

ORDINANCE 25-13
(Estero Island Beach Club)

AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING WITH CONDITIONS TO REZONE THE PROPERTY LOCATED AT 1836 ESTERO BOULEVARD, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-03200.00CE & 19-46-24-W4-03200.1010 TO REZONE FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) AND REQUEST FOUR (4) DEVIATIONS FROM REQUIREMENTS TO PROVIDE 1) OPERABLE DOORS ALONG ESTERO BLVD, 2) SCREENING MATERIAL ON THE GROUND FLOOR, 3) INCREASE BUILD-TO LINE SETBACKS, AND 4) INCREASE THE MAXIMUM ALLOWED HEIGHT BY 18-FEET; 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, Estero Island Beach Club Association, Inc., owner, and Fred Drovdlc, AICP with RVi Planning & Landscape Architecture, as agents for the owner (collectively "Applicant") of property generally located 1836 and 1840 Estero Blvd, Fort Myers Beach and identified as STRAP numbers 19-46-24-W4-03200.00CE and 19-46-24-W4-03200.1010 ("the Property"), filed an application to rezone the Property from Downtown zoning district to Commercial Planned Development, with an attached Master Concept Plan (MCP) in order to redevelop a timeshare condominium and associated facilities, on the Property's 1.92+/- acres more or less; and

WHEREAS, the Property is located in the Pedestrian Commercial Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, the applicant has indicated the subject property is under common control and Estero Island Beach Club Association serves as the managing entity listed in the public records of Lee County Property Appraiser; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on May 13, 2025; and

WHEREAS, at the May 13, 2025 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 of Fort Myers Beach Land Development Code (“LDC”); and

WHEREAS, at the May 13, 2025 public hearing the LPA recommended approval by a 7 to 0 vote based on a finding that the approval is in compliance and consistent with the Town of Fort Myers Beach Comprehensive Plan and the LDC; and

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

WHEREAS, on June 2, 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 legally advertised in the Fort Myers News-Press more than 10 days prior to the Town Council on June 16, 2025; and

WHEREAS, at the June 16, 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, there are no outstanding fees associated with any notice, advertisement, and consulting services required by the Town; and

WHEREAS, Exhibit A contains the conditions of approval associated with this proposed development and incorporated by reference into the Ordinance; and

WHEREAS, Exhibit B contains a Master Concept Plan associated with this proposed development and incorporated by reference into the Ordinance; and

WHEREAS, Exhibit C contains a Schedule of Uses associated with this proposed development and incorporated by reference into the Ordinance; and

WHEREAS, the Town Council finds that this request to **APPROVE WITH CONDITIONS**, is a unique and individual application which does not set precedent for future development or rezoning applications.

WHEREAS, approval of this request and Ordinance requires approval of the following deviations from the LDC:

Deviation #1

Deviate from LDC §34-995(b)(1) and (4) regarding entrances, requires a primary entrance and views into the first floor of commercial buildings where: (1)The primary entrance to all buildings shall face the street; and (4) Where building frontages exceed 50 feet, operable doors or entrances with public access shall be provided along streets at intervals averaging no greater than 50 feet.

Deviation #2

Deviate from LDC §34-992(c) requiring the principal facades of hotel buildings that will not contain commercial uses below base flood elevation to screen under-building parking areas in a manner acceptable to the town manager or designee; to allow 50% of the under building parking area of the building façade fronting on Estero Boulevard and Palm Avenue to be fully screened and a 5-foot hedge in the unscreened areas to help hide vehicles.

Deviation #3

Deviate from LDC §34-674(a)(1) that requires build to lines in the Downtown District in this location be from five feet to 10 feet; to not require build to lines but rather minimum building setbacks for the building on Estero Boulevard of 15 feet, a minimum building setback of 10 feet from Palm Avenue, and a minimum building setback of 30 feet from Miramar Street.

Deviation #4

Deviate from LDC §34-675(b)(3)c that requires a maximum height of 30 feet above base flood elevation and no taller than three stories for properties on the south side of Estero Boulevard east of the main pedestrian crossing in the Downtown zoning district to allow a height of: Five (5) stories [four (4) stories over ground level parking]; and 48 feet above FDEP design flood elevation (DFE).

WHEREAS, the Town Council considered all relevant factors and made the following formal findings of fact regarding the rezoning request before making its final decision on the Ordinance as required by Sections 34-85 and 34-216 of the LDC:

- a. Minor ambiguities were resolved through the deviation process.
- b. Long-standing blighted conditions on the subject property can be ameliorated through approval of this rezoning.
- c. The rezoning would carry out the policies and requirements of the

Comprehensive Plan and LDC.

- d. The Town Council carefully considered the testimony of the Applicant, the recommendations of staff and of the LPA, 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. The 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, LDC, 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.
- o. The rezoning meets all specific requirements of the Comprehensive Plan that are relevant to the request, including the following:
 - Policy 4-C-4 on building heights taller than the standard height limit
 - Policy 4-C-6 on hotel/motel densities
 - Policy 4-C-8 on density transfers
 - Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts

WHEREAS, the Town Council made the following formal findings before making final decisions on the four requested deviations from "by-right" requirements of the LDC (see LDC 34-216 and 34-1803):

1. All aspects of the proposed development, as limited by the special conditions being imposed by the Town Council, are compatible with the surrounding area, including building height, traffic flow, and intensity of use.
2. The proposed development, as modified by these deviations, clearly exceeds

- all standards of the Fort Myers Beach Comprehensive Plan.
3. The proposed development, with the modified deviations being approved, does not exceed any maximum intensities contained in the Fort Myers Beach Comprehensive Plan.
 4. Granting these deviations will enhance the achievement of the objectives of the proposed development.
 5. The general intent of the LDC to protect public health, safety, and welfare will be preserved and promoted with these deviations.
 6. These deviations operate to the benefit, or at least not to the detriment, of the public interest.
 7. These deviations are consistent with the Fort Myers Beach Comprehensive Plan.

WHEREAS, the Town Council finds that this application to **APPROVE WITH CONDITIONS** Ordinance 25-13 as provided herein **consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC.

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 requested rezoning in Ordinance No. 25-13 **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 hereby **APPROVES WITH CONDITIONS** the requested rezoning.

Section 3. Town Ordinance 25-13 is adopted subject to the conditions of approval in Exhibit A, the Master Concept Plan in Exhibit B, and the Schedule of Uses in Exhibit C, all of which are 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 Mayor Allers and seconded by Vice Mayor Atterholt, 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 16th day of June 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers

Dan Allers (Jul 11, 2025 16:43 EDT)

Dan Allers, Mayor

ATTEST:

Amy Baker

Amy Baker (Jul 14, 2025 11:45 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 (Jul 13, 2025 14:20 EDT)

Vose Law Firm, LLP, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 11th day of July 2025.

EXHIBITS:

Exhibit A – Conditions of Approval

Exhibit B – Master Concept Plan

Exhibit C – Schedule of Uses

Exhibit A; Part 1: Conditions of Approval

1. Development shall provide signage warning for exiting vehicles of pedestrian traffic within the Town's Palm Ave. and Palm Ave. beach access points.
2. The final architectural design shall be substantially similar to the design approved by the Town Council.
3. The applicant shall provide a more detailed landscaping plan utilizing a type-B buffer and using largely 'Florida Friendly' species, or other salt-tolerant plants and trees.
4. Approval of this Ordinance 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.



CONDITIONS OF APPROVAL AND PUBLIC BENEFITS

1. CONDITIONS OF APPROVAL:

- a. Height – The proposed structure is a single building of 67.7 feet in total height from sea level, a deviation of 18 feet above the LDC:
 - 48 feet above FDEP design flood elevation (DFE)
- b. Stories – five (5) stories [four (4) stories over ground level parking]
- c. Floor Area Ratio – maximum floor area is 100,000 square feet resulting in an FAR of 1.2.
- d. Minimum of 75 parking spaces.
- e. No access points on Estero Boulevard; one access on Miramar Street and one on Palm Avenue.

2. PUBLIC BENEFITS: The landowner commits to construct and/or manage the public features, special benefits and amenities identified below, *as subject to approval by the applicable permitting agencies*:

- a. **Public Parking for Beach Access #31 (Miramar Street)** - construct up to five parking spaces, as permitting by applicable agencies allows, on EIBC property parallel to Miramar Street right-of-way and establish a use easement for the Town of Fort Myers Beach in perpetuity. The spaces are to be completed at the time of the first certificate of occupancy. The spaces are to be installed by EIBC and then turned over to the Town for long term maintenance and operation.
- b. **Five-foot Sidewalk on the EIBC side of Miramar Street** – install a public sidewalk that connects to the public sidewalk on Estero Boulevard and runs to the Lee County CCCL line along Beach Access #31 to be completed at the time of the first certificate of occupancy. The sidewalk is to be installed by EIBC and then turned over to the Town for long term maintenance.
- c. **Seating and Bike Rack for Public Beach Access #31 at end of proposed Sidewalk on Miramar Street** – a public bench and seating will be installed by EIBC at the end of the new sidewalk near the 1978 Lee County CCCL line to be completed at the time of the first certificate of occupancy. The bench and bike rack is to be installed by EIBC and then turned over to the Town for long term maintenance.
- d. **Provide a drop off zone and turnaround for Beach Access #31** – South of EIBC’s proposed entrance on Miramar and north of the 1978 Lee County CCCL EIBC will construct a drop off area and turn around for vehicles, to be completed at the time of the first certificate of occupancy. The area is to be installed by EIBC and then turned over to the Town for long term maintenance.
- e. **Extension of Miramar Street pavement** – extend the street pavement to the 1978 Lee County CCCL line, approximately 45 feet, to be completed at the time of the first certificate of occupancy. The pavement is to be installed by EIBC and then turned over to the Town for long term maintenance.
- f. **Beach Accessibility** – install a Mobi Mat for disabled person’s access at the end new sidewalk or at the end of the extended pavement of Miramar Street for increased accessibility to be completed at the time of the first certificate of occupancy. The mat is to be installed by EIBC and then turned over to the Town for long term maintenance.



- g. **Seating and Bike Rack on Estero Boulevard** – nested in the landscaping proposed along Estero Boulevard will be a public seating area and bike rack that will be shaded with landscaping. The bench and bike rack is to be installed by EIBC and then turned over to the Town for long term maintenance.
- h. **Landscape Buffers** – a 15' landscaping buffer on Estero Boulevard and 5' buffers along Miramar Street and Palm Avenue according to the conceptual landscape plan. Landscaping will be maintained by EIBC in perpetuity.

Exhibit B - Master Concept Plan

ESTERO ISLAND BEACH CLUB

MASTER CONCEPT PLAN
1836-1840 ESTERO BOULEVARD
Fort Myers Beach, FL 33931

JOB DESCRIPTION

ESTERO ISLAND BEACH CLUB SCOPE OF WORK AIMED AT CONSTRUCTING 75 TIMESHARE UNITS INCLUDING THE LANDSCAPING AND THE STORM WATER MANAGEMENT DEVICES PER THE INITIALLY PERMITTED SPECIFICATIONS.

AUTHORITY HAVING JURISDICTION

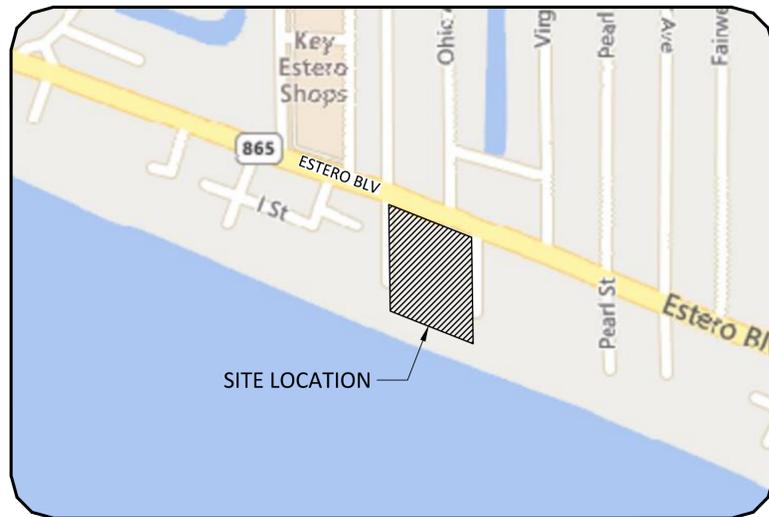
TOWN OF FORT MYERS BEACH

GOVERNING CODES

FLORIDA BUILDING CODE - BUILDING - 8TH EDITION (2023)

DRAWING INDEX

SHEET #	Description
T-0	COVER SHEET
C-1	PROPOSED SITE PLAN
C-2	EMERGENCY ACCESS



Location Map
SCALE: 1:300



Vicinity Map
SCALE: 1:300

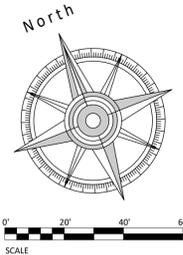
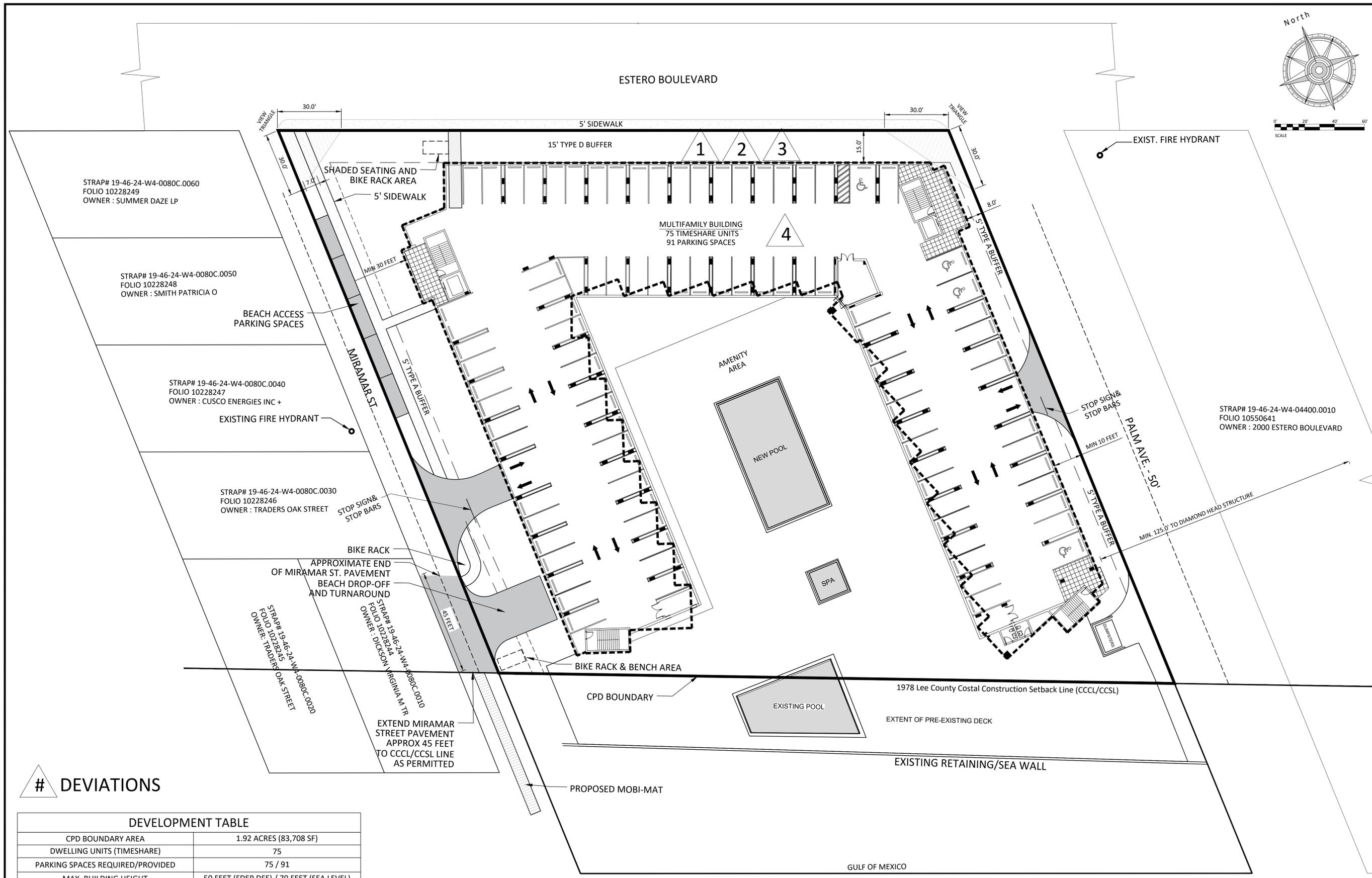
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MECA Engineering Corporation
 5237 Summerlin Commons Blvd, Suite 460
 Fort Myers, FL 33907
 T: (239) 275-2598 F: (219) 962-3969
 www.mecaengineering.com



ESTERO ISLAND BEACH CLUB
MASTER CONCEPT PLAN
 1836-1840 ESTERO BLV, FORT MYERS BEACH, FL 33931

Project No.: FL-32-901
 Drawn: _____ Checked: _____
 Date: 05/22/2025
 Scale: AS NOTED
 Sheet Title: COVER SHEET
 Sheet Number: **T-0**



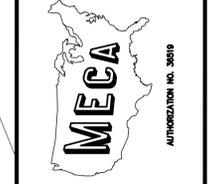
DEVIATIONS

DEVELOPMENT TABLE	
CPD BOUNDARY AREA	1.92 ACRES (83,708 SF)
DWELLING UNITS (TIMESHARE)	75
PARKING SPACES REQUIRED/PROVIDED	75 / 91
MAX. BUILDING HEIGHT	50 FEET (FDEP DFE) / 70 FEET (SEA LEVEL)
STORIES (INCLUDING GROUND LEVEL PARKING)	5
SETBACK, STREET (ESTERO BOULEVARD)	15 FEET (BUILDING) 15 FEET (PARKING)
MINIMUM SETBACK, STREET (PALM)	8 FEET
MINIMUM SETBACK, STREET (MIRAMAR)	30 FEET
REAR/1978 CCCL/CCSL SETBACK	0 FEET
MAXIMUM FLOOR AREA RATIO	1.2

NOTE:
FINAL LOCATION OF TURNAROUND, MOBI MAT,
AND SIDEWALK TO BE DETERMINED AT TIME OF
DEVELOPMENT ORDER

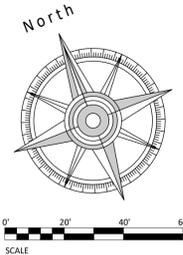
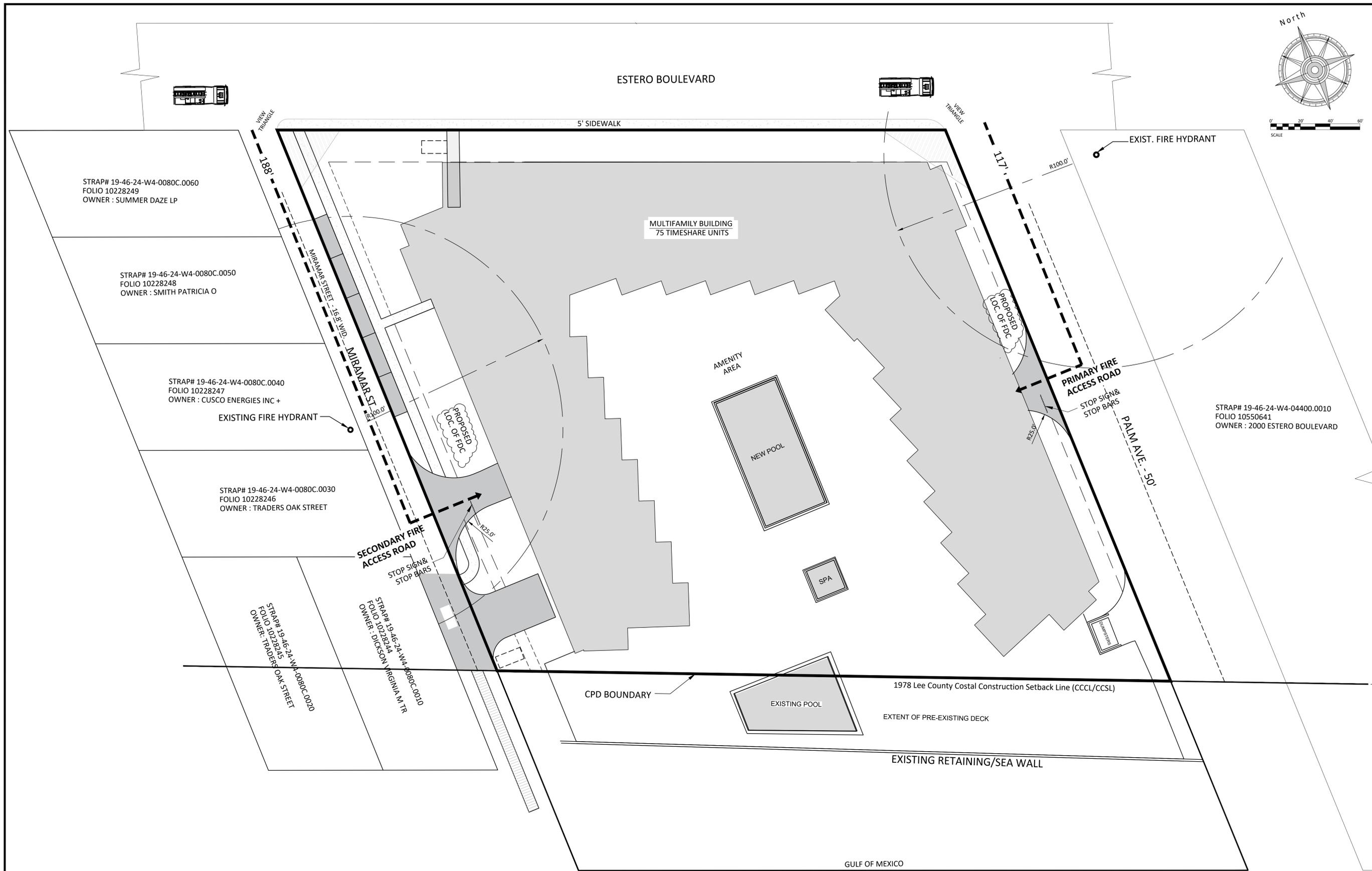
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**ESTERO ISLAND BEACH CLUB
MASTER CONCEPT PLAN**
1836-1840 ESTERO BLV, FORT MYERS
BEACH, FL 33931

Project No.: FL-32-905
Drawn: B.N. Checked: M.A.
Date: 05/22/2025
Scale: 1" = 20'
Sheet Title:
MASTER CONCEPT PLAN
Sheet Number:
C-1



No.	Date	Description	By
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**ESTERO ISLAND BEACH CLUB
 EMERGENCY ACCESS EXHIBIT**
 1836-1840 ESTERO BLV, FORT MYERS
 BEACH, FL 33931

Project No.: FL-32-905
 Drawn: B.N. Checked: M.A.
 Date: 05/22/2025
 Scale: 1" = 20'
 Sheet Title:
FIRE ACCESS EXHIBIT
 Sheet Number:
C-2



ESTERO ISLAND BEACH CLUB CPD

Schedule of Uses

Principal:

- Administrative offices
- Beach access
- Essential services and essential service equipment
- Home occupation, no outside help
- Hotel/motel
- Hotel/condo
- Parking, surface and garage
- Recreational facilities –private on-site
- Rental of any permitted dwelling unit for periods of one day or longer
- Resort accessory uses
- Timeshare units (fractional ownership)
- Temporary uses

Accessory:

Resort accessory uses, including:

- Rental of beach furniture and cabanas
- Meeting space
- Signs
- Business center
- Subordinate commercial uses