#4

SITE PLAN REVIEW

Applicant: *AMI Plaza*

Petition No.: *15-01*

Scope: Addition of Three Residential Units above Commercial Occupancies

Staff Report for:

City Commission Work Session, Public Hearing, November 15, 2016

Planning
& Management Services, Inc.
1375 Jackson Street, Suite 206
Fort Myers, Florida
(239) 334-3366

INTRODUCTION

The subject property, located at 5304 Holmes Boulevard houses Lobstah's Restaurant and a variety of other professional, retail, and service uses.

The proposal, as described in the application and shown on the site plan, involves the addition of three 493-square foot one bedroom residential dwelling units, to be located on the roof over the ground floor commercial uses. The Building Official has accepted the site development plan and deemed it to be substantially complete. Per Sections 3.5.D and E, the site plan will first be reviewed by the City Commission at a work session and then at a public hearing.

The site plan (provided as Appendix A to this Staff Report) and associated materials were provided to LaRue Planning and Management Services, Inc. to review and comment upon. This Staff Report will address the Review Standards as set forth under Section 3.5.G as they are applicable to the uses and structures proposed.

GENERAL CONTACT INFORMATION

Owner	Michael Hynds Murphy Property Group, LLC 5306 Holmes Blvd. Suite #820 Holmes Beach FL 34217
Agent	See above
Site Address	5306 Gulf Drive, Unit 800
Contact Person	Michael Hynds, owner
Contact Phone Number	941-447-9662
Contact Email Address	mikehynds@yahoo.com

GENERAL CONTACT INFORMATION

	Existing	Proposed
Future Land Use Map Classification	Commercial, Mixed Use Overlay	Commercial, Mixed Use Overlay
Zoning District	MXD, Mixed Use Overlay w/ underlying zoning of C-3	MXD, Mixed Use Overlay w/ underlying zoning of C-3
Use of Property	Restaurant and assorted retail and service-type uses	Same, with three residential units on the roof over existing ground floor commercial uses
Acreage	15,938 square feet (0.36 ac.)	15,938 square feet (0.36 ac.)

LEGAL DESCRIPTION OF SUBJECT PROPERTY

AS PER GENERAL WARRANTY DEED AS RECORDED IN OFFICIAL RECORD BOOK 2254, PAGE 7157, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA

PARCEL 1 BEGIN AT THE NORTHWEST CORNER OF LOT 5, BLOCK E, HOLMES BEACH, 11TH UNIT, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 7, PAGE 76, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, THENCE EAST, ALONG THE NORTH LINE OF SAID LOT 5, A DISTANCE OF 100 FEET, MORE OF LESS TO THE NORTHEAST CORNER OF SAID LOT 5, THENCE IN A SOUTHERLY DIRECTION, ALONG THE EAST LINE OF SAID LOT 5, A DISTANCE OF 60 FEET TO A POINT ON SAID EAST LINE THENCE WEST, ALONG A LINE PARALLEL TO THE NORTH LINE OF SAID LOT 5, A DISTANCE OF 115.80 FEET TO A POINT ON THE WEST LINE OF SAID LOT 5, THENCE NORTH, ALONG THE SAID WEST LINE OF SAID LOT 5, A DISTANCE OF 58 FEET TO THE POINT OF BEGINNING

TOGETHER WITH A NON-EXCLUSIVICE EASEMENT FOR INGRESS AND EGRESS TO AND FROM GULF BOULEVARD FROM THE ABOVE DESCRIBED PROPERTY, DESCRIBED AS FOLLOWS BEGINNING AT THE SOUTHWEST CORNER OF LOT 5, BLOCK E, HOLMES BEACH 11TH UNIT, THENCE NORTH ALONG THE WEST LINE OF SAID LOT 5, A DISTANCE OF 88 FEET, THENCE EAST, PARALLEL TO AND 88 FEET NORTH OF THE SOUTH LINE OF SAID LOT 5, A DISTANCE OF 10 FEET, THENCE SOUTH, PARALLEL TO AND 10 FEET EASTWARD FROM THE WEST LINE OF SAID LOT 5, A DISTANCE OF 88 FEET TO THE NORTH LINE OF GULF BOULEVARD, THENCE WEST, A DISTANCE OF 10 FEET TO THE POINT OF BEGINNING

BEING KNOWN AS: 5306 HOLMES BOULEVARD

PARCEL 2 LOT 5, BLOCK E, HOLMES BEACH, 11TH UNIT, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 7, PAGE 76, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA. LESS AND EXCEPT THAT PORTION OF SAID LOT 5, DESCRIBED AS FOLLOWS: BEGIN AT THE NORTHWEST CORNER OF SAID LOT 5; THENCE EAST, ALONG THE NORTH LINE OF SAID LOT 5, A DISTANCE OF 100 FEET, MORE OR LESS TO THE NORTHEAST CORNER OF SAID LOT 5, THENCE IN A SOUTHERLY DIRECTION, ALONG THE EAST LINE OF SAID LOT 5, A DISTANCE OF 60 FEET TO A POINT ON SAID EAST LINE, THENCE WEST, ALONG A LINE PARALLEL TO THE NORTH LINE OF SAID LOT 5, A DISTANCE OF 115.80 FEET TO A POINT ON THE WEST LINE OF SAID LOT 5, THENCE NORTH, ALONG THE SAID WEST LINE OF SAID LOT 5, A DISTANCE OF 58 FEET TO THE POINT OF BEGINNING

SUBJECT TO A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS OVER AND ACROSS THE WEST 10 FEET THEREOF

BEING KNOWN AS: 5337 GULF DRIVE

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ADJACENT LAND USE CHARACTERISTICS (See graphics on pages 10-12)

North:	**Future Land Use Map Classification**	**Commercial**
	Zoning District	**C-3**
	Existing Land Use	**Art League & other Commercial**
East:	Future Land Use Map Classification	Commercial
	Zoning District	C-3
	Existing Land Use	Island Shopping Center
South:	**Future Land Use Map Classification**	**Commercial**
	Zoning District	**C-3**
	Existing Land Use	**S&S Plaza**
West:	Future Land Use Map Classification	Commercial
	Zoning District:	C-3
	Existing Land Use:	Holmes Beach Business Ctr.

RESOLUTION OF INITIALLY IDENTIFIED SITE PLAN ISSUES

During the initial review of the application for completeness, a few substantive site plan issues were identified which, if not addressed, would prevent acceptance and consideration of the application. These issues involved the following:

1. The legality and appropriateness of existing nonconformity to parking requirements.

   This has been resolved. The City's letter to Mr. Hynds, dated January 29, 2013, validating and approving the parking arrangement in place as of that date is attached as Appendix B.

2. The type of occupancy proposed for the three new dwelling units. That is, whether resort housing use or conventional residential use with occupancy of at least thirty days is contemplated. This was an issue because conventional residential use of a one bedroom unit will require only one parking space, whereas a resort housing unit is required to provide a minimum of two spaces for a one-bedroom unit.

   This has been resolved. The applicant has agreed that the proposed dwellings will only be occupied for periods of thirty days or more. Mr. Hynds' letter to Mr. McGuinness dated October 24, 2016 is attached as Appendix C

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3. The location in the public right-of-way of the parking spaces associated with the proposed dwelling units.

   This has been resolved. The applicant has agreed to enter into an agreement with the City to lease the portion of the parking spaces now in the right-of-way. This will ensure that the parking spaces meet the dimensions required in the LDC The proposed lease is provided as Appendix D to this Staff Report.

COMPLIANCE WITH FLORIDA BUILDING CODE AND FIRE CODE STANDARDS

Although more specific and detailed Building Code and Fire Code reviews will be performed at the time of application for a building permit, the following overview/site plan criteria were considered by the Building Official and Fire Marshall for this report:

1. Fire Separation of Occupancies:

a. A minimum two-hour separation is required between the commercial occupancies on the ground floor and the residential occupancies above. This is achieved via the hollow core concrete deck which composes the roof of the commercial occupancies upon which the new residential occupancies will be constructed.

b. A minimum one-hour separation is required between the new residential occupancies. This will be achieved via one hour rated exterior walls or fire partitions between the occupancies.

2. Secondary Means of Egress:

a. The Fire Marshall has required a secondary means of egress for the second story residential units. The applicant has agreed to provide this via a second egress stairway on the northwest end of the second story residential deck.

3. Structural Capacity of the Building:

a. The Building Official has required a structural engineer evaluate and certify as to the structural capacity of the first story structure to support a new second story occupancy above. This has been achieved and a signed and sealed certification letter by a structural engineer has been received.

COMPLIANCE WITH DEVELOPMENT AND SITE PLAN REVIEW STANDARDS

A development within the MXD District remains subject to the development standards of the underlying C-3 Zoning District In addition, all site plans are subject to the review standards set forth in Sec. 3.5.G. In the following sections, the applicable development and review standards are repeated in Times Roman type with Staff Comments following thereafter in this Arial type. Deficiencies are highlighted.

COMPLIANCE WITH C-3 DISTRICT DEVELOPMENT REVIEW STANDARDS

The proposed development remains compliant or legally nonconforming to all applicable development standards in the C-3 District, except for the minimum front yard requirement [Sections 6.6.J.3.c (2) & (3)] which read as follows:

"c. *Minimum yard requirements*

(2) *Measurement:* Minimum yard requirements are to be measured from the property line to the nearest building wall or other vertical structure.

(3) *Front yard:* 25 feet"

The nearest face of the proposed northeastern most dwelling unit on the roof is just 20.5 feet from the property line along Holmes Boulevard.

Since the existing building is already legally nonconforming with respect to its front yard setback, it is classified as a nonconforming structure. Section 14.4 prohibits expansion of a nonconforming structure with two exceptions. A copy of Sec. 4.14, "Expansion or extension of a nonconforming structure" is provided as Appendix D.

1. Section 4.14.C provides for the most straightforward exception. This section states that an addition could be constructed via an administrative approval "... provided it complies fully with setback and other applicable regulations."

   The Building Official and I have discussed this provision and agree that the three proposed dwelling units could be administratively approved by the Building Official if the easternmost unit is set back from the eastern property line by at least 25 feet; and that each of the units is adequately separated from its neighboring unit so as to provide adequate light, air, access and privacy. This would mean that the easternmost unit would have to be set back westward at least 4.5 feet.

   Of course, even if the Building Official approves the additions administratively, it is subject to approval of the site plan by the City Commission.

2. If the applicant does not wish to move the easternmost unit back sufficiently to meet the 25-foot setback requirement, a more complex potential remedy is provided for in §4.14.A. This exception requires that the addition be approved by the Development Special Master at a public hearing with due public notice and only if it meets each of eleven specific standards.

   If the addition involves a new incident of nonconformity, (which the Building Official and I believe it does) as defined in Sec. §4.14.A.11, the addition would have to comply with all the provisions of §5.11. These are the standards and conditions for approval of a variance.

COMPLIANCE WITH SITE PLAN REVIEW STANDARDS (§3.5.G)

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1. **Traffic access.** All proposed site traffic accessways, including without limitation vehicular and pedestrian accessways, are adequate in number, design and location. County or state approval shall be obtained for traffic accessways located on a county or state road, as appropriate.

   Traffic access will remain as in the past, including the back-out parking onto Holmes Boulevard. However, when the lease agreement is finalized for that portion of the spaces located in the right-of-way of Holmes Boulevard, the spaces that are to be devoted specifically to parking for the occupants of the three new units will be legally conforming spaces.

   There is already an existing accessible path from the parking along Holmes Boulevard to the structure providing access to the proposed rooftop residential units.

2. **Circulation and parking.** The interior circulation system is adequate for vehicular traffic and bicycle and pedestrian traffic. Adequate bicycle and pedestrian ways, where appropriate, are included to connect residential areas to recreational areas, schools, shopping areas, and transit terminal areas. All required parking spaces are provided and are easily accessible.

   The proposed addition of the three residential units should not affect interior circulation of motor vehicles on the site

3. **Disposal of usable recreational open space.** Usable recreational open space is provided for in such a way as to ensure the safety and welfare of the residents and their guests.

   Sec. 3.5.C.10 requires dedication or reservation of 108.9 square feet of recreation/ open space for each person expected to reside in a new residential unit. Using the occupancy factor of 1.4 persons set forth in this section, total population of the three units would be 4.2 persons requiring a land dedication would be about 457 square feet. No such dedication has been provided for in the applicant's submission. While the requirement is small, the applicant should be aware that the City may require a contribution equal to the fair market value of 457 square feet of land.

4. **Arrangement of buildings.** Adequate provision has been made for light, air, access and privacy in the arrangement of the buildings. Each dwelling unit shall have a minimum of one exterior exposure. Laundry facilities, including spaces and connections for washing machines and clothes dryers shall be available for multifamily dwellings on the premises for use by all occupants of the premises.

   If the proposed units are approved, it appears that each unit will have at least one exterior exposure. The requirement for laundry facilities is not applicable to single-family or two-family residential structures.

5. **Landscaping.** The proposed site plan application includes a landscaping plan, which enhances the natural qualities of the land and maintains a minimum of 25 percent of the native vegetation. Proper screening and buffer zones, as required pursuant to this ordinance, are reflected on the site plan or landscape plan. The landscape plan may be in the form of a sketch, subject to the approval of the building official as to form.

   The property is surrounded by other commercial uses. The LDC requires no buffering between commercial properties. The property remains nonconforming with respect to landscaping and the proposed rooftop dwelling units will not require additional buffering or landscaping.

6. **Supplemental controls.**

   a. ***Off-street parking spaces.*** The site plan shall contain an area or areas devoted to the parking of vehicles. The number of parking spaces provided shall be in compliance with the requirements in this ordinance for the particular zoning district to which the property is subject.

   b. ***Accessibility.*** All buildings shall be so arranged as to be accessible by emergency vehicles.

      The West Manatee Fire Department has found the proposed site plan to be acceptable from an emergency services perspective.

   c. ***Good design standards.*** The site plan shall be consistent with good design standards in respect to all external relationships including, without limitation, the following:

      (1) Relationship to adjoining properties;

      All surrounding properties are designated and used for nonresidential uses. While the building remains nonconforming to the required front yard setback, as previously noted, the proposed easternmost rooftop residential unit will need to be moved at least 4.5 feet westward and the adjoining units appropriately separated.

      (2) Internal circulation, both pedestrian and vehicular, including, without limitation, handicapped facilities as appropriate;

      With the ratification of the proposed lease agreement for the spaces currently in the Holmes Boulevard right-of-way, parking and pedestrian access to the rooftop residential units will be convenient and unimpeded.

      (3) Disposition of recreational open space, use of screening or buffering and preservation of existing natural features including trees and native vegetation as required in this ordinance;

      Preservation of existing natural features is not applicable as the site has long been converted to urban use and no significant natural features exist

and no screening or buffering are required. See response to review standard 3 on page 5 regarding required recreational open space.

(4) Building arrangements both between buildings in the proposed development and those adjoining the site; and

If the easternmost unit is set back from the front yard property line by at least 25 feet as required, each of the adjoining units will need to be separated from its neighboring unit so as to provide adequate light, air, access, privacy, and fire safety.

(5) *Drainage plans*. Each applicant must demonstrate to the satisfaction of the building official that the applicant has obtained any necessary surface water management permits required by either DER or Southwest Florida Water Management District (SWFWMD) or that the applicant is entitled to be exempt from the permitting requirements of those agencies.

The proposed improvements will not increase requirements for drainage.

(6) *Utilities*. Water and sewer services are provided by Manatee County. Each applicant must demonstrate to the satisfaction of the building official that water and sewer will be furnished to the site and that all necessary procedures of Manatee County have been followed to enable the applicant to obtain such services. This requirement may be met by the obtainment of a certificate from the Manatee County health department that its regulations are fulfilled by the proposed water supply and sewage disposal plans.

The existing use has water and sewer service and the addition of three one-bedroom units will have no impact on the ability of the County to continue providing these services.

OTHER COMMENTS

The proposed site plan submitted with the application, which is attached as Appendix E, does not correctly represent what is proposed in the application and conflicts with the large-scale architectural plans prepared by Sego & Sego. Specifically, the site plan shows what would appear to be a 14' by 44' rooftop deck behind (i.e., west of) the proposed residential units. It is only when the architectural plans are reviewed that one realizes that there is no deck west of the proposed residential units, rather there is a hip roof on that portion of the building. This sort of situation should be identified on the site plan.

Although a clear aerial photograph of the site is helpful, a site plan should not be prepared over an aerial photograph. It should be a clear, two-dimensional representation of the parcel boundaries and the existing and proposed buildings and structures and changes thereto. It should include all appropriate labeling and measurements of buildings, pedestrian and vehicular access ways, setbacks, parking spaces, etc.

Prior to the scheduling of a public hearing before City Commission, an accurate site plan, depicting any modification resulting from workshop review, will be required.

Submitted by:

Wm. F. Brisson, AICP
Sr. Planner

LaRue Planning & Management
November 6, 2016

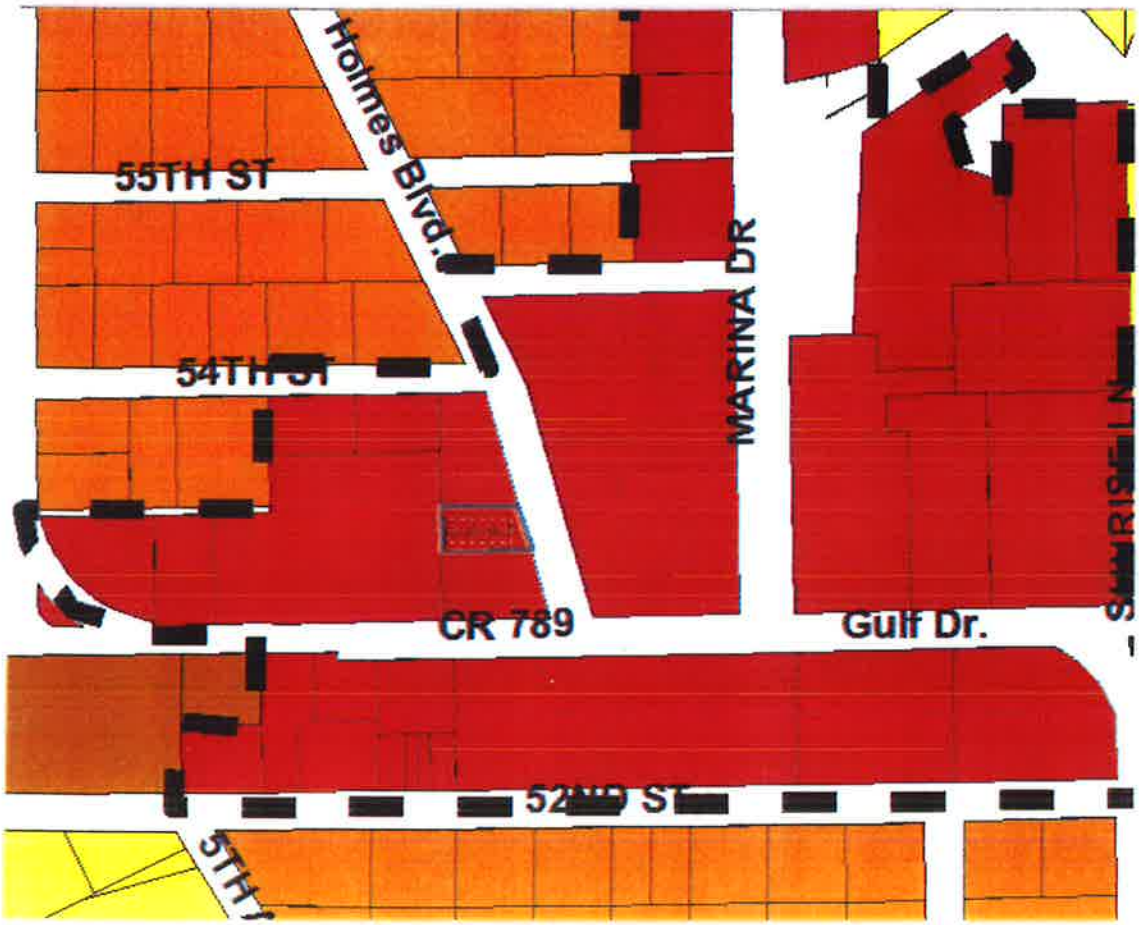
City Commission Workshop: November 15, 2016
City Commission Public Hearing: Date still to be set

Attachments: Future Land Use Map
Zoning Map
Aerial photograph with existing land uses

Appendices:

A: Site plan on aerial photograph submitted with application
B: January 29, 2013 letter of validation and approval of parking
C: October 24, 2016 letter confirming residential status of proposed dwelling units
D: Proposed lease and map of City right-of-way for parking spaces to serve proposed units
E: LDC §4.14, Expansion or extension of a nonconforming structure

FUTURE LAND USE
SUBJECT SITE AND ENVIRONS



Legend

- Low Density Residential
- Medium Density Residential
- MF Residential/Seasonal Tourist
- Commercial
- Public/Semi-Public
- Recreation/Open Space
- Conservation
- Preservation
- Mixed-Use Overlay Boundary
- City Limits

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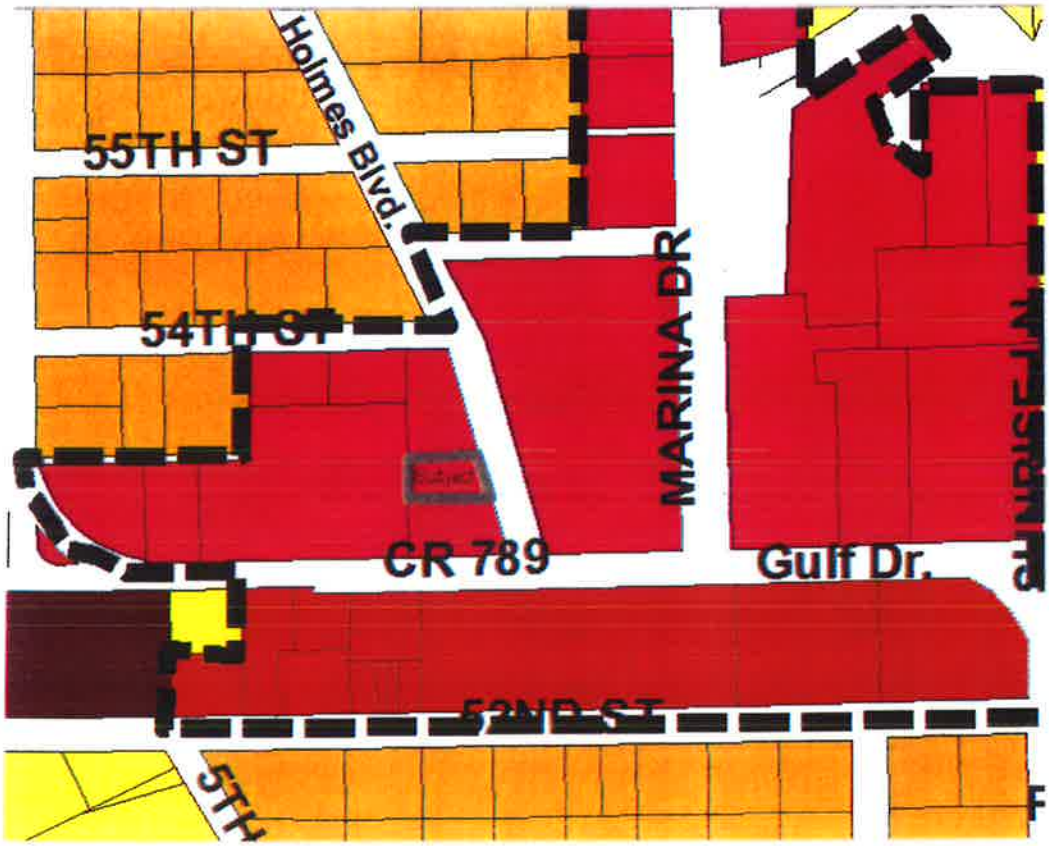
ZONING
SUBJECT SITE AND ENVIRONS



Legend

- R1-AA (SF up to 5.8/ac)
- R-1 (SF up to 5.8/ac.)
- R-2 (Two-family up to 10/ac.)
- R-3 (Med. Density up to 10/ac.)
- R-4 (Med. Density up to 10/ac.)
- A-1 (MF/Seasonal Tourist up to 10/ac.)
- C-1 Commercial
- C-2 Commercial
- C-3 Commercial
- PSP Public/Semi-Public
- POS Private Recreation/Open Space
- REC Public Recreation
- CON Conservation
- PRES Prservation
- MU Overlay Boundary
- City Limits

EXISTING LAND USE
SUBJECT SITE AND ENVIRONS

APPENDICES FOLLOW

A: Site plan on aerial photograph submitted with application

Insert site plan prepared by Morris Engineering, 8/21/15

B: January 29, 2013 letter of validation and approval of parking

Insert letter dated January 29, 2013 from City to Hynds Group

C: October 24, 2016 letter confirming residential status of proposed dwelling units

Insert letter dated 10/24/2016 from Michael Hynds to Jim McGuinness

D: Proposed lease and map of parking spaces in City right-of-way to serve units

Insert proposed lease agreement and associated map

E: LDC §4.14, Expansion or extension of a nonconforming structure

DIVISION 4 - NONCONFORMING STRUCTURES

4.14 - Expansion or extension of a nonconforming structure.

Except as provided in this section, a nonconforming structure shall not be expanded or extended beyond the floor area or parcel that it occupied on the effective date of the comprehensive plan, which was May 10, 1989, or the effective date of any amendment to this ordinance rendering such structures nonconforming.

A. *Standards for permitted expansion of nonconforming structures.* The board of adjustment shall approve an application to expand or change a nonconforming structure only if it finds that each of the following standards has and will be met:

1. The expansion or change of the nonconforming structure requested will not materially change the character or quality of the neighborhood in which it is located, or hinder the proper future development of the surrounding properties;
2. Any nuisance feature is not enlarged;
3. The proposed expansion or change shall not create hazardous vehicular or pedestrian traffic conditions, nor result in traffic exceeding the capacity of streets and intersections serving the property;
4. Proposed expansion or change will not result in noncompliance with off-street parking requirements determined with respect to the nonconforming structure so expanded or changed;
5. The proposal shall include appropriate drives and walks and the installation of such screening and buffering as may be reasonably necessary to minimize adverse impacts on surrounding land uses;
6. The proposal shall not result in a violation of the maximum lot coverage allowable within the district in which the lot is located.
7. If the application is approved, the structure on the property, after carrying out the proposal, will not encroach into required yards on more than two sides of the structure. (Encroachment on frontage located on the Gulf of Mexico shall be controlled by the provisions of article VII and shall not be considered in determining whether or not such structure will encroach on more than two sides.);
8. If the application is approved, the structure, after carrying out the proposed expansion or change, will not encroach by more than 20 percent into any one required yard, determined as applicable to the proposed expansion or change of the nonconformity. (For purposes of this subsection, encroachment on frontage located on the Gulf of Mexico shall be controlled by the provisions of article VII.)

9. If the application is granted, the structure on the property, after carrying out the proposal, will not encroach into the required waterfront yard on either the bay or a canal unless there was an existing encroachment therein prior to carrying out such proposal, in which case the structure shall not encroach into such required waterfront yards more than such preexisting encroachment. Encroachments on frontage located on the Gulf of Mexico shall be controlled by the provisions of article VII.

10. If the application is granted, after carrying out the proposal, no exterior wall of an existing nonconforming structure shall be extended by more than one-third of its length prior to approval, if such exterior wall and the proposed extension thereof are located (or will be located under the proposal) in a required yard; and

11. If the proposal contemplates creation of a new incident of nonconformity, each new incident of nonconformity must comply with the provisions of section 5.2 and meet all of the conditions set forth in section 5.11 for the granting of a dimensional variance. A new incident of nonconformity shall mean the creation of an instance of nonconformity not previously existing, or an increase in the degree of nonconformity previously existing.

B. *Application for expansion of a nonconforming structure.* Applications for the expansion or change of a nonconforming structure shall be considered by the board of adjustment at a public hearing with due public notice.

1. A site plan and preliminary building plan indicating the proposed expansion shall be presented with each request for such expansion or change.

2. The board of adjustment may make the approval of any such application conditional upon such restrictions, stipulations and safeguards as it may deem necessary to ensure compliance with the intent and purpose of this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the application is granted, shall be deemed a violation of this ordinance. It is not the intent of this provision to encourage expansion or changes of nonconforming structures.

3. Where the standards hereof contain maximum dimensional deviations, same shall not be construed as entitling an applicant to approval so long as such maximum dimensional deviations are not exceeded; rather, such standards are intended only to provide maximum dimensional deviations permissible under this paragraph, and the board of adjustment may deny an application even though the proposal will not result in violation of the dimensional deviation maximum contained herein.

4. *Expiration of application.* An application for expansion or extension of a nonconforming structure shall expire 180 days after written notice has been served by the building official to the applicant requesting that the applicant provide additional information or that the applicant needs to undertake a specific action(s) before the application can be further considered; provided that the applicant has not

   supplied the city with the requested information, has not provided evidence to the city that he/she has undertaken the specific action(s) set forth in the written notice, or has not requested, in writing, an extension.

C. *Certain expansions of nonconforming structures permitted.* Expansion, in the form of additions to nonconforming structures, shall be permitted under administrative approval, provided the structure houses a conforming use and the addition complies fully with setback and other applicable regulations. Provided, however, the minimum setback requirement for the second level of an existing residential structure on a legally nonconforming lot with the first habitable floor located on the ground level shall be the same as the minimum setback requirements specified for the first level

D. *Expiration of an approval to expand or extend a nonconforming structure.* Unless otherwise provided in the board of adjustment's approval, the approval for expansion or extension of a nonconforming structure shall be void if:

1. The recipient does not file an application for a building or other permit for the proposed development within 180 days after the date of recordation of the approval; or,
2. If no building permit or other permit is required, the recipient does not commence operations within 180 days after the date of recordation of the approval.

   An applicant who has obtained approval to expand or extend a nonconforming structure may request an extension of this time period by filing with the building official, within the 180-day period, a letter stating the reasons for the request. The building official shall transmit the letter to the city commission, which at a regular meeting may grant the request for good cause shown by the applicant. No more than two extensions may be granted under this provision.

E. *Recordation of approval.* Upon the approval of an application to expand or extend a nonconforming structure, the city shall record or cause to be recorded a notice in the Public Records of Manatee County, Florida, that the use of the property is governed by such approval. The notice shall direct all interested persons to the appropriate city file containing the complete application and approval. The approval shall not be effective until such notice has been recorded and the applicant has reimbursed the city for its recording costs and fees. No permits will be issued until such time as the recordation of the approval has been completed.

(Ord. No. 07-04, § 2(Exh. A), 3-27-07)

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City of Holmes Beach
PLANNING, PERMITTING & INSPECTIONS DEPARTMENT

Land Development Application

RECEIVED NOV 06 2015 City of Holmes Beach

FOR STAFF USE ONLY	
Date: 11/6/15	File Number: 15-001
File Name: AMI PLAZA	

This application shall be used for all land development applications, including but not limited to rezones, special exceptions, comprehensive plan amendment requests, site plans, & expansions of non- conforming uses.

PLEASE ATTACH APPROPRIATE STANDARDS OR SUPPLEMENTARY INFORMATION, AS APPLICABLE.

TYPE OF APPROVAL DESIRED: SITE PLAN APPROVAL

List of case numbers of previous approvals: _____

PROPERTY INFORMATION

1. Legal Description: SEE ATTACHED EXHIBIT "A" LEGAL DESCRIPTION
2. D.P. #'s: 721220059
3. Section: 20 Township: 34S Range: 16E
4. Subdivision Name (If Platted): HOLMES BEACH ELEVENTH UNIT / PB 1/ 181
5. Lot: 5 Block: _____
6. Address or location of Property:
   5306 GULF DRIVE, UNIT 100, HOLMES BEACH, FL 34217
   (PRIMARY ADDRESS: 5337 GULF DRIVE, UNIT 100, HOLMES BEACH, FL 34217 (PER POA)
7. Present Zoning Classification: C-3/MXD
8. (If Rezone), Proposed Zoning Classification: N/A
9. (If Comprehensive Plan Map Amendment), Proposed Future Land Use Category:
   N/A
10. Future Land Use Category CITY
11. Flood Zone Category: AE Map Panel Numbers: 0139 E
12. Property Size (to the nearest tenth of acre or sq. ft.): .37+/-
13. Existing Use (s) of Subject Property (i.e.: vacant, residence, commercial, etc.)
    MIXED USE COMM / RES (1555) (NEW 2104)
14. Surrounding Land Use (s) (i.e.: vacant, residence, commercial, etc.):
    North: COMMERCIAL East: COMMERCIAL
    South: COMMERCIAL West: COMMERCIAL

15. Description of Proposed Activity or Use:
PROPOSED CONSTRUCTION OF AN ADDITIONAL 1,479 SF, LIVING AREA-3 ROR UNITS ABOVE THE EXISTING 10,616 SF COMMERCIAL BUILDING

16. How will this proposal affect the population of the City of Holmes Beach:
NO SIGNIFICANT POPULATION IMPACT, UTILIZED AS A SMALL RENTAL

NAMES/ ADDRESSES

1. *Name of Property Owner:* MICHAEL HYNDS, MANAGER, MURPHY PROPERTY GROUP, LLC
Address: 5306 GULF DRIVE, STE 100
City, State, Zip: HOLMES BEACH, FLORIDA 33917
Phone #'s:

2. *Any other person* having ownership in subject property?: YES ____ NO X
Name:
Address:
City, State, Zip:
Phone #'s:

3. *Agent's name:* SAME AS ENGINEER OF RECORD
Address:
City, State, Zip:
Phone #'s:
CONTACT PERSON:

4. *Name of Engineer:* MORRIS ENGINEERING & CONSULTING, LLC.
Address: 6981 PROFESSIONAL PARKWAY EAST
City, State, Zip: LAKEWOOD RANCH, FLORIDA 34240
Phone#'s: 941.444.6644
CONTACT PERSON: MATTHEW J. MORRIS, P.E.

5. *Name of Architect:* TO BE DETERMINED
Address:
City, State, Zip:
Phone #'s:
CONTACT PERSON:

6. *Name of Landscape Architect:* N/A
Address:
City, State, Zip:
Phone #'s:

City of Holmes Beach

5801 Marina Drive Holmes Beach, Florida 34217
941-708-5800 Fax 941-708-5812

January 29, 2013

Hynds Group LLC
Attn: Mike Hynds
5306 Holmes Blvd. Suite 820
Holmes Beach, Fl 34207

Re: AMI Plaza & 5378 Gulf Dr

Dear Mr. Hynds:

This letter is provided to you as a final validation and approval of the parking improvements made at AMI Plaza and its corresponding off-site parking area located at 5378 Gulf Dr.

The City of Holmes Beach recognizes that not all parking arrangements associated with AMI Plaza and 5378 Gulf Dr. are entirely up to code as stated in the LDC. However, the city concurs that the improvements have provided acceptable parking spaces to the maximum extent feasible under the city's code.

The City of Holmes Beach thereby has made the following determinations:

1. AMI Plaza has re-striped its on-site parking to accommodate eighteen (18) total spaces including one (1) re-designated handicap space and a total of three (3) compact spaces. These spaces are acceptable "as is".

2. Off-site available parking at 5378 Gulf Dr. features a total of nineteen (19) spaces including one (1) handicap space and five (5) compact spaces. These spaces are acceptable "as is".

Therefore, no further actions or modifications will be required in relation to the parking at AMI Plaza and 5378 Gulf Dr. until such time the property at 5378 Gulf Dr. is improved upon.

Regards,

David J. Forbes
Code Enforcement Officer

Dale Stephenson
Chief of Police

Carmel Monti
Mayor

MURPHY PROPERTY GROUP LLC

5306 Holmes Blvd , ste 820
Holmes Beach , Florida 34217

Office 941-251-4079 Mike Hynds cell 941-447-9662 mikehynds@yahoo.com

10/24/2016

AMI PLAZA – SITE PLAN REVIEW APPLICATION AMENDMENT

Att Jim McGuiness

Further to our recent meeting we would confirm the following updates to our site review application.

1)We would confirm that the 3 Number additional residential planned units for AMI PLAZA shall be used for Residential Single Family use for a stay in excess of 30 days and shall not be let as transient or short term rental

2)We would confirm that should the commission approve our application that we shall enter into a lease agreement with the city to lease the required section of the ROW outside our property as per the attached draft lease map to allow parking for the 3 number units.

Michael Hynds
Owner Murphy property group llc

LEASE AGREEMENT

THIS LEASE, made effective this ____ day of _____, 2016, by and between MURPHY PROPERTY GROUP, LLC, a Florida limited liability company ("Lessee") and CITY OF HOLMES BEACH, FLORIDA ("City" or "Lessor").

RECITALS:

1. Premises. For and in consideration of the agreements contained in this Lease ("Lease"), Lessor hereby agrees to lease the Property ("Property"), described in Exhibit "A" attached and made a part hereof, to Lessee under the terms and conditions set forth herein.

2. Term. The initial term of the Lease shall be ten (10) years from the effective date. Lessee shall have the option to renew this Lease for two (2) additional periods of five (5) years each upon the same terms and conditions set forth herein. At least one hundred eighty (180) days prior to the end of the initial term and at least one hundred eighty (180) days prior to the end of any renewal term, Lessee shall notify Lessor of its intention to renew. If Lessee fails to notify the City within this time period. Lessee shall be deemed to have waived its right to renew the Lease and the Lease shall terminate at the end of the current term.

3. Rent. Lessee agrees to pay Lessor at the address specified herein rent for the first lease year in an annual amount equal to Twenty-Five Hundred Dollars ($2,500.00). Rent for each subsequent lease year during the initial term and all applicable renewal terms shall be increased from the prior lease year in accordance with the percentage increase in the Consumer Price Index ("CPI") for All Urban Consumers – All terms – published by the Bureau of Labor Statistics. Annual rent shall be due in advance on the first day of each lease year.

4. Permitted Uses. Lessee may utilize the Property for tenant parking for three residential one-bedroom units to be developed on Lessee's adjacent property.

5. Restriction on Use. Lessee shall not use the Property except for parking as provided in the approved site plan for AMI Plaza Renovations approved by the City in Resolution 2016-___. Lessee shall also abide by all applicable federal, state and local laws during the term of lease.

6. Maintenance. Lessee agrees to maintain at its sole cost and expense the Property and all improvements thereon, including but not limited to asphalt, parking stops, signage, and striping.

7. Indemnification. Lessee shall indemnify Lessor against all claims, demands, causes of action, suits or judgments, including expenses incurred in connection therewith for death or injuries to persons or for loss of or damage to property arising out of or in connection with Lessee's use and occupancy of the Property, or that of its agents, employees or invitees. Lessee shall also at all times prior to expiration of the Lease term and delivery to Lessor of possession of the Property indemnify Lessor against all liens and charges of any and every nature that may at any time be established against the Property or any improvements thereupon or any part thereof as a consequence direct or indirect of any act or omission of Lessee or as a consequence of existence of Lessee's interest under this Lease.

8. Liens. The interest of Lessor shall not be subject to any liens or improvements made by Lessee upon the Property. All such liens are hereby expressly prohibited provided by Section 713.10, Florida Statutes, and other applicable laws. In the event any lien should be asserted against the Property, Lessee covenants that within ten (10) days after the filing of such asserted lien, Lessee will discharge said lien of record by payment or by transfer to bond or other security as allowed by law. If such purported lien may not be transferred, Lessee shall, at its sole expense, defend any action relating to same and hold Lessor harmless on account of same. Any persons dealing with Lessee must look solely to the credit of the Lessee for payment.

9. Termination. Lessor may terminate this Lease by providing six (6) months written notification to Lessee that the Property is required for a bona fide good faith City purpose including, but not limited to, the widening of Holmes Boulevard. Lessee may terminate this Lease upon six (6) months written notice. If Lessor terminates this Lease, Lessee shall be entitled to a rebate of any prepaid rent for the remaining portion of the lease year in which said termination shall occur. If Lessee terminates this Lease, Lessee shall forfeit any prepaid rent. If Lessee terminates this Lease, Lessee shall be responsible for providing alternative parking for the three one bedroom residential units to be developed on Lessee's adjacent property.

10. Assignments/Sublease. Lessee may not assign this Lease without the consent of Lessor which consent shall not be unreasonably withheld. At the time of assignment, and

thereafter as required by this Lease, evidence of all insurance required by this Lease shall be provided to the City.

11. Insurance. Lessee shall, at its expense, provide and maintain during the term of this Lease a policy of public liability insurance with limits of coverage of not less than $1,000,000.00 for injury or death of one or more than one person from any one accident occurring upon the Property. Lessor shall be shown as an additional or named insured on the policy. Lessor shall have the right to request reasonable increases in the amount of the required insurance coverage. Lessee shall provide proof of insurance to Lessor upon execution of this Lease, and during its term on an annual basis.

12. Default. The following events shall be considered events of default under this Lease: (1) Lessee's failure to pay any rent and failure to cure such default within ten (10) days after notice from Lessor; (2) Lessee's failure to comply with any non-monetary covenants in this Lease and failure to cure such non-compliance within ten (10) days after written notice from Lessor (provided that if such default cannot be reasonable cured within 10 days, Lessee shall have an additional reasonable period of time in which to cure such default); Lessee's filing of a petition under any Section of Chapter of the Federal Bankruptcy Act or Lessees being adjudged bankrupt in insolvent in proceedings filed against the Lessee; (4) the appointment of a receiver or Trustee for all or substantially all of the assets of Lessee. Upon the occurrence of any event of default, Lessor shall have the option to terminate this Lease, in which event Lessee shall surrender the premises to Lessor within 10 days and if Lessee fails to do so, Lessor may, without prejudice to any other remedy allowed by Florida Law enter upon and take possession of the Property. In the event a holder of a mortgage on the Murphy Property Group, LLC project ("Mortgagee") provides to the Lessor written notice of the existence of the mortgage, such notice to contain the name and address of the Mortgagee, Lessor agrees to give Mortgagee written notice of default by Lessee under the Lease at the same time such notice is given to Lessee and Mortgagee shall have the right to cure any dusch default within the curative period afforded to Lessee above.

13. Inspection. Lessor shall be entitled to enter upon and inspect the Property any time, provided that such inspection shall not unreasonably interfere with Lessee's use and operation of the Property.

14. Notice. All notices, demands, consents, approvals and other communications which are required or desired to be given by either party to the other hereunder shall be in writing and delivered in person, by messenger (and be receipted for), sent by Federal Express or

other overnight delivery service, or by deposit thereof in the United States mail, registered or certified mail, postage prepaid, return receipt requested, addressed to the appropriate party at its address set forth below, or at such other address as such party shall have last designated by notice to the other. All notices, demands, consents, approvals and other communications shall be deemed made (a) when delivered in person, (b) on the date of receipt if by overnight delivery service, or (c) three (3) days after deposit in the United State mail in the manner aforesaid.

a. As to Lessor notice to the City of Holmes Beach, 5801 Marina Drive, Holmes Beach, FL 34217 with a copy to Patricia A. Petruff, Esq. at Dye, Deitrich, Petruff & St. Paul, PL, 1111 3rd Avenue West, Bradenton, Florida 34205.
b. As to Lessee notice to Murphy Property Group, LLC, c/o Michael Hynds, Manager, 5306 Holmes Boulevard, Suite 820, Holmes Beach, Florida 34217

15. As-Is Clause. Lessee hereby accepts the Property "as is", without warranty or representation and subject to zoning and other governmental restrictions, matters reflected on any plat relating to the Property, and all easements, restrictions, conditions, encumbrances, and other matters of record.

16. Warranties of Lessor. Lessor represents and warrants to Lessee that Lessor is the beneficial owner of the Property and it alone has full right, power and authority to Lease the Property for the terms set forth herein. Further, Lessor warrants and represents to Lessee that upon the payment of rent and performance of its obligations under its Lease, Lessee shall peaceably and quietly hold and enjoy the Property for the terms set forth in this Lease. Either party shall have the right to change the notice address by written notice given to the other party.

17. Binding on Successors. The respective rights and obligations hereunder shall inure to, and be binding upon, the respective heirs, distributes, devisees, legal and personal representatives, assignees, grantees and successors in interest of Lessor and Lessee.

18. Entire Agreement. This Lease embodies the entire contract of the parties hereto, and shall not be altered, changed or modified in any respect except by a writing signed by Lessor and Lessee.

19. Attorney's Fees. In the event of any dispute arising from this Lease, the prevailing party shall be entitled to recover its attorney's fees (including all trial, appellate, bankruptcy and post-judgment proceedings).

20. Governing Law. This Lease is to be governed by Florida Law. This agreement shall be governed by construed and enforced in accordance with the laws of the state of Florida. Venue and any actions, suit or proceeding in connection with this agreement shall be in a state court of competent jurisdiction in Manatee County, Florida.

21. Heading/Caption. Any headings preceding the text of the several paragraphs and subparagraphs hereof are inserted solely for convenience of reference and shall not constitute a part of this Lease, nor shall they affect its meaning, construction or effect.

22. Severability. In the event that any section, paragraph, sentence, clause or provision hereof shall be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this agreement and the same shall remain in full force and effect.

23. Recording. This Lease or a notice thereof may be recorded in the Public Records by either party.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement on the date set forth by their respective signatures.

CITY OF HOLMES BEACH

By: _____
Bob Johnson, Mayor

ATTEST:

Date: _____

_____
Stacey Johnston, City Clerk

MURPHY PROPERTY GROUP, LLC:

Witnesses:

By: _____
Michael Hynds, Manager

_____

_____

Date: _____

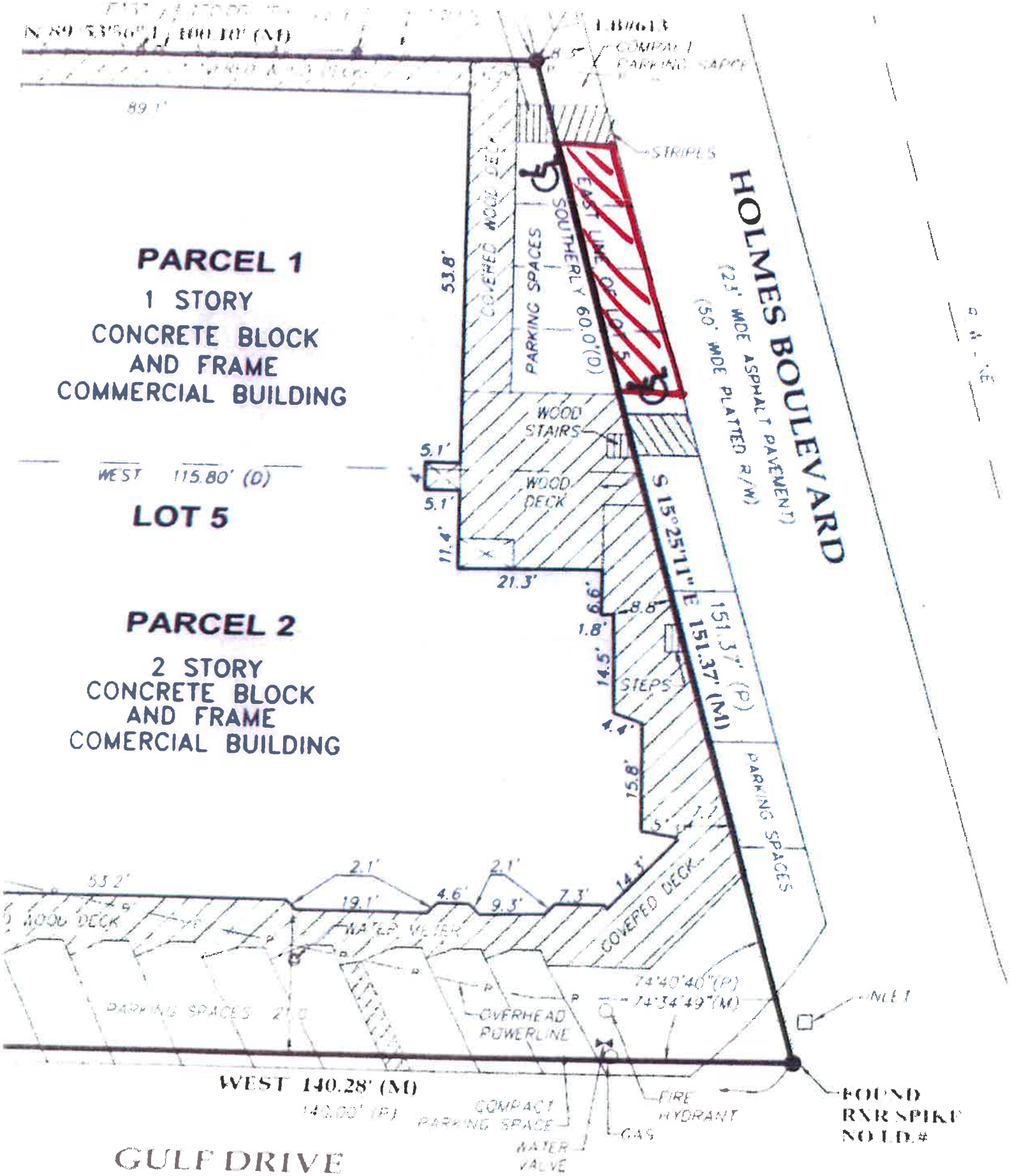

EXHIBIT A

5337 Gulf Drive / 5306 Holmes Blvd.