

ORDINANCE 24-36

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 2310 ESTERO BLVD AND 2316/2320 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0430N.0001, 19-46-24-W3-04300.00CE AND 19-46-24-W3-0110A.0010 FORT MYERS BEACH COMMONLY KNOWN AS THE NEPTUNE RESORT, TO ALLOW 148 LODGING UNITS AND ACCESSORY RETAIL AND RECREATIONAL 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, CHG Neptune Acquisitions, LLC and The Neighborhood Company, owner and agents for the property owner, located at 2310 Estero Blvd. and 2316/ 2320 Estero Blvd., parcels generally identified as STRAP numbers 19-46-24-W3-0430N.0001, 19-46-24-W3-04300.00CE and 19-46-24-W3-0110A.0010 in the Town of Fort Myers Beach, filed applications to rezone the property from the Commercial Resort Zoning District to CPD with Master Concept Plan (MCP) with certain deviations to the Land Development Code (LDC) in order to develop 148 lodging units and accessory retail and recreational uses; and

WHEREAS, the subject property is a combination of three 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 November 12, 2024; and

WHEREAS, at the November 12, 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 Town Land Development Code (LDC) Sec. 34-85; and

WHEREAS, at the November 12, 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 of the CPD by a 5-0 vote with members Boan and Eckmann absent; and

WHEREAS, on December 2, 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 Fort Myers Beach Land Development Code (LDC) Section 34-85; 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 an appropriate publication 10 days prior to the Town Council on December 16, 2024; at which time 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 is the approved Master Concept Plan (MCP), which future development should be substantially in compliance with; and

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

WHEREAS, the Town Council finds that this request to rezone the property from the Commercial Resort Zoning District to CPD with MCP with certain deviations to the Land Development Code (LDC) in order to develop a resort with 148 lodging units and accessory retail and recreational uses, is a unique and individual application which does not set precedent for future development or rezoning applications.

Deviation #1

Relief from LDC Sec. 10-285, Table 10-1 – Connection Separation, which requires a 250' separation between street and accessways, in order to allow driveway separations as depicted on the Master Concept Plan (MCP).

Deviation #2

Relief from LDC Sec. 10-416(C)(2) – Landscaping of parking and vehicular use areas, which has specific tree and landscape island dimensional requirements to allow an alternate landscape betterment plan as allowed per LDC Sec. 10-419.

Deviation #3

Relief from LDC Sec. 34-1804(A) and Sec. 34-2020, which regulates parking for hotels/motels and other accessory uses, to allow reduced parking requirements as justified by the project's independent parking analysis.

Deviation #4

Relief from LDC Sec. 34-633, which includes covered parking in the floor area ratio (FAR) calculation to exclude the two stories of under-building parking from this hotel's FAR calculation.

Deviation #5

A deviation from LDC Division 4, Table 34-3 for the CR zoning district which limits height to 30 feet zoned height and three (3) stories to allow a maximum zoned height of 61 feet, an overall maximum height of 71 feet from grade to top of highest roof elements (towers) and a maximum of six (6) stories consisting of four (4) stories above two (2) levels of parking.

Deviation #6

Relief from LDC Sec. 34-1803(a)(1), which allows the conversion of dwelling units to hotel/motel guest units per established equivalency factors, in order to exceed said factors as allowed per LDC Sec. 34-1803(a)(2). This deviation would allow a maximum equivalency factor of 6.2 resulting in a maximum of 148 resort hotel units.

Deviation #7

Relief from LDC Section 34-645(b) and Table 34-3, which allows for a Floor Area Ratio (FAR) maximum of 1.2 within the Commercial Resort (CR) zoning district, to allow for a maximum FAR of 1.5.

Findings for the rezoning:

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. Minor ambiguities were resolved through the deviation process.
- b. The previous development on the subject property was destroyed by Ian and adoption of the rezoning with deviations ameliorates longstanding design issues on the site due to the lot's odd shape and orientation.
- c. The rezoning would carry out the policies and requirements of the Comprehensive Plan and Land Development Code.
- d. 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.
- e. The rezoning would be consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses in the Comprehensive Plan.
- f. The rezoning would meet or exceed all performance and locational standards set forth for the proposed use.
- g. Urban services are available and adequate to serve the proposed use.
- h. Rezoning would protect, conserve, or preserve environmentally critical areas and natural resources.
- i. The rezoning would be compatible with existing and planned uses and not cause

- damage, hazard, nuisance, or other detriment to persons or property.
- j. 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.
 - k. 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 seven 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 24-36 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 no. 24-36 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 24-36 is adopted and the schedule of uses and Master Concept Plan (MCP) for the Property's CPD set forth in Exhibit A, the project's conditions and commitments in Exhibit B and the architectural concept rendering in Exhibit C, attached hereto and incorporated herein by this reference is 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 Safford and seconded by Council Member Woodson, and upon being put to a roll call vote, the result was as follows:

DULY PASSED AND ADOPTED on this 16th day of December 2024.

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

FORT MYERS BEACH TOWN COUNCIL

Dan Allers
Dan Allers (May 31, 2025 12:29 EDT)

Dan Allers, Mayor

ATTEST:

Amy Baker
Amy Baker (Jun 2, 2025 10:47 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 J. Vose
Nancy J. Vose (May 30, 2025 14:50 EDT)

Vose Law Firm, LLP, Town Attorney

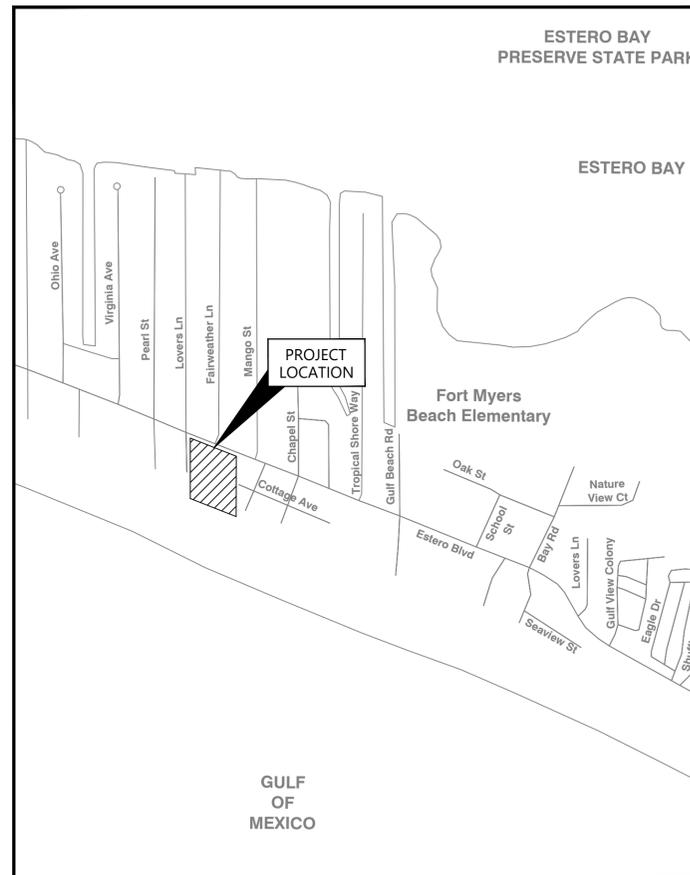
This Resolution was filed in the Office of the Town Clerk on this 2nd day of June 2025.

Attachments:

- A – Master Concept Plan (MCP) and Schedule of Uses
- B – Conditions and Commitments of Approval
- C- Architectural Drawings and Renderings

MASTER CONCEPT PLAN FOR NEPTUNE RESORT CPD

SECTION 19, TOWNSHIP 46S, RANGE 24E,
FORT MYERS BEACH, FLORIDA



VICINITY MAP
N.T.S.



SITE LOCATION MAP
N.T.S.

Exhibit "C" here

PREPARED BY:



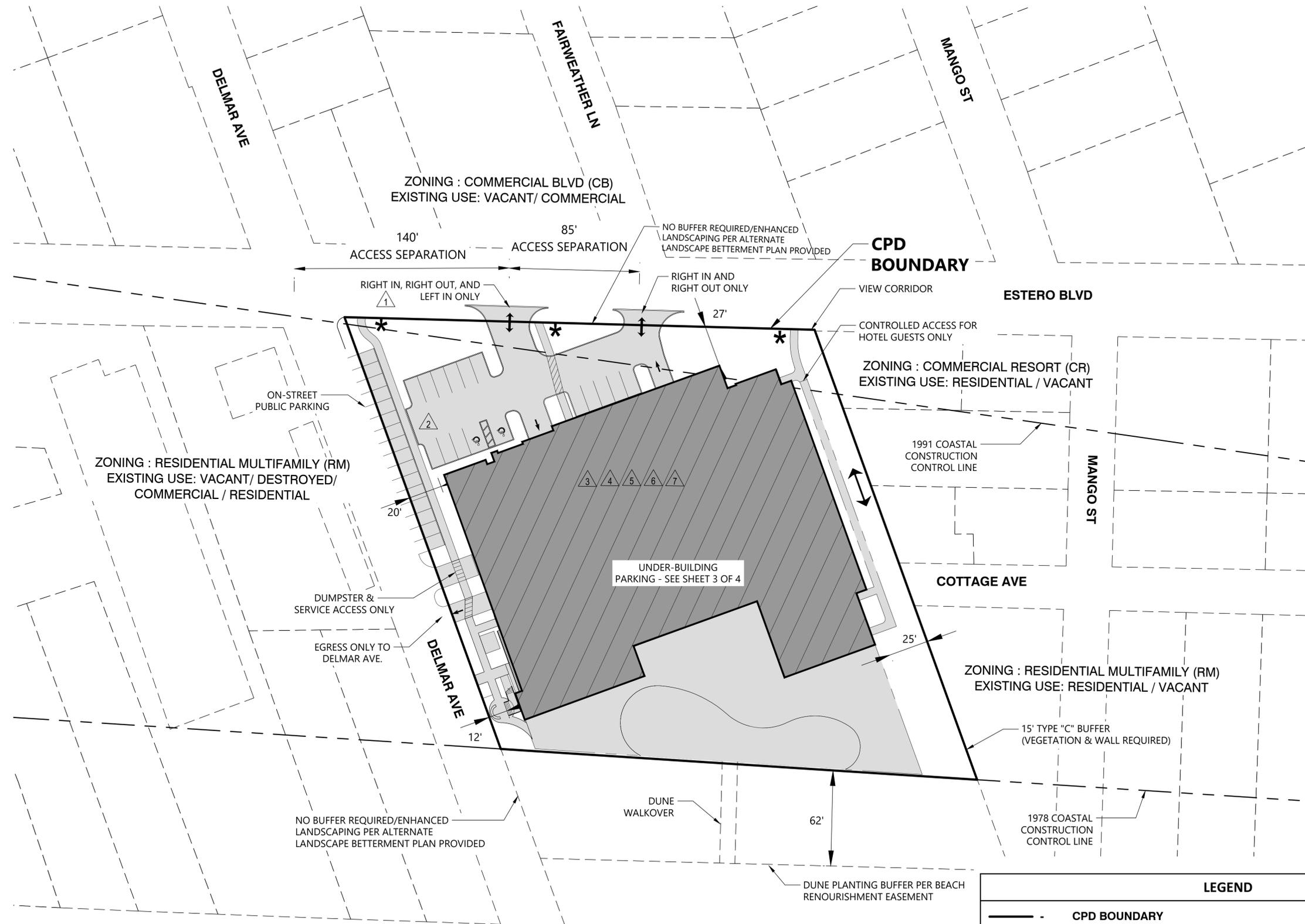
5618 WHISPERING WILLOW WAY
FORT MYERS, FL 33908

PREPARED FOR:

CHG NEPTUNE ACQUISITIONS, LLC

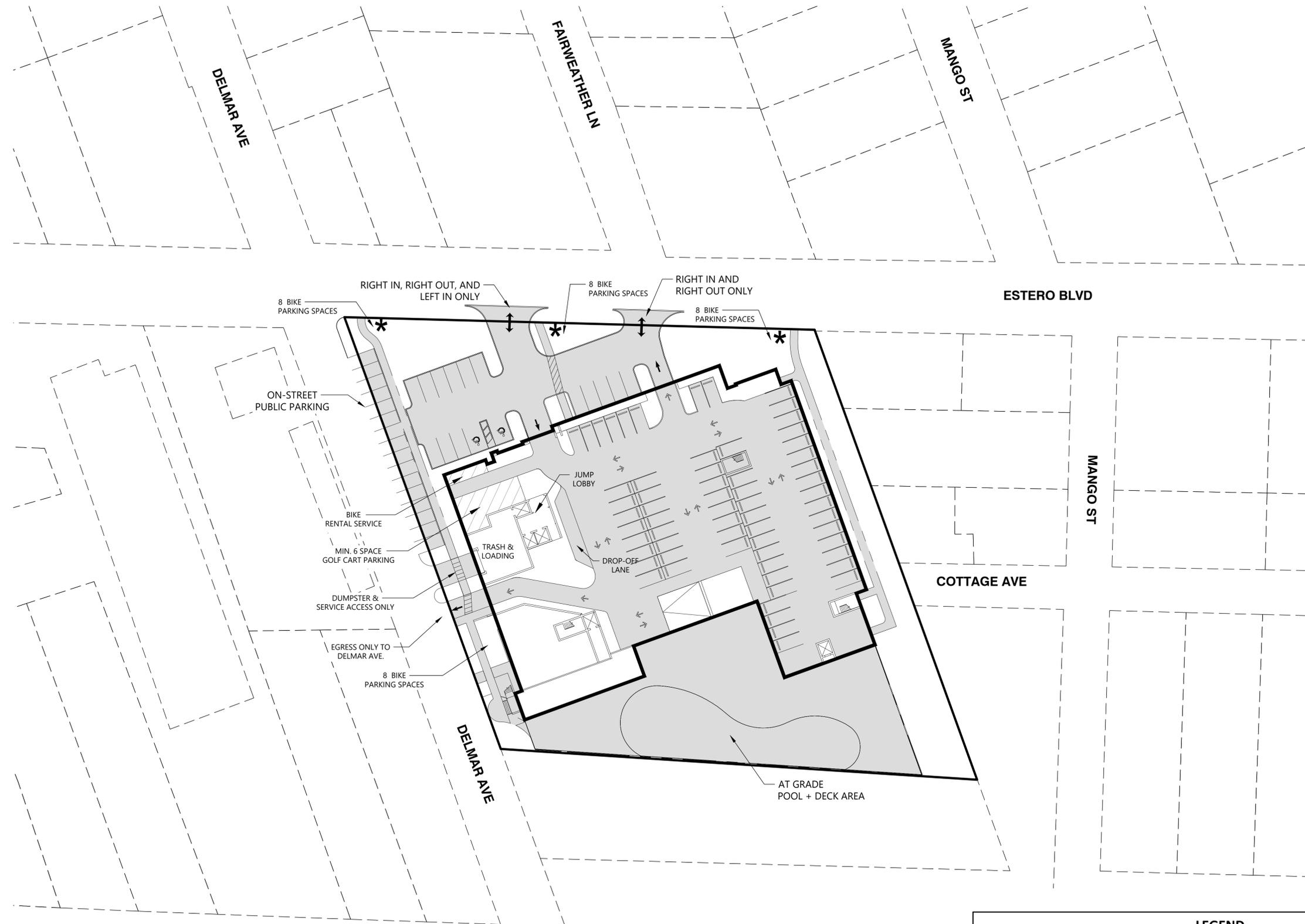
150 EAST BROAD ST, SUITE 800
COLUMBUS, OH 43215

CONTENTS		
SHEET NUMBER	SHEET DESCRIPTION	
1	COVER SHEET	
2	MASTER CONCEPT PLAN	
3	CONCEPT PARKING PLAN	
4	NOTES	
DATE:	PROJECT No.:	SHEET No.:
October, 2023	220050.01.01	1 OF 4

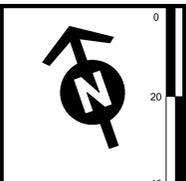


LEGEND	
	CPD BOUNDARY
	STRUCTURE FOOTPRINT
	AT GRADE PARKING, SIDEWALKS, DECKS, POOL, AND PATHWAY AREAS
	PEDESTRIAN AMENITY AREA
	VEHICULAR INGRESS / EGRESS
	VIEW CORRIDOR
	DEVIATIONS

PROJECT NO: 220050.01.01 DATE: 08/23 DESIGN: K.G.	CLIENT: CHG NEPTUNE ACQUISITIONS, LLC PROJECT: NEPTUNE RESORT COMMERCIAL PLANNED DEVELOPMENT (CPD) TITLE: MASTER CONCEPT PLAN
SHEET NUMBER: 2 OF 4	F.L. 0124 DRAWN: [] DATE: [] PER COUNTY COMMENTS: [] REVISION: []
 THE NEIGHBORHOOD COMPANY 5618 WHISPERING WILLOW WAY FORT MYERS, FL 33908 WWW.THENEIGHBORHOOD.COM/PANY	



LEGEND	
	CPD BOUNDARY
	STRUCTURE FOOTPRINT
	AT GRADE PARKING, SIDEWALKS, DECKS, POOL, AND PATHWAY AREAS
	PEDESTRIAN AMENITY AREA
	VEHICULAR INGRESS / EGRESS



#	REVISION	DATE
1	PER COUNTY COMMENTS	01/24/24


THE NEIGHBORHOOD COMPANY
 5618 WHISPERING WILLOW WAY | FORT MYERS, FL 33908
 WWW.THENEIGHBORHOOD.COM/PANY

PROJECT NO:	220050.01.01
DATE:	08/23
DESIGN:	K.G.
SHEET NUMBER:	3 OF 4
CLIENT:	CHG NEPTUNE ACQUISITIONS, LLC
PROJECT:	NEPTUNE RESORT COMMERCIAL PLANNED DEVELOPMENT (CPD)
TITLE:	CONCEPT PARKING PLAN



**THE NEIGHBORHOOD
COMPANY**

**NEPTUNE RESORT
COMMERCIAL PLANNED DEVELOPMENT
Rezoning Application**

CONDITIONS/COMMITMENTS

TRAFFIC MITIGATION

1. Pedestrian Amenity Nodes and Estero Boulevard Shade Trees

- a. As provided on the MCP, three Pedestrian Amenity Nodes will be provided on the subject property along the Estero Boulevard boundary. These nodes are meant to enhance the pedestrian experience and promote pedestrian activity. At a minimum, these nodes will include shade trees, public benches, bike racks, lighting and trash receptacles. Additionally, The Neptune will provide shade trees along Estero Boulevard per the detailed Alternative Landscape Betterman Plan included as part of the CPD.

2. Public Parking

- a. Prior to the Certificate of Occupancy, The Neptune will provide an easement to the town and construct 16 public parking spaces along Delmar Ave. The Town will operate and maintain the public spaces and retain the right to charge and collect parking fees.

3. Don't Rent a Car (DRaC) Program

- a. To help mitigate traffic congestion, the owner and resort operator will promote various marketing initiatives that support and encourage all guests to use alternative modes of transportation rather than drive a vehicle to or while on the island. Such efforts will include:
 - A dedicated page on the resort website outlining and promoting alternative modes of transportation and informing guests on ways to reduce vehicular trips including:
 - Information on the walkability of the area and businesses of interest to guests within walking distance;
 - Bicycle rentals;
 - Ferry service;
 - Shuttle service;
 - Golf cart rental;
 - Car hailing and taxi service;
 - Fort Myers Beach's LeeTran "TROLLEE" and seasonal TRAM Service Schedules and Route Maps, and
 - Food delivery service
 - Establish partnerships with businesses on the island, especially in the "Heart of the Island", to provide incentives and discounts for guests. Hotel guests who do



not drive onto the island will receive monetary discounts or vouchers for future stays and/or with participating local businesses, such as restaurants, bike, golf cart, and watersport rentals, and tour/tourism operators. At a minimum, for stays of 3 days or more, guests will be given a \$50 beverage credit to be used at the hotel restaurant and/or Tiki bar and will be provided a complementary alternative mode of transportation such as a bicycle, ebike or electric scooter for the duration of their visit.

- The Neptune Resort will participate in a town-initiated traffic mitigation planning effort and along with other committed developments, will contribute their agreed upon fair share towards implementing mitigation measures, such as:
 - Off-island parking and transport initiatives, e.g. Water ferry/taxi discounts for those staying at the hotel.
 - Off-site parking availability identification systems.
 - Transit or Alternative Transportation Mode improvements.

4. Bicycles

- a. As provided on the MCP, the property owner or resort operator will provide for rent or complementary bicycles with bike locks, and dedicated bike parking at the resort for hotel guests.
- b. As provided on the MCP, a minimum of 32 bicycle parking spaces (multiple bike racks) for public use will be provided as shown on the Master Concept Plan.

5. Golf Cart Parking

- a. As provided on the MCP, The Neptune will provide minimum of 6 dedicated golf cart parking spaces available to guests or the public.

DESIGN

6. Architecture & Site Design

- a. Final design must be generally consistent with renderings (See Exhibit D) provided in addition to the Master Concept Plan.

7. View Corridors

- a. As provided on the MCP, a minimum 25' view corridor will be provided along the eastern boundary of The Neptune property. No permanent or temporary structures, other than a controlled access gate/fence, landscaping and screening wall consistent with a Type C buffer, are allowed within the view corridor.
- b. As provided on the MCP, the existing view corridor at Delmar Avenue will be enhanced and widened by setting back all buildings 20' from the western boundary. In combination, that will create a 70' view corridor along Delmar Avenue.

8. Beach Access



- a. The existing beach access at Delmar Avenue will be beautified and enhanced in coordination with the Town of Fort Myers Beach and The Garden Club. Prior to the issuance of a Certificate of Occupancy, at a minimum, The Neptune will permit and install palm and/or canopy trees 20' on-center along the western side of Delmar Avenue from Estero Boulevard to the beach, and will provide public seating, a trash receptacle, foot rinse, and a bike rack.

9. Dune Plantings

- a. Pursuant to the temporary beach access, restoration and management easement granted to the town, The Neptune will work with Town staff to expedite the installation of dune plantings along the beachside portion of their property. The Neptune understands and values the importance of a well-established dune system for coastal protection, and as a habitat and resiliency feature.

10. Landscaping & Buffering

- a. Enhanced landscaping and buffering will be provided per the detailed Alternative Landscape Betterman Plan included as part of the CPD. This landscaping plan is meant to improve project aesthetics, provide shade trees along Estero Boulevard, and to create separation and buffering from adjacent properties.

FORT MYERS BEACH ELEMENTARY SCHOOL

11. Promoting the Beach School

- a. The property owner or resort operator will work with the Town, Fort Myers Beach Chamber of Commerce, the School District of Lee County, and Fort Myers Beach Elementary School to promote the opportunity for resort employees to enroll their children at Fort Myers Beach Elementary School. As part of the employee on-boarding and training process, educational materials will be provided to all employees regarding open enrollment and after school care programs.

AMENITIES

12. Beachfront Restaurant and Tiki Bar

- a. The public will have full access to the resort restaurant and Tiki Bar. A dedicated public access/entrance to the restaurant will be provided along Delmar Avenue for residents and island visitors.

13. Beach Restroom Facilities:



- a. In order to assist the Town in providing public restrooms at strategic locations along the beach, The Neptune will provide a \$30,000 voluntary donation to the Town to be used for the construction of public restroom facilities or purchase of mobile public restrooms. Payment will be provided upon notice from the Town of commencement of construction or purchase of said facilities by the Town.

MISCELLANEOUS

14. Hurricane Parking

In the event of a local state of emergency issued in conjunction with a mandatory hurricane evacuation order, The Neptune will offer the Town and the public an opportunity to park in available spaces in accordance with The Neptune's parking policies.

15. Resident Rewards and Discounts

- a. The Neptune Resort will establish a local resident loyalty program (33931 Zip Code residency will be verified via government issued ID) that will provide rewards and discounts applicable to hotel stays, restaurant, and tiki bar visits. At a minimum, registered local residents will obtain a 20% beverage discount at the hotel restaurant and/or Tiki Bar.



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Exhibit "C"
**Concept
View
from
Gulf of
Mexico**

Concept View Northwest



Concept View Northwest



Concept View along Del Mar Access & View Corridor



**Concept
View
Eastside
View
Corridor**



**Concept
View
toward
Gulf of
Mexico**



Concept View from Southwest



Concept View from South/ Gulf of Mexico

