

RESOLUTION 17-39
THE TOWN OF FORT MYERS BEACH FLORIDA
DCI17-0005 – OLDE SEAPORT COMMERCIAL
PLANNED DEVELOPMENT AMENDMENT

WHEREAS, applicant Robert Fowler, authorized agent for Olde Seaport Place Inc. is requesting an amendment to an already approved Master Concept Plan consistent with Section 34-214 of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP numbers for the subject property are 24-46-23-W3-00026.0000, 24-46-23-W3-00026.0030, and 24-46-23-W2-000000.0000 and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property is located at 645 Old San Carlos Boulevard Fort Myers Beach, FL 33931, zoned Commercial Planned Development on the Official Zoning Map and is located in the Pedestrian Commercial and Tidal Water categories of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on October 10, 2017; and

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

WHEREAS, the Town Council determined it is in the best interest of the Town to approve the request.

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Fort Myers Beach, Florida, as follows:

1. Determination.

Based upon the recommendations, testimony, and evidence presented by Town staff, LPA, applicant, and interested parties, the Town Council APPROVES the following:

- a. An amendment to an already approved Master Concept Plan. The request amends the approval as follows: Within Parcel #1 replace the 4,020 square feet of Open Air Shops with a 3,744 square foot restaurant (with up to 800 square feet of bar area) with COP (4COPSRX); Within Parcel #2 the 1,140 square feet of History House/Public Use area is replaced by 900 square feet of open restaurant seating that will be served by “on land” facilities; Within Parcel #4 reduce the amount of Butler Act property utilized from 2,697 square feet to 1,600 square feet (with COP) of covered seating and 390 square feet of walk-way service area (1,990 square feet total).

2. Findings and Conclusions of Law:

In accordance with the requirements of LDC Section 34-85 for granting a rezoning, the Town Council make the following findings and reach the following conclusions:

- A. There **exist** changed or changing conditions which make approval of the request appropriate.
- B. The request **is consistent** with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.
- C. The request **meets or exceeds** all performance and locational standards set forth for the proposed use.
- D. The request **will** protect, conserve, or preserve environmentally critical areas and natural resources.
- E. The request **will** be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- F. The requested use **will** be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in the Land Development Code including Chapter 34.

3. Conditions of Approval

1. Development must be consistent with the master concept plan (MCP) titled "Olde Seaport of Fort Myers Beach" (Exhibit C) for case DCI17-0005, last revised 8/3/17, except as modified by conditions or deviations discussed herein. In accordance with LDC Section 34216(b)(5), the MCP must be updated to reflect the deviations and conditions approved by Town Council. If changes to the MCP are subsequently pursued, appropriate approvals will be required.

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

Schedule of Uses:

Parcel #1 (North Parcel – 645 Old San Carlos Blvd.)

Consumption on Premises
Single-purpose Parking Lot
Personal Services
Restaurants
Seating areas

Parcel #2 (Submerged Land Lease)

Boat slips

Docks

Marina & accessory uses

Seating areas (in connection with adjacent parcels, restaurants and food preparation areas see Exhibit B for restaurant square footages and parking calculations)

Consumption on Premises

Parcel #3 (South Parcel – 441/445 Old San Carlos Blvd.)

Single-purpose Parking Lot

Parcel #4 (Butler Act property)

Seating areas (in connection with adjacent parcels restaurants and food preparation areas)

Consumption on Premises

Accessory uses on all parcels:

Bay access if available

Essential services

Essential services equipment

3. Nothing in this rezoning, including any of the attached conditions, may be construed as a variance from the provisions of LDC Chapter 6, Article IV Floodplain regulations.
4. Approval of this rezoning does not give the developer an undeniable right to local development order approval. Development or redevelopment of the subject property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and Land Development Code in effect at the time of development order approval and permitting, except as specifically modified herein.
5. The development must comply with LDC Sec. 14-76 requirements for sea turtle conservation applicable to new development.
6. No structure may be placed in or over, and no work may occur in, any navigable water of the United States unless properly authorized by the United States Army Corps of Engineers or its designee.
7. No stormwater management system, dam, impoundment, reservoir, appurtenant work, or works may be constructed or altered on the subject property, including submerged lands and riparian leased areas, without property permit or exemption, and unless in compliance with all conditions of such permit or exemption, from the South Florida Water Management District or Florida Department of Environmental Protection, as applicable. Stormwater management for the subject property must comply with all applicable requirements of the Land Development Code at the time of development order approval and must provide for the capture and retention of all stormwater on the site.

8. Approval of this rezoning does not address the compliance or noncompliance of proposed building elevations with the commercial design standards included in LDC Chapter 34, Article III, Division 7. Development of the subject property must meet the commercial design standards effective at the time of local development order approval.

9. Docks for use by occupants of principal uses on the subject property, docks for lease to non-occupants of principal uses on the subject property, and docks for use by water taxi or water shuttle are limited to the areas within the existing submerged land leases and submerged land described in Exhibit A. These docks are and must remain accessory to the principal use(s) of the subject property. The number of slips within the area of a submerged land lease may not exceed the number authorized by that lease without proper approval. Construction of additional or replacement docks must comply with all applicable requirements of the LDC and all applicable state and federal regulations at the time of permitting. No live-aboard units are allowed.

10. Hours of operation:

- All restaurants and outdoor seating areas may operate from 8:00AM to 10:00 PM.
- Consumption on Premises in conjunction with outdoor seating shall be from 11:30AM-10:00PM. Live entertainment permitted only inside the buildings, limited to non-amplified, acoustical music.

11. Steamers must be located outside of the Marina Village at Snug Harbor Condominium building.

12. No deliveries will be permitted between 9:00PM and 7:00AM.

13. Commercial garbage collection must be provided six days a week (excluding Sundays).

14. Parking lot must be reconfigured to allow vehicular traffic flow without dead-ends.

15. Public restroom facilities must be provided in Unit C of the Marina Village at Snug Harbor Condominium building.

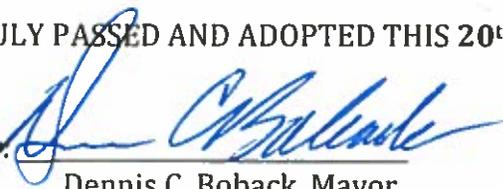
16. Upon the completion of the street side restaurant on parcel #1 (issuance of certificate of occupancy) no beach parking of any kind (Single-purpose Parking Lots only) shall be permitted on the subject properties at any time, all designated parking spaces shall be used for the uses established in this resolution.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Cereceda and seconded by Council Member Butcher, and upon being put to a vote, the result was as follows:

Dennis Boback, Mayor	AYE	Tracey Gore, Vice Mayor	AYE
Bruce Butcher, Member	AYE	Anita Cereceda, Member	AYE
Joanne Shamp, Member	AYE		

DULY PASSED AND ADOPTED THIS 20th day NOVEMBER, 2017.

By:


Dennis C. Boback, Mayor

Approved as to legal sufficiency:

By:


Peterson Law Group
Town Attorney

ATTEST:

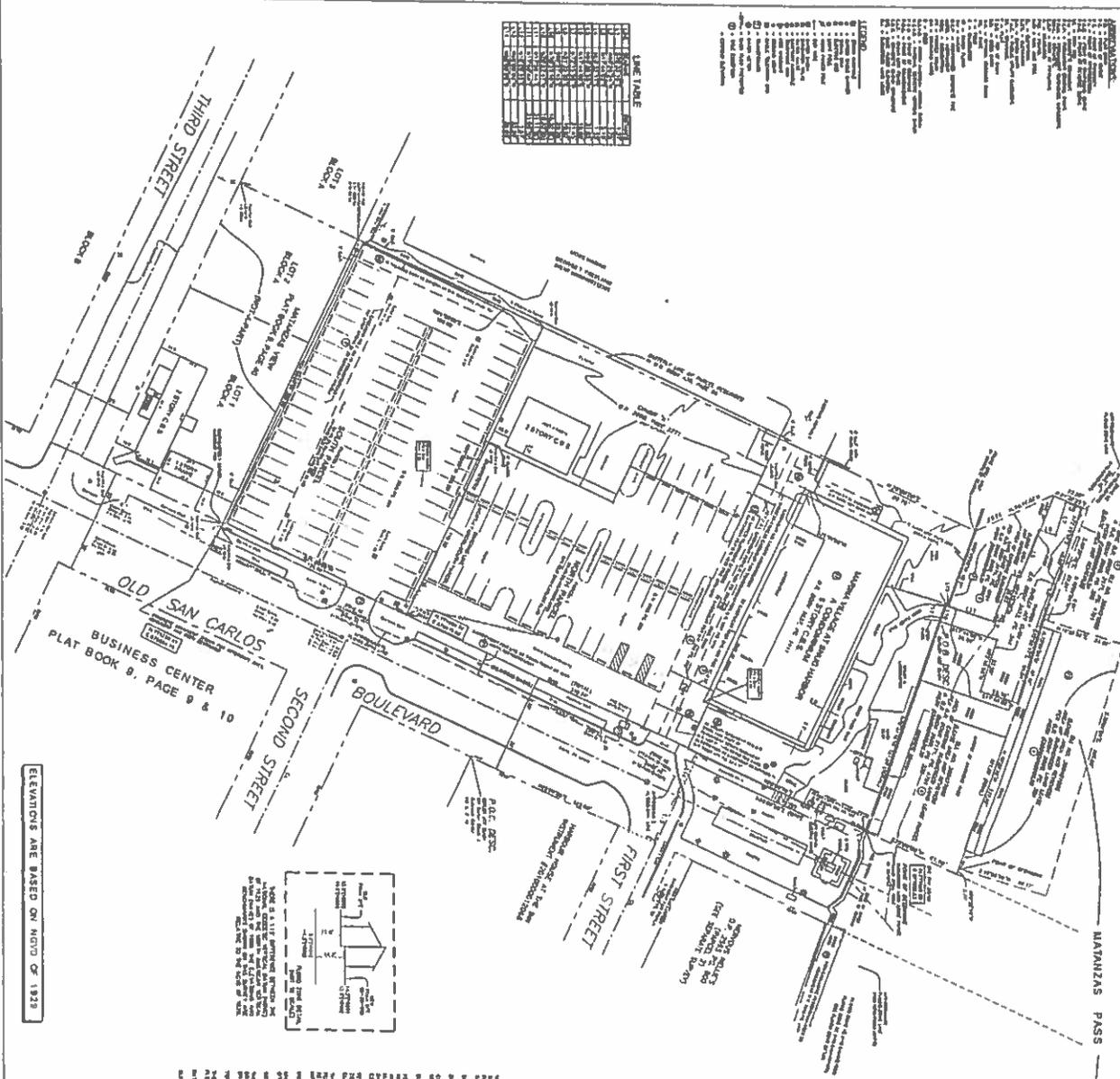
By:


Michelle Mayher
Town Clerk

EXHIBIT A

SURVEY PLAT

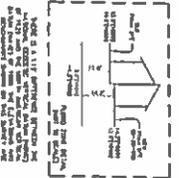
A PARCEL OF LAND
 LYING IN
 SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST
 TOWN OF FORT MYERS BEACH
 LEE COUNTY, FLORIDA



LINE TABLE

LINE NO.	DESCRIPTION	BEARING	DISTANCE
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ELEVATIONS ARE BASED ON NGVD OF 1929



BEARING - The bearing of a line is the angle measured clockwise from the meridian to the line. The meridian is the line of true north-south. The bearing of a line is expressed in degrees, minutes, and seconds. The bearing of a line is always between 0° and 360°.

DISTANCE - The distance of a line is the length of the line. The distance of a line is expressed in feet and inches. The distance of a line is always between 0 and 1000 feet.

AREA - The area of a polygon is the total area enclosed by the polygon. The area of a polygon is expressed in square feet. The area of a polygon is always between 0 and 100,000 square feet.

PERIMETER - The perimeter of a polygon is the total length of the boundary of the polygon. The perimeter of a polygon is expressed in feet and inches. The perimeter of a polygon is always between 0 and 1000 feet.

ANGLE - The angle of a polygon is the angle between two adjacent sides of the polygon. The angle of a polygon is expressed in degrees, minutes, and seconds. The angle of a polygon is always between 0° and 360°.

COORDINATES - The coordinates of a point are the horizontal and vertical distances of the point from a fixed origin. The coordinates of a point are expressed in feet and inches. The coordinates of a point are always between 0 and 1000 feet.

PLAT - A plat is a map or drawing showing the boundaries and dimensions of a parcel of land. A plat is used to show the location and extent of a parcel of land. A plat is always between 0 and 1000 feet.

SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST - This section is located in the town of Fort Myers Beach, Lee County, Florida. The section is bounded by the Gulf of Mexico to the south and the town of Fort Myers Beach to the north.

TOWN OF FORT MYERS BEACH - The town of Fort Myers Beach is located in Lee County, Florida. The town is bounded by the Gulf of Mexico to the south and the town of Fort Myers to the north.

LEE COUNTY, FLORIDA - Lee County is located in the state of Florida. The county is bounded by the Gulf of Mexico to the south and the state of Alabama to the east.

BEAN, THILAKER, LUTZ & KAREHL, INC. AS A/E/C - The firm of Bean, Thilaker, Lutz & Karehl, Inc. is the architect, engineer, and contractor for this project. The firm is located in Fort Myers, Florida.

DATE - The date of this plat is the 15th day of the month of January, 2010.

SCALE - The scale of this plat is 1 inch = 100 feet.

NOTICE - This plat is subject to the provisions of the Florida Statutes, Chapter 218, and the rules and regulations of the Florida Board of Survey.

RECORDING - This plat is recorded in the public records of Lee County, Florida, in the year 2010.

APPROVED - I, the undersigned, being a duly qualified and licensed Surveyor in the State of Florida, do hereby certify that the foregoing is a true and correct copy of the original plat as shown to me by the engineer and contractor for this project.

SIGNATURE - [Signature of Surveyor]

COMMISSIONER - [Signature of Commissioner]

NOTARY PUBLIC - [Signature of Notary Public]

EXHIBIT B

Olde Seaport of Fort Myers Beach

Parking Calculations with big boat at 136 total, Parcel 1 outdoor seating (Full Belly Deli) removed, lobby and finished utility areas in Nervous Nellies added
 (10,127 sf total in facility) and 132 parking spaces actually available: 1/12/7/17

Building/Description	Unit	QTY.	Calculated		Gross Total	Downtown Reduction	Required	Provided
			Parking					
Existing "Nervous Nellie's" - Food Service	SF	9127		8 per 1000 SF	73.0	0.5	36.5	36.5
Existing "Nervous Nellie's" - Bar Area	SF	1000		13 per 1000 SF	13.0	0.5	6.5	6.5
FMB Princess Cruise Ship (150 capacity)	per patron	136	0.3333333333	per patron	45.3	0.5	22.7	22.7
Outdoor & Covered Seating*	SF	3350		8 per 1000 sf	26.8	0.5	13.4	13.4
Parcel 1 street side Restaurant	SF	2944		8 per 1000 sf	23.6	0.5	11.8	11.8
Street side Restaurant Bar Area	SF	800		13 per 1000 sf	10.4	0.5	5.2	5.2
Ticket sales/Boat rentals - Condo Unit B**	SF	840		3 per 1000 sf	2.5	0.5	1.3	1.3
Bathrooms - Condo Unit C**	SF	400		8 per 10000 sf	3.2	0.5	1.6	1.6
Kitchen/Food preparation - Condo Unit D**	SF	600		8 per 1000 sf	4.8	0.5	2.4	2.4
Boat Slips (see breakdown below)	per slip	21		0.5 per slip	10.5	0.5	5.3	5.3
TOTAL REQUIRED SPACES							106.6	106.6

The actual number of existing spaces is 132 so sufficient parking exists

* includes all parcel 2 and 4 seating areas as well as 850 sf for Covered Food Preparation area on parcel 1

** each of the Commercial Condo units is about 1200 sf. Only a portion of the area in each is used with the rest of the area empty or dead storage.

Units C&D are part of the restaurant operations so the same parking requirements were used. For Unit B "other retail or business" space calcs are used

Boat Slip breakdown (21 total, including Princess Cruise Ship):

Use by Marina Village - 1

Open slips for use by diners coming by boat - 8

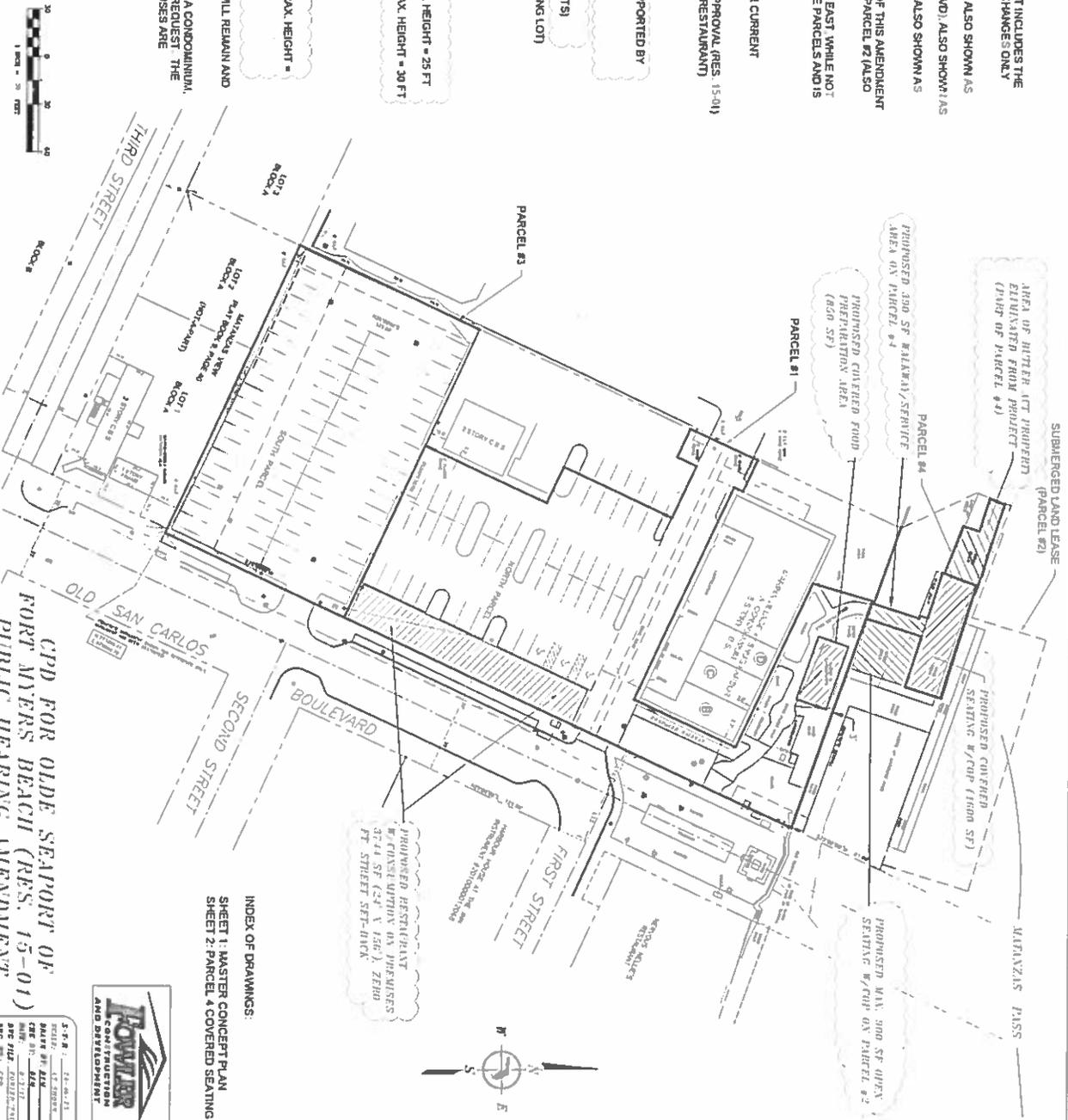
Slips for rental boats (by Olde Seaport) -7

Slips rented to boatowners that keep their boats moored -5

EXHIBIT C

NOTES:

- THIS PUBLIC HEARING AMENDMENT TO CPD (RES 15-01) REQUEST INCLUDES THE SAME FOUR PARCELS OF LAND AS THE ORIGINAL REQUEST (WITH CHANGES ONLY BEING MADE TO PARCELS #2 AND #4), AS FOLLOWS:
 - STRIP NO. 24-16-23-M1-00026 0000 (645 OLD SAN CARLOS BLVD), ALSO SHOWN AS NORTH PARCEL #1 ON THE ACCOMPANYING SURVEY
 - STRIP NO. 24-16-23-M1-00026 0030 (441145 OLD SAN CARLOS BLVD), ALSO SHOWN AS SOUTH PARCEL #3 ON THE ACCOMPANYING SURVEY
 - A NOW-STRIPPED PARCEL, KNOWN AS A BUTLER ACT PARCEL, ALSO SHOWN AS PARCEL #4 ON THE ACCOMPANYING SURVEY
- NO PARCEL #2 IS IDENTIFIED ON THE SURVEY FOR THE PURPOSE OF THIS AMENDMENT REQUEST. THE SUBMERGED LAND LEASE WILL BE DESIGNATED AS PARCEL #2 (ALSO NOW STRIPPED)
- THE RESTAURANT KNOWN AS NERVOUS NELLIES LOCATED TO THE EAST WHILE NOT PART OF THIS CPD, UTILIZES A PORTION OF THE PARKING ON THESE PARCELS AND IS INCLUDED ON THE PARKING CALCULATIONS.
- CURRENT LAND USE/ZONING:
 - PARCELS 1 & 3: LAND USE: PEDESTRIAN COMMERCIAL ZONING: PER CURRENT APPROVAL (RES. 15-01)
 - PARCEL 2 & 4: LAND USE: TIDAL WATER, ZONING: PER CURRENT APPROVAL (RES. 15-01) (NOTE: PARCEL 4 FORMERLY CONTAINED THE SNUG HARBOR RESTAURANT)
- DESCRIPTION OF PROPOSED DEVELOPMENT ON EACH PARCEL.
 - PARCEL #1:
 - COVERED FOOD PREPARATION AREA (LOBSTER POT): 850 SF - SUPPORTED BY KITCHEN OPERATIONS OUT OF LIMIT D
 - RESTAURANT W/CP: MAX: 3744 SF (200 SEATS)
 - PARKING: 49 SPACES
 - PARCEL #2:
 - OPEN SEATING (AWNING PERMITTED) AREA W/CP: 900 SF (75 SEATS)
 - PARCEL #3: NO CHANGES PROPOSED (REMAINS AS 74 SPACE PARKING LOT)
 - PARCEL #4:
 - COVERED SEATING W/CP: 1800 SF (125 SEATS)
 - WALKWAY: 390 SF AREA FOR SEATING ACCESS/SERVICE AREA
 - 4. SITE DATA AND DEVELOPMENT REGULATIONS:
 - PARCEL #1/NORTH PARCEL, TOTAL AREA = 35,768 SF
 - ABOVE EX. GRADE: RESTAURANT W/CP: 3744 SF (0 FT SET-BACK, MAX. HEIGHT = 25 FT ABOVE EX. GRADE)
 - PARCEL #2/SUBMERGED LAND LEASE
 - OPEN SEATING AREA W/CP: 900 SF (0 FT SET-BACK)
 - PARCEL #3/SOUTH PARCEL, TOTAL AREA = 25,000 SF (NO CHANGES)
 - PARCEL #4/BUTLER ACT PARCEL, TOTAL AREA = 3025 SF
 - COVERED SEATING AREA W/CP: 1800 SF (0 FT SET-BACK, MAX. HEIGHT = 25 FT ABOVE EX. GRADE)
 - 390 SF WALKWAY
 - REMAINING AREA REMOVED FROM CPD
 - UNLESS OTHERWISE NOTED, EXISTING DOCKS AND WALKWAYS WILL REMAIN AND CONTINUE TO BE USED IN THE SAME MANNER.
 - UNITS 'B', 'C' AND 'T' IN THE MARINA VILLAGE AT SNUG HARBOR, A CONDOMINIUM, ARE OWNED BY THE APPLICANT BUT NOT PART OF THIS ZONING REQUEST. THE ZONING OF MARINA VILLAGE IS 'DOWNTOWN' AND ALL PROPOSED USES ARE CONSISTENT WITH THE CURRENT ZONING.



CPD FOR OLDE SEAPORT OF FORT MYERS BEACH (RES. 15-01) PUBLIC HEARING AMENDMENT

POWER
CONSULTING AND DEVELOPMENT

S-R-B: 24-06-13
 REVISION: 15-2008
 DATE: 07-13-17
 BY: JZ
 APP. FILE: 2008-2716
 REC. FILE: 2008-2716

INDEX OF DRAWINGS:
 SHEET 1: MASTER CONCEPT PLAN
 SHEET 2: PARCEL 4 COVERED SEATING

McKee Engineering Consultants, Inc.

Engineering Permitting Land Development
 2235 Shoreland Lane Grants Falls, NC 28630
 Phone: (252) 963-0000 Fax: (252) 963-0000
 www.mckee-engineers.com

PROJECT: MASTER CONCEPT PLAN
 OLD SEAPORT PLACE, INC.
 2532 ESTERO BLVD, UNIT 504
 FORT MYERS BEACH, FL 33931

REVISIONS:
 12/7/17 - remove parcel 1 (former "full body deck") outdoor seating per hearing agreement