

RESOLUTION OF THE LOCAL PLANNING AGENCY OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 2014-004  
DCI2013-0002 – Matanzas Inn CPD Amendment

WHEREAS, Jerry Murphy, authorized agent for the owner of property located at 414/416 Crescent Street and 1042/1044 Second Street Fort Myers Beach, Florida has requested to amend a Commercial Planned Development known as the Matanzas Inn CPD; and

WHEREAS, the subject 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 STRAP numbers for the subject property are 19-46-24-W4-0150E.0210, 24-46-26-W3-00202.0130 and 24-46-23-W3-00202.0150 and the legal description is attached as *Exhibit A*; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on March 11, 2014; and

WHEREAS, at the March 11, 2014 LPA meeting, the LPA continued the case to a date certain of June 10, 2014; and

WHEREAS, at the June 10, 2014 hearing the LPA gave full and complete consideration of the request, recommendations by Staff, the documents in the file, and the testimony of all interested persons, as required by the Fort Myers Beach Land Development Code Section 34-85.

IT IS HEREBY RESOLVED BY LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

The LPA recommends that the Town Council **APPROVE** the request to amend the Matanzas Inn CPD, subject to the **10 deviations** and **16 conditions** set forth with specificity below.

**RECOMMENDED DEVIATIONS:**

**Deviation #1**

Deviation (recast from previously approved deviations) from the requirements of LDC Section 34-953—that the building placement, size, design, and all other property development regulations in the CPD zoning district must be the same as for the CR or CB zoning district—to allow the dimensions indicated on the MCP. **APPROVE**

**Deviation #2**

Deviation from the LDC Section 34-632(3)c. limitation on combining three (3) or more lots into a development project to allow PARCEL A, PARCEL B, and PARCEL C to include one-half (1/2) of the width of the adjoining street and canals in lot area for the purposes of computing residential densities to allow a total of 44 guest units on PARCEL A. **APPROVE**

**Deviation #3**

Deviation from LDC Section 34-632(4) from the limitation on acreage used primarily for commercial purposes being included in the computation of residential density to allow a total of 44 guest units on PARCEL A. **APPROVE**

Deviation #4

Deviation from LDC Section 34-1803(a)(1) to allow guest units to average 1000 square feet in compliance with the proposed Schedule of Uses. **APPROVE**

Deviation #5

Deviation (recast from previously approved deviations) from LDC Section 34-675(b)(2) from the limitation on Crescent Street to building heights no taller than two (2) stories and 30 feet above base flood elevation, to allow 25 percent of the ground floors of the hotel/motel buildings to be enclosed non-living space for office and other accessory uses for the motel with a maximum building height of 30 feet above base flood elevation with a maximum of two (2) floors total living area over parking or enclosed non-living space. **APPROVE**

Deviation #6

Deviation (recast from previously approved deviations) from the provisions of LDC Chapter 34, Division 26, Parking: LDC Sections 34-2015 (location and design) and 34-2016 (dimensional requirements; delineation of parking spaces) to allow the parking plan delineated on the MCP, with dimensional regulations allowing 90° parking spaces 16' deep and 8.5' wide, and a 2-way drive aisle 19' wide. **APPROVE**

Deviation #7

Deviation (recast from previously approved deviation) from the provisions of LDC Chapter 10, Article III, Division 2, Transportation, Roadways, Streets, and Sidewalks: LDC Section 10-285(a) from the required connection separation for local roads of 125 feet to allow connection separations as indicated on the MCP. **APPROVE**

Deviation #8

Deviation (recast from previously approved deviations) from the provisions of LDC Chapter 10, Article III, Division 6, Open Space, Buffering, and Landscaping: LDC Sections 10-415 (open space) and 10-416 (landscaping standards) to allow the open space and buffers delineated on the MCP. **APPROVE**

Deviation #9

Deviation from LDC Chapter 30 to allow a sign package for Matanzas Inn & Resort comprised of the following commercial identification signs with locations indicated on the MCP:

1. "Matanzas Inn Resort Vacancy" Two (2) sided monument sign, existing. Not to exceed 6' x 1.5' x 2-sides = 18 sq. ft. total
2. "Matanzas Inn Resort" Monument sign near northern side of motel, existing. Not to exceed 2' x 8' = 16 sq. ft. total.
3. "Matanzas Inn Resort" Monument sign at restaurant parking lot entrance, existing. Not to exceed 1.5' x 6' = 9 sq. ft. total
4. "Upper Deck Entrance" Wall identification sign on western wall of restaurant, existing. Not to exceed 4' x 8' = 32 sq. ft. total.
5. "Matanzas Inn Resort" Two- (2)-sided Projecting sign on roof of restaurant, existing. Not to exceed 4' x 16' x 2-sides = 128 sq. ft. total.

Total commercial identification sign area not to exceed **139** square feet total. Other permitted signs not requiring a permit as provided in LDC Chapter 30 or otherwise permissible, allowed. **APPROVE**

Deviation #10

Deviation (recast from previously approved deviations) from the provisions of LDC Chapter 10, Article III, Division 6, Open Space, Buffering, and Landscaping: LDC Section 10-416 (landscaping

standards), subsection (d)(2) and Table 10-8, Buffer Requirements to allow a reduction from the Type D buffer requirements between ROW (rights-of-way) and PRKG (parking and vehicle use areas) to allow the buffer widths delineated on the MCP. **APPROVE**

**RECOMMENDED CONDITIONS OF APPROVAL:**

1. The development of this project must be consistent with the two page master concept plan MCP entitled 'Master Concept Plan Matanzas Inn' stamped received February 20, 2014, except as modified by conditions below. This development must comply with all requirements of the Town of Fort Myers Beach Land Development Code (LDC) at time of Development Order amendment, except:
  - a. any additional restrictions provided in conditions of this approval; and
  - b. any restrictions modified or eliminated by approved deviations.If changes to the MCP are subsequently sought, appropriate approvals will be required.
2. Allowable uses are limited to the approved Schedule of Uses – See attached *Exhibit G*. Downstairs shall be limited to storage, office and resort accessory uses.
3. All development, redevelopment, and substantial improvements approved and included in this CPD must meet or exceed the commercial design standards set forth in LDC Section 34-991 through 34-1010.
4. All outdoor entertainment must cease by 10:00 PM. Entertainment should be in the public spaces but not the parking lots.
5. All lot area associated with PARCEL B and PARCEL C for density purposes is attributed to PARCEL A as part of the MCP for this CPD district. (See attached *Exhibit D* for the Schedule of Deviations #2 and #3)
6. PARCEL A may be developed in phases in any order, but a certificate of compliance for the initial phase must be reasonably requested no more than 60 months following Town Council approval of this amended CPD. Certificates of compliance for the entire project must be reasonably requested not less than 160 months following Town Council approval of this amended CPD or the MCP will expire and be deemed vacated.
7. Any reconfiguration of the swimming pool located on PARCEL A must not result in an increased elevation of the top surface of the pool deck or the top edge of the pool.
8. The uses listed for PARCEL A are limited to 75,300 square feet of floor area. Of this total floor area, guest units are limited to 44 units; guest unit size is not to exceed a maximum area of 1,200 square feet, not to exceed an average of 800 square feet, and not to exceed a total floor area for guest units of 44,000 square feet.
9. All existing Development Order(s) must be revised to reflect the changed conditions of the approval and newly adopted MCP. The revisions must be submitted within 90 days of Town Council approval and reviewed and approved by Town Staff prior to commencement of any work.
10. Stormwater retention plans and drainage calculations for the project will be required at the time of submission of the Development Order revision.

11. This zoning approval does not address the mitigation of the project's vehicular or pedestrian traffic impacts. A Traffic Impact Statement (TIS) will be required at time of local development order revision and additional conditions may be required at that time.
12. Developer will construct sidewalks acceptable to the Town within or along the rights-of-way of Crescent Street, First Street, and Second Street along the boundary of the subject property. The precise locations, dimensions, and specifications for these sidewalks will be determined in cooperation with the Town Public Works Department, but will not exceed the requirements of LDC Section 10-289. The Developer will construct the sidewalks in conjunction with the Town's construction of other sidewalks along the aforementioned streets—or as part of the construction of Phases B2, C, or D—whichever occurs first.
13. Should the Developer and Town agree to construct all or a portion of the sidewalk on the property owned by the Developer, the elimination of any existing parking and/or buffer or landscaping or portion thereof necessary to complete the sidewalk improvement project will not cause the subject property's CPD/DO/Zoning to become non-compliant with the requirements as provided in the CPD/DO/Zoning.
14. Should it become necessary to utilize a portion of the Developer's property for the construction of the sidewalk, it shall be constructed in accordance with the provisions of LDC Section 10-289.
15. The unified sign package, methods of calculation and measurement provided for in Chapter 30 of the Land Development Code, is not to exceed a total sign area of **139** square feet. All sign locations are as shown on the approval Master Concept Plan, stamped received February 20, 2014 attached as *Exhibit H*.
16. Consumption on Premises is limited to the restaurant and outdoor deck area or grass areas. COP is prohibited at the pool and in parking lots.

### **FINDINGS AND CONCLUSIONS**

Based upon the presentations by the Applicant, Staff, and other interested parties at the hearing, and a review of the application and standards for the planned development zoning approval, the LPA recommends that Town Council reaches the following findings and conclusions:

- a. *Whether there exists an error or ambiguity which must be corrected.*  
Staff does not find that any errors or ambiguity exist surrounding the subject property and its zoning category that require correction. **APPROVE**
- b. *Whether there exist changed or changing conditions which make approval of the request appropriate.*  
The changing condition that exists on the subject property which supports the applicant's request for amending the CPD is the addition and sale of property. The 'Old San Carlos Parcel' was sold to a separate owner in the spring of 2013 and is now being considered for a separate zoning action. Additionally the property owner has acquired Lot 15, located immediately adjacent to the current PARCEL C (see MCP attached as *Exhibit H*), and is requesting to add that land area into the CPD. **APPROVE**

- c. *The impact of a proposed change on the intent of this chapter.*  
Amending the existing Matanzas Inn CPD with the specifics of this request will have no impact on the intent of Chapter 34. **APPROVE**
- g. *Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.*  
As discussed in the analysis section of this report, the requested amendment is consistent with the Comprehensive Plan, particularly with the provisions within the Pedestrian Commercial future land use category and the Pre-Disaster Buildback, Hazard Mitigation and Floodproofing policies. **APPROVE**
- h. *Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.*  
The request to amend the CPD for the Matanzas Inn meets and exceeds all performance and locational standards for the proposed uses. Removal and addition of parcels are requested, as well as density transfers with the subject property, revisions to the site plan and phasing plans, and requests for deviations to the sign requirements. Furthermore, the proposed amendments are consistent with the Comprehensive Plan, and will be required to comply with the Commercial Design Standards, found in Chapter 34-99, and all applicable building code and FEMA requirements. **APPROVE**
- i. *Whether urban services are, or will be, available and adequate to serve a proposed land use change.*  
As the subject property is currently a functioning Inn and restaurant, urban services are available and adequate for the proposed changes. **APPROVE**
- j. *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*  
As existing commercially developed land, while located directly adjacent to Matanzas Pass, the subject property does not include any sensitive and/or environmentally critical lands. Nor do the proposed amendments to the existing CPD contemplate any land or use changes that would adversely effect critical or sensitive environmental area. However, all elements included on the revisions to the Development Order plans will be required to meet all applicable environmental codes. **APPROVE**
- k. *Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.*  
The requested CPD amendment will allow the property owner additional flexibility in phasing the project and the construction of new flood compliant buildings. The buildings will be required to meet the commercial design standards and all other applicable codes. The requested uses are those found in the DOWNTOWN zoning district and 'for rent' boat slips are compatible within the existing neighborhood. The property owner has met with Public Works Staff and incorporated Town plans for right-of-way improvements on Crescent Street into their redevelopment plans, allowing for public and private compatibility of enhancements for that section of roadway. Therefore the redevelopment of the subject property will be compatible with existing or planned uses and will not cause damage, hazard, nuisance, or other detriment to persons or property. **APPROVE**

1. *Whether the location of the request places 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.*

The impact of the proposed amendments to the transportation network will be evaluated at the time of revision to the Development Order, due to the dynamic nature of roadway capacity.

**APPROVE**

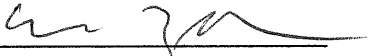
The foregoing Resolution was adopted by the LPA upon a motion by LPA Member **Shamp** and seconded by LPA Member **Plummer**, and upon being put to a vote, the result was as follows:

|                  |         |
|------------------|---------|
| Hank Zuba, Chair | AYE     |
| Chuck Bodenhafer | AYE     |
| John Kakatsch    | AYE     |
| Jim Steele       | EXCUSED |

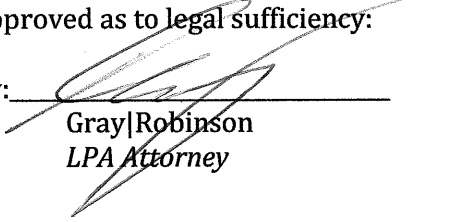
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|--------------------------|-----|
| Joanne Shamp, Vice Chair | AYE |
| Al Durrett               | AYE |
| Jane Plummer             | AYE |

DULY PASSED AND ADOPTED THIS **10th** day of **June, 2014**.

Local Planning Agency of the Town of Fort Myers Beach

By:   
Hank Zuba, LPA Chair

Approved as to legal sufficiency:

By:   
Gray/Robinson  
LPA Attorney

ATTEST:

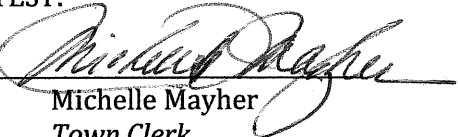
By:   
Michelle Mayher  
Town Clerk

Exhibit A

DESCRIPTION OF A PARCEL OF LAND  
LYING IN  
SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST  
AND  
SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST  
TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA  
(PARCEL A)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, TOWN OF FORT MYERS BEACH, LYING ON ESTERO ISLAND, BEING A PART OF SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST AND SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST, AND FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 20, BLOCK E, CRESCENT PARK ADDITION AS RECORDED IN PLAT BOOK 4 AT PAGE 46, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N00°43'09"W ALONG THE WESTERLY LINE OF SAID LOT 20 FOR 30.00 FEET; THENCE N89°16'51"E FOR 11.60 FEET TO THE EASTERLY LINE OF A RIGHT-OF-WAY TAKING PARCEL PER SETTLEMENT CASE 93-203-CA-RWP (PARCEL NO. 19) AND THE POINT OF BEGINNING; THENCE N02°09'14"W ALONG SAID TAKING PARCEL FOR 124.21 FEET; THENCE N05°46'55"W ALONG SAID EASTERLY LINE FOR 96.21 FEET TO THE NORTHWEST CORNER OF LOT 24, BLOCK E OF SAID CRESCENT PARK ADDITION; THENCE N00°43'09"W ALONG THE EASTERLY LINE OF CRESCENT STREET (25 FEET WIDE) AND ALONG THE RANGE LINE BETWEEN SAID SECTIONS 24 AND 19 FOR 158.83 FEET TO AN INTERSECTION OF SAID EASTERLY LINE WITH THE NORTHEASTERLY LINE OF FIRST STREET (50.00 FEET WIDE); THENCE N64°00'09"W ALONG SAID NORTHEASTERLY LINE FOR 18.87 FEET TO A POINT ON A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 2904.79 FEET AND TO WHICH POINT A RADIAL LINE BEARS S71°26'08"E; THENCE NORTHEASTERLY ALONG SAID CURVE AND THE SOUTHEASTERLY LINE OF STATE ROAD #865 THROUGH A CENTRAL ANGLE OF 02°17'53.8" FOR 116.52 FEET TO A PK NAIL WITH BRASS DISK STAMPED LB4919 IN A CONCRETE SEAWALL ALONG THE WATERS OF MATANZAS PASS; THENCE S70°18'52"E ALONG SAID WATERS AND SEAWALL FOR 82.79 FEET TO THE BEGINNING OF A CURVE IN SAID SEAWALL, SAID CURVE BEING DESCRIBED WITH THE FOLLOWING CHORD BEARINGS AND DISTANCES; THENCE S59°52'04"E FOR 13.95 FEET; THENCE S47°54'41"E FOR 10.35 FEET; THENCE S36°30'10"E FOR 10.02 FEET; THENCE S25°39'44"E FOR 10.08 FEET; THENCE S14°17'28"E FOR 10.56 FEET; THENCE S07°08'02"E FOR 10.56 FEET TO THE END OF SAID CURVE; THENCE S00°20'42"E ALONG SAID WATERS AND SAID SEAWALL FOR 55.38 FEET TO A STEEL PIN IN SAID SEAWALL; THENCE S83°09'31"E FOR 2.71 FEET TO THE WEST LINE OF A CANAL (60 FOOT RIGHT-OF-WAY) AS SHOWN ON THE RECORD PLAT OF SAID CRESCENT PARK ADDITION; THENCE S00°43'09"E ALONG THE WESTERLY LINE OF SAID PLATTED CANAL FOR 361.22 FEET TO AN INTERSECTION WITH A LINE PERPENDICULAR TO SAID EAST LINE OF SAID CRESCENT STREET PASSING THROUGH THE POINT OF BEGINNING; THENCE DEFLECT 90° TO THE RIGHT AND RUN S89°16'51"W PERPENDICULAR TO SAID EAST LINE OF SAID CRESCENT STREET FOR 121.07 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.41 ACRES (61,404 SQUARE FEET), MORE OR LESS.

BEARINGS ARE BASED ON THE EASTERLY RIGHT-OF-WAY LINE OF CRESCENT STREET AS BEARING N00°43'09"W RELATIVE TO THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAPS (SECTION 12530-2614).

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).

DESCRIPTION OF A PARCEL OF LAND  
LYING IN  
SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST  
TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA  
(PARCEL B)

A PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, TOWN OF FORT MYERS BEACH, SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, AND FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWESTERLY CORNER OF LOT 25, BLOCK E, CRESCENT PARK ADDITION, ACCORDING TO A PLAT OR MAP THEREOF RECORDED IN PLAT BOOK 4 AT PAGE 46 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID POINT BEING ON THE EAST LINE OF SAID SECTION 24; THENCE RUN NORTHWESTERLY AT AN ANGLE OF 63°16'50" NORTH TO NORTHWEST WITH SAID SECTION LINE FOR 27.99 FEET TO THE NORTHEASTERLY CORNER OF LANDS DESCRIBED IN DEED BOOK 262 AT PAGE 191 OF THE PUBLIC RECORDS OF LEE COUNTY AND TO THE POINT OF BEGINNING; THENCE RUN N64°00'09"W ALONG THE NORTHWESTERLY LINE OF SAID LANDS DESCRIBED IN SAID DEED BOOK 262 AT PAGE 191 ALONG WITH THE SOUTHWESTERLY LINE OF FIRST STREET DESCRIBED IN DEED BOOK 191 AT PAGE 274 OF SAID PUBLIC RECORDS FOR 9.97 FEET TO AN INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE FOR MATANZAS PASS BRIDGE RECORDED IN OFFICIAL RECORD BOOK 1167, PAGE 1576, LEE COUNTY, PUBLIC RECORDS; THENCE RUN SOUTHERLY ALONG SAID EASTERLY RIGHT-OF-WAY ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2904.79 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 01°58'53", A CHORD AND CHORD BEARING OF S20°32'55"W, 100.45 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 100.46 FEET TO THE NORTH LINE OF LOT 6, BLOCK 1, BUSINESS CENTER AS RECORDED IN PLAT BOOK 9 AT PAGES 9 AND 10, PUBLIC RECORDS; THENCE RUN S64°00'09"E FOR 50.76 FEET TO AN INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF CRESCENT STREET; THENCE RUN N00°43'09"W ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 111.95 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.07 ACRES (3,007 SQUARE FEET), MORE OR LESS.

BEARINGS ARE BASED ON THE EASTERLY RIGHT-OF-WAY LINE OF CRESCENT STREET AS BEARING N00°43'09"W RELATIVE TO THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAPS (SECTION 12530-2614).

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).

DESCRIPTION OF A PARCEL OF LAND  
LYING IN  
SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST  
TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA  
(PARCEL C)

A PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, TOWN OF FORT MYERS BEACH, SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, BEING ALL OF LOTS 14 AND 15 AND PART OF LOT 13, BLOCK 2, BUSINESS CENTER ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 9, PAGES 9 AND 10, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 13; THENCE RUN S00°43'09"E ALONG THE EAST LINE OF SAID LOT 13 FOR 82.62 FEET (82.59 RECORD) TO THE SOUTHEAST CORNER OF SAID LOT 13; THENCE RUN N64°00'09"W ALONG THE SOUTH LINE OF SAID LOT 13 FOR 6.15 FEET TO THE SOUTHWEST CORNER OF A RIGHT-OF-WAY TAKING PARCEL AS DESCRIBED IN OFFICIAL RECORD BOOK 2311 AT PAGE 2801 AND TO THE POINT OF BEGINNING; THENCE CONTINUE N64°00'09"W ALONG THE SOUTH LINE OF SAID LOTS 13, 14 AND 15 FOR 135.14 FEET TO THE SOUTHWEST CORNER OF SAID LOT 15; THENCE RUN N25°59'51"E ALONG THE WEST LINE OF SAID LOT 15 AND THE EASTERLY LINE OF STATE ROAD 865 FOR 73.80 FEET TO AN INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF SECOND STREET (50 FEET WIDE), BEING THE NORTHWEST CORNER OF SAID LOT 15; THENCE RUN S64°00'09"E ALONG THE SOUTH RIGHT-OF-WAY OF SAID SECOND STREET AND THE NORTH LINE OF SAID LOTS 15, 14 AND 13 FOR 89.99 FEET; THENCE RUN S34°44'19"E FOR 9.27 FEET TO THE WEST LINE OF SAID RIGHT-OF-WAY TAKING; THENCE RUN S02°09'05"E ALONG SAID WEST RIGHT-OF-WAY TAKING FOR 78.56 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 0.20 ACRES (8,530 SQUARE FEET), MORE OR LESS.

BEARINGS ARE BASED ON THE EASTERLY RIGHT-OF-WAY LINE OF CRESCENT STREET AS BEARING S00°43'09"E RELATIVE TO THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAPS (SECTION 12530-2614).

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).

Exhibit D

## SCHEDULE OF DEVIATIONS AND JUSTIFICATIONS

**NOTE:** Following the below deviations, redrafted from the over 20 deviations that previously governed this planned development master concept plan to result in a more manageable set of deviations, are conditions also established as part of the prior approval for this planned development. Of those prior conditions, some conditions were procedural and have been satisfied. If the Town agrees, the others should carry forward. These conditions follow the redrafted deviations below.

### Schedule of Deviations:

1. Deviation (recast from previously approved deviations) from the requirements of LDC Section 34-953—that the building placement, size, design, and all other property development regulations in the CPD zoning district must be the same as for the CR or CB zoning district—to allow the dimensions indicated on the MCP.

**JUSTIFICATION:** Previously, numerous deviations were specified to the dimensional requirements of the CR zoning district. The requirements of the CR zoning district bare little relationship to and are not really appropriate to the development vision for the “Pedestrian Commercial” FLUM category. However, absent approved deviations, they are required by the sections of the LDC that otherwise address planned developments. Because the previously approved dimensional deviations related directly to the dimensions identified and labeled on that MCP, and the only change from that MCP is the inclusion of a new parcel for parking and elimination of the Parcel abutting Old San Carlos Boulevard, it makes sense to revise these into one comprehensive deviation tied to the MCP, thereby furthering this aspect of the project, which has already been found to meet the deviation criteria of the LDC.

2. Deviation from the LDC Section 34-632(3)c. limitation on combining three (3) or more lots into a development project to allow PARCEL “A,” PARCEL “B,” and PARCEL “C” to include one-half (1/2) of the width of the adjoining street and canals in lot area for the purposes of computing residential densities to allow a total of 44 guest units on PARCEL “A.” See Condition 6, *infra*.

**JUSTIFICATION:** This deviation was approved by the previous resolution approving this planned development. It is appropriate to carry it forward to account for the way that the density of guest units has been attributed to the CPD

3. Deviation from LDC Section 34-632(4) from the limitation on acreage used primarily for commercial purposes being included in the computation of residential density to allow a total of 44 guest units on PARCEL “A.” See Condition 6, *infra*.

**JUSTIFICATION:** This deviation operates to certify that due to the use of density transfers of residential dwelling units and conversions of residential densities to hotel/motel guest units that the provisions of LDC Section 34-632(4) do not operate to the detriment of the Town and the CPD in considering the Matanzas Inn & Resort anything other than a mixed-use project and mixed use building(s).

4. Deviation from LDC Section 34-1803(a)(1) to allow guest units to average 1000 square feet in compliance with Condition 2, *infra*.

**JUSTIFICATION:** This deviation operates to allow large area guest units than might otherwise be allowed by LDC Section 34-1803. Section 34-1803(a)(2) allows the Town to grant deviations from the various equivalency factors if the deviation would be in accordance with the Comprehensive Plan. Resolution 03-35, which resolution approved the existing CPD, allowed for a deviation from the equivalency factor limitations in LDC section 34-1803(a)(1) to allow guest units with over 450 square feet of floor area to utilize an equivalency factor of 3.0 in the PEDESTRIAN COMMERCIAL future land use category. This redrafted deviation seeks to clearly carry this deviation forward with greater specificity. In addition, the changed circumstances of the on-island hotel/motel guest unit inventory in the aftermath of Hurricane Charley and the acquisition of former commercial hotel/motel properties as public civic space has markedly reduced the number and variety of on-island guest units and their greater ability to capture trips to and from the island and further the pedestrian-oriented character the Town desires for its downtown district area.

5. Deviation from LDC Section 34-675(b)(2) from the limitation on Crescent Street to building heights no taller than two (2) stories and 30 feet above base flood elevation, to allow 25 percent of the ground floors of the hotel/motel buildings to be enclosed non-living space for office and other accessory uses for the motel with a maximum building height of 30 feet above base flood elevation with a maximum of two (2) floors total living area over parking or enclosed non-living space.

**JUSTIFICATION:** The Local Planning Agency, in compliance with LDC Section 34-216(a)(4), included this deviation as a necessary deviation in its recommendation, *see* LPA Hearing, October 14, 2003, and Town Council approved this deviation. *See* Resolution 03-35.

6. Deviation (recast from previously approved deviations) from the provisions of LDC Chapter 34, Division 26, Parking: LDC Sections 34-2015 (location and design) and 34-2016 (dimensional requirements; delineation of parking spaces) to allow the parking plan delineated on the MCP.

**JUSTIFICATION:** The parking deviations for location, design, dimensional requirements, and delineation were previously approved by Town Council in Resolution 03-35. No changes are requested from those prior deviations that are carried forward with reference to the master concept plan. The Town has issued a development order in furtherance of this plan. *See* DOS2006-00247. Additional parking is being provided with the inclusion of Lot 15 and the transfer of density from that lot to Parcel "A."

7. Deviation (recast from previously approved deviation) from the provisions of LDC Chapter 10, Article III, Division 2, Transportation, Roadways, Streets, and Sidewalks: LDC Section 10-285(a) from the required connection separation for local roads of 125 feet to allow connection separations as indicated on the MCP.

**JUSTIFICATION:** The connection separation deviations were previously approved by Town Council in Resolution 03-35. No changes are requested from those prior deviations that were carried forward with reference to the master concept plan. The Town has issued a development order in furtherance of this plan. *See* DOS2006-00247.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Deviation (recast from previously approved deviations) from the provisions of LDC Chapter 10, Article III, Division 6, Open Space, Buffering, and Landscaping: LDC Sections 10-415 (open space) and 10-416 (landscaping standards) to allow the open space and buffers delineated on the MCP. |
| <u>JUSTIFICATION:</u> The open space and buffer deviations were previously approved by Town Council in Resolution 03-35. No changes are requested from those prior deviations that were carried forward with reference to the master concept plan. The Town has issued a development order in furtherance of this plan. <i>See</i> DOS2006-00247.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                               |
| 9.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Deviation from LDC Chapter 30 to allow a sign package for Matanzas Inn & Resort comprised of the following commercial identification signs with locations indicated on the MCP:                                                                                                               |
| 1)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | "Matanzas Inn Resort Vacancy" Two- (2)-sided Monument sign, existing. Not to exceed 6' x 1.5' x 2-sides = 18 sq. ft. total.                                                                                                                                                                   |
| 2)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | "Matanzas Inn Resort" Monument sign near northern side of motel, existing. Not to exceed 2' x 8' = 16 sq. ft. total.                                                                                                                                                                          |
| 3)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | "Matanzas Inn Resort" Monument sign at restaurant parking lot entrance, existing. Not to exceed 1.5' x 6' = 9 sq. ft. total                                                                                                                                                                   |
| 4)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | "Upper Deck Entrance" Wall identification sign on western wall of restaurant, existing. Not to exceed 4' x 8' = 32 sq. ft. total.                                                                                                                                                             |
| 5)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | "Matanzas Inn Resort" Two- (2)-sided Projecting sign on roof of restaurant, existing. Not to exceed 4' x 16' x 2-sides = 128 sq. ft. total.                                                                                                                                                   |
| Total commercial identification sign area not to exceed 210 square feet total. Other permitted signs not requiring a permit as provided in LDC Chapter 30 or otherwise permissible, allowed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                               |
| <u>JUSTIFICATION:</u> With respect to most other commercial properties in the downtown district area, this is a large, irregular, and uniquely located property that is distinguishable from most other commercial uses. It parallels both sides of Crescent Street and portion of First Street together for several hundred feet. It currently contains a mix of uses appropriate to an island resort, and is proposed to contain a potentially more complex hotel/motel resort redevelopment. It also fronts on the Matanzas Pass and on the canal that parallels Crescent street. Regardless of its size, it is in many ways remote from the main traffic routes and without its relatively long-existing package of signage, would be at a disadvantage is strict coherence to the maximum requirements of LDC Chapter 30 were enforced. In some ways it was believed that the absence of raising compliance with Chapter 30 during the prior public hearing made the package of signs that existed on the property at that time non-conforming. This deviation is requested to remove all doubt and bring the properties into compliance with the Town's street graphic requirements. This sign package helps to enhance the subject property's ability to compete on a level playing field given the size, irregular configuration and unique placement of the property and its resort uses; public health, safety, and welfare will be preserved and promoted by an effective package of street graphics that promote more effective way-finding to the resort; |                                                                                                                                                                                                                                                                                               |

this maintained package of street graphics will operate to the benefit of new and returning visitors and not to the detriment of the public interest; and is consistent with the Comprehensive Plan, which for the greatest part is silent on street graphics and other signage.

10. Deviation (recast from previously approved deviations) from the provisions of LDC Chapter 10, Article III, Division 6, Open Space, Buffering, and Landscaping: LDC Section 10-416 (landscaping standards), subsection (d)(2) and Table 10-8, Buffer Requirements to allow a reduction from the Type D buffer requirements between ROW (rights-of-way) and PRKG (parking and vehicle use areas) to allow the buffer widths delineated on the MCP.

JUSTIFICATION: The buffer deviations were previously approved by Town Council in Resolution 03-35. No changes are requested from those prior deviations that were carried forward with reference to the master concept plan. The Town has issued a development order in furtherance of this plan. See DOS2006-00247. The proposed MCP provides buffers between the parking and vehicle use (PRKG) areas and the rights-of-way for Crescent Street and Second Street significantly greater than those previously approved and should enhance the overall appearance of the neighborhood from both existing conditions and those approved by DOS2006-00247. The existing development order will be amended to reflect these improvements over those previously approved by the Town.

**Conditions**(see NOTE, *supra*):

1. The development of this project must be consistent with the one (1) page Master Concept Plan (MCP) entitled "Matanzas Inn Redevelopment" stamped received \_\_\_\_\_, except as modified by conditions below. This development must comply with all requirements of the Town of Fort Myers Beach Land Development Code (LDC) at time of local development order amendment, except:

a. any additional restrictions provided in conditions of this approval; and

b. any restrictions modified or eliminated by approved deviations.

If changes to the MCP are subsequently sought, appropriate approvals will be required.

2. The following restrictions and limitations apply to the project uses:

**Schedule of Uses:**

**PARCEL "A"**

All principal and accessory uses permitted in the DOWNTOWN zoning district, plus the additional existing uses:

- Bar or cocktail lounge – limited to two (2); one (1) on the ground floor and one (1) on the second floor of the restaurant
- On-premises consumption of alcoholic beverages
- Outdoor seating areas in conjunction with on-premises consumption of alcoholic beverages
- Boat slips available for public rental/leasing, 18 maximum

## DCI2013-0002 - Schedule of Uses

### PARCEL A

- All principal and accessory uses permitted in the DOWNTOWN zoning district

Plus the additional existing uses:

- Bar or cocktail lounge – limited to two (2); one (1) on the ground floor and one (1) on the second floor of the restaurant with outdoor entertainment limited to the restaurant premises
- On-premises consumption of alcoholic beverages for the entire Matanzas Inn Resort property
- Outdoor seating areas in conjunction with on-premises consumption of alcoholic beverages

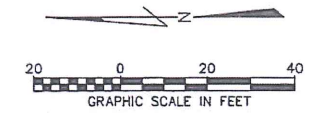
*The above uses are limited to 75,300 square feet of floor area within the subject parcel. Of this total floor area, guest units are limited to 44 units; guest unit size is not to exceed a maximum area of 1,600 square feet, not to exceed an average of 1,000 square feet, and not to exceed a total floor area for guest units of 44,000 square feet.*

- Boat slips available for public rental/leasing, 18 maximum
- Commercial party fishing boats
- Parking lot, shared permanent

### PARCEL B and C

- Essential services
- Parking lots, shared, permanent with valet service

Town of Fort Myers Beach  
FEB 20 2014  
Received Community Devel.

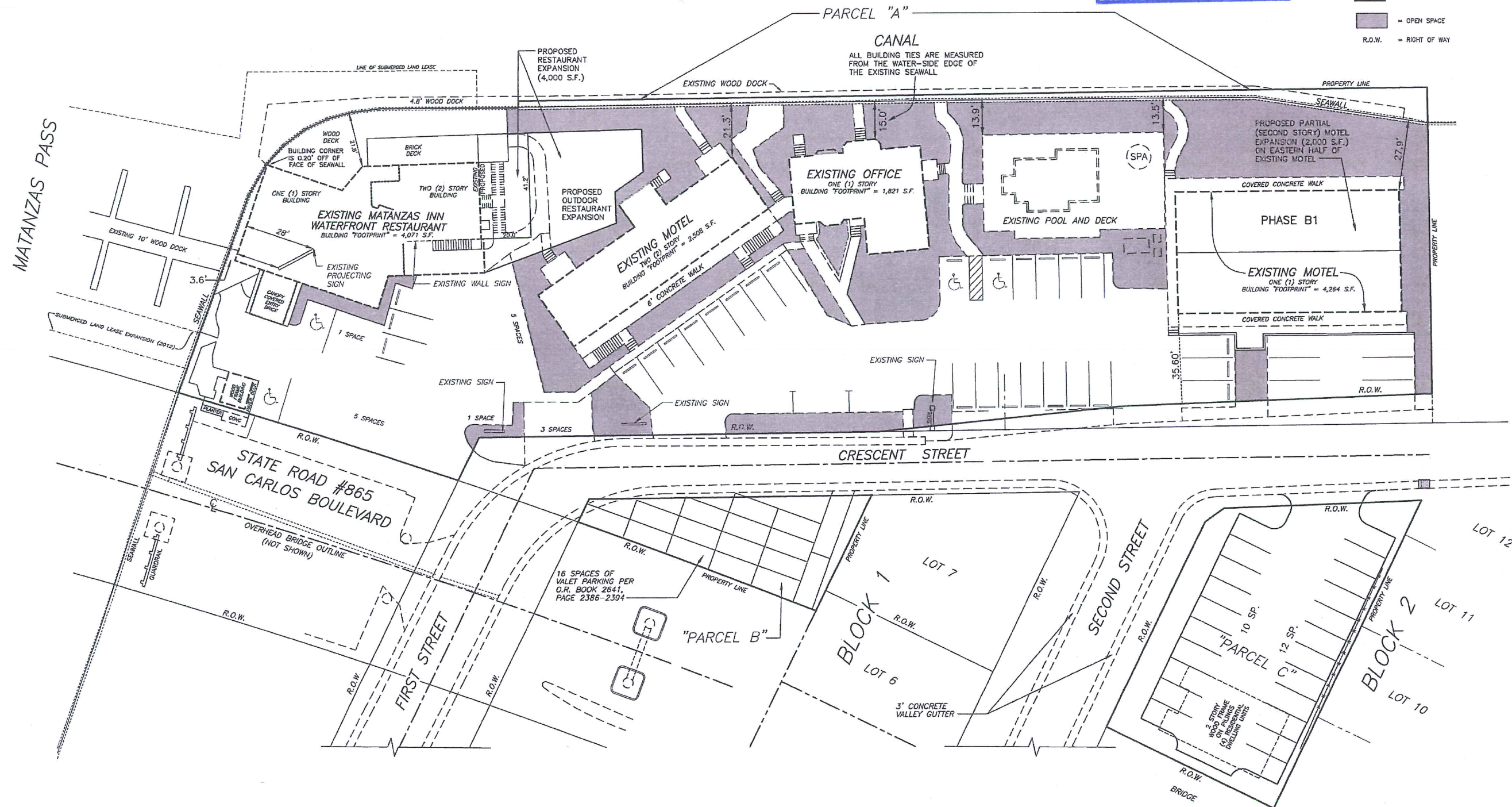


SPECIAL NOTE:  
THIS STYLE OF TEXT REPRESENTS EXISTING FEATURES  
THIS STYLE OF TEXT REPRESENTS PROPOSED FEATURES

LEGEND:

 = OPEN SPACE

R.O.W. = RIGHT OF WAY

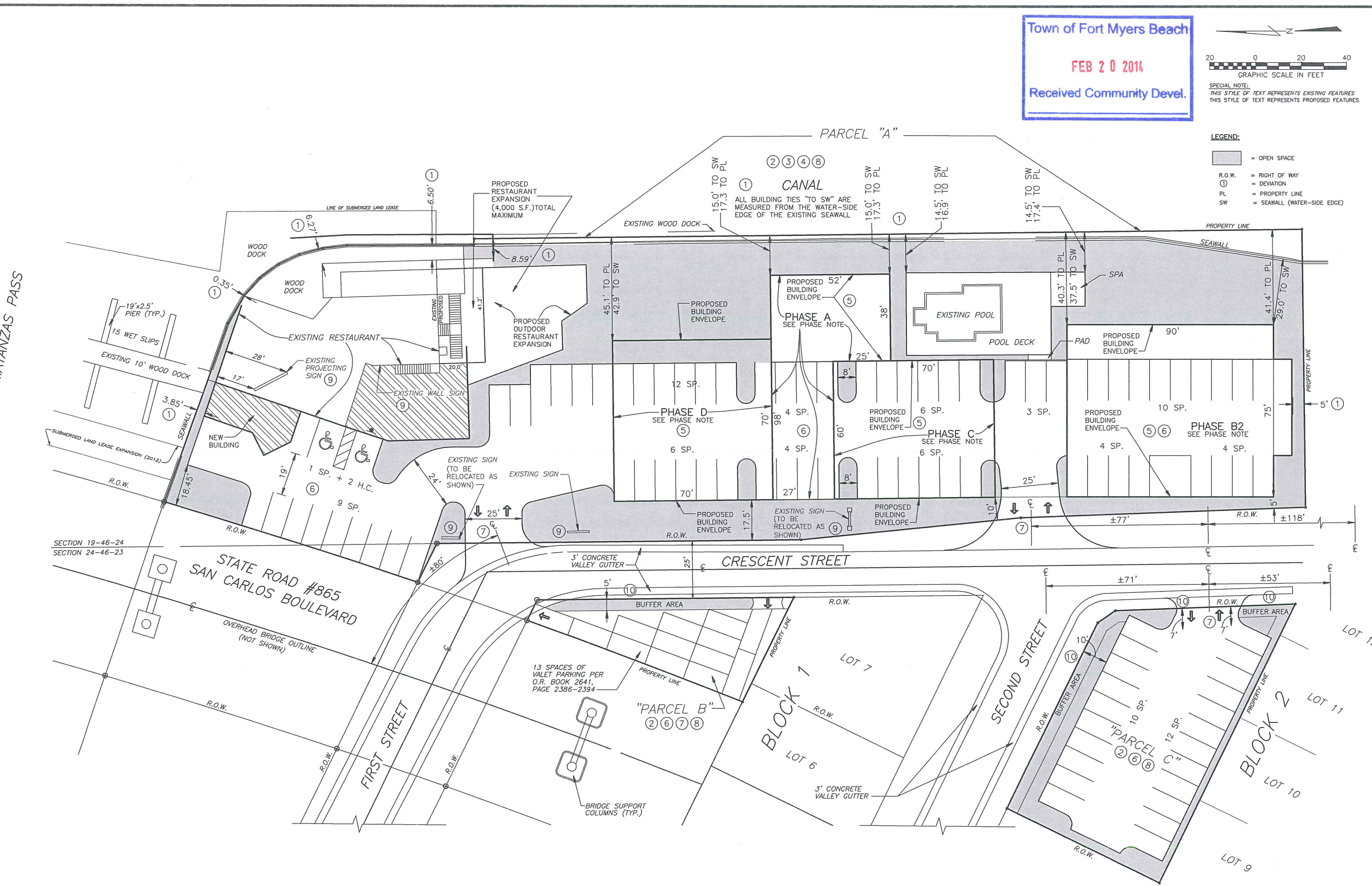


**MURPHY PLANNING**  
8420 CHARTER CLUB CIRCLE, UNIT 1  
FORT MYERS, FL 33919-6881  
PHONE: (239) 322-8510  
FAX: (239) 590-9755

|                               |                     |          |
|-------------------------------|---------------------|----------|
| DRAWING DATE: 1-17-2013       | REVISION            | DATE     |
| DRAWN BY: K. O'NAN (33374UCP) | REVISIONS PER OWNER | 07/26/13 |
| COUNTY: LEE                   |                     |          |
| SECTION: 19, 46 S., 24 E.     |                     |          |

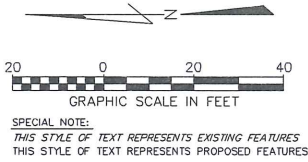
**MASTER CONCEPT PLAN**  
MATANZAS INN  
EXISTING SITE REDEVELOPMENT

MATANZAS PASS



PHASE NOTE:  
"BUILDING HEIGHT MUST NOT EXCEED 30 FEET  
ABOVE BFE AND TWO (2) HABITABLE FLOORS.

Town of Fort Myers Beach  
FEB 20 2014  
Received Community Devel.



- LEGEND:
- [Symbol] = OPEN SPACE
  - R.O.W. = RIGHT OF WAY
  - ① = DEVIATION
  - PL = PROPERTY LINE
  - SW = SEAWALL (WATER-SIDE EDGE)

MURPHY PLANNING  
8420 CHARTER CLUB CIRCLE UNIT 1  
FORT MYERS, FL 33919-6881  
PHONE: (239) 322-8510  
FAX: (239) 595-9755

| DATE     | REVISION                |
|----------|-------------------------|
| 03/12/13 | REVISIONS TO DEVIATIONS |
| 07/01/13 | REVISIONS PER OWNER     |
| 07/26/13 | REVISIONS PER OWNER     |

DRAWING DATE: 1-17-2013  
DRAWN BY: K. O'NAN (33374MCP)  
COUNTY: LEE  
SECTION: 19, 46 S., 24 E.

MASTER CONCEPT PLAN  
MATANZAS INN  
TOTAL REDEVELOPMENT