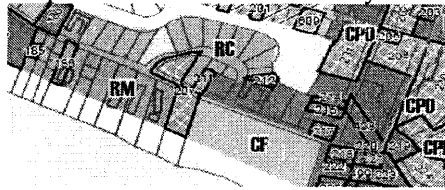


Case # SE 2009-0001
 Planner F. Shockey

Date Received 3/3/09
 Date of Sufficiency/Completeness _____

Town of Fort Myers Beach
 Department of Community Development



Zoning Division

TOWN OF FORT MYERS BEACH

MAR - 3 2009

RECEIVED BY Town of Fort Myers Beach

FMB 000 2009 0 0 0 1

Application for Public Hearing

This is the first part of a two-part application. This part requests general information required by the Town of Fort Myers Beach for any request for a public hearing. The second part will address additional information for the specific type of action requested.

Project Name:	<u>WICKED WINGS</u>
Authorized Applicant:	<u>WALTER SIMMONS / ATWATER, LLC.</u>
LeePA STRAP Number(s):	<u>19-46-2444-0070D-0110</u>

Current Property Status:	
Current Zoning:	<u>DOWN TOWN</u>
Future Land Use Map (FLUM) Category:	<u>PEDESTRIAN COMMERCIAL</u>
Platted Overlay? <input type="checkbox"/> yes <input type="checkbox"/> no	FLUM Density Range: <u>6 UNITS/ACRE</u>

Action Requested	Additional Form Required
<input checked="" type="checkbox"/> Special Exception	Form PH-A
<input type="checkbox"/> Variance	Form PH-B
<input type="checkbox"/> Conventional Rezoning	Form PH-C
<input type="checkbox"/> Planned Development	Form PH-D
<input type="checkbox"/> Master Concept Plan Extension	Form PH-E
<input type="checkbox"/> Appeal of Administrative Action	Form PH-F
<input type="checkbox"/> Development of Regional Impact	Schedule Appointment
<input type="checkbox"/> Other (cite LDC section number: _____)	Attach Explanation

Town of Fort Myers Beach
 Department of Community Development
 2523 Estero Boulevard
 Fort Myers Beach, FL 33931
 (239) 765-0202

PART I - General Information

A. Applicant:

Name(s):	WALTER SIMMONS / ATWATTER, LLC.		
Address:	9659 Street: PINEAPPLE PRESERVE CT.		
City:	FORT MYERS	State:	FL Zip Code: 33908
Phone:	(614) 571-8243		
Fax:	(239) 437 8243		
E-mail address:	WALTER _ SIMMONS @ HOTMAIL . COM		

B. Relationship of applicant to property (check appropriate response)

<input checked="" type="checkbox"/>	Owner (indicate form of ownership below)	
<input type="checkbox"/>	Individual (or husband/wife)	<input type="checkbox"/> Partnership
<input type="checkbox"/>	Land Trust	<input type="checkbox"/> Association
<input checked="" type="checkbox"/>	Corporation	<input type="checkbox"/> Condominium
<input type="checkbox"/>	Subdivision	<input type="checkbox"/> Timeshare Condo
<input type="checkbox"/>	Authorized representative (attach authorization(s) as Exhibit AA-1)	
<input type="checkbox"/>	Contract Purchaser/vendee (attach authorization(s) as Exhibit AA-2)	
<input type="checkbox"/>	Town of Fort Myers Beach (Date of Authorization: _____)	

C. Agent authorized to receive all correspondence:

Name:	WALTER SIMMONS		
Mailing address:	9659 Street: PINEAPPLE PRESERVE CT.		
City:	FT MYERS	State:	FL Zip Code: 33908
Contact Person:	WALTER SIMMONS		
Phone:	(614) 571-8243	Fax:	(239) 437-8243
E-mail address:	WALTER _ SIMMONS @ HOTMAIL . COM		

D. Other agents:

Name(s):	ERIC O'GILVIE		
Mailing address:	9649 Street: PINEAPPLE PRESERVE CT.		
City:	FT MYERS	State:	FL Zip Code: 33908
Phone:	(239) 470-7079	Fax:	(239) 415 -9347
E-mail address:	LABO1998 @ YAHOO . COM		

Use additional sheets if necessary, and attach to this page.

PART II – Nature of Request

Requested Action (check applicable actions):

<input checked="" type="checkbox"/> Special Exception for: Outdoor COP with food
<input type="checkbox"/> Variance for:
<input type="checkbox"/> Conventional Rezoning from _____ to: _____
<input type="checkbox"/> Planned Development
<input type="checkbox"/> Rezoning (or amendment) from _____ to: _____
<input type="checkbox"/> Extension/reinstatement of Master Concept Plan
<input type="checkbox"/> Public Hearing of DRI
<input type="checkbox"/> No rezoning required
<input type="checkbox"/> Rezoning from _____ to: _____
<input type="checkbox"/> Appeal of Administrative Action
<input type="checkbox"/> Other (explain):

PART III – Waivers

Waivers from application submittal requirements: Indicate any specific submittal items that have been waived by the Director for the request. Attach copies of the Director’s approval(s) as Exhibit 3-1.

Code Section Number	Describe Item

PART IV – Property Ownership

<input type="checkbox"/> Single owner (individual or husband and wife)
Name:
Address: Street:
City: State: Zip Code:
Phone: Fax:
E-mail Address:

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

<input checked="" type="checkbox"/> Multiple owners (including corporation, partnership, trust, association, condominium, timeshare condominium, or subdivision)
Attach Disclosure Form as Exhibit 4-1
Attach list of property owners as Exhibit 4-2
Attach map showing property owners' interests as Exhibit 4-3 if multiple parcels are involved
For condominiums, timeshare condominiums, and subdivisions, see instructions.

PART V – Property Information

A. Legal Description of Subject Property

Is the property entirely made up of one or more undivided platted lots officially recorded in the Plat Books of the Public Records of Lee County?
<input checked="" type="checkbox"/> Yes [] No
If yes:
Subdivision name: CRESCENT BEACH
Plat Book Number: 4 Page: 45 Unit: / Block: D Lot: 11
If no:
Attach a legible copy of the metes and bounds legal description, with accurate bearings and distances for every line, as Exhibit 5-1. The initial point in the description must be related to at least one established identifiable real property corner. Bearings must be referenced to a well-established and monumented line.

B. Boundary Survey

Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code, as Exhibit 5-2. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida.
--

C. STRAP Number(s):

1976-2464-00700.0110

D Property Dimensions:

Area: 50' x 186.52' square feet acres
Width along roadway: 50 feet Depth: 186.52 feet

E. Property Street Address:

61 AVENUE C, FORT MYERS BEACH FL 33931
--

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

F. General Location of Property (from Sky Bridge or Big Carlos Pass Bridge):

FROM SKY BRIDGE HEAD SOUTH-EAST ON ESTERO BLVD
UNTIL BEACH ACCESS # 34 (AVE. C)

Attach Area Location Map as Exhibit 5-3

G. Property Restrictions (check applicable):

There are no deed restrictions or covenants on this property that affect this request.

Restrictions and/or covenants are attached as Exhibit 5-4

A narrative statement explaining how the deed restrictions and/or covenants may affect the request is attached as Exhibit 5-5.

H. Surrounding property owners:

Attach list of surrounding property owners (within 500 feet) as Exhibit 5-6

Attach two sets of mailing labels as Exhibit 5-7

Attach a map showing the surrounding property owners as Exhibit 5-8

I. Future Land Use Category: (see Comprehensive Plan Future Land Use Map)

Low Density

Marina

Mixed Residential

Recreation

Boulevard

Wetlands

Pedestrian Commercial

Tidal Water

Is the property located within the "Platted Overlay" area on the Future Land Use Map? Yes No

J. Zoning: (see official zoning map, as updated by subsequent actions)

RS (Residential Single-family)

CM (Commercial Marina)

RC (Residential Conservation)

CO (Commercial Office)

RM (Residential Multifamily)

CB (Commercial Boulevard)

VILLAGE

SANTINI

SANTOS

DOWNTOWN

IN (Institutional)

RPD (Residential Planned Dev.)

CF (Community Facilities)

CPD (Commercial Planned Dev.)

CR (Commercial Resort)

EC (Environmentally Critical)

BB (Bay Beach)

PART VI – Affidavit

**Application Signed by a Corporation, Limited Liability Company (LLC),
Limited Company (LC), Partnership, Limited Partnership, or Trustee**

See attached explanatory notes for instructions

I, Walter Simon, as President
of ATWATER, LLC, swear or affirm under oath, that I am
the owner or the authorized representative of the owner(s) of the property and
that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data, or other supplemental matter attached hereto and made a part of this application are honest and true;
3. I hereby authorize Town staff or their designee(s) to enter upon the property during normal working hours (including Saturdays and Sundays) for purposes reasonably related to the subject matter of this application; and
4. The property will not be transferred, conveyed, sold, or subdivided unencumbered by the conditions and restrictions imposed by the approved action

ATWATER, LLC
Name of Entity (corporation, LLC, partnership, etc)
President
Title of Signatory

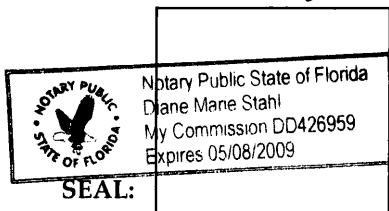
[Signature]
Signature
Walter Simon
Typed or Printed Name

State of FL
County of Lee

The foregoing instrument was sworn to (or affirmed) and subscribed
before me this 25th Feb 2009 by Walter Simon S
Date Name of person under oath or affirmation
who is personally known to me or who has produced FL license
Type of identification

as identification
[Signature]
Signature of person administering oath

DIANE MARIE STAHL
Typed or Printed Name



**EXHIBIT 4-1
 DISCLOSURE OF INTEREST FORM**

STRAP# 19-46-24W4-0070D.0110

Attach additional sheets in the same format for each separate STRAP number in the application if multiple parcels with differing ownership are included.

1. If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address	Percentage

2. If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address, and office	Percentage
WALTER SIMMONS 9659 PINEAPPLE PRESERVE CT. FT MYERS FL	50%
ERIC O'GILVIE 9649 PINEAPPLE PRESERVE CT. FT MYERS FL	50%

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

6. If any contingency clause or contract terms involve additional parties, list all individuals, or officers if a corporation, partnership, or trust.

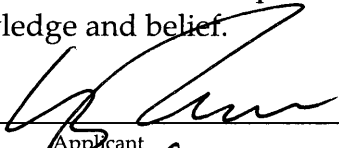
Name and Address

Walter Simmons	9659 Pineapple Preserve CT
	Ft Myers FL 33908
Eric Ojoluse	9649 Pineapple Preserve CT
	Ft Myers FL 33908

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application but prior to the date of final public hearing, a supplemental disclosure of interest must be filed.

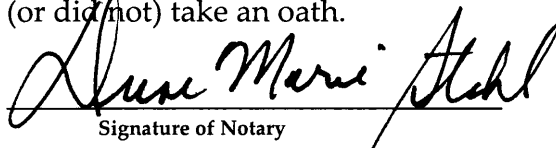
The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature


Applicant
Walter Simmons
Printed or typed name of applicant

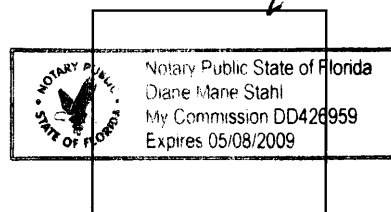
STATE OF FL
COUNTY OF Lee

The foregoing instrument was acknowledged before me this 25th day of February 2009 by Walter Simmons, who is personally known to me or who has produced FL drivers license as identification and who did (or did not) take an oath.


Signature of Notary

DIANE MARIE STAHL
Typed or Printed Name of Notary

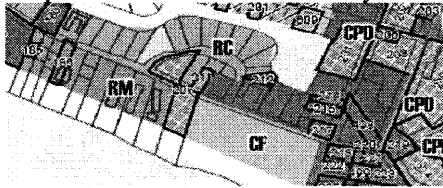
SEAL:



Case # 9E7209-001
Planner F. Shockey

Date Received 3/3/09
Date of Sufficiency/Completeness _____

Town of Fort Myers Beach
Department of Community Development



Zoning Division

Supplement PH-A

**Additional Required Information for a
Special Exception Application**

This is the second part of a two-part application. This part requests specific information for a special exception. Include this form with the Request for Public Hearing form.

Project Name:	<u>WICKED WINGS</u>
Authorized Applicant:	<u>WALTER SIMMONS / ATWATER, LLC</u>
LeePA STRAP Number(s):	<u>19-46-24W4-0070D.0110</u>

Current Property Status:	
Current Zoning:	<u>DOWN TOWN</u>
Future Land Use Map (FLUM) Category:	<u>PEDESTRIAN COMMERCIAL</u>
Platted Overlay? <input type="checkbox"/> yes <input checked="" type="checkbox"/> no	FLUM Density Range: <u>6 UNITS / ACRE</u>

Requested Action:

<input type="checkbox"/> Use of premises in the EC (Environmentally Critical) zoning district for:	
<input checked="" type="checkbox"/> Use of premises in the <u>DOWN TOWN</u> zoning district for:	
	<u>RESTAURANT WITH ALCOHOLIC BEVERAGES AND OUTDOOR SEATING.</u>

PART I
Narrative Statements

A. Request for: (indicate the proposed use that requires a special exception)

WE WISH TO OPERATE A RESTAURANT WITH AN OUTDOOR SEATING AREA. THE OUTDOOR SEATING AREA WILL CONSIST OF A 413.5 SQ. FT. DECK WHERE MEALS WITH BEER/WINE BEVERAGES WILL BE SERVED PER A 2 COP STATE LICENSE. THE PLANNED HOURS OF OPERATION ARE 10 AM TO 11 PM. THE SEATING CAPACITY ON THE OUTDOOR DECK SHALL BE 30 PERSONS.

B. Reasons for request: (state how the property qualifies for a special exception and what impact granting the request could have on surrounding properties. Direct these statements toward the guidelines in LDC Section 34-88)

The property qualifies for a Special Exception because:
SEE ATTACHMENT 1

Granting the requested Special Exception could impact surrounding properties as follows:
SEE ATTACHMENT I

PART 2
Submittal Requirements

All applications for a special exception must submit fourteen (14) copies of this application form and all applicable exhibits.

Required Items

- Public Hearing Request Form
- Supplemental form PH-A
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; all proposed structures and uses for the site; and any proposed fencing and screening.

For New Communication Towers:

- a. Lee County Application for Communication Tower
- b. Shared-Use Plan Agreement

ATTACHMENT 1

The changing conditions on the beach which make approval of the request appropriate would include the desire to grow and develop the beach in this time of economic depression where we have witnessed the closure of other nearby businesses.

The project will provide short & long term jobs for the local economy affecting the entire financial chain; construction, local contractors and subs, suppliers of construction materials, food/drink/gas distributors, waiters/waitresses/cooks.

The restaurant's commercial activities will contribute to the pedestrian-oriented public realm as described in the Comprehensive Plan. By way of its approved development order, this project meets the design concepts of this plan and the Land Development Code.

This project meets or exceeds all performance and local standards as evidenced by our approved (LDO 2007-00401) development order. Building plans are currently being pursued that support the intended use of the property.

In the LDO, the protection, conservation, or presentation environmentally of critical areas and natural resources are addressed. Additionally, our restaurant operation practices will be environmentally sound.

The restaurant project will be compatible with existing or planned uses by offering food and drink on the beach access while customers enjoy the gulf scenery. The completed project will greatly improve the appearance of the beach at Public Access #34. This will include a designated handicapped accessible parking spot and bathroom. It will increase value of local seasonal rental properties by offering a nearby family restaurant; provide additional dining, and employment for residents. We will prevent any inconvenience to the neighborhood by adopting reasonable hours of operation, from 10 a.m. to 11 p.m.

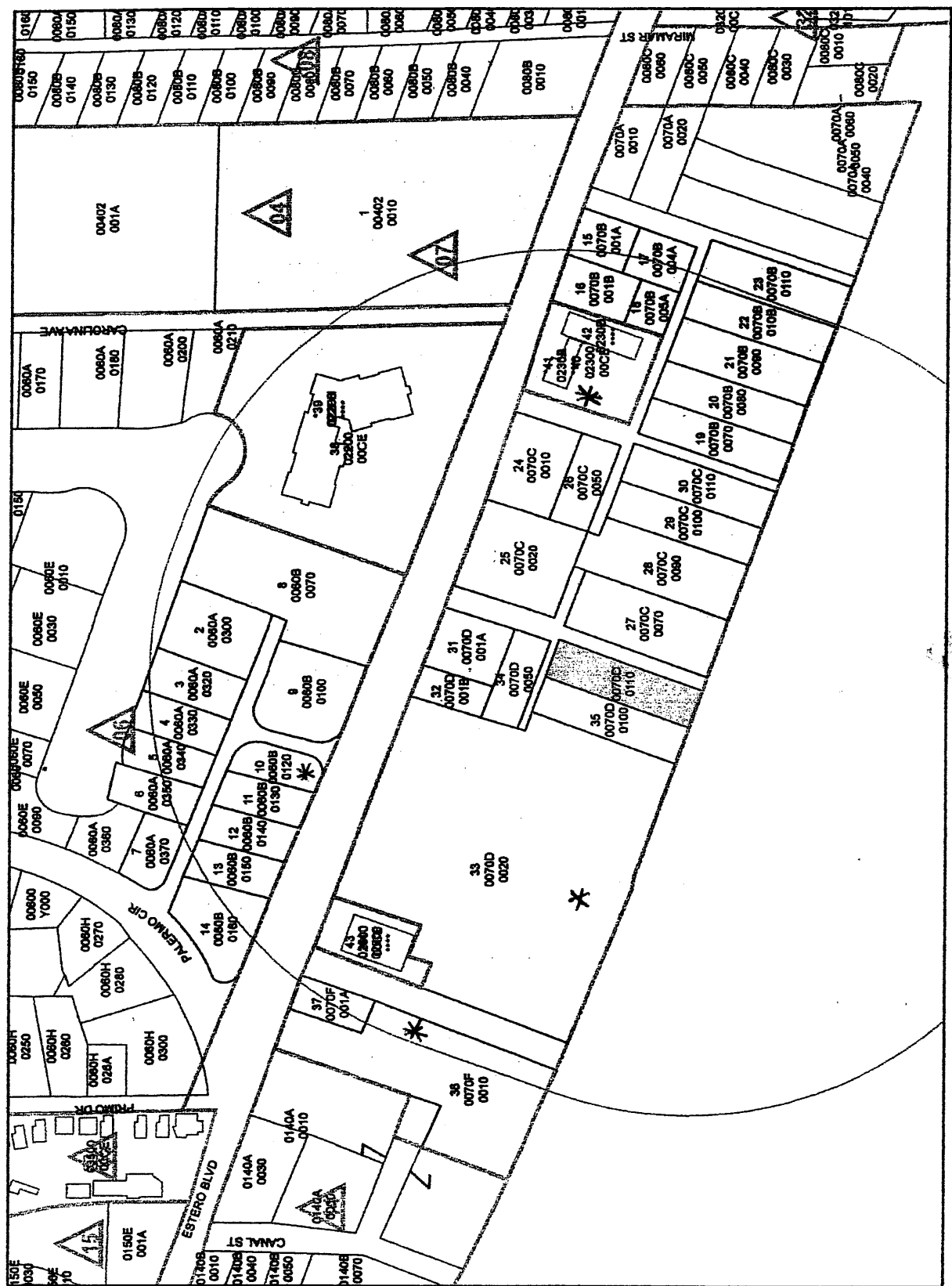
The requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in chapter 34 of the Land Development Code. Per the Code, a restaurant is allowed in this area, and the parking requirements are satisfied. The special exception is required because the proposed outdoor seating does not meet the administrative approval in section 34 – 1264.

Granting of this request will not cause any adverse effects on the surrounding properties. This restaurant will create a draw bringing more people to the area, supporting the service station, parking lots, other nearby establishments and potential rentals. The on-site turtle friendly video surveillance will provide an added level of security for the public access and surrounding properties. This project will also bring an added level of safety to local property owners, by the installation of new fire hydrant on Estero Blvd. at our expense.

VARIANCE REPORT

2/12/2009

Subject Parcels : 1 Affected Parcels : 115 Buffer Distance : 500 ft

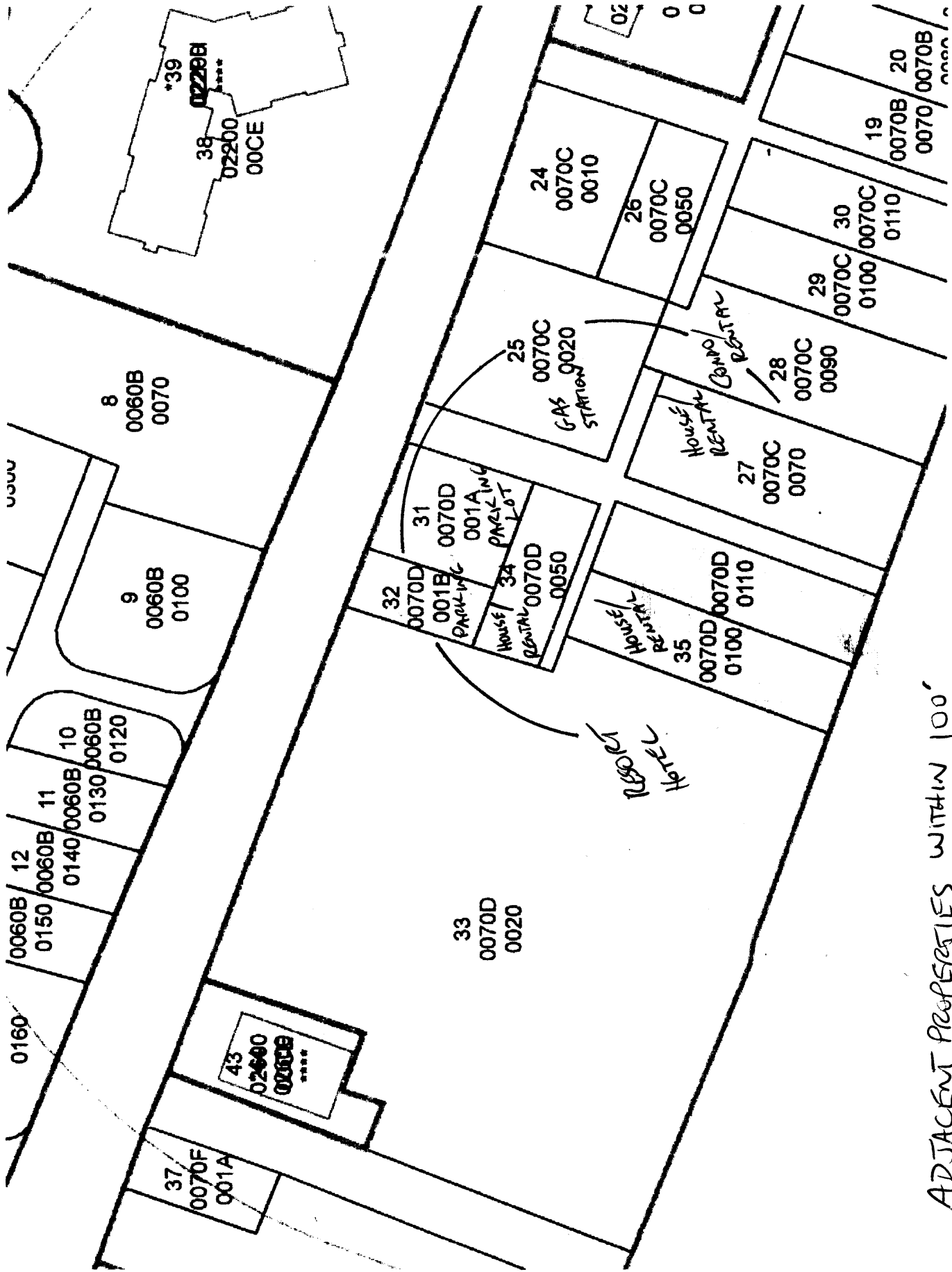


19-46-24-W4-0070D.0110

210 105 0 210 Feet

* - INDICATE LOCATIONS OF OTHER PROPERTIES WITHIN 500 FEET OF THE REQUEST WHERE CONSUMPTION-ON-PREMISES USES ARE ALREADY IN OPERATION

ATTACHMENT 4



ADJACENT PROPERTIES WITHIN 100'
OF THE PERIMETER AND EXISTING USES