

**ORDINANCE NO. 3717**

AN ORDINANCE  
To Be Entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA, AMENDING AND RESTATING ORDINANCE NOS. 3262, 3345 AND 3509 A PLANNED UNIT DEVELOPMENT FOR THE SULLIVAN-FLORIDA GROUP, INC./WEST FIRST STREET PROJECT KNOWN AS SULLIVAN PLANNED UNIT DEVELOPMENT LOCATED AT 2021/2023, 2024, 2025, 2030, 2038, 2044, AND 2064 WEST FIRST STREET, 2020 HENLEY PLACE, 2058 AND 2063 BAYSIDE PARKWAY NORTH OF MCGREGOR BOULEVARD, SOUTH OF THE CALOOSAHATCHEE RIVER, AND WEST OF CENTENNIAL PARK IN SECTIONS 14 AND 23, TOWNSHIP 44 SOUTH, RANGE 24 EAST, FORT MYERS, LEE COUNTY, FLORIDA; RESCINDING ORDINANCE NOS. 3262, 3345 AND 3509; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS:** Sullivan-Florida Group, Inc., owner, originally submitted an application for a planned unit development for a West First Street Project located on ten (10) parcels north of McGregor Boulevard, south of the Caloosahatchee River and west of Centennial Park; that was heard with recommendations provided by the Planning Board on January 12, 2005, and which was approved by Ordinance No. 3262 by City Council on March 10, 2005, for a mixed-use development for two high-rise residential towers of 25 stories in height, with 374 residential units located above parking floors, amenities, and liner buildings; of which 72 units were in the Coastal High Hazard Zone; 37,568 square feet of retail, commercial and/or office space, and a five-story, stand-alone parking garage to be located at the corner of West First Street and Henley Place; which property is legally described in Exhibit A, attached and made a part hereof; and which rezoned the property to Planned Unit Development (PUD) as depicted on Exhibit B, attached and made a part hereof; and

**WHEREAS:** The Sullivan-Florida Group, Inc. West First Street Project Planned Unit Development, known as Sullivan PUD, was

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amended by Ordinance No. 3345 adopted by City Council on September 5, 2006, which rescinded those portions of Ordinance No. 3262 to the extent they were in conflict with the amended portions of Ordinance No. 3345; and extended the timeframes to commence with construction of the parking garage as Phase I by January 31, 2007; apply for permits for vertical construction of Phase II (westernmost tower) by November 30, 2007; and obtain a Certificate of Occupancy for Phase II by July 31, 2010; and

**WHEREAS:** The Sullivan PUD was amended by Ordinance No. 3434 adopted by City Council on December 17, 2007, which provided for an additional eighteen (18) months to apply for building permits for vertical construction of Phase II (westernmost tower) and added an expiration date of May 31, 2009; and

**WHEREAS:** The Sullivan PUD was amended by Ordinance No. 3509 adopted by City Council on June 15, 2009. The number of vested units was voluntarily reduced by fourteen (14), from 374 to 360 units, which left 58 units remaining in the Coastal High Hazard Area. The amendment provided for an additional five (5) years to commence; building permits were to be applied for by June 30, 2014; vertical construction was to commence by June 30, 2015; and, all construction was to be completed by June 30, 2021; and

**WHEREAS:** Sullivan-Florida Group, Inc., owner, requested amendments to the Schedule of Uses in Section 5 to add a hotel use; requested amendments to add one deviation and one warrant listed in Section 6; amend the terms and conditions of the PUD listed in Section 7; amend the date to obtain permits to commence in 10 years and by October 20, 2024; and this ordinance restates all previous ordinances so that Ordinance Nos. 3262, 3345, and 3509 can be rescinded; and

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**WHEREAS:** The Planning Board, sitting as the Local Planning Agency of the City of Fort Myers at its regular meeting on August 6, 2014, considered the consistency of requested amendments for the Sullivan PUD with the Comprehensive Plan and the Land Development Code Section 98.2.2, and found the requests to be consistent, with certain modifications. The Planning Board made a recommendation of approval to City Council of an amended list of terms and conditions, such hearing being held fifteen (15) days after public notice was provided; and after considering all public comment including all written and oral comments received before and during the public hearing, including support documents.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA,** that:

**SECTION 1.** The Sullivan-Florida Group, Inc., owner, previously submitted an application for a planned unit development which was heard with recommendations provided by the Planning Board on January 12, 2005, and approved by City Council on March 10, 2005, by Ordinance No. 3262. The owner requested amendments to the terms, conditions and timeframes for development of the Sullivan PUD, which were approved by City Council on September 5, 2006, by Ordinance No. 3345. The timeframes were extended two more times by approval of City Council, first by Ordinance No. 3434 adopted on December 17, 2007, and second by Ordinance No. 3509 adopted June 15, 2009.

**SECTION 2.** The Sullivan-Florida Group, Inc. requested certain changes and revisions to the previously approved Sullivan PUD in 2014 as set forth herein.

**SECTION 3.** The legal description is attached as Exhibit A. The location map of the Sullivan PUD is attached as Exhibit B. The Sullivan PUD property consists of ten (10) parcels of land located in

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Sections 14 and 23, Township 44 South, Range 24 East with owner names, physical address and parcel STRAP numbers as follows:

Palm City Capital LLC 2021 (and 2023) West First Street 14-44-24-P3-00700.0100	Marc C. Sullivan Trust 2044 West First Street 14-44-24-P3-00001.0000
Navillus Group LLC 2025 (2023-35)West First Street 14-44-24-P3-00700.0090	Centennial Harbour Marina LLC 2064 West First Street 14-44-24-P3-00003.0020
Navillus Group LLC 2024 West First Street 14-44-24-P3-00008.0000	Palm City Capital LLC 2020 Henley Place 14-44-24-P3-00700.0080
Navillus Group LLC 2030 West First Street 14-44-24-P3-00009.0000	Navillus Group LLC 2059 Bayside Parkway 23-44-24-P2-00300.0120
Winyah LLC 2038 West First Street 14-44-24-P3-00010.0000	Navillus Group LLC 2063 Bayside Parkway 23-44-24-P2-00300.0100

**SECTION 4. Purpose and Intent; Phasing.** The purpose and intent of the Sullivan PUD is to allow for the development of a mixed use, residential and commercial project, on both the north and south sides of West First Street, to include two high-rise towers for residential living; approved for a maximum of 352 residential units atop liner buildings, parking levels, and amenities for the residents; a parking garage at the southwest corner of West First Street and Henley Place, with liner buildings for retail, commercial, office, and residential uses; for a total of 37,658 square feet of retail, commercial and/or office space to be located within the three (3) structures.

The project shall be constructed in three (3) phases or less, with the parking garage or first tower in Phase One, parking garage or the first tower, whichever was not built as Phase One in Phase Two and the remaining tower in Phase Three.

1. Phase One shall include, at a minimum, the construction of either:
- (A) a five story, parking garage at the southwest corner of West First Street and Henley Place; plus
- landscaping and landscaping buffers; and,

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- liner buildings along the south side of West First Street and west side of Henley Place for retail, commercial and/or office spaces on the ground floor and floors 2 through 5 in the liner buildings shall be developed as residences or a hotel,
- the amendment to the Sullivan PUD is approved in 2014 for two (2) additional stories to be added on top of the parking garage structure and/or liner buildings, for a total of seven (7) stories.

or

(B) the first high rise tower; plus

- parking for residents within the high-rise tower;
- landscaping and amenities;
- the liner building along north side of West First Street with an optional five (5) stories or less of retail, commercial and/or office uses.

2. Phase Two shall include, at a minimum, the construction of either (A) or (B) set forth under paragraph (1) of Section 4, whichever was not constructed as Phase One.

3. Phase Three shall include, at a minimum, the construction of the second high-rise tower; plus

- parking for residents within the high-rise tower;
- landscaping and amenities;
- the liner building along north side of West First Street with an optional five (5) stories or less of retail, commercial and/or office uses; and

**SECTION 5. Schedule of Uses.** The permitted uses approved on September 5, 2006, for the Sullivan PUD are as follows, with additions in 2014 underlined:

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- Multi-family residential uses;
- Lodging;
- Marina;
- Any use permitted in the Professional Office (PO) District;
- Offices, retail stores and shops, excluding pawn shops;
- Wearing apparel including all accessories;
- Food and drink consumption including nightclubs;
- Food sales stores except live animals and fowl;
- Department stores;
- Drug and sundry stores;
- Hardware, furniture, appliances and sporting goods;
- Personal services such as barber and beauty shops;
- Studios for music, art, dancing, typing and vocational except industrial types as welding, etc.;
- Parking lots, parking decks and parking garages;
- Financial institutions excluding those with drive up facilities;  
walk-up machines are permitted;
- Exercise studios and health clubs;
- Restaurants excluding those with drive-up facilities; walk-up windows are permitted;
- Open-air cafes used in conjunction with a restaurant to be contained within the property lines;
- Any other use similar in nature, in keeping with the spirit or intent and when compatible with the above uses; and
- Buildings and uses normally accessory to any permitted or approved conditional use in this district.

**SECTION 6.            Warrants and Deviations 1-9.** The warrants from the Smart Code and the deviations from the Growth Management Code in effect on September 9, 2006, for the Sullivan PUD are hereby

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revised to: reference the Smart Code Sections adopted within Article 8 of the Land Development Code after 2006; to reference the Growth Management Code Sections, now referred to as the Land Development Code, adopted after 2006; and to add one (1) warrant and one (1) deviation in 2014, shown as underlined, as follows:

- (1) Land Development Code, Article 8, Downtown Smart Code, and Section 118.8.5.D.2: Within the Urban Core Zone, building height shall be a minimum of two (2) stories and a maximum of eighteen (18) stories.

**Warrant:** A building height of twenty-five (25) stories shall be permitted.

- (2) Land Development Code, Article 8, Downtown Smart Code, and Section 118.8.5.D.4.a: All parking areas shall be located at Third Layers and masked by a streetwall or liner building.

**Warrant:** Parking areas will be permitted outside of the Third Layers.

- (3) Land Development Code, Article 8, Downtown Smart Code, and Section 118.8.5.D.4.b: Parking shall be accessed from a rear alley.

**Warrant:** No alley access shall be required.

- (4) Land Development Code, Article 8, Downtown Smart Code, and Section 118.8.6.D: The maximum stay in limited lodging use under the Urban General designation shall not exceed ten (10) days.

**Warrant:** A four (4) month maximum stay is approved.

- (5) Land Development Code, Article 8, Downtown Smart Code, and Section 118.8.6.G.3: Front setback shall be a 0 foot minimum, with a 5 foot maximum.

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**Warrant:** A 10 foot front setback is approved.

- (6) Land Development Code, Article 8, Downtown Smart Code, and Section 118.8.6.G.3: Side setback shall be a 0 foot minimum, with a 0 foot maximum.

**Warrant:** A 20 foot side setback is approved.

- (7) Land Development Code, Article 8, Downtown Smart Code, and Section 118.8.6.G.3: Rear setback shall be a 0 foot minimum, with a 0 foot maximum.

**Warrant:** A 50 foot rear setback is approved.

- (8) Land Development Code, Chapter 134, Traffic Circulation and Parking, Article 2. Traffic Circulation, and Section 134.2.14. Access Points:

- (B) Intersection separation standards for streets must be in accordance with the following minimum standards: The minimum centerline spacing between driveways and intersections or between driveways and driveways shall be 330 feet along arterial and collector streets, and 125 feet along other than single-family local streets.

**Deviation:** Approved for a minimum dimension of 60 feet between driveway centerlines for the surface parking lot and parking garage; and a minimum dimension of 120 feet from Henley Place intersection and the parking lot driveway.

- (9) Land Development Code, Article 134, Traffic Circulation and Parking, Article 3. Off-Street Parking and Loading, and Section 134.3.3 Parking Facility Dimensions:

- (A) Parking spaces shall measure ten (10) feet wide by eighteen (18) feet long.



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**Deviation:** Approved for parking spaces to measure nine (9) feet wide by eighteen (18) feet long.

**SECTION 7. Terms and Conditions.** The terms and conditions listed in the Sullivan PUD ordinance dated September 5, 2006, are approved below as amended, with the 2014 amendments underlined, as follows:

A. The Sullivan PUD is approved for the development of a mixed-use residential/commercial development located at multiple locations on the north and south sides of West First Street. There shall be no PUD approval for Lots 10 and 12, Bayside Park Subdivision. Any development on Lots 10 and 12 shall require an amendment to the Sullivan PUD.

B. Support the warrants and deviations from the Land Development Code listed in Section 6, 1-9, of this ordinance.

C. The developer shall comply with all requirements of the Smart Code and Land Development Code in effect at the time of construction except for the warrants and deviations listed in Section 6, 1-9, in this ordinance.

D. Additional height and density were calculated using the existing zoning at the time the Sullivan PUD application was submitted in 2005, as follows: Urban Center was assigned to the first twelve (12) feet of depth north of the south frontage along First Street and the remaining property to the south; Urban Core was assigned to the remaining property north of Urban Center; and, Urban General was assigned to the first 35 feet along Henley Place.

E. Additional height and density were originally awarded based on an evaluation of eight (8) bonus density criteria (all but “exceptional architectural design”) in Action 5.2.9 of the Future Land Use Element of the Comprehensive Plan, and in 2014 listed in Action 1.7.7.

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In exchange for 44.48 additional residential units per acre over the standard density of fifty (50) units per acre in Urban Core, and an additional 26.64 units per acre in Urban Center over the standard density of thirty (30) units per acre in Urban Center, a total of three hundred seventy-four (374) residential units were originally approved. An additional seven (7) stories in height was approved over the standard height of 18 stories, for a total project height of twenty-five (25) stories. For height and density approvals in 2014, requirements and mitigation listed in 1-8 below shall be provided by the developer. If the developer is approved to eliminate any of the eight (8) conditions below, then twenty-two (22) units (subtracted from the 374 units originally approved) shall be deducted from the total number of vested units for each condition eliminated.

1. Hurricane Evacuation Plan and Shelter Funds:
  - a. The developer shall prepare an Emergency Preparedness Plan in accordance with the Lee County Administrative Code 7-7 (on file in the City Clerk's Office). **Completed.**
  - b. The developer shall contribute three hundred dollars (\$300.00) per unit into the "Downtown Coastal High Hazard Area Hurricane Shelter Fund" to mitigate its shelter impacts. The money shall be paid, on a pro rata basis (number of units in the building times \$300.00 per unit), at the time each building permit is pulled.
2. Workforce Housing: The developer is approved in 2014 to eliminate workforce housing conditions in exchange for a density reduction to 352 units in accordance with Section 7(E) above.

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3. Para-Transit: The developer or the property owners association shall provide para-transit assistance by making annual contributions to the "Downtown Para-Transit Fund" to mitigate its para-transit impacts and support the downtown para-transit system. The first contribution shall be due at the time of the Certificate of Occupancy for the first residential tower. The money shall be paid, on a pro rata basis (number of units in the building times \$51.14 per unit), adjusted annually based on the Consumer Pricing Index (CPI).
4. Public Open Space: The developer shall provide the following to meet public open space requirements: extend the retail area on both sides of the central entrance to the project, thus inviting the public to the waterfront, the public space may close one (1) hour after sunset unless a request is extended by the developer with notice to the community development department director; AND provide fifty thousand dollars (\$50,000.00) for the construction of improvements to Henley Place Circle Park, prior to the issuance of the first building permit for the first residential tower; AND fifty thousand dollars (\$50,000.00) for perpetual maintenance of Henley Place Circle Park, prior to the issuance of the Certificate of Occupancy for the first residential tower. The developer shall also include benches in the public area. In the event that Henley Place Circle is not developed as a park, the parties shall mutually agree to an alternative expenditure of these funds.
5. Mix of Uses: At buildout, the developer shall maintain the mix of uses: a mix of 352 dwelling units, and 37,685 square

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feet of retail, commercial, and/or office uses.

6. Public/Private Parking:

a. The developer shall provide a parking garage at the southwest corner of West First Street and Henley Place open to the public and not restricted to the residents only of the towers and liner buildings of the Sullivan PUD. Twenty-three (23) of these spaces shall be made available to the public. On-street parking spaces along West First Street and Henley Place shall not be counted towards the required number of public parking spaces; or

b. The developer shall provide a cash contribution of fifteen thousand dollars (\$15,000.00) per parking space at the ratio of one (1) additional space for every ten (10) parking spaces provided (23 times \$15,000.00 equals \$345,000.00 for 352 units). The contribution shall be paid to the City to be held in a non-interest bearing escrow account in a fund known as "Downtown Redevelopment Area Parking Fund" to be used for construction of public parking spaces. If the developer receives additional bonus units, this contribution would be changed accordingly. The money shall be paid, on a pro rata basis at the time each building permit is pulled.

7. Pedestrian Friendly Connection: The developer shall construct public sidewalks along West First Street and along Henley Place adjacent to their property with minimum five (5) foot wide sidewalks through and around the project; and retain public access and maintain the

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access for the life of the subject development. These improvements are reflected on the site plan prepared by David Douglas and Associates with a revision date of June 16, 2006, and revised architectural elevations prepared by Fugleberg Koch Architects, dated September 5, 2006, on file in the City Clerk's Office.

8. Water Dependent and Water Enhanced: The developer shall construct high-rise/high density mixed-use project as identified on its site plan.

G. The applicant shall contribute the total cost of one (1) police cruiser completely outfitted. The price quote will be provided by the Police Department and paid at the time the certificate of occupancy is issued for the last unit in tower one.

H. In accordance with the regulations for planned unit developments, the site must be unified prior to development. Therefore, the applicant shall file for and provide the City with a unity of title or a covenant in lieu of unity of title in a format acceptable to the City for recording in the public records for the north and south parcels to ensure continuity of parking availability for the retail and commercial uses on the north side of West First Street. The unity of title or covenant in lieu of unity shall be provided to the City prior to the issuance of any building permits. **Completed.**

I. All HVAC, mechanical equipment and outdoor trash and recycling container areas shall be screened from view from streets, alleys or adjacent properties using a masonry wall with stucco finish, stucco with landscaping or dense vegetative hedge. The screening shall completely conceal the HVAC, mechanical equipment and outdoor trash and recycling container.

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J. The applicant shall comply with all Public Works and Engineering requirements as set forth in the memorandum from Eunice R. Usher, Senior Project Manager, dated January 12, 2005, on file in the City Clerk's Office; and shall comply with the Developer's Agreement on file with the Public Works Department.

K. The Sullivan PUD shall be effective upon approval. The timeframes for commencing are as follows:

1. Apply for building permits for Phase One (Parking Garage) within ten (10) years of the adoption of Ordinance No. 3717 and by October 20, 2024; commence vertical construction within six (6) months after permits are issued; complete Phase One within two (2) years.
2. Apply for building permits for Phase Two within five (5) years after receipt of the final certificate of occupancy for Phase One; commence vertical construction within six (6) months after permits for vertical construction are issued for Phase Two; complete Phase Two within three (3) years.
3. Apply for building permits for Phase Three (Second Tower) within five (5) years after receipt of the final certificate of occupancy for Phase Two; commence vertical construction within six (6) months after permits for vertical construction are issued for Phase Three.
4. If for any reason, the Developer is not able to meet the timeframes set forth above, the Developer must, no later than ninety (90) days prior to expiration of any of the timeframes set forth above, provide written notice to the City indicating its anticipated failure to meet the timeframes and provide a detailed explanation of the reason. The City shall determine whether an extension of

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the timeframes is warranted. For the period of continuance referenced above, the timeframes set forth in the ordinance are suspended and the units as previously granted in this planned unit development are reserved for the Developer during the period of the suspension.

L. The applicant revised the architectural plans prepared by Fugleberg Koch Architects dated September 5, 2006, to incorporate the recommendations in the memorandum dated May 6, 2004, by the City's architectural consultant Galina Tahchieva of Duany Plater-Zyberk, with the exception of the removal of the cupolas. Specifically, the revised architectural plans are to reflect a simplified design of the roof, gateway, and parking terrace treatments, and the historical elements shall be removed from the towers. Public open space areas shall also be identified and designated on the plans. The developer shall also eliminate any garage access from Henley Place. The exhibits are on file in the City Clerk's Office.

M. The developer shall comply with the Downtown Fort Myers Streetscape Plan adopted by City Council in April 2003, and as amended.

N. The applicant shall submit a letter of no objection from the Lee County Port Authority regarding tall structure review prior to any site development. **Completed.**

O. The developer shall exclude the following uses from the Sullivan PUD: social service uses, clinics, labor pools, and supervised apartments.

P. The developer shall advance Fire Impact Fees as follows. The fire impact fees for the parking garage to be constructed at the southwest corner of Henley Place and West First Street shall be due prior to the issuance of building permits for vertical construction of the stand-alone parking garage. The fire impact fees for the first residential

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tower to be constructed shall be due for all the units within Tower One, prior to the issuance of building permits for vertical construction of Tower One. The fire impact fees for the second residential tower to be constructed shall be due for all the units within Tower Two, prior to the issuance of building permits for vertical construction of Tower Two.

Q. Prior to the issuance of the first building permit for vertical construction, the developer shall pay the fair share contribution in the amount of eighty-four thousand dollars (\$84,000.00) for a mast arm traffic light install at West First Street and Altamont Avenue or one hundred twenty-six thousand dollars (\$126,000.00) if the roundabout option is chosen for this intersection above the required road impact fees, and pay their proportionate share of the traffic calming for West First Street, and pay the cost of the required turn lanes as contribution to the pedestrian and/or traffic calming improvements, and pay the fair share contribution in the amount of seventy-eight thousand six hundred fifty-one dollars (\$78,651.00) for a mast arm traffic light at McGregor Boulevard and West First Street or roundabout at West First Street and Virginia Avenue, above the required road impact fees.

R. The developer shall contribute one hundred fifty thousand dollars (\$150,000.00) to the City's Public Art Fund prior to the issuance of building permits for the first tower or contribute artwork valued at one hundred fifty thousand dollars (\$150,000.00) to be placed in a public area on or near the Sullivan PUD development site. Artwork on-site or off-site shall be reviewed by the City Public Art Committee. Such on-site placement shall allow for public enjoyment and shall be visible from West First Street, and its form and location shall be approved by City Council considering the recommendation of the City Public Art Committee. The developer may opt to meet this obligation by phasing such art contributions at fifty thousand dollars (\$50,000.00) per building (East



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and West towers and south side parking garage) upon issuance of building permit for each individual building. If the Developer opts to contribute artwork to satisfy this condition and such placement is to occur on a yet undeveloped parcel of the site, then the monies may be placed in escrow with the City and released to the Developer, or to the City, upon placement of such artwork.

S. Park Impact Fees. The fees shall be paid for multi-family residential units and hotel units along with building permit fees for each unit, in accordance with the Park Impact Fees Ordinance No. 3644 approved by City Council on November 5, 2012. Fifty Thousand Dollars (\$50,000.00) of the total fees collected under Ordinance No. 3644 shall be spent on Henley Place Park. Developer shall be issued a credit against any future Park Impact Fees collected under Ordinance No. 3644 for the amount contributed pursuant to this PUD to Henley Place Circle Park, being \$100,000.00.

T. All public ways and access easements shall be made accessible when the adjacent building is ready for a Certificate of Occupancy, however, upon determination by the building official, for safety reasons, those areas could be closed or remain closed during other construction phases until deemed safe by the building official for public access.

U. All signage shall comply with the applicable regulations of the Land Development Code in effect when sign permits are requested.

V. The silk screening on the construction site screening fence shall be permitted to include verbiage and shall be considered the project identification sign but only on one panel, not to exceed thirty-two (32) square feet.

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W. If the developer combines curb cuts with the adjacent property to the west, a cross access easement will be required from both property owners.

X. Dollar amounts based upon residential unit count shall be adjusted on a pro-rata basis based upon the actual residential unit count, which shall be determined at the time of each building permit.

Y. The terms, conditions, and deviations for the Sullivan PUD, listed within this ordinance and/or reflected on the site plan prepared by David Douglas and Associates dated October 16, 2014, and as amended by this ordinance, and/or reflected on the revised architectural elevations prepared by Fugleberg Koch Architects, dated September 5, 2006, shall be binding on the applicant, its successors or assigns.

**SECTION 8.** Failure to comply with the terms and conditions of the Sullivan PUD listed in this ordinance will result in the cancellation of the development approval. The applicant shall be notified in writing of the date of the public meeting to be held by City Council and be given an opportunity to respond at the public meeting.

**SECTION 9.** A notice of public hearing was published in a newspaper of general circulation in accordance with the law.


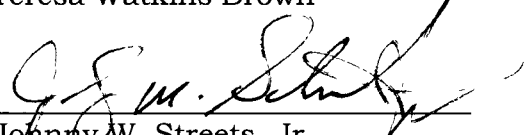

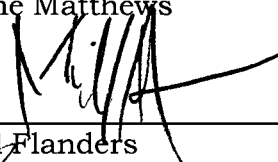


**SECTION 10.** Ordinance Nos. 3262, 3345, and 3509 are hereby rescinded.

**SECTION 11.** Severability. If for any reason any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

**SECTION 12.** This ordinance shall become effective immediately upon adoption.

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**PASSED IN PUBLIC SESSION** of the City Council of the City of  
Fort Myers, Florida, this 20th day of October, A.D., 2014.

<u>Aye</u>	 Teresa Watkins Brown
<u>Aye</u>	 Johnny W. Streets, Jr.
<u>Aye</u>	 Christine Matthews
<u>Aye</u>	 Michael Flanders
<u>Aye</u>	 Forrest Banks
<u>Aye</u>	 Thomas C. Leonardo Council Members

**APPROVED** this 20th day of October, A.D., 2014, at  
6:05 o'clock p.m.

<u>Aye</u>	 Randall P. Henderson, Jr. Mayor
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**FILED** in the Office of the City Clerk this 20th day of October,  
A.D., 2014.

 Marie Adams, MMC City Clerk
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**Exhibit A**

The planned unit development is legally described as follows:

**Centennial Marina**

Official Record Book 2806, Page 2540, a tract or parcel of land lying in Government Lot 1, Section 14, Township 44 South, Range 24 East, City of Fort Myers, Lee County, Florida, being those lands described in deed recorded in Official Record Book 2262 at Page 4282, Lee County Records, less a 0.25 feet wide strip along the northeasterly side thereof which tract or parcel is described as follows:

From the northwest corner of West First Street and Henley Place, making the intersection of the northwesterly line of West First Street with the southwesterly line of Henley Place run southwesterly along the northwesterly line of West First Street for 374.00 feet to the easterly most corner of said lands described in deed recorded in Official Record Book 2262 at Page 4282, said public records; thence run northwesterly, perpendicular to said northwesterly line of West First Street northeasterly line of said lands for 184.50 feet to the Point of Beginning of the herein described parcel. From said Point of Beginning run southwesterly parallel to said northwesterly line of West First Street, for 0.25 feet; thence run southeasterly perpendicular to said northwesterly line of West First Street for 184.50 feet to said northwesterly line; thence run southwesterly along said northwesterly line for 59.75 feet to the southerly most corner of said lands; thence run northwesterly perpendicular to said northwesterly line of West First Street for 209 feet, more or less, to the face of an existing concrete seawall; thence run northeasterly along said face of said seawall for 60.00 feet to an intersection with a line perpendicular to said northwesterly line of West First Street passing through the Point of Beginning; thence run southeasterly along said line for 25.75 feet, more or less, to the Point of Beginning.

Official Record Book 2262, Page 4282, beginning at the northwest corner of First Street and Henley Place making the intersection of the northerly line of First Street with the westerly line of Henley Place, in the City of Fort Myers, Florida, thence southwesterly along the northerly line of First Street 374 feet to the Point of Beginning of land herein described, continue southwesterly along the northerly line of First Street 60 feet, thence at an angle of 90 degrees with First Street, 185 feet, more or less, to the face of seawall of the Caloosahatchee River, thence northeasterly along the face of said seawall to a point on a line through the Point of Beginning which line is at 90 degrees with the northerly line of First Street, thence southeasterly 181 feet, more or less, to the Point of Beginning.

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### **CDR/Piggot Property**

Official Record Book 4292, Page 2784, from the southeasterly corner of Lot Three (3), of that certain subdivision known as Henley Place, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 4, at Page 54, run thence northerly and westerly at an angle of 90 degrees from north property line of McGregor Boulevard, 345 feet to the southeasterly corner of Lot Ten (10) of said subdivision; thence westerly and southerly parallel with north property line of said boulevard 79.5 feet to the southwest corner of Lot Ten (10) of said subdivision, which is Point of Beginning; thence westerly parallel with north property line of said boulevard 88.43 feet, thence northerly and westerly at an inclusive angle of 91°28' 180.3 feet to the south line of First Street at a point 172.6 feet westerly from the southwesterly corner of the intersection of First Street and Henley Place streets; easterly along southerly side of First Street 93.1 feet to extension of easterly line of Lot Nine (9), Henley Place; thence southerly along easterly line of Lot Nine (9) to the Point of Beginning.

### **Henley Place Lots**

Official Record Book 4183, Page 2779, Lot 8 of that certain subdivision known as Henley Place according to the plat thereof recorded in the Office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 4, Page 54.

Official Record Book 4183, Page 2780, beginning at the northeast corner of Lot 10, Henley Place; thence run northwesterly 75.8 feet to First Street; thence southwesterly along said right-of-way 79.5 feet; thence southeasterly 75.8 feet; thence northeasterly along Lot 10 to Point of Beginning according to the map or plat thereof on file and recorded in Plat Book 4, Page 54, Public Records of Lee County, Florida. Lot 10, Henley Place Subdivision, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 4, at Page 54.

### **Bayside Park Lots**

Official Record Book 4292, Page 2789, Lot 10, Bayside Park Subdivision, according to the map or plat thereof as recorded in Plat Book 8, Page 72, Public Records of Lee County, Florida.

Official Record Book 4292, Page 2788, Lot 12, Bayside Park Subdivision, according to the map or plat thereof as recorded in Plat Book 8, Page 72, Public Records of Lee County, Florida.

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**Former Chart House Restaurant**

Official Record Book 4292, Page 2782, Parcel No. One located in Section 14, Township 44 South, Range 24 East, City of Fort Myers, Lee County, Florida:

Beginning at the northwesterly corner of First Street and Henley Place, marking the intersection of the northerly line of First Street, with the westerly line of Henley Place; thence southwesterly, along the northerly line of First Street, 124 feet; thence at an angle of 90 degrees with the northerly line of First Street 160 feet, more or less, to the face of the seawall of the Caloosahatchee River; thence northeasterly along the face of said seawall 125 feet, more or less, to the westerly line of Henley Place; thence southeasterly along the westerly line of Henley Place to the Point of Beginning; being in the City of Fort Myers, Florida.

And

Legal description of a parcel of land approximately 124 feet by 90 feet lying within the waterway of the Caloosahatchee River and immediately north of Revised Lot 5, Block 5, Section 14, Township 44 South, Range 24 East; City of Fort Myers, Lee County, Florida, as shown in Plat Book 1, Page 23 and better described as follows:

Commencing at the northwesterly corner of First Street and Henley Place, marking the intersection of the northerly line of First Street with the westerly line of Henley Place located in Section 14, Township 44 south, Range 24 East, City of Fort Myers, Lee County, Florida, Plat Book 1, Page 23; thence southwesterly along the northerly line of First Street a distance of 124.00 feet; thence northwesterly at an angle of 90 degrees with the northerly line of First Street a distance of 160.00 feet, more or less, to the face of the seawall of the Caloosahatchee River to the Point of Beginning; thence continue on northwesterly at an angle of 90 degrees with the northerly line of First Street a distance of 90.00 feet; thence continue northeasterly at an angle of 90 degrees a distance of 124.00 feet and parallel to said northerly line of First Street; thence southeasterly at an angle of 90 degrees a distance of 91.00 feet; thence southwesterly a distance of 124.01 feet, more or less, to the Point of Beginning, being in the City of Fort Myers, Florida.

**Cooper's Landing**

Official Record Book 4292, Page 2783, Parcel No. Two, Section 14, Township 44 South, Range 24 East, City of Fort Myers, Lee County, Florida, that part of Lot 5, Block 5, of that certain subdivision known as Homestead of James Evans, according to the map or plat thereof on file and recorded in Plat Book 1, Page 23, Public Records

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of Lee County, Florida, in Section 14, Township 44 South, Range 24 East, described as follows:

From the northwest corner of First Street and Henley Place, in the City of Fort Myers, southwesterly along the northerly line of First Street to the Point of Beginning of the land herein described; thence continue southwesterly along the northerly line of First Street 100.00 feet; thence at an angle of 90°00'00" with First Street 170.00 feet northwesterly to the face of the seawall of the Caloosahatchee River; thence with an interior angle to the left 94°58'27", 7.95 feet along the face of said seawall; thence with an exterior angle to the right of 130°24'45", 47.25 feet along the face of said seawall; thence with an interior angle to the left of 125°35'14", 46.42 feet along the face of said seawall; thence with an interior angle to the left of 89°29'03", 39.95 feet along said seawall; thence with an exterior angle to the right of 89°08'34", 18.51 feet to the westerly line of parcel one as described above; thence with an interior angle of 89°30'44", 169.46 feet along the said westerly line to the Point of Beginning.

**Parcel "F"**

Official Record Book 4024, Page 1515, a tract or parcel of land lying in Section 14, Township 44 South, Range 24 East, Lee County, Florida, which tract or parcel is described as follows:

Commencing at the northwesterly corner of First Street and Henley Place, marking the intersection of the northerly line of First Street with the westerly line of Henley Place located in Section 14, Township 44 South, Range 24 East, City of Fort Myers, Lee County, Florida, Plat Book 1, Page 23 run S 42°01'10" W along the northerly right-of-way of said West First Street for 224 feet to the Point of Beginning. From said Point of Beginning continue along said right-of-way line S 42°01'10" W for 150.25 feet to southwesterly corner of a strip of land as described in deed recorded in Official Record Book 2806 at Page 2544, Lee County Records; thence run N 47°58'50" W along the westerly line of said lands for 184.50 feet; thence run N 42°01'10" E for 0.25 feet to the northeasterly corner of said lands; thence run N 47°58'50" W for 25.10 feet; thence run N 42°8'55" E along the face of the seawall for 185.32 feet; thence run S 12°32'32" E for 47.25 feet; thence run S 37°02'43" W for 7.95 feet; thence run S 47°58'50" E for 170.00 feet to the Point of Beginning.

**Parcel "D"**

Official Record Book 4024, Page 1519, a tract or parcel of land lying in Government Lot I, Section 14, and Government Lot I, Section 23, Township 44 South, Range 24 East, City of Fort Myers, Lee County, Florida which tract or parcel is described as follows:

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From the intersection of the northeasterly line of Wilna Street (40 feet wide) and the southeasterly line of West First Street (60 feet wide) run northeasterly along said southeasterly line of West First Street for 37.50 feet; thence run northwesterly perpendicular to said right-of-way line for 60 feet to an intersection with the northwesterly line of West First Street; thence run N 42°01'10" E along said northwesterly line for 300.00 feet to the Point of Beginning.

From said Point of Beginning run N 47°58'50" W departing said northwesterly line of West First Street for 239.20 feet; thence run N 87°01'10" E for 42.43 feet to the waterward face of an existing concrete seawall; thence run N 42°01'10" E along said waterward face for 172.10 feet to an intersection with the northerly prolongation of the east line of lands as described in deed recorded in Official Record Book 2363 at Page 4145; thence run S 47°58'50" E along said east line for 209.20 feet to an intersection with said northwesterly line of West First Street; thence run S 42°01'10" W along said northwesterly line for 202.10 feet to the Point of Beginning.

All containing 4.69 acres, more or less.

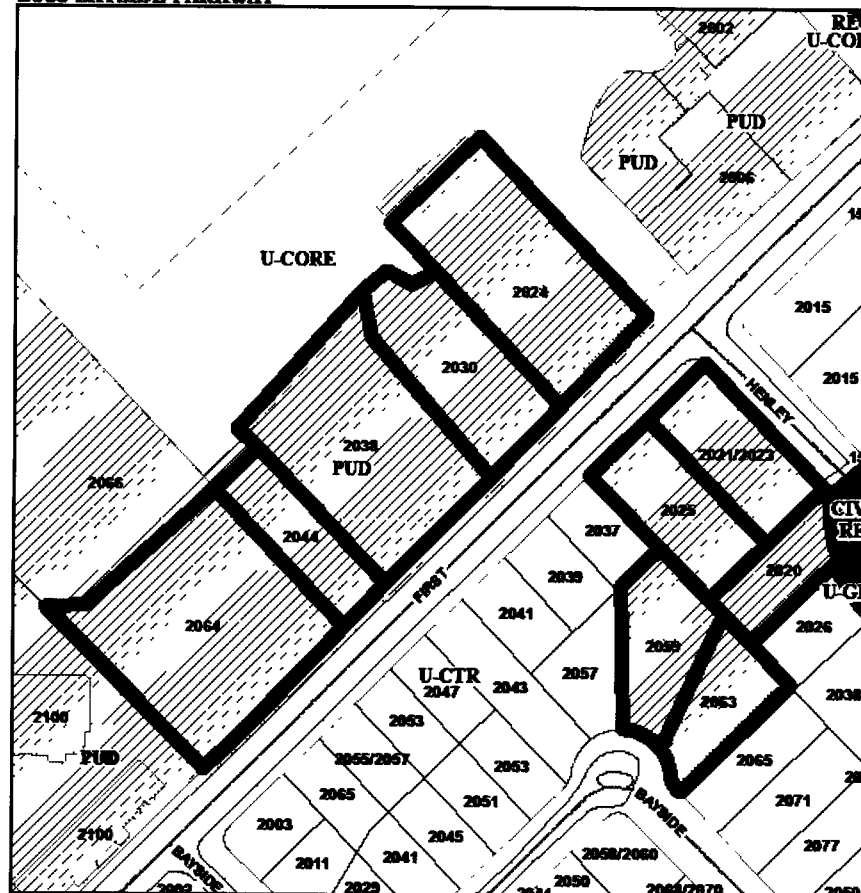


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**EXHIBIT B**

## Zoning Map of Sullivan PUD

**City of Fort Myers**  
**Zoning Map: PLANNED UNIT DEVELOPMENT**  
**FOR THE SULLIVAN FLORIDA GROUP, INC.**  
**2021/2023, 2023 35, 2024, 2030, 2038,**  
**2044, AND 2064 WEST FIRST STREET**  
**2020 HENLEY PLACE, AND 2059 and**  
**2063 BAYSIDE PARKWAY**



**Item Location**  
**City Boundary**



Map for reference only and is not a Survey. The City of Fort Myers makes no claims or guarantees about the accuracy or currency of the information contained on this map, and expressly disclaims liability for errors and omissions.  
Source: City of Fort Myers - GIS- Shellee Watts

100 50 0 100 Feet  
Date: 11/18/2014