

LPA RESOLUTION 2025-24

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250287, REQUESTING 1) A VARIANCE OF 1.6 FEET TO THE REQUIRED 20-FOOT REAR SETBACK IN LDC SECTION 34-638(D)(1)G. TO ALLOW A 4.6-FOOT ENCROACHMENT FOR ELEVATED MECHANICAL EQUIPMENT; AND 2) A VARIANCE OF 3.3 TO THE REQUIRED 20-FOOT REAR SETBACK FOR PROPERTIES IN THE RS ZONING DISTRICT IN TABLE 34-3 TO ALLOW A STAIRCASE WITH A 16.7 FOOT REAR SETBACK IN ORDER TO ACCESS THE ELEVATED MECHANICAL EQUIPMENT, FOR THE PROPERTY LOCATED AT 138 HIBISCUS DRIVE, GENERALLY REFERRED TO AS STRAP NUMBER: 29-46-24-W2-01431.0000 IN FORT MYERS BEACH; AND 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, 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, Christal Shola (hereinafter "Applicant"), is the owner of real property located at 138 Hibiscus Drive, Fort Myers Beach, Florida (hereinafter "Property"); and

WHEREAS, the STRAP for the Property is 29-46-24-W2-01431.0000, and the legal description for the Property is attached, see Exhibit "A"; and

WHEREAS, the Property is within the Low-Density Residential Future Land Use Map category according to the Town of Fort Myers Beach Comprehensive Plan; and

WHEREAS, the Property is located in the Residential Single-family (RS) zoning district; and

WHEREAS, the RS zoning district requires a minimum lot width of 75 feet and a minimum lot depth of 100 feet, with a total lot area of 7,500 square feet; and

WHEREAS, the Property is a 60 x 97 non-conforming lot in the RS zoning district; and

WHEREAS, Table 34-3 in the Land Development Code ("LDC") requires a minimum 20-foot rear setback for properties in a RS zoning district; and

WHEREAS, LDC Section 34-638(d)(1)g allows mechanical equipment to encroach a maximum of 3 feet into the required 20-foot rear setback; and

WHEREAS, the Applicant requests a variance of 1.6 foot from LDC Section 34-638(d)(1)g to allow a 4.6 feet encroachment for the elevated mechanical equipment and a variance of 3.3 feet from Table 34-3 to allow a staircase with a rear setback of 16.7 feet to access the elevated mechanical equipment; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (“LPA”) on December 16, 2025, and at said hearing, the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-87 of the LDC; and

WHEREAS, in accordance with the requirements of LDC Sections 34-84 and 34-87, which sets forth the requirements for approval of a variance, the LPA makes the following findings and conclusions:

A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request is for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.

B. The conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.

C. The variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.

D. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.

E. The conditions or circumstances on the specific piece of property for which the variance is sought **are not** of so general or recurrent nature as to make it more reasonable and practical to amend the regulation in question.

WHEREAS, eligible members of the LPA voted 6 to 0 by roll call vote to approve with conditions the requested variances with the following conditions:

1. Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.

2. The variance shall only apply to the mechanical equipment and staircase for the single-family home as shown on the survey (site plan) attached as Exhibit A. Demolition or substantial damage to the residential structure shall render the variances to be null and void.
3. This variance applies to the elevated mechanical equipment and attached staircase within the rear setback of the existing single-family structure on the Property at the time of the approval of these variances only. Any additional modification of the single-family dwelling or additional construction on the subject property must comply with all applicable regulations or seek a new variance.
4. The variance applies to the modified rear setback along the west property boundary as shown in Exhibit A only. No other portion of the single-family dwelling or accessory structure(s) may be extended into a required setback.

WHEREAS, Ordinance 24-06 amended Section 34-232(d) of the LDC to provide that:

(d) Owner-initiated requests for variances, or required reviews to extend or to provide evidence of satisfaction of conditions contained in prior land use approvals, that are:

- 1) approved by a unanimous vote of the local planning agency members who are eligible to vote, and
- 2) not subject to a request for an additional public hearing before the town council made by anyone that is received by the town clerk within 10 business days after the date of the local planning agency decision, excluding holidays, only require one public hearing before the local planning agency, and the local planning agency decision is final agency action.

IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

1. The foregoing “WHEREAS” clauses are adopted herein by reference and constitute the findings and conclusions of the LPA.
2. VAR20250287, with the conditions contained herein, **received** unanimous approval from eligible voting members of the LPA on December 16, 2025.
3. This Resolution shall constitute the equivalent of a development order and final agency action, subject to any request for an additional review by the Town Council filed with the Town Clerk within 10 business days of the LPA decision as authorized in Section 34-232(d) of the LDC.

The foregoing Resolution was adopted upon a motion by LPA member Dunlap and seconded by LPA member McLean and upon being put to a roll call vote, the result was as follows:

Anita Cereceda, Chair	Aye
Jane Plummer, Vice Chair	Aye
James Boan, Member	Aye
James Dunlap, Member	Aye
Douglas Eckmann, Member	Absent
John McLean, Member	Aye
Don Sudduth, Member	Aye

DULY PASSED AND ADOPTED THIS 16th day of December 2025.

Local Planning Agency of the Town of
Fort Myers Beach



[Anita Cereceda \(Feb 9, 2026 14:20:56 EST\)](#)

Anita Cereceda, LPA Chair

ATTEST:



[Amy Baker \(Feb 10, 2026 13:27:26 EST\)](#)

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 Suprich \(Feb 9, 2026 20:55:31 EST\)](#)

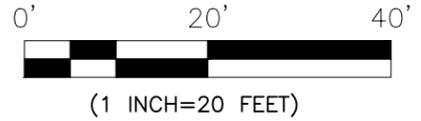
Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on Feb 10, 2026.

EXHIBITS

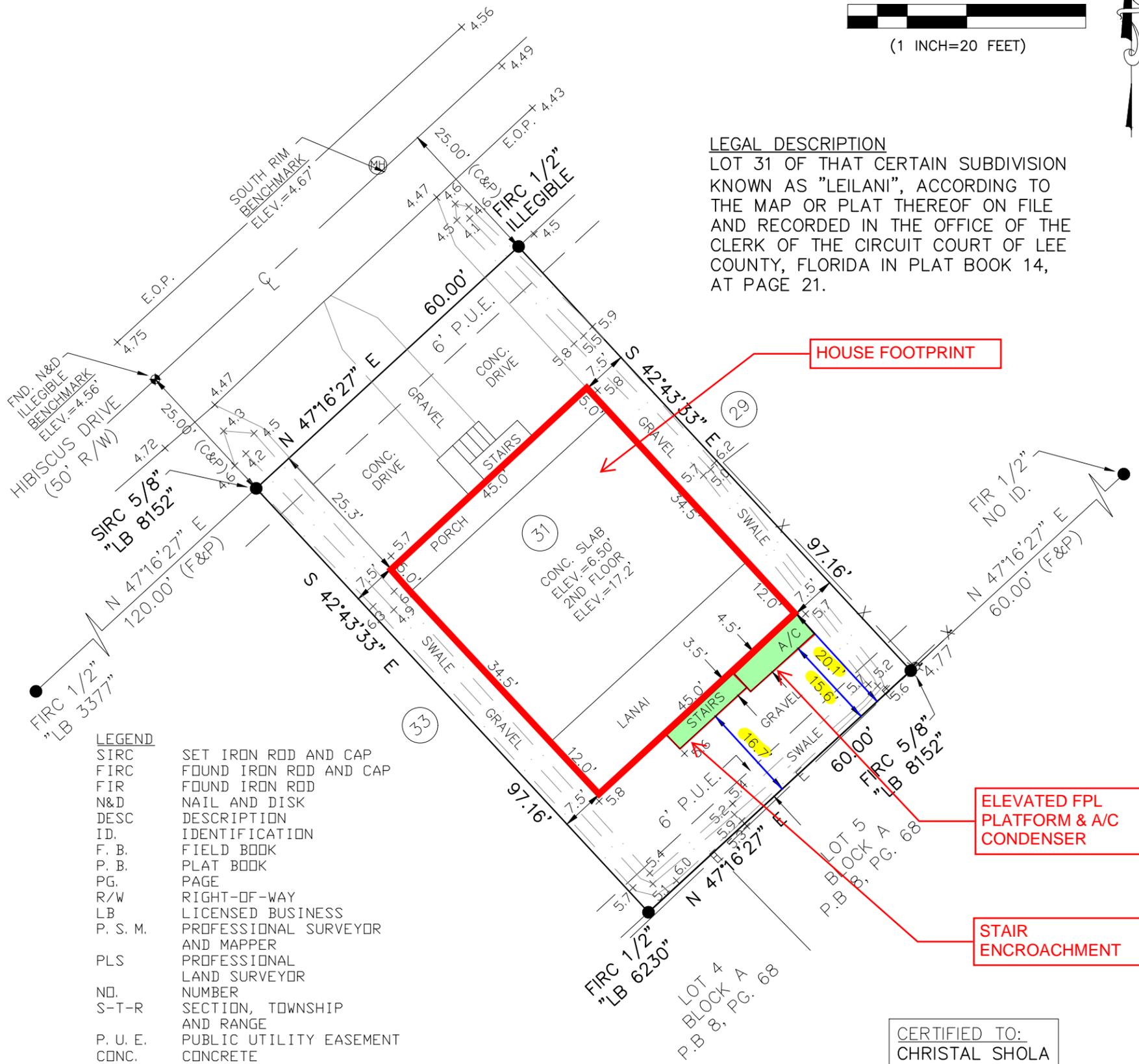
Exhibit A: Legal Description and Site Plan as
Shown on Survey

FINAL AS-BUILT SURVEY LYING IN
SECTION 29, TOWNSHIP 46 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA



LEGAL DESCRIPTION

LOT 31 OF THAT CERTAIN SUBDIVISION KNOWN AS "LEILANI", ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LEE COUNTY, FLORIDA IN PLAT BOOK 14, AT PAGE 21.



LEGEND

SIRC	SET IRON ROD AND CAP
FIRC	FOUND IRON ROD AND CAP
FIR	FOUND IRON ROD
N&D	NAIL AND DISK
DESC	DESCRIPTION
ID.	IDENTIFICATION
F. B.	FIELD BOOK
P. B.	PLAT BOOK
PG.	PAGE
R/W	RIGHT-OF-WAY
LB	LICENSED BUSINESS
P. S. M.	PROFESSIONAL SURVEYOR AND MAPPER
PLS	PROFESSIONAL LAND SURVEYOR
NO.	NUMBER
S-T-R	SECTION, TOWNSHIP AND RANGE
P. U. E.	PUBLIC UTILITY EASEMENT
CONC.	CONCRETE
FND.	FOUND
CDR.	CORNER
E. O. P.	EDGE OF PAVEMENT
(P)	PLAT
(F)	FIELD
(C)	CALCULATED
(C&D)	CALCULATED AND DEED
(F&D)	FIELD AND DEED
(F&P)	FIELD AND PLAT
(C&P)	CALCULATED AND PLAT
CB	CATCH BASIN
A/C	AIR CONDITIONER
⊕	SANITARY MANHOLE
⊙	TELEPHONE PEDESTAL
⊖	POWER POLE
⊕	WATER METER
- E -	OVERHEAD POWER LINES
5.0x	GROUND ELEVATION
⊙	LOT NUMBER
L	CENTERLINE

CERTIFIED TO:
CHRISTAL SHOLA

NOTES:
BEARINGS ARE STATE PLANE, FLORIDA WEST ZONE AND ARE BASED ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF HIBISCUS DRIVE BEING N 47°16'27" E.
ELEVATIONS ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88) WITH TIES TO THE FLORIDA DEPARTMENT OF TRANSPORTATION PERMANENT CONTROL NETWORK.
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CERTIFIED TITLE REPORT AND IS NOT A CERTIFICATE OF TITLE, ZONING OR FREEDOM FROM ENCUMBRANCES.
UNDERGROUND IMPROVEMENTS, OTHER THAN SHOWN, IF ANY, WERE NOT LOCATED.
PARCEL LIES IN FLOOD ZONE AE, WITH A BASE FLOOD ELEVATION OF 12 FEET, AS SHOWN ON FEDERAL EMERGENCY MANAGEMENT AGENCY MAP 12071C0558G, EFFECTIVE DATE: 11/17/2022.
PARCEL SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY AND RESTRICTIONS OF RECORD.
THE FLORIDA DEPARTMENT OF TRANSPORTATION PERMANENT CONTROL NETWORK WAS UTILIZED ON THIS BOUNDARY SURVEY AND THE DATUM IS NORTH AMERICAN DATUM NAD(83)-(2011)-(EPOCH 2017.000). THE STATED HORIZONTAL ACCURACY IS 1-2 CENTIMETER. THE STATED VERTICAL ACCURACY IS 2-3 CENTIMETER.

SURVEYOR'S CERTIFICATION:
I HEREBY CERTIFY TO THE BEST OF MY KNOWLEDGE THAT THIS SURVEY OF THE HEREON DESCRIBED PROPERTY IS A TRUE REPRESENTATION OF A FIELD SURVEY MADE UNDER MY DIRECTION AND CONFORMS TO THE STANDARDS OF PRACTICE FOR PROFESSIONAL SURVEYORS AND MAPPERS AS OUTLINED IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE.

KP	ADDRESS: 138 HIBISCUS DRIVE, FORT MYERS BEACH, FL 33931		LAST FIELD DATE: 11/04/2025	
	PROJECT No: 25-0097	PROJECT Desc: BOUNDARY SURVEY	REVISIONS: 11/04/25 ADDED STAIRCASE DIMENSIONS	
	S-T-R 29-46-24	COUNTY LEE	STRAP: 29-46-24-W2-01431.0000	

KP Surveying, Inc. LB NUMBER 8152 2802 W. Cypress Avenue S.E. Fort Myers, Florida 33905 (239) 462-1901	FIELD DATE: 11/18/22	NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER OR A DIGITAL SIGNATURE.	KENNETH PUFAHL Digitally signed by KENNETH PUFAHL Date: 2025.11.05 04:44:38 -05'00'
	DRAWN BY: KP		
	DATE DRAWN: 11/21/22		
	CAD FILE: 24-0185		

Ken Pufahl, P.S.M.
PROFFESIONAL SURVEYOR & MAPPER
FLORIDA CERTIFICATE NUMBER 6126

DATE