

**TUESDAY,
FEBRUARY 14, 2023**

**REGULAR
CITY COMMISSION MEETING**

@ 6:00 PM



City of Indian Rocks Beach

1507 Bay Palm Boulevard, Indian Rocks Beach, Florida 33785

www.indian-rocks-beach.com

Administrative
727/595-2517
727/596-4759 (Fax)

Library
727/596-1822

Public Services
727/595-6889
727/593-5137 (Fax)

AGENDA
CITY OF INDIAN ROCKS BEACH
REGULAR CITY COMMISSION MEETING
TUESDAY, FEBRUARY 14, 2023 @ 6:00 P.M.
CITY COMMISSION CHAMBERS
1507 BAY PALM BOULEVARD
INDIAN ROCKS BEACH, FLORIDA 33785

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL

1. PRESENTATIONS.

- A. **REPORT OF** Pinellas County Sheriff's Office.
- B. **REPORT OF** Pinellas Suncoast Fire & Rescue District.

2. PUBLIC COMMENTS. [3-minute time limit per speaker.]

(Any member of the audience may come forward, give their name and address, and state any comment or concern that they may have regarding any matter over which the City Commission has control, EXCLUDING AGENDA ITEMS. All statements made to the City Commission shall be made to the City Commission as a whole, not directed to any individual City Commission Member, and no personal, impertinent, or slanderous remarks shall be permitted. No speaker shall be interrupted, and no debate shall occur between the speaker and the City Commission.)

3. REPORTS OF:

- A. **City Attorney.**
- B. **City Manager.**
- C. **City Commission.**
[3-minute time limit per City Commission Member.]

4. ADDITIONS/DELETIONS.

5. CONSENT AGENDA:

- A. APPROVAL OF** the January 10, 2023 Regular City Commission Meeting Minutes.
- B. RESCHEDULING** the March 14, 2023 Regular City Commission Meeting to Tuesday, March 28, 2023 due to the IRB General Election.
- C. RECEIVE/FILE** the Annual Updates to Pinellas County's Local Mitigation Strategy (LMS).
- D. RECEIVE/FILE** First Quarter Financials.

*****PUBLIC HEARING TO CONVENE AT BEGIN AT 7:00 P.M.
OR AS SOON AS THEREAFTER*****

6. PUBLIC HEARINGS:

- A. BOA CASE NO. 2023-01 — 2504 GULF BOULEVARD/DOLPHIN REEF**
Considering a variance request from Sec. 110-314 of the Code of Ordinance to allow for an additional accessory structure with a building height of 9 feet 7-1/4 inches exceeding the height requirements by 1 foot 7-1/4 inches, for the property located at 2504 Gulf Boulevard, Indian Rocks Beach, Florida, and legally described as Dolphin Reef, A Condominium Association, as recorded in Plat Book 50, Pages 74-80, of the Public Records of Pinellas County, Florida. Parcel #01-30-14-21814-000-0001.

7. OTHER LEGISLATIVE MATTERS: None.

8. WORK SESSION ITEMS [DISCUSSION ONLY]: None.

9. OTHER BUSINESS.

10. ADJOURNMENT.

APPEALS: Any person who decides to appeal any decision made, with respect to any matter considered at such hearing, will need a record of the proceedings and, for such purposes, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based, per s. 286.0105, F.S. Verbatim transcripts are not furnished by the City of Indian Rocks Beach, and should one be desired, arrangements should be made in advance by the interested party (i.e., Court Reporter).

In accordance with the Americans with Disability Act and s. 286.26, F.S., any person with a disability requiring reasonable accommodation to participate in this meeting should contact the City Clerk's Office with your request, telephone 727/595-2517 doreilly@irbcity.com, no later than FIVE (5) days before the proceeding for assistance.

POSTED: February 10, 2023

SHORT-TERM VACATION RENTAL WORK SESSION

WEDNESDAY, MARCH 1, 2023 @ 5:00 P.M.

CITY COMMISSION WORK SESSION

NEXT REGULAR CITY COMMISSION MEETING

TUESDAY, MARCH 28, 2023 @ 6:00 PM

AGENDA ITEM NO. 1A

**REPORT OF
Pinellas County Sheriff's Office**



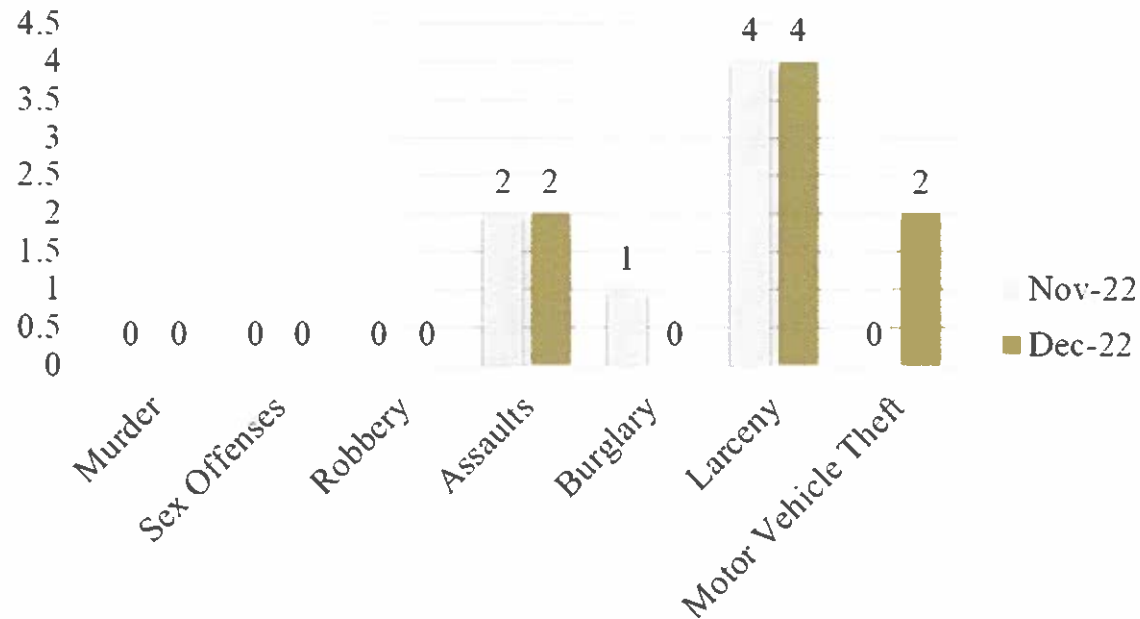
STRATEGIC PLANNING DIVISION

INDIAN ROCKS BEACH ANALYSIS

Select UCR Property & Person Crimes

December 2022

Select UCR Property & Person Crimes	November 2022	December 2022	December 2021 YTD	December 2022 YTD
Murder	0	0	0	0
Sex Offenses	0	0	3	1
Robbery	0	0	0	3
Assaults	2	2	46	46
Burglary	1	0	8	14
Larceny	4	4	48	63
Motor Vehicle Theft	0	2	5	7
GRAND TOTAL	7	8	110	134



Arrests

December 2022

There was a total of 17 people arrested in the City of Indian Rocks Beach during the month of December resulting in the following charges:

ARREST TYPE & DESCRIPTION	TOTAL
Felony	2
Possession Of Controlled Substance	1
Trafficking In Drugs	1
Misdemeanor	7
Battery-Domestic Related	1
Petit Theft-Shoplifting	1
Possession Of Drug Paraphernalia	1
Trespass After Warning	4
Warrant	7
Warrant Arrest	7
Traffic Misdemeanor	4
Driver's License Suspended/Revoked	1
Driving Under The Influence	3
Grand Total	20

*Information provided reflects the number of arrests (persons arrested) as well as the total charges associated with those arrests.

Deputy Activity

There was a total of 787 events in the City of Indian Rocks Beach during the month of December resulting in 1,053 units responding.

The table below reflects the top twenty-five events to include both self-initiated and dispatched calls in the City of Indian Rocks Beach for the month of December. *CAD data is filtered by problem type.

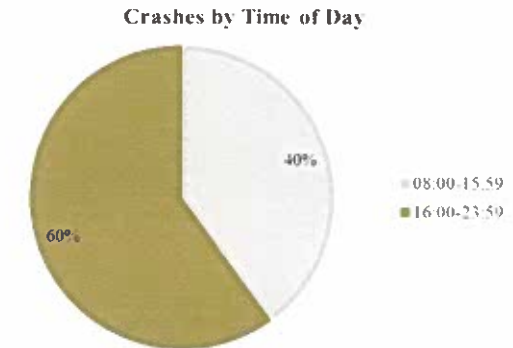
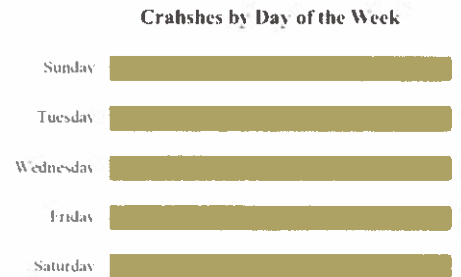
December 2022

DEPUTY ACTIVITY	TOTAL
Traffic Stop	270
Directed Patrol	100
House Check	73
Vehicle Abandoned/Illegally Parked	59
Suspicious Person	33
Assist Citizen	27
Noise	24
Information / Other	17
911 Hang-up Or Open Line	15
Suspicious Vehicle	14
Area Check	11
Alarm	11
Open Door/Window	10
Ordinance Violation	9
Contact	9
Transport Prisoner	9
Assist Other Agency	8
Warrant Service/Attempt	7
Supplement	7
Trespass	7
Animal Call	5
Accident	4
Ambulance/Fire Department Call	4
Assist Motorist	4
Lost/Found/Abandoned Property	4

Crash & Citation Analysis

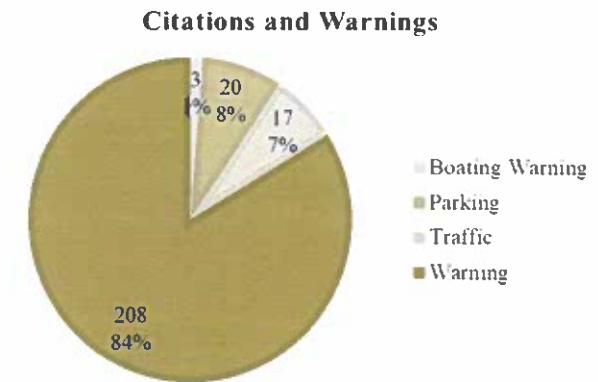
There were 5 crashes in the City of Indian Rocks Beach during December 2022. *Crash data is filtered by disposition type and may include "accident and hit and run" problem types.

CRASH LOCATIONS	TOTAL
1st St/18th Ave	1
2701 Bay Blvd	1
528 20th Ave	1
6th Ave/Gulf Blvd	1
Gulf Blvd/5th Ave	1



There were a total of 248 citations and warnings issued in the City of Indian Rocks Beach during December 2022.

TOP 10 TRAFFIC CITATION LOCATIONS	TOTAL
Gulf Blvd & 24th Ave	3
449 18th Ave	2
900 Gulf Blvd	1
Gulf Blvd & 9th Ave	1
Gulf Blvd & 26th Ave	1
18th Ave & Gulf Blvd	1
7th Ave & Gulf Blvd	1
20th Ave & Gulf Blvd	1
15th Ave & Beach Trail	1
2508 Bay Blvd	1



AGENDA ITEM NO. 1B

**REPORT OF
Pinellas Suncoast Fire & Rescue
District**

AGENDA ITEM NO. 2

PUBLIC COMMENTS.

AGENDA ITEM NO. 3A

REPORTS OF City Attorney

AGENDA ITEM NO. 3B

REPORTS OF City Manager

**February 2023 City of Indian Rocks Beach
City Managers Report
Brently Gregg Mims, City Manager**

Code Enforcement

- Twenty-Four (24) parking citations issued (does not include PCSO numbers)
- Twenty-Eight (28) Notice of Violations Issued
 - Short-Term Rentals No License – One (1)
 - Trash- Thirteen (13)
 - Short-Term Rentals Posting Violation – Four (4)
 - No House Numbers – Six (6)
 - Non-Operative Vehicle- One (1)
 - Non-Operative Vessel – One (1)
 - Inhabited Trailer – One (1)
 - Illegal Sign – One (1)
- Six (6) Notices
 - Short-Term Rentals No License -Three (3)
 - Trash – Two (2)
 - Dilapidated Building – One (1)
- **Sanibel Island Trip**

Mayor – Commissioner Kennedy and I will be traveling with other local officials to Sanibel Florida on February 15th. The trip is twofold. One to gain information on best practices, and lessons learned and to deliver hurricane relief items. The City of Treasure Island and the City of Indian Rocks Beach have collected hurricane relief items for the past several days.
- **Beach Renourishment Information from Pinellas County**

On January 31st Pinellas County reported that since the 2018 Beach Renourishment Project our beach has lost 49% of the sand that was placed. We will continue to lose sand. The rate at which the sand will be lost is based on normal tide cycles, wave action and storms. Due to the sand loss, it is anticipated that this will be last year the IRB HOA and City will host IRB Beach Fest on the beach.
- **Government Finance Officers Association (GFOA) Certificate of Achievement for Excellence in Financial Report**

On February 8th, 2023, the City received notice that we are receiving the GFOA's Certificate of Achievement for Excellence in Financial Reporting. The Certificate of Achievement is based on the City of Indian Rocks Beach Annual Comprehensive Financial Report for the fiscal year ending September 30th, 2021. The award acknowledges municipalities that clearly communicate its financial story. The Certificate is the highest form of recognition in governmental accounting financial reporting. The City of Indian Rocks has been recognized with this certificate for over a decade.

The Certificate exemplifies the City of Indian Rocks Beach's commitment to excellence, WORKING TOGETHER and transparency in how taxpayer money is spent.

The ACFR was prepared by the city's dedicated Finance Department in conjunction with my office. This award-winning department is led by Dan Carpenter.

Recognition of City Commissioner Phil Hanna

Since March of 2009, Phil Hanna has served the people of Indian Rocks Beach as City Commissioner. Phil's unwavering support of the city, and its team is appreciated and undeniable. Phil has served the City admirably during times of economic uncertainty, natural disasters, public meetings and city events.

Phil has always risen to the occasion to typify what IRB Residents are about. Phil has served the community as a volunteer, citizen and elected official.

Congratulations to Phil on a job well done. Blessings to Nan and Phil on their life journeys and his continued contribution to IRB.

City Commission Work Session to Discuss Short Term Rentals

The City Commission will conduct its third Short-Term Rentals Workshop on March 1, 2023, beginning at 5:00. The Meeting will be held in the city's auditorium. In addition to in-person participation, participation via Zoom will be provided. Login information is available on the City's website.

AGENDA ITEM NO. 3C

REPORTS OF City Commission

AGENDA ITEM NO. 4

ADDITIONS/DELETIONS

**AGENDA ITEM NO. 5A
CONSENT AGENDA**

**APPROVAL OF the
January 10, 2023
Regular City Commission Meeting
Minutes**

MINUTES — JANUARY 10, 2023
CITY OF INDIAN ROCKS BEACH
REGULAR CITY COMMISSION MEETING

The Indian Rocks Beach Regular City Commission Meeting was held on **TUESDAY, JANUARY 10, 2023**, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

Mayor-Commissioner Kennedy called the meeting to order at 7:01 p.m., followed by the Pledge of Allegiance and a moment of silence.

PRESENT: Mayor-Commissioner Joanne Moston Kennedy, Vice Mayor-Commissioner Denise Houseberg, Commissioner Bond, Commissioner Philip J. Hanna, Commissioner Joseph D. McCall, and City Manager Brently Gregg Mims.

OTHERS PRESENT: City Attorney Randy D. Mora, City Clerk Deanne B. O'Reilly, MMC, and Finance Director Daniel A. Carpenter, CGFO.

(To provide continuity for research, items are listed in agenda order although not necessarily discussed in that order.)

1A. REPORT OF Pinellas County Sheriff's Office.

The Pinellas County Sheriff's Office presented a crime analysis report for the month of November 2022.

1B. REPORT OF Pinellas Suncoast Fire & Rescue District.

The Pinellas Suncoast Fire & Rescue District presented the fire statistics for the month of December 2022, and there after summarized for the year.

2. PUBLIC COMMENTS.

Diane Daniel, 309-10th Avenue, stated she has owned property in Indian Rocks Beach for 15 years and has lived on and off in the area since the 1970s. She rents out her house when she is not here. She keeps a low occupancy, and she has a self-imposed one-week minimum stay. For 15 years, she owned three condos in a small five-unit building on 14th Avenue. She rented two of the units year-round, and the one she used, she rented as a short-term unit. The owners of the other two units were run as short-term rentals with up to four guests in a small one-bedroom. Her year-round guests had various issues with the short-term renters, including noise and unleashed dogs. These were not police-level

problems — just annoying ones. The owner of those units seemed concerned about his Airbnb reviews and spoke about them often. If she said anything to his renters, the owner said she was jeopardizing his business. Finally, one of her year-rounders had enough. She loved her apartment but hated the problems with short-term renters. Her business was being hurt, plus she felt personally awful about her. Also, how could she ethically bring in a new renter with these ongoing issues? Things became so hostile that she decided to sell her three units a year ago, which was not in her plans. The buyer, who paid cash, turned her year-round stock into short-term rentals. Although the units were immediately rented out, they were not compliant with the IRB ordinance until a few weeks ago. As for the other owner, he continues to rent his units without compliance, as he has done for several years. He owns another multi-unit building of short-term rentals that is not compliant, and the City has been aware of this.

Ms. Daniel summarized her experience with short-term renters and owners:

- Year-round rental residents are moving out.
- Some short-term rental owners focus more on their Airbnb reviews and their own business needs than the community's needs.
- Vacationers and residents inherently have different sets of priorities. It is a fragile mix.
- The 2018 ordinance is not being enforced. It has no teeth or both.

Ms. Daniel stated when new rules are added to the books, will they be enforced? She hopes the City Commissions' proposed solutions will soon address these concerns.

Sharon Streng, 441-20th Avenue, stated she would like to hear from the City Commission about what is being done concerning the issues with short-term vacation rentals. She asked if the Fire District has started inspecting short-term rentals to ensure they comply with the rules. Are there sprinklers? Exit Signs? Has the Pinellas County Building Department started doing building inspections because there are a lot of homes where the bottom floor is built-out with bedrooms? Can the City look into this? The residents would like to hear about these things that should be done. She stated she sent an email to the City Commission on these issues.

Tony Trubuzio, 415 Harbor Drive South, stated the property owner at 414 Harbor Drive South built the bottom floor without permits years ago. It is now a rental and is advertised as sleeping 16 with off-site parking for eight. Is this something that the City will be looking into and will the City ensure that the property complies with the City Code and that proper permits have been issued? He asked if the new ordinance would allow the City to start regulating what is happening in the neighborhood as far as building codes go.

Stacey Conte, 735-1st Street, and Betsy, business partner of Ms. Conte, stated they are both multi-family investors. Ms. Betsy thinks it is important to hear residents' concerns

about people who comply and obey. They work with PERC (Prison Re-Entry Program), the homeless initiative, and are doing a tour in Tampa, Florida, where they will be giving back to the community. She thinks that the stigma that all Airbnb owners and investors are not following the rules is untrue. Because they follow the rules, they monitor their guests, and do not over-advertise. People need to hear that. She does not deny that on Airbnb or with investors, they may be just worried about their reviews. However, there are people like them, and that is not their primary concern. Ms. Betsy provided a brief history of how they started up their business and where their company is today.

Ms. Betsy stated that the stigma on multi-family investors and Airbnb hosts/owners is being portrayed as a whole instead of viewed individually. They support rules being put into place and people being asked to comply, but it should not be a stigma to one type of investor.

Ms. Conte stated the current regulations that are in place she follows. She said if the City could work with the community and the short-term rental owners to have everyone follow the current regulations, that would solve the problems. She stated the concern she hears from the residents are primarily about noise and over-occupancy.

Linda Newton, 438 Harbor Drive North, stated she bought her IRB forever home in 2003. She has enjoyed meeting her neighborhoods, being part of events, volunteering, being on the Beach Art Center Board of Directors, and being part of the community.

Ms. Newton stated in June 2011, the State of Florida took away the cities' home rule to regulate short-term vacation rentals. Florida is a home-rule State. That means cities can decide who could live in what zoning districts. Her home is zoned in a single-family residential area, and she thought she was going to live in a single-family neighborhood. Short-term vacation rentals are a business, and businesses have been outbidding anybody, like her, that can come to Indian Rocks Beach and buy a home. If she puts an offer on a house, a business group is going to outbid her and turn that house into a rental. She saw this fungus started to grow in 2021. It is unbelievable. She does not know how the State of Florida did that to the City of Indian Rocks Beach. She thinks the City was grandfathered in, where renters had to stay for three months in her neighborhood. She stated people from Detroit always came down for three months and would eventually buy a home and retire here. That has disappeared because they cannot afford the monthly rent anymore. She still wonders how the City lost its three-month minimum rental stay without any notification and how the State of Florida took that right away from the residents of Florida.

Kelly Cisarik, 448 Harbor Drive South, stated as the City Commission weighs the best ways to regulate transient rental properties or vacation rentals. She wanted to emphasize that these properties are commercial businesses. They have been granted a nonconforming legal use in residential neighborhoods due to State preemption. The City can treat them differently than residential properties. When the businesses began paying

federal income tax, state sales tax, and county bed tax, they knew they were running a business. When these businesses apply for their Indian Rocks Beach business tax receipt, they agree to abide by the City's rules. The City has stated goals at the beginning of the City's Zoning Chapter. The stated goals are: to protect, promote, and improve the public health, safety, and general welfare of the people. That is the language used at the beginning of Chapter 110, Zoning, of the Code of Ordinances. There is nothing in the City Code about the ability to maximize profit.

Ms. Cisarik stated the City could and should treat vacation rentals differently. The City can have separate ordinances just for vacation rentals to control items such as amplified music and parking spaces allocated to the business. This is similar to how the City regulates bars, hotels, and restaurants.

Ms. Cisarik stated the City Commission should not be coerced into believing that vacation rentals are the same as residences or that vacation rentals can self-regulate and handle this themselves because they cannot.

Don House, 2104 Beach Trail, stated about six or seven electric bicycles were cruising down the beach. He asked if he took his ATV down the beach, then maybe the City Commission might consider adopting an ordinance to regulate electric bicycles, motorcycles, ATVs, and motorized vehicles on the beach because they are dangerous.

Mr. House stated at the last meeting, he felt that the riparian rights of the people that "live on" the beach was being taken away. He had three points that he wanted to bring up: (1) Did the City Commission even know what they were voting on? (2) Was anybody taking any money to influence their vote? and (3) Did the City Commission know that this was showing total disrespect for the people who "live on" the beach since no City Commissioner lives on the beach?

Mr. House stated making those points, there were a couple of things that happened. The City Manager said he was starting rumors that people were taking money. The most important thing was that a joke was made where City Commissioners were laughing about taking away his riparian rights, and that is an insult. He thinks he deserves an apology as a person who "lives on" the beach.

Dave Goodman, 1006-1st Street, stated he bought his home in 2008 as a retirement home. He said he loved the neighborhood because it was peaceful and quiet. Since 2008, short-term rentals have appeared across the street, next door, and behind him. His home is up on pilings, and he can see a lot of backyards behind his house, and they can see into their home. There is nothing to block the noise or the lights (party). There are all-day parties. He has seen as many as 20 people in one backyard. He has had cars parked in his front yard and a piece of fruit thrown at his house. The neighborhood is just not the same.

Mr. Goodman stated the only way to stop this is to go back to a more extended minimum stay requirement — one, two, or three-month stays.

Vicky Goonen, 207-15th Avenue, stated she is not an owner but has been an annual renter for 11 years. She has seen the beach changed. More bars have opened. With short-term rentals, people come in two or three times a week. She feels there needs to be a longer minimum stay requirement more than a week.

Ms. Goonen stated the short-term rental next door to her had a bonfire one evening. She saw the flames over her six-foot fence with drunks throwing more wood on the fire. She does not like the yard's short-term rental signs because they show those homes are not always occupied. She has seen ten people occupy a two-bedroom house.

Kellee Watt, 431 Harbor Drive South, asked what a resident does about issues after hours that do not rise to the level of calling the sheriff's office but do warrant some code enforcement.

Jessica (LNU), 2300-1st Street, stated she is reading this for Stacey Conte, owner of 735-1st Street. She lived on Fort Myers Beach when Hurricane Ian hit and destroyed the island and most of the surrounding area. She is a single mother with a 15-year-old son and was devastated. They had nothing left. Not only did they lose their home, they had nowhere to stay. All the hotels were full, and the left apartments doubled or tripled their rentals. All the big businesses were taking advantage of people who had lost everything. They had no hearts, only wallets. Ms. Conte called to check on her knowing that she lived on the island. She told her everything that was happening. Ms. Conte offered her and anyone else that needed a place since she ran a small short-term vacation rental business. She cannot continue to begin to express what a blessing it was to have a roof over their heads while she tried to figure out how to put their lives back together. So many of them were left homeless after Hurricane Ian. If it was not for amazing people like Ms. Conte, who has a heart and a small vacation rental business, she is sure many more would still be homeless. Sincerely, Jackie L.

Scott Shapiro, 2032-20th Avenue Parkway, stated almost 23 years ago, he bought his first house in Indian Rocks Beach, and four years later, he purchased the house he currently lives in. The first house has been a long-term rental for 18 years. The first year he rented the house, it was \$1,200 a month, and he made money, and then the taxes and insurance went up. He lost money almost every year after that, except for the last four or five years. In the last few years, his taxes and insurance on that property had gone up \$4,000. What is he supposed to do to pass that onto his tenant? He could make this property a short-term rental and make money. He has that right under the law. It is a right that exists. He does not want his rights taken away.

Mr. Shapiro stated 23 years ago, there were a lot of small mom-and-pop motels on the beach. There were some down at the end of 20th Avenue. The owners sold because of the highest and best use tax fiasco. They were forced to sell. Now, the City has big box condos there. So, where are these people supposed to go on vacation? There is a vacuum — where do they go? Airbnb is no different than Uber. It is just the function of the free markets it was created.

Mr. Shapiro stated the City cannot go back in history. The genie is out of the bottle. The City has to live with what it has. He said he speaks to tourists who tell him they stay in Airbnbs and have been coming to Indian Rocks Beach for years.

Mr. Shapiro stated in the last six months, he has been asking different questions and getting different responses. The tourists do not feel welcome; they see the signs and might vacation elsewhere.

Mr. Shapiro stated that tourists put money into the local economy. He challenged every City Commissioner to talk to the City's businesses because they were afraid to speak. They do not want to come out and talk because they do not want to be taken as they are pro or con. The truth is 30 to 70% of their money comes from tourists.

John Pfanstiehl, 448 Harbor Drive South, stated he was at a New Year's Day party, and he was talking to a homeowner on Harbor Drive, and she said something that startled him. She was so outraged about the incredible traffic increase, the cars, the trucks, the golf carts, the bicycles, and the hoards of people. He stated there are at least 37 lodging for transients in the Harbor Drive neighborhood. One advertises sleeps 10, and most of them are more than that — 16, 18, and up. He said at a 50% occupancy rate, over 20,000 transients will come into the Harbor Drive neighborhood each year.

Mr. Pfanstiehl stated parking and noise are important, but there is much more than that to short-term rentals. Any kind of business does not belong in residentially zoned areas. If there were only a few bad people, then why do 100+ people have signs in their yards, and why are so many residents coming to the City Commission Meetings to express their concerns with short-term vacation rentals?

Mr. Pfanstiehl thanked the City Commission for taking steps to protect residents' actual homes and restoring tranquility to IRB neighborhoods, and this genie can be put back into the bottle. He said this was done by bad legislation.

R.B. Johnson, 1206 Beach Trail, stated his family has been renting cottages to vacationers for over 80 years in Indian Rocks Beach, all on the west side of Gulf Boulevard. Until recently, this fit into a business model where small groups of vacationers rented relatively small units, whether cottages, motel rooms, or condo units. Any disturbing behavior was clamped down by motel or condo rules or was practically nonexistent at

cottages due to their small size. But now that the City has entire houses, some quite large, being rented to vacationers on both sides of Gulf Boulevard. This new business model has brought with it unregulated behavior that has disturbed the peace of the City's neighborhoods. Because of this behavior, it behooves the City to act more proactively toward vacation rentals than it has in the past. Vacation renters are the City's guests and should, therefore, adhere to what he calls with apologies to a Mongol Kant. The categorical imperative for visitors: "Don't act in such a way that you will bother your neighbors." It is a matter of simple civility, which must be enforceable by law. The Indian Rocks Beach residents look forward to new rules protecting their peace deep into the future. Thank you for your work on this pressing issue.

Don Doherty, 317 Harbor Drive, stated that the City Commission's hands are not tied. He hopes in two weeks that, the residents will find out just how much the City can do, and given the time of the year and the football season, the City is in the red zone. All the work, speeches, and everything else up to this point come down to the decisions and actions that the City Commission takes in the next two weeks. Short-term rentals are not homeowners and residents. They are businesses and should be treated like businesses and held to business standards with the strictest regulations that the City can put in place.

Mr. Doherty thanked the City Commission for their attention to this issue, for acknowledging that their hands were not tied, and for taking responsible action. Still, it is go time right now, and it is critically important that the City Commission find the courage to implement the most strict regulations possible.

Jerry Newton, 438 Harbor Drive North, asked if the City knew how many garages have been converted into living spaces. He wants to know what it takes to get Pinellas County Building Inspectors involved since the City contracts building inspections with Pinellas County. Has the Pinellas County Building Department been put on notice and petitioned to enforce these building codes? He sees where garage doors are now windows and living quarters. The City should check the building codes, permits, and tax rolls, and property owners should adhere to all building codes.

3A. REPORTS OF the City Attorney: No report.

3B. REPORTS OF the City Manager: Report submitted.

3C. REPORTS OF the City Commission:

COMMISSIONER McCALL:

- Announced the January 19, 2023 HOA Mix & Mingle will be at Guilty Seas.

VICE MAYOR-COMMISSIONER HOUSEBERG:

- Stated Coco's Crush, 2405 Gulf Boulevard, will be opening in six weeks.

MAYOR-COMMISSIONER KENNEDY:

- Stated she will be holding a Monday with the Mayor on Monday, January 16, 2023, from 4:00 to 6:00 p.m., in the Civic Auditorium.

4. **ADDITIONS/DELETIONS.** None.

5. **CONSENT AGENDA:**

A. **APPROVAL OF the December 13, 2022 Regular City Commission Meeting Minutes.**

City Attorney Mora read the Consent Agenda.

MOTION MADE BY COMMISSIONER HANNA, SECONDED BY VICE MAYOR-COMMISSIONER HOUSEBERG, TO APPROVE THE DECEMBER 13, 2022 REGULAR CITY COMMISSION MEETING MINUTES AS SUBMITTED. UNANIMOUS APPROVAL BY ACCLAMATION.

6A. **ORDINANCE NO. 2023-01 — PUBLIC HEARING/SECOND AND FINAL READING.** An ordinance amending Chapter 50, “Solid Waste”, Article II “Collection and Disposal”, Division 3. “Fees and Charges”, Section 50-91 “Fee schedule”, to remove the fee schedule from the codified portion of the city’s ordinances; providing for the subsequent adoption of a resolution setting forth the applicable fee schedule; providing for severability; providing for the repeal of ordinances or parts of ordinances in conflict herewith to the extent of such conflict, and providing for an effective date.

[Beginning of Staff Report.]

BACKGROUND:

The City’s current contract for Curbside Recycling expired on December 31, 2022. During the October 11, 2022, City Commission Meeting, the City Commission discussed several aspects of the recycling environment that have contributed to increased costs, including the market for recyclables, fuel costs, labor shortages, and inflation. Based on a high participation percentage from IRB residents and the desire to continue to recycle wherever possible for positive environmental impact, it was determined by the City Commission that regardless of the increase in cost, recycling was too important of an effort to consider elimination at this time.

During the November 9, 2022, City Commission Meeting, the Commission agreed to continue the IRB Recycling Program by unanimous consensus. The Commission

unanimously provided authority to the City Manager to negotiate a new agreement with Waste Connections to continue recycling.

ANALYSIS:

The approved negotiation between the City Manager and Waste Connections led to an agreement for continued curbside residential and commercial recycling. The rates mirror those approved under a request for proposal recently completed by the City of Madeira Beach and match the discussion of rates at the November 8, 2022, City Commission Meeting. The successfully negotiated Agreement provides as follows:

- 2-Year Contract Extension
- \$11.53 per month for S/F Home. (Same as Madeira Beach's bid provided by Waste Pro)
- \$28.63 per pick up for Condominiums
- The current CPI language remains the same
- \$389,015.40 annually

A 10% increase in solid waste rates will be necessary to generate the additional \$150,000 annually to cover the increases to curbside recycling costs. Current residential rates of \$62.50 bi-monthly will be increased to \$68.75, and commercial rates will be increased by 10% for all commercial containers.

[End of Staff Report.]

City Attorney Mora read Ordinance No. 2023-01 by title only on second and final reading.

Mayor-Commissioner Kennedy opened the public hearing. Seeing/hearing no one wishing to speak, the public hearing was closed.

MOTION MADE BY COMMISSIONER McCALL, SECONDED BY COMMISSIONER BOND, TO APPROVE ORDINANCE NO. 2023-01, ON SECOND AND FINAL READING, AN ORDINANCE AMENDING CHAPTER 50, "SOLID WASTE", ARTICLE II "COLLECTION AND DISPOSAL", DIVISION 3. "FEES AND CHARGES", SECTION 50-91 "FEE SCHEDULE", TO REMOVE THE FEE SCHEDULE FROM THE CODIFIED PORTION OF THE CITY'S ORDINANCES; PROVIDING FOR THE SUBSEQUENT ADOPTION OF A RESOLUTION SETTING FORTH THE APPLICABLE FEE SCHEDULE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH TO THE EXTENT OF SUCH CONFLICT, AND PROVIDING FOR AN EFFECTIVE DATE.

ROLL CALL VOTE:

AYES: HANNA, HOUSEBERG, BOND, McCALL, KENNEDY

NAYS: NONE

MOTION TO APPROVE CARRIED UNANIMOUSLY.

7A. RESOLUTION NO. 2023-01 — A resolution of the City of Indian Rocks Beach, Florida, enumerating the different types of residential and commercial solid waste collection methods and setting the schedule of fees for the collection, and disposal of garbage, trash and solid waste in the City of Indian Rocks Beach, pursuant to chapter 50 – “Solid Waste”, Article II – “Collection and Disposal”, Division 3 – “Fees and Charges”, Section 50-91 – “Fee schedule”, and providing for an effective date.

[Beginning of Staff Report]

In 2022, the City Commission provided direction to City staff to renegotiate the terms of the Agreement for the provision of recycling service, notwithstanding the increased cost of services. Based on that action, City staff has determined that the fees it collects for such services need to be increased as well.

Ordinance No. 2022-23 strips the fee schedule out of the City Code, and explicitly contemplates the subsequent adoption of a resolution establishing the applicable fees. Resolution No. 2023-01 documents the amended fee schedule.

Once the resolution is adopted, the fees would increase as follows:

(a) Basic fees. The fees for pickup of garbage and trash are as follows:

(1) Single unit rate, two times per week, per month	\$22.78	<u>\$25.06</u>
(2) Multi-unit rate, two times per week, per month	\$21.65	<u>\$23.82</u>
(3) Commercial business establishment, five cans, two times per week, per month	\$28.44	<u>\$31.28</u>
(4) Dumpster rates:		
a. Two yards, two times per week, per month	\$219.92	<u>\$241.91</u>
b. Four yards, two times per week, per month	\$401.05	<u>\$441.16</u>
c. Six yards, two times per week, per month	\$569.19	<u>\$626.11</u>
(5) Each additional pickup:		
a. Two-yard dumpster, one time per week, per month	\$110.01	<u>\$121.01</u>
b. Four-yard dumpster, one time per week, per month	\$200.56	<u>\$220.62</u>
c. Six-yard dumpster, one time per week, per month	\$284.39	<u>\$312.83</u>
d. Commercial can pickup, one time per week, per month	\$14.23	<u>\$15.65</u>
(6) Single one-time pickup:		
a. Two-yard dumpster	\$110.01	<u>\$121.01</u>
b. Four-yard dumpster	\$200.56	<u>\$220.62</u>
c. Six-yard dumpster	\$284.39	<u>\$312.83</u>

Miscellaneous:

(b) (additional units) ~~\$8.47~~ 9.32 per unit per month for (1) and (2) & ~~\$9.64~~ \$10.57 per unit per month for (3)-(6)

(f) (Compactor & front end dumpsters) ~~\$258.72~~ to \$284.59 & ~~\$129.37~~ to \$142.31

[End of Staff Report.]

City Attorney Mora read Resolution No. 2023-01 by title only.

Mayor-Commissioner Kennedy opened the public comment section.

Kelly Cisarik, 448 Harbor Drive South, stated she has always been concerned that when a recycling load is picked up, it is recycled and does not go directly to the landfill. She would like to see some controls put in place and a report from the contractor to inform the City when a load is contaminated and not eligible to be recycled. She stated other alternatives, like just doing cardboard and aluminum, are always economically viable.

MOTION MADE BY VICE MAYOR-COMMISSIONER HOUSEBERG, SECONDED BY COMMISSIONER BOND, TO APPROVE RESOLUTION NO. 2023-01, A RESOLUTION ENUMERATING THE DIFFERENT TYPES OF RESIDENTIAL AND COMMERCIAL SOLID WASTE COLLECTION METHODS AND SETTING THE SCHEDULE OF FEES FOR THE COLLECTION, AND DISPOSAL OF GARBAGE, TRASH AND SOLID WASTE IN THE CITY OF INDIAN ROCKS BEACH, PURSUANT TO CHAPTER 50 – “SOLID WASTE”, ARTICLE II – “COLLECTION AND DISPOSAL”, DIVISION 3 – “FEES AND CHARGES”, SECTION 50-91 – “FEE SCHEDULE”.

Commissioner Bond stated he had personally toured the recycling facility when this first came up and would be happy to tour the facility with Ms. Cisarik. He can assure Ms. Cisarik that it is being handled properly, appropriately, and with great intent.

ROLL CALL VOTE:

AYES: HANNA, McCALL, BOND, HOUSEBERG, KENNEDY

NAYS: NONE

MOTION TO APPROVE CARRIED UNANIMOUSLY.

8. WORK SESSION ITEMS [DISCUSSION ONLY]: None.

9. OTHER BUSINESS. None.

10. ADJOURNMENT.

MOTION MADE BY VICE MAYOR-COMMISSIONER HOUSEBERG, SECONDED BY COMMISSIONER BOND, TO ADJOURN THE MEETING AT 7:52 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.

February 14, 2023
Date Approved

Joanne Moston Kennedy, Mayor-Commissioner

ATTEST: _____
Deanne B. O'Reilly, MMC, City Clerk

/DOR

**AGENDA ITEM NO. 5B
CONSENT AGENDA**

**RESCHEDULING the
March 14, 2023**

**Regular City Commission Meeting
to Tuesday, March 28, 2023, at
6:00 p.m., due to the IRB General
Election**

INDIAN ROCKS BEACH CITY COMMISSION STAFF REPORT

MEETING OF: February 14, 2023 **AGENDA ITEM:** 5B

ORIGINATED BY: Deanne Bulino O'Reilly, MMC, City Clerk *dor*
AUTHORIZED BY: Brently Gregg Mims, City Manager *B. Mims*
SUBJECT: Rescheduling the March 14, 2023 Regular City Commission Meeting to Tuesday, March 28, 2023, at 6:00 p.m., due to the Municipal General Election.
STAFF RECOMMENDATION: Staff recommends rescheduling the March 14, 2023 Regular City Commission Meeting due to the Municipal General Election.

BACKGROUND:

On March 14, 2023, the City will hold its Municipal General Election for the purpose of electing, at large, two qualified candidates to fill the vacancy of two Commissioner Seats, for a 2-year term.

City Commission Work Sessions and Meetings are held in the Civic Auditorium and the Civic Auditorium is also the City's Polling Place for the March 14, 2023, Municipal General Election and the polls are opened from 7:00 a.m. to 7:00 p.m.

ANALYSIS:

Section 102.031 of the Florida Statutes states:

(3)(a) No person may enter any polling room or polling place where the polling place is also a polling room, during voting hours except the following:

1. Official poll watchers;
2. Inspectors;
3. Election clerks;
4. The supervisor of elections or his or her deputy;
5. Persons there to vote, persons in the care of a voter, or persons caring for such voter;

6. Law enforcement officers or emergency service personnel there with permission of the clerk or a majority of the inspectors; or
7. A person, whether or not a registered voter, who is assisting with or participating in a simulated election for minors, as approved by the supervisor of elections.

The March 14, 2023 Regular City Commission Meeting has been rescheduled to **TUESDAY, MARCH 28, 2023, AT 6:00 P.M.**

The Swearing In of newly elected City Commissioners is scheduled for **Tuesday, March 28, 2023, AT 5:30 P.M.**

MOTION:


I move to approve rescheduling the March 14, 2023, Regular City Commission Meeting to Tuesday, March 28, 2023 at 6:30 p.m.


**AGENDA ITEM NO. 5C
CONSENT AGENDA**

**RECEIVE/FILE the Annual Updates
to Pinellas County's Local
Mitigation Strategy (LMS)**

**INDIAN ROCKS BEACH CITY COMMISSION
AGENDA MEMORANDUM**

MEETING OF: February 14, 2023 **AGENDA ITEM:** 5C

ORIGINATED BY: Dean A. Scharmen, Public Services Director 

AUTHORIZED BY: Brently Gregg Mims, City Manager 

SUBJECT: Receive and File the Annual Updates to Pinellas County's Pinellas County's Local Mitigation Strategy (LMS).

BACKGROUND

The City of Indian Rocks Beach's participation in the Pinellas County Local Mitigation Strategy goes back to May 25, 1999 when the Indian Rocks Beach City Commission adopted Resolution No. 99-43, Pinellas County Local Mitigation Strategy. The City's continuing support for this effort is evidenced by Resolutions 2004-13, 2006-85, 2010-38, 2015-25 and 2020-06.

The adoption of the Local Mitigation Strategy is a critical part of maintaining and decreasing IRB's ISO rating to reduce flood insurance premiums within the municipal limits.

ANALYSIS

Submittal of the Annual Updates to Pinellas County's Local Mitigation Strategy to the City Commission is required as part of the City's participation in the National Flood Insurance Program's (NFIP) CRS Program.

The City's participation in the CRS Program results in over \$590,000 of savings to the Indian Rocks Beach residents who purchase flood insurance through the NFIP.

The LMS Annual Report and Updates can be provided upon request at City Hall.

FISCAL IMPACT

N/A

MOTION:

N/A

**AGENDA ITEM NO. 5D
CONSENT AGENDA**


**RECEIVE/FILE First Quarter
Financials.**

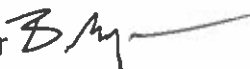
DISCUSSION MEMO

INDIAN ROCKS BEACH CITY COMMISSION

MEETING OF: February 14, 2023

AGENDA ITEM: 5D

ORIGINATED BY: Dan Carpenter, Finance Director 

AUTHORIZED BY: Brently Gregg Mims, City Manager 

SUBJECT: December 2022 Year-to-Date Financial Report

BACKGROUND:

Staff presents a quarterly discussion of year-to-date financial results to the City Commission.

ANALYSIS:

Financial reports comparing December 2022 fiscal year-to-date actual revenues and expenditures to budget are attached.

City of Indian Rocks Beach
FY 2023 BUDGET TO ACTUAL REPORT
AS OF DECEMBER 31, 2022

	<u>12/31/2022</u> <u>Period to Date</u> <u>Actual</u>	<u>FY 2023 TOTAL</u> <u>APPROVED BUDGET</u>	<u>OVER/(UNDER)</u> <u>BUDGET</u>	<u>% OF</u> <u>TOTAL FY 2023</u> <u>APPROVED BUDGET</u>
001 GENERAL FUND				
AD VALOREM TAX	\$ 2,413,120	\$ 2,963,060	\$ (549,940)	81%
FRANCHISE FEE	\$ 75,049	\$ 474,250	\$ (399,201)	16%
COMMUNICATIONS SERVICES TAX	\$ 16,558	\$ 80,000	\$ (63,442)	21%
BUSINESS REG & OCC LICENSES	\$ 37,191	\$ 47,310	\$ (10,119)	79%
PERMITS & FEES	\$ 977	\$ 8,800	\$ (7,823)	11%
INTERGOVERNMENTAL	\$ 80,911	\$ 426,600	\$ (345,689)	19%
CHARGES FOR SERVICES	\$ 4,852	\$ 7,000	\$ (2,148)	69%
PARKING FEES	\$ 47,262	\$ 175,000	\$ (127,738)	27%
FINES AND FOREFITS	\$ 20,248	\$ 40,000	\$ (19,752)	51%
INTEREST ON INVESTMENT	\$ 60,543	\$ 25,000	\$ 35,543	242%
MISCELLANEOUS	\$ 4,808	\$ 24,420	\$ (19,612)	20%
TRANSFERS	\$ 37,215	\$ 148,860	\$ (111,645)	25%
TOTAL REVENUE	\$ 2,798,734	\$ 4,420,300	\$ (1,621,566)	63%
CITY COMMISSION	\$ 20,843	\$ 55,070	\$ (34,227)	38%
CITY MANAGER	\$ 83,310	\$ 313,760	\$ (230,450)	27%
FINANCE	\$ 83,326	\$ 384,380	\$ (301,054)	22%
CITY ATTORNEY	\$ 20,780	\$ 87,700	\$ (66,920)	24%
PLANNING	\$ 11,219	\$ 85,650	\$ (74,431)	13%
CITY CLERK	\$ 46,898	\$ 187,590	\$ (140,692)	25%
LAW ENFORCEMENT	\$ 300,156	\$ 1,189,100	\$ (888,944)	25%
BUILDING & CODE ENFORCEMENT	\$ 27,985	\$ 172,120	\$ (144,135)	16%
PUBLIC WORKS	\$ 234,507	\$ 1,216,560	\$ (982,053)	19%
LIBRARY	\$ 28,470	\$ 118,290	\$ (89,820)	24%
RECREATION	\$ 30,627	\$ 40,200	\$ (9,573)	76%
CENTRAL SERVICES	\$ 98,504	\$ 415,690	\$ (317,186)	24%
TOTAL EXPENDITURES	\$ 986,625	\$ 4,266,110	\$ (3,279,485)	23%
101 CAPITAL PROJECTS				
IC SURTAX PENNY FOR PINELLAS	\$ 109,666	\$ 500,000	\$ (390,334)	22%
UTILITY UNDERGROUND GRANT	\$ -	\$ 1,418,693	\$ (1,418,693)	0%
GRANTS - AMERICAN RESCUE PLAN & D	\$ -	\$ 2,169,668	\$ (2,169,668)	0%
TOTAL REVENUE	\$ 109,666	\$ 4,088,361	\$ (3,978,695)	3%
CONTRUCTION PROJECTS	\$ 6,802	\$ 4,301,911	\$ (4,295,109)	0%
TOTAL EXPENDITURE	\$ 6,802	\$ 4,301,911	\$ (4,295,109)	0%
402 SOLID WASTE FUND				
GRANT REVENUE	\$ 106	\$ 3,000	\$ -	4%
SOLID WASTE	\$ 288,676	\$ 1,584,560	\$ (1,295,884)	18%
TOTAL REVENUE	\$ 288,782	\$ 1,587,560	\$ (1,295,884)	18%
SOLID WASTE	\$ 355,024	\$ 1,792,960	\$ (1,437,936)	20%
TOTAL EXPENDITURE	\$ 355,024	\$ 1,792,960	\$ (1,437,936)	20%

**AGENDA ITEM NO. 6A
PUBLIC HEARING
QUASI-JUDICIAL HEARING**

**BOA CASE NO. 2023-01
2504 GULF BOULEVARD
DOLPHIN REEF**

*****PUBLIC HEARING WILL
BEGIN AT 7:00 P.M. OR AS
SOON AS THEREAFTER.**

INDIAN ROCKS CITY COMMISSION STAFF REPORT

MEETING OF: February 14, 2023 AGENDA Item: 6A

ORIGINATED BY: Hetty C. Harmon, AICP, City Planner

AUTHORIZED BY: Brently Gregg Mims, City Manager



STAFF RECOMMENDATION: Based on the variance review criteria of Section 2-152, staff recommended approval of the request.

BOARD OF ADJUSTMENTS AND APPEALS: The Board of Adjustments and Appeals recommended approval to the City Commission by a vote of 5-0.

SUBJECT: BOA CASE NO. 2023-01 – 2504 Gulf Blvd

Variance request from Sec. 110-314, of the Code of Ordinance, to allow for an additional accessory structure with a building height of 9 feet 7-1/4 inches exceeding the height requirements by 1 foot 7-1/4 inches for property located at 2504 Gulf Blvd, Indian Rocks Beach, Florida, and legally described as Dolphin Reef, A Condominium Association, as recorded in Plat Book 50, Pages 74-80, of the Public Records of Pinellas County, Florida. Parcel #01-30-14-21814-000-0001

OWNER: Dolphin Reef Condominium Assn Inc
LOCATION of PROPERTY: 2504 Gulf Blvd
ZONING: CT- Commercial Tourist

Direction	Existing Use	Zoning Category
North	Residential	CT
East	Residential	B
South	Residential	CT
West	Gulf of Mexico	N/A

BACKGROUND:

The applicant is requesting a variance for an additional accessory structure with a building height of 9 feet 7-1/4 inches exceeding the 8-foot interior wall height requirements by 1 foot 7-1/4 inches. The Dolphin Reef Condominium is located on 1.24 acres with 40 residential units. They presently have 2 gazebos and a bath building. The existing structures are in need of repair/replacement and the association has proposed to replace the structures.

The smaller gazebo is located very near the property line and they are proposing to move it away from the property line, enlarge the structure to match the other gazebo and relocate to the raised deck area. During the review stage of the project the applicant proposed to cover the new grill area adjacent to the bath house and we agreed that grill area roof would replace the smaller

gazebo. It was determined that if they wanted to add the other gazebo they would need to apply for a variance.

Sec. 2-152. - Variances.

(a) *Generally; criteria for granting variances from the terms of subpart B.*

(1) The board of adjustments and appeals shall make recommendations on and the city commission shall decide variance applications will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of subpart B will result in unnecessary and undue hardship. In order to recommend or decide any variance from the terms of subpart B, the board or the city commission shall consider each of the following.

a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

The site consists of 1.24 acres with 40 residential units.

b. The special conditions and circumstances do not result from the actions of the applicant.

The applicant did not create any special conditions or circumstances.

c. Granting the variance will not confer on the applicant any special privilege that is denied by subpart B to other lands, structures or buildings in the same zoning district.

Granting the variance would confer special privileges to the applicant.

d. Literal interpretation of the provisions of subpart B would deprive other properties in the same zoning district under the terms of subpart B and would work unnecessary and undue hardship upon the applicant.

The approval of this variance request would not deprive other owners of use and enjoyment of their properties.

e. The variance granted is the minimum variance that will make possible the reasonable use of the land, structure or building; and

This is the minimum variance to allow the owner to construct the gazebo as proposed.

f. The granting of the variance will be in harmony with the general intent and purpose of subpart B, and such variance will not be injurious to the area involved or be otherwise detrimental to the public welfare.

Granting the variance will not be in harmony with the general intent and purpose of subpart B.

NOTICE: A public notice was mailed by first class mail to property owners within 150 feet in any direction of the subject property and posted on subject property on February 6, 2023, (Sec. 2-149 of the Code of Ordinances.)

LEGAL NOTICE: A legal notice was published in the February 1, 2023-Edition, of the St. Pete Times Section of the Tampa Bay Times. For a public hearing that has been scheduled for February 14, 2023, for BOA Case No. 2023-01.

CORRESPONDENCE: Mary Kay and EJ Foody 2504 Gulf Blvd Unit #204 emailed in support of the variance.

STAFF RECOMMENDATION: Based on the variance review criteria of Section 2-152, staff recommends approval of the request.

MOTION:

I move to **APPROVE/DENY** BOA CASE NO 2023-01 – 2504 Gulf Blvd. Variance request from Sec. 110-314, of the Code of Ordinance, to allow for an additional accessory structure with a building height of 9 feet 7-1/4 inches exceeding the height requirements by 1 foot 7-1/4 inches for property located at 2504 Gulf Blvd, Indian Rocks Beach, Florida, and legally described as Dolphin Reef, A Condominium Association, as recorded in Plat Book 50, Pages 74-80, of the Public Records of Pinellas County, Florida.

**MINUTES — JANUARY 17, 2023
CITY OF INDIAN ROCKS BEACH
BOARD OF ADJUSTMENTS AND APPEALS**

The Regular Meeting of the Indian Rocks Beach Board of Adjustments and Appeals was held on **TUESDAY, JANUARY 17, 2023**, at 6:00 p.m., in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

1. **CALL TO ORDER.** Chair DeVore called the meeting to order at 6:00 p.m.

2. **ROLL CALL:**

PRESENT: Chair Stewart DeVore, Vice-Chair David Watt, Board Member Rick Alvarez, Board Member Michael A. Campbell, Board Member Jim Labadie, and 1st Alternate Board Member Karen O'Donnell.

OTHERS PRESENT: City Attorney Randy Mora, B.C.S., Planning Consultant Hetty C. Harmon, AICP, and City Clerk Deanne B. O'Reilly, MMC.

VACANT POSITION: 2nd Alternate Board Member.

(To provide continuity for research, items are listed in agenda order although not necessarily discussed in that order.)

3. **APPROVAL OF MINUTES: October 18, 2022**

MOTION MADE BY MEMBER ALVAREZ, SECONDED BY MEMBER LABADIE, TO APPROVE THE OCTOBER 18, 2022 BOARD OF ADJUSTMENTS AND APPEALS MINUTES AS SUBMITTED. UNANIMOUS APPROVAL BY ACCLAMATION.

4. **BOA CASE NO. 2023-01 — 2504 GULF BOULEVARD**

Owner/Applicant: Dolphin Reef Condominiums

Agent/Representative: Bear Design, LLC

Subject Location: 2504 Gulf Boulevard

Legal Description: Dolphin Reef, A Condominium Association, as recorded in Plat Book 50, Pages 74-80, of the Public Records of Pinellas County Florida

Parcel #: 01-30-14-21814-000-0001

Variance Request: Variance request from Sec. 110-314 of the Code of Ordinance to allow for an additional accessory structure with a building height of 9-feet 7¼ inches exceeding the height requirements by 1-foot 7¼ inches.

[Beginning of Staff Report]

SUBJECT: BOA CASE NO. 2023-01 – 2504 Gulf BOULEVARD

Variance request from Sec. 110-314 of the Code of Ordinance to allow for an additional accessory structure with a building height of 9 feet 7¼ inches

exceeding the height requirements by 1 foot 7¼ inches for property located at 2504 Gulf Boulevard, Indian Rocks Beach, Florida, and legally described as Dolphin Reef, A Condominium Association, as recorded in Plat Book 50, Pages 74-80, of the Public Records of Pinellas County, Florida. Parcel #01-30-14-21814-000-0001

OWNER: Dolphin Reef Condominium Assn Inc.
 PROPERTY LOCATION: 2504 Gulf Boulevard
 ZONING: CT- Commercial Tourist

DIRECTION	EXISTING USE	ZONING CATEGORY
North	Residential	CT
East	Residential	B
South	Residential	CT
West	Gulf of Mexico	N/A

BACKGROUND:

The applicant is requesting a variance for an additional accessory structure with a building height of 9 feet 7-1/4 inches exceeding the 8-foot interior wall height requirements by 1-foot 7¼ inches. The Dolphin Reef Condominium is located on 1.24 acres with 40 residential units. They presently have two gazebos and a bath building. The existing structures are in need of repair/replacement and the association has proposed to replace the structures.

The smaller gazebo is located very near the property line and the applicant is proposing to move it away from the property line, enlarge the structure to match the other gazebo, and relocate to the raised deck area. During the review stage of the project, the applicant proposed to cover the new grill area adjacent to the bathhouse and agreed that the grill area roof would replace the smaller gazebo. It was determined that if the applicant wanted to add the other gazebo the association would need to apply for a variance.

Sec. 2-152. Variances.

(a) *Generally; criteria for granting variances from the terms of subpart B.*

(1) The Board of Adjustments and Appeals shall make recommendations on and the City Commission shall decide variance applications will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of subpart B will result in unnecessary and undue hardship. In order to recommend or decide any variance from the terms of subpart B, the Board or the City Commission shall consider each of the following.

- a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. *The site consists of 1.24 acres with 40 residential units.*

- b. The special conditions and circumstances do not result from the actions of the applicant. *The applicant did not create any special conditions or circumstances.*
- c. Granting the variance will not confer on the applicant any special privilege that is denied by subpart B to other lands, structures or buildings in the same zoning district. *Granting the variance would confer special privileges to the applicant.*
- d. Literal interpretation of the provisions of subpart B would deprive other properties in the same zoning district under the terms of subpart B and would work unnecessary and undue hardship upon the applicant. *The approval of this variance request would not deprive other owners of use and enjoyment of their properties.*
- e. The variance granted is the minimum variance that will make possible the reasonable use of the land, structure or building. *This is the minimum variance to allow the owner to construct the gazebo as proposed.*
- f. The granting of the variance will be in harmony with the general intent and purpose of subpart B, and such variance will not be injurious to the area involved or be otherwise detrimental to the public welfare. *Granting the variance will not be in harmony with the general intent and purpose of subpart B.*

NOTICE: A public notice was mailed by first class mail to property owners within 150 feet in any direction of the subject property and posted on subject property on December 29, 2022, (Sec. 2-149 of the Code of Ordinances.)

CORRESPONDENCE: Mary Kay and E. J. Foody, 2504 Gulf Boulevard, Unit #204, emailed in support of the variance.

STAFF RECOMMENDATION: Based on the variance review criteria of Section 2-152, staff recommends approval of the request.

[End of Staff Report]

City Attorney Mora stated the variance application before the Board is a quasi-judicial matter, and he thereafter explained the rules for quasi-judicial matters.

City Attorney Mora asked if any Member had conducted any ex-parte communications with the applicant or their agent in advance of this evening.

All members responded negatively except for Member Alvarez, who replied in the affirmative.

City Attorney Mora stated Member Alvarez, having responded in the affirmative. He asked Member Alvarez to explain the nature of his ex-parte communication?

Member Alvarez stated he took a site visit to look at the proposed variance request.

City Attorney Mora stated he would separately ask about site visits.

City Attorney Mora asked Member Alvarez if he had spoken with the applicant or their agent about this application.

Member Alvarez stated he spoke with the on-site manager last week, maybe Wednesday (January 11th), for about five minutes more or less. He wanted to see what they were proposing to do.

City Attorney Mora asked Member Alvarez if this interaction impeded his ability to impartially adjudicate the matter presented to him.

Member Alvarez responded negatively.

City Attorney Mora stated Member Alvarez described a site visit and asked if that was on the same occasion as last week.

Member Alvarez responded that was correct.

City Attorney Mora asked what the nature of his site visit was. Did he walk the grounds? Did he look from the parking lot?

Member Alvarez stated he walked the grounds.

City Attorney Mora asked while he walked the grounds if a member or representative of the applicant escorted him.

Member Alvarez stated again only the on-site manager.

City Attorney Mora asked if this site visit in any way impaired his ability to adjudicate this matter impartially.

Member Alvarez stated none at all.

City Attorney Mora asked if any other member conducted any site visit for the purpose of evaluating the application before them. All remaining members responded negatively.

City Attorney Mora read BOA Case No. 2023-01, 2504 Gulf Boulevard, Dolphin Reef Condominiums, by title only.

City Attorney Mora duly swore in all persons planning to give testimony during the quasi-judicial proceeding.

Planning Consultant Harmon stated the applicant is requesting a variance from Section 110-314 of the Code of Ordinances to allow for an additional accessory structure with a building height of 9 feet 7¼ inches exceeding the height requirement by 1-foot 7¼ inches for the property located at 2504 Gulf Boulevard, Dolphin Reef Condominiums.

Planning Consultant Harmon showed a PowerPoint Presentation depicting aerial views of the subject property, site photos, a survey of the proposed outdoor area, proposed site

plans, the proposed gazebo, and the existing raised deck. As Planning Consultant Harmon went through the PowerPoint Presentation, she explained the variance request.

Planning Consultant Harmon stated the applicant would like to remove and enlarge the existing small gazebo, add a covered outdoor kitchen/BBQ area and a bathhouse that would all meet the setbacks, and keep the gazebo by the gulf. However, the City Code does not permit three accessory structures on a multifamily structure. Therefore, staff and the applicant agreed a variance would be required to replace and enlarge the existing 8' X 8' gazebo that is in disrepair and currently encroaches into the side setback. The size of the proposed gazebo would be 10' X 10' and would exceed the height requirement by 1-foot 7¼ inches. She explained that the deck is raised and the height dimension was taken from grade, not from the existing raised deck. The height is measured from the inside interior wall. Both of the rooftops of the gazebos will be level with each other.

Planning Consultant Harmon stated that single-family structures could have one accessory use. There may not be more than two accessory structures on-site for a total of 120 square feet for duplex and multifamily structures.

Member Campbell asked if the applicant is only allowed two outbuildings, no matter how big they are.

Planning Consultant Harmon responded that is how the City Code is written.

1st Member O'Donnell stated the applicant wants to connect the kitchen to the existing bathhouse structure and asked whether the gazebo would be connected to that kitchen in any way because it is supposed to have a roof over it.

Planning Consultant Harmon responded that the gazebo would be separate. The roof would go over the bathhouse and the grill area.

Chair DeVore confirmed that the gazebo would be strictly used for seating only.

Vice Chair Watt clarified that the variance request is for the third structure (gazebo), and it exceeds the height requirement by 1-foot 7¼ inches, and nothing else matters — the kitchen, the bathhouse, etc.

Vice Chair Watt clarified that the new structure would meet all setbacks other than the height requirement.

Steven D. Lange, 526-15th Avenue NE, St. Petersburg, Architect, Realtor, Forensic Architect, and Architect of Record, and works with David Gingerich of Bear Design, LLC, and is here today with Peter Osborne, President of the Dolphin Reef Condominium Association. The Association is seeking a variance for an accessory structure, which requires an increase in the height of 1-foot 7¼ inches. The 1-foot 7¼ inches is the height of the deck, which is three steps, putting the gazebo on top of that, which is where the extra height comes from. There is supposed to have 8 feet from the walking surface to the underside of the beam. There is an additional 1-foot 7¼ inches, and that is where that bump comes from, that extra height coming from grade up to the top of the deck. The top

of Gazebos #1 and #2 will be approximately 12.4 feet, what it is currently. The current roof pitches will be matched, and both gazebos will be 10' X 10'. Gazebo #2 that is being replaced is presently 8' X 8' and will be increased to 10' X 10' to match the other one so they look alike.

Mr. Lange stated this project has been under design, bidding, and Pinellas County Plan Review over the last year. The plans have been reviewed once, and they have responded to the plan review comments and expect review approval any day to pull the building permit. Gazebo #2 was removed from their drawings to proceed with the permitting process and seek this variance request. The Association seeks approval for the following reasons:

1. As per the application, the first site plan exhibit shows three existing roofed structures: The Association is requesting three proposed roofed structures on the second site plan exhibit. In other words, three existing roofs for three proposed roofs.
2. The existing restroom building roof will be extended to allow for a covered food prep area with counters, etc. This structure is wholly within all setbacks.
3. Gazebo #1 is out by the land-to-land seawall and is not directly part of the variance request.
4. Gazebo #2 is the object of this variance request. Currently, there is situated on the site a degraded gazebo next to the outdoor grills, which the applicant proposes to remove and slightly relocate/rebuild with the new Gazebo #2 to the west, placed on the 1-foot 7¼ high deck. The residents on and across Gulf Boulevard to the east cannot see Gazebo #2 due to the Dolphin Reef building blocking their view. Pedestrians, vehicles, and residents on and across Gulf Boulevard to the east cannot see Gazebo #2 due to the Dolphin Reef building blocking their view. An on-site thicket of trees and shrubs and a six-foot high fence separates the single-family residents to the south face away from Dolphin Reef. Beach-goers to the west primarily look at the beach and water; thus not really interested in looking at Dolphin Reef. No one will see Gazebo #2 except the residents of Dolphin Reef Condominiums.
5. As the Board can see in the pictures and drawings attached to the application and the staff report, Gazebo #2 is 10' X 10' and is see-through with 6' X 6' supporting PT posts, which support a narrow silver-colored metal roof. The proposed Gazebos #1 and #2 are the same overall heights as the existing gazebo at the land-to-land seawall.
6. If the Board reviews the Indian Rocks Beach Zoning Code, under Definitions, the definition of an "accessory structure" is provided along with the definition of a "structure." By definition Dolphin Reef currently has at least eight existing, or more legal structures on site. There are two gazebos, one restroom building, one seawall, one pool, one spa, one ground-mounted pool utility equipment, one pool sign, etc. He stated he is not trying to disparage the zoning ordinance, but he thinks there is a conflict within the City's definitions of a structure.
7. To propose a hypothetical, if this site were broken down into its previous six lots, at two accessory structures each, technically, 12 accessory structures could have been built.

8. In their review with the Planning Consultant, they have attempted to cooperate in all ways to make the design and hence the drawings, as compliant as possible, with this one variance request held in balance.
9. Dolphin Reef has 40 condominium units. Between family and friends, the number of people exceeds 80 to 100 individuals, approximately, and all are desirous of a favorable outcome to the variance request.

Member Campbell stated he did not hear the hardship of this variance. He noted a hardship is the Board's gold standard for granting a variance.

Mr. Lange stated the hardship is that Dolphin Reef currently has three accessory structures.

Member Campbell stated Dolphin Reef is currently not in compliance with the City Code, and they want to stay out of compliance.

Mr. Lange responded no. He stated when they first entered into discussions, they agreed that anything that was removed would be built back in the same place, same width, height, length, and material. They are replacing the gazebo next to the grills because of the degradation through the harsh environment. It is 8' X 8', and it would be enlarged to 10' X 10'.

Member Campbell asked if the gazebo could be repaired without a variance.

Mr. Lange responded in the negative. He stated not where it sits because it is within the setback and not repairable.

Member Campbell again asked what the hardship was.

Mr. Lange stated the hardship is that the gazebo currently sits in the side setback and is in disrepair, and they are retrying to relocate it to restore it to City Code compliance. He stated Dolphin Reef had three accessory roofed structures before, so they are asking again for them today.

Member Campbell stated the Board is also supposed to consider that it cannot give more of a variance than is necessary. So, he is curious about the applicant's considerations in not expanding the roof of the bathhouse for a further shaded area under that roof.

Mr. Lange stated it was not designed that way.

Vice Chair Watt stated the proposed plan is to have one bathhouse and two 10' by 10' gazebos that meet City Code, except for one that will exceed the height requirement by 1 foot 7¼ inches. He stated that what is currently there does not meet City Code because there are three accessory structures, and one gazebo is within the side setback. He clarified that legally, they could keep repairing it when something is out of compliance.

Planning Consultant Harmon stated that is correct, but the gazebo is in such disrepair that it cannot be repaired anymore.

Planning Consultant Harmon stated that staff recommended approval because of the number of units and the property size (number of lots). It was not proportionately represented in the City Code.

Member Campbell asked if there is any discussion to modify Sec. 110-314 of the Code of Ordinances to address large parcels of land.

CONSENSUS OF THE BOARD TO FORWARD TO THE CITY COMMISSION FOR THE PLANNING AND ZONING BOARD TO REVIEW SEC. 110-314, OF THE CODE OF ORDINANCES, RESIDENTIAL PREMISES. "IN ALL ZONES FOR SINGLE-FAMILY STRUCTURES, THE MAXIMUM SIZE FOR AN ACCESSORY STRUCTURE SHALL NOT EXCEED 120 SQUARE FEET IN FLOOR AREA AND EIGHT FEET IN INTERIOR WALL HEIGHT, EXCLUDING ROOF. FOR DUPLEX AND MULTIFAMILY STRUCTURES, THERE MAY NOT BE MORE THAN TWO ACCESSORY STRUCTURES OF A MAXIMUM OF SIXTY SQUARE FEET IN FLOOR AREA AND EIGHT FEET IN INTERIOR WALL HEIGHT EXCLUDING ROOF, OR ONE ACCESSORY STRUCTURE OF A MAXIMUM 120 SQUARE FEET IN FLOOR AREA AND EIGHT FEET IN INTERIOR WALL HEIGHT EXCLUDING ROOF. (1)ROOF REGULATIONS: ON ANY ACCESSORY STRUCTURE (STORAGE OR UTILITY) THE MAXIMUM ROOF PITCH FOR ANY STYLE ROOF (GABLE, HIP OR FLAT-PITCHED ROOF, ETC.) SHALL BE NO GREATER THAN 4/12 PITCH AND ROOF OVERHANG SHALL NOT EXCEED 12 INCHES" TO DETERMINE IF THIS SECTION SHOULD BE MODIFIED FOR LARGE PARCELS OF LAND.

There was no public comment on this BOA Case.

MOTION MADE BY MEMBER ALVAREZ, SECONDED BY MEMBER LABADIE, TO RECOMMEND TO THE CITY COMMISSION APPROVAL/DENIAL OF BOA CASE NO 2023-01 – 2504 GULF BOULEVARD, A VARIANCE REQUEST FROM SEC. 110-314, OF THE CODE OF ORDINANCE, TO ALLOW FOR AN ADDITIONAL ACCESSORY STRUCTURE WITH A BUILDING HEIGHT OF 9 FEET 7-1/4 INCHES EXCEEDING THE HEIGHT REQUIREMENTS BY 1 FOOT 7-1/4 INCHES FOR PROPERTY LOCATED AT 2504 GULF BOULEVARD, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS DOLPHIN REEF, A CONDOMINIUM ASSOCIATION, AS RECORDED IN PLAT BOOK 50, PAGES 74-80, OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA.

ROLL CALL VOTE:

AYES: ALVAREZ, CAMPBELL, LABADIE, WATT, DEVORE

NAYS: NONE

THE MOTION TO RECOMMEND APPROVAL TO THE CITY COMMISSION CARRIED UNANIMOUSLY.

City Attorney Mora stated, for the record, pursuant to Sec.13.3(d) of the City Charter, "The approval of any amendment to the comprehensive plan or code of ordinances, variance, special exception, planned unit development (PUD), development agreement, development site plan or conditional use permit authorizing or approving any increase in development

density or intensity, maximum building height, or floor area ratio shall require a favorable vote of four (4) or more members of the city commission to be approved."

5. OTHER BUSINESS.

A. CITY COMMISSION ACTION:

- 1. BOA CASE NO. 2022-13 — 525- 20th Avenue. APPROVED BY CITY COMMISSION.**

City Clerk O'Reilly stated there will be Board of Adjustments and Appeals Meeting on February 21, 2023.

6. ADJOURNMENT.

MOTION MADE BY MEMBER ALVAREZ, SECONDED BY COMMISSIONER LABADIE, TO ADJOURN THE MEETING AT 6:28 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.

February 21, 2023

Date Approved

Stewart DeVore, Chair

/DOR



**2504 GULF BLVD
BOA CASE NO. 2023-01**



BOA CASE NO. 2023-01 – 2504 Gulf Blvd
Variance request from Sec. 110-314, of the Code of Ordinance, to allow for an additional accessory structure with a building height of 9 feet 7-1/4 inches exceeding the height requirements by 1 foot 7-1/4 inches for property located at 2504 Gulf Blvd, Indian Rocks Beach, Florida, and legally described as Dolphin Reef, A Condominium Association, as recorded in Plat Book 50, Pages 74-80, of the Public Records of Pinellas County, Florida.



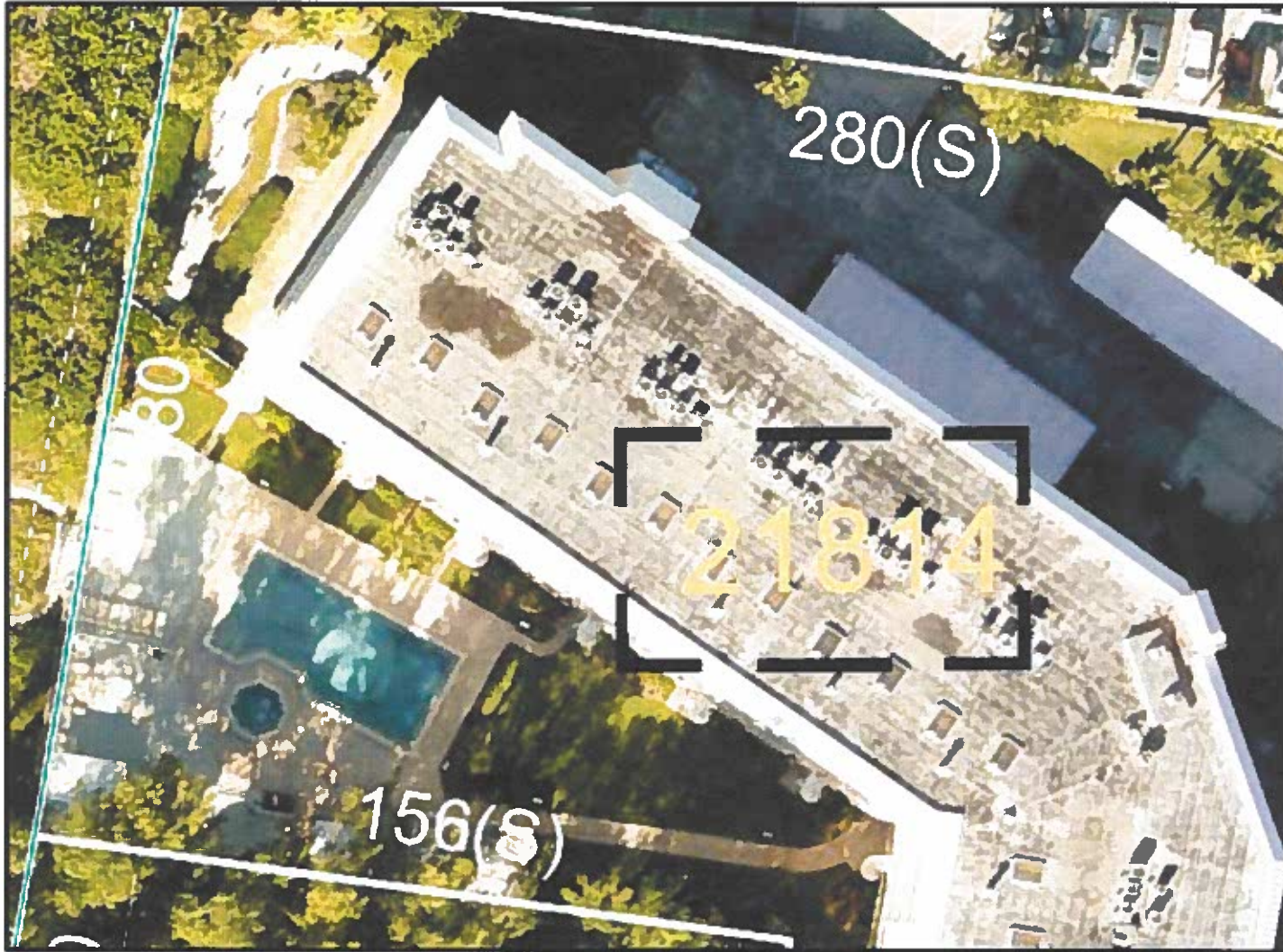
2504 Gulf Blvd



2504 Gulf Blvd



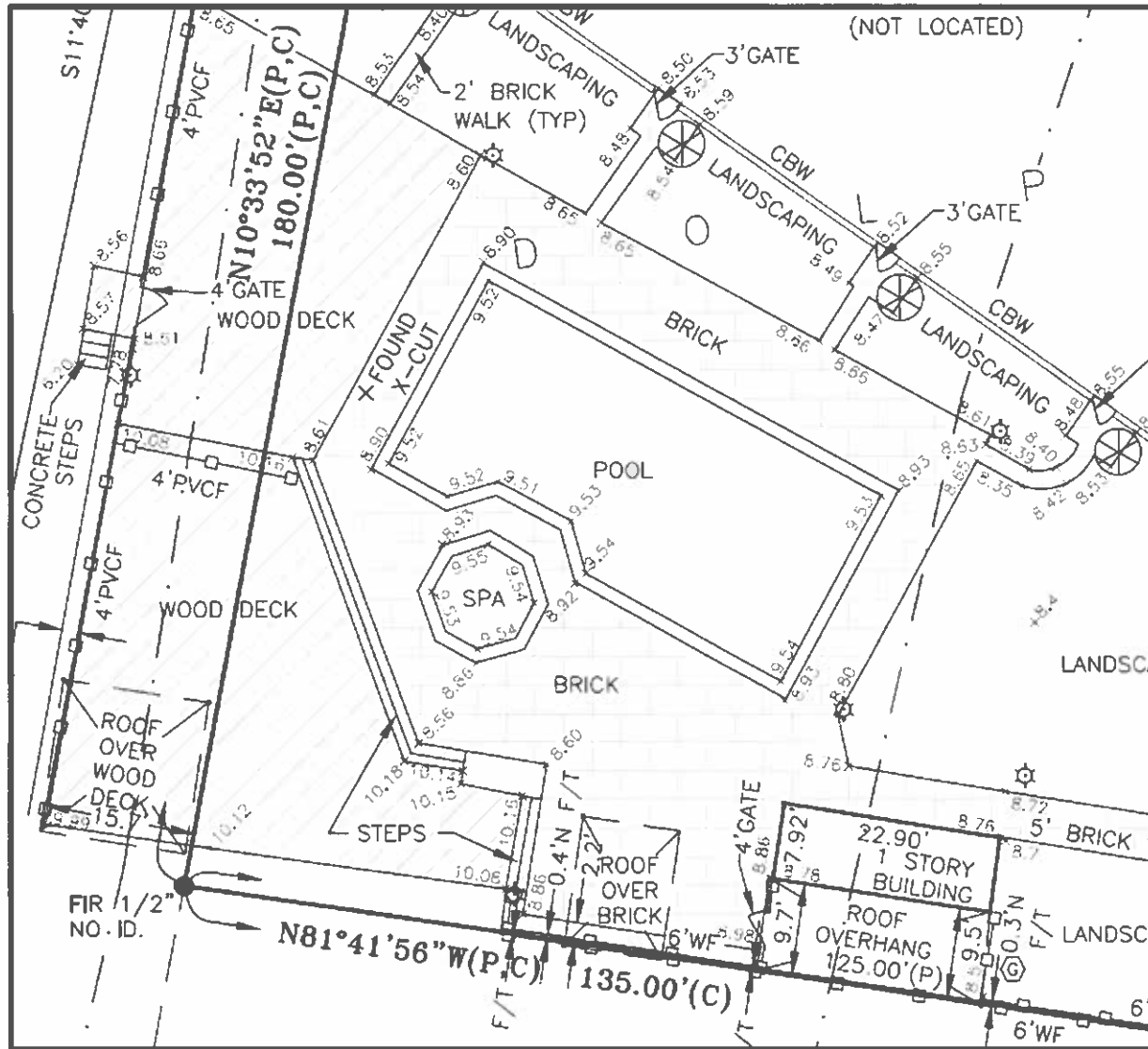
2504 Gulf Blvd



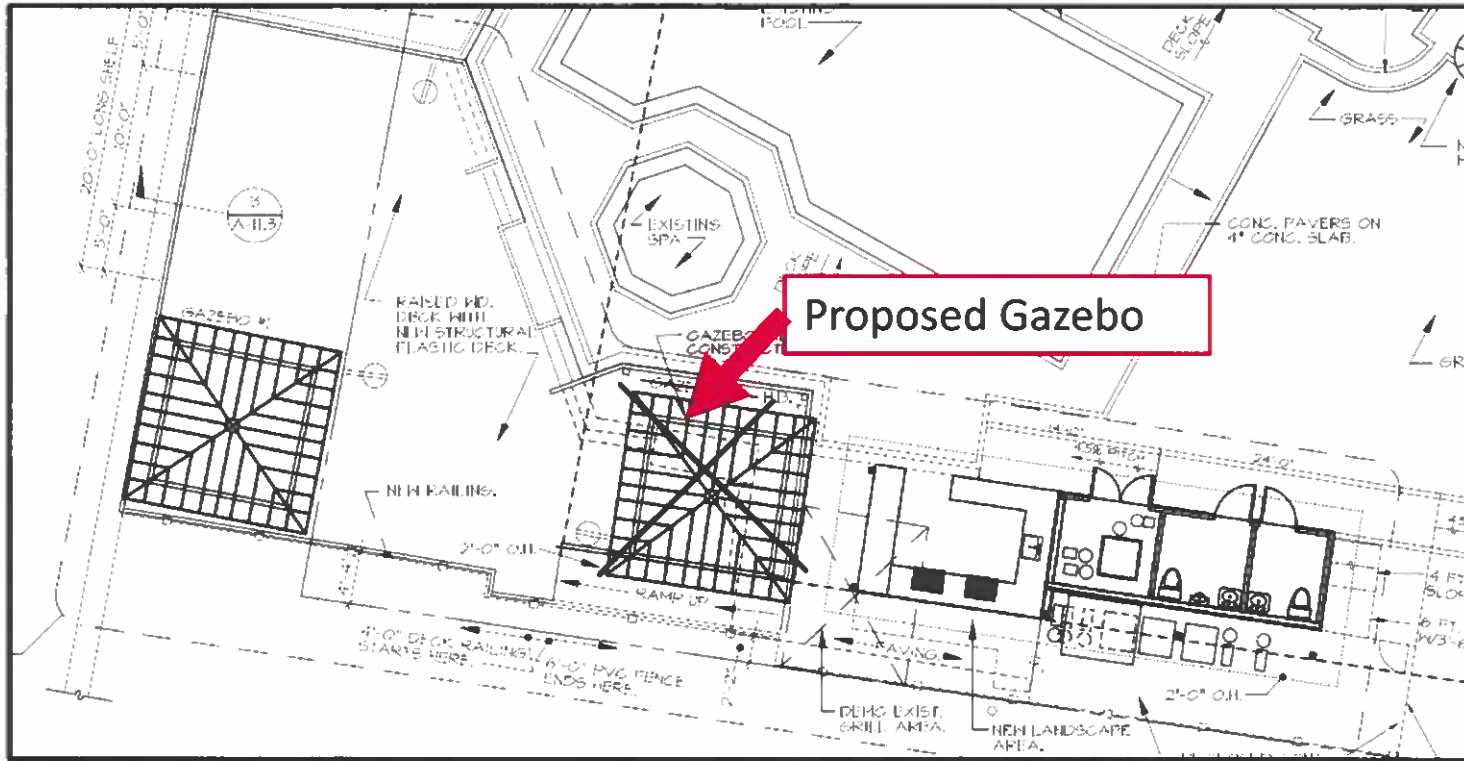
Site Photos



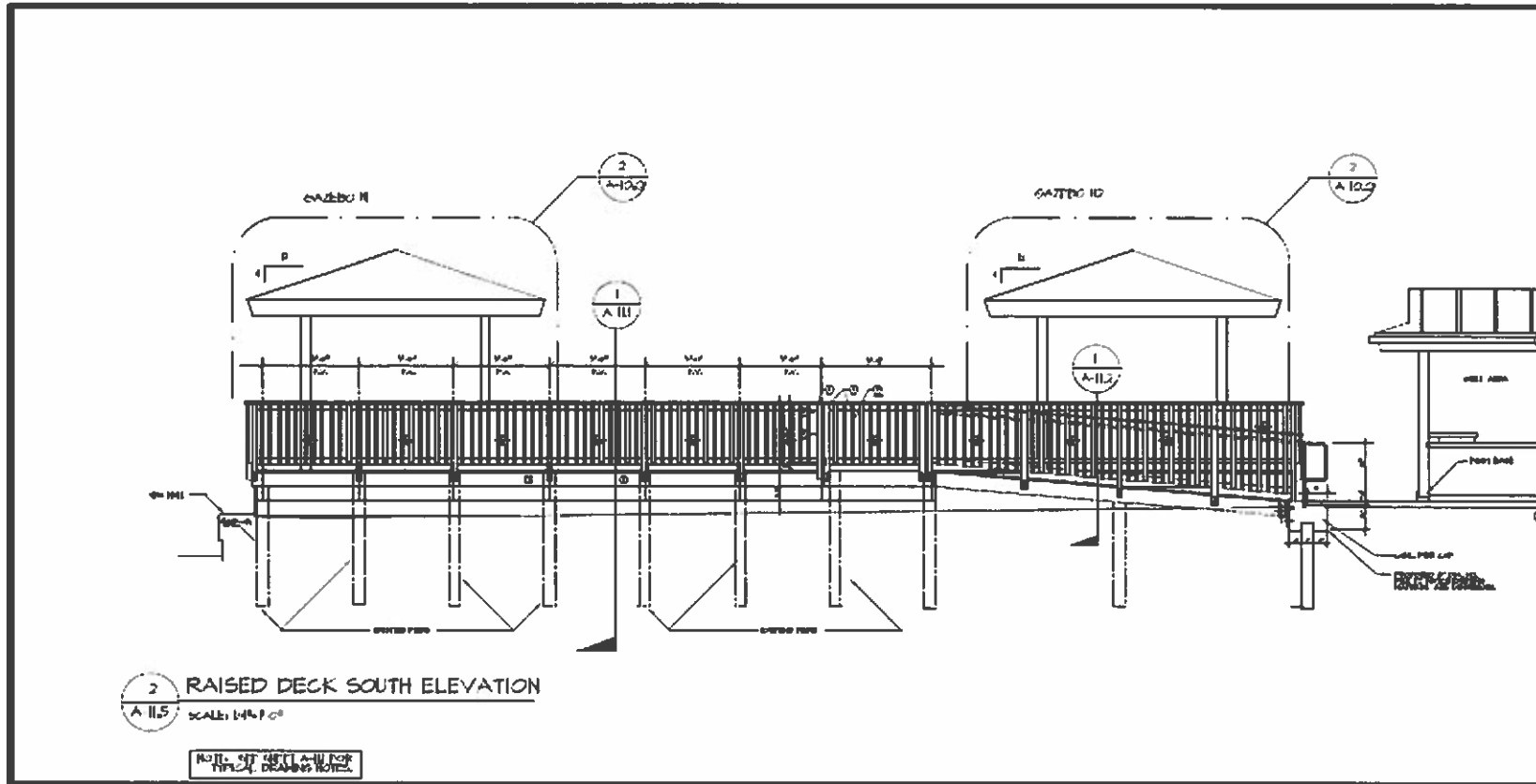
Survey



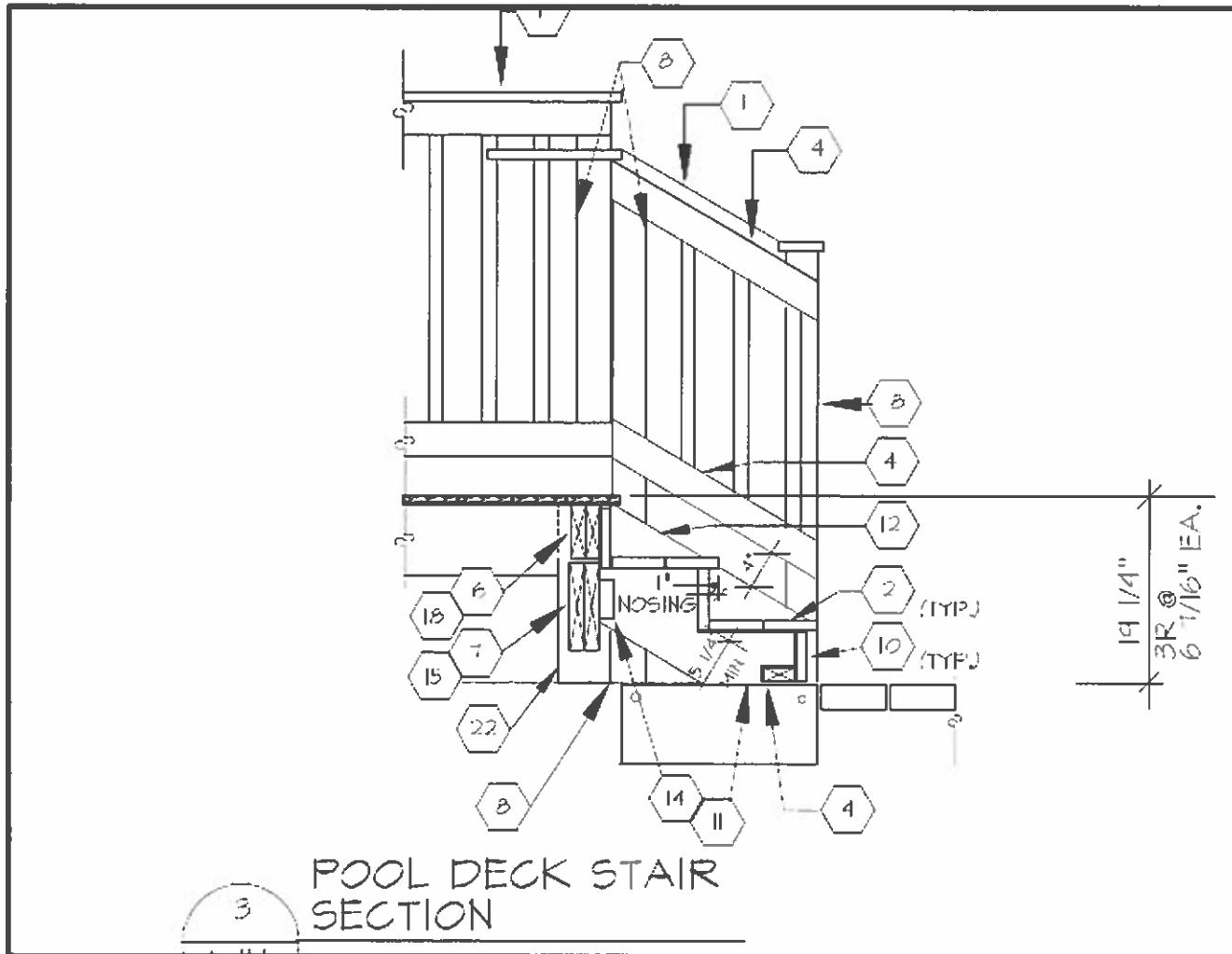
Proposed Site Plan



Proposed Site Plan



Existing Raised Deck



RECEIVED
City Manager's Office

NOV 14 2022

APPLICATION FOR VARIANCE

CITY OF INDIAN ROCKS BEACH PLANNING AND ZONING

City of Indian Rocks Beach

Enquiries City Hall: 727.595.2517 or Hetty Harmon: 863.646.4771 x211 Email: hharmon@ircbity.com
Address: 1507 Bay Palm Boulevard, Indian Rocks Beach, FL 33785

For Office Use Only

Application No. 2023-01

Date Received 11.14.2022

APPLICANT

Name: PETER OSBORNE
Address: 2504 GULF BLVD
City: INDIAN ROCKS BEACH
Zip Code: 33785
Tel: 813-417-3967
Fax: N/A
Mobile: 813-417-3967
Email: PETER.OSBORNE@GMAIL.COM

AGENT/REPRESENTATIVE

Name: STEVEN D. LANGE, R.A.
Company: BEAR DESIGN, LLC
Address: 1878 EMORY DRIVE
City: CLEARWATER
Zip Code: 33765
Tel: 727-773-6802
Fax: ~~727-331-1809~~ N/A
Mobile: 727-773-6802
Email: ~~727-331-1809~~ THE LANGE CORPORATION @GMAIL.COM

SITE DETAILS

Address: 2504 GULF BLVD. Parcel ID: 01-30-14-21814-000-0001
City: INDIAN ROCKS BEACH Zip Code: 33785
Legal Description: DOLPHIN REEF, A CONDOMINIUM, AS RECORDED IN CONDOMINIUM PLAT BOOK 50, PAGE 74, PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA.
Zoning: C.T. COMMERCIAL TOURIST Future Land Use: RESID. RESORT FACILITIES HIGH = RPH
Size: 54,231 S.F. = 1.2444 ACRES

SITE DETAILS CONTINUED...

Does applicant own any property contiguous to the subject property? Yes No

If yes, provide address and legal description:

[Empty box for address and legal description]

Have previous applications been filed for this property? Yes No

If yes, describe:

[Empty box for description]

Has a certificate of occupancy or completion been refused? Yes No

If yes, describe:

[Empty box for description]

Does any other person have ownership or interest in the property? Yes No

If yes, is ownership or interest contingent or absolute:

DOLPHIN REEF, A CONDOMINIUM, ASSOC., INC.
(40 RESIDENTS/UNITS)

Is there an existing contract for sale on the property? Yes No

If yes, list all parties on the contract:

[Empty box for parties on contract]

Is contract conditional or absolute? N/A Conditional Absolute

Are there options to purchase? N/A Yes No

VARIANCE REQUEST

Regulation	Required	Proposed	Total Requested
Gulf-front setback (feet):	[Empty box]	[Empty box]	N/A
Bay-front setback (feet):	[Empty box]	[Empty box]	N/A
Alley setback (feet):	[Empty box]	[Empty box]	N/A

VARIANCE REQUEST CONTINUED...

Regulation	Required	Proposed	Total Requested
Rear-no alley setback (feet):			N/A
Rear-north/south street (feet):			N/A
Street-front setback (feet):			N/A
Side-one/both setback (feet):			N/A
Minimum green space (%):			N/A
Habitable stories (#):			N/A
Minimum lot size (sq. ft.):			N/A
Building height (feet):			N/A
Off-street parking (spaces):			N/A
ISR (%):			N/A
FAR (%):			N/A
Dock length (feet):			N/A
Dock width (feet):			N/A
Signage (#):			
Accessory structure (sq. ft.):	10	100	100
Accessory structure height (feet):	8'	9' 7-1/4"	1' 7-1/4"
Lot size (sq. ft.):	54,231 SF (EXIST.)	54,231 SF (EXIST.)	EXISTING

Other:

What is the proposed use of the property?

HARDSHIP

A variance is granted on the basis of evidence being presented that justifies an undue and unnecessary hardship upon the applicant; a hardship that prevents reasonable use of the property. The following criteria, set forth in Code Section 2-152, Variances, will be used to evaluate the request for variance in order to determine if a hardship is present and if the variance will impact the overall public welfare.

Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district:

1. EXISTING ROOFED STRUCTURES = 8; PROPOSED ROOFED STRUCTURES = 3;
2. "TOTAL" EXISTING & PROPOSED STRUCTURES BASED ON SEC. 110-1. DEFINITIONS = 7; THEY ARE BATHROOM BUILDING, SHADE GAZEBO AT SEAWALL, GRILL GAZEBO, POOL, SPA, POOL/SPA SIGNS, POOL EQUIPMENT.

Special conditions and circumstances do not result from the actions of the applicant:

ALL STRUCTURES (7) ABOVE ARE EXISTING & CONSTRUCTED BY PERMIT. OUR REQUEST INTENDS TO MATCH EXISTING CONDITIONS.

Granting this variance will not confer on the applicant any special privilege that is denied by the chapter to other lands, structures or buildings in the same zoning district:

DOLPHIN REEF VARIANCE REQUEST IS NOT FOREIGN TO SIMILAR REQUESTS BY OTHER PROPERTIES/USES IN THE SAME ZONING DISTRICT. ALL STRUCTURES ARE NORMAL USES/STRUCTURES FOR CONDOMINIUM POOL/POOL DECK AREAS.

The literal interpretation of the provisions of Subpart B, Code Sections 78 through 110, would deprive other properties in the same zoning district under the terms of Subpart B and would work unnecessary and undue hardship upon the applicant:

SEE DOLPHIN REEF "VARIANCE NARRATIVE" FOR FURTHER ELUCIDATION. (ATTACHED)

HARDSHIP CONTINUED...

The variance granted is the minimum that will make possible the reasonable use of the land, structure or building:

OUR VARIANCE REQUEST SEEKS TO MAINTAIN EXISTING CONDITIONS.

The granting of the variance will be in harmony with the general intent and purpose of Subpart B and such variance will not be injurious to the area involved or be otherwise detrimental to the public welfare:

YES, WE AGREE

I (we) believe the Board of Adjustment and Appeals and the City Commission should grant this application because:

GAZBOO # 2 IS 10-X-10 @ 12.4 HIGH - MATCHING THE EXISTING GAZBOO #1. OR, 100 S.F FOOTPRINT. THE GAZBOO # 2 CONSISTS OF (A) 6X6 P.T. ROOF SUPPORT POSTS & A SHALLOW/LOW METAL ROOF - ALL OF WHICH WILL REPLACE AN AGED STRUCTURE & BE CODE COMPLIANT MEETING THE 2020 EDITION OF FLA. BLDG. CODE FOR WIND & OTHER BUILDING LOADS (WHICH THE CURRENT GAZBOOS DO NOT).

NOTE # 1: SEE SEC. 110.-1. - DEFINITIONS (ATTACHED) FROM THE INDIAN ROCKS BEACH MUNICODE.

NOTE # 2: SEE DOLPHIN REEF "VARIANCE NARRATIVE" (ATTACHED).

CERTIFICATION

Date: 11.14.2022

I hereby certify that I have read and understand the contents of this application, and that this application together with supplemental data and information, is a true representation of the facts related to the request; that this application is filed with my approval, as owner, evidenced by my signature appearing below.

It is hereby acknowledged that the filing of this application does not constitute automatic approval of the request. Further, if the request is approved, I will obtain all necessary permits and comply with all applicable orders, codes, conditions and regulations pertaining to the use of the property.

I hereby grant authorization to any city official to inspect, as reasonable times, the site of the request.

Before me this date personally appeared:

Name: Peter Osborne

Signature: [Signature]

Personally known/Form of Identification D.L.

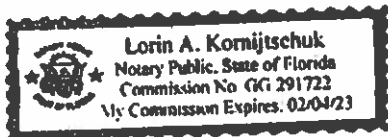
Who, being first duly sworn, deposes and attests that the above is a true and correct certification.

Sworn to and subscribed before me this: Day: 14 Month: November, 20 22

Notary Public State of Florida at Large: Lorin A. Kornijtschuk

Notary Public Commission Expiration: 2/4/2023

State of Florida
County: Pinellas



APPLICATIONS FILED BY CORPORATIONS MUST BEAR THE SEAL OF THE CORPORATION OVER THE SIGNATURE OF AN OFFICER AUTHORIZED TO ACT ON BEHALF OF THE CORPORATION.

AGENT OF RECORD

Date: 11/14/22

I, Peter Osborne do hereby designate and appoint

STEVEN D. LANGE as my agent of record for the purposes of representing me during the Planning and Zoning Department's review process of my application. My agent of record is hereby vested with authority to make any representations, agreements or promises, which are necessary or desirable in conjunction with the review process. My agent of record is authorized to accept or reject any conditions imposed by any reviewing board or entity.

Name: Peter Osborne Signature: [Signature]

My agent of record may be contacted at:

Company: THE LANGE CORPORATION, ARCHITECTS

Address: 526-15th Ave. N.E.

City/State: ST. PETERSBURG, FL. Zip Code: 33704

Telephone: (727) 331-1809 Fax: N/A

Before me this date personally appeared:

Name: Peter Osborne

Signature: [Signature]

Personally known/Form of Identification D.L

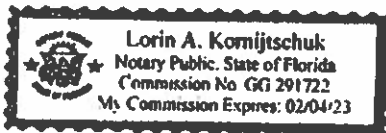
Who, being first duly sworn, deposes and attests that the above is a true and correct certification.

Sworn to and subscribed before me this: Day: 14 Month: November, 20 22

Notary Public State of Florida at Large: Lorin A. Kornijtschuk

Notary Public Commission Expiration: 2/4/23

State of Florida
County: Pinellas



EXISTING

(3) ROOF STRUCTURES

SEC. 1, TWP. 30 S., RNC. 14 E.
PINELLAS COUNTY, FLORIDA



Vertical text on the left side of the survey, likely a title block or project information, partially obscured and difficult to read.

SEAWALL

SPA POOL

RESTROOM BUILDING (ROOF)

GAZEBO #1 (ROOF)

GAZEBO #2 (ROOF)

POOL EQUIPMENT

SURVEY

LEGAL:

- SECTION 14.01, F.S. 174
 THIS PLAN, SPECIFICATIONS, CONTRACTS, ORDINANCES, RULES AND REGULATIONS, AND ALL OTHER DOCUMENTS PERTAINING TO THIS PROJECT, SHALL BE CONSIDERED TO BE PART OF THIS PLAN.
1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPLICABLE AGENCIES.
 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPLICABLE AGENCIES.
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 16. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPLICABLE AGENCIES.

NO.	DESCRIPTION	DATE	BY
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DEUEL & ASSOCIATES
CONSULTING ENGINEERS LAND SURVEYORS LAND PLANNERS


200 SOUTH HIGHLAND AVENUE
DUNEDIN, FL 33511
PHONE 732-822-1111
WWW.DEUEL-ASSOCIATES.COM
COMMUNITY OF PROFESSIONAL ENGINEERS
LICENSE NUMBER 149

TOPOGRAPHIC SURVEY
2504 GULF BOULEVARD
ROCKS BEACH
COPY OF RECORD

DATE OF SURVEY
BY
CHECKED BY
DATE OF PLOTTING

DATE OF SURVEY
BY
CHECKED BY
DATE OF PLOTTING

BEAR DESIGN, LLC
 David B. Engerich, AIA
 44 3669 8900
 Building
 12756-2623
 OLAHATTA, FLORIDA
 (771) 771-8802

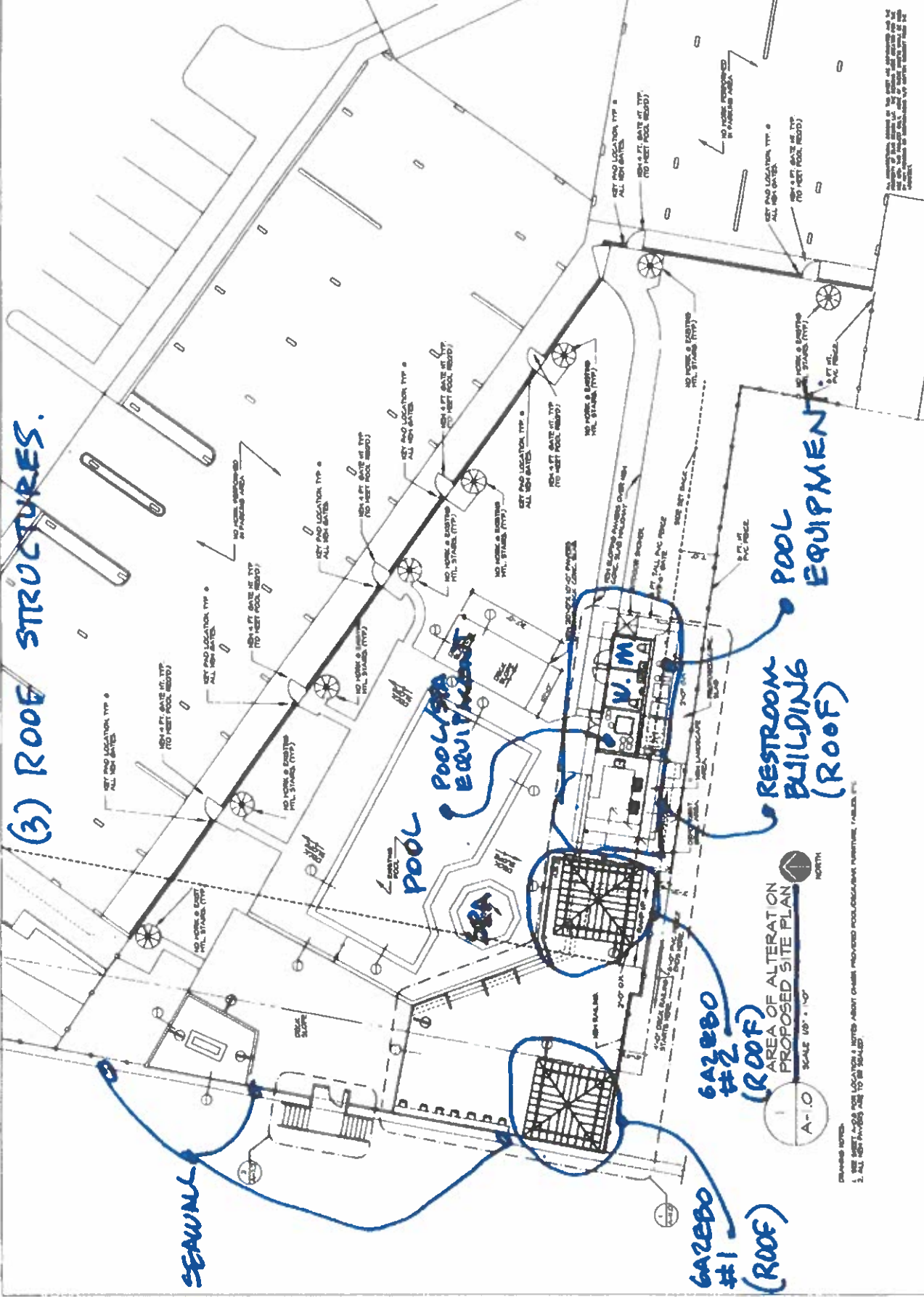


DOLPHIN REEF
 PATIO POOL RENOVATION
 2504 GULF BLVD.
 INDIAN ROCKS BEACH, FL.

REVISIONS	BY

DESIGN	DATE	SCALE	SHEET
REV	09/24/22	1/8" = 1'-0"	A-10

((PROPOSED))
(3) ROOF STRUCTURES.



GENERAL NOTES:
 1. SEE SET, AND FOR LOCATIONS, NOTES ABOUT OTHER PROVIDED POLYURETHANE FURNITURE, TABLES, ETC.
 2. ALL DISTANCES ARE TO BE DOUBLE.



SPA

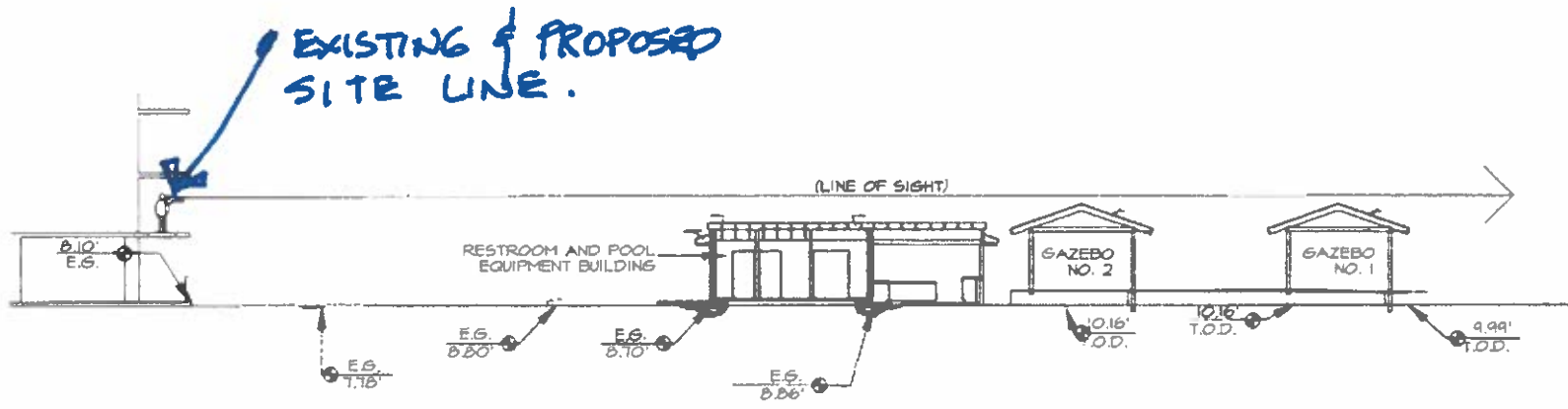


4 FT

9 FT

POOL

EXISTING AND
PROPOSED SIZE/
SHAPE OF GAZEBOS
#1 & #2.



BEAR Design, LLC.
 David B. Crigger, A.I.A.
 A. 10000
 2504 GULF BLVD.
 INDIAN ROCKS BEACH, FL 33408
 (561) 213-1800



**DOLPHIN REEF
 PATIO POOL RENOVATION
 2504 GULF BLVD.
 INDIAN ROCKS BEACH, FL.**

REVISIONS	BY

DATE	3/20/23
SCALE	1/8" = 1'-0"
JOB NO.	
SHEET	A-0.5
SHEET	5 OF 5

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"Variance Narrative"

This variance narrative is being written by Steven D. Lange, Architect, on behalf of Bear Design, LLC for Dolphin Reef, A Condominium. The request is to allow more than two accessory "structures" housed on the same site as the primary use building; which is, an existing 40 unit condominium building.

The request for a variance to the number of accessory structures comes at the suggestion of the Zoning Consultant to the City of Indian Rocks Beach. The narrative below will address our request for Gazebo # 2, including the following list of conditions and our responses:

Conditions and Our Responses (In RED):

1. Number and type of existing and proposed on-site "structures".

Response:

There are currently seven (7) existing on-site "structures" as per the Indian Rocks Beach Municode Section 110 – 1. – Definitions: Which are: the existing pool Bathroom Building (Men's and Women's Restroom plus the Pool/Spa equipment Room); the Grill Gazebo; the Seawall Gazebo; the spa; the pool; the pool equipment; pool signs; Further, the proposed number of "structures" will match the existing number of structures.

2. The see through visibility of the open air Gazebo # 2 (which is identical to Gazebo # 1).

Response:

Gazebo # 2 is identical to Gazebo # 1 (located adjacent to the seawall) in size, square feet, height, etc. Both Gazebos are 10' X 10' in size and both are 12.4' high and are actually very small. The four (4) Gazebo support posts are 6 X 6 PT posts which allows total visibility through/under the Gazebo Roof. The roof is a low profile metal roof, silver colored, which tends to blend in with the skyline. The two Gazebos are minimally visible in terms of being a solid mass; such as a four walled building with a larger roof, and this is the crux of our position. A low profile structure (like an in-ground pool or in-ground spa) and these two small Gazebos should not be considered on the same perception/interpretation ~~and~~ a true four walled building structure as an "accessory structure".

AS

3. The inability of the surround community to see Gazebo # 2.

Response:

The total inability of the surrounding property owners to the east and north sides of Dolphin Reef being able to see Gazebo # 2 due to the location and size of the Dolphin Reef Condominium Building itself. This includes the inability of pedestrians or motorist (to the east) on Gulf Boulevard being able to see Gazebo # 2. To the west is the Gulf of Mexico with beach goers who should not object to a Gazebo on the beach which is a normal structure to see along beaches. To the south is a single family residence which faces southward with the back of the house abutting Dolphin Reef. Between the house to the south and Dolphin Reef is a six foot Dolphin Reef fence and a barrier of large shrubs and tall Australian pine trees between the house and Dolphin Reef further obscuring their ability to see the Dolphin Reef pool area decks?

4. The desire of the 40 unit condominium to have Gazebo # 2 as part of their shade structure opportunity; as one 10' x 10' shade structure (Gazebo # 1) cannot serve the needs of the forty unit owners which includes spouses, family and guests.

Response:

The forty (40) unit owners along with spouses and children, all residents of Indian Rocks Beach, wish to have this Gazebo # 2 structure as they have always had a Gazebo structure in its place previously.

Sec. 110-1. - Definitions.

[SHARE LINK TO SECTION](#)[PRINT SECTION](#)[DOWNLOAD \(DOCX\) OF SECTION](#)[EMAIL SECTION](#)[COMPARE VERSIONS](#)

Accessory building or structure means a building or structure, the use of which is clearly subordinate or incidental to but customarily related to that of the main building and which is located on the same lot as the main building or structure to which the accessory is subordinate.

Accessory or ancillary use means use of a building, structure or property which is of a nature clearly subordinate or incidental to but customarily related to and serves the principal use of the building, structure or property permitted in the zoning district which it is established.

Structure means anything constructed or erected in or on the ground or attached to anything in or on the ground, including but not limited to buildings, sheds, shelters, gazebos, trellises, walls, poles, signs, seawalls, swimming pools and aboveground exterior mechanical equipment, such as air conditioning compressors, pool filters, fans, pumps and tanks, but not including fences. The term "structure" includes the term "building."

Dolphin Reef: Variance request Hearing on January 17, 2023

Hello, my name is Steven D. Lange, I'm an Architect, Realtor and Forensic Architect. I work with the Architect of Record, Mr. David Gingerich of Bear Design, LLC. I am here today with Mr. Peter Osborne, President for the Association for Dolphin Reef Condominiums, located at 2504 Gulf Boulevard. I am their authorized agent. We are here this evening seeking a Variance for an accessory structure which requires an increase in height of 1' – 7 1/4".

This project has been under design, bidding and Pinellas County Plan Review, sequentially speaking, over the last year. Our Plans have been reviewed once and we have responded to the plan review comments and expect to receive approval any day now in order to pull the building permit. Gazebo # 2 was removed from our drawings in order for us to proceed with the permitting process and in order to seek this variance request. We seek approval for the following reasons:

1. As per our application the first site plan exhibit shows three existing roofed structures. We are requesting on the second site plan exhibit three proposed roofed structures. In other words, three existing roofs for three proposed roofs.
2. The existing restroom building roof will be extended to allow for a covered food prep area with counters, etc. This structure is wholly within all setbacks, which is to say, the allowable building area.
3. Gazebo # 1 is out by the land to land seawall and is not part of the variance request directly.
4. Gazebo # 2, is the object of this evening's variance request. Currently today, there is situated on the site, a degraded Gazebo, next to the outdoor grills, which we have proposed to remove and slightly relocate/rebuild with the new Gazebo # 2 to the west, placed on the 1' – 7 1/4" high deck. The residents located on the property to the north cannot see Gazebo # 2 due to the Dolphin Reef building blocking their view. Pedestrians, vehicles and residents located on and across Gulf Boulevard to the east cannot see Gazebo # 2 due to the Dolphin Reef building blocking their view. The single family residence to the south faces away from Dolphin Reef and is separated by an on-site thicket of trees and shrubs as well as a six foot high fence. Beachgoers to the west primarily are looking at the beach and water,

thus not really interesting in looking at Dolphin Reef. Thus, virtually no one will see Gazebo # 2 except the residents of Dolphin Reef Condominiums and they want to.

5. As you can see in the pictures and drawings attached to our application and the staff report, Gazebo # 2 is 10' X 10' wide and long. You can see through this Gazebo, from all directions, and the supporting posts are simply 6 X 6 PT posts which supports a narrow silver colored metal roof. The proposed Gazebos # 1 and # 2 are the same overall height as the existing Gazebo is out at the land to land seawall. So no increase in the height of the two (2) proposed Gazebos.
6. If you review the Indian Rocks Beach Zoning Ordinance under Definitions, copies of which are attached to our Variance Request Application, the definitions of an "accessory structure" is provided along with the definition of a "structure". By definition we currently have at least eight (8) existing, or more, legal structures on site. These are gazebos (2), restroom building (1), seawall (1), pool (1), spa (1), ground mounted pool utility equipment (1), pool signs (1), etc.
7. To propose a hypothetical, if this site were to be broken down to its previous six lots, at two accessory structures each, technically twelve (12) accessory structures could have been built. A stretch I know. But, I am just saying.
8. In our work and review with Hetty Harmon, we have attempted to cooperate in all ways to make the design, and hence our drawings, as compliant as possible; with this one variance request held in the balance. We have worked closely, and successfully to date. I think she would agree.
9. In your files were noted two emails of support for granting this variance request. No objections to this variance request, from any source, were noted in the staff report.
10. Dolphin Reef has 40 condominium units. Between family and friends the number of people exceeds 80-100 individuals (approximately) and all are desirous of a favorable outcome to our variance application request.
11. Staff is recommending approval.
12. I will be glad to answer any questions. Thank you for your time.

AGENDA ITEM NO. 7

OTHER LEGISLATIVE MATTERS:

None

AGENDA ITEM NO. 8

WORK SESSION ITEMS:

None

AGENDA ITEM NO. 9

OTHER BUSINESS

AGENDA ITEM NO. 10

ADJOURNMENT.