

RESOLUTION NUMBER 24-187

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING WITH CONDITIONS SPECIAL EXCEPTION SEZ20240116 TO ALLOW RECONSTRUCTION OF REPLACEMENT/REPAIR OF PAVER DECKS, BEACH-BAR STRUCTURES, WALKWAYS, COVERED, SCREENED AREAS, GAZEBO, PLANTING AREAS AND WOOD DECKING IN THE ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT, WITH CONDITIONS, FOR THE PROPERTY LOCATED AT 1400 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, Island Winds Condominium Association is requesting a special exception for the reconstruction of major accessory structures that were destroyed during hurricane Ian, including paver and wood decking, fences, elevated planting areas, a gazebo and screened areas on its property, which is located in the Environmentally Critical zoning district; and

WHEREAS, the STRAP number for the subject property is 19-46-24-W4-0070D.0020;

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

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on September 3, 2024, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-88 of the LDC. The LPA found that the request **is** consistent with the comprehensive plan and the requirements of the LDC and voted to recommend **approval with conditions** of the special exception; and

WHEREAS, on September 23, 2024 the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by Section 34-88 of the LDC; and

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

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council determines the Applicant **did** meet its burden of proof that the requested Special Exception **does** meet the requirements of the Town Comprehensive Plan and LDC, and approving the Special Exception **is** in the best interest of the Town to approve. Based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties and public, the Town Council **approves with conditions** the Special Exception for the reconstruction of paver and wood decking, fences, elevated planting areas, a gazebo and screened areas in the Environmentally Critical zoning district.

Section 3. In approving the Special Exception, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-88 of the LDC:

- A. Changed or changing conditions which make approval of the request appropriate.
- B. The request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
- C. The request meets all performance and locational standards for the proposed use.
- D. The request will protect, conserve, or preserve environmentally critical areas and natural resources.
- E. The request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- F. The requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code; and

In accordance with the additional regulations and considerations found in Section 6-366 of the LDC:

- A. Any repairs must comply with all relevant local and state floodplain regulations.
- B. Repairs may not damage existing dunes or dune vegetation.
- C. Repairs, other than those limited to emergency repairs to enclose a damaged structure, may not be completed during sea turtle nesting season.
- D. A new special exception must be applied for each time the structure is repaired.

Section 4. If the Town Council **approves with conditions** the requested Special Exception and the following conditions of approval are imposed on the Applicant and the Property:

- 1) The applicant shall obtain a revised FDEP permit which includes all the structures/ pavers, including the beach bars.
- 2) Additional repairs to major structures in the EC zoning district will require a new special exception.
- 3) The applicant is encouraged to make attempts to minimize the total area of pavers proposed in the EC.
- 4) Approval of this Special Exception does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
- 5) The applicant must apply for and receive all state and local permits required for the reconstruction of all proposed structures.
- 6) Any violation of the conditions of approval shall render the special exception null and void.

The foregoing Resolution was adopted by the Town Council upon a motion by Vice Mayor Atterholt and seconded by Council Member Woodson, and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
John R. King,	Aye
Scott Safford	Aye
Karen Woodson	Aye

ADOPTED this 23rd day of September 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers
Dan Allers (Nov 11, 2024 07:35 EST)

Dan Allers, Mayor

ATTEST:

Amy Baker
Amy Baker (Nov 14, 2024 10:16 EST)

Amy Baker, Town Clerk

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

Nancy Stuparich
Nancy Stuparich (Nov 11, 2024 20:32 EST)

Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 8th day of November 2024.

LIMITED DEVELOPMENT ORDER

FOR

LANI KAI

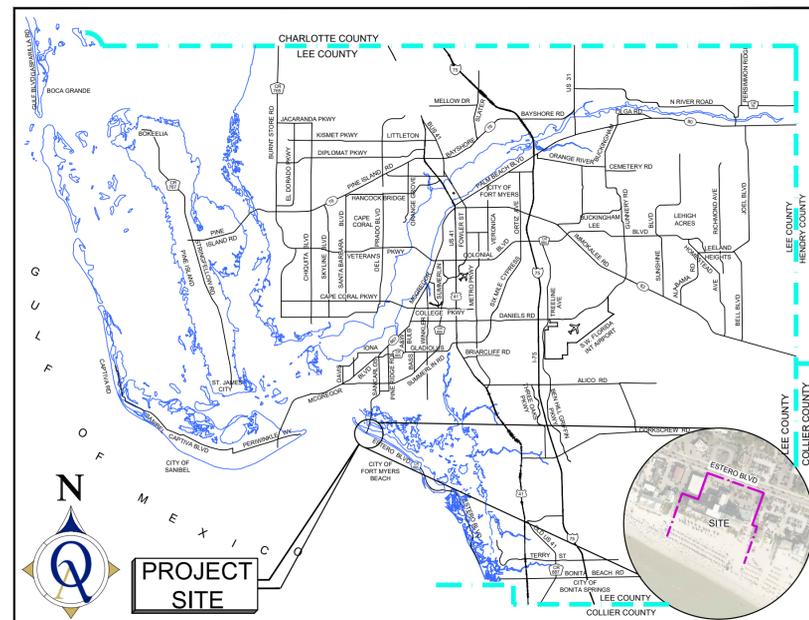
1400 ESTERO BLVD
FORT MYERS BEACH, FL 33931

REV	REVISION	DATE

OWNER / DEVELOPER:

LANI KAI, LP
1400 ESTERO BLVD
FORT MYERS BEACH, FL. 33931
LEE COUNTY

LOCATION MAP



LEE COUNTY, FLORIDA

SECTION 06, TOWNSHIP 45S, RANGE 25E
STRAP # 06-45-25-00-00002.0090
230410 - A

SHEET INDEX

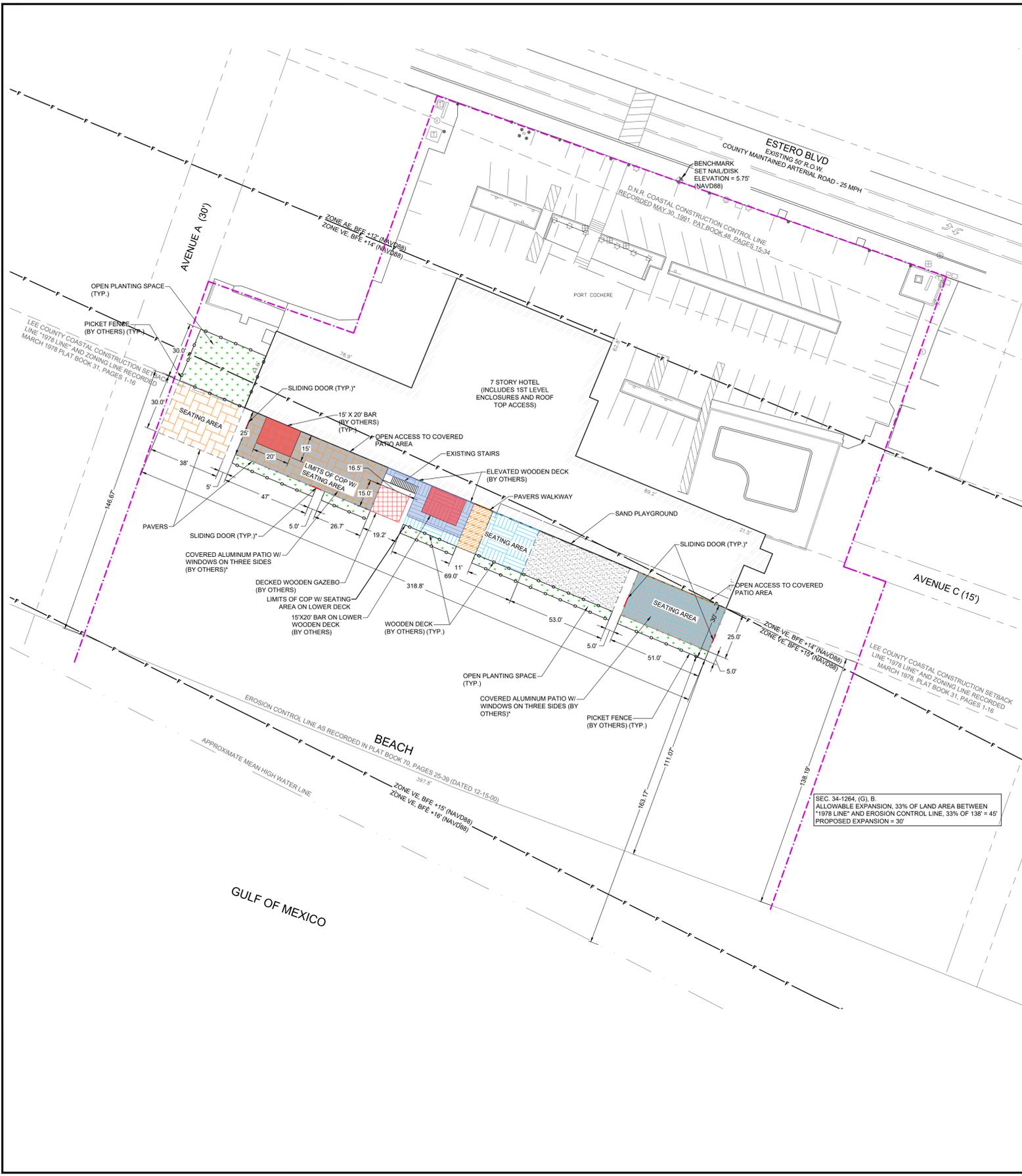
- SITE DEVELOPMENT: SD
- SD-01 COVER SHEET
- SD-02 MASTER SITE PLAN
- EX-01 PRE HURRICANE IAN CONDITIONS (2021)
- EX-02 PRE HURRICANE IAN CONDITIONS IMAGES (2021)

SITE PERMIT REQUIREMENTS		
AGENCY	STATUS	NOTES
LEE COUNTY DEVELOPMENT ORDER	REQUIRED	
LEE COUNTY PORT AUTHORITY	NOT REQUIRED	
LEE COUNTY UTILITY	NOT REQUIRED	
S.F.W.M.D. ENVIRONMENTAL RESOURCE	REQUIRED	
S.F.W.M.D. DEWATERING PERMIT	NOT REQUIRED	
S.F.W.M.D. WATER USE	NOT REQUIRED	
DOH WATERLINE EXTENSION PERMIT	NOT REQUIRED	
FDEP WASTE WATER EXTENSION PERMIT	NOT REQUIRED	

CONTRACTOR STAKEOUT SHALL BE FROM THE APPROVED CAD FILE BY QUATRONE AND ASSOCIATES

ALFRED QUATRONE, P.E.
FL. REG #52741
DATE: 8/11/2024

P:\2023 Projects\230410 LANI KAI\1-CADD FILES\1-CADD - IERSON CIG-PRODUCTIONS\PLANS\230410-SD



SITE DATA:

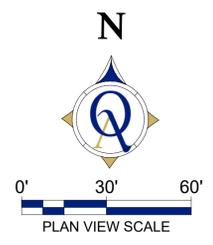
	SQ. FT.	ACRES	%
TOTAL PROJECT SCOPE AREA	10,704.00	0.25	100.00%
IMPERVIOUS AREA (WOODEN & PAVER DECKS W/ PARTIAL CANOPY SCREENED AREA)	6,418.00	0.15	59.96%
PERVIOUS AREA (OPEN PLANTING AND PLAYGROUND SPACE)	4,286.00	0.10	40.04%

PROPOSED HATCH LEGEND:

	OPEN PLANTING SPACE		WOODEN DECK
	PAVERS		SAND PLAYGROUND
	BEACH BAR		ELEVATED WOODEN DECK
	COVERED SCREENING THREE SIDES ONLY		DECKED GAZEBO
	PAVERS WALKWAY		SLIDING DOOR

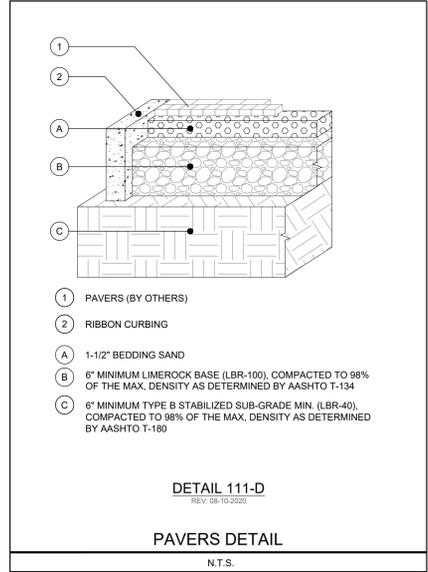
EXISTING CONDITIONS ARE BASED ON INFORMATION PROVIDED BY:
 STEPHEN F. SHAWLES II, P.S.M., NO. 6419
 HALEY WARD, INC. 1301 MCGREGOR BLVD
 FORT MYERS, FL 34819
 (239) 481-1331

DUNE VEGETATION PLANTING SPECIES
 PLANTINGS SHALL INCLUDE SEA OATS, RAILROAD VINES, BITTER PANICUM, AND BEACH ELDER ONLY.



WINDOW & DOOR LIGHT TRANSMITTANCE*

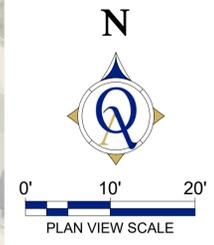
- PER SEC. 32-105 (E) ALL GLASS WINDOWS, WALLS, RAILINGS AND DOORS ON THE SEAWARD AND SHORE-PERPENDICULAR SIDES INCLUDED IN ANY NEW CONSTRUCTION, ALTERATION, OR WINDOW REPLACEMENT, SHALL UTILIZE GLASS WITH AN INSIDE TO OUTSIDE LIGHT TRANSMITTANCE VALUE OF 45 PERCENT OR LESS.
- PER SEC. 32-105 (F) WINDOW COVERINGS ARE REQUIRED. WINDOW COVERINGS MEANS ANY TYPE OF ATTACHMENTS OR MATERIALS USED TO COVER A NON-OPAQUE WINDOW OR DOOR EITHER INTERNALLY OR EXTERNALLY TO REDUCE LIGHT AND ENERGY TRANSMITTANCE THROUGH WINDOWS AND DOORS. TYPES OF WINDOW COVERINGS INCLUDE BLINDS, SHADES, CURTAINS, SHUTTERS, TINTED PLASTIC FILMS. WINDOW COVERINGS WITH A LOWER VISUAL TRANSMITTANCE RATING BY THE ATTACHMENT ENERGY RATING COUNCIL ARE PREFERRED (FOR EXAMPLE, BLACKOUT CURTAINSHADES).



SEC. 34-1264, (C), B.
 ALLOWABLE EXPANSION, 33% OF LAND AREA BETWEEN "1978 LINE" AND EROSION CONTROL LINE, 33% OF 138' = 45'
 PROPOSED EXPANSION = 30'

DATE	
REVISION	
REV	
LANI KAI SITE PLAN 1400 ESTERO BLVD FORT MYERS BEACH, FL 33931	
Quatrone & Associates, Inc. Engineers, Planners & Development Consultants 4301 Veronica Shoemaker Blvd - Fort Myers, Florida 33916 - 239-936-5222 <small>Certificate of Authorization Number: 9405</small>	
ALFRED QUATRONE, P.E. FL REG #52741 <small>SCALE ONLY WITH STAMPED SEAL</small> SAVED BY: Praneeth SAVED ON: 8/11/24	
SHEET SD-02 02 OF 02	

P:\2023 Projects\230410 LANI KAI\01-CADD FILES\01-CADD - IERSON\02-PRODUCTIONS\PLANS\230410-SD



PRE HURRICANE IAN CONDITIONS:

	WOODEN DECK - 3,666 SF		ELEVATED WOODEN DECK - 710 SF
	COVERED ALUMINUM CANOPY AREA WITH WOODEN DECK - 2,270 SF		WOODEN GAZEBO - 265 SF
	WOODEN WALKWAY - 729 SF		

TOTAL PRE HURRICANE IMPERVIOUS AREA: 7,640 SF
NOTE: ALL THE PRE HURRICANE AREAS ARE BASED ON 2021 AERIAL IMAGERY.

DATE	1/26/23
REVISION	
REV	

LANI KAI
PRE HURRICANE IAN CONDITIONS (2021)
 1400 ESTERO BLVD
 FORT MYERS BEACH, FL 33931

Quatrone & Associates, Inc.
 Engineers, Planners & Development Consultants
 4301 Veronica Shoemaker Blvd - Fort Myers, Florida 33916 - 239-936-5222
 Certificate of Registration Number: 9405

ALFRED QUATRONE, P.E.
 FL REG #52741
 V.M. ONLY WITH STAMPED SEAL
 SAVED BY: Praneeth
 SAVED ON: 8/11/24

SHEET
EX-01
 01 OF 02

230410 - A

