

**RESOLUTION NUMBER 16-03**

**RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH FLORIDA  
SEZ 2015-0004 Permanent Shared Parking Lot  
VAR 2015-0005 Site Related Variances  
For 140 and 150 Crescent Street**

**WHEREAS**, Greg Stuart, authorized agent for John Richard, applicant and owner of the subject property, filed applications to obtain a special exception for a permanent shared parking lot (SEZ2015-0004) and permit variances from Land Development Code (LDC) s. 10-416, 34-1744 and Tables 10-8 and 10-9 to allow alternative buffering, fencing and landscaping in accordance with a plan approved by the Town (VAR2015-0005); and

**WHEREAS**, Applicant has indicated the STRAP numbers for the subject property are 19-46-24-W4-0150E.0060 and 19-46-24-W4-0150E.005B, and the subject property is legally described as indicated on attached Exhibit A; and

**WHEREAS**, the subject property is physically located at 140 and 150 Crescent Street, Fort Myers Beach, Florida, and within the Downtown zoning districts; and

**WHEREAS**, a duly advertised public hearing was held before the Local Planning Agency (LPA) on November 17, 2015; and

**WHEREAS**, the LPA recommended approval subject to certain conditions after full and complete consideration to the Applicant's request, recommendations of Town staff, documents in the record, and the testimony of all interested persons, as required by Town Land Development Code (LDC) s. 34-84; and

**WHEREAS**, on February 16, 2016, the Town Council held a duly advertised public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by LDC s. 34-88; and

**WHEREAS**, the Town Council determined it is in the best interest of the Town to approve the request.

**NOW THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Fort Myers Beach, Florida, as follows:

1. **Determination.**

Based upon the recommendations, testimony, and evidence presented by Town staff, LPA, and interested parties, the Town Council approves the following:

a. **Special Exception.** (SEZ2015-0004)

The special exception for a permanent shared parking lot to be located on the property described in attached Exhibit A is APPROVED, subject to the conditions set forth in this Resolution.

b. **VariANCES.** (VAR2015-0005)

- (1) Variance #1 from LDC s. 10-416(d)(2), which requires a Type "D" Buffer, to allow a one foot wide buffer with a four foot high white picket fence along Crescent Street and a variance from LDC s. 10-416(d)(2), which requires a Type "C/F" Buffer, to allow a one foot wide buffer with a eight foot high solid wall along the northern property boundary is APPROVED.
- (2) Variance #2 from LDC s. 34-1744, which requires that any fence or wall located in a side or rear yard may not exceed six feet in height, to allow an 8-foot high solid wall within one foot of the northern property line is APPROVED.
- (3) Variance #3 from LDC s. 10-416(c)(2), which requires internal landscaping, to allow landscaping as shown on attached Exhibit B is APPROVED.
- (4) Variance #4 for LDC s. 10-416(d)(2), Tables 10-8 and 10-9, which require a Type "C" Buffer, to allow for no buffer along the site's west boundary is APPROVED.

2. **Conditions.**

- a. Approval of the special exception does not exempt the subject property from any provisions of the LDC. The development of the parking lot must be generally consistent with the site and landscaping plans attached as Exhibit B. The buffer at the time of installation must be a minimum of three feet in height and must be maintained at 4 feet in height.
- b. The property must be the subject to a limited development order (LDO) within two years of the approval of this special exception. The LDO must address a parking plan, stormwater retention/detention, access to the site, parking surface of the lot, buffering, walkways and ADA issues.
- c. Signage must be consistent with the requirements of LDC chapter 30.
- d. The operator of the parking will provide minimum of two trash receptacles. The operator will ensure that the receptacles are regularly emptied and trash hauled away by the franchised garbage hauler.
- e. The operator of the parking lot must install a fence along Crescent Street right-of-way. The fence must be a minimum of four feet in height and be installed prior to the parking lot improvements being finalized.
- f. The operator/owner of the parking lot will coordinate with Lee Tran to assure that there are no conflicts with their stop on Crescent Street in the vicinity of the project.
- g. The parking lot hours of operation are limited to 7 AM to 11 PM unless a special event permit (limited to 6 a year) is applied for and approved to accommodate parking for events in the Times Square area such as Fourth of July Fireworks or New Year's Eve.

- h. No lighting poles may be installed, only ground mounted lighting may be used on site. A lighting plan must be administratively approved prior to the installation of any site lighting.
- i. Stops or bollards must be included in the buffer area along the canal to prevent cars from entering the canal.
- j. If possible, the site must include a center strip of landscaping.

**3. Findings and Conclusions of Law.**

a. **Special Exception.** In accordance with LDC s. 34-88, the Town Council finds as follows:

- (1) There are changed or changing conditions that make approval of the special exception request appropriate.
- (2) The request is consistent with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.
- (3) The request meets or exceeds all performance and locational standards set forth for the proposed use.
- (4) The request will have no negative effects on environmentally critical areas and natural resources.
- (5) The request 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 use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.

b. **Variances.** In accordance with LDC 34-87, the Town Council finds the following:

- (1) There are exceptional or extraordinary conditions or circumstances that are inherent in the property in question, or the request is for a *de minimus* variance under the circumstances or conditions where ridged compliance is not essential to protect public policy.
- (2) The conditions justifying the variance are not the result of actions of the applicant taken after adoption of the regulations in question.
- (3) The variances granted are the minimum variances that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property.
- (4) The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

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

**THE FOREGOING RESOLUTION** was adopted by the Town Council upon a motion by Council Member Mandel, seconded by Vice Mayor Andre and upon being put to a vote the results was as follows:

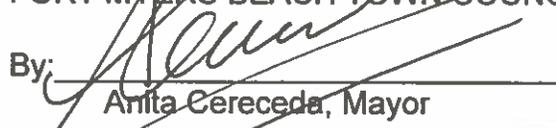
|                       |     |                       |     |
|-----------------------|-----|-----------------------|-----|
| Anita Cereceda, Mayor | aye | Dan Andre, Vice Mayor | aye |
| Rexann Hosafros       | aye | Alan Mandel           | aye |
| Summer Stockton       | aye |                       |     |

**DULY PASSED AND ADOPTED** this 16th day of February, 2016.

ATTEST:

By:   
Michelle Mayher, Town Clerk

FORT MYERS BEACH TOWN COUNCIL

By:   
Anita Cereceda, Mayor

Approved as to legal sufficiency

  
Town Attorney

Exhibits

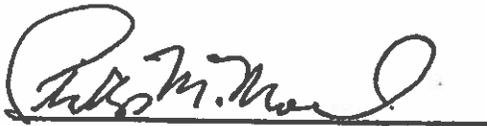
- A: Legal and sketch of entire parcel (attachment A to staff report)
- B: Site and Landscaping Plans

**DESCRIPTION:**

LOT 6, AND THE NORTHERLY 40 FEET OF LOT 5, BLOCK E, OF THAT CERTAIN SUBDIVISION KNOWN AS CRESCENT PARK ADDITION, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LEE COUNTY, FLORIDA, IN PLAT BOOK 4, PAGE 46, LYING IN SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA; TOGETHER WITH THAT CERTAIN STRIP OF LAND EXTENDING EAST FROM LOT 6 AND THE NORTHERLY 40.00 FEET OF LOT 5, BLOCK E, OF SAID CRESCENT PARK ADDITION, TO THE CANAL, SAID STRIP OF LAND LYING BETWEEN THE NORTH AND SOUTH LINES EXTENDED EAST OF SAID LOT 6, BLOCK E, AND THE NORTHERLY 40 FEET LOT 5, BLOCK E, TOGETHER WITH RIPARIAN RIGHTS UPON AND TO THE WATERS OF SAID CANAL SAID PARCEL OR PLOT OF LAND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER LOT 6, BLOCK "E" CRESCENT PARK ADDITION, AS RECORDED IN PLAT BOOK 4, PAGE 46, PUBLIC RECORDS OF LEE COUNTY, FLORIDA THENCE RUN N.89°14'50"E. TO THE WATERS EDGE FACE OF A CONCRETE SEAWALL AND CANAL RIGHT OF WAY FOR 33.71 FEET; THENCE RUN ALONG SAID WATERS EDGE FACE OF SEAWALL CANAL RIGHT OF WAY THE FOLLOWING BEARINGS AND DISTANCES: S.01°56'14"E. 39.49 FEET, S.01°21'12"W. 50.42 FEET; THENCE DEPARTING SAID WATERS RUN S.89°14'50"W. TO THE EASTERLY RIGHT OF WAY LINE CRESCENT STREET PER RIGHT OF WAY TAKING AS RECORDED IN OFFICIAL RECORDS BOOK 2370, PAGES 211 AND 215, CLERK OF THE CIRCUIT COURT, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR 124.07 FEET; THENCE RUN N.00°04'00"E. ALONG SAID EASTERLY RIGHT OF WAY LINE FOR 89.88 FEET; THENCE RUN N.89°14'50"E. TO THE NORTHEAST CORNER SAID LOT 6, BLOCK E FOR 90.12 FEET AND THE POINT OF BEGINNING.

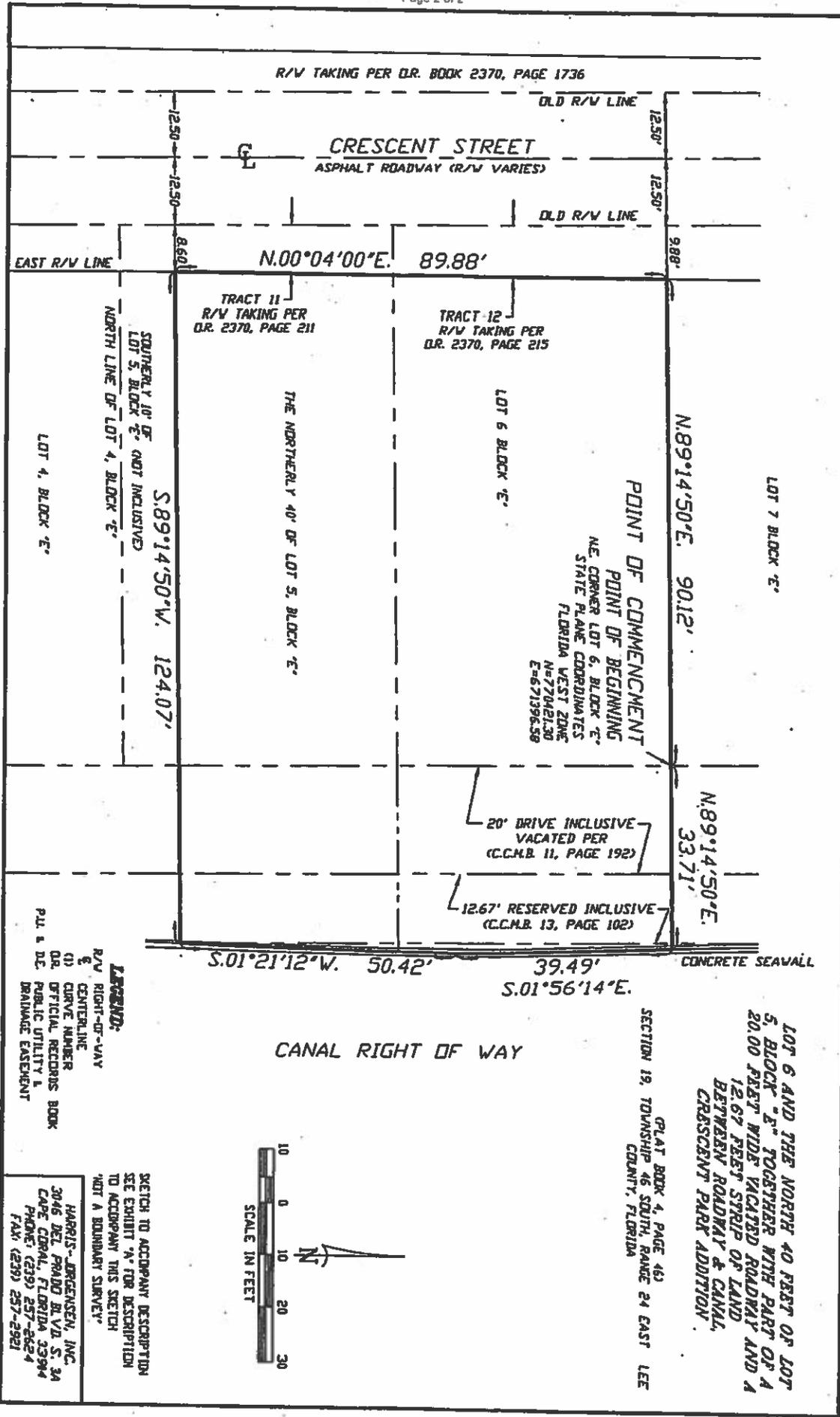
CONTAINING: 11,196.41 SQ. FT MORE OR LESS.



PHILLIP M. MOULD  
PROFESSIONAL SURVEYOR AND MAPPER  
#6515 - STATE OF FLORIDA  
1/20/2016

EXHIBIT 'A'

HARRIS-JORGENSEN, INC.  
3046 DEL PRADO BLVD. S. 3A  
CAPE CORAL, FLORIDA 33904  
PHONE: (239) 257-2624  
FAX: (239) 257-2921



HARRIS-JENSEN, INC.  
3046 DEL PRADO BLVD. S.W.  
CAPE CORRAL, FLORIDA 33994  
PHONE: (239) 257-2824  
FAX: (239) 257-2921

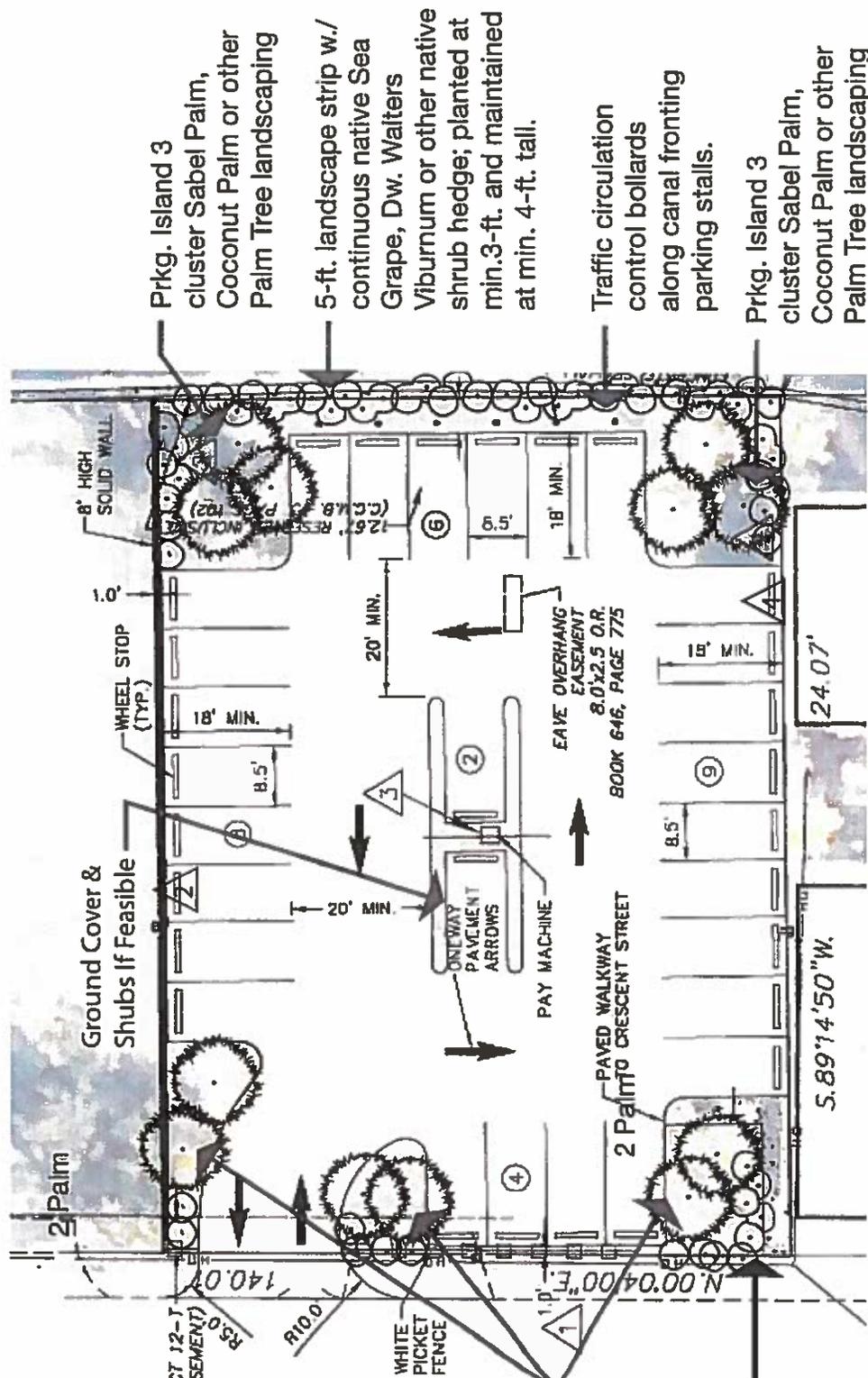
SKETCH TO ACCOMPANY DESCRIPTION  
SEE EXHIBIT 'A' FOR DESCRIPTION  
TO ACCOMPANY THIS SKETCH  
NOT A BOUNDARY SURVEY



**Landscape Planting Notes:**  
 1. All palms must have a min. 10-ft. clear trunk at planting; all palms and trees must be min. 10-ft. height, 2 inches diameter at 1-ft. above grade, and 4-ft. spread.

2. All shrubs planted a min. 24 inches in height and maintained at min. 36 inches after 12 months; min. 3 gal. container and spaced 18 to 36 inches OC.

3. All plants and shrubs 100% ACT 12-1 native and meet FL Grade No. 1 (or better).



Prkg. Island 3  
 cluster Sabel Palm,  
 Coconut Palm or other  
 Palm Tree landscaping

5-ft. landscape strip w./  
 continuous native Sea  
 Grape, Dw. Waiters  
 Viburnum or other native  
 shrub hedge; planted at  
 min. 3-ft. and maintained  
 at min. 4-ft. tall.

Traffic circulation  
 control bollards  
 along canal fronting  
 parking stalls.

Prkg. Island 3  
 cluster Sabel Palm,  
 Coconut Palm or other  
 Palm Tree landscaping

Prkg. Island 2  
 cluster Sabel Palm,  
 Coconut Palm or other  
 Palm Tree landscaping

Typical 18 per 100 LF  
 Native Sea Grape,  
 Dw. Waiters Viburnum  
 or other native shrub  
 hedge

## The Parking Lot Landscape Plan Exhibit for the John Richard 140/150 Crescent Street Parking Lot Special Exception