

## RESOLUTION NO. 05-08

**A RESOLUTION DETERMINING PETITION V-04-15, A VARIANCE FROM SECTION 30-488 OF THE MARCO ISLAND LAND DEVELOPMENT CODE FROM 20% to 36% FOR THE PURPOSE OF INCREASING THE MAXIMUM ALLOWABLE RESTAURANT FLOOR AREA APPLICABLE TO THE MARCO WALK SHOPPING CENTER FROM 11,360 SQUARE FEET TO 20,448 SQUARE FEET; LOCATED AT THE NORTHEAST INTERSECTION OF WINTERBERRY DRIVE AND SOUTH COLLIER BOULEVARD, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR FILING WITH THE CITY CLERK; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Section 30-488 of the Marco Island Land Development Code establishes a maximum restaurant floor area within shopping centers of 20%; and

WHEREAS, Robert J. Mulhere of RWA Inc., representing Venetian Investments, L.L.C. (Marco Walk shopping center), has petitioned the City for a variance from said requirement for the purpose of increasing the maximum allowable restaurant square footage from 20% to 36%, representing an increase in floor area from 11,360 square feet to 20,448 square feet; and

WHEREAS, the Marco Walk shopping center presently contains 56,800 square feet of air conditioned leaseable floor area;

WHEREAS, the City of Marco Island has adopted Section 30-65 of the Marco Island Land Development Code which establishes variance procedures; and

WHEREAS, the Marco Island Planning Board conducted a public hearing on December 10, 2004 to consider the advisability of a 16% variance from the required 20% maximum permitted restaurant floor area of a shopping center to 36% for the purpose of increasing the restaurant floor area from 11,360 square feet to 20,448 square feet, and voted 7 to 0, to recommend that the Marco Island City Council approve the requested variance; and

WHEREAS, the Marco Island City Council is acting as the Board of Zoning Appeals; and

WHEREAS, City Council, as the Board of Zoning Appeals, has held a public hearing after proper notice as provided for in Section 30-65, and has considered the advisability of a 16% variance from the required 20% maximum permitted restaurant floor area to 36% for the purpose of increasing the restaurant floor area within the existing 56,800 square foot shopping center from 11,360 square feet to 20,448 square feet as shown on Exhibits "A" and "B" in the "C-3" zoning district for property hereinafter described, and has found as a matter of fact that satisfactory provision and arrangement have been made concerning all applicable matters required by City Ordinances, including Section 30-65 of the Marco Island Land Development Code; and

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

NOW THEREFORE, BE IT RESOLVED BY THE MARCO ISLAND CITY COUNCIL, THAT:

Section One:

Petition V-04-15, filed by Robert J. Mulhere of RWA, Inc., representing Venetian Investments, L.L.C., with respect to the property described as Tract "B", Marco Beach Unit 7, (see Exhibit "C") commonly referred to as Marco Walk Shopping Center, located in Section 17, Township 52 South, Range 26 East, Collier County, Florida, is hereby approved allowing for a 16% variance from the required 20% maximum permitted restaurant floor area to 36% for the purpose of increasing the restaurant floor area within the existing 56,800 square foot shopping center from 11,360 square feet to 20,448 square feet subject to the following conditions:

1. If the parking variance is approved for restaurant uses for 36% of the shopping center's square footage, then surplus parking remaining on-site or off-site shall not be used to bring about any additional square footage to the existing 56,800 square foot shopping center through redevelopment, building additions or remodeling.
2. The area proposed in the petitioner's exhibit (attached) as a food court shall be redeveloped in order to provide a glass elevator and a lighted stairway to access the parking garage.
3. The existing Nacho Mama's structure(s) shall be demolished within 30 days of the earlier of the existing tenant vacating the premises or the existing tenant ceasing restaurant operations. Within 6 months of removal, the piazza improvements including the stairwell and elevator access to the parking garage shall be completed. All such improvements shall be completed prior to allowing any increase in restaurant square footage beyond what currently exists (17,200 square feet).
4. Free valet parking and a valet parking attendant shall be provided at the food court drop-off during the months of December through April each day during the hours of 5:00 p.m. and 11:30 p.m. Designate valet drop-off, valet pick-up, and two ten minute parking spaces on "SDP-03-08".
5. The petitioner's parking plan incorporates 27 off-site parking spaces. Should any or all of the 27 off-site parking spaces not remain available, the 120 outdoor restaurant seats provided throughout the piazza may be administratively reduced, or the ability to occupy any vacant space in the shopping center may be restricted and/or prohibited during the issuance of occupational licenses. Pedestrian benches, pedestrian furniture, and/or similar pedestrian seating provided throughout the shopping center for non-restaurant activities and/or services shall not be counted against the maximum outdoor restaurant seating count. If all of the 27 off-site parking spaces remain, and after review of the first annual parking analysis there is deemed adequate and

sufficient parking, then staff can administratively increase the seating in the piazza from 120 to 150.

6. In order to verify parking demands, on or before June 1 of each year for five consecutive years following the approval of this variance, the applicant shall submit a parking count, to be conducted by and attested to by a professional traffic engineer, during one week of February, March, and April. The parking count shall indicate the amount of available parking (occupied and unoccupied spaces) between the hours of 11:00 a.m. and 1:00 p.m., and 5:00 p.m. and 10:00 p.m. Additional information shall be submitted which considers the amount of visitors walking to the shopping center during these times. In the event that on-site parking is not suitable for approved restaurant square footage or outdoor restaurant seating, then measures to reduce outdoor restaurant seating and/or restaurant square footage shall be taken by the property owner.
7. The petitioner shall provide the necessary improvements to pedestrian crosswalks as required by the site development plan (SDP-03-08).

Section Two:

This Resolution relating to Petition Number V-04-15 shall be recorded in the Minutes of this Board and filed with the Marco Island City Clerk's Office.

Section Three:

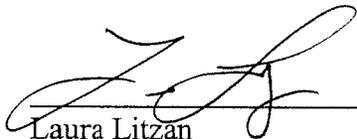
This Resolution shall take effect immediately upon adoption.

PASSED IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL ACTING AS THE BOARD OF ZONNING APPEALS THIS 7<sup>th</sup> DAY OF Feb 2005.

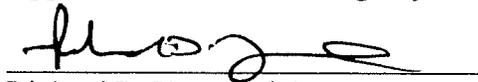
MARCO ISLAND CITY COUNCIL  
MARCO ISLAND, FLORIDA

By: Terri DiScullo  
Terri DiScullo, Chairwoman

ATTEST:

  
\_\_\_\_\_  
Laura Litzan  
City Clerk

Approved as to form and legality:

  
\_\_\_\_\_  
Richard D. Yovanovich  
City Attorney

**PROPOSED CHANGES:**  
 1. 100' R/W - 100' R/W - 100' R/W  
 2. 100' R/W - 100' R/W - 100' R/W  
 3. 100' R/W - 100' R/W - 100' R/W

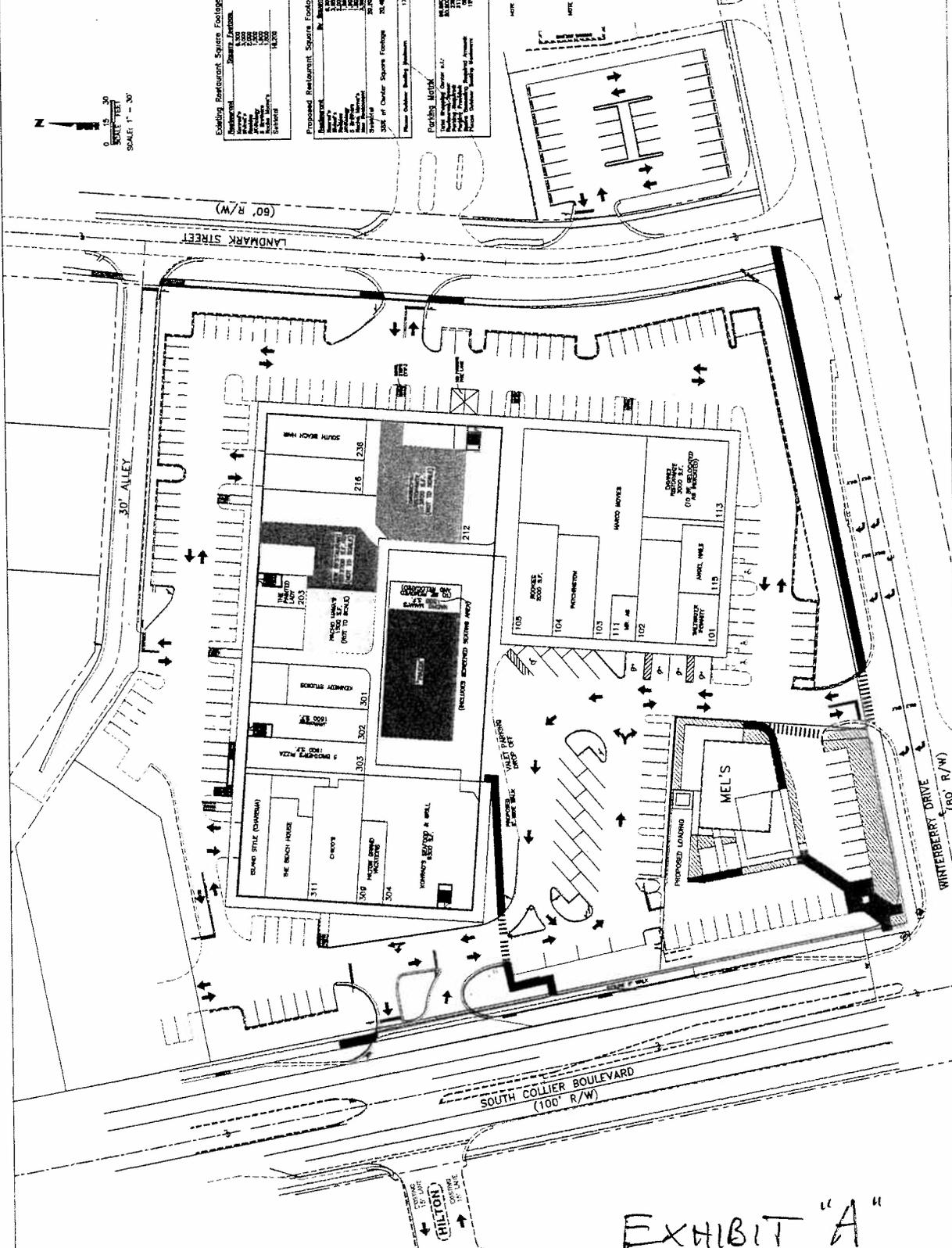
**EXISTING RESTAURANT SQUARE FOOTAGE:**  
 Restaurant: 12,000  
 Bar: 1,000  
 Kitchen: 1,000  
 Storage: 1,000  
 Washroom: 1,000  
 Total: 16,000

**PROPOSED RESTAURANT SQUARE FOOTAGE:**  
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 Washroom: 1,000  
 Total: 16,000



**PROPOSED RETAIL SITE PLAN**

950 Encino Way  
 Naples, FL 34110  
 Phone: (239) 254-2000  
 Fax: (239) 254-2000  
 Administration No. 1772



DATE: 1/03  
 DATE: 1/03  
 DATE: 1/03  
 DATE: 1/03

**MISSION PLAZA RENOVATION**

DATE: 1/03  
 DATE: 1/03  
 DATE: 1/03  
 DATE: 1/03

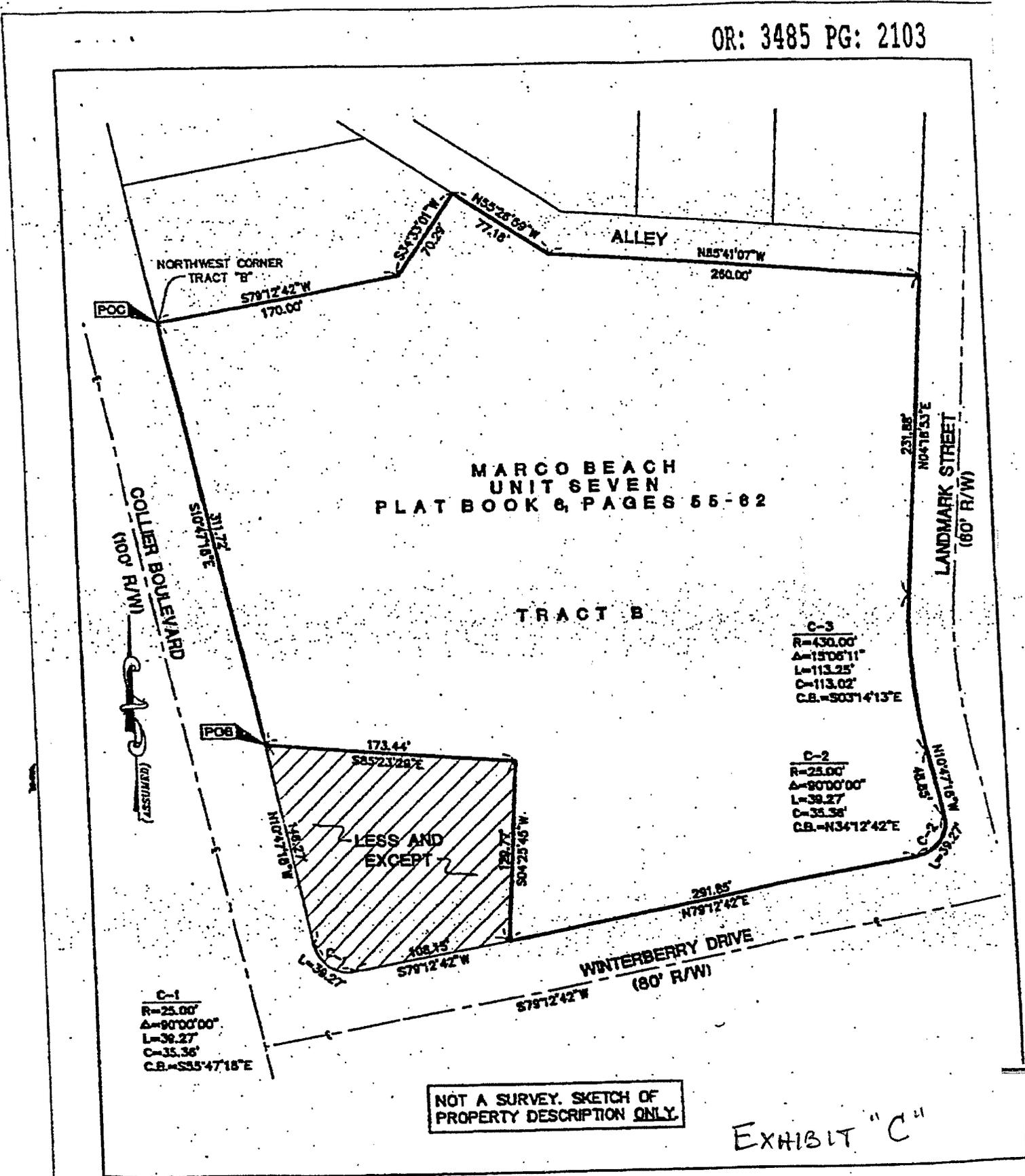
EXHIBIT "A"

DATE: 1/03  
 DATE: 1/03  
 DATE: 1/03  
 DATE: 1/03

DATE: 1/03  
 DATE: 1/03  
 DATE: 1/03  
 DATE: 1/03



OR: 3485 PG: 2103



MARCO BEACH  
UNIT SEVEN  
PLAT BOOK 6, PAGES 55-62

TRACT B

C-3  
 R=430.00'  
 Δ=15°06'11"  
 L=113.25'  
 C=113.02'  
 C.B.=S03°14'13"E

C-2  
 R=25.00'  
 Δ=90°00'00"  
 L=39.27'  
 C=35.36'  
 C.B.=N34°12'42"E

C-1  
 R=25.00'  
 Δ=90°00'00"  
 L=39.27'  
 C=35.36'  
 C.B.=S35°47'18"E

NOT A SURVEY. SKETCH OF PROPERTY DESCRIPTION ONLY

EXHIBIT "C"

SKETCH OF PROPERTY DESCRIPTION  
NOT TO SCALE