

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 04-24

WHEREAS, Buccaneer FM Beach, LLC in re: Suncoast Tide has requested to rezone 1.1 +/- acres currently zoned Commercial Resort (CR) to Residential Planned Development (RPD) under the pre-disaster buildback policy and transfer density and intensity from several parcels to another; with deviations from the following LDC requirements:

1. From LDC Section 10-285, which requires a minimum connection separation of 250 feet to allow connection separations of 96 feet and 80 feet; and
2. From Section 34-943 and Table 34-3, which limit building height to the 30 feet and 3 stories, to allow 48 feet and 4 habitable stories over one story of parking; and
3. From LDC Section 34-1807 and 34-3237, which allow interior square footage to be exchanged under the buildback policy on a square foot for square foot basis provided the total interior square footage of the rebuilt dwelling units does not exceed the interior square footage of the previous dwelling units, to allow 5,765 additional square feet for a total of 26,000 square feet of interior space; and,

WHEREAS, the subject properties are located at 4864, 5335, 5350, and 5354 Estero Blvd, Fort Myers Beach, and the applicant has indicated the property's current STRAP numbers are; 33-46-24-W1-00206.0080; 33-46-24-W1-00206.0090; 33-46-24-W1-00203.0210 and the legal description for the 4 parcels is attached hereto as Exhibit A and incorporated herein by reference; and,

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) who gave full consideration to the application; and,

WHEREAS, the LPA recommended that the Town Council deny the Applicant's request for a zoning change to RPD.

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

- a. Whether there exists an error or ambiguity that must be corrected.
- b. Whether there exist changed or changing conditions which make approval of the request appropriate.
- c. The impact of a proposed change on the intent of Chapter 34 of the Town LDC.
- d. The testimony of any applicant.
- e. The recommendation of staff and of the local planning agency.

- f. The testimony of the public.
- 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.
- h. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
- i. Whether urban services are, or will be, available and adequate to serve a proposed land use change.
- j. Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.
- 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.
- 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; and,

WHEREAS the town council finds that the requested zoning district does not comply with:

- a. The Fort Myers Beach Comprehensive Plan.
- b. Chapter 34, Zoning Districts, Design Standards, and Nonconformities
- c. Any other applicable town ordinances or codes.

NOW THEREFORE BE IT RESOLVED THAT THE APPLICATION IS DENIED.

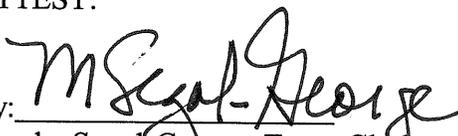
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

Howard Rynearson	<u>No</u>
Don Massucco	<u>Yes</u>
Bill Thomas	<u>Yes</u>
W. H. "Bill" Van Duzer	<u>No</u>
Garr Reynolds	<u>Yes</u>

APPLICATION DULY DENIED this 28th day of June, 2004.

ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Marsha Segal George, Town Clerk

By: 
Bill Thomas, Mayor

Approved as to form by:

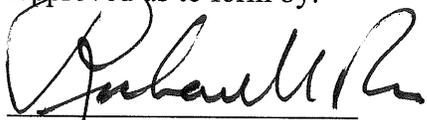

Richard V.S. Roosa, Town Attorney

EXHIBIT A

Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard
Fort Myers, Florida 33919-5910
email - fmooffice@bwlk.net
(Ph) 239-481-1331 (Fax) 239-481-1073



Description

Parcel in
Section 28, Township 46 South, Range 24 East
Town of Fort Myers Beach, Lee County, Florida

"RPD Estero Blvd. Side"

A tract or parcel of land lying in Section 28, Township 46 South, Range 24 East, Town of Fort Myers Beach, Lee County, Florida, being further described as follows:

From the southeast corner of the Southwest One Quarter (SW 1/4) of Section 28, Township 46 South, Range 24 East, run westerly along the south line of said section for 1643.7 feet to the northwesterly corner of Lot 20, Block 6, Gulf Heights Subdivision as recorded in Plat Book 6 at Page 39 of the Lee County Public Records; thence northwesterly at an included angle of 139°39' with the south boundary of said Section 28 a distance of 1,012.55 feet to an intersection with the southeasterly line of lands described in Official Record Book 3918 beginning at Page 2600 of the Lee County Public Records; thence run N37°45'43"E along said southeasterly line for 52.48 feet to an intersection with the Lee County Coastal Control Setback Line and the Point of Beginning.

From said Point of Beginning run N49°54'15"W along said Lee County Coastal Control Setback Line for 139.40 feet to an intersection with the northwesterly line of lands described in Official Record Book 3918 beginning at Page 2600 of said Lee County Public Records; thence run N37°33'11"E along said northwesterly line for 175.15 feet to an intersection with the southwesterly line of Estero Boulevard; thence run S50°40'55"E along said southwesterly line for 139.97 feet; thence run S37°45'43"W along said southeasterly line of lands described in Official Record Book 3918 at Page 2600 for 177.02 feet to the Point of Beginning.

Containing 24,580 square feet or 0.56 acres, more or less.

Bearings hereinabove mentioned are based on State Plane Coordinates for the Florida West Zone N.A.D. 1983 (1990 Adjustment) with the southwesterly line of Estero Boulevard to bear S50°40'55"E.

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)


William E. Bean, R.L.S. 3261

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3/4/04

PAGE 1 OF 2

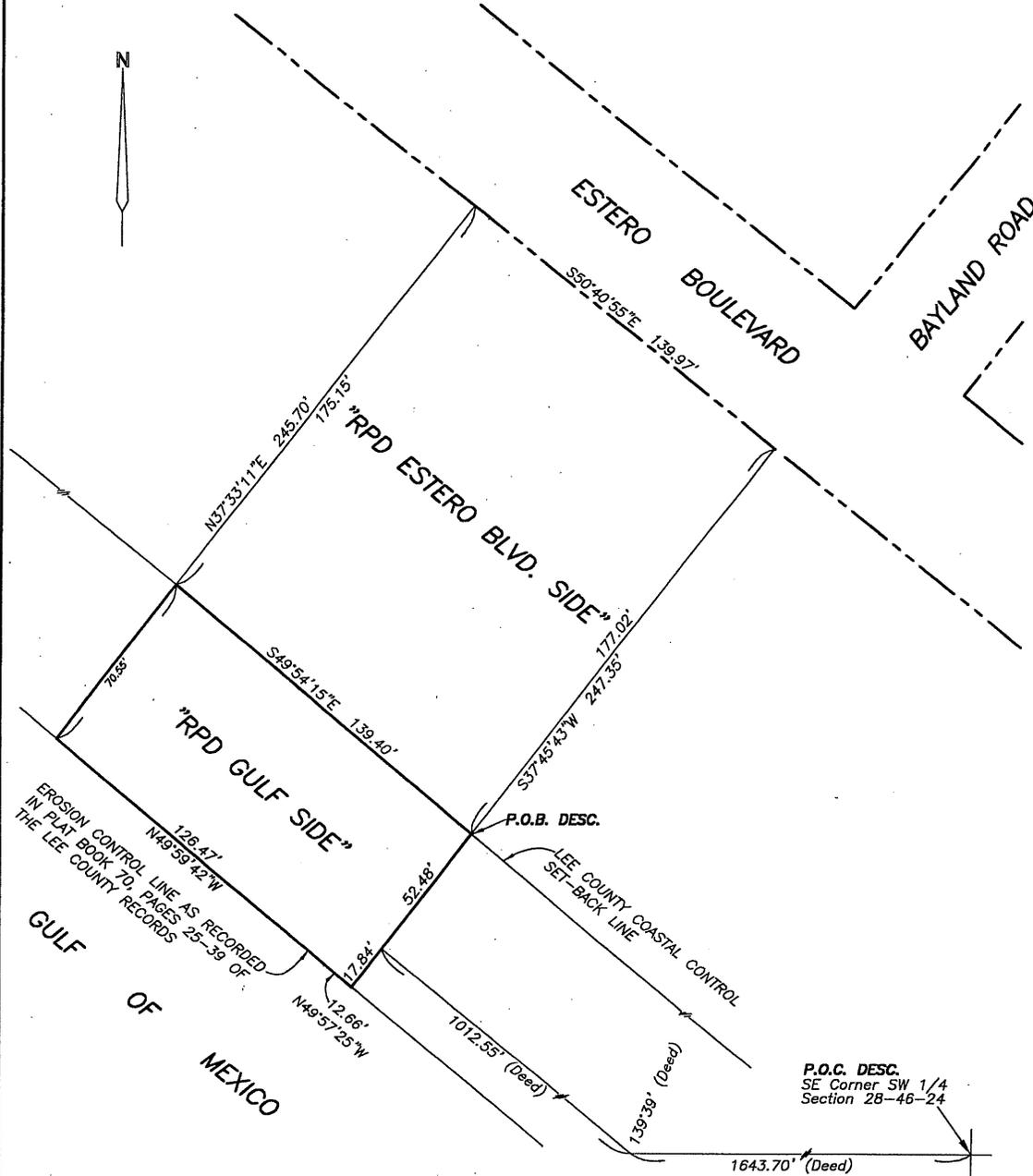
PRINCIPALS:
WILLIAM E. BEAN, PSM, CHAIRMAN
SCOTT C. WHITAKER, PSM, PRESIDENT
JOSEPH L. LUTZ, PSM
AHMAD R. KAREH, PE, MSCE, VICE PRESIDENT

CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS



ASSOCIATES:
TRACY N. BEAN, AICP
CHARLES D. KNIGHT, PSM
W. BRITT POMEROY, JR., PSM
STEPHEN H. SKORUPSKI, PSM
ELWOOD FINEFIELD, PSM
JAMES A. HESSLER, PSM
JAMES R. COLEMAN, PSM
RUDOLF A. NORMAN, PE

SKETCH TO ACCOMPANY DESCRIPTION
 A PARCEL IN
 SECTION 28, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
 TOWN OF FORT MYERS BEACH
 LEE COUNTY, FLORIDA



THIS IS NOT A SURVEY

RECEIVED
 MAR 08 2004

William E. Bean
 WILLIAM E. BEAN
 Registered Land Surveyor
 Florida Certificate No. 3261

ZONING COUNTER

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)					
CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS					
13041-1 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919-5910 (239) 481-1331					
SK34327-1.DWG					
DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-T-R)
3-04-04	34327	WBP	1" = 50'	2 OF 2	28-46-24



Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard
Fort Myers, Florida 33919-5910
email – fmooffice@bwlk.net
(Ph) 239-481-1331 (Fax) 239-481-1073

Description

A Parcel of Land
Lying in
Section 28, Township 46 South, Range 24 East
Town of Fort Myers Beach, Lee County, Florida

“RPD Gulf Side”

A tract or parcel of land lying in Section 28, Township 46 South, Range 24 East, Town of Fort Myers Beach, Lee County, Florida, being further described as follows:

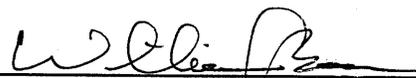
From the southeast corner of the Southwest One Quarter (SW 1/4) of Section 28, Township 46 South, Range 24 East, run westerly along the south line of said section for 1,643.7 feet to the northwesterly corner of Lot 20, Block 6, Gulf heights Subdivision, as recorded in Plat Book 6 at Page 39 of the Lee County Public Records; thence run northwesterly at an included angle of 139°39' with the south boundary of said Section 28 a distance of 1,012.55 feet to an intersection with the southeasterly line of lands described in Official Record Book 3918 beginning at Page 2600 of the Lee County Public Records; thence run N37°45'43"E along said southeasterly line for 52.48 feet to an intersection with the Lee County Coastal Control Setback Line and the Point of Beginning.

From said Point of Beginning run S37°45'43"W along the southeasterly line of said lands for 70.32 feet to an intersection with the Erosion Control Line as recorded in Plat Book 70 at Pages 25 through 39 of the Lee County Public Records; thence run N49°57'25"W along said line for 12.66 feet; thence run N49°59'52"W along said line for 126.47 feet to an intersection with the northwesterly line of said lands; thence run N37°33'11"E along said northwesterly line for 70.55 feet to an intersection with said Lee County Coastal Control Setback Line; thence run S49°54'15"E along said line for 139.40 feet to the Point of Beginning.

Containing 9,800 square feet or 0.22 acres, more or less.

Bearings hereinabove mentioned based on State Plane Coordinates for the Florida West Zone N.A.D. 1983 (1990 Adjustment) with the southwesterly line of Estero Boulevard to bear S50°40'55"E.

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)



William E. Bean, R.L.S. 3261

34327DESC2

3/4/04

PAGE 1 OF 2

PRINCIPALS:

WILLIAM E. BEAN, PSM, CHAIRMAN
SCOTT C. WHITAKER, PSM, PRESIDENT
JOSEPH L. LUTZ, PSM
AHMAD R. KAREH, PE, MSCE, VICE PRESIDENT

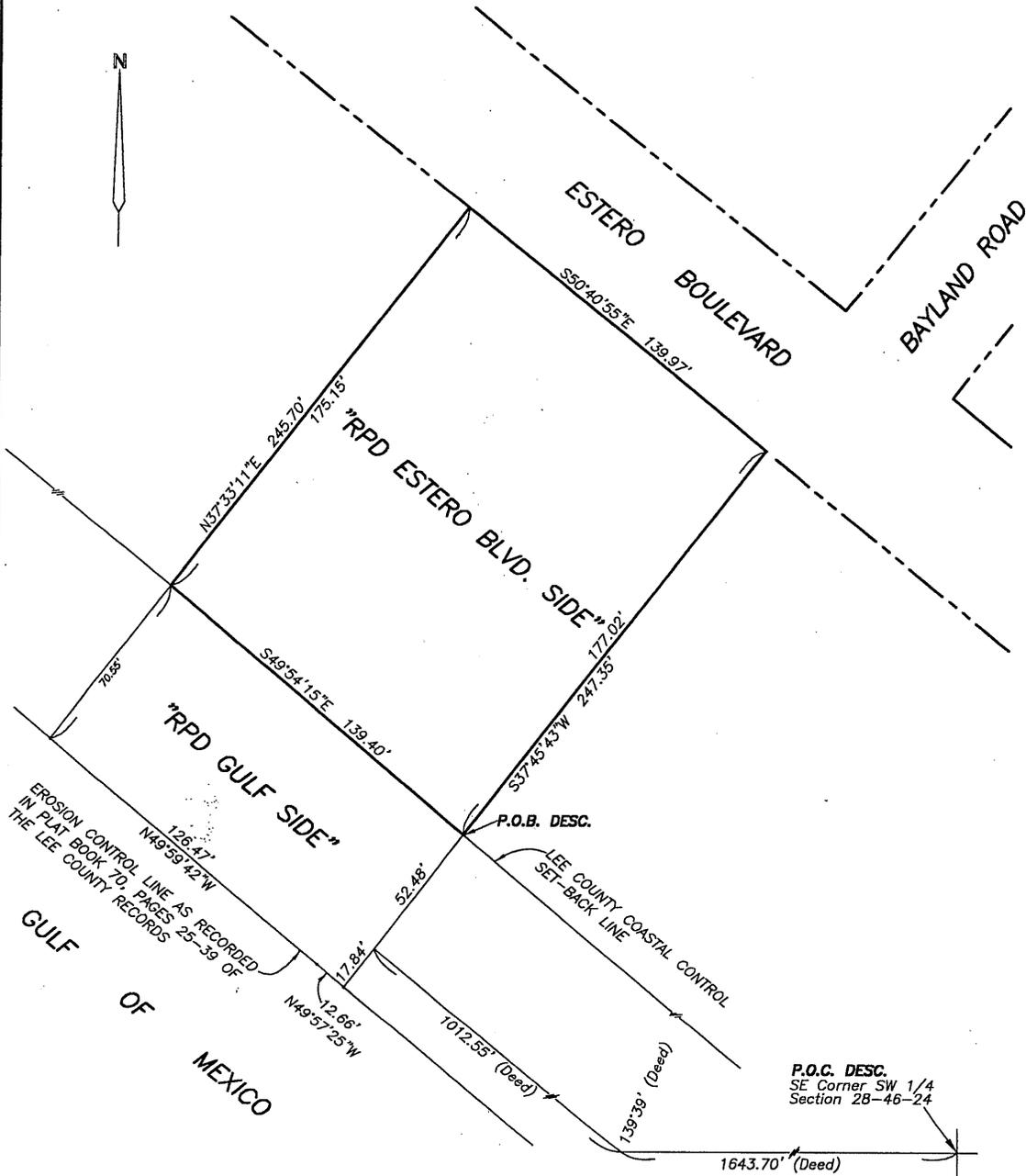
CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS



ASSOCIATES:

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JAMES A. HESSLER, PSM
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RUDOLF A. NORMAN, PE

SKETCH TO ACCOMPANY DESCRIPTION
 A PARCEL IN
 SECTION 28, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
 TOWN OF FORT MYERS BEACH
 LEE COUNTY, FLORIDA



P.O.C. DESC.
 SE Corner SW 1/4
 Section 28-46-24

THIS IS NOT A SURVEY

RECEIVED
 MAR 08 2004

William E. Bean
 WILLIAM E. BEAN
 Registered Land Surveyor
 Florida Certificate No. 3261

SENDING COUNTER

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DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-T-R)
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Description

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A tract or parcel of land lying in Section 28, Township 46 South, Range 24 East, Town of Fort Myers Beach, Lee County, Florida, being further described as follows:

From the southeast corner of the Southwest One Quarter (SW 1/4) of said Section 28 run N89°59'44"W along the south line of said Section 28 for 1643.70 feet to the northwesterly corner of Lot 20, Block 6, Gulf Heights Subdivision, according to the map or plat as recorded in Plat Book 6 at Page 39 of the Public Records of Lee County; thence run N50°17'29"W for 1012.55 feet to the Point of Beginning.

From said Point of Beginning run S37°45'43"W for 17.84 feet to an intersection with the Erosion Control Line as recorded in Plat Book 70 at Pages 25 through 39 of said Public Records; thence run N49°57'25"W along said Erosion Control Line for 12.66 feet; thence run N49°59'42"W along said Erosion Control Line for 126.47 feet; thence run N37°33'11"E for 245.70 feet to an intersection with the southwesterly line of Estero Boulevard; thence run S50°40'55"E along said southwesterly line for 139.97 feet; thence run S37°45'43"W for 229.48 feet to the Point of Beginning.

Containing 0.79 acres, more or less.

Bearings hereinabove mentioned based on State Plane Coordinate for the Florida West Zone NAD 1983 (1990 Adjustment).

The above description describes the same property as transferred by Warranty Deed recorded in Official Record Book 3918, starting at Page 2600 of the Public Records of Lee County, except the seaward boundary line is now defined as the "Erosion Control Line".

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

34327DESC2

11/11/03


William E. Bean, RLS 3261



DCI 2003-00079

Page 1 of 2

PRINCIPALS:

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ZONING COUNTER

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JAMES A. HESSLER, PSM
JAMES R. COLEMAN, PSM
RUDOLF A. NORMAN, PE

DESCRIPTION OF PARCELS 1 AND 2

ALL OF LOTS 9 AND 8 AND THE WESTERLY ONE-HALF OF LOT 7, BLOCK 6, OF THAT CERTAIN SUBDIVISION KNOWN AS GULF HEIGHTS, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LEE COUNTY, FLORIDA, IN PLAT BOOK 6 AT PAGE 39. SUBJECT TO AN INGRESS AND EGRESS EASEMENT 12 FEET IN WIDTH OVER AND ACROSS THE EAST 12 FEET OF THE WEST ONE-HALF OF LOT 7, BLOCK 6, OF SAID GULF HEIGHTS SUBDIVISION. TOGETHER WITH ANY INTEREST WHICH PARTY OF THE FIRST PART MAY HAVE IN THE EASEMENT AGREEMENT RECORDED IN OFFICIAL RECORD BOOK 2067, PAGE 656, PUBLIC RECORDS OF LEE COUNTY, FLORIDA. FURTHER DESCRIBED AS FOLLOWS;

BEGINNING AT THE NORTHEASTERLY CORNER OF SAID LOT 9 RUN SOUTHEASTERLY ALONG THE WEST RIGHT OF WAY OF ESTERO BOULEVARD AND THE NORTHEASTERLY LINE OF SAID LOT 9 S46°39'30"E, AS A BASIS OF BEARING FOR 45.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 9 AND THE NORTHEASTERLY CORNER OF SAID LOT 8, THENCE CONTINUE SOUTHEASTERLY ALONG SAID WESTERLY RIGHT OF WAY LINE OF ESTERO BLVD. S46°39'30"E, FOR A DISRANCE OF 45.00 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 7, THENCE CONTINUE ALONG SAID WESTERLY RIGHT OF WAY S46°39'30"E, FOR 22.50 FEET TO THE EASTERLY LINE OF THE WEST HALF OF SAID LOT 7, THENCE RUN SOUTHWESTERLY ALONG SAID EASTERLY LINE OF THE WEST HALF OF SAID LOT 7 S43°20'30"W FOR 125.00 FEET TO THE SOUTHERLY CORNER OF THE WEST HALF OF SAID LOT 7, THENCE NORTHWESTERLY ALONG THE SOUTHWESTERLY LINE OF LOT 7 N46°39'30"W FOR 22.50 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 8, THENCE CONTINUE NORTHWESTERLY ALONG THE SOUTHWESTERLY LINE OF SAID LOT 8 N46°39'30"W FOR 45.00 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 8, AND THE SOUTHWESTERLY CORNER OF SAID LOT 9 THENCE CONTINUE NORTHWESTERLY ALONG THE SOUTHWESTERLY LINE OF SAID LOT 9 N46°39'30"W FOR 45.00 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 9, THENCE RUN NORTHEASTERLY ALONG THE NORTHWESTERLY LINE OF SAID LOT 9 N43°20'30"E FOR 125.00 FEET TO THE POINT OF BEGINNING. COMBINED PARCELS CONTAINING 0.32 ACRES MORE OR LESS.



ZONING COUNCIL

DESCRIPTIONS PREPARED BY THE SURVEYOR AT THE REQUEST OF THE CLIENT.
12/11/03 SFS JOB # 030010

DCI 2003-00079

DESCRIPTION OF PARCEL 3

LOTS 21 AND 22, BLOCK 3, GULF HEIGHTS, A SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT, RECORDED IN PLAT BOOK 6, PAGE 39, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; TOGETHER WITH A PEDESTRIAN RIGHT OF INGRESS AND EGRESS TO THE GULF OF MEXICO OVER A TWO-FOOT (2') STRIP OFF THE NORTHWESTERLY SIDE OF LOTS 8 AND 35, BLOCK 6, OF SAID GULF HEIGHTS SUBDIVISION; AND TOGETHER WITH WELL WATER RIGHTS FOR ONLY ONE RESIDENCE LOCATED UPON LOT 21, BLOCK 3, OF SAID GULF HEIGHTS SUBDIVISION, FROM THE WELL LOCATED UPON LOT 36 BLOCK 6, OF SAID GULF HEIGHTS SUBDIVISION, FURTHER DESCRIBED AS FOLLOWS;
BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 21 RUN SOUTHEASTERLY ALONG THE EASTERLY RIGHT OF WAY OF ESTERO BLVD. S46°39'30"E, AS THE BASIS OF BEARING FOR 45.00 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 22, THENCE CONTINUE ALONG THE EASTERLY RIGHT OF WAY OF ESTERO BLVD. S46°39'30"E FOR 45.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 22, THENCE RUN NORTHEASTERLY ALONG THE SOUTHEASTERLY LINE OF SAID LOT 22 N43°20'30"E FOR 125.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 22, THENCE RUN NORTHWESTERLY ALONG THE EASTERLY LINE OF SAID LOT 22 N46°39'30"W FOR 45.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 21, THENCE CONTINUE NORTHWESTERLY ALONG THE EASTERLY LINE OF SAID LOT 21 N43°20'30"W FOR 45.00 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 21 THENCE RUN SOUTHWESTERLY ALONG THE NORTHWESTERLY LINE OF SAID LOT 21 S43°20'30"W FOR 125.00 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINING 0.26 ACRES MORE OR LESS.

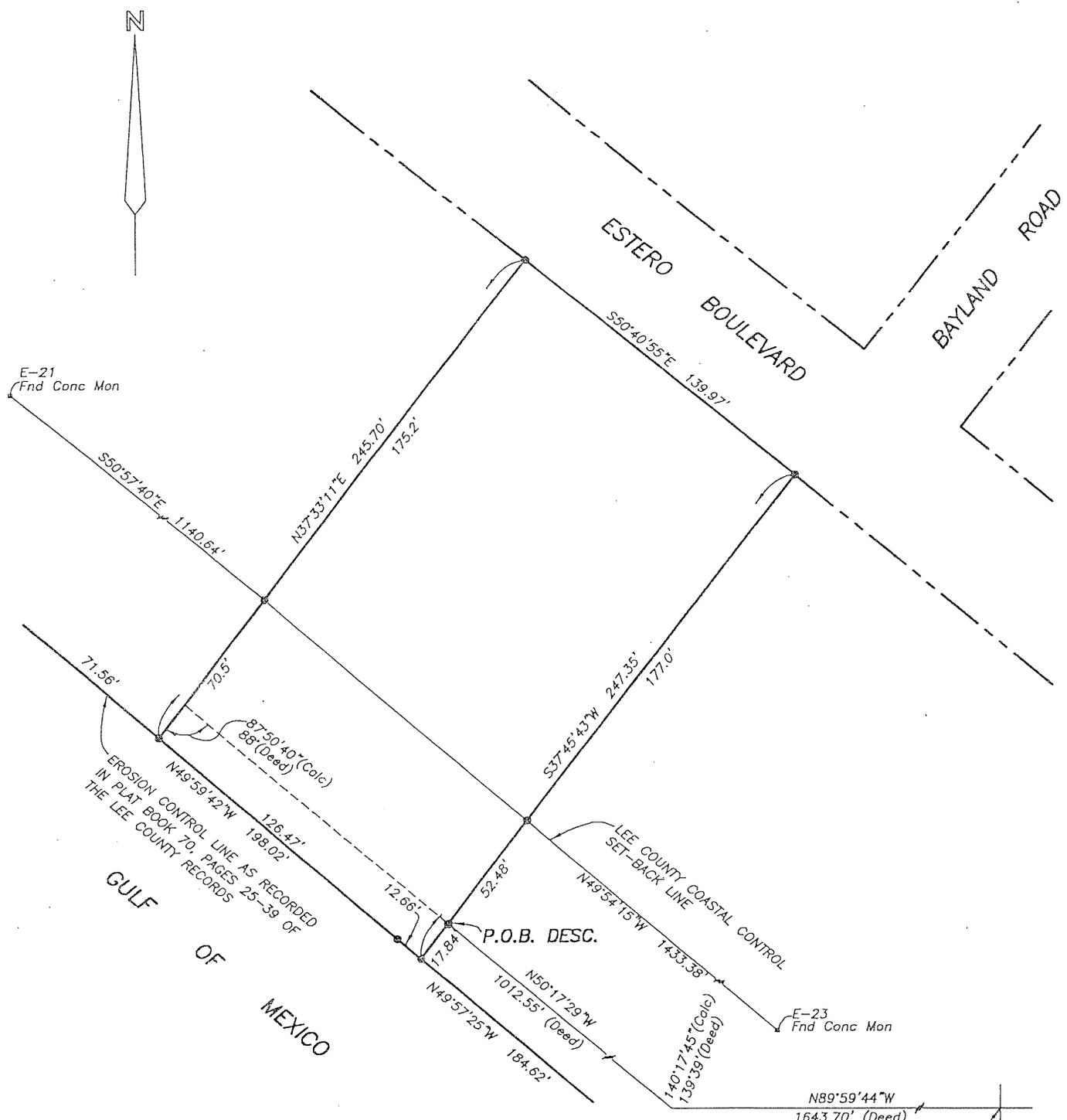
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ZONING COUNTER

DESCRIPTIONS PREPARED BY THE SURVEYOR AT THE REQUEST OF THE CLIENT.
12/05/03 SFS JOB # 030010

DCI 2003-00079

SKETCH TO ACCOMPANY DESCRIPTION
OF
A PARCEL OF LAND
LYING IN
SECTION 28, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
TOWN OF FORT MYERS BEACH
LEE COUNTY, FLORIDA



E-21
Fnd Conc Mon

EROSION CONTROL LINE AS RECORDED
IN PLAT BOOK 70, PAGES 25-39 OF
THE LEE COUNTY RECORDS

GULF
OF
MEXICO

P.O.B. DESC.

LEE COUNTY COASTAL CONTROL
SET-BACK LINE

E-23
Fnd Conc Mon

N89°59'44"W
1643.70' (Deed)

P.O.C. DESC.
SE Corner SW 1/4
Section 28, T46, R24