

**1. Requested Motion:**

**Meeting Date: October 21, 2013**

**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 190± square feet of new deck at the side of the existing building.

**Why the action is necessary:**

Section 34-88 of the LDC provides that the Town Council shall hear and decide all requests for variances from the terms of the regulations or restrictions in the 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.

**What the action accomplishes:**

Allows the applicant an additional 190 square feet of outdoor consumption on premises area.

**2. Agenda:**

**3. Requirement/Purpose:**

**4. Submitter of Information:**

Consent  
 Administrative  
 Public Hearing

Resolution  
 Ordinance  
 Other Special Events Permit

Council  
 Town Staff – Com. Dev.  
 Town Attorney

**5. Background:**

Case: SEZ2013-0002 Yucatan Beach Stand COP Amendment

Beverly Grady, Esq., authorized agent for Stingrays Raw Bar, Inc. 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 190± square feet of new deck at the side of the existing building located at 250 Old San Carlos Boulevard.

The Yucatan Beach Stand is a bar and restaurant that was originally granted a special exception by Resolution 07-29 approving outdoor consumption on premises in conjunction with a 4COP liquor license.

The subject property applied for and was granted a building permit, COM12-0088, with a scope of work listed as follows: 'Build deck area for smoking.' The permit was issued on 9/5/13, however when Town officials inspected the deck to close out the permit, it was discovered that what had been constructed was not what had been approved on the building plans. The deck area was constructed with a roof and patrons of the Yucatan were observed consuming alcoholic beverages on the deck. This was a direct violation of the building permit and a violation of the special exception approved by Resolution 07-29.

The contractor has worked with Building Department Staff to resubmit revised plans reflecting the actual installed deck; however, the revised building permit issue cannot completely be resolved and finalized until it passes zoning plan review. Zoning plan review will not approve the plans until the special exception is amended to include this additional area and approved by Town Council.

The LPA held a public hearing on the request at their September 17, 2013 meeting. Staff presented its case along with a recommendation for approval of the special exception subject to nine conditions. LPA had a question and answer period with the applicant, heard public comment, and asked questions of Staff. Ultimately, the LPA voted 5-0 (Members Shamp and Plummer were excused) to recommend approval of the special exception as requested, including Staff's recommended conditions.

Attachments:

- Tab a - Draft Council Resolution 13-22
- Tab b - LPA Resolution 2013-012
- Tab c - Minutes from the September 17, 2013 LPA meeting
- Tab d - Staff Report
- Tab e – Original Application

**6. Alternative Action:**

Council denies the requested special exception and the applicant's restaurant establishment would not be allowed to serve alcohol on the 190 square foot side deck.

**7. Management Recommendations:**

- Approve the special exception amendment as conditioned by Staff and the LPA

**8. Recommended Approval:**

| Town Manager  | Town Attorney | Finance Director | Public Works Director | Community Development Director   | Park & Recreation Director | Town Clerk |
|---|---------------|------------------|-----------------------|--|----------------------------|------------|
|  |               |                  |                       |  |                            |            |

**9. Council Action:**

Approved     Denied     Deferred     Other

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH FLORIDA  
RESOLUTION NUMBER 13-22  
SEZ2013-0002 - Yucatan Beach Stand COP Amendment

WHEREAS, Beverly Grady, Esq, authorized agent for Stingrays Raw Bar, Inc. 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 190± square feet of new deck at the side of the existing building; and

WHEREAS, the subject property is located at 250 Old San Carlos Boulevard, Fort Myers Beach, FL 33931; and

WHEREAS, the applicant has indicated that the STRAP for the subject property is 24-46-23W3-00204.0010 and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on September 17, 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.

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on October 21, 2013, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2013-012, the recommendations of Staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-88.

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

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2013-011 and the standards for granting variances, the Town Council makes the following findings of fact, and reaches the following conclusions:

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 190± square feet of new deck at the side of the existing building subject to the following conditions:

**CONDITIONS OF APPROVAL:**

1. *Outdoor music or similar entertainment is prohibited. Indoor music and/or similar entertainment is restricted to occur only within the enclosed walls and further restricted to the following hours: 11:00 AM to 11:00 PM from Monday through Thursday; 11 AM through 12:00 midnight on Friday and Saturday; and 11:00 AM through 10:00 PM on Sunday. Live music must be limited to non-amplified music.*

2. *The special exception is limited to on-premises consumption of alcoholic beverages in a 4690 square-foot area encompassing the indoor areas, both roofed patio/deck areas, and walk-in coolers as shown on the site plan, which is attached to this resolution as Exhibit B and hereby incorporated by reference.*
3. *The special exception is limited to a 4COP license for on-premise consumption of alcoholic beverages. The sale of alcoholic beverages on the subject property must comply with the provisions of LDC Section 34-1264(k) concerning sale of alcoholic beverages in restaurants. The terms and conditions of this approval as set forth in this resolution shall be deemed to equally apply should the applicant cease operation of a 4COP and operate under the terms of an SRX series license as defined by Florida law.*
4. *The hours of operation during which alcoholic beverages may be served on-premises are limited to Monday through Thursday between the hours of 7:00 AM and 12:00 midnight; between 7:00 AM and 1:00 AM on Friday and Saturday; and between 7:00 AM and 10:00 PM on Sunday.*
5. *A full menu of food, encompassing full-course meals, must be available and offered to indoor and outdoor seating during hours of operation for consumption on premises. The sale of alcoholic beverages must be incidental to the sale of food.*
6. *The business must be in full compliance at all times with applicable provisions of state beverage law for the series of beverage license it holds.*
7. *The use must comply at all times with lighting standards, including the regulations for the protection of Sea Turtles found in LDC Chapter 14, Article II.*
8. *This resolution does not grant consent for an awning or overhang proposed in the site plan to be constructed over the public right-of-way. The Town Council must address this matter separately.*
9. *Condition #9 above does not grant the owner or successor in interest undeniable right to development order approval.*

**FINDINGS AND CONCLUSIONS:**

In accordance with the requirements of LDC Sections 34-84 and 34-88 regarding approval of special exceptions, 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 Town Council upon a motion by Council Member \_\_\_\_\_ and seconded by Council Member \_\_\_\_\_, and upon being put to a vote, the result was as follows:

|                    |         |                          |         |
|--------------------|---------|--------------------------|---------|
| Alan Mandel, Mayor | AYE/NAY | Joe Kosinski, Vice Mayor | AYE/NAY |
| Jo List            | AYE/NAY | Bob Raymond              | AYE/NAY |
| Dan Andre          | AYE/NAY |                          |         |

DULY PASSED AND ADOPTED THIS **21st** day of **OCTOBER, 2013**.

By: \_\_\_\_\_  
 Alan Mandel, Mayor

Approved as to legal sufficiency:

ATTEST:

By: \_\_\_\_\_  
 Fowler White Boggs, P.A.  
 Town Attorney

By: \_\_\_\_\_  
 Michelle Mayher  
 Town Clerk

Parcel lying westerly of SR 865  
Blocks 4 & 5, Business Center  
Section 24, T. 46 S., R. 23E  
Estero Island, Lee County, Florida

EXHIBIT A

A tract or parcel of land lying in Blocks 4 and 5, and portions of a vacated alley lying between Blocks 4 and 5, as shown on the plat of Business Center, Section 24, Township 46 South, Range 23 East, Estero Island and recorded in Plat Book 9 at page 9 of the public records of Lee County, Florida which tract or parcel is described as follows:

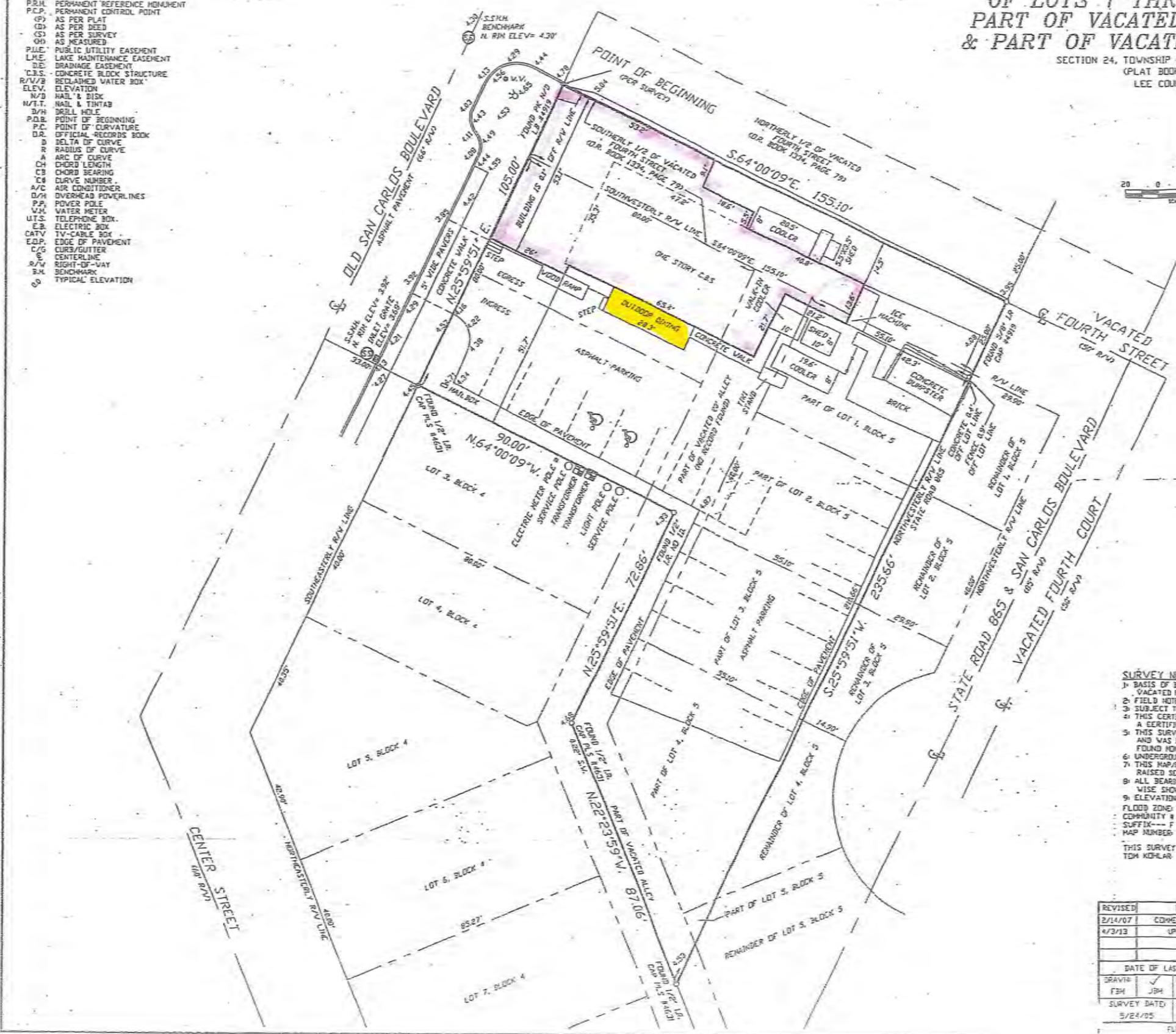
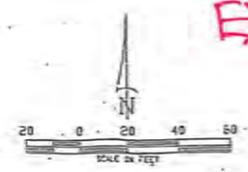
Beginning at the northerlymost corner of Lot 1, Block 4 run S 64 degrees 00'09" E along the southwesterly line of Fourth Street for 155.10 feet to a concrete monument on the northwesterly line of SR 865 (85 feet wide); thence run S 25 degrees 59'51" W along said northwesterly line for 210.66 feet to a concrete monument on the centerline of a vacated alley 20 feet wide; thence run N 22 degrees 23'59" W along said centerline for 87.06 feet to a concrete monument; thence run N 25 degrees 59'51" E along said centerline for 72.86 feet to a concrete monument; thence run N 64 degrees 00'09" W along a southeasterly prolongation of the southwesterly line of Lot 2 of said Block 4 and the southwesterly line of said lot for 90 feet to a concrete monument on the southeasterly line of San Carlos Boulevard (66 feet wide); thence run N 25 degrees 59'51" E along said southeasterly line for 80 feet to the Point of Beginning.

Containing 19,033 square feet more or less.

- LEGEND:**
- 4 SET IRON PIN (CAP #4631)
  - 0 FOUND IRON PIN (I.R.)
  - CONCRETE MONUMENT (C.M.)
  - CONCRETE (CONC.)
  - PERMANENT REFERENCE MONUMENT
  - P.P.M. PERMANENT CONTROL POINT
  - (P) AS PER PLAT
  - (D) AS PER DEED
  - (S) AS PER SURVEY
  - (M) AS MEASURED
  - P.U.E. PUBLIC UTILITY EASEMENT
  - L.M.E. LAKE MAINTENANCE EASEMENT
  - D.E. DRAINAGE EASEMENT
  - C.B.S. CONCRETE BLOCK STRUCTURE
  - R.V./B. RETRAINED WATER BOX
  - ELEV. ELEVATION
  - N/D. NAIL & DISK
  - N/T. NAIL & TINTAB
  - B/H. BELL HOLE
  - P.O.B. POINT OF BEGINNING
  - P.C. POINT OF CURVATURE
  - D.R. OFFICIAL RECORDS BOOK
  - B. BETA OF CURVE
  - R. RADIUS OF CURVE
  - A. ARC OF CURVE
  - CH. CHORD LENGTH
  - CS. CHORD BEARING
  - C# CURVE NUMBER
  - A/C. AIR CONDITIONER
  - D/H. OVERHEAD POWERLINES
  - P.P. POWER POLE
  - W.M. WATER METER
  - U.T.S. TELEPHONE BOX
  - E.B. ELECTRIC BOX
  - CATV. TV-CABLE BOX
  - E.O.P. EDGE OF PAVEMENT
  - C/G. CURB/GUTTER CENTERLINE
  - R/W. RIGHT-OF-WAY
  - B.M. BENCHMARK
  - ⊙ TYPICAL ELEVATION

AS-BUILT SURVEY OF  
**LOTS 1 & 2, BLOCK 4 & PART OF LOTS 1 THRU 5, BLOCK 5 & PART OF VACATED FOURTH STREET & PART OF VACATED 20 FOOT ALLEY**  
 SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST  
 (PLAT BOOK 9, PAGE 10)  
 LEE COUNTY, FLORIDA

**EXHIBIT B**



**SURVEY NOTES:**

1. BASIS OF BEARINGS SHOWN HEREON TAKEN FROM THE CENTERLINE OF VACATED FOURTH STREET, AS BEING S64°00'09"E.
2. FIELD NOTES IN BUSINESS CENTER.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SURVEY DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. ELEVATIONS ARE NATIONAL GEODETIC VERTICAL DATUM OF 1929 (NGVD).
- FLOOD ZONE: "AE" ELEVATION: 12.00' & 13.00' M.A.S.D.
- COMMUNITY # 120473 PANEL # 0554
- SUFFIX - F REVISION DATE: 8/22/08
- MAP NUMBER: 120710554F

THIS SURVEY IS CERTIFIED TO:  
 TOM KOHLAR

| REVISED                         | DESCRIPTION         | BY       |
|---------------------------------|---------------------|----------|
| 2/14/07                         | COMMENTS PER COUNTY | F.B.H.   |
| 4/3/13                          | UPDATE SURVEY       | F.B.H.   |
| DATE OF LAST FIELD WORK: 4/2/13 |                     |          |
| DRAWN                           | SCALE               | PROJ. #  |
| F.B.H.                          | 1"=40'              | DC-2-4.5 |
| SURVEY DATE:                    | FILE NO.            | SHT. - 1 |
| 5/24/05                         | 45-23-24            | OF - 1   |

PROFESSIONAL SURVEYOR AND MAPPER  
 #6512 - STATE OF FLORIDA  
 HARRIS - BRIDGEMAN, INC.  
 2045 EEL STREET, SUITE 200  
 CAPE CORAL, FLORIDA 33909  
 PHONE (888) 888-8888  
 FAX (239) 237-2700

FLORIDA CERTIFICATE OF AUTHORIZATION # LC 00000000

RESOLUTION OF THE LOCAL PLANNING AGENCY OF  
THE TOWN OF FORT MYERS BEACH FLORIDA  
RESOLUTION NUMBER 2013-012  
SEZ2013-0002 Yucatan Beach Stand

WHEREAS, Beverly Grady, Esq, authorized agent for Stingrays Raw Bar, Inc. 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 190± square feet of new deck at the side of the existing building; and

WHEREAS, the subject property is located at 250 Old San Carlos Boulevard, Fort Myers Beach, FL 33931; and

WHEREAS, the applicant has indicated that the STRAP for the subject property is 24-46-23W3-00204.0010 and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on September 17, 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** 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 190± square feet of new deck at the side of the existing building subject to the following conditions:

**RECOMMENDED CONDITIONS OF APPROVAL:**

1. *Outdoor music or similar entertainment is prohibited. Indoor music and/or similar entertainment is restricted to occur only within the enclosed walls and further restricted to the following hours: 11:00 AM to 11:00 PM from Monday through Thursday; 11 AM through 12:00 midnight on Friday and Saturday; and 11:00 AM through 10:00 PM on Sunday. Live music must be limited to non-amplified music.*
2. *The special exception is limited to on-premises consumption of alcoholic beverages in a 4690 square-foot area encompassing the indoor areas, both roofed patio/deck areas, and walk-in coolers as shown on the site plan, which is attached to this resolution as Exhibit B and hereby incorporated by reference.*

3. *The special exception is limited to a 4COP license for on-premise consumption of alcoholic beverages. The sale of alcoholic beverages on the subject property must comply with the provisions of LDC Section 34-1264(k) concerning sale of alcoholic beverages in restaurants. The terms and conditions of this approval as set forth in this resolution shall be deemed to equally apply should the applicant cease operation of a 4COP and operate under the terms of an SRX series license as defined by Florida law.*
4. *The hours of operation during which alcoholic beverages may be served on-premises are limited to Monday through Thursday between the hours of 7:00 AM and 12:00 midnight; between 7:00 AM and 1:00 AM on Friday and Saturday; and between 7:00 AM and 10:00 PM on Sunday.*
5. *A full menu of food, encompassing full-course meals, must be available and offered to indoor and outdoor seating during hours of operation for consumption on premises. The sale of alcoholic beverages must be incidental to the sale of food.*
6. *The business must be in full compliance at all times with applicable provisions of state beverage law for the series of beverage license it holds.*
7. *The use must comply at all times with lighting standards, including the regulations for the protection of Sea Turtles found in LDC Chapter 14, Article II.*
8. *This resolution does not grant consent for an awning or overhang proposed in the site plan to be constructed over the public right-of-way. The Town Council must address this matter separately.*
9. *Condition #9 above does not grant the owner or successor in interest undeniable right to development order approval.*

**RECOMMENDED FINDINGS AND CONCLUSIONS:**

In accordance with the requirements of LDC Sections 34-84 and 34-88 regarding approval of special exceptions, the LPA recommends that the Town Council make the following findings and reach the following conclusions:

1. Changed or changing conditions **do** exist that make the requested approval, as conditioned, appropriate;
2. The requested special exception, as conditioned, **is** 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** all performance and locational standards set forth for the proposed use;
4. The requested special exception, as conditioned, **will** protect, conserve, or preserve environmentally critical areas and natural resources;
5. The requested special exception, as conditioned, **will** be compatible with existing or planned uses and **will not** cause damage, hazard, nuisance or other detriment to persons or property;

6. The requested special exception, as conditioned, **will** 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 **Steele** and seconded by LPA Member **Smith**, and upon being put to a vote, the result was as follows:

|                      |         |                          |         |
|----------------------|---------|--------------------------|---------|
| Hank Zuba, Chair     | AYE     | Joanne Shamp, Vice Chair | excused |
| Al Durrett, Member   | AYE     | John Kakatsch, Member    | AYE     |
| Jane Plummer, Member | excused | Alan Smith, Member       | AYE     |
| Jim Steele           | AYE     |                          |         |

DULY PASSED AND ADOPTED THIS **17th** day of **SEPTEMBER 2013**.

Local Planning Agency of the Town of Fort Myers Beach

By:   
Hank Zuba, LPA Chair

Approved as to legal sufficiency:

By:   
Maury W. Mela  
Fowler White Boggs, P.A.  
LPA Attorney

ATTEST:

By:   
Michelle Mayher  
Town Clerk

Parcel lying westerly of SR 865  
Blocks 4 & 5, Business Center  
Section 24, T. 46 S., R. 23E  
Estero Island, Lee County, Florida

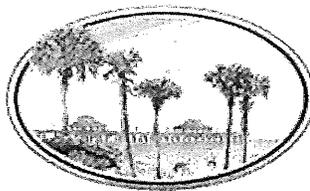
EXHIBIT A

A tract or parcel of land lying in Blocks 4 and 5, and portions of a vacated alley lying between Blocks 4 and 5, as shown on the plat of Business Center, Section 24, Township 46 South, Range 23 East, Estero Island and recorded in Plat Book 9 at page 9 of the public records of Lee County, Florida which tract or parcel is described as follows:

Beginning at the northerlymost corner of Lot 1, Block 4 run S 64 degrees 00'09" E along the southwesterly line of Fourth Street for 155.10 feet to a concrete monument on the northwesterly line of SR 865 (85 feet wide); thence run S 25 degrees 59'51" W along said northwesterly line for 210.66 feet to a concrete monument on the centerline of a vacated alley 20 feet wide; thence run N 22 degrees 23'59" W along said centerline for 87.06 feet to a concrete monument; thence run N 25 degrees 59'51" E along said centerline for 72.86 feet to a concrete monument; thence run N 64 degrees 00'09" W along a southeasterly prolongation of the southwesterly line of Lot 2 of said Block 4 and the southwesterly line of said lot for 90 feet to a concrete monument on the southeasterly line of San Carlos Boulevard (66 feet wide); thence run N 25 degrees 59'51" E along said southeasterly line for 80 feet to the Point of Beginning.

Containing 19,033 square feet more or less.





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

Town Hall – Council Chambers  
2523 Estero Boulevard  
Fort Myers Beach, Florida  
**Tuesday, September 17, 2013**

**I. CALL TO ORDER**

Meeting was called to order at 9:05 a.m. by Chair Zuba; other members present:

Al Durrett  
John Kakatsch  
Jane Plummer – excused.  
Joanne Shamp – excused.  
Alan Smith  
James Steele  
Hank Zuba

LPA Attorney: Marilyn Miller  
Staff Present: Walter Fluegel, Community Development Director  
Leslee Dulmer, Zoning Coordinator

**II. PLEDGE OF ALLEGIANCE**

**III. INVOCATION**

**IV. MINUTES**

A. Minutes of August 13, 2013

**MOTION:** Mr. Kakatsch moved to approve the Minutes for August 13, 2013; second by Mr. Smith.

**VOTE:** Motion approved, 5-0; Vice Chair Shamp and Ms. Plummer excused.

## V. PUBLIC HEARINGS

### A. SEZ2013-0003, Beach Bums COP

Chair Zuba opened the Public Hearing.

LPA Attorney Miller swore in the witnesses.

Chair Zuba asked if any LPA Board Member had ex-parte communication regarding this item. Mr. Durrett – site visit; Mr. Kakatsch – site visit; Mr. Smith: - site visit; Chair Zuba – site visit; Mr. Steele – site visit; Ms. Plummer – excused; Ms. Shamp – excused.

Zoning Coordinator Dulmer noted some ‘housekeeping items’ regarding the subject case:

- The sixth proposed condition in the proposed resolution would be removed because it did not apply to the subject property (#6 – No bars, tables, chairs, speakers or any other item may extend into the utility easement without written consent from the public utility(ies) entitled to utilize that easement.).
- The Town received a letter of objection on September 12, 2013 from adjacent property owner George Ganim, owner of the Beacon Motel.

She presented comments for SEZ2013-0003, Special Exception for Beach Bums, on behalf of the Town of Fort Myers Beach. She displayed an aerial photograph of the site and noted the location of the subject property was at 1188-1190 Estero Boulevard. She reviewed the Applicant’s request for a special exception in the Downtown zoning district to allow outdoor consumption on premises (COP) on the subject property (Zoning: Downtown; Future Land Use: Pedestrian Commercial). She displayed depictions (2) of the Proposed Site Plan which indicated the designated consumption area of the subject property. She reviewed the supporting regulations:

- Section 34-88 Special Exceptions
  - Function – the Town Council shall hear and decide all applications for special exceptions permitted by the district use regulations.
  - Considerations – In reaching its decision, the Town Council shall consider the following whenever applicable:
    - Section 34-88(2)(a) – *Whether there exist changed or changing conditions [that] make approval of the request appropriate.* As contemplated in the Comprehensive Plan, the Times Square area has continued to emerge as a vibrant urban core for the Town, and as such the area can support an intensive variety of uses that is consistent with the Applicant’s request. The Applicant has stated that the existing restaurant already had outdoor seating at the time the business was purchased. The Applicant has already installed rope and posts on the subject property to delineate the area for consumption and is also willing to install a shrub bordering to further designate the consumption along with signs. While there are not changing conditions at the subject property, the request remains consistent with the intended use of the area.
    - Section 34-88(2)(e) – *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 the Downtown Core area. 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’. The Applicant’s request for outdoor COP certainly could further this goal. The Applicant’s request is consistent with the Estero Boulevard vision and contributes to the pedestrian scale and casual ambiance set forth by the goals of the Comprehensive Plan. Again, the Applicant’s request is in keeping with this vision, by providing an additional venue for the enjoyment of the unique outdoor environment of Fort Myers Beach.

- Section 34-88(2)(f) – *Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.* The request of outdoor consumption on premises is not an allowable use by right on the subject property. It is however, a use permitted by special exception. The Applicant’s request is appropriate in this location because the subject property is located in the Downtown Core Area. The requested COP is consistent with the goals, objectives, policies, and intent of the Comprehensive Plan which describes a vibrant tourist commercial district in the Downtown core.
- Section 34-88(2)(g) – *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.* The proposed special exception will have no negative effect on the environmentally critical areas and natural resources of Fort Myers Beach since the subject property’s location is landward of the 1978 Coastal Construction Control Line (CCCL), provided that the sea turtle lighting standards are complied with.
- Section 34-88(2)(h) - *Whether the request would 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 and the Comprehensive Plan’s vision of this area does not require that it be transformed from the established intensively commercial area. It possesses a vibrant mix of uses. The existing use is another outdoor café surrounded by many pedestrian-friendly shops and restaurants. Staff feels the Applicant’s request is generally compatible and appropriate within this area.
- Section 34-88(2)(i) – *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.* Staff recommends finding that the requested use, as conditioned, is in compliance with applicable zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34 for the Downtown district.

She reported that staff recommended approval with conditions of the requested special exception in the Downtown zoning district to allow outdoor consumption of premises on the subject property. She noted the conditions were as follows:

1. Legible signs will be clearly posted at each entrance to the seating area for the areas not approved for on-premise consumption stating “Alcoholic Beverages are Prohibited Beyond this Point”.

2. The COP area must be restricted by rope and posts.
3. Lighting on the outdoor seating areas must be shuttered and shielded from the surrounding properties and must comply with sea turtle lighting provisions.
4. The hours of alcohol service shall be from 11:00 a.m. to 1:45 a.m., Monday through Saturday and 11:00 a.m. to 11:00 p.m. on Sunday.
5. The outdoor seating area cannot exceed current building, fire, and life safety codes for number of tables and chairs and will be re-evaluated on an annual basis for compliance.
6. The approved area is limited to the attached Site Plan Exhibit 'B'.

Mr. Smith asked the location of the business owned by the person who wrote the letter of objection in relation to the subject property.

Zoning Coordinator Dulmer indicated the location of the subject property and the property in question on a site map displayed on the overhead screen.

Mr. Smith asked if the Applicant intended to have amplified or live music at the subject property.

Zoning Coordinator Dulmer reported there was no request included in the special exception application for live or amplified music.

Cindy Bonsignori, representing the Applicant, noted she was present to answer questions. She explained that Beach Bums was a small outdoor café and they believed the sale of beer and wine would go along well with their menu items.

Chair Zuba complimented Ms. Bonsignori for offering to install the landscaping and asked if they would agree to the landscaping as a condition.

Ms. Bonsignori responded in the affirmative.

Chair Zuba asked if there were any plans for the type of landscaping.

Ms. Bonsignori stated the Applicants had researched landscaping to determine what type of plants would work best.

Public Comment opened.

No speakers.

Public Comment closed.

Discussion ensued regarding the proposed improvements at the subject property.

Mr. Smith noted he did have a conversation with one of the principals of the subject business yesterday, and that the owners were well-aware of the problems associated with drinking.

Chair Zuba questioned what methods of enforcement would be taken in order to stop alcoholic beverages leaving the subject premises.

Ms. Bonsignori noted there would be the designated consumption area, rope and posts, signage, and it would be monitored by staff.

**MOTION:** Mr. Durrett moved to approve SEZ2013-0003, Beach Bums COP, with the conditions contained in the draft Resolution except for Condition #6:

1. Legible signs will be clearly posted at each entrance to the seating area for the areas not approved for on-premise consumption stating "Alcoholic Beverages are Prohibited Beyond this Point".
2. The COP area must be restricted by rope and posts.
3. Lighting on the outdoor seating areas must be shuttered and shielded from the surrounding properties and must comply with sea turtle lighting provisions.
4. The hours of alcohol service shall be from 11:00 a.m. to 1:45 a.m., Monday through Saturday and 11:00 a.m. to 11:00 p.m. on Sunday.
5. The outdoor seating area cannot exceed current building, fire, and life safety codes for number of tables and chairs and will be re-evaluated on an annual basis for compliance.
6. ~~No bars, tables, chairs, speakers or any other item may extend into the utility easement without written consent from the public utility(ies) entitled to utilize that easement.~~
7. The approved area is limited to the attached Site Plan Exhibit 'B'.

Chair Zuba requested that a condition regarding the landscaping be included.

Motion Maker agreed to include a condition regarding the landscaping.

**SECOND:** Mr. Kakatsch.

**VOTE:** Motion approved, 5-0; Vice Chair Shamp and Ms. Plummer excused.

Public Hearing closed.

#### B. SEZ 2013-0002 Yucatan Beach Stand COP

Chair Zuba opened the Public Hearing.

LPA Attorney Miller swore in the witnesses.

Chair Zuba asked if any LPA Board Member had ex-parte communication regarding this item. Mr. Durrett – site visit; Mr. Kakatsch – site visit; Mr. Smith: - site visit and a conversation; Chair Zuba – site visit and a conversation; Mr. Steele – site visit and a conversation with the owner; Ms. Plummer – excused; Ms. Shamp – excused.

Attorney Grady, authorized agent for the Stingrays Raw Bar, Inc., presented comments on the Special Exception for the Yucatan Beach Stand on behalf of the Applicant. She explained the request was for an extension of the COP on the deck at the Yucatan Beach Stand at 250 Old San Carlos Boulevard. She described the subject property and some of the surrounding commercial properties; and noted the site was in the Pedestrian Commercial area. She reported the COP was granted to the Applicant by the Town Council by Resolution 07-29. She noted that Town staff recommended approval and found the request to be consistent with the Comprehensive Plan and Land Development Code. She indicated the Applicant agreed with the Staff Report; however, they requested one minor modification because the business now offered breakfast. She requested Condition #4 be amended so they could serve earlier: "The hours of operation during which alcoholic beverages may be served on-premises are limited to Monday through Thursday between the hours of ~~11:00 a.m.~~ 7:00 a.m. and 12:00 midnight; between ~~11:00 a.m.~~ 7:00 a.m. and 1:00 a.m. on Friday and Saturday; and between ~~11:00 a.m.~~ 7:00 a.m. and 10:00 p.m. on Sunday". She noted this amendment would be consistent with an approval granted by the LPA and Town Council to the Beached Whale. She stated the Yucatan Beach Stand was an asset to the Town and had been developed consistent with the Town's design criteria.

Mr. Smith asked if the condition related to the full menu of food was acceptable to the Applicant.

Attorney Grady responded in the affirmative.

Chair Zuba questioned the aspect of the request that 'it had already been done'.

Attorney Grady explained the request was for the ability to serve alcoholic beverages; that the original purpose of the deck was to be a waiting area; that the Applicant had filed for the revised building permit due to the roof over the deck; and that they were working with staff on the matter.

Discussion was held concerning the date(s) of approval; construction of the deck; and how the Town discovered the violation.

Zoning Coordinator Dulmer presented comments for SEZ2013-0002, Special Exception for the Yucatan Beach Stand, on behalf of the Town of Fort Myers Beach. She displayed an aerial photograph of the site and noted the location of the subject property was at 250 Old San Carlos Boulevard. She reviewed the Applicant's request for a special exception to expand the outdoor consumption on premises (4COP) approval to include an additional 190 square feet on a proposed new deck in the Downtown zoning district on the subject property (Zoning: Downtown; Future Land Use: Pedestrian Commercial). She displayed the Proposed Site Plan and briefly discussed the case history:

- Original Special Exception granted via Resolution 07-29 – approving outdoor COP with 4COP license
- Applied for building permit COM12-0088 – scope listed on permit: 'build deck area for smoking'; permit issued 9/5/12; final inspection revealed additional work and additional uses, i.e. alcohol consumption
- Notice of Violation issued 3/16/13 – CE13-0139
- Contractor submitted amended building plans, revising scope of work

- Property owner applied for Special Exception on 5/3/13 to correct the COP issue

She utilized a PowerPoint presentation that included information on the supporting regulations as follows:

- Section 34-88 Special Exceptions

- Function – the Town Council shall hear and decide all applications for special exceptions permitted by the district use regulations.
- Considerations – In reaching its decision, the Town Council shall consider the following whenever applicable:
  - Section 34-88(2)(a) – *Whether there exist changed or changing conditions [that] make approval of the request appropriate.* 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 the area can support a more intensive variety of uses that are appealing and attractive to residents and visitors alike. The Applicant’s request to provide additional outdoor covered area for its patrons is consistent with this policy. Furthermore, the request of this application reflects an after-the-fact amendment to an existing special exception approval to include additional area for consumption on premises. Therefore, changed conditions, i.e. the new deck, does exist that make approval of the request appropriate.
  - Section 34-88(2)(e) – *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 the Pedestrian Future Land Use category 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”.
  - Section 34-88(2)(f) – *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)). Outdoor dining, both on private and on public property is encouraged by the Comprehensive Plan and the Land Development Code. The Applicant’s request is appropriate at this site because it is a request to amend a prior Council-approved special exception. Approval of the Applicant’s request, along with conditions recommended by staff, would ensure that all performance standards are met.
  - Section 34-88(2)(g) – *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.* The Applicant’s request will have no negative effect on the environmentally critical areas and natural resources of Fort Myers Beach because the subject property’s location is located in an established commercial district, landward of the Coastal Construction Line(s) and far from environmentally critical areas and sensitive natural resources. Staff has recommended a condition of approval to require that any outdoor lights meet with the sea turtle lighting requirements.

- Section 34-88(2)(h) - *Whether the request would 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 of this area does not require that it be transformed from the established 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.
- Section 34-88(2)(i) – *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.

She reported that staff recommended approval with conditions of the requested special exception in the Downtown zoning district to expand the area where outdoor consumption of premises is permitted to include 190± square feet of new deck at the side of the existing building. She noted that staff did not have any concerns with the Applicant's request to change the hours listed in Condition #4 and she pointed out there were recommended conditions for approval as follows:

1. Outdoor music or similar entertainment is prohibited. Indoor music and/or similar entertainment is restricted to occur only within the enclosed walls and further restricted to the following hours: 11:00 a.m. to 11:00 p.m. from Monday through Thursday; 11:00 a.m. through 12:00 midnight on Friday and Saturday; and 11:00 a.m. through 10:00 p.m. on Sunday. Live music must be limited to non-amplified music.
2. The special exception is limited to on-premises consumption of alcoholic beverages in a 4,690 square foot area encompassing the indoor areas, both roofed patio/deck areas, and walk-in coolers as shown on the site plan, which is attached to this resolution as Exhibit B and hereby incorporated by reference.
3. The special exception is limited to a 4COP license for on-premise consumption of alcoholic beverages. The sale of alcoholic beverages on the subject property must comply with the provisions of LDC Section 34-1264(k) concerning sale of alcoholic beverages in restaurants. The terms and conditions of this approval as set forth in this resolution shall be deemed to equally apply should the applicant cease operation of a 4COP and operate under the terms of an SRX series license as defined by Florida law.
4. The hours of operation during which alcoholic beverages may be served on-premises are limited to Monday through Thursday between the hours of ~~11:00 a.m.~~ 7:00 a.m. and 12:00 midnight; between ~~11:00 a.m.~~ 7:00 a.m. and 1:00 a.m. on Friday and Saturday; and between ~~11:00 a.m.~~ 7:00 a.m. and 10:00 p.m. on Sunday.
5. A full menu of food, encompassing full-course meals, must be available and offered to indoor and outdoor seating during hours of operation for consumption on premises. The sale of alcoholic beverages must be incidental to the sale of food.

6. Gross revenues from sale of food and non-alcoholic beverages must not fall below 51% of total sales over any 12-month period, or over the period during which the business has been in operation if the business has not been in operation for 12 months or more. If sale of alcoholic beverages exceeds 49% of total sales, this approval will become null and void. The Town Manager may require an audit of the records of the business to verify compliance at the applicant's sole cost and to be conducted by an independent auditor of the Town's selection in the Town's sole judgment.
7. The business must be in full compliance at all times with applicable provisions of State beverage law for the series of beverage license it holds.
8. The use must comply at all times with lighting standards, including the regulations for the protection of sea turtles found in LDC Chapter 14, Article II.
9. This resolution does not grant consent for an awning or overhang proposed in the site plan to be constructed over the public right-of-way. The Town Council must address this matter separately.
10. Condition #9 above does not grant the owner or successor in interest undeniable right to development order approval.

Chair Zuba asked Zoning Coordinator Dulmer if she felt the Applicant would be compliant with the recommended conditions.

Zoning Coordinator Dulmer noted the property owners had worked with the staff rather quickly to come into compliance once the violation was brought to their attention.

Mr. Kakatsch questioned if landscaping was involved with the special exception request.

Zoning Coordinator Dulmer explained there was no landscaping requirement since the deck extended somewhat into the parking lot. She added staff did not want to create any traffic circulation situations due to landscaping. She described where there was landscaping on the subject property.

Mr. Kakatsch indicated his belief that there was an ability to enhance the landscaping and would like to see that as a condition of approval.

Community Development Director Fluegel asked if Mr. Kakatsch was requesting landscaping in the front of the outdoor deck area.

Mr. Kakatsch responded in the negative; and added the landscaping would be in front of the building.

Attorney Grady indicated on the overhead projection screen where the subject building was located on the property line; and where landscaping existed.

Tom Kolar reported there was landscaping across the deck area; however, the landscaping was not mature yet. He noted his belief that his property was 'maxed-out' for landscaping.

Discussion was held regarding the request to start service at 7:00 a.m.; and recommended Condition #6 and related monitoring and auditing.

Tom Kolar stated the subject business was approximately 75% food and 25% alcoholic beverage sales; and was not a nightclub and catered more to family dining.

Zoning Coordinator Dulmer pointed out that most of the recommended conditions of approval were a carry-over from Resolution 07-29.

LPA Attorney Miller asked if the Applicant's license was a straight 4COP.

Tom Kolar reported the type of license the business possessed also gave them the ability to have a package store.

LPA Attorney Miller indicated Condition #6 was usually for businesses with an SRX rider to their license; and added the Town did not have the ability to monitor the sales.

Discussion was held concerning the Applicant's 4COP license and Condition #6.

LPA Attorney Miller explained it was up to the LPA to decide on whether or not to include Condition #6.

Discussion continued regarding Condition #6 and whether or not to include the proposed condition as part of the approval.

Public Comment opened.

No speakers.

Public Comment closed.

**MOTION:** Mr. Steele moved to approve SEZ2013-0002, Yucatan Beach Stand, with conditions:

1. Outdoor music or similar entertainment is prohibited. Indoor music and/or similar entertainment is restricted to occur only within the enclosed walls and further restricted to the following hours: 11:00 a.m. to 11:00 p.m. from Monday through Thursday; 11:00 a.m. through 12:00 midnight on Friday and Saturday; and 11:00 a.m. through 10:00 p.m. on Sunday. Live music must be limited to non-amplified music.
2. The special exception is limited to on-premises consumption of alcoholic beverages in a 4,690 square foot area encompassing the indoor areas, both roofed patio/deck areas, and walk-in coolers as shown on the site plan, which is attached to this resolution as Exhibit B and hereby incorporated by reference.
3. The special exception is limited to a 4COP license for on-premise consumption of alcoholic beverages. The sale of alcoholic beverages on the subject property must comply with the provisions of LDC Section 34-1264(k) concerning sale of alcoholic

beverages in restaurants. The terms and conditions of this approval as set forth in this resolution shall be deemed to equally apply should the applicant cease operation of a 4COP and operate under the terms of an SRX series license as defined by Florida law.

4. The hours of operation during which alcoholic beverages may be served on-premises are limited to Monday through Thursday between the hours of ~~11:00 a.m.~~ 7:00 a.m. and 12:00 midnight; between ~~11:00 a.m.~~ 7:00 a.m. and 1:00 a.m. on Friday and Saturday; and between ~~11:00 a.m.~~ 7:00 a.m. and 10:00 p.m. on Sunday.
5. A full menu of food, encompassing full-course meals, must be available and offered to indoor and outdoor seating during hours of operation for consumption on premises. The sale of alcoholic beverages must be incidental to the sale of food.
6. ~~Gross revenues from sale of food and non-alcoholic beverages must not fall below 51% of total sales over any 12-month period, or over the period during which the business has been in operation if the business has not been in operation for 12 months or more. If sale of alcoholic beverages exceeds 49% of total sales, this approval will become null and void. The Town Manager may require an audit of the records of the business to verify compliance at the applicant's sole cost and to be conducted by an independent auditor of the Town's selection in the Town's sole judgment.~~
7. The business must be in full compliance at all times with applicable provisions of State beverage law for the series of beverage license it holds.
8. The use must comply at all times with lighting standards, including the regulations for the protection of sea turtles found in LDC Chapter 14, Article II.
9. This resolution does not grant consent for an awning or overhang proposed in the site plan to be constructed over the public right-of-way. The Town Council must address this matter separately.
10. Condition #9 above does not grant the owner or successor in interest undeniable right to development order approval.

**SECOND:** Mr. Smith

**VOTE:** Motion approved, 5-0; Vice Chair Shamp and Ms. Plummer excused.

Public Hearing closed.

Recessed at 9:45 a.m. – Reconvened at 9:55 a.m.

C. DCI 2013-0001 Pink Shell CPD Amendment

Chair Zuba opened the Public Hearing.

LPA Attorney Miller swore in the witnesses.

Chair Zuba asked if any LPA Board Member had ex-parte communication regarding this item. Mr. Durrett – site visit; Mr. Kakatsch – site visit; Mr. Smith: - site visit; Chair Zuba – site visit; Mr. Steele – site visit; Ms. Plummer – excused; Ms. Shamp – excused.

Attorney Grady, authorized agent for the New Pink Shell, LLC, presented comments on the Pink Shell CPD Amendment on behalf of the Applicant. She explained the request was for an amendment to the existing CPD, known as the Pink Shell CPD to add a use to the Schedule of Uses for ‘Recreation, Commercial with membership’. She reviewed how the membership would permit the use of the resort accessory uses including but not limited to food, beverage services, personal services, pools, beach access, and docks. She stated the Applicant was in agreement with the staff conditions and the recommendation of approval. She described how the program had been designed consistent with the operation of Pink Shell, and noted there was no change in the physical facility. She introduced Robert Mulhere, FAICP with Hole Montes and expert in use and site planning; and Ted Treesh of Transportation Consultants, Inc.

Robert Mulhere, FAICP, of Hole Montes, reviewed the operational aspects of the amendment request and the parking. He discussed features of the 2010 CPD (replacement of tennis courts on the bay side with 42 parking spaces) and of the subject CPD Amendment such as but not limited to a membership cap of 350 (anticipated maximum utilization of the membership 29% on any given day or point). He noted that 25% of the hotel guests arrived by airport transit; guests arriving via boat and the Applicant’s intention to market the boating community; guests arriving by trolley, bicycle, or by walking; and the use of valet parking.

Ted Treesh of Transportation Consultants, Inc. explained his review of the request as it pertained to impact on the transportation network (specifically in compliance with the Comp Plan); and how they looked at the trip generation and current road volumes. He stated the analysis showed that there was available capacity on the roads in the peak season that met the requirements of the Comp Plan and the Land Development Code; and that they did not take into account any trip reductions that involved what Mr. Mulhere mentioned (guests by means other than their own car).

Attorney Grady noted the belief that the Applicant took into account adequate parking for the memberships, took into account the maximum usage, and looked at the actual operations and historical operation of another resort that offered memberships. She pointed out the improvements to the marina and the anticipated increase in guests arriving by boat. She requested approval of the CPD Amendment request.

Chair Zuba questioned the Traffic Study and what the level of service for Estero Boulevard was in relation to State evaluation.

Ted Treesh of Transportation Consultants, Inc. reported currently, based on data from Lee County, Estero Boulevard had an “E” level of service.

Chair Zuba asked if the Traffic Study took into account the use of the bridge.

Ted Treesh of Transportation Consultants, Inc. responded in the affirmative; and clarified that the additional vehicles would not change the level of service on Estero Boulevard. He explained their analysis process (i.e. using trip numbers from Lee County, etc.).

Discussion ensued regarding exiting traffic off the Island; available boat slips at the Pink Shell Marina; marketing program for Pink Shell; and other resorts utilizing the same type of membership plan.

Mr. Durrett congratulated Pink Shell for receiving the “Clean Marina” designation.

Zoning Coordinator Dulmer presented comments for the Commercial Planned Development, DCI2013-0001, Pink Shell CPD, (subject property located at 171-191, 200, 251-281, and 275/322 Estero Boulevard) on behalf of the Town of Fort Myers Beach. She reviewed the request for a Commercial Planned Development (CPD) Amendment to expand the existing CPD (known as Pink Shell Resort CPD) to add ‘Recreation, Commercial with membership’ to the approved schedule of uses; and enable the use of parking areas on Lots 38 and 39 for parking for employees, guests and members. She noted the subject property details to have a current zoning of Commercial Planned Development and Environmentally Critical; Future Land Use of Mixed-Residential and Recreation; and surrounding uses of high-rise condominiums, single-family beach cottages, Pink Shell Resort, and the beach. She noted that a revised Master Concept Plan (Exhibit ‘B’) was provided recently to the LPA. She reported the questions received from surrounding property owners dealt with the location of Lots 38 and 39. She indicated on the projection screen the location of Lots 38 and 39. She pointed out in the Staff Report, Page 3, that currently the Town’s LDC did not provide a definition of “Recreation, Commercial with membership”; however, the Applicant provided the following: *Includes but not limited to resort accessory uses, subordinate commercial uses including food and beverage services, personal services, fitness facility, pools beach access and docks*. She pointed out the Applicant was not requesting any deviations and that the history of the subject property was lengthy and involved. Therefore, staff was consolidating all previously approved deviations into one document called “Exhibit F” (all deviations approved and in effect from Resolution 01-26, 10-05 and 10-06 remained in full force and effect). She reported staff was recommending approval with conditions of the requested amendments to the CPD zoning on the subject property to add “Recreation, Commercial with membership” to the approved uses and allow the parking areas on Lots 38 and 39 for parking for employees, guests and members. She reviewed staff’s recommended conditions:

1. The terms and conditions of all previous resolutions shall continue in full force except as expressly altered by this amendment
2. All development must be consistent with the Master Concept Plan (MCP) titled “Pink Shell CPD Gulf Side” or “Pink Shell CPD Bay Side” and marked with a revision date of August 27, 2013 attached as Exhibit B.
3. The definition of ‘Recreational, Commercial with membership’ will be as follows: *Includes but not limited to resort accessory uses, subordinate commercial uses including food and beverage services, personal services, fitness facility, pools, beach access and docks*.
4. The approved Schedule of Uses are limited to those detailed on the attached *Exhibit G*.
5. The total number of commercial memberships is not to exceed 350.

Discussion was held concerning the cost of annual membership; number of commercial membership limit of 350; and the definition of commercial membership.

Chair Zuba questioned the Staff Report, Page 3, as it pertained to ‘lack of details involving how memberships are defined’.

Zoning Coordinator Dulmer expressed her belief that Mr. Mulhere’s earlier comments helped with the details of memberships and how staff’s concern at the beginning of the application dealt with the memberships and the transportation facilities. Staff was encouraged to hear the Applicant would market the memberships to local residents and to the boating community.

Public Comment opened.

No speakers.

Public Comment closed.

Discussion ensued regarding the requested CPD Amendment and the memberships.

Chair Zuba noted his concerns regarding the proposed CPD Amendment as it related to impacting local traffic.

Mr. Steele questioned the term of ‘commercial memberships’.

LPA Attorney Miller noted the prior discussion regarding ‘commercial memberships’ and the current Land Development Code listed in the Table. She explained how the LPA could include wording such as “*provided that there shall be no membership with no more than 25 or 50*”.

Community Development Director Fluegel cautioned making conditions that were enforcement nightmares for the Town.

Zoning Coordinator Dulmer suggested change Condition #5 to read “*the total number of memberships was not to exceed 350*”.

Discussion was held concerning whether or not to change Condition #5 regarding a limitation on memberships.

- MOTION:** Mr. Smith moved to recommend approval of Resolution 2013-013, DCI2013-0002, Pink Shell CPD Amendment with conditions identified as:
1. The terms and conditions of all previous resolutions shall continue in full force except as expressly altered by this amendment
  2. All development must be consistent with the Master Concept Plan (MCP) titled “Pink Shell CPD Gulf Side” or “Pink Shell CPD Bay Side” and marked with a revision date of August 27, 2013 attached as Exhibit B.

3. The definition of ‘Recreational, Commercial with membership’ will be as follows: *Includes but not limited to resort accessory uses, subordinate commercial uses including food and beverage services, personal services, fitness facility, pools, beach access and docks.*
4. The approved Schedule of Uses are limited to those detailed on the attached *Exhibit G*.
5. The total number of commercial memberships is not to exceed 350.

**SECOND:** Mr. Kakatsch.

**VOTE:** Motion approved, 5-0; Vice Chair Shamp and Ms. Plummer excused.

Public Hearing closed.

**D. ORD. 13-XX - Mobile Tourist Information Centers**

Bud Nocera, President of the Fort Myers Beach Chamber of Commerce, reviewed the background of the Chambers work to get visitor information back onto Fort Myers Beach; and how the Chamber worked to convert a trailer into a mobile visitor information center. He noted that the Town’s LDC allowed for a 3-month permit for the operation of a mobile information center; and was now requesting an amendment so they would be able to have an annual permit. He pointed out the amendment would allow for local non-profit organizations to sell event and local attraction tickets from the mobile information center. He referenced Exhibit A, Section 34-3051(a) and requested and events be added after “...local attractions”; and a recommendation for approval of the proposed ordinance.

LPA Attorney Miller reviewed the wording for the *Length of Permit*; and noted it was limited to two mobile information centers and they were to be operated by a non-profit organization. She pointed out the name was changed to “mobile tourist information center”.

Discussion ensued regarding the mobile tourist information center.

**MOTION:** Chair Zuba moved to approve recommending that the Town Council of the Town of Fort Myers Beach approve and adopt a Town Ordinance amending the LDC with regard to the “Temporary Welcome Stations” with the additional change of adding and events after “...local attractions” in Section 34-3051(a); second by Mr. Durrett.

**VOTE:** Motion approved, 5-0; Vice Chair Shamp and Ms. Plummer excused.

**Adjourn as LPA and reconvene as Historic Preservation Board – No Action Taken.**

**Adjourn as Historic Preservation Board and reconvene as the LPA – No Action Taken**

**VI. LPA MEMBER ITEMS AND REPORTS**

Mr. Durrett – no report.

Mr. Smith – no report.

Chair Zuba – no report.

Ms. Plummer – excused.

Mr. Kakatsch – no report; requested an update on the Estero Boulevard Improvement Project.

Vice Chair Champ – excused.

Mr. Steele – no report.

Community Development Director Fluegel explained he was not certain about the timing of Estero Boulevard.

LPA Attorney Miller recounted a meeting with the Lee County DOT and the Town Council at which the County requested direction from Council on what amenities they were seeking in which areas along Estero Boulevard. She reviewed some of the amenities and decisions Council requested from the Lee County DOT regarding the Estero Boulevard improvements. She offered an update on the utility line replacement project and coordination of the construction on Estero Boulevard.

Question and answer session ensued regarding the Estero Boulevard improvement project, water utility line installation, stormwater project, and coordination with the Lee County work.

Chair Zuba noted Mr. Smith did not reapply for the Local Planning Agency and thanked him for his service to the LPA.

Mr. Smith thanked his fellow LPA members and the Town staff for their support during his term.

## **VII. LPA ATTORNEY ITEMS**

LPA Attorney Miller – no items or report.

## **VIII. COMMUNITY DEVELOPMENT DIRECTOR ITEMS**

Community Development Director Fluegel mentioned the discussion on the outdoor entertainment for next month's agenda, and that the Town's planning consultant would present a report on the entertainment district concept. He reported staff prepared a draft ordinance for the outdoor display matter and would first take it back to the Retail Merchants Working Group.

Mr. Durrett asked if there would be another meeting regarding the draft ordinance for the outdoor display that would include merchants other than the Times Square area merchants.

Community Development Director Fluegel explained that staff would look at places such as Santini Plaza as an amendment to their zoning districts.

Discussion was held concerning the difference between outdoor sales and outdoor merchandise displays and the difference between different business locations in the Town (i.e. Times Square and Santini Plaza).

**IX. LPA ACTION ITEM LIST REVIEW**

No discussion.

**X. ITEMS FOR NEXT MONTH'S AGENDA**

No discussion.

**XI. PUBLIC COMMENT**

None.

**XII. ADJOURNMENT**

**MOTION:** Motion by Mr. Kakatsch, seconded by Mr. Smith to adjourn.

**VOTE:** Motion approved, 5-0; Vice Chair Shamp and Ms. Plummer excused.

Meeting adjourned at 10:50 a.m.

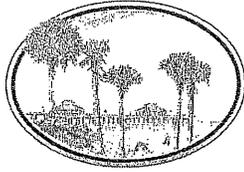
Adopted **October 8, 2013 WITH** changes.

Motion by: **Shamp**; Second by **Kakatsch**

Vote: 7-0

\_\_\_\_\_  
Signature 

End of document.



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

**TYPE OF CASE:** Special Exception  
**CASE NUMBER:** SEZ2013-0002  
**LPA HEARING DATE:** September 17, 2013  
**LPA HEARING TIME:** 9:00 AM

**I. APPLICATION SUMMARY**

**Applicant:** Stingrays Raw Bar, Inc  
Beverly Grady, authorized agent

**Request:** A special exception to expand the outdoor consumption on premises (4COP) approval to include an additional 190 square feet on a proposed new deck

**Subject property:** See *Exhibit A*

**Physical Address:** 250 Old San Carlos Boulevard Fort Myers Beach, Florida  
33919

**STRAP #:** 24-46-23W3-00204.0010

**FLU:** Pedestrian Commercial

**Zoning:** DOWNTOWN

**Current use(s):** Bar & Restaurant

**Adjacent zoning and land uses:**

**North:** Retail/Commercial  
COMMERCIAL PLANNED DEVELOPMENT (CPD)  
Pedestrian Commercial

**South:** Retail/Commercial/Parking lot  
DOWNTOWN  
Pedestrian Commercial

**East:** Sky Bridge

West: Hotel/Motel & Retail/Commercial  
DOWNTOWN & CPD  
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 190 ± square feet of a proposed new deck adjacent to the side of the existing building on the subject property. See *Exhibit B*.

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 Yucatan Beach Stand, located at 250 Old San Carlos Boulevard, is a bar and restaurant that was originally granted a special exception by Resolution 07-29 (see *Exhibit C*) approving outdoor consumption on premises in conjunction with a 4COP liquor license. The subject property is located on Old San Carlos Boulevard in the Times Square/Downtown Core Area of Fort Myers Beach.

The subject property applied for and was granted a building permit, COM12-0088, with a scope of work listed as follows: 'Build deck area for smoking.' The permit was issued on 9/5/13, however when Town officials inspected the deck to close out the permit, it was discovered that what had been constructed was not what had been approved. The deck area was constructed with a roof and patrons of the Yucatan were observed consuming alcoholic beverages on the deck. This was a direct violation of the building permit and a violation of the special exception approved by Resolution 07-29.

The contractor has worked with Building Department Staff to resubmit revised plans reflecting the actual installed deck; however, the revised building permit issue cannot completely be resolved and finalized until it passes zoning plan review. Zoning plan review will not approve the plans until the special exception is approved by Town Council.

### **Analysis:**

The subject property, which includes The Yucatan Beach Stand and its required parking, 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, and Town Council approved the initial special exception in 2007, see *Exhibit C* for Resolution 07-29.

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 request for the additional outdoor consumption area on the subject property can be seen on *Exhibit B* as the area highlighted in yellow, the area approved by Resolution 07-29 is highlighted in pink, and measured approximately 190± square feet in size.

While not located between the building and the street, the deck area is located between the building and the parking lot, which Staff believes is an appropriate location and consistent with the regulations found in LDC Section 34-678.

The request for an additional 190± square feet requires 2 additional parking spaces for a grand total of 42 required spaces pursuant to LDC Section 34-2020(d)(2)h. LDC Section 34-676(1), however, allows for a 50% reduction in parking spaces for all properties located on Old San Carlos Boulevard. The subject property currently provides 30 spaces on site, thus the additional area does not result in the need for more parking spaces. Furthermore, as shown on the attached *Exhibit D*, the deck area, while encroaching into the parking aisle, does not reduce the drive width below the minimum required for two-way traffic of 22'.

Resolution 07-29 included 10 conditions of approval. Staff is recommending that all 10 conditions of approval carry over to this approval, with minor modifications to conditions 1 and 2.

Condition 1 has been modified to remove the language: *"a copy of the seating plan is attached hereto as Exhibit "B" and hereby incorporated by reference."* That Exhibit B does not match the Exhibit B referenced in this application nor does it reflect the seating modifications made by this application.

Condition 2 has been modified to reflect the requested change in square feet allowed for consumption on premises from 4,500 to 4,690.

Findings and Conclusions:

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

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 to provide additional outdoor covered area for its patrons is consistent with this policy.

Furthermore, the request of this application reflects an after-the-fact amendment to an existing special exception approval to include additional area for consumptions on premises. Therefore changed conditions, i.e. the new deck, do exist that make approval of the request appropriate.

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 the Pedestrian Future Land Use category 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)). Outdoor dining, both on private and on public property is encouraged by the Comprehensive Plan and the Land Development Code.

The applicant’s request is appropriate at this site because it is a request to amend a prior Council-approved special exception. Approval of the applicant’s request, along with conditions recommended by Staff, 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. Staff has recommended a condition of approval 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 190± square feet of new deck at the side of the existing building. Recommended conditions for approval are as follows:

1. Outdoor music or similar entertainment is prohibited. Indoor music and/or similar entertainment is restricted to occur only within the enclosed walls and further restricted to the following hours: 11:00 AM to 11:00 PM from Monday through Thursday; 11 AM through 12:00 midnight on Friday and Saturday; and 11:00 AM through 10:00 PM on Sunday. Live music must be limited to non-amplified music.
2. The special exception is limited to on-premises consumption of alcoholic beverages in a 4690 square-foot area encompassing the indoor areas, both roofed patio/deck areas, and walk-in coolers as shown on the site plan, which is attached to this resolution as *Exhibit B* and hereby incorporated by reference.
3. The special exception is limited to a 4COP license for on-premise consumption of alcoholic beverages. The sale of alcoholic beverages on the subject property must comply with the provisions of LDC Section 34-1264(k) concerning sale of alcoholic beverages in restaurants. The terms and conditions of this approval as set forth in this resolution shall be deemed to equally apply should the applicant cease operation of a 4COP and operate under the terms of an SRX series license as defined by Florida law.
4. The hours of operation during which alcoholic beverages may be served on-premises are limited to Monday through Thursday between the hours of 11:00 AM and 12:00 midnight; between 11:00 AM and 1:00 AM on Friday and Saturday; and between 11:00 AM and 10:00 PM on Sunday.
5. A full menu of food, encompassing full-course meals, must be available and offered to indoor and outdoor seating during hours of operation for consumption on premises. The sale of alcoholic beverages must be incidental to the sale of food.
6. Gross revenues from sale of food and non-alcoholic beverages must not fall below 51% of total sales over any 12-month period, or over the period during which the business has been in operation if the business has not been in operation for 12 months or more. If sale of alcoholic beverages exceeds 49% of total sales, this approval will become null and void. The Town Manager may require an audit of the

records of the business to verify compliance at applicant's sole cost and to be conducted by an independent auditor of the Town's selection in the Town's sole judgment.

7. The business must be in full compliance at all times with applicable provisions of state beverage law for the series of beverage license it holds.
8. The use must comply at all times with lighting standards, including the regulations for the protection of Sea Turtles found in LDC Chapter 14, Article II.
9. This resolution does not grant consent for an awning or overhang proposed in the site plan to be constructed over the public right-of-way. The Town Council must address this matter separately.
10. Condition #9 above does not grant the owner or successor in interest undeniable right to development order approval.

#### **IV. CONCLUSION**

If Town Council finds that the requested use is contrary to the public interest or the health, safety, comfort, convenience, and/or welfare of the citizens of the Town, or that the request is in conflict with the criteria of LDC Section 34-88, Town Council should deny the request as provided in LDC Section 34-88(4). If Town Council chooses to approve the request, special conditions necessary to protect the health, safety, comfort, convenience, or welfare of the public may be attached if Council finds that such conditions are reasonably related to the requested special exception. Staff has recommended conditions for the Town Council's convenience.

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 190± square feet of new deck at the side of the existing building.

#### **Exhibits:**

- Exhibit A – Legal Description
- Exhibit B – Revised Survey & Site plan
- Exhibit C – Resolution 07-29
- Exhibit D – Site plan with dimension

Parcel lying westerly of SR 865  
Blocks 4 & 5, Business Center  
Section 24, T. 46 S., R. 23E  
Estero Island, Lee County, Florida

EXHIBIT A

A tract or parcel of land lying in Blocks 4 and 5, and portions of a vacated alley lying between Blocks 4 and 5, as shown on the plat of Business Center, Section 24, Township 46 South, Range 23 East, Estero Island and recorded in Plat Book 9 at page 9 of the public records of Lee County, Florida which tract or parcel is described as follows:

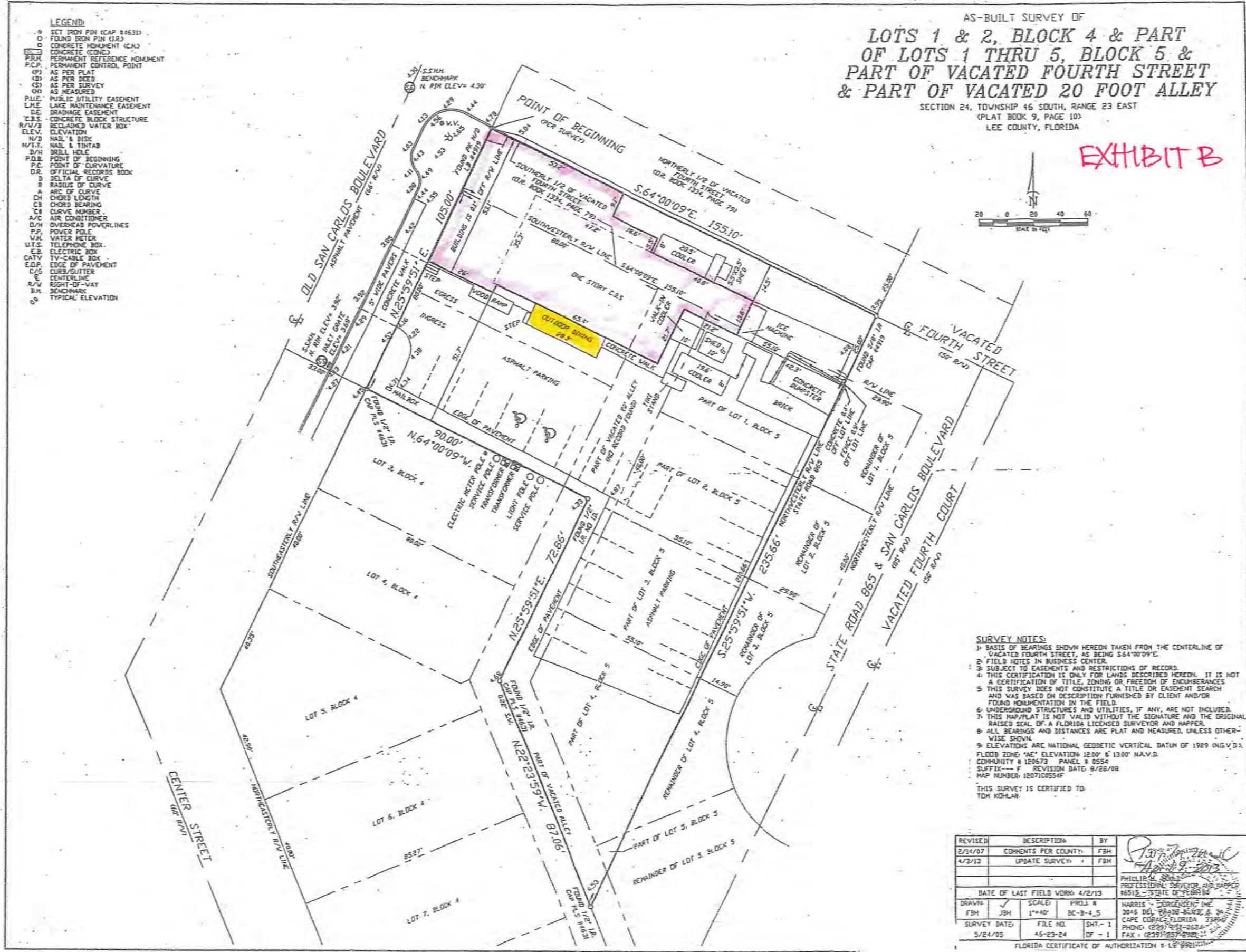
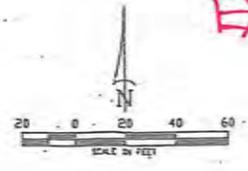
Beginning at the northerlymost corner of Lot 1, Block 4 run S 64 degrees 00'09" E along the southwesterly line of Fourth Street for 155.10 feet to a concrete monument on the northwesterly line of SR 865 (85 feet wide); thence run S 25 degrees 59'51" W along said northwesterly line for 210.66 feet to a concrete monument on the centerline of a vacated alley 20 feet wide; thence run N 22 degrees 23'59" W along said centerline for 87.06 feet to a concrete monument; thence run N 25 degrees 59'51" E along said centerline for 72.86 feet to a concrete monument; thence run N 64 degrees 00'09" W along a southeasterly prolongation of the southwesterly line of Lot 2 of said Block 4 and the southwesterly line of said lot for 90 feet to a concrete monument on the southeasterly line of San Carlos Boulevard (66 feet wide); thence run N 25 degrees 59'51" E along said southeasterly line for 80 feet to the Point of Beginning.

Containing 19,033 square feet more or less.

- LEGEND:**
- SET IRON PIN (CAP #4631)
  - FOUND IRON PIN (I.P.)
  - CONCRETE MONUMENT (C.M.)
  - CONCRETE (CONC.)
  - P.R.M. PERMANENT REFERENCE MONUMENT
  - P.C.P. PERMANENT CONTROL POINT
  - (P) AS PER PLAT
  - (D) AS PER DEED
  - (S) AS PER SURVEY
  - (M) AS MEASURED
  - (U) PUBLIC UTILITY EASEMENT
  - L.M.E. LAKE MAINTENANCE EASEMENT
  - D.E. DRAINAGE EASEMENT
  - C.B.S. CONCRETE BLOCK STRUCTURE
  - R/W/V RECLAIMED WATER BOX
  - ELEV. ELEVATION
  - N/S NAIL & SINK
  - M/T/T. NAIL & TINTAB
  - D/H DRILL HOLE
  - P.O.B. POINT OF BEGINNING
  - P.O.C. POINT OF CURVATURE
  - D.R. OFFICIAL RECORDS BOOK
  - Δ DELTA OF CURVE
  - R RADIUS OF CURVE
  - A ARC OF CURVE
  - CH CHORD LENGTH
  - CB CHORD BEARING
  - C# CURVE NUMBER
  - A/C AIR CONDITIONER
  - D/H DIVERSHAW POWERLINES
  - P.P. POWER POLE
  - V.M. WATER METER
  - T.S. TELEPHONE BOX
  - E.B. ELECTRIC BOX
  - CATV TV-CABLE BOX
  - E.P. EDGE OF PAVEMENT
  - C/G CURB/GUTTER
  - C.L. CENTERLINE
  - R/W RIGHT-OF-WAY
  - B.M. BENCHMARK
  - TYPICAL ELEVATION

AS-BUILT SURVEY OF  
**LOTS 1 & 2, BLOCK 4 & PART  
 OF LOTS 1 THRU 5, BLOCK 5 &  
 PART OF VACATED FOURTH STREET  
 & PART OF VACATED 20 FOOT ALLEY**  
 SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST  
 (PLAT BOOK 9, PAGE 10)  
 LEE COUNTY, FLORIDA

**EXHIBIT B**



**SURVEY NOTES:**

- 1) BASIS OF BEARINGS SHOWN HEREON TAKEN FROM THE CENTERLINE OF VACATED FOURTH STREET, AS BEING S64°00'09"E.
- 2) FIELD NOTES IN BUSINESS CENTER.
- 3) SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
- 4) THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
- 5) THIS SURVEY DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
- 6) UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
- 7) THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
- 8) ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
- 9) ELEVATIONS ARE NATIONAL GEODETIC VERTICAL DATUM OF 1989 (NGVD).
- FLOOD ZONE: "AE" ELEVATION 12.00' & 13.00' N.A.V.D.
- COMMUNITY # 120673 PANEL # 0554
- SUFFIX --- F REVISION DATE: 8/22/08
- MAP NUMBER: 1207100554F

THIS SURVEY IS CERTIFIED TO:  
TDM KOHLAR

| REVISED | DESCRIPTION         | BY  |
|---------|---------------------|-----|
| 2/14/07 | COMMENTS PER COUNTY | FHM |
| 4/3/13  | UPDATE SURVEY       | FHM |

DATE OF LAST FIELD WORK: 4/2/13

|                      |                   |                   |
|----------------------|-------------------|-------------------|
| DRAWN: FHM           | SCALE: 1"=40'     | PROJ. #: BC-2-4-5 |
| JSH                  |                   |                   |
| SURVEY DATE: 5/24/05 | FILE NO: 45-23-24 | SHT. - 1 OF - 1   |

FLORIDA CERTIFICATE OF AUTHORIZATION # LB 9921

EXHIBIT C

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 07-29

WHEREAS, Applicant Thomas F. Kolar ("Applicant") has requested a Special Exception for the Yucatan Beach Stand to be located at 250 Old San Carlos Boulevard, Fort Myers Beach, Florida ("subject property") to permit a 4-COP liquor license in conjunction with a restaurant use that is located within 500 feet of a park, dwelling units under separate ownership, and other establishments primarily engaged in the sale of alcoholic beverages for consumption on premises, and that does not meet the requirements to qualify for the restaurant exception to the location standards of Land Development Code (LDC) section 34-1264(b); and

WHEREAS, Applicant has indicated the subject property's current STRAP number is 24-46-23-W3-00204.0010. The legal description of the subject property is attached hereto as Exhibit "A" and incorporated herein by reference, and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on June 19, 2007, at which time the LPA recommended that the Town Council approve the Applicant's request, subject to various conditions as set forth more fully in the LPA Resolution 2007-12; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council of the Town of Fort Myers Beach on August 13, 2007 and at the hearing, the Town Council gave full and complete consideration to the recommendations of the LPA, the record adduced before the LPA, the recommendations of staff, related documents, the request of Applicant and the testimony of Applicant, staff, and other interested persons as required by the Town of Fort Myers Beach Land Development Code Section 34-88.

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

Based upon presentations by Applicant, staff, and other interested persons at hearing, review of the application, and the standards for granting special exceptions, the Town Council hereby **APPROVES** Applicant's request for a special exception to permit a 4-COP liquor license in conjunction with the subject property located within 500 feet of a park, dwelling units, and other establishments primarily engaged in the sale of alcoholic beverages for consumption on premises, with such approval subject to the following conditions:

CONDITIONS OF APPROVAL:

1. Outdoor music or similar entertainment is prohibited. Indoor music and/or similar entertainment is restricted to occur only within the enclosed walls and further restricted to the following hours: 11:00 AM to 11:00 PM from Monday through Thursday; 11:00 AM through 10 PM on Sunday; and 11 AM through Midnight on Friday and Saturday. Live music must be limited to non-amplified music. A copy of the seating plan is attached hereto as Exhibit "B" and hereby incorporated by reference.

2. The Special Exception is limited to on-premises consumption of alcoholic beverages in a 4500 square-foot area encompassing the indoor areas, roofed patio/deck area, and walk-in coolers as shown on the site plan, which is attached to this Resolution as Exhibit "C" and hereby incorporated by reference.

3. The Special Exception is limited to a 4COP license for on-premises consumption of alcoholic beverages. The sale of alcoholic beverages on the subject property must comply with the provisions of LDC Section 34-1264(k) concerning sale of alcoholic beverages in restaurants. The terms and conditions of this approval as set forth in this Resolution shall be deemed to equally apply should the applicant cease operation of a 4COP and operate under the terms of an SRX series license as defined by Florida law.

4. The hours of operation during which alcoholic beverages may be served on-premises are limited to Monday through Thursday between the hours of 11:00 AM and 12:00 midnight; between 11:00 AM and 1 AM on Friday and Saturday; and between 11:00 AM and 10 PM on Sunday.

5. A full menu of food, encompassing full-course meals, must be available and offered to indoor and outdoor seating during hours of operation for consumption on premises. The sale of alcoholic beverages must be incidental to the sale of food.

6. Gross revenues from sale of food and non-alcoholic beverages must not fall below 51% of total sales over any 12-month period, or over the period during which the business has been in operation if the business has not been in operation for 12 months or more. If sale of alcoholic beverages exceeds 49% of total sales, this approval will become null and void. The Town Manager may require an audit of the records of the business to verify compliance, with the audit at applicant's sole cost and to be conducted by an independent auditor of the Town's selection in the Town's sole judgment.

7. The business must be in full compliance at all times with applicable provisions of state beverage law for the series of beverage license it holds.

8. The use must comply at all times with lighting standards, including the regulations for the protection of Sea Turtles found in LDC Chapter 14, Article II.

9. This resolution does not grant consent for an awning or overhang proposed in the site plan to be constructed over the public right-of-way. The Town Council must address this matter separately.

10. Condition #9 above does not grant the owner or successor in interest undeniable right to development order approval.

#### **FINDINGS AND CONCLUSIONS**

In accordance with the requirements of Sections 34-84 and 34-88 of the LDC regarding consideration of eligibility for a Special Exception, the Town Council makes the following findings and reach the following conclusions:

1. Changed or changing conditions exist that make the requested approval, as conditioned, appropriate.

Comprehensive Plan (Comp Plan) policy 3-D-1 envisions "revitalizing downtown as a lively, inviting, comfortable, and safe public environment." In keeping with this policy, improvements including spacious sidewalks and a pedestrian plaza at the north end of Old San Carlos Boulevard, have contributed to the pedestrian-friendliness of this area. The Town Council **does** find that these changes make approval of the requested Special Exception appropriate, as conditioned.

2. The requested special exception, as conditioned:

- a) **Is** consistent with the goals, objectives, policies and intent of The Town of Fort Myers Beach Comprehensive Plan; and

The subject property is in the Pedestrian Commercial FLUM category, on Old San Carlos Boulevard. Comp Plan Policy 4-B-6, regarding the Pedestrian Commercial district, states that commercial activities must contribute to the pedestrian-oriented public realm. The proposed restaurant/bar use with its partially enclosed, roofed dining area fronting on the sidewalk, will invite pedestrian patrons and contribute to the pedestrian-oriented character of Old San Carlos Boulevard. The Town Council finds that the request is consistent with the goals, objectives, policies, and intent of the Comp Plan.

- b) **Will** protect, conserve, or preserve environmentally critical areas and natural resources; and

The immediate vicinity of the subject property is developed and is not designated by the Comp Plan as environmentally critical. No net change in impervious area is requested, and no environmental concerns appear to be directly implicated in this request for special exception. Through the development order and building permit process, the Applicant will be required to address the turtle protection lighting standards in condition #9 above.

- c) **Does** meet or exceed all performance and locational standards set forth for the proposed use in Chapter 34 of the LDC; and

A restaurant is a use permitted by right in the Downtown zoning district. The applicant's site plan proposes 30 parking spaces. For 4500 square feet of total area of restaurant use, LDC Section 34-2020 requires 36 parking spaces. For 700 square feet of area within a restaurant used for a bar or cocktail lounge, LDC Section 34-2020 requires an additional 4 spaces, for a total of 40 required spaces for the requested use. In the Downtown zoning district, for properties fronting on Old San Carlos Boulevard, LDC Section 34-676(a)(1) reduces the required parking by 50%, thus requiring only 20 parking spaces for the requested restaurant/bar with COP. The parking proposed on the site plan meets this requirement.

The requested use requires a special exception because the outdoor seating area is within 500 feet of a park, dwelling units under separate ownership, and other establishments primarily engaged in the sale of alcoholic beverages for consumption on premises, but otherwise the Town Council

finds that all locational standards for alcoholic beverage service will be met according to the applicant's site plan.

- d) Will be compatible with existing or planned uses and will not cause damage, hazard, nuisance or other detriment to persons or property and

The existing surrounding uses include parking lots, retail stores, lodging establishments, and restaurants, many of which hold 2COP or 4COP beverage licenses. Residential uses are separated from the subject property by hotels, retail stores, parking lots, and other restaurants. The Town Council finds that the requested use, as conditioned, will be compatible with existing or planned uses, and will not cause damage, hazard, nuisance, or other detriment to persons or property.

- e) Will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use as set forth in the LDC:

With the recommended conditions, the Town Council finds that the requested use will meet the regulations of LDC chapter 34, Article IV, Division 5 regarding on-premises consumption of alcoholic beverages, will comply with the general zoning provisions applicable to the Downtown zoning district, and will comply with the other applicable general zoning provisions and supplemental regulations set forth in LDC Chapter 34.

The Town Council finds that Applicant has demonstrated that the requested Special Exception, as conditioned, complies with the standards of the LDC Section 34-88 and with:

- a) The Town of Fort Myers Beach Comprehensive Plan; and  
b) The requirements of the LDC, including but not limited to LDC Section 34-88; and  
c) Any other applicable town ordinances or codes.

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

|                         |            |                     |            |
|-------------------------|------------|---------------------|------------|
| Dennis C. Boback, Mayor | <u>aye</u> | Charles Meador, Jr. | <u>aye</u> |
| Larry Kiker, Vice Mayor | <u>nay</u> | William Shenko, Jr. | <u>aye</u> |
| Herb Acken              | <u>aye</u> |                     |            |

DULY PASSED AND ADOPTED THIS 13<sup>TH</sup> DAY OF AUGUST, 2007, BY THE

TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

By: Dennis C. Boback  
Dennis C. Boback, Mayor

Approved as to legal sufficiency:

By: Anne Dalton  
Anne Dalton, Esquire

ATTEST:

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

Town Attorney

# EXHIBIT "A"

Town of Fort Myers Beach

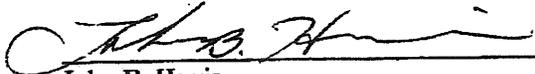
F M B SEZ 2007 0 0 0 0 11

DESCRIPTION: (Per Harris - Jorgensen, Inc.)

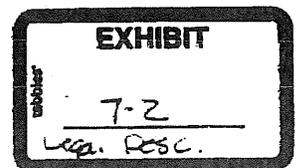
A tract or parcel of land lying in Blocks 4 and 5, and portions of a vacated alley lying between Blocks 4 and 5, and a portion of the South Half of vacated Fourth Street, all as shown on the Plat of Business Center, Section 24, Township 46 South, Range 23 East, Estero Island and recorded in Plat Book 9 at Page 9 of the Public Records of Lee County, Florida which tract or parcel is described as follows:

Beginning at the intersection of the centerline of the aforesaid Fourth Street and the Southeasterly right-of-way line of San Carlos Boulevard (66 feet wide); thence run S.64°00'09"E. along the centerline of said Fourth Street for 155.10 feet to a point of the Northwesterly line of SR 865 (85 feet wide); thence run S.25°59'51"W. along said Northwesterly line for 235.66 feet to a point on the centerline of a vacated alley 20 feet wide; thence run N.22°23'59"W. along said centerline for 87.06 feet; thence run N.25°59'51"E. along said centerline for 72.86 feet; thence run N.64°00'09"W. along a Southeasterly prolongation of the Southwesterly line of Lot 2 of said Block 4 and the Southwesterly line of said Lot 2 for 90 feet to the Southeasterly right-of-way line of said San Carlos Boulevard; thence run N.25°59'51"E. along said Southeasterly right-of-way line for 105 feet to the point of beginning. Containing 22,910 square feet, more or less.

Bearings hereinabove mentioned are derived from the Florida Department of Transportation right-of-way maps for SR 865.



John B. Harris  
P.S.M. #4631  
January 5, 2007

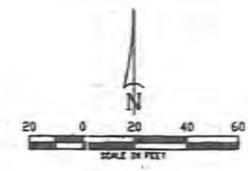






- LEGEND**
- ⊙ SET IRON PIN (CAP #4631)
  - FOUND IRON PIN (I.R.)
  - CONCRETE MONUMENT (C.M.)
  - ▭ CONCRETE (CONC.)
  - ⊕ PERMANENT REFERENCE MONUMENT
  - P.C.M. PERMANENT CONTROL POINT
  - ⊙ AS PER PLAT
  - ⊙ AS PER DEED
  - ⊙ AS PER SURVEY
  - ⊙ AS MEASURED
  - P.U.E. PUBLIC UTILITY EASEMENT
  - L.M.E. LAKE MAINTENANCE EASEMENT
  - D.E. DRAINAGE EASEMENT
  - C.B.S. CONCRETE BLOCK STRUCTURE
  - R/W/V.B. RECLAIMED WATER BOX
  - ELEV. ELEVATION
  - N/D. NAIL & DISK
  - N/T.T. NAIL & TIN TAB
  - D/H. DRILL HOLE
  - P.B. POINT OF BEGINNING
  - P.C. POINT OF CURVATURE
  - D.R. OFFICIAL RECORDS BOOK
  - D. DELTA OF CURVE
  - R. RADIUS OF CURVE
  - A. ARC OF CURVE
  - CH. CHORD LENGTH
  - CB. CHORD BEARING
  - C# CURVE NUMBER
  - A/C. AIR CONDITIONER
  - D/H. OVERHEAD POWERLINES
  - P.P. POWER POLE
  - V.M. WATER METER
  - U.T.S. TELEPHONE BOX
  - E.B. ELECTRIC BOX
  - CATV. TV-CABLE BOX
  - E.O.P. EDGE OF PAVEMENT
  - C/G. CURB/GUTTER
  - C.L. CENTERLINE
  - R/W. RIGHT-OF-WAY
  - B.K. BENCHMARK
  - ⊙ TYPICAL ELEVATION

AS-BUILT SURVEY OF  
**LOTS 1 & 2, BLOCK 4 & PART  
 OF LOTS 1 THRU 5, BLOCK 5 &  
 PART OF VACATED FOURTH STREET  
 & PART OF VACATED 20 FOOT ALLEY**  
 SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST  
 (PLAT 300K 9, PAGE 10)  
 LEE COUNTY, FLORIDA



**EXHIBIT D**

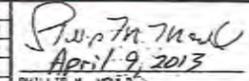


**SURVEY NOTES:**

1. BASIS OF BEARINGS SHOWN HEREON TAKEN FROM THE CENTERLINE OF VACATED FOURTH STREET, AS BEING S64°00'09"E.
2. FIELD NOTES IN BUSINESS CENTER.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SURVEY DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. ELEVATIONS ARE NATIONAL GEODETIC VERTICAL DATUM OF 1929 (NGVD).

FLOOD ZONE: "AE" ELEVATION: 12.00' & 13.00' NAV.D.  
 COMMUNITY # 120673 PANEL # 0554  
 SUFFIX --- F REVISION DATE: 8/28/08  
 MAP NUMBER: 120710554F

THIS SURVEY IS CERTIFIED TO  
 TOM KIDLAR

| REVISED  | DESCRIPTION         | BY               |
|--|---------------------|------------------|
| 2/14/07  | COMMENTS PER COUNTY | FBH              |
| 4/3/13   | UPDATE SURVEY       | FBH              |
| <br>April 9, 2013<br>PHILLIP H. HOULD<br>PROFESSIONAL SURVEYOR AND MAPPER<br>#6515 - STATE OF FLORIDA |                     |                  |
| DATE OF LAST FIELD WORK: 4/2/13  |                     |                  |
| DRAWN: FBH   | SCALE: 1"=40'       | PROJ. # BC-B-4_5 |
| SURVEY DATE: 5/24/05   | FILE NO: 46-23-24   | SHT. - 1 OF - 1  |
| HARRIS - JORGENSEN, INC.<br>3046 DEL PRADO BLVD. S. 3A<br>CAPE CORAL, FLORIDA 33904<br>PHONE: (239) 257-2684<br>FAX: (239) 257-8921  |                     |                  |

July 18, 2013

Ms. Leslee Dulmer, Zoning Coordinator  
Town of Fort Myers Beach  
2523 Estero Boulevard  
Fort Myers Beach, Florida 33931

VIA E-MAIL (Leslee@fortmyersbeachfl.gov)  
AND REGULAR U. S. MAIL

RE: Response to SEZ2013-0002 Request for Additional Information  
250 Old San Carlos Boulevard / Stingrays Raw Bar, Inc.

Dear Ms. Dulmer:

We are in receipt of your letter dated July 1, 2013 requesting additional information which posed the following questions:

Question: *The application does not adequately state how the property qualifies for the special exception and what impact granting the request could have on surrounding properties. Please respond by addressing the considerations listed under LDC Section 34-88(2).*

Response: ***Considerations.***

a. Whether there exist changed or changing conditions which make approvals of the request appropriate.

Pursuant to Resolution 07-29, the Town Council found that the subject property was consistent with all provisions of Section 34-88(2) and was approved for the serving of alcoholic beverages outdoors. Comprehensive Plan Policy 3-D-1 envisions "revitalizing Downtown as lively, inviting, comfortable, and safe public environment." In keeping with this policy, improvements including spacious sidewalks, and a pedestrian plaza at the north end of Old San Carlos Boulevard have contributed to the pedestrian-friendliness of this area. This request which is consistent with the prior approved request is in compliance with this policy and the Plan.

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

The subject property is in the Pedestrian Commercial FLUM category on Old San Carlos Boulevard. Comprehensive Plan Policy 4-B-6 regarding the Pedestrian Commercial District states that commercial activities must contribute to the pedestrian-oriented public realm. The existing restaurant, alcoholic beverage service on the deck expansion which is requested with its partially enclosed roofed dining area fronting on

the sidewalk will invite pedestrian patrons and contribute to the pedestrian-oriented character of Old San Carlos Boulevard.

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

A restaurant is a use permitted by right in the Downtown zoning district. The restaurant is providing adequate parking as required by the Land Development Code. The requested use requires a special exception because the outdoor seating area is within 500 feet of a park and dwelling units under separate ownership. But otherwise this location is similar to the many other restaurants located along Old San Carlos and in Times Square where the staff has recommended approval that all locational standards for alcoholic beverage service are met.

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

The immediate vicinity of the subject property is developed and is not designated as environmentally critical. No net change in impervious area is requested and no environmental concern is raised by this request.

h. 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 existing surrounding uses include parking lots, retail stores, lodging establishments and restaurants, many of which hold 2COP or 4COP beverage licenses. This restaurant is already approved for outdoor serving by the Town. Residential uses are separated from the subject property by hotels, retail stores, parking lots and other restaurants. Therefore it is consistent with the existing and planned uses.

i. Whether the requested use will be in compliance with applicable general zoning provisions and supplement regulations pertaining to the use set forth in this chapter.

With the proposed condition on hours as set forth in the Narrative, we believe that this request which has been previously approved will be consistent with the general zoning provisions and supplemental regulations.

*Question: Site Plan-Supplement Exhibit 1 & 2 It is unclear from the site plan provided (Supplement Exhibit 1&2) what is the existing building and approved consumption on premises areas and what is the proposed 'new' areas. The Narrative mentions this area is outlined in yellow but none of the copies provided include the yellow distinction. Please provide a site plan that clearly delineated between existing and proposed areas.*

Response: Enclosed is the same exhibit but it has highlighted the expanded outdoor seating in yellow and highlighted the existing area of the restaurant which is approved for

Ms. Leslee Dulmer, Zoning Coordinator  
July 18, 2013  
Page 3

serving alcoholic beverages in pink. We believe that that satisfies the delineation between existing and proposed areas.

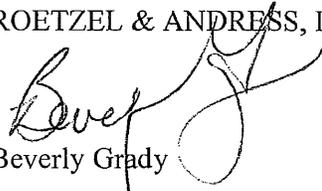
*Please provide a dimension between the end of the required parking spaces and the edge of the proposed new outdoor dining area to determine compliance with minimum drive aisle width per LDC Section 34-2016.*

Response: We have enclosed a copy of the survey and show the dimension of the distance of 40 feet from the proposed outdoor seating into the parking lot and you will see that the drive aisle is further than 40 feet. Therefore, the design complies with 34-2016 providing sufficient maneuvering room.

We respectfully submit that this application should be deemed sufficient and scheduled for the next available local planning agency hearing.

Very truly yours,

ROETZEL & ANDRESS, LPA

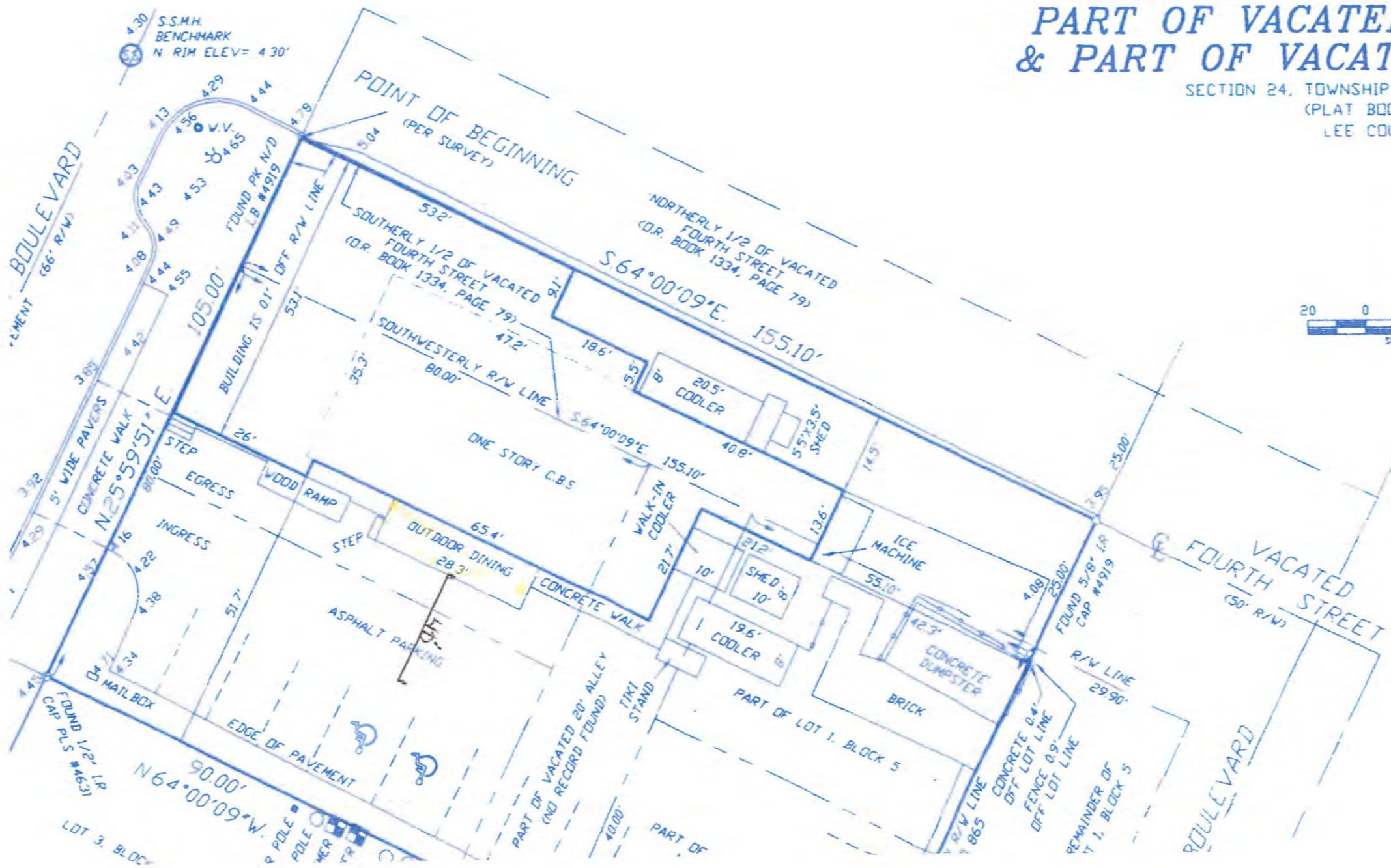
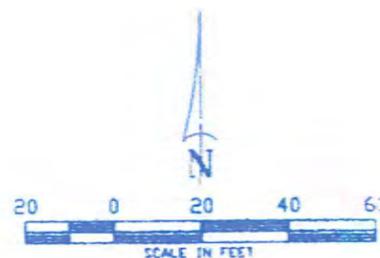
  
Beverly Grady

BG/ro  
Enclosures  
-Copy of Exhibit 5-2 highlighted  
-Large survey w/outdoor seating highlighted



AS-BUILT SURVEY OF  
**LOTS 1 & 2, BLOCK 4 & PART  
 OF LOTS 1 THRU 5, BLOCK 5 &  
 PART OF VACATED FOURTH STREET  
 & PART OF VACATED 20 FOOT ALLEY**

SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST  
 (PLAT BOOK 9, PAGE 10)  
 LEE COUNTY FLORIDA





## *Town of Fort Myers Beach*

Community Development

2523 Estero Blvd Fort Myers Beach, Florida 33931

Phone: 239-765-0202 Fax: 239-765-0591

July 1, 2013

Beverly Grady, Esq.  
Roetzel & Andress  
2320 First Street Suite 1000  
Fort Myers, FL 33901

**Re: SEZ2013-0002  
250 Old San Carlos Blvd  
Stingrays Raw Bar, Inc.**

Dear: Ms. Grady,

The Community Development Department has reviewed the information provided for the above zoning application. The Town of Fort Myers Beach Land Development Code (LDC) required additional information for the application to be found sufficient. Please respond to each requirement not satisfied on the attached sufficiency checklists. For your assistance, we have enclosed any additional memoranda from the various other Town reviewing departments.

If you do not provide the requested supplements or corrections within 60 calendar days of this letter, the LDC requires that this application be considered withdrawn. Please feel free to contact me if you have any questions or require further clarification.

Sincerely,

Leslee Dulmer  
Zoning Coordinator  
Town of Fort Myers Beach  
Community Development

# *Town of Fort Myers Beach*

Community Development  
2523 Estero Blvd Fort Myers Beach, Florida 33931  
Phone: 239-765-0202 Fax: 239-765-0591

## ZONING REVIEW – Leslee Chapman

The application and drawings submitted for the referenced project have been reviewed in accordance with the LDC, Florida Statutes as well as other applicable codes and ordinances as adopted by the Town of Fort Myers Beach. Your application requires the following additional information:

*The application does not adequately state how the property qualifies for the special exception and what impact granting the request could have on surrounding properties. Please respond by addressing the considerations listed under LDC Section 34-88(2).*

## Site Plan- Supplement Exhibit 1 & 2

*It is unclear from the site plan provided (Supplement Exhibit 1&2) what is the existing building and approved consumption on premises areas and what is the proposed 'new' areas. The Narrative mentions this area is outlined in yellow but none of the copies provided include the yellow distinction. Please provide a site plan that clearly delineated between existing and proposed areas.*

*Please provide a dimension between the end of the required parking spaces and the edge of the proposed new outdoor dining area to determine compliance with minimum drive aisle width per LDC Section 34-2016.*

Please make the corrections and resubmit with the necessary information so we can process your application. Please note that these comments represent only those of the reviewer signing below. Other comments may be forthcoming, and a re-submittal shall not occur until all reviewer comments are addressed.

Leslee Dulmer  
Zoning Coordinator  
239-765-0202 ext 105

**ORIGINAL**



**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: SE22013-0002 DATE: 5/3/13

Site Address: 250 Old San Carlos Blvd.

STRAP Number: 24-46-23-W3-00204.0010

Applicant: Stingrays Raw Bar, Inc., c/o Beverly Grady Phone: 239-337-3850

Contact Name: Beverly Grady, Roetzel & Andress Phone: 239-337-3850

Email: bgrady@ralaw.com Fax: 239-337-0970

Current Zoning District: Downtown

Future Land Use Map (FLUM) Category: Pedestrian Commercial

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\*:** Stingrays Raw Bar, Inc., c/o Beverly Grady Phone: 239-337-3850

*\*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: Roetzel & Andress, 2320 First Street, Suite 1000, Ft. Myers FL 33901

Email: bgrady@ralaw.com Fax: 239-337-0970

Contact Name: Beverly Grady Phone: 239-337-3850

B. **Relationship of Applicant to subject property:**

- |  |   |  |
|--|---|--|
| <input checked="" 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 checked="" 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: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_ Fax: \_\_\_\_\_

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

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_ Fax: \_\_\_\_\_

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_ Fax: \_\_\_\_\_

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

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: 24-46-23-W3-00204.0010

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 |
|------------------|----------------------|
| _____            | _____                |
| _____            | _____                |
| _____            | _____                |
| _____            | _____                |
| _____            | _____                |
| _____            | _____                |

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 |
|--------------------------|---------------------|
| Stingrays Raw Bar, Inc.  | _____               |
| Thomas F. Kolar          | 100 %               |
| _____                    | _____               |
| _____                    | _____               |
| _____                    | _____               |
| _____                    | _____               |

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 |
|------------------|------------------------|
| _____            | _____                  |
| _____            | _____                  |
| _____            | _____                  |
| _____            | _____                  |
| _____            | _____                  |
| _____            | _____                  |

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 |
|------------------|-------------------------|
| _____            | _____                   |
| _____            | _____                   |
| _____            | _____                   |
| _____            | _____                   |
| _____            | _____                   |
| _____            | _____                   |

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 |
|--------------------------|---------------------|
| _____                    | _____               |
| _____                    | _____               |
| _____                    | _____               |
| _____                    | _____               |
| _____                    | _____               |

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.

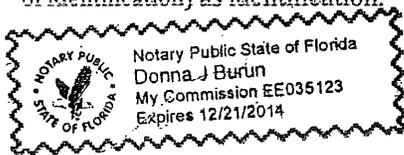
The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

  
\_\_\_\_\_  
Signature

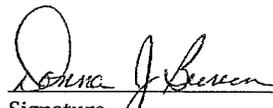
Thomas F. Kolar THOMAS F KOLAR  
Printed Name

STATE OF FLORIDA)  
COUNTY OF LEE)

The foregoing instrument was sworn to (or affirmed) and subscribed before me on April 15, 2013 (date) by Thomas F. Kolar (name of person providing oath or affirmation), who is personally known to me or who has produced FL Drivers License (type of identification) as identification.



(SEAL)

  
\_\_\_\_\_  
Signature

Donna J Burin  
Printed Name

**PART V – Property Information**

**A. Legal Description:**

STRAP: 24-46-23-W3-00204.0010

Property Address: 250 Old San Carlos Blvd.

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: \_\_\_\_\_

Book: \_\_\_\_\_ Page: \_\_\_\_\_ Unit: \_\_\_\_\_ Block: \_\_\_\_\_ Lot(s): \_\_\_\_\_

**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) 105 \_\_\_\_\_ feet

Depth (please provide an average width if irregular in shape) 155 \_\_\_\_\_ feet

Frontage on street: 105 \_\_\_\_\_ feet. Frontage on waterbody: -0- \_\_\_\_\_ feet

Total land area: 22,910 \_\_\_\_\_  acres  square feet

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

\_\_\_\_\_  
Turn right on 5th Street, then turn right on Old San Carlos Blvd. The business is located on the right.  
\_\_\_\_\_  
\_\_\_\_\_

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 type="checkbox"/> Boulevard                        | <input type="checkbox"/> Wetlands        |
| <input checked="" 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)  |  |

**PART VI**  
**AFFIDAVIT**  
**APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT**

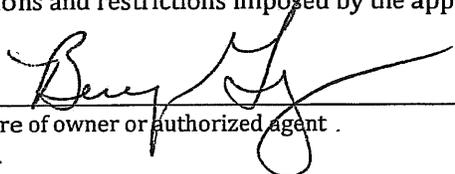
I, Beverly Grady swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

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 of Fort Myers Beach in accordance with this application and the Land Development Code;

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;

I have authorized the staff of the Town of Fort Myers Beach 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

The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

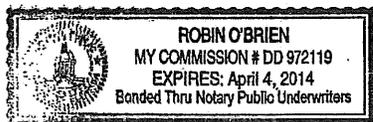
  
Signature of owner or authorized agent

4-24-13  
Date

STATE OF FLORIDA)  
COUNTY OF LEE)

The foregoing instrument was sworn to (or affirmed) and subscribed before me on 4/24/2013 (date) by Beverly Grady (name of person providing oath or affirmation), who is personally known to me or who has produced (type of identification) as identification.

(SEAL)



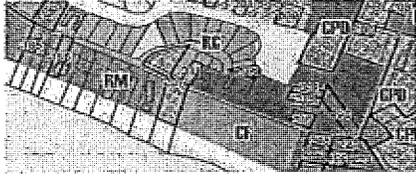
  
Signature

ROBIN O'BRIEN  
Printed Name

Case # \_\_\_\_\_  
Planner \_\_\_\_\_

Date Received \_\_\_\_\_  
Date of Sufficiency/Completeness \_\_\_\_\_

**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.

|  |
|--|
| <b>Project Name:</b> Stingrays Raw Bar, Inc., Expansion of Existing COP                    |
| <b>Authorized Applicant:</b> Stingrays Raw Bar, Inc., c/o Beverly Grady, Roetzel & Andress |
| <b>LeePA STRAP Number(s):</b> 24-46-23-W3-00204.0010                                       |
|  |

|   |
|---|
| <b>Current Property Status:</b>   |
| <b>Current Zoning:</b> Downtown   |
| <b>Future Land Use Map (FLUM) Category:</b> Pedestrian Commercial                                     |
| <b>Platted Overlay?</b> __yes__ <input checked="" type="checkbox"/> no <b>FLUM Density Range:</b> N/A |

**Requested Action:**

|  |
|--|
| <input type="checkbox"/> Use of premises in the EC (Environmentally Critical) zoning district for: |
|  |
|  |
| <input checked="" type="checkbox"/> Use of premises in the <u>Downtown</u> zoning district for:    |
| Expansion of existing COP  |
|  |
|  |





**LETTER OF AUTHORIZATION**

**TO FORT MYERS BEACH COMMUNITY DEVELOPMENT**

The undersigned does hereby swear or affirm that it is the owner of the property known as **STRAP No. 24-46-23-W3-00204.0010, 250 Old San Carlos Boulevard, Fort Myers Beach, Florida.**

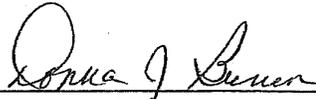
The undersigned hereby designates BEVERLY GRADY, to be its agent to file an Application for Public Hearing regarding the above-referenced property.

**STINGRAYS RAW BAR, INC.**

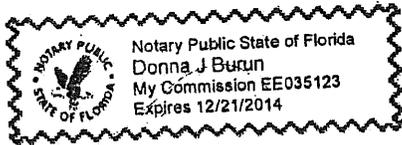
By:   
Thomas F. Kolar, President

STATE OF FLORIDA     )  
  ) §:  
COUNTY OF LEE        )

Sworn to (or affirmed) and subscribed before me this 15 day of April, 2013, by Thomas F. Kolar, the President of STINGRAYS RAW BAR, INC., on behalf of the corporation, who  is personally known to me OR  has produced a Florida driver's license as identification and who did (did not) take an oath.

  
Notary Public  
My commission expires: 12-21-2014

[NOTARY STAMP/SEAL]



Parcel lying westerly of SR 865  
Blocks 4 & 5, Business Center  
Section 24, T. 46 S., R. 23E  
Estero Island, Lee County, Florida

A tract or parcel of land lying in Blocks 4 and 5, and portions of a vacated alley lying between Blocks 4 and 5, as shown on the plat of Business Center, Section 24, Township 46 South, Range 23 East, Estero Island and recorded in Plat Book 9 at page 9 of the public records of Lee County, Florida which tract or parcel is described as follows:

Beginning at the northerlymost corner of Lot 1, Block 4 run S 64 degrees 00'09" E along the southwesterly line of Fourth Street for 155.10 feet to a concrete monument on the northwesterly line of SR 865 (85 feet wide); thence run S 25 degrees 59'51" W along said northwesterly line for 210.66 feet to a concrete monument on the centerline of a vacated alley 20 feet wide; thence run N 22 degrees 23'59" W along said centerline for 87.06 feet to a concrete monument; thence run N 25 degrees 59'51" E along said centerline for 72.86 feet to a concrete monument; thence run N 64 degrees 00'09" W along a southeasterly prolongation of the southwesterly line of Lot 2 of said Block 4 and the southwesterly line of said lot for 90 feet to a concrete monument on the southeasterly line of San Carlos Boulevard (66 feet wide); thence run N 25 degrees 59'51" E along said southeasterly line for 80 feet to the Point of Beginning.

Containing 19,033 square feet more or less.

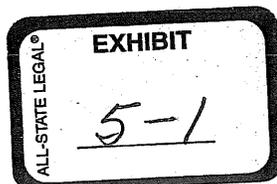


EXHIBIT PH-B.1

YUCATAN NARRATIVE

This is a special exception request for consumption on premises (4-COP) for a new addition for the Yucatan Restaurant depicted in yellow on the attached site plan. The Yucatan exceeds 150 seats and is adding an additional 190 square feet to an approximately 4,500 foot restaurant. The Yucatan's menu features a variety of seafood and grilled entrees for both lunch and dinner.

The Yucatan restaurant has had a positive impact on the surrounding development because provides another fine dining choice for beach residents and tourists staying at the nearby hotels/motels that surround the property.

There are several restaurants, bars and hotels/motels within the surrounding 500 feet that have been approved for consumption on premises by the Town including: the Smokin' Oyster Brewery (SOB), the Lighthouse Tiki Bar, Top o' the Mast, Pierside, Burrito a Go Go, Wahoo Willies, Plaka, Pete's Timeout, Zushi Sushi, and Citrala's.

The Yucatan restaurant is located in the Downtown zoning district in the Times Square area. The purpose of the Downtown zoning district is to "create the desired quality and character for the center of pedestrian-oriented commercial activities within the town." LDC, Sec. 34-671. Old San Carlos is intended to serve as the Town's "Main Street." Yucatan is compatible with the intent of the Downtown zoning district and offers an eating option for both tourists and residents alike. The Downtown zoning district permits Open Residential, Lodging, and Retail, Office, and Civic uses. Consumption on premises is a permitted use if approved through an administrative application or a special exception.

The Yucatan is located in the Pedestrian Commercial Future Land Use Map category. The Pedestrian Commercial pursuant to Policy 4-B-6 of the Fort Myers Beach Comprehensive Plan is intended to be a "commercial district applied to the intense activity center of Times Square (including Old San Carlos and nearby portions of Estero Blvd)...Commercial activities must contribute to the pedestrian-oriented public realm..." The Yucatan furthers Policy 4-B-6 of the comprehensive plan because it is pedestrian-oriented and in close proximity and walking distance to nearby hotels/motels and other commercial establishments promoting the walk-ability of the Times Square district.

The Yucatan restaurant fronts on Old San Carlos Boulevard, with the rear of the property on the bridge. To the north of the property is commercial property, including a CPD approved by the Town Council in Resolution FMB-01-03 for commercial uses including retail and restaurant. To the south of the subject property is also retail/commercial, including a parking lot and WINDS, a retail shop. To the east of the subject property is the bridge, and then commercial ~~property consisting of the Lighthouse Island Resort CPD. To the west of the subject property is~~ commercial property consisting of hotel/motel and Shipwreck retail. All of the surrounding properties are in the Downtown zoning district with a Future Land Use Map ("FLUM") classification of Pedestrian Commercial.

The special exception request is in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in the LDC. The requested special exception is consistent with the goals, objectives, policies, and intent of the Town of Fort Myers Beach Comprehensive Plan. Therefore, the applicant respectfully requests approval of consumption on the premises with the following conditions:

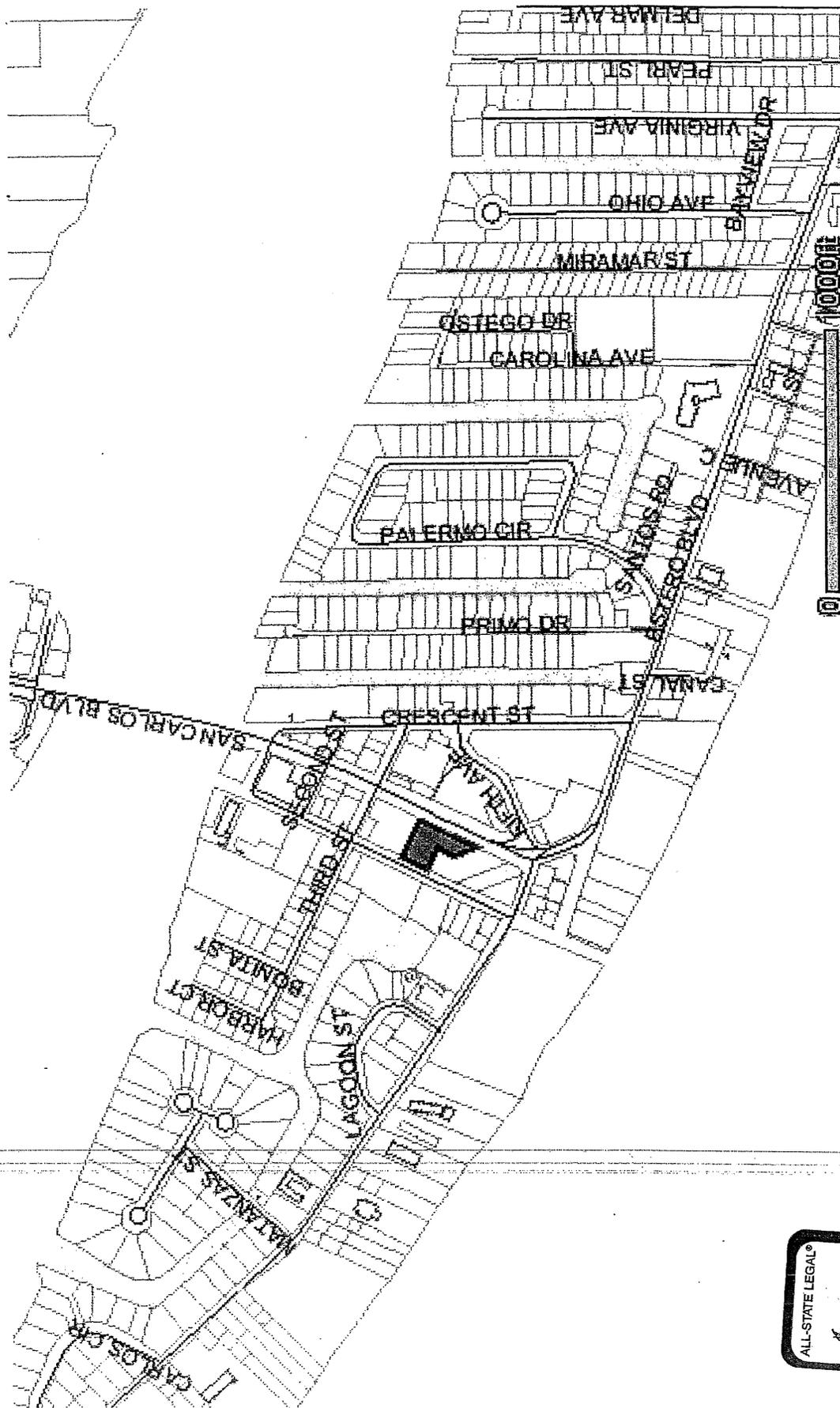
1. The approval of consumption on premises (4-COP) is limited to the 4,690 square foot restaurant (original restaurant plus new 190 square foot addition).

2. The hours of operation during which alcoholic beverages may be served on-premise are limited to Monday through Thursday 11:00AM and 12:00 midnight; between 11:00AM and 1:00AM on Friday and Saturday; and between 11:00AM and 10:00PM on Sunday.

Attached are the following exhibits:

Exhibit 1: Site plan showing requirements set forth in the application

Exhibit 2: Survey



ALL-STATE LEGAL®  
EXHIBIT  
5-3



# Lee County Property Appraiser

**Kenneth M. Wilkinson, C.F.A.**

GIS Department / Map Room

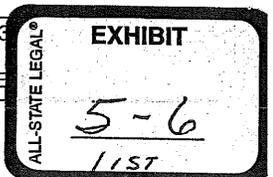
Phone: (239) 533-6159 • Fax: (239) 533-6139 • eMail: MapRoom@LeePA.org

## VARIANCE REPORT

**Date of Report:** 3/28/2013 2:04:04 PM  
**Buffer Distance:** 500 ft  
**Parcels Affected:** 129  
**Subject Parcels:** 24-46-23-W3-00204.0010

| <b>OWNER NAME AND ADDRESS</b>  | <b>STRAP AND LOCATION</b>   | <b>LEGAL DESCRIPTION</b>  |
|--|---|---|
| HUNTINGBURG PARTNERS LTD<br>TODD MCGEE<br>STE 1203<br>5294 SUMMERLIN COMMONS WAY<br>FORT MYERS, FL 33907 | 24-46-23-W3-00006.0000<br>1133-1155 ESTERO BLVD/FIFTH<br>ST<br>FORT MYERS BEACH FL 33931        | BUSINESS CTR PHILLIPS<br>PB 9 PG 9 LOTS 10 THRU 15 +<br>OR 587/198 LESS R/W 2353/3036                   |
| LALLO JOHN W + DEBORAH L<br>14577 EAGLE RIDGE DR<br>FORT MYERS, FL 33912                                 | 24-46-23-W3-00007.0000<br>1005 ESTERO BLVD<br>FORT MYERS BEACH FL 33931                         | FRM SW COR BLK E CRESCENT<br>PK ADD ON E LI SEC<br>24 46 23 RUN NWLY AT INC                             |
| NESKES NOMIKI J +<br>1001 ESTERO BLVD<br>FORT MYERS BEACH, FL 33931                                      | 24-46-23-W3-00008.0000<br>1001 ESTERO BLVD<br>FORT MYERS BEACH FL 33931                         | FRM SW COR BLK E CRESCENT<br>PK ADD ON E LI SEC 24 RUN<br>NW 69 DEG 54 MIN WITH SEC                     |
| LEE COUNTY<br>PO BOX 398<br>FORT MYERS, FL 33902   | 24-46-23-W3-00013.0000<br>1100 ESTERO BLVD<br>FORT MYERS BEACH FL 33931                         | PARL IN SE 1/4 SEC 24 TWN 46 R 23<br>S OF ESTERO BLVD AS DESC IN<br>INST #S 201000023675 + 201000023676 |
| STEER-MILL INC<br>PO BOX 4026<br>FORT MYERS BEACH, FL 33932  | 24-46-23-W3-00016.0000<br>1046 ESTERO BLVD<br>FORT MYERS BEACH FL 33931                         | FROM SW COR BLK E CRESCENT<br>PK ADD ON E LI SEC 24 RUN<br>S ALG SD LI TO S LI CO RD                    |
| STEER-MILL INC<br>PO BOX 4026<br>FORT MYERS BEACH, FL 33932  | 24-46-23-W3-00017.0000<br>1028 ESTERO BLVD<br>FORT MYERS BEACH FL 33931                         | FROM SW COR BLK E CRES PK<br>ADD ON E LI SEC 24 RUN S<br>ALG SD LI TO S LI CO RD TH                     |
| BENCIN ENTERPRISES INC<br>927 PRESCOTT ST<br>FORT MYERS BEACH, FL 33931                                  | 24-46-23-W3-00018.0000<br>1010 ESTERO BLVD<br>FORT MYERS BEACH FL 33931                         | A PAR AS DESC<br>IN OR 1234 PG 1371   |
| WHITAKER WILLIAM D<br>15820 SAN ANTONIO CT<br>FORT MYERS, FL 33908                                       | 24-46-23-W3-00021.0000<br>1000 ESTERO BLVD<br>FORT MYERS BEACH FL 33931                         | PARL IN SE 1/4 SEC 24 S OF<br>ESTERO BLVD+E OF SAN CARLOS<br>DR DESC OR 1547 PG 1077                    |
| LEE COUNTY<br>PO BOX 398<br>FORT MYERS, FL 33902   | 24-46-23-W3-00022.0000<br>10 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931                   | BEG NW COR BLK 8 BUSINESS<br>CTR SUBD RUN NWLY ALG<br>EXTENED N LINE PIER ONLY                          |
| LEE COUNTY<br>PO BOX 398<br>FORT MYERS, FL 33902   | 24-46-23-W3-00023.0000<br>950/81 ESTERO BLVD/OLD SAN<br>CARLO BLVD<br>FORT MYERS BEACH FL 33931 | BEG NW COR BLK 8 BUSINESS<br>CTR SUB RUN NWLY ALG<br>EXTEN NLI PIER ON 22.0000                          |
| RICHARD JOHN W TR<br>237 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH, FL 33931                               | 24-46-23-W3-00024.0000<br>201 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931                  | FROM NWLY COR BLK 8<br>BUSINESS CENTER SUBD RUN<br>NWLY ALG PROLONGATION OF                             |
| KIRIC INVESTMENTS INC<br>1522 PARK RD<br>WAYNESBORO, VA 22980  | 24-46-23-W3-00026.0000<br>645 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931                  | PAR LYING E OF SAN CARLOS<br>BLVD DESC OR 1534/1849<br>LESS CONDO/G/E PARCEL                            |
| FREELAND GEORGE T<br>4830 GRIFFIN BLVD<br>FORT MYERS, FL 33908   | 24-46-23-W3-00026.0020<br>450 HARBOR CT<br>FORT MYERS BEACH FL 33931                            | PARL IN SE 1/4<br>SEC 24 TWP 46 RGE 23<br>DESC OR 1447 PG 1434  |
| KIRIC INVESTMENTS INC<br>1522 PARK RD<br>WAYNESBORO, VA 22980  | 24-46-23-W3-00026.0030<br>441/445 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931              | BEG AT A CONC MONUMENT 3<br>FT SE OF SELY COR<br>MATANZAS VIEW RUN N 65 DE                              |
| SALVATORI LEO J TR<br>9132 STRADA PL 4TH FLR<br>NAPLES, FL 34108   | 24-46-23-W3-00201.0030<br>1025 SECOND ST<br>FORT MYERS BEACH FL 33931                           | BUSINESS CENTER<br>BLK 1 PB 9 PG 9<br>LOTS 3+4  |

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| <b>OWNER NAME AND ADDRESS</b>  | <b>STRAP AND LOCATION</b>  | <b>LEGAL DESCRIPTION</b>  |
|--|--|---|
| SALVATORI LEO J TR<br>9132 STRADA PL 4TH FLR<br>NAPLES, FL 34108               | 24-46-23-W3-00201.0070<br>1047/1049 SECOND ST<br>FORT MYERS BEACH FL 33931     | BUSINESS CENTER<br>BLK.1 PB9 PG 9 LOT 7<br>LESS R/W OR 2364/2893  |
| HOUSEBOAT LLC<br>237 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH, FL 33931         | 24-46-23-W3-00202.0010<br>440 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931 | BUSINESS CENTER<br>BLK 2 PB 9 PG 9<br>LOT 1   |
| HOUSEBOAT LLC<br>237 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH, FL 33931         | 24-46-23-W3-00202.0020<br>430 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931 | BUSINESS CENTER<br>BLK 2 PB 9 PG 9<br>LOT 2   |
| HOUSEBOAT LLC<br>237 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH, FL 33931         | 24-46-23-W3-00202.0030<br>420 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931 | BUSINESS CENTER<br>BLK.2 PB 9 PG 9<br>LOTS 3 4 5  |
| NAPPO JOSEPH + CHRISTINE<br>45 SAGAMORE AV<br>OCEANPORT, NJ 07757              | 24-46-23-W3-00202.0060<br>1011 THIRD ST<br>FORT MYERS BEACH FL 33931           | BUSINESS CENTER<br>BLK.2 PB 9 PG 9<br>LOT 6   |
| HOUSEBOAT LLC<br>237 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH, FL 33931         | 24-46-23-W3-00202.0090<br>1037/1039 THIRD ST<br>FORT MYERS BEACH FL 33931      | BUSINESS CENTER<br>BLK 2 PB 9 PG 9<br>LOTS 9 + 10   |
| 3 SUNS MANAGEMENT LLC<br>1051 THIRD ST<br>FORT MYERS BEACH, FL 33931           | 24-46-23-W3-00202.0110<br>1041 THIRD ST<br>FORT MYERS BEACH FL 33931           | BUSINESS CENTER<br>BLK 2 PB 9 PG 9<br>LOT 11  |
| 3 SUN MANAGEMENT LLC<br>1051 THIRD ST<br>FORT MYERS BEACH, FL 33931            | 24-46-23-W3-00202.0120<br>1051 THIRD ST<br>FORT MYERS BEACH FL 33931           | BUSINESS CENTER<br>BLK.2 PB 9 PG 9<br>LOT 12 LESS OR2325/0292   |
| SALVATORI LEO J TR<br>9132 STRADA PL 4TH FLR<br>NAPLES, FL 34108               | 24-46-23-W3-00202.0130<br>CORNER LOT<br>FORT MYERS BEACH FL 33931              | BUSINESS CENTER<br>BLK.2 PB 9 PG 9 LOTS 13 + 14<br>LESS R/W OR 2311/2803  |
| SALVATORI LEO J TR<br>9132 STRADA PL 4TH FLR<br>NAPLES, FL 34108               | 24-46-23-W3-00202.0150<br>1042/1044 SECOND ST<br>FORT MYERS BEACH FL 33931     | BUSINESS CENTER<br>BLK.2 PB 9 PG 9 LOT 15<br>LESS R/W OR 2311/2803  |
| PIERHOUSE-FT MYERS BEACH LTD<br>1000 ESTERO BLVD<br>FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00202.0180<br>1030 SECOND ST<br>FORT MYERS BEACH FL 33931          | BUSINESS CENTER<br>BLK.2 PB 9 PG 9<br>LOT 18  |
| HOUSEBOAT LLC<br>237 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH, FL 33931         | 24-46-23-W3-00202.0190<br>1010 SECOND ST<br>FORT MYERS BEACH FL 33931          | BUSINESS CENTER<br>BLK 2 PB 9 PG 9<br>LOT 19  |
| SOB INC<br>340 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH, FL 33931               | 24-46-23-W3-00203.0010<br>340 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931 | BUSINESS CENTER<br>BLK.3 PB 9 PG 9<br>LOT 1   |
| RICHARD JOHN W TR<br>237 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH, FL 33931     | 24-46-23-W3-00203.0020<br>320 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931 | BUSINESS CENTER<br>BLK 3 PB 9 PG 9<br>LOTS 2 THRU 6 + LTS 22 +23<br>+ POR OF VAC ST   |
| LIGHTHOUSE ISLAND RESORT INC<br>1051 5TH ST<br>FORT MYERS BEACH, FL 33931      | 24-46-23-W3-00203.0090<br>1041 FOURTH ST<br>FORT MYERS BEACH FL 33931          | BUSINESS CENTER<br>BLK 3 PB 9 PG 9<br>LOT 9<br>LESS OR 3176 PG 330  |
| LIGHTHOUSE ISLAND RESORT INC<br>1051 5TH ST<br>FORT MYERS BEACH, FL 33931      | 24-46-23-W3-00203.0100<br>1049 FOURTH ST<br>FORT MYERS BEACH FL 33931          | BUSINESS CENTER<br>BLK 3 PB 9 PG 9<br>LOTS 10-13 + 16-18  |
| LIGHTHOUSE ISLAND RESORT INC<br>1051 5TH ST<br>FORT MYERS BEACH, FL 33931      | 24-46-23-W3-00203.014A<br>1067 FOURTH ST<br>FORT MYERS BEACH FL 33931          | BUSINESS CENTER<br>BLK.3 PB9/9 LT 14 LESS PAR<br>3.014B R/W (OR2297/0492)   |
| RICHARD JOHN W<br>237 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH, FL 33931        | 24-46-23-W3-00203.0150<br>1060 THIRD ST<br>FORT MYERS BEACH FL 33931           | BUSINESS CENTER<br>BLK 3 PB 9 PG 9<br>LOT 15 LES R/W OR2353/3036  |
| LIGHTHOUSE ISLAND RESORT INC<br>1051 5TH ST<br>FORT MYERS BEACH, FL 33931      | 24-46-23-W3-00203.0190<br>1030 THIRD ST<br>FORT MYERS BEACH FL 33931           | BUSINESS CENTER<br>BLK 3 PB 9 PG 9<br>LOT 19<br>LESS OR 3176 PG 330   |
| TOWN OF FORT MYERS BEACH<br>PO BOX 3077<br>FORT MYERS BEACH, FL 33932          | 24-46-23-W3-00203.019A<br>THIRD ST<br>FORT MYERS BEACH FL 33931                | BUSINESS CENTER<br>BLK 3 PB 9 PG 9<br>LOT 19 AS DESC IN OR 3176 PG 330<br>BLDG ASSESSED ON 24-46-23-W3-00203.0190 AS<br>INCOME PARCEL TILL 2008 |

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|--|--|---|
| HOLLAND DENNIS TR<br>3933 MAALAEA BAY PL<br>WAILUKU, HI 96793  | 24-46-23-W3-00204.0030<br>200 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931 | BUSINESS CENTER<br>BLK 4 PB 9 PG 9 LTS 3 THRU<br>7 PT 8 + 9 + PT VAC ALLY               |
| LIGHTHOUSE ISLAND RESORT INC<br>1051 5TH ST<br>FORT MYERS BEACH, FL 33931                                  | 24-46-23-W3-00205.0060<br>1051 FIFTH ST<br>FORT MYERS BEACH FL 33931           | BUSINESS CTR BLK 5 PB 9<br>PG 9 LT 6 + 10 THRU 18 E<br>865R/W LESR/W OR2353/3036        |
| HUNTINGBURG PARTNERS LTD<br>D TODD MCGEE<br>STE 1203<br>5294 SUMMERLIN COMMONS WAY<br>FORT MYERS, FL 33907 | 24-46-23-W3-00205.0070<br>PARKING LOTS<br>FORT MYERS BEACH FL 33931            | BUSINESS CENTER<br>BLK 5 PB 935 PG 9<br>PT LOT 7 + LOTS 8 + 9                           |
| LEE COUNTY<br>PO BOX 398<br>FORT MYERS, FL 33902   | 24-46-23-W3-00206.0010<br>1113 ESTERO BLVD<br>FORT MYERS BEACH FL 33931        | BUSINESS CENTER<br>BLK 6 PB9 PG9 LTS 1-4 LESS<br>R/W + DESC OR 1904/4451                |
| RICHARD JOHN W<br>237 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH, FL 33931                                    | 24-46-23-W3-00206.0050<br>1054 FIFTH ST<br>FORT MYERS BEACH FL 33931           | BUSINESS CENTER<br>BLK 6 PB 9 PG 9<br>LOT 5 R/W OR 1154 PG 1510                         |
| HUNTINGBURG PARTNERS LTD<br>D TODD MCGEE<br>STE 1203<br>5294 SUMMERLIN COMMONS WAY<br>FORT MYERS, FL 33907 | 24-46-23-W3-00206.0060<br>1150-1180 FIFTH ST<br>FORT MYERS BEACH FL 33931      | BUSINESS CENTER<br>BLK 6 PB 9 PG 9<br>LOTS 6 THRU 9                                     |
| 150 SAN CARLOS BLVD CORP<br>OMG INC<br>408 BROADWAY<br>NEW YORK, NY 10013                                  | 24-46-23-W3-00207.0000<br>150 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931 | BUSINESS CENTER<br>BLK 7 PB 9 PG 9<br>ALL BLK 7   |
| TOWN OF FORT MYERS BEACH<br>PO BOX 3077<br>FORT MYERS BEACH, FL 33932                                      | 24-46-23-W3-00207.1000<br>150 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931 | BUSINESS CENTER R/W OF CENTER STREET<br>LYING BETWEEN BLK 7<br>BLK 7 PB 9 PG 9          |
| TAYLOR JAMES L + PAULA SUE<br>11022 WEST 109TH ST<br>OVERLAND PARK, KS 66210                               | 24-46-23-W3-00208.0010<br>80 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931  | BUSINESS CENTER<br>BLK.8 PB 9 PG 9<br>LOTS 1 + 2 LESS THE W 44                          |
| RICHARD JOHN W TR<br>237 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH, FL 33931                                 | 24-46-23-W3-00208.002A<br>50 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931  | BUSINESS CENTER<br>BLK 8 PB 9 PG 9<br>LOT PT 2  |
| BENSON BRADFORD J<br>927 PRESCOTT ST<br>FORT MYERS BEACH, FL 33931   | 24-46-23-W3-00208.0040<br>1021 ESTERO BLVD<br>FORT MYERS BEACH FL 33931        | BUSINESS CENTER<br>BLK.8 PB 9 PG 9<br>PT LOT 4 + ALL LOT 5                              |
| TOWN OF FORT MYERS BEACH<br>PO BOX 3077<br>FORT MYERS BEACH, FL 33932                                      | 24-46-23-W3-00208.004A<br>EASEMENT<br>FORT MYERS BEACH FL 33931                | PT LOT 4 AREA 2 SE 1/4<br>BUSINESS CENTER PB 9 PG 9<br>IN OR 297 P 427                  |
| PRIMEAU BEVERLY A TR EST<br>950 SAN CARLOS DR<br>FORT MYERS BEACH, FL 33931                                | 24-46-23-W3-00208.0060<br>1035 ESTERO BLVD<br>FORT MYERS BEACH FL 33931        | BUSINESS CENTER<br>BLK.8 PB 9 PG 9 LT 7 +<br>LOT 6 LESS WLY 6 FT LESS ROW OR3539 PG3351 |
| KROHN INVESTMENTS LLC<br>PO BOX 2518<br>FORT MYERS BEACH, FL 33932   | 24-46-23-W3-00208.0080<br>1028 FIFTH ST<br>FORT MYERS BEACH FL 33931           | BUSINESS CENTER<br>BLK 8 PB 9 PG 9<br>LOTS 8 + 9  |
| RFN CORP<br>2401 ESTERO BLVD<br>FORT MYERS BEACH, FL 33931   | 24-46-23-W3-00208.0100<br>1018 FIFTH ST<br>FORT MYERS BEACH FL 33931           | BUSINESS CENTER<br>BLK 8 PB 9 PG 9<br>LOT 10  |
| FREEMAN WILLIAM T + COLLEEN C<br>15341 KILBIRNIE DR<br>FORT MYERS, FL 33912                                | 24-46-23-W3-0030A.0010<br>401 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931 | MATANZAS VIEW<br>BLK A PB 9 PG 40<br>LOT 1  |
| FREEMAN WILLIAM T + COLLEEN C<br>15341 KILBIRNIE DR<br>FORT MYERS, FL 33912                                | 24-46-23-W3-0030A.0020<br>939 THIRD ST<br>FORT MYERS BEACH FL 33931            | MATANZAS VIEW<br>BLK A PB 9 PG 40<br>LOT 2  |
| GARDNER JOHN JOSEPH + MARSHA J<br>919 NORTH ST APT A<br>FORT MYERS BEACH, FL 33931                         | 24-46-23-W3-0030A.0030<br>935 THIRD ST<br>FORT MYERS BEACH FL 33931            | MATANZAS VIEW<br>BLK A PB 9 PG 40<br>LOT 3  |
| TURTURRO RACHEL<br>929 THIRD ST<br>FORT MYERS BEACH, FL 33931  | 24-46-23-W3-0030A.0040<br>929 THIRD ST<br>FORT MYERS BEACH FL 33931            | MATANZAS VIEW<br>BLK.A PB 9 PG 40<br>LOT 4  |
| HORN GWEN<br>923 THIRD ST APT A<br>FORT MYERS BEACH, FL 33931  | 24-46-23-W3-0030A.0050<br>923 THIRD ST<br>FORT MYERS BEACH FL 33931            | MATANZAS VIEW<br>BLK A PB 9 PG 40<br>LOT 5  |

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|---|--|---|
| HOULIHAN MAURICE + MARY<br>917 THIRD ST<br>FORT MYERS BEACH, FL 33931   | 24-46-23-W3-0030A.0060<br>917 THIRD ST<br>FORT MYERS BEACH FL 33931                | MATANZAS VIEW<br>BLK.A PB 9 PG 40<br>LOT 6  |
| RICHARD JOHN W TR<br>237 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH, FL 33931  | 24-46-23-W3-0030B.0010<br>940 THIRD ST<br>FORT MYERS BEACH FL 33931                | MATANZAS VIEW<br>BLK.B PB 9 PG 40<br>LOT 1  |
| TOMAILO FRANKLIN L + GLORIA J<br>934 THIRD ST<br>FORT MYERS BEACH, FL 33931   | 24-46-23-W3-0030B.0020<br>934 THIRD ST<br>FORT MYERS BEACH FL 33931                | MATANZAS VIEW<br>BLK.B PB 9 PG 40<br>LOT 2  |
| SCHULZ AXEL + CORNELIA<br>926 THIRD ST<br>FORT MYERS BEACH, FL 33931  | 24-46-23-W3-0030B.0030<br>932 THIRD ST<br>FORT MYERS BEACH FL 33931                | MATANZAS VIEW<br>BLK B PB 9 PG 40<br>LOTS 3 + 4   |
| CLAYTON KATHRYN BEBEANNE TR<br>920 THIRD ST<br>FORT MYERS BEACH, FL 33931   | 24-46-23-W3-0030B.0050<br>920 THIRD ST<br>FORT MYERS BEACH FL 33931                | MATANZAS VIEW<br>BLK.B PB 9 PG 40<br>LOT 5  |
| FOSTER STEPHEN ALLEN TR<br>914 THIRD ST<br>FORT MYERS BEACH, FL 33931   | 24-46-23-W3-0030B.0060<br>914 THIRD ST<br>FORT MYERS BEACH FL 33931                | MATANZAS VIEW<br>BLK B PB 9 PG 40<br>LOT 6  |
| TYRELL PETER 1/2 +<br>LITTLE HEATH HOUSE<br>SHEETHANGER LANE - FELDEN<br>HEMEL HEMPSTEAD HP3 0BG,<br>UNITED KINGDOM | 24-46-23-W3-0030B.0070<br>910 THIRD ST<br>FORT MYERS BEACH FL 33931                | MATANZAS VIEW<br>BLK B PB 9 PG 40<br>LOT 7  |
| RICHARD JOHN W TR<br>237 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH, FL 33931  | 24-46-23-W3-0050A.0010<br>343 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931     | ISLAND SHORES UNIT 2<br>BLK.A PB 9 PG 25<br>LOTS 1 + 2  |
| RICHARD JOHN W TR<br>237 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH, FL 33931  | 24-46-23-W3-0050A.0080<br>237 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931     | ISLAND SHORES UNIT 2<br>BLK.A PB 9 PG 25<br>LOTS 3 THRU 12 + VAC LAGOON R/W<br>OR2858/1391 + OR2660/2863 +2736/3702 |
| GROSS WAYNE +<br>185 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH, FL 33931  | 24-46-23-W3-0050A.0130<br>185 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931     | ISLAND SHORES UNIT 2<br>BLK A PB 9 PG 25<br>LOT 13 + PT LOT 14  |
| MAY S E<br>PO BOX 61176<br>FORT MYERS, FL 33906   | 24-46-23-W3-0050A.0140<br>163 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931     | ISLAND SHORES UNIT 2<br>BLK A PB 9 PG 25<br>PT LOT 14 + LOT 15  |
| JENKINS GEORGE D L<br>PO BOX 280<br>TILLSONBURG, ON N4G 4H5<br>CANADA   | 24-46-23-W3-0050A.016A<br>159/161 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2<br>BLK.A PB 9 PG 25<br>LOTS 16 + PT OF LT 17   |
| 151 OLD SAN CARLOS LLC<br>17840 SAN CARLOS BLVD<br>FORT MYERS BEACH, FL 33931                                       | 24-46-23-W3-0050A.018A<br>151 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931     | ISLAND SHORES UNIT 2<br>BLK.A PB 9 PG 25<br>LOTS PT 18 + 19   |
| KEELER VIOLET RUTH TR<br>16243 CHARLESTON AVE<br>FORT MYERS, FL 33908   | 24-46-23-W3-0050A.018B<br>959/963 ESTERO BLVD<br>FORT MYERS BEACH FL 33931         | ISLAND SHORES UNIT 2<br>BLK A<br>PT LOTS 17 18 + 19   |
| LISAY STEVEN E + CATHERINE M<br>925 ESTERO BLVD<br>FORT MYERS BEACH, FL 33931                                       | 24-46-23-W3-0050A.0200<br>925 ESTERO BLVD<br>FORT MYERS BEACH FL 33931             | ISLAND SHORES UNIT 2<br>BLK A PB 9 PG 25<br>LOTS 20 THRU 26   |
| HOLBROOK LESLIE E +<br>5353 ST ROUTE 288<br>GALION, OH 44833  | 24-46-23-W3-0050A.032A<br>859 LAGOON ST<br>FORT MYERS BEACH FL 33931               | ISLAND SHORES UNIT 2<br>BLK.A PB 9 PG 25<br>NWLY 40 FT LOT 32   |
| PURTELL JAMES F +<br>JON R GUILLES<br>PO BOX 2706<br>FORT MYERS BEACH, FL 33932                                     | 24-46-23-W3-0050A.0330<br>855 LAGOON ST<br>FORT MYERS BEACH FL 33931               | ISLAND SHORES UNIT 2<br>BLK.A PB 9 PG 25<br>LOT 33  |
| ARTRIP CHARLES J + BARBARA K<br>851 LAGOON ST<br>FORT MYERS BEACH, FL 33931   | 24-46-23-W3-0050A.0340<br>849/851 LAGOON ST<br>FORT MYERS BEACH FL 33931           | ISLAND SHORES UNIT 2<br>BLK.A PB 9 PG 25<br>LOT 34  |
| SAND CASTLE BEACH CLUB CONDO<br>905 ESTERO BLVD<br>FORT MYERS BEACH, FL 33931                                       | 24-46-23-W3-02500.00CE<br>HDR: SAND CASTLE<br>FORT MYERS BEACH FL 33931            | SAND CASTLE BEACH CLUB<br>A TIME-SHARE<br>COMMOM AREA<br>DESC OR 1463<br>PG 2328 + CPB 6 PG 230                     |

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| <b>OWNER NAME AND ADDRESS</b>   | <b>STRAP AND LOCATION</b>  | <b>LEGAL DESCRIPTION</b>   |
|---|--|--|
| SAND CASTLE BEACH CLUB<br>905 ESTERO BLVD<br>FORT MYERS BEACH, FL 33931         | 24-46-23-W3-02500.1010<br>905 ESTERO BLVD<br>FORT MYERS BEACH FL 33931             | SAND CASTLE BEACH CLUB<br>A TIME-SHARE OR1463-2328<br>UNITS 101-215 / 29 UNITS |
| MARINA VILLAGE AT SNUG HARBOR<br>PO BOX 2430<br>FORT MYERS BEACH, FL 33932      | 24-46-23-W3-02800.00CE<br>OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931         | MARINA VILLAGE AT SNUG<br>HARBOR CONDO<br>COMMON ELEMENT PARCELS               |
| HARBOUR HOUSE AT THE INN  | 24-46-23-W3-04200.00CE<br>450 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH FL 33931     | HARBOUR HOUSE AT THE INN<br>DESC IN INST #2010000012068<br>COMMON ELEMENT      |
| BERG JAMES A + AMANDA A<br>13967 78TH ST NE<br>HOOPLE, ND 58243                 | 24-46-23-W3-04200.0201<br>450 OLD SAN CARLOS BLVD 201<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT 201         |
| BERG JAMES A + AMANDA A<br>13967 78TH ST NE<br>HOOPLE, ND 58243                 | 24-46-23-W3-04200.0202<br>450 OLD SAN CARLOS BLVD 202<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT 202         |
| OLD SAN CARLOS INN DEVELOPMENT<br>416 CRESCENT ST<br>FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.0203<br>450 OLD SAN CARLOS BLVD 203<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT 203         |
| OLD SAN CARLOS INN DEVELOPMENT<br>416 CRESCENT ST<br>FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.0204<br>450 OLD SAN CARLOS BLVD 204<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT 204         |
| GHANEM GEORGE + ROSE<br>12891 TERABELLA WAY<br>FORT MYERS, FL 33912             | 24-46-23-W3-04200.0205<br>450 OLD SAN CARLOS BLVD 205<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT 205         |
| BEASLEY MARK E + JULIE A<br>6872 DABNEY ST<br>FORT MYERS, FL 33966              | 24-46-23-W3-04200.0206<br>450 OLD SAN CARLOS BLVD 206<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT 206         |
| GEZZER GEORGE M<br>5520 BRIAR LN<br>WHITEHALL, PA 18052                         | 24-46-23-W3-04200.0207<br>450 OLD SAN CARLOS BLVD 207<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT 207         |
| WILHELM THOMAS D + LYNNE E N<br>1303 PALISADES DR<br>APPLETON, WI 54915         | 24-46-23-W3-04200.0208<br>450 OLD SAN CARLOS BLVD 208<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT 208         |
| ADVANTAIRA TRUST LLC<br>4753 ESTERO BLVD #1103<br>FORT MYERS BEACH, FL 33931    | 24-46-23-W3-04200.0209<br>450 OLD SAN CARLOS BLVD 209<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT 209         |
| MOORE BOB D<br>128 FRONT ST<br>RIPLEY, OH 45167                                 | 24-46-23-W3-04200.0210<br>450 OLD SAN CARLOS BLVD 210<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT 210         |
| SAWYER RICHARD R TR<br>8401 ESTERO BLVD #401<br>FORT MYERS BEACH, FL 33931      | 24-46-23-W3-04200.0211<br>450 OLD SAN CARLOS BLVD 211<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT 211         |
| E + L HOMES LLC<br>1528 WINCHELL CT<br>EAST LANSING, MI 48823                   | 24-46-23-W3-04200.0212<br>450 OLD SAN CARLOS BLVD 212<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT 212         |
| OLD SAN CARLOS INN DEVELOPMENT<br>416 CRESCENT ST<br>FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.0213<br>450 OLD SAN CARLOS BLVD 213<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT 213         |
| OLD SAN CARLOS INN DEVELOPMENT<br>416 CRESCENT ST<br>FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.0214<br>450 OLD SAN CARLOS BLVD 214<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT 214         |
| SERRA LUIGI<br>26 SEQUOIA RD<br>WOODBIDGE, ON L4H 1W6<br>CANADA                 | 24-46-23-W3-04200.0215<br>450 OLD SAN CARLOS BLVD 215<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT 215         |
| OLD SAN CARLOS INN DEVELOPMENT<br>416 CRESCENT ST<br>FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.0216<br>450 OLD SAN CARLOS BLVD 216<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT 216         |
| OLD SAN CARLOS INN DEVELOPMENT<br>416 CRESCENT ST<br>FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.0217<br>450 OLD SAN CARLOS BLVD 217<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT 217         |

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PROVENZANO FRANK R + KELLY L  
2725 LOMBARDY CRES  
LASALLE, ON N9H 2L8  
CANADA

24-46-23-W3-04200.0301  
450 OLD SAN CARLOS BLVD 301  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT 301

SOLANS ENRIC + ANTOINETTE  
1821 BOULDER DR  
MOUNT PROSPECT, IL 60056

24-46-23-W3-04200.0302  
450 OLD SAN CARLOS BLVD 302  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT 302

SOLER JOHN H + SANDRA G  
2363 WOODLAND DR  
ALLENTOWN, PA 18103

24-46-23-W3-04200.0303  
450 OLD SAN CARLOS BLVD 303  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT 303

HOWARD GREGORY A  
PO BOX 44650  
DETROIT, MI 48244

24-46-23-W3-04200.0304  
450 OLD SAN CARLOS BLVD 304  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT 304

KNISELY JAMES E + DEBRA M  
3501 UNIVERSITY DR NE  
NEW PHILADELPHIA, OH 44663

24-46-23-W3-04200.0305  
450 OLD SAN CARLOS BLVD 305  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT 305

ADVANTAIRA TRUST LLC  
914 MONTICELLO DR  
NAPERVILLE, IL 60563

24-46-23-W3-04200.0306  
450 OLD SAN CARLOS BLVD 306  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT 306

WHALLEY CHERYL M  
PO BOX 65  
ARVA, ON N0M 1C0  
CANADA

24-46-23-W3-04200.0307  
450 OLD SAN CARLOS BLVD 307  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT 307

POTLATCH DEVELOPMENTS LLC  
131 GULF ISLAND DR  
FORT MYERS BEACH, FL 33931

24-46-23-W3-04200.0308  
450 OLD SAN CARLOS BLVD 308  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT 308

OBERG JAMES + AMANDA  
13967 78TH ST NE  
HOOPLE, ND 58243

24-46-23-W3-04200.0309  
450 OLD SAN CARLOS BLVD 309  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT 309

JAMIESON JAMES J + SHARON R  
131 GULF ISLAND DR  
FORT MYERS BEACH, FL 33931

24-46-23-W3-04200.0310  
450 OLD SAN CARLOS BLVD 310  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT 310

CAMPBELL GORDON + PAULETTE  
311 CAVENDISH DR  
ANCASTER, ON L9G 3Z1  
CANADA

24-46-23-W3-04200.0311  
450 OLD SAN CARLOS BLVD 311  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT 311

FRASCHETTI EDWARD TR  
4358 KINGS FOREST BLVD  
RICHFIELD, OH 44286

24-46-23-W3-04200.0312  
450 OLD SAN CARLOS BLVD 312  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT 312

IMPACT USA INC  
19540 PROGRESS DR  
STRONGSVILLE, OH 44149

24-46-23-W3-04200.0313  
450 OLD SAN CARLOS BLVD 313  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT 313

IMPACT USA INC  
19540 PROGRESS DR  
STRONGSVILLE, OH 44149

24-46-23-W3-04200.0314  
450 OLD SAN CARLOS BLVD 314  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT 314

FRASCHETTI EDWARD TR  
4358 KINGS FOREST BLVD  
RICHFIELD, OH 44286

24-46-23-W3-04200.0315  
450 OLD SAN CARLOS BLVD 315  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT 315

BAHLKE WILLIAM P + ALMEDA A  
201 SE 2ND AVE # 316  
GAINESVILLE, FL 32601

24-46-23-W3-04200.0316  
450 OLD SAN CARLOS BLVD 316  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT 316

CIARAMITA PETER J + LYNNE TR  
6311 BALD EAGLE RD  
RACINE, WI 53406

24-46-23-W3-04200.0317  
450 OLD SAN CARLOS BLVD 317  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT 317

MILLER BRIAN  
112 MILLER RD  
SPRING MILLS, PA 16875

24-46-23-W3-04200.0318  
450 OLD SAN CARLOS BLVD 318  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT 318

T + J HOMES SWFL LLC  
450 OLD SAN CARLOS BLVD #G101  
FORT MYERS BEACH, FL 33931

24-46-23-W3-04200.G101  
450 OLD SAN CARLOS BLVD  
G101  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT G101

OLD SAN CARLOS INN DEVELOPMENT  
416 CRESCENT ST  
FORT MYERS BEACH, FL 33931

24-46-23-W3-04200.G102  
450 OLD SAN CARLOS BLVD  
G102  
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN  
AS DESC IN INST #2010000012068  
UNIT G102

FORT MYERS BEACH FL 33931

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|---|--|--|
| OLD SAN CARLOS INN DEVELOPMENT<br>416 CRESCENT ST<br>FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.G103<br>450 OLD SAN CARLOS BLVD<br>G103<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT G103  |
| OLD SAN CARLOS INN DEVELOPMENT<br>416 CRESCENT ST<br>FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.G104<br>450 OLD SAN CARLOS BLVD<br>G104<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT G104  |
| OLD SAN CARLOS INN DEVELOPMENT<br>416 CRESCENT ST<br>FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.G105<br>450 OLD SAN CARLOS BLVD<br>G105<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT G105  |
| OLD SAN CARLOS INN DEVELOPMENT<br>416 CRESCENT ST<br>FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.G106<br>450 OLD SAN CARLOS BLVD<br>G106<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT G106  |
| OLD SAN CARLOS INN DEVELOPMENT<br>416 CRESCENT ST<br>FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.G107<br>450 OLD SAN CARLOS BLVD<br>G107<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT G107  |
| OLD SAN CARLOS INN DEVELOPMENT<br>416 CRESCENT ST<br>FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.G108<br>450 OLD SAN CARLOS BLVD<br>G108<br>FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN<br>AS DESC IN INST #2010000012068<br>UNIT G108  |
| RICHARD JOHN W L/E<br>237 OLD SAN CARLOS BLVD<br>FORT MYERS BEACH, FL 33931     | 19-46-24-W4-0150E.0090<br>202 CRESCENT ST<br>FORT MYERS BEACH FL 33931                 | CRESCENT PARK ADD BLK E<br>PB 4 PG 46 LOTS 9 10 + VAC<br>+ LAND ADJ LESR/W2353/3036  |
| RUDISILL GLENN E + NANCY A<br>3290 E BERLIN RD<br>YORK, PA 17408                | 19-46-24-W4-0150E.0110<br>250 CRESCENT ST<br>FORT MYERS BEACH FL 33931                 | CRESCENT PARK ADD BLK E<br>PB 4/46 LT 11 + VAC R/W<br>+ LAND ADJ CANAL LESS R/W  |
| RUDISILL GLENN E + NANCY A<br>3290 E BERLIN RD<br>YORK, PA 17408                | 19-46-24-W4-0150E.0120<br>270 CRESCENT ST<br>FORT MYERS BEACH FL 33931                 | CRESCENT PARK ADD BLK E<br>PB 4/46 LT 12 VAC R/W +<br>LAND ADJ CANAL LESS R/W<br>DESC IN OR 2319/4512                      |
| GRANT JOSEPH H + DORIS M<br>320 CRESCENT ST<br>FORT MYERS BEACH, FL 33931       | 19-46-24-W4-0150E.0130<br>300 CRESCENT ST<br>FORT MYERS BEACH FL 33931                 | CRESCENT PARK ADD BLK E<br>PB 4 PG 46 LOT13+E40 FT LT<br>14+VAC LES R/W OR2366/2077  |
| GRANT JOE H<br>320 CRESCENT ST<br>FORT MYERS BEACH, FL 33931                    | 19-46-24-W4-0150E.014B<br>320 CRESCENT ST<br>FORT MYERS BEACH FL 33931                 | CRESCENT PARK ADD BLK E<br>PB 4 PG 46 W 60 FT LT 14 +<br>LT 15 + VAC R/W + ADJ LESS<br>R/W DESC IN OR 2363/1290            |
| LIGHTHOUSE ISLAND RESORT INC<br>1051 5TH ST<br>FORT MYERS BEACH, FL 33931       | 19-46-24-W4-0150E.016A<br>332 CRESCENT ST<br>FORT MYERS BEACH FL 33931                 | CRESCENT PARK ADD BLK E<br>PB 4 PG 46 LOT16+VAC R/W +LAND ADJ CANAL  |
| REICH EUGENE E + DORIS F TR<br>340 CRESCENT ST<br>FORT MYERS BEACH, FL 33931    | 19-46-24-W4-0150E.0170<br>340 CRESCENT ST<br>FORT MYERS BEACH FL 33931                 | CRESCENT PK ADD BLK E PB<br>4/46 LT 17 + S 20 FT OF LT<br>18 + VAC R/W LESS ROAD<br>OR 2328/3484                           |
| BARR STANTON TR<br>9851 CLYDE RD<br>FENTON, MI 48430                            | 19-46-24-W4-0150E.0190<br>402/406 CRESCENT ST<br>FORT MYERS BEACH FL 33931             | CRESCENT PARK ADD BLK E<br>PB 4 PG 46 N 30 FT LOTS 18 + 19<br>+ S 30 FT LOT 20 LESS R/W 2353/3036<br>LESS R/W OR 2370/0201 |
| SALVATORI LEO J TR<br>9132 STRADA PL 4TH FLR<br>NAPLES, FL 34108                | 19-46-24-W4-0150E.0210<br>414/416 CRESCENT ST<br>FORT MYERS BEACH FL 33931             | CRESCENT PARK ADDN BLK E<br>PB4/46 PT LTS 20THRU25LT<br>26 LES R/W OR 2353 PG 3036 +<br>OR 3189 PG 3751                    |

# VARIANCE REPORT

3/28/2013

Subject Parcels: 1 Affected Parcels: 129 Buffer Distance: 500 ft



24-46-23-W3-00204.0010

26998.7632.66.25 0

265 Feet

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ALL-STATE LEGAL  
**EXHIBIT**  
5-7  
MAD