

RESOLUTION NUMBER 24-20

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING WITH CONDITIONS VARIANCE VAR20230284, REQUESTING A VARIANCE FROM TABLE 34-3 PRINCIPAL STRUCTURE SETBACKS, TO DECREASE THE FRONT STREET SETBACK BY 5 FEET AND DECREASE THE REAR SETBACK BY 15 FEET AND DECREASE THE REAR/SECONDARY STREET SETBACK BY 15 FEET, TO ALLOW A NEW SINGLE FAMILY HOME FOR THE PROPERTY AT 65 FLAMINGO STREET; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, Karl Pilat, owner of the property situated at 65 Flamingo Street, is requesting three variances from LDC Table 34-3 which requires a single-family home in the RC zoning district to provide a minimum 25-foot street setback, 20-foot rear setback and 20-foot rear/secondary street setback; and

WHEREAS, the owner of the property is proposing a front street setback variance of 5 feet for a 20-foot street setback, and a rear setback variance of 15 feet for a 5-foot rear and rear/secondary street setback; and

WHEREAS, the STRAP number for the subject property is 33-46-24-W3-00600.0180; and

WHEREAS, the Property is located in the "Mixed Residential" category of the Future Land Use Map of the Comprehensive Plan and the "Residential Conservation" zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on February 13, 2024, and at said 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 Section 34-87 of the LDC. The LPA voted to recommend approval with conditions of the variance; and

WHEREAS, on March 04, 2024, the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the

documents in the record, and testimony of all interested persons as required by 34-87 of the LDC; and

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

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council determines the Applicant did meet its burden of proof that the requested Variance does meet the requirements of the Town Comprehensive Plan and LDC and approving with conditions the Variance is in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, interested parties and public, the Town Council APPROVES WITH CONDITIONS these three variances from LDC Table 34-3 a single-family home in RC zoning district to allow construction of a home with a 15-foot street setback, 5-foot rear setback and 5-foot rear street setback.

Section 3. In approving with conditions the Variance, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-87 of the LDC:

- A. There are 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 approval of the variance are not the result of actions of the Applicant taken after the adoption of the regulation in question.
- C. The variance is the minimum variance that will relieve the Applicant of an unreasonable burden caused by the application of the regulation to the Property.
- 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 Property are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

Section 4. If the Town Council approves the requested variance, the following conditions of approval are imposed on the Applicant and the Property:

- A. Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all

applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.

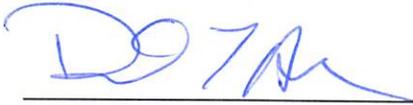
- B. No encroachment, including roof overhangs, may be closer than 40 inches to any property line.

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

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
John R. King, Council Member	Aye
Scott Safford, Council Member	Aye
Karen Woodson, Council Member	Aye

ADOPTED this 4th day of March 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL



Dan Allers, Mayor

ATTEST:



Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**



Vose Law, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 3rd day of May 2024.

**65 FLAMINGO ST.
FORT MYERS BEACH, FL**

SITE DESIGN CRITERIA:

ZONING - RC

SETBACKS REQUIRED:

FRONT- 25'-0"

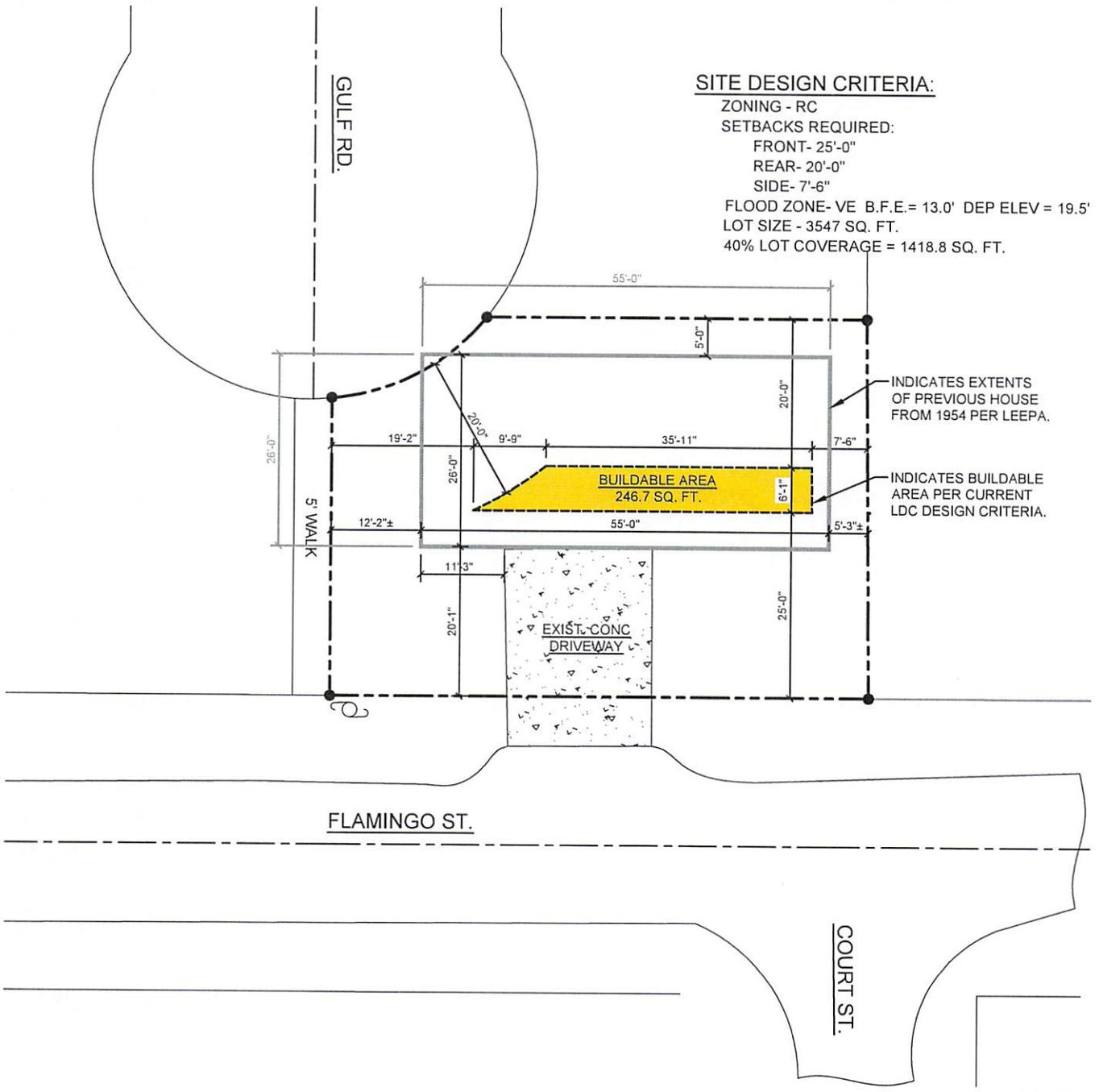
REAR- 20'-0"

SIDE- 7'-6"

FLOOD ZONE- VE B.F.E.= 13.0' DEP ELEV = 19.5'

LOT SIZE - 3547 SQ. FT.

40% LOT COVERAGE = 1418.8 SQ. FT.



INDICATES EXTENTS OF PREVIOUS HOUSE FROM 1954 PER LEEPA.

INDICATES BUILDABLE AREA PER CURRENT LDC DESIGN CRITERIA.

EXISTING SITE / SETBACKS

SCALE: 1" = 20'-0"

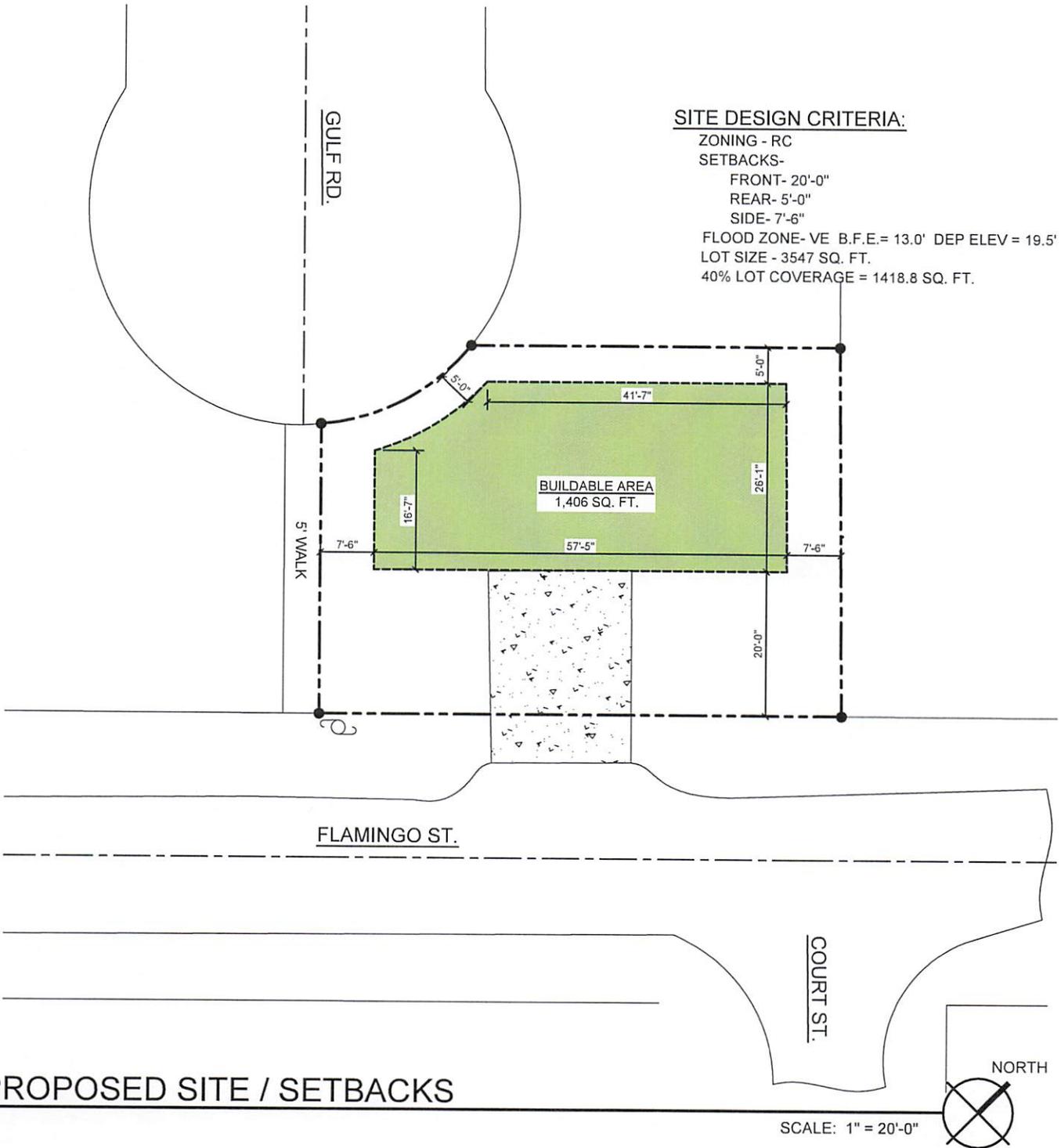


ALBERT DAMBROSE AR93689	DATE ISSUED: 17 JULY 2023	SK-2
	REVISIONS:	

65 FLAMINGO ST.
FORT MYERS BEACH, FL

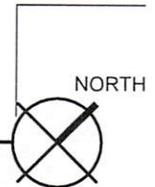
SITE DESIGN CRITERIA:

ZONING - RC
SETBACKS-
FRONT- 20'-0"
REAR- 5'-0"
SIDE- 7'-6"
FLOOD ZONE- VE B.F.E.= 13.0' DEP ELEV = 19.5'
LOT SIZE - 3547 SQ. FT.
40% LOT COVERAGE = 1418.8 SQ. FT.



PROPOSED SITE / SETBACKS

SCALE: 1" = 20'-0"



ALBERT DAMBROSE AR93689	DATE ISSUED: 17 JULY 2023	SK-3
	REVISIONS:	

