

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 the following variances from the following LDC sections:

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 in *Exhibit E*.
2. A variance from Table 10-8 from a Type D buffer for Old San Carlos and Third Street to permit existing conditions.
3. Section 34-676(c) parking lot location, to allow no rear yard connection between the subject property and adjacent property.
4. Section 34-677(b)(3) requiring a buffer between off street parking and a ROW to allow zero buffer.
5. Section 10-416(d) requiring a buffer between parking and the ROW to allow a zero buffer.
6. A variance from Section 34-622 (b) and 34-3131 from visibility triangle to allow reduced visibility triangle for access to Third Street due to Town approval of SOB structure in right of way.
7. A variance from Section 34-2016 (1) and (2), parking dimensions to allow the following:

Angle	Parking Dim.	One-Way	Two-Way
45°	8' x 16'	10'	20'
60°	8' x 16'	12'	20'
75°	8' x 16'	15'	20'
90°	8' x 16'	18'	20'
8. A variance from LDC Section 10-416 (c) internal landscaping requirements for parking lots to allow no internal landscape parking lot improvements to include 2(a) no tree requirement; 2(b) no internal landscape islands; 2(c) no 10' landscape island width; 2 (d) no landscape every 10 space requirement; 2(e) no median requirement; 2(f) no interior landscape of sod and grass and 2(g) no tree grates; 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 November LPA hearing the applicant requested and was granted a continuance of case VAR2013-0007 to a date certain of the January 14, 2014 LPA meeting; and

WHEREAS, a public hearing was held before the LPA on January 14, 2014; 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** the requested variances from the following sections:

1. Section 34-676(b) parking lot location, to permit off-street parking in the front and side yards as depicted on the site plan in *Exhibit E*.
2. Table 10-8 Type D buffer, Section 34-677(b)(3) requiring a buffer between off street parking and a ROW, and Section 10-416(d) requiring buffer between parking and ROW to allow a 2.5' buffer with a 41" minimum height.
3. Section 34-676(c) parking lot location, to allow no rear yard connection between subject property and adjacent property.
4. A variance from Section 34-622 (b) and 34-3131, visibility triangle, to allow reduced visibility triangle for access to Third Street due to Town approval of SOB structure in right of way.
5. A variance from Section 34-2016 (1) and (2) parking dimensions to allow the following:

Angle	Parking Dim.	One-Way	Two-Way
45°	8.5' x 18'	10'	20'
60°	8.5' x 18'	12'	20'
75°	8.5' x 18'	15'	20'
90°	8.5' x 18'	18'	20'
6. A variance from LDC Section 10-416 (c) internal landscaping requirements for parking lots to allow no internal landscape parking lot improvements to include 2(a) no tree requirement; 2(b) no internal landscape islands; 2(c) no 10' landscape island width; 2(d) no landscape every 10 space requirement; 2(e) no median required; 2(f) no interior landscape of sod and grass and 2(g) no tree grates.

RECOMMENDED CONDITIONS:

1. The applicant shall install a 2.5' wide buffer with a minimum height of 41 inches.
2. Applicant may utilize the parking dimensions described in variance request #5, however, at the time of redevelopment or the application of a building permit for the subject property, the parking space dimensions must come into compliance with all provisions of Section 34-2016.
3. At the time of redevelopment, the parking lot variance allowing a front and side parking lot must come into compliance and be relocated to the rear of the subject property
4. The LPA grants approval for a building overhang extending up to 12' into the right-of-way pursuant to Section 34-674(a).

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** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **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 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 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 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 **Shamp** and seconded by LPA Member **Bodenhafer**, and upon being put to a vote, the result was as follows:

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

DULY PASSED AND ADOPTED THIS **14th** day of **JANUARY, 2014**.

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

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 $26^{\circ}01'39''$ East for 75.00 feet to the Northwest corner of Lot 10 of said Subdivision; thence run North $63^{\circ}58'26''$ 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 $28^{\circ}20'28''$ West along said seawall for 75.06 feet to the Westerly extension of the South line of said Lot 12; thence run South $63^{\circ}58'26''$ 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. $63^{\circ}58'21''$ W. for 11.82 feet to the outer face of a seawall; thence run N. $29^{\circ}45'28''$ E. for 50.11 feet to the outer face of a second seawall; thence run N. $26^{\circ}01'39''$ 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 $36^{\circ}37'27''$ to a point which bears S. $71^{\circ}01'39''$ W., 14.90 feet from the Northwest corner of Lot 5, Block "A", of said Subdivision; thence run S. $26^{\circ}01'39''$ 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

EXHIBIT E

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

(PLA) BOOK 9, PAGE 20

THE NORTHERLY 1/2 OF
VACATED FOURTH STREET

(REV. BOOK 1334, PAGE 79)

SECTION 24, TOWNSHIP 45 SOUTH, RANGE 23 EAST
LEWIS COUNTY, FLORIDA

15 0 10 20 30

SCALE IN FEET
1" = 25'

RESTY'S SOUTH PARCEL TO BOWTOWN WITH
SPECIAL EXCEPTION FOR RETAIL, LARGE

RETAIL

PARKING

1" CURB & GUTTER

EDGE OF PAVEMENT

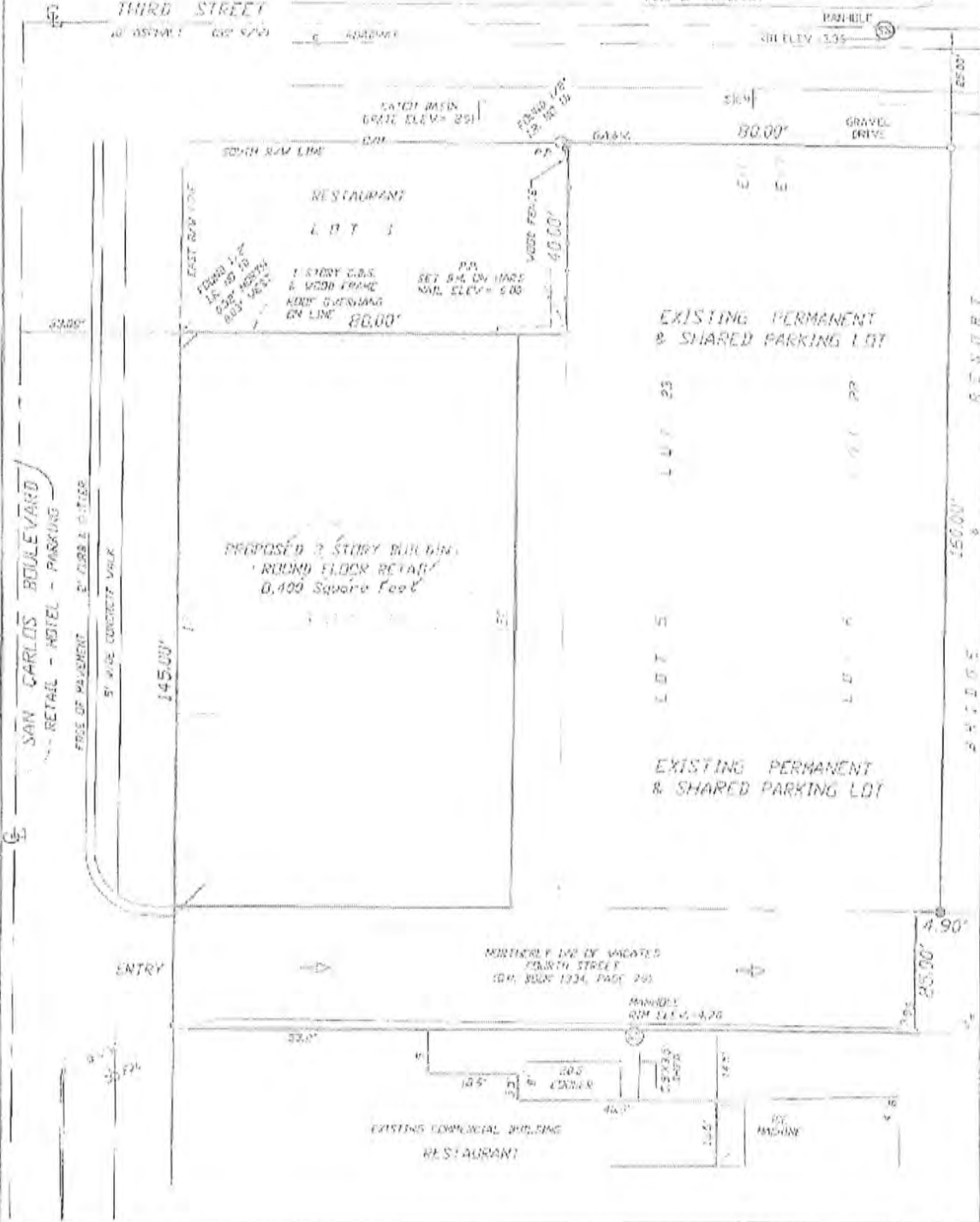
THIRD STREET

10' ASPHALT 60' C&G

1" ASPHALT

PARALLEL

30' ELEV. 3.35'



RC2213-0002 SOUTH PARCEL
PROPOSED RETAIL [Hatched Area]
EXISTING PARKING [Dotted Area]

SKETCH

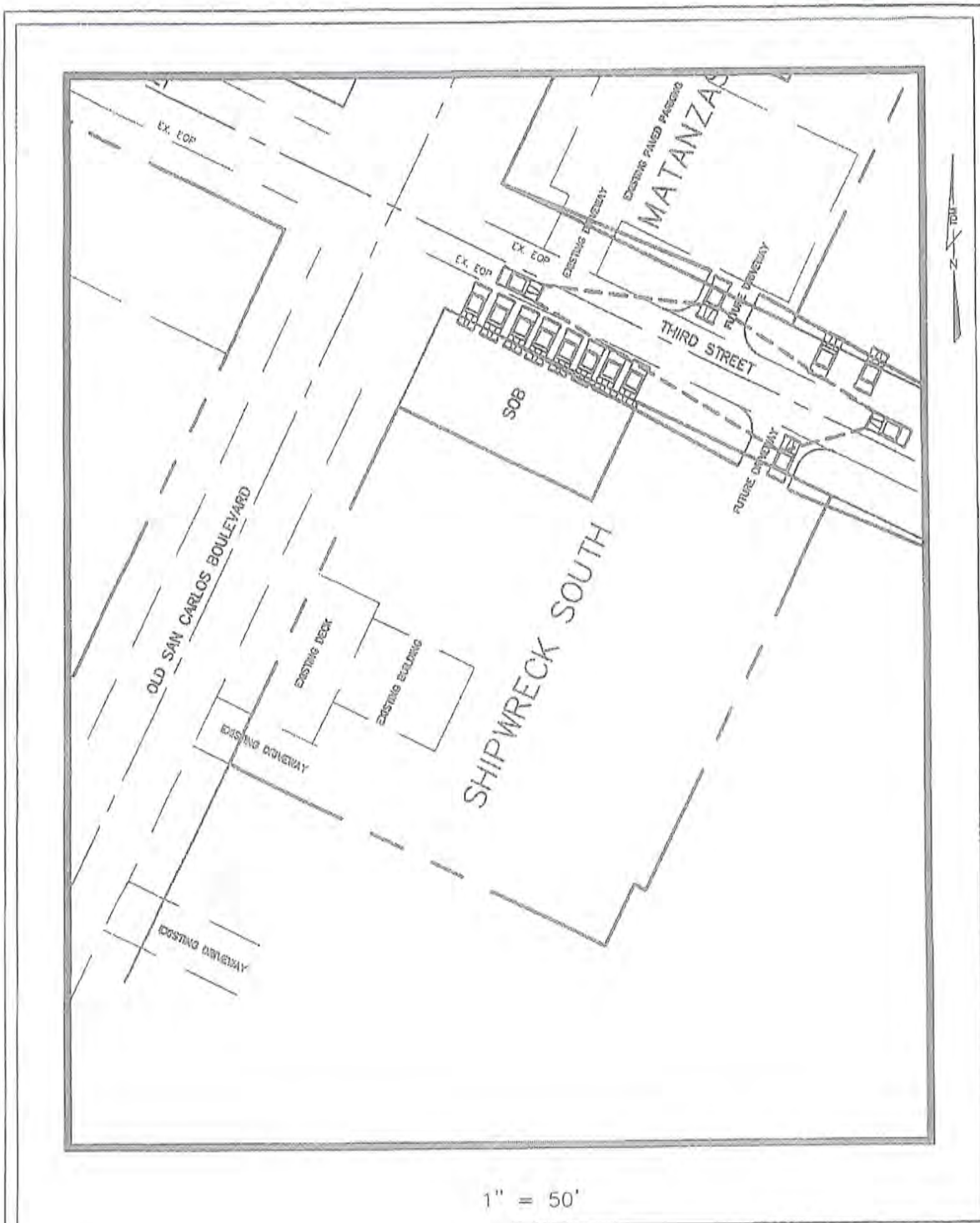


EXHIBIT 1
SHIPWRECK SOUTH
SITE VISIBILITY TRIANGLE EXHIBIT

JOHN RICHARD
FORT MYERS BEACH, FL

SOURCE: TDM, 12/13

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Variance 5 Percent

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