

1. Requested Motion:

Meeting Date: Dec. 17, 2012

For case SEZ2012-0002 La Ola special exception, approve the requested Special Exception in the DOWNTOWN zoning district to amend zoning approval for alcohol license type from 2COP to 4COP, hours of operation, and live music (amending conditions set forth in Resolution 04-14 and 11-21) on the subject property located at 1035 Estero Boulevard, with the approval subject to the 8 conditions as recommended by Staff.

Why the action is necessary:

Outdoor consumption-on-premises (COP) when located within 500' of a school, park, dwelling unit or another establishment with outdoor COP requires approval via the special exception process. Additionally, amendments to special exception approvals can only be approved via a request for a new special exception.

What the action accomplishes:

Allows the applicant to provide and serve beer, wine and liquor alcoholic beverages in the outdoor seating area for patrons of La Ola Restaurant, as well as extend their operating hours and hours approved for live music.

2. Agenda:

- Consent
- Administrative
- Public Hearing

3. Requirement/Purpose:

- Resolution
- Ordinance
- Other

4. Submitter of Information:

- Council
- Town Staff
- Town Attorney

5. Background:

Case: SEZ2012-0002 La Ola Special Exception

Applicant Thomas List, owner of the restaurant La Ola located on the subject property, currently holds an alcohol beverage license for consumption of beer and wine only, a 2COP. He is requesting zoning approval to change the beverage license type to a 4COP which permits consumption of beer, wine and liquor. Additionally, he is requesting to extend the hours of operation currently approved for 8am to 12 midnight, daily to 7am to 2am, daily; and extend the hours for live music on the subject property currently approved for 3pm to 9pm, daily, to 1pm to 11pm, daily.

Staff recommends approval of the request with 8 conditions.

The case will be heard as a public hearing at 9am at the December 11, 2012 Local Planning Agency meeting. The signed resolution and meeting minutes from that hearing will be forwarded when they become available.

Attachments:

- Draft Town Council Resolution
- Staff Report
- Application

Still to come:

- Signed LPA Resolution 2012-018
- Draft LPA minutes from the December 11, 2012 meeting

6. Alternative Action:

1. Deny the requested special exception
2. Approve the special exception subject to alternative conditions

7. Management Recommendations:

Approve the requested special exception subject to 8 conditions of approval as recommended by Staff.

8. Recommended Approval:

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Parks & Recreation Director	Town Clerk
						

9. Council Action:

Approved Denied Deferred Other

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 12- 29
SEZ2012-0002 La Ola Restaurant

WHEREAS, applicant Thomas List has requested a Special Exception in the DOWNTOWN zoning district to amend zoning approval for alcohol license type from 2COP to 4COP, hours of operation, and live music (amending conditions set forth in Resolution 04-14 and 11-21); and

WHEREAS, the subject property is located at 1035 Estero Boulevard, Fort Myers Beach, FL 33931; and

WHEREAS, the applicant has indicated that the STRAP for the subject property is 19-46-24-W4-0060B.0120 and the legal description of the subject property is BUSINESS CENTER BLK 8 PB 9 PG 9 LT 7 + LOT 6 LESS WLY 6 FT LESS ROW OR3539 PG3351; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on December 11, 2012; and

WHEREAS, at the 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 Fort Myers Beach Land Development Code (LDC) Section 34-88.

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on December 17, 2012, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2012-018, the recommendations of Staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-88.

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

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2012-018, and the standards for granting special exceptions, the Town Council recommends the following findings of fact and reaches the following conclusions:

The Town Council **APPROVES/DENIES** the applicant's request for a Special Exception in the DOWNTOWN zoning district to amend zoning approval for alcohol license type from 2COP to 4COP, hours of operation, and live music with any approval nullifying conditions set forth in Resolutions 04-14 and 11-21 and subject to the following new conditions:

CONDITIONS OF APPROVAL:

1. *The applicant must obtain a yearly lease agreement with the Town of Fort Myers Beach to allow the placement of tables and chairs within the Times Square area.*
2. *Legible signs will be clearly posted for the areas not approved for on-premise consumption stating "Alcoholic Beverages are Prohibited Beyond this Point."*
3. *Lighting on the outdoor seating areas will be shuttered and shielded from the surrounding properties.*
4. *The hours for operation will be from 7am to 2am, 7 days a week.*
5. *The applicant and property owners must comply with the provisions of Land Development Code Sections 14-71 through 14-79 relating to the protection of Sea Turtles.*
6. *The outdoor seating area cannot exceed current building, fire and life safety codes for number of tables and chairs and will be re-evaluated on an annual basis for compliance.*
7. *No bars, tables, chairs, speakers or any other item may extend into the utility easement without written consent from the public utility(ies) entitled to utilize that easement.*
8. *Live music is permitted only between the hours of 1:00 pm and 11:00pm, 7 days a week and must comply at all times with applicable Town noise ordinances.*

FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-88 regarding consideration of eligibility for a special exception, Town Council makes the following findings and reaches the following conclusions:

1. Changed or changing conditions **do/do not exist** that make the requested approval, as conditioned, appropriate:
2. The requested special exception, as conditioned, **is/is not** consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan:
3. The requested special exception, as conditioned, **meets or exceeds/does not meet or exceed** all performance and locational standards set forth for the proposed use.
4. The requested special exception, as conditioned, **will/will not** protect, conserve, or preserve environmentally critical areas and natural resources:
5. The requested special exception, as conditioned, **will/will not** be compatible with existing or planned uses and **will/will not** cause damage, hazard, nuisance or other detriment to persons or property:
6. The requested special exception, as conditioned, **will/will not** be in compliance with the applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34:

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

Bob Raymond, Mayor	AYE/NAY	Alan Mandel, Vice Mayor	AYE/NAY
Jo List	AYE/NAY	Joe Kosinski	AYE/NAY
Dan Andre	AYE/NAY		

DULY PASSED AND ADOPTED THIS **17th** day of DECEMBER, 2012.

By: _____
Bob Raymond, Mayor

Approved as to legal sufficiency:

By: _____
Fowler White Boggs, P.A.
Town Attorney

ATTEST:

By: _____
Michelle Mayher
Town Clerk



Town of Fort Myers Beach

DEPARTMENT OF COMMUNITY DEVELOPMENT STAFF REPORT

TYPE OF CASE: Special Exception
CASE NUMBER: SEZ2012-0002
LPA HEARING DATE: December 11, 2012
LPA HEARING TIME: 9:00 AM

I. APPLICATION SUMMARY

Applicant: Thomas List

Request: Special Exception in the DOWNTOWN zoning district to amend zoning approval for alcohol license type from 2COP to 4COP, hours of operation, and live music (amending conditions set forth in Resolution 04-14 and 11-21)

Subject property: BUSINESS CENTER
BLK.8 PB 9 PG 9 LT 7 +
LOT 6 LESS WLY 6 FT LESS ROW OR3539 PG3351

Physical Address: 1035 Estero Boulevard Fort Myers Beach, FL

STRAP #: 24-46-23-W3-00208.0060

FLU: Pedestrian Commercial

Zoning: DOWNTOWN

Current use(s): Restaurant with a 2COP license

Adjacent zoning and land uses:

North: Retail (Local Color)
DOWNTOWN
Pedestrian Commercial

South:	Vacant Commercial (Old Seafarer's) DOWNTOWN Pedestrian Commercial
East:	Retail (Teeki Hut) DOWNTOWN Pedestrian Commercial
West:	Bar/Cocktail Lounge (Top O'Mast) DOWNTOWN Pedestrian Commercial

II. BACKGROUND AND ANALYSIS

Background:

The subject property is located in a subdivided portion of the building at 1035 Estero Boulevard (shared with West Coast Surf Shop) just inside the pedestrian Times Square area.

The applicant is requesting an amendment to the existing special exception (*see Exhibits A & B*) which granted approval for outdoor consumption on premises for a 2COP license. The amendment will allow for outdoor consumption on premises for a 4COP license.

The applicant is also requesting an amendment to the existing special exception to modify the hours of operation. Condition #6 of Resolution 04-14 (*see Exhibit A*) limits the hours of operation to from 8:00am to 12:00 midnight, 7 days a week. The proposed change is to allow hours of operation from 7:00am to 2:00am, 7 days a week.

Finally, the applicant is requesting an amendment to Condition #4 of Resolution 11-21 (*see Exhibit B*). That condition permits live music between the hours of 3:00pm and 9:00pm daily. The proposed amendment will allow live music between the hours of 1:00pm and 11:00pm daily.

Analysis:

The subject property is located in the Downtown zoning district in Times Square and within close proximity to Old San Carlos Boulevard, where many other establishments, generally restaurants with bars, serve alcohol on the premises and include outdoor seating areas. This area is one of the most intensive commercial areas of the Town, and, with the exception of a few residential units, it is located generally away from the predominantly residential areas of the island. The regulations for the Downtown zoning district, as contained in LDC Section 34-678, encourage restaurants to provide outdoor seating areas located on porches or patios, largely between enclosed buildings and the street. The Town has an

established procedure for businesses within Times Square to further this goal by allowing them to lease Town right-of-way to increase the outdoor seating area at each business location.

The pedestrian nature of Times Square, sidewalks on both sides of Estero Boulevard, availability of commercial parking lots, the Lee County fishing pier, Lynn Hall Park, and Crescent Beach Family Park help to attract beach-going pedestrians to the area. The applicant's restaurant, La Ola, is among a large number of restaurants and retail uses in Times Square, several of whom have outdoor seating.

The immediate vicinity is within the Pedestrian Commercial future land use category and the Comprehensive Plan's vision of this area specifically contemplates that the Times Square area (i.e. Downtown Core Area) will include a more intensive mix of commercial activities including outdoor uses.

In the past, Lee County and the Town issued location-specific approvals for alcoholic beverage uses which contained limitations on the number of seats, alcohol license type, hours of operation and prohibitions on live entertainment and/or music - perhaps in an effort to limit potentially adverse effects on the neighboring properties and to aid with enforcement issues involving unauthorized expansions.

However, in the case of this applicant, the limitations on the approvals granted have required him to re-apply through the special exception process to make any kind of change to hours of operation, beverage license type and to time when live music is permitted; a process he has had to utilize twice in the last two years.

The applicant's existing approval (*See Exhibit A & B*) grants outdoor consumption on premises but limits it to a 2COP license. The Division of Alcoholic Beverages and Tobacco has many different license types for consumption on premises depending on the licensed premises and its proposed use (*see Exhibit C*). For bars and restaurants the most common license types are: 1COP, 2COP, 4COP SRX and 4COP. A 1COP license allows consumption on premises of beer only. A 2COP license allows consumption on premises of beer and wine only. The subject property and existing business currently is approved for a 2COP license. A 4COP SRX license allows for beer, wine and liquor in connection with the operation of a restaurant and there is a seating requirement as well as limitations on alcoholic sales if food sales are not available. A straight 4COP allows for beer, wine and liquor consumption on premises with no food or seating restrictions, and as a result, 4COP licenses are quite valuable because they do not have the restrictions that a 4COP SRX does. Essentially a 4COP license is for a bar/cocktail lounge.

The applicant is requesting approval to change his license type from a 2COP (beer and wine only) to a straight 4COP allowing for the sale and consumption on premises of beer, wine and liquor. Staff is not recommending any food sale restrictions; however, should Town Council deem it necessary, a condition of approval may be added that requires a certain percentage of food sales.

Because the subject property is located within the pedestrian core of the Downtown zoning district and Times Square, which is the area where the Comprehensive Plan encourages a vibrant mix of uses for tourist and resident user alike, and because surrounding businesses and uses either already have or are requesting a similar license type upgrade, Staff is in support of the applicant's request for approval for a 4COP alcoholic licenses.

The applicant is requesting that the hours of operation be extended to from 7:00am to 2:00 am daily instead of the existing hours of from 8:00am to 12:00 midnight. This request is consistent with surrounding businesses and, more importantly, the hours of operation as adopted in Ordinance 96-06 and state law.

The applicant applied for and received approval for live music on the subject property approximately one year ago. The applicant is now requesting an amendment to the hours when live music is permitted from the current 3:00pm to 9:00pm, 7 days a week, to from 1:00pm to 11:00pm 7 days a week.

Staff is in support of the request for an extension of the hours when live music is permitted since the subject property and business are located in Times Square, in the most densely commercial area of the Town. Such activities provide a varied and unique pedestrian experience for residents and tourists alike is supported both by the Land Development Code and the Comprehensive Plan.

Findings and Considerations:

1. *Whether there exist changed or changing conditions [that] make approval of the request appropriate.*

The Comprehensive Plan notes in the Consensus on Commercial Uses: "The present concentration of commercial uses in the Times Square area is good for Fort Myers Beach. Despite severe congestion during peak season, Times Square has always provided an urban beach environment that does not exist anywhere else in Lee County, and which cannot be easily duplicated because of today's floodplain regulations."

As contemplated in the Comprehensive Plan, the Times Square area has continued to emerge as a vibrant urban core for the Town, and as such the area can support an intensive variety of uses that is consistent with the applicant's request.

While there are no changing conditions at the subject property, the request remains consistent with the intended use of the area.

2. *Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.*

The subject property is located in the Downtown Core. The Comprehensive Plan describes a vision for this area that “boasts a revitalized entertainment area with tree-shaded outdoor cafes, pedestrian streets, and an ‘Old Estero Island’ character to the buildings.” The applicant’s request for additional hours of operation certainly could further this goal.

Additionally, in both the Community Design Element and the Future Land Use Element, the Comprehensive Plan describes a vision for the Downtown Core/Times Square area as a “nucleus of commercial and tourist activities” with pedestrian-oriented commercial uses that enhance the experience of both the resident and visitor. Again, the applicant’s request is in keeping with this vision, by providing an additional venue for the enjoyment of the unique outdoor environment of Fort Myers Beach.

3. *Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.*

This application is a request to amend conditions set forth in a previous special exception application for a use (outdoor consumption on premises) that did not meet locational standards as set forth in the LDC. The questions involving the locational standards were addressed in that previous case and resulting resolutions (*See Exhibit A & B*).

The applicant’s current request is appropriate because the only way to amend a special exception is to apply for an additional special exception. The requested amendments for the subject property in Times Square and the Downtown Core Area is in keeping with the goals, objectives, policies and intent of the Comprehensive Plan which describes a vibrant tourist commercial district in the Downtown Core.

4. *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*

The proposed change in alcoholic beverage license type, hours of operation and live music has no negative effect on the environmentally critical areas and natural resources of Fort Myers Beach, provided the Sea Turtle lighting standards are complied with.

5. *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 subject property and the area immediately surrounding it, is within the Pedestrian Commercial future land use category and the Comprehensive Plan’s vision of this area does not require that it be transformed away from the established intensively commercial area. It possesses a vibrant mix of uses and, as such, Staff feels the applicant’s

request is generally compatible and appropriate within this neighborhood.

6. *Whether the requested use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the uses set forth in LDC Chapter 34.*

Staff recommends finding that the requested use, as conditioned, is in compliance with applicable zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34 for Times Square and the Downtown district.

III. RECOMMENDATION

Taking into consideration the current and existing conditions of the subject property, Staff recommends **APPROVAL** of the requested amendments to the existing special exception in the DOWNTOWN zoning district to amend zoning approval for alcohol license type from 2COP to 4COP, extend hours of operation, and modify the hours of live music.

In an effort to simplify the approvals and restrictions on the subject property Staff recommends that Resolution 04-14 and Resolution 11-21 be rendered null and void by this action, and all conditions from the previous approvals be included and renumbered in this approval. If the Town Council chooses to approve the requested special exception, Staff recommends that approval be subject to the following conditions:

1. The applicant must obtain a yearly lease agreement with the Town of Fort Myers Beach to allow the placement of tables and chairs within the Times Square area.
2. Legible signs will be clearly posted for the areas not approved for on-premise consumption stating "Alcoholic Beverages are Prohibited Beyond this Point."
3. Lighting on the outdoor seating areas will be shuttered and shielded from the surrounding properties.
4. The hours for operation will be from 7am to 2am, 7 days a week.
5. The applicant and property owners must comply with the provisions of Land Development Code Sections 14-71 through 14-79 relating to the protection of Sea Turtles.
6. The outdoor seating area cannot exceed current building, fire and life safety codes for number of tables and chairs and will be re-evaluated on an annual basis for compliance.
7. No bars, tables, chairs, speakers or any other item may extend into the utility easement without written consent from the public utility(ies) entitled to utilize that easement.
8. Live music is permitted only between the hours of 1:00 pm and 11:00pm, 7 days a week and must comply at all times with applicable Town noise ordinances.

IV. CONCLUSION

Regulations for the DOWNTOWN zoning district encourage outdoor dining, and many restaurants within the district have capitalized on the vision of the Comprehensive Plan in accordance with these regulations and are providing outdoor seating areas.

The area surrounding the subject property is one of the most intensive commercial areas of the Town, and aside from a minimal number of residential units, it is located generally away from the intensely residential areas of the island. The subject property is located in the Downtown zoning district with close proximity to Times Square and Old San Carlos Boulevard, where many other establishments, generally restaurants with bars, serve alcohol on the premises and include outdoor seating areas. Thus, the request to expand the license type for outdoor consumption on premises is appropriate at this location. When considering the context and compatibility of the subject property's use and, tempered with the conditions listed previously, Staff finds that expanding the license type for outdoor consumption on premises from a 2COP to a 4COP, and extending both the hours of operation and for live music are compatible and appropriate uses.

If Town Council finds that the requested use is contrary to the public interest or the health, safety, comfort, convenience, and/or welfare of the citizens of the Town, or that the request is in conflict with the criteria of LDC Section 34-88, Town Council should deny the request as provided in LDC Section 34-88(4). If Town Council chooses to approve the request, special conditions necessary to protect the health, safety, comfort, convenience, or welfare of the public may be attached if Council finds that such conditions are reasonably related to the requested special exception. Staff has recommended conditions for the Town Council's convenience.

Staff recommends **APPROVAL** of the requested special exception, as conditioned.

Exhibits:

Exhibit A – Town Council Resolution 04-14

Exhibit B – Town Council Resolution 11-21

Exhibit C – Division of Alcoholic Beverages and Tobacco license types and descriptions

EXHIBIT A

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 04-14

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA
APPROVING THE REQUEST FOR CONSUMPTION ON PREMISES

WHEREAS, Prismatic Corp., Times Square Coffee Shop has requested a Special Exception for consumption on premises (2-COP) of alcoholic beverages with outdoor seating in conjunction with a cafe; and,

WHEREAS, the subject property is located at 1035 Estero Blvd., and the applicant has indicated the property's current STRAP number is: 24-46-23-W3-00208.0060 and the legal description is attached as Exhibit "A"; and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons and recommended that the Town Council approve the Applicant's request subject to the 8 conditions listed on Page 2 of the Staff Report dated March 11, 2004 and which is attached hereto and incorporated herein by reference with the following change:

Condition #4. *Esthetically pleasing* legible signs will be clearly posted for the areas not approved for on premise consumption stating "Alcoholic beverages are prohibited beyond this point."

FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval of the requested modification:

1. The applicant did comply with Section 34-1264 (2) b. which places the burden of proof upon the applicant to demonstrate that approval will not have any adverse affect on surrounding properties.
2. That there is no error or ambiguity in the Land Development Code or Town Plan which must be corrected by the Special Permit.
3. That the character and nature of the surrounding area make approval of the Special Permit, as conditioned, appropriate.
4. That the Special Permit, as conditioned, is consistent with the goals, objectives, policies and intent of the Town Plan, and the densities, intensities and general uses set forth in the Town Plan and Land Development Code.
4. That the Special Permit, as conditioned, meets all performance and locational standards set forth for the proposed use.
5. That urban services will be available and adequate to serve the proposed use when it is constructed.

II. BACKGROUND INFORMATION AND RECOMMENDATION:

A. Recommendation: Staff recommends APPROVAL of the request with the following conditions:

1. The Special Exception is limited to on premises consumption of alcoholic beverages in conjunction with outdoor seating and is limited to a 2-COP beverage license to be used in conjunction with the café.
2. Prior to the issuance of a Certificate of Occupancy for the use, the applicant must obtain a yearly permit agreement with the Town of Fort Myers Beach to allow the placement of tables and chairs within the Times Square area.
3. Indoor seating is not approved as part of this Special Exception. The consumption on premises for outdoor seating is limited to the area shown on attached Exhibit "B" and the area leased from the Town of Fort Myers Beach located within the Times Square area and is limited to a maximum of 10 tables with a maximum seating capacity of 42 seats.
4. Legible signs will be clearly posted for the areas not approved for on premise consumption stating "Alcoholic beverages are prohibited beyond this point.
5. Lighting on the outdoor seating areas will be shuttered and shielded from the surrounding properties.
6. The hours for the outdoor seating area will only be used between 8:00 a.m. to 12:00 Midnight, 7-days a week, Sunday through Saturday.
7. Entertainment is limited to recorded background music between the hours of 8:00 a.m. to 12:00 Midnight, 7-days a week, Sunday through Saturday.
8. Prior to the issuance of a Certificate of Occupancy for the use, the applicant and property owner must comply with the provisions of the Land Development Code, Sections 14-71 through 14-79 relating to the protection of Sea Turtles.

Findings & Conclusions

Based upon an analysis of the application and the standards for approval of a special exception, staff makes the following findings and conclusions:

1. The requested special exception, as conditioned:

6. That there are no environmentally critical areas or natural resources to be adversely affected by the Special Permit, as conditioned.

NOW, THEREFORE, BE IT RESOLVED BY THE FORT MYERS BEACH TOWN COUNCIL, that the Council APPROVES the requested modification with the following conditions:

the 8 conditions listed on Page 2 of the Staff Report dated March 11, 2004 and which is attached hereto and incorporated herein by reference with the following change:

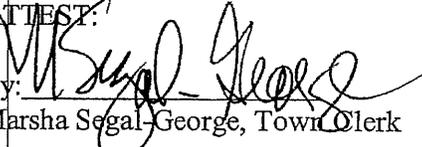
Condition #4. *Esthetically pleasing* legible signs will be clearly posted for the areas not approved for on premise consumption stating "Alcoholic beverages are prohibited beyond this point."

The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

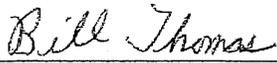
Howard Rynearson	<u>AYE</u>
Don Massucco	<u>NAY</u>
Bill Thomas	<u>AYE</u>
W. H. "Bill" Van Duzer	<u>AYE</u>
Garr Reynolds	<u>NAY</u>

Adopted this 19th day of April, 2004.

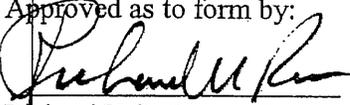
ATTEST:

By: 
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By: 
Bill Thomas, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney

- a) is consistent with the goals, objectives, policies and intent of the Town of Fort Myers Beach Comprehensive Plan;
- b) meets or exceeds all performance and locational standards set forth for the proposed use;
- c) will be compatible with existing or planned uses;
- d) will not cause damage, hazard, nuisance or other detriment to persons or property; and
- e) will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in the Land Development Code.

B. Rationale:

Introduction/Synopsis

The proposed café is located in the same building as the West Coast Surf Shop. The applicant plans to open a small café with outdoor seating in the southwesterly retail space of the building as depicted on the attached Exhibit "B". The applicant wishes to "create an outdoor café in the tradition of the sidewalk bistros of Paris." The menu is tailored towards espresso, cappuccino, smoothie, or wine along fresh baked goods, cheeses, and deserts. The applicant is requesting a 2-COP license which will allow them to serve beer and wine only. The café is located in the Downtown zoning district and is in the Pedestrian Commercial land use category.

Land Development Code (LDC), Section 34-1264(a)(2)a.2. states any establishment which provides outdoor seating areas for its patrons consuming alcoholic beverages, except that a restaurant may have outdoor seating approved administratively provided the outdoor seating area is not within 500 feet of a place of worship, religious facility, school (noncommercial), day care center (child), park, or dwelling unit under separate ownership. Lynn Hall Park, is within 500 feet which trigger this requirement and therefore the request must go through the public hearing process.

Requested Special Exception

The proposed consumption on premises is for a 2-COP liquor license for beer and wine only. The applicant received an interior remodeling permit (COM2004-00364) for the café on March 3, 2004, see Exhibit "C". The café will contain 300 square feet of floor area within the existing West Coast Surf Shop building. The applicant proposes to place 10 tables with a seating capacity of 42 seats outside the café in the Times Square area. Indoor seating will not be provided as stated on Exhibit "D". The hours of operation for the outdoor café will be 8:00 a.m. to 12:00 midnight, 7-days

a week. Music and entertainment will be provided and geared towards setting a mood conducive to conversation as stated in Exhibit "E".

Parking

Additional on site parking spaces are not required for property located within the Downtown zoning district. Section 34-676 of the LDC states the Downtown district is planned as a "park-once" district, with preference given to pedestrian movement within the district. On-street parking will be provided by the town along Old San Carlos Boulevard and other public parking is available under the Sky Bridge. The parking space requirement for properties in the Times Area and Bayfront pedestrian plazas are calculated by multiplying 0% for existing building space and 50% for new building space. No parking spaces may be provided in the Times Square area but the required space must be located within 750 feet in single-purposed, shared, or joint-use parking lots as defined in Division 26 of the LDC.

Beverly Primeau, the property owner of the building where the proposed café is to be located, has eight on-site parking spaces. In September 2001, Ms. Primeau entered into an agreement with the Town of Fort Myers Beach regarding parking for the business. Three of the parking spaces are located in the southeast portion of the property, next to concrete bollards, behind the trolley stop. The other five parking spaces are located in the northeast portion, just off Estero Boulevard. In the agreement Ms. Primeau agreed that the parking area located in the northeast portion of the property shall be restricted to two employee parking spaces and three customer parking spaces.

Surrounding Zoning and Neighborhood Compatibility

The subject property and all of the surrounding properties are in the Downtown zoning district. This zoning district promotes pedestrian-oriented commercial activities. The subject property and all of the surrounding properties are also in the Pedestrian Commercial land use category. Commercial activities in this land use category must contribute to the pedestrian-oriented public realm. The surrounding properties are developed mostly with retail uses and restaurants with outdoor seating. The proposed café with outdoor seating and the requested special exception are compatible with the surrounding properties.

Town of Fort Myers Beach Comprehensive Land Use Plan

The subject property and surrounding properties are located in the **Pedestrian Commercial** land use category according to the adopted Town of Fort Myers Beach Future Land Use Map. **Policy 4-B-6** describes the Pedestrian Commercial district as a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard). Commercial activities must contribute to the pedestrian-oriented public realm as described in the

comprehensive plan and must meet the design concepts of the plan. Staff finds the proposed café **CONSISTENT** with Policy 4-B-6.

Conclusion

The requested Special Exception for a consumption on premises (2-COP) with outdoor seating is consistent with the Town of Fort Myers Beach Comprehensive Plan and will be compatible with existing and planned uses. The goal of the café is to create a sidewalk bistro to encourage pedestrian customers to enjoy their services. The request will not cause damage, hazard, nuisance or other detriment to persons or property and will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in the Land Development Code. Given the location of the café, staff finds that the request satisfies the requisite finding for special exceptions and recommends **APPROVAL** of the request with conditions.

III. SUBJECT PROPERTY

- A. **STRAP:** The applicant indicates the STRAP number is: 24-46-23-W3-00208.0060
- B. **LEGAL DESCRIPTION:** See Exhibit "A"

IV. ATTACHMENTS

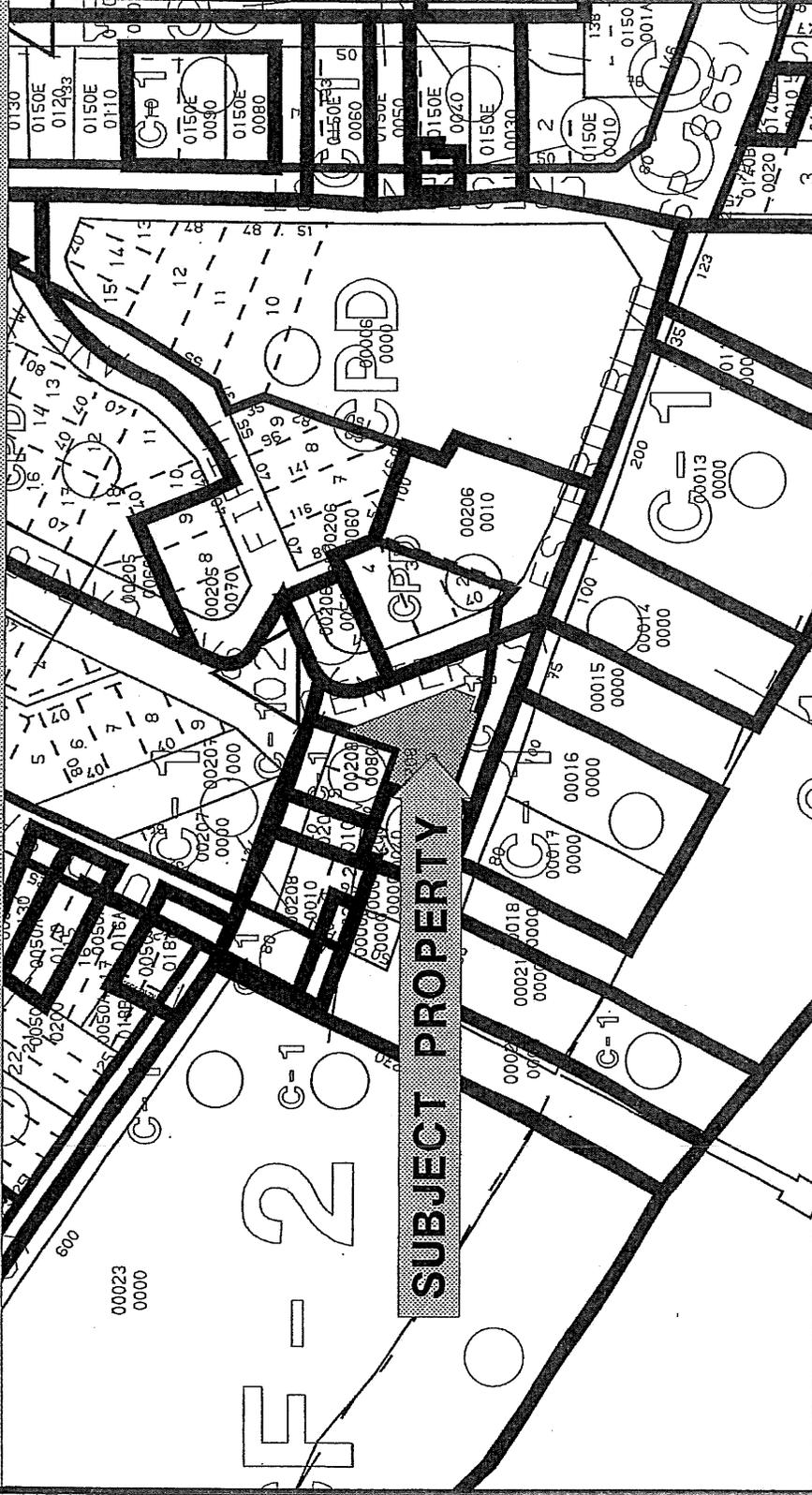
- A. Map of surrounding zoning

V. EXHIBITS

- A. Legal Description
- B. Site plan showing location of café and surrounding uses
- C. Interior remodel permit COM2004-00364 floor plan
- D. Site plan of café with outdoor seating
- E. Applicant's narrative stating their menu, hours operation and seating capacity

cc: Applicant
Town of Fort Myers Beach LPA
Zoning File

ZONING MAP



SUBJECT PROPERTY

A

COP2003-00091

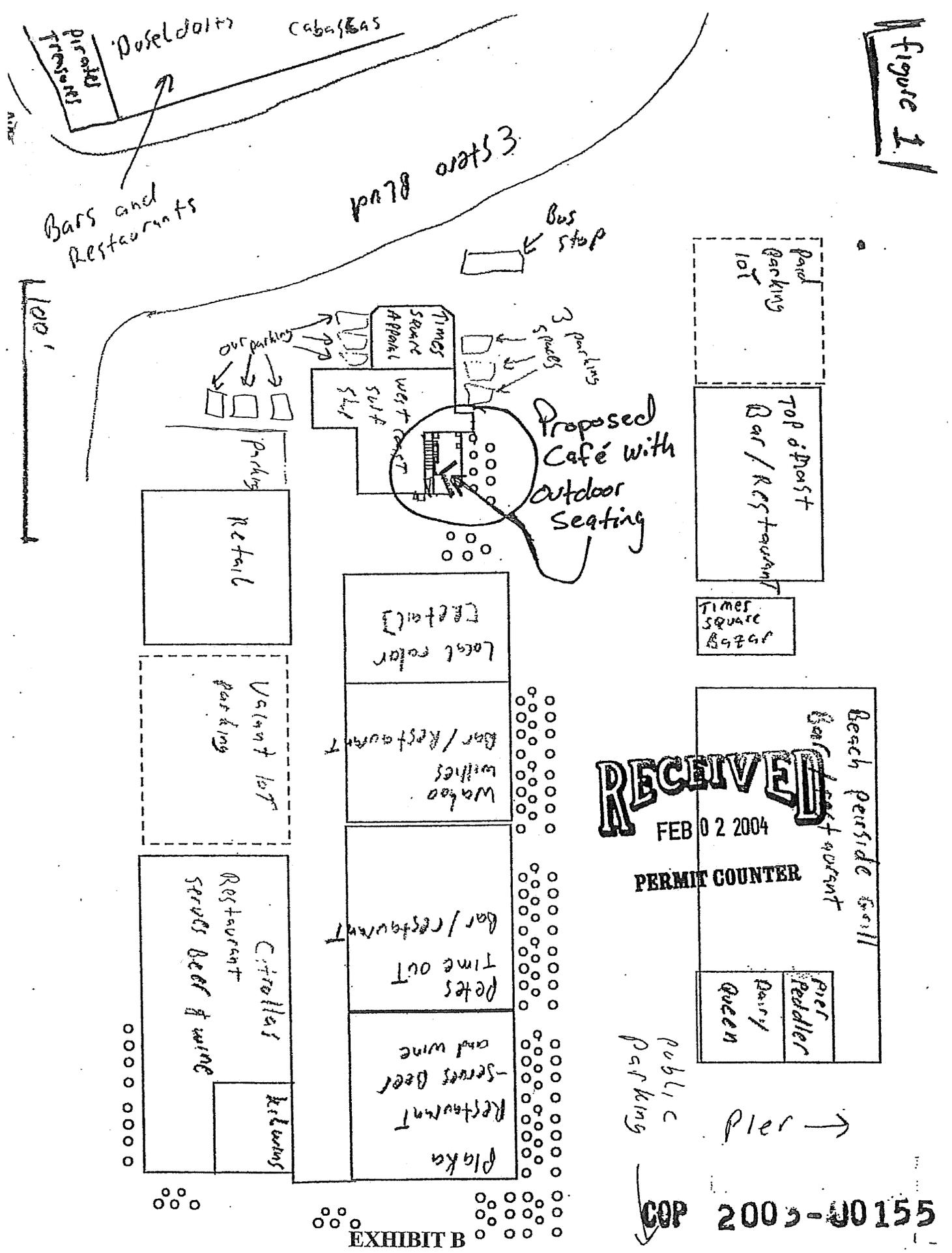
PROPERTY DESCRIPTION
EXHIBIT "A"

IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE
COUNTY, FLORIDA:

A TRACT OR PARCEL OF LAND IN THE BUSINESS
CENTER SUBDIVISION, PLAT BOOK 9, PAGE 9, BLOCK
8, LOTS 6 & 7, ESTERO ISLAND, FT. MYERS BEACH,
PUBLIC RECORDS, LEE COUNTY, FLORIDA.

Applicant's Legal Checked
by AMM 07JULY03

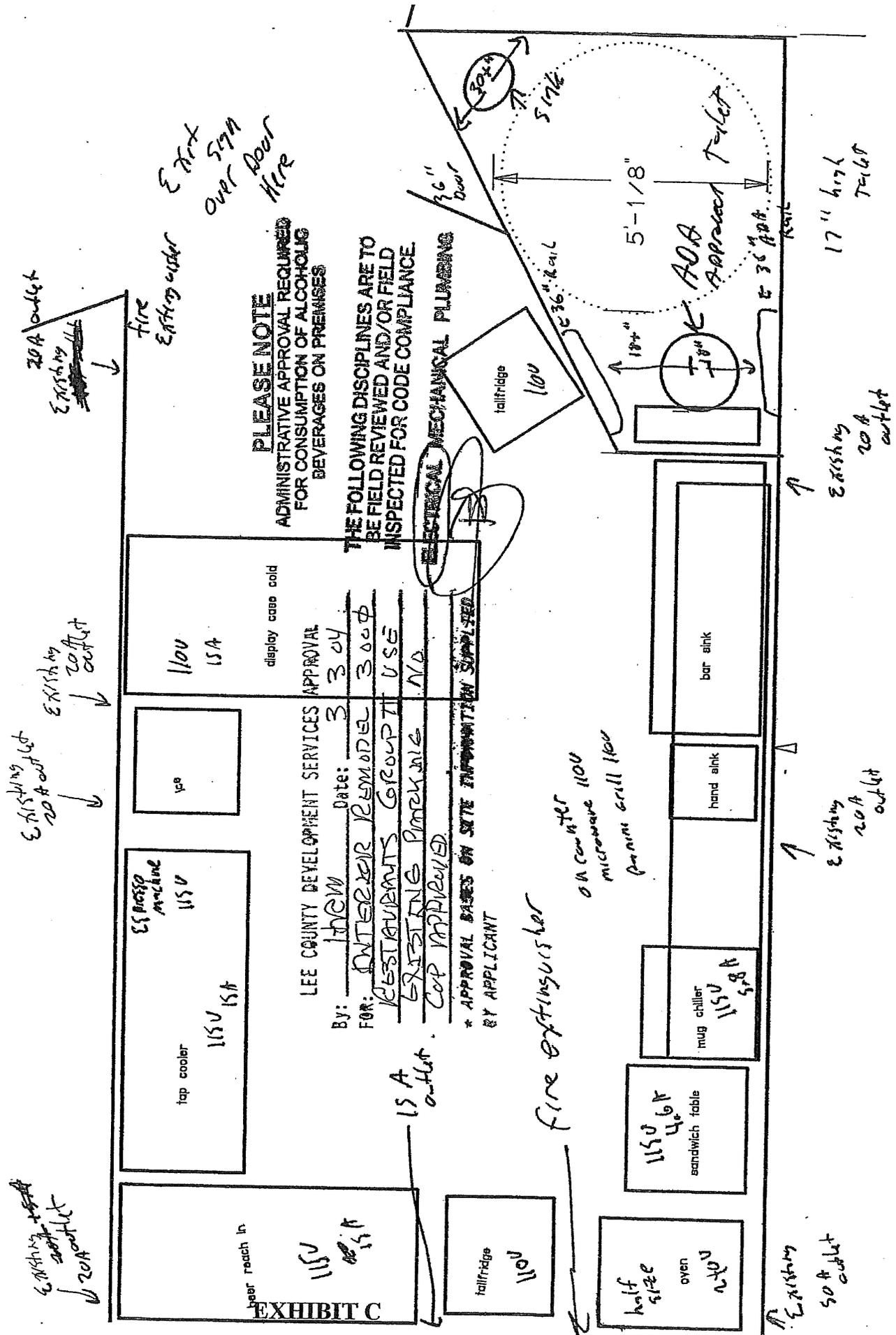
Figure 1



RECEIVED
FEB 02 2004

PERMIT COUNTER

COP 2005-00155



PLEASE NOTE
 ADMINISTRATIVE APPROVAL REQUIRED
 FOR CONSUMPTION OF ALCOHOLIC
 BEVERAGES ON PREMISES

THE FOLLOWING DISCIPLINES ARE TO
 BE FIELD REVIEWED AND/OR FIELD
 INSPECTED FOR CODE COMPLIANCE.

ELECTRICAL MECHANICAL PLUMBING

LEE COUNTY DEVELOPMENT SERVICES
 APPROVAL
 BY: HOW Date: 3 04
 FOR: INTERIOR REMODEL 300P
RESTAURANTS GROUP USE
EXISTING PLUMBING N/A
COP APPROVED
 * APPROVAL BASES ON SITE INFORMATION SUPPLIED
 BY APPLICANT

EXISTING 20A outlet
 fire
 exiting under
 E Exit
 Over Sign
 Over Door
 Here

EXISTING 20A outlet
 20A outlet

EXISTING 20A outlet
 20A outlet

15A
 outlet

fire extinguisher

on counter 110V
 microwave
 panini grill 110V

EXISTING 50A outlet
 50A outlet
 17" high
 7-60
 20A outlet
 20A outlet
 20A outlet
 20A outlet

EXHIBIT C

Y seat
Tables

HW 3341
M2H



exit
exits →

No
Jude's
Seating

stairs
Exit TT

ice
make
overhead protection
se machine
mop sink

2 hour
wall

west coast surf shop

Times square apparel

EXHIBIT D

Our goal is to create an outdoor café in the tradition of the sidewalk bistros of Paris. Our menu is tailored towards couples sharing an espresso or bottle of wine while snacking on fresh baked goods, cheeses, and deserts. With that in mind our music and entertainment will be geared towards setting a mood conducive to conversation.

Hours of operation: 8:am-12:am
Seating capacity: 42

Item
3304

EXHIBIT B

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 11-21
FMBSEZ2011-0001 (La Ola Restaurant)

WHEREAS, applicant Thomas List has requested a Special Exception in the DOWNTOWN zoning district to increase outdoor seating and provide live music (amending conditions set forth in Resolution 04-14); and

WHEREAS, the subject property is located at 1035 Estero Boulevard, Fort Myers Beach, FL 33931; and

WHEREAS, the applicant has indicated that the STRAP for the subject property is 19-46-24-W4-0060B.0120 and the legal description of the subject property is BUSINESS CENTER BLK 8 PB 9 PG 9 LT 7 + LOT 6 LESS WLY 6 FT LESS ROW OR3539 PG3351; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on September 13, 2011; and

WHEREAS, at its meeting of September 13, 2011 the LPA instructed Town staff to bring this application forward to Town Council without the necessity of having approved LPA minutes; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on October 17, 2011, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2011-07, the recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-88.

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

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2011-011 and the standards for granting special exceptions, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES** the applicant's request for a Special Exception in the DOWNTOWN zoning district to increase outdoor seating and provide live music (amending conditions set forth in Resolution 04-14), with any approval subject to the following conditions:

CONDITIONS OF APPROVAL:

1. *The expanded seating area shall not exceed current building, fire and life safety codes and will be re-evaluated on an annual basis for compliance.*
2. *No bars, tables, chairs, speakers or any other item may extend into the utility easement without written consent from the public utility(ies) entitled to utilize that easement.*
3. *Conditions 1, 2, 4, 5, 6, and 8 from Resolution 04-14 (see **Exhibit C**) remain in effect.*
4. *Live music is permitted only between the hours of 3:00 pm and 9:00 pm, 7 days a week and must comply at all times with applicable Town noise ordinances.*
5. *Upon approval by Town Council applicant must amend its Business Extension in Times Square agreement to reflect the changed site plan.*

FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-88 regarding consideration of eligibility for a special exception, the Town Council makes the following findings and reaches the following conclusions:

1. Changed or changing conditions **do exist** that make the requested approval, as conditioned, appropriate:
2. The requested special exception, as conditioned, **is** consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan:
3. The requested special exception, as conditioned, **meets or exceeds** all performance and locational standards set forth for the proposed use.
4. The requested special exception, as conditioned, **will** protect, conserve, or preserve environmentally critical areas and natural resources:
5. The requested special exception, as conditioned, **will** be compatible with existing or planned uses and **will not** cause damage, hazard, nuisance or other detriment to persons or property:
6. The requested special exception, as conditioned, **will** be in compliance with the applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34:

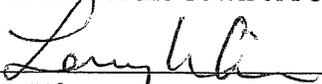
The foregoing Resolution was adopted by the Town Council upon a motion by Councilmember List and seconded by Councilmember Kosinski, and upon being put to a vote, the result was as follows:

Larry Kiker, Mayor AYE
Alan Mandel AYE
Joe Kosinski AYE

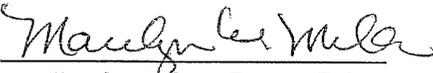
Bob Raymond, Vice Mayor AYE
Jo List AYE

DULY PASSED AND ADOPTED THIS 17th day of OCTOBER, 2011.

Town Council of the Town of Fort Myers Beach

By: 
Larry Kiker, Mayor

Approved as to legal sufficiency:

By: 
Fowler White Boggs, P.A.
Town Attorney

ATTEST:

By: 
Michelle Mayher
Town Clerk

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 04-14

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA
APPROVING THE REQUEST FOR CONSUMPTION ON PREMISES

WHEREAS, Prismatic Corp., Times Square Coffee Shop has requested a Special Exception for consumption on premises (2-COP) of alcoholic beverages with outdoor seating in conjunction with a cafe; and,

WHEREAS, the subject property is located at 1035 Estero Blvd., and the applicant has indicated the property's current STRAP number is: 24-46-23-W3-00208.0060 and the legal description is attached as Exhibit "A"; and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons and recommended that the Town Council approve the Applicant's request subject to the 8 conditions listed on Page 2 of the Staff Report dated March 11, 2004 and which is attached hereto and incorporated herein by reference with the following change:

Condition #4. *Esthetically pleasing* legible signs will be clearly posted for the areas not approved for on premise consumption stating "Alcoholic beverages are prohibited beyond this point."

FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval of the requested modification:

1. The applicant did comply with Section 34-1264 (2) b. which places the burden of proof upon the applicant to demonstrate that approval will not have any adverse affect on surrounding properties.
2. That there is no error or ambiguity in the Land Development Code or Town Plan which must be corrected by the Special Permit.
3. That the character and nature of the surrounding area make approval of the Special Permit, as conditioned, appropriate.
4. That the Special Permit, as conditioned, is consistent with the goals, objectives, policies and intent of the Town Plan, and the densities, intensities and general uses set forth in the Town Plan and Land Development Code.
4. That the Special Permit, as conditioned, meets all performance and locational standards set forth for the proposed use.
5. That urban services will be available and adequate to serve the proposed use when it is constructed.

II. BACKGROUND INFORMATION AND RECOMMENDATION:

A. Recommendation: Staff recommends APPROVAL of the request with the following conditions:

1. The Special Exception is limited to on premises consumption of alcoholic beverages in conjunction with outdoor seating and is limited to a 2-COP beverage license to be used in conjunction with the café.
2. Prior to the issuance of a Certificate of Occupancy for the use, the applicant must obtain a yearly permit agreement with the Town of Fort Myers Beach to allow the placement of tables and chairs within the Times Square area.
3. Indoor seating is not approved as part of this Special Exception. The consumption on premises for outdoor seating is limited to the area shown on attached Exhibit "B" and the area leased from the Town of Fort Myers Beach located within the Times Square area and is limited to a maximum of 10 tables with a maximum seating capacity of 42 seats.
4. Legible signs will be clearly posted for the areas not approved for on premise consumption stating "Alcoholic beverages are prohibited beyond this point.
5. Lighting on the outdoor seating areas will be shuttered and shielded from the surrounding properties.
6. The hours for the outdoor seating area will only be used between 8:00 a.m. to 12:00 Midnight, 7-days a week, Sunday through Saturday.
7. Entertainment is limited to recorded background music between the hours of 8:00 a.m. to 12:00 Midnight, 7-days a week, Sunday through Saturday.
8. Prior to the issuance of a Certificate of Occupancy for the use, the applicant and property owner must comply with the provisions of the Land Development Code, Sections 14-71 through 14-79 relating to the protection of Sea Turtles.

Findings & Conclusions

Based upon an analysis of the application and the standards for approval of a special exception, staff makes the following findings and conclusions:

1. The requested special exception, as conditioned:

COP2003-00091

**PROPERTY DESCRIPTION
EXHIBIT "A"**

**IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE
COUNTY, FLORIDA:**

**A TRACT OR PARCEL OF LAND IN THE BUSINESS
CENTER SUBDIVISION, PLAT BOOK 9, PAGE 9, BLOCK
8, LOTS 6 & 7, ESTERO ISLAND, FT. MYERS BEACH,
PUBLIC RECORDS, LEE COUNTY, FLORIDA.**

Applicant's Legal Checked
by *[Signature]* 07JULY03

6. That there are no environmentally critical areas or natural resources to be adversely affected by the Special Permit, as conditioned.

NOW, THEREFORE, BE IT RESOLVED BY THE FORT MYERS BEACH TOWN COUNCIL, that the Council APPROVES the requested modification with the following conditions:

the 8 conditions listed on Page 2 of the Staff Report dated March 11, 2004 and which is attached hereto and incorporated herein by reference with the following change:

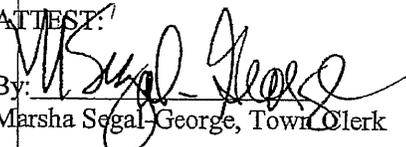
Condition #4. *Esthetically pleasing* legible signs will be clearly posted for the areas not approved for on premise consumption stating "Alcoholic beverages are prohibited beyond this point."

The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

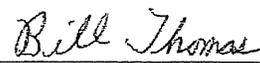
Howard Rynearson	<u>AYE</u>
Don Massucco	<u>NAY</u>
Bill Thomas	<u>AYE</u>
W. H. "Bill" Van Duzer	<u>AYE</u>
Garr Reynolds	<u>NAY</u>

Adopted this 19th day of April, 2004.

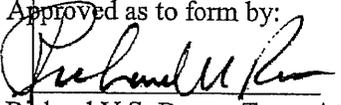
ATTEST:

By: 
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By: 
Bill Thomas, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney

- a) is consistent with the goals, objectives, policies and intent of the Town of Fort Myers Beach Comprehensive Plan;
- b) meets or exceeds all performance and locational standards set forth for the proposed use;
- c) will be compatible with existing or planned uses;
- d) will not cause damage, hazard, nuisance or other detriment to persons or property; and
- e) will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in the Land Development Code.

B. Rationale:

Introduction/Synopsis

The proposed café is located in the same building as the West Coast Surf Shop. The applicant plans to open a small café with outdoor seating in the southwesterly retail space of the building as depicted on the attached Exhibit "B". The applicant wishes to "create an outdoor café in the tradition of the sidewalk bistros of Paris." The menu is tailored towards espresso, cappuccino, smoothie, or wine along fresh baked goods, cheeses, and deserts. The applicant is requesting a 2-COP license which will allow them to serve beer and wine only. The café is located in the Downtown zoning district and is in the Pedestrian Commercial land use category.

Land Development Code (LDC), Section 34-1264(a)(2)a.2. states any establishment which provides outdoor seating areas for its patrons consuming alcoholic beverages, except that a restaurant may have outdoor seating approved administratively provided the outdoor seating area is not within 500 feet of a place of worship, religious facility, school (noncommercial), day care center (child), park, or dwelling unit under separate ownership. Lynn Hall Park, is within 500 feet which trigger this requirement and therefore the request must go through the public hearing process.

Requested Special Exception

The proposed consumption on premises is for a 2-COP liquor license for beer and wine only. The applicant received an interior remodeling permit (COM2004-00364) for the café on March 3, 2004, see Exhibit "C". The café will contain 300 square feet of floor area within the existing West Coast Surf Shop building. The applicant proposes to place 10 tables with a seating capacity of 42 seats outside the café in the Times Square area. Indoor seating will not be provided as stated on Exhibit "D". The hours of operation for the outdoor café will be 8:00 a.m. to 12:00 midnight, 7-days

a week. Music and entertainment will be provided and geared towards setting a mood conducive to conversation as stated in Exhibit "E".

Parking

Additional on site parking spaces are not required for property located within the Downtown zoning district. Section 34-676 of the LDC states the Downtown district is planned as a "park-once" district, with preference given to pedestrian movement within the district. On-street parking will be provided by the town along Old San Carlos Boulevard and other public parking is available under the Sky Bridge. The parking space requirement for properties in the Times Area and Bayfront pedestrian plazas are calculated by multiplying 0% for existing building space and 50% for new building space. No parking spaces may be provided in the Times Square area but the required space must be located within 750 feet in single-purposed, shared, or joint-use parking lots as defined in Division 26 of the LDC.

Beverly Primeau, the property owner of the building where the proposed café is to be located, has eight on-site parking spaces. In September 2001, Ms. Primeau entered into an agreement with the Town of Fort Myers Beach regarding parking for the business. Three of the parking spaces are located in the southeast portion of the property, next to concrete bollards, behind the trolley stop. The other five parking spaces are located in the northeast portion, just off Estero Boulevard. In the agreement Ms. Primeau agreed that the parking area located in the northeast portion of the property shall be restricted to two employee parking spaces and three customer parking spaces.

Surrounding Zoning and Neighborhood Compatibility

The subject property and all of the surrounding properties are in the Downtown zoning district. This zoning district promotes pedestrian-oriented commercial activities. The subject property and all of the surrounding properties are also in the Pedestrian Commercial land use category. Commercial activities in this land use category must contribute to the pedestrian-oriented public realm. The surrounding properties are developed mostly with retail uses and restaurants with outdoor seating. The proposed café with outdoor seating and the requested special exception are compatible with the surrounding properties.

Town of Fort Myers Beach Comprehensive Land Use Plan

The subject property and surrounding properties are located in the Pedestrian Commercial land use category according to the adopted Town of Fort Myers Beach Future Land Use Map. Policy 4-B-6 describes the Pedestrian Commercial district as a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard). Commercial activities must contribute to the pedestrian-oriented public realm as described in the

comprehensive plan and must meet the design concepts of the plan. Staff finds the proposed café **CONSISTENT** with Policy 4-B-6.

Conclusion

The requested Special Exception for a consumption on premises (2-COP) with outdoor seating is consistent with the Town of Fort Myers Beach Comprehensive Plan and will be compatible with existing and planned uses. The goal of the café is to create a sidewalk bistro to encourage pedestrian customers to enjoy their services. The request will not cause damage, hazard, nuisance or other detriment to persons or property and will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in the Land Development Code. Given the location of the café, staff finds that the request satisfies the requisite finding for special exceptions and recommends **APPROVAL** of the request with conditions.

III. SUBJECT PROPERTY

- A. **STRAP:** The applicant indicates the STRAP number is: 24-46-23-W3-00208.0060
- B. **LEGAL DESCRIPTION:** See Exhibit "A"

IV. ATTACHMENTS

- A. Map of surrounding zoning

V. EXHIBITS

- A. Legal Description
- B. Site plan showing location of café and surrounding uses
- C. Interior remodel permit COM2004-00364 floor plan
- D. Site plan of café with outdoor seating
- E. Applicant's narrative stating their menu, hours operation and seating capacity

cc: Applicant
Town of Fort Myers Beach LPA
Zoning File

COP2003-00091

PROPERTY DESCRIPTION
EXHIBIT "A"

IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE
COUNTY, FLORIDA:

A TRACT OR PARCEL OF LAND IN THE BUSINESS
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8, LOTS 6 & 7, ESTERO ISLAND, FT. MYERS BEACH,
PUBLIC RECORDS, LEE COUNTY, FLORIDA.

Applicant's Legal Checked
by AMM 07JULY03

Figure 1

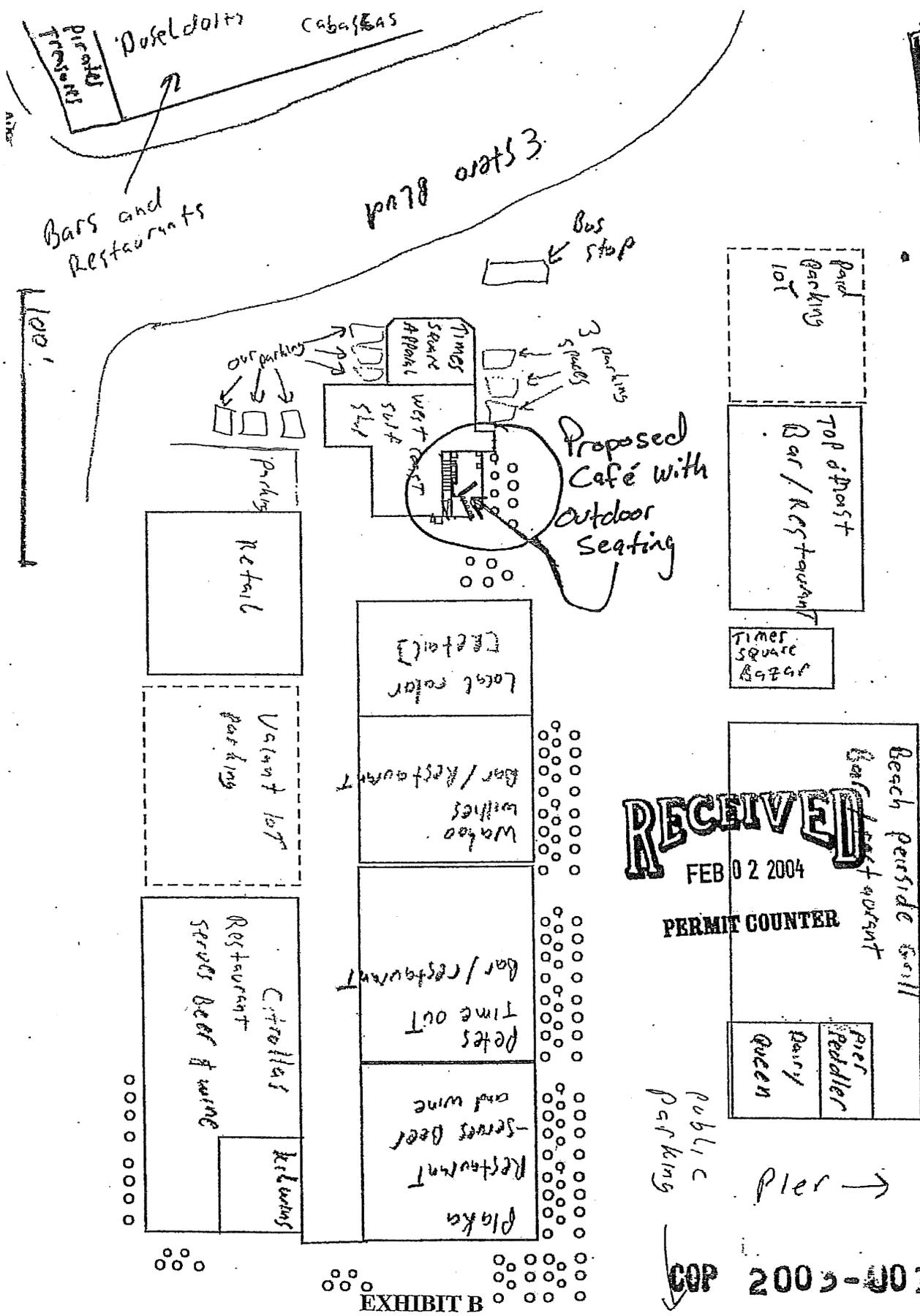


EXHIBIT B

RECEIVED FEB 02 2004

PERMIT COUNTER

COP 2005-00155

EXISTING 20A outlet

EXISTING 20A outlet

EXISTING 20A outlet

EXISTING 50A outlet

115V 15A

reach in

EXHIBIT C

top cooler

115V 15A

ESpresso machine

115V

110V

15A

110V

15A

display case cold

LEE COUNTY DEVELOPMENT SERVICES APPROVAL

By: INCM Date: 3/04

FOR: INTERIOR REMODEL 3000

RESTAURANTS GROUP II USE

EXISTING PREMISE N/A

COPI APPROVED

* APPROVAL BASES ON SITE INFORMATION SUPPLIED BY APPLICANT

PLEASE NOTE

ADMINISTRATIVE APPROVAL REQUIRED FOR CONSUMPTION OF ALCOHOLIC BEVERAGES ON PREMISES

THE FOLLOWING DISCIPLINES ARE TO BE FIELD REVIEWED AND/OR FIELD INSPECTED FOR CODE COMPLIANCE

ELECTRICAL MECHANICAL PLUMBING

fire extinguisher

OA counter 110V

microwave 110V

panini grill 110V

110V

tailfridge

115V 15A

half size oven

240V

115V 15A

4+ sandwich table

115V 15A

mug chiller

hand sink

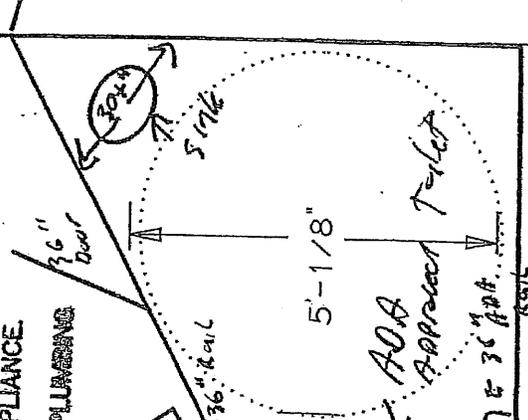
bar sink

110V

tailfridge

110V

AOA APPROVAL TESTED



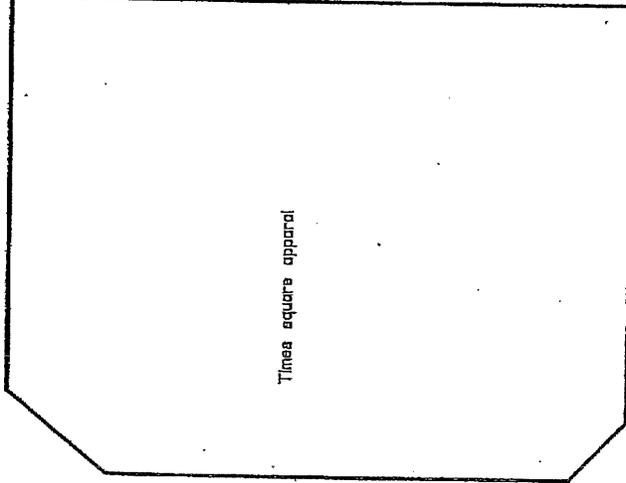
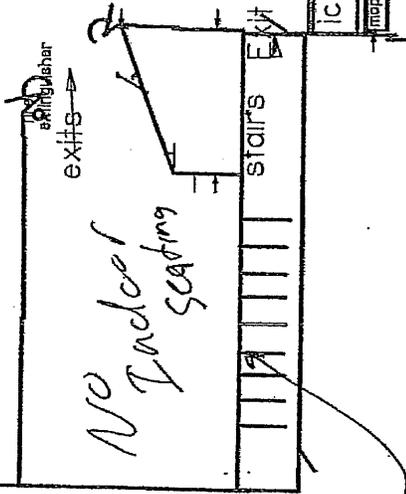
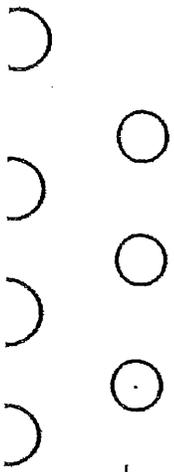
fire extinguisher

EXISTING 20A outlet

EXISTING 50A outlet

Y seat
Tables

FROM
3301



west coast surf shop

Times square apparel

EXHIBIT D

Our goal is to create an outdoor café in the tradition of the sidewalk bistros of Paris. Our menu is tailored towards couples sharing an espresso or bottle of wine while snacking on fresh baked goods, cheeses, and deserts. With that in mind our music and entertainment will be geared towards setting a mood conducive to conversation.

Hours of operation: 8:am-12:am
Seating capacity: 42

Item
3304

EXHIBIT E

**DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
BUREAU OF LICENSING**

TYPES OF LICENSES/PERMITS	CLASS	STATUTE	BRIEF DESCRIPTION ADDITIONAL REQUIREMENTS MAY APPLY
1. 1 APS (beer only)		563.02	For sale in sealed containers and for consumption off premises only.
	D	568.01	Restricted to products with no more than 6.243% of alcohol by volume or 5% by weight.
2. 2 APS (beer and Wine,)		564.02	For sale in sealed containers and for consumption off premises only.
	D	568.01	Restricted to products with no more than 6.243% of alcohol by volume or 5% by weight.
3. 1COP (beer only)		563.02	For sale by the drink (consumption on premises) or in sealed containers for package sales.
	D	568.01	Restricted to products with no more than 6.243% alcohol by volume or 5% by weight.
	X	565.02	Issued only on boats and for consumption on premises only. May not be issued for a boat that is anchored upon, or plies upon, any lake.
4. 2COP (beer and Wine,)		564.02	For sale by the drink (consumption on premises) or in sealed containers for package sales.
	D	568.01	Restricted to products with no more than 6.243% alcohol by volume or 5% by weight.
	X	565.02	Issued only on boats and for consumption on premises only. May not be issued for a boat that is anchored upon, or plies upon, any lake.
5. Quota 3DPS / 3CPS / 3BPS / 3APS / 3PS (depending on county population)		565.02(1)(a)	Beer, Wine, and Liquor; package sales only in sealed containers. No sales by the drink or consumption on premises.
6. Quota 8COP / 7COP / 6COP / 5COP / 4COP (depending on county population)		565.02(1)(b-f)	Beer, Wine, and Liquor; sale by the drink for consumption on premises and package sales in sealed containers.
*Special Motel / Hotel 8COP / 7COP / 6COP / 5COP / 4COP (depending on county population)	S	561.20(2)	Beer, Wine, and Liquor in connection with operation of hotel, motel, motor court or condominium; sale by the drink for consumption on premises and package sales in sealed containers. Motel or hotel must be operating and meet requirements on number of rental rooms.
*Special Restaurant (pre-1958) 8COP / 7COP / 6COP / 5COP / 4COP (depending on county population)	SR	561.20	Beer, Wine, and Liquor in connection with operation of a restaurant; sale by the drink for consumption on premises and package sales in sealed containers. Must have 4,000 square feet of floor space and be able to seat 200 patrons at tables. Sale of alcoholic beverages prohibited when food service not available. License cannot move to a new location.
*Special Hospital (4COP Only)	H	HB1873	Beer, Wine, and Liquor, sales to patients only. Sarasota County Public Hospital Board only. No annual fee. See special act for requirements.

	SH	561.20	Beer, Wine, and Liquor in counties having a population of 50,000 or less; sale by the drink for consumption on premises and package sales in sealed containers
*Special Hotel (7COP and 8COP)			
*Special Restaurant 8COP / 7COP / 6COP / 5COP / 4COP (depending on county population)	SRX	561.20(2)	Beer, Wine, and Liquor in connection with a restaurant; consumption on premises only. May only have spirituous beverages (liquor) in quarts, fifths or miniatures. Must meet certain requirements as to the number of seats, square footage, etc. Sale of alcoholic beverage prohibited when food service not available. License cannot be moved to a new location.
*Special Bowling Alley 8COP / 7COP / 6COP / 5COP / 4COP (depending on county population)	SBX	561.20(2)	Beer, Wine, and Liquor; consumption on premises by the drink only. Must meet requirements of 12 or more lanes and all necessary equipment to operate them. License cannot be moved to a new location.
*Special Boats 8COP / 7COP / 6COP / 5COP / 4COP (depending on county population)	SPX	565.02(3)	Pleasure, excursion, sight seeing or charter boat meeting special requirements. Consumption on premises only.
*Special Airport 8COP / 7COP / 6COP / 5COP / 4COP (depending on county population)	SAL	561.20(2)	Beer, Wine, and Liquor for consumption on premises only at publicly owned or operated airport.
*Special Civic Center 8COP / 7COP / 6COP / 5COP / 4COP (depending on county population) (\$250)	SCX	561.20(2)	Beer, Wine, and Liquor for consumption on premises only; license issued to Civic Center authority authorized by state law or local government ordinance.
*Special County Commissioner 8COP / 7COP / 6COP / 5COP / 4COP (depending on county population)	SCC	561.20(2)	Beer, Wine, and Liquor for consumption on premises only; license issued to county commissioners for facilities which are owned and operated by the county.
*Special Act 8COP / 7COP / 6COP / 5COP / 4COP (depending on county population)	SA	Special Act	Allow the sale of Beer, Wine, and Liquor for consumption on the premises only. See Special Acts for specifics.
*Special Act 8COP / 7COP / 6COP / 5COP / 4COP (depending on county population)	SAX	Special Act	Allow the sale of Beer, Wine, and Liquor for consumption on the premises only. MAY NOT MOVE FROM THE ORIGINAL LOCATION. See Special Acts for specific requirements.
*The series listed in the above items under #6 precedes the listed class codes, and the fees are assessed according to population as indicated on the license fee chart			
7. 3M license (\$1000)		565.02(1)	Beer, Wine, and Liquor consumption on premises. Must have more than three (3) separate rooms or enclosures in which permanent bars or counters are located on the licensed premises.
*Special Theme Park License Special 3M license: Up to 5 additional bars (\$1500) 6-10 additional bars (\$2500) more than 10 additional bars (\$3500)		565.02(6)	Consumption on premises only, additional requirements to be met.
8. GC - Golf Club License (\$100)		565.02(1)(g)	Beer, Wine, and Liquor, additional license issued to golf clubs which are ineligible for an 11C club license. Authorizes service from mobile carts or permanent or semi-permanent points on the licensed premises.

9. 11PA (\$400) Symphony Orchestra		565.02(8)	A state-chartered legal entity not for profit for the purpose of supporting the affairs of a symphony orchestra. Consumption on premises only.
Live Performance Theater		565.02(10)	A state-chartered legal entity not-for-profit organized for the purpose of operating a theater with live performances and not fewer than 100 seats. Consumption on premises only.
Performing Arts Center		561.01(17)	Facility consisting of not less than 200 seats, owned and operated by a not-for-profit corporation qualified under the provisions of s. 501(c)(3), which is used and occupied to promote development of any or all of the performing, visual, or fine arts.
Performing Arts Center		561.20(2)(i)	Beer, Wine, and Liquor; Consumption on Premises only may occur only in conjunction with an artistic, educational, cultural, promotional, civic, or charitable event, except as part of food and beverage service for banquets or receptions.
10. FEX Special Public Fair / Expositions (\$250)		561.20(2)(g)	Consumption on premises only and meet additional requirements.
11. HBX Special Horse Breeders (\$1820, \$1560, \$1300, \$858, \$624)		561.20(10)	Consumption on premises. Issued to any marketing association of horse breeders organized under the laws of the state. Additional requirements to be met.
12. 11C – Club (\$400)		561.20(7) 565.02(4)	Beer, Wine, and Liquor. Issued to bona fide clubs for consumption on premises by the drink for members and members' guests only. No package sales allowed. Unless otherwise noted, must be in continuous active existence and operation for a period of two years in the county where it exists.
a. Lodges or Clubs of National and Fraternal or Benevolent Associations		561.20(7)(a) (1) 565.02(4)	Special requirements must be met. Consumption on premises only. May not increase in series to an 11CS. Need not be in continuous active existence for two year in the county location.
b. Social Clubs, Clubs devoted to community and governmental development		561.20(7)(a) (3) 565.02(4)	Beer, Wine, and Liquor. Issued to bona fide clubs for sale by the drink for consumption on premises only, for members and members' guests. No package sales allowed. Must be in continuous active existence and operation for a period of not less than two years in the county where it exists.
c. Clubs promoting showmen and amusement enterprises. Clubs assisting National fraternal or benevolent associations and clubs promoting cultural relations of people of the same nationality		561.20(7)(a) (4-6) 565.02(4)	Beer, Wine, and Liquor. Issued to bona fide clubs for sale by the drink for consumption on premises only, for members and members' guests. No package sales allowed. Must be in continuous active existence and operation for a period of not less than two years in the county where it exists.
d. Tennis or Racquetball Club, Cabana or Beach Club		561.20(7)(c) 565.02(4)	<u>Tennis/Racquetball</u> : Bona fide tennis club or four-walled indoor racquetball club. 10 regulation courts or combination courts. Additional requirements to be met.
		561.20(7)(d) 565.02(4)	<u>Cabana/Beach Club</u> : Beach facilities, pool, locker rooms and additional requirements to be met.
13. 11CS – Club (\$1750)		Ch.63-1412 SB 1289	Special club license; cannot be moved to a new location; not transferable; consumption on premises only.

14. 11AL – Club (\$500)		561.20(11)	Beer, Wines, and Liquor. Issued to American Legion Post in Florida chartered prior to September 16, 1919. Sales may be made to resident guests as well as members and nonresident guests for consumption on the premises only. Revenue generated from the sale of alcoholic beverages which exceeds the cost of operation must be donated to a local non-profit charitable organization on an annual basis.
15. 11CT – Club (\$400)		565.02(11)	Issued to the Board of Trustees of the John & Mable Ringling Museum of Art or the board's designee. Permits sales for consumption on premises of the museum in conjunction with artistic, educational, cultural, civic or charitable events.
16. 11CX – Club (\$100)		565.02(1)(g)	Can only be issued to a Golf Club (11CG or 11 CGP) license holder. May operate service or portable bars on contiguous property.
17. 11CG – Golf Clubs		565.02(4)	Standard Golf Course consisting of at least 9 holes, clubhouse, locker rooms and attendant golf facilities, comprising at least 35 acres. Sales may be made to members and nonresident guests for consumption on the premises only.
18. NMSP – Non-member Sales Permit (\$50)		565.02(4)	Holders of golf club licenses (11CG). Sale to non-members. One event per year, not to exceed 8 consecutive days.
19. 11CG – Public Golf Clubs	P	561.20(7)(b) 564.02(4)	Standard Golf Course open to the general public consisting of at least 9 holes, clubhouse, locker rooms and attendant golf facilities, comprising at least 35 acres. Sales may be made for consumption on the premises only.
Fee for the 11 CG P license are assessed according to population as indicated on the license fee chart			
20. 12RT – Race Track Caterer at Dog and Horse Tracks		565.02(5) 550.6315 551.119	Beer, Wine, and Liquor for consumption on premises by the drink only. Package sales not allowed. May only have spirituous beverages (liquor) in quarts, fifths, or miniatures. Alcoholic beverage sales allowed only 10 days before to 10 days after approved racing or Jai Alai dates. If the caterer is also licensed under 551.119, the facility may served alcohol any day it is open for slot machine play.
21. Common Carriers		565.02	
a. IX - Railroads Master - \$2,500 + \$10 each dining, club, parlor, buffet or observations car		565.02(2)	Consumption in designated cars. No package Additional requirements to be met.
b. X - Steamships/Buses/Airplanes Master - \$1,100 + \$25 for each steamship, bus or airplane		565.02(3)	Consumption on premises only. Must be engaged in Interstate or foreign commerce or plying between fixed terminals and upon fixed schedules. Additional requirements.
c. XL – Common Carrier Waiting Lounges at Airports (\$1,100) per lounge		565.02(3)(a)(2)	Licenses are issued to airlines operating no more than one (1) passenger waiting lounge at each of its terminals at airports for ticketed passengers whose flights are scheduled to depart within 24 hours of service and guests in the company of ticket holder. For consumption on the premises only.
d. PVP - Cruise Ships (\$1,100)		565.02(8)	Passenger vessels engaged exclusively in foreign commerce with cabin berth capacity for at least 75 passengers. Consumption on board only.

22. ODP – One, Two or Three-Day Permit (\$25)	561.422	A bona fide non-profit civic organization may apply for sale of alcoholic beverages on premises for a period not to exceed 3 days; no more than 3 permits per calendar year.
23. SODP – One, Two or Three-Day Permit (\$25)	Laws of Florida Special Acts	A bona fide non-profit civic organization may apply for sale of alcoholic beverages on premises for a period not to exceed 3 days; no more than 15 permits per calendar year. See special acts for specifics.
24. SSL – Special Sales License (\$25)	561.20	Beer, Wine, and Liquor; package sales only, special license issued for the purpose of a bulk transfer pursuant to Chapter 676; sale pursuant to levy and execution; sale by an insurance company in possession of alcoholic beverages; bankruptcy sales; sale due to license suspension or revocation; sale of damaged goods by a common carrier; sale by a bona fide Wine, collector; sale of packaged alcoholic beverages pursuant to Part 5 of Chapter 679. Valid for three (3) days only.
25. AMW (\$1000)	564.02(2)	Engaged in manufacturing or bottling Wine,.
26. BMWC (\$2000)	564.02(2)	Engaged in manufacturing of Wines and Cordials.
27. CMB (\$3000)	563.02(2)	Manufacturer engaged in brewing malt beverages.
28. CMBP (\$500)	563.02	Manufacturer engaged in the business of brewing less than 10,000 kegs of malt beverage annually; for consumption on premises only. Issued in connection with consumption on premises retail license.
29. DD (\$4000)	565.03	A Distiller of spirituous liquor.
30. EDB (\$1250)	565.03	Distributes alcoholic beverages containing no more than 3.2% of alcohol by weight in dry counties.
31. ERB (\$4000)	565.03	In business of rectifying and blending spirituous beverages.
32. KLD (\$4000)	565.03(2)	May distribute spirituous, vinous, and malt beverages to vendors and distributors.
33. KLD2 (\$1000)	565.03	May distribute spirituous, vinous, and malt beverages to vendors and distributors in counties having a population of 15,000 or less if the county is wet.
34. JDBW (\$1250)	564.02(3)	Distributes beer and/or Wine, to vendors and other distributors.
35. JDSW (\$50)	564.02(3)	Distributes only sacramental Wines to permit holders.
36. BSA (Brokers / Sales Agents) (\$500)	561.14(4)	Licensed to sell, or cause to be sold, shipped, invoiced, alcoholic beverages to licensed manufacturers, distributors and no one else in the state.
37. IMPR (Importers) (\$500)	561.14(5)	Licensed to sell, or cause to be sold, shipped and invoiced, domestic and foreign alcoholic beverages to licensed manufacturers, distributors and no one else in the state.
38. MEXP (Exporter) (No fee)	561.01(16)	Any person who sells alcoholic beverages to persons for use outside the state and includes a ship's chandler and a duty free shop.

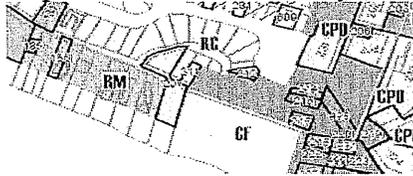
39. LQS – Salesmen of Wine, and Spirits (\$50)			561.68	Before any person may solicit or sell to vendors or become employed as a salesman of spirituous or vinous beverages for a licensed Florida distributor, a salesman's license must be obtained. The application along with fingerprints must be filed with Central office licensing.
40. BRND - Brand Registration Beer (\$30)			563.045	All malt beverages that move or are caused to be moved, sold, or offered for sale with state must be registered. Additional requirements must be met.
BRND Primary American Source of Supply				Licensure as the Primary American Source of Supply authorizes the shipment of vinous or spirituous alcoholic beverages to distributors, importers, manufacturers, bonded warehouses and registered exporters within the state. The PAS must be licensed for each product that they ship within and without the state. Additional requirements must be met.
A. Liquor (\$30)			565.09	
B. Wine, (\$15)			564.041	
41. VP – Vehicle Permit (\$5)			561.57	Vendors are permitted to pick up merchandise at distributors' place of business with required decal obtained at appropriate district office.
42. OPS – Off-Premises Storage Permit (No fee)			561.07 562.03 565.03(2)	Off premises storage of alcoholic beverages with approval of the appropriate district office. Off premises storage of alcoholic beverages with approval of the appropriate district office.
43. TCP – Temporary Convention Permit (No fee)			561.421	A permit for the display by manufacturers or distributors of their products in convention halls, coliseums and similar type buildings where there is an existing beverage license, and with the approval of the Division for an event not to exceed 5 calendar days. For consumption on premises only.
44. SBW – State Bonded Warehouse (\$1)			562.25	Licensed warehouse to store alcoholic beverages. Bond required. Additional requirements to be met.
45. 14BC – Bottle Club (\$500)			561.01(15)	Commercial establishment operated for a profit wherein patrons consume alcoholic beverages which are brought onto the premises and not sold by the establishment.
46. RTPD – Retail Tobacco Products Dealer (\$50)			569.003	Permits the retail sale of cigarettes and other tobacco products to persons who are at least 18 years of age. Purchases of cigarettes and other tobacco products must be made through a licensed wholesaler dealer.
47. RTPD – Retail Tobacco Products Dealer (\$50)			569.003	Permits the retail sale of cigarettes and other tobacco products to persons who are at least 18 years of age. Purchases of cigarettes and other tobacco products must be made through a licensed wholesaler dealer.
48. CWD – Cigarette Wholesale Dealer (\$100)			210.15(1)	Sale of Cigarettes to retail dealers for resale only.
49. CDA – Cigarette Distributing Agent (\$100)			210.15(1)	Permits receiving cigarettes in interstate or intrastate commerce and storage.
50. EXP – Cigarette Exporter (\$100)			210.15(1)	Transports tax-exempt cigarettes into state under bond for delivery beyond the borders of this state.

51. TWD – Tobacco Wholesale Dealer (\$25)		210.40	Tobacco products means loose tobacco suitable for smoking, snuff, snuff flour, etc. Does not include cigarettes or cigars. Licensed as distributor for sale to retailers. Additional requirements to be met.
52. CMFG – Cigarette Manufacturer (\$100)		210.15(1)	Any domestic person or entity with a valid permit under 26 U.S.C. s. 5712 which manufactures, fabricates, assembles, processes, or labels a finished cigarette.
53. CIMP – Cigarette Importer (\$100)		210.15(1)	Any domestic person or entity with a valid permit under 26 U.S.C. s. 5712 who imports into the United States, directly or indirectly, a finished cigarette for sale or distribution.
54. 13CT – Caterer (\$1820)		561.20	Permits any caterer licensed by the Division of Hotels and Restaurants under chapter 509 and deriving at least 51% of its gross revenue from the service of food and non-alcoholic beverages to sell or serve alcoholic beverages for consumption on the premises of any catered event at which the licensee is also providing prepared food. All alcoholic beverages must be purchased from a licensed vendor.
55. SWP – Sacramental Wine, Permit		564.03(2)	Any religious order, monastery, church or religious body, or any minister, pastor, priest or rabbi may obtain a permit to purchase Wine, from a distributor or retailer for sacramental purposes.

Case # SE2012-0002
 Planner _____

Date Received _____
 Date of Sufficiency/Completeness _____

Town of Fort Myers Beach
 Department of Community Development



Zoning Division

Application for Public Hearing

This is the first part of a two-part application. This part requests general information required by the Town of Fort Myers Beach for any request for a public hearing. The second part will address additional information for the specific type of action requested.

Project Name:	<u>LA OLA RESTAURANT</u>
Authorized Applicant:	<u>THOMAS LIST</u>
LeePA STRAP Number(s):	<u>24-46-23-W3-00208.0060</u>

Current Property Status:	
Current Zoning:	<u>DOWNTOWN</u>
Future Land Use Map (FLUM) Category:	<u>PEDESTRIAN CORNER</u>
Platted Overlay? <u> </u> yes <u> </u> no	FLUM Density Range:

Action Requested	Additional Form Required
<input checked="" type="checkbox"/> Special Exception	Form PH-A
<input type="checkbox"/> Variance	Form PH-B
<input type="checkbox"/> Conventional Rezoning	Form PH-C
<input type="checkbox"/> Planned Development	Form PH-D
<input type="checkbox"/> Master Concept Plan Extension	Form PH-E
<input type="checkbox"/> Appeal of Administrative Action	Form PH-F
<input type="checkbox"/> Development of Regional Impact	Schedule Appointment
<input type="checkbox"/> Other (cite LDC section number: _____)	Attach Explanation

Town of Fort Myers Beach
Department of Community Development
 2523 Estero Boulevard
 Fort Myers Beach, FL 33931
 (239) 765-0202

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

PART I – General Information

A. Applicant:

Name(s):	THOMAS LIST		
Address: Street:	1035 GSKRO BLVD #3		
City:	FMB	State:	FL Zip Code: 33931
Phone:	239 823 7111		
Fax:			
E-mail address:	THOMAS.LIST@HOTMAIL.COM		

B. Relationship of applicant to property (check appropriate response)

<input type="checkbox"/> Owner (indicate form of ownership below)
<input type="checkbox"/> Individual (or husband/wife) <input type="checkbox"/> Partnership
<input type="checkbox"/> Land Trust <input type="checkbox"/> Association
<input type="checkbox"/> Corporation <input type="checkbox"/> Condominium
<input type="checkbox"/> Subdivision <input type="checkbox"/> Timeshare Condo
<input checked="" type="checkbox"/> Authorized representative (attach authorization(s) as Exhibit AA-1)
<input type="checkbox"/> Contract Purchaser/vendee (attach authorization(s) as Exhibit AA-2)
<input type="checkbox"/> Town of Fort Myers Beach (Date of Authorization: _____)

C. Agent authorized to receive all correspondence:

Name:	THOMAS LIST		
Mailing address: Street:			
City:	State:	Zip Code:	
Contact Person:	SEE ABOVE		
Phone:	Fax:		
E-mail address:			

D. Other agents:

Name(s):	NO		
Mailing address: Street:			
City:	State:	Zip Code:	
Phone:	Fax:		
E-mail address:			

Use additional sheets if necessary, and attach to this page.

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Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

PART II – Nature of Request

Requested Action (check applicable actions):

<input checked="" type="checkbox"/> Special Exception for: <i>HOURS, LIVE MUSIC, 4 COP</i>
<input type="checkbox"/> Variance for:
<input type="checkbox"/> Conventional Rezoning from _____ to: _____
<input type="checkbox"/> Planned Development
<input type="checkbox"/> Rezoning (or amendment) from _____ to: _____
<input type="checkbox"/> Extension/reinstatement of Master Concept Plan
<input type="checkbox"/> Public Hearing of DRI
<input type="checkbox"/> No rezoning required
<input type="checkbox"/> Rezoning from _____ to: _____
<input type="checkbox"/> Appeal of Administrative Action
<input type="checkbox"/> Other (explain):

PART III – Waivers

Waivers from application submittal requirements: Indicate any specific submittal items that have been waived by the Director for the request. Attach copies of the Director's approval(s) as Exhibit 3-1.

Code Section Number	Describe Item

PART IV – Property Ownership

<input type="checkbox"/> Single owner (individual or husband and wife)					
Name:	<i>NORMAN PRIMEAU</i>				
Address: Street:	<i>950 SAN CARLOS DR</i>				
City:	<i>FHB</i>	State:	<i>FL</i>	Zip Code:	<i>33931</i>
Phone:	<i>239 470 4118</i>	Fax:			
E-mail Address:					

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<input type="checkbox"/> Multiple owners (including corporation, partnership, trust, association, condominium, timeshare condominium, or subdivision)
Attach Disclosure Form as Exhibit 4-1
Attach list of property owners as Exhibit 4-2
Attach map showing property owners' interests as Exhibit 4-3 if multiple parcels are involved
For condominiums, timeshare condominiums, and subdivisions, see instructions.

PART V - Property Information

A. Legal Description of Subject Property

Is the property entirely made up of one or more undivided platted lots officially recorded in the Plat Books of the Public Records of Lee County?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes:
Subdivision name: <u>BUSINESS CENTER</u>
Plat Book Number: <u>9</u> Page: <u>9</u> Unit: Block: <u>8</u> Lot: <u>7/6</u>
If no:
Attach a legible copy of the metes and bounds legal description, with accurate bearings and distances for every line, as Exhibit 5-1. The initial point in the description must be related to at least one established identifiable real property corner. Bearings must be referenced to a well-established and monumented line.

B. Boundary Survey

Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code, as Exhibit 5-2. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida.
--

C. STRAP Number(s):

<u>24-46-23-W3-00208.0060</u>

D Property Dimensions:

Area:	square feet	<u>380 SF</u>	acres
Width along roadway:	feet	Depth:	feet

E. Property Street Address:

<u>1035 E. Aero Blvd. #13, #MB 33931</u>
--

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F. General Location of Property (from Sky Bridge or Big Carlos Pass Bridge):

PROPERTY IS IN TIME SQUARE
Attach Area Location Map as Exhibit 5-3

G. Property Restrictions (check applicable):

<input type="checkbox"/> There are no deed restrictions or covenants on this property that affect this request.
<input type="checkbox"/> Restrictions and/or covenants are attached as Exhibit 5-4
<input type="checkbox"/> A narrative statement explaining how the deed restrictions and/or covenants may affect the request is attached as Exhibit 5-5.

H. Surrounding property owners:

Attach list of surrounding property owners (within 500 feet) as Exhibit 5-6
Attach two sets of mailing labels as Exhibit 5-7
Attach a map showing the surrounding property owners as Exhibit 5-8

I. Future Land Use Category: (see Comprehensive Plan Future Land Use Map)

<input type="checkbox"/> Low Density	<input type="checkbox"/> Marina
<input type="checkbox"/> Mixed Residential	<input type="checkbox"/> Recreation
<input type="checkbox"/> Boulevard	<input type="checkbox"/> Wetlands
<input checked="" type="checkbox"/> Pedestrian Commercial	<input type="checkbox"/> Tidal Water
Is the property located within the "Platted Overlay" area on the Future Land Use Map? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

J. Zoning: (see official zoning map, as updated by subsequent actions)

<input type="checkbox"/> RS (Residential Single-family)	<input type="checkbox"/> CM (Commercial Marina)
<input type="checkbox"/> RC (Residential Conservation)	<input type="checkbox"/> CO (Commercial Office)
<input type="checkbox"/> RM (Residential Multifamily)	<input type="checkbox"/> CB (Commercial Boulevard)
<input type="checkbox"/> VILLAGE	<input type="checkbox"/> SANTINI
<input type="checkbox"/> SANTOS	<input checked="" type="checkbox"/> DOWNTOWN
<input type="checkbox"/> IN (Institutional)	<input type="checkbox"/> RPD (Residential Planned Dev.)
<input type="checkbox"/> CF (Community Facilities)	<input type="checkbox"/> CPD (Commercial Planned Dev.)
<input type="checkbox"/> CR (Commercial Resort)	<input type="checkbox"/> EC (Environmentally Critical)
<input type="checkbox"/> BB (Bay Beach)	

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

**EXHIBIT 4-1
DISCLOSURE OF INTEREST FORM**

STRAP# 24-46-23-W3-00208-0060

Attach additional sheets in the same format for each separate STRAP number in the application if multiple parcels with differing ownership are included.

1. If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address	Percentage

2. If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address, and office	Percentage

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3. If the property is in the name of a TRUSTEE, list the beneficiaries of the trust and the percentage of interest.

Name and Address	Percentage
DRIMBAU BEVERLY A TRUST	100%

4. If the property is in the name of a GENERAL PARTNERSHIP or LIMITED PARTNERSHIP, list the names of the general and limited partners with the percentage of ownership.

Name and Address	Percentage

5. If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, regardless of whether a Corporation, Trustee, or Partnership is involved, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners, and their percentage of stock.

Name, Address, and Office (if applicable)	Percentage

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6. If any contingency clause or contract terms involve additional parties, list all individuals, or officers if a corporation, partnership, or trust.

Name and Address

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application but prior to the date of final public hearing, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature Thomas List
Applicant
THOMAS LIST
Printed or typed name of applicant

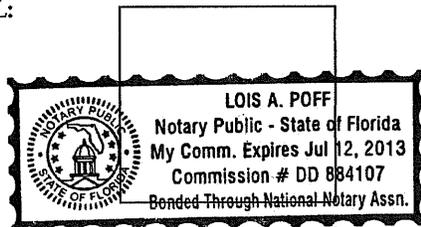
STATE OF FLORIDA
COUNTY OF Lee

The foregoing instrument was acknowledged before me this 28th day of November, 2012, by THOMAS LIST, who is personally known to me or who has produced FLDL: 1230820670840 as identification and who did (or did not) take an oath.

Lois A. Poff
Signature of Notary

LOIS A. POFF
Typed or Printed Name of Notary

SEAL:



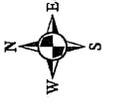
VARIANCE REPORT

10/11/2012

Subject Parcels: 1 Affected Parcels: 38 Buffer Distance: 500 ft



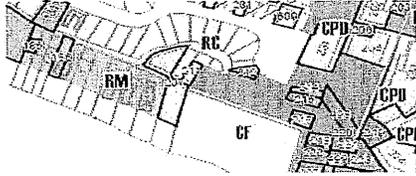
24-46-23-W3-00208.0060



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Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Town of Fort Myers Beach
Department of Community Development



Zoning Division

Supplement PH-A

**Additional Required Information for a
Special Exception Application**

This is the second part of a two-part application. This part requests specific information for a special exception. Include this form with the Request for Public Hearing form.

Project Name:	LA OLA Restaurant
Authorized Applicant:	THOMAS LIST
LeePA STRAP Number(s):	24-46-23-W3-00208.0060

Current Property Status:
Current Zoning: DOWN TOWN
Future Land Use Map (FLUM) Category: Pedestrian Commerce
Platted Overlay? <input type="checkbox"/> yes <input type="checkbox"/> no FLUM Density Range:

Requested Action:
<input type="checkbox"/> Use of premises in the EC (Environmentally Critical) zoning district for:
<input checked="" type="checkbox"/> Use of premises in the <u>DOWN TOWN</u> zoning district for:
Live music, 4 COP, Hours

Case # _____
Planner _____

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Date of Sufficiency/Completeness _____

PART I
Narrative Statements

A. Request for: (indicate the proposed use that requires a special exception)

From 2 COP to 4 COP
LIVE MUSIC extension from 1pm - 10pm 11pm
DAILY
Hours of operation from 7am - 2am

B. Reasons for request: (state how the property qualifies for a special exception and what impact granting the request could have on surrounding properties. Direct these statements toward the guidelines in LDC Section 34-88)

The property qualifies for a Special Exception because:
Resolution 04/14
— 4 — M-21

