

RESOLUTION NO. 07-31

A RESOLUTION GRANTING CONDITIONAL USE APPROVAL TO INCREASE THE DENSITY ON-SITE FROM 26 UNITS PER ACRE TO 29 UNITS PER ACRE AND TO INCREASE THE MAXIMUM BUILDING HEIGHT FROM 100 FEET TO 150 FEET; IN ACCORDANCE WITH SECTION 30-164(8) OF THE "RT" ZONING DISTRICT AND MARCO ISLAND LAND DEVELOPMENT CODE, FOR PROPERTY DESCRIBED AS 600 COLLIER BOULEVARD, IN SECTION 18, TOWNSHIP 52 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA.

WHEREAS, the Legislature of the State of Florida established the Charter of the City of Marco Island in Chapter 97-367, Laws of Florida ("City Charter"); and

WHEREAS, the Marco Island Planning Board, being the duly appointed and constituted planning board for the area hereby affected, has held public hearings on March 23, 2007, March 30, 2007, and May 4, 2007 after proper notice, and voted 5 to 1 to recommend that the Marco Island City Council approve the requested Conditional Use to increase the density on-site from 26 units per acre to 29 units per acre and increase the maximum building height from 100 feet to 150 feet on Residential Tourist "RT" zoned property described herein pursuant to Section 30-164(8) of the Marco Island Land Development Code, and has found as a matter of fact (Exhibit "A") that satisfactory provision and arrangement have been made concerning all applicable matters required by said regulations and in accordance with Section 30-64(3) of the Marco Island Land Development Code; and

WHEREAS, City Council, acting as the Board of Zoning Appeals, has held a public hearing after proper notice, and has considered the request for a Conditional Use to increase the density on-site from 26 units per acre to 29 units per acre and increase the maximum building height from 100 feet to 150 feet on Residential Tourist "RT" zoned property pursuant to Section 30-164(8) of the Marco Island Land Development Code, and has found that satisfactory provision and arrangement have been made concerning all applicable matters required by said regulations; and

WHEREAS, all interested parties have been given an opportunity to be heard by this Board in a public meeting assembled and the Board having considered all matters presented.

NOW, THEREFORE BE IT RESOLVED, BY THE BOARD OF ZONING APPEALS of Marco Island, Florida that:

The Petition CU-06-05 filed by Vincent M. Grasser of Marriott Ownership Resorts, Inc., representing Marriott Ownership Resorts, Inc. with respect to the property hereinafter described as:

600 Collier Boulevard, in Section 18, Township 52 South, Range 26 East, Collier County, Florida.

Is hereby approved for Conditional Use “8” of Section 30-164 of the “RT” zoning district to increase the density on-site from 26 units per acre to 29 units per acre and increase the maximum building height from 100 feet to 150 feet in accordance with the terms and conditions of Section 30-164(8) and the following exhibits and conditions:

Finding of Fact: Exhibit “A”

Site Plan: Exhibit “B”

Building Architecture: Exhibits “C”, “D”, “E”, “F”, and “G”

Building Heights: Exhibits “H”, “I”, and “J”

Pedestrian Beach Access Easement Agreement: Exhibit “K”

Demolition Activities:

1. Hours of demolition shall be limited to the following times:
2. March 24, 2007 to April 30, 2007 – No Jack hammering to occur;
3. March 24, 2007 to April 16, 2007 – No munching or jack hammering to occur;
4. April 16, 2007 to April 30, 2007 - Munching to occur Monday through Saturday 10:00 a.m. to 6:00 p.m.*;
5. May 1, 2007 through completion of demolition activities– Jack hammering to occur Monday through Friday 9:00 a.m. to 6:00 p.m.;
6. May 1, 2007 through completion of demolition activities - Munching to occur Monday through Saturday 9:00 a.m. and 6:00 p.m.

* Munching to commence at 9:00 a.m. with the consent of the City of Marco Island and adjoining property owners.

Project Phasing:

1. Phase Zero: Sales center – start construction April 9, 2007, complete October 1, 2007;
2. Phase 1: Renovate existing beach tower and north tower – start October 1, 2007, complete November 11, 2008;
3. Phase 2: Construct the East Tower and Parking Garage – start May 8, 2009, complete August 24, 2010. A bond shall be provided for the pedestrian crosswalk prior to commencement of Phase 3A (see right-of-way condition);
4. Phase 3A: Construct exterior facade of North Tower – start July 12, 2010, complete December 31, 2011. Additionally, complete all site improvements

- including landscaping, water management, and parking facilities by December 31, 2011;
5. Phase 3B: Complete interior improvements to North Tower – start May 21, 2012, complete September 6, 2013.

Daily Occupancy:

1. Units are available for rent by the general public if not used by owners or members of an internal exchange organization;
2. Units include complete living, sleeping, cooking, and sanitation facilities; and
3. At least 7% of room nights in the facility will be available for rental to the general public over the course of a year.

Storm Water Management:

1. Stormwater drainage for the project shall be through the City's Winterberry Drive storm drainage system. Applicant shall be responsible for any improvements necessary to upgrade the City's Winterberry Drive storm drainage system for purposes of handling stormwater drainage for the development on the subject property. Applicant shall prepare, design, and submit all necessary permits or permit revisions for South Florida Water Management District Environmental Resource Surface Water Management Permit;
2. Within 90 days of the adoption date, the applicant shall provide engineered design documents as necessary for the required improvements to upgrade the City's Winterberry Drive storm drainage system to discharge all of the storm water from the subject project through a new outfall on Peru Street;
3. The new outfall from a manhole structure on Peru Street to the seawall, between lots 6 and 7 (City easement), Marco Beach Unit 10, Block 331, shall be completed within 150 days of the adoption date;
4. The applicant shall construct and complete the required remaining portions of the stormwater drainage system improvements along Winterberry Drive and Peru Street prior to construction of Phase Two of the timeshare facility.

Right-of Way:

1. Applicant shall pay for and shall be responsible for all necessary at-grade improvements for a lighted pedestrian crosswalk at the intersection of Winterberry Drive and Collier Boulevard if deemed warranted by the City Public Works Department as a result of the project for a period of up to 2 years after the issuance of the last Certificate of Occupancy for the timeshare project. A bond shall be provided prior to commencement of Phase 3A.

Beach Grill:

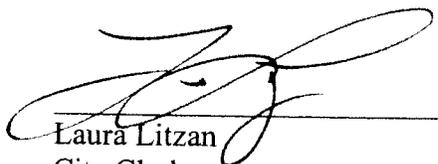
1. Applicant shall provide public access to the Beach Grill restroom facilities from sun-up to sun-down.

BE IT FURTHER RESOLVED that this Resolution relating to petition Number CU-06-05 be recorded in the Minutes of this Board and filed with the Marco Island City Clerk's Office.

This Resolution adopted after motion, second and majority vote.

Done this 4th day of June 2007.

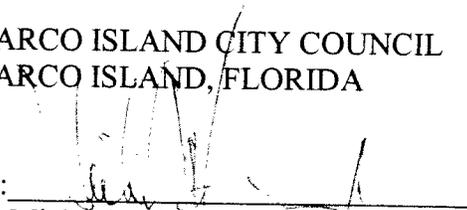
Attest:



Laura Litzan
City Clerk

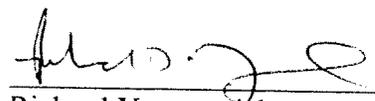
MARCO ISLAND CITY COUNCIL
MARCO ISLAND, FLORIDA

By:



Michael F. Minozzi, Jr.
Chairman

Approved as to Form and
Legal Sufficiency:



Richard Yovanovich
City Attorney

**FINDING OF FACT BY
MARCO ISLAND PLANNING BOARD
FOR
A CONDITIONAL USE PETITION FOR
CU-06-05
(Marriott's Crystal Shores on Marco Island)**

The following facts are found:

1. Sections 30-164(8) of City Code authorizes the conditional uses.
2. Granting the conditional use will not adversely affect the public interest and will not adversely affect other property or uses in the same district or neighborhood because of:

a. Consistency with the Land Development Code & Growth Management Plan:
Yes No

b. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire catastrophe:
Adequate ingress & egress
Yes No

c. Affects neighboring properties in relation to noise, glare, economic or odor effects:
No affect Affect mitigated by
Affect cannot be mitigated

d. Compatibility with adjacent properties and other property in the district:
Compatible use within district
Yes No

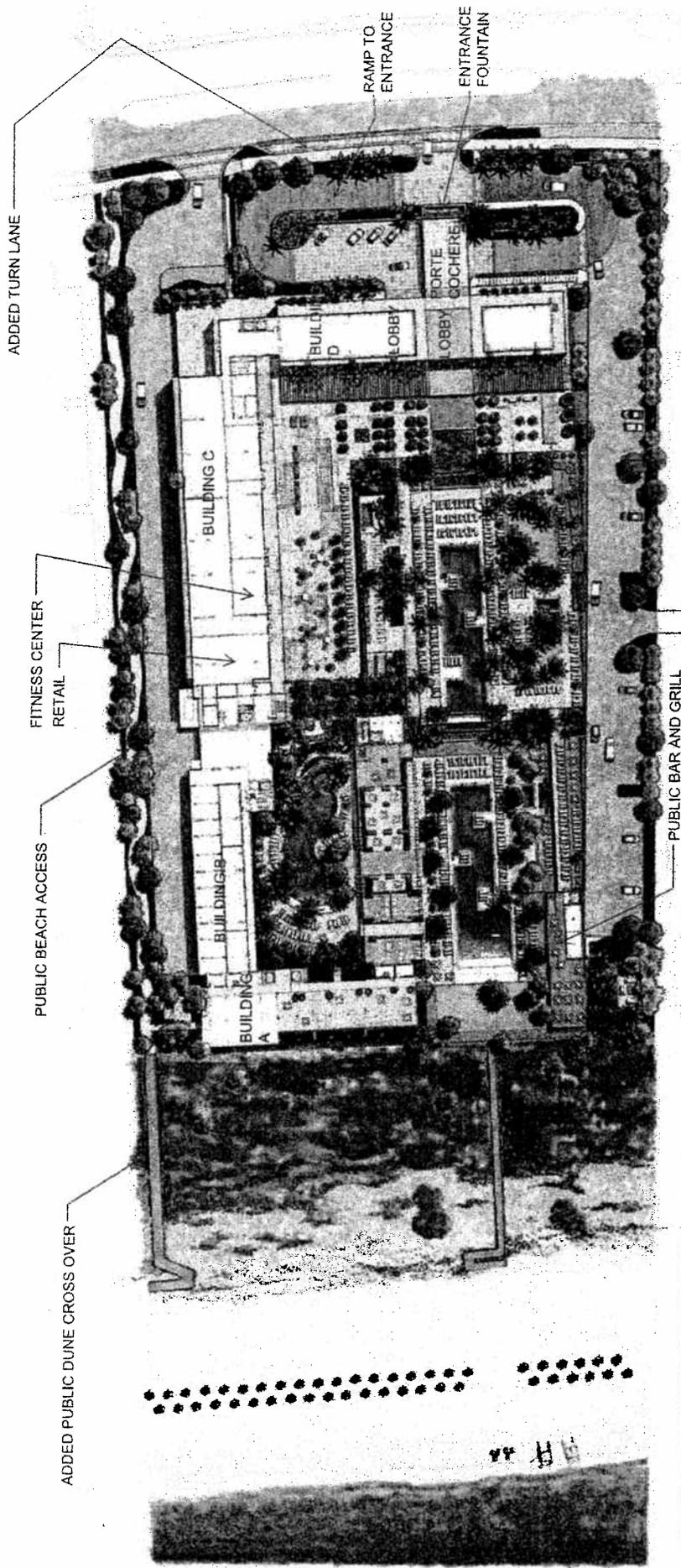
Based on the above findings, this conditional use should, with stipulations, (copy attached) (should not) be recommended for approval _____.

Date: 5/4/07

CHAIRMAN: 

MEMBER: _____

EXHIBIT "A"

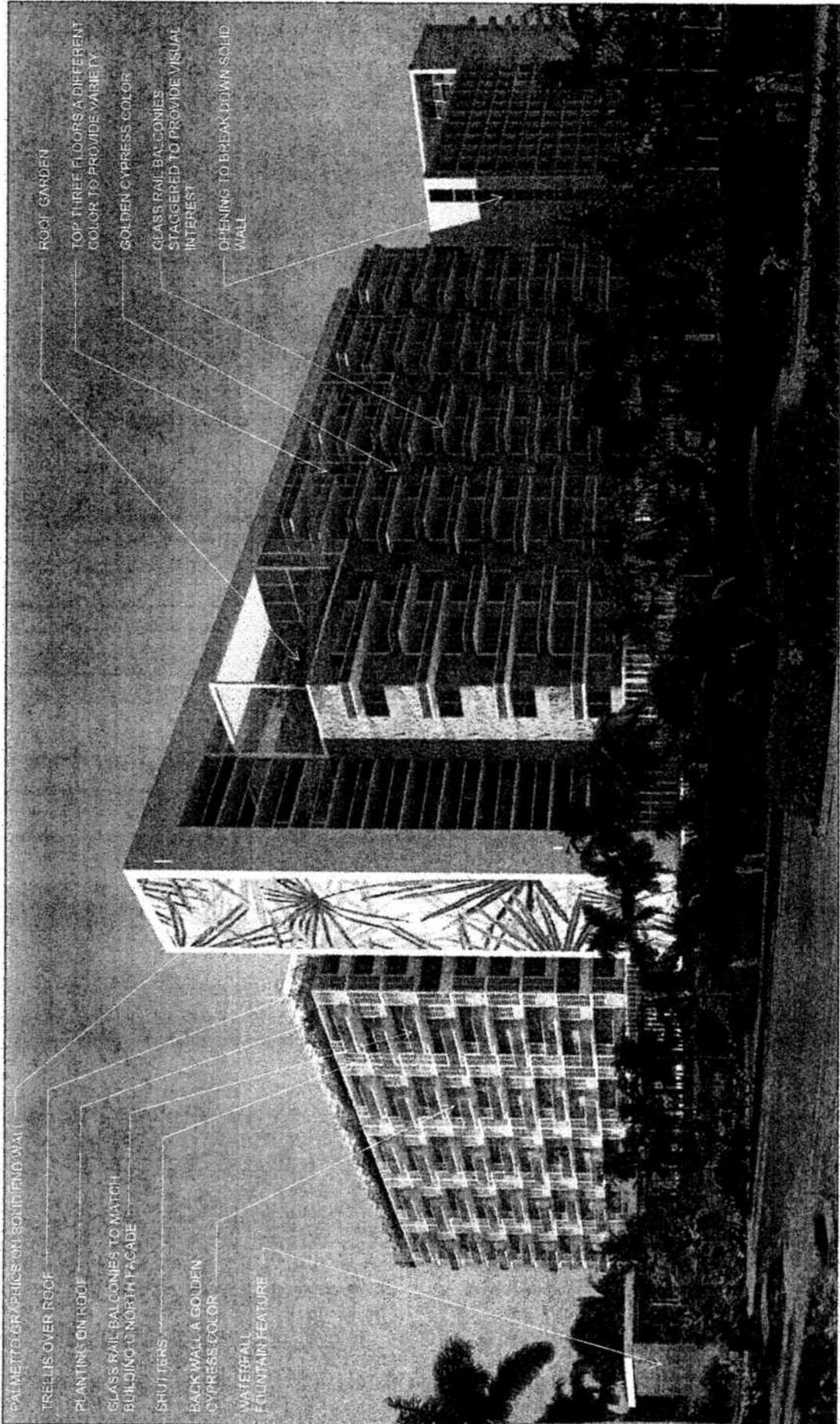


MARRIOTT VACATION CLUB INTERNATIONAL

MARRIOTT'S CRYSTAL SHORES ON MARCO ISLAND, FLORIDA

ILLUSTRATIVE SITE PLAN
26 APRIL 2007

EXHIBIT "B"



PALMETTO GRAPHIC ON SOLID/FINING WALL

TRELLIS OVER ROOF

PLANTING ON ROOF

GLASS RAIL BALCONIES TO MATCH BUILDING'S NORTH FACADE

SHUTTERS

BACK WALL A GOLDEN CYPRESS COLOR

WATERFALL FOUNTAIN FEATURE

ROOF GARDEN

TOP THREE FLOORS A DIFFERENT COLOR TO PROVIDE VARIETY

GOLDEN CYPRESS COLOR

GLASS RAIL BALCONIES STAGGERED TO PROVIDE VISUAL INTEREST

OPENING TO BREAK DOWN SOLID WALL

MARRIOTT VACATION CLUB INTERNATIONAL

MVCI MARRIOTT - MARCO ISLAND, FL

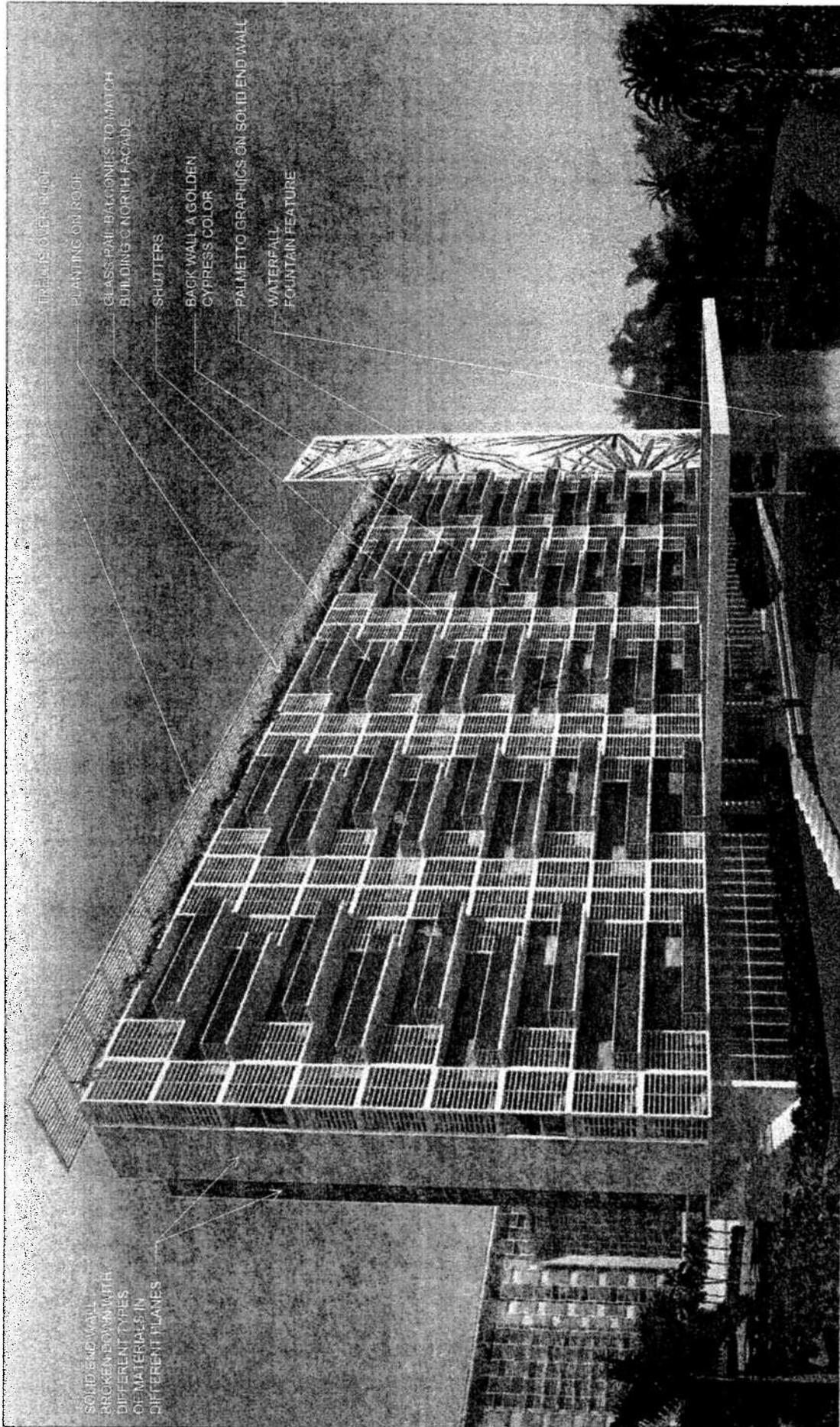
COLEMAN & TAYLORS ARCHITECTS

REVISED CONCEPTUAL RENDERING NORTH VIEW

06.15.17

© 2017 MARRIOTT

EXHIBIT "C"



TERRACE OVER ROOF

PLANTING ON ROOF

GLASS PALM BALCONIES TO MATCH BUILDING'S NORTH FACADE

SHUTTERS

BACK WALL A GOLDEN CYPRESS COLOR

PALMETTO GRAPHICS ON SOLID END WALL

WATERFALL FOUNTAIN FEATURE

SOLID END WALL BROKEN DOWN WITH DIFFERENT TYPES OF MATERIALS IN DIFFERENT PLANES

REVISID CONCEPTUAL RENDERING SOUTH VIEW

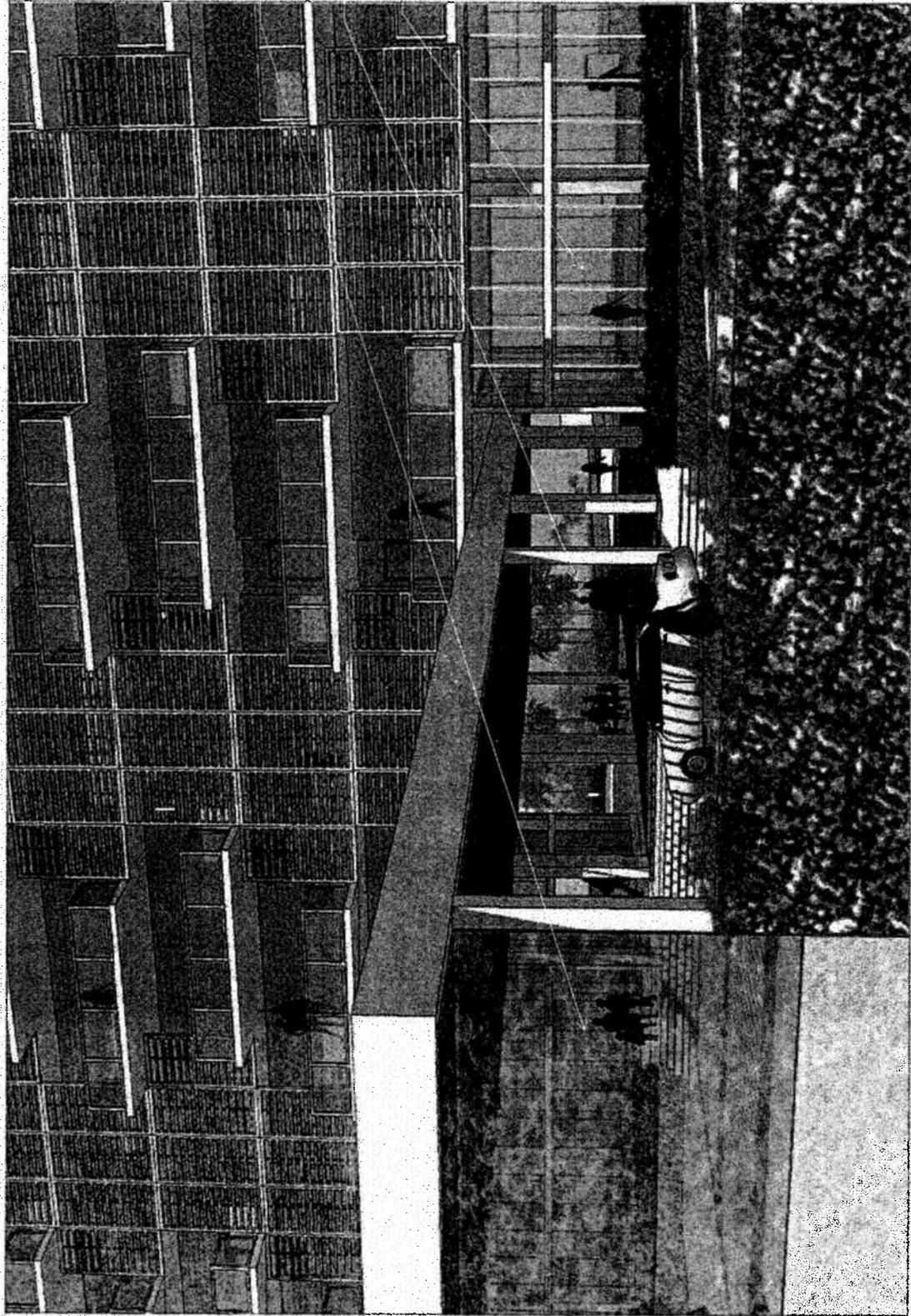
MCCORMICK, HERTZBERG & CORRECTION

MVIC MARRIOTT - MARCO ISLAND, FL

MARRIOTT VACATION CLUB INTERNATIONAL

© 2002 MARRIOTT 046

EXHIBIT "D"

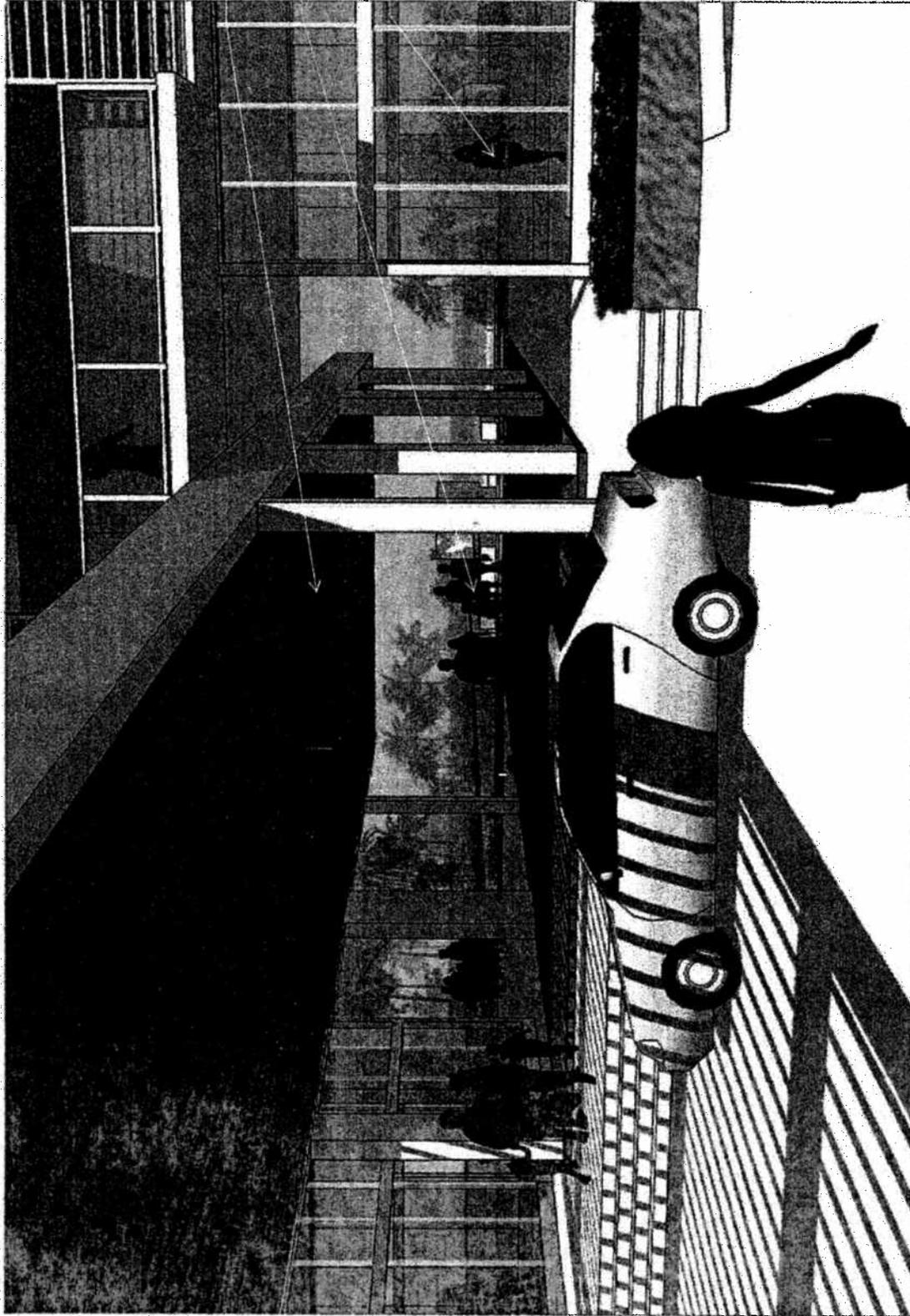


WATERFALL AT
PORTE COCHERE
ENTRANCE
OPEN AIR
BREEZEWAY WITH
VIEW TO GULF
LOBBY

WARRIOTT VACATION CLUB INTERNATIONAL
WARRIOTT - MARCO ISLANDS, FL
DESIGNED BY WARRIOTT ARCHITECTURE
DESIGNED BY WARRIOTT ARCHITECTURE

EXHIBIT "E"

WOOD CEILING
 TRELIS OVER
 PORTE COCHERE
 OPEN AIR
 BREEZEWAY WITH
 VIEW TO GULF
 LOBBY



MARRIOTT VACATION CLUB INTERNATIONAL
 HYCH MARRIOTT - MARCO ISLAND, FL
 CIVIL ARCHITECTURE & INTERIOR
 DARYL CHASE ARCHITECTURAL INTERIORS
 3-1-1997
 © 1997 MARRIOTT

EXHIBIT "F"



WOOD CEILING
TRELLIS OVER
PORTE COCHERE

CLEAR GLASS TO
PROTECT FROM
RAIN

OPEN AIR
BREEZEWAY WITH
VIEW TO GULF

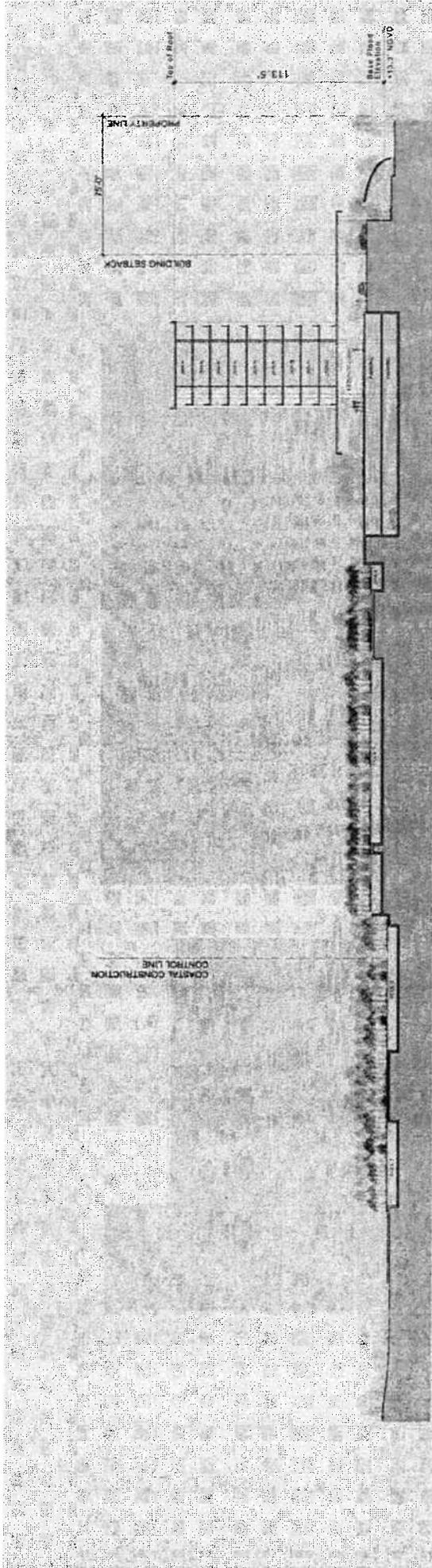
MARRIOTT VACATION CLUB INTERNATIONAL

MVIC MARRIOTT - MARCO ISLAND, FL

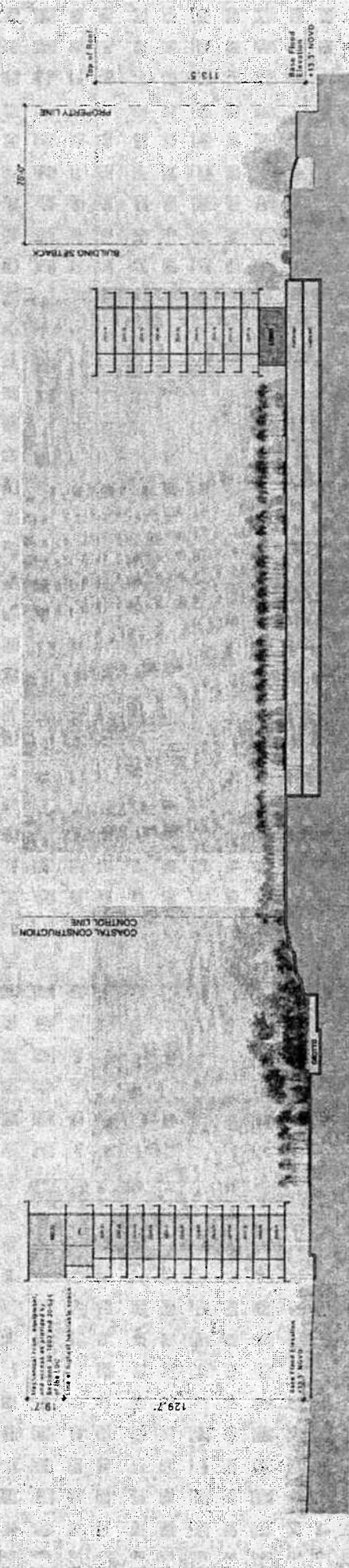
CONCEPT ARCHITECTURE & INTERIORS

CONCEPT ARCHITECTURE & INTERIORS

EXHIBIT "G"



LONGITUDINAL SECTION THROUGH POOL DECK, LOBBY, AND BUILDING D



LONGITUDINAL SECTION THROUGH EXISTING TOWERS A, D, AND PARKING GARAGE

MARRIOTT VACATION CLUB INTERNATIONAL

MVCI MARRIOTT - MARCO ISLAND, FL

OPPENHEIM + COLEMAN PARTNERS

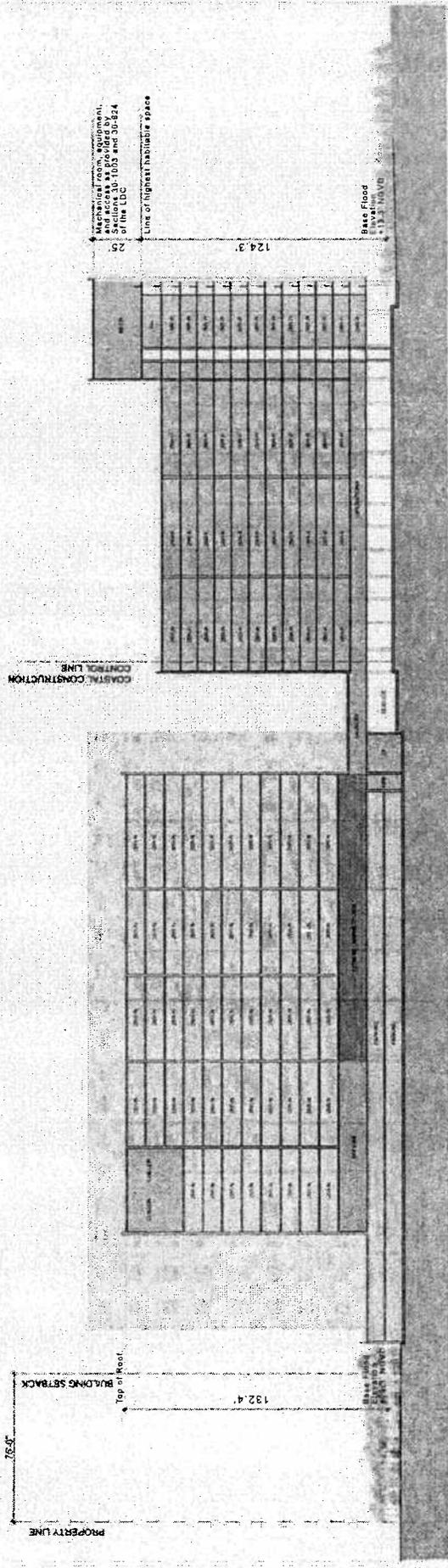
CONSTRUCTION PERMIT

CONSTRUCTION SECTION

SCALE: 1/8" = 1'-0"

A 30A

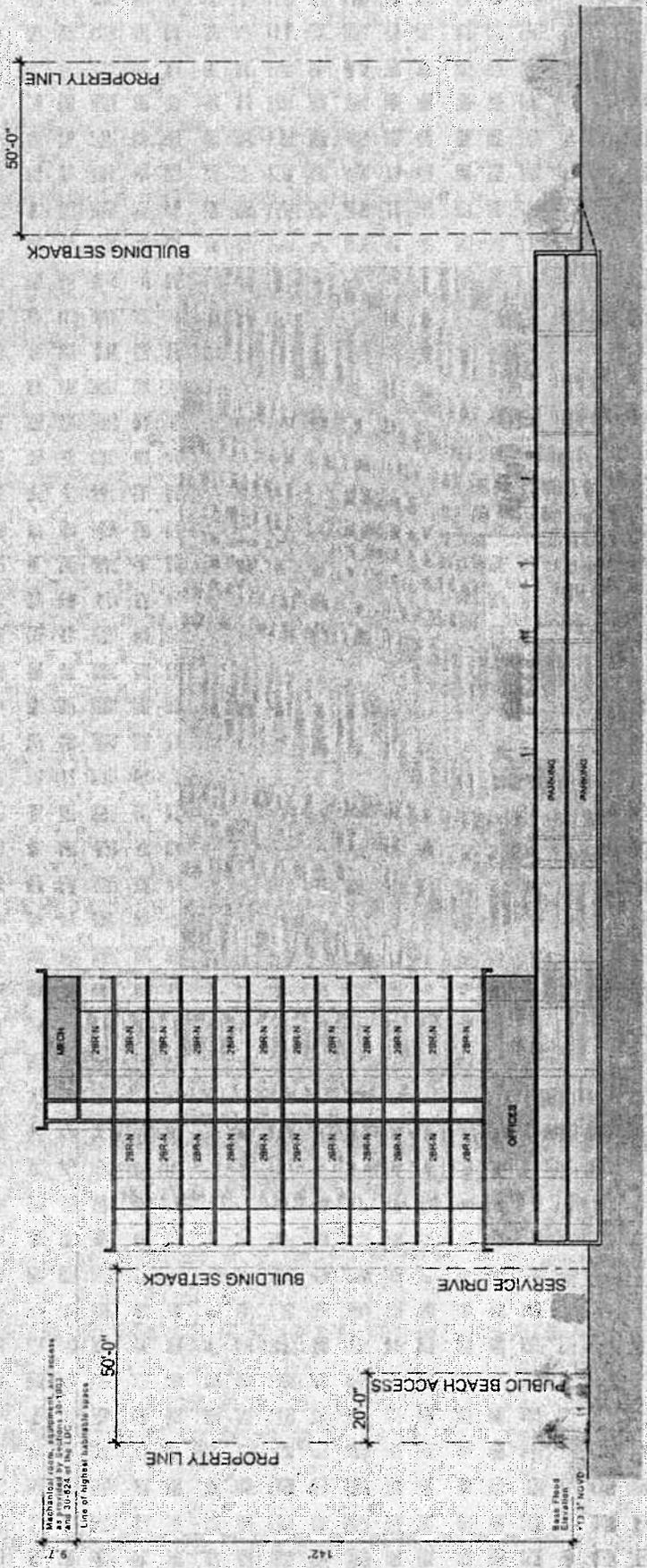
EXHIBIT "H"



LONGITUDINAL SECTION THROUGH BUILDINGS A, B, AND C

MARRIOTT VACATION CLUB INTERNATIONAL	MVCI MARRIOTT - MARCO ISLAND, FL	OPPENHEIM + COLEMAN PARTNERS	ADDITIONAL LIFE PERMITS LOCATIONAL SECTION	DATE: 01/10/10 SCALE: 1/4" = 1'-0"	A-3.0B
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EXHIBIT "I"



CROSS SECTION THROUGH BUILDING C

MARRIOTT VACATION CLUB INTERNATIONAL	MVIC MARRIOTT - MARGO ISLAND, FL	OPPENHEITZ GOLDFAY PARTNERS	COND. FORMAL USER PERMIT BUILDING CROSS SECTION	A-3 0C
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EXHIBIT "J"

(space above this line for recording data)

PEDESTRIAN BEACH ACCESS EASEMENT AGREEMENT

THIS PEDESTRIAN BEACH ACCESS EASEMENT AGREEMENT (this “**Easement Agreement**”) is made this ___ day of _____, 2007, by and between **MARRIOTT OWNERSHIP RESORTS, INC.**, a Delaware corporation (“**Developer**”) having its principal place of business at 6649 Westwood Blvd Orlando, Fl 32821-6044 Attention: Daniel B. Zanini, Esq. and the **CITY OF MARCO ISLAND**, a Florida municipal corporation (“**City**”), having its principal place of business at 50 Bald Eagle Drive, Marco Island, Florida 34145.

WHEREAS, the Developer currently owns that certain property situated, lying and being in Collier County, Florida, being developed as a Timeshare Resort (hereinafter the “**Project**”) located at 600 South Collier Boulevard, Marco Island, Florida, and more particularly described in Exhibit “A” attached hereto (“**Property**”); and

WHEREAS, on _____ 2007 the Marco Island City Council (“**City Council**”) adopted Resolution Number _____ (the “**Resolution**”) approving a Conditional Use for the above referenced project pursuant to Section 30-164(8) of the Marco Island Land Development Code (LDC); and

WHEREAS, Policy 1.1.2.3 of the Comprehensive Plan and Section 30-164(8)(i) of the LDC allows for the construction of an additional three units per acre upon providing public beach access and improvements; and

WHEREAS, pursuant to Section 30-164 (8) (i) of the LDC, the applicant is required to grant the City an easement twenty (20) feet wide along the northern boundary of the Property as more particularly described in Exhibit “B” attached hereto (“**Easement Parcel**”) to accommodate pedestrian beach access from South Collier Boulevard to and from the beach and the Gulf of Mexico; and

WHEREAS, Section 30-164 (8) (i) of the LDC further provides that: (i) improvement plans for the pedestrian improvements in the Easement Parcel shall be reviewed by the City as a site development plan, and (ii) any costs associated with improving the beach access shall be the responsibility of the Developer; and

EXHIBIT “K”

WHEREAS, the Developer agrees to improve the Easement Parcel in accordance with City's "Beach Access Construction Standards" as described herein; and

WHEREAS, following turnover of the pedestrian improvements to the City by the Developer, the City will maintain and repair said pedestrian beach access and other related improvements; and

WHEREAS, the parties agree that this Easement Agreement is being entered into by and between the Developer and the City in full satisfaction of Developer's commitment to provide beach access contained in the approval of the Conditional Use.

NOW THEREFORE, in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Developer by these presents hereby grants, sells, and conveys to the City, its successors and assigns, a perpetual non-exclusive easement on, in, and over the Easement Parcel for the purpose of providing pedestrian beach access from South Collier Boulevard to the beach and the Gulf of Mexico.

1. **Recitals**. The foregoing recitals are true and correct and incorporated into this Agreement by this reference.

2. **Easement**. Developer does hereby grant to the City, its successors and assigns, on the terms and conditions contained herein, a perpetual non-exclusive easement over, across, through and upon the Easement Parcel for the following purposes: (i) construction, installation, maintenance, repair, and/or replacement within the Easement Parcel of a pedestrian and bicycle pathway, together with other such improvements as deemed necessary by the City (except as hereinafter provided), including but not limited to, perimeter fencing, buffer walls, signage, landscaping, irrigation, benches, bicycle racks, trash receptacles and drinking fountain to make the walkway safe, attractive and functional for the public ("**Permitted Improvements**"), and (ii) pedestrian and bicycle-ingress and egress from South Collier Boulevard to and from the beach and the Gulf of Mexico by the City, its employees, guests, invitees and the general public ("**Permitted Use**"). Except for the Permitted Improvements and the Permitted Use, no other improvement shall be constructed or located on and no other use shall be permitted on or of the Easement Parcel. Notwithstanding anything herein to the contrary, no restrooms shall be located within the Easement Parcel.

3. **Pedestrian Improvements/Turnover**.

(a) Developer shall be responsible, at its sole costs and expense, for the design, permitting, supplying to the City a performance bond (the "Bond"), and constructing the pedestrian improvements (the "Pedestrian Improvements") within the Easement Parcel consistent with the City's "Beach Access Construction Standards" set forth on Exhibit "C" attached hereto and made a part hereof. The Bond shall be in form and content acceptable to the City and shall secure the timely and complete construction by Developer of the Pedestrian Improvements pursuant to the plans approved in this Section. The amount of the Bond shall be the estimated construction cost for the

Pedestrian Improvements plus a fifteen percent (15.0%) contingency. The Pedestrian Improvements shall provide pedestrian access between South Collier Boulevard and the beach consistent with the purpose of this Easement Agreement. The design plans and location for the Permitted Improvements shall be subject to the review and approval of the City and shall be submitted to the City no later than October 31, 2007. The design plans shall be submitted to the City together with a construction cost estimate submitted by the engineer of record for the Project, which cost estimate shall serve as the basis for determining the amount of the Bond. Construction of the Pedestrian Improvements shall be consistent with the plans approved by the City and shall be completed prior to the Turnover Date (as defined below). Developer will provide the Bond to the City at the time that Developer obtains the building permit for Phase 1 of the project development. A phase schedule is attached hereto as Exhibit "E".

(b) Developer shall be required to turn over ("Turnover") the Pedestrian Improvements to the City no later than the first to occur of the following: a) the issuance of a certificate of occupancy for any unit built exceeding 26 units per acre density (i.e. the CO for the 197th unit built) or b) December 31, 2011 (hereinafter the "Turnover Date"). Turnover of the Pedestrian Improvements shall be by bill of sale and/or such other documentation required by the City. Prior to Turnover, the Developer shall provide the City with evidence of ownership acceptable to the City, describing the nature of Developer's rights or interest in the Pedestrian Improvements being conveyed, and stating that the Pedestrian Improvements are free and clear of all liens and encumbrances, except as provided herein, and that all governmental approvals necessary to install the Pedestrian Improvements have been obtained.

4. **Maintenance of Permitted Improvements; Security.** Following Turnover, the City shall do the following:

(a) The City shall have the responsibility, at its sole cost and expense, to keep, maintain and repair the Pedestrian Improvements and any any modifications thereto in good condition and in a safe, clean and attractive manner at all times.

(b) The City agrees that it shall provide reasonable police patrols for the Easement Parcel.

(c) The City shall maintain at a minimum such insurance coverages and in such limits as are set forth in Exhibit "D" attached hereto. The City shall deliver a certificate to Developer evidencing same within fifteen (15) days from obtaining such insurance coverage.

(d) The City shall be responsible for payment of costs associated with water and electricity used in the easement areas.

5. **Interference/Reservation.** Developer reserves the permanent right to use the Easement Parcel, in a manner so that it does not conflict with the uses granted herein, including but not limited to minimum storm water runoff structures, and for the permanent location of utilities. In addition the Developer can use the Easement Parcel

during the construction of the Project for the trailers, cranes, storage containers, etc. The easement contained herein is granted subject to easements, restrictions, limitations, and other matters of record, including, but not limited to taxes and assessments for the year 2007 and subsequent years; all laws, ordinances, and governmental regulations, including, but not limited to, all applicable building, zoning, land use and environmental ordinances and regulations; and facts that an accurate survey and/or inspection would disclose. Developer is responsible for obtaining, in recordable form, a consent and joinder to this Easement Agreement from any party holding a mortgage or lien on the Property.

6. **Indemnification.** Following Turnover, to the extent permitted by law, the City shall indemnify, defend, save and hold harmless Developer, and its officers, board of directors, management, agents and/or employees, from and against any suits, demands, claims, liability, losses, penalties, damages, judgments, order, decrees, and costs and expenses (including attorneys' fees and all costs of litigation) for property damage, liability, or death which may result from any willful misconduct or negligent act, error, or omission of the City which occurred or is alleged to have occurred with respect to the City's maintenance, or repair of the Permitted Improvements. This indemnification provision shall not be construed as a waiver of sovereign immunity or any limitation of liability to which the City may be entitled under Section 768.28, Florida Statutes.

7. **Mechanic's Liens.** The City shall keep the Easement Parcel (and all portions thereof) at all times free of mechanics' and/or construction liens and any other liens for labor, services, supplies, equipment or materials purchased or procured, directly or indirectly, by or for the City. The City agrees that it will promptly pay and satisfy all liens of contractors, subcontractors, mechanics, laborers, materialmen and others of like character, and will, to the extent permitted, indemnify Developer against all liabilities, expenses, costs and charges, including, without limitation, bond payments for release of liens and attorneys' fees and costs reasonably incurred in and about the defense of any suit in discharging the Easement Parcel (or any portion thereof) from any liens, judgments or encumbrances, caused or suffered by or through the City. In the event any such liens shall be made or filed, the City shall bond against or discharge same within thirty (30) days after receiving written notice of the filing of same. The City shall not have any authority to create any liens for labor or material on the Easement Parcel and all persons contracting with the City for the performance of any services, supply of any materials or provision of any labor for any work done in, on or around the Easement Parcel, and all materialmen, contractors, suppliers, mechanics and laborers are hereby charged with notice that they must look solely to the City to secure payment of any bill for work done or materials furnished at the request or instruction of the City.

8. **Binding Effect.** This Easement Agreement shall inure to the benefit of and be binding upon the heirs, legal representatives, successors and assigns of the parties hereto, as applicable. Paragraph 6 will become effective and operational upon the turnover date of the completed pedestrian access improvements from the Developer to the City.

9. **Notices.** Any notice, request, demand, instruction or other communication to be given to any party hereunder shall be in writing and either hand delivered, delivered by overnight courier or telecopier or facsimile transmission, or sent by registered, or certified mail, return receipt requested, postage prepaid, addressee as follows:

If to the City at: City of Marco Island
50 Bald Eagle Drive
Marco Island, Florida 34145
Attn: A. William Moss, City Manager
Facsimile: (239) 389-4359

With a copy to: Goodlette Coleman & Johnson, P.A.
4001 Tamiami Trail North, Suite 300
Naples, Florida 34103
Attn: Gregory L. Urbancic, Esq.
Facsimile: (239) 435-1218

If to Developer at: Marriott Ownership Resorts, Inc.
6649 Westwood Blvd.
Orlando, Florida 32821 - 6044
Attention: Mr. Tom Brust
Regional Vice President
Facsimile: (407)206-6420

With a copy to: Daniel B. Zanini, Esq.
6649 Westwood Blvd.
Orlando, Florida 32821- 6044
Facsimile:(407)206-6420

And

With a copy to: Craig R. Woodward, Esq.
Woodward, Pires & Lombardo, P.A.
P.O. Box 1
Marco Island, Fl. 34145
Facsimile: (239) 642-6402

Any notice demand, request or other communication shall be deemed to be given upon actual receipt in the case of hand delivery, facsimile or telecopier transmission, delivery by overnight courier, or by registered, or certified mail, return receipt requested, postage prepaid. In the event of any notice via telecopier or facsimile transmission, hard copy shall be sent via regular mail on the day of such transmission. Any such transmission received after 5:00 p.m. Eastern Standard Time (or Daylight Savings Time, whichever then applicable) shall be deemed to have been given on the next following business day. For purposes of delivering and receiving any notices, demands, requests or other communications under this Easement Agreement, the attorneys for Developer may directly contact the City and the attorneys for the City may directly contact the Developer. The respective attorneys for both the Developer and the

City are hereby expressly authorized to give and receive any notice, demand, request or to make any other communication pursuant to the terms of this Easement Agreement on behalf of their respective clients. The addressees and addresses for the purpose of this section may be changed by either party by giving written notice of such change to the other party in the manner provided herein. For the purpose of changing such addresses or addressees only, unless and until such written notice is received, the last addressee and respective address stated herein shall be deemed to continue in effect for all purposes.

10. **Construction.**

(a) This Easement Agreement shall be construed and governed in accordance with the laws of the State of Florida. All of the parties to this Agreement have participated fully in the negotiation and preparation hereof; and, accordingly, this Easement Agreement shall not be more strictly construed against any one of the parties hereto.

(b) In construing this Easement Agreement, the use of any gender shall include every other and all genders, and captions and section and paragraph headings shall be disregarded.

(c) All of the exhibits attached to this Easement Agreement are incorporated in, and made a part of, this Easement Agreement.

11. **Severability.** In the event any term or provision of this Easement Agreement be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or construed as deleted as such authority determines, and the remainder of this Easement shall be construed to be in full force and effect.

12. **Enforcement/Litigation.** In the event of any litigation between the parties under this Easement Agreement for a breach hereof, the prevailing party shall be entitled to reasonable attorney's fees and court costs at all trial and appellate levels. The terms of this Section shall survive the termination of this Easement Agreement.

13. **Covenant to Run With the Land.** The easement and the rights and obligations created hereby shall run with the land, shall be a burden on the Property and shall inure to the benefit and burden of the Developer and the City and their respective successors and/or assigns.

14. **Entire Agreement.** This Easement Agreement, together with the documents referenced herein, constitute the entire agreement and understanding among the parties with respect to the subject matter hereof, and there are no other agreements, representations or warranties other than as set forth herein. This Easement Agreement may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change would be sought.

15. **Recording.** Developer shall be responsible for recording this Easement Agreement in the Public Records of Collier County, Florida.

16. **Force Majeure.** Developer acknowledges and agrees that the timely completion and turnover of the Pedestrian Improvements is an integral part of this Easement Agreement. Subject to force majeure, Developer shall provide and perform all work required to complete on schedule the Pedestrian Improvements and meet the Turnover Date. For purposes hereof, force majeure means fire, flood, earthquake, hurricane, other acts of God, war, declaration of hostilities, revolts, civil strife, strike, labor dispute or epidemic. If Developer is rendered unable, in whole or in part, by force majeure to carry out its obligations under this Agreement, Developer shall give to the City prompt written notice of the force majeure with reasonably full particulars concerning the same. If Developer has proven that the delay of the delivery is attributed to or a consequence of force majeure, the Turnover Date shall be extended by a period equalling the delay.

(Remainder of Page Intentionally Left Blank- Signatures Begin on Next Page)

IN WITNESS WHEREOF, the undersigned has caused this Easement Agreement to be executed by execution of this instrument as of this _____ day of _____, 2007.

Witnesses:

DEVELOPER:

Print Name: _____

MARRIOTT OWNERSHIP RESORTS, INC.
a Delaware corporation

Print Name: _____

By: _____
Name: Daniel B. Zanini, Esq.
Title: Vice President/Assistant General Counsel

STATE OF FLORIDA)
) SS:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2007 by Daniel B. Zanini, Esq., as Vice President of Marriott Ownership Resorts, Inc. a Delaware corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ as identification and who did (did not) take an oath.

NOTARY PUBLIC

Typed or Printed Name of Notary
State of _____
My Commission expires: _____
Commision No., if any: _____

ATTEST:

CITY:

Laura Litzan, City Clerk

CITY OF MARCO ISLAND,
a Florida Municipal corporation

Richard Yovanovich, City Attorney
Approved as to form and legality

By: _____
Michael Minnozi, City Council Chairman

Date: _____

STATE OF FLORIDA)
)
COUNTY OF COLLIER)

The foregoing instrument was acknowledged before me, this ____ of _____, 2007, by Terri DiSciullo, Chairwoman of City of Marco Island, a Florida Municipal corporation, on behalf of the City, who is () personally known to me or () has produced _____ as evidence of identification.

(SEAL)

NOTARY PUBLIC

Name: _____

(Type or Print)

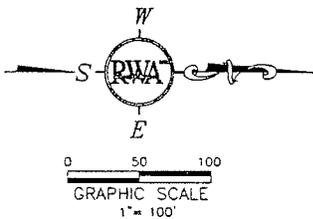
My Commission Expires:

Exhibit "A"

Legal description of the Property (a/k/a as the Timeshare Parcel)

A parcel of land lying in Section 18, Township 52 South, Range 26 east, Collier County, Florida, and being more particularly described as follows:

Commencing at the intersection of the center lines of South Collier Boulevard and Valley Avenue, as shown on the Plat of Marco Beach, Unit 10, recorded in Plat Book 6, Pages 74 through 79, inclusive, of the Public Records of Collier County, Florida; thence North 85 deg. 41'07" West, a distance of 50.00 feet to a point on the Westerly right-of-way line of the aforementioned South Collier Boulevard, 100 foot wide; thence with said right-of-way line North 04 deg. 18'53" East, along said Westerly right-of-way for a distance of 544.69 feet to a point of curvature of a curve having a radius of 1950.00 feet concave to the Northwest; thence Northerly along said curve, curving to the left through a central angle of 03 deg. 33'11" and an arc distance of 120.93 feet to the Point of Beginning of the hereby described parcel of land; thence leaving said right-of-way line South 89 deg. 16'35" West, a distance of 731.23 feet to an iron pin; thence continue South 89 deg. 16'35" West, a distance of 118 feet more or less to a point, said point hereafter know as Point "D" and the approximate mean high water line (elevation +1 – 1.5 contour) of the Gulf of Mexico as it existed on December 9, 1980; thence return to the aforementioned Point of Beginning; thence continue Northerly along said Westerly right-of-way line of South Collier Boulevard and the aforementioned curve having a radius of 1950.00 feet concave to the Northwest, curving to the left through a central angle of 11 deg. 33'00" and an arc distance of 393.09 feet to the point of tangency; thence North 10 deg. 47'18" West, a distance of 15.96 feet; thence leaving said right-of-way South 86 deg. 13'24" West, a distance of 703.92 feet to an iron pin; thence continue South 86 deg. 13'24" West, a distance of 149 feet, more or less, to a point on the approximate high water line (elevation +1 – 1.5 contour) of the Gulf of Mexico as it existed on December 9, 1980; thence meander in a Southerly direction along said approximate mean high water line (elevation +1 – 1.5) 363 feet more or less to the aforementioned Point "D" and the Point of Termination.



GULF OF MEXICO
 APPROXIMATE HIGH WATER LINE (ELEVATION +1-1.5 CONTOUR)
 OF THE GULF OF MEXICO AS IT EXISTED ON DECEMBER 9, 1980

A PARCEL OF LAND LYING N SECTION 18, TOWNSHIP 52 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE CENTER LINES OF SOUTH COLLIER BOULEVARD AND VALLEY AVENUE, AS SHOWN ON THE PLAT OF MARCO BEACH, UNIT 10, AS RECORDED IN PLAT BOOK 6, PAGES 74 THROUGH 79, INCLUSIVE OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA;

THENCE N.85°41'07"W., FOR 50.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID SOUTH COLLIER BOULEVARD;

THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) COURSES:

- 1) THENCE N.04°18'53"E., FOR 544.69 FEET TO A POINT ON A CURVE;
- 2) THENCE NORTHERLY 494.80 FEET ALONG THE ARC OF A NON-TANGENTIAL CURVE TO THE LEFT HAVING A RADIUS OF 1,950.00 FEET THROUGH A CENTRAL ANGLE OF 14°32'19" AND BEING SUBTENDED BY A CHORD WHICH BEARS N.02°58'38"W. FOR 493.48 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL;
- 3) THENCE CONTINUE NORTHERLY 19.21 FEET ALONG THE ARC OF A NON-TANGENTIAL CURVE TO THE LEFT HAVING A RADIUS OF 1,950.00 FEET THROUGH A CENTRAL ANGLE OF 00°33'52" AND BEING SUBTENDED BY A CHORD WHICH BEARS N.10°31'44"W. FOR 19.21 FEET;
- 4) THENCE N.10°47'18"W., FOR 0.79 FEET;
 THENCE S.79°33'15"W., FOR 8.19 FEET;
 THENCE N.52°06'40"W., FOR 24.08 FEET;
 THENCE S.86°13'24"W., FOR 828.65 FEET MORE OR LESS TO A POINT ON THE APPROXIMATE HIGH WATER LINE (ELEVATION +1-1.5 CONTOUR) OF THE GULF OF MEXICO AS IT EXISTED ON DECEMBER 9, 1980;
 THENCE S.06°13'02"E. ALONG SAID APPROXIMATE HIGH WATER LINE, FOR 20.02 FEET MORE OR LESS;
 THENCE N.86°13'24"E., FOR 820.18 FEET MORE OR LESS;
 THENCE S.52°06'40"E., FOR 25.45 FEET;
 THENCE N.79°33'15"E., FOR 17.20 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL;

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY DEPICTED HEREON, AS HAVING AN ASSUMED BEARING OF N.04°18'53"E.

CONTAINING 17,238 SQUARE FEET OR 0.40 ACRES, MORE OR LESS.

PREPARED BY:

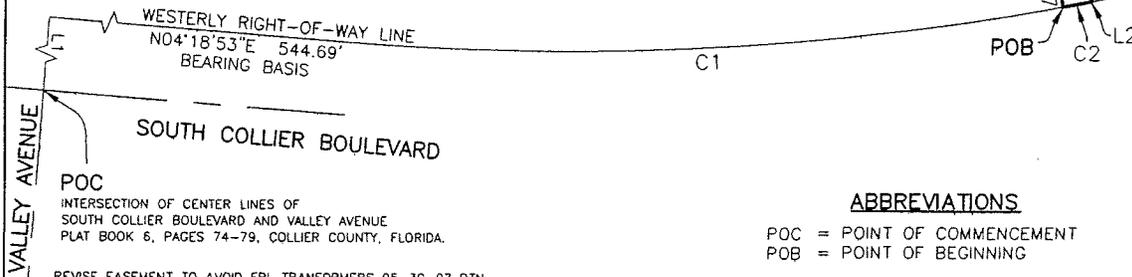
RWA INC.
 FLORIDA CERTIFICATE OF AUTHORIZATION No. LB 6952

OFFICIAL RECORDS BOOK 4074, PAGE 3304,
 OF THE PUBLIC RECORD OF
 COLLIER COUNTY, FLORIDA.

Dennis A. Miller
 DENNIS A. MILLER DATE 6-4-07
 PROFESSIONAL SURVEYOR AND MAPPER
 FLORIDA CERTIFICATE No. LS 5626

LINE TABLE		
LINE	BEARING	LENGTH
L1	N85°41'07"W	50.00'
L2	N10°47'18"W	0.79'
L3	S79°33'15"W	8.19'
L4	N52°06'40"W	24.08'
L5	S06°13'02"E	20.02'
L6	S52°06'40"E	25.45'
L7	N79°33'15"E	17.20'

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD	CHORD BRG.
C1	494.80'	1950.00'	14°32'19"	493.48'	N02°58'38"W
C2	19.21'	1950.00'	0°33'52"	19.21'	N10°31'44"W



POC
 INTERSECTION OF CENTER LINES OF
 SOUTH COLLIER BOULEVARD AND VALLEY AVENUE
 PLAT BOOK 6, PAGES 74-79, COLLIER COUNTY, FLORIDA.

ABBREVIATIONS

POC = POINT OF COMMENCEMENT
 POB = POINT OF BEGINNING

REVISE EASEMENT TO AVOID FPL TRANSFORMERS 05-30-07 PTN
 ADD EASEMENT DISTANCE REVISION 04-13-07 SPE

RWA INC.
 Planning
 Visualization
 Civil Engineering
 Surveying & Mapping

1542 Carson Street
 Fort Myers, Florida 33901
 Phone: (239) 278-5224
 FAX: (239) 278-5419

DATE: 04-09-07

SCALE: 1" = 100'

DRAWN BY: SPE

CHECKED BY: DAM

SEC. TWP. RGE. 18 52S 26E

CLIENT:

MARRIOTT VACATION
 CLUB INTERNATIONAL

TITLE:

SKETCH AND
 LEGAL DESCRIPTION

PROJECT NUMBER: 060174.00

SHEET NUMBER: 1 OF 1

FILE NUMBER: SK-060174

EXHIBIT "B"

Exhibit "C"

Beach Access Construction Standards

The Developer agrees to improve the Easement Parcel in accordance with the following standards:

1. The improvements shall meet all ADA requirements for handicapped accessibility
2. The dune crossover shall be consistent with all regulations and standards as established by the State of Florida, Department of Environmental Management
3. The pathway surface, from the City ROW to a point where the dune crossover boardwalk begins, shall be constructed using brick pavers as specified by the City, and shall be a minimum of eight (8) feet wide, and/or a maximum of ten (10) feet wide.
4. The dune crossover boardwalk, stairs and ADA accessible ramp shall be constructed of pressure treated wood and Ipe wood as specified by the City and shall meet all applicable standards per the Florida Building Code; provided, however, that if the Developer can demonstrate that the cost for Ipe wood exceeds the cost of composite plastic (Trex) by more than fifteen percent (15.0%) then the Developer shall be permitted to use composite plastic (Trex).
5. Site furniture, including benches, drinking fountains, trash receptacles, bicycle racks and shower/foot washer shall be installed as specified by the City.
6. Landscaping to enhance the easement area and to provide a landscape buffer from adjacent property shall be installed as specified by the City. This may include landscaping installed on adjoining property in order to provide an adequate landscape buffer.
7. Irrigation, using re-use water, where applicable, shall be installed as specified by the City, to properly irrigated landscaping.
8. Pathway lighting, in the form of low-level bollard lighting, shall be installed if specified by the City
9. Drainage of the easement area must be managed within the Developer's storm water management plan for the proposed development and may not negatively impact adjacent properties.

Exhibit "D"

Insurance Requirements

The City shall procure and maintain in full force and effect throughout the term of this Easement Agreement general public liability insurance and property damage insurance against claims for personal injury, death or property damage occurring upon, in or about the Easement Parcel, to afford protection to the limit of not less than \$2,000,000.00 Combined Single Limit Liability. The City shall provide the Developer (or the Condominium Association, if applicable) with certificates of such insurance within fifteen (15) days after obtaining such insurance to evidence that insurance is in force. Such insurance may be written by additional premises endorsement on any master policy of insurance carried by the City which may cover other property in addition to the Easement Parcel. Such insurance shall provide that the same may not be canceled without thirty (30) days' prior written notice to Developer (or the Condominium Association, if applicable).

Exhibit "E"

Phasing Schedule

1. Phase Zero: Sales center – start construction April 9, 2007, complete October 1, 2007;
2. Phase 1: Renovate existing beach tower and north tower – start October 1, 2007, complete November 11, 2008;
3. Phase 2: Construct the East Tower and Parking Garage – start May 8, 2009, complete August 24, 2010;
4. Phase 3A: Construct exterior facade of North Tower – start July 12, 2010, complete December 31, 2011. Additionally, complete all site improvements including landscaping, water management, and parking facilities by December 31, 2011;
5. Phase 3B: Complete interior improvements to North Tower – start May 21, 2012, complete September 6, 2013.