

**RESOLUTION NUMBER 25-58**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING WITH CONDITIONS SPECIAL EXCEPTION SEZ20240257 TO ALLOW REPAIR OF POOL, POOL DECK, FENCES, GRILL AREA, FOOT-RINSE STATION, AND BEACH ACCESS STAIRS IN EC ZONING DISTRICT SEAWARD OF 1978 CCCL, FOR THE PROPERTY LOCATED AT 2654 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**, applicant and owner Estero Beach Club East Condominium, Inc., is requesting a special exception to allow repair of pool, pool deck, fences, grill area, foot-rinse station, and beach access stairs in the Environmentally Critical zoning district seaward of 1978 CCCL; and

**WHEREAS**, the STRAP number for the subject property is 119-46-24-W3-02100.00CE; and

**WHEREAS**, the Property is located in the “Boulevard” and “Recreation” category of the Future Land Use Map of the Comprehensive Plan; and

**WHEREAS**, the Property is located in the “Multi-family Residential” 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 January 9, 2025, 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 and voted 6 to 0, with one member absent, to recommend approval with conditions, of the special exception request; and

**WHEREAS**, on February 18, 2025 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 34-88 of the LDC; and

**WHEREAS**, the Town Council determined **it is/** is not in the best interest of the Town to approve/**approve with conditions**/deny 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 Applicants **did** meet their burden of proof that the requested Special Exception **does** meet the requirements of the Town Comprehensive Plan and LDC, and approving the Special Exception **is** in the best interest of the Town to approve. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicants, Town staff, and interested parties and public, the Town Council **APPROVES WITH CONDITIONS** the special exception request to allow repair of pool, pool deck, fences, grill area, foot-rinse station, and beach access path in Environmentally Critical zoning district seaward of 1978 CCCL.

Section 3. In **approving with conditions** 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** the requested special exception and the following conditions of approval are imposed on the Applicants and the Property:

- A. Approval of this special exception does not give the Applicant an undeniable right to permit approval. Development 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.
- B. The applicant must obtain an approved lighting plan as outlined in LDC Sec. 34-1834.
- C. Each time the structure is repaired, the applicant must request a new special exception approval and permit prior to beginning construction.
- D. Construction may not occur during sea turtle season.
- E. Failure to comply with any of the above-mentioned conditions of approval for the Special Exception will render this approval null and void.

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

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

ADOPTED this 18<sup>th</sup> day of February 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

**FORT MYERS BEACH TOWN COUNCIL**

  
Dan Allers (Mar 2, 2025 15:40 EST)  
\_\_\_\_\_  
Dan Allers, Mayor

**ATTEST:**

  
Amy Baker (Mar 4, 2025 10:13 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:**

  
Vose Law Firm (Feb 28, 2025 13:34 EST)  
\_\_\_\_\_  
Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 28<sup>th</sup> day of February 2025.

**ATTACHMENT**

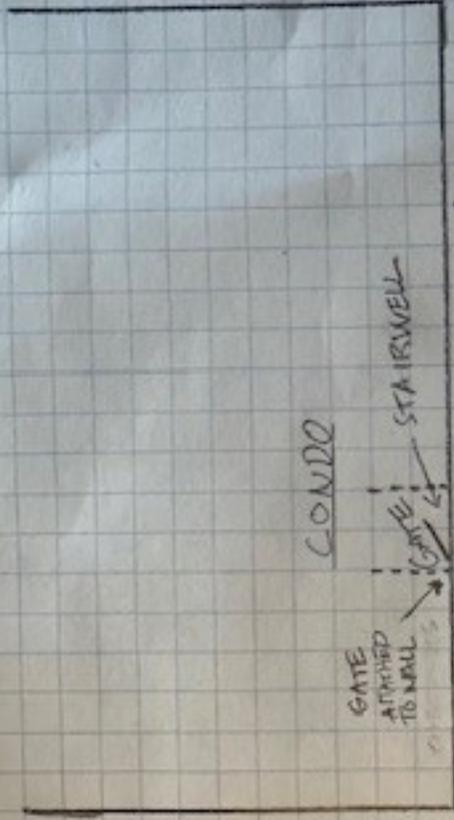
A – Site Plan

SITE PLAN

ESTERO BEACH CLUB EAST

2650 ESTERO BLVD, FMB

NOTE - EXISTING PAVERS ALONG SIDES STAY. FENCE ALONG GOLF FACING CONDO SELF SUPPORTING.



ALL GATES ATTACHED TO FENCING UNLESS NOTED

GRASS  
CCL  
EXISTING PAVERS 13 FT  
53 FT

TOTAL AREA OF PROPOSED REPAIRS = 4,020 Sq. Ft.

CONDO

STAIRWELL

POOL 20' x 40'

PAVERS

POOL EQUIP 8.9' x 8.9'

EXISTING PAVERS

PAVER DECK

PAVERS 60 FT

PAVERS 37 FT

POOL DECK AREA BEYOND CCL 15,325 Sq. Ft.

1978 CCL

LEGEND

- A - HANDRAIL
- B - LADDER
- Ø - NO DRIVING
- ⊙ - LIGHT

PATH TO BEACH

- S - SHOWER
- F - FOOT WASH
- I - 3 FT 6 IN FENCE
- 2 - 3 FT 9 IN STRUCTURE
- 198 - COASTAL CONT. LINE

SCALE (APPROX) □ = 5 FT x 5 FT