

RESOLUTION OF THE LOCAL PLANNING AGENCY
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2013-018
REZ2013-0002 – Shipwreck Rezoning

WHEREAS, Beverly Grady, authorized agent for the owner of property located at 237, 245, 309, 320, and 330 Old San Carlos Boulevard Fort Myers Beach, Florida has requested to rezone two parcels from Commercial Planned Development zoning to the DOWNTOWN zoning district; and

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

WHEREAS, the STRAP numbers for the subject property are 24-46-23-W3-00203.0020 and 24-46-23-W3-0050A.0080 and the legal description is attached as *Exhibit A*; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on November 12, 2013; and

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

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

The LPA recommends the Town Council **APPROVE/DENY** the request to rezone two parcels from Commercial Planned Development to the DOWNTOWN zoning district.

RECOMMENDED FINDINGS AND CONCLUSIONS

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

- a. *Whether there exists an error or ambiguity which must be corrected.*
Staff does not find that any errors or ambiguity exist surrounding the subject property and its zoning category that require correction. **APPROVE/DENY**
- b. *Whether there exist changed or changing conditions which make approval of the request appropriate.*
The only changed condition that exists which supports the applicant's request for rezoning is the existence of the DOWNTOWN zoning district. At the time of the Rusty's CPD approval, the Town had not yet developed Town-specific zoning districts. Now that the DOWNTOWN district exists the applicant is requesting this rezoning. **APPROVE/DENY**
- c. *The impact of a proposed change on the intent of Chapter 34 of the Fort Myers Beach Land Development Code.*
Staff does not anticipate that the proposed rezoning from CPD to DOWNTOWN will have any negative impact on the intent of Chapter 34. **APPROVE/DENY**

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

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

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

The applicant has not submitted a plan for redevelopment with this request for rezoning. They have indicated to Staff there is no immediate intention to redevelop any portion of the subject property, merely a desire to obtain DOWNTOWN zoning. The applicant is aware that by requesting this action they are losing all approvals to deviate from code requirements and any approval for density above and beyond code requirements. The Town retains land and property development controls, including but not limited to Section 34-671: DOWNTOWN zoning district regulations, Section 34-677: Commercial Design Standards; FEMA flood elevation and substantial improvement compliance, and other sections of the Land Development Code. Any redevelopment will be subject to reviews utilizing the applicable specific land use regulations. **APPROVE/DENY**

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

Urban services including water, sewer, and electric are available at the subject property. Any redevelopment or increase in density or intensity at the subject property will necessitate a thorough stormwater management plan and review prior to any permit or use approvals. **APPROVE/DENY**

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

As existing commercially zoned and developed lots located in the Downtown Core Area along Old San Carlos Boulevard, the subject property does not include any sensitive and/or environmentally critical lands. However, should these parcels be redeveloped with uses as permitted within the DOWNTOWN zoning district, all applicable environmental codes including but not limited to Sea Turtle lighting requirement as found in LDC Section 14-79 must be met. **APPROVE/DENY**

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

With its central location within the Downtown Core Area, the subject property's proposed change from CPD to DOWNTOWN zoning is clearly compatible with existing and planned uses. The Town does, however, retain land and property development controls, including but not limited to Section 34-671: DOWNTOWN zoning district regulations, Section 34-677: Commercial Design Standards; FEMA flood elevation and substantial improvement compliance, and other sections of the Land Development Code. Any redevelopment will be subject to reviews utilizing the applicable specific land use regulations. **APPROVE/DENY**

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

As evidenced by recent requests for zoning changes, Town Council has determined that the appropriate time to study traffic impacts is at the time of redevelopment or development order. The applicant has indicated there are no current plans for redevelopment. The continuation of existing uses, therefore, will not increase any traffic burden on local streets or other local services or facilities.

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

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

| | | | |
|------------------|---------|--------------------------|---------|
| Hank Zuba, Chair | AYE/NAY | Joanne Shamp, Vice Chair | AYE/NAY |
| Al Durrett | AYE/NAY | John Kakatsch | AYE/NAY |
| Jane Plummer | AYE/NAY | Jim Steele | AYE/NAY |
| Chuck Bodenhafer | AYE/NAY | | |

DULY PASSED AND ADOPTED THIS **12th** day of **NOVEMBER, 2013**.

Local Planning Agency of the Town of Fort Myers Beach

By: _____
Hank Zuba, LPA Chair

Approved as to legal sufficiency:

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

ATTEST:

By: _____
Michelle Mayher
Town Clerk

RESOLUTION OF THE LOCAL PLANNING AGENCY
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2013-019
SEZ2013-0006 – Shipwreck Special Exception

WHEREAS, Beverly Grady, authorized agent for the owner of property located at 237, 245, 309, 320, and 330 Old San Carlos Boulevard Fort Myers Beach, Florida has requested a special exception to add 'Retail Store, large,' and 'Wholesale' to the North parcel of the subject property and 'Parking lot, shared permanent' and 'Retail Store, large' to the South parcel of the subject property as permitted uses on the subject property; and

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

WHEREAS, the STRAP numbers for the subject property are 24-46-23-W3-00203.0020 and 24-46-23-W3-0050A.0080 and the legal description is attached as *Exhibit A*; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on November 12, 2013; and

WHEREAS, at the hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the file, and the testimony of all interested persons, as required by the Fort Myers Beach Land Development Code Section 34-88;

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

The LPA recommends the Town Council **APPROVE/DENY** the request for a Special Exception to allow 'Retail Store, large,' and 'Wholesale' for the North parcel of the subject property and 'Parking lot, shared permanent' and 'Retail Store, large' for the South parcel of the subject property as permitted uses.

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/do not** exist that make the requested approval, as conditioned, appropriate;
2. The requested special exception, as conditioned, **is/is not** consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan;
3. The requested special exception, as conditioned, **meets or exceeds/does not meet or exceed** all performance and locational standards set forth for the proposed use;
4. The requested special exception, as conditioned, **will/will not** protect, conserve, or preserve environmentally critical areas and natural resources;

5. The requested special exception, as conditioned, **will/will not** be compatible with existing or planned uses and **will/ will not** cause damage, hazard, nuisance or other detriment to persons or property;
6. The requested special exception, as conditioned, **will/will not** be in compliance with the applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34.

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

| | | | |
|------------------|---------|--------------------------|---------|
| Hank Zuba, Chair | AYE/NAY | Joanne Shamp, Vice Chair | AYE/NAY |
| Al Durrett | AYE/NAY | John Kakatsch | AYE/NAY |
| Jane Plummer | AYE/NAY | Jim Steele | AYE/NAY |
| Chuck Bodenhafer | AYE/NAY | | |

DULY PASSED AND ADOPTED THIS **12th** day of **NOVEMBER, 2013**.

Local Planning Agency of the Town of Fort Myers Beach

By: _____
Hank Zuba, LPA Chair

Approved as to legal sufficiency:

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

ATTEST:

By: _____
Michelle Mayher
Town Clerk

RESOLUTION OF THE LOCAL PLANNING AGENCY
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2013-020
VAR2013-0007 – Shipwreck Variance

WHEREAS, Beverly Grady, authorized agent for the owner of property located at 237, 245, 309, 320, and 330 Old San Carlos Boulevard Fort Myers Beach, Florida has requested a variance from Section 34-676(b) parking lot location to permit off-street parking in the side yard as depicted on the site plan *Exhibit E* and for a variance from Table 10-8 from a Type D buffer for Old San Carlos and from Third Street to permit the existing conditions (i.e. no buffer); and

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

WHEREAS, the STRAP number for the subject property is 24-46-23-W3-00203.0020 and the legal description is attached as *Exhibit A*; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on November 12, 2013; and

WHEREAS, at the hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the file, and the testimony of all interested persons, as required by the Fort Myers Beach Land Development Code Section 34-87;

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

The LPA recommends the Town Council **APPROVE/DENY** the request for a variance from Section 34-676(b), parking lot location, to permit off-street parking in the side yard as depicted on the site plan *Exhibit E* and **APPROVE/DENY** a request for a variance from Table 10-8 from a Type D buffer for Old San Carlos and from Third Street to permit the existing conditions (i.e. no buffer).

RECOMMENDED CONDITIONS:

1. That the applicant installs a Type D buffer where the width is reduced to 5' rather than the full 15'.

RECOMMENDED FINDINGS AND CONCLUSIONS:

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

- a. There **are/are not** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is/is not** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- b. The conditions justifying the variance **are/are not** the result of actions of the applicant taken after the adoption of the regulation in question.

- c. The variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.
- d. The granting of the variance **will/will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.
- e. The conditions or circumstances on the specific piece of property for which the variance is sought **are/are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

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

| | | | |
|------------------|---------|--------------------------|---------|
| Hank Zuba, Chair | AYE/NAY | Joanne Shamp, Vice Chair | AYE/NAY |
| Al Durrett | AYE/NAY | John Kakatsch | AYE/NAY |
| Jane Plummer | AYE/NAY | Jim Steele | AYE/NAY |
| Chuck Bodenhafer | AYE/NAY | | |

DULY PASSED AND ADOPTED THIS **12th** day of **NOVEMBER, 2013**.

Local Planning Agency of the Town of Fort Myers Beach

By: _____
Hank Zuba, LPA Chair

Approved as to legal sufficiency:

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

ATTEST:

By: _____
Michelle Mayher
Town Clerk



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TYPE OF CASE: Conventional Rezoning
Special Exception
Variance

CASE NUMBER: REZ2013-0002
SEZ2013-0006
VAR2013-0007

LPA HEARING DATE: November 12, 2013

LPA HEARING TIME: 9:00 AM

I. APPLICATION SUMMARY

Applicant: John W. Richard, Trustee
Beverly Grady, Esq, authorized agent

Request: REZ2013-0002 - To rezone two parcels from Commercial Planned Development zoning to the DOWNTOWN zoning district
SEZ2013-0006 - to add to the North parcel the following uses:

1. Retail Store, large, as defined in LDC Chapter 34 as gross floor area larger than 5,000 square feet
2. Wholesale

To add to the South parcel the following uses:

1. Parking lot, shared and permanent, on the South parcel
2. Retail Store, large , on the South parcel as permitted uses on the subject property

VAR2013-0007 - to request a variance from

1. Section 34-676(b) parking lot location to permit off-street parking in the front and side yard as depicted on the site plan *Exhibit E*
2. A variance from Table 10-8 from a Type D buffer for Old San Carlos and from Third Street to existing conditions

Subject property: *See Exhibit A*

Physical Address: 237, 245, 309, 320, and 330 Old San Carlos Boulevard

STRAP #: 24-46-23-W3-00203.0020
24-46-23-W3-0050A.0080

FLU: Pedestrian Commercial

Zoning: Commercial Planned Development

Current use(s): Mixed Uses: Hotel/Motel, Office, Retail, Restaurants with COP, Wholesale, Parking

Adjacent zoning and land uses:

North: DOWNTOWN
Pedestrian Commercial

South: DOWNTOWN
Pedestrian Commercial

East: DOWNTOWN
Pedestrian Commercial

West: DOWNTOWN
Pedestrian Commercial

II. BACKGROUND AND ANALYSIS

Background:

Prior to incorporation as a Town in 1995, planning and zoning on Fort Myers Beach was under the jurisdiction of Lee County and was governed by the Lee County Land Development Code. When the Town first incorporated, Lee County's Comprehensive Plan, Future Land Use Map (FLUM), Land Development Code (LDC) and zoning maps were adopted by the Town. These documents were the Town's interim land development regulations until such time that Town Staff, after citizen input, could draft a new Comprehensive Plan, FLUM, LDC and official zoning map for adoption by the Town Council.

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

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

The subject property, consisting of two parcels with street addresses of 237, 245, 309, 320, and 330 Old San Carlos Boulevard, is located in the Downtown Core Area of Fort Myers Beach, traditionally the location of more intensive commercial uses.

Around the time of incorporation, and with the uncertainty of what Town-specific zoning and land use might look like, some Times Square/downtown core area land owners opted to rezone their properties to Commercial Planned Development in an attempt to retain

densities, intensities, or specific uses. The subject property was included in one of these rezonings known as Rusty's CPD. The Rusty's CPD was originally approved by Town Council in 2001 in Resolution 01-03 (see *Exhibit B*). The CPD was further administratively amended in 2002 by ADD2002-00089A to add a development phase that has since been constructed.

There are three requests being covered by three applications for the subject property;

- 1) a request to rezone both parcels of the subject property from Commercial Planned Development (CPD) to DOWNTOWN, and
- 2) a request for a special exception to allow 'Retail Store, large,' which is defined in LDC Chapter 34 as a retail store with a gross floor area larger than 5,000 square feet, and 'Wholesale' as uses to the North parcel and to allow 'Parking lot, shared and permanent' and 'Retail Store, large' as uses on the South parcel of the subject property
- 3) A request for a variance from Section 34-676(b) to permit off street parking in the front and side yards; and from Table 10-8 which requires a Type D buffer to permit existing conditions

Since all three requests are closely related Staff felt the best way to provide a review was in one comprehensive Staff Report. However, there must be a separate recommendation and subsequent resolution for each request.

Analysis:

REZ2013-0002

The first request being considered, REZ2013-0002, is to rezone the subject property from Commercial Planned Development (CPD) to DOWNTOWN. As previously stated in the Background section, the original zoning to CPD was granted in 2001 by Lee County (see *Exhibit B*).

Generally speaking, Staff is in support of the applicant's request to rezone from CPD to DOWNTOWN. The subject property is located on Old San Carlos Boulevard in the Downtown Core Area. The existing uses on the subject property are compatible with the surrounding development and consistent with the Future Land Use designation of Pedestrian Commercial.

Under CPD zoning, any development on the subject property must be in compliance with the Master Concept Plan (see *Exhibit C*). Master Concept Plans (MCP) and their phases, however, are subject to expiration if development is not commenced within a certain period of time. Should this MCP expire, the property owner must apply through a public hearing process to reinstate the MCP. By requesting this rezoning the applicant is also requesting additional flexibility in their timeline for redevelopment. Additionally, any new development or redevelopment that results in substantial improvement will require compliance with the Commercial Design Standards found in Article III Division 7 of Chapter 34 of the LDC.

By requesting this rezoning, the applicant is aware that numerous deviations for height, parking dimensions, hotel/motel density, etc (see *Exhibit B*) will become null and void. Any future development on the subject property must comply with all rules and regulations set

forth in Chapter 34 of the LDC including, but not limited to, the Commercial Design Standards.

It is important to note that the DOWNTOWN district is the Town's most permissive district, and allows the widest variety of uses with the least amount of buffering, setbacks, and other similar property development regulations (see LDC Table 34-1). This clearly is a zoning district that is particularly suited to a future land use, such as Pedestrian Commercial, that encourages a pedestrian-oriented commercial environment. Future land use and zoning, whenever possible, should be compatible and operate to further the intent of each other; because future land use is a goal that is achieved through the structure of zoning regulations.

The Old San Carlos Boulevard/Crescent Street Master Plan from 1999 lays out a vision for the future of the Old San Carlos corridor. It begins by stating that Old San Carlos is poised for a renaissance, with a sense that the vitality of Times Square could extend into this area. Solutions for revitalization included a development pattern of mixed-use, multi-story buildings positioned along the sidewalks, to frame the space of the street, and Old San Carlos Boulevard's unique beach-to-bay vista. The applicant's request is compatible with this plan.

Urban services, including water, sewer, and electric, are available at the subject property. Fort Myers Beach Public Works Department has commented that any increased density and/or intensity at the subject property will necessitate a thorough stormwater management plan and review prior to any permit or use approvals.

The lack of a specific redevelopment plan for the subject property increases the difficulty for Staff to adequately address impacts on infrastructure. Both parcels of the subject property have driveway access onto Old San Carlos Boulevard and the South parcel has additional access to Third Street. However, like the stormwater system, traffic volumes and traffic impacts are more appropriately reviewed at the time of redevelopment. Staff would strongly encourage that any redevelopment plans utilize the 'park once' concept that is prevalent in the Downtown Core Area, giving preference to the pedestrian in any redesign of the subject property.

Currently, the North parcel does not have sufficient on-site parking to accommodate the current building square footage. This is remedied by providing required parking on the South parcel of the subject property. The South parcel also provides parking for uses located at 201 Old San Carlos Boulevard. The action of rezoning both parcels of the subject property from CPD to DOWNTOWN effectively separates them and will therefore make the North parcel legally non-conforming due to inadequate number of parking spaces. This non-conformity may be remedied by the property owner executing a joint use parking agreement for the South parcel to provide parking for the North parcel.

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

SEZ2013-0006

As in all CPD zoning approvals, a schedule of uses was requested by the applicant and approved by Town Council. The schedule of uses describes all the approved uses for the subject property, and at times uses that would not otherwise be permitted by the

underlying conventional zoning district are approved. The schedule of uses for the subject property, on page 3 & 4 of *Exhibit B*, lists a few uses which will no longer be permitted uses if the applicant's request to rezone from CPD to DOWNTOWN is approved. Those uses are, however, the subject of the Special Exception request, SEZ2013-0006 and are listed as follows:

- 'Retail Store, large,' as defined in LDC Chapter 34 as a retail store with a gross floor area larger than 5,000 square feet for the North parcel
- 'Wholesale' as a permitted use for the North parcel
- 'Parking lot, shared and permanent' as a permitted use for the South parcel
- 'Retail Store, large' as a permitted use for the South parcel

See attached *Exhibit D* for a depiction of the North parcel and *Exhibit E* for a depiction of a South parcel.

The request for a special exception is to allow the four (4) uses that were previously approved on the Rusty's CPD and that would no longer be permitted by right if the request to rezone to DOWNTOWN is approved. Those uses are only permitted in DOWNTOWN if approved by special exception.

North parcel

The North parcel (see *Exhibit D*) is commonly referred to as the Shipwreck parcel. The special exception request on this parcel is for 'Retail Store, large' and 'Wholesale.'

The LDC defines 'Retail Store, large' as retail space that exceeds 5,000 square feet (see definitions in Section 34-2). Furthermore, the DOWNTOWN zoning district is in the Retail Open category (see Table 34-1) which provides that 'retail store, large' is permitted by special exception only.

The LDC defines 'Wholesale establishment' as a place of business primarily engaged in preparing and selling merchandise to retailers, other businesses, or other wholesale establishments, and operating completely within an enclosed building (see definitions in Section 34-2). The Office Open category of the DOWNTOWN zoning district (see Table 34-1) provides that 'wholesale' is permitted by special exception only.

South Parcel

The South parcel (see *Exhibit E*) is located across Old San Carlos Boulevard from the Shipwreck parcel. The request on this parcel is for 'Retail Store, large' and 'Parking lot, shared permanent.'

The LDC defines 'Parking lot, shared permanent' as a parking lot which constitutes the principal use of the property and which is available to the public for a fee, or which may be leased to individual persons or assigned to specific businesses or properties. Furthermore the DOWNTOWN zoning district, in the Retail Open category (see Table 34-1) provides that 'parking lot, shared permanent' is permitted by special exception only.

The 'Retail Store, large,' 'Wholesale,' and 'Parking lot, shared permanent' were uses previously approved by the Rusty's CPD (see *Exhibit B*). The applicant wishes to preserve these uses as legally conforming and therefore applied for the special exception to retain them on the North and South parcels. The applicant could retain the uses as existing non-

conforming and not pursue a special exception, but at that point they would be subject to compliance with Article V Division 3 of Chapter 34 of the LDC, Non-Conforming Uses.

Retail Store, large

It is clear that when drafting the Land Development Code, the authors wanted to ensure that LPA and ultimately Town Council had additional oversight above and beyond Staff review as to the locations in the DOWNTOWN district where retail spaces above 5,000 square feet were to be developed. Often, the assumption is that large retail spaces come with large impacts on the surrounding properties. In this instance, for both parcels on the subject property there are site development constraints in that there are surrounding right-of-ways and the requirement for compliance with the Commercial Design Standards, found in Article III Division 7 of Chapter 34 of the LDC. Staff, therefore, does not feel that any additional conditions of approval should be included because the site constraints should control and safeguard any redevelopment concerns. Furthermore, LDC Sec. 34-675(c) limits the property to a Floor Area Ratio of 1.8, meaning that a maximum of 1.8 times the property's land area can be built on the site.

Parking lot, shared permanent

In Resolution 99-40 (see *Exhibit F*), Town Council approved a permanent parking lot on the South parcel. Resolution 01-03 approving the CPD also included the parking lot as an approved use. Thus, the parking use has been in place and utilized as such since 1999. Clearly this is a compatible use that furthers the intent of the 'park once' philosophy of the Downtown Core Area. However, by rezoning from CPD to DOWNTOWN, the parking uses must comply with Section 34-676(b) which does not allow parking lots in front or side yards (see *Exhibit E*). In addition, Table 10-8 in Chapter 10 of the LDC requires a 15' Type D Buffer between all parking lots and rights-of-way. The action of rezoning will render the property nonconforming for the requested special exception uses (addressed by the application for special exception, case SEZ2013-0006) and for location and buffers (addressed by application of a variance, case VAR2013-0007).

Wholesale

The applicant states that the wholesale use on the subject property has been in existence for over 20 years and is requesting to retain it as a permitted use. Through approval of Resolution 01-03 (see *Exhibit B*) Town Council deemed this use appropriate on the subject property and consistent with surrounding and land uses.

Marina

The applicant has requested that Staff confirm the use of marina as a continuing approved use on the North parcel. The Marina Limited category of the DOWNTOWN zoning district (see Table 34-1) lists Marina as 'EO' or 'existing only.' Section 34-621(b) defines 'EO' as permitted only if the use lawfully existed on the same property on August 1, 1986. Such lawfully existing use shall have the same rights as a permitted use and may be expanded or reconstructed on the same parcel in accordance with all applicable regulations. *Exhibit G* is an aerial exhibit provided by the applicant with a date of February 1986 indicating marina uses. Staff therefore confirms that Marina uses are deemed 'EO' and no additional action is necessary to retain the use.

VAR2013-0007

The final request to be considered is a variance from Section 34-676(b), parking lot location, to permit off-street parking in the front and side yard as depicted on the site plan

Exhibit E; and a variance from Table 10-8 from a Type D buffer for Old San Carlos and from Third Street to allow existing conditions.

The applicant states in their narrative that by virtue of the approval of the parking lot location in Resolution 01-03 (see *Exhibit B*) and issuance of a development order to install the lot, the use is appropriate, consistent and valuable for the Town.

Staff would agree with this rationale, however, the action of rezoning from CPD to DOWNTOWN requires that a variance be requested and approved by Council. Otherwise, the lot will be legally non-conforming as to location and buffer requirements. Furthermore, the requirement of a Type D buffer will mitigate any negative impacts the use will have on the surrounding property.

The second variance is a request to essentially not install the required 15' Type D landscape buffer as described in Table 10-8 and further defined in Table 10-9. The applicant wishes to keep the existing conditions of no buffer stating that since Chapter 34 requires a 0' build-to line the code would not require a buffer that may have to be removed at the time of redevelopment, and that parking lots are an interim use.

Staff respectfully does not concur with this rationale. Conventional rezonings do not require a MCP or any indication of redevelopment plan, should the property owner have one. Therefore Staff must assume that the uses as existing are intended to remain. The applicant is correct that DOWNTOWN zoning district allows for 0' setbacks and encourages a build – to development pattern. However, there are other places in the code, seasonal parking lots for example (see Section 34-2022(c)), that require landscape buffers on what the applicant would argue is an 'interim' use.

Staff would suggest as an alternative that instead of a 15' wide buffer, that the applicant install a 5' buffer with the same number of shrubs and trees. This would be consistent with buffer deviations approved at 2301 Estero and similar to the planting requirements from the Seasonal Parking lot provisions.

In terms of consistency with the Comprehensive Plan, Staff identified the following goals, objectives and policies that apply to the requested zoning actions:

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

The applicant's proposal will allow redevelopment of the property with new floodplain conforming buildings to replace older non-conforming buildings that are vulnerable to a flood event, even below the threshold of the 100-year storm. Any new improvements will be required to meet the Commercial Design Standards as set forth in LDC Section 34-991 to build to human scale and bring structures forward towards Old San Carlos to improve the pedestrian experience.

Objective 4-B: FUTURE LAND USE MAP CATEGORIES - Reduce the potential for further overbuilding through a new Future Land Use Map that protects remaining natural and historic resources,

preserves the small-town character of Fort Myers Beach, and protects residential neighborhoods against commercial intrusion.

Policy 4-B-6 "Pedestrian Commercial": a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around Villa Santini Plaza. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map's "platted overlay" indicates a maximum of 10 units per acre for affordable units consistent with the adopted redevelopment plan). Commercial activities must contribute to the pedestrian-oriented public realm as described in the comprehensive plan and must meet the design concepts of the plan and the Land Development Code. Where commercial uses are permitted, residential uses are encouraged in upper floors. All "Marina" uses in Policy 4-B-7 are also allowed on parcels that were zoned for marinas prior to adoption of the plan. Non-residential uses (including motels and churches) now comprise 58.9% of the land in this category, and this percentage shall not exceed 90%.

The request is clearly in compliance with the Pedestrian Commercial FLU category, as the DOWNTOWN zoning district is the Town's highest intensity land use category, designed to help create a vibrant pedestrian core in and around the Times Square area.

Objective 4-C: APPLYING THE FUTURE LAND USE MAP – The Future Land Use Map shall be interpreted in accordance with the following policies.

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

Any development of the property under the DOWNTOWN zoning district regulations will be subject to a floor-area-ratio (FAR) of 1.8, per LDC Sec. 34-676(c)(1), which conforms to the maximum of 2.5 FAR allowed in Pedestrian Commercial.

Policy 4-C-3 COMMERCIAL LOCATIONS: When evaluating proposals for new or expanded commercial uses in categories where they are permitted, the following principles shall apply:

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

The DOWNTOWN zoning district regulations in the LDC will provide the applicant with a streamlined approval process. As a conventional zoning district, DOWNTOWN has a list of uses that are permitted by right, without the need for a public hearing to approve a specific development plan.

Policy 4-C-4 BUILDING HEIGHTS: The Land Development Code shall limit the height of new buildings under most conditions to two stories above flood elevation (exceptions may include the

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

The height restrictions in the DOWNTOWN zoning district, found in LDC Sec. 34-675(b)(3), allow properties fronting on Old San Carlos between Fifth and First Streets to be a maximum of 40 feet above Base Flood Elevation, but they are limited to a maximum of three stories.

Policy 4-C-6 MOTEL DENSITIES: The Land Development Code shall specify equivalency factors between guest units (which include motel rooms) and full dwelling units. These factors may vary based on size of guest unit and on land-use categories on the Future Land Use Map. They may vary between a low of one guest unit and a high of three guest units for each dwelling unit. (These factors would apply only where guest units are already permitted.) In order to implement the 1999 Old San Carlos Boulevard / Crescent Street Master Plan that encourages mixed-use buildings with second and third floors over shops on Old San Carlos, hotel rooms may be substituted for otherwise allowable office space in that situation and location only without using the equivalency factors that apply elsewhere in the town. This alternate method for capping the number of hotel rooms applies only to properties between Fifth to First Streets that lie within 200 feet east and west of the centerline of Old San Carlos Boulevard. Hotel rooms built under this alternate method must have at least 250 square feet per rentable unit, and under no circumstances shall buildings they are located in exceed four stories (with the ground level counted as the first story).

The subject property is located in the area of town, on Old San Carlos between Fifth and First Streets, where hotel rooms are encouraged. LDC Sec. 34-676(d)(1) allows hotel rooms with a minimum of 250 square feet per room to be converted from otherwise allowable office space on the second and third floors of a commercial building.

Objective 4-E: HAZARD MITIGATION – Mitigate the potential effects of hurricanes by easing regulations that impede the strengthening of existing buildings, by encouraging the relocation of vulnerable structures and facilities, and by allowing the upgrading or replacement of grandfathered structures without first awaiting their destruction in a storm.

Policy 4-E-4 FLOODPROOFING OF COMMERCIAL BUILDINGS: Where commercial development is allowed by the comprehensive plan, full-height dry floodproofing is the most desirable alternative for providing ground-level commercial space in pedestrian areas.

Due to the subject property's location in AE-EL12 flood zone, the use of dry floodproofing methods is allowed. Dry floodproofing of non-residential buildings is allowed for space below the Base Flood Elevation. This would allow retail commercial or hotel offices at the ground floor pedestrian level and offices or hotel rooms above.

Policy 3-D-7: Continue to implement the stormwater management plan (an exfiltration system that integrates the existing storm sewer pipe system and inlets with exfiltration trenches under Estero Boulevard). Similar systems can be installed for private development under parking lots or open space.

As part of a local Development Order, the applicant will need to demonstrate how stormwater drainage on the properties will be handled. Old San Carlos is an important pedestrian and vehicular corridor, so it is a primary consideration of Public Works staff to address stormwater management during any redevelopment efforts.

Findings and Conclusions, REZ2013-0001:

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

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

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

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

The only changed condition that exists which supports the applicant's request for rezoning is the existence of the DOWNTOWN zoning district. At the time of the Rusty's CPD approval, the Town had not yet developed Town-specific zoning districts. Now that the DOWNTOWN district exists, the applicant is requesting this rezoning.

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

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

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

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

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

The applicant has not submitted a plan for redevelopment with this request for rezoning. They have indicated to Staff that there is no immediate intention to redevelop any portion of the subject property, merely a desire to obtain

DOWNTOWN zoning. The applicant is aware that by requesting this action they are losing all approvals that allowed deviations from code requirements and any approval for density above and beyond code requirements. The Town retains land and property development controls, including but not limited to Section 34-671: DOWNTOWN zoning district regulations, Section 34-677: Commercial Design Standards; FEMA flood elevation and substantial improvement compliance, and other sections of the Land Development Code. Any redevelopment will be subject to reviews utilizing the applicable specific land use regulations.

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

Urban services including water, sewer, and electric are available at the subject property. Any redevelopment or increase in density or intensity at the subject property will necessitate a thorough stormwater management plan and review prior to any permit or use approvals.

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

As existing commercially zoned and developed lots located in the Downtown Core Area along Old San Carlos Boulevard, the subject property does not include any sensitive and/or environmentally critical lands. However, should these parcels be redeveloped with uses as permitted within the DOWNTOWN zoning district, all applicable environmental codes including but not limited to Sea Turtle lighting requirement as found in LDC Section 14-79 must be met.

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

With its central location within the Downtown Core Area, the subject property's proposed change from CPD to DOWNTOWN zoning is clearly compatible with existing and planned uses. The Town, however, does retain land and property development controls, including but not limited to Section 34-671: DOWNTOWN zoning district regulations, Section 34-677: Commercial Design Standards, FEMA flood elevation and substantial improvement compliance, and other sections of the Land Development Code. Any redevelopment will be subject to reviews utilizing the applicable specific land use regulations.

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

As evidenced by recent requests for zoning changes, Town Council has determined that the appropriate time to study traffic impacts is at the time of redevelopment or development order. The applicant has indicated there are no current plans for redevelopment. The continuation of existing uses will not increase any traffic burden on local streets or other local services or facilities.

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

At the time of redevelopment, however, plans will be thoroughly reviewed for any impacts.

Findings and Conclusions, SEZ2013-0005:

Based upon an analysis of the application and the standards for approval of a special exception found in Section 34-88 of the LDC, Staff makes the following findings and conclusions:

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

The pending requested rezoning does create a situation where changing conditions exist. Approval of the rezoning from CPD to DOWNTOWN will create non-conformities that are addressed by the request for this special exception.

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 retain 'Retail Store, large,' 'Parking lot, shared permanent' and 'Wholesale' will, in Staff's opinion, further the intent of the Comp Plan to provide a variety of uses.

- 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."

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 to provide a larger retail space on the ground floor wholesale uses and parking to further the 'park once' concept is consistent with this vision.

- 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 'Retail Store, large,' 'Parking lot, shared permanent' and 'Wholesale' are uses not

allowable by right on the subject property. They are, however, uses that are permitted by special exception. (See Table 34-1)

The applicant's request is appropriate at the subject property as it is requesting continuation of uses previously approved by Town Council in Resolution 01-03 and found to be consistent. Any approval of the applicant's request, will require compliance, at the time of redevelopment, with all Commercial Design Standards further ensuring that the Town's redevelopment vision is enforced.

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

As existing commercially zoned and developed lots located in the Downtown Core Area along Old San Carlos Boulevard, the subject property does not include any sensitive and/or environmentally critical lands. However, should these parcels be redeveloped with uses as permitted within the DOWNTOWN zoning district, all applicable environmental codes including but not limited to Sea Turtle lighting requirement as found in LDC Section 14-79 must be met.

- 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 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 includes a variety of uses in a variety of sizes. Staff is of the opinion that the applicant's request to retain existing uses is compatible and appropriate within its neighborhood.

- 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.*

With its central location within the Downtown Core Area, the subject property's request to retain existing uses is compatible with applicable general zoning provisions. However, the "parking lot, shared permanent" is not in compliance with Section 34-676(b) and Table 10-8. This issue will be addressed by case VAR2013-0007. Further, the Town does retain land and property development controls, including but not limited to Section 34-671: DOWNTOWN zoning district regulations, Section 34-677: Commercial Design Standards; FEMA flood elevation and substantial improvement compliance, and other sections of the Land Development Code. Any redevelopment will be subject to reviews utilizing the applicable specific land use regulations.

Findings and Conclusions, VAR2013-0007:

Based upon an analysis of the application and the standards for approval of variance a found in Section 34-87 of the LDC, Staff makes the following findings and conclusions:

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

The exceptional conditions on the subject property are the prior zoning approvals. The necessity for both variance requests stems from the applicant's desire to rezone to a conventional zoning district and ensure that all uses are in compliance with Town Codes (i.e. not rendered legally non-conforming). The parking lot in question has already been constructed, so rigid compliance with Section 34-676(b) is not essential. However, providing Staff's recommendation of a 5' buffer will allow for mitigation of the impact.

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

The conditions are not the result of actions of the applicant taken after the adoption of the regulation in question, as the last major zoning action on the subject property was in approval of the Rusty's CPD in 2001 and the Town adopted its zoning code in 2004.

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

The applicant is requesting to keep the uses and structures that currently exist on the property. Staff recommends the minimum variance necessary for the existing parking lot is a 5' Type D buffer as discussed in the Analysis section.

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

The granting of the variance will not be injurious to the neighborhood or detrimental to the overall public welfare. If granted as recommended by Staff, the variance will be an improvement to the overall Old San Carlos streetscape.

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

The variances, as requested, are not so general or recurrent in nature as to require an amendment to Chapter 34.

III. RECOMMENDATION

REZ2013-0001

Conventional rezoning requests do not permit any conditions of approval. Staff, therefore, can not recommend any requirements that are not contained in the DOWNTOWN zoning district regulations. Staff has some concern that redevelopment of the site will impact capacity on public services and facilities, especially local roadways. However, the subject property's location on Old San Carlos Boulevard, as opposed to being located further down Estero Boulevard, should render any traffic impacts more manageable.

With a future land use designation of Pedestrian Commercial and an understanding by the applicant that they are losing all rights to the previously granted deviations to the code, Staff finds that the requested rezoning is compatible and appropriate at this location. Therefore after consideration of the aforementioned analysis, Staff recommends **APPROVAL** of the requested rezoning from Commercial Planned Development (CPD) to DOWNTOWN.

SEZ2013-0001

By approving the Rusty's CPD in 2001, Town Council has already determined that 'retail store, large,' 'parking lot, shared permanent,' and 'wholesale' uses are compatible with the surrounding property and consistent with the future land use of Pedestrian Commercial. The vision of a vibrant Downtown Core Area has remained a goal of the Town since 2001 and therefore Staff recommends **APPROVAL** of the request to add 'Retail Store, large,' and 'Wholesale' to the North parcel of the subject property and 'Parking lot, shared permanent' and 'Retail Store, large' to the South parcel of the subject property as approved special exception uses on the subject property.

VAR2013-0007

Staff recognizes that the subject property has developed and existing conditions. The variance request by the applicant is essentially to retain the existing uses and structures that currently exist on the property. Staff, therefore, recommends **APPROVAL** of the request to allow off-street parking in the front and side yards. On the other hand, Staff does not feel that it is unreasonable to require the applicant to comply with the full width requirement of a Type D buffer. Staff recognizes that a 15' landscape buffer is rather burdensome, therefore Staff recommends **APPROVAL WITH CONDITIONS** as follows:

1. That the applicant install a Type D buffer where the width is reduced to 5' rather than the full 15'.

IV. CONCLUSION

Rezoning the property from Commercial Planned Development (CPD) to DOWNTOWN and allowing the retention of retail spaces larger than 5,000 square feet, wholesale uses, and permanent parking are actions compatible with the surrounding land uses and consistent with the Pedestrian Commercial future land use category.

If Town Council finds that the requested use is contrary to the public interest or the health, safety, comfort, convenience, and/or welfare of the citizens of the Town, or that the request is in conflict with the criteria of LDC Section 34-85 regarding Rezoning or LDC Section 34-88 regarding Special Exceptions, Town Council should deny the request as provided in LDC Section 34-85(4) and/or Section 34-88(4).

For case REZ2013-0001 Staff recommends **APPROVAL** of the requested rezoning from Commercial Planned Development (CPD) to DOWNTOWN.

For case SEZ2013-0005 Staff recommends **APPROVAL** of the special exception request to add 'Retail Store, large,' and 'Wholesale' to the North parcel of the subject property and

'Parking lot, shared and permanent' and 'Retail Store, large' to the South parcel of the subject property as approved special exception uses on the subject property

For case VAR2013-0007 Staff recommends **APPROVAL** of a variance request from Section 34-676(b) parking lot location to permit off-street parking in the front and side yard as depicted on the site plan *Exhibit E*. Staff recommends **APPROVAL WITH CONDITIONS** for a variance from Table 10-8.

Exhibits:

- A - Legal Description
- B - Resolution 01-03
- C - Approved Master Concept Plan
- D - Depiction of North parcel
- E - Depiction of South parcel
- G - 1986 Aerial

DESCRIPTION:

EXHIBIT A

Lots 2 through 6 and Lots 22 and 23 and the Westerly 155.10 feet of the North One Half (N.1/2) of that portion of vacated Fourth Street that is contiguous to Lots 4, 5 and 6, all in Block 3, Business Center as recorded in Plat Book 9, Pages 9 and 10, Public Records of Lee County, Florida.

TOGETHER WITH:

Lots 3 through 12, Block "A", Island Shores, Unit 2 as recorded in Plat Book 9, Page 25, Public Records of Lee County, Florida.

TOGETHER WITH: (Vacated lagoon right-of-way per O.R. Book 2736, Page 7002)

Part of a vacated lagoon right-of-way being more particularly described as follows:

Beginning at the Southwest corner of Lot 12, Block "A", Island Shores Subdivision, Unit 2, as recorded in Plat Book 9, Page 25 of the Public Records of Lee County, Florida; thence run North 26°01'39" East for 75.00 feet to the Northwest corner of Lot 10 of said Subdivision; thence run North 63°58'26" West along the Westerly extension of the North line of said Lot 10 for 11.82 feet more or less to the outer face of a seawall; thence run South 28°20'28" West along said seawall for 75.06 feet to the Westerly extension of the South line of said Lot 12; thence run South 63°58'26" East for 14.85 feet to the point of beginning.

Said parcel contains 1000.1 square feet, more or less.

TOGETHER WITH: (Vacated lagoon right-of-way)

Part of a lagoon right-of-way being more particularly described as follows:

Beginning at the Southwest corner of Lot 9, Block "A", Island Shores Subdivision, Unit 2, as recorded in Plat Book 9 at Page 25 of the Public Records of Lee County, Florida; thence run N.63°58'21"W. for 11.82 feet to the outer face of a seawall; thence run N.29°45'28"E. for 50.11 feet to the outer face of a second seawall; thence run N.26°01'39"E. for 58.50 feet along said seawall to a point of curve to the left in said second seawall; said curve having a radius of 10 feet; thence run along said seawall and curve an arc distance of 6.39 feet thru a delta angle of 36°37'27" to a point which bears S.71°01'39"W., 14.90 feet from the Northwest corner of Lot 5, Block "A", of said Subdivision; thence run S.26°01'39"W. for 125.00 feet to the point of beginning.

Said parcel contains 1120.6 square feet, more or less.

EDGE OF PAVEMENT

BOUNDARY & PARTIAL TOPOGRAPHIC SURVEY OF

**LOTS 2 THRU 6, 22 & 23
BLOCK 3, BUSINESS CENTER**

(PLAT BOOK 9, PAGE 9-10)

THE NORTHERLY 1/2 OF

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 01- 03

WHEREAS, John Richard has filed a request to rezone from Commercial District (C-1) to Commercial Planned Development (CPD) to permit a mixed hotel/motel and commercial/professional office development consisting of a maximum of 86 hotel/motel units; 15,450 square feet of retail space; 4,000 square feet of restaurant use; 3,000 square feet of professional office use; and bar/cocktail lounge; and,

WHEREAS, the subject property is located at 237/239, 245, 309, and 320 Old San Carlos Blvd., Fort Myers Beach, Florida, and the applicant has indicated the property's current STRAP numbers are: 24-46-23-W3-0050A.0030; 24-46-23-W3-00203.0020; 24-46-23-W3-0050A.0080; 24-46-23-W3-0050A.0100; and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons and recommended that the Town Council approve the Applicant's request for rezoning from C-1 Commercial to CPD Commercial Planned Development with the conditions and deviations as recommended on Pages 2-6 of the Staff Report dated December 14, 2000 which is attached hereto and incorporated herein by reference with the following changes:

1. Under the Schedule of Uses- Consumption on Premises for outdoor seating shall be by special permit only; Night Club will be allowed by special Permit only; Wholesale Establishment will be limited to Group III for small items like Jewelry, Coins and Shells only.
2. Under Site Development Regulations—The maximum gross square feet is limited to 25,000 square feet.
3. Deviation #5 as shown on Page 5 of the Staff Report is amended to read as follows: Deviation from LDC 34-2016 (1) which requires a minimum parking space dimension of 9' by 18', to permit parking space dimensions of 8' by 16' and 8' by 18'. Staff recommends approval as shown on the Master Concept Plan.
4. Deviation #9 is withdrawn.
5. Deviation #10 as shown on Page 5 of the Staff Report is amended to recommend approval to allow a height of 43.8' above base flood elevation.

6. The maximum of 86 hotel/motel units that are requested in this CPD are only potentially available on the property that has been made a part of this CPD and none of these units are eligible for transfer to any other property located within the Town.
7. In the Phasing Plan for this CPD, Phase 1 is located 6 feet South of the dimensions shown on the Master Concept Plan to accommodate a property line that was shown incorrectly; and,

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

- a. Whether there exist changed or changing conditions that make approval of the request appropriate.
- b. The testimony of any applicant.
- c. The recommendation of staff.
- d. The testimony of the public.
- e. Whether the request is consistent with the goals, objectives, policies and intent of the Town Plan.
- f. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
- g. Whether the request will protect, conserve or preserve environmentally critical areas and natural resources.
- h. Whether the request will be compatible with existing or planned uses.
- i. Whether the request will cause damage, hazard, nuisance or other detriment to persons or property.
- j. Whether a requested use will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.

NOW THEREFORE BE IT RESOLVED THAT THE APPLICATION IS APPROVED AND THE PROPERTY IS REZONED FROM C-1 COMMERCIAL TO CPD COMMERCIAL PLANNED DEVELOPMENT SUBJECT TO THE FOLLOWING conditions and requirements that are necessary for the protection of the health, safety, comfort, convenience and welfare of the general public and that are reasonably related to

the request:

A. Conditions

1. The development of this project must be consistent with the one page Master Concept Plan entitled "Rusty's", stamped received by the Permit Counter on December 14, 2000, except as modified by the conditions below. This development must comply with all requirements of the Town of Fort Myers Beach LDC at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

2. The following limits apply to the project and uses:

a. Schedule of Uses

Parcels "A" & "B"

- Accessory Uses and Structures
- Administrative Offices
- Animal Clinic
- Banks and Financial Establishments (**No Drive Through**)
- Bar and Cocktail Lounge (**By Special Permit Only**)
- Bed and Breakfast
- Boarding House
- ~~Broadcast Studio~~
- Business Services (Group I & II)
- Caretaker's Residence
- ~~Cleaning & Maintenance Services~~
- Clothing Store General
- ~~Computers and Data Processing Services (Not permitted in CPD)~~
- Consumption on Premises - (**Indoor Seating Only**)
 - Outdoor Seating (Special Permit Only)**
- Convenience Food and Beverage Store (**No Fuel Pumps**)
- Drug Store/Pharmacy
- Food & Beverage Service-Limited
- Flea Market (**Indoor**)
- Food Stores Group I & II
- Gift and Souvenir Shop
- Hardware Store
- Healthcare Facility (Group I)
- Hobby, Toy and Game Shops
- ~~Home Care Facility~~
- Household and Office Furnishings

Hotel/Motel
 Insurance Companies
 Laundromat/Laundry & Dry Cleaning Group I
 Medical Office
Night Club (By Special Permit Only)
 Non Store Retailers
Outdoor Seating (Not a defined Use)
 Package Store
 Paint, Glass & Wallpaper
 Parking Lots
 Commercial
 Accessory
 Personal Services (Group I, II & IV)
 Pet Services
 Pet Shop
 Police or Sheriff's Station
 Post Office
 Printing and Publishing
 Recreational Facilities Commercial (Group I)
 Real Estate Sales Office
 Rental or Leasing Establishments **(Group I & II)**
 Restaurant, Fast Food (Walk-In only)
 Restaurant (Groups I, II & III)
 Repair Shops (Groups I, II, III & ~~IV~~)
 Signs **(In accordance with LDC Chapter 30)**
 Social Services (Groups I & II)
 Specialty Retail Shops (Groups I-IV)
 Storage (Indoor only)
 Studios
Supermarket
 Temporary Uses **(In accordance with LDC 34-3041)**
Towers, Communication
 Used Merchandise Stores **(Group I & II)**
 Variety Store
 Warehouse **(Private)**
Wholesale Establishment (small items only ie. jewelry, shells, coins)

Parcel "A" Only

Bait and Tackle Shop
 Boats : ~~Parts Store~~/ Rental/ **Sales (Limited to recreational watercraft and water taxi, No Personal Watercraft: Jet Ski)**
 Dwelling Unit Multi-Family **(One Caretaker's Unit)Marina**
 Multi-Slip Docking Facility-Existing 16 Slips only
 Time-Share Units

b. **Site Development Regulations**

Maximum Gross Square Feet:

| | |
|-----------------------|-------------------------|
| Retail | 15,450 SF |
| Retail Dead Storage | 1,800 SF |
| Restaurant | 4,000 SF |
| Bar & Cocktail Lounge | 1,000 SF |
| Café (Resort Only) | 1,300 SF |
| Office | 3,000 SF |
| Private Warehouse | 3,876 SF |
| Hotel/Motel Units | 86 Units (maximum) |
| Dwelling Units | 1 Caretaker's Residence |

Parking Note: No combination of uses may be developed which requires more than 123 parking spaces unless additional off-site parking is provided.

Setbacks (As shown on MCP)

Maximum Height and Stories

| | |
|------------|--------------------------------------|
| Parcel "A" | 43.8 Feet above Base Flood Elevation |
| Parcel "B" | 34 Feet above Base Flood Elevation |

| | |
|------------------------|------------------|
| Phase I (Parcel "A") | 2 Story Building |
| Phase II (Parcel "B") | 2 Story Building |
| Phase III (Parcel "A") | 4 Story Building |
| Phase IV (Parcel "A") | 3 Story Building |

3. Street trees, including sabal palm, coconut palm and other native vegetation, along Old San Carlos Boulevard will be incorporated into the Development Order design where possible. Street landscaping will be placed in irrigated planters where minimal disturbance from overhead obstructions would be present.
4. Prior to issuance of a local development order, the property owner must enter into a written agreement with the Town of Fort Myers Beach opting into the Downtown Overlay Zoning District.
5. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Fort Myers Beach LDC may be required to obtain a local development order.
6. Approval of this rezoning does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the allocations for nonresidential uses in the Town of Fort Myers Beach Comprehensive Plan "Pedestrian Commercial" land use category.

7. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.

B. Deviations

1. Deviation from LDC 10-285(a) which requires a connection separation of 125' on local roadways, to permit connection separations of 75' and 115' is approved.
2. Deviation from LDC 10-285(a) which requires a connection separation of 125' on local roadways, to permit a connection separation of 7.41' is approved.
3. Deviation from LDC 10-285(a) which requires a connection separation of 125' on local roadways, to permit connection separations of 40' and 125' is approved.
4. Deviation from LDC 34-2016 (3) which requires a minimum two-way aisle width of 24', to permit an aisle width of 20' is approved.
5. Deviation from LDC 34-2016(1) which requires a minimum parking space dimension of 9' by 18', to permit parking space dimensions of 8' by 16' and 8' by 18' is approved with the conditions (1) that the 8' by 16' parking spaces as shown on MCP on Parcel "B" and the parking spaces on Parcel "A", which will be designated for "Compact Cars Only" and (2) the width of 8' is granted for 3/4th of the parking spaces to be designated by the developer and the remaining 1/4th of the spaces shall be 9' in width.
6. Deviation from LDC 34-2020(2) which requires a minimum number of parking spaces for retail and office space of 1 space per 200 SF to permit 1 space per 600 SF, from the minimum requirement for restaurants of 14 spaces per 1,000 SF to permit 3.75 spaces per 1,000 SF, and from the minimum requirement for bar and cocktail lounge of 21 spaces per 1,000 SF to permit 6 spaces per 1,000 SF is approved with the condition that at no time will the combination of uses require more than the 123 spaces provided, unless additional parking is provided, either on or off-site.
7. Deviation from LDC 34-2013(b) which requires a minimum parking lot entrance width of 25' on two-way streets, to permit a width of 20' is approved.
8. Deviation from LDC 34-2194(b) which requires a minimum setback from bodies of water other than the Gulf of Mexico of 25', to permit a water body setback of zero (0) feet is approved with the condition that it be limited to the Phase I building.
9. Deviation from LDC 34-1749(c) which requires gates be designed to allow a minimum of five vehicles to pull safely off the public street while waiting to enter has been withdrawn.
10. Deviation from LDC 34-1145(d) which permits a maximum height of 40' above base flood elevation in the Downtown Overlay District, to permit a maximum height of 43.8 above base flood elevation is approved.

11. Deviation from LDC 34-1802(4) which sets the hotel/motel density multiplier at 1.0 hotel/motel unit equals 1.0 dwelling unit, is approved to permit a maximum of 86 hotel/motel rental units with the condition that the approved number of units must be consistent with the Comprehensive Plan at the time of the local development order. If the 86 hotel/motel units are not consistent, then the number of hotel/motel units allowed will be equivalent to the maximum number of units permitted in the Old San Carlos portion of the Downtown Overlay district as allowed by the Comprehensive Plan at the time of the local development order. In no case will the total number of hotel/motel units exceed a total of 86 rental units and none of these units may be transferred to any other parcel.

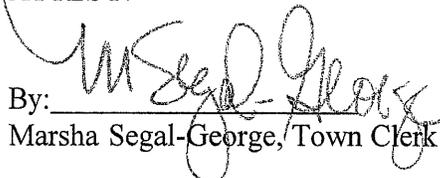
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

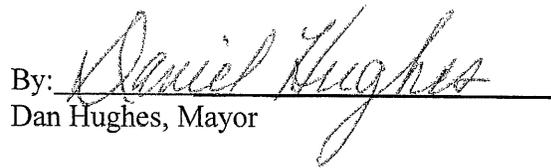
| | |
|------------------|------------|
| Dan Hughes | <u>Aye</u> |
| Garr Reynolds | <u>Aye</u> |
| Ray Murphy | <u>Aye</u> |
| Terry Cain | <u>Aye</u> |
| Howard Rynearson | <u>Aye</u> |

APPLICATION DULY GRANTED/DENIED this 22nd day of January, 2001.

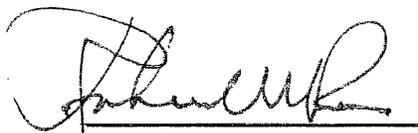
ATTEST:

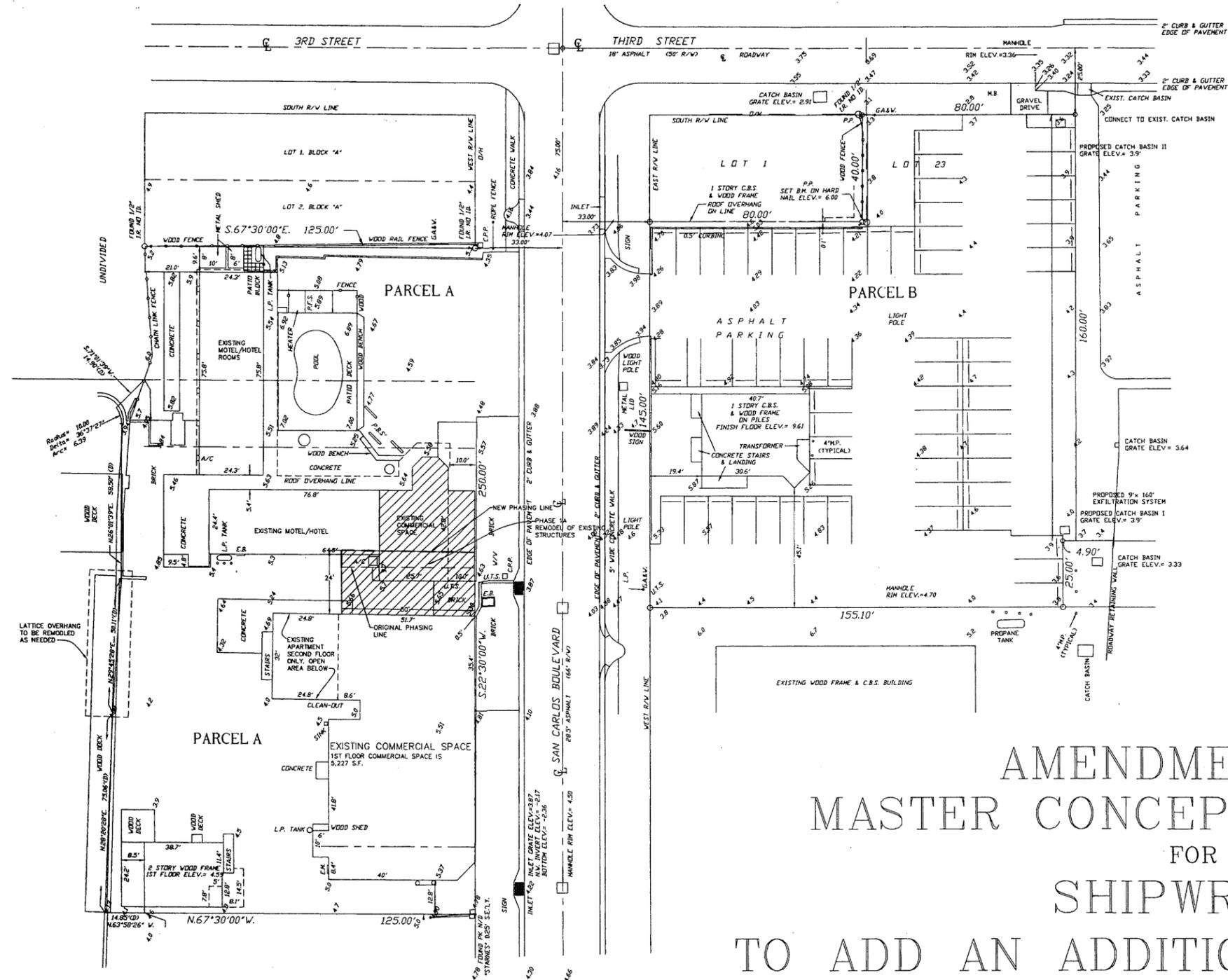
TOWN OF FORT MYERS BEACH

By: 
Marsha Segal-George, Town Clerk

By: 
Dan Hughes, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney



PHASE "IA"
CONNECT ONE STORY AREA MARKED PHASE "IA", A PART OF BUILDING ON PARCEL A PORTION 2 WITH BUILDING ON PARCEL A PORTION 1. TOTAL AREA OF BUILDING AFTER REMODEL & EXISTING STRUCTURE IS 2,178 S.F. EXISTING STRUCTURE BEFORE REMODEL IN PHASE IA HAS A TOTAL AREA OF 1,371 S.F.

AMENDMENT TO
MASTER CONCEPT PLAN (CPD)
FOR
SHIPWRECK
TO ADD AN ADDITIONAL PHASE (IA)

APPROVED
Amendment to
Master Concept Plan
Subject to Case # 2002-00089
Date 12/19/03

ADD 2002-00089
ADD 2003-00089
DCI 2002-00089
RECEIVED
DEC 12 2003

ZONING COUNTER

NOTE: PARCELS "A" & "B" HAVE EXISTING COMMERCIAL BUILDINGS ON PREMISES. THESE BUILDINGS MAY BE REMODELED FOR COMMERCIAL USE, AND REMAIN OPEN UNTIL THE APPROPRIATE PHASE IS CONSTRUCTED. AT THAT TIME THEY WILL BE DEMOLISHED.

NOTE: PHASE LINE MAY BE MOVED WITH ADMINISTRATIVE APPROVAL IF NO INCREASE IN INTENSITY OF USE.

BARBOT, STEUART & ASSOCIATES, INC.
CONSULTING ENGINEERS
3228 EVANS AVENUE, FORT MYERS, FLORIDA 33901

| | | |
|------------------------|-----------------------------|----------------------|
| DESIGNED BY: D.D.S. | CHECKED BY: I.K. STEUART | PHONE (941) 936-7353 |
| DRAWN BY: J.T.A. | CHECKED BY: I.K. STEUART | FAX (941) 936-5823 |
| DATE: | SCALE: 1" = 20' | FILE No. |
| REVISION | APPROVED | SHEET 1 OF 1 |
| | | 4298 |

EXHIBIT E

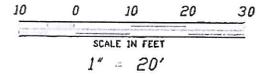
SKETCH OF
PROPOSED 3 STORY BUILDING
LYING IN LOTS 2 THRU 6, 22 & 23
BLOCK 3, BUSINESS CENTER

(PLAT BOOK 9, PAGE 10)

THE NORTHERLY 1/2 OF
VACATED FOURTH STREET

(D.R. BOOK 1334, PAGE 79)

SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST
LEE COUNTY, FLORIDA



"RUSTY'S SOUTH PARCEL TO DOWNTOWN WITH
SPECIAL EXCEPTION FOR RETAIL, LARGE"



REZ2013-0002 SOUTH PARCEL
PROPOSED RETAIL /////
EXISTING PARKING []

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 99- 40

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA
APPROVING / ~~DENYING~~ THE REQUEST FOR A SPECIAL EXCEPTION IN THE
COMMERCIAL DISTRICT FOR A COMMERCIAL PARKING LOT

WHEREAS, John W. Richard, Trustee, filed an application for a special exception in the
Commercial district for a commercial parking lot; and,

WHEREAS, the subject property is located at 320-330 Old San Carlos Blvd., Fort Myers
Beach, in S24-T46S-R23E, Lee County, FL.; and,

WHEREAS, the applicant has indicated the property's current STRAP number is: 24-
46-23-W3-00203.0020; and,

WHEREAS, the LPA at a public hearing gave full and complete consideration to the
recommendations of the Staff, the documents in the file, and the testimony of all
interested persons and made their recommendations to the Town Council; and,

WHEREAS, a public hearing was advertised and held before the Town Council who gave
full and complete consideration to the recommendations of the staff and the Local
Planning Agency, the documents on file with Lee County, and the testimony of all
interested persons; and,

NOW, THEREFORE, BE IT RESOLVED BY THE FORT MYERS BEACH
TOWN COUNCIL, that the Council APPROVES / DENIES the requested modification.

FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval /
denial of the requested special exception:

1. The applicant did ~~not~~ comply with Section 34-1264 (2) b. which places the
burden of proof upon the applicant to demonstrate that approval will not have any
adverse affect on surrounding properties.
2. That there is no error or ambiguity in the Land Development Code of the Town which
must be corrected by the Special Exception.
3. That the character and nature of the surrounding area make approval of the Special
Exception, as conditioned, appropriate/ ~~inappropriate~~.

4. That the Special Exception, as conditioned, is consistent/ ~~inconsistent~~ with the goals, objectives, policies and intent of the Town Plan, and the densities, intensities and general uses set forth in the Town Plan and Land Development Code.
5. That the Special Exception, as conditioned, meets/ ~~does not meet~~ all performance and locational standards set forth for the proposed use.
6. That urban services will / ~~will not~~ be available and adequate to serve the proposed use when it is constructed.
7. That there are no environmentally critical areas or natural resources to be adversely affected by the Special Exception, as conditioned.

Conditions:

1. If the building receives an occupancy permit for any use other than dead storage, the required parking spaces for use by the building must be identified by signs that reflects that those parking spaces are reserved for customers and/or employees of the business. The signs must comply with the Town's new sign ordinance.
2. Development of the commercial parking lot must be approved through a Type 1, Limited review Development Order consistent with Town Development Code chapter 10.
3. The primary vehicular ingress/egress to the commercial parking lot must be provided from 3rd Street.
4. Secondary ingress and egress may be provided from the existing driveway on Old San Carlos Drive until such time as the Town begins implementation of the Old San Carlos Master Plan. Ingress/egress from Old San Carlos Drive may be relocated to the southern edge of the parcel when the Old San Carlos Master Plan streetscape is begun by the Town. (at the approximate location of the vacated 4th Street) if the owner's development plans so allow.
5. Handicapped parking spaces must be provided with a paved asphalt or concrete surface in accordance with the Americans with Disability Act.
6. The special exception on the westerly 60 feet of the property is limited to a 5 year time period.
7. Within 24 months of the Town's adoption of landscape requirements for a permanent commercial parking lot in the Times Square Overlay District, the applicant shall install a landscape buffer which complies with the Town requirements.

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

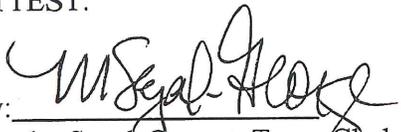
Anita T. Cereceda
Daniel Hughes
John Mulholland
Garr Reynolds
Ray Murphy

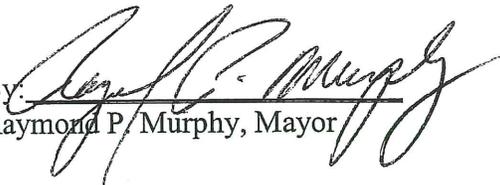
yes
yes
yes
yes
yes

APPLICATION DULY ~~DENIED~~/GRANTED this 11th day of October, 1999.

ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Marsha Segal-George, Town Clerk

By: 
Raymond P. Murphy, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney

Resolution Number 99-40 Errata

As reflected in the minutes of October 11, 1999, under VII PUBLIC HEARING: JOHN W. RICHARD, the resolution on the first page should read :

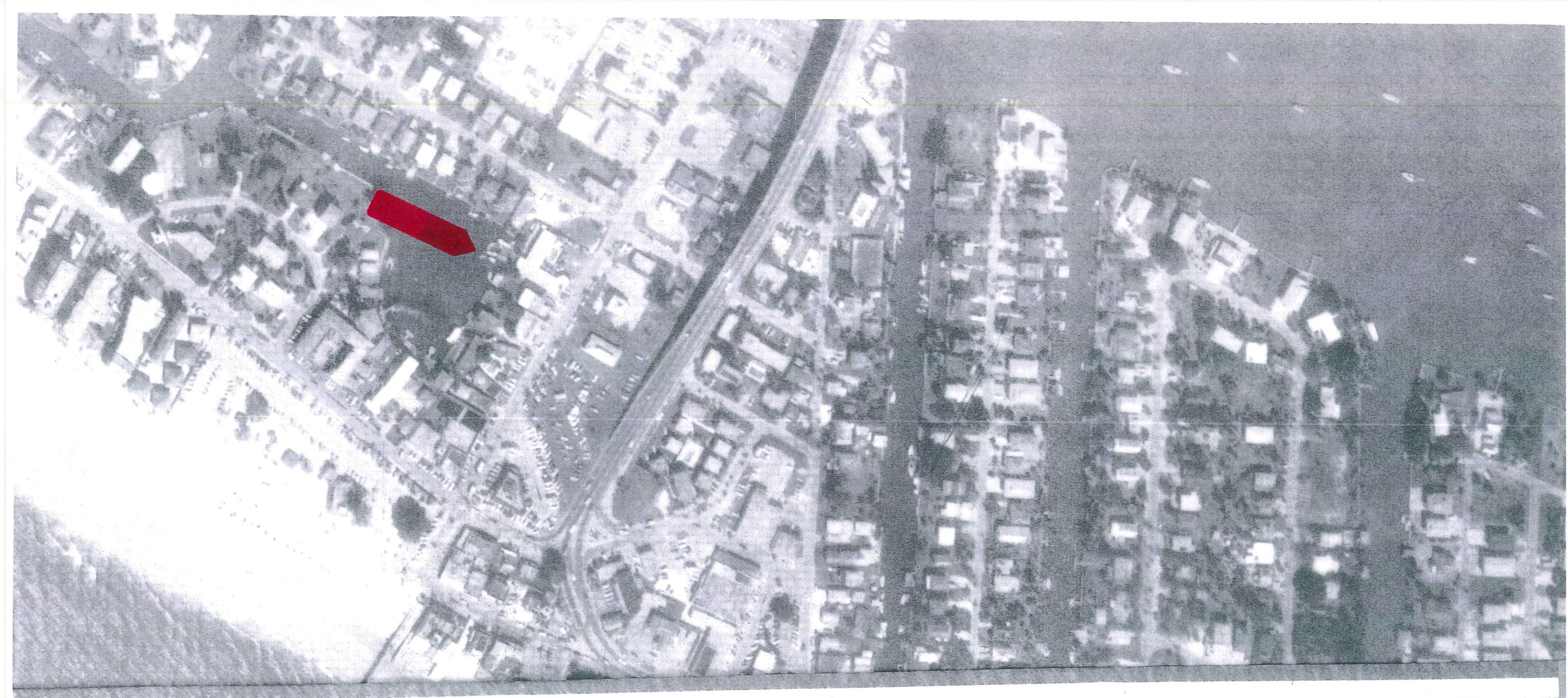
NOW, THEREFORE, BE IT RESOLVED BY THE FORT MYERS BEACH TOWN COUNCIL, that the Council APPROVES / ~~DENIES~~ the requested modification.
FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval / ~~denial~~ of the requested special exception:

And Condition # 7 should read:

7. Within 24 months of the date of this resolution and after Town's adoption of landscape requirements for a permanent commercial parking lot in the Times Square Overlay District, the applicant shall install a landscape buffer which complies with the Town requirements.

This correction was identified upon approval of the minutes on November 1, 1999.



LEE COUNTY
FLORIDA

| SCALE | 1" = 200' | SECTION | TWP. | RANGE | SHEET NO. | MAP |
|------------|-----------|---------|------|-------|-----------|-----|
| PHOTO DATE | FEB. 1986 | 24 | 46 S | 23 E | 93 D | |
| PHOTO NO. | PD-3435 | | | | | |

EXHIBIT 4

NARRATIVE FOR RUSTY'S VARIANCE IN CONJUNCTION WITH RE-
ZONING/SPECIAL EXCEPTION October 31,2013

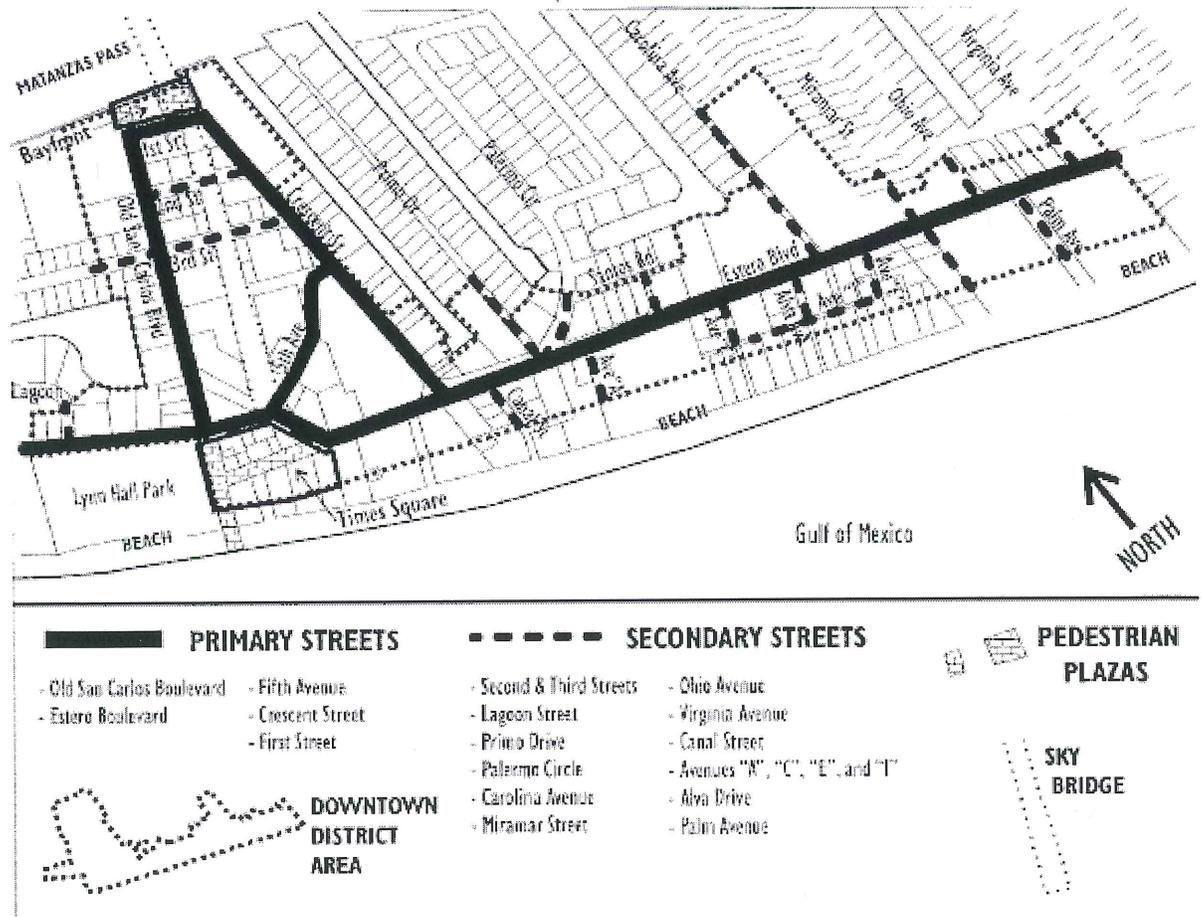
This is a request for a variance from:

1. Section 34-676(b) parking lot locations from off-street parking lots not being in front yards or side yards to permit existing parking to remain in front yard and side yard; and
2. Section 34-677(b)(3) and Table 10-8 from a 15' Type D Buffer between parking lots and ROW to the existing condition. In an abundance of caution this is a request from this LDC Section to permit the existing development to remain. We respectfully submit that a variance should be granted from this provision of the Code where Old San Carlos and Third Street have unique "build-to lines" and due to the required access with visibility triangles on side streets and Old San Carlos for entrance and exit.

The criteria for a variance are as follows:

- a. That there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not essential to protect public policy;
- b. That the conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question;
- c. That the variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property;
- d. That the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
- e. That the conditions or circumstances on the specific piece of property for which the variance is sought are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

The Downtown District boundary is set forth in Figure 34-7 below:



Parking:

The exceptional circumstances are that the parking use exists and has been approved by Town Council in 1999 and approved by the LPA and Town Council in the Commercial Planned Development rezoning by Resolution 01-03. The parking use was issued a Development Order by the Town and constructed. The use of off-street parking is a valuable asset to the Town as there is not sufficient parking to serve the parking demand. The owner relied upon the Town approvals for this parking and has successfully provided this use which benefits the Downtown District to include the merchants and restaurant owners in this District.

The parking use, in compliance with the Town Council approvals and the Development Order, occurred prior to the adoption of the LDC creation of the Downtown District and the specific parking lot location regulation.

The request is the minimum variance to continue the existing approved parking.

The granting of the variance will not injure or be detrimental. To the contrary, the off-street parking is an asset to the Downtown District. This use provides parking for the core area of the Downtown District which is Times Square and Old San Carlos.

Much of Old San Carlos is developed with existing buildings, therefore a variance related to parking on Old San Carlos is appropriate to approve the existing parking use along Old San Carlos and Third Street. Therefore, it is not practical to amend the regulation.

Variance No. 2

Section 34-676 provides support for the Town's "Park One" district. Although future goals include the Town providing additional parking, the Town should support maintaining existing parking and support additional parking to be provided by the private sector.

As to the buffer between the parking and ROW, we specifically submit that other provisions of the Code reflect that this requirement should not be a requirement along Old San Carlos and that other provisions of the Code justify this relief for an existing use from a code adopted after the approval and implementation of this use.

The buffer provision applies to all of the Downtown District reflected earlier in Figure 36-7. But the LDC **requires** that **ONLY** on Old San Carlos to build-to-line must be zero foot

(0') setback. Thus, the LCD requires that the building be a zero setback and any buffer would be required to be removed. The Code does not require a needless act.

Parking in terms of long range planning is an interim use. There is no reason to require the LDC Table 10-8 15' Type D buffer with trees and hedge when LDC 34-674(a)(1)a with a zero (0') build-to-line requires that buffer to be completely destroyed at the time of construction of the building. Also the build-to-line along Third Street is zero foot (0') to five feet (5'). See LDC 34-674(a)(1)b. Again the Code does not require a needless act that would result in destruction of the buffer along Third Street.

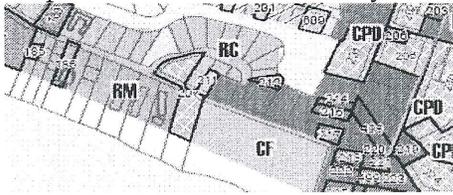
The Code also requires visibility triangles be maintained for each access precluding a Type D buffer in the visibility triangle at the access onto Third Street and Old San Carlos.

The parking is an existing use that was approved and developed prior to adoption of the Downtown buffer provisions which provisions are intended to apply to the entire District which has different build-to-lines than Old San Carlos and Third Street.

This is the minimum variance. This prior approvals establish that the parking use as it currently operates is an asset to the Town and support the Downtown District. Approval of the variance is the appropriate relief rather than amending the Code.

We request staff's recommendation of approval of the variances.

Town of Fort Myers Beach
 Department of Community Development



Zoning Division

Supplement PH-A

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

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

| |
|---|
| Project Name: RUSTY'S CPD TO DOWNTOWN - SPECIAL EXCEPTION |
| Authorized Applicant: JOHN W. RICHARD, TRUSTEE |
| LeePA STRAP Number(s): 24-46- 23-W3-00203.0020 (SOUTH PARCEL) AND 24-46-23-W3-0050A.0080 (NORTH PARCEL) |

| |
|--|
| Current Property Status: |
| Current Zoning: CPD |
| Future Land Use Map (FLUM) Category: PEDESTRIAN COMMERCIAL |
| Platted Overlay? ___yes <input checked="" type="checkbox"/> ___no <input type="checkbox"/> FLUM Density Range: |

Requested Action:

| |
|--|
| <input type="checkbox"/> Use of premises in the EC (Environmentally Critical) zoning district for: |
| |
| |
| <input type="checkbox"/> Use of premises in the <u>DOWNTOWN</u> zoning district for: |
| (1) RETAIL, LARGE NORTH PARCEL; (2) WHOLESALE NORTH PARCEL; |
| (3) PARKING LOT (EXISTING) SOUTH PARCEL SHARED AND PERMANENT; |
| (4) RETAIL, LARGE, SOUTH PARCEL (PROPOSED) |

PART I
 Narrative Statements

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

| |
|---|
| (1) Request for retail large, requires a special exception in the Downtown District. This amount of retail is approved in the current CPD. Retail small is a permitted use in the Downtown zoning district. Retail large is an existing use on the North Parcel which has been approved by the Town of Fort Myers Beach development order which existing use is to be retained. |
| (2) Request for wholesale which requires a Special Exception in the Downtown District. This use permitted in the current CPD and is an existing use to be retained. |
| (3) Parking lot, shared or permanent requires a special exception. Parking lot shared and permanent is an existing use of the South Parcel which is to be retained. A Special Exception was granted in 1999 and is a permitted use in the current CPD. |
| (4) Request for retail, large, requires a special exception in the Downtown District. (south parcel) |
| |
| |
| |

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

| |
|--|
| The property qualifies for a Special Exception because: |
| |
| Resolution 01-03 approved a CPD on the North Parcel which was approved for retail with no limitation on the square footage. Therefore the owner has made a substantial investment to improve and redevelop "retail large" on the North Parcel and the Town Council found that square footage of retail to be consistent with the Comprehensive Plan and the Land Development Code. |
| |
| Permanent and shared parking was approved by Town Council Resolution 99-40 issued on October 11, 1999. When the property owner rezoned the property from conventional commercial to CPD, Town Council approved Resolution 01-03 which approved "parking lot commercial" and "parking lot accessory" which were the appropriate land development terms at that time. "Parking lot commercial" is the equivalent to "parking lot, shared and permanent". |
| |

| |
|--|
| Granting the requested Special Exception could impact surrounding properties as follows: |
| |
| See the attached Narrative |
| The use of permanent parking has been in place for over thirteen (13) years and the use of retail has been in place for over twenty (20) years and as large retail since 2001. The wholesale use has been in place for over twenty (20) years. |
| The special exception uses have not had any adverse impacts on surrounding properties. |
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PART 2
 Submittal Requirements

All applications for a special exception must submit fourteen (14) copies of this application form and all applicable exhibits.

Required Items

- Public Hearing Request Form
- Supplemental form PH-A
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; all proposed structures and uses for the site; and any proposed fencing and screening.

For New Communication Towers:

- a. Lee County Application for Communication Tower
- b. Shared-Use Plan Agreement

REZ2013-0002 Supplement PH-A

EXHIBIT A

NARRATIVE STATEMENT

This is a request for a special exception for permanent shared parking (South Parcel); large retail (North and South Parcels) and wholesale uses (North Parcel).

PARKING (South Parcel)

The South parcel qualifies for a special exception for permanent shared parking because the Town Council of Fort Myers Beach (FMB) approved permanent parking pursuant to Resolution 99-40 on October 11, 1999. A FMB development order was issued for the parking lot. On January 22, 2001, the Town Council approved Resolution 01-03 for commercial parking and accessory parking on the South Parcel when it rezoned the North and South Parcels from a commercial conventional district to Commercial Planned Development (“CPD”) with “parking, commercial” and “parking, accessory” as approved uses which were the terms utilized by the Land Development Code at that time.

Parking lot, shared permanent, is defined in Section 34-2 Definitions, “means a parking lot which constitutes the principal use of the property and which is available to the public for a fee, or which may be leased to individual persons or assigned to specific businesses or property.”

The portion of the South Parcel (Parcel B CPD), which is marked on the South Parcel site plan, has been utilized for permanent and shared parking since 1999. Parking for the public is a necessary and desired use in the Downtown zoning district. Providing parking for the public provides the ability to implement the Town’s “park once” philosophy. A visitor or resident of the Town can park in the Downtown District and from that location enjoy the Town’s assets to include: the beach, the restaurants, the retail, and the bay - so that a number of amenities offered by the Downtown are visited without having to relocate the vehicle. Consistent with LDC Section 34-2014, the parking plans for the subject property have been approved pursuant to a FMB development order. Consistent with LDC Section 34-2015 Location and Design, the parking lot has been designed with sufficient maneuvering room so that existing vehicles can leave the parking lot in a forward motion. The parking lot is paved for high turnover use.

The subject property is located in the Pedestrian Commercial Future Land Use designation which is defined as follows:

POLICY 4-B-6 “PEDESTRIAN COMMERCIAL”: a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around the Villa Santini Plaza. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for affordable units consistent with the adopted redevelopment plan). Commercial activities must contribute to the

pedestrian-oriented public realm as described in this comprehensive plan and must meet the design concepts of this plan and the Land Development Code. Where commercial uses are permitted, residential uses are encouraged in upper floors. All “Marina” uses in Policy 4-B-7 are also allowed on parcels that were zoned for marinas prior to adoption of this plan. Non-residential uses (including motels and churches) now comprise 58.9% of the land in this category, and this percentage shall not exceed 90%. (emphasis supplied).

Shared and permanent parking is a use consistent with the Pedestrian Commercial designation. The request meets or exceeds all performance and locational standards as it was issued a development order by the Town of Fort Myers Beach. The continued use of parking which has been in effect for over thirteen (13) years will have no impact on environmentally critical or natural resources. The request has been found compatible with the existing and planned uses in 1999 and in 2001 by the Town Council. The use has been operated in compliance with the applicable general zoning provisions and supplemental regulations in Chapter 34 and the Land Development Code.

Since the use has been in operation for over thirteen (13) years, it has had no adverse impact on the surrounding properties. In fact, parking in proximity to surrounding uses is a positive impact. The property adjacent immediately to the north is a restaurant use and the use across Third Street is a parking use; the use to the west is Old San Carlos Boulevard and retail, motel, restaurant and accessory parking uses; and the use to the south is restaurant use.

The site plan submitted with the request shows the location of the existing “permanent and shared parking” and as required also illustrates existing buildings and other improvements such as swimming pools.

RETAIL, LARGE (North Parcel & South Parcel)

The North Parcel qualifies for a special exception for “retail, large” for 7,767 square feet consisting of existing retail use of 7,029 square feet with the potential for an additional 738 square feet. If the wholesale use or motel office use are relocated, the request would permit retail in those locations.

In addition to areas (office or wholesale) that may be converted to retail, the owner envisions an expansion to the building with retail along Old San Carlos. The site plan reflects the existing retail with crosshatching and the proposed new “retail, large” addition of 5,257 SF with diagonal stairstep lines. This proposed additional retail is consistent with Future Land Use designation and the Downtown zoning district

The South Parcel qualifies for a special exception for “retail, large” which is a proposed use for 8400 square feet.

On January 22, 2001 Town Council approved Resolution 01-03 for retail on the North and South Parcels (Parcels A and B on the 2001 Master Concept Plan) which was a rezoning from a commercial conventional district to Commercial Planned Development (“CPD”).

The Town of Fort Myers Beach amended the Master Concept Plan pursuant to Case “ADD2002-00089” which provided and authorized the retail on the North Parcel which exceeds 5,000 square feet. Development order LDO2003-00142 authorized the addition of retail between two (2) existing buildings to connect them for retail sales pursuant to Resolution ADD2002-00089.

Retail store is defined and means:

“an establishment operating within a fully enclosed building that provides goods and incidental services directly to consumers where such goods are available for immediate purchase or rental. Retail stores are classified as small (less than 5,000 square feet) or large (more than 5,000 square feet), based on gross floor area per establishment. The following types of establishments are not considered to be retail stores for the purposes of this chapter: *Automobile fuel pumps, Automobile rentals, Marina, and Mini-warehouse.*

“Retail, Large” is a use that has been permitted by the Town of Fort Myers Beach and is desired in this location. “Retail Large” is depicted on the site plans for the North Parcel and South Parcel. It is an existing use for the North Parcel and South Parcel and the request is to obtain the special exception that will permit that use to continue. That “retail, large” use has been in existence since late 2003. Retail is a use consistent with the Pedestrian Commercial designation. The request meets or exceeds all performance and location standards pursuant to the development order that was issued by the Town of Fort Myers Beach. The continued use of “Retail, Large” will have no impact on environmentally critical or natural resources. The request has been found compatible with existing and planned uses in 2003 by the Town of Fort Myers Beach. The use is operated in compliance with the applicable general zoning provisions and supplement regulations of Chapter 34 and the Land Development Code.

The “retail large” use has no impact on surrounding properties. The property adjacent to the north is a parking use; the use across Old San Carlos is permanent parking and restaurant use; the use to the south is a restaurant use; and the use to the west is the lagoon.

Retail is a use consistent within the core (Time Square and Old San Carlos) and is also requested for the South Parcel. The area proposed for, “retail, large” on the South Parcel will appropriately reduce the amount of “shared and permanent parking” at the time of development.

The site plan submitted with the request shows the location of the existing Retail, Large use on the North Parcel and the proposed Retail Large use on the South Parcel and as required the site plans also illustrate existing buildings and other improvements such as swimming pools.

WHOLESALE USE

A special exception to continue the Wholesale Use for the North Parcel (Parcel A) is requested for 538 square feet. On January 22, 2001, the Town Council approved Resolution 01-03 for the "wholesale use" on the North Parcel (Parcel A on the 2001 MCP) which was a permitted use in the conventional zoning district. "Wholesale use" has been in existence for over twenty (20) years. Wholesale use is defined and

"means a place of business primarily engaged in preparing and selling merchandise to retailers, other businesses, or other wholesale establishments, and operating completely within an enclosed building."

Wholesale use is a use consistent with the Pedestrian Commercial designation. The request meets or exceeds all performance and location of standards pursuant to the development order that was issued by the Town of Fort Myers Beach. The continued use of "Wholesale" will have no impact on environmentally critical or natural resources. The request has been found compatible with existing and planned uses in 2001 by the Town of Fort Myers Beach. The use is operated in compliance with the applicable general zoning provisions and supplement regulations of Chapter 34 and the Land Development Code.

The use has no impact on surrounding properties. The property adjacent to the north is a parking use; the use across Old San Carlos is permanent parking and restaurant use; the use to the south is a restaurant use; and the use to the west is the lagoon.

The site plan submitted with the request shows the location of the existing wholesale use and as required it also illustrates existing buildings and other improvements such as swimming pools. We respectfully request approval of a special exception for:

North Parcel

- Retail Large
- Wholesale Use

South Parcel

- Permanent and Shared Parking
- Retail, Large

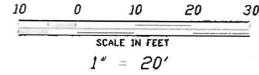
The Pedestrian Commercial future land use designation pursuant to Policy 4-B-6 of the Fort Myers Beach Comprehensive Plan states that is intended to be "a commercial district applied to the intense activity center of Times Square (including Old San Carlos and nearby portions of Estero Boulevard)". Commercial activities must contribute to the pedestrian-oriented public realm. Retail 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, restaurants and other commercial establishments promoting the walkability of the Time Square district.

SKETCH OF
**PROPOSED 3 STORY BUILDING
 LYING IN LOTS 2 THRU 6, 22 & 23**
BLOCK 3, BUSINESS CENTER

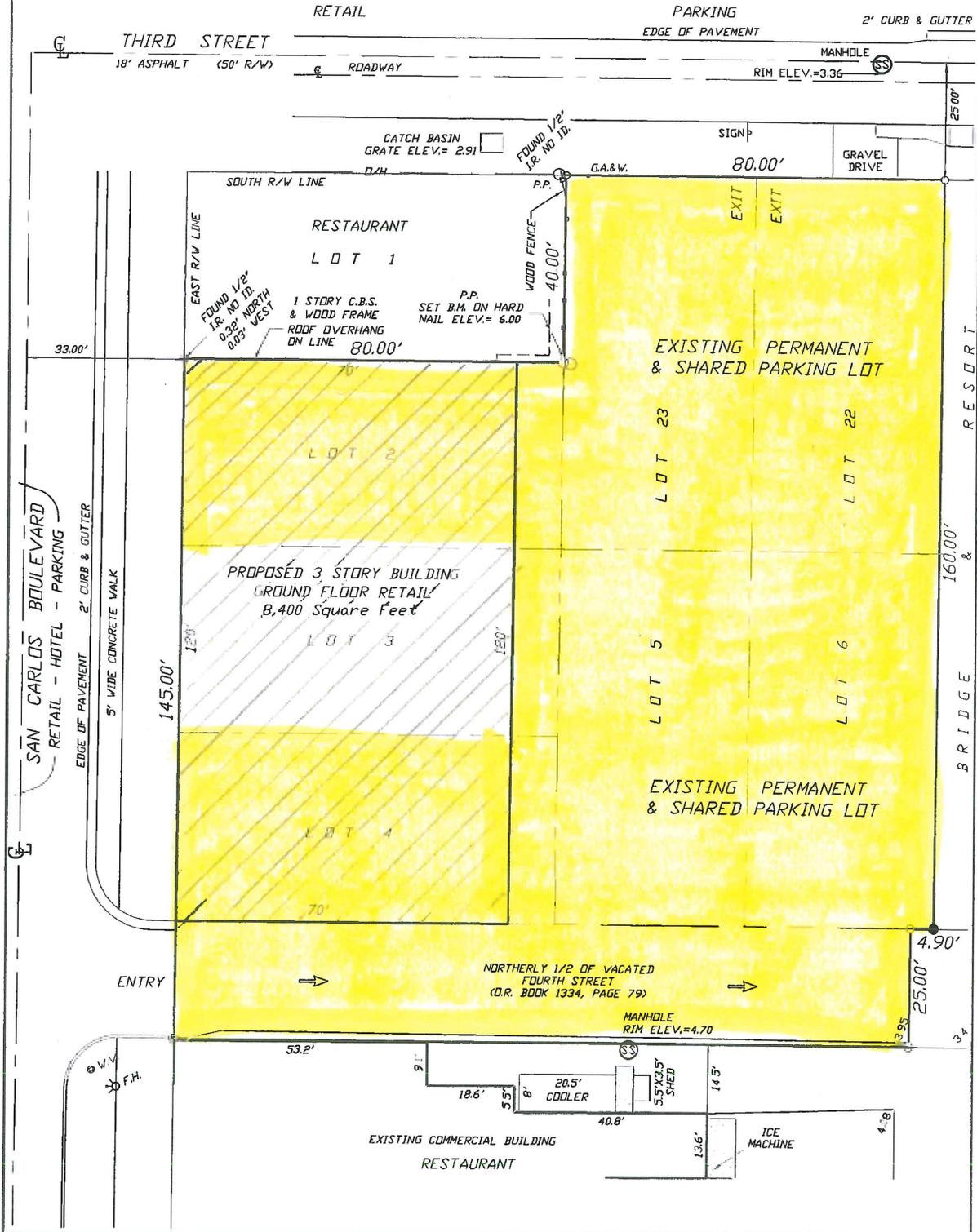
(PLAT BOOK 9, PAGE 10)

**THE NORTHERLY 1/2 OF
 VACATED FOURTH STREET**

(D.R. BOOK 1334, PAGE 79)
 SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST
 LEE COUNTY, FLORIDA



"RUSTY'S SOUTH PARCEL TO DOWNTOWN WITH
 SPECIAL EXCEPTION FOR RETAIL, LARGE"



REZ2013-0002 SOUTH PARCEL
 PROPOSED RETAIL // // //
 EXISTING PARKING [Yellow Box]

July 17, 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: REZ2013-0002
237 Old San Carlos Boulevard, Rusty's CPD to Downtown Zoning District

Dear Ms. Dulmer:

This is in response to your correspondence dated July 1, 2013.

Question: *Please provide an analysis of the current schedule of uses and how the proposed rezoning to Downtown will change the allowable uses. Please reference Land Development Code (LDC) Section 34-621 and Table 34-1. Does the current Commercial Planned Development allow uses that the Downtown district does not permit?*

Response: We requested confirmation of four (4) existing uses that we want to continue in the Downtown with the information provided in the Narrative Statement (Exhibit A to application) filed with the application. The current permitted uses were set forth in Town Council Resolution 01-03 sub-section A.2.a. Schedule of Uses, which is attached as Exhibit "A" to this correspondence. In 2001, the Town of Fort Myers Beach had not adopted its Land Development Code, therefore the uses listed in the Schedule of Uses relate to the Lee County Land Development Code. However, it was recognized by the Town of Fort Myers Beach in its Comprehensive Plan that this property was designated Pedestrian Commercial with the most intense uses for the Town of Fort Myers Beach. Also included as Exhibit "B" are the Permitted Uses in the Downtown zoning district from Table 34-1, which permits all permitted uses in the Residential, Lodging, Office, Retail, and Civic categories and permits restricted and limited uses in the Marine category.

Although the current uses in the CPD are from the Lee Land Development Code and each use was specifically approved by the Town Council, we want to discuss four (4) specific uses.

- Confirm existing year-round parking as a permitted use
- Confirm that "retail, large" which exists on North Parcel remains a permitted use
- Wholesale use is an existing use permitted in the CPD. We want to continue this use on the Subject Property.
- Marina use – the existing uses include and the CPD permits:
bait and tackle shop, boat rental, water taxi, multi-slip docking facility.

We want confirmation that Marina EO is applicable and that the water dependent and related uses cited in the CPD and in this correspondence remain permitted without any further requests.

Question: *Will approval of the rezoning from Commercial Planned Development to Downtown create any non-conformities?*

Question: *Do the existing structure(s) on the subject properties comply with the commercial design standards, see LDC Section 34-991 or will they be considered existing non-conforming? Please provide descriptions, narratives, photos or other details to demonstrate compliance.*

Response (to both questions): Section 34-1 sets forth the purpose of zoning which ... is to “encourage and promote, in accordance with present and future needs, the safety, health, order, convenience, prosperity, and general welfare of the citizens of the Town of Fort Myers Beach, to recognize **and promote real property rights, and to provide:**

- (1) for efficiency and economy in the process of development,
- (2) for the appropriate and best use of land,
- (3) for preservation, protection, development, and conservation of the historical and natural resources of land, water, and air,
- (4) for convenience of traffic and circulation of people and goods,
- (5) for the use and occupancy of buildings,
- (6) for healthful and convenient distribution of population,
- (7) for adequate public utilities and facilities,
- (8) for promotion of the amenities of beauty and visual interest,
- (9) for protection of the character and maintenance of the stability of residential and business areas, and
- (10) for development in accordance with the Fort Myers Beach Comprehensive Plan.

Sub-section (c) provides that “No building or structure, or part thereof, shall hereafter be erected, constructed, reconstructed, altered, or maintained, and no existing use, new use, or change of use of any building, structure, or land, or part thereof, shall be made or continued except in conformity with the provisions of this code.” Section 34-992 provides that the Commercial Design Standards apply to commercial buildings that are “being newly built” and to “substantial improvements” as defined in Section 6-405 in the Downtown zoning district. Therefore, by the mere change to the appropriate zoning district does not trigger compliance with the Commercial Design Standards. Compliance with the Commercial Design Standards is triggered by newly built construction or substantial improvements as defined in Chapter 6. However, to the extent that certain improvements have taken place within the CPD, we respectfully submit that those improvements are consistent with the Commercial Design Standards and pictures are included (Exhibit C).

Redevelopment districts are defined commencing in Section 34-661 which includes the Downtown zoning district. The specific requirements begin in Section 34-671, which provides that “new commercial buildings” are expected to accommodate pedestrians by providing storefronts near sidewalks and by offering shade and shelter along major streets.

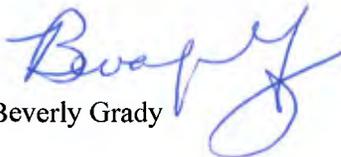
Ms. Leslee Dulmer, Zoning Coordinator
July 17, 2013
Page 3

In the Downtown district, building placement is governed by Section 34-674 to include build-to lines along the streets, setback lines along the rear and sides and water bodies. Section 34-675 governs building frontage, building height, floor area ratio and number of hotel rooms. Section 34-676 governs circulation and parking and provides that for properties fronting on primary streets other than Estero, that driveways should be connected to secondary streets whenever possible. We understand that the current driveway access points would continue to be permitted but may be revised at the time of redevelopment. Section 34-677 provides that there no open space or buffer requirements in Downtown district that would apply to the Subject Property.

In addition, Section 34-677(a) also provides that the commercial design standards in the Downtown district apply to “newly built” and to “substantial improvements”. When the Town of Fort Myers Beach adopted the Downtown zoning district by Ordinance 03-03, it did not adopted any provision that would mandate compliance with the property development regulations and design criteria unless and except the property owner proposed newly built construction or substantial improvement to an existing structure as defined in Section 6-405. Therefore, there is no increase in non-conformities by the approval of the rezoning to the Downtown zoning district.

Very truly yours,

ROETZEL & ANDRESS, LPA


Beverly Grady

BG/ro
Enclosures
-Exhibit A-Current schedule of uses
-Exhibit B-Table 34-1, Uses in Downtown (highlighted)
-Exhibit C-pictures

the request:

A. Conditions

1. The development of this project must be consistent with the one page Master Concept Plan entitled "Rusty's", stamped received by the Permit Counter on December 14, 2000, except as modified by the conditions below. This development must comply with all requirements of the Town of Fort Myers Beach LDC at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

2. The following limits apply to the project and uses:

a. Schedule of Uses

Parcels "A" & "B"

Accessory Uses and Structures
 Administrative Offices
 Animal Clinic
 Banks and Financial Establishments (No Drive Through)
 Bar and Cocktail Lounge (By Special Permit Only)
 Bed and Breakfast
 Boarding House
 Broadcast Studio
 Business Services (Group I & II)
 Caretaker's Residence
~~Cleaning & Maintenance Services~~
 Clothing Store General
~~Computers and Data Processing Services~~ (Not permitted in CPD)
 Consumption on Premises - (Indoor Seating Only)
 Outdoor Seating (Special Permit Only)
 Convenience Food and Beverage Store (No Fuel Pumps)
 Drug Store/Pharmacy
 Food & Beverage Service-Limited
 Flea Market (Indoor)
 Food Stores Group I & II
 Gift and Souvenir Shop
 Hardware Store
 Healthcare Facility (Group I)
 Hobby, Toy and Game Shops
~~Home Care Facility~~
 Household and Office Furnishings

Hotel/Motel
 Insurance Companies
 Laundromat/Laundry & Dry Cleaning Group I
 Medical Office
Night Club (By Special Permit Only)
 Non Store Retailers
~~Outdoor Seating (Not a defined Use)~~
 Package Store
 Paint, Glass & Wallpaper
 Parking Lots
 Commercial
 Accessory
 Personal Services (Group I, II & IV)
 Pet Services
 Pet Shop
 Police or Sheriff's Station
 Post Office
 Printing and Publishing
 Recreational Facilities Commercial (Group I)
 Real Estate Sales Office
 Rental or Leasing Establishments (Group I & II)
 Restaurant, Fast Food (Walk-In only)
 Restaurant (Groups I, II & III)
 Repair Shops (Groups I, II, III & IV)
 Signs (In accordance with LDC Chapter 30)
 Social Services (Groups I & II)
 Specialty Retail Shops (Groups I-IV)
 Storage (Indoor only)
 Studios
~~Supermarket~~
 Temporary Uses (In accordance with LDC 34-3041)
~~Towers, Communication~~
 Used Merchandise Stores (Group I & II)
 Variety Store
 Warehouse (Private)
Wholesale Establishment (small items only ie. jewelry, shells, coins)

Parcel "A" Only

Bait and Tackle Shop
 Boats : ~~Parts-Store/~~ Rental/ Sales (Limited to recreational
 watercraft and water taxi, No Personal Watercraft: Jet Ski)
 Dwelling Unit Multi-Family (One Caretaker's Unit) ~~Marina~~
 Multi-Slip Docking Facility-Existing 16 Slips only
 Time-Share Units

Table 34-1, Land Uses Assigned to Use Groups and Sub-Groups (p.1 of 2)

| | <i>Residential</i> | <i>Lodging</i> | <i>Office</i> | | | |
|---------------------------------------|--|----------------|--|-------------------------------------|---|----|
| Restricted Ⓜ | Community residential home | P | Rental of any permitted dwelling unit to a single family during any one-month period, with a minimum stay of one week (see §§ 34-2391-2410 for rules and exceptions) | P | | |
| | Dwelling unit, single-family | P | | | | |
| | Home care facility | P | | | | |
| | AS ACCESSORY USES: | | AS ACCESSORY USES: | AS ACCESSORY USES: | | |
| | Accessory apartment (1) (see § 34-1177) | SE | | Home occupation (no outside help) | P | |
| | Accessory apartment (see § 34-1178) | EO | | Home occupation (with outside help) | A | |
| | Residential accessory uses | P | | | | |
| | Temporary mobile home (§ 34-3046) | TP | | | | |
| Limited (plus R uses) Ⓡ | Dwelling unit: two-family (1) live/work (see § 34-1773) | P SE | Rental of any permitted dwelling unit to a single family for periods of one week or longer (see §§ 34-2391-2410 for rules) | P | | |
| | Mobile home or RV park (VILLAGE district only, as restricted in § 34-694) | EO | Bed-and-breakfast inn (see § 34-1801) | SE | | |
| | AS ACCESSORY USES: | | AS ACCESSORY USES: | AS ACCESSORY USES: | | |
| | Accessory apartment (1) (see § 34-1177) | P | On-premises consumption of alcoholic beverages (see division 5 of article IV) | AA/ SE | Administrative office | P |
| Open (plus R & L uses) Ⓞ | Assisted living facility (see § 34-1411) | P | Bed-and-breakfast inn (see § 34-1801) | P | Automobile rental | SE |
| | Dwelling unit: multiple-family live/work (see § 34-1773) | P P | Hotel/motel (see § 34-1801) | P | Health care facility | P |
| | Rooming house | P | Rental of any permitted dwelling unit for periods of one day or longer | P | Offices, general or medical | P |
| | Timeshare units (provided these units qualify as dwelling units and meet residential density levels in § 34-632) | P | Resorts | P | Personal services | P |
| | AS ACCESSORY USES: | | Timeshare units | P | Wholesale establishment | SE |
| | Golf course | EO | AS ACCESSORY USES: | | AS ACCESSORY USES: | |
| | Recreation facility: private on-site | P | Resort accessory uses | P | Commercial accessory uses | P |
| | private off-site | SE | Personal services | P | Drive-through, Type 1 (2) | P |
| | Subordinate commercial uses (see § 34-3021) | P | Subordinate commercial uses (see § 34-3021) | P | Subordinate commercial uses (see § 34-3021) | P |

(1) Provided density complies with the Fort Myers Beach Comprehensive Plan (see § 34-632).
 (2) Automobile fuel pumps and all drive-throughs (whether Type 1 or Type 2) cannot be constructed within the outer perimeter of the DOWNTOWN zoning district except as provided in § 34-676(f), whether the subject property is classified in the DOWNTOWN zone or in a Commercial Planned Development zone. See also § 34-620(g)(1) regarding the prohibition on restaurant drive-throughs.

Table 34-1, Land Uses Assigned to Use Groups and Sub-Groups (p. 2 of 2)

| | <i>Retail</i> | <i>Marine</i> | <i>Civic</i> |
|---|--|--|---|
| Restricted (R) | AS ACCESSORY USES: | AS ACCESSORY USES: | AS ACCESSORY USES: |
| | ATM P | Dock (for sole use by occupants of principal use) P | Beach or bay access P Essential services (see § 34-1612(a)) P Hidden path P Park, neighborhood P Family day care home P |
| Limited (plus R uses) (L) | Dwelling unit: work/live (see § 34-1774) SE | Dock (for use by water taxi or water shuttle) P | Communication tower (see § 34-1441-1550) SE |
| | Membership organization SE | Marina EO/SE | Day care center, adult or child SE |
| | Recreation facilities, commercial SE | Parasailing operations office SE | Essential service building (see § 34-1612(b)) SE |
| | Parking lot, seasonal (see § 34-2022) TP | Personal watercraft operations office SE | Essential service equipment P |
| | Temporary uses (see §§ 34-3041-3050) SE | Rental of beach furniture P | Recreation facility: private off-site SE public P |
| | AS ACCESSORY USES: | AS ACCESSORY USES: | AS ACCESSORY USES: |
| | On-premises consumption of alcoholic beverages (see §§ 34-1261-1290) AA/SE | Dwelling unit, caretaker P Dock (may be leased to non-occupants of principal use) P | Dwelling unit, caretaker P Restaurant, accessory to private rec. facilities only SE |
| Open (plus R & L uses) (O) | Automobile repair SE | Boat dealer P | Cultural facility SE |
| | Bar or cocktail lounge AA/SE | Marina P | Day care center, adult or child P |
| | Car wash SE | | Park, community or regional P |
| | Dwelling unit: work/live (see § 34-1774) P | | Parking lot, shared permanent SE |
| | Laundromat P | | Place of worship P |
| | Mini-warehouse SE | | Religious facility SE |
| | Parking lot, shared permanent (34-2015(2)b.) SE | | School (see § 34-2381-2383) P |
| | Personal services P | | Theater SE |
| | Restaurant (2) P | | |
| | Retail store, small P | | |
| | Retail store, large SE | | |
| | AS ACCESSORY USES: | AS ACCESSORY USES: | AS ACCESSORY USES: |
| | Commercial accessory uses P | Marina accessory uses P | Helistop SE |
| | Drive-through: (2) Type 1 P Type 2 SE | | Restaurant, accessory only to public recreation facilities P |
| | Automobile fuel pumps (2) SE | | Subordinate commercial uses (see § 34-3021) P |

(2) Automobile fuel pumps and all drive-throughs (whether Type 1 or Type 2) cannot be constructed within the outer perimeter of the DOWNTOWN zoning district except as provided in § 34-676(f), whether the subject property is classified in the DOWNTOWN zone or in a Commercial Planned Development zone. See also § 34-620(g)(1) regarding the prohibition on restaurant drive-throughs.

EXHIBIT C (10F3)



EXHIBIT C (20F3)



EXHIBIT 0 (30F3)





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: REZ2013-0002
237 Old San Carlos Blvd

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:

Please provide an analysis of the current schedule of uses and how the proposed rezoning to Downtown will change the allowable uses. Please reference Land Development Code (LDC) Section 34-621 and Table 34-1. Does the current Commercial Planned Development allow uses that the Downtown district does not permit?

Will approval of the rezoning from Commercial Planned Development to Downtown create any non-conformities?

Do the existing structure(s) on the subject properties comply with the commercial design standards, see LDC Section 34-991 or will they be considered existing non-conforming? Please provide descriptions, narratives, photos or other details to demonstrate compliance.

Please provide the additional material and narratives 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

MAY 30 2013

ORIGINAL



RECEIVED BY

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: REZ 2013-0002 DATE: 5-30-13

Site Address: 237, 245 and 309 Old San Carlos Boulevard and 320 and 330 Old San Carlos Boulevard

STRAP Number: 24-46-23-W3-00203.0020 and 24-46-23-W3-0050A.0080

Applicant: John W. Richard Trustee Phone: 239-338-4207

Contact Name: Beverly Grady, Esquire Phone: 239-338-4207

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

Current Zoning District: Commercial Planned Development

Future Land Use Map (FLUM) Category: Pedestrian Commercial

FLUM Density Range: 6 DUPA Platted Overlay: YES NO

ACTION REQUESTED

- Special Exception
- Variance
- Conventional Rezoning
- Planned Development Commercial Residential
- Master Concept Plan Extension
- Appeal of Administrative Action
- Vacation of Platted Right-of-way and Easement
- Other - cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

- PH-A
- PH-B
- PH-C
- PH-D
- PH-E
- PH-F
- PH-G
- attach on separate sheet

PART I – General Information

A. Applicant*: John W. Richard Trustee Phone: 239-338-4207

**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: c/o Roetzel & Andress, 2320 First Street, Fort Myers, FL 33901

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

Contact Name: Beverly Grady, Esquire Phone: 239-338-4207

B. Relationship of Applicant to subject property:

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

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

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

Name: Roetzel & Andress (Beverly Grady) Phone: 239-338-4207

Address: 2320 FIRST STREET, FORT MYERS, FL 33901

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

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 CPD to Downtown
- 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-W3-00203.0020 and 24-46-23-W3-0050A.0080

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

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

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 |
|--|------------------------|
| John W. Richard Trust (John W. Richard, Trustee) | 100% |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

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

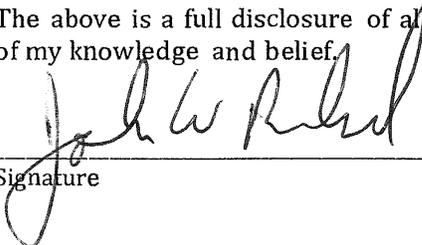
Date of Contract: _____

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.



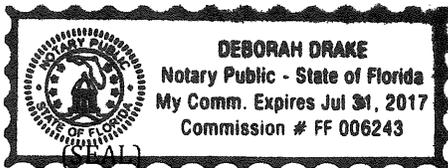
 Signature

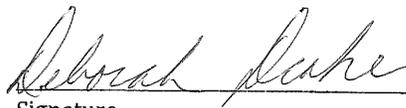
John W. Richard, Trustee

 Printed Name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was sworn to (or affirmed) and subscribed before me on May 06, 2013 (date) by John W. Richard, Trustee (name of person providing oath or affirmation), who is personally known to me or who has produced _____ (type of identification) as identification.





 Signature

DEBORAH DRAKE

 Printed Name

PART V - Property Information

A. Legal Description:

STRAP: 24-46-23-W3-00203.0020 and 24-46-23-W3-0050A.0080

Property Address: 237, 245 and 309 Old San Carlos Blvd and 320 and 330 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) 250' No. parcel; 145' So. parcel feet

Depth (please provide an average width if irregular in shape) 125' No. parcel; 155' So. parcel feet

Frontage on street: 250' and 145' feet. Frontage on waterbody: 184' feet

Total land area: 1.369 acres square feet

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

Go over the Sky Bridge, turn right on Estero Boulevard, turn right on Old San Carlos Boulevard, property is on the right and left between Third Street and Estero Boulevard

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 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 checked="" type="checkbox"/> CPD (Commercial Planned Development) | |

PART VII

AFFIDAVIT

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

I, John W. Richard, Trustee (name), as trustee (title) of John W. Richard Trust (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

- 1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the County in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

John W. Richard Trust
Name of Entity (corporation, partnership, LLP, LLC, etc)
Signature
Trustee
Title
John W. Richard, Trustee
Typed or Printed Name
Date
May 6, 2013

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was sworn to (or affirmed) and subscribed before me on May 06, 2013 (date) by John W. Richard, Trustee (name of person providing oath or affirmation), who is personally known to me or who has produced (type of identification) as identification.



Deborah Drake
Signature
DEBORAH DRAKE
Printed Name

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 Nos. 24-46-23-W3-002030020 and 24-46-23-W3-0050A.0080, 237, 245 and 309 Old San Carlos Boulevard and 320 and 330 Old Scan Carlos Boulevard, Fort Myers Beach, Florida.

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

John W. Richard

John W. Richard, Trustee of the John W. Richard Trust

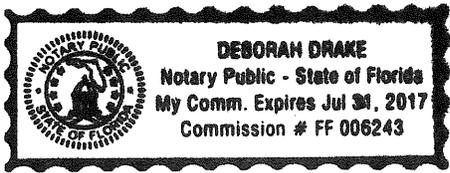
STATE OF FLORIDA)
) §:
COUNTY OF LEE)

Sworn to (or affirmed) and subscribed before me this 10TH day of MAY, 2013, by JOHN W. RICHARD, TRUSTEE OF THE JOHN W. RICHARD TRUST, who [] is personally known to me OR [] has produced a Florida driver's license as identification and who did (did not) take an oath.

Deborah Drake

Notary Public
My commission expires: 7-31-2017

[NOTARY STAMP/SEAL]



DESCRIPTION:

Lots 2 through 6 and Lots 22 and 23 and the Westerly 155.10 feet of the North One Half (N.1/2) of that portion of vacated Fourth Street that is contiguous to Lots 4, 5 and 6, all in Block 3, Business Center as recorded in Plat Book 9, Pages 9 and 10, Public Records of Lee County, Florida.

TOGETHER WITH:

Lots 3 through 12, Block "A", Island Shores, Unit 2 as recorded in Plat Book 9, Page 25, Public Records of Lee County, Florida.

TOGETHER WITH: (Vacated lagoon right-of-way per O.R. Book 2736, Page 7002)

Part of a vacated lagoon right-of-way being more particularly described as follows:

Beginning at the Southwest corner of Lot 12, Block "A", Island Shores Subdivision, Unit 2, as recorded in Plat Book 9, Page 25 of the Public Records of Lee County, Florida; thence run North 26°01'39" East for 75.00 feet to the Northwest corner of Lot 10 of said Subdivision; thence run North 63°58'26" West along the Westerly extension of the North line of said Lot 10 for 11.82 feet more or less to the outer face of a seawall; thence run South 28°20'28" West along said seawall for 75.06 feet to the Westerly extension of the South line of said Lot 12; thence run South 63°58'26" East for 14.85 feet to the point of beginning.

Said parcel contains 1000.1 square feet, more or less.

TOGETHER WITH: (Vacated lagoon right-of-way)

Part of a lagoon right-of-way being more particularly described as follows:

Beginning at the Southwest corner of Lot 9, Block "A", Island Shores Subdivision, Unit 2, as recorded in Plat Book 9 at Page 25 of the Public Records of Lee County, Florida; thence run N.63°58'21"W. for 11.82 feet to the outer face of a seawall; thence run N.29°45'28"E. for 50.11 feet to the outer face of a second seawall; thence run N.26°01'39"E. for 58.50 feet along said seawall to a point of curve to the left in said second seawall; said curve having a radius of 10 feet; thence run along said seawall and curve an arc distance of 6.39 feet through a delta angle of 36°37'27" to a point which bears S.71°01'39"W., 14.90 feet from the Northwest corner of Lot 5, Block "A", of said Subdivision; thence run S.26°01'39"W. for 125.00 feet to the point of beginning.

Said parcel contains 1120.6 square feet, more or less.

BOUNDARY & PARTIAL TOPOGRAPHIC SURVEY OF
LOTS 2 THRU 6, 22 & 23
BLOCK 3, BUSINESS CENTER
(PLAT BOOK 9, PAGE 9-10)
THE NORTHERLY 1/2 OF
VACATED FOURTH STREET
SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST
(O.R. BOOK 1334, PAGE 79)
LEE COUNTY, FLORIDA

&
BOUNDARY & PARTIAL TOPOGRAPHIC SURVEY OF
LOTS 3 THRU 12, BLOCK "A"
ISLAND SHORES, UNIT 2
AND VACATED
LAGOON RIGHT-OF-WAY
SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST
(PLAT BOOK 9, PAGE 25)
LEE COUNTY, FLORIDA

SCALE IN FEET

0 10 20 30 40 50

- LEGEND:
SET IRON PIN (CAP #4631)
FOUND IRON PIN (R/W)
CONCRETE MONUMENT (C.M.)
PERMANENT REFERENCE MONUMENT
PERMANENT CONTROL POINT
AS PER PLAT
AS MEASURED
AS PER SURVEY
PUBLIC UTILITY EASEMENT
LAKE MAINTENANCE EASEMENT
DRAINAGE EASEMENT
CONCRETE BLOCK STRUCTURE
GUY ANCHOR & WIRE
CONCRETE POWER POLE
PARKING BUMPERS
NAIL & DISH
NAIL & TINTAB
DRILL HOLE
POINT OF BEGINNING
OFFICIAL RECORDS BOOK
DELTA OF CURVE
RADIUS OF CURVE
CURVE NUMBER
AIR CONDITIONER
OVERHEAD POWERLINES
POWER POLE
WATER METER
TELEPHONE BOX
TV-CABLE BOX
EDGE OF PAVEMENT
CURB/GUTTER
CENTERLINE
RIGHT-OF-WAY
BENCHMARK
TYPICAL ELEVATION

SURVEY NOTES:
1. BASIS OF BEARINGS SHOWN HEREON TAKEN FROM THE WEST RIGHT-OF-WAY LINE OF SAN CARLOS BOULEVARD, ASSUMED TO BEAR S 22°30'00" W.
2. FIELD NOTES IN ISLAND SHORES.
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 DRAWING IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ELEVATIONS ARE NATIONAL GEODETIC VERTICAL DATUM OF 1929 (N.G.V.D.). FLOOD ZONE: "A-12" ELEVATION: 12.00' N.G.V.D. COMMUNITY # 125124 PANEL # 0429 SUFFIX --- D REVISION DATE: 9/20/96
THIS SURVEY IS CERTIFIED TO: JOHN RUSHARD

CERTIFICATE
I HEREBY CERTIFY THAT THIS PLAT OF SURVEY WAS PREPARED UNDER MY DIRECT SUPERVISION AND IS CORRECT AND ACCURATE TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF AND MEETS THE MINIMUM STANDARDS OF LAND SURVEYING IN THE STATE OF FLORIDA UNDER FLORIDA STATUTES, CHAPTER 472 AND CHAPTER 61 G-17, FLORIDA ADMINISTRATIVE CODE.

John B. Harris, Surveyor
DATE: May 28, 2013

Table with columns: REVISED, DESCRIPTION, BY, DRAWN, SCALE, PROJ., DATE, FILE NO., SHT., OF. Includes project details for HARRIS-JORGENSEN INC.

EXHIBIT (5)
51AND59

UNIT NO 2 ISLAND SHORES

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

DESCRIPTION

A tract or parcel of land in U.S. Lot 1, Section 24, T46S, R23E on Estero Island described as follows: From the northwesterly corner of Block B of Business Center, a subdivision according to a map or plat recorded in Plat Book 3, at Pages 2 & 3, to public records of Lee County, run northwesterly along a prolongation of the northerly line of said Block for 33.22' to the center line of the County Road; thence southwesterly along said center line for 0.15'; thence southwesterly of an angle of 86°24'20" north to west with said line for 33.37' to the westerly line of said road; thence run northwesterly along said line for 60.70' to the northerly line of Estero Blvd. as shown on the plat of Unit No. 1, Island Shores recorded in Plat Book 3, at Page 24, of the public records of Lee County, and the Point of Beginning; From said P.O.B. continue northwesterly along the westerly side of said County Road for 623.21'; thence northwesterly on a perpendicular to said road for 125'; thence southwesterly parallel to said road for 100'; thence northwesterly perpendicular to said road for 715'; thence northwesterly parallel to said road for 230' more or less to the waters of Matanzas Pass; thence northwesterly along said waters to an intersection with a line parallel to said County Road and 1032' (measured on a perpendicular) from the last mentioned course; thence run southwesterly along said line for 450' more or less to a point 140' (measured on a perpendicular) northwesterly from a northwesterly prolongation of the northerly line of Estero Blvd. as shown on said plat of Unit No. 1, Island Shores; thence run southwesterly parallel to said prolongation for 451.17'; thence run southwesterly perpendicular to said prolongation for 200'; thence run northwesterly along a prolongation of the southerly side of said Blvd. for 401' thence run northwesterly along the westerly end of said Blvd. for 80'; thence run southwesterly along the northerly side of said Blvd. for 460.18'; thence defect left 131°19'20" and continue along the northerly side of said Blvd. for 142.31' to the Point of Beginning together with all riparian rights appurtenant thereto; EXCEPTING that certain parcel conveyed by deed recorded in Deed Book 203, at Page 481, and marked herein "not included in this Plat."

DEDICATION

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

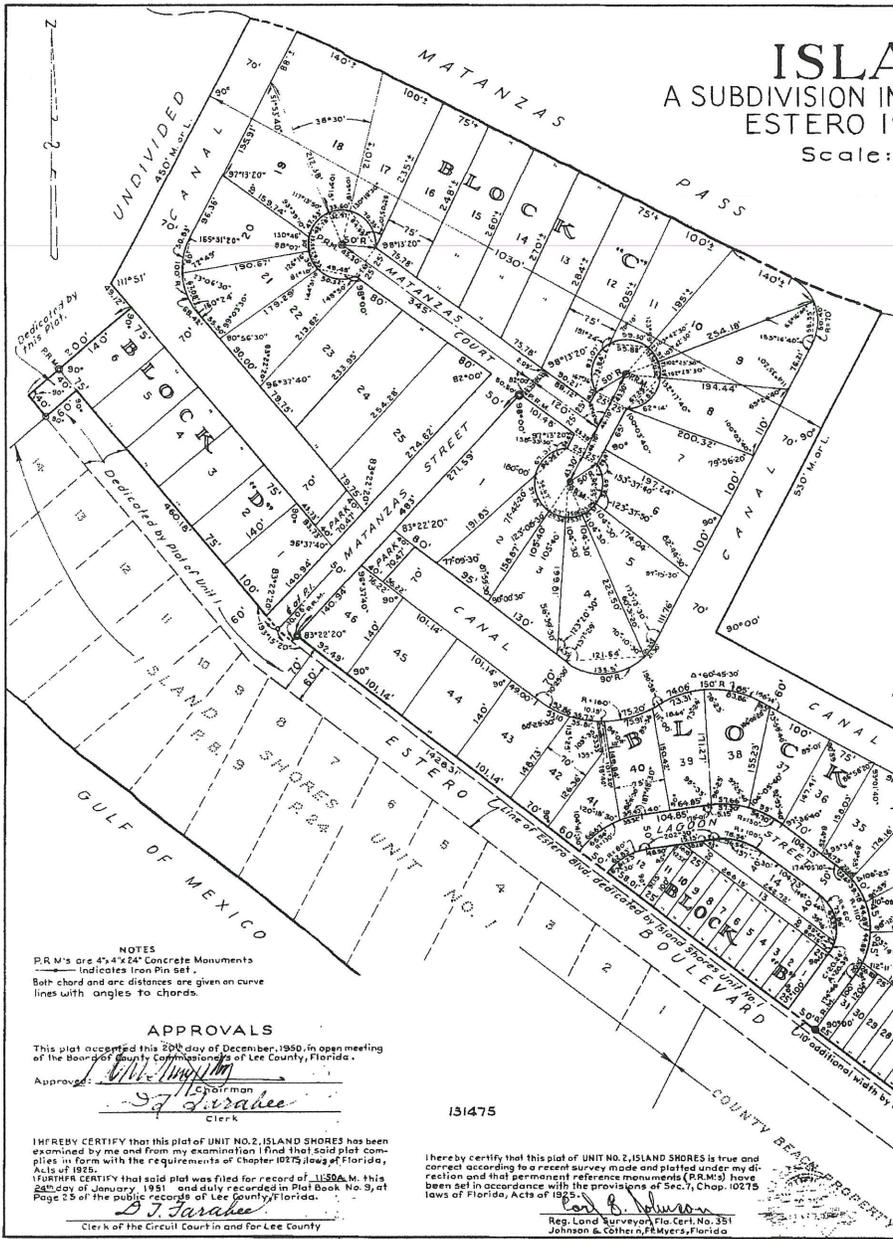
ACKNOWLEDGMENT

ISLAND SHORES, Inc.
Attest: *James B. Kelley* Secretary By: *John Walton* President

STATE OF FLORIDA
COUNTY OF LEE
I HEREBY CERTIFY that on this day before me personally appeared John Walton and James B. Kelley, respectively president and secretary of Island Shores, Inc., a corporation under the laws of Florida, to me known to be the persons described in and who executed the foregoing dedication, and they acknowledged the execution thereof to be their free act and deed as such officers for the uses and purposes therein mentioned and that they affixed thereto the official seal of said corporation, and that said dedication is the act and deed of said Corporation.
WITNESS my hand and official seal of Earl Myers, State Commissioner, and this 19th day of Dec. A.D. 1950.
Earl Myers
Notary Public, State of Florida, My Commission Expires 10-2-54

NOTE

An easement for the use of public utilities 3 feet in width is hereby reserved for a distance of 30' from street lines along the rear lines of lots 30 & 31, Block A and along each side of lots 32 to 40, the northwesterly side of lot 41, Block A and each side of lots 1 to 25, inc. except sides of Matanzas St., in Block C.



NOTES
P.R.M.'s are 4"x4"x24" Concrete Monuments
Indicates Iron Pin set.
Both chord and arc distances are given on curve lines with angles to chords.

APPROVALS

This plat accepted this 29th day of December, 1950, in open meeting of the Board of County Commissioners of Lee County, Florida.
Approved: *W. H. Thompson* Chairman
S. J. Tarabee Clerk

I HEREBY CERTIFY that this plat of UNIT NO. 2, ISLAND SHORES has been examined by me and from my examination find that said plat complies in form with the requirements of Chapter 10275, laws of Florida, Acts of 1925.
I HEREBY CERTIFY that said plat was filed for record of 11:50 A.M. this 29th day of January, 1951, and duly recorded in Plat Book No. 9, at Page 25 of the public records of Lee County, Florida.
B. J. Tarabee
Clerk of the Circuit Court in and for Lee County

I hereby certify that this plat of UNIT NO. 2, ISLAND SHORES is true and correct according to a recent survey made and plotted under my direction and that permanent reference monuments (P.R.M.'s) have been set in accordance with the provisions of Sect. 7, Chap. 10275 laws of Florida, Acts of 1925.
Earl Myers
Reg. Land Surveyor, Fla. Cert. No. 351
Johnson & Collier, Ft. Myers, Florida



BUSINESS CENTER

A SUBDIVISION IN
 U.S. LOT 1 ON ESTERO ISLAND
 SECTION 24, T46S, R23E
 LEE COUNTY, FLORIDA

Scale: 1" = 60'
 Sheet 1 of 2
 February, 1949

DESCRIPTION

A tract or parcel of land lying in U.S. Lot 1, on Estero Island, Section 24, Township 46 South, Range 23 East, Lee County, Florida, which tract is described as follows: From the southwest corner of Block E, Crescent Park Addition, according to the plat of said Block E, bearing S 89° 54' 00" W, 118.43 feet to the southeast corner of the east line of said Section 24, run northwesterly along the north side of County Road right of way 50' wide, at an included angle of 69° 54' 00" W, with said Section line for 26.82 to the point of beginning, from said point of beginning line of said County Road running from the Matanzas Bay right of way to the Gulf of Mexico, thence deflected right 98° 31' 00" and run north easterly along said right-of-way line, 35' from and parallel to the center-line for 118.6514, thence southeasterly on a perpendicular to said line for 28.22 to an intersection with the 28' west of the center-line of said County Road, thence along said center-line to and 28' measured on a perpendicular, from the east line of Section 24, for 1187.6' more or less to the point of beginning, excepting therefrom those parcels marked 'Not' included in this plat.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS that T.H. Phillips, the owner of the herein described lands has caused this plat of "BUSINESS CENTER" to be recorded in the public office of the Clerk of Lee County, Florida, and in WITNESS WHEREOF the owner has hereunto set his hand and seal this 14th day of February, A.D. 1949.

WITNESS:
T.H. Phillips
 T.H. Phillips
 Notary Public, State of Florida, My Commission expires Feb. 1, 1952

ACKNOWLEDGMENT

STATE OF FLORIDA
 COUNTY OF LEE
 I HEREBY CERTIFY that on this day before me, an officer duly authorized to take acknowledgments, personally appeared T.H. Phillips, to me known to be the person described in and who executed the foregoing instrument, and acknowledged to me that he executed the same for the uses and purposes therein mentioned and in WITNESS my hand and official seal of Lee County and State this 14th day of February, A.D. 1949.

T.H. Phillips
 Notary Public, State of Florida of Large
 My Commission expires Feb. 1, 1952

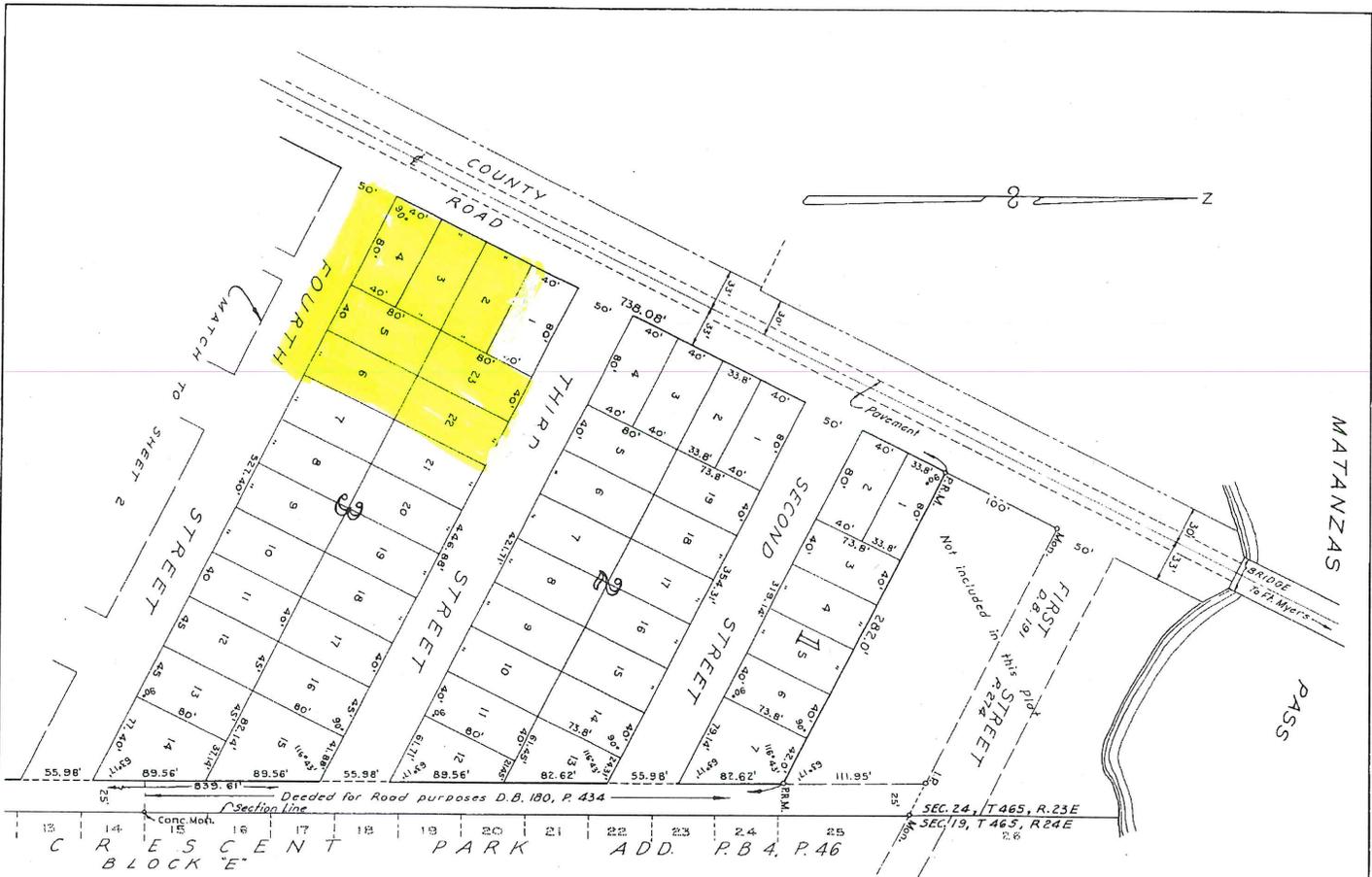
APPROVALS

This plat accepted this 23rd day of February, A.D. 1949, in open meeting of the Board of County Commissioners of Lee County, Florida.

APPROVED:
 Chairman
 Clerk

Clerk of the Circuit Court in and for Lee County

122739



I HEREBY CERTIFY that this plat of "BUSINESS CENTER" has been examined by me and from my examination I find that said plat complies in form with the requirements of Chapter 10215, F.S. I FURTHER CERTIFY that said plat was filed for record of 4302PM, this 23rd day of February, A.D. 1949, and duly recorded in Plat Book No. 9 of Pages 3, and 10 of the public records of Lee County, Florida.

Thereby certify that this plat of "BUSINESS CENTER" is true and correct according to a recent survey made and plotted under my direct supervision and in compliance with the provisions of Chapter 10215, F.S. and in WITNESS whereof I have hereunto set my hand and seal of Lee County, Florida, this 14th day of February, A.D. 1949.

Reg. Land Surveyor, Fla. Cert. No. 351
 Johnson & Co., Inc., Fort Myers, Florida



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: 4/19/2013 12:55:22 PM
Buffer Distance: 500 ft
Parcels Affected: 152
Subject Parcels: 24-46-23-W3-00203.0020, 24-46-23-W3-0050A.0080

| OWNER NAME AND ADDRESS | STRAP AND LOCATION | LEGAL DESCRIPTION |
|--|---|---|
| KIRIC INVESTMENTS INC 1522 PARK RD WAYNESBORO, VA 22980 | 24-46-23-W3-00004.0000 1131 FIRST ST FORT MYERS BEACH FL 33931 | A PARL AS DESC IN OR 1246 PG 0118 |
| HUNTINGBURG PARTNERS LTD TODD MCGEE STE 1203 5294 SUMMERLIN COMMONS WAY FORT MYERS, FL 33907 | 24-46-23-W3-00006.0000 1133-1155 ESTERO BLVD/FIFTH ST FORT MYERS BEACH FL 33931 | BUSINESS CTR PHILLIPS PB 9 PG 9 LOTS 10 THRU 15 + OR 587/198 LESS R/W 2353/3036 |
| LALLO JOHN W + DEBORAH L 14577 EAGLE RIDGE DR FORT MYERS, FL 33912 | 24-46-23-W3-00007.0000 1005 ESTERO BLVD FORT MYERS BEACH FL 33931 | FRM SW COR BLK E CRESCENT PK ADD ON E LI SEC 24 46 23 RUN NWLY AT INC |
| NESKES NOMIKI J + 1001 ESTERO BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00008.0000 1001 ESTERO BLVD FORT MYERS BEACH FL 33931 | FRM SW COR BLK E CRESCENT PK ADD ON E LI SEC 24 RUN NW 69 DEG 54 MIN WITH SEC |
| LEE COUNTY PO BOX 398 FORT MYERS, FL 33902 | 24-46-23-W3-00023.0000 950/81 ESTERO BLVD/OLD SAN CARLO BLVD FORT MYERS BEACH FL 33931 | BEG NW COR BLK 8 BUSINESS CTR SUB RUN NWLY ALG EXTEN NLI PIER ON 22.0000 |
| RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00024.0000 201 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | FROM NWLY COR BLK 8 BUSINESS CENTER SUBD RUN NWLY ALG PROLONGATION OF |
| KIRIC INVESTMENTS INC 1522 PARK RD WAYNESBORO, VA 22980 | 24-46-23-W3-00026.0000 645 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | PAR LYING E OF SAN CARLOS BLVD DESC OR 1534/1849 LESS CONDO/C/E PARCEL |
| FREELAND GEORGE T 4830 GRIFFIN BLVD FORT MYERS, FL 33908 | 24-46-23-W3-00026.0020 450 HARBOR CT FORT MYERS BEACH FL 33931 | PARL IN SE 1/4 SEC 24 TWP 46 RGE 23 DESC OR 1447 PG 1434 |
| KIRIC INVESTMENTS INC 1522 PARK RD WAYNESBORO, VA 22980 | 24-46-23-W3-00026.0030 441/445 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | BEG AT A CONC MONUMENT 3 FT SE OF SELY COR MATANZAS VIEW RUN N 65 DEG |
| FREELAND GEORGE T 4830 GRIFFIN BLVD FORT MYERS, FL 33908 | 24-46-23-W3-00027.0000 450 HARBOR CT FORT MYERS BEACH FL 33931 | PARL IN SE1/4 DESC OR1656/ 2886+MATANZAS VIEW BLK B PB9/40 PT LT 21 + SUB LAND |
| SALVATORI LEO J TR 9132 STRADA PL 4TH FLR NAPLES, FL 34108 | 24-46-23-W3-00201.0030 1025 SECOND ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 1 PB 9 PG 9 LOTS 3 + 4 |
| SALVATORI LEO J TR 9132 STRADA PL 4TH FLR NAPLES, FL 34108 | 24-46-23-W3-00201.0070 1047/1049 SECOND ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK.1 PB9 PG 9 LOT 7 LESS R/W OR 2364/2893 |
| HOUSEBOAT LLC 237 OLD SAN CARLOS BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00202.0010 440 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 2 PB 9 PG 9 LOT 1 |
| HOUSEBOAT LLC 237 OLD SAN CARLOS BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00202.0020 430 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 2 PB 9 PG 9 LOT 2 |
| HOUSEBOAT LLC 237 OLD SAN CARLOS BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00202.0030 420 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK.2 PB 9 PG 9 LOTS 3 + 5 |

All data is current at time of printing and subject to change without notice.
 THE INFORMATION CONTAINED IN THIS REPORT IS GOVERNED BY FLORIDA STATUTE 119.071
 (GENERAL EXEMPTIONS FROM INSPECTION OR COPYING OF PUBLIC RECORDS).

| OWNER NAME AND ADDRESS | STRAP AND LOCATION | LEGAL DESCRIPTION |
|--|--|---|
| NAPPO JOSEPH + CHRISTINE 45 SAGAMORE AV OCEANPORT, NJ 07757 | 24-46-23-W3-00202.0060 1011 THIRD ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK.2 PB 9 PG 9 LOT 6 |
| HOUSEBOAT LLC 237 OLD SAN CARLOS BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00202.0090 1037/1039 THIRD ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 2 PB 9 PG 9 LOTS 9 + 10 |
| 3 SUNS MANAGEMENT LLC 1051 THIRD ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00202.0110 1041 THIRD ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 2 PB 9 PG 9 LOT 11 |
| 3 SUN MANAGEMENT LLC 1051 THIRD ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00202.0120 1051 THIRD ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK.2 PB 9 PG 9 LOT 12 LESS OR2325/0292 |
| SALVATORI LEO J TR 9132 STRADA PL 4TH FLR NAPLES, FL 34108 | 24-46-23-W3-00202.0130 CORNER LOT FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK.2 PB 9 PG 9 LOTS 13 + 14 LESS R/W OR 2311/2803 |
| SALVATORI LEO J TR 9132 STRADA PL 4TH FLR NAPLES, FL 34108 | 24-46-23-W3-00202.0150 1042/1044 SECOND ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK.2 PB 9 PG 9 LOT 15 LESS R/W OR 2311/2803 |
| PIERHOUSE-FT MYERS BEACH LTD 1000 ESTERO BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00202.0180 1030 SECOND ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK.2 PB 9 PG 9 LOT 18 |
| HOUSEBOAT LLC 237 OLD SAN CARLOS BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00202.0190 1010 SECOND ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 2 PB 9 PG 9 LOT 19 |
| SOB INC 340 OLD SAN CARLOS BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00203.0010 340 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK.3 PB 9 PG 9 LOT 1 |
| LIGHTHOUSE ISLAND RESORT INC 1051 5TH ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00203.0090 1041 FOURTH ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 3 PB 9 PG 9 LOT 9 LESS OR 3176 PG 330 |
| LIGHTHOUSE ISLAND RESORT INC 1051 5TH ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00203.0100 1049 FOURTH ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 3 PB 9 PG 9 LOTS 10-13 + 16-18 |
| LIGHTHOUSE ISLAND RESORT INC 1051 5TH ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00203.014A 1067 FOURTH ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK.3 PB9/9 LT 14 LESS PAR 3.014B R/W (OR2297/0492) |
| RICHARD JOHN W 237 OLD SAN CARLOS BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00203.0150 1060 THIRD ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK.3 PB 9 PG 9 LOT 15 LES R/W OR2353/3036 |
| LIGHTHOUSE ISLAND RESORT INC 1051 5TH ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00203.0190 1030 THIRD ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 3 PB 9 PG 9 LOT 19 LESS OR 3176 PG 330 |
| TOWN OF FORT MYERS BEACH PO BOX 3077 FORT MYERS BEACH, FL 33932 | 24-46-23-W3-00203.019A THIRD ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 3 PB 9 PG 9 LOT 19 AS DESC IN OR 3176 PG 330 BLDG ASSESSED ON 24-46-23-W3-00203.0190 AS INCOME PARCEL TILL 2008 |
| STINGRAYS RAW BAR INC 250 OLD SAN CARLOS BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00204.0010 250 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | BUSINESS CTR LTS 1 + 2 BLK 4 LOTS 1 THRU 5 BLK 5 W OF ST RD 865 R/W + POR OF VAC ST |
| HOLLAND DENNIS TR 3933 MAALAEA BAY PL WAILUKU, HI 96793 | 24-46-23-W3-00204.0030 200 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 4 PB 9 PG 9 LTS 3 THRU 7 PT 8 + 9 + PT VAC ALLY |
| LIGHTHOUSE ISLAND RESORT INC 1051 5TH ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00205.0060 1051 FIFTH ST FORT MYERS BEACH FL 33931 | BUSINESS CTR BLK 5 PB 9 PG 9 LT 6 + 10 THRU 18 E 865R/W LESR/W OR2353/3036 |
| HUNTINGBURG PARTNERS LTD D TODD MCGEE STE 1203 5294 SUMMERLIN COMMONS WAY FORT MYERS, FL 33907 | 24-46-23-W3-00205.0070 PARKING LOTS FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 5 PB 935 PG 9 PT LOT 7 + LOTS 8 + 9 |

| OWNER NAME AND ADDRESS | STRAP AND LOCATION | LEGAL DESCRIPTION |
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| LEE COUNTY PO BOX 398 FORT MYERS, FL 33902 | 24-46-23-W3-00206.0010 1113 ESTERO BLVD FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 6 PB9 PG9 LTS 1-4 LESS R/W + DESC OR 1904/4451 |
| RICHARD JOHN W 237 OLD SAN CARLOS BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00206.0050 1054 FIFTH ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 6 PB 9 PG 9 LOT 5 R/W OR 1154 PG 1510 |
| HUNTINGBURG PARTNERS LTD D TODD MCGEE STE 1203 5294 SUMMERLIN COMMONS WAY FORT MYERS, FL 33907 | 24-46-23-W3-00206.0060 1150-1180 FIFTH ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 6 PB 9 PG 9 LOTS 6 THRU 9 |
| 150 SAN CARLOS BLVD CORP OMG INC 408 BROADWAY NEW YORK, NY 10013 | 24-46-23-W3-00207.0000 150 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 7 PB 9 PG 9 ALL BLK 7 |
| TOWN OF FORT MYERS BEACH PO BOX 3077 FORT MYERS BEACH, FL 33932 | 24-46-23-W3-00207.1000 150 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | BUSINESS CENTER R/W OF CENTER STREET LYING BETWEEN BLK 7 BLK 7 PB 9 PG 9 |
| TAYLOR JAMES L + PAULA SUE 11022 WEST 109TH ST OVERLAND PARK, KS 66210 | 24-46-23-W3-00208.0010 80 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK.8 PB 9 PG 9 LOTS 1 + 2 LESS THE W 44 |
| RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00208.002A 50 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 8 PB 9 PG 9 LOT PT 2 |
| BENSON BRADFORD J 927 PRESCOTT ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00208.0040 1021 ESTERO BLVD FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK.8 PB 9 PG 9 PT LOT 4 + ALL LOT 5 |
| TOWN OF FORT MYERS BEACH PO BOX 3077 FORT MYERS BEACH, FL 33932 | 24-46-23-W3-00208.004A EASEMENT FORT MYERS BEACH FL 33931 | PT LOT 4 AREA 2 SE 1/4 BUSINESS CENTER PB 9 PG 9 IN OR 297 P 427 |
| PRIMEAU BEVERLY A TR EST 950 SAN CARLOS DR FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00208.0060 1035 ESTERO BLVD FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK.8 PB 9 PG 9 LT 7 + LOT 6 LESS WLY 6 FT LESS ROW OR3539 PG3351 |
| KROHN INVESTMENTS LLC PO BOX 2518 FORT MYERS BEACH, FL 33932 | 24-46-23-W3-00208.0080 1028 FIFTH ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 8 PB 9 PG 9 LOTS 8 + 9 |
| RFN CORP 2401 ESTERO BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-00208.0100 1018 FIFTH ST FORT MYERS BEACH FL 33931 | BUSINESS CENTER BLK 8 PB 9 PG 9 LOT 10 |
| FREEMAN WILLIAM T + COLLEEN C 15341 KILBIRNIE DR FORT MYERS, FL 33912 | 24-46-23-W3-0030A.0010 401 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK A PB 9 PG 40 LOT 1 |
| FREEMAN WILLIAM T + COLLEEN C 15341 KILBIRNIE DR FORT MYERS, FL 33912 | 24-46-23-W3-0030A.0020 939 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK A PB 9 PG 40 LOT 2 |
| GARDNER JOHN JOSEPH + MARSHA J 919 NORTH ST APT A FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0030A.0030 935 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK A PB 9 PG 40 LOT 3 |
| TURTURRO RACHEL 929 THIRD ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0030A.0040 929 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.A PB 9 PG 40 LOT 4 |
| HORN GWEN 923 THIRD ST APT A FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0030A.0050 923 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK A PB 9 PG 40 LOT 5 |
| HOULIHAN MAURICE + MARY 917 THIRD ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0030A.0060 917 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.A PB 9 PG 40 LOT 6 |
| GOMPEL MARIAN D EST 911 THIRD ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0030A.0070 911 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.A PB 9 PG 40 LOT 7 |
| CASEY KATHLEEN M + 110 LOVE LN NORWOOD, PA 19074 | 24-46-23-W3-0030A.0080 901 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.A PB 9 PG 40 LOT 8 |

| OWNER NAME AND ADDRESS | STRAP AND LOCATION | LEGAL DESCRIPTION |
|---|--|---|
| GERMAIN BRUCE K 901 LODI ST SYRACUSE, NY 13203 | 24-46-23-W3-0030A.0090 430 BONITA ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK A PB 9 PG 40 LOT 9 |
| URIAN JULIE A 432 BONITA ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0030A.0100 432 BONITA ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.A PB 9 PG 40 LOT 10 |
| CUSHING WILLIAM L 440 BONITA RD #2 FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0030A.0110 438 BONITA ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK A PB 9 PG 40 LOTS 11 + 12 |
| RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0030B.0010 940 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.B PB 9 PG 40 LOT 1 |
| TOMAILO FRANKLIN L + GLORIA J 934 THIRD ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0030B.0020 934 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.B PB 9 PG 40 LOT 2 |
| SCHULZ AXEL + CORNELIA 926 THIRD ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0030B.0030 932 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK B PB 9 PG 40 LOTS 3 + 4 |
| CLAYTON KATHRYN BEBEANNE TR 920 THIRD ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0030B.0050 920 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.B PB 9 PG 40 LOT 5 |
| FOSTER STEPHEN ALLEN TR 914 THIRD ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0030B.0060 914 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK B PB 9 PG 40 LOT 6 |
| TYRELL PETER 1/2 + LITTLE HEATH HOUSE SHEETHANGER LANE - FELDEN HEMEL HEMPSTEAD HP3 0BG, UNITED KINGDOM | 24-46-23-W3-0030B.0070 910 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK B PB 9 PG 40 LOT 7 |
| LEWIS GARY A + JEANNE M 880 THIRD ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0030B.0080 880 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.B PB 9 PG 40 LOT 8 |
| KOSTER RODNEY A + THERESE A 113 SHOREVIEW DR ELYSIAN, MN 56028 | 24-46-23-W3-0030B.0090 870 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK B PB 9 PG 40 LOT 9 |
| ALEXANDER RICHARD E JR 8 SCHARBACH DR MARCY, NY 13403 | 24-46-23-W3-0030B.0100 850 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK B PB 9 PG 40 LOT 10 |
| 820 3RD STREET CORP 12071 MCGREGOR BLVD FORT MYERS, FL 33919 | 24-46-23-W3-0030B.0110 820 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK B PB 9 PG 40 LOT 11 |
| NASH ERNEST + EVELYN 1/2 + 270 KINGS RD MADISON, NJ 07940 | 24-46-23-W3-0030C.0010 851/861 THIRD ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK.C PB 9 PG 40 LOT 1 |
| KIESEL CHARLES J + LENORA 431 BONITA ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0030C.0020 431 BONITA ST FORT MYERS BEACH FL 33931 | MATANZAS VIEW BLK C PB9 PG 40 BLK C LT 2 + 3 |
| RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0050A.0010 343 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOTS 1 + 2 |
| GROSS WAYNE + 185 OLD SAN CARLOS BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0050A.0130 185 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK A PB 9 PG 25 LOT 13 + PT LOT 14 |
| MAY S E PO BOX 61176 FORT MYERS, FL 33906 | 24-46-23-W3-0050A.0140 163 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK A PB 9 PG 25 PT LOT 14 + LOT 15 |
| JENKINS GEORGE D L PO BOX 280 TILLSONBURG, ON N4G 4H5 CANADA | 24-46-23-W3-0050A.016A 159/161 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOTS 16 + PT OF LT 17 |
| 151 OLD SAN CARLOS LLC 17840 SAN CARLOS BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0050A.018A 151 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOTS PT 18 + 19 |

| OWNER NAME AND ADDRESS | STRAP AND LOCATION | LEGAL DESCRIPTION |
|---|--|---|
| KEELER VIOLET RUTH TR 16243 CHARLESTON AVE FORT MYERS, FL 33908 | 24-46-23-W3-0050A.018B 959/963 ESTERO BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK A PT LOTS 17 18 + 19 |
| LISAY STEVEN E + CATHERINE M 925 ESTERO BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0050A.0200 925 ESTERO BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK A PB 9 PG 25 LOTS 20 THRU 26 |
| HOLBROOK LESLIE E + 5353 ST ROUTE 288 GALION, OH 44833 | 24-46-23-W3-0050A.032A 859 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 NWLY 40 FT LOT 32 |
| PURTELL JAMES F + JON R GUILLES PO BOX 2706 FORT MYERS BEACH, FL 33932 | 24-46-23-W3-0050A.0330 855 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOT 33 |
| ARTRIP CHARLES J + BARBARA K 851 LAGOON ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0050A.0340 849/851 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOT 34 |
| SMITH RICHARD P 843 LAGOON ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0050A.0350 843 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UT 2 BLK A PB 9 PG 25 LOT 35 |
| BRAUCH TORRIN MAC TR 841 LAGOON ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0050A.0360 839/841 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOT 36 |
| DONOGHUE BRIAN J + CAROL V 10011 FOXRUN RD SANTA ANA, CA 92705 | 24-46-23-W3-0050A.0370 831 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK A PB 9 PG 25 LOT 37 |
| SOUTHLAND CORPORATION CORPORATE TAX DEPT 2711 N HASKELL AVE DALLAS, TX 75204 | 24-46-23-W3-0050B.0010 841 ESTERO BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.B PB 9 PG 25 LOTS 1 THRU 4 |
| PURTELL JAMES F 67% + 688 N MAIN ST OSHKOSH, WI 54901 | 24-46-23-W3-0050B.0050 831 ESTERO BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK B PB 9 PG 25 LOTS 5 + 6 |
| PAINE FRED 823 LAGOON ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0050B.0070 821 ESTERO BLVD FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.B PB 9 PG 25 LOTS 7 8 + PT LOTS 9 13 14 |
| ARTRIP CHARLES J + BARBARA K 850 LAGOON ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-0050B.013A 850 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK B PB 9 PG 25 PT LOTS 13 + 14 |
| BOWAN JAMES J 11715 W HOWARD AVE MILWAUKEE, WI 53228 | 24-46-23-W3-0050B.013B 846/848 LAGOON ST FORT MYERS BEACH FL 33931 | ISLAND SHORES UNIT 2 BLK.B PB 9 PG 25 LOTS PT 13 + 14 FROM SE |
| SAND CASTLE BEACH CLUB CONDO 905 ESTERO BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-02500.00CE HDR: SAND CASTLE FORT MYERS BEACH FL 33931 | SAND CASTLE BEACH CLUB A TIME-SHARE COMMON AREA DESC OR 1463 PG 2328 + CPB 6 PG 230 |
| SAND CASTLE BEACH CLUB 905 ESTERO BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-02500.1010 905 ESTERO BLVD FORT MYERS BEACH FL 33931 | SAND CASTLE BEACH CLUB A TIME-SHARE OR1463-2328 UNITS 101-215 / 29 UNITS |
| KIRIC INVESTMENTS INC 1522 PARK RD WAYNESBORO, VA 22980 | 24-46-23-W3-02800.0020 645 OLD SAN CARLOS BLVD 2 FORT MYERS BEACH FL 33931 | MARINA VILLAGE AT SNUG HARBOR CONDO (COMM UNIT) OR 1637 PG 1387 UNIT 2 |
| KIRIC INVESTMENTS INC 1522 PARK RD WAYNESBORO, VA 22980 | 24-46-23-W3-02800.0030 645 OLD SAN CARLOS BLVD 3 FORT MYERS BEACH FL 33931 | MARINA VILLAGE AT SNUG HARBOR CONDO (COMM UNIT) OR 1637 PG 1387 UNIT 3 |
| KIRIC INVESTMENTS INC 1522 PARK RD WAYNESBORO, VA 22980 | 24-46-23-W3-02800.0040 645 OLD SAN CARLOS BLVD 4 FORT MYERS BEACH FL 33931 | MARINA VILLAGE AT SNUG HARBOR CONDO (COMM UNIT) OR 1637 PG 1387 UNIT 4 |
| KIRIC INVESTMENTS INC 1522 PARK RD WAYNESBORO, VA 22980 | 24-46-23-W3-02800.0050 645 OLD SAN CARLOS BLVD 5 FORT MYERS BEACH FL 33931 | MARINA VILLAGE AT SNUG HARBOR CONDO (COMM UNIT) OR 1637 PG 1387 UNIT 5 |
| MARINA VILLAGE AT SNUG HARBOR PO BOX 2430 FORT MYERS BEACH, FL 33932 | 24-46-23-W3-02800.00CE OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | MARINA VILLAGE AT SNUG HARBOR CONDO COMMON ELEMENT PARCELS |

All data is current at time of printing and subject to change without notice.
THE INFORMATION CONTAINED IN THIS REPORT IS GOVERNED BY FLORIDA STATUTE 119.071
(GENERAL EXEMPTIONS FROM INSPECTION OR COPYING OF PUBLIC RECORDS).

| OWNER NAME AND ADDRESS | STRAP AND LOCATION | LEGAL DESCRIPTION |
|--|--|--|
| MARINA VILLAGE AT SNUG HARBOR 645 OLD SAN CARLOS BLVD FORT MYERS BEACH, FL 33931 | 24-46-23-W3-02800.3010 645 OLD SAN CARLOS BLVD 301 FORT MYERS BEACH FL 33931 | MARINA VILLAGE AT SNUG HARBOR A TIME-SHARE OR1637 PG1387 UNITS 301-705 (30 UNITS) |
| HARBOUR HOUSE AT THE INN | 24-46-23-W3-04200.00CE 450 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN DESC IN INST #2010000012068 COMMON ELEMENT |
| OBERG JAMES A + AMANDA A 13967 78TH ST NE HOOPLE, ND 58243 | 24-46-23-W3-04200.0201 450 OLD SAN CARLOS BLVD 201 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT 201 |
| OBERG JAMES A + AMANDA A 13967 78TH ST NE HOOPLE, ND 58243 | 24-46-23-W3-04200.0202 450 OLD SAN CARLOS BLVD 202 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT 202 |
| OLD SAN CARLOS INN DEVELOPMENT 416 CRESCENT ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.0203 450 OLD SAN CARLOS BLVD 203 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT 203 |
| OLD SAN CARLOS INN DEVELOPMENT 416 CRESCENT ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.0204 450 OLD SAN CARLOS BLVD 204 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT 204 |
| GHANEM GEORGE + ROSE 12891 TERABELLA WAY FORT MYERS, FL 33912 | 24-46-23-W3-04200.0205 450 OLD SAN CARLOS BLVD 205 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT 205 |
| BEASLEY MARK E + JULIE A 6872 DABNEY ST FORT MYERS, FL 33966 | 24-46-23-W3-04200.0206 450 OLD SAN CARLOS BLVD 206 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT 206 |
| GEZZER GEORGE M 5520 BRIAR LN WHITEHALL, PA 18052 | 24-46-23-W3-04200.0207 450 OLD SAN CARLOS BLVD 207 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT 207 |
| WILHELM THOMAS D + LYNNE E N 1303 PALISADES DR APPLETON, WI 54915 | 24-46-23-W3-04200.0208 450 OLD SAN CARLOS BLVD 208 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT 208 |
| ADVANTAIRA TRUST LLC 4753 ESTERO BLVD #1103 FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.0209 450 OLD SAN CARLOS BLVD 209 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT 209 |
| MOORE BOB D 128 FRONT ST RIPLEY, OH 45167 | 24-46-23-W3-04200.0210 450 OLD SAN CARLOS BLVD 210 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT 210 |
| SAWYER RICHARD R TR 8401 ESTERO BLVD #401 FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.0211 450 OLD SAN CARLOS BLVD 211 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT 211 |
| E + L HOMES LLC 1528 WINCHELL CT EAST LANSING, MI 48823 | 24-46-23-W3-04200.0212 450 OLD SAN CARLOS BLVD 212 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT 212 |
| OLD SAN CARLOS INN DEVELOPMENT 416 CRESCENT ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.0213 450 OLD SAN CARLOS BLVD 213 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT 213 |
| OLD SAN CARLOS INN DEVELOPMENT 416 CRESCENT ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.0214 450 OLD SAN CARLOS BLVD 214 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT 214 |
| SERRA LUIGI 26 SEQUOIA RD WOODBIDGE, ON L4H 1W6 CANADA | 24-46-23-W3-04200.0215 450 OLD SAN CARLOS BLVD 215 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT 215 |
| OLD SAN CARLOS INN DEVELOPMENT 416 CRESCENT ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.0216 450 OLD SAN CARLOS BLVD 216 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT 216 |
| OLD SAN CARLOS INN DEVELOPMENT 416 CRESCENT ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.0217 450 OLD SAN CARLOS BLVD 217 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT 217 |
| 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 |

OWNER NAME AND ADDRESS**STRAP AND LOCATION****LEGAL DESCRIPTION**

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|---|--|---|
| 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 ALLEN TOWN, 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 |
| OLD SAN CARLOS INN DEVELOPMENT 416 CRESCENT ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.G103 450 OLD SAN CARLOS BLVD G103 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT G103 |

ADDITIONAL INFORMATION IS AVAILABLE AND SUBJECT TO CHANGE WITHOUT NOTICE.

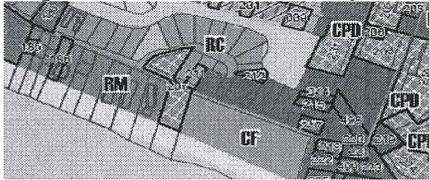
THE INFORMATION CONTAINED IN THIS REPORT IS GOVERNED BY FLORIDA STATUTE 119.071 (GENERAL EXEMPTIONS FROM INSPECTION OR COPYING OF PUBLIC RECORDS).

| OWNER NAME AND ADDRESS | STRAP AND LOCATION | LEGAL DESCRIPTION |
|---|--|--|
| OLD SAN CARLOS INN DEVELOPMENT 416 CRESCENT ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.G104 450 OLD SAN CARLOS BLVD G104 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT G104 |
| OLD SAN CARLOS INN DEVELOPMENT 416 CRESCENT ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.G105 450 OLD SAN CARLOS BLVD G105 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT G105 |
| OLD SAN CARLOS INN DEVELOPMENT 416 CRESCENT ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.G106 450 OLD SAN CARLOS BLVD G106 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT G106 |
| OLD SAN CARLOS INN DEVELOPMENT 416 CRESCENT ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.G107 450 OLD SAN CARLOS BLVD G107 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT G107 |
| OLD SAN CARLOS INN DEVELOPMENT 416 CRESCENT ST FORT MYERS BEACH, FL 33931 | 24-46-23-W3-04200.G108 450 OLD SAN CARLOS BLVD G108 FORT MYERS BEACH FL 33931 | HARBOUR HOUSE AT THE INN AS DESC IN INST #2010000012068 UNIT G108 |
| STEPANEK DAVID 225 PRIMO DR FORT MYERS BEACH, FL 33931 | 19-46-24-W4-0150D.0180 225 PRIMO DR FORT MYERS BEACH FL 33931 | CRESCENT PARK ADD BLK D PB 4 PG 46 LT 18 + VAC R/W + LAND ADJ CANAL |
| ENNIS DAVID W + BONNIE L 239 PRIMO DR FORT MYERS BEACH, FL 33931 | 19-46-24-W4-0150D.0190 239 PRIMO DR FORT MYERS BEACH FL 33931 | CRESCENT PARK ADD BLK D PB 4 PG 46 LT 19 + VAC R/W + LAND ADJ CANAL |
| REDENIUS RICHARD R + NANCY G 5218 WILLIAMS DR FORT MYERS BEACH, FL 33931 | 19-46-24-W4-0150D.0200 241/243 PRIMO DR FORT MYERS BEACH FL 33931 | CRESCENT PARK ADD BLK D PB 4/46 LT20+ LT 21 LES N10+VAC ST+LAND ADJ |
| MACMILLAN RAYMOND B + LORRAINE 52264 RANGE ROAD 232 SHERWOOD PARK, AB T8B 1B8 CANADA | 19-46-24-W4-0150D.0230 259 PRIMO DR FORT MYERS BEACH FL 33931 | CRESCENT PARK ADD BLK D PB 4 PG 46 LT 23 + VAC R/W + LAND ADJ CANAL |
| RICHARD JOHN W L/E 237 OLD SAN CARLOS BLVD FORT MYERS BEACH, FL 33931 | 19-46-24-W4-0150E.0090 202 CRESCENT ST FORT MYERS BEACH FL 33931 | CRESCENT PARK ADD BLK E PB 4 PG 46 LOTS 9 10 + VAC + LAND ADJ LESR/W2353/3036 |
| RUDISILL GLENN E + NANCY A 3290 E BERLIN RD YORK, PA 17408 | 19-46-24-W4-0150E.0110 250 CRESCENT ST FORT MYERS BEACH FL 33931 | CRESCENT PARK ADD BLK E PB 4/46 LT 11 + VAC R/W + LAND ADJ CANAL LESS R/W |
| RUDISILL GLENN E + NANCY A 3290 E BERLIN RD YORK, PA 17408 | 19-46-24-W4-0150E.0120 270 CRESCENT ST FORT MYERS BEACH FL 33931 | CRESCENT PARK ADD BLK E PB 4/46 LT 12 VAC R/W + LAND ADJ CANAL LESS R/W DESC IN OR 2319/4512 |
| GRANT JOSEPH H + DORIS M 320 CRESCENT ST FORT MYERS BEACH, FL 33931 | 19-46-24-W4-0150E.0130 300 CRESCENT ST FORT MYERS BEACH FL 33931 | CRESCENT PARK ADD BLK E PB 4 PG 46 LOT13+E40 FT LT 14+VAC LES R/W OR2366/2077 |
| GRANT JOE H 320 CRESCENT ST FORT MYERS BEACH, FL 33931 | 19-46-24-W4-0150E.014B 320 CRESCENT ST FORT MYERS BEACH FL 33931 | CRESCENT PARK ADD BLK E PB 4 PG 46 W 60 FT LT 14 + LT 15 + VAC R/W + ADJ LESS R/W DESC IN OR 2363/1290 |
| LIGHTHOUSE ISLAND RESORT INC 1051 5TH ST FORT MYERS BEACH, FL 33931 | 19-46-24-W4-0150E.016A 332 CRESCENT ST FORT MYERS BEACH FL 33931 | CRESCENT PARK ADD BLK E PB 4 PG 46 LOT16+VAC R/W +LAND ADJ CANAL |
| REICH EUGENE E + DORIS F TR 340 CRESCENT ST FORT MYERS BEACH, FL 33931 | 19-46-24-W4-0150E.0170 340 CRESCENT ST FORT MYERS BEACH FL 33931 | CRESCENT PK ADD BLK E PB 4/46 LT 17 + S 20 FT OF LT 18 + VAC R/W LESS ROAD OR 2328/3484 |
| BARR STANTON TR 9851 CLYDE RD FENTON, MI 48430 | 19-46-24-W4-0150E.0190 402/406 CRESCENT ST FORT MYERS BEACH FL 33931 | CRESCENT PARK ADD BLK E PB 4 PG 46 N 30 FT LOTS 18 + 19 + S 30 FT LOT 20 LESS R/W 2353/3036 LESS R/W OR 2370/0201 |
| SALVATORI LEO J TR 9132 STRADA PL 4TH FLR NAPLES, FL 34108 | 19-46-24-W4-0150E.0210 414/416 CRESCENT ST FORT MYERS BEACH FL 33931 | CRESCENT PARK ADDN BLK E PB4/46 PT LTS 20THRU25LT 26 LES R/W OR 2353 PG 3036 + OR 3189 PG 3751 |

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Town of Fort Myers Beach
Department of Community Development



Zoning Division

Supplement PH-C

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

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

| |
|--|
| Case Number: |
| Project Name: Rusty's CPD to Downtown |
| Authorized Applicant: John W. Richard, Trustee |
| LeePA STRAP Number: 24-46-23-W3-00203.0020 and 24-46-23-W3-0050A.0080 |

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

Conventional rezoning:

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

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

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

Cover page

Case Number will be inserted by Community Development staff.

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

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

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

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

LDC Section 34-85

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

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

EXHIBIT A
NARRATIVE STATEMENT
GUIDELINES FOR DECISION-MAKING
AND LDC SECTION 34-85

This is a request to rezone two (2) parcels from Commercial Planned Development (CPD) to Downtown. The Subject Property is two (2) parcels along Old San Carlos Boulevard, with the North Parcel having the address of 237/245 and 309 Old San Carlos Boulevard and the South Parcel having the address of 320 and 330 Old San Carlos Boulevard. The size of the property is 1.369 acres. The property was originally zoned with a Lee County commercial designation of C-1, and then rezoned to Commercial Planned Development. It was known as Rusty's CPD which was a phased project with (4) four separate sheets forming the Master Concept Plan (MCP). Case DCI 2000-00051 was approved pursuant to Resolution 01-03.

The Subject Property is located in the heart of the Downtown Core Area. The vision for Old San Carlos Boulevard is set forth in the Core Area Vision Plan as described in the Fort Myers Beach Comprehensive Plan on page 3-5 as:

“An active pedestrian-friendly “Main Street” linking Times Square and the marina on the Bay side. The street is framed with refurbished and new buildings designed to flood regulations with stores on the ground level. On-street parking is available. Continuous tree-lined sidewalks and safe intersections promote pedestrian safety and comfort. The corner at Third Street has become as a focal point midway between Times Square and the Bay side, with “corner stores” providing a variety of goods and services.”

The Subject Property is located at this “focal point” described in the Core Area Vision. The new policies for commercial development are set forth in the Future Land Use Element and they clarify that the plan for the “Times Square Area” (including Old San Carlos) has withstood

intense public scrutiny and is a sound basis for the town's continuing policy there, especially the incremental redevelopment of existing buildings... (See Page 4-28).

The Comprehensive Plan designates the Core Area including that area which is Pedestrian Commercial and defined in Policy 4-B-6 as follows:

“A primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard)... Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet the design concepts of this plan and the Land Development Code... Non-residential uses... now comprise 58.9% of the land in this category and this percentage shall not exceed 90%...” (emphasis supplied)

The Subject Property is designated Pedestrian Commercial pursuant to the Future Land Use Map (FLUM) adopted at the same time as the original Comprehensive Plan. Objective 4-C requires that the Future Land Use Map be interpreted in accordance with the policies set forth under Objective 4-C. Policy 4-C Commercial Intensity provides that

“Standards in the Land Development Code will encourage more intense commercial uses only in the ‘Pedestrian Commercial’ category.... The Land Development Code may allow floor area ratios in the ‘Pedestrian Commercial’ category as high as 2.5...” (emphasis supplied)

Policy 4-C-3 designates Commercial Locations and provides in subsection ii that:

“Where new or expanded commercial uses are encouraged, as in the “Pedestrian Commercial” category, the Land Development Code shall specify its permitted form and extent and provide a streamlined approval process.” (emphasis supplied)

The original Comprehensive Plan and Future Land Use Map became effective January 1, 1999 and created the Pedestrian Commercial Land Use category. Thereafter, the Land Development Code was prepared and adopted Chapter 34 zoning text in 2003 and a zoning map with new zoning districts which rezoned the entire town legislatively in 2004.

Comprehensive Plan Policy 4-F-2 sets forth specific redevelopment plans which are anticipated for three (3) specific areas to include Times Square. The Estero Island CRA's plan for Times Square area includes Old San Carlos Boulevard as part of Times Square. Specifically in Policy 4-F-2-ii it states that Times Square redevelopment plan is described in the Community Design Element Policies 3-D-1 through 3-D-13. Policy 3-D-4-iv specifically requires that the town promote the function of Old San Carlos as a pedestrian spine linking Times Square and the marina by implementing public sidewalks and major crosswalks designed to work in conjunction with arcades and plazas located on private property. Throughout the policies for revitalization of Times Square it includes policies regarding development along old San Carlos. Properties located in the Core Area in the Times Square/Old San Carlos location were rezoned legislatively to Downtown zoning except for the parcels previously designated Commercial Planned Development District (CPD) which were vested within the Pedestrian Commercial category prior to creation of a Downtown Zoning District. The Comprehensive Plan is clear that the most intense category is only appropriate with the Pedestrian Commercial designation. Pedestrian Commercial is the most intense future land use designation. Downtown zoning is the most intense zoning district.

To implement its Comprehensive Plan, the Town of Fort Myers Beach created new zoning districts in 2003 and adopted a new zoning map in 2004.

In addition, planned development districts contain severe restrictions and to retain the zoning classification requires that development orders for certain percentages or phases be obtained within certain time limits and the effect of not meeting those time limits is the loss of an approved MCP. A vacated MCP means that no development can take place except through the public hearing zoning process to reinstate or amend the MCP.

The changing condition that makes this zoning appropriate is that the Town of Fort Myers Beach did not have the Downtown District zoning available at the time the Subject Property was rezoned to CPD. The Rusty's CPD was approved on January 22, 2001 by Town Resolution 01-03 and amended by ADD2002-00089A. At the time of the 2001 rezoning the Town was in the process of developing new zoning districts and property development regulations, but did not have them ready for adoption until March 2003, and the map with the actual zoning designation was adopted a year later. The owner invested in the Town and obtained development orders to include LDO 2001-00164, LDO 2001-00282 and LDO 2003-00142 which were issued May 11, 2001, January 3, 2002, and August 21, 2003 respectively.

All existing uses are authorized in the Downtown zoning district: hotel, retail, office, parking, personal services, marina uses including boat rental and docks and accessory uses. Several of the uses merit a specific discussion. In 1999 the Town Council of Fort Myers Beach granted a special exception for permanent parking on the South Parcel (320 and 330 Old San Carlos Boulevard). The Town Council on January 21, 2001 granted the use of parking as part of the CPD approval. Year round commercial parking is currently an existing use and a permitted use. Shared parking servicing 201 Old San Carlos Boulevard is a currently permitted and an existing use. The owner clearly wants to confirm with the Town that permanent/shared parking is a permitted use on the South Parcel.

In addition, the North parcel has the existing and current use of retail which use existed under the C-1 zoning district and was a permitted use in the Rusty's CPD (with no limitations on size). The size of the existing retail exceeds 5,000 square feet and therefore confirmation is requested by the Town that "Retail, large" is a permitted use on the North Parcel in the Downtown zoning.

An additional use approved by the CPD on the North parcel is wholesale which is depicted as a use requiring a special exception. The wholesale use is an existing and current use and the owner intends to continue with that use and desires confirmation from the Town that that use will be a permitted use on the North parcel of the Downtown zoning district.

Also on the North parcel which abuts the Lagoon waterbody with direct access to open water through a canal, there is currently a marina use to include rental of boats, rentals of dock slips by non-occupants with twenty-six (26) existing slips. This marine use has been in use prior to 1986 and through this process wants to confirm with the Town that the marina use is deemed to be EO and can continue. Attached as part of this narrative is the 1986 Lee County aerial of the Lagoon depicting docks and vessels.

An anticipated use for redevelopment in a new building on the South Parcel (which will not exceed three [3] stories with retail on the first floor where no tenant establishment would exceed 5,000 square feet) is the use of the upper floors as office and as storage for the owners' businesses. Storage itself does not appear to be listed as a use in the Table 34-2 matrix of uses. However, in reviewing the supplemental regulations it would appear that storage is considered accessory use and we want to confirm that we can use the upper floors for storage of related business items for the owners' businesses in the Town of Fort Myers Beach.

A rezoning to the Downtown District places no undue burden on existing transportation or other services and facilities and the North and South Parcels will continue to be served by streets with capacity to carry the traffic generated by the development.

It is respectfully requested that staff recommend approval of this rezoning to Downtown as being consistent with the Comprehensive Plan and the Land Development Code in the Town of Fort Myers Beach and process this request in a streamlined manner as required by the

Comprehensive Plan. It is respectfully requested that staff confirm that the North parcel is approved for the following:

Retail, Large

Marina-EO

Wholesale

and the South Parcel is approved for: permanent and shared parking and that storage is an accessory commercial use permitted in the Downtown district as described in this narrative.



LEE COUNTY
FLORIDA

| SCALE | 1" = 200' | SECTION | TWP. | RANGE | SHEET NO. | MAP |
|------------|-----------|---------|------|-------|-----------|-----|
| PHOTO DATE | FEB. 1986 | 24 | 46 S | 23 E | 93 D | |
| PHOTO NO. | PD-3435 | | | | | |