

**ORDINANCE 24-27**

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING WITH CONDITIONS THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 2545 AND 2555 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-00458.0000; 19-46-24-W3-00458.0010 IN FORT MYERS BEACH, TO ALLOW A FIRE STATION AND A MIXED USE DEVELOPMENT INCLUDING CIVIC, RESIDENTIAL, LODGING, RETAIL, OFFICE AND MARINE USES; PROVIDING FOR OTHER 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**, Fort Myers Beach Fire Control District, the owner, and Paul Torocco of Quattrone and Associates and Greg Stuart of Stuart and Associates, as agents for the property located at 2545 and 2555 Estero Blvd., parcels generally identified as STRAP numbers 194624W3004580000; 194624W3004580010 in the Town of Fort Myers Beach, filed applications to rezone the property from the CPD adopted in Resolution 08-08 to CPD with Master Concept Plan (MCP) with certain deviations to the Land Development Code (LDC) in order to develop a Fire Station and a mixed use development with a density of 6 dwelling units to be later defined by a MCP amendment; and

**WHEREAS**, the subject property is a combination of two parcels located in the Boulevard Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

**WHEREAS**, a public hearing was held before the Local Planning Agency (LPA) on September 3rd, 2024; and

**WHEREAS**, at the September 3rd, 2024 public hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the Town Land Development Code; and

**WHEREAS**, at the September 3rd, 2024 public hearing the LPA found that the request is consistent with the comprehensive plan and the requirements of the LDC and voted to recommend approval with conditions; and

**WHEREAS**, on September 23rd, 2024 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the

recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the LDC; and

**WHEREAS**, the Town Council voted to have a second reading of the proposed Ordinance and a public hearing on this matter was noticed in the Fort Myers News-Press more than 10 days prior to the Town Council on October 28th, 2024; and

**WHEREAS**, at the October 28th, 2024 public hearing, the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34- 85; and

**WHEREAS**, the applicant has resolved and is current on any outstanding fees associated with notice, advertisement, and consulting services required by the Town; and

**WHEREAS**, a Business Impact Estimate has been prepared and published on the Town's website; and

**WHEREAS**, with the following terms, conditions, and requirements which the LPA finds to be in the public health, safety, and welfare, all of which are in compliance with the comprehensive plan and the Land Development Code; and

**WHEREAS**, Exhibit A provides the approved development regulations and the schedule of uses and conditions of approval for this CPD to be used during the permitting process; and

**WHEREAS**, Exhibit B is the approved Master Concept Plan (MCP), which future development should be substantially in compliance with; and

**WHEREAS**, the Town Council finds that this request to rezone the property from the CPD adopted in Resolution 08-08 to CPD with MCP with six deviations to the LDC in order to develop a Fire Station and a mixed use development with a density of 6 dwelling units to be later defined by a MCP amendment; and

**WHEREAS**, the requested deviations from the LDC include:

**Deviation #1**

Deviation from LDC section 10-416(d)(3) Type D Site Perimeter ROW Buffer Standard, that requires a 15-ft landscape buffer with 5 trees per 100 LF, a double hedge and no wall; for Estero Blvd. to require a 15-ft landscape buffer with a double hedge augmented with 18 shrubs per 100 LF and no wall.

**Deviation #2**

Deviation from LDC 10-285(a) Major Street Access Connection, that requires a 250-ft center-line connection spacing; to require a 127-ft +/- Fire Station driveway to Tropical Shores Way connection separation, and a 126-ft +/- Gulf Beach Road connection separation.

**Deviation #3**

Deviation from LDC 34-2013(a)(3) Parking Lot Access Aisle Width, that requires a maximum 25-ft width at the property line; to allow a 75-ft access aisle width at Estero Blvd. as depicted on the MCP, and a maximum 40-ft access aisle width at Tropical Shores Way as depicted on the MCP.

**Deviation #4**

Deviation from LDC 10-416(c)(2.a) Parking Lot Internal Landscaping, that requires one tree planted per 250 sf and with one tree for each parking space permeable island; to require no landscaped permeable island and trees for the Fire Station's north oriented parking lot.

**Deviation #5**

Deviation from LDC 10-416(c)(2.c) Min. Average Width of Parking Lot Landscaping Area, that requires a minimum average dimension of 10-ft; to require a minimum average dimension of 5-ft for the Fire Station's Estero Blvd. oriented parking lot.

**Deviation #6**

Deviation from LDC 34-632(1) that requires computed density to be round down to the next whole number, which would allow a computed density of 5.94 units, to be rounded up to but not to exceed 6 dwelling units any combination of uses for the future development area.

**WHEREAS**, the Town Council considered all relevant factors and made the following formal findings before making its final decision on the requested rezone to a Commercial Planned Development (see LDC 34-85 and 34-216):

- a. The rezoning would carry out the policies and requirements of the Comprehensive Plan and Land Development Code.
- b. The Town Council carefully considered the testimony of the applicant, the recommendations of staff and of the local planning agency, and testimony from the public.
- c. The rezoning would be consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses in the Comprehensive Plan.
- d. The rezoning would meet or exceed all performance and locational standards set forth for the proposed use.
- e. Urban services are available and adequate to serve the proposed use.
- f. The rezoning would protect, conserve, or preserve environmentally critical areas and natural resources.
- g. The rezoning would be compatible with existing and planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- h. The rezoning would not place 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.
- i. The rezoning, with the mitigating factors volunteered by the applicant and the special conditions imposed by the Town Council, is consistent with the Fort Myers Beach Comprehensive Plan, Land Development Code, and other applicable town ordinances or codes.
- l. The proposed use or mix of uses is appropriate at the subject location.

- m. Sufficient safeguards to the public interest are provided by the recommended special conditions to the master concept plan and by other applicable regulations.
- n. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

**WHEREAS**, the Town Council made the following formal findings before making final decisions on the eight requested deviations from "by-right" requirements of the Land Development Code (see LDC 34-216):

- a. Each item enhances the achievement of the objectives of the planned development; and
- b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted; and
- c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and
- d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.

**WHEREAS**, the Town Council finds that this application to approve Ordinance 24-27 which is, **consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve with conditions** the Application.

**NOW, THEREFORE, IT IS HEREBY ORDAINED 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 request to approve Town of Fort Myers Beach's Ordinance 24-27 and the conditions of approval for the commercial planned development zoning, **does** meet the requirements of the Town Comprehensive Plan and LDC. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **APPROVE WITH CONDITIONS** the requested application.

Section 3. Town Ordinance 24-27 is adopted and the schedule of uses and conditions of approval for the Property's CPD set forth in Exhibit A and the attached Master Concept Plan in Exhibit B, attached hereto and incorporated herein by this reference are approved.

Section 4. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted LDC or Town Code provision, ordinance, or statute, the most restrictive shall apply.

Section 5. Any typographical errors that do not affect the intent of this Ordinance may be corrected with notice to and authorization of the Town Manager without further process.

Section 6. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 7. This Ordinance will take effect immediately upon adoption by the Town Council.

**THE FOREGOING ORDINANCE** was adopted by the Town Council upon a motion by Council Member King and seconded by Council Member Safford, and upon being put to a roll vote, the result was as follows:

**DULY PASSED AND ADOPTED** on this 28<sup>th</sup> day of October 2024.

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

**FORT MYERS BEACH TOWN COUNCIL**

*Dan Allers*  
Dan Allers (Nov 1, 2024 07:58 EDT)  
\_\_\_\_\_  
Dan Allers, Mayor

**ATTEST:**

*Amy Baker*  
Amy Baker (Nov 2, 2024 09:54 EDT)  
\_\_\_\_\_  
Amy Baker, Town Clerk

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

*Nancy Stuparich*  
Nancy Stuparich (Nov 1, 2024 22:12 EDT)  
\_\_\_\_\_  
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 31<sup>st</sup> day of October 2024.

**Attachments:**

- A – Conditions of Approval and Schedule of Uses
- B – Master Concept Plan (MCP)

## **Exhibit A: CONDITIONS OF APPROVAL & SCHEDULE OF USE**

### Conditions of Approval

Staff finds that the CPD with deviations meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC and recommends approval of DCI20230246 with the attached conditions:

- 1) Any tenant with consumption on premises will be required to acquire a separate COP license.
- 2) A local development order is required prior to any development of the site, in accordance with this planned development approval and consistent with the approved MCP.
- 3) All state and local permits, including but not limited to right of way and stormwater permits must be applied for and received prior to site development.
- 4) All signage and landscaping must meet the Vehicle Visibility at Intersection requirements found in Sec. 34-3131
- 5) The Fire Station shall provide flashing indicator light(s) facing Estero Blvd. to alert pedestrians and vehicles when emergency vehicles are exiting the station.
- 6) Deviations 1-5 shall only apply to the proposed Fire Station as shown on the provided site plan.
- 7) The north site future development phase will include a north property line Type C buffer with screening wall to mitigate potential impacts to the Tropical Shores neighborhood. The north site future development phase will include a 5-ft Type A buffer for the shared fire station boundary.

### SCHEDULE OF USE

- Civic
  - Principal
    - Essential services
    - Essential Services equipment
    - Essential Services building
    - Beach or Bay Access
    - Day care center, adult or child
    - Cultural Facility
    - Theater
    - Park, community or regional
    - Parking lot, shared, permanent
    - Place of worship
    - Religious Facility
    - Recreation Facility, private off-site or public
    - School
  - Accessory
    - Dwelling unit, caretaker
    - Subordinate commercial use
- Residential – 6 DU/Acre
  - Principal
    - Dwelling unit, multi-family
    - Dwelling unit, live/work

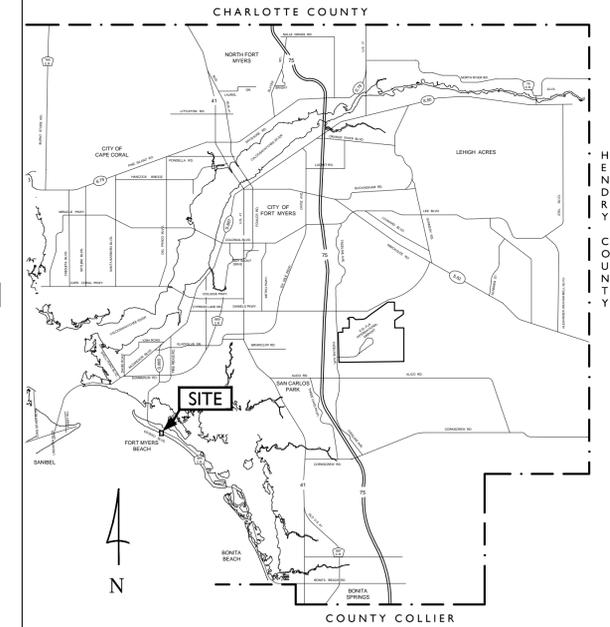
- Timeshare units
    - Assisted living facility-subject to LDC 34-1415
  - Accessory
    - Residential accessory uses
- Lodging
  - Principal
    - Rental of any permitted dwelling unit to a single family for periods of one day or longer
    - Hotel/Motel - guest units must comply with LDC Chapter 34, Article IV, Div. 19
    - Bed and Breakfast
  - Accessory
    - Subordinate commercial uses
- Retail
  - Principal
    - Laundromat
    - Personal services
    - Retail store small
  - Accessory
    - ATM
    - Commercial accessory uses
- Office
  - Principal
    - Health care facility
    - Offices, general or medical
    - Personal Services
    - Wholesale establishment
  - Accessory
    - Administrative offices
    - Home occupation- no outside help
- Marine
  - Accessory
    - Dock - sole use by occupants of principal use

## Exhibit B: Master Concept Plan

# FMB FIRE STATION HEADQUARTERS

LOCATED IN SECTION 19, TOWNSHIP 46 -S, RANGE 24 -E, LEE COUNTY, FLORIDA

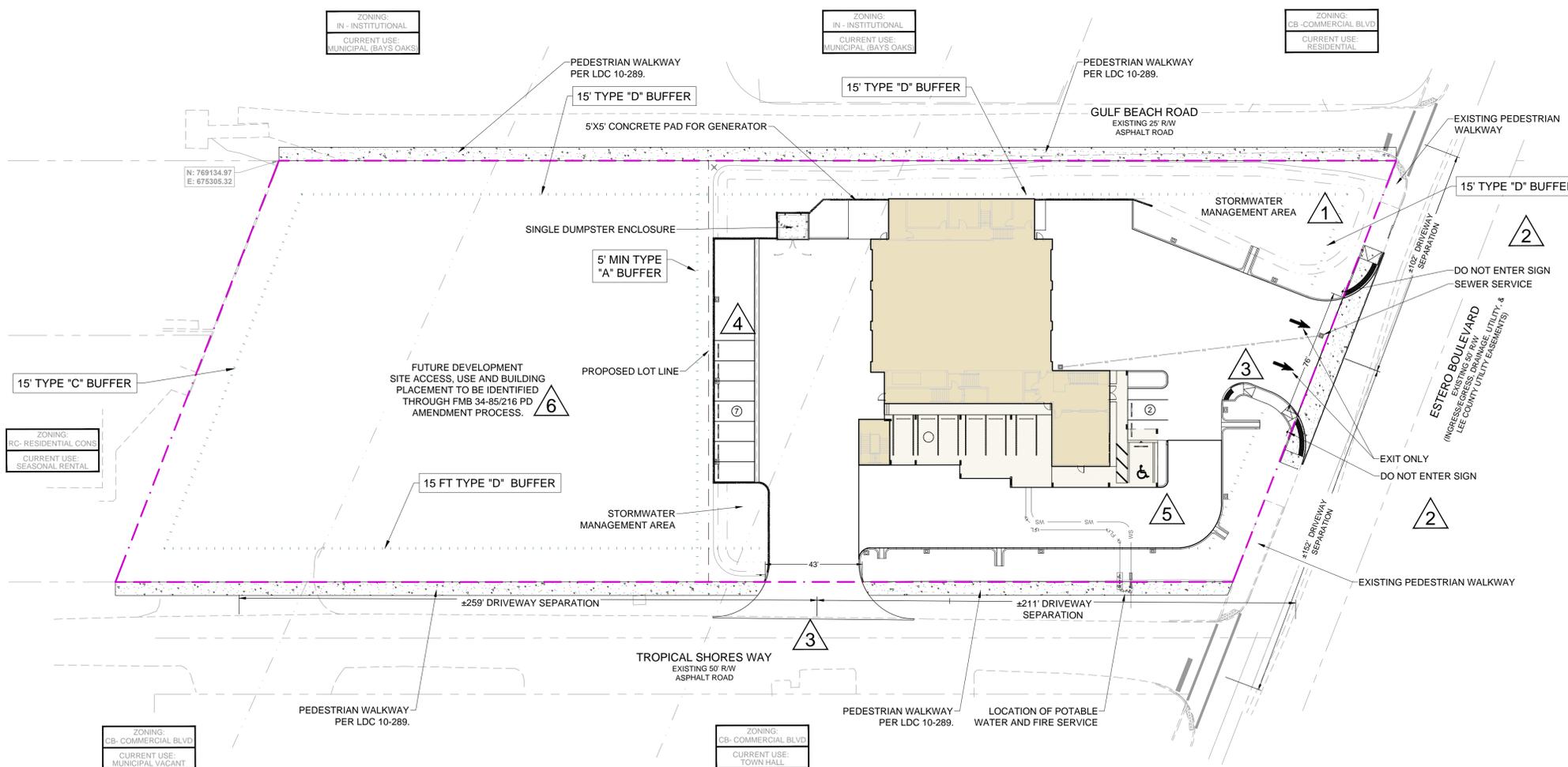
## ZONING MCP



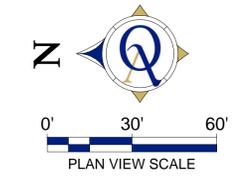
LOCATION MAP  
(NOT TO SCALE)

**LAND USE & DEVELOPMENT STANDARD SUMMARY TABLE**

Future Land Use	Boulevard
Zoning	CPD (08-08)
Parcel Number - 2545 Estero Blvd.	194624W3004580000
Parcel Number - 2555 Estero Blvd.	194624W3004580010
Project Site Area	2.16 ac +/-
* Fire Station Site	1.17 ac +/-
* North Site Future Phase	0.99 ac +/-
Project Intensity	
Fire Station	17,188 sf (1)
Fire Station FAR	33.7%
North Site Future Phase	10,000 sf
North Site Future Phase FAR	23.1%
* Future Phase Residential; or	6 units
* Future Phase Lodging;	15 rooms
Site Development Regulations	
Min. Lot Area	30,000 sf
Min Lot Width	180 ft
Min Lot Depth	180 ft
Max. FAR	40%
Fire Station Building Height	30-ft/3-stories
Building Setback, Estero Blvd.	25-ft
Building Setback, Gulf Bch. Rd./Tropical Shores Way	15-ft
Building Setback, Rear/Waterbody	15-ft.
Flood Zone	AE13-ft
(1) Fire Station total FAR includes ground level, balcony, ancillary impervious pads and covered entrance at a 34% FAR. The heated and cooled Fire Station 14,800 sf intensity is equal to a 29% FAR.	



- DEVIATION SCHEDULE:**
- DEVIATION ONE LDC 10-416(D)(3) TYPE D SITE PERIMETER ROW BUFFER STANDARD, THAT REQUIRES A 15-FT LANDSCAPE BUFFER WITH 5 TREES PER 100 LF, A DOUBLE HEDGE AND NO WALL; FOR ESTERO BLVD, TO REQUIRE A 15-FT LANDSCAPE BUFFER WITH A DOUBLE HEDGE AUGMENTED WITH 18 SHRUBS PER 100 LF AND NO WALL.
- DEVIATION TWO LDC 10-285(A) MAJOR STREET ACCESS CONNECTION, THAT REQUIRES A 250-FT CENTERLINE CONNECTION SPACING, TO REQUIRE A 127-FT +/- FIRE STATION DRIVEWAY TO TROPICAL SHORES WAY CONNECTION SEPARATION, AND A 126-FT +/- GULF BEACH ROAD CONNECTION SEPARATION.
- DEVIATION THREE LDC 34-2013(A)(3) PARKING LOT ACCESS AISLE WIDTH, THAT REQUIRES A MAXIMUM 25-FT WIDTH AT THE PROPERTY LINE, TO ALLOW A 76-FT ACCESS AISLE WIDTH AT ESTERO BLVD, AS DEPICTED ON THE MCP, AND A MAXIMUM 43-FT ACCESS AISLE WIDTH AT TROPICAL SHORES WAY AS DEPICTED ON THE MCP.
- DEVIATION FOUR LDC 10-416(C)(2.A) PARKING LOT INTERNAL LANDSCAPING, THAT REQUIRES ONE TREE PLANTED PER 250 SF AND WITH ONE TREE FOR EACH PARKING SPACE PERMEABLE ISLAND; TO REQUIRE NO LANDSCAPED PERMEABLE ISLAND AND TREES FOR THE FIRE STATION'S NORTH ORIENTED PARKING LOT.
- DEVIATION FIVE LDC 10-416(C)(2.C) MIN. AVERAGE WIDTH OF PARKING LOT LANDSCAPING AREA, THAT REQUIRES A MINIMUM AVERAGE DIMINUTION OF 10-FT; TO REQUIRE A MINIMUM AVERAGE DIMENSION OF 5-FT FOR THE FIRE STATION'S ESTERO BLVD. ORIENTED PARKING LOT.
- DEVIATION SIX LDC 34-632(1) THAT REQUIRES COMPUTED DENSITY TO BE ROUND DOWN TO THE NEXT WHOLE NUMBER, WHICH WOULD ALLOW 5.94 UNITS, TO BE ROUNDED UP TO BUT NOT TO EXCEED 6 DWELLING UNITS FOR ANY COMBINATION OF USES FOR THE FUTURE DEVELOPMENT AREA.



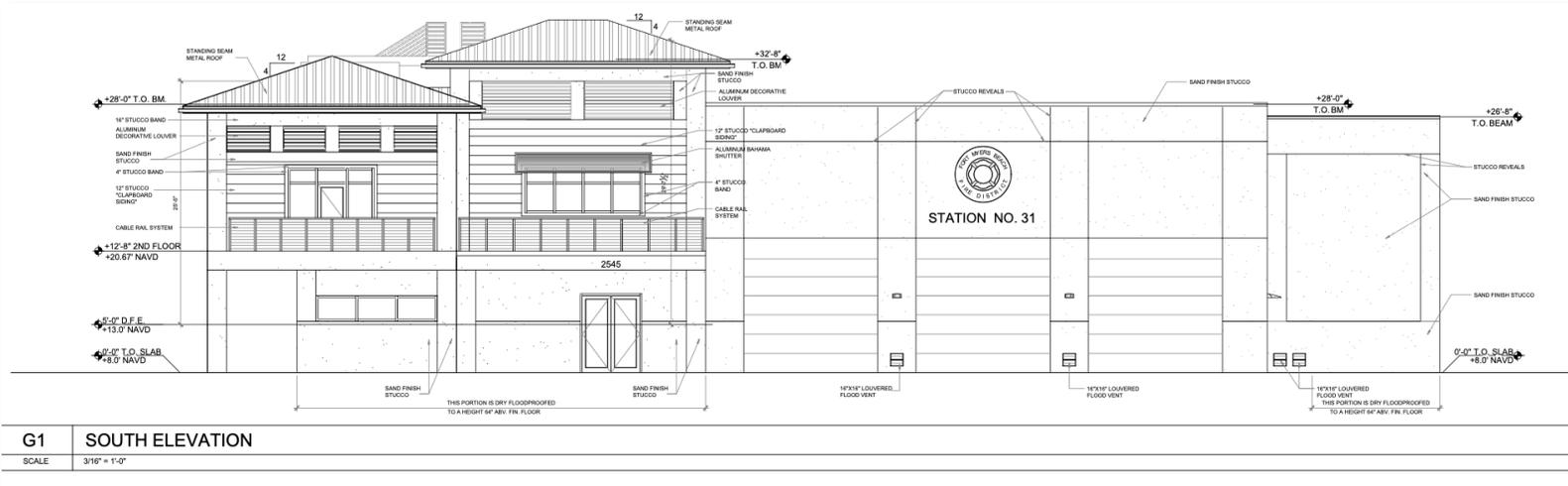
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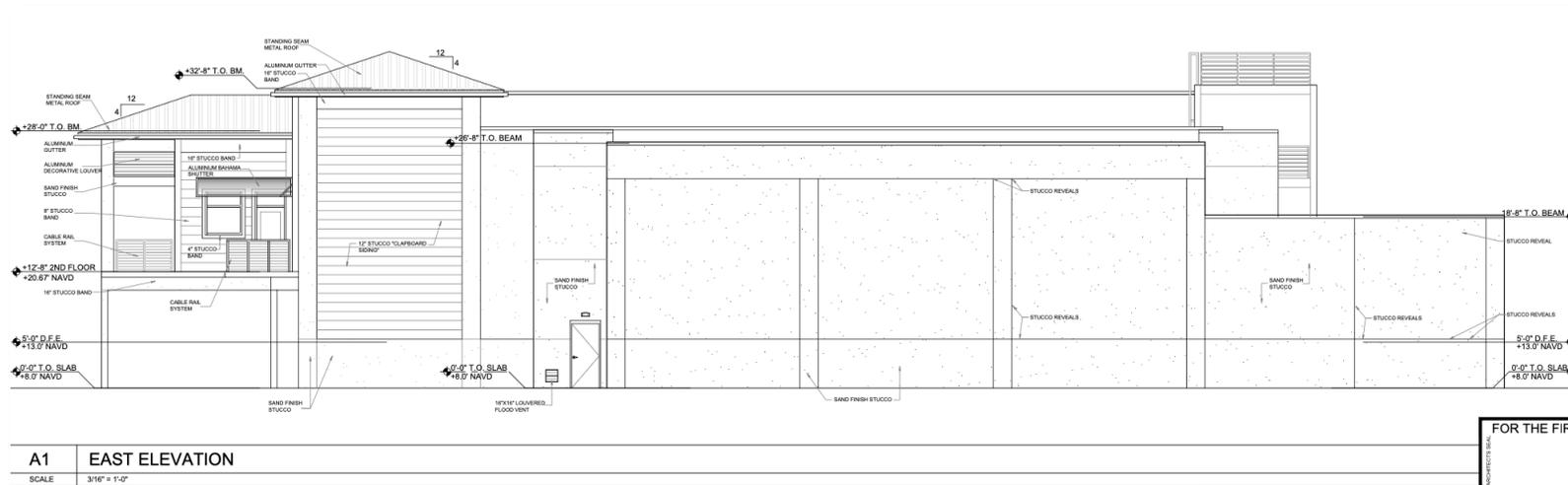
**Quattrone & Associates, Inc.**  
Engineers, Planners, & Development Consultants  
4301 Veronica Shoemaker Blvd. | Fort Myers, FL 33916 | 239.936.5222 | QAInc.net

210405-ZONING MCP.DWG

# THE FMB NEW FIRE STATION CPD 2024-0155



## ESTERO BLVD. FACADE ELEVATION



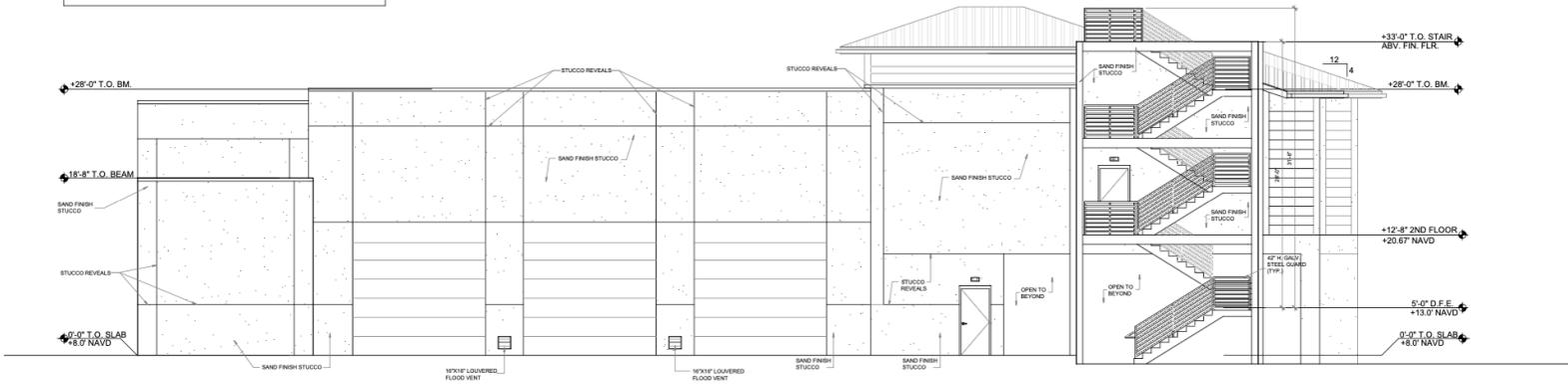
## GULF BEACH RD. FACADE ELEVATION

# THE FMB NEW FIRE STATION CPD 2024-0155

NORTH STAIR ENCLOSURE EXCEEDS ALLOWABLE HEIGHT OF 30' AS MEASURED FROM DESIGN FLOOD ELEVATION (+13.0' NAVD) BY 1'-6". FORT MYERS BEACH LAND DEVELOPMENT CODE SEC. 34-631(b)(3) ALLOWS AN EXCEPTION FOR STAIR ENCLOSURES IF SQUARE FOOTAGE DOES NOT EXCEED 250 S.F.

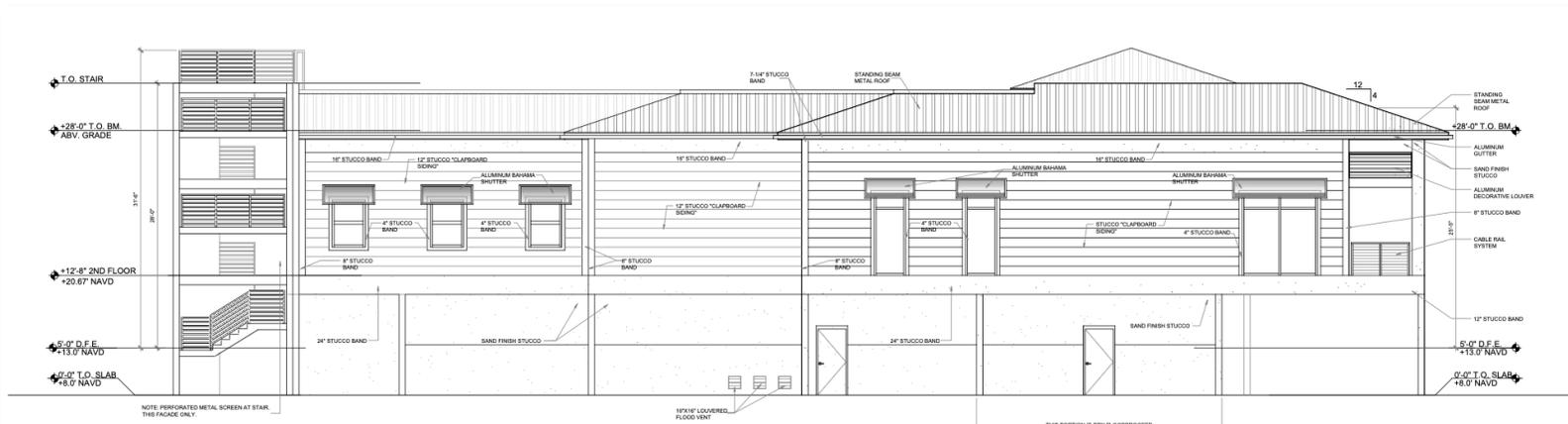
NORTH STAIR ENCLOSURE SQUARE FOOTAGE IS 242 S.F. THIS STAIR IS A REQUIRED MEANS OF EGRESS AND WILL PROVIDE ACCESS TO ROOFTOP HVAC EQUIPMENT.

PROGRESS PRINT  
NOT FOR CONST.



G1 NORTH ELEVATION  
SCALE 3/16" = 1'-0"

## CANAL FACADE FACADE ELEVATION



A1 WEST ELEVATION  
SCALE 3/16" = 1'-0"

FOR TH

## TROPICAL SHORES WAY FACADE ELEVATION