

ORDINANCE NO. 2004-115

2004 AM 8:50

2004 DEC 20 AM 8:50

W. E. RUSSELL  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FL

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AN ORDINANCE OF THE COUNTY OF SARASOTA, FLORIDA, AMENDING THE OFFICIAL ZONING ATLAS, AS PART OF SARASOTA COUNTY ORDINANCE NO. 2003-052, CODIFIED IN APPENDIX A TO THE SARASOTA COUNTY CODE, RELATING TO ZONING WITHIN THE UNINCORPORATED AREA OF SARASOTA COUNTY; PROVIDING FINDINGS; PROVIDING FOR AMENDMENT OF THE ZONING ATLAS; PROVIDING RESTRICTIONS, STIPULATIONS AND SAFEGUARDS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA:

Section 1. Findings. The Board of County Commissioners, hereinafter referred to as the "Board," hereby makes the following findings:

- A. The Board has received and considered the report of the Sarasota County Planning Commission concerning Rezoning Petition No. 04-36, requesting rezoning of the property described herein.
- B. The Board has held a public hearing on the proposed rezoning of the property described herein in accordance with the requirements of Sarasota County Ordinance No. 2003-052, codified in Appendix A of the Sarasota County Code (hereinafter "the Zoning Ordinance"), and has considered the information received at said public hearing.
- C. The rezoning herein granted is consistent with the Sarasota County Comprehensive Plan and meets the requirements of the Zoning Ordinance.
- D. Pursuant to the provisions of Article VII of Chapter 94 of the Sarasota County Code, an evaluation has been completed of the impacts that the proposed rezoning of the property described herein will have on the levels of service for parks, drainage, solid waste, roads, mass transit and water and sewer systems. With the exception of the provisions of Section 3 of this Ordinance, adequate levels of service are anticipated to be available.

Section 2. Amendment of the Zoning Ordinance. The Official Zoning Atlas, adopted under Article 4 of the Zoning Ordinance, is hereby amended by changing the zoning district classification for 3.46 acres ± from District RMF-3 (Residential, Multi-Family, 13 units/acre) to District RMF-3/PUD (Residential, Multi-Family, 13 units per acre/Planned Unit Development) for the following described property located in Sarasota County, Florida:

The legal description of said property in Sarasota County, Florida being: East of Midnight Pass Road and ½ mile north of Stickney Point Road, being more particularly described as

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CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA

follows;

**PARCEL 1:**

COMMENCE AT A POINT ON THE EASTERLY RIGHT OF WAY LINE OF MIDNIGHT PASS ROAD AND THE LINE DIVIDING LOTS 6 AND 7, GULF VIEW SUBDIVISION, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 1, PAGE 177, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA, SAID POINT BEING MARKED BY A CONCRETE MONUMENT; THENCE EASTERLY ALONG THE LINE DIVIDING LOTS 6 AND 7 OF SAID GULF VIEW SUBDIVISION, 425 FEET TO A POINT; THENCE SOUTHERLY AND FORMING AN INTERIOR ANGLE OF 90 DEGREES FROM THE PRECEDING LINE A DISTANCE OF 240 FEET TO A POINT, SAID POINT BEING 40 FEET SOUTH OF THE LINE DIVIDING LOTS 5 AND 6 OF SAID GULF VIEW SUBDIVISION; THENCE WESTERLY AND FORMING AN INTERIOR ANGLE OF 90 DEGREES FROM THE PRECEDING LINE, ALONG A LINE PARALLEL TO AND 40 FEET SOUTH OF THE SOUTH LINE DIVIDING SAID LOTS 5 AND 6 OF SAID GULF VIEW SUBDIVISION, A DISTANCE OF 430 FEET MORE OR LESS TO A POINT ON THE EASTERLY RIGHT OF WAY OF MIDNIGHT PASS ROAD, SAID POINT BEING MARKED BY A CONCRETE MONUMENT; THENCE NORTHERLY ALONG THE EASTERLY RIGHT OF WAY OF MIDNIGHT PASS ROAD A DISTANCE OF 241.6 FEET, MORE OR LESS TO THE POINT OF BEGINNING.

**PARCEL 2:**

THAT PORTION OF LOT 6 AND THE NORTHERLY 40 FEET OF LOT 5, GULF VIEW SUBDIVISION, RECORDED IN PLAT BOOK 1, PAGE 177, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA, LYING EASTERLY OF MIDNIGHT PASS ROAD (S.R. 789); LESS THAT PORTION THEREOF DEEDED TO EARL P. SHAPLAND ON APRIL, 23, 1979, RECORDED IN OFFICIAL RECORDS BOOK 1301, PAGE 1256-1258, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA; TOGETHER WITH THOSE CERTAIN EASEMENTS RESERVED IN DEED TO EARL P. SHAPLAND, WHICH SAID EASEMENTS ARE SPECIFICALLY BEING CONVEYED HEREIN AS FOLLOWS; A 20' EASEMENT ALONG THE NORTHERLY LINE OF THE PROPERTY CONVEYED TO

EARL P. SHAPLAND, SAID EASEMENT FOR PURPOSES OF VEHICULAR AND PEDESTRIAN INGRESS AND EGRESS ACCESS FOR UNDERGROUND SEWER, WATER AND UTILITY LINES, TOGETHER WITH THE RIGHT TO USE THE WELL AND PUMPING EQUIPMENT CONVEYED TO EARL P. SHAPLAND WITH THE RIGHT TO REPAIR, REPLACE AND MAINTAIN SAID PUMPING EQUIPMENT; SUBJECT TO AN EASEMENT GRANTED TO W.C.I.N.D. RECORDED IN OFFICIAL RECORDS BOOK 768, PAGE 41, PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA; ALSO SUBJECT TO AN EASEMENT GRANTED TO FLORIDA POWER AND LIGHT COMPANY RECORDED IN OFFICIAL RECORDS BOOK 1102, PAGE 343, PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA; TOGETHER WITH ALL TENEMENTS, HEREDITAMENTS, APPURTENANCES AND ALL RIPARIAN RIGHTS BELONGING THERETO OR IN ANYWISE APPERTAINING.

Section 3. Restrictions, Stipulations and Safeguards. As used in the stipulations hereinafter set forth, the term "Owner" shall refer to the owner or owners of the property described in Section 2 and their successors and assigns. Upon recording in the public records of Sarasota County, these stipulations shall be covenants running with the land. The use of the property described in Section 2 of this Ordinance, in addition to the applicable restrictions imposed by the Zoning Ordinance, is hereby further limited by and subject to the following restrictions, stipulations and safeguards:

1. Development shall take place in substantial accordance with the Development Concept Plan dated October 27, 2004, (attached hereto as Exhibit "A"). This does not imply or confer any variances from applicable zoning or land development regulations, except as expressly granted herein.
2. The height of the residential structure (Building "C") on the subject parcel shall be as shown on Exhibit "B" date stamped October 27, 2004 (attached hereto). Fill dirt may be used solely to level the grade for construction in accordance with Sarasota County regulations, but shall not be used for the purpose of increasing the height of the building.

3. Prior to issuance of a certificate of occupancy for any on-site building, the watercourse buffer and excavated lagoon adjacent to Little Sarasota Bay shall be planted with native vegetation in accordance with a planting plan approved by Sarasota County Resource Protection staff.

4. Prior to commencement of construction activities, a conservation easement over the water course buffer, including the areas designated "Conservation Easement," "Buffer Area to be Planted with Approved Native Plant Species," and "30' Setback From Seawall" on the development concept plan date stamped October 27, 2004, and approved by the Sarasota County Resource Protection staff, shall be executed by the owner and recorded in the public records of Sarasota County. Draft conservation easement language shall be submitted with the site and development plans. The conservation easement shall allow access, maintenance, trails, passive recreational uses and access to any docks which may be permitted.

5. Prior to issuance of a certificate of occupancy for any on-site building, all vegetative species outside of the historic landscape area as defined in stipulation no. 6 below contained within Section 54-621 of Sarasota County's Exotic Plant Code, state regulations (Chapter 5B-57.007 and 62C-52.011, F.A.C.), and the Florida Exotic Plant Council's list

6. The Summerhouse Restaurant and the historic landscape area between the parking garage ramp and Midnight Pass Road shall be preserved and maintained. Prior to Preliminary Plan approval, a protective covenant in the form of a Historic Preservation Covenant Agreement shall be executed with the property owner that preserves and maintains the Summerhouse Restaurant building and the landscape area located between the parking garage ramp and Midnight Pass Road, and preserves and provides for access to the building annually for a local not-for-profit organization dedicated to historic preservation, local history, or architecture. The protective covenant shall contain provisions requiring the preservation, restoration and maintenance of the historic landscape area in the event that the Summerhouse Restaurant building is destroyed by an act of God. The

protective covenant recorded to implement this stipulation shall be reviewed and approved by the County Attorney and the Board of County Commissioners prior to recording and shall bind the Condominium Association and all purchasers of units.

7. The owner shall be required to maintain the appearance and function of any private drainage facilities to be constructed on the site, including retention ponds and drainage ditches, at its own expense in accordance with applicable federal, state, and local regulations. At the time of recording a plat or prior to final construction approval, the Owner shall be required to record in the public records, a Notice to Purchaser, approved by Sarasota County, putting purchasers on notice that the maintenance of drainage facilities is a private responsibility.

8. The subject parcel's northern access (construction access) to Midnight Pass Road shall be removed after construction. Notwithstanding the foregoing, the County shall apply to the Florida Department of Transportation to allow a curb-cut on Midnight Pass Road north of the Summerhouse building to afford for this northern access, and this access shall be open if the curb-cut is approved. The developer shall provide additional parking on the north side of the property in the area identified as "Potential Additional Parking Area" on the Development Concept Plan, if requested by the County. This area shall be available for additional parking for the attendees of meetings and special events. The developer agrees to cooperate fully with the County in support of the request for curb-cut. This driveway and parking area shall not be required if approval of a curb-cut is not given within two (2) years of approval of this Rezoning ordinance. Changes to the Concept Plan and site and development plans to accommodate this stipulation and the additional driveway and parking area in this area shall be deemed a minor change. The pendency of the FDOT application, or the failure of FDOT to issue permits for the curb-cut, shall not delay or prevent issuance of any permit by Sarasota County, including final site and development plan approval, construction plan approval or building permits.

9. Prior to start of construction, the Applicant shall submit a letter to the Southwest Florida Water Management District (SWFWMD) requesting that the Applicant's recertification shall be done on a twelve (12)-month cycle.

10. The Summerhouse building designed by Carl Abbott, identified as Building A on the development concept plan date stamped October 27, 2004, (the "Summer Cove Clubhouse") shall be made available by the Condominium Association at least 17 times per year for use by civic and community groups for meetings and special events. The indoor area available for civic and community groups shall be sufficient to seat a minimum of 125 attendees, and outdoor dining areas shall also be made available, if necessary. A parking plan for meetings and events shall be approved by the Sarasota County Zoning Administrator before the approval of the site and development plans. Prior to the issuance of certificates of occupancy for Buildings B and C, the developer of the property shall rehabilitate the Summerhouse building to a sound condition for use as a clubhouse. Thereafter, the Condominium Association shall maintain the building in good repair. The Condominium Association may charge a reasonable fee for use of the building by civic and community groups to cover utilities, maintenance, janitorial services and wear and tear. The covenants and restrictions recorded for the condominium to implement this paragraph shall be reviewed and approved by the County Attorney prior to recording and shall bind the Condominium Association and all purchasers.

11. Guests attending events at the Summer Cove Clubhouse shall be allowed to park vehicles in grass or shell parking areas shown on the final site and development plan, provided no trees shall be removed to create parking area.

Section 4. Effective Date. This Ordinance shall take effect immediately upon receipt of official acknowledgment from the Office of the Secretary of State of Florida that this Ordinance has been filed with said office.

PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, this 17th day of December, 2004.

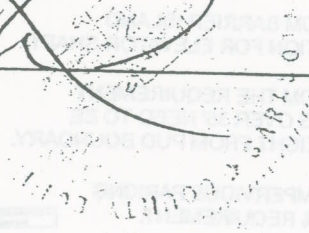
BOARD OF COUNTY COMMISSIONERS  
OF SARASOTA COUNTY, FLORIDA

Chair

ATTEST:

KAREN E. RUSHING, Clerk of  
the Circuit Court and Ex-  
Officio Clerk of the Board of  
County Commissioners of  
Sarasota County, Florida.

By: Paula J. Chostoman  
Deputy Clerk



NOTES:  
1. THE BOARD OF COUNTY COMMISSIONERS HAS REVIEWED THE PROPOSED MAP SERIES AND CONCEPT PLAN AND HAS DETERMINED THAT THE PROPOSED MAP SERIES AND CONCEPT PLAN IS IN ACCORDANCE WITH THE ZONING ORDINANCE AND THE SUBDIVISION MAP ACT AND THE BOARD OF COUNTY COMMISSIONERS HAS ADOPTED THE PROPOSED MAP SERIES AND CONCEPT PLAN.  
2. THE BOARD OF COUNTY COMMISSIONERS HAS REVIEWED THE PROPOSED MAP SERIES AND CONCEPT PLAN AND HAS DETERMINED THAT THE PROPOSED MAP SERIES AND CONCEPT PLAN IS IN ACCORDANCE WITH THE ZONING ORDINANCE AND THE SUBDIVISION MAP ACT AND THE BOARD OF COUNTY COMMISSIONERS HAS ADOPTED THE PROPOSED MAP SERIES AND CONCEPT PLAN.  
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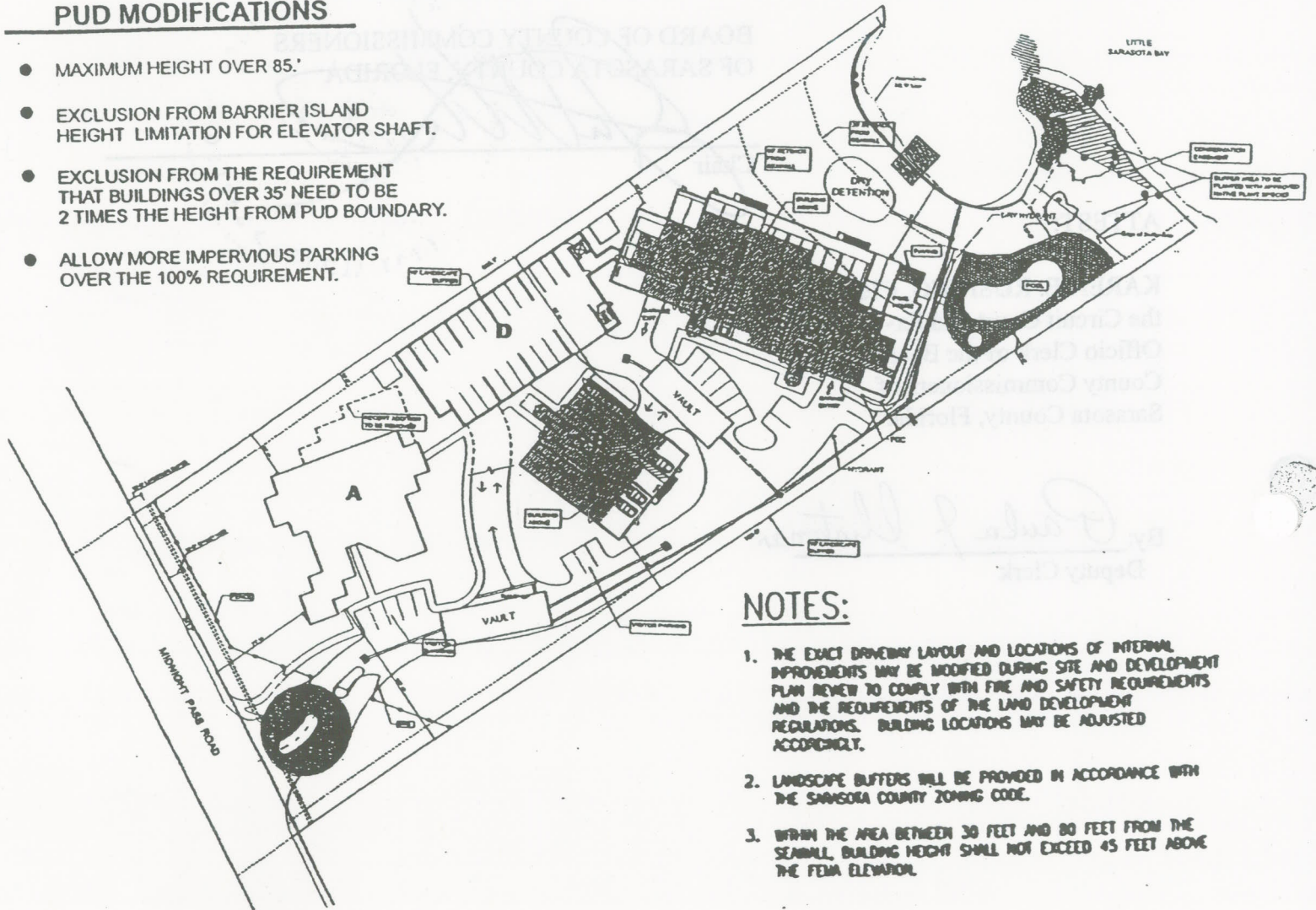
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OCTOBER 17, 2004  
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THE DOCUMENT RECEIVED BY  
NOT TO SCALE

# MAP SERIES/CONCEPT PLAN

## EXHIBIT A

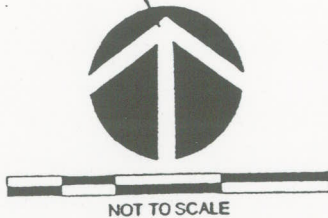
### PUD MODIFICATIONS

- MAXIMUM HEIGHT OVER 85.'
- EXCLUSION FROM BARRIER ISLAND HEIGHT LIMITATION FOR ELEVATOR SHAFT.
- EXCLUSION FROM THE REQUIREMENT THAT BUILDINGS OVER 35' NEED TO BE 2 TIMES THE HEIGHT FROM PUD BOUNDARY.
- ALLOW MORE IMPERVIOUS PARKING OVER THE 100% REQUIREMENT.



### NOTES:

1. THE EXACT DRIVEWAY LAYOUT AND LOCATIONS OF INTERNAL IMPROVEMENTS MAY BE MODIFIED DURING SITE AND DEVELOPMENT PLAN REVIEW TO COMPLY WITH FIRE AND SAFETY REQUIREMENTS AND THE REQUIREMENTS OF THE LAND DEVELOPMENT REGULATIONS. BUILDING LOCATIONS MAY BE ADJUSTED ACCORDINGLY.
2. LANDSCAPE BUFFERS WILL BE PROVIDED IN ACCORDANCE WITH THE SARASOTA COUNTY ZONING CODE.
3. WITHIN THE AREA BETWEEN 30 FEET AND 80 FEET FROM THE SEAWALL, BUILDING HEIGHT SHALL NOT EXCEED 45 FEET ABOVE THE FEMA ELEVATION.



NOT TO SCALE

THIS DOCUMENT RECEIVED BY:  
PLANNING SERVICES ON  
OCTOBER 27, 2004

04-36

#### BUILDING SUMMARY:

	BUILDING A	BUILDING B	BUILDING C	BUILDING D
BUILDING FOOTPRINT	7,400 SQ. FT.	8,208 SQ. FT.	15,756 SQ. FT.	8,498 SQ. FT.
NUMBER OF UNITS		10 UNITS	35 UNITS	

#### PARKING SUMMARY:

	BUILDING A	BUILDING B	BUILDING C	BUILDING D	TOTAL
COVERED, ENCLOSED		14 SPACES	30 SPACES	46 SPACES	90 SPACES
SURFACE (VISITOR)					18 SPACES
GRAND TOTAL					108 SPA



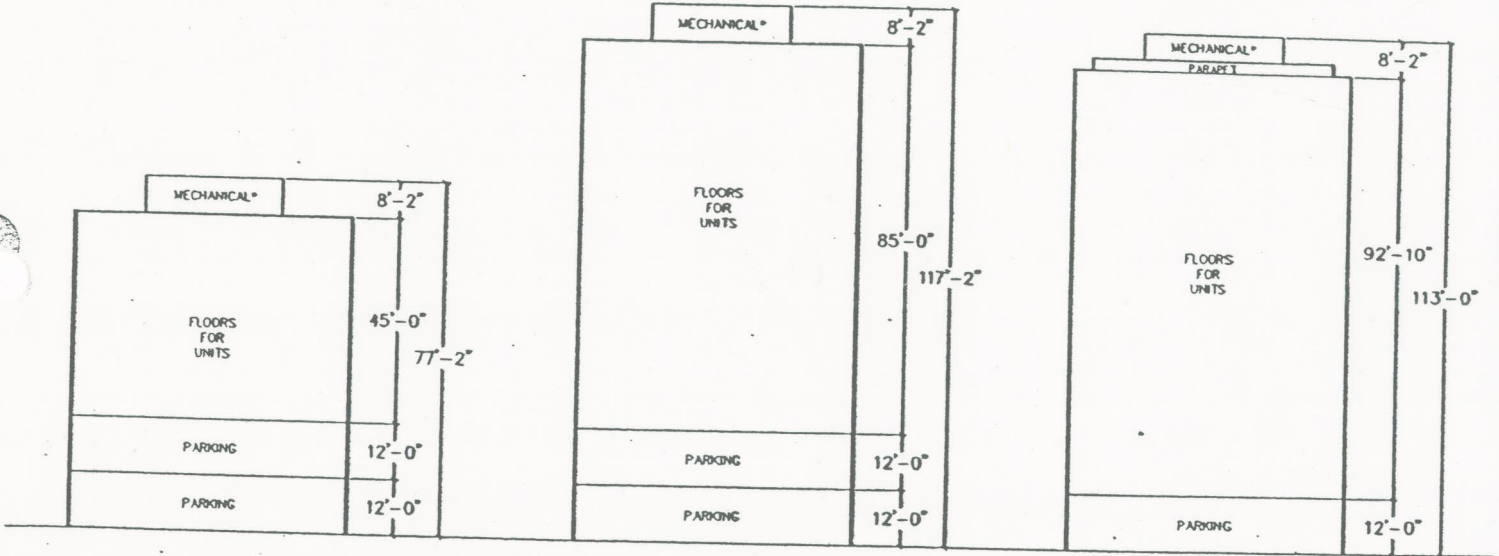
# MAP SERIES/EXHIBIT B

## HEIGHT ANALYSIS SUMMER COVE CONDOMINIUMS

MAXIMUM  
HEIGHT ALLOWED  
RMF-3

MAXIMUM  
HEIGHT ALLOWED  
RMF-3/PUD

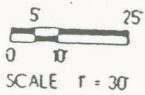
SUMMER COVE  
PROPOSED  
BUILDING "C"



TOTAL HEIGHT=  
77'-2" FROM GRADE

TOTAL HEIGHT=  
117'-2" FROM GRADE

TOTAL HEIGHT=  
113'-0" FROM GRADE



\* NOTE: FOR COMPARISON PURPOSES, THE HEIGHT OF ROOF TOP MECHANICAL ELEMENTS WAS ASSUMED TO BE THE SAME FOR EACH EXAMPLE.

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# MODIFICATION TO SARASOTA ZONING REGULATIONS

1. Article 6.11.2 of the Planned Unit Development Overlay District states that the maximum height allowed in RMF-3/PUD is 85 feet. This distance is measured in conformance with the underlying zoning district, RMF-3, from the finished floor of the first habitable floor where in-structure parking is provided. Building "C", as depicted on "Exhibit B", is 92' 10" in height from the first finished floor above one level of parking. Therefore, the requested PUD modification is for 7' 10" over the maximum PUD height of 85' is for Building "C" only.
2. Article 6.2.4.f provides that on the Barrier Islands the only exclusions from height shall be for heating, ventilation, air conditioning equipment and antennas. The applicant is requesting an additional exclusion for an elevator shaft on the roof, parapet wall and mechanical screen will be used to shield these roof top mechanical elements from view.
3. Article 6.11.2.e of the PUD standards require that buildings over 35' in height shall be located two times the height of the proposed structures from the boundary of the PUD. Building "B" (60'4") and Building C (92'10") exceed 35' in height and are less than two times the distance from the boundary.
4. Article 7.1.8 of the Zoning Code states that no use shall provide more than 100% of the required parking unless the excess is pervious. Ninety nine spaces are required for the 45 condominiums, while 108 spaces are proposed. The requested modification is to allow 9 excess parking spaces to be located on a paved surface or in the parking structure (Building "B").



STATE OF FLORIDA  
COUNTY OF SARASOTA  
I HEREBY CERTIFY THAT THE FOREGOING IS A  
TRUE AND CORRECT COPY OF THE ORIGINAL FILES  
IN THIS OFFICE WITH MY HAND AND OFFICIAL  
SEAL THIS DATE 12/20/2004  
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT  
EX-OFFICIO CLERK TO THE BOARD OF COUNTY  
COMMISSIONERS, SARASOTA COUNTY, FLORIDA  
BY Paul J. Clinton  
DEPUTY CLERK

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