

RESOLUTION NUMBER 20-07

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/DENYING A SPECIAL EXCEPTION TO ALLOW A TEMPORARY STRUCTURE (STAGE) IN ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT OF THE FORT MYERS BEACH FOR THE PROPERTY LOCATED AT 1400 ESTERO BOULEVARD; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, applicant Lani Kai Island Resort, Inc. (Applicant) the owner of the property located at 1400 Estero Boulevard (Property) is requesting a Special Exception for a temporary structure in the Environmentally Critical (EC) zoning district; and

WHEREAS, the STRAP number for the Property is 19-46-24-W4-0070D.0020 and the legal description of the Property is attached as *Exhibit A*; and

WHEREAS, the Property is located in the 'Downtown and Environmentally Critical' zoning district of the Official Zoning Map and the 'Pedestrian Commercial and Recreation' category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on February 24, 2020, at which 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 34-88 of the Land Development Code (LDC); and

WHEREAS, on March 2, 2020 the Town Council held a legally noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by Section 34-87 of the LDC.

NOW THEREFORE, BE IT RESOLVED 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 Special Exception **does** meet the requirements of the Town Comprehensive Plan and LDC, and approving the Special Exception **is** in the best interest of the Town to approve. Therefore, based upon the recommendations, testimony, and evidence presented by the applicant, Town staff, and interested parties, the Town Council **APPROVES** the Special Exception.

Section 3. In approving the Special Exception or Variances, the following findings and conclusions are made:

1. In accordance with the requirements of Section 34-88 of the LDC regarding the criteria for the granting of a Special Exception, the Town Council makes the following findings and reaches the following conclusions:
 - A. Whether there exist changed or changing conditions, which make approval of the request appropriate. *Previous approvals of the temporary stage in EC zoning district **has** changed the site.*
 - B. The testimony of the Applicant. *The Applicant was heard at the March 2, 2020 public hearing.*
 - C. The recommendation of staff and of the Local Planning Agency (LPA). *The LPA and staff recommend approval with conditions.*
 - D. The testimony of the public. *The public had the opportunity to testify at the March 2, 2020 public hearing.*
 - E. Whether the request is consistent with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan. *The request is consistent with the Comprehensive Plan.*
 - F. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use. *The request **does** meet or exceed all performance and locational standards.*
 - G. Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources. *The request will impact environmentally critical areas.*
 - H. 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 proposal will be compatible with adjacent existing and proposed uses.*
 - I. Whether a requested use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter. *The requested use will be in compliance with zoning provisions and supplemental regulations.*

Section 4. In approving the Special Exception herein, the following conditions of approval are imposed on the Applicant and the Property:

- 1 Approval of this Special Exception does not exempt the subject property from any provisions of the Town's LDC.
2. The Special Exception authorizes a temporary stage (as shown on Exhibit A) in EC zoning district for a Firemen fund raiser event at Lani Kai Resort once a year with appropriate permit process.
3. The Applicant will comply with state and federal permitting requirements.
4. Railing shall be put on to both side of stage stairs.
5. The stage shall be assembled/ constructed within 5 days prior to the first day of the event date and dismantle within 3 days after the last day of the event date.
6. A special event permit will be required for Firemen fund raise event.
8. Violations of conditions of approval shall result in a \$500 per day/incident civil appealable to the Code Enforcement Special Magistrate.

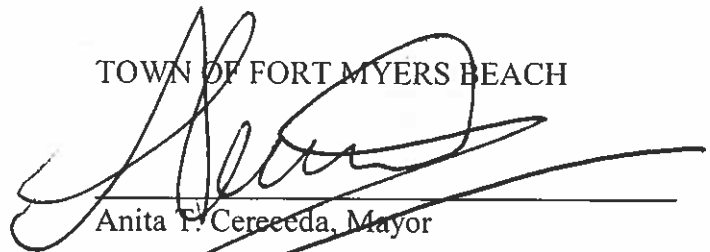
Section 5. This Resolution shall take effect immediately upon adoption.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Shamp and seconded by Council Member Hosafros, and upon being put to a vote, the result was as follows:

Anita Cereceda, Mayor	<u>Aye</u>
Ray Murphy, Vice Mayor	<u>Aye</u>
Joanne Shamp, Councilmember	<u>Aye</u>
Rexann Hosafros Councilmember	<u>Aye</u>
Bruce Butcher, Councilmember	<u>Aye</u>

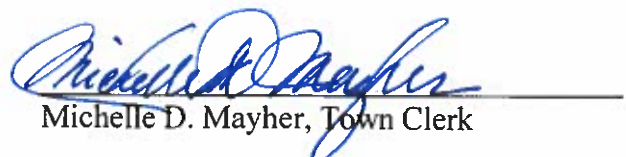
ADOPTED this 2nd day of March, 2020 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH



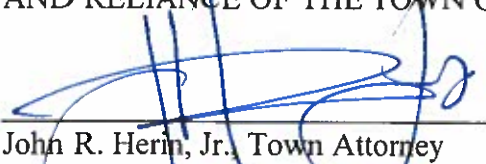
Anita F. Cereceda, Mayor

ATTEST:



Michelle D. Mayher, Town Clerk

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



John R. Herin, Jr. Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 13th day of March 2020.

LOCAL REGULATIONS
 Aerial photographs were obtained and a site visit was made of the proposed site. The site is located on the east side of Estero Boulevard, south of Avenue F. The site is bounded by Estero Boulevard to the north, Avenue F to the south, and the Gulf of Mexico to the east. The site is approximately 100 feet wide and 150 feet deep. The site is currently vacant and is suitable for the proposed development.

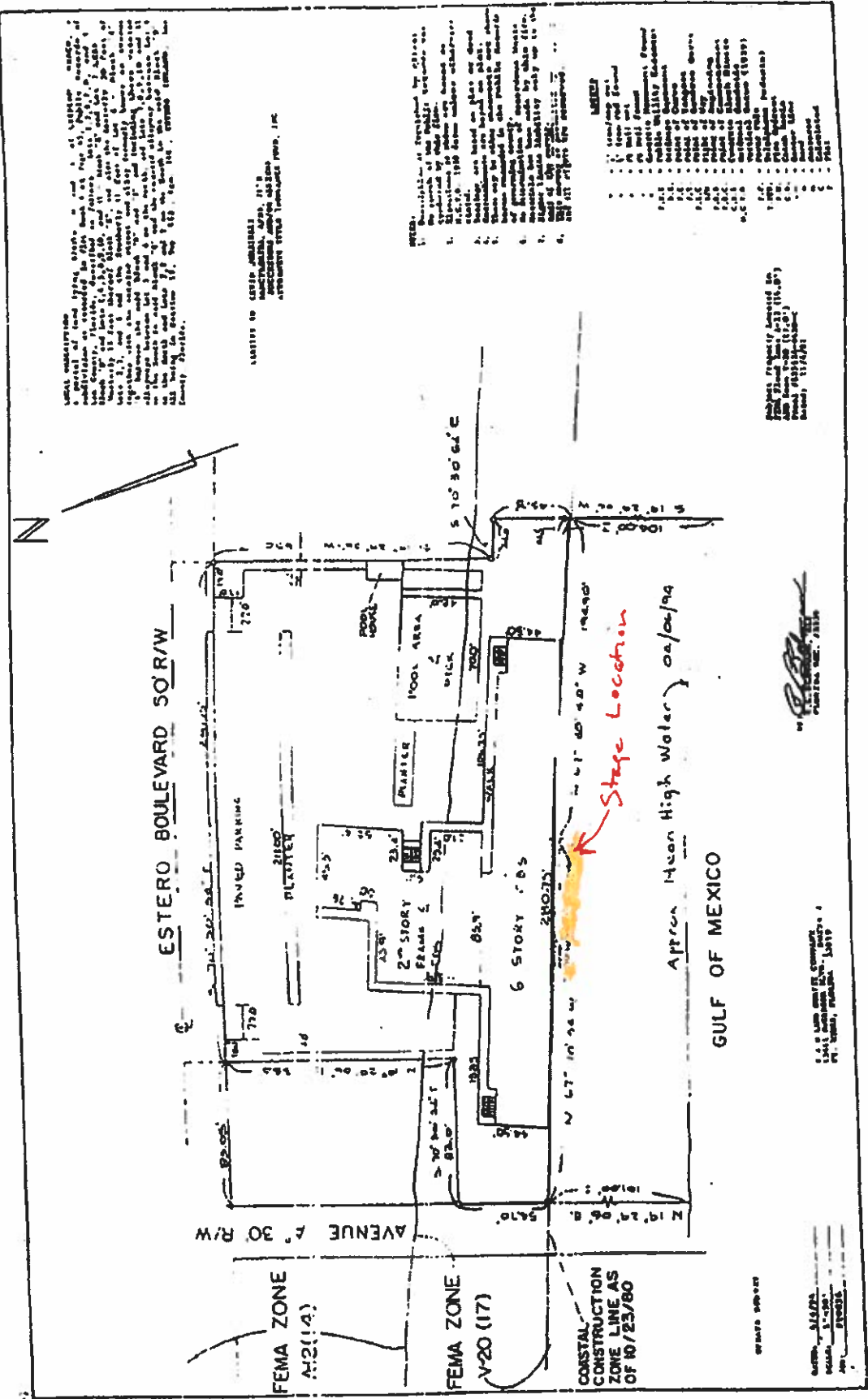
DESIGNER: G. L. ...
 ARCHITECT: ...
 ENGINEER: ...

- NOTES:
1. Details of structure to be constructed by other than the contractor shall be shown on separate sheets.
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LEGEND

1	Concrete
2	Steel
3	Timber
4	Brick
5	Block
6	Stone
7	Other
8	Foundation
9	Roof
10	Interior
11	Exterior
12	Site
13	Utility
14	Other
15	Other
16	Other
17	Other
18	Other
19	Other
20	Other
21	Other
22	Other
23	Other
24	Other
25	Other
26	Other
27	Other
28	Other
29	Other
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31	Other
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44	Other
45	Other
46	Other
47	Other
48	Other
49	Other
50	Other

PROJ. NO. ...
 DATE ...
 DRAWN BY ...
 CHECKED BY ...



SCALE: 1" = 10' ...
 DATE: ...
 DRAWN BY: ...

PROJECT NO. ...
 SHEET NO. ...