

## ORDINANCE 25-04

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTIES LOCATED AT 450, 445, 441 & 436 HARBOR COURT, 435 & 438 BONITA STREET, 935, & 939 THIRD STREET, AND 401 OLD SAN CARLOS BLVD., ALSO RESPECTIVELY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00027.0000 & 24-46-23-W3-00026.0020, 24-46-23-W3-0030B.0200, 24-46-23-W3-0030B.0190, 24-46-23-W3-0030C.0060, 24-46-23-W3-0030C.0040, 24-46-23-W3-0030A.0110, 24-46-23-W3-0030A.0030, 24-46-23-W3-0030A.0020 & 24-46-23-W3-0030A.0010 FORT MYERS BEACH; 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**, The Neighborhood Company (“Applicant”), on behalf of Freeland FL Holdings, LLC, owners of the property generally located at 450, 445, 441 & 436 Harbor Court, 435 & 438 Bonita Street, 935 and 939 Third Street, 401 Old San Carlos Blvd. also respectively identified as strap numbers 24-46-23-W3-00027.0000 & 24-46-23-W3-00026.0020, 24-46-23-W3-0030B.0200, 24-46-23-W3-0030B.0190, 24-46-23-W3-0030C.0060, 24-46-23-W3-0030C.0040 24-46-23-W3-0030A.0110, 24-46-23-W3-0030A.0030, 24-46-23-W3-0030A.0020 & 24-46-23-W3-0030A.0010 Fort Myers Beach (“Property”), filed an application to rezone the properties from Commercial Marina, Residential Conservation, Commercial Office and Downtown to a CPD with a corresponding Schedule of Uses and Master Concept Plan (MCP) with certain deviations from the Land Development Code (LDC) to include a resort; and

**WHEREAS**, the subject ten properties are located in the Pedestrian Commercial Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach as adopted by Ordinance 25-05, and is under common control of the owners as listed in the public records of Lee County Property Appraiser; and

**WHEREAS**, a public hearing was held before the Local Planning Agency (LPA) on April 8<sup>th</sup>, 2025, at which 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, and the LPA voted 6 to 0 to recommend approval to the small-scale map amendment

request and found it consistent with a companion small scale amendment to the Comprehensive Plan to be adopted prior to the requested rezoning, and

**WHEREAS**, on May 5<sup>th</sup>,2025 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 June 02, 2025; and

**WHEREAS**, at the June 02, 2025 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 contains the Conditions of Approval and Exhibit B contains the Schedule of Uses and Master Concept Plan for this CPD to be used during the permitting process; and

**WHEREAS**, the Town Council finds that this request to rezone the properties from Commercial Marina, Residential Conservation, Commercial Office and Downtown to a CPD with a corresponding Schedule of Uses and Master Concept Plan (MCP) with eight deviations to the LDC in order to develop a Resort Hotel; and

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

Deviation #1: A deviation from LDC Table 34-3 which requires properties in the Commercial Resort (CR) zoning district to have a minimum lot width of 100 feet and a minimum lot depth of 100 feet. This deviation would allow for either a minimum lot width of 80 feet or minimum lot depth of 80 feet depending on the development's frontage on either Old San Carlos Boulevard or Third Street.

Deviation #2: A deviation from LDC Section 34-645(b) and Table 34-3, which allows for a maximum floor area ratio of 1.2 within the Commercial Resort (CR) zoning district and a maximum floor area ratio (FAR) of 1.8 within the Downtown Redevelopment district to allow for a maximum FAR of 2.0 within the Arches Bayfront Resort CPD.

Deviation #3: A deviation from LDC Section 34-1803(a)(1), which allows the conversion of dwelling units to hotel/motel guest units per established equivalency factors as allowed per LDC Section 34-1804(a)(2). This deviation would allow an equivalency ratio of 9.1 and a maximum of 263 guest units.

Deviation #4: A deviation from LDC note 1 of Table 10-9 which requires a solid wall not less than six feet in height and with the landscaping to be placed on the adjacent property side of the wall to allow for a six foot high finished masonry wall and landscaping to be placed on the interior (resort side) of the finished masonry wall for the southern property line as depicted on the enclosed MCP.

Deviation #5: A deviation from LDC Section 26-77(b) which states that new or expanded seawalls are not allowed along natural waterbodies in order to allow the existing boat ramp to be replaced by seawall.

Deviation #6: A deviation from LDC Table 34-3 which requires properties in the Commercial Resort (CR) zoning district to have a minimum height set at 30 feet and 3 stories to allow a maximum building zoned height of 81' (as defined in the FMBLDC) for the Resort Tract. Maximum building heights will be in compliance with the approved Master Concept Plan.

Deviation #7: A deviation from LDC Table 34-3 which states that property setbacks in a CPD zoning district shall be the same as for the Commercial Resort zoning district to allow for adjusted building setback lines within the Resort Tract and adjusted side setbacks and build to lines for the buildings located within the Old San Carlos Tract as outlined within the enclosed Development Standards Exhibit.

Deviation #8: A deviation from LDC Section 34-2020, required parking regulations, to allow a parking reduction of 50% in accordance with LDC Section 34-676(a)(1).

**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) based on competent and substantial evidence in the record:

- 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 25-04 which is, **consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve with conditions** the Application.

**NOW, THEREFORE, BE IT 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 requested rezoning request **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 **APPROVED WITH CONDITIONS** the requested application.

Section 3. Town Ordinance 25-04 is adopted and the conditions of approval as set forth in Exhibit A, Master Concept Plan and Schedule of Uses as set forth in Exhibit B and Design Rendering as set forth on Exhibit C, 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 Vice Mayor Atterholt and seconded by Council Member Woodson, and upon being put to a vote, the result was as follows:

**DULY PASSED AND ADOPTED** on this 2<sup>nd</sup> day of June 2025.

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 (Jun 25, 2025 12:30 EDT)

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Dan Allers, Mayor

**ATTEST:**

*Jason Freeman*

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Jason Freeman, Deputy Clerk/Legislative Liaison

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

*Nancy Stuparich*

Nancy Stuparich (Jun 27, 2025 06:56 EDT)

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Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 25<sup>th</sup> day of June 2025.

Exhibits:

- Exhibit A - Conditions of Approval
- Exhibit B - Master Concept Plan and Schedule of Uses
- Exhibit C - Design Renderings

## EXHIBIT A

### Conditions of Approval

1. The owner will provide an accessible stabilized surface for the area between Harbor Court and Bonita Street for emergency personnel and vehicles, as noted on the Master Concept Plan (MCP).
2. The MCP indicates the access points at Harbor Court and Bonita Street provide for “Emergency/Limited Access Only.” “Emergency/Limited Access Only” shall allow vehicles that have unintentionally driven down Harbor Court or Bonita Street to use the turn-around areas to exit the streets. Gates for emergency vehicle access shall be installed after the turnaround indicated on the MCP (Exhibit B).
  - a. At the time of Development Order the property owner shall apply to the Town to vacate the portion of the right-of-way northeast of the emergency vehicle access gates on Bonita Court and Harbor Street.
  - b. There shall be no pedestrian access from or to Bonita Street or Harbor Court from the Property.
3. All walkover/pedestrian bridges will be constructed at a height to permit fire and other emergency vehicles to pass underneath.
4. Access to the Arches resort through the easement number 2008000332365 on First Street should be limited to vehicular travel. No pedestrian pathway is located along this 30-foot-wide easement.
5. A detailed landscaping plan showing the location and type of planting must be provided with the development order application. All landscaping materials will be native varieties/Florida friendly species.
6. Along the western boundary (canal) adjacent to Building E’s guest pool deck, a minimum 5-foot-wide buffer will be provided. This buffer will provide a minimum of 5 trees per 100 linear feet at a minimum of 12 feet tall at time of planting and a continuous opaque (clusia) hedge. Hedging must be provided at least 4 feet at time of planting along the canal adjacent to Building E and maintained at a minimum of 5-feet high.
7. Vehicular access to the resort will be focused and directed to Arches Way, and “Local Traffic Only”, “No Thru Traffic”, and/or “Dead End” signage will be placed immediately west of the intersection of Third Street and Arches Way to minimize vehicular trips within that neighborhood.
8. The Property will include a dedicated transit stop, conditional on approval from LeeTran. There will be an additional pick-up and drop-off stop on Property for ride hailing services. The possible locations are indicated on the MCP in Exhibit B. The final locations shall be determined at Development Order approval.
9. Maximum allowed commercial (non-hotel ancillary) space is 25,500 Square Feet.

10. Hours of operation and amplified sound for outdoor areas will be limited to the following unless otherwise temporarily altered per the Town's special event use regulations in LDC Section 34-1264. All other hours of operation will be regulated by the Code of Ordinances.
  - a. The Arches Gateway Restaurant's rooftop deck will only operate from 7am to 10pm. Amplified sound will be oriented away from adjacent residential properties. Live music is permitted outdoors at this location.
  - b. Sunset Deck: Hours of operation are 7:00am to 10:00pm. Only ambient music is allowed on the Sunset Deck. Ambient music is permitted from 7:00am to 9:00pm. Amplified sound will be oriented away from adjacent residential properties. Live music is not permitted at this location.
  - c. Bayfront Promenade and its commercial uses: 7:00am to midnight
  - d. Pool deck (Buildings B and C): 7:00am to midnight
  - e. Pool deck (Building E): 7:00am to 9:00pm and ambient music only from 10:00am to one hour after sunset. Amplified sound will be oriented away from adjacent residential properties. No alcohol sales will take place outdoors on the pool deck at Building E. Live music is not permitted at this location.
  - f. Outdoor deck area by the Events Chapel and reception hall (Building D): 7:00am to midnight
  - g. Linear Park and Memorial Garden: 7:00am to one hour after sunset.
13. Service of alcohol for on-premises consumption is approved at the locations depicted on the Master Concept Plan in Exhibit B, subject to these limitations:
  - a. Service to outdoor areas is permitted as follows:
    - i. For Buildings B & C, on the Level 400 deck area surrounding the pool and the hotel restaurant and Level 500 Building B's Sunset Deck area.
    - ii. For Building D, on Level 300 deck adjacent to the Event Chapel and reception halls.
    - iii. No alcohol sales for Building E, at Level 100 around the pool deck
    - iv. For commercial plaza along the Bayfront Promenade (Level 100), limited to the restricted outdoor seating areas and surrounding the commercial/ferry water taxi building as depicted on the Master Concept Plan.
    - v. For The Arches Gateway Restaurant (second story – Level 200) and ancillary rooftop deck at the corner of Old San Carlos and Third Street.
14. Downtown Ferry/Water Taxi Facility and Stop:
  - a. Property Owner will construct as part of the development of Property a minimum 1,400 square foot, indoor, air-conditioned ferry/water taxi facility on the Property, as depicted on the MCP in Exhibit B. Upon the issuance of the final Certificate of Occupancy for the Ferry Facility, the Property Owner will establish and operate (directly or via a 3<sup>rd</sup> Party) a future inter-island ferry system (Fort Myers Beach and San Carlos Island only) as envisioned and described in the town's Comprehensive Plan. At a minimum, it will operate during season (December through April) and provide a minimum of three stops.

These stops are planned to include: 1) The Arches Resort, 2) a mid-island location per Comprehensive Plan Figure 10 and Table 7-A-2 and 3) a stop located at the south end of Fort Myers Beach per Comprehensive Plan Figure 10 and Table 7-A-2. The precise location of the ferry stops is subject to availability, cooperation, and financial feasibility. Continued operation of the Ferry will be contingent upon financial feasibility. If financially unfeasible, Property Owner shall cooperate with the Town to consider the establishment of a public-private partnership before discontinuing the service.

15. Day dock slips and pick-up/drop-off:

- a. The Property Owner shall provide dedicated day dock slips for hourly or daily rental and a designated pick-up/drop-off area for boat passengers as indicated and/or noted on the MCP in Exhibit B.

16. Non-motorized Watercraft Docking:

- a. Property Owner shall provide dedicated dock space, at no charge, for non-motorized watercraft such as kayaks and paddle boards. The docking space is not a public launch. It is intended to serve hotel guests, and nearby residents and visitors who paddle to the site. The proposed location of the dock is indicated on the MCP in Exhibit B; however, the precise location will be determined at Development Order approval.

17. Guest and Employee Shuttles:

- a. Property Owner and/or resort operator shall provide at a minimum, twice daily in-season (December – April) shuttle service for hotel guests to and from Southwest Florida International Airport and a year-round shuttle service for employees from the Fort Myers Beach Park-and-Ride located at 11101 Summerlin Square Drive, Fort Myers Beach, Florida, 33931, also identified by Lee County Strap Number 07-46-24-00-00005.0030. In the event the Park-and-Ride is relocated, Property Owner and/or resort operator will make a good faith effort to identify an alternative location for the employee shuttle service.

18. “Don’t Rent a Car”:

- a. Property Owner and resort operator will make a good faith effort to promote a “Don’t Rent a Car” program to encourage all guests to use alternative modes of transportation rather than drive a vehicle to or while on Fort Myers Beach. Such efforts include:
  1. A dedicated page on the resort website outlining and promoting alternative modes of transportation and informing guests on ways to reduce vehicular trips including:
    - a. Information on the walkability of the area and businesses of interest to guests within walking distance

- b. Bicycle rentals
  - c. Ferry service
  - d. Shuttle service
  - e. Car hailing and taxi service
  - f. Fort Myers Beach LeeTran “Trolley” and seasonal TRAM Service Schedule and Route Maps, and
  - g. Food delivery services
  - h. Water ferry discounts for guests
2. Establish partnerships with businesses on Fort Myers Beach, especially in the “Downtown” zoning district as depicted on Fort Myers Beach Zoning Map, adopted as Resolution 04-17, and as amended, to provide incentives and discounts to guests who do not drive to or on Fort Myers Beach through monetary discounts or vouchers (food/drink, bike rentals, tours/tourism) offered by partnering businesses and/or collaborating with partnering businesses who provide airport shuttle services to their guests.

19. Bicycles:

- a. The property owner or resort operator will provide for rent or complimentary bicycles with bike locks, helmets, safe travel information for Fort Myers Beach and dedicated bike parking at the resort for hotel guests.
- b. In addition to providing either complimentary or for rent bicycles, the property will also include decorative bike racks to accommodate a minimum of 26 bicycle parking spaces for public use as indicated on the MCP in Exhibit B, which will be distributed and located at various locations within the resort. The final locations will be determined at Development Order approval.

20. Multi-Use Pathways:

- a. Bicycle and pedestrian pathways will be provided throughout the Property and will be open to guests and the public with signage for safe travel. The proposed locations of the multi-use pathways are depicted on the MCP in Exhibit B; however, the final location will be determined at Development Order approval. The pathways will provide interconnection and ease of access to the Bayfront Promenade, the Memorial and Linear Park, the Outdoor Market and downtown venues to reduce vehicular trips.

21. Public Parking:

- a. The Property will provide 45 paid public parking spaces to promote and implement the Town’s “Park Once” strategy and supports a vibrant and walkable downtown. 38 spaces will be on the resort property spaces and 7 spaces will be constructed by the owner along Third Street.
- b. Resort guest and public parking spaces will be clearly identified, will be managed by the resort, and will operate in accordance with public parking standards and fees.

- c. Commercial paid parking is permitted upon the issuance of a Certificate of Occupancy for the Arches Bayfront Resort. Once The Arches Bayfront Resort is fully operational with all buildings receiving guests and all units sold and all retail space occupied for at least one year, the property owner may conduct a parking study during peak tourism season (January to March) to determine if and how many parking spaces could be allocated as public commercial parking. This study will be reviewed by the Town Manager or designee to determine if sufficient parking is available to serve as commercial parking spaces. If a surplus of parking exists, the owner may use those spaces as paid public parking. If the study demonstrates a deficit of parking the Property Owner will take mitigating measures as approved by the Town Manager or designee, subject to administrative appeal. The Property Owner has the right to address further measures with the Town Council without need for approval by the Local Planning Agency.

22. Golf Cart Parking:

- a. The Property shall include 13 dedicated golf cart parking spaces available to guests or the public. The proposed location of the golf cart parking spaces will be within the understory parking garages and within Third Street right-of-way as depicted on the MCP in Exhibit B. The final locations will be determined at Development Order approval.

23. Bayfront Promenade:

- a. As part of the development of the resort the property owner will build a Bayfront Promenade accessible to the public from 7:00am until 12:00am, as generally depicted on the Master Concept Plan in Exhibit B.
- b. The Bayfront Promenade will provide public access to the waterfront and public gathering areas to include seating, landscaped areas, and similar amenities for public enjoyment. An unobstructed walkable “clear zone” will be maintained at a minimum of 10 feet and an average 12 feet wide and that will vary in location within the Bayfront Public Promenade area as noted and shown on the approved Master Concept Plan in Exhibit B.

24. Open Air Market (Farmers/Arts & Crafts Market):

- a. The Property will include a covered open-air market at the corner of Third Street and Arches Way as generally depicted on the MCP in Exhibit B.

25. Linear Park & Memorial Garden:

- a. The Property will include a passive linear park along the southern boundary of the resort. This park will provide separation and buffering from adjacent residences and will include a decorative perimeter fence, a minimum ten-foot vegetated buffer, a bicycle/pedestrian pathway and will feature a Memorial Garden with sculptures and

plaques honoring Fort Myers Beach history, commemorating Hurricane Ian and celebrating the rebuilding of the island. The linear park and memorial garden will be open to the public during the hours of 7:00am to one hour after sunset.

26. Marina, Pump Out and Fueling Services:

- a. Marina design, uses, and locations must be consistent with Policies 4-B-6, 4-B-7, and 5-E-7 of the Fort Myers Beach Comprehensive Plan and all applicable Town codes.
- b. Property Owner shall provide a convenient high-capacity on-site pump out and fueling service for mooring field users, the Town (except for the Town pump-out boat) and the general boating public. Property Owner shall charge a reasonable fee, dictated by current market trends, for the weekly pump out service and consistent with pertinent Federal and State Statutes.
- c. The pump out and fueling service shall be located on site of the Property.
- d. Said service shall be provided one day per week, subject to change at the discretion of the property owner and/or resort operator. Such day shall be posted either on the resort website, or via on-site signage and via designated VHF radio calls.

27. Architecture & Site Design:

- a. Final design must be generally consistent with renderings contained in Exhibit C, in addition to the Master Concept Plan.

28. Promotion of the Fort Myers Beach School

- a. Property Owner and resort operator will make a good faith effort to cooperate with the Town of Fort Myers Beach, Fort Myers Beach Chamber of Commerce, the School District of Lee County, and the Fort Myers Beach Elementary School to promote the opportunity for resort employees to enroll their children at Fort Myers Beach Elementary School. Educational materials will be provided to employees regarding enrollment and after school care programs.
- b. The resort operator will make a good faith effort to allow flexible work schedules for employees to accommodate pick up and drop off of children attending Fort Myers Beach Elementary School.

29. Outdoor boat storage on land is prohibited.

- a. The existing use of indoor dry storage and structures may continue until the structure is partially or completely dismantled.

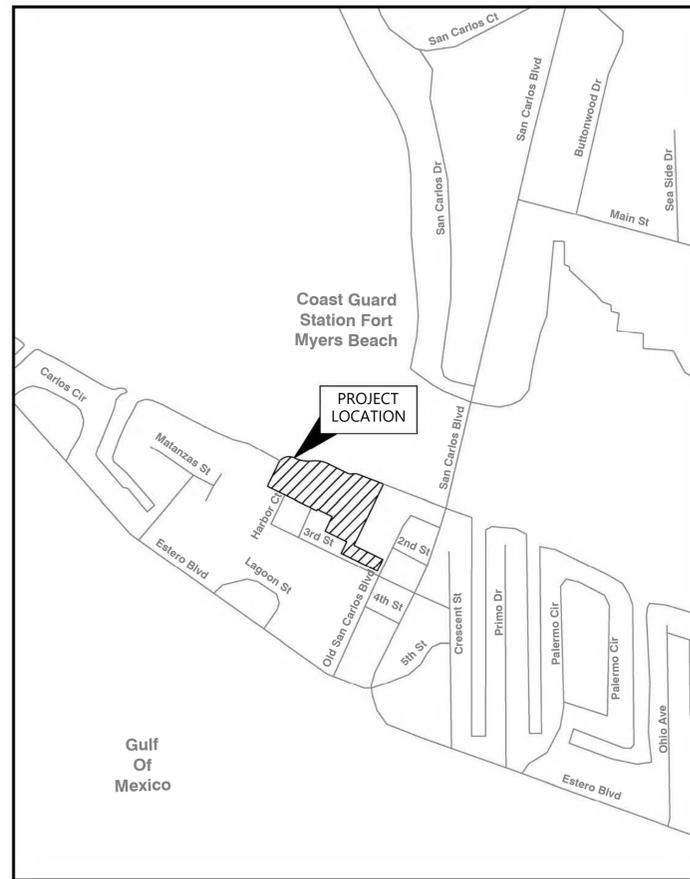
30. Decorative lighting plan shall be required at the time of Development Order application.

31. State and Federal permitting is required for all environmental resource impacts. All applicable State and Federal permits and approvals shall be obtained and submitted to the Town of Fort Myers Beach before the commencement of any development.

32. The non-seawalled area separating The Arches Bayfront Resort and Marina Village will be filled and protected by a seawall. This improvement will allow pedestrian connection for Marina Village guests. State and Federal permitting required for filling the non-seawalled area must be obtained.
33. As noted on the MCP (Exhibit B), a finished masonry wall will be provided within the buffer areas along the southern boundary adjacent to the existing residential properties. The wall will not exceed six feet in height from grade and will be set back from the property line no closer than three (3) feet and no farther than six (6) feet. The existing masonry wall will remain until demolition is required in Phase 3 of construction. The new finished masonry wall will be constructed immediately after the demolition of each phase of construction to extend along the full length of the Resort's southern boundary as construction progresses.
34. A construction management plan will be provided as part of the Development Order application. This will include best practices to mitigate construction nuisances such as, but not limited to noise, dust and odors.
  - a. Construction traffic shall only use Arches Way to access the Property. If the existing dry boat storage buildings remain during initial phases of construction, construction traffic will traverse in between these buildings.
35. Drainage Conditions:
  - a. Property Owner shall install an additional upsized storm drainage pipe connected to a bypass pipe, with a grate inlet located within the Arches Resort Property at the Third Street right-of-way boundary. At the request of the Town the Property Owner shall grant the Town as easement for hydraulic connections aligned with the Town's Capital Improvements Program.
  - b. The two (2) existing drainage inlets will be replaced or repaired and remain in proximity to their current location. These will generally be located in proximity to their current location inside the Arches Resort Property between the property boundary and the finished masonry wall. The new, repaired, or replaced drainage inlets shall be installed on the Arches Resort Property once the existing masonry wall is demolished.
  - c. Property Owner/Resort Operator shall maintain the drainage inlets. Property Owner/Resort Operator shall obtain easements from abutting property owners if necessary to complete maintenance.
36. Property Owner shall set back the rooftop railing 24-inches from edge of the structure on the Sunset deck on Building B as depicted on MCP (Exhibit B) with a low-lying decorative structural and/or vegetated barrier within that setback.

# MASTER CONCEPT PLAN FOR THE ARCHES BAYFRONT RESORT CPD

SECTION 24, TOWNSHIP 46S, RANGE 23E,  
FORT MYERS BEACH, FLORIDA



VICINITY MAP  
N.T.S.



SITE LOCATION MAP  
N.T.S.

PROJECT TEAM:



PREPARED FOR:

**FREELAND FL HOLDINGS, LLC**

450 HARBOR CT  
FORT MYERS BEACH, FL 33931

**CONTENTS**

SHEET NUMBER	SHEET DESCRIPTION
1	COVER SHEET
2	MASTER CONCEPT PLAN
3	DEVELOPMENT TRACTS AND COP AREAS
4	CONCEPT PHASING PLAN
5	NOTES

DATE	PROJECT NO.	SHEET NO.
June, 2025	24011.01.02	1 OF 5



50
0
7/3/24
8
F.L.
1
NEW CONCEPT PLAN
#
REVISION



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

CLIENT: FREELAND FL HOLDINGS, LLC

PROJECT: THE ARCHES BAYFRONT RESORT (CPD)

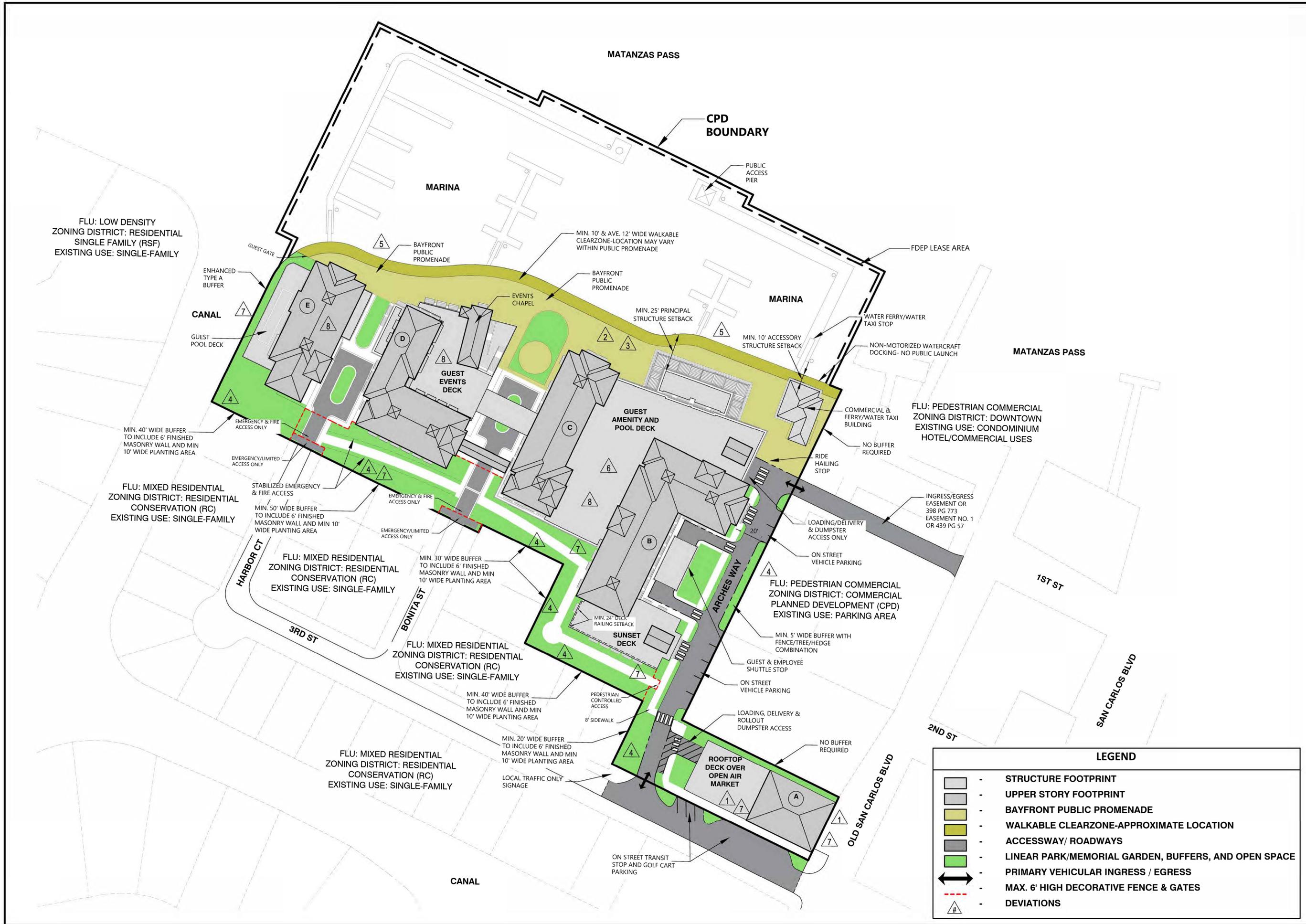
TITLE: MASTER CONCEPT PLAN

PROJECT NO: 220050.01.01

DATE: 06/25

DESIGN: K.G.

SHEET NUMBER: 2 OF 5



FLU: LOW DENSITY ZONING DISTRICT: RESIDENTIAL SINGLE FAMILY (RSF)  
EXISTING USE: SINGLE-FAMILY

FLU: MIXED RESIDENTIAL ZONING DISTRICT: RESIDENTIAL CONSERVATION (RC)  
EXISTING USE: SINGLE-FAMILY

FLU: MIXED RESIDENTIAL ZONING DISTRICT: RESIDENTIAL CONSERVATION (RC)  
EXISTING USE: SINGLE-FAMILY

FLU: MIXED RESIDENTIAL ZONING DISTRICT: RESIDENTIAL CONSERVATION (RC)  
EXISTING USE: SINGLE-FAMILY

FLU: MIXED RESIDENTIAL ZONING DISTRICT: RESIDENTIAL CONSERVATION (RC)  
EXISTING USE: SINGLE-FAMILY

FLU: PEDESTRIAN COMMERCIAL ZONING DISTRICT: DOWNTOWN  
EXISTING USE: CONDOMINIUM HOTEL/COMMERCIAL USES

FLU: PEDESTRIAN COMMERCIAL ZONING DISTRICT: COMMERCIAL PLANNED DEVELOPMENT (CPD)  
EXISTING USE: PARKING AREA

LEGEND	
	STRUCTURE FOOTPRINT
	UPPER STORY FOOTPRINT
	BAYFRONT PUBLIC PROMENADE
	WALKABLE CLEARZONE-APPROXIMATE LOCATION
	ACCESSWAY/ ROADWAYS
	LINEAR PARK/MEMORIAL GARDEN, BUFFERS, AND OPEN SPACE
	PRIMARY VEHICULAR INGRESS / EGRESS
	MAX. 6' HIGH DECORATIVE FENCE & GATES
	DEVIATIONS



LEGEND	
	- FDEP LEASE AREA
	- RESORT TRACT
	- OLD SAN CARLOS TRACT
	- CONSUMPTION ON PREMISES (COP) AREAS

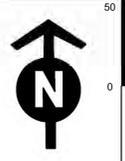
	
PROJECT NO: 220050.01.01 DATE: 06/25 DRAWN: F.L. DESIGN: K.G.	CLIENT: FREELAND FL HOLDINGS, LLC PROJECT: THE ARCHES BAYFRONT RESORT (CPD) TITLE: DEVELOPMENT TRACTS AND COP AREAS
SHEET NUMBER: 3 OF 5	5618 WHISPERING WILLOW WAY   FORT MYERS, FL 33908 WWW.THENEIGHBORHOODCOMPANY
# REVISION 1 NEW CONCEPT PLAN F.L. 7/3/24 8 DRAWN DATE	 <b>THE NEIGHBORHOOD COMPANY</b>



LEGEND	
<span style="display:inline-block; width:15px; height:15px; background-color:#90EE90; border:1px solid black;"></span>	- PHASE ONE
<span style="display:inline-block; width:15px; height:15px; background-color:#00FFFF; border:1px solid black;"></span>	- PHASE TWO
<span style="display:inline-block; width:15px; height:15px; background-color:#FFFF00; border:1px solid black;"></span>	- PHASE THREE
<span style="display:inline-block; width:15px; height:15px; background-color:#FFD700; border:1px solid black;"></span>	- PHASE FOUR

NOTE:  
 THE PHASES ARE REPRESENTATIVE OF A CONCEPTUAL DEVELOPMENT PROGRAM, BUT RESEQUENCING AND COMBINATIONS MAY OCCUR DURING FINAL DESIGN AND BY MARKET FORCES.

PROJECT NO: 220050.01.01	CLIENT: FREELAND FL HOLDINGS, LLC	PROJECT: THE ARCHES BAYFRONT RESORT (CPD)	TITLE: CONCEPT PHASING PLAN	F.L. K.G.	DATE 06/25
SHEET NUMBER: 4 OF 5	 <b>THE NEIGHBORHOOD COMPANY</b> 5618 WHISPERING WILLOW WAY   FORT MYERS, FL 33908 WWW.THENEIGHBORHOOD.COM/PANY		F.L. DATE	DRAWN DATE	# REVISION DATE



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0  
7/3/24

**GENERAL NOTES:**

1. THIS MASTER CONCEPT PLAN (MCP) IS CONCEPTUAL IN NATURE. THE OVERALL CONFIGURATION, SIZE AND LOCATION OF THE STRUCTURE(S) AND OTHER IMPROVEMENTS MAY VARY. FINAL DESIGN AND IMPROVEMENT DETAILS WILL BE PROVIDED AS PART OF THE DEVELOPMENT ORDER (D.O.) PROCESS.
2. TOTAL CPD/DEVELOPMENT AREA: 4.98 +/- ACRES
3. FUTURE LAND USE MAP CATEGORY: PEDESTRIAN COMMERCIAL
4. THE PROJECT WILL BE DEVELOPED IN FOUR PHASES. THE PHASES ARE REPRESENTATIVE OF A CONCEPTUAL DEVELOPMENT PROGRAM, BUT RESEQUENCING AND COMBINATIONS MAY OCCUR DURING FINAL DESIGN AND AS INFLUENCED BY MARKET FORCES.
5. WATER MANAGEMENT REQUIREMENTS FOR REDEVELOPMENT PROJECTS CAN VARY SIGNIFICANTLY. THE WATER MANAGEMENT PLAN WILL BE DESIGNED AT THE TIME OF D.O.
6. NO ENVIRONMENTALLY SENSITIVE LAND OR WATERS EXISTS ON SITE AS THIS SITE WAS IMPACTED BY PREVIOUS DEVELOPMENT. THE ENVIRONMENTAL REPORT ALSO INDICATES NO PROTECTED SPECIES ARE IMPACTED BY THE PROPOSED PROJECT.
7. ALL OTHER DEVELOPMENT STANDARDS NOT PROVIDED HEREIN SHALL BE SET FORTH IN LDC CHAPTER 24 OR OTHER APPLICABLE PROVISIONS OF THE LDC.
8. IN COMPLIANCE WITH LDC SECTION 34-1803(A)(2), THE MAXIMUM OF 263 ROOMS/LODGING UNITS AND ARE ALLOWED DUE TO EXCEPTIONAL CIRCUMSTANCES AND PUBLIC BENEFIT PROVIDED BY THIS CPD.

**SCHEDULE OF USES:**

**RESORT TRACT:**

- RESORT
- HOTEL/MOTEL WITH A MAXIMUM 263 ROOMS
- RESORT ACCESSORY USES
- ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES AND INCLUDING OUTDOOR SEATING AREAS ASSOCIATED WITH ANY ESTABLISHMENT
- AUTOMOBILE RENTAL
- OFFICES, GENERAL OR MEDICAL
- PERSONAL SERVICES
- COMMERCIAL ACCESSORY USES
- ADMINISTRATIVE OFFICE
- BAR OR COCKTAIL LOUNGE
- PARKING GARAGE
- PARKING LOT
- RESTAURANT – DRIVE-THROUGH PROHIBITED
- RETAIL STORE, SMALL (LESS THAN 5,000 SF)
- RETAIL STORE, LARGE (MORE THAN 5,000 SF)
- MARINA
- MARINA ACCESSORY USES
- DOCKS AND TERMINAL - WATER TAXI/FERRY AND COMMUNITY/EMERGENCY SERVICES
- DOCKS (TO INCLUDE DAY DOCK SLIPS & PICK-UP/DROP OFF DOCKAGE. LIVEBOARDS PROHIBITED)
- DOCKS - NON-MOTORIZED WATERCRAFT
- PERSONAL WATERCRAFT OPERATIONS OFFICE
- BOAT DEALER (NO OUTSIDE SALES): LIMITED TO OFFICE SPACE
- NO OUTDOOR STORAGE
- ESSENTIAL SERVICES
- ESSENTIAL SERVICE EQUIPMENT

**OLD SAN CARLOS TRACT:**

- RESORT ACCESSORY USES
- SUBORDINATE COMMERCIAL USES
- ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES AND INCLUDING OUTDOOR SEATING AREAS ASSOCIATED WITH ANY ESTABLISHMENT
- OFFICES, GENERAL OR MEDICAL
- PERSONAL SERVICES
- COMMERCIAL ACCESSORY USES
- ADMINISTRATIVE OFFICE
- BAR OR COCKTAIL LOUNGE
- SUBORDINATE COMMERCIAL USES
- PARKING LOT
- RESTAURANT – DRIVE-THROUGH PROHIBITED
- RETAIL STORE, SMALL (LESS THAN 5,000 SF)
- BOAT DEALER (NO OUTSIDE SALES): LIMITED TO OFFICE SPACE
- ESSENTIAL SERVICES
- ESSENTIAL SERVICE EQUIPMENT
- NO OUTDOOR STORAGE

**DEVIATIONS:**

1. A DEVIATION FROM LDC TABLE 34-3 WHICH REQUIRES PROPERTIES IN THE CR ZONING DISTRICT TO HAVE A MINIMUM LOT WIDTH OF 100 FEET AND A MINIMUM LOT DEPTH OF 100 FEET. THIS DEVIATION WOULD ALLOW FOR EITHER A MINIMUM LOT WIDTH OF 80 FEET OR MINIMUM LOT DEPTH OF 80 FEET DEPENDING ON THE DEVELOPMENT’S FRONTAGE ON EITHER OLD SAN CARLOS BOULEVARD OR THIRD STREET.
2. A DEVIATION FROM LDC SECTION 34-645(B) AND TABLE 34-3, WHICH ALLOWS FOR A MAXIMUM FLOOR AREA RATIO OF 1.2 WITHIN THE COMMERCIAL RESORT (CR) ZONING DISTRICT AND A MAXIMUM FLOOR AREA RATIO (FAR) OF 1.8 WITHIN THE DOWNTOWN REDEVELOPMENT DISTRICT TO ALLOW FOR A MAXIMUM FAR OF 2.0 WITHIN THE ARCHES BAYFRONT RESORT CPD.
3. A DEVIATION FROM LDC SECTION 34-1803(A)(1), WHICH ALLOWS THE CONVERSION OF DWELLING UNITS TO HOTEL/MOTEL GUEST UNITS PER ESTABLISHED EQUIVALENCY FACTORS AS ALLOWED PER LDC SECTION 34-1804(A)(2). THIS WOULD ALLOW A MAXIMUM OF 263 GUEST UNITS.
4. A DEVIATION FROM LDC NOTE 1 OF TABLE 10-9 WHICH REQUIRES A SOLID WALL NOT LESS THAN SIX FEET IN HEIGHT AND WITH THE LANDSCAPING TO BE PLACED ON THE ADJACENT PROPERTY SIDE OF THE WALL TO ALLOW FOR A SIX FOOT HIGH FINISHED MASONRY WALL LANDSCAPING TO BE PLACED ON THE INTERIOR (RESORT SIDE) OF THE FINISHED MASONRY WALL FOR THE SOUTHERN PROPERTY LINE AS DEPICTED ON THE ENCLOSED MCP.
5. A DEVIATION FROM LDC SECTION 26-77(B) WHICH STATES THAT NEW OR EXPANDED SEAWALLS ARE NOT ALLOWED ALONG NATURAL WATERBODIES IN ORDER TO ALLOW THE EXISTING BOAT RAMP TO BE REPLACED BY SEAWALL.
6. A DEVIATION FROM LDC TABLE 34-3 WHICH REQUIRES PROPERTIES IN THE COMMERCIAL RESORT (CR) ZONING DISTRICT TO HAVE A MINIMUM HEIGHT SET AT 30 FEET AND 3 STORIES TO ALLOW A MAXIMUM BUILDING HEIGHT OF 70’ (AS DEFINED IN THE FMBLDC) FOR THE RESORT TRACT AND 40’ FOR THE OLD SAN CARLOS TRACT. BUILDING HEIGHTS WILL BE IN SUBSTANTIAL COMPLIANCE WITH THE APPROVED MASTER CONCEPT PLAN.
7. A DEVIATION FROM LDC TABLE 34-3 WHICH STATES THAT PROPERTY SETBACKS IN A CPD ZONING DISTRICT SHALL BE THE SAME AS FOR THE COMMERCIAL RESORT ZONING DISTRICT TO ALLOW FOR ADJUSTED BUILDING SETBACK LINES WITHIN THE RESORT TRACT AND ADJUSTED SIDE SETBACKS AND BUILD TO LINES FOR THE BUILDINGS LOCATED WITHIN THE OLD SAN CARLOS TRACT AS OUTLINED WITHIN THE ENCLOSED DEVELOPMENT STANDARDS EXHIBIT.
8. A DEVIATION FROM LDC SECTION 34-2020, REQUIRED PARKING REGULATIONS, TO ALLOW A PARKING REDUCTION OF 50% IN ACCORDANCE WITH LDC SECTION 34-676(A)(1).

**PARKING:**

- REQUIRED PER DEVIATION #8: 293 SPACES
- PROVIDED: 338 SPACES (INCLUDES 45 DEDICATED PUBLIC PARKING SPACES)
  - 13 GOLF CART SPACES - LOCATED WITHIN THE PARKING GARAGE AND ALONG 3RD STREET
  - 26 BICYCLE SPACES - LOCATED WITHIN PARKING GARAGE, IN PROXIMITY TO BUILDINGS 'A', 'B', COMMERCIAL & FERRY BUILDING, AND ARCHES WAY

**MAXIMUM INTENSITY:**

- MAXIMUM OF 263 HOTEL UNITS/ROOMS
- MAXIMUM OF 25,500 SQUARE FEET OF COMMERCIAL (NON-HOTEL ANCILLARY) GROSS FLOOR AREA
- MAXIMUM FLOOR AREA RATIO (FAR): 2.0

**DEVELOPMENT STANDARDS:**

RESORT TRACT DEVELOPMENT STANDARDS	PRINCIPAL STRUCTURES	ACCESSORY STRUCTURES
MINIMUM FRONT YARD: EASTERN BOUNDARY	40 FEET	10 FEET
MINIMUM REAR- WATERFRONT: CANAL	25 FEET	SPS
MINIMUM SIDE – NON-WATERFRONT YARD: SOUTHERN BOUNDARY	30 FEET	SPS
MINIMUM SIDE - WATERFRONT: MATANZAS PASS	25FEET	10 FEET <sup>4</sup>
MINIMUM LOT AREA: 20,000 SF		
MINIMUM LOT WIDTH: 100 FEET		
MINIMUM LOT DEPTH: 100 FEET		
MAXIMUM BUILDING COVERAGE: N/A		
MINIMUM BUILDING SEPARATION	25 FEET	10 FEET
MAXIMUM ZONED HEIGHT <sup>1</sup>	81 FEET	N/A
MAXIMUM ACTUAL HEIGHT <sup>2</sup>	102 FEET	N/A
MAXIMUM STORIES	7	3
MAXIMUM FLOOR AREA RATIO <sup>3</sup>	2.0	N/A
1. MEASURED FROM DESIGN FLOOD ELEVATION TO MID-POINT OF MAIN ROOF 2. MEASURED FROM GRADE TO PEAK OF MAIN ROOF 3. INCLUSIVE OF ENTIRE CPD BOUNDARY 4. ONLY APPLICABLE TO FERRY/WATER TAXI TERMINAL, PERGOLAS/SIMILAR STRUCTURES, AND ESSENTIAL/EMERGENCY SERVICE FACILITIES. WALLS, FENCES, RAILINGS, BOLLARDS, ETC., MAY BE LOCATED WITHIN THE THIS SETBACK. SPS: SAME AS PRINCIPAL STRUCTURE		

OLD SAN CARLOS TRACT DEVELOPMENT STANDARDS	PRINCIPAL STRUCTURES	ACCESSORY STRUCTURES
BUILD-TO LINE - OLD SAN CARLOS BOULEVARD (DEVIATION 7)	0 - 5 FEET	
BUILD-TO LINE - THIRD STREET (DEVIATION 7)	0 -10 FEET	
MINIMUM REAR YARD: EDGE OF PAVEMENT FROM ARCHES WAY ROADWAY	30 FEET	SPS
MINIMUM SIDE YARD (DEVIATION 7)	0 FEET	SPS
MINIMUM LOT AREA: 20,000 SF		
MINIMUM LOT WIDTH: 100 FEET		
MINIMUM LOT DEPTH: 80 FEET (DEVIATION 1)		
MAXIMUM BUILDING COVERAGE: N/A		
MINIMUM BUILDING SEPARATION	10 FEET	SPS
MAXIMUM ZONED HEIGHT <sup>1</sup>	30 FEET	N/A
MAXIMUM ACTUAL HEIGHT <sup>2</sup>	45 FEET	N/A
MAXIMUM STORIES	2	N/A
MAXIMUM FLOOR AREA RATIO <sup>3</sup>	2.0	N/A
1. MEASURED FROM DESIGN FLOOD ELEVATION TO MID-POINT OF MAIN ROOF 2. MEASURED FROM GRADE TO PEAK OF MAIN ROOF 3. INCLUSIVE OF ENTIRE CPD BOUNDARY SPS: SAME AS PRINCIPAL STRUCTURE		



PROJECT NO: 220050.01.01

DATE: 05/25

DESIGN: K.G.

SHEET NUMBER: 5 OF 5

CLIENT: FREELAND FL HOLDINGS, LLC

PROJECT: THE ARCHES BAYFRONT RESORT (CPD)

TITLE: NOTES

DATE: 7/31/24

F.L. DRAWN

# 1 NEW CONCEPT PLAN

# REVISION



**THE NEIGHBORHOOD COMPANY**

5618 WHISPERING WILLOW WAY | FORT MYERS, FL 33908

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# Exhibit C





The Arches Bayfront  
Resort



The Arches Bayfront  
Resort











The Arches Bayfront  
Resort





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# 25-04, CPD Arches - Final for Signatures

Final Audit Report

2025-06-30

Created:	2025-06-25
By:	Lizzette Roman (Lroman@fmbgov.com)
Status:	Signed
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-  Document emailed to Jason Freeman (jasonf@fmbgov.com) for signature  
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