



Notice of Public Meeting Planning Board

Commission Chambers
155 Corey Avenue, St. Pete Beach, Florida 33706
6/18/2014
4:00 p.m.

Call to Order
Pledge of Allegiance
Roll Call

Regular Meeting Agenda

1. **Changes to the Agenda**– Agenda items to be added, moved or deleted will be addressed at this time. Added items will be assigned agenda item numbers and moved items should remain with the same item numbers. Notation will be made that those items will be taken out of order.
2. **Audience Comments** - Comments shall be limited to three minutes per person to issues not on the agenda.
3. **Review and Approval of March 18th Meeting Minutes**
4. **Welcome New Members**
5. **Action Items**
None
6. **Discussion Items**
 - A. Beach Ordinance
 - B. Temporary Use Permits
7. **Adjournment**



Calvin, Giordano & Associates, Inc.
EXCEPTIONAL SOLUTIONS

MEMORANDUM

TO: City of St. Pete Beach Planning Board
Ward Friszolowski, Chairman
Don Breitweiser, Vice Chairman
Jack Brock
Ron Holehouse
Tiffany Secka

FROM: David P. Healey, FAICP
Director, Tampa Bay Region
Calvin, Giordano & Associates, Inc.

THROUGH: Elaine Edmunds
Interim City Manager

SUBJECT: Discussion Items for Planning Board Agenda
of June 18, 2014

DATE: June 12, 2014

INTRODUCTION

By way of introduction, the City has asked that I assist the Community Development Department on an interim basis in the absence of a Community Development Director. I look forward to meeting and working with you.

AGENDA ITEM 6 A - BEACH ORDINANCE

Background - The Board reviewed draft ordinances that were directed at addressing certain issues related to the use of beachfront properties at your February, 2013 and March, 2014 meetings respectively. After considerable discussion, it was determined that additional information and analysis was needed prior to formulating any recommended course of action. The materials considered in February and March are included for your reference as Attachment No. 1-A and 1-B.

Additional Information - Staff has compiled information gathered from other communities that describe various approaches that have been used in these communities that may be helpful in identifying alternative approaches to the use and regulation of beachfront properties. This information is attached and identified as Attachment No. 2.

Building Code Services
Coastal Engineering
Code Enforcement
Construction Engineering & Inspection
Construction Services
Contract Government
Data Technologies & Development
Emergency Management Services
Engineering
Governmental Services
Indoor Air Quality
Landscape Architecture & Environmental Services
Municipal Engineering Planning
Public Administration
Redevelopment & Urban Design
Renewable Energy
Resort Development
Surveying & Mapping
Transportation Planning & Traffic Engineering
Utility & Community Maintenance Services
Water Resources Management

Feather Sound Corporate Center
13535 Feather Sound Dr.
Suite 135
Clearwater, FL 33762
Phone: 727.394.3825

www.calvin-giordano.com



Identifying the Issues - As Staff have worked through the issues, there appear to be two separate, but interrelated, issues.

1. **Public / Private Property** - The first issue has to do with the differentiation between public and private property and the corresponding distinctions governing access and use. This is a complex legal and practical issue that is not unique to St. Pete Beach. For a host of reasons that include property right distinctions, historic or customary use, and the practicality of demarcating a clear point of differentiation between public and private property, any solution to this issue requires a carefully crafted legal and practical approach.
2. **Alcoholic Beverages** - The second, but related, issue is where alcoholic beverages may be served by those businesses licensed to do so, and the consumption of those beverages by their patrons. A corollary issue then is where and under what circumstances the public can have or consume alcoholic beverages, other than on the premises of a business licensed to provide such service.

Initial Recommended Approach - Based on the information gathered to date, and subject to the input and suggestions of the Planning Board, the staff recommends the following approach for your consideration:

1. **Public / Private Property:**
 - a. Relative to this first issue, staff has initiated a discussion with Deuel and Associates, Inc., Engineers and Surveyors, relative to the history and relevance of establishing the mean high water line, the extent to which such line has been recorded pursuant to state law as the erosion control line, and the significance of each.
 - b. Deuel and Associates is researching this information as it may bear on alternative means of clarifying and distinguishing between private property and sovereign public property and will make a presentation to the City Commission at a Workshop on June 24th.
 - c. Prior to any recommendation on the specifics of the draft ordinance or other means of addressing the beachfront issues, the Board await and take under advisement the information to be shared with the Commission at the June 24th workshop, and any direction the Commission may provide as a result thereof.

The Planning Board is encouraged to attend or otherwise observe the workshop if at all possible; and if appropriate this information can be considered at the next Planning Board meeting.



2. Alcoholic Beverages:

- a. The need and most appropriate means to address this issue will be guided in part by the information gathered with respect to the public/private property issue.
- b. Once an approach to the first issue is determined, the City can identify what particular measures can and should be addressed relative to the service and consumption of alcoholic beverages.

AGENDA ITEM 6 B - TEMPORARY USE PERMITS

Background - The Board has been requested by the Commission to review certain issues that have been raised in conjunction with three pending applications for Temporary Use Permits to allow off-premise parking lots; and the related issue of how to provide for and govern temporary uses in general. The information pertaining to the three pending applications and the memorandum prepared for and reviewed with the Commission on May 27th is included as Attachment No. 3. Attachment 4 includes examples from other communities that address temporary uses.

The Commission approved the recommended ninety-day period referenced in the attachment to review the matter and identify a proposed course of action.

Identifying the Issues - The essential issues to be addressed are identified in the accompanying memo in Attachment No. 3 and may be summarized as follows:

1. What Uses Qualify - What uses should be eligible to be considered as temporary uses, and is the temporary use process the best vehicle for the type of use proposed by the three pending applications for parking lots?
2. Who Approves - Who should approve temporary use permits and by what processes?
3. What Conditions Apply - What conditions should apply; e.g., time limits, site improvements, insurance, provision for removal, etc.

As is evident from the information contained in the three pending applications, and an examination of the current code provisions, the temporary use permit process lacks clarity and specificity and may not be well suited to the kinds of use proposed by these parking lot applications.

First, by their very nature as well as the expressed intent of some of the applicants, they are not "temporary" in the conventional use of the term. Second, the kinds of considerations and improvements that are typically appropriate - compatibility with adjoining uses, fencing, access/control, landscaping, surface treatment - need to be carefully considered based on



individual circumstances and don't lend themselves to the immediacy generally associated with a temporary use process. For these reasons, a more structured process with clear requirements, should be considered to deal with off-premise parking lots. Such process should recognize that off-premise parking may address an important need in a tourist-related portion of the community, that such use may extend, particularly in a redevelopment context, for more than a short (temporary) period of time, and that such use may affect neighboring uses and community appearance.

It is also important that we recognize that the pending applications are based to some extent on what has previously transpired on these three properties; and further, they are entitled to be considered under the provisions of the Code in place at the time of application.

Initial Recommended Approach - Based on the information gathered to date, and subject to the input and suggestions of the Planning Board, the staff recommends the following approach for your consideration:

1. **Disposition of the Three Pending Applications:**

- a. Recommend the Commission approve the granting or reinstatement of a Temporary Use Permit for the two properties previously issued temporary use permits for the existing parking lots at 3855 Gulf Boulevard (Morean) and 5030 Gulf Boulevard (Kotsopoulos/Grand Plaza Resorts, Inc.) for a period of not more than 12 months;
- b. Recommend the Commission direct the third pending application for the property at 5195 Gulf Boulevard (Nicklaus of Florida, Inc./Sirata) apply for and be considered pursuant to the Conditional Use process for off-premise parking as currently provided for in the Activity Center (AC) zoning district;
- c. Recommend the staff prepare, and the Planning Board and Commission consider, amendment of the Land Development Code to provide for off-premise parking lots as Conditional Uses in the Large Resort (LR), Bayou Residential (BR) and Boutique Hotel/Condo (BH/C) sub-districts within the Gulf Boulevard Redevelopment District; and
- d. Upon approval of such Code amendment, the two properties identified in (a.) above at 3855 and 5030 Gulf Boulevard, and any others in the enumerated zoning districts subsequently requesting an off-premise parking lot, be required to apply pursuant to the Conditional Use process.

2. **Provisions for Other Temporary Uses:**

- a. Consider amending the Land Development Code to clarify the definition, standards and process for approval of other types of temporary use.
- b. These clarifications might include:



- (1) Identifying the types of use that are typically considered temporary - e.g., construction related equipment/facilities, tents or other such equipment for festivals/celebrations, signage for special events, etc.;
- (2) Whether there should be a distinction as to the zoning districts in which certain temporary uses can be placed, e.g., those that relate to commercial or temporary lodging use vs. residential;
- (3) What the maximum time frame and any other conditions applicable to such uses should be; and
- (4) The process required for application and approval by staff.

CITY OF ST. PETE BEACH

ORDINANCE NO. (TBD)

AN ORDINANCE AMENDING DIVISIONS 2, 6, 14, 15, 16, AND 25 OF THE ST. PETE BEACH, FLORIDA LAND DEVELOPMENT CODE TO MODIFY, REMOVE, OR RELOCATE CERTAIN BEACH RELATED REFERENCES; PROVIDING FOR THE REPEAL OF ORDINANCES, OR PARTS OF ORDINANCES, IN CONFLICT HERewith, TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of St. Pete Beach seeks to unify beach provisions into the City Code of Ordinances; and

WHEREAS, certain provisions within the Land Development Code must be modified, removed, or relocated in order to achieve this purpose; and

WHEREAS, The Planning Board, acting as the Local Planning Agency, conducted a public hearing regarding these changes on October 15, 2013 and unanimously recommended approval of the proposed changes; and

WHEREAS, the City Commission finds these text amendments to the Land Development Code are necessary to promote, protect and improve the health, safety and welfare of the citizens of the city;

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA, HEREBY ORDAINS:

Section 1. Division 2 of the St. Pete Beach, Florida Land Development Code is hereby amended as follows:

DIVISION 2 DEFINITIONS

Sec. 2.1. Words, terms and phrases defined.

Beach means the soft sand portion of land between the edge of the sea and the first line of a seawall or permanent vegetation. ~~that area of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent upland vegetation, usually the effective limit of storm waves.~~

Commercial water sports mean operations that offer any of the following activities to the public in return for payment:

- ~~(1) The rental of personal watercraft or jet skis;~~
- ~~(2) The rental of human-powered or wind-powered watercraft; or~~
- ~~(3) Parasailing, water skiing, or other similar towing operations.~~

Tent means any temporary structure or enclosure, the roof of which or one-half or more of the sides are constructed of silk, cotton, canvas, fabric, or a similar pliable material.

Mean high water means the high-water mark established by the U.S. Coastal and National Geodetic Survey in its latest coastal survey of the city.

Section 2. Division 6 of the St. Pete Beach, Florida Land Development Code is hereby amended as follows:

DIVISION 6 SUPPLEMENTAL REGULATIONS

Sec. 6.12. Commercial accessory and temporary equipment, structures, portable buildings and trailers, dumpsters and commercial tents.

- (f) Tents ~~be~~ may ~~be~~ erected and maintained by a business within the RFM or CG-1 zoning districts, provided:
 - (1) No tent shall be erected within any public right-of-way or within 75 feet of the back edge of a curb, public sidewalk or roadway, whichever is most restrictive.
 - (2) Tents shall also be required to meet the side and rear required yards of the zoning district in which the tent is located;
 - (3) Tents shall not be located on a parking lot or pedestrian walkway in such a manner that the normal flow of traffic on the site cannot be maintained nor shall any tent render useless more than ten percent of the parking required for the business;
 - (4) Tents shall be maintained so as not to constitute a nuisance or hazard;
 - (5) Tents used for public assembly or cooking or within which any combustible material will be used or stored must meet all requirements of the Florida Fire Prevention Code and be approved by the fire marshal prior to their use.
 - ~~(6) Tents which are placed upon any public beach must be approved through the city's special event permitting process and be approved by the fire marshal prior to their use.~~

Section 3. Division 14 of the St. Pete Beach, Florida Land Development Code is hereby amended as follows:

DIVISION 14 RFM RESORT FACILITIES MEDIUM DISTRICT

Sec. 14.4. Allowable conditional uses.

Subject to the provisions or restrictions contained in this section and elsewhere in this Code, allowable conditional uses in the RFM Resort Facilities Medium District are as follows:

- (a) Assisted living facilities.
- (b) Places of worship.
- ~~(c) Commercial water sports, non-motorized vessels of 16 feet or less in length only.~~
- ~~(d)~~ Communications facilities.
- ~~(e)~~ Daycare centers/kindergartens.
- ~~(f)~~ Docks, commercial—Classes A, B and C.
- ~~(g)~~ Eating and drinking establishment—Fast food, beach bar and outdoor restaurant.
- ~~(h)~~ Financial institutions with drive-through service.
- ~~(i)~~ Laundry, dry cleaning.
- ~~(j)~~ Parking lots, commercial and/or off-premise.
- ~~(k)~~ Recreational—Commercial recreation; public parks and/or recreational facilities.
- ~~(l)~~ Recycling centers.
- ~~(m)~~ Schools—Public, private and/or commercial.
- ~~(n)~~ Utility substations and/or rights-of-way.
- ~~(o)~~ Vessel for hire businesses.

Section 4. Division 15 of the St. Pete Beach, Florida Land Development Code is hereby amended as follows:

DIVISION 15 CG-1 COMMERCIAL DISTRICT

Sec. 15.4. Allowable conditional uses.

Subject to the provisions or restrictions contained in this section and elsewhere in this Code, allowable conditional uses in the CG-1 Commercial District are as follows:

- (a) Assisted living facilities.
- (b) Adult entertainment establishments—See also Chapter 10, St. Pete Beach Code of Ordinances.
- (c) Automotive rental agencies.
- (d) Automotive sales lots.
- (e) Automotive services and repairs.
- (f) Automotive service stations.
- (g) Boat sales and repair facilities.
- (h) Car wash facilities.
- (i) Commercial boat docking facilities.
- ~~(j) Commercial water sports, non-motorized vessels of 16 feet or less in length only.~~
- ~~(k)~~ Communication facilities.
- ~~(l)~~ Docks, commercial—Classes A, B, C, and D.
- ~~(m)~~ Eating and drinking establishment—Fast food restaurant, nightclub or outdoor restaurant.
- ~~(n)~~ Financial institutions with drive-through services.

- (on) Kennels with outdoor runs.
- (po) Laundries, dry cleaning.
- (qp) Marinas.
- (rq) Parking lots, commercial and/or off-premise.
- (sr) Printing, general.
- (ts) Recreational—Commercial recreation; public parks and/or recreational facilities.
- (uf) Recycling centers.
- (vu) Schools, public or private and/or commercial.
- (wv) Services, commercial/business.
- (xw) Storage facilities with outdoor storage.
- (yx) Storage, self-service.
- (zy) Theatres.
- (aaz) Utility substations and/or rights-of-way.
- (bbaa) Vehicle for hire businesses.
- (eebb) Vessel for hire businesses.

Section 5. Division 16 of the St. Pete Beach, Florida Land Development Code is hereby amended as follows:

DIVISION 16 CG-2 COMMERCIAL DISTRICT

Sec. 16.4. Allowable conditional uses.

Subject to the provisions or restrictions contained in this section and elsewhere in this Code, allowable conditional uses in the CG-2 Commercial District are as follows:

- (a) Adult entertainment establishments—See also Chapter 10, St. Pete Beach Code of Ordinances.
- (b) Automotive service stations.
- (c) Bar (cocktail lounges, saloons).
- (d) Commercial boat docking facilities.
- ~~(e) Commercial water sports, non-motorized vessels of 16 feet or less in length only.~~
- (fe) Communications facilities.
- (gf) Commercial docks—Classes A, B and C only.
- (hg) Eating and drinking establishments—Nightclubs, fast food restaurants, outdoor restaurants and sidewalk cafe.
- (ih) Mortuaries.
- (ji) Parking lots—Commercial and/or off-premise.
- (kl) Recreational—Commercial recreation; public parks and/or recreational facilities.
- (lk) School, commercial.
- (ml) Theaters.
- (nm) Utility substations and/or rights-of-way.
- (on) Vessel for hire businesses.

Section 6. Division 25 of the St. Pete Beach, Florida Land Development Code is hereby amended as follows:

DIVISION 25 COASTAL PROTECTION AND CONSERVATION

Sec. 25.6. Tiki huts.

(a) The city may permit the location of a tiki hut on the beach in accordance with the following:

(1) Tiki huts shall be allowed only in conjunction with the approval of the owner of the property upon which the tiki hut will be located and as part of a conditional use approved under the provisions Division 4 of this Code. Tiki huts shall be further regulated as follows:

- a. Only one tiki hut for each approved conditional use on a zoning lot;
- b. Such tiki huts shall be located in accordance with an approved site plan;
- c. Tiki huts shall be no larger than 36 square feet in area with sides that are at least 50 percent open and may have a roof;
- d. No tiki hut shall have utility services, shall serve food or drinks, or shall be used for any other service beyond the sales of services for an approved commercial water sports operation.

(2) Tiki huts shall be removed from the beach in the event of the issuance of a warning for a storm that, in the opinion of the city, is expected to be of sufficient strength to warrant such removal.

(3) Any tiki hut or other similar structure placed or erected on the beach after the adoption of this Code without a permit from the city shall in violation of this Code and all remedies shall be sought in accordance with the provisions of section 3.16 of this Code.

Section 7. All ordinances or parts of ordinances, in conflict herewith are hereby repealed to the extent of any conflict with this Ordinance.

Section 8. If any portion or part of this Ordinance is declared invalid by a court of competent jurisdiction, the valid remainder hereof shall remain in full force and effect.

Section 9. This Ordinance shall become immediately upon adoption.

ADOPTED this ____ day of _____, 2013.

**CITY COMMISSION OF ST. PETE BEACH,
FLORIDA**

Steve McFarlin, Mayor

ATTEST:

Rebecca C. Haynes, City Clerk

AN ORDINANCE REVISING DIVISION I. OF ARTICLE III OF CHAPTER 94, AND SECTION 6-5, CODE OF ORDINANCES, CITY OF ST. PETE BEACH, FLORIDA, RELATING TO, RESPECTIVELY, BEACHES AND PUBLIC CONSUMPTION OR POSSESSION OF ALCOHOLIC BEVERAGES; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA, HEREBY ORDAINS:

Section One: That Division I of III of Chapter 94, Code of Ordinances, City of St. Pete Beach, Florida is hereby amended to read as follows:

Sec. 94-66. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Beach means the soft sand portion of land between the edge of the sea and the first line of a seawall or permanent vegetation.

Commercial Water Sports means operations that offer any of the following activities to the public in return for payment: The rental of personal watercraft or jet skis; The rental of human-powered, water-powered, or wind-powered watercraft; or Parasailing, water-skiing, or other similar towing operations.

Mean High Water (MHW) means the high-water mark established by the National Geodetic Survey in its latest coastal survey of the city.

Sunrise means the time when the upper limb of the sun as affected by refraction appears above the sensible horizon as a result of the diurnal rotation of the earth.

Sunset means the time when the upper limb of the sun as affected by refraction disappears below the sensible horizon as a result of the diurnal rotation of the earth.

Tent means any temporary structure or enclosure, 10' x 10' or larger, the roof of which or one-half or more of the sides are constructed of silk, cotton, canvas, fabric, or a similar pliable material.

Sec. 94-67. Penalties.

Any person violating this article shall be subject to the penalties of section 1-14.

Sec. 94-68. Beach chairs, tables, benches, cabanas, tents, and umbrellas.

(a) Commercial vending of beach chairs, tables, benches, cabanas, tents, and umbrellas shall be regulated as follows:

(1) Seaward (West) of MHW Line – Prohibited.

(2) Landward (East) of MHW Line on Public Beach – Permitted pursuant to sections (b) and (c) below and/or subject to the approvals of the County and/or City.

(3) Landward (East) of MHW Line on Private Beach – Permitted as an ancillary use to a licensed and operating tourist lodging facility and provided commercial vending is limited to only those persons utilizing that property.

(b) It shall be unlawful for any person to place upon the public beach any chair, bench, table, cabana, tent or umbrella which is in a location or is of a size which would interfere with the use of the public beach by the general public.

(b) It shall be unlawful for any person placing or causing to be placed any chair, bench, table, cabana, tent or umbrella equipment upon the public beach to allow such to remain upon such public beach between sunset and sunrise.

Sec. 94-69. Mobile vending Picnics of and food and beverages consumption.

(a) Mobile vending shall be regulated as follows:

(1) Seaward (West) of MHW Line – Prohibited.

(2) Landward (East) of MHW Line on Public Beach – Permitted pursuant to section (b) below and/or subject to the approvals of the County and/or City.

(3) Landward (East) of MHW Line on Private Beach – Permitted as an ancillary use to a licensed and operating tourist lodging facility provided vending is limited to only those persons utilizing that property and provided no monetary transaction is made. Alcoholic beverages are permitted provided they are served in a non-glass container. Any vehicle used for vending shall be no larger than a typical golf cart, which may be modified for vending use and travel over sand.

~~(a) Except as provided in subsection (b) of this section, no person shall conduct or participate in a picnic on any of the city's beaches. Except as provided in section 6-5, no person shall possess or consume any alcoholic beverages upon any of the city's beaches.~~

(b) Picnics and the consumption of food and nonalcoholic beverages shall be permitted on the city beaches of Pass-a-Grille and Upham Beach, provided that:

(1) Those persons having picnics or consuming food or nonalcoholic beverages within the area shall be responsible for cleaning up all of the food, papers, cartons, bottles and other refuse or debris which shall remain or be left from the consumption of such food or beverage.

(2) It shall be unlawful to build any fire for any purpose, including the cooking of food, within the sand beaches of the city.

- (3) Glass containers or bottles associated with the consumption of food or nonalcoholic beverages shall be prohibited.
- (c) Notwithstanding subsection (b)(2) of this section, the city manager shall be entitled to authorize the building of a fire, with such requirements as the city manager deems appropriate. Any person receiving authorization to build a fire shall agree in writing to comply fully with all requirements imposed by the city manager.
- (d) Anyone convicted of violating this section shall pay a fine of not less than \$100.00 or more than \$500.00 for the first offense. A second offense shall require the payment of a \$1,000.00 fine. A third and any subsequent offenses shall require the payment of a \$1,000.00 fine and prohibit vending service on the beach for a period of not less than one-year from the date of the third violation. Signs shall be posted notifying the public of the penalty for violating this section.

Sec. 94-70. Sleeping during nighttime prohibited.

- (a) *Intent.* It is the intent of the city commission to preserve and protect the beauty of the city's beaches, parks and other public property for use by residents and tourists. In furtherance of such purpose, the city commission makes the following findings of fact:
- (1) The city has a significant tourist population that utilizes its beaches, parks and other public property.
 - (2) Being a largely recreational and tourist community, the city's beaches, parks and other public property are a very valuable asset.
 - (3) Such beaches, parks and any other public properties are intended to be used solely for recreational purposes and not for sleeping during nighttime hours.
 - (4) Permitting persons to sleep on the beaches, in the parks and on any other public property during nighttime hours will have a negative effect on the appearance of such areas and upon the city's tourism industry.
 - (5) Persons sleeping on the beaches, in the parks or on any other public property are exposed to the risk of harm from others or the elements.
 - (6) Prohibiting persons from sleeping on the public beaches, in the parks and on other public property during the nighttime hours will promote the public health, safety and welfare.
 - (7) The beaches beginning at 30th Avenue and running north to the north boundary of block "M," Don CeSar Subdivision, and beginning at the south boundary line of block "N," Don CeSar Subdivision, and running north to 37th Avenue, are gulfward of residential property. Sleeping on the beach in these areas is contrary to the health and safety of the public.
- (b) *Prohibition.* It shall be unlawful for any person to sleep at the following places between the hours of 9:00 p.m. and 6:00 a.m. of the following day, referred to in this section as the nighttime hours:
- (1) On any public beach or in any public park or any other public property within the corporate limits.

- (2) Between the waters of the Gulf of Mexico on the west and the most landward line of the sand dune or permanent construction, whichever first occurs, in the following area: beginning at 30th Avenue and running north to the north boundary of block "M," Don Ce Sar Subdivision, and beginning at the south boundary line of block "N," Don Ce Sar Subdivision, and running north to 37th Avenue.
- (c) *Penalty.* Any person found guilty of violating this section shall, upon conviction, be penalized as provided in section 1-14

Sec. 94-71. Tiki huts.

Tiki huts are prohibited on any beach unless a permit has been issued by the department of planning and development in compliance with the following:

- (1) The tiki hut does not violate the terms of F.S. § 161.053.
- (2) The person applying for the tiki hut permit has the written approval of the upland property owner.
- (3) The applicant is licensed as a commercial watersport business as provided by the land development regulations in subpart B of this Code.
- (4) The tiki hut is constructed as provided in section 98-67.

Sec. 94-72. Temporary storage structures and trailers.

(a) Temporary storage structures and trailers shall be regulated as follows:

- (1) Seaward (West) of MHW Line – Prohibited.
- (2) Landward (East) of MHW Line on Public Beach – Prohibited.
- (3) Landward (East) of MHW Line on Private Beach – Prohibited except for the loading and unloading of equipment and rentals as may be necessary for setup in the morning and removal in the afternoon. The City Manager may allow a temporary structure or trailer to remain on the beach during the day subject to the approval of a written request from the property owner and provided the service is limited to only those persons utilizing that property and no monetary transaction is made.

No temporary structure of any kind shall be erected on any beach unless otherwise authorized by this article or other section of this Code.

Sec. 94-73. Vehicles on the beach permits.

(a) Vehicles on the beach shall be regulated as follows:

- (1) Seaward (West) of MHW Line – Prohibited unless approved by the County and/or City.
- (2) Landward (East) of MHW Line on Public Beach – Prohibited except for moving equipment and rentals by approved vendors as may be necessary for setup in the morning and removal in the afternoon and as otherwise authorized below.

(3) Landward (East) of MHW Line on Private Beach – Prohibited except for moving equipment and rentals as may be necessary for setup in the morning and removal in the afternoon and as otherwise authorized below.

(ab) ~~Required.~~ No person, municipality, county or other public agency other than government agencies, shall drive any vehicle on, over or across any beach unless such motor vehicle has been issued a "vehicle on the beach" permit under this section, except in emergency situations as approved by the police department or fire department except as provided in (a) above, unless such motor vehicle is associated with an approved special event.

(b) ~~Criteria for issuance.~~ Permits for the operation of vehicles on the beach shall be issued for the following purposes:

- (1) ~~Public works and public safety;~~
- (2) ~~Permitted commercial activities;~~
- (3) ~~Special events; and~~
- (4) ~~Mechanical beach cleaning.~~

(c) ~~Issuance; additional federal, state or county permits.~~ Permits shall be issued by application to the department of planning and development based on the scope of activity. Where necessary, the applicant shall obtain whatever additional permits that may also be required by either federal, state or county law. Where federal, state or county approval is necessary, no permit issued by the department shall become effective until such approval has been granted.

(d) ~~Bond; insurance.~~ Based on the scope of activity, the department may require the posting of a bond or a liability insurance policy protecting against damage to property or persons.

(ec) ~~Compliance.~~ In reviewing the application for a permit special event, the department shall be authorized to require the applicant to provide all information necessary to determine whether the vehicle will be operated to comply with the requirements of this article or to set reasonable conditions to ensure compliance. Based on the scope of activity, the department may require the posting of a bond or a liability insurance policy protecting against damage to property or persons.

(fd) ~~Safe operation.~~ Operating vehicles permitted under this section shall be subject to all of the regulations set forth in this article and other ordinances governing the safe operation of vehicles.

Sec. 94-73. Alcohol on the beach.

(a) Alcohol on the beach shall be regulated as follows:

- (1) Seaward (West) of MHW Line – Prohibited except as provided for in (c) below.
- (2) Landward (East) of MHW Line on Public Beach – Prohibited except as provided for in (c) below.
- (3) Landward (East) of MHW Line on Private Beach – Prohibited except as provided for in Section 94.69 and (c) below.

(b) For public beaches, notice of this section shall be posted in a prominent beach access location by the city. Where the upland property is used for some commercial use, notice shall be posted by the owner. Where the upland property is a multifamily residential use, the owner or condominium association shall be responsible for posting the notice. Where the upland property is less than three residential living units, the city shall post the notice at the closest public access to the beach.

(c) Permits for special events may be issued as follows:

- (1) The city manager may approve the consumption of alcoholic beverages in the areas described in subsection (a).
- (2) Owners of private beach property shall obtain approval from the city manager for the consumption of alcoholic beverages for special occasions. The area of the beach subject to the permit shall be marked with approved temporary markers, and the consumption of alcohol shall be confined to the marked area. Permits shall not authorize consumption before 8:00 a.m. and shall terminate no later than 10:00 p.m.

Sec. 94-74. Solicitation for sales, charity, and opinions or views.

(a) Solicitation on the beach shall be regulated as follows:

- (1) Seaward (West) of MHW Line – Prohibited.
- (2) Landward (East) of MHW Line on Public Beach – Prohibited.
- (3) Landward (East) of MHW Line on Private Beach – Prohibited.

(b) Non-beach solicitation is permissible pursuant to Code of Ordinance Section 62.

Sec. 94-75. Beach flags and signs.

(a) Beach flags and signs shall be regulated as follows:

- (1) Seaward (West) of MHW Line – Prohibited.
- (2) Landward (East) of MHW Line on Public Beach – Prohibited except for not more than two sandwich board signs per property neither of which shall exceed 5' in height and 12 square feet of sign area per side.
- (3) Landward (East) of MHW Line on Private Beach – Prohibited except for not more than two sandwich board signs per property neither of which shall exceed 5' in height and 12 square feet of sign area per side.

Sec. 94-76. Commercial water sports and associated tike huts.

(a) Commercial water sports shall be regulated as follows:

- (1) Seaward (West) of MHW Line – Prohibited.
- (2) Landward (East) of MHW Line on Public Beach – Prohibited.

(3) Landward (East) of MHW Line on Private Beach – Permitted provided such activity is ancillary to a large-scale redevelopment project of 150 units or more and is shown on the site-plan application related thereto.

(b) Tiki huts shall be permitted in association to a commercial water sport subject to the following:

- (1) No tiki hut shall be located seaward (west) of the MHW Line.
- (2) A tiki hut shall only serve a commercial water sport that has been lawfully established as an ancillary use to a licensed and operating tourist lodging facility.
- (3) One tiki hut is permitted for each property that contains up to 200' of beachside frontage and one additional tiki hut for properties exceeding 400' of beachside frontage. In no case shall more than 2 be permitted.
- (4) Tiki huts are prohibited on any beach unless a permit has been issued by the City. To qualify for a permit, the applicant must have the written approval of the upland property owner and must be licensed as a commercial watersport business.
- (5) Tiki huts shall be no larger than 36 square feet in area with sides that are at least 50 percent open and may have a roof.
- (6) No tiki hut shall have utility services, shall serve food or drinks or shall be used for any other service beyond the sales of services offered on the subject property.
- (7) Tiki huts shall be removed from the beach in the event of the issuance of a warning for a storm that, in the opinion of the city, is expected to be of sufficient strength to warrant such removal.

Sec. 94-77. All other uses.

(a) All other uses shall be regulated as follows:

- (1) Seaward (West) of MHW Line – Prohibited.
- (2) Landward (East) of MHW Line on Public Beach – Subject to the approval of the City Manager.
- (3) Landward (East) of MHW Line on Private Beach – Subject to the approval of the City Manager.

Secs. 94-748—94-100. Reserved.

Section Two: That Section 6-5, Code of Ordinance, City of St. Pete Beach, Florida, is hereby amended to read as follows:

Sec. 6-5. Public consumption or possession.

(a) As used in this section, the term "beach" means the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form.¹²¹

(b) It shall be unlawful to drink or consume alcoholic beverages on or upon:

- (1) All public streets.

(2) All public beach lands.^[3]

(3) Any public sidewalk.

(4) Any city park.

(5) All sand beach areas upland of the Gulf of Mexico and adjacent to private property.^[4]

(c) For public beaches, notice of this section shall be posted in a prominent beach access location by the city. Where the upland property is used for some commercial use, notice shall be posted by the owner. Where the upland property is a multifamily residential use, the owner or condominium association shall be responsible for posting the notice. Where the upland property is less than three residential living units, the city shall post the notice at the closest public access to the beach.

(d) It shall be unlawful for any person to carry on or about his person any container of alcoholic beverages, whether or not the container is a bottle, can, carton or other form of container, in those areas described in subsection (b) of this section. This subsection shall not be applicable in those areas described in subsections (b)(1), (3), and (5) of this section if the alcoholic beverage is contained in a sealed container or if the bottle, can, carton or other container has never been opened since the time the beverage was originally bottled at the manufacturer's or bottler's plant.

(e) Possession of any container of alcoholic beverages wherein the seal has been broken, the bottle cap or pop-top has been opened or removed or where the container may seem to be open or to have been opened shall constitute prima facie evidence of a violation of this section.

(f) Permits for special occasions may be issued as follows:

- (1) The city commission may approve special permits for the consumption of alcoholic beverages in the areas described in subsections (b)(1), (2), (3), (4) and (5).
- (2) Owners of private property upland of the beach may obtain special permits for the consumption of alcoholic beverages for special occasions. The permits shall be issued by the department of planning and development and shall include conditions necessary to protect the safety, health and welfare of the public. The upland owner shall be entitled to no more than three permits per month. The area of the beach subject to the permit shall be marked with approved temporary markers, and the consumption of alcohol shall be confined to the marked area. Permits shall not authorize consumption before 8:00 a.m. and shall terminate no later than 10:00 p.m.

Section Three: This Ordinance shall become effective immediately upon adoption.

ADOPTED this ____ day of _____, 2013.

**CITY COMMISSION OF ST. PETE BEACH,
FLORIDA**

Steve McFarlin, Mayor

ATTEST:

Rebecca C. Haynes, City Clerk

CITY OF ST. PETE BEACH

ORDINANCE NO. (TBD)

AN ORDINANCE OF THE CITY OF ST. PETE BEACH, FLORIDA, REGARDING BEACH REGULATIONS; AMENDING DIVISION 2, SECTION 2.1 OF THE ST. PETE BEACH, FLORIDA LAND DEVELOPMENT CODE TO AMEND THE DEFINITION OF "BEACH" AND "COMMERCIAL WATER SPORTS" AND TO ADD DEFINITIONS FOR "BEACH ACTIVITY ZONE", "MOBILE VENDING", "TEMPORARY STORAGE STRUCTURE", "SHORELINE", AND "TENT" AND TO REPEAL THE DEFINITION FOR "MEAN HIGH WATER"; AMENDING DIVISION 6, SECTION 6.12 OF THE ST. PETE BEACH, FLORIDA LAND DEVELOPMENT CODE TO REMOVE PROVISIONS RELATED TO TENTS; ADDING SECTION 6.25 "BEACH REGULATIONS" TO DIVISION 6 OF THE ST. PETE BEACH, FLORIDA LAND DEVELOPMENT CODE; AMENDING DIVISION 14, SECTION 14.4 OF THE ST. PETE BEACH, FLORIDA LAND DEVELOPMENT CODE TO REMOVE PROVISIONS RELATED TO COMMERCIAL WATER SPORTS; AMENDING DIVISION 15, SECTION 15.4 OF THE ST. PETE BEACH, FLORIDA LAND DEVELOPMENT CODE TO REMOVE PROVISIONS RELATED TO COMMERCIAL WATER SPORTS; AMENDING DIVISION 16, SECTION 16.4 OF THE ST. PETE BEACH, FLORIDA LAND DEVELOPMENT CODE TO REMOVE PROVISIONS RELATED TO COMMERCIAL WATER SPORTS; REPEALING DIVISION 25, SECTION 25.6 OF THE ST. PETE BEACH, FLORIDA LAND DEVELOPMENT CODE; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of St. Pete Beach seeks to unify beach provisions within the City Land Development Code; and

WHEREAS, certain provisions within City Code of Ordinance and the Land Development Code must be modified, removed, or relocated in order to achieve this purpose; and

WHEREAS, The Planning Board, acting as the Local Planning Agency, conducted a public hearing regarding these changes on March 18, 2014 and unanimously recommended approval of the proposed changes; and

WHEREAS, the City Commission finds these text amendments to the Land Development Code are necessary to promote, protect and improve the health, safety and welfare of the citizens of the city;

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA, HEREBY ORDAINS:

Section 1. Division 2, Section 2.1 of the St. Pete Beach, Florida Land Development Code shall be amended to provide for the following amended definitions:

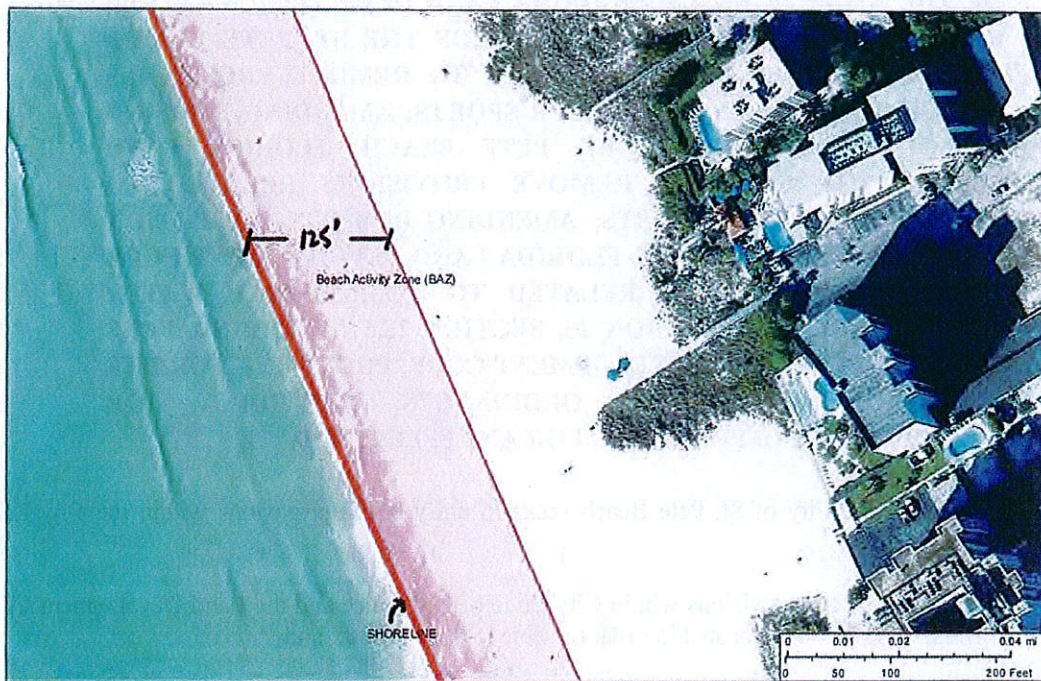
DIVISION 2 - DEFINITIONS

Sec. 2.1. Words, terms and phrases defined.

Beach means that area of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent upland vegetation, usually the effective limit of storm waves.

Beach means the soft sand portion of land, including dunes, located between the edge of the Gulf of Mexico and the first line of a seawall or permanent vegetation.

Beach Activity Zone (BAZ) means the area of beach located between the shoreline and 125' landward from the shoreline.



January 2, 2014



Commercial Water Sports means operations that offer any of the following activities to the public in return for payment: (1) The rental of personal watercraft or jet skis; (2) The rental of human-powered, water-powered, or wind-powered watercraft; or (3) Parasailing, water-skiing, or other similar towing operations.

~~**Mean-High-Water** means the high-water mark established by the U.S. Coastal and Geodetic Survey in its latest coastal survey of the city.~~

Mobile Vending means the sale of food or beverages from a movable cart or vehicle, which is contained on the same lot as the primary permitted use.

Shoreline means the line of intersection between the surface of a sea and the surface of the land at its average location over time.

Temporary Storage Structure means a moveable enclosure or shelter intended to provide protection from the elements for stored materials, vehicles, or other items, for which a building permit is not required. Tents are specifically exempted from this definition unless used for storage as listed above.

Tent means any temporary structure or enclosure 10' x 10' or larger, the roof of which or one-half or more of the sides are constructed of silk, cotton, canvas, fabric, or a similar pliable material.

Section 2. Division 6, Section 6.12 of the St. Pete Beach, Florida Land Development Code shall be amended as follows:

DIVISION 6 SUPPLEMENTAL REGULATIONS

Sec. 6.12. Commercial accessory and temporary equipment, structures, portable buildings and trailers, dumpsters and commercial tents.

- (f) Tents ~~be~~ may be erected and maintained by a business within the RFM or CG-1 zoning districts, provided:
- (1) No tent shall be erected within any public right-of-way or within 75 feet of the back edge of a curb, public sidewalk or roadway, whichever is most restrictive.
 - (2) Tents shall also be required to meet the side and rear required yards of the zoning district in which the tent is located;
 - (3) Tents shall not be located on a parking lot or pedestrian walkway in such a manner that the normal flow of traffic on the site cannot be maintained nor shall any tent render useless more than ten percent of the parking required for the business;
 - (4) Tents shall be maintained so as not to constitute a nuisance or hazard;
 - (5) Tents used for public assembly or cooking or within which any combustible material will be used or stored must meet all requirements of the Florida Fire Prevention Code and be approved by the fire marshal prior to their use.
 - ~~(6) Tents which are placed upon any public beach must be approved through the city's special event permitting process and be approved by the fire marshal prior to their use.~~

Section 3. Division 6 of the St. Pete Beach, Florida Land Development Code shall be amended to add the following section:

Sec. 6.25. Beach Regulations.

(a) Beach chairs, tables, benches, cabanas, tents, and umbrellas.

(1) Commercial vending of beach chairs, tables, benches, cabanas, tents, and umbrellas shall be regulated as follows:

(i) **Within BAZ – Prohibited.**

(ii) **Landward (East) of BAZ on Public Beach** – Permitted pursuant to paragraph (2) below and/or the approvals of the County and/or City.

(iii) **Landward (East) of BAZ on Private Beach** – Permitted as an ancillary use to a licensed and operating tourist lodging facility and provided commercial vending is limited to only those persons utilizing that facility.

(2) It shall be unlawful for any person placing or causing to be placed any chair, bench, table, cabana, tent or umbrella equipment upon the public beach to allow such to remain upon such public beach between sunset and sunrise.

(b) Mobile vending and food consumption.

(1) Mobile vending shall be regulated as follows:

(i) **Within BAZ – Prohibited.**

(ii) **Landward (East) of BAZ on Public Beach** – Permitted pursuant to paragraphs (2) and (3) below and/or the approvals of the County and/or City.

(iii) **Landward (East) of BAZ on Private Beach** – Permitted provided mobile vending service is limited to only those persons utilizing that property and no monetary transaction is made. Any vehicle used for vending shall be no larger than a standard size golf cart, which may be modified for vending use and travel over sand.

(2) Picnics and the consumption of food and nonalcoholic beverages shall be permitted on the city beaches of Pass-a-Grille and Upham Beach, provided that:

(i) Those persons having picnics or consuming food or nonalcoholic beverages within the area shall be responsible for cleaning up all of the food, papers, cartons, bottles and other refuse or debris which shall remain or be left from the consumption of such food or beverage.

(ii) It shall be unlawful to build any fire for any purpose, including the cooking of food, within the public beaches of the city.

(iii) Glass containers or bottles associated with the consumption of food or nonalcoholic beverages shall be prohibited.

(3) The city manager shall be entitled to authorize the building of a fire, with such requirements as the city manager deems appropriate. Any person receiving authorization to build a fire shall agree in writing to comply fully with all requirements imposed by the city manager.

(c) Tiki huts.

(1) Tiki huts shall be regulated as follows:

(i) **Within BAZ – Prohibited.**

(ii) **Landward (East) of BAZ on Public Beach** – Prohibited.

- (iii) **Landward (East) of BAZ on Private Beach** – Permitted for each property that has at least 200' of beachside frontage and permitting one additional tiki hut for properties exceeding 400' of beachside frontage. In no case shall more than 2 be permitted.
 - (2) Tiki huts shall be no larger than 36 square feet in area with sides that are at least 50 percent open and may have a roof.
 - (3) No tiki hut shall have utility services, shall serve food or drinks or shall be used for any other service beyond the sales of services offered on the subject property.
 - (4) Tiki huts shall be removed from the beach in the event of the issuance of a severe weather warning.
- (d) Temporary storage structures and trailers.
 - (1) Temporary storage structures and trailers shall be regulated as follows:
 - (i) **Within BAZ** – Prohibited.
 - (ii) **Landward (East) of BAZ on Public Beach** – Prohibited.
 - (iii) **Landward (East) of BAZ on Private Beach** – Prohibited except for the loading and unloading of equipment and rentals as may be necessary for setup in the morning and removal in the afternoon. The City Manager may allow a temporary structure or trailer to remain on the beach during the day pursuant to the approval of a temporary use/structure permit.
- (e) Vehicles on the beach.
 - (1) Vehicles on the beach shall be regulated as follows:
 - (i) **Within BAZ** – Prohibited unless approved by the County and/or City.
 - (ii) **Landward (East) of BAZ on Public Beach** – Prohibited except for lawful mobile vending and moving equipment and rentals by approved vendors as may be necessary for setup in the morning and removal in the afternoon and as otherwise authorized below.
 - (iii) **Landward (East) of BAZ on Private Beach** – Prohibited except for lawful mobile vending and moving equipment and rentals as may be necessary for setup in the morning and removal in the afternoon and as otherwise authorized below.
 - (2) No person, other than government agencies, shall drive any vehicle on, over or across any beach except as provided in (1) above, unless such motor vehicle is associated with an approved special event. Any authorized vehicle shall be confined at all times to the property it is serving and may not traverse the beach to access other properties.
 - (3) In reviewing the application for a special event, the department shall be authorized to require the applicant to provide all information necessary to determine whether the vehicle will be operated to comply with the requirements of this article or to set reasonable conditions to ensure compliance. Based on the scope of activity, the department may require the posting of a bond or a liability insurance policy protecting against damage to property or persons.

- (4) Operating vehicles permitted under this section shall be subject to all of the regulations set forth in this article and other ordinances governing the safe operation of vehicles.
- (5) For the purpose of this Section, vehicle shall mean any mechanically moved transport including but not limited to cars, trucks, ATV's and golf carts.
- (f) Alcohol on the Beach.
- (1) Alcohol on the beach shall be regulated as follows:
- (i) **Within BAZ** – Prohibited.
- (ii) **Landward (East) of BAZ on Public Beach** – Prohibited except as may be authorized by the City Manager for a special event.
- (iii) **Landward (East) of BAZ on Private Beach** – Permitted for hotels provided alcohol is consumed on-site, is served in a non-glass container, and is distributed only to those patrons residing in or utilizing the services of the hotel. Otherwise, all owners of private beach property shall obtain approval from the city manager for the consumption of alcoholic beverages for special events. The area of the beach subject to the permit shall be marked with approved temporary markers, and the consumption of alcohol shall be confined to the marked area. Permits shall not authorize consumption before 8:00 a.m. and shall terminate no later than 10:00 p.m.
- (2) For public beaches, notice of this section shall be posted in a prominent beach access location by the city. Where the upland property is used for some commercial use, notice shall be posted by the owner. Where the upland property is a multifamily residential use, the owner or condominium association shall be responsible for posting the notice. Where the upland property is less than three residential living units, the city shall post the notice at the closest public access to the beach.
- (g) Solicitation for sales, charity, and opinions or views.
- (1) Solicitation on the beach shall be regulated as follows:
- (i) **Within BAZ** – Prohibited.
- (ii) **Landward (East) of BAZ on Public Beach** – Commercial and charitable solicitations are prohibited. The solicitation of opinions and views is permitted.
- (iii) **Landward (East) of BAZ on Private Beach** – Permitted pursuant to Code of Ordinance Section 62 and section (2) below.
- (2) Commercial and Charitable Solicitation Standards
- (a) There may be no more than two permitted solicitors on a single parcel of beach property at any one time.
- (b) Except for boat and beach equipment rentals, solicitation shall be oral, with no display of wares.
- (d) Solicitation shall be confined to privately owned property, and solicitation shall not occur upon the public beaches.
- (g) The business or property owner shall be solely responsible for the actions of solicitors employed by or representing him and shall be responsible for compliance with this article.

(h) Beach flags, banners, and signs.

(1) Beach flags, banners, and signs shall be regulated as follows:

(i) Within BAZ – Prohibited.

(ii) Landward (East) of BAZ on Public Beach – Prohibited except as may be specifically authorized by the public entity and not to allow for more than two sandwich board signs per property neither of which shall exceed 5' in height and 12 square feet of sign area per side.

(iii) Landward (East) of BAZ on Private Beach – Prohibited except for not more than two sandwich board signs per property neither of which shall exceed 5' in height and 12 square feet of sign area per side.

(i) Commercial water sports.

(1) Commercial water sports shall be regulated as follows:

(i) Within BAZ – Prohibited.

(ii) Landward (East) of BAZ on Public Beach – Prohibited.

(iii) Landward (East) of BAZ on Private Beach – Permitted provided such activity is ancillary to a large-scale redevelopment project of 150 units or more and is shown on the site-plan application related thereto.

Section 4. Division 14, Section 14.4 of the St. Pete Beach, Florida Land Development Code shall be amended as follows:

Division 14 - RFM Resort Facilities Medium District
Sec. 14.4. Allowable conditional uses.

Subject to the provisions or restrictions contained in this section and elsewhere in this Code, allowable conditional uses in the RFM Resort Facilities Medium District are as follows:

- (a) Assisted living facilities.
- (b) Places of worship.
- ~~(c) Commercial water sports, non-motorized vessels of 16 feet or less in length only.~~
- ~~(d)~~ Communications facilities.
- ~~(e)~~ Daycare centers/kindergartens.
- ~~(f)~~ Docks, commercial—Classes A, B and C.
- ~~(g)~~ Eating and drinking establishment—Fast food, beach bar and outdoor restaurant.
- ~~(h)~~ Financial institutions with drive-through service.
- ~~(i)~~ Laundry, dry cleaning.
- ~~(j)~~ Parking lots, commercial and/or off-premise.
- ~~(k)~~ Recreational—Commercial recreation; public parks and/or recreational facilities.
- ~~(l)~~ Recycling centers.
- ~~(m)~~ Schools—Public, private and/or commercial.
- ~~(n)~~ Utility substations and/or rights-of-way.
- ~~(o)~~ Vessel for hire businesses.

Section 5. Division 15, Section 15.4 of the St. Pete Beach, Florida Land Development Code shall be amended as follows:

Division 15 - CG-1 Commercial District

Sec. 15.4. Allowable conditional uses.

Subject to the provisions or restrictions contained in this section and elsewhere in this Code, allowable conditional uses in the CG-1 Commercial District are as follows:

- (a) Assisted living facilities.
- (b) Adult entertainment establishments—See also Chapter 10, St. Pete Beach Code of Ordinances.
- (c) Automotive rental agencies.
- (d) Automotive sales lots.
- (e) Automotive services and repairs.
- (f) Automotive service stations.
- (g) Boat sales and repair facilities.
- (h) Car wash facilities.
- (i) Commercial boat docking facilities.
- ~~(j) Commercial water sports, non-motorized vessels of 16 feet or less in length only.~~
- (kj) Communication facilities.
- ~~(lk)~~ Docks, commercial—Classes A, B, C, and D.
- ~~(ml)~~ Eating and drinking establishment—Fast food restaurant, nightclub or outdoor restaurant.
- ~~(nm)~~ Financial institutions with drive-through services.
- ~~(on)~~ Kennels with outdoor runs.
- ~~(po)~~ Laundries, dry cleaning.
- ~~(qp)~~ Marinas.
- ~~(rq)~~ Parking lots, commercial and/or off-premise.
- ~~(sr)~~ Printing, general.
- ~~(ts)~~ Recreational—Commercial recreation; public parks and/or recreational facilities.
- ~~(ul)~~ Recycling centers.
- ~~(vu)~~ Schools, public or private and/or commercial.
- ~~(wy)~~ Services, commercial/business.
- ~~(xw)~~ Storage facilities with outdoor storage.
- ~~(yx)~~ Storage, self-service.
- ~~(zy)~~ Theatres.
- ~~(aaz)~~ Utility substations and/or rights-of-way.
- ~~(baa)~~ Vehicle for hire businesses.
- ~~(ebb)~~ Vessel for hire businesses.

Section 6. Division 16, Section 16.4 of the St. Pete Beach, Florida Land Development Code shall be amended as follows:

Division 16 - CG-2 Commercial District

Sec. 16.4. Allowable conditional uses.

Subject to the provisions or restrictions contained in this section and elsewhere in this Code, allowable conditional uses in the CG-2 Commercial District are as follows:

- (a) Adult entertainment establishments—See also Chapter 10, St. Pete Beach Code of Ordinances.
- (b) Automotive service stations.
- (c) Bar (cocktail lounges, saloons).
- (d) Commercial boat docking facilities.
- ~~(e) Commercial water sports, non-motorized vessels of 16 feet or less in length only.~~
- ~~(f)~~ Communications facilities.
- ~~(g)~~ Commercial docks—Classes A, B and C only.
- ~~(h)~~ Eating and drinking establishments—Nightclubs, fast food restaurants, outdoor restaurants and sidewalk cafe.
- ~~(i)~~ Mortuaries.
- (j) Parking lots—Commercial and/or off-premise.
- ~~(k)~~ Recreational—Commercial recreation; public parks and/or recreational facilities.
- ~~(l)~~ School, commercial.
- ~~(m)~~ Theaters.
- ~~(n)~~ Utility substations and/or rights-of-way.
- ~~(o)~~ Vessel for hire businesses.

Section 7. Division 25, Section 25.6 of the St. Pete Beach, Florida Land Development Code is hereby repealed as follows:

Division 25 – Coastal Protection and Conservation

Sec. 25.6. Tiki Huts.

- ~~(a) The city may permit the location of a tiki hut on the beach in accordance with the following:~~
 - ~~(1) Tiki huts shall be allowed only in conjunction with the approval of the owner of the property upon which the tiki hut will be located and as part of a conditional use approved under the provisions Division 4 of this Code. Tiki huts shall be further regulated as follows:~~
 - ~~a. Only one tiki hut for each approved conditional use on a zoning lot;~~
 - ~~b. Such tiki huts shall be located in accordance with an approved site plan;~~
 - ~~c. Tiki huts shall be no larger than 36 square feet in area with sides that are at least 50 percent open and may have a roof;~~
 - ~~d. No tiki hut shall have utility services, shall serve food or drinks, or shall be used for any other service beyond the sales of services for an approved commercial water sports operation.~~
 - ~~(2) Tiki huts shall be removed from the beach in the event of the issuance of a warning for a storm that, in the opinion of the city, is expected to be of sufficient strength to warrant such removal.~~
 - ~~(3) Any tiki hut or other similar structure placed or erected on the beach after the adoption of this Code without a permit from the city shall in violation of this Code and all remedies shall be sought in accordance with the provisions of section 3.16 of this Code.~~

Section 8. All ordinances or parts of ordinances, in conflict herewith are hereby repealed to the extent of any conflict with this Ordinance.

Section 9. If any portion or part of this Ordinance is declared invalid by a court of competent jurisdiction, the valid remainder hereof shall remain in full force and effect.

Section 10. The provisions of this Ordinance shall be codified and made a part of the St. Pete Beach, Florida Land Development Code and the person conducting such certification is to alphabetize all definitions and provide for renumbering of any section in order to accomplish such codification.

Section 11. This Ordinance shall become effective immediately upon its final passage and adoption.

Steve McFarlin, Mayor

FIRST READING: _____

PUBLISHED: _____

SECOND READING: _____

PUBLIC HEARING: _____

I, Rebecca C. Haynes, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this _____ day of _____, 2014.

Rebecca C. Haynes, City Clerk

EXHIBIT A – Proposed Code of Ordinance Modifications (Companion to the LDC Revisions)

Chapter 6 – Alcoholic Beverages

Sec. 6-5. Public consumption or possession.

- ~~(a) As used in this section, the term "beach" means the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form.⁽²⁾~~
- (a) It shall be unlawful to drink or consume alcoholic beverages on or upon:
- (1) All public streets.
 - ~~(2) All public beach lands.⁽³⁾~~
 - (2) Any public sidewalk.
 - (3) Any city park.
 - ~~(5) All sand beach areas upland of the Gulf of Mexico and adjacent to private property.⁽⁴⁾~~
- ~~(c) For public beaches, notice of this section shall be posted in a prominent beach access location by the city. Where the upland property is used for some commercial use, notice shall be posted by the owner. Where the upland property is a multifamily residential use, the owner or condominium association shall be responsible for posting the notice. Where the upland property is less than three residential living units, the city shall post the notice at the closest public access to the beach.~~
- (b) It shall be unlawful for any person to carry on or about his person any container of alcoholic beverages, whether or not the container is a bottle, can, carton or other form of container, in those areas described in subsection (a) of this section. This subsection shall not be applicable in those areas described in subsections (a)(1) ~~(3)~~, and (2) of this section if the alcoholic beverage is contained in a sealed container or if the bottle, can, carton or other container has never been opened since the time the beverage was originally bottled at the manufacturer's or bottler's plant.
- (c) Possession of any container of alcoholic beverages wherein the seal has been broken, the bottle cap or pop-top has been opened or removed or where the container may seem to be open or to have been opened shall constitute prima facie evidence of a violation of this section.
- (d) Permits for special occasions may be issued as follows:
- (1) The city commission may approve special permits for the consumption of alcoholic beverages in the areas described in subsections (a)(1), (2), ~~(3), (4)~~ and (3).
 - (2) Owners of private property upland of the beach may obtain special permits for the consumption of alcoholic beverages for special occasions. The permits shall be issued by the department of planning and development and shall include conditions necessary to

protect the safety, health and welfare of the public. The upland owner shall be entitled to no more than three permits per month. The area of the beach subject to the permit shall be marked with approved temporary markers, and the consumption of alcohol shall be confined to the marked area. Permits shall not authorize consumption before 8:00 a.m. and shall terminate no later than 10:00 p.m.

~~Sec. 62-91. Solicitation setback line.~~

~~There is established a city solicitation setback line, as provided by the official solicitation setback line map, such map being a part of Ordinance No. 84-13. The line shall be established 40 feet landward of the mean high water line. The map and all the notations, references, and other information shown thereon, being fully described, is on file in the office of the city clerk. (Code 1983, § 15-23; Ord. No. 84-13, § 3, 3-6-84)~~

Sec. 62-92. Prohibited areas designated.

No person shall solicit, canvass or otherwise take orders for the sale of merchandise, goods, or property of any kind or character in the following areas situated within the city:

- ~~(1) All of the sand beach areas between the Gulf of Mexico and the city setback line.~~
 - (1) All publicly owned lands, including park and beach lands.
 - (2) All streets, avenues, alleys and other public thoroughfares lying south of 31st Avenue.
 - (3) Gulf Boulevard, from 31st Avenue through 75th Avenue.
 - (4) 75th Avenue from Gulf Boulevard to St. Pete Beach Causeway Bridgehead.
 - (5) Corey Avenue, from Gulf Boulevard to eastern end of Corey Avenue.
 - (6) Blind Pass Road, from Blind Pass Bridgehead through 73rd Avenue.
 - (7) Eighth Avenue, from Pass-A-Grille Way to Gulf Way.
 - (8) Beach Plaza, from 75th Avenue to 67th Avenue.
 - (9) Sunset Avenue, from 75th Avenue to 67th Avenue.
 - (10) 67th, 68th, 69th, 70th and 71st Avenues between Beach Plaza and Sunset Avenue.
- (Code 1983, § 15-24(a); Ord. No. 84-13, § 4, 3-6-84; Ord. No. 85-49, § 1, 9-17-85)

~~Sec. 62-93. Specific restrictions on solicitation on sand beach areas.~~

- ~~(a) There may be no more than two permitted solicitors on a single parcel of sand beach property at any one time.~~
- ~~(b) Except for boat and beach equipment rentals, solicitation shall be oral, with no display of wares.~~
- ~~(c) Signs shall be regulated as provided in chapter 122~~
- ~~(d) Solicitation shall be confined to privately owned property, and solicitation shall not occur upon the public beaches. At all times a solicitor shall be required to wear his city-issued solicitor's card on the outside of his clothing.~~

- ~~(e) The establishment of a solicitation line on individual properties shall be through a survey by a licensed surveyor. The solicitation line shall be marked at each boundary line of the property, and at intermediate points if required by the director of planning and development, by means of a device as approved by the city manager or his authorized designee. The property owner shall bear the expense for establishment of the location of the solicitation line and the maintenance of the marking devices. If the property owner fails or refuses to provide a survey establishing the location of the solicitation line after written request by the city, further solicitation on the property shall be prohibited until the survey is provided to the city.~~
- ~~(f) The appropriate board of authority shall be empowered to grant variances to the city solicitation setback line where an upland owner feels that such line as established is unduly restrictive or prevents legitimate use of his property. However, the appropriate board of authority shall grant no variances to this section which would allow the solicitor to locate on public beach land.~~
- ~~(g) The business or property owner shall be responsible for the actions of solicitors employed by or representing him. The business or property owner shall be responsible for compliance with this article by solicitors employed by or representing him, in addition to the citation to be issued to the solicitor.~~

Chapter 94 - Waterways

Sec. 94-68. Chairs, tables, umbrellas.

- ~~(a) It shall be unlawful for any person to place upon the public beach any chair, bench, table or umbrella which is in a location or is of a size which would interfere with the use of the public beach by the general public.~~
- ~~(b) It shall be unlawful for any person placing or causing to be placed any chair, bench, table or umbrella equipment upon the public beach to allow such to remain upon such public beach between sunset and sunrise.~~

Sec. 94-69. Picnics and food consumption.

- ~~(a) Except as provided in subsection (b) of this section, no person shall conduct or participate in a picnic on any of the city's beaches. Except as provided in section 6-5, no person shall possess or consume any alcoholic beverages upon any of the city's beaches.~~
- ~~(b) Picnics and the consumption of food and nonalcoholic beverages shall be permitted on the city beaches of Pass-a-Grille and Upham Beach, provided that:

 - ~~(1) Those persons having picnics or consuming food or nonalcoholic beverages within the area shall be responsible for cleaning up all of the food, papers, cartons, bottles and~~~~

~~other refuse or debris which shall remain or be left from the consumption of such food or beverage.~~

- ~~(2) It shall be unlawful to build any fire for any purpose, including the cooking of food, within the sand beaches of the city.~~
- ~~(3) Glass containers or bottles associated with the consumption of food or nonalcoholic beverages shall be prohibited.~~
- ~~(c) Notwithstanding subsection (b)(2) of this section, the city manager shall be entitled to authorize the building of a fire, with such requirements as the city manager deems appropriate. Any person receiving authorization to build a fire shall agree in writing to comply fully with all requirements imposed by the city manager.~~
- ~~(d) Anyone convicted of violating this section shall pay a fine of not less than \$100.00 or more than \$500.00. Signs shall be posted notifying the public of the penalty for violating this section.~~

~~Sec. 94-71. Tiki huts.~~

~~Tiki huts are prohibited on any beach unless a permit has been issued by the department of planning and development in compliance with the following:~~

- ~~(1) The tiki hut does not violate the terms of F.S. § 161.053.~~
- ~~(2) The person applying for the tiki hut permit has the written approval of the upland property owner.~~
- ~~(3) The applicant is licensed as a commercial watersport business as provided by the land development regulations in subpart B of this Code.~~
- ~~(4) The tiki hut is constructed as provided in section 98-67.~~

~~Sec. 94-72. Temporary structures.~~

~~No temporary structure of any kind shall be erected on any beach unless otherwise authorized by this article or other section of this Code.~~

~~Sec. 94-73. Vehicle permits.~~

- ~~(a) Required. No person, municipality, county or other public agency shall drive any vehicle on, over or across any beach unless such motor vehicle has been issued a "vehicle on the beach" permit under this section, except in emergency situations as approved by the police department or fire department.~~
- ~~(b) Criteria for issuance. Permits for the operation of vehicles on the beach shall be issued for the following purposes:~~
 - ~~(1) Public works and public safety;~~
 - ~~(2) Permitted commercial activities;~~
 - ~~(3) Special events; and~~

~~(4) Mechanical beach cleaning.~~

~~(c) Issuance; additional federal, state or county permits. Permits shall be issued by application to the department of planning and development based on the scope of activity. Where necessary, the applicant shall obtain whatever additional permits that may also be required by either federal, state or county law. Where federal, state or county approval is necessary, no permit issued by the department shall become effective until such approval has been granted.~~

~~(d) Bond; insurance. Based on the scope of activity, the department may require the posting of a bond or a liability insurance policy protecting against damage to property or persons.~~

~~(e) Compliance. In reviewing the application for a permit, the department shall be authorized to require the applicant to provide all information necessary to determine whether the vehicle will be operated to comply with the requirements of this article or to set reasonable conditions to ensure compliance.~~

~~(f) Safe operation. Operating vehicles permitted under this section shall be subject to all of the regulations set forth in this article and other ordinances governing the safe operation of vehicles.~~

Example Beach and Alcohol Regulations from Other Municipalities

Town of Fort Myers Beach
ORDINANCE NO. 12-03

AN ORDINANCE AMENDING CHAPTER 34, ARTICLE III, DIVISION 4 IN THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE, "CONVENTIONAL ZONING DISTRICTS" AMENDING SECTION 34-652, "EC (ENVIRONMENTALLY CRITICAL) ZONING DISTRICT" BY ADDING "EXPANSION OF AREA DESIGNATED FOR SERVICE OF ALCOHOLIC BEVERAGES" AS A PERMITTED USE; AMENDING CHAPTER 34, ARTICLE IV, DIVISION 5 IN THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE, "ALCOHOLIC BEVERAGES," AMENDING SECTION 34-1261, DEFINITIONS; AMENDING SECTION 34-1264, "SALE OR SERVICE FOR ON-PREMISES CONSUMPTION" BY ADDING REGULATIONS GOVERNING THE EXPANSION OF ON-PREMISES CONSUMPTION INTO THE EC ZONING DISTRICT; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapters 163 and 166, Florida Statutes and other applicable provisions of law.

Section 2. Adoption of Amendments to Chapter 34 of the Town of Fort Myers Beach Land Development Code. Chapter 34 of the Town of Fort Myers Beach Land Development Code, entitled "Zoning Districts, Design Standards and Nonconformities," is hereby amended as set forth in Exhibit "A," attached hereto and incorporated herein by reference. Entirely new language is indicated with underlining. Language being repealed from the existing code is indicated with strikethroughs. Existing language being retained is shown without underlining or strikethrough.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.

Section 4. Effective Date. this Ordinance shall be effective immediately upon adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Kosinski and seconded by Council Member Mandel and, upon being put to a vote, the result was as follows:

Larry Kiker, Mayor
Bob Raymond, Vice Mayor
Joe Kosinski

AYE
AYE
AYE

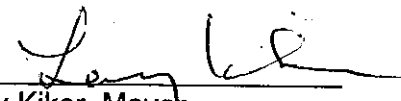
Alan Mandel
Jo List
AYE
AYE

DULY PASSED AND ENACTED by the Council of the Town of Fort Myers Beach,
Florida, this 4th day of September, 2012.

ATTEST:

TOWN OF FORT MYERS BEACH

BY: 
Michelle D. Mayher, Town Clerk

BY: 
Larry Kiker, Mayor

Approved as to legal sufficiency by:

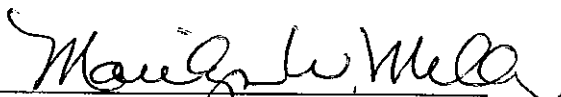

Fowler White Boggs, Town Attorney

EXHIBIT "A"

Sec. 34-652. EC (Environmentally Critical) zoning district.

- (a) *Purpose.* The purpose of the EC zoning district is to designate beaches and significant wetlands whose preservation is deemed critical to the Town of Fort Myers Beach through its comprehensive plan, including:
 - (1) Beaches that have been designated in the "Recreation" category on the future land use map; and.
 - (2) Wetlands that have been correctly designated in the "Wetlands" category on the future land use map.
- (b) *Intent.* The application of the EC district is intended to prevent a public harm by precluding the use of land for purposes for which it is unsuited in its natural state and which injures the rights of others or otherwise adversely affects a defined public interest.
- (c) *Accretion.* Accretions of beaches or wetlands, whether by natural causes or through beach renourishment or artificial filling, will automatically be assigned to the EC zoning district.
- (d) *Permitted uses.* In the EC district, no land or water use shall be permitted by right except for those uses and developments permitted by the Fort Myers Beach Comprehensive Plan in wetlands, beaches, or critical wildlife habitats, as applicable, including:
 - (1) Boating, with no motors permitted except electric trolling motors.
 - (2) Fishing
 - (3) Removal of intrusive exotic species or diseased or dead trees, and pest control.
 - (4) Hiking or nature study, including pedestrian boardwalks and dune crossovers.
 - (5) Outdoor education, in keeping with the intent of the district.
 - (6) Recreation activities, residential accessory uses, and resort accessory uses that are performed outdoors. These activities and uses include passive recreation and active recreation that requires no permanent structures or alteration of the natural landscape (except as may be permitted by special exception (see § 6-366 and subsection (e) below). Any temporary structure used in conjunction with such uses must comply with all provisions of this code (for instance see Chapters 14 and 27). Artificial lighting may not be installed in the EC zoning district unless approved by a special exception or as a deviation in the planned development rezoning process (see §§ 6-366 and 14-76)
 - (7) Wildlife management, as wildlife preserves.
 - (8) Expansion of area designated for the consumption and service of alcoholic beverages, subject to the regulations in § 34-1264(g)(1).
- (e) *Special exception uses and structures.* Upon a finding that the proposed use or structure is consistent with the standards set forth in § 34-88, as well as all other

applicable town regulations, the town council may permit any specific use or structure from the following list as a special exception, subject to conditions set forth in this chapter and in the resolution of approval:

(1) Accessory structures, to include any building, structure, or impervious surface area which is accessory to a use permitted by right or by special exception in the EC district (see § 6-366).

(2) Nature study center, noncommercial, and its customary accessory uses.

(3) Single-family residence and its customary accessory uses at a maximum density of one dwelling unit per twenty acres.

(f) *Additional regulations.* See additional requirements in:

(1) Article I in ch. 14 pertaining to beach and dune management

(2) Article IV of ch. 14 pertaining to wetlands protection; and

(3) Coastal zone regulations in § 34-1575.

. . .

Sec. 34-1261. Definitions.

For purposes of this division and when referred to elsewhere in this chapter, certain terms or phrases shall have the following meaning:

Alcoholic beverage – means distilled spirits and all beverages, other than medicine, intended for human consumption and containing one-half of one percent or more alcohol by volume.

Beach – means an area of sand along the Gulf of Mexico that extends landward from the mean low-water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves.

Beer, wine and liquor – have the same meanings as provided in F.S. chs. 563, 564, and 565, respectively.

EC (Environmentally Critical) Zoning District –When used in this division, EC Zoning District only refers to beach areas located in the Recreation category on the FLU map.

Erosion Control Line – means the line established by the Board of Trustees of the Internal Improvement Trust Fund prior to the commencement of a beach erosion control project in accordance with the provisions of F.S. § 161.141-161.211. Pursuant to F.S. §161.191, title to all lands seaward of the erosion control line shall be deemed to be vested in the state by right of its sovereignty, and title to all lands landward of the erosion control line shall be vested in the riparian upland owners whose lands either

abut the erosion control line or would have abutted the line if it had been located directly on the line of mean high water on the date the board of trustees' survey was recorded.

Full course meals – means items on a menu at a restaurant which include soups and salads, main dishes with side orders, and desserts.

Kitchen, commercial – means a facility used for the preparation of food which is sold to the public and that is subject to state and local health department inspections.

Licensed premise – means the geographic area approved by either administrative approval, special exception, or other approval, for the retail sale, service and consumption on-site of alcoholic beverages.

Liquor license – means a license issued by the state for the retail sale, service, and consumption of liquor.

Mean High Water Line – means the intersection of the tidal plane of mean high water with the shore. Mean high water is the average height of high waters over a 19-year period. [See F.S. § 177.27(14-15)].

Park – only when used in this division, means a park facility which is owned, leased, or operated by a governmental agency. It does not include beach access strips.

Public beach – means any beach which is below mean high water lines; is owned by the town or county; has arisen upon it a right of customary use by the public; has arisen upon it a public easement, prescriptive or otherwise; or is the fore shore of tidal navigable waters, that is the land between the high water mark and the low water mark, and is owned by the state.

Sale of – only when used in this division, includes the term “or service.”

Sunset – means the daily disappearance of the sun below the horizon to the West, due to the Earth's rotation.

. . .

Sec. 34-1264. Sale or service for on-premises consumption.

(a) *Approval required.* The sale or service of alcoholic beverages for consumption on premises shall not be permitted until such location has been approved by the town as follows:

(1) *Administrative Approval.* The director may administratively approve the sale or service of alcoholic beverages for consumption on the premises when in conjunction with the following uses if the proposes use satisfies the requirements set forth in this division. When circumstances so warrant, the

director may determine that administrative approval is not the appropriate action and that the applicant must instead apply for approval as a special exception. Such circumstances may include the previous denial of a similar use at that location, the record of public opposition to a similar use at that location, and similar circumstances. When the director has approved a request for consumption on the premises at a location where the actual building has not been constructed, the director shall not approve another request for consumption on the premises which could potentially violate the distance requirements. If the first building is completed within less than one year, and it can be shown the second use would not violate the prescribed distance requirements, the director may approve the second location subject to all other requirements contained in this division.

- a. *Bars or cocktail lounges* located in commercial zoning districts which permit bars or cocktail lounges, provided the standards set forth in subsections (b)(1) and (3) of this section are met;
- b. *Charter, party fishing boat, or cruise ship*, provided the standards of section (b)(3) are met. The COP approval is specific to the charter, party fishing boat, or cruise ship operating from a specific location, and does not run with the land nor is it transferable.
- c. *Clubs and membership organizations* located in commercial zoning districts, where permitted, provided the standards set forth in subsections (b)(2)d and (b)(3) of this section are met;
- d. *Cocktail lounges in golf course clubs*, provided the standards set forth in subsections (b)(2)c and (b)(3) of this section are met;
- e. *Hotels/motels*, provided the standards set forth in subsections (b)(2)b and (b)(3) of this section are met; and
- f. *Restaurants*, provided the standards set forth in subsections (b)(2)a and (b)(3) of this section are met.

(2) *Special exception.*

- a. A special exception for consumption on the premises shall be required for:
 1. Any establishment not covered by subsection (a)(1) of this section; or
 2. 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.
- b. The burden of proof that the grant of the special exception will not have an adverse effect on surrounding properties lies with the applicant.
- c. A single special exception for consumption on the premises for a multiple-occupancy complex in a conventional zoning district shall be sufficient to permit consumption on the premises in every restaurant which exists or may be established within the multiple-occupancy complex.

(3) *Planned Developments.*

- a. No administrative approval is necessary where an individual establishment or other facility proposing consumption on the premises is explicitly

designated on the master concept plan and is included on the approved schedule of uses.

- b. If consumption on the premises is shown as a permitted use on the approved schedule of uses for a multiple-occupancy complex, no administrative approval for consumption on the premises shall be required for restaurants within the multiple-occupancy complex.
- c. Consumption on the premises for other uses within planned developments require administrative approval or a special exception.

(b) *Location; parking.*

(1) *Prohibited locations.*

- a. Except as may be exempted in subsections (a)(1) or (b)(2) of this section, no establishment for the sale or service of alcoholic beverages for consumption on the premises shall be located within 500 feet of:
 - 1. A place of worship, religious facility, school (noncommercial), day care center (child), or park;
 - 2. A dwelling unit under separate ownership, except when approved as part of a planned development; or
 - 3. Another establishment primarily engaged in the sale of alcoholic beverages for consumption on the premises, excluding those uses listed under subsection (b)(2) of this section.

Distance shall be measured from any public entrance or exit of the establishment in a straight line to the nearest property line of the place of worship, religious facility, school (noncommercial), day care center (child), dwelling unit, or park, or to the closest public entrance or exit of any other establishment primarily engaged in the sale of alcoholic beverages.

- b. Where an establishment for the sale of alcoholic beverages is located in conformity with the provisions of this subsection, and a place of worship, religious facility, school (noncommercial), day care center (child) park, or dwelling unit is subsequently established in the proximity of such existing establishment, then the separation requirements shall not apply.

(2) *Exceptions to location standards.* Exceptions to location standards are as follows:

a. *Restaurants, provided:*

- 1. The restaurant is in full compliance with state requirements;
- 2. The restaurant serves cooked, full-course meals, prepared daily on the premises; and
- 3. Only a service bar is used and the sale or service of alcoholic beverages is only to patrons ordering meals, or, if the restaurant contains a cocktail lounge for patrons waiting to be seated at dining tables, the lounge shall be located so that there is no indication from the outside of the structure that the cocktail lounge is within the building.
- 4. The other requirements of § 34-1264(k) shall be met.

b. *Hotels/motels:*

- 1. The hotel/motel contains at least 100 guest rooms under the same roof and that bars or cocktail lounges are located within the hotel or motel

and under the same roof; and

2. The exterior of the building must not have storefronts or give the appearance of commercial or mercantile activity visible from the street.

If the use contains windows visible from the street, the windows shall be of fixed, obscure glass. Access to the cocktail lounge or bar must be through the lobby. Additional entrances are not permitted unless the additional entrance or door opens into an enclosed courtyard or patio. The additional entrance may not be visible from the street. A fire door or exit shall be permitted, provided that the door or exit is equipped with panic type hardware and is maintained in a locked position except in an emergency.

c. *Golf course clubhouses*, provided that:

1. The golf course consists of at least nine holes, a clubhouse, locker rooms, and attendant golf facilities, and comprises in all at least 35 acres of land.
2. Failure of such club to maintain the golf course, clubhouse, and golf facilities shall automatically terminate the privilege of the cocktail lounge and sale of beer from the refreshment stands.

d. *Membership organizations*, provided that:

1. such club or organization conforms to all the requirements of F.S. ch. 561 and other applicable state laws, and
2. there are no signs or other indications visible from the exterior of the clubhouse, building, or structure that alcoholic beverages are served.

- (3) *Parking*. Restaurants providing alcoholic beverages for consumption on the premises must comply with the parking requirements set forth in § 34-2020(d)(2). Any bar or cocktail lounge must provide parking in accordance with § 34-2020(d)(2). All other uses must meet the parking requirements of the principal use.

(c) *Procedure for approval*

(1) *Administrative approval*

- a. *Application*. An applicant for a consumption on the premises permit shall submit the following information on a form provided by the town:

1. The name, address, and telephone number of the applicant.
2. The name, address, and telephone number of the owner of the premises, if not the applicant.
3. A notarized authorization from the property owner to apply for the permit.
4. Location by STRAP and street address.
5. Type of state liquor license being requested.
6. A site plan, drawn to scale, showing:
 - i. The property in question, including all buildings on the property and adjacent property;
 - ii. Entrances to and exits from the building to be used by the public;
 - iii. A parking plan, including entrances and exits;
 - iv. The floor area of the building and proposed seating capacity. If a restaurant is proposing a bar or lounge for patrons waiting to be seated in the restaurant, the floor area and seating area of the

- lounge shall be shown in addition to the restaurant seating area.
7. A town map marked to indicate all of the property within 500 feet of the building to be used for consumption on the premises.
 8. An notarized affidavit executed by the applicant indicating that no place of worship, religious facilities, day care centers (child), noncommercial schools, dwelling units or parks are located within 500 feet of the building to be used.
- b. *Findings by director.* Prior to permit approval, the director shall conclude that all applicable standards have been met. In addition, the director shall make the following findings of fact:
1. There will be no apparent deleterious effect upon surrounding properties and the immediate neighborhood as represented by property owners within 500 feet of the premises.
 2. The premises are suitable in regard to their location, site characteristics, and intended purpose. Lighting must be shuttered and shielded from surrounding properties.
- (2) *Special exception.*
- a. Applications for special exceptions shall be submitted on forms supplied by the town and shall contain the same information as required for administrative approval.
 - b. Advertisements and public hearings shall be conducted in accordance with the requirements set forth in article II of this chapter.
- (d) *Temporary one-day permit.*
- (1) *Intent; applicability.* It is the intent of this subsection to require that nonprofit and for-profit organizations and establishments in the town obtain a one-day temporary alcoholic beverage permit for the sale of alcoholic beverages at the specific location where an event is held. This subsection will pertain to but not necessarily be limited to the following uses:
- a. Grand openings or open houses at residential or commercial developments;
 - b. Special outdoor holiday or celebration events at bars and restaurants;
 - c. Weddings and other special occasions at clubhouses;
 - d. Political rallies or events;
 - e. Block parties; and
 - f. Carnivals.
- (2) Only twelve temporary alcoholic beverage permits may be issued per year to a specific location. If more than twelve permits are sought per year for a specific location, then the location must obtain a permanent alcoholic beverage special exception. If the event for which the temporary alcoholic beverage permit is sought continues for more than one day, the applicant may petition the director for an extended permit. A temporary alcoholic beverage permit may not be issued for more than three days.
- (3) *Procedure for approval.*
- a. Any owner, lessee, or tenant asking for consumption on the premises for a temporary alcoholic beverage permit, must submit a written request to the director. The written request must include:

1. The name and address of the applicant;
 2. A general description of the exact site where alcoholic beverages are to be sold and consumed;
 3. The type of alcoholic beverages to be sold and consumed; and
 4. A fee in accordance with the adopted fee schedule.
- b. The director will make a final decision within ten working days. The decision will be in the form of approval, approval with conditions, or denial. The director may forward the request to other appropriate agencies for comment.
 - c. The town council will review all requests for temporary alcoholic beverage permits where an event will run longer than three days. Under no circumstances will a temporary alcoholic beverage permit be issued for more than ten days.
- (e) *Expiration of approval.* After the following time periods, the administrative or special exception approval of a location for the sale and consumption of alcoholic beverages on the premises granted in accordance with this section shall expire, and become null and void:
- (1) In the case of an existing structure, the approval shall expire six months from the date of approval unless, within that period of time, operation of the alcoholic beverage establishment has commenced. For purposes of this subsection, the term "operation" shall be defined as the sale of alcoholic beverages in the normal course of business.
 - (2) In the case of a new structure, the approval shall expire one year from the date of approval unless, within that period of time, operation of the alcoholic beverage establishment has commenced. The director may grant one extension of up to six months if construction is substantially complete.
- (f) *Transfer of permit.* Alcoholic beverage permits, as noted in subsection 34-1264(i), issued by virtue of this section are a privilege running with the land. Sale of the real property shall automatically vest the purchaser with all rights and obligations originally granted to or imposed on the applicant. Such privilege may not be separated from the fee simple interest in the realty.
- (g) *Expansion of area designated for permit.*
- The area designated for an alcoholic beverage permit cannot be expanded without filing a new application for an alcoholic beverage permit in accordance with the requirements contained in this chapter. The new application must cover both the existing designated area as well as the proposed expanded area. All areas approved must be under the same alcoholic beverage permit and subject to uniform rules and regulations.
- (1) *Regulations Applicable to Expansion into EC Zoning District.* A lawfully permitted establishment may expand the area where service of alcoholic beverages is permitted into an adjacent EC zoning district, subject to the following conditions and subject to the procedures established in § 34-1264(g)(2):
- a. *Area of expansion.* The beach ecosystem is dynamic in nature and the physical characteristics of the EC zoning district are subject to change. Since the public has a right of access to the public beach area, pedestrian

access to the shoreline must be a paramount consideration when determining the area where COP is permitted, understanding that the shoreline's location can vary greatly during extreme weather and tidal events, as well as due to erosion of the beach. The Town Manager shall therefore have the authority to temporarily enforce reductions in the area of expansion for the licensed premise into the EC zoning district when necessary to protect natural systems from the encroachment permitted by this section.

- b. Defined area. The area of expansion of a COP licensed premises extending seaward into the EC zoning district, shall be limited to no more than 33% of the land area between the landward EC zoning district boundary and the Mean High Water Line (Up to a maximum of 100 feet), provided, however, that the Erosion Control Line shall be used in place of the Mean High Water Line in those areas where the beach has been nourished and provided further that at least fifty feet (50') remains for the public's right of passage along the beach. The side setbacks for the area of COP expansion shall be the same as the principal structure side yard setback in the adjacent upland zoning district. In instances where an existing licensed establishment has an existing deck and/or building that is seaward of the EC Zoning line, the measurement of the allowable area of expansion shall commence from the most seaward point of the rear deck or building. Dominion and control of the area of the licensed premise that extends into the EC zoning district shall be established by rope and post. Required dune plantings may either be relocated to the area of the beach that is immediately seaward of the area of COP expansion, or the area of COP expansion may be shifted seaward to accommodate the existing required dune planting area. The rope and post shall extend from the rear of the upland licensed premise in the adjacent zoning district and shall define the area in the EC zoning district where COP is permitted. Specific requirements for the rope and post method of dominion and control are established in subsection 34-1264(g)(1)b.iv below.

- i. Standard conditions of approval. The following requirements shall be applicable to all premises that are approved for COP in the EC Zoning District. Violation of any of the following provisions may be grounds for revocation in accordance with § 34-1264(i):

1. The area of expansion of licensed premises in the EC zoning district must be under the same ownership as the principal upland licensed premise (as licensed by the State of Florida Division of Alcoholic Beverages and Tobacco) and the upland licensed premise must be located immediately adjacent to and contiguous with the EC zoning district.
2. Patrons of the permitted establishments may not bring any alcoholic beverages or coolers into the licensed premise in the EC zoning district, nor may they consume any alcohol that has not been purchased from the permitted establishment.

3. Alcohol served in the EC zoning district may not be dispensed in glass or aluminum containers of any type.
 4. The permit holder shall be responsible for ensuring that the licensed premises in the EC Zoning District is free of litter and debris. Refuse containers that meet the requirements of § 34-1264(g)(1)b.iv.4. must be provided.
 5. Hours of service and consumption for the area of the licensed premises that is located in the EC zoning district shall be limited to between the hours of 11:00AM and 1 hour after Sunset or 9:00 P.M., whichever is earlier, except for any additional hours that may have been granted by a special events permit. Hours granted by a previously granted Special Exception shall prevail.
 6. Entertainment within the area of the licensed premises that is located in the EC zoning district may only be accomplished by special exception or special events permit, unless previously granted by special exception.
 7. Applicant shall maintain a valid Certificate of Insurance that covers the area of the licensed premises that is located in the EC zoning district.
 8. The maximum area of expansion for the first 100 linear feet (or portion thereof) of property fronting the Gulf shall be 2,500 square feet. An additional ten (10) square feet may be added to the area of expansion for each additional foot of frontage on the Gulf.
 9. The property shall comply with all sea turtle protection requirements contained in Chapter 14 of the Land Development Code.
- ii. All conditions applicable to the upland area, as previously approved, shall likewise apply within the expanded area. In the event of any conflict with conditions for the expanded area of licensed premises in the EC zoning district established herein, the provisions herein shall prevail within the expanded area.
 - iii. No additional parking shall be required for the area of expansion in the EC zoning district.
 - iv. Rope and post requirements:
 1. The permit holder shall establish dominion and control of the area of expansion in the EC zoning district with rope and post.
 2. Rope and post shall have the same side yard setback as the principal structure in the adjacent upland zoning district. New dune vegetation may be planted on the outer side of the rope and post.
 3. A maximum of one six-foot wide pedestrian access opening is allowed per one hundred feet of the rope and post along

the side parallel to the waterline.

4. The permit holder must provide refuse containers at each pedestrian access point onto the beach to ensure that no outside alcoholic beverage containers are brought onto the licensed premise, and that no alcoholic beverage cups are taken off of the licensed premise onto the beach.
5. Each access point in the rope and post to the beach shall contain a sign, at each entrance, stating on both sides, "NO ALCOHOL ALLOWED BEYOND THIS POINT." The sign shall have maximum dimensions of two (2) feet by one(1) foot.

(2) Procedure for Approval of COP in the EC Zoning District. The following procedures are applicable to premises seeking expansion of COP into the EC zoning district:

a. Administrative approval: An establishment that has been approved for COP in the Downtown zoning district prior to September 4, 2012 may expand the area where COP is permitted into an adjacent EC zoning district by administrative approval, subject to all conditions contained in § 34-1264(g)(1). Existing establishments with prior approval for COP in the EC zoning district must come into compliance with the conditions set forth in § 34-1264(g)(1) through the administrative approval process prior to (March 4, 2013) or such use will become non-conforming and any future expansion will require special exception approval. The DCD Director, in his/her sole discretion, may require any Administrative Approval Application to undergo Special Exception Approval.

b. Special exception:

1. Any establishment in the Downtown zoning district that has not been approved for COP prior to (September 4, 2012) may seek approval for expansion of COP into the EC zoning district, provided it is requested at the time the COP in the Downtown zoning district is sought and provided further that all conditions identified in § 34-1264 (g)(1) are met.
2. No establishments located outside the Downtown zoning district shall be approved for COP in EC unless such establishment was approved for COP prior to September 4, 2012.

c. Commercial Planned Development:

1. No establishments located outside the Downtown zoning district shall be approved for COP in EC unless such establishment was approved for COP prior to September 4, 2012.
2. Existing establishments located outside the Downtown Zoning District with COP permitted in EC through either CPD Zoning or a Special Permit previously approved by Lee County will be considered nonconforming and may only expand the area for COP by bringing their property into compliance with current regulations by incorporating

the conditions of § 34-1264(g)(1) through the administrative approval process.

(h) *Nonconforming establishments.*

(1) *Expansion.* A legally existing establishment engaged in the sale or service of alcoholic beverages which is made nonconforming by reason of new regulations contained in this chapter shall not be expanded without a special exception. The term "expansion," as used in this subsection, shall include the enlargement of space for such use and uses incidental thereto, the expansion of a beer and wine bar to include intoxicating liquor, as that term is defined by the Florida Statutes, and the expansion of a bar use to a nightclub use. Nothing in this subsection may be construed as an attempt to modify any prohibition or diminish any requirement of the state.

(2) *Abandonment.* An establishment engaged in the sale or service of alcoholic beverages may thereafter become a nonconforming use due to a change in regulations, as provided in division 3 of article V of this chapter. Nonconforming uses may continue until there is an abandonment of the permitted location for a continuous nine-month period. For purposes of this subsection, the term "abandonment" shall mean failure to use the location for consumption on premises purposes as authorized by the special exception, administrative approval, or other approval. Once a nonconforming use is abandoned, it cannot be reestablished unless it conforms to the requirements of this chapter and new permits are issued.

(i) *Revocation of permit or approval.*

(1) The town council has the authority to revoke an alcoholic beverage special exception, administrative approval, or other approval upon any of the following grounds:

- a. A determination that an application for special exception or administrative approval contains knowingly false or misleading information.
- b. Violation by the permit holder of any provision of this chapter, or violation of any state statute which results in the revocation of the permit holder's state alcoholic beverage license by the state alcoholic beverage license board or any successor regulatory authority.
- c. Repeated violation of any town ordinance at the location within the 12-month period preceding the revocation period.
- d. Failure to renew a state liquor license, or written declaration of abandonment by the tenant and owner of the premises if under lease, or by the owner himself if not under lease.
- e. Abandonment of the premises. An establishment which continually maintains (renews) its state liquor license, even though it has suspended active business with the public, shall not be deemed to have been abandoned for purposes of this subsection.
- f. Violation by the permit holder of any condition imposed upon the issuance of the special exception or administrative approval.
- g. Violation of any of the minimum standards of the special exception.

(2) Prior to revoking an administrative approval, special exception, or other approval for alcoholic beverages, the town council shall conduct a public

hearing at which the permit holder may appear and present evidence and testimony concerning the proposed revocation. At the hearing, the town council may revoke the permit if a violation described in this subsection is established by a preponderance of the evidence. The permit holder shall be notified of the grounds upon which revocation is sought prior to any hearing, and shall be given notice of the time and place of the hearing in the same manner as set forth in article II of this chapter.

- (3) When an alcoholic beverage permit is revoked in accordance with the terms of this subsection, the town may not consider a petition requesting an alcoholic beverage permit on the property for a period of 12 months from the date of final action on the revocation.
- (4) Upon written demand of the town council, any owner or operator of an establishment with a COP license, must make, under oath, a statement itemizing the percentage of gross receipts that are from the sale of alcoholic beverages. Failure to comply with such demand within 60 days of the date of demand shall be grounds for revocation of the special exception, administrative approval, or other approval.
- (j) *Appeals.* All appeals of decisions by the director shall be in accordance with procedures set forth in § 34-86 for appeals of administrative decisions.
- (k) *Alcoholic beverages in restaurants.* The sale of alcoholic beverages for on-premises consumption in restaurants (see § 34-1264(b)(2)) must conform to the following regulations:
 - (1) The sale of alcoholic beverages must be incidental to the sale of food, and restaurants permitted to serve alcohol shall provide that food service facilities will remain open serving appropriate food items on the menu at all times coincident with the sale of alcoholic beverages.
 - (2) The sale of alcoholic beverages shall be permitted only when it accounts for no more than 49% of the combined gross sales attributable to the sale of food and all beverages during any continuous twelve-month period.
 - (3) Restaurants selling alcoholic beverages shall keep separate books and records reflecting the gross sales of food and nonalcoholic beverages and the gross sales of alcoholic beverages for each month. The failure to keep the books and records required herein shall be a violation of this code.
 - (4) The town manager or designee may, during normal working hours, request to inspect and audit the books and records of the business from which alcoholic beverages sales are wholly for the purpose of verifying that the gross sales of alcoholic beverages are no more than 49% of the gross sales of food and all beverages during any continuous twelve-month period. Refusal of an owner or operator of such business to allow said inspection shall be a violation of this code. Should the audit reveal that this requirement is not being met, the town manager shall initiate enforcement proceedings for a violation of this code.
 - (5) For any restaurant which has been selling alcoholic beverages for less than twelve months, the provisions of this section shall be interpreted and applied with respect to said lesser period of time.
 - (6) These regulations may be enforced through the normal code enforcement

procedures of this code (for example, § 1-5, or article V of ch. 2). In addition to these procedures, violations of these regulations may be restricted by an injunction initiated by the Town of Fort Myers Beach, by any citizen thereof, or by any person affected by the violation of such regulations.

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DIVISION 13. MXE MIXED USE ENTERTAINMENT DISTRICT

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[Secs. 142-551—142-570. Reserved.](#)

Sec. 142-540. Purpose.

The MXE mixed use entertainment district is designed to encourage the substantial restoration of existing structures and allow for new construction.

(Ord. No. 89-2665, § 6-16(A)(1), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 96-3052, § 1, 9-11-96)

Sec. 142-541. Main permitted uses.

The main permitted uses in the MXE mixed use entertainment district are apartments; apartment-hotels; hotels; commercial development as specified in section 142-546.

(Ord. No. 89-2665, § 6-16(A)(2), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 96-3052, § 1, 9-11-96)

Sec. 142-542. Conditional uses.

The conditional uses in the MXE mixed use entertainment district are major cultural dormitory facilities as specified in section 142-1332; public and private cultural institutions open to the public; banquet facilities; new construction of structures 50,000 square feet and over (even when divided by a district boundary line), which review shall be the first step in the process before the review by any of the other land development boards; outdoor entertainment establishment; neighborhood impact establishment; and open air entertainment establishment. For purposes of this section, banquet facilities shall be defined as an establishment that provides catering and entertainment to private parties on the premises and are not otherwise accessory to another main use.

(Ord. No. 89-2665, § 6-16(A)(3), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 96-3052, § 1, 9-11-96; Ord. No. 2004-3447, § 1, 5-26-04; Ord. No. 2007-3546, 1-17-07)

Sec. 142-543. Accessory uses.

The accessory uses in the MXE mixed use entertainment district are as follows. See also article IV, division 2, of this article. Note: Uses that serve alcoholic beverages are also subject to the regulations of article V, division 4 of this chapter.

- (1) Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is

adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.

- (2) Accessory outdoor bar counter located in the cabaret overlay district.
- (3) Oceanfront hotels with at least 100 hotel units may operate and utilize an accessory outdoor bar counter, notwithstanding the restriction on the hours of operation, set forth in subsection (1) of this section, provided the accessory outdoor bar counter is located in the rear yard and set back 20 percent of the lot width (50 feet minimum) from any property line adjacent to a property with an apartment unit thereon.

(Ord. No. 89-2665, § 6-16(A)(4), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 96-3052, § 1, 9-11-96)

Sec. 142-544. Prohibited uses.

The prohibited uses in the MXE mixed use entertainment district are accessory outdoor bar counters, except as provided in this chapter.

(Ord. No. 89-2665, § 6-16(A)(5), eff. 10-1-89)

Sec. 142-545. Development regulations.

The development regulations in the MXE mixed use entertainment district are as follows:

Maximum Floor Area Ratio	Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Apartment Unit Size (Square Feet)	Average Apartment Unit Size (Square Feet)	Maximum Building Height (Feet)	Maximum Number of Stories
All uses—2.0 Except convention hotel development (as set forth in section 142-841)—3.5	N/A	N/A	Existing structures: Apartment units—400 Hotel units—in a local historic district/site—200 Otherwise: 15%: 300—335 85%: 335+ New construction: Apartment units—550 Hotel units: 15%: 300—335 85%: 335+	Existing structures: Apartment units—550 Hotel units—N/A New construction: Apartment units—800 Hotel units—N/A	Architectural district: Oceanfront—150 Non-oceanfront—50 (except as provided in section 142-1161) All other areas—75 (except as provided in section 142-1161)	Architectural district: Oceanfront—16 Non-oceanfront—5 (except as provided in section 142-1161) All other areas—8 (except as provided in section 142-1161)

(Ord. No. 89-2665, § 6-16(B), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 92-2830, eff. 1-16-93; Ord. No. 94-2949, eff. 10-15-94; Ord. No. 96-3052, § 1, 9-11-96; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 98-3150, § 1, 11-4-98)

Sec. 142-546. Additional restrictions for lots fronting on Ocean Drive, Ocean Terrace and Collins Avenue.

In the MXE mixed use entertainment district permitted uses in existing buildings at the time of adoption of this

section with two stories or less fronting on Ocean Drive or Ocean Terrace and any building fronting on Collins Avenue from Sixth Street to 16th Street shall comply with the following:

- (1) The entire building shall be substantially renovated and comply with the South Florida Building Code, fire prevention safety code and the property maintenance standards. If the building is a historic structure, the plans shall substantially comply with the Secretary of the Interior Standards and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior (revised 1983), as amended.
- (2) Such buildings may contain offices (medical and dental offices are prohibited), retail, eating or drinking uses and residential uses or any combination thereof. Commercial uses located above the ground floor shall only have access from the interior of the building; no exterior access shall be permitted, unless a variance from this requirement is granted.
- (3) Required parking may be satisfied through participation in the parking impact fee program as set forth in chapter 130, article V, where applicable under the regulations contained therein.
- (4) No existing building shall be internally reconstructed to change the number of stories except that 20 percent of each floor plate may be removed to create an open area or atrium.
- (5) For existing buildings with two stories or less fronting on Ocean Drive or Ocean Terrace, the addition of a story shall require that commercial uses comply with all provisions of section 142-904 for accessory uses, unless a variance from the provisions of section 142-904 is granted. For purposes of example only, in buildings described in the foregoing sentence, the existence of commercial uses on the ground floor which exceed 25 percent of the floor area shall not, upon the addition of one story, be deemed grandfathered in, and the percentage of commercial uses on the ground floor, upon the addition of one story, must comply with the requirements of section 142-904, except if a variance is granted.
- (6) No variances shall be granted from the requirements of this section 142-546, except as specified in subsections 142-546(2) and 142-546(5).

(Ord. No. 89-2665, § 6-16(C), eff. 10-1-89; Ord. No. 92-2830, eff. 1-16-93; Ord. No. 96-3052, § 1, 9-11-96)

Sec. 142-547. Setback requirements.

(a) The setback requirements for the MXE mixed use entertainment district are as follows:

- (1) *Front.*
 - a. Oceanfront: Pedestal and tower, 50 feet; however, sculptures, fountains or architectural features when approved by the design review board are permitted in the required front yard.
 - b. Non-oceanfront:
 1. Pedestal, ten feet.
 2. Lots 100 feet in width or greater, 20 feet; for buildings with a ten-foot-deep covered front porch running substantially the full width of the building front, the front setback shall be five feet. Furthermore, for lots 100 feet in width or greater, the front setback shall be extended to include at least one courtyard, open to the sky, with a minimum width of ten feet and a minimum area of three square feet for every linear foot of lot frontage.
 3. Tower, 50 feet.
- (2) *Side, interior.*
 - a. Oceanfront: Pedestal and tower, 15 percent of the lot width.
 - b. Nonoceanfront:
 1. Architectural district, five feet.
 2. All other areas:
 - i. Pedestal, five feet.
 - ii. Tower, 7.5 feet.
- (3) *Side, facing a street.*
 - a. Oceanfront: Pedestal and tower, 15 percent of the lot width, plus five feet.
 - b. Nonoceanfront: Ten percent of the lot width plus five feet, not to exceed 25 feet. However, lots less than 100 feet in width shall have a setback of five feet.

1. Nonoceanfront structures may comply with these requirements or have the option of the following:
 - i. Pedestal, five feet.
 - ii. Tower, 7.5 feet.
2. Provided that nonoceanfront lots 100 feet or greater in width shall incorporate the following:
 - i. A ten-foot-deep porch running substantially the full side length of the building, with a minimum floor-to-ceiling height of 12 feet; and
 - ii. One courtyard, open to the sky, with a minimum of 1,000 square feet and a minimum average depth of 20 feet. The long edge of the courtyard shall be along the side property line. The area of the courtyard shall be increased by an additional 50 square feet for every one foot of building height above 30 feet as measured from grade.

(4) **Rear.**

- a. Oceanfront: 25 percent of the lot depth or 75 feet minimum from the bulkhead line, whichever is greater.
- b. Nonoceanfront:
 1. Architectural district, zero feet if abutting an alley, otherwise ten feet.
 2. All other areas, ten feet.

- (b) Existing structures which are being substantially renovated are permitted to retain the existing setback areas; however, the setback area shall not be reduced. When additional floors are constructed, they shall be permitted to retain the same setbacks as the existing floors. The provisions of [section 118-398](#) relating to bulk shall not be applicable to the foregoing setback requirements.

(Ord. No. 89-2665, § 6-16(D), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3052, § 1, 9-11-96)

Sec. 142-548. Reserved.

Editor's note—

Ord. No. 98-3150, § 1, adopted Nov. 4, 1998, repealed § 142-548, which pertained to additional maximum height regulations, and derived from Ord. No. 89-2665, § 6-16(e), eff. 10-1-89; Ord. No. 92-2830, eff. 1-16-93; and Ord. No. 96-3052, § 1, adopted 9-11-96.

Sec. 142-549. Noise overlay district.

Section [46-151](#) et seq. establishes noise exceptions for a specific area as described in those sections.

(Ord. No. 89-2665, § 12C, eff. 10-1-89)

Sec. 142-550. Additional regulations for new construction.

In the MXE district, all floors of a building containing parking spaces shall incorporate the following:

- (1) Residential or commercial uses, as applicable, at the first level along every facade facing a street, sidewalk or waterway. For properties not having access to an alley, the required residential space shall accommodate entrance and exit drives.
- (2) Residential or commercial uses above the first level along every facade facing a waterway.
- (3) For properties less than 60 feet in width, the total amount of residential or commercial space at the first level along a street side shall be determined by the design review or historic preservation board, as applicable. All facades above the first level, facing a street or sidewalk, shall include a substantial portion of residential or commercial uses; the total amount of residential or commercial space shall be determined by the design review or historic preservation board, as applicable, based upon their respective criteria.

(Ord. No. 2006-3510, § 8, 3-8-06)

Secs. 142-551—142-570. Reserved. 

FOOTNOTE(S):

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Cross reference—*Businesses, ch. 18.* [\(Back\)](#)

PART II - CODE OF ORDINANCES

Chapter 90 - WATERWAYS

ARTICLE II. BEACHES

ARTICLE II. BEACHES ^[2]

Sec. 90-41. Littering prohibited.

Sec. 90-42. Glass containers prohibited.

Sec. 90-43. Camping.

Sec. 90-44. Regulations for horses on beach.

Sec. 90-45. Dog control.

Sec. 90-46. Fishing lines.

Sec. 90-47. Parking on or near beaches.

Sec. 90-48. Traffic regulations; speed limit.

Secs. 90-49—90-69. Reserved.

Sec. 90-41. Littering prohibited.

- (a) It shall be unlawful for any person to place, by any manner whatsoever, upon the Atlantic beaches of the city, any material, whether organic or inorganic, including but not limited to glass, nails, tacks, wire, and cans, and allow that material to remain.
- (b) All litter shall be placed in the receptacles provided or carried away from these areas by the visitor.
- (c) It is unlawful to deposit, leave or bury any fish or other marine life carcasses, remains or waste on or near the Atlantic beaches of the city.

(Code 1955, §§ 4B-19; Ord. No. 603, 3-17-81; Ord. No. 694, 7-16-85; Ord. No. 848, 11-7-89; Code 1991, §§ 92.01, 92.04, 98.03)

Cross reference— Littering, § 42-91 et seq.

Sec. 90-42. Glass containers prohibited.

The use of any glass containers on the Atlantic Ocean beaches is prohibited.

(Code 1955, §§ 4B-21, 23-15(d); Ord. No. 570, 9-18-79; Ord. No. 603, 3-17-81; Code 1991, §§ 92.05, 98.03(D))

Sec. 90-43. Camping.

Camping is prohibited on any Atlantic Ocean beach within the city.

(Code 1955, § 4B-20; Ord. No. 603, 3-17-81; Code 1991, § 92.06)

PART II - CODE OF ORDINANCES

Chapter 90 - WATERWAYS

ARTICLE II. BEACHES

Sec. 90-44. Regulations for horses on beach.

- (a) No horses are allowed on the beaches west of the mean high water line or vegetation areas on the Atlantic Ocean beaches inside the city limits of Fernandina Beach, Florida at any time.
- (b) No horses are allowed on the Atlantic Ocean beaches north of the Sadler Road access at any time.
- (c) During the months of May through October, horses are allowed on the Atlantic Ocean beaches south of the Sadler Road access between the hours of 5:00 p.m. and sunset, and from sunrise until 11:00 a.m. Horses will be prohibited on the beaches at any other times during these months. These hours may be modified by the city manager in their permits as required by [section 18-3](#)
- (d) During the months of November through April horses are allowed on the Atlantic Ocean beaches south of Sadler Road access at any time, provided they stay in the designated area and do not violate section (a) regarding the dunes and vegetation area.
- (e) This section does not apply to horses performing any police functions at any time.
- (f) Horse riders/owners will be responsible for the horse at all times.
- (g) Horse riders are only allowed to ride single file when going to or from the beach.
- (h) All city parking regulations will be observed.
- (i) Any commercial operation involving horseback riding within the city limits of Fernandina Beach requires a special permit from the city.
- (j) It is hereby established that a commercial business will only be required to obtain one permit for its customers.

(Code 1955, § 4B-22; Ord. No. 603, 3-17-81; Code 1991, § 92.07; Ord. No. 96-21, § 1, 9-3-96)

Comprehensive plan cross reference—Dune preservation, Objective 5a.02.

Cross reference— Animals, ch. 18; operation of vehicles, § 78-41 et seq.

Sec. 90-45. Dog control.

Dogs may be permitted on the Atlantic Ocean beaches, but must be under leash, as defined by the city's animal control regulations, at all times.

(Code 1955, § 4B-23; Ord. No. 603, 3-17-81; Code 1991, § 92.08)

Cross reference— Dogs and cats, § 18-36 et seq.

Sec. 90-46. Fishing lines.

No person shall employ or use any fishing lines or equipment in a manner which prohibits or interferes with the rights of the general public to pass on the Atlantic Ocean beaches. It is specifically prohibited to extend any fishing line across the entire width of the beach, from the mean high water mark to the actual water line, which interferes, restricts or prohibits passage.

(Code 1955, § 4B-25; Ord. No. 694, 7-16-85; Code 1991, § 92.09)

PART II - CODE OF ORDINANCES

Chapter 90 - WATERWAYS

ARTICLE II. BEACHES

Sec. 90-47. Parking on or near beaches.

- (a) Parking of vehicles on the Atlantic Ocean beaches and in other designated parking areas within street rights-of-way abutting the Atlantic Ocean beaches shall be prohibited at certain hours to be designated by the city manager.
- (b) The city manager shall determine and designate which parking areas shall be subject to this section, and shall post sufficient signs to identify the areas.

(Code 1955, § 4B-24; Ord. No. 694, 7-16-85; Code 1991, § 92.02)

Cross reference— Stopping, standing and parking, § 78-71 et seq.

Sec. 90-48. Traffic regulations; speed limit.

- (a) It shall be unlawful for traffic to proceed on the Atlantic Ocean beaches except as follows:
 - (1) There shall be no vehicular driving except in those areas designated by the city commission.
 - (2) No vehicular traffic shall be permitted except at the designated parking area at the Sadler Road access, and except as permitted in subsection (a)(4) of this section.
 - (3) There shall be a designated parking area for vehicular traffic that shall extend the north line of the Sadler Road access to a point 600 feet south of the south line of the Sadler Road access along the Atlantic Ocean beach. This area may be changed, based upon demand, by action of the city commission; provided, however, that such areas may not be enlarged without a prior study and determination of a demonstrated need for such expanded or enlarged area.
 - (4) The city commission may, by resolution, authorize an individual special permission to operate a vehicle on the Atlantic Ocean beach in areas not otherwise authorized to traffic. This permit shall be granted under consideration of hardship and shall be limited to the purpose stated in the resolution.
 - (5) Certain vehicles permitted; issuance of permits.
 - a. In addition to the above, there shall be permitted two-way driving south of the Sadler Beach parking area only for:
 - 1. Emergency and maintenance vehicles.
 - 2. Sailboat launching.
 - 3. Licensed fishermen, saltwater products licenses and seine licenses.
 - 4. Handicapped persons.
 - 5. Senior citizens, 65 years of age or older.
 - b. It is the intent of this subsection (a)(5) to permit restricted beach vehicular driving to accommodate the beach-related activities herein stated, and shall not be construed in any manner to authorize or permit unrestricted beach driving or cruising. The number of permits to be issued pursuant to this subsection shall be limited to no more than 15 such permits per year, and such permits shall each expire one year after the date of issuance. The city manager shall promptly advise the city commission whenever the number of such permits outstanding equals 15.

PART II - CODE OF ORDINANCES

Chapter 90 - WATERWAYS

ARTICLE II. BEACHES

- (6) Upon presentation of proper identification, annual permits authorized by subsection (a)(5) of this section shall be issued at city hall at a fee of \$25.00. The fee for handicapped and senior citizens shall be waived.
- (7) Any permit holder determined to have violated any of the provisions of this section shall be subject to having his permit revoked upon written notice and hearing before the city manager on the same.
- (b) It is unlawful to exceed the vehicular speed limit of 15 miles per hour, or to operate a vehicle in a careless or reckless manner on the Atlantic Ocean beaches. By resolution, the speed limit may be reduced upon determination of the city police department or the proper authorities.

(Code 1955, §§ 4B-18, 23-55.1; Ord. No. 570, 9-18-79; Ord. No. 603, 3-17-81; Ord. No. 625, 9-7-82; Ord. No. 647, 7-5-83; Ord. No. 741, 2-17-87; Ord. No. 848, 11-7-89; Ord. No. 91-7, 5-7-91; Code 1991, §§ 71.07, 92.03)

Cross reference— Operation of vehicles, § 78-41 et seq.

Secs. 90-49—90-69. Reserved.

FOOTNOTE(S):

--- (2) ---

Comprehensive plan cross references—Public beach access, Objective 5a.01; dune preservation, Objective 5a.02. [\(Back\)](#)

Cross reference— Code enforcement procedures, § 2-381 et seq.; beach property acquisition and development trust fund, § 2-526 et seq.; consumption of alcoholic beverages in public places, § 10-5; removal of animal excretions from public property, § 18-12; bathing in nude condition prohibited, § 58-7; glass and injurious substances prohibited on public ways, § 70-3; outdoor lighting in beach areas, § 126-422. [\(Back\)](#)

State Law reference— Beach and shore preservation, F.S. ch. 161. [\(Back\)](#)

PART II - CODE OF ORDINANCES

Chapter 58 - WATERWAYS

ARTICLE II. BEACHES

ARTICLE II. BEACHES ^[2]

Sec. 58-31. Definitions.

Sec. 58-32. Dedication.

Sec. 58-33. Surfboards.

Sec. 58-34. Regulations pertaining to recreational activities.

Sec. 58-35. Fishing from bridges or abutments prohibited.

Sec. 58-36. Throwing missiles prohibited.

Sec. 58-37. Begging and soliciting prohibited.

Sec. 58-38. Driving on beach prohibited, exceptions.

Sec. 58-39. Selling on beaches.

Sec. 58-40. Injuring property prohibited.

Sec. 58-41. Injuring vegetation prohibited.

Sec. 58-42. Parking boats on beaches prohibited, exception.

Sec. 58-43. Glass prohibited on beach.

Sec. 58-44. Posting of advertising prohibited, exception.

Sec. 58-45. Building fires prohibited without permit.

Sec. 58-46. Obstructing access on beaches prohibited; exception.

Sec. 58-47. Certain other prohibited acts.

Sec. 58-48. Construction of walls, playground equipment on public beach; permit; application; notice; exception.

Sec. 58-49. Use of recreational areas during nighttime hours prohibited.

Sec. 58-50. Possession or consumption of alcohol on the public beach.

Secs. 58-51—58-80. Reserved.

Sec. 58-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Beach means all property within the city limits, or over which the city has or shall have jurisdiction, that has been dedicated for beach or park purposes.

City official shall mean the city manager, or his or her designee, law enforcement or code enforcement official.

Easement means all lands within the city that have been dedicated for public use, except the lands that have been dedicated for beach or park purposes.

(Code 1985, § 20-16; Ord. No. 11-21, § 1, 12-6-11)

PART II - CODE OF ORDINANCES

Chapter 58 - WATERWAYS

ARTICLE II. BEACHES

Cross reference— Definitions generally, § 1-2.

Sec. 58-32. Dedication.

The beach and easements of the city are for the sole benefit and the pleasure of the people, and every person may enjoy the privileges of the beach and easements subject to the provisions of this article.

(Code 1985, § 20-17)

Sec. 58-33. Surfboards.

- (a) *Reckless use.* It is unlawful to operate, manipulate or otherwise use a surfboard or similar device in a reckless manner. A person is guilty of reckless operation of a surfboard who operates same in willful or wanton disregard for the safety of persons or property without due regard, caution and circumspection, or in a manner as to endanger or likely to endanger, or injure any person.
- (b) *Colliding or striking against persons.* No person shall operate, manipulate or otherwise use a surfboard or other similar device in such manner as to cause same to collide or strike against any person.

(Code 1985, § 20-18)

Sec. 58-34. Regulations pertaining to recreational activities.

- (a) It shall be unlawful for any person to swim, dive, jump in, bathe, float or to engage in spearfishing or skin diving in the waters contained within the city commonly known as John's Pass and that portion of the Gulf of Mexico extending from the mean high water mark at the western termination of 127th Avenue westward into the Gulf of Mexico for a distance of 1,500 feet and extending from the mean high water mark at the eastern termination of 127th Avenue extending 1,500 feet eastward into the waters of Boca Ciega Bay.
- (b) It shall be unlawful for any person to jump from, dive or swim from any bridge, or catwalk of any bridge or abutment thereto within the city.

(Code 1985, § 20-19)

Sec. 58-35. Fishing from bridges or abutments prohibited.

It shall be unlawful for any person to fish from any bridge or abutment thereto within the city.

(Code 1985, § 20-20)

Sec. 58-36. Throwing missiles prohibited.

No person shall throw any stones or missiles on easements or public beaches.

(Code 1985, § 20-22)

PART II - CODE OF ORDINANCES

Chapter 58 - WATERWAYS

ARTICLE II. BEACHES

Sec. 58-37. Begging and soliciting prohibited.

No person shall commit or aid or assist in soliciting subscriptions or donations or begging on easements or public beaches.

(Code 1985, § 20-23)

Sec. 58-38. Driving on beach prohibited, exceptions.

No person shall drive or propel any motor vehicle on beaches or easements thereto, except as follows:

- (1) City-owned or private vehicles used to remove garbage and/or debris from the beach or to conduct other public business.
- (2) Police and fire department vehicles used for emergency response and routing patrol.
- (3) City vehicles for beach maintenance purposes, i.e. beach raking, dune restoration, walk over construction and repair.
- (4) Participants and support staff for set-up and break-down of special events.

(Code 1985, § 20-24; Ord. No. 03-03, § 1, 3-25-03)

Sec. 58-39. Selling on beaches.

No person shall keep or offer anything for sale unless licensed so to do by the city commission under a written concession or license agreement or lease.

(Code 1985, § 20-25)

Sec. 58-40. Injuring property prohibited.

No person shall injure, destroy, mutilate, deface, carry away, convert or steal, or use for any purpose or use other than for the use intended, any of the following articles, items, equipment, machinery, goods or property situated on the public beaches or easements:

- (1) Life saver rings, ropes, shrines or housing.
- (2) Cabanas, umbrellas, chairs or floats.
- (3) Any playground, recreational or beach equipment of any kind.
- (4) Beach cleaning and sanitary machinery, tools or equipment of any kind or any part or parts thereof.
- (5) Fence, wall, building, enclosure, stand, stall, structure, covering or housing of any kind erected or maintained by the city or any duly licensed concessionaire, licensee or lessee of the city.
- (6) Any article, appliance, equipment, fixture, machinery, or any stock, goods, merchandise or any property of any kind located in, around or upon any concession or any premises or areas of the beaches as to which the privilege or right to operate concessions and to so use and occupy the same has been granted by the city commission under a written concession or license agreement or lease, or that may be owned, kept or maintained by the city or any duly licensed concessionaire, licensee or lessee of the city.

(Code 1985, § 20-26)

PART II - CODE OF ORDINANCES

Chapter 58 - WATERWAYS

ARTICLE II. BEACHES

Sec. 58-41. Injuring vegetation prohibited.

No person shall injure any tree, plant, grass, flowers, fruit, turf or structure in any manner whatsoever on the beaches, easements or parks.

(Code 1985, § 20-27)

Sec. 58-42. Parking boats on beaches prohibited, exception.

No person shall leave, store or park boats on public beaches in a permanent position. Temporary parking of boats on public beaches in connection with their immediate use is not prohibited. This provision for temporary parking shall not be construed to include any boats being offered for sale or rent unless pursuant to a city authorized franchise agreement. Boats stored on public beaches shall be removed by the city and impounded at the owner's expense.

(Code 1985, § 20-28)

Sec. 58-43. Glass prohibited on beach.

No person shall use, carry, possess or permit the use, carrying or possession of any glass bottle, glass container, glass utensil or other glass vessel on the beaches.

(Code 1985, § 20-29)

Sec. 58-44. Posting of advertising prohibited, exception.

No person shall post or display any sign, banner or advertisement unless licensed so to do by the city commission as a concessionaire or a licensee under a written concession or license agreement or lease.

(Code 1985, § 20-30)

Cross reference— Signs and advertising, ch. 73.

Sec. 58-45. Building fires prohibited without permit.

No person shall build a fire or aid or assist in building a fire on the easements, parks or beaches without the consent of the city commission.

(Code 1985, § 20-31)

Cross reference— Fire code, § 64-71 et seq.

Sec. 58-46. Obstructing access on beaches prohibited; exception.

No person shall obstruct in any manner any portion of an easement or beach, except as to such areas of the beach as to which the privilege or right to operate concessions and to so use and occupy the same has been granted by the city commission under a written concession or license agreement or lease and which use and occupancy does not interfere with or deny the use of the beach or easement by the public.

PART II - CODE OF ORDINANCES

Chapter 58 - WATERWAYS

ARTICLE II. BEACHES

(Code 1985, § 20-32)

Sec. 58-47. Certain other prohibited acts.

No person shall:

- (1) Hold any public meeting without a permit;
- (2) Write, paint or carve on any tree, bench, walkway or structure; or
- (3) Enter any place where the words "No Admittance" are displayed

It shall be unlawful for any person who digs or causes to be dug a hole on the public beach to fail to backfill the hole immediately upon request by any city official to do so.

No person shall engage in any activity within any area of the public beach that is dangerous to the health, safety or welfare of any person or that would cause damage to the property of other patrons or public property, including the public beach. Nor shall any person engage in any activity within the public beach that interferes with the use and enjoyment of the beach and its facilities by other patrons.

(Code 1985, § 20-33; Ord. No. 11-21, § 1, 12-6-11)

Sec. 58-48. Construction of walls, playground equipment on public beach; permit; application; notice; exception.

- (a) No person shall build or construct any building, fence, wall or structure of any kind whatsoever, including playground equipment such as shuffleboard, on the public beach without the written approval of the city commission.
- (b) Permission may be given by the city commission for the erection of walls, playground equipment and facilities, if in the opinion of the city commission such structure will be of benefit to the public and not in any way damage the public beach or deny its complete use to the public.
- (c) Application in writing shall be made to the city commission for any construction on the public beach and shall be accompanied by plans and specifications before any approval by the city commission may be given.
- (d) Permission so granted shall be at the will and pleasure of the city commission, and the permission may be revoked at any time.
- (e) Upon ten days' notice, the one placing or maintaining such construction or equipment on the public beach shall remove it; and upon failure so to do, such person shall be liable to the penalties under this article. The city shall have the right to remove and dispose of it as it shall deem advisable.
- (f) The city commission may enter into written concession or license agreements or leases to furnish and provide such amusement, beach, playground, recreational, food, refreshment and sundry facilities and services as are customarily furnished and provided in connection with and incidental to the operation and maintenance of public parks, playgrounds, recreation areas and centers, beaches and bathing resorts, including lifeguard services, beach and playground and recreational equipment rental and services, refreshment and food and sundry facilities and services, beach cleaning and sanitary services, and any other concessions, services, and facilities, deemed by the city commission to be for the benefit, convenience, enjoyment, pleasure and comfort of the public in the use of the beaches.

(Code 1985, § 20-34)

PART II - CODE OF ORDINANCES

Chapter 58 - WATERWAYS

ARTICLE II. BEACHES

Sec. 58-49. Use of recreational areas during nighttime hours prohibited.

- (a) All public beaches, park and recreational areas, docks, wharves and the public easements, ways and approaches thereto within the city shall be closed to the use of or by any person between the hours of 1:00 a.m. and 5:00 a.m. Eastern Standard Time or Eastern Daylight Saving Time.
- (b) It shall be unlawful for any person to go upon or use, loiter, stand, idle, wander, stroll or play in or upon such public beaches, public park and recreation areas, docks, wharves or the public easements, ways and approaches thereto during or between those hours.

(Code 1985, § 20-35)

Sec. 58-50. Possession or consumption of alcohol on the public beach.

The City of Treasure Island hereby regulates the possession and/or consumption of alcoholic beverages on the public beach from the south property line of Lot 7 Boca Ciega Pass Subdivision extended to the mean high water line (public beach access immediately south of Island Inn), south to the southern property line of Lot 7, Sunset Beach Unit 2, extended west to the mean high water line, as follows;

- (1) It shall be unlawful for any person to consume or to carry on or about his/her person any container of alcoholic beverage, whether or not said container be a bottle, can, cup, carton or other form of container. This paragraph shall not be applicable if the alcoholic beverage is contained in a container, bottle, can, carton or other receptacle that has not been opened since the time the beverage was originally packaged at the manufacturer's plant.
- (2) Possession of any container of alcoholic beverage wherein the seal has been broken, the bottle cap or pop-top has been opened or removed, shall constitute prima facie evidence of a violation of this section.
- (3) These restriction contained in subsection (1) and (2) above shall apply only between the hours of 8:00 a.m. and 4:00 p.m. on Saturdays and Sundays, and the Memorial Day, July 4, and Labor Day legal holidays.
- (4) These restrictions will be in effect from the first weekend in February 2013 through the last weekend in September, 2013.
- (5) Exemptions. Beer and/or wine only may be consumed in Sunset Vista Park and the Beach Pavilion in conjunction with a special event after receipt of permission from the city manager.

(Ord. No. 11-06, § 1, 5-17-11; Ord. No. 11-16, § 1, 10-4-11; Ord. No. 12-27, § 1, 1-15-13)

Cross reference—Alcoholic beverages, ch. 3.

Secs. 58-51—58-80. Reserved.

FOOTNOTE(S):

PART II - CODE OF ORDINANCES

Chapter 58 - WATERWAYS

ARTICLE II. BEACHES

--- (2) ---

2Dogs prohibited on beach, § 6-40 ([Back](#))

State Law reference— Tidal lands and bulkheads, F.S. § 253.12 et seq.; boat registration and safety law, F.S. § 327.01 et seq.; certain saltwater fishing regulations preempted to the state, F.S. § 370.102; coastal construction regulations, F.S. § 161.052; recreation, F.S. ch. 418; beach and shore preservation, F.S. ch. 161. ([Back](#))

PART II - CODE OF ORDINANCES
Chapter 24 - PARKS AND RECREATION

ARTICLE II. RULES AND REGULATIONS FOR PUBLIC FACILITIES AND BEACHES

ARTICLE II. RULES AND REGULATIONS FOR PUBLIC FACILITIES AND BEACHES ⁽¹⁾

Sec. 24-31. Purpose.

Sec. 24-32. Definitions.

Sec. 24-33. General rules and regulations.

Sec. 24-34. Additional rules and regulations for the beach pavilion and golf, tennis and recreation center.

Sec. 24-35. Activities exempt from this article.

Sec. 24-36. Penalty.

Sec. 24-31. Purpose.

This article is intended to establish rules and regulations for use of public parks, beaches and recreation facilities within the city.

(Ord. No. 12-11, § 1, 8-21-12)

Sec. 24-32. Definitions.

The following terms, when used in this article shall have the meanings respectively ascribed to them in this section:

Advertised means the act of publicly announcing or calling public attention to a person, thing, place or event and shall include, but not be limited to, the distribution of handbills or mass mailings, the use of outdoor advertising and announcements by radio, social media, television or newspaper.

Outdoor public assembly, assembly or public assembly means any ceremony, show, exhibition, concert, pageant, festival, rally, demonstration, drum circle, or parade which is held in or on any public park or beach, street, or sidewalk and which is open to the public.

Parade means any procession, march or assembly wherein the participants travel by foot, vehicle or otherwise in or upon any street, within the city.

Public parks and beaches means all property within the city limits, or over which the city has or shall have jurisdiction, that has been dedicated for beach or park purposes.

(Ord. No. 12-11, § 1, 8-21-12)

Sec. 24-33. General rules and regulations.

The following rules and regulations as may hereinafter be amended from time to time by resolution of the city commission shall apply to all parks, recreation facilities and public beaches within the city:

- (1) No glass containers shall be permitted.
- (2) No confetti, rice or bird seed shall be thrown on city property.
- (3) No commercial use of city property is permitted without a permit from the city manager or his designee.

PART II - CODE OF ORDINANCES
Chapter 24 - PARKS AND RECREATION

ARTICLE II. RULES AND REGULATIONS FOR PUBLIC FACILITIES AND BEACHES

- (4) No temporary structures shall be permitted without written authorization from the community improvement department.
- (5) Compliance with the city noise ordinance shall be adhered to at all times.
- (6) All outdoor public assemblies, sponsored or unsponsored, advertised or not advertised, and open to the public, shall cease by sunset. Group sponsored or unsponsored outdoor public assemblies open to the public, include, but are not limited to, the Drum Circle, Sanding Ovations, Bands on the Sand, and any other similar groups or activity. A permit may be approved by resolution by the city commission for a later ending time of the activity or event. In considering whether to approve a permit for an extended termination time, the commission may include such factors as:
 - a. The nature of the event;
 - b. The expected number of participants or attendance;
 - c. The provision of sanitary facilities;
 - d. Provision for cleanup;
 - e. Methods to be employed by applicant to maintain an orderly event or activity;
 - f. Any other factors the commission in its sole discretion considers necessary to protect the health, safety and welfare of the community.

(Ord. No. 12-11, § 1, 8-21-12)

Sec. 24-34. Additional rules and regulations for the beach pavilion and golf, tennis and recreation center.

In addition to the general rules and regulations set out above, the following specific rules and regulations as may hereinafter be amended from time to time by resolution of the city commission shall apply to the city beach pavilion and the golf, tennis and recreation center:

- (1) The hours of operation of the beach pavilion and golf tennis and recreation center are as follows:
 - a. *Beach pavilion:* 8:00 a.m. until 10:00 p.m.
 - b. *Golf, tennis and recreation center:* 8:00 a.m. until 9:00 p.m.

The facilities shall be closed to public use other than during the hours of operation.

- (2) All persons and/or organizations wishing to reserve the facility for an event shall file an application for park use with the recreation department. The rental fee shall be paid in full at the time the application is submitted. All events shall be scheduled to occur during the regular hours of operation of the facility. The recreation department shall grant approval for the use of a facility for all events.
- (3) Security deposits shall be returned to the applicant within 15 days of the event provided that all of the rules and regulations were followed and the facility was left in an acceptable manner.
- (4) No pets or animals with the exception of seeing eye dogs shall be permitted on the property.
- (5) Children shall be supervised at all times.
- (6) No smoking shall be allowed inside the golf tennis and recreation center clubhouse or at the beach pavilion.

PART II - CODE OF ORDINANCES
Chapter 24 - PARKS AND RECREATION

ARTICLE II. RULES AND REGULATIONS FOR PUBLIC FACILITIES AND BEACHES

- (7) The applicant shall be responsible for the setting up, and clearing of area(s) after the event and for returning all of the equipment to its proper places.
- (8) The applicant shall be responsible for supplying all materials for his/her event.
- (9) The applicant shall agree to pay for any damages, repairs or cleaning expenses incurred as a result of the event.
- (10) Since the beach pavilion and golf, tennis and recreation center are public facilities, the general public will be allowed to use the facilities during scheduled events.
- (11) Decorations shall not be hung or taped to walls and/or ceilings in the golf, tennis and recreation center nor will they be allowed around the beach pavilion.
- (12) The use of gas grills shall be permitted. However the grills must be removed from city property immediately following the conclusion of the event.

(Ord. No. 12-11, § 1, 8-21-12)

Sec. 24-35. Activities exempt from this article.

This article shall not apply to:

- (1) Funeral processions.
- (2) Lawful picketing or other orderly processions on the sidewalks that do not block pedestrian use of the sidewalk.
- (3) A governmental agency acting within the scope of its functions.

(Ord. No. 12-11, § 1, 8-21-12)

Sec. 24-36. Penalty.

- (a) It shall be illegal for any person, firm, corporation or other entity to violate the above rules and regulations as may from time to time be amended.
- (b) It shall be unlawful for any person to stage, present, conduct, or attempt to stage, present or conduct an outdoor public assembly beyond the time limitations established in this article, without a permit.
- (c) It shall be unlawful for any person to participate in an outdoor public assembly beyond the time limitations established in this article, without a permit.

Any violator of such rules and regulations shall be punished by a fine not to exceed \$500.00 per violation. In addition, any person violating the above rules and regulations shall be subject to being removed from the property.

(Ord. No. 12-11, § 1, 8-21-12)

FOOTNOTE(S):

PART II - CODE OF ORDINANCES
Chapter 24 - PARKS AND RECREATION

ARTICLE II. RULES AND REGULATIONS FOR PUBLIC FACILITIES AND BEACHES

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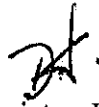
Editor's note— Ord. No. 12-11, § 1, adopted August 21, 2012, amended article II in its entirety to read as herein set out. Former article II, §§ 24-31—24-34, pertained to rules and regulations for city-owned facilities, and derived from Ord. No. 00-07, § 1, 11-14-00; Ord. No. 07-06, § 1, 8-21-07; Ord. No. 12-08, § 2, 7-17-12. [\(Back\)](#)



MEMORANDUM

TO: Mayor and City Commissioner
City of St. Pete Beach

THROUGH: Elaine Edmunds
Interim City Manager

FROM: David P. Healey, FAICP 
Calvin, Giordano & Associates, Inc.

SUBJECT: Temporary Use Permit Applications

DATE: May 27, 2014

INTRODUCTION

The City has received three applications for Temporary Use Permit identified as follows:

- Item No. 1. Property - 3855 Gulf Boulevard
Applicant - Beth Morean, Sungold, LLC
Purpose - Parking Lot
Zoning District - BR, Bayou Residential
- Item No. 2. Property - 5030 Gulf Boulevard
Applicant - James Kotsopoulos, Grand Plaza Resorts, Inc.
Purpose - Parking Lot
Zoning District - LR, Large Resort
- Item No. 3. Property - 5195 Gulf Boulevard
Applicant - Nicklaus of Florida, Inc., Sirata Beach Resort
Purpose - Parking Lot
Zoning - AC, Activity Center

BACKGROUND

A brief description of the background for each of the applications is set forth below:

- Item No. 1. 3855 Gulf Blvd., Sungold LLC - The record indicates that a Temporary Use Permit was issued by the City Commission on April 21, 2011 - which permit expired on September 30, 2012

Building Code Services
Coastal Engineering
Code Enforcement
Construction Engineering & Inspection
Construction Services
Contract Government
Data Technologies & Development
Emergency Management Services
Engineering
Governmental Services
Indoor Air Quality
Landscape Architecture & Environmental Services
Municipal Engineering
Planning
Public Administration
Redevelopment & Urban Design
Renewable Energy
Resort Development
Surveying & Mapping
Transportation Planning & Traffic Engineering
Utility & Community Maintenance Services
Water Resources Management

Feather Sound Corporate Center
13535 Feather Sound Dr.
Suite 135
Clearwater, FL 33762
Phone: 727.394.3825

www.calvin-giordano.com



The applicant applied for a new permit on May 6, 2014 for a twelve month period.

Field inspection on Friday, May 16th revealed the lot was fully utilized and monitored for special event parking.

Additional information and photos compiled by staff is included in Attachment 1.B.

Item No. 2. 5030 Gulf Blvd., Grand Plaza Resort - The Community Development Department approved a Temporary Use Permit for parking on this property on April 5, 2012 as more particularly identified in the accompanying staff report, which permit expired on April 4, 2013.

Site inspection on Friday, May 16 revealed that the lot was substantially occupied with parked vehicles.

The applicant applied on April 30, 2014, apparently to renew or replace the now-expired permit.

Additional information and photos compiled by staff is included in Attachment 2.B.

Item No. 3. 5195 Gulf Blvd., Sirata Beach Resort - This application is for a Temporary Use Permit to allow a parking lot to serve the employees of the Sirata Beach Resort. The application was filed on April 29, 2014 and indicates that the property was acquired in December, 2013, subsequent to which *"we received permission from the City to use the parcel for parking pending a formal application and determination on a more permanent parking arrangement."*

The owner then applied for a Conditional Use Permit on January 24, 2014 to use the parcel for parking - which application was subsequently withdrawn.

The parcel has been fenced and site inspection on Friday, May 16 revealed that the lot was substantially occupied with parked vehicles.

The details of the proposed parking plan are identified in the attached application, including options for access/egress, site improvement and landscaping.

Additional information and photos compiled by staff is included in Attachment 3.B.

SUMMARY OBSERVATIONS

Each of the three applications present a different set of circumstances as noted below:

Item No. 1. The property at 3855 Gulf Blvd. had a permit for special events and specified weekend use only, issued by the City Commission in 2011, that



has expired. The conditions of that permit, at least with respect to the fence, appear to have been met.

Item No. 2. The property at 5030 Gulf Blvd. was issued a Temporary Use Permit in 2012, which permit has expired. The conditions of that permit were apparently met and the improvements with respect to fencing, gate, landscaping and surface treatment remain in place.

Item No. 3. The property at 5195 Gulf Blvd. has not previously applied for or received a temporary permit, but indicates the former City Manager gave some form of permission to utilize the parcel for the parking that is now taking place. The property is fenced and access is from Punta Vista Drive.

Whatever the current status, policy and procedural issues with these three parking lots, they are clearly being extensively used and exhibit a need that may not otherwise be met.

These three applications point out a number of issues that should be addressed prior to taking action to approve or extend a Temporary Use Permit for any of the three properties:

- First, there appears to be some inconsistency in terms of who approves a Temporary Use Permit - one was approved by the Commission and one by staff.

Sec. 6.11 of the Land Development Code indicates only that "all applications shall be submitted to the City Manager in a form specified by the city" and "after an application is determined sufficient and after the appropriate staff (emphasis added) review and approval process, a permit will be issued."

- Second, it is not clear what uses may or may not qualify as a "Temporary Use". The definition in Sec. 2.1 reads as follows:

"Temporary use means a use which is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time, and which does not involve the construction or alteration of any permanent structure."

The fundamental question is whether a use that is not a permitted or conditional use in a particular zoning district can or should be permitted as a temporary use. For example, "parking lots, commercial and/or off premise" are allowed as a Conditional Use in the AC district, but not in the BR or LR districts.

- Further, the definition precludes the construction or alteration of any permanent structure - yet all three applications propose fencing and/or gates that are or could be considered "permanent structures."



COMMISSION ALTERNATIVES

The options available to the Commission are essentially three:

- 1) Approve any one or all three of the applications and stipulate the desired conditions that might include the following:
 - a) Duration of Permit - time limit and any provision for extension
 - b) Site Improvements - ground cover/surface treatment, fencing, landscaping, etc.
 - c) Access/Egress - location, controls
 - d) Limitations on Frequency - daily, special events, hours of operation
 - e) Insurance Requirements - if any, amount, etc.
 - f) Provisions for Termination - removal of improvements, enforcement provisions
- 2) Deny any one or all three of the applications and stipulate the provisions for terminating the existing use(s).
- 3) Defer action on any one or all three of the applications and suspend any enforcement action pending a complete review of the temporary use provisions and any code amendments resulting therefrom for a stipulated period of time.

RECOMMENDED ACTION

Given the lack of specificity in the Code and the somewhat inconsistent treatment of temporary uses in the past, combined with the fact that none of the three properties are operating under a current permit, it is recommended that the Commission:

- 1) Defer action at this time on all three applications for temporary use;
- 2) Suspend or stay any enforcement action for any potential violation of the Code that may have occurred as a result of the expiration of a previously issued permit or the initiation of the use without a proper permit on any of these three properties for a period of ninety (90) days;
- 3) Direct staff to review the temporary use permit process in its entirety with respect to the following particulars:
 - Who should approve temporary use permits and by what process
 - What uses are eligible to be considered as a temporary use
 - Which zoning districts may accommodate what kind of temporary uses
 - What is the duration or period of time for which a permit may be issued
 - What other conditions, such as site improvements, insurance and provisions for removal should be stipulated; and
- 4) Direct staff to review these considerations with the Planning Board and bring back to the Commission a recommended course of action within ninety (90) days.



COPIES: Daniel H. Graves, Fire Chief
Bruce Cooper, CBO, CFM, Building Code Administrator
Chelsey Welden, CNU-A, Urban Planner
Anne Marr, Permitting & Zoning Administrator

Attachments:

Attachments for Item No. 1 - 3855 Gulf Boulevard:

- A. - Application
- B. - Additional Staff Information/Pictures
- C. - Previous Permit Information

Attachments for Item No. 2 - 5030 Gulf Boulevard:

- A. - Application
- B. - Additional Staff Information/Pictures
- C. - Previous Permit Information

Attachments for Item No. 3 - 5195 Gulf Boulevard:

- A. - Application
- B. - Additional Staff Information/Pictures
- C. - Citizen Comments

Complete and return to:
Community Development Department
155 Corey Avenue
St. Pete Beach, FL 33706



Staff Use Only:
Date Received: _____
Permit Number: 2012

TEMPORARY USE PERMIT APPLICATION

Temporary Use or uses requested

Parking

Dates of Use (must be less than one year)

Jan 1st To December 1st

Use Location

3855 GULF Blvd (Back)

Applicant Name:

Chad Nelson agent for moreant Telephone# 727-599-3539

Email Address:

chad.nelson1974@yahoo.com

Mailing Address:

309 39th Ave St. Pete Beach FL 33706

Organization /Corporation

SUNGold LLC

Description of activities (A map must be provided denoting all above referenced areas of activity.)

Parking

FEE: \$50

This application along with any other required information must be submitted to the Community Development Department for review. This permit does not abrogate the responsibility of the applicant to acquire other permits and/or licenses from different departments or other agencies, or pay any other taxes, fees, etc. Any stipulations required by the City Manager, City Staff and/or City Commission shall be met. I/We understand that the City will revoke the permit if any violation of conditions set upon the use are violated. (Initial here) CN

I hereby certify that I/we will be responsible for the preservation, sanitation and cleanup of the areas used for the Temporary Use. Additionally, I/we certify that there are no misrepresentations in the foregoing statements and answers. The applicant shall carry a minimum liability insurance of \$1,000,000 per incident and name the City as an additional insured. (Initial here) CN

Applicant Signature

Chad L. Nelson

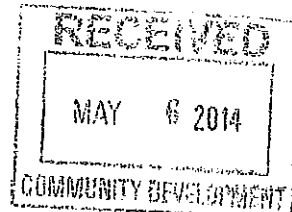
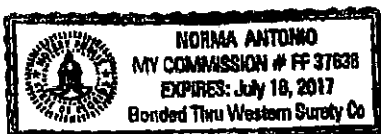
Date

5-6-14

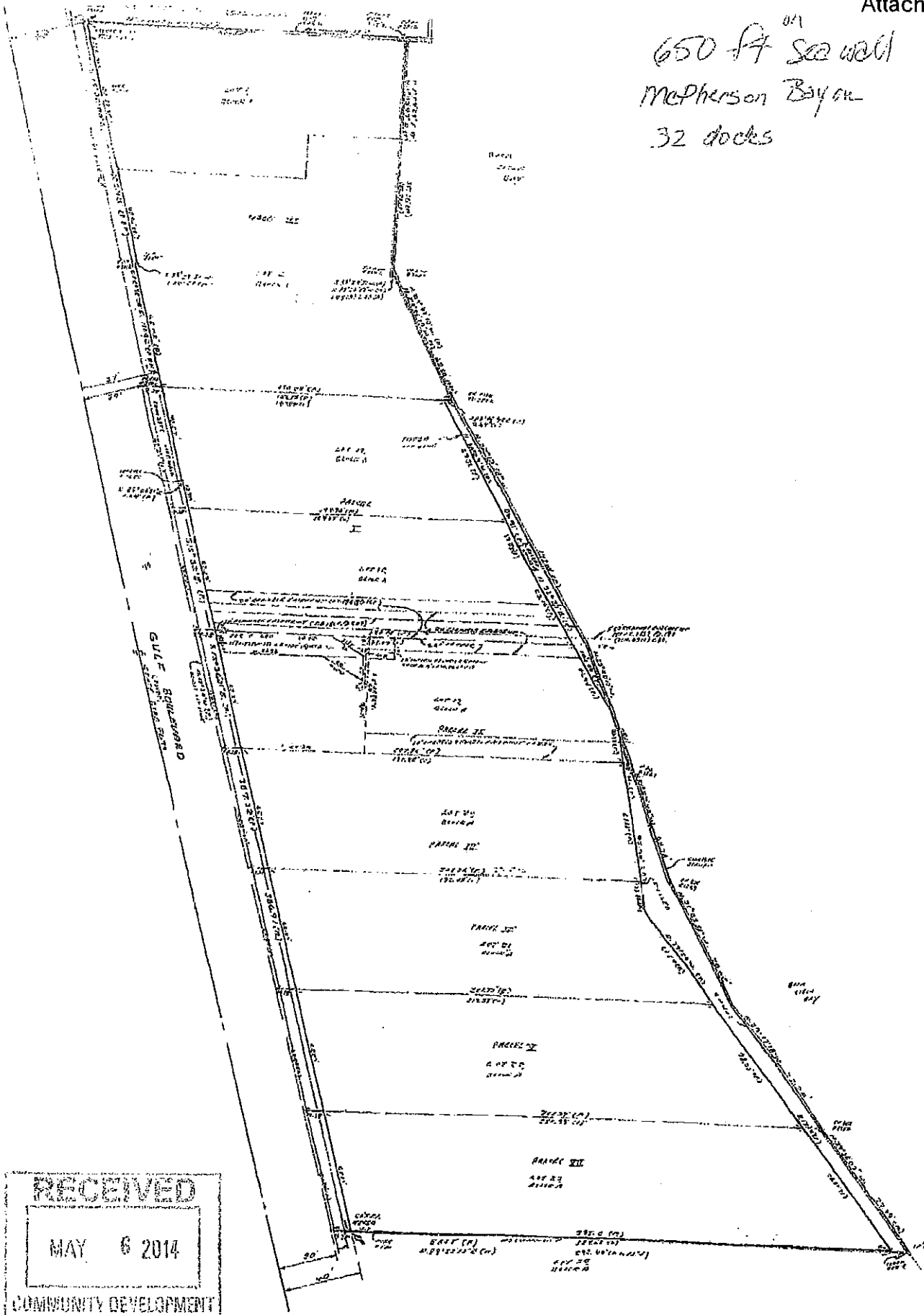
Sworn to me this 6th day of May 2014 by Chad L. Nelson who is personally known to me or has produced Florida Drivers License as identification.

Notary Signature and stamp:

Norma Antonio



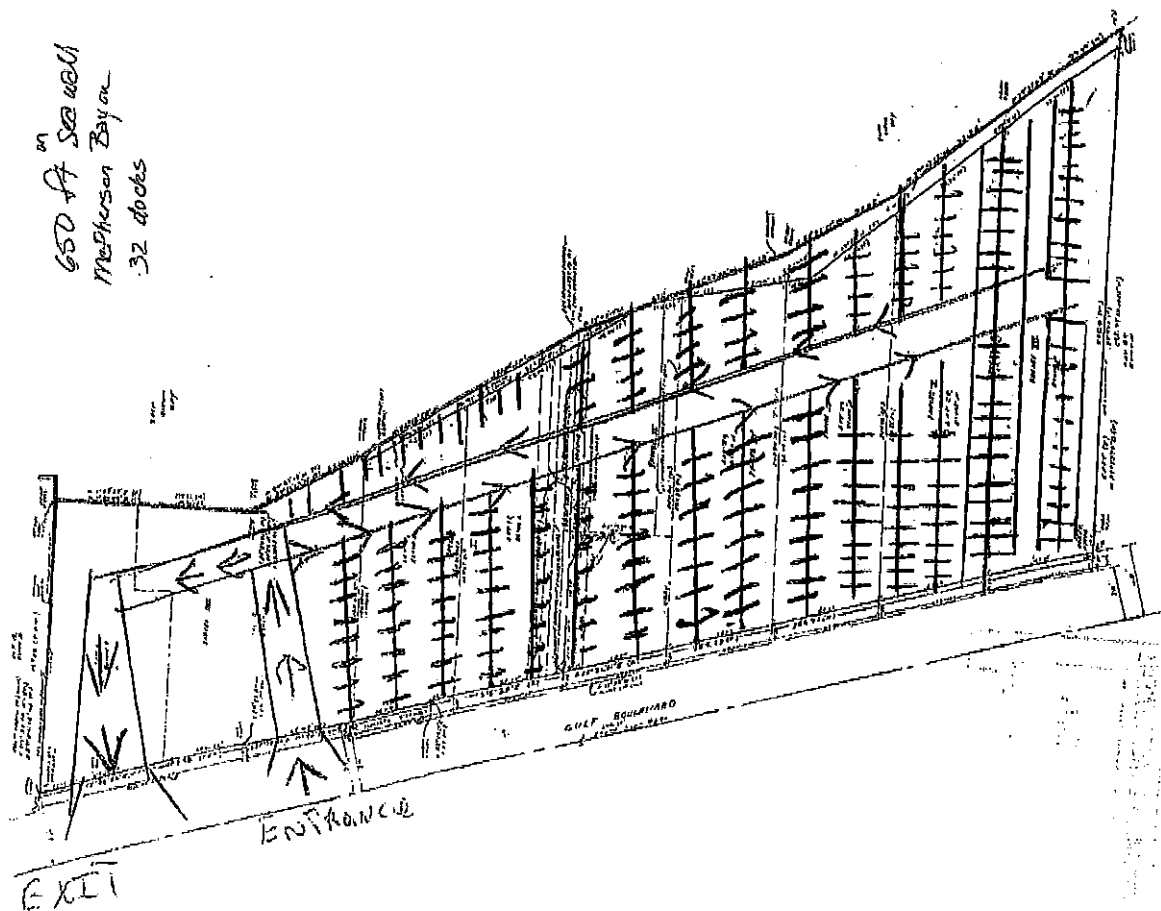
650 ft^{0/1} sea wall
 McPherson Bayou
 32 docks



RECEIVED

MAY 6 2014

COMMUNITY DEVELOPMENT



650 ft seawall
on
McPherson Bayou
32 docks

(NAME OF THE PARTY) (LAST NAME) (FIRST NAME)
 (ADDRESS) (CITY) (STATE) (ZIP)
 (PHONE) (FAX) (TELETYPE)
 (E-MAIL) (WWW)

• SPECIAL AGENTS STAFF FOR IMMEDIATE POLICE COOPERATION OF THE FOLLOWING EXCLUDED AGENCIES:
CICS & S&S, 1, CANTON, MASSACHUSETTS; AGENCIES IN THE NEW YORK METROPOLITAN
POLICE DEPT. MAY 20, 1942; MAY 21, OF THE NEW YORK DEPT. OF POLICE, ALBANY, ALBANY

2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024 2025 2026 2027 2028 2029 2030 2031 2032 2033 2034 2035 2036 2037 2038 2039 2040 2041 2042 2043 2044 2045 2046 2047 2048 2049 2050 2051 2052 2053 2054 2055 2056 2057 2058 2059 2060 2061 2062 2063 2064 2065 2066 2067 2068 2069 2070 2071 2072 2073 2074 2075 2076 2077 2078 2079 2080 2081 2082 2083 2084 2085 2086 2087 2088 2089 2090 2091 2092 2093 2094 2095 2096 2097 2098 2099 2100	2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024 2025 2026 2027 2028 2029 2030 2031 2032 2033 2034 2035 2036 2037 2038 2039 2040 2041 2042 2043 2044 2045 2046 2047 2048 2049 2050 2051 2052 2053 2054 2055 2056 2057 2058 2059 2060 2061 2062 2063 2064 2065 2066 2067 2068 2069 2070 2071 2072 2073 2074 2075 2076 2077 2078 2079 2080 2081 2082 2083 2084 2085 2086 2087 2088 2089 2090 2091 2092 2093 2094 2095 2096 2097 2098 2099 2100	2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024 2025 2026 2027 2028 2029 2030 2031 2032 2033 2034 2035 2036 2037 2038 2039 2040 2041 2042 2043 2044 2045 2046 2047 2048 2049 2050 2051 2052 2053 2054 2055 2056 2057 2058 2059 2060 2061 2062 2063 2064 2065 2066 2067 2068 2069 2070 2071 2072 2073 2074 2075 2076 2077 2078 2079 2080 2081 2082 2083 2084 2085 2086 2087 2088 2089 2090 2091 2092 2093 2094 2095 2096 2097 2098 2099 2100	2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024 2025 2026 2027 2028 2029 2030 2031 2032 2033 2034 2035 2036 2037 2038 2039 2040 2041 2042 2043 2044 2045 2046 2047 2048 2049 2050 2051 2052 2053 2054 2055 2056 2057 2058 2059 2060 2061 2062 2063 2064 2065 2066 2067 2068 2069 2070 2071 2072 2073
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David Healey

From: Bruce Cooper <b.cooper@stpetebeach.org>
Sent: Monday, May 19, 2014 7:26 AM
To: David Healey
Subject: FW: Temporary use permit for parking

This is the narrative for 3855 Gulf

From: Beth Morean [mailto:bethdolphin@aol.com]
Sent: Sunday, May 18, 2014 12:46 PM
To: Bruce Cooper
Subject: Temporary use permit for parking

I am requesting a Temporary Use Permit for parking cars on my property located at the 3800 block of Gulf Blvd. St. Pete Beach, FL. I would like the permit for up to 12 months to park cars there on weekends, holidays, special events, and any other times that overflow parking is needed. This will alleviate all the illegal parking in our neighborhoods and allow more visitors to spend their money here and have a safe, legal place to park. This is also an area that can be easily watched by the sheriff's dept. for any illegal activities that now take place in our neighborhoods. I would also like this Temporary Use Permit in order to offset my huge costs in holding this property until this city can figure out it's comprehensive plan so that I may responsibly develop this property. I will maintain the property by keeping it mowed and the landscaping and trees trimmed, keep the transients off the property, provide trash cans at the exit, and keep up the fence that I was required to install by the last commission. (I was the only one out here that was required to tear down my perfectly good chain link fence and replace it with a costly wooden decorative fence!).

Beth Ann Morean
bethdolphin@aol.com

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

3855 Gulf Blvd. (3 lots 3815, 3855 and 3859)

The application states they want to utilize the lot for parking from January 1, 2014 to December 1, 2014. I have asked the applicant to provide a narrative to further expand on his proposal. At this time I don't have the narrative but he stated the following:

Use the vacant lot till October 1, 2014 and will only be used on weekends, special events and holidays. From October 1 to December 1, 2014 it will only be used for special events.

The City Council on April 12, 2011 approved a temporary use permit with the following conditions:

1. The temporary use permit will allow the lot to be open through September 30, 2012. October 1st through February 28th for special events only. March 1st through September 30th it will be used only for weekends, holidays and special events.
2. The lot will be open from 10:00 a.m. to 10:00 p.m.
3. Access will be on the north curb cut.
4. No parking on the north or south side within 25 feet of the property line.
5. Install 4 foot vertical fence.
6. Trash receptacles
7. Erection of "No Mooring" signs.

Staff has not received any complaints regarding the use of these lots.



05/16/2014

05/16/2014



4/12/2011

a. **Case No. 20110006 Conditional Use.** Application requests approval of conditional use for operation of a commercial parking lot for property located at 3815, 3855 and 3859 Gulf Boulevard as provided for in Section 14.4(j) of the Land Development Code. Application requests variance to Section 23.4 to allow for unpaved parking area. Applicant requests variance to Sections 22.3 and 22.6 to delete required landscaping.

Mr. Bonfield reminded the Commission that this matter was before them at their last Meeting as a Conditional Use Application with variances. After discussing this further with the City Attorney, they believe it is better to consider this application under the Temporary Use provisions of Section 6.11 of the Land Development Code. The hearing would then go from a quasi judicial hearing to a regular hearing and a decision by the Commission to approve a Temporary Use permit.

Mr. Davis explained to the Commission that they have a Comp Plan that is in effect but they don't have any Land Development Regulations enacted to implement the Comp Plan with respect to where this particular property is located. Under the law, the Comp Plans trumps the Land Development Regulation. The Comp Plan does not allow this conditional use. In searching for a way to find something that would allow it; the place that it fits is under Section 6.11 of the Land Development Code which is not a conditional use but a temporary use.

Vice Mayor Parent stated that since this application was submitted on February 28th, he's sure the other Commissioners have reviewed, studied and analyzed it as a conditional use and a variance. He expressed some displeasure with getting new information just three hours before this Meeting which changed the request to a temporary use which is an administrative issue not a Commission issue.

Mr. Davis admitted that they should have figured this out earlier. The Code says the City Manager can grant it, however there is absolutely nothing improper about the Commission dealing with it. This is a very controversial issue, affects a lot of people and it's not at all improper for the Commission to deal with it. They can analyze this exactly the same as they would a conditional use.

Commissioner Shavlan believes it's the right thing to do and the Commission should look at it and the Commission should make the decision.

Vice Mayor Parent then asked if this was a development order, even though it's temporary. Mr. Davis responded by saying yes, this is a development order. Development orders should comply with the Comp Plan.

Mayor Finnerty asked how they can stop additional parking lots from going into the area. Mr. Bonfield is only aware of one. Mr. Holley advised that this is being handled by Code Enforcement and a citation has been issued.

Mayor Finnerty asked Mr. Davis how to proceed and it was suggested that they hear from the public, hear from the applicant and then hear from the staff.

Mayor Finnerty adjourned the Meeting until 8:25 pm for a short break.

Mayor Finnerty called the Meeting back to order and discussion continued on Case No. 20110006 Conditional Use.

Karl Holley proceeded to briefly outline the application and the procedure that is being followed for a temporary use permit.

Beth Morean, the applicant, addressed the Commission and answered questions posed by the Mayor and Commissioners regarding fencing, landscaping, docks, entrances to the lot, trespassing on private property, beach access, bathrooms, closing and/or locking the lot at night, crosswalks, noise, trash, and "no mooring" signs on dock.

Mayor Finnerty opened the Meeting to audience comments.

Mr. Gaskin, 1620 83rd Avenue, Seminole, has no objection but would ask that the Commission make some provision to keep the cars from the north fence and the sea wall.

Cindy Carr, 4102 Gulf Boulevard, Unit 110, a new owner at the adjoining property produced some pictures of her patio and the chain link fence. She asked that parking be kept away from the north fence.

Jack Martynow, 3848 Gulf Boulevard, Owner of the Palm Crest Motel, is in favor of a north gate; he would like to see the current fence replaced with something more attractive. He is also concerned about bathroom facilities and lighting.

Jack Freed, 3820 Gulf Boulevard, was under the impression that the north gate would be opened and they wouldn't be parking any cars after dark. He is concerned about insurance for the parking lot. If there would be an incident on the property, would the City be responsible.

Robert Czynszczon, 4506 Gulf Boulevard, spoke against a temporary use permit. Temporary use should be restricted to one or two weeks. He recommended a minimum of a six foot fence. A new fence and palm trees is not too much to ask. A bathroom is a definite "must".

Bob Goldman, 3820 Gulf Boulevard, has not seen any strange behavior in the parking lot.

Robin Grabowski, of Tampa Bay Beaches Chamber of Commerce, thinks this can be worked out and spoke in favor of the use.

Debra Edney, 181 73rd Avenue, thinks trees and foliage would look much better than a fence.

Mayor Finnerty asked for further comments. Hearing none, he closed the Meeting to Audience Comments.

Commissioner Shavlan thinks setbacks can be worked out with staff. He would like to get rid of the chain link fence and replace it with something that is at least five foot tall. Port-O-Lets are also important.

Mayor Finnerty asked about insurance coverage. The owner stated that she has a \$5 million dollar umbrella liability policy on all of her properties.

Commissioner Shavlan pointed out that a closing time should be determined and it was agreed that a time certain should be set. Commissioner Garnett suggested 10:00 pm on Friday, Saturday, Sunday and Holidays, including special events. All were in agreement.

Vice Mayor Parent asked how long is temporary? Eighteen months with the right to terminate with ninety days notice after six months was agreed upon. Mr. Bonfield suggested the lot could be open through September 30th, 2012, from October 1st through February 28th for special events only, and then March 1st through September 30th.

In addition, the gate is to be placed on the north side and the fence should be at least a four foot tall vertical picket fence that cannot be seen through.

As a matter of clarification, Mr. Holley pointed out the need for "no mooring" signs, garbage receptacles and Port-O-Lets.

Mr. Bonfield then read what the Commission had agreed to as a whole:

- The temporary use permit will allow the lot to be open through September 30, 2012. October 1st through February 28th for special events only, March 1st through September 30th Friday, Saturday, Sunday, Holidays and special events.
- The lot will be open from 10:00 am to 10:00 pm.
- Access will be on the north curb cut
- No parking on the north or south side within 25 feet of the property line

- 4 foot vertical fence
- Trash receptacles
- Two (2) Port-O-Lets
- Erection of "No Mooring" signs

Commissioner Shavlan made a motion to approve Case No. 20110006, request for approval of Temporary Use under Section 6.11 of the Land Development Code for operation of a temporary commercial parking lot for property located at 3815, 3855 and 3859 Gulf Boulevard with the requirements outlined by Mr. Bonfield.

The Motion was seconded by Commissioner Garnett and defeated by a 3 to 2 roll call vote. Commissioner Halpern, Vice Mayor Parent and Mayor Finnerty voted no.

6. Ordinances

a. Ordinance 2011-09, Final Reading and Public Hearing, amending Chapter 82 of the City of St. Pete Beach City Code by creating Article V entitled "traffic light safety"; providing for recorded image monitoring and enforcement of red light violations consistent with general law.

Discussion ensued regarding Case No. 20110006.

Commissioner Garnett asked for a five minute break. Commissioners Shavlan and Garnett left the podium.

Discussion continued and Mr. Bonfield reminded the Commission that they were at recess.

Mayor Finnerty called the Meeting back to order.

Mr. Bonfield stated that he would not issue temporary permits for any special events on any properties like this.

Vice Mayor Parent asked to re-open discussion on this matter. Upon the advice of Mr. Davis, Vice Mayor Parent made a motion to reconsider Case # 20110006. Commissioner Halpern seconded the motion and it was unanimously approved by roll call vote.

Vice Mayor Parent asked for clarification of the procedure being used. After discussion, it was decided to vote on Case #20110006 again.

Vice Mayor Parent made a motion to approve Case No. 20110006, request for approval of Temporary Use under Section 6.11 of the Land Development Code for operation of a temporary commercial parking lot for property located at 3815, 3855 and 3859 Gulf Boulevard with the requirements outlined by Mr. Bonfield and including an exit clause that after October 1st, a ninety day notice of termination may be issued.

The motion was seconded by Commissioner Shavlan. The motion was approved by a 3 to 2 roll call vote. Commissioner Halpern and Mayor Finnerty voted no.

Mayor Finnerty called upon Mr. Bonfield to proceed. Mr. Bonfield returned to Ordinance 2011-09 with a brief reminder of the matters previously brought before the Commission. This is the final reading of the Ordinance that would allow the City to install the cameras but Mr. Bonfield has not included the agreement to install them for a couple of reasons; the first of which is that the Legislature is considering a bill that would repeal the legislation from last year that will prohibit them. At this point he doesn't see any point in proceeding with the agreement to install them but he sees no harm in approving the Ordinance. This does not authorize installation anywhere; that would come back to the Commission at a later date.

Commissioner Shavlan read a report that was done by three PHDs that indicated there were more accidents with the cameras installed. He also spoke about a conversation he had with the Mayor of Kenneth City which was not favorable to the cameras.

Vice Mayor Parent also talked about reports and studies that have been done indicating the program is beneficial. He stated that rear end collisions are a lot less offensive than t-bone accidents which can be deadly. He believes this is a safety issue and a preventive measure. He doesn't feel there is a down side to it.

Commissioner Garnett is not sure cameras would work in our City.

Commissioner Halpern has nothing against the cameras and feels it's worth giving it a shot.

Mayor Finnerty feels it's a safety issue.

Mayor Finnerty opened the Meeting to audience comments.

Rosemary Manning, 200 1st Avenue, Pass-a-Grille, received a citation in South Pasadena. She believes crosswalks are the problem in St. Pete Beach.

Debra Edney, 181 73rd Avenue, believes there should be a study done in our City to determine if anyone has died as a result of a red light violation.



CITY OF ST. PETE BEACH

Department of Community Development

DEVELOPMENT ORDER

Address: 3855 Gulf Boulevard
PIN: 07/32/16/07398/001/0170

IT IS HEREBY ORDERED:

1. That due to the historically demonstrated inadequate availability of vehicle parking during the "spring break" period in St. Pete Beach, and in accordance with the requirements and authorities of Section 6.11 of the City of St. Pete Beach Land Development Code, the above referenced property be granted a Temporary Use Permit for a Commercial Parking Lot for the period March 12, 2010 to May 3, 2010; and
2. That the lot shall be operated only on Fridays, Saturdays and Sundays and the hours of operation shall be restricted to 12:00 PM to 9:00 PM; and
3. That the property owner shall ensure that the lot is properly supervised by at least one employee or other designated person during all hours of operation and that a contact name and number for said individual shall be made available to the City; and
4. That no overnight parking of vehicles be allowed; and
5. That access to the lot be restricted by secured gates at all times outside of the specified operating hours; and
6. That only existing points of vehicular access previously approved by the Florida Department of Transportation be utilized; and
7. That the owner shall ensure compliance with all municipal codes and ordinances, including the City's noise and nuisance ordinances; and
8. That the property owner shall maintain the premises in a safe and orderly manner for the duration of the permit and that no accumulation of trash or other debris shall be permitted; and

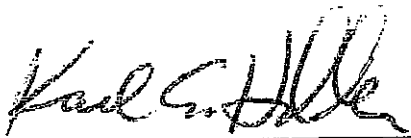
9. That no shell, gravel or other loose material shall be at any time discharged upon the public streets, nor shall any sediment of any type be deposited in the public streets or upon adjacent or nearby properties by any action of stormwater or other form of erosion; and

10. That all applicable requirements for accessibility be continuously met for the duration of the permit; and

11. That no structures or other improvements shall be allowed upon the lot for the duration of the permit; and

12. That, due to the limited period and nature of this permit, the City reserves the right to terminate this approval at any time for any reason, such termination being effective immediately upon notification.

13. That any person aggrieved by this order may appeal the order to the City of Fort Beach Hearing Officer on or before thirty (30) days from the date of this order.



Karl E. Holley, AICP
Director of Community Development

3-9-2010

Date

Complete and return to:
Community Development Department
155 Corey Avenue
St. Pete Beach, FL 33706



Staff Use Only:
Date Received: _____
Permit Number: 2012- _____

2014-0022

TEMPORARY USE PERMIT APPLICATION

Temporary Use or uses requested _____

Dates of Use (must be less than one year) April 30, 2014

Use Location VACANT LOTS 2021, 22 - PARCEL No. 06/32/16/00172/000/0210

Applicant Name: JAMES KOTSOPoulos For Telephone# 727-946-0330
GRAND PLAZA RESORTS INC.

Email Address: JAMESKOTSOPoulos@HOTMAIL.COM

Mailing Address: 5250 GULF BLVD., ST PETE BEACH, FLORIDA 33706

Organization /Corporation GRAND PLAZA RESORTS INC.

Description of activities (A map must be provided denoting all above referenced areas of activity.)

TEMPORARY USE TO PARK EMPLOYEE VEHICLES & OVERFLOW PARKING FOR
GRAND PLAZA RESORT HOTEL @ 5250 GULF BLVD. ST. PETE BEACH.

FEE: \$50

This application along with any other required information must be submitted to the Community Development Department for review. This permit does not abrogate the responsibility of the applicant to acquire other permits and/or licenses from different departments or other agencies, or pay any other taxes, fees, etc. Any stipulations required by the City Manager, City Staff and/or City Commission shall be met. I/We understand that the City will revoke the permit if any violation of conditions set upon the use are violated. (Initial here) ✓

I hereby certify that I/we will be responsible for the preservation, sanitation and cleanup of the areas used for the Temporary Use. Additionally, I/we certify that there are no misrepresentations in the foregoing statements and answers. The applicant shall carry a minimum liability insurance of \$1,000,000 per incident and name the City as an additional insured. (Initial here) ✓

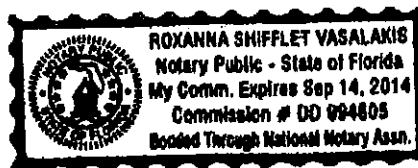
Applicant Signature

Date

Sworn to me this 30th day of APRIL 2014 by James Kotsopoulos who is
personally known to me or has produced _____ as identification.

Notary Signature and stamp:

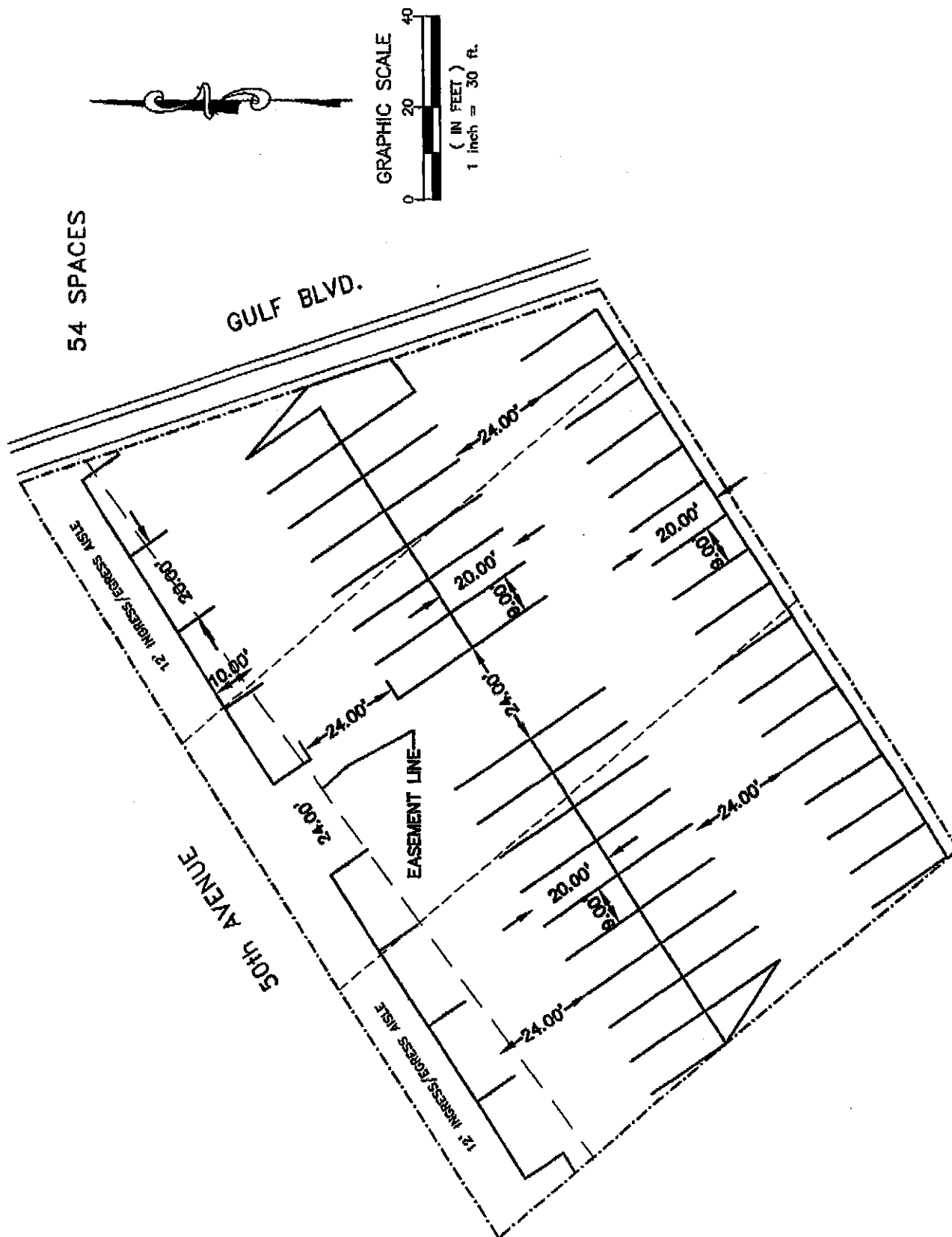
Roxanna Shifflet Vasalakis

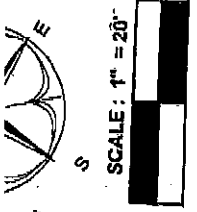


RECEIVED

APR 30 2014

COMMUNITY DEVELOPMENT





Attachment 3

LOT 13

LOT 12

LOT 11

LOT 19

OCCUPIED # 5000

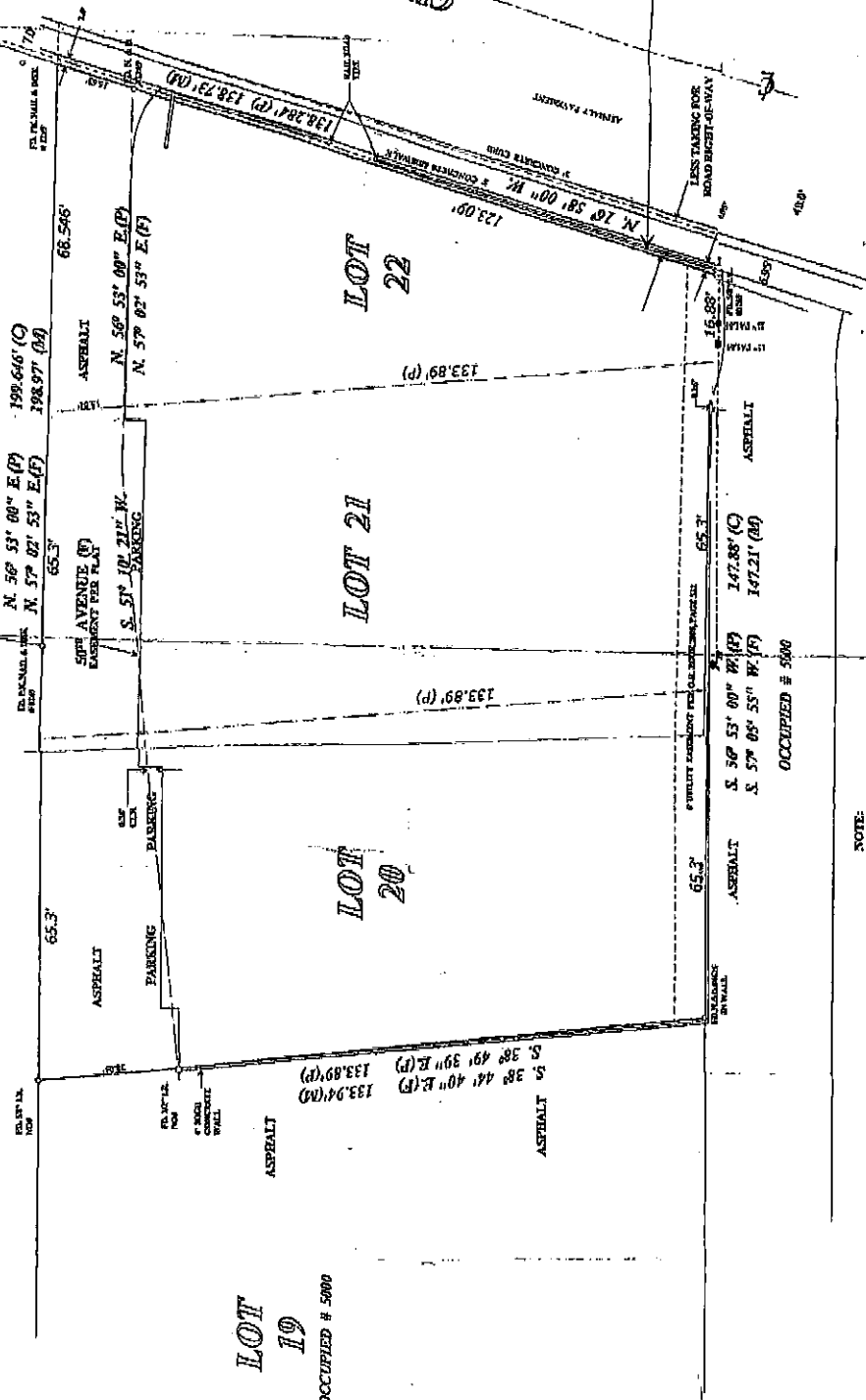
LOT 20

LOT 21

LOT 22

GULF BOULEVARD
STATE ROAD NO. 233

BASIS OF
FIELD BEARINGS



NOTE:



CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)
 8/12/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Brown & Brown of FL, Inc. - Fort Myers 3820 Colonial Boulevard Suite 200 Fort Myers FL 33912		CONTACT NAME: Stephanie Wilkinson PHONE (AC No. Ext.): 239-274-1430 FAX (AC No.): 239-278-5306 EMAIL: swilkinson@bbflmyers.com	
INSURED BEACH-6 Grand Plaza Resorts, Inc. 5250 Gulf Blvd. St. Petersburg Beach FL 33706		INSURER(S) AFFORDING COVERAGE INSURER A: North River Ins Co INSURER B: American States Ins Co INSURER C: Security National Ins Co INSURER D: INSURER E: INSURER F:	
		NAIC # 19704	

COVERAGES
CERTIFICATE NUMBER: 2005417215

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDITIONAL INSURER	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC		SES106614101	5/8/2013	5/8/2014	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$100,000 MED EXP (Any one person) \$Excluded PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 Liquor \$1,000,000
B	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☐ HIRED AUTOS ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS		01CH665933	4/28/2013	4/28/2014	COMBINED SINGLE LIMIT (Per accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	UMBRELLA LIAB ☒ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$0		5821012188	5/8/2013	5/8/2014	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$ WC STATUTORY LIMITS ☐ OTHER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/ MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A			

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Regarding the General Liability, the certificate holder is an additional insured

CERTIFICATE HOLDER
CANCELLATION

 City of St. Petersburg Beach
 155 Corey Avenue
 St. Petersburg Beach FL 33706

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Latane C. Wilks

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[Print](#)

[Close](#)

City of St, Pete Beach - Add'l Insured

From: **Karen DeMent** (kdement@excehospitaity.com)

Sent: **Wed 4/30/14 2:19 PM**

To:

(718.6 KB)

Jim,

Attached is the Insurance certificate that was turned into the City with license renewal last August. This is good through 05/08/14. I am hoping to get renewal information either Friday or next Monday. A new certificate will not be available until after new policies have been bound.

VP Finance

Excel Hospitality, Inc.

Grand Plaza Resorts, Inc.

Beachcomber Resorts, LLC

Phone: 727-367-1902 ext. 789

Fax: 727-367-4963

Email: kdement@excehospitaity.com

5030 Gulf Boulevard

The Community Development Department approved a Temporary Use Permit on 4/5/12 with the following conditions:

- The applicant and operator maintain liability insurance in the amount of no less than \$1,000,000 per incident and name the City of St. Pete Beach as an additional insured. Said insurance shall be maintained until the permit expires. A copy of the proof of insurance certificate is due to the City no later than 4 p.m. April 13, 2012 or when the applicant uses the property for overflow parking, whichever is sooner.
- Vehicular access shall not be from Gulf Boulevard. Vehicular access shall be maintained from 50th Avenue.
- No structures shall be placed or constructed on the property with the exception of a fence.
- The property shall be fenced. The applicant shall apply for a fence permit within 30 days of issuance of this temporary use permit and shall construct the fence within 60 days. The fence shall be no taller than 4 feet in the front and no taller than 8 feet on the sides and rear of the property. The fence fronting Gulf Blvd. shall be white picket in style and may be made of either wood or PVC. No chain link shall be permitted anywhere on the property.
- The temporary parking lot does not have to be paved, but shall be sodded and kept in good condition in order to protect the aesthetics of the City as well as reduce dust, silt, and stormwater run-off.
- The perimeter of the property shall be landscaped in accordance with Section 22.7 b. of the Land Development Code, as follows:

Vehicular use areas.

"Except along the boundary of a vehicular use area that is landscaped in accordance with paragraph (a) preceding, other vehicular use areas, where such areas will not be entirely screened visually by an intervening building or structure from any abutting property line there shall be provided landscaping between such areas and such property lines as follows:

- (1) Planting area. A strip of land at least six feet in depth, located between the property line and the vehicular use area shall be landscaped.*
- (2) Minimum number of trees. The minimum number of trees is one tree for each 30 linear feet or fraction thereof.*
- (3) Minimum size of landscaped areas. Except for driveways crossing property lines, the entire boundary of the vehicle use area shall be landscaped.*

Staff Information

- (4) Hedge required. Unless otherwise approved during the site plan review process, a hedge in accordance with section 22.4 of at least two feet in height shall be placed along the entire length of such landscaped area.*
- (5) Other materials. The remainder of the required landscaped area shall be landscaped with grass, ground cover or other approved landscaping treatment."*

- The applicant and operator acknowledge that the properties to the north, south, and west of the subject property are private property and should not be trespassed upon by the applicant/operator, his employees, or customers.

The applicant and owner should be aware that in the event he/she redevelops the property further, a 10 foot easement for undergrounding utilities and pedestrian facilities shall be dedicated to the city.

This temporary use permit expires on April 4, 2013. If any of the above conditions are violated, the City reserves the right to revoke and terminate this permit immediately.

Staff has not received any complaints except for the new bushes causing a visibility problem which the owner removed a couple of the plants immediately.



05/20/2014

A photograph of a parking lot with several cars, a fence, and a building in the background. The date '05/20/2014' is printed in yellow in the bottom right corner.

A photograph of a parking lot with several cars, a fence, and a large building in the background. The date "05/20/2014" is printed in yellow in the bottom right corner.

**TEMPORARY USE PERMIT # 2012-02**

Applicant/agent : James Kotsopoulos

Applicant Address: 5662 Jerez Ct. Fort Myers, Florida 33919

Applicant Telephone Number: 727-946-8330

Property for Temporary Use: 5030 Gulf. Boulevard

Temporary Use Requested: Overflow Parking for the Grand Plaza Resort

Pursuant to Sections 2 and 6.11 of the City of St. Pete Beach Land Development Code, the City may grant a Temporary Use Permit for a period of no greater than one year. The applicant has requested the use of the property located at 5030 Gulf Boulevard to be used for overflow parking for the Grand Plaza Resort. The Temporary Use Permit is approved from April 5, 2012 to April 5, 2013, subject to the following conditions:

- The applicant and operator maintain liability insurance in the amount of no less than \$1,000,000 per incident and name the City of St. Pete Beach as an additional insured. Said insurance shall be maintained until the permit expires. A copy of the proof of insurance certificate is due to the City no later than 4 p.m. April 13, 2012 or when the applicant uses the property for overflow parking, whichever is sooner.
- Vehicular access shall not be from Gulf Boulevard. Vehicular access shall be maintained from 50th Avenue.
- No structures shall be placed or constructed on the property with the exception of a fence.
- The property shall be fenced. The applicant shall apply for a fence permit within 30 days of issuance of this temporary use permit and shall construct the fence within 60 days. The fence shall be no taller than 4 feet in the front and no taller than 8 feet on the sides and rear of the property. The fence fronting Gulf Blvd. shall be white picket in style and may be made of either wood or PVC. No chain link shall be permitted anywhere on the property.
- The temporary parking lot does not have to be paved, but shall be sodded and kept in good condition in order to protect the aesthetics of the City as well as reduce dust, silt, and stormwater run-off.

- The perimeter of the property shall be landscaped in accordance with Section 22.7 b. of the Land Development Code, as follows:

Vehicular use areas.

"Except along the boundary of a vehicular use area that is landscaped in accordance with paragraph (a) preceding, other vehicular use areas, where such areas will not be entirely screened visually by an intervening building or structure from any abutting property line there shall be provided landscaping between such areas and such property lines as follows:

- (1) Planting area. A strip of land at least six feet in depth, located between the property line and the vehicular use area shall be landscaped.*
- (2) Minimum number of trees. The minimum number of trees is one tree for each 30 linear feet or fraction thereof.*
- (3) Minimum size of landscaped areas. Except for driveways crossing property lines, the entire boundary of the vehicle use area shall be landscaped.*
- (4) Hedge required. Unless otherwise approved during the site plan review process, a hedge in accordance with section 22.4 of at least two feet in height shall be placed along the entire length of such landscaped area.*
- (5) Other materials. The remainder of the required landscaped area shall be landscaped with grass, ground cover or other approved landscaping treatment."*

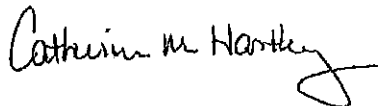
- The applicant and operator acknowledge that the properties to the north, south, and west of the subject property are private property and should not be trespassed upon by the applicant/operator, his employees, or customers.

The applicant and owner should be aware that in the event he/she redevelops the property further, a 10 foot easement for undergrounding utilities and pedestrian facilities shall be dedicated to the City.

This temporary use permit expires on April 4, 2013. If any of the above conditions above are violated, the City reserves the right to revoke and terminate this permit immediately.

This permit does not relieve the applicant of his responsibility to obtain any other permits or licenses required by the City, Pinellas County, State of Florida, or the United States Federal Government.

Temporary use permit 2012-02 approved by the City Manager or his designee:



4/5/2012

Catherine M. Hartley, AICP
Senior Planner
City of St. Pete Beach Community Development Department

Date

Complete and return to:
Community Development Department
155 Corey Avenue
St. Pete Beach, FL 33706



Staff Use Only:
Date Received: _____
Permit Number: 2014- _____

TEMPORARY USE PERMIT APPLICATION

Temporary Use or uses requested: Temporary parking lot

Dates of Use (must be less than one year): 360 days from Approval of Application

Use Location: Southeast corner of Gulf Boulevard and Punta Vista Drive, City of St. Pete Beach, Florida

Folio No.: 06-32-16-08136-000-0270

Applicant Name: Nicklaus of Florida, Inc. Telephone# (727) 363-5101

Email Address: GNicklaus@sirata.com

Mailing Address: 5300 Gulf Boulevard, St. Pete Beach, FL 33706

Organization /Corporation: Nicklaus of Florida, Inc. c/o Sirata Beach Resort

Description of activities (A map must be provided denoting all above referenced areas of activity.): Temporary parking lot to serve Sirata Beach Resort. The lot will be landscaped per the drawings and use will be limited to employees of the Sirata Beach Resort. Ingress and egress to be determined from available three options.

FEE: \$50

This application along with any other required information must be submitted to the Community Development Department for review. This permit does not abrogate the responsibility of the applicant to acquire other permits and/or licenses from different departments or other agencies, or pay any other taxes, fees, etc. Any stipulations required by the City Manager, City Staff and/or City Commission shall be met. I/We understand that the City will revoke the permit if any violation of conditions set upon the use are violated. (Initial here) 2/2/14

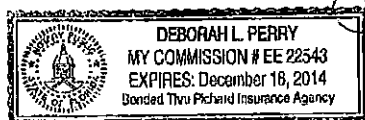
I hereby certify that I/we will be responsible for the preservation, sanitation and cleanup of the areas used for the Temporary Use. Additionally, I/we certify that there are no misrepresentations in the foregoing statements and answers. The applicant shall carry a minimum liability insurance of \$1,000,000 per incident and name the City as an additional insured. (Initial here) _____

Applicant Signature [Signature] Date 4/29/14

Sworn to me this 29th day of April, 2014 by H. Gregg Nicklaus
who is personally known to me or has produced personally known as identification.

Notary Signature and stamp:

[Signature]



May 7, 2014

City of St. Pete Beach
Attn: Bruce Cooper, Community Development
155 Corey Avenue
St. Pete Beach, FL 33706

Re: 5195 Gulf Blvd, St. Pete Beach

In reference to our recently submitted Temporary Use Permit request for parking, I would first like to provide the following as background for the application.

- A. Nicklaus of Florida, Inc. d/b/a Sirata Beach Resort, acquired the above referenced parcel located at 5195 Gulf Blvd. in late December 2013. Soon thereafter, we received permission from the City to use the parcel for parking pending a formal application and determination on a more permanent parking arrangement. On Jan. 24th 2014 we applied for a Conditional Use Permit to use the lot for parking.
- B. The long term use of this parcel is totally dependent on the City's Comprehensive Plan. This parcel is located in the Activity Center District. The Land Development Code defines this area as set forth:
 - a. **Sec. 38.1. Purpose and intent**
The AC Activity Center District is intended to support a high intensity of commercial development and secondary residential uses. Design features such as inter-parcel access and pedestrian facilities should be utilized to promote the functional integration of redevelopment sites.
- C. Attached find **Exhibit 'A'**. This is an aerial of the surrounding properties in the AC District in proximity to our lot. As you can see from the arrows, the properties abutting Gulf Blvd. are entirely commercial in nature and include the following uses: High Density Resorts, multiple retail shops, offices, five full service restaurants, a miniature Golf course, Nail salon, Liquor store, the Batts Taxi service, a car rental business, a large shopping center, miscellaneous parking lots and storage. As a commercial site in this District, there will be the potential for significant traffic generated from many of the uses allowed in Division 38 of the Land Development Code. In our current application, we are planning to limit the current use to our staff's vehicles. That number is approximately 120 cars per day. The staff usually arrives in two shifts, first shift would be approx. 80 cars in the morning (7-9 AM arrival) and the second shift would be approx. 40 cars in the afternoon/evening (3:30 to 5 PM arrival). The importance of this issue is that our staff will park and stay. There is no continuing traffic throughout the day

Attachment 3

like that of a shopping center, gas station or convenience store, which are all uses permitted under the Activity Center District.

- D. As of today, the Comprehensive plan is in litigation and any re-development comes with a City Building Dept. stipulation that a developer's investment in improvements will be done at its owner's risk. At this time, we are waiting to see whether the plan is upheld or is to be delayed for more years. Unfortunately, since the date of our purchase, the city recently agreed with the Plaintiffs in the case to abate further litigation until all appeals are satisfied. Due to this new agreement, this plan could take years to become effective, truly creating a hardship should the land case remain in the legal system.
- E. The Sirata Beach Resort's long term plan for the property is Not a permanent parking lot, but we would like to use it temporarily. We would like to be afforded the same opportunity to use our lot like many other businesses in this community have for years. In fact, there are many lots within the city that are unimproved and where owners have been given permission by the City Staff as well as former City Commissions to be used for parking vehicles. These parcels are located on Gulf Blvd, Blind Pass, Pass a Grille and Corey Areas. A small list was provided the Community Development Dept. last week.
- F. In advance of the Conditional Use hearing (in February 2014) we met with the residents in the Punta Vista community to present our parking plan under the Conditional Use Application. The concerns we gathered from this meeting were two -fold: 1. A fear of a permanent parking lot and 2. Ingress and egress issues.
- G. In an effort to find a compromise and address their concerns, Nicklaus of Florida immediately withdrew the request for *Conditional Use* and have since submitted a *revised plan* with a variety of options re access/egress points as well as modified the "permitted use length of time" request to a Three hundred sixty (360) day Temporary Use Permit.
- H. It is obvious that the current condition of the property is less than desirable; however this is a condition that has existed for the last six (6) years due to absentee ownership. The previous owner obviously had little interest in the quality and appearance of their lot within the community. In contrast, as long time business owners and residents, we are concerned about the aesthetic beauty of this city and the quality of life of our residents.
- I. The Revised Plan we are submitting has significant dollars associated with the implementation. Estimated at over \$85,000. The cost to do this rehabilitation would not be practical if the permit were to be issued for a time period of less than 12 months. THEREFORE: **If the Commission is to legislatively reduce the time allowed for Temporary Uses to less than the amount of time we requested, we would want to withdraw the Temporary Use application and resubmit under the Conditional Use process as provided by ordinance.**
- J. The attached **Exhibit 'B'** is the recommended site plan for submittal. It includes the "vegetation plant list" and detailed description of the manner by which this parcel will be landscaped if the Temporary Permit is granted. In addition, the surface will be covered with asphalt "millings" (a compound made of fine particles of asphalt, stone, rock, sand and silt to create a porous dust inhibitor road surface.) This plan meets or exceeds the current code provisions for landscaping.

It is our plan to begin the rehab as soon as is practical to quickly improve the site for everyone's benefit.

- K. Find Attached **Exhibit 'C'** which is the site plan showing the original parking design and traffic patterns within the site. As you can see there are **currently four (4) means for ingress and egress** on this site. We believe the City planners and Commission can review these options and determine which thoroughfares would create the least amount of impact to the surrounding community. Our thought (and our preferred option) is to have the lot ingress from the Punta Vista Drive and the egress on the southern property line at 51st Ave East. That would eliminate any concerns re "traffic" exiting on to Punta Vista Drive and do away with the biggest concern by the residents of cars lining up at the corner of Punta Vista Dr./ Gulf Blvd. We also have the option of ingress and egress from Gulf Blvd. However, we are comfortable with any decision the city planners recommend and believe these issues can be successfully resolved by the city's professional team. In addition, the staging area for the ingress can be made to allow two (2) cars to "Queue" inside the lot thereby eliminating any interference with the cars going to and from the residential neighborhood.
- L. Parking would be limited to Sirata Staff only. Access would be by electronic gate and controlled by magnetic cards given to our staff only. No public parking allowed.
- M. Docks. The docks are not going to be used. Therefore, they will be segregated by fence (gated) and manually locked so there is no access thereto.

In conclusion, we are requesting the granting of our 360 day Temporary Use Permit for parking until such time that we can properly review the city's comprehensive plan and the feasibility of the allowable uses.

Thank you again for your time and attention in this matter. It is greatly appreciated.

Very truly yours,



H. Gregg Nicklaus

Gregg Nicklaus

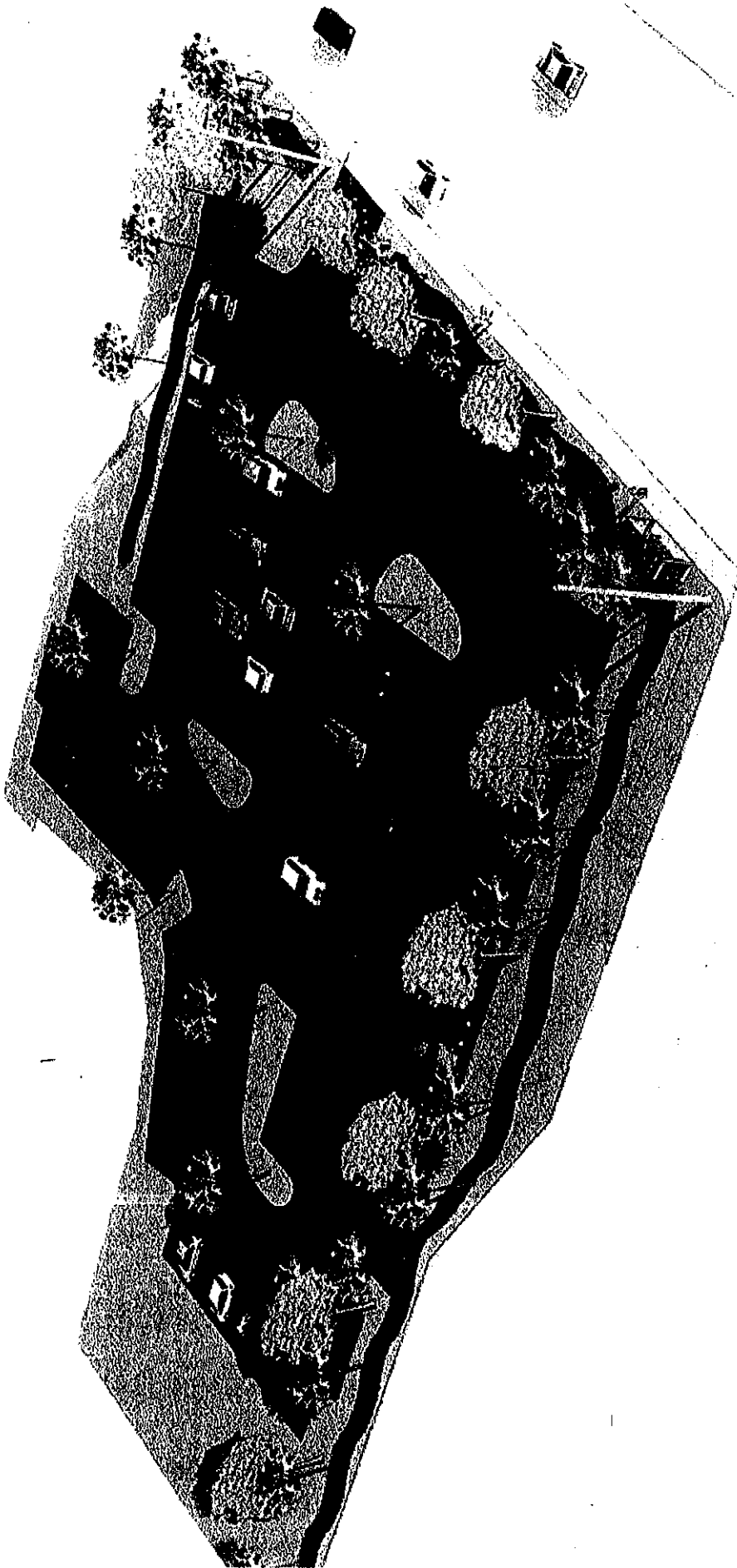
Subject: Plant schedule and scrubbery specifications
Attachments: City Req Plant type and Landscape Buffers-sm.pdf

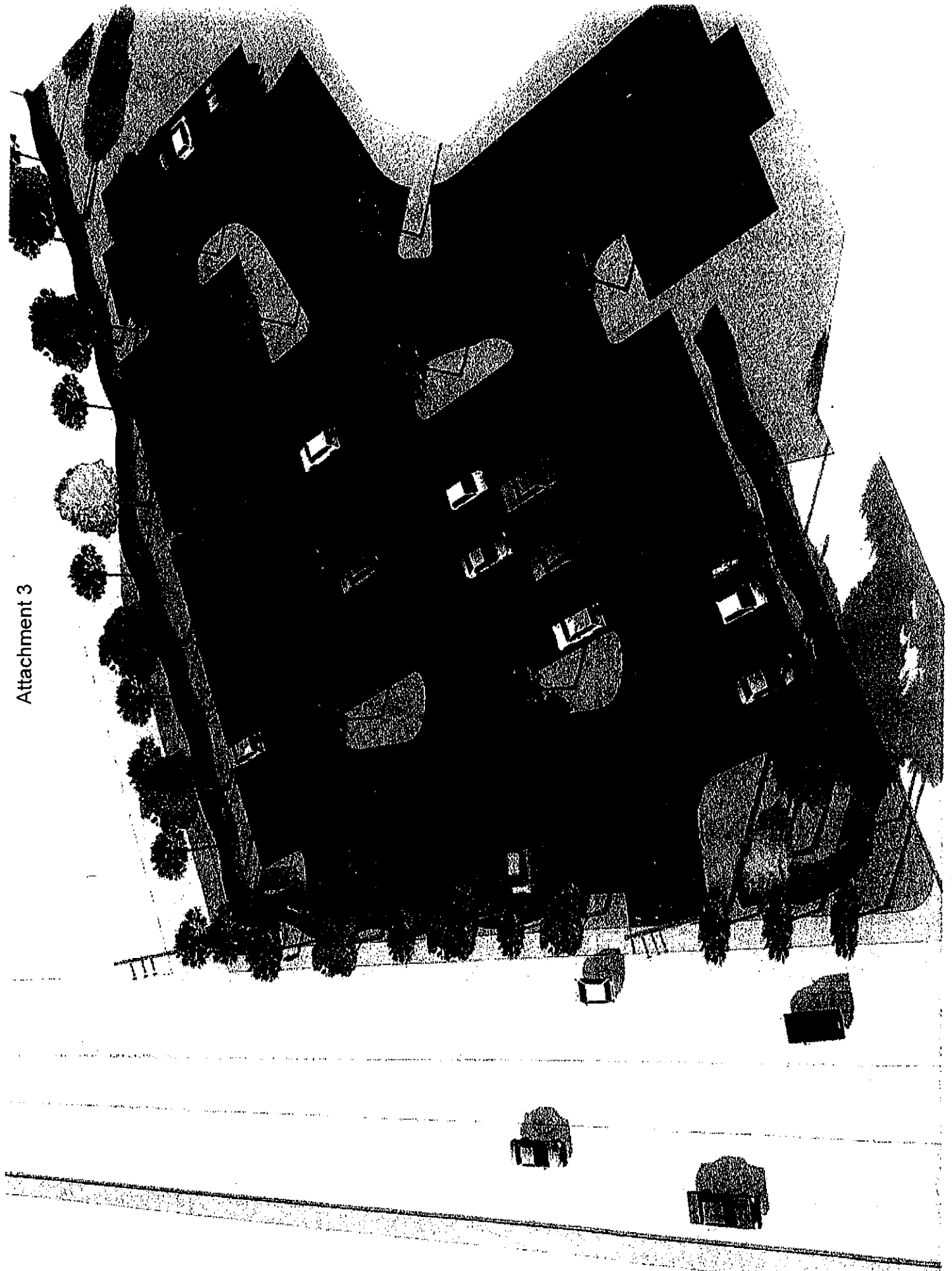
5195 Gulf Blvd vegetation Plan.

Plant schedule and specifications

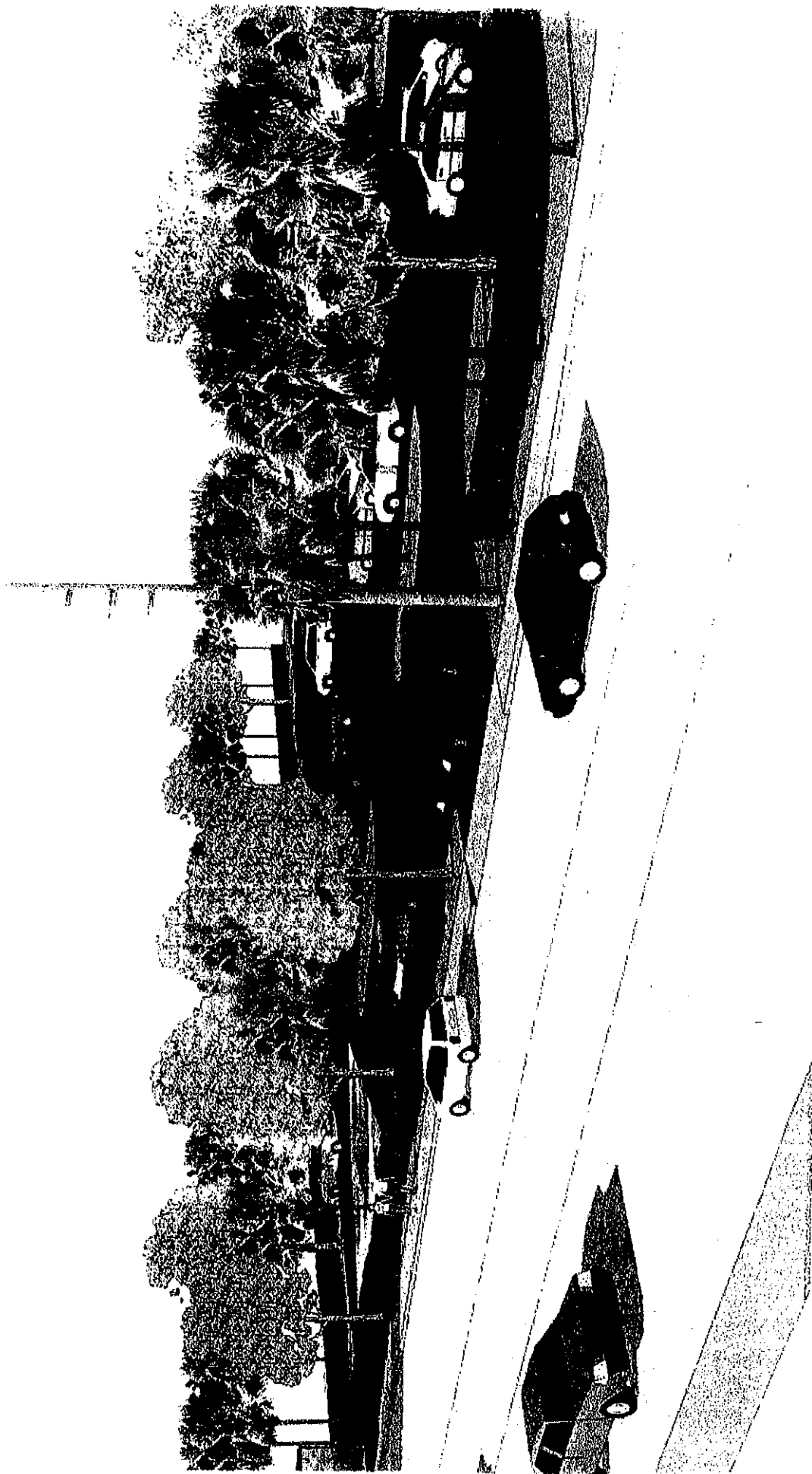
1. **TREES:** Based on the approximate lengths of frontages on Gulf Blvd, Punta Vista Dr. and 51st Ave. we have determined the following trees required under Sec. 22.4 – 22.8 .
 - a. The frontage on Gulf Blvd. is approximately 222', and the City requires one (1) tree per 30'-0" of frontage so you would need a min. of **eight (8) trees**.
 - b. The frontage on to Punta Vista Dr. is approximately 287' so we would need a min. of **ten (10) trees** and;
 - c. Frontage on 51st Ave. the street frontage is approximately 100' so we would need a min of **four (4) trees** here.
2. **BUFFER** requirements Sec. 22.4
 - a. The streets above are considered either an "A" or "B" street. Therefore we will also need to meet the Buffer Type requirements as defined in the attached **Exhibit A.**. The single family residence adjacent to the property on the east side which would require a "Type-C" Buffer adjacent to the property line if the parking area is defined as a "commercial use."
3. **EXISTING TREES:** We hope to save as many of the existing 'good trees' as possible (particularly along the Punta Vista drive and 51st Ave East.) and will add to the site at least the minimum number of specified types after an inventory is completed and ingress and egress established. The Canopy trees shall "be of a species having an average crown greater than 15 feet at maturity." Canopy trees shall "have a minimum height of 12 feet and a DBH dimension of three inches at the time of planting." We are currently pricing the trees but would limit our selection to the approved variety: Live Oak, Buttonwood, Silver Buttonwood, Silver Trumpet/Yellow Flower, Splash Pine, Gold Tree, Mahogany, Sugarberry, Sycamore, Southern Red Cedar, and Black Olive.
4. **Possible Substitute trees:** We may substitute the following palms as allowed by code: Medjool Date Palm, Canary Island Date Palm, Royal Palm, and Coconut Palm, Queen Palm, Paurotis Palm, Sabal Palm, and Washingtonian Palm.
5. **Shrub Line:** We plan to plant a minimum of a **two (2) feet tall** Shrub at time of planting that "shall be planted and maintained as to form a continuous unbroken solid visual screen within one year after time of planting." The list from which we are going to choose is the following: Dwarf Indian Hawthorn, Buttonwood, Sea Grape, Dwarf Allamanda, Blue Plumbago, Saw Palmetto, Pentas, Cocoplum, Dwarf Wax Myrtle, Dwarf Yaupon Holly, Beach Lantana, and Walter Viburnum.







Attachment 3



[Type here]

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Attachment 3

Additional Staff Information

5195 Gulf Blvd.

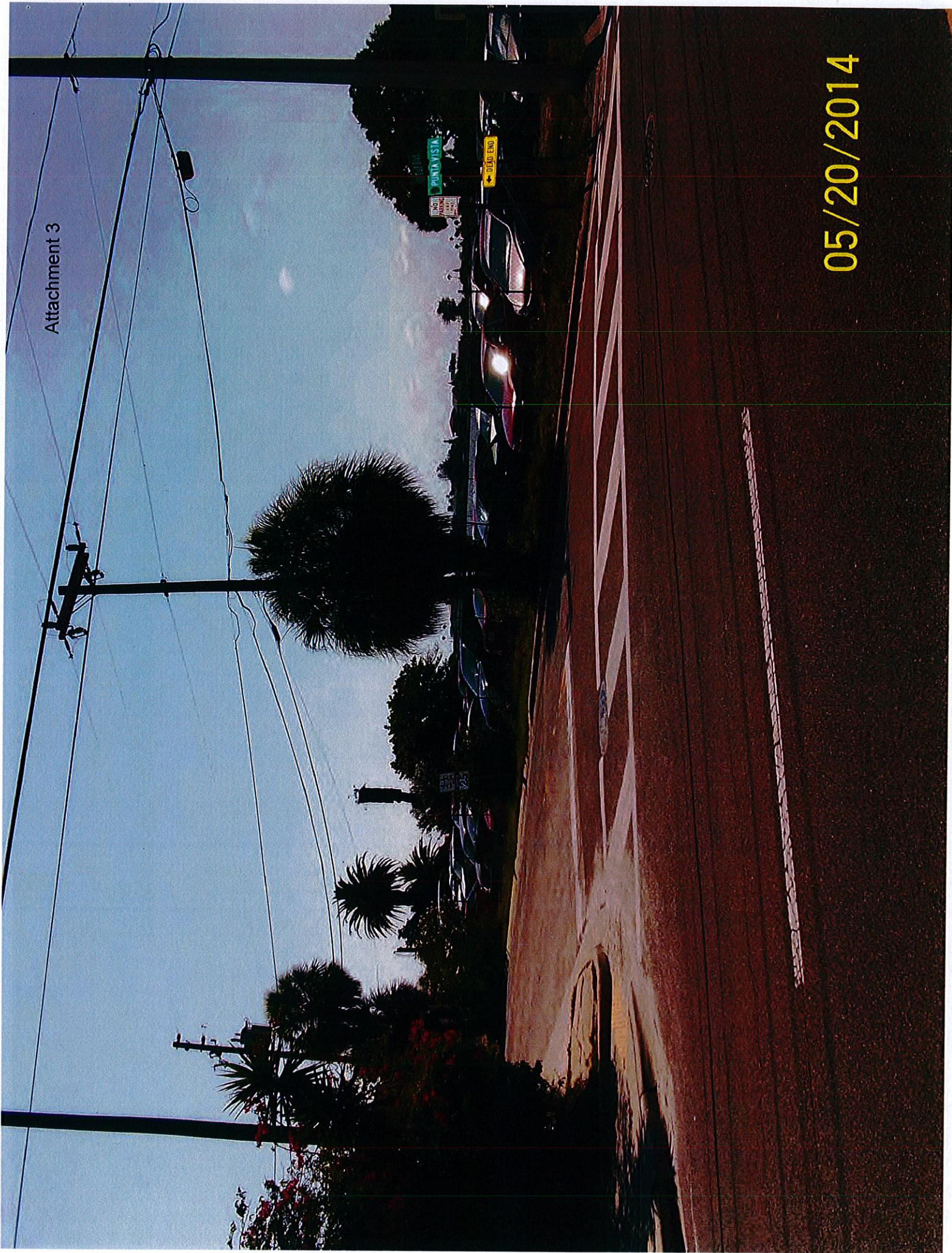
The applicant is requesting to have a Temporary Use Permit for one year to utilize the vacant lot for parking of Sirata Employees. The applicant has provided a detailed narrative, plans and aerials depicting the proposed parking lot. Enclosed is the complaint from the residents of Punta Vista Drive.

Along with landscaping the property, the applicant is requesting to install "milled asphalt" parking surface. This is a byproduct of asphalt paving. Milled or crushed asphalt will over time become hard and just like asphalt paving. Staff doesn't believe that this type of surface is appropriate for a "Temporary Use Permit."

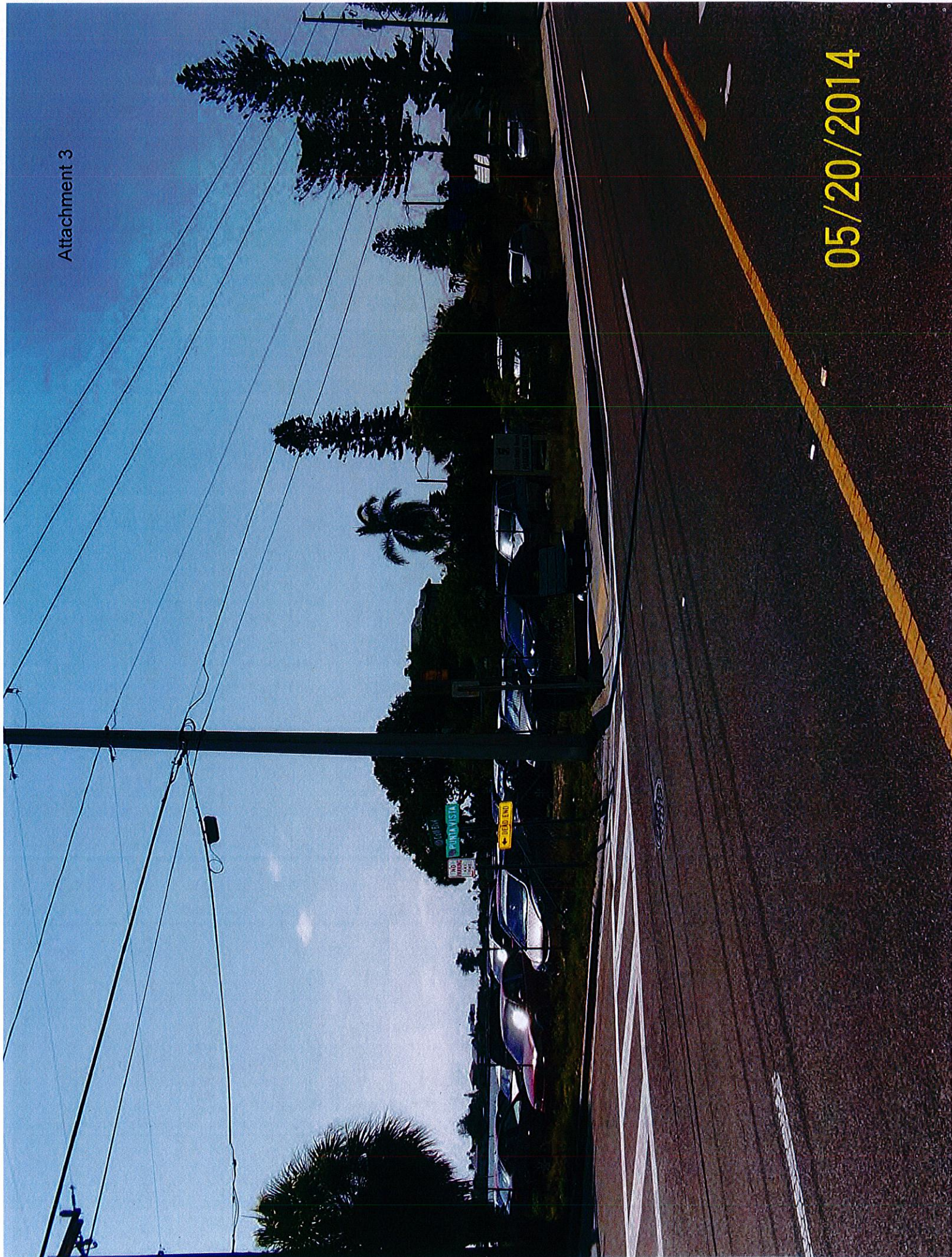
The vacant lot has two curb cuts on Punta Vista, one on Gulf Blvd. and one on 51st Ave. If the City Council is inclined to approve this request, staff would suggest that no access will be permitted along Punta Vista Drive.

Currently, the applicant has erected a Temporary Pole for electric. I have not approved any connection to hook up the electric until a determination is made on the Temporary Use Permit.

05/20/2014



05/20/2014



This Petition is for the purposes of objecting to and denying a temporary use permit, or variance and or conditional use of a commercial parking lot to be located at the southeast corner of Punta Vista Drive and Gulf Blvd (5195 Gulf Blvd and 109 Punta Vista Drive). Proposed conditional use will cause hardship to the residents of Punta Vista Drive and eventually threaten other residential zones. The proposed use is not in accordance with numerous articles of the St Pete Beach Codes (LDC), Comprehensive Plan (CP) and Future Land Use Document.

This proposed use is NOT harmonious with the residential nature of Punta Vista Drive; it will cause light, sound, and trash nuisance on Punta Vista Drive, as well as, increased traffic at the mouth of that street which is 24 home peninsulas with a dead end street. With no connecting arteries to allow traffic to flow through Punta Vista the issues are essentially doubled.

The code requires that employee parking be within 300 feet of the business, which is not the case on this lot with relation to the distance from the business. Grass parking lots are for excess parking on parcels that provide parking or for special users where hotel guests and employees are not included. Everyday parking use by employees and guests lot is a commercial development not a temporary use.

The change in use or variance also would constitute an obvious encroachment of a commercial business on St. Pete Beach onto and into an otherwise residential majority usage of the street Punta Vista Drive. Such encroachments of commercial and specifically large resort business's next to residential zones is a general theme of the LDC, CP, and Future Land Use with specific code, articles, goals and objectives incorporated those same codes and plans protecting the residential and multi-use components of this city. With such an emphasis of provisions provided to protect the residents of St. Pete Beach from such encroachments it is *common knowledge and obvious* the proposed parking use by temporary conditional use permit or variance would cause hardship to the residents of St. Pete Beach, Particularly Punta Vista Drive in both quality of life and property values. The city must protect from developments that disrupt quiet residential areas and harm home values.

The approval of the proposed change will directly result in hardship to the residents and violate the codes and plans the city has long set forth. The proposed temporary use would induce further hardship to all the residents of St. Pete Beach in the precedence it may set, in converting multi-use and residential zones into single use like a parking lot only benefiting the owners of one large resort.

This petition underscores the many various reasons the LDC, CP and Future Land use codes, plans and documents even exist. The proposed change of use doesn't meet the conditions that would warrant a variance in use and it does not even meet the requirements for off-site parking for a commercial employee parking lots, grass parking lots, and temporary use intent. Additional code incongruence's with less direct citizen impact include non source point pollution and the goals to increase curb appeal and multi-use developments on the gulf Blvd corridor.

Please sign this petition to protect the right of the RESIDENTS and residential property owners throughout St. Pete Beach for today and for our future.

Top 10 Code Enforcement Complaints

Attachment 3

1. Yard maintenance

2. Signs

3. Permits

4. Vehicles (and boats, trailers and RVs)

5. Debris

6. Property maintenance

7. Fences

8. Occupations Licenses

9. Minimum housing standards

10. Trees (and shrubs; obstructing visibility)

LARGE
Issue

SEE CEVN #99

LARGE ISSUE is #3

VIOLATION SEEM APPARENT

Under 1, 2, 4, 5, 6, 7 + 8!

Hello Again

Tom callahan 124 Punta Vista Drive.

For four months – The sirat has been using a 1 acre parcel at the corner of OPunta Vista Drive and Gulp for employee parking.

No permit has been issued.

On 4/11 upon inquiry at city hall Chelsey Weldon informed me that the city manager gave an oral temporary approval.

City Manager reported last night he have the temporary permit via a phone call and few emails, and that the city doesn't have a form for this.

- 1) I would like to see those email,
- 2) There is Temporary use permit application on the city website it's the last of seven under forms which is a side bar on every page under planning and zoning
- 3) The temporary use permit the Mr. Bonfield approved verbally or by email
In Conflict with the reqs under
6.11
in conflicts with article 6.1 were such permits of use require other conditions be meet in accordance with the code.
General conflict with section 1.3 c of the Application Of Regulations regarding erecting structures like lamp poles and signes
Conflict with

(c)

Application of regulations. Except as hereinafter provided, no structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any structure or land be used or occupied which does not comply with all the regulations established by this ordinance for the district in which the building or land is located. No part of a yard, other open space, parking or loading space required for a building or use for the purpose of complying with the provisions of this ordinance shall be included as part of a yard, open space, parking or loading space similarly required for another building or use.

No building or use shall be relocated from one zoning lot to another or relocated to another location on the same zoning lot unless such building, structure or use shall thereafter conform to all of the applicable provisions of this ordinance and the

provisions of Chapter 98 - Buildings and Building Regulations, of the St. Pete Beach Code of Ordinances.

Sec. 1.3. Purposes and matters regulated; application of regulations; schedule of district regulations.

(a)

Purposes. The regulations and restrictions herein prescribed are in furtherance of the general purposes set forth in section 1.1 and have the objectives of:

(1)

Reducing, or eliminating, elements of present and future harmful incompatibility between uses permitted in the same district or neighboring districts;

(2)

Segregating uses which cannot be made reasonably compatible into separate districts; and

May Conflicts with the Application of Regulations guidance that no relocation of land use be allowed from one district to another.

Violation of 23.8 requiring off site parking to be within 300 ft of the business

Violation of 23.7 its not allowed use of grass parking lots

Violation 6.21 requiring fences to be set back on main roads

Violation of 6.21 fences at on certain roads no more than 2ft

Violation of 6.22 pertain to yards and structures

Violation of 6.15 pertaining to temporary fences

Violation of 26.12 requiring a permit for a sign

This allowed use and wrongfully permitted use:

Violates and conflicts with every wording of intent within the LDC, CP and Land Use plan that highlights the responsibility of the city to protect:

Its residents

Protect the quality of residential living on SPB

Restrict incompatible zoning district conflicts

Restrict encroachment of commercial into residential

Attempt to protect property values by enforcing these codes

These actions could cost the city irreparable harm in unintended reversal of a dozen to 2 dozen city codes. It could cost the city harmful lawsuits from large resorts that want to keep entitlements that make them money.

This action may be construed by some as unlawful consideration and or enrichment., spot zoning, self help , .

This is causing strata employees to cross gulf blvd 150,000 unique times pcr year,
endangering their own staff,
And hurting the quality of residential living and home values.

David Healey

From: Elaine Edmunds <elaine@stpetebeach.org>
Sent: Saturday, May 17, 2014 4:58 PM
To: David Healey
Subject: Fwd: Gulf Blvd Vacant Lot.

Don't know if you saw this e-mail or not.

Elaine

City of St. Pete Beach
155 Corey Ave
St. Pete Beach, FL 33706
P: 727-363-9211
code.enforcement@stpetebeach.org
www.stpetebeach.org

Begin forwarded message:

From: Tom Callahan <tom.callahan@empind.net>
Date: May 5, 2014 at 7:26:57 PM EDT
To: Undisclosed recipients;;
Subject: Re: Gulf Blvd Vacant Lot.

Thanks for participating in this lively discussion,
I believe you may have read my emails last week and the response i got for which you were all copied
from Mr. Nicklaus, who took the liberty of explaining his position as it relates to the code and
application thereof.

I would like to get some feedback from you as to how you see the application of regulations and
compliance to code on five of the nine issue Mr. Nicklaus wrote on or otherwise opined. Basically do
you agree with Mr. Nicklaus's assessments. Or, do you have a different view?

Of particular interest to me would be Items #1, #2, #3, #6, #7. Please write back to me with your
viewpoint on the owners stance as it pertains to these issues and the code. If you like feel free to call
me also at 727-235-2385 to explain to me the parts I can't understand in the owners position on using
the lot.

1. Based on City precedent, we believe our request conformed to current land development codes.
2. We also believe we should be entitled to use our property in a similar capacity as other commercial properties in this city.
3. Despite your arguments, this site is NOT situated in a residential community. It is directly on a STATE roadway.
- 4.
- 5.
6. Immediate surrounding parcels consist of four restaurants, four high density resorts, multiple retail shops, Batts taxi business, a liquor store, a nail salon , car rental, a miniature golf course,

shopping center, parking and storage. Your depiction of it as a quiet neighborhood is untenable.

7. Parking in this community is a recognized problem with over 15 streets having been identified as No-Parking zones in our city, including yours. Our effort is to reduce the number of cars looking for parking in the community. Which is also one of the Comprehensive plan objectives.
- 8.

Also please keep in mind that they have been using the lot for nearly 150 days now and erecting signage and structure including electrical without permits. The city, in not acting to stop this is acting intentionally to allow the owner to use and occupy this parcel in violations of many codes, including two or three relating to application of regulations, requirements of temporary permit and many more. I have requested numerous times that the city simply notify the owner that he does not have permission and that the relaxed use of the word authorized (email from former city manager 1/16/14) in an email unfortunately was not the proper conveyance of a temporary use permit and give him a a day days to vacate. The sirata has parking for the employees already.

The hotel and restaurants he owns have permitted parking requirements and he has an overflow lot on the east side of Gulf Blvd. which has been empty since the acquisition of the parcel in question. He should be required to follow the rules despite Mr. Bonfields lapse in judgement in the 1/16/14 email. Upon vacating the use and occupancy and filing the appropriate applications by all means complete the reviews etc. Allowing the continued use, as I stated is an intentional act by the city and it is done so in violation of proper procedures, in violation of codes and violating the rights of residents who oppose the manner in which this is being conducted, oppose the temporary use despite never having the free right to oppose it before the use started (i can't believe you don't get that), and plan on opposing conditional use and or variance unless it meet these criteria plainly; a) meets proper application, review and approval process, b) meets AC center uses , c) meets and overcomes the encroachment issue, d) does not relocate a use from one zoning district to another without all meeting ordinances and approvals, e) is not based on the precedence of what formerly went on in this city, f) is not based on poorly applied uses and or grandfathered uses by other properties.

Please let me know your viewpoint on the items listed above and please do the right thing soon. I or any resident should not be put in such a position and that is major issue in applying and enforcing the city's rules and code.

Thank you.

Tom Callahan

From: "Gregg Nicklaus" <GNicklaus@sirata.com>
To: "tom callahan" <tom.callahan@empind.net>
Cc: elaine@stpetebeach.org, bcooper@stpetebeach.org, mdavis@bmolaw.com, "Maria Lowe (mlowe@stpetebeach.org)" <mlowe@stpetebeach.org>, mpletcher@stpetebeach.org, tfinnerty@stpetebeach.org, amarr@stpetebeach.org, ron@holehouseins.com, gpremer@stpetebeach.org
Sent: Monday, May 5, 2014 4:04:48 PM
Subject: Gulf Blvd Vacant Lot.

Mr. Callahan,

Thank you again for presenting your issues and advising me of the complaint you submitted with the City. As a citizen you have that right. However, as I have stated before, we believe your position on this matter to be in conflict with our rights as property owners and will present our case when this matter is placed on the Commission agenda. I would however again invite you to see the 'revised' plan and discuss with you its merits as well as our efforts to overcome the concerns of the Punta Vista residential community.

In addition, be advised that an application has been filed with the City last week. As in many applications, the city has requested additional support information so they may properly review the contents. I have promised to deliver this information within the time they have requested.

Finally, if you were not aware, I have been trying to be proactive with our application, but with the sudden change to the management at City hall, we have been met with a large degree of procedural uncertainty. As I discussed with you from the beginning, we have a desire to work with the community, both residential and commercial neighbors. In addition, from what I understand, the process which we are trying to conform is to be fully vetted by this Commission prior to the many application's being heard. This is a challenge to all of us as we both are have difficulty trying to decipher the rules, regulations and procedures as they change in real time. Unfortunately, I have seen the various efforts on your part to undermine the permission we have been previously granted. In addition, you refuse to acknowledge the efforts I have made to bring your concerns to a workable solution. You have had but one position in this regard. I however, wish to convey these points again to you (and others) for your edification.

1. Based on City precedent, we believe our request conformed to current land development codes.
2. We also believe we should be entitled to use our property in a similar capacity as other commercial properties in this city.
3. Despite your arguments, this site is NOT situated in a residential community. It is directly on a STATE roadway.
4. Gulf Blvd, as a state road, has thousands of cars travel it each and every day. We believe (and will prove) that your issues are more about the new cross-walk and seasonal traffic rather than the impact of our staff's use of this lot.
5. The most eastern parcel of the site is owned by us and will remain residential and is not part of the request to be used for parking. We have however, made promises to do improvements to this residential site as well.
6. Immediate surrounding parcels consist of four restaurants, four high density resorts, multiple retail shops, Batts taxi business, a liquor store, a nail salon, car rental, a miniature golf course, shopping center, parking and storage. Your depiction of it as a quiet neighborhood is untenable.
7. Parking in this community is a recognized problem with over 15 streets having been identified as No-Parking zones in our city, including yours. Our effort is to reduce the number of cars looking for parking in the community. Which is also one of the Comprehensive plan objectives.
8. The physical improvements we are offering to place on the site represent a huge enhancement to the appearance on Gulf Blvd and Punta Vista. The plan is available for your review if you are interested. In addition, we have offered multiple options for ingress and egress that we believe will improve the cohabitation of our use with the residents.
9. The current site had been left unattended for over 7 years. Our desire has always been to immediately rehab the parcel to make the physical appearance one that everyone in our community as well as the rest of St. Pete Bch is proud.

These are just a few of my comments in response to your email. I trust that you will not respond to my open offer to amicably pursue a solution to our mutual concerns. Unfortunately that is the essence of why we have the confusion in this regard and the resulting delays. If you wish to discuss the plan in its current form, I am more than happy to present it for your review at a mutually agreeable time.

Regards,
Gregg

From: Tom Callahan [<mailto:tom.callahan@empind.net>]
Sent: Friday, May 02, 2014 3:46 PM
To: Gregg Nicklaus
Subject: Fwd: Punta Vista LOT---The most current SPB issue that comprises all the crap this city has been struggling with

Mr. Nicklaus,

Last week I notified you by email that I was filing a complaint with the city which I did and you responded that you plan on resubmitting a new permit but will continue your non permitted use. To be polite, I want to notify you that I wrote the city to compel citing your use of the Punta Vista as a violation, and requested the enforce that cease post haste. Please try to see this continuance of non permitted use without proper procedures as a condition that ails our town and causes harm to other citizens, I wish to appeal to your sense of decency. Many of the issues involved here and damages accrued by me and others will continue to harm the city if we are forced into legal process.

Out of respect for your "stewardship" to the community, I kindly request that you immediately cease using the Punta Vista lot for parking whether or not you seek legal approvals, failure to do so is an intentional act.

I checked with the city and they do not have a permit, or application for permit for a temporary use, and your conditional request was withdrawn.

You cited that the opposition to your use is changing, please note that at the time you were applying for a conditional use we opposed that as you told a group of us that you had applied already for a temporary use, which we have found to be untrue.

Please be clear that my opposition is based on the use conflicting or violating with at least 8 specific code articles and sections not to mention the many CP and Preamble conditions of our city articles pertaining to zoning.

There is a mention of Mr. Bonfield's knowledge in an email that you were copied in January that indirectly uses the word "authorized". The vague use of this does not constitute a permit and any interpretation of that would be a complete corruption of the code and the applications, fees, review and approvals. Taking advantage of such at the infringement of others' right is not community stewardship!

In keeping with your referenced your stewardship of the community, I once again request that you immediately vacate the Punta Vista lot as you have no permit and you are infringing on the rights of the residents, if by no other measure, at the minimum you do not have a permit and many of the city's codes and personnel for upholding and enforcing are under scrutiny.

Regards,

Tom

Tom Callahan | President

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From: "Tom Callahan" <tom.callahan@empind.net>

To: elaine@stpetebeach.org, bcooper@stpetebeach.org

Cc: "Mike Davis" <mdavis@bmolaw.com>, "Maria Lowe" <mlowe@stpetebeach.org>, "Melinda Pletcher" <mpletcher@stpetebeach.org>, tfinnerty@stpetebeach.org, amarr@stpetebeach.org, ron@holehouseins.com

Sent: Friday, May 2, 2014 2:53:21 PM

Subject: Punta Vista LOT---The most current SPB issue that comprises all the crap this city has been struggling with

Dear Ms. Edmunds and Mr. Cooper,

As you both know by now I am continuing to compel your department to immediately stop the Sirata Parking on what is known as the Punta Vista Lot on city documents, without delay and without allowance to use while filing the correct procedures. Any unorthodox and non law abiding suggestion of allowance or permit by the former city manager does not and should not be validated and continued.

I met with Mr. Cooper this morning and he advised me that the way the city code department works is that if someone is in violation they will be given notice usually 14 days to comply or vacate, he suggested that they may have an opportunity file applications for compliance.

These are the major issues:

- 1) There is no permit, Bonfield's email directed to city staff with a cc to Nicklaus is not a permit.
- 2) see Permit conveyance article citing the code's articles on permit
- 3) any loose allowance is corruption of the code and any beneficiary of such practice is a beneficiary of unlawful consideration. Mr. Nicklaus represents him self as a steward of the community other owners of the Sirata have served on commission and vice mayor. If you notify him that under laws he has no permit and that if once he applies and gets approval he would then be able to occupy the parcel.

- 4) Any allowance of use of properties in the city with anything other than lawful and proper permits with applications, fees, review and approval is unlawful, granting unlawful consideration and causing corruption of the code and integrity.
- 5) Codes are designed to protect the residents and business's within a community, it is the duty of all city those empowered to protect and enforce to do so.
- 6) Business owners seeking use and occupancy must follow the proper procedures, anyone who have served on the city's commission and other roles know better, there is no waiver for ignorance of the code.
- 7) Allowance of use for parking on the Punta Vista Lot with time to apply for permits is reckless, this is a large use 300-400 cars per day 24/7/365, and 300-500 unique pedestrian crossings of Gulf Blvd per day, encroaching the quiet character of the residential neighborhood, and violating at least 8 specific codes. Any allowance by the city to use this is clearly in violation of the city's code and ordinances.
- 8) This will not be an easy permit to get as conditional use or temporary, as it would reverse 8 specific articles and sections of the code.
- 9) 22 residents of Punta Vista have signed a petition objecting to this parking lot both under and entitled conditional use and temporary.
- 10) This use is not harmonious with the RU district, it violates reason as to the traffic loading on a dead end residential street, it violates the use of grass lots for parking.
- 11) it violates the requirement for commercial remote off street lots to be within 300 ft of the business.
- 12) It is endangering pedestrians both residents of PV, employees of the Sirata, cars passengers.
- 13) This use increases the traffic and pedestrian safety issues in SPB and on GB, as it adds up 500 pedestrian crossing per day in one place that would not happen if the employees park on the Sirata property.
- 14) This does nothing to relieve public parking problems noted on SPB.
- 15) Home values on Punta Vista are declining as a direct result of this parking use... estimated overall decline since January 16th 2014 is \$750,000 in residential real estate values DAMAGE. Neighbors who have houses for sale have had negative feedback about the lot.

In my discussion of this issue with Mr. Cooper he also offered that if they have a "site violation" or "cited for violation", the city can request immediate vacate and the city can immediately begin accruing penalties at the rate minimally of \$250/day per violation. Mr. Cooper suggested that the Sirata Occupancy of that lot appears to be one violation which is no permit. (i think he conceded that)

I argue that is in violation of that and fence, sign, light/utility pole, setbacks, construction fence, 23.7 distance from business, 23.8 grass lot and more. Those 7 and the no permit make 8 at 250/ day each = \$2,000 per day.

Again, I compel you and those who are in the position and have the duty to protect the rights of other through proper permit procedures, to please recognize that the use at hand was initiated as a shade favor to a large business owner all procedures applications and reviews not used, followed and ignored. The expressing of "authorized" in the former city managers email internally is a sleazy if not corrupt breach of authority and any extension of allowance under such unethical standard should and will be considered a continuance of corrupt unethical standard.

I know "strong words", right? Well, this really is what it is, there is no smoke or mirror to hide what went on. It is your choice to do what is right and change it.

Please begin TODAY, the lawful process to stop this harmful violation of rights and unlawful use and continuance of corrupt permit practices.

Regards,

Tom

Tom Callahan | President

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From: "Tom Callahan" <tom.callahan@empind.net>
To: elaine@stpetebeach.org
Cc: "Mike Davis" <mdavis@bmolaw.com>, "Maria Lowe" <m Lowe@stpetebeach.org>, "Melinda Pletcher" <mpletcher@stpetebeach.org>, tfinnerty@stpetebeach.org
Sent: Wednesday, April 30, 2014 3:58:11 PM
Subject: Re: Public records request.

Dear City Manager Edmonds, Mayor, City Government, and Lawyer,

In keeping with the public records request, I hereby again request.

- 1) emails from any city department including Mr. Bonfield to any city dept. (bldg dept) where the issue of the Sirata making application for a new parking lot or asking for authority to use Gulf Blvd. and Punta Vista as a parking lot.
- 2) email from any city department including Mr. Bofield to the Sirata implying any authorization of use of GB and PV for parking
- 3) compel to find out the rules as to unlawful occupancy and fines and erection of signs and utility poles without permits.

After speaking with Elaine Edmonds yesterday and today I have heard that the Sirata will be noticed and have 7 days to file for proper permits which will allow the Sirata to continue unauthorized and therefore unlawful occupancy, use, adding of structures including signage. This all is occurring without a proper application under any form, and without any review of any form and without any written approval(s).

Without the permit to use the property in the first place or otherwise occupy it, any waiver of permit pending application, review, approval process that may be ordinary or S.O.P. in a existing occupant applicant use would not be appropriate and would appear to violate the city codes and ordinances prohibiting occupancy and use before the prescribed process.

Without receiving the emails Ms. Edmonds alluded to yesterday or others requested, I am concerned that the city will go forward with a "slack" notice. I expressed to Ms. Edmonds that this would be a cause of action for citizens of the community like my self to call for a review of said practices, appropriate enforcement, and potentially a bar complaint regarding legal opinions on this issue from the city attorney.

I believe that in 2012 the Sirata sought and received a permit from the city to build a sun deck west of the City Coastal line. The main issue, I found, to be similar was that the sun deck at the time of application , and review was already built (poured concrete). My understanding is that that is now a whole building. No action and what was back permitting could cause the city great problems I would just like to see the city uphold the laws for which they where elected, appointed or hired to uphold.

The city, I believe, has cause and legal authority and an ethical code to issue a "cease use" notice to the Sirata TODAY and begin to levy all the fines applicable under all violations and all ordinances. Anything other than this would constitute aiding in the violation of others rights.

Thank you.

Regards,

Tom

Tom Callahan | President

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To: elaine@stpetebeach.org

Cc: "Mike Davis" <mdavis@bmolaw.com>, "Maria Lowe" <mlowe@stpetebeach.org>,

"Melinda Pletcher" <mpletcher@stpetebeach.org>, tfinnerty@stpetebeach.org

Sent: Tuesday, April 29, 2014 12:50:47 PM

Subject: Public records request.

Elaine,

Thank you for the informative conversation about the intent of the city to notice the Sirata. You recommended that I could get a copy of the email or emails, under public records request, conveyed relating to this matter from Mike Bonfield to the city commission and from Mike Bonfield to the Sirata if in fact there was any such use of email by the former city manager to attempt to "directly" convey authorization.

Under the requirements of public records requests do I have to file a certain form or come by city hall to get these emails or can you forward them to me. Again I would like to see the email that Mr. Bonfield sent to city commission discussing the Sirata's purchase of the parcel at 5195 Gulf Blvd. and the discussion of their intent to apply for permits and his commentary about his intent to allow them usage. I am also requesting access to public records to see any correspondence from Mr. Bonfield using the city's email or other official means where he may have conveyed directly to the owners of the Sirata that he was giving them authorization to use that parcel for parking.

Please email those back to this address or let me know in a response how I can gain access to those documents.

Thank you again.

Regards,

Tom Bonfield

Tom Callahan | President

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Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

Example Temporary Use Permit Regulations

From Other Municipalities

PART I - COMMUNITY DEVELOPMENT CODE

ARTICLE 1. - GENERAL PROVISIONS

ARTICLE 3. - DEVELOPMENT STANDARDS

DIVISION 21. TEMPORARY USES

DIVISION 21. TEMPORARY USES ^[2]

Section 3-2101. Purpose.

Section 3-2102. General standards.

Section 3-2103. Allowable temporary uses.

Section 3-2101. Purpose.

It is the purpose of this division to provide for certain temporary uses and to ensure that such uses are compatible with adjacent land uses and consistent with the city's goals and objectives.

(Ord. No. 8310-12, § 4, 2-2-12)

Section 3-2102. General standards.

All proposed temporary uses shall submit a conceptual plan depicting compliance with the following general standards:

- A. The temporary use will not create hazardous vehicular or pedestrian traffic conditions or encroach upon any existing landscape areas.
- B. The design and installation of all practicable temporary traffic control devices including signage to minimize traffic congestion.
- C. Adequate sanitary facilities, utility, drainage, refuse management, emergency services and access, and similar necessary facilities and services will be available to serve employees, patrons or participants.
- D. Signage related to the temporary use shall not exceed 12 square feet of sign face area and no more than one sign face per street frontage shall be permitted. Signs shall be made of treated wood or other durable material. Sign copy shall not be spray-painted. Details of any proposed signage must be submitted with an application for a temporary use permit.
- E. Where a tent or similar structure is to be used in conjunction with a temporary use, the following shall be met:
 1. Comply with all requirements of the fire marshal;
 2. Provide the city with a certificate of insurance to cover the liability of the applicant or sponsor; and
 3. Demonstrate that the tent is flame resistant by providing a certificate of flame resistance or other assurance that the structure has been properly treated with flame retarder and has been maintained as such.
- F. Where a tent or similar structure is to be used in conjunction with a temporary use, the tent shall be allowed to be set-up on the day before the temporary use is scheduled to begin, and shall be allowed to be taken down on the day after the temporary use is scheduled to end. However, additional time may be allowed for circuses or carnivals as determined by the community development coordinator.

PART I - COMMUNITY DEVELOPMENT CODE

ARTICLE 1. - GENERAL PROVISIONS

ARTICLE 3. - DEVELOPMENT STANDARDS

DIVISION 21. TEMPORARY USES

(Ord. No. 6573-00, § 5, 8-3-00; Ord. No. 8098-09, § 1, 10-22-09; Ord. No. 8310-12, § 4, 2-2-12)

Section 3-2103. Allowable temporary uses.

Unless otherwise noted, the following temporary uses are permitted subject to obtaining a Level One approval in accordance with the provisions of Article 4, Division 3 as well as the specific criteria pertaining to each temporary use:

- A. *Block and neighborhood parties.*
 - 1. Allowable within all residential zoning districts; and
 - 2. Maximum of two days, per calendar year.
 - 3. May be subject to review by the special events committee.
- B. *Circuses or carnivals.*
 - 1. Allowable within the C, IRT and I Districts; and
 - 2. Maximum of 14 days per property, per calendar year.
- C. *Contractors office and/or construction sheds.*
 - 1. Allowable within all zoning districts; and
 - 2. Allowable only in conjunction with a valid building permit and only for the time that the building permit is active.
- D. *Evangelical and religious revivals or assemblies.*
 - 1. Allowable within the C, D, T, I and IRT Districts; and
 - 2. Maximum of seven days per property, per calendar year.
- E. *Garage, yard or estate sales.*
 - 1. Allowable within all residential zoning districts;
 - 2. Allowable twice per property, per calendar year, but for no longer than three days per occurrence;
 - 3. Individual occurrences may not be consecutive; and
 - 4. Provided all of the applicable standards of this division are met, a permit is not required for this temporary use.
- F. *Outdoor automobile, boat and recreational vehicle shows.*
 - 1. Allowable only on properties located in the C District that is at least 75 contiguous acres in size;
 - 2. Allowable four times per property, per calendar year, but for no longer than seven days per occurrence, inclusive of set-up and take down time for all related facilities. Individual occurrences may not be consecutive; and
 - 3. The sale of products displayed at the show is permitted, without regard to the primary use of the property.
- G. *Outdoor bazaars, cookouts, special fund raising events and/or similar activities.*
 - 1. Allowable within the C, D and I Districts; and

PART I - COMMUNITY DEVELOPMENT CODE

ARTICLE 1. - GENERAL PROVISIONS

ARTICLE 3. - DEVELOPMENT STANDARDS

DIVISION 21. TEMPORARY USES

2. Maximum of two days per property, per calendar year.

H. *Portable storage units.*

1. Allowable within all residential zoning districts four times per property, per calendar year, but for no longer than four days per occurrence;
2. Allowable within all nonresidential zoning districts for the duration of an active building construction permit, or four times per property, per calendar year, but for no longer than 30 days per occurrence;
3. Individual occurrences may not be consecutive;
4. Provided all of the applicable standards of this division are met, a permit is not required for this temporary use within a residential zoning district;
5. Portable storage units not exceeding eight feet in height, eight feet in width, and 16 feet in length may be permitted provided such units comply with the following provisions:
 - a. One portable storage unit may be located on any lot occupied by a detached dwelling. The number of permitted portable storage units for all other uses shall be decided by the community development coordinator based upon the amount of construction, size of property and the ability to locate the portable storage unit in accordance with the requirements below;
 - b. Portable storage units may be located in a required setback;
 - c. Portable storage units shall not be located in such a manner to impair a motor vehicle operator's view of motor vehicles, bicycles or pedestrians upon entering or exiting a right-of-way;
 - d. Portable storage units shall not be located in such a manner to obstruct the flow of pedestrian or vehicular traffic;
 - e. A maximum of two signs no more than 12 square feet in area each may be located on parallel sides on a portable storage unit;
 - f. A sticker shall be affixed to all portable storage units indicating the most recent delivery date, on which the portable storage unit was delivered to a property;
 - g. If the National Weather Advisory Service or other qualified weather advisory service identifies weather conditions which are predicted to include winds of 75 mph or greater, all portable storage units shall be removed from all properties and placed in approved storage locations at least 24 hours prior to the predicted onset of such winds or as soon as reasonably practical if less notice is provided. This requirement may be modified by the building official upon receipt of adequate documentation from a registered architect or engineer or other professional qualified to give such opinion that a greater wind loading pertain to a particular portable storage unit model or manufacturer so that the portable storage unit is unlikely to be moved by winds greater than the predicted winds. As an alternative to removal, the portable storage vendor may submit a tie down proposal for approval by the building official and each portable storage unit not removed shall be tied down in the approved manner;
 - h. Any portable storage unit which is not removed at the end of the time for which it may lawfully remain in place, or immediately upon the direction of a code enforcement officer for removal of such temporary structure for safety reasons, may be removed by the city immediately, without notice, and the cost of such removal, together with the cost of administration of its removal, may be assessed against the property on which

PART I - COMMUNITY DEVELOPMENT CODE

ARTICLE 1. - GENERAL PROVISIONS

ARTICLE 3. - DEVELOPMENT STANDARDS

DIVISION 21. TEMPORARY USES

the temporary structure was located and may be filed as a lien against such property by the city clerk; and

- i. The community development coordinator may allow portable storage units to be located on a property within a residential zoning district for a longer period of time than otherwise specified, but only in emergency situations. The community development coordinator may allow a period of 15 days for a portable storage unit to be located on such a property and may allow an additional 15 days if an extension is necessary to complete emergency repairs.
- I. *Seasonal sales (sale of Christmas trees, pumpkins, or other seasonal holiday items).*
 1. Allowable within all nonresidential zoning districts;
 2. Maximum of 45 days per property, per calendar year;
 3. A 1,000-foot separation shall be required between a seasonal business and any permanent business whose primary business is selling the same product as the seasonal business. The 1,000 feet shall be measured from property line to property line; and
 4. Only items traditionally considered as associated with the particular season, including plant materials and fireworks, are allowed to be sold and general merchandise not associated with the seasonal sale such as toys, tools, clothing, etc. are prohibited from being sold as a seasonal sale item.
 - J. *Sidewalk sales in conjunction with a special event.*
 1. Allowable within the T and D Districts; and
 2. Maximum of seven days per property, per calendar year.
 - K. *Temporary buildings during construction.*
 1. Allowable within the C, T, D, O, I and IRT Districts;
 2. Allowable only for the duration of an active building construction permit. All temporary buildings must be removed prior to the issuance of a Certificate of Completion or Certificate of Occupancy, as applicable, for the permanent building;
 3. All temporary buildings must meet the setbacks applicable to the permanent building;
 4. An adequate area for parking must be provided on-site that would accommodate the parking needs of the temporary building; and
 5. The temporary use permit may be revoked if it should be determined that construction on the permanent building has ceased.
 - L. *Temporary commercial parking lots.*
 1. Allowable within all zoning districts;
 2. Allowable only in conjunction with another approved temporary use or an approved special event; and
 3. Allowable only for that time the temporary use or special event the parking will serve is authorized.
 - M. *Temporary recreational or entertainment events.*
 1. Allowable within all nonresidential zoning districts; and
 2. Maximum of seven days per property, per calendar year.

PART I - COMMUNITY DEVELOPMENT CODE

ARTICLE 1. - GENERAL PROVISIONS

ARTICLE 3. - DEVELOPMENT STANDARDS

DIVISION 21. TEMPORARY USES

N. *Temporary relocation tents or mobile homes for displaced persons.*

1. Allowable within all zoning districts;
2. Maximum of 18 months unless a greater time is authorized by resolution of the city council; and
3. Upon determination by the city council that a particular neighborhood or area constitutes a disaster area, nonpermanent facilities for displaced persons shall be allowed provided they meet the following requirements:
 - a. All residential tents or mobile homes shall have facilities connected to city utilities for water and sanitary sewer, unless such services are not reasonably available; and
 - b. Adequate provisions shall be made for solid waste management in compliance with city ordinances and policies, unless such services are not reasonably available.

O. *Temporary real estate sales office or model home.*

1. Allowable within all zoning districts;
2. Maximum of 24 months per development; and
3. The office or required accessory uses shall not be equipped or used as a dwelling.

P. *Temporary retail sales and displays.*

1. Allowable within the C, T and D Districts;
2. Allowable four times per property, per calendar year, but for no longer than seven days per occurrence; and
3. Individual occurrences may not be consecutive, and must be separated by at least one day.

(Ord. No. 6526-00, § 1, 6-15-00; Ord. No. 6573-00, § 6, 8-3-00; Ord. No. 6928-02, §§ 92, 93, 5-2-02; Ord. No. 7106-03, § 11, 9-18-03; Ord. No. 7449-05, § 26, 12-15-05; Ord. No. 7631-06, § 7, 11-2-06; Ord. No. 8098-09, § 2, 10-22-09; Ord. No. 8310-12, § 4, 2-2-12; Ord. No. 8349-12, § 33, 9-6-12)

FOOTNOTE(S):

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Editor's note— Ord. No. 8319-12, § 4, adopted February 2, 2012, amended Div. 21, in its entirety, to read as herein set out. Prior to inclusion of said ordinance Div. 21 pertained to similar subject matter. See also the Table of Amendments. ([Back](#))

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Temporary Use Permit

Excerpt from the Orange Municipal Code, Title 17, Chapter 17.10

Purpose and Intent. The City recognizes that certain types of land use, due to the nature of the use, require special individual review. The intent of this section is to accommodate reasonable requests for interim, temporary or seasonal uses within any zoning district, when such activities are desirable for the community in the short term but would have detrimental effects if allowed to continue on a permanent basis. Temporary uses allowed under this section shall be sensitive to the health, safety and general welfare of persons residing and working in the community and shall be conducted so as not to cause any long term detrimental effects on surrounding properties and the community. This section does not supersede existing regulations pertaining to specific temporary uses included in other code sections. The issuance of a temporary use permit does not confer any land use entitlement or property right to the holder of the permit. This permit is revocable with or without cause upon thirty (30) days written notice to the permit holder, unless violations of public health, safety or welfare are occurring, in which case the permit will be immediately revocable.

Initiation and Application. Application for temporary use permits shall be filed on forms furnished by the Community Development Department at least thirty (30) days prior to initiation of the use. Applications for temporary uses shall contain the following information:

1. The name and address of the sponsoring business or organization;
2. The proposed location of the temporary use;
3. The name and address of the party responsible for the temporary use;
4. A list of communities in California where the temporary use has been previously conducted by the party responsible for the temporary use;
5. The number of persons who will be engaged in conducting the temporary use, if applicable;
6. A plot plan showing the entire property in addition to that portion of the property to be used to conduct the temporary use, including an exact description and plot plan describing the total extent of any off-street parking area which would be occupied for the purpose of conducting the temporary use;
7. A completed property owner affidavit; and
8. Such other information as shall be required by the Community Development Director.

Temporary Use Permit for Uses of Limited, Specific Duration (Nonrecurring).
Nonrecurring temporary uses, located within any zoning district in the City, except as specified in this section, shall include:

1. Modular buildings used for classrooms or offices;
2. Outdoor storage;
3. Swap meets;
4. Other temporary uses of a similar nature as determined by the Community Development Director.
5. Procedure. The Staff Review Committee, as established by Section 17.08.020 E of this title shall serve as the initial reviewing body for nonrecurring temporary use permits. Once an application for a nonrecurring temporary use permit has been deemed complete, the Staff Review Committee shall consider and make a recommendation to approve, approve with conditions or deny the permit. The recommendation shall be forwarded to the Zoning Administrator. The Zoning Administrator, in reviewing the application, shall review the recommendations of the Staff Review Committee and shall act to approve, approve with conditions, or deny the application. Zoning Administrator action shall be deemed final.

6. Design Review. Nonrecurring temporary uses on properties located within the Old Towne Historic District shall require the approval of the Design Review Committee prior to the establishment of the temporary use permit.

Temporary Use Permit for Annual, Seasonal, or Recurring Uses. Annual, seasonal or recurring temporary uses, located within any zoning district in the City shall include:

1. Off-site agricultural sales including, but not limited to, Christmas tree lots, pumpkin patches and strawberry stands;
2. Temporary holiday storage containers/trailers and outdoor storage containers/trailers ancillary to an existing permitted use; and
3. Other annual, seasonal or recurring temporary uses of a similar nature as determined by the Community Development Director.
4. Duration. Annual, seasonal, or recurring temporary uses may be allowed for a maximum time period of six months.
5. Procedure. The Staff Review Committee, as established by Section 17.08.020 E of this title shall serve as the initial reviewing body for recurring temporary uses. Once an application for a temporary use permit has been deemed complete, the Staff Review Committee shall consider and make a recommendation to approve, approve with conditions or deny the permit. The recommendation shall be forwarded to the Community Development Director or his or her designee (director). The director, in reviewing a temporary use permit application shall review the recommendations of the Staff Review Committee and shall act to approve, approve with conditions, or deny the application. The director's action shall be deemed final.

Conditions of Approval. In granting any temporary use permit, the reviewing authority may prescribe appropriate conditions and safeguards in conformity with this section. Violation of such conditions and safeguards, when made a part of the terms under which the temporary use permit is granted, shall be deemed a violation of this code and punishable under this code. The reviewing authority may prescribe a time limit within which the action for which the temporary use permit shall be started, completed, or both. Conditions of approval may include, but are not limited, to:

1. Regulations of hours and days;
2. Requirements of bonds or other guarantees for cleanup or removal of structures or equipment;
3. Return of temporary use site to its original state within a specified period of time;
4. Regulation of permit duration;
5. Regulation of signs and advertising;
6. Regulation of lighting;
7. Regulation of public-address or sound system;
8. Regulation of gas, smoke, noise, fumes, vibrations or other nuisances;
9. Regulation of design features including, but not limited to, size, colors, material, architectural details and landscaping;
10. Referral to the Design Review Committee; and
11. Such other conditions as are deemed necessary to protect the health, safety and welfare of the community and to assure compliance with the intent and purpose of this section.

Criteria for Review. The reviewing authority shall consider the following criteria in granting a temporary use permit:

1. That the temporary use permit is compatible with the various provisions of this chapter;
2. That the temporary use is a reasonable use of land compatible with the general plan land use designation and zoning classification;
3. That the temporary use will not impede the reasonable use of land, or the orderly development of land in the immediate vicinity;
4. The temporary use will not adversely affect the adjacent uses, buildings or other structures;
5. That the temporary use will not endanger the public health, safety or general welfare;
6. Provisions for adequate traffic access/circulation, off-street parking and pedestrian safety have been provided and will be maintained during the operation of the use or activity; and
7. That the granting of the temporary use permit is made subject to those conditions necessary to preserve the general welfare, not the individual welfare of any particular applicant.

Revocation. This permit may be revoked by the City for any reason in the sole and absolute discretion of the Community Development Director, or his or her designee, upon thirty (30) days written notice, or immediately in the event that the permittee, as determined by the Community Development Director, or his or her designee, is in violation of any law or activity that endangers the public health, safety, or general welfare.

Expiration. Permits for nonrecurring temporary uses shall not exceed a one year time period. Any nonrecurring temporary use exceeding one year must reapply. In no case shall any nonrecurring temporary use be allowed for more than two years. Annual, recurring temporary uses must be reapplied for each year. (Ord. 3-02)

PART II - ST. PETERSBURG CITY CODE
Chapter 16 - LAND DEVELOPMENT REGULATIONS

SECTION 16.50.410. TEMPORARY USES

SECTION 16.50.410. TEMPORARY USES

Sections:

[16.50.410.1. Applicability.](#)

[16.50.410.2. Generally.](#)

[16.50.410.3. Permits.](#)

[16.50.410.4. Uses.](#)

16.50.410.1. Applicability.

This section regulates activities and uses that are not specifically allowed in a zoning district, but may be necessary or appropriate on a temporary basis.

(Code 1992, § 16.50.410.1)

16.50.410.2. Generally.

This section provides for the orderly and effective management of temporary land uses not specifically allowed a zoning district. Temporary uses are often found to be necessary and desirable for limited periods of time although they might not be in keeping with the intent and purpose of the zoning district if allowed on a long-term basis. This section provides for thorough administrative review of these special types of land uses. These provisions are designed to allow certain reasonable temporary uses while minimizing adverse impact upon the public health and welfare.

(Code 1992, § 16.50.410.2)

16.50.410.3. Permits.

Application for a temporary use permit shall be made to the POD in accordance with the applications and procedures section.

(Code 1992, § 16.50.410.3)

16.50.410.4. Uses.

In addition to any other conditions that may reasonably be imposed, a temporary use permit issued for the following uses shall be subject to the following conditions:

1. *Concrete batch plant for road construction.* Such plant shall be located not less than 1,000 feet from any building used for residential purposes.
2. *Carnival or circus.* A parking plan showing sufficient on- and off-street parking must be approved. Such use shall cease before 11:00 p.m. and shall not begin before 8:00 a.m.

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3. *Construction staging area.* A temporary use permit may be issued for the use of property needed to accommodate the staging area (e.g., construction trailer, materials, and equipment, etc.) for any construction project.
4. *Holiday sales (Christmas trees, pumpkins, and fireworks).* In any zoning district allowing commercial activities as a permitted use, a temporary use permit may be issued for the display and sale of Christmas trees, pumpkins, fireworks, and other related items on any open lot, parking lot or other location outside a building.
5. *Event of public interest.* A temporary use permit may be issued for an event of public interest, including but not limited to, outdoor concerts, auctions, automobile races, block parties, business district events, and neighborhood events.
6. *Public assembly activities.* A temporary use permit may be issued for public assembly activities which may be conducted under tents.
7. *Temporary modular unit for redevelopment of an existing business.* A temporary use permit may be issued for a modular unit to house the operations of an existing business that is being redeveloped or reconstructed.
8. *Temporary modular unit or vehicle for redevelopment of an existing residence.* A temporary use permit may be issued for a modular unit or vehicle to house occupants during the period in which a residence is being redeveloped or reconstructed.
9. *Promotional activities involving outdoor display of goods and merchandise.* In commercial zones, a temporary use permit may be issued for a period of not more than two consecutive weeks in any six-month period for a retail business to display merchandise in the area immediately adjacent to the building that is for sale within the building, subject to the following conditions:
 - a. No portion of the display shall be on a right-of-way unless the applicant obtains approval for the use at that location from the POD.
 - b. No required off-street parking spaces or loading area will be utilized for such display storage or dispensing.
 - c. No food or drink may be displayed outside the building except in accordance with standards and prior written approval of the county health department.
10. *Other temporary uses* as may be approved by the POD. The POD shall impose reasonable conditions on the use to ensure that any impacts are mitigated to a reasonable degree.
11. *Parking lots.* A temporary use permit may be issued for unpaved parking lots, without regard to whether parking lots are a permitted use in a zoning district, when events at Tropicana Field are reasonably expected to attract more than 20,000 spectators. Such permits may be issued for not more than 30 event days in a calendar year and shall not be issued for any lot upon which a single-family residential use exists. The City may immediately revoke the permit, and refuse to grant future applications for a permit for a location, if there is a violation of any permit conditions.

(Code 1992, § 16.50.410.4; Ord. No. 900-G, § 2, 9-11-2008)

