12-V-4



Exhibit E – Existing monument signs

















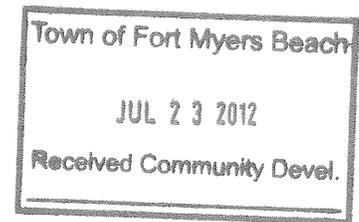








July 20, 2012



Matanzas Inn Resort—sign variance Narrative Statements.

Specific Sign Regulation needing a review: Variance from total signage size

Our existing restaurant roof sign increases our on-site signage so we are over the total square footage allowed under the new sign ordinance. We have complied with all other town requests for changes.

This sign specifically received a variance from the county years ago (attached) and has been incorporated into our Town of Fort Myers Beach approvals ever since the variance approval. The town Staff acknowledges the variance, but the new sign ordinance creates the technical violation that this sign that has already been through a variance process now creates “too much signage” under other provisions of the new sign ordinance. The new sign ordinance provisions were not contemplated with the original approval, thus there is a discrepancy between the new ordinance size limitations and the existing roof sign that by itself exceeds the size allowed by the new rules.

Why needed/Background

The sign is the only signage for the restaurant and resort facing the waterfront and a one-sided sign makes little cosmetic sense it was installed and permitted 25 years ago as a two-sided sign for the property and the building. The original intent of the sign was to allow our island business to be competitive with all Harbor businesses both in the county and the town. It is very helpful with all boating traffic and also Harbor guests that use our various services.

In addition, the new sign ordinance has real practical limitations to properties that have multiple directional exposures. While the overall ordinance may be great, one-size fits all approach can be unrealistic for some locations. In our case- our property fronts 400 feet of Crescent Street, spans first and second streets, includes a number of businesses and also has the need to share our story with the waterfront. A small waterfront sign would essentially be meaningless for the property on the water due to sight limitations and the distances involved. We have made a number of changes to all our signage to better meet the new sign ordinance, but the roof sign that has already received a variance and is important to our business presentation is worthy of a variance clarification from the town.

Why is this a reasonable request?

1. The sign has already received a variance and it a reasonable need of a business fronting many different directions. Penalizing an owner for an approved and grandfathered sign seems a bit of an unnecessary burden.
2. Not many properties have the same frontages and need to communicate to the public in such a variety of directions.
3. The sign is existing and poses no hardship to any neighbors or the public welfare. A nominal sign would be ineffective given the size and geography of the harbor.
4. The sign is a reasonable need under the circumstances and the total signage size limitation is inappropriate under the circumstances given the multiple directions the property faces with multiple businesses.

Additional Specific comments to the Variance Findings questions include:

- A. Exceptional Circumstances: See comments above.
- B. Not the result of applicant actions after the adoption of the ordinance: see timing of variance approval and history of the parcel/sign
- C. Minimum Variance that will relieve applicant: Perhaps hard to say, but the roof sign is modest in size from the water and rather nominal from the street given the location.
- D. Injurious to Neighbors and public welfare: No evidence or history is known to have been an issue.
- E. Better to amend the ordinance: Hard to say, but this is an exception and not a routine issue for the beach. The applicant has historically complied with the sign ordinances..

Existing Monument Signs at Crescent and end of First Street. (Three total)

1. One at entrance to restaurant and marina----five feet high- signage is six feet by 18 inches. Location is end of First Street, $6' \times 1.5' = 9'$
2. One at north end of Motel Driveway entrance: four feet high- signage is eight feet by 24 inches. $8' \times 2' = 16'$
3. One double sided sign in center of property near south driveway entrance with vacancy sign. Five feet high signage is six feet by 18 inches. $6' \times 1.5' = 9'$

$$9 + 16 + 9 = 34'$$

Leslee Chapman

From: Doug. Speirn-Smith <douglasss@comcast.net>
Sent: Thursday, July 19, 2012 2:42 PM
To: Leslee Chapman
Subject: Re: Matanzas Inn Resort sign variance

Yes it is. Thx.

Sent from my iPhone

On Jul 19, 2012, at 11:31 AM, Leslee Chapman <leslee@fortmyersbeachfl.gov> wrote:

Also, as a matter of clarification; the request is to keep both the roof sign and all the existing ground signs in their current locations, correct?

From: Leslee Chapman
Sent: Thursday, July 19, 2012 11:23 AM
To: 'douglasss@comcast.net'; 'chris@matanzas.com'
Cc: Walter Fluegel
Subject: Matanzas Inn Resort sign variance

Good Morning Doug,

As I stated in my voicemail, Staff is preparing the Staff Report for the sign variance (VAR2012-0003) for Matanzas Inn. We will be scheduling the case for the August 14 LPA meeting. The meeting will be held in the Council Chambers beginning at 9am.

Upon reviewing your application, it does not appear that the narrative addresses item, by item the provisions of 34-87. For your convenience, this section is copied below:

- (3) **Findings.** Before granting any variance, the town council must find that all of the following exist:
- a. That there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not essential to protect public policy;
 - b. That the conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question;
 - c. That the variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property;
 - d. That the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
 - e. That 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 as to make it more reasonable and practical to amend the regulation in question.

Please provided me when comments addressing each item a) through e) so that I may include it in the application and Staff Report. Providing this information will be beneficial to a full consideration of your request.

Additionally, please provide me with the height (for the existing monument signs) and dimensions and/or square footage of each sign on the property. Photographs will also be beneficial.

We are in a bit of a time crunch, so I do need this information by end of business on Wednesday July 25 in order for it to be included in the report.

Please let me know if you have any questions,

Thanks,

Leslee Chapman
Zoning Coordinator

Town of Fort Myers Beach
2523 Estero Boulevard
Fort Myers Beach, FL 33931
Phone: 239-765-0202 ext 105
Fax: 239-765-0591

We value your opinion and would ask that you take a minute to complete a survey regarding our Customer Service at the following link: <http://www.surveymonkey.com/s/6T2P9DC>



Think Green. Please print this e-mail only if necessary.

Please Note: Florida has very broad public records laws. Most written communications to and from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications may be subject to public disclosure.

Leslee Chapman

From: Douglas Speirn-Smith <douglass@comcast.net>
Sent: Thursday, July 19, 2012 12:58 PM
To: Leslee Chapman
Subject: Re: Matanzas Inn Resort sign variance

Sorry to ask, but I will be out of the state on the 14th and would like to request an extension- could you share with me the next date?

Thanks,
Doug

From: Leslee Chapman
Sent: Thursday, July 19, 2012 11:22 AM
To: douglass@comcast.net ; chris@matanzas.com
Cc: Walter Fluegel
Subject: Matanzas Inn Resort sign variance

Good Morning Doug,

As I stated in my voicemail, Staff is preparing the Staff Report for the sign variance (VAR2012-0003) for Matanzas Inn. We will be scheduling the case for the August 14 LPA meeting. The meeting will be held in the Council Chambers beginning at 9am.

Upon reviewing your application, it does not appear that the narrative addresses item, by item the provisions of 34-87. For your convenience, this section is copied below:

- (3) **Findings.** Before granting any variance, the town council must find that all of the following exist:
- a. That there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not essential to protect public policy;
 - b. That the conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question;
 - c. That the variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property;
 - d. That the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
 - e. That 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 as to make it more reasonable and practical to amend the regulation in question.

Please provided me when comments addressing each item a) through e) so that I may include it in the application and Staff Report. Providing this information will be beneficial to a full consideration of your request.

Additionally, please provide me with the height (for the existing monument signs) and dimensions and/or square footage of each sign on the property. Photographs will also be beneficial.

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Thanks,

Leslee Chapman
Zoning Coordinator

Town of Fort Myers Beach
2523 Estero Boulevard
Fort Myers Beach, FL 33931
Phone: 239-765-0202 ext 105
Fax: 239-765-0591

We value your opinion and would ask that you take a minute to complete a survey regarding our Customer Service at the following link: <http://www.surveymonkey.com/s/6T2P9DC>



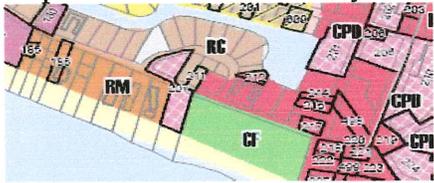
Think Green. Please print this e-mail only if necessary.

Please Note: Florida has very broad public records laws. Most written communications to and from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications may be subject to public disclosure.

Case# PMBVAR 12 0003
Planner _____

Date Received 3/19/12
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: <u>MATANZAS INN RESORT</u> |
| Authorized Applicant: <u>DOUGLAS SAPIRN - SMITH</u> |
| LeePA STRAP Number(s): <u>19-46-24-W4 DISDE.0210</u> |
| |

| |
|---|
| Current Property Status: <u>RESORT / MULTIPLE USES</u> |
| Current Zoning: <u>CAD</u> |
| Future Land Use Map (FLUM) Category: |
| Platted Overlay? <u>yes</u> <u>no</u> FLUM Density Range: |

| Action Requested | Additional Form Required |
|---|--------------------------|
| <input type="checkbox"/> Special Exception | Form PH-A |
| <input checked="" type="checkbox"/> Variance | Form PH-B |
| <input 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

PART I - General Information

A. Applicant:

| | | | |
|------------------|---|--------|---------------------|
| Name(s): | ESTERO BAY HOTEL COMPANY DBA MATANZAS INN | | |
| Address: Street: | 416 CRESCENT ST. | | |
| City: | FMB | State: | FLA Zip Code: 33931 |
| Phone: | 239-765-8866 | | |
| Fax: | 239-765-8867 | | |
| E-mail address: | CHRIS @ MATANZAS. INN COM | | |

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

| | | |
|-------------------------------------|---|--|
| <input type="checkbox"/> | Owner (indicate form of ownership below) | |
| <input type="checkbox"/> | Individual (or husband/wife) | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> | Land Trust | <input type="checkbox"/> Association |
| <input checked="" type="checkbox"/> | Corporation | <input type="checkbox"/> Condominium |
| <input type="checkbox"/> | Subdivision | <input type="checkbox"/> Timeshare Condo |
| <input checked="" 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: | CHRIS ARNBERG ARNBERG | | |
| Mailing address: Street: | 416 CRESCENT ST | | |
| City: | FMB | State: | FLA Zip Code: 33931 |
| Contact Person: | | | |
| Phone: | 239-765-8866 | Fax: | 239-765-8867 |
| E-mail address: | CHRIS @ MATANZAS.COM | | |

D. Other agents:

| | | | |
|--------------------------|------------------------|--------|---------------------|
| Name(s): | DOUGLAS SORIAN-SMITH | | |
| Mailing address: Street: | 416 CRESCENT ST | | |
| City: | FMB | State: | FLA Zip Code: 33931 |
| Phone: | 239-818-0906 | Fax: | 239-765-8867 |
| E-mail address: | DOUGLASS @ COMCAST.NET | | |

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

PART II – Nature of Request

Requested Action (check applicable actions):

| |
|---|
| <input type="checkbox"/> Special Exception for: |
| <input checked="" type="checkbox"/> Variance for: <i>RESTAURANT ROOF SIGN</i> |
| <input type="checkbox"/> Conventional Rezoning from _____ to: _____ |
| <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 |
|---------------------|---------------|
| | |
| | |
| | |
| | |

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: |

| |
|--|
| <input checked="" type="checkbox"/> 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 type="checkbox"/> Yes <input type="checkbox"/> No |
| If yes: <i>SEE ATTACHED</i> |
| Subdivision name: |
| Plat Book Number: Page: Unit: Block: Lot: |
| If no: <i>SEE ATTACHED</i> |
| 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):

| |
|-------------------------------|
| <i>19-46-24-W4-0150E 0210</i> |
|-------------------------------|

D Property Dimensions:

| | |
|---------------------------------------|------------------|
| Area: <i>SEE ATTACHED</i> square feet | acres |
| Width along roadway: feet | Depth: feet |

E. Property Street Address:

| |
|---|
| <i>414 / 416 CRESCENT ST. FNB 33931</i> |
|---|

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

ADJACENT TO SKY BRIDGE ROW
 BETWEEN 1ST & SECOND ST

Attach Area Location Map as Exhibit 5-3

G. Property Restrictions (check applicable):

- There are no deed restrictions or covenants on this property that affect this request.
- Restrictions and/or covenants are attached as Exhibit 5-4
- 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:

- Attach list of surrounding property owners (within 500 feet) as Exhibit 5-6
- Attach two sets of mailing labels as Exhibit 5-7
- 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? Yes No

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

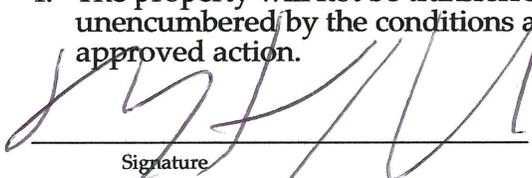
- | | |
|---|---|
| <input type="checkbox"/> RS (Residential Single-family) | <input type="checkbox"/> CM (Commercial Marina) |
| <input type="checkbox"/> RC (Residential Conservation) | <input type="checkbox"/> CO (Commercial Office) |
| <input type="checkbox"/> RM (Residential Multifamily) | <input 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 checked="" 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

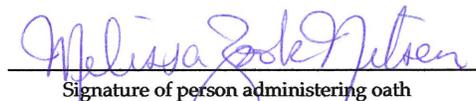
I, DOUGLAS SPERAN-SMITH, swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

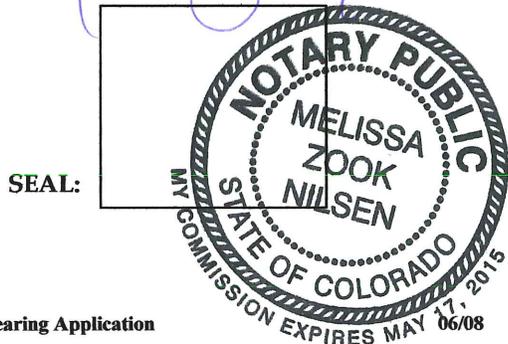
1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any 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.


 Signature _____
 Doug SPERAN-SMITH
 Typed or Printed Name _____

State of COLORADO
 County of BOULDER

The foregoing instrument was sworn to (or affirmed) and subscribed before me this 12/18/11 by Doug Speran-Smith
(date) (name of person under oath or affirmation)
 who is personally known to me or produced LICENSE
(type of identification)
 as identification.


 Signature of person administering oath _____
 Melissa Zook Nilsen
 Typed or Printed Name _____



PART VI – Affidavit

**Application Signed by a Corporation, Limited Liability Company (LLC),
Limited Company (LC), Partnership, Limited Partnership, or Trustee**

See attached explanatory notes for instructions

I, DOUGLAS SAEIRN-SMITU, as PRESIDENT
of ESTERO BAY HOTEL COMP, 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

ESTERO BAY HOTEL Company
Name of Entity (corporation, LLC, partnership, etc)
PRESIDENT
Title of Signatory

[Signature]
Signature
DOUGLAS SAEIRN-SMITU
Typed or Printed Name

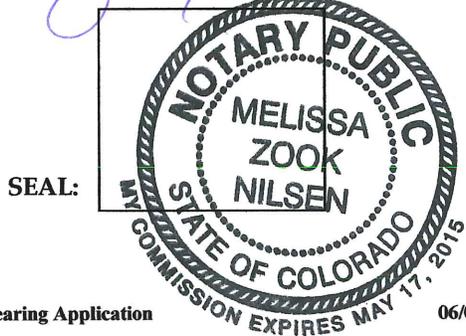
State of COLORADO
County of BOULDER

The foregoing instrument was sworn to (or affirmed) and subscribed
before me this 12/28/14 by DOUG SAEIRN-SMITU
Date Name of person under oath or affirmation

who is personally known to me or who has produced License
Type of identification

as identification.
[Signature]
Signature of person administering oath

Melissa Zook Nilson
Typed or Printed Name



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

STRAP#

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

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 |
|----------------------------|------------|
| DOUGLAS SPEJAN-SMITH | 50 % |
| WILLIAM KREUSEL | 40 % |
| MARTIN YORK | 10 % |
| ADDRESSES FOR EACH | |
| 416 CRESCENT ST. FMB 33931 | |
| | |
| | |
| | |

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 |
|-----------------------------------|------------|
| SAME AS ESTERO VALLEY HOTEL | |
| COURTNEY | |
| ESTERO VALLEY IS SELL BENEFICIARY | |
| | |
| | |

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

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

[Handwritten Signature]
 Applicant
DOUGLAS SPERIAN-SMITH
 Printed or typed name of applicant

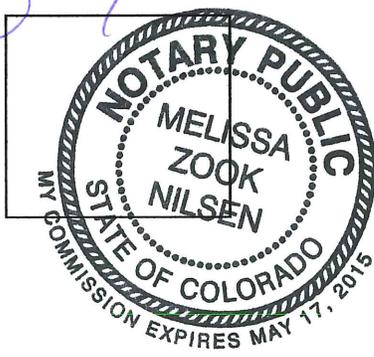
STATE OF REYNOLDS
COUNTY OF BOULDER

The foregoing instrument was acknowledged before me this 28th day of Dec, 2011, by DOUGLAS SPERIAN-SMITH, who is personally known to me or who has produced License as identification and who did (or did not) take an oath.

[Handwritten Signature]
 Signature of Notary

Melissa Zook Nilsen
 Typed or Printed Name of Notary

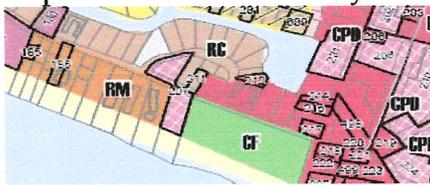
SEAL:



Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Town of Fort Myers Beach
Department of Community Development



Zoning Division

Supplement PH-B

**Additional Required Information for a
Variance Application**

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

| |
|---|
| Case Number: |
| Project Name: <i>MAZANZAS INN RESORT</i> |
| Authorized Applicant: <i>DOUGLAS SPEJAN-SMITH</i> |
| LeePA STRAP Number: <i>19-46-24-W4-D150E-0210</i> |

| |
|---|
| Current Property Status: <i>REBLY</i> |
| Current Zoning: <i>CPD</i> |
| Future Land Use Map (FLUM) Category: |
| Comp Plan Density: _____ Platted Overlay? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

| Variance is requested from: | |
|-----------------------------|--------------------------------|
| LDC Section Number | Title of Section or Subsection |
| <i>30-56</i> | <i>SIGN ORDINANCE</i> |
| | |
| | |
| | |
| | |

Complete the narrative statements below for EACH variance requested.

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.

See attached

3/20/2012

Matanzas Inn Resort—sign variance Narrative Statements.

Specific Sign Regulation needing a review: Variance from total signage size

Our existing restaurant roof sign increases our on-site signage so we are over the total square footage allowed under the new sign ordinance. We have complied with all other town requests for changes.

This sign specifically received a variance from the county years ago (attached) and has been incorporated into our Town of Fort Myers Beach approvals ever since the variance approval. The town acknowledges the variance, but the new sign ordinance creates the technical violation of a sign that has already been through a variance process but now does not apply. The new sign ordinance provisions were not contemplated with the original approval, thus there is a discrepancy between the new ordinance size limitations and the existing roof sign that by itself exceeds the size allowed by the new rules.

Why needed?

The sign is the only signage for the restaurant and resort facing the waterfront and because a one-sided sign makes little cosmetic sense it was installed and permitted 25 years ago as a two-sided sign for the property. The original intent of the sign was to allow our island business to be competitive with all Harbor businesses both in the county and the town. It is very helpful with all boating traffic and also Harbor guests that use our on-site mooring services.

The sign ordinance has real size limitations to properties that have multiple directional exposures. In our case- our property fronts 400 feet of Crescent Street, spans first and second streets, includes a number of businesses and also has the need to share our story with the waterfront. A small waterfront sign would essentially be meaningless for the property on the water due to sight limitations and the distances involved. We have made a number of changes to all our signage to better meet the new sign ordinance, but the roof sign that has already received a variance and is important to our business presentation is worthy of a variance clarification from the town.

Why it qualifies?

1. The sign has already received a variance and it a reasonable need of a business fronting many different directions. Penalizing an owner for an approved and grandfathered sign seems a bit of an unnecessary burden.
2. Not many properties have the same frontages and need to communicate to the public in such a variety of directions.
3. The sign is existing and poses no hardship to any neighbors or the public welfare. A nominal sign would be ineffective given the size and geography of the harbor.
4. The sign is a reasonable need under the circumstances and the total signage size limitation is inappropriate under the circumstances given the multiple directions the property faces with multiple businesses.

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER DECISION

VARIANCE: CASE 89-10-12-V-4
APPLICANT: EDWARD F. STREIT, TRUSTEE, in ref. to MATANZAS SEAFARE COMPANY
HEARING DATE: October 12, 1989

I. APPLICATION:

Filed by Anchor Inn, Ltd., Ed Streit, Trustee, with Power of Attorney to William Kreuser, 414 Crescent Street, Ft. Myers Beach, FL 33931 (Applicant); Carleton Ryffel, 6290 Corporate Ct. SW, Suite C-202, Ft. Myers, FL 33919 (Agent).

Request is for a variance from the Lee County Sign Ordinance (Ord. 85-26, as amended)(Section III.B.17) which prohibits roof signs, to allow a roof sign. The applicant has requested this variance to permit a roof sign to provide identification for the existing restaurant.

The subject property is located at 416 Crescent Street (corner of First and Crescent Streets), Fort Myers Beach, in Section 24, Township 46 South, Range 24 East, Lee County, Florida. (District #3)

II. STAFF RECOMMENDATION: APPROVE with conditions

The Department of Community Development Staff Report was presented at the hearing by Pamela Houck. The staff report is incorporated herein by this reference.

III. HEARING EXAMINER DECISION: APPROVE WITH CONDITIONS

The undersigned Lee County Hearing Examiner approves the Applicant's request and hereby grants a variance from the Lee County Sign Ordinance to allow a roof sign for the real estate described in Section VII. Legal Description upon the condition that:

1. The roof sign shall be limited to no more than 64 square feet and shall be located in the same position and manner as the existing sign unless it is determined, by the appropriate Lee County building official, that for safety considerations the sign should be repositioned at a different location on the roof.

2. The roof sign shall be limited to be used in conjunction ONLY with the existing restaurant use and building. Should the building be removed, destroyed, or replaced, or the restaurant use terminated, this variance shall terminate automatically.

3. The roof sign shall be signed and certified by a Florida registered engineer, who shall submit sufficient data to enable the appropriate Lee County building official to determine whether the sign complies with the Sign Ordinance (Ord. 85-26, as amended).

IV. PUBLIC PARTICIPATION: The following persons appeared at the hearing or became "parties of record" in this case by submitting written materials:

APPLICANT'S REPRESENTATIVES: NONE

FOR:

1. Mr. James SHENKO, 243 Primo Drive, Ft. Myers Beach, FL 33931
Testimony 10/12/89: Lives in a house off the side of the canal where the restaurant is. He was not aware of the specifics of the sign until the hearing but has no objection to the sign. It has been represented to him in photographs that this is just basically to change the name on the existing sign on the roof.

RECEIVED
89 OCT 20 AM 10:25

AGAINST: NONE

GENERAL: NONE

V. STAFF PRESENTATION:

Pam Houck presented the staff report and stated that this is a request for a variance from the Lee County Sign Ordinance to allow a roof sign. The subject property is located at 416 Crescent Street, Fort Myers Beach, at the intersection of Crescent and First Streets.

There is an existing restaurant on the property. Staff is recommending approval of the request with conditions. The variance is a result of the applicant changing the name on the existing roof sign. Under the Lee County Sign Ordinance a change in name would not be allowed as roof signs are not permitted. The existing sign is a non-conforming use.

The restaurant was built in 1940 and in the late 1970's the State built the new high rise bridge directly to the west of this property. The property is in a peculiar location. The actual property only has about 19' of road frontage and is surrounded on two sides by water. The westerly side has a parking lot under the bridge. To the south is an existing hotel.

Staff feels the location of the building next to the bridge has created a peculiar circumstance. Staff would not recommend approval if the roadway was at the same approximately level of the building. You cannot see the restaurant unless there is a roof sign. Mrs. Houck has visited the site and stated that unless you know the exact location it is very difficult to identify this parcel.

Mrs. Houck reviewed the three conditions for approval of this variance. The sign is to be used only in conjunction with the restaurant located in this building. If the building is removed or destroyed, the variance is void. The third condition regarding certification by a registered engineer is to insure that the sign is safe and sound and engineered properly so it won't blow off. She has been in touch with the applicant regarding these conditions and believes that they are acceptable to the applicant.

VI. APPLICANT PRESENTATION:

Carleton Ryffel, an agent representing the applicant, had reviewed the staff report and recommendations, and stated that the conditions were acceptable.

VII. LEGAL DESCRIPTION:

In Section 24, Township 46 South, Range 26 East, Lee County, Florida:

Lot 26, Block E, CRESCENT PARK ADDITION SUBDIVISION, as recorded in Plat Book 04, Page 46, of the Official Records of Lee County, Florida.

VIII. FINDINGS AND CONCLUSIONS:

Based upon the staff report, the testimony and exhibits presented in connection with this matter and personal inspection of the site, the undersigned Hearing Examiner makes the following findings and conclusions:

A. The real estate, which is the subject of this variance request, is correctly described in Section VII. Legal Description.

B. That due to the height of the adjacent bridge, exceptional and extraordinary conditions or circumstances exist which are inherent in the real estate, structure and building involved and which create an undue hardship on the applicant and which are not generally applicable to other lands, buildings or structures and that these conditions create an undue hardship on the property owner which is not generally applicable to other real estate.

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C. That the exceptional and extraordinary conditions or circumstances which exist do not result from the actions of the applicant.

D. That without the recommended variance, the provisions of this ordinance would deprive the applicant of all reasonable economic use of a significant portion of their property and would deny them a long standing use at this location which is commonly found in connection with similar properties in similar situations.

E. That the recommended variance, as conditioned, is the minimum variance that will make possible the reasonable economic use of that portion of the real estate which is the subject of the variance granted.

F. That considering the circumstances and long standing restaurant use at this location and the general character of the neighborhood, granting the variance, as conditioned, will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

G. That the condition or situation of the specific real estate which is the subject of this request and the intended use of the property for which the variance is requested is not of so general or recurrent nature as to make it more reasonable and practical to amend the ordinance.

IX. APPEALS:

This decision will become final on November 4, 1989, unless the Lee County Board of County Commissioners assumes jurisdiction of this matter pursuant to Chapter IX of the Lee County Zoning Ordinance, as last amended. After the decision becomes final, all appeals must be taken to Circuit Court.

X. COPIES OF TESTIMONY AND TRANSCRIPTS:

A. Expanded summaries of the testimony presented at the hearing are available upon request at the Office of the Lee County Hearing Examiner, 2115 Main Street, Fort Myers, Florida. A complete verbatim transcript of the testimony presented at the hearing can be purchased from the Official Court Reporter, 20th Judicial Circuit, Lee County Justice Center, Fort Myers, Florida. The original documents and original file in connection with this matter are located at the Lee County Department of Community Development Office, 1831 Hendry Street, Fort Myers, Florida.

B. THE ORIGINAL FILE AND THE ORIGINAL DOCUMENTS USED AT THE HEARING WILL REMAIN IN THE CARE AND CUSTODY OF THE DEPARTMENT OF COMMUNITY DEVELOPMENT. THE DOCUMENTS ARE AVAILABLE FOR EXAMINATION AND COPYING BY ALL INTERESTED PARTIES DURING NORMAL BUSINESS HOURS.

This decision is rendered this 20th day of October, 1989. Copies of this decision will be delivered immediately to the offices of:

Commissioner John E. Manning
Commissioner Charles L. Bigelow, Jr.
Commissioner Ray Judah
Commissioner Bill Fussell
Commissioner Donald Slisher



RICHARD SCOTT BARKER
LEE COUNTY HEARING EXAMINER
2115 Main Street
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: 813/335-2241

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I M P O R T A N T
A P P E A L R I G H T S

ANY interested person has the right to request that the Lee County Board of County Commissioners take the file and the record made by the Lee County Hearing Examiner in this case and make a decision in this matter which would REPLACE the decision of the Hearing Examiner set out above in this document.

This RIGHT LASTS ONLY UNTIL THE DECISION BECOMES FINAL. This date is set out above in this decision. If you are interested in taking advantage of this procedure TWO Commissioners MUST request that the Lee County Board of County Commissioners take jurisdiction of this case. You must accomplish this before the date the decision becomes final. Each County Commissioner is given a form attached to each decision to use for this purpose.

If you need additional information concerning your rights and the requirements in connection with this procedure you may contact the Lee County Hearing Examiner's Office (813/335-2241).

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NOTICE OF INTENT TO REVIEW A DECISION
OF THE HEARING EXAMINER

FROM: LEE COUNTY BOARD OF COUNTY COMMISSIONERS
TO: COUNTY HEARING EXAMINER
SUBJECT: Case 89-10-12-V-4 VARIANCE
Applicant: EDWARD F. STREIT, TRUSTEE, in ref. to MATANZAS
SEAFARE COMPANY

REQUEST THAT THE LEE COUNTY BOARD OF COUNTY Commissioners take jurisdiction of the above referenced case. The statute provides that upon the request of any TWO commissioners, any Hearing Examiner decision can be made instead by the Lee County Board of County Commissioners. If you believe that it is in the public interest for this matter to be decided by the Lee County Board of County Commissioners rather than the Hearing Examiner, please sign below and return this page to the Hearing Examiner within 15 days from the date this decision was rendered.

The Hearing Examiner will forward the complete record to the Lee County Board of County Commissioners within five working days of receiving two or more requests to take jurisdiction.

On this _____ day of _____, 1989, the undersigned Lee County Commissioner hereby requests that the Lee County Board of County Commissioners take jurisdiction of this matter.

John E. Manning, Commissioner, District #1

Charles L. Bigelow, Commissioner, District #2

Ray Judah, Commissioner, District #3

Bill Fussell, Commissioner, District #4

Donald D. Slisher, Commissioner, District #5

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* IN ORDER TO BE EFFECTIVE. THIS FORM MUST BE PHYSICALLY DELIVERED TO AND *
* IN THE POSSESSION OF THE HEARING EXAMINER BY 5:00 P.M. ON THE 4th DAY *
* OF NOVEMBER, 1989. *



EXHIBIT A
Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard, Suite 1
Fort Myers, Florida 33919-5910
email - fmooffice@bwk.net
(Ph) 941-481-1331 (Fax) 941-481-1073

Description of a Parcel of Land
Lying in
Section 24, Township 46 South, Range 23 East
and
Section 19, Township 46 South, Range 24 East
Lee County, Florida
(Motel and Restaurant Site)

A tract or parcel of land situated in the State of Florida, County of Lee, lying on Estero Island, being a part of Section 24, Township 46 South, Range 23 East and Section 19, Township 46 South, Range 24 East and further described as follows:

Commencing at the southwest corner of Lot 20, Block E, Crescent Park Addition as recorded in Plat Book 4 at Page 46, Public Records of Lee County, Florida; thence N00°43'09"W along the westerly line of said Lot 20 for 30.00 feet; thence N89°16'51"E for 11.60 feet to the easterly line of a right-of-way taking parcel per Settlement Case 93-203-CA-RWP (Parcel No. 19) and the Point of Beginning; thence N02°09'14"W along said taking parcel for 124.21 feet; thence N05°46'55"W along said easterly line for 96.21 feet to the northwest corner of Lot 24, Block E of said Crescent Park Addition; thence N00°43'09"W along the easterly line of Crescent Street (25 feet wide) and along the range line between said Sections 24 and 19 for 158.83 feet to an intersection of said easterly line with the northeasterly line of First Street (50.00 feet wide); thence N64°00'09"W along said northeasterly line for 18.87 feet to a point on a curve concave to the northwest having a radius of 2904.79 feet and to which point a radial line bears S71°26'08.3"E; thence northeasterly along said curve and the southeasterly line of State Road #865 through a central angle of 02°17'53.8" for 116.52 feet to a PK nail with brass disk stamped LB4919 in a concrete seawall along the waters of Matanzas Pass; thence S70°18'52"E along said waters and seawall for 82.79 feet to the beginning of a curve in said seawall, said curve being described with the following chord bearings and distances; thence S59°52'04"E for 13.95 feet; thence S47°54'41"E for 10.35 feet; thence S36°30'10"E for 10.02 feet; thence S25°39'44"E for 10.08 feet; thence S14°17'28"E for 10.56 feet; thence S07°08'02"E for 10.56 feet to the end of said curve; thence S00°20'42"E along said waters and said seawall for 55.38 feet to a steel pin in said seawall; thence S83°09'31"E for 2.71 feet to the west line of a canal (60 foot right-of-way) as shown on the record plat of said Crescent Park Addition; thence S00°43'09"E along the westerly line of said platted canal for 361.22 feet to an intersection with a line perpendicular to said east line of said Crescent Street passing through the Point of Beginning; thence deflect 90° to the left and run S89°16'51"W perpendicular to said east line of said Crescent Street for 121.07 feet to the Point of Beginning.

Containing 1.41 acres (61,400 square feet), more or less.

Continued...

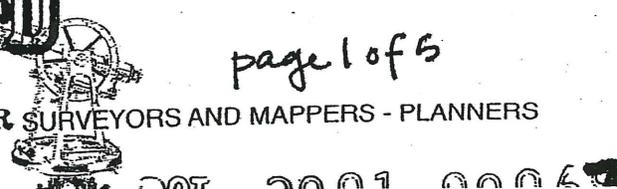
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page 1 of 5

PRINCIPALS:
WILLIAM E. BEAN, PSM, CHAIRMAN
SCOTT C. WHITAKER, PSM, PRESIDENT

PERMITTING SURVEYORS AND MAPPERS - PLANNERS
CONSULTING ENGINEERS

ASSOCIATES:
CHARLES D. KNIGHT, PSM
ELWOOD FINEFIELD, PSM
TRACY N. BEAN, AICP



Description of a Parcel of Land
Lying in
Section 24, Township 46 South, Range 23 East
and
Section 19, Township 46 South, Range 24 East
Lee County, Florida
(Motel and Restaurant Site)
- Continued -

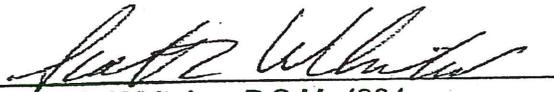
Bearings are based on the easterly right-of-way line of Crescent Street as bearing N00°43'09"W relative to the Florida Department of Transportation Right-of-Way Maps (Section 12530-2614).

Subject to easements, restrictions, reservations and rights of way (recorded and unrecorded, written and unwritten).

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

28958DESC4

4/11/02


Scott C. Whitaker, P.S.M. 4324

Applicant's Legal Checked
by gm 5/30/03

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PERMIT COUNTER

page 2 of 5

DCI 2001-00069

- LEGEND**
- (P) = PLAT
 - (F) = FIELD
 - (R) = RADIAL
 - (NR) = NON RADIAL
 - PC = POINT OF CURVE
 - I.R. = IRON ROD
 - FND. = FOUND
 - U.E. = UTILITY EASEMENT
 - P.C. = POINT OF COMMENCEMENT
 - R/W = RIGHT-OF-WAY
 - EOP = EDGE OF PAVEMENT
 - ELEV. = ELEVATION
 - F.F. = FINISHED FLOOR ELEVATION
 - FL. = FLOW LINE
 - S.P. = SPOT ELEVATION
 - (D) = DEED OF RECORD
 - (C) = CALCULATED
 - O/H = OVERHEAD POWER LINES
 - T. = OVERHEAD TELEPHONE/CABLE LINES
 - N/D = NAIL & DISK
 - P.C. = POINT OF CURVE
 - P.C.P. = PERMANENT CONTROL POINT
 - UTS = UNITED TELEPHONE SERVICE BOX
 - DATV = CABLE TELEVISION BOX
 - FDOT = FLORIDA DEPARTMENT OF TRANSPORTATION
 - TYP. = TYPICAL
 - R.P. = RADIUS POINT
 - W.M. = WATER METER
 - W.P. = WOOD POLE
 - T.R. = TELEPHONE RISER
 - C.T.V. = CABLE TV BOX
 - W.V. = WATER VALVE
 - A.P.T. = AUSTRALIAN PINE TREE
 - TRANS. = TRANSFORMER
 - MB = MISCELLANEOUS BOOK

DESCRIPTION OF A PARCEL OF LAND LYING IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST AND TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA (PARCEL C)

A PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, TOWN OF FORT MYERS BEACH, SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST AND FURTHER DESCRIBED AS FOLLOWS:

LOTS 13 AND 14, BLOCK 2, BUSINESS CENTER, A SUBDIVISION IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, AS SHOWN ON THE PLAT RECORDED IN PLAT BOOK 9, PAGES 9 AND 10 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

LESS AND EXCEPT:

PART OF LOT 13, BLOCK 2, BUSINESS CENTER, A SUBDIVISION IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, AS SHOWN ON THE PLAT RECORDED IN PLAT BOOK 9, PAGES 9 AND 10 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 13; THENCE RUN S04°43'09"E ALONG THE EAST LINE OF SAID LOT 13 FOR 82.62 FEET (82.59 RECORD) TO THE SOUTHWEST CORNER OF SAID LOT 13; THENCE RUN N64°00'09"W ALONG THE SOUTH LINE OF SAID LOT 13 FOR 6.15 FEET; THENCE RUN N02°09'18"W FOR 78.56 (78.52 RECORD) FEET; THENCE RUN N34°44'19"W FOR 9.27 FEET TO THE NORTHERLY LINE OF SAID LOT 13; THENCE RUN S64°00'09"E ALONG SAID NORTHERLY LINE FOR 14.16 FEET TO THE POINT OF BEGINNING.

SAID EXCEPTED PARCEL HAVING BEEN CONVEYED TO LEE COUNTY BY INSTRUMENT RECORDED IN OFFICIAL RECORD BOOK 2311, PAGE 2801, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

REMAINING PARCEL CONTAINING 0.13 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE EASTERLY RIGHT-OF-WAY LINE OF CRESCENT STREET AS BEARING N04°43'09"W RELATIVE TO THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAPS (SECTION 12530-2814).

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS OF WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).

DESCRIPTION OF A PARCEL OF LAND LYING IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST AND TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA (PARCEL D)

A PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, TOWN OF FORT MYERS BEACH, SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST AND FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWESTERLY CORNER OF LOT 25, BLOCK E, CRESCENT PARK ADDITION, ACCORDING TO A PLAT OR MAP THEREOF RECORDED IN PLAT BOOK 4 AT PAGE 46 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID POINT BEING ON THE EAST LINE OF SAID SECTION 24, RUN NORTHWESTERLY AT AN ANGLE OF 83°19'50" NORTH TO NORTHWEST WITH SAID SECTION LINE FOR 27.59 FEET TO THE NORTHEASTERLY CORNER OF LANDS DESCRIBED IN DEED BOOK 282 AT PAGE 191 OF THE PUBLIC RECORDS OF LEE COUNTY AND TO THE POINT OF BEGINNING; THENCE RUN N64°00'09"W ALONG THE NORTHWESTERLY LINE OF SAID LANDS DESCRIBED IN SAID DEED BOOK 282 AT PAGE 191 ALONG WITH THE SOUTHWESTERLY LINE OF FIRST STREET DESCRIBED IN DEED BOOK 1187, PAGE 1576, LEE COUNTY PUBLIC RECORDS; THENCE RUN ALONG SAID EASTERLY RIGHT-OF-WAY LINE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2904.79 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 01°58'33", A CHORD AND CHORD BEARING OF S20°32'55"W, 100.45 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 100.46 FEET TO THE NORTH LINE OF LOT 8, BLOCK 1, BUSINESS CENTER AS RECORDED IN PLAT BOOK 9 AT PAGES 9 AND 10, PUBLIC RECORDS; THENCE RUN S64°00'09"E FOR 50.78 FEET TO AN INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF CRESCENT STREET; THENCE RUN N04°43'09"W ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 111.95 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 0.07 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE EASTERLY RIGHT-OF-WAY LINE OF CRESCENT STREET AS BEARING N04°43'09"W RELATIVE TO THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAPS (SECTION 12530-2814).

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS OF WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).

DESCRIPTION OF A PARCEL OF LAND LYING IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST AND SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST LEE COUNTY, FLORIDA (MOTEL AND RESTAURANT SITE)

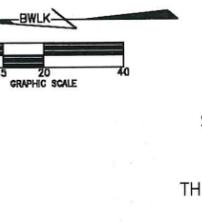
A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING ON ESTERO ISLAND, BEING A PART OF SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST AND SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST AND FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 20, BLOCK E, CRESCENT PARK ADDITION AS RECORDED IN PLAT BOOK 4 AT PAGE 46, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N04°43'09"W ALONG THE WESTERLY LINE OF SAID LOT 20 FOR 30.00 FEET; THENCE N89°18'51"E FOR 11.60 FEET TO THE EASTERLY LINE OF A RIGHT-OF-WAY TAKING PARCEL PER SETTLEMENT CASE 83-203-CA-RWP (PARCEL NO. 19) AND THE POINT OF BEGINNING; THENCE N02°09'18"W ALONG SAID SAID PARCEL FOR 124.21 FEET; THENCE N05°15'51"W ALONG SAID EASTERLY LINE FOR 98.21 FEET TO THE NORTHWEST CORNER OF LOT 24, BLOCK E OF SAID CRESCENT PARK ADDITION; THENCE N04°43'09"W ALONG THE EASTERLY LINE OF CRESCENT STREET (25 FEET WIDE) AND ALONG THE RANGE LINE BETWEEN SAID SECTIONS 24 AND 19 FOR 158.83 FEET TO AN INTERSECTION OF SAID EASTERLY LINE WITH THE NORTHEASTERLY LINE OF FIRST STREET (50.00 FEET WIDE); THENCE N64°00'09"W ALONG SAID NORTHEASTERLY LINE FOR 18.87 FEET TO A POINT ON A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 2904.79 FEET AND TO WHICH POINT A RADIAL LINE BEARS S71°26'03.3"E; THENCE NORTHEASTERLY ALONG SAID CURVE AND THE SOUTHWESTERLY LINE OF STATE ROAD 865 THROUGH A CENTRAL ANGLE OF 02°17'53.8" FOR 118.52 FEET TO A P.K. NAIL WITH BRASS DISK STAMPED LB4919 IN A CONCRETE SEAWALL ALONG THE WATERS OF MATANZAS PASS; THENCE S70°18'32"E ALONG SAID WATERS AND SEAWALL FOR 82.79 FEET TO THE BEGINNING OF A CURVE IN SAID SEAWALL, SAID CURVE BEING DESCRIBED WITH THE FOLLOWING CHORD BEARINGS AND DISTANCES; THENCE S55°52'04"E FOR 13.95 FEET; THENCE S47°24'41"E FOR 10.35 FEET; THENCE S36°30'10"E FOR 10.02 FEET; THENCE S26°39'44"E FOR 10.08 FEET; THENCE S14°17'28"E FOR 10.56 FEET; THENCE S07°08'02"E FOR 10.56 FEET TO THE END OF SAID CURVE; THENCE S00°20'42"E ALONG SAID WATERS AND SAID SEAWALL FOR 55.38 FEET TO A STEEL PIN IN SAID SEAWALL; THENCE S83°09'31"E FOR 2.71 FEET TO THE WEST LINE OF A CANAL (60 FOOT RIGHT-OF-WAY) AS SHOWN ON THE RECORD PLAT OF SAID CRESCENT PARK ADDITION; THENCE S00°43'09"W ALONG THE WESTERLY LINE OF SAID PLATED CANAL FOR 361.22 FEET TO AN INTERSECTION WITH A LINE PERPENDICULAR TO SAID EAST LINE OF SAID CRESCENT STREET PASSING THROUGH THE POINT OF BEGINNING; THENCE DEFLECT 90° TO THE LEFT AND RUN S89°18'51"W PERPENDICULAR TO SAID EAST LINE OF SAID CRESCENT STREET FOR 121.07 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.41 ACRES (81,400 SQUARE FEET), MORE OR LESS.

BEARINGS ARE BASED ON THE EASTERLY RIGHT-OF-WAY LINE OF CRESCENT STREET AS BEARING N04°43'09"W RELATIVE TO THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAPS (SECTION 12530-2814).

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS OF WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).



SURVEY PLAT

OF
A PARCEL OF LAND LYING IN
SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
AND
SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,
THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA.

Curve number 1
Radius= 2904.79'
Delta= 01°58'33"
Arc= 100.45'
Tangent= 58.27'
Chord= 50.45'
Chord Brg.= S.20°32'55"W
(CALCULATED AND FDOT)

Curve number 2
Radius= 2904.79'
Delta= 02°17'53.8"
Arc= 116.52'
Tangent= 58.27'
Chord= 116.51'
Chord Brg.= S.17°24'58"W
(CALCULATED AND FDOT)

NOTES:

SURVEY BASED ON THE RIGHT-OF-WAY MAPS FOR STATE ROAD NO. 865, THE RECORD PLAT OF BUSINESS CENTER (P.B. 9 PGS. 9-10), DEEDS OF RECORD AND EXISTING UNIMPROVEMENT.

BEARINGS ARE BASED THE EASTERLY LINE OF CRESCENT STREET AS BEARING N.04°43'09"W. RELATIVE TO THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAPS (SECTION 12530-2814).

DIMENSIONS ARE IN FEET AND DECIMAL PARTS THEREOF.

ELEVATIONS BASED ON N.G.V.D. OF 1929 AND U.S.C.&G.S. BENCHMARK TIDAL-2 BM#2 (ELEVATION +3.46')

PARCEL SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).

PARCEL LIES IN FLOOD ZONE A12, BASE FLOOD ELEVATION OF +12'. THIS INFORMATION TAKEN FROM FLOOD INSURANCE RATE MAP 125124 0429C, EFFECTIVE DATE 11-04-92 (INDEX DATED 7-20-88).

THE F.E.M.A. FLOOD ZONE INFORMATION INDICATED HEREON IS BASED ON MAPS SUPPLIED BY THE FEDERAL GOVERNMENT. THIS FLOOD INFORMATION MUST BE VERIFIED WITH ALL PERMITTING REGULATORY ENTITIES PRIOR TO COMMENCING ANY WORK OR APPLICATION DEPENDENT ON SAID FLOOD INFORMATION.

IRON RODS "SET" ARE 5/8" X 18" REBAR WITH YELLOW CAP BEARING CORPORATION NO. LB4919.

UNDERGROUND IMPROVEMENTS, UTILITIES AND/OR FOUNDATIONS WERE NOT LOCATED UNLESS OTHERWISE NOTED.

RECORDING DATA AND SUBMERGED LAND LEASE AREAS MAY NOT BE UP TO DATE. A FULL REVIEW OF THE PUBLIC RECORDS WAS NOT PERFORMED AS A PART OF THE SCOPE OF SERVICES FOR THIS SURVEY.

THIS PLAT PREPARED AS A BOUNDARY SURVEY AND SUBSTANTIAL ABOVE GROUND IMPROVEMENTS. THIS SURVEY IS NOT INTENDED TO DELINEATE THE JURISDICTION OR JURISDICTIONAL AREAS OF ANY FEDERAL, STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER ENTITY.

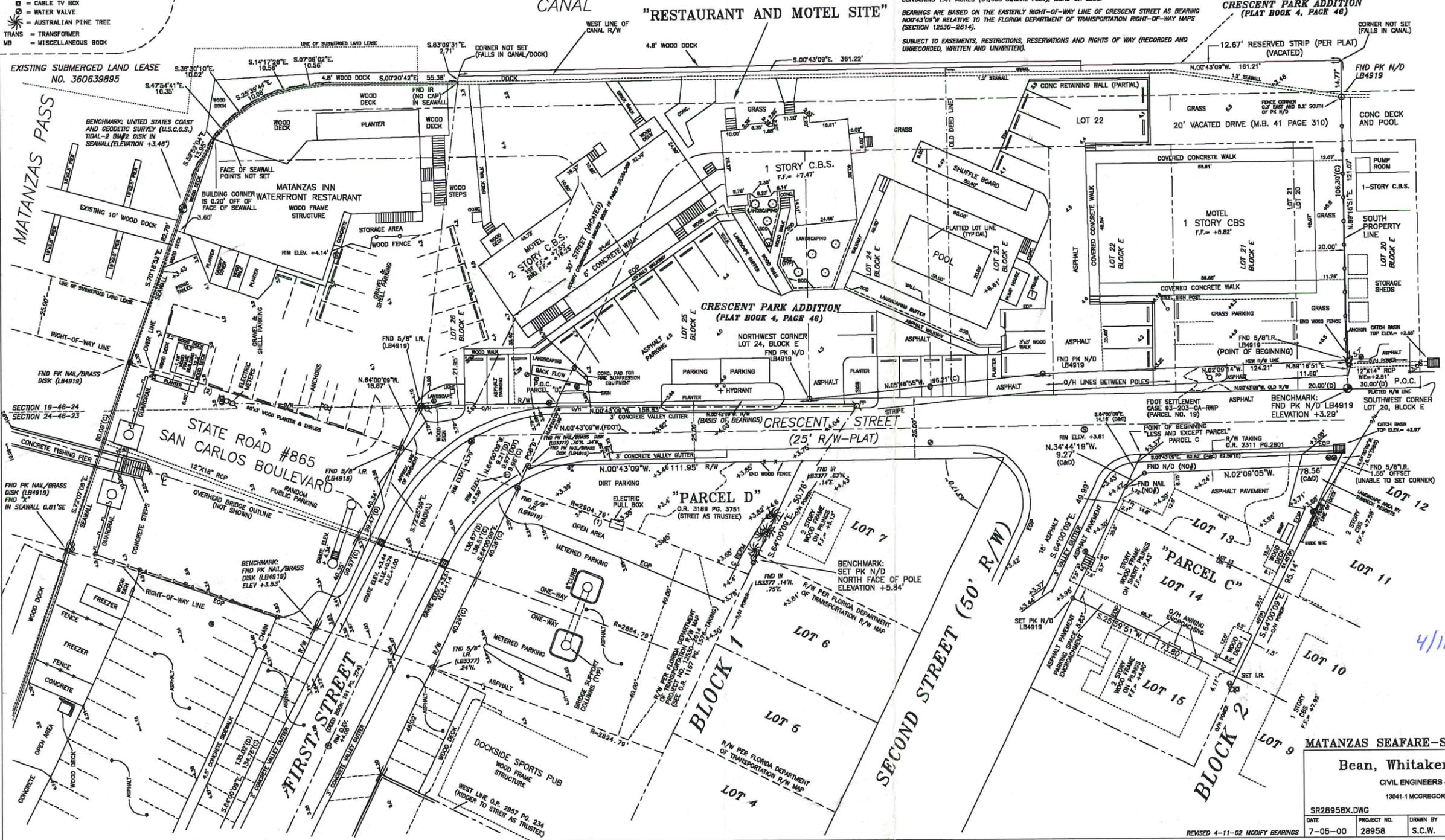
THE PROPERTY IS SUBJECT TO ANY CLAIM THAT ANY PART OF SAID LAND IS OWNED BY THE STATE OF FLORIDA BY RIGHT OF SOVEREIGNTY, RIPARIAN RIGHTS AND THE TITLE TO FILLED-IN LANDS, IF ANY.

DATE OF LAST FIELD WORK: 7-05-2000.

SURVEY MEETS OR EXCEEDS THE ACCURACY STANDARDS OF AN URBAN SURVEY (1:15,000).

PARCEL DOES NOT LIE SEAWARD OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION COASTAL CONSTRUCTION CONTROL LINE.

ALL IMPROVEMENTS WATERWARD OF THE DESCRIBED BOUNDARY ARE NOT SHOWN.



SURVEYOR'S CERTIFICATION:

*NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

BEAN, WHITAKER, LUTZ & KAREH, INC.

4/11/02

SCOTT C. WHITAKER, P.S.M., NO. L54324
PROFESSIONAL SURVEYOR & MAPPER
STATE OF FLORIDA

- THIS CERTIFICATION IS ONLY FOR THE LANDS DESCRIBED HEREON.
- IT IS NOT A CERTIFICATION OF TITLE, ZONING, SETBACKS, OR FREEDOM OF ENCUMBRANCES.
- THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF ABSTRACT OF TITLE AND ALL MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY AT LAW.

BEAN, WHITAKER, LUTZ & KAREH, INC. (LB 4919)
CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS
19041-1 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919-5910 (841) 481-1331

SR28958X.DWG

| | | | | | |
|---------|-------------|----------|----------|--------|------------------|
| DATE | PROJECT NO. | DRAWN BY | SCALE | SHEET | FILE NO. (S-T-R) |
| 7-05-00 | 28958 | S.C.W. | 1" = 20' | 1 OF 1 | 19-46-24 |

REVISED 4-11-02 MODIFY BEARINGS