

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 00-03

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT
MYERS

WHEREAS, First Central Inv., Corp in ref. To Edison Beach House has filed an application for a Special Permit in the CPD (Commercial Planned District) district for consumption on premises with outdoor seating; and

WHEREAS, the subject property is located at 830 Estero Blvd., Fort Myers Beach, Florida, and is described more particularly as: Section 24, Township 46 South, Range 23 East.

WHEREAS, the applicant has indicated the property's current STRAP number are: 24-46-23-W3-00400.0010; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on February 8, 2000 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.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE
TOWN OF FORT MYERS BEACH, FLORIDA as follows:

That the LPA recommends that the Town Council deny the request for a Special Permit for Consumption on Premises for the reason specified on pages 1 and 2 of the Staff Report dated December 9, 1999 as attached hereto and incorporated herein by reference.

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

Jennifer Kaestner	yes
Dave Smith	absent
Rod Vayo	absent
Betty Simpson	yes
Roxie Smith	yes
Bill Van Duzer	yes
Jodi Hester	absent
Linda Beasley	absent
Harold Huber	yes

DULY PASSED AND ADOPTED THIS 8th day of February, 2000.

ATTEST;
Town of Fort Myers Beach

LPA of the

By: Marsha Segal-George
Marsha Segal-George
Secretary to the LPA

By: Roxie Smith
Roxie Smith, Chairman

FT. MYERS BEACH, FLORIDA
DEVELOPMENT SERVICES DIVISION
STAFF REPORT

TYPE OF CASE: Special Permit

CASE NUMBER: SEZ1999-00028

FORT MYERS BEACH LPA DATE: February 8, 2000

TIME: 12:00 Noon

I. APPLICATION SUMMARY:

A. Applicant: First Central Inv., Corp in ref. to Edison Beach House

B. Request: A special permit in the Commercial Planned Development (CPD) district to permit Consumption on Premises with outdoor seating per LDC 34-1264 (a)(2).

C. Location: The subject property is located at 830 Estero Blvd. (between Lagoon & Lagoon), Ft. Myers Beach, in S24-T46S-R23E, Lee County, FL. (District #3)

D. Land Use Plan Designation: Mixed Residential and Recreation

E. Surrounding Land Use:

<u>Existing Use & Zoning</u>	<u>Future Land Use Map</u>
North: Estero Blvd, then residential and commercial property zoned CPD & C-1.	Recreation, Mixed Residential & Pedestrian Commercial
East: Lynn Hall Memorial Park zoned CF-2 Community Facility.	Recreation
South: Gulf of Mexico	
West: Royal Beach Club then Bel-Air Beach Club Condominiums zoned RM-2 residential.	Mixed Residential

II. BACKGROUND INFORMATION AND RECOMMENDATION:

A. Recommendation: Staff recommends **DENIAL** of the request for Consumption on Premises with outdoor seating.

Findings & Conclusions

Based upon an analysis of the application and the standards for approval of a special permit, staff makes the following findings and conclusions:

1. The requested Special Permit:
 - a) is not consistent with the goals, objectives, policies and intent of the Comprehensive Plan;
 - b) does not meet or exceed all performance and locational standards set forth for the proposed use;
 - c) will not be compatible with existing or planned uses;
 - d) could cause damage, hazard, nuisance or other detriment to persons or property; and
 - e) will not be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in the Land Development Code.

B. Rationale:

Introduction/Synopsis

The applicant has requested a special permit for Consumption on Premises (COP) with outdoor seating. LDC Section 34-1264 (a)(2) and 34-1264 (a)(3) requires a Special Permit for any establishment providing outdoor seating for its patrons consuming alcoholic beverages, unless consumption on premises is explicitly designated on the master concept plan and is included on the approved schedule of uses of a planned development. In addition, LDC 34-1264 (b)(1) prohibits sale or service of alcoholic beverages for consumption on premises at any establishment which is located within 500 feet of a religious facility, school, day care center, or park. Because of the proximity of Lynn Hall Memorial Park, approval of the request will be considered a deviation from the location standard.

The subject property is zoned CPD Commercial Planned Development for the development of a 24 unit motel. Included on the approved schedule of uses is Consumption on Premises limited to "in guest room bar" only. The applicant has indicated the desire to provide outdoor liquor service, to be located under the hotel building next to the pool. The service is intended primarily for guests, although it would be open to the public, presumably through beach access. A letter from the applicant explaining his request is included as Attachment B and a Site Plan indicating the proposed service area is included as Attachment C.

Comprehensive Plan

The subject property and surrounding residential properties are located in the Mixed Residential land use category. **Policy 4-B-4** describes Mixed Residential as designed for older subdivisions with mixed housing types on smaller lots, newer high-rise buildings, and mobile home and RV parks. Commercial activities are limited to lower-impact uses such as offices, motels, churches and public uses, and must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. The planned development zoning of the property for a motel/hotel is consistent with the uses described in Policy 4-B-4. However, the COP with outdoor seating has the potential to generate impacts which are more intrusive than those associated with the approved motel, such as additional noise and nuisance. Staff believes the impacts generally associated with COP with outdoor seating are **inconsistent** with the lower impact uses intended in the Mixed Residential category.

Surrounding Zoning & Neighborhood Compatibility

Located to the northwest and directly adjacent to the subject property is the 27 unit Royal Beach Club condominiums, and the 20 unit Bel-Air Beach Club condominiums. Both are zoned RM-2. To the southeast and adjacent to the subject property is Lynn Hall Memorial Park zoned CF-2. While the applicant intends to offer the service primarily for the guests of the motel, he would also like to serve the general public. This greatly increases the potential for negative impacts, such as noise and nuisance, to the surrounding properties. If service is permitted to walk-up customers from the beach, the ability to limit the actual consumption to the premises becomes increasingly difficult. The COP could be limited to the guests of the hotel, however, this has proven to be a very difficult condition to enforce.

Deviation #1 in the approved zoning resolution reduced the required buffer between commercial and residential development from a 15 foot wide vegetative buffer with an 8 foot fence, to permit a 10.4 foot vegetative buffer with plantings. Because the project does not have the standard buffer required between commercial and residential development, staff has concerns the additional impacts which will be generated by the outdoor COP will not be sufficiently mitigated by the approved vegetative buffer.

Lynn Hall Memorial Park is a large public facility with playground equipment, picnic shelters, and restrooms for beach goers. Staff has reservations about the walk up nature of the proposed service area and its close proximity to the public facilities. Although the Times Square district, located southeast of the park, is a commercial pedestrian mall, staff recognizes significant differences between the existing restaurants and service establishments on Times Square, which have designated seating areas with table service, and the subject property which will have direct open access to the beach. Presuming the COP is granted in conjunction with a 4-COP-S license, the alcohol served could not be removed from the hotel premises. A walk-up bar dedicated solely to beverage service, is a difficult environment to monitor, especially given its proximity to the public facility. Staff believes the requested use is inappropriate

next to the public facility and incompatible with the public park which is designated for and utilized by a diverse segment of the population, including families with young children. Staff finds the requested use incompatible with the existing surrounding uses.

Required Parking

LDC Section 34-1264(b)(3) states establishments with COP must meet the requirements of the principal use, except as specified for restaurants, bars and cocktail lounges. The site plan depicts 36 spaces for the 24 unit motel. Because the subject property has been approved for a motel as the only principal use with all other uses as ancillary to the motel, and 1.5 parking spaces per motel unit are required, the parking shown on the site plan meets the requirement of the CPD. However, the Town Board has the discretion to determine the required parking for planned developments with multiple uses. As an example, bars and cocktail lounges are required to provide 1 additional parking space per four outdoor seats or 50 square feet of outdoor seating, whichever is greater.

Conclusion

The subject property was approved through the planned development process for a 24 unit motel, with COP limited to in guest room bars only. It appears from the MCP that the original rezoning did not include a request for outdoor seating. The approved buffers and parking were based on these uses. Staff does not believe the vegetative buffer is sufficient to mitigate the potential effects to the residential units to the northwest. The subject property does not meet the location standard requiring 500 foot separation from a park. Staff finds the request incompatible with the existing public facility, Lynn Hall Memorial Park, located to the southeast. Based on the findings and conclusions, staff recommends denial of the request.

III. SUBJECT PROPERTY

- A. **STRAP:** The applicant indicates the STRAP number is: 24-46-23-W3-00400.0010.
- B. **LEGAL DESCRIPTION:** Lot 1, SUBDIVISION Island Shores Unit 1, as recorded in Plat Book 9, Page 24, of the Public Records of Lee County, Florida, lying in Section 24, Township 46 South, Range 23 East, Lee County, FL.

IV. ATTACHMENTS

- A. Map of surrounding zoning
- B. Applicant's narrative
- C. Site Plan

cc: Applicant
Town of Fort Myers Beach LPA
Zoning File

Zoning Map

500 Ft. Location Standard

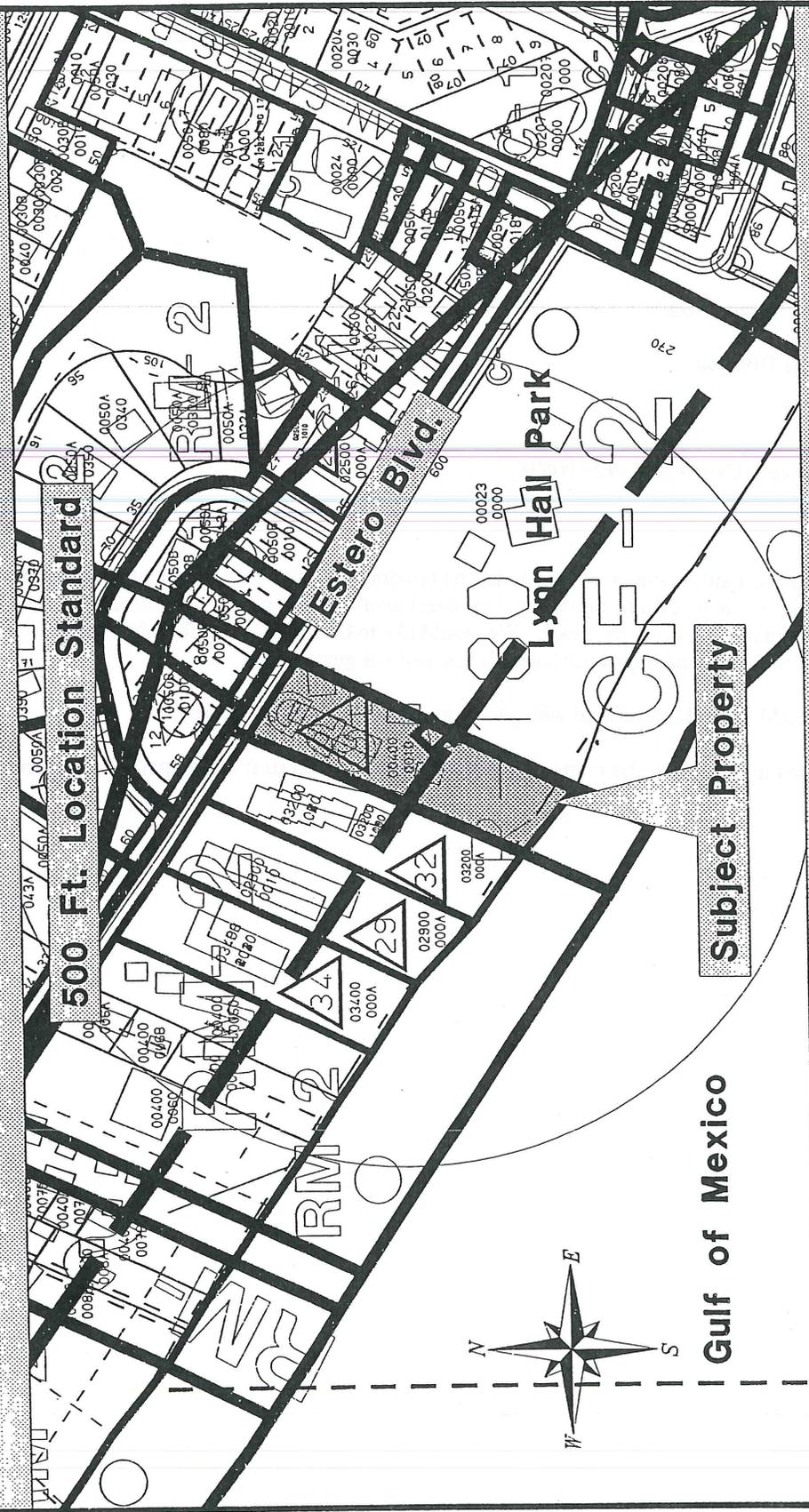
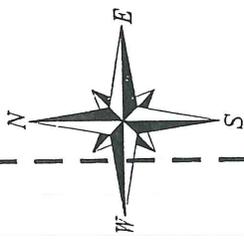
Estero Blvd.

Lynn Hall Park

Subject Property

Gulf of Mexico

A



January 13,2000

Mr. Daniel Folke, Planner
Dept. of Community Development

Development Services Division
P.O. Box 398
Fort Myers, Florida

RE: Edison Beach House; Case # SEZ1999-00028

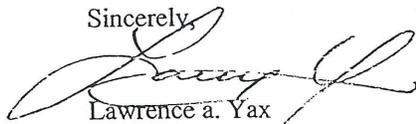
Dear Mr. Folke:

We would like to provide outdoor liquor service under the building. We feel this would be another way we could make our guests stay a little more enjoyable. Our guest would be our primary customers even though the occasional person may walk in off the beach. We would like to be allowed to offer this service from noon until 10 pm so that we could adjust our hours to best suit our guest needs.

The area under the building will be surfaced with pavers and the restrooms are nearby.

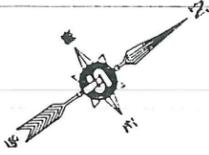
We thank you for your assistance in this matter. Please feel free to contact us if additional information is needed.

Sincerely,

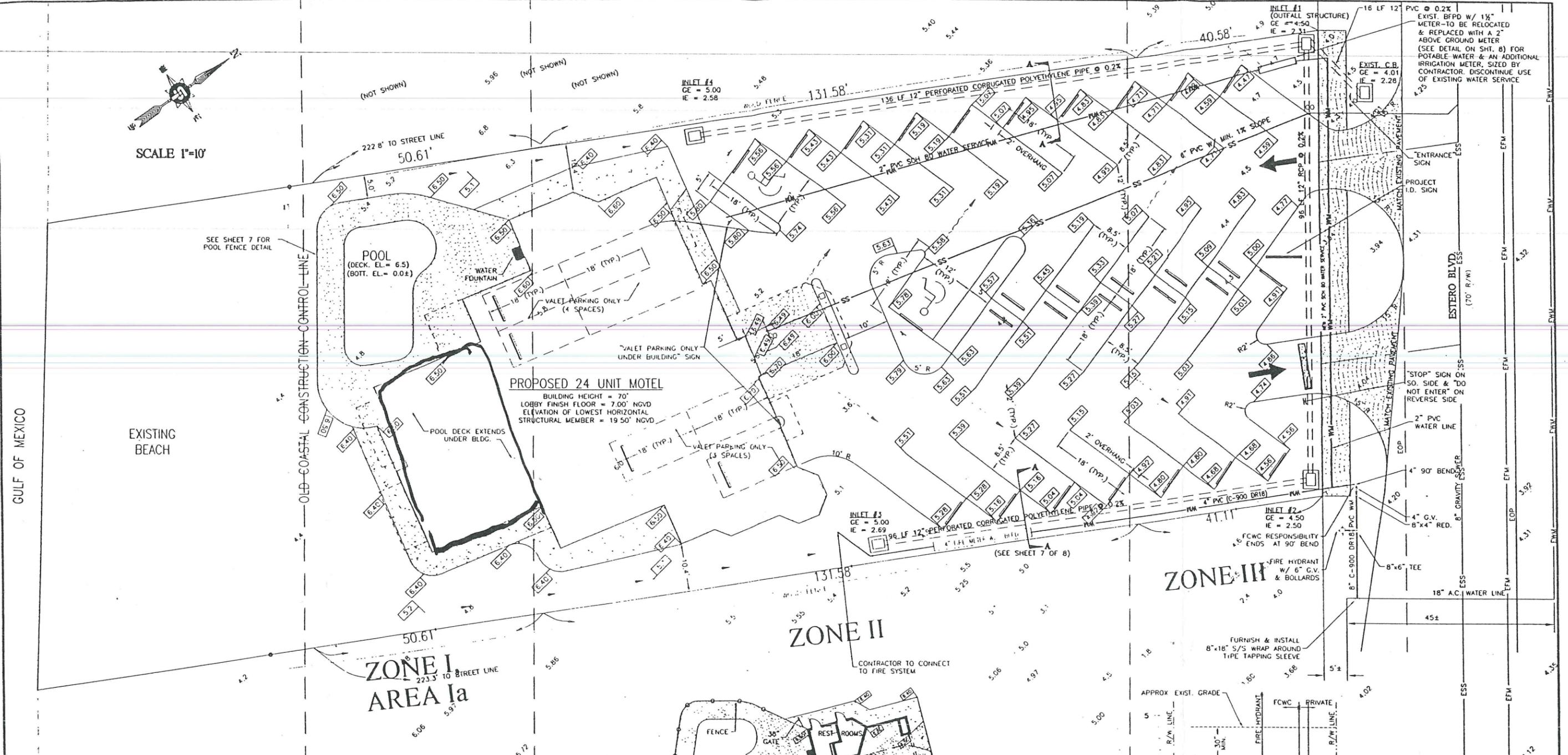


Lawrence a. Yax

00 JAN 14 AM 8:51
COMM. DEV/
CITY OF FORT MYERS
FOURTH FLOOR
CITY COUNTY
RECEIVED



SCALE 1"=10'



UTILITY COMPANIES

SEWER
LEE COUNTY UTILITIES
1500 MONROE STREET
FT. MYERS, FLORIDA 33901

WATER
FLORIDA CITIES WATER COMPANY
7401 COLLEGE PARKWAY
FT. MYERS, FLORIDA 33911

ELECTRIC
FLORIDA POWER AND LIGHT
P. O. BOX 40
FT. MYERS, FLORIDA 33902

TELEPHONE
SPRINT UNITED TELEPHONE OF FLORIDA
P. O. BOX 370
FT. MYERS, FLORIDA 33902

CABLE TELEVISION
MEDIA ONE
P. O. BOX 413018
NAPLES, FLORIDA 34113

SOLID WASTE
KIMMINS DISPOSAL
2289 BRUNER LANE
FT. MYERS, FLORIDA 33912

FIRE DISTRICT
FT. MYERS BEACH FIRE PROTECTION & RESCUE SERVICE DISTRICT
3043 ESTERO BLVD.
FT. MYERS BEACH, FLORIDA 33931

FIRE FLOW CALCULATIONS

IN ACCORDANCE WITH LDC SECTION 10-385(b)(3), "IF A BUILDING IS PROTECTED BY AN AUTOMATIC SPRINKLER SYSTEM INSTALLED IN ACCORDANCE WITH ALL STATE AND LOCAL CODES, THE FIRE FLOW REQUIREMENT WILL BE DEEMED TO HAVE BEEN SATISFIED" THE BUILDING HAS BEEN PROPOSED WITH AN AUTOMATIC SPRINKLER SYSTEM, THEREFORE, THE MINIMUM REQUIRED FIRE FLOW IS 500 GPM @ 20 PSI

FIRE FLOW RESULTS

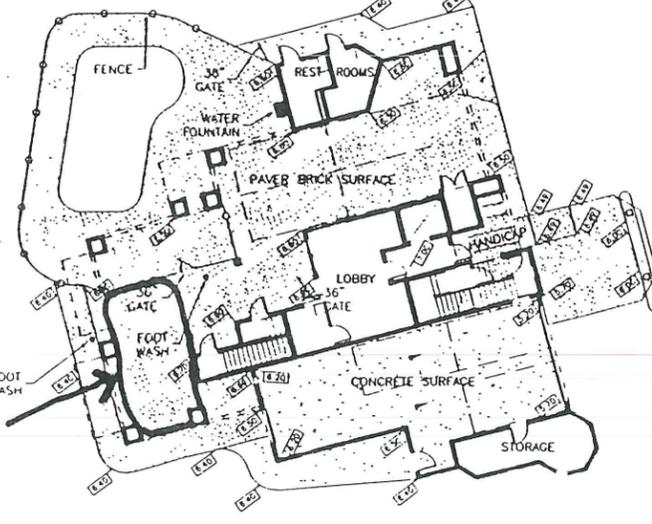
FLOW TESTS THAT WERE CONDUCTED ON 11/6/95 AND 10/23/96 PRODUCED FLOWS OF 2390 GPM AND 1559 GPM @ 20 PSI RESPECTIVELY.

NOTE

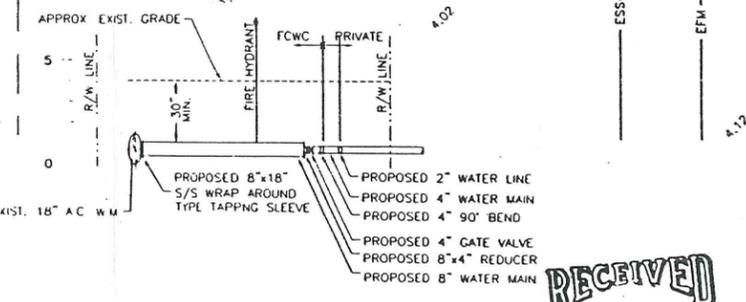
AT THIS TIME, POTABLE WATER IS PLANNED FOR IRRIGATION AS THERE ARE NO EXISTING WELLS ON SITE.

DRAINAGE CERTIFICATION

I HEREBY CERTIFY THE DRAINAGE SYSTEM DESIGNED FOR THIS SITE COMPLIES WITH SOUTH FLORIDA WATER MANAGEMENT DISTRICT RULE NO. 40E-40.041 "NO NOTICE GENERAL PERMIT FOR CONSTRUCTION, ALTERATION, OR OPERATION OF SURFACE WATER MANAGEMENT SYSTEMS". CERTIFICATION IS ALSO MADE THAT ALL WATER QUALITY REQUIREMENTS OF THE DISTRICT HAVE BEEN INCORPORATED INTO THE DETENTION SYSTEM.



GROUND LEVEL PAVING (UNDER BUILDING)
SCALE: 1" = 15'



WATER MAIN PROFILE
SCALE 1"=10' (HORIZONTAL)
SCALE 1"=4' (VERTICAL)

RECEIVED
JAN 14 2000
DEVELOPMENT SERVICES

EDISON BEACH HOUSE
LOCATED IN
SECTION 24, TOWNSHIP 46 S., RANGE 23 E.
LEE COUNTY, FLORIDA
SITE DEVELOPMENT PLAN

#	DATE	REVISION	BY
1	11/29/98	REVISED PAVING, BFPD LOCATION, & UPSIZE WATER METER TO 2"	LH
2	12/29/98	ADDED DISTANCES FROM POOL TO OOL	REP
3	2/14/99	REVISED POOL AND DECK TO MEET HEALTH DEPT. REGS	REP
4	2/23/99	ADDED DISTANCES TO OOL LINE	REP
5	1/14/99	REVISED PER FCWC COMMENTS	REP
6	10/21/97	ADDED OLD COASTAL CONSTRUCTION CONTROL LINE	REP
7	8/22/97	REVISED PER FCWC COMMENTS	REP
8	7/1/97	ADDED SEWER CLEANOUT & ADDITIONAL UTILITY DETAIL	REP
9	REVISION	GATE	REVISION

		1314 LAMARTE STREET - CAPE CORAL, FL 33904 TELEPHONE: (813) 244-5441 FAX: (813) 244-6779	SHEET NO. 6 OF 8
		DATE 1-10-2000	DRAWN BY REP DATE 1/19/97