

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2013- 003
SEZ2013-0001 The Beached Whale

WHEREAS, applicant Marty Harrity has requested approval of a Special Exception in the DOWNTOWN zoning district to expand the area where outdoor consumption on premises is permitted to include 636 ± square feet of a proposed new deck at the front of the existing building on the subject property; and

WHEREAS, the subject property is located at 1249 Estero Boulevard, Fort Myers Beach, FL 33931; and

WHEREAS, the applicant has indicated that the STRAP for the subject property is 19-46-24-W4-0060H.0300 and the legal description of the subject property is VENETIAN GARDENS BLK H PB 6 PG 70 LOTS 30 31+32+ PT LT 29; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on April 9, 2013; 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 34-88.

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 Special Exception in the DOWNTOWN zoning district to expand the area where outdoor consumption on premises is permitted to include 636 ± square feet of a proposed new deck at the front of the existing building on the subject property subject to the following conditions:

RECOMMENDED CONDITIONS OF APPROVAL:

1. *Consumption on premises is limited to the building located on the subject property at 1249 Estero Boulevard and both the existing upper and proposed new lower outdoor decks depicted on the attached Exhibit C.*
2. *Hours of operation for consumption on premises shall be limited to the hours of 7:00 AM to 2:00 AM, daily for both inside the building and the outdoor deck area.*
3. *Acoustic music shall be limited to from 11:00 am to 10:00 pm Monday through Friday.*
4. *Any proposed roof overhangs and/or projections must meet the Commercial Design Standards set forth in LDC Section 34-991 and specifically Section 34-995(3).*
5. *All work proposed to be done will require Limited Review Development Order and any other permits determined to be necessary at the time of permitting.*

RECOMMENDED FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-88 regarding consideration of eligibility for a special exception, the LPA recommends that the Town Council make the following findings and reach the following conclusions:

1. Changed or changing conditions **do/do not** exist that make the requested approval, as conditioned, appropriate:
2. The requested special exception, as conditioned, **is/is not** consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan:
3. The requested special exception, as conditioned, **meets or exceeds/does not meet or exceed** all performance and locational standards set forth for the proposed use.
4. The requested special exception, as conditioned, **will/will not** protect, conserve, or preserve environmentally critical areas and natural resources:
5. The requested special exception, as conditioned, **will/will not** be compatible with existing or planned uses and **will/will not** cause damage, hazard, nuisance or other detriment to persons or property:
6. The requested special exception, as conditioned, **will/will not** be in compliance with the applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34.

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:

Hank Zuba, Chair	AYE/NAY	Joanne Shamp, Vice Chair	AYE/NAY
Al Durrett, Member	AYE/NAY	John Kakatsch, Member	AYE/NAY
Jane Plummer, Member	AYE/NAY	Alan Smith, Member	AYE/NAY
Jim Steele	AYE/NAY		

DULY PASSED AND ADOPTED THIS **9th** day of APRIL 2013.

Local Planning Agency of the Town of Fort Myers Beach

By: _____
Hank Zuba, LPA Chair

Approved as to legal sufficiency:

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

ATTEST:

By: _____
Michelle Mayher
Town Clerk



Town of Fort Myers Beach
**COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

TYPE OF CASE: Special Exception
CASE NUMBER: SEZ2013-0001
LPA HEARING DATE: April 9, 2013
LPA HEARING TIME: 9:00 AM

I. APPLICATION SUMMARY

Applicant: Marty Harrity
David Easterbrook, authorized agent
Eric Beck, authorized agent

Request: A special exception in the DOWNTOWN zoning district to expand the area where outdoor consumption on premises is permitted to include 636 ± square feet of a proposed new deck at the front of the existing building on the subject property.

Subject property: VENETIAN GARDENS
BLK H PB 6 PG 70
LOTS 30 31+32+ PT LT 29

Physical Address: 1249 Estero Boulevard Fort Myers Beach FL, 33931

STRAP #: 19-46-24-W4-0060H.0300

FLU: Pedestrian Commercial

Zoning: DOWNTOWN

Current use(s): Restaurant with 4COP-SRX alcohol license

Adjacent zoning and land uses:

North: Multi-Family
DOWNTOWN
Pedestrian Commercial

South: The Beacon Motel
DOWNTOWN
Pedestrian Commercial

East: 7 Eleven
DOWNTOWN
Pedestrian Commercial

West: Silver Sands Motel
DOWNTOWN
Pedestrian Commercial

II. BACKGROUND AND ANALYSIS

Background:

The applicant has requested a special exception in the DOWNTOWN zoning district in order to expand the area where outdoor consumption on premises is permitted to include 636 ± square feet of a proposed new deck off the front of the existing building on the subject property.

Land Development Code (LDC) Section 34-1264(a)(2)(a)(2) requires a special exception for any establishment that wants to provide outdoor seating where patrons can consume alcoholic beverages.

The Beached Whale, 1249 Estero Boulevard, is a restaurant that has a 4COP SRX liquor license. It is located just past the Sky Bridge on the north side of Estero Boulevard at the corner of Palermo Circle and Primo Drive in Fort Myers Beach. The original approval for consumption on premises was granted by Lee County Administrative Approval Number COP-93-007, which is attached as *Exhibit A*.

The restaurant is a popular dining establishment and is surrounded on all sides by parking spaces. The applicant desires to expand their serving capacity by removing the back-out parking spaces along the Estero Boulevard frontage and constructing a new 636± square foot deck in its place. See *Exhibit B*. A majority of the proposed new deck are will be covered by a metal roof as depicted in the drawings attached as *Exhibit C*.

Analysis:

The subject property, which includes The Beached Whale restaurant, is located in the DOWNTOWN zoning district and is within walking distance to Times Square, Lynn Hall Memorial Park and Crescent Beach Family Park as well as numerous hotels, motels and rental properties. This district is known for a variety of establishments offering a range of food and beverage options, so a request for outdoor consumption on premises in this area is not a unique or unusual request.

The regulations for the DOWNTOWN zoning district are found in LDC Section 34-678, and encourage restaurants to provide outdoor seating areas located on porches or patios, largely between enclosed buildings and the street. The subject property is located just outside of one of the most intensive commercial areas of the Town, where commercial uses begin to be interspersed with residential and hotel/motel properties in a mixed use fashion, and is relatively far from the predominantly residential areas of the Town.

The sidewalks on both sides of Estero Boulevard, the availability of commercial parking lots, and the popular use of the beach near the Lee County fishing pier, Lynn Hall Memorial Park, and Crescent Beach Family Park help to attract beach-going pedestrians to the area. The applicants' restaurant is among a large number of commercial and retail uses in this part of the Town, several of which provide outdoor seating. The presence of visiting pedestrians transitioning between parking areas, retail stores, restaurants, the beach, and nearby motels, is a long-established custom that will not be affected by approval or denial of the current request. The immediate vicinity is within the Pedestrian Commercial future land use category and the Comprehensive Plan's vision for this area does not require that it be transformed from an intensive commercial area into a primarily residential district. Furthermore, the Comprehensive Plan specifically contemplates that the Times Square area (i.e. Downtown Core Area) will include a more intensive mix of commercial activities including outdoor uses.

The applicant's specific request is for outdoor consumption on premises on an proposed elevated deck area measuring 636± square feet that extends out from the existing structure up to the Estero Boulevard and Palermo Circle right-of-way, with the majority of the proposed deck being covered by a new metal roof. In order to install the proposed new deck, the applicant will be removing parking spaces that currently cause patrons to back-out onto Estero Boulevard.

The applicant states that the deck will support 47 new seats. Staff, however, does not recommend that any conditions be included that limit the number of seats, because the seating area can be limited by reference to the applicant's site plan, which clearly delineates the proposed deck and seating areas. Changes to the types of seats used on the proposed deck or amendments to the building code could allow a somewhat different seating capacity within the same floor area in the future.

The existing restaurant use requires twenty (20) parking spaces, including one (1) ADA space. There are thirty-eight (38) parking spaces provided currently, including two (2) ADA spaces, for use by the patrons of The Beached Whale. The applicable parking requirements found in LDC Sections 34-2020 and 34-676 indicate that the additional square footage from the proposed deck requires three (3) additional parking spaces. The applicant currently provides more than the required parking spaces for the existing use. The proposal to remove six (6) parking spaces that back-out onto Estero Boulevard in order to install the proposed deck therefore does not violate the parking requirements in the LDC.

Additionally, with ever increasing traffic congestion on Estero Boulevard, especially on this section of the roadway approaching the Sky Bridge, and with direction from the Town's Comprehensive Plan (Policy 7-H-10) to limit the number of access points and *'take advantage of any suitable opportunities to consolidate street connections into fewer access points onto Estero Boulevard'* Staff is fully supportive of removing the six (6) parking spaces. This action, while reducing the overall number of parking spaces serving the restaurant use

on the subject property, will have a much greater overall positive impact on Estero Boulevard and its daily users by eliminating the pedestrian/vehicular conflicts on this frontage and improving traffic flow at peak periods of travel.

The applicant indicates that they intend to operate between the hours of 7:00 am and 2:00 am, hours that are within the allowable limits set forth in Town Ordinance 96-06, which prohibit service of alcohol between 2:00 am and 7:00 am throughout Fort Myers Beach. They are also requesting permission to provide acoustic music from 11:00 am to 10:00 pm Monday through Friday.

Although the applicant has proposed these operation and entertainment hours, Town Council may find that a condition(s) is (are) necessary to protect the public health, safety, and welfare.

Public Works Director, Cathie Lewis, provided Staff with a memo detailing preliminary comment regarding the proposed use. See *Exhibit D*. Public Works comments deal most directly with issues that can be addressed at the time of the limited review development order, i.e. providing stormwater drainage under the proposed deck and repositioning the required ADA parking spaces so they do not encroach into the Palermo Circle right-of-way. The other comment relates to the proposed roof extending into the surrounding right-of-way. Upon review of the site details, *Exhibit C*, there is a corner of the proposed metal roof that would encroach into the right-of-way. The Commercial Design Standards, beginning in Section 34-991, encourage overhangs into the right-of-way. With Public Works' concern in mind, Staff recommends that any approval of the applicant's request include a condition that the roof must be in compliance with Section 34-995(e) which regulates facade projections, to ensure that any overhang does not exceed the allowable limits set forth in that section.

Findings and Conclusions:

- 1. Whether there exist changed or changing conditions [that] make approval of the request appropriate.*

The Comprehensive Plan notes in the Consensus on Commercial Uses: "The present concentration of commercial uses in the Times Square area is good for Fort Myers Beach. Despite severe congestion during peak season, Times Square has always provided an urban beach environment that does not exist anywhere else in Lee County, and which cannot be easily duplicated because of today's floodplain regulations. The recent.....improvements have sparked a renewed interest in Times Square among most islanders and have spurred a healthy movement to upgrade existing buildings."

As contemplated in the Comprehensive Plan, the Times Square/Downtown area has continued to emerge as a vibrant urban core for the Town, and as such, that area can support a more intensive variety of uses that are appealing and attractive to residents and visitors alike. The applicant's request is consistent with this policy.

Furthermore, with increasing congestion and traffic delays on Estero Boulevard, and the delay in Lee County making improvements to that right-of-way, the Comprehensive Plan encourages any opportunity to remove traffic obstacles and improve traffic flow should be encouraged and

supported. The applicant's request to remove six (6) back-out parking spaces is consistent with this policy.

2. Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.

The subject property is located in what the Comprehensive Plan terms the Downtown Core. The Comprehensive Plan describes a vision for this area that "boasts a revitalized entertainment area with tree-shaded outdoor cafes, pedestrian streets, and an 'Old Estero Island' character to the buildings."

Further, in both the Community Design Element and the Future Land Use Element, the Comprehensive Plan describes a vision for the Downtown Core/Times Square area as a "nucleus of commercial and tourist activities" with pedestrian oriented commercial uses that enhance the experience of both the resident and visitor. The applicant's request is consistent with this vision.

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

The very nature of this application indicates that the requested use of consumption on premises is not a use allowable by right on the subject property. It is however, a use permitted by special exception. (See Section 34-1264(a)(2)).

The applicant's request is appropriate at this site due to the subject property's location in the Downtown Core Area. Outdoor dining, both on private and on public property is encouraged by the Comprehensive Plan and the Land Development Code. Approval of the applicant's request, along with conditions requiring appropriate building permits, will ensure that all performance standards are met.

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

The applicant's request will have no negative effects on the environmentally critical areas and natural resources of Fort Myers Beach because the subject property is located in an established commercial district, landward of the coastal construction line(s) and far from environmentally critical areas and sensitive natural resources. Approval of the applicant's request should be conditioned to require that any outdoor lights meet with the Sea Turtle lighting requirements.

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

The subject property and the area immediately surrounding it is within the Pedestrian Commercial future land use category. The Comprehensive Plan's

vision for this area does not require that it be transformed from an intensively commercial area into a primarily residential district or any other use. It possesses a vibrant mix of uses, and as such, Staff feels the applicant's request is compatible and appropriate within its neighborhood.

6. *Whether the requested use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34.*

The consumption on premises of alcoholic beverages on the subject property will be required to comply with the applicable standards in the Fort Myers Beach LDC including, but not limited to §34-1264. Staff recommends finding that the requested use, as conditioned, is in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34.

III. RECOMMENDATION

Staff recommends **APPROVAL WITH CONDITIONS** of the requested special exception in the DOWNTOWN zoning district to expand the area where outdoor consumption on premises is permitted to include 636 ± square feet of a proposed new deck at the front of the existing building on the subject property. Recommended conditions for approval are as follows:

1. Consumption on premises is limited to the building located on the subject property at 1249 Estero Boulevard and both the existing upper, and proposed new lower outdoor decks depicted on the attached *Exhibit C*.
2. Hours of operation for consumption on premises shall be limited to the hours of 7:00 AM to 2:00 AM, daily for both inside the building and the outdoor deck area.
3. Acoustic music shall be limited to from 11:00am to 10:00 pm Monday through Friday.
4. Any proposed roof overhangs and/or projections must meet the Commercial Design Standards set forth in LDC Section 34-991 and specifically Section 34-995(3).
5. All work proposed to be done will require a Limited Review Development Order and any other permits determined to be necessary at the time of permitting.

IV. CONCLUSION

Staff recommends **APPROVAL WITH CONDITIONS** of the requested special exception in the DOWNTOWN zoning district to expand the area where outdoor consumption on premises is permitted to include 636 ± square feet of a proposed new deck at the front of the existing building on the subject property.

Exhibits:

Exhibit A – Lee County Administrative Approval COP-93-007

Exhibit B – Site Survey and proposed deck site plan

Exhibit C – Proposed building details

Exhibit D – Public Works Director memo

|

EXHIBIT A

ADMINISTRATIVE APPROVAL NO. COP-93-007

ADMINISTRATIVE APPROVAL
CONSUMPTION ON PREMISES
LEE COUNTY, FLORIDA

WHEREAS, Raymond J. Mertens, Sr., has filed an application for administrative approval for Consumption on Premises for a 4-COP-SRX alcoholic beverage license on a project known as The Beached Whale; and

WHEREAS, the subject property is located at 1249 Estero Boulevard, Fort Myers Beach, described more particularly as:

LEGAL DESCRIPTION: In Section 19, Township 46 South, Range 24 East, Lee County, Florida:

A parcel being in Lots 30, 31 and 32, Block "H", VENETIAN GARDENS SUBDIVISION, as recorded in Plat Book 6, Page 70, Lee County, Florida, more particularly described as follows:

From the Northwest corner of said Lot 32, run $S00^{\circ}17'35"W$, along the Easterly right-of-way of Primo Drive, 28.07 feet to the POINT OF BEGINNING of lands herein described;

From said POINT OF BEGINNING continue $S00^{\circ}17'35"W$, along said Easterly right-of-way of Primo Drive 106.93 feet to a point on the Northerly right-of-way of Palermo Circle;
THENCE along said Northerly right-of-way of Palermo Circle in an Easterly direction to the Southwesterly corner of Lot 29, Block H, said VENETIAN GARDENS SUBDIVISION;
Thence $N39^{\circ}44'07"W$, 117.54 feet to a point on the line which is parallel to Primo Drive;
THENCE $S00^{\circ}17'35"W$, 17.74 feet;
THENCE $S88^{\circ}29'35"W$, 68.02 feet to the POINT OF BEGINNING.

AND

Part of Lots 29, 30 and 31, Block H, VENETIAN GARDENS SUBDIVISION, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court in Plat Book 6, Page 70, more fully described as follows:

BEGINNING at the Southeast corner of Lot 29;
THENCE Northwesterly to a point 20 feet from the Northeast corner of Lot 29 and on North line of said lot;
THENCE Southwesterly on said line 50 feet to a point which is 10 feet West of the Northeast corner of Lot 31;
THENCE Southeasterly to Southeast corner of Lot 30;
THENCE Northeasterly and along said lot line to POINT OF BEGINNING.

WHEREAS, the applicant has indicated the property's current STRAP number is 19-46-24-06-0000H.0300; and

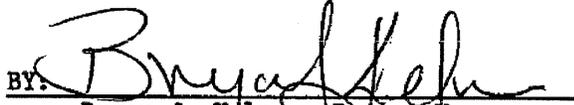
WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for administrative approval for Consumption on Premises is APPROVED.

Approval is subject to the following conditions:

1. The consumption on premises (4 COP SRX) shall be in conjunction with a Group III, restaurant; and
2. There shall be no outdoor sales, serving or consuming of alcoholic beverages.

DULY SIGNED this 1st day of November, A.D., 1993.

BY: 

Bryan J. Kelner, Zoning Manager
Division of Zoning
Department of Community Development

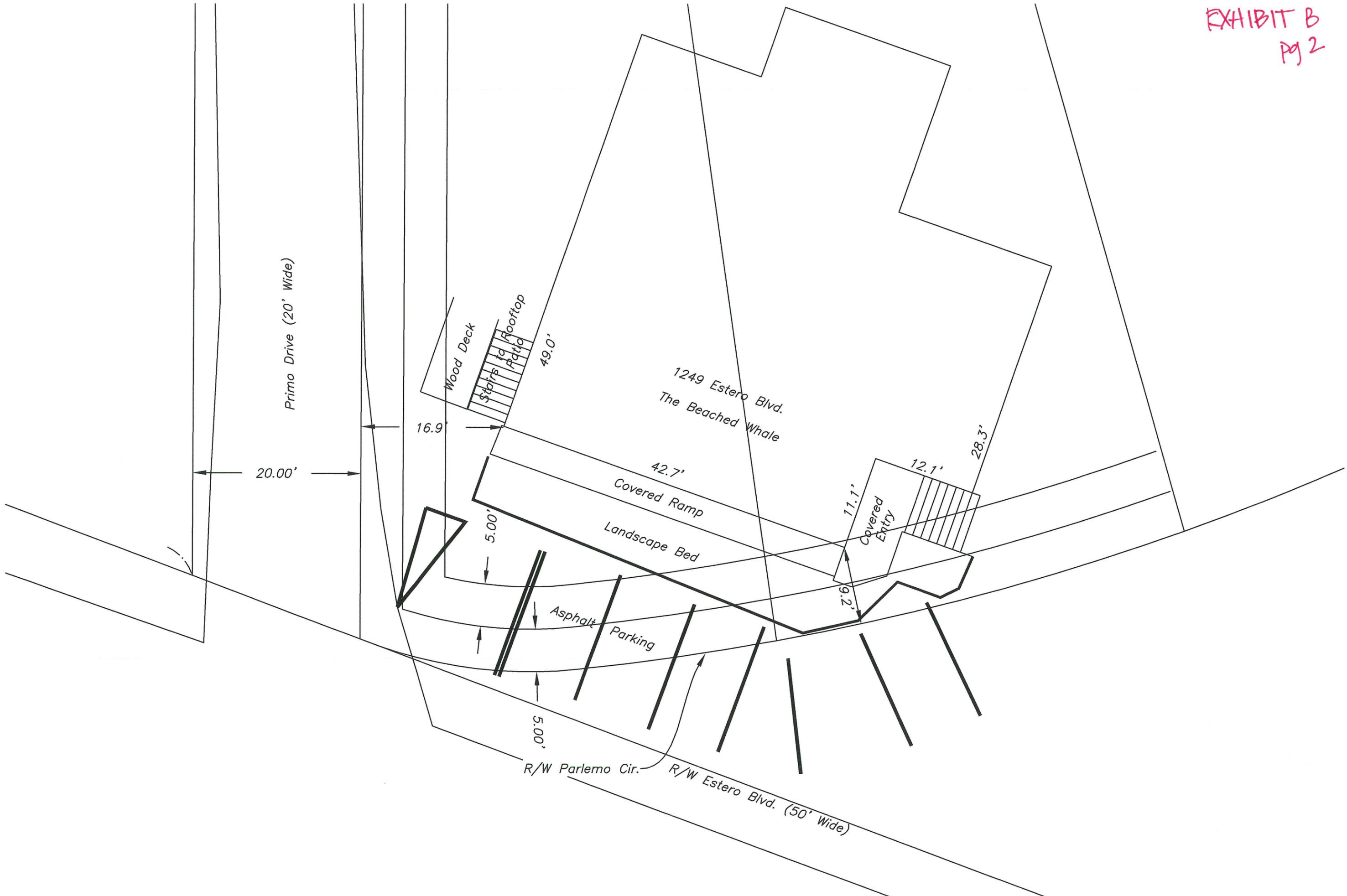
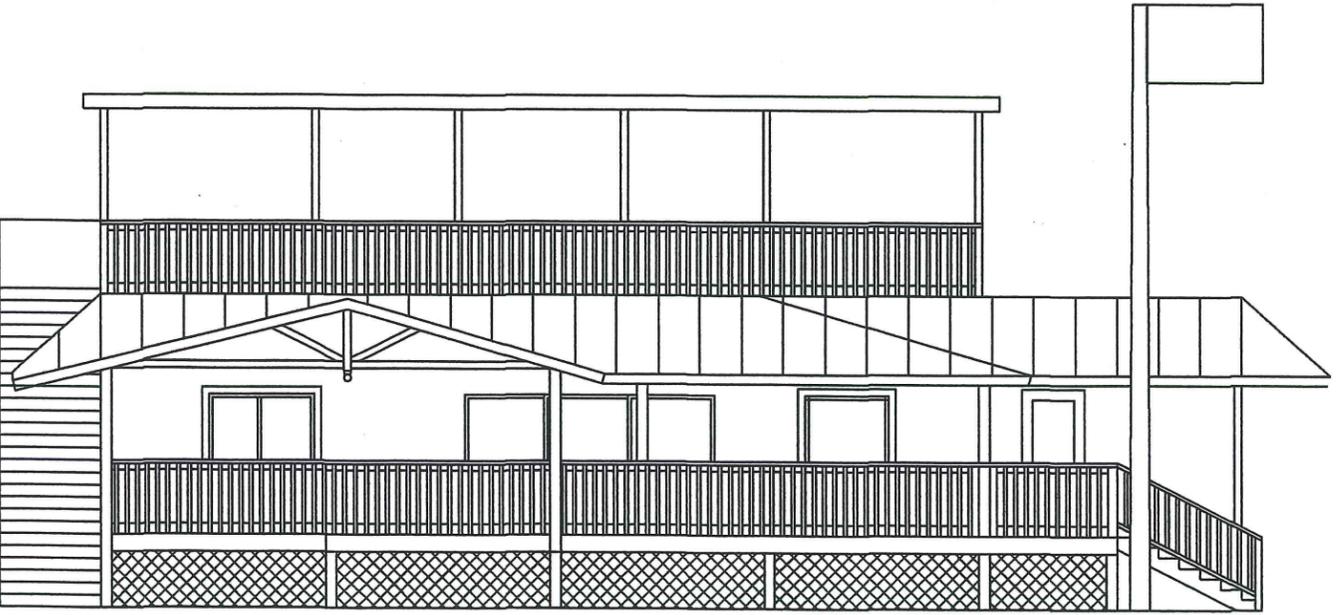
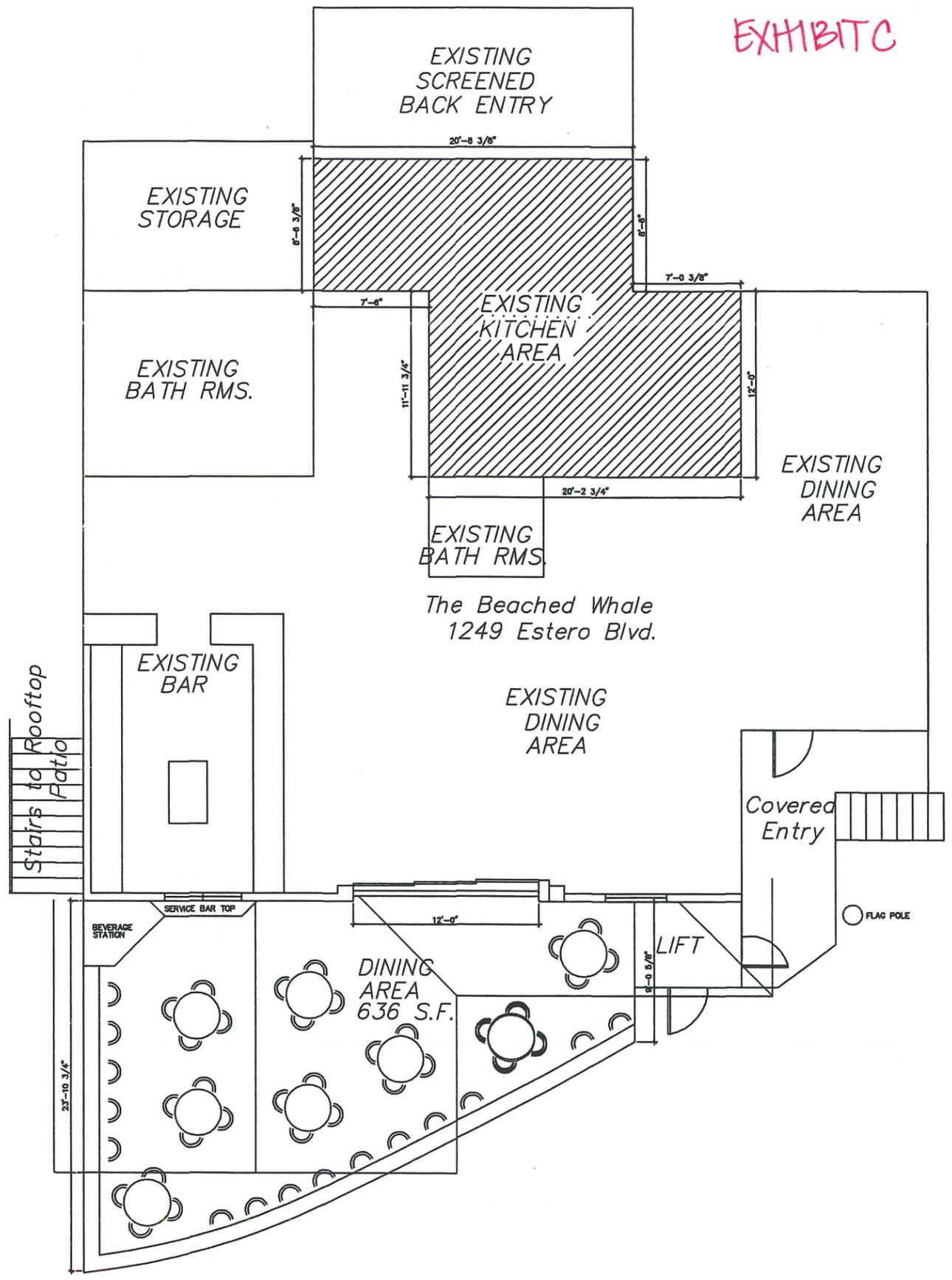


EXHIBIT C

REVISIONS



FRONT ELEVATION

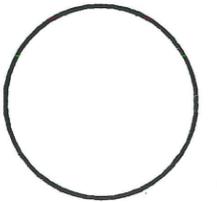


BEACHED WHALE

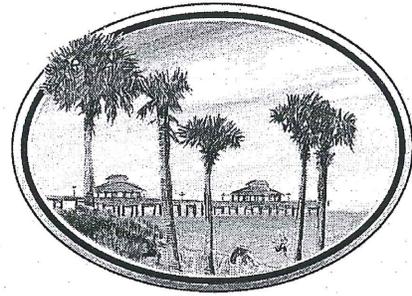
FORT MYERS BEACH, FLORIDA 33931

drawn by
D.M.E.
checked by
date
scale
job no.
JOB

SHEET NO.



TOWN OF FORT MYERS BEACH



MEMO

DATE: March 22, 2013
 TO: Leslee Chapman, Community Development Department
 FROM: Cathie Lewis, Public Works Director *CL*
 SUBJECT: SEZ13-0001 – Special Exception – Beached Whale

Below are PW comments on the above subject zoning application.

Zoning Application Review:

1. The sketched in survey provided with the application depicts the construction limits of the proposed improvement to extend to the edge of the right-of-way. The project plan drawing provided with the application shows a roof covering most of the extension area. There are portions of the roof that are depicted as extending into the public right-of-way of Palermo Circle and possibly Primo Dr.

Public Works cannot support extending a roof overhang into the public right-of-way. Should the zoning request be approved this should be included as a stipulation and should require that an As-Built survey be required to verify this.

2. The applicant is seeking approval of an outdoor seating area where some current site parking is located. The area is currently impervious with water shedding from the area to Palermo Circle, Estero Blvd. and Primo Dr.

Applicant should create an impervious area or retention area under the proposed deck structure to capture as much stormwater as possible.

3. The application depicts a handicapped parking space that extends into the public right-of-way.

This parking space should be relocated to a location on the property or applicant may enter into an agreement with the Town to allow utilization of the right-of-way for this parking purpose.

This application comment memorandum should in no way constitute final comments or approval. As the application process continues, it will be necessary for PW to provide additional review to Community Development.

Please let me know if you have any questions regarding this.

(Sent via Trakit)



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

This is a two part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit *one ORIGINAL paper copy, eleven (11) copies and one digital/electronic copy* of all required applications, supplemental information, exhibits and documents. Please do not print and copy the instructions at the end of the application.

PROJECT NUMBER: _____ DATE: _____

Site Address: 1249 ESTERO BLVD, FT. MYERS BEACH

STRAP Number: 19-46-29-W4-0060H, 0300

Applicant: MARTY HARRITY Phone: _____

Contact Name: ERIC BECK Phone: 239-233-3906

Email: ERIC@BEACHEDWHALE.COM Fax: _____

Current Zoning District: DOWN TOWN

Future Land Use Map (FLUM) Category: N/A

FLUM Density Range: N/A Platted Overlay: YES NO

ACTION REQUESTED

SUPPLEMENTAL FORM REQUIRED

- | | |
|---|--------------------------|
| <input checked="" type="checkbox"/> Special Exception | PH-A |
| <input type="checkbox"/> Variance | PH-B |
| <input type="checkbox"/> Conventional Rezoning | PH-C |
| <input type="checkbox"/> Planned Development <input type="checkbox"/> Commercial <input type="checkbox"/> Residential | PH-D |
| <input type="checkbox"/> Master Concept Plan Extension | PH-E |
| <input type="checkbox"/> Appeal of Administrative Action | PH-F |
| <input type="checkbox"/> Vacation of Platted Right-of-way and Easement | PH-G |
| <input type="checkbox"/> Other – cite LDC Section: _____ | attach on separate sheet |

PART I - General Information

A. Applicant*: MARTY HARRITY Phone: 239-233-3906

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner. Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

Applicant Mailing Address: P.O. BOX 167 SANIBEL, FL. 33957

Email: ERIC @ BEACHED WHALE . COM Fax: _____

Contact Name: ERIC BECK Phone: 239-233-3906

B. Relationship of Applicant to subject property:

- | | | |
|---|---|--|
| <input type="checkbox"/> Owner* | <input type="checkbox"/> Land Trust* | <input type="checkbox"/> Partnership* |
| <input checked="" type="checkbox"/> Corporation* | <input type="checkbox"/> Association* | <input type="checkbox"/> Condominium* |
| <input type="checkbox"/> Subdivision* | <input type="checkbox"/> Timeshare Condo* | <input type="checkbox"/> Contract Purchaser* |
| <input type="checkbox"/> Authorized Representative* | <input type="checkbox"/> Other* (please indicate) _____ | |

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner. Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

C. Authorized Agent(s). Please list the name of Agent authorized to receive correspondence Agents

Name: DAVID M. EASTERBROOK Phone: 239-980-3091

Address: 123 BAYVIEW AVE FMB. FL 33931

Email: FIVE BEACH BUMS @ AOL.COM Fax: _____

D. Other Agent(s). Please list the names of all Authorized Agents (attach extra sheets if necessary)

Name: ERIC BECK Phone: 239-233-3906

Address: 1299 ESTERO BLVD FMB FL 33931

Email: ERIC @ BEACHED WHALE . COM Fax: _____

Name: MARTY HARRITY Phone: _____

Address: P.O. BOX 167 SANIBEL FL 33957

Email: _____ Fax: _____

Name: MARK MARINELLO Phone: _____

Address: P.O. BOX 167 SANIBEL FL 33957

Email: _____ Fax: _____

PART II - Nature of Request

Requested Action (each request requires a separate application)

- Special Exception
- Variance from LDC Section _____ - _____
- Conventional Rezoning from _____ to _____
- Planned Development
 - Rezoning from _____ to Commercial PD Residential PD
 - Amendment. List the project number: _____
 - Extension/reinstatement of Master Concept Plan. List project number: _____
- Appeal of Administrative Action
- Vacation Right-of-Way Easement
- Other. Please Explain: _____

PART III - Waivers

Please indicate any specific submittal items that have been waived by the Director for the request. Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV - Property Ownership

- Single Owner (individual or husband and wife)
 - Name: _____ Phone: _____
 - Mailing Address: _____
 - Email: _____ Fax: _____

Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

- Complete Disclosure of Interest Form (see below)
- Attach list of property owners as Exhibit 4-1
- Attach map showing property owners interests as Exhibit 4-2 (for multiple parcels)
- For condominiums and timeshares see Explanatory Notes Part IV (Page 11)

DISCLOSURE OF OWNERSHIP INTEREST

STRAP: 19-46-24-W4-00604.0300

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 Ownership
<u>N/A</u>	

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 of Stock
<u>MARK MARINELLO P.O. BOX 167</u>	<u>15%</u>
<u>SANIBEL FL 33957</u>	
<u>MARTY HARRITY P.O. BOX 167</u>	<u>85%</u>
<u>SANIBEL FL 33957</u>	

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

Name and Address

Percentage of Interest

N/A	

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

N/A	

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

Name, Address and Office

Percentage of Stock

N/A	

Date of Contract: _____

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

Name	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 certificate of compliance, 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 Printed Name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was sworn to (or affirmed) and subscribed before me on _____ (date) by _____ (name of person providing oath or affirmation), who is personally known to me or who has produced _____ (type of identification) as identification.

(SEAL) _____
Signature

Printed Name

PART V - Property Information

A. Legal Description:

STRAP: 19-46-24-W4-0060H.0300

Property Address: 1249 ESTERO BLVD FMB FL 33931

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? No. Attach a legible copy of the legal description as Exhibit 5-1.

Yes. Property identified in subdivision: VENETIAN GARDENS

Book: 2414 Page: 2433 Unit: _____ Block: H Lot(s): 29, 30, 31, 32

B. Boundary Survey:

Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. 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. Attach and label as Exhibit 5-2.

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 155 feet

Depth (please provide an average width if irregular in shape) 132 feet

Frontage on street: 201 feet. Frontage on waterbody: N/A feet

Total land area: 18,738 acres square feet

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

LEFT AT SKY BRIDGE CORNER OF PALERMO
CIRCLE AND ESTERO BLVD,

Attach Area Location Map as Exhibit 5-3

E. Property Restrictions (check applicable):

There are no deed restrictions and/or covenants on the subject property.

A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 5-4.

A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 5-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

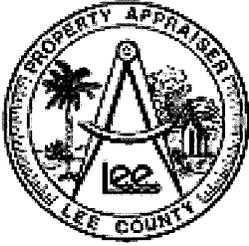
- Attach a list of surrounding property owners within 500 feet as Exhibit 5-6.
- Attach a map showing the surrounding property owners as Exhibit 5-7.
- Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

- | | |
|--|--|
| <input type="checkbox"/> Low Density | <input type="checkbox"/> Marina |
| <input type="checkbox"/> Mixed Residential | <input type="checkbox"/> Recreation |
| <input checked="" type="checkbox"/> Boulevard | <input type="checkbox"/> Wetlands |
| <input type="checkbox"/> Pedestrian Commercial | <input type="checkbox"/> Platted Overlay |

H. Zoning (see official Zoning Map):

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



Lee County Property Appraiser

Kenneth M. Wilkinson, C.F.A.

GIS Department / Map Room

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

VARIANCE REPORT

Date of Report: 1/28/2013 4:07:52 PM
Buffer Distance: 500 ft
Parcels Affected: 87
Subject Parcels: 19-46-24-W4-0060H.0300

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION
HUNTINGBURG PARTNERS LTD TODD MCGEE STE 1203 5294 SUMMERLIN COMMONS WAY FORT MYERS, FL 33907	24-46-23-W3-00006.0000 1133-1155 ESTERO BLVD/FIFTH ST FORT MYERS BEACH FL 33931	BUSINESS CTR PHILLIPS PB 9 PG 9 LOTS 10 THRU 15 + OR 587/198 LESS R/W 2353/3036
BROADWAY INVESTMENT PARTNERS 55 E LONG LAKE RD #204 TROY, MI 48085	24-46-23-W3-00009.0000 1160 ESTERO BLVD FORT MYERS BEACH FL 33931	PARL IN SE 1/4 OF SE 1/4 SEC 24 TWP 46 RGE 23 DESC IN OR 1305 PG 0806
ESTERO BEACH HOLDINGS LLC 1429 COLONIAL BLVD STE 201 FORT MYERS, FL 33907	24-46-23-W3-00011.0000 1154 ESTERO BLVD FORT MYERS BEACH FL 33931	BEG SW COR BLK E CRESCENT PARK ADD ON E LI SEC 24 S ALG E LI SEC 53.24 FT TO S
VAN BURGESS ROBERT PO BOX 2717 FORT MYERS BEACH, FL 33932	19-46-24-W4-00600.Y000 125/127 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK Y PB 6 PG 70 ALL BLK Y EXC NLY 11 FT
BAKER HENRY B + RR 3 BOX 114 SALLISAW, OK 74955	19-46-24-W4-0060A.0300 1403 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOTS 30 31 LESS W 12 FT
ESH LUCINDA JULIA KELLER TR 223 CAROLINA AV FORT MYERS BEACH, FL 33931	19-46-24-W4-0060A.0320 1401 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOTS 32 + W 12 FT LOT 31
AULLS FRANK W JR + TRICIA M 1212 SW 53 TERR CAPE CORAL, FL 33914	19-46-24-W4-0060A.0330 1351 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 33
WILCOX LANCE 1339 SANTOS RD FORT MYERS BEACH, FL 33931	19-46-24-W4-0060A.0340 1339 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.A PB 6 PG 70 LOT 34
PARILLA DAVID R 1335 SANTOS RD FORT MYERS BEACH, FL 33931	19-46-24-W4-0060A.0350 1335 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 35
ABRAMOFF LAWRENCE + GLORIA 34 CHILTERN HILL DR WORCESTER, MA 01602	19-46-24-W4-0060A.0360 126 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 36 + S 1/2 OF BLK X LESS THE N 20 FT
WATTS SHEILA A TR + PO BOX 698 FORT MYERS, FL 33902	19-46-24-W4-0060A.0370 1321 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.A PB 6 PG 70 LOT 37
LKLB OF FLORIDA INC 1400 ESTERO BLVD FORT MYERS BEACH, FL 33931	19-46-24-W4-0060B.0070 1479 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOTS 7 + 8 + E 1/2 OF LOT 9 + 28 + 29 + VAC RD R/W OR 553 PG 797
PRIMEAU NORMAN L TR 950 SAN CARLOS CT FORT MYERS BEACH, FL 33931	19-46-24-W4-0060B.0100 1397 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 W 1/2 LOT 9 LOTS 10 + 11
PRIMEAU NORMAN L TR 950 SAN CARLOS DR FORT MYERS BEACH, FL 33931	19-46-24-W4-0060B.0120 1365/1375 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOT 12

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION
LANI KAI LP ROBERT G CONIDARIS 1400 ESTERO BLVD FORT MYERS BEACH, FL 33931	19-46-24-W4-0060B.0130 1345 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOT 13
LANI KAI LP ROBERT G CONIDARIS 1400 ESTERO BLVD FORT MYERS BEACH, FL 33931	19-46-24-W4-0060B.0140 1331 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOT 14
LANI KAI LP ROBERT G CONIDARIS 1400 ESTERO BLVD FORT MYERS BEACH, FL 33931	19-46-24-W4-0060B.0150 1325 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOTS 15
7-ELEVEN INC TAX DEPT 10319 2711 N HASKELL AVE DALLAS, TX 75204	19-46-24-W4-0060B.0160 1301 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETAIN GARDENS BLK B PB 6 PG 70 LOTS 16 + 17
TEZAK WAYNE P + HELEN C 50 CHAPEL ST APT 4 FORT MYERS BEACH, FL 33931	19-46-24-W4-0060E.0030 505 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK E PB 6 PG 70 LOTS 3 + 4
KLINE LYLE L TR 371 PALERMO CIR FORT MYERS BEACH, FL 33931	19-46-24-W4-0060E.0050 551 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK E PB 6 PG 70 LOT 5
KLINE LYLE L TR 371 PALERMO CIR FORT MYERS BEACH, FL 33931	19-46-24-W4-0060E.0060 561 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK E PB 6 PG 70 LOT 6
JOTCAR INC 2110 PONDELLA RD CAPE CORAL, FL 33909	19-46-24-W4-0060E.0070 571 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK E PB 6 PG 70 LOT 7
BARNES BRYCE E + SONIA R 581 PALERMO CIR FORT MYERS BEACH, FL 33931	19-46-24-W4-0060E.0080 581 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.E PB 6 PG 70 LOT 8 + LOT PT 9
DACRE ALBERT J 130 PALERMO CIR FORT MYERS BEACH, FL 33931	19-46-24-W4-0060E.0090 130 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS PB 6/70 BLK E S 1/2 OF LOT 9 + ALL OF BLK X LESS S 20 FT
HENNESSEY PATRICIA J + 460 PALERMO CIR FORT MYERS BEACH, FL 33931	19-46-24-W4-0060F.0010 460 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.F PB 6 PG 70 LOT 1
WEBER THOMAS L L/E 552 PALERMO CIR FORT MYERS BEACH, FL 33931	19-46-24-W4-0060F.0020 552 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.F PB 6 PG 70 LOT 2
WARD HERBERT H + MARIE A TR 4224 REAS LN NEW ALBANY, IN 47150	19-46-24-W4-0060F.0030 580 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.F PB 6 PG 70 LOT 3
SPECTRUM MARKETING 165 ANCHORAGE ST FORT MYERS BEACH, FL 33931	19-46-24-W4-0060F.0040 584/586 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK F PB 6 PG 70 LOT 4
SPECTRUM MARKETING 165 ANCHORAGE ST FORT MYERS BEACH, FL 33931	19-46-24-W4-0060F.0050 588/590 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK F PB 6 PG 70 LOT 5
FITE DAVID MITCHELL + JULIE H 1314 RIVERVIEW AVE GLENWOOD SPRINGS, CO 81601	19-46-24-W4-0060F.0270 220 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK F PB 6 PG 70 LOT 27
FMB LLC 19806 PLATTE VIEW RD GRETNA, NE 68028	19-46-24-W4-0060F.0280 212 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK F PB 6 PG 70 LOT 28
GALLO CARL L + KATHLEEN L 7840 W 180TH TER MIAMI, FL 33157	19-46-24-W4-0060G.0120 221 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.G PB 6 PG 70 LOTS 12 + 13
HANNUM LEWIS G JR 211 PALERMO CIR FORT MYERS BEACH, FL 33931	19-46-24-W4-0060G.0140 211 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK G PB 6 PG 70 LOT 14
MURAC JULIA A 201 PALERMO CIR FORT MYERS BEACH, FL 33931	19-46-24-W4-0060G.0150 201 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.G PB 6 PG 70 LOTS 15 + 16

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION
DAY BILLY WAYNE 3708 SHANNON RUN TRL LOUISVILLE, KY 40299	19-46-24-W4-0060G.0170 155 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK G PB 6 PG 70 LOT 17
LUMP THOMAS F + ANN C 145 PALERMO CIR FORT MYERS BEACH, FL 33931	19-46-24-W4-0060G.0180 145 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.G PB 6 PG 70 LOT 18
S + K SLOMSKI LLC 24265 TURNBERRY CT NAPERVILLE, IL 60564	19-46-24-W4-0060G.0190 139 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK G PB 6 PG 70 LOT 19 NLY 11 FT BLK Y
LODS LANA LANIE 200 ROSA LN LAFAYETTE, IN 47905	19-46-24-W4-0060H.0170 190 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 17
RILEY CHRISTOPHER M + SUSAN K 180 PRIMO DR FORT MYERS BEACH, FL 33931	19-46-24-W4-0060H.0180 180 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 18
RILEY SUSAN K TR 180 PRIMO DR FORT MYERS BEACH, FL 33931	19-46-24-W4-0060H.0190 170 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.H PB 6 PG 70 LOTS 19
BAILEY JAMES P + LANA C 162 PRIMO DR FORT MYERS BEACH, FL 33931	19-46-24-W4-0060H.0200 162 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LT 20
TOWNLEY MARK A PO BOX 2442 FORT MYERS BEACH, FL 33932	19-46-24-W4-0060H.0220 150 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOTS 21 + 22
NEUMANN SHEILA A 17350 WEST CARNEGIE CIR UNIT 304A FORT MYERS, FL 33967	19-46-24-W4-0060H.0230 140 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 23
GRIFFIN MICHAEL J + SANDRA 1065 WEEPING WILLOW WAY HOLLYWOOD, FL 33019	19-46-24-W4-0060H.0240 136 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 24
HIGHLEY JAY E + MARY B 13387 MARJAC WAY MC CORDSVILLE, IN 46055	19-46-24-W4-0060H.0250 124 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 25
MILLER JOHN T + MARTA R 314 W 4TH ST #400 BLOOMINGTON, IN 47404	19-46-24-W4-0060H.0260 122 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 PT LOT 26
KWSH RE LLC 2601 MULBERRY AVE MUSCATINE, IA 52761	19-46-24-W4-0060H.026A 120 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 PT LOTS 26 31 32
ALEXANDER JAMES M TR 18 RIVERVIEW RD MONMOUTH BEACH, NJ 07750	19-46-24-W4-0060H.0270 121 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.H PB 6 PG 70 LOT 27
DOLID PETER M + JILL B 1429 JAMAICA DR SANIBEL, FL 33957	19-46-24-W4-0060H.0280 117 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 28 + PT LOTS 26 + 29
GANIM GEORGE W + JOSEPHINE 4666 MAIN ST BRIDGEPORT, CT 06606	19-46-24-W4-0070D.001B 1450 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK.D PB 4 PG 45 WLY 43 FT LOTS 1 + 4
LANI KAI LP ROBERT G CONIDARIS 1400 ESTERO BLVD FORT MYERS BEACH, FL 33931	19-46-24-W4-0070D.0020 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH PB 4 PG 45 BLKS D + E + VAC R/W DESC OR 1293 PG 1208
COLORADO EAST LLC DANA GOSFORD 4233 WARREN RD FRANKLIN, TN 37067	19-46-24-W4-0070F.0010 1250 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK LTS 1 + 2 + ESTRY 2.5 FT LT 3 + CRESCENT BEACH LTS 1-5 BLK F LESS ESTRLY 45FT OF NRTHLY 2.7 LT 3
GIL JUAN C 936 STANFORD SUGAR GROVE, IL 60554	19-46-24-W4-0070F.001A 1270 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK F PB 4 PG 45 PT LOTS 1 2 & 3 DESC IN OR 1319 PG 1459
GANIM PROPERTIES LLC 4666 MAIN ST BRIDGEPORT, CT 06606	19-46-24-W4-0140A.0010 1240 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK PB 4 PG 39 BLK A LOTS 1 + 2 + 8 + 9

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION
GANIM PROPERTIES LLC 4666 MAIN ST BRIDGEPORT, CT 06606	19-46-24-W4-0140A.001A 200 CANAL ST FORT MYERS BEACH FL	CRESCENT PARK PB 4 PG 39 BLK C LOT 3 LESS E 2.5 FT
VANSELOW SCOTT + 1204 ESTERO BLVD UNIT 6 FORT MYERS BEACH, FL 33931	19-46-24-W4-0140A.0030 1204/1206 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK BLK A PB 4 PG 39 LOTS 3 THRU 7
SUMMER DAZE LP 510 BETHUNE ST PETERBOROUGH, ON K9H 3Z3 CANADA	19-46-24-W4-0140B.0010 1188/1190 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK BLK B PB 4 PG 39 LOT 1
SUMMER DAZE LP 510 BETHUNE ST PETERBOROUGH, ON K9H 3Z3 CANADA	19-46-24-W4-0140B.0020 1172/1174 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK BLK B PB 4 PG 39 LOTS 2 + 3 + 6
SUMMER DAZE LP 510 BETHUNE ST PETERBOROUGH, ON K9H 3Z3 CANADA	19-46-24-W4-0140B.0040 231 CANAL ST FORT MYERS BEACH FL 33931	CRESCENT PARK BLK B PB 4 PG 39 LOT 4
SUMMER DAZE LP 510 BETHUNE ST PETERBOROUGH, ON K9H 3Z3 CANADA	19-46-24-W4-0140B.0050 221 CANAL ST FORT MYERS BEACH FL 33931	CRESCENT PARK BLK B PB 4 PG 39 LOT 5
SUMMER DAZE LP 510 BETHUNE ST PETERBOROUGH ONTARIO, K9H3Z3 CANADA	19-46-24-W4-0140B.0070 1160 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK BLK B PG 4 PG 39 LTS 7 THRU 9 + LAND DESC IN OR 1305 PG 0796
ESTERO SILVER SANDS LLC 1207 ESTERO BLVD FORT MYERS BEACH, FL 33931	19-46-24-W4-0150D.0050 1207 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LOTS 1 THRU 5
BISCHOFF JAMES A + JEAN B TR 21570 MADERA RD FORT MYERS BEACH, FL 33931	19-46-24-W4-0150D.0060 141 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 6 + VAC R/W + LAND ADJ CANAL
GREENE JEFFREY W + 6040 BAYVIEW RD SAINT LEONARD, MD 20685	19-46-24-W4-0150D.0070 143 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 7 + VAC R/W + LAND ADJ CANAL
PATTON THOMAS D + CHRISTINE M 153 PRIMO DR FORT MYERS BEACH, FL 33931	19-46-24-W4-0150D.0080 153 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 8 + VAC R/W + LAND ADJ CANAL
BOGGS RICHARD A + MARGARET A 163 PRIMO DR FORT MYERS BEACH, FL 33931	19-46-24-W4-0150D.0090 163 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 9 + VAC R/W + LAND ADJ CANAL
BRIODY HUGH T + SUSAN S 167 PRIMO DR FORT MYERS BEACH, FL 33931	19-46-24-W4-0150D.0100 167 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 10 + VAC R/W + LAND ADJ CANAL
TOWNLEY ARTHUR JAMES III PO BOX 2452 FORT MYERS BEACH, FL 33932	19-46-24-W4-0150D.0110 171 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 11 + VAC R/W + LAND ADJ CANAL
TOWNLEY ARTHUR J III PO BOX 2452 FORT MYERS BEACH, FL 33932	19-46-24-W4-0150D.0120 191 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LOTS 12 + VAC R/W + LAND ADJ CANAL
MALLOUS JAMES + 309 DOOLITTLE ST ORLANDO, FL 32839	19-46-24-W4-0150E.0010 1161/1165 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 PT LTS 1 + 2 OR0545/43LESR/W 2353/3036
CERMAKS SURF CLUB LLC 1167 ESTERO BLVD FORT MYERS BEACH, FL 33931	19-46-24-W4-0150E.001A 1167 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 BEG ON NLY SI CO RD 80 FT
BRIDGE GEORGE E + KIM ANN 15831 BRIARCLIFF LN FORT MYERS, FL 33912	19-46-24-W4-0150E.0030 108/116 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LT 3
REICH JOHN R + 120 CRESCENT ST FORT MYERS BEACH, FL 33931	19-46-24-W4-0150E.0040 118/122 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LT 4 + S10 FT LOT 5 LES R/W2353/3036

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION
URSOLEO JAY F + KARIN M 1/2 + 9017 LIGON CT FORT MYERS, FL 33908	19-46-24-W4-0150E.0060 150 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LTS 6 + 7 + 32.67 FT ADJ + N 40 FT OF LOT 5 + VAC + ADJ CANAL LESS R/W OR2353/3036
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH, FL 33931	19-46-24-W4-0150E.0080 170 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LT 8 + VAC R/W+ LAND ADJ LESR/WOR2353/3036
RICHARD JOHN W L/E 237 OLD SAN CARLOS BLVD FORT MYERS BEACH, FL 33931	19-46-24-W4-0150E.0090 202 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LOTS 9 10 + VAC + LAND ADJ LESR/W2353/3036
CRESCENT SHORE CONDO ASSOC PO BOX 2990 FORT MYERS BEACH, FL 33932	19-46-24-W4-02600.00CE CRESCENT SHORE C/E FORT MYERS BEACH FL	A CONDO LOCATED IN SEC 19 TWP 46 RGE 24 AS DESC IN OR 1464 PG 445 COMMON ELEMENTS
SHELLS COM LLC MICHAEL LEE 12771 AVIANO DR NAPLES, FL 34105	19-46-24-W4-02600.1010 1300 ESTERO BLVD 101 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNITS 101 102 + 103
CZAPLA MIKE J 1300 ESTERO BLVD UNIT 104 FORT MYERS BEACH, FL 33931	19-46-24-W4-02600.1040 1300 ESTERO BLVD 104 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 104
CZAPLA MIKE J 1300 ESTERO BLVD UNIT 104 FORT MYERS BEACH, FL 33931	19-46-24-W4-02600.1050 1300 ESTERO BLVD 105 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 105
PFÄFFINGER ELMER T + MARY J + 230 WESTVIEW ST HOFFMAN ESTATES, IL 60169	19-46-24-W4-02600.1060 1300 ESTERO BLVD 106 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 106
JOHNSON STEVEN D + NANCY 637 WEST 8TH ST MANKATO, MN 56001	19-46-24-W4-02600.2010 1300 ESTERO BLVD 201 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 201
HECK LLC 17483 OLD HARMONY DR APT 202 FORT MYERS, FL 33908	19-46-24-W4-02600.2020 1300 ESTERO BLVD 202 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 202
CONANT GORDON A + DONNA K 8122 S FOREST HILL CIR FRANKLIN, WI 53132	19-46-24-W4-02600.2030 1300 ESTERO BLVD 203 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 203
DENNIS R + CYNTHIA L LOKEN TRU 106 ICHABOD LN MANKATO, MN 56001	19-46-24-W4-02600.2040 1300 ESTERO BLVD 204 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 204
LANDOLFI STEVEN J 22 VETO ST PROVIDENCE, RI 02908	19-46-24-W4-02600.2050 1300 ESTERO BLVD 205 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 205
DENNIS R + CYNTHIA L LOKEN TRU 106 ICHABOD LN MANKATO, MN 56001	19-46-24-W4-02600.2060 1300 ESTERO BLVD 206 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 206

PART VII

AFFIDAVIT

APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, MARTY HARRITY (name), as President (title) of THE BEACHED WHALE INC. (company), 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 County 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 supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

THE BEACHED WHALE INC.
Name of Entity (corporation, partnership, LLP, LLC, etc)

Marty Harrity
Signature

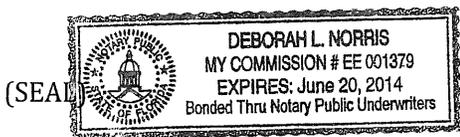
President
Title

MARTY J HARRITY
Typed or Printed Name

2/6/13
Date

STATE OF FLORIDA)
COUNTY OF LEE)

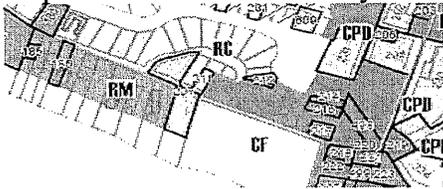
The foregoing instrument was sworn to (or affirmed) and subscribed before me on 2/6/13 (date) by MARTY HARRITY (name of person providing oath or affirmation), who is personally known to me or who has produced _____ (type of identification) as identification.



Deborah L. Norris
Signature

Deborah L. Norris
Printed Name

Town of Fort Myers Beach
Department of Community Development



Zoning Division

Supplement PH-A

**Additional Required Information for a
Special Exception Application**

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

Project Name: <i>THE BEACHED WHALE INC.</i>
Authorized Applicant: <i>MARTY HARRITY</i>
LeePA STRAP Number(s): <i>19-96-24-W4-0060H, 0300</i>

Current Property Status: <i>EXISTING RESTAURANT</i>
Current Zoning: <i>DOWN TOWN</i>
Future Land Use Map (FLUM) Category: <i>N/A</i>
Platted Overlay? <input type="checkbox"/> yes <input checked="" type="checkbox"/> no FLUM Density Range: <i>N/A</i>

Requested Action:

<input type="checkbox"/> Use of premises in the EC (Environmentally Critical) zoning district for:
<input type="checkbox"/> Use of premises in the <i>DOWN TOWN</i> zoning district for:
<i>EXISTING RESTAURANT REQUESTING</i>
<i>ADDITIONAL OUT DOOR SEATING ON A</i>
<i>RAISED COVERED PORCH. A COP LICENSE</i>
<i>IN PLACE WITH STATE OF FLORIDA.</i>

PART I
Narrative Statements

A. Request for: (indicate the proposed use that requires a special exception)

THE BEACHED WHALE INC. IS REQUESTING 47 ADDITIONAL SEATS IN A 636 S.F. COVERED PORCH LOCATED ON ESTERO BLVD. AT THIS TIME THE BEACHED WHALE IS APPROVED FOR 250 SEATS. THE BEACHED WHALE INC. IS REQUESTING AN ADDITIONAL 50 SEATS COVERED AND OUTSIDE ON A RAISED PORCH WITH THE SERVICE OF FOOD AND ALCOHOL FROM THE HRS. OF 7:00 AM — 2:00 PM 7 DAYS A WEEK. REQUESTED ALSO IS ACUSTICAL MUSIC FROM 11:00 AM. TO 10:00 PM MONDAY THRU FRIDAY

B. Reasons for request: (state how the property qualifies for a special exception and what impact granting the request could have on surrounding properties. Direct these statements toward the guidelines in LDC Section 34-88)

The property qualifies for a Special Exception because:

THE BEACH COMP PLAN ENCOURAGES OUT DOOR SEATING IN THE DOWNTOWN AREA ON ESTERO BLVD. SEC 34-6786 (3) THE BEACHED WHALE INC. FEELS THIS PROPERTY MEETS SEC. 34-88 SPECIAL EXCEPTIONS E - I.

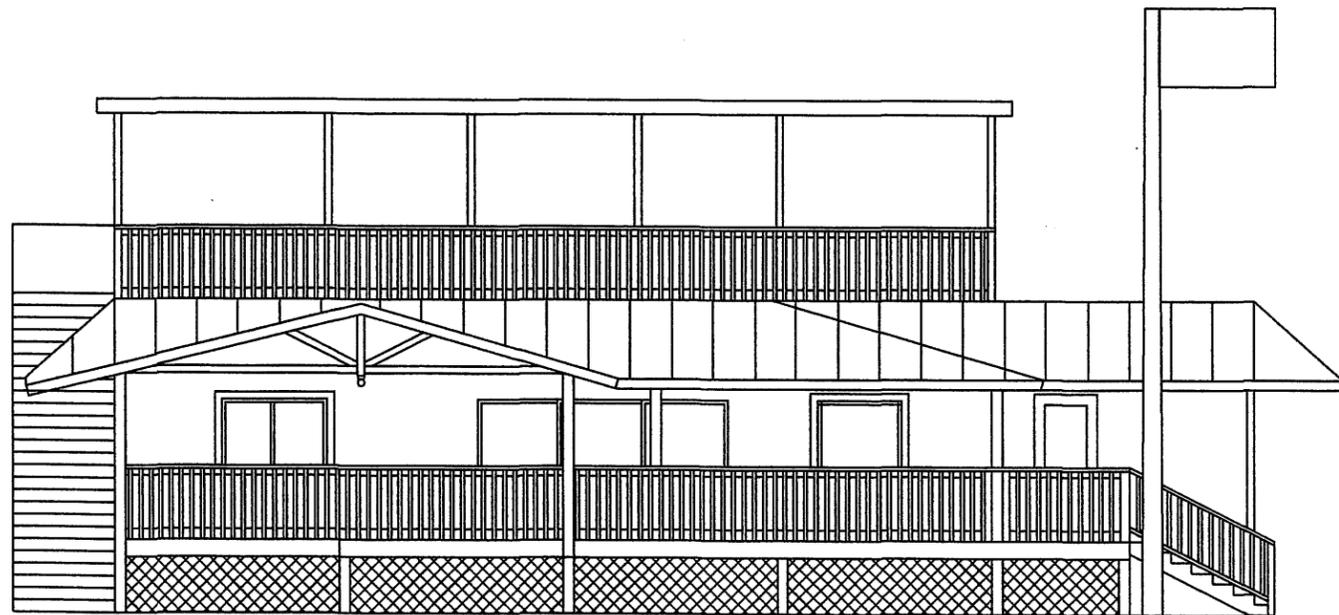
(E) REQUEST IS CONSISTANT WITH THE BEACH COMP PLAN.

(F) REQUEST MEETS THE PERFORMANCE AND CO-CATIONAL STANDARDS SET FORTH IN THE COMP PLAN.

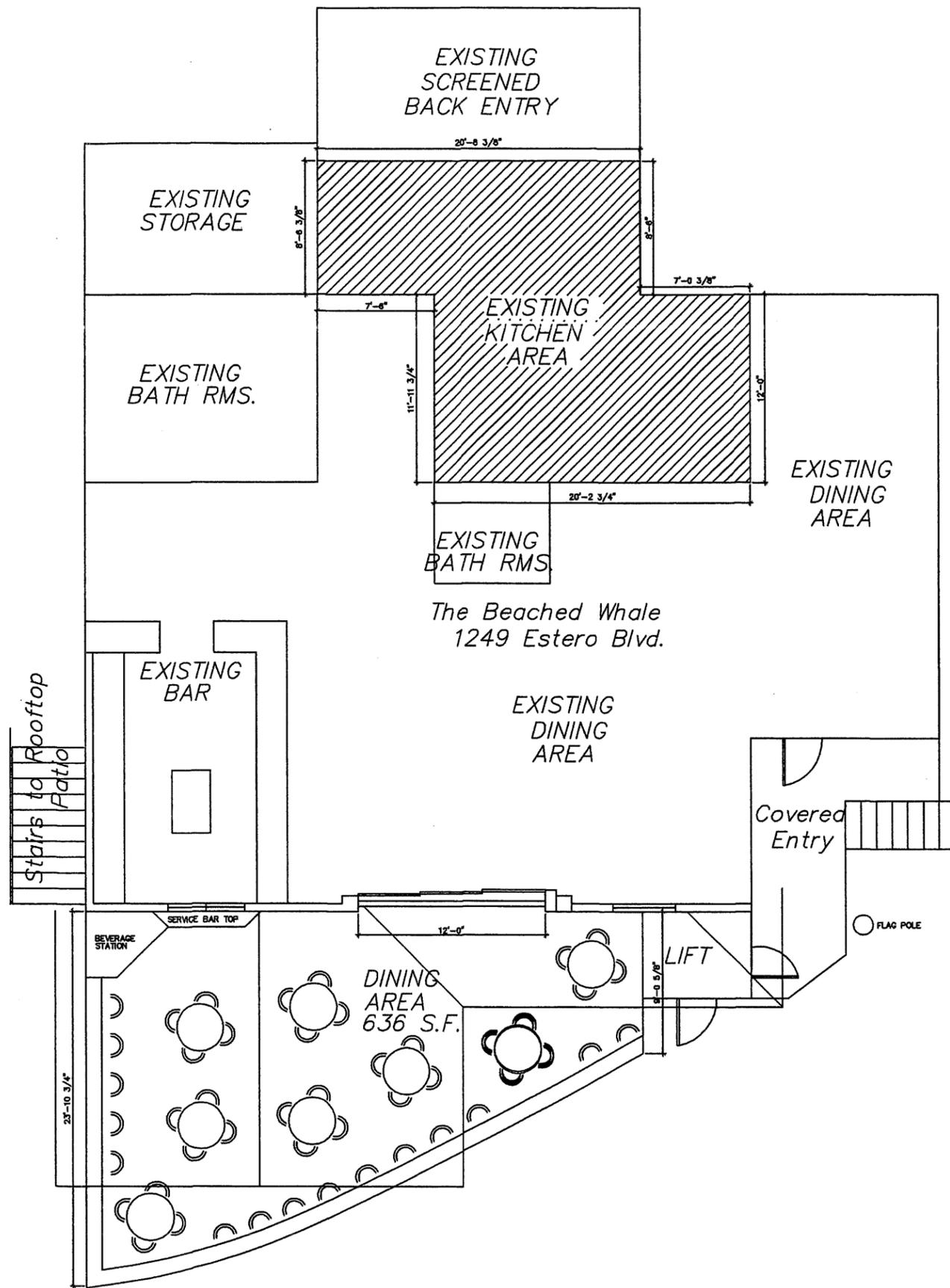
(G) THERE WILL BE NO ENVIRONMENTAL IMPACT TO ADJACENT PROPERTIES.

(H) NO IMPACT

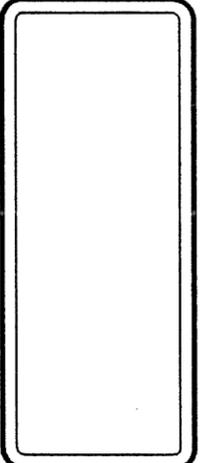
(I) THE REQUESTED USE UPHOLDS THE BEACH COMP PLAN.



FRONT ELEVATION



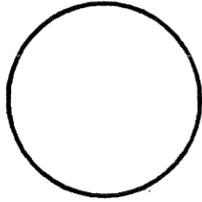
REVISIONS

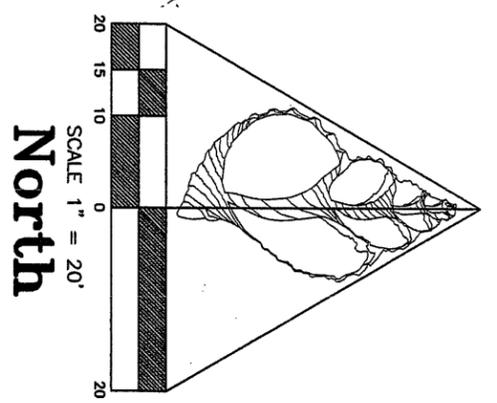


BEACHED WHALE
FORT MYERS BEACH, FLORIDA 33931

drawn by D.M.E.
checked by
date
scale
job no. JOB

SHEET NO.





Found Concrete Monument
X Top (Old)
Under Concrete for Fence Post

This Area Included in Record
Description of 1249 Estero Blvd.
AND 120 Primo Drive

Found 5/8" rebar
LB 6569

Commencement
Corner Lot 32

Found Concrete
Monument X Top (Old)

26

Found 5/8" rebar
LB 7075

Northeast Corner Lot 29

Concrete
Trash Enclosure

Storage
Unit

Found Concrete
Monument X Top (Old)

120 Primo Drive
OR 990, Page 50
Doc.# 2005000008100

32

31

30

29

PK Nail and Disk
LB 4919 R/W

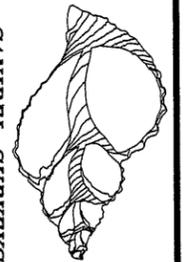
S 00°35'39" E 106.94' (M)
S 00°17'35" W 106.93' (D)

R = 76.69
D = 18°22'18"
L = 24.59
Ch = S87°29'24" E, 24.49

R = 310.0'
D = 32°46'45"
L = 177.36
Ch = N66°55'38" E, 174.5

Estero Boulevard (50' R/W)
Found PK Nail and Disk
LB 4919 R/W

Palmetto Circle (50' R/W)
(platted as Palmetto Circle)



REVISIONS	DATE
Update	10/2/2012

JOB #96127
Valid only with embossed seal

I hereby certify that this survey was made under my responsible charge and meets the minimum technical standards as set forth by the Florida Board of Professional Land Surveyors in Chapter 5L-17.051 of the Florida Administrative Code, pursuant to Section 472.0027 of the Florida Statutes.

By: *Andrew D. Johnson*
Andrew D. Johnson, PSM 6256
Not Valid Without Signature and Raised Seal
Date Signed: 10/2/12

SANIBEL SURVEYS
2410 Palm Ridge Road
Sanibel Florida 33957
472-0095
sanibelsurveys@gmail.com
Licensed Business No. 7443